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July 11, 2018

City of Merced
Planning Division
678 W. 18th St.
Merced, California 95340



**RE: Development Application- Finding of Public Convenience or Necessity
Cardenas Markets LLC, dba Cardenas (Retail Grocery Supermarket)
Premises Address: 1136 W. Main St., Merced, California 95340**

To Whom It May Concern:

Please consider this correspondence as our formal request for a finding of Public Convenience or Necessity required by the Department of Alcoholic Beverage Control pursuant to §23958.4 of the Business and Professions Code. Please consider the following as justification of Public Convenience and Necessity, for the proposed Cardenas Market LLC, dba Cardenas ("Cardenas") retail grocery supermarket with a planned location at 1136 W. Main St., Merced, California 95340.

Statement of Public Convenience or Necessity

Cardenas is committed to taking all feasible steps to address law enforcement concerns about the site. In addition, Cardenas has an extensive employee-training program and is a responsible retailer of alcoholic beverages. Cardenas' retail locations are designed to provide a safe environment for patrons and employees. To that end, the following design elements are incorporated into its security plan. The storefront includes a significant number of windows so that the interior of the store is visible from the exterior of the building. Additional security measures include: adequate lighting levels both on the interior and exterior of the store, employee supervision of the facility, closed circuit video monitoring system with cameras located strategically throughout the property, and careful window signage and landscaping placement to avoid obstruction of visibility into and out of the facility.

Public Convenience or Necessity

First, it is important to note that Business & Professions Code § 23958.4 requires a positive finding of public convenience "or" necessity in order for an off-premises ABC application to be approved. This is legally sufficient if Cardenas shows either public convenience or public necessity. It is not legally necessary to establish both.

Second, it is only necessary to show public convenience or necessity where there is an "undue concentration" of licenses in the census tract. The term undue concentration" (also referred as "over concentration") is specifically defined in Business & Professions Code § 23958.4 as simply a ratio of **the number of licenses in a census tract** compared to **the average number of licenses in a county**, as a whole. It does not mean that a particular census tract necessarily has too many licenses for the needs or convenience of residents in that tract.

In addition, "Over Concentration" does not mean that the state, or anyone else, has previously examined this census tract and determined that it has suffered any deleterious effects from the actual number of licenses existing; or that it will suffer if a new license is issued. It merely provides a guideline for making such a determination in the form of determining whether or not, in a particular situation, issuance of the ABC license would serve the public "convenience or necessity".

Thus, the fact that the census tract in which the Cardenas site is located may be statutorily "over concentrated," does not mean that the selling of alcoholic beverages at a large grocery supermarket will have adverse impacts. Rather, it simply means that either public convenience or public necessity will be served by the sale of alcoholic beverages at the site in conjunction with the sales of other items typically carried by a grocery store.

BASIS FOR SUPPORTING OFFSITE ALCOHOLIC BEVERAGE SALES AS AN INTEGRAL PART OF THE PROPOSED PROJECT.

1. The Convenience of Cardenas Store Concept

For over 20 years, Cardenas has operated full service grocery stores in Southern California. The company currently operates thirty stores in Southern California, four stores in Nevada, and maintains a large distribution facility and corporate headquarters in Ontario, California. In addition, Cardenas' subsidiary companies own fifteen grocery stores in Northern California and seven stores in Arizona. All stores and the distribution facility are licensed by the states in which they do business to sell or store alcoholic beverages.

Cardenas is committed to helping shoppers save time and money, and to make shopping for everyday needs simple and hassle free by offering a full range of quality private label and nationally branded items that are frequently overlooked or forgotten, such as non-alcoholic beverages, snacks, prepared foods, cigarettes and e-cig items, and seasonal items in a convenient neighborhood setting. In addition to all of the amenities of a mainstream grocery store, Cardenas offers expanded meat, produce and bakery items requested by its Latino customers. We believe that our value and convenience attract customers from a wide range of income brackets and life stages throughout the community.

At Cardenas, our goal is to provide our customers with an expedient and centrally located market. Our customers' reliance on Cardenas will varies from using the store for regular purchases to the occasional "oops, I forgot" purchase, where our customers do not want the hassle of driving, parking and shopping at a big box store (i.e., Costco) for a few items.

Although alcoholic beverages comprise only a small percentage of the store shelf-space, it is nevertheless necessary in order to provide Cardenas customers with the varied range of products that our customers expect. Thus, alcoholic beverages are a key element of the Cardenas inventory concept. By providing an assortment of products, including alcoholic beverages readily available to the Cardenas consumer, the public convenience of the

area is certainly served. Without it, customers may be obliged to travel to several stores or a big box retail outlets (i.e. Costco) in order to complete their shopping needs. Alcoholic beverage shelf space does not generally comprise more than approximately 5% of total sales floor area.

Furthermore, Cardenas strives to maximize the availability of a large diversity of food and sundry items at the site pursuant to its concept. Permitting the sale of beer, wine, and liquor at the site will complete Cardenas' concept, enabling customers to purchase a variety of products at one convenient stop. Providing customers all of this at one location is what "public convenience or necessity" is really all about.

2. "Over Concentration" in Primarily Commercial Census Tracts is consistent with Good Zoning Policy

According to the Department of Alcoholic Beverage Control in Census Tract 13.01, the tract in which Cardenas will be located, there are currently ten (10) active off-sale alcoholic beverages licenses and two (2) are allowed. The threshold for overconcentration established by the ABC, while a vulnerable, guideline is determined directly by population and does take into account zoning or general plan designation. As a result, the ABC established high license limits for largely residential census tracts and low thresholds for densely commercial tracts, while the General Plan encourages the concentration of commercial activity, opposed to an even dispersal among residential neighborhoods. As a result almost all commercial areas are "over concentrated."

3. Cardenas' Distinction Among Other Existing Off- Sale Licensed Retailers in the Census Tract

As noted, the Department of Alcoholic Beverage Control reported that there are 10 active off-sale alcoholic beverage licenses in Census Tract 13.01. Cardenas will be purchasing an existing Type 21 Off-Sale General License in Merced County, and it is probable that this application will not increase the number of active licensees in the area.

Each licensed retail format serves a different consumer shopping need. The large supermarkets in the census tract are primarily traditional, full-service supermarkets that shoppers tend to do their weekly grocery shopping. Cardenas is distinctly different from these retailers in terms of parking, time and overall convenience. Cardenas largely caters to a Latino customer base. This would clearly serve the public convenience.

While Cardenas is located in a large shopping center, Cardenas will serve a large residential area. The focus of a Cardenas Market is never on alcohol sales, but Cardenas needs to have them available for convenience sake, as an important but secondary product line. Moreover, Cardenas is well lit, has great visibility into the store and is open daily with traditional retail hours, and is closed by 10:00 p.m. while Liquor Stores and Gas Stations thrive on late night sales and often have signs covering the windows.

In summary, the consumer's shopping needs vary and their use of different retail store formats to fulfil those needs can be demonstrated by the diversity of retailers found in this retail shopping district. Public convenience or necessity refers to the character and style of the licensed premises, not the mere availability of alcoholic beverages and whether the proposed premises will serve a community desire or need. Cardenas will serve the public convenience by offering a carefully edited assortment of the quality private (local) and national branded items that are frequently purchased by customers in one convenient location.

4. A Good Neighbor

Cardenas' motto is that it is important to be a good neighbor. That is why it will be keeping its stores, front parking lots, and landscaping clean and tidy, and its deliveries will be scheduled to minimize noise and disruption.

5. Security and Control

Cardenas is committed to taking all feasible steps to address law enforcement concerns about the site. In addition, Cardenas recognizes the seriousness of loitering, delinquency, crime, and underage drinking and will have an aggressive minor policy which will prove to be successful. Cardenas complies with all education/certificate requirements for each county, city and district the stores are located in, and conduct internal training and refresher training programs in addition to state required education.

Cardenas is designed to provide a safe environment for patrons and employees. To that end, the following design elements are incorporated into our security plan. Security measures include: adequate lighting levels both on the interior and exterior of the store, employee supervision of the facility, closed circuit video monitoring system with cameras located strategically throughout the property, careful window signage and landscaping placement to avoid obstruction of visibility into and out of the facility.

Cardenas understands the importance of maintaining the appearance of a facility to both expand its customer base and preventing criminal activity. Cardenas' maintenance program will include timely graffiti and litter removal, repairs to structures and replacement of dead or diseased plant material, and strategic trash receptacle placement.

6. The Site will not Result in an Adverse Impact on Public Health, Safety, or Welfare

Cardenas' acquisition of this site will have a positive impact on public health, safety, and welfare. In fact, by providing a new, safe, and convenient location to make convenience purchases, public health, safety, and welfare will be advanced by this site. The addition of selling alcoholic beverages will not change this.

7. Community Service and Investment

Cardenas believes in promoting a spirit of involvement and carry our mission to serve the communities its calls home.

When you shop Cardenas, you join an effort to make our community and our world a better place. Cardenas is committed to conducting business in a way that promotes healthy families, thriving communities and a cleaner environment. At Cardenas, corporate responsibility is built into our mission to serve others. By providing safe products, supporting our communities and enforcing environmentally friendly practices, Cardenas proudly displays the values that makes its company great.

8. Conclusion

Cardenas has been a responsible retailer for over 20 years with its grocery store chain in 3 states. Permitting the sale of alcoholic beverages at this site will not change this but will allow the Cardenas concept to grow at this site, providing customers the added convenience to make purchases of beer, wine and liquor. Cardenas, by reason of its location, character, manner, and method of operation, merchandise, and potential clientele, will serve the community of Merced. To that end. Cardenas

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respectfully requests that it is granted a finding of Public Convenience for the Type 21 Off-Sale General alcoholic beverage license.

Respectfully Submitted,

Cardenas Markets LLC
a Delaware limited liability company

By: 
John Gomez, CEO