



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 and Development
Department No.: 053
For Agenda Of: May 4, 2021
Placement: Administrative
Estimated Time: N/A
Continued Item: No
If Yes, date from:
Vote Required: Majority

TO: Board of Supervisors
FROM: Department Lisa Plowman, Director, Planning and Development
Director (805) 568-2086
Contact Info: Jeff Wilson, Assistant Director, Planning and Development
(805) 568-2518
SUBJECT: Public Convenience or Necessity Determination for Orcutt Strong, Inc., Case No. 21PCN-00000-00001, Fourth Supervisorial District

County Counsel Concurrence

As to form: Yes

Other Concurrence: N/A

As to form: No

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 "On-Sale Beer and Wine for Public Premises" license to Orcutt Strong, Inc., APN 105-082-014, located at 405 E. Clark Avenue, Orcutt; 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 purposes of the California Environmental Quality Act (CEQA) under State CEQA Guidelines Section 15378(b)(5).

Summary Text:

On February 19, 2021, Planning and Development (P&D) received a request (ABC-245 Form) for a Public Convenience or Necessity (PCN) determination at the Old Town Market storefront at 405 E. Clark Avenue, in Orcutt. The requested Type 42 “On-Sale Beer and Wine for Public Premises” license will allow the sale of beer and wine for consumption on or off the premises where sold. P&D staff 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 “On-Sale Beer and Wine for Public Premises” license in this location, based on the information provided in the Background discussion below. A transmittal letter indicating the finding of public convenience, and the ABC-245 Form, are attached for the Board’s consideration of public convenience or necessity.

Background:

The requested license is a Type-42 On-Sale license, which is defined as follows:

Authorizes the sale of beer and wine for consumption on or off the premises where sold. No distilled spirits may be on the premises. Minors are not allowed to enter and remain. Food service is not required.

The approval of this request will allow the Old Town Market storefront to sell beer and wine and provide tastings as described above. The subject application is for 401 E. Clark Avenue in Orcutt, which is located in Census Tract 20.12. The size of the census tract contains approximately 3,036 people and encompasses approximately 1.3 square miles in area. The census tract extends roughly between Highway 1 and Highway 135, and Foster Road to the north, in Orcutt. Census Tract 20.12 includes Old Town Orcutt and the neighborhoods to the north and south.

The Department of Alcoholic Beverage Control (ABC) establishes a threshold for the number of licenses, including Type 42 licenses, issued in each census tract in order to control the concentration of establishments granted licenses for the sale of alcohol for consumption on the premises where sold (classified as “On-Sale” licenses). [Bus. & Prof. Code § 23816]. The threshold is the ratio derived from the number of on-sale licenses County-wide compared to the County’s total population. Any census tract that exceeds the threshold for on-sale retail licenses is deemed a census tract of “undue concentration.” Census Tract 20.12 has a population of approximately 3,036, and is allowed 6 on-sale licenses (per the ABC Census Tract Authorizations “All Counties” report). There are currently 13 existing on-sale licenses within Census Tract 20.12. Therefore, pursuant to ABC standards, undue concentration exists in Census Tract 20.12.

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).] According to the Santa Barbara County Sheriff’s Office, the property is not in a reporting district that has a 20 percent greater number of reported crimes than the average number of reported crimes in the jurisdictional area. In addition, the Sherriff’s Office has been notified of the request and indicated that the Department has no concerns with this request.

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 February 19, 2021 and a determination on May 4, 2021 would be within the 90-day period.

The following table summarizes and defines the number of on-sale licenses in Census Tract 20.12:

On-Sale Licenses in Census Tract 20.12 (Per the California ABC License Query System)		
ABC License Type	Definition	Number
Type 41	On-Sale Beer & Wine – Eating Place – (Restaurants). Authorizes the sale of beer and wine for consumption on or off the premises where sold.	5 Examples: Kay’s Country Kitchen, Jack’s, Patricio’s Pizza
Type 42	On-Sale Beer & Wine – Public Premises – (Bar, Tavern). Authorizes the sale of beer and wine for consumption on or off the premises where sold.	2 Examples: Vino et Amicis
Type 47	On-Sale General – Eating Place – (Restaurant). Authorizes the sale of beer, wine, and distilled spirits for consumption on the licenses premises. Authorizes the sale of beer and wine for consumption off the licenses premises.	3 Examples: Trattoria Uliveto, Far Western Tavern
Type 48	On-Sale General – Public Premises (Bar, Night Club) Authorizes the sale of beer, wine and distilled spirits for consumption on the premises where sold. Authorizes the sale of beer and wine for consumption off the premises where sold.	1 Example: Elmer’s Bar
Type 51	Club. Authorizes the sale of beer, wine and distilled spirits to members and guests only, for consumption on the premises where sold. No off-sale privileges. Food service is not required.	1 Example: Lions Club of Orcutt
Type 75	On-Sale General – Brewpub – (Restaurants) Authorizes the sale of beer, wine and distilled spirits for consumption on a bona fide eating	1 Example: Blast 825 Brewery

	place plus a limited amount of brewing of beer. This license does not authorize the sale of alcoholic beverages for consumption off the premises where sold.	
Total	-----	13

Within the subject census tract, the majority of establishments with an on-sale license are eating places or private clubs, and only two on-sale licenses are Type 42. As stated in the letter from the applicant (Attachment 3), the applicant is requesting the license in order to continue to provide beer and wine tastings to customers of Old Town Market, as the previous owner has decided to keep their Type 42 license for use at a different location in Santa Barbara County. The requested license will serve public convenience by continuing to provide Old Town Orcutt with a unique in-store beer and wine tasting experience. Therefore, it is recommended that the Board determine that public convenience will be served by issuing the new “On-Sale Beer & Wine – Public Premises” license to Orcutt Strong, LLC (DBA: Old Town Market).

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 \$2,500 (10 staff hours). Funding for this project is budgeted in the Planning and Development Department’s Permitting Budget Program on page D-294 of the County of Santa Barbara Fiscal Year (FY) 2020-21 adopted budget. There are no facilities impacts.

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, Attention Stella Felt, 3220 S. Higuera Street, Suite 233, San Luis Obispo, CA 93401.

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

Attachments:

1. Board of Supervisors letter to State Department of Alcohol Beverage Control
2. Alcohol Beverage Control Form ABC 245
3. Letter from Applicant, dated March 9, 2021
4. CEQA Notice of Exemption

Authored by:

Tina Mitchell, Planner