

# ATTACHMENT D



## PLANNING & COMMUNITY DEVELOPMENT DEPARTMENT

**DATE:** MAY 20, 2021  
**TO:** BOARD OF ZONING APPEALS  
**FROM:** LUIS ROCHA, ZONING ADMINISTRATOR  
**SUBJECT:** APPEAL OF HEARING OFFICER'S DECISION:  
CONDITIONAL USE PERMIT #6816  
1827 EAST VILLA STREET

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### RECOMMENDATION:

It is recommended that the Board of Zoning Appeals:

1. Adopt the Environmental Determination, that the project is exempt from environmental review pursuant to the guidelines of the California Environmental Quality Act (Public Resources Code §21080(b)(9); Administrative Code, Title 14, Chapter 3, §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 Hearing Officer's decision and disapprove Conditional Use Permit #6816.

### EXECUTIVE SUMMARY:

On February 17, 2021, the Hearing Officer considered, at its regularly noticed hearing, Conditional Use Permit #6816. The Conditional Use Permit (CUP) application was requested 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), a Food Sales land use. The site currently sells beer and wine for off-site consumption and this is a request for an upgrade from limited to full alcohol sales. A Conditional Use Permit is required for the upgrade of off-site sales to full alcohol.

Staff's recommendation to the Hearing Officer was to disapprove CUP #6816. Staff assessed the proposed project, and, based on the analyses, concluded that the findings necessary for approving the CUP could not be made. At the conclusion of the public hearing, and after public testimony, the Hearing Officer disapproved Conditional Use Permit #6816 (Attachment B).

On March 1, 2021, the applicant and owner of the market, Sukhraj Kau, filed an appeal with the Board of Zoning Appeals, of the Hearing Officer's decision (Attachment C).

The hearing before the Board of Zoning Appeals is a *de novo* hearing where the Board has no obligation to honor the prior decision and has the authority to make a different decision than the Hearing Officer.

Based on the previous analysis, Staff recommends that the Board of Zoning Appeals uphold the Hearing Officer's February 17, 2021, decision and disapprove Conditional Use Permit #6816, based on the findings provided in Attachment A.

## **BACKGROUND:**

### Existing Site Characteristics:

The subject 15,006 square-foot site is currently improved with a 6,464 square-foot commercial building and surface parking lot. The subject market currently occupies the largest of the tenant spaces, measuring 3,782 square feet, while the remaining tenant spaces are occupied by a hair salon and a restaurant. The site is split zoned, with the eastern portion zoned RM-12 and developed with a surface parking lot with 18 parking spaces and the western portion zoned CL and developed with the commercial building. The subject property is on the north side of E. Villa Street and is bounded by E. Villa Street on the south and Baldwin Alley on the north. The closest major north/south street is N. Allen Avenue, approximately 60 feet to the west. Vehicular and pedestrian access to the project site is from both Villa Street and Baldwin Alley.

### Adjacent Uses:

North – Single-Family Residential  
South – Gas Station and Multi-Family Residential  
East – Single and Multi-Family Residential  
West – Liquor Store and Restaurant

### Adjacent Zoning:

North – RS-6 (Single-Family Residential, 0-6 dwelling units per acre)  
South – CL (Commercial Limited) and RM-12 (Multi-Family Residential, two dwelling units per lot)  
East – RM-12 (Multi-Family Residential, two dwelling units per lot)  
West – CL (Commercial Limited)

### Previous Cases on the Site:

*Conditional Use Permit #4030:* Approved on June 7, 2004. Application included a Conditional Use Permit and Variance. The Conditional Use Permit was a request to allow the sale of a limited line of alcohol (beer and wine) for on-site alcohol sales in a 1,744 square foot restaurant (Puebla Tacos 2). The Variance was a request to deviate from the minimum number of parking spaces for the restaurant. The restaurant is located in tenant space at 1817 East Villa Street.

*Variance #7325:* Approved on March 25, 1965. The Variance was a request to use the RM-12 zoned portion of the property for automobile parking in connection with the shopping center.

## **PROJECT DESCRIPTION:**

The applicant, Sukhraj Kau, owner of Linda Rosa Market, has filed a Conditional Use Permit (CUP) application to allow for full alcohol sales (beer, wine and spirits) for off-site consumption from an existing 3,782 square-foot Food Sales land use (Linda Rosa Market). The site currently sells beer and wine for off-site consumption and this is a request for an upgrade from limited to full alcohol sales. A Conditional Use Permit is required for the upgrade of off-site sales to full alcohol.

## **PUBLIC HEARING:**

The application was presented to the Hearing Officer at a public hearing on February 17, 2021. Staff's recommendation to the Hearing Officer was to disapprove Conditional Use Permit #6816, as Staff determined that all six required findings for the Conditional Use Permit could not be made, including the finding for Public Convenience or Necessity (PCN).

During the Hearing Officer hearing, the applicant provided a brief presentation of the project and spoke in favor of the project. Nine public comments in support of the project were received prior to or at the Hearing Officer hearing. Also included was a petition submitted by the applicant with 85 signatures in support of the project. These comments and petition have been provided to the Board of Zoning Appeals.

At the conclusion of public testimony, the Hearing Officer disapproved Conditional Use Permit #6816. This decision was based on the findings in Attachment A. To supplement the decision, the Hearing Officer provided an addendum with explanation for disapproval of the application (Attachment D).

## **ANALYSIS:**

The subject site is located within the CL (Commercial Limited) and RM-12 (Multi-Family Residential, Two-Units per Lot) zoning districts. The current use as a Food Sales land use (Linda Rosa Market) is allowed by-right in the CL zoning district. The market currently sells beer and wine and has had an Alcoholic Beverage Control (ABC) Liquor License, Type 20, since 1990. The ability to sell beer and wine in the market is considered "Deemed Approved" per Pasadena Municipal Code Chapter 8.18, as CUP's for alcohol sales were not required at that time. However, the proposed upgrade for the sale of full alcohol (beer, wine and spirits) for off-site consumption requires approval of a Conditional Use Permit pursuant to Table 2-5 of Zoning Code Section 17.24.030 (Commercial and Industrial Allowed Land Uses and Permit Requirements).

The Deemed Approved Alcoholic Beverage Retail Sale Ordinance (Pasadena Municipal Code Chapter 8.18) was adopted to insure that alcoholic beverage retail sales establishments which are nonconforming because they do not have a conditional use permit for alcohol sales have no adverse impact on the community. Linda Rosa Market does not have a conditional use permit but its operation is "deemed approved" pursuant to Chapter 8.18. The ordinance requires that these "deemed approved" stores comply with the performance standards relating to public nuisance set forth in Section 8.18.060. If an establishment fails to adhere to imposed performance standards, the City is able to revoke the "deemed approve" status or impose conditions of approval and performance standards through the code compliance process.

## Conditional Use Permit – Sale of full alcohol for off-site consumption

The City's review of a Conditional Use Permit for alcohol sales entails an analysis of whether the proposed location of alcohol sales would affect the general welfare of the surrounding property owners, would lead to an over-concentration of establishments that sell alcohol, and whether the proposed use would result in an aggravation of existing alcohol-related problems such as loitering, public drunkenness, sales to minors, noise, and littering. The Board of Zoning Appeals may consider existing calls for police response to make a determination of whether there is an undesirable concentration of alcohol uses near the project site.

### *Proximity to Sensitive Uses*

The sale of alcohol shall be designed and operated to avoid any adverse impact on adjacent or nearby residential (single- or multi-family) uses and districts, parks (e.g., public parks or recreation centers), playgrounds (e.g., public or parochial), religious facilities, or schools (e.g., public, parochial, or private elementary, junior high, or high schools). Except for the limited commercial uses at the intersection of Allen Avenue and Villa Street, the uses within 1,000 feet are either single- or multi-family developments, north of the 210 Freeway, which is approximately 620 feet to the south. Single-family residences are located immediately to the north of the site and share access to their properties from Baldwin Alley. Directly to the east, and south, are multi-family developments. The closest school is Tiny World Pre School, which is approximately 950 feet to the east. Other schools nearby include: Jefferson Elementary, which is 0.25 miles to the southwest; Marshall Fundamental Secondary School, which is approximately 0.33 miles to the north; and, Our School, which is approximately 0.5 miles to the north. Jefferson Recreation Center, the closest park, is approximately 0.25 miles to the southwest. The closest religious facilities are: the Calling Church, which is 0.25 miles to the southwest; Epicentre Church, which is approximately 0.33 miles to the north; and, between 0.25 and 0.35 miles to the east are several churches, including Qodesh Family Church, the Love of Christ Church, Oak Villa Gospel Hall, Crossroads Christian Fellowship, Pasadena Orthodox Presbyterian Church and Central Japanese American Community SDA Church.

The City of Pasadena's Police Department has reported that from January 2020 to January 2021, there have been 192 calls for service within 500 feet of the subject site/store, with the highest number of calls to the 1800 block of Villa Street and to the intersection of Villa Street and Allen Avenue, which are in the immediate proximity to the store, for theft, public disturbances, loitering, vandalism, burglary and public drunkenness, without the sale of a full line of alcohol at this site. In addition, the Police Department provided additional data showing that there were 55 calls for service within 500 feet of the subject site/store from January 27, 2021 to May 10, 2021. The introduction of a full line of alcohol at this site would not help curtail these issues and would not result in a positive upgrade of the area. The proposed upgrade for the sale of full alcohol (beer, wine and spirits) for off-site consumption has the potential to contribute to loitering, public drunkenness, noise, littering, and other negative impacts. As the proposal for alcohol sales is in close proximity to existing residential, educational and religious uses, staff recommends disapproval of the application for a Conditional Use Permit to allow a full line of alcohol sales for off-site consumption at this location.

*Concentration of Alcohol Sales: Alcohol Licenses Within 1,000'*

The Conditional Use Permit application for alcohol sales requires the applicant to identify all uses that sell alcohol for either on-site or off-site consumption within 1,000 feet of the project site. Currently, there are four (4) establishments within 1,000 feet of the subject site, property line to property line, that sell alcohol for on- or off-site consumption, including the subject market, as analyzed in Table 1 below:

**Table 1: Businesses with Liquor Licenses within 1,000 Feet**

Number	Business Name	Business Address	ABC License Type
1	M & S Liquor*	490 N. Allen Avenue	Off-Sale General (21)
2	Fair Market	354 N. Allen Avenue	Off-Sale Beer and Wine (20)
3	Puebla Tacos 2**	1817-19 E. Villa Street	On-Sale Beer and Wine (41)
4	<b>Linda Rosa Market</b>	<b>1827 E. Villa Street</b>	Off-Sale Beer and Wine (20)

\* Located on adjacent parcel to the west.

\*\* Located in the same shopping center as the subject market.

*Concentration of Alcohol Sales: Alcohol Licenses Within Census Tract*

During the review process for a new off-site sale liquor license, it is also necessary to determine if there is an over-concentration of off-site sale liquor licenses in the census tract in which the subject site is located. If it is determined that there would be an over-concentration of off-site sale licenses with the proposed project, the decision maker is required to make a finding of Public Convenience or Necessity. The project site is located within census tract 4627. This census tract extends from North Hill Avenue on the west to North Oak Avenue on the East and from East Orange Grove Boulevard on the North to the East Colorado Boulevard on the South.

According to the California Board of Alcoholic Beverage Control (ABC), a maximum of three off-site sales licenses are allowed in the census tract, as a function of the population in the census tract. Currently there are four off-site sales licenses within the census tract (Table 2, next page), including the off-site license for beer and wine (Type 20) of the subject market. While no additional license is proposed as part of this application, there is an existing over-concentration of off-site licenses in the census tract, and the current request to upgrade the existing Type 20 off-site license for beer and wine to the Type-21 off-site sale for a full line of alcohol would increase the availability of alcohol sales beyond what the ABC deems sufficiently appropriate for the population in the census tract, which currently has an “undue concentration” of alcohol licenses.

**Table 2: Businesses within Census Tract 4627 with Off-Sale Liquor Licenses**

Number	Business Name	Business Address	ABC License Type
1	M & S Liquor*	490 N. Allen Avenue	Off-Sale General (21)
2	Fair Market	354 N. Allen Avenue	Off-Sale Beer and Wine (20)
3	Mobil Gas Station	1813 E. Colorado Boulevard	Off-Sale Beer and Wine (20)
4	<b>Linda Rosa Market</b>	<b>1827 E. Villa Street</b>	Off-Sale Beer and Wine (20)

\* Located on adjacent parcel to the west.

As such, a finding of 'public convenience or necessity' is required to be made by the Board of Zoning Appeals in order for the applicant to obtain the alcohol license from ABC. Local governing agencies are required to make a finding of 'public convenience or necessity' when a new off-sale license is proposed to an existing area that has an "undue concentration" of alcohol licenses. To make a finding of 'public convenience or necessity', the Board of Zoning Appeals is required to make all of the following findings in the affirmative:

- a) The project will result in a substantial net employment gain on the site;
- b) The project will result in a substantial increase in business taxes;
- c) The project is a unique business addition to the community;
- d) The project will contribute to long-term overall economic development goals of the area;  
and,
- e) The project will result in a positive upgrading of the area.

Based on the information provided, staff is unable to make all the necessary findings in the affirmative and finds that public convenience or necessity is not served with the inclusion of the sale of a full line of alcohol for off-site consumption. The addition of distilled spirits would not provide a unique business addition to the community as alcohol sales are already substantially provided for in the immediate vicinity by two other off-site sale locations within 1,000 feet of the site, and four existing off-site alcohol outlets within the census tract. M&S Liquor is located immediately to the west, on an adjacent parcel, and currently sells beer, wine and spirits. The addition of the requested license would intensify an existing undue concentration of alcohol establishments in the surrounding area. Furthermore, the City of Pasadena's Police Department has reported that from January 2020 to January 2021, there have been 192 calls for service within 500 feet of the subject site/store, with the highest number of calls to the 1800 block of Villa Street and to the intersection of Villa Street and Allen Avenue, which are in the immediate proximity to the store, for theft, public disturbances, loitering, vandalism, burglary and public drunkenness, without the sale of a full line of alcohol at this site. In addition, the Police Department provided additional data showing that there were 55 calls for service within 500 feet of the subject site/store from January 27, 2021 to May 10, 2021. The introduction of a full line of alcohol at this site would not help curtail these issues and would not result in a positive upgrade of the area.

Therefore, it is staff's assessment that the sale of full line of alcohol for off-site consumption at the site would negatively impact the general welfare of the surrounding property owners, would result in an undesirable concentration of premises that sell alcohol in the vicinity, would aggravate existing alcohol-related problems, and that the necessary findings cannot be made to approve the proposed Conditional Use Permit or make a finding of 'public convenience or necessity'.

#### **APPEAL:**

On March 1, 2021, Sukhraj Kau, the applicant and owner of Linda Rosa Market at 1827 East Villa Street, filed an appeal application (Attachment C) to the Board of Zoning Appeals citing a disagreement with the decision of the Hearing Officer. The appellant states that each of the six required findings can be made and the hearing officer erred in his decision. In the appeal application, the applicant indicates that there is no increase in the number of licenses issued for the census tract with the approval of the request because the existing beer and wine ABC license (Type 20) is already included in the count in the Census Tract, and because ABC does not differentiate the type of license in their count of licenses allowed or existing in each census tract (i.e. the Type 20 beer and wine and Type 21 full alcohol licenses are counted the same). The appellant states that the store has operated for over 30 years with beer and wine, and that no protests were made by the community at the Hearing Officer hearing nor by the Police

Department. The appellant indicated that conditions of approval would alleviate concerns of the use. In addition, the applicant states that approval would not add to the existing over concentration in the area because the market already sells beer and wine. Furthermore, the applicant contends that approving the application to upgrade to a full alcohol license will provide a convenience to its customers for “one-stop” shopping and will allow for competitive pricing for distilled spirits with the adjacent Type 21 licensed business.

#### Responses to the Appeal:

As discussed in the Analysis section above, the California Board of Alcoholic Beverage Control (ABC) requires the City of Pasadena to make findings of ‘public convenience or necessity’ prior to the issuance of the requested Type-21 license (off-site sales of beer, wine and distilled spirits) to the applicant. While the appellant is correct that there is no overall netgain of licenses in the Census Tract if the project is approved, the finding of ‘public convenience or necessity’ is required by the ABC because the existing Census Tract currently exceeds the number of off-site licenses allowed and the applicant is requesting a new Type-21 license. The new license increases the availability of alcohol. The findings to be made are as follows:

- a) The project will result in a substantial net employment gain on the site;
- b) The project will result in a substantial increase in business taxes;
- c) The project is a unique business addition to the community;
- d) The project will contribute to long-term overall economic development goals of the area;
- and,
- e) The project will result in a positive upgrading of the area.

Staff is unable to make all the necessary ‘public convenience or necessity’ findings in the affirmative and finds that public convenience or necessity is not served with the inclusion of the sale of a full line of alcohol for off-site consumption at this location. The addition of distilled spirits would not provide a unique business addition to the community in that there is already an undue concentration of other retail sale land uses with alcohol sales for off-site consumption within the census tract, including one liquor store, with off-site full alcohol sales, located on the adjacent parcel to the west at 490 N. Allen Avenue (Type 21). Offering a “convenient” option for the purchase of alcohol does not create a unique business addition or result in a positive upgrade to the area. No information was provided to indicate that the project would result in a substantial net employment gain on the site or a substantial increase in business taxes. The project would not create a unique business addition and will further exacerbate this existing over-concentration by intensifying the availability of distilled spirits.

As noted in the Analysis section above, it is staff’s assessment that the sale of full line of alcohol for off-site consumption at the site would negatively impact the general welfare of the surrounding property owners, would result in an undesirable concentration of premises that sell alcohol in the vicinity, would aggravate existing alcohol-related problems, and that the necessary findings cannot be made to approve the proposed Conditional Use Permit or to make a finding of ‘public convenience or necessity’.

#### **GENERAL PLAN CONSISTENCY:**

The existing food sales land use (Linda Rosa Market) is consistent with the General Plan land use designation of Low Commercial but the request to include the sale of full alcohol for off-site consumption is not consistent with the goals and objectives of the General Plan Land Use Element (General Plan). General Plan Policy 3.7 (Alcohol and Drug Abuse) intends to manage the

distribution and operation of alcohol uses through regulating and monitoring of establishments that sell alcohol in an effort to reduce the impact of alcohol problems. General Plan Policy 3.1 (High Impact Uses) seeks to 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. The purpose of ABC's determination of undue concentration is to prevent the over concentration of such uses and the impact of alcohol problems. As the proposed site is located within 1,000 feet of two other established businesses that sell alcohol for off-site consumption, the project is not in compliance with the main provision of Policy 3.7 of the General Plan. Furthermore, based on the information provided by the Pasadena Police Department, from January 2020 to January 2021, there have been 192 calls for service to within 500 feet of the subject site/store for theft, public disturbances, loitering, vandalism, burglary and public drunkenness, without the sale of a full line of alcohol at this site. In addition, the Police Department provided additional data showing that there were 55 calls for service within 500 feet of the subject site/store from January 27, 2021 to May 10, 2021. Approval of the request to include the sale of full alcohol for off-site consumption would exacerbate the existing safety and quality of life problems in the neighborhood and would not be in compliance with Policy 3.1 of the General Plan.

#### **ENVIRONMENTAL REVIEW:**

This project has been determined to be exempt from environmental review pursuant to the guidelines of the California Environmental Quality Act (Public Resources Code §21080(b)(5); Administrative Code, Title 14, Chapter 3, §15270(a), Projects Which are Disapproved. This Statutory Exemption states that CEQA does not apply to projects which a public agency rejects or disapproves.

In the event the Board of Zoning Appeals decides to approve Conditional Use Permit #6816, the project could qualify for an exemption pursuant to the guidelines of the California Environmental Quality Act (Public Resources Code §21080(b)(9); Administrative Code, Title 14, Chapter 3, §15301, Class 1, Existing Facilities), and there are no features that distinguish this project from others in the exempt class; therefore there are no unusual circumstances. Class 1 exempts the operation, permitting, licensing or minor alteration of existing structures where there is negligible or no expansion of the use. The sale of a full line of alcohol for off-site consumption in conjunction with a food sales land use is considered a negligible expansion of a commercial use.

#### **REVIEW BY OTHER CITY DEPARTMENTS:**

The proposal was reviewed by the Department of Transportation, Fire Department, Department of Public Works, Building and Safety Division, the Design and Historic Preservation (DHP) Section and the Police Department. The Department of Transportation, Fire Department, Department of Public Works, the Building and Safety Division, and the DHP Section had no comments at this time. In the event that the project is approved, the Police Department has recommended conditions of approval, related to removing signage obscuring exterior windows in order to allow for visibility into the market.

#### **CONCLUSION:**

It is staff's assessment that the findings necessary for approving a Conditional Use Permit for the off-site sales of a full line of alcohol cannot be made. Specifically, staff finds that the sale 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 of such

a request would be contrary to the intent of the General Plan Land Use Policy 3.1 and 3.7. In addition, the finding of 'public convenience and necessity' cannot be made. Therefore, staff is recommending disapproval of the proposed application based on the findings in Attachment A.

Attachment:

Attachment A – Specific Findings of Disapproval

Attachment B – Hearing Officer Decision Letter (dated February 19, 2021)

Attachment C – Appeal Application (dated March 1, 2021)

Attachment D – Hearing Officer Addendum (dated April 26, 2021)

**ATTACHMENT A**  
**SPECIFIC FINDINGS FOR CONDITIONAL USE PERMIT #6816**

Conditional Use Permit – Sale of full alcohol for off-site consumption

1. *The proposed location of the site for the Conditional Use Permit will adversely affect the general welfare of the surrounding property owners.*

The City of Pasadena's Police Department has reported that from January 2020 to January 2021, there have been 192 calls for service within 500 feet of the subject site/store, with the highest number of calls to the 1800 block of Villa Street and to the intersection of Villa Street and Allen Avenue, which are in the immediate proximity to the store, for theft, public disturbances, loitering, vandalism, burglary and public drunkenness, without the sale of a full line of alcohol at this site. In addition, the Police Department provided additional data showing that there were 55 calls for service within 500 feet of the subject site/store from January 27, 2021 to May 10, 2021. The Conditional Use Permit, for the sale of full-alcohol for off-site consumption, will exacerbate the existing issues and will adversely affect the general welfare of the surrounding property owners.

2. *The proposed location of the site for the Conditional Use Permit will result in an undesirable concentration of premises for the sale of alcoholic beverages, including beer and wine, in the area.*

Based on the data from the Department of Alcohol Beverage Control, only three off-site sales licenses are permitted in this census tract, and currently there are four existing off-site alcohol licenses, including the subject site's Type 20 license for off-site sale of beer and wine. While the request for a Type 21 license (off-site sale of a full line of alcohol), if approved, would not result in a discrete increase in the number of licenses, it would intensify the availability of distilled spirits. As such, approval of this Conditional Use Permit will further exacerbate this existing over-concentration. The Alcoholic Beverage Control has determined that the subject site is located in an area of undue concentration, and a finding of public convenience and necessity is required to be made by the governing body. Two other establishments with off-site alcohol sales are located within 1,000 feet of the subject site, with one liquor store, with off-site full alcohol sales, located on the adjacent parcel to the west at 490 N. Allen Avenue. As such, the finding of public convenience and necessity cannot be made.

3. *The proposed location of the site for the Conditional Use Permit will detrimentally affect the nearby surrounding area after giving special consideration to the proximity and nature of the proposed use with respect to the following: a. Residential uses and residential districts; b. Hospitals, park and recreation facilities, places of public assembly, public or private schools, and religious assembly uses that attract minors and other similar uses; and c. Other establishments offering alcoholic beverages (including wine) for sale for consumption both on- and off-site.*

Except for the limited commercial uses at the intersection of Allen Avenue and Villa Street, the uses within 1,000 feet are either single- or multi-family developments, north of the 210 Freeway, which is approximately 620 feet to the south. Single-family residences are located immediately to the north of the site and share access to their properties from Baldwin Alley. Directly to the east, and south, are multi-family developments. The closest school is Tiny World Pre School, which is approximately 950 feet to the east. Other schools nearby include: Jefferson Elementary, which is 0.25 miles to the southwest; Marshall Fundamental Secondary

School, which is approximately 0.33 miles to the north; and, Our School, which is approximately 0.5 miles to the north. Jefferson Recreation Center, the closest park, is approximately 0.25 miles to the southwest. The closest religious facilities are: the Calling Church, which is 0.25 miles to the southwest; Epicentre Church, which is approximately 0.33 miles to the north; and, between 0.25 and 0.35 miles to the east are several churches, including Qodesh Family Church, the Love of Christ Church, Oak Villa Gospel Hall, Crossroads Christian Fellowship, Pasadena Orthodox Presbyterian Church and Central Japanese American Community SDA Church. The City of Pasadena's Police Department has reported that from January 2020 to January 2021, there have been 192 calls for service within 500 feet of the subject site/store, with the highest number of calls to the 1800 block of Villa Street and to the intersection of Villa Street and Allen Avenue, which are in the immediate proximity to the store, for theft, public disturbances, loitering, vandalism, burglary and public drunkenness. In addition, the Police Department provided additional data showing that there were 55 calls for service within 500 feet of the subject site/store from January 27, 2021 to May 10, 2021. Adding the sale of full alcohol for off-site consumption will further exacerbate these issues and will detrimentally affect the nearby surrounding area that consists of residential uses, parks, schools and religious facilities..

4. *The proposed location of the site for the Conditional Use Permit will aggravate proposed problems created by the sale of alcohol (e.g., littering, loitering, noise, public drunkenness, and sales to minors).*

The City of Pasadena's Police Department has reported that from January 2020 to January 2021, there have been 192 calls for service within 500 feet of the subject site/store, with the highest number of calls to the 1800 block of Villa Street and to the intersection of Villa Street and Allen Avenue, which are in the immediate proximity to the store, for theft, public disturbances, loitering, vandalism, burglary and public drunkenness, without the sale of a full line of alcohol at this site. In addition, the Police Department provided additional data showing that there were 55 calls for service within 500 feet of the subject site/store from January 27, 2021 to May 10, 2021. The Conditional Use Permit, for the sale of full-alcohol for off-site consumption, will exacerbate the existing issues and will adversely affect the general welfare of the surrounding property owners.

5. *The proposed use is not in conformance with the goals, policies, and objectives of the General Plan and the purpose and intent of any applicable specific plan.*

The existing food sales land use (Linda Rosa Market) is consistent with the General Plan land use designation of Low Commercial but the request to include the sale of full alcohol for off-site consumption is not consistent with the goals and objectives of the General Plan Land Use Element (General Plan). General Plan Policy 3.7 (Alcohol and Drug Abuse) intends to manage the distribution and operation of alcohol uses through regulating and monitoring of establishments that sell alcohol in an effort to reduce the impact of alcohol problems. General Plan Policy 3.1 (High Impact Uses) seeks to 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. The purpose of ABCs determination of undue concentration is to prevent the over concentration of such uses and the impact of alcohol problems. As the proposed site is located within 1,000 feet of two other established businesses that sell alcohol for off-site consumption, the project is not in compliance with the main provision of Policy 3.7 of the General Plan. Furthermore, based on the information provided by the Pasadena Police Department, from January 2020 to January 2021, there have been 192 calls for service to within 500 feet of the subject site/store for theft, public

disturbances, loitering, vandalism, burglary and public drunkenness, without the sale of a full line of alcohol at this site. In addition, the Police Department provided additional data showing that there were 55 calls for service within 500 feet of the subject site/store from January 27, 2021 to May 10, 2021. Approval of the request to include the sale of full alcohol for off-site consumption would exacerbate the existing safety and quality of life problems in the neighborhood and would not be in compliance with Policy 3.1 of the General Plan.

6. *Public convenience or necessity is not served in that:*

- a. *The project is not a unique business addition to the community.* The off-site sale of alcohol will not be a unique business addition to the community in that there is already an undue concentration of other retail sale land uses with alcohol sales for off-site consumption within the census tract, including one liquor store, with off-site full alcohol sales, located on the adjacent parcel to the west at 490 N. Allen Avenue (Type 21).
- b. *The project will not result in a positive upgrading of the area.* The City of Pasadena's Police Department has reported that from January 2020 to January 2021, there have been 192 calls for service within 500 feet of the subject site/store, with the highest number of calls to the 1800 block of Villa Street and to the intersection of Villa Street and Allen Avenue, which are in the immediate proximity to the subject store, for theft, public disturbances, loitering, vandalism, burglary and public drunkenness, without the sale of a full line of alcohol at this site. In addition, the Police Department provided additional data showing that there were 55 calls for service within 500 feet of the subject site/store from January 27, 2021 to May 10, 2021. The introduction of a full line of alcohol at this site would not help curtail these issues and would not result in a positive upgrade of the area.

**ATTACHMENT B**  
**Hearing Officer Decision Letter (dated February 19, 2021)**



PLANNING & COMMUNITY DEVELOPMENT DEPARTMENT  
PLANNING DIVISION

February 19, 2021

Kevin Franklin  
30408 Olympic Street  
Castaic, CA 91384

**Re: Conditional Use Permit #6816  
1827 East Villa Street  
Council District #2**

**PLN2020-00016**

Dear Mr. Franklin:

Your application for a **Conditional Use Permit** at **1827 East Villa Street** was considered by the **Hearing Officer** on **February 17, 2021**.

**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 (Food Sales land use).**

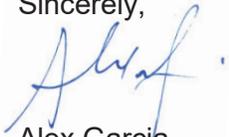
After careful consideration of this application, and with full knowledge of the property and vicinity, the Hearing Officer made the findings as shown on Attachment A to this letter. Based upon these findings, it was decided by the Hearing Officer that the **Conditional Use Permit** be **disapproved** with the findings in Attachment A.

You are hereby notified that, pursuant to Pasadena Municipal Code Chapter 17.72, any person affected or aggrieved by the decision of the Hearing Officer has the right to appeal this decision within **ten days (March 1, 2021)**. The effective date of this case will be **March 2, 2021**. Prior to such effective date, a member of the City Council or Planning Commission may request that it be called for review to the Board of Zoning Appeals. However, if there is a request for a call for review, the appeal period will continue to run. If the tenth day falls on a day when City offices are closed, the appeal deadline shall be extended through the next day when offices are open. The decision becomes effective on the eleventh day from the date of the decision. The regular Appeal fee is \$2,790.79. The Appeal fee for non-profit community-based organizations is \$1,395.39.

This project has been determined to be exempt from environmental review pursuant to the guidelines of the California Environmental Quality Act (Public Resources Code §21080(b)(5); Administrative Code, Title 14, Chapter 3, §15270(a), Projects Which are Disapproved. This Statutory Exemption states that CEQA does not apply to projects which a public agency rejects or disapproves.

For further information regarding this case please contact **Jennifer Driver** at **(626) 744-6756** or [jdriever@cityofpasadena.net](mailto:jdriever@cityofpasadena.net).

Sincerely,

A handwritten signature in blue ink, appearing to read "Alex Garcia", is written over a light blue rectangular background.

Alex Garcia  
Hearing Officer

Enclosures: Attachment A

xc: City Manager, City Clerk, City Council, City Council District Liaison, Building Division, Public Works, Design and Historic Preservation, Department of Transportation, Hearing Officer, Code Compliance, Case File, Decision Letter File, Planning Commission (9)

**ATTACHMENT A**  
**SPECIFIC FINDINGS FOR CONDITIONAL USE PERMIT #6816**

Conditional Use Permit – Sale of full alcohol for off-site consumption

1. *The proposed location of the site for the Conditional Use Permit will adversely affect the general welfare of the surrounding property owners.*

The City of Pasadena's Police Department has reported that since January 2020, there have been 192 calls for service within 500 feet of the subject site/store, with the highest number of calls to the 1800 block of Villa Street and to the intersection of Villa Street and Allen Avenue, which are in the immediate proximity to the store, for theft, public disturbances, loitering, vandalism, burglary and public drunkenness, without the sale of a full line of alcohol at this site. The Conditional Use Permit, for the sale of full-alcohol for off-site consumption, will exacerbate the existing issues and will adversely affect the general welfare of the surrounding property owners. The Alcoholic Beverage Control has determined that the subject site is located in an area of undue concentration, and a finding of public convenience and necessity is required to be made by the governing body. Two other establishments with off-site alcohol sales are located within 1,000 feet of the subject site, with one liquor store, with off-site full alcohol sales, located on the adjacent parcel to the west at 490 N. Allen Avenue. As such, the finding of public convenience and necessity cannot be made.

2. *The proposed location of the site for the Conditional Use Permit will result in an undesirable concentration of premises for the sale of alcoholic beverages, including beer and wine, in the area.*

Based on the data from the Department of Alcohol Beverage Control, only three off-site sales licenses are permitted in this census tract, and currently there are four existing off-site alcohol licenses, including the subject site's Type 20 license for off-site sale of beer and wine. While the request for a Type 21 license (off-site sale of a full line of alcohol), if approved, wouldn't result in an increase in the number of licenses, it would intensify the availability of distilled spirits. As such, approval of this Conditional Use Permit will further exacerbate this existing over-concentration. In addition, there are two business that sell alcohol for off-site consumption within 1,000 feet of the use. As a result, approval will result in an undesirable concentration of off-site sales of alcohol within the immediate area.

3. *The proposed location of the site for the Conditional Use Permit will detrimentally affect the nearby surrounding area after giving special consideration to the proximity and nature of the proposed use with respect to the following: a. Residential uses and residential districts; b. Hospitals, park and recreation facilities, places of public assembly, public or private schools, and religious assembly uses that attract minors and other similar uses; and c. Other establishments offering alcoholic beverages (including wine) for sale for consumption both on- and off-site.*

The sale of alcohol shall be designed and operated to avoid any adverse impact on adjacent or nearby residential (single- or multi-family), parks (e.g., public parks or recreation centers), playgrounds (e.g., public or parochial), religious facilities, or schools (e.g., public, parochial, or private elementary, junior high, or high schools). Except for the limited commercial uses at the intersection of Allen Avenue and Villa Street, the uses within 1,000 feet are either single- or multi-family developments, north of the 210 Freeway, which is approximately 620 feet to the south. Single-family residences are located immediately to the north of the site and share

access to their properties from Baldwin Alley. Directly to the east, and south, are multi-family developments. The closest school is Tiny World Pre School, which is approximately 950 feet to the east. Other schools nearby include: Jefferson Elementary, which is 0.25 miles to the southwest; Marshall Fundamental Secondary School, which is approximately 0.33 miles to the north; and, Our School, which is approximately 0.5 miles to the north. Jefferson Recreation Center, the closest park, is approximately 0.25 miles to the southwest. The closest religious facilities are: the Calling Church, which is 0.25 miles to the southwest; Epicentre Church, which is approximately 0.33 miles to the north; and, between 0.25 and 0.35 miles to the east are several churches, including Qodesh Family Church, the Love of Christ Church, Oak Villa Gospel Hall, Crossroads Christian Fellowship, Pasadena Orthodox Presbyterian Church and Central Japanese American Community SDA Church.

As the site is already prone to arrests for public intoxication and disturbances, theft and loitering, adding the sale of full alcohol for off-site consumption will only further exacerbate these issues, which affects the general welfare of the abutting and nearby residents.

4. *The proposed location of the site for the Conditional Use Permit will aggravate proposed problems created by the sale of alcohol (e.g., littering, loitering, noise, public drunkenness, and sales to minors).*

The City of Pasadena's Police Department has reported that since January 2020, there have been 192 calls for service within 500 feet of the subject site/store, with the highest number of calls to the 1800 block of Villa Street and to the intersection of Villa Street and Allen Avenue, which are in the immediate proximity to the store, for theft, public disturbances, loitering, vandalism, burglary and public drunkenness, without the sale of a full line of alcohol at this site. The Conditional Use Permit, for the sale of full-alcohol for off-site consumption, will exacerbate the existing issues and will adversely affect the general welfare of the surrounding property owners.

5. *The proposed use is not in conformance with the goals, policies, and objectives of the General Plan and the purpose and intent of any applicable specific plan.*

The existing food sales land use (Linda Rosa Market) is consistent with the General Plan land use designation of Low Commercial but the request to include the sale of full alcohol for off-site consumption is not consistent with the goals and objectives of the General Plan Land Use Element (General Plan). General Plan Policy 3.7 (Alcohol and Drug Abuse) intends to manage the distribution and operation of alcohol uses through regulating and monitoring of establishments that sell alcohol in an effort to reduce the impact of alcohol problems. General Plan Policy 3.1 (High Impact Uses) seeks to 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. The purpose of ABCs determination of undue concentration is to prevent the over concentration of such uses and the impact of alcohol problems. As the proposed site is located within 1,000 feet of two other established businesses that sell alcohol for off-site consumption, the project is not in compliance with the main provision of Policy 3.7 of the General Plan. Furthermore, based on the information provided by the Pasadena Police Department, since January 2020, there have been 192 calls for service to within 500 feet of the subject site/store for theft, public disturbances, loitering, vandalism, burglary and public drunkenness, without the sale of a full line of alcohol at this site. Approval of the request to include the sale of full alcohol for off-site consumption would exacerbate the existing safety and quality of life problems in the neighborhood and would not be in compliance with Policy 3.1 of the General Plan.

6. *Public convenience or necessity is not served in that:*

- a. *The project is not a unique business addition to the community.* The off-site sale of alcohol will not be a unique business addition to the community in that there is already an undue concentration of other retail sale land uses with alcohol sales for off-site consumption within the census tract, including next door. The addition of the requested license for an upgrade to the off-site sale of a full line of alcohol will intensify an existing undue concentration of establishments with alcohol sales for off-site consumption within the census tract.
- b. *The project will not result in a positive upgrading of the area.* The City of Pasadena's Police Department has reported that since January 2020, there have been 192 calls for service within 500 feet of the subject site/store, with the highest number of calls to the 1800 block of Villa Street and to the intersection of Villa Street and Allen Avenue, which are in the immediate proximity to the subject store, for theft, public disturbances, loitering, vandalism, burglary and public drunkenness, without the sale of a full line of alcohol at this site. Two other establishments with off-site alcohol sales are also located within 1,000 feet of the subject site, including one liquor store, with off-site full alcohol sales, located on the adjacent parcel to the west at 490 N. Allen Avenue. The Conditional Use Permit, for the sale of full-alcohol for off-site consumption, will exacerbate the existing issues and will adversely affect the general welfare of the surrounding property owners.



# COVID-19 SAFETY GUIDANCE FOR CONSTRUCTION SITES

## APRIL 1, 2020

The following guidelines are based on Interim CDC's Guidance for Businesses and Employers to Plan and Respond to Coronavirus Disease 2019 (COVID-19), OSHA's Guidance on Preparing Workplaces for COVID-19, and other publications.

Construction industry employers shall develop a comprehensive COVID-19 exposure control plan, which includes control measures such as social distancing; symptom checking; hygiene; decontamination procedures, and training. An exposure control plan and the following practices must be followed to prevent any onsite worker from contracting COVID-19, as many people with COVID-19 are asymptomatic and can potentially spread disease. Failure to comply with this guidance shall be deemed as creating unsafe conditions and may result in withheld inspections or shutting down the construction site until corrected.

City staff will verify compliance with these guidelines during regular scheduled inspections for projects under construction as well as during investigations associated with complaints that may be submitted to the Pasadena Citizens Service Center at 626-744-7311 or at <http://ww5.cityofpasadena.net/citizen-service-center/>.

1. Practice social distancing by maintaining a minimum 6-foot distance from others. No gatherings of 10+ people. Workers on break or lunch break should not gather in groups and should maintain 6-foot distance.
2. Preclude gatherings of any size, and any time two or more people must meet, ensure minimum 6-foot separation. Meetings should be conducted online or via conference call when possible.
3. Provide personal protective equipment (PPE) such as gloves, goggles, face shields, and face masks as appropriate for the activity being performed. Do not share personal protective equipment.
4. The owner/contractor shall designate a site specific COVID-19 Supervisor to enforce this guidance. A designated COVID-19 Supervisor shall be present on the construction site at all times during construction activities. The COVID-19 Supervisor can be an on-site worker who is designated to carry this role.
5. Identify "choke points" and "high-risk areas" where workers are forced to stand together, such as hallways, hoists and elevators, break areas, and buses, and control them so social distancing is maintained.
6. Minimize interactions when picking up or delivering equipment or materials, ensure minimum 6-foot separation.
7. Stagger the trades as necessary to reduce density and maintain minimum 6-foot separation social distancing. Limit the number of people to the minimum possible. Restrict non-essential visitors.
8. Discourage workers from using other worker's phones, desks, offices, work tools and equipment. If necessary, clean and disinfect them before and after use, and hand shaking.
9. Post, in areas visible to all workers, required hygienic practices including not touching face with unwashed hands or gloves; washing hands often with soap and water for at least 20 seconds; use of hand sanitizer with at least 60% alcohol, cleaning AND disinfecting frequently touched objects and surfaces, such as workstations, keyboards, telephones, handrails, machines, shared tools, elevator control buttons, and doorknobs; covering the mouth and nose when coughing or sneezing as well as other hygienic recommendations by the CDC.
10. Place wash stations or hand sanitizers in multiple locations to encourage hand hygiene, identify location of trash receptacles for proper disposal.
11. Require anyone on the project to stay home if they are sick, except to get medical care.
12. Have employees inform their supervisor if they have a sick family member at home with COVID-19.
13. Maintain a daily attendance log of all workers and visitors.

**ATTACHMENT C**  
**Appeal Application (dated March 1, 2021)**

CUP# 6816

PLN 2020-00016



PASADENA PERMIT CENTER  
www.cityofpasadena.net/permitcenter

**REQUEST FOR APPEAL**

**APPLICATION INFORMATION**

Project Address: 1827 E. Villa St Pasadena CA 91107  
Case Type (MCUP, TTM, etc.) and Number: LUP  
Hearing Date: 02-17-21 Appeal Deadline: 03-02-21

**APPELLANT INFORMATION**

APPELLANT: SUKHRAJ KAUR  
Address: 215 West Grandview drive  
City: H3USA State: LA Zip: 91702  
APPLICANT (IF DIFFERENT): \_\_\_\_\_

213-706-6997  
Telephone: 1661 487-4888  
Fax: [ ] \_\_\_\_\_  
Email: SUKHRAJKAUR956@yahoo.com

I hereby appeal the decision of the:

- Hearing Officer
- Design Commission
- Historic Preservation
- Zoning Administrator
- Director of Planning and Development
- Film Liaison

**REASON FOR APPEAL**

The decision maker failed to comply with the provisions of the Zoning Code, General Plan or other applicable plans in the following manner (use additional sheets if necessary):

See attached

[Signature]  
Signature of Appellant

03-01-2021  
Date

\* OFFICE USE ONLY

PLN # 2020-00016 CASE # CUP# 6816 PRJ # \_\_\_\_\_  
DESCRIPTION \_\_\_\_\_  
DATE APPEAL RECEIVED: 3/1/21 APPEAL FEES: \$ \_\_\_\_\_ RECEIVED BY: \_\_\_\_\_

## REASON FOR APPEAL

THE DISAPPROVAL OF THE APPLICATION WAS BASED ON FACTORS THAT UNFAIRLY LIMITS GROWTH AND DEVELOPMENT, within the spirit of the law

### THE HEARING OFFICER INDICATED IN QUESTION 1 : UNDUE CONCENTRATION/POLICE

Our response: The current beer and wine license is already counted in the census tract count, therefore no increase in license count occurs. The Police Dept., did not object to the issuance of the license and the TENANT has early closing hours, to mitigate any criminal activity, as well as the City can add more conditions to ensure safety for the community.

### QUESTION 2; UNDUE CONCENTRATION

The current beer and wine license is already counted in the census tract. Census tract numbers do not differentiate between distilled spirits #21 and beer and wine#20. They are one in the same in term of numbers. Furthermore the numbers show (1) type 21 license, and (3)type 20 licenses in the census tract , which therefore UNFAIRLY grants the type 21 complete control of the census tract. This creates no competition for the type #21 and UNFAIR prices for the local residents.

### QUESTION 3; DETRIMENTAL AFFECT

This store has existed for 30 years with a beer and wine license. The nearby residents of the impacted community signed petitions, submitted support documents and yearn for another location to spark competitive pricing and provide a simple outlet to shop for full service grocery items in one location. NO PROTEST was received from ANY community member, police dept., council representative.

### QUESTION 4; AGGRAVATE NUISSANCES

Mitigated conditions from the City can alleviate any concerns. The Tenant has early closing hours, security cameras, parking lot lighting, signage, commitment to attend ABC training, due diligence . Again the Pasadena Police dept., did not object to the upgrade.

### QUESTION 5; GENERAL PLAN

The General plan allows for the sales of alcohol as long as it does not take away from the quality of life for the community. For some reason the City allowed 4 licenses in a census tract which allows only 3, thereby allowing another license in an over concentrated area. This license will not add to the already EXISTING over concentration in the area. The approval of this upgrade will only create 2 off sale type 21 licenses and 2 beer and wine licenses. NOT AN increase and definitely a grocery store with full service is more desirable than your standard liquor store type establishment.

### QUESTION 6: PUBLIC CONVENIENCE AND NECESSITY

The objective of the plan is to enhance the community public conveniences and this store provides the convenience to the public it serves. THE store serves a public convenience due to its specialty items from India and the introduction of spirits from India to enhance the community. FURTHERMORE, the community desires 1 stop shopping for spirits, groceries, specialty items. The upgrade of the license after 30 years of service to the community is in the good spirit of the law. Competition between competitors also spurs fair pricing, great attitudes and a dedication to improve its facade and business concept.

**ATTACHMENT D**  
**Hearing Officer Addendum (dated April 26, 2021)**

**ZHO Addendum for  
Condition Use Permit #6816**

April 26, 2021

On February 17, 2021, I disapproved CUP# 6816 (1827 East Villa Street).

I have reviewed the appeal filed by the applicant (Sukhraj Kaur), and I hereby offer the following comments:

The appeal states that “The disapproval of the application was based on factors that unfairly limits the growth and development, within the spirit of the law”. The appellant referred to Findings and provided a challenge to each finding.

The staff report prepared for this project included a thorough discussion, analysis, and consideration of potential findings for disapproval. In particular, staff noted (Page 3) that the alcohol establishment is in close proximity to existing sensitive uses (i.e. single-family and multi-family developments, schools, a park, and multiple religious facilities), and it has the potential to create problems such as loitering, public drunkenness, noise, littering and other negative impacts.

In addition, staff noted (Page 4) that the sale of full line of alcohol for off-site consumption at the proposed site would negatively impact the general welfare of the surrounding property owners, would result in an undesirable concentration of premises that sell alcohol, would aggravate existing alcohol-related problems and that the “public convenience or necessity” findings cannot be made to approve the proposed Conditional Use Permit. The findings (Pages 7-9) conclude—properly, in my opinion—that multiple findings for the Conditional Use Permit, cannot be made in the affirmative.

In contrast to the staff report, the appeal suggests that the project has met the necessary findings to warrant approval of this project. The appeal provides no evidence or facts in support of this declaration. I would note, further, that no such evidence, nor facts in support of making the findings, was presented at the public hearing I conducted on February 17<sup>th</sup>.

In the absence of well-documented, substantiated findings for the Conditional Use Permit, the appellant has not provided basis to grant the appeal. The appeal should, therefore, be denied, and my original decision (disapproval) should be sustained.