



# **PLANNING COMMISSION AGENDA REPORT**

MEETING DATE: JANUARY 27, 2014

ITEM NUMBER: PH-1

**SUBJECT: PLANNING APPLICATION PA-13-08 FOR THE CONCURRENT SALE OF ALCOHOLIC BEVERAGES AND MOTOR VEHICLE FUEL FOR AN EXISTING SERVICE STATION AND A FINDING OF PUBLIC CONVENIENCE OR NECESSITY FOR A PREMISE-TO-PREMISE TRANSFER OF AN OFF-SALE ABC LICENSE  
751 BAKER STREET, UNIT A**

**DATE: JANUARY 16, 2014**

**FROM: PLANNING DIVISION/DEVELOPMENT SERVICES DEPARTMENT**

**PRESENTATION BY: MEL LEE, SENIOR PLANNER**

**FOR FURTHER INFORMATION CONTACT: MEL LEE, AICP (714) 754-5611  
mel.lee@costamesaca.gov**

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## **PROJECT DESCRIPTION**

The applicant is requesting the following:

- Conditional use permit for the sale of alcoholic beverages (beer, wine, and distilled spirits) and motor vehicle fuel at an existing service station/convenience market (USA Gasoline) with a State Alcoholic Beverage Control (ABC) License Type 21 (Off-Sale General). Current hours of operation are 24 hours, 7 days a week.
- A finding of Public Convenience or Necessity (PC or N) in conjunction with a premise-to-premise transfer of an existing ABC License from within the City to allow the sales of alcoholic beverages at the proposed location.

## **APPLICANT**

The applicant is the Fiedler Group, representing Thrifty Oil Co., the property owner.

## **RECOMMENDATION**

Adopt a resolution approving the conditional use permit to allow sales of alcoholic beverages at the service station/convenience store and making a finding of Public Convenience or Necessity for the premise-to-premise transfer of the ABC license, subject to conditions of approval.

## **BACKGROUND**

### ***Project Site/Environs***

The property is located on the southwest corner of Baker Street and Randolph Avenue and contains a service station (currently USA Gasoline), a multiple tenant retail shopping center, and a convenience market. The property is zoned C2 (General Commercial) and has a General Plan Designation of General Commercial. The property is also located within the South Bristol Entertainment & Cultural Arts (SoBECA) Urban Plan; however, the proposed use does not require master plan approval and does not activate any of the provisions in the urban plan.

### ***Property History***

The service station was originally constructed in the early 1960's. Planning Commission approved Zone Exception Permit ZE-76-09 to remodel the service station with new canopies and a cashier's booth on February 9, 1976, on 5-0 vote.

On February 25, 1985, Planning Commission approved Conditional Use Permit PA-85-19 to demolish the cashier's booth and construct the convenience market and multi-tenant retail building on a 5-0 vote. The conditional use permit approval did not include the approval of the sale of alcoholic beverages in conjunction with the sale of gasoline. According to the applicant, the convenience market has operated with a Type 21 ABC license since 1991, however, an amendment to PA-85-19 to allow the sale of alcoholic beverages in conjunction with the sale of gasoline was never processed.

The Type 21 license at this location was surrendered to ABC in June 2012 and transferred to the service station at 3003 Newport Boulevard (ARCO), a process known as a "premise-to-premise" license transfer. The premise-to-premise transfer of the license was approved by the Planning Commission on September 10, 2012 under Planning Application Amendment PA-09-11 A1, which also included the construction of a new convenience store, a carwash, and new fuel canopies. Building permits have been issued and construction recently commenced on this project.

## **ANALYSIS**

### ***Conditional Use Permit PA-13-08***

Zoning Code Section 13-200.71 requires approval of a conditional use permit for an existing liquor store, convenience store, or mini-market for any of the following:

1. Issuance of a new off-sale ABC license;
2. Any change in the type of off-sale ABC license;
3. Any type of premise-to-premise transfer of an existing off-sale ABC license;
4. Any cumulative expansion of 100 square feet or more of the gross floor area; or

5. Any suspension or revocation of the off-sale ABC license for 5 days or more by the State in a cumulative 5-year period by the State.

In this case, the underlined provision of the Zoning Code above would apply for this application.

### ***Premise-to-Premise Transfer (From Inside the City)***

The applicant is proposing a premise-to-premise transfer of a Type 21 ABC license for the former Bristol Deli and Market that used to be located at 3033 Bristol Street, Suite G, and closed in November 2010. The conditional use permits for this license (Planning Applications PA-05-40 and PA-91-82) were revoked by the Planning Commission on January 13, 2014.

The former ABC licensed location is not only within the City (approximately 587 feet to the north from the subject property), but both properties are also located within the same census tract (Census Tract No. 639.08)

### ***Staff Justifications for Approval***

Staff has reviewed the applicant's request and supports the application based on the following:

- There is an undue concentration of ABC licenses for off-site sales of alcoholic beverages within the subject property's census tract; however, the transfer of the license will not result in an increase in the number of off-sale licenses citywide or within the census tract. Per ABC regulations, an "undue concentration" of alcohol licenses exists if the ratio of on- or off-sale alcohol licenses allowed in a census tract based on population exceeds the ratio of on- or off-sale alcohol licenses based on population countywide. In this case, the subject property is located within Census Tract 639.08. According to ABC, 7 off-sale licenses are allowed within the census tract; 10 off-sale licenses are existing. Due to the premise-to-premise transfer of the Type 21 license to this location from 3303 Bristol Street, Suite G, which is in the same tract, there will be no increase in the number of licenses citywide or within the census tract.
- The Police Department has reviewed the request and supports the premise-to-premise transfer of the ABC license to this location. The Police Department has reviewed the proposed use and has no objections to the proposal because there is no increase in the number of ABC licensed establishments within the City or within the census tract, and the use will be subject to conditions of approval to minimize adverse impacts to surrounding properties as described below.
- The sale of alcoholic beverages, as conditioned, will not create a negative impact on surrounding uses. If the Planning Commission approves the license, it is recommended that the following operational conditions of approval as updated by the

Planning Commission in January 2013 be required to mitigate any potential adverse impacts:

- A. Prior to alcohol sales at this location, the applicant shall purchase and transfer an existing Alcoholic Beverage Control license from a location within the City limits of Costa Mesa (already completed).
- B. All sales and service staff within 90 days of hire shall complete Responsible Beverage Service (RBS) training.
- C. No wine shall be sold with an alcoholic content of greater than 15% by volume except for "dinner wines" which have been aged two years or more and maintained in corked bottles.
- D. Wine, beer and other distilled spirits shall be sold in the factory manufactured packages for retail sales. Factory multiple-packed bottles or cans shall not be unpackaged to be sold individually. This restriction is not intended to prohibit the sale of beverages in a single container packaged by the manufacturer for individual sale.
- E. Beer or wine shall not be displayed or sold from an ice tub or any other type of portable refrigerated unit.
- F. Alcohol consumption on premises prohibited.
- G. Applicant shall post signs inside and outside the premises prohibiting the on-site consumption of alcoholic beverages and loitering.
- H. 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.
- I. The business operator shall contract with a security company to provide a roving security patrol for the store to prevent loitering and other issues. Specifically, the security guard must be on-site to monitor the property with a minimum of one on-site visit per hour from 10:00 pm to 2:00 am. These on-site patrols shall be documented in security report(s) which shall be made available upon request by the Development Services Director.
- J. 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 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.
- K. Exterior public telephones shall be prohibited.
- L. The applicant shall maintain free of litter all areas of the premises

under which applicant has control.

- M. Any graffiti painted or marked upon the premises shall be removed or painted over within 48 hours of being applied.
- N. The outdoor storage of boxes, equipment, materials, merchandise, and other similar items shall be prohibited.
- O. No alcoholic beverage shall be displayed or offered for sale outside the building or within five feet of the cash register or any public entrance.
- P. Truck deliveries to the convenience store shall not occur anytime between the hours of 8:00 pm and 7:00 am. This shall not apply to motor vehicle fuel truck deliveries.
- Q. All containers of alcoholic beverages that are displayed for sale shall be secured against public access between the hours of 2:00 am and 6:00 am.
- R. Exterior advertising shall comply with the City's sign regulations, and exterior advertisements shall be prohibited which indicate the availability of alcoholic beverages and tobacco. 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.
- S. Temporary window signage shall not exceed 10% of the contiguous window area. Window panes separated by mullions shall be considered contiguous window area.
- T. Exterior signage/advertisements promoting or indicating the availability of alcoholic beverages shall be prohibited. Exterior signage indicating the availability of alcoholic beverages shall be limited to the name of the business, e.g., South Coast Liquor Store. Interior signage/advertisements promoting or indicating the availability of alcoholic beverages which are visible from the exterior of the building shall be prohibited.
- U. Exposed neon signage is strictly prohibited. This excludes the "open/close" sign for business.
- V. The business shall be conducted, at all times, in a manner that will allow the quiet enjoyment of the surrounding neighborhood. The applicant and/or business owner shall institute whatever security and operational measures are necessary to comply with this requirement.
- W. 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.

With regard to the recommended condition of approval "1" above, the applicant has expressed concerns with the cost of providing a roving security patrol and is recommending the following condition of approval as an alternative:

- Applicant shall install a voice interactive response system with real time video cameras monitored by a third party at an off-site location. The monitoring station employee shall be able to see and hear what is taking place inside and outside the store and communicate with the sale associates over an intercom. If trouble were to occur, the monitor shall be able to ask loiterer to leave the premises over a loud speaker and/or summon the police or private security firm, as appropriate. The volume of the speaker shall not create a disturbance to the surrounding properties.

If the Commission agrees to the revised language to the above condition as requested by the applicant, the corresponding condition of approval in the attached draft resolution (condition number 11) would need to be revised accordingly.

### ***Finding of Public Convenience or Necessity (PC or N Finding)***

As noted earlier, the census tract in which the subject property is located has an undue concentration of off-sale ABC licenses; As a result, ABC requires a PC or N Finding in cases where the number of licenses exceeds the allowable ratio in the census tract. In accordance with City Council Policy 500-8, the Planning Commission may make a PC or N Finding for the requested license based on the discussion provided earlier in this report.

### **ENVIRONMENTAL DETERMINATION**

If approved, the request would be exempt from the provisions of the California Environmental Quality Act under Section 15301 for Existing Facilities. If the request is denied, it would be exempt from the provisions of the California Environmental Quality Act (CEQA) Section 15270(a) for projects which are disapproved.

### **GENERAL PLAN CONFORMITY**

Because the use is required to be operated in compliance with the recommended conditions of approval for PA-13-08, the use is compatible with surrounding properties as specified in Objective LU-1F.2 of the General Plan Land Use Element.

### **ALTERNATIVES**

The Commission has the following alternatives:

1. Approve the use with the recommended conditions of approval to ensure any impacts to the adjacent properties and uses is minimized; or
2. Deny the use. If the use is denied, the applicant cannot submit the same type of application for 6 months.

**CONCLUSION**

The proposed use, with the recommended conditions of approval, will be consistent with the City's Zoning Code and General Plan. The proposed premise-to-premise transfer of the ABC license will not result in an increase in the number of licenses within the City or Census tract. Therefore, staff supports the applicant's request.



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MEL LEE, AICP  
Senior Planner



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GARY ARMSTRONG, AICP  
Economic and Development Services Director/  
Deputy CEO

- Attachments:
1. Draft Planning Commission Resolutions
  2. Applicant's Description of the Use
  3. List of ABC Licensed Establishments within Census Tract 639.08
  4. Location Maps and Plans

cc: Director of Economic & Development / Deputy CEO  
Sr. Deputy City Attorney  
Public Services Director  
City Engineer  
Transportation Services Manager  
Fire Protection Analyst  
Lt. Bryan Glass, Police Department  
Staff (6)  
File (2)

Fiedler Group  
Attn: Patrick Fiedler  
2322 W. Third Street  
Los Angeles, CA 90057

Thrifty Oil Co.  
13116 Imperial Highway  
Santa Fe Springs, CA 90670

**RESOLUTION NO. PC-14-**

**A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF COSTA MESA APPROVING CONDITIONAL USE PERMIT PA-13-08 FOR THE SALE OF ALCOHOLIC BEVERAGES IN CONJUNCTION WITH MOTOR VEHICLE FUEL AND MAKING A FINDING OF PUBLIC CONVENIENCE OR NECESSITY FOR A PREMISE-TO-PREMISE TRANSFER OF A TYPE 21 ABC LICENSE FROM WITHIN THE CITY FOR AN EXISTING SERVICE STATION/CONVENIENCE MARKET AT 751 BAKER STREET, UNIT A**

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

WHEREAS, an application was filed by The Fiedler Group, representing Thrifty Oil Co., owner of property located at 751 Baker Street, Unit A, requesting Conditional Use Permit PA-13-08 for the sale of alcoholic beverages in conjunction with gasoline for an existing service station/convenience market operating 24 hours, 7 days a week.

WHEREAS, a duly noticed public hearing was held by the Planning Commission on January 13, 2014 and continued to January 27, 2014, with all persons having the opportunity to speak for and against the proposed project.

BE IT RESOLVED that, based on the evidence in the record and the findings contained in Exhibit A, the Planning Commission hereby **APPROVES** PA-13-08 **AND MAKES A FINDING OF PUBLIC CONVENIENCE OR NECESSITY** for a premise-to-premise transfer of a Type 21 ABC License with respect to the property described above.

BE IT FURTHER RESOLVED that the Costa Mesa Planning Commission does hereby find and determine that adoption of this Resolution is expressly predicated upon the activity as described in the staff report for PA-13-08 and upon the applicant's compliance with each and all of the conditions contained in Exhibit B as well as with compliance of all applicable federal, state, and local laws. Any approval granted by this resolution shall be subject to review, modification or revocation if there is a material change that occurs in the operation, or if the applicant fails to comply with any of the conditions of approval.

**PASSED AND ADOPTED this 27th day of January, 2014**

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Jim Fitzpatrick, Chair  
Costa Mesa Planning Commission



## EXHIBIT A

### FINDINGS

- A. The proposed project complies with Costa Mesa Municipal Code Section 13-29(e) because:
1. A compatible and harmonious relationship exists between the proposed use and existing buildings, site development, and uses on surrounding properties.
  2. Safety and compatibility of the design of the buildings, parking areas, landscaping, luminaries, and other site features including functional aspects of the site development such as automobile and pedestrian circulation.
  3. The proposed use will comply with the performance standards as prescribed in the Zoning Code.
  4. The proposed use is consistent with the General Plan.
  5. The planning application is for a project-specific case and does not establish a precedent for future development.
  6. The cumulative effect of all the planning applications have been considered.
- B. The information presented substantially complies with Costa Mesa Municipal Code Section 13-29(g)(2) with regard to the conditional use permit because:
- a. The proposed development or use is substantially compatible with developments in the same general area and would not be materially detrimental to other properties within the area.
  - b. Granting the conditional use permit will not be materially detrimental to the health, safety and general welfare of the public or otherwise injurious to property or improvements within the immediate neighborhood.
  - c. Granting the conditional use permit will not allow a use, density or intensity which is not in accordance with the general plan designation and any applicable specific plan for the property.

Additional facts and findings are as follows:

Zoning Code Section 13-200.71 requires approval of a conditional use permit for an existing liquor store, convenience store, or mini-market for any of the following:

1. Issuance of a new off-sale ABC license;
2. Any change in the type of off-sale ABC license;
3. Any type of premise-to-premise transfer of an existing off-sale ABC license;
4. Any cumulative expansion of 100 square feet or more of the gross floor area;  
or
5. Any suspension or revocation of the off-sale ABC license for 5 days or more by the State in a cumulative 5-year period by the State.

In this case, the underlined provision of the Zoning Code above would apply for this application.

**Premise-to-Premise Transfer (From Inside the City)**

The applicant is proposing a premise-to-premise transfer of a Type 21 ABC license for the former Bristol Deli and Market that used to be located at 3033 Bristol Street, Suite G, and closed in November 2010. The former ABC licensed location is not only within the City (approximately 587 feet to the north from the subject property), both properties are also located within the same census tract (Census Tract No. 639.08)

The application can be supported based on the following:

- There is an undue concentration of ABC licenses for off-site sales of alcoholic beverages within the subject property's census tract; however, the transfer of the license will not result in an increase in the number of off-sale licenses citywide or within the census tract. Per ABC regulations, an "undue concentration" of alcohol licenses exists if the ratio of on- or off-sale alcohol licenses allowed in a census tract based on population exceeds the ratio of on- or off-sale alcohol licenses based on population countywide. In this case, the subject property is located within Census Tract 639.08. According to ABC, 7 off-sale licenses are allowed within the census tract; 10 are existing. Due to the premise-to-premise transfer of the Type 21 license to this location from 3303 Bristol Street, Suite G, which is in the same tract, there will be no increase in the number of licenses citywide or within the census tract.

On January 13, 2014, the Planning Commission revoked the conditional use permits that were approved for the former Bristol Deli and Market at 3303 Bristol Street, Suite G, under Conditional Use Permits PA-05-40 and PA-91-82.

- The Police Department has reviewed the request and supports the premise-to-premise transfer of the ABC license to this location. The Police Department has reviewed the proposed use and has no objections to the proposal because there is no increase in the number of ABC licensed establishments within the City or within the census tract, and the use will be subject to conditions of approval to minimize adverse impacts to surrounding properties.
- C. The project has been reviewed for compliance with the California Environmental Quality Act (CEQA), the CEQA Guidelines; and the City's environmental procedures, and has been found to be exempt from CEQA under Section 15301 for Existing Facilities.
- D. The project is exempt from Chapter IX, Article 11, Transportation System Management, of Title 13 of the Costa Mesa Municipal Code.
- E. Pursuant to California Business and Professions Code Section 23958.4, issuance of a Type 21 liquor license at the convenience market located at 751 Baker Street Costa Mesa, 92626 will serve the Public Convenience or Necessity based on the following:
- The Police Department has reviewed the proposed use and has no

objections to the proposal because there is no increase in the number of ABC licensed establishments within the City or within the census tract, and the use will be subject to conditions of approval to minimize adverse impacts to surrounding properties.

- The operational conditions of approval as updated by the Planning Commission in January 2013 will be required to mitigate any potential adverse impacts.

## EXHIBIT B

### CONDITIONS OF APPROVAL

- Plng.
1. The use shall be limited to the type of operation as described in the staff report. Any change in the operational characteristics including, but not limited to, the hours of operation and additional services provided, shall require review by the Planning Division and may require an amendment to the conditional use permit, subject to either Zoning Administrator or Planning Commission approval, depending on the nature of the proposed change. The applicant is reminded that Code allows the Planning Commission to modify or revoke any planning application based on findings related to public nuisance and/or noncompliance with conditions of approval [Title 13, Section 13-29(o)].
  2. 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.
  3. Prior to alcohol sales at this location, the applicant shall purchase and transfer an existing Alcoholic Beverage Control license from a location within the City limits of Costa Mesa.
  4. All sales and service staff within 90 days of hire shall complete Responsible Beverage Service (RBS) training.
  5. No wine shall be sold with an alcoholic content of greater than 15% by volume except for "dinner wines" which have been aged two years or more and maintained in corked bottles.
  6. Wine, beer and other distilled spirits shall be sold in the factory manufactured packages for retail sales. Factory multiple-packed bottles or cans shall not be unpackaged to be sold individually. This restriction is not intended to prohibit the sale of beverages in a single container packaged by the manufacturer for individual sale.
  7. Beer or wine shall not be displayed or sold from an ice tub or any other type of portable refrigerated unit.
  8. Alcohol consumption on premises prohibited.
  9. Applicant shall post signs inside and outside the premises prohibiting the on-site consumption of alcoholic beverages and loitering.
  10. 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.
  11. The business operator shall contract with a security company to provide a roving security patrol for the store to prevent loitering and other issues. Specifically, the security guard must be on-site to monitor the property with a minimum of one on-site visit per hour from 10:00 pm to 2:00 am. These on-site patrols shall be documented in security

- report(s) which shall be made available upon request by the Development Services Director.
12. 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 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.
  13. Exterior public telephones shall be prohibited.
  14. The applicant shall maintain free of litter all areas of the premises under which applicant has control.
  15. Any graffiti painted or marked upon the premises shall be removed or painted over within 48 hours of being applied.
  16. The outdoor storage of boxes, equipment, materials, merchandise, and other similar items shall be prohibited.
  17. No alcoholic beverage shall be displayed or offered for sale outside the building or within five feet of the cash register or any public entrance.
  18. Truck deliveries to the convenience store shall not occur anytime between the hours of 8:00 pm and 7:00 am. This shall not apply to motor vehicle fuel truck deliveries.
  19. All containers of alcoholic beverages that are displayed for sale shall be secured against public access between the hours of 2:00 am and 6:00 am.
  20. Exterior advertising shall comply with the City's sign regulations, and exterior advertisements shall be prohibited which indicate the availability of alcoholic beverages and tobacco. 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.
  21. Temporary window signage shall not exceed 10% of the contiguous window area. Window panes separated by mullions shall be considered contiguous window area.
  22. Exterior signage/advertisements promoting or indicating the availability of alcoholic beverages shall be prohibited. Exterior signage indicating the availability of alcoholic beverages shall be limited to the name of the business, e.g., South Coast Liquor Store. Interior signage/advertisements promoting or indicating the availability of alcoholic beverages which are visible from the exterior of the building shall be prohibited.
  23. Exposed neon signage is strictly prohibited. This excludes the "open/close" sign for business.
  24. The business shall be conducted, at all times, in a manner that will allow the quiet enjoyment of the surrounding neighborhood. The applicant and/or business owner shall institute whatever security and operational measures are necessary to comply with this requirement.
  25. 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.

26. The applicant shall defend, indemnify, and hold harmless the City, its elected and appointed officials, agents, officers and employees from any claim, action, or proceeding (collectively referred to as "proceeding") brought against the City, its elected and appointed officials, agents, officers or employees arising out of, or which are in any way related to, the applicant's project, or any approvals granted by City related to the applicant's project. The indemnification shall include, but not be limited to, damages, fees and/or costs awarded against the City, if any, and cost of suit, attorney's fees, and other costs, liabilities and expenses incurred in connection with such proceeding whether incurred by the applicant, the City and/or the parties initiating or bringing such proceeding. This indemnity provision shall include the applicant's obligation to indemnify the City for all the City's costs, fees, and damages that the City incurs in enforcing the indemnification provisions set forth in this section. City shall have the right to choose its own legal counsel to represent the City's interests, and applicant shall indemnify City for all such costs incurred by City.

**CODE REQUIREMENTS:**

The following list of federal, state and local laws applicable to the project has been compiled by staff for the applicant's reference. Any reference to "City" pertains to the City of Costa Mesa.

- Plng. 1. Approval of the planning application is valid for one (1) year from the effective date of this approval and will expire at the end of that period unless applicant establishes the use. If the applicant is unable to establish the use within the one-year time period, the applicant may request an extension of time. The Planning Division must receive a written request for the time extension prior to the expiration of the planning application.
- 2. Permits shall be obtained for all signs according to the provisions of the Costa Mesa Sign Ordinance.
- 3. Use shall comply with all requirements of Code Sections 13-43 Article 3, Chapter V, Title 13 of the Costa Mesa Municipal Code relating to commercial development standards.
- Bus. Lic. 4. All contractors and subcontractors must have valid business licenses to do business in the City of Costa Mesa. Final inspections, final occupancy and utility releases will not be granted until all such licenses have been obtained.
- State 5. All applicable requirements of the State Alcoholic Beverage Control Board shall be complied with.

**RESOLUTION NO. PC-14-**

**A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF COSTA MESA DENYING CONDITIONAL USE PERMIT PA-13-08 FOR THE SALE OF ALCOHOLIC BEVERAGES IN CONJUNCTION WITH MOTOR VEHICLE FUEL AND A PREMISE-TO-PREMISE TRANSFER OF A TYPE 21 ABC LICENSE FROM WITHIN THE CITY FOR AN EXISTING SERVICE STATION/CONVENIENCE MARKET AT 751 BAKER STREET, UNIT A**

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

WHEREAS, an application was filed by The Fiedler Group, representing Thrifty Oil Co., owner of property located at 751 Baker Street, Unit A, requesting Conditional Use Permit PA-13-08 for the sale of alcoholic beverages in conjunction with gasoline for an existing service station/convenience market operating 24 hours, 7 days a week;

WHEREAS, a duly noticed public hearing was held by the Planning Commission on January 13, 2014 and continued to January 27, 2014, with all persons having the opportunity to speak for and against the proposed project.

BE IT RESOLVED that, based on the evidence in the record and the findings contained in Exhibit A, the Planning Commission hereby **DENIES** PA-13-08 with respect to the property described above.

**PASSED AND ADOPTED this 27th day of January, 2014.**

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Jim Fitzpatrick, Chair  
Costa Mesa Planning Commission



## EXHIBIT A

### FINDINGS

- A. The proposed project does not comply with Costa Mesa Municipal Code Section 13-29(e) because:
1. A compatible and harmonious relationship does not exist between the proposed use and existing buildings, site development, and uses on surrounding properties.
  2. The proposed use does not comply with the performance standards as prescribed in the Zoning Code.
  3. The proposed use is not consistent with the General Plan.
  4. The cumulative effect of all the planning applications have been considered.
- B. The information presented does not comply with Costa Mesa Municipal Code Section 13-29(g)(2) with regard to the conditional use permit because:
- a. The proposed development or use is not compatible with developments in the same general area and would not be materially detrimental to other properties within the area.
  - b. Granting the conditional use permit will be materially detrimental to the health, safety and general welfare of the public or otherwise injurious to property or improvements within the immediate neighborhood.
  - c. Granting the conditional use permit will allow a use, density or intensity which is not in accordance with the general plan designation and any applicable specific plan for the property.
- C. The Costa Mesa Planning Commission has denied Planning Application PA-13-08. Pursuant to Public Resources Code Section 21080(b)(5) and CEQA Guidelines Section 15270(a) CEQA does not apply to this project because it has been rejected and will not be carried out.
- D. The project is exempt from Chapter XII, Article 3, Transportation System Management, of Title 13 of the Costa Mesa Municipal Code.

**CUP – PROJECT DESCRIPTION****ATTACHMENT 2**

Property is currently an existing gas station with convenience store. Proposed is the off-site sale of alcoholic beverages in conjunction with the existing gas station and convenience store. The gas station convenience store will continue to offer food and beverage items, and typical convenience store goods. Currently, site's hours of operation are 24 hours 7 days a week, which will remain. The existing on-site structures and fueling system will remain as well. No additional improvements are proposed.

Site had an active ABC license up until June 2012, and offered off-site alcoholic beverage sales to customers. However, due to operational changes the State of California Alcoholic Beverage Control (ABC) license could not be transferred to the new operator without first obtaining a new Conditional Use Permit for off-site alcoholic beverage sales, per the City of Costa Mesa Municipal Code.

Site's new operator has applied to the ABC for a Type 21 license transfer, which is contingent upon the outcome of this Conditional Use Permit application determination.

**CUP – FINDINGS JUSTIFICATION**

**1. Describe how the proposed use is substantially compatible with uses permitted in the general area:**

The site is zoned C2 (General Business District), and is located in the SoBECA Urban Plan. Property is located at the southwest corner of Baker St. and Randolph Ave. Existing uses along the subject intersection include commercial retail services, and industrial uses. The proposed use offers commercial retail services consistent with the immediate area. Additionally, the property has a long history of off-site alcoholic beverages sales from approximately 1991 until June 2012. Re-establishing off-site alcoholic beverages sales at the site will provide customers with the goods and services that are expected, given the property’s previously alcoholic beverage sales.

**2. Describe how the proposed use would not be materially detrimental to other properties in the same area:**

The property previously had an active State of California Alcoholic Beverage Control (ABC) license, and offered off-site alcoholic beverage sales to customers. The proposed use will not be materially detrimental to the other properties in the same area, but rather a re-establishment of services that customers have come to expect from the site for decades. The proposed use is consistent with commercial businesses within the site’s vicinity intended to serve the local community.

## ATTACHMENT 3



**California Department of Alcoholic Beverage Control  
For the County of ORANGE - (Off-Sale Licenses)  
and Census Tract = 639.08**

Report as of 11/19/2013

	License Number	Status	License Type	Orig. Iss. Date	Expir Date	Primary Owner and Premises Addr.	Business Name	Mailing Address	Geo Code
1)	233352	ACTIVE	21	6/29/1989	2/28/2014	MITSUWA CORPORATION 665 PAULARINO AVE COSTA MESA, CA 92626-3033  Census Tract: 0639.08	MITSUWA MARKETPLACE	1815 W 213TH ST, STE 235 TORRANCE, CA 90501-2825	3004
2)	371987	ACTIVE	21	3/9/2001	2/28/2014	MANNEH, LINDA MARIE 2981 BRISTOL ST COSTA MESA, CA 92626  Census Tract: 0639.08	SIR CHARLES LIQUOR	17351 VILLAGE DR TUSTIN, CA 92780	3004
3)	384501	ACTIVE	20	3/27/2002	2/28/2014	G & M OIL CO LLC 2995 BRISTOL ST COSTA MESA, CA 92626  Census Tract: 0639.08	G & M OIL CO 21	16868 A ST HUNTINGTON BEACH, CA 92647-4831	3004
4)	396805	ACTIVE	20	2/18/2003	11/30/2013	MENDEZ AUTOMOTIVE SERVICES 3048 BRISTOL ST COSTA MESA, CA 92626  Census Tract: 0639.08	PLAZA CHEVRON SERVICE CENTER		3004
5)	404489	ACTIVE	20	11/10/2003	6/30/2014	7 ELEVEN INC 675 PAULARINO AVE COSTA MESA, CA 92626	7 ELEVEN STORE 2174 18226C	PO BOX 219088 DALLAS, TX 75221-9088	3004

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						Census Tract: 0639.08			
6)	<u>414357</u>	SUREND	21	7/13/2004	12/31/2013	CAL COAST INC 751 BAKER ST, STE A COSTA MESA, CA 92626-4366  Census Tract: 0639.08	SUNSHINE RETAILER	3843 S BRISTOL ST, #180 SANTA ANA, CA 92704- 7426	3004
7)	<u>442691</u>	ACTIVE	21	9/18/2006	8/31/2014	ALHOSRY, GEORGE ISSA 612 BAKER ST, UNIT B COSTA MESA, CA 92626-4431  Census Tract: 0639.08	KWIK KORNER #57		3004
8)	<u>455588</u>	ACTIVE	20	8/14/2007	7/31/2014	SAKAYAUSA INC 660 BAKER ST, STE 405F COSTA MESA, CA 92626-4428  Census Tract: 0639.08	SAKAYAUSA INC	4242 MILBURN DR LOS ANGELES, CA 90063	3004
9)	<u>458865</u>	SUREND	21	3/7/2008	2/28/2014	SILVA, SHYAMALI NALIKA 3033 S BRISTOL ST, STE G COSTA MESA, CA 92626-3001  Census Tract: 0639.08	BRISTOL DELI AND MARKET	96 STEAMWOOD IRVINE, CA 92620	3004
10)	<u>484262</u>	ACTIVE	20	12/29/2009	6/30/2014	7 ELEVEN INC 3001 BRISTOL ST, STE A COSTA MESA, CA 92626-7342  Census Tract: 0639.08	7 ELEVEN STORE 2172 27621	PO BOX 219088 DALLAS, TX 75221-9088	3004
11)	<u>525933</u>	ACTIVE	21	5/13/2013 3:44:00 PM	4/30/2014	CAL COAST INC 3003 NEWPORT BLVD COSTA MESA, CA 92626-4531  Census Tract: 0639.08	AA AUTO CARE		3004
12)	<u>528917</u>	ACTIVE	20	2/11/2013	1/31/2014	AKDOK INC	BRISTOL 76	1461	3004

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				3:34:31 PM		3067 BRISTOL ST COSTA MESA, CA 92626-3041  Census Tract: 0639.08	GAS STATION	SUPERIOR AVE NEWPORT BEACH, CA 92663-6155	
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--- End of Report ---

For a definition of codes, view our [glossary](#).



Map Display







