



City of NORWALK

CITY COUNCIL AGENDA REPORT

Date: April 21, 2015

TO: Honorable City Council

FROM: Michael J. Egan, City Manager

BY: Kurt H. Anderson, Director of Community Development
Jessica Serrano, Senior Planner

SUBJECT: PUBLIC HEARING - REVIEW OF NOTICE OF CATEGORICAL EXEMPTION (CLASS 1) - CONDITIONAL USE PERMIT NO. 974 - RESOLUTION NO. 15-17 - INDERJIT RAI, 7-ELEVEN - 10656 ROSECRANS AVENUE - A REQUEST TO MODIFY EXISTING CONDITIONS FOR AN OFF-SALE ALCOHOLIC BEVERAGE ESTABLISHMENT

Background:

The Planning Commission reviewed Conditional Use Permit (CUP) No. 974 on February 25, 2015 to allow the sale of beer and wine from 6 a.m. to 2 a.m., allow for the sale of single beer containers which are 24 ounces or larger and allow pre-manufactured quantities of less than a six pack. At that meeting, motions to approve and to deny the project failed to pass by 2-2 votes. As such, the application was deemed to be denied. On March 3, 2015, the City Council elected to review the application.

Given the Planning Commission's denial of the project, the 7-Eleven continues to sell alcohol under existing CUP No. 937, which was approved on October 12, 2011 to allow them to sell beer and wine (i.e., a Type "20" Alcoholic Beverage Control License). Previous to the approval of CUP No. 937, there was an independently operated convenience market which conducted beer and wine sales without a CUP because it was considered to be legal non-conforming. The existing 7-Eleven convenience market operates twenty-four (24) hours a day, seven (7) days a week, with limited hours of beer and wine sales.

NMC Section 17.04.170.J.2 states that any substantial change in the mode of operation of an existing establishment offering retail sales of alcohol, including a closure of more than thirty (30) days, requires a new entitlement.

Applicant's Request

After being in operation since 2011, the applicant is requesting to modify 3 existing conditions of approval of CUP No. 937, which read as follows:

29. Beer and wine shall not be sold, or offered for sale, between the hours of 1:00 a.m. and 8:00 a.m. every day.

30. Beer and wine coolers shall be locked between the hours of 1:00 a.m. and 8:00 a.m. every day.

31. The sale of beer or malt beverages in sizes of 40 oz. is prohibited. Beer or malt beverages in containers less than 40 oz. shall be sold in manufacturer prepackaged multi-unit quantities of six or more.

The applicant is requesting to revise Conditions 29, 30 and 31 from the original approval so that the 7-Eleven may:

- Allow alcohol hours from 6 a.m. to 2 a.m.,
- Allow the sale of single beer containers 24 oz. and larger, and
- Allow manufactured pre-packaged units of less than six.

The applicant submitted the request with a narrative to justify the proposed modifications. The main points of the narrative included:

1. The location previously had these privileges when operated as a liquor store (prior to conversion to 7-Eleven); and
2. The safety training and procedures are in place for the sale of alcohol.

In regards to the applicant's assertion that the location previously had the privileges; this refers to the operation of the independently operated convenience market previous to being converted to a 7-Eleven market. When the existing market was converted into a 7-Eleven market, the applicant obtained permits from the Building and Safety Division to conduct tenant improvements to the store with the understanding that beer and wine sales would not occur unless the Planning Commission approved CUP No. 937.

The previous independently operated convenience market conducted beer and wine sales without a CUP because it was established prior to the requirement of a CUP for alcohol uses. Therefore, it was considered to be a legal, non-conforming use. The previously existing non-conforming status would have remained valid in the event that the existing convenience market was simply transferred to a new owner and rebranded. NMC Section 17.04.170.J.2 states that any substantial change in the mode of operation of an existing establishment offering retail sales of alcohol requires a new CUP entitlement. In addition to converting the existing convenience market to a 7-Eleven, the applicant conducted improvements which included interior remodeling, thus

requiring a new CUP application for consideration by the Planning Commission. A new CUP application gave the Planning Commission the opportunity to implement conditions of approval that have been applied to other recently issued CUP's for alcohol sales.

In addition, although the previous independently operated convenience market operated general alcohol off-site sales with a Type-21 Alcohol Beverage License, and the applicant had purchased the general license from the previous owner, the applicant's request per CUP No. 937 was to sell beer and wine only. Condition of Approval B.1 was included which restricted the sale of alcohol to beer and wine only, regardless of the Alcohol Beverage License type.

The applicant stated that they have strict corporate regulations for the sales of alcohol. The 7-Eleven Corporation has a training program to prevent the sales of age restricted items such as alcohol and also security and theft prevention measures. The policies are implemented in their "Come of Age" program which incorporates training on all age-restricted products, including tobacco, lottery, inhalants, and alcohol.

Analysis

Hours of operation - The applicant has requested to conduct beer and wine sales between the hours of 6 a.m. and 2 a.m. daily. The following is a table of the hours of beer and wine sales approved by the Planning Commission for previous CUP's requesting the sale of beer in wine in recent years:

Location and Address	Date Approved	Hours of Sales	License Type
Circle K 13041 Rosecrans	Oct 23, 2013	8am – 1am	Beer & Wine
Dhaka Market 10944 Imperial	Oct 26 2011	8am – 1am	General Alcohol
7-Eleven (Subject property) 10656 Rosecrans	Oct 12, 2011	8am – 1am	Beer & Wine
7- Eleven 10965 Firestone	May 11, 2011	8am – 1am	Beer & Wine
Gas Station 10951 Imperial	Jan 26, 2011	8am – 11pm	Beer & Wine
7- Eleven 12361 Imperial* ¹	Oct 27, 2010	8am – 1am	Beer & Wine
AMPM Gas Station 10602 Imperial* ²	Feb 25, 2009	6am – midnight	Beer & Wine

- *1 - Originally approved 8am –midnight (Sept 15, 2009). Applicant later proposed revision to allow sales until 2am; PC granted sales until 1am (Oct 27, 2010)
- *2 - Public Safety did not recommend restrictions to hours of sales

Size and packaging of alcoholic beverage containers – The applicant has requested a modification of conditions to allow for the sale of single beer containers which are 24 ounce or larger and allow pre-manufactured quantities of less than a six pack. Currently CUP No. 937 restricts the sale containers per Condition A.31 as follows: *“The sale of beer or malt beverages in sizes of 40 oz. is prohibited. Beer or malt beverages in containers less than 40 oz. shall be sold in manufacturer prepackaged multi-unit quantities of six or more.”*

Staff examined the information provided by the applicant with regards to their justification of the proposed modifications to the current conditions of approval for CUP No. 937. In the past, the City has put similar conditions of approval with regards to limiting the size and quantities of beer or malt beverages sold as a standard condition of approval for the off-premise sale of alcoholic drinks.

In recent years, the operators of Circle K located at 13041 Rosecrans Boulevard requested a change in conditions to allow the sale of manufacturer’s pre-packaged units of less than a six pack. On October 23, 2013, the Planning Commission adopted CUP No. 962 with the following condition: *“The sale of beer or malt beverages shall be sold in manufacturer pre-packaged quantities of three or more with a total volume no less than 36 ounces. Beer or malt beverages shall not be sold in quantities of 22 oz., 32 oz., 40 oz., or similar size containers as single containers.”*

Staff recommends that the same condition be applied for this establishment and has included a similar condition for 7-Eleven at the subject property in order to maintain consistency. In the past, the City has put similar conditions of approval with regards to limiting the size and quantities of beer or malt beverages sold as a standard condition of approval for the off-premise sale of alcoholic drinks.

Alcohol Sales

The following information is provided for City Council consideration: 1) concentration of off-site alcohol sales establishments, 2) other alcohol establishments within a quarter mile radius, 3) neighborhood crime statistics and 4) Public Safety calls for service and memorandum:

1. Concentration of off-site alcohol sales establishments – The request is to modify the operation of an existing off-sale beer & wine establishment at a mini-market within Census Tract No. 5530. Alcoholic Beverage Control (ABC) recommends no more than three (3) establishments be allowed offering the sale of alcohol for off-site consumption in the Census Tract in which 7-Eleven is located. Currently, there are a total of five (5) active alcohol off-premise licenses within the Census Tract, including the existing 7-Eleven on the subject property. The Census Tract is currently considered to be over-

concentrated. The following is a table listing all of the existing off-sale alcoholic beverage establishments within Census Tract No. 5530.

Existing Off-Site Alcohol Establishments Within Census Tract 5530		
BUSINESS NAME	ADDRESS	LICENSE TYPE
7-Eleven (subject property)	10656 Rosecrans Ave	Type 20 – Beer and Wine
Fresh & Easy	10930 Rosecrans Ave	Type 21- General
B&H Liquor	10917 Alondra Blvd	Type 21 – General
Chevron	10967 Alondra Blvd	Type 20 – Beer and Wine
7-Eleven	10962 Alondra Blvd	Type 20 – Beer & Wine

2. Alcohol establishments within a quarter mile radius – The subject property is located on the south side of Rosecrans Avenue within a commercial and industrial development. There are currently no other establishments within the development that offer the sale of any type of alcohol for off-site consumption. Within a quarter mile radius of the proposed 7-Eleven there is one (1) restaurant, Carrow’s Restaurant, which offers sale of beer and wine for on-site consumption, and two (2) establishments with licenses for the sale of alcohol for off-site consumption, which include: Fresh & Easy located at 10930 Rosecrans Avenue and R&G’s Foodbasket located at 10951 Rosecrans Avenue. Both of these locations are grocery stores which have Type 21 licenses for general alcohol sales.

A map showing the subject property and the location of other alcohol sales within Census Tract No. 5530 and within a ¼-mile radius of the subject property has been attached.

3. Neighborhood crime statistics - The subject property is located within the Los Angeles County Sheriff’s Department Reporting District No. 455. According to a report issued by the ABC, the number of Part 1 crime incidents (Part I crimes are defined by the Federal Government as criminal homicide, rape, robbery, aggravated assault, burglary, larceny, theft, grand theft auto, and arson) in the Report District No. 455 in the last year was 815, which is above the district average of 316.1 for the City of Norwalk. Since a high crime district is any area with 20% above average Part I crime rate, the reporting district in which proposed 7-Eleven’s sale of beer and wine for off-site consumption is located is considered to be a high-crime reporting district.

4. Public Safety calls for service and memorandum – Based upon a report reviewing calls for service at the existing 7-Eleven, there were a total of thirteen (13) calls from January 1, 2013 to February 19, 2015 related to the theft of beer at the existing convenience market.

The Public Safety Department also presented a memorandum with regards to the applicant's request to modify existing conditions of approval. Public Safety commented that sale of single beer and malt beverages is a serious concern as these types of containers are frequently purchased by individuals that regularly consume alcoholic beverages in public, including in front of convenience stores, at parks, and other areas frequented by families and children. This behavior detracts from the quality of life in Norwalk and leads to other nuisance activity such as fights, panhandling, loitering, and urinating/defecating in public. The recommended modification to the requested change to Condition 31 will serve to protect the public's safety and welfare. Public Safety recommends that single servings of alcohol not be sold, however quantities of 3-packs or higher may be permitted. To protect the health and welfare of the public, Public Safety also recommended that further education and training of employees selling alcoholic beverages to customers should be conducted. Conditions of approval have been added to address the modifications to the current CUP and introduce the requirement for additional training.

Additionally, the Public Safety Department recommended conditions be included to enhance the health and welfare of the public through security measures for the store and education and training of employees selling alcoholic beverages to customers. The recommended conditions are consistent with those previously recommended for CUP No. 937; however the following additional condition was included:

- All employees are to complete a Responsible Beverage Server training course approved by the California Department of Alcohol Beverage Control and City of Norwalk, Department of Public Safety within six months of approval of modified Conditional Use Permit 974 or an employee's start date, whichever occurs later.

Conclusion

The City has historically controlled the sale and distribution of alcohol in single servings by retailers to protect the public health, safety, and welfare of the community. In looking at how to maintain the community standards previously granted to similar uses while allowing 7-Eleven to remain competitive in alcohol sales, staff has included a resolution of approval with recommended conditions of approval including a condition to allow the sale of 3-packs of alcohol or greater. To preserve the safety of the community, the recommended conditions of approval retain the existing limitations on the hours in which alcohol is sold between 8 a.m. and 1 a.m. and prohibit the sale of 24 oz., 32 oz., 40 oz., and similar sized single serving containers.

If the City Council wishes to deny the project, staff is to be directed to prepare a resolution of denial which can be brought before the City Council at the following meeting. If the City Council denies this request, the market may continue off-premise alcohol sales under the existing CUP.

Fiscal Impact: N/A

Citizens Advised:

Notices were posted in the City's official posting places and mailed to 153 property owners within 300-feet of the project site on April 9, 2015 notifying the public and property owners of the public hearing date.

Strategic Action Plan Implementation: N/A

Recommended Action:

Staff recommends City Council:

- a. adopt the Notice of Categorical Exemption; and
- b. adopt Resolution No. 15-17 to approve Conditional Use Permit No. 974, subject to the Conditions of Approval, attached as Exhibit "A".

Attachments:

- A. Resolution No. 15-17 including Exhibit "A" (Conditional Use Permit No. 974)
- B. Location and Zoning Map
- C. Map of Census Tract No. 5530.
- D. Map Showing Quarter-Mile radius
- E. Public Safety Memorandum
- F. Categorical Exemption
- G. Minute excerpt from February 25, 2015 Planning Commission Meeting
- H. Narrative from Sherrie Olson, Consultant for 7-Eleven, Inc.

RESOLUTION NO. 15-17

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NORWALK SETTING FORTH ITS FINDINGS OF FACT AND DECISION RELATIVE TO THE APPROVAL OF CONDITIONAL USE PERMIT NO. 974

WHEREAS, the City Council elected to review Conditional Use Permit No. 974, a request from Inderjit Rai, 7-Eleven, 10656 Rosecrans Avenue, to modify existing conditions for an off-sale alcoholic beverage establishment to allow the sale of beer and wine from 6 a.m. to 2 a.m., allow for the sale of single alcoholic beverage containers which are 24 ounce or larger and allow pre-manufactured quantities of less than a six pack; and

WHEREAS, the purpose and intent of requiring a Conditional Use Permit is to ensure that compatibility is maintained between a conditional use on a specific site and other existing and future land uses on the adjacent and surrounding properties; and

WHEREAS, Section 17.02.210.A of the Norwalk Municipal Code (NMC) authorizes the Planning Commission to grant a Conditional Use Permit for those uses which are so allowed by the Zoning Ordinance and impose certain conditions as it deems necessary and reasonable to protect the best interests of the surrounding property or neighborhood and to ensure compliance with the general purpose and intent of the Zoning Ordinance and the Norwalk General Plan; and

WHEREAS, Section 17.02.210.B of the NMC sets forth the required findings that the Planning Commission must make prior to approval of a Conditional Use Permit; and

WHEREAS, Sections 17.02.210.G and 17.02.210.H of the NMC grants authority to the City Council to elect to review the decision of the Planning Commission and hold a public hearing to review the project; and

WHEREAS, this project represents a Class 1 Categorical Exemption from the requirements of the California Environmental Quality Act Class 1 includes operation, permitting, licensing or minor alteration of existing public or private structures or facilities, involving negligible or no expansion of use beyond that previously existing; and

WHEREAS, on October 12, 2011 the Planning Commission adopted Resolution No. 11-47 approving Conditional Use Permit No. 937, to allow the sale of beer and wine for off-site consumption at the property located at 10656 Rosecrans Avenue, Norwalk, California, with conditions of approval; and

WHEREAS, Conditional Use Permit No. 974 was reviewed by the Planning Commission on February 25, 2015 at which time oral and documentary evidence relative to the application was received and the project was deemed denied by a 2-2 vote; and

WHEREAS, on March 3, 2015, the City Council elected to review the project, and directed staff to schedule a public hearing; and

WHEREAS, the City Council conducted a duly noticed public hearing on April 21, 2015 at which time oral and documentary evidence relative to the application was received.

NOW, THEREFORE, BE IT RESOLVED AS FOLLOWS:

Section 1. The degree of compatibility required by the Zoning Ordinance will be maintained with respect to the use of the site, giving consideration to other existing and potential uses within the general area. The sale of beer and wine for off-site consumption sales in quantities of three (3) and higher at the existing establishment will not pose any impacts on the surrounding area with the recommended conditions because since the applicant has taken over the subject property's establishment, which had previously conducted beer and wine sales as a legal non-conforming convenience market, there have been no public safety issues.

Section 2. The subject property is located in the Restricted Commercial (C-1) Zone and the sale of beer and wine for off-site consumption is a conditionally permitted use in such zone. The proposed revisions to conditions of approval are in accordance with the Neighborhood Commercial land use designation of the Norwalk General Plan in that the sale of beer and wine for off-site consumption will be in compliance with the performance standards required for its zoning classification and is consistent with the goals of the City's General Plan with the recommended conditions.

Section 3. The proposed revision to conditions of approval will meet all of the requirements of Section 17.04.130 of the Norwalk Municipal Code, as it relates to the requirements for the sale of beer and wine for off-site consumption only, with the adoption of the suggested conditions of approval for Conditional Use Permit No. 973 contained in Exhibit "A."

Section 4. Public convenience or necessity would be served by the request to allow off-sale beer and wine sales at the subject property will not increase the existing number of alcohol beverage establishments and the surrounding commercial developments are not saturated with off-premise alcoholic beverage establishments. Therefore, it will serve public convenience or necessity to allow the requested alcoholic beverage establishment.

Section 5. The City Council of the City of Norwalk, State of California, hereby approves Conditional Use Permit No. 974 subject to the conditions contained in attached Exhibit "A".

APPROVED AND ADOPTED on this 21st day of April 2015.

**LEONARD SHRYOCK
MAYOR**

ATTEST:

**THERESA DEVOY, CMC
CITY CLERK**

EXHIBIT "A"
CONDITIONS OF APPROVAL
CONDITIONAL USE PERMIT NO. 974

The following Conditions of Approval shall be incorporated into all applicable final construction plans and a copy of these conditions shall be placed on the first sheet of the final building plans prior to the issuance of building permits:

A. Standard Conditions of Approval

1. Approval of this Conditional Use Permit shall not become final and effective until the ten (10) calendar day appeal period has lapsed and an Acceptance of Conditions form has been properly executed and returned to the Community Development Department.
2. Approval of this Conditional Use Permit shall be valid for one (1) year from the date of final approval and shall become null and void unless the use has been established within this time period or an extension of time is granted pursuant to a written request received prior to the expiration date. The Director of Community Development may grant two (2) one-year extensions. The Planning Commission may grant a final one-year extension. Prior to the granting of the final extension request, notice shall be given in the same manner as required for the original application.
3. The approved use shall be in substantial conformance with the application as described in the Agenda Report to the Planning Commission and as approved by the Planning Commission. The Director of Community Development shall determine whether a modification is in substantial conformance.
4. Any change in the approved alcoholic beverage licensure type, or alcohol sales type at the subject property shall require the prior review and approval of a new Conditional Use Permit by the Planning Commission.
5. A copy of the conditions of approval for Conditional Use Permit No. 974 shall be kept on the premises of the establishment at all times and shall be presented to any peace officer or any authorized City official upon request.
6. The applicant shall be in strict compliance (at all times) with Section 17.04.140 (Alcoholic Beverage Establishments) of the Norwalk Municipal Code to the satisfaction of the Director of Community Development.
7. Should any conflict arise between these conditions of approval and any City, County, State and/or Federal requirements, the more restrictive requirement(s) shall apply in all cases.

8. The applicant shall comply with all applicable provisions of the Norwalk Municipal Code (at all times) to the satisfaction of the Director of Community Development.
9. Compliance with all conditions of approval specified herein shall be accomplished prior the commencement of any beer and wine sales.
10. Conditional Use Permit No. 974 shall be subject to revocation in the manner provided by Section 17.02.210 of the N.M.C. if any of the conditions of approval listed herein are not complied with at any time.
11. Any/All requirements of the City Engineer and Building Official shall be met prior to the on-site sale of any beer and wine.
12. No more than three (3) coin or non-coin operated video or other electronic games shall be permitted inside the subject premise. Such games must be placed within clear view of the register area. More than three (3) games shall require the approval of a separate Conditional Use Permit.
13. Prohibited signs, including a-frame, vehicle supported, and roof signs shall not be placed on the property. Permits for banners and pennants shall be obtained from the Community Development Department prior to installation.
14. There shall be no exterior advertising of any kind or type, including advertising directed to exterior from within, promoting or indicating the availability of alcoholic beverages.
15. Sale of alcoholic beverages for consumption on premises or on any adjacent property under control of the licensees is prohibited and appropriate signs both inside and outside the establishment stating that law prohibits drinking on the premises shall be posted.
16. Alcoholic beverages offered for sale at the licensed premises shall be displayed and available for convenient inspection and purchased within the premises by the general public.
17. No beer and wine shall be displayed within five feet (5') of the cash register or the front door unless it is in a permanently affixed cooler.
18. No pay phone will be maintained on the interior or exterior of the premises or subject property.
19. Exterior storage of any kind shall be prohibited.

20. Litter and trash receptacles shall be located at convenient locations inside and outside of the establishment. All areas under control of the licensee shall be swept or cleaned, either mechanically or manually, on a regular basis to control trash and debris. "No Littering" signs shall be posted on the subject property.
21. The subject property and area under applicant/property owner's control shall be regularly monitored in an effort to prevent the loitering of persons about the premises.
22. The subject property and area under applicant/property owner's control and any area adjacent to the premises over which he/she has control shall be kept clear of newspaper racks, pay telephones, or other objects which encourage loitering.
23. A sign shall be posted on the premises stating that no loitering is allowed on or in front of the premises and that no open alcoholic beverage containers are allowed on the premises.
24. Paper or plastic cups shall not be sold in quantities less than their usual and customary packaging.
25. The sale of single cigarettes is prohibited.
26. Adult magazines are to be maintained in wrapping and sold only from behind the counter to adult consumers with appropriate proof of age.
27. Any graffiti painted or marked upon the premises shall be removed or painted over to match the color of the surface to which it is applied within 24 hours of the discovery thereof.
28. Applicant will cooperate with the prosecution of offenders who engage in unlawful activity on-site.
29. Beer and wine shall not be sold, or offered for sale, between the hours of 1:00 a.m. and 8:00 a.m. every day.
30. Beer and wine coolers shall be locked between the hours of 1:00 a.m. and 8:00 a.m. every day.
31. **The sale of beer or malt beverages shall be sold in manufacturer pre-packaged quantities of three or more with a total volume no less than 36 ounces. Beer or malt beverages shall not be sold in quantities of 24 oz., 32 oz., 40 oz., or similar size containers as single containers.**

32. Wine shall not be sold in bottles or containers smaller than 750 ml. and wine-coolers, beer coolers, or pre-mixed distilled spirit cocktails (if allowed by the license) must be sold in manufacturer pre-packaged multi-unit quantities of no less than four units per package.
33. The owner, manager, or person in charge of the establishment shall be 21 years or older. At least one (1) such person shall be present on the premises at all times. No person under the age of 18 shall sell alcoholic beverages.
34. Electronic age verification device(s) which can be used to determine the age of any individual attempting to purchase age-restricted products shall be installed on the premises at each point-of-sale location. These device(s) shall be maintained in an operational condition and all employees shall be instructed in their use prior to the sale of any age-restricted products.
35. A photometric plan shall be submitted for review and approval by the Director of Community Development or his/her designee prior to the establishment of the sale of alcohol at the subject property.
36. A surveillance camera system is to be maintained operational at all times, including during non-business hours. The system features and functions shall be accessible by any employee at all times during normal business hours.
37. The system is to be such that it can be accessed via an Internet connection, as a web based program. Any software and/or licenses required to operate the system shall be provided to Norwalk Sheriff's Station.
38. A unique user ID and password shall be created and provided for Norwalk Sherriff's Station use to access the system at anytime during an emergency or crime in progress incident.
39. The system should provide a minimum of 720x480 picture quality, 2 lux lighting operating capability in color, signal compression of H.264, and be recorded to an internet DVR with a minimum retention of 30 days
40. Cameras shall be placed to provide coverage of all entrances/exits, cash registers/safes, office/storage areas, and the parking lot area. A surveillance camera plan shall be submitted for review by Public Safety, Community Development, and Norwalk Sheriff's Station.
41. Business owner or employees are to provide recordings upon request by law enforcement, without a warrant or court order.

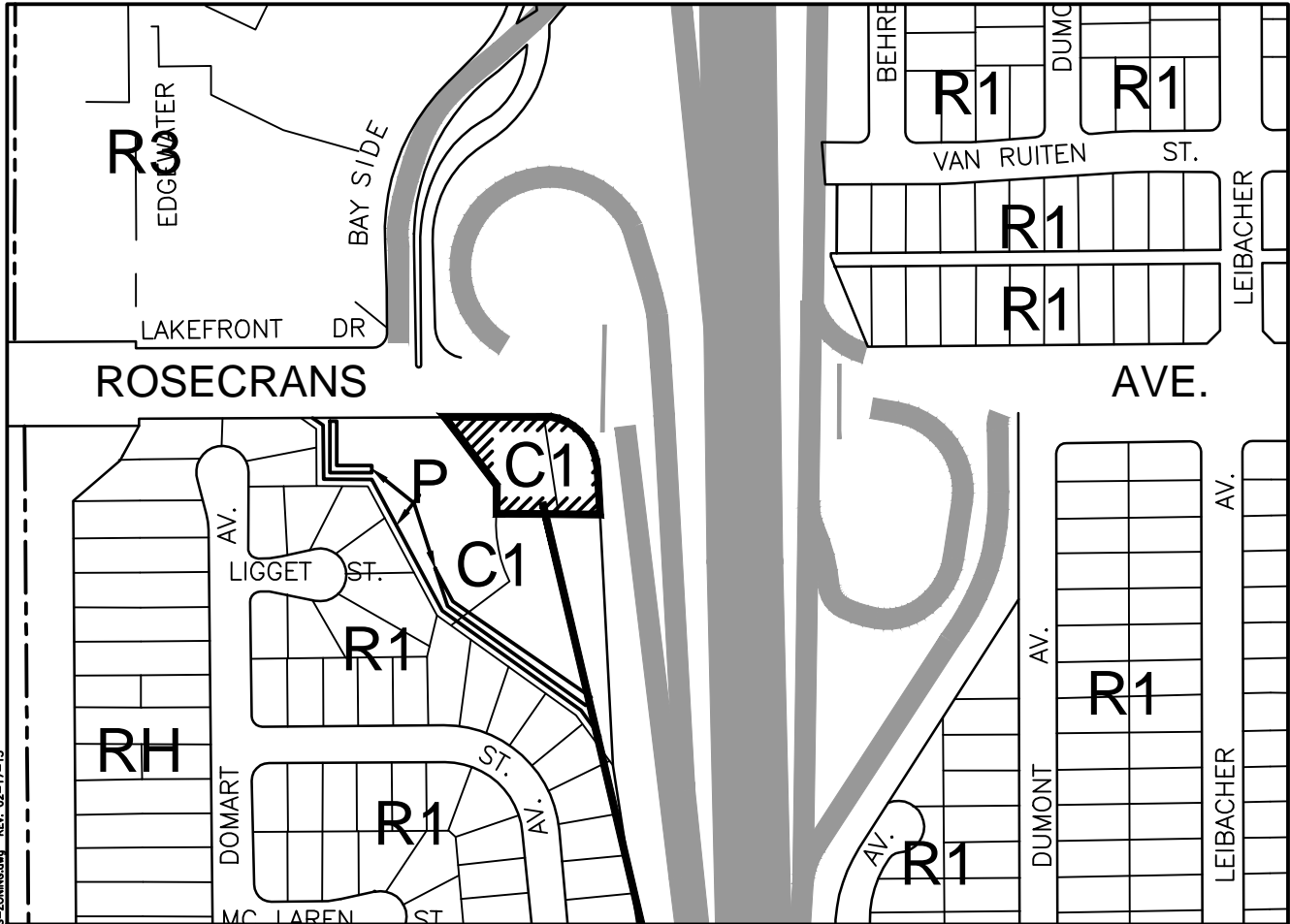
42. The business shall participate in the Department of Public Safety's Business Watch program.
43. Business owner/employees must refrain from engaging in business transactions with those individuals loitering and/or panhandling, so as to discourage them from frequenting the area.
44. **The Applicant shall indemnify, defend and hold harmless the City of Norwalk, its officers, agents, employees, and volunteers (collectively, the "City") from any and all claims, lawsuits or actions arising from the granting of, or the exercise of the rights permitted by this approval, or any other related land use entitlement or approval granted by the City, and from any and all claims or losses occurring or resulting to any person, firm, corporation or property for damage, injury, or death arising out of, or connected in anyway, with the use permitted by the City on the property. Applicant's obligation to indemnify, defend, and hold harmless the City shall include, but not be limited to, paying all legal fees and costs incurred by legal counsel of the City's choice, including expert witness fees, in representing the City in connection with any such claims, losses, lawsuits or actions, and any award of damages, judgments, verdicts, court costs or attorney's fees in any such lawsuit or action.**

B. Project Specific Conditions

1. **All employees are to complete a Responsible Beverage Server training course approved by the California Department of Alcohol Beverage Control and City of Norwalk, Department of Public Safety within six months of approval of Conditional Use Permit No. 962 or an employee's start date, whichever occurs later.**
2. Conditional Use Permit No. 974 is approved for the modification of conditions of sale of beer and wine for off-site consumption only at 10656 Rosecrans Avenue. No other requests are approved as part of Conditional Use Permit No. 974.

-END OF CONDITIONS-

LOCATION AND ZONING MAP 10656 ROSECRANS AVE.



SUBJECT
PROPERTY

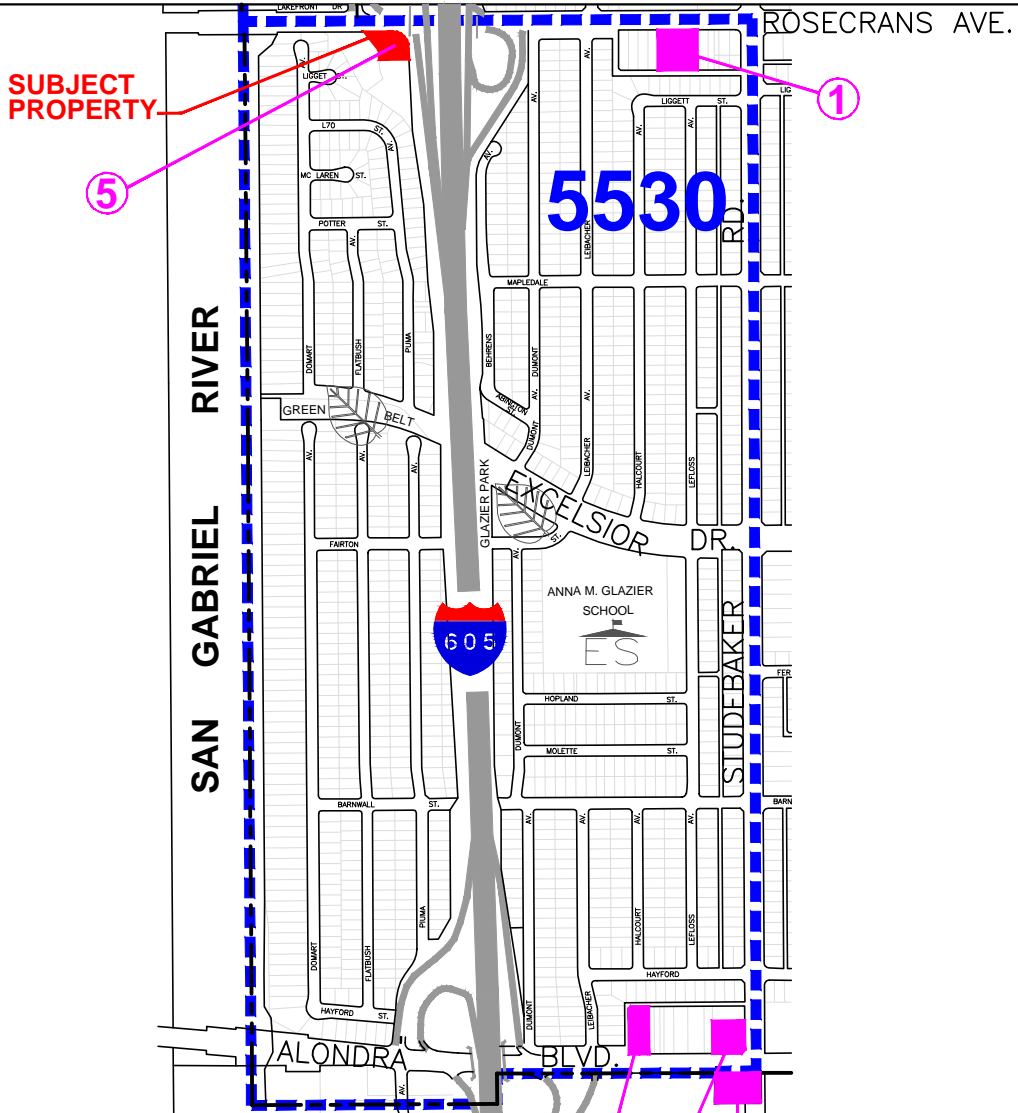


SCALE: N.T.S.

ALCOHOL MAP

IN CENSUS TRACT NO. 5530

10656 ROSECRANS AVE.



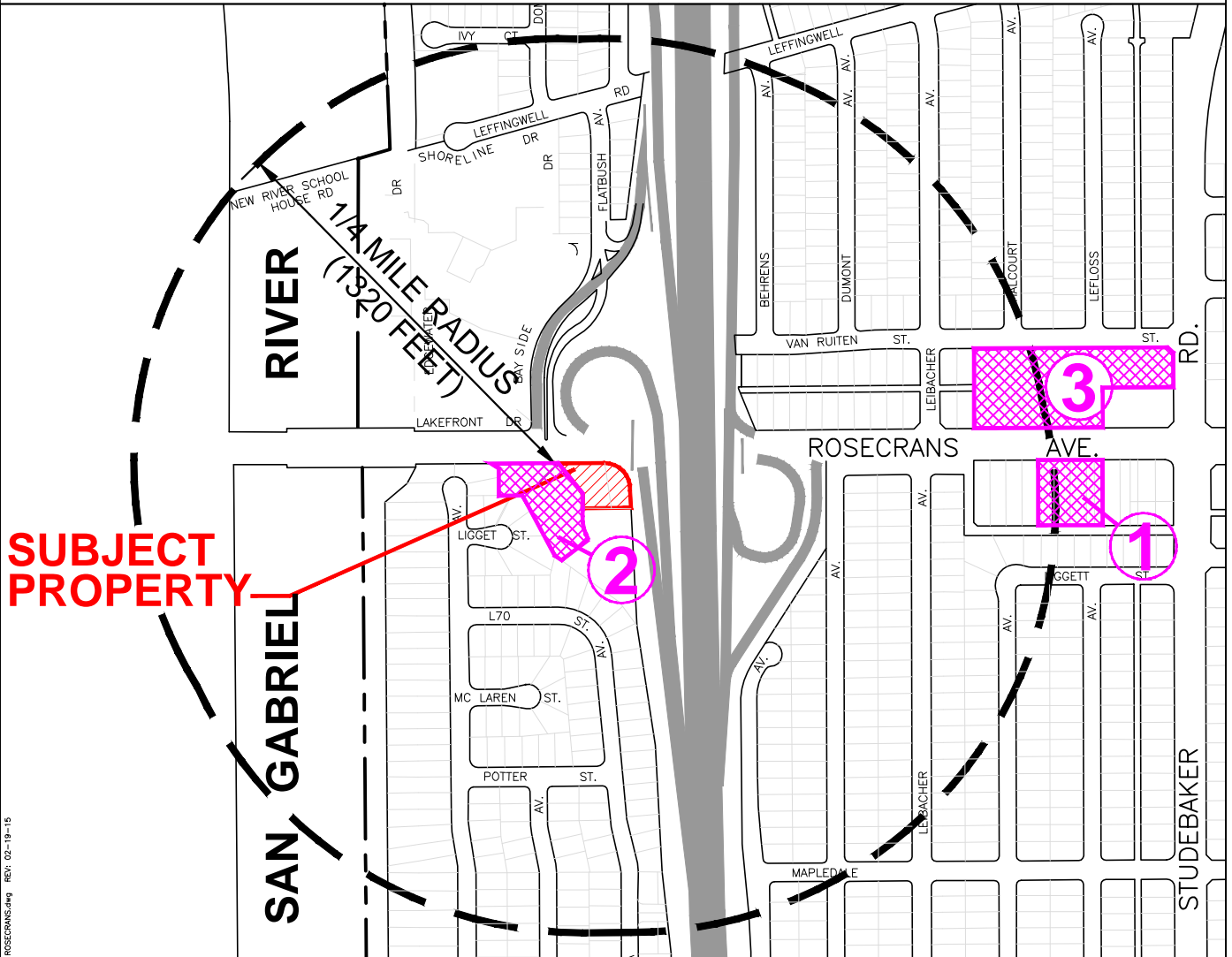
LEGEND

- ① **FRESH AND EASY**
10930 ROSECRANS AVE.
- ② **7 ELEVEN**
10962 ALONDRA BLVD.
- ③ **B&H LIQUOR**
10917 ALONDRA BLVD.
- ④ **CHEVRON GASOLINE**
10967 ALONDRA BLVD.
- ④ **EXISTING 7 ELEVEN**
10656 ROSECRANS AVE.



1/4 MI. RADIUS ALCOHOL MAP

10656 ROSECRANS AVE.



S:\2-EXHIBITS\COMMUNITY DEVELOPMENT\ALCOHOL\ALCOHOL MAP-10656 ROSECRANS.AMG REV: 02-19-15



LEGEND

- ① FRESH AND EASY
10930 ROSECRANS AVE.
- ② CARROW'S RESTAURANT
10640 ROSECRANS AVE.
- ③ R&G'S FOOD BASKET
10951 ROSECRANS AVE.

CITY OF NORWALK

DEPARTMENT OF PUBLIC SAFETY

MEMORANDUM

DATE: February 20, 2015
TO: Loyal Nawfal, Assistant Planner
FROM: Joshua Yordt, Senior Management Analyst
SUBJECT: Modification to CUP 974 – 10656 Rosecrans Ave., 7 Eleven, Inc.

Staff has reviewed the request letter submitted by 7 Eleven, Inc., located at 10656 Rosecrans Ave, to modify Conditional Use Permit (CUP) 974. Specifically, to modify the hours alcohol is offered for sale and may be sold, and the quantity and volume of alcoholic beverages sold.

The Department of Public Safety recommends the following for consideration as modifications to CUP 974.

Condition 29 – *Beer and wine shall not be sold, or offered for sale, between the hours of 1 a.m. and 8 a.m. every day.*

Condition 30 – *Beer and wine coolers shall be locked between the hours 1 a.m. and 8 a.m. every day.*

The recommendations to keep conditions 29 and 30 unchanged is to provide for consistent hours of alcohol sales among similar businesses.

Condition 31 - *The sale of beer or malt beverages shall be sold in manufacturer pre-packaged quantities of three or more with a total volume no less than 36 ounces.*

The sale of single beer and malt beverages is a serious concern as these types of containers are frequently purchased by individuals that regularly consume alcoholic beverages in public, including in front of convenience stores, at parks, and other areas frequented by families and children. This behavior detracts from the quality of life in Norwalk and leads to other nuisance activity such as fights, panhandling, loitering, and urinating/defecating in public. The recommended modification to Condition 31 will ensure the public's safety and welfare is maintained.

Additionally, the following conditions are being recommended to be added to enhance the health and welfare of the public through further security measures for the store and

education and training of employees selling alcoholic beverages to customers.

- Ø A surveillance camera system is to be maintained operational at all times, including during non-business hours. The system features and functions shall be accessible by any employee at all times during normal business hours.
- Ø The system is to be such that it can be accessed via an Internet connection, as a web based program. Any software and/or licenses required to operate the system shall be provided to Norwalk Sheriff's Station.
- Ø A unique user ID and password shall be created and provided for Norwalk Sheriff's Station use to access the system at anytime during an emergency or crime in progress incident.
- Ø The system should provide a minimum of 720x480 picture quality, 2 lux lighting operating capability in color, signal compression of H.264, and be recorded to an internet DVR with a minimum retention of 30 days
- Ø Cameras shall be placed to provide coverage of all entrances/exits, cash registers/safes, retail sales floor area, beer/wine displays, office/storage areas, and the parking lot area. A surveillance camera plan shall be submitted for review and approval by Public Safety, Community Development, and Norwalk Sheriff's Station.
- Ø Business owner or employees are to provide recordings upon request by law enforcement, without a warrant or court order.

- Ø The business shall participate in the Department of Public Safety's Business Watch program.

- Ø Business owner/employees must refrain from engaging in business transactions with those individuals loitering and/or panhandling, so as to discourage them from frequenting the area.

- Ø All employees are to complete a Responsible Beverage Server training course approved by the California Department of Alcohol Beverage Control and City of Norwalk, Department of Public Safety within six months of approval of modified Conditional Use Permit 974 or an employee's start date, whichever occurs later.

Should you have any questions, please feel free to contact me.



12700 Norwalk Blvd.
Norwalk, CA 90650

CITY OF NORWALK NOTICE OF CATEGORICAL EXEMPTION

Project Title: Conditional Use Permit No. 974

Project Applicant: Inderjit Rai, 7-Eleven

Project Location: 10656 Rosecrans Avenue.
Norwalk, California 90650
Los Angeles County

Project Description: A request to modify existing conditions for an off-sale alcoholic beverage establishment to allow the sale of beer and wine from 6 a.m. to 2 a.m., allow for the sale of single alcoholic beverage containers which are 24 ounces or larger and allow pre-manufactured quantities of less than a six pack.

Approving Agency: City Council

Exempt Status: This project will not have a significant effect on the environment and is listed under the City of Norwalk Local CEQA Guidelines as a Class 1 Categorical Exemption from the requirements of the California Environmental Quality Act. Class 1 includes operation, permitting, licensing or minor alteration of existing public or private structures or facilities, involving negligible or no expansion of use beyond that previously existing.

Date: April 21, 2015

Prepared by: Jessica Serrano,
Senior Planner

Date

Kurt H. Anderson,
Director of Community Development

**MINUTES OF THE REGULAR MEETING
NORWALK PLANNING COMMISSION
NORWALK, CALIFORNIA
FEBRUARY 25, 2015**

The meeting was called to order by Chair Barragan at 7:30 p.m., in the Norwalk City Hall, Council Chambers, 12700 Norwalk Boulevard, Norwalk, California. Present were Commissioners Barth, Collins, Vice Chair Juan and Chair Barragan. Commissioner Perez was absent. Also present were Kurt H. Anderson, Director of Community Development; Loyal Nawfal, Assistant Planner; and Ruth Hoffmann, Administrative Secretary.

**NOTICE OF CATEGORICAL EXEMPTION (CLASS 1)
CONDITIONAL USE PERMIT NO. 974**

320-01-974

Inderjit Rai, 7-Eleven; 10656 Rosecrans Avenue, a request to modify existing conditions for an off-sale alcoholic beverage establishment to allow the sale of beer and wine from 6 a.m. to 2 a.m., allow for the sale of single beer containers which are 24 ounces or larger and allow pre-manufactured quantities of less than a six pack.

Chair Barragan opened the public hearing.

Staff presented the notice information. Assistant Planner Nawfal presented a report stating that the Planning Commission approved Conditional Use Permit No. 937 on October 12, 2011 for the sale of beer and wine at the subject facility; that the applicant is requesting to modify conditions of approval to: (1) Allow alcohol hours from 6:00 a.m. to 2:00 a.m.; (2) Allow the sale of single beer containers 24 oz. and larger; and (3) Allow manufactured pre-packaged units of less than six; that staff is recommending allowing the sale of 3-packs of alcohol or greater but retaining the existing limitations on the sale hours between 8:00 a.m. and 1:00 a.m. and prohibiting the sale of 24 oz., 32 oz., 40 oz., and similar sized single serving containers, to be consistent with previous approvals by the Planning Commission, including Conditional Use Permit No. 962 approved on October 23, 2013 for Circle K at 13041 Rosecrans, which allowed for the sale of pre-packaged quantities of three or more but maintained the restriction on single containers.

Commissioner Collins commented on the the report indicating that there were thirteen (13) calls for service at the establishment and he asked what were some of the other calls in the area and if there have been any calls that can be attributed to an inebriated individual. Assistant Planner Nawfal replied that the additional calls mentioned in the report provided by Public Safety range from traffic calls to other incidents but none that can be attributed to an inebriated individual at 7-Eleven; however, there were some instances in this regard in the center.

In reply to Commissioner Collins' comment if it is correct that this establishment is the only one in that area with off-premise alcohol sales, Assistant Planner Nawfal answered in the affirmative.

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In response to Chair Barragan's comment for clarification on the hours of alcohol sales for other stores, Assistant Planner Nawfal indicated that the table on Page 5 of the report indicates that there are seven establishments listed, five sell from 8:00 a.m. to 1:00 a.m., one from 8:00 a.m. to 11:00 p.m., and one from 6:00 a.m. to midnight.

Ms. Sherrie Olson stated that she is here on behalf of 7-Eleven; that the reason they asked for the modifications of the conditions is that this site used to be a liquor store before 7-Eleven took over the operation; that they hold a Type 21 license at this location but that they are only selling beer and wine; that they had the right to sell singles but that right was taken away when there was a 30-day down-time due to construction; and that they opened up the store and have been a good tenant.

Ms. Olson further stated that about one-half mile to the left and one-half mile to the right are liquor stores, both of which sell singles, which is part of their request; that, at minimum, they would like to sell three-packs; that, recently, a 7-Eleven off of Imperial has been selling three-packs as do most of the establishments listed in the report; that they added the other requests to see if they can bring more sales into their store; that alcohol is not their primary selling feature, but that it does help when people come in to do one-stop shopping and to be able to have that convenience; that regarding the service calls, they train their associates to call on all incidents in their store; that they have over fifteen (15) cameras at that location, including the rear and sides of the store; that if there is anything going on in the parking lot they encourage the employees to call; that they carry buttons in their pockets so they can call at any time; that they have a system where they team up with their other local stores in the area; that when there is something going on in the neighborhood, such as beer runs and other incidents, they provide license plates and other information to the Police Department; that they are respectfully asking the Commission to approve their request and, at minimum, support them on the three-packs; that they have been a good community neighbor and they want to continue that; and that the store owner, Inderjit "Happy" Rai, is here to answer any additional questions.

In response to Commissioner Collins' question how many of the thirteen (13) calls for service in the two years did they help solve, Mr. Rai indicated that in a two-month period there was an average of one call. Ms. Olson stated that she does not know how many of the other stores are not calling; that, as she mentioned, they train and encourage their associates to call because that information can be used to help the Police Department with other criminal activities and stealing from other stores. Mr. Rai indicated that they have an Asset Protection Department; that once they call the Police Department and provide them with information, all of the 7-Eleven stores within a five-mile radius are notified.

Commissioner Collins stated that he was happy that 7-Eleven eliminated a liquor store; that he does not believe that the argument that the location previously had these privileges while operating as a liquor store counts here, as they are not a liquor store.

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Ms. Olson indicated that, for the record, they are holding a Type 21 license; that she does not know why the license has not been changed to a Type 20 – Beer and Wine license, and that this may be something they want to look at.

Mr. Rai added that business is all about supply and demand; that this is his fourth year with 7-Eleven; that every single day five to ten customers ask for singles; that sometimes a customer grabs a single from a six-pack and walks out; and that they have a sign in both English and Spanish indicating that they do not sell singles.

In reply to Chair Barragan's question as to the types of customers that come in asking for singles, Ms. Olson indicated that, obviously, they do get customers from different walks of life; that they even have police officers that come into their stores to buy single cans of beer; and that offering singles is for the customers' convenience; that, as she stated, they have over fifteen (15) cameras at this location; that it is encouraged that they never break up any six-packs or any of their pre-packaged units; that if customers get upset it is handled at the store level; that with all of their security measures in place, their crime deterrents program, and on-line training, their associates are taught not to be confrontational; that they want to be a good community neighbor and do good in the community.

Mr. Rai further stated that he does not allow any persons to loiter outside of his store or ask for money; and that they are trying to keep the establishment nice and neat.

In response to Chair Barragan's comment for clarification on the thirteen (13) incidents, Assistant Planner Nawfal indicated that they were specifically listed in the report as beer runs.

Ms. Olson stated that they do have the capability of locking their cooler doors; that they share information, including license plate numbers, with their other stores within a five mile radius of people who are stealing in the area and that they also alert the Police Department.

Since there were no other persons wishing to present testimony, Chair Barragan closed the public hearing.

Commissioner Collins stated that, first, he would like to thank the applicant for opening up a business in Norwalk, which is much appreciated; that 7-Eleven has been a good chain in this community; that, however, he has some skepticism about this application; that he is not agreeable to changing the hours; that he does not agree with the sale of singles; that given the fact that they had thirteen (13) beer runs in two years, and now he is hearing that people are stealing single cans of beer, he is not willing to grant the sale of pre-packaged units because they are smaller and people are able to grab them and run even faster with those; that alcohol is a very touchy subject which has to be controlled; that he does not know of any other establishments such as the subject one

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where they allow the sale of single containers; that if they wish to run a liquor store then single containers would be allowed; however, a 7-Eleven is a totally different outfit from a liquor store; that the thirteen (13) calls for service is a major concern; and that, at this time, he would not be willing to grant anything.

In response to Vice Chair Juan's question if staff knows when these calls for service were made, Assistant Planner Nawfal stated that according to the report from Public Safety and the Sheriff's Department she cannot tell if the times are listed as there may be a reference or code on the list that she is not familiar with.

Vice Chair Juan stated that he recalls seeing singles at a 7-Eleven on Pioneer and Excelsior.

Assistant Planner Nawfal stated that, typically, when a Conditional Use Permit is granted, the Planning Commission has consistently not allowed singles; however, that site may not have an existing Conditional Use Permit.

Director Anderson added that many years ago the City adopted the requirements for Conditional Use Permits for alcohol sales; that any pre-existing store that was in existence at the time basically did not have to go through the Conditional Use Permit process unless certain things happened as was the case with the subject establishment where the previous use was out of business for a period of time which then triggered the new use coming in and requiring a Conditional Use Permit; that the Commission has been very consistent with respect to the single sales throughout the City; and that what has changed, as stated by Assistant Planner Nawfal, is that they allowed the sale of three-packs at the Rosecrans store.

Vice Chair Juan stated that looking at consistency, the 8:00 a.m. to 1:00 a.m. time looks fair to him; that he is not in favor of the single sales, but that he is okay with the manufacturer pre-packaged units of less than six as they have recently approved that packaging for another location; that, historically, he believes that the subject center is probably a concern not only to himself but to the residents.

Chair Barragan stated that in keeping with the other store hours and being consistent, she agrees to the 8:00 a.m. to 1:00 a.m. hours; that she, too, is not in favor of single sales but agrees to the pre-packaged units of three or more.

Commissioner Barth stated that she agrees with her colleagues in regards to the hours of sales from 8:00 a.m. to 1:00 a.m.; and that she is also not in favor of the singles or with the pre-packaged quantities of three or more.

It was moved by Commissioner Collins and seconded by Commission Barth to direct staff to prepare a resolution to deny Conditional Use Permit No. 974.

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ON ROLL CALL VOTE

AYES: Commissioner Barth and Commissioner Collins
NOES: Vice Chair Juan and Chair Barragan
ABSENT: Commissioner Perez

It was moved by Vice Chair Juan and seconded by Chair Barragan to adopt Resolution No. 15-06 to approve Conditional Use Permit No. 974 subject to the conditions of approval contained in Exhibit "A", with the one change that allows the sale of manufacturer pre-packaged quantities of less than six.

ON ROLL CALL VOTE

AYES: Vice Chair Juan and Chair Barragan
NOES: Commissioner Barth and Commissioner Collins
ABSENT: Commissioner Perez

Director Anderson indicated that, since the motions failed, the application is deemed to have been denied by a 2-2 vote. Further, he stated that there are two courses of action: (1) That the City Council can elect to hear any item that was reviewed by the Planning Commission; and (2) That the applicant has the right of appeal.

CITY OF NORWALK CONDITIONAL USE PERMIT

**RE: 7 Eleven Inc.
10656 Rosecrans Ave
Norwalk, CA 90650**

BACKGROUND

7 - Eleven, Inc. is requesting a modification of its existing approved conditional Use Permit #937. 7-Eleven has de-intensified its use at this location by operating their type 21 distilled spirits license as a type 20 beer and wine only. Since taking over this location two years ago, 7-Eleven has tremendously improved the site and is an anchor to the other businesses within the center. This location is major corridor to The City of Norwalk and The City of Bellflower with many visitor's, employees, and local residents. We have proven to be an asset to the community and made many enhancements to this location to improve the area. We are requesting to modify condition# 29 /30 to allow alcohol hours from 6am to 2am, to allow singles 24oz and larger and lastly to allow Manufactured pre-package quintiles less than a 6pack per sale, This location once had all these privileges when it operated as a liquor store for many years. The Department of Alcoholic Beverage Control did not impose these restrictions on 7-Eleven.

OVERVIEW AND PROJECT DESCRIPTION

7 Eleven, Inc. has offered the community an upscale beautiful bldg in location that needs change and growth. This market has enhanced the area and set us apart from the other local stores. We have invested into our community and our store shows. We want our customers to feel safe with an atmosphere of high standards. We feel each applicant should be held on an individual basis and taken into account of what they offer the community, how involved they are and they're the wiliness to go the extra mile to enhance change. We have proven to do that as a partner in the City of Norwalk. In addition we have hired within our area and continue to support our partner (City of Norwalk) as an invested interest and dictated partner.

The convenience of 7- Eleven's Concept

7 - Eleven operates the site as a modern convenience store. The convenience store provides a large diversity of food and sundry items. In fact, 7- Eleven carries over 2,500 different items. 7- Eleven's standard products includes hundreds of items from milk to household items, and cheeses to chips, prepared foods, fresh food, meats, and baked goods, along with soft drinks and other non-alcoholic beverages. Although 7- eleven sells more than 1 million cups of fresh brewed coffee and more than 2 million immediately consumable food items a day, 7- Eleven is much more than a food store. 7 - Eleven is the nation's leading retailer of USA Today, Sports Illustrated and money orders. The 7-Eleven concept is intended to provide a broad array of products for the consumer's convenience.

The sale of beer and wine will be one important part of this 7 -Eleven concept. Indeed, although beer and wine are expected to comprise a very small percent of the site's shelf-space, only a small portion of 7 -Eleven's sales (average between 10% and 15% depending on location and competitors in the area), it is nevertheless necessary in order to provide the public a complete range of products.

The 7 -Eleven store is located in such a manner that it acts as a main Arterial Street within the City. 7- Eleven will serve the employees of the Norwalk businesses and encourage additional growth in the area. Not only will the 7- Eleven be a convenient place for employees to shop on their way to and from work, it will also serve visitors on their way to or from nearby communities.

7 -Eleven is a responsible retailer and the site will not result in an adverse impact on public health, safety, or welfare

It should be noted that 7- Eleven has a very extensive training program for its employees to help ensure that it is a responsible retailer of alcoholic beverages. 7- Eleven's "Come of Age" program is a multi media, computer based training program to ensure that employees understand and implement the procedures imposed by 7 -Eleven to comply with ABC laws and regulations. Moreover, the "Come of Age" program incorporates training on all age-restricted products, including tobacco, lottery, inhalants and alcohol. Indeed, 7 -Eleven will likely be a more responsible retailer of beer and wine than any other retailer in the area. See Security Plan attached. There will be cameras located interior and exterior of premises.

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7-Eleven realizes that a healthy community translates to healthy business, and is willing to accept the ABC's imposition of these conditions when a license is issued in order to ensure that the public health, safety, and welfare are protected. In short, 7-Eleven is committed to protecting the public health, safety, and welfare of the community, and will take appropriate steps to do so.

CONCLUSION

As indicated above, this site will clearly serve the public convenience of residents, visitors, shoppers, and workers of Norwalk. 7-Eleven's request will not adversely affect any portion of the surrounding area. 7-Eleven has been a responsible retailer of alcoholic beverages nationwide. Permitting this request at the site will not change this, but will 'round-out' 7-Eleven's concept at this site, providing customers the added convenience to make quick, efficient, and safe purchases of beer and wine.

Sincerely,

Sherrie Olson
Consultant for 7-Eleven, Inc