

RESOLUTION NO.

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
CAPITOLA DENYING AN APPEAL OF THE CITY
MANAGER’S DECISION TO DENY AN APPLICATION FOR A
2023 REGULAR ENTERTAINMENT PERMIT FOR
CAPITOLA BAR AND GRILL**

WHEREAS, on December 12, 2022, applicants Michelle and Lasalle Strong applied for a 2023 General Entertainment Permit pursuant to Capitola Municipal Code Section 5.24.020; and

WHEREAS, Capitola Municipal Code Section 5.24.080 authorizes the City Manager to develop application forms for entertainment permits that are pertinent to Chapter 5.24; and

WHEREAS, Capitola Municipal Code Section 5.24.040D authorizes the City Manager to condition the permit to assure non-disturbance; and

WHEREAS, the application form for entertainment permits includes a requirement for the property owner’s signature; and

WHEREAS, Capitola Municipal Code Section 5.24.005A states that, in adopting the Chapter, the City Council found that “[e]ntertainment often produces noise which is obtrusive to persons not patronizing the business or activity which produces the noise.”; and

WHEREAS, because property owners often have more than one tenant in a building, ensuring the property owner is supportive of the permit request helps protect the property owner’s other tenants in the same building from noise or other nuisance issues; and

WHEREAS, any complaints about noise from a tenant could affect the property owner in multiple ways, including impacting the property owner’s ability to lease the premises (or nearby properties) in the future or exposing the property owner to complaints about the noise; and

WHEREAS, requiring the property owner’s signature helps ensure the City is not authorizing entertainment on the property when such uses are not authorized in the lease between the tenant and property owner; and

WHEREAS, the December 12, 2022 application submitted by appellants did not include the landlord’s signature; and

WHEREAS, because the application did not include the required signature, the City Manager denied the application; and

WHEREAS, on February 21, 2023 the Applicant submitted a timely appeal (“Appeal”) of the City Manager’s denial; and

WHEREAS, the City Council of the City of Capitola held a duly noticed public hearing on April 13, 2023, at which time it considered the Appeal, including all oral and documentary evidence presented.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Capitola as follows:

- A. The above recitals are true and correct and material to this Resolution.
- B. The City Council affirms the authority of the City Manager to develop an application form for an entertainment permit, and finds that the application form used here was appropriate and consistent with Capitola Municipal Code Chapter 5.24.
- C. The City Council upholds the decision of the City Manager to deny the application, and denies the Appeal.
- D. The City Council’s action to deny this Appeal is not subject to the California Environmental Quality Act (CEQA) because it is an administrative activity and thus not a “project” as defined by CEQA. Even if the action were considered a project under CEQA, CEQA does not apply to projects which a public agency rejects or approves (CEQA Guidelines Section 15270.)

ADOPTED by the City Council of the City of Capitola, California, at a regular meeting thereof this 13th day of April, 2023 by the following vote:

AYES:
NAYS:
ABSTAIN:
ABSENT:

MAYOR

ATTEST:

CLERK