Commission Agenda Report

To: Jeffrey Jennings and Members of the Planning Commission

Prepared by: David Eng, Assistant Planner

Approved by: Bonnie Blue, Planning Director

Date prepared: December 23, 2019

Meeting date: January 6, 2020

Subject: Conditional Use Permit No. 19-008 – An application for a conditional use permit to allow the operation of a new 190 square foot wine tasting room (bar), serving wine and accompanying pre-packaged foods, located within an existing retail space in the Malibu Village shopping center.

Applicant: Wine Apothecary, LLC
Property Owner: Jamestown Premier Malibu Village LP
Location: 3822 Cross Creek Road, Unit 3822
APN: 4452-011-042

RECOMMENDED ACTION: Adopt Planning Commission Resolution No. 20-08 (Attachment 1) determining the project is categorically exempt from the California Environmental Quality Act (CEQA), and approving Conditional Use Permit (CUP) No. 19-008 to allow for the operation of a new wine tasting room (bar), “Wine Apothecary”, with onsite sale, service, and consumption of alcohol to be located in a 190 square foot “shop-in-shop” space within the existing 4,033 square foot “Fred Segal” retail store (no new square footage to be added) at the Malibu Village shopping center located in the Commercial Visitor Serving (CV-1) district at 3822 Cross Creek Road (Jamestown Premier Malibu Village LP).

DISCUSSION: On August 20, 2019, the applicant submitted a CUP application to allow a wine tasting room with onsite sale and consumption of alcohol to patrons. Pursuant to Malibu Municipal Code (MMC) Section 17.02.060, wine tasting rooms meet the definition of bars and cocktail lounges, which are conditionally permitted in the CV-1 district under MMC Section 17.26.030; therefore, a CUP is required.

This agenda report provides a project overview, a summary of the project setting and surrounding land uses, description of the project, staff’s analysis of the proposed project’s consistency with the MMC, and environmental review pursuant to CEQA. The analysis...
and findings contained herein demonstrate the proposed project is consistent with the MMC.

**Project Overview**

The proposed wine tasting room is located in the Malibu Village shopping center, and will occupy 190 square feet area within the existing 4,033 square foot Fred Segal retail store as a “shop-in-shop” concept (Attachment 2). The tasting room will offer tastings of Wine Apothecary wines and serve accompanying pre-packaged snacks such as nuts, cheeses, and crackers. It will also include the retail sale of Wine Apothecary branded wines.

**Surrounding Land Uses and Project Setting**

As shown in Figure 1, the subject property is located at 3822 Cross Creek Road in the Civic Center District. The project site is bounded on the west by Cross Creek Road, on the south and the north by developed property within the CV-1 zoning district, and on the east by Malibu Creek. The project site is accessible from Cross Creek Road and through the adjacent southerly parcel, which is also a part of the Malibu Village shopping center.

**Figure 1 – Aerial Map**

Source: City GIS
The proposed wine bar is located within the existing Fred Segal retail store, located in the westernmost suite of the northern building (Figure 2).

Figure 2 – Parcel and Tenant Space

Properties in the immediate area are classified as a combination of general and visitor serving uses including Legacy Park. Single-family land uses are located considerably north and east of the project site. A private golf course, single-family homes, the Malibu Lagoon, and the Pacific Ocean are located south of the project site, south of Pacific Coast Highway.

Malibu Village shopping center consists of commercial visitor serving businesses serving the general public, such as retail stores, banks, and restaurants. The proposed CUP will be complimentary to the surrounding uses and is not anticipated to significantly change the assortment of uses and character of the shopping center. Table 1 provides a summary of the surrounding properties, uses, and zoning designations.
### Table 1 – Surrounding Land Uses

<table>
<thead>
<tr>
<th>Direction</th>
<th>Address</th>
<th>Lot Size</th>
<th>Zoning</th>
<th>Land Use</th>
</tr>
</thead>
<tbody>
<tr>
<td>North</td>
<td>3806 Cross Creek Rd.</td>
<td>2.33 acres</td>
<td>CV-1</td>
<td>Retail/Office</td>
</tr>
<tr>
<td></td>
<td>3808 Cross Creek Rd.</td>
<td>.44 acres</td>
<td>CV-1</td>
<td>Public Utility</td>
</tr>
<tr>
<td>East</td>
<td>3800 Cross Creek Rd.</td>
<td>2.68 acres</td>
<td>CV-1</td>
<td>Warehouse/Mfg./Creek</td>
</tr>
<tr>
<td>South</td>
<td>3900 Cross Creek Rd.</td>
<td>.82 acres</td>
<td>CV-1</td>
<td>Shopping Center</td>
</tr>
<tr>
<td></td>
<td>23359 Pacific Coast Hwy.</td>
<td>2.36 acres</td>
<td>CV-1</td>
<td>Shopping Center</td>
</tr>
<tr>
<td>West</td>
<td>3835 Cross Creek Rd.</td>
<td>2.63 acres</td>
<td>CV-1</td>
<td>Shopping Center</td>
</tr>
</tbody>
</table>

Source: City GIS

### Project Description

The proposed wine tasting area is proposed to be 190 square feet and will be located entirely within the existing 4,033 square foot Fred Segal retail store that is located in the Malibu Village shopping center. No new square footage or development is proposed. The tasting room will offer tastings of Wine Apothecary wines and serve accompanying pre-packaged snacks such as nuts, cheeses, and crackers. It will also include the retail sale of Wine Apothecary branded wines. The hours of operation will be 11:00 A.M. to 8:00 P.M., daily, with an extended closing time of 9:00 P.M. should Fred Segal opt to extend its store hours during holidays and the holiday shopping season. The tasting room will have seating for eight patrons and be staffed by three to five employees. It will not include amplified or live music.

Table 2 provides a summary of the proposed project.

### Table 2 – Apothecary Wine Bar

<p>| | |</p>
<table>
<thead>
<tr>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Total Area</td>
<td>190 sq. ft.</td>
</tr>
<tr>
<td>Service Area</td>
<td>190 sq. ft.</td>
</tr>
<tr>
<td>Interior</td>
<td>190 sq. ft.</td>
</tr>
<tr>
<td>Exterior</td>
<td>None</td>
</tr>
<tr>
<td>Seating Capacity</td>
<td>8 seats total</td>
</tr>
<tr>
<td>Interior</td>
<td>8 seats</td>
</tr>
<tr>
<td>Exterior</td>
<td>None</td>
</tr>
<tr>
<td>Hours of Operation</td>
<td>Daily 11:00 A.M. – 8:00 P.M.</td>
</tr>
<tr>
<td>Food Service</td>
<td>Daily 11:00 A.M. – 8:00 P.M.</td>
</tr>
<tr>
<td>Alcohol Service</td>
<td>Daily 11:00 A.M. – 8:00 P.M.</td>
</tr>
<tr>
<td>Alcohol Sales</td>
<td>ABC License Type 2 – Winegrower</td>
</tr>
<tr>
<td>Noise</td>
<td>No live or amplified music</td>
</tr>
</tbody>
</table>
Analysis

Parking

To date, the Planning Department has applied the parking requirements contained in MMC Section 17.48.030(G) and Malibu LIP Section 3.14.3 which state that the parking requirements for a shopping center are five spaces for each 1,000 square feet of gross floor area. To qualify for the shopping center criteria, a well-balanced mixture of uses within the center must be demonstrated. The current tenant mix of retail, banking, health club, and restaurant uses are considered well balanced for parking purposes. The use as proposed under this CUP application would be considered complimentary to the existing uses and would not affect the balance of long and short term parking. Furthermore, no additional retail space is proposed as the use is proposed to be located within an existing use. The latest City approved parking plan (OC 09-177) for the Malibu Village shopping center indicates that 308 parking spaces exist on site, which exceeds the 255 spaces required to serve the center's 51,037 square feet of gross floor area. Lastly, as no new square footage is proposed to be added, there is no additional demand on parking.

ABC License

The applicant has submitted an application to ABC for a duplicate ABC Type 2 (Winegrower) license, which will permit the same wine sales and wine tasting activities currently granted at the applicant's licensed winery located in San Luis Obispo County (Attachment 3). This license will allow for wine tastings to consumers for consumption on the premises, and the sale of bottled wine to consumers for consumption off the premises. The wine tasting area will be set up consistent with ABC requirement for separation from the rest of the retail sales area and as a result minors will be allowed on the premises within the general retail area.

ABC will not issue the license until the proposed CUP is approved. Therefore, a condition of approval has been included stating that the tenant must submit a copy of the ABC license to the Planning Department prior to the issuance of a Certificate of Occupancy. A Letter of Public Convenience or Necessity will also be required and the necessary findings for the letter are contained in Section 4 of Planning Commission Resolution No. 20-08.

Conditional Use Permit Findings

The proposed CUP will allow for the operation of a wine tasting venue and the sale of alcohol. The Planning Commission may approve, deny, and/or modify the CUP in whole or in part, with or without conditions, provided that it makes all of the findings of fact required by MMC Section 17.66.080. All of the CUP findings are provided below.
Finding 1. The proposed use is one that is conditionally permitted within the subject zone and complies with the intent of all of the applicable provisions of Title 17 of the Malibu Municipal Code.

Wine tasting venues are considered similar to bars in that there is no meal service. MMC Sections 17.26.030(A) and 17.24.030(C) allow bars as conditionally permitted uses in the CV-1 zoning district. The subject application will permit the onsite sale and consumption of alcoholic beverages at the proposed wine tasting room in the CV-1 zoning district. The CV-1 district is intended to provide for visitor serving uses for enjoyment by both residents and visitors. In addition, such uses shall be designed to be consistent with Malibu’s rural character and natural environmental setting. The project will be conditioned accordingly to meet the intent of the CV-1 zoning district by providing a visitor serving use with appropriate noise restrictions and limited hours of operations inside an existing commercial tenant space in a developed shopping center. Therefore, the proposed use complies with the intent of all of the applicable provisions of Title 17 of the MMC.

Finding 2. The proposed use would not impair the integrity and character of the zoning district in which it is located.

The proposed wine tasting room within the existing retail space will be a commercial use in the CV-1 zoning district. The request for wine tasting and wine sales is ancillary to the primary retail use and will serve to augment the overall shopping experience. Furthermore, the consumption of alcoholic beverages will be wholly contained within the building’s interior and will not generate detrimental impacts onto surrounding properties. Pursuant to MMC Section 17.66.010, conditional uses are those uses which are regarded as compatible with uses that are automatically permitted in a zoning district but which have a special impact or uniqueness such that their effect on the surrounding environment cannot be determined in advance. It is not expected that the wine tastings or the sale of wine within the existing retail space will impact surrounding structures located outside of the shopping center. Therefore, the proposed wine tasting and sales venue is considered a compatible use with all other permitted uses in the same zoning district. Therefore, the proposed use is not expected to impair the integrity and character of the zoning district in which it is located.

Finding 3. The subject site is physically suitable for the type of land use being proposed.

The subject site is developed with a shopping center that includes a mix of retail, personal services, and eating establishments, of which several serve alcohol. The proposed wine tasting room is compatible with these existing uses. Further, the application does not propose any physical changes to the existing structure or new development that will generate a greater demand for parking. Therefore, the subject site is physically suitable for the proposed project.
Finding 4. The proposed use is compatible with the land uses presently on the subject property and in the surrounding neighborhood.

The proposed wine tasting room with alcohol sales would be compatible with the other approved uses in the shopping center in that the proposed wine tasting venue is focused on retail sales. The surrounding neighborhood is composed of a mix of commercial development in the immediate vicinity, with residential uses further away. The onsite retail sale and wine tastings pursuant to an ABC License Type 2 at the proposed Wine Apothecary tasting room is compatible with the visitor and resident-serving land uses approved on the site. Uses within the same shopping center and in neighboring parcels include restaurants, of which several serve alcohol.

Finding 5. The proposed use would be compatible with existing and future land uses within the zoning district and the general area in which the proposed use is to be located.

The proposed wine tasting room with onsite retail sale and wine tastings is compatible with existing and future land uses allowed in the CV-1 zone. The zone allows for visitor serving commercial uses, such as the proposed retail use, and is therefore compatible with other business operations surrounding the site.

Finding 6. There would be adequate provisions for water, sanitation, and public utilities and services to ensure that the proposed use would not be detrimental to public health and safety and the project does not affect solar access or adversely impact existing public and private views, as defined by staff.

The proposed project will not affect existing water, sanitation, and public utilities and services. No physical changes are proposed to the exterior of the existing building and minor changes are proposed to the interior. Therefore, the project will not affect solar access or adversely impact existing public or private views.

Finding 7. There would be adequate provisions for public access to serve the subject proposal.

The proposed wine tasting venue will be located within an existing retail space. No changes to the site’s access or circulation, for pedestrians or vehicles, are proposed. The onsite sale and consumption of alcoholic beverages pursuant to an ABC License Type 2 is limited to tasting room patrons only and will not negatively affect parking demand, and is accommodated by the shopping center’s existing parking.

Finding 8. The proposed use is consistent with the goals, objectives, policies, and general land uses of the General Plan.

The subject property is designated Commercial Visitor Serving 1 (CV-1) in the General Plan. The General Plan states that the CV designation "provides for visitor serving uses
which serve visitors and residents such as hotels and restaurants which respect the rural character and natural environmental setting." The subject CUP will allow a wine tasting room with the onsite sale and consumption of alcoholic beverages in an existing retail shopping center. Subject to conditions, the CUP will be consistent with the goals, objectives, and policies of the General Plan.

Finding 9. The proposed project complies with all applicable requirements of state and local law.

The proposed use complies with all applicable requirements of state and local law and is conditioned to comply with any relevant approvals, permits, and licenses from the City of Malibu and other related agencies, such as ABC and the Los Angeles County Sheriff’s Department (Attachment 4). Conditions of approval have been added to require the wine tasting room to comply with all state licensing regulations and to maintain a valid ABC License Type 2 for the onsite sale and consumption of alcoholic beverages.

Finding 10. The proposed use would not be detrimental to the public interest, health, safety, convenience, or welfare.

The wine tasting room is a permitted use in the CV-1 zoning district, and the proposed use to sell and consume alcoholic beverages onsite pursuant to an ABC license Type 2 would not be detrimental to the public interest, health, safety, convenience, or welfare because the use complies with applicable requirements of state and local law. A Letter of Public Convenience or Necessity will be provided to the ABC.

Finding 11. If the project is located in an area determined by the City to be at risk from earth movement, flooding, or liquefaction, there is clear and compelling evidence that the proposed development is not at risk from these hazards.

No new development or changes to the existing building footprint are proposed. Therefore, there is no new impact related to earth movement, flooding, or liquefaction.

ENVIRONMENTAL REVIEW: Pursuant to the authority and criteria contained in CEQA, the Planning Director has analyzed the proposed project. The Planning Director found that this project is listed among the classes of projects that have been determined not to have a significant adverse effect on the environment. Therefore, the proposed project is categorically exempt from the provisions of CEQA pursuant to Section 15301 — Existing Facilities. The Planning Director has further determined that none of the six exceptions to the use of a categorical exemption apply to this project (CEQA Guidelines Section 15300.2).

COASTAL DEVELOPMENT PERMIT EXEMPTION: Pursuant to Malibu Local Coastal Program (LCP) Local Implementation Plan (LIP) Section 13.4.3 — Other Improvements, a coastal development permit (CDP) exemption may be granted for improvements, a coastal
development permit (exemption may be granted for improvements to an existing structure other than a single-family residence or a public works facility. The proposed project does not involve any of the classes of development which would require a CDP because it would not involve a risk of adverse environmental effect, adversely affect public access or involve a change in use contrary to the policies of the LIP. Therefore CUP No. 19-008 is exempt from the requirement to obtain a CDP.

CORRESPONDENCE: To date, staff has not received correspondence regarding this application.

PUBLIC NOTICE: On December 12, 2019, staff published a Notice of Public Hearing in a newspaper of general circulation within the City of Malibu and mailed the notice to all property owners and occupants within a 500-foot radius of the subject property (Attachment 5)

SUMMARY: The required CUP findings can be made. Further, the Planning Department’s findings of fact are supported by substantial evidence in the record. Based on the analysis contained in this report, and the accompanying resolution, staff recommends approval of this project, subject to the conditions of approval contained in Section 5 (Conditions of Approval) of Planning Commission Resolution No. 20-08. The proposed project has been reviewed and conditionally approved for conformance with the MMC.

ATTACHMENTS:

1. Planning Commission Resolution No. 20-08
2. Project Plans (August 20, 2019; September 30, 2019)
3. Pending ABC License
4. Sheriff’s Department Referral
5. Public Hearing Notice
A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF MALIBU, DETERMINING THE PROJECT IS CATEGORICALLY EXEMPT FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT, AND APPROVING CONDITIONAL USE PERMIT NO. 19-008 TO ALLOW THE OPERATION OF A NEW WINE BAR (APOTHECARY WINES), INCLUDING A CALIFORNIA DEPARTMENT OF ALCOHOLIC BEVERAGE CONTROL LICENSE TYPE 2, AND AUTHORIZING THE PLANNING DIRECTOR TO SUBMIT A LETTER OF PUBLIC CONVENIENCE OR NECESSITY FOR THE USE IN THE COMMERCIAL VISITOR SERVING-ONE ZONING DISTRICT LOCATED AT 3822 CROSS CREEK ROAD (JAMESTOWN PREMIER MALIBU VILLAGE LP)

The Planning Commission of the City of Malibu does hereby find, order and resolve as follows:

SECTION 1. Recitals.

A. On August 20, 2019, an application for Conditional Use Permit (CUP) 19-008 was submitted to the Planning Department by applicant, Billy Dim, on behalf of Wine Apothecary. The application was routed to the County of Los Angeles Fire Department, the City Public Works Department, and the Los Angeles County Sheriff’s Department for review.

B. On September 16, 2019, Planning Department staff conducted a site visit to document site conditions, the property and surrounding area.

C. On October 7, 2019, the CUP application was deemed complete for processing.

D. On December 4, 2019, a Notice of Planning Commission Public Hearing was published in a newspaper of general circulation within the City of Malibu and was mailed to all property owners and occupants within a 500-foot radius of the subject property.

E. On January 6, 2020, the Planning Commission held a duly noticed public hearing on the subject application, reviewed and considered the staff report, reviewed and considered written reports, public testimony, and other information in the record.

SECTION 2. Environmental Review.

Pursuant to the authority and criteria contained in the California Environmental Quality Act (CEQA), the Planning Commission has analyzed the proposed project. The Planning Commission found that this project is listed among the classes of projects that have been determined not to have a significant adverse effect on the environment. Therefore, the project is categorically exempt from the provisions of CEQA pursuant to Section 15301(a) - Existing Facilities. The Planning Commission has further determined that none of the six exceptions to the use of a categorical exemption apply to this project (CEQA Guidelines Section 15300.2).
SECTION 3. Conditional Use Permit Findings of Fact.

Pursuant to Malibu Municipal Code (MMC) Section 17.66.080, a CUP may be approved if the Planning Commission makes all of the required findings. CUP No. 19-008 is to allow the operation of a wine tasting room with the onsite retail sales and tastings of wine. The Planning Commission hereby approves CUP 19-008 based on the findings of fact as follows:

A. Conditional Use Permit Findings (MMC Chapter 17.66)

1. Wine tasting venues are considered similar to bars in that there is no meal service. MMC Sections 17.26.030(A) and 17.24.030(C) allow bars as conditionally permitted uses in the CV-1 zoning district. The subject application will permit the onsite sale and consumption of alcoholic beverages at the proposed wine tasting room in the CV-1 zoning district. The CV-1 district is intended to provide for visitor serving uses for enjoyment by both residents and visitors. In addition, such uses shall be designed to be consistent with Malibu’s rural character and natural environmental setting. The project will be conditioned accordingly to meet the intent of the CV-1 zoning district by providing a visitor serving use with appropriate noise restrictions and limited hours of operations inside an existing commercial tenant space in a developed shopping center. Therefore, the proposed use complies with the intent of all of the applicable provisions of Title 17 of the MMC.

2. The proposed wine tasting room within the existing retail space will be a commercial use in the CV-1 zoning district. The request for wine tasting and wine sales is ancillary to the primary retail use and will serve to augment the overall shopping experience. Furthermore, the consumption of alcoholic beverages will be wholly contained within the building’s interior and will not generate detrimental impacts onto surrounding properties. Pursuant to MMC Section 17.66.010, conditional uses are those uses which are regarded as compatible with uses that are automatically permitted in a zoning district but which have a special impact or uniqueness such that their effect on the surrounding environment cannot be determined in advance. It is not expected that the wine tastings or the sale of wine within the existing retail space will impact surrounding structures located outside of the shopping center. Therefore, the proposed wine tasting and sales venue is considered a compatible use with all other permitted uses in the same zoning district. Therefore, the proposed use is not expected to impair the integrity and character of the zoning district in which it is located.

3. The subject site is developed with a shopping center that includes a mix of retail, personal services, and eating establishments, of which several serve alcohol. The proposed wine tasting room is compatible with these existing uses. Further, the application does not propose any physical changes to the structure or generate a greater demand for parking. Therefore, the subject site is physically suitable for the proposed project.

4. The proposed wine tasting room with alcohol sales would be compatible with the other approved uses in the shopping center in that the proposed wine tasting venue is focused on retail sales. The surrounding neighborhood is composed of a mix of commercial development in the immediate vicinity, with residential uses further away. The onsite retail sale and wine tastings pursuant to an ABC License Type 2 at the proposed Wine Apothecary tasting room is compatible with the visitor and resident-serving land uses approved on the site. Uses within the same shopping center and in neighboring parcels include restaurants, of which several serve alcohol.
5. The proposed wine tasting room with onsite sale and wine tastings is compatible with existing and future uses allowed in the CV-1 zone. The CV-1 zone allows for visitor serving commercial businesses, such as a wine tasting room. The proposed use is compatible with other business surrounding the site.

6. The proposed project will not affect existing water sanitation, and public utilities and services. No physical changes are proposed to the exterior of the existing building and minor changes are proposed to the interior. Therefore, the project will not affect solar access or adversely impact existing public or private views.

7. The proposed wine tasting venue will be located within an existing retail space. No changes to the site’s access or circulation, for pedestrians or vehicles, are proposed. The onsite sale and consumption of alcoholic beverages pursuant to an ABC License Type 2 is limited to tasting room patrons only and will not negatively affect parking demand, and is accommodated by the shopping center’s existing parking.

8. The subject property is designated Commercial Visitor Serving (CV-1) in the General Plan. The General Plan states that the CV designation “provides for visitor serving uses which serve visitors and residents such as hotels and restaurants which respect the rural character and natural environmental setting.” The subject CUP will allow a wine tasting room with the onsite sale and consumption of alcoholic beverages in an existing retail shopping center. Subject to conditions, the CUP will be consistent with the goals, objectives, and policies of the General Plan.

9. The proposed use complies with all applicable requirements of state and local law and is conditioned to comply with any relevant approvals, permits, and licenses from the City of Malibu and other related agencies, such as ABC and the Los Angeles County Sheriff’s Department. Conditions of approval have been added to require the wine tasting room to comply with all state licensing regulations and to maintain a valid ABC License Type 2 for the onsite sale and consumption of alcoholic beverages.

10. The wine tasting room is a permitted use in the CV-1 zoning district, and the proposed use to sell and consume alcoholic beverages onsite pursuant to an ABC License Type 2 would not be detrimental to the public interest, health safety, convenience, or welfare because the use complies with applicable requirements of state and local law. A Letter of Public Convenience or Necessity will be provided to the ABC.

11. No new development or changes to the existing building footprint are proposed. Therefore, there is no new impact related to earth movement, flooding, or liquefaction.

SECTION 4. Determination of Public Convenience or Necessity.

According to the State Department of Alcoholic Beverage Control, the project site is located within a census tract that has an over-concentration of licenses; therefore, a Letter of Public Convenience or Necessity is required. Based on CUP findings in Section 3 of this resolution, the Planning Commission finds that the proposed use will not be detrimental to the public health, safety, or general welfare and is compatible with the land uses presently on the subject property and in the surrounding neighborhood. The Planning Commission hereby authorizes the Planning Director to
prepare and submit a Letter of Public Convenience or Necessity for the proposed use to the State Alcoholic Beverage Control Department.

SECTION 5. Planning Commission Approval.

Based on the foregoing findings and evidence contained within the record, the Planning Commission hereby approves CUP No. 19-008, subject to the following conditions.

SECTION 6. Conditions of Approval.

Standard Conditions

1. The property owners, and their successors in interest, shall indemnify and defend the City of Malibu and its officers, employees and agents from and against all liability and costs relating to the City's actions concerning this project, including (without limitation) any award of litigation expenses in favor of any person or entity who seeks to challenge the validity of any of the City's actions or decisions in connection with this project. The City shall have the sole right to choose its counsel and property owners shall reimburse the City's expenses incurred in its defense of any lawsuit challenging the City's actions concerning this project.

2. This approval is the operation of Apothecary Wines, a retail business with onsite wine tasting, located in 190 square feet of "shop-in shop" space within the existing Fred Segal retail store. Apothecary Wines will sell their own branded wines and also a variety of related gift items for home use. The hours of operation will be 11:00 A.M. to 8:00 P.M., daily, with an extended closing time of 9:00 P.M. should Fred Segal opt to extend its store hours during holidays and the holiday shopping season. The tasting room will have seating for eight patrons and be staffed by three to five employees. It will no include amplified or live music.

3. This conditional use permit shall not be effective until all appeals are exhausted and the property owner, applicant, and the business operator execute the Affidavit of Acceptance of Conditions. Said documents shall be recorded with the Los Angeles County Recorder and a certified copy of said recordation shall be filed with the Planning Department within 10 days of the effective date of the approval.

4. Subsequent submittals for this project shall be in substantial compliance with plans on-file with the Planning Department, dated, September 30, 2019. In the event the project plans conflict with any condition of approval, the condition shall take precedence.

5. Any questions of intent or interpretation of any condition of approval will be resolved by the Planning Director upon written request of such interpretation.

6. Minor changes to the approved plans or the conditions of approval may be approved by the Planning Director, provided such changes achieve substantially the same results and the project is still in compliance with the MMC. Revised plans reflecting the minor changes and additional fees shall be required.

7. The property owner shall comply with all provisions of the MMC.
Operations

8. This CUP permits the sale and consumption of alcoholic beverages with an ABC Type 2 license. The property owner / tenant shall obtain all necessary approvals from ABC. Once obtained, the applicant is required to provide the Planning Department a copy of the issued ABC license.

9. No live entertainment or amplified music is approved under this permit except low-level, ambient music not audible outside the tenant space.

10. A copy of the current ABC license shall be kept on the premises of the establishment and be presented to City staff, including the City’s Planning Director and Code enforcement staff, law enforcement officers or their duly authorized representatives, upon request.

11. At all times during the conduct of the permitted use, the permittee shall maintain and keep in effect valid licensing approval from ABC. Should such licensing be denied, expire, or lapse at any time in the future, the approval of alcohol sale pursuant to this permit is subject to modification or revocation of this conditional use permit pursuant to MMC Section 17.66.100(C).

12. Prior to the commencement of alcohol service, the property owner / operator shall install small signs in the interior of the business, in a location and form approved by the Planning Director, on or near the exit doors stating that alcohol may only be consumed in compliance with the tasting room’s ABC license.

13. The sale of alcoholic beverages shall be limited to wine tasting room patrons only.

14. Violation of any of the conditions of approval shall be cause for revocation of the conditional use permit and termination of all rights contained therein.

15. The approved hours of operation for the sale of alcoholic beverages are limited to 11:00 a.m. to 8:00 p.m. daily, with an extended closing time of 9:00 p.m. should Fred Segal opt to extend its store hours during holidays and the holiday shopping season.

16. The property owner / operator shall adhere to a “good neighbor” policy, meaning that the operator and employees must respect the rights of neighboring properties, and to the best of their ability, shall ensure their patrons’ compliance with the City’s noise and smoking regulations and all conditions of approval for the subject use relating to parking, smoking, litter, noise, loitering, etc.

17. Noise emanating from the premises shall not be audible at a distance of five feet of any residential unit between the hours of 10:00 p.m. and 7:00 a.m., as required by MMC Section 8.24.050(L).
18. The property owner/tenant shall comply with the requirements set forth in MMC Chapter 9.28 (Plastic Bag Ban). No retail establishment, restaurant, vendor, or nonprofit vendor shall provide plastic bags or compostable bags to customers. This requirement applies to plastic or compostable bags provided at the point of sale for the purpose of carrying away goods.

19. No restaurant, food packager, retail food vendor, or nonprofit food provider shall provide prepared food to its customers in any food packaging that utilizes expanded polystyrene. "Expanded polystyrene" means and includes blown polystyrene and expanded and extruded foams (sometimes incorrectly called Styrofoam, a Dow Chemical Company trademarked form of polystyrene foam insulation) which are thermoplastic petrochemical materials utilizing styrene monomer and processed by any number of techniques including, but not limited to, fusion of polymer spheres (expandable bead polystyrene), injection molding, foam molding, and extrusion-blow molding (extruded foam polystyrene). Expanded polystyrene is generally used to make cups, bowls, plates, trays, clamshell containers, meat trays, and egg cartons.

20. The property owner/tenant shall comply with the requirements set forth in MMC Chapter 9.24 (Ban on Plastic Food Packaging and Other Plasticware). No retail establishment, restaurant, vendor or nonprofit shall provide plastic beverage straws, plastic stirrers, or plastic cutlery to customers.

21. Staff shall inspect the property as needed after approval of the CUP to verify compliance with the conditions of approval.

22. The Planning Department shall conduct a review of tasting room operations and compliance with conditions of approval. The report shall be presented to the Planning Commission five years after CUP approval.

Sheriff’s Department

23. The tenant must adhere to all laws related to the sale of alcohol. Violations of such laws may be cause for modification or revocation of this conditional use permit pursuant to MMC Section 17.66.100(C).

Signs

24. No new signage is permitted under this application; a sign permit shall be submitted and approved by the Planning Department prior to installation of any new sign.

Fixed Conditions

25. The conditions under which this conditional use permit was approved may be modified by the City without the consent of the property owner, tenant or operator if the Planning Commission finds that the use is creating a nuisance.
26. A conditional use permit that is valid and in effect, and was granted pursuant to the provisions of the MMC, shall run with the land and continue to be valid upon change of ownership of the land or lawfully existing structure.

27. Violation of any of the conditions of approval shall be cause for revocation of the conditional use permit and termination of all rights contained therein.

28. This conditional use permit shall become subject to revocation should the use for which the conditional use permit was granted cease for six successive calendar months after the start of operations, except in the case of natural disaster.

29. If it has cause to believe that grounds for modification or revocation may exist, the Planning Commission shall hold a public hearing upon the question of modification or revocation of this conditional use permit pursuant to MMC Section 17.66.100(C). The conditional use permit may be revoked if the Planning Commission finds that one or more of the following conditions exists:

   a. The conditional use permit was obtained in a fraudulent manner.
   b. The use for which the conditional use permit was granted has ceased or was suspended for at least six successive calendar months.
   c. One or more of the conditions found within this resolution have not been substantially met.

SECTION 7. The Planning Commission shall certify the adoption of this Resolution.

PASSED, APPROVED AND ADOPTED this 6th day of January, 2020.

JEFFREY JENNINGS, Planning Commission Chair

ATTEST:

KATHLEEN STECKO, Recording Secretary

LOCAL APPEAL - Pursuant to Local Coastal Program Local Implementation Plan (LIP) Section 13.20.1 (Local Appeals) a decision made by the Planning Commission may be appealed to the City Council by an aggrieved person by written statement setting forth the grounds for appeal. An appeal shall be filed with the City Clerk within 10 days and shall be accompanied by an appeal form and filing fee, as specified by the City Council. Appeal forms may be found online at www.malibucity.org, in person at City Hall, or by calling (310) 456-2489, ext. 374.
I CERTIFY THAT THE FOREGOING RESOLUTION NO. 20-08 was passed and adopted by the Planning Commission of the City of Malibu at the Regular meeting held on the 6th day of January 2020 by the following vote:

AYES:
NOES:
ABSTAIN:
ABSENT:

KATHLEEN STECKO, Recording Secretary
3822 CROSS CREEK #3822 MALIBU, CA 90265

PROJECT PLANS

SIMPLE REMODEL
OF PREEXISTING – SHOP 3
INSIDE FRED SEGAL MALIBU

SEEKING CONDITIONAL USE PERMIT FOR
HIGHLIGHTED SPACE (NEXT PAGE) INSIDE
3822 CROSS CREEK #3822 MALIBU, CA 90265

APN: 4452-011-042 & APN: 4452-011-043
MMC Zoning Designation: CV1 - Commercial Visitor Serving One
Property Owner Name: Jamestown Premier Malibu Village LP
Applicant Name: Wine Apothecary LLC

190 SQUARE FEET (Simple Remodel) FOR
WINE APOTHECARY LLC

Project Description: Daily Operations will consist of wine tasting of Wine Apothecary’s wines. In addition to the tasting of Wine Apothecary’s wines, pre-packaged foods to cleanse the tasters’ palates will be served such as nuts, crackers and cheeses. The Hours of Operation will be approximately 11:00 am to 8:00 pm Monday through Sunday and 11:00 am to 9:00 pm to accommodate Holidays etc. as needed. The only sales of alcohol will be sales of Wine Apothecary produced wine. There will be approximately 3 to 5 employees. There are no plans for music or entertainment. There are no plans for private events. There are no plans for recurring events.
FRED SEGAL MALIBU - SHOP 3
190 SQ FT SUMMER SOMEWHERE
WINE TASTING AREA

SEEKING CONDITIONAL USE PERMIT FOR
HIGHLIGHTED SPACE INSIDE
3822 CROSS CREEK MALIBU, CA 90265
PROJECT DATA

PROJECT ADDRESS
3822 CROSS CREEK RD., # 3822, MALIBU, CA 90265

ASSSESSOR'S PARCEL NO.
4452.911442

LAND USE:
COMMERCIAL

LOT AREA:
104.666 SQ.FT.

PROPERTY OWNER:
JAMESTOWN PREMIER MALIBU VILLAGE LP

APPLICANT:
WINE APOTHECARY LLC

BUILDING AREA:
25,882 SQ.FT. (NO CHANGES)

CODES / STANDARDS

2019 CALIFORNIA BUILDING CODE
2019 CALIFORNIA RESIDENTIAL CODE
2019 CALIFORNIA MECHANICAL CODE
2019 CALIFORNIA ELETRICAL CODE
2019 CALIFORNIA PLUMBING CODE
2019 CALIFORNIA ENERGY CODE
2019 CALIFORNIA GREEN BUILDING CODE
2017 CITY OF MALIBU MUNICIPAL CODE

DEFERRED SUBMITTALS

VICINITY MAP

AERIAL PHOTO

PROJECT SCOPE

1. CONDITIONAL USE PERMIT IS REQUESTED FOR OPERATION OF A WINE TASTING ROOM IN THE CV-1 ZONE

PROJECT DIRECTORY

OWNER:
JAMESTOWN PREMIER MALIBU VILLAGE LP

2717 AVIATION WAY
SANTA MARIA, CA 93455

APPLICANT:
WINE APOTHECARY LLC
2717 AVIATION WAY
SANTA MARIA, CA 93455

DESIGNER:
TV ENGINEERING AND DESIGN

APPLICANT:
WINE APOTHECARY LLC

STRUCTURAL ENGINEER:
TV ENGINEERING AND DESIGN

2717 AVIATION WAY
SANTA MARIA, CA 93455

PLOT PLAN

SCALE: 1" = 1'0"

MISC. NOTES

COVER SHEET

DRAWING DATE: September 24, 2019
DRAWING NO.: C.S

REVIEWED:
September 30, 2019
Planning Dept.
Green Building Notes

1. FOR THE CONSTRUCTION OF THIS PROJECT DESCRIBED HERE AND IN THE FOLLOWING SHEETS, ALL MANUFACTURERS, MATERIALS, AND SERVICES TO SUPPLY UNIFORM QUALITY IN CONSTRUCTION THROUGHOUT THE PROJECT.

2. CONTRACTOR IS ENCOURAGED TO PROCURE MATERIALS AND SERVICES IN ADVANCE TO MINIMIZE DELAYS ON SITE. APPROVED MATERIALS AND SERVICES SHALL BE OBTAINED FROM SUPPLIERS PRIOR TO EXECUTING ANY MODIFICATION OR DEVIATION FROM DRAWINGS.


4. ALL WORK SHALL BE PROPERLY INSTALLED, PLUMB AND TRUE BY SKILLED MECHANICS.

5. THE CONTRACTOR SHALL ASSUME RESPONSIBILITY FOR THE WORK OF HIS SUBCONTRACTORS AND SHALL COORDINATE ALL ACTIVITIES OF ALL TRADES ENGAGED IN THE CONTRACT.

6. DETAILS NOT EXPLICITLY SHOWN ON THE DRAWINGS SHALL BE EXECUTED IN ACCORDANCE WITH STANDARD CONSTRUCTION PRACTICES AND WORKMANSHIP.

7. CONTRACTOR SHALL PROVIDE TEMPORARY FIRE PROTECTION AS PER COUNTY OF LOS ANGELES AND DEPARTMENT RULES AND REGULATIONS THROUGHOUT THE PERIOD OF WORK.

8. ALL CONTRACTORS SHALL VERIFY ALL THE EXISTING DIMENSIONS AND CONDITIONS BEFORE COMMITTING TO THE SCHEDULE. THE CONTRACTOR SHALL BE RESPONSIBLE FOR ALL METHODS, PROCEDURES, EXISTING CONDITIONS WHICH INCREASED OR MODIFIED, THEN WRITTEN APPROVAL MUST BE OBTAINED FROM THE OWNER PRIOR TO THE START OF WORK.

9. CONTRACTOR SHALL CARRY LIABILITY INSURANCE AND AGREE TO HOLD THE OWNER AND CONTRACTOR HARMLESS OF ALL LAWSUITS RESULTING FROM THE CONTRACTOR'S ACTIVITIES DURING THE PERIOD OF CONSTRUCTION. THE CONTRACTOR ALSO AGREES TO HOLD THE OWNER AND LT HAMMER OF ALL LOS ANGELES AFTER CONSTRUCTION HAS BEEN COMPLETED DUE TO ANY DAMAGES THAT MAY OCCUR TO THE CONTRACTOR, WORKMANSHIP.

10. THE CONTRACTOR AND/OR SUBCONTRACTORS AWADED THE CONSTRUCTION OF THIS PROJECT OR PHASES OF THIS PROJECT SHALL SUBMIT FOR APPROVAL ALL REQUESTED SAMPLES, REPORTS, LITERATURE, MATERIALS, LISTS, DRAWINGS, ETC. AS SPECIFIED IN THE DRAWINGS. THE OWNER BEFORE FABRICATION, INSTALLATION AND OR CONSTRUCTION OF ANY WORK.

11. THE GENERAL CONTRACTOR IS RESPONSIBLE FOR THE DISTRIBUTION OF ALL DETAILS ON ALL CONTRACTS OR STANDARDS OF THE SCHEDULE. THE GENERAL CONTRACTOR SHALL MAINTAIN A COMPLETE RECORD OF ALL ITEMS AT BID AWARD, AND REPRESENT THE FINDINGS IN HIS SUBMITTED CONSTRUCTION SCHEDULE.

12. CONTRACTOR SHALL SUBMIT A DETAIL CONSTRUCTION SCHEDULE INDICATING ALL OVERLAP PHASES OF WORK, THE OWNER FOR APPROVAL PRIOR TO FABRICATION, INSTALLATION AND OR CONSTRUCTION AS STATED IN THE SPECIFICATIONS.

13. THE GENERAL CONTRACTOR SHALL BE RESPONSIBLE FOR THE PREPARATION OF ALL FLOOR FINISH MATERIALS AND SPECIFIED PRODUCTS. TO AS TO MEET HIS CONSTRUCTION SCHEDULE. THE GENERAL CONTRACTOR SHALL MAKE WITHIN THE OWNER AN EXAMINATION OF THE DRAWINGS AND SPECIFICATIONS TO DETERMINE THE AVAILABILITY OF ALL ITEMS AT BID AWARD, AND STAY WITHIN HIS SUBMITTED CONSTRUCTION SCHEDULE.

14. THE GENERAL CONTRACTOR SHALL INFORM THE OWNER OF THE COST DIFFERENTIAL FOR ANY MODIFICATIONS TO UNLESS ITEMS OR ITEMS OF ITEMS OF EQUIPMENT, MATERIALS, AND SERVICES OF EQUIPMENT, MATERIALS, AND SERVICES OF EQUAL OR BETTER QUALITY, RESULTING FROM HIS FAILURE TO MEET HIS CONSTRUCTION SCHEDULE. THE GENERAL CONTRACTOR SHALL BE RESPONSIBLE FOR ALL MATERIALS, LABOR AND COMPUTATION OF ALL WORK AND PAY THE APPROPRIATE COST DIFFERENTIAL TO MEET HIS CONSTRUCTION SCHEDULE.

15. PERMITS: EACH CONTRACTOR WHOSE WORK IS TO BE PERMITTED MUST SUBMIT A DETAIL CONSTRUCTION SCHEDULE TO THE PROPER AUTHORITY PRIOR TO BEGINNING WORK. THE OWNER MAY REQUIRE A DETAIL CONSTRUCTION SCHEDULE AT ANY TIME TO AVERT THIS SITUATION.

16. DO NOT SCALE DRAWINGS ALL DIMENSIONS AND CONDITIONS SHALL BE CHECKED AND VERIFIED ON THE JOB SITE BY EACH SUBCONTRACTOR PRIOR TO BEGINNING WORK. ANY ERRORS, OMISSIONS OR ERRORS IN THE DRAWING SHALL BE THE RESPONSIBILITY OF THE DESIGNER AND GENERAL CONTRACTOR PRIOR TO BEGINNING WORK.

17. DETAILS ARE INTENDED TO SHOWN METHODS AND WAYS OF DESIGN IN TQ IN WHICH MODIFICATIONS MAY BE REQUIRED TO SUIT JOB SPECIFICATIONS OR SITE CONDITIONS. DETAILS ARE INTENDED TO SHOW THE EXACTITY OF THE DRAWINGS BUT ARE NOT INTENDED TO COMPLETE THE DRAWING SHALL BE INTERPRETED AS FULLY DRAWN.

18. GENERAL CONTRACTOR TO VERIFY RULES AND LAYOUT OF ALL ORDERED ITEMS PRIOR TO ORDERING. NOTIFY DESIGNS OF ANY DISCREPANCIES TO THE GENERAL CONTRACTOR. (*)
LICENSE INFORMATION

License Number: 534656 Primary Owner: WINE APOTHECARY, LLC

Office of Application: 13 - SAN LUIS OBISPO

BUSINESS NAME
BLENDTIQUE WINE COMPANY

BUSINESS ADDRESS
2705 & 2717 AVIATION WAY, SANTA MARIA, CA, 93455
County: SANTA BARBARA Census Tract: 0020.11

Licensee: WINE APOTHECARY, LLC

Company Information
OFFICER: CUNEO, COLIN LYNG (MANAGING MEMBER)
OFFICER: DIM, WILLIAM EDWARD (MANAGING MEMBER)
MEMBER: CUNEO, COLIN LYNG
MEMBER: CUNEO, FRANK PETER

LICENSEE INFORMATION
MEMBER: DIM, WILLIAM EDWARD

LICENSE TYPES

02 - WINEGROWER

License Type Status: ACTIVE Status Date: 27-SEP-2013 Term: 12 Month(s)
Original Issue Date: 26-SEP-2013 Expiration Date: 30-JUN-2020 Master: Y Duplicate: 0

https://www.abc.ca.gov/licensing/license-lookup/single-license/?RPTTYPE=12&LICENSE=534656

ATTACHMENT 3
OPERATING RESTRICTIONS:
No Operating Restrictions found

DISCIPLINARY ACTION:
No Active Disciplinary Action found

DISCIPLINARY HISTORY: No Disciplinary History found.

HOLDS: ESCROWS:
No Active Holds found No Escrow found
TO:  Los Angeles County Sheriff - Malibu Lost Hills Station  DATE:  10/30/2019
FROM:  David Eng, City of Malibu Planning Department

PROJECT NUMBER:  CUP 19-008
JOB ADDRESS:  3822 CROSS CREEK RD, 3822
APPLICANT / CONTACT:  Billy Dim, Wine Apothecary
APPLICANT ADDRESS:  2717 Aviation Way
Santa Maria, CA  93455
APPLICANT PHONE #:  (310)408-3200
APPLICANT FAX #:  ___________________________________
PROJECT DESCRIPTION:  Wine Apothecary Wine Tasting inside of Fred Segal

This Approval Form (including detailed project description and plans) will be forwarded to:

Deputy John Peck
27050 Agoura Road, Calabasas, CA  91302
(818) 878-1808    Fax (818) 880-5209
Hours: Monday – Thursday 9:00 a.m. – 5:00 p.m.

Planning Staff to send review packet to jpeck@lasd.org.

Separate applications and fees may be required by the Sheriff’s Department. A CUP will not be issued until this form, signed by an authorized member of this agency, has been returned to the City of Malibu. Any conditions imposed by this agency will be included in the CUP.

☑ Approved  □ Denied (reasons below)  Conditions imposed:  □ No  ☑ Yes (see below)

Follow all ABC rules and regulations.

_________________________________________________________________________
_________________________________________________________________________

John Peck 11-13-19

NAME  DATE

SIGNATURE  Deputy  TITLE
NOTICE OF PUBLIC HEARING

The Malibu Planning Commission will hold a public hearing on Monday, January 6, 2020, at 6:30 p.m. in the Council Chambers, Malibu City Hall, 23825 Stuart Ranch Road, Malibu, CA, for the project identified below.

CONDITIONAL USE PERMIT NO. 19-008 - An application to allow the operation of a new 190 square foot wine tasting room (bar), serving wine and accompanying pre-packaged foods, located within an existing retail space (Fred Segal) in the Malibu Village shopping center, with no new square footage to be added.

LOCATION / APN: 3822 Cross Creek Road, 3822 / 4452-011-042
ZONING: Community Visitor-Serving-One (CV-1)
APPLICANT / OWNER: Wine Apothecary / Jamestown Premier Malibu Village LP
TENANT: Fred Segal
APPEALABLE TO: City Council
ENVIRONMENTAL REVIEW: Categorical Exemption CEQA Guidelines Section 15301(a)
APPLICATION FILED: August 20, 2019
CASE PLANNER: David Eng, Assistant Planner, deng@malibucity.org (310) 456-2489, ext. 372

A written staff report will be available at or before the hearing for the project, typically 10 days before the hearing in the Agenda Center: http://www.malibucity.org/agendacenter. Related documents are available for review at City Hall during regular business hours. You will have an opportunity to testify at the public hearing; written comments which shall be considered public record, may be submitted any time prior to the beginning of the public hearing, if the City’s action is challenged in court, testimony may be limited to issues raised before or at the public hearing.

LOCAL APPEAL - A decision of the Planning Commission may be appealed to the City Council by an aggrieved person by written statement setting forth the grounds for appeal. An appeal shall be filed with the City Clerk within ten days following the date of action which the appeal is made and shall be accompanied by an appeal form and filing fee, as specified by the City Council. Appeal forms may be found online at www.malibucity.org/planningforms or in person at City Hall, or by calling (310) 456-2489, extension 245.

BONNIE BLUE, Planning Director Date: December 12, 2019

ATTACHMENT 5