



CITY OF CARMEL-BY-THE-SEA PLANNING COMMISSION Staff Report

September 23, 2020
PUBLIC HEARINGS

| | |
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| TO: | Chair LePage and Planning Commissioners |
| SUBMITTED BY: | Marnie R. Waffle, AICP, Acting Community Planning & Building Director |
| APPROVED BY: | Marnie R. Waffle, AICP, Acting Community Planning & Building Director |
| SUBJECT: | <p>UP 20-158 (W/S Mission btwn 5th & 6th): Consideration of a Use Permit (UP 20-158, Carmel Ridge Winery) for the establishment of a new wine tasting room located in the Central Commercial (CC) Zoning District. (APN: 010-132-005)</p> <p>CEQA Action: Staff recommends that the proposed project be found categorically exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15303 (Class 3) – New Construction or Conversion of Small Structures.</p> |

Application: UP 20-158 (Carmel Ridge Winery)

APN: 010-132-005

Block: 57

Lot: 13

Location: W/S Mission btwn 5th & 6th Avenues

Applicant: Paul Stokes, Business Owner

Property Owner: Angela M. Cordrey, Trustee

Executive Summary:

The applicant is requesting approval of a Use Permit to establish a wine tasting shop.

Recommendation:

Staff recommends that the Planning Commission adopt a Resolution (Attachment 1) approving a Use Permit (UP 20-158) for the establishment of a Wine Tasting Shop located on the west side of Mission between 5th & 6th Avenues in the Central Commercial (CC) District.

Background and Project Description:

The project site consists of a 940 square-foot tenant space (Suite A) in a 2,855 square-foot building, also known as the Bason Building Mission Courtyard. The tenant space was previously occupied by Tresors Antiques, a jewelry and antique store (Attachment 2).

Carmel Ridge Winery is proposing a 96 square-foot wine tasting area (up to 8 seats) and 744 square feet for whole bottle wine displays and wine related gifts. The business would operate 7 days a week from 11 a.m. to 8 p.m. Carmel Ridge Winery has a vineyard located in Carmel Valley and, according to their written statement, all grapes are grown in Monterey County. The wine tasting room is currently located on Cannery Row in Monterey.

Staff Analysis:

A Wine Tasting Shop is categorized as Food and Beverages Sales which consists of retail sales of food and beverages primarily for off-site consumption. Specifically, Wine Tasting Shops are, “Establishments primarily engaged in the retail sale of wine for off-site consumption and as an ancillary use includes the service of wine for on-site consumption.”

According to the Carmel Municipal Code, a Wine Tasting Shop must,

1. Meet the standards of the City’s adopted wine tasting room policy (Attachment 3);
2. Be located at least 200 feet from another use selling distilled spirits intended for on-site or off-site consumption; and
3. Be located at least 100 feet from an R-1 district. (CMC 17.14.040.J.5)

A Wine Tasting Shop is permitted in the Central Commercial (CC) District and Service Commercial (SC) District with approval of a Use Permit by the Planning Commission.

Consistency with Wine Tasting Policy

The City Council adopted a Wine Tasting Policy on March 3, 2015 to establish guidelines for the review and approval of wine tasting facilities in the downtown. The Carmel General Plan encourages a balanced mix of uses that serve the needs of both local and non-local populations. The wine tasting policy attempts to strike a balance between the demand for wine tasting rooms while maintaining an appropriate mix of commercial uses. The following discussion includes the Policy guidelines and staff’s analysis as to whether the project is consistent with the guidelines.

The wine tasting room should have a Duplicate Type 02 ABC license of a primary Type 02 ABC licensed winery located in Monterey County.

Staff Analysis: Carmel Ridge Winery has an active Type 42 ABC license for on-sale beer and wine for a location at 700 Cannery Row, Suite C in Monterey; the license expires on September 30, 2020. The Winery also has a pending Type 02 ABC license as a winegrower for the same location. The applicant is in the process of transferring the Type 02 ABC license to the Carmel location; that process will be completed once approval of the Use Permit is granted.

According to the Wine Tasting Policy, the tasting room should have a Duplicate Type 02 ABC license of a primary Type 02 ABC licensed winery located in Monterey County. The Carmel Ridge Winery vineyard is located on 6.5 acres of land at 26200 Jeanette Rd in Carmel Valley. The vineyard is not required to maintain a primary Type 02 ABC license as no wine is produced at that location. Rather, the grapes are transported to an off-site location within Monterey County to be produced into wine and bottled for retail sale.

A condition of approval has been included in the draft Resolution requiring the applicant to transfer the Type 02 ABC license prior to issuance of a City Business License. With the application of conditions, the project meets the objectives of this guideline.

All wines stored, displayed and offered for sale and tasting should be produced in a Type 02 Bonded Winery located in Monterey County with at least 75% of the grapes grown in Monterey County.

Staff Analysis: According to the applicant's written statement, all wines stored, displayed and offered for sale come from grapes grown in Carmel Valley, Monterey County. As noted above, the vineyard is not required to maintain a Type 02 ABC license as a bonded winery as no wine is produced on-site. All grapes are transported to an off-site location within Monterey County to be produced into wine and bottled for retail sale. Each of the manufacturing locations maintains their own bonded winery permit. The project meets the objectives of this guideline.

No more than 3 wine tasting Use Permits for new locations shall be issued within any 12-month period. Shops located north of Ocean Avenue are strongly encouraged.

Staff Analysis: This is the first Use Permit application for a new Wine Tasting Shop in calendar year 2020. No Use Permit applications were submitted in calendar year 2019 to establish a new Wine Tasting Shop. The most recent Use Permit was issued to Talbots (Lincoln Lane) in December 2018. There are approximately 15 Wine Tasting Shops currently in operation, 4 of which are located north of Ocean Ave. The project meets the objectives of this guideline.

The wine tasting service and seating area should generally be limited to no more than 30% of the floor area of the retail space (to avoid the appearance of a bar).

Staff Analysis: Carmel Ridge Winery is proposing a 96 square-foot wine tasting area and 744 square feet for whole bottle wine displays and wine related gifts (Attachment 3). The wine tasting area amounts to 13% of the floor area of the retail space. The project meets the objectives of this guideline.

The size of the retail and wine tasting area combined should be no larger than 1,000 square feet.

Staff Analysis: The total square footage of the tenant space is 940 square feet. Approximately 100 square feet is devoted to a bathroom and storage room leaving 840 square feet for the retail and wine tasting area combined. The project meets the objectives of this guideline.

No more than 5 establishments offering tasting should be permitted within any standard two-block area.

Staff Analysis: There is only one other Wine Tasting Shop within a standard two-block area, De Tierra Vineyards located on the east side of Mission, south of 5th Avenue. The project meets the objectives of this guideline.

Night-time hours should generally be limited to no later than 9:00 p.m.

Staff Analysis: The proposed hours of operation would be 11 a.m. to 8 p.m. seven days a week. The project meets the objectives of this guideline.

The Carmel Municipal Code also requires that a Wine Tasting Shop be located 200 feet from another use selling distilled spirits intended for on-site or off-site consumption and at least 100 feet from an R-1 district.

Staff is unclear as to whether the original intent behind this standard was to prohibit wine tasting rooms from being located within 200 feet of a full-line restaurant or just bars and liquor stores. It is not uncommon for a full-line restaurant to possess a Type 47 ABC license for the on-site consumption of distilled spirits. Other establishments which provide for the on-site consumption of distilled spirits include bars and nightclubs

which are required to obtain a Type 48 ABC license for on-site consumption. Liquor stores are permitted to sell distilled spirits to be consumed off the premises where sold with a Type 21 ABC license. A description of each license type is provided in Attachment 4.

While there are no bars, nightclubs or liquor stores within 200 feet of the project site, there are two, full-line restaurants with a Type 47 ABC license including Grasings and Bistro Giovanni. Staff's interpretation of this standard is that it was not intended to include full-line restaurants but rather non-food establishments such as bars, nightclubs and liquor stores. Therefore, staff finds that the project meets the purposes and intent of this standard.

Additionally, the project site is not located within 100 feet of the R-1 district.

Other Project Components:

Staff recommends that the proposed project be found categorically exempt from the California Environmental Quality Act (CEQA), State CEQA guidelines and local environmental regulations, pursuant to Section 15303 (Class 3) – New Construction or Conversion of Small Structures. The project includes the conversion of an existing commercial tenant space previously occupied by a jewelry and antique store with a Wine Tasting Shop with the only exterior modification being the installation of a new business sign. The proposed project does not present any unusual circumstances that would result in a potentially significant environmental impact.

Attachment 1 - Resolution

Attachment 2 - Location Photograph

Attachment 3 - Wine Tasting Policy

Attachment 4 - Business Description & Floor Plan

Attachment 5 - ABC License Definitions

**CITY OF CARMEL-BY-THE-SEA
PLANNING COMMISSION**

PLANNING COMMISSION RESOLUTION NO. 2020-XX-PC

**A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF CARMEL-BY-THE-SEA
APPROVING A USE PERMIT FOR THE ESTABLISHMENT OF A NEW WINE TASTING SHOP
LOCATED IN THE CENTRAL COMMERCIAL DISTRICT ON THE WEST SIDE OF MISSION BETWEEN
5TH AND 6TH AVENUES
APN: 010-132-005**

WHEREAS, business owner Paul Stokes (“Applicant”) submitted an application requesting approval of a Use Permit “UP 20-158” described herein (“Application”); and

WHEREAS, the project is located on the west side of Mission Street between 5th and 6th Avenues (Block: 57, Lot: 13, APN: 010-132-005) in the Central Commercial District; and

WHEREAS, the Application was deemed complete on August 24, 2020; and

WHEREAS, the Applicant is requesting to establish a new Wine Tasting Shop and in accordance with Chapter 17.14.030 (Land Use Regulations) of the Carmel Municipal Code, requires a Use Permit approved by the Planning Commission; and

WHEREAS, a Coastal Development Permit is not required because the project does not constitute “development” under the California Coastal Act; and

WHEREAS, the City reviewed the California Environmental Quality Act (California Public Resources Code §§ 21000, *et seq.*, “CEQA”) and the regulations promulgated thereunder (14 California Code Regulations §§ 15000, *et seq.*, the “CEQA Guidelines”) and deemed the project to be exempt pursuant to Section 15303 (Class 3) of the CEQA Guidelines (Title 14, Chapter 3 of the California Code of Regulations); and

WHEREAS, notice of the public hearing was published in compliance with State law (California Government Code 65091), as well as hand-delivery of the public notice by the Applicant to each property owner within a 100-foot radius of the project site indicating the date and time of the public hearing for Use Permit 20-158 (Carmel Ridge Winery); and

WHEREAS, on September 23, 2020, the Planning Commission held a public hearing to receive public testimony regarding the Application, including without limitation, information provided to the Planning Commission by City staff and public testimony on the Use Permit application; and

WHEREAS, this Resolution and its findings are made based upon evidence presented to the Commission at the September 23, 2020 hearing including, without limitation, the staff report submitted by the Community Planning and Building Department; and

WHEREAS, the Planning Commission did hear and consider all said reports, recommendations and testimony herein above set forth and used their independent judgement to evaluate the project; and

WHEREAS, the facts set forth in the recitals are true and correct and are incorporated herein by reference.

NOW THEREFORE, BE IT RESOLVED, that the Planning Commission of the City of Carmel-By-The-Sea does hereby make the following findings and determinations regarding the Use Permit:

| FINDINGS REQUIRED FOR USE PERMIT APPROVAL (CMC 17.64.010 & 17.64.020) | | |
|---|------------|-----------|
| For each of the required Use Permit findings listed below, staff has indicated whether the submitted plans support adoption of the findings. For all findings checked "no" the staff report discusses the issues to facilitate the Planning Commission decision-making. Findings checked "yes" may or may not be discussed in the report depending on the issues. | | |
| Municipal Code Finding | YES | NO |
| 1. That the proposed use will not be in conflict with the City’s General Plan. | ✓ | |
| 2. That the proposed use will comply with all zoning standards applicable to the use and zoning district. | ✓ | |
| 3. That granting the use permit will not set a precedent for the approval of similar uses whose incremental effect will be detrimental to the City, or will be in conflict with the General Plan. | ✓ | |
| 4. That the proposed use will not make excessive demands on the provision of public services, including water supply, sewer capacity, energy supply, communication facilities, police protection, and fire protection. | ✓ | |
| 5. That the proposed use will not be injurious to public health, safety or welfare. | ✓ | |
| 6. That the proposed use will be compatible with surrounding land uses and will not conflict with the purpose established for the district within which it will be located. | ✓ | |
| 7. That the proposed use will not generate adverse impacts affecting health, safety, or welfare of neighboring properties or uses. | ✓ | |
| 8. That allowing the proposed use will not conflict with the City’s goal of achieving and maintaining a balanced mix of uses that serve the needs of both local and nonlocal populations. | ✓ | |
| 9. That proposed use will provide adequate ingress and egress to and from the proposed location. | ✓ | |
| 10. That the capacity of surrounding streets is adequate to serve the automobile and delivery truck traffic generated by the proposed use. | ✓ | |

BE IT FURTHER RESOLVED, that the Planning Commission of the City of Carmel-by-the-Sea does hereby approve a Use Permit (UP 20-158, Carmel Ridge Winery) to

establish a new Wine Tasting Shop located on the west side of Mission Street between 5th and 6th Avenues (APN: 010-132-005) subject to the Conditions of Approval below:

| CONDITIONS OF APPROVAL | | |
|-------------------------------|--|---|
| No. | Standard Conditions | |
| 1. | Authorization. This approval of Use Permit (UP 20-158) authorizes the establishment of a new Wine Tasting Shop in a 944 square-foot commercial tenant space located on the west side of Mission Street between 5th and 6th Avenues, Suite A of the Biason Building Mission Courtyard, in the Central Commercial (CC) District as depicted in the application, plans and associated documents submitted to the Community Planning & Building Department, unless modified by the conditions of approval contained herein. | ✓ |
| 2. | Codes and Ordinances. The project shall be constructed in conformance with all requirements of the CC district. All adopted building and fire codes shall be adhered to in preparing the working drawings. If any codes or ordinances require design elements to be changed, or if any other changes are requested at the time such plans are submitted, such changes may require additional environmental review and subsequent approval by the Planning Commission. | ✓ |
| 3. | Permit Validity. This approval shall be valid for a period of 6 months from the date of final action unless an active building permit has been issued and maintained for any proposed construction. | ✓ |
| 4. | Water Use. Approval of this application does not permit an increase in water use on the project site without adequate supply. Should the Monterey Peninsula Water Management District determine that adequate water is not available for this site, this permit will be scheduled for reconsideration and appropriate findings prepared for review and adoption by the Planning Commission. | ✓ |
| 5. | Modifications. The applicant shall submit in writing to the Community Planning & Building Department any proposed changes to the project approval prior to making the changes. If the applicant changes the project without first obtaining City approval, the applicant will be required to either: a) submit the change in writing and cease all work on the project until either the Planning Commission or staff has approved the change; or b) eliminate the change and submit the proposed change in writing for review. The project will be reviewed for compliance with the project approval prior to final inspection. | ✓ |
| 14. | Indemnification. The applicant agrees, at his or her sole expense, to defend, indemnify, and hold harmless the City, its public officials, officers, employees, and assigns, from any liability; and shall reimburse the City for any expense incurred, resulting from, or in connection with any project approvals. This includes any appeal, claim, suit, or other legal proceeding, to attack, set aside, void, or annul any project approval. The City shall promptly notify the applicant | ✓ |

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| | of any legal proceeding, and shall cooperate fully in the defense. The City may, at its sole discretion, participate in any such legal action, but participation shall not relieve the applicant of any obligation under this condition. Should any party bring any legal action in connection with this project, the Superior Court of the County of Monterey, California, shall be the situs and have jurisdiction for the resolution of all such actions by the parties hereto. | |
| 23. | Conditions of Approval. All conditions of approval for the Planning permit(s) shall be printed on a full-size sheet and included with the construction plan set submitted to the Building Safety Division. | ✓ |
| SPECIAL CONDITIONS | | |
| 28. | Type 02 ABC License. The applicant shall transfer the Type 02 ABC License from the Monterey location on Cannery Row to the Carmel location on Mission Street prior to issuance of the Business License and/or prior to final occupancy. | ✓ |

PASSED AND ADOPTED BY THE PLANNING COMMISSION OF THE CITY OF CARMEL-BY-THE-SEA this 23rd day of September, 2020, by the following vote:

AYES:

NOES:

ABSENT:

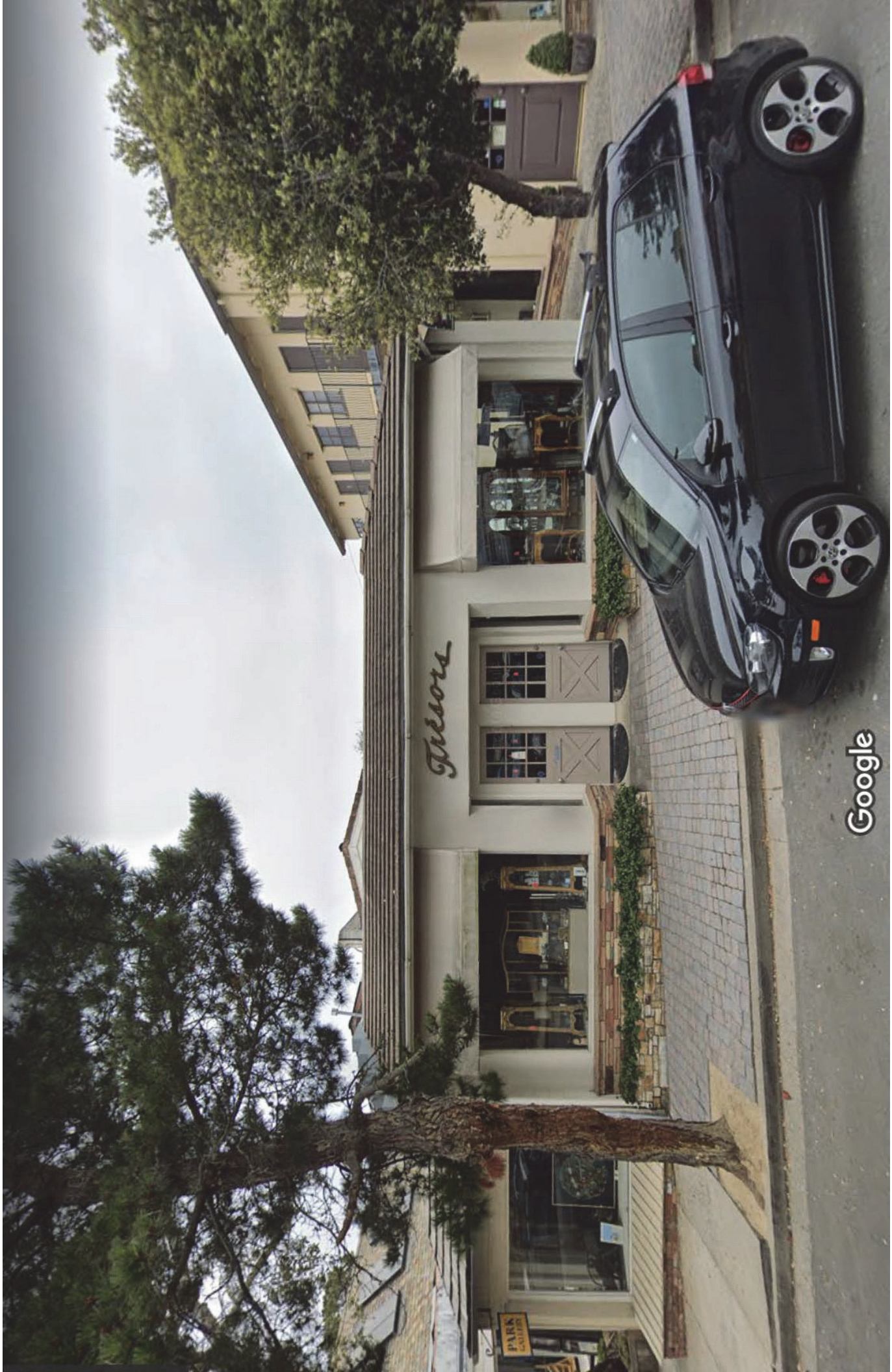
ABSTAIN:

APPROVED:

ATTEST:

Michael LePage
Chair

Margi Perotti
Planning Commission Secretary



Google

City of Carmel-by-the-Sea
Wine Tasting Policy
(3/3/2015)

Purpose

To establish guidelines for the review and approval of wine tasting facilities in the Central Commercial and Service Commercial Districts in the downtown.

Policy

The General Plan encourages a balanced mix of uses that serve the needs of both local and non-local populations. The Planning Commission recognizes the demand for establishing wine tasting facilities but also recognizes that their proliferation could impact the balanced mix of uses that the General Plan encourages.

Definition

A wine tasting room is a stand-alone establishment with a Duplicate Type 02 ABC license, in which the primary purpose to encourage patrons to purchase wine for off-site consumption. Establishments should not operate as a wine bar, where the primary purpose would be for patrons to consume wine on premise other than for the purpose of wine tasting. It is recognized that tasting rooms host occasional promotions and special events to encourage sales and marketing of wine for the education and development of current and potential customers.

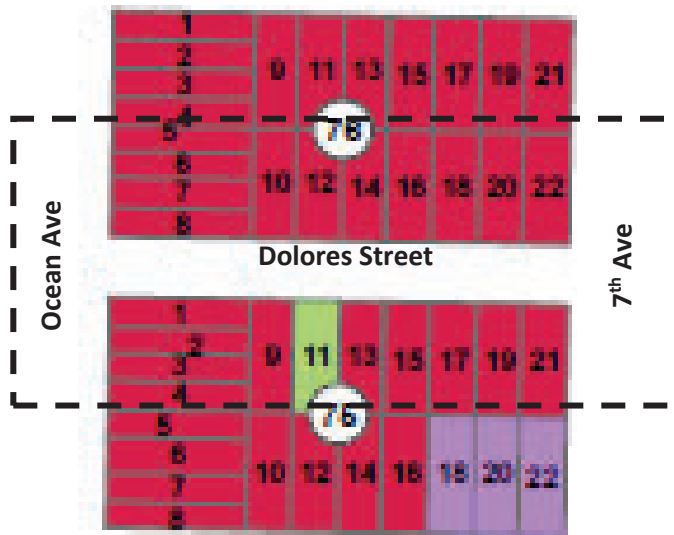
The following standards are recommended and shall be considered by the Planning Commission in its review of wine tasting permits:

1. Wines originating from Monterey County Vineyards and Wineries and locating their off-site tasting rooms in Carmel are desired and strongly encouraged. The tasting room should have a Duplicate Type 02 ABC license of a primary Type 02 ABC licensed winery located within Monterey County. All wines stored, displayed, and offered for sale and tasting should have been produced in a Type 02 Bonded Winery located in Monterey County with the vast majority (i.e. 75% or more) from grapes grown in Monterey County.
2. No more than three wine tasting Use Permits for new locations shall be issued within any 12-month period. To encourage diversity in the Commercial District, retail wine tasting shops located north of Ocean Avenue are strongly encouraged.
3. A wine tasting room may be permitted a limited number of special events specified through the Use Permit for the purpose of marketing and educating current and potential customers on wine.
4. In order to avoid the appearance of a bar, the wine tasting service and seating area should generally be limited to no more than 30% of the floor area of the retail space. The remaining area should primarily consist of wine-related retail display.
5. In general, the size of the retail and wine tasting area combined (office and storage excluded) should be no larger than 1,000 square feet.

6. Tasting should only involve traditional wine based products such as still wines, sparkling wines or Port-type products, no other alcoholic beverages should be permitted to be tasted or purchased.
7. The maximum serving size should be 2 ounces per serving. Customers should not be permitted to drink bottles of purchased wine in the store and no wine tasting should take place on public property.
8. Light snacks such as cheese, crackers, and bread may be served; however, meals are not permitted.
9. In order to encourage diversity and maintain a balanced mix of uses, no more than five establishments offering tasting should be permitted within any standard two-block area as depicted in Figure 1.* For smaller blocks including Blocks 70, 71, 72, and 73; or for other blocks in which these boundaries do not apply, the Planning Commission shall consider proposals on a case by case basis that meet the intent of this density limitation.
10. Night time hours should generally be limited to no later than 9:00 p.m.
11. Wine tasting associated with other uses such as retail food, art galleries, clothing stores, and the like is discouraged.

*For the purposes of this policy a “standard two-block area” would include all commercial spaces on both sides of a street located between the next two cross streets. The cross streets at the end of the blocks are also included up to the mid-point of each block.

Figure 1: Example of Standard Two-block Area (max 5 wine tasting establishments)



Addendum (8/10/16)**Wine Tasting Room Events**

Routine Events: These are normal business activities that are strictly for the purpose of promoting wines sales. These events generally do not involve a large number of attendees, live music, or any activities outside of the building. Wine tasting rooms are allowed e a maximum of 2 routine events per month and a total of 24 routine events per year. Routine events include activities such as wine club events, library tastings, and pairing functions, such as wine and chocolate, wine and cheese, or pairings with other food products that are not classified as full meals.

Special Events: Special events are permitted live music and can be held for general social functions that may or may not be for the purpose of promoting wine sales. Pursuant to Municipal Code Section 9.16.030, the business is allowed a maximum of 4 special events per year, subject to written authorization from the Community Planning and Building Director upon review of each specific request.

* A Live Music Use Permit is required for regular live music (CMC 9.16)

Carmel Ridge Wine Tasting and Sales
Located at 3 NW of 6th and Mission

Description:

The space where the wine tasting will take place encompasses 940 square feet for the entire space. The tasting will occur in 96 square feet as indicated on the attached floor plan. There is approximately 100 square feet of office and bathroom space and the remainder of the space will be used for retail whole bottle wine displays, and wine related gifts. The vineyard, is locate. in Carmel Valley. All wines stored, displayed and offered for sale come from grapes located in Monterey County. All tasting will consist of traditional wine product with a serving size of 2 ounces. The tasting room hours will be from 11 AM to 8 PM seven days per week.

N →

APN 010 132 005

ADDRESS 3 N.W. OF 6th & MISSION

38'

Scale 1/4" = 1'

X = SEATS

940 =

25'

ALLEY

25'

ALLEY

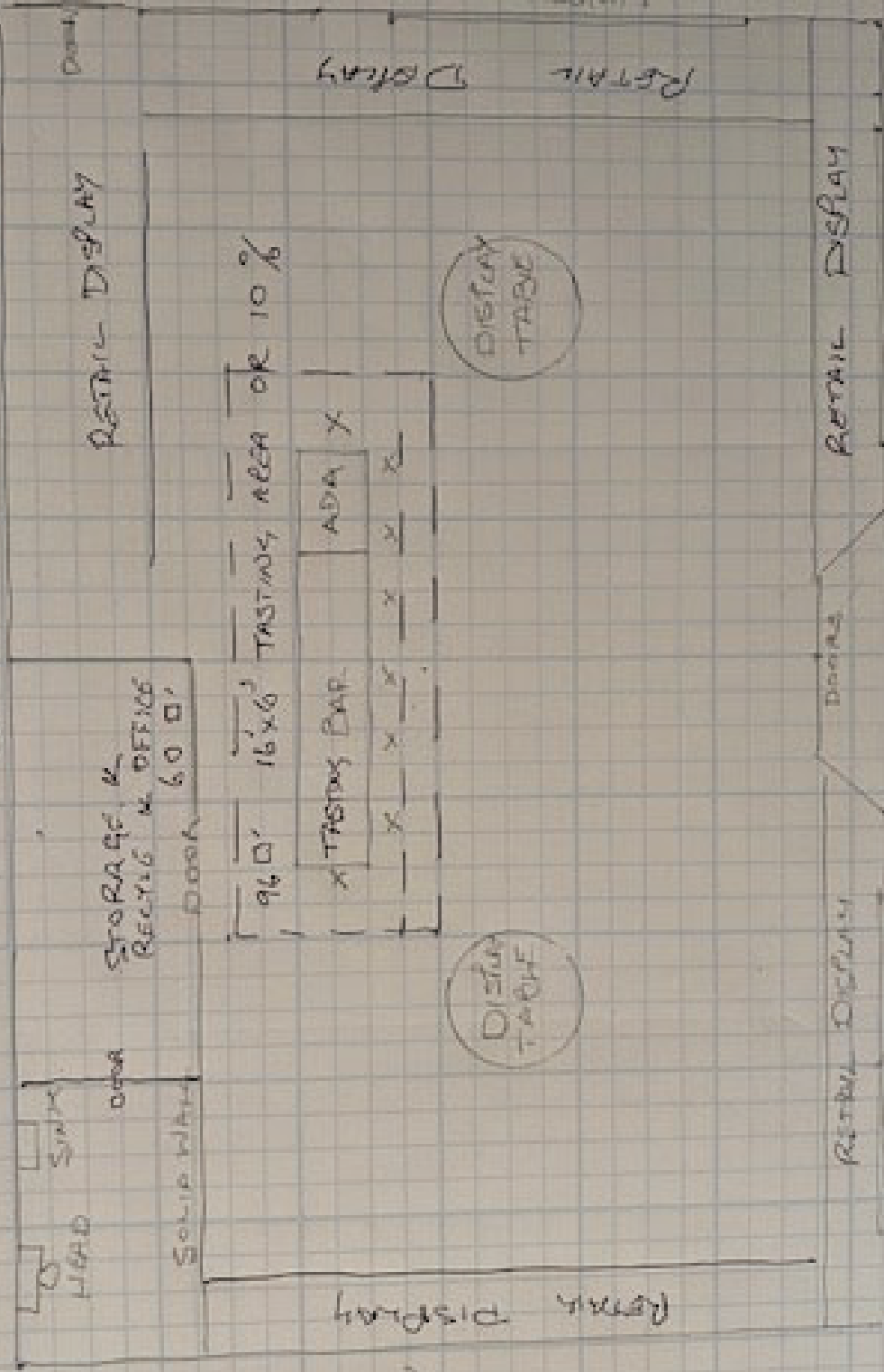
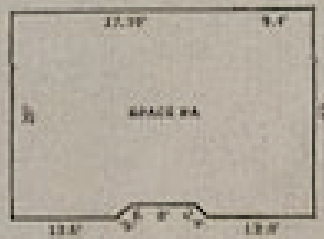


Exhibit A to Addendum No. One

Description of Leased Premises

Retail shop space known as UNIT A located on the west side of Mission Street between 5th and 6th consisting of approximately 940 square feet and situated on a portion of Lot 13, Block 57 also known as assessor's parcel number 010-132-005



SPACE #A

940.19 Sq. Ft.

$$\begin{aligned}
 36.79 \times 24.3 &= 894.2 \\
 1.7 \times 12.8 &= 21.72 \\
 0.5 \times 1.7 \times 1.7 &= 1.44 \\
 1.7 \times 12.8 &= 21.72 \\
 0.5 \times 1.7 \times 1.7 &= 1.44
 \end{aligned}$$

The gross building area is 2,855 square feet, which also constitutes the net rentable area.

| Space # | S.F. |
|---------|------|
| A | 940 |

ABC License Types

Type 02 - Winegrower

(Winery) The following pertains to new winegrowers' licenses issued after September 17, 1965. A winegrower must have facilities and equipment for the conversion of fruit into wine and engage in the production of wine (Section 23013). Federal Alcohol and Tobacco Tax and Trade Bureau (TTB) regulations permit a winegrower to use the facilities and equipment of another winegrower to produce wine. This is commonly referred to as an "alternating proprietorship." Separate winegrower licenses are issued to each legal entity manufacturing wine under its own bonded winery permit. Wine must be made from the fermentation of agricultural products to which may be added brandy that is distilled from the same agricultural product from which the wine is made. Thus, neutral grain or other distilled spirits cannot be used to fortify wine – only brandy of a specific type. No more than 15% added flavoring or blending material may be added. (Section 23007).

Duplicates – An additional license that a licensee may acquire, if necessary. Duplicates may be for additional rooms, rooms for designated persons, portable bars, controlled access cabinets in hotels, catering permits, events held on property adjacent to the licensed premises, beer manufacturers or wine growers.

Type 42 - On-sale Beer and Wine - Public Premises

(Bar, Tavern) Authorizes the sale of beer and wine for consumption on or off the premises where sold. No distilled spirits may be on the premises. Minors are not allowed to enter and remain (see Section 25663.5 for exception, musicians). Food service is not required.

Type 47 - On-Sale General Eating Place

(Restaurant) Authorizes the sale of beer, wine and distilled spirits for consumption on the licensed premises. Authorizes the sale of beer and wine for consumption off the licensed premises. Must operate and maintain the licensed premises as a bona fide eating place. Must maintain suitable kitchen facilities, and must make actual and substantial sales of meals for consumption on the premises. Minors are allowed on the premises.

Type 48 - On-Sale General - Public Premises

(Bar, Night Club) Authorizes the sale of beer, wine and distilled spirits for consumption on the premises where sold. Authorizes the sale of beer and wine for consumption off the premises where sold. Minors are not allowed to enter and remain (see Section 25663.5 for exception, musicians). Food service is not required.

Type 21 - Off-Sale General

(Package Store) Authorizes the sale of beer, wine and distilled spirits for consumption off the premises where sold. Minors are allowed on the premises.