

**RESOLUTION NO. 43/2016**

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF CORTE MADERA FINDING AND DETERMINING THAT PUBLIC CONVENIENCE OR NECESSITY WOULD BE SERVED BY THE ISSUANCE OF AN OFF-SALE BEER AND WINE (TYPE-20 ALCOHOLIC BEVERAGE CONTROL LICENSE) FOR ANDY'S LOCAL MARKET LOCATED AT 195 TAMAL VISTA BOULEVARD  
APN 024-011-079

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**WHEREAS**, on May 16, 2016, an application was filed for a request for a determination of public convenience or necessity to sell beer and wine at Andy's Local Market - 195 Tamai Vista Boulevard; and

**WHEREAS**, pursuant to applicable provisions of the Business and Professions Code of the State of California, the Department of Alcoholic Beverage Control (hereinafter the "ABC") is charged with the responsibility of reviewing applications and issuance of licenses ("license") for the sale and/or manufacture of alcoholic beverages in the State of California; and

**WHEREAS**, Section 23958 of the Business and Professions Code provides that the ABC shall deny an application for a license if issuance of that license would tend to create a law enforcement problem, or if issuance would result in or add to an undue concentration of licenses, except as provided in Section 23958.4 of said Business and Professions Code; and

**WHEREAS**, Section 23958.4 of the Business and Professions Code provides that, notwithstanding the limitations of Section 23958, the ABC shall issue a license if the applicant shows that public convenience or necessity would be served by the issuance of such license; and

**WHEREAS**, pursuant to Section 23958.4 of the Business and Professions Code, the local governing body in this case, the "Town Council," has the discretion to determine when public convenience or necessity would be served by allowing an alcohol license in an area where there is an over concentration of licenses or where there is high crime; and

**WHEREAS**, Under state law Section 23790 of the Business and Professions Code, the ABC may not issue a liquor license if it violates an existing local zoning ordinance; and,

**WHEREAS**, The subject site has a General Plan Land Use designation of Mixed Use Gateway Area and is zoned Mixed Use Gateway Overlay which permits grocery stores and other local serving retail establishments; and,

**WHEREAS**, the request for Determination of Public Convenience or Necessity, hereinafter ("project") is exempt from California Environmental Quality Act (CEQA) review under §15061(b)(3) of the CEQA Guidelines because a Determination of Public Convenience or Necessity will not with reasonable certainty have any possible effect on the environment; and,

**WHEREAS**, the Town is able to make the two State findings 1) That the proposed use will not adversely affect the welfare of area residents in the area of establishments dispensing, for sale or other considerations, alcoholic beverages, including beer and wine and; 2) That the proposed use will not detrimentally affect nearby residentially zoned communities in the area, after giving consideration to the distance of the proposed use from the following: residential buildings, churches, schools, hospitals, public playgrounds and other similar uses.

**WHEREAS**, the Town of Corte Madera has prepared a Letter of Public Convenience or Necessity provided as EXHIBIT "A" attached hereto.

**NOW, THEREFORE,** the Town of Corte Madera resolves as follows:

**SECTION 1.** That the public convenience or necessity would be served by the proposed off site sale of beer and wine in conjunction with the operation of Andy's Local Market.


**SECTION 3.** Pursuant to §15061(b)(3) of the CEQA Guidelines, an activity is covered by the general rule that CEQA only applies to projects that have the potential for causing a significant effect on the environment. Where it 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 review. Making a Determination of Public Convenience or Necessity will not bring about any physical change to the environment. Therefore, in light of the whole record, it can be seen with certainty that the project has no potential to cause a significant effect on the environment. As such, the Town finds that the project is exempt from the provisions of CEQA pursuant to CEQA Guidelines Section 15061(b)(3) ("general rule exemption").


**SECTION 4.** The request for Public Convenience or Necessity Determination is hereby approved.

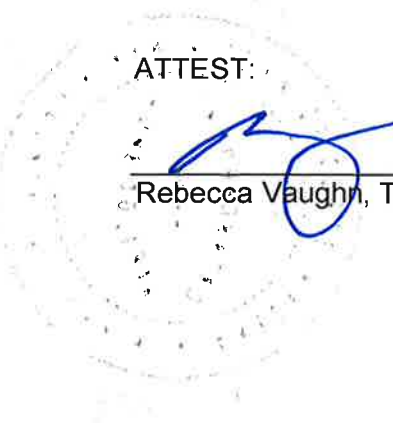
**SECTION 5.** The Town Manager and his authorized designees are authorized to transmit Exhibit A to the ABC and take any other necessary actions, sign any other documents or instruments, as may be necessary, to implement, and affect this Resolution on behalf of the Town.

I hereby certify that the foregoing resolution was duly and regularly adopted by the Town Council of Corte Madera at a regular meeting held on the 18<sup>th</sup> day of October, 2016 by the following vote, to wit:

AYES : Andrews, Bailey, Condon, Furst, Lappert  
NOES: - None -  
ABSENT: - None -

  
\_\_\_\_\_  
Sloan C. Bailey, Mayor

ATTEST:  
  
\_\_\_\_\_  
Rebecca Vaughn, Town Clerk



## Exhibit A

????, 2016

Lynn Recchia  
Licensing Representative II  
Department of Alcoholic Beverage Control  
Santa Rosa District Office  
50 D Street, Room 130  
Santa Rosa, CA 95404

**Re: Determination of Public Convenience and Necessity for a Type 20 Liquor License for Andy's Local Market at 195 Tamai Vista Boulevard Corte Madera, CA 94925**

Dear Mrs. Recchia,

On October 18, 2016, the Town Council of the Town of Corte Madera adopted Resolution No. 43/2016 determining that the issuance of a Type 20 liquor license for off sale beer & wine - (package store) which authorizes the sale of beer and wine for consumption off the premises where sold will serve public convenience at the subject location Andy's Local Market – 195 Tamai Vista Boulevard. A public convenience would be provided with the sales of beer and wine for off-site consumption, an ancillary use to the market. The proposed use shall not be a detriment to the surrounding neighborhood and public.

The Central Marin Police Department has indicated that the application is not located in an excess crime-reporting district. Furthermore, the Town Staff and the Council determined that the proposed off-site sale of beer and wine will not adversely affect the welfare of area residents and will not detrimentally affect nearby residentially zoned communities, after giving consideration to the distance of the proposed use from residences, churches, schools, public playgrounds and other similar uses.

Respectfully submitted,

Adam Wolff  
Director of Planning and Building

DEPARTMENT OF ALCOHOLIC BEVERAGE CONTROL

50 D Street, Rm. 130  
Santa Rosa, CA 95404  
(707) 576-2165



Dear Applicant:

On January 1, 1995, Business and Professions Code Section 23958.4, was enacted to define and establish a statutory standard for "undue concentration" of licenses in a given area; and, procedures for determining where license issuance would meet public convenience and necessity.

Your premises has been identified as being situated in a census tract division which is either over concentrated with the particular license type applied-for; and/or found to be located in a crime reporting district which has a 20% greater number or reported crimes than other reporting districts within that particular law enforcement jurisdiction.

Notwithstanding Section 23958, BPC, the Department may issue a license as follows:

- (1) With respect to a non-retail license, a retail on-sale bona fide eating place license, a retail license issued for a hotel, motel, or other lodging establishment, as defined in subdivision (b) of Section 25503.16, a retail license issued in conjunction with a beer manufacturer's license, or a winegrower's license, if the applicant shows public convenience or necessity would be served by the issuance.
- (2) With respect to any other license, if the local govern ing body i.e., city council or county board of supervisors, of the area in which the applicant premises are located determines public convenience or necessity would be served by the issuance.

Please feel free to discuss with our staff any questions you may have concerning this matter, or any other matter with regard to the license application process. Please describe to- the Department of Alcoholic Beverage Control how the public convenience and/or necessity would be served by issuance of the license. The following are examples to assist you in your efforts:

- > The type of patrons that you will cater to (families, tourists, specific ethnic groups, students, daytime workers, evening entertainment crowd etc.)
- > The type of environment / atmosphere will you offer the patrons of your business
- > The type of food service will you offer
- > How your business will differ from those in your immediate area that are currently licensed by the Department.
- > How your business will not have a negative impact on the surrounding community.

Department of Alcoholic Beverage Control  
**APPLICATION FOR ALCOHOLIC BEVERAGE LICENSE(S)**  
 ABC 211 (6/99)

State of California

TO: Department of Alcoholic Beverage Control  
 50 D ST  
 ROOM 130  
 SANTA ROSA, CA 95404  
 (707) 576-2165

File Number: 569393  
 Receipt Number: 2360127  
 Geographical Code: 2102  
 Copies Mailed Date: May 11, 2016  
 Issued Date:

DISTRICT SERVING LOCATION: SANTA ROSA

First Owner: TUTTA LA VITA LLC  
 Name of Business: ANDY'S LOCAL MARKET - CORTE MADERA  
 Location of Business: 195 TAMAL VISTA BLVD  
 CORTE MADERA, CA 94925-1108

County: MARIN  
 Is Premise inside city limits? Yes Census Tract 1211.00

Mailing Address: 688 PT SAN PEDRO RD  
 (If different from premises address) SAN RAFAEL, CA 94901

Type of license(s): 20

Transferor's license/name: 505335 / TUTTA LA VITA LLC Dropping Partner: Yes No

License Type	Transaction Type	Fee Type	Master	Dup	Date	Fee
20 - Off-Sale Beer And Win,	PREMISE TO PREMISE TRANSFER	NA	y	0	05/11/16	\$100.00
Total						\$100.00

Have you ever been convicted of a felony? No  
 Have you ever violated any provisions of the Alcoholic Beverage Control Act, or regulations of the Department pertaining to the Act? No  
 Explain any "Yes" answer to the above questions on an attachment which shall be deemed part of this application

Applicant agrees (a) that any manager employed in an on-sale licensed premises will have all the qualifications of a licensee, and (b) that he will not violate or cause or permit to be violated any of the provisions of the Alcoholic Beverage Control Act.

STATE OF CALIFORNIA County of MARIN Date: May 11, 2016

Under penalty of perjury, each person whose signature appears below, certifies and says: (1) He is an applicant, or one of the applicants, or an executive officer of the applicant corporation, named in the foregoing application, duly authorized to make this application on its behalf; (2) that he has read the foregoing and knows the contents thereof and that each of the above statements therein made are true; (3) that no person other than the applicant or applicants has any direct or indirect interest in the applicant or applicant's business to be conducted under the license(s) for which this application is made; (4) that the transfer application or proposed transfer is not made to satisfy the payment of a loan or to fulfill an agreement entered into more than ninety (90) days preceding the day on which the transfer application is filed with the Department or to gain or establish a preference to or for any creditor or transferor or to defraud or injure any creditor of transferor; (5) that the transfer application may be withdrawn by either the applicant or the licensee with no resulting liability to the Department

Effective July 1, 2012, Revenue and Taxation Code Section 7057, authorizes the State Board of Equalization and the Franchise Tax Board to share taxpayer information with Department of Alcoholic Beverage Control. The Department may suspend, revoke, and refuse to issue a license if the licensee's name appears in the 500 largest tax delinquencies list. (Business and Professions Code Section 494.5.)

Applicant Name(s)

Applicant Signature(s)

TUTTA LA VITA LLC

77 - 4/11/17

RECEIVED

MAY 16 2016

TOWN OF CORTE MADERA



California Department of Alcoholic Beverage Control  
 On-Sale Licenses  
 For the Cities of  
 CORTE MADERA

Report as of 5/30/2016

License Number	Status	License Type	Orig. Iss. Date	Expir Date	Primary Owner and Premises Addr.	Business Name
1) 194223	ACTIVE	86	01/30/1987	6/30/2016	SAFEWAY INC 137 CORTE MADERA TOWN CTR CORTE MADERA, CA 94925-1209	SAFEWAY INC #2318
2) 341051	ACTIVE	41	11/09/1998	10/31/2016	Census Tract: 1212.00 SOUTHCHACK, MAI THI 510 TAMALPAIS DR CORTE MADERA, CA 94925	TUBTIM THAI RESTAURANT
3) 354505	ACTIVE	47	08/02/1999	12/31/2016	Census Tract: 1211.00 BENISSIMO INCORPORATED 18 TAMALPAIS DR CORTE MADERA, CA 94925-1414	BENISSIMO ITALIAN PIZZA RESTAURANT
4) 362190	ACTIVE	41	02/25/2000	1/31/2017	Census Tract: 1211.00 VALENTINO, PATRICIA PIRY 225 CORTE MADERA AVE CORTE MADERA, CA 94925	STEFANOS PIZZA
5) 362428	ACTIVE	41	03/01/2000	2/28/2017	Census Tract: 1211.00 BOOK PASSAGE INCORPORATED 51 TAMAL VISTA BLVD CORTE MADERA, CA 94925	BOOK PASSAGE INCORPORATED
6) 373395	ACTIVE	47	04/11/2001	3/31/2017	Census Tract: 1211.00 IL FORNAIO AMERICA CORPORATION 223 CORTE MADERA TOWN CTR CORTE MADERA, CA 94925	IL FORNAIO
7) 404493	ACTIVE	41	01/15/2004	12/31/2016	Census Tract: 1211.00 LA MAISON DE REINE, VIETNAMESE CUISINE LLC 346 CORTE MADERA TOWN CTR CORTE MADERA, CA 94925-1207	LA MAISON DE LA REINE
8) 412044	ACTIVE	47	06/28/2004	5/31/2016	Census Tract: 1212.00 CHEESECAKE FACTORY RESTAURANTS INC THE 1736 REDWOOD HWY CORTE MADERA, CA 94925	CHEESECAKE FACTORY THE
9) 424421	ACTIVE	47	01/29/2009	12/31/2016	Census Tract: 1212.00 PACIFIC CATCH INC 133 CORTE MADERA TOWN CTR CORTE MADERA, CA 94925-1209	PACIFIC CATCH
10) 441056	ACTIVE	47	08/15/2006	7/31/2016	Census Tract: 1211.00 ANDROS, BLAKE EDWARD 55 TAMAL VISTA BLVD CORTE MADERA, CA 94925-1145	BRICK & BOTTLE

15)	471179	ACTIVE	47	08/12/2009	7/31/2016	1585 CASA BUENA DR CORTE MADERA, CA 94925  Census Tract: 1211.00 COUNTER CORTE MADERA L-PSHIP THE 201 CORTE MADERA TOWN CTR CORTE MADERA, CA 94925-1208	COUNTER THE
16)	518524	ACTIVE	47	03/05/2012	2/28/2017	Census Tract: 1211.00 BOCA VENTURE LLC 1544 REDWOOD HIGHWAY, # C055 CORTE MADERA, CA 94925-1248	BOCA PIZZERIA
17)	519068	ACTIVE	41	10/02/2012	9/30/2016	Census Tract: 1212.00 BLUE MARIN, LLC 335 CORTE MADERA TOWN CENTER CORTE MADERA, CA 94925	BLUE BARN GOURMET
18)	519332	ACTIVE	41	10/12/2012	9/30/2016	Census Tract: 1211.00 CAFE VERDE, INC. 502 TAMALPAIS DR. CORTE MADERA, CA 94925-1573	CAFE VERDE
19)	528206	ACTIVE	42	01/17/2013	12/31/2016	Census Tract: 1211.00 BLINDERMAN HOLDINGS LLC 207 CORTE MADERA AVE CORTE MADERA, CA 94925	THREE BIRDS WINE BAR
20)	535008	ACTIVE	41	02/24/2014	12/31/2016	Census Tract: 1211.00 NORDSTROM INC 1870 REDWOOD HWY CORTE MADERA, CA 94925-1235	NORDSTROM BLUE STOVE
21)	537257	ACTIVE	41	07/31/2014	6/30/2016	Census Tract: 1212.00 VEGGIE GRILL INC THE 100 CORTE MADERA TOWN CENTER, # 147 CORTE MADERA, CA 94925-1209	VEGGIE GRILL THE
22)	541919	ACTIVE	47	04/14/2014	3/31/2016	Census Tract: 1211.00 BEST LIL' PORKHOUSE, LLC 60 MADERA BLVD CORTE MADERA, CA 94925-1227	BEST LIL' PORKHOUSE
23)	44996	ACTIVE	41	10/13/2014	9/30/2016	Census Tract: 1211.00 PIGINA PICKLE, LLC 341 CORTE MADERA TOWN CTR CORTE MADERA, CA 94925-1207	PIG JN A PICKLE BBQ
24)	546253	ACTIVE	41	08/13/2014	7/31/2016	Census Tract: 1211.00 JENN & SAKE LLC 60 CORTE MADERA AVE CORTE MADERA, CA 94925-1303	BURMATOWN
25)	550358	ACTIVE	41	02/10/2015	1/31/2017	Census Tract: 1211.00 FRESH ENTERPRISES, LLC 205 CORTE MADERA TOWN CENTER CORTE MADERA, CA 94925-1208	BAJA FRESH
26)	554707	ACTIVE	41	10/09/2015	9/30/2016	Census Tract: 1211.00 DANISH AMERICAN RESTAURANTS INC 12 TAMALPAIS DR CORTE MADERA, CA 94925	LIGHTHOUSE CAFE