



# Agenda Item

## Planning Commission

Item #: 4.1.

11/6/2023

File #: 23-0697

**TO:** Chair and Members of the Planning Commission

**THRU:** Anna Pehoushek, Assistant Community Development Director

**FROM:** Ani Mnatsakanyan, Associate Planner - Historic Preservation

### 1. SUBJECT

Public Hearing to consider on-site restaurant consumption of beer and wine at Centro Orange, 208 E. Chapman Avenue (Conditional Use Permit No. 3202-23) and finding of CEQA Exemption.

### 2. SUMMARY

The applicant proposes to serve beer and wine for on-site consumption with a State of California Department of Alcoholic Beverage Control Type 23 License (Small Beer Manufacturer) at a proposed restaurant in an existing commercial building located at 208 E. Chapman Avenue, in the Old Towne Orange Historic District

### 3. RECOMMENDED ACTION

Adopt Planning Commission Resolution No. PC 19-23 entitled:

A Resolution of the Planning Commission of the City of Orange approving Conditional Use Permit No. 3202-23, allowing beer and wine sales for on-site consumption in conjunction with a duplicate State of California Department of Alcoholic Beverage Control (ABC) Type 23 license (small beer manufacturer) at a proposed restaurant at an existing commercial building located at 208 E. Chapman Avenue

### 4. AUTHORIZING GUIDELINES

Orange Municipal Code (OMC) Section 17.08.020 and Section 17.10.030.C and 17.30.030 authorize the Planning Commission to review and take action on Conditional Use Permits. A Conditional Use Permit (CUP) is also required for the sale of alcoholic beverages at a restaurant in the Old Towne Mixed Use-15S zone, per Section 17.13.030.

### 5. PROJECT BACKGROUND

<i>Applicant:</i>	Pozzuoli Winery, Inc. Enrico Pozzuoli
<i>Property Owner</i>	Ricci Family Trust
<i>Property Location</i>	208 E. Chapman Avenue

<i>Existing General Plan Land Use Element Designation</i>	Old Towne Mixed Use (OTMIX)
<i>Existing Zoning Classification</i>	Old Towne Mixed Use-15S (OTMU-15S)
<i>Old Towne</i>	Yes
<i>Specific Plan/PC</i>	None
<i>Site Size</i>	3,041 square feet
<i>Circulation</i>	Pedestrian and vehicular access from E. Chapman Avenue. The 200 block of E. Chapman is classified as a 2-lane undivided collector street. Vehicular access is also provided from the rear City owned parking lot that is accessed by vehicles from S. Orange Street and S. Grant Street.
<i>Existing Conditions</i>	A single-story contributing commercial building.
<i>Surrounding Land Uses and Zoning</i>	Surrounding properties are 1 and 2 story commercial buildings. The surrounding zoning is Old Towne Mixed Use-15S. The parcel on the southeast corner of E. Chapman Avenue and Grand Street is C-1.
<i>Previous Applications/Entitlements</i>	None.

## 6. PROJECT DESCRIPTION

The applicant proposes to serve beer and wine at a proposed restaurant, Centro Orange, in an existing commercial building at 208 E. Chapman Avenue, with a State of California Department of Alcoholic Beverage Control (ABC) Type 23 License (Small Beer Manufacturer). While the primary use of the business is a restaurant and not a brewery, because the applicant holds a Type 23 license given his brewery and winery business activities, the proposed restaurant is able to be licensed by ABC under that license. A Type 23 License operates as a brewery and a bona fide eating place. A Type 23 can have up to 8 Bona Fide eating places operating under the single license. The applicant does not need to have production at this location in order to operate under a duplicate Type 23 license.

The proposed restaurant will have 48 seats within an existing 3,248 square foot interior dining area (basement and first floor), a 307 rear covered patio area with 22 seats, a 473 square foot uncovered patio area with 9 seats, and a basement tasting room with 18 seats.

The requested hours of operation are Monday through Sunday, 11:00 a.m. to 10:00 p.m. Planning staff supports these hours of operation and does not believe that serving beer and wine during these hours will negatively impact crime statistics. The restaurant will have 6-8 employees during the lunch hours and up to 14 employees in the evening. Review of exterior building alterations occurred separately by the Design Review Committee on October 18, 2023.

## 7. ANALYSIS AND STATEMENT OF THE ISSUES

Issue 1: Existing Licenses within 600 feet of the site

For information purposes, staff identified the following facilities selling alcoholic beverages that are located within a 600-foot proximity to the restaurant's entrance (see Attachment 6, Planning Commission Evaluation Map).

#### Existing Licenses

Establishment Name	License Type	Address
<i>Urth Caffè</i>	41	100 W. Chapman Avenue
<i>Francoli Gourmet</i>	21/47/58	100-108 S. Glassell Street
<i>Blaze Pizza</i>	41	109 S. Glassell Street
<i>O Sea</i>	41	109 S. Glassell Street
<i>Tabu Shabu</i>	41	111 S. Glassell Street
<i>Café Zocalo</i>	41	136 S. Glassell Street
<i>Gabbi's Mexican Kitchen</i>	47/58	141 S. Glassell Street
<i>K&amp;B Market</i>	21	481 S. Glassell Street
<i>American Legion Post 132</i>	52/58	143-145 S. Lemon Street
<i>Butaton</i>	41	10 Plaza Square
<i>Felix Continental Café</i>	41	36 Plaza Square
<i>Avila's El Ranchito Mexican Restaurant</i>	47	182 S. Orange Street
<i>Hector's on the Circle</i>	47/68	116-120 E. Chapman Avenue
<i>Pandor</i>	41	106 N. Glassell Street
<i>Brewery 1886</i>	75	114 N. Glassell Street
<i>Citrus City Grille</i>	47	122 N. Glassell Street
<i>Smoqued BBQ</i>	41	128 N. Glassell Street
<i>Elks Lodge Orange (#1475)</i>	57, 58	211 E. Chapman Avenue
<i>Renata's Caffè Italiano</i>	41	227 E. Chapman Avenue
<i>Grand Street Center (Grand Gimeno)</i>	47	146 N. Grand Street

#### Issue 2: Sensitive Receptors

The OMC requires a CUP for the sale of alcoholic beverages to ensure there will be no adverse impact on surrounding land uses or availability of alcoholic beverages to minors. When reviewing alcohol permits, the Zoning Ordinance details specific land uses that are sensitive to alcohol activities but does not establish any specific distances required for these uses. The ABC investigation requires applicants to identify the sensitive land uses within 600 feet of the site. The following sensitive receptors are in the vicinity of the subject property:

#### Sensitive Receptors

Establishment Name	Address	Distance to Project Site
<i>First United Methodist Church and Preschool</i>	161 S. Orange Street	208 feet
<i>Senior Housing</i>	126 S. Grand Street	271 feet
<i>Single Family and Multi-Family Residences</i>	127-147 N. Grand Street	345-450 feet
<i>Orange Public Library</i>	408 E. Chapman	550 feet

While there are sensitive land uses within 600 feet of the site, they do not have direct access to the property and the sale of alcohol would be accessory to the sale of food within the full-service restaurant. Approval of the CUP is unlikely to directly impact these nearby receptors.

### Issue 3: Census Tract Alcohol and Crime Statistics Information

The OPD Vice Unit reviewed the request and provided research and a statistical analysis given the census tract and reporting district (refer to Attachment 6). The proposed restaurant is located in Census tract 759.02, which is considered over concentrated with On-Sale licenses and is not over concentrated with Off-Sale Licenses.

#### Alcohol Licenses

	Existing	Allowed
<i>On-Sale Licenses</i>	23	8
<i>Off-Sale Licenses</i>	3	3

Census tracts are defined as small geographic areas established by local committees and approved by the Census Bureau, which contain a population segment with relatively uniform economic and social characteristics and clearly identifiable boundaries averaging approximately 1,200 households.

The ABC establishes an over-concentration of alcohol licenses based on the average number of licenses versus the population of a given census tract. However, the ABC and the City recognize that licenses should be reviewed on a case-by-case basis to ensure that alcohol sales will not adversely affect surrounding residents, businesses, and institutions and to ensure that any such use operates in a manner compatible with existing and future adjacent uses. This site is located in a mixed-use historic district, intended to be a shopping and dining destination for residents and visitors where an over-concentration of on-sale licenses is expected.

OPD also reports that the property is within Reporting District 13N with the following reported crimes.

#### Crime Statistics

Reporting District	Reported Crimes	Citywide Average Arrests	Percent Difference

13N	82	72	14% above average
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During 2022, there were 82 reported crimes in Reporting District 13N. High crime is considered 20 percent above average reported crime within all reporting districts in the city per Business and Professions Code Section 23958.4. Reporting District 13N is 14% above average for reported crimes and is ranked 27<sup>th</sup> out of 91 districts in the City of Orange for reported crimes.

In 2022, there were 47 arrests in the Reporting District, of which 15 were alcohol-related arrests. 11 were for Driving Under the Influence of Alcohol, two were for Drinking Alcohol in Public, one was for Possessing Alcoholic Beverages in Park, and one was for Drunk in Public.

The applicant currently has three ABC licenses; two in Tustin - “Centro Storico” (ABC 47 and 58) and “Archaic Craft Brewery and Centro” (ABC 23) and one in San Miguel - “Pozzuoli Winery” (ABC 02). These license types reflect the operation of a restaurant serving alcohol, the applicant’s beer and wine production business activities, and catering services. An Alcoholic Beverage Control record check of the other locations showed no current or history of disciplinary actions. According to information provided by ABC, a type 23 license is the appropriate license type for the sale of applicant-produced beer and wine in conjunction with the restaurant operation of Centro Orange.

The sale of alcohol is not expected to contribute to crime statistics in the area or create an undue burden on public safety resources. Including consideration of the investigation and research prepared by OPD, staff supports the request and does not anticipate that the use will create a negative impact on neighboring land uses, because the restaurant is compatible with the mix of uses in the Plaza, has limited hours, adequate staffing, and the primary use would remain for food service. Should the Planning Commission approve the CUP, the standard conditions for the safe operation of the restaurant with alcohol services have been provided.

## **8. PUBLIC NOTICE**

On October 24, 2023, the City sent a Public Hearing Notice to a total of 141 property owners/tenants within a 400-foot radius of the project site and persons specifically requesting notice. On October 24, 2023 a public notice was posted at the project site.

## **9. ENVIRONMENTAL REVIEW**

**Categorical Exemption:** The proposed project 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 request consists of licensing the sale of beer and wine within an existing commercial building and results in no expansion of use beyond that existing at the time of the City’s determination.

## **10. ADVISORY BOARD ACTION**

### **Staff Review Committee:**

The Staff Review Committee reviewed the project on June 14, 2023 and recommended approval with conditions.

### **Design Review Committee:**

The Design Review Committee reviewed the exterior building alterations associated with the subject proposal at its October 18, 2023 meeting and approved with conditions the façade improvements and

rear patio and covered outdoor seating.

## 11. ATTACHMENTS

- Attachment 1 - Vicinity Map
- Attachment 2 - Planning Commission Resolution No. PC 19-23
- Attachment 3 - Site Photographs
- Attachment 4 - Applicant Narrative Letter
- Attachment 5 - Menu
- Attachment 6 - Orange Police Department Memorandum, dated April 4, 2023
- Attachment 7 - Planning Commission Evaluation Map
- Attachment 8 - Restaurant Floor Plan