



City Council Staff Report

DATE: February 17, 2016

NEW BUSINESS

SUBJECT: REQUEST BY AI CALIFORNIA, LLC FOR A RESOLUTION OF PUBLIC CONVIENENCE OR NECESSITY (PCN) TO SELL BEER AND WINE (TYPE 20 ALCOHOLIC BEVERAGE CONTROL LICENSE) FOR OFF-SITE CONSUMPTION AT A PROPOSED GROCERY STORE LOCATED AT 5200 EAST RAMON ROAD (CASE 5.0984 PCN).

FROM: David H. Ready, City Manager

BY: Department of Planning Services

SUMMARY:

The City Council will consider a request to adopt a Resolution of Public Convenience or Necessity (PCN) for the sale of beer and wine (Alcoholic Beverage Control Type 20 license) for a proposed "Aldi" grocery store within The Springs shopping center located at 5200 East Ramon Road. The applicant is requesting to sell beer and wine (ABC Type 20 license) as a part of its retail grocery sales business.

The site is located within a Census Tract that is over-concentrated (one allowed and two already exist) and thus requires City Council determination that the additional alcohol license serves the public convenience or necessity.

RECOMMENDATION:

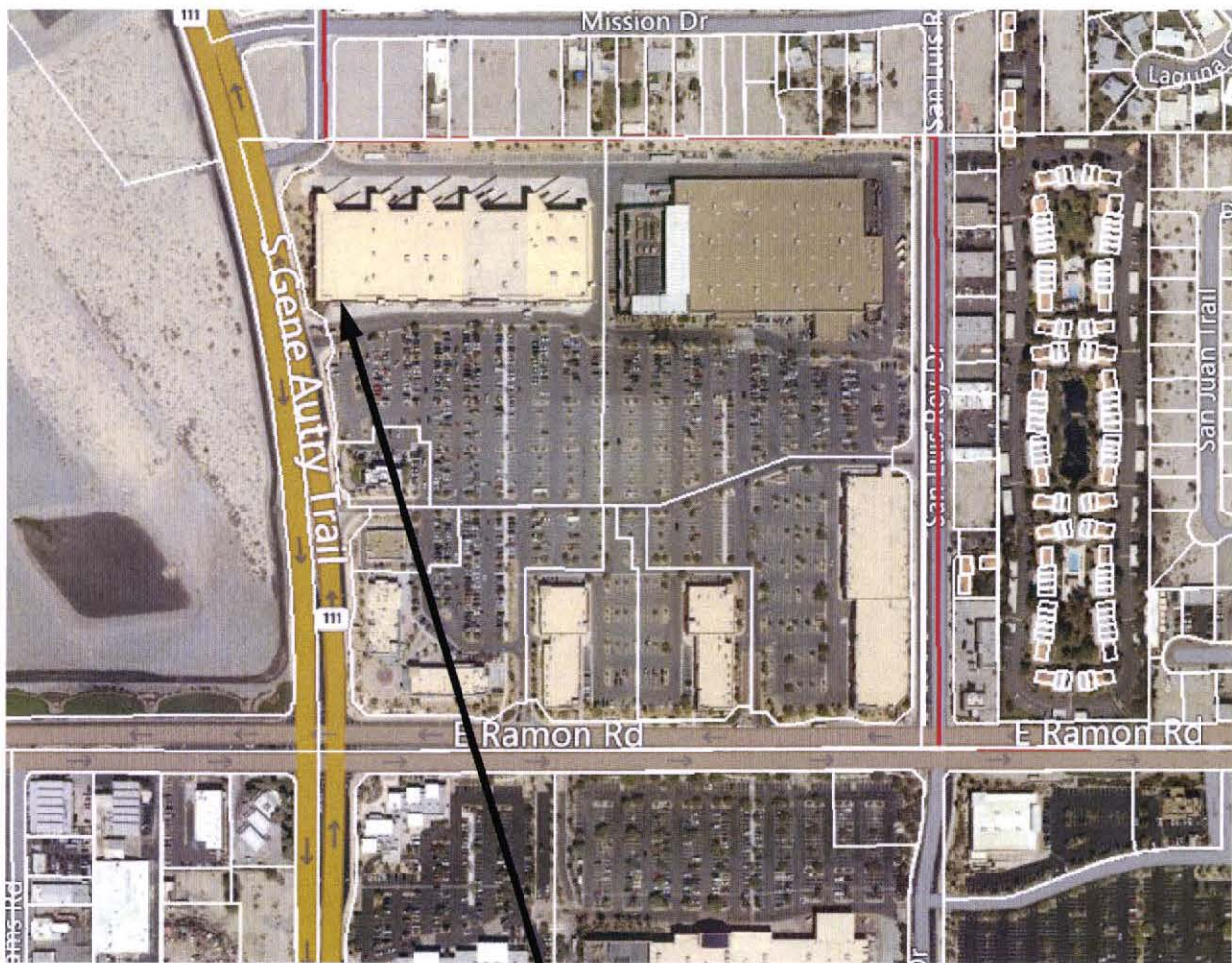
- 1) Adopt Resolution No. _____, "A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PALM SPRINGS, CALIFORNIA, OF PUBLIC CONVIENENCE IN ORDER TO SELL BEER AND WINE (TYPE 20 STATE ALCOHOLIC BEVERAGE CONTROL LICENSE) FOR THE PROPERTY LOCATED AT 5200 EAST RAMON ROAD, WITHIN CENSUS TRACT #0447.02."

BACKGROUND AND SETTING:

On October 19, 2005, the City Council approved the Planned Development District application for the construction of the shopping center located at 5200 E. Ramon Road.

ITEM NO. 5A

Surrounding Property	Existing Land Use	Existing General Plan Designation	Existing Zoning Designation
Subject Property	Shopping Complex	RC (Regional Commercial)	M-1-P and PD 291
North	Vacant and Residential	Cathedral City	Cathedral City
South	Commercial Shopping Center	RC	W-M-1 (Manufacturing with Watercourse Overlay)
East	Commercial and Residential	Cathedral City	Cathedral City
West	Airport	Airport	Airport



SUBJECT SITE

PROJECT DESCRIPTION:

The applicant is requesting approval of a Resolution of Public Convenience or Necessity (PCN) to allow the sale of beer and wine for a grocery store that is currently

under construction within The Springs shopping center. The store is located at the westerly end of the retail building (suite B4) located at the northwest corner of the shopping center.

General Plan

Element	Request	Compliance
<p><u>Land Use:</u> Regional Commercial (0.50 Floor Area Ratio). Regional Commercial areas are intended to provide for large-scale commercial uses that serve an area larger than the City boundaries. Allowable uses include department stores, theatres, and restaurants. Uses such as automobile dealerships that have a regional draw are also included in this land use designation. These uses are generally located in areas that will benefit from a higher level of exposure to residents located outside of the City, such as properties located on Ramon Road adjacent to the City limits and selected properties adjacent to the I-10.</p>	<p>The proposed request is to allow accessory alcohol sales as a part of a grocery store serving a regional population.</p>	<p>Yes</p>

Zoning

<p><u>Permitted Uses:</u> The subject property is zoned M-1-P (Planned Research and Development Park) and has a Planned Development Overlay (PD-291). Pursuant to Section 92.16.01(C)(6) of the Palm Springs Zoning Code (PSZC), large scale service retail outlets are permitted with the approval of a Land Use Permit (LUP) and specifically permitted as a part of PD-291. The sale of beer and wine will be accessory to the grocery store.</p>

ANALYSIS:

The applicant has applied for a "Type 20" license through the State of California Department of Alcoholic Beverage Control (ABC) for the proposed sale of alcoholic beverages. The ABC summarizes the "Type 20" license as follows:

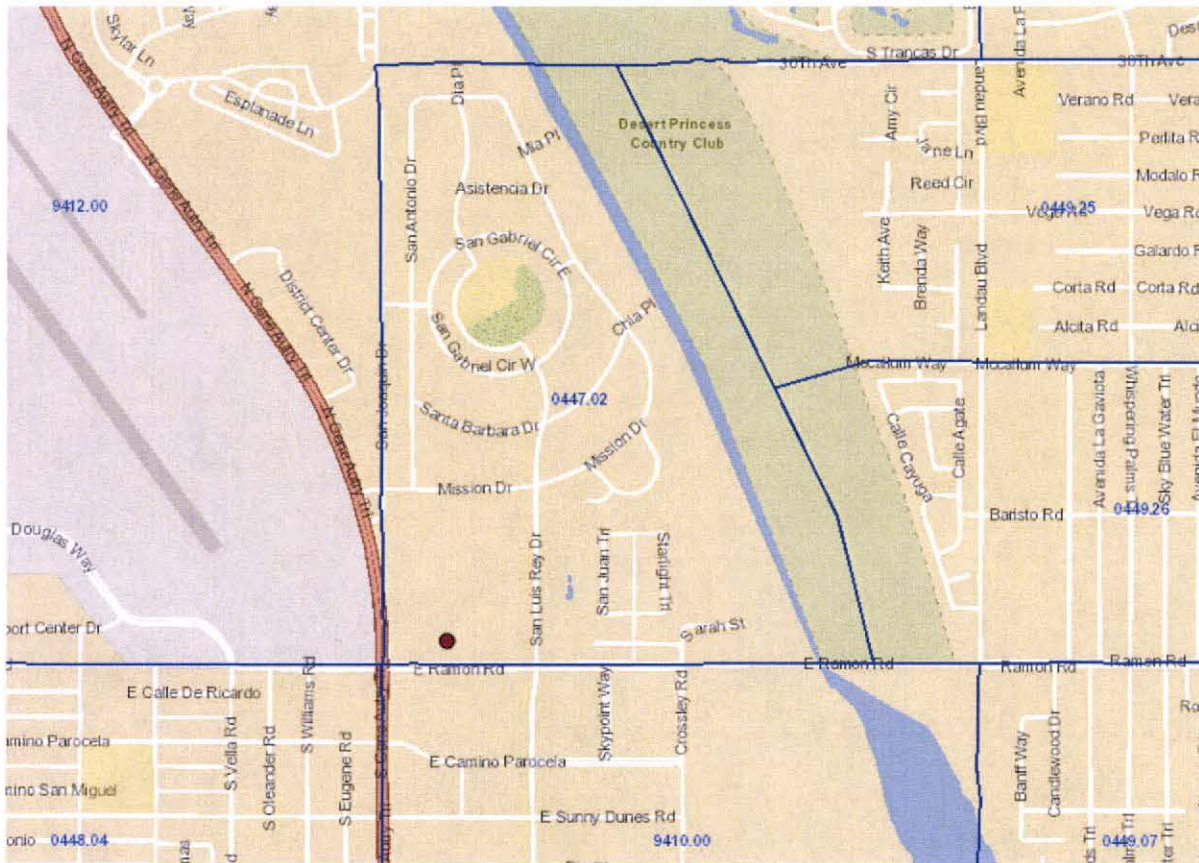
OFF SALE BEER & WINE - (Package Store) Authorizes the sale of beer and wine for consumption off the premises where sold. Minors are allowed on the premises.

The proposed alcohol license is located within a Census tract that exceeds the amount of on-sale licenses normally permitted; this is known as an "undue concentration" and is specifically defined by Section 23958.4 of the Business and Professions Code:

As to off-sale retail license applications, the ratio of off-sale retail licenses to population in the census tract or census division in which the applicant

premises are located exceeds the ratio of off-sale retail licenses to population in the county in which the applicant premises are located.

The subject property is located within Census Tract #0447.02, which is bounded by Gene Autry Trail and San Joaquin Drive to the west, Ramon Road to the south and the Whitewater Wash to the north and east:



One license is authorized for this tract based on its population. It currently has two (2) off-sale alcohol licenses:

- Type 21 License at Franklin Market Liquor, 31570 San Luis Rey Dr., Cathedral City
- Type 20 License at 7 Eleven, 67510 Ramon Road, Cathedral City

A map is attached to this report showing the location of these businesses. The ABC can only issue the proposed alcohol license if the Council determines that the public convenience or necessity would be served by the additional license within this census tract.

The property is located within a planned development and zone allowing various commercial uses. The existing shopping complex offers a variety of retail goods and

services, including apparel, home improvement materials, restaurants, etc. The proposed beer and wine sales will be accessory to a grocery store, which is consistent with other grocery stores in the city and elsewhere.

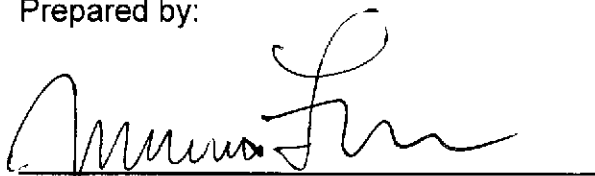
Since the property is located in the commercial and industrial zone and within the Regional Commercial land use designation, staff believes that the proposed alcohol license is consistent with the desired mix of commercial uses in this Census tract and will serve the public convenience.

FISCAL IMPACT:

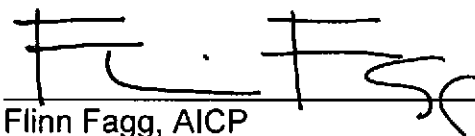
No fiscal impact.

SUBMITTED:

Prepared by:



Marcus L. Fuller, MPA, P.E., P.L.S.
Assistant City Manager/City Engineer



Flinn Fagg, AICP
Director of Planning Services

Approved by:



David H. Ready, Esq., Ph.D.
City Manager

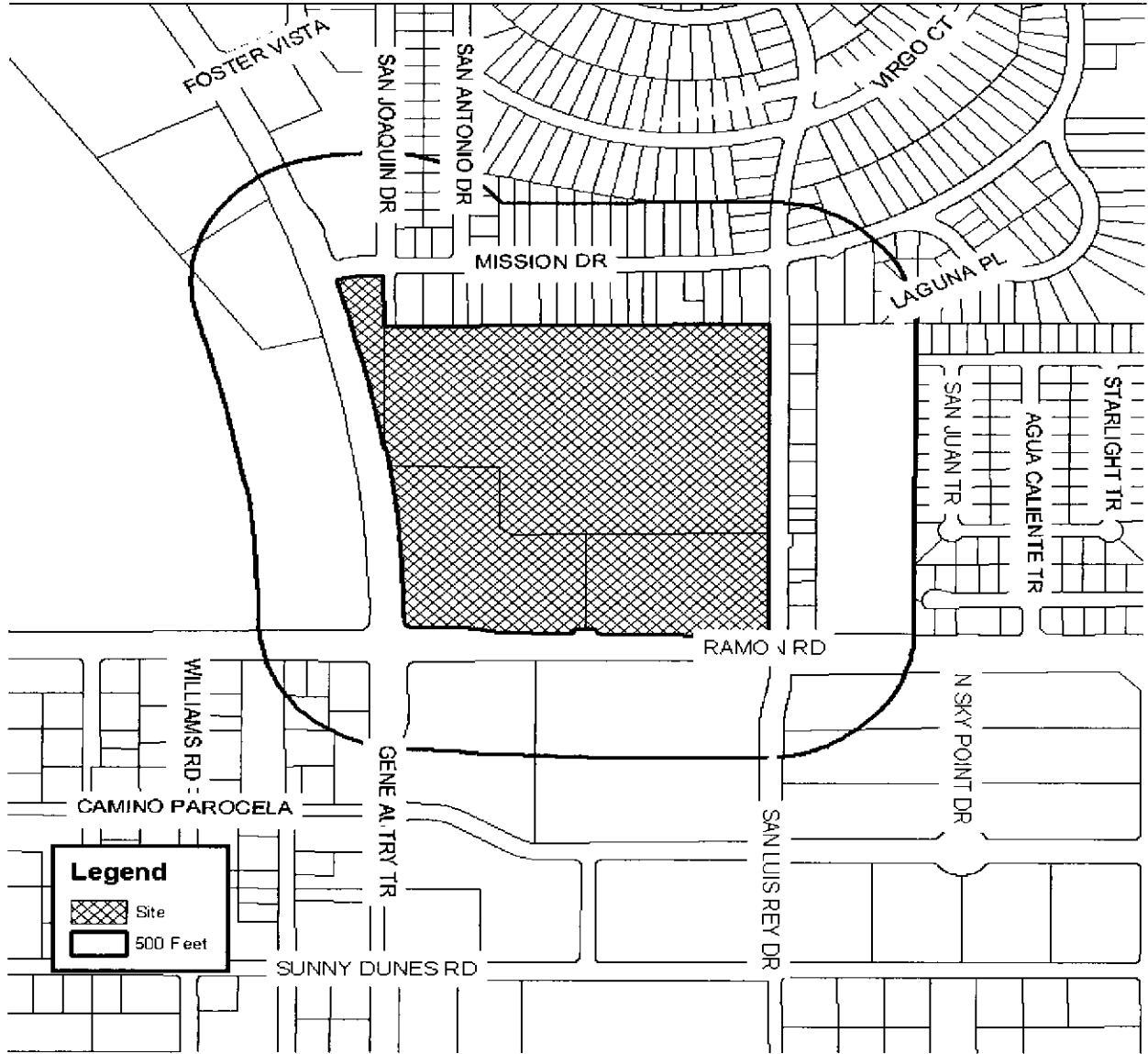
Attachments:

1. Vicinity Map
2. Draft Resolution
3. Letter of Request from Applicant
4. List of Authorized License Types in the Subject Census Tract
5. Census Tract Map


Attachment 1



Department of Planning Services Vicinity Map



Legend

-  Site
-  500 Feet

CITY OF PALM SPRINGS

Attachment 2

RESOLUTION NO.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PALM SPRINGS, CALIFORNIA, OF PUBLIC CONVENIENCE IN ORDER TO SELL BEER AND WINE (TYPE 20 STATE ALCOHOLIC BEVERAGE CONTROL LICENSE) FOR THE PROPERTY LOCATED AT 5200 EAST RAMON ROAD, WITHIN CENSUS TRACT #0447.02.

WHEREAS, AI California LLC ("Applicant") has requested the adoption of a Resolution of Public Convenience or Necessity (Planning Case No. 5.0984 PCN) for a Type 20 alcohol license to sell beer and wine from a grocery store located at 5200 East Ramon Road, Zone M-1-P and PD-291; and

WHEREAS, on October 19, 2005, the City Council approved Planned Development 291, allowing the construction of a commercial shopping center located at 5200 East Ramon Road; and

WHEREAS, the applicant has applied with the State of California Alcoholic Beverage Control for a license to sell beer and wine: license type 20 (Off-sale Beer & Wine – Package Store); and

WHEREAS, pursuant to Section 23958.4(b)(2) of the California Business and Professions Code, the applicant has requested that the City Council determine the public convenience or necessity would be served if the requested license is issued; and

WHEREAS, the City Council carefully reviewed and considered all of the evidence presented in connection with the request for a Resolution of Public Convenience or Necessity, including but not limited to the staff report and all written and oral testimony.

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

SECTION 1. The location of the proposed business, within Census Tract #0447.02, is within a commercial and industrial zone and within the Regional Commercial land use designation. The proposed liquor license is consistent with the desired mix of commercial uses in this Census tract.

SECTION 2. The City Council finds that an ABC Type 20 liquor license (Off-sale Beer & Wine – Package Store) at 5200 East Ramon Road, serves the Public Convenience.

ADOPTED THIS 17TH DAY OF FEBRUARY, 2016.

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

Attachment 3

ALDI, Inc.
Palm Springs, CA
5200 Ramon Road, Suite B5
Justification for
Public Convenience or Necessity

- 1. What is the primary purpose of your business? Is the sale of alcohol an essential part of the primary purpose of the business?**

ALDI is a grocery store, offering high-quality, low cost products. Products sold in stores include more than 1,300 of the most commonly purchased items – including fresh meats, fruits, vegetables, and bakery items. Alcohol sales use is incidental to the proposed grocery store use and serves as an added convenience to customers.

Alcoholic beverage sales are estimated to occupy a small percentage of sales floor area (approximately 10%); however, the sales of beer and wine is essential in order to provide ALDI customers with a wide selection of products. By providing a diverse range of products, including alcoholic beverages, readily available to the consumer at this ALDI store, this will provide a public convenience to the surrounding area. Without it, a consumer may need to make multiple stops at various retail outlets in order to obtain all items on their shopping list.

- 2. Are there similar businesses or a concentration of alcohol outlets in the immediate area that already provide alcohol service? If so, how would the public convenience or necessity be served by permitting an additional license within the census tract?**

There are 3 active retail (on-sale and off-sale) licenses issued for this tract (Census Tract 447.02). Franklin Market Liquor has a Type 21, Rubio's Fresh Mexican Grill has Type 41 License and 7-Eleven has a Type 20. This tract allows 1 Off-Sale licenses and currently there are 2 Off-Sale licenses for this tract.

The public convenience will be served by allowing an additional off-sale license within this census tract at this location. The subject property is a convenient location, fronting Ramon Boulevard, a major commercial corridor providing access to Highway 111. The addition of another grocery store will provide a new grocery option to local residents as well as commuters along Ramon Boulevard. A new grocery store with beer and wine sales for off-site consumption will support the economic vitality along Ramon Boulevard, and increase commerce and activity at this site, which

is currently vacant. Off-sale alcohol beverage sales in conjunction with a large market use is permitted by right within the M1P zone (Planned Research and Development Park Zone).

- 3. Is there a residential neighborhood or school adjacent to the property for which you are requesting a public convenience or necessity determination? If so, please explain how permitting an additional license would not disproportionately impact an adjacent residential neighborhood or school.**

There are residential neighborhoods located east to the subject property located across San Luis Rey Drive. The nearest school is Palm Springs High School, approximately 2.0 mile west of the subject property. The issuance of an additional off-sale Type 20 license for ALDI will not disproportionately impact the adjacent residential uses or nearby school. Alcohol sales use is incidental to the proposed grocery store use and serves as an added convenience to customers.

ALDI is designed to provide a safe environment for patrons and employees. A number of security and safety measures are incorporated into the store design, including but not limited to the following:

1. A closed-circuit surveillance system will be installed throughout the store. Camera locations include at the end of each aisle, point of sales, back room, store entrance, and loading dock area. ALDI will maintain 30 calendar days of video footage after date and time of recordation.
2. Adequate store lighting will be provided throughout the interior of the store and along the exterior boundaries of the building. Exterior lighting fixtures shall remain in compliance with lighting requirements outlined by the Palm Springs Municipal code.
3. All ALDI employees undergo internal training at the time of employment and once a year, outlining ALDI's alcohol sales and handling procedures. Store employees will undergo any additional training as required by the City of Palm Springs to adhere to proper alcohol handling and sales procedures.

- 4. What percentage of your business do you anticipate will be alcohol sales?**

Beer and wine sales floor area accounts for not more than 10% of sales.

- 5. Does your business cater to a specific need or specialty which is not currently available in the area?**

ALDI is a grocery store that caters to the entire community, offering high-quality groceries at a low price. ALDI offers a selection of specialty wines and craft beers exclusive to ALDI stores, and seasonal products at affordable prices. This will be the first ALDI grocery store in the City of Palm Springs.

6. Are you proposing any specific operational measures to eliminate or limit any potential negative consequences from the sale of alcoholic beverages?

ALDI stores include operational measures to ensure the safety of store employees, patrons, and the surrounding neighborhood. Store hours are limited to 9:00 AM – 9:00 PM, Monday to Sunday. If required, the project will comply with any necessary conditions to minimize any adverse effects that may be identified. Safety measures include, but are not limited to the following:

1. A closed-circuit surveillance system will be installed throughout the store. Camera locations include at the end of each aisle, point of sales, back room, store entrance, and loading dock area. ALDI will maintain 30 calendar days of video footage after date and time of recordation.
2. Adequate store lighting will be provided throughout the interior of the store and along the exterior boundaries of the building. Exterior lighting fixtures shall remain in compliance with lighting requirements outlined by the Palm Springs Municipal code.
3. All ALDI employees undergo internal training at the time of employment and once a year, outlining ALDI's alcohol sales and handling procedures. Store employees will undergo any additional training as required by the City of Palm Springs to adhere to proper alcohol handling and sales procedures.

7. What type of license are you requesting from ABC? Is it an existing license? Where is the license being purchased from?

We are requesting a Type 20 (off-sale beer and wine license) from ABC. This tract allows 1 licenses and currently there are 2 active licenses. ALDI will purchase a license directly from ABC.

Attachment 4



**California Department of Alcoholic Beverage Control
For the County of RIVERSIDE - (Off-Sale Licenses)
and Census Tract = 447.02**

Report as of 2/7/2016

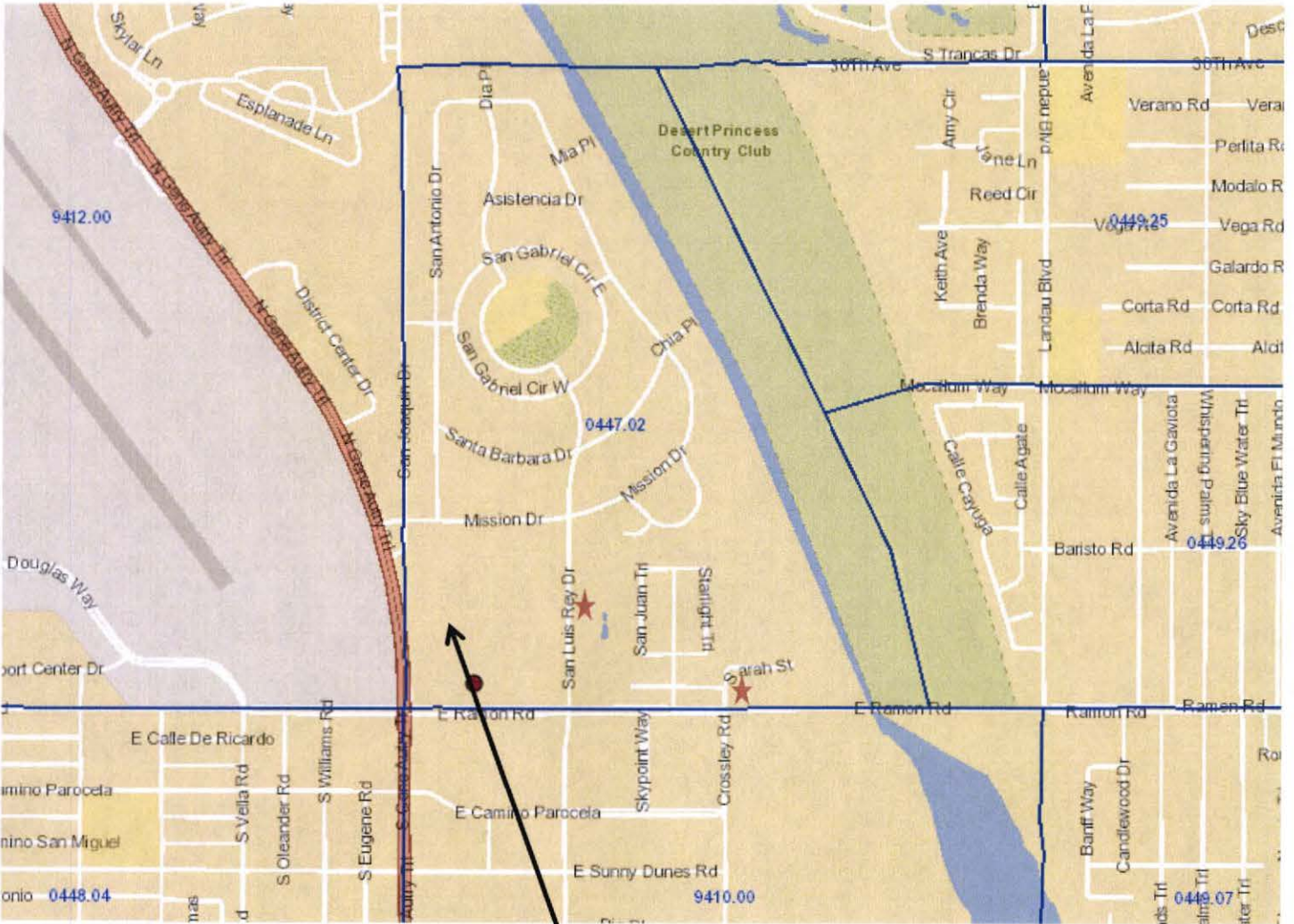
License Number	Status	License Type	Orig. Iss. Date	Expir Date	Primary Owner and Premises Addr.	Business Name	Mailing Address	Geo Code
1) 427976	ACTIVE	21	7/28/2005	2/29/2016	K & JYOTI INC 31570 SAN LUIS REY DR CATHEDRAL CITY, CA 92234 Census Tract: 0447.02	FRANKLIN MARKET LIQUOR	3056 PRADO LN COLTON, CA 92324	3319
2) 545767	ACTIVE	20	6/6/2014 12:58:59 PM	6/30/2016	7 ELEVEN INC 67510 RAMON RD CATHEDRAL CITY, CA 92234 Census Tract: 0447.02	7 ELEVEN 2171 16525	PO BOX 219088, ATT: 7 ELEVEN LICENSING DALLAS, TX 75221-9088	3319

--- End of Report ---

For a definition of codes, view our [glossary](#).

Attachment 5

Census Tracts



Subject Site: 5200 E Ramon Road

★ = Existing Businesses that are Issued Liquor Licenses within Census Tract

Business Entity Detail

Data is updated to the California Business Search on Wednesday and Saturday mornings. Results reflect work processed through Friday, February 05, 2016. Please refer to [Processing Times](#) for the received dates of filings currently being processed. The data provided is not a complete or certified record of an entity.

Entity Name:	AI CALIFORNIA LLC
Entity Number:	201215810149
Date Filed:	06/06/2012
Status:	ACTIVE
Jurisdiction:	DELAWARE
Entity Address:	1200 N KIRK RD
Entity City, State, Zip:	BATAVIA IL 60510
Agent for Service of Process:	C T CORPORATION SYSTEM (C0168406)
Agent Address:	*
Agent City, State, Zip:	*

* Indicates the information is not contained in the California Secretary of State's database.

* **Note:** If the agent for service of process is a corporation, the address of the agent may be requested by ordering a status report.

- For information on checking or reserving a name, refer to [Name Availability](#).
- For information on ordering certificates, copies of documents and/or status reports or to request a more extensive search, refer to [Information Requests](#).
- For help with searching an entity name, refer to [Search Tips](#).
- For descriptions of the various fields and status types, refer to [Field Descriptions and Status Definitions](#).

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