

# LIQUOR LICENSE REVIEW

**TO:** Planning Department  
AnMarie Rodgers/CTYPLN/SFGOV  
Georgia Powell/CTYPLN/SFGOV@SFGOV  
Fax No.: (415) 558-6409

**File:** 160914

**TO:** Police Department  
Inspector Nelly Gordon  
Phone: (415) 837-7273

**DATE:** August 11, 2016

---

This item is tentatively scheduled to be heard in four to six weeks.

**PLEASE EMAIL YOUR RESPONSE BY:** October 12, 2016, to Erica Major,  
Public Safety and Neighborhood Services Committee Clerk.

[Erica.Major@sfgov.org](mailto:Erica.Major@sfgov.org) - Fax No: 554-7771

---

**Applicant Name:** Whole Foods Market California, Inc.  
Whole Foods Market  
**and Business Name:** (1150 Ocean Avenue)  
**Applicant Address:** 1150 Ocean Avenue  
San Francisco, CA 94112  
**and Phone No.** (415) 226-1400

**PLANNING COMMENTS:**  Approval  Denial

**POLICE COMMENTS:**  Approval  Denial

VIA U.S. Mail

August 8, 2016

Ms. Angela Calvillo, Clerk for the Board  
San Francisco Board of Supervisors  
1 Dr. Carlton B. Goodlett Place, Room 244  
San Francisco CA 94102

RE: Request for Determination of Public Convenience or Necessity  
Whole Foods Market  
1150 Ocean Avenue, San Francisco, CA 94112

Dear Ms. Calvillo:

We represent Whole Foods Market ("Whole Foods") in connection with an application to the Department of Alcoholic Beverage Control ("ABC") for a Type 21 Off-Sale General license at their existing store located at 1150 Ocean Ave., San Francisco, CA 94112 ("Store"). Because the Store is located in a census tract that has an undue concentration of off-sale licenses in accordance with Section 23958.4 of the Business and Professions Code, we have been advised that a finding of public convenience or necessity is required. On behalf of Whole Foods, we respectfully request that the Board of Supervisors determine that issuance of this license will serve public convenience or necessity.

**Project Description**

The Store has been operating since 2012 without incident with a Type 20 Off-Sale Beer and Wine license and a Type 86 Instructional Tasting License (License No. 521207). They now seek to include a small selection of spirits to their product offerings and are applying for a Type 21 license. Upon issuance of the Type 21 license, they will surrender their existing Type 20. Whole Foods is purchasing the Type 21 license from Marty's Liquor Gourmet on 657 Sutter Street and transferring it to the Ocean Avenue store.

The only thing that will change at the Store is the addition of a small selection of spirits. Spirits will be displayed alongside non-refrigerated wine and staff will frequently peruse the aisles, addressing customer questions and ensuring a clean and welcoming display. The area will be under constant observation. The hours and operations of the Store will otherwise remain the same.

Whole Foods operates in 42 states, Canada, and throughout the U.K. For the last 18 consecutive years, they have been named one the "100 Best Companies to Work For" by Fortune magazine. They sell alcohol at a large portion of their stores and staff are well trained in local alcohol regulations. They are responsible and compliant alcohol licensees. They have not had any infractions or disciplinary actions at the Store, and take the responsibility very seriously not to serve minors or overly intoxicated individuals.

## Neighborhood Outreach

Before filing this application, Whole Foods sought to gauge community support for the project. In doing so, we called the San Francisco Police Department and spoke with Lieutenant Dave Falzon. Since the SFPD weighs in on the issuance of off-sale general licenses, we wanted to confirm that adding spirits to Whole Foods' existing license would not cause concern. Lieutenant Falzon confirmed that he had no issue with the change and would not protest the application.

We also reached out to the Board of Supervisors to work on community outreach with local organizations whose members may be impacted by the sale of spirits at the Store. Since the Store is located in District 7, we contacted Supervisor Norman Yee's office. We were provided a list of community groups and neighborhood associations that are strongly engaged in the Ocean Avenue area. Whole Foods' store manager, Janene Summerland, who was already closely engaged with the local community, reached out to all of the community groups on the list to inform them of the pending application and to see if they had any questions or concerns.

Community Outreach included the following correspondence:

- Oceanview-Merced Heights-Ingleside Neighbors in Action (OMI-NIA) – Fully and enthusiastically supports Whole Foods' adding spirits to the Store and provided a letter of support (attached).
- Ocean Avenue Association – Fully and enthusiastically supports Whole Foods' adding spirits to the Store and provided a letter of support (attached).
- Sunnyside Neighborhood Association – We exchanged multiple emails with Amy O'Hair, Secretary of the organization. Amy presented our proposal at a community meeting and reported back that there were several enthusiastic supporters for Whole Foods adding spirits to the Store. The group does not object to the license.
- Ingleside Terraces Home Association – We emailed them multiple times (5/30 and 7/03) to explain that we applied to sell spirits, to offer to present at an upcoming meeting, and to inquire about any member questions or concerns. They did not express any opposition to the Store expanding its liquor license to include the sale of spirits.
- Westwood Park Neighborhood Association – We emailed them multiple times (5/30 and 7/03) to explain that we applied to sell spirits, to offer to present at an upcoming meeting, and to inquire about any member questions or concerns. They did not express any opposition to the Store expanding its liquor license to include the sale of spirits.
- West of Twin Peaks Central Council – We emailed them multiple times (5/30 and 7/03) to explain that we applied to sell spirits, to offer to present at an upcoming meeting, and to inquire about any member questions or concerns. They did not express any opposition to the Store expanding its liquor license to include the sale of spirits.
- Miraloma Park Improvement Club – We emailed them to explain that we applied to sell spirits, to offer to present at an upcoming meeting, and to inquire about any questions or concerns. The group said that they generally only allow presentations at meetings by merchants that are located within Miraloma Park (the Store is not). They expressed appreciation for the outreach and did not express any opposition to the Store expanding its liquor license to include the sale of spirits.

To date, we have not received a negative response from a single community group. In fact, many of the neighborhood groups have expressed great support for the addition of spirits to the Store.

**The Sale of Spirits at the Store will serve Public Convenience or Necessity**

Customer requests are Whole Foods' strongest incentive in seeking to add spirits to the Store. Since 2012, the Store has operated with a Type 20, off-sale beer and wine license. Customers frequently inquire about spirits, and while the sale of beer and wine only account for a small portion of the Store's overall sales, customers appreciate the convenience of one-stop shopping that includes a quality selection of craft beer and local and international wines that are not available at neighborhood grocery stores. Adding a small, but well curated, selection of quality spirits will add to the overall customer experience. In addition, several other Whole Foods' locations in California and in other states sell spirits; it is a product that Whole Foods' customers have come to expect to be able to purchase.

Public convenience or necessity will be served because there are no other grocery stores in the near vicinity with an emphasis on high-quality natural and organic products that also sell a similar selection of craft beer, wine, and spirits. The Store is located along the busy Ocean Avenue corridor and has underground parking. This makes it an attractive and convenient stop for local residents, workers, and commuters. The Store is open daily from 8 am to 10 pm, no alcohol sales would be permitted past 10 pm. The early hours, coupled with the high-end selection of craft spirits, are not likely to lead to any increase in crime, loitering, or vagrancy.

Approving this request will not only serve the public convenience or necessity of the nearby residents, but of the entire city as well. Whole Foods has established itself as a destination market, people are willing to travel from neighboring communities to shop for high quality and organic products. The Ocean Avenue location in particular, with its close proximity to the I-280 and ample parking, serves residents from all over the city. Adding spirits to their wide variety of selections will benefit San Franciscans from all neighborhoods that are looking for a high-quality, one-stop shopping experience.

For these reasons we respectfully request that the Board of Supervisors make a finding that issuance of a Type 21 Off-Sale General license at this location will serve public convenience or necessity. If you have any questions about this application or Whole Foods' planned operations, please contact me at [melani@strikeandtechel.com](mailto:melani@strikeandtechel.com) or on my direct line at (415) 229-7892.

Sincerely,



Melani Johns

Alcoholic Beverage Attorney

Supervisor Norman Yee  
San Francisco City Hall  
1 Dr. Carleton B Goodlett Way  
San Francisco, CA 94102

Dear Supervisor Yee,

Whole Foods Ocean has applied for a license to sell spirits and has asked the Ocean Avenue Association for support. OAA does support this application. Whole Foods Ocean has been a good community partner and has participated in a variety of Ocean Avenue events since they opened.

Currently, their Ocean Avenue store manager, Janene Sumerland, helped to get our small business support committee off the ground by serving as chair. Janene also serves currently on OAA's board.

Whole Foods has decided to provide the community with local handcrafted spirits options.

Please let me know if you have any further questions about OAA's support for Whole Foods Ocean application for a spirits license.

Sincerely, Daniel Weaver, Executive Director  
Ocean Avenue Association