

DEPARTMENT: Planning

BY: Kris Schenk
PHONE: 209-966-5151

RECOMMENDED ACTION AND JUSTIFICATION:

Approve issuance of a "Letter of Public Convenience and Necessity" based on providing the same level of restaurant services as are found in an other areas the size and makeup of Mariposa.

BACKGROUND AND HISTORY OF BOARD ACTIONS:

See Attached Statement of Justification

ALTERNATIVES AND CONSEQUENCES OF NEGATIVE ACTION:

A Negative Action would result in no issuance of a "Letter of Public Convenience and Necessity" and the facility would not be able to offer On Sale Beer and Wine to its customers.

Financial Impact? () Yes () No	Current FY Cost: \$	Annual Recurring Cost: \$
Budgeted In Current FY? () Yes () No () Partially Funded		
Amount in Budget: \$		List Attachments, number pages consecutively
Additional Funding Needed: \$		Memo to Board
Source:		2005 Moratorium Counties/Cities
Internal Transfer		Common ABC License
Unanticipated Revenue _____ 4/5's vote		List of On-Sale License - Census Tract 1
Transfer Between Funds _____ 4/5's vote		ABC Application
Contingency _____ 4/5's vote		Statement of Justification
() General () Other		Draft Letter AND Vicinity Map

CLERK'S USE ONLY:

Res. No.: 11-102 Ord. No. _____
Vote - Ayes: 4 Noes: *[Signature]*
Absent: _____
[Signature] Approved
() Minute Order Attached () No Action Necessary

COUNTY ADMINISTRATIVE OFFICER:

Requested Action Recommended
 No Opinion
Comments:

The foregoing instrument is a correct copy of the original on file in this office.

Date: _____
Attest: MARGIE WILLIAMS, Clerk of the Board
County of Mariposa, State of California

By: _____
Deputy

CAO: *[Signature]*



COUNTY OF MARIPOSA

P.O. Box 784, Mariposa, CA 95338 (209) 966-3222

JIM ALLEN, CHAIR
JANET BIBBY, VICE-CHAIR
LEE STETSON
LYLE TURPIN
KEVIN CANN


DISTRICT V
DISTRICT III
DISTRICT I
DISTRICT II
DISTRICT IV



MARIPOSA COUNTY BOARD OF SUPERVISORS

MINUTE ORDER

TO: KRIS SCHENK, Planning Director

FROM: MARGIE WILLIAMS, Clerk of the Board 

SUBJECT: Approve a "Letter of Public Convenience and Necessity" to the Department of Alcohol Beverage Control" to Increase the Number of On-Sale Alcohol Licenses from Twenty-Two (22) to Twenty-Three (23) in Mariposa County, Census Tract 06-043-010-001, for the Sugar Pine Café, LLC Located at 5038 Highway 140, Town of Mariposa

RES. 11-102

THE BOARD OF SUPERVISORS OF MARIPOSA COUNTY, CALIFORNIA

ADOPTED THIS Order on March 22, 2011

ACTION AND VOTE:

- 4 **Planning**
Approve a "Letter of Public Convenience and Necessity" to the Department of Alcohol Beverage Control" to Increase the Number of On-Sale Alcohol Licenses from Twenty-Two (22) to Twenty-Three (23) in Mariposa County, Census Tract 06-043-010-001, for the Sugar Pine Café, LLC Located at 5038 Highway 140, Town of Mariposa
- BOARD ACTION:** Kris Schenk introduced the item. Eileen Collins, Planning Technician, presented the staff report. Discussion was held.
- Input from the public was provided by the following:
- Ruth Catalan stated she feels that the 13 to 14 current licenses are an oversaturation in town. She feels we should try to change this versus giving letters of necessity.
- Marilyn Saunders stated she feels the issue of saturation has to do with the eateries. She noted that we have foreign tourists visiting and she supports this request so our restaurants can provide a broad choice to our guests.
- Supervisor Turpin commented on the Board's role in this and stated he feels that we need to be careful that we are not adding to potential problems. (M)Cann, (S)Stetson, Res. 11-102 was adopted approving the "Letter of Public Convenience and Necessity"/Ayes: Stetson, Bibby, Cann, Allen; Abstained: Turpin.

Cc: File



MARIPOSA PLANNING

COUNTY OF MARIPOSA

5100 BULLION STREET • POST OFFICE BOX 2039

MARIPOSA, CALIFORNIA 95338-2039

209 . 966 . 5151 • FAX 209 . 742 . 5024

Kris Schenk, Director

kschenk@mariposacounty.org

Eileen Collins, Planning Technician

ecollins@mariposacounty.org

March 22, 2011

Department of Alcohol Beverage Control

31 East Channel Street, Room 168

Stockton, CA 95202

RE: Applicant: Susan Ann Posy

At their March 22, 2011 meeting, the Mariposa County Board of Supervisors approved the issuance of this "Letter of Public Convenience and Necessity" for the addition of one (1) Type 41 On-Sale Beer and Wine License in Census Tract 06-043-010-001 to the following location:

Applicant:	Susan Ann Posey
Business:	Sugar Pine Café LLC
Site:	5038 Highway 140
License:	Type 41 On-Sale Beer and Wine License

It was determined that the ability to offer On-Sale Beer and Wine will provide the same level of restaurant services as are found in any other areas the size and makeup of Mariposa.

Sincerely,

Kris Schenk, Planning Director
County of Mariposa, Planning Department



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Kris Schenk, Director

kschenk@mariposacounty.org

Eileen Collins, Planning Technician

ecollins@mariposacounty.org

MEMORANDUM

Date: March 22, 2011

To: Mariposa County Board of Supervisors

From: Eileen Collins, Planning Technician (EC)

Topic: Issuance of a "Letter of Public Convenience and Necessity" for Susan Ann Posey located at 5038 Highway 140 for the Sugar Pine Café LLC.

Requested Action:

The applicant has requested that the Board of Supervisors authorize the issuance of a "Letter of Public Convenience and Necessity" to the Department of Alcohol Beverage Control (ABC) to allow an On-Sale Beer and Wine license for the Sugar Pine Café located at 5038 Highway 140. The letter will allow the applicant to offer the sale of beer and wine to customers at their facility, for on-site consumption only. This request is necessary as the ABC considers the area "over concentrated with On-Sale alcohol licenses" and requires Board approval to increase the number.

Background:

The Department of Alcoholic Beverage Control (ABC) regulates the issuance of alcohol licenses. The ABC has established a limit of fourteen (14) On-Sale Licenses in Mariposa County, Census Tract 001, without the issuance of a "Letter of Public Convenience and Necessity", by the Board of Supervisors. The area does have a total of twenty-two (22) On-Sale licenses issued. Please see attached list of issued permits. By requiring this letter, the ABC is providing the local jurisdiction the ability to permit alcohol licenses above the number outright permitted by the ABC. The applicant has been required by the ABC to receive a "Letter of Public Convenience and Necessity" due to the number of On-Sale licenses, which exist within Census Tract 06-043-010-001. That area encompasses the Mariposa TPA, portions of Midpines, and runs to the westerly county line, including Catheys Valley. The Board has the opportunity to determine whether the increase of On-Sale Licenses is detrimental to the area.

Zoning Designation:

The subject property is zoned General Commercial, is in the Historic Design Review Overlay District and is located within the Mariposa Town Planning area. The on-site sale of alcohol is consistent with the zoning.

(1)

2005 Moratorium Counties/Cities:

Section 23817.5 B&P (copy enclosed), first enacted in 1995 and amended in 1998, established a moratorium on original Type 20, Off-Sale Beer and Wine licenses in cities and or counties where the ratio of ABC licenses exceeded one for each 2,500 inhabitants. The moratorium section also prohibits an individual from transferring a Type 20 from one county to another; however, the Section does not prohibit the transfer of an *existing* Type 20 from person to person or premises to premises as long as it is within the county.

Additionally, there is also a prohibition on *original* General (hard liquor, beer and wine) License. The most common license is Type 21-Off-Sale General, Type 47- On-Sale General Eating Place and Type 48-On-Sale General Public Premises. As with the Type 20 license, there is no prohibition of transferring person to person or premises to premises as long as it is within the County.

As of 2005, Mariposa County was added to the list of moratorium Counties. The moratorium regulations are different from those establishing process for a census tract which is "over-saturated". Census Tract 06-043-010-0001, which encompasses Mariposa TPA, portions of Midpines, and runs to the westerly county line, including Catheys Valley is considered "over-saturated".

According to the 2010 census report Mariposa County's population increased from 17,130 to 18,251. Since the 1,121 increase falls short of the required 2,500 inhabitants for each additionally allowed license, Mariposa will continue to remain on the ABC list of moratorium Counties.

There is no prohibition on issuance of original Type 41 On-Sale Beer and Wine Licenses.

The Sugar Pine Café LLC is requesting the issuance of an original Type 41 On-Sale Beer & Wine license – Eating Place (Restaurant), which is not included in the moratorium. It is only subject to the process for an over-saturated census tract, which requires the governing body to approve a "Letter of Public Convenience and Necessity".

Response from Mariposa County Sheriff

Sheriff Binnewies was contacted regarding the addition of a Type 41 On-Sale Beer & Wine license to be located at the Sugar Pine Café. He responded with the following statement. "I have come to the conclusion that I have no comment on the license request."

2

DEPARTMENT OF ALCOHOLIC BEVERAGE CONTROL

3927 Lennane Drive, Suite #100
Sacramento, California 95834
(916) 419-2500 (916) 419-2599 FAX



2005 Moratorium Counties/Cities

2005 Moratorium Figures - Section 23817.5 B & P Code

On January 1, 1998, Section 23817.5 was amended to permanently 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.

In the city and county of San Francisco, the ratio has been established as one for each 1,250 inhabitants. The San Francisco computation combines off-sale beer and wine license with off-sale general licenses for the purpose of establishing the ratio.

Enclosed are the following lists and a map showing the new Type 20 license limitation data:

- List of Counties with their moratorium status.
- List of Cities in Counties with partial moratorium status.
- Summary of Changes to Moratorium Counties/Cities.

Please note the changes in moratorium counties compared to the 2000 list. San Bernardino has been added to the list of non-moratorium counties and Marin has been changed to a moratorium county. In addition, there have been changes in some of the cities within the current 11 non-moratorium counties

The new moratorium lists are effective as of January 1, 2005 and will be in effect for five years. The moratorium lists will be recalculated every five years in accordance with Section 23817.9.

The enclosed lists and map may be distributed to all interested parties.

If you have any question or need additional information, please contact Judy Gabrielli:

Email: Judy.Gabrielli@abc.ca.gov
Phone: (916) 419-2530

MORATORIUM - COUNTIES - SECTION 23817.5 B.P. CODE

January 1, 2005

<u>COUNTY</u>	<u>MORATORIUM</u>	<u>COUNTY</u>	<u>MORATORIUM</u>
Alameda	No	Orange	No
Alpine	YES	Placer	YES
Amador	YES	Plumas	YES
Butte	YES	Riverside	No
Calaveras	YES	Sacramento	No
Colusa	YES	San Benito	YES
Contra Costa	No	San Bernardino	No
Del Norte	YES	San Diego	No
El Dorado	YES	San Francisco	YES
Fresno	YES	San Joaquin	YES
Glenn	YES	San Luis Obispo	YES
Humboldt	YES	San Mateo	No
Imperial	YES	Santa Barbara	YES
Inyo	YES	Santa Clara	No
Kern	YES	Santa Cruz	YES
Kings	YES	Shasta	YES
Lake	YES	Sierra	YES
Lassen	YES	Siskiyou	YES
Los Angeles	No	Solano	No
Madera	YES	Sonoma	YES
Marin	YES	Stanislaus	YES
Mariposa	YES	Sutter	YES
Mendocino	YES	Tehama	YES
Merced	YES	Trinity	YES
Modoc	YES	Tulare	YES
Mono	YES	Tuolumne	YES
Monterey	YES	Ventura	No
Napa	YES	Yolo	YES
Nevada	YES	Yuba	YES

**COMMON ABC LICENSE TYPES
AND THEIR BASIC PRIVILEGES**

LICENSE TYPE	
01	BEER MANUFACTURER - (Large Brewery) Authorizes the sale of beer to any person holding a license authorizing the sale of beer, and to consumers for consumption on or off the manufacturer's licensed premises. Without any additional licenses, may sell beer and wine, regardless of source, to consumers for consumption at a bona fide public eating place on the manufacturer's licensed premises or at a bona fide eating place contiguous to the manufacturer's licensed premises. May conduct beer tastings under specified conditions (Section 23357.3). Minors are allowed on the premises.
02	WINEGROWER - (Winery) Authorizes the sale of wine and brandy to any person holding a license authorizing the sale of wine and brandy, and to consumers for consumption off the premises where sold. Authorizes the sale of all wines and brandies, regardless of source, to consumers for consumption on the premises in a bona fide eating place that is located on the licensed premises or on premises owned by the licensee that are contiguous to the licensed premises and operated by and for the licensee. May possess wine and brandy for use in the preparation of food and beverage to be consumed at the bona fide eating place. May conduct winetastings under prescribed conditions (Section 23356.1; Rule 53). Minors are allowed on the premises.
20	OFF SALE BEER & WINE - (Package Store) Authorizes the sale of beer and wine for consumption off the premises where sold. Minors are allowed on the premises.
21	OFF SALE GENERAL - (Package Store) Authorizes the sale of beer, wine and distilled spirits for consumption off the premises where sold. Minors are allowed on the premises.
23	SMALL BEER MANUFACTURER - (Brew Pub or Micro-brewery) Authorizes the same privileges and restrictions as a Type 01. A brewpub is typically a very small brewery with a restaurant. A micro-brewery is a small-scale brewery operation that typically is dedicated solely to the production of specialty beers, although some do have a restaurant or pub on their manufacturing plant.
40	ON SALE BEER - (Bar, Tavern) Authorizes the sale of beer for consumption on or off the premises where sold. No wine or distilled spirits may be on the premises. Full meals are not required; however, sandwiches or snacks must be available. Minors are allowed on the premises.
41	ON SALE BEER & WINE - EATING PLACE - (Restaurant) Authorizes the sale of beer and wine for consumption on or off the premises where sold. Distilled spirits may not be on the premises (except brandy, rum, or liqueurs for use solely for cooking purposes). Must operate and maintain the licensed premises as a bona fide eating place. Must make actual and substantial sales of meals, during the normal meal hours that they are open, at least five days a week. Normal mealtimes are 6:00 a.m. - 9:00 a.m., 11:00 a.m. - 2:00 p.m., and 6:00 p.m. - 9:00 p.m. Premises that are not open five days a week must serve meals on the days they are open. Minors are allowed on the premises.
42	ON SALE BEER & WINE - PUBLIC PREMISES - (Bar, Tavern) Authorizes the sale of beer and wine for consumption on or off the premises where sold. No distilled spirits may be on the premises. Minors are not allowed to enter and remain (see Section 25663.5 for exception, musicians). Food service is not required.
47	ON SALE GENERAL - EATING PLACE - (Restaurant) Authorizes the sale of beer, wine and distilled spirits for consumption on the licensed premises. Authorizes the sale of beer and wine for consumption off the licensed premises. Must operate and maintain the licensed premises as a bona fide eating place. Must make actual and substantial sales of meals, during the normal meal hours that they are open, at least five days a week. Normal mealtimes are 6:00 a.m. - 9:00 a.m., 11:00 a.m. - 2:00 p.m., and 6:00 p.m. - 9:00 p.m. Premises that are not open five days a week must serve meals on the days they are open. Minors are allowed on the premises.
48	ON SALE GENERAL - PUBLIC PREMISES - (Bar, Night Club) Authorizes the sale of beer, wine and distilled spirits for consumption on the premises where sold. Authorizes the sale of beer and wine for consumption off the premises where sold. Minors are not allowed to enter and remain (see Section 25663.5 for exception, musicians). Food service is not required.
49	ON SALE GENERAL - SEASONAL - Authorizes the same privileges and restrictions as provided for a Type 47 license except it is issued for a specific season. Inclusive dates of operation are listed on the license certificate.



LICENSE TYPE	DESCRIPTION
51	CLUB - Authorizes the sale of beer, wine and distilled spirits, to members and guests only, for consumption on the premises where sold. No off-sale privileges. Food service is not required. Minors are allowed on the premises.
52	VETERAN'S CLUB - Authorizes the sale of beer, wine and distilled spirits, to members and guests only, for consumption on the premises where sold. Authorizes the sale of beer and wine, to members and guest only, for consumption off the licensed premises. Food service is not required. Minors are allowed on the premises.
57	SPECIAL ON SALE GENERAL - Generally issued to certain organizations who cannot qualify for club licenses. Authorizes the sale of beer, wine and distilled spirits, to members and guests only, for consumption on the premises where sold. Authorizes the sale of beer and wine, to members and guests only, for consumption off the licensed premises. Food service is not required. Minors are allowed on the premises.
59	ON SALE BEER AND WINE - SEASONAL - Authorizes the same privileges as a Type 41. Issued for a specific season. Inclusive dates of operation are listed on the license certificate.
60	ON SALE BEER - SEASONAL - Authorizes the sale of beer only for consumption on or off the premises where sold. Issued for a specific season. Inclusive dates of operation are listed on the license certificate. Wine or distilled spirits may not be on the premises. Minors are allowed on the premises.
61	ON SALE BEER - PUBLIC PREMISES - (Bar, Tavern) Authorizes the sale of beer only for consumption on or off the licensed premises. Wine or distilled spirits may not be on the premises. Minors are not allowed to enter and remain (warning signs required). Food service is not required.
67	BED AND BREAKFAST INN - Authorizes the sale of wine purchased from a licensed winegrower or wine wholesaler only to registered guests of the establishment for consumption on the premises. No beer or distilled spirits may be on the premises. Wine shall not be given away to guests, but the price of the wine shall be included in the price of the overnight transient occupancy accommodation. Removal of wine from the grounds is not permitted. Minors are allowed on the premises.
70	ON SALE GENERAL - RESTRICTIVE SERVICE - Authorizes the sale or furnishing of beer, wine and distilled spirits for consumption on the premises to the establishment's overnight transient occupancy guests or their invitees. This license is normally issued to "suite-type" hotels and motels, which exercise the license privileges for guests' "complimentary" happy hour. Minors are allowed on the premises.
75	ON SALE GENERAL - BREWPUB - (Restaurant) Authorizes the sale of beer, wine and distilled spirits for consumption on a bona fide eating place plus a limited amount of brewing of beer. Also authorizes the sale of beer and wine only for consumption off the premises where sold. Minors are allowed on the premises.
80	BED AND BREAKFAST INN - GENERAL - Authorizes the sale of beer, wine and distilled spirits purchased from a licensed wholesaler or winegrower only to registered guests of the establishment for consumption on the premises. Alcoholic beverages shall not be given away to guests, but the price of the alcoholic beverage shall be included in the price of the overnight transient occupancy accommodation. Removal of alcoholic beverages from the grounds is not permitted. Minors are allowed on the premises.



SPECIAL EVENTS

The Department also issues licenses and authorizations for the retail sale of beer, wine and distilled spirits on a temporary basis for special events. The most common are listed below. Other less common ones are found in Business and Professions Code Section 24045.2, et seq.

SPECIAL DAILY BEER AND/OR WINE LICENSE - (Form ABC-281) Authorizes the sale of beer and/or wine for consumption on the premises where sold. No off-sale privileges. Minors are allowed on the premises. May be revoked summarily by the Department if, in the opinion of the Department and/or the local law enforcement agency, it is necessary to protect the safety, welfare, health, peace and morals of the people of the State. In some instances, the local ABC office may require the applicant to obtain prior written approval of the local law enforcement agency. Issued to non-profit organizations. (Rule 59, California Code of Regulations)

DAILY ON SALE GENERAL LICENSE - (Form ABC-281) Authorizes the sale of beer, wine and distilled spirits for consumption on the premises where sold. No off-sale privileges. Minors are allowed on the premises. May be revoked summarily by the Department if, in the opinion of the Department and/or the local law enforcement agency, it is necessary to protect the safety, welfare, health, peace and morals of the people of the State. In some instances, the local ABC office may require the applicant to obtain prior written approval of the local law enforcement agency. Issued to political parties or affiliates supporting a candidate for public office or a ballot measure or charitable, civic, fraternal or religious organizations. (Section 24045.1 and Rule 59.5 California Code of Regulations)

CATERING AUTHORIZATION - (Form ABC-218) Authorizes Type 47, 48, 51, 52, 57, 75 and 78 licensees (and catering businesses that qualify under Section 24045.12) to sell beer, wine and distilled spirits for consumption at conventions, sporting events, trade exhibits, picnics, social gatherings, or similar events. Type 47, 48 and 57 licensees may cater alcoholic beverages at any ABC-approved location in the State. Type 51 and 52 licensees may only cater alcoholic beverages at their licensed premises. All licensees wishing to cater alcoholic beverages must obtain prior written authorization from the Department for each event. At all approved events, the licensee may exercise only those privileges authorized by the licensee's license and shall comply with all provisions of the ABC Act pertaining to the conduct of on-sale premises and violation of those provisions may be grounds for suspension or revocation of the licensee's license or permit, or both, as though the violation occurred on the licensed premises. (Section 23399 and Rule 60.5 California Code of Regulations)

EVENT AUTHORIZATION - (Form ABC-218) Authorizes Type 41, 42, 47, 48, 49, 57, 75 and 78 licensees to sell beer, wine and distilled spirits for consumption on property adjacent to the licensed premises and owned or under the control of the licensee. This property shall be secured and controlled by the licensee and not visible to the general public. *The licensee shall obtain prior approval of the local law enforcement agency.* At all approved events, the licensee may exercise only those privileges authorized by the licensee's license and shall comply with all provisions of the ABC Act pertaining to the conduct of on-sale premises (including any license conditions) and violations of those provisions may be grounds for suspension or revocation of the licensee's license or permit, or both, as though the violation occurred on the licensed premises. (Section 23399)

WINE SALES EVENT PERMIT - (Form ABC-239) Authorizes Type 02 licensees to sell bottled wine produced by the winegrower for consumption off the premises where sold and only at fairs, festivals or cultural events sponsored by designated tax exempt organizations. The licensee must notify the city and/or county where the event is being held and obtain approval from ABC for each event (Form ABC-222). The licensee must also comply with all restrictions listed in Business and Professions Code Section 23399.6.

Note:

1. "Minor" means any person under 21 years of age.
2. Consult Section 25663(b) regarding age of employees in off-sale premises; consult Sections 25663(a) and 25663.5 regarding age of employees in on-sale premises.
3. In certain situations, ABC may place reasonable conditions upon a license, such as restrictions as to hours of sale, employment of designated persons, display of signs, restrictions on entertainment or dancing, etc. If a license has been conditioned, it will be endorsed as such on the face of the license. (Conditional licenses, Sections 23800-23805.)
4. Licensees whose license allows minors on the premises may have a "house policy" restricting minors from entering certain areas of the premises or prohibiting minors in the premises during certain hours.
5. This handout contains only abbreviated information. Contact your local ABC office for full information before doing anything which may jeopardize your license. Also available from the ABC: Quick Summary of Selected ABC Laws (form ABC-608); Alcoholic Beverage Control Act (complete laws); Rules & Regulations; and P-90 (describes privileges of non-retail licenses).

On-Sale Liquor Licenses in Mariposa County for Census Tract 06-043-010-0001

The following information is from the Alcohol Beverage Control (ABC) and is current as of 12/29/08.

- Type 40 = On Sale Beer (Bar, Tavern)
- Type 41 = On Sale Beer & Wine – Eating Place
- Type 42 = On Sale Beer & Wine – Public Premises
- Type 47 = On Sale General – Eating Place
- Type 48 = On Sale General – Public Premises
- Type 49 = On Sale General - Seasonal

The number of On-Sale Licenses in Census Tract 06-043-010-0001 is currently Twenty-Two (22). The area encompasses Mariposa TPA, portions of Midpines, and runs to the westerly county line, including Catheys Valley. The following are the holders of those permits.

1. Type 41 – Pizza Factory – 5005 5th Street
2. Type 41 – The Oasis, 2675 Hwy 140
3. Type 41 – Charles Street Dinner House – 5043 Charles Street
4. Type 42 – The 49er Pub, 5026 Hwy 140
5. Type 41 – The Yosemite Bug LLC, Café at the Bug, 6979 Hwy 140
6. Type 41 - Happy Burger, 5120 Hwy 140
7. Type 47 – Meadows Ranch Café, 5024 Hwy 140
8. Type 41 – China Station Restaurant, 5004 Hwy 140
9. Type 41 – Pizza Plus, 5004 Hwy 140
10. Type 41 – River Rock Inn – 4993 7th Street
11. Type 41 – Valencia's Bon Ton Café, 7307 Hwy 49N
12. Type 41 – Castillo's – 4995 5th Street
13. Type 47 – The Miners Inn Restaurant and Lounge, 5159 Hwy 140
14. Type 41 – Coyote Springs Ranch, 2412 Old Hwy, Catheys Valley
15. Type 41 – Savory's Restaurant LLC, 5034 Hwy 140
16. Type 40 – Airport Inn – 6065 Hwy 49N
17. Type 41 – The Butterfly Café – 5027 Hwy 140 #C
18. Type 48 – Plaza Bar, 2881 Bear Valley Road, Hornitos
19. Type 40 – Tap Room – 2534 Hwy 140, Catheys Valley
20. Type 41 – Catheys Valley Food & Gas – 4993 Hornitos Road, CV
21. Type 42 – Hideout Saloon, 5031 Hwy 140, #F
22. Type 41 – Red Fox Restaurant, 5114 Hwy 140

The ABC provides local jurisdiction the ability to permit alcohol licenses above the number permitted by ABC per Section 23958 and 23958.4 of the Business and Professions Code. The number of on-sale licenses allowed in Census Tract 06-043-010-001 is 14. The addition of one will bring the total to 23.

A "Letter of Public Convenience and Necessity" is required from the local governing body due to the over saturation of liquor licenses in this Census Tract area.

INFORMATION AND INSTRUCTIONS -

SECTION 23958.4 B&P

- Instructions This form is to be used for all applications for original issuance or premises to premises transfer of licenses.
- Part 1 is to be completed by an ABC employee, given to applicant with pre-application package, with copy retained in holding file or applicant's district file.
 - Part 2 is to be completed by the applicant, and returned to ABC.
 - Part 3 is to be completed by the local governing body or its designated subordinate officer or body, and returned to ABC.

PART 1 - TO BE COMPLETED BY ABC

1. APPLICANT'S NAME

Susan Ann Posey

2. PREMISES ADDRESS (Street number and name, city, zip code)

5038 State Highway 140 - Mariposa, CA 95338

3. LICENSE TYPE

41

4. TYPE OF BUSINESS

- | | | | |
|---|--|--|--|
| <input checked="" type="checkbox"/> Full Service Restaurant | <input type="checkbox"/> Hofbrau/Cafeteria | <input type="checkbox"/> Cocktail Lounge | <input type="checkbox"/> Private Club |
| <input type="checkbox"/> Deli or Specialty Restaurant | <input type="checkbox"/> Comedy Club | <input type="checkbox"/> Night Club | <input type="checkbox"/> Veterans Club |
| <input type="checkbox"/> Cafe/Coffee Shop | <input type="checkbox"/> Brew Pub | <input type="checkbox"/> Tavern: Beer | <input type="checkbox"/> Fraternal Club |
| <input type="checkbox"/> Bed & Breakfast: | <input type="checkbox"/> Theater | <input type="checkbox"/> Tavern: Beer & Wine | <input type="checkbox"/> Wine Tasting Room |
| <input type="checkbox"/> Wine only <input type="checkbox"/> All | | | |
| <input type="checkbox"/> Supermarket | <input type="checkbox"/> Membership Store | <input type="checkbox"/> Service Station | <input type="checkbox"/> Swap Meet/Flea Market |
| <input type="checkbox"/> Liquor Store | <input type="checkbox"/> Department Store | <input type="checkbox"/> Convenience Market | <input type="checkbox"/> Drive-in Dairy |
| <input type="checkbox"/> Drug/Variety Store | <input type="checkbox"/> Florist/Gift Shop | <input type="checkbox"/> Convenience Market w/Gasoline | |
| <input type="checkbox"/> Other - describe: | | | |

5. COUNTY POPULATION

6082

6. TOTAL NUMBER OF LICENSES IN COUNTY

On-Sale Off-Sale

7. RATIO OF LICENSES TO POPULATION IN COUNTY

On-Sale Off-Sale

8. CENSUS TRACT NUMBER

9. NO. OF LICENSES ALLOWED IN CENSUS TRACT

14

On-Sale Off-Sale

10. NO. OF LICENSES EXISTING IN CENSUS TRACT

22

On-Sale Off-Sale

11. ARE ABOVE CENSUS TRACT OVERCONCENTRATED WITH LICENSES? (i.e., does the ratio of licenses to population in the census tract exceed the ratio of licenses to population for the entire county?)

- Yes, the number of existing licenses exceeds the number allowed
- No, the number of existing licenses is lower than the number allowed

12. DOES LAW ENFORCEMENT AGENCY MAINTAIN CRIME STATISTICS?

- Yes (Go to Item #13) No (Go to Item #20)

13. CRIME REPORTING DISTRICT NUMBER

14. TOTAL NUMBER OF REPORTING DISTRICTS

15. TOTAL NUMBER OF OFFENSES IN ALL REPORTING DISTRICTS

16. AVERAGE NO. OF OFFENSES PER DISTRICT

17. 120% OF AVERAGE NUMBER OF OFFENSES

18. TOTAL NUMBER OF OFFENSES IN REPORTING DISTRICT

19. IS THE PREMISES LOCATED IN A HIGH CRIME REPORTING DISTRICT? (i.e., has a 20% greater number of reported crimes than the average number of reported crimes as determined from all crime reporting districts within the jurisdiction of the local law enforcement agency)

- Yes, the total number of offenses in the reporting district equals or exceeds the total number in item #17
- No, the total number of offenses in the reporting district is lower than the total number in item #17

20. CHECK THE BOX THAT APPLIES (check only one box)

- a. If "No" is checked in both item #11 and item #19, Section 23958.4 B&P does not apply to this application, and no additional information will be needed on this issue. Advise the applicant to bring this completed form to ABC when filing the application.
- b. If "Yes" is checked in either item #11 or item #19, and the applicant is applying for a non-retail license, a retail bona fide public eating place license, a retail license issued for a hotel, motel or other lodging establishment as defined in Section 25503.16(b) B&P, or a retail license issued in conjunction with a beer manufacturer's license, or winegrower's license, advise the applicant to complete Section 2 and bring the completed form to ABC when filing the application or as soon as possible thereafter.
- c. If "Yes" is checked in either item #11 or item #19, and the applicant is applying for an off-sale beer and wine license, an off-sale general license, an on-sale beer and wine (public premises) license, or an on-sale general (public premises) license, advise the applicant to take this form to the local governing body, or its designated subordinate officer or body to have them complete Section 3. The completed form will need to be provided to ABC in order to process the application.

Local Governing Body/Designated Subordinate Name:

PREPARED BY (Name of Department Employee)

Eda Copeland

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PART 2 - TO BE COMPLETED BY THE APPLICANT (If box #20b is checked)

21. Based on the information on the reverse, the Department may approve your application if you can show that public convenience or necessity would be served by the issuance of the license. Please describe below the reasons why issuance of another license is justified in this area. You may attach a separate sheet or additional documentation, if desired. Do not proceed to Part 3.

SEE ATTACHED STATEMENT OF JUSTIFICATION

22. APPLICANT SIGNATURE

23. DATE SIGNED

Deborah Rosey

2/16/2011

PART 3 - TO BE COMPLETED BY LOCAL OFFICIALS (If box #20c is checked)

The applicant named on the reverse is applying for a license to sell alcoholic beverages at a premises where undue concentration exists (i.e., an over-concentration of licenses and/or a higher than average crime rate as defined in Section 23958.4 of the Business and Professions Code). Sections 23958 and 23958.4 of the Business and Professions Code requires the Department to deny the application unless the local governing body of the area in which the applicant premises are located, or its designated subordinate officer or body, determines within 90 days of notification of a completed application that public convenience or necessity would be served by the issuance. Please complete items #24 to #30 below and certify or affix an official seal, or attach a copy of the Council or Board resolution or a signed letter on official letterhead stating whether or not the issuance of the applied for license would serve as a public convenience or necessity.

24. WILL PUBLIC CONVENIENCE OR NECESSITY BE SERVED BY ISSUANCE OF THIS ALCOHOLIC BEVERAGE LICENSE?

Yes

No

See Attached (i.e., letter, resolution, etc.)

25. ADDITIONAL COMMENTS, IF DESIRED (may include reasons for approval or denial of public convenience or necessity):

26. CITY/COUNTY OFFICIAL NAME

27. CITY/COUNTY OFFICIAL TITLE

28. CITY/COUNTY OFFICIAL PHONE NUMBER

29. CITY/COUNTY OFFICIAL SIGNATURE

30. DATE SIGNED

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Law Offices

JAMES B. LINDSTEDT

jlindstedtlaw@sti.net

Post Office Box 867
Mariposa, California 95338

209 966 3661
cell 209 742 3178

February 17, 2011

Mariposa County Planning Department
5100 Bullion Street
P. O. Box 2039
Mariposa, California 95338

Re: Application to ABC for Beer & Wine License to Sugar Pine Café

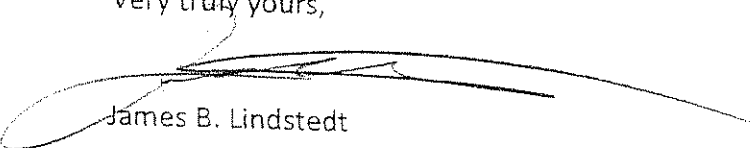
Attn: Eileen Collins, Planning Technician

Dear Mrs. Collins;

It would be greatly appreciated if this request which must be approved by the board could be expedited as much as possible. I enclose a signed ABC form 245, along with the Statement of Justification.

Please let me know the date of the hearing.

Very truly yours,


James B. Lindstedt

enc:

RECEIVED

FEB 22 2011

Mariposa County Planning Dept.

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STATEMENT OF JUSTIFICATION

Project Name SUGAR PINE CAFÉ

Project Address 5038 HIGHWAY 140, MARIPOSA, CALIFORNIA

The property located at 5038 Highway 140 in Mariposa has long been a successful eating establishment in this town. Since the 1950's it has been known as Del's, Jeannie Harris The Sugar Pine, Sal's, and now The Sugar Pine Café. Always at the same location, it has been a place where folks could get a good meal at a reasonable price in comfortable surroundings.

The Sugar Pine Restaurant is requesting a determination of Public Convenience or Necessity By the County Board of Supervisors in order to allow the addition of beer and wine to the menu. The hours of operation are from 7:00 am to 8:30 pm. five days a week, and from 7:00 am. to 3:00 pm on Sunday as the business is closed on Mondays.

This request comes directly from the State Alcohol Beverage Control Board pursuant to the Requirements of Business and Professions Code Section 23958.4. As you all know the ABC requires a letter of "Public Necessity & Convenience" from the governing body if the applicant intends to sell beer and wine in Mariposa County. Therefore the Board of Supervisors must approve this application by the restaurant owner, to add beer and wine to it's menu.

The overall reasoning by the government of California is to prevent 3 things from happening,

- 1) An undesirable concentration of licenses in a small area,
- 2) a license in a high crime area, and
- 3) the approval of which would adversely affect the general welfare of the surrounding property owners.

None of these things are present in downtown Mariposa. nor would be with this approval.

The use is wholly proper in relation to the adjacent commercial uses, to wit, all the other restaurants have beer and wine on the menu. The use is consistent and compatible with the community and only seeks to provide the same level of restaurant services as are found in any other area the size and makeup of Mariposa, California.

The requested use at this location will not be materially detrimental to the use, enjoyment or valuation of the property of other businesses located in the vicinity. The addition of this kind of item on the menu is consistent with the commercial intent of the zoning, and will not hinder the achievement or community developmental goals, nor will it affect the character of the neighborhood.

1. The proposed beer and wine addition to the menu of the Sugar Pine Café will not adversely affect the general welfare of the surrounding property owners.
2. The proposed license will not result in an undesirable concentration of like outlets because the others are already present.
3. The proposed location will not detrimentally affect the surrounding area in consideration to the proximity and nature of the proposed use with respect to almost no residential structures, no schools, no hospitals, playgrounds, or other places of assembly which would attract an undesirable element.
4. The Sugar Pine Café has always and will always comply with all Standards imposed by the Alcohol Beverage Control Board, Mariposa County Sheriff's Dept, Planning Commissions and any other local departments.



MARIPOSA PLANNING

COUNTY OF MARIPOSA

5100 BULLION STREET • POST OFFICE BOX 2039

MARIPOSA, CALIFORNIA 95338-2039

209 . 966 . 5151 • FAX 209 . 742 . 5024

Kris Schenk, Director

kschenk@mariposacounty.org

Eileen Collins, Planning Technician

ecollins@mariposacounty.org

March 15, 2011

Department of Alcohol Beverage Control
31 East Channel Street, Room 168
Stockton, CA 95202

RE: Applicant: Susan Ann Posy

At their March 15, 2011 meeting, the Mariposa County Board of Supervisors approved the issuance of this "Letter of Public Convenience and Necessity" for the addition of one (1) Type 41 On-Sale Beer and Wine License in Census Tract 06-043-010-001 to the following location:

Applicant: Susan Ann Posey
Business: Sugar Pine Café LLC
Site: 5038 Highway 140
License: Type 41 On-Sale Beer and Wine License

It was determined that the ability to offer On-Sale Beer and Wine will provide the same level of restaurant services as are found in any other areas the size and makeup of Mariposa.

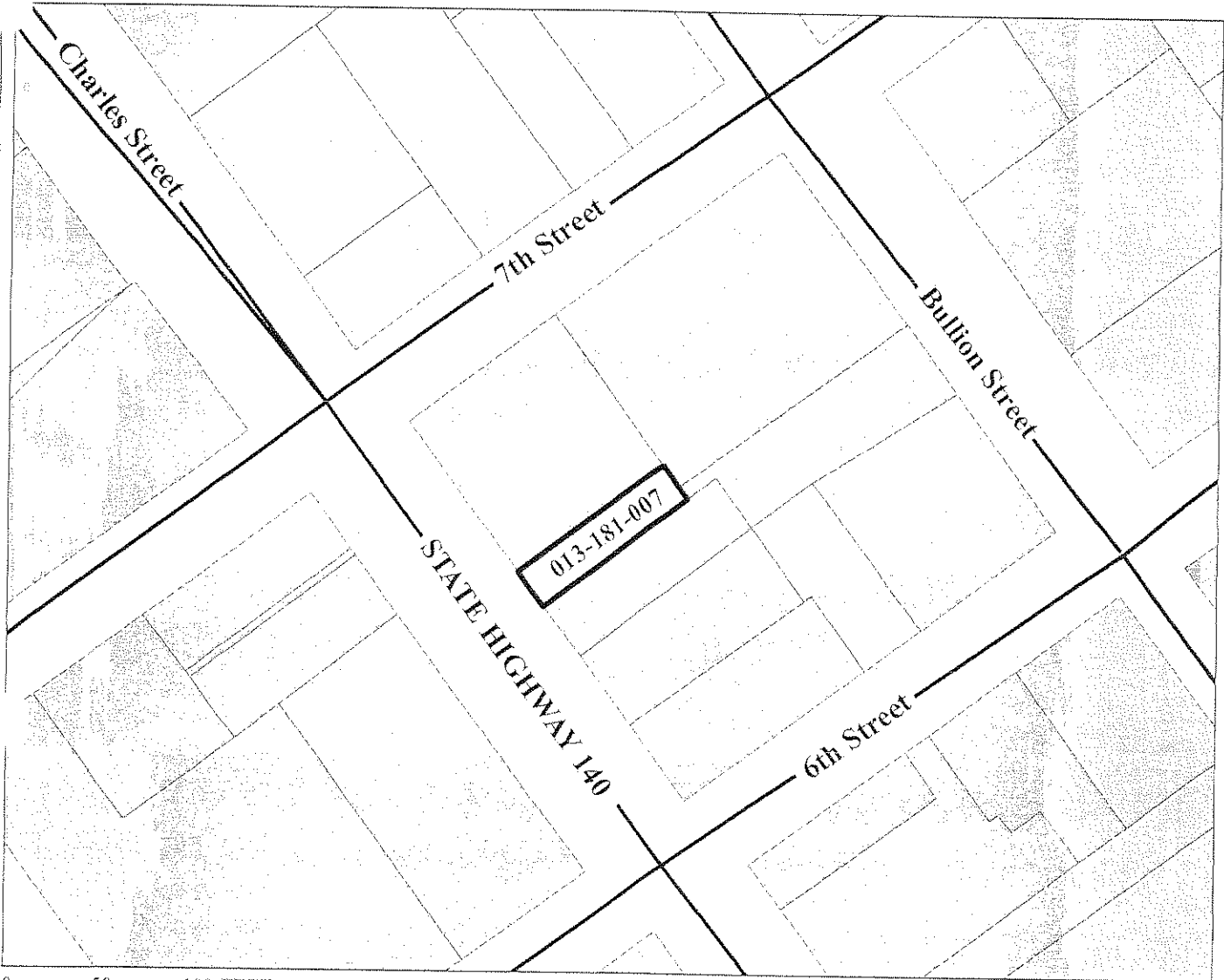
Sincerely,

Kris Schenk, Planning Director
County of Mariposa, Planning Department

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Our Mission is to provide our clients with professional service and accurate information in a respectful, courteous, and enthusiastic manner resulting in a well-planned rural environment.

PROJECT VICINITY MAP



0 50 100 FEET

PROJECT TYPE: ABC Request No. 2011-42

APPLICANT: Sugar Pine Café; Susan Ann Posey

APN: 013-181-007

SITE ADDRESS: 5038 State Highway 140

Mariposa, CA 95338

MAP CREATED ON: FEBRUARY 24, 2011

DATA SOURCE: PARCEL MAP FROM MARIPOSA COUNTY ASSESSOR'S MAP;
DECEMBER 2010 UPDATE

MAP CREATED BY: EE MERIAM, GIS TECHNICIAN

MARIPOSA COUNTY PLANNING DEPARTMENT
PO BOX 2039 5100 BULLION STREET
MARIPOSA, CALIFORNIA 95338-2039
209.966.5151 FAX 209.742.5024
MARIPOSA@PLANNING.MARIPOSA.COUNTY.CA.GOV
[HTTP://WWW.MARIPOSA.COUNTY.ORG/PLANNING](http://www.mariposacounty.org/planning)



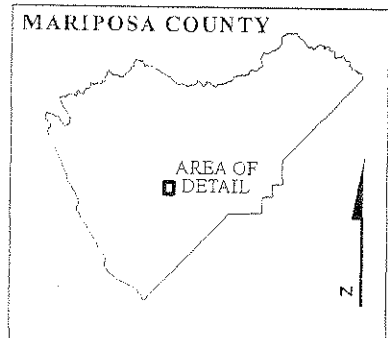
PROJECT LOCATION



ASSESSOR PARCEL MAP



ROADS



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MARIPOSA COUNTY MAKES NO WARRANTY REGARDING THE ACCURACY OF THE GIS OR THE ANALYSIS AND CONCLUSIONS RESULTING FROM USING OUR GIS DATA.

END