



**TOWN OF LOS GATOS
PLANNING COMMISSION
REPORT**

MEETING DATE: 11/10/2021

ITEM NO: 4

DATE: November 5, 2021
 TO: Planning Commission
 FROM: Joel Paulson, Community Development Director
 SUBJECT: Requesting Approval of a Conditional Use Permit to Allow a Formula Retail Business with Alcohol Sales and Tasting, and Including 24-hour Delivery (BevMo!) on Property Zoned CH. **Located at 636 Blossom Hill Road.** APN 529-16-047 and 529-16-054. Conditional Use Permit U-21-016. PROPERTY OWNER: Blossom Hill Pavilion LP. APPLICANT: Greg Endom, Beverages and More, Inc. PROJECT PLANNER: Erin Walters.

RECOMMENDATION:

Consider approval of a request for a Conditional Use Permit to allow a formula retail business with alcohol sales and tasting, and including 24-hour delivery on property zoned CH located at 636 Blossom Hill Road.

PROJECT DATA:

General Plan Designation: Mixed Use Commercial
 Zoning Designation: CH, Restricted Commercial Highway
 Applicable Plans & Standards: General Plan, Town Code
 Parcel Size: 1.95 acres
 Surrounding Area:

	Existing Land Use	General Plan	Zoning
North	Commercial/Residential	Mixed Use Commercial	CH:PD
East	Commercial	Mixed Use Commercial	C-1
South	Commercial	Mixed Use Commercial	CH
West	Commercial	Mixed Use Commercial	CH

PREPARED BY: Erin Walters
 Associate Planner

Reviewed by: Planning Manager and Community Development Director

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SUBJECT: 636 Blossom Hill Road/U-21-016

DATE: November 5, 2021

CEQA:

The project is Categorically Exempt pursuant to the adopted Guidelines for the Implementation of the California Environmental Quality Act, Section 15301: Existing Facilities.

FINDINGS:

- As required, the project is Categorically Exempt pursuant to the adopted Guidelines for the Implementation of the California Environmental Quality Act, Section 15301: Existing Facilities.
- As required by Section 29.20.190 (a) of the Town Code for granting a Conditional Use Permit.
- As required by Section 29.20.190 (b) of the Town Code for approving a Conditional Use Permit for a formal retail business greater than six thousand (6,000) square feet.

ACTION:

The decision of the Planning Commission is final unless appealed within ten days.

BACKGROUND:

The proposed business (BevMo!) requires a Conditional Use Permit (CUP) because it is a formula retail business greater than 6,000 square feet and is proposing to: sell alcohol for off-site consumption; provide on-site alcohol tasting; and proposing 24-hour delivery of products.

The proposed use would occupy an existing tenant space within a commercial building, Blossom Hill Pavilion, that was occupied by a formula retail business, Pier 1 Imports, between 2002 and 2020.

PROJECT DESCRIPTION:

A. Location and Surrounding Neighborhood

The project would be located at 636 Blossom Hill Road, on the southwest corner of Blossom Hill Road and Los Gatos Boulevard (Exhibit 1). The property located to the north, across Blossom Hill Road, is a mixed use Planned Development with residential and commercial uses. The properties located to the east, south, and west are commercial uses.

PROJECT DESCRIPTION (continued):

B. Conditional Use Permit

The applicant is requesting approval of a CUP to allow a formula retail business (BevMo!) with alcohol sales, on-site alcohol tasting, and 24-hour delivery of products in an existing commercial tenant space. There are no proposed exterior alterations to the building with the exception of the addition of a shopping cart corral, which will be reviewed for conformance with the Commercial Design Guidelines as part of a future building permit. Any signage would be reviewed through a future sign application.

When reviewing a CUP, the deciding body should consider the information in the applicant's business plan; however, the key consideration should be the proposed use since the business plan can change from owner to owner. The CUP runs with the land, and the deciding body should review the application based on the use described in the recommended Conditions of Approval (Exhibit 3) as opposed to the applicant or applicant's business plan.

C. Zoning Compliance

The zoning designation allows a formula retail business greater than 6,000 square feet with alcohol sales, on-site alcohol tasting, and 24-hour delivery of products, subject to the approval of a CUP. The proposed project meets Town Code parking requirements.

DISCUSSION:

A. Project Summary

The proposed business (BevMo!) would occupy an existing 11,212-square foot vacant tenant space within the shopping center, Blossom Hill Pavilion. The business would sell alcohol products including wine, spirits, beer, gourmet food, and related items such as glassware, and other wine accessories. The business would also provide educational beer and wine tasting in-store on Friday and Saturday afternoons, with an occasional special tasting event during the week. Tasting samples would be approximately one ounce in size and limited to customers 21 years and older. The business proposes to provide a 24-hour delivery of products, including pre-packaged foods, beverages, ice cream, snacks, hand sanitizer, pet food, toilet paper, diapers, and COVID-19 rapid tests to on-line customers 24 hours a day, seven days a week. Alcohol deliveries are limited to 6:00 a.m. to 2:00 a.m. Drivers, who are independent contractors, will provide deliveries in their personal vehicles. The Town's Police Department has reviewed this application and business plan and have no comments.

DISCUSSION (continued):

The proposed hours of operation are the following:

- Store Hours – 7:00 a.m. to 11:00 p.m., seven days a week.
- Non-Alcohol Product Deliveries – 24 hours, seven days a week.
- Alcohol Deliveries – 6:00 a.m. to 2:00 a.m., seven days a week.

The applicant provided a project description and letter of justification (Exhibit 4), site photographs (Exhibit 5), and development plans (Exhibit 8). Hours of operation are included in the recommended Conditions of Approval (Exhibit 3).

B. Formula Retail

Pursuant to Town Code Section 29.20.185(1)(o), a formula retail business greater than 6,000 square feet can be located in the CH zone with approval of a CUP. Pursuant to Town Code Section 29.10.020 the definition of formula retail business means a retail business which, along with seven (7) or more other business locations, is required by contractual or other arrangement to maintain any of the following: standardized merchandise; services; décor; uniforms; architecture; colors; signs; or other similar features. There are approximately 161 BevMo! locations in the United States, with 145 locations in California. The applicant's justification for the new formula retail business is included in Exhibit 4.

As noted above, a formula retail business operated in this commercial tenant space until 2020.

C. Alcoholic Beverage Sales for Off-Site Consumption

Pursuant to Town Code Section 29.20.185(1)(l), alcoholic beverage sales for off-site consumption can be located in the CH zone with approval of a CUP. The applicant's justification for the off-site alcohol sales, and proposed alcohol delivery hours of 6:00 a.m. to 2:00 a.m., is included in Exhibit 4.

D. On-Site Alcohol Tasting

Pursuant to Town Code Section 29.20.185(1)(k), an establishment selling alcoholic beverages for consumption on the premises can be located in the CH zone with approval of a CUP. The applicant proposes ancillary beer and wine tasting within the formula retail business. The applicant's justification for beer and wine tasting is included in Exhibit 4.

DISCUSSION (continued):E. 24-Hour Delivery

Pursuant to Town Code Section 29.20.185(11)(c), a business operating between the hours of 2:00 a.m. and 6:00 p.m. can be located in the CH Zone with approval of a CUP. The proposed use includes 24-hour delivery from the formula retail business. The applicant's justification for 24-hour deliveries is included in Exhibit 4.

Store hours, open to the public, will be limited to, 7:00 a.m. to 11:00 p.m., seven days a week, per the applicant's project description included in Exhibit 4.

F. Parking

The proposed use requires 48 parking spaces within the center. The parking analysis below summarizes the total number of required parking spaces per Town Code and based on both the existing and proposed uses. A total of 107 parking spaces are required and the center provides a total of 109 parking spaces on-site; therefore, the proposed use would comply with Town Code Requirements for parking.

Blossom Hill Pavilion Shopping Center Parking Analysis						
Tenant	Address	Use	Square Feet	Doctors	Rate	Parking Spaces Req.
Starbucks	624 Blossom Hill Road	Restaurant	2,500	N/A	1:235 s.f.	18
Jamba Juice	628 Blossom Hill Road	Restaurant	1,352	N/A	1:235 s.f.	4
AT&T	630 Blossom Hill Road	Retail	1,124	N/A	1:235 s.f.	5
Chipotle	640 Blossom Hill Road	Restaurant	3,021	N/A	1:235 s.f.	14
Urgent Care	640A Blossom Hill Road	Medical Office	4,203	3	1:250 or 6 per Doctor	18
(P) BevMo	636 Blossom Hill Road	Retail	11,212	N/A	1:235 s.f.	48
			23,412			
Total Required Parking Spaces						107
Total Parking Spaces Provided						109

G. Shopping Carts

The applicant proposes the use of shopping carts and has proposed a shopping cart corral, enclosed by a four-foot wall, located at the front of the tenant space under the building's covered overhang as shown in Exhibit 8. Condition of Approval 8 has been included in Exhibit 3, requiring shopping carts to be stored inside the designated parking corral and the parking lot to be monitored so that the carts are brought into the designated parking corral when not in use. Review of the design for compliance with the Commercial Design Guidelines will be part of a future building permit review.

DISCUSSION (continued):

H. Traffic

In 2018, the Town's Traffic Impact Fee Policy was modified to address changes in use within existing shopping centers. Changes in use are considered a continuation of the previously applied shopping center rate. No additional fees will be charged as the use from an ITE perspective, will remain the same. Since no additional square footage is proposed for the project, no traffic study or traffic mitigation fee is required for the CUP.

I. Store Deliveries

Condition of Approval 6 has been included in Exhibit 3, allowing store deliveries only between 12:00 a.m. and 6:00 a.m. and requires that they must be from the parking lot in front of the tenant space. No deliveries to the store shall be made from Blossom Hill Road or Los Gatos Boulevard and no delivery trucks shall stop on Blossom Hill Road or Los Gatos Boulevard.

J. Conditional Use Permit Findings

Pursuant to Town Code Section 29.20.190(a), in order to grant approval of a CUP, the deciding body must make the following findings:

- (1) The proposed use of the property is essential or desirable to the public convenience or welfare; and
- (2) The proposed use would not impair the integrity and character of the zone; and
- (3) The proposed use would not be determinantal to public health, safety, or general welfare; and
- (4) The proposed use of the property is in harmony with the various elements or objectives of the General Plan and the purposes of the Town Code.

In regards to finding one, the use is essential or desirable to the public convenience because it would provide convenient and unique retailing and delivery options for residents and visitors in an existing shopping center at a major intersection in Town. In regards to the second finding, the proposed use would not impair the integrity of the zone, in that the proposed use is a commercial use and it would be located in a commercial zone. In regards to the third finding, the proposed use would not be detrimental to public health, safety, or general welfare, as the conditions placed on the permit would maintain the welfare of the community. In regards to the final finding, the proposed use would be in conformance with the Town Code and General Plan because it would contribute to the variety of commercial uses, reduce vehicle miles traveled for goods by bringing the products directly into the community, and provide employment opportunities in the CH zone.

DISCUSSION (continued):

In addition to the required findings for the CUP, pursuant to Town Code Section 29.20.190 (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 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;
- (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;
- (3) The proposed use would create an over-concentration of similar types of businesses; or
- (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.

None of the above findings could be made to deny the application. Alternatively, the following findings can be affirmed:

In regards to finding one, the proposed use of the property is in harmony with the with specific provisions or objectives of the General Plan and the purposes of Chapter 29 of the Town Code. In regards to finding two, the proposed use will not detract from the existing balance and diversity of businesses in the commercial district in which the use is proposed to be located as this location was previously occupied by a formula retail business. In regards to finding three, the proposed use would not create an over-concentration of similar types of businesses as this would be the first BevMo! in the Town. In regards to finding four, the proposed use will not detract from the existing land use mix and high urban design standards including uses that promote continuous pedestrian circulation and economic vitality as it will be located in a vacant tenant space within an existing shopping center previously occupied by a formula retail business.

K. General Plan

The applicable goals and polices of the 2020 General Plan include, but are not limited to:

- Policy LU-2.1 – 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.
- Policy LU-9.2 – Maintain a variety of commercial uses, including a strong Downtown commercial area combined with Los Gatos Boulevard and strong neighborhood commercial centers to meet the shopping needs of residents and to preserve the small-town atmosphere.

DISCUSSION (continued):

- Policy LU-9.6 – Encourage development that maintains and expands resident-oriented services and/or creates employment opportunities for local residents consistent with overall land use polices of the Town.
- Goal LU-12 – To ensure an appropriate mix of land use types along Los Gatos Boulevard in order to maintain the economic vitality of the corridor and continue to serve the needs of Town residents.
- Policy LU-12.9 – Encourage replacement of vacated business south of Los Gatos-Almaden Road and north of Roberts Road/Shannon Road with neighborhood commercial, multi-family, or office uses.

L. Environmental Review

The project is Categorically Exempt pursuant to the adopted Guidelines for the Implementation of the California Environmental Quality Act, Section 15301: Existing Facilities. No significant effect on the environment will occur since the project uses an existing structure with no increase in floor area.

PUBLIC COMMENTS:

Written notice of the Planning Commission hearing was sent to property owners and tenants within 300 feet of the subject property. The applicant has reached out to the neighboring tenants and property owners and provided the project scope of work (Exhibit 6). Written comments of support have been received regarding the proposed project (see Exhibit 7).

CONCLUSION:

A. Summary

The project would allow a formula retail business with alcohol sales and tasting, and including 24-hour delivery to operate in a currently vacant space. The project meets all zoning regulations, if approved through a CUP, and meets the objectives of the 2020 General Plan.

B. Recommendation

Based on the analysis above, staff recommends approval of the Conditional Use Permit subject to the recommended Conditions of Approval (Exhibit 3). If the Planning Commission finds merit with the proposed project, it should:

CONCLUSION (continued):

1. Make the finding that the proposed project is categorically exempt, pursuant to Section 15301 (Exhibit 2);
2. Make the required findings as required by Section 29.20.190(a) of the Town Code for granting approval of a CUP (Exhibit 2);
3. Make the required findings as required by Section 29.20.190(b) of the Town Code for granting approval of a CUP for a formula retail business greater than six thousand (6,000) square feet (Exhibit 2); and
4. Approve CUP Application U-21-016 with the conditions contained in Exhibit 3, and the plans in Exhibit 8.

C. Alternatives

Alternatively, the Commission can:

1. Continue the matter to a date certain with specific direction; or
2. Approve the application with additional and/or modified conditions; or
3. Deny the application.

EXHIBITS:

1. Location Map
2. Required Findings
3. Recommended Conditions of Approval
4. Project Description and Letter of Justification
5. Site Photographs
6. Applicant Outreach
7. Public Comments
8. Development Plans

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