

**SAN RAFAEL ZONING ADMINISTRATOR
REGULAR HEARING
August 30, 2023**

Minutes and Notice of Decision (Pursuant to San Rafael Municipal Code 14.28.050)

- 10:00 – 10:10am 1 **1031 C Street** - Request for a Determination of Public Convenience or Necessity associated with the issuance of a type 41 (“On-sale Beer and Wine”) Alcoholic Beverage Control (ABC) License to sell as a party venue for Private events on weekend afternoons; APN: 011-205-05; T5N 40/60 District; Wong Connie, Owner; Davin Westberg, Applicant; File No: PCN23-001 (PLAN23-079)

Project Planner: Michaela O’Brien

SITE DESCRIPTION

The subject site is located on C Street between 4th and 5th Street. The lot on a minor slope, approximately 9,455 square feet in size, and is developed with a single 9,500 square foot building. Both the General Plan Land use designation and zoning classification is T5N 40/60.

PROJECT DESCRIPTION

The proposed alcohol beverage sales of on-site beer and wine are proposed for events such as private to be held on site. There are no other proposed changes to 1031 C Street, Fox & Kit location.

The State Alcohol Beverage Control (ABC) is requiring a Type 41 license (On-Sale Beer and Wine) for the proposed use and is requiring the City of San Rafael provide a Determination of Public Convenience or Necessity (PCN) due to the concentration of existing Type 41 licenses already issued for the census tract which incorporates the site.

BACKGROUND/PRIOR APPROVALS

The applicant proposes to continue operation of Fox & Kit Indoor playground and coffee shop which was approved for a Conditional Use Permit at the Zoning Administrator level in 2017. January 2023 the site was approved for an Administrative Use Permit for a food service establishment with alcohol sales as per Downtown San Rafael Precise Plan and Form-Based Code Table 2.3.070.

PUBLIC HEARING

On August 30, 2023, a Zoning Administrator meeting was convened for this Public Convenience or Necessity (PCN23-001). The Acting Zoning Administrator for this meeting, Michaela O'Brien, opened the meeting at 10:00 am.

A. Applicant presentation

B. Public Comments

None.

C. ZA discussion

The Zoning Administrator Approve the project.

These conditions of approval are listed below and included as part of the Zoning Administrators decision. As such the request for a Public Convenience or Necessity for on-sale of Beer and Wine was Approved.

The meeting was adjourned at 10:10 am.

FINDINGS

On August 17, 1998, the City of San Rafael adopted a resolution (City Council Resolution No.10299) identifying the review criteria for determination or finding that ABC's issuance of a liquor license to the applicant, doing business as "Peru Groceries Distributors", would serve a public convenience or necessity. In summary, there are seven criteria that are to be considered by the City as part of its determination whether public convenience or necessity would be served by the issuance of a liquor license.

This PCN Resolution prescribes that the City is to consider the seven criteria as part of their review but does not mean that all seven criteria are mandatory. The intent of the review criteria is to consider the specific request for a PCN, determine whether there would be a public convenience or necessity served by the issuance of that specific liquor license for the census tract where the site is located, and consider the request considering the review criteria. Staff analysis of each review criteria follows below:

Criteria 1:

Whether the issuance involves an existing business with a license which is being transferred to a new location, and which will not result in an increase in the total number of off-sale retail liquor licenses or on-sale retail licenses in the City or in the census tract in which the business would be located.

Finding: The project proposes to add the sale of beer and wine to an existing business, which would increase the total number of on-sale Type 41 licenses in the census tract where the site is located.

Criteria 2:

Whether the business, by reason of its location, character, manner or method of operation, merchandise, or potential clientele, will serve a segment of the City's business or residents not presently being served.

Finding: The business is a specialty indoor playground and coffee shop which is not otherwise found in other coffee shops. The business will only have sales during times of privately held events.

Criteria 3:

Whether the business will be located within a 1,000-foot radius of incompatible facilities, such as public and private schools, day care centers, churches, parks, homeless shelters, and alcoholic rehabilitation centers, and facilities designed and operated to serve minors.

Finding: The site is located within 1,000 feet of several known 'incompatible facilities', as defined above; however, these facilities are already within a 1,000-foot radius of other businesses with Type 41 ABC licenses. Additionally, the PCN application (PCN23-001) was noticed to all property owners and occupants within a 500-foot radius of the site and staff has received no public comments in opposition, but has received support, on the proposed PCN as a result of noticing.

Criteria 4:

Whether the location of the license will be in a crime data area covered by Police Department statistics, which has a twenty percent (20%) greater number of reported crimes than the average number of "reported crimes" for all crime data areas in the City, over previous year. For this purpose, "reported crimes" means reported offenses of criminal homicide, forcible rape, robbery, aggravated assault, burglary, larceny theft, and motor vehicle theft, combined with all arrests for other misdemeanor or felony crimes, except for traffic citations.

Finding: Captain. Roy Leon of the San Rafael Police Department (SRPD) provided an email approving the PCN based on previous "crime statistics in Area 7", within the boundaries of Census Tract 1110.00, which indicated a 0% change in the number of "reported crimes" taken from 2021/2022 to 2022/2023 (65 "reported crimes" in 2021/2022; 65 "reported crimes" in 2022/2023) and a 26% decrease in the number of arrests (136 arrests in 2021/2022; 101 arrests in 2022/2023). Of these "reported crimes," none occurred at the subject site.

Criteria 5:

Whether the issuance of the license involves an existing business, which has been located at a site which has had three or more reported crimes defined in (4) above within the previous one-year period.

Finding: As indicated in Criteria 1 Finding above, the project proposes to continue the existing use of an Indoor Playground and Coffee Shop at the site with the added service of beer and wine sales. The SRPD has reviewed past “reported crimes” records for both the census tract and the site and found that no reported crimes have been reported at the site in the previous one-year period.

Criteria 6:

Whether the issuance of the license will promote the goals and policies of the City’s adopted General Plan, any applicable specific plan, or any similar policies that have been formally adopted by the City Council.

Finding: Granting of the requested PCN is in accordance with the City of San Rafael General Plan 2040, including, Economic Vitality Policies EV-1.4 – *Business Retention and Support*, EV-1.11 – *Economic Resilience*, and EV-2.2 – *Promoting Local Purchasing* which seek to retain and support businesses that contribute to the economic vitality and help San Rafael support a broad and healthy range of businesses.

Criteria 7:

Whether any other information supplied by the applicant, or other competent evidence shows that public or necessity will be served by issuance of the license.

Finding: After considering the review criteria above, the Community Development Director Designee (CDDD) has determined that a public convenience would be served by the issuance of a Type 41 (“On-Sale Beer and Wine”) ABC license which would allow the existing business to supply specialty services to City residents. Staff also finds that this determination that public convenience or necessity will be served by the issuance of a Type 41 ABC license involves no expansion of the existing site and is, therefore, exempt from the California Environmental Quality Act (CEQA), pursuant to Section 15301 (*Existing Facilities*) of the CEQA Guidelines.

ACTION TAKEN: On August 30, 2023, the Zoning Administrator Approved the requested Public Convenience or Necessity (PCN23-001) subject to the Findings above.

This Notice of Zoning Administrator decision is provided in compliance with SRMC Section 14.28.050 - *Notice of decision*. Any aggrieved party may appeal this decision pursuant to SRMC Section 14.28.030 - *Filing and time limit of appeals*, by submitting a letter of appeal and the appropriate fees within five (5) working days of the date of approval, or by **September 7, 2023, at 4:00 p.m.** This approval shall become effective at the end of the appeal period.

Once a permit approval has been implemented/established in compliance with all City requirements, it shall run with the land and be valid for the period specified, e.g., duration of the project/use.

ZA Minutes and Notice of Decision
August 30, 2023
1031 C Street
PCN23-001 (PLAN23-079)



PLANNER, Acting Zoning Administrator

08/30/2023

Date

