



Agenda Item

Planning Commission

Item #: 4.3.

4/15/2024

File #: 24-0129

TO: Chair and Members of the Planning Commission

THRU: Anna Pehoushek, Assistant Community Development Director

FROM: Arlen Beck, Associate Planner

1. SUBJECT

Public Hearing to consider a request to add the sale of distilled spirits to the sale of beer and wine at an existing convenience store located at 1095 N. Glassell Street and finding of CEQA Exemption (Conditional Use Permit No. 3217-24).

2. SUMMARY

The applicant, Orange Wine Inc., proposes to upgrade an existing California Department of Alcoholic Beverage Control Type 20 license (Off-Sale Beer and Wine) to a new ABC Type 21 license (Off-Sale General) to allow the sale of distilled spirits in addition to beer and wine for off-site consumption at an existing convenience store located at 1095 N. Glassell Street.

3. RECOMMENDED ACTION

Adopt Planning Commission Resolution No. PC 10-24 entitled:

A Resolution of the Planning Commission of the City of Orange denying Conditional Use Permit No. 3217-24, a request to allow a full range of alcoholic beverage sales 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.

4. AUTHORIZING GUIDELINES

Orange Municipal Code (OMC) Table 17.08.020 and Sections 17.10.030.C. and 17.30.030 authorize the Planning Commission to review and take action on a request for a Conditional Use Permit (CUP) to allow a full range of alcoholic beverage sales for off-site consumption.

5. PROJECT BACKGROUND

<i>Applicant:</i>	Orange Wine Inc. (Mark Alballatc)
<i>Property Owner</i>	SGB, LLC
<i>Property Location</i>	1095 N. Glassell Street
<i>Existing General Plan Land Use Element Designation</i>	Low Density Residential (LDR)
<i>Existing Zoning Classification</i>	Limited Business (C-1)

<i>Old Towne</i>	N/A
<i>Specific Plan/PC</i>	N/A
<i>Site Size</i>	12,400 sq ft
<i>Circulation</i>	North Glassell Street is a major arterial and East Quincy Avenue is a local street with pedestrian and vehicular access to both streets.
<i>Existing Conditions</i>	2,400 SF tenant space within an existing 4,500 SF building with 13 on-site parking spaces.
<i>Surrounding Land Uses and Zoning</i>	Commercial Offices (C-1 to the North and South) Single-Family Residences (R-1-6 to the North and East), and Mobile Home Park (M-H to the west).
<i>Previous Applications/Entitlements</i>	PC Resolution No. 98-98 approving CUP 2263-98, to allow the sale of beer and wine for off-site consumption at an existing convenience store. PC Resolution No. 09-22 denying CUP 3134-21, to upgrade an existing ABC Type 20 license (Off-Sale Beer and Wine) to a new ABC Type 21 license (Off-Sale General) to allow a full range of alcoholic beverage sales for off-site consumption at an existing convenience store.

6. PROJECT DESCRIPTION

Orange Wine Inc. dba Orange Wine & Spirits Market proposes to upgrade an existing California Department of Alcoholic Beverage Control (ABC) Type 20 License (Off-Sale Beer and Wine) to a new ABC Type 21 License (Off-Sale General) at an existing convenience store. The market provides a variety of products including a deli counter, produce, pre-packaged food and beverages, including beer and wine. In 1998, the Planning Commission approved CUP No. 2263-98 which permitted the sale of beer and wine for off-site consumption at an existing convenience store. Beer and wine are currently stored in refrigerated coolers and the proposed liquor items for sale would be stored in a secure storage room and displayed behind the cashier counter by employee access only. There is one primary customer entrance/exit at the front of the building. At the rear of the building, there is one exit for employee access. The hours of operation are Sunday to Saturday from 7:00 a.m. to 10:00 p.m.

No changes are proposed to the lot size or building square footage as part of this request. The applicant's letter of explanation is included in Attachment 3.

7. ANALYSIS AND STATEMENT OF THE ISSUES

Issue 1: Existing Licenses within 600 Feet of the Site

For information purposes, staff has not identified any facilities selling alcoholic beverages that are located within a 600-foot proximity to the market's entrance (See Attachment 7, PC Evaluation Map).

Issue 2: Sensitive Receptors

OMC Section 17.30.030 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, Chapter 17.30 details specific land uses that are sensitive to alcohol activities but does not establish any required distances for these uses. The ABC investigation

requires applicants to identify the sensitive land uses within 600 feet of the site. Below is a list of sensitive receptors within the vicinity of the subject property:

Sensitive Receptors

Receptor	Address	Distance to Project Site
<i>GoForth Village Mobile Homes</i>	1801 E. Collins Ave	85 feet west of the project site
<i>Multi-Family Residential Dwellings</i>	Glassell Street	90 feet north-west of the project site
<i>Single-Family Residential Dwellings</i>	Quincy Avenue	0 feet east of the project site

Issue 3: Census Tract Concentration

The Orange Police Department's (OPD) Vice Unit reviewed the proposal and confirmed that the business is located within Census Tract 762.05 which is considered over-concentrated with both On-Sale Licenses and Off-Sale Licenses. 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. ABC establishes an over-concentration of alcohol licenses based on the average number of licenses versus the population of a given census tract.

ABC records indicate that seven On-Sale licenses are allowed and 10 are existing within the census tract and three Off-Sale licenses are allowed and 11 currently exist within the census tract. Should the Planning Commission approve the CUP request, the license count will not increase because the applicant is required by ABC to surrender their existing ABC Type 20 License prior to issuance of the new Type 21 license. 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.

Alcohol Licenses

License Type	Existing	Allowed
<i>On-Sale Licenses</i>	17	7
<i>Off-Sale Licenses</i>	11	3

Issue 4: Crime Statistics Information

OPD reports that the property is within Reporting District 65w. Crime statistics show that during 2023, there were 24 reported crimes and 39 arrests. The average number of reported crimes and arrests

per reporting district is 85. High crime is considered 20% above average reported crime within all reporting districts in the city per Business and Professions Code Section 23958.4. Reporting district 65w is 26% below the average for reported crimes and arrests. As such, this district is not considered a high crime area. According to OPD statistics, of the 39 arrests made in RD 65w, 20 were related to alcohol, including 16 arrests for driving under the influence, three drunk in public, and one drinking in public.

West of the subject property across Glassell Street is a different reporting district, that is considered a high crime area being the ninth highest crime and arrest rate in the city. The subject property is adjacent to a gang injunction area with documented incidents of criminal behavior (Attachment 6 - Gang Injunction Area Map). The multi-family residential properties northwest of the project site are within the "Hoover-Wilson Territory" safety zone of the gang injunction.

Crime Statistics

Reporting District	Reported Crimes	Reported Arrests	Citywide Average Arrests Per District	Percent Difference
65w	24	39	85	-26%
35e	59	115	85	105%

Given the project location’s proximity to a high crime gang injunction area, the sale of a full range of alcoholic beverages for off-site consumption at this location is expected to contribute to crime statistics in the area or create an undue burden on public safety resources.

8. PUBLIC NOTICE

On April 4, 2024, a public notice was posted at the project site, and the city sent a Public Hearing Notice to a total of 357 property owners/occupants within a 400-foot radius of the project site and persons specifically requesting notice.

9. 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.

10. ATTACHMENTS

- Attachment 1 - Planning Commission Resolution No. PC 10-24
- Attachment 2 - Vicinity Map
- Attachment 3 - Applicant Business Narrative Letter
- Attachment 4 - Site Photos
- Attachment 5 - Orange Police Department 2023 crime statistics
- Attachment 6 - Gang Injunction Area Map
- Attachment 7 - Planning Commission Evaluation Map

- Attachment 8 - Site Plan and Floor Plan
- Attachment 9 - Planning Commission Staff Report June 20, 2022, for CUP 3134-21
- Attachment 10 - Planning Commission Resolution No. PC 09-22
- Attachment 11 - Planning Commission Meeting Minutes June 20, 2022