

PROJECT DESCRIPTION & FINDINGS
Walmart Neighborhood Market
778 E. Arrow Highway

Alcohol Sales Conditional Use Permit Application

a. Project Description

These findings are made in support of Walmart Stores, Inc.'s ("Walmart") Conditional Use Permit Application to approve: (i) the sale of alcoholic beverages for off-site consumption pursuant to a Type 21 License, and (ii) instructional tastings pursuant to a Type 86 "Instructional Tasting License" at the Walmart Neighborhood Market located at 778 E. Arrow Highway, in the City of Pomona, California ("Market").

i. Type 21

The Type 21 License allows for the sale of beer, wine, and distilled spirits for off-site consumption.

ii. Type 86

The Type 86 License allows authorized alcoholic beverage manufacturers, winegrowers and wholesalers ("Tasting Coordinator") to conduct "Instructional Tasting Event(s)" within the Market. These Instructional Tasting Events are intended to inform Walmart's customers on the subject of wine, beer, or distilled spirits, including (but not limited to) the history, nature, values, and characteristics of the beverage, along with preferred methods of presentation and serving of the featured wine, beer, or distilled spirits. No charge will be made for tastings at an Instructional Tasting Event. Although the store is open from 6:00 AM to 11:00 PM, the ABC only allows the Instructional Tasting Events to be held between the hours of 10:00am and 9:00pm. The actual tasting event within the Walmart will occur during peak shopping hours approximately 2-3 times per month.

The Type 86 License allows for on-site consumption of alcohol, but the events are temporary, the number of samples a customer may have and the quantity of each sample is very limited and very dissimilar to a "wine tasting" facility or a bar. The tasting coordinator responsible for the tastings will set up a temporary table and boundaries that limit the number of people in the sampling area and will check identification to ensure all people in the tasting area are at least age twenty-one. **Exhibit "A"** shows an example of a similar instructional tasting taking place at a Sams Club in the city of Glendora, California.

b. General Conditional Use Findings

- a. That the proposed use at the particular location will contribute to the general wellbeing of the neighborhood or community;**

The Market, which opened at 778 E. Arrow Highway in the Valley Shopping Center ("Site") in early 2015, brings fresh produce, a modern pharmacy, and the convenience of a well-lit and secured full service grocery store to the community. To build on the success of the past year of operations, the Market is now seeking approval of a conditional use permit application ("CUP") so that it may a) enhance its existing grocery selection by offering beer, wine and liquor for off-site consumption pursuant to a Type 21 license, and b) offer limited instructional tasting events pursuant to a Type 86 license issued by the California Department of Alcoholic Beverage Control ("ABC"). These licenses will provide customers with the convenience of a one-stop grocery store where they can shop for their everyday groceries and purchase alcoholic beverages for off-site consumption, as well as have the opportunity to participate in limited instructional tastings of alcoholic beverages organized by a licensed manufacturer or wholesaler.

As is customary of full-service grocery stores, the sale of alcoholic beverages will be an incidental use to the Market's existing grocery and pharmacy operations, and will provide the neighborhood with a much needed local and convenient one-stop grocery shopping experience. It will also help meet the needs of shoppers who typically would like to meet all of their grocery and alcoholic beverage shopping needs at one location, reducing the need for shoppers and local residents to drive to multiple locations to satisfy their grocery shopping needs, often outside the neighborhood.

Currently, there is a lack of convenient full-service grocery stores in the community, with the nearest store over 1-mile in any direction, and only two off-site alcoholic beverage sales licenses within the Site's census tract (Census Tract 4021.02) which are issued to: 1) the 7 Eleven convince store located at 2055 N. Towne Avenue (Type 20), and 2) Pomona Liquor located at 588 E. La Verne Avenue (Type 21).

The Market now offers the local community access to groceries and fresh produce within walking, transit, or short driving distance of their neighborhoods, and approval of this request will also allow these residents to purchase alcoholic beverages from an established retailer in a safe, secure, and well-lit environment during their regular grocery shopping trips. This increased consumer convenience will provide a benefit to the community surrounding the store, and can help reduce vehicle trips by eliminating the need for customers to travel to other stores in distant areas in order to purchase fresh groceries and alcoholic beverages at one location.

- b. That such use will not, under the circumstances of the particular case, be detrimental to the health, safety, peace, or general welfare of persons residing or working in the vicinity or detrimental to the use, valuation or enjoyment of property or improvements in the vicinity;

This request to sell alcoholic beverages and to accommodate occasional instructional tastings at the Market will not be detrimental to the health, safety, peace, or general welfare of persons residing or working in the vicinity or detrimental to the use, valuation or enjoyment of property or improvements in the vicinity. The Market includes approximately 37,000 square feet of grocery and market space within an existing shopping center. No physical expansion to the Market is being proposed in connection with this application. Moreover, this application would not result in any significant changes to the existing use or operations, and this application is not expected to have any effect on the exterior of the building, parking areas, or adjacent neighborhoods. Rather, the sale of alcoholic beverages will be incidental to the existing grocery store operations, which includes the sale of a wide range of groceries, fresh produce and a pharmacy. Instructional tastings are also temporary and limited in frequency. There is no history of known complaints or evidence of issues to suggest that a full-service grocery store which sells beer, wine and liquor is unsuitable for this location.

As is common with grocery stores City-wide, the sale of alcoholic beverages is generally ancillary to the store's primary service as a grocery store, distinguishing it from a neighborhood liquor store where it is common for customers to shop for the sole purpose of purchasing alcoholic beverages. These distinguishing characteristics can help reduce the potential for unwanted social effects and neighborhood impacts that sometimes occur in connection with the sale of liquor at convenience or liquor stores, including loitering or panhandling. Loitering, panhandling, and the consumption of alcoholic beverages, are strictly prohibited on the Market's premises, which will help protect against any adverse impacts affecting or degrading the adjacent properties.

The Market is currently open between the hours of 6:00 a.m. and 11:00 p.m., seven days per week, and will only sell alcoholic beverages during these hours (the sale of alcoholic beverages is already restricted by State law to between the hours of 6:00 a.m. and 2:00 a.m.). No additional changes have been made or are being proposed to the building size, height, or any other feature that would affect or degrade adjacent properties, the surrounding neighborhood, or the public health, welfare and safety.

In addition, Walmart's stringent internal security and alcohol vendor policies will ensure that the sale of alcoholic beverages and instructional tasting events will not cause or contribute to crime in the area or adversely affect the welfare of the community in any way. These security measures will also ensure that the alcohol consumed on-site will be in strict compliance with the limitations required instructional tastings as set forth in **Exhibit B** (except where otherwise permitted or authorized). Walmart's security and protective measures include the following:

- Walmart's On-Site Security & Theft Prevention: Walmart has Asset Protection associates that monitor the interior of the store and exterior of the Market under Walmart's control. The Market also has video surveillance of the interior and exterior that is closely monitored by Asset Protection to protect against incidences of theft and deter other potential security threats.
- State of the Art Cash Registers: The Market's cash registers will employ state of the art technology designed to help cashiers confirm a customer's age as part of every alcohol sales transaction. A copy of Walmart's "Responsible Vendor of Alcohol" Policy is attached as **Exhibit "C"**, which lists the steps a cashier must complete during an alcohol sales-related transaction to comply with Walmart's responsible sale of alcohol policy. For example, cashiers must either enter a customer's date of birth after checking their identification, or can override the date of birth prompt if the customer looks over twenty-seven (27) years of age. In addition, the cash registers are programmed by the central office to automatically prohibit the sale of alcoholic beverages between the hours of 2:00 a.m. and 6:00 a.m. If an associate attempts to sell alcohol during a prohibited time, the register will stop the transaction, and cannot be overridden.
- Location of the Alcohol Display: The alcohol displays will be located in an area that can be closely monitored by Walmart (in addition to the video surveillance) which discourages theft (see Floor Plan, **Exhibit "D"**). Furthermore, the size of the store and the parking lot distinguish Walmart from a neighborhood liquor store, and decreases the likelihood that customers will come to a Walmart to purchase alcohol only.
- Security Cameras: Walmart will secure the alcohol display by repositioning one or more security cameras at a location where Walmart Asset Protection associates can monitor the alcohol display area. Tapes of the camera footage will be stored on site and can be made available to local law enforcement upon request. Security cameras are also stationed above the cashier registers to monitor sales transactions. The cameras allow Walmart to confirm whether cashiers input the required age verification information when prompted to do so by the cash register (see the Responsible Vendor of Alcohol Policy, **Exhibit "C"**). When Walmart hires a cashier, the employee is advised of Walmart's corporate policy, which provides for the termination of any cashier who sells alcohol to a minor or violates any rules related to the sale of alcohol.
- Responsible Alcohol Sales Training Program: Walmart trains all cashiers and managers to sell alcohol in compliance with California law using a computer-based training program specifically focused on procedures for the responsible sale of alcohol and in methods to spot fake identification cards. An employee must

score 100% on the final test to begin working as a cashier, and must complete the training annually.

- Security in the Walmart Parking Lot: The Valley Shopping Center's parking lot is well-lit and the continual presence of Walmart employees retrieving shopping carts and maintaining the premises will discourage loitering and other potentially disruptive behavior around the Market. Furthermore, Walmart maintains a strict policy against the consumption of alcohol on the premises that is stringently enforced.

With respect to the instructional tastings provided for pursuant to the Type 86 license, a limited number of instructional tasting events will be held in compliance with the strict conditions and requirements established by the ABC for these licenses. Specifically, instructional tastings may only be held subject to the following conditions:

- Clearly Designated Tasting Areas: All onsite instructional tasting events will occur in restricted and clearly defined spaces, and only during the allowable hours as provided from the ABC.
- No Exterior Advertising: There will be no exterior advertising for these instructional events and no tastings will occur outside of the defined area.
- Age Restrictions Clearly Posted: A sign will be prominently displayed prohibiting persons under 21 years of age from entering the instructional tasting area.
- Limited Quantity of Tastings: A single tasting of distilled spirits shall not exceed one-fourth of one ounce; a single tasting of wine shall not exceed one ounce; a tasting event on the subject of beer shall be limited to eight ounces per person per day.
- Limited Number of Tastings: An instructional tasting event on the subject of wine or distilled spirits shall be limited to not more than three tastings per person per day.
- Limited Number of Instructional Events: An instructional tasting event shall be limited to a single type of alcoholic beverage (i.e. distilled spirits, wine, or beer) and no more than one tasting event at any retail establishment is allowed per day.

- c. That the site for the proposed use is of adequate topography, size and shaped to accommodate said use, as well as all yards, spaces, walls, fences, parking, loading, landscaping, and any other features necessary to allow said use with the land and uses in the neighborhood and make it compatible thereto.

No expansion of the building is proposed and no significant changes to the existing use, operations, exterior, or parking areas are being requested. Accordingly, the existing yards, spaces, walls, etc. are adequate to accommodate the additional product offering. The sale of alcoholic beverages will be incidental to the existing grocery store operations, which includes the sale of a wide range of groceries, fresh produce and a pharmacy. There is no history of known complaints or evidence of issues to suggest that a full-service grocery store which sells beer, wine and liquor is unsuitable for this location.

d. That the site abuts streets and highways adequate in width and improvements to carry traffic generations typical of the proposed use.

The existing 37,000 square feet Market is located within an existing shopping center, adjacent to Town Avenue and E. Arrow Highway, which are both classified as Major Arterials. The Institute of Transportation Engineer's Trip Generation Manual, 8th Edition, which serves as the industry standard for measuring trip generation, does not distinguish between grocery stores that do and do not sell alcohol. Because the sale of alcoholic beverages will be incidental to the existing grocery store operations, no net new trips are projected. Moreover, because this application proposes no physical expansions to the Market nor changes to the existing use, the adjacent streets will continue to remain adequate in width and improvements to carry existing traffic volumes.

e. That the granting of such conditional use permit will not adversely affect the General Plan of the city, or any other adopted plan of the city and conforms to the provisions of the zoning ordinance.

The incidental sale of beer, wine and liquor, and the occasional instructional tasting events at the Market is substantially consistent with the purpose, intent, and provisions of the General Plan and zoning ordinance. The Site is zoned C-C or Community Shopping Center. The Pomona Municipal Code permits C-2 uses in the C-C zone. The C-2 zone permits the sale of alcohol for off-site consumption with approval of a conditional use permit (PMC Section .351-B-11).

Additionally, the incidental sale of beer, wine, and liquor will help advance General Plan Policies 7B.G4 and 7B.G10 below:

Policy 7B.G4 - *Recapture retail spending of Pomona residents lost to adjacent cities.*

Policy 7B.G10 - *Encourage expansion of existing businesses and extend efforts at business retention.*

By permitting the Market to expand its offerings of grocery and pharmacy to include the incidental sale of alcoholic beverages for off-site consumption and limited instructional tasting events, the Market will provide customers with a convenient one-stop shopping

trip that further serves the needs of adjacent residents, reduce vehicle trips, and help retain retail purchases within the City of Pomona by preventing the need for customers to travel to adjacent cities to meet their shopping needs. Currently, there are no other grocery stores within a one-mile radius and the three closest markets are located in the City of Claremont, meaning the Market's expanded offerings will promote neighborhood activity and retention by providing the community with an affordable, full-service grocery option within walking or short driving distance. Consistent with the General Plan's policies, permitting the Market to expand its product offering through the addition of alcoholic beverage sales will provide a benefit to an existing business, thereby encouraging not only business retention, but also recapturing the retail spending of Pomona residents.

Overall, the Market and the incidental sale of alcoholic beverage for off-site consumption, as well as limited instructional tasting events, is in conformance with the City's General Plan by providing a full-service supermarket within an existing commercial shopping center which is appropriately zoned for such use