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# CITY OF POMONA COUNCIL REPORT

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November 21, 2022

To: Honorable Mayor and Members of the City Council

From: James Makshanoff, City Manager

Submitted By: Anita D. Gutierrez, Development Services Director

**SUBJECT: CONSIDERATION OF A FINDING OF PUBLIC CONVENIENCE OR NECESSITY (PCN) TO ALLOW FOR AN OFF-SALE BEER & WINE LICENSE IN CONJUNCTION WITH A CONVENIENCE STORE LOCATED AT 42 RIO RANCHO ROAD**

## **RECOMMENDATION:**

It is recommended that the City Council adopt the following resolution (Attachment No. 1):

**RESOLUTION NO. 2022-197– A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF POMONA, CALIFORNIA, APPROVING A REQUEST FOR A FINDING OF PUBLIC CONVENIENCE AND NECESSITY AS REQUIRED FOR AN OFF-SALE BEER AND WINE LICENSE (TYPE 20) IN CONJUNCTION WITH A CONVENIENCE STORE AT 42 RIO RANCHO ROAD.**

## **EXECUTIVE SUMMARY:**

The applicant, Karl Huy, representing DC Fuels, is requesting a finding of Public Convenience or Necessity (PCN) determination for a Type 20 alcohol license for off-sale beer and wine for a new convenience store associated with an approved Conditional Use Permit (CUP 16972-2021). The approval of a finding of PCN would allow for the off-sale of beer and wine subject to conditions issued by the Planning Commission.

## **FISCAL IMPACT:**

No Fiscal Impact at this time.

## **PREVIOUS RELATED ACTION:**

On September 14, 2022, the Planning Commission approved a request to develop one of the remaining vacant lots in the Pomona Ranch Plaza located next to the Sonic Drive-In restaurant on

a (7-0-0-0) vote (Attachment 2). The project scope includes a new convenience store in conjunction with a new gas station, attached restaurant with a drive-thru, a detached drive-thru carwash and a detached office building. Associated on-site improvements include utilities, landscaping, parking, trash enclosure and lighting. The overall project required the approval of four Conditional Use Permits and a Major Site Development Permit.

## **DISCUSSION:**

Karl Huy is requesting a finding of Public Convenience or Necessity (PCN) determination for a Type 20 alcohol license for off-sale beer and wine. In compliance with AB 2897 (the “Caldera Bill”), the California State Department of Alcoholic Beverage Control (ABC) requires that licenses in areas of undue concentration receive a Finding of PCN. Undue Concentration is defined as either:

- (1) The number of alcohol licenses exceeds the threshold of available licenses within a particular census tract. The threshold for the number of licenses is set by ABC and is based on a ratio of the number of alcohol licenses to population within the census tract, in relation to the Los Angeles County average population per census tract.
- (2) The proposed license location is within a crime-reporting district that is locally designated as “high crime.” The threshold for designating a district as “high crime” is twenty percent higher than average number of Part I offenses and Part II arrests per reporting district. ([Average number of Part I and II crimes] x 120% = High Crime)

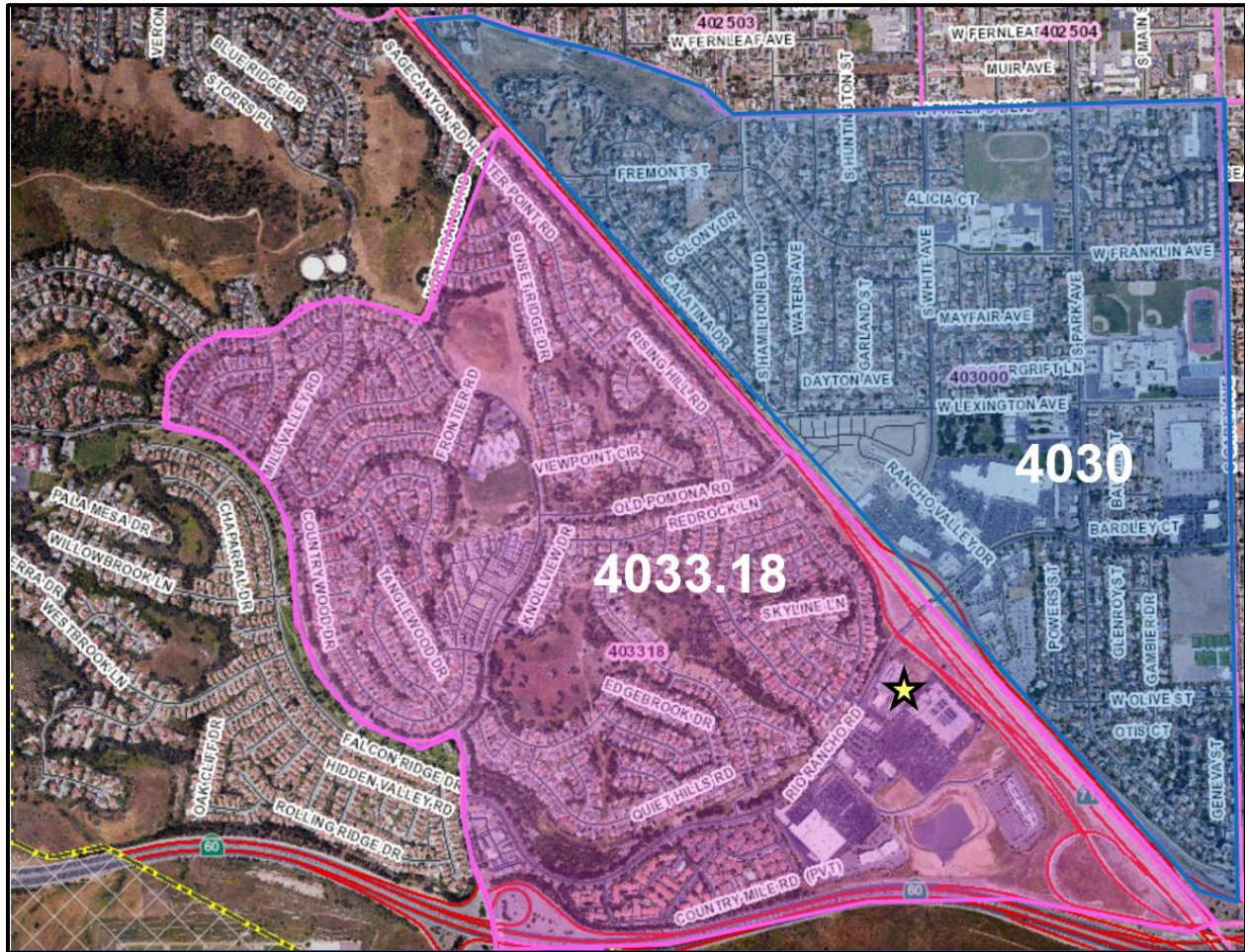
If the City Council approves a finding and determines that the public convenience or necessity would be served by the issuance of an alcohol license located in an area with undue concentration, ABC will then issue the license to the applicant. If issued, the convenience store would be permitted to sell beer and wine for off-site consumption. If the City Council instructs Planning Staff to return with a denial Resolution and ultimately denies the finding of Public Convenience or Necessity, the subject site would not be able to meet the conditions of approval, which would effectively prohibit the applicant from utilizing the approved Conditional Use Permit (CUP-16972-2021).

## **ANALYSIS:**

The site is located within Census Tract 4033.18, which covers most of Phillips Ranch (Figure 1).

(Continue on to next page)

**Figure 1. Census Tract Map**



According to the guidelines established by ABC, a total of four (4) off-sale licenses are allowed in the subject Census Tract No. 4033.18 before it is deemed to have an undue concentration of off-sale alcohol licenses. Currently, there are two (2) establishments with off-sale alcohol licenses in the census tract; therefore, this additional license will not create an overconcentration.

**Table 1. ABC Data on Off-sale alcohol licenses in Census Tract 4033.18**

Census Tract	Existing Off-Sale Licenses	Allowed Off-Sale Licenses
4033.18 (Subject Census Tract)	2	4
4030 (Adjacent Census Tract)	5*	4

\*Represents undue concertation

The threshold for designating a “high crime” district was 98 crimes in 2021. The subject site is located in Police Reported District No. 73, which recorded a total of 281 Part I Offenses and Part



II Arrests. Therefore, there is an undue concentration of high crime in area. Table 2 shows the summary below including PD crime stats for the adjacent Police Reporting District.

**Table 2. Police Reporting District Data (2021)**

Census Tract	Police Reporting District	Part 1 Offenses & Part 2 Arrests
4033.18 (Subject Census Tract)	73*	281
4030 (Adjacent Census Tract)	83*	255

\*Represents High Crime Police Reporting District

Although there is an undue concentration in crime in both reporting districts, the Police Department reviewed the request for the off-sale alcohol license and did not have any objections. In addition, State Route 71 acts as an edge and each census tract serves a different area of the City. The subject census tract primarily serves Phillips Ranch and the adjacent census tract has regional access and serves the south Pomona area.

**Figure 2. Police Reporting District Map**



Based on the analysis conducted, Staff does not find issuance of this license in this area to be detrimental to nearby sensitive uses and would support the finding of a PCN for the following reasons:

## **General Plan Conformance**

The Pomona General Plan identifies the location as part of an “Activity Center” which will support a wide range of retail and other complementary uses. Of major land uses in the City, retail use takes up the smallest land area but is the essential ingredient in creating activity, image, and value for City neighborhoods, according to the Pomona General Plan. Due to their geographic location, visibility, access, and existing conditions, different activity centers in the City will play different roles in establishing the healthy distribution of retail activity essential to Pomona’s integrated economy. The project is consistent with the following General Plan goals:

*Goal 7A.G2: Promote a balanced mix of uses throughout the City that can be part of an integrated and sustainable local economy that supports harmonious diversity and economic prosperity.*

*Goal 6A.G2: Over time, concentrate retail investment in “activity centers” that provide a variety of shopping environments that conveniently serve the regional and local community.*

*Goal 6A.G3: Improve the physical quality and shopping experience of existing and new activity centers throughout the City.*

The addition of beer and wine sales will be incidental to the primary use and to ensure that this incidental use does not negatively impact the community, conditions have been placed on the resolution addressing any potential impacts related to alcohol sales such as random decoy operations and limiting alcohol sales to 10:00 p.m. The proposed location is sufficiently removed from any existing residential development or zoning and any house of worship, school, park, or playground so as not to be detrimental to that use and should the permit conditions of approval be violated, it is grounds for revocation by the Planning Commission.

## **ALTERNATIVE**

The City Council has the following alternative:

- 1) Instruct Planning Staff to return with a City Council Resolution denying a finding of Public Convenience or Necessity.

Prepared by:

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Lynda Ramos  
Associate Planner

## **ATTACHMENTS:**

Attachment No. 1 – Resolution No. 2022-197

Attachment No. 2 – Planning Commission Staff Report dated September 14, 2022 with attachments