

Appeal of  
Conditional Use Permit #6816  
1827 East Villa Street

City Council  
November 29, 2021





# Timeline

## Planning & Community Development Department

Before the City Council is an appeal of a decision made by the Board of Zoning Appeals.

- **January 21, 2020** – Application submitted for review.
- **January 19, 2021** – Application deemed complete.
- **February 17, 2021** – Hearing Officer heard CUP #6816; Project disapproved.
- **March 1, 2021** – Appeal filed by Sukhraj Kaur, owner of Linda Rosa Market.
- **May 20, 2021** – Board of Zoning Appeals heard the appeal of CUP #6816; Project disapproved.
- **June 1, 2021** – Appeal filed by Sukhraj Kaur, owner of Linda Rosa Market.
- **November 29, 2021** – Appeal scheduled for City Council.

This hearing before the City Council is a *de novo* hearing where the Council has no obligation to honor the prior decision, and has the authority to make an entirely different decision.



# Requested Entitlement

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## **Project Proposal:**

- **Conditional Use Permit:** To allow the off-site sale of a full line of alcoholic beverages (Beer, Wine, and Distilled Spirits, Type 21 ABC License) in conjunction with the operation of an existing, 3,782 square-foot grocery store (Linda Rosa Market).



# Background: Linda Rosa Market

## Planning & Community Development Department

- The use of the site as a Food Sales land use (grocery store) is allowed by-right in the CL (Commercial Limited) zoning district and as a surface parking lot by Variance #7325 in the RM-12 zoning district.
- The market currently has a Type 20 ABC liquor license and has sold beer and wine for off-site consumption without the benefit of a Conditional Use Permit since 1990.
- The ability to sell beer and wine in the market is considered “Deemed Approved” per Pasadena Municipal Code Chapter 8.18, as at the time CUPs were not required.
- The subject request is to upgrade from limited to full alcohol sales and a CUP is required.



# “Deemed Approved” Alcohol Sales

## Planning & Community Development Department

### **Deemed Approved for Off-Site Sales of Beer and Wine**




- Applies to businesses that began selling alcohol for off-site consumption prior to the requirement of CUPs for alcohol sales.
- Per PMC Chapter 8.18 (Deemed Approved Alcoholic Beverage Retail Sale Ordinance), “deemed approved” stores shall comply with performance standards relating to public nuisance set forth in Section 8.18.060 to ensure they have no adverse impact on the community.
- If an establishment fails to adhere to the performance standards specified in Section 8.18.060, the City is able to revoke the “deemed approve” status or impose conditions of approval and performance standards through the code compliance process.



# Aerial Context

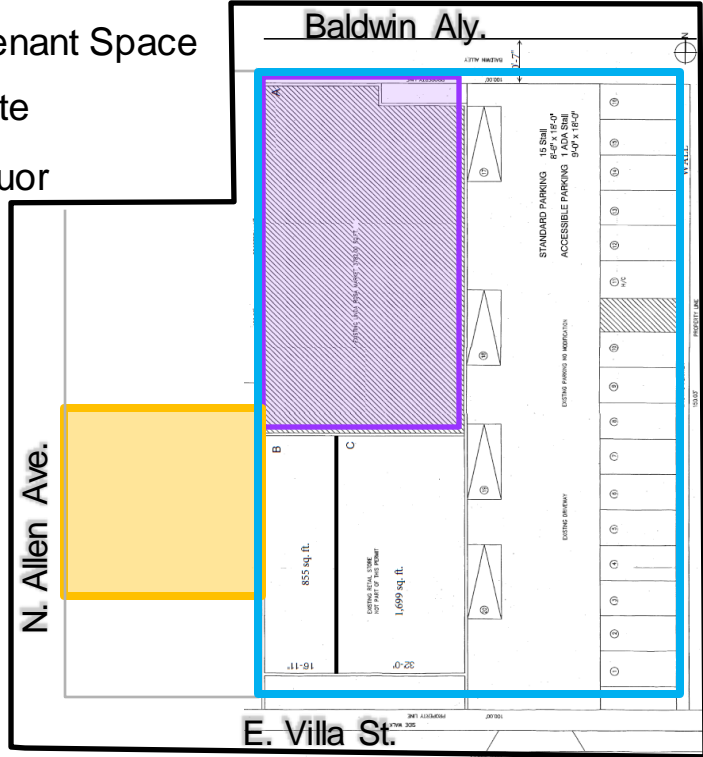
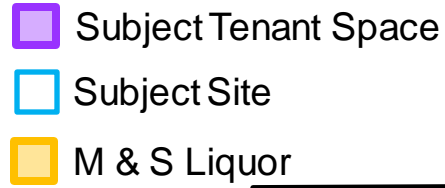
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-  Subject Tenant Space
-  Subject Site
-  M & S Liquor



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# Pedestrian Context

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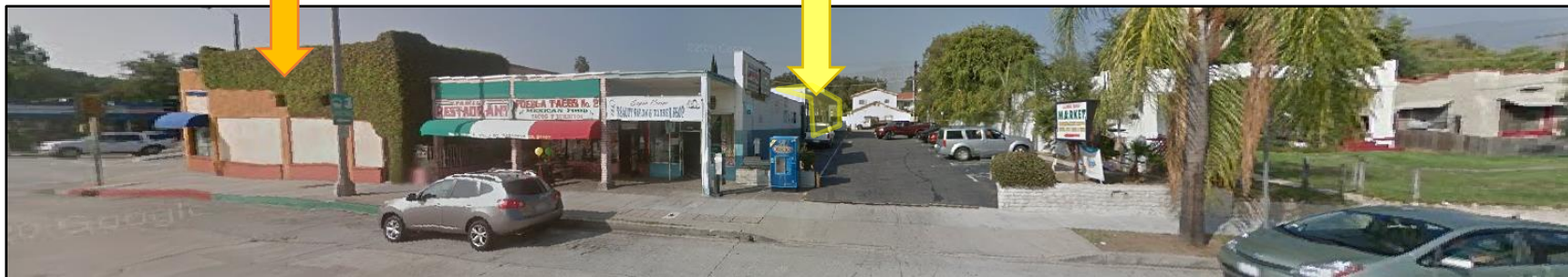
Baldwin Alley, looking south

M & S Liquor



Baldwin Alley, looking west

Linda Rosa Market







# Hearing Officer Public Hearing

## Planning & Community Development Department

- **February 17, 2021:**
  - Staff made a presentation and recommended disapproval of the CUP application as the six CUP findings could not be made, including the finding of 'Public Convenience or Necessity.'
  - The applicant provided an overview of the project and expressed disagreement with staff's recommendation.
  - Nine public comments and a petition with 85 signatures in support of the project were received prior to and during the meeting.
  - At the conclusion of hearing, the Hearing Officer disapproved the CUP. The decision was based on the fact that the required findings to support the CUP, including the finding of 'Public Convenience or Necessity', could not be made in the affirmative.
- **March 1, 2021** – Appeal filed by Sukhraj Kaur, owner of Linda Rosa Market.



# Board of Zoning Appeals (BZA) Public Hearing

## Planning & Community Development Department

- **May 20, 2021** – Board of Zoning Appeals heard the Hearing Officer Appeal.
  - Staff made a presentation, addressed the appeal points and recommended disapproval of the CUP application.
  - The Applicant/Appellant provided an overview of the project, spoke in support of the CUP and restated the appeal points.
  - 10 public comment letters and a duplicate of the previously submitted petition with 85 signatures were received prior to the hearing, all in support of the project.
  - Board of Zoning Appeals motioned to uphold the Hearing Officer's decision and disapproved CUP #6816. The decision was based on the fact that the required findings to support the CUP, including the finding of 'Public Convenience or Necessity', could not be made in the affirmative.
  - **Motion resulted in a 5-0 vote by the five members present.**
- **June 1, 2021** – Decision was appealed by the applicant, Sukhraj Kaur, owner of Linda Rosa Market.

### Appellant Cites the Following:

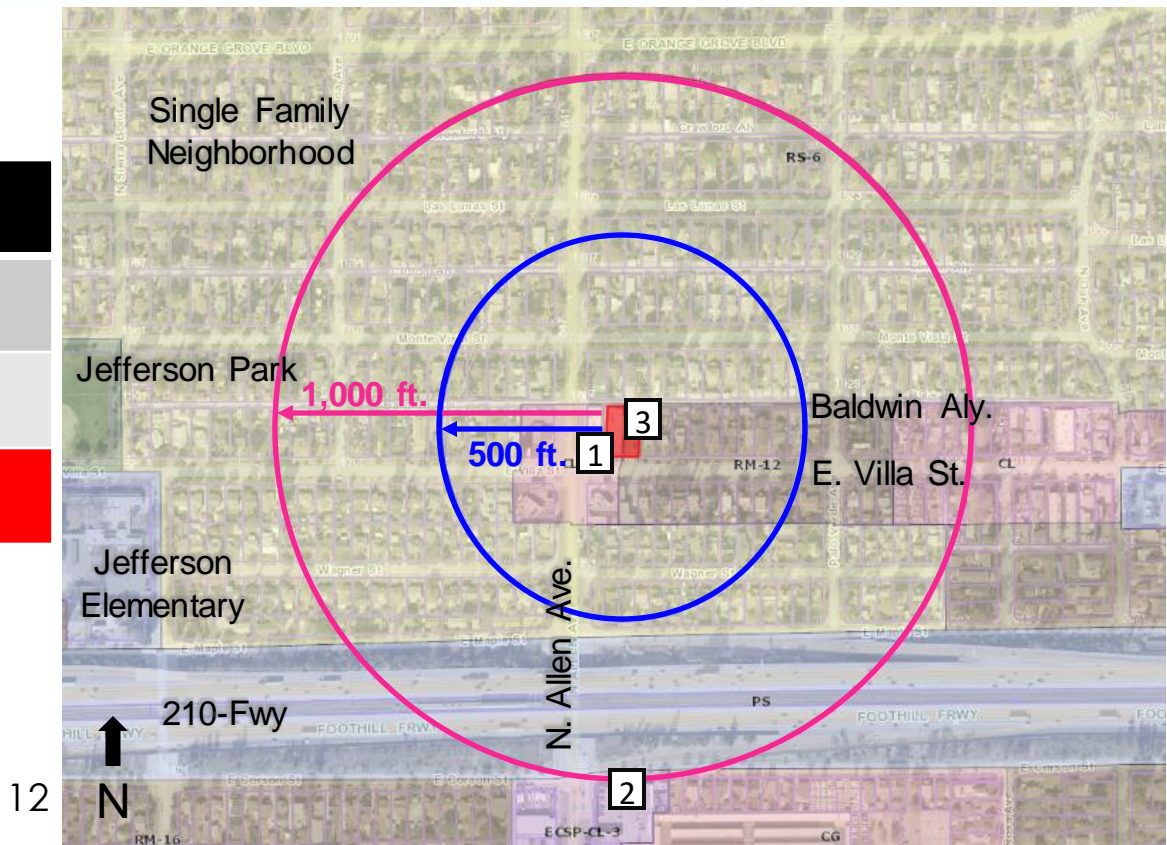
1. Each of the six required findings for the CUP can be made and the hearing officer erred in his decision.
2. Approval would not increase the number of licenses issued for the census tract because the existing beer and wine license (Type 20) is already included in the count in the Census Tract.
3. Store has operated and sold beer and wine for over 30 years.
4. No protests were made by the community nor by the Police Department.
5. Conditions of Approval can be included to alleviate any concerns over the upgrade.
6. Approval would provide a convenience to its customers for “one-stop” shopping.
7. Approval would allow for competitive pricing for distilled spirits with the adjacent Type 21 licensed business.



# Undue Concentration of Off-Site Sales

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	License Type	Address	Business Name
1	21	490 N Allen Ave.	M & S Liquor
2	20	354 N Allen Ave.	Fair Market
3	20	1827 E Villa St.	Linda Rosa Market






# Undue Concentration of Off-Site Sales (Cont.)

Planning & Community Development Department



 1,000-foot radius

 Census Tract  
#4627

Map Number	License Type	Address	Business Name	Within 1,000 feet?
1	21	490 N Allen Avenue	M & S Liquor	Yes
2	20	354 N. Allen Avenue	Fair Market	Yes
3	20	1827 E. Villa St.	Linda Rosa Market	Yes
4	20	1813 E. Colorado Blvd.	Mobil Gas Station	No





# General Welfare: Calls for Service

## Planning & Community Development Department

- The Police Department reported that:
  - > Between January 1, 2020 – January 27, 2021:
    - 192 calls for service within 500 feet of the market for theft, public disturbances, loitering, vandalism, burglary and public drunkenness.
    - Of these, 132 were for service to the 1800 block of E. Villa St., the intersection of Allen/Villa and the 400 block of N. Allen Ave.
  - > Between January 27, 2021 – October 19, 2021 :
    - 133 additional calls for service within 500 feet of the market.
    - Of these, 78 were for service to the 1800 block of E. Villa St., the intersection of Allen Ave./Villa St. and the 400 block of N. Allen Ave.
- Addition of the sale of spirits will adversely affect the general welfare of the surrounding property owners.





# Finding of 'Public Convenience or Necessity'

## Planning & Community Development Department

- a) The project will result in a substantial net employment gain on the site;
  - No evidence provided to support this finding.
- b) The project will result in a substantial increase in business taxes;
  - No evidence provided to support this finding.
- c) The project is a unique business addition to the community;
  - There is an undue concentration of other retail sale land uses with alcohol sales for off-site consumption.
  - Offering a "convenient" option for the purchase of alcohol does not create a unique business addition
- d) The project will contribute to long-term overall economic development goals of the area; and,
  - Negatively impact the general welfare of the surrounding property owners
  - General Plan Policies 3.7 (Alcohol and Drug Abuse) and 3.1 (High Impact Uses) do not support this finding.
- e) The project will result in a positive upgrading of the area.
  - Will exacerbate the existing over-concentration by intensifying the availability of distilled spirits.



# Conclusion

## Planning & Community Development Department

- Staff has reviewed and analyzed the points raised by the appellant and has determined that the findings necessary for approving the Conditional Use Permit cannot be made.
- Staff finds that the sale of a full line of alcohol would negatively impact the general welfare, would intensify the over-concentration of off-site alcohol sales in the area and would aggravate existing alcohol-related problems.
- Approval would be contrary to the intent of General Plan Land Use Policies 3.1 and 3.7.
- The finding of Public Convenience or Necessity cannot be made.
- Therefore, based on staff's analysis of the issues, staff recommends disapproval of the request to allow the off-site sale of a full line of alcoholic beverages (Beer, Wine, and Distilled Spirits, Type 21 ABC License) in conjunction with the operation of an existing, 3,782 square-foot grocery store.



# Staff Recommendation

## Planning & Community Development Department

### **Staff Recommendation:**

1. Adopt the Environmental Determination that the proposed project is exempt from environmental review pursuant to the guidelines of CEQA Section 15270(a), Projects Which are Disapproved. This Statutory Exemption states that CEQA does not apply to projects which a public agency rejects or disapproves.
2. Uphold the Board of Zoning Appeals decision and **disapprove** Conditional Use Permit #6816 based on the findings in Attachment A of the report.

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# GPLU Policies

## Planning & Community Development Department

- **Policy 3.1:**

- > High-Impact Uses. Avoid the concentration of uses and facilities in any neighborhood or district where their intensities, operations, and/or traffic could adversely impact the character, safety, health, and quality of life.

- **Policy 3.7:**

- > Alcohol and Drug Abuse. Reduce the impact of alcohol and other drug related problems through the regulation and monitoring of establishments that sell alcohol and drugs. Develop regulations for the location and management of alcohol and drug related care facilities. Ensure compatibility with and the safety of adjoining uses, in accordance with state legislation.