

## RESOLUTION NO. 11/2023

### **A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF CORTE MADERA DETERMINING THAT PUBLIC CONVENIENCE OR NECESSITY WOULD BE SERVED BY THE ISSUANCE OF A TYPE-42 ALCOHOLIC BEVERAGE CONTROL LICENSE FOR ON-SALE BEER AND WINE, PUBLIC PREMISE AT TOTAL WINE & MORE, 71 TAMAL VISTA BOULEVARD**

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**WHEREAS**, on July 15, 2022, an application was filed for a major conditional use permit for a proposed liquor store, Total Wine and More, at 71 Tamal Vista Boulevard; and

**WHEREAS**, on July 15, 2022, the applicant relayed to Town staff that applications for alcohol license Type 21 (off-sale general), Type 86 (instructional tasting), and Type 42 (on-sale beer and wine, public premise) were filed with State of California Alcoholic Beverage Control (ABC) and that ABC would require the local governing agency to make a determination of Public Convenience or Necessity (PCN) for the Type 42 license since there is an over concentration of on-sale licenses in the census tract; and

**WHEREAS**, on November 3, 2022, the Central Marin Police Authority (CMPA) reviewed the application and indicated that the application is not located in a high crime area, would not create a law enforcement problem, and expressed no concern with a determination of public convenience or necessity; and

**WHEREAS**, on January 10, 2023, State of California Alcoholic Beverage Control (ABC) transmitted ABC licensing Form 245 to the Town indicating their requirement that the local governing agency (Corte Madera Town Council) or its designated subordinate officer or body to make a determination of Public Convenience or Necessity for the Type 42 license; and

**WHEREAS**, the purpose of the Type 42 license is to allow Total Wine and More employees to conduct product tastings at the tasting areas and wine education classroom within the Total Wine and More store at 71 Tamal Vista Boulevard; and

**WHEREAS**, on January 24, 2023, the Planning Commission approved Conditional Use Permit application PL22-0059 for a “liquor store or bottle shop” to allow Total Wine and More to operate at 71 Tamal Vista Boulevard at the Marketplace Shopping Center; and

**WHEREAS**, on February 10, 2023, public notice was mailed to property owners and tenants within 300 feet of the project site describing the request for a determination of Public Convenience or Necessity before the Town Council on February 21, 2023; 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 “Corte Madera 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**, issuance of the license would provide public convenience in that customers of the store would be able to taste certain products prior to purchase, and would be able to actively participate in the wine education classes conducted in the Wine Education Classroom inside the store; and

**WHEREAS**, product tastings and wine education classes are ancillary to the primary purpose of the store, which is specialty retail of wine, beer and spirits; and

**WHEREAS**, the Town of Corte Madera has prepared a Letter of Public Convenience or Necessity that will be submitted to ABC and is provided as EXHIBIT “A” attached hereto.

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

**SECTION 1.** That public convenience or necessity would be served by the proposed on-site consumption of beer and wine in conjunction with the operation of Total Wine and More at 71 Tamal Vista Boulevard.

**SECTION 2.** This project is categorically exempt from the California Environmental Quality Act (CEQA) Guidelines pursuant to California Code of Regulations, Title 14, Division 6, Chapter 3, (“CEQA Guidelines”), under Section 15301, because the proposed use involves no expansion of the existing building and making a determination of Public Convenience or Necessity will not bring about any physical change to the environment.

**SECTION 3.** The request for Public Convenience or Necessity Determination is hereby approved.

**SECTION 4.** 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 21<sup>st</sup> day of February, 2023 by the following vote, to wit:

AYES: Councilmembers: E. Beckman, F. Casissa, C. Lee, P. Ravasio, R. Thomas  
NOES: Councilmembers: - None -  
RECUSED: Councilmembers: - None -  
ABSENT: Councilmembers: - None -

APPROVED:



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Charles Lee, Mayor

ATTEST:



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Rebecca Vaughn, Town Clerk





THE TOWN OF  
CORTE MADERA  
MARIN COUNTY CALIFORNIA

[Date]

Ann Johnson  
Licensing Representative II  
Department of Alcoholic Beverage Control  
50 D Street, Room 130  
Santa Rosa, CA 95404

**Re: Determination of Public Convenience and Necessity for a Type 42 Liquor License for Total Wine and More (California Fine Wine & Spirits LLC) at 71 Tamal Vista Blvd., Corte Madera, CA 94925**

Dear Ms. Johnson,

On February 21, 2023, the Town Council of the Town of Corte Madera adopted Resolution No. 11/2023 determining that the issuance of a Type 42 license for on-sale beer and wine, public premise, which authorizes on-premise consumption in designated areas, will serve public convenience at the subject location, Total Wine and More, at 71 Tamal Vista Boulevard. A public convenience would be provided with issuance of the license in that customers of the store would be able to taste certain products prior to purchase, and would be able to actively participate in the wine education classes conducted in the Wine Education Classroom inside the store. Product tastings and wine education classes are ancillary to the primary purpose of the store, which is specialty retail of wine, beer and spirits.

The Central Marin Police Authority (CMPA) reviewed the application and indicated that the application is not located in a high crime area, would not create a law enforcement problem, and expressed no concern with a determination of public convenience or necessity. On January 24, 2023, the Planning Commission approved Conditional Use Permit PL22-0059 for a “liquor store or bottle shop” to allow Total Wine and More to operate at 71 Tamal Vista Boulevard at the Marketplace Shopping Center. The request for a determination for Public Convenience or Necessity is approved through Corte Madera Town Council’s adoption of the attached resolution.

Respectfully submitted,

Tracy Hegarty  
Assistant Planner  
Town of Corte Madera