



County of Monterey

Item No.

Board Report

Board of Supervisors
Chambers
168 W. Alisal St., 1st Floor
Salinas, CA 93901

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December 05, 2023

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PLN090138-AMD1 - DON CHAPIN COMPANY LLC

Adopt a resolution that a Public Convenience or Necessity (PCN) would be served by allowing the “Windmill Market” to obtain of a Type 20 license, for the sale of beer and wine for off-site consumption.

Project Location: 115 Monterey Salinas Highway, Salinas.

Proposed CEQA Action: Find the project categorically exempt pursuant to CEQA Guidelines section 15301.

RECOMMENDATION:

It is recommended that the Board of Supervisors:

- a) Find the project Categorical Exempt pursuant to CEQA Guidelines section 15301 and no exceptions set forth in section 15300.2 apply; and
- b) Find that a Public Convenience or Necessity would be served by allowing the “Windmill Market” to obtain of a Type 20 license, for the sale of beer and wine for off-site consumption.

PROJECT INFORMATION:

Planning File Number: PLN090138-ADM1

Owner: Don Chapin Company LLC

APN: 015-012-061-000

Applicant: Renee Murillo, Windmill Market

Plan Area: Greater Salinas Area Plan

SUMMARY/DISCUSSION:

The Windmill Market, located adjacent to Tope’s Sustainable Garden Center along Highway 68, opened in 2021 as a local market that primarily sells fresh fruits, produce and a variety of “gourmet” grocery items including non-alcoholic beverages, dairy provides, breads, and specialty foods. The Windmill Market is seeking to expand their selection of products and sell gourmet beer and wine. The applicant, the Windmill Market, is requesting a Type 20 license for the sale of beer and wine for off-site consumption from the State of California Department of Alcoholic Beverage Control (ABC). The proposed sale of beer and wine would be consistent with the subject property’s governing General Development Plan (PLN090138, Planning Commission Resolution No. 12-023), which allowed the subject structure to operate as a produce market/stand selling “fruits, produce, and other goods.”

On January 1, 1998, Business and Professions Code section 23817.5 was amended to establish a moratorium on the issuance of off-sale beer and wine licenses (Type 20) in cities and counties where

the ratio of Type 20 licenses exceeds one for each 2,500 inhabitants. According to the United States Census Bureau and ABC, the County has a population of 439,035 and 411 off-sale licenses (Ratio of 1 license per 1,041 individuals). Thus, the County of Monterey has a moratorium on the issuance of new (original) Type 20 licenses. However, Business and Professions Code section 23817.7 states that ABC may approve an application for an off-sale beer and wine license (Type 20) in areas covered by Section 23817.5, if the applicant shows that public convenience or necessity would be served by the issuance, and where all of the following conditions are found to exist:

- The applicant premises and subject census tract are not located in a high crime reporting district;
- The applicant premises are located in an area that falls below the concentration level;
- The local governing body of the area in which the applicant premises are located, or its designated subordinate officer or body, determines that public convenience or necessity would be served by the issuance; and
- The department may impose reasonable conditions on a licensee as may be needed in the interest of the public health, safety, and welfare regarding signing, training for responsible beverage sales and hours, and mode of sale.

In this case, the Windmill Market meets the required criteria. According to the County of Monterey Sheriff's Department and ABC, the subject property is not located within a high crime reporting district, which is defined as having a 20% greater number of reported crimes than the average number of reported crimes from all crime reporting districts within Monterey County. The subject property is located within Census Tract 106.06. This census tract covers unincorporated areas west, south, and east of the City of Salinas, as well as Spreckels. Saturation for a census tract is based on the ratio of licenses to population within the census tract as compared to licenses to population within the County. Given the population within this census tract, 7 off-sale licenses (such as a Type 20 licenses) can be issued before the area is considered saturated. Currently, there are only 3 off-sale licenses within this census tract and therefore the subject property and Census Tract 106.06 are not considered saturated or over concentrated by State standards. Approval of the applicant's request would bring the total number of off-sale licenses to 4.

The finding that a public convenience or necessity would be served by the issuance of a Type 20 license by the ABC can be supported for the following reasons:

- 1) The Windmill Market proposes to support local businesses by featuring a menu of local beers and wines and partnering with local food vendors throughout the Salinas Valley.
- 2) The subject property is located near the entrance of the City of Salinas. Although the census area has a relatively small population, the Salinas Valley area attracts regional (Monterey Peninsula Area), national, and international visitors. Therefore, the ABC's issuance of this Type 20 license would serve a larger population that includes visitors in addition to residents in the area.
- 3) The Windmill Market proposes to sell gourmet beers and wines, which is unique to the subject census tract. Therefore, the ABC's issuance of this Type 20 license would increase the variety of beer and wine products sold through the area.
- 4) Tract No. 106.06 is in a low crime rate area and the issuance of this alcohol license is supported by Monterey County Sheriff's Office.

- 5) The Windmill Market believes that the sale of beer and wine will enhance their customer experience and diversify the type of goods and commodities offered to the public.

The application was referred to the County of Monterey Sheriff's Department and the County of Monterey Health Department. The Sheriff's Department supports the Applicant's off-sale license request, while the Health Department opposes it, citing that although the property is not located in an over concentrated area, approval of one more off-sale alcohol outlet would increase the density and thus contribute to excessive drinking, intoxicated driving, and related health effects.

For the above-mentioned reasons, Housing and Community Development (HCD) staff recommends the Board of Supervisors adopt a Resolution finding that a public convenience or necessity would be served by the issuance of a Type 20 license by the ABC to the Windmill Market, despite the possible health effects.

ENVIRONMENTAL REVIEW:

California Environmental Quality Act (CEQA) Guidelines section 15301 provides a Class 1 categorical exemption for existing facilities involving negligible or no expansion of existing or former uses. The issuance of a letter of Public Convenience or Necessity to allow the sale of beer and wine within an existing market is a negligible expansion of the existing use and the project therefore qualifies for a categorical exemption pursuant to CEQA Guidelines section 15301.

OTHER AGENCY INVOLVEMENT:

The report has been prepared by HCD with input from the Sheriff's Office and the Health Department.

FINANCING:

Funding for staff time associated with this project is included in the FY2023-24 Adopted Budget for HCD, Appropriation Unit HCD002, Unit 8543.

Prepared by: Fionna Jensen, Senior Planner, x6407

Reviewed and approved by: Anna Ginette Quenga, AICP, Principal Planner

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The following attachments are on file with the Clerk of the Board:

Attachment A - Draft Resolution

Attachment B - Applicant's Request for Finding of Public Convenience or Necessity

Attachment C - Sheriff's Department Comments

Attachment D - MCHD Comments

Attachment E - Vicinity Map

cc: Front Counter Copy; Craig Spencer, HCD Acting Director; Fionna Jensen, Senior Planner; Commander Tongol, Sheriff's Office; Roxann Seepersad, Health Department; Renee Murillo, Applicant; The Open Monterey Project (Molly Erickson); LandWatch; Project File PLN090138-AMD1.

