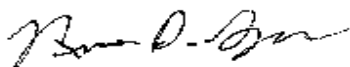


City of Calistoga

Staff Report

TO Honorable Mayor and City Council
FROM Lynn Goldberg, Planning and Building Director
DATE November 3, 2015
SUBJECT Adoption of a Policy Requiring the Inclusion of Secondary Retail in New Downtown Wine Tasting Facilities (P 2015-1)

APPROVAL FOR FORWARDING



Richard D. Spittler, City Manager

1 **ISSUE:** Consideration of a policy mandating the inclusion of secondary retail in new
 2 downtown wine tasting facilities

3 **RECOMMENDATION:** Adopt a resolution requiring the inclusion of secondary retail in
 4 new downtown wine tasting facilities

5 **BACKGROUND:** Following its approval of a use permit for a new wine tasting
 6 operation on June 10, 2015, the Planning Commission expressed concern that there is
 7 an increasing number of these types of applications, and that a proliferation of a single
 8 type of commercial activity in the downtown could adversely affect its unique and
 9 eclectic character. The Commission asked staff to convey its concerns to the City
 10 Council and provide for community input on the issue.

11 On July 7th, the Council directed staff to research what similar communities have done
 12 to regulate tasting facilities, and identify potential options for regulating tasting facilities,
 13 with the Planning Commission's input. It was the consensus of the Planning
 14 Commissioners in attendance at its August 12th meeting that wine tasting facilities are
 15 not currently overrepresented in the downtown. However, the Commission expressed
 16 support for a policy that would encourage the inclusion of unrelated retail in larger
 17 tasting facilities fronting Lincoln Avenue in order to provide diversity in the downtown.

18 After considering various options presented by staff on September 1st, it was the
 19 consensus of the Council to adopt a policy requiring new tasting facilities to include a
 20 secondary retail use in order to promote retail diversity in the downtown, following input
 21 from the Commission and community.

22 Following a public hearing on October 14 at which no public comments were offered,
23 the Commission recommended that the Council adopt the attached resolution.

24 **DISCUSSION**

25 The policy included in the attached draft resolution would require new wine tasting
26 facilities to include a secondary retail use. Adoption of a policy instead of incorporating
27 regulations into the Municipal Code is recommended in order to avoid a cumbersome
28 process in the future if the City wishes to change the provisions.

29 The proposed provisions follow, along with a discussion of each:

- 30 • *Wine tasting facilities located within the Downtown Commercial Zoning District*
31 *and that are approved after the effective date of this resolution shall provide a*
32 *secondary retail use in order to promote a diversity of retail in the downtown. This*
33 *requirement shall not apply to wine tasting activities that are accessory to a*
34 *primary business.*

35 Staff recommends subjecting all tasting facilities in the Downtown Commercial
36 Zoning District to the policy, regardless of whether they are located on Lincoln
37 Avenue, in order to promote retail diversity throughout the downtown. However, it
38 would not apply to wine tasting activities that are accessory to a primary business
39 (such as the wine tasting bar at All Seasons Restaurant), since there are already
40 two activities in the business.

- 41 • *The secondary retail use shall be distinct from the wine tasting use and not*
42 *involve wine-related goods in order to meet the goal of maintaining retail*
43 *diversity.*

44 The intent of this provision is to affirm that merchandise with a winery's logo and
45 other wine-related goods (such as corkscrews and wine coolers) is not
46 considered a secondary retail use.

- 47 • *The secondary retail use shall be sufficiently substantial in quantity, availability*
48 *and display presentation to provide an independent shopping opportunity apart*
49 *from the primary retail use. "Token" efforts to provide secondary retail items are*
50 *not acceptable.*

51 Attempts by Yountville to require that a specified amount of floor space be
52 devoted to the secondary retail use have proved to be problematic, such as when
53 the secondary use is art displayed on walls, the secondary retail is small or large
54 merchandise (such as jewelry or furniture) or the tasting facilities includes a
55 limited or expansive amount of public floor area. It also leads to the question of
56 whether to count a certain amount of circulation area towards the specified area
57 where goods are displayed in a free-standing manner (such as on a table). Staff
58 believes that the characteristics of the secondary retail use proposed by each
59 tasting facility application should be judged on a case-by-case basis as to
60 whether it meets the intent of this provision, rather than specifying an amount for
61 all tasting facilities.

- 62 • *The secondary retail use shall be maintained as an essential element of the total*
63 *operation and its merchandise shall remain available for inspection and purchase*
64 *at all times the tasting facility is open to the general public.*

65 This provision would exempt tasting facilities from dealing with the secondary
66 retail use during private winery events.

- 67 • *Exterior signage shall be provided for the secondary retail use that is equal in*
68 *size to that for the tasting facility.*

69 *Where a window display is provided, the area for the secondary retail use shall*
70 *be equal in size to that for the tasting facility.*

71 These provisions are necessary in order to advise the public of a secondary retail
72 use's existence within a tasting facility.

- 73 • *The nature of the secondary use shall be approved concurrent with the use*
74 *permit approval of the tasting facility. A subsequent change to the secondary*
75 *use, such as the type of retail offered or its location within the tasting facility, shall*
76 *be subject to approval of an amendment to the use permit.*

77 The Commission agreed that it is appropriate to delegate review of a proposed
78 amendment to staff, which could refer the proposed revision to the Commission if
79 there is an issue as to its appropriateness.

- 80 • *The Planning and Building Director shall automatically initiate the revocation of a*
81 *use permit for a wine tasting facility whose use is discontinued for more than 180*
82 *days.*

83 This provision would maximize the City's ability to review use permits for new
84 wine tasting facilities. Although the Municipal Code includes this provision for all
85 use permits, it is not staff's standard practice to monitor conditionally-permitted
86 uses and automatically begin revocation proceedings after 180 days of the use
87 lapsing.

88 **APPLICABLE CITY COUNCIL GOALS:** Goal 1 of the City Council Goals and
89 Objectives for FY 15/16 seeks to maintain and enhance the economic vitality of the
90 community. Expanding the downtown's retail uses would be consistent with this goal.

91 **FISCAL IMPACT:** Requiring the inclusion of secondary retail in tasting facilities could
92 increase revenue generated by sales taxes.

ATTACHMENTS

1. Draft resolution
2. Excerpt from October 14, 2015 Planning Commission minutes

RESOLUTION NO. 2015-XXX

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CALISTOGA ADOPTING A POLICY REQUIRING THE INCLUSION OF SECONDARY RETAIL IN NEW DOWNTOWN WINE TASTING FACILITIES

1 **WHEREAS**, a proliferation of a single type of commercial activity in the
2 downtown could adversely affect its unique and eclectic character; and

3 **WHEREAS**, the Land Use Element of the Calistoga General Plan includes
4 a number of objectives and policies that are directed at maintaining a diverse
5 commercial base, including in the downtown, that appeals to both residents and visitors;
6 and

7 **WHEREAS**, on September 1, 2015, the Calistoga City Council indicated its
8 support for requiring new downtown tasting facilities to include a secondary retail use in
9 order to promote retail diversity in the downtown; and

10 **WHEREAS**, the Council requested that staff seek input from the community and
11 the Planning Commission prior to adopting such a policy; and

12 **WHEREAS**, prior to taking action on the application, the Planning Commission
13 received written and oral reports by the staff, and received public testimony; and

14 **WHEREAS**, this action has been reviewed for compliance with the California
15 Environmental Quality Act (CEQA) and is exempt from the requirements of the CEQA
16 pursuant to Section 150619(b)(3) of the CEQA Guidelines.

17 **NOW, THEREFORE, BE IT HEREBY RESOLVED** by the City Council of the City
18 of Calistoga as follows:

- 19 1. Wine tasting facilities located within the Downtown Commercial Zoning District
20 and that are approved after the effective date of this resolution shall provide a
21 secondary retail use in order to promote a diversity of retail in the downtown. This
22 requirement shall not apply to wine tasting activities that are accessory to a
23 primary business.
- 24 2. The secondary retail use shall be distinct from the wine tasting use and not
25 involve wine-related goods in order to meet the goal of maintaining retail
26 diversity.
- 27 3. The secondary retail use shall be sufficiently substantial in quantity, availability
28 and display presentation to provide an independent shopping opportunity apart
29 from the primary retail use. "Token" efforts to provide secondary retail items are
30 not acceptable.
- 31 4. The secondary retail use shall be maintained as an essential element of the total
32 operation and its merchandise shall remain available for inspection and purchase
33 at all times the tasting facility is open to the general public.
- 34 5. Exterior signage shall be provided for the secondary retail use that is equal in
35 size to that for the tasting facility.

- 36 6. Where a window display is provided, the area for the secondary retail use shall
37 be equal in size to that for the tasting facility.
- 38 7. The nature of the secondary use shall be approved concurrent with the use
39 permit approval of the tasting facility. A subsequent change to the secondary
40 use, such as the type of retail offered or its location within the tasting facility, shall
41 be subject to approval of an amendment to the use permit.
- 42 8. The Planning and Building Director shall automatically initiate the revocation of a
43 use permit for a wine tasting facility whose use is discontinued for more than 180
44 days.

45 **PASSED AND ADOPTED** by the City Council of the City of Calistoga at a
46 regular meeting held the 3rd day of November, 2015 by the following vote:

AYES:
NOES:
ABSTAIN:
ABSENT:

CHRIS CANNING, Mayor

ATTEST:

KATHY FLAMSON, City Clerk

Excerpt
MINUTES
CALISTOGA PLANNING COMMISSION
October 14, 2015

The meeting was called to order at 5:30 pm.

A. ROLL CALL

Commissioners present: Chair Jeff Manfredi, Vice Chair Carol Bush, Paul Coates, Tim Wilkes, Scott Cooper. Absent: None. Staff present: Planning & Building Director Lynn Goldberg, Senior Planner Erik Lundquist.

H. PUBLIC HEARINGS

1. **Downtown Wine Tasting Facilities Policy P 2015-1:** Consideration of a recommendation to the City Council mandating the inclusion of secondary retail in new downtown wine tasting facilities

Director Goldberg presented the staff report for the item. After recent discussions by the Planning Commission and the City Council regarding downtown wine tasting facilities, the Council has indicated its support for adopting a policy requiring new facilities to include a secondary retail use in order to promote retail diversity in the downtown. This item was referred to the Commission for input.

In general the policy would require primary tasting facilities in the Downtown Commercial Zoning District to provide a secondary retail use that is distinct from the wine tasting use and does not involve wine-related goods. The secondary retail use would have to be sufficiently substantial in quantity, availability and display presentation to provide an independent shopping opportunity apart from the primary retail use. Exterior signage for the secondary retail use would be required. Staff believes that the draft policy would meet the intent of diversifying downtown retail and is recommending that the Commission recommend its adoption by the City Council.

In response to a question from **Commissioner Wilkes**, Ms. Goldberg explained that as part of a use permit application for a new wine tasting facility, the applicant would have to describe in their narrative how they propose to fulfill the secondary retail requirement and provide exhibits such as floor plans showing how the merchandise will be displayed.

In response to a question from **Commissioner Cooper**, Ms. Goldberg explained that the purpose of not allowing the secondary retail to be wine-centric goods is to promote diversity within the downtown and provide retail that appeals to those who are not interested in wine.

Vice Chair Bush noted that she had attended the City Council during which this issue was discussed, and that this requirement was seen as necessary because

the winery could otherwise just count their own merchandise as the secondary retail.

Commissioner Coates believes that the policy's requirement for the secondary retail to be, "sufficiently substantial in quantity, availability and display presentation to provide an independent shopping opportunity apart from the primary retail use," is well-written and will provide good guidance to staff and applicants. **Vice Chair Bush** agreed.

In response to **Commissioner Wilkes'** question whether any consideration was given to not requiring secondary retail where tasting facilities are small in size, Ms. Goldberg replied that the merchandise in such case could consist of items such as jewelry that have a small display footprint.

Chair Manfredi opened and closed the public hearing after no public comments were offered.

Commissioner Wilkes suggested that the policy require that the signage and any window display for the wine tasting and secondary retail operations be equal in size. The Commission concurred.

It was the consensus of the Commission that staff could approve any subsequent changes to the secondary retail portion of a wine tasting facility, with the ability to forward any questionable modifications to the Commission.

A motion by **Commissioner Wilkes** and seconded by **Commissioner Coates** to recommend to the City Council adoption of a policy requiring new wine tasting facilities to include a secondary retail use, as amended, was approved unanimously.