



# Board Agenda Item 8

DATE: November 5, 2024

TO: Board of Supervisors

SUBMITTED BY: Paul Nerland, County Administrative Officer

SUBJECT: Determination of Public Convenience or Necessity on Application for Alcoholic Beverage License Type 20 for Khushpal Singh

RECOMMENDED ACTION(S):

**Consider and take action on request for Determination of Public Convenience or Necessity in regard to application for Alcoholic Beverage License Type 20 (off-sale beer and wine) filed by Khushpal Singh, to be used at 3035 S. Chestnut Avenue, Fresno, CA 93725.**

Khushpal Singh (the Applicant) is applying for a Type 20 license (off-sale beer and wine) to be used at 3035 S. Chestnut Avenue, Fresno, CA 93725, which is located within Census Tract 12.02. Four off-sale licenses are allowed in this Census Tract. There are currently two registered licenses in the Census Tract. Business and Professions Code section 23817.5 limits the number of premises for which an off-sale beer and wine license may be issued to one for each 2,500 inhabitants of the county where the premises is situated. However, Business and Professions Code section 23817.7 provides that the Alcohol and Beverage Commission (ABC) may approve an application for an off-sale beer and wine license for premises in this situation if the local governing body, your Board, determines that public convenience or necessity would be served by the issuance. Additionally, Business and Professions Code section 23958 provides that the ABC shall deny an application for a 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, unless the local governing body of the area determines within 90 days that public convenience or necessity would be served by the issuance. This item pertains to a location in District 3.

ALTERNATIVE ACTION(S):

If your Board does not make a determination regarding public convenience or necessity in regard to this request within 90 days of notification of the completed application, ABC may still issue the license if the Applicant shows ABC that public convenience or necessity would be served by the issuance, pursuant to Section 23958.4(b)(2) of the Business and Professions Code.

FISCAL IMPACT:

There is no increase in Net County Cost associated with the recommended action. The Applicant paid a Board-approved fee of \$235 to cover the cost of mailing notices to nearby property owners.

DISCUSSION:

The Applicant filed paperwork to apply for a Type 20 license (off-sale sales of beer and wine for consumption off the premises where sold) for a proposed grocery store located at 3035 S. Chestnut Avenue, Fresno, CA 93725.

On January 1, 1998, Business and Professions Code Section 23817.5 was amended to permanently establish a moratorium on the issuance of Type 20 licenses in cities and counties where the ratio of licenses exceeds one for each 2,500 inhabitants. The moratorium was updated on December 15, 2016 (revised on January 30, 2017) and will be in effect until recalculated, in accordance with Section 23817.9.

Fresno County falls under this moratorium, as its ratio of Type 20 licenses to its population exceeds the limits set out by Section 23817.5.

The Applicant's location is in Census Tract 12.02. Four off-sale licenses are allowed in this census tract. There are currently two registered licenses in Census Tract 12.02. Approval of this application will bring the number of off-sale licenses in this census tract to three registered off-sale licenses.

Section 23817.7 provides that ABC may approve an application for an off-sale beer and wine license for premises described in Section 23817.5 if the local governing body of the area in which the applicant premises are located, or its designated subordinate office or body, determines within 90 days of notification of a completed application that public convenience or necessity would be served by the issuance. If the local governing body, or its designated subordinate officer or body, does not make such a determination within the 90-day period, then ABC may still issue a license if the applicant shows ABC that public convenience or necessity would be served by the issuance.

County policy requires the following three criteria be considered before a determination of public convenience or necessity can be met:

- 1) The issuance of a license would not tend to create a law enforcement problem and increase the level of crime activity.
- 2) The issuance of a license would provide a needed service to the community, and that without this use there would be an inconvenience to the community.
- 3) The issuance of a license will have a positive impact on the local economy, including the creation of new jobs.

The Applicant's written response to the above criteria is attached. The Applicant will also be available to present their case to your Board at today's hearing.

Notices of today's hearing were sent to neighboring property owners located within 600 feet of the Applicant's premises.

A representative from the Sheriff's Department is available to provide a statement regarding any local law enforcement impacts.

ATTACHMENTS INCLUDED AND/OR ON FILE:

Census Tract 12.02 Map  
Applicant's Response to PCN Criteria  
ABC License Application (Form ABC-245)  
Presentation

CAO ANALYST:

Ron Alexander