

CONDITIONAL USE PERMIT NO. 3217-24

RESOLUTION NO. PC 10-24

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF ORANGE DENYING CONDITIONAL USE PERMIT NO. 3217-24, A REQUEST TO ALLOW THE SALES OF A FULL RANGE OF ALCOHOLIC BEVERAGES FOR OFF-SITE CONSUMPTION IN CONJUNCTION WITH A NEW 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. 3217-24, 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. 3217-24 was filed by the applicant in accordance with the provisions of the OMC; and

WHEREAS, the application for Conditional Use Permit No. 3217-24 was processed in the time and manner prescribed by State and local law; and

WHEREAS, the Planning Commission previously approved Conditional Use Permit No. 2263-98, in conjunction with an ABC Type 20 License, in 1998; and

WHEREAS, Conditional Use Permit No. 3217-24 is Statutorily Exempt from the provisions of the California Environmental Quality Act (CEQA) per State CEQA Guidelines Section 15270(a), because CEQA does not apply to projects which are disapproved; and

WHEREAS, the Planning Commission conducted a duly advertised public hearing on April 15, 2024, at which time interested persons had an opportunity to testify either in support of, or opposition to, the proposed Conditional Use Permit No. 3217-24.

NOW, THEREFORE, BE IT RESOLVED that the Planning Commission of the City of Orange hereby denies Conditional Use Permit No. 3217-24, a request to allow 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.*

A project that is not consistent with the goals and policies stated within the City’s General Plan cannot be approved. Crime prevention goals and policies stated within the Public Safety Element of the City of Orange General Plan strive to improve community safety and reduce opportunities for criminal activity in the City.

The census tract is over concentrated with On-Sale licenses and Off-Sale licenses and the Orange Wine store is located across the street from Reporting District 35e, which is the ninth highest ranked crime district in the City of Orange. The Orange Wine store is across the street from multiple-family residential properties within the “Hoover-Wilson Territory” gang injunction safety zone.

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.*

Granting the Type 21 (Off-Sale General) license to allow the sale of beer, wine, and distilled spirits for off-site consumption within the existing convenience store would not be based upon sound principles of land use or in response to services required by the community. The applicant is requesting a Type 21 license in a census tract that is over concentrated with On-Sale licenses and has exceeded the maximum number of allowed Off-Sale licenses. Census Tract No. 762.05 has 17 existing On-Sale licenses with 7 allowed and 11 existing Off-Sale licenses with 3 allowed. In addition, the business is located adjacent to the ninth highest crime district within the City of Orange. The adjacent Reporting District 35e crime and arrests data show 174 crimes and arrests reported in 2023, which is 105% above the average of reported crime, which put the census tract in the category of a high crime area.

The multiple-family residential properties northwest of the project site are within the “Hoover-Wilson Territory” safety zone gang injunction. This is west of Glassell Street and in another reporting district, 35e. The applicant’s request to sell distilled spirits in addition to beer and wine would create an undue burden on public safety resources and have an adverse impact on the surrounding community. A Type 21 (Off-Sale General) license may contribute to a potential increase in alcohol-related crimes within the surrounding commercial and residential neighborhoods.

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 ABC Board investigation requires applicants to identify sensitive land uses within 600 feet of the site. Based upon this criterion, there are several residential properties that are

located within 600 feet of the subject property. The location is not within a commercial center, an entertainment hub, or an area where natural surveillance is enhanced by neighboring uses. A Type 21 (Off-Sale General) license may contribute to an increase in alcohol related crimes such as: driving under the influence, drinking in public, burglaries, robberies, disorderly conduct, utilization of controlled substances, and excessive noise, which would interfere with the quiet enjoyment of residential properties in the area. The applicant's request may create and cause deterioration of bordering land uses and problems for other uses in the surrounding area.

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.*

Although the project is not within an identified or specific community or neighborhood plan, the request to upgrade to a Type 21 (Off-Sale General) license is anticipated to have an adverse impact on neighboring land uses and the community. The census tract is already over concentrated with on-sale and off-sale alcohol licenses, has exceeded the maximum number of allowed licenses, and is located adjacent to the ninth highest crime reporting district in the City of Orange. Granting this request may increase calls for service, increase the crime rate, and diminish quality of life in the area. A Type 21 (Off-Sale General) license may contribute to an increase in alcohol related crimes which may interfere with the quiet enjoyment of sensitive residential properties in the area.

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.*

Granting the Type 21 (Off-Sale General) license to allow the sale of beer, wine, and distilled spirits for off-site consumption within the existing convenience store would not preserve the general welfare and would primarily benefit the business, not the community. The census tract is considered over-concentrated with On-Sale and Off-Sale licenses. The project is also in close proximity to residential sensitive land uses, which would interfere with the quiet enjoyment of the properties in the area. The applicant's request for a Type 21 (Off-Sale General) license is anticipated to create an undue burden on public safety resources and have an adverse impact on the surrounding community. Conditions would not compensate for deleterious effects.

SECTION 2 – ENVIRONMENTAL REVIEW

The proposed project is statutorily exempt from the provisions of the California Environmental Quality Act per State CEQA Guidelines 15270(a), because CEQA does not apply to projects which a public agency rejects or disapproves.

ADOPTED this 15th day of April 2024.

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 15th day of April 2024, by the following vote:

AYES:

NOES:

ABSENT:

Anna Pehoushek, FAICP
Assistant Community Development Director

Exhibit A

Legal Brief Description

Lot:1 TR#:2733 N TR 2733 BLK LOT 1 TR 2733 LOTS 1&2

ASSESSOR'S PARCEL NUMBER: 375-191-01