

Capitola Planning Commission

Agenda Report



Meeting: October 3, 2024

From: Community Development Department

Address: 1210 41st Avenue

Project Description: Application #24-0154 A request to modify the Conditional Use Permit for a grocery store to add offsite sales of distilled spirits. The existing Conditional Use Permit allows offsite sales of beer and wine only. The property is zoned C-C (Community Commercial).

Recommended Action: Staff recommends the Planning Commission approve application #24-0154 based on the Conditions and Findings of Approval.

Property Owner: 41st Avenue, LLC

Representative: Steve Rawlings for Grocery Outlet, Filed: 07.24.2024

Background: City records show that the New Leaf Community Market has continuously operated in the Begonia Plaza Shopping Center at 1210 41st Avenue since the early 1990s.

The California Department of Alcoholic Beverage Control (ABC) records show that New Leaf has had a Type 20 license since 1993. A Type 20 license allows the retail offsite sale of beer and wine.

New Leaf Community Market is in the process of a relocation from 1210 41st Avenue to the former Lucky Supermarket location at Kings Plaza Shopping Center. Grocery Outlet is in the process of establishing occupancy at the 1210 41st Avenue location after New Leaf relocates.

On July 24, 2024, the applicant applied on behalf of Grocery Outlet to modify the Conditional Use Permit (CUP) and obtain a Type 21 license from ABC to add the sale of distilled spirits along with beer and wine for offsite consumption.

Discussion: The existing structure at 1210 41st Avenue is a one-story commercial building with one tenant space. The building is 15,615 square feet. The Begonia Plaza has three buildings. The subject building is the largest tenant space and the only building that is used by a single tenant. The two other buildings have multiple, smaller tenants and include a mix of restaurant, retail, medical, and personal service uses. The Plaza has two vehicular driveways that access 41st Avenue.

Conditional Use Permit

Pursuant to 17.124.060, when evaluating a CUP, the Planning Commission must consider the following characteristics of the proposed use:

- A. Operating characteristics (hours of operation, traffic generation, lighting, noise, odor, dust, and other external impacts).
- B. Availability of adequate public services and infrastructure.
- C. Potential impacts to the natural environment.
- D. Physical suitability of the subject site for the proposed use in terms of design, location, operating characteristics, shape, size, topography.

And, pursuant to 17.124.070, the Planning Commission must make the following findings when approving a CUP:

- A. The proposed use is allowed in the applicable zoning district.
- B. The proposed use is consistent with the general plan, local coastal program, zoning code, and any applicable specific plan or area plan adopted by the city council.
- C. The location, size, design, and operating characteristics of the proposed use will be compatible with the existing and planned land uses in the vicinity of the property.
- D. The proposed use will not be detrimental to the public health, safety, and welfare.
- E. The proposed use is properly located within the city and adequately served by existing or planned services and infrastructure.

In issuing a conditional use permit, the Commission may attach conditions to achieve consistency with the general plan, zoning code, and any applicable specific plan or area plan adopted by the City Council.

Police Department Review

Captain Ryan reviewed the application and had no comments.

Parking

The Begonia Plaza has a total of 162 striped parking spaces. The proposed change in alcohol sales has no impact to parking demand.

Signs

No signs are proposed with this application. The Begonia Plaza has a Master Sign Program on file with the city. Any new signs for Grocery Outlet will need to comply with the Master Sign program and follow the applicable permit process.

Prior Complaints

Planning staff received a complaint from nearby residents that there is an unsecured yard area where loitering and disturbances have occurred at the north side of the building. The applicant has agreed to install a section of six-foot-tall fence or wall to secure the area (condition #2).

Planning staff has also received numerous complaints over the years about early trash pickup by Green Waste and noise from an onsite trash compactor. Franchise trash haulers are exempt from the Noise Ordinance pursuant to section 9.12.080. Regardless, staff has communicated the issue to Green Waste management. Green Waste has reportedly rerouted this pickup to after 8 am. Additionally, staff has included a condition to limit the hours of use of the compactor to between 8 am – 6 pm (condition #17).

CEQA

The project is categorically exempt under Section 15301 of the California Environmental Quality Act and is not subject to Section 753.5 of Title 14 of the California Code of Regulations. The proposed project involves minor changes to operations and amending a conditional use permit within an existing commercial space. No adverse environmental impacts were discovered during project review by either Planning Department Staff or the Planning Commission.

CONDITIONS OF APPROVAL

1. The project approval consists of a Conditional Use Permit modification to allow the Grocery Outlet grocery store at 1210 41st Avenue to offer distilled spirits for retail sale and offsite consumption. The proposed project is approved as reviewed and approved by the Planning Commission on October 3, 2024, except as modified through conditions imposed by the Planning Commission during the hearing.
2. The applicant shall install a six-foot tall fence, wall, or gate to secure the side yard area at the north side of the building, prior to opening the Grocery Outlet.

Conditional Use Permit Conditions

3. The outdoor display area is located at the south-west entrance of the building. The operator may utilize a 56 square foot area for outdoor display. The area must be clearly delineated to identify the area permitted within the conditional use permit for outdoor display. No goods or materials utilized for the display may be located outside the delineated area. The area may only be expanded with the approval of a modification to the CUP by the Planning Commission.
4. The outdoor display merchandise shall only be the merchandise of the grocery store tenant. The outdoor display area shall be managed and operated by the grocery store tenant. The outdoor display conditional use permit is not transferable for use by other properties or businesses.
5. All outdoor display merchandise shall only be displayed during business hours.
6. The outdoor display shall not obstruct pedestrian, bicycle, vehicular, or emergency services access and shall maintain four (4) feet of unobstructed access provided, however, that the width of the clear area shall in all events meet all applicable state and federal regulations and building codes, including all barrier-free and ADA requirements.
7. Outdoor vending machines and drop boxes or donation bins shall be prohibited.
8. The outdoor displays shall not contain any information which would routinely be placed on a business sign located on the building such as the name or type of business, hours of business operation, business logo, brand name information, etc. The outdoor display may include a sign which indicates the price of the display item(s) or simply indicates a "sale" on the item(s) limited to 8.5" x 11".
9. All outdoor displays and outdoor seating shall be continuously maintained in a state of order, security, safety and repair. The display surface shall be kept clean, neatly painted, and free of rust, corrosion, protruding tacks, nails and/or wires. Any cracked, broken surfaces, or other unmaintained or damaged portion of a display shall be repaired or replaced or removed within thirty (30) days. No display shall contain obscene, indecent or immoral matter.
10. The outdoor displays must be self-supporting, stable and weighted or constructed to withstand being overturned by wind or contact. The display shall not be permanently affixed to any object, structure or the ground including utility poles, light poles, trees or any merchandise or products displayed outside permanent buildings.
11. The outdoor dining seating area is quasi-public and available for use by patrons of the Begonia Shopping Plaza.
12. No amplified entertainment is approved within this permit. An Entertainment Permit is required for any music or entertainment that is audible outside of the structure. An Entertainment Permit may be applied for through the Capitola Police Department.
13. The applicant is responsible for maintaining the area directly in front of the business free from litter and/or graffiti.
14. The application shall be reviewed by the Planning Commission upon evidence of non-compliance with conditions of approval or applicable municipal code provisions.
15. The applicant shall maintain a current business license while operating the business.

16. Hours for deliveries to the store shall be limited to 8:00 A.M. – 8:00 P.M. Monday through Friday, to minimize noise impacts to neighboring residents. Delivery vehicles shall not be permitted to remain at idle during non-delivery hours.
17. Trash enclosures shall be gated and maintained to provide a clean and sanitary area. Use of the compactor shall be limited to the hours of 8:00 A.M. – 6:00 P.M.
18. No roof equipment is to be visible to the general public. Any necessary roof screening is to match the color of the building as closely as possible. Plans for any necessary screening shall be submitted to the Community Development Department prior to, or in conjunction with the building permit submittal.
19. The applicant shall comply with the Municipal Code Section 8.36 Environmentally Acceptable Packaging Materials.

Findings

- A. The proposed use is allowed in the applicable zoning district.**
Sales of alcohol is permitted through a conditional use permit in the C-C zoning district.
- B. The proposed use is consistent with the general plan, local coastal program, zoning code, and any applicable specific plan or area plan adopted by the city council.**
A retail grocery store with alcohol sales, as conditioned, is consistent with the Zoning Ordinance, General Plan, and Local Coastal Plan.
- C. The location, size, design, and operating characteristics of the proposed use will be compatible with the existing and planned land uses in the vicinity of the property.**
1210 41st Avenue is located in the 41st Avenue Commercial District, an area capable of handling larger vehicular volume, has plentiful parking, and suburban commercial developments that serve a variety of eating and drinking establishments and larger scale retail spaces. Allowing expanded alcohol sales within an existing grocery store building is compatible with existing and planned uses.
- D. The proposed use will not be detrimental to the public health, safety, and welfare.**
Sales of alcohol by Grocery Outlet will not be detrimental to the public health, safety, and welfare. Similar services are currently operating in Capitola and surrounding communities.
- E. The proposed use is properly located within the city and adequately served by existing or planned services and infrastructure.**
1210 41st Avenue is properly located within the 41st Avenue Commercial District area and adequately served by services and infrastructure.
- F. This project is categorically exempt under Section 15301 of the California Environmental Quality Act and is subject to Section 753.5 of Title 14 of the California Code of Regulations.**
Section 15301 of the CEQA Guidelines exempts the operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing public or private structures, facilities, mechanical equipment, or topographical features, involving negligible or no expansion of use beyond that existing at the time of the lead agency's determination. This project involves a minor modification to the items offered for retail sales. No adverse environmental impacts were discovered during review of the proposed project.

Attachments:

1. Tenant Space Floor Plan
2. Operational Statement – Grocery Outlet

Report Prepared By: Brian Froelich, Senior Planner

Reviewed By: Rosie Wyatt, Acting Deputy City Clerk

Approved By: Katie Herlihy, Community Development Director