



Board Agenda Item 12

DATE: November 7, 2023

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 21 for Gurmej Singh

RECOMMENDED ACTION(S):

Consider and take action on request for Determination of Public Convenience or Necessity on application for Alcoholic Beverage License Type 21 filed by Gurmej Singh to be used at the southwest corner of Millerton Road and Marina Drive, Friant, CA 93626.

The applicant is applying for a Type 21 license (off-sale general) to be used at the southwest corner of Millerton Road and Marina Drive, Friant, CA 93626. The Department of Alcoholic Beverage Control (ABC) has determined that an undue concentration of alcoholic beverage licenses exists in Census Tract 64.05, where this business is located. However, Business and Professions Code sections 23958 and 23958.4 provide that even if the census tract or County has an undue concentration of alcoholic beverage licenses, ABC may issue a license if the local governing body determines that public convenience or necessity would be served by the issuance of the license. Four off-sale licenses are allowed in census tract 64.05. There are currently eight registered licenses. Approval of this application will bring the number of off-sale licenses in this census tract to nine registered off-sale licenses. This item pertains to a location in District 5.

ALTERNATIVE ACTION(S):

If your Board does not make a determination regarding public convenience or necessity in regard to this request, 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. A Board approved fee of \$235 to cover the cost of mailing notices to property owners was paid by the applicant.

DISCUSSION:

Gurmej Singh filed paperwork with ABC applying for a Type 21 license (off-sale sales of beer, wine and distilled spirits for consumption off the premises where sold). The business where the license will be used is a proposed convenience market with gasoline on the southwest corner of Millerton Road and Marina Drive, Friant, CA 93626.

The applicant's location is in Census Tract 64.05. ABC has determined that an undue concentration of off-sale alcoholic beverage licenses exists in Census Tract 64.05. Four off-sale licenses are allowed in this census tract. There are currently eight registered licenses. Approval of this application will bring the number

of off-sale licenses in this census tract to nine registered off-sale licenses. It should be noted that one of the existing licenses (Canyon Feed and Supply on 29533 Auberry Road, Prather, CA 93651) is listed as surrendered by ABC due to the closure of the business in June 2023. Surrendered licenses will remain surrendered for a period of 2.5 years as long as the licensee continues to pay the renewal. If the licensee does not sell or move the license after the 2.5-year period, ABC will send the licensee a 180-day notification to act on the license. ABC will take action on the license following the 180-day period.

Sections 23958 and 23958.4 of the Business and Professions Code allow ABC to issue an off-sale license despite an undue concentration of off-sale alcoholic beverage licenses 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 64.05 Map
Applicant Letter
ABC License Application (Form ABC-245)
PowerPoint Presentation
Additional Information

CAO ANALYST:

Ron Alexander