

## RESOLUTION 2003-066

### RESOLUTION OF THE CITY OF CALISTOGA MAKING A DETERMINATION OF PUBLIC CONVENIENCE AND NECESSITY FOR A WINE SALES AND TASTING FOR A RETAIL STORE AT 1020 Foothill Boulevard

**WHEREAS**, State law regulating the concentration of alcoholic beverage licenses issued within any one census tract requires local jurisdictions to make Determinations of Public Convenience and Necessity for new businesses where the State Department of Alcoholic Beverage Control (ABC) has concluded that an undue concentration of these businesses exists;

**WHEREAS**, ABC has determined that there is an over-concentration of businesses selling alcoholic beverages for on- and off-site consumption in Calistoga;

**WHEREAS**, the City Council has adopted Resolution 98-113 establishing guidelines for making Determinations of Public Convenience and Necessity;

**WHEREAS**, Mr. Todd Miller has applied to ABC for a license for a wine sales and tasting establishment to be operated at 1020 Foothill Boulevard and on May 16, 2003, Mr. Miller applied to the City for a Public Convenience and Necessity Determination;

**WHEREAS**, on June 17, 2003, the City Council determined that the granting of a license for a wine sales and tasting establishment at 1020 Foothill Boulevard will serve as a public convenience and necessity based on the following findings:

1. The Police Department has reviewed the proposed application and recommends conditions of approval which address the prohibition on the sale of beer and the requirement that any future expansion of alcohol sales will require City approval and possibly a subsequent PCN determination.
2. The applicant has provided evidence in support of the proposed application and has addressed the public convenience or necessity that would be served by the additional license.
3. The proximity of the proposed licensed premises to sensitive land uses and the effect that existing and proposed license may have on such sensitive land uses has been considered. The subject property is located on Foothill Boulevard at one of the gateways to Calistoga which is a commercial area. No schools, parks or places of worship are in close proximity to the project site. There is a bed and breakfast inn and some mixed commercial and residential uses in the proximity of the project site. However, given the nature of the proposed use and that it will be primarily a retail wine shop where wine will be sold by the bottle for off-site consumption it is not anticipated that there will be conflicts with the adjacent land uses.

4. The proposed use is compatible with the uses and character of the surrounding area. Wine sales and tasting is will compliment the surrounding commercial land uses and the character of the town of Calistoga given the symbiotic relationship that Calistoga has with the wine industry in the Napa Valley.
5. The proposed use will not have a significant impact upon the welfare of the area residents.
6. The public, both local Calistoga residents and tourists, convenience and necessity will be served by the issuance of the license for wine sales and tasting. There is a public demand for additional wine sales and tasting in Calistoga. Presently, there are a couple of other establishments that provide wine sales and tasting. However, these facilities are not located near the proposed project location, nor do they provide the same mix of retail and wine related services.

**BE IT FURTHER RESOLVED** that based upon substantial evidence presented to this Council during the referenced meeting, including written and oral staff reports and public testimony, and subject to the provisions of the staff recommendations, the City Council made a Determination of Public Convenience and Necessity for wine sales and tasting at a retail business at 1020 Foothill Boulevard, subject to the conditions contained in Exhibit A attached hereto.

**PASSED, APPROVED, AND ADOPTED** by the City Council of the City of Calistoga at a regular meeting held this 17<sup>th</sup> day of June, 2003, by the following vote:

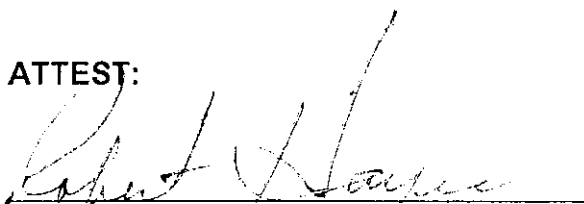
**AYES:** Councilmember Slusser, Sterk, and Mayor Alexander

**NOES:** None

**ABSTAIN:** None

**ABSENT:** Councilmember Gingles and Vice Mayor von Pohle

**ATTEST:**

  
\_\_\_\_\_  
ROBERT HAYES, City Clerk

  
\_\_\_\_\_  
DR. ANDREW ALEXANDER, Mayor

# EXHIBIT A

## CITY OF CALISTOGA PLANNING AND BUILDING DEPARTMENT FINDINGS AND CONDITIONS

### Public Convenience and Necessity Determination No. 2003-4

Consideration of a request for an expanded wine sales and tasting business at 1020  
Foothill Boulevard

Todd Miller, Applicant, for The Wine Garage  
1020 Foothill Boulevard, Calistoga, CA 94515

#### Findings

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3 1. The Police Department has reviewed the proposed application and recommends  
4 conditions of approval which address the prohibition on the sale of beer and the  
5 requirement that any future expansion of alcohol sales will require City approval  
6 and possibly a subsequent PCN determination.  
7
- 8 2. The applicant has provided evidence in support of the proposed application and  
9 has addressed the public convenience or necessity that would be served by the  
10 additional license.  
11
- 12 3. The proximity of the proposed licensed premises to sensitive land uses and the  
13 effect that existing and proposed license may have on such sensitive land uses  
14 has been considered. The subject property is located on Foothill Boulevard at  
15 one of the gateways to Calistoga which is a commercial area. No schools, parks  
16 or places of worship are in close proximity to the project site. There is a bed and  
17 breakfast and some mixed commercial and residential uses in the proximity of  
18 the project site. However, given the nature of the proposed use and that it will be  
19 primarily a retail wine shop where wine will be sold by the bottle for off-site  
20 consumption it is not anticipated that there will be conflicts with the adjacent land  
21 uses.  
22
- 23 4. The proposed use is compatible with the uses and character of the surrounding  
24 area. Wine sales and tasting is will compliment the surrounding commercial land  
25 uses and the character of the town of Calistoga given the symbiotic relationship  
26 that Calistoga has with the wine industry in the Napa Valley.  
27
- 28 5. The proposed use will not have a significant impact upon the welfare of the area  
29 residents.

- 30  
31 6. The public, both local Calistoga residents and tourists, convenience and  
32 necessity will be served by the issuance of the license for wine sales and tasting.  
33 There is a public demand for additional wine sales and tasting in Calistoga.  
34 Presently, there are a couple of other establishments that provide wine sales and  
35 tasting. However, these facilities are not located near the proposed project  
36 location, nor do they provide the same mix of retail and wine related services.  
37

### 38 **Conditions of Approval**

- 39  
40 1. This Public Convenience and Necessity Determination authorizes only wine  
41 sales and tasting on the premises. It does not authorize beer sales or a bar that  
42 sells wine, beer and/or cocktails. Any proposed expansion of sales or  
43 consumption of alcoholic beverages associated with this property, in addition to  
44 what is entailed with this approval, will require subsequent Determinations of  
45 Public Convenience and Necessity. For the purposes of these conditions, the  
46 premises means the entire property, including the interior of the building and the  
47 parking lot in front of the building.  
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49 2. The business operator shall use all of its civil law authority to prevent loitering on  
50 the premises.  
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52 3. The business operator shall maintain all site improvements according to City  
53 standards and in a clean and orderly manner on a daily basis.  
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55 4. The business operator shall comply with all local, State, and Federal laws  
56 applicable to its business.  
57  
58 5. Water use at the property shall not exceed the established baseline of 208 units  
59 per year in compliance with the City's Resources Management System, unless  
60 additional resources become available in the future and are received for the use.  
61  
62 6. Occupancy or use of the building shall be subject to issuance of a business  
63 license.  
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65 7. Signage on the site visible from the public right-of-way and intended for persons  
66 off the business premises shall be installed only after receiving a sign permit from  
67 the City of Calistoga.  
68  
69 8. All exterior changes or modifications are subject to the City's Design Review  
70 procedures.