



# Memorandum

**TO:** PINOLE PLANNING COMMISSION

**FROM:** ANNE HERSCH, AICP, ASSOCIATE PLANNER

**SUBJECT:** CUP 10-03 WALGREEN'S ALCOHOL SALES CONDITIONAL USE PERMIT

**DATE:** MAY 10, 2010

**Property Owner/ Applicant:**  
Pinole Redevelopment Agency  
2131 Pear St.  
Pinole, CA 94564

**Representative:**  
Walgreen Company  
104 Wilmot Rd., MS 1420  
Deerfield, IL 60015

**PROJECT:** Walgreen's Alcohol Sales  
**FILE:** CUP 10-03  
**LOCATION:** 2750 Pinole Valley Rd.  
**APN:** 401-310-003  
**ZONING:** C-1 Neighborhood Commercial  
**GP LU:** MU: Medium Density Residential/Neighborhood Commercial  
**PLANNER:** Anne Hersch

## REQUEST

The applicant is seeking approval of a Conditional Use Permit to allow sales of beer and wine at Walgreen's Drug Store for off-site consumption.

## STAFF RECOMMENDATION

Adopt Resolution 10-06 approving CUP 10-03, to allow the sale of beer and wine at Walgreen's Drug Store (2750 Pinole Valley Rd.) for off-site consumption, with project conditions.

**SITE LOCATION**



Direction from Project Site	Land Use
North	Commercial/Retail Uses (Trader Joe's, Happy Sashimi, Peet's Coffee)
West	Residential/Pinole Creek
South	Commercial/Retail (Jamba Juice, Youthful Tooth)
East	Commercial/Retail Uses (Jay Vee Liquors, Thai Spice, Chevron Gas Station)

Figure 1. Site Location

**PROJECT DESCRIPTION**

Walgreen's is seeking approval of a Conditional Use Permit to allow sales of beer and wine for off-site consumption. Currently, they have an application pending with the Department of Alcoholic Beverage Control (ABC) for a Type 20 license which accommodates the proposed alcohol sales request. Section 17.20.080 of the Pinole Municipal Code requires review and approval of a Conditional Use Permit for alcohol sales.

**ANALYSIS**

The subject site is located in Census Tract 3601. Alcohol Beverage Control (ABC) allows a total of six (6) on and off-site licenses for this Census Tract. Currently, there are five (5) existing licenses, three (3) off-site and two (2) on-site. Approval of Walgreen's license would create a total of six licenses for the Census Tract. Due to the under concentration of licenses, ABC has indicated that a Letter of Public Convenience or Necessity is not necessary. Below is a table that shows location and existing license type.

<b>Business</b>	<b>Location</b>	<b>License Type</b>
AMF Pinole Valley Lanes	1580 PVR	On-site, full alcohol
Happy Sashimi	2714 PVR	On-site, full alcohol
Jay-Vee Liquors	2701 PVR	Off-Site, full alcohol
7-11 Mini-Mart	2869 PVR	Off-Site, beer & wine
Trader Joe's	2742 PVR	Off-Site, full alcohol

**Table 2.** Existing Licenses by location & type

Walgreen's is located at 2750 Pinole Valley Rd., in the newly remodeled Pinole Valley Shopping Center and is 14,800 sq. ft. in area. Operating hours are 8 am-10 pm seven (7) days a week. The plans show the alcohol display will occupy five (5) refrigeration cases for a total of 47 sq. ft. of sales area. This creates a total of .03% of floor area that will be devoted to alcohol sales.

**Code Requirements**

The following conditions must be met for a Conditional Use Permit to be approved:

**A. Location** –

- 1) If the application is for a business within a commercial zone, as previously defined, then these conditions will need to be met:
  - a) As part of the application, the applicant must provide a list of all establishments within a one thousand (1,000) foot radius with similar size and array of products. If there is any other establishment, other than a food service establishment with incidental service of beer and/or wine within a one thousand (1,000) foot radius of the site of the proposed use that is in the same category of alcoholic beverage sales or service, the City of Pinole shall not approve the application unless it makes all of the following findings of "Public Convenience or Necessity,"  
*The applicant provided a list of other establishments in the area, of which Trader Joe's is*

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*the only other store that sells alcohol as incidental to the primary offerings. However, there is not an over-concentration of licenses within Census Tract 3601.*

- b) The number of businesses having authority to sell alcoholic beverages in the census tract of applicant,

*The applicant provided a list of other establishments in the Census Tract that are authorized by ABC to sell alcohol. There are currently five (5) alcohol sales licenses where six (6) are permitted.*

- c) The extent to which the crime reporting district in which applicant is located exceeds the average for crime reporting districts subject to the jurisdiction of the Pinole Police Department,

*A formal review by the Police Department has determined that crime reporting for the district does not exceed the average for crime reporting districts. The Police Department did not raise any objections or concerns related to the alcohol sales request.*

- d) The extent to which the ratio of on-sale retail establishments or off-sale retail establishments, including consideration of the size of those establishments, of the census tract in which applicant is located exceeds the population ratio of on-sale or off-sale, respectively, of Contra Costa County,

*The subject site is located in a commercial corridor that provides food and retail services in Pinole. The number of licenses for this tract does not exceed the population ratio as up to six (6) alcohol licenses are permitted. Currently, there are five (5) active licenses in the Census Tract.*

- e) The proximity of the applicant to other similar liquor-related businesses,

*The applicant provided a list of other liquor related businesses within the Census Tract. However, Walgreen's is the only drug store/neighborhood pharmacy within the Tract.*

- f) The proximity of the applicant to school, park, playground, recreational center, daycare, or similar use.

*The establishment is located 490 ft. from Pinole Valley High School and 500 ft. from the Seventh Day Baptist Church.*

### **ENVIRONMENTAL REVIEW**

The project is Categorically Exempt per Section 15332, In-Fill Projects of the California Environmental Quality Act Guidelines (CEQA).

### **ATTACHMENTS**

- A. Resolution with Exhibit A: Conditions of Approval

- B. Applicant Statement
- C. Project Exhibits



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**ATTACHMENT 1  
PLANNING COMMISSION RESOLUTION 10-06 WITH EXHIBIT A:  
CONDITIONS OF APPROVAL**

**RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF PINOLE, COUNTY OF CONTRA COSTA, STATE OF CALIFORNIA, APPROVING A CONDITIONAL USE PERMIT TO ALLOW BEER AND WINE SALES FOR OFF-SITE CONSUMPTION FOR WALGREENS, 2750 PINOLE VALLEY RD., PINOLE, CA 94564, APN: 401-310-003**

**WHEREAS**, Walgreen's has filed an application for a Type 20 off-sale alcohol license with the State Department of Alcohol Beverage Control (ABC) and an application for a Conditional Use Permit with the City of Pinole to allow alcohol sales; and

**WHEREAS**, the Planning Commission of the City of Pinole is the appropriate authority to hear and take action on this request; and

**WHEREAS**, the State Department of Alcohol Beverage Control notified the City of Pinole and the applicant that there is not an undue concentration of off-sale alcohol sales licenses within Census Tract 3601; and

**WHEREAS**, Said property is designated for Medium Density Residential/Neighborhood Commercial uses in the Pinole General Plan; and

**WHEREAS**, The property is located in a C-1 (Neighborhood Commercial) Zoning District; and

**WHEREAS**, Chapter 17.36 (Use Permits) of the Pinole Municipal Code permits alcohol sales in any land use district subject to securing a Use Permit; and

**WHEREAS**, The Police Department has verified that there are no outstanding crime issues or excessive calls for service at this location; and

**WHEREAS**, The Police Department has confirmed that the sale of alcohol at Walgreen's is not expected to increase calls for service or crime activity at this location; and

**WHEREAS**, ABC has indicated no active disciplinary actions have been taken against other Walgreen's for alcohol sales licenses in California; and

**WHEREAS**, the required findings pursuant to Section 17.60.030 (A) & (B) of the Pinole Municipal Code to approve a Conditional Use Permit to allow alcohol sales can be made for the proposed request; and

**WHEREAS**, The project is Categorically Exempt per Section 15332, In-Fill Development, of the California Environmental Quality Act Guidelines (CEQA) and qualifies for a Class 32 Exemption;

**WHEREAS**, a notice of public hearing was distributed to all property owners within 1,000 ft. of the project site and a notice was published in the April 30, 2010 edition of the West County Times as

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required by City Ordinance 2006-02 and Government Code Section 65090; and

**WHEREAS**, the Planning Commission has held a public hearing considered all public comments received, the presentation by City staff, the staff report, and all other pertinent documents regarding the proposed request;

**NOW, THEREFORE, BE IT RESOLVED** by the Planning Commission of the City of Pinole hereby approves CUP 10-03, as provided in the staff report, and subject to the Conditions of Approval attached as Exhibit A to this Resolution.

**PASSED AND ADOPTED** by the Planning Commission of the City of Pinole on this 10<sup>th</sup> day of May 2010, by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

Patty McGoldrick, Chair, 2010-2011

ATTEST:

Winston Rhodes, AICP, Planning Manager

**PLANNING COMMISSION RESOLUTION 10-06 EXHIBIT A  
CONDITIONS OF APPROVAL: WALGREEN'S ALCOHOL SALES CONDITIONAL USE PERMIT**

		<u>Timing/ Implementation</u>	<u>Enforcement/ Monitoring</u>	<u>Verification (date and Signature)</u>
1.	If any of conditions are found to be disregarded, the use permit will be subject to revocation and the business subject to potential closure. If necessary, the Planning Commission may modify or may recommend to the City Council revoking the use permit after making applicable findings.	On-Going	Police/ Community Development	
2.	The proposed use shall be operated in a manner consistent with the statement of operations dated April 2, 2010 and in a manner which is consistent with all federal, state & local laws.	On-Going	Police/ Community Development	
3.	The Applicant shall hold harmless the City, its Council Members, its Planning Commission, officers, agents, employees, and representatives from liability for any award, damages, costs and fees incurred by the City and/or awarded to any plaintiff in an action challenging the validity of this permit or any environmental or other documentation related to approval of this permit. Applicant further agrees to provide a defense for the City in any such action.	On-Going	Planning	
4.	There shall be no sale of alcohol for on-site consumption.	On-Going	Police/Planning	
5.	A sign concerning the California Law Prohibiting Minors to Drink Alcohol and a sign prohibiting loitering or public drinking must be posted inside the establishment in clear public view to the satisfaction of the Police Department.	On-Going	Police/Planning	
6.	A copy of the conditions of approval will need to be kept on premises and available upon request.	On-Going	Police/ Community Development	
7.	All staff within 90 days of employment receive "responsible beverage service training." Applicant shall include these training details as part of the "complaint response/community relations."	On-Going	Police/ Community Development	

**PLANNING COMMISSION RESOLUTION 10-06 EXHIBIT A  
CONDITIONS OF APPROVAL: WALGREEN'S ALCOHOL SALES CONDITIONAL USE PERMIT**

		<u>Timing/ Implementation</u>	<u>Enforcement/ Monitoring</u>	<u>Verification (date and Signature)</u>
8.	Proposed modification of the hours or other aspects of the business shall be submitted for review and approval by staff. Staff will determine if changes are substantial and require further review by the Planning Commission.	On-Going	Planning	
9.	The surrounding area shall be maintained in a clean and orderly manner at all times. Landscaping material shall be regularly maintained around the site so that it cannot be used as a hiding place. On-site lighting shall be maintained in good working condition at all times.	On-Going	Community Development	
10.	Applicant shall obtain the applicable State Alcohol Beverage Control license and no alcohol shall be sold for on-site consumption. A copy of the license shall be submitted to the Community Development and Police Departments prior to commencement of alcohol sales.	On-Going	Police/Planning	
11.	The operating hours shall be 8:00am-10:00pm seven days a week.	On-Going	Police/Planning	
12.	If the operation of the use results in conflicts pertaining to parking, noise, nuisance, traffic or other impacts, at the discretion of staff, the use permit may be referred to the Planning Commission for subsequent review at a public hearing.	On-Going	Police/Planning	
13.	If use permit conditions are not adhered to, the City Council may revoke the permit after giving 10-day notice following a public hearing.	On-Going	Police/Planning	
14.	Establish and maintain a "complaint response/community relations" program with the Police Department.	On-Going	Police	



**MILLER STARR  
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Carolyn Nelson Rowan  
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April 2, 2010

**VIA FEDERAL EXPRESS**

Ann Hersch  
City of Pinole, Planning Division  
2131 Pear Street  
Pinole, CA 94564

Re: Walgreen Co. Application for Use Permit for Alcoholic Beverage Sales;  
2750 Pinole Valley Road

Dear Ms. Hersch:

Enclosed with this letter is an application package submitted on behalf of Walgreen Company ("Walgreens" or "Applicant"), the lessee of a building located at 2750 Pinole Valley Road, and operator of an existing Walgreen store, for a use permit to allow sales of beer and wine for off-site consumption.

This letter sets forth: (1) a description of the project for which the Application is submitted and a description of the proposed use including hours of operation and a statement of how the alcoholic beverages will be handled, and (2) a list of the required submittal documents enclosed with this letter.

1. Project Description. The project is a use permit to allow the sales of beer and wine for off-site consumption under a Type 20 Off-Sale Beer and Wine liquor license at an existing approximately 14,820 square-foot Walgreens store located at 2750 Pinole Valley Road. The existing store's hours of operation are 8:00 a.m. to 10:00 p.m., seven days a week.

The proposed project does not require any construction. Beer will comprise a 4.5 foot-wide cooler, and wine will make up 12 feet in width of a beverage aisle, comprising approximately less than 1 percent of the total shelf width in the store. The beer selection will consist only of 6-, 12-, and 18- packs and cases. Sales will not include spirits, malt liquor, or single servings.

Walgreens has taken great measures to assure that any beverage containing alcohol will be sold in a responsible and appropriate manner. Detailed policies and procedures are already in place and strictly enforced without exception. Employees for each eligible store must undergo extensive training prior to beer and wine availability at any given location. Once trained, each register clerk must

Ann Hersch  
City of Pinole, Planning Division  
April 2, 2010  
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submit a policy acknowledgment as part of the daily log-on process. Walgreens' established policy states that employees must request identification from any customer attempting to purchase alcohol who appears to be under the age of 40. Register prompts ensure compliance before proceeding with the transaction. Under-age employees are required to seek the assistance of a manager.

2. Enclosed Submittal Documents. In accordance with the City of Pinole's Development Application Checklist, the following items are enclosed with this letter:

- (a) Development Application Form
- (b) 1 copy of the site plan
- (c) 1 copy of the proposed floor plan (I will also email you a copy of the floor plan in pdf format as we discussed previously)
- (d) 1 listing of other stores in the census tract
- (e) Mailing labels for property owners and residents within a 1000 ft. radius of the subject site
- (f) A radius map showing the 1000 ft. boundaries from the subject site
- (g) Filing fees. Check made payable to the City of Pinole in the amount of \$2,326.00 (\$2,076 [application fee] + \$150 [fee for sign to be posted on project site] + \$100 [mailing fee]).

Please do not hesitate to contact me should you have any questions or require additional information.

Very truly yours,

MILLER STARR REGALIA



Carolyn Nelson Rowan

CNR:CNR  
Enclosures