

BOARD of SUPERVISORS



City Hall
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco 94102-4689
Tel. No. 554-5184
Fax No. 554-5163
TDD/TTY No. 554-5227

MEMORANDUM

PUBLIC SAFETY AND NEIGHBORHOOD SERVICES COMMITTEE

SAN FRANCISCO BOARD OF SUPERVISORS

TO: Supervisor Jane Kim, Chair
Public Safety and Neighborhood Services Committee

FROM: Erica Major, Assistant Clerk, Public Safety and Neighborhood
Services Committee

DATE: December 12, 2016

SUBJECT: **COMMITTEE REPORT, BOARD MEETING**
Tuesday, December 13, 2016

The following file should be presented as a COMMITTEE REPORT at the Board meeting, Tuesday, December 13, 2016. This item was acted upon at the Public Safety and Neighborhood Service Committee meeting on Thursday, December 8, 2016, at 2:30 p.m., by the votes indicated.

Item No. 58 File No. 160914

Resolution determining that the transfer of a Type 21 off-sale general license to Whole Foods Market California, Inc., dba Whole Foods Market, located at 1150 Ocean Avenue (District 7), will serve the public convenience or necessity of the City and County of San Francisco, in accordance with California Business and Professions Code, Section 23958.4, and recommending that the California Department of Alcoholic Beverage Control impose conditions on the issuance of the license.

RECOMMENDED AS A COMMITTEE REPORT

Vote: Supervisor Jane Kim - Aye
Supervisor John Avalos - Aye
Supervisor Eric Mar - Aye
Supervisor David Campos - Excused

cc: Board of Supervisors
Angela Calvillo, Clerk of the Board
Alisa Somera, Legislative Deputy
Jon Givner, Deputy City Attorney

File No. 160914 Committee Item No. 2
 Board Item No. 58

COMMITTEE/BOARD OF SUPERVISORS
 AGENDA PACKET CONTENTS LIST

Committee: Public Safety and Neighborhood Services Date December 8, 2016

Board of Supervisors Meeting Date December 13, 2016

Cmte Board

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| <input type="checkbox"/> | <input type="checkbox"/> | Motion |
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| <input type="checkbox"/> | <input type="checkbox"/> | Budget and Legislative Analyst Report |
| <input type="checkbox"/> | <input type="checkbox"/> | Youth Commission Report |
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| <input type="checkbox"/> | <input type="checkbox"/> | Grant Information Form |
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| <input type="checkbox"/> | <input type="checkbox"/> | Award Letter |
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OTHER (Use back side if additional space is needed)

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| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <u>LL Referral - 08/11/2016</u> |
| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <u>Planning Department Response - 09/15/2016</u> |
| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <u>COMMITTEE REPORT REQUEST - 11/20/2016</u> |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | <u>COMMITTEE REPORT MEETING - 12/17/2016</u> |
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Completed by: Erica Major Date December 2, 2016
 Completed by: JAM Date 12/12/2016

1 [Liquor License Transfer - 1150 Ocean Avenue]

2
3 **Resolution determining that the transfer of a Type 21 off-sale general license to**
4 **Whole Foods Market California, Inc., dba Whole Foods Market, located at 1150**
5 **Ocean Avenue (District 7), will serve the public convenience or necessity of the**
6 **City and County of San Francisco, in accordance with California Business and**
7 **Professions Code, Section 23958.4, and recommending that the California**
8 **Department of Alcoholic Beverage Control impose conditions on the issuance of**
9 **the license.**

10
11 WHEREAS, Whole Foods Market California, Inc., is seeking the transfer of a
12 Type 21 off-sale general license dba Whole Foods Market located at 1150 Ocean
13 Avenue (District 7); and

14 WHEREAS, The Planning Department has verified that the area is properly
15 zoned and recommends approval; and

16 WHEREAS, The Police Department has filed zero (0) protests with the
17 Department of Alcoholic Beverage Control under California Business and Professions
18 Code, Section 24013, and recommends that the Department of Alcoholic Beverage
19 Control issue the liquor license with conditions; and

20 WHEREAS, The conditions recommended by the Police Department are the
21 following: 1) Sales, service, and consumption of alcoholic beverages shall be permitted
22 only between the hours of 8:00 a.m. to 10:00 p.m. each day of the week; and 2) loitering
23 (defined as "to stand idly about; linger aimlessly without lawful business") is prohibited
24 on any sidewalks or property adjacent to the licensed premises under the control of the
25 licensee(s) as depicted on the ABC-257 form dated 4/5/2012; now, therefore, be it

1 RESOLVED, That in accordance with California Business and Professions Code,
2 Section 23958.4, the Board of Supervisors of the City and County of San Francisco
3 hereby determines for the foregoing reasons that the transfer of a Type 21 off-sale
4 general license to Whole Foods Market California, Inc., dba Whole Foods Market,
5 located at 1150 Ocean Avenue (District 7), will serve the public convenience or
6 necessity of the City and County of San Francisco; and, be it

7 FURTHER RESOLVED, That the Board of Supervisors of the City and County of
8 San Francisco hereby endorses and adopts the recommendations of the Police
9 Department listed above and recommends that the Department of Alcoholic Beverage
10 Control issue the license with those conditions.

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San Francisco Police Department
ABC Liaison Unit



Alcoholic Beverage License -
*Public Convenience and
Necessity Recommendation*

To: The San Francisco Board of Supervisors' Committee on Public Safety
and Neighborhood Services

Supervisor Jane Kim
Supervisor John Avalos
Supervisor David Campos

From: Lieutenant Dave Falzon
Officer in Charge
ABC Liaison Unit (ALU) 415-837-7287

Date: November 30, 2016

Subject: P.C.N. Investigation Regarding: Whole Foods Market California Inc
DBA: Whole Foods Market
1150 Ocean Ave
(415) 226-1400

Jackie Renteria on behalf of Whole Foods Market, has filed an application with the California Department of Alcoholic Beverage Control seeking a Type 21 (Off Sale General Package store) License for 1150 Ocean Ave (Located between Lee and Brighton Avenues).

Hours of Operation:

8:00 am to 10:00pm

Daily

Digest:

Whole Foods Market would like to sell beer, wine and distilled spirits. If approved, this license will allow Whole Foods Market to sell off sale beer, wine and distilled spirits

Letters of Protest:

0

Letters of Support:

0

Police Calls for Service:

From March 2015 to March 2016

50 Calls for service

Police Reports:

From March 2015 to March 2016: 19

San Francisco Plot Information:

This premise is located in Plot **847**

A High Crime area is defined as **99** or more police incidents in a plot for the year of **2015**.

This plot had **86** police incidents for **2015**, which is **13 under** the **Citywide “High Crime”** average.

State Census Tract Information:

This premise is located in Census Tract **310.00**

Population for this tract is: 3,494

On-sale license authorized by census tract: **12**

Active on-sale licenses: **8**

Off-sale licenses authorized by census tract: **3**

Active off-sale licenses: **5**

Departmental Recommendation:

Points of consideration: Three consideration points

Taravel Station has no opposition .

Applicant premise **is** located in a **“low crime”** area.

Applicant premise **is** located in an **“undue concentration”** area.

0 - Record of protest.

0 - Record of support.

ALU Recommendation: Approval with the following conditions:

1. Sales, Service, and consumption of alcoholic beverages shall be permitted only between the hours of 8:00 a.m to 10:00 p.m each day of the week.
2. Loitering (loitering is defined as “to stand idly about; linger aimlessly without lawful business”) is prohibited on any sidewalks or property adjacent to the licensed premises under the control of the licensee(s) as depicted on the ABC-257 form dated 4-5-12

It should be noted that the applicant has agreed with the above listed recommended conditions.

closed



LIQUOR LICENSE REVIEW

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

File: 160914

Block/lot: 3180/006-009

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

Zoning: NCT

Quad: SW

DATE: August 11, 2016

Record #2016-010452 MIS

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 - Fax No: 554-7771

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

PLANNING COMMENTS: Approval Denial
Recommend approval of Type 21 ABC License. Formula Retail Grocery Store with off-site liquor license permitted per Case No. 2000.088FC via Motion No. 17885 subject to conditions of MSR No. 19066F2.

Venida Flores 08/23/16 415-575-9773

POLICE COMMENTS: Approval Denial

**strike
&techel**
ALCOHOLIC BEVERAGE LAW

RECEIVED
BOARD OF SUPERVISORS
SAN FRANCISCO

2016 AUG 11 PM 2:43

BY 

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.

1/6/16

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 or on my direct line at (415) 229-7892.

Sincerely,



Melani Johns

Alcoholic Beverage Attorney

OMI Neighbors In Action...a community organization of neighbors helping neighbors

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

July 12, 2016

Dear Supervisor Yee,

Whole Foods Ocean has applied for an expanded license to sell spirits and has asked OMI-Neighbors in Action for concerns or support.

At the request of store manager Janene Summerland, we discussed this as an organization as well as presented it to the community in attendance at our meeting on 6/29/16. OMI-NIA supports this application and supports the expansions in spirits selection that Whole Foods is bringing to the neighborhood.

Whole Foods Ocean has been a good community partner and has participated with the Ingleside neighborhood in a variety of manners and styles since they opened. It is our recommendation that the City support the license request.

Please let me know if you have any further questions.

Sincerely,

Mary C Harris, President

415-239-2119

OMI-NIA: 65 Beverly Street, SF, CA 94132

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

CO B, Leg Rep
PSNS, Bos -
Leg
RECEIVED
BOARD OF SUPERVISORS
SAN FRANCISCO

2016 NOV 30 PM 3:49

BY AK

DATE: November 29, 2016

TO: Angela Calvillo
Clerk of the Board of Supervisors

FROM: Supervisor Jane Kim
Chairperson

RE: Public Safety and Neighborhood Services Committee
COMMITTEE REPORTS

Pursuant to Board Rule 4.20, as Chair of the Public Safety and Neighborhood Services Committee, I have deemed the following matters are of an urgent nature and request they be considered by the full Board on December 13, 2016, as Committee Reports:

160818 Liquor License Transfer - 1909 Union Street, Suite A

Hearing to consider that the transfer of a Type 21 off-sale general alcoholic beverage control license to The Epicurean Trader, LLC, dba The Epicurean Trader, located at 1909 Union Street, Suite A (District 2), will serve the public convenience or necessity of the City and County of San Francisco.

160914 Liquor License Transfer - 1150 Ocean Avenue

Hearing to consider that the transfer of a Type 21 off-sale general alcoholic beverage control license to Whole Foods Market California, Inc., dba Whole Foods Market, located on 1150 Ocean Avenue (District 7), will serve the public convenience or necessity of the City and County of San Francisco.

160959 Liquor License - 110 The Embarcadero

Hearing to consider that the issuance of a Type 51 Club license to The Commonwealth Club of California, dba Commonwealth Club, located at 110 The Embarcadero (District 6), will serve the public convenience or necessity of the City and County of San Francisco.

These matters will be heard at the Regular Meeting of the Public Safety and Neighborhood Services Committee on December 8, 2016, at 2:30 p.m.



LIQUOR LICENSE REVIEW

TO: Planning Department **File:** 160914
AnMarie Rodgers/CTYPLN/SFGOV
Georgia Powell/CTYPLN/SFGOV@SFGOV
Fax No.: (415) 558-6409

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 - 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