



**ZONING ADMINISTRATOR
NOTICE OF DECISION**

Date: February 15, 2019
Applicant: Salwan Komo,
Case No: CUP18-0023
Address: 1495 Melrose Ave, Chula Vista, CA
(APN 624-080-07-00)
Project Planner: Oscar Romero, Assistant Planner

Notice is hereby given that on February 15, 2019 the Zoning Administrator considered Conditional Use Permit CUP18-0023 (CUP) filed by Salwan Komo (Applicant). If approved, the CUP will allow the off-site sale of beer, wine and liquor at the existing service station, US Super Gas and Mini-Mart (Project). The Project is located at 1495 Melrose Avenue in Chula Vista (Project Site), and is owned by Salwan Komo (Property Owner). The Project Site is zoned Neighborhood Commercial (CN), and has a General Plan designation of Commercial Retail.

The Project is more specifically described as follows:

The application requests approval of a CUP to allow the sale of alcoholic beverages for off-site use or consumption, specifically the sale of beer, wine and liquor. Alcohol sales are permitted pursuant to the CN zone and Chula Vista Municipal Code (CVMC) Section 19.58.430 (Liquor stores in the C-N zone) with approval of a CUP. The Project Site contains an existing service station, US Super Gas and Mini-Mart, which includes a single-story building with a floor area of 1,370 square-feet and 9 parking spaces as well as a pump station and canopy for 8 vehicles. The business operates between the hours of 5 a.m. to 12 a.m. seven days a week with a maximum of 3 employees at any one time.

The Development Services Director has reviewed the Project for compliance with the California Environmental Quality Act (CEQA) and has determined that the Project qualifies for a Class 1 Categorical Exemption pursuant to Section 15301 (Existing Facilities) of the State CEQA Guidelines. The Project qualifies for a Class 1 exemption because there are no proposed exterior changes or expansion of the existing facility. Thus, no further environmental review is required.

The Zoning Administrator, under the provisions of Sections 19.58.430 Liquor Stores in the C-N Zone of the CVMC, has not been able to make the Findings for approval for the CUP as required by CVMC Section 19.14.080. The following Findings for denial are based on substantial evidence contained in the record of proceedings, including those Findings previously made by the City Council on November 20, 2012 upholding the Appeal by Lewis Brewer, and Denying the CUP for the sale of alcohol at the Project Site:

- 1. That the proposed use at this location is necessary or desirable and will contribute to the general well-being of the neighborhood or the community.**

There are already 3 other businesses selling alcohol products within 500 feet of the Project Site. Because this neighborhood is predominantly residential a fourth liquor license is not desirable and does not contribute to the general well-being of the predominantly residential neighborhood. Additional alcohol sales have the potential to negatively affect the residential nature of this neighborhood by drawing a greater transient population and potential crime. Therefore, an additional license selling beer, wine and liquor is not necessary or desirable to provide a service to the neighborhood because alcohol retail is already available in the direct vicinity.

Based on the above, the Zoning Administrator hereby Finds that the proposed use at this location is not necessary or desirable to provide a service that will contribute to the general well-being of this community.

- 2. That such use will not under the circumstances of the particular case be detrimental to the health, safety or general welfare of persons residing or working in the vicinity or injurious to property or improvements in the vicinity.**

Based on testimony at the City Council Hearing of November 20, 2012, included herein by this reference, by residents who live near the Project Site, an additional business selling alcohol in this area will negatively affect their quality of life and their health, safety, and general welfare by potentially increasing crime, traffic problems, and nuisance activities. A public hearing with City of Chula Vista Zoning Administrator and Staff was held on January 24, 2019, where again, residents who live near the Project Site testified and declared consistent statements of a negative impact another alcohol license would have on the surrounding area. There has already been a history of traffic problems and nuisance activities at this location, and this use would exacerbate these problems for this community. Furthermore, schools are nearby and an additional liquor license in this area could expose youth to under-age drinking and traffic hazards, which would be detrimental to their health, safety and general welfare.

Based on the above, the Zoning Administrator hereby Finds that the proposed use is detrimental to the health, safety and general welfare of persons residing in the vicinity.

- 3. That the proposed use will comply with the regulations and conditions specified in the code for such use.**

Evidence shows that the Department of Alcohol and Beverage Control allow a maximum of 3 off-sale liquor licenses for census tract 133.06 for 1495 Melrose Avenue and there currently are 3 active licenses. Allowing an additional license within this census tract will result in an overconcentration of the number and location of existing facilities and be in noncompliance with State Alcohol Beverage Control standards.

US Super Gas Station Beer and Wine License - CUP18-0023

Based on the above, the Zoning Administrator hereby Finds that the proposed use will not comply with the regulations and conditions specified in the code for such use.

4. That the granting of this conditional use will not adversely affect the General Plan of the City or the adopted plan of any governmental agency.

The proposed alcohol sales use is permitted with approval of a CUP in the CN Zone; however, pursuant to CVMC Section 19.14.080, if any one (1) of the above factors are not met, then the subject CUP cannot be approved. Because above factor numbers 1 through 3 are not met, the CUP cannot be approved so factor number 4 is not applicable.

5. That the proposed conditional use, if located in the coastal zone, is consistent with the certified local coastal program and is consistent with the intent of the zoning district.

The proposed use is not within the coastal zone, and therefore, factor number 5 is not applicable.

DENIED BY THE ZONING ADMINISTRATOR OF THE CITY OF CHULA VISTA, CALIFORNIA, this 15th day of February 2019.



Michael W. Walker,
Zoning Administrator