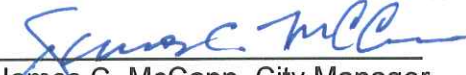


City of Calistoga

Staff Report

TO: Honorable Mayor and City Council
FROM: Erik V. Lundquist, Associate Planner
VIA: Charlene Gallina, Director of Planning & Building
DATE: October 21, 2008
SUBJECT: Determination of Public Convenience and Necessity – Mitchell’s Grocery, 805 Washington St. (APN 011-234-010)

APPROVAL FOR FORWARDING:


James C. McCann, City Manager

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ISSUE:

Consideration of a request for a Determination of Public Convenience and Necessity (PCN 2008-02) authorizing beer and wine sales on the property located at 805 Washington Street, Suites A & B (APN 011-234-010) within the “CC-DD”, Community Commercial – Design District. The applicant is Maribel Alvarez, on behalf of the Mitchell’s Grocery. As required by Resolution 98-113, a Public Convenience and Necessity Determination is required prior to establishing this use.

RECOMMENDATION:

Adopt a Resolution making a determination that the proposed use would serve the public’s convenience and necessity.

BACKGROUND AND PROJECT DESCRIPTION:

The property owner, Daniel Farris has recently redeveloped his property with three independent structures (801, 805 & 807 Washington Street). The middle two-story structure located at 805 Washington Street is a mixed use building. The second floor is established with two 1-bedroom residential dwelling units and the ground floor is designed and intended for commercial uses. The ground floor is approximately 1,500 square feet of floor area and off street parking is located behind the structure along the Napa River.

On September 23, 2008 a perspective tenant/operator, Maribel Alvarez submitted a business license to operate a local serving market on the ground floor (Suites A & B) at this location. Among other goods, Ms. Alvarez intends to sell beer and wine for off site consumption.

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Washington Street Frontage



Napa River Frontage

Since the proposed market involves the sale of beer and wine, the State Department of Alcoholic Beverage Control requires that the business operator receive an Alcoholic Beverage License prior to sale of beer and wine. On July 21, 1998, the City Council adopted Resolution 98-113 (attached) establishing the procedures for consideration of alcoholic beverage licenses in Calistoga. Under this Resolution, businesses requesting a license to sell alcohol for on- or off-site consumption would be required to first obtain clearance from the City of Calistoga before the State Department of Alcohol Beverage Control (ABC) would consider the license. City clearance would be provided in the form of a "Determination of Public Convenience and Necessity," wherein an applicant must meet certain local standards. This process is applied in areas where ABC has determined that there is an over-concentration of businesses selling alcoholic beverages, and in some instances is associated with inner-city areas where alcohol-related businesses can have a deleterious effect on the quality of life. However, in Calistoga this over-concentration of alcohol-related businesses is a reflection of the positive and symbiotic relationship that Calistoga has with the Napa Valley (e.g. wineries, restaurants, visitor industry, and convenience operations providing retail to various demographics, etc.).

No further land use entitlement is required at this time. Therefore, the operator is only requesting the City Council make a "Determination of Public Convenience and Necessity" for the sale of beer and wine at the proposed retail store.

DISCUSSION: Resolution No. 98-113 requires an applicant to meet certain guidelines, which are used by the City Council in making a judgment whether the proposed use (in this instance a local serving market offering beer and wine sales) qualifies as a Public Convenience and Necessity. These guidelines include:

- Input and recommendation from the Police Department prior to consideration of the use;
- Evidence provided by the applicant addressing the public convenience or necessity that would be served by the alcohol license;
- The nature of the proposed use;

- 75 • The extent to which alcohol sales are related to the function of the proposed use and
76 the possibility of the use operating in a viable fashion without alcohol sales;
- 77 • The proximity of the proposed licensed premises to sensitive land uses such as
78 residences, schools, churches, and parks, and the effect that existing and proposed
79 licensed businesses may have on such sensitive land uses;
- 80 • The compatibility and suitability of the proposed use with the use and/or character of
81 the surrounding area;
- 82 • The effect that the proposed use may have on the welfare of the area residents; and
- 83 • The public convenience or necessity which would serve the community by the
84 issuance of an additional license both in the immediate area and in Calistoga in
85 general.

86

87 Staff has reviewed the proposed request and has determined that an alcohol license for this
88 business will not adversely affect the public welfare of the immediate vicinity or community in
89 general. Beer and wine sales are incidental to the primary use of the business as a retail store
90 offering convenience store items and specialty goods. Moreover, the location of this business
91 will not impact sensitive land uses as defined above, and the sales of beer and wine is
92 compatible with the uses and character of other neighborhood retail businesses. The proposed
93 beer and wine sales provide a convenient and necessary business to Calistoga that reflects a
94 diverse mix of businesses for locals and visitors alike. Therefore, staff recommends the PCN be
95 approved with the conditions to address general issues raised by the establishment of an
96 additional licensed business within a mixed use neighborhood. These conditions address
97 loitering, noise and the maintenance of the business premises. These conditions are more
98 specifically defined in the attached Resolution.

99

100 **FISCAL IMPACT:**

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102 The proposed beer and wine sales is not anticipated to have a fiscal impact upon the City.

103

104 **ATTACHMENTS:**

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106 1. Draft City Council Resolution

107 2. PCN Application and written submittal received from Maribel Alvarez on September 23,
108 2008

109 3. Resolution 98-113

RESOLUTION OF THE CITY OF CALISTOGA MAKING A DETERMINATION OF PUBLIC CONVENIENCE AND NECESSITY FOR A BEER AND WINE AND SALES LICENSE FOR A LOCAL SERVING RETAIL STORE AT 805 WASHINGTON STREET, SUITES A & B WITHIN THE "CC-DD", COMMUNITY COMMERCIAL – DESIGN DISTRICT (APN 011-234-010)

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2 **WHEREAS**, State law regulating the concentration of alcoholic beverage licenses issued
3 within any one census tract requires local jurisdictions to make Determinations of Public Convenience
4 and Necessity for new businesses where the State Department of Alcoholic Beverage Control (ABC)
5 has concluded that an undue concentration of these businesses exists; and
6

7 **WHEREAS**, ABC has determined that there is an over-concentration of businesses selling
8 alcoholic beverages for on- and off-site consumption in Calistoga; and
9

10 **WHEREAS**, the City Council has adopted Resolution 98-113 establishing guidelines for
11 making Determinations of Public Convenience and Necessity; and
12

13 **WHEREAS**, on September 23, 2008, Maribel Alvarez applied to the City for a Public
14 Convenience and Necessity Determination for an off-sale beer and wine license for new local serving
15 retail market located at 805 Washington Street; and
16

17 **WHEREAS**, on October 21, 2008 the City Council determined that the granting of a license for
18 beer and wine sales establishment at 805 Washington Street will serve as a public convenience and
19 necessity based on the following findings:
20

- 21 1. The Police Department has reviewed the applicant's current licenses and finds no derogatory
22 information. Although, the Police Chief indicates that potential loitering, noise, littering and
23 crime often accompany locations where alcoholic beverages are sold and result in a detriment
24 or nuisance to the public health, safety, or welfare for those residing or working in the
25 surrounding area. This is not in any way a reflection on the current applicant, however, the
26 pattern of increased availability of alcoholic beverages is associated with increased policing
27 problems in the general area. Especially since this is a primarily residential neighborhood.
28 Therefore, the Police Chief recommends conditions of approval limiting loitering, noise and
29 litter.
- 30 2. The applicant has provided evidence in support of the proposed application and has
31 addressed the public convenience or necessity that would be served by the additional license.
- 32 3. The retail store is intended to be residential serving and provide the surrounding residential
33 neighborhood with the convenience of a variety of merchandise and/or goods. Beer and wine
34 sales are related to the functionality of the retail establishment. Generally, the customers shop
35 at the market for only a limited number of items, beer and wine are typically among these
36 items.
- 37 4. This business could not operate in a viable fashion without alcohol sales. Beer and wine are a
38 large percent of the daily revenue.
- 39 5. The proximity of the proposed licensed premises to sensitive land uses and the effect that
40 existing and proposed license may have on such sensitive land uses has been considered.
41 The subject property is located on Washington Street, which is peripheral commercial area
42 offset from the commercial core along Lincoln Avenue. The Calistoga Pre-School and Our
43 Lady of Perpetual Health (Catholic Church) is in the vicinity of the establishment. The existing
44 market will not have an impact on these sensitive land uses or other land uses in the vicinity.
- 45 6. The proposed use is compatible with the uses and character of the surrounding area. Beer
46 and wine sales as an ancillary use to the retail convenience store is compatible with both the
47 surrounding commercial land uses and the character of the City of Calistoga given the
48 symbiotic relationship that Calistoga has with various demographics.
- 49 7. The proposed use will not have a significant impact upon the welfare of the area residents.
50

51 8. The public, both local Calistoga residents and tourists, convenience or necessity would be
52 served by the issuance of the expanded license for beer and wine sales. There is a public
53 demand for conveniently located beer and sales in Calistoga. Presently, there are a couple of
54 other establishments that provide beer and wine sales along the Lincoln Avenue corridor.
55 However, these facilities are not located near the northwestern quarter of the City (i.e. north of
56 Grant Street) nor do they provide the same mix of local retail services.
57

58 **BE IT FURTHER RESOLVED** that based upon substantial evidence presented to this Council
59 during the referenced meeting, including written and oral staff reports and public testimony, and
60 subject to the provisions of the staff recommendations, the City Council has made a Determination of
61 Public Convenience and Necessity for beer and wine sales at a retail business located at 805
62 Washington Street, Suites A & B, subject to the following conditions:
63

- 64 1. This Public Convenience and Necessity Determination authorizes an off-site beer and wine
65 sales license. Any proposed expansion of sales or consumption of alcoholic beverages
66 associated with this property, in addition to what is entailed with this approval, will require
67 subsequent Determinations of Public Convenience and Necessity. For the purposes of these
68 conditions, the premises means the entire property, including the interior of the building, the
69 parking lot, and the sidewalk in front of the building. On site consumption of alcoholic
70 beverages is not allowed.
- 71 2. The City Council may revoke the permit in the future if the Council finds that the use to which the
72 permit is put is detrimental to the health, safety, comfort and welfare of the public, or constitutes a
73 nuisance.
- 74 3. The business operator shall use all of its civil law authority to prevent loitering on the premises.
75 Signs shall be provided prohibiting loitering both in English and in Spanish subject to the
76 review and approval of the Planning and Building Director.
- 77 4. The business operator shall maintain all site improvements according to City standards and in
78 a clean and orderly manner on a daily basis. No signage shall be allowed unless otherwise
79 approved by the Planning and Building Department consistent with Chapter 17.58 of the
80 Calistoga Municipal Code.
- 81 5. The business operator shall comply with all local, State, and Federal laws applicable to its
82 business.
- 83 6. Sales of alcoholic beverages shall be permitted only between the hours of 8:00 a.m. and 8:00
84 p.m. each day of the week.
85

86 **PASSED, APPROVED, AND ADOPTED** by the City Council of the City of Calistoga at a
87 regular meeting held this **21st day of October, 2008**, by the following vote:
88

89 **AYES:**
90 **NOES:**
91 **ABSTAIN/ABSENT:**
92

93
94 _____
95 **JACK GINGLES, Mayor**
96

97 **ATTEST:**
98

99 _____
100 **SUSAN SNEDDON, City Clerk**