

RESOLUTION NO. 2017-003

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CALISTOGA, COUNTY OF NAPA, STATE OF CALIFORNIA, MAKING A DETERMINATION OF PUBLIC CONVENIENCE OR NECESSITY FOR A TYPE 42 LICENSE AT 1367 LINCOLN AVENUE

WHEREAS, on April 13, 2011, the Planning Commission adopted Resolution PC 2011-10 approving a use permit allowing wine tasting and wine retail sales at 1376 Lincoln Avenue; and

WHEREAS, at the time of use permit approval, W.H. Smith operated with a 02 ABC license (winegrower), which is exempt from the public convenience or necessity determination requirements because the tasting room was associated with an off-site winery; and

WHEREAS, in November 2016, the physical winery in Angwin was sold to an unaffiliated party. Since W.H. Smith no longer possess the winery and the associated 02 license, a type 42 ABC license is warranted in order to continue the business. A type 42 license for a wine shop with tasting facilities requires a public convenience or necessity determination; and

WHEREAS, pursuant to applicable provisions of the Business and Professions Code, the Department of Alcoholic Beverage Control (ABC) is charged with the responsibility of reviewing applications and issuance of licenses for the sale of alcoholic beverages in the State of California; and

WHEREAS, Section 23958 of the Business and Professions Code provides that ABC shall deny an application for a license if issuance of that license would tend to create a law enforcement problem, or if issuance would result in or add to an undue concentration of licenses, except as provided in Section 23958.4 of said Business and Professions Code; and

WHEREAS, Section 23958.4 of the Business and Professions Code provides that, notwithstanding the limitations of Section 23958, ABC shall issue a license if the applicant shows that public convenience or necessity would be served by the issuance of such license; and

WHEREAS, said Section 23958.4 further provides that the determination of "public convenience or necessity" shall be made by ABC with regard to certain applications, and shall be made by the local governing body of the area in which the applicant premises are located with regard to certain other applications; and

WHEREAS, as a local governing body, the City Council has adopted Resolution No. 98-113 which establishes guidelines for the City Council to utilize in making public convenience or necessity determinations; and

WHEREAS, at the time and place fixed for said public hearing, the City Council did hold a duly noticed public hearing to consider said application and did receive and

consider evidence and testimony for and against the application, and based thereon does hereby make the findings pursuant to the adopted guidelines as follows:

1. Input and recommendation from the Police Department should be obtained. This input should cover the activity area for a period determined by the Chief of Police to be adequate to show history, or lack thereof, of problems within the neighborhood which potentially could be affected by an additional license. The Police Chief should also offer a projection regarding the increased burden, if any, for Police services which might be created by the issuance of an additional license.

Finding: The Police Department has been consulted regarding the proposed use and has indicated that a type 42 license for the proposed business will not adversely affect the welfare of the public in the immediate vicinity or in the community in general. The location of this business is not significantly proximate to sensitive land uses as defined above, with the exception of a church located on the adjacent parcel, which has not indicated any opposition to this use.

2. Evidence and/or arguments provided by the applicant addressing the public convenience or necessity that would be served by the additional license.

Finding: 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 nature of the proposed use.

Finding: Wine retail sales and tasting is a convenient and necessary business to Calistoga residents and visitors that will help promote and support local wine and tourism industries.

4. The extent to which alcohol sales are related to the function of the proposed use and the possibility of the use operating in a viable fashion without alcohol sales.

Finding: Providing a wine shop in the downtown provides a complementary use that supports the downtown commercial commerce.

5. The proximity of the proposed licensed premises to sensitive land uses such as but not limited to residences, schools, churches, parks, etc. and the effect that existing (and proposed) licensed premises (may) have on such sensitive land uses.

Finding: The proximity of the proposed licensed premises to sensitive land uses and the effect that existing and proposed licenses may have on such sensitive land uses has been considered. The subject property is located in the commercial downtown on Lincoln Avenue, a major arterial for transportation in and out of the City. No schools, parks or places of worship are in close proximity to the project site. Given these conditions, wine retail sales and tasting is not anticipated to result in any conflict with adjacent land uses.

6. The compatibility or suitability of the proposed use with the use and/or character of the surrounding area.

Finding: The proposed use is compatible with the uses and character of the surrounding area, which includes other commercial retail businesses. The sale of wine to visitors and residents is a service that is incidental to other downtown uses and is part of the symbiotic relationship that Calistoga has with the wine industry in the Napa Valley.

7. The effect that the proposed use may have on the welfare of the area residents.

Finding: The proposed use will not have a significant impact upon the welfare of the area residents.

8. The public convenience or necessity which would be served to the community (both immediate and the broader Calistoga area) by the issuance of the additional license.

Finding: The public convenience and necessity, both for local Calistoga residents and tourists, will be served by the issuance of the license for wine sales. Tourists are attracted to Napa Valley for its wines. Sales of wine produced in Napa helps to promote Napa Valley wines, tourism and those who are employed in a wine-related industry.

WHEREAS, the City Council has reviewed the project and does find and determine that the proposed project falls within the definition of Categorical Exemptions, Section 15301, Class 1 (Existing Facilities) as defined in the CEQA Guidelines, and is therefore, exempt from the requirement to prepare additional environmental documentation.

NOW, THEREFORE, BE IT RESOLVED by the City Council, for the reasons hereinstated, that the public convenience or necessity would be served by the proposed wine retail sales (off-sale) and tasting for on-premises consumption on the property located at 1367 Lincoln Avenue.

PASSED AND ADOPTED by the City Council of the City of Calistoga at a regular meeting held this 3rd day of January, 2017, by the following vote:

AYES: Councilmembers Barnes, Lopez-Ortega and Kraus and Mayor Canning
NOES: None
ABSTAIN: None
ABSENT: Vice Mayor Dunsford



CHRIS CANNING, Mayor

ATTEST:



KATHY FLAMSON, City Clerk

