



## City Council

## Staff Report

---

TO: Honorable Mayor and City Council

FROM: John Jansons, City Manager *JJ*

DATE: October 24, 2016

SUBJECT: Consider request for a Letter of Public Convenience or Necessity for Transfer of a Type 21 Off-Sale General Alcohol License for Rite Aid located at 1710 N. Farmersville Blvd.

---

**RECOMMENDED ACTION:**

- 1) It is respectfully recommended that the City Council approve the request for a Letter of Public Convenience or Necessity supporting transfer and establishment of a Type 21 Off-Sale General Liquor license for Rite Aid Corporation located at 1710 N. Farmersville Blvd., and
- 2) Authorize the City Manager to execute ABC 245 Part 3 - indicating City Council approval.

**BACKGROUND and DISCUSSION:**

Rite Aid Corporation has requested the City's approval in support of the transfer and establishment of a Type 21 Off-Sale General Liquor license for Rite Aid Corporation located at 1710 N. Farmersville Blvd.

The Department of Alcoholic Beverage Control (ABC) has advised City staff and the applicant that the City is at an over concentration for off-sale alcohol sales licenses within Census Tract 14 in which the new Rite Aid Pharmacy/Drug Store has opened.

Under Business and Professions Code (B&PC) Section -23958.4, the new license application must be denied unless the governing body of the jurisdiction, the City Council, declares under Sections 23958 and 23958.4 B&PC that there is a "Public Convenience or Necessity" (PCN) that would be served by granting the license.

The applicant contacted City staff and asked that the City Council consent to their request for a license transfer and approval (Attachment 1). Rite Aid has paid the \$1,000 processing fee to the City.

In July of this year, Rite Aid Corporation requested and received approval from the City Council for a letter of PCN in support of their application to ABC for a Type 20 (beer and wine) license at

this location. At that time, Rite Aid indicated that they would be seeking an upgraded license in the near future to support the success of the new store.

**COORDINATION & REVIEW:**

The recommendation to support the issuance of a liquor license for Rite Aid and been coordinated with and reviewed by planning staff and the Police Department.

**FISCAL IMPACT:**

Expanding alcohol sales will increase sales tax received by the City from this business and is critical to increasing overall at this store.

**CONCLUSION:**

- 1) It is respectfully recommended that the City Council approve the request for a Letter of Public Convenience or Necessity supporting transfer and establishment of a Type 21 Off-Sale General Liquor license for Rite Aid Corporation located at 1710 N. Farmersville Blvd., and
- 2) Authorize the City Manager to execute ABC 245 Part 3- indicating City Council approval.

**Attachment(s): 1 – Request for Letter of Public Convenience & Necessity**

**Recommended By:**

  
\_\_\_\_\_  
John Jansons, City Manager



MAILING ADDRESS  
P.O. Box 3165  
Harrisburg, PA 17105

GENERAL OFFICE  
30 Hunter Lane  
Camp Hill, PA 17011

717.761.2633

(Via Fed Ex/E-mail [jjansons@cityoffarmersville-ca.gov](mailto:jjansons@cityoffarmersville-ca.gov))

October 10, 2016

Attn: Mr. John Jansons  
City of Farmersville  
909 W Visalia Road  
Farmersville, CA 93223

RE: Thrifty Payless Inc.  
DBA Rite Aid # 6764  
1710 N Farmersville Blvd  
Farmersville, CA 93223-2306  
Request of Letter of Public Convenience or Necessity

Mr. Jansons:

As you are aware, we intend to open the above referenced Rite Aid store on or about October 20, 2016, and have sent an application to the CA Department of Alcoholic Beverage Control (ABC) for a Type 21 Off-Sale General license for this site.

Our newly constructed store at 1710 N Farmersville Blvd, is in census tract 14. The ABC has informed us that census tract 14 has an over concentration alcohol licenses and is requiring us to obtain a Letter of Public Convenience or Necessity from the City of Farmersville.

Accordingly, enclosed please find the following:

- Statement of Public Convenience or Necessity. Upon review, please schedule our requested for the next City Council Meeting as agreed. Upon City Council's approval of our request, and in addition to any letters of Public Convenience or Necessity issued by the city.
- Please complete and sign Part 3 of the enclosed ABC 245 and return it to the attention of Noelle Taylor, Rite Aid Corporation, 30 Hunter Lane, Camp Hill, PA 17011.
- A business check for \$1000 made payable to (City of Farmersville).

If you have any questions or require additional information please contact me at (717) 214-8514 or via email at [ntaylor@riteaid.com](mailto:ntaylor@riteaid.com).

Thank you for your assistance.

Sincerely,

A handwritten signature in cursive script that reads "Noelle Taylor".

Thrifty Payless Inc.  
Noelle Taylor  
Licensing Supervisor

**Thrifty Payless Inc's Statement Regarding  
Public Necessity and Convenience - Rite Aid #6764**

Thrifty Payless, Inc intends to relocate Rite Aid #6764 from its current location at 650 E Visalia Road, Farmersville, CA to a newly constructed free-standing building with approximately 10,000 sq ft of space located at 1710 N Farmersville Boulevard, Farmersville, CA.

A significant rationale for construction the new building is to maximize convenience to local shoppers by facilitating a 'one-stop' shopping experience. As such, in addition to a broad array of household goods and health and beauty aids in our general merchandise sections; we intend to operate the following departments:

- Pharmacy
- Pre-Packaged Food & Drink
- One Hour Photo
- Alcoholic Beverages

We will also seek to make shopping at the location more convenient to our patrons by offering ample parking at the free-standing location, and for our pharmacy customers, by offering a drive through. We also will have a more secure store with full camera and taping systems which will help secure the alcoholic beverages.

Additionally, Thrifty Payless Inc responsibly operates several hundred other licensed premises within California. Our experience helps mitigate sales to minors, loitering and other unwanted effects sometimes associated with the sale of alcoholic beverages. Vending machines and coin operated machines are also prohibited.

In summary, by making responsible sales of alcoholic beverages from an attractive new building that is designed to maximize customer service; Rite Aid #6764 will actually enhance public convenience and necessity.

We respectfully request that the City of Farmersville issue a Letter of Public Necessity and Convenience for the new location at 1710 N Farmersville Boulevard, Farmersville, CA.

APPLICATION FOR ALCOHOLIC BEVERAGE LICENSE(S)

ABC 211 (6/99)

TO: Department of Alcoholic Beverage Control
3640 EAST ASHLAN AVE
FRESNO, CA 93726
(559) 225-6334

File Number: 575234
Receipt Number: 2389820
Geographical Code: 5408
Copies Mailed Date: October 5, 2016
Issued Date: Issuance

DISTRICT SERVING LOCATION: FRESNO

First Owner: THRIFTY PAYLESS INC
Name of Business: RITE AID #6764
Location of Business: 1710 N FARMERSVILLE BLVD
FARMERSVILLE, CA 93223-2306

Rec'd
10-11-16

County: TULARE

Is Premise inside city limits? Yes Census Tract 0014.00

Mailing Address: 2600 CAPITOL AVE
(If different from STE 300
premises address) SACRAMENTO, CA 95816-5930

Type of license(s): 21

Transferor's license/name: 552069 / DAKHIL, MOUNIB MIKHAIL Dropping Partner: Yes No

Table with 7 columns: License Type, Transaction Type, Fee Type, Master, Dup, Date, Fee. Rows include Off-Sale General, ANNUAL FEE, PREMISE TO PREMISE TRANSFER, PERSON-TO-PERSON TRANSFER, and a Total row.

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? No

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 premises 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 TULARE

Date: October 5, 2016

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.

Effective July 1, 2012, Revenue and Taxation Code Section 7057, authorizes the State Board of Equalization and the Franchise Tax Board to share taxpayer information with Department of Alcoholic Beverage Control. The Department may suspend, revoke, and refuse to issue a license if the licensee's name appears in the 500 largest tax delinquencies list. (Business and Professions Code Section 494.5.)

Applicant Name(s)

Applicant Signature(s)

THRIFTY PAYLESS INC

See 211 Signature Page

Department of Alcoholic Beverage Control  
California  
**INVESTIGATION CHECKLIST**

State of

[www.abc.ca.gov](http://www.abc.ca.gov)

Instructions to Applicant(s):

Thank you for filing your application. The application will be assigned to a representative for investigation. After the application is initially reviewed, the representative will notify you if additional information is necessary for the investigation. **Failure to respond to the requests for additional information will be considered an abandonment of the application and it will be administratively withdrawn.** The items needed for our investigation are check below. Please furnish them to this office as soon as possible to avoid delays or denial of your application. When completing forms, print in ink or type. For questions or help, please call and ask to speak with your assigned investigator or licensing representative at (559) 225-6334.

DATE:
<u>October 5, 2016</u>
LICENSE TYPE & NUMBER:
<u>21-575234 JE</u>

- Post your premises with Form ABC-207, Public Notice...(white poster), or ABC-207B, Public Notice...(yellow poster). Your 30-day statutory waiting period begins when you post the notice. Make sure to date the notice.
- ABC-293, Affidavit of Posting - Sign, date and return.
- ABC-207-A, Notice of Application - Publish one time in a newspaper of general circulation in the city where the licensed premises will be located. If none, publish in a newspaper of general circulation in the city nearest the premises.
- ABC-207-C, Notice of Application to Sell Alcoholic Beverages - Publish once a week for three consecutive weeks. Publish in a newspaper of general circulation in the city where the licensed premises will be located. If none, publish in a newspaper of general circulation in the city nearest the premises.
- ABC-207-D, Notice of Application for Change in Ownership of Alcoholic Beverage License - Publish one time in a newspaper of general circulation in the city where the licensed premises will be located. If none, publish in a newspaper of general circulation in the city nearest the premises.
- ABC-528, Instructions to Applicants...Section 23985.5, 500' law.
- ABC-207-E, Notice of Intention to Engage in the Sale of Alcoholic Beverages - Mail to certain addresses within 500' of the premises. Follow instructions on Form ABC-528.
- ABC-207-F, Declaration of Service by Mail (Section 23985.5, 500' law). Complete, sign, date and return to ABC with a copy of the ABC-207-E.
- Copy of Conditional Use Permit - Obtain from your city or county planning department.
- ABC-208-AB, Individual Personal/Financial Affidavit - The following person(s) must complete the form:
- LiveScan (fingerprints) for the following person(s) - Please provide second copy of BCII 8016 signed by Live Scan operator:
- Re-record and provide certified copy of ABC-227 or ABC-227-A, Notice of Intended Transfer, to include corrections:
- ABC-245, Information and Instructions re: Section 23958.4 (Public Convenience or Necessity).
- ABC-282, Declaration re Temporary Permit - Required if applicant is not available to sign ABC-280, Temporary Retail Permit.
- ABC-283, Information Concerning Temporary Permit - Information only, please read.



Department of Alcoholic Beverage Control  
**ACKNOWLEDGMENT OF ABC  
LAWS, RULES AND/OR REGULATIONS**

State of California  
EDMUND G. BROWN JR., Governor

DATE
10/05/2016
DISTRICT OFFICE
Fresno

LICENSEE/APPLICANT NAME (Print)
THRIFTY PAYLESS INC

BUSINESS NAME (DBA)	PREMISES ADDRESS (Street number and name, city, zip code)
RITE AID #6764	1710 N FARMERSVILLE BLVD FARMERSVILLE, CA 93223-2306

LAWS AND RULES GIVEN

- On - Sale Impact Booklet
- Off - Sale Impact Booklet
- ABC - 526 Instruction to On-Sale License Applicants
- ABC - 530 Instruction to Off-Sale License Applicants
- ABC - 546-A Notice to Licensees Concerning Drug Paraphernalia; Section 24200.6
- ABC - 608 Quick Summary of Selected Laws for Retail Licensees
- ABC - 617 Signage Requirements & Ideas for Retail Licensees
- ABC - 140 Certification Re Chapter 16 Tied-House Restrictions
- Section 23405 (Corporations) & 23405.3 (Change in ownership)
- Section 23405.2 (LLC) & 23405.3 (Change in ownership)
- Section 23405.1 (LP) & 23405.3 (Change in ownership)

On the above date, I was given copies of the laws and rules listed on this form by the Department of Alcoholic Beverage Control.

I understand any violation of these laws or rules, or any other laws or rules not specifically listed herein that apply to my license, by me, or my agents or employees, could result in disciplinary action being filed against my alcoholic beverage license(s).

LICENSEE/APPLICANT SIGNATURE	DATE SIGNED

Department of Alcoholic Beverage Control

State of California  
Edmund G. Brown Jr., Governor

**INFORMATION AND INSTRUCTIONS -**  
**SECTION 23958.4 B&P**

- Instructions This form is to be used for all applications for original issuance or premises to premises transfer of licenses.
- Part 1 is to be completed by an ABC employee, given to applicant with pre-application package, with copy retained in holding file or applicant's district file.
  - Part 2 is to be completed by the applicant, and returned to ABC.
  - Part 3 is to be completed by the local governing body or its designated subordinate officer or body, and returned to ABC.

**PART 1 - TO BE COMPLETED BY ABC**

1. APPLICANT'S NAME

THRIFTY PAYLESS INC

2. PREMISES ADDRESS (Street number and name, city, zip code)

1710 N FARMERSVILLE BLVD FARMERSVILLE, CA 93223-2306

3. LICENSE TYPE

21

4. TYPE OF BUSINESS

- |   |  |  |  |
|---|--|--|--|
| <input type="checkbox"/> Full Service Restaurant                | <input type="checkbox"/> Hofbrau/Cafeteria | <input type="checkbox"/> Cocktail Lounge     | <input type="checkbox"/> Private Club      |
| <input type="checkbox"/> Deli or Specialty Restaurant           | <input type="checkbox"/> Comedy Club       | <input type="checkbox"/> Night Club          | <input type="checkbox"/> Veterans Club     |
| <input type="checkbox"/> Cafe/Coffee Shop                       | <input type="checkbox"/> Brew Pub          | <input type="checkbox"/> Tavern: Beer        | <input type="checkbox"/> Fraternal Club    |
| <input type="checkbox"/> Bed & Breakfast:                       | <input type="checkbox"/> Theater           | <input type="checkbox"/> Tavern: Beer & Wine | <input type="checkbox"/> Wine Tasting Room |
| <input type="checkbox"/> Wine only <input type="checkbox"/> All |  |  |  |

- |  |  |  |  |
|--|--|--|--|
| <input type="checkbox"/> Supermarket                   | <input type="checkbox"/> Membership Store  | <input type="checkbox"/> Service Station               | <input type="checkbox"/> Swap Meet/Flea Market |
| <input type="checkbox"/> Liquor Store                  | <input type="checkbox"/> Department Store  | <input type="checkbox"/> Convenience Market            | <input type="checkbox"/> Drive-In Dairy        |
| <input checked="" type="checkbox"/> Drug/Variety Store | <input type="checkbox"/> Florist/Gift Shop | <input type="checkbox"/> Convenience Market w/Gasoline |  |
| <input type="checkbox"/> Other - describe:             |  |  |  |

5. COUNTY POPULATION

466,339

CENSUS TRACT NUMBER

14

6. TOTAL NUMBER OF LICENSES IN COUNTY

1,036

On-Sale  Off-Sale

7. RATIO OF LICENSES TO POPULATION IN COUNTY

On-Sale  Off-Sale

9. NO. OF LICENSES ALLOWED IN CENSUS TRACT

5

On-Sale  Off-Sale

10. NO. OF LICENSES EXISTING IN CENSUS TRACT

6

On-Sale  Off-Sale

11. IS THE ABOVE CENSUS TRACT OVERCONCENTRATED WITH LICENSES? (i.e., does the ratio of licenses to population in the census tract exceed the ratio of licenses to population for the entire county?)

- Yes, the number of existing licenses exceeds the number allowed  
 No, the number of existing licenses is lower than the number allowed

12. DOES LAW ENFORCEMENT AGENCY MAINTAIN CRIME STATISTICS?

- Yes (Go to Item #13)  No (Go to Item #20)

13. CRIME REPORTING DISTRICT NUMBER

14. TOTAL NUMBER OF REPORTING DISTRICTS

15. TOTAL NUMBER OF OFFENSES IN ALL REPORTING DISTRICTS

16. AVERAGE NO. OF OFFENSES PER DISTRICT

17. 120% OF AVERAGE NUMBER OF OFFENSES

18. TOTAL NUMBER OF OFFENSES IN REPORTING DISTRICT

19. IS THE PREMISES LOCATED IN A HIGH CRIME REPORTING DISTRICT? (i.e., has a 20% greater number of reported crimes than the average number of reported crimes as determined from all crime reporting districts within the jurisdiction of the local law enforcement agency)

- Yes, the total number of offenses in the reporting district equals or exceeds the total number in item #17  
 No, the total number of offenses in the reporting district is lower than the total number in item #17

20. CHECK THE BOX THAT APPLIES (check only one box)

- a. If "No" is checked in both item #11 and item #19, Section 23958.4 B&P does not apply to this application, and no additional information will be needed on this issue. Advise the applicant to bring this completed form to ABC when filing the application.
- b. If "Yes" is checked in either item #11 or item #19, and the applicant is applying for a non-retail license, a retail bona fide public eating place license, a retail license issued for a hotel, motel or other lodging establishment as defined in Section 25503.16(b) B&P, or a retail license issued in conjunction with a beer manufacturer's license, or winegrower's license, advise the applicant to complete Section 2 and bring the completed form to ABC when filing the application or as soon as possible thereafter.
- c. If "Yes" is checked in either item #11 or item #19, and the applicant is applying for an off-sale beer and wine license, an off-sale general license, an on-sale beer license, an on-sale beer and wine (public premises) license, or an on-sale general (public premises) license, advise the applicant to take this form to the local governing body, or its designated subordinate officer or body to have them complete Section 3. The completed form will need to be provided to ABC in order to process the application.

Governing Body/Designated Subordinate Name: FARMERSVILLE CITY COUNCIL

**FOR DEPARTMENT USE ONLY**

PREPARED BY (Name of Department Employee)

J EDWARDS

**PART 2 - TO BE COMPLETED BY THE APPLICANT (If box #20b is checked)**

21. Based on the information on the reverse, the Department may approve your application if you can show that public convenience or necessity would be served by the issuance of the license. Please describe below the reasons why issuance of another license is justified in this area. You may attach a separate sheet or additional documentation, if desired. Do not proceed to Part 3.

Handwritten signature across the lines.

22. APPLICANT SIGNATURE

23. DATE SIGNED

**PART 3 - TO BE COMPLETED BY LOCAL OFFICIALS (If box #20c is checked)**

The applicant named on the reverse is applying for a license to sell alcoholic beverages at a premises where undue concentration exists (i.e., an over-concentration of licenses and/or a higher than average crime rate as defined in Section 23958.4 of the Business and Professions Code). Sections 23958 and 23958.4 of the Business and Professions Code requires the Department to deny the application unless 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. Please complete items #24 to #30 below and certify or affix an official seal, or attach a copy of the Council or Board resolution or a signed letter on official letterhead stating whether or not the issuance of the applied for license would serve as a public convenience or necessity.

24. WILL PUBLIC CONVENIENCE OR NECESSITY BE SERVED BY ISSUANCE OF THIS ALCOHOLIC BEVERAGE LICENSE?

Yes

No

See Attached (i.e., letter, resolution, etc.)

25. ADDITIONAL COMMENTS, IF DESIRED (may include reasons for approval or denial of public convenience or necessity):

Multiple horizontal lines for additional comments.

26. CITY/COUNTY OFFICIAL NAME

27. CITY/COUNTY OFFICIAL TITLE

28. CITY/COUNTY OFFICIAL PHONE NUMBER

29. CITY/COUNTY OFFICIAL SIGNATURE

30. DATE SIGNED

THIS DOCUMENT IS PROTECTED BY POSITIVE PAY. DO NOT CASH IF A BURGUNDY BACKGROUND IS NOT PRESENT OR IF VOIDS ARE VISIBLE.



Date  
09/28/16

# RITE AID HDQTRS. CORP.

0006712566  
62-22/311

P.O. BOX 3165  
HARRISBURG PA 17105-0042

\*\$1,000.00

Wachovia Bank of Delaware, National Association

PAY EXACTLY: PAY ONLY FOR DEPOSIT TO THE CTSCTS

ONE THOUSAND DOLLARS AND ZERO CENTS \*\*\*\*\*

TO THE ORDER OF

CITY OF FARMERSVILLE  
909 W VISALIA RD  
FARMERSVILLE, CA 93223

THIS DOCUMENT CONTAINS ULTRAVIOLET FIBERS, TRUE WATERMARK, AND A CHEMICAL ALTERATION STAIN FEATURE

⑈0006712566⑈ ⑆031100225⑆ 2079951075074⑈



# RITE AID HDQTRS. CORP.

0006712566

P.O. BOX 3165  
HARRISBURG PA 17105-0042

09/28/16

14410 - CITY OF FARMERSVILLE

00210

INVOICE NO.	DATE	STORE NO.	LOCATION/REMARKS	GROSS AMOUNT	DISCOUNT	NET AMOUNT
1441009262016	09/26/16	06764	RITE AID - 650 E VISALIA RD	1,000.00		1,000.00
TOTALS FOR CHECK #0006712566				1,000.00	0.00	1,000.00



MAILING ADDRESS  
P.O. Box 3165  
Harrisburg, PA 17105

GENERAL OFFICE  
30 Hunter Lane  
Camp Hill, PA 17011

717.761.2633

(VIA FEDERAL EXPRESS)

September 22, 2016

CA Dept of Alcoholic Beverage Control  
Fresno District Office  
3640 E Ashlan Avenue  
Fresno, CA 93726

Re: Premise to Premise; Person to Person Transfer of Lic. No. 21-552069

Dear Sir or Madam:

We wish to purchase the above-referenced license from Mounib Mikhail, Salam Dakhil & Nizar Hourany and transfer it to the following premise:

Thrifty Payless Inc  
Rite Aid #6764  
1710 N Farmersville Blvd  
Farmersville CA 93223

This will be an upgrade for this store. We will surrender the type 20 license once the type 21 license is active.

Accordingly, enclosed please find the following:

- ABC 140 - Tied House Restrictions
- ABC 211SIG - Application Signature Sheet with Notary Acknowledgement
- ABC 211A - Sign Off with Notary Acknowledgement
- ABC 217 - Application Questionnaire and Lease for the Premise and Notary Acknowledgement
- ABC 227 - Recorded Notice with Notary Acknowledgement
- ABC 243 - Corporate Questionnaire
- ABC 247 - Statement Re: Residences
- ABC 251 - Statement Re: Consideration Points
- ABC 253 - Supplemental Diagram
- ABC 255 - Zoning Affidavit
- ABC 257 - Licensed Premise Diagram
- ABC 811 - P-12 Request Acknowledgement Form
- Escrow Instructions - Copy
- Check in the amount of \$100.00 in satisfaction of the application fee
- Listing of Corporate Officers (P12 filed in San Francisco).
- Copy of CUP
- Certificate of Status
- Copy of Premise Lease

Should you require any additional information to process the application, please contact me at (717) 214-8514, or via email at [ntaylor@riteaid.com](mailto:ntaylor@riteaid.com). Additionally, kindly contact me when the posting package is ready so I can arrange to have a local associate pick it up. Thank you for your assistance in this matter.

Sincerely,  
THRIFTY PAYLESS, INC.

Noelle Taylor  
Licensing Supervisor  
Enclosures