

File No. 110332

Committee Item No. 2

Board Item No. _____

**COMMITTEE/BOARD OF SUPERVISORS
AGENDA PACKET CONTENTS LIST**

Committee: **City Operations & Neighborhood
Services Committee**

Date 5/23/11

Board of Supervisors Meeting

Date _____

LIQUOR LICENSE HEARING

Cmte Board

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| <input checked="" type="checkbox"/> | <input type="checkbox"/> | Applicant's Letter |
| <input type="checkbox"/> | <input type="checkbox"/> | Police Department Report |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | Planning Department Report |
| <input type="checkbox"/> | <input type="checkbox"/> | Clerk's Correspondence |
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| <input type="checkbox"/> | <input type="checkbox"/> | Resolution |
| <input type="checkbox"/> | <input type="checkbox"/> | Other |

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Completed by Gail Johnson

Date 5/20/11

Completed by _____

Date _____



HAASNAJARIANLLP

Attorneys at Law

58 Maiden Lane
2nd Floor
San Francisco
California
94108

March 21, 2011

Via Federal Express

Tracking No. 794557363454

San Francisco Board of Supervisors
City Operations and Neighborhood Services
1 Dr. Carlton B. Goodlet Place, Room 244
San Francisco, CA 94102
Attn: Gail Johnson, Committee Clerk

T 415-788.6330
F 415-398.6555
RECEIVED
BOARD OF SUPERVISORS
SAN FRANCISCO
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PC

Re: Request for Determination of Public Convenience or Necessity for the Walgreens Store Located at 2801 Jones Street, San Francisco, California 94133

Dear Ms. Johnson and Members of the City Operations and Neighborhood Services Committee:

This firm represents Walgreen Co. ("Walgreens"). Walgreens recently applied for the transfer (application no. 502576) of a Type-21 license currently held by Tong Van Le and Phan Nguyen and located at 511 Crescent Street, San Francisco, CA, to its store located at 2801 Jones Street, San Francisco, CA (the "Store").

We have been informed by the Department of Alcoholic Beverage Control that a determination of public convenience or necessity by the Board of Supervisors is a condition to the ABC's issuance of this license.

On behalf of Walgreens, we respectfully request that the Board determine that the sale of beer and wine at this Store will serve public convenience or necessity.

I. Project Description.

As part of a national effort, Walgreens has begun to reintroduce beer and wine into stores throughout the country, including a carefully selected number of its San Francisco stores. Working in close conjunction with the San Francisco Police Department ("SFPD"), Walgreens has identified a limited number of stores in which beer and wine would be a benefit to our customers without putting any additional burden on the community. One of these stores is 2801 Jones Street, in which we are transferring a Type-21 license from a problematic location into a more hospitable part of the city that is frequented by shoppers and tourists. This particular application has been made with the

support of Inspector Dave Falzon and the SFPD, which sees many benefits to the project outlined below.

Although the transfer involves a Type-21 license, Walgreens is committed to only selling beer and wine at the Store, and is willing to sign conditions imposing such a limitation. The sale of beer and wine at the Store will be ancillary to its existing use as a pharmacy and general retailer. Walgreens estimates that only 18 feet of shelf space and one 10-foot wide cooler will be devoted to the display of beer and wine (please see attached photos of a similar layout). It is estimated that the sale of beer and wine at this Store will amount to less than 5% of total sales.

The introduction of beer and wine will involve no physical change to the interior space (other than some minor rearrangement of merchandise, shelving and coolers) nor to the building envelope, building exterior or landscaping. These minor interior changes will involve no grading, construction or construction equipment at the Store. Moreover, the sale of beer and wine at the Store will not expand the existing hours of operation, which are currently 7:00 a.m. to midnight, seven days per week.

II. The Product Mix is Designed to Appeal to Walgreens' Existing Customers.

Walgreens prides itself on offering its customers a safe, clean, customer-friendly shopping experience, and has carefully selected its beer and wine product mix to avoid attracting those who are looking to abuse alcohol, instead choosing to appeal to light to moderate drinkers. Nearly 70% of Walgreens shoppers are women, and Walgreens understands that they are looking for a safe and secure shopping environment. Accordingly, Walgreens will only sell beer in 6 packs, 12 packs, 18-packs, and cases, and the wine selection will consist predominantly of well-known, reasonably-priced labels. The Store will **not** sell any of the following products: single bottles or cans of beer, 40 oz. bottles or cans of beer, spirits, malt liquor in excess of 5.9 percent alcohol by volume, or fortified wine.

III. The Sale of Beer and Wine at the Store will serve Public Convenience or Necessity.

As indicated above, the liquor license is currently located at 511 Crescent Street, a location that has a history of crime and violence. Sadly, Mr. Le, the current licensee, was murdered in 2008 after reporting an unarmed robbery that he had witnessed at his store.

In contrast, Walgreens is committed to being a good community partner and providing this service to its customers without causing harm to the surrounding area. The subject Walgreens Store is located in near Fisherman's Wharf – a commercial part of town heavily frequented by local shoppers and hundreds of thousands of tourists each

year. By adding beer and wine to its inventory, Walgreens intends to provide a “one-stop” shopping experience for its customers so they can pick up a bottle of wine for dinner or a six pack for the house while shopping for their general sundries, without having to get back in the car to go to another store. This “one-stop” shopping will result in increased efficiency for shoppers, and is consistent with what today’s consumers expect from a retail pharmacy and general merchandiser such as Walgreens.

Additionally, it is Walgreens’ expectation that the limited selection of beer and wine will not materially increase the number of truck deliveries or vehicles that currently come to the Store, and the additional vehicular traffic generated by the addition of beer and wine will be minimal.

Accordingly, the City of San Francisco will benefit by having one less liquor license at a problematic location, and Walgreens’ customers will benefit from the “one-stop” shopping experience, without a negative impact on the neighborhood surrounding the Store. Significantly, Walgreens will also be taking an existing Type 21 and intentionally limiting its use to beer and wine, reducing the amount of spirits, malt liquor, and other beverages that are more commonly associated with alcohol abuse from being available in San Francisco.

IV. The Sale of Beer and Wine at the Store is Consistent with Adjacent Uses.

The Walgreens store is located in a zone designated as Community Business (C-2). This zoning does not prohibit the sale of alcohol for off-premises consumption. The City’s Planning Code describes the C-2 district as an area where the “emphasis is upon compatible retail uses, but a wider variety of goods and services is included to suit the longer-term needs of customers...” (*Planning Code Sect. 210.2*) By providing a small display of alcohol, Walgreens intends to offer a wider variety of goods and a convenience to its customers.

Current adjacent uses around the Store include numerous restaurants, shops, hotels, and markets. Many of these businesses are licensed to sell alcohol, and some are licensed to sell alcohol off-premises. Therefore, because the Store is adjacent to other businesses where the sale of alcohol is an ancillary use, the sale of beer and wine at the Store is consistent with adjacent uses.

V. The Issuance of a License to the Store will Not Create a Burden on the Police Department.

The Store is located in census tract 101. Based on information provided by the ABC, the number of off-sale liquor licenses currently active in census tract 101 results in an “undue concentration” (as defined by Business & Professions Code § 23958.4).

However, due to the methodology by which “undue concentration” is determined, the vast majority of census tracts in California located in heavily commercial/retail areas with lower population densities – such as census tract 101 – fall under this designation.

Despite the “undue concentration” that currently exists in this census tract, Walgreens believes that the nature of the product mix, coupled with Walgreens’ security procedures (identified below) is such that the addition of beer and wine at the Store will not add to crime or any police-related problems in the surrounding community.

VI. The Sale of Beer and Wine at the Store will Not have a Detrimental Impact on the Surrounding Area.

So as to ensure minimal disruption to surrounding neighborhoods and be consistent with both the City’s Good Neighbor policies and the conditions required by the SFPD, Walgreens has taken preemptive measures to ensure that alcoholic beverages will be sold in a highly responsible and conscientious manner. Detailed alcohol sales policies and procedures, endorsed by legal counsel, senior management and consistent with SFPD recommendations are already in place and will be strictly enforced. Some of these policies and procedures are:

- Employees must undergo significant training prior to beer and wine being made available at the Store (specific details of which can be provided upon request);
- Each cash register clerk must submit a policy acknowledgement as part of the daily log-in and log-out process;
- Cash register clerks are required to request identification and proof of age for any customer attempting to purchase beer or wine who appears to be under the age of 40. Pre-programmed cash register “prompts” will remind the clerks to request this proof; and
- Under-aged employees will not be allowed to handle the selling or stocking of alcoholic beverages.

Training will be through a Walgreens internal alcohol sales training program, which focuses on recognizing and preventing any sales of alcohol that may be detrimental to the public welfare (i.e., the sale of alcohol to minors and intoxicated persons) and was designed with the most up-to-date information regarding adult learning and automated education. Walgreens is also willing to undergo in-person training from the SFPD to understand any conditions specific to San Francisco, should they deem it necessary. This will help ensure that the sale of beer and wine at the Store will not be detrimental to

residents, shoppers, or other businesses in the vicinity of this Store.

Walgreens also has closed-circuit security cameras that monitor the alcohol sales area and a public view monitor, which serves to discourage loitering and acts as an additional security measure. For security purposes, the beer and wine will not be located near any exit area, thereby discouraging theft.

Lastly, there are no residences within 500 feet of this Walgreens store, further reducing any potential impact that increased traffic could have on surrounding residences.

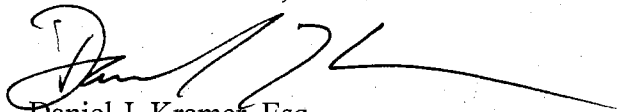
VII. Conclusion.

The sale of beer and wine as an ancillary use at the Store will enable Walgreens to provide the convenience of one-stop shopping that consumers have come to expect from a national pharmacy and general retailer. Walgreens is committed to providing this convenience in a safe and conscientious manner, with minimal disruption to the surrounding neighborhood. In fact, Walgreens has been providing these products at five of its San Francisco stores for the past eighteen months, and has done so without incident.

Moreover, by transferring the liquor license from a problematic location to an area frequented by shoppers and tourists, this transfer will benefit the entire city. Walgreens has been working closely with the SFPD throughout this process to guarantee that its efforts are consistent with their work to ensure public safety throughout the city – and purchasing and transferring a Type-21 license from a notorious difficult neighborhood into an area that does not have the same concerns, while also agreeing to treat that license as a Type-20, is just one indication of Walgreens' commitment to this community. The SFPD recognizes that Walgreens is a responsible retailer of beer and wine and supports this transfer.

For these reasons, Walgreens respectfully requests that the Board determine that public convenience or necessity will be served by the sale of beer and wine at the Store. Thank you in advance for your consideration.

Very truly yours,
HAAS NAJARIAN, LLP



Daniel J. Kramer, Esq.

LIQUOR LICENSE REVIEW

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

File: 110332

*Block/Lot: 0011 / 008
Zoning: C-2
Quad: NE
MSB # 1100796*

TO: Inspector Dave Falzon
Police Department
Fax No.: 553-1463

DATE: March 25, 2011

This item is scheduled to be heard at a meeting on April 25, 2011. **PLEASE E-MAIL YOUR RESPONSE BY:** April 21, 2011, to Gail Johnson, Clerk, City Operations and Neighborhood Services Committee.

Gail.Johnson@sfgov.org - Fax No: 554-7714.

Applicant Name: Daniel J. Kramer, Esq.
and Business Name: Walgreens Store (2801 Jones Street)

Applicant Address: Haas Najarian, LLP
58 Maiden Lane, 2nd Floor
and Phone No. (415) 788-6330

PLANNING COMMENTS: Approval Denial

permitted per Planning Code Section 218(c)

[Signature]
Rick Crawford

POLICE COMMENTS: Approval Denial