

**SAUSALITO PLANNING COMMISSION
RESOLUTION NO. 2021-18**

**APPROVAL OF A CONDITIONAL USE PERMIT AND MINOR USE PERMIT TO
ALLOW ON-SALES OF BEER AND WINE FOR ON-SITE CONSUMPTION AND
OUTDOOR DINING IN THE PUBLIC SIDEWALK IN ASSOCIATION WITH THE
GOLDEN GATE MARKET AT 221 SECOND STREET
(CUP MUP 2020-00167)**

WHEREAS, on October 22, 2020, an application has been filed by the applicant Nicole Foster, and owner, Scott Penzarella, requesting Planning Commission approval of a Conditional Use Permit to allow on-sales of beer and wine for on-site consumption and a Minor Use Permit for sidewalk dining in association with a permitted market and subordinate café at 221 Second Street (APN 065-238-01); and

WHEREAS, the project site is located within the Neighborhood Commercial General Plan Land Use Designation, and the Neighborhood Commercial (CN) Zoning District; and

WHEREAS, the Planning Commission conducted duly-noticed public hearing on July 7, 2021, at which time all interested persons were given an opportunity to be heard; and

WHEREAS, the Planning Commission has reviewed and considered the information contained in the staff report as well as oral and written testimony on the proposed modification; and

WHEREAS, the Planning Commission finds that the proposed modification, as conditioned herein, has been found to be consistent with the General Plan and complies with the requirements of the Zoning Ordinance as described in the staff report and Attachment 1 of the resolution; and

WHEREAS, approval of the proposed project is categorically exempt from the requirements of the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15301, Existing Facilities.

NOW, THEREFORE, THE PLANNING COMMISSION HEREBY RESOLVES AS FOLLOWS

1. The project is exempt from the requirements of CEQA pursuant to CEQA Guidelines Section 15301, Existing Facilities.
2. **Conditional Use/Minor Use Permit** 2020-00167 is approved to allow on-sales of beer and wine for on-site consumption in association with the existing market based upon the attached findings (Attachment 1), and subject to the attached conditions of approval (Attachment 2).

RESOLUTION PASSED AND ADOPTED, at the regular meeting of the Sausalito Planning Commission on the 7th day of July, 2021, by the following vote:

AYES: Commissioner: Junius, Saad, Vice Chair Graef, Chair Feller
NOES: Commissioner: None
ABSENT: Commissioner: None
ABSTAIN: Commissioner: Luxenberg

Lilly Whalen

Lilly Whalen

Secretary to the Planning Commission

ATTACHMENTS

1. Findings
2. Conditions of Approval

PLANNING COMMISSION RESOLUTION
JULY 7, 2021
CUP MUP 2020-00167
221 SECOND STREET

ATTACHMENT 1: FINDINGS

CONDITIONAL USE PERMIT/MINOR USE PERMIT FINDINGS FOR ALCOHOL SERVICE FOR ON-SITE CONSUMPTION AND SIDEWALK DINING

In accordance with Zoning Ordinance Section 10.60 (Conditional Use Permits), the Conditional Use Permit/Minor Use Permit is approved based on the following findings:

- A. The proposed use is allowed with issuance of a Conditional Use Permit, pursuant to Chapters 10.20 through 10.28 (Zoning District Regulations), Chapter 10.44 (Specific Use Requirements) or any other applicable section of this Title 10.

A grocery store with subordinate restaurant service facilities are permitted in the Neighborhood Commercial (CN) zoning district per SMC Table 10.24-1. Any alcohol service for on-site consumption within the CN zone requires a CUP per SMC Table 10.44-2. The applicant is also requesting a Minor Use Permit for sidewalk dining pursuant to SMC 10.44.220.C. Therefore, the proposed use is allowed with issuance of a CUP (on site consumption of alcohol)/MUP (sidewalk dining).

- B. The proposed use is consistent with the General Plan, the purposes of the Zoning Ordinance, and the purposes of the applicable zoning district.

On-sale beer and wine associated with a subordinate restaurant to a permitted grocery store will contribute to and enhance Sausalito's economic diversity by providing a complementary dining experience to the nearby residences found in the CN Zoning District. Therefore, the use is consistent with the General Plan, the purposes of the Zoning Ordinance and the purposes of the CN-1 Zoning District.

- C. The proposed use, together with the applicable conditions, will not be detrimental to the public health, safety, or general welfare of the City.

The existing market operates in a location suitable for this type of use. The market currently operates until 8:00pm, Monday through Saturday and 7:00pm on Sundays. There is one other restaurant within the CN zone along Second Street that serves beer and wine until 9:00pm on weekdays and 9:15pm on weekends. Therefore, closing times are consistent with surrounding businesses, and the project will not be detrimental to the public health, safety, or general welfare of the City.

- D. The proposed use complies with each of the applicable provisions of the Zoning Ordinance.

The CUP for alcohol service will comply with all applicable provisions of the Zoning Ordinance, as conditioned. The approval is conditioned on the applicant submitting a revised site plan prior to approval of the subsequent sidewalk dining encroachment permit with the Community

Development Department that clearly demonstrates a continuous clear path of 48-inches will be maintained in compliance with SMC 10.44.220.C.3.a. As the proposed outdoor dining is entirely in the City's public right-of-way, no additional parking requirements are triggered per SMC 10.44.220.E.1.

- E. The proposed use or facility is properly located relative to the community as a whole and to land uses and transportation and service facilities in the vicinity.

The existing market is properly located near residences as a resident-serving commercial use. The proposed beer and wine service and outdoor dining will add to the economic diversity along Second Street in Old Town, with a closing time consistent with surrounding businesses.

- F. The size and shape of the subject property is adequate to provide features needed to ensure reasonable compatibility with land uses normally permitted in the surrounding area. Features may include but not be limited to yards, open spaces, walls and fences, parking, loading, landscaping, and such features as may be required by this Title or the Commission.

The market with ancillary sales of beer and wine is in an existing developed commercial tenant space and will not alter the open spaces, footprint, or floor area of the building. The Type 41 ABC license, in association with an existing café is not considered an intensification of the use and therefore does not require additional parking. The applicant is conditioned to submit a revised site plan prior to approval of the subsequent sidewalk dining encroachment permit with the Community Development Department that clearly demonstrates a continuous clear path of 48-inches will be maintained in compliance with SMC 10.44.220.C.3.a. As the proposed outdoor dining is entirely in the City's public right-of-way, no additional parking requirements are triggered per SMC 10.44.220.E.1.

- G. Public utilities and facilities are or will be adequate to serve the proposed use, including streets and highways paved (and of adequate width) for the quantity and type of traffic it will generate.

There are no proposed alterations to the footprint or floor area of the existing Golden Gate Market. The applicant is conditioned to submit a revised site plan prior to approval of the subsequent sidewalk dining encroachment permit with the Community Development Department that clearly demonstrates a continuous clear path of 48-inches will be maintained in compliance with SMC 10.44.220.C.3.a.

As the proposed outdoor dining is entirely in the City's public right-of-way, no additional parking requirements are triggered per SMC 10.44.220.E.1.

- H. The proposed use will not materially adversely affect nearby properties or their permitted uses.

The purpose of the Neighborhood Commercial (CN) Zoning District is to offer a variety of retail and service businesses to serve residents. The addition of on-sales of beer and wine to the existing cafe will enhance the economic diversity of the CN district by providing a casual dining experience, which will differentiate itself from other service uses within the area. Furthermore, with a closing time of 8:00pm, Monday through Saturday and 7:00pm on Sundays, the project will not materially adversely affect nearby properties or their permitted uses.

- I. Findings required by Chapter 10.44 (Specific Use Requirements) for the approval of specific uses are made.

There are no specific findings required for a subordinate restaurant with ancillary sales of alcohol within the Neighborhood Commercial Zoning District. A subsequent sidewalk dining encroachment permit with the Community Development Department is required pursuant to SMC 10.44.220.C.

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ATTACHMENT 2: CONDITIONS OF APPROVAL

General Conditions

1. All conditions of approval associated with the Occupational Use Permit approved on March 12, 2019 remain in effect.
2. Alcohol may be sold for indoor on-site consumption during the operating hours of 8:00 AM to 8:00 PM, Monday thru Saturday, and 7:00 PM on Sunday. Alcohol service shall not be sold for on-side consumption outside of the grocery store hours.
3. Pursuant to SMC Section 10.44.220.C..5, consumption of alcoholic liquor or other alcoholic beverages on any public sidewalk shall require City Council approval. This approval does not authorize any alcohol service on the public sidewalk unless it is expressly authorized by the City Council. At such time when the City Council authorizes the outdoor consumption of alcoholic beverages in the outdoor dining area at the Golden Gate Market, alcohol may be sold for on-site consumption in the approved outdoor dining area during the café operating hours of 8:00 AM to 8:00 PM, Monday thru Saturday, and 7:00 PM on Sunday. Alcohol service shall not be sold for on-side consumption outside of the grocery store hours.
4. The Type 41 ABC license is subject to the requirements of the Department of Alcoholic Beverage Control.
5. For so long as the Department of Alcoholic Beverage Control (ABC) requires a physical barrier be installed for the outdoor dining area, the applicant shall provide stanchions with a metal base and polyester cross weave belt or rope subject to the review and approval of the Community Development Director. The barrier shall be compliant with Americans with Disabilities Act guidelines and shall be removed from the outdoor dining area when not in use. If at such time a more permanent barrier is required, the applicant will be responsible for securing all required permits for the installation of the improvements.
6. Prior to installation and use of the permanent sidewalk dining, the applicant shall obtain a sidewalk dining encroachment permit from the Community Development Department as outlined in SMC Title 17 and shall meet the requirements of SMC 10.44.220.C, including all standard conditions of SMC 10.44.220.C.3.
7. This approval does not allow for the placement of outdoor tables and chairs on-site (i.e. outside of the right-of-way). Any seating provided on-site is subject to additional parking requirements of SMC 10.44.220.E.1.
8. The applicant shall provide and maintain at least one outdoor dining table suitable for wheelchair access.

9. The applicant shall maintain a minimum 4-foot clear pathway on the public sidewalk for pedestrian traffic in compliance with SMC 10.44.220.C.3.a.
10. The applicant shall maintain clear exit ways from the building.
11. Prior to installation and use of the permanent outdoor dining, the applicant shall schedule and pass a Building Division inspection to verify compliance with safe passage and wheelchair accessibility requirements. Any identified deficiencies during that inspection shall be addressed promptly by the applicant, including removing any tables and chairs to provide adequate wheelchair accessibility clearance pursuant to Building and Fire code requirements. If tables and/or chairs are required to be removed or reconfigured in order to provide adequate wheelchair clearance, the applicant shall submit a new plan to the Community Development Department and the total number of authorized tables and chairs shall be documented in the Director's approval of the Sidewalk Dining and Encroachment Permit. The number of tables and chairs in the Sidewalk Dining Encroachment permit shall not exceed the total number of tables and chairs approved by the Planning Commission in this approval.
12. No alternative or unrelated construction, site improvements, tree removal and/or alteration, exterior alterations and/or interior alterations and/or renovations not specified in the project plans, or alterations approved by the Community Development Director, shall be performed on the project site. In such cases, this approval shall be rendered null and void unless approved by the Community Development Director as a modification to this approval.

Southern Marin Fire District Conditions

13. The outdoor dining space shall not obstruct any fire department connections, fire hydrants, fire extinguishers, and any egress accessways.
14. Should the barricades to the dining section become of permanent status or of materials that are unable to easily be removed, an additional review for the fire department shall be required.
15. Fire access to the project as well as the other surrounding properties shall be maintained at all times. Unapproved restrictions in roadway access shall result in citations and vehicles being towed at the owner's expense.
16. Final occupancy approval shall not be granted/released until authorization to the Community Development Department has been received from the Fire District.

Department of Public Works Conditions

17. Prior to approval of sidewalk dining encroachment permit with the Community Development Department, the drawings shall be revised to clearly show a continuous 48" wide accessible path of travel along sidewalk clear of any obstructions including stanchion bases.
18. Encroachment permit(s) shall be obtained from the City prior to using the public right of way for non-public purposes (e.g., private parking, material & debris box storage, curb, gutter or sidewalk construction or demolition, driveway connection).

19. Prior to issuance of an Encroachment Permit the City shall be named as an additionally insured on a separate endorsement sheet that modifies the general liability policy, as required by SMC Section 10.44.220.C.3.e.

Advisory Notes

Advisory notes are provided to inform the applicant of Sausalito Municipal Code requirements, and requirements imposed by other agencies. These requirements include, but are not limited to, the items listed below.

1. This Conditional Use Permit/Minor Use Permit Approval will expire in one (1) year from the effective date of this resolution if the property owner has not exercised the entitlements hereby granted, or an extension has not been filed prior to the expiration date.
2. Pursuant to SMC Section 10.44.220.C.4, sidewalk dining encroachment permits become valid with signatures of the Community Development Director and the applicant. A copy of the valid permit shall be placed on file with the Community Development Department.