



**SOLOMON SALTSMAN & JAMIESON**

A Partnership of Professional Corporations  
426 Culver Boulevard | Playa Del Rey, CA 90293  
Telephone: 310.822.9848 | Facsimile: 310.822.3512  
Toll Free: 800.405.4222  
www.ssjlaw.com

**Stephen Jamieson**

Partner  
email: [sjamieson@ssjlaw.com](mailto:sjamieson@ssjlaw.com)

July 22, 2022

**Via Email Only:** [Clerk.PCN@LACity.Org](mailto:Clerk.PCN@LACity.Org)

City Council  
c/o City Clerk's Office  
City of Los Angeles  
200 N. Spring Street, Rm. 360  
Los Angeles, CA 90012

**RE: Whole Foods Market / 1050 South Gayley Avenue / Case No. ZA-2021-6928-CUB  
Application for Determination of Public Convenience or Necessity Pursuant to Business and  
Professions Code Section 23958.4 for Type 21 Alcoholic Beverage Control ("ABC") License**

Dear Honorable City Council:

My office represents the Applicant for the Determination of Public Convenience or Necessity. Whole Foods Market respectfully requests that the City of Los Angeles issue a Determination of Public Convenience or Necessity for the sale of a full line of alcoholic beverages for off-site consumption located at the above-mentioned address. Please note that we are concurrently filing the formal application for a Determination of Public Convenience or Necessity (Caldera bill) while emailing this letter and its supporting documents. Please be so kind as to put all of this together with the application we are filing today.

This Whole Foods market has been selling alcohol at this location for 20 years selling just beer and wine without incident. The current application is simply to add distilled spirits to the product mix. It has the support of the Neighborhood Council, the Council District, and there is a letter of non-opposition from the LAPD.

The Applicant has already obtained its Conditional Use Permit Beverage (CUB), issued May 19, 2022, approving the request to allow the sale of a full line of alcoholic beverages of off-site consumption. A copy of the ZA's Letter of Determination is enclosed herein for ease of reference. Thus, there has been a great deal of support for this grocery store to sell a full line of alcoholic beverages for off-site consumption, and the project has been fully vetted.

Prior to seeking this Conditional Use Permit, the Applicant conducted extensive outreach within the community. The Applicant met with the North Westwood Neighborhood Council, and the Council expressed its support for the CUB.

The West Los Angeles Area of the Los Angeles Police Department was also asked to consider this application. The LAPD issued its supportive letter of non-opposition.

## **Project Description**

As described in the Letter of Determination CUB issued for this site, the existing Whole Foods Market grocery is located in the C4-2D-O Zone, the Westwood Community Plan, the Westwood Village Specific Plan, the Westwood Community Design Review Board Specific Plan, and the West Los Angeles Transportation Improvement and Mitigation Specific Plan. As set forth in the CUB Letter of Determination, the project will uphold the goals and policies laid forth by the General Plan, Community Plan, and Specific Plan, therefore conforming to the purpose, intent, and provisions of the applicable portions of the General Plan, Community Plan, and Specific Plan.

Whole Foods Market will continue to offer organic, natural, and health food products in which the grocery store operator specializes, and will feature meat and deli departments, an in-store baker, and kitchen. The sale of alcoholic beverages will continue to be ancillary to the supermarket use.

The subject property is located within Census Tract 2652.04, which currently has five (5) active Off-Site ABC licenses. The California Department of ABC allocates zero (0) Off-Site ABC Licenses within Census Tract 2652.04.

Business and Professions Code Section 23958.4 is sometimes misconstrued as permitting only a certain number of ABC licenses in a particular area. But such a construction ignores the fact that a condition of undue concentration may exist, as in this case, because of good planning and zoning, not in spite of it. The term "undue concentration" is specifically defined in Business and Professions Code Section 23958.4 as simply a ratio of the number of licenses in a particular census tract based upon its population. It does not mean that this particular census tract necessarily has too many licenses for the needs or convenience of the community.

Because the undue concentration statistics are determined by the number of people living in the census tract, which in this case the property is zoned C4 Commercial, the undue concentration ratio is often exceeded because a census tract is composed of commercial zones, which are intended to have low population figures and a high number of businesses, including those that sell alcoholic beverages. Thus, as the result of thoughtful planning design, a census tract, such as the one here, will be statutorily overconcentrated because the City intended to have a concentration of businesses in the area with minimal residences. However, since the Applicant already has a Type 20 ABC License and simply requests to exchange the current Type 20 for a Type 21, there would be no net increase in the theoretical off-sale License count allowed by the population.

The sale of a full line of alcoholic beverages is incidental to the products and services offered by this store, but is a vital aspect of this use, which will serve the public convenience or necessity through its offering of a variety of products to the local community. The proposed store will be compatible with the surrounding properties and uses. This project and the operational characteristic of a market is consistent with the pattern of commercial uses in the immediate vicinity and will not be detrimental to the properties in the immediate vicinity as the store will operate with due regard for the adjacent uses.

As such, the proposed store's location, size, height, operations and other significant features are compatible with, and do not adversely affect or further degrade, adjacent properties and the surrounding neighborhood.

**The Public Convenience or Necessity Will be Served by the Issuance of a Type 21 ABC License at this Location**

Whole Foods will provide unique opportunities not otherwise available in this geographic area. This grocery store meets public convenience or necessity demand for both food products and a small selection of household goods and personal care items, including a full line of interesting and desired alcoholic beverages that are unavailable at other stores.

While the legal standard is public convenience *or* necessity, this location actually meets both public convenience *and* necessity. The success of this store depends upon its ability to provide a wide range of goods and services that customers have come to expect from retailers, including alcoholic beverages, along with everyday household food and supplies. The request for the sale of off-site alcoholic beverages for this store represents a relatively small, albeit very important, portion of the overall store sales; and, it is crucial to the overall product offering to ensure returning customers, the viability of the store, and in providing the convenience and necessities to the community.

This store will include an amount of alcohol as appropriate and compatible with existing uses and will not have an adverse impact on these uses or any nearby residential uses. The proposed use is, therefore, not an unusual offering in this urban, commercial retail area. Further, the store is beneficial with respect to the general welfare because it will increase the economic viability of the community in which it is located. The addition of a full line of alcoholic beverages for off-site consumption will improve the surrounding commercial retail uses, attract local residents, and serve the convenience or necessities of this community.

**Conclusion**

As set forth above, there is good basis for, and it is respectfully requested that the City of Los Angeles City Council make a finding with respect to the California Business and Professions Code section 23958 and 23958.4 that the issuance of a Type 21 Alcoholic Beverage Control license for the off-site sale of alcoholic beverages will serve the Public Convenience or Necessity of this community.

Thank you for your consideration.

Very truly yours,

SOLOMON SALTSMAN & JAMIESON



STEPHEN JAMIESON

Licensed in California, Wisconsin, and Michigan

cc: Client (via email only)  
Councilmember Paul Koretz (via email only)