

Capitola Planning Commission

Agenda Report



Meeting: July 20, 2023

From: Community Development Department

Subject: 103 Kennedy Drive

Permit Number: 22-0376

APN: 036-551-08

Design Permit and Conditional Use Permit Amendment to convert parking spaces to an outdoor tasting area, bike parking, and mobile food vending more than four times per year.

The project is not located within the Coastal Zone.

Environmental Determination: Categorically Exempt 15332

Property Owner: John McCoy

Representative: Adair Paterno, Filed: 08.31.2022

Applicant Proposal:

The applicant is requesting a Conditional Use Permit (CUP) Amendment for a permanent outdoor tasting area and mobile food vending at 103 Kennedy Avenue in the I (Industrial) zoning district. The applicant's business, Sante Adairius Brewery, occupies the entire building at 103 Kennedy Drive, but shares the underlying lot with the building at 200 Kennedy Drive. The Conditional Use Permit applies to both addresses.

Background:

On February 10, 2011, the City Council approved a Conditional Use Permit for a small winery, microbrewery, and bakery at the subject property. Sante Adairius was the microbrewery and has since acquired the tenant spaces of the other specialty manufacturers. The approval specifically allowed for retail sales and consumption of food and beverages on the property for tasting. Conditions of approval prohibited meal service and outdoor seating.

On April 28, 2016, the City Council approved an Encroachment Permit for Sante Adairius to widen two portions of the Kennedy Drive shoulder to provide 16 on-street parking. This effort was in response to parking demand that existed at the time because of the brewery's initial rapid growth and success. Sante Adairius now has other locations in the county that serve customers and demand at the Capitola location has reportedly stabilized. There are no open or recent complaints about parking in the immediate area.

Analysis:

The applicant is proposing an outdoor tasting area located within six parking spaces on private property within the Industrial zoning district. This request requires an amendment to the existing conditional use permit. The City's Outdoor Dining Program is only applicable to dining within the right-of-way and limited to the Mixed-Use Village zoning district; therefore, the proposed outdoor tasting area is not subject to the street and sidewalk dining standards. Additionally, since the location is on private property, an Encroachment Permit is not required. Project review and code analysis is oriented toward operational practices, review of parking compliance, Design Review

for the new structures associated with the outdoor use area and amending the existing Conditional Use Permit.

Mobile Food Vending

Table 17.24-1 in Capitola Municipal Code (CMC) §17.24.020 – Land use regulations, indicates that mobile food vending may be permitted under an administrative temporary use permit or a discretionary conditional use permit.

CMC §17.96.180(C)(6) allows mobile food vendors to operate in one location four times or less per year with an administrative temporary use permit. This section also notes that mobile food vendors in one location more than four times per year require a conditional use permit.

The applicant is applying for a Conditional Use Permit to allow mobile food vending on the subject property more than four times per year. The applicant submitted a management plan that includes information related to the operation and management plan (Attachment 2). The Planning Commission may consider the information in relation to the considerations as outlined in the analysis below and include conditions of approval. A site plan indicating the proposed areas for mobile food vending is included as Attachment 1. The primary location is at the end of the drive aisle in front of the trash enclosure.

The applicant is proposing a CUP Amendment to allow mobile food vendors to operate up to seven days a week from 12 p.m. to 8 p.m. The mobile food vending at this location is expected to be primarily internally facing, meaning that it will operate as an additional offering to customers visiting the brewery for tasting. It will also be operated entirely on private property and overseen directly by permanent staff that can manage trash, noise, and issues that may arise. The applicant's management plan satisfactorily addresses potential impacts (Attachment #2).

Special Events

The existing conditional use permit limits hours from 7:30 a.m. to 8 p.m. The applicant is requesting the ability to stay open until 10 p.m. up to six times per year for special events. The request is consistent with outdoor dining standards in the Mixed-Use Village which allows operation between the hours of 7 a.m. and 10 p.m. Planning staff is recommending that special events be restricted to Friday and Saturday to prevent midweek noise impacts on the adjacent residential mobile home park (Condition #13).

Outdoor Tasting

The primary request for this application is to amend the CUP to allow the temporary Covid-19 outdoor tasting area to become a permanent part of the operation. The proposal not only removes parking spaces but replaces parking with a use that requires parking. Since the original CUP in 2011, much of the retail space from the previous specialty manufacturers has converted to custom manufacturing space for the brewery, which has a lower parking requirement. The applicant and Planning staff worked to breakdown the various functions of the property to assess parking demand and concluded that the proposal is compliant with required parking standards:

Use	Square Feet	Ratio	Required Parking Spaces
Tasting	1,374	1:60	23
Warehousing	4,800	1:1,500	3
Custom Manufacturing	7,702	1:2,000	4
Total Required			30
Onsite Parking			30

*Parking Ratios from CMC table 17.76-2.

The property provides 30 total parking spaces, and the proposal requires 30. As mentioned previously, the applicant also worked directly with the City in 2016 and improved 16 off-site parking spaces. Adequate parking exists on and off-site to serve the proposed uses. The property currently provides nine bike parking spaces, more than the code required three bike parking spaces.

CUP Amendment

The existing CUP was approved in 2011 and includes several conditions of approval that required specific amendments to approve the project. Additionally, the property's use has evolved since 2011. Staff is recommending updated conditions of approval in strikeout and underline format in the Conditions of Approval section below. A summary of the edits are as follows:

- Revise tenant mix to reflect current conditions
- Add outdoor seating/use
- Add mobile food vending
- Modify hours of operation
- Add special events

When evaluating a CUP application, the Planning Commission is required to consider the following characteristics of the proposed use:

A. Operating characteristics (hours of operation, traffic generation, lighting, noise, odor, dust, and other external impacts).

Staff Analysis: The applicant is proposing to make their Covid-19 outdoor tasting area permanent, add the ability to host mobile food vendors operating seven days a week between the hours of 12 p.m. and 8 p.m. with up to six Special Event use until 10 p.m. The area proposed for mobile food vending is on private property and in the backup area of the parking spaces that are converted to the outdoor tasting area. Proposed lighting is limited to string lights within the tasting area and existing exterior lighting on the mobile food vendor area. The proposed use is not expected to generate any amplified noise, objectionable odor, dust, or other external impacts.

Staff has included a condition of approval limiting the site to one mobile food vendor at a time. (Condition #22)

Additional conditions of approval have been added to address Americans with Disabilities Act (ADA) access, protection of fire lanes, refuse collection and disposal, lighting, and operation of any loudspeaker or sound amplification.

B. Availability of adequate public services and infrastructure.

Staff Analysis: The proposed uses will not utilize any permanent infrastructure and the proposed location has readily available public services.

C. Potential impacts to the natural environment.

Staff Analysis: As the proposed uses would be located in an existing parking lot on private property, there will be no 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.

Staff Analysis: The use is being proposed over excess parking spaces in a paved parking lot. The operating characteristics of mobile food vendors and beer tasting have been ongoing during the Covid-19 temporary business relief period. The business has demonstrated an ability to manage both usus simultaneously without complaints or code enforcement.

Design Permit

Accessory structures in the I (Industrial) zoning district require Planning Commission review of a Design Permit. The proposal includes an outdoor tasting patio. The patio covers six existing parking spaces. The perimeter of the area is defined by wood planters, barrels, and string lights. The interior includes standard wood picnic tables and propane heaters. All of these items were deployed as a Covid-19 business relife measure and remain in good condition. The plants are well maintained and the reclaimed wood clad planters fit the business's identity and offering of "Rustic" Ales. None of the structures require a Building Permit with the possible exception of ADA access. Condition of approval #32 requires the applicant to the work with the Building Department to secure any require permits for ramps, handrails, access, and clearances.



California Environmental Quality Act (CEQA):

Section 15332 of the CEQA Guidelines exempts project characterized as in-fill development when: the project is consistent with the applicable general plan designation and all applicable general plan policies as well as with applicable zoning designation and regulations; the proposed development occurs within city limits on a project site of no more than five acres substantially surrounded by urban uses; the project site has no value as habitat for endangered, rare, or threatened species; the project would not result in any significant effects relating to traffic, noise, air quality, or water quality; and the site can be adequately served by all required utilities and public services. The proposed project is consistent with the in-fill development exemption and no adverse environmental impacts were discovered by Planning Staff during review of the proposed project.

Recommendation:

Staff recommends the Planning Commission review and **approve** project application #22-0376 based on the following Conditions and Findings for Approval.

Attachments:

1. Site/Floor Plan
2. Management and Mobile Food Vendor Plan
3. Parking Calculation Plan
4. Owner's Statement

Conditions of Approval:

1. The current application is for an amendment to the 2011 Conditional Use Permit. Amendment is approved as reviewed by the Planning Commission on July 20, 2023, with the allowed modifications shown in strikeout and underline. The project approval consists of a Conditional Use Permits for a ~~small winery with retail sales and a tasting room (Pelican Ranch Winery), one small microbrewery with retail sales, and a tasting room, outdoor tasting area, and mobile food vending (Santa Adairius), and one small bakery or food producer with retail sales and a tasting room for the light industrial buildings~~ located at 100-200 Kennedy Drive. The above mentioned uses shall allow the sale and consumption of food and beverages, ~~products manufactured on site. Food and wine tasting shall be limited to the quantity to enable a retail customer to develop an appreciation of the food or beverage product. In no case shall food and wine tasting constitute a meal.~~ No restaurant or table service is permitted without a separate conditional use permit, ~~nor will any outdoor seating be allowed.~~
2. Any significant modifications to the size or exterior appearance of the structure must be approved by the Planning Commission.
3. ~~Delivery truck~~ loading and unloading hours shall be limited to 7:30 a.m. – 8.p.m. Monday through Friday, and 8:00 a.m. – 8:00 p.m. Saturday, Sunday, and holidays in order to minimize noise impacts to neighboring residents.
4. All signs shall be consistent with the master sign program. The approved sign program shall permit tenants signage along the north elevation of the new building where the main entrances to the office areas will be located. Each of the five tenant spaces will be permitted one wall sign, with a maximum height of 20" and a maximum length of 8'. Signs are to be of wood or metal construction with vinyl graphics. These sign requirements will also apply to the existing building when new tenants are incorporated and the existing nonconforming signs are removed.
5. All businesses shall obtain a sign permit from the Community Development Department.
6. 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, building permit submittal.

7. All lighting shall be focused downward and away from adjacent properties. The ~~Planning Commission~~ Community Development Department shall review lighting upon receipt of a legitimate complaint.
8. All uses shall be conducted wholly within an enclosed building, except for off-street parking and loading facilities, mobile food vending, and tasting in the designated outdoor tasting area. ~~and no~~ merchandise shall be displayed outside the building without an individual Conditional Use Permit being issued for the business.
9. All businesses within the center shall obtain a business license and shall comply with all local and state regulations prior to commencing business.
10. Manufacturing and industrial processes shall use only gas or electricity as a fuel; provided, however, that equipment using other fuel may be installed for standby purposes only.
11. No owner or invitee shall use or permit any sound system including, but not by way of limitation, loudspeakers, public address, systems, sound amplifiers, radio or broadcast within the project in such a manner that any sounds reproduced, transmitted or produced shall be directed beyond the interior of the building towards the residential areas.
12. No vehicle used regularly on site and under control of a business owner or invitee shall be equipped with back up noise devices audible more than twenty feet from vehicle and owner and invitee shall encourage delivery vehicles outside of their control to approach the facility in such a way to minimize noise.
13. Hours of normal operation on site shall be 7:30AM until 8PM, ~~unless a Conditional Use Permit has been obtained, and any activity outside of these hours shall be confined to quiet indoors activity not audible outside of the building.~~ The business may remain open until 10PM a maximum of six times per calendar year for special events. Special events shall only take place on Fridays or Saturdays. Vehicles coming and going at any non-business hours shall be quiet and conform to normal sound levels.
14. Equipment or machinery regularly used in the production of goods or services on site that produces audible at the property boundaries, including but not limited to sawing, cutting, grinding, shall require a Conditional Use Permit. Air compressors shall be of a quiet type and enclosed inside the building in sound containing enclosures.
15. Trash enclosures shall be covered, gated, and maintained to provide a clean and sanitary area.
16. Any outdoor washdown of equipment shall be prohibited.
17. The gate along Rosedale Avenue will be closed after business hours or by 9:00 p.m.
18. Signage will be placed on 100-200 Kennedy Drive. at the entrance to the mobile home park stating. **"Not a Through-Street- Resident Traffic Only."**
19. Prior to exercising the conditional use permit, the applicant must provide documentation of plan approval by the Central Fire Protection District.

20. Mobile food vendors shall obtain a Capitola Business License and any required county and state licenses prior to commencing business in Capitola.
21. Only one mobile food vendor shall operate at the property at a time.
22. Placement of food vendor vehicles or trailers shall not obstruct fire lane access, as determined by the Fire Marshal.
23. Placement of food vendor vehicles or trailers shall not obstruct vehicular right of way.
24. Mobile food vendors shall supply their own bird deterrent trash receptacles and empty them in the refuse collection areas when full and upon leaving the premises daily.
25. Mobile food vendor lighting shall be limited to lighting located on the food vendor vehicle or trailer. Lighting shall be in compliance with the Capitola Municipal Code.
26. Mobile vendor may not discharge any liquids including wash water onto the ground.
27. Mobile vendor must clean up any spills caused by their operation or customers.
28. Mobile food vendors shall be responsible for maintaining ADA access to the vendor vehicle or trailer.
29. Mobile food vendors shall comply with all sign standards in CMC Chapter 17.80. Specifically, mobile food vendors shall comply with the prohibition of portable signs in CMC §17.80.060(A)(2) and flag signs in CMC §17.80.060(A)(5). Signs will be limited to signage on the mobile food vendor vehicle and/or trailer.
30. Mobile food vendors shall not put out seating or tables for customers.
31. Mobile food vendors shall not utilize a loudspeaker or other amplified sound.
32. The applicant shall obtain a Building Permit for any ADA accessibility ramps, handrails, or other requirements for the proposed outdoor tasting area.

Conditional Use Permit Findings

A. The proposed use is allowed in the applicable zoning district.

Outdoor uses and mobile food vending are allowed in the I (Industrial) zoning district with Planning Commission approval of a conditional use permit.

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.

The outdoor use and mobile food vending use is consistent with the general plan, local coastal program, and zoning code.

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.

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.**
Community Development Department Staff, Public Works Staff, Police Department, Central Fire Protection District, and the Planning Commission have reviewed the project and determined that it 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.**
The proposed use is located within the City of Capitola and is adequately served by existing services and infrastructure.

Design Permit Findings:

- A. The proposed project is consistent with the general plan, local coastal program, and any applicable specific plan, area plan, or other design policies and regulations adopted by the city council.**
Community Development Staff, the Development and Design Review Committee, and the Planning Commission have reviewed proposed outdoor tasting area and determined complies with the development standards of the I (Industrial) zoning district.
- B. The proposed project complies with all applicable provisions of the zoning code and municipal code.**
Community Development Staff and the Planning Commission have reviewed the application for outdoor tasting area and determined the project complies with all applicable provisions of the zoning code and municipal code.
- C. The proposed development will not be detrimental to the public health, safety, or welfare or materially injurious to the properties or improvements in the vicinity.**
Community Development Staff, the Development and Design Review Committee, and the Planning Commission have reviewed the project. The proposed outdoor tasting area will not be detrimental to the public health, safety, or welfare or materially injurious to the properties or improvements in the vicinity.
- D. The proposed project complies with all applicable design review criteria in Section 17.120.070 (Design review criteria).**
The Community Development Staff, the Development and Design Review Committee, and the Planning Commission have reviewed the application. The proposed outdoor tasting area comply with all applicable design review criteria in Section 17.120.070.
- E. For projects in residential neighborhoods, the proposed project maintains the character, scale, and development pattern of the neighborhood.**
Community Development Staff, the Development and Design Review Committee, and the Planning Commission have all reviewed the application for the facade modifications. The project will maintain uses and operations that have been ongoing without complaint or issue.

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