



# Board Agenda Item 7

DATE: April 13, 2021

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 21 for Yakoob Nagib S. Mohamed

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 Yakoob Nagib S. Mohamed, to be used at 6012 S. Elm Ave., Fresno, CA 93706.**

The applicant is applying for a Type 21 license (off-sale general) to be used at 6012 S. Elm Ave., Fresno, CA 93706. The Department of Alcoholic Beverage Control has determined that an undue concentration of off-sale alcoholic beverage licenses exists in Census Tract 18, where this business is located. However, Business and Professions Code sections 23958 and 23958.4 provide that if the census tract or County has an undue concentration of off-sale alcoholic beverage licenses, the Department of Alcoholic Beverage Control (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. This item affects District 1.

ALTERNATIVE ACTION(S):

If your Board does not make a determination regarding public convenience or necessity in regards to this request within ninety (90) days of notification of the completed application, ABC may still issue the license if the application 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:

Yakoob Nagib S. Mohamed filed paperwork to apply for a Type 21 license (off-sale general - sales of beer, wine and distilled spirits for consumption off of the premises where sold). The business where the license will be used is a gas station/convenience store (Jack's Gas), located at 6012 S. Elm Ave., Fresno, CA 93706, with an existing Type 20 license (off-sale beer and wine), and the owner is applying for an upgrade to a Type 21 license.

ABC has determined that an undue concentration of off-sale alcoholic beverage licenses exists in Census Tract 18. Four off-sale licenses are allowed in this census tract. There are currently six registered licenses, including the applicant's existing Type 20 license.

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 18 Map  
Applicant Letter  
ABC License Application (Form ABC-245)  
PowerPoint Presentation

CAO ANALYST:

Ron Alexander