glendale california

City of Glendale
Community Development
Planning & Neighborhood Services

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May 19, 2014

Steve Rawlings
Alcoholic Beverage Consulting
26023 Jefferson Avenue, Suite D
Murietta, CA 92562

&

99 Cents Only Store #54
4000 Union Pacific Avenue
City of Commerce, CA 90023

RE: 6401 SAN FERNANDO ROAD
CONDITIONAL USE PERMIT CASE NO. PCUP 1324820
(99 Cent Only Stores)

Dear Mr. Rawlings:

On May 14, 2014, the Planning Hearing Officer conducted and closed a public hearing, pursuant to the provisions of the Glendale Municipal Code, Title 30, Chapter 30.42, on your application for a Conditional Use Permit to allow the sales, and off-site consumption of beer and wine at an existing retail store, located at 6401 San Fernando Road, in the "C3"-Commercial Service Zone, described as a Portion of Lots 1 and 2 and Lot 3, Tract No. 4935 in the City of Glendale, County of Los Angeles.

APPLICANT'S PROPOSAL

(1) To allow the sales and off-site consumption of beer and wine at an existing retail store.

CODE REQUIRES

(1) The sales and off-site consumption of alcoholic beverages requires a Conditional Use Permit in the "C3" - Commercial Service Zone.

ENVIRONMENTAL RECOMMENDATION: The project is exempt from CEQA review as a Class 1 "Existing Facilities" exemption, pursuant to State CEQA Guidelines Section 15301.

REQUIRED/MANDATED FINDINGS

After thorough consideration of the statements contained in the application, the plans submitted therewith, the report by the Community Development Department staff thereon, and the statements made at the public hearing with respect to this application, the Planning Hearing Officer has **GRANTED WITH CONDITIONS** your application based on the following:

A. That the proposed use will be consistent with the various elements and objectives of the general plan.

The applicant's request for the sales and off-site consumption of beer and wine at an existing retail establishment ("99 Cent Only Store) will be consistent with the elements and objectives of the General Plan. Retail uses are permitted in the C3 (Commercial Service) zone and are consistent with the Community Services land use designation. The sales and off-site consumption of beer and wine requires the approval of a Conditional Use Permit in the C3 commercial district. The Land Use Element seeks to improve the livability of the community for all Glendale residents as expressed in the living, working, and shopping areas. The off-site sales of beer and wine will be an accessory use to the existing retail sales of food and general merchandise and will serve a public necessity or public convenience purpose for the area. The Circulation Element of the General Plan identifies San Fernando Road as a fully improved street and is classified as a Major Arterial street that serves many residential neighborhoods in the area as well as the surrounding community.

The Land Use Element is the most directly related to the approval of this use. All other elements of the General Plan, including the Open Space, Recreation, Housing and Noise Elements, will not be impacted as a result of the applicant's proposal.

B. That the use and its associated structures and facilities will not be detrimental to the public health or safety, the general welfare, or the environment.

The sales and off-site consumption of beer and wine at the existing retail establishment is not expected to be detrimental to the public health, safety, general welfare, or to the environment. The existing retail use ("99 Cent Only Store") has been in operation at this location for approximately 17 years; the most current Certificate of Use and Occupancy on file was issued in 1997. The retail component of this establishment will continue to operate in the same manner, with the sale of beer and wine for off-site consumption as a

complimentary addition to their retail inventory. No new construction is proposed in conjunction with the Conditional Use Permit (CUP) application. The applicant's request is not anticipated to create any negative traffic-related impacts on area streets or other businesses over and above the existing conditions. The suggested conditions for this CUP would serve to mitigate any potential negative impacts in the neighborhood.

The "99 Cent Only Store" is located in Census Tract 3016.01. The suggested limit for this census tract is four off-sale establishments. There are currently seven active off-sale licenses in this census tract. The fact that there is an over-concentration of licenses did not appear to be an issue for the Police Department or Neighborhood Services. According to the City's Part 1 crime statistics, there were 119 crimes reported in this census tract in 2012, which is 98% above the city wide average of 60. A reason for the high crime may be related to theft in local retail stores in the area. Within the last calendar year there were four calls for police service with two reports taken relating to a theft and a man with a gun at this location as noted in the comments provided by the Police Department.

No public facilities are located within the immediate area. The closest public facilities are: Griffith Manor Park at 1551 Flower Street (0.4 miles south), Fire Station 27 at 1127 Western Avenue (0.6 miles south) and Grandview Library at 1535 Fifth Avenue (0.4 miles north). There is a church (Grandview Presbyterian Church) across from the Grandview Library at 1535 Fifth Street (0.4 miles north) and Thomas Jefferson Elementary School at 1540 Fifth Street (0.4 miles north). While these facilities are within close proximity to the subject site, they are located outside of the immediate neighborhood. The applicant's request for a CUP for off-site sales of beer and wine at this location is not anticipated to be detrimental to the public health or safety, the general welfare, or the environment.

C. That the use and facilities will not adversely affect or conflict with adjacent uses or impede the normal development of surrounding property.

The sale of beer and wine will not adversely affect or conflict with adjacent uses or impede the normal development of surrounding property. Properties along the San Fernando Road and Sonora Avenue intersection are zoned C3 and feature low-scale, commercial uses. The proposed sale of beer and wine as part of this business operation will not conflict with or negatively impact adjacent uses. There are no residentially zoned properties directly adjacent to the project site and the applicant's proposal is not anticipated to negatively

impact nearby uses. The sale of beer and wine for off-site consumption will be ancillary to the primary retail use which is proposed to remain unchanged. The introduction of beer and wine for sale for off-site consumption would supplement the existing sale of grocery items as well as general merchandise and as such, is not anticipated to cause any conflicts with surrounding development.

D. That adequate public and private facilities such as utilities, landscaping, parking spaces and traffic circulation measures are or will be provided for the proposed use.

Adequate public and private facilities such as utilities, landscaping, parking spaces and traffic circulation measures are provided for the use and are existing. Associated utilities exist within the public rights-of-way and are adequate to continue service to the building. No parking is provided on-site. Patrons may utilize on-street parking along San Fernando Road, or use the parking lot adjacent to the south of the building separated by a 30-foot alley. The subject property and the off-site parking lot are under the same ownership. The parking demand is not anticipated to intensify with the sale of beer and wine. The applicant's CUP request for alcoholic beverage sales will not require any new city services, nor will it require any changes to landscaping, parking or traffic circulation.

Furthermore, this request requires that additional findings of fact be made, as follows:

For applications involving the sales, serving or consumption of alcoholic beverages, the following criteria set forth in Section 30.42.030 (F) shall be considered in making the findings in subsection A. through D. above:

1) That where an existing or proposed on-site use is located in a census tract with more than the recommended maximum concentration of on-site uses or that where an existing or proposed off-site use is located in a census tract with more than the recommended maximum concentration of off-site uses, both as recommended by the California Department of Alcoholic Beverage Control, such use does not or will not tend to intensify or otherwise contribute to the adverse impacts on the surrounding area caused by such over concentration based on the comments submitted by the City of Glendale Police Department. The sale of beer and wine for off-site consumption incidental to general retail sales at "99 Cent Only Store" does not, or will not, tend to encourage or intensify crime within this reporting district. According to the Glendale Police Department, the "99 Cent Only Stores" is located in Census Tract 3016.01 which allows for four off-sale establishments and there are currently seven active off-sale licenses in this tract. The slight over-concentration of licenses did not appear to be an issue for the Police Department and the suggested conditions would serve to mitigate any potential negative impacts in the neighborhood.

2) That where the existing or proposed use is located in a crime reporting district with a crime rate which exceeds 20 percent of the city average for Part 1 crimes, as reported by the Glendale Police Department, such use does not or will not tend to encourage or intensify crime within the district because conditions have been included in the approval of this application to ensure that any potential negative impacts will be appropriately mitigated. Based on Part 1 crime statistics for census tract 3016.01 in 2012, there were 119 crimes – 98% above the city wide average of 60. A reason for the high crime may be related to theft in local retail stores in the area. Within the last calendar year there were four calls for police service with two reports taken relating to a theft and a man with a gun at this location as noted in the comments provided by the Police Department. No evidence has been presented which would indicate that the existing retail use with the sales and off-site consumption of beer and wine would encourage or intensify crime within the district. Suggested conditions made by the Police Department have been included in the draft conditions of approval to ensure that any potential negative impacts will be appropriately mitigated.

3) That the existing or proposed use does not or will not adversely impact any other uses within the surrounding area (church, public or private school or college, day care facility, public park, library, hospital or residential use). As described in finding 'C' above, there are no public facilities located within the immediate area of the subject site. There are a few public institutions, such as schools and parks located in the general vicinity of the retail store, however, they are not in the immediate neighborhood and are not anticipated to be in conflict with the applicant's request to sell beer and wine at the existing establishment.

4) That adequate parking and loading facilities are or will be provided for the existing or proposed use or other reasonable alternatives satisfy the transportation and parking needs of the existing or proposed use. The applicant's proposal does not include any changes to the existing operation of the retail store; therefore, it is not anticipated to increase the need for public or private facilities. The sale of beer and wine for off-site consumption will be ancillary to the primary use of the project site and is not anticipated to intensify traffic circulation or parking demand. San Fernando Road is identified as a Major Arterial, which adequately handles the existing traffic circulation around the site. No parking is provided on-site. Patrons may utilize on-street parking along San Fernando Road, or use the parking lot adjacent to the south of the building separated by a 30 foot alley. The subject property and the off-site parking lot are under the same ownership. The proposed use satisfies its transportation or parking needs as described above because adequate access, parking, and delivery spaces are available to serve this use.

5) That, notwithstanding consideration of the criteria in subsections 1 through 4 above, beer and wine sales, does serve a public convenience for the area. The applicant's request to add the sale of beer and wine for off-site consumption to their primary retail use does serve a public convenience because it serves local residents, businesses, and the surrounding community. Conditions placed on the approval of the project will ensure that it will not adversely impact nearby businesses and residential uses.

CONDITIONS OF APPROVAL

APPROVAL of this Conditional Use Permit shall be subject to the following conditions:

1) That the development shall be in substantial accord with the plans submitted with the application and presented at the hearing except for any modifications as may be required to meet specific Code standards or other conditions stipulated herein to the satisfaction of the Hearing Officer.

2) That all necessary licenses, permits as required, or approvals from Federal, State, County or City authorities including the City Clerk shall be obtained and kept current at all times.

3) That sufficient measures shall be enforced to effectively eliminate interior and exterior loitering, parking congestion, disturbing noise, disturbing light, loud conversation and criminal activities.

4) That the sale of beer and wine for off-site consumption shall be in full accord with the regulations and conditions established by the State Department of Alcoholic Beverage Control.

5) That no exterior signs advertising the sales of alcoholic beverages shall be permitted.

6) That the premises shall be maintained in a clean and orderly condition, free of weeds, trash and graffiti.

7) That any expansion or modification of the facility or use which intensifies the existing Conditional Use Permit shall require a new Conditional Use Permit application. Expansion shall constitute adding floor area, increased hours of operation, changes to the use or operation, or any physical change as determined by the Planning Hearing Officer with concurrence by the Community Development Director.

8) That the off-site sale of beer and wine shall be incidental to the main use as a retail establishment and that the sale of beer and wine for consumption on the premises is strictly prohibited.

9) That signs indicating no loitering or trespassing shall be posted.

10) That the sale of beer and wine shall be restricted to no later than 10:00 p.m.

11) That the store provides training for its personnel regarding sales to minors or intoxicated persons. Alcoholic Beverage Control staff is available and can provide this training.

12) That the proprietor and his/her employees shall make an active and conscientious effort to keep customers and employees from trespassing, loitering, or consuming an alcoholic beverage on the property, adjacent properties or otherwise making disturbances in the area.

13) That the Manager and/or Staff shall be proactive in the enforcement of the City of Glendale Fresh Air Ordinance.

14) That signs shall be posted clearly specifying no sales to minors or intoxicated persons.

15) That individual unit sales of alcoholic beverages shall be restricted. No individual unit sales for beer shall be allowed. No individual unit sales for wine less than a full sized bottle shall be allowed.

16) That store display racks shall be positioned such that they are in a clear line of sight by management and staff with no restricting view and that they be appropriately lit.

17) That adequate means shall be provided for the collection of solid waste generated at the site and that all recyclable items shall be collected and properly disposed of to the satisfaction of the Integrated Waste Administrator of the City of Glendale. No trash containers shall be stored in any parking, driveway, or landscaping area.

18) That access to the premises shall be made available to all City of Glendale Community Development Department, Neighborhood Services Division, Police Department, and Fire Department staff upon request for the purpose of verifying compliance with all laws and the conditions of this approval.

19) That the authorization granted herein shall be valid for a period of five years until **May 14, 2019** at which time, a reapplication must be made.

APPEAL PERIOD (effective date), TIME LIMIT, LAPSE OF PRIVILEGES, TIME EXTENSION

The applicant's attention is called to the fact that this grant is not a permit or license and that any permits and licenses required by law must be obtained from the proper City and public agency.

Under the provisions of the Glendale Municipal Code, Title 30, Chapter 30.62, any person affected by the above decision has the right to appeal said decision to the Planning Commission if it is believed that the decision is in error or that procedural errors have occurred, or if there is substantial new evidence which could not have been reasonably presented. It is strongly advised that appeals be filed early during the appeal period and in person so that imperfections/incompleteness may be corrected before the appeal period expires. Any appeal must be filed on the prescribed forms within fifteen (15) days following the actual date of the decision. Information regarding appeals and appeal forms will be provided by the Permit Services Center (PSC) or the Community Development Department (CDD) upon request and must be filed with the prescribed fee prior to expiration of the 15-day period, on or before **JUNE 3, 2014** at the Permit Services Center (PSC), 633 East Broadway, Room 101, Monday thru Friday 7:00 am to 12:00 pm, or at the Community Development Department (CDD), 633 East Broadway, Room 103, Monday thru Friday 12:00 p.m. to 5 p.m.

APPEAL FORMS available on-line:
http://www.glendaleca.gov/planning/SubmittingAProject.asp

To save you time and a trip - please note that some of our FORMS are available on line and may be downloaded. AGENDAS and other NOTICES are also posted on our website.

TRANSFERABILITY

This authorization runs with the land or the use for which it was intended for and approved. In the event the property is to be leased, rented or occupied by any person or corporation other than yourself, it is incumbent that you advise them regarding the conditions and/or limitations of this grant.

VIOLATIONS OF THESE CONDITIONS

Violations of conditions required by this determination may constitute a misdemeanor or infraction under section 1.20.010 of the Glendale Municipal Code (GMC) and/or a violation of other local, State or Federal laws or regulations. Unless a specific penalty is

provided, any person convicted of a misdemeanor shall be punished by a fine not to exceed one thousand dollars ($1,000.00), or imprisonment for a term not to exceed six (6) months, or by both fine and imprisonment. Infractions are punishable by a fine not exceeding the sum of five hundred dollars ($500.00) for each violation. Violations of conditions required by this determination may be grounds for a revocation.

REVOCATION, CONTINUING JURISDICTION

Section 30.64.020 – Revocation – The Community Development Department shall have continuing jurisdiction over variances and conditional use permits (individual cases heard and decided upon by the Planning Hearing Officer).

To consider the revocation, the Planning Hearing Officer shall hold a public hearing after giving notice by the same procedure as for consideration of a conditional use permit at least ten (10) days notice by mail to the applicant or permittee. Continuing jurisdiction over any case is the purview of the Planning Hearing Officer, with concurrence by the Director of Community Development.

GMC CHAPTER 30.41 PROVIDES FOR

TERMINATION
Every right or privilege authorized by a conditional use permit shall terminate two (2) years after the granting of such, unless the exercise of such right or privilege has commenced in good faith prior to such time, except as otherwise provided for.

EXTENSION
An extension of the conditional use permit may be requested one time and extended for up to a maximum of one (1) additional year upon receipt of a written request from the applicant and demonstration that a reasonable effort to act on such right and privilege has commenced within the two (2) years of the approval date. In granting such extension the applicable review authority shall make a written finding that neighborhood conditions have not substantially changed since the granting of the conditional use permit.

NOTICE – Subsequent Contacts With This Office

The applicant is further advised that all subsequent contact with this office regarding this determination must be with the case planner who acted on this case. This would include clarification and verification of condition compliance and plans or building permit

applications, etc., and shall be accomplished **by appointment only**, in order to assure that you receive service with a minimum amount of waiting. You should advise any consultant representing you of this requirement as well.

Sincerely,

Roger Kiesel
Planning Hearing Officer

RK:sm

CC: City Clerk (K.Cruz); Police Dept. (Lt.S.Bickle/Z.Avila); City Attorney's Dept. (G. van Muyden/Y.Neukian); Fire Prevention Engineering Section-(D.Nickles); City Engineer and Traffic & Transportation Section (R.Golanian/G.Tom); Director of Public Works and General Manager for Glendale Water and Power (S.Zurn); Glendale Water & Power--Water Section (R.Takidin); Glendale Water & Power--Electric Section (M.Kelley/M.Jackson); Parks, Recreation and Community Services Dept. (E.Tatevosian); Neighborhood Services Division (A.Jimenez); Integrated Waste Management Admin. (D.Hartwell); Maintenance Services Section Admin. (D.Hardgrove); Street and Field Services Admin.; Environmental Management (M.Oillataguerra); and case planner-Vista Ezzati.