

CITY OF NEWPORT BEACH PLANNING COMMISSION STAFF REPORT

November 18, 2021 Agenda Item No. 4

SUBJECT: Orange Coast Winery Use Permit (PA2020-082)

Conditional Use Permit No. UP2020-038

SITE LOCATION: 869, 871 and 873 West 16th Street

APPLICANT: Flamingo Reds LLC dba Orange Coast Winery

OWNER: Hunsaker Family Trust

PLANNER: Chelsea Crager, Associate Planner

949-644-3227 or ccrager@newportbeachca.gov

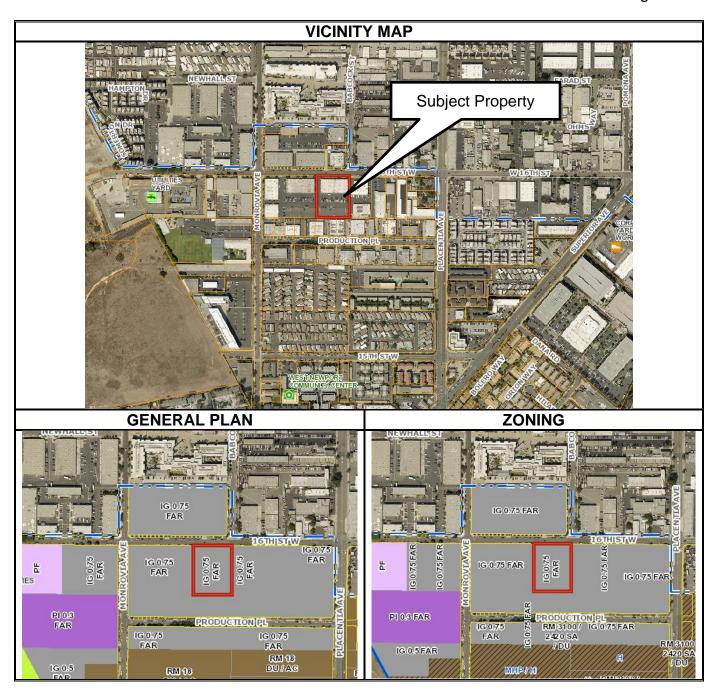
PROJECT SUMMARY

A conditional use permit to establish a wine tasting room, Orange Coast Winery, with 1,280 square feet of net public area, including a Type 2 (Winery) Alcoholic Beverage Control (ABC) license. Proposed hours of operation are 5:00 p.m. to 9:00 p.m. Monday through Friday and 12:00 p.m. to 9:00 p.m. Saturday and Sunday. There is no live entertainment or dancing proposed.

RECOMMENDATION

- 1) Conduct a public hearing;
- 2) Find this project exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15301under Class 1 (Existing Facilities) of the CEQA Guidelines, because it has no potential to have a significant effect on the environment; and
- 3) Adopt Resolution No. PC2021-032 approving Conditional Use Permit No. UP2020-038 (Attachment No. PC 1).

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| LOCATION | GENERAL PLAN | ZONING | CURRENT USE |
|----------|-------------------------|------------------------|-----------------------|
| ON-SITE | General Industrial (IG) | General Industrial (IG | Orange Coast Winery |
| NORTH | IG | IG | Church |
| SOUTH | IG | IG | Commercial/Industrial |
| EAST | IG | IG | Commercial/Industrial |
| WEST | IG | IG | Commercial/Industrial |

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INTRODUCTION

Project Setting

The project site is located on West 16th Street near the intersection with Babcock Street in an area known as West Newport Mesa. West Newport Mesa is an area of the City that contains a mix of industrial, commercial, and residential developments. Nearby uses include a church to the north across West 16th Street, commercial uses to the east and west, and commercial/industrial uses to the south on Production Place.

Project Description

The project includes a request for a conditional use permit to establish a wine tasting room, Orange Coast Winery, with 1,280 square feet of net public area, including a Type 2 (Winery) Alcoholic Beverage Control (ABC) license. Proposed hours of operation are 5:00 p.m. to 9:00 p.m. Monday through Friday and 12:00 p.m. to 9:00 p.m. Saturday and Sunday. There is no live entertainment or dancing proposed. Interior tenant improvements related to compliance with Building and Fire code compliance may be necessary. Lastly, the space will have a maximum occupancy of 99 people pursuant to the Building and Fire codes.

Background

In 2010, the Orange Coast Winery was approved for location at 869 West 16th Street only as an interim food processing use that consisted of wine production, retail, and a limited wine-tasting component on weekends only. Over time, the business model for the winery changed and wine production no longer occurred onsite. In February 2021, the Newport Beach City Council approved Ordinance No. 2021-6 allowing wine tasting rooms in the IG zoning district, subject to a conditional use permit.

DISCUSSION

General Plan

The subject property has a General Plan land use designation of General Industrial (IG). The IG designation is intended to provide for a wide range of moderate to low intensity industrial uses, such as light manufacturing and research and development, and limited ancillary commercial and office uses. The Project is consistent with this designation in that a wine tasting room is a commercial use that is ancillary to the industrial uses in the vicinity. The wine tasting room would also benefit those who live and work in the area, as it would provide for a location to try wine products before purchasing.

Zoning Code

The site is located within the Industrial (IG) Zoning District. The IG Zoning District is intended to provide for areas appropriate for a wide range of moderate to low intensity

industrial uses and limited accessory commercial and office uses. Pursuant to Newport Beach Municipal Code (NBMC) Section 20.24.020 (Industrial Zoning Districts Land Uses and Permit Requirements), wine tasting rooms are permitted in the IG Zoning District with the approval of a conditional use permit.

NBMC 20.48.090.F (Eating and Drinking Establishments – Wine Tasting Rooms) provides requirements specific to wine tasting rooms, including a 500-foot separation requirement from schools, as measured from the school property line to the building in which the wine tasting room is located, a 500-foot separation between properties that have wine tasting rooms, a prohibition on live entertainment, and a prohibition on any food preparation equipment that would require a mechanical ventilation system. There are no other wine tasting rooms in the area. The nearest school is Carden Hall and it is over 500 feet away. The wine tasting room as proposed and conditioned is consistent with these requirements.

Parking

The property provides 196 onsite parking spaces shared among the businesses onsite. Pursuant to NBMC 20.40.40 (Off-Street Parking Spaces Required), the parking requirement for a wine tasting room is one space per each four persons based on allowed occupancy load or as required by the conditional use permit. In this case, the proposed occupancy load is 99 people, which requires 25 parking spaces. There is adequate parking onsite to support the wine tasting room.

Alcohol Sales Finding

In accordance with Section 20.48.030 (Alcohol Sales) of the NBMC, the Planning Commission must find that:

1. The use is consistent with the purpose and intent of Subsection 20.48.030 (Alcohol Sales) of the Municipal Code.

The purpose and intent of Subsection 20.48.030 (Alcohol Sales) of the NBMC is to maintain a healthy environment for residents and businesses by establishing a set of consistent standards for the safe operation of alcohol establishments.

The property is in an area which the Newport Beach Police Department (NBPD) has designated as Reporting District 24 (RD 24). RD 24 experiences a higher number of reported crimes, as compared to other reporting districts in the City. The RD 24 crime count is 332, which is 165 percent over the citywide crime count average of 125. The higher crime rate is largely due to the high ratio of non-residential to residential uses in this area. In comparison, adjacent reporting districts RD 25, RD 26, and RD 17 are predominately residential with fewer commercial areas, and have crime counts lower than RD 24, but higher than the citywide average. The Part One crime rate is RD 24 is higher than the citywide average.

The NBPD has prepared a memorandum including alcohol-related statistics for consideration (Attachment No. PC 3) and has expressed no objections to the proposed project. The memorandum also includes suggested operational conditions of approval which have been incorporated into the draft resolution.

Use Permit Findings

In accordance with Section 20.52.020 (Conditional Use Permits and Minor Use Permits) of the NBMC, the Planning Commission must also make the following findings for approval of a use permit:

- 1. The use is consistent with the General Plan and any applicable Specific Plan;
- The use is allowed within the applicable zoning district and complies with all other applicable provisions of the Zoning Code and Municipal Code;
- 3. The design, location, size, and operating characteristics of the use are compatible with the allowed uses in the vicinity;
- 4. The site is physically suitable in terms of design, location, shape, size, operating characteristics, and the provision of public and emergency vehicle (e.g., fire and medical) access and public services and utilities; and
- 5. Operation of the use at the location proposed would not be detrimental to the harmonious and orderly growth of the City, or endanger, jeopardize, or otherwise constitute a hazard to the public convenience, health, interest, safety, or general welfare of persons residing or working in the neighborhood of the proposed use.

The wine tasting room operation is consistent with the purpose and intent of the IG General Plan category and the IG Zoning District as indicated by Ordinance No. 2021-6, which allows wine tasting room in this zoning district, subject to approval of a conditional use permit. The proposed wine tasting room is consistent with all requirements of NBMC 20.48.090.F (Eating and Drinking Establishments – Wine Tasting Rooms), including, but not limited to, separation requirements, hours of operation, and food service. The wine tasting room has previously operated without the benefit of a use permit and has not proven detrimental to the surrounding uses. Residential uses are not located in proximity to the use. Conditions of approval are included in the draft resolution for approval that will help to promote compatibility with the surrounding uses and should minimize any potential nuisances. No exterior physical improvements are proposed as part of this project. The location, availability of parking, limited size of the facility, lack of live entertainment and dancing, and the limited hours of operation will ensure that nuisances to the area should be minimized.

Staff believes facts exist in support of each finding, which are detailed in the attached draft Resolution for approval (Attachment No. PC 1).

Alternatives

- The Planning Commission may suggest specific changes that are necessary to alleviate any concerns. If the requested changes are substantial, the item could be continued to a future meeting. Should the Planning Commission choose to do so, staff will return with a revised resolution incorporating new findings and/or conditions.
- 2. If the Planning Commission believes that there are insufficient facts to support the findings for approval and a denial action is more appropriate, staff would recommend a continuance to prepare a resolution reflecting this course of action

Environmental Review

This Project is exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15301 under Class 1 (Existing Facilities) of the CEQA Guidelines, California Code of Regulations, Title 14, Division 6, Chapter 3, because it has no potential to have a significant effect on the environment.

Class 1 exempts projects involving negligible or no expansion of use including but not limited to repair, maintenance, permitting, leasing, licensing, or minor alteration of existing public or private structures, facilities, mechanical equipment, or topographical features. The Project is limited to the establishment of a wine tasting room in an existing building and does not include any exterior alterations to the existing building. The exceptions to this categorical exemption under Section 15300.2 are not applicable.

Public Notice

Notice of this hearing was published in the Daily Pilot, mailed to all owners of property within 300 feet of the boundaries of the site (excluding intervening rights-of-way and waterways) including the applicant and posted on the subject property at least 10 days before the scheduled meeting, consistent with the provisions of the Municipal Code. Additionally, the item appeared on the agenda for this meeting, which was posted at City Hall and on the City website.

Prepared by: Submitted by:

Chelsea Crager Jw Campbell

Jim Campbell

Associate Planner // Deputy Community Development Director

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ATTACHMENTS

- PC 1 Draft Resolution with Findings and Conditions
- PC 2 Applicant's Project Description
- PC 3 Police Department Memorandum
- PC 4 Project plans

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Attachment No. PC 1

Draft Resolution with Findings and Conditions

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RESOLUTION NO. PC2021-032

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF NEWPORT BEACH, CALIFORNIA, APPROVING USE PERMIT NO. UP2020-038 TO ALLOW A WINE TASTING ROOM LOCATED AT 869 WEST 16TH STREET (PA2020-082)

THE PLANNING COMMISSION OF THE CITY OF NEWPORT BEACH HEREBY FINDS AS FOLLOWS:

SECTION 1. STATEMENT OF FACTS.

- An application was filed by Flamingo Reds LLC dba Orange Coast Winery ("Applicant"), with respect to property located at 869 West 16th Street, and legally described as Lot 913 of Newport Mesa Tract ("Property").
- 2. The Applicant requests a conditional use permit to establish a wine tasting room, Orange Coast Winery, with 1,280 square feet of net public area, including a Type 2 (Winery) Alcoholic Beverage Control (ABC) license ("Project"). Proposed hours of operation are 5:00 p.m. to 9:00 p.m. Monday through Friday and 12:00 p.m. to 9:00 p.m. Saturday and Sunday. There will be no live entertainment or dancing.
- 3. The Property is categorized IG (General Industrial) by the General Plan Land Use Element and is located within the IG (Industrial) Zoning District.
- 4. The Property is not located within the coastal zone.
- 5. A public hearing was held on November 18, 2021 in the Council Chambers at 100 Civic Center Drive, Newport Beach, California. A notice of time, place and purpose of the public hearing was given in accordance with the California Government Code Section 54950 et seq. ("Ralph M. Brown Act") and Chapter 20.62 (Public Hearings) of the Newport Beach Municipal Code ("NBMC"). Evidence, both written and oral, was presented to, and considered by, the Planning Commission at this public hearing.

SECTION 2. CALIFORNIA ENVIRONMENTAL QUALITY ACT DETERMINATION.

- 1. This Project is exempt from the California Environmental Quality Act ("CEQA") pursuant to Section 15301 under Class 1 (Existing Facilities) of the CEQA Guidelines, California Code of Regulations, Title 14, Division 6, Chapter 3, because it has no potential to have a significant effect on the environment.
- The Class 1 exemption includes the operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing public or private structures, facilities, mechanical equipment, or topographical features, involving negligible or no expansion of use. The Project does not include any interior or exterior alterations to the existing eating and drinking establishment. No increase of gross floor area or net public area would occur with the approval of the requested amendment.

3. The exceptions to this categorical exemption under Section 15300.2 are not applicable. The Project location does not impact an environmental resource of hazardous or critical concern, does not result in cumulative impacts, does not have a significant effect on the environment due to unusual circumstances, does not damage scenic resources within a state scenic highway, is not a hazardous waste site, and is not identified as a historical resource.

SECTION 3. REQUIRED FINDINGS.

In accordance with Sections 20.48.030(C)(3) (Alcohol Sales, Permit Requirements, Required Findings) and Section 20.52.020(F) (Conditional Use Permits and Minor Use Permits, Findings and Decision) of the NBMC, the following findings and facts in support of such findings are set forth:

Finding

A. The use is consistent with the purpose and intent of NBMC Section 20.48.030 (Alcohol Sales).

Facts in Support of Finding

- 1. In finding that the Project is consistent with Section 20.48.030 (Alcohol Sales) of the NBMC, the following criteria must be considered:
- The crime rate in the reporting district and adjacent reporting districts as compared to other areas in the City.
 - The Property is in an area the Newport Beach Police Department ("NBPD") has a. designated as Reporting District 24 (RD 24). RD 24 includes the areas of the City north of Coast Highway and West of Newport Boulevard. The NBPD is required to report offenses of Part One Crimes combined with all arrests for other crimes, both felonies and misdemeanors (except traffic citations), to ABC. Part One Crimes are the eight (8) most serious crimes defined by the FBI Uniform Crime Report: criminal homicide, rape, robbery, aggravated assault, burglary, larceny-theft, auto theft, and arson. RD 24 is considered a higher crime area, as compared to other reporting districts in the City. The RD 24 crime count is 332, which is 165 percent over the citywide crime count average of 125. The higher crime rate is largely due to the high ratio of non-residential to residential uses in this area. In comparison, adjacent reporting districts RD 25, RD 26, and RD 17 are predominately residential with fewer commercial areas, and have crime counts lower than RD 24, but higher than the citywide average. The Part One crime rate in RD 24 is higher than the citywide average.
 - b. The NBPD has reviewed the proposal, provided operating conditions of approval incorporated into Exhibit "A" of this Resolution, and has no objection to the addition of the alcoholic beverage license with those conditions of approval in place.

ii. The number of alcohol-related calls for service, crimes, or arrests in the reporting district and in adjacent reporting districts.

RD 24 had a higher percentage of alcohol-related crimes in 2020, compared to all adjacent reporting districts. Adjacent reporting districts are comprised of primarily residential properties with some commercial components, so the lower amount of alcohol-related incidents is expected. The NBPD has reviewed the proposed use and has no objection.

- iii. The proximity of the establishment to residential zoning districts, day care centers, hospitals, park and recreation facilities, places of worship, schools, other similar uses, and any uses that attract minors.
 - a. Residentially zoned properties are located approximately 325 feet to the south across Production Place from the Property. Additionally, residentially zoned properties are located approximately 700 feet to the east across Placentia Avenue.
 - b. The nearest park, Sunset Ridge Park, is located approximately 3,000 feet to the south. The nearest church, Viewpoint Church, is located across West 16th Street. The nearest school, Carden Hall, is located approximately 700 feet to the southwest and is substantially separated by commercial and industrial uses. The nearest known daycare is approximately 2,000 feet to the southeast. The nearest residential use, Seacliffe Mobile Park, is located approximately 325 feet to the south. The Project is otherwise surrounded by other commercial and industrial uses.
 - c. The West Newport Mesa area is characterized by commercial, institutional, and industrial uses being near one another. As such, the area experiences a lower number of visitors with more people living and working in the area.
 - d. The Project with an early closing hour, is not anticipated to alter the operational characteristics of the existing use such that it becomes detrimental to the area. The resolution includes conditions of approval to further minimize negative impacts to surrounding land uses and ensure that the use remains compatible with the surrounding community.
- iv. The proximity to other establishments selling alcoholic beverages for either off-site or onsite consumption.

The Property is located within Census Tract 0636.03. This Census Tract has an approximate population of 6,450 residents with 11 active retail licenses, which is a per capita ratio of one (1) license for every 586 residents. This is lower than the Orange County ratio of one (1) license for every 471 residents. There is not an oversaturation of alcohol licenses in this Census Tract.

Whether or not the proposed amendment will resolve any current objectionable conditions.

The approval of a use permit for the Project would legalize the wine tasting room that previously operated at the Property without the benefit of a use permit. In 2010, the operation was approved as an interim food processing use that consisted of wine production, retail, and a limited wine-tasting component on weekends only. Over time, the business model for the winery changed and wine production no longer occurred onsite. Approval of a use permit would allow the Project to operate consistent with the Zoning Code.

Finding

- B. The use is consistent with the General Plan and any applicable specific plan.
- 1. The IG (General Industrial) category is intended to provide for a wide range of moderate to low intensity industrial uses, such as light manufacturing and research and development, and limited ancillary commercial and office uses. The Project is consistent with this designation in that a wine tasting room is a commercial use that is ancillary to the industrial uses in the vicinity. The Project would also benefit those who live and work in the area, as it would provide for a location to try wine products before purchasing.
- 2. The Property is not part of a specific plan area.

Finding

C. The use is allowed within the applicable zoning district and complies with all other applicable provisions of this Zoning Code and the Municipal Code.

Facts in Support of Finding

- 1. The IG (Industrial) Zoning District allows wine tasting rooms subject to approval of a use permit.
- Orange Coast Winery is an existing wine tasting room that was previously operating without the benefit of a use permit. In 2010, the operation was originally approved as an interim food processing use that consisted of wine production, retail, and a limited wine-tasting component on weekends only. Over time, the business model for the winery changed and wine production no longer occurred onsite In February 2021, the Newport Beach City Council approved Ordinance No. 2021-6 allowing wine tasting rooms in the IG (Industrial) zoning district, subject to a use permit.
- 3. NBMC Section 20.48.090(F) (Eating and Drinking Establishments, Standards Wine Tasting Rooms) requires separation requirements from schools and wine tasting rooms, prohibits live entertainment, and prohibits the wine tasting room from operating as a bona fide eating establishment. The Property is located over 500 feet from the nearest school,

- Carden Hall. There are no other wine tasting rooms in the area. The Project includes conditions of approval to ensure operational standards are complied with.
- 4. NBMC Section 20.40.040 (Off-Street Parking Spaces Required) requires parking at a rate of one parking space per each four (4) persons based on allowed occupancy load, or as required by conditional use permit. The Project is designed with a maximum occupancy load of 99 persons and therefore has a parking requirement of 25 parking spaces. There is no waiver of parking requirements requested.

Finding

D. The design, location, size, and operating characteristics of the use are compatible with the allowed uses in the vicinity.

Facts in Support of Finding

- 1. The Property will be improved with tasting tables, restrooms, offices, and a kitchen space. There is no cooking equipment that require a mechanical ventilation system proposed within the food preparation space. The existing infrastructure is adequate to accommodate the Project. The location is compatible with other commercial and industrial uses in the area.
- 2. The operational conditions of approval will promote compatibility with the surrounding uses. The floor plan provides tasting tables to accommodate 51 interior seats. The hours of operation are limited and do not include late hours, which will minimize the demand for police services in the area. The Applicant is required to maintain substantial conformance with the approved floor plan in conjunction with a Type 2 (Wine Grower) ABC license so that the primary use is a wine tasting room and not a restaurant, bar, lounge, or night club. Live entertainment and dancing are not permitted.
- 3. The Project will not necessitate high levels of lighting or illumination and all outdoor lighting must conform to Section 20.30.070 (Outdoor Lighting) of the NBMC.

Finding

E. The site is physically suitable in terms of design, location, shape, size, operating characteristics, and the provision of public and emergency vehicle (e.g., fire and medical) access and public services and utilities.

Facts in Support of Finding

- 1. The Property previously operated with a wine tasting room within a multi-tenant commercial building. Physical improvements are limited to the interior of the space.
- 2. Adequate public and emergency vehicle access, public services, and utilities are provided for on-site.

Finding

F. Operation of the use at the location proposed would not be detrimental to the harmonious and orderly growth of the City, or endanger, jeopardize, or otherwise constitute a hazard to the public convenience, health, interest, safety, or general welfare of persons residing or working in the neighborhood of the proposed use.

Facts in Support of Finding

- 1. The Project should have a positive impact on the area. The Project will serve both residents and those who work in the surrounding area. It promotes economic activity within the West Newport Mesa area and may promote further revitalization of its commercial properties.
- The Project includes conditions of approval to ensure that potential conflicts with the surrounding land uses are minimized to the greatest extent possible. The operator is required to take reasonable steps to discourage and correct objectionable conditions that constitute a nuisance within the facility, adjacent properties, or surrounding public areas, sidewalks, or parking lots of the wine tasting room, during business hours, if directly related to the patrons of the establishment.

SECTION 4. DECISION.

NOW, THEREFORE, BE IT RESOLVED:

- 1. The Planning Commission of the City of Newport Beach hereby finds the Project is categorically exempt from CEQA pursuant to Section 15301 under Class 1 (Existing Facilities) of the CEQA Guidelines, California Code of Regulations, Title 14, Division 6, Chapter 3, because it has no potential to have a significant effect on the environment and none of the exceptions to the Class 1 exemption apply.
- 2. The Planning Commission of the City of Newport Beach hereby approves Use Permit No. UP2020-038, subject to the conditions set forth in Exhibit "A," which is attached hereto and incorporated by reference.
- 3. This action shall become final and effective 14 days following the date this Resolution was adopted unless within such time an appeal is filed with the City Clerk in accordance with the provisions of Title 20 (Planning and Zoning), of the NBMC.

| PASSED, APPROVED, AND ADOPTED THIS 18TH DAY OF NOVEMBER 2021. |
|---|
| AYES: |
| NOES: |
| ABSTAIN: |
| ABSENT: |
| |
| BY: Lee Lowrey, Chairman |
| BY: |
| Curtis Ellmore, Secretary |

EXHIBIT "A"

CONDITIONS OF APPROVAL

(project-specific conditions are shown in italics)

Planning Division

- 1. Use Permit No. UP2020-038 shall expire unless exercised with 24 months from the date of the approval as specified in Section 20.54.060 (Time Limits and Extensions) of the NBMC, unless an extension is otherwise granted.
- 2. The Project is subject to all applicable City ordinances, policies, and standards, unless specifically waived or modified by the conditions of approval.
- 3. The Applicant shall comply with all federal, state, and local laws. Material violation of any of those laws in connection with the use may be cause for revocation of this Use Permit.
- 4. This Use Permit may be modified or revoked by the City Council or Planning Commission should they determine that the proposed uses or conditions under which it is being operated or maintained is detrimental to the public health, welfare or materially injurious to property or improvements in the vicinity or if the property is operated or maintained so as to constitute a public nuisance.
- 5. Any substantial change in operational characteristics, expansion in area, or other modification to the approved plans, shall require subsequent review by the Planning Division and may require an amendment to this Use Permit or the processing of a new Use Permit.
- 6. Future alterations to the wine tasting room will be evaluated for compliance with City standards and respective codes, and if a building permit is required, will be during the plan check process.
- 7. The hours of operation for the wine tasting room shall be limited between 5:00 p.m. to 9:00 p.m. Monday through Friday and 12:00 p.m. to 9:00 p.m. Saturday through Sunday. All customers must vacate the establishment no more than 30 minutes after closing.
- 8. Any kitchen or food preparation area provided shall have no cooking equipment that requires a mechanical ventilation system to exhaust heat, steam, or grease vapor.
- 9. The site shall not be excessively illuminated based on the luminance recommendations of the Illuminating Engineering Society of North America, or, if in the opinion of the Director of Community Development, the illumination creates an unacceptable negative impact on surrounding land uses or environmental resources. The Director may order

the dimming of light sources or other remediation upon finding that the site is excessively illuminated.

10. All noise generated by the proposed use shall comply with the provisions of Chapter 10.26 (Community Noise Control) and other applicable noise control requirements of the NBMC. The maximum noise shall be limited to no more than depicted below for the specified time periods unless the ambient noise level is higher:

| | Between th | ne hours of 7:00AM | Between | the hours of | |
|---|------------|--------------------|--------------------|--------------|--|
| | and 10:00P | M | 10:00PM and 7:00AM | | |
| Location | Interior | Exterior | Interior | Exterior | |
| Residential Property | 45dBA | 55dBA | 40dBA | 50dBA | |
| Residential Property located within 100 feet of a commercial property | 45dBA | 60dBA | 45dBA | 50dBA | |
| Mixed Use Property | 45dBA | 60dBA | 45dBA | 50dBA | |
| Commercial Property | N/A | 65dBA | N/A | 60dBA | |

- 11. Should the property be sold or otherwise come under different ownership, any future owners or assignees shall be notified of the conditions of this approval by either the current business owner, property owner or the leasing agent.
- 12. No outside paging system shall be utilized in conjunction with this establishment.
- 13. All trash shall be stored within the building or within dumpsters stored in the trash enclosure (three walls and a self-latching gate) or otherwise screened from view of neighboring properties, except when placed for pick-up by refuse collection agencies. The trash enclosure shall have a decorative solid roof for aesthetic and screening purposes.
- 14. Trash receptacles for patrons shall be conveniently located both inside and outside of the establishment, however, not located on or within any public property or right-of-way.
- 15. The exterior of the business shall be maintained free of litter and graffiti at all times. The owner or operator shall provide for daily removal of trash, litter debris and graffiti from the premises and on all abutting sidewalks within 20 feet of the premises.
- 16. The Applicant shall ensure that the trash dumpsters and/or receptacles are maintained to control odors. This may include the provision of either fully self-contained dumpsters or periodic steam cleaning of the dumpsters, if deemed necessary by the Planning Division. Cleaning and maintenance of trash dumpsters shall be done in compliance with the provisions of Title 14 (Water and Sewers) of the NBMC, including all future amendments (including Water Quality related requirements).
- 17. Deliveries and refuse collection for the facility shall be prohibited between the hours of 10 p.m. and 7 a.m. on weekdays and Saturdays and between the hours of 10 p.m. and 9 a.m. on Sundays and Federal holidays, unless otherwise approved by the Director of Community Development, and may require an amendment to this Use Permit.

- 18. Storage outside of the building in the front or at the rear of the property shall be prohibited, with the exception of the required trash container enclosure.
- 19. A special events permit is required for any event or promotional activity outside the normal operational characteristics of the approved use, as conditioned, or that would attract large crowds, involve the sale of alcoholic beverages, include any form of on-site media broadcast, or any other activities as specified in the NBMC to require such permits.
- 20. There shall be no on-site radio, television, video, film, or other electronic media broadcasts, including recordings to be broadcasted at a later time, which include the service of alcoholic beverages, without first obtaining an approved Special Event Permit issued by the City of Newport Beach.
- 21. To the fullest extent permitted by law, applicant shall indemnify, defend and hold harmless City, its City Council, its boards and commissions, officials, officers, employees, and agents from and against any and all claims, demands, obligations, damages, actions, causes of action, suits, losses, judgments, fines, penalties, liabilities, costs and expenses (including without limitation, attorney's fees, disbursements and court costs) of every kind and nature whatsoever which may arise from or in any manner relate (directly or indirectly) to City's approval of Orange Coast Winery Use Permit including, but not limited to, se Permit No. UP2020-038 (PA2020-082). This indemnification shall include, but not be limited to, damages awarded against the City, if any, costs of suit, attorneys' fees, and other expenses incurred in connection with such claim, action, causes of action, suit or proceeding whether incurred by applicant, City, and/or the parties initiating or bringing such proceeding. The applicant shall indemnify the City for all of City's costs, attorneys' fees, and damages which City incurs in enforcing the indemnification provisions set forth in this condition. The applicant shall pay to the City upon demand any amount owed to the City pursuant to the indemnification requirements prescribed in this condition.

Police Department

- 22. The type of alcoholic beverage license issued by the California Board of Alcoholic Beverage Control shall be a Type 02 (Winegrower).
- 23. The business must close at 11:00 p.m., daily.
- 24. The applicant shall comply with all federal, state, and local laws, and all conditions of the Alcoholic Beverage License. Material violation of any of those laws or conditions in connection with the use may be cause for revocation of the use permit.
- 25. Approval does not permit the premises to operate as a bar, tavern, cocktail lounge or nightclub as defined by the Newport Beach Municipal Code.
- 26. No alcoholic beverages shall be consumed on any property adjacent to the licensed premises under the control of the licensee.

- 27. No games or contests requiring or involving the consumption of alcoholic beverages shall be allowed.
- 28. There shall be no reduced price alcoholic beverage promotions after 9:00 p.m.
- 29. There shall be no live entertainment or dancing allowed on the premises unless a special events permit is acquired.
- 30. The exterior of the business shall be maintained free of litter and graffiti at all times. The owner or operator shall provide for daily removal of trash, litter, and debris from the premises and on all abutting sidewalks within 20 feet of the premises. Graffiti shall be removed within 48 hours of written notice from the City.
- 31. All owners, managers and employees selling alcoholic beverages shall undergo and successfully complete a certified training program in responsible methods and skills for selling alcoholic beverages within 60 days of hire. This training must be updated every 3 years regardless of certificate expiration date. The certified program must meet the standards of the California Coordinating Council on Responsible Beverage Service or other certifying/licensing body, which the State may designate. The establishment shall comply with the requirements of this section within 60 days of approval. Records of each owner's, manager's and employee's successful completion of the required certified training program shall be maintained on the premises and shall be presented upon request by a representative of the City of Newport Beach.
- 32. Strict adherence to maximum occupancy limits is required.
- 33. The applicant shall maintain a security recording system with a 30-day retention and make those recording available to police upon request.
- 34. The operator of the restaurant facility shall be responsible for the control of noise generated by the subject facility. All noise generated by the proposed use shall comply with the provisions of Chapter 10.26 and other applicable noise control requirements of the Newport Beach Municipal Code.

Fire Department

35. A hood fire suppression system shall be installed at or above all commercial cooking appliances and domestic cooking appliances used for commercial purposes that produce grease vapors. California Fire Code Section 609.2.

Building Division

- 36. Occupancy separation between S, B and A occupancies shall be provided by fire barriers.
- 37. Fire barrier construction shall extend from slab to roof decking above.
- 38. Occupancy separation is required between proposed suite and adjacent existing suites, depending on their permitted occupancy.
- 39. All single user restrooms shall be accessible.

40. Final occupant load and occupancy shall be determined during plan check.

Attachment No. PC 2

Applicant's Project Description

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From: Peter Swanson < peter.swanson@orangecoastwinery.com >

Sent: October 29, 2021 4:26 PM

To: Crager, Chelsea

Subject: Orange Coast Winery Desired Hours

[EXTERNAL EMAIL] DO NOT CLICK links or attachments unless you recognize the sender and know the content is safe.

Hi Chelsea,

Thank you for your phone call today.

To simplify the planning commission hearing we would like to confirm our planned hours of operation will be as follows:

- Monday thru Friday 5 pm to 9 pm
- Saturday and Sunday Noon to 9 pm

This should fit well into the hours in the zoning amendment passed last April



Peter Swanson

Owner/General Manager, Orange Coast Winery

(949) 645-0400

orangecoastwinery.com

869 W. 16th Street, Newport Beach, CA 92663

0 **f**

Law Offices of Phillip B Greer

RECEIVED BY COMMUNITY DEVELOPMENT

August 25, 2021 CITY OF August 25, 2021

Newport Beach Planning Department 100 Civic Center Drive Newport Beach, California 92660

Re: Orange Coast Winery 869 – 873 W. 16th Street

Gentlemen:

Per the plans and specifications submitted herewith, the Orange Coast Winery proposes to utilize the property identified hereinabove as a boutique wine tasting facility.

As discussed in the submitted plans, the occupancy load for the 869 and 871 units are 49 and 50, respectively. There are a total of 222 existing parking spaces at the site and, with these occupancy loads and the parking demands of the remaining tenants, 196 spaces are required. Thus, there is an excess of 26 spaces for the entire site.

The facility will operate between the hours of 5:00 pm and 9:00 pm on weekdays and between noon and 8:00 pm on weekends.

Thank you for your continued courtesy and cooperation in this matter.

Singerely Phillip B Greer

4000 MACARTHUR BLVD. SLITE 600. NEWPORT BEACH, CALIFORNIA 92660 (949) 584-9379 SURFLAW@AOL.COM

Attachment No. PC 3

Police Department Memorandum

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NEWPORT BEACH POLICE DEPARTMENT DETECTIVE DIVISION

MEMORANDUM

TO:

Chelsea Crager, Planning Consultant

FROM:

Wendy Joe, Police Civilian Investigator

DATE:

October 29, 2021

SUBJECT:

Orange Coast Winery

869 West 16th Street

PA2020-082

At your request, the Police Department has reviewed the project application for Orange Coast Winery, located at 869 West 16th Street, Newport Beach. The applicant is seeking a Use Permit to expand the wine tasting room into two suites. This project will not require an Operator License.

Statistical Data and Public Convenience or Necessity

Attached is a summary report compiled by Newport Beach Police Department (NBPD) Crime Analyst, Kristi Kondo, which provides detailed statistical information related to alcohol establishments and calls for service in and around the applicant's current place of business at 869 West 16th Street.

Crime Statistics:

The Police Department divides the City into areas referred to as Reporting Districts. This allows the Police Department to compile statistical data, as well as better communicate officer locations while policing. The proposed applicant location is within Reporting District (RD) 24, an area north of West Coast Highway and west of Newport Boulevard.

Per Business and Professions Code §23958.4, the Police Department is required to report offenses of criminal homicide, forcible rape, robbery, aggravated assault, burglary, larceny, theft, and motor vehicle theft (all Part I crimes), combined with all arrests for other crimes, both felonies and misdemeanors (except traffic citations) to the Department of Alcoholic Beverage Control (ABC). These figures make up the "Crime Count" which is indicated on the attached statistical data form

RD 24 is reported to ABC as a high crime area in Newport Beach as compared to other reporting districts in the City. The RD's Crime Count is 332, 165% over the City-wide Crime Count average of 125. Since this area has a 20% greater number of reported crimes than the average number of reported crimes as determined from all crime reporting districts within the City, the area is found to have undue concentration. In comparison, neighboring RD 16 is 35% above the City-wide average, RD 17 is 33% higher than the City-wide average, and RD 25 is 41% higher. Of 38 reporting districts in Newport Beach, we reported 12 to ABC as high crime areas.

Orange Coast Winery PA2020-082

The highest volume crime in this area is burglary or theft from automobiles, and the highest volume arrests in the area are drug related offenses. DUI, Public Intoxication, and liquor law violations make up 28% of arrests in this reporting district. There were 36 DUIs in this RD in 2020. This number is likely high because vehicles commonly drive through this RD after exiting the Newport Peninsula's entertainment district. In comparison, the DUI/Public Intoxication/Liquor Law figure for neighboring RD 16 is 16%, RD 17 is 20% and RD 25 is 26%.

Alcohol License Statistics:

The applicant premise is located within census tract 0636.03. This census tract has an approximate population of 6,450 residents with 11 active retail licenses. That is a per capita ratio of 1 license for every 586 residents. Per the Business and Professions code, we must compare this per capita ratio to Orange County's on-sale per capita ratio of 1 license for every 471 residents. Since the area's ratio does not exceed the ratio of retail licenses to population in the county, the area is not deemed to have an undue concentration of alcohol licenses.

Police Dispatch Events:

There are no calls for service in 2019, 2020, or 2021 year to date.

RECOMMENDED CONDITIONS OF APPROVAL

Due to low crime with a nexus to alcohol, no undue concentration, a lack of calls for service, and no late hours proposed, the Police Department does not anticipate an increased burden on police resources. The Police Department has no concerns with the project.

Should the project be approved, the Police Department requests the following conditions be evaluated for this use permit.

- The type of alcoholic beverage license issued by the California Board of Alcoholic Beverage Control shall be a Type 02 (Winegrower).
- 2. The business must close at 11:00 p.m., daily.
- 3. The applicant shall comply with all federal, state, and local laws, and all conditions of the Alcoholic Beverage License. Material violation of any of those laws or conditions in connection with the use may be cause for revocation of the use permit.
- 4. Approval does not permit the premises to operate as a bar, tavern, cocktail lounge or nightclub as defined by the Newport Beach Municipal Code.
- 5. No alcoholic beverages shall be consumed on any property adjacent to the licensed premises under the control of the licensee.
- No games or contests requiring or involving the consumption of alcoholic beverages shall be allowed.
- 7. There shall be no reduced price alcoholic beverage promotions after 9:00 p.m.

- 8. There shall be no live entertainment or dancing allowed on the premises unless a special events permit is acquired.
- 9. The exterior of the business shall be maintained free of litter and graffiti at all times. The owner or operator shall provide for daily removal of trash, litter, and debris from the premises and on all abutting sidewalks within 20 feet of the premises. Graffiti shall be removed within 48 hours of written notice from the City.
- All owners, managers and employees selling alcoholic beverages shall undergo and successfully complete a certified training program in responsible methods and skills for selling alcoholic beverages within 60 days of hire. This training must be updated every 3 years regardless of certificate expiration date. The certified program must meet the standards of the California Coordinating Council on Responsible Beverage Service or other certifying/licensing body, which the State may designate. The establishment shall comply with the requirements of this section within 60 days of approval. Records of each owner's, manager's and employee's successful completion of the required certified training program shall be maintained on the premises and shall be presented upon request by a representative of the City of Newport Beach.
- 11. Strict adherence to maximum occupancy limits is required.
- 12. The applicant shall maintain a security recording system with a 30-day retention and make those recording available to police upon request.
- 13. The operator of the restaurant facility shall be responsible for the control of noise generated by the subject facility. All noise generated by the proposed use shall comply with the provisions of Chapter 10.26 and other applicable noise control requirements of the Newport Beach Municipal Code.

If you have any questions as to the content of this memorandum, please contact Investigator Wendy Joe at (949)644-3705 or wjoe@nbpd.org.

Wendy\Joe

Police Civilian Investigator, Special Investigations Unit



CHIEF JON T. LEWIS

NEWPORT BEACH POLICE DEPARTMENT

2020 CRIME AND ALCOHOL-RELATED STATISTICS

SUMMARY FOR ORANGE COAST WINERY AT 869 W. 16TH ST (RD24)

| Subject: | Part I Crime | Diff From Avg | % Diff From Avg | Part I Arrests | Diff From Avg | % Diff From Avg | Part II Crime | Diff From Avg | % Diff From Avg | Part II Arrests | Diff From Avg | % Diff From Avg | Crime Count | Diff From Avg | % Diff From Avg |
|----------------------|-----------------|------------------|--------------------|-------------------|------------------|--------------------|------------------|------------------|--------------------|--------------------|------------------|--------------------|----------------|------------------|--------------------|
| 869 W. 16TH ST | 1 | N/A | N/A | 0 | N/A | N/A | 0 | N/A | N/A | 1 | N/A | N/A | 2 | N/A | N/A |
| Subject RD: RD24 | 127 | +77 | 154% | 9 | +3 | +50% | 205 | +130 | +173% | 125 | +65 | +108% | 332 | +207 | +165% |
| Adjacent RD: RD16 | 55 | +5 | +10% | 12 | +6 | +100% | 114 | +39 | +52% | 111 | +51 | +85% | 169 | +44 | +35% |
| Adjacent RD: RD17 | 58 | +8 | +16% | 3 | -3 | -50% | 109 | +34 | +45% | 83 | +23 | +38% | 167 | +42 | +33% |
| Adjacent RD: RD25 | 68 | +18 | +36% | 12 | +6 | +100% | 109 | +34 | +45% | 93 | +33 | +55% | 177 | +52 | +41% |
| Newport Beach | 1,911 | RD Aver | age = 50 | 221 | RD Ave | rage = 6 | 3,454 | RD Aver | age = 75 | 3,181 | RD Aver | age = 60 | 4,767 | RD Aver | age = 125 |

Part I Crimes are the 8 most serious crimes as defined by the FBI Uniform Crime Report - Homicide, Rape, Robbery, Aggravated Assault, Burglary, Larceny, Auto Theft, and Arson. This report reflects City of Newport Beach data for 2020.

Per BP 23958.4, crime count is the sum of Part I Crime plus Part II Arrests.

| ABC Info | ACTIVE LICENSES | | | | | |
|------------|--|--|---|--|--|--|
| POPULATION | RETAIL ACTIVE LICENSES | RETAIL LICENSE PER CAPITA | WINEGROWERS LICENSE | | | |
| N/A | N/A | N/A | N/A | | | |
| 6,450 | 11 | 586 | 1 | | | |
| 4,938 | 90 | 54 | 1 | | | |
| 4,776 | 11 | 434 | 1 | | | |
| 4,061 | 11 | 369 | 0 | | | |
| 85,238 | 449 | 190 | 7 | | | |
| 3,186,989 | 6,761 | 471 | 35 | | | |
| | POPULATION 6,450 4,938 4,776 4,061 85,238 | POPULATION RETAIL ACTIVE LICENSES N/A N/A 6,450 11 4,938 90 4,776 11 4,061 11 85,238 449 | POPULATION RETAIL ACTIVE LICENSES RETAIL LICENSE PER CAPITA N/A N/A N/A 6,450 11 586 4,938 90 54 4,776 11 434 4,061 11 369 85,238 449 190 | | | |

All Population figures taken from the 2020 US Census. Number of Active ABC Licenses is the total of all types of retail licenses known to the NBPD as of March 2021

10/28/2021

Attachment No. PC 4

Project plans

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Attachment No. PC 4 - Project Plans PA2020-082

PARKING AVAILABLE

Private Parking Lot: 89 Standard Spaces 4 H/C Spaces 93 Total

Open Parking Lot: 108 Standard Spaces

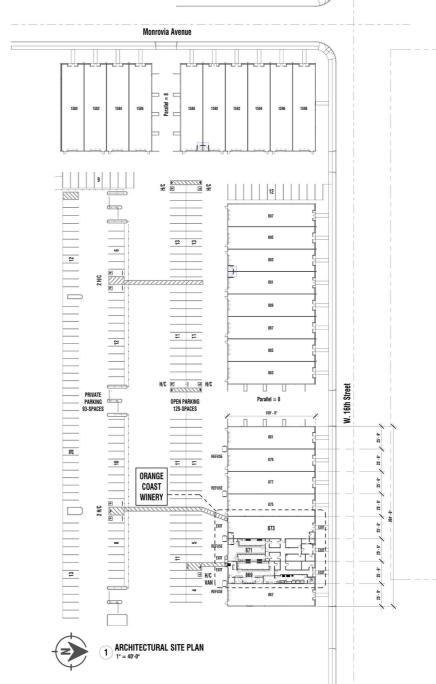
5 H/C Spaces 16 Parallel Spaces

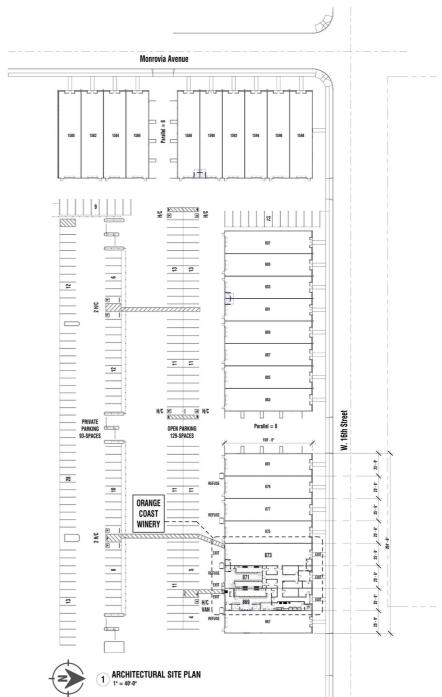
129 Total

Grand Total Parking: 222 SPACES

Parking Surplus:

26 SPACES









Owner: , Orange Coast Winery Contact: Peter Swanson 869 W. 16th Street Newport Beach, California, 92663 peterswanson@orangecoastwinery. (949) 645-0400

Architect: Angle Architecture Contact: Timothy Rhoads 17848 Sky Park Circle, Suite D Irvine, California, 92614 timrhoadstra@gmail.com (808) 280-5961

| lo. Description | | |
|-----------------|-------------|--|
| | | |
| | | |
| | | |
| | | |
| | Description | |





Boutique Wine Tastery 869 871 & 873 W. 16th Street Newport Beach, CA, 92663

PERMIT / BID ISSUE 2021-XXXX Plan Check No Project No. Date: 11.09.2021

ARCHITECTURAL SITE PLAN

A-1.00

PARKING ALLOCATION SUMMARY

GROSS SQ. FT.

USE

INDUSTRY
WINE TASTING
WINE WARCHOUSE
VACANT
FITNESS
INTERIOR DESIGN
AUTO DETAILING
STORAGE
ENGINE CALIBRATION
INDUSTRY
INDUSTRY
OFFICE
INDUSTRY

ON-LINE SALES
INDUSTRY
INDUSTRY
SURF SHOP / COFFEE SHOI
INDUSTRY
MARINE SAIL REPAIR
COSTUME DESIGN
AUTO PARTS
POWDER COATING

% OF GROSS SQ. FT.

PARKING RATIO (PER C.N.B.)

1 PER 500 OCCUPANTS
1 PER 4 OCCUPANTS
1 PER 500 OCCUPANTS
1 PER 500 OCCUPANTS
1 PER 200 OCCUPANTS
1 PER 200 OCCUPANTS
1 PER 200 OCCUPANTS
1 PER 200 OCCUPANTS
2 PER RESIDENT MANAGER
1 PER 500 OCCUPANTS

1 PER 250 OCCUPANTS 1 PER 500 OCCUPANTS 1 PER 250 OCCUPANTS 1 PER 300 OCCUPANTS

MAX. OCCUPANTS

265 OCCUPANTS 196 SPACES

PARKING DEMAND (PER TENANT)

ADDRESS

L'OREAL

O.C. WINERY

O.C. WINERY

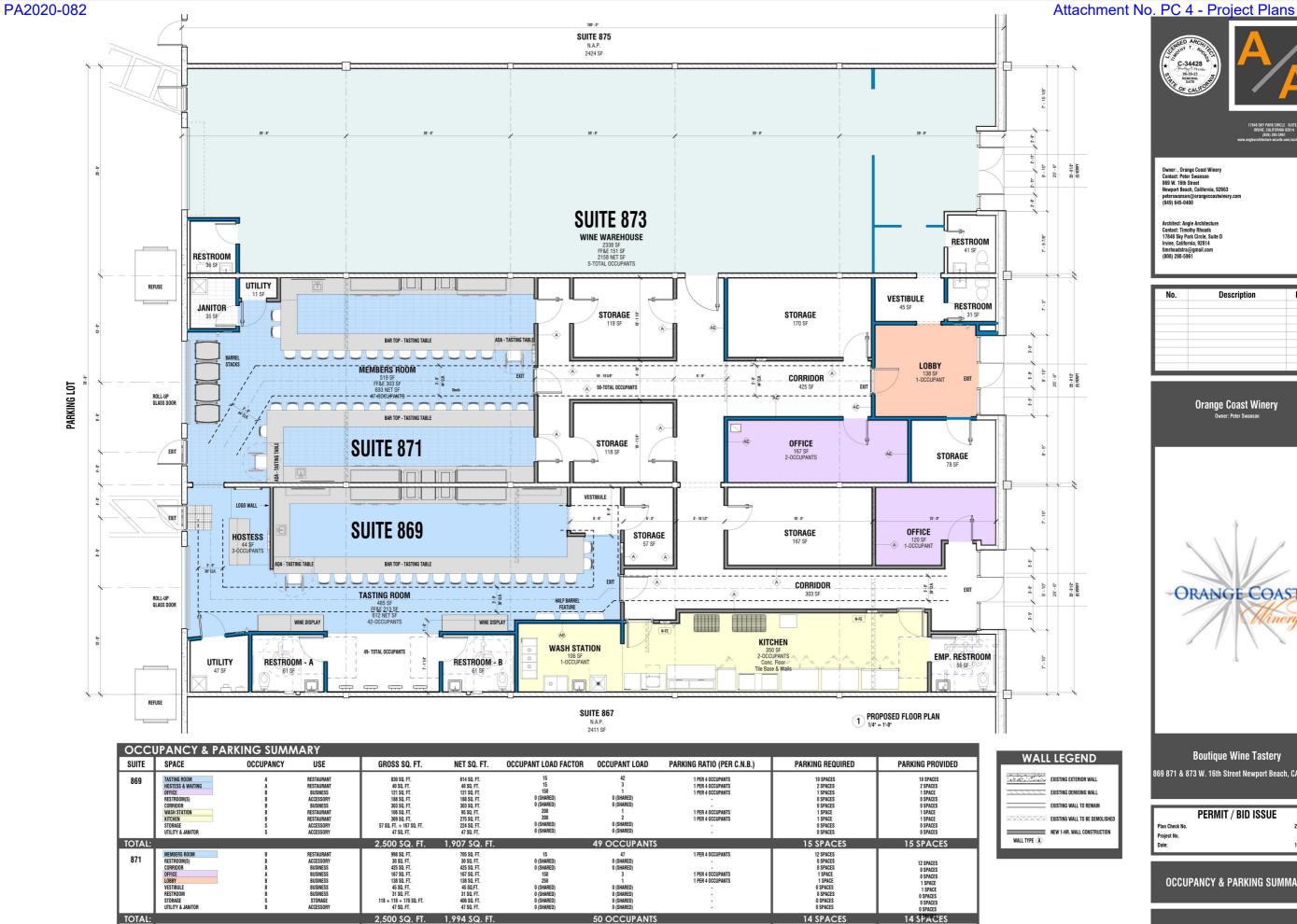
VACANT
RISING SONS BOXING
PURE SALT INTERIORS
CLASSY CARS
JOHN CROUL
M ENGINEERING
COOPER SPIRITS
MASTER RECORDINGS
FLEET YARDS
L'OREAL

DIVERSIFIED AUTO
CRYO INNOVATION
ANCHOR POINT DEV.
DAYDREAM SURF SHO
PURE SALT INTEION
RETTENHOFFEN MARII
PRIMADONNA
ANSELMO MOTORS
N.B. PODER COATING

TOTAL:

867 / 895 W. 16th Street 869 / 877 W. 16th Street 873 W. 16th Street 875 W. 16th Street 877 W. 16th Street 879 / 861 W. 16th Street 838 W. 16th Street 885 W. 16th Street 886 W. 16th Street 887 W. 16th Street 889 W. 16th Street 897 W. 16th Street 897 W. 16th Street 897 W. 16th Street

1580 Monrovia Avenue 1582 / 1584 Monrovia Av 1586 Monrovia Avenue 1588 Monrovia Avenue 1592 Monrovia Avenue 1592 Monrovia Avenue 1596 Monrovia Avenue 1598 Monrovia Avenue



WINE WAREHOUSE RESTROOMS

873 TOTAL:

GRAND TOTALS:

SMALL INDUSTRY ACCESSORY

2,158 SQ. FT. 83 SQ. FT.

2,241 SQ. FT.

6,142 SQ. FT.

2,500 SQ. FT.

7,500 SQ. FT.

500 0 (SHARED)

5 0 (SHARED)

5 OCCUPANTS

104 OCCUPANTS

1 PER 25 OCCUPANTS

1 SPACE 0 SPACES

1 SPACE

30 SPACES

1 SPACE 0 SPACES

1 SPACE

30 SPACES

Owner: , Orange Coast Winery Contact: Peter Swanson 869 W. 16th Street Newport Beach, California, 92663 peterswanson@ (949) 645-0400

| No. | Description | Date |
|-----|-------------|------|
| | | |
| | | |
| | | |
| | | |
| | | |
| | | |

Orange Coast Winery
Owner: Peter Swanson



Boutique Wine Tastery 869 871 & 873 W. 16th Street Newport Beach, CA, 92663

| | PERMIT / BID ISSUE | |
|-------------|--------------------|------------|
| n Check No. | | 2021-XXXX |
| ject No. | | 2104 |
| e: | | 11.09.2021 |
| | | |

OCCUPANCY & PARKING SUMMARY

A-1,10