

CITY OF SELMA
REGULAR PLANNING COMMISSION MEETING
July 24, 2023

PURSUANT TO AB 361 AND GOVERNMENT CODE SECTION 54953, THE MEETING WAS HELD REMOTELY AND THE PUBLIC HAD THE OPTION TO CALL +1(301) 715-8592 ID: 883-1804-9306 TO PROVIDE COMMENTS ON AGENDA ITEMS. THE COUNCIL CHAMBER WAS OPEN FOR THE PUBLIC AS WELL.

The regular meeting of the City of Selma Planning Commission was called to order at 6:05 p.m. in the Council Chambers by Chairman Coury. Commission members answering roll call were: Juarez, Salas, and Singh.

Also present were: Deputy City Manager Keene, Contract City Planner Stearns, and Assistant Planner Macias.

The agenda for this meeting was duly posted in a location visible at all times by the general public seventy-two hours prior to this meeting.

PLANNING COMMISSION OATH OF OFFICE: Swear into Oath of Office for Commission members Louis Franco and Ramza Coury.

REORGANIZATION OF PLANNING COMMISSIONERS: A motion was made by Commissioner Franco to reorganize the Commissioner positions in the first meeting of July of each year. A motion was seconded by Commissioner Salas and carried unanimously.

A motion was made by Commissioner Franco to elect Commissioner Salas to the Chairman position. The motion was seconded by Commissioner Singh and carried unanimously.

A motion was made by Commissioner Franco to elect Commissioner Singh to the Vice-Chairman position. The motion was seconded by Commissioner Salas and carried unanimously.

ORAL COMMUNICATION: Parminder Singh commented on the near expiration of his current CUP. Deputy City Manager Keene confirmed that the CUP falls within the previously approved Covid-19 extension.

CONSENT CALENDAR: A motion was made by Commissioner Coury to approve the minutes of May 31, 2023, as written. The motion was seconded by Commissioner Singh and carried unanimously.

CONDITIONAL USE PERMIT – CUP 2023-0020 to allow for the renovation of the existing structure to a grocery store (El Toro Loco) and the sale of alcoholic beverages consistent with the issuance of a Type-21 (Off-Sale General) ABC License. The project does not propose the physical expansion of the existing structure, nor does it require an increase in the number of available off-street parking. The project is located at 1900 Floral Ave, Selma, CA 93662. The project location is located at the northeast corner of McCall Avenue and Floral Avenue. The project will also include the approval of a Notice of Exemption. Contracted City Planner Stearns requested that the planning commission continue the item to the August 28TH meeting due to the applicant not providing the materials in time for a complete application. A motion was made by Vice-Chair Singh to continue the item. The motion was seconded by Commissioner Coury and carried unanimously.

CONDITIONAL USE PERMIT – CUP 2023-0019 to allow for the sale of alcoholic beverages consistent with the issuance of a Type-21 (Off-Sale General) ABC License. The project does not propose the physical expansion of the existing business (El Mercado). The project is located at 2440 McCall Ave, Selma, CA 93662. The business's name is El Mercado, and is part of an existing shopping center on the northeast corner of McCall Avenue and Rose Avenue. The project will also include the approval of a Notice of Exemption. Contract City Planner Stearns presented the project's proposal to upgrade their existing ABC license Type 20 to Type-21 ABC License. Staff's recommendation is to deny the request to upgrade the license

After discussion, the public hearing was opened at 6:45 p.m. Nick Sahota representing the applicant, Singh, and provided additional information for the proposed application. There being no further comments, the hearing was closed at 6:54 p.m

Following Commissioner's discussion, a motion was made by Commissioner Franco to approve RESOLUTION NO. 2023-09 TO APPROVE THE CUP 2023-0019 TO ALLOW FOR THE SALE OF ALCOHOLIC BEVERAGES CONSISTENT WITH THE ISSUANCE OF A TYPE-21 (Off-Sale General) ABC LICENSE WITH THE FOLLOWING CONDITIONS: THE SALE OF TYPE-21 PRODUCTS MUST CEASE AT 10:00 P.M., THE SURVEILLANCE SYSTEM IS UP TO DATE AND IN WORKING CONDITION, THE LIQUOR MUST BE KEPT UNDER LOCK-N-KEY, AND AN ANNUAL INSPECTION OF THESE CONDITIONS MUST BE COMPLETED FOR COMPLIANCE. The motion was seconded by Commissioner Singh. The motion carried the following vote.

Ayes: Franco, Salas, Singh, Coury.

Noes: Juarez

CONDITIONAL USE PERMIT EXTENSION – CUP 2018-0039 was approved by Planning Commission on August 26, 2019. Due to the continued impact of COVID-19 on the development community as it relates to timing, on March 21, 2022, the Selma City Council approved an extension of the expiration date of CUP 2018-0039 to August 26, 2023. The

applicant is requesting an extension of the approval for CUP 2018-0039. The project will also include the approval of a Notice of Exemption. Contracted City Planner Stearns presented the request for an extension by the applicant and recommended approving the extension for one year with the new expiration date being August 26th, 2024.

After discussion, the public hearing was opened at 7:31 p.m. Ken Rodriguez, the architect for the original project, provided an update on the new owners and their plans to continue the development as proposed and to work with the existing neighboring concerns. Steve Yribarren, expressed concerns about the project's parking and access points. Mr. Rusk expressed the same concerns previously mentioned. There being no further comments, the hearing was closed at 7:53 p.m.

Following Commissioner's discussion, a motion was made by Commissioner Coury to approve RESOLUTION NO. 2023-10 OF THE PLANNING COMMISSION RECOMMENDING THE CONTINUANCE OF THE CUP 2018-0039 FOR A ONE-YEAR EXTENSION FOR THE PREVIOUSLY APPROVED SPECIFIED ENTITLEMENTS. The motion was seconded by Commissioner Franco. The motion was carried unanimously.

ADJOURNMENT: There being no further business, the meeting was adjourned at 7:58 p.m.

Respectfully submitted by:

Lupe Macias, Assistant Planner

SELMA PLANNING COMMISSION
STAFF REPORT

Meeting Date: August 28, 2023

TO: Selma Planning Commission

FROM: Community Development Department

SUBJECT: AGENDA ITEM NO. 2

Submittal No. 2023-0020: El Toro Loco – Conditional Use Permit for a Type 20 ABC License at 1900 Floral Avenue (APN: 358-220-31) and Accompanied Notice of Exemption.

Summary and Purpose

The purpose of this agenda item is to hold a public hearing for the Planning Commission to consider application 2023-0020 for a Conditional Use Permit Application to allow for the sale of alcoholic beverages consistent with the issuance of a Type-20 (Off-Sale General) ABC License.

Application Information

Applicant: Felipe Aguilar, Project Manager

Owner: Superior Five LLC

Project Location: 1900 Floral Avenue

Applicant's Proposal: Consideration of a Conditional Use Permit Application to allow for the sale of alcoholic beverages with the issuance of a Type-20 ABC License.

Current General Plan; Zoning: Neighborhood Commercial / C-1

Project Analysis

The subject property is zoned C-1 (Neighborhood Commercial), which allows for the sale of alcohol subject to the approval of a Conditional Use Permit. The subject property is located at 1900 Floral Avenue. The applicant is proposing to improve the existing building for use as a grocery store. As an added component, the applicant is proposing a Type 20 ABC License that allows the sale of beer and wine.

Municipal Code Section 11-8-10 (D) – Packaged Alcohol Sales requires alcohol sales to be at least 300 feet from any public park or public or private school. The proposed location is within a 300-foot buffer of Theodore Roosevelt Elementary, located northeast of the project site (Figure 1).

In addition, the Municipal Code also requires that all proposed non-exempt facilities selling alcohol products be a minimum of 500 feet from any existing non-exempt facility that also conducts retail sales of packaged alcoholic beverages. Exempt facilities are defined as all retail facilities that sell packaged alcoholic beverages that are equal to or greater than 15,000 square feet of gross floor area and where

the display and storage areas for alcoholic beverages constitute less than 10% of the floor gross floor area of the establishment. The proposed location is in close proximity to three businesses considered non-exempt (Figure 1). The Liquor Locker is located approximately 180 feet north of the project. The Save n Go is located approximately 67 feet southwest of the project. The Cork n Bottle is located approximately 335 feet southwest of the project.

However, the Planning Commission has the ability to adjust, alter, modify, or completely eliminate the density and situs requirements in order to allow for businesses with ABC licenses in closer proximity pursuant to Section 11-8-10 (D)(3) of the Municipal Code. Consequently, the Planning Commission must make findings for the following:

- Establish conditions to limit the display and/or storage areas of packaged alcoholic beverages to 10% or less of the total area of such facility.
- The extent to which the proposed facility is less than the minimum prescribed 300' from a public park and/or any public or private school and the susceptibility of the park or school to open consumption of packaged alcoholic beverages on the premises;
- The overall concentration of retail facilities selling packaged alcoholic beverages within the zone; and
- The nature, square footage and percentage of the square footage of the non-exempt facilities located within 500' of the proposed facility selling packaged alcoholic beverages and the extent to which, in the view of the Planning Commission or City Council, adherence to the density requirements of this section will place the proposed facility at a competitive disadvantage to the existing non-exempt facility located within 500' of the proposed new facility.
- The allowance of retail sales of packaged alcoholic beverages from such facilities promotes the public convenience or necessity.

Staff met with the City of Selma Police Department (PD) to discuss this specific project and any police responses within proximity to the site. The Floral and McCall Avenue intersection is a highly trafficked intersection, with drivers traveling throughout the City from this centralized location. Therefore, it is exceedingly difficult to determine a specific cause of an accident or incident/response from the Police Department to a specific area. With that understanding, PD has not identified a substantial increase in the number of calls in relation to alcohol-related incidents within the Floral and McCall Avenue intersection. In addition, only a few accidents have been reported by Selma PD at the Floral and McCall Avenue intersection, with no direct connection to the sale of alcohol in this area. Data collected in regard to speeding violations are not shown as increasing due to the existing businesses within the area. The reports from PD are inconclusive as to whether or not the existence of businesses that provide alcohol sales has a direct correlation with responses from PD or traffic-related incidents.

Environmental Compliance (CEQA)

The project qualifies for CCR 15332/Class 32 Exemption –Infill Development, therefore, a Notice of Exemption in compliance with the California Environmental Quality Act (CEQA) was prepared. Infill development within urbanized areas if it meets certain requirements. Infill projects that are consistent with the local General Plan and Zoning requirements and have negligible environmental impacts may be eligible for this exemption.

Notice of Public Hearing

A Public Notice for this project was published in *The Selma Enterprise* on July 12, 2023. Additionally, adjacent property owners within 300 feet were notified of the hearing by the City via a public notice mailed out on July 12, 2023. The item was originally heard at the regularly scheduled July 24, 2023 Planning Commission hearing, where the item was continued to the next available Planning Commission hearing on August 28, 2023.

Conditional Use Permit Findings

If the Planning Commission approves the application as submitted, Staff recommends that the Planning Commission make the following findings with regard to Conditional Use Permit No. 2023-0019:

- 1) That the site for the proposed use is adequate in size and shape to accommodate said use and all yards, spaces, walls and fences, parking, loading, landscaping and other features required by this Section to adjust said use with land and uses in the neighborhood.

The proposed project is within the C-1 (Neighborhood Commercial) zone district. The project is required to comply with the goals and policies regulating the zone district through the City's General Plan and Municipal Code. The project does not propose a variance to deviate from the established policies of the municipal code, therefore, the proposed development will not be compliant with the on-site development standards. The proposed grocery store use is consistent with the municipal and land use.

- 2) That the site for the proposed use relates to streets and highways adequate in width and pavement type to carry the quantity and kind of traffic generated by the proposed use.

Adjacent streets and highways to the Project site are fully built out. The Project does not propose an amendment to the General Plan, therefore, the analysis that was completed for the City's General Plan is applicable to this project. Therefore, the analysis that was done assumed the project's level of use forecasted. The site is adequately served by the existing roadway system.

- 3) That the proposed use will have no adverse effect on property within a three hundred-foot (300') radius of the permitted use thereof. In making this determination, the Planning Commission shall consider the proposed location of improvements on the site; vehicular ingress, egress and internal circulation, setbacks, height of buildings, walls and fences, landscaping, outdoor lighting, signs, such other characteristics as will affect surrounding property.

Any perceived impacts produced from the development of this parcel have been addressed as a part of the analysis conducted in the 2035 General Plan EIR. The operation of the grocery store is allowed in the C-1 Zone District and Neighborhood Commercial Land Use. However, the business's site is within 300 feet of Theodore Roosevelt Elementary and within 500 feet of three existing businesses with active ABC Licenses. Therefore, it is determined to be non-compliant with the policies of the Municipal Code, unless altered, and will have an adverse effect on the school property.

- 4) That the proposed location of the use and the conditions under which it would operate or be maintained will not be detrimental to the public health, safety, welfare or be materially injurious to properties or improvements in the vicinity.

Proposed conditions of approval are recommended so that the proposed request would not be detrimental to the public health, safety, and welfare of the nearby vicinity.

- 5) That the proposed use is consistent with the Selma General Plan and applicable land use component plans which may establish criteria for approval and/or standards for development.

The proposed request is consistent with the City of Selma General Plan. The proposed request is not consistent with the Municipal Code as the business location does not meet the required density and situs standards for Packaged Alcohol Sales.

Recommendation

Staff is recommending that the Planning Commission deny Conditional Use Permit 2023-0020 for a Type -20 ABC license at 1900 Floral Ave (APN: 358-220-31).

/s/

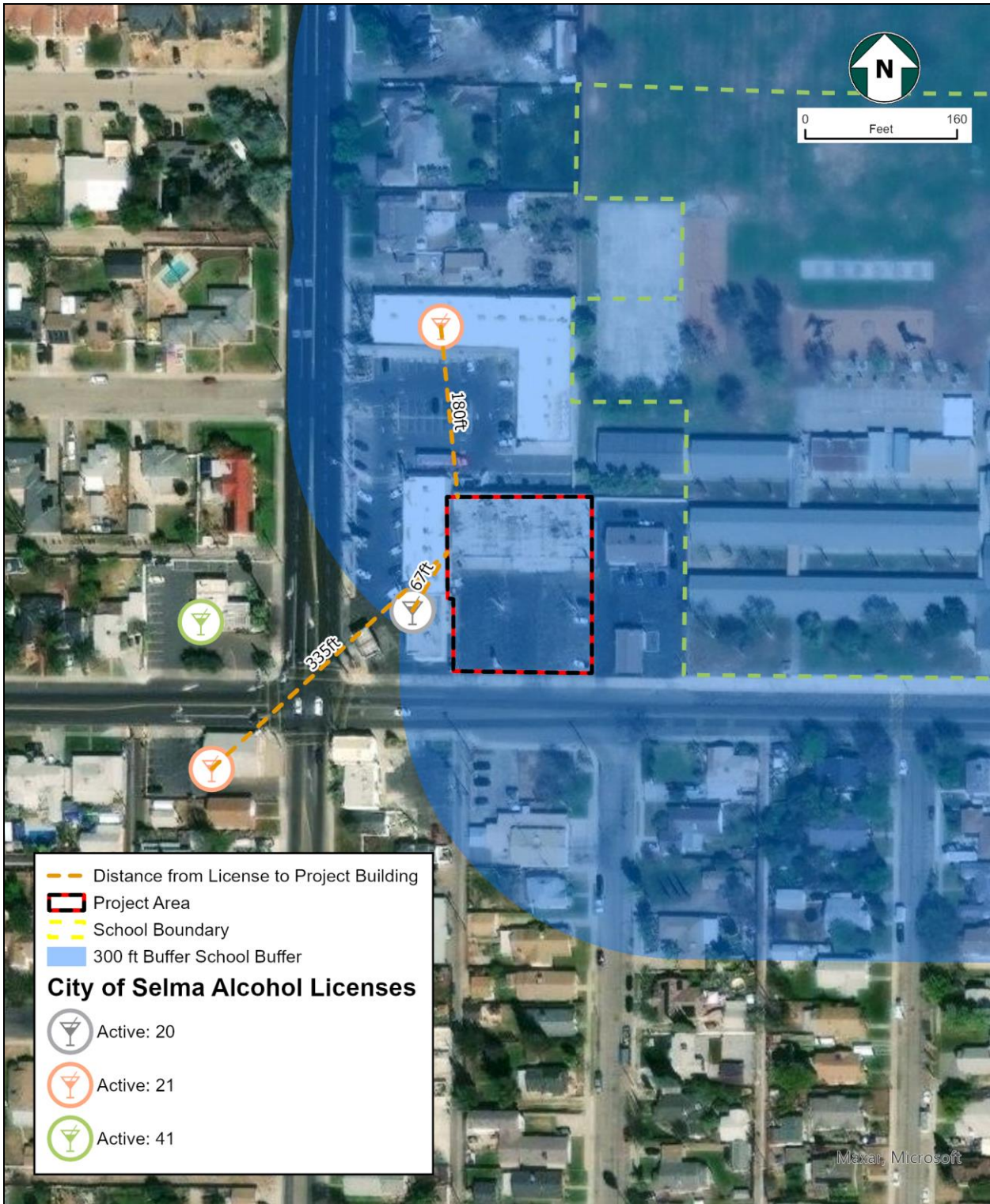
Trevor Stearns, Contract City Planner
Community Development Department

/s/

Jerome Keene MAS, AICP, Deputy City Manager
Community Development Department

Attachments

1. Location of Conflicting Use per Municipal Code Section 11-8-10 (D)(3)
2. Project Site Plan
3. Notice of Exemption
4. Resolution Denying Conditional Use Permit No. 2023-0020
5. Resolution Approving Conditional Use Permit No. 2023-0020



Attachment 1 Location of Conflicting Use

RESERVING COMMON LAW COPYRIGHT. THESE PLANS AND DRAWING ARE NOT TO BE REPRODUCED, COPIED OR CHANGED IN ANY WAY, WHATEVER. NOR ARE THEY ASSIGNED TO ANY THIRD PARTY WITHOUT THE EXPRESSED WRITTEN CONSENT OF FELIPE AGUILAR.

2. PLANS ARE NOT TO BE SCALED. INDICATE DIMENSIONS SHALL GOVERN.
3. CONTRACTORS ARE RESPONSIBLE FOR ALL DIMENSIONS WORK OR CORRECTIONS REQUIRED BY THE CITY OF CHICAGO OR THE COMPLAINANT. CHECK ALL DIMENSIONS AT THE JOB SITE & REPORT ANY DISCREPANCIES TO THE JOB SUPERVISOR IMMEDIATELY. IF A CORRECTION IS REQUIRED, THE CONTRACTOR SHALL BE REPLACED OR REPAIRED.
4. CARGO REQUIREMENTS AND WEIGHTS SHALL BE MAINTAINED AS SHOWN ON THE APPROVED PLANS.
5. CHANGES FROM THE APPROVED PLANS DURING CONSTRUCTION OTHER THAN:
 - A. CABINET CHANGES WHEN NOT BEING SUPPORTED ENTIRELY BY THE ROOF OR FLOOR
 - B. ADDITIONAL BRACING WHEN NOT SPECIFIED ON THE APPROVED PLANS
 - C. A SINGLE NON-BEARING WALL RELOCATION WHEN NOT CREATING AN ADDITIONAL ROOM
6. SHALL CAUSE PLAN APPROVAL AND CONSTRUCTION TO BE SUSPENDED. A NEW PLAN MUST BE SUBMITTED AND APPROVED PRIOR TO RESUMING CONSTRUCTION UNDER THE NORMAL PLAN CHECK PROCESS.
7. SITE AREA (S.C.B.C. SECTION 901.2) NEW AND EXISTING BUILDINGS SHALL BE PROVIDED WITH A MINIMUM 8 INCH BACKSTOP. THE BACKSTOP SHALL BE A MINIMUM 1/2 INCH THICK AND 4 INCHES HIGH AND A MINIMUM 10 INCH WIDE. THEY SHALL BE INSTALLED ON THE EXTERIOR SIDE OF THE PROPERTY LINE. THE BACKSTOP SHALL BE LOCATED 10 FEET FROM THE FRONTING THE PROPERTY WHERE THERE ARE BY MEANS OF A PRIVATE ROAD AND A DRIVEWAY. THE BACKSTOP SHALL BE IDENTIFIED BY SIGNAGE, POLE OR OTHER SIGN OR MEANS. SHALL USE TO IDENTIFY THE STRUCTURE.
8. SUITABLE LOGS (S.L.) SHALL BE PROVIDED AND MAINTAINED IN A SANITARY CONDITION FOR THE LIFE OF THE PROJECT. THE LOGS SHALL BE MAINTAINED TO A MINIMUM OF 12.0%.
9. PROVIDE A 9'6" SLIP AWAY FROM THE PROPOSED BUILDING FOR A MINIMUM OF TEN FEET. THE SLIP AWAY SHALL BE IDENTIFIED BY SIGNAGE OR RELATIVE INFORMATION CONTAINED IN THESE DOCUMENTS AND THE CONDITIONS UNDER WHICH IT WILL BE USED TO PERFORM THE WORK.
10. ALL CONSTRUCTION SHALL CONFORM WITH THE CURRENT BUILDING CODES AND ALL LAWS AND ORDINANCES OF THE AGENCIES HAVING JURISDICTION AND SHALL INCLUDE BUT NOT BE LIMITED TO:
11. ALL CONSTRUCTION AND QUALITY OF MATERIALS SHALL COMPLY WITH THE GOVERNING BUILDING CODES AND ORDINANCES.
12. IN CASE OF CONFLICT, NOTES AND DETAILS ON THE BALANCE OF THE DRAWINGS TAKE PRECEDENCE OVER THE DETAILS ON THIS SHEET.
13. THE CONTRACTOR SHALL COORDINATE ALL MECHANICAL AND ELECTRICAL EQUIPMENT, AS TO WEIGHT AND EXACT LOCATIONS, WITH SUPPORTS.
14. THE CONTRACTOR SHALL PROVIDE TEMPORARY BRACING AS REQUIRED TO INSURE THE VERTICAL AND LATERAL STABILITY OF THE ENTIRE STRUCTURE OR ANY PART THEREOF DURING CONSTRUCTION.
15. THE CONTRACTOR SHALL TAKE ALL NECESSARY PRECAUTIONS TO LOCATE AND PROTECT ANY EXISTING UTILITIES OR CONCEALED CONDUIT, PLUMBING, OR OTHER UTILITIES PRIOR TO BEGINNING ANY WORK.
16. FINISH FLOOR ELEVATION IS TO BE ABOVE THE CROWN OF THE STREET.
17. THE CONTRACTOR SHALL MAINTAIN THE EXISTING GRADE AND CONSTRUCTION SHALL BE MAINTAINED AT THE TIME OF FINAL INSPECTION.
18. THE CONTRACTOR SHALL GRADUALLY LOWER THE FINISH FLOOR FROM ALL FOUNDATIONS AT A SLOPE OF 5% WITHIN 10 FEET OF THE BUILDING.

A. WIDTH NOT LESS THAN THE WIDTH OF DOOR SERVED AND LENGTH IN THE DIRECTION OF TRAVEL NOT LESS THAN 36".

B. NO MORE THAN 1 1/2" LOWER THAN THE TOP OF THE THRESHOLD.

C. NOT MORE THAN 7 3/4" BELOW THE TOP OF THE THRESHOLD PROVIDED THAT THE DOOR DOES NOT SWING OVER THE LANDING OR FLOOR.

D. MINIMUM NET HEIGHT OF THE REQUIRED EGRESS DOOR TO BE NOT LESS THAN 78" MEASURED FROM THE TOP OF THE THRESHOLD TO THE BOTTOM OF THE DOOR STOP.

[illegible]

DRAWING PROVIDED BY:
AGUILAR DESIGN CONCEPTS
FELIPE AGUILAR
470 HERRING AVE.
PARLIER CA 93648
(559) 455 - 7421
felipeaguilars@gmail.com

OWNER:
SELMA SUPER MARKET
1900 FLORAL AVE.,
SELMA CA 93662
(559) 698-4646
hyousif29@yahoo.com
hamichsen88@yahoo.com

DATE:
5/16/2023

SCALE:
1" = 10' 0"

SHEET:
A1

FELIPE AGUILAR

Attachment 3 – Notice of Exemption

Print Form

Notice of Exemption

Appendix E

To: Office of Planning and Research
P.O. Box 3044, Room 113
Sacramento, CA 95812-3044

County Clerk

County of: Fresno

2220 Tulare Street

Fresno, CA 93721

From: (Public Agency): City of Selma

1710 Tucker Street

Selma, Ca 93662

(Address)

Project Title: Conditional Use Permit No. 2023-0020 El Toro Loco ABC License

Project Applicant: Felipe Aguilar

Project Location - Specific:

1900 Floral Avenue, Northeast corner of Flora and McCall Avenue (APN:358-220-31)

Project Location - City: Selma

Project Location - County: Fresno

Description of Nature, Purpose and Beneficiaries of Project:

To establish an ABC Type 20 License (off-sale beer and wine) as a part of a future grocery store.

Name of Public Agency Approving Project: City of Selma

Name of Person or Agency Carrying Out Project: Community Development Department

Exempt Status: **(check one):**

☐ Ministerial (Sec. 21080(b)(1); 15268);

☐ Declared Emergency (Sec. 21080(b)(3); 15269(a));

☐ Emergency Project (Sec. 21080(b)(4); 15269(b)(c));

☒ Categorical Exemption. State type and section number: 15332/Class 32 - Infill Development

☐ Statutory Exemptions. State code number: _____

Reasons why project is exempt:

The proposed project complies with all the conditions of the Class 32 exemption. The project consists of improvement of an existing structure within the City of Selma City Limits, on a site less than five acres, and all the sale of pre-packaged alcohol. There is no substantial evidence in record that any of the conditions set forth in CEQA Guidelines Section 15332 (A-e), apply to this project and no adverse environmental impacts will occur as a result of the proposed project.

Lead Agency

Contact Person: Trevor Stearns, Contract City Planner

Area Code/Telephone/Extension: 559-891-2200

If filed by applicant:

1. Attach certified document of exemption finding.

2. Has a Notice of Exemption been filed by the public agency approving the project? Yes No

Signature: _____ Date: _____ Title: _____

Signed by Lead Agency Signed by Applicant

Authority cited: Sections 21083 and 21110, Public Resources Code.
Reference: Sections 21108, 21152, and 21152.1, Public Resources Code.

Date Received for filing at OPR: _____

Revised 2011

RESOLUTION NO. 2023_____

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF SELMA, CALIFORNIA DENYING THE CONDITIONAL USE PERMIT NO. 2023-0020 FOR A TYPE-20 ABC LICENSE FOR A GROCERY STORE AT 1900 FLORAL AVENUE, NOTICE OF EXEMPTION, MAKING A DETERMINATION OF PUBLIC CONVENIENCE AND NECESSITY, AND MAKING FINDINGS THEREOF

RECITALS

WHEREAS, on June 6, 2023, the Applicant (Felipe Aguilar) filed an application requesting the approval of a Conditional Use Permit 2023-0020 to the City of Selma, No. 2023-0020 described herein (“Application” or “Project”); and

WHEREAS, the Applicant applied to allow for a Type-20 ABC License in the C-1 Zone District, which is applicable to the subject property. The subject property is located at 1900 Flora Avenue, Assessor’s Parcel Number 358-220-31 (“Property”); and

WHEREAS, approval of this Conditional Use Permit does not include the allowance to serve alcoholic beverages on-site and that any future requests would require a subsequent amendment to the Conditional Use Permit and review at that time; and

WHEREAS, the project qualifies for 15332 – Infill Development, therefore, a Notice of Exemption in compliance with the California Environmental Quality Act (CEQA) was prepared; and

WHEREAS, public notice of the Planning Commission’s July 24, 2023 public hearing for the Project was published in *The Selma Enterprise* on July 12, 2023 in compliance with the City’s Code and Government Code Section 65091; and

WHEREAS, public notice of the Planning Commission’s July 24, 2023 public hearing for the Project was also mailed to property owners within 300 feet of the Property on July 12, 2023; and

WHEREAS, on July 24, 2023, the Planning Commission of the City of Selma conducted a duly noticed public hearing on the Application

WHEREAS, on the July 24, 2023 Planning Commission hearing, the Planning Commission made a motion to continue the item to the next available Planning Commission hearing consistent with the request from Staff on behalf of the Applicant; and

WHEREAS, on August 28, 2023, the Planning Commission of the City of Selma conducted a duly noticed public hearing on the Application, and considered all testimony written and oral; and

WHEREAS, based on substantial evidence provided in the whole record before the Planning Commission for CEQA compliance and public comments related to the project, it has been determined that there is no possibility that this project will have significant effects on the environment and recommends the adoption of the Notice of Exemption to the City of Selma Planning Commission; and

WHEREAS, the Planning Commission conducted a public hearing, as heretofore specified, and deliberated and prepared the following findings of fact for approval listed and included in this Resolution, based on the reports, evidence and verbal presentations:

1. That the site for the proposed use is adequate in size and shape to accommodate said use and all yards, spaces, walls and fences, parking, loading, landscaping and other features required by this Section to adjust said use with land and uses in the neighborhood.
2. That the site for the proposed use relates to streets and highways adequate in width and pavement type to carry the quantity and kind of traffic generated by the proposed use.
3. That the proposed use will have no adverse effect on property within a three-hundred-foot (300') radius of the permitted use thereof. In making this determination, the Planning Commission shall consider the proposed location of improvements on the site; vehicular ingress, egress and internal circulation, setbacks, the height of buildings, walls and fences; landscaping;-outdoor lighting;-signs;-such other characteristics as will affect the surrounding property.
4. That the proposed location of the use and the conditions under which it would operate or be maintained will not be detrimental to the public health, safety, welfare or be materially injurious to properties or improvements in the vicinity.
5. That the proposed use is consistent with the Selma General Plan and applicable land use component plans which may establish criteria for approval and/or standards for development.

WHEREAS, the Planning Commission conducted a public hearing, as heretofore specified, and deliberated and prepared the following findings to determine the denial of the Conditional Use Permit to allow for the sale of alcohol offers public convenience and necessity listed and included in this Resolution, based on the reports, evidence and verbal presentations:

1. Establish conditions to limit the display and/or storage areas of packaged alcoholic beverages to 10% or less of the total area of such facility.
2. The extent to which the proposed facility is less than the minimum prescribed 300' from a public park and/or any public or private school and the susceptibility of the park or school to open consumption of packaged alcoholic beverages on the premises.
3. The overall concentration of retail facilities selling packaged alcoholic beverages within the zone; and
4. The nature, square footage and percentage of the square footage of the non-exempt facilities located within 500' of the proposed facility selling packaged alcoholic beverages and the extent to which, in the view of the Planning Commission or City Council, adherence to the density requirements of this section will place the proposed facility at a competitive disadvantage to the existing non-exempt facility located within 500' of the proposed new facility.
5. The allowance of retail sales of packaged alcoholic beverages from such facilities promotes the public convenience or necessity.

NOW THEREFORE, it is hereby found, determined and resolved by the Planning Commission of the City of Selma as follows:

SECTION 1. The Planning Commission finds that all of the facts set forth in the Recitals of this Resolution are true and correct and are incorporated herein by reference.

SECTION 2. All necessary public meetings and opportunities for public testimony and comment have been conducted in compliance with State Law and the Municipal Code of the City of Selma.

SECTION 3. Upon independent review and consideration of all pertinent written information contained in the Staff Report and reflecting independent judgment and analysis, the Planning Commission hereby finds and determines that the proposed project, No. 2023-0020, will not have significant impacts on the environment. Based on these findings, the Planning Commission denies the Notice of Exemption. The Planning Commission further denies the Application for the aforesaid Conditional Use Permit of the Property to allow for a Type-20 ABC License.

DENIED by the Planning Commission of the City of Selma at a regular meeting held on August 28, 2023, by the following vote:

AYES: COMMISSIONER:

NOES: COMMISSIONER:

ABSTAIN: COMMISSIONER:

ABSENT: COMMISSIONER:

Theresa Salas,
CHAIRPERSON OF
THE SELMA PLANNING COMMISSION

ATTEST:

Jerome Keene,
Deputy City Manager

RESOLUTION NO. 2023_____

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF SELMA, CALIFORNIA APPROVING OF CONDITIONAL USE PERMIT NO. 2023-0020 FOR A TYPE-20 ABC LICENSE FOR A GROCERY STORE AT 1900 FLORAL AVENUE, NOTICE OF EXEMPTION, MAKING A DETERMINATION OF PUBLIC CONVENIENCE AND NECESSITY, AND MAKING FINDINGS IN SUPPORT THEREOF

RECITALS

WHEREAS, on June 6, 2023, the Applicant (Felipe Aguilar) filed an application requesting the approval of a Conditional Use Permit 2023-0020 to the City of Selma, No. 2023-0020 described herein (“Application” or “Project”); and

WHEREAS, the Applicant applied to allow for a Type-20 ABC License in the C-1 Zone District, which is applicable to the subject property. The subject property is located at 1900 Floral Avenue, Assessor’s Parcel Number 358-220-31 (“Property”); and

WHEREAS, approval of this Conditional Use Permit does not include the allowance to serve alcoholic beverages on-site and that any future requests would require a subsequent amendment to the Conditional Use Permit and review at that time; and

WHEREAS, the project qualifies for 15332 – Infill Development, therefore, a Notice of Exemption in compliance with the California Environmental Quality Act (CEQA) was prepared; and

WHEREAS, public notice of the Planning Commission’s July 24, 2023 public hearing for the Project was published in *The Selma Enterprise* on July 12, 2023 in compliance with the City’s Code and Government Code Section 65091; and

WHEREAS, public notice of the Planning Commission’s July 24, 2023 public hearing for the Project was also mailed to property owners within 300 feet of the Property on July 12, 2023; and

WHEREAS, on July 24, 2023, the Planning Commission of the City of Selma conducted a duly noticed public hearing on the Application; and

WHEREAS, on the July 24, 2023 Planning Commission hearing, the Planning Commission made a motion to continue the item to the next available Planning Commission hearing consistent with the request from Staff on behalf of the Applicant; and

WHEREAS, on August 28, 2023, the Planning Commission of the City of Selma conducted a duly noticed public hearing on the Application, and considered all testimony written and oral; and

WHEREAS, based on substantial evidence provided in the whole record before the Planning Commission for CEQA compliance and public comments related to the project, it has been determined that there is no possibility that this project will have significant effects on the environment and recommends the adoption of the Notice of Exemption to the City of Selma Planning Commission; and

WHEREAS, the Planning Commission conducted a public hearing, as heretofore specified, and deliberated and prepared the following findings of fact for approval listed and included in this Resolution, based on the reports, evidence and verbal presentations:

1. That the site for the proposed use is adequate in size and shape to accommodate said use and all yards, spaces, walls and fences, parking, loading, landscaping and other features required by this Section to adjust said use with land and uses in the neighborhood.
2. That the site for the proposed use relates to streets and highways adequate in width and pavement type to carry the quantity and kind of traffic generated by the proposed use.
3. That the proposed use will have no adverse effect on property within a three-hundred-foot (300') radius of the permitted use thereof. In making this determination, the Planning Commission shall consider the proposed location of improvements on the site; vehicular ingress, egress and internal circulation, setbacks, the height of buildings, walls and fences; landscaping;-outdoor lighting;-signs;-such other characteristics as will affect the surrounding property.
4. That the proposed location of the use and the conditions under which it would operate or be maintained will not be detrimental to the public health, safety, welfare or be materially injurious to properties or improvements in the vicinity.
5. That the proposed use is consistent with the Selma General Plan and applicable land use component plans which may establish criteria for approval and/or standards for development.

WHEREAS, the Planning Commission conducted a public hearing, as heretofore specified, and deliberated and prepared the following findings to determine the approval of the Conditional Use Permit to allow for the sale of alcohol offers public convenience and necessity listed and included in this Resolution, based on the reports, evidence and verbal presentations:

1. Establish conditions to limit the display and/or storage areas of packaged alcoholic beverages to 10% or less of the total area of such facility.
2. The extent to which the proposed facility is less than the minimum prescribed 300' from a public park and/or any public or private school and the susceptibility of the park or school to open consumption of packaged alcoholic beverages on the premises.
3. The overall concentration of retail facilities selling packaged alcoholic beverages within the zone; and
4. The nature, square footage and percentage of the square footage of the non-exempt facilities located within 500' of the proposed facility selling packaged alcoholic beverages and the extent to which, in the view of the Planning Commission or City Council, adherence to the density requirements of this section will place the proposed facility at a competitive disadvantage to the existing non-exempt facility located within 500' of the proposed new facility.
5. The allowance of retail sales of packaged alcoholic beverages from such facilities promotes public convenience or necessity.

NOW THEREFORE, it is hereby found, determined and resolved by the Planning Commission of the City of Selma as follows:

SECTION 1. The Planning Commission finds that all of the facts set forth in the Recitals of this Resolution are true and correct and are incorporated herein by reference.

SECTION 2. All necessary public meetings and opportunities for public testimony and comment have been conducted in compliance with State Law and the Municipal Code of the City of Selma.

SECTION 3. Upon independent review and consideration of all pertinent written information contained in the Staff Report and reflecting independent judgment and analysis, and Exhibit A, the Planning Commission hereby finds and determines that the proposed project, No. 2023-0019, will not have significant impacts on the environment. Based on these findings, the Planning Commission adopts the Notice of Exemption. The Planning Commission further approves the Application for the aforesaid Conditional Use Permit of the Property to allow for a Type-20 ABC License to be approved.

PASSED, APPROVED AND ADOPTED by the Planning Commission of the City of Selma at a regular meeting held on August 28, 2023, by the following vote:

AYES: COMMISSIONER:

NOES: COMMISSIONER:

ABSTAIN: COMMISSIONER:

ABSENT: COMMISSIONER:

Theresa Salas,
CHAIRPERSON OF
THE SELMA PLANNING COMMISSION

ATTEST:

Jerome Keene,
Deputy City Manager

Exhibit A: Conditions of Approval for Application No. 2023-0020

Consider a Conditional Use Permit application filed on behalf of the Applicant (Felipe Aguilar) to allow for a Type-20 ABC License located at 1900 Floral Avenue in connection with the ultimate development of the El Toro Grocery Store.

CONDITIONS OF APPROVAL:

Planning Division

1. The project shall not deviate from the Site Plan dated as shown on the Site Plan dated May 16, 2023. Minor to the proposed project will require the amendment to the approved Conditional Use Permit.
2. Approval of this Conditional Use Permit does not exempt the project from compliance with all applicable sections of the Zoning Ordinance, Engineering, Public Works Improvement Standards and other City Ordinances or the payment of any fees.
3. The Developer or successor in interest shall be responsible for all actions of their contractors and subcontractors during the course of any work occurring on the site.
4. All construction debris must be removed from the site prior to opening the business to the public.
5. The Developer or successor in interest shall designate, in writing before starting work, an authorized representative who shall have complete authority to represent and to act for the Developer. Said authorized representative or his designee shall be present at the site of the work at all times while work is actually in progress on the development. During periods when work is suspended, arrangements acceptable to the City Building Official shall be made for any emergency work, which may be required.
6. Applicants must comply with all policies and procedures to acquire a valid Type 20 ABC License prior to the sale of packaged alcoholic beverages consistent with a Type 20 ABC License.
7. A minimum of one of the following security measures shall be incorporated into new facilities:
 - a. Timed access safe
 - b. Silent alarm
 - c. Video cameras
 - d. California POST-certified security guards
8. Store Interior Visibility standards must be adhered to.
 - a. The cashier area shall be easily observable from the street and parking areas.
 - b. All parking areas shall be visible from inside the store.
 - c. A maximum of thirty percent (30%) visual obstruction of all window areas will be permitted, including but not limited to signs, shelves, freezers and similar visual obstructions.
9. Parking Lot Lighting: A minimum of one foot-candle maintained shall be provided in all parking areas and areas of pedestrian travel, including, but not limited to: parking lots, sidewalks, entrances, service entrances, trash enclosure areas and similar areas where pedestrians commonly travel. Planning Department will be required to review and approve the submitted electrical plans **prior to the issuance of the building permit**.
10. Consumption and Loitering on Premises: No consumption of alcohol or loitering on premises shall be permitted at any time.
 - a. Property Posting: The property shall be clearly posted in English and Spanish:

- b. No Loitering. Possession of Opened Alcoholic Beverages on these Premises and Adjacent Public Areas is Prohibited pursuant to Selma Municipal Code Title 6, Chapter 20. The owner or his authorized representative shall report all loitering and illegal activities on and adjacent to the subject property to the Police Department.
 - c. Public Phones: No exterior public phones shall be permitted. Interior public phones shall be visible from the cashier area. Only one interior public phone shall be permitted.
 - d. Video Games Prohibited: No video games, pool tables or similar electronic or mechanical devices shall be permitted on the premises.
11. Store Appearance: The property shall be kept free of trash and debris and maintained in good repair at all times.
- a. Trash and Litter Control: A minimum of one trash receptacle shall be provided for every 10 required parking spaces or fraction thereof. The receptacles shall be located where they are easily accessed and do not block pedestrian or vehicular access or create a safety hazard. All trash receptacles shall be regularly emptied and emptied when they become full.
12. Temporary Signs: No temporary signage shall be placed on any wall, sign or structure on the property without first obtaining a sign permit.

Signage:

13. All new signage (including on-building, freestanding, and freeway signage) must be reviewed with a separate sign permit.

Building Division:

14. The Developer or successor in interest shall comply with all applicable requirements and sections of the most recent State adopted Uniform Codes and regulations as required.
15. The Developer or successor in interest shall provide all necessary construction and building plans for review and approval by the Building Official and pay all required building fees. All required building permits and inspections shall be obtained **prior to the issuance of a Certificate of Occupancy and commencement of operations.**
16. No building or structure shall be used or occupied, and no future change in the occupancy classification of building or structure or portion thereof shall be made until the Building Official has issued a Certificate of Occupancy or Temporary Certificate of Occupancy.
17. Please incorporate the following as a part of the Building Department submittal for Building Permits:
- a. With the submittal of building plans for the subsequent review Provide accessible parking that complies with the current building codes.
 - b. Provide an accessible path of travel from the accessible parking into the building.
 - c. Provide an accessible path of travel from the public sidewalk into the building.
 - d. Provide an accessible restroom or restrooms that comply with the current building codes.

Engineering Division:

18. Provide Cross-access agreement to utilize adjacent parcel along eastern property line or provide internal circulation dimensions to meet Parking Manual.
19. Provide accessible path of travel from public right of way to main entrance to comply with CBC 11B-206.2.1

20. Provide accessible path of travel to accessible parking stalls that comply with CBC 11B-502.7; designed so that persons using the accessible stalls are not required to travel behind parking spaces other than to pass behind the space in which they are parked.
21. Drive Approaches to be reconstructed per City Standard ST-7. Maximum width is 35-feet.

Parks and Recreation

22. No Comments received.

Fire Department:

23. Provide Automatic Fire Sprinkler plans and hydraulic calculations for the structure. Denote applicable hazards for various areas of the structure. (Deferred submittal acceptable).
24. **Prior to the issuance of the Certificate of Occupancy** detail the location of a proposed fire hydrant within 100' of Fire Department Connection. Fire hydrant must be installed consistently.
25. **Prior to the issuance of the Certificate of Occupancy** detail an automatic fire alarm system to be installed in accordance with the provisions of the California Fire Code, Selma Fire Prevention Bureau amendments and policies and the National Fire Protection Association, Standard 72. (Deferred submittal acceptable)
26. An approved key box (Knox Box) shall be installed in an approved location at a height of approximately 5-6 feet above grade. (Usually the right side of the main entrance.) The key box shall contain labeled keys to gain access to all portions of the building or specific portions of the building as required by the fire code official.

Police Department:

27. **Prior to the issuance of a building permit**, the location of the surveillance cameras that cover the ingress and egress of the project site shall be shown on the electrical plans.
28. Upon proper request from the Selma Police Department, it will be the business owner's obligation to provide the Selma Police Department access to the surveillance cameras.
29. Exterior buildings and walls defaced by graffiti, or any other inscribed materials shall be removed within 72 hours of the receipt of an abatement notice.

Solid Waste Disposal and Recycling

30. No Comments received.

San Joaquin Valley Unified Air Pollution Control District

31. No Comments received.

County of Fresno Department of Public Health

32. **Prior to issuance of building permits** for proposed tenant improvements and alcohol sales, the applicant shall submit complete food facility plans and specifications for a minor review to the Fresno County Department of Public Health, Environmental Health Division, for review and approval. Contact the Consumer Food Protection Program at (559) 600-3357 or more information.
33. Prior to Type 20 alcohol sales, the applicant shall first obtain their license to sell alcoholic beverages. Contact the California Alcoholic Beverage Control Department at (559) 225-6334 for more information.
34. Facilities that use and/or store hazardous materials and/or hazardous wastes shall meet the requirements set forth in the California Health and Safety Code (HSC), Division 20, Chapter 6.95, and the California Code of Regulations (CCR), Title 22, Division 4.5. Your proposed business will handle hazardous materials and/or hazardous waste and will be required to submit a Hazardous Materials Business Plan pursuant to the HSC, Division 20, Chapter 6.95 (<http://cers.calepa.ca.gov/>). Contact the Fresno County Hazmat Compliance Program at (559) 600-3271 for more information.
35. The proposed project has the potential to expose nearby residents to elevated noise levels. Consideration should be given to the City of Selma Municipal Code.

Cal Water

36. **Prior to the issuance of a Certificate of Occupancy** a backflow device will be required to be installed.

SKF Sanitation District

37. No Comment.

Caltrans

38. No Comment.

City Attorney - Defense and Indemnification Provisions:

39. The City shall not be liable to the Developer/successor in interest or to any other person, firm, or corporation whatsoever, for any injury or damage that may result to any person or property by or from any cause whatsoever in, on, or about the project of said land covered by this Agreement, or any part thereof. The preceding sentence shall not apply to any liability, loss, cost of damages caused solely by the negligence (active or passive) or willful misconduct of the City or its agents.
40. The Developer/successor in interest hereby releases and agrees to indemnify and hold the City, and its officers, agents, employees and volunteers harmless from and against any and all injuries to and deaths of persons or injuries to property, and all claims, demands, costs, loss, damage and liability, howsoever the same may be caused and whensoever the same may appear, resulting directly or indirectly from the performance or nonperformance of any or all work to be done in said project including but not limited to the street lights of way in said Project and upon the premises adjacent thereto pursuant to this Agreement, and also from any and all injuries to and deaths of persons and injuries to property or other interests, and all claims, demands, costs, loss, damage, and liability, howsoever same may be caused and whensoever same may appear, either directly or indirectly made or suffered by the Developer/successor in interest, the Developer's agents, employees, and subcontractors, while engaged in the performance of said work. The preceding sentence shall not apply to any liability, loss, cost, damage and liability caused solely by the negligence (active or passive) or willful misconduct of the City or its agents.