



# City of Santa Barbara California

## PLANNING COMMISSION STAFF REPORT

**REPORT DATE:** March 13, 2024  
**AGENDA DATE:** March 21, 2024  
**PROJECT ADDRESS:** 324 W Montecito Street (PLN2024-00027)  
 Santa Cruz Market  
**TO:** Planning Commission  
**FROM:** Planning Division  
 Megan Arciniega, Senior Planner  
 Pilar Plummer, Associate Planner

### I. PROJECT DESCRIPTION

The proposed project involves a change in ownership of Santa Cruz Market, which results in the transfer of the associated ABC license (type 20) to the new owner. The Type 20 license allows the market to sell alcohol for off-site consumption under the Alcoholic Beverage Control Act. No changes are proposed to the building or existing site. See Exhibits B and C for project plans and applicant letter, respectively.

### II. REQUIRED APPLICATIONS

The discretionary applications required at this hearing under the purview of the Planning Commission are:

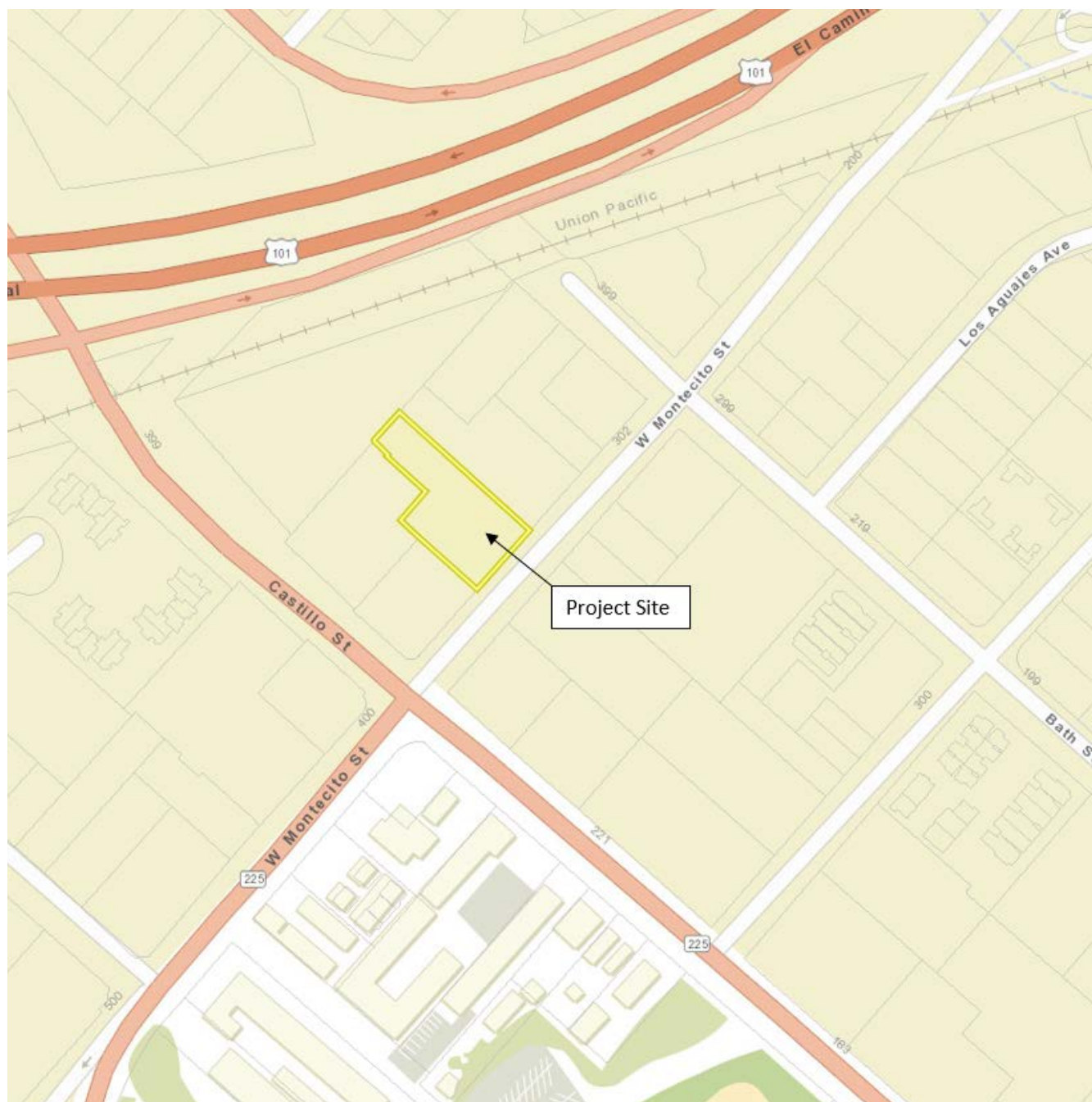
- A. A Conditional Use Permit to allow for continued off-site sale of alcoholic beverages with a Type 20 license (SBMC §30.185.075 & SBMC §30.215)

**APPLICATION DEEMED COMPLETE: March 4, 2024**

**DATE ACTION REQUIRED: June 2, 2024**

### III. RECOMMENDATION

If approved as proposed, the project would conform to the City's Zoning and Building Ordinances and policies of the General Plan. In addition, the size and massing of the project are consistent with the surrounding neighborhood. Therefore, Staff recommends that the Planning Commission approve the project, making the findings outlined in Section VIII of this report, and subject to the conditions of approval in Exhibit A.



Vicinity Map: 324 W Montecito Street (outlined in yellow)

**IV. BACKGROUND**

The California Department of Alcoholic Beverage Control (“ABC”) is responsible for regulating all retail alcohol sales within the state. “Off-sale consumption licenses” are issued for businesses that sell alcohol for consumption off the premises, such as liquor stores and grocery stores, while “on-site consumption licenses” are issued for businesses that sell alcohol for consumption on the premises, such as bars or restaurants.

While ABC maintains authority over licensing, cities can regulate secondary aspects of alcohol beverage sales through its land use powers, such as using Conditional Use Permits (CUP). While a CUP was previously not required for off-site alcohol sales, in 2021 City Council directed City staff to develop regulations for off-sale alcoholic establishments to address related nuisance impacts to the surrounding areas from the sale and consumption of alcohol. See Council Agenda Report, dated September 21, 2021, regarding introduction of the proposed off sale alcohol regulations ordinances (Exhibit D).

On October 5, 2021, the City Council adopted Ordinance Nos. 6027 and 6026 amending sections of the Santa Barbara Municipal Code, inland (Title 30) and coastal (Title 28) zoning ordinances, respectively, to require a CUP for sale of alcohol for off-site consumption. The City’s ordinances only apply to businesses that sell alcohol for consumption off the premises and are required to have an ABC Type 20 or 21 license such as liquor stores, beer and wine stores, convenience markets, mini-markets, markets, neighborhood markets, retail sales establishments, wine shops, and service stations. A Type 20 License authorizes the sale of beer and wine for off-site consumption, and a Type 21 License authorizes the sale of beer, wine, and distilled spirits for off-site consumption.

With the adoption of Ordinance No. 6027 and No. 6026, alcoholic beverage retail establishments that have a *substantial modification* or are *new*, now require approval of a CUP. All existing alcoholic beverage retail establishments existing prior to the effective date of the ordinances, and licensed by ABC, are allowed to be continued, repaired, and maintained, provided there is no substantial modification in operations, or the use becomes discontinued, ceases to be licensed, or creates nuisance conditions. In the case of Santa Cruz Market, the change in ownership requiring the transfer of the ABC license qualifies as a substantial modification, thus requiring a CUP.

A Pre-Application was filed on November 2, 2023. At that time, staff indicated general support given that the site is zoned Commercial General (C-G), which allows for food and beverage sales and West Montecito Street represents the commercial area of the West Beach neighborhood. A site visit was also conducted noting that the project generally complies with the performance and development standards outlined in SBMC 30.185.075. The applicant has indicated in their letter and throughout the process that their intention is to comply with the City’s ordinance pertaining to businesses with off-sale consumption licenses and to otherwise preserve the existing operation of Santa Cruz Market.

**V. SITE INFORMATION AND PROJECT STATISTICS**

**A. SITE INFORMATION**

<b>Applicant:</b>	J.K. Mondol on behalf of Santa Barbara Market Co.
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Property Owner:	Jonathan Modugno Revocable Trust		
Site Information			
Parcel Number:	037-232-018	Lot Area:	0.43 acres (~18,517 s.f.)
General Plan: Commercial-Medium High Density Residential		Zoning:	C-G (Commercial General)
Existing Use: Supermarket		Topography:	3%
Adjacent Zoning and Land Uses			
North:	C-G	Mixed-Use & Union Pacific Railroad	
East:	C-G	Cottage Residential Center	
South:	C-2/S-D-3	Public Right-of-Way (W Montecito Street) & various Commercial, & Multi-Unit Residential	
West:	C-G	Commercial & Vacant Parcel	

## B. PROJECT STATISTICS

	Existing	Proposed
<b>Commercial Floor Area</b>	6,992 s.f.	No Change

## VI. POLICY AND ZONING CONSISTENCY ANALYSIS

### A. ZONING ORDINANCE CONSISTENCY

#### 1. CONDITIONAL USE PERMIT REQUIREMENTS

To approve a CUP, several findings must be made. The required findings speak to the desirability of the use to the public's general welfare and its compatibility with the General Plan, as well as a focus on the architecture, site plan development, and traffic and circulation. Additionally, a CUP may only be granted for alcoholic beverage retail establishments, located, developed, and operated in compliance with performance and development standards applicable to the type of operation, unless a variation is approved by the Planning Commission to prevent an unreasonable hardship, requiring significant difficulty or expense or for any other reason consistent with the alcoholic beverage retail establishments criteria in the Zoning Ordinance. A summary as to the project's compliance with the standards is outlined below. Additional analysis as to the project's consistency with the General Plan is outlined below in VI.B.

#### *Location and Distance*

The Ordinance contains criteria for new and non-transferred licenses restricting establishments to sites with capacity for additional off-sale licenses, as defined by ABC, with low to average crime rates, and distanced a minimum 500 feet away from a residentially zoned lot, or a lot that contains a public or private elementary or high school, health care facility, social services facility, substance abuse treatment center, religious facility, park, or playground, unless a variation to these standards is approved by the Planning Commission. It is worth noting that the site is across the street from multi-unit residential apartments and abuts Cottage Residential Center.

However, as the project involves a transferred license and new ownership to an existing business, it is not considered a new beverage retail establishment and there is no proposed expansion to the existing operation pertaining to alcohol sales. Therefore, the standards do not apply. The Santa Barbara Police Department did prepare a Local Letter of Public Convenience or Necessity (PCN). The intent of this letter is to determine that the business operation provides some benefit to the surrounding community. The letter dated December 21, 2023, notes that the proposed liquor license will satisfy the public convenience and necessity.

#### *Containers & Product Display*

The sale, distribution, and display of alcoholic beverages is limited in terms of the type and size of containers. Wine must be in a container with a volume of 750 milliliters or greater in size, except multipack containers of wine, and multipack wine coolers containing no more than six percent alcohol by volume. This size represents the standard bottle size for wine, approximately 25 ounces. The existing operation complies with this standard.

Beer, ale, and malt liquor is required to be in a container with a volume greater than 32 ounces, and multipacks in containers of 32 ounces or less shall not be sold in units less than one three-pack for off-site consumption. The supermarket does sell multipack beers in three-packs which satisfy the standard. However, the supermarket also currently sells single-serving beers that do not meet this standard, because they are less than 32 ounces. Staff is not recommending that the Planning Commission approve a variation for this standard and has included a condition of approval that all single-serve beers less than 32 ounces shall not be sold.

The supermarket displays alcohol in three locations as outlined on the floor plan, comprised of a 6-foot wine cooler, a 12-foot beer cooler, and shelving containing bottled wine. The display of alcoholic beverages is prohibited within five feet of any store entrance or exit, is not allowed at a check-out counter or display case adjacent to a checkout counter or checkout waiting area, or in an ice tub, ice chest, or similar stand-alone container. All locations where alcohol is currently displayed comply with these standards.

#### *Lighting, Noise, and other Operational Criteria*

There are several standards related but not limited to lighting, noise, litter, window obstructions, and signage, which are intended to address issues related to potential nuisance impacts associated with off-sale alcohol. Existing operations of the supermarket do not include a drive-through or walk-up window for sale and distribution of alcoholic beverages, the establishment does not sell drug or tobacco paraphernalia, nor do they have pay phones outside the establishment, advertising of alcoholic products, or tobacco and paraphernalia visible from the exterior of the building. The supermarket contains a trash receptacle outside the store entrance for customer use, and the store entrance is unobstructed to provide a clear view of the interior of the premises. All lighting is required to comply with the Outdoor Lighting Ordinance pursuant to SBMC Chapter 22.75 and noise levels outlined in SBMC

Chapter 9.16. There are no current enforcement cases related to noise, and lighting onsite complies with the City's Outdoor Lighting Ordinance.

## **2. ALCOHOLIC BEVERAGE RETAIL ESTABLISHMENTS**

In addition to the CUP, there are specific findings under the City's Ordinance that must be made for an alcoholic beverage retail establishment. This includes that the use shall not potentially have a significant adverse effect on the crime rate or nuisance activities, with particular attention to crimes involving public drunkenness, illegal sale or use of narcotics, drugs, or alcohol, disturbing the peace and disorderly conduct, and alcoholic beverage sales to minor. Also, that the businesses upkeep and operating characteristics are compatible with, and will not adversely affect, the livability or appropriate development of abutting properties and the surrounding neighborhood.

The Police Department reviewed calls for service for the 300 block of West Montecito Street, including specifically to the project site from March 9, 2020, through February 28, 2024. During that period, the subject lot received 136 calls for service, predominantly related to transient disturbances or welfare checks. There were only two calls during this time period related to public intoxication, one in 2020 and one in 2024, which is noted as a call-in error. As previously stated, a Local Letter of Public Convenience or Necessity (PCN) was issued by the Santa Barbara Police Department associated with the proposed liquor license determining that the business operation will provide some kind of benefit to the surrounding community (Exhibit E).

In terms of upkeep and operating characteristics, Santa Cruz Market is primarily a supermarket, with alcohol beverage retail being only a component of sales. A supermarket has existed on the property in this location historically, even prior to Santa Cruz Market taking over the property in 1990. The supermarket is an existing establishment, in good standing with the City of Santa Barbara and is compatible with the existing mix of uses in this part of the West Beach neighborhood, which is zoned Commercial General (C-G) and provides a grocery store alternative to other large chain supermarkets in Santa Barbara.

## **3. PARKING**

There are no exterior changes proposed to Santa Cruz Market including the parking lot. The parking lot is accessed via a driveway apron on West Montecito Street with parking along the east side of the parcel for a total of 24 vehicle spaces. The parking lot is considered legal nonconforming to the number of vehicle spaces as 27 are required by code, however because the use is not changing and there are no proposed changes to the site the parking is allowed to remain nonconforming. The bicycle parking requirement is 3 spaces, and 5 bicycles spaces are located adjacent to the supermarket entrance. It should be noted that the bicycle racks are not City standard, but because the use of the site is not changing no improvements are required to update the existing bicycle parking.

## **B. GENERAL PLAN CONSISTENCY**

### **1. LAND USE ELEMENT**

The project site is in the C-G (Commercial General) zone and has a General Plan Land Use designation of Commercial-Medium High Density Residential (15-27 du/acre). The project site is also in the West Beach Neighborhood of the General Plan, bounded on the southeast by Cabrillo Boulevard and Shoreline Drive; on the southwest by the western property of Santa Barbara City College; on the northwest by Montecito Street, Castillo Street, and Highway 101; and on the northeast by Yanonali and Chapala Streets and Kimberly Avenue. Sometimes known as the Ambassador area, the West Beach Neighborhood is characterized by a combination of Spanish-style motels along the ocean frontage, which merge into a multi-family residential area behind Cabrillo Boulevard. The commercial area is located along Montecito Street which serves the ocean-front residential and motel areas in the vicinity.

The Land Use Element of the General Plan includes LG4. Principles for Development that encourages a mix of land uses in commercial areas, to include retail, office, restaurant, residential, institutional, financial, and cultural arts, encourage easy access to basic needs such as groceries, drug stores, community services, recreation, and public space. Additionally, LG15. Sustainable Neighborhood Planning, notes that neighborhoods shall be encouraged to preserve and enhance the sense of place, provide opportunities for healthy living and accessibility, while reducing the community's carbon footprint. Neighborhood-serving commercial uses, especially retail food establishments such as small markets, and grocery stores in underserved areas are encouraged.

Santa Cruz Market is a supermarket featuring fresh produce, and a full service meat department which provides an alternative to other chain supermarkets and has a history of serving the Santa Barbara community and particularly the West Beach neighborhood. The project does not involve a change of use as Santa Cruz Market is proposed to remain onsite in its current operation and is an allowed use in the C-G zoning district, therefore, the project is consistent with the Land Use Element and with the mix of uses in the surrounding neighborhood.

## **2. ECONOMY & FISCAL HEALTH ELEMENT**

Some applicable policies of the Economy and Fiscal Health Element include:

EF2. **Environmental Effects of Commercial Growth.** Manage commercial growth to protect the City's environment and unique qualities.

EF4. **Existing Businesses.** Give priority to retaining existing enterprises as the best source of business expansion and local job growth, and encourage government, businesses and residents to patronize local businesses and contractors, by working with local businesses to initiate a "Buy Local" program, with the City setting the example.

EF14. **Local Needs.** Encourage enterprises that serve the needs of existing local residents, workers, and businesses.

The project manages commercial growth as the existing supermarket is not proposed to expand in operation. The supermarket also provides a service to local residents,

workers and businesses, particularly those that live in the West Beach neighborhood, but also the Santa Barbara community, because it provides various goods. Therefore, the project is consistent with the Economy & Fiscal Health Element.

## **VII. ENVIRONMENTAL REVIEW**

Staff has determined that the project qualifies for an exemption from further environmental review under Section 15301 [Existing Facilities] of the California Environmental Quality Act (CEQA) Guidelines. Section 15301 allows for operation, permitting, licensing, or minor alteration of existing private structures involving negligible or no expansion of former use. Staff has reviewed the proposal and site conditions and has determined that the project complies with all conditions of this exemption.

Based on review of the project, there would be no significant project-specific or cumulative impact on the environment due to unusual circumstances, the project does not have the potential to damage scenic highways or historic resources, and the project site is not identified as a hazardous waste site. None of the exceptions to the exemption under CEQA Guidelines Section 15300.2 apply.

## **VIII. RECOMMENDED FINDINGS**

The Planning Commission finds the following:

### **A. ENVIRONMENTAL REVIEW (SBMC §22.100.160.C; CEQA GUIDELINES)**

The determination of exemption, as discussed in the staff report dated March 13, 2024, is appropriate, because Section 15301 allows for operation, permitting, licensing, or minor alteration of existing private structures involving negligible or no expansion of former use. The project qualifies for an exemption from further environmental review under CEQA Guidelines Section 15301, based on the City staff analysis and the CEQA Certificate of Determination on file for this project.

### **B. CONDITIONAL USE PERMIT (SBMC §30.185.075 §30.215)**

1. The proposed use is allowed with a Conditional Use Permit within the applicable zone district and complies with all specific requirements for the Conditional Use Permit, as well as all other applicable provisions of this title and all other titles of the municipal code;

*The use of the property as a supermarket with food and beverage retail sales is allowed by right in the Commercial General zone. The purpose of the zone is intended to provide a wide range of commercial uses, serving as the City's major retail, professional, and service zone. Therefore, the supermarket is consistent with the zoning designation.*

2. The proposed use and development is deemed essential or desirable to the public convenience or welfare and is consistent with the General Plan and any applicable specific plan;

*The Conditional Use Permit is specific to the transfer of license or change of ownership as a substantial modification to a Type 20 ABC License for off-sale of alcoholic beverages. There is no proposed change to the use or existing site. Santa Cruz Market is*



*deemed essential or desirable to the public convenience because it provides a variety goods including, but not limited to, fresh produce, meats, and beverages, primarily as a smaller-scale grocery store to the West Beach Neighborhood and is also consistent with the General Plan land use designation of Commercial-Medium High Density Residential which generally applies to commercial neighborhood serving centers historically located within residential areas, and includes allowed uses such as grocery stores and various other neighborhood/commercial serving businesses.*

3. The proposed use and development will not be adverse to the public health, safety, or general welfare of the community, nor materially detrimental to surrounding properties or improvements;

*The proposed use is not changing and will not be adverse to the public health, safety, or general welfare of the community, nor materially detrimental to surrounding properties or improvements, because the off-sale of alcoholic beverages represents only a component of the grocery store, which provides other goods to the West Beach neighborhood. Santa Cruz Market has been in operation on the property since the 1990s, and prior to that another supermarket occupied this location. Santa Cruz Market is in good standing with the City of Santa Barbara, and the Police Department has provided a letter, noting that the license will satisfy the public convenience and necessity.*

4. The total area of the site and the setbacks of all facilities from property and street lines are of sufficient magnitude in view of the character of the land and of the proposed development that significant detrimental impact on surrounding properties is avoided;

*No changes to the site are proposed and setbacks are not applicable in the Commercial General zone. The existing supermarket will remain in its current configuration and therefore there will be no detrimental impact on surrounding properties.*

5. The design and operation of the project and its components, including hours or manner of operation, outdoor lighting and noise generating equipment, will not be a nuisance to the use of property in the area, particularly residential use;

*The design and operation and its components will not be a nuisance to the use of property in the area. Hours and manner of operation will continue per usual, between the hours of 7:30 a.m. and 9 p.m. The site will remain as a neighborhood serving supermarket for the West Beach Neighborhood. The off-site sale of alcoholic beverages complies with the performance and development standards applicable to alcoholic beverage retail establishments, contingent upon the elimination of single-serving beer in containers less than 32 ounces.*

6. Adequate access and off-street parking including parking for guests is provided in a manner and amount so that the demands of the development for such facilities are adequately met without altering the character of the public streets in the area at any time; and

*No changes are proposed to off-street parking, the surface lot shall remain in its existing condition and shall continue to provide parking for patrons of the supermarket. There are no alterations to the character of the public street.*

7. The appearance of the developed site in terms of the arrangement, height, scale and architectural style of the structures, location of parking areas, landscaping, open space and other features is compatible with the character of the area.

*No changes are proposed to the exterior of the building, therefore the appearance of the developed site in terms of arrangement, height, scale and architectural style, location of parking and other features remains compatible with the character of the area, that is comprised of a mix of uses.*

### **C. ALCOHOLIC BEVERAGE RETAIL ESTABLISHMENTS**

1. There is no change of use to the existing operational aspects of the supermarket, which currently allows for off-sale of alcoholic beverages as part of the overall goods sold, including fresh produce, meats, and other common goods available at a neighborhood grocery store. Continued operation shall not potentially have a significant adverse effect on the crime rate, based on information provided by the Police Department noting that the licensing will satisfy the public convenience and necessity.
2. The upkeep and operating characteristics of the supermarket are compatible with, and will not adversely affect, the livability or appropriate development of abutting properties and the surrounding neighborhood, because the use is not changing, nor are exterior changes to the site or building proposed. The supermarket provides a beneficial neighborhood grocery that serves the Santa Barbara community, particularly the West Beach neighborhood and residents in that area.

#### **Exhibits:**

- A. Draft Conditions of Approval
- B. Project Plans
- C. Applicant's Letter, dated March 7, 2024
- D. Council Agenda Report – Introduction of Off Sale Alcohol Regulations Ordinances
- E. Public Convenience and Necessity Letter, dated December 21, 2023
- F. Applicable General Plan Policies

Contact/Case Planner: Pilar Plummer, Associate Planner

(PPlummer@SantaBarbaraCA.gov)  
630 Garden Street, Santa Barbara, CA 93101  
Phone: (805) 564-5470 x 4551

## **DRAFT PLANNING COMMISSION CONDITIONS OF APPROVAL**

324 W MONTECITO STREET  
CONDITIONAL USE PERMIT  
MARCH 21, 2024

- I. In consideration of the project approval granted by the Planning Commission and for the benefit of the owner and occupant of the Real Property, the owners and occupants of adjacent real property and the public generally, the following terms and conditions are imposed on the use, possession, and enjoyment of the Real Property:

- A. **Order of Development.** In order to accomplish the proposed development, the following steps shall occur in the order identified:

1. Record any required documents (see Recorded Conditions Agreement section).
2. Obtain the appropriate license from the California Department of Alcoholic Beverage Control (ABC).
3. Contact City of Santa Barbara Police Department to create a Police Department file for the subject property including agreement to payment of fees for annual inspection services.

Details on implementation of these steps are provided throughout the conditions of approval.

- B. **Recorded Conditions Agreement.** The Owner shall execute a *written instrument*, which shall be prepared by Planning staff, reviewed as to form and content by the City Attorney and Community Development Director, recorded in the Office of the County Recorder, and shall include the following:

1. **Approved Development.** The development of the Real Property approved by the Planning Commission on March 21, 2024, is for a change in ownership of Santa Cruz Market, which results in the transfer of the associated ABC license (Type 20) to the new owner. The Type 20 license allows the market to sell alcohol for off-site consumption under the Alcoholic Beverage Control Act. No changes are proposed to the building or existing site, as described in the Applicant Letter dated March 7, 2024, and as shown on the plans signed by the chairperson of the Planning Commission on said date and on file at the City of Santa Barbara.
  - a. Lighting shall comply with the Outdoor Lighting Ordinance (SBMC Chapter 22.75) in order to maintain a safe and secure environment.
  - b. Noise levels generated by the operation of the supermarket shall comply with the City's Noise Ordinance (SBMC Chapter 9.16). Amplified sound at the property line shall not exceed 60 dB(A).
  - c. A change in use or increase in intensity of use related to the off-site sale of alcoholic beverages could have potential land use impacts. Prior to initiating a change of use or an increase in intensity of use, a report shall be submitted by the supermarket to the Community Development Director to determine whether additional City approvals are necessary such as Temporary Use

Permits or an Amendment to the Conditional Use Permit, or any other appropriate review procedure.

2. **Uninterrupted Water Flow.** The Owner shall allow for the continuation of any historic flow of water onto the Real Property including, but not limited to, swales, natural watercourses, conduits and any access road, as appropriate.
3. **Areas Available for Parking.** All parking areas and access thereto shall be kept open and available in the manner in which it was designed and permitted.

C. **General Conditions.**

1. **Mandatory Training.** All new store owners and employees shall complete the Responsible Beverage Service (RBS) Training within 60 days from the start of their business or employment and are required to carry a valid certification while selling alcoholic beverages. To satisfy this requirement, a certified program must meet the standards of the ABC Responsible Beverage Service Advisory Board or other certifying or licensing body designated by the State of California
2. **Presentation of Documents.** A copy of any City conditions of approval, applicable California Department of Alcoholic Beverage Control conditions and licenses, and any required training requirements, shall be posted in at least one prominent place within the interior of the establishment where it will be readily and legible to the employees and patrons of the establishment; and shall be presented to any City, County, or State enforcement officer or official upon request.
3. **Containers.** The sale, distribution, dispensation, and display of alcoholic beverages is limited to the following type and size of containers. All containers which do not currently meet the type and size of containers shall be removed, specifically single-serve containers of beer available at the supermarket within 30 days of the Planning Commission approval.
  - a. **Wine and Wine Coolers.** Wine must be in a container with a volume of 750 milliliters or greater in size, except multipack containers of wine, and multipack wine coolers containing no more than six percent alcohol by volume. Multipack wine and wine coolers shall not be sold in containers smaller than 12 ounces and in units of less than one four-pack for off-site consumption.
  - b. **Beer, Ale, and Malt Liquor.** Beer, ale, and malt liquor must be in a container with a volume greater than 32 ounces. Multipack beer, ale, and malt liquor in containers of 32 ounces or less shall not be sold in units less than one three-pack for off-site consumption.
4. **Compliance with Requirements.** All requirements of the City of Santa Barbara and any other applicable requirements of any law or agency of the State and/or any government entity or District shall be met.
5. **Approval Limitations.**

- a. The conditions of this approval supersede all conflicting notations, specifications, dimensions, and the like which may be shown on submitted plans.
  - b. Any deviations from the project description, approved plans or conditions must be reviewed and approved by the City, in accordance with the Planning Commission Guidelines. Deviations may require changes to the permit and/or further environmental review. Deviations without the above-described approval will constitute a violation of permit approval.
6. **Public Nuisance.** A public nuisance shall be deemed to exist if the following activities are repeated within the premises or in close proximity of the premises from or related to the sale and consumption of alcohol such as: 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. The City Administrator may take any action necessary to abate such public nuisance, including but not limited to revocation proceedings.
  7. **Reporting.** If the City Administrator or the Chief of Police determine there has been a violation of this chapter or any of the conditions set forth in a conditional use permit issued in compliance with this chapter, a report of those violations shall be presented to the Planning Commission for review that may include the date, time, and specificity of the violations. The Planning Commission shall require an annual review of any new and existing alcoholic beverage retail establishments.
  8. **Responsibility to Enforce.** The provisions of this Conditional Use Permit shall be administered and enforced by the City Administrator in conjunction with the Chief of Police. Such officer, or their duly authorized representatives, may enter upon private or public property to examine an alcoholic beverage retail establishment for the purposes of enforcement and regulation of the conditions of approval, performance standards, and other applicable regulations.
  9. **Litigation Indemnification Agreement.** In the event the Planning Commission approval of the Project is appealed to the City Council, Applicant/Owner hereby agrees to defend the City, its officers, employees, agents, consultants and independent contractors (“City’s Agents”) from any third party legal challenge to the City Council’s denial of the appeal and approval of the Project, including, but not limited to, challenges filed pursuant to the California Environmental Quality Act (collectively “Claims”). Applicant/Owner further agrees to indemnify and hold harmless the City and the City’s Agents from any award of attorney fees or court costs made in connection with any Claim.

Applicant/Owner shall execute a written agreement, in a form approved by the City Attorney, evidencing the foregoing commitments of defense and indemnification

within thirty (30) days of being notified of a lawsuit regarding the Project. These commitments of defense and indemnification are material conditions of the approval of the Project. If Applicant/Owner fails to execute the required defense and indemnification agreement within the time allotted, the Project approval shall become null and void absent subsequent acceptance of the agreement by the City, which acceptance shall be within the City's sole and absolute discretion. Nothing contained in this condition shall prevent the City or the City's Agents from independently defending any Claim. If the City or the City's Agents decide to independently defend a Claim, the City and the City's Agents shall bear their own attorney fees, expenses, and costs of that independent defense.

**II. Time Limits:**

**A. NOTICE OF CONDITIONAL USE PERMIT TIME LIMITS:**

The Planning Commission action approving the Conditional Use Permit shall terminate three (3) years from the effective date of the approval, per Santa Barbara Municipal Code §30.205.120, unless:

1. An extension is granted by the Community Development Director prior to the expiration of the approval; or
2. The City is in receipt of the recorded agreement for the Conditional Use Permit allowing for continued sale of alcoholic beverages for off-site consumption.



# City of Santa Barbara California

**Exhibit B:** Project Plans Dated for the March 21, 2024 Planning Commission Meeting, are available electronically for view online at: [SantaBarbaraCA.gov/PC](https://SantaBarbaraCA.gov/PC) and will be transferred the city's [Archived Agendas & Documents system](#) after the hearing.

**DATE:** March 7, 2024

**TO:** CITY OF SANTA BARBARA PLANNING COMMISSION

**FROM:** Santa Barbara Market Corp, Amarjit Singh

**REGARDING: SANTA CRUZ MARKET - 324 West Montecito Street - Request for approval of Conditional Use Permit (CUP) to allow for continued off-site sale of alcoholic beverages with a Type 20 license.**

We are seeking your approval of the CUP taking into consideration the following:

- **Location Has Been Used For The Same Purpose For Over 60 Years.** Originally known as Aiello's Market, a Supermarket selling alcohol has been in existence at 324 Montecito Street since the mid 1960's. Santa Cruz Market, after losing its lease on the Mesa, relocated to this location in 1989 upholding the store tradition of offering Highly Regarded - Quality Meats, Fruits, Vegetables, Deli Items, and Beer and Wine, along with a large selection of grocery items. Other items carried in the store include Pet Foods and Care items, Home Goods, Health and Beauty Products, and much more to benefit the West Beach areas of Santa Barbara. We love the tradition and look forward to caring it forward through our ownership.
- **PCN Letter Recommending Approval** - Santa Cruz Market has received a letter of Public Convenience or Necessity (PCN) from the Santa Barbara Police Department which has determined the business in its current operation is in good standing and is a benefit for its surrounding community.
- **Business Complies With All Performance And Development Standards - Under (F) Of SBMC 30.185.075 Except the sale of single serving beer containers that are less than 32 ounces.** Santa Cruz Market accepts the condition to eliminate sale of these items upon approval of the Conditional Use Permit. Alcohol is limited to beer and wine and is currently being sold at locations in the store that are in compliance with the development standards as seen on the attached floor plan.
- **No Changes Proposed** - Santa Barbara Market Corp is a family owned business. Our family loves Santa Barbara and the Santa Cruz Market. The store is open from 7:30 am to 9:00 pm. We are not proposing any changes in hours.
- **Delay Of CUP Could Jeopardize Loan and Sale** - Unfortunately, we were not made aware of the City of Santa Barbara CUP requirement during the escrow period while we were obtaining our ABC license. Due to a last minute notice that was received by our escrow company from the City of Santa Barbara Planning Department, our escrow was delayed putting our loan in jeopardy. Our escrow that was to close last Fall was extended until **March 28th**. We appreciate your diligence in approving our CUP, as any further delays in obtaining the CUP will likely cause our loan and purchase to fail.

Sincerely,

  
Amarjit Singh, Santa Barbara Market Corp





# **CITY OF SANTA BARBARA**

## **COUNCIL AGENDA REPORT**

**AGENDA DATE:** September 21, 2021

**TO:** Mayor and Councilmembers

**FROM:** City Attorney's Office

**SUBJECT:** Introduction Of Off Sale Alcohol Regulations Ordinances

**RECOMMENDATION:** That Council:

- A. Introduce and subsequently adopt, by reading of title only, an Ordinance of the Council of the City of Santa Barbara Amending the Santa Barbara Municipal Code by Adding Chapter 28.80 to Regulate Alcoholic Beverage Retail Establishments in the Coastal Zone and Amending Various Sections Within Title 28 to be Consistent with this Intent; and
- B. Introduce and subsequently adopt, by reading of title only, an Ordinance of the Council of the City of Santa Barbara Amending the Santa Barbara Municipal Code by Amending Sections 30.20.020, 30.25.020, 30.30.020, 30.35.020; Adding Section 30.185.075; Amending Section 30.205.150 and Amending Section 1.25.050 Pertaining to Regulations for Alcoholic Beverage Retail Establishments in the Non-Coastal Zone of the City.

### **BACKGROUND**

On January 24, 2017, the City Council directed staff to develop regulations for off-sale alcohol establishments in order to address nuisance impacts to the surrounding areas from the sale and consumption of alcohol. Off-sale consumption licenses are issued for businesses that sell alcohol for consumption off the premises, such as liquor stores and grocery stores, while on-site consumption licenses are issued for businesses that sell alcohol for consumption on the premises, such as bars and restaurants.

The ability of a city to regulate alcohol is limited by the California Constitution, which provides the state exclusive jurisdiction over the manufacture, sale, purchase, and transportation of alcohol. The California Department of Alcoholic Beverage Control ("ABC") is responsible for regulating retail alcohol sales and it uses specific criteria to base decisions related to the issuance, enforcement, and revocation of liquor licenses.

The ABC can place conditions on a license such as restriction of hours, entertainment, or any condition that will mitigate impacts on nearby residential, churches or schools.

The ABC must also notify the local governing agency and surrounding property owners of any business that wants to modify or remove conditions in their license. The local agency or property owner can request a hearing and protest the license before the ABC. A zoning affidavit is required for any new license signed by the local governing agency. The ABC may deny a license if there is a law enforcement problem or if the issuance of the license would create an undue concentration of licenses based on a high number of crimes and excess ratio of licenses to population. The ABC may also issue a license if the local governing agency determines that the business requesting a license would serve the public convenience or necessity.

Cities are limited in their ability participate in or to influence the aforementioned decisions. Despite the limitations imposed by state law, many cities have effectively regulated secondary aspects of alcohol beverage sales without interfering with the exclusive authority of ABC through its land use powers. A city for example can regulate secondary effects such as crime, noise, trash, traffic, and parking that impact health, safety and welfare of the community. Thus, local alcohol regulations aimed at eliminating nuisances and criminal activities are allowed and are not in conflict with State law. Local regulations have been exercised through tools such as Conditional Use Permits (CUP) and Deemed Approved Ordinances (DAO). CUPs are the primary local regulatory tool for regulating new alcohol outlets, while DAOs constitute the basic tool for regulating pre-existing outlets.

A Deemed Approved Ordinance is a concept that originated in the early 1990s from Oakland as a way to use local control to cope with problem retailers. For the large majority of alcoholic beverage establishments without conditional use permits, the City of Oakland proposed to “deem” these outlets “approved,” provided they meet the conditions described as basic non-nuisance deterrents such as no littering, loitering, graffiti, drug dealing, prostitution, gambling etc. In a nutshell, all grandfathered alcohol establishments are “deemed approved” and can continue sales of alcohol provided they comply with the performance standards and are not operated as nuisances. If a store were to be found in violation of these standards, they could potentially lose their land use permit.

Since that time, dozens of California cities have iterated upon and adopted a Deemed Approved Ordinance, with many providing operational standards, such as prohibiting establishments from selling beer or malt beverage products in bottles or cans greater than 32 ounces in volume or alcohol that is considered “airline bottle” in size.

As mentioned, CUPs are the primary regulatory tool for cities to regulate new alcohol outlets, relying on a locality’s authority to regulate land uses through its zoning powers. California Business and Professions Code Section 23790 provides that a city can require that an alcohol retail establishment applicant obtain a CUP before it can be licensed by the ABC.

While Business and Professions Code Section 23790 grants cities the ability to impose land use regulations upon new alcohol establishments, it also restricts their ability to impose new conditions upon existing operations, including legal nonconforming establishments. However, a city can exert a certain degree of control over existing alcohol retailers through its inherent authority to regulate nuisances through the adoption of ordinances designed to prevent and abate nuisance activity around businesses that sell alcoholic beverages. The right to control and abate nuisance and criminal activities by ordinance applies to all alcoholic beverage establishments, including those in operation before an ordinance's effective date. Cities may also regulate alcohol outlets on an individual basis through the traditional nuisance abatement authority by declaring a building or place where alcohol is unlawfully sold a public nuisance. The Unlawful Liquor Sale Abatement Law (California Penal Code Sections 11200 – 11207) provides cities with the ability to declare and abate a nuisance when an establishment is selling liquor unlawfully.

Consideration of negative impacts to the community can go beyond issues such as graffiti or litter. The University of California Riverside conducted a study in 2011 that found that businesses with more than 10% of their displays being single beverage alcohol had a higher rate of crime than other communities. In 2014, the California Department of Public Health conducted a study to determine the impact of alcohol outlets in communities around California as part of their Healthy Communities Data and Indicators Project. The study found that a high density of alcohol outlets and proximity to alcohol outlets in neighborhoods is associated with higher rates of binge drinking and associated harms, like drinking and driving, motor vehicle-related pedestrian injuries, child abuse and neglect, youth drinking, intimate partner violence, and violent crime. Moreover, the Department's study revealed that low income neighborhoods are especially affected by the impacts of alcohol outlet density.

## **LEGAL CHALLENGES**

City ordinances regulating off-sale alcohol land uses have been challenged in Court but ultimately found to be legal and enforceable. With Oakland being the first to initiate such an ordinance it was unsurprisingly the first City to face a legal challenge. In *City of Oakland v. Superior Court* (1996) 45 Cal.App.4th 740, an association of alcoholic beverage retailers and related parties filed complaint challenging validity of Oakland's ordinance regulating alcoholic beverage sale establishments. The Court of Appeal found the ordinance lawful as it merely created administrative mechanism for enforcing nuisance and criminal laws and did not violate rights of grandfathered businesses under licensing statute. In addition, the municipal fee assessed to pay for costs of regulation was not unconstitutional license tax.

A more recent case was brought forth in Federal Court concerning the City of El Cajon's ordinance. In *HSH, Inc. v. City of El Cajon* (S.D. Cal. 2014) 44 F.Supp.3d 996, operators of small liquor stores in residential areas brought equal protection, due process, and vagueness challenges to El Cajon's ordinance requiring that they obtain conditional use

permits, while exempting larger stores with more than 10,000 square feet of floor space that dedicated no more than 10% of their floor space to the sale of alcohol. The U.S. District Court dismissed the suit finding that the ordinance was rationally related to legitimate government interest as the goal of preventing alcohol-related nuisances is rationally furthered by treating retailers substantially dedicated to alcohol sales differently than retailers with less than ten percent of their floor space dedicated to alcohol sales. These cases illustrate the unquestioned ability of a city has to declare a public nuisance and require the abatement of such a nuisance for the benefit of the community.

These proposed ordinances are aimed at regulating retail alcohol outlets in a comprehensive fashion through both conditional use permit (CUP) and Deemed Approved provisions. By including both of these provisions, the City will distinguish between pre-existing and new alcohol outlets.

### **PLANNING COMMISSION MEETINGS**

The Planning Commission met twice on May 13th and June 10th to review and provide input on the proposed Ordinance. The Commission offered several suggestions that were adopted such as: adding language for clarification that the Ordinance will not apply to on-sale establishments such as restaurants and bars; providing a definition of a nuisance; allow for an applicant to obtain a modification and subsequent Commission approval to be located within 500 feet of a sensitive area; mandatory annual meetings in which the Planning Commission reviews all new and existing alcoholic beverage retail establishments for compliance; and amended the required findings for obtaining a CUP for a new establishment to include that the proposed use shall not significantly adversely affect the crime rate in the area of the proposed site.

At those meetings, the Planning Commission received numerous public comment that enforcement of the Ordinance should not be staffed through the Police Department. No action was taken because the purview of the Commission is to make recommendations and changes to the land use aspect of the Ordinance and not administrative functions.

### **ORDINANCE COMMITTEE MEETING**

The Ordinance Committee met on July 20<sup>th</sup> to review the proposed Ordinance. The Committee requested amendments that prevent new and existing establishments from placing alcoholic beverage containers within five feet back from any store entrance or cash register and check-out portions of the premises. The basis for the request was the important health and safety factor of not making alcohol enticing for minors near other product displays such as candy or gum. These changes are found under sections 28.80.060 (E), 28.80.150, 30.185.075 (F)(3), and 30.185.075(K).

## **PROPOSED ZONING CODE AMENDMENTS**

The stated purpose of these amendments to the zoning code are to promote a healthy and safe business environment in the City of Santa Barbara that protects residents from the public nuisances attributable to the retail sales of alcoholic beverages. The ordinances only apply to businesses with a ABC Type 20 or 21 License such as liquor stores, beer and wine stores, convenience markets, mini-markets, markets, neighborhood markets, retail sales establishments, wine shops, and service stations. A type 20 license authorizes the sale of beer and wine for consumption off the premises, while a type 21 license authorizes the sale of beer, wine and distilled spirits for consumption off the premises. The ordinance amendments do not apply to alcohol beverage manufacturers such as a winery, brewery or micro-brewery that sells alcohol for off-site consumption.

The heart of the amendments are contained in Chapter 28.80 for retail establishments in the coastal zone and Chapter 30.185.075 for retail establishments that are inland. These amendments are described in detail below:

### **Existing Alcohol Establishments**

The attached ordinances grant all existing alcohol establishments a deemed approved status under section 28.80.100 and 30.185.075 (J). That status may continue on provided there is no substantial modification in operations, a discontinued use for a period over year, the establishment ceases to be licensed by the ABC, or the use does not create nuisance conditions. If the right to the continued use for an existing alcoholic beverage retail establishment is revoked by the City, the owner of the business must obtain a CUP in order to sell alcohol again. Every owner has the right to appeal any revocation to the Planning Commission.

### **New Alcohol Outlets**

Any alcohol retail establishments that starts their business after the ordinance becomes effective are required to obtain a CUP through the City's existing process: Chapter 28.94 for those in the Coastal Zone and 30.215 for those establishments that are located inland. The CUP must be approved by the Planning Commission, which is required to make specific findings. The specific findings for new off-sale outlets are in addition to the typical conditional use permit findings and are designed to complement conditional use permit findings and give proper justification for any conditions and operating standards that may be imposed on a new establishment. These requirements are under section 28.80.070 and 30.185.075 (G) of the proposed ordinances.

In addition, the Planning Commission has the authority to impose conditions of approval under the CUP. Examples of some conditions include restricting outdoor storage and displays, requiring a security plan, or requirements for buffering, screening, lighting, planting areas, or other site elements to avoid adverse impacts on adjacent lots or the surrounding area. These optional conditions of approval have been included to ensure

compatibility when needed and can be applied on a case-by-case basis and tailored to the specific application and the surrounding neighborhood. These provisions can be found under 28.80.080 and 30.185.075 (H) of the proposed ordinances.

### **Operational Standards & Public Nuisance Prevention Measures for New Outlets**

Operational standards are included in the Ordinance for new alcohol retail establishments. The standards are contained in sections 28.80.060 and 30.185.075 (F). The following are some of the standards contained in the Ordinances:

- New alcohol retail establishments requesting a new licenses can only be permitted on a site located in an area with capacity for additional off-sale licenses, as defined by ABC, with low to average crime rates, as defined annually by the Santa Barbara Police Department, provided that the site is not subject to a moratorium.
- New alcohol retail establishments can only be located on a lot that is a minimum of 500 feet away from any residentially zoned lot, or any lot that contains a public or private elementary or high school, health care facilities, Social Services Facility as defined in 30.295.030, substance abuse treatment centers, religious facilities, parks or playgrounds.
- Product sales limitations for new alcohol retail establishments include wine in less than 750 milliliter containers, airline bottles (must be in a container with a volume of 375 milliliters or greater in size), and beer, ale or malt liquor in containers greater than 32 ounces, except containers of two gallons or more, which are intended to dispense multiple servings.
- Public nuisance prevention measures such as adequate external lighting, responsibility of the retailer to keep area clean of liter, prohibition of pay phones, no advertising of alcohol products visible from the exterior of the building, and no window obstruction.
- The Ordinance also provides for the Planning Commission to make modifications to the standards in order to prevent an unreasonable hardship which is defined as significant difficulty or expense when considered in light of a number of factors such as the nature and cost of the standard imposed in relation to the size, resources, nature, and structure of the alcohol retailer operation.

### **Subsequent Nuisance Provisions for Existing Establishments**

An off-sale outlet's existing status could change if the establishment is declared a nuisance (detailed under 28.80.300 & 30.185.075 (L)) and corrective measures are unsuccessful. Only after notice and a hearing before the Planning Commission, whereby if the outlet is found not in compliance by the Commission, the Commission may suspend, modify or revoke the existing status. If revoked, an existing outlet would be required to obtain a CUP to resume selling alcohol. The aforesaid provisions are contained in section 28.80.100 and 30.185.075 (J) of the proposed ordinances.

### **Regulatory Fee**

Any fees imposed under that ordinance must strictly be limited to the reasonable costs of administering the enforcement program and cannot be used to generate revenue for other purposes. Cal. Const. art XIII C, § 1 (Prop. 26). The proposed ordinance is within the City's regulatory power and is the type of alcohol related regulation that has been validated by the courts. Korean American Legal Advocacy Foundation v. City of Los Angeles (1994) 23 Cal. App. 4th 376. The proposed ordinance includes a regulatory fee that would be established by a future City Council resolution. The fee would be applied to all off-sale alcohol establishments that either have an existing status or obtained a CUP after the effective date of this ordinance. The fee would provide for the administration and enforcement of the proposed ordinance so as to recover the total cost to implement the program. The fee sections are contained in sections 28.80.500 and 30.185.075 (N).

### **Letter of Public Necessity and Mandatory Training**

The proposed ordinances also authorizes the Chief of Police to issue a Public Convenience or Necessity (PCN) whenever an applicant is required to obtain one by the ABC. In addition, all store managers and employees are required to complete the Responsible Beverage Service (RBS) Training within 6 months of the effective date of the Ordinances of 60 days from the start of their business or employment.

### **Enforcement**

Enforcement of the Ordinance by the City shall be conducted by the City staff who not only are able to bring forth a suspension or revocation at a hearing before the Planning Commission but also have the ability to issue less drastic enforcement measures such as Notices of Violation or Administrative fines pursuant to Chapter 1.25 of the Municipal Code.

### **CONCLUSION**

Staff believes that the proposed ordinance meets the City Council's intent in reducing nuisance activity and protecting the surrounding community. The Ordinances bring existing and new alcohol retail establishments under positive control of the Zoning Ordinances and allow the City quicker resolution of nuisance violations.

**PREPARED BY:** John Doimas, Assistant City Attorney

**SUBMITTED BY:** Ariel Calonne, City Attorney

**APPROVED BY:** City Administrator's Office



# City of Santa Barbara

## Police Department

www.sbpd.com

December 21, 2023

Santa Barbara Market Corporation  
Amarjit Singh  
63 Lincoln Drive  
Ventura, CA 93001

### Chief's Office

805.897.2395

### General Information

805.897.2300

### Animal Control

805.963.1513

### Business Office

805.897.2400

### Community Services

805.897.3717

### Dispatch

805.897.2410

### Office of Emergency

### Services

805.897.3725

### Parking

805.897.2360

### Patrol

805.897.2392

### Records

805.897.2355

215 E. Figueroa St.

Santa Barbara, CA

93101

PO Box 539

Santa Barbara, CA

93102

Dear Mr. Singh:

In accordance with the provisions of **the City of Santa Barbara Off Sale Alcohol Regulation Ordinance**, the Santa Barbara Police Department has determined that the proposed liquor license application:

**Bus. Loc:** 324 W. Montecito Street  
**Type:** 20: Off-Sale Beer & Wine (Store)  
**Business Name:** Santa Cruz Market  
**Applicant(s):** Santa Barbara Market Corporation/Amarjit Singh

**will** satisfy the public convenience and necessity.

Sincerely,

Kelly Gordon  
Chief of Police

Joshua Morton  
Commander  
Strategic Operations Division



**General Plan Policies  
Santa Cruz Market  
PLN2024-00027**

**Land Use Element (2011)**

- LG2. **Limit Non-Residential Growth.** Establish the net new non-residential square-foot limitations through the year 2030 at 1.35 million square feet, and assess the need for increases in non-residential square footage based on availability of resources, and on economic and community need through a comprehensive Adaptive Management Program.

The 1.35 million square feet of non-residential development potential shall be allocated to the three following categories:

<u>Category</u>	<u>Square Footage</u>
Small Additions	400,000
Vacant	350,000
Community Benefit	600,000

Non-residential square footage associated with Minor Additions, demolition and replacement of existing square-footage on-site, projects that are pending and approved as of time of ordinance adoption, government buildings, and sphere of influence annexations with existing development are not included in the 1.35 million square feet established above.

Existing permitted square footage not in the City, but in the sphere of influence, that is part of an annexation shall not count as new square footage necessitating a growth management allocation. However, once annexed, all development or developable parcels that propose net new square footage are subject to the limitations of the City's growth management ordinance.

*Possible Implementation Actions to be Considered*

- LG2.1 Amount of Non-Residential Growth. Provided it is demonstrated that it can be supported by available resources capacities, amend the City's Development Plan Ordinance (SBMC Section 28.87.300) to limit net new non-residential growth to 1.35 million square feet. Amend the non-residential development categories and allocation amounts to reflect this new development potential.
- LG2.2 Set Aside. Any square footage which is not utilized in any category shall be set aside for possible use after twenty years, or used during that twenty year period for a project approved by the voters.
- LG2.3 Findings. Develop findings to assure that resources will be available and public benefit improvements will be in place at the time the project is ready for occupancy.
- LG2.4 Transfer of Existing Development Rights (TEDR). Study the existing TEDR Ordinance and the disposition of future demolished non-residential square footage that is not rebuilt.

LG4. **Principles for Development.** Establish the following Principles for Development to focus growth, encourage a mix of land uses, strengthen mobility options and promote healthy active living.

- Focus Growth. Encourage workforce and affordable housing within a quarter mile of frequent transit service and commercial services through smaller units and increased density, transit resources, parking demand standards, targeted infrastructure improvements, and increased public areas and open space. Incorporate ideas as a result of an employee survey.
- Mix of Land Uses. Encourage a mix of land uses, particularly in the Downtown to maintain its strength as a viable commercial center, to include retail, office, restaurant, residential, institutional, financial and cultural arts, encourage easy access to basic needs such as groceries, drug stores, community services, recreation, and public space.
- Mobility and Active Living. Link mixed-use development with main transit lines; promote active living by encouraging compact, vibrant, walkable places; encourage the use of bicycles; and reduce the need for residential parking.

LG7. **Community Benefit Non-Residential Land Uses.** Community Benefit Land Uses are determined and defined by City Council and shall include the following categories:

- Community Priority,
- Economic Development,
- “Green” Economic Development,
- Small and Local Business, or
- Development of Special Needs

*Possible Implementation Action to be Considered*

LG7.1 Findings. Develop project level findings of approval for the following Community Benefit Non-residential development uses:

- a. Community Priority Development. This type of project addresses a present or projected need directly related to public health, safety or general welfare including but not limited to:
  - Parks and recreation facilities;
  - Community centers;
  - Educational institutions and uses including schools;
  - Public cultural or arts facilities;
  - Youth development programs and childcare facilities; and
  - Community gardens and urban farming; or
- b. Economic Development. This type of project enhances the standard of living for City and South Coast residents and/or strengthens the local and regional economy by expanding economic diversity, such as providing a new or under-represented service or commodity; or
- c. “Green” Economic Development. Business that provides “green” products or “green-collar” jobs (e.g., sustainable water, energy and waste management

facilities, or green building products, or climate change research, but not solely a green building or structure); or

- d. Small and Local Business. A small and/or local business in the community that is started, maintained, relocated, redeveloped or expanded; or
- e. Development for Special Needs. A project that meets the present or projected needs of people with disabilities, the workforce that provides them direct support, and the agencies or organizations providing programs and services to them.

LG15. **Sustainable Neighborhood Planning.** Neighborhoods shall be encouraged to preserve and enhance the sense of place, provide opportunities for healthy living and accessibility, while reducing the community's carbon footprint.

*Possible Implementation Actions to be Considered*

LG15.1 Sustainable Neighborhood Plans (SNPs). Develop comprehensive SNPs through-out the City (where desired by residents). A SNP may incorporate goals, objectives, policies and implementation actions addressing the following components, as applicable:

- a. A variety of housing types and affordability ranges;
- b. Neighborhood-serving commercial uses, especially retail food establishments such as small markets, green groceries, coffee shops;
- c. New grocery stores in underserved areas;
- d. Parks, recreational facilities, trails;
- e. Community gardens;
- f. Street tree planting program;
- g. Watershed protection, creeks restoration, public access to creeks;
- h. Transit, bicycle (including new Class 1 bike paths) and vehicle connectivity;
- i. Walkable streets with an appealing and comfortable pedestrian environment that promote physical activity and can be used safely by people of all ages or abilities including wheelchairs;
- j. Traffic calming along walkable and bicycle routes to school;
- k. Reduced impervious area (such as street and parking areas);
- l. Community services (e.g., schools, branch library, community center, clinics, etc.);
- m. Childcare and senior serving facilities;
- n. General safety (e.g., lighting); and
- o. Infrastructure needs.

**Economy and Fiscal Health Element (2011)**

EF2. **Environmental Effects of Commercial Growth.** Manage commercial growth to protect the City's environment and unique qualities.

EF4. **Existing Businesses.** Give priority to retaining existing enterprises as the best source of business expansion and local job growth, and encourage government, businesses and

residents to patronize local businesses and contractors, by working with local businesses to initiate a “Buy Local” program, with the City setting the example.

- EF6. **Minority Businesses.** Support minority-owned/operated businesses to assist in preserving cultural diversity through focused promotional programs.
- EF14. **Local Needs.** Encourage enterprises that serve the needs of existing local residents, workers, and businesses.
- EF21. **Small Businesses.** Continue to recognize the economic importance of small business in the community and promote programs to encourage their continued economic vitality and flexibility in future expansion.

### **Environmental Resources Element (2011)**

- ER7. **Highway 101 Set-Back.** New development of residential or other sensitive receptors (excluding minor additions or remodels of existing homes or one unit on vacant property) on lots of record within 250 feet of U.S. Hwy 101 will be prohibited in the interim period until California Air Resources Board (CARB) phased diesel emissions regulations are implemented and/or until the City determines that diesel emission risks can be satisfactorily reduced or that a project’s particulate exposure level is sufficiently reduced. The City will monitor the progress of CARB efforts and progress on other potential efforts or measures to address diesel emissions risks.

#### *Possible Implementation Actions to be Considered*

ER7.1 Review Criteria. Prepare project review criteria for the set-back area.

ER7.2 Barriers and Sound Walls. Pursue funding and installation of sound walls, trees and shrubs along unprotected areas of U.S. Hwy 101 to create a barrier to reduce particulate transmissions. Barriers and sound walls to be consistent with the Highway Santa Barbara Coastal Parkway Design Guidelines.

### **Conservation Element (1979, prior amendment 1994)**

#### **AIR QUALITY**

- 2.0 Improve the attractiveness and safety of bicycle use as an alternate mode of travel for short- and medium-distance trips.
  - 2.1 Revise the zoning ordinance to require the installation of secure bicycle storage facilities for all new commercial development and redevelopment.
- 4.0 Discourage and, where possible, prohibit land uses which unnecessarily contribute to air quality degradation.
  - 4.1 Prohibit the construction of, and/or conversion to, drive-through facilities.
  - 4.2 Develop a program to equitably phase out all existing drive-through facilities.
  - 4.3 Institute controls that will address the construction of any new facilities which add significantly or will cumulatively result in a significant increase in air quality degradation.

- 4.4 Encourage cooperation between City and County jurisdictions to develop additional air quality monitoring stations to obtain better information regarding air quality.

### **Circulation Element (1997, original 1964)**

#### **NEIGHBORHOOD SERVING USES**

13.5 Determine the need for residential neighborhood services and commercial uses that support the City's mobility goals. Provide opportunities to address those needs, while preserving and protecting the neighborhood character.

13.5.1 Allow small scale neighborhood serving commercial uses in residential areas if supported by affected property owners. Ensure that the character of the surrounding neighborhood is protected.

13.5.2 Consider amending the Zoning Ordinance to:

- reduce or eliminate automobile parking requirements for small scale neighborhood serving commercial uses,
- encourage the establishment of new social/neighborhood centers, and
- grandfather existing non-conforming uses.