



# Board Agenda Item 7

DATE: January 23, 2018

TO: Board of Supervisors

SUBMITTED BY: Jean M. Rousseau, County Administrative Officer

SUBJECT: Determination of Public Convenience or Necessity on Application for Alcoholic Beverage License Type 20 for Beal Developments, LLC dba Beal Chevron

RECOMMENDED ACTION(S):

**Consider and take action on request for determination of public convenience or necessity on application for Alcoholic Beverage License Type 20 filed by Beal Developments, LLC dba Beal Chevron located on 5596 E. Kings Canyon Road, Fresno, CA 93727.**

The applicant is applying for a Type 20 license (off-sale beer and wine) to be used at 5596 E. Kings Canyon Road, Fresno, CA 93727. Business and Professions Code Sections 23958 and 23958.4 require a public convenience or necessity to be determined by the local governing body if the census tract or County has an undue concentration of alcoholic beverage licenses.

This item pertains to a location in District 5.

ALTERNATIVE ACTION(S):

There is no alternative action. Your Board must take action on this request per Sections 23958 and 23958.4 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:

Beal Developments, LLC filed associated paperwork to apply for a Type 20 off-sale beer and wine license (sales for consumption off the premises). The facility is a Chevron gas station that also sells food and merchandise.

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 approximately five years in accordance with Section 23817.9. Fresno County is on this moratorium. Additionally, the applicant's location is in Census Tract 14.09. The Department of Alcoholic Beverage Control has determined that an undue concentration of off-sale alcoholic beverage licenses exists in this census tract. One off-sale license is allowed in this census tract. There are currently two active licenses. Approval of the recommended

action will increase the total number of active licenses to three. However, two of the three licenses will be at this Chevron station. ABC is working with the existing license holder to surrender the license. Should this not occur, ABC will department-surrender the license.

Sections 23958 and 23958.4 of the Business and Professions Code requires the Department of Alcoholic Beverage Control to deny the application unless 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.

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 his case to your Board at today's hearing.

Notices of today's hearing were sent to neighboring property owners 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.

OTHER REVIEWING AGENCIES:

The Sheriff's Department and the Department of Public Works and Planning have reviewed this application.

ATTACHMENTS INCLUDED AND/OR ON FILE:

Census Tract 14.09 Map  
Applicant Letter  
ABC License Application (Form ABC-245)  
PowerPoint Presentation

CAO ANALYST:

Ronald Alexander