



# Planning Commission Agenda Item

March 5, 2012

**TO:** Chair Steiner and  
Members of the Planning Commission

**THRU:** Leslie Aranda Roseberry  
Planning Manager

**FROM:** Robert Garcia  
Associate Planner

## SUBJECT

**PUBLIC HEARING:** Conditional Use Permit No. 2817-11, Design Review Committee No. 4527-11 & Minor Site Plan Review No. 0652-11 – New 7-Eleven Convenience Store, located at 615 S. Tustin Street.

## SUMMARY

The applicant is proposing to demolish an existing automotive fueling and service repair station to construct a new 2,800 square foot convenience store with fuel dispensing. The site has an existing Alcoholic Beverage Control Type 20 (Off-Sale Beer and Wine) license which requires modification.

## RECOMMENDED ACTION

Adopt Planning Commission Resolution No. 12-12 entitled:

**A RESOLUTION OF THE PLANNING COMMISSION  
RECOMMENDING TO THE CITY COUNCIL APPROVAL  
OF CONDITIONAL USE PERMIT NO. 2817-11, DESIGN  
REVIEW COMMITTEE NO. 4527-11 & MINOR SITE PLAN  
REVIEW NO. 0652-11 FOR A NEW 7-ELEVEN CONVENIENCE  
STORE WITH FUEL DISPENSING AND A MODIFICATION  
TO AN EXISTING ALCOHOLIC BEVERAGE CONTROL  
TYPE 20 (OFF-SALE BEER AND WINE) LICENSE  
LOCATED AT 615 SOUTH TUSTIN STREET**

## AUTHORIZATION/GUIDELINES

Orange Municipal Code (O.M.C.) Section 17.30.030 requires that both the Planning Commission and City Council review Conditional Use Permits for off-sale alcoholic beverage licenses in conjunction with the sale of motor fuel in the Limited Business (C-1) District. OMC Section 17.10.070 requires the approval of Design Review when a development project requires action by the Planning Commission or City Council. OMC Section 17.10.060 requires a Minor Site Plan Review for projects that meet the minimum criteria for consideration as a Minor Site Plan

application. OMC Section 17.10.080 requires that the project be reviewed in accordance with California Environmental Quality Act provisions and the City of Orange Environmental Review Guidelines. OMC Section 17.08.020 authorizes the Planning Commission to conduct a public hearing and take action in the form of making decisions and/or recommendations on Conditional Use Permit and Design Review applications.

**PUBLIC NOTICE**

On February 23, 2012, the City sent a Public Hearing Notice to a total of 186 property owners/tenants within a 300-foot radius of the project site, and persons specifically requesting notice. The project site was also posted in two locations with the notification on that same date.

**ENVIRONMENTAL REVIEW**

The proposed project is categorically exempt from the provisions of the California Environmental Quality Act (CEQA) per State CEQA Guidelines 15303 (Class 3 – New Construction) because the project is a single structure that is less than 10,000 square feet and where all necessary public services and facilities are in place. There is no public review required for CEQA.

**PROJECT BACKGROUND**

<i>Applicant:</i>	Western State Engineering, Inc.
<i>Property Owner:</i>	Rassol Eftekharian
<i>Property Location:</i>	615 S. Tustin Street
<i>Existing General Plan Land Use Element designation:</i>	General Commercial (GC)
<i>Existing Zoning Classification:</i>	Limited Business (C-1)
<i>Old Towne:</i>	Not Applicable
<i>Redevelopment Project Area:</i>	Yes
<i>Specific Plan/PC:</i>	Not Applicable
<i>Site Size:</i>	21,425 square feet (.49 acres)
<i>Circulation:</i>	The site is located at the southeast corner of Tustin Street and Fairway Drive with access to the parcel from two curb cuts in each of those roads. Tustin Street is designated as a major arterial and Fairway Drive is designated as a local street. A westbound onramp to the State Route 22 freeway is generally located across Tustin Street from the project site.
<i>Existing conditions:</i>	The site is improved with an existing service station that has a mini-mart.
<i>Surrounding land uses and Zoning:</i>	North - Residential Multiple Family (R3), Occupied by a multi-family dwellings/a rehabilitation institute. South - Limited Business (C-1), Occupied by a hotel (Tustin Inn) West - Residential Multiple Family (R3), Occupied by a multi-family dwellings

	East - Residential Multiple Family (R3), Occupied by a multi-family dwellings
<i>Previous Applications/Entitlements:</i>	On September 23, 1993, the Zoning Administrator approved Conditional Use Permit 2035 for a mini mart at the gas station. On August 18, 2004, the Design Review Committee (DRC) approved DRC 3927-04 for the remodel of the site. On October 13, 2009, the City Council approved a request for an alcoholic beverages license, (Type 20 license for Off-Sale Beer and Wine) in conjunction with fuel dispensing.

**PROJECT DESCRIPTION**

The proposed new 2,800 square foot 7-Eleven convenience store would be open 24 hours. The exterior of the proposed building will consist of different finish materials within an earth tone palette. The front façade will consist of varying wall planes which assist in the breaking up of the building mass while adding visual interest. The proposal will comply with the required parking spaces and with the landscape requirements including the required number of trees. The property will be compliant with all other Zoning Code standards.

On October 13, 2009, the City Council approved a request for an Alcoholic Beverage Control Type 20 (Off-Sale Beer and Wine) license in conjunction with fuel dispensing. The existing Conditional Use Permit (CUP No. 2733-08) needs to be modified based on Condition of Approval No. 3 of the approved City Council Resolution No. 10408. The condition states that the business shall remain in substantial conformance as approved by the City Council and that any future expansion in area or in the nature and operation of the use approved by CUP No. 2733-08 shall require an application for a new or amended Conditional Use Permit.

Since existing CUP No. 2733-08 will no longer serve of any use to the applicant should the request for the expansion be approved, the applicant will voluntary surrender the existing ABC CUP. The aim is to assist with City Staff's efforts to be proactive in cleaning up outdated entitlements.

*Development Standards*

	<b>Required</b>	<b>Proposed</b>	<b>Code Section</b>
<i>Building Height</i>	32'-0" or 2-stories	19'-6" Top of Wall 23'-0" Top of Roof	17.18.120
<i>Floor Area Ratio (FAR)</i>	1.0 FAR or 21,786 square feet	2,800 square feet or 12.8% of allowable FAR	
<i>Landscaping (non-residential)</i>	25 Trees Required Setbacks	25 Trees Required Setbacks	17.18.160
<i>Loading area (non-residential)</i>	10'-0" X 40'-0"	10'-0" X 40'-0"	17.24.160
<i>Parking (non-residential)</i>	14	14	17.34.060
<i>Setback, Front</i>	10'-0"		17.18.130
<i>Setback, Rear</i>	0'-0"		17.18.130
<i>Setback, Side</i>	0'-0"		17.18.130
<i>Setback, Side (Corner)</i>	10'-0"		17.18.130

## **APPLICATION(S) REQUESTED/ REQUIRED FINDINGS**

**Conditional Use Permit:** The applicant is requesting a modification to an existing Conditional Use Permit to sell alcoholic beverages, (Type 20 license for Off-Sale Beer and Wine).

*Required Findings:*

1. A Conditional Use Permit shall be granted upon sound principles of land use and in response to services required by the community.
2. A Conditional Use Permit shall not be granted if it will cause deterioration of bordering land uses or create special problems for the area in which it is located.
3. A Conditional Use Permit must be considered in relationship to its effect on the community or neighborhood plan for the area in which it is located.
4. A Conditional Use Permit, if granted, shall be made subject to those conditions necessary to preserve the general welfare, not the individual welfare of any particular applicant.

**Design Review Committee:** The applicant is requesting approval of a Design Review Committee application for the approval of the new exterior elevations.

*Required Findings:*

1. The project design upholds community aesthetics through the use of an internally consistent, integrated design theme and is consistent with all adopted specific plans, applicable design standards and their required findings.

**Minor Site Plan:** The applicant is proposing a Minor Site Plan for a new 2,800 square foot convenience store with site improvements.

*Required Findings:*

1. The project design is compatible with surrounding development and neighborhoods.
2. The project conforms to City development standards and any applicable special design guidelines or specific plan requirements.
3. The project provides for safe and adequate vehicular and pedestrian circulation, both on- and off-site.
4. City services are available and adequate to serve the project.
5. The project has been designed to fully mitigate or substantially minimize adverse environmental effects.

## **ANALYSIS/STATEMENT OF THE ISSUES**

**Issue 1: Existing Licenses within 600 feet of the Site**

No other licenses are within 600 feet of the site (see Attachment 6). However, for information purposes, staff identified the following facilities selling alcoholic beverages that are within the same census tract as the service station parcel.

*Existing Licenses*

<b>Establishment Name</b>	<b>License Type</b>	<b>Address</b>
Steer Inn Restaurant	Type 41 (On-Sale Beer and Wine – Eating Place)	801 S. Tustin Street
Pueblo Liquor & Market	Type 21 (Off-Sale General)	855 S. Tustin Street
Ostioneria Bahia	Type 41 (On-Sale Beer and Wine – Eating Place)	144 S. Tustin Street
KC Liquor	Type 21 (Off-Sale General)	296 S. Tustin Street
JC Market	Type 20 (Off-Sale Beer and Wine)	291 S. Tustin Street

Issue 2: Sensitive Receptors

The OMC requires a Conditional Use Permit for the sale of alcoholic beverages to ensure there will be no adverse impact on surrounding land uses or allow the availability of alcoholic beverages to minors. When reviewing alcohol permits, the Zoning Ordinance details specific land uses that are sensitive to alcohol activities, but does not establish any specific distances for these uses. The State Alcoholic Beverage Control Board investigation requires applicants to identify the sensitive land uses within 600 feet of the site. There exist single family and multiple individual dwelling units, Rehabilitation Institute, and a hotel as sensitive receptors in the vicinity of the subject property:

*Sensitive Receptors*

<b>Establishment Name</b>	<b>Address</b>	<b>Distance To Project Site</b>
Multiple Family Residences	1622 and 1625 Fairway Drive	100 feet
Multiple Family Residences	1830 Fairway Drive	0 feet
Multiple Family Residences	1616 Rock Creek Drive	130 feet
Multiple Family Residences	1745 Fairway Drive	60 feet
Single Family Residences	1511- 1924 Fairway Drive	400-600 feet
Single Family Residences	1530-1602 Young Court	500-600 feet
Single Family Residences	1446-1452 Greenview Drive	500-600 feet
Tustin Inn	639 S. Tustin Street	0 feet
Rehabilitation Institute	583 and 585 Tustin Street and 1740 and 1800 La Veta Avenue	60 feet

The selling of alcoholic beverages from the project site is not anticipated to have an adverse impact on "sensitive" land uses for the following reasons:

- The subject site is not located in the vicinity of any public playgrounds, hospitals, churches, or similar uses.
- Recommended conditions include sales monitoring, alcohol container restrictions, display restrictions, advertising restrictions, on-site consumption restrictions, and attractive nuisance reduction measures for the site, which should prevent alcohol sales from having an adverse impact.

**Issue 3: Census Tract Alcohol and Crime Statistics Information**

The Orange Police Department’s Vice Unit reviewed the proposal and had no objections to the CUP modification, provided that the recommended conditions were imposed on the applicant. Although the area is considered a high-crime area, this does not automatically mean the police department will oppose the application. Strong consideration was given to the manner in which the applicant has operated the current business at the location since 2008.

The Orange Police Department’s Vice Unit reviewed the proposal and determined that the census tract allows 4 Off-Sale licenses and 7 On-Sale licenses (see Attachment 5). The census tract has 5 Off-Sale licenses and 2 On-Sale licenses.

*Alcohol Licenses*

	<b>Existing</b>	<b>Allowed</b>
<b>On Sale Licenses</b>	2	7
<b>Off-Sale Licenses</b>	5	4

The applicant is applying for an ABC license in a Reporting District (RD 43) that is considered a high crime area. The current crime figures show 121 crimes in this reporting district. The average reported crimes per district is 77, therefore, the crime statistics indicate this district had 44 more crimes than the average district, 62% above the average reported crimes per district (See Attachment 5).

*Crime Statistics*

<b>Census Tract Arrests</b>	<b>Citywide Average Arrests</b>	<b>Percent Difference</b>
121	77	62% above average

The majority of the crimes relate to theft from a vehicle or a burglary from a vehicle. There were 21 alcohol related crimes for all of 2010, for this reporting district. The expansion of the business or increased hours of operation will not likely contribute to these crime numbers, be a burden to police services, or impact the quality of life in the surrounding community. Granting this request would not increase these numbers as it is only a modification of an existing license. The Police Department does not oppose the expansion of the mini-mart or the requested change in hours of operation.

**Issue 4: Existing Conditional Use Permit**

Should the request for the modification to existing CUP No. 2733-08 be approved to expand the use in the proposed new 2,800 square foot convenience store, existing CUP No. 2733-08 will no longer serve of any use to the applicant. Therefore, the applicant will voluntary surrender the existing ABC CUP. The aim is to assist with City Staff’s efforts to be proactive in cleaning up outdated entitlements. A draft copy of the voluntary surrender letter to the City Council has been included in the staff report for the Commission’s review (Attachment 9).

## **ADVISORY BOARD RECOMMENDATION**

### ***Staff Review Committee:***

The Staff Review Committee (SRC) reviewed the proposal on February 2, 2011 and on August 24, 2011 and provided comments to the applicant on the proposal. On December 14, 2011, the SRC reviewed the proposal and made a recommendation to approve with conditions.

### ***Design Review Committee:***

The Design Review Committee (DRC) reviewed the proposal on February 1, 2012. The DRC requested that the applicant make minor changes to the design of the building façade in order to improve the design of the proposal. Further, the DRC bifurcated the proposal, in that it made a recommendation to approve the new building proposal and site improvements with conditions, but continued the landscape plan to a future meeting prior to the issuance of building permits, in order to allow the applicant to move forward with the proposal.

The conditions made by the SRC and the DRC have been incorporated into the draft Planning Commission resolution.

## **ATTACHMENTS/EXHIBITS**

### Attachments to Report:

1. Planning Commission Resolution No. PC 12-12
2. Vicinity Map
3. Design Review Committee Minutes Dated February 1, 2012
4. Orange Police Department Vice Unit's Memorandum regarding Conditions of Approval for CUP 2837-11 dated October 31, 2011
5. Orange Police Department Vice Unit's Memorandum regarding Recommending Approval of CUP 2837-11 dated October 31, 2011
6. PC Evaluation Map
7. Census Tract Map
8. Site Photographs
9. Voluntary Surrender Letter

### Exhibits provided to the Planning Commission:

- A. Submitted Plans and Exhibits date labeled March 5, 2012

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