



Planning Commission Agenda Report

Meeting Date: October 3, 2024

Department: Community Development

INITIATED BY: Jennifer Mansur, AICP, Senior Planner

SUBMITTED BY: Gayle Ackerman, AICP, Director of Community Development

REVIEWED BY: Amy Stonich, AICP, Assistant Director of Community Development

SUBJECT: USE PERMIT (UP) 08-24-5726 FOR ONLINE RETAIL SALES OF SAKE FROM OFFICE TENANT SPACE LOCATED AT 22772 CENTRE DRIVE, SUITE 110

EXECUTIVE SUMMARY:

Use Permit 08-24-5726 is a request for online retail sales of sake from an existing 530 square-foot office building tenant space. The project will require a Type 85 (limited off-sale wine) license from the California Department of Alcoholic Beverage Control (ABC). The Type 85 license prohibits the licensee from conducting sales directly to a customer from the office. All sake sold from the business will be stored in three commercial coolers located in the office tenant space and will be mailed directly to the customer. Per the City's Zoning Code, a Type 85 license requires Planning Commission approval of a Use Permit.



Existing Office Building at 22772 Centre Drive

SITE INFORMATION:

| | |
|---------------------------------|---|
| Site Address | 22772 Centre Drive, Suite 110 |
| Applicant/Agent | Xiaochen Wang, Sakezen LLC |
| Property Owner | Tappan Investments CA, LLC |
| General Plan Designation | Mixed-Use 43 |
| Zoning District | Mixed-Use 43 (MU-43) in the Lake Forest Planned Community |

Surrounding Area

| | Land Uses | Zoning |
|---------------|--------------------------------------|---------------|
| North: | Bowling Alley | MU-43 in LFPC |
| South: | Private Alley/ Automobile Dealership | MU-43 in LFPC |
| East: | Car Dealership/Auto Service | MU-43 in LFPC |
| West: | Office Building | MU-43 in LFPC |

Location Map



RECOMMENDED ACTION(S):

1. Find that UP 08-24-5726 are exempt under Section 15301, Class 1, of the California Environmental Quality Act, Article 19, Categorical Exemptions, which exempts minor alterations to an existing facility; and
2. Adopt a resolution entitled: A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF LAKE FOREST, CALIFORNIA, APPROVING USE PERMIT 08-24-5726 FOR THE ONLINE SALES OF SAKE WITH A TYPE 85 LICENSE (LIMITED OFF-SALE WINE LICENSE) FROM THE CALIFORNIA DEPARTMENT OF ALCOHOLIC BEVERAGE CONTROL AT 22772 CENTRE DRIVE, SUITE 110.

BACKGROUND:

In August of 1981, the County of Orange Planning Commission approved Use Permit 81-64P/ Site Plan 81-61P for the construction of two office buildings, which are currently addressed 22772 and 22792 Centre Drive. Subsequently, Parcel Map 84-102 (for condominium purposes) was approved by the County. The office buildings are accessed from Centre Drive and the adjacent private alley with parking stalls on either side of the building. Each office building has 38 parking stalls for a total of 76 parking stalls at the site. Based on the original entitlement, the building was designed to comply the City's office parking requirement (1 parking stall per 250 square feet) with an excess of four parking stalls. Site Development Permit 2007-22 and Site Development Permit 06-20-5365 were approved administratively in 2008 and 2020 respectively, to allow retail automobile dealerships at the office building.

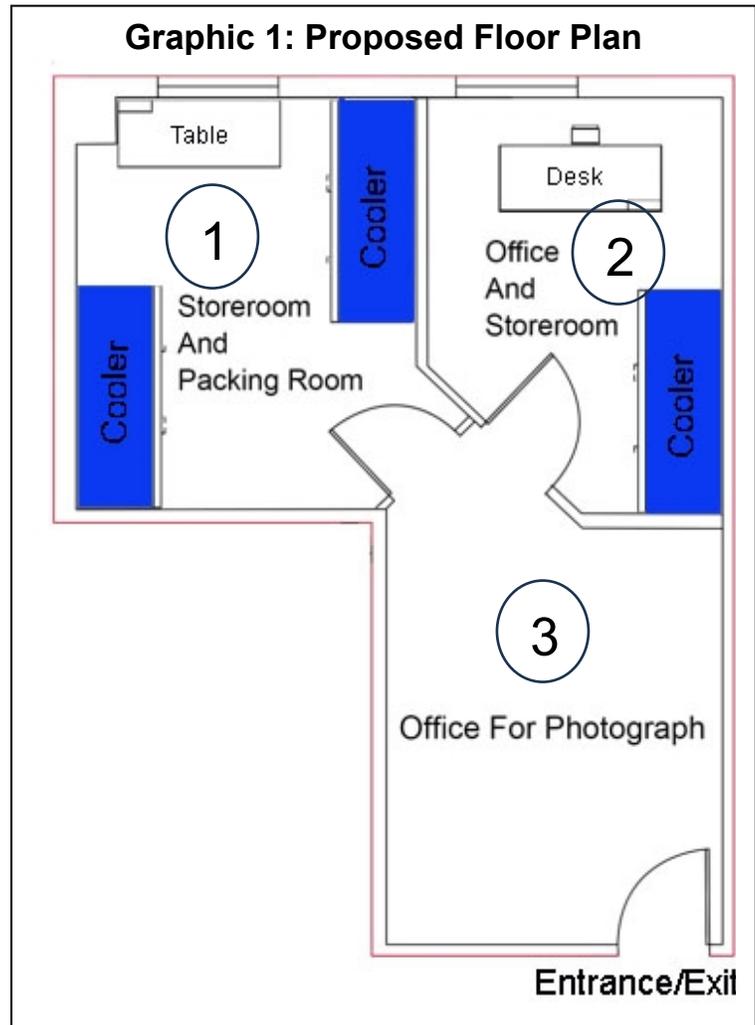
PROJECT DESCRIPTION:

Use Permit 08-24-5726, is a request for online retail sales of sake and related accessories from an existing 530 square-foot office building tenant space. Sake is a Japanese alcoholic beverage that is made from rice. The California Department of Alcoholic Beverage Control considers sake a wine. The project will require a Type 85 (limited off-sale wine) ABC license. A description of the Type 85 license from ABC is included with this report as PC Attachment 2. The business' proposed hours of operation are Monday through Friday from 9:00 a.m. to 5:00 p.m. and the business anticipates 1 - 2 employees.

All sake sold from the business will be stored in three stand-alone commercial coolers located in the office tenant space. The business will sell premium brands of sake that require refrigeration. The office is expected to store up to 180 bottles of sake. There will not be any room temperature storage of sake at the business. The business will be conducted online, and merchandise will be mailed directly to

the customer. There will be no direct sales or pick-up of merchandise to customers at the office building.

As shown in Graphic 1, the tenant space has three rooms. Room 1 will include two commercial coolers for storage of the sake bottles and will be used for packaging of merchandise to mail out. Room 2 will be an office for the business' administrative activities and will include one additional cooler for storage of sake. Room 3 will be used to take photographs of the merchandise for the business' website. The existing office building has surveillance cameras at both entrances to the building. Furthermore, the applicant is proposing additional surveillance cameras and a security system at the office entrance.



The merchandise for the business will be delivered to the office by delivery vans or small trucks. All deliveries will take place during the business' normal hours of operation. The business will have scheduled pick-up of packaged merchandise by a mail service (ex: FedEx or UPS) twice per week. The applicant's business description is included as PC Attachment 3 and the submitted plans are included as PC Attachment 4.

ANALYSIS:

Type 85 License

The definition of "Alcohol Sales, for Off-Site Consumption" in the City's Zoning Code, includes three different ABC licenses, Type 20, 21, and 85. Table 1 includes a brief description of each license type and the current number of active licenses for each license type in Lake Forest. As shown in the table, there are currently no

active Type 85 licenses in the City. Based on City records, this is the first time a Type 85 license has been applied for in the City.

Based on the description in Table 1, the Type 85 license is very different from Type 20 and 21 licenses. The biggest difference being that the Type 85 license prohibits the licensee from conducting sales directly to a customer from their business location. Type 85 sales are restricted to those solicited and accepted via direct mail, telephone, or the internet and may not be conducted from retail premises open to the public. This difference eliminates most of the secondary impacts of alcohol sales that occur by customers at a business selling alcohol. Furthermore, ABC does not include the Type 85 license in the off-sale number limitations and does not require a “Determination of Public Convenience or Necessity.” As such, the “City Council Policy for the Review of Requests for Alcohol Sales for Off-Site Consumption and Determination of Public Convenience or Necessity” does not apply to this project. Due to these differences, this report will have a different analysis and different recommended conditions of approval, than reports the Planning Commission has reviewed in the past for Type 20 and 21 licenses.

| ABC License Type | Brief Description | # of Licenses in Lake Forest* |
|--|--|--------------------------------------|
| Type 20- “Off-Sale Beer and Wine” | Retail sales of beer and wine for consumption off the premises where sold. | 28 |
| Type 21- “Off-Sale General”- | Retail sales of beer, wine, and distilled spirits for consumption off the premises where sold. | 21 |
| Type 85-“Limited Off-Sale Wine License” | Retail sale of wine to consumers for consumption off the licensed premises. Sales are restricted to those solicited and accepted via direct mail, telephone, or the internet and may not be conducted from a retail premises open to the public. | 0 |
| * Based on “active” license shown on ABC website as of 9/12/24 | | |

Compliance with Zoning Code

The office building located at 22772 Centre Drive is zoned Mixed-Use 43 in the Lake Forest Planned Community. Pursuant to Zoning Code Section 9.73.065(A), retail internet businesses are a permitted use in this zoning district. However, per the Zoning Code, "Alcohol Sales for Off-Site Consumption" requires Planning Commission approval of a Use Permit. Additionally, the project does not include any proposed exterior modifications to the existing office building or parking lot. As such, the applicable zoning code requirements are limited to compliance with the City's parking regulations and Zoning Code Section 9.146.130, which includes additional findings for the sale of alcohol for off-site consumption.

Parking

As previously mentioned, the operation of the proposed business will have 1 - 2 employees and no customers will visit the site. The tenant space will be used for administrative activities, storage of sake, and packaging of merchandise. The proposed operation of the business is similar to an administrative office and would therefore be subject to the office parking requirement of 1 parking stall per 250 square feet of gross floor area. As previously mentioned, the office building complies with the City's office parking requirements. Therefore, there is adequate parking at the existing office building to comply with the parking requirements for the business.

Additional Findings- Zoning Code Section 9.146.130

Zoning Code Section 9.146.130 includes four findings specifically for the sale of alcohol for off-site consumption, as follows:

1. The sale of alcohol for off-site consumption, as part of the operation of the business, will not result in nuisance activities within the premises or in proximity to the premises.
2. The sale of alcohol for off-site consumption, as part of the operation of the business, will not create a need to change any operational requirements or staffing of law enforcement personnel.
3. The physical design and layout of the business floor plan and associated parking area will not create loitering, noise, traffic or other conditions or situations that may be detrimental or incompatible with other businesses in the adjacent area or permitted uses in the vicinity.
4. The proposed management standards, training and site supervision of the business will deter loitering, noise, traffic, or other conditions for situations that may be detrimental or incompatible with other businesses in the adjacent area or permitted uses in the vicinity.

The Chief of Police Services reviewed this project and did not have any concerns about the location, floor plan or security measures at the business. Furthermore, since there will be no customers at the office building, the business use will not likely result in any nuisance activities or generate a change in operational conditions that is significant to affect loitering, noise, or traffic. The Chief of Police Services has advised that the use will not generate a need to augment or alter police services. City staff is recommending four conditions of approval that are applicable to this project, that have been added to other alcohol related Use Permits, including the following (which have been summarized):

- Any changes to the location of the storage of alcohol in the office tenant space requires approval from the City;
- In the event security problems occur, the business shall implement additional security measures;
- All security cameras shall be in good working order and shall be submitted to Police Services upon request; and
- All employees shall have ABC training, as applicable.

Compatibility with Surrounding Uses

The business is proposed in an existing office building with a variety of different office uses. The property is surrounded by other office and commercial uses. However, the project site and the surrounding properties have a zoning of Mixed-Use 43, that would allow the future development of multi-family residential units in this area. Currently, the closest residential property is a single-family residential neighborhood over 500 feet away, across Lake Forest Drive.

As previously described, the tenant space will be used for administrative activities, storage of sake, and packaging of merchandise. In addition, the hours of operation are consistent with an office use and all business activities will occur inside the tenant space. Therefore, there are no noise impacts anticipated from the business operations. The applicant does propose the delivery and pick-up of merchandise to the office. In order to ensure that delivery or mail service vehicles related to the business does not impact the other tenants in the building, conditions of approval have been added ensuring that these vehicles do not block parked vehicles or prevent the flow of two-way traffic at the site and all deliveries occur during the business' normal hours of operation. As such, the business, as conditioned, is not anticipated to create any negative impacts on the other office tenants or surrounding uses.

ENVIRONMENTAL REVIEW:

The proposed project is exempt from the provisions of the California Environmental Quality Act (CEQA) pursuant to Article 19, Categorical Exemptions, Sec. 15301, Class 1: Existing Facilities, of the CEQA Guidelines. This exemption applies to the operation, repair, maintenance, permitting, leasing, licensing or minor alteration of existing public or private structures involving negligible or no expansion of use.

PUBLIC NOTICING:

In accordance with the requirements of Section 9.184.040(C)(2) of the Municipal Code of the City of Lake Forest, this project has been noticed in a newspaper of general circulation on September 19, 2024. In addition, on September 19, 2024, public notices were posted at City Hall, sent to all tenants in the office buildings, and sent to owners of all property within 300 feet of the project boundary.

ATTACHMENTS:

1. Draft Resolution Approving Use Permit 05-23-5635
2. Type 85 ABC License Information
3. Applicant's Business Description
4. Project Plans