

RESOLUTION NO. 22-0085

RESOLUTION OF THE MANHATTAN BEACH CITY COUNCIL APPROVING A USE PERMIT TO UPGRADE AN EXISTING ALCOHOL LICENSE FROM ALLOWING OFF-SALE BEER AND WINE TO ALLOW OFF-SALE BEER, WINE AND DISTILLED SPIRITS IN CONJUNCTION WITH THE OPERATION OF AN EXISTING CONVENIENCE STORE AT 1221 ARTESIA BOULEVARD, SUITE 101, AND MAKING AN ENVIRONMENTAL DETERMINATION IN ACCORDANCE WITH THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (7-ELEVEN)

THE MANHATTAN BEACH CITY COUNCIL HEREBY FINDS, DETERMINES AND RESOLVES AS FOLLOWS:

SECTION 1. According to a City of Manhattan Beach memorandum written on March 6, 1984, 7-Eleven at 1221 Artesia Boulevard obtained authorization for a person-to-person transfer of an Alcoholic Beverage Control (ABC) off-sale beer and wine license. On April 27, 1984, staff approved a business license application that granted 7-Eleven the right to operate its business (food and beverage sales use) at 1221 Artesia Boulevard. A Use Permit for alcohol sales was not required pursuant to the City's requirements at that time.

SECTION 2. On October 18, 2021, 7-Eleven, Inc. (the "Applicant") applied for a Use Permit to allow for the modification of its existing off-sale beer and wine alcohol license to include off-sale distilled spirits for the 7-Eleven store (the "Project") at 1221 Artesia Boulevard, suite 101 (the "site"). The site is part of a multi-tenant building located at 1221 Artesia Boulevard owned by Cotenants, L.P.

SECTION 3. The Applicant is required to obtain a Use Permit per [MBMC Section 10.16.020 \(C Districts: Additional Land Use Regulations\)\(L\)](#), as the Applicant is modifying its existing alcohol license.

SECTION 4. On February 9, 2022, the Planning Commission conducted a duly noticed public hearing to consider the Project, during which the Planning Commission received a presentation by staff and testimony from the Applicant and one member of the public who opposed the Project. The Planning Commission also received and reviewed written testimony received prior to the public hearing. After the public hearing was closed, the Commission adopted Resolution No. PC 22-03 to adopt an environmental determination of exemption pursuant to the California Environmental Quality Act (CEQA) and conditionally approve the Project.

SECTION 5. Richard McQuillan appealed the Planning Commission's decision on February 22, 2022, during the appeal period.

SECTION 6. On May 17, 2022, the City Council conducted a duly noticed public hearing *de novo* to consider the Project in accordance with [MBMC Chapter 10.100](#). Evidence, both

written and oral, was presented to the Council, including a staff report and staff presentation. All persons wishing to address the Council regarding the Project before and during the hearing were provided an opportunity to do so in full compliance with the Brown Act. The City provided the Applicant and the Appellant with ample opportunity to submit material in advance of the meeting, and provided the Applicant and Appellant, and their respective officers and representatives, equal opportunities to speak during the public hearing. At the public hearing, the Applicant and Appellant presented testimony.

SECTION 7. The record of the public hearing conducted by the City Council shows:

- A. The legal description of the site is Amended Map of Seaside Park E 135 Ft of S 125 Ft Ex of Sts Lot 10 in the City of Manhattan Beach, County of Los Angeles, which is located in the CG (General Commercial) zone. The surrounding properties are zoned CG to the North, High-Density Residential/Medium-Density Residential (RH/RM) to the East (across Prospect Avenue), and CG to the West. The property south of the subject property (across Artesia Boulevard) is not in the City and is within the jurisdiction of Hermosa Beach.
- B. The site's primary use, food and beverage sales, is permitted by right, but ancillary alcohol sales are subject to a Use Permit. These uses are consistent with the objectives outlined in the City's General Plan for the General Commercial land use designation. The General Plan encourages that the CG area provide opportunities for a broad range of retail and services intended to meet the needs of local residents and businesses, and to provide goods and services for the regional market. The Project is consistent with General Plan Goal LU-6, which encourages maintaining the viability of the commercial areas of Manhattan Beach.
- C. A food and beverage sales use has been operating at 1221 Artesia Boulevard since 1984 under a business license approved by staff and an Alcoholic Beverage Control (ABC) license allowing the off-sale of beer and wine. The use is located on the commercial portion of Artesia Boulevard, between South Sepulveda Boulevard and South Prospect Avenue, with some of the surrounding businesses having similar operating characteristics.
- D. The Applicant is requesting approval to modify their existing alcohol license from allowing only off-sale of beer and wine to allowing full alcohol service (off-sale of beer, wine, and distilled spirits) within an existing convenience store.
- E. The Police Department has reviewed the request and has raised no concerns or objections.

SECTION 8. Based upon substantial evidence in the record, including the application, the plans as revised, all materials and testimony submitted by the Applicant, Appellants, staff, and the public prior to the close of the continued public hearing, and

pursuant to [MBMC Section 10.84.060\(A\)](#) the City Council hereby finds:

1. The proposed location of the use is in accord with the objectives of this title and the purposes of the district in which the site is located.

7-Eleven is an existing convenience store (use: food and beverage sales) located in the General Commercial (CG) zone. The Municipal Code's stated purpose for the CG zone is that the district is intended to provide opportunities for the full range of retail businesses that are suitable for location in Manhattan Beach. Food and beverage stores are quintessential community businesses that provide food, beverages and other household goods to residents and visitors. The sale of alcoholic beverages, including beer, wine and distilled spirits, alongside food is a common component of a convenience store operation. The proposal to upgrade the existing alcohol license to include the sale of distilled spirits in addition to beer and wine is incidental to, and does not alter, the existing primary use of the site, which use remains in accord with the objectives of Title 10 and the purposes of the commercial district in which the site is located.

2. The proposed location of the use and the proposed conditions under which it would be operated or maintained will be consistent with the General Plan; will not be detrimental to the public health, safety or welfare of persons residing or working on the proposed project site or in or adjacent to the neighborhood of such use; and will not be detrimental to properties or improvements in the vicinity or to the general welfare of the city.

7-Eleven's food and beverage use, including the sale of alcoholic beverages, is consistent with the General Plan's General Commercial land use designation of the subject property. The Project proposes an upgrade to an existing alcohol license and will not change the primary use of the business. This proposed upgrade to the Applicant's license is consistent with the applicable provisions of General Plan and is compatible with neighboring uses, as the west neighboring lots are developed with commercial uses, many of which are eating and drinking establishments that serve food and alcohol. The General Plan encourages a broad range of retail and service commercial and professional office uses intended to meet the needs of local residents and businesses and to provide goods and services for the regional market. Since 1984, 7-Eleven has contributed to this goal of meeting the food and beverage needs of local and regional residents, and will continue to do so if its requested Use Permit is approved. The sale of additional alcoholic beverages, subject to conditions, at an existing convenience store located on the site (1) will not be detrimental to the public health, safety or welfare of persons residing or working on the site or in or adjacent to the neighborhood of such use; and (2) will not be detrimental to properties or improvements in the vicinity or to the general welfare of the City.

3. The proposed use will comply with the provisions of the City's Planning and Zoning Title, including any specific conditions required for the proposed use in the district in which it would be located.

The primary use of the 7-Eleven convenience store, food and beverage, is not changing and is permitted by right in the subject property's zone, General Commercial (CG), per [MBMC Section 10.16.020](#). The Applicant's request is to upgrade their alcohol license from Type 20 (off-sale beer and wine) to Type 21 (off-sale beer, wine and distilled spirits), which requires a Use Permit according to [MBMC Section 10.16.020\(C Districts: Additional Land Use Regulations\)\(L\)](#). The store does not have a Use Permit for its existing alcohol license, as a Use Permit was not required when the alcohol license was first obtained in 1984. If the Use Permit is approved, 7-Eleven will be in compliance with all provisions of [Municipal Code Title 10 Planning and Zoning](#). Furthermore, conditions 4 through 14, which are included in Section 10 of this Resolution are designed to promote caution and safety. No exterior changes are proposed as a part of this Project.

4. The proposed use will not adversely impact or be adversely impacted by nearby properties.

The 7-Eleven convenience store has operated as a food and beverage business and has sold beer and wine for off-site consumption for more than three decades, and now requests to expand its alcohol sales to include distilled spirits. The Applicant proposes safety measures that limit the direct accessibility of distilled spirits to staff; thereby, minimizing opportunities for adverse impacts to the community. As shown on the floor plan for the site, the distilled spirits are located behind the cash register in an area only accessible to staff. Condition 7 in Section 10 of this Resolution requires that distilled spirits must be kept in a location that is inaccessible to customers and directly accessed only by employees. Additionally, full alcohol service will not create demands exceeding the capacity of public services and facilities. The Project was reviewed by the Manhattan Beach Police Department; no issues of concern were raised.

SECTION 9. Staff has determined, and the City Council in its independent judgment finds, in light of the whole record and substantial evidence before it, that the Project is categorically exempt from the requirements of the California Environmental Quality Act (CEQA), pursuant to State CEQA Guidelines (14 Cal. Code Regs.) Section 15301 (Existing Facilities), which exempts the permitting and licensing of existing private structures involving negligible expansion of existing or former use. Furthermore, there are no features that distinguish the Project from others in the exempt class, and therefore, there are no unusual circumstances. Thus, no further environmental review is necessary.

SECTION 10. Based upon the foregoing, and after considering all of the evidence in the record, the City Council hereby approves the Use Permit that allows the Applicant to

upgrade their existing alcohol license from off-sale beer and wine to off-sale beer, wine and distilled spirits at an existing convenience store located at 1221 Artesia Boulevard, suite 101, subject to the following conditions:

1. The Project shall be in substantial conformance with the project description that was submitted to the City Council on May 17, 2022. Any substantial deviation from the approved project description, shall require review by the Community Development Director to determine if approval from the Planning Commission is required.
2. Any questions of intent or interpretation of any condition will be reviewed by the Community Development Director to determine if Planning Commission review and action is required.
3. Modifications and improvements to the tenant space shall be in compliance with applicable Building Division and Health Department regulations when applicable.

Operation

4. The subject business shall obtain approval from the California Department of Alcoholic Beverage Control and comply with all required conditions of approval for the license.
5. Alcoholic beverage sales shall be limited to off-site consumption only. On-site consumption of alcoholic beverages and/or seating is prohibited
6. Sales of alcoholic beverages are allowed from 6 A.M. to 2 A.M. or as specified by the alcohol license issued by the Department of Alcoholic Beverage Control.
7. Distilled spirits must be kept in a location that is inaccessible to customers and directly accessed only by employees.
8. The operators of the business shall train staff how to properly address and prevent loitering and other security concerns outside the subject business.
9. A security and lighting plan shall be submitted to the Police and Community Development Departments for review and approval.
10. The management of the property shall police the property during its tenants' hours of operation to keep it free of litter and food debris.
11. Store windows must remain clear of obstructions as to allow interior visibility of store from the outside for safety and security purposes.

12. Noise emanating from the property shall be within the limitations prescribed by the City Noise Ordinance and shall not create a nuisance to nearby property owners.
13. The business shall maintain compliance with all Fire and Building occupancy requirements at all times.

Procedural

14. The Community Development Department and City enforcement staff shall be allowed to inspect the subject business at any time.
15. City staff will periodically review the approved use to determine compliance with conditions imposed and Municipal Code requirements.
16. Upon determination that there are reasonable grounds for revocation or modification of the Use Permit, the Planning Commission or City Council may review the Use Permit in accordance with the requirements of the [MBMC Chapter 10.104](#). Modification may consist of conditions deemed reasonable to mitigate or alleviate impacts to adjacent land uses.
17. Terms and Conditions are Perpetual; Recordation of Covenant. The provisions, terms and conditions set forth herein are perpetual, and are binding on the property owner, its successors-in-interest, and, where applicable, all tenants and lessees of the site. Further, the property owner shall submit the covenant, prepared and approved by the City, indicating its consent to the conditions of approval of this Resolution, and the City shall record the covenant with the Office of the County Clerk/Recorder of Los Angeles. Property owner shall deliver the executed covenant, and all required recording and related fees, to the Department of Community Development within 30 days of the adoption of this Resolution. Notwithstanding the foregoing, the Director may, upon a request by property owner, grant an extension to the 30-day time limit. The project approval shall not become effective until recordation of the covenant.
18. *Indemnity, Duty to Defend and Obligation to Pay Judgments and Defense Costs, Including Attorneys' Fees, Incurred by the City.* The operator of the business shall defend, indemnify, and hold harmless the City, its elected officials, officers, employees, volunteers, agents, and those City agents serving as independent contractors in the role of City officials (collectively "Indemnitees") from and against any claims, damages, actions, causes of actions, lawsuits, suits, proceedings, losses, judgments, costs, and expenses (including, without limitation, attorneys' fees or court costs) in any manner arising out of or incident to this approval, related entitlements, or the City's environmental review thereof. The operator shall pay and satisfy any judgment, award or decree that may be rendered against City or the other Indemnitees in any such suit, action, or other legal proceeding. The City shall promptly notify the operator of any claim, action, or proceeding and the City shall reasonably cooperate in the defense. If the City fails to promptly notify the operator

of any claim, action, or proceeding, or if the City fails to reasonably cooperate in the defense, the operator shall not thereafter be responsible to defend, indemnify, or hold harmless the City or the Indemnitees. The City shall have the right to select counsel of its choice. The operator shall reimburse the City, and the other Indemnitees, for any and all legal expenses and costs incurred by each of them in connection therewith or in enforcing the indemnity herein provided. Nothing in this Section shall be construed to require the operator to indemnify Indemnitees for any Claim arising from the sole negligence or willful misconduct of the Indemnitees. In the event such a legal action is filed challenging the City's determinations herein or the issuance of the approval, the City shall estimate its expenses for the litigation. The operator shall deposit said amount with the City or enter into an agreement with the City to pay such expenses as they become due.

SECTION 11. The City Council's decision is based upon each of the totally independent and separate grounds stated herein, each of which stands alone as a sufficient basis for its decision.

SECTION 12. This Use Permit shall lapse two years after its date of approval, unless implemented or extended pursuant to [MBMC 10.84.090](#).

SECTION 13. The time within which judicial review, if available, of this decision must be sought is governed by California Code of Civil Procedure Section 1094.6, unless a shorter time is provided by other applicable law. The City Clerk shall mail by first class mail, postage prepaid, a certified copy of this Resolution and a copy of the affidavit or certificate of mailing to the Applicant, the Appellant, Richard McQuillan, and to any other persons or entities requesting notice of the decision.

SECTION 14. The City Clerk shall certify to the adoption of this Resolution.

ADOPTED on June 21, 2022.

AYES:
NOES:
ABSENT:
ABSTAIN:

STEVE NAPOLITANO
Mayor

ATTEST:

LIZA TAMURA
City Clerk