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BY

Request for a Determination of Public Convenience or Necessity

VIA Messenger

April 10, 2019

San Francisco Board of Supervisors
C/o Office of the Clerk
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102

RE: Request for Determination of Public Convenience or Necessity
Prime Now LLC, 888 Tennessee St., San Francisco, CA 94107-3034

Dear Board of Supervisors,

We represent Prime Now in connection with an application to the Department of Alcoholic Beverage Control ("ABC") for a Type 21 Off-Sale General license at their existing fulfillment center in San Francisco. Because the premises is located in a census tract that has an undue concentration of off-sale licenses, we have been advised that a finding of public convenience or necessity is required in accordance with Business and Professions Code Section 23958.4. We respectfully request this Board determine that issuance of this ABC license will serve the public convenience or necessity.

Per the filing instructions, please find additional information regarding the license application.

1. Applicant's name and PCN contact: Prime Now, LLC; PCN Contact Representative – Melani Johns, Strike & Techel, Alcoholic Beverage Law; 415-229-7892; melani@alcohol.law.
2. Business address: 888 Tennessee St., San Francisco, CA 94107-3034.
3. Applicant's mailing address: PO Box 81023, ATTN: Alcohol Licensing, Seattle, WA 98108.
4. Type of license: Type 21 Off-Sale General, premises-to-premises transfer of an existing license. Pending ABC License Number 601725.
5. Hours of operation: Retail 8:00 am – 4:00 pm, daily; Delivery 8:00 am – 12:00 am, daily.
6. ABC application filing: The ABC application was filed on December 10, 2018 with the San Francisco ABC District Office.
7. Notice requirements: Notice of the application was posted on the premises for 30 days in compliance with ABC requirements. Likewise, mailings were sent to neighbors within 500 feet and considerations points within 600 feet on January 15, 2019.
8. Explanation of PCN request: Please see below for a description of the project and an explanation of how the license will serve the public convenience and necessity for the neighborhood and city of San Francisco.

Project Description – Retail and Delivery

The primary goal in obtaining this license is to allow Prime Now to deliver alcoholic beverages from their San Francisco fulfillment center. The location is an existing fulfillment center where online orders are packaged for delivery. In addition to items currently packaged, sold and delivered from this premises, Prime Now seeks to offer beer, wine, and distilled spirits to customers for delivery or off-sale purchase.

The ABC requires licensees who deliver alcoholic beverages to also be open to the public (“Rule 27”). Maintaining a physical storefront is not Prime Now’s goal, so we worked with the ABC to establish minimum storefront requirements needed to obtain a Type 21 license. Those requirements are embodied in Prime Now’s standard ABC license conditions, attached hereto. The physical storefront requirements as determined by the ABC to satisfy Rule 27 are minimal.

The retail storefront that will be open to the public will be small (approximately 200 sq. ft.). Although Prime Now sells a variety of grocery and general use consumer goods for delivery, nothing will be available for purchase inside the retail store except for alcoholic beverages. There will be no signs or advertisements outside of the building to attract customers. Alcoholic beverages will not be physically displayed for purchase inside the store. Instead, potential customers will be provided with a catalog of alcoholic beverages available for purchase, most of which will only be available by delivery. There will be a small, curated selection of alcoholic beverages available for customers to purchase and carry out. The inventory available for visitors to purchase will be kept in an area that is not accessible to the public (but covered by the Type 21 license) until ordered by a customer, at which time an employee will remove the alcoholic beverage(s) from inventory. All alcoholic beverage deliveries, whether tendered to the customer in person or sent for delivery, will originate and be sold from the Type 21 licensed premises.

The hours of operation for the retail storefront will be posted at the public entrance. To comply with Rule 27, the retail storefront will be open every day that delivery is offered, for at least half of the hours Prime Now exercises its delivery privilege. Delivery hours are anticipated to occur between 8:00 am – 12:00 am daily. The retail store will only be open to the public for 50% of delivery hours. The proposed retail store hours are 8:00 am – 4:00 pm, daily. Prime Now has no plans to advertise the availability of in-person visits, and therefore expects very few visitors. Based on our experience at other licensed fulfillment centers in California and in other jurisdictions across the United States, customers will prefer to have their purchases delivered.

Prime Now will deliver and sell alcohol in a safe and convenient manner. As with their other licensed fulfillment centers, delivery drivers and in-store employees will require age verification for all alcohol purchases, will promote responsible off-sale alcohol sales, and will operate in accordance with all applicable laws and regulations related to the sale and delivery of alcoholic beverages. Based on the experience at the other licensed locations, we do not expect that adding alcohol for delivery will result in an increase in deliveries from the facility; instead we anticipate that Prime Now members who already order groceries for delivery will now choose to include alcohol with their orders.

Issuance of this License Will Serve Public Convenience or Necessity

Prime Now has a well-established customer base of businesses and individuals who prefer online delivery to in-store shopping. Prime Now members regularly order a wide variety of grocery and household goods and have expressed interest in adding alcoholic beverages to their orders. It is convenient for members

to be able to add alcohol to their regular Prime Now orders and to have these items delivered together. Prime Now offers a larger selection of alcoholic beverages than traditional grocery stores and does so at competitive prices.

This fulfillment center fulfills customer orders throughout San Francisco, offering convenience to residents in all corners of the city. Approving this request will not only serve the public convenience or necessity of the nearby residents, but of the entire city as well.

Prime Now understands the importance of a safe and clean community and will continue working with its neighbors to maintain high standards. Under the conditional license, Prime Now has agreed to maintain the premises free of litter, to not allow alcohol to be consumed on any areas under their control, and to actively monitor the premises in an effort to prevent loitering on or around the premises. They also worked with the neighbors to establish early hours for retail sales (8 am – 4 pm), which satisfies the ABC's requirement under Rule 27 and alleviates the neighbors' concerns regarding late-night alcohol sales.

In January, representatives for Prime Now met with the Dogpatch Neighborhood Association to discuss the license application and any concerns that local residents may have with Prime Now's past and future operations at the premises. They heard concerns about litter and smoking took active measures to address these issues, including increasing patrols and litter cleanup, increasing available trash receptacles, and implementing process changes to reduce littering. In addition, they have been working with community members to ensure an open line of communication so that any questions or concerns raised by the neighbors are addressed in a timely manner.

For the foregoing reasons we respectfully request that the Board make a finding that issuance of Prime Now's Type 21 Off-Sale General license at this location will serve the public convenience or necessity. If you have any questions or concerns about Prime Now's planned operations at this facility, I can be reached at 415-229-7892 or at melani@alcohol.law.

Respectfully,



Melani Johns
Alcoholic Beverage Law Counsel for Prime Now LLC

Encl.: ABC License Conditions

**BEFORE THE
DEPARTMENT OF ALCOHOLIC BEVERAGE CONTROL
OF THE STATE OF CALIFORNIA**

IN THE MATTER OF THE APPLICATION OF

PRIME NOW LLC
PRIME NOW LLC
888 TENNESSEE ST
SAN FRANCISCO, CA 94107-3034

} FILE 21-601725

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} REG.

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**PETITION FOR CONDITIONAL
LICENSE**

For Issuance of an Off-Sale General - License

Under the Alcoholic Beverage Control Act

WHEREAS, petitioner(s) has/have filed an application for the issuance of the above-referred-to license(s) for the above-mentioned premises; and,

WHEREAS, pursuant to Section 23958 of the Business and Professions Code, the Department may deny an application for a license where issuance would result in or add to an undue concentration of licenses; and

WHEREAS, the proposed premises are located in Census Tract #0226.00 where there presently exists an undue concentration of licenses as defined by Section 23958.4 of the Business and Professions Code; and,

WHEREAS, pursuant to Section 23958 of the Business and Professions Code, the Department may deny an application for a license where issuance would tend to create or aggravate a law enforcement problem; and,

WHEREAS, the proposed premises is located within the immediate vicinity of a residential area; and,

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Initials

WHEREAS, the proposed premises and/or parking lot, operated in conjunction therewith, are located within 100 feet of residences(s), and issuance of the applied-for license without the below-described conditions would interfere with the quiet enjoyment of the property by nearby residents and constitute grounds for the denial of the application under the provisions of Rule 61.4, of Chapter 1, Title 4, of the California Code of Regulations; and,

WHEREAS, the proposed premises are located within 600 feet of a school, public playground or non-profit youth facility, to wit: ALTSCHOOL, LA SCUOLA INTERNATIONAL SCHOOL & ESPRIT PARK and issuance of the applied-for license without the below-described conditions would interfere with the normal operation of said facility and constitute grounds for the denial of the application under the provisions of Section 23789 of the Business and Professions Code; and,

WHEREAS, Title 4, California Code of Regulations, Section 27 ("Rule 27") requires, among other things, that premises holding an off-sale license shall display and make available for convenient inspection and purchase by the general public alcoholic beverages that it offers for sale; and,

WHEREAS, petitioner/licensee intends to offer and sell alcoholic beverages to the general public primarily by way of on-line internet sales; and

WHEREAS, petitioner/licensee has submitted a letter of intended operation stating , among other things, that it will operate a portion of its off-sale retail premises that is open to the general public, that alcoholic beverages will be available for purchase by way of a catalog located within the public portion of the premises, that alcoholic beverages will be retrieved from the warehouse and presented to customers for immediate inspection and sale, and that the public area of the retail premises will be open and operated each day during which alcoholic beverages are sold and delivered for at least half of the hours that such license privileges will be exercised.

WHEREAS, the issuance of an unrestricted license would be contrary to public welfare and morals;

NOW, THEREFORE, the undersigned petitioner(s) do/does hereby petition for a conditional license as follows, to-wit:

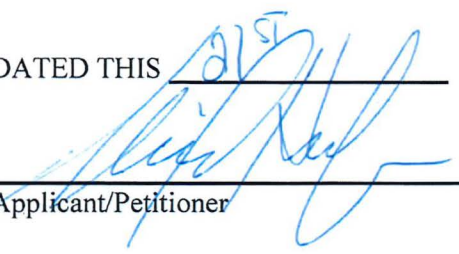
- 1 All alcoholic beverages offered for sale by petitioner/licensee to the general public shall be displayed within the portion the retail premises open to the public. Such display may include by way of electronic, on-line, or other form of catalog. The alcoholic beverages offered for sale to in-person visitors can be a curated selection and need not include all alcoholic beverages in petitioner/licensee's inventory.
- 2 All alcoholic beverages offered for sale by petitioner/licensee to the general public shall be made conveniently available for inspection and purchase by customers in the portion of the retail premises open to the public. The alcoholic beverages offered for inspection and purchase by in-person visitors can be a curated selection and need not include all alcoholic beverages in petitioner/licensee's inventory.
- 3 On each day of the week during which the licensee is exercising its license privileges, the public area of the licensed premises shall be open and operating for at least 50 percent of the hours during which such privileges are being exercised. For purposes of this condition, "exercising license privileges" means the hours during which alcoholic beverages are offered for off-site delivery to customers.
- 4 The hours during which the public area of the retail premises is open to the public shall be posted at the entrance to the premises.
- 5 Petitioner/licensee shall maintain records to establish compliance with Condition 3 and Condition 4, and shall provide them to the Department upon demand.
- 6 No alcoholic beverages shall be consumed on any property adjacent to the licensed premises under the control of the licensee(s) as depicted on the most recently certified ABC-257 and ABC-253.
- 7 The petitioner(s) shall be responsible for maintaining free of litter the area adjacent to the premises over which they have control as depicted on the most recently certified ABC-257 and ABC-253.
- 8 Petitioner(s) shall actively monitor the area under their control in an effort to prevent the loitering of persons on any property adjacent to the licensed premises as depicted on the most recently certified ABC-253.

This petition for conditional license is made pursuant to the provisions of Sections 23800 through 23805 of the Business and Professions Code and will be carried forward in any transfer at the applicant-premises.

Petitioner(s) agree(s) to retain a copy of this petition on the premises at all times and will be prepared to produce it immediately upon the request of any peace officer.

The petitioner(s) understand(s) that any violation of the foregoing condition(s) shall be grounds for the suspension or revocation of the license(s).

DATED THIS 21ST DAY OF MARCH, 20 19.


Applicant/Petitioner

Applicant/Petitioner