



Agenda Report

MEETING DATE: Tuesday, February 2, 2021

TO: Planning Commission

FROM: Community Development

SUBJECT: Public Hearing to consider approval of a Special Use Permit (Application No. 613) for the establishment of an Off-Sale General (Type 21) ABC License under new ownership for an existing 1,800 square-foot liquor store within the East Lake Village Shopping C

STATEMENT OF ISSUES

The project involves the establishment of a Type 21¹ ABC License under new ownership for an existing 1,800 square-foot liquor store (East Lake Food & Liquors, Inc.) within the East Lake Village Shopping Center. Project entitlement consists of a Special Use Permit.

RECOMMENDED ACTION

Staff recommends that the Planning Commission adopt a Resolution approving a Special Use Permit Application to establish a Type 21 ABC License under new ownership at an existing 1,800 square-foot liquor store for East Lake Food & Liquors, Inc., located at 954 East Lake Avenue (APN 017-321-76)

BASIC PROJECT DATA

Application No.: Application No. 613

Location: 954 East Lake Avenue

APN: 017-321-76

Lot Size: ±5.02 acres

General Plan: General Commercial (GC)

Zoning: Thoroughfare Commercial (CT)

Surrounding General Plan/Zoning: General Commercial (GC) in the Thoroughfare Commercial (CT) Corning District to the North, Residential Medium Density (RMD) in the Multiple Residential District – Medium Density (RM-2) Zoning District to the East, General Commercial

¹ A Type 21 California Department of Alcohol Beverage Control (Package Store) license authorizes the sale of beer, wine and distilled spirits for consumption off the premises where sold. Minors are allowed on the premises.

(GC) in the Neighborhood Commercial (CN) Zoning District to the West, General Commercial (GC) in the Neighborhood Shopping Center (CNS) Zoning District to the South.

Existing Use: 1,800 square-foot liquor store within the East Lake Village Shopping Center

Proposed Use: 1,800 square-foot liquor store under new ownership within the East Lake Village Shopping Center

Surrounding Uses: Various commercial uses within the East Lake Village Shopping Center and along East Lake Avenue

Flood Zone: Flood Zone X

CEQA Review: The project qualifies for a Class 1 Categorical Exemption from the provisions of the California Environmental Quality Act (CEQA), pursuant to Section 15301 of the CEQA Guidelines

Applicant: East Lake Food & Liquors Inc., 954 East Lake Avenue, Watsonville, CA 95076

Property Owner: Seco Property Company LLC, 926 East Lake Avenue, Watsonville, CA 95076

BACKKGROUND

According to Santa Cruz County GIS records, the East Lake Village Shopping Center has been in operation since 1965.

On March 12, 1991, the Department of Alcohol and Beverage Control (ABC) issued Joyce Currie a Type 21 ABC License for Off-Sale General sales which authorizes the sales of beer, wine, and distilled spirits establish a liquor store at 954 East Lake Avenue.

On November 16, 1993, ABC issued a Type 21 ABC License to Joy Cart for a liquor store located at 954 East Lake Avenue.

On July, 15, 1994, ABC issued a Type 21 ABC License to Lakhwinder Singh Shahi and Balbir Singh for 954 East Lake Avenue.

On February 14, 2002, ABC transferred a Type 21 ABC License to Kashmir Kaur Sahi and Balbir Singh (dba East Lake Food and Liquor).

On June 09, 2002, ABC transferred a Type 21 ABC License to the Bhajanjit Corporation which did business under the fictitious business name of East Lake Food and Liquor.

On September 10, 2002, the Council adopted the Alcohol Related Use Ordinance (Ordinance 1135-02-CM), codified as Chapter 14-25 of the Watsonville Municipal Code (WMC). The Ordinance details requires documentation for an alcohol related uses application, permits required for various ABC licenses, and conditions of approval for alcohol related uses. The process to permit existing alcohol related establishments was set forth as follows:

All alcohol related establishments operating as of October 10, 2002 [the effective date of, after the adoption of Ordinance No. 1135-02 (CM) creating Chapter 14-25 of the Watsonville Municipal Code], but without a valid Use Permit approved specifically for the purpose of alcohol sales, shall file an application to obtain a conditional use permit no later than January 1, 2003².

The City developed a No-Fee Special Use Permit, form approved without a public hearing for businesses not declared a “public nuisance” or on probationary status with ABC³.. To comply with this update, Balbir Singh, on behalf of East Lake Food and Liquor, obtained a No-Fee Special Use Permit (PP2002-330) on March 11, 2003. The following standard conditions of approval applied to PP2002-330:

1. The Alcohol and Beverage Control (ABC) Conditions of Approval are incorporated by reference as Conditions of Approval of this Use Permit
2. No exterior pay phone(s) may be placed on the premises.
3. No interior pay phone(s) shall not allow incoming calls.
4. Security cameras shall be maintained in good working order, as directed by the Chief of Police.
5. No more than twenty percent (20%) of the total gross floor area shall be devoted to the sale of beer, wine, and/or liquor.
6. Malt beverage and fortified wine shall not be sold in containers with a volume exceeding sixteen (16) ounces.
7. The sale of individual containers of malt beverage or fortified wine is prohibited.
8. Alcoholic beverages may be displayed and sold from an ice tub or similar display mode only between the hours of 11:30am and 2:00pm.
9. Except as may be specifically allowed by this Code, no portion of the ground floor windows shall be obscured by paint, walls, window tinting, or other masking device. The subsection is intended to facilitate views of the interior from the exterior for public safety, and does not prohibit neon signs, minimal window borders, or other signs or decorations that are consistent with City sign regulations and do not obscure views.

On July 11, 2019, the City Council adopted Ordinance Nos. 1384-19 (CM) and 1385-19 (CM), modifying Alcohol Related Uses Ordinance.

On September 24, 2020, business owner Nadim Maida, on behalf of the property owner Seco Property Company LLC, submitted a Special Use Permit application (App No. 613) to establish an existing Type 21 ABC License under new ownership at 954 East Lake Avenue. No interior or exterior modifications are proposed.

PROCESS

² subdivision (b) of WMC §14-25.050

³ subdivision (b) of WMC §14-25.050

Special Use Permit

An Off-Sale General (Type 21) ABC License is conditionally permitted in the CT Zoning District with issuance of a Special Use Permit⁴. A conditional use permit is required when there is a transfer of an established regulatory license to new ownership⁵. Establishing an existing Type 21 ABC License under new ownership therefore requires issuance of a Special Use Permit.

The Planning Commission is authorized to approve Special Use Permits in accordance with the procedures set forth in WMC Sections [14-12.509](#) through [14-12.512](#) if it can make the findings required by [14-12.513](#).

The purpose of the Special Use Permit is to ensure the proper integration of uses which, because of their special nature, may be suitable only in certain locations or zoning districts or only provided that such uses are arranged or designed in a particular manner⁶. This special review shall be for the purpose of determining that the proposed use is, and will continue to be, compatible with surrounding, existing, or planned uses; and for the further purpose of establishing such special conditions as may be necessary to ensure the harmonious integration and compatibility of uses in the neighborhood and with the surrounding area⁷.

Alcohol Related Uses Application

In accordance with, an application to allow an alcohol sales establishment must provide the following materials⁸:

- Locational information;
- Business plan;
- Safety and security plan;
- Neighborhood compatibility plan; and
- Community benefits.

Application Review and Scoring

Once the applicant submits a complete application, City staff (consisting of the Police Chief, Fire Chief, Community Development Director, Finance Director, City Manager or their designees) review the application, and interview applicant(s) within 60 days⁹. Successful applications shall receive a score of at least 80 percent of all available points on the rubric. If an application fails, a new application for an alcohol sales permit may be submitted after 90 days of notice of rejected application. The Planning Commission shall consider each application for a Special Use Permit and shall approve or conditionally approve the permit upon making each of the following seven findings required by [WMC Section 14-12.513](#).

⁴ Subdivision (b) of WMC [14-16.1203](#)

⁵ Subdivisions (c) and (d) of WMC § 14-16.1203

⁶ [WMC § 14-12.500](#)

⁷ [WMC § 14-12.501](#)

⁸ [WMC § 14-25.011](#)

⁹ [WMC § 14-25.012](#)

Standard and Special Operational Standards and Conditions of Approval

The Planning Commission may condition the alcohol related use with the 11 minimum operational standards of WMC Section 14-25.020 and the two operational standards Off-sale alcohol sales establishments (Types 20, 21) of WMC Section 14.25.023.

Environmental Review

The California Environmental Quality Act (CEQA) requires local and state governments to consider the potential environmental effects of a project before making a decision on it. CEQA's purpose is to disclose any potential impacts of a project and suggest methods to minimize identified impacts. Certain classes of projects, however, have been identified that do not have a significant effect on the environment, and are considered categorically exempt from the requirement for the preparation of environmental documents. [State CEQA Guidelines § 15300](#).

STANDARD OF REVIEW & APPEAL PROCESS

The decision whether to approve this Special Use Permit is adjudicative, sometimes referred to as quasi-judicial. The Commission is called upon to determine whether this project complies with local ordinances.

Whether a particular decision is adjudicative or legislative affects the requirements for findings to support the decision. Legislative decisions involve the adoption of broad policies applicable to many situations (for example, general plan amendments and zoning ordinance changes). Legislative decisions need not be accompanied by findings, unless a State law or City ordinance requires them.

Adjudicative (or “quasi-judicial”) decisions, on the other hand, are not policy decisions. Adjudicative/quasi-judicial decisions apply already adopted policies or standards to individual cases, such as a variance or conditional use permit application. Adjudicative/quasi-judicial decisions are based on evidence and must always be supported by findings.¹⁰

The decision before the Planning Commission—a Special Use Permit—is an adjudicative/quasi-judicial decision and requires findings, either for denial, or as recommended, for approval that is supported by substantial evidence. *Toigo v Town of Ross* (1998) 70 Cal App 4th 309; see also *Petrovich v. City of Sacramento* (2020) 48 Cal App 5th 963

If the Planning Commission's decision is appealed, the City Council will consider whether the action taken by the Planning Commission was erroneously taken and may sustain, modify or overrule the action. In order for an official action to be overturned by an appeal, the City Council must find that the action taken by the Planning Commission was taken erroneously and was inconsistent with the intent of the Zoning District regulations that regulate the proposed action. [WMC § 14-10.1106](#)

¹⁰ Quasi-judicial decisions require the decision-making body to take evidence and use its judgment to make factual as well as legal determinations about whether a particular property or project meets the standards established by the land use ordinance.

A lawsuit is required to challenge a Council's decision. A reviewing court will consider whether an adjudicative/quasi-judicial decision by the Council was supported by adequate findings. Courts scrutinize adjudicative/quasi-judicial decisions closely. An action may be overturned if the City (1) exceeded its authority, (2) failed to provide a fair hearing¹¹, or (3) made a decision not supported by substantial evidence (also called "a prejudicial abuse of discretion").

Another important difference between legislative and adjudicative/quasi-judicial decisions is the substantial evidence standard: in weighing evidence of what happened at the Council meeting, courts go beyond whether a decision was "reasonable" (the legislative standard). Court's reviewing adjudicative/quasi-judicial decisions look to make sure the decision is supported by substantial evidence. Denied applicants argue there is no substantial evidence to support the decision. Cities usually assert there is substantial evidence to support the decision and rely on (1) the written words in the staff findings, (2) the statements by those presenting at the hearing, and (3) the words of the Planning Commission or Council.

DISCUSSION

Existing Site

The ±5.02 acre subject site is in an existing commercial area and developed within an existing shopping center. The tenant space for East Lake Food & Liquor is located between a sushi restaurant and barber shop. Additional businesses within the existing shopping center include a wide variety of retail related uses such as restaurants, a brewpub, and a grocery store that is currently under construction. Access is granted from multiple driveway approaches on East Lake Avenue. To the north, west, and south of the site are other commercial uses. To the east of the site are single and multi-family residential uses accessed from Lake Village Drive. See Figure 1 for an aerial view of the project site.

¹¹ *Petrovich*, supra

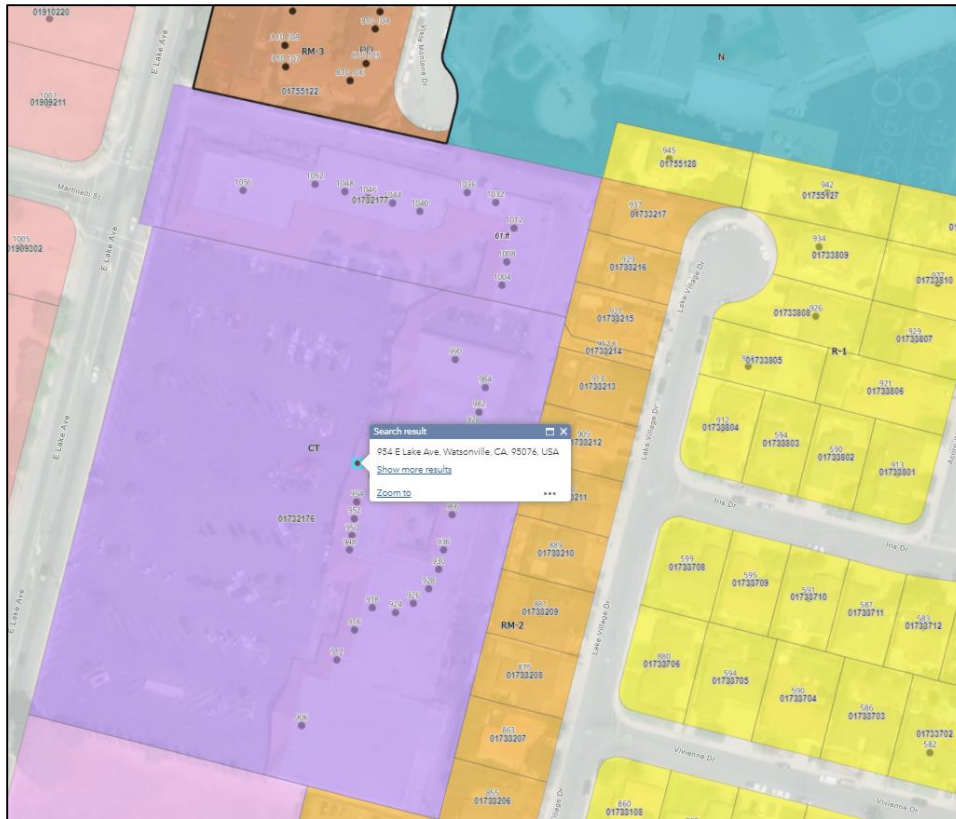


FIGURE 1 Project Location and Zoning

Source: City of Watsonville GIS Viewer, Accessed January 12, 2021

Floor Plan

To the right of the front door is the cashier area and on the left side of the 1,800 square-foot liquor store is a walk in beer cooler area. Behind the beer cooler area is a storage room where supplies and overstock are kept. The main floor area has five aisles of various snacks and goods. On the back wall of the tenant space is another seven door cooler area. Liquor and tobacco products are kept behind the cashier area. See Figure 2 for the floor plan.



FIGURE 2 Floor Plan

Source: Alcohol Related Uses Application, received September 24, 2020

East Lake Food & Liquor patrons have access to restrooms nearby in the East Lake Village Shopping Center. The restrooms are maintained by the property owners and made available to the businesses located within the Shopping Center.

According to the applicant's Alcohol Related Uses Application, approximately 16 security cameras are located throughout the tenant space, including five cameras pointed on the cashier/liquor rack area and three cameras pointed on the beer cooler area. There are approximately six rows of overhead lights to illuminate the main floor area. See Attachment 3 for additional information.

Hours of Operation

The proposed hours of operation for East Lake Food & Liquor are Sunday through Thursday 7:00 AM to 11:00 PM and Friday through Saturday 7:00AM to 12:00 AM. The hours have been reviewed by the Watsonville Police Department and were found to be acceptable.

Police Review

The Watsonville Police Department tracks all alcohol licenses in the City and the reported crime associated with these sites. The Police Department also confirms whether alcohol license holders comply with ABC regulations.

Police Department Review indicates that the location is not located within a high crime or over concentrated area of ABC Licenses.

Type 21 ABC License

ABC issues various licenses for the sale of alcohol for different types of establishments. A Type 21 Off-Sale General License authorizes the sale of beer, wine and distilled spirits for consumption off the premises where sold. Minors are allowed on the premises.

The proposed use has been conditioned with:

- the City's standard conditions for alcohol establishments
- the City's standard 2 conditions for off sale beer, wine and distilled spirit sales

These conditions ensure that an alcohol establishment with off sale beer, wine, and distilled spirit sales will be in conformity with applicable regulations and not have any negative impacts to the surrounding neighborhood.

LEAD Training

A condition of approval requires all service staff, managers and owners attend Licensee Education on Alcohol and Drugs (LEAD) training within ninety (90) days of approval of this Use Permit and/or employment at the restaurant to ensure they understand responsible beverage service practices and procedures regarding the sale and service of alcohol. The applicant is required to submit verification of LEAD training attendance to the Community Development Department.

Compliance with Alcohol Ordinance

WMC Chapter 14-25 regulates the location and operation of alcohol establishments within the City. This chapter is intended to reduce alcohol-related environmental and social problems by regulating the use, operation, and location of new alcohol establishments selling alcoholic beverages in relation to existing alcohol licensees and their proximity to sensitive uses and facilities customarily to be used by children and families.

In accordance with [WMC Section 14-25.011](#), the applicant provided the following information regarding their Business Plan for East Lake Food & Liquor:

Normal cleaning procedures performed every night before closing of the store, motion detection alarm set before closing every night as well. 16 surveillance cameras set up is set up at all times watching all parts of the store. No budget will be allocated yet for construction or maintenance yet, all employees are being paid on time and are being accounted for with our bookkeeper, utility bills are also being accounted for at the end of every month, the payments are being sent and received on time. [sic] The store is a combined share space for all members of the community no matter the age, gender, ethnicity, etc.

Also in accordance with [WMC Section 14-25.011](#), the applicant provided the following information in its Neighborhood Compatibility Plan:

Noise control measures are accounted for within the store as there is rarely if ever loud music being played inside or outside the store by the public so there is already control of that aspect of the situation. [sic] Trained staff in looking at fake vs real identification cards and driver licenses and expiration dates on licenses to exactly confirm that the individual attempting to purchase tobacco or alcohol is indeed over the age of 21 years old. A local security agency along with the Watsonville Police patrol the area for people attempting to cause trouble for about two hours every night in our parking lot, we have the phone numbers for both said agencies and the sheriff department. The maintenance crew that work for the landlord insure that the parking is looking clean at all times, and that litter is always taken care of all around the parking lot, we do our part as well lets say a glass bottle broke in the lot, we would go clean it so as to not pop a tire of a customer that runs over said glass as a preventative measure.

Additionally, the applicant provided the following information for their Safety and Security Plan:

The security we have been offered is a security guard service paid for by the landlord to come patrol the parking lot at night times mainly but I have seen them at times during the day. The fact that the back and front door can open are a good idea as in a security breach we can escape through two different sections of the store. Also we have a very comprehensive security camera system in place at night time all controlled electronically, The camera system can hold a month's worth of playback video and audio just in case something did happen in the store a while ago which may or may not have been caught on camera.

In accordance with [WMC Sections 14-25.021](#) and [14-25.0223](#), all operational standards applicable to an off sale general ABC License are incorporated as Conditions of Approval. For more information on the Alcohol Related Uses Application, see Attachment 2.

Interview Scoring

The application was initially reviewed in September 2020 for completeness, with additional information requested from the applicant in October 2020. After the application was deemed complete, the applicant was interviewed by a selection committee consisting of the Police Chief, Fire Chief, Community Development Director, Finance Director, and City Manager or their designees. The applicant was then interviewed and scored based on four main categories: location (150 points), business plan (275 points), neighborhood compatibility plan (375 points), and a safety and security plan (225 points). There are bonus points that applicants may receive for community benefits (50 points), labor and employment (25 points), and local enterprise/qualifications of principals (75 points). The maximum possible score for an alcohol related use application for a microbrewery with a tasting room is 1,025 points, excluding the bonus points. An applicant must receive a minimum score of points (80%) to be approved.

On December 2, 2020, Andrew Maida, appeared for the applicant East Lake Food & Liquor, Inc. a corporation, on behalf of property owner Seco Property Company LLC, and was interviewed by City Staff and received a score of 810. With bonus points included the application received a score of 890 out of 1,025 points. A summary related to the interview scoring follows each interview category can be found in Attachment 4.

Special Use Permit and Alcohol Related Uses Findings

The Planning Commission shall make the findings required in WMC Sections 14-25.013 and 14-12.513 to approve or conditionally approve the Special Use Permit allowing the operation of an existing off sale general license under new ownership. The applicant has demonstrated through their Alcohol Related Uses Application and Alcohol Related Uses Interview conformance with the City of Watsonville's Alcohol Related Uses Ordinance. As such, the Planning Commission may make required findings to approve the requested Special Use Permit.

Environmental Review

The proposed project is eligible for a Class 1 Categorical Exemption per Section 15301 of the State CEQA Guidelines as it involves establishing an alcohol license (ABC Type 21) under new ownership and involves no expansion of the existing use. The project will not involve any interior or exterior modifications.

STRATEGIC PLAN

The project follows Goal 04 (Economic Development) of the City's Strategic Plan in that it involves the establishment of a Type 21 ABC License under new ownership for an existing liquor store, East Lake Food & Liquor. The establishment of an existing business under new ownership provides new job and workforce development opportunities.

FINANCIAL IMPACT

The establishment of a Type 21 ABC License under new ownership will provide continued sales tax revenue. The City received a onetime fee from the applicant to process the permit application.

ALTERNATIVE ACTION

The Planning Commission may deny the request to establish a Type 21 ABC License under new ownership for an existing 1,800 square-foot liquor store (East Lake Food & Liquor) but must make findings for denial.

ATTACHMENTS

1. Site and Vicinity Map
2. Alcohol Related Uses Application and Floor Plan (Received 9/24/2020)
3. Security Camera and Lighting Locations (Received 10/23/2020)
4. Alcohol Related Uses Rubric (Interview conducted 12/2/2020)
5. Letters of Recommendation (Received 9/24/2020)

PLANNING COMMISSION ACTION RECOMMENDED

Staff recommends that the Planning Commission adopt a Resolution approving a Special Use Permit Application to establish a Type 21 ABC License under new ownership at an existing 1,800 square-foot liquor store for East Lake Food & Liquors, Inc., located at 954 East Lake Avenue (APN 017-321-76)