



**REGULAR MEETING AGENDA  
OF THE  
ARVIN PLANNING COMMISSION  
(VIA TELECONFERENCE)**

**TUESDAY AUGUST 18, 2020 6:00pm**

**CITY HALL COUNCIL CHAMBERS  
200 CAMPUS DRIVE, ARVIN**

This meeting is compliant with the Governor’s Executive Order N-25-20 issued on March 4, 2020 and N-29-20 issued on March 18, 2020, allowing for a deviation of teleconference rules required by the Brown Act. The purpose of this is to provide a safe environment for staff and the public to conduct city business, while allowing for public participation. The meeting will be held by teleconference only. **The public may participate by calling:**

**1-669-900-9128**

**Meeting ID: 814 7122 3031#**

**To join the meeting from your computer, tablet or smartphone click on the following link:**

<https://us02web.zoom.us/j/81471223031>

**The meeting agendas are available at:** <https://www.arvin.org/government/clerk/meeting-agendas-minutes/planning-commission/>

The Planning Commission will accept comments on any items on the agenda, inclusive of closed session items, in writing, and in advance of the meeting, **up until Monday, August 17, 2020 at 3:00pm.** Comments may be mailed to City of Arvin, City Clerk’s Office, PO Box 548, Arvin, CA 93203 or emailed to [cvela@arvin.org](mailto:cvela@arvin.org). In the subject line, please provide “PUBLIC COMMENT ITEM #” (insert the item number relevant to your comment) or “PUBLIC COMMENT NON-AGENDA ITEM”. All public comments will be provided to the Arvin Planning Commission and may be read into the record or compiled as part of the record.

**CALL TO ORDER**

Chair Gerardo Tinoco

**PLEDGE OF ALLEGIANCE**

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<b>ROLL CALL:</b>	Gerardo Tinoco	Chairperson
	Miguel Rivera	Vice Chairperson
	Arturo Hinojosa	Planning Commissioner
	Yesenia Martinez	Planning Commissioner
	Cesar Moreno	Planning Commissioner
	Sergio Hernandez	Planning Commissioner (Alternate)

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## **PUBLIC COMMENTS:**

The meetings of the City Council and all municipal entities, commissions, and boards (“the City”) are open to the public. At regularly scheduled meetings, members of the public may address the City on any item listed on the agenda, or on any non-listed matter over which the City has jurisdiction. At special or emergency meetings, members of the public may only address the City on items listed on the agenda. The City may request speakers to designate a spokesperson to provide public input on behalf of a group, based on the number of people requesting to speak and the business of the City.

In accordance with the Brown Act, all matters to be acted on by the City must be posted at least 72 hours prior to the City meeting. In cases of an emergency, or when a subject matter needs immediate action or comes to the attention of the City subsequent to the agenda being posted, upon making certain findings, the City may act on an item that was not on the posted agenda.

## **AGENDA STAFF REPORTS AND HANDOUTS:**

Staff reports and other disclosable public records related to open session agenda items are available at City Hall, 200 Campus Drive, Arvin, CA 93203 during regular business hours.

## **CONDUCT IN THE CITY COUNCIL CHAMBERS:**

### **Rules of Decorum for the Public**

Members of the audience shall not engage in disorderly or boisterous conduct, including the utterance of loud, threatening or abusive language, clapping, whistling, stamping of feet or other acts which disturb, disrupt, impede or otherwise render the orderly conduct of the City meeting infeasible. A member of the audience engaging in any such conduct shall, at the discretion of the presiding officer or a majority of the City, be subject to ejection from the meeting per Gov. Code Sect. 54954.3(c).

### **Removal from the Council Chambers**

Any person who commits the following acts in respect to a meeting of the City shall be removed from the Council Chambers per Gov. Code Sect. 54954.3(c).

- (a) Disorderly, contemptuous or insolent behavior toward the City or any member thereof, tending to interrupt the due and orderly course of said meeting;
- (b) A breach of the peace, boisterous conduct or violent disturbance, tending to interrupt the due and orderly course of said meeting;
- (c) Disobedience of any lawful order of the Mayor, which shall include an order to be seated or to refrain from addressing the City; and
- (d) Any other unlawful interference with the due and orderly course of said meeting.

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### **AMERICANS with DISABILITIES ACT:**

In compliance with the ADA, if you need special assistance to participate in a City meeting or other services offered by the City, please contact the City Clerk’s office, (661) 854-3134. Notification of at least 48 hours prior to the meeting or time when services are needed will assist the City staff in assuring that reasonable arrangements can be made to provide accessibility to the meeting or service.



I pledge allegiance to the flag of the United States of America and to the Republic for which it stands, one nation, under God, indivisible, with liberty and justice for all.

**1. Approval of Agenda As To Form.** Motion \_\_\_\_\_ Second \_\_\_\_\_ Vote \_\_\_\_\_

Roll Call: PC Martinez \_\_\_\_\_ PC Hinojosa / Alt. PC Hernandez \_\_\_\_\_ PC Moreno \_\_\_\_\_ VC Rivera \_\_\_\_\_

Chair Tinoco \_\_\_\_\_

**2. PUBLIC COMMENTS**

*This portion of the agenda is reserved for persons wishing to address the Planning Commission. At regularly scheduled meetings, members of the public may address the Planning Commission on any matter that is not listed for review on the agenda. At special or emergency meetings, members of the public may only address the Planning Commission on matters that are listed for review on the agenda. Individuals must give their name and limit their comments to two minutes. Issues raised during Public Comments are informational only and the Planning Commission cannot take action at this time. All comments shall be directed towards the Chairperson and not to individual Commissioners or staff.*

**3. CONSENT AGENDA ITEM(S)**

**A. Approval of the Minutes of the Special Meeting of July 13, 2020.**

Staff recommends approval of the Minutes of the Special Meeting of July 13, 2020.

Motion \_\_\_\_\_ Second \_\_\_\_\_ Vote \_\_\_\_\_

Roll Call: PC Martinez \_\_\_\_\_ PC Hinojosa / Alt. PC Hernandez \_\_\_\_\_ PC Moreno \_\_\_\_\_ VC Rivera \_\_\_\_\_

Chair Tinoco \_\_\_\_\_

**4. PUBLIC HEARING(S)**

**A. A Public Hearing to Consider Approval of A Resolution of the Planning Commission of the City of Arvin Recommending Denial of A Public Convenience and Necessity for A Type 20 Off-Sale License at 100 Bear Mountain Blvd. to the City Council of the City of Arvin.**

Staff recommends the Planning Commission open the hearing; allow for public testimony; close the hearing; and approve the resolution.

Motion \_\_\_\_\_ Second \_\_\_\_\_ Vote \_\_\_\_\_

Roll Call: PC Martinez \_\_\_\_\_ PC Hinojosa / Alt. PC Hernandez \_\_\_\_\_ PC Moreno \_\_\_\_\_ VC Rivera \_\_\_\_\_

Chair Tinoco \_\_\_\_\_

**B. A Public Hearing to Consider Approval of A Resolution of the Planning Commission of the City of Arvin Approving Conditional Use Permit 2020-CUP1416VerdeCourt, Located at 1416 Verde Court, Arvin, CA 93203, Arellano De Contreras Family Child Care (Large Day Care Facility).**

Staff recommends the Planning Commission open the hearing; allow for public testimony; close the hearing; and approve the resolution.

Motion \_\_\_\_\_ Second \_\_\_\_\_ Vote \_\_\_\_\_

Roll Call: PC Martinez \_\_\_\_\_ PC Hinojosa / Alt. PC Hernandez \_\_\_\_\_ PC Moreno \_\_\_\_\_ VC Rivera \_\_\_\_\_

Chair Tinoco \_\_\_\_\_

**5. REPORTS FROM STAFF**

**6. PLANNING COMMISSIONER COMMENTS**

**7. ADJOURNMENT**

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. Dated: August 13, 2020.



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Cecilia Vela, Secretary

**SPECIAL MEETING MINUTES  
ARVIN PLANNING COMMISSION**

**JULY 13, 2020**

**CALL TO ORDER @ 6:02 PM**

**PLEDGE OF ALLEGIANCE**

**ROLL CALL: PC Hinojosa, PC Martinez and PC Moreno absent; All others present.**

**1. Approval of Agenda As To Form.**

**Motion to approve the Agenda.**

Motion Chair Tinoco          Second VC Rivera          Vote 3-0

**2. PUBLIC COMMENTS**

**3. CONSENT AGENDA ITEM(S)**

**A. Approval of the Minutes of the Regular Meeting of May 19, 2020.**

Staff recommends approval of the Minutes of the Regular Meeting of May 19, 2020.

**Motion to approve Minutes of the Regular Meeting of May 19, 2020.**

Motion VC Rivera          Second Chair Tinoco          Vote 3-0

**4. PUBLIC HEARING(S)**

**A. A Public Hearing to Consider Approval of A Resolution of the Planning Commission of the City of Arvin Recommending the City Council to Adopt An Uncodified Ordinance of the City Council of the City of Arvin, Approving Development Agreement No. 2020-01 Between the City of Arvin and Cana Rose Realty Holdings, LLC. and Life & Nature Farms, LLC. for the Development of Certain Commercial Cannabis Operations Located at 901 Potato Road, Arvin, Ca.**

Staff recommends the Planning Commission open the hearing; allow for public testimony; close the hearing; and I) approve the resolution, and II) adopt an exemption pursuant to California Environmental Quality Act Guidelines Section 15061(b)(3).

**Hearing opened.**

**No public testimony.**

**Hearing closed.**

**Motion to approve the resolution, and to adopt an exemption pursuant to California Environmental Quality Act Guidelines Section 15061(b)(3).**

Motion Chair Tinoco          Second PC Hernandez          Vote 2-1 (VC Rivera voted No.)

**Resolution No. APC 2020-03**

- B. A Public Hearing to Consider Approval of A Resolution of the Planning Commission of the City of Arvin Granting Variance No. 2020-01 (101 Bear Mountain Boulevard, Arvin, California).

Staff recommends the Planning Commission open the hearing; allow for public testimony; close the hearing; and I) approve the resolution, and II) adopt an exemption pursuant to California Environmental Quality Act Guidelines Section 15061(b)(3).

**Hearing opened.**

**Public testimony: Business owner, Abdo Arohawny questioned why his business at 101 Bear Mountain Blvd. is treated differently when there are no parking spaces and no trash receptacles for all businesses yet other gym business received a permit. Staff is recommending approval of variance for this item and stated there are building plans and work is in progress.**

**Hearing closed.**

**Motion to approve the resolution, and to adopt an exemption pursuant to California Environmental Quality Act Guidelines Section 15061(b)(3).**

Motion VC Rivera                      Second PC Hernandez                      Vote 3-0

**Resolution No. APC 2020-04**

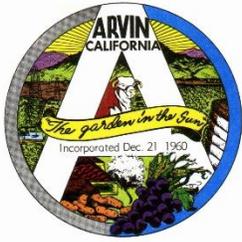
**5. REPORTS FROM STAFF**

**6. PLANNING COMMISSIONER COMMENTS**

**7. ADJOURNED @ 6:21 PM**

Respectfully submitted,

\_\_\_\_\_  
Cecilia Vela, Secretary



**CITY OF ARVIN  
Planning Commission**

**Meeting Date: August 18, 2020**

**TO:** Arvin Planning Commission Members

**FROM:** Mitzy Cuxum, Senior Planner  
R. Jerry Breckinridge, City Manager

**SUBJECT:** Determination of Public Convenience and Necessity in accordance with Government Code §23958.4 of the California Business and Professions Statutes.

**RECOMMENDATION:**

Staff recommends that the Planning Commission recommends denial of the applicant's request by adopting Resolution Of The Planning Commission Of The City Of Arvin Recommending Denial Of A Public Convenience And Necessity For A Type 20 Off-Sale License At 100 Bear Mountain Blvd. To The City Council Of The City Of Arvin. This recommendation is based on the following:

- a. No Substantial Evidence: The applicant currently holds a Type 21 Off-General Sale License that allows for the sale of liquor, beer, and wine at the same location. The applicant has failed to submit substantial evidence demonstrating that public convenience and necessity warrant adding another license to this census tract, or another license at an identical location, nor is there any such evidence in the record.
- b. No Public Necessity: The grant of an additional license is not necessitated by a lack of licenses within the census tract. The license is proposed for 100 Bear Mountain Boulevard, in Arvin, California, which is located in census tract number 63.01. Based on its population, etc., that census tract would typically be allotted 3 licenses, which would normally be sufficient to meet the community needs. However, there are currently 9 existing licenses within the census tract, which is approximately 300% more than what is allotted for the census tract, and which is well in excess of what is needed to address community needs. Adding an additional license to census tract number 63.01 – at a location that already has an existing license – would further exacerbate overconcentration and is not needed or necessary.
- c. No Public Convenience: For the same reason as noted above, the public convenience would not be served. Additionally, the public can already obtain off-sale beer and wine from an existing license at this location. As such, the addition of yet another license in the census tract at a location that already provides identical services would not provide any additional public

convenience.

- d. Public Nuisances: Census tract 63.01 is already overconcentrated, and adding another license will only exacerbate the risk of public nuisances include, public intoxication, public urination, litter, and related conditions, none of which serve the public convenience or necessity.

**APPLICANT AND LOCATION:**

Applicant:	Hand S Chevron Food Mart, Inc.
Project Address:	100 Bear Mountain Boulevard, Arvin, CA 93434
Assessor Parcel No.	190-142-01
Census Tract No.	63.01
Zoning:	C-2 Commercial
General Plan Land Use Designation	General Commercial

**BACKGROUND:**

The applicant is requesting a letter of Public Convenience and Necessity from the City of Arvin to allow for the obtainment of a beer and wine license through the California Department of Alcohol Beverage Control (ABC). The applicant is seeking a Type 20 Off-Sale Beer and Wine License form ABC in a census track that has surpassed it allotted number of permitted licenses. Additionally, the applicant currently owns a Type 21 Off-General License in census tract number 63.01 that allows for 3 licenses, but currently has 9 licenses which currently places the City of Arvin at 200% above the general threshold. As a result, the California Department of Alcoholic Beverage Control requires the applicant to submit an application that determines the public convenience and necessity of his request. The applicant has not provided any evidence that suggests his request would provide a public convenience or that his requested license is a necessity. In his application the applicant stated the following:

“we are downgrading [from] a liquor license to beer and wine license. It is convenient. [The] store [makes] 50% of its sales from beer and wine]”.

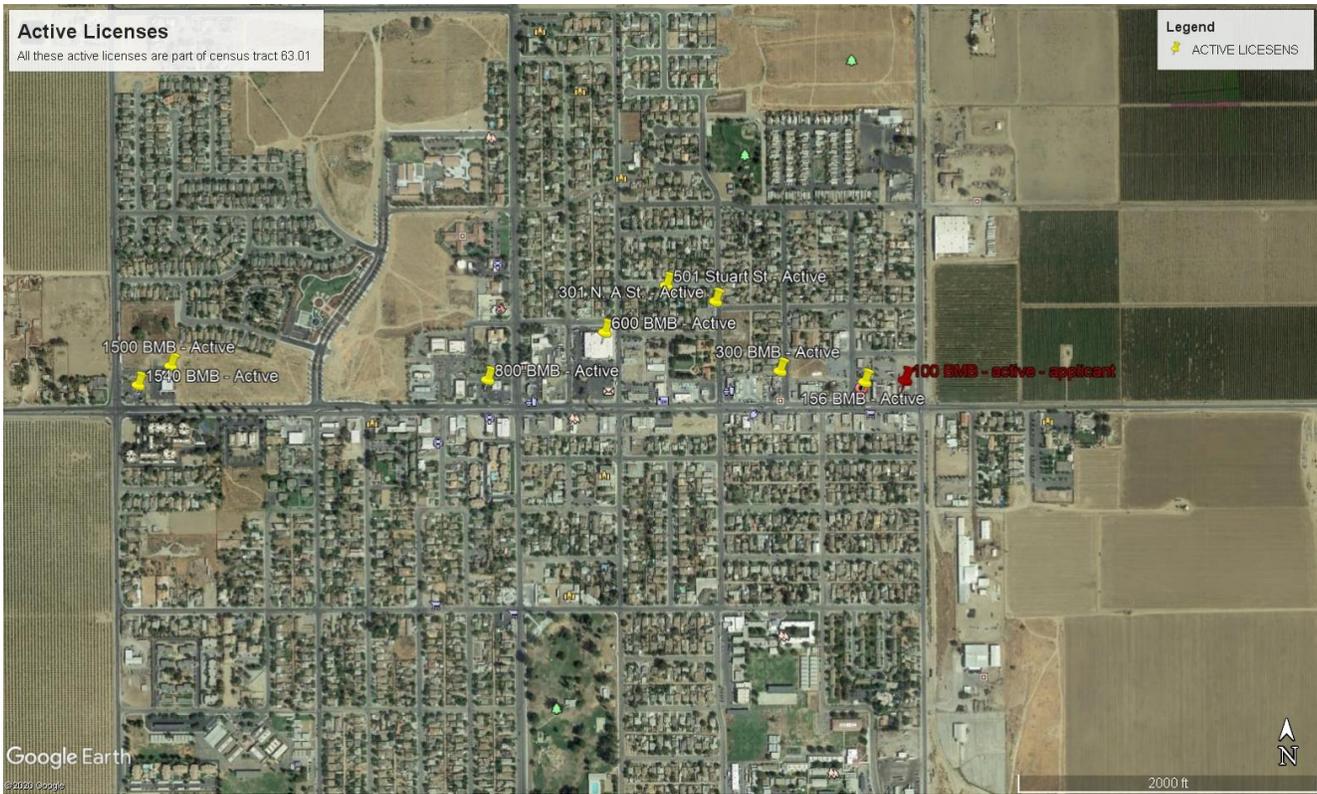
The City also has concerns regarding the current license the applicant holds. The applicant will surrender his current license but can re-activate this license in the future. In the future, the applicant can reactivate this license in a census tract that is saturated, and the City might not have the authority to regulate or comment on the reactivation of this license.

Staff has also asked the Police Department for their comments and there are some existing problems around this site that include homelessness, public drunkenness and crime related to the consumption of alcohol.

### ABC Licensee's in Census Tract 63.01

Location Address	Name	License Type	Status
501 Stuart St. Arvin CA	La Campanita Market	Type 20	Active
301 North A St. Arvin CA	Shorty's Market	Type 20	Active
600 Bear Mountain Blvd. Arvin CA	Vallarta Supermarket	Type 21	Active
1540 Bear Mountain Blvd. Arvin CA	7 Eleven Store	Type 20	Active
1500 Bear Mountain Blvd. Arvin CA	Dollar General	Type 20	Active
300 Bear Mountain Blvd. Arvin CA	H and S Chevron Food Mart Inc.	Type 21	Active
800 Bear Mountain Blvd. Arvin CA	Coates Family corporation	Type 20	Active
156 Bear Mountain Blvd. Arvin CA	Safe, Taguddin Mohamed	Type 20	Active
<b>100 Bear Mountain Blvd. Arvin CA</b>	<b>H and S. Chevron Food Mart Inc.</b>	<b>Type 21</b>	<b>Active</b>

### MAP OF CURRENT ACTIVE LICENSES



**ENVIRONMENTAL CONSIDERATIONS:**

California Environmental Quality Act: This action does not meet the project definition under the CEQA Guidelines.

**PUBLIC NOTIFICATION:**

The City properly noticed the August 18, 2020, public hearing before the Planning Commission for the Determination of Public Convenience and Necessity in accordance with Government Code §23958.4 of the California Business and Professions Statutes and pursuant to Government Code sections 65090 and 65091 by publication in the newspaper on August 7, 2020. A copy of the notice is attached to this staff report. In addition, the City Clerk provided notice of the proposed conditional use permit by mailing the public notice to all property owners within the 300-foot radius.

**ATTACHMENTS:**

1. Resolution Of The Planning Commission Of The City Of Arvin Recommending Denial Of A Public Convenience And Necessity For A Type 20 Off-Sale License At 100 Bear Mountain Blvd
2. Copy of Published Public Hearing Notice

**RESOLUTION NO. \_\_\_\_\_**

**A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF ARVIN  
RECOMMENDING DENIAL OF A PUBLIC CONVENIENCE AND NECESSITY  
FOR A TYPE 20 OFF-SALE LICENSE AT 100 BEAR MOUNTAIN BLVD. TO  
THE CITY COUNCIL OF THE CITY OF ARVIN**

**WHEREAS**, on June 6, 2020 an application for a Public Convenience and Necessity was filed by Hands S. Chevron Food Mart Inc (the “Applicant”) requesting a letter of Public Convenience and Necessity to allow a Type 20 Off-Sale (Beer and Wine) License in a census tract that has surpassed the number of allotted licenses in census tract 63.01.

**WHEREAS**, public notice for the public hearing was published in the (Newspaper on August 7, 2020 and notices were mailed to individual property owners within 300-feet of the project site 10 days prior to the public hearing, in accordance with section Division 2, Licensing Provisions, Chapter 3.4 California Child Day Care Act, Section 1597.46 (a minimum of 100-foot radius of the proposed Large Day Care Facility); and

**WHEREAS**, the Planning Commission opened the public hearing on August 18, 2020 and has received testimony and other evidence at the meeting; and

**WHEREAS**, after consideration of all evidence before it, the Planning Commission now desires to recommend the City Council find that the public convenience and necessity would not be served by granting an additional Type 20 Off-Sale License (Beer and Wine) for the census tract, or an additional license at a location that already has an existing license.

**NOW, THEREFORE, BE IT RESOLVED**, by the City of Arvin Planning Commission as follows:

1. The recitals and findings set forth above are true and correct and incorporated herein by this reference.
2. The Planning Commission finds that this matter is not a “project” for the purposes of the California Environmental Quality Act (CEQA) as it is merely a determination whether the public convenience and necessity would be served by the proposed transfer. Additionally, the property at 100 Bear Mountain already is already authorized to utilize a Type 21 Off-Sale License (Beer, Wine and Liquor), and there mere transfer of license ownership would 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 given the current environmentally baseline.
3. The Planning Commission recommends the City Council find the public convenience and necessity is not met in the present circumstances for reasons including the following:
  - a. No Substantial Evidence: The applicant currently holds a Type 21 Off-General Sale License that allows for the sale of liquor, beer, and wine at the same location.

The applicant has failed to submit substantial evidence demonstrating that public convenience and necessity warrant adding another license to this census tract, or another license at an identical location, nor is there any such evidence in the record.

- b. No Public Necessity: The grant of an additional license is not necessitated by a lack of licenses within the census tract. The license is proposed for 100 Bear Mountain Boulevard, in Arvin, California, which is located in census tract number 63.01. Based on its population, etc., that census tract would typically be allotted 3 licenses, which would normally be sufficient to meet the community needs. However, there are currently 9 existing licenses within the census tract, which is approximately 300% more than what is allotted for the census tract, and which is well in excess of what is needed to address community needs. Adding an additional license to census tract number 63.01 – at a location that already has an existing license – would further exacerbate overconcentration and is not needed or necessary.
- c. No Public Convenience: For the same reason as noted above, the public convenience would not be served. Additionally, the public can already obtain off-sale beer and wine from an existing license at this location. As such, the addition of yet another license in the census tract at a location that already provides identical services would not provide any additional public convenience.
- d. Public Nuisances: Census tract 63.01 is already overconcentrated, and adding another license will only exacerbate the risk of public nuisances include, public intoxication, public urination, litter, and related conditions, none of which serve the public convenience or necessity.

4. This resolution shall take effect immediately.

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**I HEREBY CERTIFY** that the foregoing Resolution was passed and adopted by the Planning Commission of the City of Arvin at a regular meeting thereof held on the 18<sup>th</sup> day of August 2020 by the following vote:

AYES: \_\_\_\_\_

NOES: \_\_\_\_\_

ABSTAIN: \_\_\_\_\_

ABSENT: \_\_\_\_\_

**ATTEST:**

\_\_\_\_\_  
**CECILIA VELA**, Secretary

**ARVIN PLANNING COMMISSION**

By: \_\_\_\_\_  
**GERARDO TINOCO**, Chairperson

I, \_\_\_\_\_, Secretary of the Planning Commission of the City of Arvin, California, DO HEREBY CERTIFY that the foregoing is a true and accurate copy of the Resolution passed and adopted by the Planning Commission of the City of Arvin on the date and by the vote indicated herein.

## NOTICE OF PUBLIC HEARING

### **Finding of Public Convenience/Necessity for a Type 20 Off-Sale (Beer & Wine) General License For 100 Bear Mountain Blvd., Arvin, CA**

Notice is hereby given that the Planning Commission of the City of Arvin, California, will conduct a public hearing, at which time you may be heard to consider the following:

- Adoption of a Resolution Recommending the City Council Adopt a Resolution of the City Council of the City of Arvin, making the findings for a public convenience/necessity for a Type 20 Off-Sale (Beer & Wine) General License located at 100 Bear Mountain Blvd, Arvin CA 93203.

#### **Arvin Planning Commission Public Hearing Information**

**Date:** August 18, 2020

**Time:** 6:00 PM

**Place:** City of Arvin Council Chambers (via teleconference/web)  
200 Campus Drive, Arvin, CA 93203

**Call In Number:** 1-669-900-9128; Access Code 814 7122 3031#

**Join on-line:** <https://us02web.zoom.us/j/81471223031>

Notice is further given that the City Council of the City of Arvin, California, will conduct a public hearing, at which time you may be heard to consider the following:

- Adoption of a Resolution Recommending the City Council Adopt an Uncodified Ordinance of the City Council of the City of Arvin, making the findings for a public convenience/necessity for a Type 20 Off-Sale (Beer & Wine) General License located at 100 Bear Mountain Blvd, Arvin CA 93203.

#### **Arvin City Council Public Hearing Information**

**Date:** August 25, 2020

**Time:** 6:00 PM

**Place:** City of Arvin Council Chambers (via teleconference/web)  
200 Campus Drive, Arvin, CA 93203

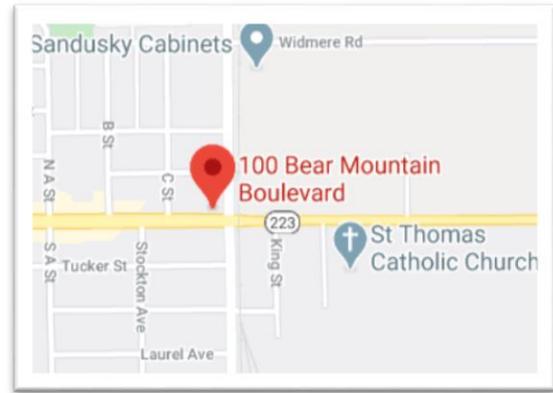
**Call In Number:** 1-669-900-9128; Access Code 814 7122 3031#

**Join on-line:** <https://us02web.zoom.us/j/81471223031>

**COVID-19 NOTE:** These meetings will held by telephone consistent with the Governor's Executive Order N-25-20 and N-29-20 issued on March 18, 2020. The purpose of this is to provide a safe environment for staff and the public to conduct City business, while allowing

for public participation. These meetings will be held by teleconference only unless the emergency has been lifted before the meeting date. Members of the public are encouraged to participate by phone or email at [cvela@arvin.org](mailto:cvela@arvin.org) or by submitting written comments at City Hall prior to the hearing. At least 72 hours before each meeting the Agenda will be posted at <https://www.arvin.org/government/clerk/meeting-agendas-minutes/documents-page/>. Please check the Agenda for additional ways to participate in this matter.

**Description of the Project:** The purpose of the public hearings is to consider of a public convenience/necessity for a Type 20 Off-Sale General License (Beer & Wine). The applicant is seeking to obtain a Type 20 Off-Sale General License form the California Department of Alcoholic Beverage Control, however County of Kern in a moratorium and in order for an excess of Alcoholic licenses to be approve the applicant must show proof a public convenience/necessity.



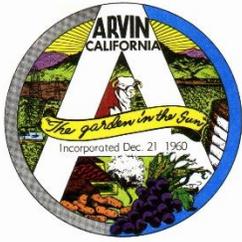
Applicant:	H and S Chevron Food Mart Inc.
Project Address:	100 Bear Mountain Blvd, Arvin, CA 93203 (Northwestern corner of Tejon Highway and East Bear Mountain Blvd.)
Assessor Parcel No.	190-142-04 .29 acres
Zoning:	C-2, Commercial Zone
General Plan Land Use Designation	General Commercial

This finding is not a “project” for the purposes of the California Environmental Quality Act (CEQA) Guidelines section 15378. There is currently an approved Type 21 Off-Sale license already approved and in use for the property.

Additional information on the proposed project may be obtained from the City from the City of Arvin, City Hall, 200 Campus Drive, Arvin, California, 93203, or the City’s web site at [www.arvin.org](http://www.arvin.org).

All persons interested in this topic who have questions, would like to provide feedback, or who have comments are invited to attend. If you challenge the approval or denial of these matters in court, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice, or in written correspondence delivered to the City Clerk, at or prior to, the public hearing. Address any communications or comments regarding the project to Cecilia Vela, City Clerk, at 200 Campus Drive, Arvin, CA 93203, (661) 854-3134, [cvela@arvin.org](mailto:cvela@arvin.org).

Cecilia Vela, City Clerk  
 Published: August 07, 2020, Bakersfield Californian



**CITY OF ARVIN  
Planning Commission**

**Meeting Date: August 18, 2020**

**TO:** Arvin Planning Commission Members

**FROM:** Mitzy Cuxum, Senior Planner  
R. Jerry Breckinridge, City Manager

**SUBJECT:** Conditional Use Permit 2020-CUP1416VerdeCourt for a Child Care Facility located at 1416 Verde Court, Arvin CA 93203 APN: 189-523-05– Arrellano De Contreras Family Child Care up to 14 children.

**RECOMMENDATION:**

Staff recommends that the Planning Commission approve the attached Resolution for a Conditional Use Permit (2020-CUP1416VerdeCourt) for a childcare facility in a residential neighborhood.

**APPLICANT AND LOCATION:**

Applicant:	Maria Cristina Contreras
Project Address:	1416 Verde Court, Arvin, CA 93203
Assessor Parcel No.	189-523-05
Zoning:	R-1 Single Family Dwelling Zone
General Plan Land Use Designation	Low Density Residential

**BACKGROUND:**

The applicant is seeking approval of a Conditional Use Permit to establish a childcare facility. The Department of California Social Services classifies the facility as "large family day care" which allows no more than 14 children in the license facility.

The applicant wishes to use their existing residence located at 1416 Verde Court Arvin CA 93203.

The proposed project is the establishment of a large day care facility which may be 9 to 14 children located at 1416 La Mesa Court. The applicant has provided all the required documentation to process their application along with the resident layout. Additionally, the applicant has already obtained the necessary license from the Department of California Social Services. This agency is in charge of regulating in home childcare facilities and have the authority to deem them suitable or not suitable.

#### **CONDITIONS OF APPROVAL:**

If the Planning Commission wishes to approve the Conditional Use permit the applicant will be subject to condition of approval to minimize any potential disturbance to adjacent neighbors. The conditions will require the applicant apply and receive a City Business Licenses as well approval from the State of California Department of Social Services. The applicant will also be required to comply with the Public, Peace, Morals and Welfare of the Zoning Ordinance. Specifically, noise abatement, to minimize the disturbance to the adjacent neighbors.

The City is not anticipating any issues with the off-loading of children as the applicant will be mainly using their private driveway for these activities. However, should they need additional space the applicant has access to street parking spaces located in front of their residency.

#### **ENVIRONMENTAL CONSIDERATIONS:**

The City performed a preliminary environmental assessment pursuant to the requirements of the California Environmental Quality Act (California Public Resources Code section 21000, et seq.) and the Guidelines thereunder (14 California Code of Regulations section 15000, et seq.) (collectively, "CEQA"), and determined the CUP is exempt from environmental review as a Large Family Day Care Home per Health and Safety Code Section 1597.45(c). The project will use existing facilities and will be subject to the restrictions of the Arvin Municipal Code for operations, including noise, etc.

#### **PUBLIC NOTIFICATION:**

The City properly noticed the August 18, 2020, public hearing before the Planning Commission for the Conditional Use Permit (2020-CUP1416VerdeCourt) pursuant to Government Code sections 65090 and 65091 by publication in the newspaper on August 3, 2020. A copy of the notice is attached to this staff report. In addition, the City Clerk provided notice of the proposed conditional use permit by mailing the public notice to all property owners within the 300-foot radius.

#### **ATTACHMENTS:**

1. Resolution Of The Planning Commission Of The City Of Arvin Approving Conditional Use Permit 2020-Cup1416verdecourt, Located At 1416 Verde Court Arvin Ca 93203, Arellano De Contreras Family Child Care (Large Day Care Facility)
2. Copy of Published Public Hearing Notice

**RESOLUTION NO. \_\_\_\_\_**

**A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF ARVIN APPROVING CONDITIONAL USE PERMIT 2020-CUP1416VERDECOURT, LOCATED AT 1416 VERDE COURT ARVIN CA 93203, ARELLANO DE CONTRERAS FAMILY CHILD CARE (LARGE DAY CARE FACILITY)**

**WHEREAS**, applicant Maria Cristina Contreras has submitted an application for a Conditional Use Permit 2020-CUP1416VerdeCourt (“CUP”) to establish a licensed child care facility of up to 14 children at an existing residence located at 1416 Verde Court Arvin CA 93203; and

**WHEREAS**, the City performed a preliminary environmental assessment pursuant to the requirements of the California Environmental Quality Act (California Public Resources Code section 21000, et seq.) and the Guidelines thereunder (14 California Code of Regulations section 15000, et seq.) (collectively, “CEQA”), and determined the CUP is exempt from environmental review as a Large Family Day Care Home per Health and Safety Code Section 1597.45(c); and

**WHEREAS**, public notice for the public hearing was published in the (Newspaper on August 3, 2020 and notices were mailed to individual property owners within 300-feet of the project site 10 days prior to the public hearing, in accordance Health and Safety Code Section 1597.46 and the City’s Municipal Code; and

**WHEREAS**, the Planning Commission opened the public hearing on August 18, 2020 and has received testimony and other evidence at the meeting; and

**WHEREAS**, the Planning Commission now desires to approve the CUP with conditions.

**NOW, THEREFORE, BE IT RESOLVED**, by the City of Arvin Planning Commission as follows:

1. Recitals. The recitals and findings set forth above are true and correct and incorporated herein by this reference.
2. CEQA. The Planning Commission finds that per Health and Safety Code Section 1597.45(c) this project is exempt from environmental review under CEQA as it is for a Large Family Day Care Home.
3. Findings Regarding CUP. The Planning Commission finds as follows:
  - a. The use proposed by Conditional Use Permit is consistent with the City of Arvin’s General Plan and zoned district designation.

Basis for finding: General Plan land use designation for the property is Low Density Residential. The zoning of R-1 Single Family Dwelling Zone is consistent with the General Plan land use designation. Per Arvin Municipal Code section 17.56.030 (Permitted use), day nurseries and nursery schools (including day cares) are allowed in any zone. As such,

the CUP is consistent with the General Plan and zoned district designation.

- b. The use proposed by Conditional Use Permit is consistent with the City of Arvin’s Municipal Code.

Basis for finding: As noted above, per Arvin Municipal Code section 17.56.030 (Permitted use), day nurseries and nursery schools (including day cares) are allowed in any zone. As such, the CUP is consistent with the City’s Municipal Code as conditioned.

- c. The use proposed is not detrimental to the health, safety, peace, morals, comfort or general welfare of persons residing or working in the neighborhood.

Basis for finding: The use proposed CUP does not significantly intensify use of the site above that anticipated by the Municipal Code. The proposed use does not alter vehicular ingress, egress, and internal circulation; height of buildings; or outdoor lighting. While certain modifications will be required in order to provide services as a day care facility, the use will not have a substantial adverse effect on adjoining properties. In addition, the use of the site will require compliance with the Arvin Municipal Code (including noise and nuisance restrictions) and conditions of approval as noted in Exhibit “A.” As such, with the imposed conditions the proposed use will not be detrimental to the health, safety, peace, morals, comfort or general welfare of persons residing or working the neighborhood.

- d. The CUP is in compliance with all applicable laws and ordinances.

Basis for finding: As noted above, the proposed use is in compliance with the General Plan and the Arvin Municipal Code (including the zoning ordinance). Additionally, the use will be required to obtain a permit with the State of California, Department of Social Services, and comply with the California Child Day Care Act. As such, the CUP is in compliance with all applicable laws and ordinance.

4. Approval of CUP. The Planning Commission approves Conditional Use Permit 2020-CUP1416VerdeCourt subject to the conditions and requirements attached hereto as Exhibit “A.”

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**I HEREBY CERTIFY** that the foregoing Resolution was passed and adopted by the Planning Commission of the City of Arvin at a regular meeting thereof held on the 18<sup>th</sup> day of August 2020 by the following vote:

AYES: \_\_\_\_\_

NOES: \_\_\_\_\_

ABSTAIN: \_\_\_\_\_

ABSENT: \_\_\_\_\_

ATTEST:

\_\_\_\_\_  
**CECILIA VELA**, Secretary

**ARVIN PLANNING COMMISSION**

By: \_\_\_\_\_  
**GERARDO TINOCO**, Chairperson

I, \_\_\_\_\_, Secretary of the Planning Commission of the City of Arvin, California, DO HEREBY CERTIFY that the foregoing is a true and accurate copy of the Resolution passed and adopted by the Planning Commission of the City of Arvin on the date and by the vote indicated herein.

**EXHIBIT A**

**CITY OF ARVIN**  
**COMMUNITY DEVELOPMENT DEPARTMENT**  
**CONDITIONS OF APPROVAL**  
AUGUST 18, 2020  
**CONDITIONAL USE PERMIT No. 2020-CUP1416VERDECOURT**

**NOTICE TO PROJECT APPLICANT**

In accordance with the provisions of Government Code Section 66020(d)(1), the imposition of fees, dedication, reservations or exactions for this project are subject to protest by the project applicant at the time of approval or conditional approval of the development or within 90 days after the date of imposition of fees, dedications, reservation, or exactions imposed on the development project.

This notice does not apply to those fees, dedications, reservations, or exactions which were previously imposed and duly noticed; or, where no notice was previously required under the provisions of Government Code Section 66020(d)(1) in effect before January 1, 1997.

**PART A - PROJECT INFORMATION**

Applicant:	Maria Cristina Contreras
Project Address:	1416 Verde Court, Arvin, CA 93434
Assessor Parcel No.	189-523-05
Zoning:	R-1 Single Family Dwelling Zone
General Plan Land Use Designation:	Low Density Residential
Project Description:	Licensed child care facility (no more than 14 children)

**PART B – GENERAL CONDITIONS AND REQUIREMENTS**

**IMPORTANT: PLEASE READ CAREFULLY**

Please note that this project is subject to a variety of discretionary conditions of approval. These include conditions based on adopted City plans and policies, those determined through conditional use permit review and environmental assessment essential to mitigate adverse effects on the environment including the health, safety, and welfare of the community, and recommended conditions for development that are not essential to health, safety, and welfare, but would on the whole enhance the project and its relationship

to the neighborhood and environment.

Discretionary conditions of approval may be appealed. All code requirements, however, are mandatory and may only be modified by variance, provided the findings can be made.

All discretionary conditions of approval will ultimately be deemed mandatory unless timely appealed. The granting, either with or without conditions, or the denial of the conditional use permit by the Planning Commission shall be final unless within fifteen (15) days after the decision by the Planning Commission, or ten (10) days after the mailing of the required notices, whichever date is later, the applicant, or any other person aggrieved, appeals therefrom in writing to the City Council by presenting such appeal to the City Clerk. In the event you wish to appeal the Planning Commission's decision or discretionary conditions of approval, you may do so by filing a written appeal with the City Clerk as required by Arvin Municipal Code section 17.54.130. The appeal should state the grounds for the appeal and wherein the Commission failed to conform to the requirements of the zoning ordinance. This should include identification of the decision or action appealed and specific reasons why you believe the decision or action appealed should not be upheld.

Approval of this conditional use permit shall be considered null and void in the event of failure by the applicant and/or the authorized representative, architect, engineer, or designer to disclose and delineate all facts and information relating to the subject property and the proposed development.

Approval of this use permit may become null and void in the event that development is not completed in accordance with all the conditions and requirements imposed on this use permit, the zoning ordinance, and all City standards and specifications. This use permit is granted, and the conditions imposed, based upon the application submittal provided by the applicant, including any operational statement. The application is material to the issuance of this use permit. Unless the conditions of approval specifically require operation inconsistent with the application, a new or revised use permit is required if the operation of this establishment changes or becomes inconsistent with the application. Failure to operate in accordance with the conditions and requirements imposed may result in revocation of the use permit or any other enforcement remedy available under the law. The City shall not assume responsibility for any deletions or omissions resulting from the use permit review process or for additions or alterations to any construction or building plans not specifically submitted and reviewed and approved pursuant to this use permit or subsequent amendments or revisions. These conditions are conditions imposed solely upon the use permit, and are not conditions imposed on the City or any third party. Likewise, imposition of conditions to ensure compliance with federal, state, or local laws and regulations does not preclude any other type of compliance enforcement.

These conditions are applicable to any person or entity making use of this use permit, and references to "developer" or "applicant" herein also include any applicant, property owner, owner, leasee, operator, or any other person or entity making use of this use permit.

### **PART C – SPECIFIC CONDITIONS AND REQUIREMENTS**

The applicant shall comply with the following conditions:

1. Prior to operation, the applicant shall secure and maintain a business license from the City of Arvin at all times.
2. Prior to obtaining a business license the applicant shall submit to the City of Arvin a permit from the State of California, Department of Social Services, specifically a license indicating that up to 14 children are permitted at the project location. Applicant shall not operate unless such license is in effect.

3. Prior to commencing operations, the facility must receive clearance and approvals from the Kern County Fire Department. The use shall remain in compliance with the Title 24 of the California Administrative Code/Fire Code at all times.
4. All uses must comply with local, State, and federal laws, including the California Child Day Care Act. This includes:
  - a. Smoking of tobacco shall be prohibited during the hours of operation as a family day care home and in those areas of the family day care home where children are present. The smoking of tobacco on the premises of a licensed day care center shall be prohibited per the California Child Day Care Act, Health and Safety Code Sections 1596.795(a) and (b).
  - b. The applicant shall provide a 30-day written notice to the landlord or owner of the rental property prior to the commencement of operation of the family day care home, and any other notice that may be required by the California Child Day Care Act, including Health and Safety Codes Section 1597.40(d)(1).
  - c. The use shall at all times comply with the City's noise ordinance and shall not constitute a nuisance. Organized outdoor play activities are limited to the hours of 7:00 a.m. through 9:00 p.m.
5. The applicant shall commence use under the conditional use permit within one year of the final approval of the permit by the City.
6. This CUP shall run with the land and may only be used at the project location. The CUP may not be transferred to a different location.
7. The applicant shall sign the Applicant's Acknowledgement, below, and return it to the Community Development Department within 30 days of the decision of approval of the use permit becoming final.

**All discretionary condition of approval will ultimately be deemed mandatory unless timely appealed in writing to the City Clerk.**

**APPLICANT'S ACKNOWLEDGMENT**

I have read, understand, and accept the conditions of approval set forth herein above in this resolution of approval for Conditional Use Permit 2020-CUP1416VerdeCourt.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Maria Cristina Contreras, Applicant/Owner

## NOTICE OF PUBLIC HEARING

### Conditional Use Permit No. 2020-1416Verde Court, and Related CEQA Determination for Family Child Care Facility at 1416 Verde Court, Arvin (Arellano Contreras Family Child Care)

Notice is hereby given that the Planning Commission of the City of Arvin, California, will conduct a public hearing, at which time you may be heard to consider the following:

- Adoption of a Resolution Approving Conditional Use Permit No. 2020-CUP 1416Verde Court for Family Child Care Facility at 1416 Verde Court, Arvin, CA, including the adoption of an exemption pursuant California Environmental Quality Act Guidelines Sections 15061(b)(3).

#### **Arvin Planning Commission Public Hearing Information**

**Date:** August 18, 2020

**Time:** 6:00 PM

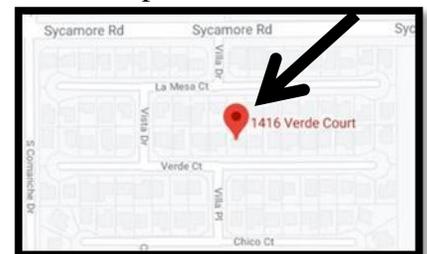
**Place:** City of Arvin Council Chambers (via teleconference/web)  
200 Campus Drive, Arvin, CA 93203

**Call In Number:** 1-669-900-9128; Access Code 814 7122 3031#

**Join on-line:** <https://us02web.zoom.us/j/81471223031>

**COVID-19 NOTE:** These meetings will be held by telephone consistent with the Governor's Executive Order N-25-20 and N-29-20 issued on March 18, 2020. The purpose of this is to provide a safe environment for staff and the public to conduct City business, while allowing for public participation. These meetings will be held by teleconference only unless the emergency has been lifted before the meeting date. Members of the public are encouraged to participate by phone or email at [cvela@arvin.org](mailto:cvela@arvin.org) or by submitting written comments at City Hall prior to the hearing. At least 72 hours before the meeting the Agenda will be posted at <https://www.arvin.org/government/clerk/meeting-agendas-minutes/documents-page/>. Please check the Agenda for additional ways to participate in this matter.

**Description of the Project:** The purpose of the public hearing is to consider approval of approval of a Conditional Use Permit (CUP) and associated environmental determination under the California Environmental Quality Act (CEQA). The entitlements would allow for the residential site to operate as child care facility during the day and to have up to 14 children at any given time on the site. The applicant has obtained from the State of California Department of Social Services, License No. 157700036



Applicant:	Maria Cristina Contreras
Project Address:	1416 Verde Court, Arvin, CA 93203
Assessor Parcel No.	189-523-05
Zoning:	R-1 Single Family Dwelling Zone
General Plan Land Use Designation	Low Density Residential

The City has performed a preliminary assessment of this project and, pursuant to the California Environmental Quality Act (CEQA) Guidelines section 15061(b)(3), proposes to determine with certainty that there is no possibility this project will have a significant effect on the environment.

Additional information on the proposed project and proposed environmental finding may be obtained from the City from the City of Arvin, City Hall, 200 Campus Drive, Arvin, California, 93203, or the City's web site at [www.arvin.org](http://www.arvin.org).

All persons interested in this topic who have questions, would like to provide feedback, or who have comments are invited to attend. If you challenge the approval or denial of these matters in court, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice, or in written correspondence delivered to the City Clerk, at or prior to, the public hearing. Address any communications or comments regarding the project to Cecilia Vela, City Clerk, at 200 Campus Drive, Arvin, CA 93203, (661) 854-3134, [cvela@arvin.org](mailto:cvela@arvin.org).

Cecilia Vela, City Clerk  
 Published: August 03, 2020, Bakersfield Californian