

Community Development

## Memo

**To:** Chair Vasquez and Planning Commissioners  
**From:** Anna Pehoushek, Assistant Community Development Director *ACP*  
**Date:** November 1, 2024  
**Re:** Revised Resolution No. PC 10-24 for CUP-3217, Orange Wine, 1095 N Glassell Street

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Staff is distributing a revised draft Resolution No. PC 10-24 for Orange Wine at 1095 N Glassell Street, Attachment A.

A list of the conditions of approval omitted from the draft resolution are attached as Attachment B. The removal of conditions is merited because they are not applicable to Off-Sale alcohol permits. The applicant requested staff omit these conditions and staff has no issues with the request.

Attachment C is included in this hot file memo to correct an error on the Orange Police Department Crime Statistics memo, included as attachment 6 to the staff report. The memo incorrectly states the project site is in a high crime area. RD-65W is not considered a high crime area because reported crimes are less than 20% above the average of reported crimes citywide.

Attachment A – Revised Draft Resolution No. PC-10-24

Attachment B – Omitted Conditions

Attachment C – Corrected Orange Police Department Crime Statistics Memo

cc: Mike Vigliotta, City Attorney

**Attachment A – Revised Draft Resolution No. PC-10-24**

**CONDITIONAL USE PERMIT NO. 3217**

**RESOLUTION NO. PC 10-24**

**A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF ORANGE APPROVING CONDITIONAL USE PERMIT NO. 3217, ALLOWING THE SALES OF A FULL RANGE OF ALCOHOLIC BEVERAGES FOR OFF-SITE CONSUMPTION IN CONJUNCTION WITH A NEW STATE OF CALIFORNIA DEPARTMENT OF ALCOHOLIC BEVERAGE CONTROL TYPE 21 LICENSE (OFF-SALE GENERAL) AT AN EXISTING CONVENIENCE STORE LOCATED AT 1095 N GLASSELL STREET**

**APPLICANT: ORANGE WINE INC. (Mark Alballatc)**

**WHEREAS**, the Planning Commission has authority pursuant to Orange Municipal Code (OMC) Table 17.08.020 and Sections 17.10.030.C and 17.30.030 to take action on Conditional Use Permit No. 3217, allowing a full range of alcoholic beverage sales for off-site consumption in conjunction with a new State of California Department of Alcoholic Beverage Control (ABC) Type 21 License (Off-Sale General) at an existing convenience store, located at 1095 N. Glassell Street, upon property described in Exhibit A attached and incorporated herein by this reference (Project); and

**WHEREAS**, the application for Conditional Use Permit No. 3217 was filed by the applicant in accordance with the provisions of the OMC; and

**WHEREAS**, the application for Conditional Use Permit No. 3217 was processed in the time and manner prescribed by State and local law; and

**WHEREAS**, Conditional Use Permit No. 3217 is Categorically Exempt from the provisions of the California Environmental Quality Act (CEQA) per State CEQA Guidelines Section 15301 (Class 1 – Existing Facilities), because the project consists of licensing the sale of a full range of alcoholic beverages for off-site consumption at an existing convenience store, and results in no expansion of use beyond that existing at the time of the City's determination; and

**WHEREAS**, the Planning Commission conducted a duly advertised public hearing on November 4, 2024, at which time interested persons had an opportunity to testify either in support of, or opposition to, the proposed Conditional Use Permit No. 3217.

**NOW, THEREFORE, BE IT RESOLVED** that the Planning Commission of the City of Orange hereby approves Conditional Use Permit No. 3217 allowing for the sale of a full range of alcoholic beverages in conjunction with a new State of California Department of Alcoholic Beverage Control (ABC) Type 21 License (Off-Sale General) at an existing convenience store, located at 1095 N. Glassell Street, based on the following findings:

**SECTION 1 – FINDINGS**

*General Plan Finding:*

- 1. The project must be consistent with the goals and policies stated within the City's General Plan.*

The Project is consistent with the goals and policies stated in the City's General Plan Land Use and Economic Development Elements in that a full range of alcohol sales for off-site consumption promote commercial enterprise, support a revenue-generating business, and encourages a successful commercial district. Permitting the existing convenience store to sell a full range of alcoholic beverages for off-site consumption allows the establishment to be competitive with other convenience stores in the area that are already permitted to sell alcoholic beverages. Authorizing the sale of a full range of alcoholic beverages for an existing convenience store may help to retain the convenience store, thereby maintaining economic activity and demonstrating economic vitality in the area. The Orange Police Department's ("OPD") review of the license and recommended conditions of approval support the General Plan Public Safety Element Goals that require the City to maintain an adequately manned and equipped police force, and maintain crime prevention programs designed to protect residents and property from crime.

*Conditional Use Permit Findings:*

- 1. A Conditional Use Permit shall be granted upon sound principles of land use and in response to services required by the community.*

The granting of this Conditional Use Permit is based upon sound principles of land use and in response to services required by the community. Consideration has been given as to whether the proposed use will detrimentally affect adjacent land uses. The proposed request provides an opportunity to those customers desiring to purchase alcoholic beverages other than, or in addition to, beer and wine at a convenience store. The subject property's land use is adjacent to similar uses along N. Glassell Street. The sale of a full range of alcohol beverages is accessory to the existing convenience store use and will only occur during normal business operating hours. This is a service typically expected by the public in association with a convenience store.

Strong consideration was given to the manner in which the business will operate under the provisions of this Conditional Use Permit (CUP). As conditioned, its operation is not expected to create a nuisance to the community or a burden on police services. Consideration was given to the over-concentration of off-sale licenses within the Census Tract and the crime rate in the Reporting District and the adjacent Reporting District. Conditions of approval have been placed on the project to compensate for potential detrimental effects that could be caused by alcohol consumption. As conditioned, the sale of a full range of alcoholic beverages should not contribute to the crime rate in the Reporting District.

- 2. A Conditional Use Permit shall not be granted if it will cause deterioration of bordering land uses or create special problems for the area in which it is located.*

The request to sell a full range of alcoholic beverages at an existing convenience store will not cause deterioration of the bordering land uses or create special problems for the area in that the site is located in a neighborhood oriented commercial node in proximity to a major commercial corridor intended for retail, service, and commercial uses, and there are other similar land uses in the vicinity. In addition to this, the existing convenience store has operated in the same location, with the sale of beer and wine for off-site consumption for the last 25 years without any deterioration of bordering land uses or creating any special problems. While there are sensitive land uses within 600 feet of the site, these properties do not have direct access to the subject property and the sale of a full range of alcoholic beverages for off-site consumption would be accessory to the primary function of the convenience store. Specific project features combined with project conditions compensate for detrimental effects that could be caused by the sale of a full range of alcoholic beverages for off-site consumption and an over-concentration of alcohol licenses within Census Tract. The conditions of approval include limits to the size and quantity of alcohol that can be sold at the premises, limit floor area dedicated to alcohol sales, limit promotions of alcoholic beverages, prohibit certain methods of distributing alcoholic beverages, address graffiti and litter removal, and limit the gross sales of alcohol to non-alcohol sales.

3. *A Conditional Use Permit must be considered in relationship to its effect on the community or neighborhood plan for the area in which it is located.*

The location of the convenience store is at the intersection of N. Glassell Street and E. Quincy Avenue. N. Glassell Street is a neighborhood commercial node where shopping and dining establishments are expected to be concentrated. The proposed sale of a full range of alcoholic beverages for off-site consumption as an accessory use will support the success of the convenience store and the continuation of a convenient neighborhood business. The use is not anticipated to have an adverse impact on neighboring land uses and the community, because approval of this CUP request will not result in the increase of ABC licenses that allow the sale of alcohol for off-site consumption because the applicant will have to surrender their existing ABC Type 20 License prior to issuance of the new Type 21 license. Granting an upgraded off-sale license with appropriate conditions will not affect sensitive land uses in the immediate area. In addition, the operation of alcohol sales is subject to the regulations contained in the conditions of approval, which are crafted to mitigate potential negative effects that could occur as a result of the approval of this CUP.

4. *A Conditional Use Permit, if granted, shall be made subject to those conditions necessary to preserve the general welfare, not the individual welfare of any particular applicant.*

The conditions for the CUP are put forth with the purpose of preserving the general welfare of the community. The OPD conditions include a review of the convenience store operation and police records for excessive calls one year after the beginning of the sale of alcoholic beverages. If the Police Department finds that the convenience store is not operating as required, or if there is a history of criminal or nuisance behavior, the

Department will recommend that the Planning Commission reconsider this application. Other conditions have been placed on the project to reduce crime-inducing activities by limiting the size and quantity of alcohol that can be sold at the premises, limiting floor area dedicated to alcohol sales, limiting promotions of alcoholic beverages, prohibiting certain methods of distributing alcoholic beverages, addressing graffiti and litter removal, and limiting the gross sales of alcohol to non-alcohol sales.

## **SECTION 2 – ENVIRONMENTAL REVIEW**

The proposed project is categorically exempt from the provisions of the California Environmental Quality Act (CEQA) per State CEQA Guidelines 15301 (Class 1 – Existing Facilities) because the project consists of licensing the sale of a full range of alcoholic beverages for off-site consumption at an existing convenience store, and results in no expansion of use beyond that existing at the time of the City's determination.

## **SECTION 3 – APPROVAL AND CONDITIONS OF APPROVAL**

**BE IT FURTHER RESOLVED** that the Planning Commission hereby approves Conditional Use Permit No. 3217, with the following conditions:

### *General Conditions:*

1. Any future change in the nature and operation of the use approved by Conditional Use Permit (CUP) No. 3217 shall require an application for a new or amended CUP. If the Community Development Director determines that the proposed change complies with the provisions and the spirit and intent of the approval, and that the action would have been the same for the changed plan as for the approved plan, the Community Development Director may approve the change administratively.
2. The applicant agrees, as a condition of City's approval of CUP No. 3217, to indemnify, defend, and hold harmless, at applicant's expense, the City, its officers, agents, and employees (City) from and against any claim, action, or proceeding brought against the City, including, but not limited to, any claim, action or proceeding commenced within the time period provided in Government Code Section 66499.37 to attack, review, set aside, void or annul the City's approval, to challenge the determination made by the City under the California Environmental Quality Act (CEQA) or to challenge the reasonableness, legality or validity of any condition attached hereto. City shall promptly notify applicant of any such claim, action or proceeding to which the City receives notice and to cooperate fully with the applicant in the defense thereof. Applicant shall reimburse the City for any and all costs and expenses, including, but not limited to, court costs and attorney's fees that the City may be required to pay, including any expenses ordered by a court or expenses incurred through the Office of the City Attorney in connection with said claim, action or proceeding. City may, in its sole discretion, participate in the defense of any claim, action or proceeding but such participation shall not relieve applicant of the obligations of this condition. In the event the applicant is

required to defend City in connection with such claim, action or proceeding, City shall have the right to approve counsel to so defend the City, approve all significant decisions concerning the manner in which the defense is conducted and approve any all settlements, which approval(s) shall not be unreasonably withheld. The obligations set forth herein remain in full force and effect throughout all stages of litigation including any and all appeals of any lower court judgment rendered in the proceeding. Further, applicant agrees to indemnify, defend and hold harmless the City for all costs and expenses incurred in enforcing this provision.

3. This CUP shall be reviewed one year from the date of approval and may be reviewed each year thereafter. The review shall be conducted jointly by the Community Development Director and Police Chief or designee. The purpose of this review shall be to identify uniquely adverse issues such as curfew, loitering, vandalism, criminal activity, noise, or nuisance resulting from approval of the CUP. If such issues are identified, the CUP shall be presented to the Planning Commission for their consideration of conditions, modifications or revocation.
4. The applicant shall comply with all federal, state, and local municipal laws, including local City ordinances and regulations. Any violations of these laws in conjunction with this use may be a cause for revocation of this permit.
5. Prior to the operation of the business, the applicant shall file for, or if applicable, amend a business license with the Business License Division. Failure to obtain the required business license will be cause for revocation of this approval.
6. In conjunction with the ongoing operation of the business, the premises shall comply with all requirements placed upon it by the State of California Department of Alcoholic Beverage Control ("ABC") Board.
7. The business is requesting to operate Sunday through Saturday, from 7:00 a.m. to 10:00 p.m. These hours do not restrict employees from being on the premises before opening for preparations and deliveries or after close for clean-up. Clean-up may not be conducted by patrons.
8. The activity level of the business shall be monitored by the Orange Police Department to establish the level of police services used for the business. Should the level of police services demonstrate that the permittee has not controlled excessive or unnecessary activity resulting in high use of police services, then this CUP shall be reviewed for consideration of additional conditions, modifications, or revocation.
9. The use of the business is considered a convenience store. Interior construction shall remain consistent with the plans submitted for review by the Planning Commission. No changes to the floor plan will occur unless a revised floor plan is approved by the Community Development Department. None of

the floor area will be designated for dancing or live entertainment unless a subsequent CUP is approved by the Planning Commission.

10. The subject ABC license shall not be exchanged for a public premises type license nor operated as a public premise.
11. No alcoholic beverages shall be consumed on any property adjacent to the licensed premises under the control of the permittee.
12. Employees and/or contract security personnel shall not consume any alcoholic beverages prior to or during their work shift. Any and all security officers provided shall comply with all state and local ordinances regulating their services, including, without limitation, Chapter 11.5 of Division 3 of the California Business and Profession Code.
13. No alcoholic beverages shall be sold from any temporary locations on the premises such as ice tubs, barrels, or any other such containers.
14. The sale of beer or malt beverages in quantities of quarts, 22 ounces, 32 ounces, 40 ounces, or similar size containers is prohibited. Beer, malt beverages, and wine coolers in containers of 16 ounces or less cannot be sold by single containers but must be sold in manufacturer pre-packaged multi-unit quantities.
15. The sale of beer and wine for off-site consumption shall be incidental to the operation of the store. No more than 15% of the gross floor area shall be dedicated to the sale and/or display of alcoholic beverages.
16. No wine coolers shall be sold in less than a four-pack quantity.
17. No wine shall be sold with an alcoholic content greater than 15% by volume.
18. No sale of alcoholic beverage shall be made from a drive-up window.
19. There shall be no special promotional events held on the property, unless a written request for such is received and approved by the Community Development Director and the Police Department's Special Investigation Unit at least one week in advance of the event.

*Coin Operated Machines:*

20. There shall be no coin-operated games maintained on the premises at any time.
21. All coin change machines, or dollar bill change machines, that accept and retain U.S. currency shall meet the following:



- A. The machine is to be designed and constructed to be resistant to unauthorized forced entry attempts from any accessible side of the machine.
  - B. The machine is to be installed and secured to prevent its removal from the point of installation within the business.
22. The parking lot of the premises shall be equipped with lighting of sufficient power to illuminate and make easily discernible the appearance and conduct of all persons on or about the parking lot.
23. Lighting in the parking area of the premises shall be directed, positioned, and shielded in such a manner so as not to unreasonably illuminate the window area of nearby residences.
24. The permittee shall install and maintain a closed-circuit television system capable of readily identifying facial features, and stature of all patrons entering the establishment during hours of operation and monitoring the rear of the premises. The camera system shall keep a minimum 30-day library of events, which shall be available for downloading and inspection by Orange Police Department.
25. Any music of amplified sound from the interior of the business shall not be audible beyond the premises, in such a manner as to disturb the peace, quiet, and comfort of neighboring occupants, or any reasonable person residing or working in the area.
26. The permittee shall be responsible for maintaining free of litter the area adjacent to the premises over which they have control.
27. There shall be no exterior advertising for alcoholic beverages of any kind or type. This includes advertising directly to the exterior from within, promoting or indicating the availability of alcoholic beverages. Interior displays of alcoholic beverages that are clearly visible to the exterior shall constitute a violation of this condition.
28. Exterior doors and windows, as well as the interior of the business, shall be protected by an approved alarm system, which shall detect an attempted entry or presence of people within the business during closing hours.
29. The premises shall be provided with an interior night light to illuminate the interior and an unobstructed view shall be maintained through storefront windows to provide police patrol officers the ability to observe unlawful activity within the business.
30. The permittee shall maintain on the premises a written security policy and procedures manual addressing at a minimum the following items: handling

obviously intoxicated persons; establishing a reasonable ratio of employees to patrons, based upon activity level, in order to monitor alcoholic beverage sales and patron behavior; handling patrons involved in fighting or arguing; handling loitering about the building and in the immediate adjacent area that is owned, leased, rented, or used under agreement by the permittee(s); verifying age/checking identification of patrons; warning patrons of reaching their drinking limit/potential intoxication and refusing to serve; calling the police regarding observed or reported criminal activity.

31. All employees of the permittee who sell alcoholic beverage products shall be required to complete a training program in alcoholic beverage compliance, crime prevention techniques, and the handling of violence. For new employees, such training program must be completed within 30 days of the date of hire. The permittee shall maintain an active list of the employees who have completed the training. The list shall be furnished, upon request, to any sworn police officer or member of the Community Development Department. The employees must provide the Orange Police Department a copy of the completed Alcohol Management Program certificate.
32. Graffiti shall be removed from the exterior walls, doors, windows, and any additional part of the property (including signage, etc.) within 72 hours of the time the City of Orange Notice of Violation is received by the business operator.

**ADOPTED** this 4<sup>th</sup> day of November 2024.

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David Vazquez  
Planning Commission Chair

I hereby certify that the foregoing Resolution was adopted by the Planning Commission of the City of Orange at a regular meeting thereof held on the 4<sup>th</sup> day of November 2024, by the following vote:

AYES:  
NOES:  
ABSENT:

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Anna Pehoushek, FAICP  
Assistant Community Development Director

**Attachment B – Omitted Conditions**

4. The quarterly gross sales of alcoholic beverages shall not exceed the gross sales of merchant items that include food within the convenience store during the same time period. The licensee shall at all times maintain records which reflect separately the gross sales of food and the gross sales of alcoholic beverages of the licensed business. Said records shall be kept no less frequently than on a quarterly basis and shall be made available upon request.
11. No person in the establishment shall appear in such a manner that the genitals, public hair, pubic hair region, buttocks, anus, natal cleft, anal region, nipple or areola is exposed to public view or is not covered by an opaque covering.
14. At no time shall there be a fee for entrance/admittance into the premises.
16. Alcoholic beverages shall be sold in containers which are distinguishable from other non-alcoholic beverages sold at the premises.
17. There shall be no bar or lounge area upon the licensed premises maintained for the purpose of the sale, service, or consumption of alcoholic beverages directly to patrons for consumption.
18. There shall be no promotions encouraging intoxication or drinking contests.
19. There shall be no requirement to purchase a minimum number of drinks.
26. The petitioner shall not employ or permit any persons to solicit or encourage others, directly or indirectly, to buy them drinks in the licensed premises under any commission percentage salary or other profit.
27. No portion of the premises shall be deemed to be "private" for the purposes of dispensing alcoholic beverages to selected patrons, where the permittee recognizes any form of membership cards, keys, or passes which would entitle the holder entry or preferential admittance or exclusive use of any portion of the mentioned premises.
30. The business may utilize a token coin system to reduce the likelihood of theft and burglaries for U.S. currency in coin operated machines. Should the token system be implemented, the requirements for a burglary alarm system may be waived.

**Attachment C – Corrected attached Orange Police  
Department Crime Statistics**






# ORANGE POLICE DEPARTMENT

INVESTIGATIVE SERVICES DIVISION

## MEMORANDUM

CUP: 3134-21

**To:** Thomas C. Kisela, Chief of Police  
**Attn:** Eric Rosauer, Captain   
Jennifer Amat, Lieutenant  
Robert McCafferty, Sergeant   
**From:** Tanner McLeod, Investigator   
**Date:** March 25, 2021  
**Type:** "21" Off-Sale General  
**Location:** Orange Wine, Inc. 1095 N Glassell St, Orange 92867

Figures supplied by the State Department of Alcohol Beverage Control (ABC) for the location in Census Tract #: 762.05 show:

The number of **ON-SALE** licenses allowed are: **8**

The number of **ON-SALE** licenses existing are: **10**

The number of **OFF-SALE** licenses allowed are: **4**

The number of **OFF-SALE** licenses existing are: **7**

The average number of reported crimes per district is 74 (crime stats from 2020). This location is in RD 65w. Current figures show crimes at 66. This is 11 % below the average of reported crime.

- **OFF-SALE IS OVER-CONCENTRATED**
- **ON-SALE IS OVER-CONCENTRATED**
- **LOW CRIME AREA**

**Business & Professions Code 23958.4 (a) defines over-concentrated and high-crime area; a high-crime area is defined as 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.**

Location checked in in-house: **Yes** (Attached) / Assistant Planner: Vidal Marquez

### Communication Log:

**Orange Wine – 1095 N Glassell, Orange, CA 92867**  
**"21" Off-Sale General**  
**CUP: 3217-24**

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Prepared by: Chris Lugo, Sergeant

Date: October 9, 2024

I received the above referenced CUP application for an ABC license. My investigation showed the following statistics:

Figures supplied by the State Department of Alcohol Beverage Control (ABC) for the location in Census Tract #: 760.05 shows:

The number of **ON-SALE** licenses allowed are: **8**

The number of **ON-SALE** licenses existing are: **10**

The number of **OFF-SALE** licenses allowed are: **4**

The number of **OFF-SALE** licenses existing are: **7**

This location is in RD 65w. The actual number of reported crimes/arrests are as follows:

2021 - **82**. the average reported crimes are 71 – this is 15% below the average.

2023 - **63**. the average reported crimes are 85 - this is 26% below the average.

2024 - Year to date crime/arrests is **46**.

- **ON-SALE IS OVER CONCENTRATED**
- **OFF-SALE IS OVER CONCENTRATED**
- **IS NOT A HIGH CRIME AREA**

**ABC code 23958.4 (a) defines over concentrated and high crime area; a high crime area is defined as a 20% greater number of reported crimes, than the average number of reported**