

**TO:** THOMAS FRUTCHEY, CITY MANAGER

**FROM:** WARREN FRACE, COMMUNITY DEVELOPMENT DIRECTOR

**SUBJECT:** DETERMINATION OF PUBLIC CONVEINENCE OR NECESSITY FOR TYPE 21 ALCOHOL BEVERAGE CONTROL LICENSE SPIRIT MARKET, INC. – (1637 SPRING STREET)

**DATE:** MAY 3, 2016

**Needs:** For the City Council to consider making a determination that Public Convenience or Necessity (PCN) would be served by the issuance of a Type 21 license by the Department of Alcoholic Beverage Control (ABC) to allow the sale of beer, wine, and distilled spirits for off-site consumption, for the Spirit Market located at 1637 Spring Street.

- Facts:**
1. The Spirit Market, which includes a gas station has been operating at 1637 Spring Street for many years. Historically, the market has had an ABC license to sell beer and wine. This request is to expand the license to allow for the sale of beer, wine, and distilled spirits for off-site consumption.
  2. Lorrie Hoel, who is a consultant that specializes in processing alcoholic beverage licenses, has applied for a Type 21 license with the ABC, on behalf of Spirit Market. As part of the application process with the ABC, she verified that a determination of Public Convenience or Necessity by the City is necessary. See Letter from Lorrie Hoel, Attachment 1.
  3. It has been determined by ABC staff that there is an “undue concentration” in relation to the number of alcohol related licenses that currently exist in that area of the City (Census Tract 0101.02). As a result of the undue concentration, California Code Section 23958.4 requires that “the local governing body of the area in which the applicant premises are located, or its designated subordinate officer or body, determines within 90 days of notification of a completed application that public convenience or necessity would be served by the issuance.
  4. Since the City Council is the City’s governing body, the Council has the ability to make a determination that either a public convenience or necessity would be served by the issuance of a Type 21 License.

**Analysis  
And**

**Conclusion:** The Community Development Director and Police Chief have reviewed the request by Spirit Market. This request to sell alcohol including distilled spirits, is consistent with other convenience markets in the City, such as Savage Liquor, Creggor's Market, Wayside Liquor, and One Stop Market. A finding of public convenience by the City Council for the Spirit Market would seem appropriate and be consistent with other convenience markets in the City.

**Policy**

**Reference:** California Code Section 23958.4 (Undue Concentration)

**Fiscal**

**Impact:** None.

**Options:** The City Council should consider one of the following actions:

- a. Adopt Resolution No. 16-xx determining that the Public Convenience would be served by the issuance of a Type 21 ABC License for the Spirit Market located at 1637 Spring Street; or,
- b. The City Council may determine that neither a Public Convenience nor Necessity would be served by the issuance of a Type 21 ABC License for the Spirit Market located at 1637 Spring Street, resulting in ABC's denial of a license; or,
- c. Refer back to Staff for additional analysis, or,
- d. Amend the above options.

**Attachments:**

1. Letter of Public Convenience or Necessity, Lorrie Hoel
2. Draft Resolution A Determining that the Public Convenience would be served by the issuance of a Type 21 ABC License

# Attachment 1

## LETTER OF PUBLIC CONVENIENCE OR NECESSITY

**Applicant(s):** Spirit Market Inc.  
**Premises Address:** 1637 Spring Street, Paso Robles, California 93446

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This request is for Public Convenience and Necessity approval to allow the sale of beer, wine and distilled spirits for off-site consumption only; in conjunction with an existing 1,944 square foot convenience market with gas station; with the hours of operation being 6:00 am to 11:00 pm, 7 days a week.

Under the Section 23958 of the California ABC Act, eight off-sale licenses are allowed within this census tract. There are currently twenty-nine active, off-sale licenses. Under section 23958.4(a)(2) of the ABC Act, the applicant premises is located in an area of "undue-concentration". Under section 23958.4(b)(1), the Department may issue a license "if the applicant shows that public convenience or necessity would be served by the issuance."

Pursuant to applicable law, the applicant hereby demonstrates that public convenience or necessity will be served by the issuance of the applied-for license as follows:

Under local zoning ordinances, the subject premises is designated "T3 Flex Land Use", with the corresponding zone of T-3F, and is located within the "Uptown/Town Centre Specific Plan". The city of Paso Robles has established this area as a pedestrian-oriented, mixed-use neighborhood which encourages the concentration of retail establishments, and by extension, the number of licensed establishments in this census tract. Therefore, although the census tract is numerically over-concentrated, the project will not adversely affect community welfare because the local community has determined that the licensing of a retail establishment is an expected and desirable use in an area designated for such.

The applicant's operation is an asset to the community, providing a convenience to nearby neighbors looking for a quick and friendly place to shop. The proposed use is an existing gas station with a convenience market, and it is ideally situated to serve the population of residents, workers and shoppers in this part of the City.

The approval of this project will allow the applicant to expand their inventory to include a full line of alcoholic beverages. The addition of a distilled spirits is a logical extension of their current offering and will prove valuable to a clientele looking for a broader range of beverage choices. This grant will enhance the financial health of the community; improve the economic base of the area through the exchange of goods and services with other commercial uses and generate tax revenue to various municipalities.

**Letter of Public Convenience and Necessity**

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**The operations of this facility will not contribute to or aggravate police problems in this area as follows:**

- **The applicant agrees to abide by all applicable ABC rules and regulations concerning operation.**
- **The subject premises is bounded on all sides by commercial development and is therefore well-buffered from nearby, residentially zoned, properties.**
- **The premises is equipped with a video surveillance system, both inside and outside the premises and an alarm system.**
- **No amusement machines or video game devices shall be on the premises.**
- **The owner shall be responsible for actively discouraging loitering within the premises.**
- **The hours of operation shall be limited to the hours stated in form ABC-257.**

**The applicant has shown that public convenience or necessity would be served by the issuance of the requested license and respectfully requests issuance of a license pursuant to section 23958.4(b)(1) of the ABC Act.**

Sincerely,



\_\_\_\_\_  
Spirit Market Inc.

\_\_\_\_\_  
date

# Attachment 2: Draft Resolution A

## RESOLUTION NO. 16-

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PASO ROBLES  
DETERMINING THAT PUBLIC CONVENIENCE WOULD BE SERVED  
WITH THE ISSUANCE OF A TYPE 21 ALOCHOLIC BEVERAGE CONTROL LICENSE  
AT 1637 SPRING STREET  
(SPIRIT MARKET, INC.)

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WHEREAS, Lorrie Hoel, on behalf of the Spirit Market, Inc., has applied for a Type 21 license with the ABC to authorize the sale of beer, wine, and distilled spirits for off-site consumption, in conjunction with Spirit Market convenience store located at 1637 Spring Street; and

WHEREAS, it has been determined by ABC staff that there is an “undue concentration” in relation to the number of alcohol related licenses that currently exist in that area of the City (Census Tract 0101.02); and

WHEREAS, as a result of the undue concentration, California Code Section 23958.4 requires that “the local governing body of the area in which the applicant premises are located, or its designated subordinate officer or body, determines within 90 days of notification of a completed application that public convenience or necessity would be served by the issuance; and

WHEREAS, the City Council is the City’s governing body and has the ability to make a determination of Public Convenience or Necessity; and

NOW, THEREFORE, BE IT RESOLVED, that the City Council of the City of El Paso de Robles hereby determines that Public Convenience would be served by the issuance of a Type 21 ABC license for the Spirit Market at 1637 Spring Street, based on the sale of beer, wine, and distilled spirits would be consistent with other convenience markets in the City.

PASSED AND ADOPTED by the City Council of the City of El Paso de Robles this 3<sup>rd</sup> day of May 2016 by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

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Steven W. Martin, Mayor

ATTEST:

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Kristy Buxkemper, Deputy City Clerk