



## CITY COUNCIL STAFF REPORT

DATE: DECEMBER 3, 2008 CONSENT CALENDAR

SUBJECT: REQUEST BY SMART & FINAL FOR A RESOLUTION OF PUBLIC CONVENIENCE (CASE: 5.1161-PCN1) IN ORDER TO SELL BEER, WINE AND SPIRITS AT THE GENE AUTRY PLAZA LOCATED AT THE SOUTHEAST CORNER OF GENE AUTRY TRAIL AND RAMON ROAD.

CASE: 5.1161 – PCN1

FROM: David H. Ready, City Manager

BY: Craig Ewing, AICP, Director of Planning Services

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### SUMMARY

The applicant, Smart & Final Store, LLC, is requesting that the Council adopt a Resolution of Public Convenience for the off-site sale of beer, wine and spirits for the future Smart & Final store at the Gene Autry Plaza shopping center located at the southeast corner of Gene Autry Trail and Ramon Road.

### RECOMMENDATION:

Adopt Resolution No. \_\_\_\_\_, "A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PALM SPRINGS, CALIFORNIA, OF PUBLIC CONVENIENCE IN ORDER TO SELL BEER, WINE AND SPIRITS AT THE SOUTHEAST CORNER OF GENE AUTRY TRAIL AND RAMON ROAD, ZONE W-M-1, SECTION 20."

### BACKGROUND:

The Smart & Final store is proposed to be located in the future Gene Autry Plaza retail center located at the southeast corner of Gene Autry Trail and Ramon Road. The 6.55-acre site is presently under construction for the shopping center.

The applicant has applied for a Type 21 license through the Department of Alcoholic Beverage Control (ABC). The "Type 21" license authorizes the sale of beer, wine and

ITEM NO. 2.E.

spirits for off-site consumption. The ABC will not issue the license unless the City Council adopts a resolution pursuant to state law, indicating that the premises will provide for the public convenience or necessity.

**ANALYSIS:**

The applicant is applying for a new liquor license at the location for the sale of beer and wine. The Department of Alcoholic Beverage Control is requiring a resolution from the City Council to approve an "undue concentration" of such licenses. 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 located within Census Tract #0109.00. This tract has five active off-sale liquor licenses and zero off-sale licenses pending. 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. Surrounding uses are as follows:

	<b>General Plan</b>	<b>Zone</b>	<b>Existing Land Use</b>
North	Regional Commercial	W-M-1-P (Planned Research and Development Park)	Shopping Center (The Springs)
South	Regional Commercial	W-M-1 (Service / Manufacturing)	Vacant
East	Regional Commercial	W-M-1 (Service / Manufacturing)	Home Improvement Store (Lowe's)
West	Industrial	W-M-1 (Service / Manufacturing)	Gas Station and Vacant


CONCLUSION:

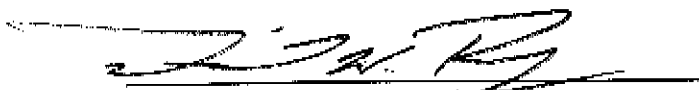
Staff is recommending approval of Case 5.1161-PCN1 and adoption of a Resolution of Public Convenience for the future Smart & Final store to allow issuance of a Type 21 (Off Sale Beer, Wine & Spirits) ABC Liquor License located at the southeast corner of Gene Autry Trail and East Ramon Road.

FISCAL IMPACT:

None.

  
\_\_\_\_\_  
Craig A. Ewing, AICP,  
Director of Planning Services

  
\_\_\_\_\_  
Thomas W. Wilson,  
Assistant City Manager

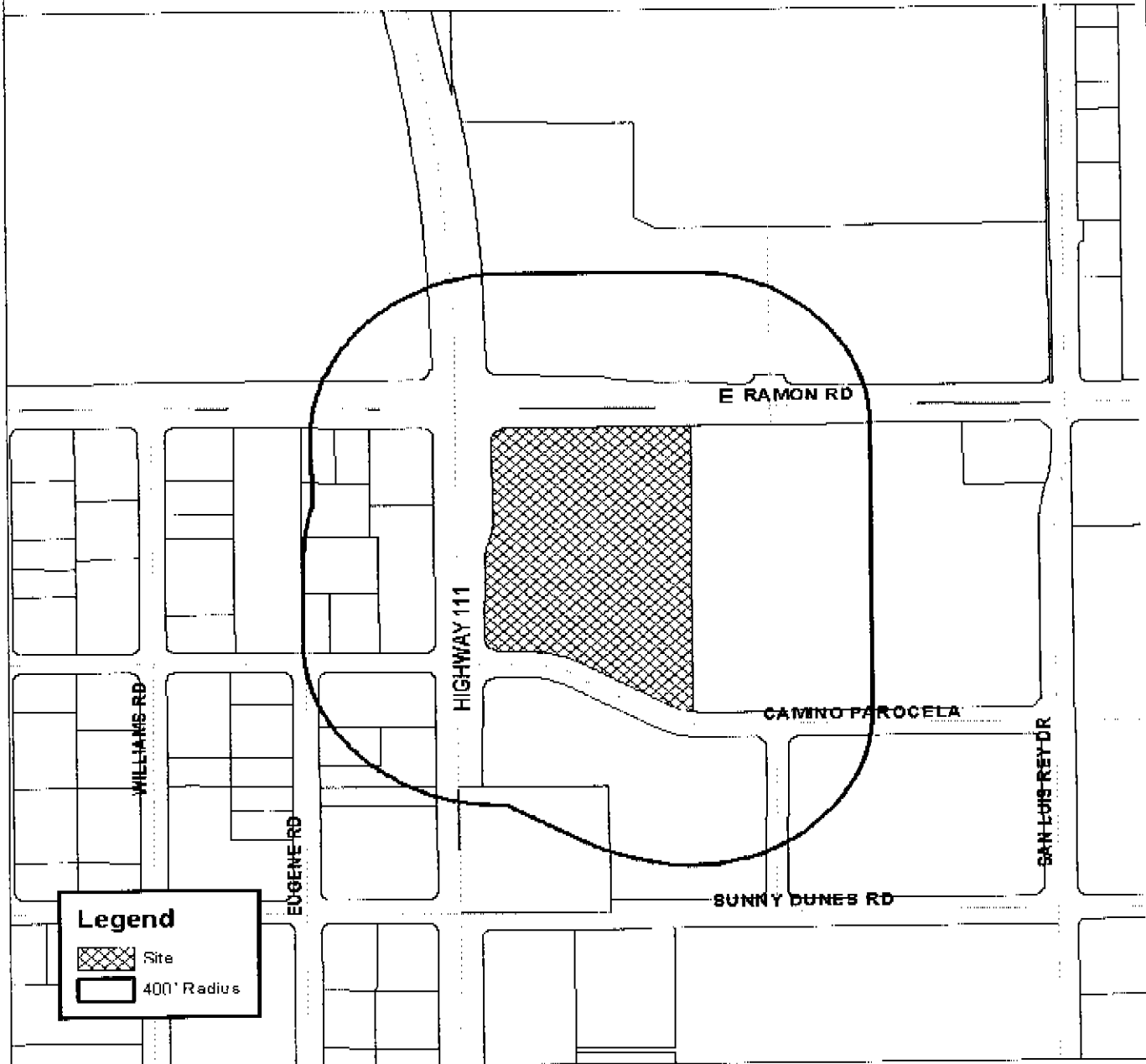
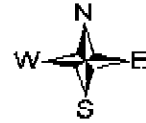
  
\_\_\_\_\_  
David H. Ready, City Manager

Attachments:

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



# Department of Planning Services Vicinity Map



**Legend**

-  Site
-  400' Radius

## CITY OF PALM SPRINGS

**CASE NO:** 5.1161 PCN1

**APPLICANT:** Smart & Final Stores LLC

**DESCRIPTION:** To consider an application by Smart & Final LLC for a resolution of public convenience or necessity in order to sell beer, wine and spirits at the southeast corner of Gene Autry Trail and Ramon Road.

RESOLUTION NO. \_\_\_\_\_

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PALM SPRINGS, CALIFORNIA, OF PUBLIC CONVENIENCE IN ORDER TO SELL BEER, WINE AND SPIRITS AT THE SOUTHEAST CORNER OF GENE AUTRY TRAIL AND RAMON ROAD, ZONE W-M-1, SECTION 20.

WHEREAS, Smart & Final stores ("Applicant") has requested the adoption of a Resolution of Public Convenience (Case No. 5.1161 – PCN1) in order to sell beer, wine and spirits for off-site consumption from the future store located at the southeast corner of Gene Autry Trail and Ramon Road; 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 alcohol: license number 21 (Off-Sale General).

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

SECTION 1. The City Council finds that a Type 21 liquor license (Off General) at the southeast corner of Gene Autry Trail and Ramon Road serves the Public Convenience.

ADOPTED THIS 3rd day of December, 2008.

\_\_\_\_\_  
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

Dee Ann Catlin  
Pagalegal  
(323) 869-7699

600 Citadel Drive  
Commerce, California 90040  
Telefax (323) 869-7862  
dee.catlin@smartandfinal.com

Thursday, October 16, 2008

City of Palm Springs  
Planning Department  
Attn.: Glenn Mlaker  
3200 Tahquitz Canyon Way  
Palm Springs, California 92263

Re: Smart & Final Stores LLC  
SEC Gene Autry Trail & Ramon Road  
Palm Springs, CA. 92264

Check sent  
Back on 10/22/08  
Gm

To Whom It May Concern:

Please accept this correspondence as a request for a finding of public necessity or convenience. This finding is required pursuant to Business and Professions Code Section 23958.4 for the above location.

To briefly familiarize you, if you are not already, with a Smart & Final store, we operate cash and carry wholesale grocery and janitorial supply stores which cater to small businesses, clubs, groups and non-profit organizations. The typical customer at a Smart & Final store is one who is desirous of purchasing supplies in quantity at quantity prices but does not desire or is unable to patronize typical wholesale suppliers who do not provide the cash and carry convenience. Smart & Final does not encourage a retail walk-in trade for alcohol at any of our licensed locations. Sales of alcohol are made in larger size amounts, the likelihood of customers purchasing Alcohol for immediate consumption, particularly on the premises, is very minimal. We feel that regardless of the concentration of other off-sale licenses in the area, our operation is unique and should not be considered as an addition to this concentration.

Part of the convenience Smart & Final endeavors to provide its customers is the opportunity for one-stop shopping. For example, a group that wants to make purchases for a reception may come to Smart & Final to purchase the decorations, food, paper supplies, clean up supplies, beverage and, if permitted, Alcohol. With this complete product line, our customer doesn't need to drive from location to location making purchases. Historically, our customer counts do not increase as the result of an ABC license.

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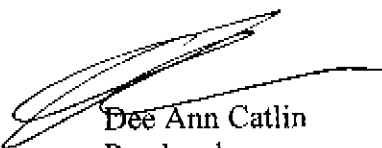
The hours of operations at a typical Smart & Final store are Monday through Sunday 7:am to 10:pm. Again, the hours of operation are designed to accommodate the needs of our typical customer who makes purchases during regular working hours. Alcohol sales are incidental to our operation. Less than 5% of the total sales floor is devoted to alcohol.

Based on the above I believe you will understand why we believe that Smart & Final is unique and unlike a typical grocery store or club and to add Alcohol to our product line is a convenience to our customers.

We respectfully request that your office make a finding with regard to public necessity and/or convenience for this Smart & Final location.

If you need more information or have any questions you may reach me at (323) 869-7699.

Very truly yours,



Dee Ann Catlin  
Paralegal  
/dac

cc: Liquor License Specialists