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Sent Via Email

October 1, 2021

Kathryn Janoff, Chair
Planning Commission

In care of
Erin Walters
Planner
Town of Los Gatos
110 East Main Street
Los Gatos, CA

RE: 636 Blossom Hill Road, Los Gatos CA 95032
Conditional Use Permit (CUP No. U-21-016)

Dear Chair Janoff:

As an introduction and overview of the proposed Conditional Use Permit hearing request in which we will seek approval from the Planning Commission for our proposed store, I wanted to provide some information and overview as part of the background for your consideration of the pending application.

Beverages & More, Inc. (“BevMo!”) proposes to establish a store in the Blossom Hill Pavilion Shopping Center located at the intersection of Los Gatos Boulevard and Blossom Hill Road, in the space formerly occupied by Pier 1 Imports (“Project Site”) in the Town of Los Gatos as a high-end retailer for in-store purchases of beer, wine, and related goods.

Sales of alcohol at the proposed BevMo! store would be authorized by liquor licenses issued by the California Alcohol Control Board (ABC) –Type 21 (Off-Sale General) and Type 42 (On-Sale Beers and Wine Public Premises) and Type 86- Instructional Tasting License.

Closest BevMo! Currently BevMo! does not have any stores within the Town of Los Gatos. The closest store is located at 14800 Camden Avenue, San Jose, approximately 3.2 miles driving distance from the Project Site. The Camden BevMo! store has been in its current location since 1996 but due a shopping center redevelopment planned at the Camden Center; this BevMo! store may close within the next 12-18 months.

Proposed Space The existing vacant Pier 1 space is 11,212 square feet (sf), located in the approximate middle space of the existing Blossom Hill Pavilion Shopping Center, a 23,412 sf neighborhood retail center. The shopping center building fronts both major arterial streets with parking behind. The center provides 109 parking spaces, compared to the code requirement of 107 spaces. Parking is shared among the existing retail tenants with no exclusive or reserved

spots. Handicap spaces are provided as required by code (6 stalls within the 109 total). The remaining three corners of the intersection have retail uses including Lunardi's anchored shopping center, Whole Foods anchored shopping center and a small neighborhood retail center with food/coffee and quasi-office uses.

The other tenants located at Blossom Hill Pavilion include Starbucks, Jamba Juice, AT&T Mobile Phone store, Chipotle Restaurant and Care Now, a drop-in urgent care provider.

About BevMo! BevMo! is the largest specialty retailer of wine in California and was awarded Retailer of the Year in 2006 by Wine Enthusiast, and in 2009 was awarded the Market Watch Leader Award for management. BevMo! offers a convenient and unique store for local residents to browse an extensive inventory of wine, spirits, beer, gourmet food and related items such as glassware and other wine accessories, not easily found elsewhere. BevMo! offers over 3,000 wines (1,000 from California), 1,200 specialty spirits, 600 beers including many "craft" beers and over 2,000 "& More" products. The store will provide residents with a convenient new place to shop in a well-lit and maintained facility.

Responsible Contributing Member of the Community

The store will have a positive influence on the local economy by providing jobs and retail tax revenue to the Town of Los Gatos, as well as competitive pricing to the consumer.

- BevMo! will employ approximately 15-20 local residents, with the possibility of additional help hired during the holidays.
- BevMo! is committed to the responsible marketing of alcoholic beverage products, which is demonstrated by:
 - Our company policy prohibiting the sale of cigarettes and products of abuse (such as 40 oz. of malt liquor, low-priced, screw-top fortified wines and pints or half-pints of spirits).
 - Our company policy prohibits the use of video or pinball games, sales of pornographic materials, pay telephones, lottery tickets, newspaper stands and other items that would encourage loitering or minors patronizing the store.
 - Our company posts and maintains a professional quality sign stating, "No Loitering", "No public drinking of alcoholic beverages", and "Stop you must be 21 to enter unless accompanied by an adult".
 - It is store policy to card anyone who appears to be under the age of 50.
 - We operate our own decoy sale-to-minor program and implement extensive ID check training of our employees.

Our policies have led to an excellent track record with the California Department of Alcoholic Beverage Control.

California Alcoholic Beverage Control (CA ABC) Licenses Required

In addition to a license type 21 for the off-premises sale of alcoholic beverages, BevMo! requires a license type 42 (On-Sale Beer and Wine, Public Premises) for educational beer and wine tastings as well as a license type 86 (Instructional Tasting of Distilled Spirits). Beer and wine tastings will be offered in-store on Friday and Saturday afternoons, with an occasional special tasting event during the week. Unlike the type 42 license, tastings falling under the type 86 license have additional rules provided by the Department of Alcoholic Beverage Control. The license holder must have the tasting event hosted by an industry representative only (Distiller, Brewery, Winery Representative), cannot charge for the tasting event, and is strictly limited in the amount of alcohol served (no more than three- ¼ ounce pours).

The size of the tasting area is typically 10' x 10', and there are no furnishings or seating in the area. All samples must take place within the boundaries of the tasting area. A sign is posted stating that no one under 21 is allowed in the tasting area. Customers are also not allowed to bring in spirits or shopping carts of any kind into the area. Service in the area is by winemakers, vendor representatives, and trained store staff. Samples are approximately 1 oz in size, served in disposable plastic tasting cups, and a nominal fee is charged for each sample as required by the ABC. Tastings are also arranged by appointment for wedding product selection and corporate event planning. These follow the same standards as noted above.

Changes to the Premises No changes are proposed to the exterior of the building. The existing storefront and entryway would remain in its current location, along with the existing double man doors which are used for receiving goods. A short 4' high screen wall is proposed on the right side of the existing storefront to screen shopping cart storage. The screen wall will be constructed to match the existing building finishes.

The interior of the store would be renovated to provide for the needed electrical and plumbing to accommodate new store fixtures, shelving and coolers. The existing store has a number of show windows allowing for graphics and other product presentations. These would be expanded where needed, to screen any shelving or fixtures located in the window area. The show windows would not be full height and would allow natural light to enter the store along the top of the show window area.

Exterior Lighting – No changes are proposed to the exterior lighting.

Established Customer Base An analysis of all BevMo shoppers based upon internal customer membership data indicates that there is a large portion of the Los Gatos population that frequents BevMo stores in general and the Camden store in particular. Specifically, BevMo! realized in excess of 15,000 customer visits from residents living in the 95032-zip code area to the entire BevMo store chain and specifically in excess of 9,000 visits to the Camden store alone (data from 2019, last full normalized year of sales data). The proposed location in Los Gatos will decrease drive times and increase convenience to the existing customer base as well as introduce a specialty grocer and alcoholic beverage outlet in a community not served by such a retailer.

Online Ordering To enhance the customer experience, BevMo! s CUP application includes the hours of operation to allow customers to purchase alcohol and non-alcoholic consumer goods via its online and mobile platforms for delivery. In-store sales would remain the same as stated

above, with the retail storefront closing no later than 11:00 p.m. daily, but online sales and deliveries of non-alcoholic goods would occur 24 hours/day and online sales and deliveries of alcohol would occur between 6:00 a.m.- 2:00 a.m.

In practice, the store hours that would be open for walk in business during the majority of the year would be closer to 9:00 AM to 9-10 PM with increased hours of operation during the months of November and December as businesses flex to accommodate holiday shopping. For simplicity, the CUP application request walk in hours of 7:00 AM to 11:00 PM daily.

Operational Overview for Delivery Consumers would select items available from BevMo! via mobile app or online interface. The types of goods anticipated to be available for delivery include pre-packaged food and beverage products, beer, wine, ice cream, snacks, hand sanitizer, pet food, toilet paper, diapers, and COVID-19 rapid tests through BevMo!'s partnership with Purlab. Most of these items would also be displayed on shelves in the store for purchase by walk-in customers, but a few items, such as dog food, would be available only for delivery. BevMo! anticipates that approximately 25 to 35 percent of the retail floorspace will be dedicated to non-alcohol items.

When an order is placed, BevMo! employees would bag the items and place the bags in bins containing orders from one to four customers. Drivers, who are independent contractors, would pick up the bins for delivery to customers, with a goal of delivering items within 30 minutes of purchase to customers located within a fixed delivery radius usually 2-5 miles from the store. Driver partners would be able to use any parking spaces in the shopping center, but it is anticipated most will use the available spaces closest to the entrance doors.

All driver partners delivering age-restricted products must 1) be at least 21 years of age; 2) complete alcohol beverage service training; and 3) sign an alcohol delivery service policy. BevMo! uses robust age verification and identification scanning technology to prevent age-restricted products from being delivered to minors. Before an online or mobile app order is completed, the driver partner must scan the customer's valid U.S. government-issued identification. Using advanced optical scanning identification verification technology, the driver partner must verify the identification at the site of the delivery. Finally, if the identification is verified by the system, the order can be completed, and a signature is captured.

After the store closes to walk-in sales, it is anticipated that no more than five employees would be in the store at any particular time to service online orders for delivery. Based on sales projections, BevMo! initially anticipates approximately 50-100 deliveries per day, with the heaviest volumes on Friday and Saturday evenings.

Proper lighting (already existing) will be maintained to ensure employee and driver-partner safety at all times. The delivery entrance door will remain locked with an electric strike lock for controlling access to the building. Driver-partners will be identified by employees inside of the building via camera before being granted access inside the store for deliveries.

Additional security measures include security camera systems with footage that can be accessed by the General Manager and any Shift Lead in the store. This footage is typically stored for 30 days or longer, depending on how much activity is on a specific camera. The store also includes

a telephone for calling 911 and a monitored alarm system with a hold-up panic button for employees in the case of an emergency.

Conditional Use Permit Requirements The Los Gatos Town Code requires a Conditional Use Permit for the following uses in this zone:

- Grocery formula retail business greater than 6,000 s.f.
- 24-hour businesses or businesses open between the hours of 2:00 a.m. and 6:00 a.m.
- Establishment selling alcoholic beverages for consumption off-premises
- Alcohol service – Tasting

Quoting from the Town Code Sec. 29.20.190. Findings and decision.

(a) The deciding body, on the basis of the evidence submitted at the hearing, may grant a conditional use permit when specifically authorized by the provisions of this chapter if it finds that:

- (1) The proposed uses of the property are essential or desirable to the public convenience or welfare.

As already demonstrated above, there is a large population of BevMo shoppers within the area where the store is located which would decrease their travel times as well as be provided increased convenience and added delivery options with the establishment of the store.

- (2) The proposed uses will not impair the integrity and character of the zone.

BevMo!’s long (since 1994) and successful track record of being a responsible retailer of a regulated product demonstrates that it can operate in a neighborhood retail setting without disruption or negative impacts to the area. The operation is contained entirely within the existing building, with parking and public access screened by the site layout to the nearby residential.

- (3) The proposed uses would not be detrimental to public health, safety or general welfare; and

The proposed use offers improvements in the health, safety and general welfare of the surrounding population by decreasing travel times for services and well as providing a quick, safe alternative to receive goods via online delivery without the need to leave one’s residence. As we have seen from the impacts of the Covid pandemic, a safe and efficient contactless delivery option has become a real necessity in meeting the everyday needs of the population. The proposed BevMo! store will provide a quick and safe delivery alternative (30 minutes or less) for securing everyday needs not currently offered in the community. In fact, since the space being occupied by the proposed use is vacant, the establishment of the business will not displace any existing business and in practice increase employment, availability and selection of retail goods.

- (4) The proposed uses of the property are in harmony with the various elements or objectives of the general plan and the purposes of this chapter.

The proposed use of the building is both compatible with the existing zoning of the property as well as the Mixed-Use Commercial designation in the General Plan.

In addition to being compatible with the zoning and General Plan designations of the Project Site, the proposed use specially addresses [General Plan Policy LU-2.1](#) which states, “*Minimize*

vehicle miles traveled for goods and services by allowing and encouraging stores that provide these goods within walking distance of neighborhoods in Los Gatos.”

General Plan Policy LU-9.8 states *Retail sales tax “leakage” should be kept to a minimum by providing in-town convenience and comparative shopping opportunities.*

The addition of the proposed store will both minimize miles traveled for goods by bringing the products directly into the community being served and also offer a quick and convenient delivery option to the nearby residents.

- (5) A hazardous waste facility proposal is subject to the California Health and Safety Code, Article 8.7, Section 25199—25199.14 and shall be consistent with the Santa Clara County Hazardous Waste Management Plan.

This is not applicable to the Proposed Conditional Use Permit application.

- (b) The deciding body, on the basis of the evidence submitted at the hearing, may deny a conditional use permit for a formula retail business greater than six thousand (6,000) square feet or a personal service business if any of the following findings are made:

- (1) The proposed use of the property is not in harmony with specific provisions or objectives of the general plan and the purposes of this chapter.

The proposed use is consistent with the objectives of the General Plan and specific zoning of the property along with specially addressing a number of the General Plan goals as noted above.

- (2) The proposed use will detract from the existing balance and diversity of businesses in the commercial district in which the use is proposed to be located.

The proposed use does not exist in the community today and will offer a new and diverse product selection, supplementing the existing food and beverage outlets. As evidenced by the existing customer shopping patterns, many of the area residents are currently traveling outside the Town limits to procure their specialty alcohol products.

- (3) The proposed use would create an over-concentration of similar types of businesses, or

While there are other licensed premises offering alcohol in the area, there are no specialty businesses that offer the breath and diversity of the products found in the proposed BevMo along with the product knowledge and educational tasting program offered at the store. In addition, no business exist in the Town of Los Gatos that offers the diversity of products, all available within a thirty (30) minute delivery time.

- (4) The proposed use will detract from the existing land use mix and high urban design standards including uses that promote continuous pedestrian circulation and economic vitality.

The proposed use is consistent with the zoning designation and operation of the business being contained 100% within the existing building structure with no changes to the design or structure of the building. The business operation promotes pedestrian visits given the option to have larger, bulky purchases delivered within 30 minutes of a visit to the store, thereby eliminating any need for a car to transport your purchases home.

In summary, allowing BevMo! to establish its operation which includes online orders and delivery at the Project Site helps ensure the shopping center remains fully leased without a

substantial vacancy with a substantial tenant that can contribute to the success and vitality of the center. Moreover, the delivery of online orders will provide opportunities to expand employment and provide additional presence in the shopping center outside traditional operating hours, which is expected to enhance public safety.

Extended operating hours also will allow BevMo! to meet the current demands of residents by providing an option for an on-demand delivery service at any time of the day, with orders fulfilled within 30 minutes of ordering. This service provided by BevMo!'s delivery operation will benefit residents who may be unable to visit a physical retail store, including those unable to visit during current operating hours, and those who wish to acquire goods to be delivered. During the past Covid 19 disruptions, we found the delivery service welcomed by a great percentage of our customer base.

Community Outreach

I have personally contacted all of the adjacent or abutting tenants/property owners and provided my contact information along with a description and outline of the business and proposed timeline for operation.

I indicated in my correspondence that I am available to meet, as requested by any person having questions or wishing further information.

The parties contacted include:

- Both abutting commercial car dealership neighbors,
 - The retail and commercial tenants located directly north across the street in the multi-tenant building,
 - The property owners of the other three commercial corners and
 - All of the residential neighbors/owners and occupants fronting onto Blossom Hill Road north to Oak Rim Way.
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- Of all the letters and outreach completed only one resident responded with questions via email. I was able to answer all of his questions satisfactorily and also provided this information to Planning Staff for their records.
 - In addition, as a follow-up to my July 20/21, 2021, letter noted above, I have also posted the front of the storefront with the required State of California, Department of Alcoholic Beverage Control Notice indicating that Beverages & More, Inc, has applied for a Type 21, 42 and 86 license to be used at 636 Blossom Hill Road. The posting was placed in the storefront on August 30, 2021 and remained up for the required thirty (30) consecutive day posting period. No letters of opposition were received by the Department of Alcoholic Beverage Control with respect to this application.

I look forward to the opportunity to present the proposed project to you at the upcoming Planning Commission hearing.

Thank you for your time and consideration. Please call if additional information is needed.

Sincerely,
Beverages & More, Inc.

/s/ Greg Endom

Greg Endom
925-550-8082

cc: *All provided in care of Erin Walters, Planner*
Kendra Burch, Vice Chair
Jeffrey Barnett, Commissioner
Melanie Hanssen, Commissioner
Jeffrey Suzuki, Commissioner
Reza Tavana, Commissioner
Emily Thomas, Commissioner