

**SALINAS PLANNING COMMISSION
RESOLUTION NO. 2021-__**

Resolution approving a Conditional Use Permit to establish and operate an alcohol related use consisting of an on-sale beer and wine - eating place (Type 41) alcohol sales for consumption on or off the premises at a proposed restaurant with a wine tasting room (Amapola Kitchen and Wine Merchant) located at 32 West Gabilan Street in the MX – CC - DC (Mixed Use – Central City Overlay – Downtown Core Overlay) Zoning District
(CUP 2021-023)

WHEREAS, on September 15, 2021, the Salinas Planning Commission, at the request of the Applicant, Jeffrey Birkemeier, held a duly noticed public hearing to consider Conditional Use Permit 2021-023 to establish and operate an alcohol related use consisting of an on-sale beer and wine – eating place (Type 41) alcohol sales for consumption on or off the premises at a proposed restaurant with a wine tasting room (Amapola Kitchen and Wine Merchant) located at 32 West Gabilan Street (Assessor's Parcel Number 002-248-002-000); and

WHEREAS, the Planning Commission weighed the evidence presented at said public hearing, including the Staff Report which is on file at the Community Development Department together with the record of environmental review; and

NOW, THEREFORE, BE IT RESOLVED by the Salinas Planning Commission that the Commission finds the project to be Exempt from the California Environmental Quality Act (CEQA) and approves Conditional Use Permit 2021-023; and

BE IT FURTHER RESOLVED that the Salinas Planning Commission adopts the following findings as the basis for its determination, and that the foregoing recitations are true and correct, and are included herein by reference as findings:

1. ***The project has been found to be Exempt pursuant to Sections 15061(b)(3) of the California Environmental Quality Act (CEQA) Guidelines;***

The project has been determined to be exempt from the California Environmental Quality Act (CEQA) under Section 15061(b)(3) of the CEQA Guidelines. The proposed project is exempt because the activity is covered by the general rule that CEQA applies only to projects, which have the potential for causing significant effect on the environment. The proposed project can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA.

2. ***The proposed location of the use is in accordance with the objectives of the Salinas General Plan, this Zoning Code and the purposes of the district in which the site is located;***

The site is designated Mixed Use by the 2002 Salinas General Plan. Per the General Plan, Mixed Use provides for a mixture of retail, commercial, office and residential uses in the same building, parcel, or area. The proposed project is consistent with General Plan Goals and Policies.

Per Zoning Code Section 37-50.030(a), the purpose of Alcohol License Review regulations is to provide for the orderly integration of alcohol-related uses in the City. In accordance with Section 37-50.030(c) and (f), the proposed on-sale alcohol-related use for a beer and wine – eating place (Type 41) for consumption on or off the premises located at 32 West Gabilan Street would be regulated by a Conditional Use Permit. As shown on the official Zoning Map, the site is located in the base Mixed Use – Central City Overlay – Downtown Core Area (MX-CC-DC) District. Per Zoning Code Section 37-30.230, the purpose of the Mixed Use District is to provide opportunities for commercial uses that emphasize retail and service activities, such as the proposed restaurant use with a wine tasting room, and promote compact development that is intended to be pedestrian-oriented with buildings close to and oriented to the sidewalk.

3. ***The proposed location of the conditional use and the proposed conditions under which it would be operated or maintained are consistent with the Salinas General Plan and will not be detrimental to the public health, safety, or welfare of persons residing or working in or adjacent to the neighborhood of such use, nor detrimental to properties or improvements in the vicinity or the general welfare of the City of Salinas;***

The site is designated Mixed Use by the 2002 Salinas General Plan. Per the General Plan, Mixed Use provides for a mixture of retail, commercial, office and residential uses in the same building, parcel, or area. The proposed project is consistent with General Plan Goals and Policies.

Conditions have been recommended for this permit to ensure that, when implemented, the project will conform and comply with the provisions of the Salinas Zoning Code and will not be detrimental to the adjacent neighborhood. Hours of operation for the alcohol related use shall be limited to 10:00 a.m. to 8:00 p.m., seven (7) days per week.; the premises shall be maintained free of litter at all times; and, all business owners and managers shall complete a program certified by the Department of Alcoholic Beverage Control (ABC) as a qualified responsible beverage service (RBS) program prior to the commencement of the use.

4. ***The proposed conditional use will comply with the provisions of the Salinas Zoning Code, including any specific conditions required for the proposed use; and***

Conditions have been recommended for this permit to ensure that, when implemented, the project will conform and comply with the provisions of the Salinas Zoning Code and will not be detrimental to the adjacent neighborhood. Hours of operation for the alcohol related use shall be limited to 10:00 a.m. to 8:00 p.m., seven (7) days per week.; the premises shall be maintained free of litter at all times; and, all business owners and managers shall complete a program certified by the Department of Alcoholic Beverage Control (ABC) as a qualified responsible beverage service (RBS) program prior to the commencement of the use.

The proposed location consists of a vacant space within an existing multi-tenant commercial building on a Mixed-Use zoned property. The proposed on-sale alcohol-related use will be subject to conditions of approval including, but not limited, to the following requirements for

off-sale alcohol related use pursuant to Zoning Code Section 37-50.030(f)(3):

Pursuant to Zoning Code Section 37-50.030(f), if the Planning Commission determines that the public convenience or necessity would be served by the approval of the proposed CUP and the subsequent issuance of an alcohol license by ABC, the CUP would contain the following conditions of approval:

- Hours of operation for the alcohol related use shall be limited to 10:00 a.m. to 8:00 p.m. seven (7) days per week.
- The premises shall be maintained free of litter at all times.
- No sale or distribution of alcoholic beverages shall be made from a drive-up or walk-up window.
- No display of alcoholic beverages shall be made from an ice tub.
- No unsecured alcohol may be placed near the entrances and exits of the store.
- No self-illuminated advertising for alcoholic beverages shall be located on buildings or windows.
- All business owners and managers shall complete a program certified by the Department of Alcoholic Beverage Control (ABC) as a qualified responsible beverage service (RBS) program prior to the commencement of the use. Any business established after the effective date of the ordinance codified in this section shall require such training of all owners and managers within ninety days of ownership transfer or hire. Failure of managers to obtain training shall be the liability of the owner. The owner shall maintain on the premises a file containing the certificates of training and shall present the file and its contents upon request by the City at any time during normal business hours. The provisions of this section regarding responsible beverage training shall be suspended upon a finding by the City Planner that the training is not reasonably available.
- An electronic age verification scanner shall be installed, maintained, and utilized for all off-sale alcohol sales.
- Signs shall be posted at the location in English and Spanish with regard to prohibitions of open containers and loitering at the location, and no loitering will be tolerated.
- No single 40 oz. containers of beer may be sold from premises.
- No malt liquor or fortified wine products (wines with greater than 15% alcohol content) shall be sold.

- Sales of wine shall be in containers of at least 750 ml.
- There shall be no coin operated video or arcade games and no adult magazines or videos shall be sold.
- No pay telephone booths shall be permitted on the premises.
- Any alcohol license violation and/or suspension by the Alcohol Beverage Control Board or significant criminal activity, in the opinion of the City Police Chief, shall constitute grounds for review and modification or revocation of this use Permit in accordance with Section 37-60.640: Expiration- transferability; recordation; rescission; revocation, of the Salinas Zoning Code.

The additional conditions of approval as recommended by the Department of Alcoholic Beverage Control (ABC) for the proposed alcohol related use are also included as a part of the proposed project:

- The quarterly gross sales of alcoholic beverages shall not exceed the quarterly gross sales of food during the same period. The licensee shall at all times maintain records, which reflect separately the gross sales of food and the gross sales of alcoholic beverages of the licensed business. Said records shall be kept no less frequently than on a quarterly basis and shall be made available to the Department of Alcoholic Beverage Control (ABC) on demand.
- Full and complete meals must be offered and made available at all times the premises is exercising the privileges of its alcoholic beverage license, with the exception of the last half-hour of operation each day.

The additional conditions as recommended by the Salinas Police Department per the attached comments dated July 14, 2021 (Exhibit "D" of CUP 2021-023) are also included as a part of the proposed project:

- Digital surveillance system with high quality cameras focused on the points of sales, entrances/exits of the business and the parking lot, with the capability to store the digital images captured. The video/photos must be retained for 30 days and be made available to police upon request.
- Ample lighting in the parking lots, exterior area of entrances/exits and situated in areas to enhance video surveillance equipment.

5. ***The Alcohol-Related use will neither adversely affect the welfare of the area nor of surrounding residentially zoned neighborhoods, giving due consideration to the distance of the proposed use from other Alcohol-Related uses, residentially zoned property, public***

schools, public playgrounds, and other similar uses; and giving further consideration to crime rates, calls for emergency services, and residential densities in the surrounding area.

The site is developed with an existing multi-tenant commercial building and a separately located religious assembly use. The subject alcohol related use would not adversely affect the welfare of the area or the closest residences are located to the northwest of the subject site, at 111 – 117 Church Street, approximately 350-feet from the front entrance of the restaurant and the nearest residentially-zoned land is located approximately 740 feet to the north (10 Lincoln Avenue). The nearest park is Bataan Memorial Park (15 East Market Street), which is located approximately 830 feet to the northeast of the subject site. The nearest public school is Roosevelt School (120 Capitol Street), which is located approximately 1,160 feet west from the subject site. The nearest private school is Sacred Heart School (123 West Market Street), which is located approximately 1,000 feet to the northwest of the subject site. Additionally, conditions are set forth in the Conditional Use Permit, that require ample lighting to be provided in parking lots, exterior areas of entrances/exits and situated in areas to enhance video surveillance equipment. Off-sale of alcohol shall not occur between the hours of 10:00 p.m. and 6:00 a.m. Coolers containing alcoholic beverages shall be locked between the hours of 10:00 p.m. and 6:00 a.m.

PASSED AND APPROVED this 15th day of September 2021, by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

THIS IS TO CERTIFY that the foregoing is a full, true, and correct copy of a Resolution of the Planning Commission of the City of Salinas, that said Resolution was passed and approved by the affirmative and majority vote of said Planning Commission at a meeting held on September 15, 2021, and that said Resolution has not been modified, amended, or rescinded, and is now in full force and effect.

SALINAS PLANNING COMMISSION

Date: _____

Courtney Grossman
Secretary