

RESOLUTION NO. 2019-_____

**A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF
DESERT HOT SPRINGS MAKING FINDINGS OF PUBLIC
CONVENIENCE OR NECESSITY FOR ISSUANCE OF A TYPE 21 (OFF-
SALE, GENERAL) ALCOHOLIC BEVERAGE CONTROL LICENSE FOR
THE GROCERY OUTLET MARKET LOCATED ON APN 656-020-034, IN
THE CITY OF DESERT HOT SPRINGS, CALIFORNIA**

WHEREAS, the City of Desert Hot Springs ("City") is a charter city and a political subdivision of the State of California; and

WHEREAS, Best Development, Inc., the "Applicant," has filed a Conditional Use Permit application with the City, as the Applicant desires to sell beer, wine and/or distilled spirits at the "Grocery Outlet" located on APN 656-020-034 ("Subject Property"), within the City of Desert Hot Springs, California; and

WHEREAS, the California Department of Alcoholic Beverage Control ("ABC") requires a "Type 21" (Off-Sale General) ABC license for such use, which allows the sale of beer, wine, and distilled spirits for consumption off the premises where sold and minors are allowed on the premises; and

WHEREAS, Applicant has applied for an ABC Type 21 license to sell beer, wine, and distilled spirits for consumption off the premises for the Subject Property; and

WHEREAS, pursuant to Section 23958 of the State of California Business and Professions Code, the ABC is required to "...deny an application for a license if issuance of that license would tend to create a law enforcement problem, or if issuance would result in or add to an undue concentration of licenses, except as provided in Section 23958.4"; and

WHEREAS, Section 23958.4(b)(2) of the State of California Business and Professions Code provides that ABC may issue a license if the local governing body of the area in which the applicant premises are located...determines within 90 days of notification of a completed application that public convenience or necessity would be served by the issuance; and

WHEREAS, notice of a public hearing of the Planning Commission of the City of Desert Hot Springs ("Planning Commission") to consider the application was given in accordance with the City's Zoning Ordinance and applicable law; and

WHEREAS, on March 12, 2019, a public hearing on the requested application was held by the Planning Commission and the Planning Commission voted to approve; and

WHEREAS, on March 12, 2019, a public hearing on the requested application was held by the Planning Commission and the Planning Commission made a finding of public convenience or necessity for issuance of a Type 21 (Off-Sale General) ABC liquor license; and

WHEREAS, the Planning Commission carefully considered the staff report, all of the information, evidence, together with oral and written testimony presented at the public hearing and made findings of public convenience or necessity that: 1) the Grocery Outlet is a discount market that provides affordable groceries for the neighborhood; 2) the proposed store will operate as a typical grocery store destination for residents of the City to purchase products and necessities for everyday use, with alcoholic beverage sales being a small percentage of business activity; 3) the Conditions of Approval imposed on the project will ensure that the sale of alcoholic beverages will be carefully controlled; and 5) Grocery Outlet will operate in a professional and orderly manner and is considered a good business citizen.

NOW THEREFORE, the Planning Commission of the City of Desert Hot Springs does hereby resolve as follows:

Section 1. Recitals

That the foregoing recitals are true and correct and made a part of this Resolution.

Section 2. Environmental Findings, Conclusions and Determinations

That pursuant to Section 15072 of the California Environmental Quality Act (CEQA) Statutes & Guidelines, an Initial Study/Draft Mitigated Negative Declaration has been prepared for the project described herein. This Initial Study was undertaken for the purpose of deciding whether the project may have a significant effect on the environment. On the basis of the Initial Study, City staff has concluded that the project will have a significant effect on the environment, but that mitigation measures imposed will reduce impacts to less than significant levels and has therefore prepared a Mitigated Negative Declaration. The Initial Study has been accepted by the City and reflects the independent judgement of the City. The site is not known to be on the Hazardous Waste list complied pursuant to Government Code Section 65962.5

Section 3. Findings of Public Convenience or Necessity

That the Planning Commission finds and determines that public convenience and necessity would be served by the issuance of a Type 21 ABC License for the following reasons: 1) the Grocery Outlet is a medium-sized Coachella Valley business that will provide discount groceries for the southern areas in the city and unincorporated areas of the County; 2) the proposed Grocery Outlet will operate as a typical grocery store destination for residents of the City to purchase products and necessities for everyday use, with alcoholic beverage sales being a small percentage of business activity; 3) the Grocery Outlet intends to add an alcoholic beverage selection to provide a convenience

to shoppers who patronize the store for other items; 4) the Conditions of Approval imposed on the project will ensure that the sale of alcoholic beverages will be carefully controlled; and 5) the Grocery Outlet will operate in a professional and orderly manner and is considered a good business citizen.

Section 4. Severability.

That should any provision, section, paragraph, sentence or word of this Resolution be rendered or declared invalid by any final court action in a court of competent jurisdiction or by reason of any preemptive legislation, the remaining provisions, sections, paragraphs, sentences or words of this Resolution as hereby adopted shall remain in full force and effect.

Section 5. Repeal of Conflicting Provisions

That all the provisions heretofore adopted by the Planning Commission that are in conflict with the provisions of this Resolution are hereby repealed.

Section 6. Effective Date

That this Resolution shall take effect upon the adoption and approval by the Planning Commission of Resolution.

Section 7. Passage and Adoption

That the City Clerk shall certify to the passage and adoption of this Resolution; shall enter the same in the book of original Resolutions of the City of Desert Hot Springs; and shall make a minute of passage and adoption thereof in the records of the proceedings of the Planning Commission of the City of Desert Hot Springs, in the minutes of the meeting at which the same is passed and adopted.

(Record of vote and signatures on following page.)

PASSED AND ADOPTED by the Planning Commission of the City of Desert Hot Springs at a regular meeting held on the 12th day of March, 2019, by the following vote:

AYES,

NAYS,

ABSENT,

ABSTAINING,

ATTEST:

APPROVED:

Jerryl Soriano, CMC, City Clerk

Larry Buchanan, Chairman of the
Planning Commission

APPROVED AS TO FORM:

Jennifer A. Mizrahi, City Attorney