Legislation Text

File #: 21-1023, **Version:** 1

DATE: November 2, 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 20 for Pilot California Venture, LLC

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 Pilot California Venture, LLC, to be used at 44779 S. Lassen Ave., Ste 100, Huron, CA 93234.

The applicant is applying for a Type 20 license (off-sale beer and wine) to be used at 44779 S. Lassen Ave., Ste 100, Huron, CA 93234. The Department of Alcoholic Beverage Control (ABC) has determined that an undue concentration of alcoholic beverage licenses exists in Census Tract 78.01, 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 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. This item pertains to a location in District 4.

ALTERNATIVE ACTION(S):

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

DISCUSSION:

Pilot California Venture, LLC filed paperwork to apply for a Type 20 license (off-sale sales of beer and wine for consumption off the premises where sold). The business where the license will be used is a gas station/convenience store located at 44779 S. Lassen Ave., Ste 100, Huron, CA 93234.

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 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 78.01. Two off-sale licenses are allowed in this census tract. There are currently three registered licenses. Approval of this application will bring the number of off-sale licenses in this census tract to four registered off-sale licenses.

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

CAO ANALYST:

Ron Alexander