



Agenda Item

Planning Commission

Item #: 6.1.

6/20/2022

File #: 22-0212

TO: Chair and Members of the Planning Commission

THRU: Anna Pehoushek, Assistant Community Development Director

FROM: Vidal F. Márquez, Assistant Planner

1. SUBJECT

Public Hearing: Conditional Use Permit No. 3134-21, Orange Wine, Inc., 1095 N. Glassell Street (continued from August 2, 2021).

2. SUMMARY

The applicant proposes to upgrade an existing State of 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) within an existing market at 1095 North Glassell Street.

3. RECOMMENDED ACTION

The Planning Commission review the proposal and take one of the following actions:

- Direct staff to return with a resolution to approve the request based on the conditions of approval to be determined, with required conditional use permit findings and public convenience or necessity finding.

Or

- Direct staff to return with a resolution to deny the request with required conditional use permit findings.

4. AUTHORIZING GUIDELINES

Orange Municipal Code (OMC) Table 17.08.020, Section 17.10.030.C. and Section 17.30.050.4. authorize the Planning Commission to review and take action on a change from an off-sale beer and wine license to an off-sale general license.

5. PROJECT BACKGROUND

<i>Applicant:</i>	Orange Wine Inc.
<i>Property Owner</i>	SBG, LLC
<i>Property Location</i>	1095 North 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 sq. ft. tenant space within an existing 4,500 sq. ft. 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>	Conditional Use Permit No. 2263-98, PC Resolution No. 98-98 to allow the off-sale of beer and wine for an existing food market.

6. PROJECT DESCRIPTION

Orange Wine Inc. dba Orange Wine & Spirits Market proposes to upgrade an existing ABC Type 20 License (Off-Sale Beer and Wine) to a new ABC Type 21 License (Off-Sale General) within an existing market. The market provides a variety of products including a deli counter, produce, and pre-packaged food and beverages, including beer and wine. In 1998, the Planning Commission approved Conditional Use Permit No. 2263-98 that permitted off-sale beer and wine within an existing market. Beer and wine are stored within refrigerated coolers. Under the applicant's requested change in ABC license to allow the sale of distilled spirits, proposed liquor will be stored in a secured storage room as well as displayed behind the cashier counter only accessible to employees.

There is one primary customer entrance/exit at the front of the building. To the rear of the building, there is one exit for employee access only to trash bins. 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 application. The applicant's letter of explanation is included in Attachment 2.

At the August 2, 2021, Planning Commission meeting, the Commission requested additional crime data from the operator's establishments in Orange and one location in Fullerton. The Orange Police Department contacted Fullerton Police Department to receive this data and also provided staff with recent crime statistics for the 2021 year. The details are provided in Attachment 7 of this report and are summarized below.

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 8, PC Evaluation Map).

Issue 2: Sensitive Receptors

The OMC requires a Conditional Use Permit (CUP) for the sale of alcoholic beverages to ensure there will be no adverse impact on surrounding land uses or allow the 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 for these

uses. ABC investigation requires applicants to identify the sensitive land uses within 600 feet of the site. Based on this criteria, there are sensitive receptors located directly to the east along Quincy Avenue, and to the west across Glassell Street. Below are sensitive receptors in the vicinity of the subject property:

Sensitive Receptors

Establishment Name	Address	Distance to Project Site
Goforth Village Mobile Home	1801 E. Collins Ave	85 ft. west of the project site
Multiple-Family Residences	Glassell Street	90 ft. northwest of the project site
Single-Family Residences	Quincy Avenue	0 ft. east of the project site

Issue 3: Census Tract Alcohol and Crime Statistics Information

Census tracts are defined as small geographical 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 subject property is located in Census Tract 762.05 and Reporting District (RD) 65w. ABC determines the concentration of alcohol licenses based on the average number of licenses per capita in a given census tract. ABC records indicate four off-sale licenses are allowed and seven are existing within the census tract. ABC representatives informed staff the applicant must submit a request to surrender their existing ABC Type 20 License, upon issuance of a ABC Type 21 License, if approved. A surrendered license can be sold or transferred to another premises within or outside the census tract. A cancelled license cannot be transferred or sold. Therefore, the license count will increase and a public convenience or necessity determination is required by the governing body due to over-concentration. However, the ABC and the City recognize that licenses should be reviewed on a case-by-case basis to ensure that such 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

	Existing	Allowed
<i>On-Sale Licenses</i>	10	8
<i>Off-Sale Licenses</i>	7	4

RD 65w is considered a low crime area (High-crime is considered more than 20% above average reported crime for all reporting districts in the city). The Orange Police Department (OPD) crime data finds that RD 65w reported 82 crimes. The average reported number of crimes per district citywide was 74; RD 65w had 15% above the average reported crimes than the average within all reporting districts in the City. According to OPD statistics, 82 arrests were made and 13 were related to alcohol, including nine arrests for driving under the influence, three drinking in public and one drunk in public. The crime rate in RD 65w was 20% higher than in 2020.

West of Glassell Street and the subject property is another reporting district, 35e. This district is

considered a high crime area with a reported 276 crimes in 2021, making this the 3rd highest crime rate in the City with 289% above average of reported crimes. A 32% increase than in 2020. OPD statistics shows there were approximately 276 arrests made with three arrests related to alcohol and 17 related to robberies, assaults and weapons offenses. In addition, the subject property is near a known documented gang area of the Orange County Criminals (OCC) with documented incidents of criminal behavior in the area. The multiple-family residential properties northwest of the project site are within the "Hoover-Wilson Territory" safety zone of the OCC gang injunction.

Reporting District	Reported Crimes	Citywide Average	Percent Difference
65w	82	74	15% Above
35e	289	74	289% Above

Crime Statistics

Issue 4: Applicant's Businesses

Under the direction of the Planning Commission, the OPD has provided additional information regarding the applicant owned establishments in or near Orange. The applicant operates 'Qwik Korner' at 481 S. Glassell Street in Orange and 'Circle B and Wine' located at 500 S. Highland Avenue in the City of Fullerton. OPD has found the 'Qwik Korner' ranked 3% above the reported crimes in Orange, a low crime district. 15 arrests were related to alcohol, compared to 9 in 2020. At 'Circle B and Wine', OPD staff received only calls for service information and not comprehensive crime statistics of a specific reporting district. The Fullerton Police Department received four calls for service, two related to alcohol. Attachment 7 provides the updated information request by the Commission.

Issue 5: OPD Opposition

Due to the proximity of the adjacent reporting district, the high crime, and the gang injunction area, OPD is still in opposition to granting a new ABC Type 21 license. OPD believes granting the license would likely increase calls for service, crime and diminish the quality of life in the community. Attachment 4 provides additional details related to the analysis prepared by OPD.

Issue 6: Potential New Conditions

Although in most cases, staff's recommendation is reflective of the recommendation given by OPD; in this case staff is not able to make a recommendation. Staff's dilemma is that an upgraded ABC License provides the City with an opportunity to impose conditions of approval that currently do not exist at the location. The current CUP for the ABC Type 20 License only has seven conditions of approval. If the request for the ABC Type 21 License is approved, additional conditions of approval would be imposed. These conditions would include limits to the size and quantity of alcohol that can be sold at the premises, limit floor area dedicated to alcohol sales, and limit the gross sales of alcohol to non-alcohol sales. However, given the additional information provided by the OPD in regards to the adjacent reporting district, the high crime, and the gang injunction area, staff is not able to make a

recommendation for the request at hand. Attachment 9 provides a list of potential conditions of approval.

8. PUBLIC NOTICE

On May 26, 2022, the City sent a Public Hearing Notice to a total of 282 property owners/tenants within a 300-foot radius of the project site and persons specifically requesting notice. The project site has been posted in one location with the notification on that same date.

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 15301 (Class 1 - Existing Facilities) because the project consists of licensing the sale of alcoholic beverages at an existing grocery store and results in negligible or no expansion of use beyond that existing at the time of the City's determination. No public review is required.

10. ADVISORY BOARD ACTION

No advisory board is required.

11. ATTACHMENTS

- Attachment 1 Vicinity Map
- Attachment 2 Applicant's Letter of Explanation
- Attachment 3 Applicant's Letters of Support
- Attachment 4 Applicant's Response to Orange Police Department Memo
- Attachment 5 Resolution No. 98-98 for CUP No. 2263-98
- Attachment 6 Orange Police Department Memo dated 1.21.21
- Attachment 7 OPD Updated Memo dated 3.1.22
- Attachment 8 Planning Commission Evaluation Map
- Attachment 9 Potential Conditions of Approval
- Attachment 10 Site Photographs
- Attachment 11 Project Plans
- Attachment 12 PC Staff Report August 2, 2021
- Attachment 13 PC Meeting Minutes August 2, 2021
- Attachment 14 Licenses by Census Tract