

February 8, 2005

**Honorable Chairman and Members of the
Hermosa Beach Planning Commission**

**Regular Meeting of
February 18, 2005**

CONTINUED FROM 10/19/04 AND 11/16/04

SUBJECT: CONDITIONAL USE PERMIT AMENDMENT 04-5 TO ALLOW ON-PREMISES WINE
 SAMPLING IN CONJUNCTION WITH A MARKET WITH OFF-SALE BEER AND WINE

LOCATION: 302 PIER AVENUE

APPLICANT: LARA SOWINSKI

Recommendation

To direct Staff as deemed appropriate

Background

ZONING:	C-2
GENERAL PLAN:	Restricted Commercial
LOT SIZE:	4,200 square feet
BUILDING SIZE:	Approx. 800 square feet
PARKING PROVIDED:	1 Space
ENVIRONMENTAL DETERMINATION:	Categorically Exempt

The building is located on the corner portion of a lot that contains five businesses, including three Pier Avenue, and another two on Monterey Boulevard. The subject building is currently being used as a market specializing in wine sales, and has been previously occupied by convenience and food markets with off-sale beer and wine. A Conditional Use Permit for off-sale beer and wine was granted in 1990 as part of the City's program to amortize existing business selling alcohol without Conditional Use Permits. The C.U.P. allows the off-sale business to be open after 11:00 P.M. until midnight. A C.U.P. is only required for off-sale markets if they are open past 11:00 P.M. Since the applicant is proposing on-sale consumption, no matter how limited it may be, a C.U.P. amendment is required for the "on-sale" beer and wine pursuant to the City's permitted use list.

The State Alcoholic Beverage Control (ABC) currently licenses the business with a Type 20 license, which allows only for off site consumption of packaged beer and wine sold on the premises. The applicant's proposal for limited on-site consumption will require a Type 42 license, to allow on-site consumption.

The property with its multiple buildings is nonconforming to current parking requirements as only 4 off-street parking spaces exist, with one available for the subject business and three spaces located in front of the two business on Monterey Boulevard.

Analysis

In the application narrative (attached), the applicant is proposing to offer customers wine sampling for a small fee as part of their normal business operations in conjunction with the existing wine market. The plans show that an 80 square feet portion of the business will be sectioned off for wine sampling during regular business hours. The sampling section will be cordoned off by low-level barriers to prohibit

access to persons younger than 21 years of age. The sampling section includes two stand-up tables (no seating) and wine storage for the sampling. The wine sampling will be for one-ounce sips of wine, and a maximum of 5 samplings, with all pouring done by market employees. The applicant is willing to limit their market and wine sampling hours to 10:00 P.M. The applicant is modeling this concept after the “Sepulveda Wine Company” which also is a wine specialty shop, which recently obtained approval from the City of Manhattan Beach for limited wine sampling. The City of Manhattan Beach approved the request subject to several conditions to clearly limit the location for and the amount of wine consumption, and to ensure that sampling is secondary to the primary use of the premises as a market (attached).

Based on the applicant’s description, and pursuant to the permitted use matrix contained in Section 17.26.030, staff is considering the proposed on-premises consumption of wine, although limited to sampling, as an “alcohol beverage establishment, on-sale.” The proposed use does not fit into any other category, and this is clearly the most similar use. Pursuant to the City’s permitted use list this business may therefore only be permitted with a Conditional Use Permit. However, staff believes that the primary permitted use is as a permitted “off-sale” market, so the subject C.U.P. request relates to the addition of this secondary use of the business for sale and consumption of alcohol on the premise.

No other interior changes to the premises are proposed at this time. Based on the information and plans submitted, it is not clear if this proposal to consume alcohol as “samples” can be considered incidental to the retail market with respect to the Uniform Building Code, or the requirements of the L.A. County Department of Health. The applicant is proposing the use of disposable plastic cups, and is requesting that this sampling area be considered as secondary or incidental to the primary use of the property as a market, similar to sampling snack foods or other food items, and therefore be excepted from certain requirements, including Title 24 for handicapped accessibility. They believe that incidental beverage sampling does not change the business, and thus is not subject to health and safety and/or building code upgrades to bathroom facilities and/or washing facilities that would otherwise be required for food and beverage establishments that offer on-site consumption. The City will get clarification on these issues during the plan check process should the Commission approve the request.

In order to offer wine sampling the applicant will be also applying to the State Alcoholic Beverage Control to obtain a Type 42 ABC license, which allows on-site beer and wine consumption. This is the same license that ABC provides for bars that do not serve food, and is distinguished from the more common type 41 license for most restaurants in the downtown area. This Type 42 license applies only to the sectioned-off portion of the business, and the rest of the market operates under a Type 20 off-sale license.

Based on the request that wine sampling be considered secondary to the primary use as a market, the applicant also is requesting a determination that this not be considered an intensification of the existing use. If the project were considered as intensifying the use, the proposed new use classification would require additional parking. For example if this were considered a bar, the required increased parking would be substantial as 10 parking spaces would be required (1 space per 80 square feet of floor area.) Given the proposed limitation on hours, limited area for sampling, it would seem reasonable to consider the proposed sampling area as incidental, and causing no intensification of the existing market use or any material effect on parking demand.

If the Commission makes a favorable decision on this request, and determines that this use is secondary to the primary use, staff recommends the following special conditions to limit the intensity of the wine

consumption, and to ensure that this business or any future business operating with this C.U.P. retains its primary character as a retail market.

1. On premises consumption of alcohol limited to wine sampling only, within the 80 square foot area per plan
2. Sampling area to be separated from retail market by non-portable (low wall, shelving, etc.) that are affixed to a clearly marked location on the floor and noted on project plans.
3. Hours for the market and wine sampling limited to no later than 10:00 P.M. daily.
4. No seating to be allowed in wine sampling area, and tables appropriate for standing only, and noted on project plans.
5. Limit to one-ounce sampling sizes, maximum of 5 samples per customer, and pouring by employees only.
6. No serving or preparation of food or meals (other than minimum associated with wine sampling such as small pieces of cheese, bread, or fruit)
7. Prohibition of exterior signs for advertising wine sampling
8. The proposed sampling area, and other improvements must be in compliance with requirements of the LA County Department of Health, the State Alcohol Beverage Control, and the Hermosa Beach Municipal Code.
9. The operation of the business shall be reviewed by the Commission in 6 months.

The Commission must make the basic determination and findings that this proposal will be compatible with the surrounding commercial and residential uses, and decide if it warrants the granting of a Conditional Use Permit. In addition, given the unique nature of this proposal, the Commission must decide if the detailed operational conditions to limit the on-sale portion of the business are reasonable and will prove to be practical and enforceable. Otherwise, opening the option for on-site consumption of wine has the potential to transform this location into something unforeseen at this time, such as a wine bar or other type of use that may not be appropriate for this location, and will place an unnecessary burden on City staff to monitor and enforce the proper behavior of employees at this location.

Based on the direction of the Planning Commission, staff will return with a resolution at the next meeting.

CONCUR:

Ken Robertson
Senior Planner

Sol Blumenfeld, Director
Community Development Department

Attachments

1. Proposed Resolution
2. Applicant narrative
3. Manhattan Beach staff report/approval resolution
4. Location Map
5. Photographs
6. 1975 Conditional Use Permit

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