

PLANNING COMMISSION  
MEETING

In compliance with Americans with Disabilities Act, if you need special assistance to participate in this meeting, please contact the Planning Technician at (805) 524-1500 ext. 113, 48 hours prior to the meeting in order for the City to make reasonable arrangements to ensure accessibility to this meeting (28 CFR 35.102-35.104 ADA Title II).

No New Business will be Considered by the Planning Commission after the Hour of 11:00 p.m. unless a Majority of the Planning Commission Determines to Continue beyond that Hour.

Memorandums: Memorandums relating to agenda items are on file in the Planning Department. If you have questions regarding the agenda, you may call the Planning Dept. (805) 524-1500 ext. 113 or visit the Planning Dept. in City Hall for information. Materials related to an item on this agenda submitted to the Planning Commission after distribution of the agenda packet are available for public inspection in the Planning Dept. in City Hall during normal business hours.

AGENDA

ITEM

REFERENCE

1. CALL TO ORDER

2. PLEDGE OF ALLEGIANCE

3. ORAL COMMUNICATIONS

This is the opportunity for citizen presentations or comments not related to agenda items, but within responsibility of the Planning Commission (Each speaker is limited to 5 minutes).

4. CONSENT CALENDAR - None

5. PUBLIC HEARINGS -

- 5a. Conditional Use Permit 14-04 (CUP 14-04), Request Approval to **Memo**  
Obtain an ABC license for On Sale Beer and Wine, *Baja Marlin Seafood Restaurant*.

**Location:** 751-B Ventura Street **Zoning:** CH

**Applicant:** Vicente Magana, 751 Ventura St. Suite B, Fillmore, CA 93015.

**Purpose:** Open the public hearing and receive public testimony.

**Recommendation:** Adopt Planning Commission **Resolution 14-880,** **Reso**  
Granting CUP 14-04, to allow On Sale Beer and Wine and entertainment subject to  
Conditions of Approval.

6. BUSINESS ITEMS – None

**7. REPORTS and COMMUNICATIONS**

- 7a. Planning Community Development Director **Oral**
- 7b. Planning Commission member brief reports **Oral**
- 7c. Planning Commission member may propose items for placement on future agenda: Truck Parking Citywide, camera requirements for project from the Police Department **Oral**

**8. ADJOURNMENT**

- 8a. The Planning Commission adjourns to the Planning Commission meeting scheduled for December 17, 2014, 6:30 p.m., in the City Council Chambers, 250 Central Ave., Fillmore, CA 93015.

**Next Regular City Council Meeting  
December 9, 2014**

PLEASE NOTE: If you challenge the actions of the Planning Commission in court, you may be limited to raising only those issues you or someone else raised at the public hearing described in the public notice, or in written correspondence delivered to the Planning Commission at, or prior to, the public hearing (Calif. Gov't Code § 65009).

Any legal action by an applicant seeking to obtain judicial review of the Planning Commission's decision on a hearing listed on this agenda may be subject to the 90-day filing period of, and governed by, Code of Civil Procedure Section 1094.6.



November 19, 2014

TO: Planning Commission

THROUGH: Kevin McSweeney, Community Development Director

FROM: Sonja Flores, Planning/Building Permit Technician

SUBJECT: **Conditional Use Permit 14-04, 751-B Ventura Street,  
Vicente Magana, Applicant – Request for a Type 41 ABC On-Sale Beer &  
Wine License and Entertainment for a Restaurant.**

**RECOMMENDATION:**

The Planning Department staff recommends the Planning Commission take the following action:

1. Adopt Resolution 14-880, approving Conditional Use Permit 14-04, subject to the conditions of approval.

**BACKGROUND:**

The Applicant, Vicente Magana, submitted an application for a Conditional Use Permit for an On-Sale Beer & Wine license and entertainment use to his Restaurant.

The applicant is operating a restaurant at 751-A Ventura Street and is expanding his restaurant into the adjacent property located at 751-B Ventura Street, to have on-sale beer and wine at the restaurant, and to add karaoke entertainment on the premises.

**ANALYSIS:**

**Project Description:**

The proposed project consists of expanding a restaurant that will serve beer and wine and allow entertainment consisting of Karaoke.

**Zoning & General Plan**

The zoning and General Plan Land Use Designation of the site is “CH” for Commercial Highway. Restaurants serving alcoholic beverages require a conditional use permit in the CH zone and General

CUP 14-04  
Planning Commission Resolution 14-880  
November 19, 2014  
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Plan land use designation. The proposed ABC license will not conflict with the zoning or General Plan designation of the site.

Zoning Ordinance Section 6.04.0615.2 requires the approval of a Conditional Use Permit for ABC licenses and entertainment uses in the Commercial Highway zone. Zoning Ordinance section 6.04.615.3.A contains the following land use district specific standards for projects requesting approval of an ABC license:

1. The structure subject to the "ABC" license shall not be occupied by an adult entertainment business.

**Compliance** - The structure subject to the ABC license will be occupied by the Baja Marlin Seafood restaurant and will not operate an adult entertainment business.

2. The Conditional Use Permit application shall be reviewed by the Police Department Prior to Commission approval

**Compliance** - The application was reviewed by the Police Department. The Police Department is requiring that a video camera surveillance system be installed, that no billboards or signage be allowed to block the windows, and that no live music shall be allowed on the premises.

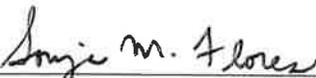
The application meets the land use specific standards for projects requesting approval of an ABC license. Additionally, the project has been conditioned to comply with the City's noise standards and to obtain all the required permits from the Ventura County Environmental Health Department.

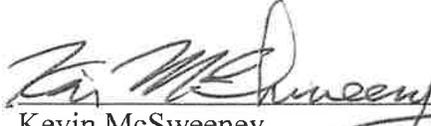
California Environmental Quality Act (CEQA)

As proposed this petition is exempt from further review under Class 1, Existing Facilities, section 15301, because the restaurant is existing and new construction is not proposed.

Prepared By:

Reviewed By:

  
\_\_\_\_\_  
Sonja Flores,  
Permit Technician  
Planning Department

  
\_\_\_\_\_  
Kevin McSweeney,  
Community Development Director  
Planning Department

Attachments:

1. Site Plan
2. Resolution 14-880, Conditional Use Permit 14-04
3. Conditions of Approval



**CITY OF FILLMORE  
PLANNING COMMISSION RESOLUTION 14-880**

**GRANTING  
CONDITIONAL USE PERMIT 14-04 (CUP 14-04)  
ON-SALE ABC BEER & WINE LICENSE**

**751-B VENTURA STREET  
VINCENT MAGANA, APPLICANT**

**WHEREAS,** The Planning Commission has been petitioned to grant Conditional Use Permit 14-04 for the purpose of on-sale beer & wine for a restaurant located at 751-B Ventura Street; and

**WHEREAS,** The Community Development Director caused a notice of date, hour and place for a public hearing on November 19, 2014 before the Planning Commission published on November 6, 2014 in the Fillmore Gazette and mailed to the applicant and all property owners within 300 feet of the exterior boundaries of the subject property in accordance with Section 6.04.8015 of the Fillmore Zoning Ordinance; and

Based upon the evidence presented, the Planning Commission makes the following findings of fact:

1. This permit is specifically for the property located at 751-B Ventura Street, Assessor's Parcel Number 052-0-153-255, and is not transferable to another property.
2. The Applicant is Vicente Magana, 751 Ventura St. Suite B, Fillmore, CA 93015.
3. The Property Owner is Curtis Wehr, 42 Mollison Drive, Simi Valley, CA 93065.
4. The project consists of the approval of a Type 41 on-sale beer and wine Alcohol Beverage license and entertainment at an existing restaurant for the subject address.
5. The project was properly reviewed and documented per the requirements of the California Environmental Quality Act, in that the project was categorically exempt per CEQA Section 15301(a)-'Existing Facilities'.
6. All written and oral comments and correspondence on the project have been responded to and incorporated accordingly.
7. The proposed project, as conditioned per Exhibit 'COA', complies with the Zoning Ordinance.
8. Based upon the above findings, supporting environmental documentation, oral and written testimony, the Staff Report (dated November 19, 2014), and the record as a whole, the Planning Commission finds the following, as required by the Conditional Use Permit and Alcohol Beverage Control License Section of the Fillmore Zoning Ordinance, as per Sections 6.04.7020 and 6.04.0615:
  - a. The structure is not associated with adult entertainment; and

- b. This permit has been reviewed by the Police Department prior to Planning Commission approval; and
- c. No more than five percent of the retail floor area is utilized for alcohol sales; and
- d. On-sale of beer and wine is associated with an approved restaurant.
- e. The project is permitted within the subject zoning district and complies with all applicable requirements in that the applicant is requesting a Conditional Use Permit for an ABC license type 41 of on-sale of beer & wine per Zoning Ordinance sections 6.04.0615.3A and 6.04.70.
- f. The project is consistent with the General Plan in that the property is designated as Commercial Highway (CH) and a restaurant serving beer, wine and the addition of an entertainment use is allowable with the approval of a Conditional Use Permit.
- g. The project shall be compatible with existing and future projects in the area in that the surrounding area consists of residential uses and retail uses, including restaurants in that the project has been conditioned to comply with noise standards and building code standards to ensure its compatibility with existing and future projects in the area.
- h. Approval of the project is in compliance with the requirements of CEQA in that the project is categorically exempt per section 15301(a) Existing Facilities.
- i. There will be no potential significant adverse effects from the project on the environment in that the on sale of beer & wine associated with a restaurant and the addition of an entertainment use has been determined to be categorically exempt per section 15301(a) Existing Facilities of the California Environmental Quality Act.
- j. The project site is physically suitable for the type and density/intensity of the proposal.
- k. There are adequate provisions for utilities and public health and safety.
- l. The project will not be detrimental to the public health/safety in that the use of the building will be reviewed by the Fire Department, the Building and Safety Department, Ventura County Health Department and Planning Department.

According to the Fillmore Municipal Code, all of the above findings must be made by the Planning Commission in order to grant a Conditional Use Permit. Based on the public testimony, staff report, conditions, environmental documentation and, the record as a whole, the Planning Commission finds that the project satisfies the required findings.

**NOW, THEREFORE, BE IT RESOLVED** that based upon the above facts, the Fillmore Planning Commission does hereby adopt Planning Commission Resolution 14-880 for the purpose of approving Conditional Use Permit 14-04.

**PASSED and ADOPTED** by the Planning Commission of the City of Fillmore on this 19<sup>th</sup> day of November, 2014 by the following votes:

AYES: xxx  
NOES: xxx  
ABSTAIN: xxx  
ABSENT: xxx

ATTEST:

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Tim Holmgren, Chair  
Planning Commission

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Sonja Flores  
Planning/Building  
Permit Technician

**EXHIBIT "COA"**

**CONDITIONS OF APPROVAL  
CONDITIONAL USE PERMIT 14-04  
751-B VENTURA STREET  
VICENTE MAGANA, APPLICANT**

**RECITALS**

**A. AUTHORITY FOR THIS DOCUMENT**

The conditions and terms contained in this exhibit are applied to permit Conditional Use Permit 14-04 (CUP 14-04) (THIS PERMIT) and are applied under the City's authority regarding discretionary permits (Section 6.04.70 of the Fillmore Municipal Code).

**B. IDENTIFICATION OF THE SUBJECT PROPERTY**

The subject property is located at **751-B Ventura Street** and is identified as Assessor Parcel Number 052-0-153-255. The subject property is subject to the conditions and terms contained in this exhibit.

**C. DESCRIPTION OF PROJECT AUTHORIZED BY THIS PERMIT**

The PROJECT consists of the approval of a Conditional Use Permit for a Type 41 ABC On-Sale Beer & Wine license to be implemented in one phase and entertainment for the restaurant. All conditions of this permit are applicable upon implementation of Phase I, unless so specified in this document.

**D. RESPONSIBILITY OF APPLICANT**

The following conditions are the responsibility of the Applicant, Vicente Magana, or any of his successors or assigns.

**E. BASIS UPON GRAPHIC ILLUSTRATIONS ("THE PLANS")**

THIS PERMIT is based on the following graphic illustrations referred to as EXHIBITS "S" (SITE PLAN). These exhibits represent the minimum information that is to be expected on subsequent construction documents that are used to implement the project. All interpretations and construction documents shall be based on the above Exhibits (dated September 4, 2014).

**F. BASIS UPON WRITTEN DOCUMENTS**

THIS PERMIT is based on the following written documents referred to as EXHIBITS "COA" (CONDITIONS OF APPROVAL) and "SR" (STAFF REPORTS). All activity on the subject property is to be in compliance with all requirements and direction, as set forth in the above Exhibits.

The conditions and terms in this document shall prevail over all omissions, conflicting notations, specifications, dimensions, typical sections and the like, which may or may not be shown on the PLANS.

**G. LIFE OF THIS DOCUMENT**

The conditions and terms contained in this document apply to the subject property indefinitely or, until such time that this document is modified according to the process identified in paragraph

"I" of this document. THIS PERMIT IS NOT TRANSFERRABLE TO ANOTHER PROPERTY.

H. TIME TO EXERCISE PERMIT

THIS PERMIT shall be substantially initiated or it shall expire on (one year from the date of project approval, November 19, 2015). Substantial initiation of THIS PERMIT shall be determined at the sole discretion of the CITY. Any extension of THIS PERMIT shall be processed per Section 6.04.6840 of the Fillmore Municipal Code.

I. PROCEDURE FOR MODIFICATION OF THIS DOCUMENT

Any proposed modification of this document shall be processed per Section 6.04.6600 of the Fillmore Municipal Code.

J. INDEMNIFICATION AND HOLD-HARMLESS STATEMENT

The APPLICANT shall indemnify, exonerate and hold harmless, the CITY and all officers and employees thereof, against all claims, demands, and causes of action arising out of improvements constructed within the project.

The APPLICANT agrees as a condition of approval of this permit, to defend, at the sole expense of the APPLICANT, any action brought against the CITY based upon approval of this permit. The APPLICANT shall reimburse the CITY for any costs and attorney's fees that the CITY may be required to pay as a result of any such action. The CITY may, as its sole discretion, participate in the defense of such action, but such participation shall not relieve the APPLICANT of the above obligations.

Any activity or structure pursued by the APPLICANT, authorized by this permit shall further constitute acceptance of all conditions and obligations imposed by the CITY on this permit. The APPLICANT, by said acceptance, waives any challenges as to the validity of these conditions.

K. COMPLIANCE WITH THIS DOCUMENT PRIOR TO AUTHORIZED ACTIVITY/USE

The APPLICANT shall comply with and satisfy all applicable conditions of this permit prior to being authorized to begin construction activity or prior to being allowed to occupy any structures.

Authorization to begin construction is to be granted by the Building Official upon presenting the Administrative Clearance Form to the Building Official with all required signatures.

Authorization for occupancy is to be granted by the Building Official upon having a final occupancy inspection conducted by the Project Planner, the Building Inspector, and the Fire Chief, and then having the Building Official issue a Certificate of Occupancy. Any required public improvements are to be completed to the satisfaction of the City Engineer prior to the Building Official issuing a Certificate of Occupancy. Authorization shall not be granted if the proper and requested information is not presented in a neat and timely manner.

L. COMPLIANCE WITH ALL APPLICABLE CODES AND REGULATIONS

All activity and construction pursuant to this permit shall comply with all applicable codes and regulations including, but not limited to, the Fillmore General Plan, the Fillmore Zoning

Ordinance, California Building Code (2013 version), the Uniform Fire Code, the Subdivision Map Act, and the "Standard Specifications for Public Works Construction".

**M. PAYMENT OF FEES/DEPOSITS**

All required Fees shall be paid by the APPLICANT prior to the issuance of a building permit.

**SPECIAL CONDITIONS**

1. The applicant shall comply with Zoning Ordinance Section 6.04.0615.3.A for restaurants. Once the use of the building changes from a restaurant to any other use, Conditional Use Permit 14-04 is no longer valid and therefore the beer & wine license and entertainment use is not valid.
2. The hours of operation shall be limited to 6:00 AM to 12:00 AM (midnight).
3. Alcoholic beverages shall not be sold to minors under the age of twenty one years.
4. There shall be no adult entertainment on or about the premises.
5. Not more than five percent of the retail floor area of the business shall be utilized for the sale of alcoholic beverages.
6. All signage, improvements and/or other activity shall be in compliance with the provisions of the Commercial Highway Zone, per the necessary permit process.
7. This permit is granted for an initial period of one year and will expire automatically on November 19, 2015 unless extended by the Planning Commission
8. The applicant shall be required to install a video surveillance security system with a Digital Video Recorder (DVR) equipped with a seven day hard drive recording capacity and security cameras to monitor the inside and outside area of the business, including the front and back exits. The camera system shall be internet accessible and the IP address shall be provided to the Fillmore Police Department.
9. The rear door of the premises shall be designated as an exit only.
10. No billboards or signage shall block the windows.
11. No live music shall be allowed on the premises.

***IN ACKNOWLEDGEMENT AND AGREEMENT:***

_____	Date:	_____
<i>Vicente Magana, Applicant</i>		
_____	Date:	_____
<i>Tim Holmgren, Planning Commission Chair</i>		

**END OF CONDITIONS**