

# Alcoholic Beverage Consulting

26023 Jefferson Avenue, Suite D  
Murrieta, CA 92562

July 5, 2016

City of Chula Vista Police Department  
Attn: Officer Patrick White  
315 Fourth Avenue  
Chula Vista, CA 91910

**RE: 99 Cent Only Store #443 – 1030 Third Avenue, Ste. 1  
Public Convenience or Necessity Determination Request**

Dear Officer White:

I am a consultant to 99 Cents Only Stores assisting them with licensing and use permits to sell beer and wine for off-site consumption (ABC Type 20) in all of their stores. This letter serves as our formal request that we are making on behalf of 99 Cents Only Stores for a Finding of Public Convenience or Necessity at the above referenced address. Enclosed please find a check in the amount of \$1,500.00 to cover the PCN Fee.

## Background

The Department of Alcoholic Beverage Control has determined that the existing store is located within Census Tract 131.02. Pursuant to §23958.4 of the California Business and Professions Code, the Department determined that Census Tract 131.02 is allowed 4 licenses without a finding of Public Convenience or Necessity and that 6 licenses currently exist within the tract.

## Overview and Project Description

99 Cents Only operates a 20,142 square foot grocery and consumer goods retail store at the above referenced location since 2016. The store is within a fully developed shopping center. It is our understanding that off-sale beer and wine in this zone is permitted for this type of store. This store will operate from 7:00 a.m. until 10:00 p.m. daily. 99 Cents Only Stores has an excellent reputation for providing the products that customer's desire most at prices they need to meet a family budget. The product offering has evolved over the years and now consists of mostly grocery items including a large selection of fresh produce; making 99 Cents Only the primary grocery store for most of its customers. As part of its growing grocery business, 99 Cents Only Stores is adding sell beer and wine to meet the needs and demands of its customers as well as stay competitive in the grocery business. Beer and wine sales will represent an incidental purchase for its current customers much like other grocery stores. 99 Cents Only intends to dedicate less than 2% of the gross floor area for the display of beer and wine and have implement internal training and controls for its employees to ensure responsible sales.

### **Public Convenience or Necessity**

First, it is important to emphasize that Business & Professional Code § 23958.4 requires a positive finding of public convenience *“or”* necessity in order for an off-sale ABC application to be approved. Thus it is legally sufficient if 99 Cents Only shows *either* public convenience *or* public necessity. It is *not* legally necessary to show both.

Second, it is only necessary to show public convenience or necessity where there is an “undue concentration” of licensees in the census tract. The term “undue concentration” (also referred to as “over concentration”) is specifically defined in Business and Professional Code § 23958.4 as simply a ratio of *the number of licenses in a census tract* compared to *the average number of licenses in a County*, as a whole. It does *not* mean that a particular census tract necessarily has too many licenses for the needs or convenience of residents in that tract.

“Over Concentration” also does not mean that the State, or anyone else, has previously looked at this census tract and determined that it has suffered any deleterious effects from the actual number of licenses existing; or that it will suffer if a new license is issued. It merely provides a guideline for making such a determination, in the form of determining whether in a particular situation, the ABC license would serve the “public convenience or necessity”.

It is also important to understand that Census Tract are “zoning blind”. Hence, many census tracts that contain a lot of commercially zoned property have an “over concentration” state while census tracts with mostly residentially zoned property do not have an “over concentration”.

Thus the fact that the census tract in which this store is located is statutorily “over concentrated” does not mean that selling a small amount of alcoholic beverages at a grocery/consumer goods store will have adverse impacts. Rather, it simply means that either public convenience or public necessity will be served by the sale of alcoholic beverages at this site.

### **Basis For Supporting Off-Site Alcoholic Beverage Sales As An Integral Part Of The Store**

#### **Company Overview**

99 Cents Only Stores is a unique retailer of primarily name-brand groceries and consumable general merchandise. They have always delivered great value to customers and provide an exciting primary shopping destination for price-sensitive consumers. The stores are attractively merchandised, clean, full service “destination” locations that offer customers significant value on their everyday household needs.

From the first store opening in 1982, 99 Cent Only Stores has expanded to nearly 400 extreme value retail stores with over 50% grocery items including fresh produce and bread. 99 Cents Only buys directly from almost every major name-brand grocery and consumer goods manufacturer in the nation including 3M, Cadbury Adams, Campbell’s, Church & Dwight, Coca-Cola, Colgate-Palmolive, Con Agra, Del Monte, Dial, Dole, Energizer, Frito Lay, General Mills, Hasbro, Heinz, Hershey Foods, Johnson & Johnson, Kellogg’s, Kraft, Masterfoods, Nestle, Procter & Gamble, Quaker, Revlon, Unilever and Wrigley.

## **Security and Control:**

99 Cents Only is committed to taking all feasible steps to address law enforcement concerns about the site. In addition, 99 Cents Only has an extensive employee-training program and is a responsible retailer of alcoholic beverages. With nearly 300 stores, 99 Cents Only is recognized as one of the largest grocery and consumer goods chains in California. It certainly has the resources to be a responsible retailer of all types of goods and especially of alcoholic beverages. Moreover, the sale of alcoholic beverages is not the primary purpose.

99 Cents Only stores are designed to provide a safe environment for patrons and employees. Some of the design elements of the store that facilitate a safe and pleasurable shopping experience include adequate lighting levels both on the interior and exterior of the store, employee supervision of the facility, closed circuit video monitoring system with cameras located strategically throughout the property, and careful window signage and landscaping placement to avoid obstruction of visibility into and out of the facility.

99 Cents Only understands the importance of maintaining the appearance of a store to both expand their customer base and prevent criminal activity and is committed to a store that allows for safe family oriented shopping. 99 Cents Only recognizes the seriousness of loitering, delinquency, crime, and underage drinking. They have developed stringent operational standards and training programs for employees involved with selling of alcoholic beverages. Furthermore, 99 Cents Only is open to operating conditions that the police department considers appropriate to ameliorate any concerns that do exist.

## **Statement of Justification for Finding of Public Convenience or Necessity**

### **1. That the use is essential or desirable to the public convenience and public welfare.**

The proposed availability of alcohol with the sale of staple groceries such as: fruits and vegetables, milk, juice, eggs, bread, cereal, coffee, soup, pasta, sodas as well as consumer products such as tooth paste, soap, detergent and paper towels allows customers to have readily available products in one location where they would otherwise be obliged to travel to other locations to further purchase their items; thus the establishment of off-site alcoholic beverage sale serves a public convenience.

### **2. That the granting the permit will not be materially detrimental to the public welfare and to other property in vicinity.**

The proposed sale of alcohol would not be detrimental to the public health, safety or welfare because the store has been designed as safe family oriented shopping with all windows facing the street and parking lot allowing for motorists and patrons outside the store a direct view inside the store; cashiers are located near the entrance of the store; and security cameras are placed throughout the interior and exterior. Furthermore, the store is primarily for the sales of staple groceries and consumer products and the sale of alcohol is incidental and in conjunction with the sale of such items. Additionally, the convenience of a wide variety of groceries and consumer products in one location promotes the general welfare. Furthermore, this operation will have general conditions to limit nuisance behavior associated with sales of alcohol.

### **3. That the use conforms to good zoning practices and development standards.**

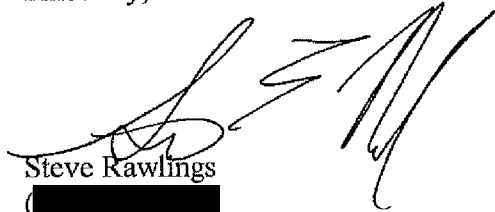
The store is located within a commercial zone. Locating grocery stores in retail commercial zones on major thoroughfares is consistent with good community development practices and standards.

**4. That the use is not contrary to any of the objectives of any part of the adopted General Plan**  
Alcohol sales for off-site consumption within a grocery store is consistent with the City's General Plan by providing a product that serves to provide the full spectrum of commercial needs for a community commercial retail center.

We respectfully request an approved finding of Public Convenience or Necessity for this store. If there is any additional information you need to process this request, please contact me.

Thank you for your time and consideration of our request.

Sincerely,



Steve Rawlings

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