

CONDITIONAL USE PERMIT NO. 3145-21

RESOLUTION NO. PC 13-24

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF ORANGE DENYING CONDITIONAL USE PERMIT NO. 3145-21, A REQUEST TO ALLOW 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 1190 N GLASSELL STREET, SUITE A

APPLICANT: ORANGE LIQUOR AND MORE (FARHAN ALJIRYES)

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. 3145-21, 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 1190 N. Glassell Street, Suite A, upon property described in Exhibit A attached and incorporated herein by this reference (Project); and

WHEREAS, the application for Conditional Use Permit No. 3145-21 was filed by the applicant in accordance with the provisions of the OMC; and

WHEREAS, the application for Conditional Use Permit No. 3145-21 was processed in the time and manner prescribed by State and local law; and

WHEREAS, Conditional Use Permit No. 3145-21 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 a public agency rejects or disapproves; 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, proposed Conditional Use Permit No. 3145-21.

NOW, THEREFORE, BE IT RESOLVED that the Planning Commission of the City of Orange hereby denies Conditional Use Permit No. 3145-21 allowing for the sale of a full range of alcoholic beverages in conjunction with a new ABC Type 21 License (Off-Sale General) at an existing convenience store, located at 1190 N. Glassell Street, Suite A, based on staff's inability to make certain findings, as required by law:

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 Orange Police Department's assessment of crime data, along with the known history of criminal activity in the vicinity of the store location as documented in its Memorandum dated January 21, 2021, and supplemental Memo dated March 1, 2022 concluded that 1) the census tract is over concentrated with Off-Sale licenses; 2) the Orange Liquor and More store location is in Reporting District 35e, which is the ninth highest ranked crime district in the City of Orange; and 3) the Orange Liquor and More store location is the closest convenience store to multiple-family residential properties within the "Hoover-Wilson Territory" safety zone, a known documented gang area with a high volume of documented incidents of criminal behavior in the area with arrests ranging from alcohol arrests, robberies, assaults and weapon offenses. The Police Department opined that the sale of distilled spirits would contribute to the potential for loitering and criminal behavior in the area.

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 at 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 ABC licenses that allow Off-site consumption and has exceeded the maximum number of allowed Off-Sale licenses. Census Tract No. 762.04 has three existing Off-Sale licenses with two allowed. In addition, the business is located in the ninth highest crime district within the City of Orange. Reporting District 35e crime and arrests data show 174 crimes reported in 2023, which is 105% above the average of reported crime, a high crime area.

The multiple-family residential properties adjacent to the project site are within the "Hoover-Wilson Territory" gang injunction safety zone. This is on the south side of West Hoover Avenue. This district is considered a high crime area with reported crimes from alcohol offenses to robberies, assaults and weapons offenses. The safety zone area is a known documented gang area with documented incidents of criminal behavior in the area. 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. Additionally, as stated in the above finding, the existing site is parking deficient and the addition of alcohol sales at the site could exasperate parking needs which could cause parking to spill into adjacent already-impacted residential streets. In addition to this, alcohol sales for off-site consumption with the proposed operating hours of Sunday to Thursday from 7:00 a.m. to 11:00 p.m., and Friday through Saturday from 7:00 a.m. to 12:00 a.m. may directly impact these nearby receptors with approval of the CUP. 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 in 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. Additionally, as stated in the above finding, the existing site is parking deficient and the addition of alcohol sales at the site could exasperate parking needs which could cause parking to spill into adjacent already-impacted residential streets.

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 licenses and has exceeded the maximum number of allowed 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 may create an undue burden on public safety resources and have an adverse impact on the surrounding community. Conditioning to lessen a potential parking burden on the surrounding neighborhoods from increased activity has not been identified.

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 Description

THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE CITY OF ORANGE, IN THE COUNTY OF ORANGE, STATE OF CALIFORNIA, AND IS DESCRIBED AS FOLLOWS:

PARCEL 1:

THAT PORTION OF THE LAND ALLOTTED TO SEBASTIAN VAN DE GRAAFF IN DECREE OF PARTITION OF THE RANCHO SANTIAGO DE SANTA ANA, RENDERED IN CASE NO. 1192 AND ENTERED SEPTEMBER 12, 1868 IN BOOK "B", PAGE 410, OF JUDGMENTS OF THE 17TH JUDICIAL DISTRICT COURT OF CALIFORNIA, IN THE CITY OF ORANGE, COUNTY OF ORANGE, STATE OF CALIFORNIA, DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHEASTERLY CORNER OF THE LAND DESCRIBED IN THE DEED TO JOHN DUGAN, ET UX., RECORDED MARCH 02, 1926 IN BOOK 633, PAGE 285, OF DEEDS, BEING THE INTERSECTION OF THE WESTERLY LINE OF THE 60.00 FOOT STRIP OF LAND (GLASSELL STREET) IN DECREE OF QUIETING TITLE IN THE COUNTY OF ORANGE, RECORDED MARCH 02, 1926 IN BOOK 633, PAGE 283, OF DEEDS OF SAID COUNTY WITH THE EASTERLY PROLONGATION OF THE SOUTHERLY LINE OF BLOCK "L" OF THE VAN DE GRAAFF TRACT, AS SHOWN ON A MAP RECORDED IN BOOK 4, PAGE 440, OF MISCELLANEOUS RECORDS OF LOS ANGELES COUNTY, CALIFORNIA; THENCE SOUTH 00° 31' 50" WEST 335.36 FEET ALONG THE WESTERLY LINE OF SAID 60.00 FOOT STRIP OF LAND TO THE SOUTHEAST CORNER OF THE LAND CONVEYED TO JOHN DUGAN BY DEED RECORDED OCTOBER 30, 1926, IN BOOK 681, PAGE 437, OF DEEDS, SAID CORNER BEING THE TRUE POINT OF BEGINNING; THENCE ALONG THE SOUTH LINE OF SAID LAND OF DUGAN, SOUTH 89° 36' 50" WEST 140.04 FEET TO THE EASTERLY LINE OR NORTHERLY PROLONGATION THEREOF, OF THE LAND CONVEYED TO MILES E. AMOS BY DEED RECORDED MAY 31, 1963 IN BOOK 6569, PAGE 510, OF OFFICIAL RECORDS; THENCE SOUTH 00° 31' 50" WEST 219.80 FEET ALONG SAID EASTERLY LINE TO THE NORTHERLY LINE OF TRACT NO. 3774, AS SHOWN ON A MAP RECORDED IN BOOK 143, PAGES 42 AND 43, OF MISCELLANEOUS MAPS OF SAID ORANGE COUNTY; THENCE SOUTH 89° 53' 33" EAST 140.01 FEET ALONG SAID NORTHERLY LINE TO THE WESTERLY LINE OF SAID 60.00 FOOT STRIP OF LAND; THENCE NORTH 00° 31' 50" EAST 221.00 FEET TO THE TRUE POINT OF BEGINNING.

EXCEPT THEREFROM THE EASTERLY 20.00 FEET AND THE SOUTHERLY 30.00 FEET TOGETHER WITH A 15.00 FOOT BY 15.00 FOOT TRIANGULAR AREA, FORMED BY THE INTERSECTION OF THE WESTERLY LINE OF SAID EASTERLY 20.00 FEET AND THE NORTHERLY LINE OF SAID SOUTHERLY 30.00 FEET DESCRIBED IN THE DEED TO THE CITY OF ORANGE, RECORDED MARCH 18, 1965 IN BOOK 7450, PAGE 779, OF OFFICIAL RECORDS.

PARCEL 2:

AN EASEMENT FOR ROAD PURPOSES OVER THAT PORTION OF THE LAND ALLOTTED TO SEBASTIAN VAN DE GRAAFF IN DECREE OF PARTITION OF THE RANCHO SANTIAGO DE SANTA ANA, RENDERED IN CASE NO. 1192 AND ENTERED SEPTEMBER 12, 1868 IN BOOK "B" PAGE 410, OF JUDGMENTS OF THE 17TH JUDICIAL DISTRICT COURT OF CALIFORNIA, IN THE CITY OF ORANGE, COUNTY OF ORANGE, STATE OF CALIFORNIA, DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHEASTERLY CORNER OF THE LAND DESCRIBED IN THE DEED TO JOHN DUGAN, ET UX., RECORDED MARCH 02, 1926 IN BOOK 633, PAGE 285, OF DEEDS, BEING THE INTERSECTION OF THE WESTERLY LINE OF THE 60.00 FOOT STRIP OF LAND (GLASSELL STREET) IN DECREE OF QUIETING TITLE IN THE COUNTY OF ORANGE, RECORDED MARCH 02, 1926 IN BOOK 633, PAGE 283, OF DEEDS OF SAID COUNTY WITH THE EASTERLY PROLONGATION OF THE SOUTHERLY LINE OF BLOCK "L" OF THE VAN DE GRAAFF TRACT, AS SHOWN ON A MAP RECORDED IN BOOK 4, PAGE 440, OF MISCELLANEOUS RECORDS OF LOS ANGELES COUNTY, CALIFORNIA; THENCE SOUTH 00° 31' 50" WEST 335.36 FEET ALONG THE WESTERLY LINE OF SAID 60.00 FOOT STRIP OF LAND TO THE SOUTHEAST CORNER OF THE LAND CONVEYED TO JOHN DUGAN BY DEED RECORDED OCTOBER 30, 1926, IN BOOK 681, PAGE 437, OF DEEDS; THENCE ALONG THE SOUTH LINE OF SAID LAND OF DUGAN SOUTH 89° 36' 50" WEST 140.04 FEET TO THE EASTERLY LINE, OR NORTHERLY PROLONGATION THEREOF, OF THE LAND CONVEYED TO MILES E. AMOS BY DEED RECORDED MAY 31, 1963 IN BOOK 6569, PAGE 510, OF OFFICIAL RECORDS, SAID POINT BEING THE TRUE POINT OF BEGINNING; THENCE CONTINUING SOUTH 89° 36' 50" WEST 10.00 FEET; THENCE

SOUTH 00' 31' 50" WEST 218.85 FEET PARALLEL WITH THE WESTERLY LINE OF SAID 60.00 FOOT STRIP THE NORTHERLY LINE OF TRACT NO. 3774, AS SHOWN ON A MAP RECORDED IN BOOK 143, PAGES 42 AND 43, OF MISCELLANEOUS MAPS OF SAID ORANGE COUNTY; THENCE SOUTH 89° 53' 33" EAST 10.00 FEET ALONG SAID NORTHERLY LINE TO A LINE BEARING SOUTH 00- 31' 50" WEST FROM THE TRUE POINT OF BEGINNING; THENCE NORTH 00-31' 50" EAST 219.80 FEET TO THE TRUE POINT OF BEGINNING.

APN: 375-271-03