



CITY COUNCIL AGENDA REPORT

MEETING DATE: MAY 17, 2005

ITEM NO:

**SUBJECT: ABC LICENSE FOR RITE AID
211 EAST 17TH STREET**

FROM: DEVELOPMENT SERVICES DEPARTMENT – PLANNING DIVISION

PRESENTATION BY: WENDY SHIH, ASSOCIATE PLANNER

FOR FURTHER INFORMATION CONTACT: WENDY SHIH, ASSOCIATE PLANNER (714)754-5136

RECOMMENDATION

Make the necessary finding of “public convenience” for a premise-to-premise transfer of an existing type 21 (off-sale general) ABC license from 233 East 17th Street to 211 East 17th Street.

BACKGROUND

The subject property is located on the southeast corner of Orange Avenue and East 17th Street. Rite Aid will vacate their present location at 233 East 17th Street and relocate to a new corner location at 211 East 17th Street. The project is currently in plan check for interior and façade improvements, as well as a new drive-thru. The applicant has applied for a premise-to-premise transfer of their type 21 ABC license, which allows the sale of a full range of alcoholic beverages.

DISCUSSION

A determination of public convenience or necessity is required by the State for this license transfer, since the census tract exceeds the ratio of off-sale licenses to population as determined by the State (2 licenses allowed; 9 existing). However, the census tract and store are not located within a high crime area. (High crime area is defined as exceeding the City-wide average crime rate by more than 20 percent.)

The Rite Aid locations (existing and new) are located within the same census tract, same shopping center, and share a parking lot. Therefore, the premise-to-premise transfer would not increase the existing number of licenses in this census tract. Since the proposed use is a retail/drugstore over 10,000 square feet, alcohol sales will be an ancillary use and should not have the security problems sometimes associated with liquor “only” type stores. The Costa Mesa Police Department has reviewed this ABC license application and recommends approval of the license transfer.

FISCAL REVIEW

Fiscal review is not required.

LEGAL REVIEW

Legal review is not required.

ENVIRONMENTAL REVIEW

Environmental review is not required.

ALTERNATIVES

If the City Council decides not to make the necessary finding, Rite Aid could not transfer the license and could not sell alcoholic beverages at 211 East 17th Street.

CONCLUSION

The applicant requests Council make a finding of "public convenience or necessity" for Rite Aid to transfer their license to another building within the same shopping center and census tract. The number of off-sale ABC licenses within the census tract would remain unchanged.


WENDY SHIH
Associate Planner


DONALD D. LAMM, AICP
Deputy City Mgr. – Dev. Svs. Director

Attachments: Location Map
 License application
 Input from Police Department and ABC

Distribution: City Manager
 City Attorney
 City Clerk (2)
 Staff (4)
 File (2)

 Thrifty Payless, Inc.
 P.O. Box 3165
 Harrisburg, PA 17105

File: 051705ABC211E17th	Date: 050205	Time: 850 a.m.
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LOCATION MAP

211 East 17th Street



Legend

- Street Names
- Parcel Lines
- City Boundary
- Ortho Photography



APPLICATION FOR ALCOHOLIC BEVERAGE LICENSE(S)

ABC 211 (6/99)

TO: Department of Alcoholic Beverage Control
28 Civic Center Plaza, Room 369
Santa Ana, CA 92701
(714) 558-4101

File Number: 425472
Receipt Number: 1512502
Geographical Code: 3004
Copies Mailed Date: April 22, 2005
Issued Date:

RECEIVED
CITY OF COSTA MESA
DEVELOPMENT SERVICES DEPARTMENT

APR 25 2005

DISTRICT SERVING LOCATION: SANTA ANA
First Owner: THRIFTY PAYLESS INC
Name of Business: RITE AID #5733
Location of Business: 211 E 17TH ST
COSTA MESA, CA 92627
County: ORANGE

Census Tract 0633.01

Is premise inside city limits? Yes
Mailing Address: P O BOX 3165
HARRISBURG, PA 17105
(If different from premises address)

Type of license(s): 21

Transferor's license/name: 56632 / THRIFTY PAYLES Dropping Partner: Yes No [checked]

Table with 7 columns: License Type, Transaction Type, Fee Type, Master, Dup, Date, Fee. Row 1: 21 OFF-SALE GENERAL, PREMISE TO PREMISE TRANS, NA, Y, 0, 04/18/05, \$100.00. Row 2: Total, \$100.00.

Have you ever been convicted of a felony? No
Have you ever violated any provisions of the Alcoholic Beverage Control Act, or regulations of the Department pertaining to the Act? Yes
Explain any "Yes" answer to the above questions on an attachment which shall be deemed part of this application.

Applicant agrees (a) that any manager employed in an on-sale licensed premise will have all the qualifications of a licensee, and (b) that he will not violate or cause or permit to be violated any of the provisions of the Alcoholic Beverage Control Act.

STATE OF CALIFORNIA County of ORANGE Date: April 18, 2005

Under penalty of perjury, each person whose signature appears below, certifies and says: (1) He is an applicant, or one of the applicants, or an executive officer of the applicant corporation, named in the foregoing application, duly authorized to make this application on its behalf; (2) that he has read the foregoing and knows the contents thereof and that each of the above statements therein made are true; (3) that no person other than the applicant or applicants has any direct or indirect interest in the applicant or applicant's business to be conducted under the license(s) for which this application is made; (4) that the transfer application or proposed transfer is not made to satisfy the payment of a loan or to fulfill an agreement entered into more than ninety (90) days preceding the day on which the transfer application is filed with the Department or to gain or establish a preference to or for any creditor or transferor or to defraud or injure any creditor of transferor; (5) that the transfer application may be withdrawn by either the applicant or the licensee with no resulting liability to the Department.

Applicant Name(s) THRIFTY PAYLESS INC Applicant Signature(s) See 211 Signature Page

211-A, & 211 Sig attached

DEVELOPMENT SERVICES DEPARTMENT
Planning Division
ABC Licensing Inquiry

TO: Dale Bimey FROM: Wendy Shih (714) 754-5136
Police Department Development Services

Date: April 28, 2005 Return by: _____

Subject address: 211 E. 17th Street Type of License: 21 - off-sale

Name of previous business: Gateway Country Stores

Name of new business: Rite Aid (transferring from 233 E. 17th Street)

Proposed transaction:
Person-to-person transfer Premise-to-premise transfer Original license

Please research and supply the following information:

- Total number of incidents/calls for service related to this business in the last 12 months: → 2
- Are these incidents/calls higher or lower than the average number for such businesses city wide? → LOWER
- Do you consider this to be a "problem business"? Yes or No? →
If Yes, briefly describe the nature of the problem: _____

- Do you recommend approval of the license/transfer? Yes or No? →
If No, please explain: _____

Officer: (extension no. _____)

Chief of Police: 

Page 1 of **Concurrence by Chief Hensley**

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FAX

City of Costa Mesa
Development
Services
Department

Date 4/28/05

Number of pages including cover sheet: 1

TO: Beth Goldberg
ABC
RE: # 425472 (Rite Aid)
Phone 714.558.4101
Fax Phone 714.953.4486

FROM: Wendy Shih
Planning Division
P.O. Box 1200
Costa Mesa, CA 92628-1200
Phone 714.754.5136
Fax Phone 714.754.4856

REMARKS: Per your request For your information Please reply by **May 3, 2005** Please call with any questions

Beth - can you let us know the following:

1. Is the property in an over-concentrated area of off-sale licenses? *yes*
2. If applicable, in this census tract, how many licenses are allowed and how many are existing? *2 allowed, 9 EXISTING*
3. Who is the investigator responsible for this project and what is his/her phone number? *J. Schirer 714-558-4960*
4. The application indicates that the applicant has violated provision of the ABC Act and/or provisions of the act. Could you let me know what the violation was?
SALE TO MINOR VIOLATORS SETTLED WITH PAYMENT.