Recommended Action and Justification:

Approve issuance of a “Letter of Public Convenience and Necessity” based on maximizing convenience to local shoppers by facilitating a ‘one-stop’ shopping experience.

Background and History of Board Actions:

See Attached Memorandum

Alternatives and Consequences of Negative Action:

A Negative Action would result in no issuance of a “Letter of Public Convenience and Necessity” and the facility would not be able to offer Off Sale Beer and Wine to its customers.

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Financial Impact? ( ) Yes (x) No  Current FY Cost: $
Budgeted In Current FY? ( ) Yes ( ) No ( ) Partially Funded
Amount in Budget: $ ________
Additional Funding Needed: $ ________
Source: ____________________________
Internal Transfer ______
Unanticipated Revenue ______ 4/5’s vote
Transfer Between Funds ______ 4/5’s vote
Contingency ______ 4/5’s vote
( ) General ( ) Other

---

Clerk’s Use Only:

Res. No. 2008-183  Ord. No. ______
Vote – Ayes: ______  Noes: ______
Absents: ______
Approved 
( ) Minute Order Attached ( ) No Action Necessary

The foregoing instrument is a correct copy of the original on file in this office.

Date: ______
Attest: MARGIE WILLIAMS, Clerk of the Board
County of Mariposa, State of California
By: __________________________
Deputy

County Administrative Officer:

☑ Requested Action Recommended
☐ No Opinion
Comments: __________________________

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Revised Dec. 2002
Date:        April 25, 2008
To:          Mariposa County Board of Supervisors
From:        Eileen Collins, Planning Technician
Topic:       Issuance of a “Letter of Public Convenience and Necessity” for 4994 Joe Howard Street, Rite Aid Corporation, Applicant

Requested Action:

The applicant has requested that the Board of Supervisors authorize the issuance of a “Letter of Public Convenience and Necessity” to the Department of Alcohol Beverage Control (ABC) to allow an additional Off-Sale Beer and Wine license for 4994 Joe Howard Street, Rite Aid Corporation. The letter will allow the applicant to offer the sale of beer and wine to customers at their facility, for off-site consumption. This request is necessary as the ABC considers the area “over concentrated with off-sale alcohol licenses” and requires Board approval to increase the number.

Background:

The Department of Alcoholic Beverage Control (ABC) regulates the issuance of alcohol licenses. The ABC has established a limit of eleven (11) Off-Sale licenses in Mariposa County, Census Tract 001, without the issuance of a “Letter of Public Convenience and Necessity”, by the Board of Supervisors. The area does have a total of eleven (11) Off-Sale licenses issued. Please see attached list of issued permits. By requiring this letter, the ABC is providing the local jurisdiction the ability to permit alcohol licenses above the number outright permitted by the ABC. The applicant has been required by the ABC to receive a “Letter of Public Convenience and Necessity” due to the number of Off-Sale licenses, which exist within Census Tract 06-043-010-001. That area encompasses the Mariposa TPA, portions of Midpines, and runs to the westerly county line, including Catheys Valley. The Board has the opportunity to determine whether the increase of Off-Sale Licenses is detrimental to the area.

Zoning Designation:

The subject property is zoned General Commercial and is located within the Mariposa Town Planning area. The off-site sale of alcohol is consistent with the zoning.
Liquor Licenses in Mariposa County – Status as of 4/25/08
The following information is from the Alcohol Beverage Control (ABC)

Type 20 = Off Sale Beer & Wine – (Package Store) Authorizes the sale of beer and wine for consumption off the premises where sold. Minors are allowed on the premises.

Type 21 = Off Sale General – (Package Store) Authorizes the sale of beer, wine and distilled spirits for consumption off the premises where sold. Minors are allowed on the premises.

The combined number of Off Sale Licenses (Type 20 and Type 21) is eleven (11) for Census Tract 06-043-010-001. That area encompasses Mariposa TPA, portions of Midpines, and runs to the westerly county line, including Cathleys Valley. The following are the holders of those permits.

1. Type 21 Hornitos Bar – Ortiz
2. Type 21 Pioneer Market – Dubberke, Inc.
3. Type 21 Yosemite Liquor – Dubberke, Inc.
4. Type 20 Pioneer Gas – Dubberke, Inc.
5. Type 20 Lake McSwain Marina – Kemper
6. Type 20 The Oaks – Marks & Allison
7. Type 20 49er Super Market – Lee Jung Yoo
8. Type 21 Lucky Logger Liquor – Drummond
9. Type 20 Simpson & Trabucco – Valencia
10. Type 20 Stage Stop Mini Mart – Verna Enterprise, LLC
11. Type 20 Miners Inn Motel – Baba Ji Incorporated

The ABC provides local jurisdiction the ability to permit alcohol licenses above the number permitted by ABC per Section 23958 and 23958.4 of the Business and Professions Code.

If someone wants a Type 20 or Type 21 Off Sale license, they would have to purchase an existing license, and have it transferred to their establishment through an ABC permit process OR request a “Letter of Public Convenience and Necessity” from the local governing body.
Ms. Sarah Williams  
Deputy Director  
Mariposa County Planning Department  
PO Box 2039  
Mariposa CA 95338-2039

Re: Thrifty Payless Inc  
DBA Rite Aid #6443  
4994 Joe Howard Street  
Mariposa CA 95338  
Request of Letter of Public Convenience or Necessity

Dear Ms. Williams:

We intend to move Rite Aid #6443's business to the above referenced new location on June 19, 2008, and have made application to the CA Department of Alcoholic Beverage Control (ABC) for a Type 20 Off-Sale Beer-Wine license for the site.

The ABC has informed us that the area has an over concentration of alcohol licenses and has required us to obtain a Letter of Public Necessity or Convenience (copy of ABC Form 245 enclosed). The ABC informs me that our store will be in Census tract 0001 which qualifies for, and already possesses, 11 off-sale liquor licenses.

The enclosed statement details our belief that allowing Rite Aid #6443 to add an additional Type 20 license and make off-premise sales of beer and wine will enhance convenience and serve public necessity. If you should have any questions or if you require additional information to issue a determination, please contact me at (717) 214-8851, or via email jakers@riteaid.com. Thank You for your assistance in this matter. Your prompt assistance in this matter is greatly appreciated.

Very Truly Yours,

THRIFTY PAYLESS, INC.

Jim Akers  
Licensing Administrator

Cc: Mr. Larry Enrico
Thifty Payless Inc
DBA Rite Aid #6443
4994 Joe Howard Street
Mariposa CA 95338
Statement Regarding Letter of Public Necessity & Convenience Request

Thifty Payless Inc is seeking issuance of a Type 20 Off-Sale Beer-Wine license for the above-referenced new store (moving from its current location at 5034 Coakley Circle where we do not sell alcoholic beverages).

Although the immediate vicinity is considered to be over concentrated with liquor licenses; we believe issuance of a license to Rite Aid #6443 will further public convenience and necessity.

We intend to maximize convenience to local shoppers by facilitating a 'one-stop' shopping experience. Accordingly, in addition to a broad array of household goods and health and beauty aids in our general merchandise sections, we intend to operate the following departments:

- Pharmacy
- Pre-Packaged Food & Drink
- One Hour Photo
- Alcoholic Beverages

Although we believe that making alcoholic beverages available to customers enhances this one-stop shopping philosophy; sales of alcoholic beverages will make up a small percentage of the stores sales – less than 8%.

We will also seek to make shopping at the location more convenient to our patrons by offering ample parking at the free-standing location, and for our pharmacy customers, by offering a drive through. Our building will be well-lit, and equipped with security cameras.

Additionally, Thifty Payless Inc responsibly operates several hundred other licensed premises within California. Our experience helps mitigate sales to minors, loitering and other unwanted effects sometimes associated with the sale of alcoholic beverages. Vending machines and coin operated machines are also prohibited.

In summary, by making responsible sales of alcoholic beverages from an attractive new building that is designed to maximize customer service, Rite Aid #6443 will actually enhance public convenience and necessity.
# COMMON ABC LICENSE TYPES AND THEIR BASIC PRIVILEGES

<table>
<thead>
<tr>
<th>LICENSE TYPE</th>
<th>DESCRIPTION</th>
</tr>
</thead>
<tbody>
<tr>
<td>01 BEER MANUFACTURER</td>
<td>(Large Brewery) Authorizes the sale of beer to any person holding a license authorizing the sale of beer, and to consumers for consumption on or off the manufacturer's licensed premises. Without any additional licenses, may sell beer and wine, regardless of source, to consumers for consumption at a bona fide public eating place on the manufacturer's licensed premises or at a bona fide eating place contiguous to the manufacturer's licensed premises. May conduct beer tastings under specified conditions (Section 23357.3). Minors are allowed on the premises.</td>
</tr>
<tr>
<td>02 WINEGROWER</td>
<td>(Winery) Authorizes the sale of wine and brandy to any person holding a license authorizing the sale of wine and brandy, and to consumers for consumption off the premises where sold. Authorizes the sale of all wines and brandies, regardless of source, to consumers for consumption on the premises in a bona fide eating place that is located on the licensed premises or on premises owned by the licensee that are contiguous to the licensed premises and operated by and for the licensee. May possess wine and brandy for use in the preparation of food and beverage to be consumed at the bona fide eating place. May conduct winetastings under prescribed conditions (Section 23356.1; Rule 53). Minors are allowed on the premises.</td>
</tr>
<tr>
<td>20 OFF SALE BEER &amp; WINE</td>
<td>(Package Store) Authorizes the sale of beer and wine for consumption off the premises where sold. Minors are allowed on the premises.</td>
</tr>
<tr>
<td>21 OFF SALE GENERAL</td>
<td>(Package Store) Authorizes the sale of beer, wine and distilled spirits for consumption off the premises where sold. Minors are allowed on the premises.</td>
</tr>
<tr>
<td>23 SMALL BEER MANUFACTURER</td>
<td>(Brew Pub or Micro-brewery) Authorizes the same privileges and restrictions as a Type 01. A brewpub is typically a very small brewery with a restaurant. A micro-brewery is a small-scale brewery operation that typically is dedicated solely to the production of specialty beers, although some do have a restaurant or pub on their manufacturing plant.</td>
</tr>
<tr>
<td>40 ON SALE BEER</td>
<td>(Bar, Tavern) Authorizes the sale of beer for consumption on or off the premises where sold. No wine or distilled spirits may be on the premises. Full meals are not required; however, sandwiches or snacks must be available. Minors are allowed on the premises.</td>
</tr>
<tr>
<td>41 ON SALE BEER &amp; WINE - EATING PLACE</td>
<td>(Restaurant) Authorizes the sale of beer and wine for consumption on or off the premises where sold. Distilled spirits may not be on the premises (except brandy, rum, or liqueurs for use solely for cooking purposes). Must operate and maintain the licensed premises as a bona fide eating place. Must make actual and substantial sales of meals, during the normal meal hours that they are open, at least five days a week. Normal mealtimes are 6:00 a.m. - 9:00 a.m., 11:00 a.m. - 2:00 p.m., and 6:00 p.m. - 9:00 p.m. Premises that are not open five days a week must serve meals on the days they are open. Minors are allowed on the premises.</td>
</tr>
<tr>
<td>42 ON SALE BEER &amp; WINE - PUBLIC PREMISES</td>
<td>(Bar, Tavern) Authorizes the sale of beer and wine for consumption on or off the premises where sold. No distilled spirits may be on the premises. Minors are not allowed to enter and remain (see Section 25663.5 for exception, musicians). Food service is not required.</td>
</tr>
<tr>
<td>47 ON SALE GENERAL - EATING PLACE</td>
<td>(Restaurant) Authorizes the sale of beer, wine and distilled spirits for consumption on the licensed premises. Authorizes the sale of beer and wine for consumption off the licensed premises. Must operate and maintain the licensed premises as a bona fide eating place. Must make actual and substantial sales of meals, during the normal meal hours that they are open, at least five days a week. Normal mealtimes are 6:00 a.m. - 9:00 a.m., 11:00 a.m. - 2:00 p.m., and 6:00 p.m. - 9:00 p.m. Premises that are not open five days a week must serve meals on the days they are open. Minors are allowed on the premises.</td>
</tr>
<tr>
<td>48 ON SALE GENERAL - PUBLIC PREMISES</td>
<td>(Bar, Night Club) Authorizes the sale of beer, wine and distilled spirits for consumption on the premises where sold. Authorizes the sale of beer and wine for consumption off the premises where sold. Minors are not allowed to enter and remain (see Section 25663.5 for exception, musicians). Food service is not required.</td>
</tr>
<tr>
<td>49 ON SALE GENERAL - SEASONAL</td>
<td>Authorizes the same privileges and restrictions as provided for a Type 47 license except it is issued for a specific season. Inclusive dates of operation are listed on the license certificate.</td>
</tr>
<tr>
<td>TYPE</td>
<td>DESCRIPTION</td>
</tr>
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<tr>
<td>51</td>
<td><strong>CLUB</strong> - Authorizes the sale of beer, wine and distilled spirits, to members and guests only, for consumption on the premises where sold. No off-sale privileges. Food service is not required. Minors are allowed on the premises.</td>
</tr>
<tr>
<td>52</td>
<td><strong>VETERAN'S CLUB</strong> - Authorizes the sale of beer, wine and distilled spirits, to members and guests only, for consumption on the premises where sold. Authorizes the sale of beer and wine, to members and guest only, for consumption off the licensed premises. Food service is not required. Minors are allowed on the premises.</td>
</tr>
<tr>
<td>57</td>
<td><strong>SPECIAL ON SALE GENERAL</strong> - Generally issued to certain organizations who cannot qualify for club licenses. Authorizes the sale of beer, wine and distilled spirits, to members and guests only, for consumption on the premises where sold. Authorizes the sale of beer and wine, to members and guests only, for consumption off the licensed premises. Food service is not required. Minors are allowed on the premises.</td>
</tr>
<tr>
<td>59</td>
<td><strong>ON SALE BEER AND WINE – SEASONAL</strong> - Authorizes the same privileges as a Type 41. Issued for a specific season. Inclusive dates of operation are listed on the license certificate.</td>
</tr>
<tr>
<td>60</td>
<td><strong>ON SALE BEER – SEASONAL</strong> - Authorizes the sale of beer only for consumption on or off the premises where sold. Issued for a specific season. Inclusive dates of operation are listed on the license certificate. Wine or distilled spirits may not be on the premises. Minors are allowed on the premises.</td>
</tr>
<tr>
<td>61</td>
<td><strong>ON SALE BEER – PUBLIC PREMISES</strong> - (Bar, Tavern) Authorizes the sale of beer only for consumption on or off the licensed premises. Wine or distilled spirits may not be on the premises. Minors are not allowed to enter and remain (warning signs required). Food service is not required.</td>
</tr>
<tr>
<td>67</td>
<td><strong>BED AND BREAKFAST INN</strong> - Authorizes the sale of wine purchased from a licensed winegrower or wine wholesaler only to registered guests of the establishment for consumption on the premises. No beer or distilled spirits may be on the premises. Wine shall not be given away to guests, but the price of the wine shall be included in the price of the overnight transient occupancy accommodation. Removal of wine from the grounds is not permitted. Minors are allowed on the premises.</td>
</tr>
<tr>
<td>70</td>
<td><strong>ON SALE GENERAL – RESTRICTIVE SERVICE</strong> - Authorizes the sale or furnishing of beer, wine and distilled spirits for consumption on the premises to the establishment's overnight transient occupancy guests or their invitees. This license is normally issued to &quot;suite-type&quot; hotels and motels, which exercise the license privileges for guests' “complimentary” happy hour. Minors are allowed on the premises.</td>
</tr>
<tr>
<td>75</td>
<td><strong>ON SALE GENERAL – BREWPUB</strong> - (Restaurant) Authorizes the sale of beer, wine and distilled spirits for consumption on a bona fide eating place plus a limited amount of brewing of beer. Also authorizes the sale of beer and wine only for consumption off the premises where sold. Minors are allowed on the premises.</td>
</tr>
<tr>
<td>80</td>
<td><strong>BED AND BREAKFAST INN – GENERAL</strong> - Authorizes the sale of beer, wine and distilled spirits purchased from a licensed wholesaler or winegrower only to registered guests of the establishment for consumption on the premises. Alcoholic beverages shall not be given away to guests, but the price of the alcoholic beverage shall be included in the price of the overnight transient occupancy accommodation. Removal of alcoholic beverages from the grounds is not permitted. Minors are allowed on the premises.</td>
</tr>
</tbody>
</table>
SPECIAL EVENTS

The Department also issues licenses and authorizations for the retail sale of beer, wine and distilled spirits on a temporary basis for special events. The most common are listed below. Other less common ones are found in Business and Professions Code Section 24045.2, et seq.

SPECIAL DAILY BEER AND/OR WINE LICENSE - (Form ABC-281) Authorizes the sale of beer and/or wine for consumption on the premises where sold. No off-sale privileges. Minors are allowed on the premises. May be revoked summarily by the Department if, in the opinion of the Department and/or the local law enforcement agency, it is necessary to protect the safety, welfare, health, peace and morals of the people of the State. In some instances, the local ABC office may require the applicant to obtain prior written approval of the local law enforcement agency. Issued to non-profit organizations. (Rule 59, California Code of Regulations)

DAILY ON SALE GENERAL LICENSE - (Form ABC-281) Authorizes the sale of beer, wine and distilled spirits for consumption on the premises where sold. No off-sale privileges. Minors are allowed on the premises. May be revoked summarily by the Department if, in the opinion of the Department and/or the local law enforcement agency, it is necessary to protect the safety, welfare, health, peace and morals of the people of the State. In some instances, the local ABC office may require the applicant to obtain prior written approval of the local law enforcement agency. Issued to political parties or affiliates supporting a candidate for public office or a ballot measure or charitable, civic, fraternal or religious organizations. (Section 24045.1 and Rule 59.5 California Code of Regulations)

CATERING AUTHORIZATION - (Form ABC-218) Authorizes Type 47, 48, 51, 52, 57, 75 and 78 licensees (and catering businesses that qualify under Section 24045.12) to sell beer, wine and distilled spirits for consumption at conventions, sporting events, trade exhibits, picnics, social gatherings, or similar events. Type 47, 48 and 57 licensees may cater alcoholic beverages at any ABC-approved location in the State. Type 51 and 52 licensees may only cater alcoholic beverages at their licensed premises. All licensees wishing to cater alcoholic beverages must obtain prior written authorization from the Department for each event. At all approved events, the licensee may exercise only those privileges authorized by the licensee’s license and shall comply with all provisions of the ABC Act pertaining to the conduct of on-sale premises and violation of those provisions may be grounds for suspension or revocation of the licensee’s license or permit, or both, as though the violation occurred on the licensed premises. (Section 23999 and Rule 66.5 California Code of Regulations)

EVENT AUTHORIZATION - (Form ABC-218) Authorizes Type 41, 42, 47, 48, 49, 57, 75 and 78 licensees to sell beer, wine and distilled spirits for consumption on property adjacent to the licensed premises and owned or under the control of the licensee. This property shall be secured and controlled by the licensee and not visible to the general public. The licensee shall obtain prior approval of the local law enforcement agency. At all approved events, the licensee may exercise only those privileges authorized by the licensee’s license and shall comply with all provisions of the ABC Act pertaining to the conduct of on-sale premises (including any license conditions) and violations of those provisions may be grounds for suspension or revocation of the licensee’s license or permit, or both, as though the violation occurred on the licensed premises. (Section 23999)

WINE SALES EVENT PERMIT - (Form ABC-239) Authorizes Type 02 licensees to sell bottled wine produced by the winegrower for consumption off the premises where sold and only at fairs, festivals or cultural events sponsored by designated tax exempt organizations. The licensee must notify the city and/or county where the event is being held and obtain approval from ABC for each event (Form ABC-222). The licensee must also comply with all restrictions listed in Business and Professions Code Section 23999.6.

Note:

1. “Minor” means any person under 21 years of age.
2. Consult Section 25663(b) regarding age of employees in off-sale premises; consult Sections 25663(a) and 25663.5 regarding age of employees in on-sale premises.
3. In certain situations, ABC may place reasonable conditions upon a license, such as restrictions as to hours of sale, employment of designated persons, display of signs, restrictions on entertainment or dancing, etc. If a license has been conditioned, it will be endorsed as such on the face of the license. (Conditional licenses, Sections 23800-23805.)
4. Licensees whose license allows minors on the premises may have a “house policy” restricting minors from entering certain areas of the premises or prohibiting minors in the premises during certain hours.
5. This handout contains only abbreviated information. Contact your local ABC office for full information before doing anything which may jeopardize your license. Also available from the ABC: Quick Summary of Selected ABC Laws (form ABC-608); Alcoholic Beverage Control Act (complete laws); Rules & Regulations; and P-90 (describes privileges of non-retail licenses).

ABC-616 (4/04)
November 10, 2008

Department of Alcohol Beverage Control
31 East Channel Street, Room 168
P.O. Drawer 150
Stockton, CA 95201

RE: Applicant: Rite Aid Corporation, 4994 Joe Howard Street

At their November 10, 2008 meeting, the Mariposa County Board of Supervisors approved the issuance of this “Letter of Public Convenience and Necessity” for the addition of one (1) Type 21 Off-Sale General License in Census Tract 06-043-010-001 to the following location:

   Applicant: Thrifty Payless Inc, DBA Rite Aid #6443
   Business: Rite Aid Corporation
   Site: 4994 Joe Howard Street
   License: Type 21 Off-Sale General License

It was determined that the ability to offer Off-Sale Beer, Wine and Distilled Spirits in addition to their variety of products and services, will make a more convenient shopping experience for the public.

Sincerely,

Kris Schenk, Planning Director
County of Mariposa, Planning Department

Our Mission is to provide our clients with professional service and accurate information in a respectful, courteous, and enthusiastic manner resulting in a well-planned rural environment.