



BOARD OF SUPERVISORS
AGENDA LETTER

Agenda Number:

Clerk of the Board of Supervisors
105 E. Anapamu Street, Suite 407
Santa Barbara, CA 93101
(805) 568-2240

Department Name: Planning &
Development
Department No.: 053
For Agenda Of: February 13, 2024
Placement: Administrative
Estimated Time: N/A
Continued Item: No
If Yes, date from:
Vote Required: Majority

TO: Board of Supervisors
FROM: Department Planning and Development
Director(s) Lisa Plowman, Director, (805) 568-2086
Contact Info: Travis Seawards, Deputy Director, (805) 568-2518
SUBJECT: Public Convenience or Necessity Determination for Chumash California Gas Station No. 3 LLC

County Counsel Concurrence

As to form: Yes

Other Concurrence: N/A

As to form: N/A

Auditor-Controller Concurrence

As to form: N/A

Recommended Actions:

That the Board of Supervisors:

- a) Approve and authorize the Chair to sign the attached letter (Attachment 1) and forward the application (Attachment 2) and letter to the California Department of Alcohol Beverage Control (ABC) determining that public convenience and necessity will be served by issuing the new ABC License (Type 20) to Chumash Gas Station No. 3, LLC, located at 990 Edison St. Santa Ynez, with Assessor's Parcel Number 143-254-004; and
- b) Determine that the proposed action is an administrative activity of the County, which will not result in direct or indirect physical changes in the environment and is therefore not a "project" as defined for the purposes of the California Environmental Quality Act (CEQA) under State CEQA Guidelines Section 15378(b)(5).

Summary Text:

On November 17, 2023, Planning and Development (P&D) received a request (ABC-245 Form) for a Public Convenience or Necessity (PCN) determination at 990 Edison St. Santa Ynez, the Chumash Gas Station. The requested Type 20 "Off-Sale Beer & Wine" license will allow the sale of beer and wine for consumption off the premises. P&D staff has reviewed the applicant's request, and recommends that the Board find that public convenience and necessity will be served by ABC approval and issuance of the "Off-Sale Beer & Wine" license in this location based on the information provided in the Background discussion below. Additionally, a letter from the applicant outlining their request is included as

Attachment 3. A transmittal letter indicating the finding of public convenience and the ABC-245 form are attached for the Board's consideration.

Background:

The requested license is a Type-20 Off-Sale Beer & Wine license, which is defined as follows:

Issued to retail stores. Authorizes the sale of beer and wine for consumption off the premises where sold. Minors are allowed on the premises.

(Link: <https://www.abc.ca.gov/licensing/license-types/>)

The approval of this request will allow the Chumash Gas Station to sell beer and wine for offsite consumption as described above. The subject application is for 990 Edison St. Santa Ynez, which is located in Census Tract 19.08. The census tract contains approximately 4,716 people and encompasses a 4.8 square mile area. The census tract is roughly bounded by Chumash Highway to the East and Baseline Avenue to the North. It extends west up to the Ballard tract on the Northwest and the Santa Ynez Hospital on the Southwest.

The Chumash is the sole owner/manager of this business, and the Gas Station is managed as part of Chumash Enterprises. According to the applicant, the casino next door has a Type 47 license that prohibits the sale of packaged alcohol, so the Gas Station would not compete with alcohol sales at the casino. Currently, casino employees all undergo extensive procedural training in the areas of sale and presentation, customer identification, site security and premises boundaries and the proper handling of alcohol beverages. The Chumash intend to include all gas station employees in the same training.

The Department of Alcoholic Beverage Control (ABC) establishes a threshold for the number of licenses, including Type 20 licenses, issued in each census tract in order to control the concentration of granted licenses for the sale of alcohol for consumption off the premises where sold (classified as "Off-Sale" licenses) [Bus. & Prof. Code § 23817.5]. The threshold is the ratio derived from the number of off-sale licenses County-wide compared to the County's total population. Any census tract that exceeds the threshold for off-sale beer and wine licenses is deemed a census tract of "undue concentration." Census Tract 19.08 has a population of approximately 4,716 and is allowed five off-sale licenses (per the ABC Census Tract Authorizations "All Counties" report). As of December 15, 2023, there are seven active existing off-sale licenses within Census Tract 19.08. Therefore, pursuant to ABC standards, an undue concentration of licenses exists in Census Tract 19.08.

Undue concentration may also be deemed to exist if "*the applicant premises are located in a crime reporting district that has a 20 percent greater number of reported crimes ... than the average number of reported crimes as determined from all crime reporting districts within the jurisdiction of the local law enforcement agency.*" [Bus. & Prof. Code § 23958.4(a)(1).] As discussed above, undue concentration exists for the subject census tract area due to the number of licenses issued within the tract and ABC did not request a crime evaluation on the Chumash Gas Station application. P&D staff consulted with Santa Barbara County Sheriff's Office, who advised that the property is located in a reporting district that has a 20 percent greater number of reported crimes than the average number of reported crimes within all reporting districts within their jurisdiction. The Sheriff's Office explained that this is mainly because of how reporting districts were originally established for patrol purposes more than 30 years ago. This

particular reporting district includes the Chumash Casino, therefore the crime statistics are disproportionate to other reporting districts that include larger areas and a variety of uses.

When a census tract is subject to an undue concentration of on-sale licenses, Business and Professions Code Section 23958.4(b) provides that ABC may issue a license if the local governing body (County Board of Supervisors) “determines within 90 days of notification of a completed application that public convenience or necessity would be served by the issuance. The 90-day period shall commence upon receipt by the local governing body of (A) notification by the department of an application for licensure, or (B) a completed application according to local requirements, if any, whichever is later.” If the Board of Supervisors (BOS) does not make a determination within the 90-day period, then the ABC may issue a license if the applicant shows the department that public convenience or necessity would be served by the issuance. In this particular case, the applicant submitted a complete application on November, 17, 2023, and a determination by February 15, 2024, would be within the 90-day period.

The following table summarizes and defines the number of on-sale licenses in Census Tract 19.08:

Off-Sale Licenses in Census Tract 19.08 (Per the California ABC License Query System)		
ABC License Type	Definition	Number
Type 21	Off-Sale General Issued to retail stores. Authorizes the sale of beer, wine and distilled spirits for consumption off the premises where sold. Minors are allowed on the premises.	2 Business List: El Rancho Market, Rio Market Wine and Spirits,
Type 20	Off-Sale Beer & Wine Issued to retail stores. Authorizes the sale of beer and wine for consumption off the premises where sold. Minors are allowed on the premises.	5 Business List: Meadowlark Vineyards, Real Wine Trail, Forage Florals, Alex Wines, Juvinile Wines
Total	-----	7

Within the subject census tract, both existing establishments with an off-sale general license are markets. Four off-sale beer and wine licenses are wineries, and the fifth is a floral shop which sells wine. There are no existing off-sale licenses that also sell gasoline. As stated in the letter from the applicant (Attachment 3), the proposed off-sale license is intended to provide consumers with the convenience of purchasing alcoholic beverages when they stop to buy gasoline. The property is located within a census tract of undue concentration due to reported crime levels; however, the requested license would serve public convenience by: (a) providing a convenient location for customers to shop for food, gasoline and alcoholic beverages and (b) not having to make multiple stops.

Therefore, it is recommended that the Board determine that public convenience will be served by issuing the new Type 20 “Off-Sale Beer & Wine” license to the Chumash Gas Station.

Fiscal and Facilities Impacts:

Budgeted: Yes

Fiscal Analysis:

There is no fee to the applicant for the processing of a Public Convenience or Necessity request. The total estimated cost to process this request is approximately \$3,000 (12 staff hours), and is budgeted in the Planning and Development Permitting Budget Program on page 313 of the County of Santa Barbara Fiscal Year (FY) 2023-24 Adopted Budget.

Special Instructions:

The Clerk of the Board shall obtain the signature of the Chair of the Board of Supervisors and send the executed letter and application to: Department of Alcohol Beverage Control, Attn: Cindy Stuppy, 3220 S. Higuera Street, Suite 103A, San Luis Obispo, CA 93401.

The Clerk of the Board shall forward copies of the signed Board of Supervisors Letter to State Department Alcohol Beverage Control and the Minute Order to P&D, Attn: David Villalobos and to P&D, Attn: Francisco Vargas.

Attachments:

1. Board of Supervisors transmittal letter to State Department of Alcohol Beverage Control
2. Alcohol Beverage Control Form ABC 245
3. Letter of Public Convenience from Applicant

Authored by:

Francisco Vargas, Planner