

RESOLUTION NO.

RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF SANTA ROSA
MAKING FINDINGS AND DETERMINATIONS AND APPROVING A CONDITIONAL
USE PERMIT FOR ALCOHOLIC BEVERAGE SALES FOR OFF-SITE CONSUMPTION AT
THE EUROPEAN FOOD STORE – AN EXISTING COMMERCIAL ESTABLISHMENT
THAT IS UNDER 10,000 SQUARE FEET - LOCATED AT 100 BURT STREET, SUITE M -
FILE NUMBER PRJ22-022 (CUP22-054, PCN22-003)

WHEREAS, an application was submitted requesting the approval of a Conditional Use Permit for the proposed alcoholic beverage sales at The European Food Store, an existing establishment that is under 10,000 square feet, to be located at 100 Burt Street, also identified as Sonoma County Assessor's Parcel No. 044-091-046;

WHEREAS, Zoning Code Section 20-42.034 establishes additional criteria for review in connection with an application for the sale of alcohol beverages for off-site consumption and requires the Planning Commission to make certain findings to approve a Conditional Use Permit pursuant to Section 20-52.050; and

WHEREAS, on April 13, 2023, the Planning Commission held a duly noticed public hearing on the application at which all those wishing to be heard were allowed to speak or present written comments and other materials; and

WHEREAS, the Planning Commission has considered the application, the staff reports, oral and written, the General Plan and zoning on the subject property, the testimony, written comments, and other materials presented at the public hearing; and

NOW, THEREFORE, BE IT RESOLVED, that after consideration of the reports, documents, testimony, and other materials presented, and pursuant to City Code Section 20-52.050 (Conditional Use Permit), the Planning Commission of the City of Santa Rosa finds and determines:

- A. The proposed use is allowed within the General Commercial (CG) zoning district and complies with all other applicable provisions of this Zoning Code and the City Code in that the proposed use complies with the standards and criteria stated in Section 20-42.034 (Alcoholic Beverage Sales) of the Zoning Code; and
- B. The proposed use is consistent with the General Plan and any applicable specific plan in that the project site has a General Plan Land Use designation of Retail and Business Services, which allows for retail services such as offices, convenience food stores, department stores and hardware stores; and
- C. The design, location, size, and operating characteristics of the proposed activity would be compatible with the existing and future land uses in the vicinity in that the proposed use will be located within an existing commercial building within an area designated for

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commercial uses. The operator of the establishment proposes to have staff closely monitor the designated location of the alcoholic beverages and will not display any alcoholic beverages near the entry/exit door of the commercial store; and

- D. The site is physically suitable for the type, density, and intensity of use being proposed, including access, utilities, and the absence of physical constraints in that the proposed use will be located entirely within an existing commercial building and there is existing adequate vehicular and pedestrian access to the site; and
- E. Granting the permit would not constitute a nuisance or be injurious or detrimental to the public interest, health, safety, convenience, or welfare, or materially injurious to persons, property, or improvements in the vicinity and zoning district in which the property is located in that in the proposed use is consistent with the existing land uses along Santa Rosa Avenue, which contain a variety of office, commercial and some residential uses. The Santa Rosa Police Department has no comments or conditions regarding the addition of the alcoholic beverage sales for off-site consumption from this location; and
- F. The proposed project has been reviewed in compliance with the California Environmental Quality Act (CEQA) and qualifies for:
 - Class 1 Categorical Exemption under CEQA Guidelines Section 15301 in that the project is located within an existing structure involving a negligible expansion of an existing use that will not result in significant impact(s).
 - Class 3 Categorical Exemption under CEQA Guidelines Section 15303 in that the project involves a change of use, which will require only minor exterior modifications to the structure/site.

No exceptions to the exemptions apply and there is no reasonable possibility that the activity will have a significant effect on the environment due to unusual circumstances (CEQA Guidelines Section 15300.2.)

BE IT FURTHER RESOLVED, that after further consideration of the reports, documents, testimony, and other materials presented, and pursuant to City Code Section 20-42.034 (Alcoholic Beverage Sales), the Planning Commission of the City of Santa Rosa finds and determines:

- A. The proposed use would respond to public convenience or necessity because the area is underserved in that there are 10 (Type 20) licenses in this subject area and the ABC allows a maximum of 10 licenses. An undue concentration would occur if there were more than 10 (Type 20) licenses; and
- B. The Santa Rosa Police Department operates nine patrol beats in the City of Santa Rosa. The project site is located in Beat 8 (District 1). In this beat, crime rate or density was lower compared to other beats and areas of the City in 2022; and

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- C. The subject area does not have an over-concentration of licenses according to limits established by the ABC based on census data; and
- D. The Police Department has provided a list of arrests and citations that occurred between March 23, 2020 and March 23, 2023, within a 1,000-foot radius from the project site. During this period, there were a total of forty-three arrests, none of which were alcohol related; and
- E. The site is located in the Santa Rosa Southside Shopping Center, on the east side of Highway 101. There are no distance requirements established from such uses in the ordinance. The Police Department has not indicated a concern that there may be issues specifically related to the location of the schools and the location of the subject property. As observed in Map 4, Map 5, and Map 6, the closest place of religious assembly and the closest school and day care facilities are more than 2,000 feet away from the project site.

BE IT FURTHER RESOLVED, that this Conditional Use Permit is subject to all applicable provisions of the Zoning Code, including Section 20-54.100 (Permit Revocation or Modification).

BE IT FURTHER RESOLVED that a Conditional Use Permit for the proposed alcoholic beverage sales at The European Food Store, an existing establishment that is under 10,000 square feet, to be located at 100 Burt Street, Suite M, is approved subject to each of the following conditions:

DEPARTMENT OF PLANNING AND ECONOMIC DEVELOPMENT

GENERAL:

- 1. Comply with all applicable federal, state, and local codes. Failure to comply may result in issuance of a citation and/or revocation of approval.
- 2. Any change in ABC license type including, but not limited to, a change from a Type 20 to a Type 21 license, or a substantial physical change or character of premises as defined in Title 4 of the California Code of Regulations Section 64.2(b), shall require a new Conditional Use Permit to continue operation.
- 3. Compliance with the Zoning Ordinance standards applying to Alcoholic Beverage Sales, in addition to State Alcoholic Beverage Control shall be achieved for the duration of the use.
- 4. Compliance with Zoning Code Section 20-42.034(B): Operating Standards. In considering a Conditional Use Permit application, the Planning Commission may choose to waive any of the following standards, and/or to impose revised or additional standards as conditions of approval:
 - A. Customer and site visitor management. The operator of the establishment shall take all reasonable steps to discourage and correct objectionable

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conditions that constitute a nuisance in parking areas, sidewalks, alleys and areas surrounding the premises and adjacent properties during business hours if directly related to the patrons of the subject alcoholic beverage outlet.

- i. “Reasonable steps” shall include calling the police in a timely manner; and requesting those engaging in objectionable activities to cease those activities, unless personal safety would be threatened in making the request.
- ii. “Nuisance” includes disturbances of peace, illegal drug activity, prostitution, public drunkenness, drinking in public, harassment of passerby, excessive littering, excessive loitering, illegal parking, excessive loud noises, especially late at night or early in the morning hours, lewd conduct or police detentions and arrests.

The operator shall take all reasonable steps to reduce loitering in public areas, sidewalks, alleys and areas surrounding the premises and adjacent properties during business hours. The operator shall ensure that the hours of operation shall not be a detriment to the surrounding area.

B. Trash, litter, graffiti.

- i. The operator shall clear the sidewalks adjoining the premises plus 10 feet beyond property lines along the street as well as any parking lots under the control of the operator as needed to control litter, debris and trash.
- ii. The operator shall install and maintain one permanent, non-flammable trash container on the property’s exterior.
- iii. The operator shall remove all graffiti from the premises and parking lots under the control of the operator within 72 hours of its application.

C. Staff training. Within 90 days from issuance of a certificate of occupancy or if no Building Permit is required, within 90 days of issuance of the Conditional Use Permit, all owners, managers and employees selling alcoholic beverages shall complete a certified training program in responsible method and skills for selling alcoholic beverages. The certified program shall meet the standards of the ABC or other certifying/licensing body which the state may designate. New owners, managers and employees shall complete the training course within 30 days of the date of ownership or employment. Records of successful completion for each owner, manager and employee shall be maintained on the premises and presented upon request by a representative of the City.

D. Staffing, surveillance, and security.

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- i. Signs and displays on the premises shall not obstruct the sales counter, cash register and customer from view from the exterior.
- ii. The operator shall install and maintain in working order, interior and exterior surveillance cameras and monitors. At a minimum the external cameras shall monitor the entrance to the premises and vicinity of at least 20 feet beyond the entrance to the premises. At a minimum, the interior camera shall monitor the cash register area. The tapes from these cameras shall be retained for at least 10 days from date of recording before destruction or reuse. The tapes shall be made available to the Police Department upon request.
- iii. A monitored robbery alarm system shall be installed and maintained in good working condition. An alarm permit shall be obtained from the Police Department prior to operation.
- iv. Restrooms shall remain locked and under the control of the cashier.
- v. The premises shall be staffed with at least one person during hours of operation who shall not be responsible for dispensing fuel or auto servicing.

E. Limitations on product sales and display.

- i. The operator shall not sell, furnish or give away empty cups, glasses or similar receptacles commonly used for the drinking of beverages in quantities of less than 24 count in their original packaging.
- ii. Coolers, tubs and other storage containers holding alcoholic beverage shall be equipped with a locking mechanism which shall be in place and used to restrict access by customers during the hours when sales of alcoholic beverages are prohibited.
- iii. No beer or wine shall be displayed within five feet of the cash register or front door of the premises.
- iv. No video or arcade type games are permitted on the property. California State Lottery games are permitted.

F. Signs, postings.

- i. Premises identification shall comply with City Code Section 18 16.034 and Fire Department Illuminated Address Signs bulletin.

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- ii. A copy of the conditions of approval for the Conditional Use Permit must be kept on the premises of the establishment and be presented to any peace officer or any authorized City official upon request.
- iii. Signs shall be posed on the inside of the premises stating that drinking on the premises or in public is prohibited by law.

G. Compliance with other requirements.

- i. The operator shall comply with all provisions of all local, state or federal laws, regulations or orders, including those of the ABC, as well as any condition imposed on any permits issued pursuant to applicable laws, regulations or orders.
- ii. The operator shall comply with all provisions of the City Code and conditions imposed by City issued permits.
- iii. Any change in ABC license type including, but not limited to, a change from a Type 20 to a Type 21 license, or a substantial physical change or character of premises as defined in Title 4 of the California Code of Regulations Section 64.2(b), shall require a new Conditional Use Permit to continue operation.

EXPIRATION AND EXTENSION:

- 5. This Conditional Use Permit shall be valid for a two-year period. If construction has not begun or if an approved use has not commenced within two (2) years from date of approval, this approval shall automatically expire and shall be invalid unless an application for extension is filed prior to expiration.
- 6. If implemented within the initial approval period in accordance with all conditions of approval, this Conditional Use Permit shall be valid for the duration of use.

PLANNING DIVISION:

- 7. A building permit is required if the applicant proposes any interior modifications related to the project proposal. The building materials, elevations, and appearance of this project, as presented for issuance of a building permit, shall be the same as that approved by the Planning Commission. Any future additions, expansions, remodeling, etc., will be subject to review and approval of the Planning Division.
- 8. Compliance with City Graffiti Abatement Program Standards for Graffiti Removal (City Code 10-17.080).

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9. PROJECT DETAILS:

- A. All project details shall be in accordance with the restrictions and limitations of the City Zoning and Uniform Building Codes, as well as the City's Design Review Guidelines.

BE IT FURTHER RESOLVED, that the Planning Commission finds and determines this entitlement to use would not be granted but for the applicability and validity of each and every one of the above conditions and that if any one or more of the above said conditions are invalid, this entitlement to use would not have been granted without requiring other valid conditions for achieving the purposes and intent of such approval.

REGULARLY PASSED AND ADOPTED by the Planning Commission of the City of Santa Rosa on the 13th day of April, 2023 by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

APPROVED: _____
CHAIR. KAREN WEEKS

ATTEST: _____
JESSICA JONES, EXECUTIVE SECRETARY