

CITY OF SANTA ROSA
CITY COUNCIL

TO: MAYOR AND CITY COUNCIL
SUBJECT: APPEAL OF A PUBLIC CONVENIENCE OR NECESSITY
DETERMINATION FOR AN OFF-SALE ALCOHOL LICENSE
FOR BIG LOTS
STAFF PRESENTER: JESSICA JONES, CITY PLANNER
COMMUNITY DEVELOPMENT
AGENDA ACTION: RESOLUTION

ISSUE(S)

Should the City Council deny the appeal and uphold the Community Development Director's determination that Public Convenience or Necessity (PCN) would not be served by the issuance of an off-sale alcohol license for beer and wine at Big Lots located at 2055 Mendocino Avenue?



COUNCIL GOALS AND STRATEGIES

N/A

BACKGROUND

1. On February 26, 2013, a PCN application was filed by PNS Stores, Inc. on behalf of Big Lots in order to apply for an off-sale alcohol license for beer and wine sales (Type 20 license) at the Big Lots store on Mendocino Avenue.
2. On April 12, 2013, based on statistical information reported by the California Department of Alcoholic Beverage Control (ABC) and information provided by the Santa Rosa Police Department regarding crime issues in the area, the Community Development Director determined that public convenience or necessity would not be served by the issuance of a license for the sale of beer and wine at Big Lots.
3. On April 22, 2013, the applicant filed an appeal of the Director's determination.

ANALYSIS

1. The California Business and Professions Code, Section 23958, states that the Department of Alcoholic Beverage Control (ABC) "shall deny an application for a

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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.”

2. Section 23958.4 of the Business and Professions Code states that, if the local governing body of the area in which the premises is located determines that the public convenience or necessity would be served by the issuance of the requested license, then the ABC may issue the license.
3. In April 2006 the Council delegated the authority to make PCN determinations to the Director of Community Development on the basis that these determinations often involve land use issues.
4. Pursuant to ABC's 23958.4 B & P Application Work Sheet, there are three existing type 20 (off-sale) licenses for establishments within the subject Census tract. Typically, an “undue concentration” would occur if there were more than five type 20 licenses in the Census tract.
5. Pursuant to ABC's 23958.4 B & P Application Work Sheet, the subject area is within a high crime reporting district. A “high crime reporting district” is defined by State law as 120% of the average number of offenses per City reporting district. The average number of offenses was 143.97; 120% of the average is 173 total offenses. The subject reporting district has a total of 225 offenses.
6. The Santa Rosa Police Department provided information regarding the type of crime issues in the area, which include public intoxication as the top offence. They have also stated that, while the subject area is not over concentrated with alcohol licenses, it is adjacent to an area that has an undue concentration of licenses. Further, Big Lots provided information to the Police Department that the beer and wine that would be sold would come from other retail establishments that were unable to sell the product, and Big Lots would then sell it at a discounted rate. It is the Police Department's position that allowing an off-sale alcohol license for Big Lots would serve to perpetuate the already criminal and nuisance type of behavior taking place in this area.
7. Based on the information provided by ABC and the Police Department, it was determined, by the Director of Community Development, that the public convenience or necessity would not be served by the issuance of a Type 20 ABC license for Big Lots.

APPEAL

On April 22, 2013, the applicant filed an appeal in opposition to the determination, and provided grounds for the appeal. In addition, on May 6, 2013, the applicant submitted a follow-up letter (which was addressed to the Planning Commission) that outlined additional points related to their appeal.

Appeal of a Public Convenience or Necessity Determination for an Off-Sale Alcohol License for Big Lots

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The following identifies the applicant's initial grounds for appeal, along with staff's response to each:

- Pursuant to Santa Rosa Municipal Code Section 20-42.034(a), alcohol sales are permitted by right in this location per the commercial property's zoning (PD). In addition, the Department of ABC does not consider this census tract (1521) to be over-concentrated with ABC licenses.

Staff Response:

The above statement is generally accurate. The Santa Rosa Zoning Code, Section 20-42.034, Alcoholic Beverage Sales, states that a Conditional Use Permit is required for establishments under 10,000 square-feet that sell alcohol for off-site consumption. Because the subject Big Lots store, at 22,500 square-feet, exceeds the 10,000 threshold, a Conditional Use Permit would not be required. However, because the area is considered high crime, a determination of public conveyance or necessity is required in order for ABC to issue a license to sell alcohol.

- Big Lots stores offer a large variety of goods for the household, kitchen, pantry, garden, etc. This particular Big Lots store totals 22,500 square-feet, with the alcohol area being only 20 linear feet. The area of alcohol sales is very reasonable in comparison to the size of the store, and it would be a great convenience for Big Lots patrons to make their beer and wine purchases at the same time as their other Big Lots purchases.

Staff Response:

Although staff understands that the total area within the store for alcohol sales would be limited, it does not address the concerns raised by the Santa Rosa Police Department regarding existing crime in the area and the potential of perpetuating the issue by the sale of discounted alcohol.

The following identifies the applicant's additional comments provided in their May 6, 2013 letter, along with staff's response to each:

- Most of the California Big Lots stores offer beer and wine with ABC licenses dating back 20 years. In line with Big Lots general business plan, they generally purchase goods (including beer and wine) at rates below that of normal wholesale. However, this does not relate directly to Big Lots retail pricing for these items. While all Big Lots items are competitively priced compared to other retail outlets, their beer and wine selections are not overly discounted. The idea is not to create a separate demand for beer and wine through discounted pricing,

but to offer a more complete selection of goods to the patrons that are already visiting the stores to purchase other items.

Staff Response:

While staff understands that Big Lots is not trying to create a separate demand for beer and wine based on the discounted sales price, the original concerns related to crime remain. As stated above, based on the information provided by the Santa Rosa Police Department, the top offence in this high crime area is public intoxication. Further, in a May 21, 2013 memo from the Police Department, responding to the May 6, 2013 Big Lots letter, staff remains concerned that the lower cost beer and wine would be sold in an area that is already stricken with alcohol related problems.

- This store totals 22,500 square-feet, comparable to an average supermarket. The floor area dedicated to the sale of beer and wine will be a modest 20 linear feet. The items offered for sale are name brand beers and wines from well-known producers (Barefoot, Beringer, Ecco Domani, etc.). They do not offer cheap fortified wines often found at discount liquor outlets.

Staff Response:

As previously stated, the total area of alcohol sales does not address the concerns raised by the Police Department regarding existing crime in the area and the potential of perpetuating the issue by the sale of discounted alcohol. With regard to the brand of alcohol sold, State law prohibits the City from regulating the types of beer and wine sold at a store.

- To ensure they are a professional beer and wine vendor, Big Lots has imposed a number of “in-house” safety procedures to ensure the sale of alcoholic beverages are done so in a responsible manner.

Staff Response:

The safety procedures outlined in the Big Lots May 6, 2013 letter are typical of responsible businesses that sell alcohol, and are similar to those that are outlined in Section 20-42.034 of the Santa Rosa Zoning Code. However, the concerns and issues in this case are the additional accessibility and off-sale of alcohol in the subject area, and it is staff’s position that the safety procedures would not mitigate the stated problems.

RECOMMENDATION

It is recommended by the Community Development Department that the City Council deny the appeal and, by resolution, uphold the Community Development Director’s

Appeal of a Public Convenience or Necessity Determination for an Off-Sale Alcohol License for Big Lots

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determination that the Public Convenience or Necessity would not be served by the issuance of a Type 20 ABC license for Big Lots located at 2055 Mendocino Avenue.

Author: Jessica Jones, City Planner

Attachments:

- Public Convenience or Necessity Application, provided by ABC
- Letter from Art Rodriguez and Associates, dated February 22, 2013
- Location Map
- Redwood Plaza Plan
- Aerial
- 23958.4 B&P Application Work Sheet
- Letter from Jerry Soares, Police Lieutenant, dated March 4, 2013
- Maps, provided by the Santa Rosa Police Department
- Spreadsheets of Incidents and Calls for Service, provided by the Santa Rosa Police Department
- Section 23958.4 of the California Business and Professions Code
- Letter from the Community Development Director, dated April 12, 2013
- Appeal Form, dated April 22, 2013
- Letter (and attachments) from Art Rodriguez & Associates, dated May 7, 2013



**APPLICATION
PUBLIC CONVENIENCE OR
NECESSITY**
Please Type or print

File No. PCN13-002	Quad NW
Related Files	
Department Use Only	

G E N E R A L I N F O	LOCATION OF PROJECT (ADDRESS) 2055 Mendocino Avenue	ASSESSOR'S PARCEL NUMBER(S) 180-300-029-000	EXISTING ZONING PD
	NAME OF PROPOSED PROJECT Big Lots #4154		GENERAL PLAN DESIGNATION Retail & Business Services
	APPLICANT NAME PNS Stores, Inc. (Contact: Becky Slayman)	BUSINESS PHONE (614) 278-7140	FAX (614) 278-8322
	APPLICANT ADDRESS 300 Phillipi Road	CITY Columbus	STATE OH
		ZIP 43288	EMAIL bslayman@biglots.com
	APPLICANT REPRESENTATIVE Peter J Impala, Art Rodriguez & Associates	BUSINESS PHONE (626) 683-9777	FAX (626) 683-9991
	APPLICANT REPRESENTATIVE ADDRESS 709 E Colorado Blvd, Ste 200	CITY Pasadena	STATE CA
		ZIP 91101	EMAIL peter@aralicense.com
	PROPERTY OWNER NAME (SIGNATURE REQUIRED BELOW) Nasan LLC, c/o Kin Properties, Inc.	BUSINESS PHONE (561) 620-9200	FAX (561) 955-9921
	PROPERTY OWNER ADDRESS 185 Spanish River Blvd, Box 500	CITY Boca Raton	STATE FL
	ZIP 33431	EMAIL	

PROJECT/BUSINESS DESCRIPTION – DESCRIBE IN DETAIL YOUR PROPOSED USE, ATTACH A SEPARATE SHEET IF NECESSARY

Applicant wishes to sell beer and wine for off-site consumption at the store on Mendocino Avenue.

Applicant desires only to use 20 linear feet for alcohol sales in a facility of approximately 22,500 square feet.

- Please indicate type of ABC License with a description of activities permitted by the license
Type 20 - Sale of beer and wine for off-site consumption. Minors allowed on premises.
- Type of alcoholic beverages to be sold:

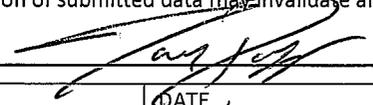
Beer	Wine	Spirits
x	x	
- Square footage of proposed use:
22,500 sq ft store, 20 linear ft of alcohol
- Proposed days/hours of operation:
8:00am to 9:00pm Monday through Saturday, 9:00am to 9:00pm Sundays, open until 11:00pm during Christmas holiday season.
- Is the business located within 500 feet of any youth-oriented facility, parks, open space or recreational facilities? **YES** NO
If YES, please indicate which facilities: Steele Lane Elementary School and Santa Rosa Junior College lie within 500 feet of the facility.

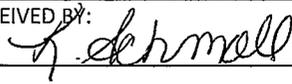
APPROVAL OF THIS PUBLIC CONVENIENCE OR NECESSITY DOES NOT AUTHORIZE THE SALE OF ALCOHOLIC BEVERAGES

SUBMITTAL INFORMATION – THIS ITEM MUST BE SUBMITTED FOR A COMPLETE APPLICATION

COMPLETED ABC APPLICATION WORKSHEET 23958.4 B & P	SITE PLAN
NEIGHBORHOOD CONTEXT MAP	VICINITY MAP

PROPERTY OWNER'S CONSENT – I declare under penalty of perjury that I am the owner of said property or have written authority from property owner to file this application. I certify that all of the submitted information is true and correct to the best of my knowledge and belief. I understand that any misrepresentation of submitted data may invalidate any approval of this application.

PROPERTY OWNER'S SIGNATURE:  Jerrod Poss (see authorization)

RECEIVED BY: 	DATE 2/26/13	FEE RECEIVED \$ 166	RECEIPT NUMBER
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Department of Community Development
City of Santa Rosa
100 Santa Rosa Avenue, Room 3
Santa Rosa, CA 95404

February 22, 2013

Michael Raley
c/o Art Rodriguez and Associates
709 East Colorado Boulevard
Pasadena, CA 91101

Dear Approving Officer:

Enclosed is an application package for a finding of public convenience or necessity, pertaining to the Big Lots store at 2055 Mendocino Avenue. Included in this package are the following:

- 1 application form
- 5 Neighborhood Context maps
- 5 vicinity maps
- 5 500-foot radius maps
- 5 copies of ABC Form 23958.4 B & P
- 1 check for \$111.00, per the fee listed in the City's schedule

The applicant wishes to serve beer and wine on the premises for off-site consumption. It is our understanding that this is a by-right use, which necessitates no conditional use permit. The applicant, however, does seek a finding of public convenience or necessity from the City of Santa Rosa for the Department of Alcoholic Beverage Control. Such a finding is justified by the small amount of space used for the sale and display of alcoholic beverages—a mere twenty linear feet in a 22,500 square foot store. Furthermore, the proposed use would serve the public's convenience by enabling Big Lots customers of legal age to make incidental purchases of alcohol, such as that included in gift baskets, at a local venue. This is not necessarily an atypical purchase, and it would be quite reasonable to allow said product to be sold at the site.

There is also a near absence of sensitive uses near the site. The only educational facility nearby is Santa Rosa Junior College, and any parks in the vicinity are not directly adjacent. It is therefore unlikely that the proposed use, given its nature and extent, would be of any detriment to public health and safety.

Please direct any questions you may have regarding this application to either Brett Engstrom or me by phone at 626-683-9777. I thank you for your time, and look forward to further correspondence on this matter.

Regards,

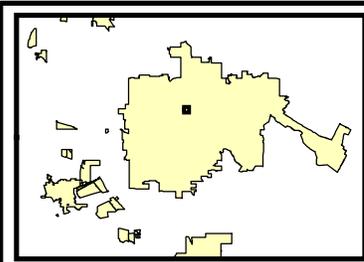


Michael Raley
Assistant to the Land Use Consultant
Art Rodriguez and Associates

CITY OF SANTA ROSA
Santa Rosa, CA

FEB 26 2013

DEPARTMENT OF
COMMUNITY DEVELOPMENT



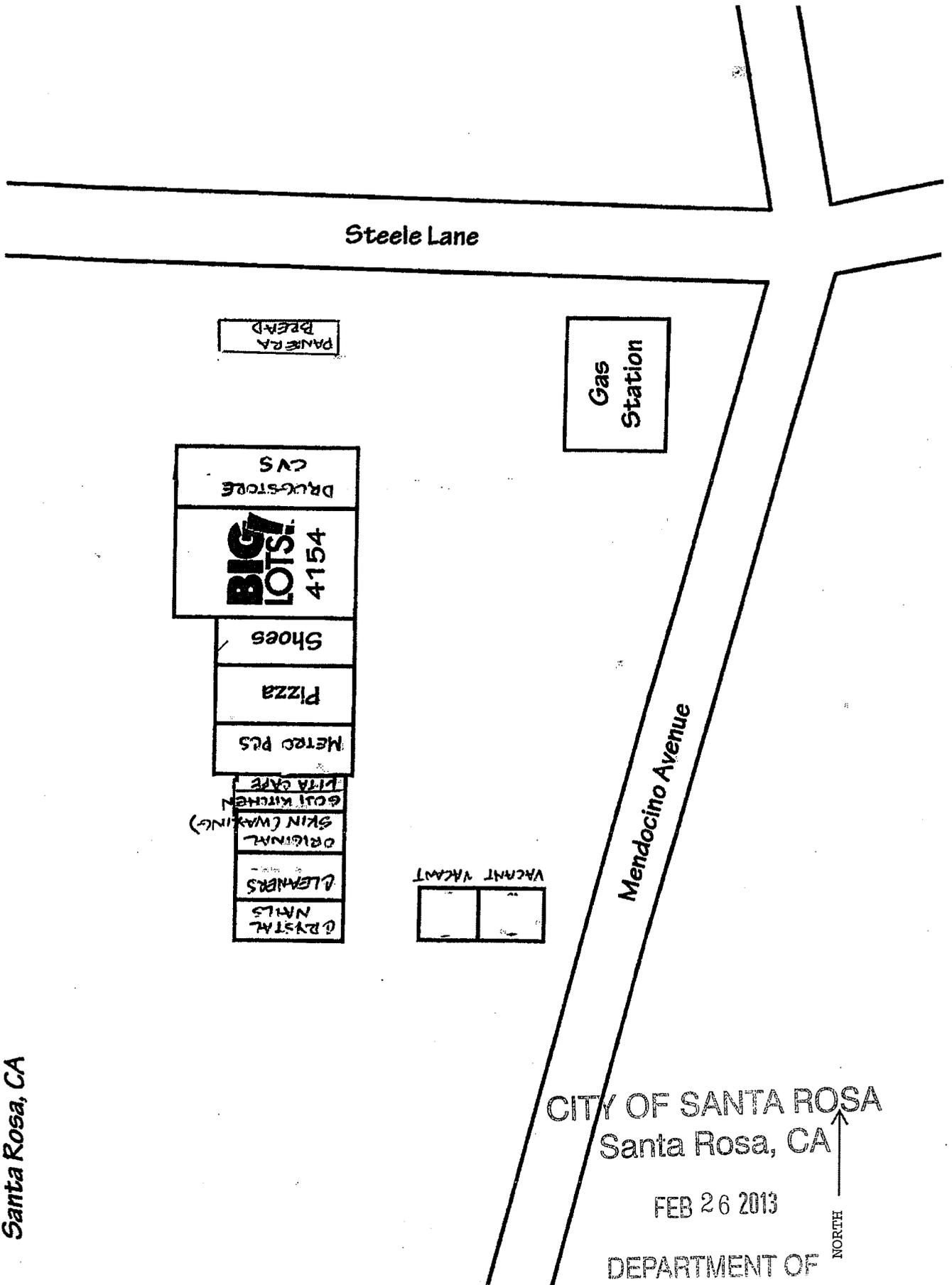
LOCATION MAP

**Big Lots
Public Convenience or Necessity for
Off-Site Alcohol Sales**

 2055 Mendocino Avenue



Redwood Plaza
Santa Rosa, CA



CITY OF SANTA ROSA
Santa Rosa, CA

FEB 26 2013

DEPARTMENT OF
COMMUNITY DEVELOPMENT

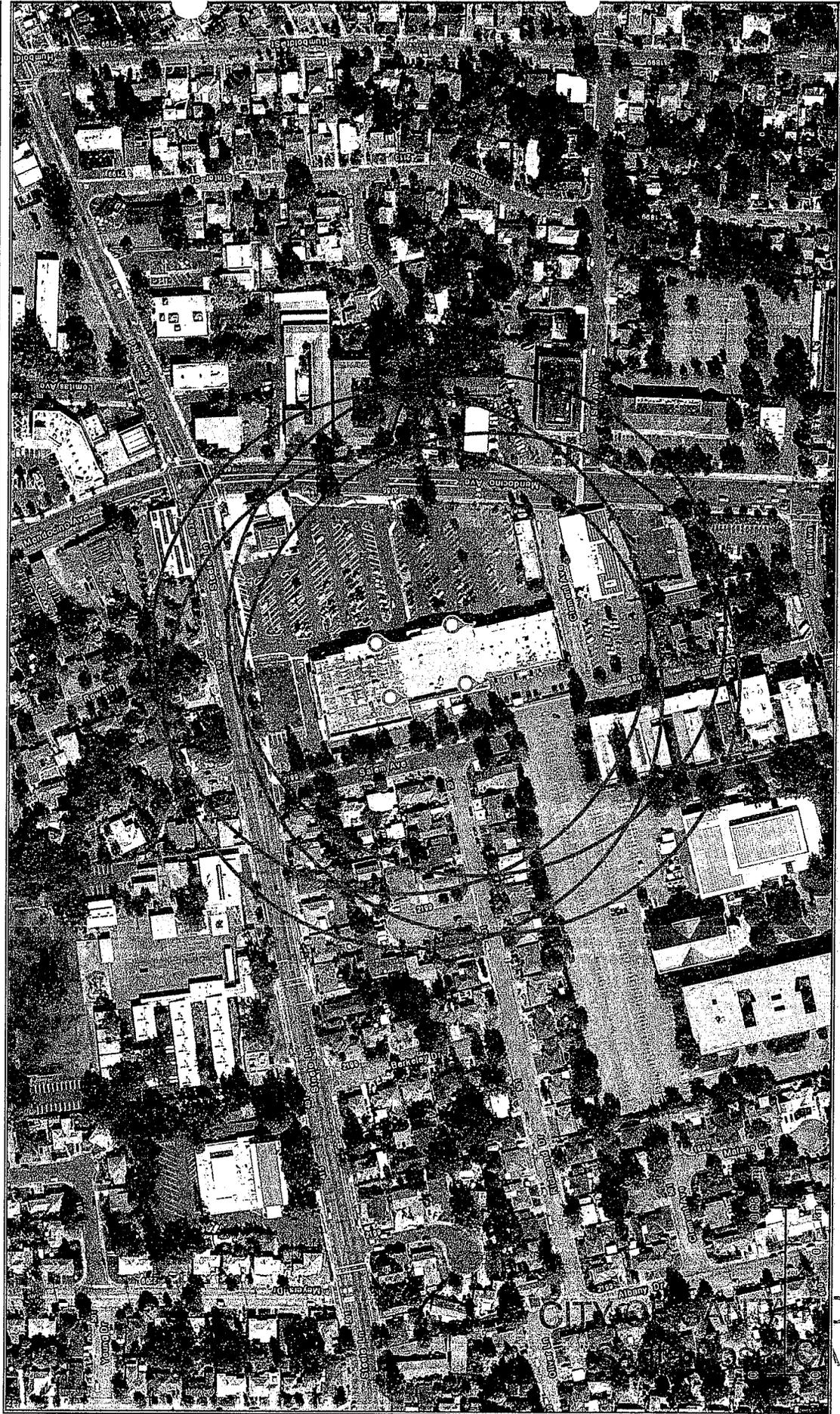
NORTH



esri

2055 Mendocino Avenue

500-foot radius



DEPARTMENT OF
COMMUNITY DEVELOPMENT

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January 22, 2013

Page 1 of 1

23958.4 B & P APPLICATION WORK SHEET

PREMISES ADDRESS:

2055 Mendocino Ave.
Santa Rosa

LICENSE TYPE: 20

1. CRIME REPORTING DISTRICT

_____ Jurisdiction unable to provide statistical data.

Reporting District: 1060200017

Total number of reporting districts: 100

Total number of offenses: 14397

Average number of offenses per district: 143.97

120% of average number of offenses: 173

Total offenses in district: 225

Location is within a high crime reporting district: Yes / No

CITY OF SANTA ROSA
Santa Rosa, CA

FEB 26 2013

DEPARTMENT OF
COMMUNITY DEVELOPMENT

2. CENSUS TRACT / UNDUE CONCENTRATION

Census Tract: 1521.00

Population: _____ / County Ratio _____

Number of licenses allowed: 5

Number of existing licenses: 3

Undue concentration exists: Yes / No

Letter of public convenience or necessity required: Governing Body / Applicant.

Three time publication required: Yes / No

*Director of
Community
Development*

(a) 1/24/13
Person Taking Application

Investigator

Supervisor



March 4, 2013

Department Of Alcoholic Beverage Control
Lynda Parkerson, Licensing Representative
50 D Street, Suite 130
Santa Rosa, CA. 95404

RE: ABC Type 41 Licensing

Dear Ms. Parkerson

The Santa Rosa Police Department was made aware of an application for a Type 20 licensing (off-sale beer & wine) for an establishment known as Big Lots. The establishment is located at 2055 Mendocino Avenue, which is part of a small shopping center at the corner of Mendocino Avenue and Steele Lane. The Police Department is requesting a denial of the license for the above establishment at that address pursuant to Business & Professions Code 23958.4. The establishment is in what we consider to be in a high crime area. It is also adjacent to an area that has an undue concentration of alcohol retail licensed premises. Some of the criminal and nuisance type of behavior taking place in the area is directly related to the consumption of alcoholic beverages. The Police Department believes that allowing another off-sale alcohol establishment in this area would serve to perpetuate the already criminal and nuisance type of behavior taking place in the area.

Should you have any questions, please do not hesitate to contact me.

Sincerely,

JERRY SOARES
Police Lieutenant
707-543-3635

POLICE DEPARTMENT

965 Sonoma Avenue, Santa Rosa, CA 95404 • 707-543-3600 • www.santarosapd.com

Administration FAX 707-543-3557	Communications FAX 707-543-3672	Investigations FAX 707-543-3569	Records FAX 707-543-3615	Traffic FAX 707-543-3589
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Area of Analysis

Mendocino Av Corridor, Including 2055 Mendocino Av (Big Lots)
From--and including--Elliot Av, northward to--and including--Mervyn Av.

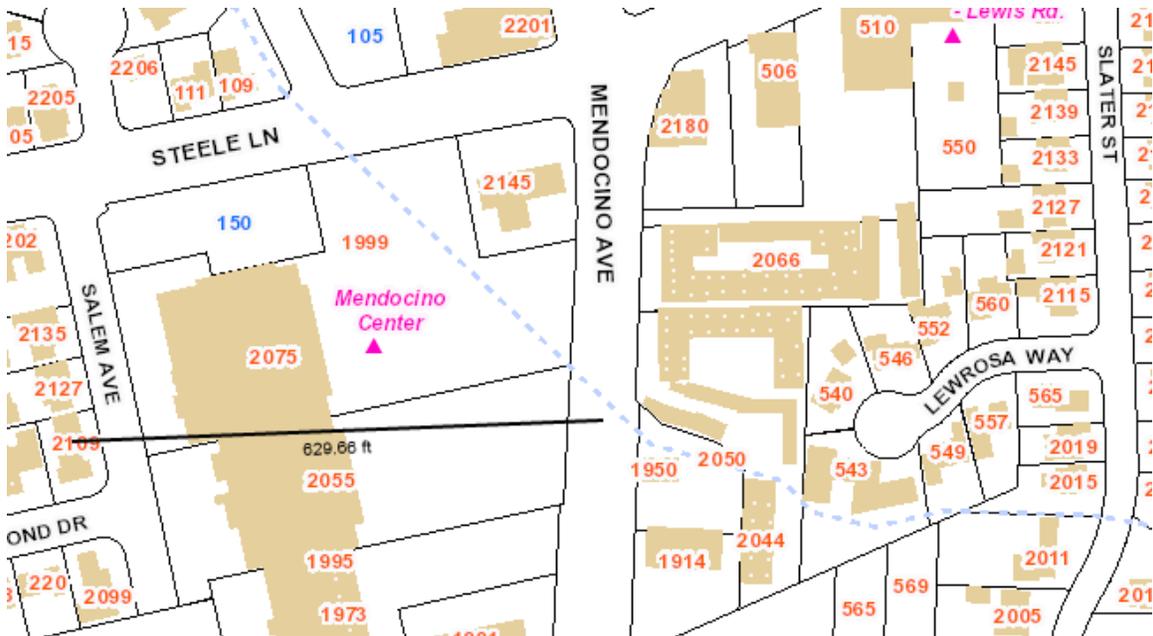


Aerial View:

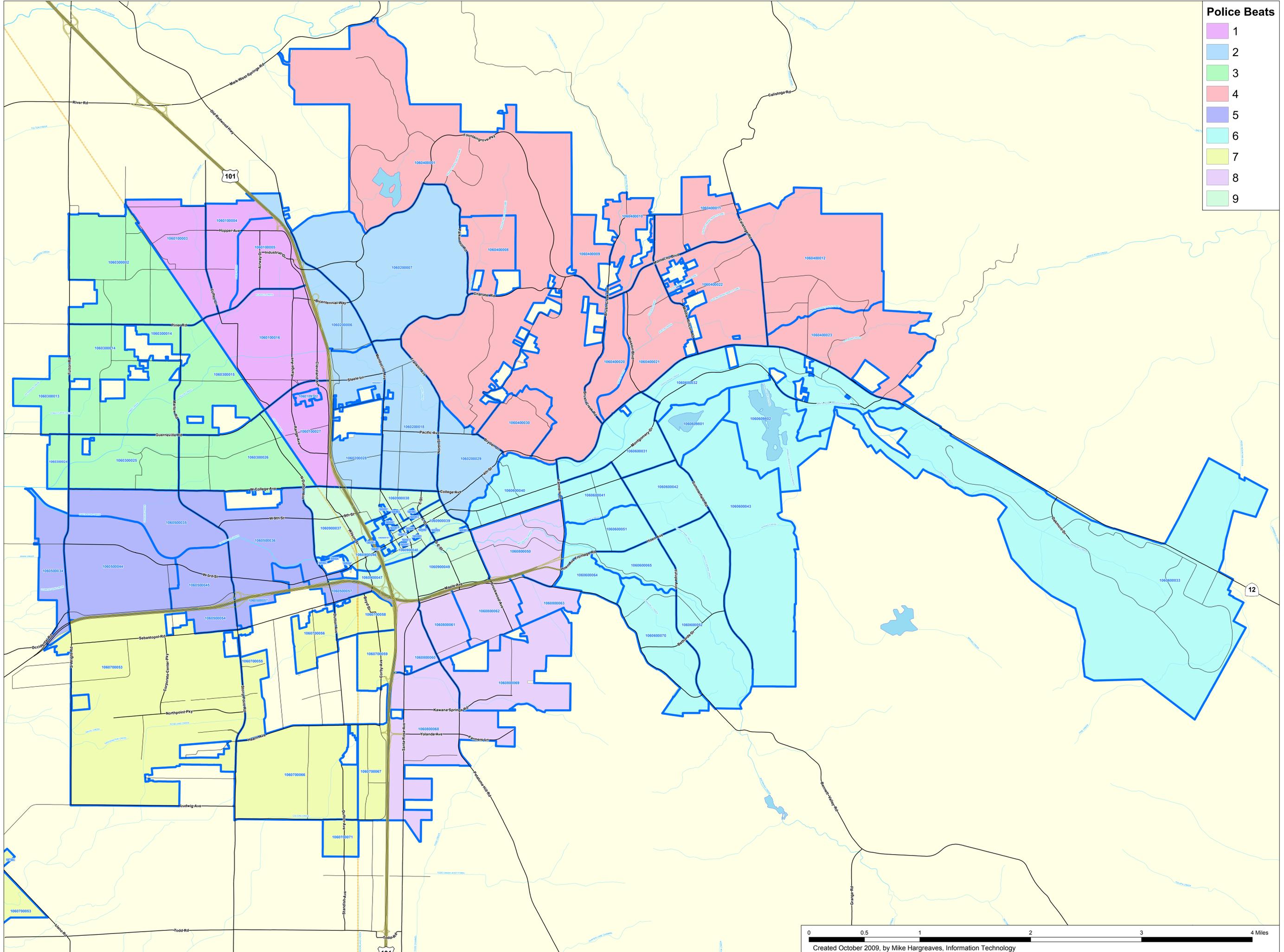
**2055 Mendocino Av Parcel and
Measurement Line showing width of Mendocino Corridor**

The **black horizontal measurement line** in the map clip below, which is **approx. 630 feet from the centerline of Mendocino Av.**, shows that this area of analysis includes the entire parcel on which the 2055 Mendocino Av (Big Lots) is located.

The same, approx. 630-foot distance, **measured from the Mendocino Av centerline eastward, includes Slater St.**



Police Beats and ESZs



Police Beats

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9

Count of inci_id		
offense	Total	
→ PUBLIC INTOXICATION: ALCOHOL, DRUG, TOLUENE OR A COMBINATION	53	←
PETTY THEFT - SHOPLIFTING	36	
BENCH WARRANT (MISD)	12	
BURGLARY (FEL)	10	
ADULT 72 HOUR MENTAL HEALTH	9	
OBSTRUCT/RESIST/ETC PUBLIC/PEACE OFFICER/EMERGENCY MED TECH	9	
→ DUI ALCOHOL/DRUGS	8	←
PETTY THEFT - ALL OTHER	8	
PETTY THEFT - FROM BLDG	8	
OUTSIDE WARRANT-MISD	7	
PETTY THEFT - FROM MOTOR VEHICLE	7	
PETTY THEFT - BIKE	6	
POSSESS CONTROLLED SUBSTANCE PARAPHERNALIA	6	
ROBBERY	6	
BURGLARY - SHOPLIFTING (FELONY)	5	
POSSESS NARCOTIC CONTROLLED SUBSTANCE	5	
VANDALISM:DAMAGE PROPERTY (MISD)	5	
POSSESS CONTROLLED SUBSTANCE (FEL)	4	
(FEL) PETTY THEFT W/PRIOR JAIL TERM FOR SPECIFIC OFFENSE	3	
BURGLARY - FROM VEHICLE	3	
THEFT OF VEHICLE (FEL)	3	
ATTEMPTED ROBBERY	2	
GRAND THEFT - ALL OTHER	2	
MINOR POSSESS ALCOHOL	2	
MINOR POSSESS MARIJUANA ON GROUNDS DURING SCH ACTIVITIES	2	
PETTY THEFT - PURSE SNATCH	2	
VANDALISM (\$400 OR MORE) (FEL)	2	
(FEL) CARRY CONCEALED DIRK OR DAGGER	1	
(MISD) POSSESS WEAPON/ETC AT SCHOOL	1	
APPROPRIATE LOST PROPERTY (UNDER \$400)	1	
BATTERY ON PERSON (MISD)	1	
BATTERY W/SERIOUS BODILY INJURY (PUNISHMENT)	1	
BENCH WARRANT (FELONY)	1	
BURGLARY - FRAUD	1	
FORGE/ALTER NARCOTIC PRESCRIPTION	1	
GRAND THEFT - BIKE	1	
GRAND THEFT - FROM BUILDING	1	
GRAND THEFT - FROM MOTOR VEHICLE	1	
OUTSIDE WARRANT-FEL	1	
PROBATION WARRANT MISD	1	
RIDING BICYCLE UNDER INFLUENCE OF ALCOHOL AND/OR DRUGS	1	
SELL/ETC LIQUOR TO MINOR	1	
SHOPLIFT	1	
USE/UNDER INFLUENCE OF CONTROLLED SUBSTANCE	1	
VANDALISM:DAMAGE PROPERTY (FEL)	1	
VANDALISM:DEFACE PROPERTY (MISD)	1	
Grand Total	244	

Count of call_id	
description	Total
SECURITY CHECK	384
OUT WITH SUBJECT	285
SUSPICIOUS PERSON	146
UNWANTED SUBJECT	127
DISTURBANCE UNWANTED GUEST	123
CHECK THE WELFARE	118
→ DRUNK IN PUBLIC	93 ←
COUNTY / CITY ORDINANCE	85
DISTURBANCE	68
ALARM - AUDIBLE	66
PETTY THEFT JUST OCCURRED	46
FLAGGED DOWN BY CITIZEN	45
MAN DOWN	45
IN CUSTODY	37
DISTURBANCE PARTY	32
FIGHT	30
DISTURBANCE VERBAL	29
PETTY THEFT REPORT	29
SUSPICIOUS CIRCUMSTANCES	28
SUBJECT SLEEPING	25
SUSPICIOUS VEHICLE OCCUPIED	22
SUSPICIOUS VEHICLE	16
LAW, FIRE AND LAW RELATED EVENT	15
→ DRUNK DRIVER DUI	14 ←
NARCOTIC ACTIVITY	13
MEET CITIZEN	12
VANDALISM REPORT	12
BATTERY - JUST OCCURRED	11
PETTY THEFT	11
BURGLARY REPORT	10
DISTURBANCE NOISE	10
SUSPICIOUS CIRCUMSTANCES REPORT	10
MENTALLY ILL	9
STOLEN VEHICLE REPORT	9
ALARM - SILENT	8
DISTURBANCE JUST OCCURRED	8
IN CUSTODY REPORT	8
GRAND THEFT REPORT	7
CALL FOR HELP	6
DISTURBANCE REPORT	6
EXTRA PATROL	6
TRESPASS	6
SUSPECT CONTACT	5
BURGLARY AUTO REPORT	4
DISTURBANCE MUSIC	4
STOLEN VEHICLE RECOVERY REPORT	4
VANDALISM JUST OCCURRED	4
CITIZEN CRIME REPORT	3

DISTURBANCE JUVENILE	3
PROMISCUOUS SHOOTING	3
SUSPICIOUS VEHICLE UNOCCUPIED	3
THREATS REPORT	3
VANDALISM	3
ALARM - HOLD UP	2
BATTERY REPORT	2
BURGLARY JUST OCCURRED	2
FIREWORKS	2
ROBBERY	2
ROBBERY JUST OCCURRED	2
ALARM	1
ALARM - PANIC	1
ASSAULT WITH DEADLY WEAPON JUST OCCURRED	1
ASSAULT WITH DEADLY WEAPON REPORT	1
ATTEMPT BURGLARY REPORT	1
BATTERY	1
BATTERY - DOMESTIC WITH INJURY	1
BURGLARY	1
BURGLARY COMMERCIAL	1
DISPLAY OF WEAPON	1
DRUNK IN PUBLIC DROP OFF	1
GRAND THEFT JUST OCCURRED	1
INDECENT EXPOSURE	1
MENTALLY ILL / VIOLENT	1
POSSESSION OF DANGEROUS WEAPON	1
ROBBERY REPORT	1
STABBING VICTIM	1
VEHICLE TAMPERING REPORT	1
Grand Total	2139





SANTA ROSA POLICE DEPARTMENT

Crime Analysis

Date: February 2, 2012

**COMBINED INCIDENT & ARREST COUNT BY ESZ, YEAR 2011
ABC "Undue Concentration" High-Low Crime Determination***

SRPD ESZ	INC COUNT**	ARR COUNT***	COMBINED	HIGH	LOW****
1060100003	57	36	93		
1060100004	22	18	40		
1060100005	137	224	361	HIGH	
1060100016	194	634	828	HIGH	
1060100027	49	286	335	HIGH	
1060109702	428	157	585	HIGH	
1060200006	32	92	124		
1060200007	59	102	161		
→ 1060200017	38	187	225	HIGH	←
1060200018	251	660	911	HIGH	
1060200028	37	142	179		
1060200029	80	96	176		
1060300002	75	71	146		
1060300013	3	24	27		
1060300014	64	166	230	HIGH	
1060300015	76	155	231	HIGH	
1060300024	5	18	23		
1060300025	63	113	176		
1060300026	123	195	318	HIGH	
1060400001	135	274	409	HIGH	
1060400008	6	3	9		
1060400010	18	15	33		
1060400011	24	54	78		
1060400012	28	13	41		
1060400020	10	14	24		
1060400021	72	110	182		
1060400022	63	99	162		
1060400023	46	42	88		
1060400030	18	9	27		
1060500034	3	1	4		
1060500035	30	97	127		
1060500036	103	299	402	HIGH	
1060500044	54	66	120		
1060500045	41	122	163		
1060500054	26	45	71		
1060500057	19	171	190		
1060600031	32	135	167		
1060600032	55	97	152		
1060600033	24	27	51		
1060600040	42	138	180		
1060600041	55	108	163		
1060600042	38	62	100		
1060600043	23	12	35		
1060600051	40	78	118		
1060600052	72	52	124		

1060600064	23	29	52	
1060600065	18	28	46	
1060600070	58	43	101	
1060609801	8	32	40	
1060609802	6	3	9	
1060700053	126	233	359	HIGH
1060700055	17	16	33	
1060700056	52	99	151	
1060700058	24	68	92	
1060700059	19	73	92	
1060700066	60	148	208	
1060700067	16	76	92	
1060700071	10	7	17	
1060800050	48	111	159	
1060800060	46	264	310	HIGH
1060800061	55	115	170	
1060800062	20	98	118	
1060800063	5	26	31	
1060800068	191	322	513	HIGH
1060800069	42	41	83	
1060900037	45	307	352	HIGH
1060900038	51	303	354	HIGH
1060900039	14	44	58	
1060900046	37	190	227	HIGH
1060900047	12	90	102	
1060900048	145	818	963	HIGH
1060900049	113	501	614	HIGH
1060908800	24	146	170	
1060909701	268	190	458	HIGH
1060909703	3	83	86	
1060909704	1	30	31	
1060909901	4	13	17	
1060909903	6	1	7	
1060909909	1	4	5	
1060909911	1	1	2	
1060909912	1	1	2	
TOTAL	4440	10073	14513	
AVERAGE	54.81	124.36	179.17	
AVG x 120%	66	149	215	

* Refer to Business and Professions Code, Division 9 (Alcoholic Beverages), Chapter 6, "Issuance and Transfer of Licenses," section 23958.4

** Includes ONLY incidents with PRIMARY CHARGE of Homicide, Forcible Rape, Robbery, Aggravated Assault, Burglary, Larceny Theft, or Motor Vehicle Theft

*** Includes all Felony and Misdemeanor arrests, EXCEPT Traffic Citations

**** 20 percent greater number of reported crimes (incidents & arrests combined), than the average number of reported crimes as determined from all crime reporting districts (ESZ) within the jurisdiction of SRPD

ABC Act, California Business And Professions Code

Effective January 1, 2012

SOURCE: [HTTP://WWW.ABC.CA.GOV/CBNPC.HTML](http://www.abc.ca.gov/cbNPC.html)

BUSINESS AND PROFESSIONS CODE SECTIONS

DIVISION 9. ALCOHOLIC BEVERAGES

CHAPTER 6. ISSUANCE AND TRANSFER OF LICENSES

Article 1. Applications for Licenses 23950-23962

23958.4. (a) For purposes of Section 23958, "**undue concentration**" means the case in which the applicant premises for an original or premises-to-premises transfer of any retail license are located in an area where any of the following conditions exist:

(1) The applicant premises are located in a crime reporting district that has a *20 percent greater number of reported crimes, as defined in subdivision (c), than the average number of reported crimes* as determined from all crime reporting districts within the jurisdiction of the local law enforcement agency.

(2) As to on-sale retail license applications, the ratio of on-sale retail licenses to population in the census tract or census division in which the applicant premises are located exceeds the ratio of on-sale retail licenses to population in the county in which the applicant premises are located.

(3) As to off-sale retail license applications, the ratio of off-sale retail licenses to population in the census tract or census division in which the applicant premises are located exceeds the ratio of off-sale retail licenses to population in the county in which the applicant premises are located.

(b) Notwithstanding Section 23958, the department may issue a license as follows:

(1) With respect to a nonretail license, a retail on-sale bona fide eating place license, a retail license issued for a hotel, motel, or other lodging establishment, as defined in subdivision (b) of Section 25503.16, a retail license issued in conjunction with a beer manufacturer's license, or a winegrower's license, if the applicant shows that public convenience or necessity would be served by the issuance.

(2) With respect to any other license, if 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. The 90-day period shall commence upon receipt by the local governing body of (A) notification by the department of an application for licensure, or (B) a completed application according to local requirements, if any, whichever is later.

If the local governing body, or its designated subordinate officer or body, does not make a determination within the 90-day period, then the department may issue a license if the applicant shows the department that public convenience or necessity would be served by the issuance. In making its determination, the department shall not attribute any weight to the failure of the local governing body, or its designated subordinate officer or body, to make a determination regarding public convenience or necessity within the 90-day period.

(c) For purposes of this section, the following definitions shall apply:

(1) "Reporting districts" means geographical areas within the boundaries of a single governmental entity (city or the unincorporated area of a county) that are identified by the local law enforcement agency in the compilation and maintenance of statistical information on reported crimes and arrests.

(2) "Reported crimes" means the *most recent yearly compilation by the local law enforcement agency of reported offenses of criminal homicide, forcible rape, robbery, aggravated assault, burglary, larceny theft, and motor vehicle theft, combined with all arrests for other crimes, both felonies and misdemeanors, except traffic citations.*

(3) "Population within the census tract or census division" means the population as determined by the most recent United States decennial or special census. The population determination shall not operate to prevent an applicant from establishing that an increase of resident population has occurred within the census tract or census division.

(4) "Population in the county" shall be determined by the annual population estimate for California counties published by the Population Research Unit of the Department of Finance.

(5) "Retail licenses" shall include the following:

(A) Off-sale retail licenses: Type 20 (off-sale beer and wine) and Type 21 (off-sale general).

(B) On-sale retail licenses: All retail on-sale licenses, except Type 43 (on-sale beer and wine for train), Type 44 (on-sale beer and wine for fishing party boat), Type 45 (on-sale beer and wine for boat), Type 46 (on-sale beer and wine for airplane), Type 53 (on-sale

general for train and sleeping car), Type 54 (on-sale general for boat), Type 55 (on-sale general for airplane), Type 56 (on-sale general for vessels of more than 1,000 tons burden), and Type 62 (on-sale general bona fide public eating place intermittent dockside license for vessels of more than 15,000 tons displacement).

(6) A "premises to premises transfer" refers to each license being separate and distinct, and transferable upon approval of the department.

(d) For purposes of this section, the number of retail licenses in the county shall be determined by the most recent yearly retail license count published by the department in its Procedure Manual.

(e) The enactment of this section shall not affect any existing rights of any holder of a retail license issued prior to April 29, 1992, whose premises were destroyed or rendered unusable as a result of the civil disturbances occurring in Los Angeles from April 29 to May 2, 1992, to reopen and operate those licensed premises.

(f) This section shall not apply if the premises have been licensed and operated with the same type license within 90 days of the application.



April 12, 2013

Alcohol Beverage Control
50 D Street, Suite 130
Santa Rosa, CA 95404

REQUEST FOR DETERMINATION OF PUBLIC CONVENIENCE OR NECESSITY
(PCN) ON-SITE SALE GENERAL (BEER & WINE) – TYPE 20 LICENSE
BIG LOTS; 2055 MENDOCINO AVENUE
FILE NO. PCN13-001

Section 23958.4(b)(2) of the Business and Professions Code permits the Department of Alcoholic Beverage Control (ABC) to issue licenses for the sale of alcoholic beverages provided the governing body of the area in which an applicant's premises would be located determines that public convenience or necessity is served by the issuance. PNS Stores, Inc., the project applicant, is proposing to sell beer and wine for off-site consumption at the Big Lots store located at 2055 Mendocino Avenue, a Type 20 license.

Statistical information reported by the ABC indicates this location is in a high crime reporting district, but is not in an area with a high concentration of liquor licenses.

The Santa Rosa Police Department has provided information regarding the type of crime issues in the area, which include public intoxication as the top offence. They have also stated that, while the subject area is not over concentrated with alcohol licenses, it is adjacent to an area that has an undue concentration of licenses. Further, Big Lots has indicated that the beer and wine that would be sold would come from other retail establishments that were unable to sell the project, and Big Lots would then sell it at a discounted rate. It is the Police Department's position that allowing an off-sale alcohol license for Big Lots would serve to perpetuate the already criminal and nuisance type of behavior taking place in this area.

After review of the application, as well as the statistical information provided by the ABC and the Police Department, it has been determined that public convenience or necessity would not be served by the issuance of a Type 20 ABC license for Big Lots located at 2055 Mendocino Avenue, Santa Rosa.



This determination is final unless appealed within 10 calendar days.

Sincerely,

A handwritten signature in black ink, appearing to read "Charles J. Regalia". The signature is fluid and cursive, written over the printed name below.

CHARLES J. REGALIA, Director
Community Development

c: File

Becky Slayman
PNS Stores, Inc.
300 Phillipi Road
Columbus, OH 43288

Peter J Impala
Art Rodriguez & Associates
709 E. Colorado Boulevard, Suite 200
Pasadena, CA 91101

Nasan LLC,
c/o Kin Properties, Inc.
185 Spanish River Boulevard, Box 500
Boca Raton, FL 33431

RECEIVED

APR 22 2013

CITY OF SANTA ROSA
CITY CLERK'S OFFICE

APPEAL FORM

Date Received: _____

Fee: \$421.00

City Clerk's Office/Rec'd by: _____

Name of Appellant: Michael Raley

TO THE HONORABLE MAYOR AND MEMBERS OF THE CITY COUNCIL:

The above named appellant does hereby appeal to your Honorable Body the following:

The decision of the: (List Board/Commission/Dept.) Department of Community Development

Decision date: April 12, 2013

Decision: (approval, denial, other) Denial of finding of Public Convenience or Necessity

Name of Applicant/Owner/Developer: PNS Stores, Inc. - Applicant

Type of application: (Rezoning, Tentative Map, etc.) Letter of Public Convenience or Necessity

Street address of subject property: 2055 Mendocino Ave.

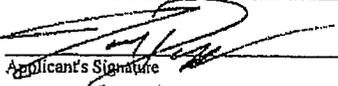
The grounds upon which this appeal is filed are: (List all grounds relied upon in making this appeal. Attach additional sheets if more space is needed.)

1. Per Santa Rosa Muni Code 20-42.034(a), alcohol sales are permitted by right in this location per the commercial property's zoning (PD). In addition, the Dept. of ABC does not consider this census tract (1521.00) to be over-concentrated with ABC Licenses.
2. Big lots stores offer a large variety of goods for the household, kitchen, pantry, garden, etc. This particular Big Lots store totals 22,500 sq.ft., with the alcohol area being only 20 In.ft. The area of alcohol sales is very reasonable in comparison to the size of the store, and it would be a great convenience for Big Lot's patrons to make their beer and wine purchases at the same time as their other Big lot's purchases.

The specific action which the undersigned wants the City Council to take is: (Attach additional sheets if more space is needed.)

The applicant requests the City Council make the findings of PNS Stores, Inc.'s (DBA Big Lots) request for a Letter of Public Convenience or Necessity.

Appeals shall be submitted in writing.....on a City application form within 10 calendar days after the date of the decision. The time limit will extend to the following business day where the last of the specified number of days falls on a day that the City is not open for business.



Date 4/19/13

Applicant's Name (type or print) JARED A POFF

Address BIG LOTS STORES, INC 300 Phillip Rd COLUMBUS OHIO 43228

Daytime Phone Number 614-278-7140

Home Phone Number _____

ART RODRIGUEZ
& Associates

709 E. Colorado Boulevard, Suite 200, Pasadena, CA 91101

RECEIVED
7
MAY 7 2013
CITY OF SANTA ROSA
CITY CLERK

May 6, 2013

Planning Commission
City of Santa Rosa
100 Santa Rosa Ave.
Santa Rosa, CA 95404

CITY OF SANTA ROSA
P.O. Box 1676
Santa Rosa, CA 95404

MAY 07 2013

DEPARTMENT OF
COMMUNITY DEVELOPMENT

Re: File No. PCN13-001
Big Lots, 2055 Mendocino Ave.

Dear Commissioners:

Big Lots (PNS Stores, Inc.) has a request before you to reconsider an application for a Letter of Public Convenience or Necessity (PCN) for their existing store located at 2055 Mendocino Avenue. The PCN is required in conjunction with Big Lots pursuit of a Dept. of ABC Type #20 License to allow the sale of beer and wine only for off-site consumption with the operation of the large retail store.

Big Lots operates over 1,500 stores throughout 48 states and seven Canadian Provinces, with over 170 stores in California alone. The stores offer a one-stop shopping destination for their patrons, offering an unlimited selection of items; furniture, electronics, linens, bath goods, kitchenware, automotive, pet, cleaning supplies and a large selection of food items. Many of the stores throughout the chain are also preparing to increase their selection of goods to include increased fresh produce and dairy selections.

Most of the California stores offer beer and wine with ABC Licenses dating back 20 years. Inline with Big Lots general business plan, they generally purchase goods (including beer and wine) at rates below that of normal wholesale. However this does not relate directly to Big Lots retail pricing for these items. While all Big Lots items are competitively priced compared to other retail outlets, their beer and wine selections are not overly discounted. The idea is not to create a separate demand for beer and wine through discounted pricing, but to offer a more complete selection of goods to the patrons that are already visiting the stores to purchase other items.

This store totals 22,500 sq.ft., comparable to an average supermarket. The floor area dedicated to the sale of beer and wine will be a modest 20 linear feet. The items offered for sale are name brand beers and wines from well known producers (Barefoot, Beringer, Ecco Domani, etc.). They do not offer cheap fortified wines often found at discount liquor outlets.

www.aralicensess.com

800-553-7272 • 626-683-9777

ART RODRIGUEZ & Associates

709 E. Colorado Boulevard, Suite 200, Pasadena, CA 91101

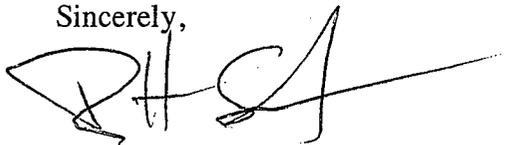
To ensure they are a professional beer and wine vendor, Big Lots has imposed a number of "in-house" safety procedures to ensure the sale of alcoholic beverages are done so in a responsible manner:

- **Cameras:** An interior camera system to assist in product and patron surveillance.
- **Dept. of ABC Training:** All employees and Store Managers must review and sign the Dept. of ABC's own "Clerk's Affidavit," which outlines the proper procedures in selling alcoholic beverages (enclosed).
- **POS Verification:** All Point of Sale (POS) machines include a program that suspends all beer and wine sales transactions until the cashier requests proper identification in order to verify the patron's date of birth. This information must be entered into the POS machine prior to the transaction continuing.
- **Product Placement:** All sensitive items (including beer and wine) are placed in well-traveled areas within view of store employees.
- **Loss Prevention:** Big Lots has an extensive Loss Prevention Department that actively maintains a company-wide low "shrinkage" rate. This particular store has maintained a loss of less than 2%, indicating an alert and attentive employee force.

Big Lots believes this request for a Letter of Public Convenience or Necessity should be granted on the grounds that the inclusion of beer and wine sales would be a convenience to Big Lots patrons. It would allow them to purchase their beverages at the same time as many other daily necessities. Big Lots appreciates the responsibility of selling beer and wine, and understands the operation must be conducted in a professional manner so as to avoid unnecessary effects to the surrounding area. With sixty-three Dept. of ABC Licenses issued to Big Lots in California alone, the company maintains a very good track record regarding violations. Should this request be granted, this store will operate with the same high standards and regard for their surrounding community.

Thank you for your consideration in this matter.

Sincerely,



Brett H. Engstrom

www.aralicensures.com

800-553-7272 • 626-683-9777

The following table details our U.S. stores by state at February 2, 2013:

Alabama	29	Maine	8	Ohio	108
Arizona	38	Maryland	24	Oklahoma	18
Arkansas	13	Massachusetts	20	Oregon	14
California	173	Michigan	49	Pennsylvania	71
Colorado	21	Minnesota	9	Rhode Island	1
Connecticut	12	Mississippi	14	South Carolina	35
Delaware	5	Missouri	27	South Dakota	1
Florida	108	Montana	2	Tennessee	49
Georgia	59	Nebraska	4	Texas	117
Idaho	7	Nevada	12	Utah	10
Illinois	40	New Hampshire	7	Vermont	4
Indiana	46	New Jersey	21	Virginia	39
Iowa	3	New Mexico	12	Washington	27
Kansas	9	New York	60	West Virginia	18
Kentucky	40	North Carolina	73	Wisconsin	10
Louisiana	23	North Dakota	2	Wyoming	2
				District of Columbia	1
				Total stores	1,495
				Number of states	48

The following table details our Canadian stores by province at February 2, 2013:

Alberta	11	New Brunswick	2	Saskatchewan	6
British Columbia	16	Nova Scotia	4		
Manitoba	4	Ontario	36		
				Total stores	79
				Number of provinces	7

Of our 1,574 stores, 32% operate in four states: California, Texas, Ohio, and Florida, and net sales from stores in these states represented 35% of our 2012 net sales.

Associates

At February 2, 2013, we had approximately 37,300 active associates comprised of 13,100 full-time and 24,200 part-time associates. Temporary associates hired during the fall and winter holiday selling season increased the number of associates to a peak of approximately 42,700 in 2012. Approximately 65% of the associates employed throughout the year are employed on a part-time basis. We consider our relationship with our associates to be good, and we are not a party to any labor agreements.

Competition

We operate in the highly competitive retail industry. We face strong sales competition from other general merchandise, discount, food, furniture, arts and crafts, and dollar store retailers, who operate in traditional brick and mortar stores and/or the e-commerce marketplace. Additionally, we compete with a number of companies for retail site locations, to attract and retain quality employees, and to acquire our broad assortment of closeout merchandise from vendors.

Purchasing

An integral part of our business is the sourcing and purchasing of quality closeout merchandise directly from manufacturers and other vendors typically at prices below those paid by traditional retailers. We believe that we have built strong relationships with many brand-name vendors and we have capitalized on our purchasing power in the closeout marketplace, including our ability to pay timely. We believe our vendor relationships and

CLERK'S AFFIDAVIT

State of California - Alcoholic Beverage Control (ABC) Laws

Part 1: REVIEW OF LAWS (Clerk must read and understand these laws)

(1) Sales to Underage Persons

You may not sell, furnish or give away any alcoholic beverage to any person under the age of 21 years. You may not cause to be sold, furnished or given away, any alcoholic beverage to any person under the age of 21 years. If you break this law, you may be arrested and charged with a crime. If convicted, you may be fined \$1000 and/or ordered to do up to 24 hours of community service. In addition, if you are under age 21, you will have your driver's license suspended or delayed for one year. (Sections 25658(a) & 25658(e)(1) Business and Professions Code and Section 13202.5 Vehicle Code)

If a person buys alcohol and furnishes it to a minor who consumes it and causes great bodily injury or death to himself or others, the furnisher faces a minimum 6-12 months in county jail and a \$1,000 fine. (Sections 25658(a), 25658(c) and 25658(e)(2)(3))

(2) Underage Persons Who Purchase Alcoholic Beverages

A customer under the age of 21 years may not buy alcoholic beverages. If a customer breaks this law, they may be arrested and charged with a crime. If convicted, the customer may be fined \$1000 and/or ordered to do up to 24 hours of community service. Also, the underage customer will have their driver's license suspended or delayed for one year. (Sections 25658(b) and 25658(e)(1) Business and Professions Code and Section 13202.5 Vehicle Code)

(3) Underage Persons Who Try to Purchase Alcoholic Beverages

A customer under the age of 21 years may not try to buy alcoholic beverages. If a customer breaks this law, they may be cited and charged with a crime. The customer may be fined up to \$1000 and/or ordered to do up to 48 hours of community service. In addition, the underage customer will have their driver's license suspended or delayed for one year. (Section 25658.5 Business and Professions Code and 13202.5 Vehicle Code)

(4) Checking Identification (I.D.)

If you ask for and see, bona fide (legally acceptable) I.D. before you sell an alcoholic beverage to a customer, you can defend yourself against a charge of selling alcoholic beverages to an underage person. An I.D. is legally acceptable if it:

- Is issued by a government agency (such as Federal, State, county or city)
- Contains the name of the person
- Contains the date of birth of the person
- Contains a description of the person
- Contains a photograph of the person
- Is currently valid (in other words, not expired)

ABC-299 (11/03) 1

Examples of legally acceptable IDs are: driver's license or State or Federal-issued ID.

military I.D. card. Caution: The picture and physical description on the I.D. must match the customer. If the I.D. is altered or mutilated, it is not acceptable. You must check a customer's I.D. every time you sell alcoholic beverages to that customer. Examples of unacceptable IDs are: temporary driver's licenses, non-photo driver's licenses, birth certificates and school or work I.D. cards. (Section 25660 Business and Professions Code)

(5) Hours of Sale

You may only sell alcoholic beverages from 6:00 a.m. on one day until 2:00 a.m. on the following day. If you break this law, you may be charged with a crime. If convicted, you may be fined up to \$1,000 and/or sent to county jail for up to six months. Customers who knowingly purchase during restricted hours face the same penalties. Caution: Some stores must stop selling alcoholic beverages earlier than 2:00 a.m. because of local laws or special conditions (restrictions) on the ABC license. You must obey any special conditions on your store's ABC license. Otherwise, the ABC license at your store may be taken away. (Sections 25631, 25632, 25617 and 23800-23805 Business and Professions Code)

(6) Sales to Obviously Intoxicated Persons

You may not sell or give any alcoholic beverage to any person who looks or acts intoxicated (even if they're not driving). If you break this law, you may be arrested and charged with a crime. If convicted, you may be fined up to \$1,000 and/or sent to county jail for up to six months. If you sell or give any alcoholic beverage to an underage, obviously intoxicated person, you may be sued in civil court. (Sections 25602(a), 25617 and 25602.1 Business and Professions Code)

(7) ABC License Privileges

You or your customers may not drink alcoholic beverages in your store or an adjacent property immediately outside your store. This includes before, during or after your shift. All alcoholic beverages you sell must be in sealed, unopened bottles, packages or containers. You may not sell an alcoholic beverage to a person if you know that they are going to re-sell the alcoholic beverage to someone else. You may not sell more than 52 gallons of wine to any one customer at any one time. If you break these laws, the ABC license at your store may be taken away. (Sections 23300, 23355, 23393, 23394 and 23402 Business and Professions Code and Rule 27, California Code of Regulations)

(8) Beer Keg Sales (applies if your store sells kegs, six-gallon size or larger)

(a) You must place a Beer Keg Identification Tag (Form ABC-287K) on each beer keg at the time of sale; (b) You must have the customer sign a Beer Keg Registration Receipt (Form ABC-286K), which includes the name and address of the purchaser and the purchaser's driver's license number or similar form of I.D. number; (c) Your store must keep the Beer Keg Registration Receipts at your store for six months and make them available upon request to peace officers (local law enforcement or ABC investigators); (d) You may only return a beer keg deposit to a customer if the keg still has the Beer Keg Identification Tag attached. If you break these laws, the ABC license at your store may be taken away. It is against the law for a customer to (a) Possess a keg containing beer knowing that the keg does not have a Beer Keg Identification Tag, or (b) Give false information to your store. If convicted, the customer may be fined a maximum of \$1,000 and/or sent to county jail for up to six months. (Section 25659.5 and 25617 Business and Professions Code)

Part 2: CLERK'S PRIOR VIOLATIONS (Clerk must check one)

_____ I have never been convicted of violating any law in the Alcoholic Beverage Control Act (such as selling an alcoholic beverage to an underage or obviously intoxicated person).

_____ I have been convicted of violating a law (or laws) in the California Alcoholic Beverage Control Act (such as selling an alcoholic beverage to an underage or obviously intoxicated person). [If you checked this box, please explain in full what happened. Use the space below or a separate sheet of paper, if necessary.]

Part 3: DECLARATION UNDER PENALTY OF PERJURY

(Clerk must complete this section)

I have read and understand this affidavit. I swear that all statements I have made in this affidavit are true. I swear that I signed this affidavit, on the date stated, under "penalty of perjury." I understand that if I did not tell the truth in this affidavit, I may be found guilty of perjury.

Name (printed): _____

_____ Street Address

_____ City, State, and Zip Code

_____ Home Telephone

_____ Work Telephone

_____ Signature

_____ Date

Part 4: ACKNOWLEDGMENT OF LICENSEE

(Licensee must complete this section)

_____ I have reviewed the attached Clerk's Affidavit with the person who signed it. I will keep a signed copy of the Clerk's Affidavit at Big Lots, Inc., 300 Phillipi Rd., Columbus, Ohio 43228:

_____ I understand if I do not have a signed Clerk's Affidavit for every person who sells alcoholic beverages in my store, the ABC may discipline my license.

_____ Signature of Licensee (or licensee's agent)

_____ Date

_____ ABC License Number
ABC-299 (11/03)



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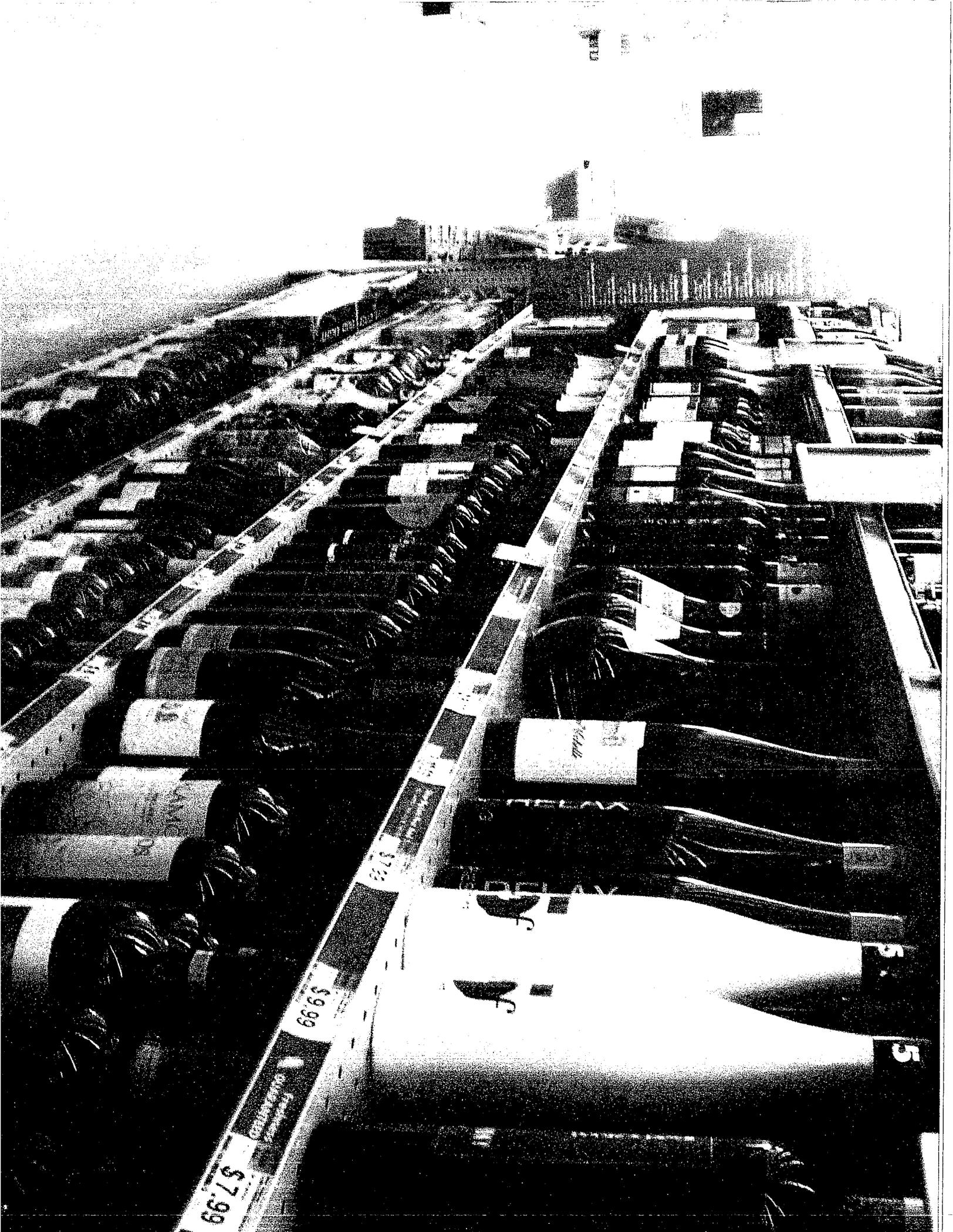
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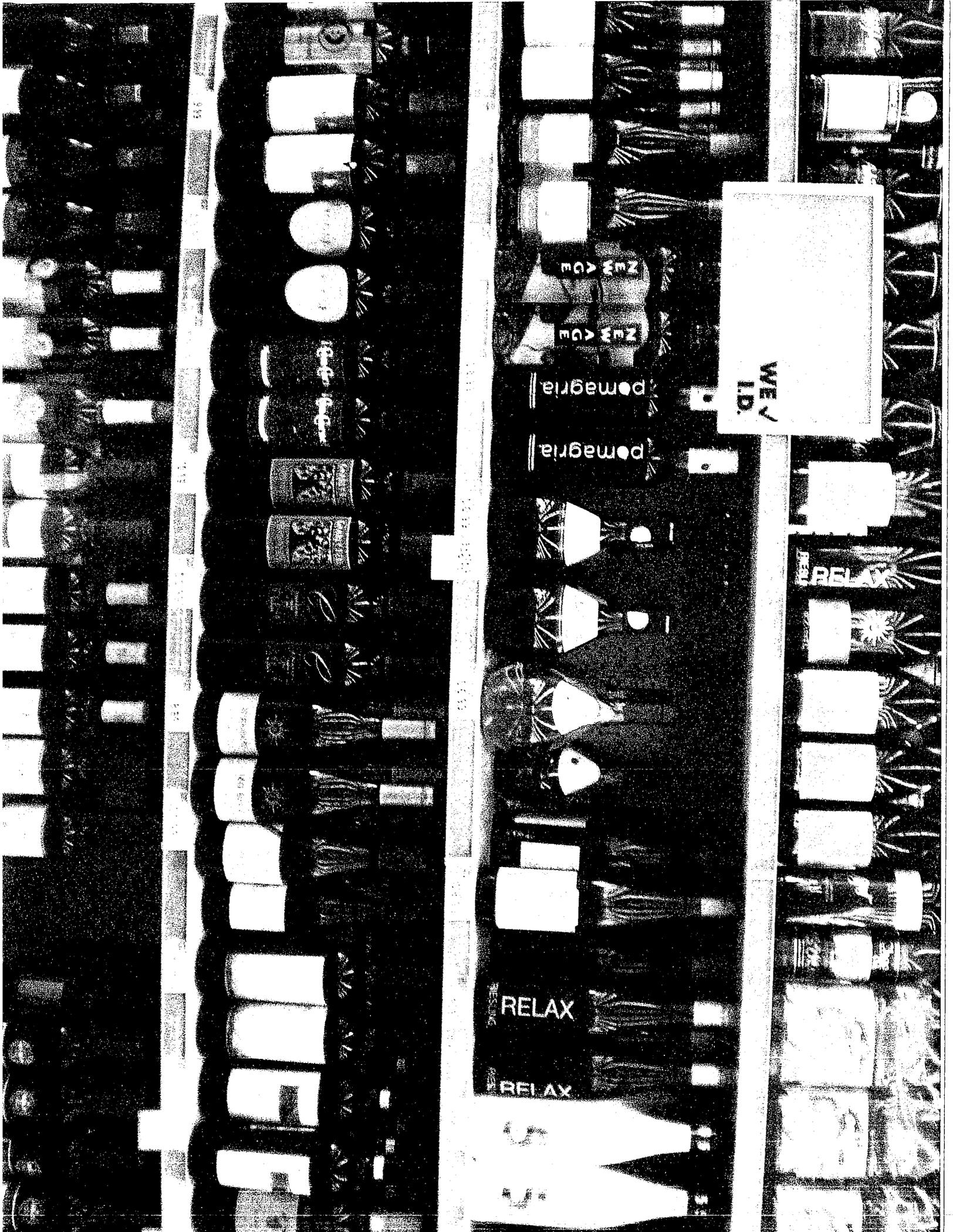
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