



CITY OF MARTINEZ

**CITY COUNCIL AGENDA
May 7, 2008**

TO: Mayor and City Council
FROM: Tom J. Simonetti, Chief of Police
SUBJECT: Off-Sale of Beer and Wine, 6606 Alhambra Ave.
DATE: April 9, 2008

RECOMMENDATION:

It is recommended that the City Council review included information and determine that public convenience and necessity either are or are not served by the issuance of a Department of Alcoholic Beverage Control License to a proposed convenience market at 6606 Alhambra Avenue.

BACKGROUND:

An application has been forwarded to the City of Martinez requesting approval of an off-sale beer and wine license for a proposed convenience market located at 6606 Alhambra Avenue.

Under normal circumstances such a request would not require special approval of the City of Martinez; however, issuance of this license would exceed the number allowed by Section 23958.4 of the Business and Professions Code. This code section limits the number of alcoholic beverage licenses within a census track. The number of licenses allowed in this particular census track that 6606 Alhambra Avenue is located is three (3). By issuing this license it would increase that number to four (4).

Under 23958.4 of the Business and Professions Code, the Department of Alcoholic Beverage Control would deny this license unless the local governing body, which in this case is the City Council, where the applicant premise is located, determines within ninety (90) days of notification that the public convenience necessity would be served by the issuance.

As a result of receiving this application, a background investigation was completed on both the premises and the applicant. The first facet of the investigation included calls for service in the area proposed at 6606 Alhambra Avenue. This survey included the boundaries of Alhambra Avenue on the east, Virginia Hills Drive on the south, Los

Animas Drive on the west, and Blue Ridge Drive on the north. The survey covered the period from August of 2003 through March of 2008. The types of calls for service that are included involve crimes against persons and various other crimes. There are many more calls than are depicted in this report; however, these do not relate to the operation of the business, therefore they are not included.

Listed below is a description and number of calls for the area.

1.	Suspicious Circumstances (includes persons, vehicles, etc.)	161
2.	Public Intoxication	12
3.	Felony Assault and Battery	1
4.	Disturbance of the Peace/Fighting	197
5.	Misdemeanor Assault and Battery	14
6.	Emergency Commitment for Mental Disorder (danger to self, others, etc.)	3
7.	Robbery	1
8.	Burglary	96
9.	Petty Theft	106
10.	DUI Arrest	20
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	Total	611

The total of 611 calls in the time period indicated above is high; however, not excessive considering the numerous commercial and retail activities in the area and areas of dense population.

As an additional activity on this background investigation, Commander Gary Peterson and I interviewed the applicant and proposed owner Mr. Ebi Baraghoush. Mr. Baraghoush indicated that this proposed business is a convenience mart/gas station. Mr. Baraghoush intends to sell food items, a small supply of sundries, beer and wine, and gasoline. Mr. Baraghoush hopes to eventually demolish the current service station and build a Chevron "Extra Mile" Store with a carwash; application is currently pending with City Planning.

Mr. Baraghoush also owns five other similar businesses in both Contra Costa County and Solano County.

Mr. Baraghoush indicated his hours would most likely be from 6:00 a.m. to no later than 10:00 p.m., seven days a week. Mr. Baraghoush said he is flexible and would consider operating hours of 8:00 a.m. to 8:00 p.m., 9:00 a.m. to 9:00 p.m., etc., if requested to do so by the City.

GENERAL COMMENTS/OBSERVATIONS:

The positives of allowing this license to be approved are that an additional, expanded business operating in the Virginia Hills area of Martinez. Currently, this business is limited to selling gasoline.

The possible negatives of allowing this license to be approved is the possibility of persons loitering in and around the business and additional calls for service due to an open premise at this location. These aspects were discussed with Mr. Baraghoush, and it was explained to him that the Martinez Police Department would not tolerate any violations of the law at his business or persons in or around his business. I also indicated to Mr. Baraghoush that the Martinez Police Department is very active in ABC grants and enforcement of all ABC and other related laws. Mr. Baraghoush indicated he was in support of this and agreed to cooperate with the police should any of these issues become a problem. Mr. Baraghoush added that in all of his stores, as well as this proposed store, he utilizes high grade quality security camera systems that record both video and audio which allows him to immediately burn video to a DVD for law enforcement purposes.

Additionally, my office has received the following from neighborhood residents: two letters, three e-mails, two ABC protest letters and two petitions with a total of 58 signatures, all of which are protesting the issuance of an ABC license to the applicant. See attached copies for additional information.

FISCAL IMPACT:

There is no cost to the City's general fund regarding this application and/or business. There is the possibility of sales tax revenue being generated in excess of what is currently generated. The amount is unknown at this time and cannot be accurately predicated.

ACTIONS:

It is recommend that the City Council review the information listed above and decide whether or not to adopt the resolution allowing issuance of a Department of Alcoholic Beverage Control License to a proposed convenience market at 6606 Alhambra Avenue.

RESOLUTION NO. -08

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MARTINEZ
DETERMINING THAT THE PUBLIC CONVENIENCE AND NECESSITY WILL
BE SERVED BY THE APPROVAL OF OFF-SALE BEER AND WINE LICENSE
AT 6606 ALHAMBRA AVENUE**

WHEREAS, the City Council of the City of Martinez has reviewed the staff report regarding an application to the California Department of Alcoholic Beverage Control for an off sale beet and wine license for the establishment located at 6606 Alhambra Avenue, Martinez CA; and

WHEREAS, the City Council has considered all oral and documentary evidence presented relating to said application.

NOW, THEREFORE, BE IT RESOLVED that pursuant to Section 23958.4 of the California Business and Professions Code, the City Council of the City of Martinez finds that the public convenience and necessity would be served by the issuance of a license for off-sale beer and wine to a convenience mart located at 6606 Alhambra Avenue, Martinez, CA

* * * * *

I HEREBY CERTIFY that the foregoing is a true and correct copy of a resolution duly adopted by the City Council of the City of Martinez, at Regular Meeting of said Council held on the 7th day of May, 2008, by the following vote:

AYES:

NOES:

ABSENT:

RICHARD G. HERNANDEZ, CITY CLERK
CITY OF MARTINEZ

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