

REPORT TO THE CITY COUNCIL



DATE: September 4, 2018

TITLE: Conditional Use Permit No. 03-05: Amendment to Change a Type 20 (Off-Sale Beer and Wine) Alcoholic Beverage Control License to a Type 21 (Off-Sale General) for the Existing Carniceria Rancho Grande Located at 13313 Palm Drive (APN 641-214-022) Within the General Commercial (C-G) Zone (Applicant: Carlos Enterprises, Inc.)

Prepared by: Benjamin Torres, Associate Planner

Reviewed by: Daniel Porras, Community Development Director

RECOMMENDATION

- 1) Staff Report;
- 2) Entertain questions of Staff from the City Council;
- 3) Open the Public Hearing;
- 4) Take testimony from Applicant;
- 5) Take testimony from those in favor;
- 6) Take testimony from those opposed;
- 7) Take testimony from those in a neutral position;
- 8) Opportunity for Applicant rebuttal;
- 9) Close the Public Hearing;
- 10) City Council discussion and questions to Staff; and
- 11) That the City Council make a Finding of Public Convenience or Necessity and approve Conditional Use Permit No. 03-05 Amendment for a Type 21 ABC License which allows the sale of beer, wine, and distilled spirits for the existing Carniceria Rancho Grande located at 13313 Palm Drive within the C-G (General Commercial) zone. APN 641-214-022.

EXECUTIVE SUMMARY

On May 2, 2018, the applicant Carlos Enterprises, Inc., submitted an Amendment to their Conditional Use Permit to change their approved Type 20 (Off-Sale Beer and Wine) Alcoholic Beverage Control (ABC) License to a Type 21 (Off-Sale General), which in addition to the sale of beer and wine, also allows for the sale of distilled spirits. The project is located at 13313 Palm Drive, on the west side of Palm Drive.

PROJECT BACKGROUND

This project was originally approved, and a Finding of Public Convenience or Necessity was made by the Planning Commission on June 12, 2018. After the project was approved the applicant contacted the State Department of Alcoholic Beverage Control to finalize their Type 21 Alcoholic Beverage License application. The State Licensing Representative in charge of the Rancho Grande Project contacted City Staff on June 27, 2018 explaining that the Finding of Public Convenience or Necessity must come from the City Council and not the Planning Commission. Before the project was previously approved by the Planning Commission, City Staff contacted the same Licensing Representative and was informed that the City Council did not need to make the



Finding of Public Convenience or Necessity. Staff is now bringing this item to the City Council in order to provide the applicant with the necessary documentation that is being requested by the Department of Alcoholic Beverage Control.

SITE CONDITIONS

The project is within an existing multi-tenant commercial structure with associated site improvements and a parking lot. The Carniceria Rancho Grande occupies a portion of the building. Below is a summary of the project site:

Existing Zoning/General Plan Land Use: General Commercial (C-G)
Existing Use: Grocery Store/ Commercial Uses
Total Existing Building Area: ~30,000 SF
Assessor's Parcel Number: 641-214-022

The property is within the General Commercial (C-G) zone. 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	C-G (Commercial)	Residential
West	City	R-H (Residential)	Commercial
South	City	C-G (Commercial)	Hotel
East	City	C-G (Commercial)	Commercial

The CUP project site is directly surrounded by commercial uses, except for residential uses to the east and developed land in all directions.

CUP ANALYSIS

The General Commercial (C-G) zone allows alcohol sales for off-site consumption with approval of a Conditional Use Permit. The project currently has a Conditional Use Permit, the applicant is currently requesting an amendment to change their Type 20 (Off-Sale Beer and Wine) License to a Type 21 (Off-Sale General). As shown in Exhibit 3, the applicant is proposing an alcohol display case near the front of the grocery store with an approximate size of eight (8) feet in length, six (6) feet tall, and eighteen (18) inches wide.

Section 17.12.050(A) of the Desert Hot Springs Municipal Code 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. In addition, the Chief of Police reviewed the project and had no comments/concerns.

General Plan and Zoning Consistency

The project proposes to establish a Type 21 (Off-sale General) license from the Department of Alcoholic Beverage Control in accordance with Sections 17.12.050 of the DHSMC, which allows this use 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.

Finding of Public Convenience or Necessity (Census Tract No. 445.07)

The applicant will be applying for a Type 21 (Off-Sale General) license from the Department of Alcoholic Beverage Control (ABC) once the Amendment to 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 445.07 is six (6) licenses. Currently, there are eight (8) Off-Sale Licenses in Census Tract No. 445.07 (See Exhibit No. 5 for list of active licenses). Therefore, Census Tract No. 445.07 is considered over-concentrated and the City Council will need to make a Finding of Public Convenience or Necessity. Even though the Census Tract is categorized as

over-concentrated, the character of the surrounding neighborhood will remain the same if the change is approved. The project site currently has a Type 20 (Off-Sale Beer and Wine) License and their current request is to change license types to a Type 21 (Off-Sale General), which in addition to the sale of beer and wine, also allows the sale of distilled spirits.

The City Council could find that the change in license types would be considered a “public benefit” and therefore meet the definition of “Public Convenience or Necessity.” The Finding of “Public Convenience or Necessity” can further be met as the Carniceria Rancho Grande is a well-established grocery store chain within the City and throughout the Coachella Valley. To remain a competitive retail establishment, the grocery store needs to expand its alcohol selection, to compete with other establishments that currently sell distilled spirits. Therefore, it can be determined that it is a necessity to allow the Carniceria Rancho Grande to obtain a Type 21 (Off-Sale General) License, to help the business prosper within the City.

Circulation and Parking

The project is not proposing an expansion or change of use. The project site has an existing parking lot for the various establishments within the shopping center. Ingress and egress to the project site is accessed from three driveways on the west side of Palm Drive. In addition to an ally way on the west side of the parcel.

Lighting

Exterior lighting currently illuminates all exterior doors, signs, walkways, entrances, and parking area. Lighting is orientated downwards and shielded within the property to contain illumination within the project boundary.

Hours of Operation/Security

The facility proposes to operate from 6:00 AM to 10:30 PM and will have daily security guards from 3:00 PM to 10:30 PM. The project site has a digital camera system that is always recording and an alarm system with secret emergency buttons.

AGENCY AND 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 23, 2018) and was advertised in the Desert Star on Friday, August 24, 2018 per state noticing requirements.

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.

CURRENT EMPLOYEMENT

The grocery store currently employs approximately forty-five (45) employees, according to the applicant.

FISCAL IMPACT

The ABC license change from a Type 20 Off-Sale Beer and Wine to a Type 21 Off-Sale General, which allows the sale of distilled spirits to the existing Carniceria Rancho Grande, will likely generate additional sales tax revenues for the City.

RECOMMENDATION

Staff recommends that the City Council make a Finding of Public Convenience or Necessity and approve an amendment to Conditional Use Permit No. 03-05, 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 an amendment to change an already approved Type 20 (Off-Sale) ABC License which allows the sale of beer and wine to a Type 21 (Off-Sale General) which is identified in Section 17.12.020 of the City of Desert Hot Springs Zoning Ordinance, subject to approval of a Conditional Use Permit. The project is proposed to be compliant with applicable provisions of the Zoning Ordinance. 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 21 (Off-Sale General) ABC License allows for the sale of beer, wine, and distilled spirits for consumption off the premises where sold. The project site currently has an approved Conditional Use Permit. 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 21 (Off-Sale General) ABC license for the sale of beer, wine, and distilled spirits is physically suitable for the General Commercial 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 21 (Off-Sale General) ABC License for the sale of beer, wine, and distilled spirits is a conditionally allowed use within the Commercial General zoning designation, the existing land uses within the subject property are commercial in nature, with a variety of restaurants and retail uses. The applicant is proposing to change their already approved Type 20 License to a Type 21, which allows for the sale of distilled spirits. The proposed addition of distilled spirits does not appear to be outside the range of activities typical for a commercial 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 project location, except for uses to the west (residential uses) are commercial uses and commercially zoned land

uses. Lands to the east, south and north are developed and zoned for commercial uses. Lands to the west are zoned for high density residential but are developed with single family residential uses, with no direct access to the project site. The site is a self-contained development with all vehicle circulation needs accommodated on-site. 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 commercial grocery store use consistent with the intent of the zone. Consequently, the proposed Type 21 (Off-Sale General) ABC License for the sale of beer, wine, and distilled spirits 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 on-site parking spaces to meet the parking demands of the shopping centers retail uses, in addition to sidewalks, and other provisions. The proposed ABC License change 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 ABC License change from a Type 20 to a Type 21 will allow for the sale of distilled spirits, the project site is already developed, so there would be no adverse effect on desirable neighborhood characteristics by granting a Type 21 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 occupied by a variety of commercial uses (e.g. restaurants, retail, etc.) and proposed change of a Type 20 to a Type 21 ABC License will help strengthen the market as a one-stop shop for consumers and allow it to compete with other similar establishments that sell beer, wine, and distilled spirits. 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 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, and the recommended 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 within the General Commercial zone. 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 23, 2018), and in the Desert Star Weekly on August 24, 2018, per state noticing requirements. At the public hearing the City Council 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 within the Carniceria Rancho Grande portion on an existing building with existing 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 are 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. Existing exterior lighting is downward shielded to protect the night skies, no new lighting is proposed. Therefore, the proposed meat/grocery 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 21 (Off-Sale General) ABC License will help strengthen the proposed meat/grocery 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 21 (Off-Sale General) ABC License will strengthen the proposed grocery 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 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 was received on May 02, 2018 and 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. In addition, the grocery store has onsite security from 3:00 PM to 10:30 PM, which should reduce the demand for police services.

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 grocery store currently has a Type 20 ABC License which allows for the sale of beer and wine. They are proposing to change it to a Type 21 ABC License, which in addition to the sale of beer and wine also allows for the sale of distilled spirits for off-site consumption. This proposed change will not have any significant harmful effects on environmental quality and natural resources. The project site is already developed and currently zoned for commercial uses. 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 445.07 Map
- 5) List of Active Off-Sale Licenses (Census Tract 445.07)
- 6) Resolution of Public Convenience or Necessity