



CITY COUNCIL STAFF REPORT

DATE: January 19, 2011 NEW BUSINESS

SUBJECT: REQUEST BY RITE AID CORPORATION FOR A RESOLUTION OF PUBLIC CONVENIENCE OR NECESSITY (PCN) TO SELL BEER, WINE AND DISTILLED SPIRITS FOR CONSUMPTION OFF PREMISES (TYPE 21 ALCOHOL LICENSE) AT THE NEWLY CONSTRUCTED PHARMACY AT 111 SOUTH SUNRISE WAY.

CASE: 5.1256 – PCN

FROM: David H. Ready, City Manager

BY: Craig Ewing, AICP, Director of Planning Services

SUMMARY

The applicant, Rite Aid Corporation, is requesting the Council to adopt a Resolution of Public Convenience or Necessity (PCN) for the sale of beer, wine and distilled spirits for consumption off-site (Alcoholic Beverage Control Type 21 license) at the newly constructed pharmacy store located 111 South Sunrise Way. The liquor license will be transferred from the existing location at the Palm Springs Mall to this new location at 111 South Sunrise Way.

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 DISTILLED SPIRITS FOR OFF SITE CONSUMPTION (TYPE 21 ALCOHOL LICENSE) AT A RETAIL STORE LOCATED AT 111 SOUTH SUNRISE WAY."

BACKGROUND:

The applicant has applied for a "Type 21" license through the State of California Department of Alcoholic Beverage Control (ABC) for a newly constructed pharmacy store at 111 South Sunrise Way. The "Type 21" license authorizes the sale of beer, wine and distilled spirits for off-site consumption; minors are allowed on the premises. Because of the "undue concentration" of Type 21 licenses in this particular census tract,

ITEM NO. 5.A.

the ABC will not issue the license unless the City Council adopts a resolution pursuant to state law, indicating that granting a "Type 21" alcohol license for the subject premises will provide for the public convenience or necessity.

ANALYSIS:

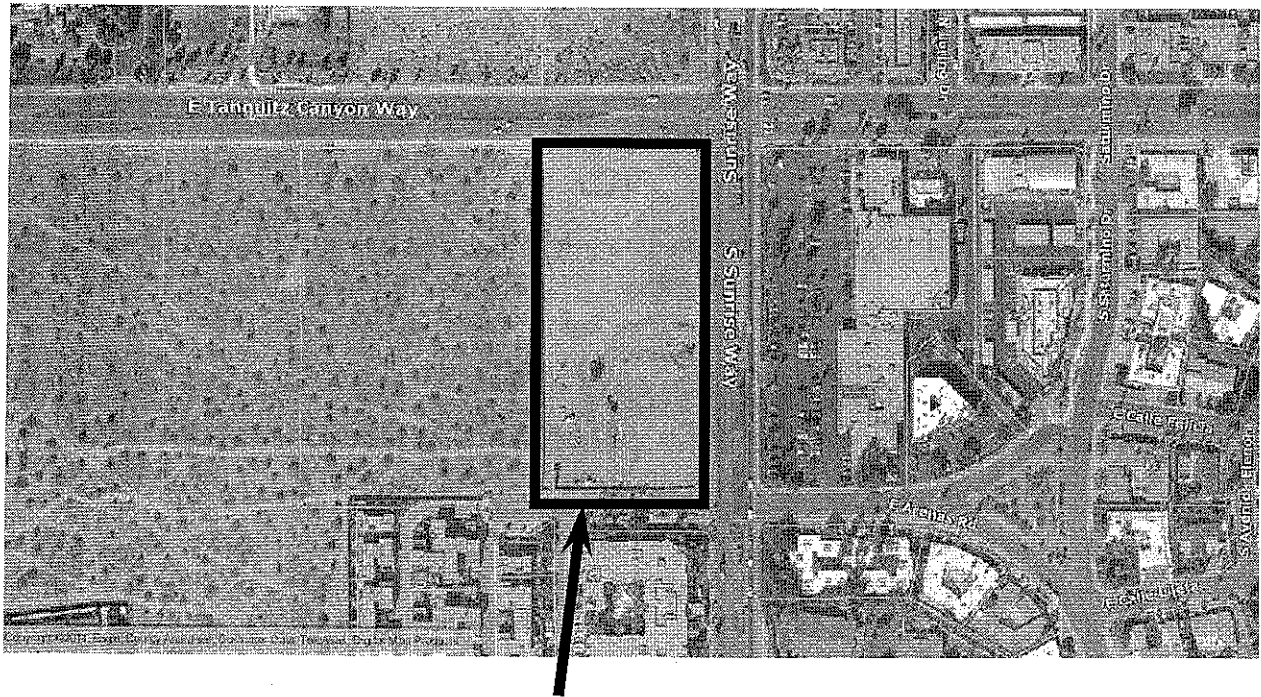
The applicant is applying for a new "Type 21" alcohol license at 111 South Sunrise Way for the sale of beer, wine and distilled spirits for off-site consumption. The Department of Alcoholic Beverage Control is requiring a resolution from the City Council to approve an "undue concentration" of such licenses. 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 off-sale retail licenses to the population in that tract (or division) exceeds the ratio of off-sale 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, by granting such license.

Currently, the State Department of Alcoholic Beverage Control considers the census tract that the proposed license is to be located as having an "undue concentration" of liquor licenses. The subject property is located within Census Tract #0101 (see attached census map). This tract is authorized two (2) off-sale licenses, and there are currently three (3) active off-sale liquor licenses. The active licenses include the Circle K at 321 E. Arenas Road (Type 20), Ralph's at 425 S. Sunrise Way (Type 21), CVS Pharmacy at 425 S. Sunrise Way (Type 21). 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.

Surrounding zoning, general plan land use designations and existing uses are denoted in the following table.

Table 1: Surrounding zones, general plan designations and existing land uses

	Zone	General Plan	Land Use
North	Section 14 Specific Plan – RA (Resort Attraction)	TRC (Tourist Resort Commercial)	Vacant Land
South	Section 14 Specific Plan – HR (Residential High)	HDR (High Density Residential)	Assisted Living Facility
East	CDN (Design Neighborhood Shopping Center)	NCC (Neighborhood / Community Commercial)	Shopping Center
West	Section 14 Specific Plan – RA (Resort Attraction)	TRC (Tourist Resort Commercial)	Vacant Land




AERIAL PHOTO SHOWING PROJECT SITE AND SURROUNDING DEVELOPMENT

Some of the immediate adjacent businesses have various types of licenses for the sale and consumption of alcohol, including Fresh & Easy and Palm Liquor across the street. Vacant land exists to the west and north. The closest school is the High School at 2401 East Baristo Road.

The applicant states that the liquor license will primarily be used to sell beer, wine and distilled spirits. The applicant further states that this liquor license is a transfer from the existing Rite Aid store at the Palm Springs Mall to this new location and will not result in a net increase of off-sale liquor licenses in the City. Based on this description, staff recommends approval of the subject request.

FISCAL IMPACT:

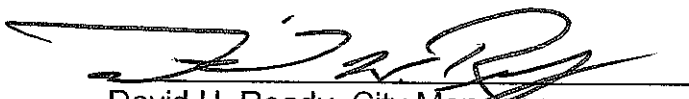
No Fiscal Impact.



Craig A. Ewing, AICP
Director of Planning Services



Thomas J. Wilson,
Assistant City Manager



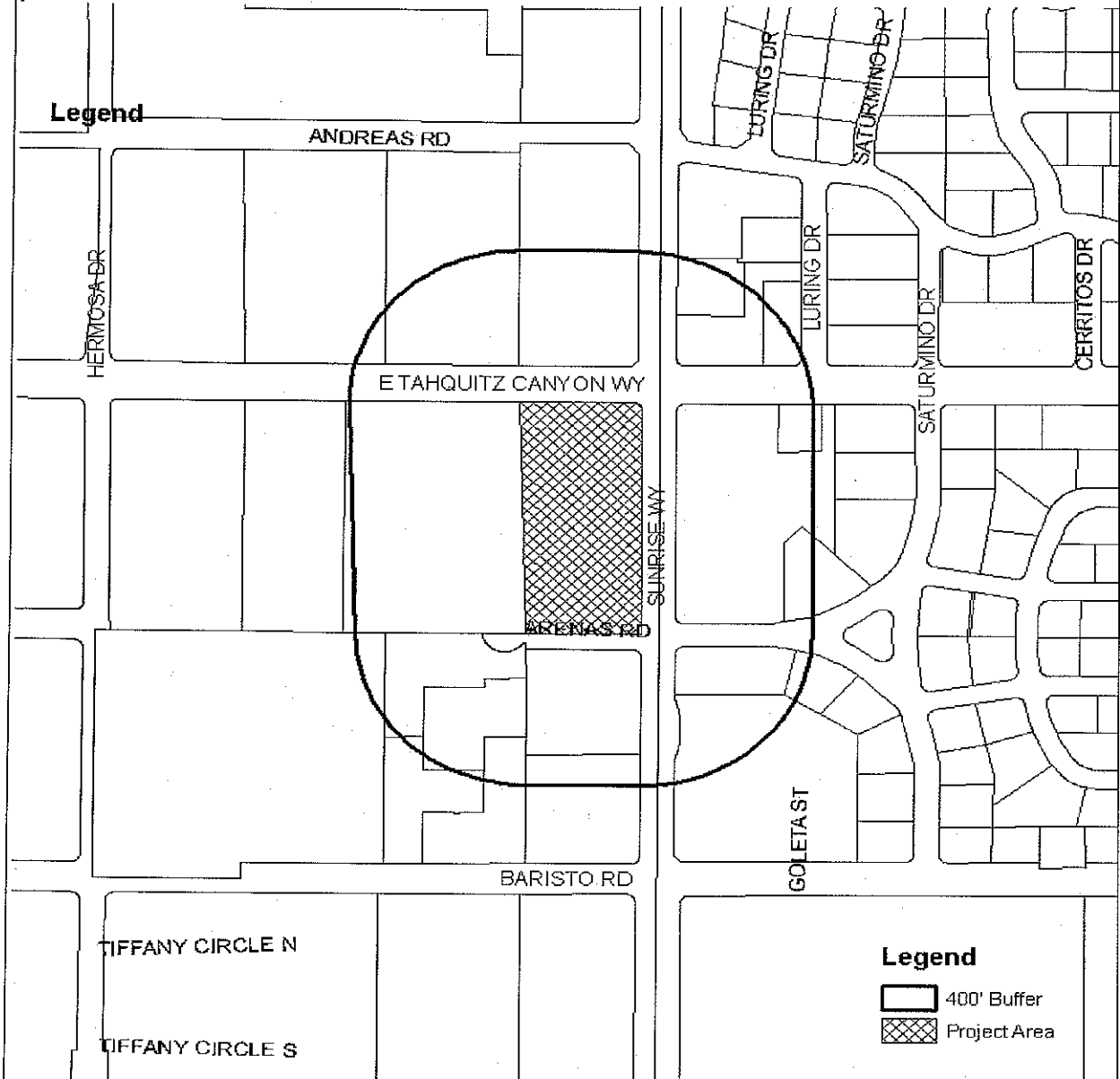
David H. Ready, City Manager

Attachments:

1. 400' Vicinity Map
2. Draft Resolution
3. Letter of Request from applicant
4. Census Tract Map



Department of Planning Services Vicinity Map



CITY OF PALM SPRINGS

CASE NO: 5.1256 PCN

APPLICANT: Rite Aid Corporation

DESCRIPTION: To consider a request for a letter of Public Convenience or Necessity to sell beer, wine and distilled spirits at the newly constructed pharmacy store located at 111 South Sunrise Way, Zone RA, Section 14, APN 508-100-053.

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 DISTILLED SPIRITS FOR OFF SITE CONSUMPTION (TYPE 21 ALCOHOL LICENSE) AT A PHARMACY STORE LOCATED AT 111 SOUTH SUNRISE WAY.

WHEREAS, Rite Aid Corporation ("Applicant") has requested the adoption of a Resolution of Public Convenience and / or Necessity for a Type 21 alcohol license to sell beer, wine and distilled spirits for off-site consumption at a newly constructed pharmacy store located at 111 South Sunrise Way, APN 508-100-053, Zone RA (Resort Attraction – Section 14 Specific Plan), Section 14/T4/R4; and

WHEREAS, the Applicant proposes to sell beer, wine and distilled spirits for off-site consumption as part of a pharmacy 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 (ABC); and

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

WHEREAS, the applicant has made an application to the State of California Alcoholic Beverage Control Board for a Type 21 license to sell beer, wine and distilled spirits for consumption off-premises at a pharmacy store located at 111 South Sunrise Way.

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 (beer, wine and distilled spirits) at 111 South Sunrise Way, serves the Public Convenience.

ADOPTED THIS 19th DAY OF JANUARY, 2011.

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



RITE AID

508-100-039 Zone
14/4/4 RA

RECEIVED

NOV 02 2010

PLANNING SERVICES
DEPARTMENT

5.1256 PCN

(VIA FEDERAL EXPRESS)

November 2, 2010

Mr. Glenn Mlaker
Planner
City of Palm Springs
3200 Tahquitz Canyon Way
Palm Springs CA 92262

Re: Thrifty Payless, Inc.
DBA Rite Aid #5684
111 S Sunrise Way
Palm Springs CA 92262-6736

Dear Mr. Mlaker:

We anticipate opening the above-referenced store on February 1, ²⁰¹¹~~2010~~ and have made application to the CA ABC for a Type 21 off-sale general liquor license. The ABC in return is requiring submission of a letter of Public Necessity and Convenience from the City. Accordingly, enclosed please find the following:

- Check in the amount of \$877.00 payable to the City of Palm Springs
- Thrifty Payless Inc's Statement regarding Public Necessity and Convenience - Rite Aid #5684

The store will be open from 8:00 AM – 10:00 PM daily. We intend to have three shifts and employee from 3-8 associates at the store at depending on the shift.

Please contact me at (717) 214-8851, or via email at kmacier@riteaid.com should you require any additional information or documentation to issue the PCN Letter.

Thank you fro your attention to this request.

Sincerely,
THRIFTY PAYLESS, INC.

Tina Macier
Licensing Supervisor

Enclosures

RITE AID CORPORATION 30 HUNTER LANE CAMP HILL PA 17011
PO BOX 3165 HARRISBURG PA 17105



RITE AID

**Thrifty Payless Inc's Statement Regarding
Public Necessity and Convenience - Rite Aid #5684**

Thrifty Payless, Inc intends to relocate Rite Aid #5684 from its current location at 2333 Tahquitz Canyon Way in Palm Springs CA to a newly constructed free-standing building with approximately 17,000 sq ft of space located at 111 S Sunrise Way in Palm Springs CA.

A significant rationale for construction the new building is to maximize convenience to local shoppers by facilitating a 'one-stop' shopping experience. As such, in addition to a broad array of household goods and health and beauty aids in our general merchandise sections; we intend to operate the following departments:

- Pharmacy
- Pre-Packaged Food & Drink
- One Hour Photo
- Alcoholic Beverages

We will also seek to make shopping at the location more convenient to our patrons by offering ample parking at the free-standing location, and for our pharmacy customers, by offering a drive through. We also will have a more secure store with full camera and taping systems which will help secure the alcoholic beverages better than the old location.

Although the area is deemed to be over-concentrated with alcoholic beverage licenses, the transfer of Rite Aid #5684's license from its current store to the proposed new store will not result in a net increase of off-premise liquor licenses.

Rather, it will continue to serve an established customer base from a newer, more customer-friendly building, serving both public convenience and necessity.

Consequently we respectfully request that the City of Palm Springs issue a Letter of Public Convenience and necessity for the new location.

