

Capitola Planning Commission

Agenda Report



Meeting: January 15, 2026

From: Community & Economic Development Department

Address: 1855 41st Avenue Ste. F02

Project Description: Application #25-0540. APN: 034-261-37. Conditional Use Permit for the sale and onsite consumption of beer and wine for a proposed restaurant to be located at the Capitola Mall within the C-R (Regional Commercial) zoning district. This project is not within the Coastal Zone. Environmental Determination: Categorical Exemption

Recommended Action: Consider Application #25-0540 and approve the project based on the Findings and Conditions of Approval.

Property Owner: MGP XI Capitola, LLC

Applicant: Juan Manuel Garcia, Filed: October 24, 2025

Background: City records show the Capitola Mall space (Suite F02) has historically been occupied by restaurant uses (Carl's Jr. and Five Guys). The proposed tenant, Evarista's Comal Restaurant, will be relocating from their East Cliff location in Santa Cruz, where they have operated a business since 2021.

Discussion: Evarista's Comal Restaurant proposes to locate within the Capitola Mall, in the former Five Guys location. The restaurant is a family-owned restaurant in Santa Cruz County. The applicant has provided a floor plan (Attachment 1). The applicant has a current Type 41-On-sale Beer and Wine-Eating Place ("Type 41") license through the California Department of Alcoholic Beverage Control (ABC) for their existing business (Attachment 2) which they intend to transfer to the new Capitola Mall location. The application to transfer the license is pending the City of Capitola's action on the Conditional Use Permit (CUP).

Conditional Use Permit: The project site is located within the C-R zone district, where a CUP is required for alcoholic beverage sales. The applicant is proposing a Type 41 license, which authorizes the sale of beer and wine for consumption on or off the premises where sold. Distilled spirits may not be on the premises (except brandy, rum, or liqueurs for use solely for cooking purposes). The applicant must operate and maintain the licensed premises as an eating place. Based upon records from ABC, Evarista's Comal Restaurant has maintained a Type 41 license since 2021 and has had no discipline history with their permit. The owner plans to keep the current restaurant hours from 9 am to 4 pm Monday through Saturday.

Police Chief, Sarah Ryan, reviewed the application and has prepared the required Public Convenience and Needs letter (Attachment 3) required by ABC when an application for a site is in a high crime area and/or a census tract with an over-concentration of off-sale alcohol outlets. The Chief has indicated that there are few public safety concerns with the requested CUP.

CEQA: Pursuant to the authority and criteria contained in CEQA, staff determined the proposed project is listed among the classes of projects that have been determined not to have a significant adverse effect on the environment. Therefore, the project is categorically exempt from the provisions of CEQA pursuant to Section 15301 (Class 1-Existing Facilities). Staff further determined that none of the six exceptions to the use of a categorical exemption apply to this project CEQA Guidelines Section 15300.2.

Conditional Use Permit Findings:**A. The proposed use is allowed in the applicable zoning district.**

The general sale of alcoholic beverages for onsite consumption is categorized as a conditional use within the C-R zoning district. The Community Development Department and Planning Commission have determined that alcoholic beverage consumption in conjunction with a restaurant use would be appropriate at the subject site with the issuance of the CUP. The sale of alcohol is accessory to the restaurant and will occur only when a complete restaurant menu is available.

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 proposed use is consistent with the goals, policies, and standards established by the City, and permitting the restaurant to serve alcohol in conjunction with meals allows the establishment to be competitive with other restaurants that are already permitted to sell alcoholic beverages.

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 request to serve alcohol with food at the restaurant is not anticipated to have an adverse impact on surrounding land uses or create a special problem, because the project site is located within the Capitola Mall, which has a mix of restaurant and retail uses. The sale of alcohol would be accessory to the primary function of the restaurant. The proposed use is consistent with the existing and planned uses in the Capitola Mall.

D. The proposed use will not be detrimental to the public health, safety, and welfare.

The proposed business is in police responsibility area 4401 and U.S. census tract number 1217.02. The site is in a high crime area, and the census tract is over-concentrated (17 on-sale licenses) with off-sale alcohol outlets. Consideration was given to the over-concentration of on-sale licenses and crime rate in the area, and it was determined by the Capitola Police Department that the proposed CUP would not create a nuisance to the community or a burden on police services.

E. The proposed use is properly located within the city and adequately served by existing or planned services and infrastructure.

The restaurant is existing and is adequately served by utilities, services, and infrastructure. The CUP for general sale of alcoholic beverages for onsite consumption will not require additional services or infrastructure.

F. The proposed project has been reviewed in compliance with the California Environmental Quality Act (CEQA).

The proposed project is categorically exempt from the provisions of CEQA pursuant to Section 15301 (Class 1-Existing Facilities) because the project consists of the operation and licensing of a restaurant in an existing commercial building, consistent with the property's zoning and General Plan designation. No adverse environmental impacts were discovered during project review.

Conditions of Approval:

1. The Conditional Use Permit allows a beer and wine establishment with on-site consumption at 1855 41st Avenue, Suite F02. The Conditional Use Permit is approved as outlined in the analysis of the staff report reviewed and approved by the Planning Commission on January 15, 2026, except as modified through conditions imposed by the Planning Commission during the hearing.
2. The applicant shall maintain an active business license with the City of Capitola. The applicant shall maintain an active license through the California Department of Alcoholic Beverage Control (ABC) so long as alcohol is sold.

3. Prior to opening, all Planning fees associated with permit #25-0540 shall be paid in full.
4. Upon evidence of non-compliance with conditions of approval or applicable municipal code provisions, the applicant shall remedy the non-compliance to the satisfaction of the Community Development Director or shall file an application for a permit amendment for Planning Commission consideration. Failure to remedy a non-compliance in a timely manner may result in permit revocation.
5. This permit shall expire 24 months from the date of issuance. The applicant shall have an approved building permit and construction underway before this date to prevent permit expiration. Applications for extension may be submitted by the applicant prior to expiration pursuant to Capitola Municipal Code Chapter 17.156.
6. Conditional Use Permits are issued to the underlying property. An approved Conditional Use Permit may be assigned to future tenants of the same tenant space. The Conditional Use Permit shall expire and become void if the permitted use is abandoned or discontinued for one year or longer. The permit cannot be transferred off the site on which the approval was granted.

Attachments:

1. 1855 41st Avenue – Floor Plan
2. 1855 41st Avenue – ABC License Details
3. 1855 41st Avenue – Public Convenience and Necessity Letter

Report Prepared By: Gina Paolini, Principal Planner

Reviewed By: Rosie Wyatt, Deputy City Clerk

Approved By: Katie Herlihy, Community and Economic Development Director