



MEMORANDUM

TO: PLANNING COMMISSION

FROM: TERESA McCLISH, COMMUNITY DEVELOPMENT DIRECTOR

BY: MATTHEW DOWNING, ASSISTANT PLANNER ^{MD}

SUBJECT: CONSIDERATION OF CONDITIONAL USE PERMIT 14-010; SALE OF DISTILLED SPIRITS; LOCATION: 1168 W. BRANCH STREET; APPLICANT: WALMART STORES, INC.; REPRESENTATIVE: MALOU REYES

DATE: JUNE 16, 2015

RECOMMENDATION:

It is recommended that the Planning Commission consider the proposed project and make a recommendation to the City Council.

IMPACT ON FINANCIAL AND PERSONNEL RESOURCES:

None.

BACKGROUND:

Location



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The subject property is part of a prior Planned Development (PD-1.2) area, and therefore requires City Council action to amend the previously approved plan.

The project site is located within the Five Cities Center, has vehicular access from West Branch Street, Rancho Parkway, and Camino Mercado, and is zoned Regional Commercial (RC). The site is currently developed and contains the Arroyo Grande Walmart store.

Staff Advisory Committee

The Staff Advisory Committee (SAC) reviewed the proposed project at a meeting on January 14, 2015. The SAC had concerns regarding the originally proposed location of the distilled spirits in the store and in a location being easily accessible to minors, given that the store generally focuses sales on items for everyday living. In order to address this concern, the applicant modified the project description to include relocation of the liquor storage to be in locking cabinets near the registers, where tobacco products are stored. Following the change in project description, members of the SAC were in support of the project with conditions of approval identified in the attached Resolution.

ANALYSIS OF ISSUES:

Project Description

The applicant has submitted an application for a conditional use permit (CUP) to expand existing alcoholic beverage sales at the subject property to include distilled spirits. Current alcoholic beverage sales are limited to beer and wine only. The intensification of alcoholic beverage sales requires a CUP in accordance with Municipal Code Table 16.36.030(A). Approval of the CUP would also allow the applicants to seek a Type 21 License from the California Department of Alcoholic Beverage Control (ABC). There are no modifications or expansions to the exterior of the building are being proposed as part of this application.

Type 21 Liquor License

The Type 21 Liquor License is issued by the ABC for "Off Sale General" alcohol sales. This authorizes the sale of beer, wine and distilled spirits for consumption off the premises where sold. Additionally, it is issued for locations where minors are allowed on premises. The Type 21 License is the license carried by traditional liquor stores. Walmart currently has a Type 20 License, which authorizes the sale of beer and wine for consumption off premises.

Locked Liquor Cabinets

The applicant has included placing the distilled spirits in locked cabinets as part of the project description, as suggested by the SAC (Attachment 1). In order to allow flexibility in future cabinet locations, a condition of approval was created that requires the distilled spirits to always be located in locked cabinets. However, this does not require that the cabinets be located in the same place if, for example, an interior remodel of the store's

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layout was done. The Planning Commission could require the cabinets be located near the registers at all times, if desired.

Limitations on Retail Stores in Excess of Ninety Thousand Square-Feet

Arroyo Grande Municipal Code Section 16.52.220 addresses limitations on retail stores in excess of ninety thousand square feet. The purpose of these requirements is to limit the development of large retail stores by restricting their ability to sell nontaxable items to such an extent that they negatively impact the rural, small town character of the City and change exiting land use patterns. The Arroyo Grande Walmart store has a total building area of 100,459 square-feet and therefore should be subject to these standards. However, areas not dedicated as sales areas, including restrooms, offices, backrooms, storage spaces, etc., do not count toward this total building area. As shown on the project plans, Walmart contains 88,822 square-feet of enclosed sales floor area. This is slightly less than the 90,000 square-feet required for the regulations to be triggered. Therefore, the limitations on nontaxable items do not apply.

ALTERNATIVES:

The following alternatives are provided for the Planning Commission's consideration:

- Adopt the attached Resolution recommending the City Council approve Conditional Use Permit Case No. 14-010;
- Modify and adopt the attached Resolution recommending the City Council approve Conditional Use Permit Case No. 14-010;
- Do not adopt the attached Resolution and instead provide direction for staff to return with an appropriate resolution, including findings, recommending the City Council deny Conditional Use Permit Case No. 14-010; or
- Provide direction to staff.

ADVANTAGES:

The proposed project will expand the breadth of items available for sale at Walmart. It can allow for a greater "one-stop shopping" experience by the store's customers.

DISADVANTAGES:

The expansion of alcoholic beverage sales to include distilled spirits could negatively impact liquor stores within the City as a result of the potential "one-stop shopping" identified as an advantage.

ENVIRONMENTAL REVIEW:

The Community Development Department has reviewed the project in compliance with the California Environmental Quality Act (CEQA) and determined that the project is categorically exempt per Section 15301(e) of the CEQA Guidelines regarding existing facilities.

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PUBLIC NOTIFICATION AND COMMENTS:

On Friday, June 5, 2015, a notice of public hearing was mailed to all property owners within 300' of the project site, was published in The Tribune, in front of City Hall, and on the City's website. The agenda and staff report were also posted at City Hall and on the City's website on June 12, 2015. No comments have been received by staff.

Attachment:

1. Project Plans

RESOLUTION NO.

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF ARROYO GRANDE RECOMMENDING THE CITY COUNCIL APPROVE CONDITIONAL USE PERMIT CASE NO. 14-010; LOCATED AT 1168 W. BRANCH STREET; APPLIED FOR BY WALMART STORES, INC.

WHEREAS, the City Council adopted Resolution No. 3157 approving land use entitlements for the Five Cities Center development on July 9, 1996 as part of a former Planned Development area; and

WHEREAS, the applicant operates the Arroyo Grande Walmart store located at 1168 W. Branch Street; and

WHEREAS, the applicant has filed an application for Conditional Use Permit 14-010 to authorize the sale of distilled spirits at an existing commercial business; and

WHEREAS, the Planning Commission has reviewed the project in compliance with the California Environmental Quality Act (CEQA), the State CEQA Guidelines, and the Arroyo Grande Rules and Procedures for Implementation of CEQA and has found and determined that the project is exempt per Section 15301(e) (Existing Facilities) of the CEQA Guidelines; and

WHEREAS, the Planning Commission of the City of Arroyo Grande has reviewed the project at a duly noticed public hearing on June 16, 2015; and

WHEREAS, the Planning Commission finds, after due study, deliberation and public hearing, the following circumstances exist:

Conditional Use Permit Findings:

1. The proposed use is permitted within the subject district pursuant to the provisions of this section and complies with all the applicable provisions of this title, the goals, and objectives of the Arroyo Grande General Plan, and the development policies and standards of the City.

Alcoholic beverage sales are an allowed use in the Regional Commercial (RC) zoning district following approval of a conditional use permit per Section 16.36.030 of the Municipal Code and while the retail store currently sells beer and wine, the sale of distilled spirits would be an intensification of that use requiring approval of a conditional use permit to ensure compliance with the Municipal Code.

2. The proposed use would not impair the integrity and character of the district in which it is to be established or located.

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The existing retail store currently sells beer and wine and the intensification of use associated with alcoholic beverage sales would not impair the integrity and character of the RC district in light of the stated purpose of the RC zoning district per Municipal Code Subsection 16.36.020(l) and conditions of approval developed for the project to help ensure integrity and character are maintained.

3. The site is suitable for the type and intensity of use or development that is proposed.

The site contains an existing retail business that currently sells beer and wine and therefore is suitable for the expanded alcoholic beverage sales. Conditions of approval have been developed for the project to ensure the expanded alcoholic beverage sales does not result in any adverse impacts on adjacent land uses.

4. There are adequate provisions for water, sanitation, and public utilities and services to ensure public health and safety.

The expansion of use for alcoholic beverage sales to include distilled spirits is not anticipated to require addition provisions for water, sanitation, and public utilities and services. Therefore, there are adequate provisions for all utilities and services necessary to ensure public health and safety.

5. The proposed use will not be detrimental to the public health, safety or welfare or materially injurious to properties and improvements in the vicinity.

The expansion of use for alcoholic beverage sales to include distilled spirits will not be detrimental to the public health, safety or welfare due to conditions of approval developed for the project to ensure public health, safety and welfare.

NOW, THEREFORE, BE IT RESOLVED that the Planning Commission of the City of Arroyo Grande hereby recommends the City Council approve Conditional Use Permit 14-010, as presented to the Planning Commission on June 16, 2015 and shown in Exhibit "B", attached hereto and incorporated herein by this reference as though set forth in full, with the above findings and subject to the conditions as set forth in Exhibit "A", attached hereto and incorporated herein by this reference.

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On motion by Commissioner _____, seconded by Commissioner _____, and by the following roll call vote, to wit:

AYES:

NOES:

ABSENT:

the foregoing Resolution was adopted this 16th day of June 2015.

ATTEST:

DEBBIE WEICHER
SECRETARY TO THE COMMISSION

LAN GEORGE, CHAIR

AS TO CONTENT:

TERESA MCCLISH
COMMUNITY DEVELOPMENT DIRECTOR

EXHIBIT "A"
CONDITIONS OF APPROVAL
CONDITIONAL USE PERMIT CASE NO. 14-010
1168 W. BRANCH STREET

This approval authorizes the sale of beer, wine and distilled spirits for consumption off the premises at the Arroyo Grande Walmart store, with appropriate Alcoholic Beverage Control (ABC) permits.

COMMUNITY DEVELOPMENT DEPARTMENT

PLANNING DIVISION

GENERAL CONDITIONS

1. The applicant shall ascertain and comply with all Federal, State, County and City requirements as are applicable to this project.
2. The applicant shall comply with all conditions of approval for Conditional Use Permit Case No. 14-010.
3. The project shall occur in substantial conformance with the plans presented to the Planning Commission at the meeting of June 16, 2015 and marked Exhibit "B".
4. The applicant shall agree to indemnify and defend at his/her sole expense any action brought against the City, its present or former agents, officers, or employees because of the issuance of said approval, or in any way relating to the implementation thereof, or in the alternative, to relinquish such approval. The applicant shall reimburse the City, its agents, officers, or employees, for any court costs and attorney's fees which the City, its agents, officers or employees may be required by a court to pay as a result of such action. The City may, at its sole discretion, participate at its own expense in the defense of any such action but such participation shall not relieve applicant of his/her obligations under this condition.
5. A copy of these conditions shall be incorporated into any construction documents necessary for or resulting from this approval.
6. This approval shall expire on August 5, 2016 unless a building permit is issued for the project prior to that date.
7. All conditions of approve from Resolution No. 3157 and subsequent approvals shall remain in full force and effect, in addition to the conditions of approval contained herein.

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BUILDING AND LIFE SAFETY DIVISION

BUILDING CODES

8. The project shall comply with the most recent editions of all California Codes, as adopted by the City of Arroyo Grande.

DISABLED ACCESS

9. Provide complete compliance with State and Federal disabled access requirements.

OTHER APPROVALS

10. Any review costs generated by outside consultants, shall be paid by the applicant.

POLICE DEPARTMENT

11. Distilled spirits displayed for sale shall be located in locking cabinets at all times. An employee of the Arroyo Grande Walmart store shall be required to retrieve distilled spirits and hand deliver it to the purchasing customer.