

CITY OF SAND CITY

RESOLUTION SC 20-65, 2020

**RESOLUTION OF THE CITY COUNCIL OF SAND CITY APPROVING
CONDITIONAL USE PERMIT 642 FOR A. STROUSE & SON GLASS
INCORPORATED AUTHORIZING A SERVICE COMMERCIAL OPERATION
AT 398-B SHASTA AVENUE**

WHEREAS, Russell Strouse and Cecilia Strouse of A. Strouse & Son Glass Incorporated (the “Applicant”) submitted an application to the City of Sand City (the “City”) for conditional use permit approval to operate a glass product sales and installation business with office and storage (the “Applicant’s Use”) within an approximate 1,700 square foot portion of an existing commercial building at 398-B Shasta Avenue (portion of APN 011-253-012) in Sand City (the “Subject Property”); and

WHEREAS, the Applicant’s Use of the Subject Property, at the scale and intensity described, is considered with the appropriate mitigation required, consistent with the non-coastal Planned Mixed-Use (MU-P) zoning designation and a General Plan land use designation of Mixed-Use Development, and compatible with neighboring mixed-use developed and zoned properties of the West End planning district, as defined by the City’s General Plan and Zoning Ordinance; and

WHEREAS, based upon information provided by the Applicant regarding the description of equipment used and type of activities to be conducted, at the scope/scale described by the Applicant, the Applicant’s Use is not anticipated to generate excessive noise or vibration and or pose a nuisance to neighboring properties and tenants, where if unexpected negative impacts do occur, the Permit conditions provide the City the means to reasonably address/mitigate such issues if/when they arise; and

WHEREAS, the Subject Property provides sufficient paved area on-site to accommodate and satisfy the minimum parking requirements of the Sand City Municipal Code (section 18.64.050.K) for the Applicant’s Use in conjunction with tenants of the adjoining units of the commercial building, separate from on-site residential parking, on the Subject Property; and

WHEREAS, the Subject Property and Applicant’s Unit have water credit based upon a Monterey Peninsula Water Management District (MPWMD) Group I classification, which is the same as the Applicant’s Use; and therefore, no further water allocation for the Applicant’s Use of the Subject Property is deemed necessary; and

WHEREAS, the Applicant’s Use within an existing commercial building qualifies for a Categorical Exemption under CEQA (California Environmental Quality Act) Guidelines, Section 15301; and

WHEREAS, the City Council of the City of Sand City, on October 6, 2020, has found and determined that the Applicant's Use, as identified by the Applicant and appropriately conditioned, will not adversely impact the character of the surrounding neighborhood, nor be injurious or detrimental to adjoining properties or the rights of the owners therein, and thus Conditional Use Permit 642 shall be granted upon the conditions hereinafter set forth; and

WHEREAS, the City Council of the City of Sand City has accepted the analysis and findings for approving Conditional Use Permit 642 (hereinafter "CUP 642") as outlined in the City staff report, dated September 2, 2020.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Sand City to hereby grant and issue CUP 642 upon the following terms and conditions:

1. Execution & Acceptance: CUP 642 is not valid, and the Applicant's Use of the Subject Property shall not commence unless and until two copies of this Resolution/Permit, signed by the permittee and the Subject Property's owner, acknowledging receipt of the Permit and acceptance of the terms and conditions, is returned to the City's Planning Department. Failure to return said signed/executed document may be grounds for City termination of CUP 642.
2. Purpose: CUP 642 is for the express purpose of authorizing, at the scope and scale described in the Applicant's application, a glass window/door service commercial business with office and storage within a 1,700 square foot portion of an existing commercial building at 398-B Shasta Avenue (portion of APN 011-253-012); subject to the terms and conditions specified in CUP 642. Residential occupancy of the Applicant's unit on the Subject Property is prohibited. There shall be no expansion to the scope or intensity of the Applicant's Use beyond that as authorized by CUP 642 without either an amendment of said Permit or the issuance of a new land use entitlement permit by the City.
3. Hours of Operation: Hours of operation for the Applicant's Use at the Subject Property shall only occur between the hours of 7:00 a.m. to 6:00 p.m. Monday through Friday and 10:00 a.m. to 5:00 p.m. on Saturdays. All activities associated with the Applicant's Use at the Subject Property, including loading/unloading, shall only occur within these aforementioned permitted hours of operation, and such activities are prohibited on Sundays. Office and/or janitorial activities on-site by the Applicant may extend beyond the aforementioned hours/days provided that the Applicant's unit is not open to the public and such activities do not pose a public disturbance/nuisance.
4. On-Site Parking: The Subject Property shall maintain a minimum of six (6) on-site parking spaces to accommodate the commercial building tenants, separated from those parking spaces accommodating the residential tenants in the other building on-site. A minimum of two (2) off-street parking spaces shall be provided for the Applicant Use by the Subject Property's owner and/or property manager. The location/designation of these parking spaces shall be identified by the Property Owner and subject to the review and approval of the City's Planning Department. Curbside

and/or other street parking shall not be counted towards meeting zoning parking requirements. Any vehicle parking by and for the Applicant Use shall not double park as to encroach into public rights-of-way, including public sidewalks. The Subject Property's owner and/or property manager shall be responsible for managing tenant parking and addressing and resolving tenant disputes regarding parking, provided City zoning and permit requirements are met to the satisfaction of the City without conflicting with other reserved parking for other building tenants. On-site parking spaces shall not be utilized by the Applicant's Use for any purpose that impedes vehicle parking unless actively involved with loading/unloading activities.

5. Truck & Trailer Street Parking: In accordance with City Municipal Code Chapter 10.08, the Applicant shall not park or store trucks, trailers, or other large vehicles, as listed in said Chapter 10.08, within any City street at any time unless actively involved with loading/unloading or otherwise has a valid City issued annual parking permit. Violation of this condition may result in the issuance of citations in accordance with City Municipal Code Chapter 10.08.
6. Loading/Unloading: All deliveries/shipments and/or loading/unloading of any item associated with the Applicant's Use at the Subject Property shall only occur during Permit authorized hours of operation (see Condition No. 3 "Hours of Operation"). At no time shall loading/unloading activities associated with the Applicant's Use impede 2-way traffic circulation on Catalina Street or any other public right-of-way within Sand City. Short term (approximately 5-minute) loading/unloading via private shipment companies (i.e. Federal Express, UPS, etc.) is exempt and allowed, provided such action does not impede traffic circulation of public streets.
7. Storage: All materials, parts, tools, equipment, packaging, pallets, and/or any other item associated with the Applicant's Use stored on the Subject Property, shall only be stored within the Applicant's unit and are prohibited from being stored on the Subject Property beyond the confines of the Applicant's unit and building. Any materials stored/used on-site, that may pose a hazard, shall comply with all requirements of the Monterey County Health Department, the City's Fire Department, and/or the City's code enforcement officer. The placement of a self-contained portable storage unit on-site, beyond the confines of the building for the Applicant's Use, is hereby prohibited; and the need of the Applicant to do so shall be considered by the City as justification that this operation has expanded beyond the Subject Property's ability to sufficiently accommodate the Applicant's operation; and thus be sufficient reason for the City to terminate CUP 642.
8. Property Maintenance: The Subject Property shall be maintained in a clean, orderly, weed-free, and litter-free condition. There shall be no storage of waste material or debris on-site, except as otherwise allowed by CUP 642. The Applicant and/or the Subject Property's owner shall be responsible for maintenance and upkeep of the Applicant's leased area of the Subject Property for the duration of the Applicant's Use at the Subject Property as authorized by CUP 642.

9. Signs: Commercial signs on the exterior of the building or anywhere on the Subject Property, identifying the Applicant's Use, shall be reviewed and approved by the Sand City Design Review Committee (the "DRC") in the issuance of a sign permit prior to the establishment of any sign such as at the Subject Property. Signs attached to the building shall also obtain a City building permit prior to installation of said sign. The Applicant shall not place any free-standing sign anywhere within City limits without City Planning Department approval.
10. General Waste: Trash, litter, boxes, crates, pallets, debris, or other used and/or discarded materials generated/used by the Applicant's Use shall be stored in an appropriate waste collection bin or dumpster. Except on a designated trash collection day, said bin(s) or dumpster(s) shall be maintained either within the building or within a City approved enclosure on the Subject Property. An enclosure may be established on the Subject Property only after approval by the City's Planning Department. The Applicant shall work and coordinate with the City's franchised waste hauler to implement material recycling and recovery as part of this operation's regular routine when feasible.
11. Hazardous Waste: Any and all hazardous materials and/or waste used/generated by the Applicant's Use shall be legally stored and disposed of in accordance with the regulations of the City, the County of Monterey, and the State of California. The Applicant shall concede to any direction of the City's Fire Department, City Code Enforcement Officer, and/or the Monterey County Health Department regarding the storage and/or handling of hazardous materials on the Subject Property. Any illegal material storage, dumping, and/or disposal shall be sufficient grounds for City termination of CUP 642.
12. Water Runoff: The Applicant's Use shall not create water run-off within the City in accordance with Chapter 13.05 of the Sand City Municipal Code regarding Storm Water Management. There shall be no washing of vehicles on the Subject Property.
13. Water: Issuance of CUP 642 does not grant the Applicant and/or Subject Property's owner any right or privilege to any allocation of water from the City of Sand City or other entity. The Applicant's Use shall be limited to that water credit available to the Subject Property, in accordance with the regulations of the Monterey Peninsula Water Management District (MPWMD).
14. Local/Regional Compliance: All requirements of the City's contracted Building and Fire Departments, the City Engineer, the City Police Department, the Sand City Code Enforcement officer(s), the Seaside County Sanitation District, Monterey One Water (formerly 'Monterey Regional Water Pollution Control Agency'), and Monterey County Health Department, that are applicable to the Applicant's Use, shall be implemented to the satisfaction of each department and inspector thereof.
15. Air District: The Applicant shall be responsible for complying with all applicable regulations of the Monterey Bay Air Resources District. Failure to comply shall be sufficient grounds for City termination of CUP 642.

16. Fire Department: The Applicant's Use of the Subject Property, as authorized by CUP 642, must conform to storage and operational requirements specified in the California Fire Code to the satisfaction of the City's Fire Department inspector. The Subject Property shall be available and open for Fire Department and/or City code enforcement safety inspections. Failure to comply with Fire Inspector and/or code enforcement requirements may be sufficient grounds for City issuance of a 'Cease and Desist' order for closure of the Applicant's Use and/or City termination of CUP 642.
17. Nuisance: The Applicant's Use of the Subject Property shall be conducted as to not constitute a nuisance to surrounding units and/or properties or the occupants thereof. The Applicant shall be considered responsible for the impacts created by the Applicant's Use and activities. The Applicant shall implement all mitigation necessary to inhibit any noise, vibration, particulate, odors, overflow parking, and/or other negative impact(s) that this operation may or will generate. Any mitigation to abate negative impacts of the Applicant's Use, as directed by the City, shall be implemented by the Applicant to the City's satisfaction as to effectively mitigate such negative impacts. If the City Council finds at any time that any use of the Subject Property constitutes a nuisance, or is otherwise detrimental to the neighborhood or to the community, such use shall be discontinued or modified as may be required by the City. Failure to effectively implement mitigation required by this Permit, or other direction/notification by the City deemed necessary to abate negative impacts generated by the Applicant's Use, may be adequate grounds for the City to amend or terminate CUP 642. Failure to comply with such City direction may result in the amendment or revocation of CUP 642.
18. Violation/Termination: If the City determines that any term or condition of CUP 642 has been violated, and/or use of the Subject Property constitutes a nuisance or is otherwise detrimental to the neighborhood or the community, written notice shall be issued to the Applicant, that if such violation is not corrected or removed within a specified time, a public hearing may then be scheduled where the City Council may consider amending or revoking CUP 642 and may then order said Permit amended or revoked. The Applicant and the Subject Property's owner/manager shall be notified of any such public hearing, and provided an opportunity to address the City Council prior to any action by the City Council to amend or terminate CUP 642.
19. Interpretation: Any question of intent or interpretation regarding any condition within CUP 642 shall be resolved by the City's Planning Department.
20. The issuance of CUP 642 shall not supersede or override any requirement of any other City, County, State, or Federal agency.
21. Indemnification: To the extent permitted by law, the Applicant and Property Owner shall indemnify and hold harmless the City, its City Council, its officers, employees, consultants, and agents (the "indemnified parties") from and against any claim, action, or proceeding brought by a third party against the indemnified parties, the Applicant, and/or Property Owner in connection with this Permit, including but not limited to any such action to attack, set aside, or void, any permit or approval authorized hereby,

including (without limitation) reimbursing the City for its actual attorney's fees and costs incurred in defense of the litigation. The City may, in its sole discretion, elect to defend any such action with attorneys of its own choice.

22. Business License: The Applicant shall acquire, maintain, and annually renew a Sand City business license for the duration of the Applicant's Use within Sand City. Failure to maintain a current City business license may be sufficient grounds for termination of CUP 642.

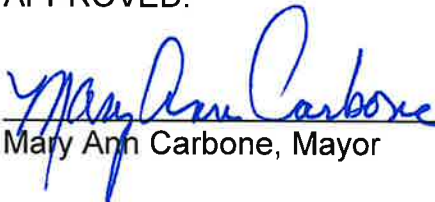
PASSED AND ADOPTED by the City Council of Sand City this 6th day of October, 2020, by the following vote:

AYES: Council Member Sofer, Cruz, Carbone
NOES: None
ABSENT: None
ABSTAIN: Council Member Blackwelder, Hawthorne

ATTEST: APPROVED:



Connie Horca, Acting City Clerk



Mary Ann Carbone, Mayor

This is to certify that the Conditional Use Permit (CUP) 642 contains the conditions specified by the City Council in approving said Permit.



Charles Pooler, City Planner

APPLICANT ACCEPTANCE (CUP 642)

The Conditional Use Permit is hereby accepted upon the express terms and conditions hereof, and the undersigned agrees to strictly conform to and comply with each and all of the said terms and conditions therein.

DATED: 10/19/2020

BY: 

Applicant

CONSENT OF OWNER (CUP 642)

Consent is hereby granted to the permittee to carry out the terms and conditions of the Conditional Use Permit.

DATED: 10/19/2020

BY: 

Property Owner