



CITY COUNCIL STAFF REPORT

DATE: April 21, 2010 Consent Calendar

SUBJECT: REQUEST BY WALGREENS CO. FOR A RESOLUTION OF PUBLIC CONVENIENCE (CASE: 5.1241-PCN) IN ORDER TO SELL BEER AND WINE AT THE WALGREENS DRUGSTORE LOCATED AT 2465 EAST PALM CANYON DRIVE, BLDG 14, ZONE CSC, SECTION 25.

CASE: 5.1242- PCN

FROM: David H. Ready, City Manager

BY: Craig A. Ewing, AICP, Director of Planning Services

SUMMARY

Staff is requesting that the City Council adopt a Resolution of Public Convenience for off-site sale of beer and wine (Alcoholic Beverage Control license Type 20) at the Walgreens drugstore located at 2465 East Palm Canyon Drive, Bldg. 14.

RECOMMENDATION:

Adopt Resolution No. _____, "A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PALM SPRINGS, CALIFORNIA, ADOPTING A RESOLUTION OF PUBLIC CONVENIENCE IN ORDER TO SELL BEER AND WINE AT THE WALGREENS DRUGSTORE LOCATED AT 2465 EAST PALM CANYON DRIVE, BLDG 14, ZONE CSC, SECTION 25."

BACKGROUND:

The applicant has applied for a Type-20 license through the Department of Alcoholic Beverage Control (ABC) for the existing Walgreens Drugstore located at the Smoke Tree Commons shopping center at 2465 East Palm Canyon Drive. The request is in association with Case No. 5.1242-PCN. The "Type 20" license authorizes the sale of beer and wine for off-site consumption.

ITEM NO. 2.I.

STAFF ANALYSIS:

The applicant is applying for a Type 20 license at the location for sale of beer and wine. The ABC will not issue a license for such a sale unless the City Council adopts a resolution pursuant to state law, indicating that the premises will provide for the public convenience or necessity.

In accordance with Section 23958.4 of the Business and Professions Code which took effect on January 1, 1995, "undue concentration" means a property that is located in a census tract (or division) where the ratio of on-sale retail licenses to the population in that tract (or division) exceeds the ratio of licenses to the population in the subject county. When an undue concentration is determined to exist, the State Department of Alcoholic Beverage Control will not issue a license for the sale of alcohol without a letter or resolution from the City Council which indicates the premises will provide for the public convenience or necessity.

Currently, the State Department of Alcoholic Beverage Control considers the City of Palm Springs as having an "undue concentration" of liquor licenses – that is, more liquor licenses per capita in Palm Springs than throughout Riverside County. The subject property is within Census Tract #0448.07 which has three off-sale licenses. One off-sale license is authorized for the tract. State law was enacted to allow local government the opportunity to regulate the number and location of such uses. By making a finding of "Public Convenience or Necessity", the City Council may determine that the subject premises will provide for the convenient patronage of the public whereby the convenience does not already exist in the immediate area.

The subject property is in a commercial area. Adjacent uses are as follows:

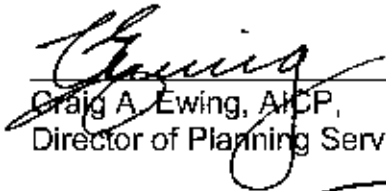
	General Plan	Zone	Land Use
North	High Density Res'l (15.0 - 30.0 du/ac)	PD 48 / PD 73	Multi-Family Residential
South	Estate Res'l (0 - 2.0 du/ac)	R-G-A (6)	Single-Family Residential
East	Tourist Resort Commercial	PD 107	Timeshare (Desert Isle Resort)
West	Neighborhood Community Commercial	C-S-C	Shopping Center (Smoke Tree Village)

CONCLUSION:

Staff is recommending approval of Case 5.1242-PCN and adoption of a Resolution of Public Convenience for the Walgreens Drugstore to allow the issuance of a Type 20 (Off Sale Beer & Wine) ABC License located at 2465 East Palm Canyon Drive, Bldg. 14.

FISCAL IMPACT:

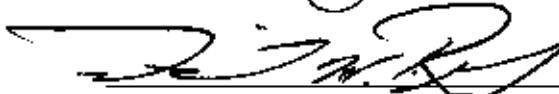
No fiscal impact.



Craig A. Ewing, AICP,
Director of Planning Services



Thomas J. Wilson,
Assistant City Manager

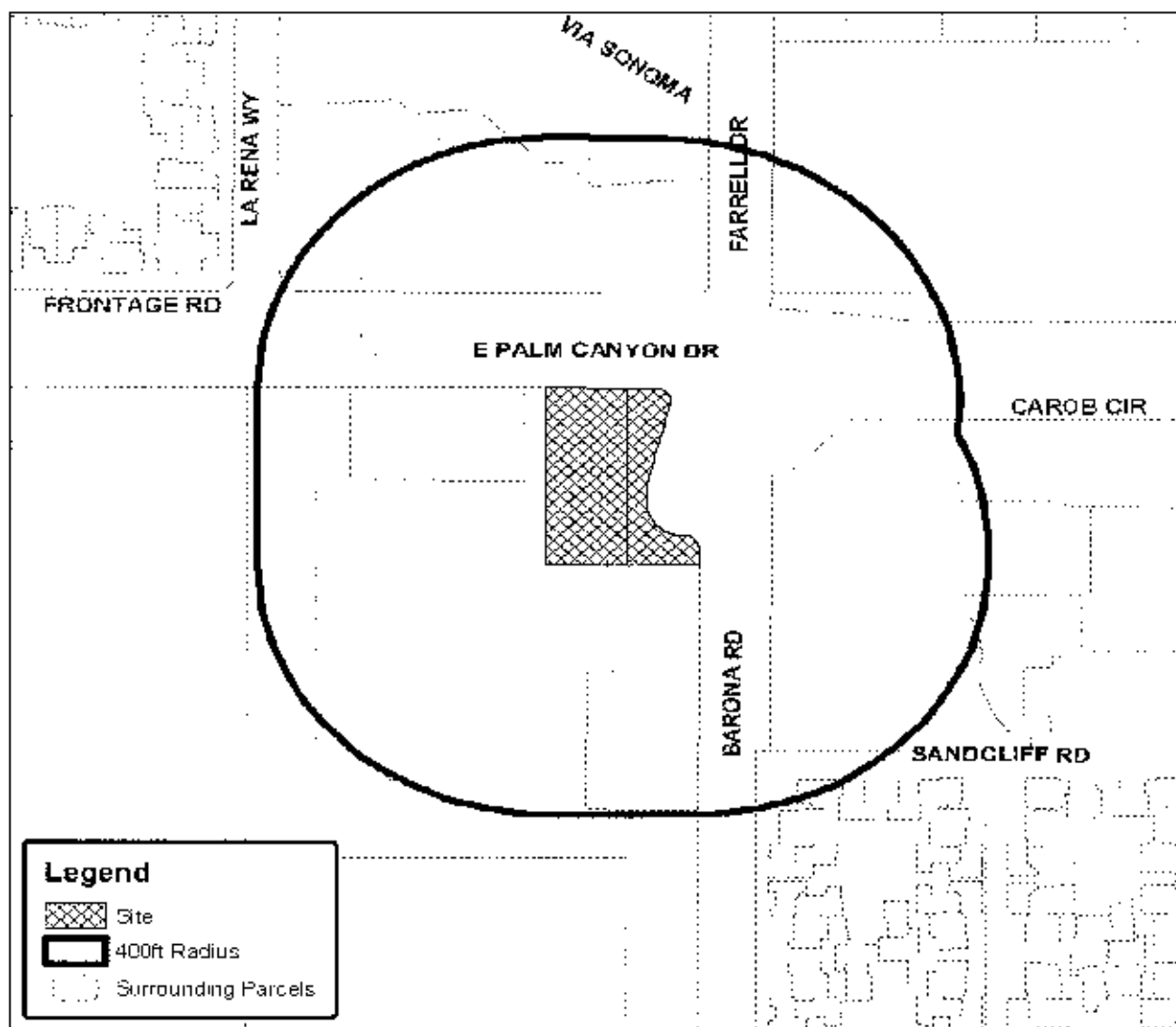


David H. Ready, City Manager

Attachments:

1. 400' Vicinity Map
2. Draft Resolution
3. Letter of Request

Department of Planning Services Vicinity Map



CITY OF PALM SPRINGS

CASE: 5.1242 PCN

APPLICANT: Walgreens Co.

DESCRIPTION: A request by Walgreens Co. for a Resolution of Public Convenience or Necessity for a Type 20 ABC license in order to sell beer & wine located at 2465 E. Palm Canyon Drive, Zone PD 312, Section 25.

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PALM SPRINGS, CALIFORNIA, ADOPTING A RESOLUTION OF PUBLIC CONVENIENCE IN ORDER TO SELL BEER AND WINE AT THE WALGREENS DRUGSTORE LOCATED AT 2465 E. PALM CANYON DRIVE, BLDG. 14, ZONE CSC, SECTION 25.

WHEREAS, Walgreens Co. ("Applicant") has requested the adoption of a Resolution of Public Convenience in order to sell beer and wine at the Walgreens Drugstore located at 2465 East Palm Canyon Drive, Bldg. 14, Zone CSC, Section 25; and

WHEREAS, the Applicant agrees to sell beer and wine as part of a general retail store; and

WHEREAS, the City Council is being asked to adopt a Resolution of Public Convenience pursuant to the requirements of the Alcoholic Beverage Control Board and applicant; and

WHEREAS, the City Council has carefully reviewed and considered all of the evidence presented in connection with the Resolution of Public Convenience, including but not limited to the staff report; and

WHEREAS, the applicant has applied with the State of California Alcoholic Beverage Control for a license to sell beer and wine: license number 20 (Off Sale Beer and Wine).

THE CITY COUNCIL OF THE CITY OF PALM SPRINGS DOES HEREBY RESOLVE AS FOLLOWS:

SECTION 1. The City Council finds that a Type 20 liquor license (Off Sale Beer & Wine) at 2465 East Palm Canyon Drive, Bldg. 14, serves the Public Convenience.

ADOPTED THIS 21st day of April, 2010.

David H. Ready, City Manager

ATTEST:

James Thompson, City Clerk

CERTIFICATION

STATE OF CALIFORNIA)
COUNTY OF RIVERSIDE) ss.
CITY OF PALM SPRINGS)

I, JAMES THOMPSON, City Clerk of the City of Palm Springs, hereby certify that Resolution No. _____ is a full, true and correct copy, and was duly adopted at a regular meeting of the City Council of the City of Palm Springs on _____, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

James Thompson, City Clerk
City of Palm Springs, California



571242 PCN

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March 24, 2010

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City of Palm Springs, Planning Division
3200 E Tahquitz Canyon Way
Palm Springs, CA 95050
Attn: Glenn Mlaker

RECEIVED

MAR 29 2010

PLANNING SERVICES
DEPARTMENT

Re: Request for Determination of Public Convenience or Necessity for the Walgreens
Located at 2465 E. Palm Canyon Drive, Palm Springs, CA 92264

Dear Mr. Mlaker,

This firm represents Walgreen Co. ("Walgreens"). Walgreens recently applied for a Type-20 license (Application no. 485199) for the off-premises sale of beer and wine at its store located at 2465 E. Palm Canyon Drive, Palm Springs, CA 92264 (the "Store").

We have been informed by the Department of Alcoholic Beverage Control that a determination of public convenience or necessity by the City of Palm Springs is a condition to its issuance of this license. Section 23958.4(b)(2) of the California Business and Professions Code provides for the issuance of an off-sale beer and wine license

"if the local governing body of the area in which the applicant premises are located, or its designated subordinate officer or body, determines within 90 days of notification of a completed application that public convenience or necessity would be served by the issuance. The 90-day period shall commence upon receipt by the local governing body of (a) notification by the department of an application for licensure, or (b) a completed application according to local requirements, if any, whichever is later."

On behalf of Walgreens, we respectfully request that the City of Palm Springs determines that an off-sale beer and wine license at the Store will serve public convenience or necessity.

I. Project Description.

The sale of beer and wine at the Store will be ancillary to its existing use as a pharmacy and general retailer. Walgreens estimates that only 18 feet of shelf space, and

510-020-037 25/414 PD-712

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Attn: Mr. Mlaker
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one 10-foot wide cooler will be devoted to the display of beer and wine (please see attached photos). It is estimated that the sale of beer and wine at this Store will amount to less than 5% of total sales.

The introduction of beer and wine will involve no physical change to the interior space (other than some minor rearrangement of merchandise, shelving and coolers) nor to the building envelope, building exterior or landscaping. These minor interior changes will involve no grading, construction or construction equipment at the Store. Moreover, the sale of beer and wine at the Store will not change the existing hours of operation, which are currently 7:00 a.m. - 10:00 p.m. daily.

II. The sale of beer and wine at the Store will serve public convenience or necessity.

By adding beer and wine to its inventory, Walgreens intends to provide a "one-stop" shopping experience for its customers. This "one-stop" shopping will result in increased efficiency for shoppers, and is consistent with what today's consumers expect from a retail pharmacy and general merchandiser such as Walgreens.

It is anticipated that the same customers who currently shop at the Store will continue to shop there, with the added benefit of being able to purchase beer and wine at the Store as opposed to having to travel to another possibly more distant and inconvenient location. It is Walgreens' expectation that (a) the sale of beer and wine at the Store will not change the existing numbers of customers at the Store, (b) the limited selection of beer and wine will not materially increase the number of truck deliveries or vehicles that currently come to the Store, and (c) the additional traffic generated by the addition of beer and wine will be minimal.

III. The sale of beer and wine at the Store is consistent with adjacent uses.

The Walgreens store is located in a zone designated as PDD. This zoning allows for the sale of beer and wine off-premises. Current adjacent uses include restaurants, shops and markets. Some businesses are licensed to sell alcohol, and some, such as Ralph's Grocery, Cost Plus, and Jensens Complete Shopping are licensed to sell alcohol off-premises.

Therefore, because the Store is adjacent to other businesses where the sale of alcohol is an ancillary use, the sale of beer and wine at the Store is consistent with adjacent uses.

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IV. The issuance of a Type-20 license to the Store will not create an additional burden on the Police Department.

Based on information received from the ABC, there is currently one off-sale liquor license allowed and four existing licenses within census tract 0448.07. Of these four existing licenses, only three are active and one license (license no. 477497) is currently surrendered. The law enforcement agency does not provide crime statistics to the ABC, however, it is Walgreens' firm belief that the addition of a beer and wine license at the Store will not add to crime or any police-related problems in the surrounding community, especially given the proposed product mix.

V. The sale of beer and wine at the Store will not have a detrimental impact on the surrounding area.

So as to ensure minimal disruption to surrounding neighborhoods, Walgreens has taken preemptive measures to ensure that alcoholic beverages will be sold in a highly responsible and conscientious manner. Detailed alcohol sales policies and procedures, endorsed by legal counsel and senior management, are already in place and will be strictly enforced. Some of these policies and procedures are:

- Employees must undergo training prior to beer and wine being made available at the Store;
- Each cash register clerk must submit a policy acknowledgement as part of the daily log-in and log-out process;
- Cash register clerks are required to request identification and proof of age for any customer attempting to purchase beer or wine who appears to be under the age of 40. Pre-programmed cash register "prompts" will remind the clerks to request this proof;
- Under-aged employees will not be allowed to handle the selling or stocking of alcoholic beverages.

Training will be through a Walgreens internal alcohol sales training program, which is required for all clerks and managers. The training program focuses on recognizing and preventing any sales of alcohol that may be detrimental to the public welfare (i.e., the sale of alcohol to minors and intoxicated persons). Implementation of this program will help ensure that the sale of beer and wine at the Store will not be detrimental to residents, shoppers, or other business in the vicinity of this Store. To

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prevent abuses, Walgreens will only sell beer in 6 packs, 12 packs, 18 packs and cases. Walgreens will not sell beer by the individual can or bottle. Moreover, Walgreens will not sell spirits or any other product considered conducive to alcohol abuse.

To further limit any possible nuisance in and around the Store, Walgreens has closed circuit security cameras that monitor the alcohol sales area and a public view monitor, which serves to discourage loitering and acts as an additional security measure. For security purposes, the beer and wine will not be located near any exit area, thereby discouraging theft. In addition, the Store's parking lot is well lit.

VI. Conclusion.

The sale of beer and wine as an ancillary use at the Store will enable Walgreens to provide shoppers in the City of Palm Springs the convenience of one-stop shopping that consumers have come to expect from a national pharmacy and general retailer. Walgreens is committed to providing this convenience in a safe and conscientious manner, with minimal disruption to the surrounding neighborhood. Moreover, the ancillary sale of beer and wine is consistent with adjacent uses in the area. For these reasons, Walgreens respectfully requests that the City determine that public convenience or necessity will be served by the issuance of a Type-20 license to the Store.

Enclosed, please find check no. 57024 in the amount of \$877.00 for the PCN application fee. Please feel free to contact me at dkramer@hnattorneys.com or (415) 365-4004 if you need any further information. Thank you in advance for your consideration.

Very truly yours,
HAAAS NAJARIAN, LLP



Daniel J. Kramer

