



AGENDA

CITY OF SEASIDE
PLANNING COMMISSION

REGULAR MEETING
COUNCIL CHAMBER
440 Harcourt Avenue
Wednesday, February 11, 2015
7:00 PM

PLEASE TURN OFF YOUR CELL PHONES UPON ENTERING THE MEETING

John Owens	Chair
Amy Taketomo	Vice Chair
Keith Dodson	Commissioner
Michael Lechman	Commissioner
Paul Mugan	Commissioner
Denise Ross	Commissioner

1. **CALL TO ORDER**
2. **ROLL CALL - ESTABLISHMENT OF QUORUM**
3. **APPROVAL OF MINUTES**

A. **Regular Meeting of November 12, 2014**

B. **Regular Meeting of December 10, 2014**

4. **PUBLIC COMMENT**
5. **NEW BUSINESS**

A. **USE PERMIT APPLICATION NO. UP-14-09. ERASMO AIELLO, PROPERTY OWNER, AND PAT CORRIGAN, APPLICANT, ARE REQUESTING APPROVAL OF A USE PERMIT TO ALLOW THE ON-SALE OF HARD LIQUOR (CLASS 47 ALCOHOLIC BEVERAGE CONTROL LICENSE) IN ADDITION TO THE EXISTING ON-SALE OF BEER AND WINE (CLASS 41 ALCOHOLIC BEVERAGE CONTROL LICENSE) FOR THE RE-OPENING OF A 96 SEAT SIT DOWN FULL SERVICE RESTAURANT AT 1901 FREMONT BOULEVARD IN THE REGIONAL**

COMMERCIAL (CRG) ZONING DISTRICT. THE PROPOSED PROJECT IS CATEGORICALLY EXEMPT, SECTION 15301, EXISTING FACILITIES, FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT.

PURPOSE: The project consists of a Use Permit application for the on-sale of hard liquor in addition to the existing on-sale of beer and wine within a 96 seat sit down full service restaurant located at 1901 Fremont Boulevard. Section 17.14.030 of the Seaside Zoning Ordinance requires a Use Permit for alcoholic beverage sales in the Regional Commercial zoning district.

RECOMMENDATION: Staff recommends approval of the use permit subject to the findings, evidence, and Conditions of Approval provided as Attachment 1 and Project Plans provided as Exhibit "A" to Attachment 1.

B. USE PERMIT APPLICATION NO. UP-14-10. MARK, REED, AND RICHARD GEISREITER, PROPERTY OWNER, AND WALGREENS CO., APPLICANT, ARE REQUESTING USE PERMIT APPROVAL FOR THE OFF-SALE OF HARD LIQUOR WITHIN AN EXISTING RETAIL STORE/PHARMACY LOCATED AT 1055 FREMONT BOULEVARD IN THE CC (COMMUNITY COMMERCIAL) ZONING DISTRICT. THE PROJECT IS CATEGORICALLY EXEMPT, CLASS 1, SECTION 15301 FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) GUIDELINES.

PURPOSE: The project consists of a Use Permit application for the off-sale of hard liquor in addition to the existing off-sale of beer and wine within an existing retail store/pharmacy located at 1055 Fremont Boulevard. Section 17.14.030 of the Seaside Zoning Ordinance requires a Use Permit for alcoholic beverage sales in the Community Commercial Zoning District.

RECOMMENDATION: Staff recommends approval of Use Permit Application No. UP-14-10 granting approval for the retail sale of hard liquor for off-site consumption at a Walgreens retail store/pharmacy based on the findings and evidence cited in the staff report and subject to the Conditions of Approval provided as Exhibit A. Staff further recommends that the Planning Commission make a determination of Public Convenience or Necessity in accordance with State of California, Department of Alcoholic Beverage Control regulations.

6. **OLD BUSINESS**
7. **REPORTS FROM COMMISSIONERS**
8. **REPORTS FROM STAFF**
9. **ADJOURNMENT**

Next Regularly Scheduled Meeting:

February 25, 2015

Seaside City Hall
7:00 PM

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<http://cvp.telvue.com/player?id=T01629&video=52314&noplaylists=1&width=400&height=300> Videos of past meetings are available on demand through the City's website: <http://www.ci.seaside.ca.us>

Agenda-related writings or documents provided during public meetings are available for public inspection during the meeting or from the office of the City Clerk. This agenda is posted in compliance with California Government Code Section 54954.2(a) or Section 54956.



CITY OF SEASIDE
PLANNING
COMMISSION

MEETING MINUTES

REGULAR MEETING
440 Harcourt Avenue
WEDNESDAY,
NOVEMBER 12, 2014
TIME 7:00 PM

1. **CALL TO ORDER AT 7:00 PM**

2. **ROLL CALL – ESTABLISHMENT OF QUORUM**

MEMBERS John Owens, Amy Taketomo, Keith Dodson, Michael
Lechman, Paul Mugan, Denise Ross

PRESENT: John Owens, Amy Taketomo, Keith Dodson, Michael
Lechman

ABSENT: Paul Mugan, Denise Ross

3. **APPROVAL OF MINUTES**

A. REGULAR MEETING OF OCTOBER 8, 2014

On motion by Member Dodson and Seconded by Member Owens and carried
by the following vote the PC approved the meeting minutes of October 8, 2014

AYES	2	COMMITTEE	John Owens, Keith Dodson
		MEMBERS	
NOES	0	COMMITTEE	
		MEMBERS	
ABSENT	2	COMMITTEE	Paul Mugan, Denise Ross
		MEMBERS	
RECUSED	2	COMMITTEE	Amy Taketomo, Michael
		MEMBERS	Lechman

4. **PUBLIC COMMENT - None**

5. **PUBLIC HEARING**

A. SEASIDE MUNICIPAL CODE AMENDMENT NO. SMA-14-01

City of Seaside, applicant, requested that the Planning Commission provide a recommendation to the City Council on the adoption of proposed text amendments to the Seaside Municipal Code regarding tobacco or electronic retailers, the sale of drug paraphernalia, and regulations pertaining to prohibition of smoking in public places. The Text Amendment application is exempt from California Environmental Quality Act review pursuant to Title 14, Section 15061(b)(3) of the California Code of Regulations. Rick Medina, Senior Planner presented the item. The adoption of the proposed text amendments to the Seaside Municipal Code were detailed as follows:

- Imposing potential land use and zoning limitations on tobacco or electronic cigarette retailers, vapor lounges and the sale of drug paraphernalia, and

- Imposing potential regulations related to the prohibiting smoking in certain public places in the City.

Mr. Medina provided the background behind the text amendment which was prompted after an application was received for Electronic Cigarette Retailer in May of 2014. In June, 2014 an Urgency Interim Ordinance No. 1015 was adopted by the City Council which established a 45 day moratorium prohibiting Electronic Cigarette retailers, smoke shops, and the sale of drug paraphernalia. The interim ordinance was extended on July 17, 2014 for an additional 10 months and 15 days. Staff reviewed the alleviation report which provided the Council with the three main challenges were considered, and similar land uses of retail stores selling electronic cigarettes, tobacco products and drug paraphernalia were reviewed. Key topics of discussion regarding the development of the proposed text amendments were reviewed and are listed below:

1. Electronic Cigarette defined as battery operated devices (also known or commonly known as e-cigarettes, e-cigars, e-cigarillos, e-pipes, and e-hookahs), designed to be used in the same manner as conventional tobacco products. The act of using an electronic cigarette is called smoking or vaping.
2. Electronic Cigarette health & safety research is still developing because the technology and phenomenon is relatively new. Opinions and research are divided regarding the health and safety implications of electronic cigarettes.
3. State law regarding tobacco and electronic cigarettes prohibits the sale of electronic cigarettes to minor in California Health and Safety Code Section 119405. No other state law currently regulates the sale and use of electronic cigarettes.
4. City of Seaside's existing tobacco regulations that have been adopted are more stringent local smoking and tobacco control ordinances to protect public health. Seaside Municipal Code (SMC) Chapter 8.38 regulates the use and sale of tobacco products and additionally Section 17.14.030.B of the SMC lists smoke shops as being allowed with a use permit in the heavy commercial zoning district. The City is not expressly preempted from adopting regulations treating an electronic cigarette retailer the same as a smoke shop. If the City does so, an electronic cigarette retailer would then only be permitted within the heavy commercial zoning district subject to a use permit; the Police Department is in agreement with allowing electronic cigarette retailers to be located with the City's heavy commercial zoning districts.
5. Tobacco or Electronic Cigarette retailer defined as more than five percent of the floor area or product display primarily for the wholesale or retail sale, distribution, or exchange of electronic cigarettes, tobacco products, or tobacco paraphernalia.
6. Drug paraphernalia retailer defined as any person or business that operates any establishment, structure, facility, vehicle, stand or cart at which the person or business sells, offers for sale, exchanges or offers to

exchange for any form of consideration drug paraphernalia.

Staff recommended that the Planning Commission hold a public hearing regarding Seaside Municipal Code Amendment 14-01, and after considering all evidence and testimony presented, adopted the draft Resolution provided as Attachment 1 recommending the approval of Seaside Municipal Code Application No. 14-01 to the City Council. Staff also answered the following questions from the Commission:

1. K. Dodson: Referring to the definition – is this a definition that other cities that have taken action about electronic cigarettes have used as well? *Answer: Yes, most notably Beverly Hills, Hayward, Fairfield and Seal Beach. So this is a typical definition that is used in most cities.*
2. J. Owens: Isn't the allowed zoning awfully close to Seaside High School (SHS)? We're talking about smoke shops and I know a lot of kids walk down to the Sand City plaza. Why do we allow drug paraphernalia to be sold? Are police concerned with the selling of electronic cigarettes? *Answer: It's just that the City's zoning is aged, and you do have the discretion because it is a use permit. And you can take into account factors such as locations of schools, parks & playground. So even though it is zoned "H", the Planning Commission would retain the discretion in terms of how the use is conducted; how dark the windows are, how minors could potentially have access to it. And that could be a basis of denial. The far as the location distance from schools, is only restricted for actual smoking which is 20 feet from windows and doors. The City originally wanted to ban drug paraphernalia entirely but the attorneys advised that because of the way state law is written, it just has to be in area that is secure and away from minors.*
3. A. Taketomo: A report was done – I think it was by the Department of health and safety of California [about] there is increased concern [regarding electronic cigarettes] because devices are attractive to young children because they are highly colored and the flavors that they have would be attractive to children.

Rick Medina, correct himself to the chair and pointed out that the proposed text for SMC section 8.39.050A that is where the drug paraphernalia section is contained and it indicates "except as otherwise authorized by State law, no person shall maintain or operate any place of business in which drug paraphernalia is kept, displayed or offered in any manner, sold, furnished, transferred or given away." So that store would not be allowed to have any minors in the store or be kept in a room away from display.

On motion by Member Lechman and Seconded by Member Dodson and carried by the following vote the PC moved to recommend to the City Council the recommendation to adopt the proposed text amendments to the Seaside Municipal Code (SMC) regarding tobacco or electronic retailers, the sale of drug paraphernalia, and regulations pertaining to prohibition of smoking in public places.

AYES

4 COMMITTEE

John Owens, Keith Dodson,

		MEMBERS	Amy Taketomo, Michael Lechman
NOES	0	COMMITTEE MEMBERS	
ABSENT	2	COMMITTEE MEMBERS	Paul Mugan, Denise Ross
RECUSED	0	COMMITTEE MEMBERS	

B. USE PERMIT APPLICATION NO. UP-14-08

Nathaniel Allen (Property Owner and Applicant), requested approval of a Use Permit to legalize the construction of an existing exterior stairway which leads to an existing second story roof deck on a single-family dwelling located at 1274 Trinity Avenue, in the Single-Family Residential (RS-12) Zoning District. The proposed project is exempt from California Environmental Quality Act review pursuant to Section 15301(e)(1) of the California Code of Regulations.

Bob Larsen, Associate Planner, presented the project which is currently developed with a one story, 1,311 square foot single family residence. The owner purchased the property in 2013 and began enlarging the home in January 2014. The house is currently four bedrooms with two baths and an attached one car garage. The applicant wanted to include a roof deck as part of the remodel, however at the time he pulled his permits, the Zoning Ordinance did not allow for exterior stairways that are leading to a second floor or roof decks in the single family residential zoning districts. Open discussions between the applicant and the City regarding the proposed text changes to the Zoning Ordinance that would allow for the exterior stairways with the issuance of a Use Permit but would have to omit the exterior stairs until permitted by code. However during inspections of the remodeled areas, the Building Official noticed the exterior stairway was almost completed, and advised the property owner to stop work and meet with Planning staff. Staff answered questions from the Commission:

- Was this site red tagged? *Answer: this site was told to "stop work" but has not been officially red tagged.*

Applicant & Property Owner, Nathaniel Allen, addressed the Commission. Mr. Allen stated that back in 2013, he approached the Planning & Building departments with intent to build this project and stated that he kept all parties completely in the loop. He indicated that the assessment and overview provided by staff led that he built it without anyone knowing and that he submitted plans that showed how the stairs would be constructed. He was told that he could all he would have to do is apply for a use permit and that the process of going to architectural review and the other aspects of the project were not clearly communicated to him. He just wants to finish the project and follow the rules. Mr. Allen also wanted to express that it was not his intention to purposely violate any rules or procedures. Mr. Allen also answered questions from the Commission.

K. Dodson: So, they approved the plans with roof deck but did not approve the staircase? Seems strange to approve a roof deck without access. *Answer: When I submitted the plans, I was told not to show the exterior stairs since the already*

approved ordinance would not be implemented until January 1. The plans were technically submitted before that, so I was told by Building & Planning not to show them.

J. Owens: You do have access to the deck from inside the house, right? *Answer: No.* So, the only access is through the exterior staircase. *Answer: Correct, it was originally intended to have an exterior staircase, based on Planning's input that it would be allowed.*

Staff answered questions from the Commission regarding how this situation happened and why the applicant was allowed to build the deck without an egress and a code was not in place to allow for exterior staircases. Staff explained that the situation happened as the applicant explained and that he was allowed to proceed with his plans to build the deck with the expectation that the ordinance allowing the exterior staircase would be implemented on January 1, 2014. Also, staff confirmed the process for the applicant to be issued a building permit for the staircase. Senior Planner, Rick Medina informed the Commission that once the use permit is granted and design review has been completed, the applicant would then apply for a building permit for the stairs and/or make amendments to his existing permit.

On motion by Member Lechman and Seconded by Member Dodson and carried by the following vote the PC to approve a use permit to legalize the construction of an existing exterior stairway which leads to an existing second story roof deck on a single family dwelling.

AYES	4	COMMITTEE MEMBERS	John Owens, Keith Dodson, Amy Taketomo, Michael Lechman
NOES	0	COMMITTEE MEMBERS	
ABSENT	2	COMMITTEE MEMBERS	Paul Mugan, Denise Ross
RECUSED	0	COMMITTEE MEMBERS	

6. REPORTS BY STAFF

7. REPORTS FROM COMMISSIONERS

John Owens requested updates from staff regarding the issues that have occurring at the home depot parking lot and the length of time that POD'S are allowed to be in a person's driveway. Staff advised the Commission that they would bring back the answers and follow up status at the next meeting.

8. ADJOURNMENT at 7:50pm

On motion by Member Dodson and Seconded by Member Lechman and carried by the following vote the PC moved to adjourn the meeting at 7:50pm

AYES	4	COMMITTEE MEMBERS	John Owens, Keith Dodson, Amy Taketomo, Michael
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NOES	0	COMMITTEE MEMBERS	Lechman
ABSENT	2	COMMITTEE MEMBERS	Paul Mugan, Denise Ross
RECUSED	0	COMMITTEE MEMBERS	



MEETING MINUTES

CITY OF SEASIDE
PLANNING
COMMISSION

REGULAR MEETING
440 HARCOURT AVE
WEDNESDAY, DECEMBER
10, 2014
7:00 PM

1. CALL TO ORDER AT 7:00 PM

2. ROLL CALL – ESTABLISHMENT OF QUORUM

MEMBERS JOHN OWENS, AMY TAKETOMO, KEITH
DODSON, MICHAEL LECHMAN, PAUL MUGAN,
DENISE ROSS

PRESENT: JOHN OWENS, AMY TAKETOMO, KEITH
DODSON, MICHAEL LECHMAN, PAUL MUGAN,
DENISE ROSS

ABSENT:

3. PUBLIC COMMENT – NONE

4. NEW BUSINESS

- A. **USE PERMIT APPLICATION UP-14-07:** City of Seaside, property owner, and Seaside Resort LLC, requested modifications to Use Permit No. Up-01-20 in accordance with the terms of the amended and restated development and disposition agreement for the development of the Seaside Resort Project. In accordance with Section 15164 of the California Environmental Quality Act guidelines, an addendum to the Seaside Resort Environmental Impact Report has been prepared for the project.

Lisa Brinton, Community & Economic Development Services Manager, presented the project. Ms. Brinton, also introduced Michael Groves, President, EMC Planning Group, who provided the presentation of the project as the City's land use consultant. A copy of the power point presentation was provided to the Commission. The land use consultant informed the Commission that the proposed modifications were to expand the list of uses on the timeshare parcels to match those listed in the amended Development & Disposition Agreement (DDA). The purpose of the hearing was to make the expanded list of permitted uses consistent the existing Use Permit and with the amended DDA that has already been approved by the City Council. The Commission voted on the following resolutions separately:

1. Adopt the Resolution, provided as Attachment 1, approving an Addendum to the Seaside Resort Environmental Impact Report in accordance with the California Environmental Quality Act Guidelines (CEQA) for Use Permit Application No. UP-01-20; and
2. Adopt the Resolution, provided as Attachment 2, approving the requested modifications to Use Permit Application No. UP-01-20 as

described in in the following Exhibits to Attachment 2: Attachment 2-Exhibit “A,” Description of Modifications to City of Seaside Use Permit 01-20; Attachment 2-Exhibit “B,” Timeshare and Hotel Parcel Legal Descriptions, and in accordance with findings provided as Attachment 2-Exhibit “C,” CEQA Findings, and Attachment 2-Exhibit “D,” Project Findings.

On motion by Commissioner Lechman and Seconded by Commissioner Taketomo and carried by the following vote the Planning Commission approved UP-14-07, Resolutions 1.

AYES	6	COMMITTEE MEMBERS	JOHN OWENS, AMY TAKETOMO, KEITH DODSON, MICHAEL LECHMAN, PAUL MUGAN, DENISE ROSS
NOES	0	COMMITTEE MEMBERS	
ABSENT	0	COMMITTEE MEMBERS	
RECUSED	0	COMMITTEE MEMBERS	

On motion by Commissioner Lechman and Seconded by Commissioner Dodson and carried by the following vote, the Planning Commission approved UP-14-07, Resolutions 2.

AYES	6	COMMITTEE MEMBERS	JOHN OWENS, AMY TAKETOMO, KEITH DODSON, MICHAEL LECHMAN, PAUL MUGAN, DENISE ROSS
NOES	0	COMMITTEE MEMBERS	
ABSENT	0	COMMITTEE MEMBERS	
RECUSED	0	COMMITTEE MEMBERS	

- B. **SEASIDE MUNICIPAL CODE AMENDMENT NO. 14-01:** City of Seaside, applicant, requested that the Planning Commission provide a recommendation to the City Council on the adoption of proposed text amendments to the Seaside Municipal Code regarding tobacco or electronic retailers, the sale of drug paraphernalia, and regulations related to prohibiting smoking in certain public places.

Lisa Brinton, Community & Economic Development Services Manager, reviewed the item and advised the Commission and public that the reason that the item was placed on the agenda again was to allow the City the opportunity to widened their noticing to local businesses and the applicant that triggered this SMC amendment, and to allow the public yet another opportunity to come forward regarding this item. Staff asked that the Commission re-affirm their previous vote of recommendation to the City

Council by voting again to recommend the adoption of proposed text amendments to the SMC.

On motion by Commissioner Dodson and Seconded by Commissioner Taketomo and carried by the following vote the Planning Commission recommended to the City Council the adoption of proposed text amendments to the Seaside Municipal Code regarding tobacco or electronic retailers, the sale of drug paraphernalia, and regulations related to prohibiting smoking in certain public places.

AYES	6	COMMITTEE MEMBERS	JOHN OWENS, AMY TAKETOMO, KEITH DODSON, MICHAEL LECHMAN, PAUL MUGAN, DENISE ROSS
NOES	0	COMMITTEE MEMBERS	
ABSENT	0	COMMITTEE MEMBERS	
RECUSED	0	COMMITTEE MEMBERS	

5. OLD BUSINESS - NONE

6. REPORTS FROM COMMISSIONERS

- A. John Owens, Commission Chairperson – requested a meeting with the Mayor and City Manager to talk about the Planning Commissions role in decision making and specifically the recent overturn of the Planning Commission’s decision regarding an appeal at 1164 Hamilton Avenue.
- B. Paul Mugan – Concerned that the Planning Commission was not invited to the FORA review meeting that was held in December 2014 at the Oldemeyer Center. Also concerned with declining interactions with the City staff and events that the Planning Commission should be involved – suggested to having more incremental briefings besides scheduled meetings and agenda review meetings.

7. REPORTS FROM STAFF

- A. Signs for Laguna Grande parking lot has been ordered.
- B. Placement of POD’s according to SMC Ch. 17.34 – prohibits the placement of POD’s on private property. Asked the Planning Commission to provide specific locations, addresses, etc.
- C. Status of EIR for Monterey Downs was provided and the review period has been determined that it will be 60 days once the EIR is released.
- D. Status of In-N-Out Burgers was provided.

8. ADJOURNMENT – 8:03 PM



**CITY OF SEASIDE
STAFF REPORT**

Item No.: 5.A.

TO: Planning Commission

FROM: Lisa Brinton, Community and Economic Services Manager

BY: Bob Larsen, Associate Planner

DATE: February 11, 2015

SUBJECT: **USE PERMIT APPLICATION NO. UP-14-09. ERASMO AIELLO, PROPERTY OWNER, AND PAT CORRIGAN, APPLICANT, ARE REQUESTING APPROVAL OF A USE PERMIT TO ALLOW THE ON-SALE OF HARD LIQUOR (CLASS 47 ALCOHOLIC BEVERAGE CONTROL LICENSE) IN ADDITION TO THE EXISTING ON-SALE OF BEER AND WINE (CLASS 41 ALCOHOLIC BEVERAGE CONTROL LICENSE) FOR THE RE-OPENING OF A 96 SEAT SIT DOWN FULL SERVICE RESTAURANT AT 1901 FREMONT BOULEVARD IN THE REGIONAL COMMERCIAL (CRG) ZONING DISTRICT. THE PROPOSED PROJECT IS CATEGORICALLY EXEMPT, SECTION 15301, EXISTING FACILITIES, FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT.**

PURPOSE

The project consists of a Use Permit application for the on-sale of hard liquor in addition to the existing on-sale of beer and wine within a 96 seat sit down full service restaurant located at 1901 Fremont Boulevard. Section 17.14.030 of the Seaside Zoning Ordinance requires a Use Permit for alcoholic beverage sales in the Regional Commercial zoning district.

RECOMMENDATION

Staff recommends approval of the use permit subject to the findings, evidence, and Conditions of Approval provided as Attachment 1 and Project Plans provided as Exhibit "A" to Attachment 1.

BACKGROUND

The project site is located at the northwest corner of Fremont Boulevard and La Salle Avenue and is developed with an existing 3,573 sq. ft. restaurant building and a 21 space off-street parking lot. Vehicular ingress and egress to the center is provided by driveways on Auto Center Parkway at the west end of the site and a driveway off La Salle Avenue towards the east end of the site.

The site is bordered to the west, north, and south by motels and retail commercial businesses to the east.

Figure 1: Project Site Adjacent Land Uses

NW	N			NE
W	Motel	Motel	Retail Business	E
	Motel	Project Site	Retail Business	
	Motel	Motel	Gas Station	
SW	S			SE

PROJECT DESCRIPTION

The restaurant was originally constructed as a “Golden West” pancake house in the 1970’s. The building was later converted in the 1990’s to an independent sit-down restaurant. After being vacant for some time, the restaurant reopened in the summer of 2014 as Lucky’s Roadside restaurant. The current applicant is proposing to reopen the restaurant as a 96 seat full service family sit down restaurant. The new restaurant will be called Gusto Pasta and Pizzeria. The applicant also owns Bigoli Pasta Company. The restaurant will offer Bigoli pastas and other related products for sale at the restaurant. The on-sale of beer and wine license transferred to the new owner on February 2, 2015. The applicant is requesting a Use Permit to allow hard liquor to also be served at the restaurant with meals. No separate lounge area will be created. The restaurant will be open for lunch and dinner from 11 AM to 11 PM weekdays and 11 AM to Midnight on the weekends. The Police, Fire, and Building Departments have reviewed the application and have offered no objections to the request.

ENVIRONMENTAL REVIEW

The proposed project qualifies as categorical exemption under the California Environmental Quality Act (CEQA) Guidelines Section 15301, Existing Facilities. This class consist of the operation of existing public or private structures with negligible or no expansion of an existing use.

Evidence: The proposed project will consist of the serving of hard liquor in addition to beer and wine at an existing sit down restaurant. Negligible or no expansion of the existing improvements is required for the on-sale of hard liquor in addition to the on-sale of beer and wine at the

restaurant.

STAFF ANALYSIS AND FINDINGS

Use Permit Findings

In accordance with Seaside Municipal Code (SMC) Section 17.14.030, Table 2-4, an application for the sale of alcoholic beverages shall be filed under the Use Permit process to determine whether the following findings can be made concerning the proposed project:

- 1) The proposed use is allowed within the applicable zone and complies with all other applicable provisions of this Zoning Ordinance and the Municipal Code.**

Site Improvements

The proposed project will be located within a developed restaurant that is equipped with all required utilities, trash enclosures, and off-street parking. No exterior improvements are proposed or required for the project.

Hard Liquor Sales

Section 17.14.030, Table 2-4 of the Seaside Municipal Code (SMC) requires the issuance of a use permit for the on-sale of alcoholic beverages. In accordance with a Class 47 On-Sale Liquor License, the sale of hard liquor would be served only at the tables with meals. The design, location, size, and operation of the restaurant is consistent and compatible with the existing and planned uses for the neighborhood. The Police Department has not identified any issues with the request and would support the approval of on-sale hard liquor in accordance with the proposed hours of operation.

- 2) The proposed use is consistent with the General Plan and any applicable specific plan.**

Seaside General Plan

The project site is designated as Regional Commercial (RGC) in the Seaside General Plan. Regional Commercial uses are defined as large scale commercial development with retail, entertainment, and or services uses of a scale and function to serve a regional market.

Land Use Element

Goal LU-1: Promote a mixture of land uses and a balance of jobs and housing to support a community in which people can live, work and play.

Policy LU-1.3: Encourage regional commercial development and visitor-serving commercial development that will enhance the identity of Seaside and attract visitors to the community.

Evidence: The proposed sale of hard liquor will enhance the dining experience at a restaurant that will be visited by locals and tourists on a regular basis. The applicant is directing a large portion of his signage towards the Costco and auto dealership traffic on Del Monte Boulevard. The Bigoli pasta sales also have a regional following. This will increase the economic activity for the City of Seaside.

- 3) Granting the permit would not be detrimental to the public interest, health, safety, convenience, or welfare, or materially injurious to persons, property, or improvements in the vicinity and zone district in which the property is located.**

The granting of a use permit will not create significant noise, traffic, or other conditions or situations that may be objectionable or detrimental to other permitted uses in the vicinity or adverse to the public interest, health, safety, convenience, or welfare of the City.

CONCLUSION

Based on the analysis, staff recommends approval of the use permit. The serving of hard liquor at the Gusto Pasta and Pizzeria restaurant complies with the intent of the Seaside General Plan and the requirements of Title 17 of the Seaside Municipal Code.

ATTACHMENTS

1. Attachment 1 - Draft Resolution
 2. Exhibit A - Floor Plan
 3. Attachment 2 - Location Map
-

RESOLUTION NO. 14-XX

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF SEASIDE, STATE OF CALIFORNIA, APPROVING A CONDITIONAL USE PERMIT TO ALLOW THE ON-SALE OF HARD LIQUOR SALES LOCATED AT 1901 FREMONT BOULEVARD (APN 011-525-009).

WHEREAS, Patrick Corrigan, Applicant, and Erasmo Aiello, Property Owner, have applied for a Conditional Use Permit to allow on-sale hard liquor sales within an existing 96-seat sit down restaurant located at 1901 Fremont Boulevard, in the Regional Commercial (CRG) Zoning District; and

WHEREAS, the proposed project is a discretionary approval, and it is the responsibility of the Planning Commission to consider and weigh the merits of the application and public input in relation to the policies, standards and intent of the Seaside General Plan and Seaside Municipal Code; and

WHEREAS, the Seaside Planning Commission considered oral comments and written information concerning the proposed amendment at a duly noticed public hearing at public meeting held on February 11, 2015; and

WHEREAS, the project is Categorically Exempt, Section 15301 from the California Environmental Quality Act (CEQA) Guidelines.

Evidence: The proposed project will consist of the serving hard liquor at an existing sit down restaurant.

NOW, THEREFORE, BE IT RESOLVED, that the Planning Commission adopts the following findings for Conditional Use Permit Application No. 14-09:

1. The proposed use is allowed within the applicable zone and complies with all other applicable provisions of this Zoning Ordinance and the Municipal Code; consistent with the General Plan, design, location, size and operating characteristics of the proposed activity, the site is physically suitable for the type, density, and intensity, and granting the permit would not be detrimental to the public interest, health, safety, convenience or welfare of the City.

Evidence: The location, size, design, and operating characteristics of the proposed restaurant is compatible with the existing and future land uses on Fremont Boulevard where the proposed use is to be located; the sale of hard liquor with meals will not create a bar or tavern use; and the sale of hard liquor will not create significant noise, traffic, or other conditions or situations that may be objectionable or detrimental to other permitted uses in the vicinity or adverse to the public interest, health, safety, convenience, or welfare of the City.

Evidence: The operation of a sit down full service restaurant is consistent and in harmony with the Regional Commercial General Plan Land Use Designation and Regional Commercial Zoning District.

Evidence: In accordance with Land Use Policy LU-4.1, the existing restaurant is compatible with the surrounding land uses and available infrastructure.

2. The on-sale of hard liquor at the project site would not create an undue concentration of alcohol establishments in the area and would not be detrimental to the health, safety, and welfare of the community.

Evidence: The sale of hard liquor will only be sold with meals at the dining room tables for on-site consumption; a separate bar/lounge area is not proposed as part of this application.

3. The approval of the proposed project is in compliance with the requirements of the California Environmental Quality Act (CEQA).

Evidence: In accordance with Section 15301(Existing Facilities) of the California Environmental Quality Act (CEQA), in that the operation of existing public or private structures with negligible or no expansion of an existing use. The on-sale of hard liquor will not expand the existing use of the restaurant.

BE IT FURTHER RESOLVED, that the Planning Commission approves Conditional Use Permit Application No. 14-06 subject to the following conditions:

1. Except as modified by the conditions of approval, the plans submitted for a Building Permit must be in compliance with the plans stamped "Received Seaside Community Development Department December 30, 2014" provided as Exhibit "A".

Fire Department:

2. Compliance shall be maintained with the 2013 California Fire Code. This condition also requires compliance with the maximum occupancy load set for this establishment.

Building Department:

3. Compliance shall be maintained with the 2013 California Building Code.

Standard:

1. Use Permit approval is subject to revocation procedures contained in S.M.C.S. 17.80.060 in the event any of the conditions of this approval are violated, this discretionary permit was granted on the basis of false or misleading information, written or oral, given willingly or negligently by the applicant or property owner, and/or there has been a discontinuance of the use, or purposed for which the permit was issued, for a period of 180 days or more.
2. This Use Permit is subject to procedures and requirements of Chapter 17.64 (Permit Implementation, Time Limits, and Extensions), and those related to appeals and revocation in Article 6 (Zoning Ordinance Administration) of Title 17 of the Municipal.

3. The applicant agrees as a condition and in consideration of the approval of this discretionary permit that they will, defend, indemnify and hold harmless the City of Seaside or its agents, officers and employees from any claim, action or proceeding against the City or its agents, officers or employees to attack, set aside, void or annul this approval. The applicant will reimburse the City for any court costs and attorney's fees, which the City may be required by a court to pay as a result of such action. The City may, at its sole discretion, participate in the defense of such action; but such participation shall not relieve applicant of his obligations under this condition. The City shall promptly notify the applicant of any such claim, action, or proceeding and the City shall cooperate fully in the defense thereof
4. The project shall comply with the requirements and the applicable ordinances of the Monterey Peninsula Water Management District (MPWMD) and Monterey Regional Water Pollution Control Agency.
5. The permit shall have no force or effect unless and until accepted, and the terms thereof agreed to, in writing, by the applicant and property owner within fifteen (15) days from the date of its approval.
6. This Use Permit shall expire and become void 12 months from the date of approval, or upon the expiration of another time limit established by the review authority, unless project use has commenced within the required time limit, and construction continues thereafter under a valid Building Permit, or the Zoning Administrator has granted an extension of time.
7. For purposes of assuring compliance, the applicant, agents, representatives or their assignees agree not to deny or impede access to the subject property by City employees in the performance of their duties.

PASSED AND ADOPTED at the regular meeting of the Planning Commission of the City of Seaside, State of California, on the 11th day of February 2015, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

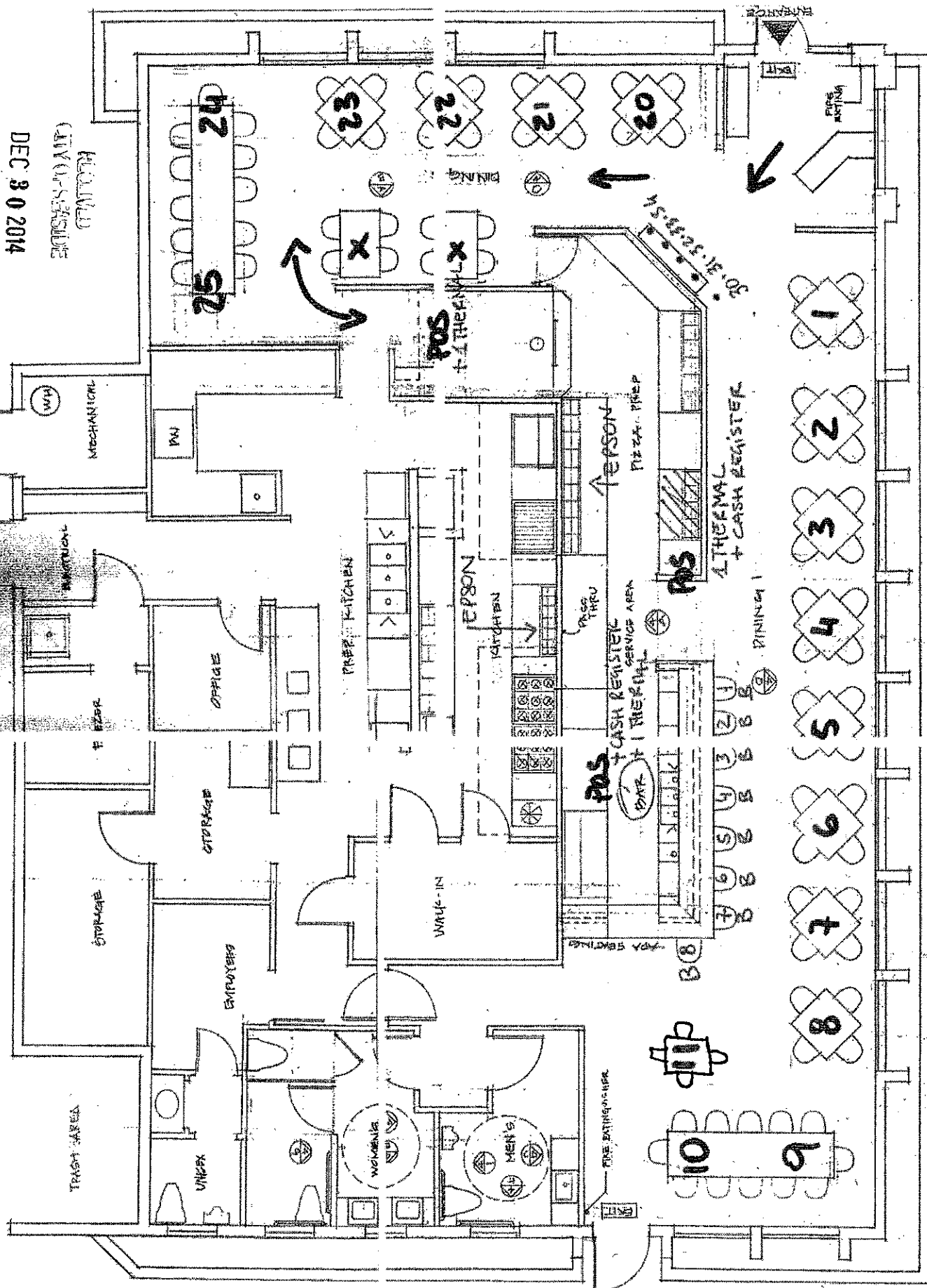
John Owens,
Planning Commission Chairperson

ATTEST:

Planning Commission Secretary

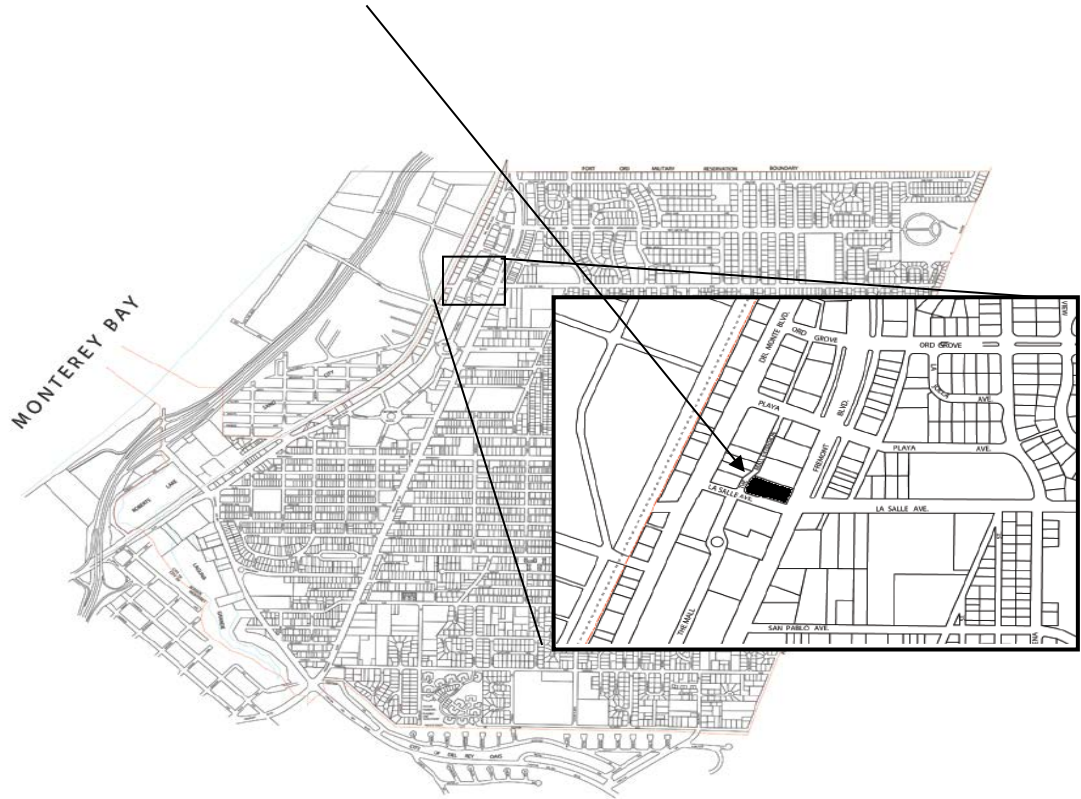
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RECEIVED
CIVIL SERVICE
DEC 30 2014
PERSONNEL MANAGEMENT
SERVICES



Location Map

Project Site: 1901 Fremont Boulevard





**CITY OF SEASIDE
STAFF REPORT**

Item No.: 5.B.

TO: Planning Commission

FROM: Lisa Brinton, Community and Economic Development Services Manager

BY: Bob Larsen, Associate Planner

DATE: February 11, 2015

SUBJECT: **USE PERMIT APPLICATION NO. UP-14-10. MARK, REED, AND RICHARD GEISREITER, PROPERTY OWNER, AND WALGREENS CO., APPLICANT, ARE REQUESTING USE PERMIT APPROVAL FOR THE OFF-SALE OF HARD LIQUOR WITHIN AN EXISTING RETAIL STORE/PHARMACY LOCATED AT 1055 FREMONT BOULEVARD IN THE CC (COMMUNITY COMMERCIAL) ZONING DISTRICT. THE PROJECT IS CATEGORICALLY EXEMPT, CLASS 1, SECTION 15301 FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) GUIDELINES.**

PURPOSE

The project consists of a Use Permit application for the off-sale of hard liquor in addition to the existing off-sale of beer and wine within an existing retail store/pharmacy located at 1055 Fremont Boulevard. Section 17.14.030 of the Seaside Zoning Ordinance requires a Use Permit for alcoholic beverage sales in the Community Commercial Zoning District.

RECOMMENDATION

Staff recommends approval of Use Permit Application No. UP-14-10 granting approval for the retail sale of hard liquor for off-site consumption at a Walgreens retail store/pharmacy based on the findings and evidence cited in the staff report and subject to the Conditions of Approval provided as Exhibit A. Staff further recommends that the Planning Commission make a determination of Public Convenience or Necessity in accordance with State of California, Department of Alcoholic Beverage Control regulations.

SITE AND VICINITY CHARACTERISTICS

The subject property is 55,315 square feet (1.27 acres) in size and is located at the northwest

corner of Canyon Del Rey Boulevard and Fremont Boulevard. The site is bordered on the south by Laguna Grande Park, on the east by a Burger King, and on the north and west by a mix of commercial and residential uses. The site has three driveways. One driveway is off of Canyon del Rey, a second driveway is off of Fremont Boulevard, and a third driveway is off of Charles Avenue which is the primary exit for cars using the pharmacy drive through lane. A location map is attached as Exhibit B.

Figure 1: Project Site Adjacent Land Uses

	NW		N		NE
		Mix of Residential and Commercial	Mix of Residential and Commercial	Commercial Offices	
W		Mix of Residential and Commercial	Project Site	Burger King	E
		Laguna Grande Park	Laguna Grande Park	Safeway	
SW			S		SE

PROJECT DESCRIPTION

Use Permit approval is required to allow retail alcoholic beverage sales for off-site consumption in a portion of an existing Walgreens retail store/pharmacy located at 1055 Fremont Boulevard. The existing one-story structure is 13,903 square feet in area with approximately 9,700 square feet (70 percent) dedicated to the retail sales/pharmacy area and the remainder used for storage and mechanical equipment. Approximately 45 square feet, or 0.5 percent of the retail floor area, is currently used for the display of beer and wine. The applicant proposes to add approximately 30 square feet of hard liquor display for a total area of approximately 75 square feet, or 0.8 percent of the retail floor area, that will be used for hard liquor, beer, and wine display. The liquor display areas will be in view of the cash registers. Walgreens is open 24 hours, so the applicant will not sell alcoholic beverages from 2 AM to 6 AM. To control this, the store's point of sale systems will be programmed not to allow the sale of liquor during these hours. The

applicant indicates that there will be no physical change to the interior space, building envelope, building exterior, or landscaping. They have also indicated that no signs or other advertising will be placed on the outside of the store to indicate that alcoholic beverages are sold within.

ENVIRONMENTAL REVIEW

The proposed project qualifies as categorical exempt under the California Environmental Quality Act (CEQA) Guidelines Section 15301, Existing Facilities. This class consists of the operation of existing public or private structures with negligible or no expansion of an existing use.

Evidence: The proposed project will consist of the off-sale of hard liquor in addition to the existing off-sale of beer and wine at an existing retail store/pharmacy. Negligible or no expansion of the existing improvements is required for the off-sale of hard liquor in addition to the existing off-sale of beer and wine at the retail store/pharmacy.

STAFF ANALYSIS

General Plan

The City's General Plan contains the following Implementation Plan regarding the sale of alcoholic beverages.

Implementation Plan LU-2.2.2 Alcoholic Beverage Control. Work with Alcoholic Beverage Control (ABC) to regulate the on-sale and off-sale of packaged alcoholic beverages.

The City's General Plan also includes a policy, LU-2-3, that discourages certain over-represented uses in the community including liquor and convenience stores, and mini-markets among other uses. Since the existing retail store/pharmacy sales and related alcoholic beverage sales are not considered to be liquor or convenience stores as defined in the City's Zoning Ordinance this policy is not applicable and is provided for information purposes.

Zone District

The property is located in the Community Commercial (CC) zone district. General Retail stores 5,000 square feet and larger and Drug stores (pharmacies) are permitted uses in the CC zone. Accessory alcoholic beverage sales are permitted in the CC zone subject to use permit approval (SMCS 17.24.030; Table 2-4).

The Zoning Ordinance includes the following definitions that are relevant to this use permit application.

17.70 Definitions

Alcoholic Beverage Sales. The retail sale of beer, wine, and/or spirits for off-premise consumptions, in conjunction with a convenience store, grocery store, drug store, and/or primary retail use. Where Article 2 (Zones, Allowed Uses, and Zoning Standards) provides that the primary retail use is otherwise permitted (a "P" use in the Article 2 land use tables), the inclusion

or addition of alcoholic beverage sales will require the approval of the planning permit required by Article 2 (i.e., Use Permit or Minor Use Permit) for the entire combination of land uses.

The proposed use meets the definition of primary retail use and a drug store. Use permit approval is required to allow retail sale of alcoholic beverages for off-site consumption in conjunction with the retail store/pharmacy use.

Public Convenience or Necessity

The applicants have filed an application with the State of California Department of Alcoholic Beverage Control (ABC) for a Type 21 License (Off Sale General). ABC licensing regulations contain provisions for community input with regard to the geographic distribution and concentration of the sale of alcoholic beverages. This enables communities to limit the number of new licenses that are issued in geographic areas defined as either high crime areas (an area that exceeds the city's average crime rate by 20 percent), or that are areas of "undue concentration." According to the Seaside Police Department, the subject property is not within a high crime area or an area of increased law enforcement activity. "Undue concentration" is determined by the number of licenses in relation to the population within a geographic area.

According to the California Alcohol Beverage Control (ABC) Salinas district office, there are currently 13 existing off-sale retail alcohol licenses within Census Tract 140, where Walgreens is located. Based on the ratio of off-sale retail alcohol licenses per total population in all of Monterey County, the maximum concentration of off-sale retail alcohol licenses is 6 licenses before licenses are considered "over concentrated." By making a determination of Public Convenience or Necessity (PCN) for the establishment of the retail alcohol license for off-site consumption as part of Walgreens business operation, the City acknowledges and supports the applicants request for an off-sale retail alcohol (Type 21) license from the ABC despite the Tract's "overconcentration" of alcohol-outlet licenses because it is an ancillary use to the primary General Retail/Drug store use; a map showing the number of licenses by type and location is included on Exhibit C.

According to information from the ABC, "public convenience or necessity" is established when it is determined that the business provides a benefit to the community. State law does not mandate the criteria used to determine PCN; determination is the responsibility of local jurisdictions. A public convenience or necessity determination allows local jurisdictions to influence alcohol-outlet density to improve and maintain the quality of neighborhoods. The applicant states that "Walgreens provides for a different shopping experience than any other business in the vicinity that currently sells alcohol. Many people prefer not to shop at liquor stores – choosing instead to shop for alcoholic beverages at a general retailer like Walgreens that provide for a safe, friendly shopping experience suitable for all members of the family." The applicant concludes that "The addition of distilled spirits will enable Walgreens to provide its customers with the convenience of one-stop shopping consumers have come to expect from a national pharmacy and general retailer." The proposed use will continue employment opportunities in the city, furthers the city's economic development goals, and will increase tax revenues to the city.

The use permit application was forwarded to the Seaside Police Department for review and

comment. The Police Department has confirmed that the subject property is not in a high crime area and is not an area that is the target of law enforcement activity. The Police Department has not identified any issues of concern regarding the proposed sale of alcoholic beverages in conjunction with the retail store/pharmacy, subject to the recommended Conditions of Approval.

Since the proposed use requires a determination of public convenience or necessity due to an over concentration of alcohol-outlet uses in the area and since the property is adjacent to an existing mixed-use neighborhood, it is appropriate to apply Conditions of Approval to safeguard public health, safety and welfare. The recommended Conditions of Approval in Exhibit A will reduce the potential of a detrimental impact to the neighborhood.

FINDINGS

USE PERMIT

In accordance with the requirements of SMCS 17.52.070.F, the Planning Commission is required to make all of the following findings in order to grant approval of the use permit application.

1. The proposed use is allowed within the zone district and complies with all other applicable provisions of the Zoning Ordinance and Municipal Code.

Evidence: The property is located in the CC zoning district. General retail stores 5,000 square feet or larger and drug stores are permitted uses in the CC zoning district. Alcoholic beverage sales are permitted in the CC zoning district subject to use permit approval (SMCS 17.24.030; Table 2-4).

2. The proposed use is consistent with the General Plan and any applicable Specific Plan

Evidence: The proposed use is consistent with the City's General Plan Implementation Plan LU-2.2.2 Alcoholic Beverage Control. The proposed use requires approval of a license from the State of California Department of Alcoholic Beverage Control (ABC). In accordance with ABC requirements, the City will make a determination of public convenience or necessity as part of this use permit application.

3. The design, location, size and operating characteristics of the activity in the use permit are compatible with the existing and planned future land uses in the vicinity.

Evidence: Subject to the recommended Conditions of Approval, the sale of alcoholic beverages in conjunction with a retail store/pharmacy is compatible with the commercial character of the area.

4. Subject to compliance with the Conditions of Approval, granting the use permit will not be detrimental to the public interest, health safety, convenience, or welfare, or materially injurious to persons, property or improvements in the vicinity and zone district in which the property is located.

Evidence: Subject to the recommended conditions of approval, the sale of alcoholic beverages in conjunction with a retail store/pharmacy will not result in a detrimental impact on the property or in the vicinity of the property because: no alcohol may be consumed on the property, exterior sale, advertising, and/or display of alcoholic beverages is prohibited, and Conditions of Approval place limits on the container size and sale quantities of certain types of alcoholic beverages to prohibit single-unit sales.

PUBLIC CONVENIENCE OR NECESSITY

In order for the ABC to approve the Type 21 license, the City is required to make a determination of public convenience or necessity. Staff recommends the Planning Commission support this determination based on the following findings.

1. According to information received from the Seaside Police Department, the subject property is not located in an area that has excessive crime rates nor is it in an area of targeted law enforcement activities.
2. The subject property is located in a commercial area and is compatible with existing and planned land uses.
3. Retail alcoholic beverage sales are limited to less than 1 percent of the floor area of the retail store/pharmacy and recommended Conditions of Approval prohibit single-unit beverage container sales.
4. The proposed use helps to continue employment opportunities within the city, contributes to the city's tax revenues, and establishes a business model that is unique in the city.

ATTACHMENTS

1. Attachment 1 - Draft Resolution UP-14-10
 2. Attachment 2 - Location Map UP-14-10
 3. Attachment 3 - Floor Plan UP-14-10
 4. Attachment 4 - Applicant's Project Description
-

**PLANNING COMMISSION
DRAFT RESOLUTION NO. 14-##**

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF SEASIDE, STATE OF CALIFORNIA, APPROVING USE PERMIT NO. UP-14-10 TO ALLOW THE RETAIL SALE OF HARD LIQUOR FOR OFF-SITE CONSUMPTION IN CONJUNCTION WITH AN EXISTING RETAIL STORE/PHARMACY IN THE CC ZONING DISTRICT LOCATED AT 1055 FREMONT BOULEVARD (APN 011-365-013).

WHEREAS, Mark, Reed, and Richard Geisreiter, Property Owners, and Walgreen Co., Applicant, have filed an application for Use Permit approval, UP-14-03, to allow the retail sale of hard liquor for off-site consumption in conjunction with a retail store/pharmacy use in the CC Zoning District on property located at 1055 Fremont Boulevard (APN 011-365-013); and,

WHEREAS, Section 17.24.030 of the Seaside Zoning Code allows the sale of alcoholic beverages in the CC district subject to use permit approval; and,

WHEREAS, a duly notice public hearing has been held on February 11, 2015; and,

WHEREAS, the Planning Commission reviewed the staff report, received and considered oral comments at the public hearing concerning the proposed use and acted to grant approval of Use Permit Application No. UP-14-10 on February 11, 2015 in accordance with Section 17.14.030, Table 2-4 of the Seaside Zoning Code; and

WHEREAS, the proposed use is Categorically Exempt by Class 1, Section 15301 of the California Environmental Quality Act (CEQA); therefore,

NOW, THEREFORE, BE IT RESOLVED, that the Planning Commission adopts the following findings approving Use Permit Application No. UP-14-10:

1. The proposed use is allowed within the zone district and complies with all other applicable provisions of the Zoning Ordinance and Municipal Code.

Evidence: The property is located in the CC zone district. General Retail stores 5,000 square feet and larger and pharmacies are permitted uses. Alcoholic beverage sales are permitted in the CC zoning district subject to use permit approval (SMCS 17.14.030; Table 2-4).

2. The proposed use is consistent with the General Plan and any applicable Specific Plan

Evidence: The proposed use is consistent with the City's General Plan Implementation Plan LU-2.2.2 Alcoholic Beverage Control. The proposed use requires approval of a license from the State of California Department of Alcoholic Beverage Control (ABC). In accordance with ABC requirements, the City will make a determination of public convenience or necessity as part of this use permit application.

The general retail store/pharmacy helps contribute to the livability and economic viability of neighborhood.

3. The design, location, size and operating characteristics of the activity in the use permit are compatible with the existing and planned future land uses in the vicinity.

Evidence: Subject to the recommended Conditions of Approval, the sale of alcoholic beverages in conjunction with a retail store/pharmacy is compatible with the commercial character of Fremont Boulevard.

4. Subject to compliance with the Conditions of Approval, granting the use permit will not be detrimental to the public interest, health safety, convenience, or welfare, or materially injurious to persons, property or improvements in the vicinity and zone district in which the property is located.

Evidence: Subject to the recommended conditions of approval, the sale of alcoholic beverages in conjunction with a retail store/pharmacy will not result in a detrimental impact on the property or in the vicinity of the property because: no alcohol may be consumed on the property, exterior sale, advertising, and/or display of alcoholic beverages is prohibited, and Conditions of Approval place limits on the container size and sale quantities of certain types of alcoholic beverages to prohibit single-unit sales.

BE IT FURTHER RESOLVED, that the Planning Commission makes a determination of public convenience or necessity in conjunction with the approval of Use Permit Application No. UP-14-10:

1. According to information received from the Seaside Police Department, the subject property is not located in an area that has excessive crime rates nor is it in an area of targeted law enforcement activities.
2. The subject property is located in a commercial area and is compatible with existing and planned land uses.
3. Retail alcoholic beverage sales are limited to less than 1 percent of the floor area of the retail store/pharmacy and recommended Conditions of Approval prohibit single-unit beverage container sales.
4. Retail sale of alcoholic beverages is a typical component of retail store/pharmacy operations and the proposed use compatible with the local land uses.
5. The existing retail store/pharmacy provides jobs within the city, contributes to the city's tax revenues, and establishes a business model that is unique in the city.

BE IT FURTHER RESOLVED, the Planning Commission hereby grants Use Permit Application No. UP-14-10 subject to the following terms and conditions:

Project Specific:

1. All conditions and mitigations previously applied to the Walgreens project remain in effect.

2. All sales of alcoholic beverages are required to be conducted within the confines of the enclosed building.
3. No alcoholic beverages may be consumed on the property.
4. No beer or malt beverage or wine cooler product shall be sold as a single container. These products are required to be sold in manufacturer pre-packaged multi-unit containers.
5. No alcoholic beverage tasting is permitted on the premises unless prior approvals are obtained from the State of California Department of Alcoholic Beverage Control and the City of Seaside, Resource Management Services Department.
6. No exterior signs or other forms of advertising promoting or indicating availability of alcoholic beverage products are permitted.
7. Days and hours of operation are limited to 6:00 a.m. – 2:00 a.m. daily unless otherwise approved by the City of Seaside, Resource Management Services Department.

Standard:

1. Except as modified by required conditions of approval, plans submitted for a building permit shall substantially conform to the plans approved for discretionary permits for this project.
2. The applicant agrees as a condition and in consideration of the approval of this discretionary permit that it will defend, indemnify and hold harmless the City of Seaside or its agents, officers and employees from any claim, action or proceeding against the City or its agents, officers or employees to attack, set aside, void or annul this approval. The applicant will reimburse the City for any court costs and attorney's fees, which the City may be required by a court to pay as a result of such action. City may, at its sole discretion, participate in the defense of such action; but such participation shall not relieve applicant of his obligations under this condition. The City shall promptly notify the applicant of any such claim, action, or proceeding, and the City shall cooperate fully in the defense thereof.
3. Any proposed future development or change in use shall comply with the requirements of the Fire, Health, Planning, Code Enforcement, Building and Public Works Departments.
4. The proposed project shall comply with the applicable requirements of the Monterey Peninsula Water Management District for the installation of any new water fixtures and landscape irrigation equipment.
5. The issuance of building permits involving the installation of new water shall be subject to the availability of an adequate supply of water and sewer capacity to serve the project.
6. Water conservation fixtures shall be provided in the project.

7. The permit shall have no force or effect unless and until accepted, and the terms thereof agreed to, in writing, by the applicant and property owner within fifteen (15) days from the date of its approval.
8. Use permit approval will become null and void if any required building permit is not obtained within one (1) year from the date of approval.
9. For purposes of assuring compliance, the applicant, agents, representatives or their assignees agree not to deny or impede access to the subject property by City employees in the performance of their duties.

PASSED AND ADOPTED at the regular meeting of the Planning Commission of the City of Seaside, State of California, on the 11th day of February, 2015, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

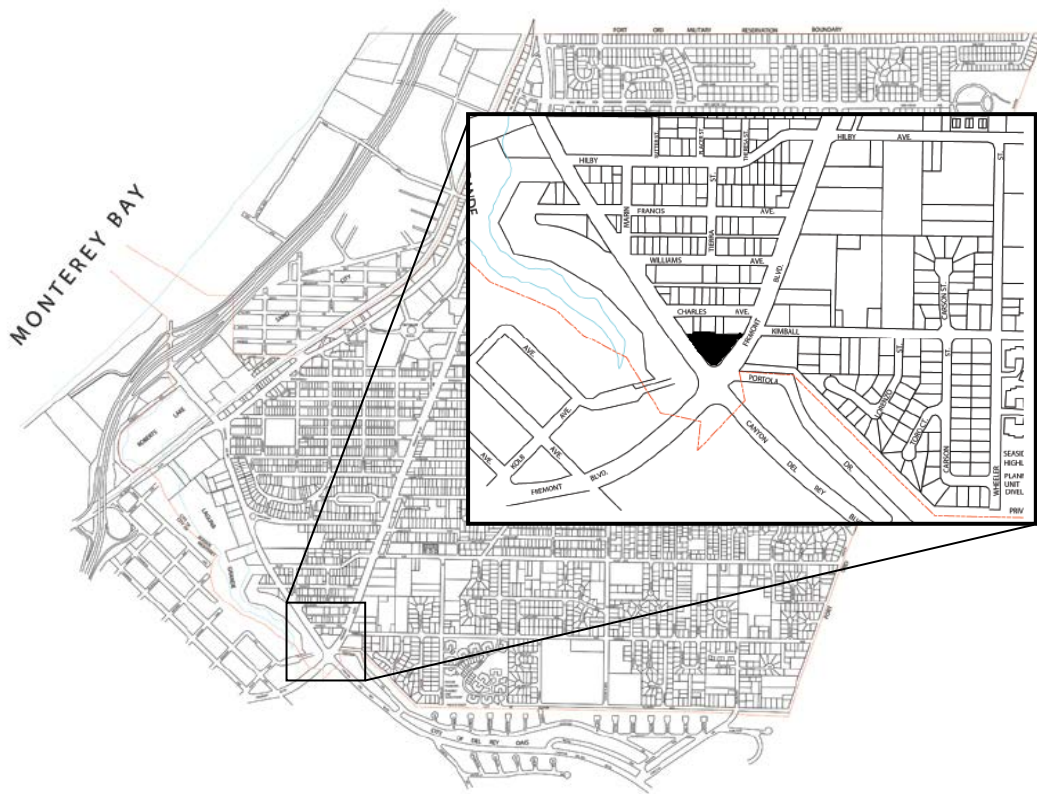
John Owens, Chairperson

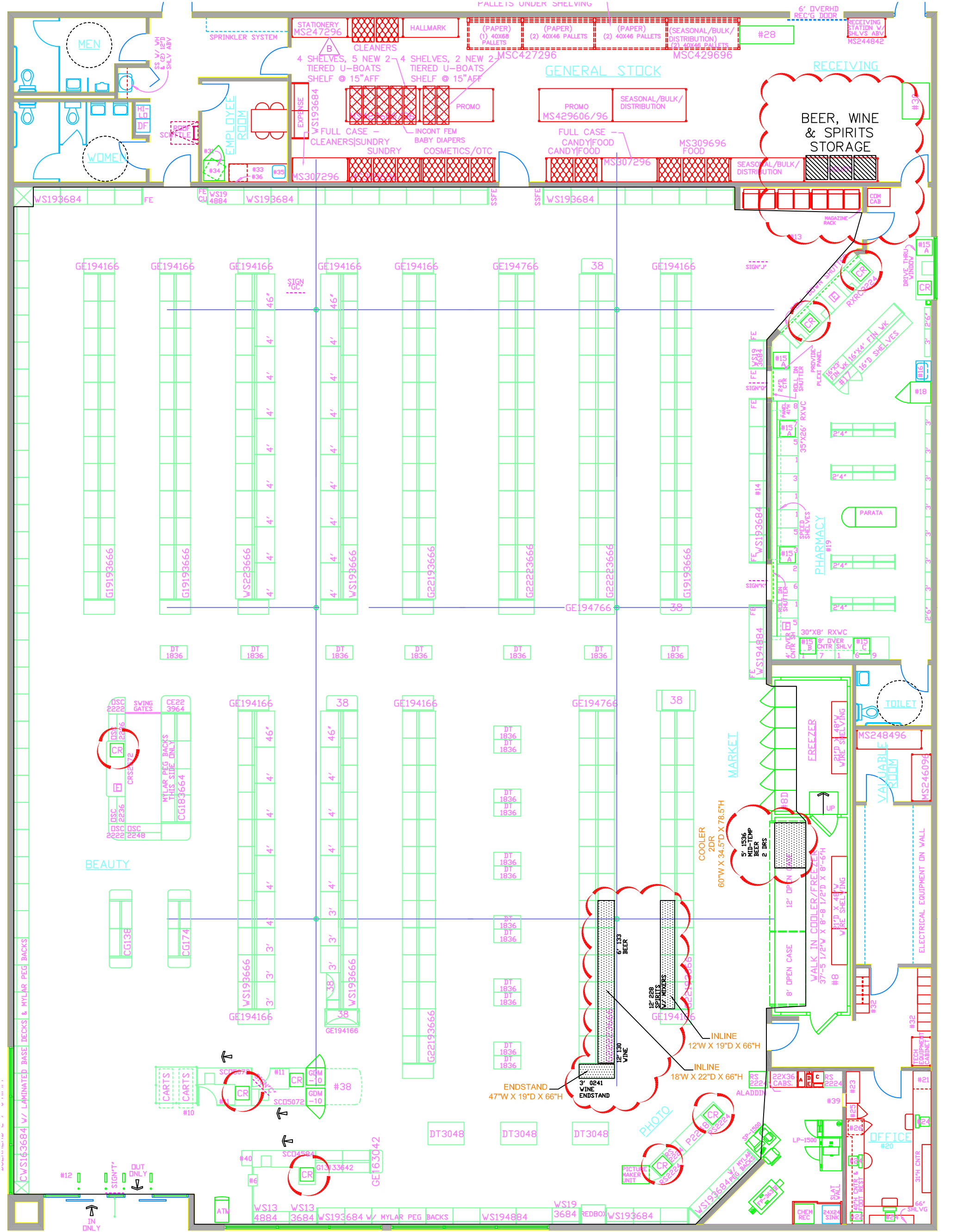
ATTEST:

Planning Commission Secretary

Location Map

Project Location: 1055 Fremont Boulevard





STORE #2867
SEASIDE, CA

BEER, WINE & SPIRITS SALES

BEER, WINE & SPIRITS STORAGE

CR

MAIN CHECKOUT

LEGEND

BEER, WINE & SPIRITS AREA	
CURRENT	
TOTAL BEER & WINE SALES: 45 SQ. FT.	
TOTAL STORE SALES: 9,700 SQ. FT.	
% SALES FLOOR DEVOTED TO BEER & WINE .46%	
PROPOSED	
TOTAL STORAGE: 19 SQ. FT.	
TOTAL BEER, WINE & SPIRITS SALES: 75 SQ. FT.	
TOTAL STORE SALES: 9,700 SQ. FT.	
% SALES FLOOR DEVOTED TO BEER, WINE & SPIRITS .77%	

**Project Description for Conditional Use Permit for the
Sale of Beer, Wine and Spirits at Walgreens located at
1055 Fremont Blvd., Seaside, CA 93955**

On June 16, 2010, the City of Seaside approved Conditional Use Permit UP-10-02, authorizing Walgreen Co. to sell beer and wine for off-sale consumption at its store located at 1055 Fremont Blvd., Seaside, CA 93955 (the "Store"). Since 2010, the Store has been selling beer and wine at the Store in strict compliance with the conditions set forth in the CUP. However, there has been significant customer demand for Walgreens to carry distilled spirits in addition to the current beer and wine offering. In an effort to satisfy this customer demand, Walgreens respectfully submits this Use Permit Application for the sale of beer, wine and spirits.

1. Project Description

The Store contains approximately 9,700 square feet of store space, of which approximately forty-five (45) feet of store space is currently devoted to the display of beer and wine. With the introduction of distilled spirits, the display of beer, wine and spirits will be approximately seventy-five (75) square feet. With the addition of distilled spirits, the total display area devoted to the sale of alcoholic beverages will remain at less than 1% of the total sales floor (approximately .77%).

There will be no physical change to the interior space, nor to the building envelope, building exterior or landscaping. These minor interior changes will involve no grading, construction or construction equipment at the Store.

Given the limited nature of the additional product line, it is anticipated that many of the same customers who currently shop at Walgreens will continue to shop there, with the added benefit of "one stop" shopping. The addition of spirits will not materially increase the number of truck deliveries or vehicles that currently come to the Store, and (b) the additional traffic generated by this product line will be minimal.

2. Operational Statement

The Store is open 24 hours per day, 7 days a week. However, Walgreens is requesting to sell alcoholic beverages only between the hours of 6:00 a.m. – 2:00 a.m. The Store's point of sale systems will be programmed not to allow the sale of spirits during these hours to ensure compliance.

As with its beer and wine selection, the distilled spirits product mix and the price points at which the product will be offered will be designed to appeal to light to moderate drinkers. The Store will **not** sell distilled spirits in bottles less than 200 milliliters (i.e. airplane bottles), and the average price of a 750ml bottle will be approximately \$19, while the average price of a 1.75L bottle will be close to \$24.

In addition, Walgreens will not place signs or other advertisements on the outside of the Store to indicate that alcoholic beverages are sold within.

3. *Public Convenience or Necessity*

While there are businesses adjacent to the Store that sell distilled spirits, these businesses are different than Walgreens. Walgreens sells thousands of different types of products including sundries grocery items such as fruit, meat, cheese, milk, bread, crackers, chips, and candy. The adjacent businesses that sell alcohol for off-sale consumption are liquor stores and a Safeway. According to Google maps, the nearest pharmacy and general retailer selling alcohol is over one mile away (Safeway has a pharmacy, but it is a grocery store as opposed to a general retailer). As such, Walgreens provides for a different shopping experience than any other business in the vicinity that currently sells alcohol.

Many people prefer not to shop at liquor stores – choosing instead to shop for alcoholic beverages at a general retailer like Walgreens that provide for a safe, friendly shopping experience suitable for all members of the family. So, just because Walgreens intends to carry a few products that may be similar to those sold at neighboring businesses, this in no way means that it is going to be another liquor store, and does not diminish the convenience that adding a selection of spirits to the beer and wine selection at the Store will provide.

The vast majority of national pharmacy chains in California sell beer, wine and spirits. By adding spirits to its beer and wine inventory, Walgreens will provide a “one-stop” shopping experience for its customers so they can pick up a bottle of wine for dinner or a six pack for the house while shopping for their general sundries, without having to make an additional trip to another store for a bottle of distilled spirits. This convenience will result in increased efficiency for shoppers, and is consistent with what today’s consumers expect from a retail pharmacy and general merchandiser such as Walgreens.

4. *Conclusion*

The addition of distilled spirits will enable Walgreens to provide its customers with the convenience of one-stop shopping consumers have come to expect from a national pharmacy and general retailer. While there may be other stores in the vicinity that sell alcoholic beverages, they are not general retailers, and provide a different shopping experience than Walgreens. Walgreens is committed to providing the convenience of one-stop shopping in a safe and conscientious manner, with minimal disruption to the surrounding neighborhood. Therefore, Walgreens respectfully requests that you approve the Use Permit.