



## City Council

**Project Name:**

**Appeal of a PCN Determination for an Off-Sale Alcohol License for Big Lots**

**City Planner:**

**Jessica Jones**

# Project Description

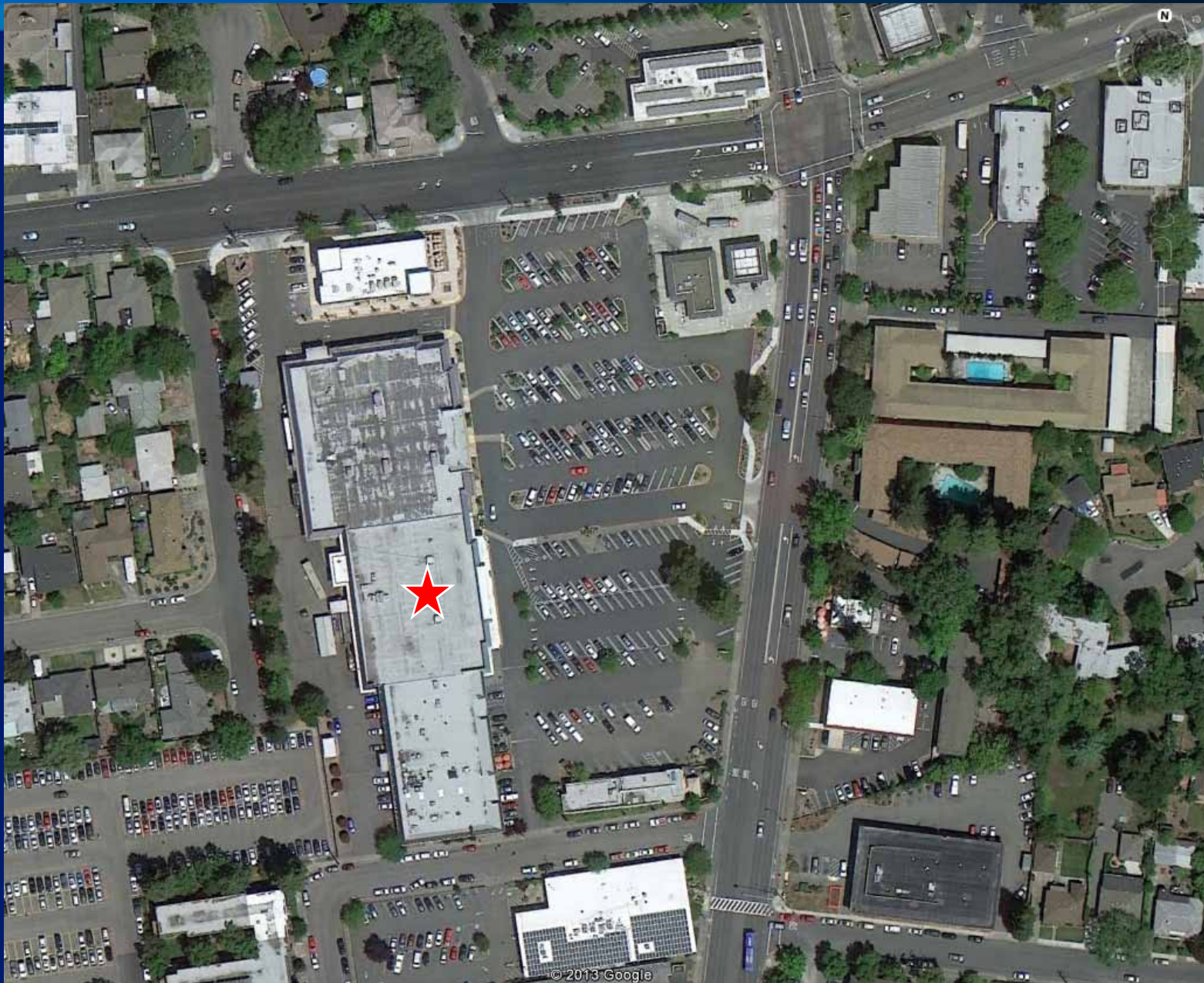
Appeal of a determination that the Public Convenience or Necessity (PCN) would not be served by the issuance of an off-sale alcohol license for beer and wine at Big Lots located at 2055 Mendocino Avenue

# Location Map – 2055 Mendocino Avenue





# Aerial



# Site Photograph





# Background

- February 26, 2013 - PCN application filed for an off-sale alcohol license for beer and wine sales at Big Lots
- April 12, 2013 - based on statistical information regarding crime in the area, the Community Development Director determined that public convenience or necessity would not be served by the issuance of an off-sale alcohol license
- April 22, 2013 - Applicant filed an appeal

# Analysis

- ABC must deny a license if it would create a law enforcement problem, unless the local governing body determines that the public convenience or necessity would be served.
- State law defines a “high crime reporting district” 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.

# Analysis

- Per the Santa Rosa Police Department, public intoxication is the top offence in the area.
- While the subject area is not over concentrated with alcohol licenses, it is adjacent to an area that is.
- Applicant provided information to the Police Department that the beer and wine would be sold at a discounted rate.
- It is staff's position that allowing an off-sale alcohol license would perpetuate the criminal and nuisance behavior in the area.



# Grounds for Appeal

- Per to Santa Rosa Municipal Code alcohol sales are permitted by right in this location, and ABC does not consider this census tract to be over-concentrated.

## Staff Response

The above statement is accurate. The Zoning Code does not require approval of a Conditional Use Permit.

However, because the area is considered high crime, a PCN is required.

# Grounds for Appeal

- The store totals 22,500 sq. ft., with the alcohol area only 20 linear feet. The area of alcohol sales is reasonable in comparison to the size of the store, and would be a convenience for patrons.

## Staff Response

Although the total area within the store would be limited, it does not address the concerns regarding crime and the potential of perpetuating the issue.

# Grounds for Appeal

- Big Lots generally purchases goods at rates below normal wholesale. While all items are competitively priced, beer and wine is not overly discounted.

## Staff Response

Although Big Lots is not trying to create a separate demand, the original concerns related to crime remain. Based on information provided by the Police Department, the top offence in this area is public intoxication.

# Grounds for Appeal

- The items offered for sale are name brand beers and wines from well-known producers. They do not offer cheap fortified wines often found at discount liquor outlets.

## Staff Response

State law prohibits the City from regulating the types of beer and wine sold at a store.



# Grounds for Appeal

- Big Lots imposes a number of safety procedures to ensure the sale of alcoholic beverages are done so in a responsible manner.

## Staff Response

The safety procedures outlined are typical of responsible businesses that sell alcohol, and are similar to those that are outlined in the Zoning Code.

It is staff's position that the safety procedures would not mitigate the stated crime and alcohol accessibility 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 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.