



Planning Commission

Agenda Item

August 6, 2012

TO: Chair Steiner and Members of the Planning Commission

THRU: Leslie Aranda Roseberry
Planning Manager

FROM: Chad Ortlieb
Senior Planner

SUBJECT

PUBLIC HEARING: CUP 2855-12, Wingstop Restaurant, 1541 E. Katella Avenue

SUMMARY

The applicant proposes to sell beer and wine under a California Department of Alcoholic Beverage Control Type 41 license in association with an approximately 2,400 square foot restaurant use.

RECOMMENDED ACTION

Adopt Planning Commission Resolution No. 28-12 entitled:

**A RESOLUTION OF THE PLANNING COMMISSION
APPROVING CONDITIONAL USE PERMIT NO. 2855-12, TO
ALLOW AN ALCOHOLIC BEVERAGE CONTROL TYPE 41
LICENSE (ON-SALE BEER AND WINE - EATING PLACE)
FOR A PROPOSED RESTAURANT LOCATED AT 1541 E
KATELLA AVENUE**

AUTHORIZATION/GUIDELINES

Orange Municipal Code (OMC) Section 17.30.030.C. and Table 17.08.020 authorizes the Planning Commission to review and take action on Conditional Use Permits for eating establishments with the sale of alcoholic beverages in the Limited Business Tustin Redevelopment Project Area (C-TR) zone. Section 17.10.080 requires that the project be reviewed in accordance with California Environmental Quality Act provisions and the City of Orange Environmental Review Guidelines.

PUBLIC NOTICE

On July 3, 2012, the City sent a Public Hearing Notice to a total of 395 property owners/tenants within a 300-foot radius of the project site, and persons specifically requesting notice. The project site was also posted in two locations with the notification on that same date.

ENVIRONMENTAL REVIEW

Categorical Exemption: The proposed project is categorically exempt from the provisions of the California Environmental Quality Act per State CEQA Guidelines Section 15301 (Class 1 – Existing Facilities) because the project only involves the licensing of alcohol sales and no new construction is proposed in association with the request. There is no public review required.

No public comments have been received.

PROJECT BACKGROUND

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| <i>Applicant:</i> | Daniel Sonenshine, Far West Restaurant Group, LLC |
| <i>Property Owner:</i> | Tuskatella, LLC |
| <i>Property Location:</i> | 1541 E Katella Ave. |
| <i>Existing General Plan Land Use Element designation:</i> | General Commercial Max. 1.0 FAR (GC) |
| <i>Existing Zoning Classification:</i> | Limited Business Tustin Redevelopment Project Area (CTR) |
| <i>Old Towne:</i> | Not Applicable |
| <i>Redevelopment Project Area:</i> | Tustin Street Project Area |
| <i>Specific Plan/PC:</i> | Not Applicable |
| <i>Site Size:</i> | A combined overall building area of 153,763 square feet on ± 12.5 acres. |
| <i>Circulation:</i> | The site is accessed by multiple drive entrances off Katella Avenue and Tustin Street. The center has a fully functional interior drive aisle circulation system. |
| <i>Existing conditions:</i> | The site is improved with an existing shopping center containing three main commercial buildings and five commercial building pads with a combined overall building area of 153,763 square feet on ± 12.5 acres. |
| <i>Surrounding land uses and Zoning:</i> | The entire area surrounding the site consists of similar commercial retail and food service uses under the same zoning classification with the exception of a mobile home park located to the north of the commercial center, behind the frontage of all the shops. |
| <i>Previous Applications/Entitlements:</i> | None |

PROJECT DESCRIPTION

The applicant proposes to sell beer and wine under a California Department of Alcoholic Beverage Control Type 41 license in association with an approximately 2,400 square foot restaurant use (Attachment 3 – Project Description). The restaurant is proposed in the recently remodeled Tuskatella Center in a suite specifically addressed as 1541 E Katella Avenue which is located towards the Tustin Street adjacent end of the center. Business license records show no recent activity in the suite and show that no restaurant previously occupied the suite. The new restaurant will have 70 seats inside and no outdoor dining (Exhibit B – Floor Plan). Seven “bar seats” and three “drink ledge” seats are proposed. Permitted alcoholic beverages would be displayed behind glass by the order intake area. No large display advertising for the alcoholic beverages is proposed. The restaurant will primarily serve chicken wings and strips (Attachment No. 5 – Menu). The hours of operation will be from 10:30 A.M. to 12:00 A.M. daily. Alcohol sales are proposed during those times. No bands, live entertainment, dancing, drink specials, amplified music, disc jockey, karaoke, pool tables, or entertainment devices are proposed with the use. Orange Police Department does not oppose the applicant’s effort to obtain an Alcoholic Beverage Control Type 41 License subject to recommended conditions of approval.

Development Standards

Because no new construction is proposed and because parking standards are met within the center, a review of development standards is not merited for this application. Hence the table typically found in this section of the staff report to compare proposed, existing, and code required conditions has been omitted. Although restaurant uses typically require more parking than retail uses, Orange Municipal Code 17.34.060B. allows shopping centers over 25,000 square feet to maintain up to 15 percent of their leased square feet to be used for restaurants with no penalty for additional required parking. The subject center is well over 25,000 square feet in area and only has approximately 11 percent of its parking dedicated to restaurant uses, including the proposed use.

APPLICATION(S) REQUESTED/ REQUIRED FINDINGS

Conditional Use Permit: The applicant is requesting a Conditional Use Permit to sell beer and wine under a California Department of Alcoholic Beverage Control Type 41 license in association with an approximately 2,400 square foot restaurant use.

Required Findings:

1. A Conditional Use Permit shall be granted upon sound principles of land use and in response to services required by the community.
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.
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.

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.

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| ANALYSIS/STATEMENT OF THE ISSUES |
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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, PC Evaluation Map).

Existing Licenses

| Establishment Name | License Type | Address | Conditioned Business Hours |
|------------------------|--------------|----------------------------|---|
| CVS Pharmacy | Type 21 | 1535 E Katella Ave. | None |
| Smart and Final Stores | Type 21 | 1401 E Katella Ave. | None |
| Ristorante Mascarpone | Type 47 | 1446 E Katella Ave. | None |
| Norms Restaurants | Type 41 | 1550 E Katella Ave. | No alcohol served between 2 a.m. and 6 p.m. |
| Royal Thai Orchid | Type 41 | 1315 N Tustin St., Suite B | None |
| Asiana Grill | Type 41 | 1273 N Tustin St, Unit A | None |
| Round Table Pizza | Type 41 | 1737 E Katella Ave. | None |

Issue 2: Sensitive Receptors

The OMC requires a Conditional Use Permit 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. The State Alcoholic Beverage Control Board investigation requires applicants to identify the sensitive land uses within 600 feet of the site. There exist one potentially sensitive receptor in the vicinity of the subject property:

Potential Sensitive Receptors

| Establishment Name | Address | Distance To Project Site |
|---------------------------------|----------------|------------------------------------|
| Orange Village Mobile Home Park | 1540 E Trenton | Property is to the immediate north |

The selling of alcoholic beverages, from the project site, is not anticipated to have an adverse impact on “sensitive” land uses for the following reasons:

- A. No schools, hospitals, or public playgrounds are in the vicinity of the site.
- B. The mobile home park is located in a separate distinct area buffered from the restaurant use by a large block wall. The commercial center has its entrance and parking oriented away from the mobile home park.
- C. Potential undesired side effects of overconsumption of alcohol is not anticipated to occur at the subject casual dining restaurant where food service consumption is the primary function.

Issue 3: Census Tract Alcohol and Crime Statistics Information

The Orange Police Department’s Vice Unit reviewed the proposal and has determined that the location is over-concentrated for on-sale and off-sale alcohol serving businesses. The area is considered to be high crime but the Police Department does not oppose the application due to the applicant’s business plan combined with the proposed project conditions which are anticipated to reduce if not eliminate any detrimental effects of on-site alcohol sales. The number of alcohol licenses in the census tract followed by a summary of crime statistics in the project area is as follows:

Alcohol Licenses

| | Existing | Allowed |
|--------------------------|-----------------|----------------|
| On Sale Licenses | 12 | 6 |
| Off-Sale Licenses | 5 | 3 |

Crime Statistics

| Census Tract Arrests | Citywide Average Arrests | Percent Difference |
|-----------------------------|---------------------------------|---------------------------|
| 122 | 77 per district | 58% greater than average |

Issue 4: Proposed Condition Limiting Hours of Operation

The attached Police Department Memo Dated April 26, 2012 requests Condition 5 to require the business hours to be limited to between 10:30 a.m. and 12:00 a.m. (midnight). A comparison of the hours of operation of businesses selling alcoholic beverages within 600 feet of the site as shown in the “Existing Licenses” table on page four of the staff report shows that none of the businesses in the table have restrictions on business hours.

In the last 3-4 years, the Planning Commission has taken a stance that, for the purpose of equal competition, conditions pertaining to alcohol serving restaurant hours should be applied equally to all restaurants in larger commercial centers (i.e. the Stadium Promenade). As a result, Planning Division staff has not been proposing conditions limiting business hours on all recent past Conditional Use Permits for restaurants that serve alcohol. Staff has not included the Police Department recommended condition in the Planning Commission Resolution.

If the Planning Commission chooses to support the Police Department’s recommended Condition to limit business hours, a condition will need to be added to the resolution.

ADVISORY BOARD RECOMMENDATION

No departments other than the Planning Division and Police Department needed to review the proposal. Hence, no advisory board review occurred. Staff is recommending project approval subject to recommended conditions.

ATTACHMENTS/EXHIBITS

Attachments to Report:

1. Planning Commission Resolution 28-12
2. Vicinity Map
3. Project Description
4. Site Photos
5. Menu
6. PC Evaluation Map
7. Police Department Memo Dated April 26, 2012 with Project Evaluation and Recommendation
8. Police Department Memo Dated April 26, 2012 with Recommended Conditions of Approval

Exhibits provided to the Planning Commission:

- A. Site Plan date stamped August 5, 2012
- B. Floor Plan date stamped August 5, 2012

cc: Daniel Sonenshine
Far West Restaurant Group, LLC
3720 Susan Street, Suite 120
Santa Ana, CA 92704

Sherrie Olson – PLRC
1030 N Mountain Ave., #190
Ontario, CA 91762