



SUBJECT

Proposed Establishment of an Off-Sale Retail Establishment (Wine Shop) with Ancillary On-Site Tastings Located at 1013 "B" Street, Assessor Parcel No. 428-0066-024-00. Paul Houston (Applicant); B Street Apartments Group LP (Property Owners), Requiring Approval of Conditional Use Permit Application No. 201903274.

RECOMMENDATION

That the Planning Commission approve the Conditional Use Permit application based on the analysis set forth in this report and the required Findings (Attachment II), and subject to the Conditions of Approval (Attachment III).

SUMMARY

Paul Houston of Houston Family Vineyards is requesting approval of a Conditional Use Permit (CUP) application to occupy an existing, vacant 975 square-foot ground floor tenant space located at 1013 "B" Street in the B Street Apartment Building for a new off-sale boutique wine shop, also referred to as a "winery". The proposed artisanal winery will include on-site fermentation, bulk aging, storage, bottling, tasting, and retail wine sales for off-site consumption (Alcoholic Beverage Control License Type 02). The project will also include several tenant improvements, retrofitting the interior tenant space for compliance with the Americans with Disabilities Act (ADA) and to meet compliance with current California Building and Fire Code requirements.

BACKGROUND

Project Site. The project site is situated in the core of Downtown Hayward at the southeastern intersection of B and Main Streets. The building in which the tenant space is located was constructed in 1910 and was listed on the National Register of Historical Places (NRHP) in 2004. Since that time, the building has recently completed an interior and exterior remodel to allow for the creation of 41 studio and 1-bedroom apartments and renovation of the ground-floor commercial tenant spaces along both frontages. Most recently, the previous tenant at the project site included a tobacco/vape shop ("It Is Vapor 5") which opened in 2012 and subsequently closed in 2014. Since that time, the tenant space has remained vacant.

Applicant Background and Experience. The applicant, Paul Houston, currently owns and operates Houston Family Vineyards located in the Fairview District of Alameda County just outside of Hayward's jurisdictional boundaries. Mr. Houston has been making wines for 25 years and purchased the Fairview land in 2008 inclusive of 3.5 acres of premium grapevines.

According to the Wine Institute¹, an advocacy and public policy association for California wine, the location of Mr. Houston's vineyard is located within the Central Coast Bay American Viticulture Area (AVA) which includes Alameda, Contra Costa and San Francisco Counties and portions of San Mateo, Santa Clara, and Santa Cruz counties and accounts for a total of 1% of the total state wine grape production. Mr. Houston has been producing wine for Houston Family Vineyards since 2013 from the vineyard which includes Pinot Noirs, Chardonnays, and Merlots. Houston Family Vineyards currently maintains a Type 17 and 20 for his vineyard location that grants him the ability to be a wine wholesaler and retailer (online sales only). His current vineyard location does not accommodate a tasting room or storefront retail operation.

Public Outreach. On June 11, 2019, an initial Notice of Application Receipt for the project application was sent to 216 addresses including property owners, residents, and businesses within a 300-foot radius of the project site. As of the date this staff report was written, Planning Division staff has been contacted by the Hayward Chamber of Commerce and one business owner. No written opposition or support has been submitted to the Planning Division regarding the application.

On August 30, 2019, a Notice of this Public Hearing for the Planning Commission meeting was sent to property owners, residents, and businesses within 300-feet of the project site as well as published in The Daily Review newspaper.

PROJECT DESCRIPTION

Existing Conditions. The project is proposed in a commercial tenant space located within the B Street Apartments Building (formerly known as the Green Shutter Hotel). The project site includes a two-story, mixed-use building with total floor area of approximately 46,659 square-feet inclusive of 41 residential dwelling units and 12 commercial spaces on the ground floor. Currently, six of the commercial tenant spaces are vacant and the other commercial tenants include Nice Salon, the future Bon Mange (currently under construction), The Bistro, Acqua Farina Italian Cuisine, and Golden Tea Garden.

Surrounding land uses include a variety of retail storefronts, personal services (hair salons, tailoring, etc.), professional offices, restaurants, small quick-service eateries, entertainment venues, multi-family apartments and full-service bars. The project location will also be located within the vicinity of Hayward City Hall, Fire Station #1, the new 21st Century Library, and US Postal Office.

Proposed Project. The project plans and business narrative (Attachment IV) provide details on the proposed operation and logistics, hours of operation, and proposed floor plans. The project involves the leasing of an existing, vacant 975 square-foot commercial tenant space to operate an off-sale alcohol related retail establishment specifically for wine as well as ancillary tasting room. The establishment proposes to include on-site fermentation, bulk aging, storage, bottling, and tasting which requires a Type 02 (Winery) alcohol license from the California Department of Alcoholic Beverage Control (ABC)² upon approval of their Conditional Use Permit. ABC defines the Type 02 alcohol license and associated privileges as the following:

¹ Wine Institute American Viticultural Areas: <https://www.wineinstitute.org/resources/avas>

² California Department of Alcoholic Beverage Control License Types: <https://www.abc.ca.gov/licensing/license-types/>

***“(Winery)”** Authorizes the sale of wine and brandy to any person holding a license authorizing the sale of wine and brandy, and to consumers for consumption off the premises where sold. Authorizes the sale of all wines and brandies, regardless of source, to consumers for consumption on the premises in a bona fide eating place that is located on the licensed premises or on premises owned by the licensee that are contiguous to the licensed premises and operated by and for the licensee. May possess wine and brandy for use in the preparation of food and beverage to be consumed at the bona fide eating place. May conduct wine tastings under prescribed conditions (Section 23356.1; Rule 53). Minors are allowed on the premises.”*

Based on the project narrative, the business will be split into two primary operations: one will be the winery for artisanal wine production including aging, bottling, and fermentation; and the other will be the for the retail sales of bottled wine, along with an ancillary tasting room. The winery does not propose to include the sale and/or tasting of brandy as part of their operation. The business will be staffed by two full-time employees and one part-time employee, as needed. Number of actual staff present at the establishment may vary based on the day and time which will correlate with the volume of customers. The applicant has proposed the following hours of operation for the business:

Hours of Operation							
	Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
Winery	Closed	Closed	10 a.m. - 1 p.m.	10 a.m. - 1 p.m.	10 a.m. - 1 p.m.	10 a.m. - 1 p.m.	Closed
Tasting Room	1 p.m. - 7 p.m.	Closed	1 p.m. - 6 p.m.	1 p.m. - 6 p.m.	1 p.m. - 6 p.m.	1 p.m. - 6 p.m.	1 p.m. - 7 p.m.

The winery portion of the business will primarily be closed to the public, unless otherwise scheduled for instructional and/or educational classes. Processes within the winery section will include artisanal grape crushing, pressing, fermentation, wine aging in stainless steel and oak barrels, bottling, and finished wine storage. The tasting and sales area will be open to the public and include 750 mL wine bottles for sale. One (1) ounce wine samples, consistent with ABC regulations, are proposed to be offered to customers in order to promote wine sales. The operation is not proposed to operate as a “wine bar”, which typically offers multiple wines from a variety of vineyards for consumption by the glass. Instead, the applicant proposes to offer tasting of wines produced on-site and from the family vineyard. The varietals of wines available for sale and offered for tasting include Pinot Noirs, Roses, Merlots, Merlot/Cabernet Sauvignons, Chardonnays, and wines from other wineries. The applicant will provide water to customers, upon request, and appetizers and small bites will be available for purchase to customers to pair food with wine. Food will be offered in the tasting room and will include cheeses, crackers, chocolates, fruits, nuts, and olives. Only individuals 21 years of age and over will be permitted to purchase and taste wines.

Tenant Improvements. The project is proposed within an existing 975 square-foot ground-floor commercial tenant space facing B Street. Currently, there is only one wall located within the tenant space that will be demolished to accommodate the proposed business layout. The interior tenant improvements include the construction of a tasting and sales room area with a

wall partition to separate it from the back-of-house operations for the winery. Windows will be also be installed along the partition wall to allow for customers to view portions of the artisan wine-making process which will also be visible from the B Street right-of-way. The project will include the construction of a new ADA-accessible bathroom compliant for staff and patrons. In addition, there will be seating (fixed and non-fixed) situated at the bar counter as well as tables and chairs near the front entrance and near the partition walls with windows. No exterior modifications to the tenant space are proposed aside from the business-specific signage. Lastly, in accordance with the California Building and Fire Codes, the maximum occupant load for the entire space shall not exceed 48 persons including staff and patrons.

Parking and Transportation. The project site is easily accessible by walking, public transit, and automobile. Public transportation options include the Hayward BART Station, which is less than 0.5-miles away, and numerous AC Transit bus stops, which are located along B Street, Mission Boulevard, and Main Street adjacent to the project site. Public parking is available on-street as well as in Municipal Parking Lots #1, #2, #3, and the City Hall parking garage. The University Shuttle for California State University, East Bay (CSUEB) also stops along B and C Streets.

Historic Preservation Ordinance. Due to the historical significance of the building being listed on the NRHP – the project is subject to review under the City’s Historic Preservation Ordinance (HPO)³ as well as the Secretary of the Interior Standards for the Treatment of Historic Properties. In addition, the building is bound to the stipulations of its executed Mills Act Contract between the City of Hayward and the property owner which requires the preservation, restoration, rehabilitation and maintenance of the building’s historically significant characteristics along the façade. Given that all improvements will be limited to the interior of the tenant space and no exterior modifications are proposed, except for business signage, staff has determined that the project is exempt from obtaining a Historical Alteration Permit and deemed compliant with the provisions of the HPO and their Mills Act Contract.

Sustainability Features. The interior tenant improvement associated with the proposed winery would be reviewed by the Building Division for conformance with State and local requirements related to sustainability (i.e. California Building Code) which require a minimal level of energy efficiency, resource conservation, material recycling, etc.

POLICY CONTEXT AND CODE COMPLIANCE

Zoning Ordinance. The project site is located within the Downtown Main Street (DT-MS) zoning district situated within the recently adopted Downtown Hayward Specific Plan⁴ area. The DT-MS zoning district conditionally permits the establishment of off-sale alcohol related retail establishments such as liquor stores, wine shops, etc. with the review and approval of a CUP by the Planning Commission. As mentioned before, the project includes the leasing of an existing 975 square-foot tenant space which will not impact development standards such as lot coverage, setbacks, height limitations, etc. Consistent with the requirements of the Downtown Specific Plan – no parking is required for non-residential land uses under 1,500 square-feet of

³ Chapter 10, Article 11 (Historic Preservation Ordinance):

https://library.municode.com/ca/hayward/codes/municipal_code?nodeId=CD_ORD_CH10PLZOSU_ART11HIPROR

⁴ Downtown Hayward Specific Plan: <https://www.hayward-ca.gov/downtown-specific-plan>

floor area. The Planning Commission may conditionally approve a Conditional Use Permit⁵ when all the following Findings pursuant to Section 10-1.3225 of the HMC are met.

- The proposed use is desirable for the public convenience or welfare;
- The proposed use will not impair the character and integrity of the zoning district and surrounding area;
- The proposed use will not be detrimental to the public health, safety, or general welfare;
- The proposed use is in harmony with applicable City policies and the intent and purpose of the zoning district involved.

Staff has provided a more detailed analysis for the required CUP Findings for approval in Attachment II.

Hayward 2040 General Plan. The project site is in an area designated as Central-City Retail and Office Commercial (CC-ROC) in the *Hayward 2040 General Plan*⁶. The CC-ROC land use designation in the *Hayward 2040 General Plan* is focused on the core of the Downtown Hayward and envisions building improvements including the rehabilitation and redevelopment of underutilized properties that will assist in transforming the downtown core area into a vibrant, transit-oriented, and mixed-use city center. Allowed uses based on the land use designation include retail, dining, and service uses as well as entertainment and recreational uses.

The project site is located within one of the City's Priority Development Areas (PDAs) which encourages the private-sector investment into the Downtown City Center of Hayward to create a compact, mixed-use and walkable neighborhood with venues for entertainment experiences as well as recreational and cultural activities. The Economic Development Strategic Plan (EDSP)⁷ states that the downtown area is a key retail area, and Goal SR-2 (Service and Retail Industry) calls to secure new businesses in priority locations that are a good fit for the City of Hayward. Overall, the proposed winery will support the following *Hayward 2040 General Plan* goals and policies:

- Land Use Policy LU-2.1 – Downtown Arts and Entertainment. The City shall encourage private-sector investment in Downtown to transform it into a safe, vibrant, and prosperous arts and entertainment district that offers enhanced shopping, dining, recreational, and cultural experiences and events for residents, families, college students, and visitors.
- Land Use Policy LU-2.2 – Downtown Activities and Functions. The City shall maintain the Downtown as a center for shopping and commerce, social and cultural activities, and political and civic functions.
- Land Use Policy LU-2.4 – Downtown Retail Frontages. The City shall require retail frontages and storefront entrances on new and renovated buildings within the “retail core” of Downtown Hayward.
- Land Use Policy LU-2.16 – Uses to Attract the Creative Class. The City shall encourage the development of uses and amenities to attract creative-class professionals and businesses to

⁵ Section 10-1.3200 (Conditional Use Permit) of Hayward Municipal Code:

https://library.municode.com/ca/hayward/codes/municipal_code?nodeId=CD_ORD_CH10PLZOSU_ART1ZOOR_S10-1.3200COUSPE

⁶ Hayward 2040 General Plan: <https://www.hayward2040generalplan.com/>

⁷ Economic Development Strategic Plan: <https://www.hayward-ca.gov/your-government/documents/economic-development-strategic-plan>

Hayward's s, including restaurants and cafes; art studios and galleries; and entertainment and cultural venues.

- Land Use Policy LU-5.1 – Mix of Uses and Activities. The City shall encourage a mix of retail, service, dining, recreation, entertainment, and cultural uses and activities in regional and community centers to meet a range of neighborhood and citywide needs.
- Economic Development Policy ED-1.14 – Hospitality and Entertainment Business Clusters. The City shall encourage the development of a hospitality and entertainment business cluster within Downtown Hayward and other appropriate locations to improve opportunities for shopping, dining, arts and entertainment, lodging, business conventions, and cultural events.
- Economic Development Policy ED-2.1 - Assist Entrepreneurs. The City shall support and assist local entrepreneurs who are starting businesses within the Hayward community.
- Economic Development Policy ED-3.1 - BEAR Program. The City shall develop, maintain, and implement a Business Expansion and Retention (BEAR) program that that helps businesses stay, grow, and become more committed to the Hayward community. The City shall primarily focus its BEAR efforts on small businesses with high growth potential and other local companies that have a demonstrated commitment to the Hayward community.

Alcoholic Beverage Outlet Ordinance. In 2013, new Alcoholic Beverage Outlet regulations⁸ were adopted into the City's Zoning Ordinance with the purpose to provide for the orderly integration of alcohol related uses in a manner that will protect public safety and encourage business growth. The Ordinance recognized that the "proliferation of establishments selling alcoholic beverages within the City of Hayward presents problems that affect residents, businesses, property owners, visitors, and workers in Hayward". However, the ordinance also understood that regulations that promote responsible alcohol consumption can contribute to economic vitality, particularly in the downtown area.

The Use Permit process is used as the means to review the impacts of alcoholic beverage outlets on neighboring properties and land uses on a case-by-case basis to prevent overconcentration and the undesirable impacts on the community. The Hayward Police Department – Vice Unit has reviewed the project proposal with Planning Division staff to collaboratively develop appropriate Conditions of Approval to ensure that patrons will be provided a safe experience and provide assurances that the proposed establishment will not place an additional burden on the Police Department resources. Conditions of Approval (Attachment III) have been included that require that responsible business practices are incorporated into the operation to ensure compliance with the Hayward Municipal Code. Noncompliance with any of the Conditions of Approval and/or ABC standards may result to penalties, fines, and possible revocation of the CUP. If approved, the establishment shall be required to comply with the performance standards listed within the ordinance that include, but are not limited to, discouraging loitering, verifying legal age of patrons, and maintaining their liquor license in good standing with ABC in addition to the Conditions of Approval.

Downtown Hayward Design Plan and Core Area Plan. The Downtown Hayward Design Plan and Core Area Plan were adopted in 1992 and set forth strategies, policies, and actions to revitalize

⁸ Alcoholic Beverage Outlets Ordinance – Section 10-1.2750 of the Hayward Municipal Code:
https://library.municode.com/ca/hayward/codes/municipal_code?nodeId=CD_ORD_CH10PLZOSU_ART1ZOOR_S10-1.2750ALBEQU

the economic vitality and livelihood of the downtown core area. Analyses within the document discuss opportunities for better business practices, cultural activities, façade improvements, and public/private partnerships for a dynamic and diverse core neighborhood. Like the Alcoholic Beverage Outlet Ordinance, the Core Area Plan acknowledges that the management of alcohol related establishments in a positive and responsible manner enhances the economic and social character of the downtown stating that “[t]he successful revitalization of downtown will likely include new restaurants and entertainment facilities, many of which will sell alcoholic beverages and will hopefully become an asset to downtown”. The proposed boutique winery would be consistent with the goals of the adopted plan to establish a new off-sale retail use into a vacant space which will promote economic activity and pedestrian traffic within the core of Downtown.

STAFF ANALYSIS

Staff has reviewed the project application and believes that the Planning Commission can make the required Findings to conditionally approve the establishment of an off-sale wine shop with ancillary tastings. The boutique winery will assist to catalyze investment in the area and increase pedestrian presence which will further patronize the existing restaurants, service and retail-oriented businesses in downtown. As mentioned previously, the proposed establishment is located within the Hayward Downtown Core Area, which calls for a diverse mix of entertainment, dining, retail land uses to support cultural, social, and recreational experiences consistent with the goals and policies of the City’s General Plan and the recently adopted Downtown Specific Plan.

Given that the establishment will primarily operate as a retail establishment as opposed to an on-sale premises (i.e. cocktail lounge, tavern, wine bar) that allow for on-site consumption, Planning Division staff has determined that potential nuisances associated with the operation will be relatively minimal with the implementation of the Conditions of Approval. The winery will also include artisanal winemaking on display for patrons to be educated about the winemaking process from vineyard to bottling and eventually to sales. Further, the costs of the alcoholic beverages offered would be cost prohibitive for daily consumption and would not be attractive to that clientele whose purpose would be to drink in excess.

Based on a Sales Tax Capture & Gap Analysis Report provided by the City’s tax specialist consultant, MuniServices, Inc., the City of Hayward is currently losing potential sales tax revenues to neighboring communities and jurisdictions in the category of “Specialty Retail”. The Sales Tax Leakage Report indicates that the City is only generating 80% of the potential sales tax that Hayward could support based on our jurisdiction’s population and median income. As such, the establishment of a new off-sale retail winery in a designated key retail and service area and PDA will assist in increasing the potential sales tax revenues to the City to close the gap in unmet sales for this category. Establishments with similar business models include Doc’s Wine Shop (22570 Foothill Boulevard, Hayward), Minimo (Oakland, CA), Vino (Oakland, CA), The Wine Steward (Pleasanton, CA), and Farmstead Cheeses and Wines (Alameda, CA).

Strategic Initiatives. This agenda item supports the Complete Communities Strategic Initiative. The purpose of the strategic initiative is to create and support structures, services, and amenities to provide inclusive and equitable access with the goal of becoming a thriving and

promising place to live, work and play for all consistent with the objectives of the Hayward 2040 General Plan. Further, the item supports the following goals and objectives:

Goal 1: Improve quality of life for residents, business owners, and community members in all Hayward neighborhoods.

Objective 2: Foster a sense of place and support neighborhood pride.

Objective 3: Increase collaboration with businesses, non-profits and neighborhood groups on placemaking projects.

ENVIRONMENTAL REVIEW

The proposed project is exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15301, Class 1 for existing facilities in that the project involves the leasing approximately 975 square-feet of existing tenant space that will create a negligible impact on the environment. Therefore, no environmental review is necessary.

NEXT STEPS

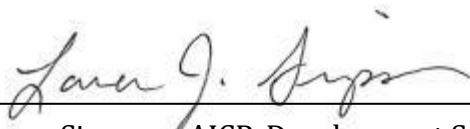
If the Planning Commission approves the Conditional Use Permit application, then a 10-day appeal period will commence from the date of decision. If no appeal is filed, then the decision will be deemed final. If an appeal is filed within the 10-day time frame, then the application will be heard by the City Council for final disposition.

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