



420 CAPITOLA AVENUE
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FINAL LOCAL ACTION NOTICE AND ZONING PERMIT

July 15, 2008

Susan Vaudagna
Chaboya Ranch
1445 West San Carlos Street
San Jose, CA 95126

RE: Notice of Final Action on Application #08-018

1820 41st AVENUE – PROJECT APPLICATION # 08-018

CONDITIONAL USE-PERMIT FOR A RETAIL BUSINESS ESTABLISHMENT (BEVMO) WITH OFF-SITE SALE OF ALCOHOL AND LIMITED CONSUMPTION OF ALCOHOL ON THE PREMISES IN THE CC (COMMUNITY COMMERCIAL) ZONING DISTRICT. (APN 034-131-22, 034-131-24) CATEGORICALLY EXEMPT. FILED 4/14/08

The above matter was presented to the City Council on June 26, 2008 and was **approved**, with the following findings and conditions.

CONDITIONS

1. The project approval consists of a Conditional Use Permit for the off-site retail sale of alcohol (Beverages and More! Inc.) in addition to limited wine and beer tasting at 1820 41st Avenue.
2. Beer and wine tasting shall be limited to Friday 4:00 P.M. – 7:00 P.M. and Saturday, 12 NOON - 6:00 P.M. Tasting shall also be allowed on Valentine's Day, St. Patrick's Day, Cinco de Mayo, Halloween, day before Thanksgiving, and New Year's Eve from 4:00 P.M. – 7:00 P.M. No seating shall be provided for the tasting events and tasting samples shall be limited to approximately 1 oz. sizes.
3. Any significant modifications to the size or exterior appearance of the structure must be approved by the Planning Commission. Similarly, any significant change to the use itself, or the site, must be approved by the Planning Commission.
4. The application shall be reviewed by the Planning Commission upon evidence of non-compliance with conditions of approval or applicable municipal code provisions.
5. Business hours will be limited to 9:00 A.M. – 9:00 P.M., seven days a week. The last six weeks of the year, November 16 through December 31, the hours will be limited to 9:00 P.M. – 10:00 P.M.

6. The applicant shall obtain a business license prior to operating the business.
7. Delivery hours 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.
8. Air-conditioning equipment and other roof top equipment shall be screened from view and fall within the allowable city permitted decibel levels.
9. Trash enclosures shall be covered, gated and maintained to provide a clean and sanitary area.
10. Security lighting in the rear of the store shall be shielded to prevent light from shining on the neighboring properties.
11. 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.
12. The applicant shall develop, submit, and enact a plan for the use and control of their carts, including a plan to collect carts removed from their property.
13. The applicant shall submit a lighting plan for the parking lot area, for review and approval by the Community Development Department prior to, or in conjunction with building permit submittal. The parking lot lighting shall be shielded to prevent light from shining on the neighboring properties.
14. The applicant shall submit a landscape plan for the parking lot area, for review and approval by the Community Development Department prior to, or in conjunction with building permit submittal. The landscape plan shall meet the 41st Avenue Design Guidelines.
15. The applicant shall comply with the Municipal Code Section 8.36 Environmentally Acceptable Packaging Materials.

FINDINGS

- A. **The application, subject to the conditions imposed, will secure the purposes of the Zoning Ordinance and General Plan.**

Community Development Department Staff, the Architectural and Site Review Committee, and the Planning Commission have all reviewed the project. The project conforms with the development standards of the CC (Community Commercial) Zoning District and the 41st Avenue Design Guidelines. Conditions of approval have been included to carry out the objectives of the Zoning Ordinance and General Plan.

- B. **The application will maintain the character and integrity of the neighborhood.**

Planning Department Staff, the Architectural and Site Review Committee, and the Planning Commission have all reviewed the project. The project conforms with the development standards of the CC (Community Commercial) Zoning District and the 41st Avenue Design Guidelines. Conditions of approval have been included to ensure that the project maintains the character and integrity of the area.

- C. **This project is categorically exempt under Section 15301(e)(2) of the California Environmental Quality Act and is not subject to Section 753.5 of Title 14 of the California Code of Regulations.**

Section 15301(e)(2) of the CEQA Guidelines exempts interior or exterior alterations to existing structures. No adverse environmental impacts were discovered during review of the proposed project.

This permit is issued to the owner of the property. In executing this permit, applicant /owner agrees to comply with all terms of permit(s), including conditions of approval, if any. Permit must be exercised within 24 months of date of issuance (June 26, 2010) unless otherwise indicated in conditions of approval. Should you have any questions on this matter, do not hesitate to call.

Sincerely,

Handwritten signature of Ryan Bane, consisting of the letters 'Ry' followed by a horizontal line and the letter 'B' followed by a horizontal line.

Ryan Bane
Senior Planner

Cc: Beverages & More
City Clerk