



PLANNING COMMISSION AGENDA REPORT

MEETING DATE: JANUARY 9, 2006

VI.6.
ITEM NUMBER:

**SUBJECT: PLANNING APPLICATION PA-05-46
600 WEST 19TH STREET, SUITES A & B**

DATE: DECEMBER 29, 2005

FOR FURTHER INFORMATION CONTACT: WENDY SHIH, ASSOCIATE PLANNER (714) 754-5136

PROJECT DESCRIPTION

The applicant is requesting approval of a conditional use permit to upgrade an existing beer and wine ABC license to a full liquor license for California Stop Food Store and a finding of public convenience or necessity, which is required for the license upgrade.

APPLICANT

Johnny Trieu is representing the property owners, Steve Lund and Dave Peckenpaugh of 19th and Anaheim LLC.

RECOMMENDATION

Deny by adoption of Planning Commission resolution.



WENDY SHIH
Associate Planner



R. MICHAEL ROBINSON, AICP
Asst. Development Services Director

BACKGROUND

The subject property is located on the northwest corner of Anaheim Avenue and West 19th Street. It contains an approximately 5,000 square foot, multi-tenant commercial building. The applicant proposes to upgrade an existing type 20 (off-sale beer and wine) ABC (State Department of Alcoholic Beverage Control) license to a type 21 (off-sale general) license for California Stop Food Store, an approximately 2,000 square foot mini-market.

Since the property is located within an area (based on census tract) of undue concentration of off-sale licenses, State law requires the City to make a finding of "public convenience or necessity" before ABC will issue the license.

DISCUSSION

Business and Professions Code Section 23958.4 defines "undue concentration" as being an area where there is high crime, and/or the ratio of the number of ABC licenses to population within the census tract exceeds the countywide ratio. The census tract already has 9 off-sale licenses (4 are allowed), and the property is in a high crime area that exceeds the City-wide average crime rate by 68 percent. In 2001, Assembly Bill No. 624 was passed to allow ABC take into account adjacent crime reporting districts if the applicant's premises for any off-sale beer and wine license is located within 100 feet of the boundaries of an adjacent crime reporting district. The adjoining police reporting district to the south also exceeds the City-wide average crime rate by 81 percent.

It is staff's opinion that there is no need for another retail establishment selling "hard" liquor, in addition to the current sale of beer and wine for California Stop Food Store. In the vicinity, there are several other retail establishments or liquor stores with a type 21 ABC license, which include Sunshine Liquor at 724 West 19th Street, 888 Liquor at 586 West 19th Street, Smart & Final at 707 West 19th Street, Thanks Liquor & Market at 1927 Harbor Boulevard, and Beverages & More and Sav-On, both at 1835 Newport Boulevard. Additionally, the subject business is not a "specialty retail" store like Beverages & More and Crystal Champagne Connoisseur, which were recently approved by Planning Commission. Staff notes there is a long-term City Council concern regarding the concentration of liquor stores on West 19th Street.

The subject property is also located within the Westside Revitalization Plan area, and the draft "19 West Urban Plan" encourages the development of a mixed-use urban village along West 19th Street and other streets in the area. Staff believes that a wide variety of uses will further the intent of the urban village concept.

The Police Department has reviewed the request and is opposed to the ABC license upgrade. According to their records, the number of calls for service related to this business was higher than the average number for such businesses City-wide during the past year.

ALTERNATIVES

The Planning Commission may consider the following alternatives:

1. Deny the application for a license upgrade, which would allow the applicant to continue to operate under the existing beer and wine license.
2. Approve the CUP for the license upgrade and make the finding for public convenience or necessity, subject to requiring the existing beer and wine license be canceled or surrendered prior to issuance of the new license.

CONCLUSION

California Stop Food Store currently sells beer and wine in a census tract which presently includes 8 other businesses selling alcoholic beverages. Since there are several liquor stores and other retailers with a type 21 license in proximity to the subject site, and the property is located in an area of undue concentration and is not considered "specialty retail", it is staff's opinion that the CUP cannot be supported and a finding for public convenience or necessity cannot be made for the proposed license upgrade.

Attachments: Draft Planning Commission Resolution
 Exhibit "A" – Findings
 Exhibit "B" – Conditions of Approval
 Applicant's Project Description and Justification
 Location Maps
 Census Tracts Map
 High Crime Areas Map
 Plans
 Police Department Comments

cc: Deputy City Manager - Dev. Svs. Director
 Sr. Deputy City Attorney
 City Engineer
 Fire Protection Analyst
 Staff (4)
 File (2)

Steve Lund and Dave Peckenpaugh
19th and Anaheim LLC
16101 Goldenwest Street
Huntington Beach, CA 92647

Johnny Trieu
600 W. 19th St., Ste. A&B
Costa Mesa, CA 92627

RESOLUTION NO. PC-06-

**A RESOLUTION OF THE PLANNING COMMISSION OF THE
CITY OF COSTA MESA DENYING PLANNING APPLICATION
PA-05-46**

THE PLANNING COMMISSION OF THE CITY OF COSTA MESA HEREBY
RESOLVES AS FOLLOWS:

WHEREAS, an application was filed by Johnny Trieu for Steve Lund and Dave Peckenpaugh of 19th and Anaheim LLC, owner of real property located at 600 West 19th Street, Suites A and B, requesting approval of a conditional use permit to upgrade an existing type 20 (off-sale beer and wine) ABC license to type 21 (off-sale general) license and a finding of public convenience or necessity for the license upgrade in the C1 zone; and

WHEREAS, a duly noticed public hearing was held by the Planning Commission on January 9, 2006.

BE IT RESOLVED that, based on the evidence in the record and the findings contained in Exhibit "A," the Planning Commission hereby **DENIES** Planning Application PA-05-46 with respect to the property described above.

PASSED AND ADOPTED this 9th day of January, 2006.

Bill Perkins, Chair
Costa Mesa Planning Commission

EXHIBIT "A"

FINDINGS

- A. The information presented does not comply with Costa Mesa Municipal Code Section 13-29(g)(2) in that the proposed use is not compatible with developments in the same general area. Granting the conditional use permit will be detrimental to the health, safety and general welfare of the public or other properties or improvements within the immediate vicinity. Specifically, the property is located in an area where there is high crime and the ratio of the number of ABC licenses to population within the census tract exceeds the countywide ratio. There are several other retail establishments or liquor stores with a type 21 ABC license in the vicinity and the adjoining crime-reporting district to the south is a high crime area.
- B. The project has been reviewed for compliance with the California Environmental Quality Act (CEQA), the CEQA Guidelines, and the City environmental procedures, and has been found to be exempt from CEQA under Section 15301 for Existing Facilities.
- C. The project is exempt from Chapter XII, Article 3 Transportation System Management, of Title 13 of the Costa Mesa Municipal Code.

EXHIBIT "B"**CONDITIONS OF APPROVAL (If project is approved)**

- Plng.
1. The applicant shall cancel or surrender the current Type 20 ABC license before the Type 21 license is issued.
 2. No wine shall be sold with an alcoholic content of greater than 15% of volume except for "dinner wines" which have been aged two years or more and maintained in corked bottles.
 3. Wine shall not be sold in bottles or containers smaller than 750 milliliters.
 4. No sale of beer in single cans or bottles (any size) shall be permitted. This restriction is not intended to prohibit the sale of such beverages in kegs or other types of containers, with a volume of 2 or more gallons, which are clearly designed to dispense multiple servings.
 5. Beer, malt beverages, wine coolers or pre-mixed distilled spirit cocktails packed in 16-ounce containers or smaller, may not be sold as single containers, but must be sold in manufacturer prep-packaged multi-unit quantities.
 6. Beer or wine shall not be displayed or sold from an ice tub or any other type of portable refrigerated unit.
 7. Applicant shall post signs inside and outside the premises prohibiting the on-site consumption of alcoholic beverages and loitering.
 8. Applicant shall post signs inside and outside the premises in compliance with the City of Costa Mesa Municipal Code notifying the public with regard to the prohibition of open containers of alcohol beverages.
 9. Every 2 hours, from 4:00 p.m. to closing, the applicant shall patrol the area over which the applicant has control in an effort to prevent the loitering of persons about the premises. The applicant shall make reasonable efforts to prevent loitering during other hours the business is open.
 10. Applicant shall secure the premises with appropriate security lighting and employee scrutiny of adjacent areas under which applicant has control, to prevent trash, graffiti and littering. Any lighting under the control of the applicant shall be directed in such a manner so as not to unreasonably interfere with the quiet enjoyment of nearby residences. Applicant shall further provide adequate lighting above the entrance to the premises sufficient in intensity to make visible the identity and actions of all persons entering and leaving the premises.
 11. Except as permitted by the City of Costa Mesa Municipal Code for temporary window signs, windows shall not be blocked or obscured.
 12. Exterior advertising shall comply with the City's sign regulations, and exterior advertisements shall be prohibited which indicate the availability of alcoholic beverages. Interior displays of alcoholic beverages or signs which are clearly visible from the exterior at the closest public street or sidewalk, shall constitute a violation of this condition.
 13. The applicant shall maintain free of litter all areas of the premises under which applicant has control.

14. Any graffiti painted or marked upon the premises shall be removed or painted over within 48 hours of being applied.
15. The conditional use permit herein approved shall be valid until revoked, but shall expire upon discontinuance of the activity authorized hereby for a period of 180 days or more. The conditional use permit may be referred to the Planning Commission for modification or revocation at any time if the conditions of approval have not been complied with, if the use is being operated in violation of applicable laws or ordinances, or if, in the opinion of the development services director or his designee, any of the findings upon which the approval was based are no longer applicable.
16. A copy of the conditions of approval for the conditional use permit must be kept on premises and presented to any authorized City official upon request. New business/property owners shall be notified of conditions of approval upon transfer of business or ownership of land.

PLANNING DIVISION - CITY OF COSTA MESA
DESCRIPTION/JUSTIFICATION

Application #: PA-05-46

Environmental Determination:

Address: 600 W 19TH STREET #A & B COSTA MESA CA 92627

1. Fully describe your request:

Up grade ABC license 20 off sale to 21 off sale for current business located @ 600 W 19TH Street #A & B Costa Mesa CA 92627.
Not intended to increase the square footage of the business.

2. Justification

A. For a Conditional Use Permit or Minor Conditional Use Permit: Describe how the proposed use is substantially compatible with uses permitted in the same general area and how the proposed use would not be materially detrimental to other properties in the same area.

We are not asking to use our permit any differently than the other stores selling liquor in our area. We are very conscientious business owners, and community members. We will be closely monitoring our sales making sure that no minors are sold alcohol and limiting the sales to our customers if they appear to be a threat in anyway.

B. For a Variance or Administrative Adjustment: Describe the property's special circumstances, including size, shape, topography, location or surroundings that deprive the property of privileges enjoyed by other properties in the vicinity under the identical zoning classification due to strict application of the Zoning Code.

3. This project is: (check where appropriate)

In a flood zone.

Subject to future street widening.

In the Redevelopment Area.

In a Specific Plan Area.

4. I have reviewed the HAZARDOUS WASTE AND SUBSTANCES SITES LIST published by the office of Planning and Research and reproduced on the rear of this page and have determined that the project:

Is not included in the publication indicated above.

Is included in the publication indicated above.

Signature



Date

10/20/05

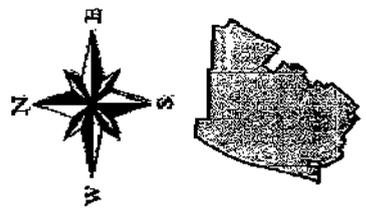
ZONING/LOCATION MAP

600 West 19th Street

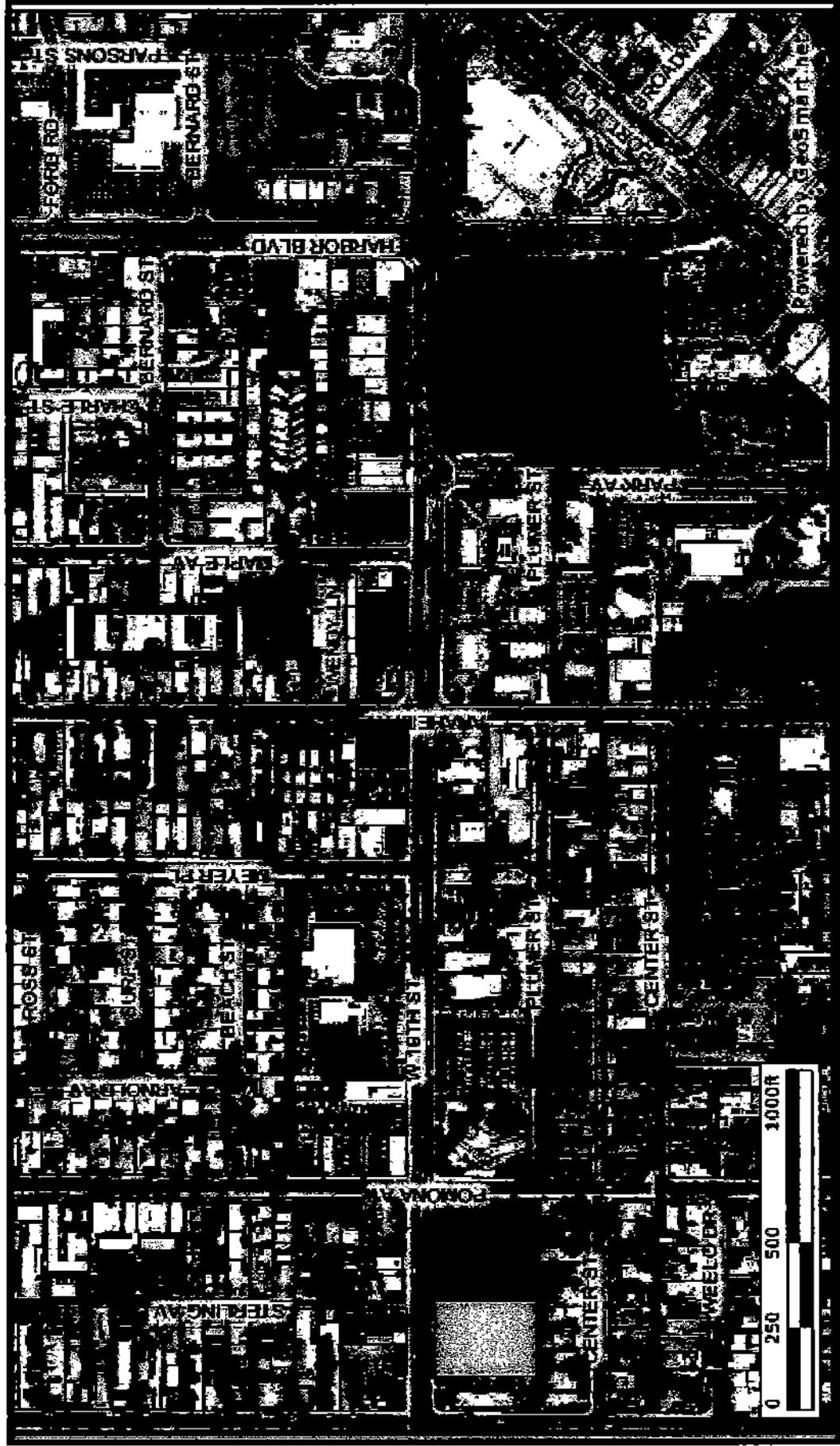


Legend

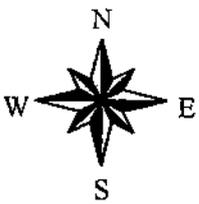
- Street Names
- Parcel Lines
- City Boundary
- Zoning
 - AP
 - C1
 - C1-S
 - C2
 - CL
 - 1&R
 - 1&R-S
 - MG
 - MP
 - P
 - PDC
 - PDI
 - PDR-HD
 - PDR-LD
 - PDR-MD
 - PDR-NCH
 - R1
 - R2-HD
 - R2-MD
 - R3
 - TC
- Parcels



Existing Off-Sale ABC Licenses



Census Tracts Map



3000 0 3000 6000 Feet

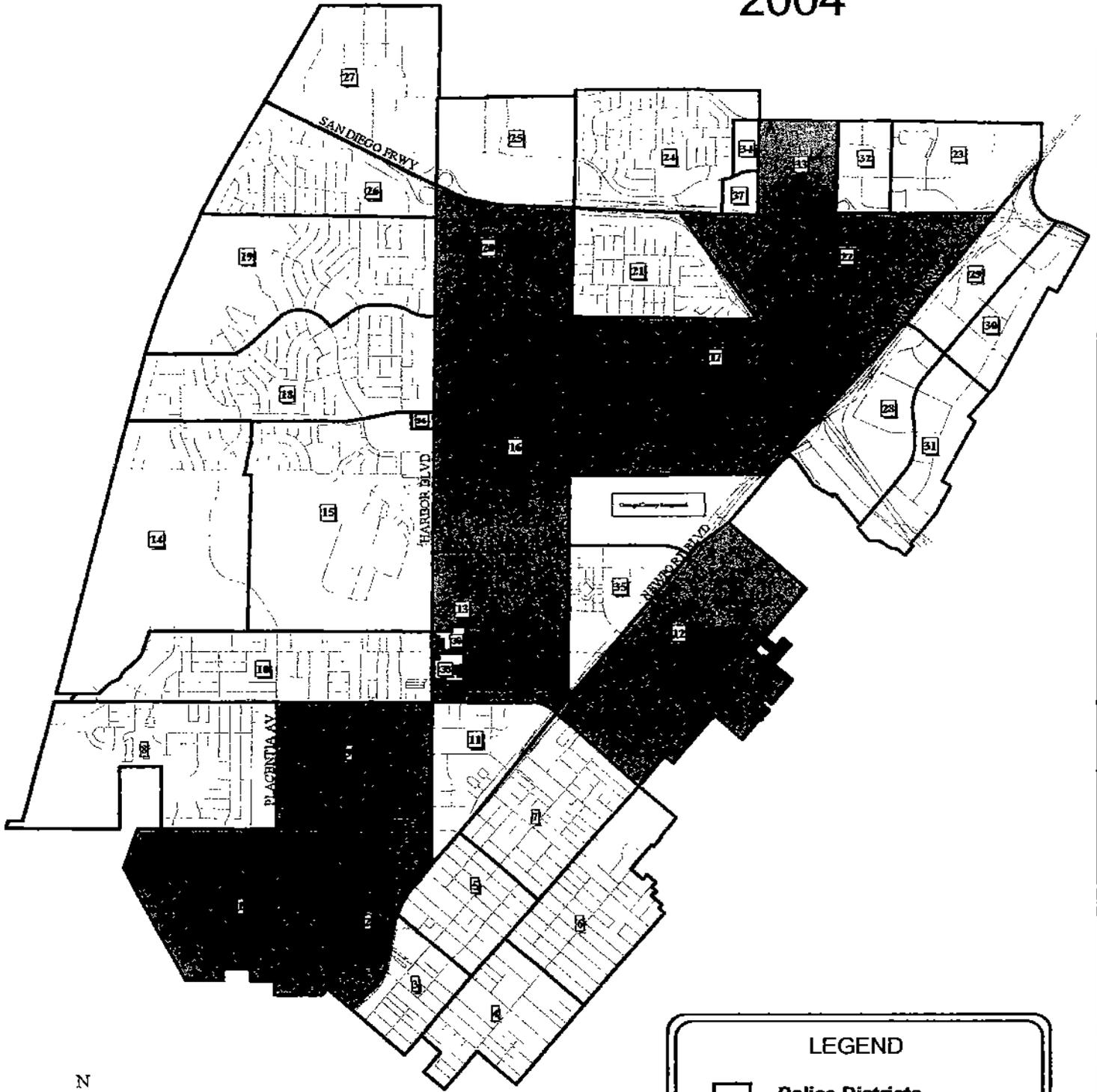
LEGEND

- City Streets
- City Boundary Line

Updated: January 2002



High Crime Areas 2004



LEGEND

- Police Districts
- Areas Where Crime Exceeds 20% of City Wide Average



SHIH, WENDY

From: BIRNEY, DALE
Sent: Wednesday, December 21, 2005 8:40 AM
To: SHIH, WENDY
Subject: RE: California Food Stop - 600 W. 19th Street

Hi Wendy, here is a response to your e-mail. Sorry for the delay, I was waiting for the stats to come back.

1. 49 calls for service. It appears that 19 were related to begging, homeless issues or CMMC violations. There were 12 calls relating to someone using the payphone at the location to call 911 and hang up.
2. Overall, I would say the number of calls for service to this address was higher than average.
3. Yes. It attracts homeless, and those attempting to purchase alcohol. Lends itself to those types of individuals to loiter in the area.
4. No
5. Like all the other recommendations I have made for establishments selling alcohol in this area; there are too many of them.

-----Original Message-----

From: SHIH, WENDY
Sent: Thursday, December 15, 2005 10:02 AM
To: BIRNEY, DALE
Cc: HUPP, SUE
Subject: California Food Stop - 600 W. 19th Street

Dale: The subject business proposes to upgrade their existing Type 20 ABC license to Type 21 license so they can sell liquor in addition to beer and wine. Please let me know the following so I may forward to Planning Commission for consideration:

1. Total number of incidents/calls for service related to this business in the last 12 months?
2. Are these incidents/calls higher or lower than the average number for such businesses City wide?
3. Do you consider this to be a "problem business"? If yes please describe the nature of the problem.
4. Do you recommend approval of the license upgrade?
5. Any additional comments?

Thank you!

Wendy Shih
Associate Planner
City of Costa Mesa
(714) 754-5136