

# **REVISED DRAFT RESOLUTION COVER SHEET**

**Arco located at 645 E Foothill Blvd. - CONDITIONAL USE PERMIT 20-0004, DPRB  
CASE 20-0018, AND PRECISE PLAN 21-0001**

## Resolution PC-1636

Revised Resolution PC-1636 to include language and findings for Determination of Public Convenience or Necessity. Revisions in blue and underlined.

## RESOLUTION PC- 1636

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF SAN DIMAS RECOMMENDING APPROVAL TO THE CITY COUNCIL OF CONDITIONAL USE PERMIT NO. 20-0004 AND DETERMINATION OF PUBLIC CONVENIENCE OR NECESSITY TO ALLOW OFF-SALE OF BEER AND WINE (TYPE 20 LICENSE) FROM A CONVENIENCE STORE IN CONJUNCTION WITH AN EXISTING ARCO SERVICE STATION LOCATED AT 645 E. FOOTHILL BOULEVARD WITHIN THE COMMERCIAL HIGHWAY (C-H) ZONE AND SCENIC HIGHWAY OVERLAY ZONE (SHO) (APN: 8665-037-008)

**WHEREAS**, an application was filed for a Conditional Use Permit by:

Harry Heady  
7365 Carnelian Street, Suite 233  
Rancho Cucamonga, CA 91730

**WHEREAS**, the Conditional Use Permit is described as:

A request to allow off-sale of beer and wine (type 20 License) from a new convenience store in conjunction with a service station. An existing 1,797 square-foot auto repair facility will be converted into a convenience store located at 645 E. Foothill Boulevard within the Commercial Highway (CH) and Scenic Highway Overlay Zones.

**WHEREAS**, the Conditional Use Permit applies to the following described real property:

645 E. Foothill Boulevard, San Dimas- Arco Service Station APN: 8665-037-008

WHEREAS, pursuant to applicable provisions of the Business and Professions Code, the Department of Alcoholic Beverage Control (hereinafter the "ABC") is charged with the responsibility of reviewing applications and issuance of licenses for the sale and/or manufacture of alcoholic beverages in the State of California; and

WHEREAS, Section 23958 of the Business and Professions Code provides that the ABC shall deny an application for a license if issuance of that license would tend to create a law enforcement problem, or if issuance would result in or add to an undue concentration of licenses, except as provided in Section 23958.4 of said Business and Professions Code; and

WHEREAS, Section 23958.4 of the Business and Professions Code provides that, notwithstanding the limitations of Section 23958, the ABC shall issue a license if the applicant shows that “public convenience or necessity” would be served by the issuance of such license; and

WHEREAS, said Section 23958.4 further provides that the determination of “public convenience or necessity” shall be made by the local governing body of the area in which the applicant’s premises are located with regard to certain applications, including off-site sales of alcohol at a convenience store; and

**WHEREAS**, the Planning Commission has received the report and recommendation of such agencies as have submitted information including the written report and recommendation of Staff; and

**WHEREAS**, notice was duly given of the public hearing on the matter and that public hearing was held on April 15, 2021 at the hour of 7:00 p.m., with all testimony received being made a part of the public record; and

**WHEREAS**, the project is categorically exempt from environmental review under the California Environmental Quality Act (CEQA) pursuant to Section 15301(Existing Facilities) of the State CEQA Guidelines pertaining to negligible or no expansion of an existing use.

**NOW, THEREFORE**, in consideration of the evidence received at the hearing, and for the reasons discussed by the Commissioners at the hearing, and subject to the Conditions attached as “Exhibit A”, the Planning Commission now finds as follows:

- A. The site and proposed uses are adequate in size and shape to accommodate the use and all yards, spaces, walls and fences, parking and loading, landscaping and other features required by this ordinance to adapt the use with land and uses in the neighborhood.

The subject site is located within the Commercial Highway (C-H) zone and Scenic Highway Overlay (SHO) zone, and is developed with an existing gas station and car repair facility. The project proposes to remodel the car repair facility to a convenience store. Additionally, the existing fuel dispenser canopy will be remodel to match the proposed architectural design of the proposed convenience store. The existing proposed convenience store will be equipped with coolers which will dedicate three of the seven door coolers plus a 6’ x 6’ floor area for a total of no more than 70 square feet. The off-sale of beer and wine is ancillary to the primary service station use product mix provided, including gasoline and convenience food projects.

- B. The site for the proposed use relates to streets and highways adequate in width and pavement type to carry the quantity and kind of traffic generated by the proposed use.

The development provides access to the site via westbound on Foothill Blvd. and via northbound on San Dimas Canyon Road. The project site is located on Foothill Boulevard, which is a major arterial and has capacity to accommodate the approximate number of vehicle trips that would be generated during the morning and evening peak hours. It is anticipated that traffic on local roads would be negligible since the convenience store and off-sale of beer and wine would be an ancillary use to the existing service station.

The proposed use is consistent with the General Plan Land Use Element Policies, Goal #5 that calls for “providing well planned commercial centers and nodes and discourages “strip” commercial development.” Policy 5.1.2 states “Foothill Boulevard – Restrict neighborhood retail to existing key intersections.” The proposed project is consistent with the General Plan as it is located in a key intersection of the City.

- C. The proposed use will be arranged, designed, constructed, operated and maintained so as to be compatible with the intended character of the area and shall not change the essential character of the area from that intended by the general plan and the applicable zoning ordinances.

The proposed use is conditionally permitted as an accessory use to an existing use in the subject zone. The sale of beer and wine for off-site consumption will be compatible with other commercial/retail uses in the subject zone and will also be compatible other existing convenience stores that sell beer and wine for off-site consumption as part of a service station; therefore, it will not change the essential character of the area.

- D. The proposed use provides for the continued growth and orderly development of the community and is consistent with the various elements and objectives of the general plan.

The proposed request will provide for the continued growth and development of the community by providing additional beverage options to the general public. The use is conditionally permitted in the subject zone which includes conditions of approval that will assist in preventing impacts to the community in general. In addition, the proposed retail sales of beer and wine for off-site consumption will be compatible with the objectives of the commercial land use designation under the General Plan.

- E. The Public Convenience or Necessity would be served by the proposed sale of beer and wine for off-premises consumption in conjunction with the operation of a convenience store for the following reasons:

- i. The Property is located within Census Tract 4004.03 with a population of 3,815 that allows for two off-sale ABC licenses. There are presently two off-sale ABC licenses within the tract. The Property

is located within Sheriff Reporting District No. 0810, which has a Part 1 crime rate of 27 that is well below the City-wide average of 81.9. Since there is an overconcentration of off-sale licenses in the census tract and the crime rate is well below the City-wide average, a determination of Public Convenience or Necessity would not be detrimental to the health and safety of the citizens of the City of San Dimas.

- ii. The alcohol sales for off-site consumption would be ancillary to the convenience store operations. The convenience store would also provide the local community a complement of prepackaged foods, snacks, and other various items.
- iii. The alcohol sales for off-site consumption would be an ancillary part of the overall convenience store service and necessary for the convenience of shopping in a single location.
- iv. The request to permit beer and wine sales for off-premises consumption in conjunction with a convenience store would not adversely affect the surrounding land uses and the growth and development of the area in which it is proposed to be located because the use is compatible with the nearby developments.
- v. The determination of Public Convenience or Necessity, under the conditions imposed, will not be detrimental to the health and safety of the citizens of the City of San Dimas.

F. The proposed use, including any Conditions attached thereto, will be established in compliance with the applicable provisions of the California Environmental Quality Act.

The proposed use is categorically exempt under CEQA, Article 19 Categorical Exempt Section 15301, Existing Facilities. The existing service station is a service business that will be operated out of an existing commercial tenant space and will not require expansion or addition of any facilities.

PURSUANT TO THE ABOVE FINDINGS, IT IS RESOLVED that the Planning Commission recommend to the City Council approval of Conditional Use Permit 20-0004 and determination of public convenience or necessity subject to the applicant's compliance with Conditions in "Exhibit A" and "Exhibit B" Floor Plan with Alcohol Sales Area, attached hereto and incorporated herein. A copy of this Resolution shall be mailed to the applicant.

PASSED, APPROVED and ADOPTED, the 15<sup>th</sup> day of April, 2021, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

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David A. Bratt, Chairman  
San Dimas Planning Commission

ATTEST:

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Kimberly Neustice, Planning Secretary

## **Exhibit A**

### **Conditions of Approval**

#### **Conditional Use Permit 20-0004**

A request to allow off-sales of beer and wine (Type 20 license) at an existing Arco service station with a new 1,797 square foot convenience store. The subject property is located within the Commercial Highway Zone (C-H) and Scenic Highway Overlay Zone at 645 E. Foothill Boulevard. (APN: 8665-037-008)

#### **PLANNING DIVISION - (909) 394-6250**

##### **GENERAL**

1. The Applicant shall agree to defend at his sole expense any action brought against the City, its agents, officers or employees because of the issuance of such approval, or in the alternative, to relinquish such approval. The applicant shall reimburse the City, its agents, officers or employees for any Court costs and attorney's fees which the City, its agents, officers or employees may be required by a court to pay as a result of such action. The City may, at its sole discretion, participate at its own expense in the defense of any such action but such participation shall not relieve applicant of his obligations under this condition.
2. The Applicant shall be responsible for any City Attorney costs incurred by the City for the project, including, but not limited to, consultations, and the preparation and/or review of legal documents. The applicant shall deposit funds with the City to cover these costs in an amount to be determined by the City.
3. The Applicant shall comply with all requirements of the Commercial Highway (C-H) zone and Scenic Highway Overlay (SHO) zone.
4. The Applicant shall sign an affidavit accepting all Conditions and all Standard Conditions prior to commencing alcohol sales.
5. This Conditional Use Permit approval shall expire if approved use has not commenced within one (1) year from the date of approval, unless a time extension is granted pursuant to San Dimas Municipal Code § 18.200.100.C.
6. The Applicant shall comply with all Conditions of Approval as recommended by the Planning Commission on April 15, 2021 and approved by the City Council on May 11, 2021.

7. Approval is granted for a Type 20 Alcoholic Beverage Control license for the sale of beer and wine for off-site consumption as an accessory use to a convenience store and service station.
8. Change of the ABC license to a different license type shall first require review and approval of a new Conditional Use Permit Application and submittal of associated materials and fees.
9. Any increase of floor area or other substantial changes in operation relating to alcoholic beverage sales shall require review and approval of a new Conditional Use Permit and submittal of associated materials and fees.
10. The Applicant/Developer shall dedicate no more than 70 square feet area within the convenience store for the sale of beer and wine as shown in Exhibit B – Floor Plan with Alcohol Sales Area as recommended by the Development Plan Review Board on March 25, 2021 and the Planning Commission on April 15, 2021 and approved by the City Council on May 11, 2021.
11. Expansion on the number of fuel dispensers and canopy, convenience store or intensification of uses will require a new conditional use permit from the City of San Dimas.
12. The convenience store is permitted to operate 24 hours a day, seven days a week.
13. The sale of alcohol shall be prohibited between the hours of 7:00 A.M. and 12:00 A.M
14. The cash register shall be programmed to prohibit the sale of alcohol starting at 7:00 am and commence at 12:00 am, Monday—Sunday.
15. Alcoholic beverages shall not be sold to any persons under the age of 21.
16. The cash register shall have an electronic identification scanner to verify the purchaser's age (21 years and older) when purchasing alcohol.
17. No signs advertising the sale of alcoholic beverages shall be displayed outside of the store.
18. All employees shall receive "responsible beverage service training" within 60 days from being hired.
19. The applicant shall comply with all regulations of the Alcoholic Beverage Control Act and shall comply with all licensing conditions imposed by the state.



20. If, at the discretion of the Community Development Director and/or the Sheriff's Department, alcohol-related crime becomes a security issue or nuisance as a result of the use, then changes to the business operational characteristics shall be required. These modifications may require a conditional use permit modification at the discretion of the Community Development Director.
21. Applicant must maintain a fully operational video/camera systems that continuously records inside and outside of the business. Specifically, recording devices must be maintained that capture the inside and outside of the front entry of the store, the register area, and outside back door. At the minimum, the surveillance cameras must be 1080P or better for the interior and exterior of the building.

### **End of Conditions**