



Board Agenda Item 10

DATE: June 6, 2017

TO: Board of Supervisors

SUBMITTED BY: Jean M. Rousseau, County Administrative Officer

SUBJECT: Petition to Remove or Modify Conditions on an Alcoholic Beverage License

RECOMMENDED ACTION(S):

- 1. Discuss and take action on a petition to remove or modify conditions on an alcoholic beverage license filed by Red Rock Lane Investments, doing business as Stonehouse Tavern, located on 33071 Auberry Road, Auberry, CA 93602.**
- 2. Authorize staff to send a letter to the Alcoholic Beverage Control (ABC) detailing why the petition was approved or denied.**

On June 23, 2011, ABC issued an alcoholic beverage license to Debra and Robert Houghton, dba Stonehouse Tavern. This license included two conditions: (1) there shall be no live or amplified music allowed in the patio at any time, and (2) the licensee(s) or an employee of the licensee(s) will be present in the patio at all times that alcoholic beverages are being served or consumed. Subsequently, Red Rock Lane Investments purchased the facility, and ABC transferred the license on November 11, 2014 with the existing conditions. Red Rock Lane Investments is petitioning to remove the first condition.

ALTERNATIVE ACTION(S):

There is no alternative action. Pursuant to provisions of Section 23803 of the Business and Professions Code, your Board has 30-days to file a written objection to the modification/removal of these conditions. Should your Board not take action on the petition, ABC will make the determination without your Board's recommendation.

FISCAL IMPACT:

There is no increase in Net County Cost associated with the recommended action.

DISCUSSION:

Red Rock Lane Investments, dba Stonehouse Tavern, purchased the facility located on 33071 Auberry Road, Auberry, CA 93602. On November 12, 2014, ABC transferred the existing Type 47 license (beer, wine and liquor sales for consumption on the premises) to the new owner. The existing license included the following conditions:

- There shall be no live or amplified music allowed in the patio at any time.
- The licensee(s) or an employee of the licensee(s) will be present in the patio at all times that alcoholic beverages are being served or consumed.

Red Rock Lane Investments CEO, Daniel Mehling, is petitioning for the removal of the condition that there shall

be no live or amplified music allowed in the patio at any time.

Pursuant to an amendment to Section 23803 of the Business and Professions Code, which became effective January 1, 1998, ABC is required to notify local governing bodies of any petition to remove or modify conditions on an alcoholic beverage license. According to the provisions of Section 23803 Business and Professions code, your Board has 30 days to file a written objection to the modification/removal of these conditions.

Mr. Mehling submitted a letter to ABC requesting removal of the condition, which is attached. He 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 petitioner's premises.

At the time of writing, one written letter has been received regarding a concern about noise disturbance impacting surrounding residential properties during evening and late night hours.

After review, the Public Works & Planning department made the determination that a Site Plan Review (SPR) is not required. Music is an incidental use to the existing use (tavern) and no improvements are proposed; however, all music shall adhere to the Fresno County noise ordinance. Typically, any outdoor amplified music should cease by 10pm. Should any complaints arise due to outdoor music, the Environmental Health Division of the Fresno County Public Health department may be required to monitor the noise output to ensure compliance.

The Environmental Health Division reviewed this information and determined that live or amplified music outdoors may violate the Fresno County noise ordinance at any time during the day. Chapter 8.40.040 states it is unlawful for any person, including an owner, whether through the owner or the owner's agent, lessee, sublessor, sublessee or occupant, at any location within the unincorporated area of the county, to create any noise, or to allow the creation of any noise, on property owned, leased, occupied or otherwise controlled by such person which causes the exterior noise level when measured at any affected single- or multiple-family residence, school, hospital, church or public library situation in either the incorporated or unincorporated area to exceed the noise level standards as set forth in the Noise Level Standards table. If the petitioner does not have or install noise-reducing measures between the Tavern and the residences nearby, live or amplified outdoor music levels will exceed the applicable noise level standards as depicted within the noise control ordinance.

The Sheriff's department has reviewed this application. A representative from the Sheriff's department is available to provide a statement regarding any local law enforcement impacts.

REFERENCE MATERIAL:

BAI #14, March 15, 2011

ATTACHMENTS INCLUDED AND/OR ON FILE:

Petition from ABC
ABC Act Section 23803
Conditional License Issued November 12, 2014
Letter from the Petitioner
Written Letter of Concern
Noise Control Ordinance and Related Maps/Documents
Presentation

CAO ANALYST:

Ronald Alexander