



NOTICE OF DECISION
Planning & Building Department

Project Name:	Lazy Acres Alcohol License
Request:	Allow a Type 21 Alcohol License within a grocery store
Ministerial Actions:	Public Convenience
CEQA Determination:	Exempt
DECISION:	APPROVED
Project Number:	16-150 PCN
PBD Number:	2016-42
Location:	150 Encinitas Boulevard
Community:	Old Encinitas
APN:	258-090-39
Applicant:	Bristol Farms dba "Lazy Acres Market"
Representative:	Beth Aboulafia, Hinman & Carmichael LLP
Project Planner:	Anna Yentile, Associate Planner, ayentile@encinitasca.gov
Decision Date:	September 12, 2016
Report Approval:	<input checked="" type="checkbox"/> Roy Sapa'u, Senior Planner

SUMMARY AND KEY CONSIDERATIONS

The applicant requests findings for public convenience or necessity for a proposed Type 21 License (Off-Sale General) to sell alcoholic beverages for offsite consumption in association with a new grocery store.

PROJECT DESCRIPTION

The applicant submitted an application to the California Department of Alcoholic Beverage Control (ABC) for a Type 21 License (Off-Sale General license) for the Lazy Acres Market located at 150 Encinitas Boulevard. As per City Council Resolution 96-37 and in accordance

with Business and Professions Code Section 23958.4(b)2, the applicant requests that the Director determine that public convenience or necessity would be served by issuance of the Type 21 license.

PROJECT ANALYSIS

Background

The existing retail center was developed under the County of San Diego. An Administrative Design Review Permit, Minor Use Permit and Coastal Development Permit for façade modifications and monument sign changes was approved for Lazy Acres Market on May 13, 2016 (Notice of Decision No. 2016-17, Case No. 15-278 ADR/MIN/CDP). Lazy Acres has obtained building permits for tenant improvements and expects to open Fall 2016.

Project Site Characteristics:

General Plan:	General Commercial
Specific Plan:	None
Zoning District:	General Commercial
Zoning Overlay:	California Coastal Commission's Appeal Jurisdiction, Cultural/Natural Resources Overlay Zone and Scenic/Visual Corridor Overlay Zone
Community Character Context:	Inland Residential Gridded
Other Key City Plan:	None
Notable State or Regional Plan and Law:	None

Adjacent Area:

Direction	General Plan & Zoning District	Community Character Context	Land Use
North	Public/Semi-Public & Public/Semi-Public	Inland Residential Gridded	Cottonwood Creek Park
South	Visitor Serving Commercial & Visitor Serving Commercial	Inland Residential Gridded	Gas Station
East	Transportation Corridor	Inland Residential Gridded	Interstate 5
West	Public/Semi-Public & Public/Semi-Public	Inland Residential Gridded	Cottonwood Creek Park

The project site is an infill property surrounded by the Cottonwood Creek Park to the north and west, Interstate 5 to the east and a restaurant and hotel to the south. There is an existing wetland located on the Cottonwood Creek property.

Municipal Code Analysis

The subject property is located within the General Commercial zone. A grocery store use with off-premise sales of alcoholic beverages such as proposed by Lazy Acres Market is a permitted use within the General Commercial zone. No other improvements are proposed as part of this request.

Other Policy or Plan Consistency

Business and Professions Code Section 23958.4(b)2 stipulates that the State Alcohol Beverage control Board may grant a license to an applicant premise if the local governing body of the area in which the applicant premises are located determines that public convenience or necessity would be served by the issuance of the license. The City Council adopted Resolution 96-37 pursuant to this Business and Professions Code Section to provide direction to staff relative to review of license applications and determining findings for public convenience and necessity.

Staff reviewed the request according to the process established by Resolution 96-37. Several factors were considered in determining whether public convenience or necessity would be served, including overconcentration data, surrounding land uses, crime data and ABCs conditions of approval for the proposed license.

Lazy Acres is located within census tract 176.03. Currently there is no overconcentration of off-sale licenses in this census tract with one license existing. The current county ratio is one license to 1,537 residents. Census tract 176.03 has a population of 2,476, which would allow one (1.6 rounded down) license to meet the census limit. There is also one on-sale establishment in this census tract, which meets the limit. With the addition of this license, the census tract would be over concentrated compared to the County average.

Additionally, the Lazy Acres parcel is located adjacent to a public park to the north and west, Interstate 5 to the east and a restaurant and hotels to the south. Though the public park's parcel is immediately adjacent to the Lazy Acres shopping center, there is no pedestrian or vehicular connection to and from the store directly. There is no anticipated concern regarding the remaining uses.

In the last year, there were eight calls for service for driving under the influence of alcohol within a quarter mile of the proposed license location and 23 other alcohol related offenses. However, in an email from ABC dated July 1, 2016, ABC indicated that both the Sheriff's Department and Boys and Girls Club had no objections to the license request at this location. In addition, the Sheriff's department provided a letter dated July 28, 2016 specifically stating similar establishments have not contributed significantly to the crime rate in the City. ABC further stated that no conditions of approval were anticipated for the license request.

The applicant has indicated that alcohol will occupy five to six percent of the floor area of the store with approximately five percent of overall sales from alcoholic beverages. Therefore, staff finds that only a minority of the floor space is devoted to alcohol beverages.

ENVIRONMENTAL CONSIDERATIONS

The project has been determined to be exempt from environmental review pursuant to California Environmental Quality Act (CEQA) Guidelines Section 15300.1. Section 15300.1 exempts projects over which public agencies exercise only ministerial authority. The request for public convenience is a ministerial action. The project meets the criteria for the exemption. The project does not qualify as one of the exceptions prescribed under Section 15300.2 of the CEQA Guidelines and no historic resources are affected by the proposed project.

DISCUSSION

Staff assessed the overconcentration data, surrounding land uses and crime data. In addition, staff received letters indicating no objections to the application from the Sheriff's department and Boys and Girls Club. ABC did not find it necessary to impose conditions on the proposed Type 21 alcohol license at this subject site. Therefore, staff finds that public convenience would be served by issuance of the license. Off sale of alcohol is a common convenience service for grocery stores of this size. The amount of floor area devoted to alcohol sales demonstrates that the sales would be accessory to the principal grocery store use.

FINDINGS

Based on the findings for a Public Convenience or Necessity per Resolution 96-37 and the aforementioned analysis, the Planning & Building Department has made the following findings to support the approval:

Finding for Public Convenience	Explanation of Finding
Factual data showing that the premises will have a majority of floor space devoted to food or other merchandise with a minority of floor space devoted to alcohol beverages. A typical use meeting this criteria would be a supermarket or other food store with alcohol beverages offered as one of many products.	Lazy Acres Market proposes five to six percent of its overall sales towards alcohol. The remaining sales relate to standard supermarket goods.
Information from the Encinitas Substation of the San Diego County Sheriff that similar establishments within the City of Encinitas have not contributed significantly to the crime rate within the City of Encinitas.	The San Diego County Sheriff's department stated in a letter that similar establishments within the City of Encinitas have not contributed significantly to the crime rate within the City.

CONCLUSION

The proposed request for a Type 21 Alcohol license meets the criteria for findings for public convenience. Therefore, staff finds for public convenience.

DISCLOSURES

This notice constitutes a decision of the Planning & Building Department only for the discretionary entitlement. Additional permits, such as Building and Grading Permits, may be required by the Planning & Building Department or other City Departments. It is the property

owner's and applicant's responsibility to obtain all necessary permits required for the type of project proposed.

In accordance with the provisions of Municipal Code Section 1.12, the decision of the Planning & Building Department may be appealed to the City Council within 15 calendar days of the date of this determination. The appeal must be filed, accompanied by a \$250 filing fee, prior to 5:00 pm on the 15th calendar day following the date of this Notice of Decision. Any filing of an appeal will suspend this action as well as any processing of permits in reliance thereon in accordance with Encinitas Municipal Code Section 1.12.020(D)(1) until such time as an action is taken on the appeal. **The action of the Planning & Building Department may not be appealed to the California Coastal Commission.**

If you have any questions regarding this determination, please contact Anna Yentile, Associate Planner, at 760-633-2724 or by email at ayentile@encinitasca.gov; or contact the Planning & Building Department, 505 South Vulcan Avenue, Encinitas, CA 92024 at 760-633-2710 or by email at planning@encinitasca.gov.

SIGNATURE



Manjeet Ranu, AICP
Acting Director of Planning & Building