

REPORT TO THE PLANNING COMMISSION



DATE: September 12, 2017

TITLE: Conditional Use Permit No. 26-17. Consideration of a Conditional Use Permit for a Type 20 ABC License which allows the sale of beer and wine located at 66396 Pierson Boulevard (APN 639-252-034) within the Mixed Use (MXD) zone of the Vortex Specific Plan. Applicant: Aurelio Gonzalez Banuelos, Carniceria Mi Ranchito

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Reviewed by: Scott Taschner, Senior Planner
& Daniel Porras, Community Development Director

RECOMMENDATION

- 1) Staff Report;
- 2) Entertain Questions of Staff from Planning Commission;
- 3) Open the Public Hearing;
- 4) Take Testimony from Applicant;
- 5) Take Public Testimony;
- 6) Opportunity for Applicant Rebuttal;
- 7) Close the Public Hearing;
- 8) Planning Commission discussion and questions to Staff; and
- 9) Consider a motion that the Planning Commission approve Conditional Use Permit No. 26-17 for a Type 20 ABC License which allows the sale of beer and wine for an existing commercial building located at 66396 Pierson Boulevard within the MXD (Mixed Use) District of the Vortex Specific Plan. APN 639-252-034.

EXECUTIVE SUMMARY

On July 6, 2017, the applicant Aurelio Gonzalez Banuelos, submitted a Conditional Use Permit application for a Type 20 (Off-Sale Beer and Wine) license for a vacant commercial building that will be remodeled into a meat market/grocery store. The sale of alcoholic beverages is proposed in small area of the existing structure, occupying 207 sq. ft. of the 2,755-sq. ft. proposed establishment. The project is located at 66396 Pierson Drive, on the north side of Pierson Boulevard.



BACKGROUND

The Applicant has filed a Conditional Use Permit application for a Type 20 Alcoholic Beverage Control (ABC) license with the City.

SITE CONDITIONS

Existing Zoning/General Plan Land Use:	Mixed Use (MXD)/ General Commercial (C-G)
Existing Use:	Vacant Commercial Structure
Total Existing Building Area:	~2,755 SF
Assessor's Parcel Number:	639-252-034

The project site contains an existing commercial structure with associated site improvements and a parking lot. The property is within the Vortex Specific Plan, surrounding properties for the project site consist of:

<u>Direction</u>	<u>Jurisdiction</u>	<u>Zoning & General Plan Designations</u>	<u>Current Land Use</u>
North	City	MXD (Mixed Use) & C-G (Commercial)	Residential
West	City	MXD (Mixed Use) & C-G (Commercial)	Commercial
South	City	MXD (Mixed Use) & C-G (Commercial)	Commercial
East	City	MXD (Mixed Use) & C-G (Commercial)	Commercial

The CUP project site is directly surrounded by Mixed Use zoning designations and developed land in all directions. The existing structure is currently vacant and will be remodeled into a meat/convenience store.

CUP ANALYSIS

The Vortex Specific Plan allows off-site alcohol sales with a Conditional Use Permit. In addition, Section 17.12.050 of the Desert Hot Springs Municipal Code (DHSMC) requires a Conditional Use Permit for any business requiring an ABC license (Alcohol Sales). Section 17.12.050(A) prohibits businesses that sell alcoholic beverages within 500 feet of any religious institution, school or public park. None of these sensitive land uses are located within 500 feet of the project site. The closest sensitive land uses are Edward L. Wenzlaff Elementary School (2,200 ft.), Lilly of the Valley Worship Center (550 ft.), and Constitution Park (2,100 ft.).

General Plan and Zoning Consistency

The project proposes to establish a Type 20 (Off-sale Beer and Wine) license from the ABC in accordance with the Vortex Specific Plan and Section 17.12.050 of the DHSMC, which allows these uses with approval of a CUP. The proposed development is consistent with zoning allowable use standards and all applicable General Plan policies following the Conditions of Approval.

Census Tract No. 445.09

The applicant will be applying for a Type 20 (Off-Sale Beer and Wine) license from the Department of Alcoholic Beverage Control once the CUP is approved. The local ABC office in Palm Desert is responsible for issuing alcohol licenses in eastern Riverside County. The ABC limits the number of Off-Sale and On-Sale licenses per census tract area, the Off-Sale limit for Tract Number 445.09 is two (2) licenses. Currently there are zero (0) Off-Sale Licenses in Census Tract No. 445.09. The Census Tract as shown on Exhibit No. 4 is bounded by the following streets: Pierson Boulevard to the south, Pomelo Drive to the east, 8th Street to the north, and a flood control channel to the west.

The Chief of Police reviewed the project and stated concerns about alcohol compaction issues. Casa Blanca which serves alcohol is next to the project site, Playoffs Sports Bar is around the corner, and Super Liquor & Kings Liquor are within 3-4 blocks. It is worth noting that Casa

Blanca holds an On-Sale, not Off-Sale ABC license within Census Tract No. 445.09 and that the other establishments referenced above are in different Census Tracts than the project site.

It should be noted that on January 1, 1998, Business and Professions Code Section 23817.5 was amended to permanently establish a moratorium on the issuance of Type 20 (Off-Sale Beer and Wine) licenses in various cities and counties. The City of Desert Hot Springs was one of the cities subject to the moratorium. A new moratorium list became effective on December 15, 2016 and the City of Desert Hot Springs is no longer included in the moratorium. A new moratorium list will be calculated in approximately 5 years in accordance with Section 23817.9 of the Business and Professions Code.

Circulation and Parking

The project meets the required parking standards for the uses proposed. The following parking calculation uses parking standards from the Vortex Specific Plan:

<u>Use</u>	<u>Area (Sq. Ft.)</u>	<u>Ratio</u>	<u>Number of Spaces</u>
General Office	122	3.5 per 1,000 square feet	1
General Retail	2,633	3 per 1,000 square feet	8
Total Spaces Required			9
Total Spaces Provided			11

Ingress and egress to the project site is accessed on the north side of Pierson Boulevard.

Lighting

Exterior lighting will illuminate all exterior doors, signs, walkways, entrances, and parking area, subject to the Conditions of Approval. Lighting will be oriented downwards and shielded within the property to contain illumination within the project boundary. Staff has included a condition to add three (3) additional downward shielded roof mounted lighting fixtures to further illuminate the existing parking area.

Hours of Operation

The facility proposes to operate from 7:00 AM to 11:00 PM.

AGENCY & PUBLIC REVIEW

Public Agency Review

The proposed project was routed to all relevant public agencies and departments for review.

Public Hearing Notice

The project was noticed to neighboring owners within a 300-foot radius of the project site (on August 29, 2017) and was advertised in the Desert Star on Friday, September 1, 2017 per state noticing requirements. No public comments have been received as of this writing.

ENVIRONMENTAL ANALYSIS

In accordance with the provisions of the California Environmental Quality Act ("CEQA"), this project is Categorically Exempt from environmental review pursuant to Section No. 15301, Class No. 1 (Existing Facilities), of the California Environmental Quality Act.

FISCAL IMPACT

The addition of beer and wine sales to the proposed Carniceria Mi Ranchito, will generate additional sales tax revenues for the City once the market becomes operational.

RECOMMENDATION

Staff recommends that the Planning Commission approve Conditional Use Permit No. 26-17,

subject to the Conditions of Approval and including the following findings:

1. *That the proposed use is conditionally permitted within the subject land use district and complies with all of the applicable provisions of this Zoning Ordinance.*

The application is for a Type 20 (Off-Sale) ABC License which allows the sale of beer and wine which is identified in Section 17.12.020 of the City of Desert Hot Springs Zoning Ordinance and Table A.1 (Permitted Uses) of the Vortex Specific Plan as permitted within any mixed-use zone, subject to approval of a Conditional Use Permit. The project is proposed to be compliant with applicable provisions of the Zoning Ordinance and the Vortex Specific Plan. Conditions of Approval have been prepared and are recommended to assure the proposed use will comply with applicable Zoning Ordinance provisions. Staff recommends this finding.

2. *That the proposed use would not impair the integrity and character of the land use district in which it is to be located.*

The proposed Type 20 (Off-Sale) ABC License for the sale of beer and wine is a conditionally permitted use under the Vortex Specific Plan Mixed Use zone. The proposed use would not impair the integrity and character of the land use district, subject to the Conditions of Approval. Staff recommends this finding.

3. *That the subject site is physically suitable for the type and intensity of land use being proposed.*

The site is currently developed as a commercial site with an existing commercial building, parking, and other features and amenities appropriate to the zone. The proposed Type 20 (Off-Site) ABC license for the sale of beer and wine is physically suitable for the mixed use zoned parcel on which it is proposed. The site is physically organized to provide adequate parking, loading and pedestrian circulation for the proposed use with the recommended Conditions of Approval. Consequently, the site is physically suitable for the type and intensity of the proposed facilities. Staff recommends this finding.

4. *That the proposed use is compatible with the land uses presently on the subject property.*

The proposed off-site Type 20 (Off-Site) ABC License for the sale of beer and wine is an allowed use within the mixed-use zoning designation of the Vortex Specific Plan, the existing land uses within the subject property are commercial in nature, since the site is a vacant commercial building. The applicant is proposing to remodel the existing structures into a meat/grocery store with the proposed ABC license for the sale of beer. The proposed addition of beer and wine sales do not appear to be outside the range of activities typical for a commercial/mixed use site and appears compatible with surrounding uses. Staff recommends this finding.

5. *That the proposed use would be compatible with existing and future land uses within the general area in which the proposed use is to be located.*

Existing and future land uses within the general area of the proposed ABC License location are mixed use and commercially zoned land uses. Lands to the east, south and west are developed and zoned for mixed use uses. Lands to the north are zoned for mixed use but are developed with single family residential uses, with no direct access to the project site. The site will be a self-contained development with all vehicle circulation needs accommodated on-site, subject to the recommended Conditions of Approval. Any

signage will comply with the Desert Hot Springs Zoning Code. All activities will be contained within the proposed building and the operation will appear as a commercial use consistent with the intent of the zone. Consequently, the proposed Type 20 (Off-Site) ABC License for the sale of beer and wine is expected to be compatible with existing and future commercial uses in the surrounding area. Staff recommends this finding.

6. *That there are adequate provisions for water, sanitation, and public utilities and services to ensure that the proposed use would not be detrimental to public health and safety.*

The subject site is currently developed with water, sanitation, public utilities, and has access to all necessary services to ensure that the proposed uses will not be detrimental to public health and safety. Staff recommends this finding.

7. *That there will be adequate provisions for public access to serve the site.*

The subject site is already developed with vehicular and pedestrian access, both from public rights-of-way as well as within and throughout the site. The site has eleven (11) parking spaces to meet the parking demands of the proposed uses, in addition to sidewalks, and other provisions. The proposed project will not create any additional demand for access than will be provided by the associated parking and drive aisle, subject to the recommended Conditions of Approval. Staff recommends this finding.

8. *That there will not be an adverse effect upon desirable neighborhood characteristics.*

Desirable neighborhood characteristics include long-range views from existing properties and business of surrounding mountains, and the future development of businesses and surrounding area. The proposed Type 20 ABC License is for the sale of beer and wine and not for a new development, the project site is already developed, so there would be no adverse effect on desirable neighborhood characteristics by granting a Type 20 ABC License. Staff recommends this finding.

9. *That the proposed use is necessary and essential to the community.*

The proposed use can be considered necessary and essential to the community to the extent that it is supported by general/convenience customers that cause it to succeed as a small meat/grocery store business. The existing building is currently vacant and proposed addition of off-site beer and wine sales will help strengthen the market as a one stop shop for consumers and allow it to compete with other similar establishments that sell beer and wine. Further, the proposed use must also operate under City regulations and Conditions of Approval so that only the necessary and essential elements of the business – as determined by the City – are expressed over the life of the business. Staff recommends this finding.

10. *That the proposed use is consistent with applicable goals and policies of the General Plan.*

Staff has identified the following General Plan goals and policies applicable to the application and provides responses to each.

Administration

Goal: Comprehensive and integrated administration and implementation of all elements of the Desert Hot Springs General Plan through consistent and effective policies and programs.

The City has adopted a Zoning Ordinance & the Vortex Specific Plan to implement the General Plan and provide for review and approval of ABC Licenses. The proposed project will be subject to all requirements of this Conditional Use Permit, as prescribed by the Zoning ordinance, the Vortex Specific Plan, and the proposed Conditions of Approval.

Policy 7: The City shall encourage in-fill development within already urbanized areas of the corporate boundaries of the City, and expansion of new development shall be logically phased and, as appropriate, guided by the development of existing and new Specific Plans.

The proposed project will be located on a developed property within a developed commercial area located in a mixed use zone of the Vortex Specific Plan. All public improvements are in place.

Policy 8: City shall provide opportunities for review and comment on development proposals through public hearing notices sent to owners of property located at least within 300 feet of development proposal sites.

The project was noticed to neighboring owners within 300 feet of the project (on August 29, 2017), and in the Desert Star Weekly on September 1, 2017, per state noticing requirements. No comments have been received at the time of this writing and the Planning Commission will open the public hearing and take public comments and/or testimony on the dais and prior to any action.

Community Design

Goal 2: Variety of community design, architecture and landscaping compatible with the City's desert setting and surrounding development.

The proposed uses will be in one existing building with new associated building/site improvements, including lighting and internal tenant improvements. These improvements will adhere to applicable development standards and guidelines. The existing buildings exterior and onsite improvements will be designed with materials, colors, and other design elements that are compatible with the City's desert setting and surrounding commercial development.

Policy 1: Private and public sector development projects shall equally apply City community design standards, thereby protecting the community's scenic viewsheds, providing community cohesion and enhancing the image of Desert Hot Springs as a resort residential community.

The site is currently developed with an existing commercial building that conforms to existing buildings in the vicinity. All onsite improvements currently exist on the Project site.

Policy 9: Signs shall be limited to the minimum size, scale and number needed to provide functional identification and exposure necessary to convey messages, while minimizing impacts on traffic safety, streetscape and scenic viewsheds.

All exterior signs shall be subject to approval under the Desert Hot Springs Zoning Code. The city sign regulations do not permit signs to exceed the height of building eave lines which will result in no impacts on scenic viewsheds. Signage will be reviewed under a separate permit.

Policy 10: Lighting shall be limited to the minimum height, number and intensity of fixtures needed to provide security and identification in residential, commercial and industrial development, taking every reasonable measure to preserve the community's night skies.

All exterior lighting shall comply with Section 17.40.170 (Outdoor Lighting) to assure that only the minimum level of lighting necessary to provide the needed security and safety is installed. All proposed exterior lighting shall be reviewed by staff for conformance to the applicable standards. Therefore, the proposed meat/convenience store establishment is taking reasonable steps to preserve the night skies.

Economic Development:

Goal 1: A broadly based, healthy and balanced economy that provides a full range of economic and employment opportunities.

The proposed Type 20 (Off-Site) ABC License will help strengthen the proposed meat/convenience store to provide opportunities for new employment and provide additional tax revenues to the City.

Goal 2: Continued growth, which assures the maintenance of revenue, base adequate to support present and future public services and facilities needs.

The Type 20 (Off-Site) ABC License will strengthen the proposed meat/convenience store to provide additional revenues to the City to support present and future public needs.

Policy 11: Make every effort to expedite the processing of development proposals, which address the economic development goals of the community and take the initiative to incubate new programs and projects.

The application for a Conditional Use Permit is required by the Vortex Specific Plan and the Desert Hot Springs Zoning Code to assure compatibility with surrounding land uses and to develop project-specific conditions to assure successful operation in concert with the City's development goals. The application has been processed expeditiously.

Fire and Police Protection

Goal: A high level of police and fire protection and service.

All plans and improvements for interior or exterior building improvements will be subject to review and enforcement under fire codes and regulations. The project is not expected to have much demand for fire and police services due to the fact that it is a small retail establishment, with a street frontage on a primary street.

Policy 1: All new and improved developments shall be reviewed for their impact on safety and the provision of police and fire protection services.

All plans and improvements for interior or exterior building improvements will be subject to review and enforcement under fire codes and regulations.

Policy 2

Enforce fire standards and regulations in the course of reviewing building plans and conducting building inspections.

All plans and improvements for interior or exterior building improvements will be subject to review and enforcement under building codes and regulations.

Staff recommends this finding.

11. That there will not be significant harmful effects upon environmental quality and natural resources.

The proposed Type 20 ABC License which allows the sale of beer and wine, for a new meat/grocery store business, will not have any significant harmful effects on environmental quality and natural resources. The project site is already developed and currently zoned for mixed use. No significant adverse or harmful effects on the environment or on any natural resources are anticipated.

12. That the negative impacts of the proposed use are mitigated and/or a mitigated negative declaration may be filed.

The proposed project will be operated in accordance with all applicable regulations and Conditions of Approval. A review of the proposed project has identified no negative impacts, subject to the implementation of specific Conditions of Approval. Staff recommends this finding.

13. That the proposed location, size, design, and operating characteristics of the proposed use would not be detrimental to the public interests, health, safety, convenience, or welfare of the City.

The proposed project has been reviewed by City departments and other public agencies for any potential detrimental effects on public interests, health, safety, convenience or welfare of the City. Any potential concerns have been addressed by recommended Conditions of Approval, and no unresolved concerns remain. Staff recommends this finding.

EXHIBITS

- 1) Conditions of Approval
- 2) Site Photographs
- 3) Floor Plan
- 4) Census Tract 445.09 Map