



CITY COUNCIL STAFF REPORT

DATE: July 19, 2017

CONSENT AGENDA

SUBJECT: REQUEST BY ON THE MARK FINE FOODS AND PROVISIONS, INC. FOR A RESOLUTION OF PUBLIC CONVIENCE OR NECESSITY (PCN) TO SELL BEER AND WINE (TYPE 20, OFF-PREMISES RETAIL ALCOHOLIC BEVERAGE CONTROL LICENSE) AT A PROPOSED SHOP LOCATED AT 777 NORTH PALM CANYON DRIVE (CASE 5.1422 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 for consumption off premises (Alcoholic Beverage Control Type 20 license) at On the Mark Fine Foods and Provisions shop located within a Census Tract that is identified by the ABC as an area with over concentration of liquor licenses.

RECOMMENDATION:

Adopt Resolution No. _____, "A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PALM SPRINGS, CALIFORNIA, DETERMINING THAT PUBLIC CONVENIENCE WILL BE SERVED BY THE SALE OF BEER AND WINE FOR CONSUMPTION OFF PREMISES (TYPE 20 STATE ALCOHOLIC BEVERAGE CONTROL LICENSE) AT THE ON THE MARK FINE FOODS AND PROVISIONS SHOP LOCATED AT 777 NORTH PALM CANYON DRIVE AND WITHIN CENSUS TRACT 446.06."

BACKGROUND:

<i>Related Relevant City Actions by Planning, Fire, Building, etc.</i>	
12/31/1979	Building permits were obtained for the construction of the office/commercial building.
07/06/2009	The building owner obtained a permit for the exterior repaint

ITEM NO. 1.F.

The applicant, Mark Van Laanen, is proposing to establish and operate a gourmet food shop at an existing commercial/office building located at 777 North Palm Canyon Drive. The business will primarily engage in the sales of food and provisions such as gourmet artisanal cheese, olives, oils, sweets, savorys, baked goods and “take away” types of lunches and prepared dinners. The applicant would also like to sell beer and wine for off-site consumption. The California Department of Alcoholic Beverage Control (ABC) requires a Type 20 license for the sale of alcohol in the proposed location. Type 20 licenses are designated as off-premises licenses for the sale of packaged beer and wine. This type of liquor license does not allow for the sale of open containers of beer and wine; consumption of purchased beer and wine from the proposed store will be off-site.

ANALYSIS:

The applicant is in the process of obtaining a “Type 20” liquor license through the State of California Department of Alcoholic Beverage Control (ABC) for the proposed beer and wine sales. The ABC summarizes the “Type 20” license as follows:

OFF SALE BEER & WINE - Authorizes the sale of beer and wine for consumption off the premises where sold. No distilled spirits may be on the premises. Minors are allowed on the premises.

Per Section 23958 of the State of California Business and Professions Code, the California Department of Alcoholic Beverage Control (ABC) is required to “...deny an application for a license if issuance of that license would tend to create a law enforcement problem, or if issuance would result in or add to an undue concentration of licenses, except as provided in Section 23958.4.” Section 23958.4(a) of the Code defines undue concentration as follows:

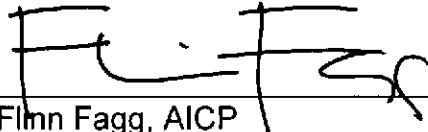
As to off-sale retail license applications, the ratio of off-sale retail licenses to population in the census tract or census division in which the applicant premises are located exceeds the ratio of off-sale retail licenses to population in the county in which the applicant premises are located.

The Section further states that a license may be issued when “...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...” (State of California Business and Professions Code, Section 23958.4(b)(2)).

The subject property is located within Census Tract No. 446.06, which covers the west side of the north portion of Palm Canyon Drive that includes parts of Uptown and Downtown neighborhoods. According to information obtained from the ABC, this tract currently has eleven (11) active off-sale beer and wine licenses (see attached list). One Type 20 license is authorized for the tract based on its population. The ABC can only

issue the proposed beer and wine license if the Council determines that the public convenience or necessity would be served.

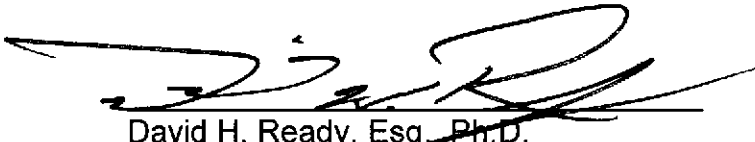
The subject property is a commercial/office use and is located along Palm Canyon Drive which is a major commercial corridor. Furthermore, the location is within walking distance from the downtown area; the site is adequate in size and will be suitable for the proposed use. According to the applicant, the gourmet shop will not only cater to the needs of local permanent residents but also to the visitors to the City. In reviewing the location of the other existing licensees, the subject property is located more than two blocks from the closest licensees (342 N. Palm Canyon to the south and 1200 N. Palm Canyon to the north). Based on the dispersed pattern of the 11 licensees within the census tract, the request by the applicant will not create a saturation of off-sale licenses. Staff believes that the additional liquor license will not be inconsistent with the desired mix of commercial uses in the tract and will serve the public convenience; a draft resolution for Council consideration has been prepared.



Flinn Fagg, AICP
Director of Planning Services



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



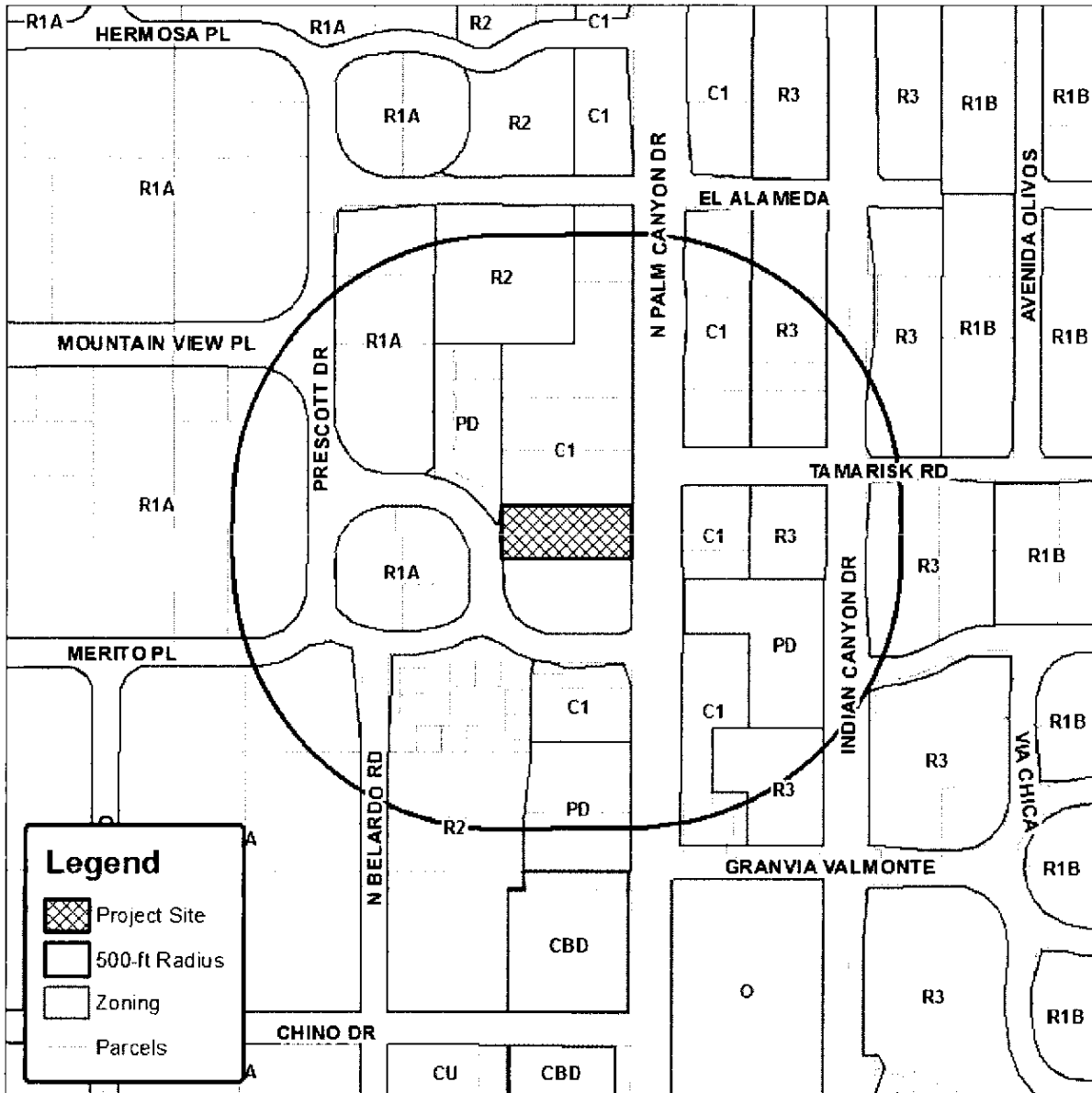
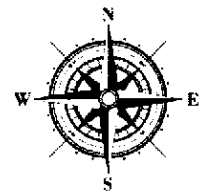
David H. Ready, Esq., Ph.D.
City Manager

Attachments:





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



Department of Planning Services Vicinity Map



Legend

-  Project Site
-  500-ft Radius
-  Zoning
-  Parcels

CITY OF PALM SPRINGS

5.1422 PCN
 777 North Palm Canyon Drive (APN#: 505-283-008)
 On the Mark Fine Foods and Provisions, Inc
 July 10, 2017

RESOLUTION NO.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PALM SPRINGS, CALIFORNIA, DETERMINING THAT PUBLIC CONVENIENCE WOULD BE SERVED BY THE ISSUANCE OF ALCOHOLIC BEVERAGE CONTROL LICENSE TYPE 20 (OFF SALE BEER AND WINE) FOR ON THE MARK FINE FOODS AND PROVISIONS INC. STORE LOCATED AT 777 NORTH PALM CANYON DRIVE WITHIN CENSUS TRACT NO. 446.06.

THE CITY COUNCIL FINDS AND DETERMINES AS FOLLOWS:

- A. Mark Van Laanen owner of On the Mark Fine Foods and Provisions, Inc., has applied for a California Department of Alcoholic Beverage Control (ABC) Type 20 (Off Sale Beer and Wine) license to sell beer and wine at 777 North Palm Canyon Drive, Census Tract No. 446.06, Zone C-1.
- B. The California Department of Alcoholic Beverages and Control (ABC) has determined that there are eleven (11) existing Type 20 alcohol licenses within Census Tract No. 446.06, while one (1) alcohol license would be allowed based on off-sale retail licenses to population in the County in which the applicant's premise is located.
- C. The California Department of Alcoholic Beverages and Control (ABC) has determined that there is an "undue concentration" of alcohol-related licenses in the Census Tract No. 446.06.
- D. Pursuant to Section 23958.4(b)(2) of the State of California Business and Professions Code, the City Council may determine the public convenience or necessity would be served by the issuance of the requested license.
- E. On the Mark Fine Foods and Provisions Inc., will be located in Census Tract No. 446.06 within a C-1 (Retail Business) Zone. The commercial use will be consistent with the intent of the Palm Springs 2007 General Plan Land Use Element and the Palm Springs Zoning Code, which encourage service-oriented land uses.

THE CITY COUNCIL OF THE CITY OF PALM SPRINGS RESOLVES:

That the public convenience would be served by the issuance of Type 20 (Off-Sale Beer and Wine) alcoholic beverage license for the sale of beer and wine at On the Mark Fine Foods and Provisions, Inc. located at 777 North Palm Canyon Drive, Census Tract No. 446.06, Section 10/T4/R4.

ADOPTED THIS 19th DAY OF July, 2017.

David H. Ready, City Manager

ATTEST:

Kathleen Hart, Interim City Clerk

CERTIFICATION

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

I, Kathleen Hart, Interim 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:

Kathleen Hart, Interim City Clerk
City of Palm Springs, California

May 10, 2017

Dear City councilmen, my name is Mark Van Laanen . the reason for this letter is to ask you for approval on obtaining a class 20 retail wine and beer license for my new shop.

The business location is 777 N. Palm Canyon Av suite 101. It is a commercial building and in the proper zone.

My business is going to be a gourmet artisanal cheese, charcuterie, olives, oils, sweets , savories, baked goods, grab and go foods. Having lunches, picnics, tray platters, prepared dinner with sides to choose from.

With that I would need wine and beer to accompany my product. A one stop for a complete meal. It would greatly give the reason to and shop without having to make multiple stop for what they need.

It's not everything, Just everything you want!

It's a great location and will do nothing but enhance the neighborhood. There is parking for 40 cars which is a bonus.

All of my products are going to be clean and green, from the ground up. I will only be selling 100% organic wine and small batch micro beers from the west coast helping to support other small businesses.

Please if you have any questions I am available.

Thanking you in advance

Sincerely

Mark Van Laanen

901 N. Palm Canyon Av. Palm Springs Ca. 92262

760 218 4435

RECEIVED

MAY 10 2017

PLANNING SERVICES
DEPARTMENT

5.14.22
~~2.23.17~~

INFORMATION AND INSTRUCTIONS -

SECTION 23958.4 B&P

Instructions This form is to be used for all applications for original issuance or premises to premises transfer of licenses.

- Part 1 is to be completed by an ABC employee, given to applicant with pre-application package, with copy retained in holding file or applicant's district file.
- Part 2 is to be completed by the applicant, and returned to ABC.
- Part 3 is to be completed by the local governing body or its designated subordinate officer or body, and returned to ABC.

PART 1 - TO BE COMPLETED BY ABC

1. APPLICANT'S NAME

ON THE MARK FINE FOODS AND PROVISIONS INC

2. PREMISES ADDRESS (Street number and name, city, zip code)

777 N PALM CANYON DR STE 101 PALM SPRINGS, CA 92262

3. LICENSE TYPE

20

4. TYPE OF BUSINESS

<input type="checkbox"/> Full Service Restaurant	<input type="checkbox"/> Hofbrau/Cafeteria	<input type="checkbox"/> Cocktail Lounge	<input type="checkbox"/> Private Club
<input type="checkbox"/> Deli or Specialty Restaurant	<input type="checkbox"/> Comedy Club	<input type="checkbox"/> Night Club	<input type="checkbox"/> Veterans Club
<input type="checkbox"/> Cafe/Coffee Shop	<input type="checkbox"/> Brew Pub	<input type="checkbox"/> Tavern: Beer	<input type="checkbox"/> Fraternal Club
<input type="checkbox"/> Bed & Breakfast	<input type="checkbox"/> Theater	<input type="checkbox"/> Tavern: Beer & Wine	<input type="checkbox"/> Wine Tasting Room
<input type="checkbox"/> Wine only	<input type="checkbox"/> All		
<input type="checkbox"/> Supermarket	<input type="checkbox"/> Membership Store	<input type="checkbox"/> Service Station	<input type="checkbox"/> Swap Meet/Flea Market
<input type="checkbox"/> Liquor Store	<input type="checkbox"/> Department Store	<input type="checkbox"/> Convenience Market	<input type="checkbox"/> Drive-in Dairy
<input type="checkbox"/> Drug/Variety Store	<input type="checkbox"/> Florist/Gift Shop	<input type="checkbox"/> Convenience Market w/Gasoline	

Other - describe: **SPECIALTY FOOD STORE**

5. COUNTY POPULATION

6. TOTAL NUMBER OF LICENSES IN COUNTY

7. RATIO OF LICENSES TO POPULATION IN COUNTY

On-Sale Off-Sale On-Sale Off-Sale

8. CENSUS TRACT NUMBER

9. NO. OF LICENSES ALLOWED IN CENSUS TRACT

10. NO. OF LICENSES EXISTING IN CENSUS TRACT

446.06

1

On-Sale Off-Sale 11

On-Sale Off-Sale

11. IS THE ABOVE CENSUS TRACT OVERCONCENTRATED WITH LICENSES? (i.e., does the ratio of licenses to population in the census tract exceed the ratio of licenses to population for the entire county?)

- Yes, the number of existing licenses exceeds the number allowed
- No, the number of existing licenses is lower than the number allowed

12. DOES LAW ENFORCEMENT AGENCY MAINTAIN CRIME STATISTICS?

- Yes (Go to Item #13)
- No (Go to Item #20)

13. CRIME REPORTING DISTRICT NUMBER

14. TOTAL NUMBER OF REPORTING DISTRICTS

15. TOTAL NUMBER OF OFFENSES IN ALL REPORTING DISTRICTS

16. AVERAGE NO. OF OFFENSES PER DISTRICT

17. 120% OF AVERAGE NUMBER OF OFFENSES

18. TOTAL NUMBER OF OFFENSES IN REPORTING DISTRICT

19. IS THE PREMISES LOCATED IN A HIGH CRIME REPORTING DISTRICT? (i.e., has a 20% greater number of reported crimes than the average number of reported crimes as determined from all crime reporting districts within the jurisdiction of the local law enforcement agency)

- Yes, the total number of offenses in the reporting district equals or exceeds the total number in item #17
- No, the total number of offenses in the reporting district is lower than the total number in item #17

20. CHECK THE BOX THAT APPLIES (check only one box)

- a. If "No" is checked in both item #11 and item #19, Section 23958.4 B&P does not apply to this application, and no additional information will be needed on this issue. Advise the applicant to bring this completed form to ABC when filing the application.
- b. If "Yes" is checked in either item #11 or item #19, and the applicant is applying for a non-retail license, a retail bona fide public eating place license, a retail license issued for a hotel, motel or other lodging establishment as defined in Section 25503.16(b) B&P, or a retail license issued in conjunction with a beer manufacturer's license, or winegrower's license, advise the applicant to complete Section 2 and bring the completed form to ABC when filing the application or as soon as possible thereafter.
- c. If "Yes" is checked in either item #11 or item #19, and the applicant is applying for an off-sale beer and wine license, an off-sale general license, an on-sale beer license, an on-sale beer and wine (public premises) license, or an on-sale general (public premises) license, advise the applicant to take this form to the local governing body, or its designated subordinate officer or body to have them complete Section 3. The completed form will need to be provided to ABC in order to process the application.

Governing Body/Designated Subordinate Name:

FOR DEPARTMENT USE ONLY

PREPARED BY (Name of Department Employee)

NOELIA GONZALEZ

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DEPARTMENT

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DEPARTMENT

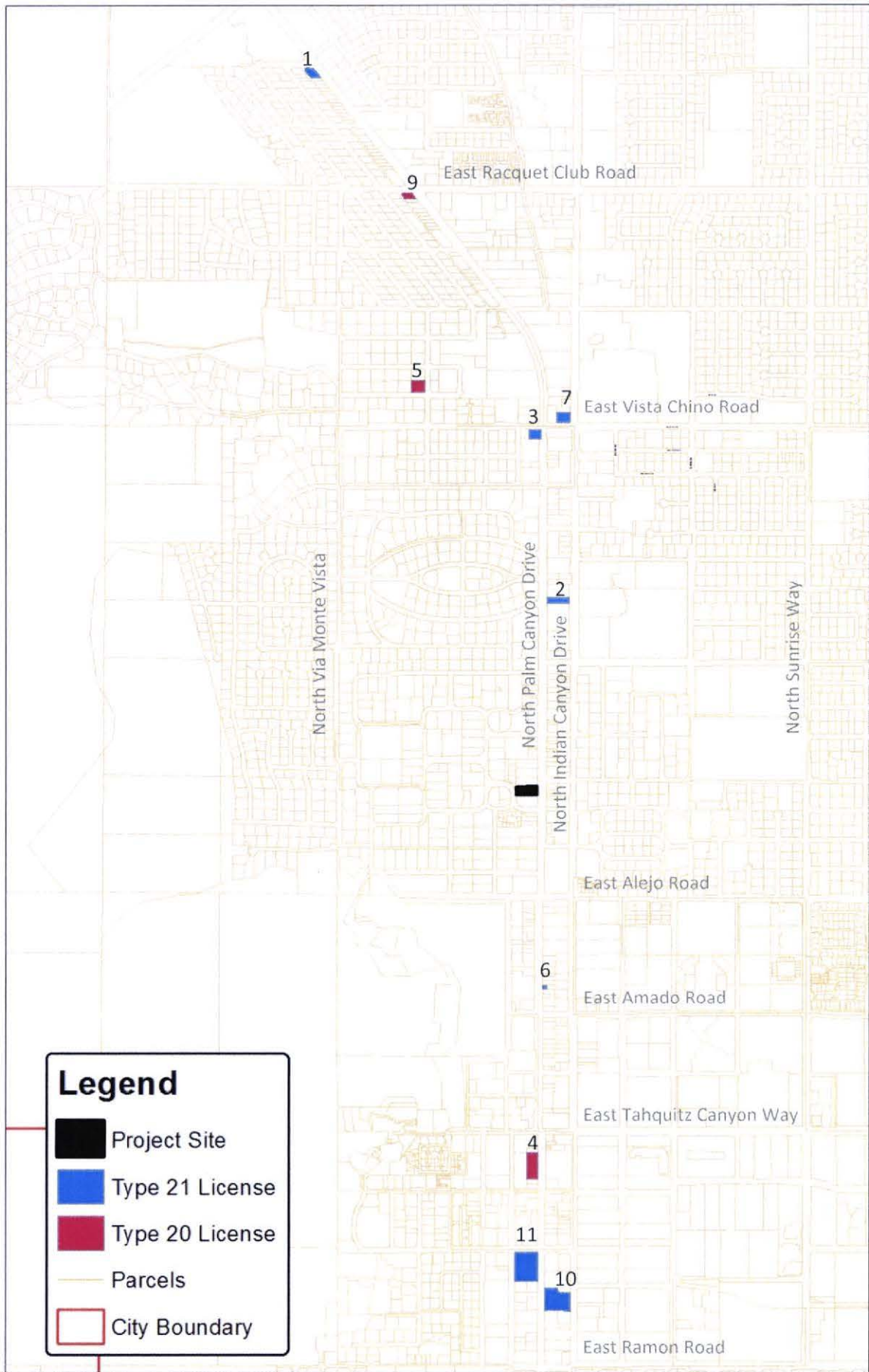
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**California Department of Alcoholic Beverage
Control
For the County of RIVERSIDE - (Off-Sale Licenses)
and Census Tract = 446.06**

Report as of 6/25/2017

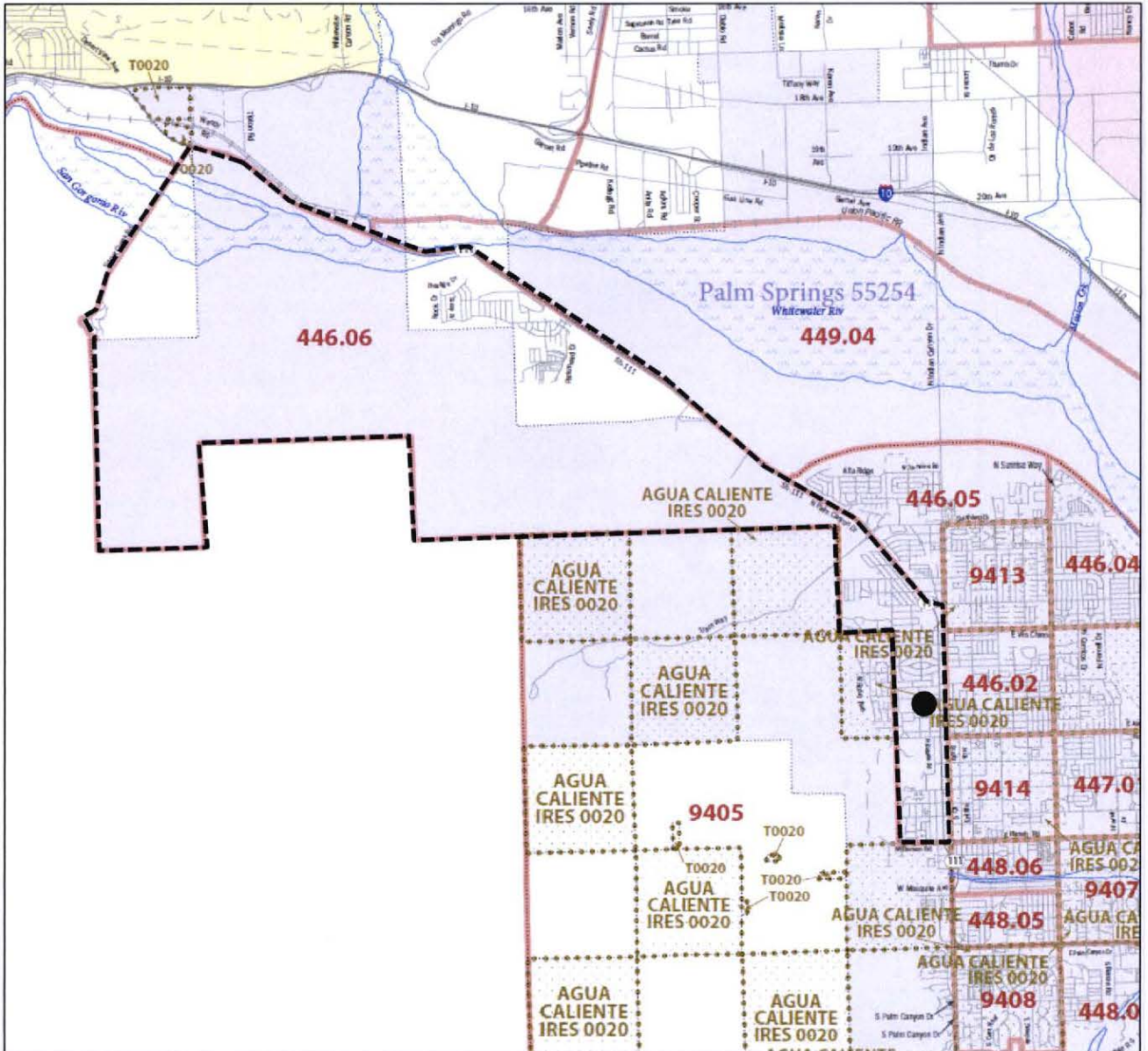
License Number	Status	License Type	Orig. Iss. Date	Expir Date	Primary Owner and Premises Addr.	Business Name	Mailing Address	Geo Code
1) 282471	ACTIVE	20	4/13/1993	6/30/2017	7 ELEVEN INC 2493 N PALM CANYON DR PALM SPRINGS, CA 92262	7 ELEVEN 2171 17666	PO BOX 219088, ATT: 7 ELEVEN LICENSING DALLAS, TX 75221-9088	3310
2) 381844	ACTIVE	21	2/20/2002	1/31/2018	Census Tract: 0446.06 KIM, MELISSA KYOUNGEUN 1200 N PALM CANYON DR PALM SPRINGS, CA 92262	PALM SPRINGS LIQUOR		3310
3) 390499	ACTIVE	21	9/16/2002	8/31/2017	Census Tract: 0446.06 KASIRA, MAJED 1595 N PALM CANYON DR PALM SPRINGS, CA 92262	LAS PALMAS LIQUOR		3310
4) 442775	SUREND	20	12/1/2006	11/30/2017	Census Tract: 0446.06 SHRIJI ENTERPRISES INC FAME TOBACCONIST 155 S PALM CANYON DR, STE A3 PALM SPRINGS, CA 92262-8305			3310
5) 486444	ACTIVE	20	4/21/2010	3/31/2018	Census Tract: 0446.06 GARRIC CELLARS INC 418 W CHINO CANYON RD PALM SPRINGS, CA 92262-2906	GARRIC CELLARS	18N269 NORTHWIND LN WEST DUNDEE, IL 60118	3310
6) 511943	ACTIVE	21	10/24/2011 2:02:18 PM	9/30/2017	Census Tract: 0446.06 ELKHALIL, MOUSTAPHA MAHMOUD 342 N PALM CANYON DR PALM SPRINGS, CA 92262-5642	CORK N BOTTLE		3310
7) 517745	ACTIVE	21	8/29/2012 2:59:46 PM	6/30/2017	Census Tract: 0446.06 7 ELEVEN INC 150 W VISTA CHINO PALM SPRINGS, CA 92262-3205	7 ELEVEN STORE 2112- 34637	PO BOX 219088, ATT: 7 ELEVEN LICENSING DALLAS, TX 75221-9088	3310
8) 542728	ACTIVE	20	6/11/2014 4:06:32 PM	5/31/2017	Census Tract: 0446.06 KURDMISTO, KELLY KRISTINE 60490 OVERTURE DR PALM SPRINGS, CA 92262-1087	WINDY COVE MART		3300
9) 552201	ACTIVE	21	4/14/2015 8:38:20 AM	3/31/2018	Census Tract: 0446.06 SALAMEH, LANA SALHAB 2781 N PALM CANYON DR GOURMET DELI PALM SPRINGS, CA 92262-1861	LARRYS LIQUOR &	31353 FAJA CABALLERO CATHEDRAL CITY, CA 92234	3310
10) 56731	ACTIVE	21	1/1/1994	6/30/2017	Census Tract: 0446.06 THRIFTY PAYLESS INC 366-68 S PALM CANYON DR PALM SPRINGS, CA 92262	RITE AID STORE 5683	2600 CAPITOL AVE, STE 300 SACRAMENTO, CA 95816-5930	3310
11) 567955	ACTIVE	21	10/13/2016 4:35:18 PM	9/30/2017	Census Tract: 0446.06 BEVERAGES & MORE INC BEVMO! 333 S PALM CANYON DR, STE 4 PALM SPRINGS, CA 92262-7301		1401 WILLOW PASS RD, STE 900 CONCORD, CA 94520-7968	3310
					Census Tract: 0446.06			



*No. 8 (Windy Cove Mart) is out of the City boundary

CENSUS TRACT MAP

No. 466.06



Census Tract Map No. 466.06



Project Site Location
777 North Palm Canyon Drive