

CITY OF SOUTH GATE
LOS ANGELES COUNTY, CALIFORNIA

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SOUTH GATE
APPROVING CONDITIONAL USE PERMIT NO. 822 AND MAKING A
DETERMINATION OF PUBLIC CONVENIENCE OR NECESSITY FOR THE
SALE OF BEER AND WINE FOR OFF-SITE CONSUMPTION FOR
FREDDY'S MARKET LOCATED AT 3433 TWEEDY BOULEVARD**

WHEREAS, on July 7, 2015, the Department of Community Development of the City of South Gate ("City") received an application from Basharat Chaudhry ("Applicant") for Conditional Use Permit No. 822 which proposes to allow the operation of a neighborhood market, Freddy's Market, with a Type-20 (Off-Sale Beer and Wine) alcohol license located at 3433 Tweedy Boulevard; and

WHEREAS, on February 23, 2016, the City Council held a duly noticed public hearing to consider the appeal of the Planning Commission's decision and at that meeting, the City Council continued the public hearing to March 8, 2016, and again continued the public hearing to July 12, 2016, at the request of Mr. Chaudhry; and

WHEREAS, a public hearing notice was published in the *Los Angeles Wave* and mailed to surrounding properties on February 11, 2016, and additional notices were mailed to the surrounding properties on June 30, 2016; and

WHEREAS, on July 12, 2016, the City Council conducted a public hearing to consider the appeal of the Planning Commission's decision and at that meeting, the City Council directed that a resolution approving Conditional Use Permit 822, with conditions, be prepared and presented to the City Council for consideration; and

WHEREAS, the Alcoholic Beverage Control Board (ABC) requires that the City Council declare a Public Convenience or Necessity prior to the ABC Board's approval and issuance of a liquor license pursuant to Section 23958.4 of the Business and Professions Code; and

WHEREAS, the City Council determined that the facts of this matter are as follows:

1. The property is located at the northwest corner of Tweedy Boulevard and Virginia Avenue. The General Plan designation of the property is Tweedy Corridor (Sub-Area 2) and the Zoning designation is General Commercial (C-3). The surrounding uses to the south, east and west are commercial and the use to the north is residential.
2. According to City Business License records, multiple owners have operated a convenience store and/or market of some variety at the property since 1979; the Applicant, Mr. Chaudhry, took ownership in 2011.

3. The current format is a neighborhood market that offers fresh meat and produce to the surrounding vicinity. The market operates Monday through Sunday from 9:00am to 9:00pm. The property is 11,267 square feet in size. The market measures approximately 3,556 square feet with 10 parking stalls to the rear available for patrons.
4. The proposed Conditional Use Permit is Categorically Exempt under Class 1 (Existing Facilities) Section 15301 of the California Environmental Quality Act. Class 1 consists of the operation, repair, maintenance, permitting, leasing, licensing, or minor alterations of existing public or private structures facilities, mechanical equipment, or topographical features, involving negligible or no expansions of use beyond that existing at the time of the lead agency's determination.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SOUTH GATE DOES HEREBY RESOLVE AS FOLLOWS:

SECTION 1. The City Council, pursuant to the facts noted above, does hereby conditionally APPROVE Conditional Use Permit No. 822 for the operation of a Type-20 (Off-Sale Beer and Wine) alcohol license located at 3433 Tweedy Boulevard, subject to the conditions found on Attachment "A" attached hereto and incorporated herein by reference.

SECTION 2. The City Council does hereby determine that the issuance of a liquor license to Freddy's Market located at 3433 Tweedy Boulevard will serve the "Public Convenience or Necessity" and will not create a law enforcement problem.

SECTION 3. The City Council does hereby grant the request for determination of "Public Convenience or Necessity" for the sale of alcoholic beverages (beer and wine) for off-site consumption at 3433 Tweedy Boulevard.

SECTION 4. The City Council determines that proposed Conditional Use Permit is Categorically Exempt under Class 1 (Existing Facilities) Section 15301 of the California Environmental Quality Act.

SECTION 5. The City Council does hereby instruct the City Clerk to transmit this determination to the State Department of Alcoholic Beverage Control as the required findings under Business and Professions Code Section 23958.4.

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SECTION 6. The City Clerk shall certify to the adoption of this Resolution and Attachment "A" which shall be effective upon its adoption.

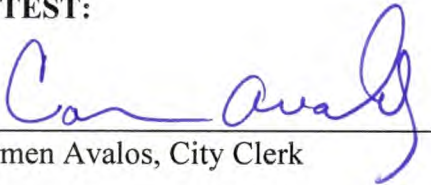
PASSED, APPROVED and ADOPTED this 23 day of August 2016.

CITY OF SOUTH GATE:



W.H. (Bill) De Witt, Mayor

ATTEST:



Carmen Avalos, City Clerk

(Seal)

APPROVED AS TO FORM:



Raul F. Salinas, City Attorney

ATTACHMENT A
CUP NO. 822 – CONDITIONS OF APPROVAL
3433 TWEEDY BOULEVARD

General Conditions

1. No alcohol beverages, including beer and wine, shall be consumed on the premises for off-sale uses.
2. No alcohol sales displays shall be permitted that are visible from the public street or parking lot.
3. Employees selling alcoholic beverages shall be of an age consistent with Section 25663 of the Business and Professions Code.
4. The validity of the CUP shall be conditioned on compliance with all state regulations and conditions.
5. The premises shall be maintained at all times in a neat and orderly manner.
6. Trash receptacles shall be provided in such number and at such locations as specified by the planning commission.
7. Building and site design and maintenance shall be consistent with the standards of the immediate neighborhood so as not to cause blight or deterioration, or to substantially diminish or impair property values within the neighborhood.
8. The owner/operator or lessee shall be responsible for the conduct of all employees, including their education concerning Alcohol Beverage Control regulations and provisions of this code pertaining to sales of alcohol (e.g., verification of age of purchaser).
9. The permittee shall acknowledge that the City has specifically reserved the right and authority to impose sanctions, including suspension or revocation of the CUP, as a consequence of one or more violations of a state statute, rule, or regulation concerning the sale to or consumption of alcoholic beverages by a minor.
10. The Planning Commission shall have the right, at intervals to be determined by the Planning Commission in its sole discretion, to periodically review the property and its operation to determine compliance with the conditions of the CUP. Should the Planning Commission determine as a result of any such review that violations have occurred or that the CUP does not fulfill the intent of Title 11 of the South Gate Municipal Code (“SGMC”), then, following a properly noticed and conducted public hearing, the Planning Commission shall have the right to take any action(s) authorized by SGMC § 11.52.040.F. Nothing in this Condition No. 10 is intended to or shall limit the review rights granted to the City Council pursuant to Condition No. 15, below.
11. Adequate refrigeration shall be maintained at all times for the preservation of any food on the permittee’s premises.
12. The permit shall, after notice to the permittee and an opportunity to be heard, be subject to additional conditions to maintain or remedy land use compatibility, security, or crime control issues that have arisen since the issuance of the permit.

13. No telephone accessible to the general public shall be installed or maintained within the permitted premises.

Six-Month Review

14. The Applicant shall provide written Notice to the City's Community Development Department within 14 business days of the Applicant being issued a Type 20 Off-Sale (Beer and Wine) liquor license for the property at 3433 Tweedy Boulevard from the State Department of Alcohol Beverage Control (ABC). Said Notice shall state that a Type 20 Off-Sale (Beer and Wine) liquor license for the property at 3433 Tweedy Boulevard has been issued to the Applicant by ABC. A copy of the Type 20 liquor license issued by ABC shall be included with the Notice.
15. A review of this CUP shall be conducted by the City Council at a public meeting within six (6) months of the Applicant providing written Notice to the City that Applicant has been issued a Type 20 Off-Sale (Beer and Wine) liquor license from the State Department of Alcohol Beverage Control. The purpose of the six-month review is to verify compliance with all conditions of approval and applicable sections of the South Gate Municipal Code. At the time of the six-month review, the City Council may consider, among other actions, modifying the conditions of approval. Pursuant to SGMC § 11.52.040, the conditions of approval shall not be modified unless a public hearing on the matter is first conducted.

Suspension or Revocation

16. Any violation related to a state statute concerning alcohol sale to a minor shall result in the following. The City has the authority to identify the reasonable remedy for the CUP violation.
 - a. First violation: a 15-day permit suspension.
 - b. Second violation occurring within 3 years of the first violation: 60-day permit suspension.
 - c. Third violation occurring within 3 years of the second violation: the permit shall be revoked.
17. Any violation related to any condition other than a state statute concerning alcoholic sale to a minor may result in the suspension or revocation of the permit at the discretion of the City Council. The permit may be revoked and reissued with new or modified conditions, as may be appropriate under the circumstances.
18. Reimbursement to the City for all costs and expenses reasonably incurred in investigating, identifying, and documenting the violation, and in processing information concerning the violation, may be imposed as a condition of the continuation, reinstatement, or reissuance of any permit.
19. For the duration of any suspension of an alcohol-related CUP, the Planning Commission, or, upon any appeal, the City Council, may direct the permittee to post a sign on the premises of the establishment relating to such suspension. The size, content, and location of such sign shall be as specified by the Director.

20. A public hearing consistent with SGMC Chapter 11.50 (Administration) shall be held for the consideration of a permit revocation. A permit or any associated conditions may be revoked or modified by the Planning Commission subject to any of the following grounds:
 - a. The permit or approval was obtained by fraud.
 - b. The property is not being used for the purpose which is the subject of the permit.
 - c. The use for which the approval was granted has ceased or has been suspended for 1 year or more.
 - d. The permit or conditions of the approval have been violated; exercised contrary to the terms of approval; or in violation of any statute, ordinance, law or regulation.
 - e. The use for which the approval was granted was exercised in a manner detrimental to the public health or safety, or as to constitute a public nuisance.

21. Any approval or permit granted by the City becomes null and void if the property is not being used for the approved or permitted purpose within one (1) year from the date the approval or permits was issued, consistent with the provisions identified within SGMC Section 11.55 Nonconforming Uses and Buildings.

22. If the application or any conditions of the CUP violate the Zoning Code or do not fulfill the intent of the Code, the Planning Commission shall, following a public hearing, be authorized to take the following actions:
 - a. Revoke the CUP, revoke and reissue the CUP with new or modified conditions, or modify the conditions of the existing CUP as may be appropriate under the circumstances.
 - b. Impose, as a condition of the continuation, reinstatement, or reissuance of the CUP, a requirement that the permittee reimburse the City for all costs and expenses reasonably incurred in investigating, identifying, and documenting the violation, and in processing information concerning the violation for presentation to the Planning Commission, and, upon any appeal, to the City Council.
 - c. A CUP shall be revocable if the exercises of rights granted by the CUP are discontinued for 6 consecutive months. The use subject to the CUP may not be resumed if the CUP is revoked; a new CUP, including processing and public notification, shall be required.

23. A prevailing party in any judicial action, administrative proceeding, or special proceeding to abate or to cause the abatement of a public nuisance, or in any appeal or other judicial action arising therefrom, may recover reasonable attorney's fees in accordance with the following subsections:
 - a. Attorney's fees are not recoverable by any person as a prevailing party unless the city manager, or a designee thereof, or an attorney for and on behalf of the city, elects in writing to seek recovery of the city attorney's fees at the initiation of that individual action or proceeding. Failure to make such an election precludes any entitlement to, or award of, attorney's fees in favor of any person or the city.
 - b. The City is the prevailing party when an administrative or judicial determination is made or affirmed and a person is found to be responsible for one or more conditions or activities that constitute a public nuisance. A person is the prevailing party only when a final administrative or judicial determination completely absolves that person of responsibility for all conditions or activities that were alleged to constitute a public nuisance in that action or proceeding. An administrative or judicial determination that results in findings of responsibility or no responsibility on the part of a person for

- conditions or activities that were alleged in that action or proceeding to constitute a public nuisance shall, nevertheless, result in the city being the prevailing party.
- c. Provided the City has made an election to seek attorney's fees, an award of attorney's fees to a person shall not exceed the amount of reasonable attorney's fees incurred by the person in that action or proceeding.

Planning Division Conditions

24. Applicant acknowledges and agrees that the permit is expressly conditioned on the Applicant maintaining the subject property in a well-maintained condition, and free from graffiti. In the event of graffiti markings, Applicant agrees to eliminate all such graffiti within twenty four (24) hours, with or without notice from the City, as a condition of the permit.
25. No outside loitering shall be allowed on the premises.
26. No arcade-type games, including video games, shall be installed or operated on the permitted premises.
27. Within thirty (30) days of approval of the Project, the Applicant and Property Owner shall certify his/her acceptance of the conditions placed on the approval by signing a notarized "*Affidavit of Acceptance*" stating that he/she accepts and shall be bound by all of the conditions.
28. The Applicant shall defend, hold harmless and indemnify the City and its agents, officers and employees from any claim, action or proceeding against the City or its agents, officers or employees to attack, set aside, void or annul any approval by the City concerning the Project. The City shall promptly notify the Applicant of any filed claim, action or proceeding and shall cooperate fully in the defense of the action.
29. Applicant shall agree to maintain the property and all related on-site improvements and landscaping thereon, including without limitation, buildings, parking areas, lighting, signs, and walls in a first class condition and repair, free of rubbish, debris and other hazards to persons using the same, and in accordance with all applicable laws, rules, ordinances and regulations of all Federal, State, County and local bodies and agencies having jurisdiction, at applicants sole cost and expense. Such maintenance and repair shall include, but not be limited to the following: (i) sweeping and the removal of trash and debris as soon as possible but at least within 24 hours; (ii) the care of all shrubbery, plantings and other landscaping in a healthy condition and replacement of diseased or dead plant material with new material at an age similar to the material being replaced; (iii) maintenance of all irrigation systems in properly operating condition; (iv) the removal of graffiti within 24 hours; and (v) the repair, replacement and restriping of asphalt or concrete paving using the same type of material originally installed, to the end that such paving at all times be kept in a level and smooth condition.
30. The permittee shall comply with all state statutes, rules and regulations relating to the sale, purchase, display, possession and consumption of alcoholic beverages.
31. The permittee shall acknowledge and agree that the City has a legitimate and compelling governmental interest in the permittee's strict compliance with all conditions imposed upon the permit, including adherence to state status, rules and regulations as specified in this section. The permittee shall further acknowledge and agree that any violation of a state statute,

rule or regulation concerning the sale to or consumption of alcoholic beverages by a minor has been determined by the city to have a deleterious secondary effect upon (i) the specific land use requested by the permittee and authorized by the city; (ii) the compatibility of the permittee's authorized land use with adjacent land uses; and (iii) the welfare and safety of the general public within the City. In view of such deleterious secondary effects, the permittee shall acknowledge that the City has specifically reserved the right and authority to impose sanctions, including suspension or revocation of the conditional use permit, as a consequence of one or more violations of a state statute, rule or regulation concerning the sale to or consumption of alcoholic beverages by a minor.

32. Alcohol shall be sold in accordance with the provisions of a Type-20 Off-Sale (Beer and Wine) liquor license issued by the State Alcohol Beverage Control Board (ABC) during approved hours of operation.
33. The market's approved hours of operation are 9:00 a.m. to 9:00 p.m., seven days per week.
34. The premises shall be maintained at all times in a neat and orderly manner.
35. No fortified wine, malt beverages, distilled spirit products, single cans or bottles shall be sold.
36. Beer shall not be sold in units less than a six-pack.
37. There shall be no wine, with the exception of wine coolers, sold in containers of less than 750 milliliters.
38. Wine coolers shall not be sold in less than four-pack quantities.
39. No miniatures of any type of alcohol may be sold.
40. The unpermitted water filtration dispenser shall be removed from parking lot area (southeast corner of parking lot).
41. All outside storage, including metal caged area in the parking lot, shall be removed.
42. The exterior of building shall be painted with a new coat of paint. Color is subject to Planning Division approval.
43. The wall painted sign at exterior north wall shall be removed.
44. All store front and window advertisement signage shall be limited to 20% window coverage.
45. All existing and permitted wall signs need to be cleaned and refurbished.
46. The parking lot shall be re-stripped with standard 9'X20' standard parking stalls.
47. The existing trash enclosure shall be refurbished to include the installation of new heavy-gauge metal (self-closing) doors and a roof-cover that meets the Building and Safety and Planning Divisions' standards.
48. All refuse and recycling enclosures shall be subject to hauler service consultation, commercial construction standards of the Building and Safety Division, and Community Development Director approval.

49. Front security door with exterior metal bars shall be replaced with new door that has no exterior security bars. Security bars for all doors and windows shall be interior only.
50. The door at south elevation of the building shall be removed and sealed with stucco and painted to blend into existing building wall, or replaced with a new window to match the existing front façade.
51. All exterior electrical and cords no longer in use shall be removed.
52. Video footage obtained from existing security cameras on the premises shall be made accessible to police personnel for investigative purposes.
53. The temporary chain link fence around the parking lot shall be removed.

Police Department Conditions

54. Owner shall post permanent signs stating “No Loitering is Allowed on or in Front of These Premises”.
55. Employees will notify the police department when subjects are loitering outside of the business.
56. Owner shall post permanent signs stating “No Open Alcoholic Beverage Containers are Allowed on These Premises”.
57. Employees will notify the police if individuals are consuming alcohol on the premises.
58. The exterior of the premises and all parking lots under control of the business shall be illuminated during all hours of darkness while open for business.
59. Selling alcoholic beverages to anyone under the age of 21 is prohibited.
60. Selling alcoholic beverages to a person who is displaying obvious signs of intoxication is prohibited.
61. Sales of alcoholic beverages are prohibited between the hours of 2 o'clock a.m. and 6 o'clock a.m.

RESOLUTION CERTIFICATION PAGE

STATE OF CALIFORNIA)

COUNTY OF LOS ANGELES) SS

CITY OF SOUTH GATE)

I, Carmen Avalos, City Clerk of the City of South Gate, California, hereby certify that the whole number of Members of the City Council of said City is five; that Resolution No. 7725 was adopted by the City Council at their Regular Meeting held on August 23, 2016, by the following vote:

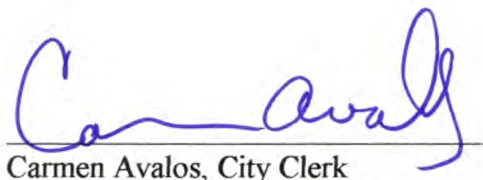
Ayes: Council Members: De Witt, Davila, Bernal, Hurtado and Morales

Noes: Council Members: None

Absent: Council Members: None

Abstain: Council Members: None

Witness my hand and the seal of said City on August 25, 2016.



Carmen Avalos, City Clerk
City of South Gate, California