Planning Commission
Agenda Item

April 15, 2013

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. 2883-12 – Game Day Fire Grilled Hotdogs, located at 3009 E. Chapman Avenue.

SUMMARY

The applicant is requesting an Alcoholic Beverage Control (ABC) Type 41 (On-Sale Beer and Wine - Eating Place) License to have on-site consumption of beer and wine for patrons of the establishment.

RECOMMENDED ACTION

Adopt Planning Commission Resolution No. PC 18-13 entitled:

> **A RESOLUTION OF THE PLANNING COMMISSION APPROVING CONDITIONAL USE PERMIT NO. 2883-12 A REQUEST TO ALLOW AN ALCOHOLIC BEVERAGE CONTROL TYPE 41 (ON-SALE BEER AND WINE FOR A BONA FIDE EATING PLACE) LICENSE AT 3009 E. CHAPMAN AVENUE**

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 in the Limited Business Use (C-1) zone. OMC Section 17.30.030 establishes standards for any on-sale establishment license subject to an approved Business Establishment Alcohol Management and Education Program. The final determination by the Planning Commission on this application may be appealed to the City Council pursuant to the time period and requirements established in the OMC for appeals.

PUBLIC NOTICE

On April 5, 2013 the City sent a Public Hearing Notice to a total of 105 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 (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:	Game Day Fire Grilled Hotdogs
Property Owner:	Wilbur W. Lorbeer
Property Location:	3009 E Chapman Avenue
Existing General Plan Land Use Element designation:	General Commercial (GC)
Existing Zoning Classification:	Limited Business (C-1)
Old Towne:	No
Redevelopment Project Area:	No
Specific Plan/PC:	None
Site Size:	15,000 SF
Circulation:	Vehicular access to the subject site is via Chapman Avenue. The City's Master Plan of Arterial Highways designates Chapman Avenue as an "Augmented Primary" Highway with a minimum right-of-way width of 100 feet.
Existing conditions:	The subject site is developed within standalone single story build of approximately 1,550 SF.
Surrounding land uses and Zoning:	North – Residentially zoned property (R-2-6). South – Commercially zoned property C-1. East – Commercially zoned property C-1 West – Commercially zoned property C-1.
Previous Applications/Entitlements:	No previous entitlements at the location in question.

PROJECT DESCRIPTION

The applicant is requesting the sale of alcoholic beverages, (Type 41 On-Sale Beer and Wine - Eating Place) for on-site consumption of beer and wine by patrons of the establishment.

Game Day Fire Grilled Hotdogs is requesting approval to be allowed to have on-site consumption of beer and wine at their location. The location in question has been open for approximately 18 months. The tenant space is located in a single story standalone building of approximately 1,550 SF. The hours of operation are from 10:00 a.m. to 11:00 p.m. daily. Alcohol is displayed in a beverage cooler located behind the point of sale counter.

Development Standards

No changes are proposed to the exterior of the building or site. The request does not affect the development standards. Therefore, a comparison of the building to existing development standards has not been conducted.

APPLICATION(S) REQUESTED/ REQUIRED FINDINGS

Conditional Use Permit: The applicant is requesting a Conditional Use Permit for the sale of alcoholic beverages, (Type 41 On-Sale Beer and Wine - Eating Place) for on-site consumption of beer and wine by patrons of the establishment.

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 with alcoholic beverage licenses that are located within a 600-foot proximity to the restaurant's entrance (See Attachment 4).

Existing Licenses

Establishment Name	License Type	Address
ARCO AM/PM	Type 20 Off-sale beer & wine license	2937 E Chapman Avenue
Japan Grill	Type 41 On-sale beer & wine license	2815 E Chapman Avenue
Carrow's Restaurant	Type 41 On-sale beer & wine license	2810 E Chapman Avenue
The Hobbit	Type 47 On-sale General – Eating Place	2932 E Chapman Avenue
Johnny Rebs	Type 41 On-sale beer & wine license	2940 E Chapman Avenue
Hanshaws Liquor	Type 21 Off-sale general	3022 E Chapman Avenue

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.

Establishment Name	Address	Distance To Project Site
Duplex Residences	2923-3043 E. Pearl Avenue	Adjacent to North
Multiple Family Residences	2900- 3016 E. Maple Avenue	500-600 feet
Duplex Residences	129-193 N. First Street	250-600 feet
Multiple Family Residences	3139 Units 1-77 E. Chapman Avenue	350-600 feet
Single Family Residences	126-195 S. Kathleen Lane	250-600 feet
Single Family Residences	141-181 S. Craig Drive	350-600 feet
Single Family Residences	141-187 N. Malena Drive	300-600 feet

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:

- The Type 41 (on-site beer and wine for a bona fide eating place) license could be suggested that the alcohol license could create issues for the restaurant; however, the Alcohol Management Plan contains measures that help the employees manage the patrons prior to an issue erupting (Attachment 6).

- Residential properties are located within 600 feet of the subject business. However, the residences do not have direct access to the project site and the sales of alcohol would be for on-site consumption only with food.

Issue 3: Census Tract Alcohol and Crime Statistics Information

The Orange Police Department's Vice Unit reviewed the proposal and had no objections to the CUP to allow alcoholic beverage service within the establishment provided that the recommended conditions were imposed on the applicant. Game Day Fire Grilled Hotdogs has been in business at the location for 18 months and has no reports of police activity. Strong consideration was given to the manner in which the applicant has operated the current business location. Furthermore, the applicant has applied for a license in an area that is not considered to be a high crime area.

The statistics provided below indicate that the subject establishment is not in a high crime area but is in an over concentrated census tract area with on-sale alcohol licenses.

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.

Alcohol Licenses

	Existing	Allowed
On Sale Licenses	5	4
Off Sale Licenses	2	2

The applicant is applying for an ABC license in Reporting District (RD 76) that is not considered a high crime area. The current crime figures show 77 crimes in this reporting district. The average reported crimes per district is 77, therefore, the crime statistics indicate this district had the average crimes as reported for all districts (See Attachment 3).

Crime Statistics

Census Tract Arrests	Citywide Average Arrests	Percent Difference
77	77	0 %

The Police Department and Staff support the request because it is anticipated through the analysis and review that the operation of the business will not increase or contribute to the crime rate in the reported district. The sale of alcohol at the establishment will be incidental to the restaurant use at the site; thus, it is not expected to contribute to the area's crime rate.

ADVISORY BOARD RECOMMENDATION

None required.

ATTACHMENTS/EXHIBITS

Attachments to Report:

1. Planning Commission Resolution No. PC 18-13
2. Vicinity Map
3. Orange Police Department Vice Unit's Memorandum Recommending Approval with Conditions on CUP 2883-12 dated January 10, 2013
4. PC Evaluation Map
5. Census Tract Map
6. Alcohol Management Plan
7. Restaurant Menu

Exhibits provided to the Planning Commission:

A. Submitted Floor Plan date labeled April 15, 2013

cc: Steve Dagamput
Game Day Fire Grilled Hotdogs
3009 E. Chapman Avenue
Orange, CA 92869