



# Agenda of the National City Planning Commission

Meeting of November 7, 2022 – 6:00 p.m.

**ONLINE ONLY MEETING**

<https://www.nationalcityca.gov/webcast>

**LIVE WEBCAST**

Council Chambers, Civic Center

1243 National City Boulevard

National City, CA 91950

**NOTICE:** The health and well-being of National City residents, visitors, and employees during the COVID-19 outbreak remains our top priority. The City of National City is coordinating with the County of San Diego Health Human Services Agency, and other agencies to take measures to monitor and reduce the spread of the novel coronavirus (COVID-19). **The World Health Organization has declared the outbreak a global pandemic and local and state emergencies have been declared providing reprieve from certain public meeting laws such as the Brown Act.**

As a result, the National City Housing Planning Commission Meeting will occur only online to ensure the safety of City residents, employees, and the communities we serve. A live webcast of the meeting may be viewed on the city's website at <https://www.nationalcityca.gov/webcast>.

**PUBLIC COMMENTS:** There are multiple ways you can make sure your opinions are heard and considered by our Planning Commission as outlined below:

**Submit your public comment prior to the meeting:** To submit a comment in writing, email [PlcPubComment@nationalcityca.gov](mailto:PlcPubComment@nationalcityca.gov) and provide the agenda item number and title of the item in the subject line of your email. **Public comments or testimony is limited to up to three (3) minutes.**

**If the comment is not related to a specific agenda item,** indicate General Public Comment in the subject line. All email comments received by 4:00 p.m. on the day of the meeting will be posted on the City website and retained as part of the official record.

**Register online and participate in live public comment during the meeting:** To provide live public comment during the meeting, you must pre-register on the City's website at <https://www.nationalcityca.gov/government/community-development/planning/public-comment> by 4:00 p.m. on the day of the meeting to join the National City Planning Commission Meeting.

**\*\*\*Please note that you do not need to pre-register to watch the meeting online, but you must pre-register if you wish to speak.**

Once registered, you will receive an email with a link from Zoom to join the live meeting. You can participate by phone or by computer. Please allow yourself time to log into Zoom before the start of the meeting to ensure you do not encounter any last-minute technical difficulties.

**\*\*\*Please note that members of the public will not be shown on video; they will be able to watch and listen and speak when called upon.**

Public microphones will be muted until it is your turn to comment. Each speaker is allowed up to three (3) minutes to address the Planning Commission. Please be aware that the Chair may

limit the comments' length due to the number of persons wishing to speak or if comments become repetitious or unrelated. All comments are subject to the same rules as would otherwise govern speaker comments at the meeting. Speakers are asked to be respectful and courteous. Please address your comments to the Planning Commission as a whole and avoid personal attacks against members of the public, Planning Commissioners, and City staff.

*Upon request, this agenda can be made available in appropriate alternative formats to persons with a disability in compliance with the Americans with Disabilities Act. Please contact the Planning Department at (619) 336-4310 to request a disability-related modification or accommodation. Notification 24 hours prior to the meeting will enable the City to make reasonable arrangements to ensure accessibility to this meeting.*

Welcome to the National City Planning Commission meeting. The National City Planning Commission conducts its meeting in the interest of community benefit. Your participation is helpful. These proceedings are video recorded.

## **A. PLANNING COMMISSION MEETING**

### **Roll Call**

### **Pledge of Allegiance by Commissioner Ricardo Sanchez**

### **Approval of Minutes**

1. Approval of Minutes from the Meeting of October 17, 2022

### **Approval of Agenda**

2. Approval of the Agenda for the Meeting on November 7, 2022

### **ORAL COMMUNICATIONS (3 MINUTE TIME LIMIT).**

NOTE: Under State law, items requiring Planning Commission action must be brought back on a subsequent agenda unless they are of a demonstrated emergency or urgent nature.

### **PRESENTATIONS**

3. Training regarding legal requirements and the process for Planning Commission Hearings.

### **CONTINUED PUBLIC HEARINGS**

### **PUBLIC HEARINGS**

4. Resolution taking action on a Conditional Use Permit for beer and wine sales (ABC Type-41) at an existing restaurant (Nigeria Breeze Restaurant) located at 925 East Plaza Boulevard Suite 106. (Case File No: 2022-29 CUP)

5. Resolution taking action on a Conditional Use Permit for off-sales beer and wine (ABC Type 20) at an existing convenience store (Real Star Market) located at 925 East Plaza Boulevard Suite 103. (Case File No: 2022-30 CUP)
6. Resolution taking action on a Code Amendment Amending Title 18 (Zoning) of the National City Municipal Code to create an Interim Use Ordinance related to the use of nonconforming buildings within the City. (Case File No: 2022-28 A)

### **OTHER BUSINESS**

7. Request for direction on virtual or physical attendance for future Planning Commission meetings.

### **STAFF REPORTS**

Consulting Legal Counsel

Director of Community Development

Planning Manager

Commissioners

Chairperson

### **ADJOURNMENT**

Adjournment to the regularly scheduled meeting on November 21, 2022 at 6:00 p.m.



COMMUNITY DEVELOPMENT DEPARTMENT - PLANNING DIVISION  
1243 NATIONAL CITY BLVD., NATIONAL CITY, CA 91950

**PLANNING COMMISSION STAFF REPORT**

Title: PUBLIC HEARING – CONDITIONAL USE PERMIT FOR BEER AND WINE SALES (ABC TYPE-41) AT AN EXISTING RESTAURANT (NIGERIA BREEZE RESTAURANT) LOCATED AT 925 EAST PLAZA BOULEVARD, SUITE 106.

Case File No.: 2022-29 CUP

Location: 925 East Plaza Blvd- Plaza Village Center

Assessor's Parcel Nos.: 556-590-63

Staff report by: Adan Pacheco – Planning Technician

Applicant: Anwar Spatafore

Zoning designation: MXD-2 (Major Mixed-Use District)

Adjacent use and zoning:

North: Single-family residences / MXD-2

East: AT&T retail outlet / MXD-2

South: South Bay Plaza / MXD-2

West: AutoZone / MXD-2

Environmental review: The proposed project has been reviewed in compliance with the California Environmental Quality Act (CEQA) and has been determined to be categorically exempt from environmental review pursuant to Class 1, Section 15301 (Existing Facilities) for which a Notice of Exemption will be filed subsequent to approval of this Conditional Use Permit

Staff recommendation: Approve subject to attached conditions.

### Staff Recommendation

Staff recommends approval of the sale of on-site beer and wine, subject to the attached recommended conditions. The sale of beer and wine is a conditionally-allowed use in the Major Mixed-Use District (MXD-2) zone and would be accessory to food sales at the restaurant.

### Executive Summary

The restaurant (Nigeria Breeze Restaurant) has applied for a California Department of Alcoholic Beverage Control (ABC) Type 41 license to sell beer and wine with food at the subject restaurant. Hours of operation are from 10:00 a.m. to 9:00 p.m. Monday through Saturday with Sunday closed.

### Site Characteristics

Nigeria Breeze is an existing family-run Nigerian restaurant located in Plaza Village Center at 925 East Plaza Boulevard, Suite 106. The restaurant occupies a 1,760 square foot suite. There is no existing or proposed outside seating area for the restaurant. Parking spaces in the shopping center are sufficient and no new interior improvements have been made.

The Plaza Village Center is mostly where commercial establishments are located. Nigeria Breeze faces both the parking lot and East Plaza Blvd. on the northwest corner of the shopping mall. Single-family homes border the site to the north and are separated by a retaining wall.

### Proposed Use

The applicant is proposing to sell beer and wine (ABC Type 41) in conjunction with on-site food sales in the 1,760 square-foot restaurant. Proposed hours of operation are 10:00 a.m. to 9:00 p.m. Monday through Saturday with every Sunday closed. The seating area is comprised of 466 square feet that is all located indoors. No live entertainment is proposed.

### Analysis

Section 18.30.050 of the Land Use Code allows for on-site alcohol sales with an approved Conditional Use Permit (CUP). Additional requirements for alcohol CUPs include expanded notification, a community meeting, and distance requirements.

Mailing – All property owners and occupants within a distance of 660 feet are required to be notified of a public hearing for alcohol-related CUP applications. Notice of this public hearing was sent to 358 occupants and owners.

Community Meeting – Pursuant to Section 18.30.050 (C) of the National City Zoning Code, a community meeting was held on Friday, September 23, 2022 from 2:00 p.m. to 3:00 p.m. at the subject restaurant. The meeting advertisement is attached (Attachment 8); there were twenty-five attendees from the community. The applicant stated that the same owners and occupants that were notified of the Planning Commission meeting were notified of the community meeting.

Distance Requirements – In accordance with Chapter 18.030.050 (D) of the National City Zoning Code, restaurants must be 660 feet away from any public school. Restaurants that devote more than 30% of their space to dining are exempt from this rule. However, Nigeria Breeze Restaurant is not within 660 feet of Central Elementary School.

#### Alcohol Sales Concentration/Location

Per the California Department of Alcoholic Beverage Control (ABC), there are currently 15 on-site licenses in census tract 117 where a maximum of eight are recommended, meaning that the census tract is considered by ABC to be over-saturated with regard to alcohol sales outlets. The area between National City Boulevard and "N" Avenue, as well as East 8th Street and East 18th Street, is included in Census Tract 117.

#### Police Department (PD)

The ABC Risk Assessment provided by PD allocated a total of 11 points, which places it in the Low Risk category (Low Risk is considered 12 points or less). The risk assessment is included as Attachment 7.

#### Institute for Public Strategies (IPS)

No comments were received from IPS as of the writing of this report, although they usually recommend at least the need for Responsible Beverage Sales and Service (RBSS) training for all staff. This is a standard condition of approval and is included with this report.

#### Findings for Approval

The Municipal Code contains six required findings for CUPs as follows:

1. The proposed use is allowable within the applicable zoning district pursuant to a Conditional Use Permit and complies with all other applicable provisions of the Land Use Code.

The use is allowable within the MXD-2 zone pursuant to a CUP and the proposed use meets the required guidelines in the Land Use Code for alcohol sales, as discussed in the staff report. It is incidental to the proposed restaurant use in a commercial area.

2. The proposed use is consistent with the General Plan and any applicable specific plan.

Alcohol sales are permitted, subject to a CUP, by the Land Use Code, which is consistent with the General Plan. There is no Specific Plan in the area. In addition, a restaurant use is consistent with the MXD-2 land use designation contained in the Land Use and Community Character element of the General Plan

3. The design, location, size, and operating characteristics of the proposed activity would be compatible with the existing and future land uses in the vicinity.

No expansion of the building is proposed. The proposal involves an existing commercial space, which was previously analyzed for traffic impacts when it was constructed.

4. The site is physically suitable for the type, density, and intensity of use being proposed, including access, utilities, and the absence of physical constraints.

The proposed alcohol sales would be incidental to the primary use of food sales and because the restaurant exists on the site.

5. Granting the permit would not constitute a nuisance or be injurious or detrimental to the public interest, health, safety, convenience, or welfare, or materially injurious to persons, property, or improvements in the vicinity and zone in which the property is located.

The proposed use will be subject to conditions that limit the sale of beer and wine as well as the hours that it will be available. Beer and wine will only be available with the sale of food. In addition, all staff members serving alcohol are required to receive RBSS training.

6. The proposed project has been reviewed in compliance with the California Environmental Quality Act (CEQA).

The proposed project has been reviewed in compliance with the California Environmental Quality Act (CEQA) and has been determined to be categorically exempt from environmental review pursuant to Class 1, Section 15301 (Existing Facilities) for which a Notice of Exemption will be filed subsequent to approval of this Conditional Use Permit. The reason for the exemption is that no expansion of the building is proposed, the use would basically be the same as the current use and the use is similar to other commercial uses in the area, which are permitted in the MXD-2 zone.

The following two findings are also included with alcohol CUPs:

7. The proposed use is deemed essential and desirable to the public convenience or necessity.

Alcohol sales will contribute to the viability of the restaurant, an allowed use in the MXD-2 zone.

8. Based on findings 1 through 7 above, public convenience and necessity will be served by a proposed use of the property for the on-site sales of alcoholic beverages in accordance with applicable law and the recommended conditions.

The use, as proposed and conditioned, will operate in harmony with surrounding uses, will not cause a nuisance, and will benefit the community looking for a quality dining experience.

#### Conditions of Approval

Standard Conditions of Approval have been included with this permit as well as conditions specific to on-site alcohol sales per Council Policy 707 (hours of operation, employee training, and accessory sales, etc.).

Summary

The proposed use is consistent with the General Plan due to alcohol sales for on-site consumption being a conditionally-allowed use in the MXD-2 zone. The proposed use would be incidental to the proposed restaurant use in a commercial area. The addition of on-site beer and wine sales is not expected to increase the demand for parking, other services on the property, or have any significant effects on the area. Although the census tract in which the restaurant is located is over-concentrated with regard to on-sale alcohol licenses, beer and wine will only be available with the sale of food and the Police Department has ranked the business in the Low Risk category.

Options

1. Approve 2022-29 CUP subject to the conditions listed within, or other conditions, based on the attached findings, or findings to be determined by the Planning Commission; or
2. Deny 2022-29 CUP based on findings to be determined by the Planning Commission; or,
3. Continue the item to a specific date in order to obtain additional information.

Attachments

1. Recommended Findings
2. Recommended Conditions of Approval
3. Overhead
4. Applicant's Plans (Exhibit A, Case File No. 2022-29 CUP, dated 10/4/2022)
5. Public Hearing Notice (Sent to 358 property owners & occupants)
6. Census Tract & Police Beat Maps
7. Police Department Comments
8. Community Meeting Advertisement
9. Resolution



ADAN PACHECO  
Planning Technician



ARMANDO VERGARA  
Director of Community Development

## **RECOMMENDED FINDINGS FOR APPROVAL**

### 2022-29 CUP – Nigeria Breeze Restaurant

1. The proposed use is allowable within the applicable zoning district pursuant to a Conditional Use Permit and complies with all other applicable provisions of the Land Use Code, because the use is permitted within the MXD-2 zone pursuant to a CUP and the proposed use meets the required guidelines in the Land Use Code for alcohol sales. As it is incidental to the proposed restaurant use in a commercial area.
2. The proposed use is consistent with the General Plan and any applicable specific plan, because alcohol sales are permitted, subject to a CUP, by the Land Use Code, which is consistent with the General Plan. There is no Specific Plan in the area. In addition, a restaurant use is consistent with the MXD-2 land use designation contained in the Land Use and Community Character element of the General Plan.
3. The design, location, size, and operating characteristics of the proposed activity would be compatible with the existing and future land uses in the vicinity, because no expansion of the building is proposed. The proposal involves an existing commercial space, which was previously analyzed for traffic impacts when it was constructed.
4. The site is physically suitable for the type, density, and intensity of use being proposed, including access, utilities, and the absence of physical constraints, because the proposed alcohol sales would be incidental to the primary use of food sales, and because the restaurant exists on the site.
5. Granting the permit would not constitute a nuisance or be injurious or detrimental to the public interest, health, safety, convenience, or welfare, or materially injurious to persons, property, or improvements in the vicinity and zone in which the property is located, because the proposed use will be subject to conditions that limit the sale of beer and wine as well as the hours that it will be available. Beer and wine will only be available with the sale of food. In addition, all staff members serving alcohol are required to receive Responsible Beverage Sales and Service (RBSS) training.
6. The proposed project has been reviewed in compliance with the California Environmental Quality Act (CEQA) and has been determined to be categorically exempt from environmental review pursuant to Class 1, Section 15301 (Existing Facilities) for which a Notice of Exemption will be filed subsequent to approval of

this Conditional Use Permit. The reason for the exemption is that no expansion of the building is proposed, the use would basically be the same as the current use and the use is similar to other commercial uses in the area, which are permitted in the MXD-2 zone.

7. The proposed use is deemed essential and desirable to the public convenience or necessity, because alcohol sales will contribute to the viability of the restaurant, an allowed use in the MXD-2 zone.
8. Based on findings 1 through 7 above, public convenience and necessity will be served by a proposed use of the property for the on-site sales of alcoholic beverages in accordance with applicable law and the recommended conditions. The use, as proposed and conditioned, will operate in harmony with surrounding uses, will not cause a nuisance, and will benefit the community looking for a quality dining experience.

## **RECOMMENDED CONDITIONS OF APPROVAL**

### 2022-29 CUP – Nigeria Breeze Restaurant

#### General

1. This Conditional Use Permit authorizes the sale of beer and wine for on-site consumption at an existing restaurant (Nigeria breeze Restaurant) located at 925 East Plaza Boulevard, Suite 106. Plans submitted for permits associated with this project shall conform to Exhibit A, Case File No. 2022-29 CUP, dated 10/04/2022.
2. Before this *Conditional Use Permit* shall become effective, the applicant and the property owner shall both sign and have notarized an Acceptance Form, provided by the Planning Division, acknowledging and accepting all conditions imposed upon the approval of this permit. Failure to return the signed and notarized Acceptance Form within 30 days of its receipt shall automatically terminate the *Conditional Use Permit*. The applicant or owner shall also submit evidence to the satisfaction of the Planning Division that a Notice of Restriction on Real Property is recorded with the County Recorder. The applicant or owner shall pay necessary recording fees to the County. The Notice of Restriction shall provide information that conditions imposed by approval of the *Conditional Use Permit* are binding on all present or future interest holders or estate holders of the property. The Notice of Restriction shall be approved as to form by the City Attorney and signed by the Director of Community Development prior to recordation.
3. This permit shall become null and void at such time as there is no longer a Type 41 California Department of Alcoholic Beverage Control license associated with the property.
4. This permit shall become null and void if not exercised within one year after adoption of the resolution of approval unless extended according to procedures specified in the Municipal Code.
5. This permit shall expire if the use authorized by this resolution is discontinued for a period of 12 months or longer. This permit may also be revoked, pursuant to provisions of the Land Use Code, if discontinued for any lesser period of time.
6. This *Conditional Use Permit* may be revoked if the operator is found to be in violation of any Conditions of Approval or applicable law.

#### Planning

7. No alcohol sales are permitted until the applicant has been issued a Type 41 license from the California Department of Alcoholic Beverage Control.
8. All sellers and servers of alcohol shall receive Responsible Beverage Service and Sales (RBSS) training, including all owners, and managers. The RBSS training must

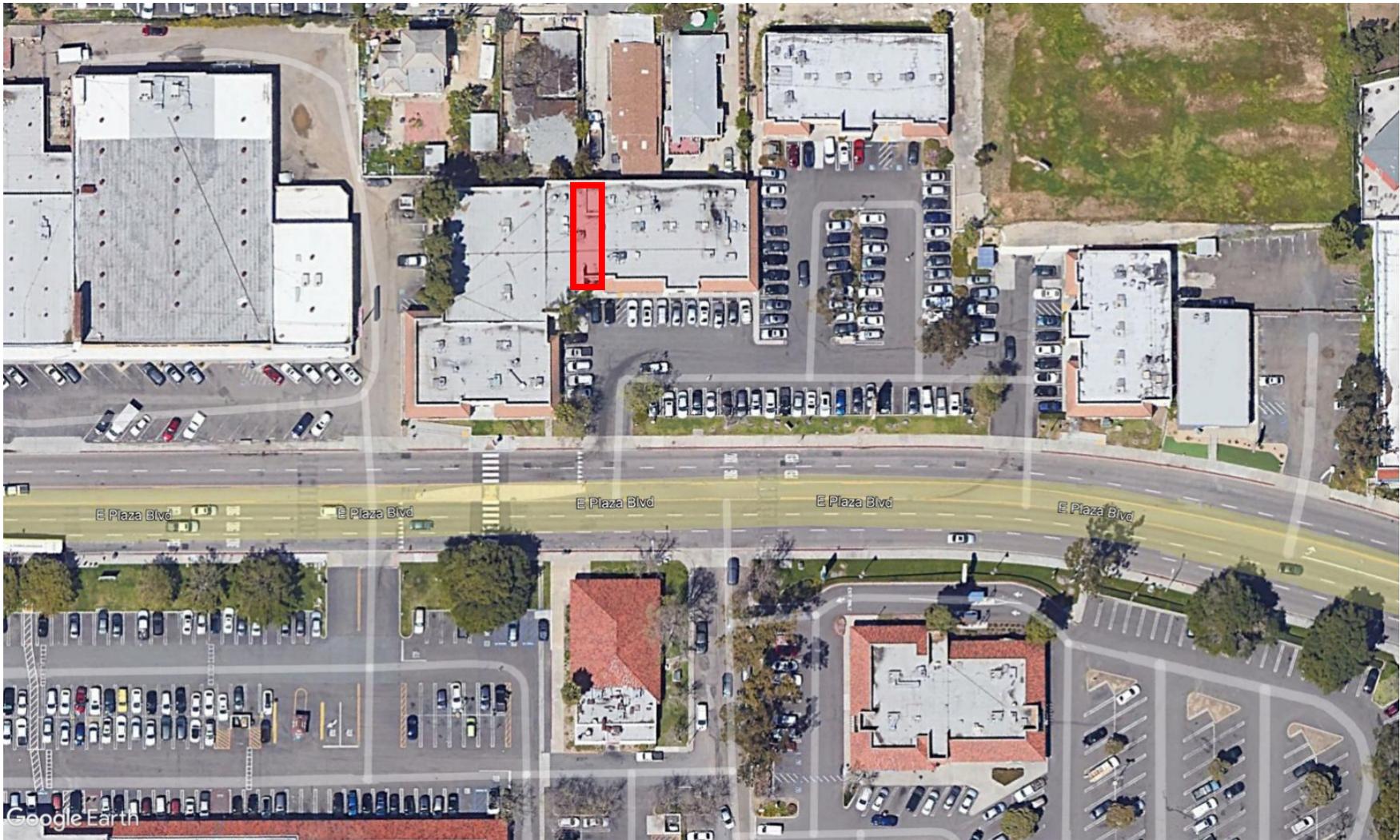
be certified by the Department of Alcoholic Beverage Control (ABC). Proof of completion of an approved RBSS program must be provided prior to issuance of a city business license. As part of the RBSS training, the permittee shall make available a domestic violence training session as provided by the Institute of Public Strategies.

9. The sale of alcoholic beverages shall only be permitted between the hours of 10:00 a.m. and 9 p.m. Monday through Saturday.
10. The sale of alcohol shall not exceed the sale of food. With the annual renewal of the City business license, the business proprietor shall submit a statement clearly indicating total alcoholic beverage sales and total food sales. Said statement shall be subject to audit and verification by employees of the City, who are authorized to examine, audit and inspect such books and records of the license, as may be necessary in their judgment to verify that the sale of alcohol does not exceed the sale of food. All information obtained by an investigation of records shall remain confidential.
11. Alcohol shall be available only in conjunction with the purchase of food.
12. Permittee shall post signs at all exits to outdoor areas, indicating that alcoholic beverages must be consumed inside the restaurant or patio area and may not be taken off-premises.
13. No live entertainment shall be permitted without modification of this CUP.
14. The operator of the business shall maintain an active business license and ensure that the business license is renewed annually.

#### Police

15. The permittee shall comply with all applicable law, including, but not limited to the regulatory provisions of the Business and Professions Code that pertain to the sale, serving, and consumption of alcoholic beverages.

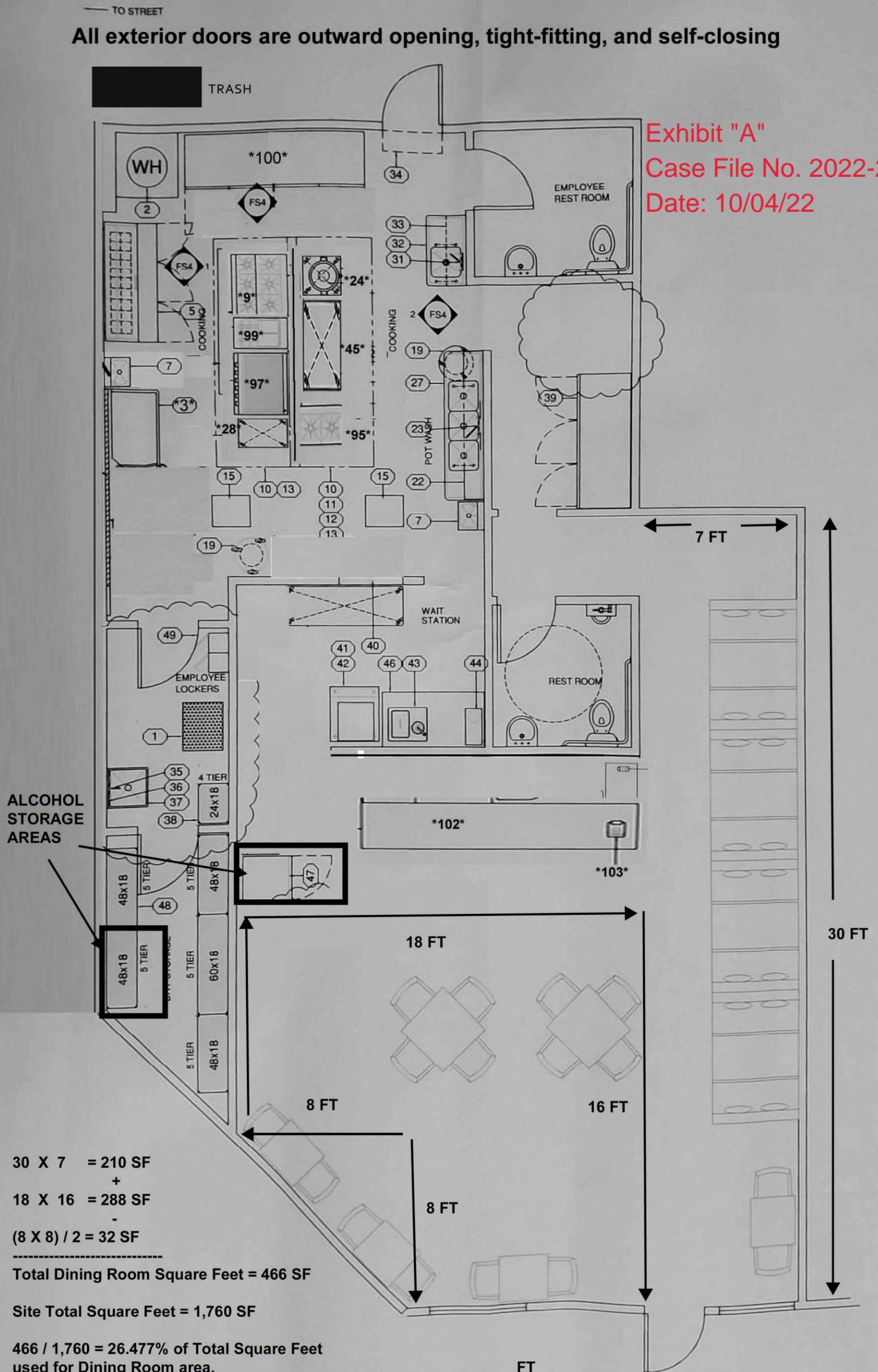
2022-29 CUP – 925 E. Plaza Blvd., Ste. 106 – Overhead



**NIGERIA BREEZE RESTAURANT**  
**925 E PLAZA BLVD, STE 106**  
**NATIONAL CITY, CA 91950**

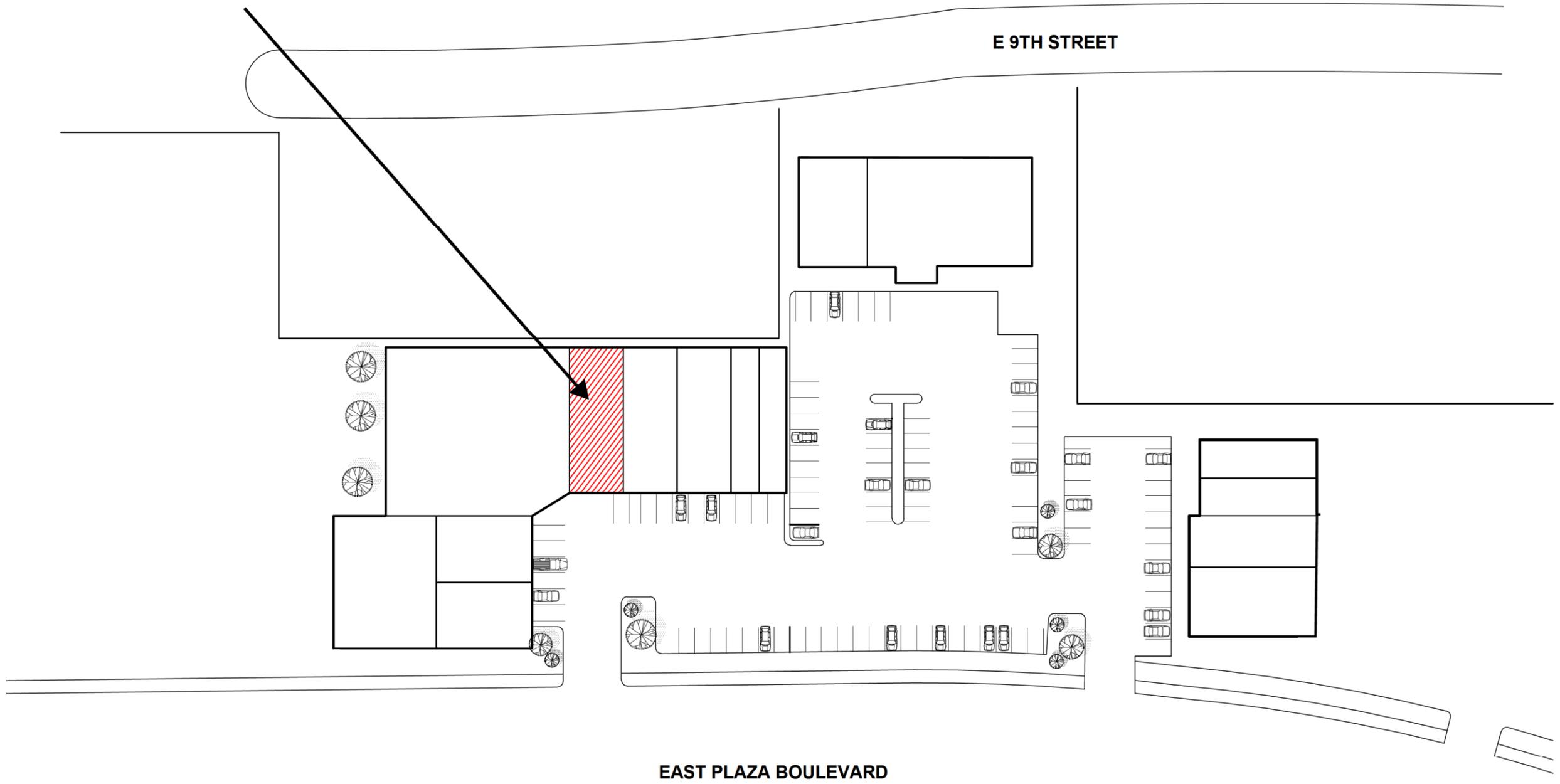
**BEER AND WINE PERMIT APPLICATION**  
**NATIONAL CITY CONDITIONAL USE PERMIT**

**DIINING ROOM SQUARE FOOTAGE VS TOTAL SITE SPACE**  
**& ALCOHOL STORAGE AREAS**



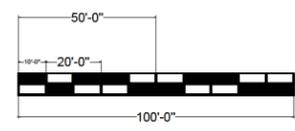
All exterior doors are outward opening, tight-fitting, and self-closing

**NIGERIA BREEZE RESTAURANT  
925 E PLAZA BLVD STE 106  
NATIONAL CITY, CA 91950**



**EAST PLAZA BOULEVARD**

**E 9TH STREET**



# **SITE PLAN**

**925 E PLAZA BLVD STE 106, NATIONAL CITY, CA 91950  
APN: 556-590-63-00**

**ATTACHMENT 4**

**PROJECT MANAGER/SITE PLAN DESIGNER:  
© 2022 by STRATEGIC ACCESS  
(858) 876-7325 permits@strategicaccess.org**



COMMUNITY DEVELOPMENT DEPARTMENT - PLANNING DIVISION  
1243 NATIONAL CITY BLVD., NATIONAL CITY, CA 91950

NOTICE OF PUBLIC HEARING  
CONDITIONAL USE PERMIT FOR BEER AND WINE SALES  
AT AN EXISTING RESTAURANT (NIGERIA BREEZE RESTAURANT)  
LOCATED AT 925 EAST PLAZA BOULEVARD SUITE 106  
CASE FILE NO.: 2022-29 CUP

The National City Planning Commission will hold a public hearing at their regular online meeting after the hour of 6:00 p.m. **Monday, November 7, 2022** on the proposed request. The meeting will be LIVE WEBCAST from the City Council Chamber, 1243 National City Boulevard, National City, California. (Applicant: Nigeria Breeze Restaurant LLC)

Due to the precautions taken to combat the spread of coronavirus (COVID-19), City Council Chambers is closed to the public. Anyone interested in this public hearing may observe it on the City's website at <http://nationalcityca.new.swagit.com/views/33>.

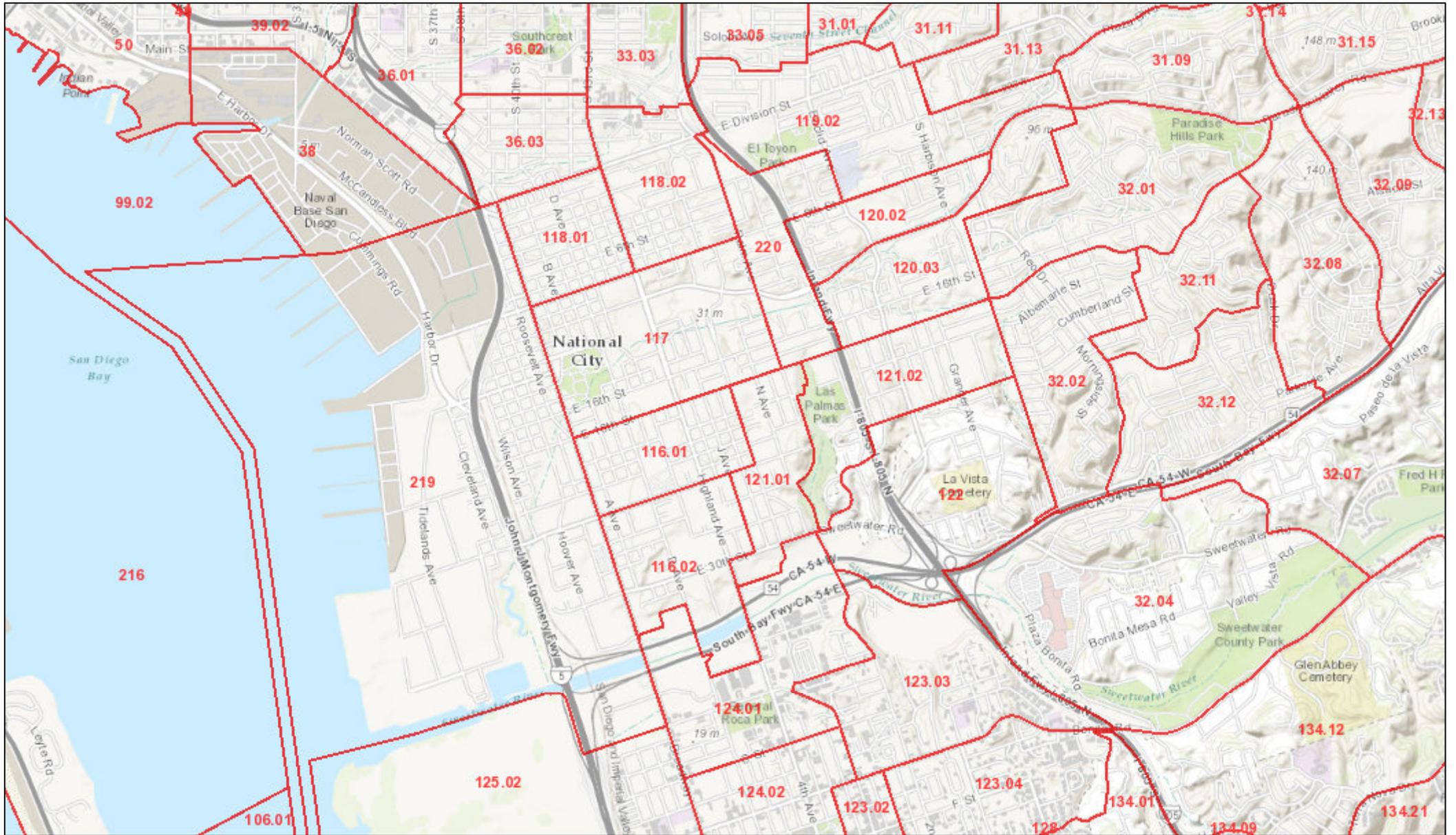
The applicant is proposing to sell beer and wine in conjunction with on-site food sales in a 1,760 square-foot restaurant (ABC Type 41). Proposed operation hours are 10:00 a.m. to 9:00 p.m. Monday through Saturday with Sunday closed. The seating area is comprised of 466 square feet that is all located indoors. No live entertainment is proposed.

Information is available for review at the City's Planning Division, Civic Center. Members of the public are invited to comment. Written comments should be received by the Planning Division on or before 4:00 p.m., **November 7, 2022** by submitting it to [PlcPubComment@nationalcityca.gov](mailto:PlcPubComment@nationalcityca.gov). Planning staff can be contacted at 619-336-4310 or [planning@nationalcityca.gov](mailto:planning@nationalcityca.gov).

If you challenge the nature of the proposed action in court, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice, or in written correspondence delivered to the Planning Commission at, or prior to, the public hearing.

NATIONAL CITY PLANNING DIVISION

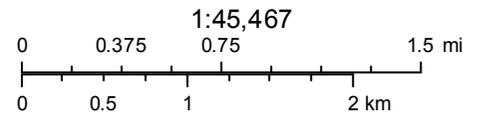
ARMANDO VERGARA  
Director of Community Development



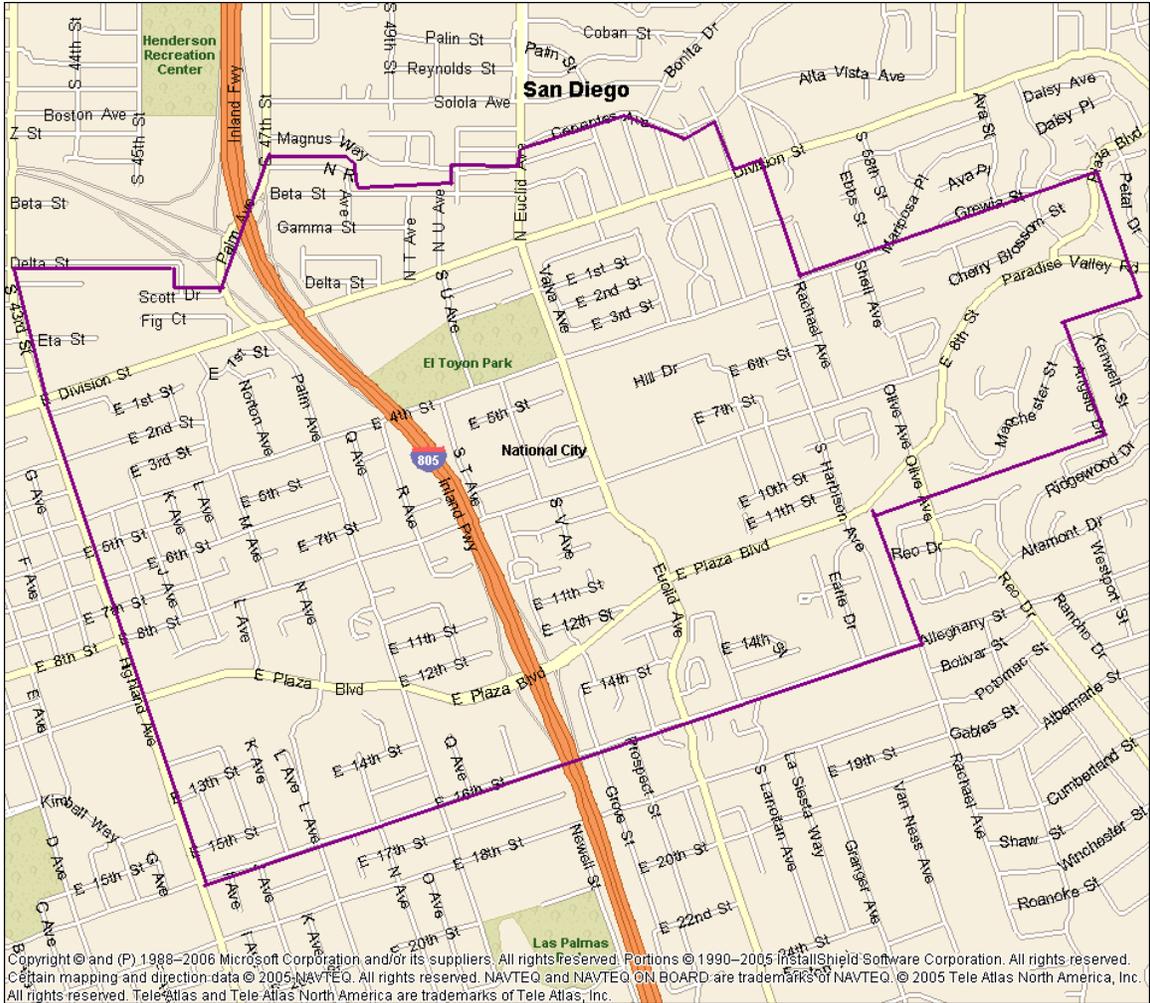
August 25, 2014

CensusTracts 2010

**ATTACHMENT 6**



Sources: Esri, HERE, DeLorme, TomTom, Intermap, increment P Corp., GEBCO, USGS, FAO, NPS, NRCAN, GeoBase, IGN, Kadaster NL, Ordnance Survey, Esri Japan, METI, Esri China (Hong Kong), swisstopo, MapmyIndia, © OpenStreetMap contributors, and the GIS User Community



# City of National City Beat 21



NATIONAL CITY POLICE DEPARTMENT
ALCOHOL BEVERAGE CONTROL
RISK ASSESSMENT

DATE: \_\_\_\_\_

BUSINESS NAME: \_\_\_\_\_

ADDRESS: \_\_\_\_\_

OWNER NAME: [REDACTED] DOB: [REDACTED]

OWNER ADDRESS: [REDACTED]

(add additional owners on page 2)

I. Type of Business

- Restaurant (1 pt)
Market (2 pts)
Bar/Night Club (3 pts)
Tasting Room (1pt)

II. Hours of Operation

- Daytime hours (1 pt)
Close by 11pm (2 pts)
Close after 11pm (3 pts)

III. Entertainment

- Music (1 pt)
Live Music (2 pts)
Dancing/Live Music (3 pts)
No Entertainment (0 pts)

IV. Crime Rate

- Low (1 pt)
Medium (2 pts)
High (3 pts)

V. Alcohol Businesses per Census Tract

- Below (1 pt)
Average (2 pts)
Above (3 pts)

Notes:

Notes section with 15 horizontal lines for text entry.

VI. Calls for Service at Location (for previous 6 months)

- Below (1 pt)
- Average (2 pts)
- Above (3 pts)

VII. Proximity Assessment (1/4 mile radius of location)

- Mostly commercial businesses (1 pt)
- Some businesses, some residential (2 pts)
- Mostly residential (3 pts)

Low Risk ( 12pts or less) Medium Risk (13 – 18pts) High Risk (19 – 24pts)  <b>Total Points</b> _____
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VIII. Owner(s) records check

- No criminal incidents (0 pts)
- Minor criminal incidents (2 pts)
- Multiple/Major criminal incidents (3 pts)

OWNER NAME: \_\_\_\_\_ DOB: \_\_\_\_\_

OWNER ADDRESS: \_\_\_\_\_

OWNER NAME: \_\_\_\_\_ DOB: \_\_\_\_\_

OWNER ADDRESS: \_\_\_\_\_

**Recommendation:**

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Completed by: \_\_\_\_\_ Badge ID: \_\_\_\_\_

**PROOF OF PUBLICATION**  
(2015.5 C.C.P.)

STATE OF CALIFORNIA,  
County of San Diego,

I hereby declare as follows: I am a citizen of the United States and a resident of the County of San Diego, in the State of California. I am over the age of eighteen years, and not a party to or interested in the subject of the affixed legal notice. I have personal knowledge of the within-stated facts and if called to testify, could and would do so competently. I am a legal clerk at the Uptown San Diego Examiner who is responsible for the publication of legal advertising in and for the Uptown San Diego Examiner, which was adjudged a newspaper of general circulation by the Superior Court of California in and for the County of San Diego, on February 19, 2016, case number 37-2015-00042239-CU-PT-CTL and which is printed and published in the City of San Diego, County of San Diego, State of California. The legal notice which is affixed hereto is an original of the legal notice which was published in each regular and entire issue of the Uptown San Diego Examiner and not in any supplement thereof, set in a type size and style as required by law, on the following dates to-wit:

9/16 9/23/2022

All in the year 2022

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Dated at San Diego, California, this 23 day of September,  
2022.

Signature



**ATTACHMENT 8**

Proof of Publication of

ATTENTION BEAUTIFUL PEOPLE OF  
NATIONAL CITY!!!!

We are holding a community meeting to discuss our application to sell Beer and Wine at Nigeria Breeze Restaurant. This meeting will be held on Friday 09/23/2022 between 2pm-3pm at 925 E. Plaza Blvd Ste 103, National City, CA 91950

9/16 9/23/2022 117225F

**PROOF OF PUBLICATION**  
(2015.5 C.C.P.)

STATE OF CALIFORNIA,  
County of San Diego,

I hereby declare as follows: I am a citizen of the United States and a resident of the County of San Diego, in the State of California. I am over the age of eighteen years, and not a party to or interested in the subject of the affixed legal notice. I have personal knowledge of the within-stated facts and if called to testify, could and would do so competently. I am a legal clerk at the Uptown San Diego Examiner who is responsible for the publication of legal advertising in and for the Uptown San Diego Examiner, which was adjudged a newspaper of general circulation by the Superior Court of California in and for the County of San Diego, on February 19, 2016, case number 37-2015-00042239-CU-PT-CTL and which is printed and published in the City of San Diego, County of San Diego, State of California. The legal notice which is affixed hereto is an original of the legal notice which was published in each regular and entire issue of the Uptown San Diego Examiner and not in any supplement thereof, set in a type size and style as required by law, on the following dates to-wit:

9/16 9/23/2022

All in the year 2022

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Dated at San Diego, California, this 23 day of September,  
2022.

Signature



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Proof of Publication of

ATTENTION BEAUTIFUL PEOPLE OF  
NATIONAL CITY!!!!

We are holding a community meeting to discuss our application to sell Bear and Wine at Nigeria Breeze Restaurant. This meeting will be held on Friday 09/23/2022 between 2pm-3pm at 925 E. Plaza Blvd Ste 103, National City, CA 91950

9/16 9/23/2022 117225F

RESOLUTION NO. 2022-23

A RESOLUTION OF THE PLANNING COMMISSION  
OF THE CITY OF NATIONAL CITY, CALIFORNIA  
APPROVING A CONDITIONAL USE PERMIT  
FOR BEER AND WINE SALES AT AN  
EXISTING RESTAURANT (NIGERIA BREEZE RESTAURANT)  
LOCATED AT 925 EAST PLAZA BOULEVARD SUITE 106  
CASE FILE NO. 2022-29 CUP  
APN: -556-590-63

WHEREAS, the Planning Commission of the City of National City considered a Conditional Use Permit for beer and wine sales at a new restaurant (Nigeria Breeze Restaurant) located at 925 East Plaza Boulevard Suite 106. At a duly advertised public hearing held on November 7, 2022, at which time oral and documentary evidence was presented; and,

WHEREAS, at said public hearing, the Planning Commission considered the staff report contained in Case File No. 2022-29 CUP maintained by the City and incorporated herein by reference along with evidence and testimony at said hearing; and,

WHEREAS, this action is taken pursuant to all applicable procedures required by State law and City law.

NOW, THEREFORE, BE IT RESOLVED by the Planning Commission of the City of National City, California, that the testimony and evidence presented to the Planning Commission at the public hearing held on November 7, 2022, support the following findings:

1. The proposed use is allowable within the applicable zoning district pursuant to a Conditional Use Permit and complies with all other applicable provisions of the Land Use Code, because the use is permitted within the MXD-2 zone pursuant to a CUP and the proposed use meets the required guidelines in the Land Use Code for alcohol sales. As it is incidental to the proposed restaurant use in a commercial area.
2. The proposed use is consistent with the General Plan and any applicable specific plan, because alcohol sales are permitted, subject to a CUP, by the Land Use Code, which is consistent with the General Plan. There is no Specific Plan in the area. In addition, a restaurant use is consistent with the MXD-2 land

use designation contained in the Land Use and Community Character element of the General Plan.

3. The design, location, size, and operating characteristics of the proposed activity would be compatible with the existing and future land uses in the vicinity, because no expansion of the building is proposed. The proposal involves an existing commercial space, which was previously analyzed for traffic impacts when it was constructed.
4. The site is physically suitable for the type, density, and intensity of use being proposed, including access, utilities, and the absence of physical constraints, because the proposed alcohol sales would be incidental to the primary use of food sales, and because the restaurant exists on the site.
5. Granting the permit would not constitute a nuisance or be injurious or detrimental to the public interest, health, safety, convenience, or welfare, or materially injurious to persons, property, or improvements in the vicinity and zone in which the property is located, because the proposed use will be subject to conditions that limit the sale of beer and wine as well as the hours that it will be available. Beer and wine will only be available with the sale of food. In addition, all staff members serving alcohol are required to receive Responsible Beverage Sales and Service (RBSS) training.
6. The proposed project has been reviewed in compliance with the California Environmental Quality Act (CEQA) and has been determined to be categorically exempt from environmental review pursuant to Class 1, Section 15301 (Existing Facilities) for which a Notice of Exemption will be filed subsequent to approval of this Conditional Use Permit. The reason for the exemption is that no expansion of the building is proposed, the use would basically be the same as the current use and the use is similar to other commercial uses in the area, which are permitted in the MXD-2 zone.
7. The proposed use is deemed essential and desirable to the public convenience or necessity, because alcohol sales will contribute to the viability of the restaurant, an allowed use in the MXD-2 zone.
8. Based on findings 1 through 7 above, public convenience and necessity will be served by a proposed use of the property for the on-site sales of alcoholic beverages in accordance with applicable law and the recommended conditions. The use, as proposed and conditioned, will operate in harmony with surrounding

uses, will not cause a nuisance, and will benefit the community looking for a quality dining experience.

BE IT FURTHER RESOLVED that the application for a Conditional Use Permit is approved subject to the following conditions:

#### General

1. This Conditional Use Permit authorizes the sale of beer and wine for on-site consumption at a proposed restaurant (Nigeria Breeze Restaurant) located at 925 East Plaza Boulevard Suite 106. Plans submitted for permits associated with this project shall conform to Exhibit A, Case File No. 2022-29 CUP, dated 10/04/2022.
2. Before this *Conditional Use Permit* shall become effective, the applicant and the property owner shall both sign and have notarized an Acceptance Form, provided by the Planning Division, acknowledging and accepting all conditions imposed upon the approval of this permit. Failure to return the signed and notarized Acceptance Form within 30 days of its receipt shall automatically terminate the *Conditional Use Permit*. The applicant or owner shall also submit evidence to the satisfaction of the Planning Division that a Notice of Restriction on Real Property is recorded with the County Recorder. The applicant or owner shall pay necessary recording fees to the County. The Notice of Restriction shall provide information that conditions imposed by approval of the *Conditional Use Permit* are binding on all present or future interest holders or estate holders of the property. The Notice of Restriction shall be approved as to form by the City Attorney and signed by the Director of Community Development prior to recordation.
3. This permit shall become null and void at such time as there is no longer a Type 41 California Department of Alcoholic Beverage Control license associated with the property.
4. This permit shall become null and void if not exercised within one year after adoption of the resolution of approval unless extended according to procedures specified in the Municipal Code.
5. This permit shall expire if the use authorized by this resolution is discontinued for a period of 12 months or longer. This permit may also be revoked, pursuant to provisions of the Land Use Code, if discontinued for any lesser period of time.
6. This *Conditional Use Permit* may be revoked if the operator is found to be in violation of any Conditions of Approval or applicable law.

#### Planning

7. No alcohol sales are permitted until the applicant has been issued a Type 41 license from the California Department of Alcoholic Beverage Control.

8. All sellers and servers of alcohol shall receive Responsible Beverage Service and Sales (RBSS) training, including all owners, and managers. The RBSS training must be certified by the Department of Alcoholic Beverage Control (ABC). Proof of completion of an approved RBSS program must be provided prior to issuance of a city business license. As part of the RBSS training, the permittee shall make available a domestic violence training session as provided by the Institute of Public Strategies.
9. The sale of alcoholic beverages shall only be permitted between the hours of 10:00 a.m. and 9 p.m. Monday through Saturday.
10. The sale of alcohol shall not exceed the sale of food. With the annual renewal of the City business license, the business proprietor shall submit a statement clearly indicating total alcoholic beverage sales and total food sales. Said statement shall be subject to audit and verification by employees of the City, who are authorized to examine, audit and inspect such books and records of the license, as may be necessary in their judgment to verify that the sale of alcohol does not exceed the sale of food. All information obtained by an investigation of records shall remain confidential.
11. Alcohol shall be available only in conjunction with the purchase of food.
12. Permittee shall post signs at all exits to outdoor areas, indicating that alcoholic beverages must be consumed inside the restaurant or patio area and may not be taken off-premises.
13. No live entertainment shall be permitted without modification of this CUP.
14. The operator of the business shall maintain an active business license and ensure that the business license is renewed annually.

#### Police

15. The permittee shall comply with all applicable law, including, but not limited to the regulatory provisions of the Business and Professions Code that pertain to the sale, serving, and consumption of alcoholic beverages.

BE IT FURTHER RESOLVED that copies of this Resolution be transmitted forthwith to the applicant and to the City Council.

BE IT FINALLY RESOLVED that this Resolution shall become effective and final on the day following the City Council meeting where the Planning Commission resolution is set for review, unless an appeal in writing is filed with the City Clerk prior to 5:00 p.m. on the day of that City Council meeting. The City Council may, at that meeting, appeal the decision of the Planning Commission and set the matter for public hearing.

CERTIFICATION:

This certifies that the Resolution was adopted by the Planning Commission at their meeting of November 7, 2022, by the following vote:

AYES:

NAYS:

ABSENT: None.

ABSTAIN: None.

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CHAIRPERSON



COMMUNITY DEVELOPMENT DEPARTMENT - PLANNING DIVISION  
1243 NATIONAL CITY BLVD., NATIONAL CITY, CA 91950

**PLANNING COMMISSION STAFF REPORT**

Title: CONDITIONAL USE PERMIT FOR OFF-SALE BEER AND WINE (ABC TYPE 20) AT AN EXISTING CONVENIENCE STORE (REAL STAR MARKET) LOCATED AT 925 EAST PLAZA BOULEVARD SUITE 103

Case File No.: PLAZA BOULEVARD SUITE 103

Location: 2022-30 CUP

Assessor's Parcel Nos.: 925 East Plaza Boulevard- Plaza Village Center  
556-590-63

Staff report by: Adan Pacheco – Planning Technician

Applicant: Maria Onisemo

Zoning designation: MXD-2 (Major Mixed-Use District)

Adjacent use and zoning:

- North: Single-family residences / MXD-2
- East: AT&T retail outlet / MXD-2 (Major Mixed-use District)
- South: South Bay Plaza / MXD-2
- West: AutoZone / MXD-2

Environmental review: The proposed project has been reviewed in compliance with the California Environmental Quality Act (CEQA) and has been determined to be categorically exempt from environmental review pursuant to Class 1, Section 15301 (Existing Facilities) for which a Notice of Exemption will be filed subsequent to approval of this Conditional Use Permit.

Staff recommendation: Approve subject to attached conditions.

### Staff Recommendation

Staff recommends approval of the request for off-sale of beer and wine, subject to the attached recommended conditions. The sale of alcohol is a conditionally-allowed use in MXD-2 and would contribute to the diversity of commercial offerings in the area.

### Executive Summary

The applicant is proposing to sell beer and wine for off-site consumption (ABC Type 20) in an existing 1,276 square-foot convenience store. The business (Real Star Market) proposes a display area of 8.5 linear feet, which is less than 1% of the total sales area. Proposed operation hours are 9:00 am to 9:00 pm daily.

### Site Characteristics

The project location is an existing 1,276 square-foot commercial suite in the Plaza Village Center on the north side of east Plaza Boulevard, between Highland Avenue and 'L' Avenue. The market currently exists within the suite, which was most recently occupied by a hair salon. No interior improvements are proposed with this project. The shopping center is served by an existing parking area.

The Plaza Village Center is mostly occupied by commercial businesses. The market is on the northwest corner of the shopping center and faces the parking lot. Single-family homes border the site to the north and are separated by a retaining wall. Taco Salsa restaurant and Subway restaurant are located next to Real Star Market.

### Proposed Use

The applicant proposes to sell beer and wine for off-site consumption with an alcohol display area of 8.5 linear feet. The applicant currently sells a variety of grocery products and goods such as, candies, drinks, snacks, and cold beverages. The market employs one person.

### Analysis

Section 18.30.050 of the Land Use Code allows for off-site alcohol sales with an approved Conditional Use Permit (CUP). Additional requirements for alcohol CUPs include expanded notification, a community meeting, and distance requirements. There are also specific conditions required as part of City Council Policy 707, which regulates alcohol licenses.

Mailing – All property owners and occupants within a distance of 660 feet are required to be notified of a public hearing for alcohol-related CUP applications. Notice of this public hearing was sent to 358 occupants and owners.

Community Meeting - Pursuant to Section 18.30.050(C) of the National City Zoning Code, a community meeting was held Friday, September 23, 2022 from 2:00 p.m. to 3:00 p.m. at the subject property. The meeting advertisement is attached (Attachment 8); There were twenty-five community members in attendance. The applicant stated that the same owners and occupants who were notified of the planning commission meeting were also notified of the community meeting. The applicant also stated that no guests expressed any concerns about the sale of alcohol at the existing convenience store.

Distance Requirements

Businesses that sell alcohol must adhere to certain distance requirements set forth in Chapter 18.030.050(D). There are no minimum distance requirements for grocery stores, convenience stores, or other retail establishments that sell alcohol for consumption as an accessory use. The existing market is primarily a convenience store as more than 75% of sales come from snacks, beverages, and other items.

Alcohol Sales Concentration/Location

Per the California Department of Alcoholic Beverage Control (ABC), there are currently 9 off-sale licenses in this census tract (117) where a maximum of four is recommended, meaning that the census tract is considered by ABC to be over-saturated with regard to alcohol sales outlets. In addition, another recent CUP for off-sale alcohol (ABC Type 20) was approved for the 99 Cent Store at 1320 Highland Avenue.

<b>Name</b>	<b>Address</b>	<b>License Type*</b>	<b>CUP</b>
Tahona Mercado	802 B Avenue	21	Y
Seafood City Supermarket	1420 E. Plaza Blvd. Suite C	21	Y
Big Ben Market	108 E. 8 <sup>th</sup> St.	21	Y
Walmart Supercenter	1200 Highland Ave.	20	Y
Smart & Final Extra!	1220 E. Plaza Blvd. Suite 510	21	Y
CVS Pharmacy	1201 E. Plaza Blvd.	21	Y
7 Eleven	1539 Highland Ave.	20	Y
Wilson's Liquor	916 E. 8 <sup>th</sup> St.	21	Y

Bottles & More Liquor	1535 E. 18 <sup>th</sup> St.	21	-
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\* Type 20 - Off-Sale of Beer and Wine.

\* Type 21 - Off-Sale of Beer, Wine, and Distilled Spirits.

Census tract 117 includes the area between National City Boulevard and “N” Avenue, and between East 8<sup>th</sup> Street and East 18<sup>th</sup> Street. The attached census tract map shows the location of the subject tract (Attachment 6).

Many of the issues related to off-sale licenses sales are related to the availability of smaller quantities and cheaper products, most of which are related to businesses not subject to CUPs due to legal nonconforming status. However, businesses with CUPs are limited to the quantity and size of beer bottles (e.g., no sale of single cans or bottles) and the size of wine bottles and their alcoholic content (e.g., containers less than 750 milliliters nor greater than 15% content by volume).

#### Police Department (PD)

The Police Department provided a Risk Assessment report, which assigns points based on the type of business, license concentration, and calls for service (among others) and ranks the business according to potential risk (low, medium, or high). In this case, Real Star Market received a score of 12, which would indicate a low risk. Low risk is considered 12 points or less.

#### Institute for Public Strategies (IPS)

No comments were received from IPS as of the writing of this report, although they usually recommend at least the need for Responsible Beverage Sales and Service (RBSS) training for all staff. This is a standard condition of approval and is included with this report.

#### Findings for Approval

The Municipal Code contains six required findings for CUPs as follows:

1. The proposed use is allowable within the applicable zoning district pursuant to a Conditional Use Permit and complies with all other applicable provisions of the Land Use Code.

The use is allowable within MXD-2 pursuant to a CUP and the proposed use meets the required guidelines in the Land Use Code for alcohol sales, including distance from sensitive uses and operating requirements.

2. The proposed use is consistent with the General Plan and any applicable specific plan.

Alcohol sales are permitted, subject to a CUP, by the Land Use Code, which is consistent with the General Plan. No specific plan exists for the area.

3. The design, location, size, and operating characteristics of the proposed activity would be compatible with the existing and future land uses in the vicinity.

No expansion of the building is proposed. The proposal involves an existing commercial building, which was previously analyzed for traffic impacts when the building was constructed.

4. The site is physically suitable for the type, density, and intensity of use being proposed, including access, utilities, and the absence of physical constraints.

The proposed alcohol sales outlet would be consistent with other commercial businesses in the area accessory to the existing grocery and retail business.

5. Granting the permit would not constitute a nuisance or be injurious or detrimental to the public interest, health, safety, convenience, or welfare, or materially injurious to persons, property, or improvements in the vicinity and zone in which the property is located.

The proposed use would be subject to conditions that limit the hours and manner in which alcohol is sold, including operating hours, employee training, and type and quantity of products sold.

6. The proposed project has been reviewed in compliance with the California Environmental Quality Act (CEQA).

The proposed project has been reviewed in compliance with the California Environmental Quality Act (CEQA) and has been determined to be categorically exempt from environmental review pursuant to Class 1, Section 15301 (Existing Facilities) for which a Notice of Exemption will be filed subsequent to approval of this Conditional Use Permit. The reason for the exemption is that no expansion of

the building is proposed and the use would be the same as the current use and is similar to other commercial uses in the area, which are permitted by right in the MXD-2 zone and there is no potential for a significant environmental impact.

The following two findings are also included with alcohol CUPs:

7. The proposed use is deemed essential and desirable to the public convenience or necessity.

In this case, the sale of beer and wine will contribute to the diversity of local commercial offerings in the area, an allowed use in the MXD-2 zone and is in the Low Risk category based on PD's ABC Risk Assessment.

8. Based on findings 1 through 7 above, public convenience and necessity will be served by a proposed use of the property for the on-site sales of alcoholic beverages in accordance with applicable law and the recommended conditions.

The use, as proposed and conditioned, will operate in harmony with surrounding uses, will not cause a nuisance, and will benefit the existing business customer base by increasing the type of products for sale.

#### Findings for Denial

If the Planning Commission were to make the following three findings, a denial would be supported as follows:

1. If the proposed use is not essential nor desirable to the public convenience and welfare, because there are other off-sale alcohol license outlets within half-mile of the site.
2. Granting the permit would constitute a nuisance or be injurious or detrimental to the public interest, health, safety, convenience, or welfare, or materially injurious to persons, property, or improvements in the vicinity and zone in which the property is located, because the census tract in which the subject property is located is currently over-concentrated with regard to off-sale alcohol outlets because eight off-sale outlets are permitted where four are recommended by the California Department of Alcoholic Beverage Control.

3. Based on findings 1 and 2 above, public convenience and necessity will not be served by an additional off-sale beer and wine alcohol license in the proposed location.

#### Conditions of Approval

Recommended Conditions of Approval include those specific to off-site alcohol sales per Council Policy 707 (alcohol container volume, size, and number; RBSS training, hours, accessory sales, etc.).

#### Summary

The proposed use is consistent with the General Plan due to alcohol sales for off-site consumption being a conditionally-allowed use in MXD-2. Beer and wine sales at a convenience store would contribute to the diversity of the commercial offerings on East Plaza Boulevard. Conditions requiring compliance with City Council Policy 707 are intended to alleviate concerns related to area impacts should the CUP be approved. The decision of the Planning Commission will be relayed to the City Council.

#### Options

1. Approve 2022-30 CUP subject to the conditions listed within, or other conditions based on the attached findings, or findings to be determined by the Planning Commission; or
2. Deny 2022-30 CUP based on findings to be determined by the Planning Commission; or,
3. Continue the item to a specific date in order to obtain additional information.

#### Attachments

1. Recommended Findings
2. Recommended Conditions of Approval
3. Overhead
4. Applicant's Plans (Exhibit A, Case File No. 2022-30 CUP, dated 10/04/2022)
5. Public Hearing Notice (Sent to 358 property owners & occupants)
6. Census Tract & Police Beat Maps
7. Police Department Risk Assessment
8. Community Meeting Advertisement
9. Resolution

A handwritten signature in blue ink, appearing to read 'Adan Pacheco'.

ADAN PACHECO  
Planning Technician

A handwritten signature in blue ink, appearing to read 'Armando Vergara'.

ARMANDO VERGARA  
Director of Community Development

## **RECOMMENDED FINDINGS FOR APPROVAL**

### 2022-30 CUP – Real Star Market

1. The proposed use is allowable within the applicable zoning district pursuant to a Conditional Use Permit and complies with all other applicable provisions of the Land Use Code, because the use is allowable within MXD-2 pursuant to a CUP and the proposed use meets the required guidelines in the Land Use Code for alcohol sales. Including distance from sensitive uses and operating requirements.
2. Alcohol sales are permitted, subject to a CUP, by the Land Use Code, which is consistent with the General Plan. No specific plan exists for the area.
3. The design, location, size, and operating characteristics of the proposed activity would be compatible with the existing and future land uses in the vicinity, because no expansion of the building is proposed. The proposal involves an existing commercial building, which was previously analyzed for traffic impacts when the building was constructed.
4. The site is physically suitable for the type, density, and intensity of use being proposed, including access, utilities, and the absence of physical constraints, because the proposed alcohol sales outlet would be consistent with other commercial businesses in the area accessory to the existing grocery and retail business.
5. Granting the permit would not constitute a nuisance or be injurious or detrimental to the public interest, health, safety, convenience, or welfare, or materially injurious to persons, property, or improvements in the vicinity and zone in which the property is located, the proposed use would be subject to conditions that limit the hours and manner in which alcohol is sold.
6. The proposed project has been reviewed in compliance with the California Environmental Quality Act (CEQA) and has been determined to be categorically exempt from environmental review pursuant to Class 1, Section 15301 (Existing Facilities) for which a Notice of Exemption will be filed subsequent to approval of this Conditional Use Permit. The reason for the exemption is that no expansion of the building is proposed and use would basically be the same as the current use and is similar to other commercial uses in the area, which are permitted by right in the MXD-2 zone and there is no potential for a significant environmental impact.

7. The proposed use is essential and desirable to the public convenience or necessity, because the sale of distilled spirits sales will contribute to the diversity of local commercial offerings in the area, an allowed use in the MXD-2 zone and is in the Low Risk category based on PD's ABC Risk Assessment.
8. Based on findings 1 through 7 above, public convenience and necessity will be served by a proposed use of the property for the on-site sales of alcoholic beverages pursuant to law. Because the proposed and conditioned use, will not cause a nuisance, and will benefit the existing business by increasing the variety of products for sale.

### **RECOMMENDED FINDINGS FOR DENIAL**

#### 2022-30 CUP – Real Star Market

1. If the proposed use is not essential nor desirable to the public convenience and welfare, because there are other off-sale alcohol license outlets within half-mile of the site.
2. Granting the permit would constitute a nuisance or be injurious or detrimental to the public interest, health, safety, convenience, or welfare, or materially injurious to persons, property, or improvements in the vicinity and zone in which the property is located, because the census tract in which the subject property is located is currently over-concentrated with regard to off-sale alcohol outlets because eight off-sale outlets are permitted where four are recommended by the California Department of Alcoholic Beverage Control.
3. Based on findings 1 and 2 above, public convenience and necessity will not be served by an additional off-sale beer and wine alcohol license in the proposed location.

## **RECOMMENDED CONDITIONS OF APPROVAL**

### 2022-30 CUP – Real Star Market

#### General

1. This Conditional Use Permit authorizes the sale of beer and wine for off-site consumption at an existing convenience store (Real Star Market) located at 925 E. Plaza Boulevard Suite 103. Plans submitted for permits associated with this project shall conform to Exhibit A, Case File No. 2022-30 CUP, dated 10/04/2022.
2. Before this *Conditional Use Permit* shall become effective, the applicant and the property owner shall both sign and have notarized an Acceptance Form, provided by the Planning Division, acknowledging and accepting all conditions imposed upon the approval of this permit. Failure to return the signed and notarized Acceptance Form within 30 days of its receipt shall automatically terminate the *Conditional Use Permit*. The applicant or owner shall also submit evidence to the satisfaction of the Planning Division that a Notice of Restriction on Real Property is recorded with the County Recorder. The applicant or owner shall pay necessary recording fees to the County. The Notice of Restriction shall provide information that conditions imposed by approval of the *Conditional Use Permit* are binding on all present or future interest holders or estate holders of the property. The Notice of Restriction shall be approved as to form by the City Attorney and signed by the Director of Community Development prior to recordation.
3. This permit shall become null and void if not exercised within one year after adoption of the resolution of approval unless extended according to procedures specified in the Municipal Code.
4. This permit shall expire if the use authorized by this resolution is discontinued for a period of 12 months or longer. This permit may also be revoked, pursuant to provisions of the Land Use Code, if discontinued for any lesser period of time.
5. This *Conditional Use Permit* may be revoked if the operator is found to be in violation of any Conditions of Approval or applicable law.

#### Planning

6. The sale of alcoholic beverages shall be limited to between the hours of 9:00 am to 9:00 pm daily.
7. No display of alcohol within 20 feet of the exit is permitted.
8. The sale of beer or malt beverages in quantities of quarts, 22 ounce, 32 ounce, 40 ounce, or similar size containers is prohibited.
9. No beer products shall be sold of less than manufacturer's pre-packaged three-pack quantities of 24 ounce cans per sale. There shall be no sale of single cans or bottles.

10. Wine shall not be sold in containers of less than 750 milliliters. The sale of wine with an alcoholic content greater than 15% by volume is prohibited.
11. Flavored malt beverages, also known as premium malt beverages and flavored malt coolers, and sometimes commonly referred to as wine coolers, may be sold only by four-pack or other manufacturer's pre-packaged multi-unit quantities.
12. The consumption of alcoholic beverages is prohibited on the subject premises, and on all parking lots and outbuildings and any property or adjacent property under the control of the Permittee.
13. All cups and containers shall be sold at or above prevailing prices and in their original multi-container packages of no fewer than 12, and no cups and containers shall be given free of charge.
14. Ice may be sold only at or about prevailing prices in the area and in quantities of not less than three pounds per sale. Ice shall not be provided free of charge.
15. The display of alcoholic beverages shall be limited to an area in substantial conformance with Exhibit A, Case File No. 2022-30 CUP, dated 10/04/2022.
16. The Permittee shall post signs in compliance with the requirements and specifications of subsection B of section 10.30.070 on each exterior wall of the licensed premises that faces a vehicle parking lot, to read as follows:

**“WARNING**

It is unlawful to drink an alcoholic  
beverage or to possess an open alcoholic  
beverage container in public or in a public parking lot.  
NCMC 10.30.050 and 10.30.060.”

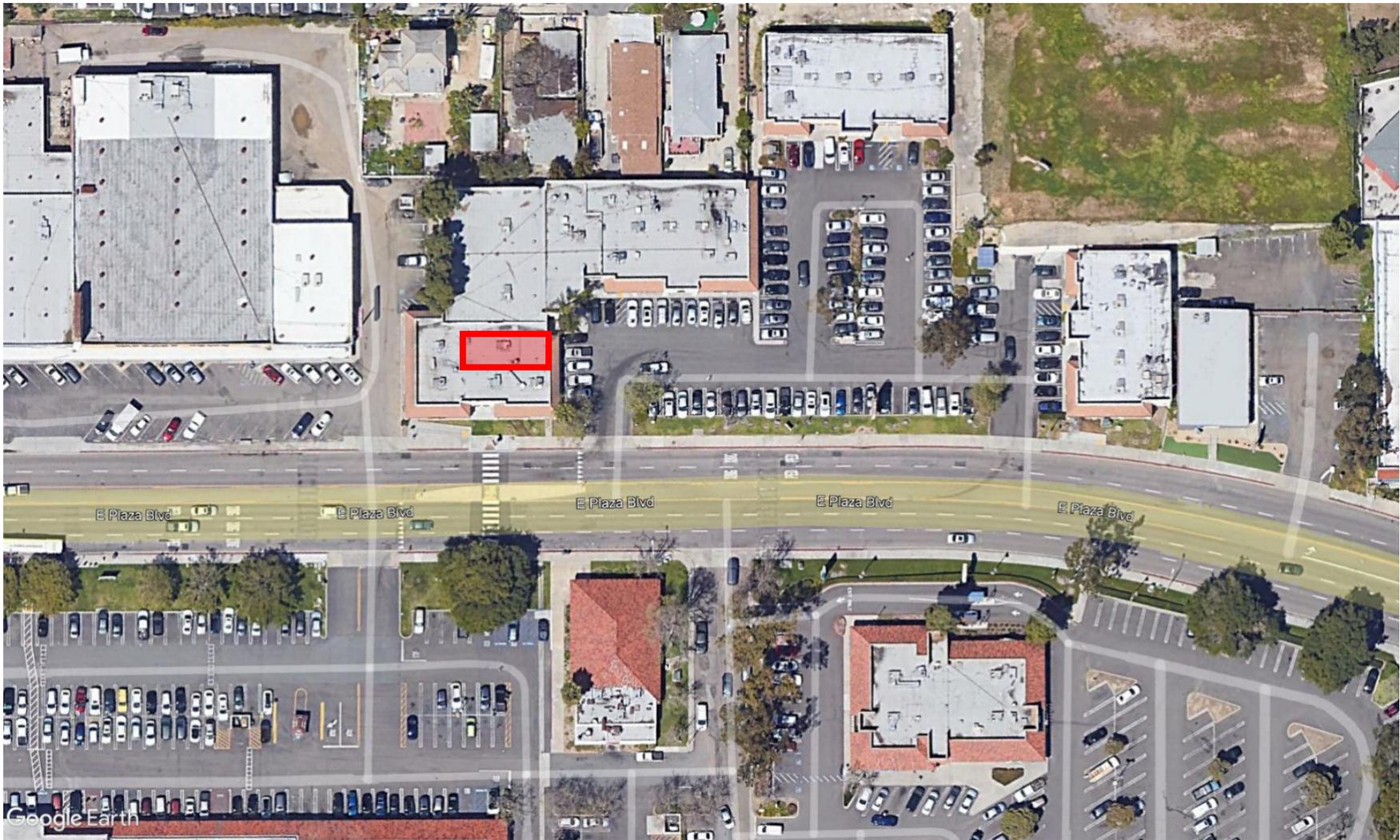
17. Containers of alcoholic beverages may not be stored on the premises, after being sold to patrons, for the purpose of later consumption.
18. Exterior advertising and signs of all types, promoting or indicating the availability of alcoholic beverages, including advertising/signs directed to the exterior from within, are prohibited. Interior displays of alcoholic beverages and signs, which are clearly visible to the exterior, shall constitute a violation of this condition.
19. The quarterly gross sales of alcoholic beverages shall not exceed the gross sales of all other commodities during the same period. The applicant shall at all times keep records which reflect separately the gross sales of alcoholic beverages and the gross sales of all other items. Said records shall be kept no less frequently than on a quarterly basis and shall be made available to the City Finance Department and any Peace Officer of the California Department of Alcoholic Beverage Control upon demand.

20. Every employee of the Permittee, including ownership and management, shall receive Responsible Beverage Service and Sales (RBSS) training, including all owners, and managers. The RBSS training must be certified by the Department of Alcoholic Beverage Control (ABC). Proof of completion of an approved RBSS program must be provided prior to commencing alcohol sales. As part of the RBSS training, the Permittee shall make available a domestic violence training session as provided by the Institute of Public Strategies.
21. The operator of the business shall maintain an active business license and ensure that the business license is renewed annually.

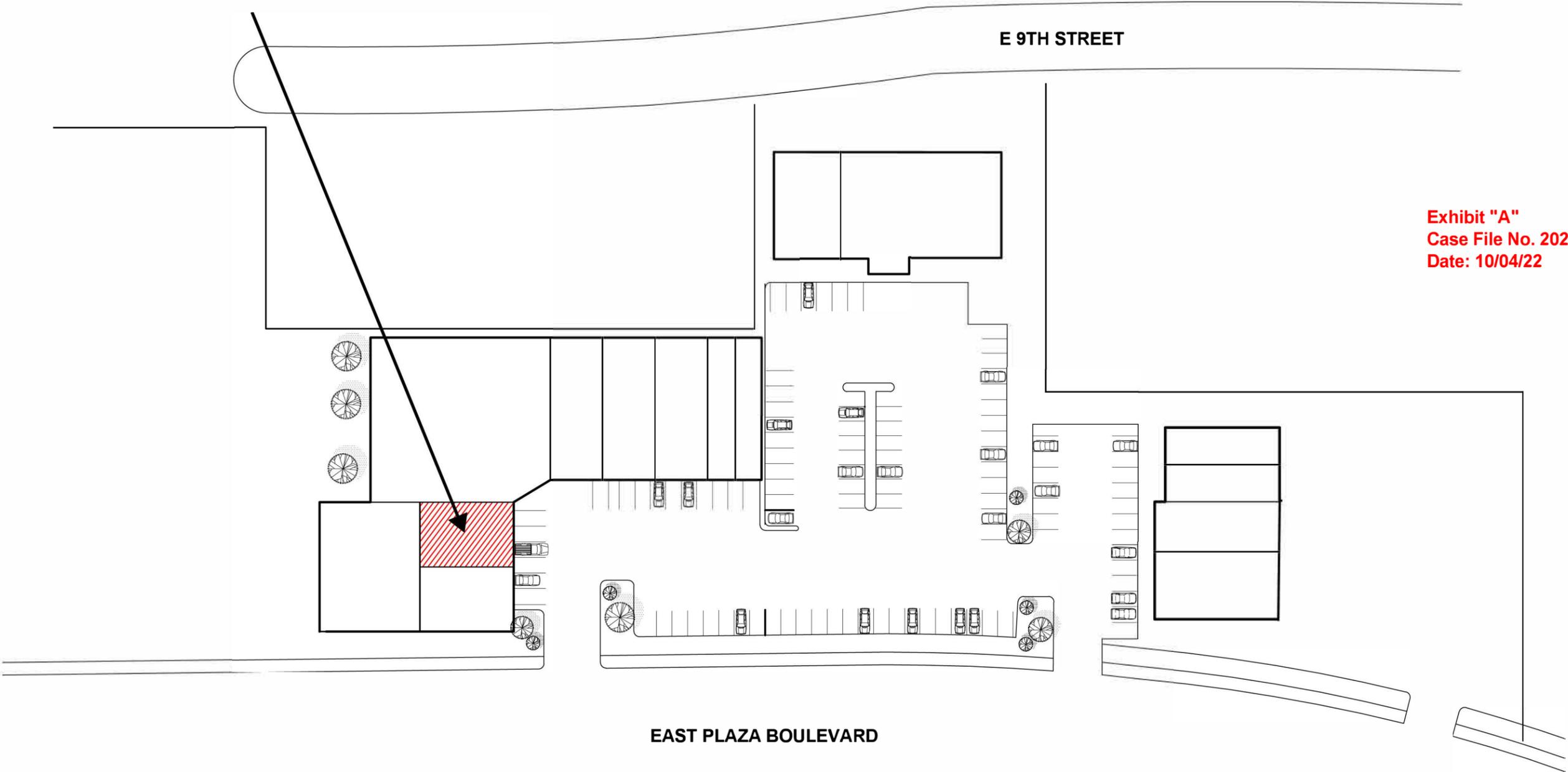
Police

22. Permittee shall comply with all applicable law, including, but not limited to all regulatory provisions of the Business and Professions Code that pertain to the sale, display and marketing or merchandising of alcoholic beverages.

2022-30 CUP – 925 E. Plaza Blvd., Ste. 103 – Overhead



**REAL STAR MARKET  
925 E PLAZA BLVD STE 103  
NATIONAL CITY, CA 91950**

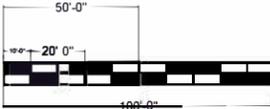


**Exhibit "A"  
Case File No. 2022-30  
Date: 10/04/22**

**EAST PLAZA BOULEVARD**

**E 9TH STREET**

# **SITE PLAN**

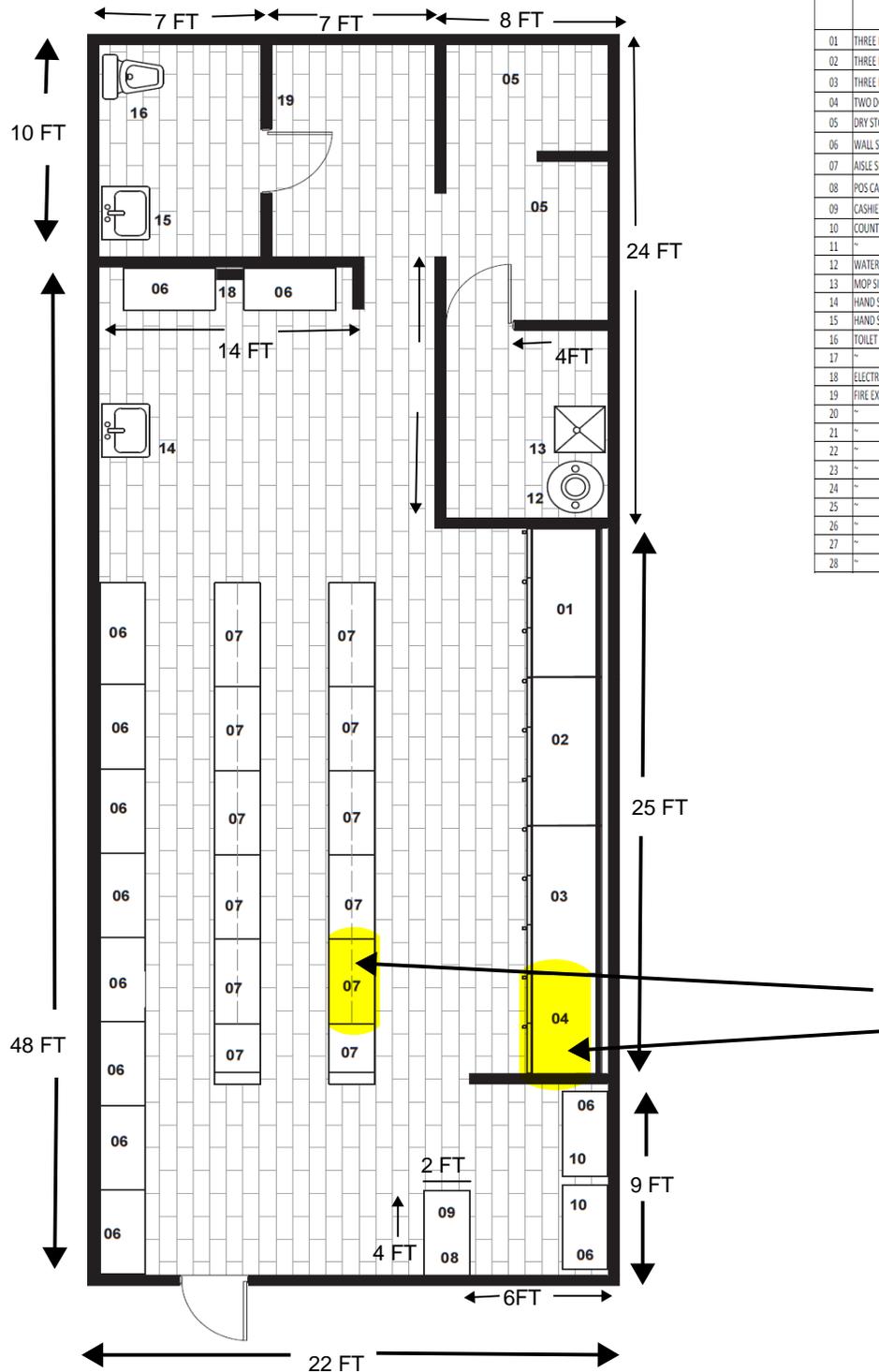


**925 E PLAZA BLVD STE 103, NATIONAL CITY, CA 91950  
APN: 556-590-63-00**

**PROJECT MANAGER/SITE PLAN DESIGNER:  
© 2022 by STRATEGIC ACCESS  
(858) 876-7325 permits@strategicaccess.org**

# REAL STAR MARKET - FLOOR PLAN

925 E PLAZA BLVD STE 103, NATIONAL CITY, CA 91950



RETAIL MARKET EQUIPMENT SCHEDULE - REAL STAR MARKET - 925 E PLAZA BLVD STE 103, NATIONAL CITY, CA 91950

NO.	DESCRIPTION - CHANGES (UPDATES)	QTY	WIDTH	DEPTH	HEIGHT	ELECTRICAL	GAS		WATER		WASTE	MAKE	MODEL	STANDARD	REMARKS
							SIZE	BTU	COLD	HOT					
01	THREE DOOR FREEZER	1	74"	27"	86"	208-230V; 11.1A	~	~	~	~	~	MASTER-BILT	BLG-74HD	UL, NSF	Serial # 019171
02	THREE DOOR REFRIGERATOR	1	74"	27"	86"	115V; 7.3A	~	~	~	~	~	TRUE	GDM-72-HC-TSUD1	UL, NSF	Serial #9998999
03	THREE DOOR REFRIGERATOR	1	74"	27"	86"	115V; 12A	~	~	~	~	~	MASTER-BILT	BMG-74	UL, NSF	Serial #149716
04	TWO DOOR REFRIGERATOR	1	54"	27"	86"	115V; 8A	~	~	~	~	~	MASTER-BILT	BMG-48	UL, NSF	Serial #107367
05	DRY STORAGE	~	~	~	~	~	~	~	~	~	~	~	~	~	Approx 150 sf
06	WALL SHELVES	9	48"	19"	72"	~	~	~	~	~	~	LOZIER	LGSTR1724	~	~
07	aisle shelves	10	48"	36"	54"	~	~	~	~	~	~	LOZIER	P2769	~	~
08	POS CASH REGISTER	~	~	~	~	120V	~	~	~	~	~	~	~	UL	~
09	CASHIER COUNTER WITH DISPLAY CASE	1	48"	24"	36"-42"	~	~	~	~	~	~	U/K	~	~	~
10	COUNTER TOP SHOWCASE	2	24"	12"	18"	~	~	~	~	~	~	SQUARE	~	~	~
11	~	~	~	~	~	~	~	~	~	~	~	~	~	~	~
12	WATER HEATER	1	~	~	~	~	~	~	~	~	~	U/K	~	NSF	EXISTING
13	MOP SINK	1	~	~	~	220V; 9000KW	~	~	~	~	~	AQ SMITH	80 GALLON	NSF	EXISTING
14	HAND SINK	1	~	~	~	~	~	~	~	~	~	~	~	NSF	EXISTING
15	HAND SINK	1	~	~	~	~	~	~	~	~	~	~	~	NSF	EXISTING
16	TOILET	1	~	~	~	~	~	~	~	~	~	~	~	NSF	EXISTING
17	~	~	~	~	~	~	~	~	~	~	~	~	~	~	~
18	ELECTRICAL PANEL (BREAKERS)	1	~	~	~	~	~	~	~	~	~	~	~	~	~
19	FIRE EXTINGUISHER	1	~	~	~	~	~	~	~	~	~	~	~	~	~
20	~	~	~	~	~	~	~	~	~	~	~	~	~	~	~
21	~	~	~	~	~	~	~	~	~	~	~	~	~	~	~
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28	~	~	~	~	~	~	~	~	~	~	~	~	~	~	~

BEER AND WINE SALES DISPLAYS:  
REFRIGERATOR  
GONDOLA SHELVES

ATTACHMENT 4



CITY OF NATIONAL CITY - PLANNING DIVISION  
1243 NATIONAL CITY BLVD., NATIONAL CITY, CA 91950

NOTICE OF PUBLIC HEARING

CONDITIONAL USE PERMIT FOR OFF-SALE BEER AND WINE (TYPE 20)  
AT AN EXISTING CONVENIENCE STORE (REAL STAR MARKET)  
LOCATED AT 925 EAST PLAZA BOULEVARD SUITE 103  
CASE FILE NO.: 2022-30 CUP

The National City Planning Commission will hold a public hearing at their regular online meeting after the hour of 6:00 p.m. **Monday, November 7, 2022**, on the proposed request. The meeting will be LIVE WEBCAST from the City Council Chambers, Civic Center, 1243 National City Boulevard, National City, California, on the proposed request. (Applicant: Maria Onisemo)

Due to the precautions taken to combat the continued spread of coronavirus (COVID-19), City Council Chambers are closed to the public. Anyone interested in this public hearing may observe it on the City's website at <http://nationalcityca.new.swagit.com/views/33>.

The applicant is proposing to sell beer and wine for off-site consumption (ABC Type 20) in an existing convenience store. The business (Real Star Market) proposes a display area of 8.5 linear feet, which is less than 1 percent of the total sales area. Proposed operation hours are 9:00 a.m. to 9:00 p.m. daily.

Information is available for review at the City's Planning Division, Civic Center. Members of the public are invited to comment. Written comments should be received by the Planning Division on or before 4:00 p.m., **November 7, 2022**, by submitting it to [PlcPubComment@nationalcityca.gov](mailto:PlcPubComment@nationalcityca.gov). Planning staff can be contacted at 619-336-4310 or [planning@nationalcityca.gov](mailto:planning@nationalcityca.gov).

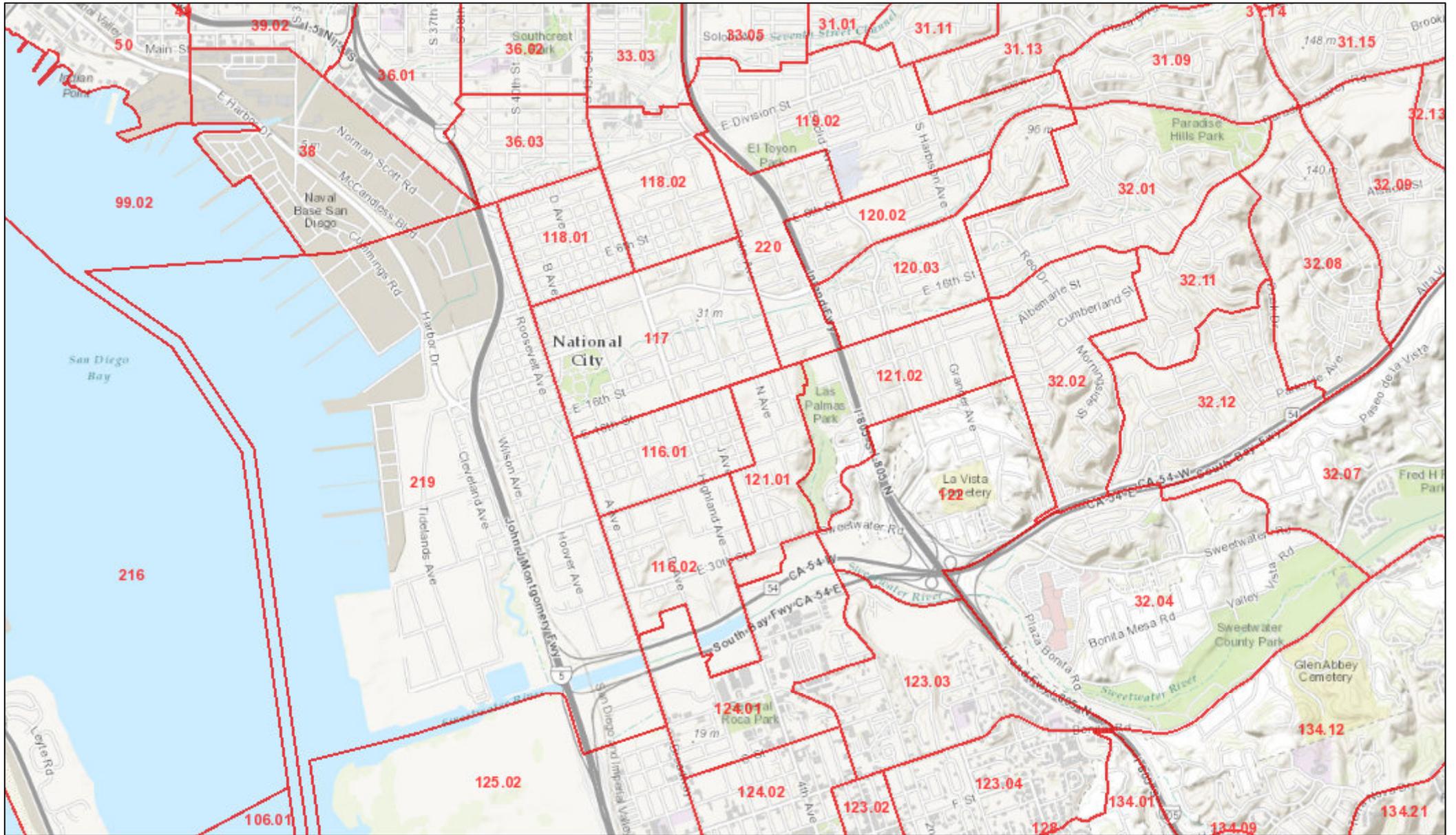
If you challenge the nature of the proposed action in court, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice, or in written correspondence delivered to the Planning Commission at, or prior to, the public hearing.

NATIONAL CITY PLANNING DIVISION

A handwritten signature in blue ink, appearing to read "Armando Vergara".

ARMANDO VERGARA  
Director of Community Development

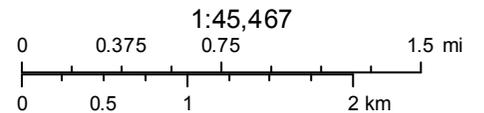
ATTACHMENT 5



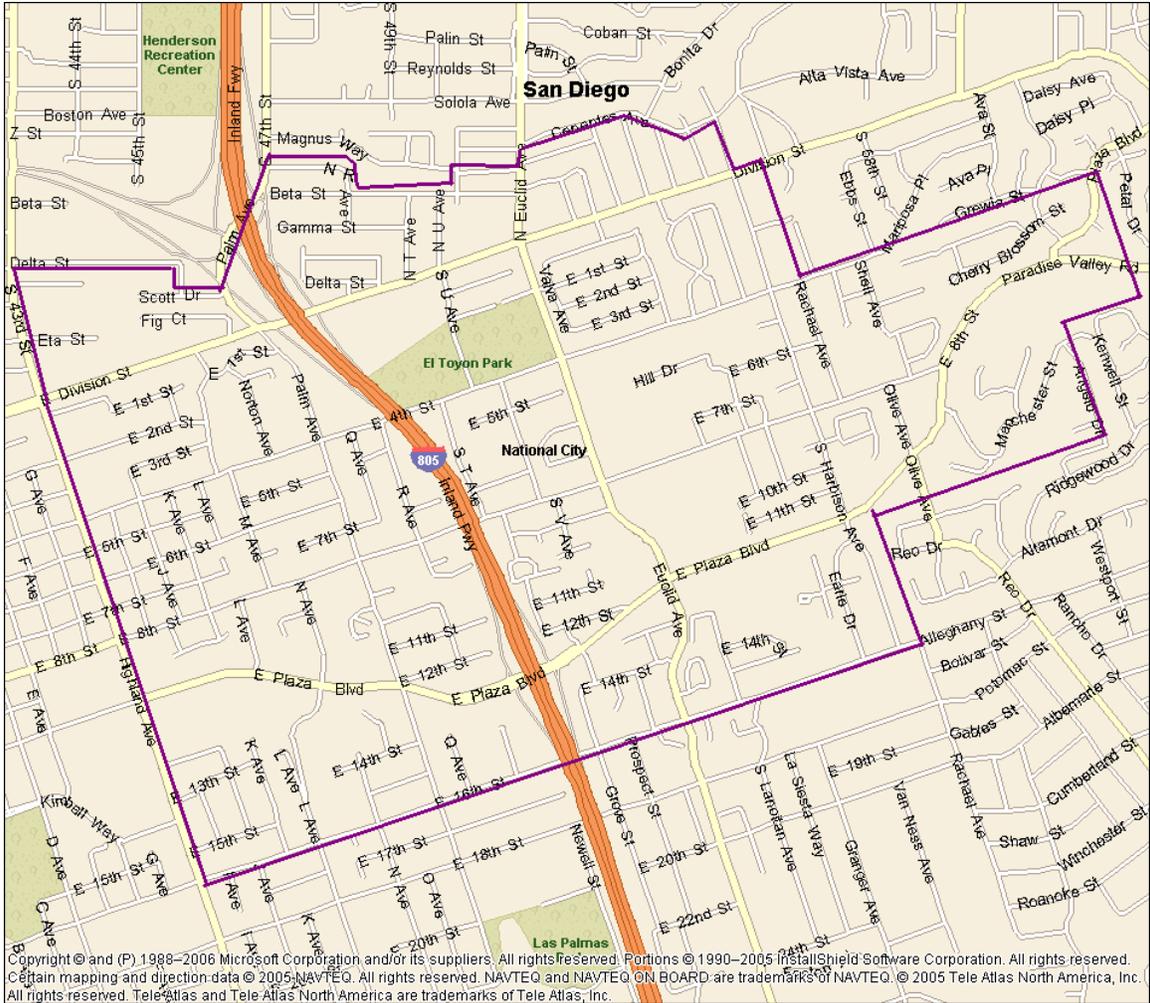
August 25, 2014

CensusTracts 2010

**ATTACHMENT 6**



Sources: Esri, HERE, DeLorme, TomTom, Intermap, increment P Corp., GEBCO, USGS, FAO, NPS, NRCAN, GeoBase, IGN, Kadaster NL, Ordnance Survey, Esri Japan, METI, Esri China (Hong Kong), swisstopo, MapmyIndia, © OpenStreetMap contributors, and the GIS User Community



## City of National City Beat 21



VI. Calls for Service at Location (for previous 6 months)

- Below (1 pt)
- Average (2 pts)
- Above (3 pts)

VII. Proximity Assessment (1/4 mile radius of location)

- Mostly commercial businesses (1 pt)
- Some businesses, some residential (2 pts)
- Mostly residential (3 pts)

Low Risk ( 12pts or less) Medium Risk (13 – 18pts) High Risk (19 – 24pts)  <b>Total Points</b> _____
--

VIII. Owner(s) records check

- No criminal incidents (0 pts)
- Minor criminal incidents (2 pts)
- Multiple/Major criminal incidents (3 pts)

OWNER NAME: \_\_\_\_\_ DOB: \_\_\_\_\_

OWNER ADDRESS: \_\_\_\_\_

OWNER NAME: \_\_\_\_\_ DOB: \_\_\_\_\_

OWNER ADDRESS: \_\_\_\_\_

**Recommendation:**

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Completed by: \_\_\_\_\_ Badge ID: \_\_\_\_\_

**PROOF OF PUBLICATION**  
(2015.5 C.C.P.)

STATE OF CALIFORNIA,  
County of San Diego,

I hereby declare as follows: I am a citizen of the United States and a resident of the County of San Diego, in the State of California. I am over the age of eighteen years, and not a party to or interested in the subject of the affixed legal notice. I have personal knowledge of the within-stated facts and if called to testify, could and would do so competently. I am a legal clerk at the Uptown San Diego Examiner who is responsible for the publication of legal advertising in and for the Uptown San Diego Examiner, which was adjudged a newspaper of general circulation by the Superior Court of California in and for the County of San Diego, on February 19, 2016, case number 37-2015-00042239-CU-PT-CTL and which is printed and published in the City of San Diego, County of San Diego, State of California. The legal notice which is affixed hereto is an original of the legal notice which was published in each regular and entire issue of the Uptown San Diego Examiner and not in any supplement thereof, set in a type size and style as required by law, on the following dates to-wit:

9/16 9/23/2022

All in the year 2022

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Dated at San Diego, California, this 23 day of September,  
2022.

Signature 



**ATTACHMENT 8**

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Proof of Publication of

ATTENTION BEAUTIFUL PEOPLE OF  
NATIONAL CITY!!!!  
We are holding a community meeting to  
discuss our application to sell Beer and  
Wine at Real Star Market. This meeting  
will be held on Friday 09/23/2022  
between 2pm-3pm at 925 E. Plaza Blvd  
Ste 103, National City, CA 91950  
9/16 9/23/2022 117225F

**PROOF OF PUBLICATION**  
(2015.5 C.C.P.)

STATE OF CALIFORNIA,  
County of San Diego,

I hereby declare as follows: I am a citizen of the United States and a resident of the County of San Diego, in the State of California. I am over the age of eighteen years, and not a party to or interested in the subject of the affixed legal notice. I have personal knowledge of the within-stated facts and if called to testify, could and would do so competently. I am a legal clerk at the Uptown San Diego Examiner who is responsible for the publication of legal advertising in and for the Uptown San Diego Examiner, which was adjudged a newspaper of general circulation by the Superior Court of California in and for the County of San Diego, on February 19, 2016, case number 37-2015-00042239-CU-PT-CTL and which is printed and published in the City of San Diego, County of San Diego, State of California. The legal notice which is affixed hereto is an original of the legal notice which was published in each regular and entire issue of the Uptown San Diego Examiner and not in any supplement thereof, set in a type size and style as required by law, on the following dates to-wit:

9/16 9/23/2022

All in the year 2022

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Dated at San Diego, California, this 23 day of September, 2022.

Signature



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Proof of Publication of

ATTENTION BEAUTIFUL PEOPLE OF  
NATIONAL CITY!!!!

We are holding a community meeting to discuss our application to sell Beer and Wine at Real Star Market. This meeting will be held on Friday 09/23/2022 between 2pm-3pm at 925 E. Plaza Blvd Ste 103, National City, CA 91950  
9/16 9/23/2022 117225F

RESOLUTION NO. 2022-24

A RESOLUTION OF THE PLANNING COMMISSION  
OF THE CITY OF NATIONAL CITY, CALIFORNIA  
APPROVING A CONDITIONAL USE PERMIT FOR  
OFF-SALE BEER AND WINE (TYPE 20)  
AT AN EXISTING CONVENIENCE STORE (REAL STAR MARKET)  
TO BE LOCATED AT 925 EAST PLAZA BOULEVARD SUITE 103  
CASE FILE NO. 2022-30 CUP  
APN: 556-590-63

WHEREAS, the Planning Commission of the City of National City considered a Conditional Use Permit for beer and wine sales (Type 20) at an existing convenience store (Real Star Market) located at 925 East Plaza Boulevard Suite 103, at a duly advertised public hearing held on November 7, 2022, at which time oral and documentary evidence was presented; and,

WHEREAS, at said public hearing the Planning Commission considered the staff report contained in Case File No. 2022-30 CUP maintained by the City and incorporated herein by reference along with evidence and testimony at said hearing; and,

WHEREAS, the testimony and evidence presented to the Planning Commission at the public hearing held on November 7, 2022, support the findings herein, and

WHEREAS, this action is taken pursuant to all applicable procedures required by State law and City law.

NOW, THEREFORE, BE IT RESOLVED that the Planning Commission of the City of National City, California, that hereby finds as follows:

1. The proposed use is allowable within the applicable zoning district pursuant to a Conditional Use Permit and complies with all other applicable provisions of the Land Use Code, because the use is allowable within MXD-2 pursuant to a CUP and the proposed use meets the required guidelines in the Land Use Code for alcohol sales. Including distance from sensitive areas and operating requirements.
2. Alcohol sales are permitted, subject to a CUP, by the Land Use Code, which is consistent with the General Plan. No specific plan exists for the area.
3. The design, location, size, and operating characteristics of the proposed activity would be compatible with the existing and future land uses in the vicinity, because

no expansion of the building is proposed. The proposal involves an existing commercial building, which was previously analyzed for traffic impacts when the building was constructed.

4. The site is physically suitable for the type, density, and intensity of use being proposed, including access, utilities, and the absence of physical constraints, because the proposed alcohol sales outlet would be consistent with other commercial businesses in the area accessory to the existing grocery and retail business.
5. Granting the permit would not constitute a nuisance or be injurious or detrimental to the public interest, health, safety, convenience, or welfare, or materially injurious to persons, property, or improvements in the vicinity and zone in which the property is located, the proposed use is subject to conditions below that limit the hours and manner in which alcohol is sold.
6. The proposed project has been reviewed in compliance with the California Environmental Quality Act (CEQA) and has been determined to be categorically exempt from environmental review pursuant to Class 1, Section 15301 (Existing Facilities) for which a Notice of Exemption will be filed subsequent to approval of this Conditional Use Permit. The reason for the exemption is that no expansion of the building is proposed and use would basically be the same as the current use and is similar to other commercial uses in the area, which are permitted by right in the MXD-2 zone and there is no potential for a significant environmental impact.
7. The proposed use is essential and desirable to the public convenience or necessity, because the sale of distilled spirits sales will contribute to the diversity of local commercial offerings in the area, an allowed use in the MXD-2 zone and is in the Low Risk category based on PD's ABC Risk Assessment.
8. Based on findings 1 through 7 above, public convenience and necessity will be served by a proposed use of the property for the on-site sales of alcoholic beverages in accordance with the applicable law and the recommended conditions. Because the proposed and conditioned use will not be a nuisance, will help the already existing business by expanding the variety of products for sale.

BE IT FURTHER RESOLVED that the application for a Conditional Use Permit is approved subject to the following conditions:

#### General

1. This Conditional Use Permit authorizes the sale of beer and wine for off-site consumption at an existing convenience store (Real Star Market) located at 925 East Plaza Boulevard Suite 103. Plans submitted for permits associated with this project shall conform to Exhibit A, Case File No. 2022-30 CUP, dated 10/04/2022.
2. Before this *Conditional Use Permit* shall become effective, the applicant and the property owner shall both sign and have notarized an Acceptance Form, provided by the Planning Division, acknowledging and accepting all conditions imposed upon the approval of this permit. Failure to return the signed and notarized Acceptance Form within 30 days of its receipt shall automatically terminate the *Conditional Use Permit*. The applicant or owner shall also submit evidence to the satisfaction of the Planning Division that a Notice of Restriction on Real Property is recorded with the County Recorder. The applicant or owner shall pay necessary recording fees to the County. The Notice of Restriction shall provide information that conditions imposed by approval of the *Conditional Use Permit* are binding on all present or future interest holders or estate holders of the property. The Notice of Restriction shall be approved as to form by the City Attorney and signed by the Director of Community Development prior to recordation.
3. This permit shall become null and void if not exercised within one year after adoption of the resolution of approval unless extended according to procedures specified in the Municipal Code.
4. This permit shall expire if the use authorized by this resolution is discontinued for a period of 12 months or longer. This permit may also be revoked, pursuant to provisions of the Land Use Code, if discontinued for any lesser period of time.
5. This *Conditional Use Permit* may be revoked if the operator is found to be in violation of any Conditions of Approval or applicable law.

### Planning

6. The sale of alcoholic beverages shall be limited to between the hours of 9:00 am to 9:00 pm daily.
7. No display of alcohol within 20 feet of the exit is permitted.
8. The sale of beer or malt beverages in quantities of quarts, 22 ounce, 32 ounce, 40 ounce, or similar size containers is prohibited.
9. No beer products shall be sold of less than manufacturer's pre-packaged three-pack quantities of 24 ounce cans per sale. There shall be no sale of single cans or bottles.
10. Wine shall not be sold in containers of less than 750 milliliters. The sale of wine with an alcoholic content greater than 15% by volume is prohibited.
11. Flavored malt beverages, also known as premium malt beverages and flavored malt coolers, and sometimes commonly referred to as wine coolers, may be sold only by four-pack or other manufacturer's pre-packaged multi-unit quantities.

12. The consumption of alcoholic beverages is prohibited on the subject premises, and on all parking lots and outbuildings and any property or adjacent property under the control of the Permittee.
13. All cups and containers shall be sold at or above prevailing prices and in their original multi-container packages of no fewer than 12, and no cups and containers shall be given free of charge.
14. Ice may be sold only at or about prevailing prices in the area and in quantities of not less than three pounds per sale. Ice shall not be provided free of charge.
15. The display of alcoholic beverages shall be limited to an area in substantial conformance with Exhibit A, Case File No. 2022-30 CUP, dated 10/04/2022.
16. The Permittee shall post signs in compliance with the requirements and specifications of subsection B of section 10.30.070 on each exterior wall of the licensed premises that faces a vehicle parking lot, to read as follows:

**“WARNING**

It is unlawful to drink an alcoholic  
beverage or to possess an open alcoholic  
beverage container in public or in a public parking lot.  
NCMC 10.30.050 and 10.30.060.”

17. Containers of alcoholic beverages may not be stored on the premises, after being sold to patrons, for the purpose of later consumption.
18. Exterior advertising and signs of all types, promoting or indicating the availability of alcoholic beverages, including advertising/signs directed to the exterior from within, are prohibited. Interior displays of alcoholic beverages and signs, which are clearly visible to the exterior, shall constitute a violation of this condition.
19. The quarterly gross sales of alcoholic beverages shall not exceed the gross sales of all other commodities during the same period. The applicant shall at all times keep records which reflect separately the gross sales of alcoholic beverages and the gross sales of all other items. Said records shall be kept no less frequently than on a quarterly basis and shall be made available to the City Finance Department and any Peace Officer of the California Department of Alcoholic Beverage Control upon demand.
20. Every employee of the Permittee, including ownership and management, shall receive Responsible Beverage Service and Sales (RBSS) training, including all owners, and managers. The RBSS training must be certified by the Department of Alcoholic Beverage Control (ABC). Proof of completion of an approved RBSS program must be provided prior to commencing alcohol sales. As part of the RBSS training, the Permittee shall make available a domestic violence training session as provided by the Institute of Public Strategies.
21. The operator of the business shall maintain an active business license and ensure that the business license is renewed annually.

Police

22. Permittee shall comply with all applicable law, including, but not limited to all regulatory provisions of the Business and Professions Code that pertain to the sale, display and marketing or merchandising of alcoholic beverages.

BE IT FURTHER RESOLVED that copies of this Resolution be transmitted forthwith to the applicant and to the City Council.

BE IT FINALLY RESOLVED that this Resolution shall become effective and final on the day following the City Council meeting where the Planning Commission resolution is set for review, unless an appeal in writing is filed with the City Clerk prior to 5:00 p.m. on the day of that City Council meeting. The City Council may, at that meeting, appeal the decision of the Planning Commission and set the matter for public hearing.

CERTIFICATION:

This certifies that the Resolution was adopted by the Planning Commission at their meeting of November 7, 2022, by the following vote:

AYES:

NAYS:

ABSENT:

ABSTAIN:

\_\_\_\_\_  
CHAIRPERSON

RESOLUTION NO. 2022-24

A RESOLUTION OF THE PLANNING COMMISSION  
OF THE CITY OF NATIONAL CITY, CALIFORNIA  
DENYING A CONDITIONAL USE PERMIT FOR  
OFF-SALE BEER AND WINE (TYPE 20)  
AT AN EXISTING CONVENIENCE STORE (REAL STAR MARKET)  
TO BE LOCATED AT 925 EAST PLAZA BOULEVARD SUITE 103  
CASE FILE NO. 2022-30 CUP  
APN: 556-590-63

WHEREAS, the Planning Commission of the City of National City considered a Conditional Use Permit for beer and wine sales (Type 20) at an existing convenience store (Real Star Market) located at 925 East Plaza Boulevard Suite 103, at a duly advertised public hearing held on November 7, 2022, at which time oral and documentary evidence was presented; and,

WHEREAS, at said public hearing the Planning Commission considered the staff report contained in Case File No. 2022-30 CUP maintained by the City and incorporated herein by reference along with evidence and testimony at said hearing; and,

WHEREAS, the testimony and evidence presented to the Planning Commission at the public hearing held on November 7, 2022, support the findings herein, and

WHEREAS, this action is taken pursuant to all applicable procedures required by State law and City law.

NOW, THEREFORE, BE IT RESOLVED that the Planning Commission of the City of National City, California, that hereby finds as follows:

1. If the proposed use is not essential nor desirable to the public convenience and welfare, because there are other off-sale alcohol license outlets within half-mile of the site.
2. Granting the permit would constitute a nuisance or be injurious or detrimental to the public interest, health, safety, convenience, or welfare, or materially injurious to persons, property, or improvements in the vicinity and zone in which the property is located, because the census tract in which the subject property is located is currently over-concentrated with regard to off-sale alcohol outlets because eight off-sale outlets are permitted where four are recommended by the California Department of Alcoholic Beverage Control.

3. Based on findings 1 and 2 above, public convenience and necessity will not be served by an additional off-sale beer and wine alcohol license in the proposed location.

BE IT FURTHER RESOLVED that copies of this Resolution be transmitted forthwith to the applicant and to the City Council.

BE IT FINALLY RESOLVED that this Resolution shall become effective and final on the day following the City Council meeting where the Planning Commission resolution is set for review, unless an appeal in writing is filed with the City Clerk prior to 5:00 p.m. on the day of that City Council meeting. The City Council may, at that meeting, appeal the decision of the Planning Commission and set the matter for public hearing.

CERTIFICATION:

This certifies that the Resolution was adopted by the Planning Commission at their meeting of November 7, 2022, by the following vote:

AYES:

NAYS:

ABSENT:

ABSTAIN:

---

CHAIRPERSON



COMMUNITY DEVELOPMENT DEPARTMENT - PLANNING DIVISION  
1243 NATIONAL CITY BLVD., NATIONAL CITY, CA 91950

**PLANNING COMMISSION STAFF REPORT**

Title: PUBLIC HEARING – CODE AMENDMENT TO TITLE 18 (ZONING) OF THE NATIONAL CITY MUNICIPAL CODE TO CREATE AN INTERIM USE ORDINANCE RELATED TO THE USE OF NONCONFORMING BUILDINGS WITHIN THE CITY.

Case File No.: 2022-28 A

Staff report by: Martin Reeder, AICP – Planning Manager

Applicant: City-initiated

Environmental review: The proposed ordinance has been reviewed in compliance with the California Environmental Quality Act (CEQA) and has been determined to be categorically exempt from environmental review pursuant to Class 1, Section 15301 (Existing Facilities) for which a Notice of Exemption will be filed subsequent to ordinance adoption.

**BACKGROUND**

Staff Recommendation

Staff recommends that the Planning Commission recommend that the City Council adopt an amendment to National City Municipal Code (NCMC) section 18.11 (Nonconforming uses, structures, and parcels) to add a section related to the interim use of nonconforming structures or properties. The Planning Commission initiated this Code Amendment at their meeting of August 15, 2022.

Overview

In recent years, multiple buildings have lost their nonconforming status as structures due to discontinuance of use and are currently vacant. As nonconforming structures, they may no longer be used as they were designed (e.g., a nonconforming commercial building in a residential zone) without either redevelopment of the property or significant and expensive

alteration. As a result, these buildings are languishing in addition to not creating any income for their owners nor business taxes for the City. Furthermore, some could potentially be in danger of becoming nuisances if the nonuse continues indefinitely.

### Proposal

Staff suggests adding a new subsection to NCMC Chapter 18.11 (Nonconforming uses, structures, and parcels) that would permit the use of a nonconforming building for a set amount of time in the interim period of time between the current nonconforming situation and the eventual redevelopment of the property. The maximum suggested timeframe for this Interim Use Permit (IUP) is suggested as five years and would be staff-level approval. No development would be allowed without remedying the nonconforming condition.

The proposed initial expiration of the permit would be three years with the ability to extend for two additional years (one year at a time). The current Minor Use Permit (MUP) fee is recommended as it is considered to be a similar amount of work and such fee would need to be approved by City Council following a public hearing. The current fee for an MUP is \$700, which would be the fee for each stage of the permit (initial application and extension request). As with all staff-level decisions, said decision would be appealable to the Planning Commission. The current fee for an appeal is \$1,000.

### Analysis

NCMC Chapter 18.11 (Nonconforming uses, structures, and parcels) of the Land Use Code (Title 18 of the Municipal Code) outlines the regulations afforded to properties that are considered lawful nonconforming. A lawful nonconforming use, building, or property (“use”) is one that was legally established, but is no longer consistent or conforming with the Municipal Code due to subsequent changes in zoning or allowable uses. Examples include churches in single-family residential zones, residential uses in the industrial zones west of Interstate 5, and commercial buildings in residential zones of the Downtown Specific Plan (to name a few).

Generally-speaking, Chapter 18.11 allows for the continuation of lawful nonconforming uses, so long as they do not lapse for more than 12 months. If more than this period of time passes between lawful uses of the property in question, the property loses its lawful nonconforming status. Use of the property would henceforth revert to the current zoning. This is not always an issue with a lawful nonconforming commercial use in a commercial building, as the building may be leased to a different and conforming commercial use. However, if the building is an industrial building located in a residential zone of the

Westside Specific Plan, the building may no longer be used for industrial purposes, as it was initially designed to do.

Since the creation of the Downtown and Westside Specific Plans, there have been issues with buildings and uses becoming nonconforming. The issues have been exacerbated by downturns in the economy and (in particular) the COVID-19 pandemic. Without timely replacement of tenants (within 12 months), some properties have lost their lawful nonconforming status and can no longer function as originally intended.

The intent of the proposed Interim Use Permit (IUP) is to allow use of a property for up to five years so that property owners may create a revenue stream leading to eventual redevelopment or conversion. For the initial application submittal, the applicant will be required to provide a timeline for redevelopment of the property. Furthermore, any request for an extension would need to be accompanied by documentation that the timeline is being followed and that redevelopment is being pursued.

As previously mentioned, the application would be approved by staff and appealable to the Planning Commission. However, there will undoubtedly be times when more than five years is needed. In this case, if there is to be consideration of additional time, it should be through a discretionary process. There is a "Time Extension with Public Hearing" fee of \$1,150 on the City's fee schedule, which would be appropriate given the need to go to the Planning Commission. This option is not necessarily recommended, as it is the intention of this effort to encourage redevelopment rather than prolong a nonconforming situation. That being said, a case-by-case approach could be taken.

The proposed Interim Use Permit Ordinance will make reference to an approved list of uses for certain uses and structures, with latitude given for staff-level determinations to be made in cases of unique proposed uses. Examples may include:

- Co-work office space
- Art studios or galleries
- Resource centers
- "Pop-up" retail

Previous discussions have also included addressing design-specific buildings (e.g., auto repair) or warehouses in Westside residential zones. Uses in these situations could include minor auto repair (e.g., oil change, tire installation, etc.) or interior storage in Westside

areas. However, uses would need to be addressed on a case-by-case basis and would factor into approval of the permit. Ultimately, while this process is intended to allow interim use of the property for the owner to gain income, any interim uses should not be impactful upon neighboring uses.

### Findings

There are two findings required for approval of a Code Amendment, one related to General Plan consistency and one related to compliance with the California Environmental Quality Act (CEQA).

### General Plan Conformance

The proposed amendment adding NCMC section 18.11.120 is consistent with the General Plan in that the uses permitted on an interim basis are those typically permitted by right elsewhere in the City and within buildings designed for the use and are temporary as means to accomplishing redevelopment consistent with the General Plan. The Interim Use Permit program would provide a revenue stream both for the property/business owner and for the City, as well as prevent site deterioration, ultimately increasing the likelihood of successful future redevelopment.

### CEQA compliance

The ordinance being proposed is categorically exempt from environmental review under CEQA pursuant to Class 1, Section 15301 (Existing Facilities) for which a Notice of Exemption will be filed subsequent to adoption of the ordinance. As proposed, the ordinance would allow the temporary continuance of existing nonconforming uses and would therefore have no potential to result in either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment. Additionally, each project would be subject to review under CEQA upon submission of an application.

### Summary and next steps

Staff is recommending an addition to the City's Municipal Code related to interim uses and recommends that the Planning Commission support the amendment. The recommendation of the Planning Commission will be provided to the City Council at a subsequent public hearing at the City Council.

**OPTIONS**

1. Recommend that City Council introduce and adopt an amendment to Section 18.11 of the Land Use Code adding 18.11.120 based on the attached findings or findings to be determined by the Planning Commission; or
2. Recommend that City Council not amend Section 18.11 of the Land Use Code based on findings to be determined by the Planning Commission; or,
3. Continue the item to a specific date and provide direction.

**ATTACHMENTS**

1. Findings
2. Proposed Code section 18.11.120
3. Resolution



MARTIN REEDER, AICP  
Planning Manager



ARMANDO VERGARA  
Director of Community Development

## **RECOMMENDED FINDINGS FOR APPROVAL**

1. That the proposed addition of Section 18.11.120 to the NCMC is consistent with the General Plan, in that the uses permitted on an interim basis are those typically permitted by right elsewhere in the City and within buildings designed for the use and are temporary as means to accomplishing redevelopment consistent with the General Plan. The Interim Use Permit program would provide a revenue stream both for the property/business owner and for the City, as well as prevent site deterioration, ultimately increasing the likelihood of successful future redevelopment.
  
2. That the proposed ordinance has been reviewed and been found to comply with the California Environmental Quality Act (CEQA); the ordinance is categorically exempt from environmental review under CEQA pursuant to Class 1, Section 15301 (Existing Facilities) for which a Notice of Exemption will be filed subsequent to adoption of the ordinance. As proposed, the ordinance would allow the temporary continuance of existing nonconforming uses and would therefore have no potential to result in either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment. Additionally, each project would be subject to review under CEQA upon submission of an application.

### **18.11.120 – Interim Uses.**

A. Purpose. To provide a process for the temporary use of buildings that were previously legal nonconforming and lost their nonconforming status due to lack of use and establish a set amount of time for their use in the interim period between the current nonconforming situation and the eventual redevelopment of the property. The interim use will require administrative review in order to evaluate the compatibility of the proposed use with surrounding uses and the suitability of the use to the site.

B. Applicability. An interim use permit is required to authorize proposed interim land uses as being allowable in the applicable zoning district subject to the approval of an interim use permit.

C. Application Requirements. An application for an interim use permit shall contain all information required by the city manager or his/her designee necessary to determine compliance with the Land Use Code and to accomplish the requirements of this section, including the means to provide notice of the application. It is the responsibility of the applicant to provide evidence in support of the findings required by this section. A nonrefundable fee in such amount as the city council shall from time to time establish by resolution shall be paid to the finance officer at the time of filing. The application shall include a timeline for eventual redevelopment of the property.

D. Notice of Application.

1. The designated staff person shall mail notice of the application no later than ten days after an application has been deemed complete to:

a. The applicant; and

b. The owners of any real property, as shown on the latest equalized property tax assessment roll of the San Diego County Assessor, located within three hundred feet of the boundary of the property that is the subject of the application.

E. Contents of the Notice of Application.

1. The notice of application shall include at least the following information:

a. A general description of the proposed use, including activities and duration of the use.

b. The location and size of the property that is the subject of the application.

c. The name, telephone number, and city address of the designated staff person to contact for additional information.

d. An explanation that an interim use permit is an administrative process whereby the decision to approve, conditionally approve, or deny the proposed development will be made by the planning division without a public hearing.

e. An explanation of the process to appeal the decision.

F. Requests for Notice of Decision. Persons who wish to receive notice of the approval or denial of the application may request this information from the staff person indicated in the notice of application. The request must be received no later than ten business days after the date on which the notice of application is mailed.

G. Findings and Decision. The planning division may approve or deny an application for an interim use permit. The designated staff person shall record the decision and the findings on which the decision is based. The planning division may approve an interim use permit only after first finding all of the following:

1. The proposed use is consistent with the General Plan and any applicable specific plan;

2. The design, location, size, and operating characteristics of the proposed activity would be compatible with the existing and future land uses in the vicinity;

3. The site is physically suitable for the type, density, and intensity of use being proposed, including access, utilities, and the absence of physical constraints; and

4. Granting the permit would not constitute a nuisance or be injurious or detrimental to the public interest, health, safety, convenience, or welfare, or materially injurious to persons, property, or improvements in the vicinity and zoning district in which the property is located.

H. Issuance of Permit and Duration.

1. Upon the approval of an application, the planning division shall authorize the issuance of an interim use permit, with or without conditions, and one copy of which shall be forwarded to each of the following:

- a. The applicant;
- b. The building official;
- c. Any other department or agency the planning division considers affected by the issuance of the permit; and
- d. The division files for permanent retention.

2. Interim use permits shall be in effect for three years, at which time up to two annual extensions may be granted for a total of five years. Application for an extension shall be subject to a nonrefundable fee, in such amount as established by the city council from time to time by resolution and in effect at the time of filing of the extension. Extensions exceeding two additional years or five total years may be requested and require a public hearing and approval by the Planning Commission.

I. Conditions of Approval. In approving an interim use permit, the planning division may impose any conditions deemed reasonable and necessary to ensure that the approval would comply with the findings required by this section.

RESOLUTION NO. 2022-25

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF NATIONAL CITY, CALIFORNIA, RECOMMENDING ADOPTION TO THE CITY COUNCIL OF AN AMENDMENT TO TITLE 18 (ZONING) OF THE NATIONAL CITY MUNICIPAL CODE TO CREATE AN INTERIM USE ORDINANCE RELATED TO THE USE OF NONCONFORMING BUILDINGS WITHIN THE CITY.

APPLICANT: CITY-INITIATED.

CASE FILE NO. 2022-28 A

WHEREAS, pursuant to the terms and provisions of the Government Code of the State of California, proceedings were duly initiated for the amendment of the National City Municipal Code, per Title 18 (Zoning); and,

WHEREAS, the Planning Commission of the City of National City, California, considered said proposed amendment at a duly advertised public hearing held on November 7, 2022 at which time the Planning Commission considered evidence; and,

WHEREAS, at said public hearings the Planning Commission considered the staff report provided for Case File No. 2022-28 A, which is maintained by the City and incorporated herein by reference, along with any other evidence presented at said hearing; and,

WHEREAS, the evidence presented to the Planning Commission at the public hearing held on November 7, 2022 supports the findings made herein; and,

WHEREAS, the Planning Commission recommends adoption to the City Council of the City of National City of an amendment to Section 18.11 (Nonconforming uses, structures, and parcels) of Title 18 (Zoning) of the National City Municipal Code; and,

WHEREAS, this action is taken pursuant to all applicable procedures required by State law and City law; and,

WHEREAS, this action is taken in an effort to comply with applicable State and Federal law; and,

WHEREAS, the action hereby taken is found to be essential for the preservation of the public health, safety and general welfare.

NOW, THEREFORE, BE IT RESOLVED that the City Planning Commission of the City of National City, California, hereby finds as follows:

1. That the addition of Section 18.11.120 to the National City Municipal Code as indicated in Attachment A to this Resolution is consistent with the General Plan, in that the uses permitted on an interim basis are those typically permitted by right elsewhere in the City and within buildings designed for the use and are temporary as means to accomplishing redevelopment consistent with the General Plan. The Interim Use Permit program would provide a revenue stream both for the property/business owner and for the City, as well as prevent site deterioration, ultimately increasing the likelihood of successful future redevelopment.
2. That the proposed ordinance has been reviewed and been found to comply with the California Environmental Quality Act (CEQA); the ordinance is categorically exempt from environmental review under CEQA pursuant to Class 1, Section 15301 (Existing Facilities) for which a Notice of Exemption will be filed subsequent to adoption of the ordinance. As proposed, the ordinance would allow the temporary continuance of existing nonconforming uses and would therefore have no potential to result in either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment. Additionally, each project would be subject to review under CEQA upon submission of an application.
3. That the City Council should introduce and consider adoption of Section 18.11.120 to the National City Municipal Code.

BE IT FURTHER RESOLVED that copies of this Resolution be transmitted forthwith to the City Council.

CERTIFICATION:

This certifies that the Resolution was adopted by the Planning Commission at their meeting of November 7, 2022, by the following vote:

AYES:

NAYS:

ABSENT:

ABSTAIN:

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CHAIRPERSON



Item no. **7**  
November 7, 2022

COMMUNITY DEVELOPMENT DEPARTMENT - PLANNING DIVISION  
1243 NATIONAL CITY BLVD., NATIONAL CITY, CA 91950

### **PLANNING COMMISSION STAFF REPORT**

Title: REQUEST FOR DIRECTION ON VIRTUAL OR PHYSICAL ATTENDANCE  
FOR FUTURE PLANNING COMMISSION MEETINGS.

#### **Staff Recommendation**

Staff recommends that the Planning Commission take a formal vote on whether or not to transition to in-person meetings or to remain with the current virtual format under current legal standards. While this was a discussion item at the last Planning Commission meeting, not all Commissioners were present and no formal action was taken.

#### **Overview**

In 2020, the World Health Organization declared the COVID-19 outbreak a global pandemic and local and state emergencies were declared providing reprieve from certain public meeting laws such as the Brown Act. Beginning in March 2020, California Governor Newsom executed Executive Order N-29-20 including additional updates as the pandemic progressed and extending into 2021. Executive Order N-08-21, issued June 11, 2021, waived all physical presence requirements under the Ralph M. Brown Act as a means of limiting the spread of COVID-19. On September 16, 2021, California Governor Newsom signed into law Assembly Bill (AB) 361, which extended the authority of public agencies to conduct meetings by teleconference, including video conference, while the state of emergency resulting from the COVID-19 pandemic and accompanying recommendations for social distancing remain in place. On October 17, 2022, the Governor announced that the state of emergency will remain in place until February 28, 2023.

The health and well-being of National City residents, visitors, and employees during the COVID-19 outbreak has remained the City Council's top priority. The City has coordinated with the County of San Diego Health Human Services Agency, and other agencies to take measures to monitor and reduce the spread of the novel coronavirus (COVID-19). The City Council returned to in-person meetings on August 2, 2022. At their meeting of August 16, 2022, the City Council voted to allow select Boards, Committees, and Commissions (including the Planning Commission) the option to meet

in-person or virtually based on preference of the majority, if the findings under AB361 can be met every 30 days and other applicable law allows it.

As long as the state of emergency remains active, or state or local officials have imposed or recommended measures to promote social distancing, in order to continue to remote teleconference, Government Code section 54953(e)(3) requires that every thirty (30) days, the City Council make the following findings by majority vote:

(A) The legislative body has reconsidered the circumstances of the state of emergency.

(B) Any of the following circumstances exist:

(i) The state of emergency continues to directly impact the ability of the members to meet safely in person.

(ii) State or local officials continue to impose or recommend measures to promote social distancing.

Accordingly, for certain commissions (like the Planning Commission) who express a majority will to continue to meet remotely, the City Council will reconsider the circumstances of the state of emergency every 30 days and determine whether the state of emergency continues to directly impact the ability of the commissioners to meet safely in person. Otherwise, the default rule under the Ralph M. Brown Act requires in person meetings of all legislative bodies.

#### Additional Information

Governor Newsom's announcement last month that the COVID-19 State of Emergency will end on February 28, 2023 charted the path to phasing out one of the most effective and necessary tools that California has used to combat COVID-19 with increased assess to remote meetings. Accordingly, regardless of any findings by the City Council, the Planning Commission would be required by state law to return to in person meetings on March 6, 2023, the first meeting after the State of Emergency ends.

For reference, the remaining meetings in 2022 are as follows:

**November 21, 2022** – This meeting will likely be canceled due to lack of items.

**December 5, 2022** – This meeting will most likely occur, as adoption of 2023 meeting dates and the election of officers needs to take place prior to the end of the year.

Based on the yet-to-be-adopted 2023 meeting date schedule, the expected meeting dates in 2023 prior to the State of Emergency ending are as follows:

**January 2, 2023** – This meeting is historically canceled due to lack of items or noticing deadlines being offset by furlough.

**February 6, 2023** – There will likely be items for this agenda.

Summary and next steps

In order to continue to meet remotely until March 6, 2023, the majority of the Planning Commission would need to vote in the affirmative, and, every 30 days, the City Council would need to reconsider the emergency and a majority would need to vote that the state of emergency continues to directly impact the ability of the commissioners to meet safely in person.

As such, staff recommends that the Commission discuss the matter and vote on a recommendation to City Council regarding whether Planning Commission meetings should be transitioned to in person meetings effective starting the next meeting or remain with the virtual format for as long as the findings under AB361 can be met and other applicable law is followed.



MARTIN REEDER, AICP  
Planning Manager



ARMANDO VERGARA  
Director of Community Development