



City of Costa Mesa Inter Office Memorandum

TO: CITY COUNCIL AND PLANNING COMMISSION
CC: TOM HATCH, PETER NAGHAVI, AND CLAIRE FLYNN
FROM: WILLA BOUWENS-KILLEEN, ZONING ADMINISTRATOR
DATE: MARCH 7, 2013
SUBJECT: ZONING ADMINISTRATOR DECISION(S)

*WKA
FOR*

This is to advise you of the following decision(s) made by the Zoning Administrator within the last week. The decision(s) will become final unless a member of the Planning Commission or City Council requests a review of the decision(s) or an interested party files an appeal by 5:00 p.m. on March 14, 2013. Project descriptions have been kept brief for this notice. As a result, there may be details to the project or conditions of approval that would be of interest to you in deciding whether to request a review of a decision. Please feel free to contact me by e-mail at willa.bouwens-killeen@costamesaca.gov if you have any questions or would like further details.

PA-08-21A1 3015 Harbor Boulevard

Modification to the conditions of approval for a conditional use permit approved in 2008 allowing an existing mini-market (Moscow Deli) to operate under a State Alcoholic Beverage Control License Type 20 (off-sale beer and wine). The modification is to allow the sale of alcoholic beverages in individual containers. There are no proposed changes to the store hours (closes at 9:00 pm daily).

Approved, subject to conditions.

Comments received: One in support.



CITY OF COSTA MESA

P.O. BOX 1200 • 77 FAIR DRIVE • CALIFORNIA 92628-1200

DEVELOPMENT SERVICES DEPARTMENT

March 7, 2013

Gene Kagan
2732 Monza
Tustin, CA 92782

**RE: AMENDMENT TO PLANNING APPLICATION PA-08-21 A1
SPECIALTY MARKET (MOSCOW DELI)
3015 HARBOR BLVD., COSTA MESA**

Dear Mr. Kagan:

Review of the request to amend conditional use permit PA-08-21 for the above-referenced project has been completed. The application, as described in the attached project description, has been approved, based on the findings and subject to the conditions of approval (attached). The decision will become final at 5 p.m. on March 14, 2013, unless appealed by an affected party (including filing of the necessary application and payment of the appropriate fee) or by a member of the Planning Commission or City Council.

If you have any questions regarding this letter, please contact the project planner, Minoo Ashabi, at (714) 754-5610 or minoo.ashabi@costamesaca.gov.

Sincerely,

WILLA BOUWENS-KILLEEN
Zoning Administrator

Attachments: Project description
Findings
Conditions of approval & Code requirements
Approved conceptual plans

cc: Building Division

BACKGROUND / PROJECT DESCRIPTION

The tenant space is located within a 9,880 square-foot commercial center located across from the Target Center between Nutmeg Place and Baker Street. The tenant space occupied by Moscow Deli is 1,185 square feet.

On August 11, 2008, the Planning Commission approved a conditional use permit for the specialty mini-market including a finding of public convenience or necessity finding for off-sale of beer and wine (Alcoholic Beverage License Type 20).

The conditions of approval included Conditions No. 4 and 5 which state the following provision:

- Condition No. 4 states: "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 two or more gallons, which are clearly designed to dispense multiple servings."
- Condition No. 5 states: "Beer, malt beverages, or wine coolers packed in 16-ounce containers or smaller may not be sold as single containers, but must be sold in manufacturer pre-packaged multi-unit quantities."

These are standard conditions applied to all convenience markets; however, in this case the applicant indicates that the beer offered at their store is typically imported from Russia and other Eastern European countries and is sold in individual bottles; applying the standard condition is impractical and limits their sales. The applicant indicated that this business is distinct from other convenience markets in that they specialize in ethnic food and beverages and do not provide the typical domestic beer and wine sold in other convenience stores.

In addition to the off-sale items, the market sells sandwiches and provides two to three small tables and a limited seating area for patrons. Outdoor seating requires additional parking which has not been approved; therefore, a condition is included to prohibit outdoor seating. No on-site consumption of the beer and wine is proposed.

FINDINGS

- A. The information presented substantially complies with 13-29 (e) of the Costa Mesa Municipal Code in that:
1. The proposed amendment to conditional use permit is compatible and harmonious with uses on surrounding properties;
 2. Safety and compatibility of the design and the buildings, parking areas, landscaping, luminaries, and other site features including functional aspects of the site development such as automobile and pedestrian circulation have been considered;
 3. The conditional use permit, as amended is consistent with the General Plan with the approval of a conditional use permit.
 4. The planning application, as amended, is for a project-specific case and does not establish a precedent for future development

The proposed use is compatible and harmonious with uses on-site as well as those on the surrounding properties. The amendment to the conditional use permit will allow the specialty store to sell imported beer from Russia and other Eastern European countries typically sold in individual containers. As conditioned, the specialty market will only sell imported beer in individual cans and bottles for off-site consumption. No other changes to the operation of the store or types of products are proposed.

- B. The information presented substantially complies with Section 13-29(g)(2) of the Costa Mesa Municipal Code in that:
- a. Granting the amendment to 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. As conditioned, sales on individual cans and bottles of imported beer will allow the applicant to provide imported beer and other items consistent with the operation of a specialty mini-market.
 - b. The General Plan permits commercial uses within the property's General Commercial land use designation. Operation of a specialty mini-market with ancillary sell of beer and wine is consistent with the General Plan.
- C. 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 pursuant to Section 15301, existing facilities.
- D. The project is exempt from Chapter XII, Article 3, Transportation System Management, of Title 13 of the Costa Mesa Municipal Code.

CONDITIONS OF APPROVAL

Plng. 1. *Deleted (08-11-2008)*

Revised
03/07/13

2. The use shall be limited to the type of operation described in the staff report (i.e., specialty mini-market with ancillary beer and wine sales operating between the hours of 10:00 a.m. to 9:00 p.m.). Any change in the operational characteristics including, but not limited to, the hours of operation and nature and variety of products sold, shall require an amendment to the conditional use permit, subject to the Planning Commission approval.

3. Wine shall not be sold in bottles or containers smaller than 750 milliliters.

Revised
03/07/13

4. No sale of beer in single cans or bottles (any size) shall be permitted, except imported beers which are only available in individual containers. This restriction is not intended to prohibit the sale of such beverages in kegs or other types of containers, with a volume of two or more gallons, which are clearly designed to dispense multiple servings.

Revised
03/07/13

5. Beer, malt beverages, or wine coolers packed in 16-ounce containers or smaller (except imported beer available in individual cans or bottles) may not be sold as single containers, but must be sold in manufacturer pre-packaged multi-unit quantities.

Revised
03/07/13

6. Beer or wine shall not be displayed or sold from an ice tub or any other type of portable refrigerated unit or chilled for on-site consumption.

7. Applicant shall post signs inside and outside the premises prohibiting the on-site consumption of alcoholic beverage 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 alcoholic beverages.

9. Except as permitted by the City of Costa Mesa Municipal Code for temporary window signs, windows shall not be blocked or obscured.

10. Exterior advertising, including temporary window signage, shall comply with the City's sign regulations. Exterior signage indicating the availability of alcoholic beverages is limited to the name of the business. Additional exterior advertisement promoting or indicating the availability of alcoholic beverages are prohibited. 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.

11. The applicant shall maintain free of litter all areas of the premises under which applicant has control.

12. The business shall be conducted at all times in a manner that will allow the quiet enjoyment of the surrounding neighborhood. The business owner shall institute whatever security and operational measures that are necessary to comply with this requirement.

13. 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 of 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.

14. 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.

Revised
03/07/13

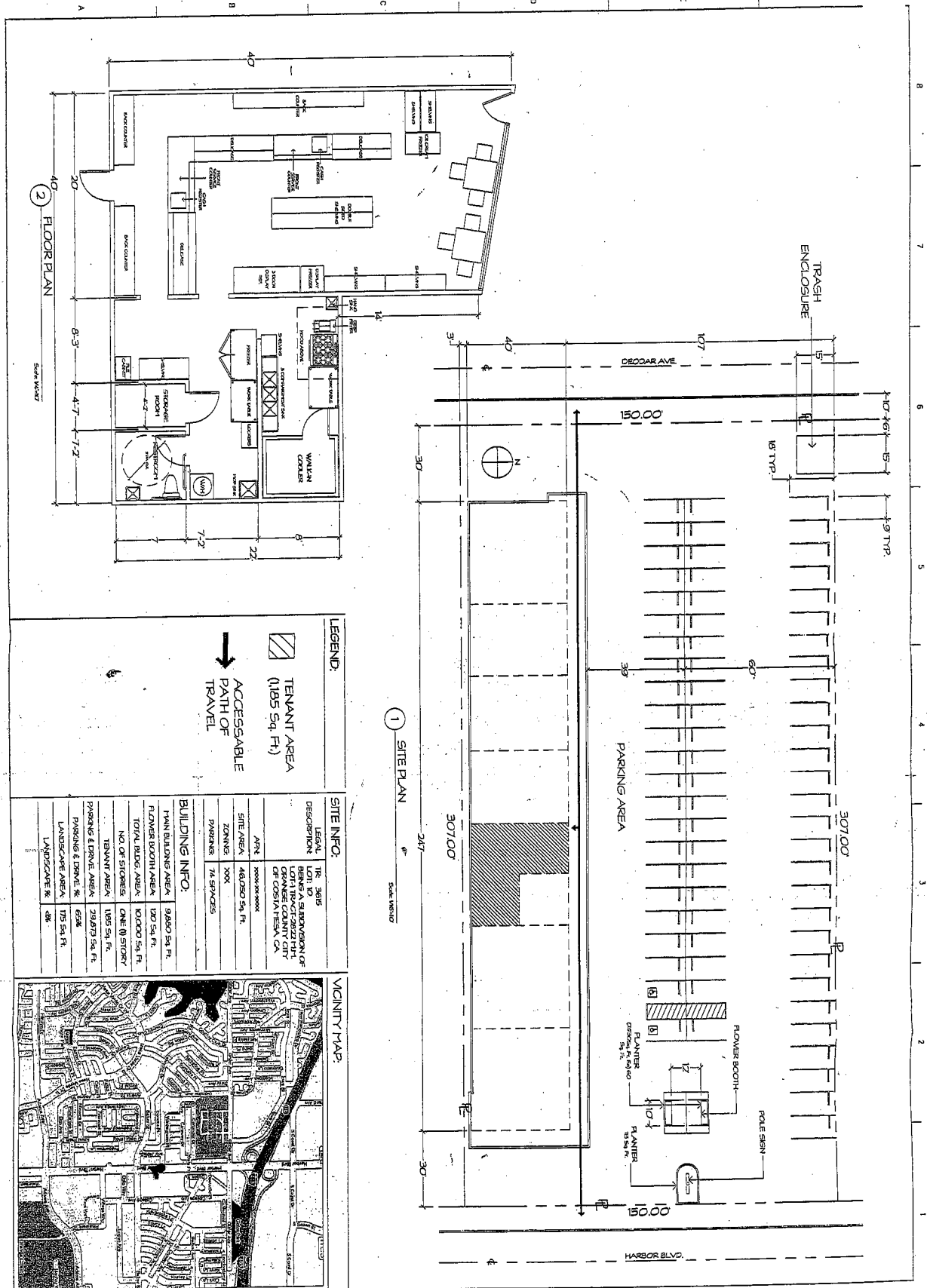
15. No on-site consumption of alcoholic beverages is permitted.

16. No outdoor seating is permitted.

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.

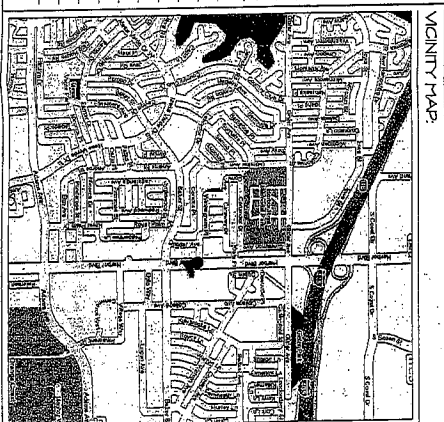
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| Ping. | 1. | All conditions of the California Alcoholic Beverage Control Board shall be complied with. |
| | 2. | All signs shall be subject to the provisions of the Costa Mesa Zoning Code. |
| Bldg. | 3. | If construction is proposed, Comply with the requirements of the 2010 California Residential Code, 2010 California Electrical Code, 2010 California Mechanical Code, 2010 California Plumbing Code, 2010 California Green Building Standards Code and 2010 California Energy Code (or the applicable adopted, California Residential Code California Electrical Code, California Mechanical Code, California Plumbing Code, California Green Building Standards and California Energy Code at the time of plan submittal) and California Code of Regulations also known as the California Building Standards Code, as amended by the City of Costa Mesa. |



LEGEND:

TENANT AREA (1185 Sq Ft)
 ACCESSIBLE PATH OF TRAVEL

SITE INFO:	
LEGAL DESCRIPTION	TR. 3615 BENS A SUBDIVISION OF ORANGE COUNTY CITY OF COSTA MESA, CA
APN	300-00-0000
SITE AREA	48,000 Sq. Ft.
ZONING	XXX
PARKING	74 SPACES
BUILDING INFO:	
MAIN BUILDING AREA	9,800 Sq. Ft.
FLOWER BOOTH AREA	100 Sq. Ft.
TOTAL BLDG. AREA	10,000 Sq. Ft.
NO. OF STORES	ONE (1) STORE
NEVANT AREA	1000 Sq. Ft.
PARKING & DRIVE AREA	23,875 Sq. Ft.
PARKING & DRIVE %	65%
LANDSCAPE AREA	175 Sq. Ft.
LANDSCAPE %	4%



PROJECT NO.	102200V/081
SHEET TITLE	2008 HARBOR BLVD
DATE	COSTA MESA, CA
SCALE	AS SHOWN
DATE	5.16.08
SCALE	AS SHOWN
DATE	1.28.11
SCALE	AS SHOWN
DATE	1.28.11
SCALE	AS SHOWN

PLOT PLAN / FLOOR PLAN

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