

RESOLUTION NO. 2023-

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LAKE ELSINORE, CALIFORNIA, ADOPTING FINDINGS OF PUBLIC CONVENIENCE OR NECESSITY (PCN 2021-02) FOR THE SALE OF BEER, WINE, DISTILLED SPIRITS (TYPE 21 AND 86 ABC) FOR OFF-SITE CONSUMPTION ON LOT 4 OF TPM 38281 LOCATED AT APNS 377-020-014, 016, 017, 018, and 019

Whereas, Karen Levitt Ortiz, Evergreen Devco, Inc. has filed an application with the City of Lake Elsinore (City) requesting approval of *Planning Application No. 2021-34* which includes the construction of a 57,254 square foot (SF) commercial center that consists of an anchor grocery store, two quick-serve drive-through restaurants, a gas station with a convenience store, and a separate drive-through car wash with 369 parking spaces, which would be constructed in two phases over a total of 8.863 gross acres (Project). *Tentative Parcel Map No. 38195* would include a subdivision of the 8.863 gross acre site into four (4) lots ranging in size from 1.10 to 4.62 gross acres and *Tentative Parcel Map No. 38281* would include a subdivision of the 8.863 gross acre site into five (5) lots ranging in size from 1.03 to 3.59 gross acres. *Conditional Use Permit No. 2021-09* would establish a 4,116 SF Car Wash on Lot 1, *Conditional Use Permit No. 2021-10* would establish a 3,000 SF Quick-service Restaurant with a drive-through lane on Lot 2, *Conditional Use Permit No. 2021-11* and *Public Convenience & Necessity No. 2021-01* would establish a gas station and the 4,088 SF convenience store with concurrent sale of beer and wine for off-site consumption (Type 20 ABC) on Lot 3, *Public Convenience & Necessity No. 2021-02* includes a PCN finding for the 43,050 SF grocery store for the sale of beer, wine, and distilled spirits for off-site consumption (Type 21 and 86 ABC) on Lot 4, and *Conditional Use Permit No. 2021-12* would establish a the 3,000 SF Quick-service Restaurant with a drive-through lane on Lot 5. *Commercial Design Review No. 2021-17* provides a comprehensive design review for the entire Project site that includes architectural elevations, on-site stormwater management improvements, lighting, walls and fencing, parking and landscaping. *Uniform Sign Program (SIGN) No. 2021-35* proposes to establish a uniform sign program that creates an integrated framework for all the signage within the center; and,

Whereas, the Project is located on Central Avenue/State Route 74 (SR-74) east of the intersection with Cambern Avenue (APNs: 377-020-014, 377-020-016, 377-020-017, 377-020-018, and 377-020-019); and,

Whereas, the applicant is requesting approval of Public Convenience or Necessity No. 2021-02 for finding of Public Convenience or Necessity for the sale of beer, wine, and distilled spirits for off-site consumption (Type 21 and 86 ABC) within an approximately 43,050 SF grocery store located in Lot 4 of TPM 38281; and,

Whereas, the Department of Alcohol Beverage Control (ABC), a state agency, regulates the distribution of liquor licenses in the State of California; and,

Whereas, Section 23958.4 of the Business and Professions Code defines "undue concentration" of liquor licenses and establishes a procedure for the local agency to determine if the Public Convenience and Necessity will be served by the issuance of a license notwithstanding a determination that there is an undue concentration of licenses; and,

Whereas, Section 23958.4 of the Business and Professions Code allows the City Council to delegate the responsibility making the finding of Public Convenience and Necessity; and,

Whereas, pursuant to City Council Resolution No. 2008-83, Section 17.410.070 (Approving Authority), and Section 17.410.030 (Multiple Applications) of the Lake Elsinore Municipal Code (LEMC), the Planning Commission (Commission) has been delegated with the responsibility of making recommendations to the City Council (Council) pertaining determinations on whether Public Convenience and Necessity would be served to warrant the issuance of an alcoholic beverage license from the State Department of Alcohol Beverage Control (ABC) as allowed by Section 23958.4 of the Business and Professions Code of the State of California and the City Clerk or Director of Community Development are authorized to issue letters of Public Convenience and Necessity after a determination is made; and,

Whereas, on October 18, 2022, November 15, 2022, and April 4, 2023, at a duly noticed Public Hearing, the Commission has considered evidence presented by the Community Development Department and other interested parties with respect to this item, and adopted a resolution recommending that the Council Approve PCN No. 2021-02; and,

Whereas, on April 25, 2023 at a duly noticed Public Hearing, the Council has considered the recommendation of the Commission as well as evidence presented by the Community Development Department and other interested parties with respect to this item.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF LAKE ELSINORE, CALIFORNIA, DOES HEREBY RESOLVE, DETERMINE AND ORDER AS FOLLOWS:

Section 1: The Project is located within Census Tract No. 427.50, which contains five (5) off-premise alcohol establishment licenses. ABC guidelines only allows for two (2) off-premise alcohol establishments within this census tract. Before issuing a license, ABC requires a Public Convenience or Necessity (PCN) finding from the local jurisdiction for alcohol sales establishments that are located within a census tract that is over concentrated with similar alcohol related uses.

Section 2: The Council makes the following findings for Public Convenience or Necessity No. 2021-02 for the sale of beer, wine, and distilled spirits for off-site consumption (Type 21 and 86 ABC):

1. The use is essential or desirable to the public convenience and public welfare.

The public will benefit from the sales of alcohol by being able to do their grocery shopping and having the additional option of purchasing alcohol in one place. They will also benefit from the enhanced selection of high quality products that a grocer will offer.

2. The granting the permit will not be materially detrimental to the public welfare and to other property in vicinity.

The store is primarily for the sale of grocery items. The sale of alcohol is incidental and in conjunction with the sale of such items. The estimated percentage floor area devoted to alcohol sales will be 4.5%. In addition, the store will employ security measures at the product level (like security bottle caps), the shelf level (such as locking cabinets) and at the store level (security cameras) to discourage and prevent alcohol theft. The store employs extensive internal training (including any required by state or local regulation), several types of security measures, and operational processes to prevent the sale of alcohol to minors or intoxicated patrons, and to prevent theft of alcoholic beverages from the store. All store associates who will be working in sales or stocking of alcoholic beverages will be trained on ID checking

processes, how to identify intoxicated customers, the personal and corporate penalties for knowingly selling alcohol to minors, and the importance of being a good neighbor in the community. The store will operate in compliance with the state's Alcohol Beverage Control Act, together with any conditions of the license that may be issued by ABC. Therefore, the granting of the permit will not be detrimental to public welfare and to other properties in the vicinity.

3. The use conforms to good zoning practices and development standards.

The current zoning for the subject site is General Commercial (C-2). Section 17.124.020 of the C-2 zone states that permitted uses listed in the Neighborhood Commercial (C-1) zone are also permitted in the C-2 zone. Section 170.120.020 of the C-1 zone lists food stores as permitted uses. A Design Review (CDR 2021-17) is being concurrently processed for the subject property ensuring that the Project meets all the development standards of the C-2 zone.

4. The use is not contrary to any of the objectives of any part of the adopted General Plan.

The Project complies with the goals and objectives of the General Plan because it will assist in providing a service that serves to provide the full spectrum of commercial needs for a community in a commercial retail center.

Section 3: Based upon the evidence presented, the above findings, and the Conditions of Approval imposed upon the Project, the Council hereby makes findings of Public Convenience and Necessity (PCN 2021-02) for the sale of beer, wine, and distilled spirits for off-site consumption (Type 21 and 86 ABC).

Section 4: This Resolution shall take effect immediately upon its adoption.

Section 5: The City Clerk shall certify to the adoption of this Resolution and enter it into the book of original Resolutions.

Passed and Adopted on this 25th day of April, 2023.

Natasha Johnson
Mayor

Attest:

Candice Alvarez, MMC
City Clerk

STATE OF CALIFORNIA)
COUNTY OF RIVERSIDE) ss.
CITY OF LAKE ELSINORE)

I, Candice Alvarez, MMC, City Clerk of the City of Lake Elsinore, California, do hereby certify that Resolution No. 2023-____ was adopted by the City Council of the City of Lake Elsinore, California, at the regular meeting of April 25, 2023, and that the same was adopted by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Candice Alvarez, MMC
City Clerk