

**STAFF REPORT – PLANNING
CITY OF TEMECULA
PLANNING COMMISSION**

TO: Planning Commission Chairperson and members of the Planning Commission

FROM: Luke Watson, Deputy City Manager

DATE OF MEETING: November 15, 2023

PREPARED BY: Jaime Cardenas, Case Planner

**PROJECT
SUMMARY:**

Planning Application Number PA23-0323, a Public Convenience or Necessity Application for a proposed Type 21 (Off-Sale General) and Type 86 (Instructional Tasting) alcohol license for Smart & Final located at 32937 Temecula Parkway.

RECOMMENDATION: Adopt a Resolution approving the application subject to Conditions of Approval

CEQA: Categorically Exempt
Section 15301, Class 1 Existing Facilities

PROJECT DATA SUMMARY

Name of Applicant: Richard Phegley

**General Plan
Designation:** Highway/Tourist Commercial (HT)

Zoning Designation: Vail Ranch Specific Plan (SP-10), Commercial 'B' Planning Area

**Existing Conditions/
Land Use:**

Site: Commercial Shopping, Highway Tourist Commercial (HT)

North: Commercial Shopping, Highway Tourist Commercial (HT)

South: Temecula Creek, Open Space (OS)

East: Commercial Shopping, Highway Tourist Commercial (HT)

West: Commercial Shopping, Highway Tourist Commercial (HT)

BACKGROUND SUMMARY

On August 9, 2023, Richard Phegley submitted a Finding of Public Convenience or Necessity application (PC or N) for the future Smart & Final food and supply store to obtain a Type 21 (Off-Sale General) and a Type 86 (Instructional Tasting) Alcoholic Beverage Control (ABC) license for the warehouse-style store located at 32937 Temecula Parkway.

Staff has worked with the applicant to ensure that all concerns have been addressed, and the applicant concurs with the recommended Conditions of Approval.

ANALYSIS

The proposed store is located in Census Tract 432.56. Census Tract 432.56 currently has seven (7) active off-sale licenses. Under the California Department of Alcoholic Beverage Control's (ABC) regulations, Census Tract 432.56 is considered "over-concentrated." According to ABC's regulations, two (2) off-sale licenses are permitted before a PC or N is required. The applicant is seeking a PC or N to fulfill the demands of customers looking to purchase beer, wine, and distilled spirits along with their produce, meats, specialty items and general supply items.

The Type 21 (Off-Sale General) ABC License allows for the sale of beer, wine, and distilled spirits for off-site consumption. The Type 86 ABC License (Instructional Tasting License) ABC is required in order to allow Type 21 license holders to provide tastings on site. The intent of the Type 86 is to instruct/educate the consumers on the products by allowing tastings. This license does not require a Conditional Use Permit as it is an ancillary use to the primary business. The instructional tasting license is issued to the holder of and premises of a Type 20 or Type 21 license and the Type 86 license does not require a PC or N as it does not fall into the on-sale or off-sale categories that ABC uses to determine "over concentration" levels.

The anticipated alcohol sales will be ancillary to the warehouse-style store. The store is 23,175 square feet in size and the square footage allocated for alcohol sales is 418 square feet (1.8% of the total store). The proposed hours and days of operation will be seven (7) days per week from 6:00 a.m. to 10:00 p.m. There is no live entertainment proposed.

LEGAL NOTICING REQUIREMENTS

Notice of the public hearing was published in *The Press-Enterprise* on November 2, 2023, and mailed to the property owners within the required 600-foot radius.

ENVIRONMENTAL DETERMINATION

In accordance with the California Environmental Quality Act, the proposed project has been deemed to be categorically exempt from further environmental review.

Under Section 15301, Class 1, Existing Facilities, licensing and permitting that involves negligible or no changes in use qualify for a categorical exemption. Alcohol sales are common ancillary uses in grocery stores and the sale of beer, wine, and distilled spirits (off-sale) involves a negligible

change in use. Additionally, all access and public utilities are available to the site, and the use is in conformance with all zoning requirements of the Development Code.

FINDINGS

Finding of Public Convenience or Necessity (Section 17.10.020)

The proposed use is consistent with the General Plan and Development Code.

The proposed use is consistent with the City of Temecula General Plan which specifies that the Highway/Tourist Commercial designation includes retail, professional office, and service-oriented business including supermarkets, department stores, theaters, restaurants, professional and medical offices, and specialty retail stores. The sale of beer, wine and distilled spirits would serve as an incidental use to the establishment operations. The proposed use is consistent with the Development Code which allows for grocery stores. Per Temecula Municipal Code Section 17.10.020.B.2, the sale of alcoholic beverages at grocery stores is a permitted use when the primary use is permitted by right.

Whether or not the proposed use is compatible with the nature, condition and character of adjacent land uses.

The use is compatible with the nature, condition and development of adjacent uses, buildings and structures as the use is located in a developed commercial center containing other retail and restaurant businesses, and the proposed conditional uses will not adversely affect the adjacent uses, buildings or structures.

Whether or not the proposed use would have an adverse effect on adjacent land uses.

The proposed use will not adversely affect the adjacent uses, buildings or structures as the surrounding uses are commercial in nature. In addition, the site is adequate in size and shape to accommodate the yards, walls, fences, parking and loading facilities, buffer areas, landscaping, and other development features prescribed in the Development Code.

Whether or not the proposed use would result in an excessive number of similar establishments in close proximity.

The project is located in a Census Tract which ABC considers “over-concentrated” with off-sale licenses. Per ABC, two (2) off-sale licenses are allowed in this tract, and seven currently exist. Therefore, a Finding of Public Convenience or Necessity is required for the project to be the eighth establishment with an off-sale ABC License within the Census Tract. A license for a project in the census tract for a Type 21 (off-sale general) would not result in an excessive number of similar establishments as it would be the eighth off-sale license and would allow the applicant to be competitive with similar businesses in the census tract and the City of Temecula.

- ATTACHMENTS:**
1. Aerial Map
 2. PC Resolution
 3. Exhibit A - Draft Conditions of Approval

4. Exhibit B - Statement of Operations and Justification
5. Exhibit C - Plans
6. Notice of Public Hearing
7. Notice of Exemption