

CHAIR DAVID BERNAL  
COMMISSIONER FRANCISCO SOLORIO  
COMMISSIONER SYLVIA BALLIN  
COMMISSIONER VACANT  
COMMISSIONER VACANT



## CITY OF SAN FERNANDO

### PLANNING & PRESERVATION COMMISSION REGULAR MEETING AGENDA SUMMARY MONDAY, SEPTEMBER 11, 2023 – 6:30PM

CITY HALL COUNCIL CHAMBERS  
117 MACNEIL STREET  
SAN FERNANDO, CALIFORNIA 91340

#### **PUBLIC PARTICIPATION OPTIONS**

##### **WATCH THE MEETING:**

Live stream with audio and video, via YouTube Live, at:

<https://www.youtube.com/c/CityOfSanFernando>

Note: Comments submitted via YouTube will not be read into the record.

##### **SUBMIT PUBLIC COMMENT IN PERSON:**

Members of the public may provide comments in person in the City Council Chambers during the Public Comments section of the Agenda by submitting a comment card to the Board Secretary.

##### **SUBMIT PUBLIC COMMENT VIA EMAIL:**

Members of the public may submit comments by email to [CommunityDevelopment@sfcity.org](mailto:CommunityDevelopment@sfcity.org) no later than **5:00 p.m. the day of the meeting**, to ensure distribution to the Planning and Preservation Commission prior to consideration of the agenda. Comments received via email will be distributed to the Planning and Preservation Commission, read into the record, limited to three minutes, and made part of the official public record of the meeting.

##### **CALL-IN TO PROVIDE PUBLIC COMMENT LIVE AT THE MEETING:**

Members of the Public may **call-in between 6:30 p.m. and 6:45 p.m.** Comments will be heard in the order received, and limited to three minutes. If necessary, the call-in period may be extended by the Chair.

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**Call-in Telephone Number: (818) 898-1200 extension 535**

## **CALL TO ORDER/ROLL CALL**

## **TELECONFERENCE REQUESTS/DISCLOSURE**

Recommend consideration of requests received for remote teleconference meeting participation made by members of the City's legislative bodies, as permitted under the provisions of Assembly Bill (AB) 2449, Government Code Section 54953, and the City of San Fernando adopted Resolution No. 8215, effective March 1, 2023.

## **PLEDGE OF ALLEGIANCE**

Led by Commissioner Sylvia Ballin

## **APPROVAL OF AGENDA**

Recommend that the Planning and Preservation Commission approve the agenda as presented.

## **DECORUM AND ORDER**

City Commissioners are appointed by City Council and must be free to discuss issues confronting the city in an orderly environment. Member of the public attending City Commission meetings shall observe the same rules of order and decorum applicable to the City Council ([SF Procedural Manual](#)). Any person making impertinent derogatory or slanderous remarks or who becomes boisterous while addressing a City Commission or while attending a City Commission meeting, may be removed from the room if the Presiding Officer so directs the Sergeant-At-Arms and such person may be barred from further audience before the City Commission.

## **PUBLIC STATEMENTS**

Members of the public may **provide comments in person in the City Council Chambers** during the Public Comments section of the Agenda by submitting a comment card to the Board Secretary.

Members of the public may submit comments by email to [communitydevelopment@sfcity.org](mailto:communitydevelopment@sfcity.org) no later than **5:00 p.m. the day of the meeting**, to ensure distribution to the Planning and Preservation Commission prior to consideration of the agenda. Comments received via email will be distributed to the Planning and Preservation Commission and read into the record.

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Members of the public may provide a **live public comment by calling in between 6:30 p.m. and 6:45 p.m. CALL- IN INFORMATION: Telephone Number: (669) 900-6833; Meeting ID: 896 2370 9376; Passcode: 194996**

### CONSENT CALENDAR

None.

### PUBLIC HEARING

- 1) **CONSIDERATION OF A PROPOSED ZONE TEXT AMENDMENT 2023-002 AMENDING THE SAN FERNANDO MUNICIPAL CODE CHAPTER 106 -ZONING SECTION 106-182 (STANDARD CONDITIONS) TO GRANT DISCRETION TO THE PLANNING AND PRESERVATION COMMISSION OR THE CITY COUNCIL TO WAIVE OR MODIFY CERTAIN STANDARD CONDITIONS FOR THE APPROVAL OF CONDITIONAL USE PERMITS AUTHORIZING THE SALE OF ALCOHOLIC BEVERAGES; REVOCATION OF CONDITIONAL USE PERMIT (CUP) 1987-09; AND CONSIDERATION OF CONDITIONAL USE PERMIT 2023-001 AND A LETTER OF PUBLIC CONVENIENCE OR NECESSITY FOR A TYPE 21 LICENSE PERMITTING THE SALE OF BEER, WINE, AND DISTILLED SPIRITS FOR OFF-SITE CONSUMPTION AT THE RECENTLY APPROVED TARGET STORE LOCATED AT 12920 FOOTHILL BOULEVARD.**

Recommend that the Planning and Preservation Commission:

- a. Conduct a Public Hearing;
  - b. Adopt Resolution No. 2023-002 recommending that the City Council adopt an ordinance amending the San Fernando Municipal Code Section 106-182, Standard Conditions, to grant discretion to the Planning and Preservation Commission or the City Council to waive or modify certain standard conditions for the approval of conditional use permits authorizing the sale of alcoholic beverages; and
  - c. Continue the Public Hearing for Revocation of CUP 1987-09 to the Regularly Scheduled Planning and Preservation Meeting of December 11, 2023;
  - d. Continue the Public Hearing for the Consideration of CUP 2023-001 and a Letter of Public Convenience or Necessity to the Regularly Scheduled Planning and Preservation Meeting of December 11, 2023.
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- 2) **PROJECT NO. CUP2022-001 – CONDITIONAL USE PERMIT AND A FINDING OF PUBLIC CONVENIENCE OR NECESSITY TO ALLOW ON-SITE SALE AND CONSUMPTION OF ALCOHOL**

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### ANCILLARY TO AN EXISTING RETAIL STORE (MIDNIGHT HOUR RECORDS) LOCATED AT 1101 SAN FERNANDO ROAD.

Recommend that the Planning and Preservation Commission:

- a) Continue the Public Hearing for the Consideration of CUP 2022-001 to the Next Regular Meeting on October 9, 2023.

### STAFF COMMUNICATION

### GENERAL COMMISSION COMMENTS

**ADJOURNMENT** The meeting will adjourn to its next regular meeting.

I hereby certify under penalty of perjury under the laws of the State of California that the foregoing agenda was posted on the City Hall bulletin board not less than 72 hours prior to the meeting.

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Yesenia Becerra

Administrative Assistant

Signed and Posted: September 7, 2023 (4:30PM)

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*Agendas and complete Agenda Packets (including staff reports and exhibits related to each item) are posted on the City's Internet Web site ([www.sfcity.org](http://www.sfcity.org)). These are also available for public reviewing prior to a meeting at the Community Development Department Public Counter. Any public writings distributed by the Planning and Preservation Commission to at least a majority of the Commissioners regarding any item on this regular meeting agenda will also be made available at the Community Development Department Public Counter located at 117 Macneil Street, San Fernando, CA, 91340 during normal business hours. In addition, the City may also post such documents on the City's Web Site at [www.sfcity.org](http://www.sfcity.org). In accordance with the Americans with Disabilities Act of 1990, if you require a disability-related modification/ accommodation to attend or participate in this meeting, including auxiliary aids or services please call the Community Development Department Office at (818) 898-1227 at least 48 hours prior to the meeting.*

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## AGENDA REPORT

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**To:** Planning Preservation Chair Bernal and Commissioners

**From:** Erika Ramirez, Director of Community Development  
By: Malinda Lim, Contract Planner

**Date:** September 11, 2023

**Subject:** Consideration of a Proposed Zone Text Amendment 2023-002 amending the San Fernando Municipal Code Chapter 106 -Zoning Section 106-182 (Standard Conditions) to Grant Discretion to the Planning and Preservation Commission or the City Council To Waive or Modify Certain Standard Conditions for the Approval of Conditional Use Permits Authorizing the Sale of Alcoholic Beverages; Revocation of Conditional Use Permit (CUP) 1987-09; and Consideration of Conditional Use Permit 2023-001 and a Letter of Public Convenience or Necessity for a Type 21 license permitting the sale of beer, wine, and distilled spirits for off-site consumption at the recently approved Target store located at 12920 Foothill Boulevard.

### **RECOMMENDATION:**

- a. Conduct a Public Hearing;
- b. Adopt Resolution No. 2023-\_\_ recommending that the City Council adopt an ordinance amending the San Fernando Municipal Code Section 106-182, Standard Conditions, to grant discretion to the Planning and Preservation Commission or the City Council to waive or modify certain standard conditions for the approval of conditional use permits authorizing the sale of alcoholic beverages; and
- c. Continue the Public Hearing for Revocation of CUP 1987-09 to the Regularly Scheduled Planning and Preservation Meeting of December 11, 2023;
- d. Continue the Public Hearing for the Consideration of CUP 2023-001 and a Letter of Public Convenience or Necessity to the Regularly Scheduled Planning and Preservation Meeting of December 11, 2023.

### **BACKGROUND:**

1. The San Fernando Municipal Code (SFMC), Chapter 106 (Zoning), was adopted in 1957. In 1985, Subdivision II(On-Site and Off-Site Sale of Alcoholic Beverages) of Chapter 106 was

amended to include SFMC Section 106-182 (Standard conditions) (hereinafter "Section 106-182").

2. Section 106-182 establishes various operating requirements and conditions for the approval of Conditional Use Permits ("CUP") seeking authorization for off-site and/or on-site alcohol sales.
3. Section 106-19 (Zoning text amendments) to the SFMC ("Section 106-19") authorizes the amendment of zoning texts upon the recommendation of the Planning and Preservation Commission "whenever required by public necessity, convenience and general welfare."
4. Planning staff believes the public necessity, convenience and promotion of the general welfare are best served by an amendment to Section 106-182 that gives the Planning and Preservation Commission and the City Council discretion to waive certain standard requirements under Section 106-182 (i) where such specific conditions are unnecessary or infeasible given the specific circumstances of an alcohol sales CUP request at issue or are less stringent than, or in conflict with, more stringent conditions and requirements of the alcohol sales license issued by the California Department of Alcoholic Beverage Control under which the contemplated sales are authorized; and provided (ii) the required findings for the approval of a conditional use permit as set forth under Section 106-145 (Findings) can be made despite the exclusion of certain standard conditions.
5. Per Section 106-19, an amendment to the provisions of Chapter 106 (Zoning) may be adopted by the City Council only if the following findings of fact can be made in the positive manner: (i) the proposed amendment is consistent with the objectives, policies, general land uses and programs of the city's general plan and (ii) the adoption of the proposed amendment would not be detrimental to the public interest, health, safety, convenience or welfare.
6. Section 106-19 further provides that upon the initiation of a resolution of intention and following investigation, public hearings shall be set and notice of such hearings given in a manner consistent with the requirements of Division 2 (Hearings and Appeals) of Article II (Administration) of Chapter 106 (Zoning).
7. The power of cities to enact and amend zoning regulations is established under the police power and is spelled out with greater particularity under the Government Code (See Govt. Code Section 65850) . Planning commissions must hold a noticed public hearing on proposed zoning ordinance amendments (Govt. Code Section 65854) and notice of the date, time and place of the hearing must be published at least one time in a newspaper of general circulation at least 10 days prior to the hearing date. (Govt. Code Sections 6061, 65090 and 65094).

8. After receiving the Planning and Preservation Commission's recommendation on a zoning amendment, the City Council must hold its own public hearing on the matter which must be noticed in the same manner as the hearing conducted by the Planning and Preservation Commission as referenced under paragraph 7, above.
9. PACE Warehouse originally occupied the project site. On July 9, 1987, the Planning Commission approved Conditional Use Permit No. 1987-09 to allow sales of alcohol for off-site consumption (Type 21 license from the California Department of Alcoholic and Beverage Control (ABC)).
10. In 1993, Walmart Corporation purchased multiple PACE Warehouse properties and converted a majority of them into Sam's Club. This subject site was one of the locations, which changed into Sam's Club. PACE Warehouse had a Type 21 license from ABC, and the license transferred to Sam's Club.
11. Section 106-182, Standard conditions was amended three times with the last amendment on January 19, 2010.
12. In 2018, the Sam's Club store closed and since then, the building has remained vacant.
13. On April 27, 2022, Kimley-Horn & Associates, Inc. on behalf of Target Corporation submitted a Site Plan Review (SPR) application for façade and site improvements and a Tentative Tract Map (TTM) application to subdivide the 9.29-acre parcel into five parcels for individual ownership.
14. On June 15, 2022, the SPR for the Target façade remodel and site improvements involving a 1,340-square-foot addition and a new 963 square-foot canopy to the front of the existing building, and a new 3,168 square-foot carport covering 12 parking stalls was approved.
15. On March 13, 2023, the Planning Division received a Conditional Use Permit (CUP) application for a Type 21 alcohol license for the sale of beer, wine, and distilled spirits for off-site consumption and a request for a Letter of Public Convenience or Necessity.
16. On April 10, 2023, the Planning and Preservation Commission (PPC) continued CUP2023-002 to the next regularly scheduled PCC meeting on May 8, 2023 at staff's request to allow additional time to address CUP requirements mandated by the San Fernando Municipal Code (SFMC).
17. The May 8, 2023 PCC meeting was cancelled and CUP2023-001 was not continued to the next PCC meeting.
18. On August 3, 2023, the Planning Division received a request for a Zoning Text Amendment

(ZTA) from the Target Corporation. The ZTA requested an amendment to the standard conditions of approval imposed for alcohol-related CUPs.

19. On August 23, 2023, the City Council approved TM No. 84029 for the subdivision of the 9.29-acre parcel into five parcels for individual ownership in the Home Depot/Target commercial center.

**ANALYSIS:**

The Target store is under construction and is scheduled to be open in late 2023 or early 2024.. The new store will include a grocery section, pharmacy, Starbucks, Ulta Beauty, and general merchandise. As part of the store operation, Target is proposing to sell beer, wine, and distilled spirits as an ancillary use to the main store operation. Therefore, Target is requesting approval of the following applications:

1. Zone Text Amendment (ZTA2023-002) to add a subsection to Section 106-182 Standard conditions, allowing the decision-making body authority to waive or modify the standard conditions for alcohol-related Conditional Use Permits; and
2. Revocation of Conditional Use Permit (CUP) 1987-09; and
3. A CUP to allow the Target Corporation to sell beer, wine, and distilled spirits at the recently approved store that is under construction to expand from 127,151 square feet to 128,491 square feet; and
4. A Letter of Public Convenience or Necessity (LPCN) to allow for the sale of alcohol for off-site consumption within an overconcentrated census tract.

The recently approved Target store (Figure 1 outlined in red) is located in the commercial center west of Foothill Boulevard, south of the Pacoima Wash, and neighboring the City's northeastern boundary.

**Figure 1: Project Location**



### **General Plan Compliance**

The commercial center, in which the Target store is in, was formerly occupied by a portion of the San Fernando Airport until the adoption of the General Plan in 1987 when the Land Use designation changed to Commercial (COM), allowing for commercial use. The General Plan Land Use designation of the project site remains Commercial (COM). The proposed Conditional Use Permit will provide customers an opportunity to purchase alcohol for off-site consumption at a commercial retail establishment and help achieve the San Fernando General Plan goal of promoting economic viability of commercial areas and therefore, is consistent with the General Plan.

### **Zoning Code Analysis**

The project site is within the Commercial (C-2) zone and under the Precise Development (PD) Overlay. According to the development standards listed in the San Fernando Zoning Code Section 106-643, the provisions of the zone to which the PD zone is added shall apply; therefore, those of Commercial (C-2) prevail. The C-2 zone allows for a wide range of goods and services for the public including facilities for shopping, convenience goods and services, professional offices and recreation for the community. It is intended to promote an environment which will encourage maximum efficiency of the commercial area with maximum protection for nearby property and property values by permitting only those uses which are necessary for the city and excluding those uses which are incompatible with this goal and which should be located elsewhere. The Target store will provide a destination-shopping retailer to residents and surrounding neighborhoods demonstrating consistency with the purpose of the C-2 zone.

### **Zone Text Amendment**

A proposed Zone Text Amendment (ZTA 2023-002) is a part of this proposal because it will make the Project completely compliant with the City of San Fernando Municipal Code (SFMC). The ZTA proposes an amendment to Section 106-182 of the SFMC to update the existing standard conditions for alcohol-related CUPs.

The City recognizes the need to revitalize the City's commercial districts by promoting hospitality, entertainment, recreation and related business that may include the sale of alcoholic beverages as an important part of their business operation. The city also recognizes that alcohol abuse can have an adverse impact on the environment that not only jeopardizes the city's long term redevelopment strategies for revitalization of the commercial districts but can also seriously affect the public health, safety, and general welfare in the surrounding areas, including the residential neighborhoods.

For CUPs involving alcohol sales for on-site or off-site consumption, the SFMC has a set of standard conditions to prevent alcohol-related impacts, including drunk driving, public inebriation, littering, loitering, obstruction of pedestrian and vehicular traffic, harassment of passerbys, encouragement of crime, defacement of buildings or structures, graffiti, excessive noise and other similar zoning problems and public nuisance activity. These conditions have been modified several times to keep up with current trends.

The latest change to Section 106-182 in 2010 has conditions excluding “exterior public telephones that permit incoming calls” and “electronic games, including video games on the premises.” Several of these conditions if applied to Target, could not be met due to the building design and standard floor plan of the retail store. For example, Section 106-182(a)(5) requires that the sales area “be located so that the clerk and the customer are fully visible from the street at the time of the sales transaction.” This condition would be difficult to achieve for retailers in large commercial centers in which the distance of the street to the front of the building is separated by a large parking area.

The proposed Zoning Text Amendment retains Section 106-182 as written with an added subsection:

#### Section 106-182(d)

*The Planning Commission or other decision maker shall have the authority to waive or modify the enumerated standard conditions, as it deems appropriate based upon the particular circumstances of the proposed use.*

The proposed amendment is consistent with the objectives, policies, general land uses and programs of the City's General Plan in that it would allow the City to provide a greater range of retail services to its residents and help the economic viability of commercial areas. Further, the adoption of the proposed amendment would not be detrimental to the public interest because

the decision maker retains the authority to impose the standard conditions as necessary to protect the public welfare. Based on the discussion above, staff recommends the Commission recommend the City Council adopt the amendment.

### **Conditional Use Permit**

According to the San Fernando Zoning Code, a retail business is a permitted use in the C-2 zone; however, the sale of alcoholic beverages is subject to a Conditional Use Permit (CUP) pursuant to SFMC Section 106-518(1). Because the amendment affects the process in which the Planning and Preservation Commission considers and approves CUPs permitting the sale of alcoholic beverages, CUP 2023-001 must be continued until after the Zoning Code Text Amendment is in effect. Continuing the public hearing for CUP 2023-001 until December 11, 2023 allows adequate time for the ordinance to be processed and take into effect. The ZTA 2023-002 is scheduled to be introduced and considered by City Council at their regularly scheduled meeting of October 2, 2023.

### Revocation of a Conditional Use Permit

SFMC Section 160-148 gives the Planning and Preservation Commission authority to revoke a CUP if one or more certain condition exists. Two of the certain conditions, as listed below, are applicable to CUP1987-09:

- *SFMC Section 160-148(b)(3) - if a CUP that was granted has ceased or was suspended for six or more successive calendar months.*

The project site has been vacant since 2018.

- *SFMC Section 160-148(b)(4) - if one or more of the conditions of the CUP have not been complied with.*

CUP1987-09 Condition No. 4 states, “that the subject Conditional Use Permit shall expire with the termination of the use or with a change of tenant or ownership.” The building was occupied by PACE warehouse in 1987 and transitioned into a Sam’s Club after the Walmart Corporation acquired multiple PACE warehouses. The building has remained vacant since 2018 until this year in which Target is in the process of occupying the building.

After Sam’s Club shut its doors in 2018, the City did not revoke the CUP. The applicant is requesting revocation of CUP 1987-09 and approval of CUP2023-001 to allow the Target Corporation as the new tenant to sell alcohol for off-site consumption and to update the project information associated with the CUP, specifically the expansion of the building footprint from 127,151 square feet to 128,491 square feet of gross floor area.

It is recommended that the consideration of the revocation of CUP1987-09 occur at the same Planning and Preservation meeting in which CUP 2023-001 is considered for approval. Therefore, staff is requesting the public hearing for the revocation of CUP1987-09 be continued until December 11, 2023.

### **ENVIRONMENTAL REVIEW**

Pursuant to the California Environmental Quality Act (CEQA), the adoption of proposed Zone Text Amendment is exempt under CEQA Guidelines Section 15061(b)(3) (the “common sense exemption”) since it can be seen with certainty that the adoption of the Zoning Code Amendment for Section 106--182, Standard conditions, will not have a significant impact on the environment and Section 15378 (“not a project”) because it does not have the potential for resulting in either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment. 14 CCR §§15378, 15060(c)(2)-(3).

### **PUBLIC NOTIFICATION**

On September 1, 2023, a public hearing notice was published in the print and online versions of the legal advertisement section of the *San Fernando Sun Newspaper* (Attachment “C”). In addition, on September 1, 2023, a public hearing notice was posted at the Project Site, at the two City Hall bulletin boards, and at the local branch of the Los Angeles County Library at 217 N. Maclay Avenue. Notices of the public hearing for the CUP and LPCN request were also mailed to all property owners of record within a 500-foot radius of the Project Site.

### **BUDGET IMPACT:**

The Project involves a private property and does not request or require public funds and has no direct fiscal impact on the City of San Fernando. The preparation of the ZTA, CUP, and LPCN were covered by the Applicant and funding was collected through the ZTA and CUP application fees. The Project would provide a positive fiscal impact for the City through increased sales taxes from the purchase of alcohol.

### **CONCLUSION**

Staff recommends that the Commission:

1. Adopt Planning and Preservation Commission Resolution No. 2023-\_\_ recommending that the City Council adopt an ordinance amending the San Fernando Municipal Code Section 106-182, Standard Conditions, to grant discretion to the Planning and Preservation Commission or the City Council to waive or modify certain standard conditions for the approval of conditional use permits authorizing the sale of alcoholic beverages; and
2. Continue the Public Hearing Considering the revocation of Conditional Use Permit 1987-09; and

3. Continue the Public Hearing Considering the approval of Conditional Use Permit 2023-001 and a Letter of Public Convenience or Necessity for a Type 21 license to sale of beer, wine, and distilled spirits for off-site consumption at the recently approved Target store located at 12920 Foothill Boulevard.

**ATTACHMENTS:**

- A. ZTA 2023-002 Resolution No. 2023-
  - a. Exhibit A – Proposed update to San Fernando Municipal Code (SFMC) Section 106-182, Standard Conditions.

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RESOLUTION NO. 2023-002

**A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF SAN FERNANDO, CALIFORNIA, RECOMMENDING THAT THE CITY COUNCIL ADOPT AN ORDINANCE AMENDING SAN FERNANDO MUNICIPAL CODE CHAPTER 106 (ZONING) SECTION 106-182 (STANDARD CONDITIONS) TO GRANT DISCRETION TO THE PLANNING AND PRESERVATION COMMISSION OR THE CITY COUNCIL TO WAIVE OR MODIFY CERTAIN STANDARD CONDITIONS FOR THE APPROVAL OF CONDITIONAL USE PERMITS AUTHORIZING THE SALE OF ALCOHOLIC BEVERAGES.**

**WHEREAS**, California Constitution Article XI, Section 7, enables the City of San Fernando (the "City") to enact local planning and land use regulations; and

**WHEREAS**, the authority to adopt and enforce zoning regulations is an exercise of the City's police power to protect the public health, safety, and welfare; and

**WHEREAS**, the City desires to ensure that commercial development occurs in an orderly manner, in accordance with the goals and objectives of the General Plan and reasonable land use planning principles; and

**WHEREAS**, in 1957, the San Fernando Municipal Code (SFMS), Chapter 106 – Zoning, was adopted; in 1985, Section 106-182, Standard Conditions, was added establishing standard conditions of approval for alcohol-related Conditional Use Permits; and on January 19, 2010, it was last amended; and

**WHEREAS**, Section 106-19 (Zoning text amendments) to the SFMC ("Section 106-19") authorizes the amendment of zoning texts upon the recommendation of the Planning and Preservation Commission "whenever required by public necessity, convenience and general welfare";

**WHEREAS**, Planning staff believes the public necessity, convenience and promotion of the general welfare are best served by an amendment to Section 106-182 that gives the Planning and Preservation Commission and the City Council discretion to waive certain standard requirements under Section 106-182 (i) where such specific conditions are unnecessary or infeasible given the specific circumstances of an alcohol sales CUP request at issue or are less stringent than, or in conflict with, more stringent conditions and requirements of the alcohol sales license issued by the California Department of Alcoholic Beverage Control under which the contemplated sales are authorized; and provided (ii) the required findings for the approval of a conditional use permit as set forth under Section 106-145 (Findings) can be made despite the exclusion of certain standard conditions;

**WHEREAS**, per Section 106-19, an amendment to the provisions of Chapter 106 (Zoning) may be adopted by the City Council only if the following findings of fact can be made in the positive

manner: (i) the proposed amendment is consistent with the objectives, polices, general land uses and programs of the city's general plan and (ii) the adoption of the proposed amendment would not be determinetal to the public interest, health, safety, convenience or welfare;

**WHEREAS**, Section 106-19 further provides that upon the initiation of a resolution of intention and following investigation, public hearings shall be set and notice of such hearings given in a manner consistent with the requirements of Division 2 (Hearings and Appeals) of Article II (Administration) of Chapter 106 (Zoning);

**WHEREAS**, the power of cities to enact and amend zoning regulations is established under the police power and is spelled out with greater particularity under the Government Code (See Govt. Code Section 65850);

**WHEREAS**, Planning commissions must hold a noticed public hearing on proposed zoning ordinance amendments (Govt. Code Section 65854) and notice of the date, time and place of the hearing must be published at least one time in a newspaper of general circulation at least 10 days prior to the hearing date. (Govt. Code Sections 6061, 65090 and 65094);

**WHEREAS**, the Planning and Preservation Commission at their September 11, 2023 meeting were presented with the proposed amendment from the Planning Department and discussed, considered, and gave staff input on the proposed amendment; and

**WHEREAS**, on September 1, 2023, the City Clerk published a notice of a regular public hearing to be held on September 11, 2023, to consider and make a recommendation to City Council for approval of a proposed Zone Text Amendment (ZTA 2023-002) to include a subsection to allow the Planning Commission or other decision maker the authority to waive or modify the enumerated standard conditions, as it deems appropriate based upon the particular circumstances of the proposed use in the San Fernando Sun as required by Government Code Section 65858(a); and

**WHEREAS**, the Planning and Preservation Commission, as part of its regular meeting of September 11, 2023, conducted a duly noticed public hearing on the proposed code amendment, and all testimony was received and made a part of the public record, and

**NOW, THEREFORE, THE PLANNING COMMISSION OF THE CITY OF SAN FERNANDO DOES ORDAIN AS FOLLOWS:**

**SECTION 1. Recitals**

The recitals above are true and correct and incorporated herein by reference.

**SECTION 2. Environmental Review Findings**

This project is exempt from the California Environmental Quality Act (CEQA) under CEQA Guidelines Section 15061(b)(3) (the "common sense exemption") and Section 15378 ("not a

project”) since it can be seen with certainty that the Zone Text Amendment for Section 106-182 will not have a significant effect on the environment because it does not have the potential for resulting in either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment. 14 CCR §§15378, 15060(c)(2)-(3).

### **SECTION 3. Zone Text Amendment Findings**

Pursuant to San Fernando City Code Section 106-19 (Zoning Text Amendments) the Planning Commission recommends that the City Council makes the following findings for adoption of the proposed amendment:

- a. The proposed amendment is consistent with the objectives, policies, general land uses and programs of the City’s general plans.

The existing standard conditions for alcohol-related Conditional Use Permits contains conditions which hinder some commercial retailers the ability to comply. The proposed amendment will satisfy the San Fernando General Plan goal of promoting economic viability of commercial areas by allowing the decision-making body the authority to waive or revise the standard conditions based on the particular circumstance of the proposed use. Without the amendment, many commercial retailers may not be able to comply due to the business’ operation, building floor plan, existing development of the commercial center, etc. The proposed amendment is consistent with the objectives, policies, general land uses and programs of the City’s General Plan in that it would allow the City to provide a greater range of retail services to it residents.

- b. The adoption of the proposed amendment would not be detrimental to the public interest, health safety, convenience, or welfare.

The proposed Zone Text Amendment will retain the existing standard conditions for alcohol-related Conditional Use Permits as is and add a subsection allowing the decision-making body the authority to waive or revise the standard conditions based on the particular circumstance of the proposed use. The proposed amendment would not be detrimental to the public interest, health, safety, convenience or welfare.

### **SECTION 4. Record of Proceeding**

The documents and other materials that constitute the record of the proceedings upon which the Planning and Preservation Commission’s decision is based, which include, but are not limited to, the environmental documents, staff reports, as well as all materials that support the staff reports for the proposed project, are located in the Community Development Department of the City of San Fernando at 117 Macneil Street, San Fernando, CA 91340. The custodian of these documents is the City Clerk of the City of San Fernando.

### **SECTION 5. Determination**

Based upon the findings outlined in Sections 1 through 3 above, the Planning and Preservation Commission of the City of San Fernando does hereby recommend that the City Council amendment to the San Fernando Municipal Code, Section 106-182, Standard Conditions, to allow the decision-making body authority to waive or modify the standard conditions, as set forth in Exhibit "A", attached hereto and incorporated herein by this reference.

(SIGNATURE PAGE TO FOLLOW)

**PASSED, APPROVED AND ADOPTED** by the Planning and Preservation Commission of the City of San Fernando at a special meeting held on this 11th day of September 2023.

\_\_\_\_\_  
Chairperson

**ATTEST:**

\_\_\_\_\_  
Erika Ramirez, Secretary to the Planning  
and Preservation Commission

**STATE OF CALIFORNIA)**

**COUNTY OF LOS ANGELES) SS.**

**CITY OF SAN FERNANDO)**

I, Erika Ramirez, Secretary to the Planning and Preservation Commission of the City of San Fernando, California, do hereby certify that the foregoing Resolution was adopted at a special meeting of the Planning and Preservation Commission of the City of San Fernando, California held on the 11<sup>th</sup> day of September, 2023 and was carried by the following vote:

AYES:

NAYS:

ABSENT:

ABSTAINED:

\_\_\_\_\_  
Erika Ramirez, Secretary to the Planning  
and Preservation Commission

**Proposed zoning text amendment to City of San Fernando Municipal Code**

Section 106-182. Standard Conditions.

(a) In addition to those conditions of approval which the planning and preservation commission may otherwise impose, all off-sale CUPs shall be subject to the following standard conditions:

(1) No beer or wine shall be displayed within five feet of the cash register or the front door unless such item is in a permanently affixed cooler.

(2) No display or sale of alcoholic beverages shall be made from an ice tub. An "ice tub" is a vessel filled with ice that displays single servings of alcoholic beverages for customer self-service.

(3) No sale of alcoholic beverages shall be made from a walk-up or drive-in window.

(4) Alcoholic beverages and non-alcoholic beverages shall be stocked and displayed separately.

(5) The sales area shall be located so that the clerk and customer are fully visible from the street at the time of the sales transaction.

(6) The cash register and sales area shall be illuminated so as to provide clear observation for law enforcement surveillance.

(7) Alcoholic beverages shall not be consumed on the premises.

(8) No off-sale outlet selling alcohol may use a self-service checkout system.

(9) Interior and exterior signs stating the consumption of alcoholic beverages on the premises is prohibited by law shall be conspicuously posted onsite.

(b) In addition to those conditions of approval which the planning and preservation commission may otherwise impose, all on-sale CUPs shall be subject to the following standard conditions:

(1) Alcoholic beverages shall not be permitted to be consumed in the parking area or other exterior areas of the premises, except for designated outdoor areas approved as part of the CUP application;

(2) Alcoholic beverages shall not be sold for consumption off the premises;

(3) The hours of operation, including deliveries to the proposed establishment, shall be reviewed and approved by the planning commission as part of the CUP application in order to ensure compatibility with the surrounding area;

(4) All employees who serve or sell alcoholic beverages shall successfully complete a responsible beverage service training program that meets the requirements of ABC. Records of such training shall be maintained on the premises and made available to the police department personnel upon request;

(c) In addition to those conditions of approval which the planning and preservation commission may otherwise impose, both off-sale and on-sale CUPs shall be subject to all of the following standard conditions:

(1) Loitering in the public right-of-way, parking area and in front of adjacent properties is prohibited.

(2) Windows shall comply with the city's sign regulations in order to provide clear and unobstructed view of the cash register and sales area from the parking lot and street. Exceptions for on-sale outlets may be reviewed and approved by the chief planning official.

(3) The following signs shall be conspicuously posted onsite:

Exterior signs referencing Penal Code § 602.1. Such signs shall be clearly visible from the establishment's parking area and shall include the police department's phone number.

An interior sign in English and Spanish stating: "We ID everyone under 26 years of age for alcohol sales" with minimum dimensions of eight inches by 11 inches.

(4) Exterior public telephones that permit incoming calls shall not be located on the premises.

(5) Electronic games, including video games, shall not be located on the premises.

(6) Exterior lighting of the parking area shall provide adequate lighting for patrons while not producing glare or light spillover disturbing surrounding residential or commercial areas.

(7) A security camera system approved by the police department shall be installed on the premises and shall be maintained in proper working order at all times. The security camera system shall be subject to inspection by the police department. The system must be capable of producing retrievable images on film or tape that can be made a

permanent record and that can be enlarged through projection or other means. The video or digital recordings generated by the system shall be maintained for a period of 30 days.

(8) The establishment shall implement preventive architectural design features as approved by the chief of police and the chief planning official in order to maintain a secure site by controlling access to the facility, open sight lines, adequate lighting levels, ambient noise levels and circulation patterns.

(9) Special security measures such as security guards, door monitors, and burglar alarms systems may be required as a condition of approval with final determination made by the chief of police and the chief planning official on a case-by-case basis.

(10) Litter and trash receptacles shall be located at convenient locations both inside and outside the establishment, and trash and debris shall be removed on a daily basis.

(11) The exterior of the establishment, including all signs, accessory buildings and structures shall be maintained free of litter and graffiti at all times. All graffiti shall be removed from the premises within 24 hours of its discovery.

(12) With regard to those CUP applications that are approved based in part upon the fact that alcohol sales on the premises are incidental to the sale of other products, proof satisfactory to the chief planning official shall be annually submitted to show that the sale of alcohol has remained incidental to the sale of other products.

(13) Within 30 days of approval of the CUP, applicant shall certify his or her acceptance of the conditions placed on the approval by signing a statement that he or she accepts and shall be bound by all of the conditions.

(14) Violation of, or noncompliance with, any of the conditions shall constitute grounds for revocation of the CUP.

(15) Expansion or enlargement of the business premises over the life of the structure or the use shall be subject to the CUP approval process.

*(d) The Planning Commission or the City Council, whichever the case may be, may waive or modify the enumerated standard conditions, based upon the particular circumstances of the proposed use and provided the required findings for the approval of a conditional use permit as set forth under Secion 106-145 can be made despite the exclusion or modification of certain standard conditions.*



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## AGENDA REPORT

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**To:** Planning Preservation Chair Bernal and Commissioners

**From:** Erika Ramirez, Director of Community Development

**Date:** September 11, 2023

**Subject:** Project No. CUP2022-001 – Conditional Use Permit and a finding of Public Convenience or Necessity to allow on-site sale and consumption of alcohol ancillary to an existing retail store (Midnight Hour Records) located at 1101 San Fernando Road.

**RECOMMENDATION:**

Staff recommends that the Planning and Preservation Commission Continue this item to the next regular meeting on October 9, 2023 to allow staff to further develop the proposed conditions of approval.