

Planning Commission Agenda Item

August 6, 2012

TO: Chair Steiner and

Members of the Planning Commission

THRU: Leslie Aranda Roseberry

Planning Manager

FROM: Robert Garcia

Associate Planner

SUBJECT

PUBLIC HEARING: Conditional Use Permit No. 2857-12 – Valiant Brewing – 2294 N. Batavia Street, Unit C.

SUMMARY

The applicant proposes to operate a small beer manufacturer facility; therefore, the applicant is requesting a Type 23 (Small Beer Manufacturer) Alcoholic Beverage Control (ABC) license. In addition, the applicant is requesting an accessory tasting area of about 200 square feet for customers to sample and purchase the specialty beer.

RECOMMENDED ACTION

Adopt Planning Commission Resolution No. 31-12 entitled:

A RESOLUTION OF THE PLANNING COMMISSION APPROVING CONDITIONAL USE PERMIT NO. 2857-12 TO ALLOW A TYPE 23 ALCOHOLIC BEVERAGE CONTROL LICENSE TO OPERATE A SMALL BEER MANUFACTURER AND TO ALLOW AN ACCESSORY TASTING AREA WITH LIMITED HOURS LOCATED AT 2294 NORTH BATAVIA STREET, UNIT C

AUTHORIZATION/GUIDELINES

Orange Municipal Code (OMC) Section 17.10.030 authorizes the Planning Commission to review and take action on Conditional Use Permits. A Conditional Use Permit is required for an ABC license. The final determination by the Planning Commission on these applications may be

appealed to the City Council pursuant to the time periods and requirements established in the OMC for appeals.

PUBLIC NOTICE

On July 26, 2012 the City sent a Public Hearing Notice to a total of 56 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 (2) 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 (CEQA) per State CEQA Guidelines 15301 (Class 1 – Existing Facilities) because the project consists of the operation and licensing of an existing private structure. There is no public review required.

PROJECT BACKGROUND

Applicant:	Valiant Brewing Company	
Property Owner:	Kelto LLC	
Property Location:	2294 N. Batavia Street	
Existing General Plan	LI (Light Industrial)	
Land Use Element designation:		
Existing Zoning	M-1 (Light Manufacturing)	
Classification:		
Old Towne:	No	
Redevelopment Project Area:	Yes	
Specific Plan/PC:	No	
Site Size:	3 acres	
Circulation:	The subject property is located on the west side of Batavia	
	Street. The City's Master Plan of Streets designates Batavia	
	Street as a secondary street with an ultimate right-of-way of	
	80 feet. The site is accessed by an access easement	
	driveway located on Batavia Street.	
Existing conditions:	The existing site is composed of an industrial condominium	
	complex consisting of 12 buildings with a total of 64,620	
	square foot.	
Surrounding land uses	The project site is surrounded by industrial land uses to the	
and Zoning:	west, north and east zoned M-1. The uses to the sout	
	zoned M-2.	
Previous	On May 23, 1989, the City Council approved a request to	
Applications/Entitlements:	approved Conditional Use Permit 1747-89 to create 12 lots	
	without direct street frontage.	

PROJECT DESCRIPTION

The applicant, Valiant Brewing Company (VBC) proposes to operate a small beer manufacturer facility. VBC would produce their own brand of craft beer to be distributed to restaurants, cafes and establishments throughout the region. In addition, the applicant is requesting an accessory tasting area for customers to sample and purchase the specialty beer. This type of tasting area is typical of a small craft beer manufacturer. Since VBC is a start-up company the owners will operate after normal business hours. VBC hours of operation will run from 3:30 p.m. to 9:00 p.m. on Monday through Thursday and on Friday from 10:00 a.m. to 9:00 p.m. and on Saturday from 4:00 a.m. to midnight. The hours of the tasting room shall be limited from 4:00 p.m. to 9:00 p.m. and on Saturday from 12:30 p.m. to 9:00 p.m.

Normal brewery operations will consist of producing or supporting the production of craft beer. Sales and distribution will consist of mostly off-site delivery of finished product to customers. During the tasting hours customers can sample the brews, purchase bottles and fill their growlers. VBC would offer private tours and tastings to private groups and potential clients. Typically customers would be given 5 samplers consisting of 2 or 3 ounces depending on alcohol content. For a beer with more than 13% the pour would be 2 ounces, and for beer with less than 13% the pour would be 3 ounces. Customers could then purchase larger tasting of brews they tasted. The size of the larger tasting would vary by alcohol content. For a beer with more than 13% the pour would be 4 ounces. For a beer with a content of 6.5% to 13% the pour would be 6 ounces. For a beer with less than 6.5% the pour would be 14 ounces. Customers would only be allowed to sample the brews offer for tasting, they would not be able to purchase individual brews and drink them on-site.

Development Standards

	Required	Proposed	Code Section
Building Height	Existing	N/A	
Distance between	N/A	N/A	
structures			
Fence height	N/A	N/A	
Floor Area Ratio (FAR)	Existing	N/A	
Landscaping (non-	Existing	N/A	
residential)			
Loading area (non-	Existing	N/A	
residential)			
Lot frontage	N/A	N/A	
Lot depth	N/A	N/A	
Parking (non-residential)	129	136 existing	17.34.060
Setback, Front	Existing	N/A	
Setback, Rear	Existing	N/A	
Setback, Side	Existing	N/A	
Setback, Side	Existing	N/A	

APPLICATION(S) REQUESTED/ REQUIRED FINDINGS

<u>Conditional Use Permit:</u> The applicant is requesting a Conditional Use Permit to operate a small beer manufacturer facility with limited tasting hours.

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.

ANALYSIS/STATEMENT OF THE ISSUES

Issue 1: Quarterly Gross Sales

Typically, the quarterly gross sales of on-site alcoholic beverages to total gross sales of the business are not allowed to exceed 25%. However, in this case, given the type of use, the 25% is not reasonable, therefore the applicant and the Police Department have agreed to the following percentage per quarterly sales:

- No more than 60% from September 2012 to the end of August 2013
- No more than 45% from September 2013 to the end of August 2014
- No more than 35% after August 2014

This agreement for higher on-site alcohol sales was reached in part because of the nature of the business. The facility will have a higher percentage of on-site sales at the beginning as the business starts up, and will decrease as the wholesale business increases over the next few years. Additionally, during the Police Departments investigation other similar operations were found to have similar allowable on-site sales.

Issue 2: Existing Licenses within 600 feet of the Site

There is one facility selling alcoholic beverages that is located within a 600-foot proximity to the facility's entrance.

Existing Licenses

Establishment Name	License Type	Address
PRP Wine International	Type 21 Off-Sale General	2326 N. Batavia Street

<u>Issue 3: Sensitive Receptors</u>

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 some sensitive receptors in the vicinity of the subject property:

Sensitive Receptors

Establishment Name	Address	Distance To Project Site
Liberty Christian Church	2248 N. Batavia Street	400 feet
Residential Zoned Property	2261, 2271, 2289, 2299 N.	600 feet
(R-1-10)	Batavia Street	

The Church is located to the south of the proposed site, however; the use is not anticipated to have an adverse impact on the "sensitive" land use because there with no direct access. The residentially zone properties are located across the street on the east side of Batavia Street, with no direct access to the site.

Issue 4: Census Tract Alcohol and Crime Statistics Information

The Orange Police Department's Vice Unit reviewed the proposal and does not oppose the applicant's efforts to secure a Type 23 license, as the business' primary function is manufacturing and not on-site usage.

Alcohol Licenses

	Existing	Allowed
On Sale Licenses	14	7
Off-Sale Licenses	5	4

ABC establishes an over concentration of alcohol licenses based on the average of alcohol licenses versus the population in a given census tract. The facility is located in Census Tract 762.04 which is considered over concentrated in both on sale and off sale licenses. This in large part is due to the fact, that the proposed facility is located in the same census tract as the Stadium Promenade, an entertainment destination located to the west on Katella Avenue. Given the license type of the use and the hours of operation for the tasting room, the Police Department and staff are not concerned with the issuance of a Type 23 ABC license.

Crime Statistics

Census Tract Arrests	Citywide Average Arrests	Percent Difference
17	77	-78%

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.

Although the concentration of alcohol licenses is over saturated for this census tract, this in large part is due to the fact, that the proposed facility is located in the same census tract as the Stadium Promenade, an entertainment destination located to the west on Katella Avenue. Only one retail alcohol license is located within 600 feet of the subject site and the crime statistics are well below the average per district. Further only five alcohol related crimes were reported in 2011.

Additionally, Police Department's concerns have been addressed in the conditions of approval associated in the draft Planning Commission Resolution.

ADVISORY BOARD RECOMMENDATION

None required

ATTACHMENTS/EXHIBITS

Attachments to Report:

- 1. Planning Commission Resolution No. 31-12
- 2. Vicinity Map
- 3. Site Photos
- 4. Orange Police Department Memorandum dated April 10, 2012
- 5. Orange Police Department Recommended Conditions Memorandum dated April 10, 2012
- 6. PC Evaluation Map

Exhibits provided to the Planning Commission:

A. Submitted Plans date labeled August 6, 2012

cc: Brian & Kelly Shroepfer 17381 Canyon Heights Drive Silverado, CA 92676