



City of El Cajon

Planning Commission Agenda

Tuesday, October 4, 2022 Meeting

7:00 PM

DARRIN MROZ, Chair
REBECCA POLLACK-RUDE, Vice Chair
PAUL CIRCO
ANTHONY SOTTILE
ELIZABETH VALLES

Meeting Location: City Council Chambers, 200 Civic Center Way, El Cajon, CA, 92020

Please note that, pursuant to State and County Health Orders, in-person meetings have resumed. The public is welcome to attend and participate.

The meeting will be live-streamed through the City website at: <https://www.elcajon.gov/your-government/city-meetings-with-agendas-and-minutes-all>.

To submit written comments on an item on this agenda, or a Public Comment, please e-mail the comments with Planning Commission in the subject line to planning@elcajon.gov before 5 p.m. on Tuesday, October 4, 2022. Comments will be limited to 300 words and will be entered into the official Commission Meeting Record.

The City of El Cajon is endeavoring to be in total compliance with the Americans with Disabilities Act. If you require assistance or auxiliary aids in order to participate at the Commission meeting, please contact our office at 619-441-1742, option 3, as soon as possible.

CALL TO ORDER

PLEDGE OF ALLEGIANCE

ROLL CALL

CHAIRPERSON'S WELCOME

PUBLIC COMMENT

This is the opportunity for the public to address the Commission on any item of business within the jurisdiction of the Commission that is not on the agenda. Under state law no action can be taken on items brought forward under Public Comment except to refer the item to staff for administrative action or to place it on a future agenda. Non-agenda public comments must be submitted before the end of public comment during the meeting.

CONSENT

Agenda Item:	1
	Planning Commission minutes of September 20, 2022

Decisions and Appeals - A decision of the Planning Commission is final unless appealed within 10 days of the date of the Commission's action. The appeal period for the items on this Agenda will end on Monday, October 17, 2022, at 5:00 p.m. Agenda items which are forwarded to City Council for final action need not be appealed.

PUBLIC HEARINGS

Agenda Item:	2
Project Name:	Appeal of Director’s Determination – ALDI Store
Request:	Finding of Public Convenience or Necessity for an Off-Sale Alcohol License
CEQA Recommendation:	Exempt
STAFF RECOMMENDATION:	DENY
Location:	123 Fletcher Parkway
Applicant:	S. Douglas Kerner; kerner@higgslaw.com
Project Planner:	Noah Alvey; 619-441-1795; nalvey@elcajon.gov
City Council Hearing Required?	No
Recommended Actions:	<ol style="list-style-type: none"> 1. Conduct the public hearing; and 2. MOVE to adopt the next resolution in order, denying the appeal of the Community Development Department Director’s determination that the public convenience or necessity would not be served by the issuance of an off-sale alcohol license.

Agenda Item:	3
Project Name:	7-Eleven Off-Sale Alcohol Sales
Request:	Add off-sale alcohol (Type 20 ABC License) to an existing convenience store
CEQA Recommendation:	Exempt
STAFF RECOMMENDATION:	CONTINUANCE TO A DATE CERTAIN, OCTOBER 18, 2022
Location:	500 N. Second St.
Applicant:	R. Bruce Evans; bevans@ssjlaw.com
Project Planner:	Noah Alvey; 619-441-1795; nalvey@elcajon.gov
City Council Hearing Required?	No
Recommended Actions:	<ol style="list-style-type: none"> 1. Conduct the public hearing; and 2. Continue the public hearing to a date certain, October 18, 2022

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Agenda Item:	4	
Project Name:	Amendment of the Zoning Code – Lodging Establishments	
CEQA Recommendation:	Exempt	
STAFF RECOMMENDATION:	CONTINUANCE TO A DATE UNCERTAIN	
Location:	Citywide	
Applicant:	City of El Cajon	
Project Planner:	Noah Alvey; 619-441-1795; nalvey@elcajon.gov	
City Council Hearing Required?	Yes	To Be Determined
Recommended Actions:	1. Conduct the public hearing; and 2. Continue the public hearing to a date uncertain	

3. OTHER ITEMS FOR CONSIDERATION

4. STAFF COMMUNICATIONS

5. COMMISSIONER REPORTS/COMMENTS

6. ADJOURNMENT

This Planning Commission meeting is adjourned to October 18, 2022 at 7 p.m.



MINUTES PLANNING COMMISSION MEETING September 20, 2022

The meeting of the El Cajon Planning Commission was called to order at 7:02 p.m.

PLEDGE OF ALLEGIANCE & MOMENT OF SILENCE.

COMMISSIONERS PRESENT: Darrin MROZ (Chair)
 Rebecca POLLACK-RUDE (Vice Chair)
 Paul CIRCO
 Anthony SOTTILE
 Elizabeth VALLES

COMMISSIONERS ABSENT: None

STAFF PRESENT: Noah ALVEY, Deputy Director of Community Development
 Barbara LUCK, Staff Attorney
 Laura JUSZAK, Administrative Secretary
 Roxana GUZMAN, Administrative Secretary

Chair MROZ opened the Planning Commission meeting explaining the rules of conduct.

PUBLIC COMMENT:

There was no public comment.

CONSENT CALENDAR:

Agenda Item:	1
	Planning Commission minutes of August 16, 2022

Motion was made by CIRCO, seconded by VALLES, to approve the August 16, 2022 minutes; motion carried 5-0.

PUBLIC HEARING ITEM:

CIRCO recused.

Agenda Item:	2
Project Name:	Shadow Mountain Athletic Field Improvements
Request:	Replacement bleachers and field netting
CEQA Recommendation:	Exempt
STAFF RECOMMENDATION:	APPROVE
Project Number:	Minor Amendment (MA) No. 2022-0008
Location:	2100 Greenfield Drive
Applicant:	Trev Holman; trev.holman@shadowmountain.org
Project Planner:	Noah Alvey; 619-441-1795; nalvey@elcagon.gov
City Council Hearing Required?	No
Recommended Actions:	<ol style="list-style-type: none">1. Conduct the public hearing; and2. MOVE to adopt the next resolutions in order, approving the CEQA exemption and MA-2022-0008 to Specific Plan No. 523 subject to conditions.

ALVEY summarized the staff report through a PowerPoint presentation.

COMMISSIONERS asked questions with ALVEY providing answers.

MROZ opened the public hearing.

Bryan SNOW is Executive Pastor of Shadow Mountain Community Church and spoke in support of the project.

Motion was made by MROZ, seconded by SOTTILE, to close the public hearing; motion carried 4-0, with CIRCO disqualified.

COMMISSIONERS discussed the item.

Motion was made by VALLES, seconded by SOTTILE, to approve Minor Amendment No. 2022-0008 subject to conditions as amended to include additional future architectural enhancements incorporating features from the April 20, 2021 approved elevations or other similar features as determined by the Community Development Department Director; motion carried 4-0, with CIRCO disqualified.

Agenda Item:	3
Project Name:	Appeal of Director’s Determination – ALDI Store
Request:	An Appeal of the Director’s Denial of a Finding of Public Convenience or Necessity for an Off-Sale Alcohol License
CEQA Recommendation:	Exempt
STAFF RECOMMENDATION:	CONTINUANCE TO A DATE CERTAIN, OCTOBER 4, 2022
Location:	123 Fletcher Parkway
Applicant:	S. Douglas Kerner; kerner@higgslaw.com
Project Planner:	Noah Alvey; 619-441-1795; nalvey@elcajon.gov
City Council Hearing Required?	No
Recommended Actions:	<ol style="list-style-type: none"> 1. Conduct the public hearing; and 2. Continue the public hearing to a date certain, October 4, 2022

ALVEY confirmed that the applicant is requesting that this Agenda Item be continued to a date certain, October 4, 2022.

Motion was made by MROZ, seconded by VALLES, to continue agenda item to a date certain, October 4, 2022; motion carried 5-0.

OTHER ITEMS FOR CONSIDERATION:

ALVEY requested that the Planning Commission consider a Resolution of Intention to Amend the Zoning Code to consider redefining lodging establishments, allowed uses, and certain performance standards.

COMMISSIONERS asked questions with ALVEY providing answers

COMMISSIONERS discussed the Resolution of Intention

Motion was made by SOTTILE, seconded by CIRCO, to adopt the Resolution of Intention; motion carried 5-0.

STAFF COMMUNICATIONS:

ALVEY informed COMMISSIONERS that the City Council denied an appeal of the Planning Commission’s decision regarding TPM No. 2021-0004.

COMMISSIONER REPORTS/COMMENTS:

There were none.

ADJOURNMENT:

Motion was made by MROZ, seconded by VALLES, to adjourn the meeting of the El Cajon Planning Commission at 7:25 p.m. this 20th day of September, 2022, until 7:00 p.m., Tuesday, October 4, 2022; motion carried 5-0.

Darrin MROZ, Chair

ATTEST:

Noah ALVEY, Secretary

DRAFT



Agenda Item:	2
Project Name:	Appeal of Director’s Determination – ALDI Store
Request:	Finding of Public Convenience or Necessity for an Off-Sale Alcohol License
CEQA Recommendation:	Exempt
STAFF RECOMMENDATION:	DENY
Location:	123 Fletcher Parkway
Applicant:	S. Douglas Kerner; kerner@higgslaw.com
Project Planner:	Noah Alvey; 619-441-1795; nalvey@elcajon.gov
City Council Hearing Required?	No
Recommended Actions:	<ol style="list-style-type: none"> 1. Conduct the public hearing; and 2. MOVE to adopt the next resolution in order, denying the appeal of the Community Development Department Director’s determination that the public convenience or necessity would not be served by the issuance of an off-sale alcohol license.

PROJECT DESCRIPTION

This is an appeal of the Community Development Department Director’s determination that the public convenience or necessity (PCN) would not be served by the issuance of a Type 20 State Department of Alcoholic Beverage Control (ABC) license for a retail grocery store (ALDI Store) at 123 Fletcher Parkway. The ALDI Store is approximately 24,000 square feet in size and located on the south side of Fletcher Parkway, west of State Route 67, at the Parkway Plaza regional shopping mall.

BACKGROUND

General Plan:	Special Development Area (SDA) No. 8
Specific Plan:	Specific Plan No. 19
Zone:	C-R (Regional Commercial)
Notable State Law(s):	Business and Professions Code Section 23958.4(b)(2)

On July 29, 2022, ALDI Store representatives filed a request for a Director’s Determination for a PCN finding for a Type 20 Off-Sale Alcohol General License at 123 Fletcher Parkway. The request included a license transfer of License No. 460900 from San Mateo County to the City of El Cajon. On August 26, 2022, the request was denied by the Director due to an overconcentration of off-sale licenses within the census tract where the ALDI Store is located. On September 2, 2022, ALDI Store representatives filed an appeal of the Director’s determination.

On September 15, 2022, staff received a request for continuance from the applicant’s representative, Patrick Batten. The reason for the request was that the applicant would not be able to attend the September 20, 2022 public hearing due to unforeseen circumstances. On September 20, 2022, the Planning Commission continued the hearing to a date certain, October 4, 2022.

Project Site & Constraints

The Parkway Plaza regional shopping mall is developed with several major retail stores, specialty retail shops and restaurants, a food court, a movie theater, and parking garages. The regional shopping mall is accessed from Fletcher Parkway and North Johnson Ave. and is bound by Interstate-8 on the south and State Route 67 on the east. The project site is located within the easterly portion of the mall, adjacent to State Route 67.

Surrounding Context

Properties surrounding the subject site are developed and zoned as follows:

Direction	Zones	Land Uses
North	C-R	Miscellaneous retail uses
South	N/A	Interstate 8
East	N/A	State Route 67
West	C-R	Various Retail

General Plan

The project site has a General Plan designation of “Regional Commercial/Special Development Area No. 8”. The Regional Commercial designation is intended to accommodate large shopping centers with shared parking and vehicular access. SDA No. 8 is specifically intended to accommodate the development of Parkway Plaza as a regional shopping mall. Goal 9 advocates for the creation and retention of a strong, competitive region-wide commercial base. Objective 9-1 and associated policies state that Parkway Plaza and its immediate vicinity will be maintained as the City's regional shopping center.

Specific Plan

Specific Plan (SP) No. 19 was first adopted in 1958 for a commercial development on the Parkway Plaza site. The plan was amended several times to accommodate new buildings, additions, and parking structures. The site includes ample parking areas, convenient access, and an efficient circulation system that supports the mall’s many retail uses.

Municipal Code/Zoning Code

El Cajon Municipal Code Chapter 17.210 includes the Alcohol Sales and Deemed Approved Alcohol Sales Regulations and includes location requirements, required findings, and conditions of approval for new off-sale beverage activities. The following excerpts from Chapter 17.210 apply to the request for a PCN finding.

<p>17.210.090 Distance requirements – applicable to new off-sale alcoholic beverage sales activities</p>
<p>A. No new off-sale alcoholic beverage establishment shall be located within 600 feet of residentially zoned property, public or private schools, health care facilities, religious facilities, and parks or playgrounds, except:</p> <ol style="list-style-type: none">1. A general retail store, or grocery store, or retail pharmacy with greater than 10,000 square feet of gross floor area and a maximum of 10 percent of the gross floor area devoted to the sale and display of off-sale alcoholic beverages; or2. A convenience market with a maximum of 10 percent of the retail display area devoted to the sale and display of alcoholic beverages, limited to off-sale beer and wine, non-fortified products only. Retail display area includes all floor area within the establishment that is accessible and within view of customers, including aisles, and floor area occupied by shelves, counters, and refrigerator coolers. <p>B. For purposes of this section, distances shall be measured between the closest property lines of the affected locations.</p>
<p>Section 17.210.110 - Required Findings – new off-sale alcoholic beverage sales activities</p>
<p>A. The proposed establishment meets the locational requirements of Section 17.210.090.</p> <p>B. The proposed alcoholic beverage sales activity will not aggravate existing problems in the neighborhood created by the sale of alcohol such as loitering, public drunkenness, alcoholic beverage sales to minors, noise and littering.</p> <p>C. The proposed establishment will not detrimentally affect nearby neighborhoods considering the distance of the alcohol establishment to residential buildings, schools, parks, playgrounds or recreational areas, nonprofit youth facilities, places of worship, hospitals, alcohol or other drug abuse recovery or treatment facilities, county social service offices, or other alcoholic beverages sales activity establishments.</p> <p>D. The proposed establishment is located in a census tract with capacity for additional off-sale licenses, as defined by the California Department of Alcohol Beverage Control, with low to average crime rates, as defined by the police department annually, subject to the condition that an additional off-sale establishment will not be contradictory to a moratorium.</p>
<p>Section 17.210.120 - Conditions of approval – new off-sale alcoholic beverage sales activities</p>
<p>A. In order to make required findings the applicant must acquire an existing off-sale license issued by the ABC from an off-sale alcohol sales establishment located in an over-concentrated census tract in the city of El Cajon and transfer the license to an approved location or otherwise extinguish such license.</p>

Business and Professions Code

Section 23817.5 of the Business and Professions Code established a moratorium on off-sale licenses in cities and counties where the ratio of off-sale licenses exceeds one for each 2,500 inhabitants. The City of El Cajon is included in this moratorium and according to ABC staff, the moratorium only applies to original use applications. However, a transfer of a license from outside of the City to a location within the City would not fall under this moratorium restriction, but would still need to satisfy other ABC criteria such as “public convenience or necessity”.

Section 23958.4(b)(2) of the Business and Professions Code allows ABC to approve the transfer of a license provided the governing body of the area in which the applicant’s premises is to be located determines that public convenience or necessity is served by the issuance of said license. A PCN is required when the proposed location is within a census tract that has an overconcentration of licenses or a crime rate that exceeds 120% of the citywide average.

The subject site is located in Census Tract 162.02, where ABC regulations allow two off-sale alcohol licenses. Currently, Census Tract 162.02 (includes a portion of the County) has 11 existing off-sale alcohol licenses. Five of the eleven issued licenses are within the City of El Cajon and located in the vicinity of the subject property. The average crime rate for the City is 164 offenses per district and 120% of the citywide average is 197 offenses. The total number of offenses in the El Cajon portion of Census Tract 162.02 was 882 or 537.8% of the city wide average. This does not include crime stats in the County portion of the census tract.

Planning Division Policy A-10

Planning Division Policy A-10 (Attachment 2) describes the procedures for a PCN finding and indicates that a decision shall be made based on the recommendation of the Police Department and the standards set forth in the El Cajon Municipal Code (ECMC).

DISCUSSION

A grocery store is permitted within the C-R zone. Pursuant to El Cajon Municipal Code (ECMC) section 17.210.080, a grocery store of at least 10,000 square feet of gross floor space and with a maximum of 10 percent of gross floor area devoted to the sales and display of alcoholic beverages is exempt from the requirement of needing to obtain a Conditional Use Permit (CUP). However, the establishment remains subject to the applicable standards found in ECMC Chapter 17.210 Alcohol Sales and Deemed Approved Alcohol Sales Regulations and must be in a census tract with capacity. The subject site is located within an over-concentrated census tract for off-sale licenses, with two licenses permitted and 11 existing licenses.

ECMC section 17.210.120 states, “in order to make required findings the applicant must acquire an existing off-sale license issued by the ABC from an off-sale alcohol sales establishment located in an over-concentrated census tract in the city of El Cajon and

transfer the license to an approved location or otherwise extinguish such license.” For the current request the applicant is proposing to transfer License No. 460900 from San Mateo County to the City of El Cajon, which is not consistent with ECMC section 17.210.120.

Furthermore, there are four grocery stores within the immediate vicinity with off-sale alcoholic beverages sales. These include Target (250 Broadway), Food for Less (444 Broadway), Walmart (605 Fletcher Pkwy), and Smart & Final (1090 Fletcher Pkwy). Please see the attached aerial image for reference.

FINDING

The finding for granting the appeal of the Director’s Determination is as follows:

- A. *The public convenience or necessity would be served by the transfer of a Type 20 license from San Mateo County to the City of El Cajon to allow off-sale beer and wine sales at 123 Fletcher Parkway.*

The applicant is proposing to transfer an ABC license from San Mateo County to an El Cajon census tract with an overconcentration of off-sale alcohol licenses and ECMC section 17.210.120 indicates that in order to make required findings the applicant must acquire an existing off-sale license issued by the ABC from an off-sale alcohol sales establishment located in an over-concentrated census tract in the City of El Cajon and transfer the license to an approved location or otherwise extinguish such license.

The subject site is located in a census tract with 11 Type 20 and 21 licenses and any more than two licenses is considered an overconcentration of such licenses in that census tract. Furthermore, the census tract has a very-high crime rate compared to the city average, and that ECMC section 17.210.110 requires additional off-sale licenses only be located in census tracts with capacity for additional off-sale licenses, as defined by the California Department of Alcohol Beverage Control, with low to average crime rates, as defined by the police department annually.

CALIFORNIA ENVIRONMENTAL QUALITY ACT

The proposed project is exempt from the California Environmental Quality Act (CEQA) under Section 15301 (Existing Facilities) of CEQA Guidelines. This classification covers projects where the building already exists and the proposed use involves little or no expansion of the use.

PUBLIC NOTICE & INPUT

Notice of this public hearing was mailed on September 9, 2022, to all property owners within 300 feet of the project site and to anyone who requested such notice in writing, in compliance with Government Code sections 65090, 65091, and 65092, as applicable. Additionally, as a public service, the notice was posted in the kiosk at City Hall and on the City’s website.

RECOMMENDATION

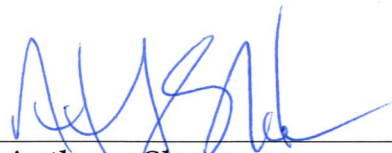
Staff is recommending denial of the appeal of the Community Development Director's Determination that the public necessity or convenience would not be served by the transfer of a Type 20 license from San Mateo County to the City of El Cajon to allow off-sale beer and wine sales at 123 Fletcher Parkway due to an overconcentration of existing licenses.

PREPARED BY:



Noah Alvey
DEPUTY DIRECTOR
OF COMMUNITY
DEVELOPMENT

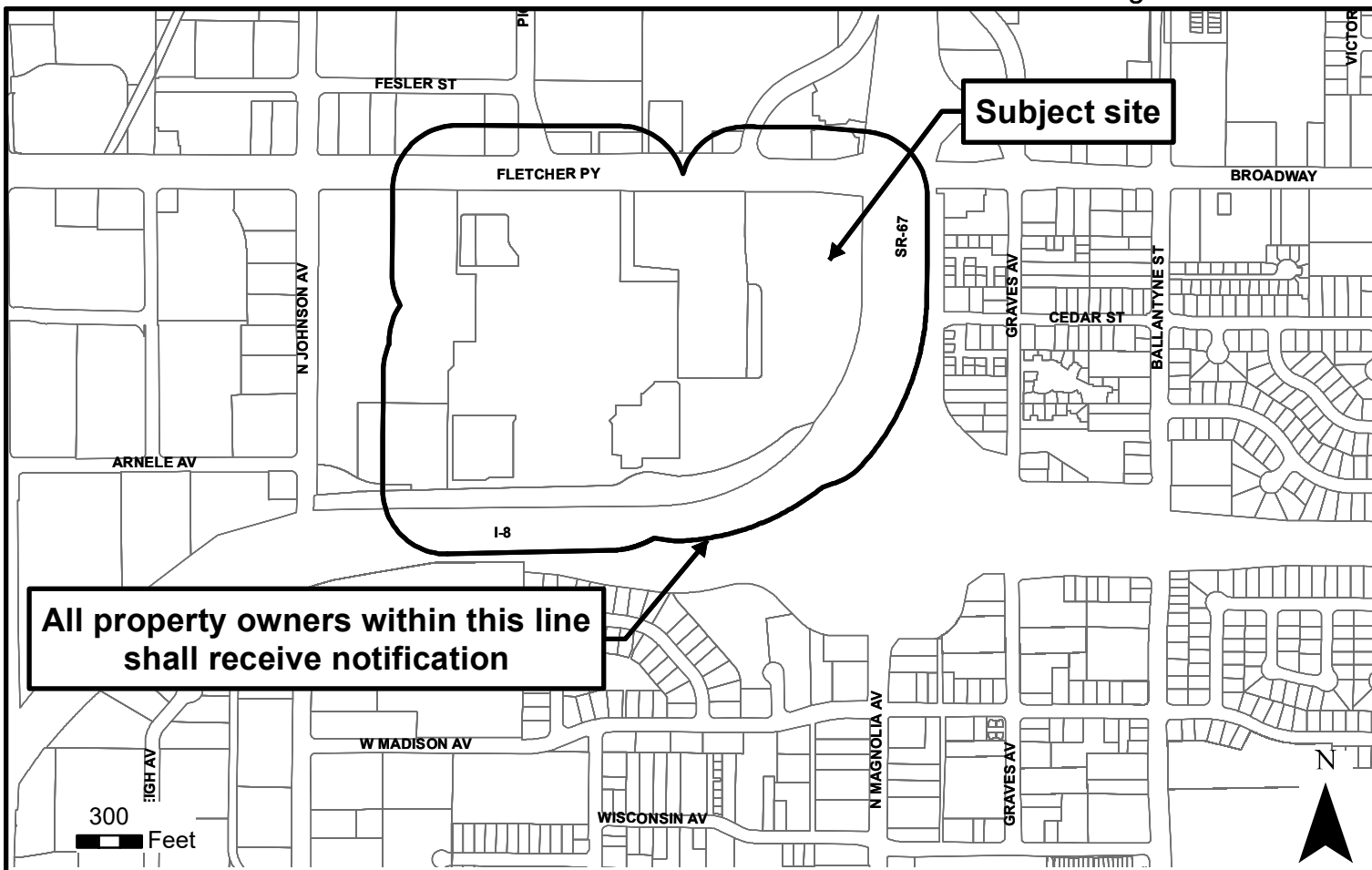
APPROVED BY:



Anthony Shute
DIRECTOR OF
COMMUNITY
DEVELOPMENT

ATTACHMENTS

1. Public Hearing Notice/Location Map
2. Proposed Resolution DENYING the appeal of the Community Development Department Director's determination that the public necessity and convenience would not be served by the issuance of an off-sale alcohol license.
3. Aerial Photograph of Subject Site and Surrounding Off-Sale Establishments
4. Application
5. Applicant's Appeal
6. Floor Plan
7. ABC Form 245
8. Community Development Department Director's determination dated August 26, 2022



NOTICE OF APPEAL OF DIRECTOR'S DECISION

NOTICE IS HEREBY GIVEN that the El Cajon Planning Commission will hold a public hearing at **7:00 p.m., Tuesday, September 20, 2022** in the City Council Chambers, 200 Civic Center Way, El Cajon, CA, to consider:

APPEAL OF DIRECTOR'S DECISION, as submitted by S. Douglas Kerner, requesting an appeal of a Director's Decision under El Cajon Municipal Code section 17.10.040 regarding the denial of a public convenience or necessity finding for the transfer of an off-sale alcohol license from San Mateo County to the City of El Cajon. The subject property is addressed as 123 Fletcher Parkway. This project is exempt from the California Environmental Quality Act (CEQA).

The public is invited to attend and participate in this public hearing. The agenda report for this project will be available 72 hours prior to the Planning Commission meeting at <https://www.elcajon.gov/your-government/city-meetings-with-agendas-and-minutes-all>. In an effort to reduce the City's carbon footprint, paper copies will not be provided at the public hearing, but will be available at City Hall in the Project Assistance Center upon request.

If you challenge the matter in court, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice or in written correspondence delivered to the Commission, or prior to, the public hearing. The City of El Cajon encourages the participation of disabled individuals in the services, activities, and programs provided by the City. Individuals with disabilities who require reasonable accommodation in order to participate in the public hearing should contact Planning at 619-441-1742. More information about planning and zoning in El Cajon is available at <http://www.elcajon.gov/your-government/departments/community-development/planning-division>.

If you have any questions, or wish any additional information, please contact **NOAH ALVEY** at 619-441-1795 or via email at nalvey@elcajon.gov and reference "123 Fletcher Parkway" in the subject line.

PROPOSED PLANNING COMMISSION RESOLUTION

A RESOLUTION DENYING AN APPEAL OF THE COMMUNITY DEVELOPMENT DIRECTOR'S DETERMINATION THAT THE PUBLIC CONVENIENCE OR NECESSITY WOULD NOT BE SERVED BY THE TRANSFER OF A TYPE 20 ABC LICENSE FOR A RETAIL ESTABLISHMENT LOCATED AT 123 FLETCHER PARKWAY IN THE C-R, REGIONAL COMMERCIAL ZONE, APN: 482-270-56-00.

WHEREAS, the El Cajon Planning Commission duly advertised and held a public hearing on September 20, 2022 and continued the public hearing to October 4, 2022, to consider an appeal of the Community Development Director's determination that the public convenience or necessity would not be served by the transfer of a Type 20 (off-sale beer and wine) license by the State department of Alcoholic Beverage Control (ABC) for a retail establishment located at 123 Fletcher Parkway, APN: 512-140-05; and

WHEREAS, the Director made the written determination on August 26, 2022, finding that there are 11 existing Type 20 and 21 licenses (off-sale) in the census tract for the subject site, and that any more than two licenses is considered an overconcentration; and

WHEREAS, on September 2, 2022, an appeal was filed by S. Douglas Kerner on behalf of ALDI, requesting that the Director's decision be overturned; and

WHEREAS, the following findings of fact are hereby made in regard to said matter:

- A. The proposed use is categorically exempt from environmental review in accordance with Section 15301, Class 1 (Existing Facilities) of the CEQA Guidelines.
- B. The proposed use is consistent with the Regional Commercial/Special Development Area No. 8 designation of the General plan, which governs the subject site, and envisions a regional shopping mall at the subject site.
- C. The proposed sale of alcoholic beverages is a permitted use in the C-R zone when conducted in conjunction with a general retail establishments over 10,000 square feet with less than 10 percent of the floor area devoted to the sales and display of alcoholic beverages.
- D. The applicant is proposing to transfer an ABC license from San Mateo County to an El Cajon census tract with an overconcentration of off-sale alcohol licenses and ECMC section 17.210.120 indicates that in order to make required findings the

Proposed Planning Commission Resolution

applicant must acquire an existing off-sale license issued by the ABC from an off-sale alcohol sales establishment located in an over-concentrated census tract in the City of El Cajon and transfer the license to an approved location or otherwise extinguish such license.

- E. The subject site is located in a census tract with 11 Type 20 and 21 licenses and any more than two licenses is considered an overconcentration of such licenses in that census tract. Furthermore, the census tract has a very-high crime rate compared to the city average, and that ECMC section 17.210.110 requires additional off-sale licenses only be located in census tracts with capacity for additional off-sale licenses, as defined by the California Department of Alcohol Beverage Control, with low to average crime rates, as defined by the police department annually.

NOW, THEREFORE, BE IT RESOLVED that based upon said findings of fact, the El Cajon Planning Commission hereby DENIES the appeal of the Community Development Director's August 26, 2022 determination that the public convenience or necessity would not be served by the transfer of an ABC license from San Mateo County to the City of El Cajon at 123 Fletcher Parkway.

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Proposed Planning Commission Resolution

PASSED AND ADOPTED by the El Cajon City Planning Commission at a regular meeting held October 4, 2022, by the following vote:

AYES:
NOES:
ABSENT:

Darrin MROZ, Chair

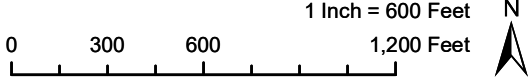
ATTEST:

Noah ALVEY, Secretary



Source: Esri, Maxar, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AeroGRID, IGN, and the GIS User Community

**Aerial Image
Surrounding Off-Sale Establishments**





Project Assistance Center
PLANNING PERMIT APPLICATION

Type of Planning Permit(s) Requested:

<input type="checkbox"/> AZP Administrative Zoning Permit	<input type="checkbox"/> CUP Conditional Use Permit	<input type="checkbox"/> LLA Lot Line Adjustment	<input type="checkbox"/> MA Minor Amendment
<input type="checkbox"/> MUP Minor Use Permit	<input type="checkbox"/> PRD Planned Residential Development	<input type="checkbox"/> PUD Planned Unit Development	<input type="checkbox"/> SDP Site Development Plan Permit
<input type="checkbox"/> SP Specific Plan	<input type="checkbox"/> SCR Substantial Conformance Review	<input type="checkbox"/> TPM Tentative Parcel Map	<input type="checkbox"/> TSM Tentative Subdivision Map
<input type="checkbox"/> VAR Variance	<input type="checkbox"/> ZR Zone Reclassification	<input checked="" type="checkbox"/> Other: <u>PCN</u>	

Project Location

Parcel Number (APN): 4822705600

Address: 123 Fletcher Pkway, El Cajon, CA 92020

Nearest Intersection: Magnolia Avenue

Project Description (or attach separate narrative)

Exterior facade remodel and interior tenant improvements for a new 23,870 sf. Aldi market.

Sale of Alcoholic beverage (beer & wine)

Project Screening Questions

Existing use?	<input type="checkbox"/> No	<input checked="" type="checkbox"/> Yes	If yes, please describe: <u>Retail Space</u>
Modification of use?	<input checked="" type="checkbox"/> No	<input type="checkbox"/> Yes	_____
New development or addition?	<input checked="" type="checkbox"/> No	<input type="checkbox"/> Yes	_____
Existing Structures?	<input checked="" type="checkbox"/> No	<input type="checkbox"/> Yes	Age of the structures: _____

Demolition or substantial modification proposed to site improvements or structures? No Yes _____

Tenant improvements proposed? No Yes TI & Exterior Facade modification

Existing vegetation or trees on site proposed for removal? No Yes _____

Proposed grading? No Yes Proposed quantities of cut and/or fill.

Applicant Information (the individual or entity proposing to carry out the project; not for consultants)

Company Name: ALDI Inc.

Contact Name: Skip Janes

Mailing Address: 3187 Airway Avenue, Suite A, Costa Mesa, CA 92626

Phone: 951-498-6592 Email: Skip.Janes@aldi.us

Interest in Property: Own Lease Option

Project Representative Information (if different than applicant; consultant information here)

Company Name: RSI Group, Inc.

Contact Name: Preet Shergill License: _____

Mailing Address: 3187 Airway Avenue, Suite A, Costa Mesa, CA 92626

Phone: 714-609-7882 Email: Preet@rsi-group.com

Property Owner Information (if different than applicant)

Company Name: Star-West Parkway Mall, LP

Contact Name: Bradley Scher (signatory) Daisy Melena (property)

Mailing Address: 415 Fletcher Parkway, El Cajon, CA 92020

Phone: 619-579-9974 Email: DMelena@VisitParkwayPlaza.com

Hazardous Waste and Substances Statement

Section 65962.5(f) of the State of California Government Code requires that before the City of El Cajon accepts as complete an application for any discretionary project, the applicant submit a signed statement indicating whether or not the project site is identified on the State of California Hazardous Waste and Substances Sites List. This list identifies known sites that have been subject to releases of hazardous

chemicals, and is available at <http://www.calepa.ca.gov/sitecleanup/corteselist/>. Check the appropriate box and if applicable, provide the necessary information:

The development project and any alternatives proposed in this application:

is/are NOT contained on the lists compiled pursuant to Government Code Section 65962.5.

is/are contained on the lists compiled pursuant to Government Code Section 65962.5.

If yes, provide Regulatory Identification Number: _____ Date of List: _____

Authorization

Applicant Signature¹:  Director of Real Estate Date: 7/11/2022

Property Owner Signature²:  CHIEF RESTRUCTURING OFFICER Date: 7/26/02

- Applicant's Signature:** I certify that I have read this application and state that the above information is correct, and that I am the property owner, authorized agent of the property owner, or other person having a legal right, interest, or entitlement to the use of the property that is the subject of this application. I understand that the applicant is responsible for knowing and complying with the governing policies and regulations applicable to the proposed development or permit. The City is not liable for any damages or loss resulting from the actual or alleged failure to inform the applicant of any applicable laws or regulations, including before or during final inspections. City approval of a permit application, including all related plans and documents, is not a grant of approval to violate any applicable policy or regulation, nor does it constitute a waiver by the City to pursue any remedy, which may be available to enforce and correct violations of the applicable policies and regulations. I authorize representatives of the City to enter the subject property for inspection purposes.
- Property Owner's Signature:** If not the same as the applicant, property owner must also sign. A signed, expressed letter of consent to this application may be provided separately instead of signing this application form. By signing, property owner acknowledges and consents to all authorizations, requirements, conditions and notices described in this application. Notice of Restriction: property owner further acknowledges and consents to a Notice of Restriction being recorded on the title to their property related to approval of the requested permit. A Notice of Restriction runs with the land and binds any successors in interest.

Pre-application Conference

The purpose of a pre-application conference is to provide you an opportunity to review your project with City staff in a preliminary form to finalize submittal requirements and receive a cursory identification of potential issues. **A pre-application is required unless waived by staff.**

Conference date: _____

Application Submittal

To submit your application, **it must be done by appointment** scheduled in advance for all Level 3, 4, & 5 project reviews, unless waived by staff. It is recommended for projects that will subsequently meet the criteria for a Level 1-C review through Level 2.

Appointment date: _____



401 WEST A STREET
SUITE 2600
SAN DIEGO, CA 92101-7910
PHONE: (619) 236-1551
FAX: (619) 696-1410
HIGGSLAW.COM

S. Douglas Kerner
Partner
kerner@higgslaw.com
D 619.595.4244

September 2, 2022

Via Email and Federal Express

City of El Cajon
200 Civic Center Way
El Cajon, CA 92020
ATTN: Noah Alvey, Deputy Director of Community Development

RE: Appeal of Public Convenience or Necessity Determination for Off-Sale Beer and Wine (Type 20) at 123 Fletcher Parkway, El Cajon, CA (ALDI Store)

Dear Mr. Alvey:

Pursuant to ECMC Chapter 17.30, the Applicant, ALDI Inc., hereby appeals to the Planning Commission the above-referenced decision of the Director of Community Development dated August 26, 2022, in which the Director determined that the issuance of a Type 20 License at the subject site (123 Fletcher Parkway, El Cajon, CA) would not serve the public convenience or necessity.

We have enclosed a check in the amount of \$350 for the appeal fee. Please let us know the date and time of the scheduled Planning Commission hearing at your earliest convenience. Thank you.

Sincerely,

A handwritten signature in blue ink, appearing to read "S. Kerner".

S. DOUGLAS KERNER
of
HIGGS FLETCHER & MACK LLP

SDK

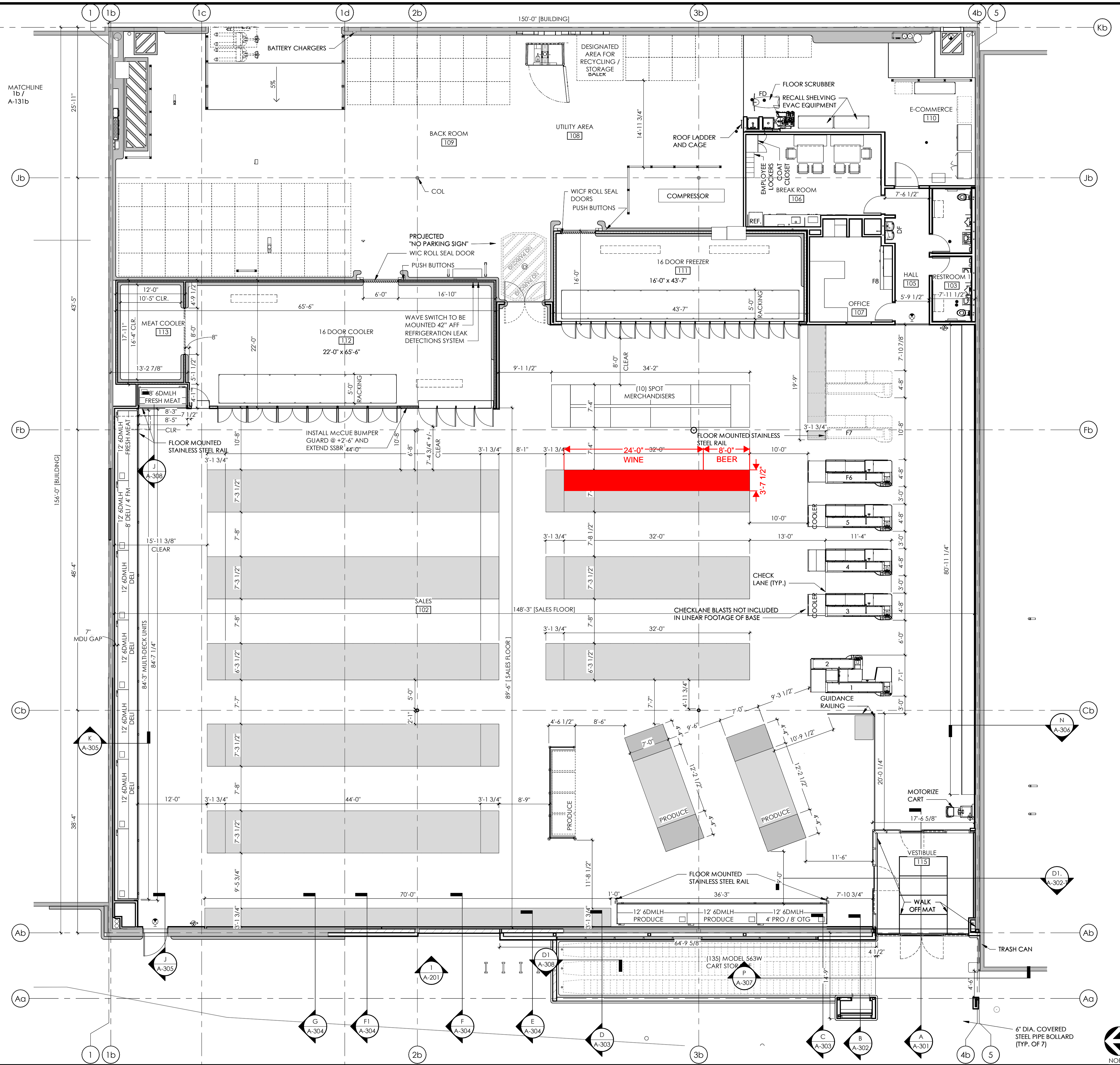
Enclosure

Cc: Anthony Shute, Director of Community Development (*via e-mail only*)
Skip Janes, Director of Real Estate, ALDI (*via e-mail only*)
Patrick Batten, Southwest Strategies (*via e-mail only*)

AREA SUMMARY - REAR DOCK	
ROOM NAME	SQUARE FOOTAGE
MERCANTILE (M)	
HALL	152 SF
RESTROOM 1	72 SF
RESTROOM 2	74 SF
SALES / VESTIBULE	14,446 SF
SUBTOTAL (MERCANTILE)	14,744 SF
BUSINESS (B)	
BREAK ROOM	348 SF
E-COMMERCE STAGING AREA	271 SF
OFFICE	227 SF
SUBTOTAL (BUSINESS)	846 SF
STORAGE / STOCK (S-2)	
BACKROOM	5,323 SF
COOLER	1,340 SF
FREEZER	648 SF
SUBTOTAL (STORAGE / STOCK)	7,311 SF
SUBTOTAL (OCCUPANCIES)	22,901 SF
EXTERIOR/INTERIOR WALLS/UNOCCUPIED SPACE	970 SF
BUILDING SQUARE FOOTAGE	23,870 SF
EXTERIOR CANOPY	902 SF
TOTAL SQUARE FOOTAGE (INCLUDING CANOPY)	24,772 SF

OPERATION DATA	
ITEM	V7.0 PROTOTYPE
LINEAR FOOTAGE OF BASE (PRODUCE INCLUDED)	796'-0"
ASSUMED PALLET STORAGE	74
BUILDING DIMENSIONS	156'-0" X 150'-0"
SALES FLOOR DIMENSIONS	89'-6" X 148'-3"
LENGTH OF MULTIDECK	128'-0"
COOLER GENERAL DOORS	12
COOLER MILK DOORS	4
FREEZER GENERAL DOORS	16
SPOT MERCHANDISER	10
CART STORAGE	(135) MODEL 563W

NOTES:
 1. THIS DRAWING IS FOR GENERAL FIXTURING LAYOUT AND REFERENCE TO EQUIPMENT ONLY. ALL INFORMATION IS FOR ALDI OPERATIONAL USE ONLY AND SHALL NOT BE USED FOR CONSTRUCTION OR BIDDING PURPOSES.
 2. ALL DIMENSIONS TO WALLS ARE TO FACE OF STUD.
 3. THIS FACILITY DOES NOT CONTAIN A BAKERY, A BUTCHER, A DELI OR FISH COUNTER.
 4. ALL FOOD IS PREPACKAGED. THERE IS NO ON SITE FOOD PREPARATION.
 5. GONDOLA LOCATIONS ARE MEASURED FROM THE FACE OF THE STAINLESS STEEL PRICE TAG MOLDING (SSPTM).



Issued:	Date:
A 60% Progress Set	12/20/21

Revisions:	Date:

Seal Seal

Project Architect/Engineer Date:
 Architect/Engineer Name #####

Project Lead Date:
 Lead Name #####

Project Designer Date:
 Designer Name #####

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 It is a violation of law for any person, unless acting under the direction of a licensed Architect, Professional Engineer, Landscape Architect, or Land Surveyor to alter any item on this document in any way. Any licensee who alters this document is required by law to affix his or her seal and to add the notation "Altered By" followed by his or her signature and the specific description of the alteration or revision.

DO NOT SCALE PLANS
 Copying, Printing, Software and other processes required to produce these prints can stretch or shrink the actual paper or layout. Therefore, scaling of this drawing may be inaccurate. Contact Retail Design Collaborative with any need for additional dimensions or clarifications.

245 East Third Street
 Long Beach, Ca 90802
 t 562.628.8000
 rdcollaborative.com

12661 Aldi Place
 Moreno Valley, CA 92555-6703
 (951) 530-5750
 (951) 530-5753 fax

ALDI Inc. Store #: 58
 El Cajon
 123 Fletcher Parkway
 El Cajon, CA, 92020
 San Diego County

Operations Plan	
Drawing Name:	Project No.
Date: 06/01/21	19139
Type: RHSDV7ER	A-131a
Drawn By: XXX	Drawing No.
Scale: As Noted	



Department of Alcoholic Beverage Control

INFORMATION AND INSTRUCTIONS -

SECTION 23958.4 B&P

Instructions This form is to be used for all applications for original issuance or premises to premises transfer of licenses.

- Part 1 is to be completed by an ABC employee, given to applicant with pre-application package, with copy retained in holding file or applicant's district file.
- Part 2 is to be completed by the applicant, and returned to ABC.

PART 1 - TO BE COMPLETED BY ABC

1. APPLICANT'S NAME AI CALIFORNIA LLC			3. LICENSE TYPE 20		
2. PREMISES ADDRESS (Street number and name, city, zip code) 123 FLETCHER PKWY, EL CAJON, CA 92020					
4. TYPE OF BUSINESS					
<input type="checkbox"/> Full Service Restaurant	<input type="checkbox"/> Hofbrau/Cafeteria	<input type="checkbox"/> Cocktail Lounge	<input type="checkbox"/> Private Club		
<input type="checkbox"/> Deli or Specialty Restaurant	<input type="checkbox"/> Comedy Club	<input type="checkbox"/> Night Club	<input type="checkbox"/> Veterans Club		
<input type="checkbox"/> Cafe/Coffee Shop	<input type="checkbox"/> Brew Pub	<input type="checkbox"/> Tavern: Beer	<input type="checkbox"/> Fraternal Club		
<input type="checkbox"/> Bed & Breakfast:	<input type="checkbox"/> Theater	<input type="checkbox"/> Tavern: Beer & Wine	<input type="checkbox"/> Wine Tasting Room		
<input type="checkbox"/> Wine only	<input type="checkbox"/> All				
<input checked="" type="checkbox"/> Supermarket	<input type="checkbox"/> Membership Store	<input type="checkbox"/> Service Station	<input type="checkbox"/> Swap Meet/Flea Market		
<input type="checkbox"/> Liquor Store	<input type="checkbox"/> Department Store	<input type="checkbox"/> Convenience Market	<input type="checkbox"/> Drive-in Dairy		
<input type="checkbox"/> Drug/Variety Store	<input type="checkbox"/> Florist/Gift Shop	<input type="checkbox"/> Convenience Market w/Gasoline			
<input type="checkbox"/> Other - describe:					
5. COUNTY POPULATION 3,315,404	6. TOTAL NUMBER OF LICENSES IN COUNTY N/A		7. RATIO OF LICENSES TO POPULATION IN COUNTY		
	<input type="checkbox"/> On-Sale <input checked="" type="checkbox"/> Off-Sale		739 <input type="checkbox"/> On-Sale <input checked="" type="checkbox"/> Off-Sale		
8. CENSUS TRACT NUMBER 162.02	9. NO. OF LICENSES ALLOWED IN CENSUS TRACT 2		10. NO. OF LICENSES EXISTING IN CENSUS TRACT		
	<input type="checkbox"/> On-Sale <input checked="" type="checkbox"/> Off-Sale		11 <input type="checkbox"/> On-Sale <input checked="" type="checkbox"/> Off-Sale		
11. IS THE ABOVE CENSUS TRACT OVERCONCENTRATED WITH LICENSES? (i.e., does the ratio of licenses to population in the census tract exceed the ratio of licenses to population for the entire county?)					
<input checked="" type="checkbox"/> Yes, the number of existing licenses exceeds the number allowed					
<input type="checkbox"/> No, the number of existing licenses is lower than the number allowed					
12. DOES LAW ENFORCEMENT AGENCY MAINTAIN CRIME STATISTICS?					
<input checked="" type="checkbox"/> Yes (Go to Item #13) <input type="checkbox"/> No (Go to Item #20)					
13. CRIME REPORTING DISTRICT NUMBER BEAT 162.02	14. TOTAL NUMBER OF REPORTING DISTRICTS 29		15. TOTAL NUMBER OF OFFENSES IN ALL REPORTING DISTRICTS 4,754		
16. AVERAGE NO. OF OFFENSES PER DISTRICT 164	17. 120% OF AVERAGE NUMBER OF OFFENSES 196.8		18. TOTAL NUMBER OF OFFENSES IN REPORTING DISTRICT 882 OR 537.8%		
19. IS THE PREMISES LOCATED IN A HIGH CRIME REPORTING DISTRICT? (i.e., has a 20% greater number of reported crimes than the average number of reported crimes as determined from all crime reporting districts within the jurisdiction of the local law enforcement agency)					
<input checked="" type="checkbox"/> Yes, the total number of offenses in the reporting district equals or exceeds the total number in item #17					
<input type="checkbox"/> No, the total number of offenses in the reporting district is lower than the total number in item #17					
20. CHECK THE BOX THAT APPLIES (check only one box)					
<input type="checkbox"/> a. If "No" is checked in both item #11 <i>and</i> item #19, <u>Section 23958.4 B&P does not apply</u> to this application, and no additional information will be needed on this issue. Advise the applicant to bring this completed form to ABC when filing the application.					
<input type="checkbox"/> b. If "Yes" is checked in either item #11 <i>or</i> item #19, <i>and</i> the applicant is applying for a non-retail license, a retail bona fide public eating place license, a retail license issued for a hotel, motel or other lodging establishment as defined in Section 25503.16(b) B&P, or a retail license issued in conjunction with a beer manufacturer's license, or winegrower's license, advise the <u>applicant to complete Section 2</u> and bring the completed form to ABC when filing the application or as soon as possible thereafter.					
<input checked="" type="checkbox"/> c. If "Yes" is checked in either item #11 <i>or</i> item #19, <i>and</i> the applicant is applying for an off-sale beer and wine license, an off-sale general license, an on-sale beer license, an on-sale beer and wine (public premises) license, or an on-sale general (public premises) license, advise the <u>applicant to take this form to the local governing body, or its designated subordinate officer or body to have them complete Section 3</u> . The completed form will need to be provided to					

Governing Body/Designated Subordinate Name:

FOR DEPARTMENT USE ONLY

PREPARED BY (Name of Department Employee)

LR CORINNE FERNANDEZ



Community Development

August 26, 2022

ALDI Inc.
Skip Janes
3187 Airway Ave., Suite A
Costa Mesa, CA 92626

Department of Alcoholic Beverage Control
Attn: Jennifer Hill
1350 Front Street, Room #5056
San Diego, CA 92101

Subject: Public Convenience or Necessity Determination for Off-Sale Beer and Wine (Type 20)
at 123 Fletcher Parkway, El Cajon, CA (Aldi)

Dear Ms. Hill:

The City of El Cajon received a request for a Director's Determination for a Department of Alcoholic Beverage Control (ABC) Public Convenience or Necessity (PCN) for a Type 20 Off-Sale General License application by Aldi for the property at 123 Fletcher Parkway. The request includes a license transfer of License 460900 from San Mateo County to the City of El Cajon.

Section 23958.4(b)(2) of the Business and Professions Code allows ABC to issue licenses for the sale of alcoholic beverages provided the governing body of the area in which the applicant's premises is to be located determines that public convenience or necessity is served by the issuance of said license. Planning Policy A-10 (Attachment B) describes the procedures for a PCN finding and indicates that a decision shall be made based on the recommendation of the Police Department and the standards set forth in the El Cajon Municipal Code (ECMC).

The subject property is located within the City's Regional Commercial (C-R) zone. A grocery store is permitted within the C-R zone. Pursuant to El Cajon Municipal Code (ECMC) section 17.210.080, a grocery store of at least 10,000 square feet of gross floor space and with a maximum of 10 percent of gross floor area devoted to the sales and display of alcoholic beverages is exempt from the requirement of needing to obtain a Conditional Use Permit (CUP). However, the establishment remains subject to the applicable standards found in ECMC Chapter 17.210 Alcohol Sales and Deemed Approved Alcohol Sales Regulations. Specifically, the establishment must be in a census tract with capacity and with low to average crime rate, as defined by the police department annually, subject to the condition that an additional off-sale establishment will not be contradictory to the State's moratorium.

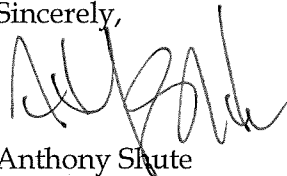
The Business and Professions Code requires ABC to confirm crime statistics based on the citywide average of offenses and requires a finding of public convenience and necessity if the crime reporting district exceeds 120% of the citywide average of offenses. The city wide average of offenses per census tract is 164. The total number of offenses in the El Cajon portion of the Census Tract 162.02 was 882 or 537.8% of the city wide average and is "very high" crime rate. This does not include crime stats for the portions of the census tract outside the City.

Furthermore, pursuant to El Cajon's alcohol sales regulations, the census tract must have capacity. Census Tract 162.02 is currently over concentrated with off-sale licenses because ABC has determined two licenses are allowed and eleven licenses have been issued for off-sale retail sales (Attachment A). Five of the eleven issued licenses are within the City of El Cajon and located in the vicinity of the subject property. Therefore, after having reviewed the information, we have determined the issuance of a Type 20 License at the subject site would not serve the public convenience or necessity.

Pursuant to ECMC Chapter 17.30, the applicant may wish to appeal this decision in writing and pay a fee of \$350.00 to the secretary of the Planning Commission ("Commission") within 10 days of the date of the director's determination. In the event of an appeal, it shall be the duty of the secretary of the Commission to forward all pertinent facts to the Commission within 40 days of the filing of a written appeal. The Commission will then conduct a public hearing pursuant to ECMC Chapter 17.25. At the public hearing the planning commission shall review the facts, and shall set forth its findings and its decision in a resolution of record. Thereafter, such decision shall govern, unless appealed to the City Council. An appeal must be filed by 5:30 p.m. on Monday, September 6, 2022. Appeals may be filed at City Hall – 200 Civic Center Way, El Cajon, CA 92020.

If you have any questions please contact Noah Alvey, at nalvey@elcajon.gov or 619-441-1795.

Sincerely,



Anthony Shute
Director of Community Development

Attachments:

- A. Census Tract 162.02 – Off-Sale Licenses
- B. Planning Policy A-10
- C. ALDI Project Description
- D. El Cajon Municipal Code Chapter 17.210



Having trouble viewing the report?

Results for: Active Off-Sale Retail License

County: SAN DIEGO County

Census Tract: 162.02

Report Date: Thursday, August 25, 2022

Search

Results will be filtered as you type

0 Results

License Number: 628522

Status:	ACTIVE	21	11/04/2021
License Type:			
Orig. Iss. Date:	10/31/2022	JACKSONS FOOD STORES INC	
Expir. Date:	1525 N MAGNOLIA AVE,		
Primary Owner:	EL CAJON, CA 92020-1225		
Premises Addr.:	Census Tract: 0162.02	JACKSON 232	3700
Business Name:			
Geo Code:			

License Number: 580459

Status:	ACTIVE	21	06/08/2017
License Type:			
Orig. Iss. Date:	07/31/2022	ARNELE LIQUOR INC	
Expir. Date:	735 ARNELE AVE,		
Primary Owner:	EL CAJON, CA 92020-2501		
Premises Addr.:	Census Tract: 0162.02	ARNELE MARKET & LIQUOR	
Business Name:	3704		
Geo Code:			

License Number: 602195

Status:	ACTIVE	20	04/24/2019
License Type:			
Orig. Iss. Date:			9805 PROSPECT AVE,
Expir. Date:	06/30/2023	7 ELEVEN INC	SANTEE, CA 92071-4329
Primary Owner:			Census Tract: 0162.02
Premises Addr.:	7-ELEVEN STORE 20611D	3715	
Business Name:			
Geo Code:			

License Number: 621676

Status:	ACTIVE	20	01/29/2021
License Type:			
Orig. Iss. Date:	06/30/2023	7 ELEVEN INC	
Expir. Date:	375 W MADISON AVE,		
Primary Owner:	EL CAJON, CA 92020-3407		
Premises Addr.:	Census Tract: 0162.02	7-ELEVEN STORE 13658A	
Business Name:	3704		
Geo Code:			

License Number: 456489

Status:	ACTIVE	21	05/20/2008
License Type:			
Orig. Iss. Date:	06/30/2023	SMART & FINAL STORES LLC	
Expir. Date:	1090 FLETCHER PKWY,		
Primary Owner:	EL CAJON, CA 92020-1822		
Premises Addr.:	Census Tract: 0162.02	SMART & FINAL 398	3704

Business Name:
Geo Code:

License Number: 477523

Status: ACTIVE 21 06/22/2009
License Type: GARFIELD BEACH CVS LLC
Orig. Iss. Date: 05/31/2023
Expir. Date: 572 FLETCHER PKWY,
Primary Owner: EL CAJON, CA 92020-2509
Premises Addr.: Census Tract: 0162.02 CVS PHARMACY STORE 9818
Business Name: 3704
Geo Code:

License Number: 612691

Status: ACTIVE 21 05/15/2020
License Type: HR EAGLE, INC.
Orig. Iss. Date: 04/30/2023
Expir. Date: 1558 N MAGNOLIA AVE, STE F,
Primary Owner: EL CAJON, CA 92020
Premises Addr.: Census Tract: 0162.02 EAGLE LIQUOR 3700
Business Name:
Geo Code:

License Number: 415398

Status: ACTIVE 20 08/30/2004
License Type: WALMART INC.
Orig. Iss. Date: 06/30/2023
Expir. Date: N JOHNSON AVE & I-8 NEC,
Primary Owner: EL CAJON, CA 92020
Premises Addr.: Census Tract: 0162.02 WAL MART 3524 3704
Business Name:
Geo Code:

License Number: 439916

Status: ACTIVE 21 07/11/2006
License Type: GOLDEN EAGLE MARKET INC
Orig. Iss. Date: 11/30/2022
Expir. Date: 8528 N MAGNOLIA AVE, STE 109,
Primary Owner: SANTEE, CA 92071-4692
Premises Addr.: Census Tract: 0162.02 GOLDEN EAGLE MARKET
Business Name: 3715
Geo Code:

License Number: 605160

Status: ACTIVE 21 11/07/2019
License Type: SFDW INC
Orig. Iss. Date: 10/31/2022
Expir. Date: 10223 PROSPECT AVE, STE A-B,
Primary Owner: SANTEE, CA 92071-4470
Premises Addr.: Census Tract: 0162.02 VISTA WINE AND SPIRITS
Business Name: 3715
Geo Code:

License Number: 478765

Status: ACTIVE 20 08/26/2009
License Type: BROADWAY & MAGNOLIA PETROLEUM INC
Orig. Iss. Date: 07/31/2023
Expir. Date: 1518 N MAGNOLIA AVE,
Primary Owner: EL CAJON, CA 92020-1240
Premises Addr.: Census Tract: 0162.02 BROADWAY & MAGNOLIA PETROLEUM INC
Business Name: 3700
Geo Code:

License Number: 633908

Status: ACTIVE 85 06/14/2022
License Type: SAN DIEGO GIFT BASKETS
Orig. Iss. Date: 05/31/2023
Expir. Date: 1181 PIONEER WAY,
Primary Owner: EL CAJON, CA 92020-1924
Premises Addr.: Census Tract: 0162.02 BASKET CORNER, THE
Business Name: 3704
Geo Code:

3. The Planning Manager or the Planning Commission shall make a decision as to whether a determination of public convenience or necessity can be made based on the standards set forth in Municipal Code Section 17.210.100 and the recommendation of the Police Department.
4. The decision shall be transmitted in writing to the Department of Alcoholic Beverage Control and the applicant.
5. The Planning Division secretary shall place a copy of signed PCN form and transmitted correspondence in the associated conditional use permit file or in the appropriate PCN file.
6. The decision of the Planning Manager may, within ten days of the date of that written decision, be appealed in writing by the applicant to the Planning Commission. An applicant shall pay the appropriate appeal fee.
7. When the appeal is received by the Planning Division, the Secretary of the Planning Commission shall schedule the matter for next available Planning Commission meeting. The Planning Manager shall provide the Planning Commission with a written brief on the matter and the written appeal.
8. The Planning Commission shall consider the matter and render a decision regarding the determination of public convenience or necessity. Any decision of the Planning Commission shall be in the form of a resolution and is final, unless appealed to the City Council.
9. The decision of the Planning Commission shall be transmitted to the applicant, and if different from the decision of the Planning Manager, shall also be transmitted to ABC.

**Request for Finding of Public
Convenience or Necessity
For Alcohol Sales
AI CALIFORNIA LLC dba ALDI, Inc.
(123 Fletcher Parkway, El Cajon, CA)**

ALDI, Inc. is requesting a finding of public convenience or necessity for the ALDI Food Market, to be located at 123 Fletcher Parkway, El Cajon, CA, to operate as a grocery store with ancillary sale of alcoholic beverages for off-site consumption.

It is our understanding that a finding of public convenience or necessity is required for the addition of an ABC Type 20 license within the subject census tract due to an undue concentration of off-sale licenses. The subject ALDI Food Market is located in Census Tract 162.02, which allows up to 2 licenses for the sale of alcoholic beverages for off-site consumption, whereas there are 11 active licenses for off-site alcohol.

It may be determined that public convenience may be served by the issuance of another Type 20 license based on the wide range of products found and provided by ALDI's Food Market. In this case, ALDI will offer 1,600 of the most common grocery and household items while the sale of beer and wine is considered ancillary. Beer and wine sales floor area accounts for no more than 4% of the gross sales floor area and 2.5% of overall sales. ALDI carries approximately 75 different bottles of wine and a dozen +/- types of beer. All beers are sold in 4/8/12 pack cases and no individual cans/bottles of beer are sold.

The sales of beer and wine is essential to provide ALDI customers with a wide selection of products. By providing a diverse range of products, including alcoholic beverages, readily available to the consumer at this ALDI store, this will provide a public convenience to the surrounding area. Without it, a consumer may need to make multiple stops at various retail outlets in order to obtain all items on their shopping list.

The off-sales of alcohol are in compliance with the City of El Cajon's zoning and land use designation of Regional Commercial (C-R) zone. The subject property is designated as a Commercial property within the City of El Cajon. The purpose of the Commercial property designation according to the code is to serve the residents of El Cajon and surrounding residential neighborhoods and provide "convenience uses" including grocery stores.

ALDI is designed to provide a safe environment for patrons and employees. A number of security and safety measures are incorporated into the store design, including but not limited to the following:

1. A closed-circuit surveillance system will be installed throughout the store. Camera locations include at the end of each aisle, point of sales, back room, store entrance, and loading dock area. Exterior cameras are also utilized at the entry area and at rear of store at loading dock and backroom area. ALDI will maintain 30 calendar days of video footage after date and time of recordation.
2. Adequate store lighting will be provided throughout the interior of the store and along the exterior boundaries of the building. Exterior lighting fixtures shall remain in compliance with lighting requirements outlined by the El Cajon Municipal Code.

3. The location of the beer/wine section is immediately in front of the check-out area allowing ALDI employees to easily monitor the area. In addition, ALDI does not overly promote the beer and wine section around holidays or popular sporting events when most retailers typically promote such events with large signage and marketing materials.
4. All ALDI employees undergo internal training at the time of employment and once a year, outlining ALDI's alcohol sales and handling procedures. Store employees will undergo any additional training as required by the City of Encinitas to adhere to proper alcohol handling and sales procedures.

ALDI will comply with conditions deemed necessary by the City of El Cajon in the interest of public health, safety, and welfare. With this, we feel that the issuance of a Type 200 off sale beer and wine license will serve a public convenience to the community and will not be detrimental to our neighbors or the surrounding community.

Title 17 ZONING

**Chapter 17.210 ALCOHOL SALES AND DEEMED APPROVED
ALCOHOL SALES REGULATIONS**

17.210.010 Short title.

17.210.020 Purpose.

17.210.030 Applicability.

17.210.040 Definitions.

17.210.050 Public hearing by planning commission.

17.210.060 Inspection and right of entry.

17.210.070 New, modified, or redeveloped off-sale alcohol establishment standards.

17.210.080 Conditional use permit required.

17.210.090 Distance requirements—applicable to new off-sale alcoholic beverage sales activities.

17.210.100 Operational standards—applicable to new, modified, or redeveloped off-sale alcoholic beverage sales activities.

17.210.110 Required findings—new off-sale alcoholic beverage sales activities.

17.210.120 Conditions of approval—new off-sale alcoholic beverage sales activities.

17.210.130 New and modified on-sale alcohol establishment standards.

17.210.140 Distance requirements—applicable to new on-sale alcoholic beverage establishments.

17.210.150 Operational standards—applicable to new on-sale alcoholic beverage sales activities.

17.210.160 Required findings—new on-sale alcoholic beverage sales activities.

- 17.210.170 Grounds for conditional use permit suspension, revocation or termination.
- 17.210.180 Investigative procedures of potential violation of conditions of approval and operational standards.
- 17.210.190 Appeal from suspension, modification or revocation of conditional use permit.
- 17.210.200 Deemed approved alcoholic beverage sales regulations.
- 17.210.210 Applicability of deemed approved alcoholic beverage sales regulations.
- 17.210.220 Automatic deemed approved status.
- 17.210.230 Deemed approved performance standards for off-sale alcohol establishments.
- 17.210.240 Notification to owners of off-sale establishments conducting deemed approved activities.
- 17.210.250 Grounds for deemed approved status suspension, revocation or termination.
- 17.210.260 Investigative procedures of potential violation of performance standards by establishment with deemed approved status.
- 17.210.270 Appeal from suspension, modification or revocation of deemed approved status.
- 17.210.280 Alcoholic beverage sales activity penalties.
- 17.210.290 Annual alcohol sales regulatory fee.
- 17.210.300 Severability.

17.210.010 Short title.

This chapter shall be known as the "Alcohol Sales and Deemed Approved Alcohol Sales Regulations Ordinance." (Ord. 4994 § 3, 2013)

17.210.020 Purpose.

The purpose of this chapter is to list regulations pertaining to the establishment and conduct of alcohol sales in the city under simplified headings.

This chapter requires land use permits for newly established alcoholic beverage sales activities, confers deemed approved status for all existing permitted, conditionally permitted and legal nonconforming off-sale alcoholic beverage sales activities, provides standards for the continued operation of alcoholic beverage sales establishments, sets forth grounds for the modification, revocation and termination of conditional use permits and deemed approved status for establishments violating this chapter, and provides a hearing process to review violations of the standards contained in this chapter in order to protect the general health, safety, and welfare of the residents of the city of El Cajon and to prevent nuisance activities where alcoholic beverage sales occur.

Specific purposes for enacting this chapter are as follows:

- A. To protect residential, commercial, industrial and civic areas from the harmful effects attributable to the sale of alcoholic beverages and minimize the adverse impacts of nonconforming and incompatible uses;
- B. To provide opportunities for alcoholic beverage sales establishments to operate in a mutually beneficial relationship to each other and to other commercial and civic services;
- C. To provide mechanisms to address problems associated with the public consumption of alcoholic beverages such as litter, loitering, graffiti, unruly behavior, violence, vandalism, and escalated noise levels;
- D. To provide that alcoholic beverage sales establishments are not to become the source of undue public nuisances in the community;
- E. To provide for properly maintained alcoholic beverage sales establishments so that the secondary effects of negative impacts generated by these activities on the surrounding environment are mitigated;
- F. To monitor deemed approved establishments to ensure they do not substantially change in mode or character of operation; and
- G. To promote a healthy and safe business environment in the city of El Cajon through appropriate and consistent land use regulations and to encourage the establishment of businesses that will benefit both the local economy and residents while not placing an undue strain on city resources or surrounding businesses.

This chapter alone does not allow or permit alcoholic beverage sales activities, but only applies to these activities where otherwise allowed or permitted within an involved applicable zoning district. The provisions of this ordinance are intended to complement the state of California alcohol-related laws. The city does not intend to replace or usurp any powers vested in the California Department of Alcoholic Beverage Control. (Ord. 4994 § 3, 2013)

17.210.030 Applicability.

- A. The provisions of this chapter shall apply to the extent permissible under other laws to all alcoholic beverage sales establishments, as defined in Section 17.210.040, located in the city of El Cajon that sell alcoholic beverages for on- or off-site consumption.

B. Whenever any provision of the alcohol sales and deemed approved alcoholic beverage sales regulations, and any other provision of law, whether set forth in these regulations, in an existing conditional use permit, or in any other law, ordinance, or regulations of any kind, imposes overlapping or contradictory regulations, or contain restrictions covering any of the same subject matter, that provision which is more restrictive or imposes higher standards shall control, except as otherwise expressly provided in the alcohol sales and deemed approved alcohol sales regulations. (Ord. 4994 § 3, 2013)

17.210.040 Definitions.

The meaning and construction of these words and phrases, as set forth below, shall apply throughout, except where the context clearly indicates a different meaning or construction.

- A. **“Alcoholic beverage”** means alcohol, spirits, liquor, wine, beer, and any liquid or solid containing alcohol, spirits, wine, or beer, that contains one-half of one percent or more of alcohol by volume and that is fit for beverage purposes either alone or when diluted, mixed or combined with other substances, the sale of which requires an ABC license.
- B. **“Alcoholic beverage production”** means manufacturing of alcoholic beverages. A brewery, micro-brewery, winery or distillery are each examples of alcoholic beverage production manufacturers.
- C. **“Alcoholic beverage sales activity”** means the retail sale of alcoholic beverages for on-site or off-site consumption.
- D. **“Alcoholic beverage sales establishment”** means an establishment where an alcoholic beverage sales activity occurs. Alcoholic beverage sales establishments include but are not limited to the following recognized types of establishments: liquor stores, beer and wine stores, convenience markets, markets, neighborhood specialty food markets, retail sales establishments, wine shops, service stations, taverns, clubs, cocktail lounges, ballrooms, cabarets, dance bars, piano bars, billiard or game parlors, bowling alleys, nightclubs, dance halls, cafés, bars, restaurants with bars, full-service restaurants, fast food establishments, and breweries. For purposes of this chapter, an “alcoholic beverage sales establishment” also includes a general retail store, a grocery store and a retail pharmacy that devotes any percentage of its gross floor area to the sale and display of alcoholic beverages.
- E. **“California Department of Alcoholic Beverage Control”** or **“ABC”** refers to the department of the state of California empowered to act pursuant to Article 20, section 22, of the California Constitution and authorized to administer the provisions of the Alcoholic Beverage Control Act.
- F. **“Conditions of approval”** means all requirements that must be carried out by the owners engaged in the activity of: (1) a new alcoholic beverage sales activity to exercise a land use permit; or (2) an existing permitted, conditionally permitted, or legal nonconforming alcoholic beverage sales activity in order to comply with deemed approved performance standards and to retain its deemed approved status.

G. **“Deemed approved activity”** means any existing permitted or conditionally permitted alcoholic beverage sales activity (as defined in subsection (P), below), or any legal nonconforming alcoholic beverage sales commercial activity (as defined in subsection (J), below). Such activity shall be considered a deemed approved activity effective November 1, 2013 as long as it complies with the deemed approved performance standards set forth in Section 17.210.230.

H. **“Deemed approved status”** means the permitted use of land for a deemed approved activity. Deemed approved status replaces permitted and conditionally permitted status (to the extent the establishment is not already required to meet all of the operational standards established in this chapter), and legal non-conforming status for off-sale alcohol establishments with respect to alcoholic beverage sales commercial activity and remains in effect as long as it complies with the deemed approved provisions and performance standards.

I. **“Enforcement officer”** means the city manager or designee, and chief of police or designee.

J. **“Hip flask”** means a small flask for potable liquids of a kind designed so that it may be carried in a hip pocket.

K. **“Illegal activity”** means an activity, which has been finally determined to be in noncompliance with local, state or federal laws, the conditions of any applicable permits, or the deemed approved provisions and performance standards in this chapter. Such an activity may lose its deemed approved status, and if it does it shall no longer be considered a deemed approved activity.

L. **“Legal nonconforming alcoholic beverage sales commercial activity”** or **“legal nonconforming activity”** means an off-sale alcoholic beverage sales commercial activity which was a nonconforming use pursuant to Chapter 17.120, and for which a valid state of California Alcoholic Beverage Control license had been issued and used in the exercise of the rights and privileges conferred by the license at a time immediately prior to November 1, 2013. A “legal nonconforming alcoholic beverage sales commercial activity” or “legal nonconforming activity” includes all beverage sales activities of existing off-sale alcoholic beverage establishments that are not in conformance with the regulations applicable to new off-sale alcoholic beverage establishments contained in this chapter, regardless of whether such activities were allowed as part of a conditional use permit granted prior to November 1, 2013. Such an activity shall be considered a deemed approved activity and shall no longer be considered a legal nonconforming activity.

M. **“Modify”** or **“modified”** as used in Sections 17.210.070, 17.210.100 and 17.210.130 of this chapter means the expansion or increase in intensity or substantial change of a use, as these terms are used in Chapter 17.120 of this title.

N. **“Off-sale alcoholic beverage establishment”** means an establishment that conducts retail sales of alcoholic beverages for consumption off the premises where sold. For purposes of this chapter, an “off-sale alcoholic beverage establishment” does not include a lawfully established alcohol beverage production manufacturer such as a winery, brewery or micro-brewery that sells alcohol for off-site consumption.

O. **“On-sale alcoholic beverage establishment”** means an establishment that conducts retail sales of alcoholic beverages for consumption on the premises where sold.

P. **“Operational standards”** means regulations for the business practice activities and land use for locations with a conditional use permit issued in conformance with the regulations in this chapter on or after November 1, 2013 or those further requirements imposed on off-sale alcoholic beverage establishments to achieve the purposes of this chapter. Operational standards constitute requirements which must be complied with by an establishment in order to maintain its conditional use permit or deemed approved status.

Q. **“Performance standards”** means regulations for the business practice activities and land use for locations with deemed approved status, in whole or in part, or those further requirements imposed to achieve the purposes of this chapter. Performance standards constitute requirements which must be complied with by an off-sale alcoholic beverage establishment in order to retain its deemed approved status.

R. **“Permitted or conditionally permitted alcoholic beverage sales commercial activity”** or **“permitted or conditionally permitted activity”** means an off-sale alcoholic beverage sales commercial activity which is a permitted or conditionally permitted activity pursuant to Chapter 17.210 and other applicable provisions of the El Cajon Municipal Code prior to November 1, 2013, and for which a valid state of California Alcoholic Beverage Control license has been issued and was used in the exercise of the rights and privileges conferred by the license at a time immediately prior to November 1, 2013. A “permitted or conditionally permitted alcoholic beverage sales commercial activity” or “permitted or conditionally permitted activity” includes all alcoholic beverage sales activities of any existing off-sale alcoholic beverage establishment that are not in conformance with the regulations applicable to new off-sale alcoholic beverage establishments contained in this chapter, regardless of whether such activities were allowed as part of a conditional use permit granted by the planning commission or otherwise allowed as permissible activities associated with the establishment’s permitted use, prior to November 1, 2013. To the extent that the activity is not in conformance with this chapter, it shall be considered a deemed approved activity.

S. **“Premises”** means the actual space in a building devoted to alcoholic beverage sales.

T. **“Redeveloped”** means the demolition of an existing off-sale alcoholic beverage establishment (whether conducting permitted or conditionally permitted activities or deemed approved activities) followed by the immediate reconstruction and operation of a replacement off-sale alcoholic beverage establishment.

U. **“Restaurant”** means a bona fide eating place whose predominant function is the service of food and where on-sale of alcoholic beverages is incidental or secondary. (Ord. 5033 § 38, 2015)

17.210.050 Public hearing by planning commission.

The planning commission may conduct public hearings and make determinations on whether alcoholic beverage sale establishments are in compliance with conditions of approval, operational standards, or deemed approved performance standards prescribed in these regulations, and may modify, suspend or revoke an establishment's conditional use permit or deemed approved status in order to obtain the compliance of the particular establishment with the provisions of this chapter. This section is not intended to restrict the powers and duties otherwise pertaining to other city officers or bodies in the field of monitoring and ensuring the harmony of alcoholic beverage sale activities in the city. The planning commission shall have the powers and duties assigned to them by the El Cajon Municipal Code and by this chapter. (Ord. 4994 § 3, 2013)

17.210.060 Inspection and right of entry.

The sale of alcoholic beverages is a closely regulated industry. The officials responsible for enforcement of the El Cajon Municipal Code or other ordinances of the city or their duly authorized representatives may enter on any site or into any structure open to the public for the purpose of investigation provided they shall do so in a reasonable manner whenever they have cause to suspect a violation of any provision of this ordinance or whenever necessary to the investigation of violations to the conditions of approval, operational standards, or deemed approved performance standards prescribed in these regulations. If an owner, occupant or agent refuses permission to enter, inspect or investigate, premises which are not open to the public, the officials or their representatives may seek an inspection warrant under the provisions of California Code of Civil Procedure section 1822.50 et seq. All such inspections shall be conducted in compliance with the Fourth Amendment to the United States Constitution. (Ord. 4994 § 3, 2013)

17.210.070 New, modified, or redeveloped off-sale alcohol establishment standards.

Except as otherwise provided in this chapter, no person shall establish a new off-sale alcoholic beverage establishment, nor shall any person modify or redevelop an existing off-sale alcoholic beverage establishment, in violation of Section 17.120.030 of this title or an applicable conditional use permit without first obtaining a conditional use permit in the manner provided by this chapter. Furthermore, the standards contained in Sections 17.210.080 through 17.210.120 require new off-sale alcoholic beverage establishments, as defined in this chapter, to secure a conditional use permit in the manner provided in this chapter in order to lawfully engage in the sale of alcoholic beverages from premises located in the city of El Cajon; and require such establishments to manage such premises in accordance with the requirements of such permit, including operational standards and any conditions of approval incorporated as conditions of the permit. (Ord. 4994 § 3, 2013)

17.210.080 Conditional use permit required.

A. Except as provided in subsections B and C, below, all alcoholic beverage establishments to which this chapter is applicable shall obtain a conditional use permit pursuant to Chapter 17.50 of this title and satisfy all pertinent conditions prior to engaging in any alcoholic beverage sales activity.

B. Unless otherwise required by this chapter, a conditional use permit shall not be required of an alcoholic beverage establishment consisting of a general retail store, a grocery store, or a retail pharmacy, which has (1) at least ten thousand (10,000) square feet of gross floor space, and (2) a maximum of ten percent (10%) of the gross floor area devoted to the sales and display of alcoholic beverages. A conditional use permit shall not be required of an alcoholic beverage production manufacturer with an accessory tasting room. An alcoholic beverage establishment exempt from the requirement of a conditional use permit pursuant to this subsection is deemed to have been approved to conduct alcoholic beverage sales commercial activity subject to the terms and conditions of a conditional use permit required under this chapter provided, however, that if it is found to be in violation of this chapter such an exempt establishment may lose its exemption and be required to obtain a conditional use permit as set forth in section 17.210.260.

C. All new on-sale alcoholic beverage establishments in the Regional Commercial (C-R) zone shall obtain a minor use permit pursuant to Chapter 17.57 of this title to satisfy all pertinent conditions prior to engaging in any alcoholic beverage sales activity. (Ord. 5081 § 25, 2019.)

17.210.090 Distance requirements—applicable to new off-sale alcoholic beverage sales activities.

A. No new off-sale alcoholic beverage establishment shall be located within 600 feet of residentially zoned property, public or private schools, health care facilities, religious facilities, and parks or playgrounds, except:

1. A general retail store, or grocery store, or retail pharmacy with greater than 10,000 square feet of gross floor area and a maximum of 10 percent of the gross floor area devoted to the sale and display of off-sale alcoholic beverages; or
2. A convenience market with a maximum of 10 percent of the retail display area devoted to the sale and display of alcoholic beverages, limited to off-sale beer and wine, non-fortified products only. Retail display area includes all floor area within the establishment that is accessible and within view of customers, including aisles, and floor area occupied by shelves, counters, and refrigerator coolers.

B. For purposes of this section, distances shall be measured between the closest property lines of the affected locations. (Ord. 4994 § 3, 2013)

17.210.100 Operational standards—applicable to new, modified, or redeveloped off-sale alcoholic beverage sales activities.

A. All new, modified, or redeveloped off-sale alcoholic beverage sales activities shall be designed, constructed, and operated to conform to all of the following operational standards:

1. That it does not result in adverse effects to the health, peace or safety of persons residing or working in the surrounding area.

2. That it does not jeopardize or endanger the public health or safety of persons residing or working in the surrounding area.
3. That it does not result in repeated nuisance activities within the premises or in close proximity of the premises, including, but not limited to, disturbance of the peace, illegal drug activity, public drunkenness, drinking in public, harassment of passersby, gambling, prostitution, sale of stolen goods, public urination, theft, assaults, batteries, acts of vandalism, littering, loitering, graffiti, illegal parking, excessive loud noises, especially in the late night or early morning hours, traffic violations, curfew violations, lewd conduct, or police detentions and arrests.
4. That it complies with all provisions of local, state or federal laws, regulations or orders, including, but not limited to, those of the California Department of Alcoholic Beverage Control, California Business and Professions Code sections 24200, 24200.6, and 25612.5, as well as any condition imposed on any permits issued pursuant to applicable laws, regulations or orders. This includes compliance with annual city business license fees.
5. That its upkeep and operating characteristics are compatible with, and will not adversely affect the livability or appropriate development of abutting properties and the surrounding neighborhood.
6. That it complies with the following alcohol sale limitations:
 - a. No wine shall be displayed, sold or given away in containers of less than seven hundred fifty (750) milliliters, except multipack containers of wine, and multipack wine coolers containing no more than six percent (6%) alcohol by volume.
 - b. No wine shall be displayed, sold or given away with an alcoholic content greater than fifteen percent (15%) by volume unless in corked bottles and aged at least two (two) years.
 - c. No distilled spirits shall be displayed, sold or given away in containers of less than three hundred seventy five (375) milliliters, including but not limited to, airline bottles, except pre-mixed cocktails.
 - d. Notwithstanding subsection (c) above, no distilled spirits shall be displayed, sold or distributed in three hundred seventy-five (375) milliliters hip flask containers.
 - e. No beer, ale or malt liquor shall be offered for sale in a container with a volume greater than thirty-two (32) ounces. This restriction is not intended to prohibit the sale of such beverages in kegs or other types of containers, with a volume of two or more gallons, which are clearly designed to dispense multiple servings.
 - f. No sale or distribution of alcoholic beverages shall be made from a drive-up or walk-up window.
 - g. No display, sale or distribution of beer or wine, wine coolers or similar alcoholic beverages shall be made from an ice tub, barrel or similar container.
 - h. All display of alcoholic beverages shall be no closer than five (5) feet from the store entrance.

7. That it complies with the following public nuisance prevention measures:
 - a. Lighting: Exterior areas of the premises and adjacent parking lots shall be provided with sufficient lighting in a manner that provides adequate illumination for alcohol establishment patrons while not spilling onto surrounding residential and commercial properties. A photometric study may be required to demonstrate compliance.
 - b. Litter: Adequate litter receptacles shall be provided on site and in the building. The premises shall be kept free of the accumulation of litter and shall be removed no less frequently than once each day the business is open.
 - c. Loitering: The following measures may be required:
 - i. No fixtures or furnishings that encourage loitering and nuisance behavior are permitted on the premises. This includes, but is not limited to chairs, seats, stools, benches, tables, crates, etc.
 - ii. The establishment's operators or employees shall be required to discourage loiterers and to ask persons loitering longer than fifteen (15) minutes to leave the area and contact local law enforcement officials for enforcement of applicable trespassing and loitering laws if persons requested to leave fail to do so.
 - iii. No video or other electronic games shall be located in an off-sale alcoholic beverage establishment.
 - iv. No pay phones are permitted outside of the off-sale establishment.
 - d. Cups: The sale or distribution to the customer of paper or plastic cups in quantities less than their usual and customary packaging is prohibited.
 - e. Signage: There shall be no exterior advertising of alcoholic products, or tobacco and paraphernalia or similarly controlled products as defined in section 8.33.010 of this Municipal Code.
 - f. Signs: The following signs shall be required to be prominently posted in a readily visible manner on an interior wall or fixture, and not on windows, in English, Spanish, Arabic and the predominant language of the patrons:
 - i. "California State Law prohibits the sale of alcoholic beverages to persons younger than 21 years of age."
 - ii. "No Loitering or Public Drinking."
 - iii. "It is illegal to possess an open container of alcohol in the vicinity of this establishment."

g. Presentation of Documents: A copy of the conditions of approval and the California Department of Alcoholic Beverage Control license shall be required to be kept on the premises and presented to any enforcement officer or authorized state or county official upon request.

h. Mitigating Alcohol Related Problems: The establishment shall be required to operate in a manner appropriate with mitigating alcohol related problems that negatively impact those individuals living or working in the neighborhood including, but not limited to, sales to minors, the congregation of individuals, violence on or near the premises, drunkenness, public urination, solicitation, drug-dealing, drug use, loud noise and litter.

i. Drug Paraphernalia: An off-sale alcohol establishment shall be prohibited from selling drug/tobacco paraphernalia products as defined in California Health and Safety Code sections 11014.5 and 11364.5. "Drug paraphernalia" means all equipment products and materials of any kind that are used intended for use or designed for use in planting, propagating, cultivating, growing, harvesting, manufacturing, com-pounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling, or otherwise introducing into the human body a controlled substance in violation of the California Uniform Controlled Substances Act commencing with California Health and Safety Code section 11000.

j. Prohibited Vegetation: Exterior vegetation shall not be planted or maintained that could be used as a hiding place for persons on the premises. Exterior vegetation may be planted and maintained in a manner that minimizes its use as a hiding place.

k. Window Obstructions: To ensure a clear and unobstructed view of the interior of the premises, including the area in which the cash registers are maintained, from the exterior public sidewalk or entrance, no more than fifteen percent (15%) of windows and entry doors shall be blocked by signs, vending machines, shelves, racks, storage, etc.

l. Training: Each off-sale operator and their employees shall complete the Responsible Beverage Service (RBS) Training component. To satisfy this requirement, a certified program must meet the standards of the Alcohol Beverage Control Responsible Beverage Service Advisory Board or other certifying/licensing body designated by the state of California. Proof of completion shall be submitted to the Community Development department.

m. Posting of Documents: A copy of these operational standards, any applicable California Department of Alcoholic Beverage Control regulations or city operating conditions, and any training requirements shall be posted in at least one prominent place within the interior of the establishment where it will be readily visible and legible to the employees and patrons of the establishment.

B. Failure to comply with these requirements shall constitute grounds for revocation of a conditional use permit. (Ord. 5081 § 27, 2019.)

17.210.110 Required findings—new off-sale alcoholic beverage sales activities.

In addition to the findings listed in Section 17.50.060, the planning commission shall approve issuance of a conditional use permit to allow a new off-sale alcoholic beverage sales activity upon making the following findings:

- A. The proposed establishment meets the locational requirements of Section 17.210.090.
- B. The proposed alcoholic beverage sales activity will not aggravate existing problems in the neighborhood created by the sale of alcohol such as loitering, public drunkenness, alcoholic beverage sales to minors, noise and littering.
- C. The proposed establishment will not detrimentally affect nearby neighborhoods considering the distance of the alcohol establishment to residential buildings, schools, parks, playgrounds or recreational areas, nonprofit youth facilities, places of worship, hospitals, alcohol or other drug abuse recovery or treatment facilities, county social service offices, or other alcoholic beverages sales activity establishments.
- D. The proposed establishment is located in a census tract with capacity for additional off-sale licenses, as defined by the California Department of Alcohol Beverage Control, with low to average crime rates, as defined by the police department annually, subject to the condition that an additional off-sale establishment will not be contradictory to a moratorium. (Ord. 4994 § 3, 2013)

17.210.120 Conditions of approval—new off-sale alcoholic beverage sales activities.

- A. In order to make required findings the applicant must acquire an existing off-sale license issued by the ABC from an off-sale alcohol sales establishment located in an over-concentrated census tract in the city of El Cajon and transfer the license to an approved location or otherwise extinguish such license.
- B. Conditions of approval that may be imposed as necessary to make required findings include but are not limited to the following:
 - 1. Program: A “complaint response community relations” program adopted and maintained by the establishment conducting the alcoholic beverage sales activity may be required. The program may include the following:
 - a. Posting at the entry of the establishment providing the telephone number for the watch commander of the police department to any requesting individual.
 - b. Coordinating efforts with the police department to monitor community complaints about the establishment activities.
 - c. Having a representative of the establishment meet with neighbors or the applicable neighborhood association on a regular basis and at their request attempt to resolve any neighborhood complaints regarding the establishment.

2. Hours of Operation: In an off-sale alcohol establishment, the sale of alcoholic beverages may be restricted to certain hours of each day of the week unless limited further by the State of California Department of Alcoholic Beverage Control.

3. Security Cameras: At least two high definition 24-hour time lapse security cameras may be required to be installed and properly maintained on the exterior of the building at locations recommended by the police department capable of color recording and storing a minimum of 30 days of continuous video. All criminal and suspicious activities recorded on this surveillance equipment must be reported to local law enforcement. To the extent allowed by law, the establishment operators may be required to provide any tapes or other recording media from the security cameras to the police department.

4. Security Guards: An establishment may be required to retain a specified number of security guards. The number of security guards shall vary based upon the specific facts and circumstances of each establishment site and operation. All security guards shall have all required state and city permits and licenses. (Ord. 4994 § 3, 2013)

17.210.130 New and modified on-sale alcohol establishment standards.

Except as otherwise provided in this chapter, no person shall establish a new on-sale alcoholic beverage establishment or modify an existing on-sale alcoholic beverage establishment in violation of section 17.120.030 of this title or an applicable conditional use permit without first obtaining a conditional use permit or minor use permit (C-R zone) in the manner provided by this chapter. Furthermore, the standards contained in sections 17.210.140 through 17.210.160 require on-sale alcoholic beverage establishments to secure a conditional use permit or minor use permit in the manner provided in this chapter in order to lawfully engage in the sale of alcoholic beverages from premises located in the city of El Cajon; and require such establishments to manage such premises in accordance with the requirements of such permit, including operational standards and any conditions of approval incorporated as conditions of the permit. (Ord. 5081 § 29, 2019.)

17.210.140 Distance requirements—applicable to new on-sale alcoholic beverage establishments.

A. No new on-sale alcoholic beverage establishment shall be located within one thousand (1,000) feet of an existing on-sale alcoholic beverage establishment (except in the C-R zone) and/or within six hundred (600) feet of residentially zoned property, public or private schools, health care facilities, religious facilities, parks or playgrounds, and off-sale alcoholic beverage establishments, except:

1. A restaurant with an ancillary bar with less total square footage than the restaurant eating area; or

2. On-sale alcoholic beverage establishment with alcohol sales secondary and incidental to an approved, complementary, principal use within the boundaries of Specific Plan No. 19 or Specific Plan No. 182; or

3. An alcoholic beverage manufacturer such as a craft brewery with an ancillary tasting room or craft brewery with a full-service restaurant.

B. For purposes of this section, distances shall be measured between the closest property lines of the affected locations.

C. For the purposes of this section, "secondary and incidental," shall mean that the sales of alcoholic beverage shall be limited to not more than twenty-five percent (25%) of the gross annual retail receipts generated by the use on the site, which shall be calculated on a quarterly basis, for the prior twelve (12) month period ending on the last day of the then concluding quarter of year, and shall further mean that sales of alcoholic beverages are not promoted or advertised in any signs, or the name of the business establishment.

D. For the purposes of this section, "principal use," may include, but is not limited to, live entertainment, participatory sporting activities, museums, theaters, performing arts center owned by a public agency, hotels, or other, similar uses approved by the Director of Community Development, so long as the location of the sales of alcoholic beverages occurs on the same premises as the principal use, and the owner of the principal use is the owner of the liquor license. (Ord. 5113 § 26, 2022)

17.210.150 Operational standards—applicable to new on-sale alcoholic beverage sales activities.

A. That it does not result in adverse effects to the health, peace or safety of persons residing or working in the surrounding area.

B. That it does not jeopardize or endanger the public health or safety of persons residing or working in the surrounding area.

C. That it does not result in repeated nuisance activities within the premises or in close proximity of the premises, including, but not limited to, disturbance of the peace, illegal drug activity, public drunkenness, drinking in public, harassment of passersby, gambling, prostitution, sale of stolen goods, public urination, theft, assaults, batteries, acts of vandalism, littering, loitering, graffiti, illegal parking, excessive loud noises, especially in the late night or early morning hours, traffic violations, curfew violations, lewd conduct, or police detentions and arrests.

D. That it complies with all provisions of local, state or federal laws, regulations or orders, including, but not limited to, those of the ABC, California Business and Professions Code §§ 24200, 24200.6, and 25612.5, as well as any condition imposed on any permits issued pursuant to applicable laws, regulations or orders. This includes compliance with annual city business license fees.

E. That its upkeep and operating characteristics are compatible with, and will not adversely affect the livability or appropriate development of abutting properties and the surrounding neighborhood. (Ord. 4994 § 3, 2013)

17.210.160 Required findings—new on-sale alcoholic beverage sales activities.

In addition to the findings listed in section 17.50.060, the issuance of a conditional use permit or minor use permit to allow a new on-sale alcoholic beverage sales activity shall meet the following findings:

- A. The proposed alcoholic beverage sales activity will not exacerbate existing problems in the neighborhood created by the sale of alcohol such as loitering, public drunkenness, sale of alcoholic beverages to minors, noise and littering.
- B. The proposed alcoholic beverage sales establishment will not detrimentally affect nearby neighborhoods considering the distance of the alcohol establishment to residential buildings, schools, parks, playgrounds or recreational areas, nonprofit youth facilities, places of worship, hospitals, alcohol or other drug abuse recovery or treatment facilities, county social service offices, or other alcoholic beverages sales activity establishments.
- C. The proposed alcoholic beverage sales establishment is not located in what has been determined to be a high-crime area or where a disproportionate number of police service calls occur. In the alternative, if the proposed alcoholic beverage sales establishment is proposed to be located in a high-crime area or where a disproportionate number of police service calls occur, the establishment has or will adopt appropriate safeguards, to be set forth in conditions of approval, reasonably intended to prevent any increase in criminal activities and calls for service. (Ord. 5081 § 33, 2019.)

17.210.170 Grounds for conditional use permit suspension, revocation or termination.

- A. In addition to the grounds for revocation or modification of a conditional use permit contained in Section 17.35.030 of this title, an alcoholic beverage sales establishment's conditional use permit may be suspended for up to one year, modified or revoked by the planning commission after holding a public hearing in the manner prescribed in Chapter 17.25, for failure to comply with operational standards, training requirements or conditions of approval imposed through their conditional use permit. Notice of such hearing by the planning commission at which it will consider the modification, suspension or revocation of an establishment's conditional use permit shall be in writing and shall state the grounds therefore. Notice shall be mailed by first-class mail and certified mail return receipt requested at least 10 days before the date of the hearing.
- B. Any conditional use permit issued pursuant to the provisions of this chapter shall be subject to the condition, in addition to any and all other conditions, that it shall terminate and cease to apply to any establishment which:
 - 1. Shall have ceased its operation for a period of 180 or more calendar days, and

- a. If there is thereafter filed any application or requested transaction with the California Department of Alcoholic Beverage Control, whereby the laws of the state of California require notice thereof to be filed with the city, and allow the filing of a protest thereon by the city (including person-to-person transfer of existing licenses); or
 - b. Where after such 180-calendar-day period, the existing license shall have ceased to apply to such establishment; or
2. Where the existing license shall have been surrendered to the California Department of Alcoholic Beverage Control for a period exceeding 180 calendar days. (Ord. 4994 § 3, 2013)

17.210.180 Investigative procedures of potential violation of conditions of approval and operational standards.

Upon the city's receipt of a complaint from the public, police department, city official or any other interested person that a conditional use permit activity is in violation of the operational standards and/or conditions of approval set forth in this chapter, the following procedure shall be followed:

- A. An enforcement officer shall assess the nature of the complaint and its validity by conducting an on-site observation and inspection of the premises to assess the activity's compliance with operational standards and/or conditions of approval.
- B. If the enforcement officer determines that the activity is in violation of the operational standards and/or conditions of approval, the enforcement officer shall give written notice of the violation to the owner and/or operator of the establishment and seek to remedy the violation under the city's administrative citation procedures contained in Chapter 1.14 of this code. The first notice of violation shall be given in accordance with Section 1.14.040 of this code. If, however, the enforcement officer, in his or her sole discretion, determines that the violation is not capable of correction, presents a serious threat to public health or safety, or otherwise warrants expedited action, he or she may in lieu of following the administrative citation procedure, refer the matter directly to the planning commission for a hearing at which the establishment's conditional use permit may be suspended, modified or revoked.
- C. Any administrative citation issued under this section shall be issued, processed, and enforced in compliance with all of the provisions of Chapter 1.14 of this code, unless otherwise expressly provided by this chapter. If the owner or operator receiving an administrative citation contests the citation and a hearing is held pursuant to Chapter 1.14, the hearing officer may, in addition to exercising all powers designated in Chapter 1.14, make a recommendation to the planning commission to suspend, modify or revoke the establishment's conditional use permit if in the judgment of the hearing officer, based upon information then before him or her, such action is necessary to ensure compliance with this chapter. Such recommendation may include the suggestion of additional or amended reasonable conditions on the use, including but not limited to, the conditions listed in Section 17.210.120, and the operational standards listed in Section 17.210.100 of this chapter.

D. If a hearing before the planning commission is conducted on a potential violation in the manner prescribed in Chapter 17.25, it shall determine whether the activity is in compliance with the operational standards and/or conditions of approval. Based on this determination, the planning commission may suspend, modify or revoke the activity's conditional use permit or impose additional or amended conditions on the use, including, but not limited to, the conditions listed in Section 17.210.120, and the operational standards listed in Section 17.210.100, of this chapter, based upon the information then before it. In reaching a determination as to whether a use has violated the operational standards or conditions of approval, or as to the appropriateness of suspending, modifying, or revoking of a conditional use permit, or the imposition of additional or amended conditions on a use, the planning commission may consider the following:

1. The length of time the activity has been out of compliance with the operational standards and/or conditions of approval.
2. The impact of the violation of the operational standards and/or conditions of approval on the community.
3. Any information regarding the owner of the activity's efforts to remedy the violation of the operational standards and/or conditions of approval.

E. "Efforts to Remedy" shall include, but are not limited to:

1. Timely calls to the police department that are placed by the owner and/or operator of the establishment, his or her employees, or agents.
2. Requesting that those persons engaging in activities causing violations of the operational standards and or conditions of approval cease those activities, unless the owner or operator of the activity, or his or her employees or agents feels that their personal safety would be threatened in making that request.
3. Making improvements to the establishment's property or operations, including, but not limited to, the installation of lighting sufficient to illuminate the area within the use's property line, the installation of security cameras, the clearing of window obstructions, the cleaning of sidewalks and the abatement of graffiti within three days.

F. If in the judgment of the planning commission, the operations of the owner or operator of the establishment constitute a nuisance, the owner or operator is unable or unwilling to abate the nuisance and the nuisance is shown to be a threat to the public health and safety of the surrounding neighborhood, the planning commission may suspend, modify or revoke the activity's conditional use permit. All determinations, decisions, and conditions made or imposed regarding the use of an activity shall run with the land.

G. The decision of the planning commission shall be final and conclusive, unless appealed in writing to the city council within 10 days of planning commission action. (Ord. 4994 § 3, 2013)

17.210.190 Appeal from suspension, modification or revocation of conditional use permit.

Any applicant or other person aggrieved by a decision of the planning commission from a suspension, modification or revocation of a conditional use permit pursuant to this chapter may appeal the decision to the city council pursuant to Chapter 17.30 of this code. (Ord. 4994 § 3, 2013)

17.210.200 Deemed approved alcoholic beverage sales regulations.

Except as otherwise provided in this chapter, any permitted or conditionally permitted off-sale alcoholic beverage establishment, and legal nonconforming off-sale alcoholic beverage establishment lawfully operating prior to November 1, 2013 pursuant to an ABC license that authorizes the retail sale of alcoholic beverages for off-site consumption shall thereafter be an establishment with deemed approved status in accordance with Section 17.210.220. In addition, any alcoholic beverage establishment exempt from the requirement to obtain a conditional use permit pursuant to subsection (B) of Section 17.210.080 that lawfully commences operations on or after November 1, 2013 shall be an establishment with deemed approved status for purposes of this chapter. Such establishment may continue to lawfully operate provided the operation is conducted in compliance with the performance standards contained in Section 17.210.230, has satisfied the applicable training requirement and paid the annual permit fee required by this chapter. (Ord. 4994 § 3, 2013)

17.210.210 Applicability of deemed approved alcoholic beverage sales regulations.

The deemed approved alcoholic beverage sales regulations shall apply to all permitted or conditionally permitted off-sale alcoholic beverage sales activities and legal nonconforming alcoholic beverage sales activities for off-site consumption existing and operating within the City on November 1, 2013 and to all alcoholic beverage sales establishments exempt from the requirement to obtain a conditional use permit pursuant to subsection (B) of Section 17.210.080 that lawfully commence operations on or after November 1, 2013. (Ord. 4994 § 3, 2013)

17.210.220 Automatic deemed approved status.

All alcoholic beverage sales commercial activities not consistent with the standards and regulations set forth in this chapter that were conducted by permitted or conditionally permitted activities, and all legal nonconforming activities for off-sale alcohol establishments, on November 1, 2013, shall automatically become deemed approved activities as of November 1, 2013, and shall no longer be considered permitted, conditionally permitted or legal nonconforming activities. In addition, all alcoholic beverage sales commercial activities of an alcoholic beverage sales establishment exempt from the requirement to obtain a conditional use permit pursuant to subsection (B) of Section 17.210.080 that lawfully commence operations on or after November 1, 2013 that are not consistent with the standards and regulations set forth in this chapter are deemed approved activities. Each deemed approved activity shall retain its deemed approved status as long as it complies with the performance standards of this ordinance. (Ord. 4994 § 3, 2013)

17.210.230 Deemed approved performance standards for off-sale alcohol establishments.

The provisions of this section shall be known as the deemed approved performance standards. The purpose of these standards is to control dangerous or objectionable environmental effects of alcoholic beverage sales activities. These standards shall apply to all deemed approved alcoholic beverage sales activities that hold deemed approved status pursuant to this chapter. An off-sale alcoholic beverage sales activity shall retain its deemed approved status only if it conforms to all of the following deemed approved performance standards:

- A. The off-sale alcohol establishment shall not cause adverse effects to the health, peace or safety of persons residing or working in the surrounding area.
- B. The off-sale alcohol establishment shall not jeopardize or endanger the public health or safety of persons residing or working in the surrounding area.
- C. The off-sale alcohol establishment shall not allow repeated nuisance activities within the premises or in close proximity of the premises, including, but not limited to, disturbance of the peace, illegal drug activity, public drunkenness, drinking in public, harassment of passersby, gambling, prostitution, sale of stolen goods, public urination, theft, assaults, batteries, acts of vandalism, excessive littering, loitering, graffiti, illegal parking, excessive loud noises, especially in the late night or early morning hours, traffic violations, curfew violations, or lewd conduct.
- D. The off-sale alcohol establishment shall comply with all provisions of local, state or federal laws, regulations or orders, including, but not limited to, those of the ABC, California Business and Professions Code sections 24200, 24200.6, and 25612.5, as well as any condition imposed on any permits issued pursuant to applicable laws, regulations or orders. This includes compliance with annual city business license fees.
- E. The off-sale alcohol establishment's upkeep and operating characteristics shall be compatible with and not adversely affect the livability or appropriate development of abutting properties and the surrounding neighborhood.

F. A copy of these performance standards, any applicable ABC or city operating conditions, and any training requirements shall be posted in at least one prominent place within the interior of the establishment where it will be readily visible and legible to the employees and patrons of the establishment.

G. The owners and all employees of the alcohol beverage sales establishment involved in the sale of alcoholic beverages shall complete an approved course in "Responsible Beverage Sales" (RBS) within 60 days of hire for employees hired after the passage of this ordinance or within six months of the passage of this ordinance for existing employees. To satisfy this requirement, a certified program must meet the standards of the California Coordinating Council on Responsible Beverage Service (CCC/RBS) or other certifying/licensing body designated by the state of California. (Ord. 4994 § 3, 2013)

17.210.240 Notification to owners of off-sale establishments conducting deemed approved activities.

The city's community development department shall notify the owner and/or operator of an off-sale alcohol establishment of each deemed approved activity as shown on their city business license, and also, if not the same, any property owner at the address shown on the county assessor's property tax assessment records, of the activity's deemed approved status. The notice shall be sent by first-class mail and certified mail return receipt requested and shall include a copy of the performance standards in this chapter with the requirement that they be posted in a conspicuous and unobstructed place visible from the entrance of the establishment for public review. This notice shall also provide that the activity is required to comply with all performance standards, and that the activity is required to comply with all other aspects of the deemed approved regulations. Should the notice be returned, then the notice shall be sent via regular mail. Failure of any person to receive notice given pursuant to this chapter shall not affect the deemed approved status of the activity. (Ord. 4994 § 3, 2013)

17.210.250 Grounds for deemed approved status suspension, revocation or termination.

A. An alcoholic beverage sales establishment's deemed approved status may be suspended for up to one year, modified or revoked by the planning commission after holding a public hearing in the manner prescribed in Chapter 17.25, for failure to comply with the performance standards set forth in Section 17.210.230. Notice of such hearing by the planning commission at which it will consider the modification, suspension or revocation of an establishment's deemed approved status shall be in writing and shall state the grounds therefore. Notice shall be mailed by first-class mail and certified mail return receipt requested at least 10 days before the date of the hearing.

B. The occurrence of any of the following shall terminate the deemed approved status of the alcoholic beverage sales activity after notice and a hearing in front of the planning commission in accordance with Chapter 17.25, and require the issuance of a conditional use permit in order to continue the alcoholic beverage sales activity:

1. An existing alcoholic beverage sales activity changes its activity so that ABC requires a different type of license.

2. There is a substantial modification to the mode or character of operation.
3. As used herein, the phrase "substantial modification to the mode or character of operation" includes but is not be limited to the following:
 - a. The off-sale alcoholic beverage sales activity establishment increases the floor or land area or shelf space devoted to the display or sales of any alcoholic beverage.
 - b. The off-sale alcoholic beverage sales activity establishment extends the hours of operation.
 - c. The off-sale alcoholic beverage sales activity establishment proposes to reinstate alcohol sales after the ABC license has been either revoked or suspended for a period 180 days or greater by ABC.
 - d. The off-sale alcoholic beverage sales activity voluntarily discontinues active operation for more than 180 consecutive days or ceases to be licensed by the ABC.
4. A "substantial change in the mode of character of operation" shall not include:
 - a. Re-establishment, restoration or repair of an existing off-sale alcoholic beverage sales activity on the same premises after the premises have been rendered totally or partially inaccessible by a riot, insurrection, toxic accident or act of God, provided that the re-establishment, restoration or repair does not extend the hours of operation of any establishment or add to the capacity, floor or land area or shelf space devoted to alcoholic beverages of any establishment that sells any alcoholic beverages for off-site consumption.
 - b. Temporary closure for not more than 180 days in cases of vacation or illness or for purposes of repair, renovation, or remodeling if that repair, renovation, or remodeling does not change the nature of the premises and does not extend the hours of operation of any establishment, or add to the capacity, floor or land area, or shelf space devoted to alcoholic beverages of any establishment that sells any alcoholic beverages for off-site consumption, provided notice is provided to the City. The planning commission may, upon request of an owner of an alcoholic beverage sales establishment made prior to the expiration of 180 days, grant one or more extensions to the period of temporary closure, none of which may exceed 60 days, and together not to exceed 180 days.

5. Once it is determined by the City that there has been a discontinuance of active operation for 180 consecutive days or a cessation of ABC licensing, it may be resumed only upon the granting of a conditional use permit as provided in Sections 17.210.070 to 17.210.120 of this chapter. In the event that any active operation is discontinued on a property for a period of 180 consecutive days, such discontinuance shall be presumed to be abandonment of the use by the property owner. At any time after any active operation is discontinued for a period of 180 consecutive days or more, the City Manager's designee shall notify the property owner in writing of the determination of presumed abandonment of the active operation. Pursuant to Chapter 17.30 of this title, the property owner may appeal the determination to the planning commission, which may overturn the determination only upon making a finding that the evidence supports the property owner's position that the nonconforming use was not discontinued for a period of 180 consecutive days or more. The property owner shall be notified by the city of the termination of the deemed approved status and shall be informed of the property owner's right to appeal the City's decision to the planning commission. (Ord. 4994 § 3, 2013)

17.210.260 Investigative procedures of potential violation of performance standards by establishment with deemed approved status.

Upon the City's receipt of a complaint from the public, police department, city official or any other interested person that a deemed approved use is in violation of the performance standards set forth in this chapter, the following procedure shall be followed:

- A. An enforcement officer shall assess the nature of the complaint and its validity by conducting an on-site observation and inspection of the premises to assess the activity's compliance with performance standards.
- B. If the enforcement officer determines that the deemed approved activity is in violation of the performance standards, the enforcement officer shall give written notice of the violation to the owner and/or operator of the establishment and seek to remedy the violation under the city's administrative citation procedures contained in Chapter 1.14 of this code. The first notice of violation shall be given in accordance with Section 1.14.040 of this code. If, however, the city manager, in his or her sole discretion, determines that the violation is not capable of correction, presents a serious threat to public health or safety, or otherwise warrants expedited action, he or she may in lieu of following the administrative citation procedure, refer the matter directly to the planning commission for a hearing at which the deemed approved activity's deemed approved status may be suspended, modified or revoked.

C. Any administrative citation issued under this section shall be issued, processed, and enforced in compliance with all of the provisions of Chapter 1.14 of this code, unless otherwise expressly provided by this chapter. If, the owner or operator receiving an administrative citation contests the citation and a hearing is held pursuant to Chapter 1.14, the hearing officer may, in addition to exercising all powers designated in Chapter 1.14, make a recommendation to the planning commission to suspend, modify or revoke the deemed approved activity's deemed approved status if in the judgment of the hearing officer, based upon information then before him or her, such action is necessary to ensure compliance with this chapter. Such recommendation may include the suggestion of additional or amended reasonable conditions on the use, including but not limited to, the conditions listed in Section 17.210.120 and the operational standards listed in Section 17.210.100, of this chapter.

D. If a hearing is conducted on a potential violation in the manner prescribed in Chapter 17.25, the planning commission shall determine whether the deemed approved activity is in compliance with the performance standards. Based on this determination, the planning commission may suspend, modify or revoke the deemed approved activity's deemed approved status or impose additional or amended conditions on the use, including, but not limited to, the conditions listed in Section 17.210.120, and the operational standards listed in Section 17.210.100, of this chapter, based on information then before it. In reaching a determination as to whether a use has violated the performance standards, or as to the appropriateness of suspending, modifying or revoking a deemed approved activity's deemed approved status, or imposing additional or amended conditions on the use, the planning commission may consider:

1. The length of time the deemed approved activity has been out of compliance with the performance standards.
2. The impact of the violation of the performance standard(s) on the community.
3. Any information regarding the owner of the deemed approved activity's efforts to remedy the violation of the performance standard(s).

E. "Efforts to Remedy" shall include, but are not limited to:

1. Timely calls to the police department that are placed by the owner and/or operator of the deemed approved activity, his or her employees, or agents.
2. Requesting that those persons engaging in activities causing violations of the performance standard(s) cease those activities, unless the owner of the deemed approved activity, or his or her employees or agents feels that their personal safety would be threatened in making that request.
3. Making improvements to the deemed approved activity's property or operations, including, but not limited to, the installation of lighting sufficient to illuminate the area within the use's property line, the installation of security cameras, clear unobstructed windows, clean sidewalks and graffiti abated within three days.

F. If in the judgment of the planning commission, the operations of the owner or operator of the deemed approved activity constitute a nuisance, the owner is unable or unwilling to abate the nuisance and the nuisance is shown to be a threat to the public health and safety of the surrounding neighborhood, the planning commission may suspend, modify or revoke the activity's deemed approved status. If suspended, any continued operation of the business shall require a conditional use permit approved by the planning commission. All determinations, decisions, and conditions made or imposed regarding the use of a deemed approved activity shall run with the land.

G. The decision of the planning commission shall be final and conclusive, unless appealed in accordance with the provisions of Chapter 17.30 of this title.

H. All hearings held pursuant to this section shall be conducted in the manner set forth in Chapter 1.36. (Ord. 4994 § 3, 2013)

17.210.270 Appeal from suspension, modification or revocation of deemed approved status.

Any applicant or other person aggrieved by a decision of the planning commission from a suspension, modification or revocation of an establishment's deemed approved status pursuant to this chapter may appeal the decision to the city council pursuant to Chapter 17.30 of this code. All hearings held pursuant to this section shall be conducted in the manner set forth in Chapter 1.36. (Ord. 4994 § 3, 2013)

17.210.280 Alcoholic beverage sales activity penalties.

A. Any person violating any of the provisions of this chapter or who causes or permits another person to violate any provision of this chapter may be charged with either an infraction or a misdemeanor, and shall be subject to the provisions of the general penalty clause as set forth in Section 1.24.010 of this code.

B. In addition to the penalties provided in this section, any use or condition caused or permitted to exist in violation of any of the provisions of these regulations shall be and is declared to be a public nuisance and may be abated as such by the City.

C. Nothing in this chapter shall be construed to prevent the city of El Cajon from pursuing any and all other legal remedies that may be available, including, but not limited to, civil actions filed by the city attorney seeking any and all appropriate relief such as civil injunctions and penalties.

D. Notwithstanding Chapter 1.24 General Penalty, Chapter 1.16 Nuisance, Chapter 1.14 Administrative Citation Procedures, or any other section of this code to the contrary, any person, entity, or organization that violates the provisions of this chapter may be subject to civil penalties up to \$1,000 for each day said violation is in existence.

E. Any violator shall be guilty of a separate offense for each and every day during any portion of which any violation of any provision of these regulations is committed, continued, permitted, or caused by such violator and shall be punishable accordingly.

F. In addition to the punishment provided by law a violator is liable for such costs expenses and disbursements paid or incurred by the City or any of its contractors in correction, abatement and prosecution of the violation. Re-inspection fees to ascertain compliance with previously noticed or cited violations may be charged against the owner of the establishment conducting the deemed approved activity or owner of the property where the establishment is located. The enforcement officer shall give the owner or other responsible party of such affected premises a written notice showing the itemized cost of such chargeable service and requesting payment thereof. Should the bill not be paid in the required time, the charges shall be placed as a lien against the property. (Ord. 4994 § 3, 2013)

17.210.290 Annual alcohol sales regulatory fee.

A. The intent and purpose of this section is to impose a regulatory fee upon all off-sale alcohol establishments that either hold deemed approved status pursuant to this chapter or obtained a conditional use permit after November 1, 2013. This fee shall provide for the enforcement and regulation of the conditions of approval, operational standards, performance standards and other applicable regulations set forth in this chapter with regard to off-sale alcohol establishments.

B. The annual alcohol sales regulatory fee shall be established by resolution of the city council. The fee shall be calculated so as to recover the total cost of both administration and enforcement of the performance standards and other applicable regulations set forth under this chapter upon all off-sale alcohol establishments that either hold deemed approved status pursuant to this chapter or obtained a conditional use permit after the November 1, 2013, including, for example, notifying establishments of their deemed approved status, administering the program, establishment inspection and compliance checks, documentation of violations, conducting hearings and prosecution of violators, but shall not exceed the cost of the total program. All fees shall be used to fund the program. Fees are nonrefundable except as may be required by law. (Ord. 4994 § 3, 2013)

17.210.300 Severability.

If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this ordinance. The City Council hereby declares that it would have adopted the ordinance and each section, subsection, sentence, clause or phrase thereof, irrespective of the fact that any one or more of the sections subsections, sentences, clauses or phrases may be declared invalid. (Ord. 4994 § 3, 2013)

Contact:

City Clerk: 619-441-1764

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Agenda Item:	3
Project Name:	7-Eleven Off-Sale Alcohol Sales
Request:	Add off-sale alcohol (Type 20 ABC License) to an existing convenience store
CEQA Recommendation:	Exempt
STAFF RECOMMENDATION:	CONTINUANCE TO A DATE CERTAIN, OCTOBER 18, 2022
Location:	500 N. Second St.
Applicant:	R. Bruce Evans; bevans@ssjlaw.com
Project Planner:	Noah Alvey; 619-441-1795; nalvey@elcajon.gov
City Council Hearing Required?	No
Recommended Actions:	<ol style="list-style-type: none"> 1. Conduct the public hearing; and 2. Continue the public hearing to a date certain, October 18, 2022

PROJECT DESCRIPTION

This project proposes to establish off-sale beer and wine sale for off-site consumption at an existing convenience store. The convenience store was approved under Site Development Plan No. 1486 by the Planning Commission on March 11, 2013.

DISCUSSION

On September 27, 2022, staff received a request for continuance from the applicant’s representative, R. Bruce Evans, to continue the public hearing for this project to a date certain on October 18, 2022. The reason for the request is that the applicant will not be able to attend the October 4, 2022 public hearing due to unforeseen circumstances.

RECOMMENDATION

Staff recommends that the Planning Commission open the public hearing and continue the request to a date certain, October 18, 2022.

PREPARED BY:



**Noah Alvey
DEPUTY DIRECTOR
OF COMMUNITY
DEVELOPMENT**

APPROVED BY:



**Anthony Shute
DIRECTOR OF
COMMUNITY
DEVELOPMENT**

ATTACHMENTS

1. Request for continuance from R. Bruce Evans dated September 27, 2022

Noah Alvey

From: Bruce Evans <bevans@ssjlaw.com>
Sent: Tuesday, September 27, 2022 10:29 AM
To: Noah Alvey
Cc: jspivey@ssjlaw.com; landuse@ssjlaw.com; Planning; John Dadian
Subject: Re: CUP Application - 7-11 - 500 N. 2nd Street, El Cajon

CAUTION: [EXTERNAL EMAIL] Do not click any links or open any attachments unless you trust the sender and know the content is safe.

Yes, I would like a continuance to Oct 18. Thanks.

R. Bruce Evans
Partner
Solomon, Saltsman Jamieson
426 Culver Boulevard / Los Angeles, California 90293
T: 310/822-9848 | F: 310/822-3512
Bevans@ssjlaw.com

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Indian Law | **Alcohol Licensing**

On Tue, Sep 27, 2022 at 10:27 AM Noah Alvey <NAlvey@elcajon.gov> wrote:

Hi Bruce,

The public hearing notices were mailed last week for the hearing on 10/4.

If you confirm that you would like a continuance, I can recommend to the Planning Commission to continue the hearing to a date certain on 10/18.

Noah Alvey

Deputy Director of Community Development

City of El Cajon

(619) 441-1795

www.elcajon.gov

City Hall is open 7:30am to 5:30pm M.-Th. and open 8:00am to 5:00pm alternating Fridays.

From: Bruce Evans <bevans@ssjlaw.com>
Sent: Tuesday, September 27, 2022 10:02 AM
To: Noah Alvey <NAlvey@elcajon.gov>
Cc: jspivey@ssjlaw.com; landuse@ssjlaw.com; Planning <Planning@elcajon.gov>; John Dadian <president@dadianconsulting.com>
Subject: Re: CUP Application - 7-11 - 500 N. 2nd Street, El Cajon

CAUTION: [EXTERNAL EMAIL] Do not click any links or open any attachments unless you trust the sender and know the content is safe.

Hello Noah

I think our hearing is scheduled for October 4th but I am not 100% sure. I tested positive for Covid this morning and am pretty sick. What are the options to push the hearing 2 weeks or 4 weeks? Not sure how I will feel the next couple days so I might b slow to respond.

Thanks, Bruce

R. Bruce Evans

Partner

Solomon, Saltsman Jamieson



Community Development Department
PLANNING COMMISSION AGENDA REPORT

Agenda Item:	4
Project Name:	Amendment of the Zoning Code – Lodging Establishments
CEQA Recommendation:	Exempt
STAFF RECOMMENDATION:	CONTINUANCE TO A DATE UNCERTAIN
Location:	Citywide
Applicant:	City of El Cajon
Project Planner:	Noah Alvey; 619-441-1795; nalvey@elcajon.gov
City Council Hearing Required?	Yes To Be Determined
Recommended Actions:	<ol style="list-style-type: none"> 1. Conduct the public hearing; and 2. Continue the public hearing to a date uncertain

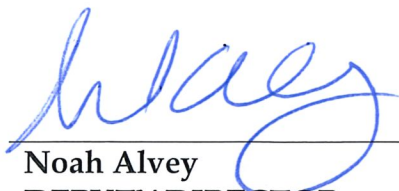
BACKGROUND

On September 20, 2022, the Planning Commission adopted a resolution of intention to initiate an amendment of the Zoning Code to consider redefining lodging establishments, allowed uses, and certain performance standards. On September 27, 2022 the City Council received a report on the County of San Diego’s motel voucher program. After discussing the report, the City Council appointed Councilmembers Goble and Ortiz to serve on a City Council subcommittee to assist in drafting regulatory policy for motels operating with homeless vouchers and then present a recommendation to the full City Council for consideration. Based on the City Council’s action on September 27, 2022, it is recommended that the Zoning Code amendment public hearing be continued.

RECOMMENDATION

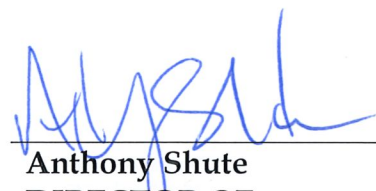
Staff recommends that the Planning Commission continue the Zoning Code amendment public hearing to a date uncertain and direct staff to renote the public hearing, if necessary, after staff receives direction from the City Council.

PREPARED BY:



Noah Alvey
DEPUTY DIRECTOR
OF COMMUNITY
DEVELOPMENT

APPROVED BY:



Anthony Shute
DIRECTOR OF
COMMUNITY
DEVELOPMENT