



CITY OF POMONA COUNCIL REPORT

September 19, 2005

No. 05-213

To: Honorable Mayor and Members of the City Council

From: Douglas Dunlap, City Manager *[Signature]*

Submitted by: Andre Dupret, Acting Planning and Housing Director *[Signature]*
Matthew Bassi, Planning Manager *[Signature]*

Subject: **Finding of Public Convenience and Necessity (CUP 04-051) to allow an off-sale beer and wine (type 20) license located at 1518 N. Garey Avenue (Council District 4)**

SUMMARY

Recommendation - That the City Council adopt a Finding of Public Convenience and Necessity to allow an off-sale beer and wine (type 20) license in conjunction with a gas station/mini-mart located at 1518 N. Garey Avenue.

Fiscal Impact – None.

Public Noticing Requirement – None required.

Previous Council Action – On July 11, 2005, the City Council voted 6-0 to deny a finding of public convenience and necessity for off-sale beer and wine (type 20 license) in conjunction with a gas station/mini-mart located at 1518 N. Garey Avenue.

On August 1, 2005, the City Council voted 3-1-2 to reconsider the request to make a finding of Public Convenience and Necessity for off-sale beer and wine (type 20 license) in conjunction with a gas station/mini-mart located at 1518 N. Garey Avenue.

Previous Related Action – On April 27, 2005, the Planning Commission conducted a public hearing for Conditional Use Permit CUP 04-051. The Planning Commission voted five to two to approve a request by the applicant to allow the off-sale beer and wine (Type 20) within an existing gas station/mini mart and found that the approval of CUP

ACTION TAKEN *4/1/2 (Rothman, Opposed; Cortez/Robles, Exempt)*
() Approved (☒) Denied File No. _____
() Received & Filed _____
() Continued to _____
Res. No. 2005-89 Ord. No. _____

Agenda Item No. 10

04-051 is categorically exempt from the California Environmental Quality Act (CEQA) under Section 15301, Class 1.

BACKGROUND

On April 27, 2005, the Planning Commission conducted a public hearing for Conditional Use Permit CUP 04-051. The Planning Commission voted five to two to approve a request by the applicant to allow off-sale beer and wine (Type 20) within an existing gas station/mini mart. A copy of the April 27, 2005 Planning Commission Staff Report is attached for Council consideration (Attachment 4).

On July 11, 2005, the City Council considered whether to make a finding of Public Convenience and Necessity for an off-sale beer and wine license (type 20) at 1518 N. Garey Avenue. Councilmember Lanz expressed concern over approving an additional alcohol license in an area known for the number of homeless persons and presence of illegal drugs. She also noted that there are three businesses with full service off-sale alcohol within the area of the proposed project that were not mentioned in the staff report. The Council voted six to zero against making the findings of Public Convenience and Necessity.

On August 1, 2005, the City Council voted 3-1-2 to reconsider the applicant's request and directed staff to analyze the Public Convenience and Necessity for review.

DISCUSSION

Under Section 23958.4 of the Business and Professions Code, the State Department of Alcohol Beverage Control (ABC) may deny an application for a new license, or the transfer of an existing off-sale (or on-sale) alcohol license if there is an *over concentration* of licenses, or if the proposed establishment is in a *high crime* area. These two criteria are defined by the ABC as follows:

- (1) An area is considered over concentrated when the ratio of alcohol licenses to population in a census tract exceeds the countywide average ratio of alcohol licenses to population.
- (2) An area is considered a *high crime* area if the number of crimes in a police reporting district is 20 percent greater than the average number of reported crimes in the jurisdiction of the local law enforcement agency, as is indicated in Attachment 3.

However, if the City Council makes a finding and determines that public convenience and necessity would best be served by the issuance of an alcohol license in an area that is over-concentrated or located in a high crime area, the ABC will then issue the license to the applicant.

The Pomona Police Department has reviewed the proposed application for the off-sale beer and wine (Type 20) license and does not have any significant concerns with the request. As part of

the Police Department's review, they considered both the concentration of alcohol licenses and crime data. The existing gas station/mini-mart is located in Census Tract 4026.

Census Tract Data

The population of the census tract determines the number of licenses permitted. According to guidelines established by the State Department of Alcoholic Beverage Control (ABC), a maximum of five off-sale licenses is allowed in Census Tract 4026. Table 1 indicates that there are currently five alcohol licenses in this Census Tract (Attachment 6). Of this total, four licenses have been issued for off-sale, and one license for on-sale consumption. One additional off-sale license will not create an over-concentration in Census Tract 4026.

Table 1: Alcohol Licenses in Census Tract No. 4026

Type	Existing	Allowed by ABC
Off-Sale	4	5
On-Sale	1	7

Crime Statistics

The subject site is located in Police Reporting District No. 10. According to the Police Department, Police Reporting District No. 10 is classified as a high crime district. In order to be considered a high crime district, the number of offenses would need to equal or exceed the City average of 141 crimes and arrests. In 2003, Police Reporting District No. 10 experienced a total of 383 Part I offenses and II arrests.

The Pomona Police Department reviewed the applicant's request and determined that the location of the subject gas station/mini-mart is not near any of the existing alcohol establishments in the same Census Tract. Therefore, the Police Department did not oppose the issuance of a conditional use permit for the proposed establishment.

Staff Analysis

Staff conducted research to determine whether there are additional ABC licenses in the vicinity of 1518 N. Garey Avenue in other Census Tracts. The following is a list of off-sale licenses within one-half mile of the subject property that are in different Census Tracts:

Business name & address	License type	Census Tract No.
Stater Brothers 1045 N. Garey Ave.	Type 21 – off-sale general	4023.02
E & R Liquor 1643 N. Garey Ave.	Type 21 – off-sale general	4022
Sav-On Drugs 150 W. Willow Ave.	Type 21 – off-sale general	4022

Although there are additional off-sale alcohol licenses within the project vicinity, two are almost one-half mile from the project site. (See radius map in Attachment 6.)

RECOMMENDATION

That the City Council adopt a finding of Public Convenience and Necessity to allow an off-sale beer and wine (type 20) license in conjunction with a gas station/mini-mart located at 1518 N. Garey Avenue.

- Attachments -
1. Proposed City Council Resolution adopting the Finding of Public Convenience and Necessity
 2. Project Vicinity Map
 3. Police Department Comments
 4. Planning Commission Staff Report without attachments and unofficial Planning Commission Minutes from April 27, 2005
 5. City Council minutes from the July 11, 2005 meeting
 6. Census Tract Map for Off-Sale Licenses
 7. Radius Map of off-sale liquor licenses within .5 mile of subject property

ATTACHMENT 1

Proposed City Council Resolution adopting a finding of Public Convenience and Necessity

RESOLUTION NO. 2005-89

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF POMONA DENYING A REQUEST FOR A FINDING OF PUBLIC CONVENIENCE AND NECESSITY FOR A REQUESTED OFF-SALE BEER AND WINE (TYPE 20) LICENSE FOR PROPERTY LOCATED AT 1518 NORTH GAREY AVENUE

WHEREAS, pursuant to Section 23958.4 (2) of the Business and Professions Code of the State of California, the local governing body (City Council) has the discretion to determine when public convenience and necessity would be served by allowing an alcohol license in an area where there is an over concentration of licenses or where there is high crime;

WHEREAS, the subject property is located in Census Tract 4026, and the State Department of Alcoholic Beverage Control (ABC) allows five off-sale licenses in this census tract;

WHEREAS, there are currently four off-sale licenses in Census Tract 4026;

WHEREAS, the subject property is located in Pomona Police Reporting District No. 10, which is categorized as a high-crime area;

WHEREAS, the off-sale beer and wine (Type 20) as an incidental use at the approved gas station/mini- mart may increase the number of Part I and Part II crimes and arrests, which will affect the general welfare of the neighborhood;

WHEREAS, the Planning Commission determined that the approval of CUP 04-051 to allow the off-sale beer and wine is categorically exempt from the California Environmental Quality Act (CEQA) under Section 15301, Class 1; and

WHEREAS, the City Council has carefully considered all pertinent testimony offered in the case as presented.

NOW THEREFORE, BE IT RESOLVED by the City Council of the City of Pomona as follows:

SECTION 1. The Pomona City Council hereby finds and determines that the proposed type 20 off-sale alcohol license is will not provide for the public convenience and necessity for the surrounding area.

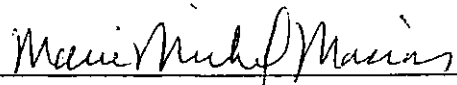
SECTION 2. Based upon the findings, the City Council of the City of Pomona hereby denies the request for a Finding of Public Convenience and Necessity to allow off-sale beer and wine in conjunction with an existing gas station/mini-mart located at 1518 N. Garey Avenue.

SECTION 3. The City Clerk shall attest to the passage and adoption of this resolution and it shall become effective immediately upon its approval.


PASSED AND APPROVED this 19th day of September, 2005.

ATTEST:

CITY OF POMONA

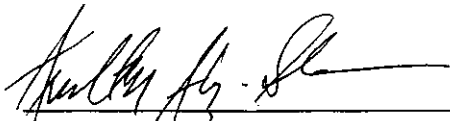


City Clerk



Mayor

APPROVED AS TO FORM:

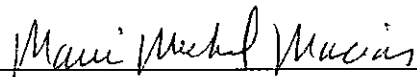


City Attorney

STATE OF CALIFORNIA
COUNTY OF LOS ANGELES
CITY OF POMONA

I, MARIE MICHEL MACIAS, CITY CLERK of the City of Pomona do hereby certify that the foregoing Resolution was adopted at a regular meeting of the City Council of the City of Pomona held on the 19th day of September, 2005 by the following vote:

AYES: COUNCILMEMBERS: HUNTER, RODRIGUEZ, LANTZ, ROTHMAN, TORRES
NOES: COUNCILMEMBERS: NONE
ABSENT: COUNCILMEMBERS: CORTEZ
ABSTAIN: COUNCILMEMBERS: ROBLES



City Clerk

RESOLUTION NO. 2005 -

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF POMONA ADOPTING A FINDING OF PUBLIC CONVENIENCE AND NECESSITY FOR A REQUESTED OFF-SALE BEER AND WINE (TYPE 20) LICENSE FOR PROPERTY LOCATED AT 1518 NORTH GAREY AVENUE

WHEREAS, pursuant to Section 23958.4 (2) of the Business and Professions Code of the State of California, the local governing body (City Council) has the discretion to determine when public convenience and necessity would be served by allowing an alcohol license in an area where there is an over concentration of licenses or where there is high crime;

WHEREAS, the subject property is located in Census Tract 4026, and the State Department of Alcoholic Beverage Control (ABC) allows five off-sale licenses in this census tract;

WHEREAS, there are currently four off-sale licenses in Census Tract 4026;

WHEREAS, approval of the subject on-sale license will not result in an over-concentration of on-sale alcohol licenses in Census Tract 4026;

WHEREAS, the subject property is located in Pomona Police Reporting District No. 10, which is categorized as a high-crime area;

WHEREAS, per the Pomona Police Department, the subject location is not near any existing alcohol establishments;

WHEREAS, the Pomona Police Department, subject to conditions of approval, does not oppose the granting of the license for on-sale alcohol at the subject location;

WHEREAS, the off-sale beer and wine (Type 20) will be an incidental use at the approved gas station/mini- mart;

WHEREAS, allowing an off-sale beer and wine will provide customers the convenience of buying beer and wine along with other purchases;

WHEREAS, the Planning Commission determined that the approval of CUP 04-051 to allow the off-sale beer and wine is categorically exempt from the California Environmental Quality Act (CEQA) under Section 15301, Class 1; and

WHEREAS, the City Council has carefully considered all pertinent testimony offered in the case as presented.

NOW THEREFORE, BE IT RESOLVED by the City Council of the City of Pomona as follows:

SECTION 1. The Pomona City Council hereby finds and determines that the proposed type 20 off-sale alcohol license is necessary to provide for the public convenience and necessity for the surrounding area.

SECTION 2. Based upon the findings, the City Council of the City of Pomona hereby adopts the Finding of Public Convenience and Necessity to allow off-sale beer and wine in conjunction with an existing gas station/mini-mart located at 1518 N. Garey Avenue.

SECTION 3. The City Clerk shall attest to the passage and adoption of this resolution and it shall become effective immediately upon its approval.

PASSED AND APPROVED this ____ day of _____, 2005.

ATTEST:

CITY OF POMONA

City Clerk

Mayor

APPROVED AS TO FORM:

City Attorney

Resolution No.
1518 North Garey Avenue
Page 3 of 3

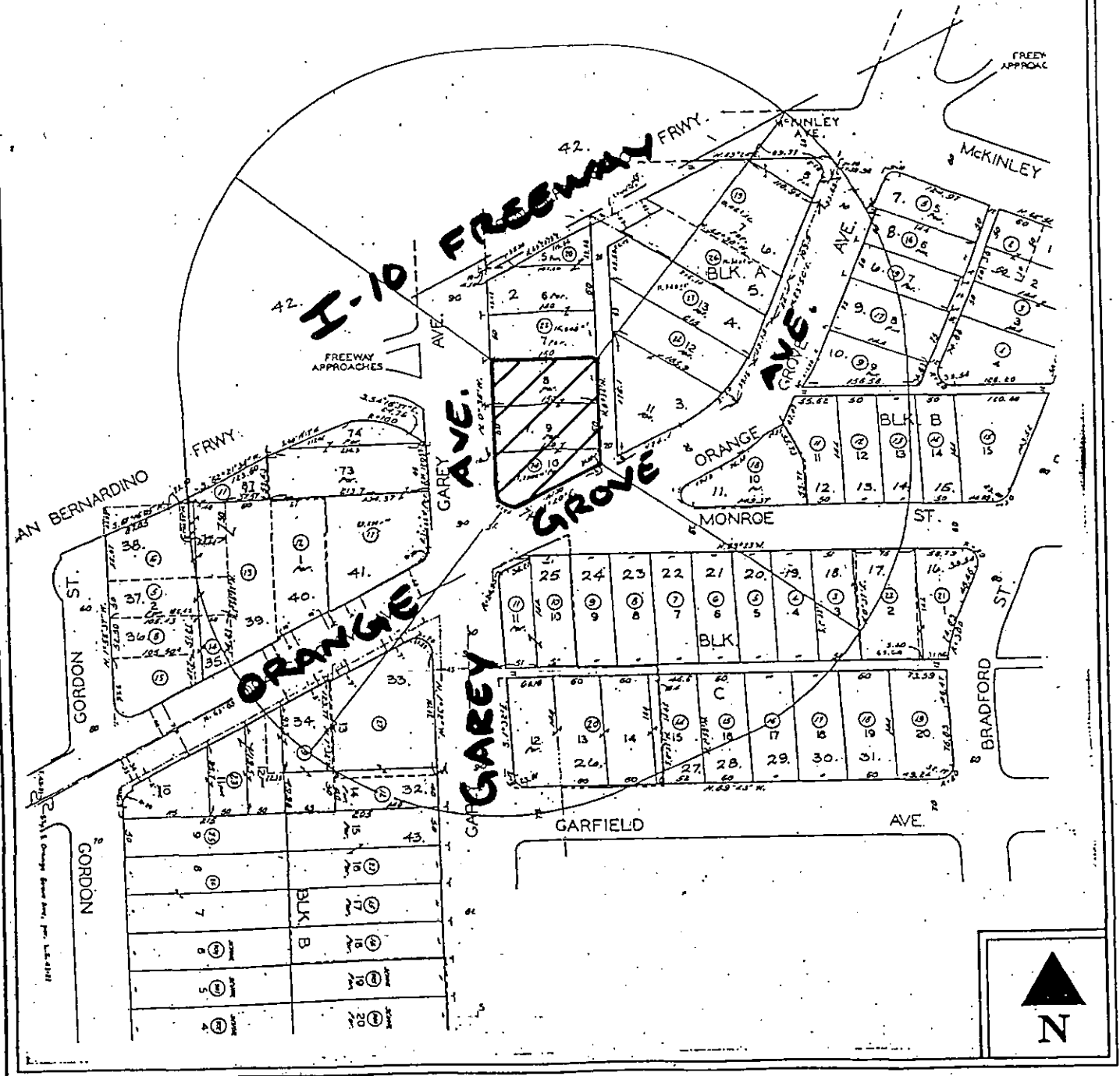
STATE OF CALIFORNIA
COUNTY OF LOS ANGELES
CITY OF POMONA

I, MARIE MICHEL MACIAS, CITY CLERK of the City of Pomona do hereby certify that the foregoing Resolution was adopted at a regular meeting of the City Council of the City of Pomona held on the ____ day of _____, 2005 by the following vote:

AYES: COUNCILMEMBERS:
NOES: COUNCILMEMBERS:
ABSENT: COUNCILMEMBERS:
ABSTAIN: COUNCILMEMBERS:

City Clerk

ATTACHMENT 2
Project Vicinity Map



Action: CUP 04-051

Address: 1518 North Garey Ave

Name: Sam Anabi

Date: 3/23/05

CITY OF POMONA

Community Development Department

VICINITY MAP

ATTACHMENT 3
Police Department Comments



POMONA POLICE DEPARTMENT

OPERATIONS DIVISION

MEMORANDUM



*Working Together...
Pomona's Future*

David Keetle, Captain

March 31, 2005

To: Planning Department

From: Lieutenant Ronald McDonald

Subject: Alcoholic Beverage Control Conditions

Re: SAM ANABI
SHELL SERVICE STATION/MINI MART
1518 N. GAREY AVE
POMONA, CALIF 91767
CUP-04-051

PLANNING DIVISION
05 MAR 31 PM 12:39

CONDITIONS SET FORTH BY THE POMONA POLICE DEPT.:

1. No alcoholic beverage shall be consumed on any property adjacent to the licensed premise under the control of the licensee.
2. There shall be no exterior advertising of any kind or type, including advertising directed to the exterior from within, promoting or indicating the availability of alcoholic beverage.
3. A prominent permanent sign or signs complying with 16-31 PC, "Possession of Opened alcoholic Beverage containers on these premise is prohibited by law, shall be posted that is clearly visible to patrons of the applicant and rear area of the location.
4. Graffiti shall be removed from the exterior walls and windows of the premise, the area adjacent to the premises over which the business has control over, within 24 hours of discovery.
5. The petitioner(s) shall be responsible for maintaining free of litter the area adjacent to the premise over which they have control.
6. There shall be no pay telephones installed within the enclosed portion of the premise or any area under the control of the licensee(s) equipped to receive incoming calls.
7. No floor displays of alcohol, instead "Dummy/empty" box displays.
8. Petitioner(s) shall sell beer or malt beverages for consumption off the premise in quantities of no less than a six pack. The sale of single wine coolers and beer, "quart", 32 oz. 40 oz, 64 oz or similar size container is prohibited.

9. The sale of alcohol shall be limited to the hours of operation from 10:00 AM to 12:00 midnight- Sunday-Thursday and from 10:00 AM to 2:00 AM on Fridays and Saturdays.

Ronald McDonald

Ronald McDonald

Lieutenant-Special Operations

ATTACHMENT 4

**Planning Commission staff report dated
April 27, 2005, without attachments, and
unofficial minutes from the April 27, 2005
Planning Commission meeting**




CITY OF POMONA

PLANNING COMMISSION REPORT

PC DATE: April 27, 2005

TO: City of Pomona Planning Commission

FROM: Matthew C. Bassi, Planning Manager 

SUBJECT: CONDITIONAL USE PERMIT (CUP 04-051):

A request for a Conditional Use Permit to allow an off-sale beer and wine license in conjunction with a mini-mart/gas station in the C-4 (Highway Commercial) zone on property located at 1518 N. Garey Avenue

STAFF RECOMMENDATION

The Planning Division recommends that the Planning Commission adopt PC Resolution No. 05-012 approving Conditional Use Permit (CUP 04-051) to allow the off-sale beer and wine license in conjunction with a mini-mart/gas station.

PROJECT/APPLICANT INFORMATION

Project Location: 1518 N. Garey Avenue
APN Information: 8339-020-024
Project Applicant: Sam Anabi
Property Owner: Sam Anabi
City Council District: CC District No. 4
Redevelopment Area: Not Applicable
Historic/CBD: Not Applicable
Specific Plan: Not Applicable

PROJECT DESCRIPTION & BACKGROUND

On December 10, 2003 the Planning Commission approved a Conditional Use Permit (CUP 04-036) to allow construction of a new mini-mart/gas station, relocate a freeway sign and Variance (VAR 03-015) to increase the height of a freeway sign from 45 ft. to 85 ft.

The proposed mini-mart is approximately 1,479 sq. ft. and consists of a counter/office area (156 sq. ft.), men and women's restrooms (55 sq. ft.), a storage/utility room (289 sq. ft.), walk-in

cooler area (300 sq. ft.) and a sales/display area (679 sq. ft.). The mini-mart/gas station is open 24 hours a day, seven days a week, three shifts with one to two employees per shift.

Applicable Code Sections

Pursuant to Section .5809-K-4 of the City of Pomona Zoning Ordinance, under off/on sale, alcohol establishment requires a Conditional Use Permit.

Surrounding Land Use Information

The project is located within a geographical area that is characterized by retail commercial uses. To the north is an office building, to the south is a dry cleaning service, to the east is a retail store and to the west is a gas station (Chevron). The following table summarizes the surrounding land uses, zoning and general plan designations for Planning Commission consideration.

Land Use Information

	Existing Land Use	General Plan	Zoning
Site	Mini-Mart/Gas Station	General Commercial	C-4
North	Office/ I-10 Freeway	General Commercial	C-4
South	Dry Cleaner	General Commercial	C-4
East	Retail Store	General Commercial	C-4
West	Gas Station	General Commercial	C-4

Project Summary

Development Standards	Required	Project	Compliance
Mini-Mart/Gas Station:			
Unit Size	1,000 sq. ft. min.	1,479 sq. ft.	Yes
Setbacks	15 ft.	15 ft.	Yes
Parking	6 parking spaces	12 parking spaces	Yes
Landscaping (Parking Lot Area)	6%	20 %	Yes
Building Height	Two-stories	One-story	Yes

ISSUES ANALYSIS

General Plan/Zoning Consistency

The proposed use conform to the General Plan, in that the proposed use will provide a public convenience and necessity in an area of the census tract that does not currently have an off-sale license. Granting of the permit will not adversely affect the General Plan of the City in that the proposed off-sale beer and wine use will be a minor component of the operation of an existing gas station/mini-mart and would be consistent with the intent of the General Plan's *Convenience Commercial* land use category, which is meant to permit neighborhood businesses that "offer goods and services for the daily convenience needs of adjacent residential areas."

The subject site is zoned C-4, which has specific development standards for the proposed uses. Staff has evaluated the existing site and determined that the property complies with the development standards for the C-4 zone. Development standards such as parking, setbacks, building height, signage and landscaping are all in compliance with the zoning ordinance. The proposed project conforms with the Zoning Ordinance for a Conditional Use Permit, in that the proposed use, off-sale beer and wine meets the required five (5) findings. The off-sale beer and wine from the proposed establishment will provide convenience to the public as well as the surrounding community. As a result, the granting of this Conditional Use Permit will not adversely affect the General Plan or the Zoning Ordinance.

Alcohol Sales in Conjunction with Gas Station/Mini-Mart

The off-sale beer and wine in conjunction with an existing gas station/mini-mart is a conditionally permitted use in the C-4 zone. However, pursuant to Section .580 of the Zoning Ordinance, the Planning Commission must make the required finding that the proposed off-sale beer and wine license will/or will not contribute to the general welfare of the neighborhood or community.

The total building areas for the existing gas station/mini-mart is 1,479 square feet. The proposed area to be occupied for the sale of beer and wine is approximately 80 square feet, which will be dedicated for the display of beer and wine. Due to the size of the mini-mart, the additional sales of beer and wine will enhance the use of the mini-mart by providing a wide variety of goods to the public as well as the community.

Alcohol License Located in Census Tract 4026:

The population of the census tract determines the number of licenses permitted. According to guidelines established by the State Department of Alcoholic Beverage Control (ABC), a maximum of five (5) off-sale licenses is allowed in Census Tract 4026. Currently there are four (4) off-sale establishments in the subject census tract. Allowing an additional off-site beer and

wine license establishment in the subject census tract will not saturate the census tract with off-sale licenses according to the Pomona Police Department.

Type	Existing	Allowed by ABC
Off-sale	4	5
On-sale	1	7

The existing off-sale establishment in Census Tract No. 4026:

Address	Name of Business	Type of License
1. 606 E. Holt Avenue	99 Cent Store	20
2. 690 E. Holt Avenue	Alpa Grocery Warehouse	20
3. 611 E. Holt Avenue	Rite Aid	20
4. 740 E. Holt Avenue	Seven/Eleven	20

Three of the above-mentioned addresses are located in the 600 block of E. Holt Avenue in Census Tract 4026 were approved in the mid 80's prior to requiring a conditional use permit. The Rite Aid project is the only new alcohol license in the census tract, which was approved approximately four years ago.

Crime Rates

The subject site is located in Police Reporting District No. 10, which is considered to be a High Crime District according to the Police Department threshold for crime. The total crime statistics for Police Reporting District #10 for 2003 indicates that 383 reported Part I and Part II crimes and arrests were experienced. In order to be considered a high crime district, the number of offenses would need to equal or exceed 120% of the average (A total of 146 or more crimes and arrests).

Police Reporting District	#Part I Offenses, Part II Arrests
Subject Reporting District No.10	2003 383

However, the number of Part I and Part II crimes and arrests in the census tract cannot be placed solely on the proposed site. The majority of the crimes and arrest tend to come from larger commercial center. To place the blame on the proposed site is not fair to the property owner, the owner can only police his own property. To ensure that the site does not become a nuisance to the City, the applicant will provide the necessary security devices such as cameras in/outside of the store, lighting and provide strict policy and guide lines for employees who sell alcohol.

Police Department Review

The Pomona Police Department has reviewed the Conditional Use Permit for the off-sale beer and wine license and does not oppose the granting of the beer and wine license. Verbally, the Police Department has stated that the location of the proposed beer and wine license is not located near any of the existing alcohol establishments in the census tract. Also, an additional beer and wine license will not saturate the number of allowable licenses permitted in the census tract. Therefore, the Police Department will not oppose the issuance of a conditional use permit for the proposed establishment.

ENVIRONMENTAL ANALYSIS/DETERMINATION

Upon submittal of the project, staff reviewed the proposed development project in accordance with the California Environmental Quality Act (CEQA) guidelines. After examining the proposed project staff determined that the project is Categorical Exemption under Section 15303, Class 1 of CEQA, in that the sale of alcohol is a secondary use to the existing mini-mart/gas station use.

PUBLIC COMMUNICATIONS

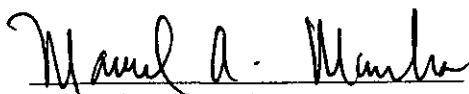
As of the date of this staff report, staff has not received any public correspondence either for or against the proposed project.

CONCLUSION/RECOMMENDATION:

The issuance of a Conditional Use Permit for off-sale beer and wine from the proposed establishment will provide convenience to the public as well as the surrounding community. The additional sales of beer and wine will enhance the use of the mini-mart by providing a wide variety of goods to the public as well as the community. As a result, the granting of this Conditional Use Permit will not adversely affect the General Plan or the Zoning Ordinance.

Staff recommends that the Planning Commission adopts PC resolution No.05-012 approving Conditional Use Permit (CUP 04-051).

Respectfully Submitted:



Manuel A. Mancha
Senior Planner

PC ATTACHMENTS:

- 1) Draft PC Resolution No. 05-012
- 2) Project Vicinity Map
- 3) Departmental Comments
- 4) Project Plans
- 5) Aerial Photo
- 6) Census Tract Map 4026 showing Off-sale licenses

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Deputy City Attorney Adams

It appears that the line into the Glass House Concert Hall is on the public sidewalk. This will beef up the Police in the downtown area.

Commissioner Martinez

Pomona doesn't have the budget. Right now there is no communication with the Police Department.

MOTION:

On motion by Commissioner Urey, second by Commissioner Scharf to adopt PC Resolution 05-008, approving CUP 04-041 subject to conditions.

VOTE:

Motion voted as follows:

AYES: Commissioner Scharf, Saunders, Urey,
Delgado
NOES: Commissioner Martinez, Juarez, Wolf
ABSTAIN: None
ABSENT: None

Sr. Planner Mancha:

Motion carries 4/3/0/0

F-3

CONDITIONAL USE PERMIT

(CUP 04-051)

1518 N. Garey Ave.

(Continued from 01/26/05)

The applicant is requesting approval of Conditional Use Permit (CUP 04-051), to allow the off-sale of beer and wine in conjunction with an existing mini-market/gas station in the C-4 zone. Pursuant to the Guidelines for Implementation of the California Environmental Quality Act (CEQA), this project has been found to be Categorically Exemption in accordance with Section 15301, Class 1.

Sr. Planner Mancha

Gave Staff report and showed slides. On December 10, 2003 the Planning Commission approved CUP 04-036 to allow construction of a new mini-mart/gas station, and relocate a freeway sign; Variance (VAR 03-015), to increase the height of a freeway sign from 45 ft. to 85 ft. The proposed mini-mart is approximately 1,79 sq. ft., consisting of a counter/office area (156 sq. ft.), men and women's restrooms (55 sq. ft.), a storage/utility room (289 sq. ft.), walk-in cooler area (300 sq. ft.), and a sales/display area (679 sq. ft.). The mini-mart/gas station is open 24 hours a day, seven days a week, three shifts with one to two

employees per shift. This project is located within a geographical area that is characterized by retail commercial uses. There is an office building, a dry cleaning service and a retail store in the immediate area. The proposed use conform to the General Plan, in that the use will provide a public convenience and necessity in an area of the Census Tract that does not currently have off-sale licenses. The permit will not adversely affect the General Plan of the City in that the proposed off-sale beer and wine use will be a minor part of the operation of an existing gas station/mini-mart. The off-sale beer and wine licenses in conjunction with the existing gas station/mini-mart is a conditionally permitted use in the C-4 zone. The ABC guidelines allows a maximum of five (5) off-sale licenses in Census Tract 4026. Currently there are four in this Census Tract. The subject site is located in police reporting District 10 which is considered to be a high crime District, however the majority of the crimes and arrests tend to come from larger commercial centers. The applicant will provide security devices such as cameras in/outside of the store, lighting and provide strict policy and guidelines for employees who sell alcohol. The Police Department has reviewed the CUP and does not oppose granting the beer and wine license. Verbally the Police Department has stated that the location of the proposed beer and wine license is not located near any of the existing alcohol establishments in the Census Tract. As of the date of this staff report, staff has not received any public correspondence either for or against the proposed project. The issuance of a CUP for off-sale beer and wine from the proposed establishment will provide convenience to the public as well as the surrounding community.

Commissioner Martinez

Anyone have any questions of Staff?

Commissioner Urey

I noticed that the site is at the very North corner of the Census Tract. Seems like it would have been useful to have the two Tracts to the west licenses shown, because I know there are numerous licenses in those two Tracts very near to the site. Did anyone do that?

Sr. Planner Mancha

No, actually we just looked at the one Census Tract. I am aware of the alcoholic licenses to the North. They are near the hospital area. Census Tract 402302 has 1 or 2 licenses.

Commissioner Urey

Stator Brothers Grocery Chain on Garey is right down the street from there; there's also two places on White Avenue with alcohol licenses.

Sr. Planner Mancha

Yes, they are probably about the same distant as the one in 4026.

Commissioner Urey

They are much closer, but you didn't do that and that was my question. It seems like it would more useful to do a radius rather than a tract.

Commissioner Martinez

Any other questions, not seeing any.

OPEN PUBLIC HEARING

At this time Chairperson Martinez opened public hearing and asked the applicant to address the Commission.

Renee Anabi

I am the majority owner of RD Enterprises Inc., which owns and operates 37 service stations in Southern California, of which four (4) are located in the city of Pomona. We take pride in both the appearance and performance of each location. This Shell Service Station will be maintained to our high standards. I'll be happy to answer your questions.

Commissioner Delgado

I go to that service station a lot and I noticed about 80% of the time there are panhandlers out there asking for money. Have you notice that?

Renee Anabi

In that area that has always been a problem. We try to have a manager out there. We always have two people on duty at that location and we address that issue as soon as we see it because it is obviously a disturbance to the customers and a nuisance to the property. We try to eliminate that as much as we can.

Commissioner Delgado

The reason I bring it up because they are hitting up people for money. Some are nice, some are real aggressive. When they are given money, I'm wondering if they are going to go inside and buy alcohol. Will that alcohol encourage them to bother people more, will this get out of hand?

Renee Anabi

We try to take care of that immediately. We hate to bother the police department but if we can't take care of it we will call the police. We are use to dealing with problems. We have every policy in place, the proper training and measures.

Commissioner Juarez

I took the opportunity to ask the dry cleaners owner what they thought about the store selling beer and wine. They said there are a lot of homeless and panhandler that hang out behind your store. How would you address that if you get the CUP?

Renee Anabi

We have been operating in Pomona over 7 years now. That project is a 3 million dollar project which beautifies and lifts the performance of that location. Again, on every single occasion we do address panhandlers and any nuisance to that property. Our staff is trained not to sell to anyone that is under the influence. Our staff goes through extensive training. We have over 250 employee.

Commissioner Martinez

Do you have communication with the Police Department? Have you taken preventative measures in that area?

Renee Anabi

Absolutely. Actually my husband is a retired police officer. He was on the La Verne and L.A. County police force for over 8 years. We take security measures very serious. We have good public relation with every city we are in with both the police and sheriff departments. We take a lot of pride in that as well.

Commissioner Wolfe

Do you know who the owner of the 99 Cent store is?

Renee Anabi

I've met the owner, however I do not know him on a personal level.

Commissioner Wolfe

Do you neighborly communicate with the owner of the 99 Cent store?

Renee Anabi

As a business neighbor, I would love to see that block renovated.

Commissioner Wolfe

Let me restated my question. I think we all would like to see that whole block renovated. You know the owner?

Renee Anabi

I've met him.

Commissioner Wolfe

You've met him, but you don't know him personally. So you don't really communicate with him on a daily basis.

Renee Anabi

No. We do not have a daily relationship with that owner.

Commissioner Juarez

If you had to make extensive calls to the police, would you be willing to address the problem by getting security personnel in the later hours.

Renee Anabi

If that is what it takes, then I will definitely do that. Whatever the City or Police recommends. This is not to make a nuisance for the Police department or the City. This is a convenience for the customer and it is not a sole source of income by any means.

Commissioner Martinez

Any other questions? Are there anything else you would like to say?

Renee Anabi

We are not a mom and pop operation. We have security cameras, hi-tech registers that automatically shut down at 2 a.m., alarm companies, armor pick-up. Our register automatically signals the cashiers to ask for ID when tobacco or alcoholic products are scanned.

Commissioner Martinez

Are there anyone in the audience that would like to speak on this items? Not seeing any, like to close the public hearing.

CLOSED PUBLIC HEARING

As there were no others speakers on this item Chairperson Martinez closed the public hearing and brought the item back to the Commission level for discussion.

Commissioner Saunders

Out of all the gas stations I've gone to that is probably the cleanest one I've ever been in. They really take care of business. I think they would stand behind everything they've said.

Commissioner Martinez

I have no problem supporting this as well. It is obvious you have several more operations and you touched on things that were on my mind.

Commissioner Wolfe

I'm going to vote against this. I have nothing against the owners, I think they have done a great job. Part of the problem I think is cooperation with the neighbors. I think this would add to the problem of panhandlers and homeless people making it more convenient for the undesirables to hang out. I think that Commissioner Urey hit on something if you were to take the radius, you would find more liquor stores there. This is why I think establishing a relationships with the other business owners would help.

Commissioner Urey

I agree with Commissioner Wolfe; I think he stated very clearly the issues with this particular site and especially since the rest of that block is really a mess. He also mentioned there are many other sources for beer and wine in the vicinity that just happens to be in a different Census Tracts to the north and west. What make the site particularly bad is the ingress and egress from the site although it is a very well maintained, well lit site. However, it sits at an awkward angle of the corner that puts it in an awkward position in regards to the exit ramp from the eastbound freeway and the entrance to get back on which is already a very dangerous intersection for pedestrians and people who are not familiar with the area. Plus if this station gets alcohol licenses the one across the street will want one too. This will just compound the problem. So I too am going to vote against this.

Commissioner Scharf

I agree with both Commissioners regarding the panhandlers and property maintenance. However, I also feel we should not punish good reputable business people. Because of that I can support this request.

Commissioner Martinez

Any other Commissioners want to speak on this item. Not seeing any, I'd like to make a motion to approve the Resolution.

MOTION:

On motion by Commissioner Martinez, second by Commissioner Saunders to adopt PC Resolution 05-012 recommending City Council approve CUP 04-051 subject to conditions.

VOTE:

Motion voted as follows:

AYES:	Commissioners Martinez, Saunders, Juarez, Scharf, Delgado
NOES:	Commissioner Urey, Wolfe
ABSTAIN:	None
ABSENT:	None

Principal Planner Salazar

Motion approved as follows: 5/2/0/0

Housing Manager Benita DeFrank responded that the document was a federally required document and the recommendations were from the entity that put the report together. She explained that the "receive and file" was not an approval of any of the recommendations. She added that any of the recommendations that would be enacted would be submitted to Council for approval.

MOTION BY COUNCILMEMBER LANTZ, SECOND BY COUNCILMEMBER HUNTER, CARRIED BY UNANIMOUS VOTE OF THE MEMBERS PRESENT (6-0) CORTEZ EXCUSED, TO RECEIVE AND FILE THE FEDERALLY REQUIRED ANALYSIS OF IMPEDIMENTS TO FAIR HOUSING CHOICE AND THAT ANY RECOMMENDATIONS WOULD BE PRESENTED TO COUNCIL FOR APPROVAL PRIOR TO ENACTMENT.

8. REQUEST TO SCHEDULE A PUBLIC HEARING TO CONSIDER AN APPEAL OF A PROPOSED VINTAGE CAR SALES FACILITY LOCATED AT 2542 N. TOWNE AVENUE – CONDITIONAL USE PERMIT 05-006 (DISTRICT 6)

Councilmember Torres was not opposed to the public hearing. She discussed information she had requested regarding conditions, balloons, fliers, music and public announcement systems. She noted that ultimately, the City would continue to look like the quilt that they were trying to move away from.

Vice Mayor Rodriguez agreed with Councilmember Torres. He stated that he had discussed this with the applicant and their only concern was the issue of vehicles.

MOTION BY COUNCILMEMBER TORRES, SECOND BY COUNCILMEMBER ROTHMAN, CARRIED BY UNANIMOUS VOTE OF THE MEMBERS PRESENT (6-0) CORTEZ EXCUSED, APPROVING TO SCHEDULE A PUBLIC HEARING FOR AUGUST 1, 2005 TO CONSIDER AN APPEAL OF A PROPOSED VINTAGE CAR SALES FACILITY LOCATED AT 2542 N. TOWNE AVENUE – CONDITIONAL USE PERMIT 05-006 (DISTRICT 6)

11. CONDITIONAL USE PERMIT (CUP) 04-051 – APPROVAL OF A FINDING OF PUBLIC CONVENIENCE AND NECESSITY TO ALLOW OFF-SALE BEER AND WINE (TYPE 20) LICENSE IN CONJUNCTION WITH A GAS STATION/MINI-MART LOCATED AT 1518 NORTH GAREY AVENUE (DISTRICT 4)

--RESOLUTION NO. 2005-__: A Resolution of the City Council of the City of Pomona adopting a Finding of Public Convenience and Necessity for a requested Off-Sale Beer and Wine (Type 20) License for property located at 1518 N. Garey Avenue.

Councilmember Lantz informed that she had pulled this item because many things were done by arbitrary census, districts and so forth. She noted that this mini mart with a service station was in the heart of some of the most difficult, homeless and drug-using areas. She advised that the Police Report listed four or five offsite sales of alcohol. However, the sites referred to were located at the absolute, furthest, northwest corner. She stated that the alcohol sales referred to were on Holt Avenue (half a mile away) and the report failed to mention three locations. She informed that there was a liquor store on the other side of Garey Avenue, three to four blocks immediately across the street and less than a block away; a Sav-On Drug Store with full service liquor store was located about two blocks away; and Stater Brothers, also with a full service liquor store, was located at Alvarado and Garey. She discussed the problems with drug use and the homeless evident in the alley, the onramp off the freeway, and the

parking lot under the freeway. She stressed that this proposal would be a 24-hour facility and would dramatically impact the area where the City would like to improve the major arterial corridor. Therefore, she urged Council not to adopt a finding of public convenience and necessity.

Vice Mayor Robles recused himself from the City Council Chambers due to conflict of interest and deferred to Councilmember Hunter to preside at the meeting.

Councilmember Hunter commented that the gas station directly south of the Bravo Burger on Orange Grove and White Avenue had a number of homeless people and someone had broken into it. He advised that after contacting the Police Department, he had been informed that one of the vagrants had a \$30,000 warrant out for his arrest. He mentioned that there was a huge problem with alcohol and drugs in the area.

MOTION BY COUNCILMEMBER LANTZ, SECOND BY COUNCILMEMBER HUNTER, CARRIED BY A ROLL CALL VOTE OF THE MEMBERS PRESENT (6-0) CORTEZ EXCUSED, DENYING THE APPROVAL OF A RESOLUTION OF NECESSITY DENYING AN OFF-SALE BEER AND WINE (TYPE 20) LICENSE IN CONJUNCTION WITH A GAS STATION/MINI-MART LOCATED AT 1518 N. GAREY AVENUE (COUNCIL DISTRICT 4).

Vice Mayor Robles returned to the City Council dais.

15. DISPOSITION OF SURPLUS CITY PROPERTY TO THE SCHOOL OF ARTS AND ENTERPRISE

Lisa Orr, Robbins Antique Mart, discussed a trash problem along Antique Row as a result of their need for trash cans. She discussed Item No. 15, which would dispose surplus City property to the School of Arts and Enterprise owned by the Tessiers'. She was opposed to the City's donation of surplus property to the Tessiers'. She inquired about the City's policy on the distribution of surplus items and stated there should be a fair way to dispose of surplus property.

Councilmember Rothman inquired and Community Services Director Jeff Porter informed that the picnic tables, metal benches and concrete trash receptacles were no longer usable (rusted, broken, unsafe and out of service). He added that an Indemnification Agreement had been included that would hold the City harmless. There was brief discussion on the proposed use of these surplus items.

Councilmember Hunter inquired and Director Porter advised that he would look into Mrs. Orr's concern with the lack of trash cans along Second Street, and if deemed necessary, they would put them out.

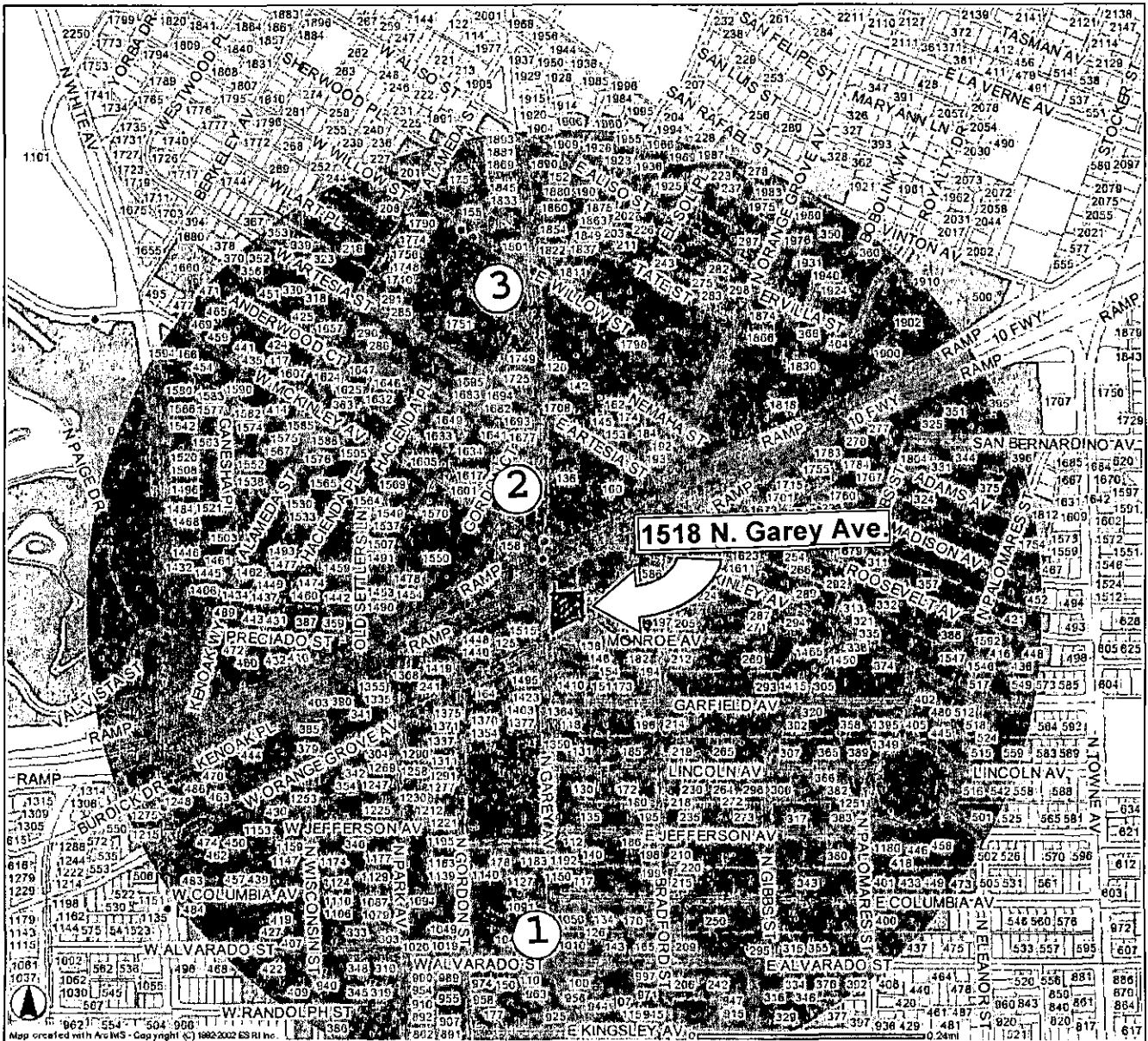
Councilmember Lantz questioned and Director Porter responded that the Community Services Department had a contractor who provided trashcans along Second Street. She requested an update be provided to Council on the need for trashcans and the criteria for placement.

Councilmember Lantz mentioned that she had been made aware of a number of monitors and computers in the computer area that were worthless (no resale value). She mentioned that they worked fine and could be used by the neighborhood community centers. She requested feedback on the value and the process involved in some of the City's technical equipment, along with the update for the need for trashcans.

ATTACHMENT 6
Census Tract Map for Off-Sale Licenses

ATTACHMENT 7
Radius Map of Off-Sale Licenses within
.5-Miles of Subject Property

1518 N. Garey Ave. .5-mile radius map



Additional off-sale licenses:

Business & address	Type of license	Census Tract No.
1. Stater Brothers 1045 N. Garey Ave.	Type 21 – Off-sale	4023.02
2. E & R Liquor 1643 N. Garey Ave.	Type 21 – Off-sale	4022
3. Sav-On Drugs 150 W. Willow St.	Type 21 – Off-sale	4022

NEIGHBORHOOD PETITION AGAINST ISSUING A PERMIT
FOR THE SALE OF BEER & WINE BEVERAGES

9/16/05

Paul Lantz
Council Member
City of Pomona, CA 91767

This petition is the VOICE OF THE PEOPLE who live in the area of Lincoln park who have to put up with all the homeless, vagrants, and transients, who live in our area and sleep under the freeway and in the alleys off of Orange Grove ave and Gary Ave.

We have within a six block area Four business that already sell liquor. We do not need a fifth business to sell Beer and Wine..

The owners of the properties listed below STRONGLY OPPOSE the issuing of this off sale licence to the shell station on the corner of Gary and Orange Grove in the City of Pomona.

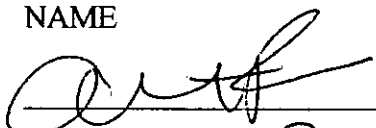
We would like to clean up this area, not add more filth to our neighborhood.

NAME	ADDRESS	DATE
June & Pat Lister	197 Monroe	9-18-05
Rosendo & Andrea Reyes	189 Monroe Ave	9-18-05
JTB	212 MONROE ST.	9/18/05
DE	212 MONROE ST	9/18/05
Colonio Elyardo	212 MONROE ST	9/18/05
Eduardo Elyardo	212 Monroe st	9/19/05
Daniel Suarez	224 Monroe st	9/19/05
Gregory	236 Monroe st	9/19/05
James L. McCoy	248 Monroe st	9-18-05
Allen & Ruby Milbauer	194 Monroe st.	9/18/05
Denysal Hall	146 Monroe st	9/19/05

NAME

ADDRESS

DATE

	162 Monroe St	9-19-05
Daniel Ramos	162 Monroe St.	9-19-05
Carlos E. Duran	205 MONROE	9-19-05
William T. Davis	206 MONROE	9-19-05
John & Deborah Cuff	182 Monroe	9/19/05

Bruce & Patricia Lister
197 Monroe
Pomona, CA, 91767

9/16/05

Paula Lantz
Council member 4th District
City of Pomona, CA


It was a pleasure to receive the letter that you mailed out to the members of your district about the intention of issuing a licence to the shell station on the corner of Garey Ave and Orange grove.

Its gives you a nice feeling that someone has our concerns in mind and is interested enough to stand up for our district, and neighborhood. (Paula, Thank You).

We have lived in this house for a period of 18 years since July of 1987 and have seen the changes that have accord with the homeless & transit population that have increased in our area. We are **STRONGLY OPPOSED** to the sale of alcoholic beverages being sold at this shell station. We already have four locations within a six block area that sell alcoholic beverages, we do not need another.

We have also noticed the vacant land where the gas station used to be located on the corner of Orange grove and Mc Kinley and this appears with the two parcels of land net to the 99 cent store just south of this area, it looks like maybe its getting ready to be developed into a another large gas station or a strip mall that also may apply for a application of selling alcoholic beverages, is this possible ?.

Sincerely Yours.


Bruce C. Lister

Jeanette & William Davis

206 Monroe

Pomona, CA 91767

(909) 629-7740

September 18, 2005

We live one block east of the Shell station under discussion.

With several grocery stores in this neighborhood selling liquor, wine and beer, we do not see a need for any additional outlets. The present sources are more than adequate to meet the market, and their hours would seem to more than offer opportunity for such purchases at an "opportune" time without the addition of another vendor.

We oppose any variance for these reasons.



Jeanette C. Davis



William T. Davis