



Planning Commission Agenda Item

November 19, 2012

TO: Chair Steiner and
Members of the Planning Commission

THRU: Leslie Aranda Roseberry
Planning Manager

FROM: Doris Nguyen
Associate Planner

SUBJECT

PUBLIC HEARING: Conditional Use Permit 2869-12 – LinX, located at 238 W Chapman Ave

SUMMARY

The applicant is requesting an Alcoholic Beverage Control Type 41 (On-Sale Beer and Wine for a Bona Fide Public Eating Place) license at the proposed LinX restaurant. The licensed premises would include the interior of the restaurant and the outdoor, at-grade, patio that it would share with the adjacent Wahoo's restaurant. The seating at the Wahoo's, raised covered porch would not be a part of the LinX licensed premises.

RECOMMENDED ACTION

Adopt Planning Commission Resolution No. PC 47-12 entitled:

**A RESOLUTION OF THE PLANNING COMMISSION OF
THE CITY OF ORANGE DENYING CONDITIONAL USE
PERMIT NO. 2869-12, A REQUEST FOR AN ALCOHOLIC
BEVERAGE CONTROL TYPE 41 (ON-SALE BEER AND
WINE FOR A BONA FIDE PUBLIC EATING PLACE)
LICENSE LOCATED AT 238 WEST CHAPMAN 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 alcohol beverages in the Old Towne Mixed Use-24 (OTMU-24) District. 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 November 8, 2012, the City sent a Public Hearing Notice to a total of 139 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.

ENVIRONMENTAL REVIEW

Categorical Exemption: The proposed project is categorically exempt from the provisions of the California Environmental Quality Act per State CEQA Guidelines Section 15270 (Projects Which Are Disapproved) - CEQA does not apply to projects which a public agency rejects or disapproves.

PROJECT BACKGROUND

<i>Applicant:</i>	Scott Brandon for LinX Restaurant
<i>Property Owner:</i>	234 West Chapman LLC
<i>Property Location:</i>	238 West Chapman Avenue
<i>Existing General Plan Land Use Element designation:</i>	Old Towne Mixed Use 1.0-1.5 FAR (OTMIX-24)
<i>Existing Zoning Classification:</i>	Old Towne Mixed Use-24 Santa Fe Depot Specific Plan (OTMU-24 [SP])
<i>Old Towne:</i>	Yes
<i>Redevelopment Project Area:</i>	Yes
<i>Specific Plan/PC:</i>	Santa Fe Depot Specific Plan
<i>Site Size:</i>	0.41 acres
<i>Circulation:</i>	The restaurant is located on the north side of Chapman Avenue. This segment of Chapman Avenue is considered a Primary Arterial.
<i>Existing conditions:</i>	The site is developed as a 996 SF vacant tenant space that is attached to the existing Wahoo's restaurant. There are currently a 2 nd story office, Wahoo's indoor restaurant, and raised covered patio that are not a part of the LinX application.
<i>Surrounding land uses and Zoning:</i>	West - OTMU-24 Santa Fe Depot Specific Plan (SP) East - OTMU-24 (SP) North - OTMU-15 (SP) South - OTMU-24 (SP)
<i>Previous Applications/Entitlements:</i>	238 W. Chapman Ave: None 234 W. Chapman Ave: CUP 2735-08 approved an ABC Type 41 license; ENV 1810-08, DRC 4340-08, MNSP 550-08 for a façade remodel

PROJECT DESCRIPTION

The applicant, LinX, proposes to establish a restaurant within a 996 SF vacant tenant space and sell beer and wine under a Department of Alcoholic Beverage Control Type 41 license (On-Sale Beer and Wine for a Bona Fide Public Eating Place). LinX is attached to the Wahoo’s Fish Taco restaurant. Wahoo’s has a 300 SF outdoor, raised covered patio, and 1,340 SF outdoor, at-grade patio. LinX would share the 1,340 SF at-grade patio with Wahoo’s. The 300 SF raised patio would remain exclusively for Wahoo’s.

The restaurant would have 23 exclusive indoor seats and share 60 outdoor patio seats with Wahoo’s. Beer and wine is proposed to be available to all patrons seated indoors or the outdoor patio. The applicant has stated that the business hours are expected to be 7:00 a.m. to 11:00 p.m. seven days per week. There would be approximately 3 employees on site during business hours.

The restaurant would serve specialty sausages and cured meats paired with craft beers. The restaurant menu is attached to the staff report (Attachment 3).

Development Standards

	Required	Proposed	Code Section
<i>Building Height</i>	Existing building. No new structures proposed.	Not applicable. Existing building.	Not applicable. Existing building.
<i>Distance between structures</i>	Existing building. No new structures proposed.	Not applicable. Existing building.	Not applicable. Existing building.
<i>Fence height</i>	The proposal does not include a request for a new fence.	Not applicable. Existing building.	Not applicable. Existing building.
<i>Floor Area Ratio (FAR)</i>	Existing building. No new structures proposed.	Not applicable. Existing building.	Not applicable. Existing building.
<i>Landscaping (non-residential)</i>	Landscaping required as approved for the center.	Not applicable. Existing building.	Not applicable. Existing building.
<i>Loading area (non-residential)</i>	Existing building. No new structures proposed.	Not applicable. Existing building.	Not applicable. Existing building.
<i>Lot size (residential)</i>	Not Applicable	Not Applicable	Not Applicable
<i>Lot frontage</i>	Existing building. No new structures proposed.	Not applicable. Existing building.	Not applicable. Existing building.
<i>Lot depth</i>	Existing building. No new structures proposed.	Not applicable. Existing building.	Not applicable. Existing building.
<i>Open space, common (residential)</i>	Not Applicable	Not Applicable	Not Applicable
<i>Open space, private (residential)</i>	Not Applicable	Not Applicable	Not Applicable
<i>Open space, useable</i>	Not Applicable	Not Applicable	Not Applicable

<i>(residential)</i>			
<i>Parking (non-residential)</i>	10 spaces	Property located within the Parking in-lieu district	O.M.C. Table 17.34.060.B
<i>Parking (residential)</i>	Not Applicable	Not Applicable	Not Applicable
<i>Parking, guest (residential)</i>	Not Applicable	Not Applicable	Not Applicable
<i>Setback, Front</i>	Existing building. No new structures proposed.	Not applicable. Existing building.	Not applicable. Existing building.
<i>Setback, Rear</i>	Existing building. No new structures proposed.	Not applicable. Existing building.	Not applicable. Existing building.
<i>Setback, Side</i>	Existing building. No new structures proposed.	Not applicable. Existing building.	Not applicable. Existing building.
<i>Setback, Side</i>	Existing building. No new structures proposed.	Not applicable. Existing building.	Not applicable. Existing building.

APPLICATION(S) REQUESTED/ REQUIRED FINDINGS

Conditional Use Permit: Conditional Use Permit (CUP) 2869-12 is proposed for the sale, service, and consumption of beer and wine under an Alcoholic Beverage Control Type 41 license (On-Sale Beer and Wine for a Bona Fide Public Eating Place).

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: 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 of the subject parcel (See Attachment 4, PC Radius Evaluation Map).

Existing Licenses

Establishment Name	License Type	Address
Paul's Cocktail's	Type 48 (On-Sale General – Public Premises)	207 W Chapman Ave
The District Lounge	Type 48 (On-Sale General – Public Premises)	223 W Chapman Ave
Wahoo's Fish Tacos	Type 41 (On-Sale Beer & Wine – Eating Place)	234 W Chapman Ave
Byblos	Type 41 (On-Sale Beer & Wine – Eating Place)	129 W Chapman Ave
Taco Adobe	Type 40 (On-Sale Beer)	121 N Lemon St
Rod's Plaza Store	Type 21 (Off-Sale General)	118 W Chapman Ave
American Legion	Type 52 (Veteran's Club) Type 58 (Caterer's Permit)	143 S Lemon St
Felix Continental Café	Type 41 (On-Sale Beer & Wine – Eating Place)	36 Plaza Square
Citrus City Grille	Type 41 (On-Sale Beer & Wine – Eating Place)	122 N Glassell St
Café Lucca	Type 41 (On-Sale Beer & Wine – Eating Place)	106 N Glassell St
Smoqued BBQ	Type 41 (On-Sale Beer & Wine – Eating Place)	128 N Glassell St
Francoli Italian Restaurant	Type 41 (On-Sale Beer & Wine – Eating Place)	100 S Glassell St
Blue Frog Bakery	Type 41 (On-Sale Beer & Wine – Eating Place)	136 S Glassell St
Haven Gastro Pub	Type 47 (On-Sale Beer, Wine & Distilled Spirits – Eating Place)	190 S Glassell St
Gabbi's Mexican Kitchen	Type 47 (On-Sale Beer, Wine & Distilled Spirits – Eating Place) & Type 58 (Caterer's Permit)	141 S Glassell St
Zito's Pizza	Type 41 (On-Sale Beer & Wine – Eating Place)	156 N Glassell St
O'Hara's Pub	Type 48 (On-Sale General – Public Premises)	150 N Glassell St
Jalapeno's Restaurant	Type 41 (On-Sale Beer & Wine – Eating Place)	154 N Glassell St

Issue 2: Sensitive Receptors

The OMC requires a Conditional Use Permit (CUP) for the sale of alcoholic beverages, and for any subsequent modifications to such CUPs, to ensure there will be no adverse impact on surrounding land uses or allow the availability of alcoholic beverages to minors. For 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 is one church and approximately 40 residences within 600' of the subject property as listed below.

Sensitive Receptors

Establishment Name	Address	Distance To Project Site
Plaza Bible Church	240 W. Chapman Avenue	Adjacent to project site
S Lemon Residential (12 units)	146, 156, 166, 176, 186, & 173 #1-7 S Lemon St	Approx 200' to the closest residence

N Lemon Residential (12 units)	149-191 N Lemon St	Within 600' of the parcel
W Almond Residential (7 units)	206, 229, 230, 237, 242, 305, 335 W Almond Ave	Within 600' of the parcel
S Cypress Residential (8 units)	125 A/B, 135 A/B, 145, 153/155, 163, 173, 191, 193 S Cypress St	Within 600' of the parcel
N Cypress Residential (1 units)	171 N Cypress St	Within 600' of the parcel

Issue 3: Census Tract Alcohol and Crime Statistics Information

The Police Department reports, in Attachment 5, that the business is proposed within a census tract that is considered over concentrated with on-sale Department of Alcohol Beverage Control (ABC) licenses and is below saturation point with off-sale licenses as follows:

Alcohol Licenses

	Existing	Allowed
On Sale Licenses	10	7
Off-Sale Licenses	3	5

The ABC establishes an over concentration of alcohol licenses based on the average of alcohol licenses versus the population in 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 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.

The applicant is applying for an ABC license in a census tract that is considered to be a high crime area as follows:

2011 Crime Statistics

Census Tract Arrests	Citywide Average Arrests	Percent Difference
236	77	206% over average

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 over concentration of on-sale alcohol licenses and high crime statistics have lead the Orange Police Department's Vice Unit to oppose the proposal. They have provided statements in their attached memo (Attachment 5).

Issue 4: Outdoor Seating Area

LinX is attached to the Wahoo's Fish Taco restaurant. Wahoo's has a 300 SF outdoor, raised covered patio, and a 1,340 SF outdoor, at-grade patio. LinX would share only the 1,340 SF at-grade patio with Wahoo's. The 300 SF raised patio would remain exclusively for Wahoo's. Wahoo's currently has a Type 41 (On-Sale Beer and Wine for a Bona Fide Public Eating Place) license so the licenses would not conflict. It should be disclosed that Wahoo's currently has an active application with the Planning Department to upgrade their license to a Type 47 (On-Sale General for a Bona Fide Public Eating Place).

Issue 5: Process

If the Planning Commission chooses to approve the application, the Police Department included a list of potential conditions for consideration in their Department Memo (Attachment 5). Findings would need to be made for the Resolution and the Conditions of Approval discussed.

ADVISORY BOARD RECOMMENDATION

No advisory boards were required to review the application.

ATTACHMENTS/EXHIBITS

Attachments to Report:

1. Draft Planning Commission Resolution No. PC 47-12
2. Vicinity Map
3. Restaurant Menu
4. PC Radius Evaluation Map
5. Orange Police Department Memorandum (date stamped received October 18, 2012)

Exhibits provided to the Planning Commission:

- A. Site Plan/Floor Plan (date stamped received October 25, 2012)

cc: LinX
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Ascension Monjaraz, Orange Police Department