



THE CITY OF SAN DIEGO

Report to the Hearing Officer

DATE ISSUED: August 10, 2022 REPORT NO. HO-22-022

HEARING DATE: August 17, 2022

SUBJECT: Epic Wines & Spirits, Process Three Decision

PROJECT NUMBER: [693523](#)

OWNER/APPLICANT: Laurie Rosenthal and Carl Rosenthal / Baker Architecture

SUMMARY

Issue: Should the Hearing Officer approve a Conditional Use Permit to allow an alcoholic beverage outlet within a 2,232 square-foot commercial building located at 11395 Poway Road, Suite A, within the Sabre Springs Community Plan Area?

Staff Recommendation: Approve Conditional Use Permit No. 2568572.

Community Planning Group Recommendation: On February 9, 2022, the Sabre Springs Community Planning Group voted 10-0 to recommend approval of the proposed project (Attachment 7).

Environmental Review: The project was determined to be categorically exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Section 15301 (Existing Facilities). The environmental exemption determination for this project was made on June 6, 2022, and the opportunity to appeal that determination ended on June 20, 2022.

BACKGROUND

The project is located at 11395 Poway Road, Suite A, and is developed with an existing 14,158 square-foot single-story, commercial center within an urbanized area in the Sabre Springs Community Plan area (Community Plan). (Attachment 2). The 1.35-acre site is in the CN-1-2 Zone and is designated Commercial Neighborhood. The project site is adjacent to residential land uses to the west, south, and north, and is approximately one mile east of the I-15 freeway (Attachment 3).

DISCUSSION

The project is a Conditional Use Permit (CUP) to allow an alcoholic beverage outlet for the sale of beer, wine, and distilled spirits through a State-issued Alcohol Beverage Control (ABC) Type 21 License within a 2,232 square-foot retail space. The San Diego Municipal Code (SDMC) defines Type 21 Licenses as alcoholic beverage outlets, which are allowed in the CN-1-2 Zone as a Limited Use subject to the requirements of SDMC Section 141.0502(b). An alcoholic beverage outlet that does not comply with these requirements, including the location criteria outlined in SDMC Section 141.0502(b)(1), may be permitted with a Process Three, CUP pursuant to SDMC Section 141.0502(c). In addition, a recommendation from the San Diego Police Department (SDPD) is required. The proposed alcoholic beverage outlet at the site requires a CUP because the project site does not meet the location criteria outlined in SDMC Section 141.0502(b), as explained below:

1. **Within a census tract, or within 600 feet of a census tract, where the general crime rate exceeds the citywide average general crime rate of more than 20 percent.** The project is within Census Tract No. 170.68, which reported a crime rate of 39.4 percent of the city-wide average based on statistics provided by the SDPD. A census tract is considered to have "high crime" if the crime rate exceeds 120 percent of the city-wide average. Therefore, the project is not located within a high-crime census tract.
2. **Within a census tract, or within 600 feet of a census tract, where the ratio of alcohol beverage outlets exceeds the standards established by California Business and Professions Code section 23958.4.** The subject property is in Census Tract No. 170.68, which based on the California Business and Professions Code Section 23958.4 standards allows for two off-sale ABC licenses. The project site was previously licensed with a Type 20 License (Off Sale Beer & Wine) and was operating as a 7-Eleven convenience market. The project will replace the Type 20 License with a Type 21 License, therefore, not increasing or exceeding the number of licenses allowed as established by California Business and Professions Code section 23958.4.
3. **In an adopted Redevelopment Project Area.** The project site is not located within an adopted redevelopment project area.
4. **Within 600 feet of a public or private accredited school, a public park, playground or recreational area, church, hospital, or a San Diego County Welfare District Office.** The project site is not located within 600 feet of a public or private accredited school, a public park, playground or recreational area, church, hospital, or a San Diego County Welfare District Office.
5. **Within 100 feet of residentially zoned property.** The project site is located within 100 feet of residentially zoned properties. Therefore, the project requires a CUP to allow the alcohol beverage outlet.

The project has been reviewed by the SDPD and the Development Services Department (DSD) for conformance to the applicable development regulations and land use policies. City staff support of the alcoholic beverage outlet at this location is based on the site's commercial nature and its location within an existing commercial center. The site is designated Commercial Neighborhood, and the project conforms with the goals of the Commercial Land Use Element of providing attractive

accessible commercial development which meets community convenience needs and complements the full range of commercial activities within the I-15 corridor.

The SDPD and DSD have concluded that if the permit and ABC license were appropriately conditioned, the project would not adversely impact the surrounding neighborhood and public health, safety, or welfare. Staff supports a 30-year CUP based on the project analysis and the conditions and recommendations provided by the SDPD for the permit and the ABC license that include limiting the hours permitted for the sale of alcoholic beverages, ~~prohibiting the sale of beer or malt beverages in kegs~~, no loitering, littering and drinking of alcoholic beverages, prohibiting public pay phones and arcade games, requiring graffiti to be removed promptly, and requiring retail employees to be trained in ABC regulations, theft deterrence and policies against the sales of alcoholic beverages to those under 21 years of age and intoxicated individuals.

City staff has reviewed the proposal, including all the issues identified through the review process, and has determined that all project issues have been addressed. The project conforms with the Community Plan, and the adopted City Council policies and regulations of the Land Development Code. Therefore, draft findings and conditions to support project approval are presented to the Hearing Officer for consideration. Staff recommends that the Hearing Officer approve Conditional Use Permit No. 2568572 for the project.

ALTERNATIVES

1. Approve Conditional Use Permit No. 2568572 with modifications.
2. Deny Conditional Use Permit No. 2568572 if the findings required to approve the project cannot be affirmed.

Respectfully submitted,



Ollie Shepherd, Development Project Manager

Attachments:

1. Project Location Map
2. Community Plan Land Use Map
3. Aerial Photograph
4. Draft Resolution with Findings
5. Draft Permit with Conditions
6. NORA Environmental Determination
7. Community Planning Group Recommendation
8. Ownership Disclosure Statement
9. San Diego Police Department Recommendation
10. Project Plans