



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: June 20, 2017
Placement: Administrative
Estimated Time: N/A
Continued Item: No
If Yes, date from:
Vote Required: Majority

TO: Board of Supervisors
FROM: Department Glenn S. Russell, Ph.D., Director 568-2085
Director Planning & Development
Contact Info: Jeff Wilson, Deputy Director 568-2518
Planning & Development
**SUBJECT: Public Convenience or Necessity Determination for Casmalia Corner Market,
Case No. 17PCN-00000-00004, Third Supervisorial District**

County Counsel Concurrence

As to form: Yes

Auditor-Controller Concurrence

As to form: N/A

Other Concurrence: N/A

As to form: No

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 will be served by issuing the new "Off-Sale Beer & Wine" license to the Casmalia Corner Market, located at 3401 Point Sal Road, #3, Third Supervisorial District; 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)(Attachment-3).

Summary Text:

On April 19, 2017, Planning and Development (P&D) received a request (ABC form 245) for a Public Convenience or Necessity (PCN) determination for the Casmalia Corner Market, located at 3401 Point

Sal Road, #3, in Casmalia. The requested license would allow the sale of beer and wine for consumption off the premises where sold. P&D staff has reviewed the applicant's request, and recommend that the Board find that public convenience will be served by the ABC approval and issuance of the "Off-Sale Beer & Wine" license in this location, based on the information provided in the Background discussion, below. A transmittal letter indicating the finding of public convenience, and ABC Form 245, are attached for the Board's consideration of public convenience or necessity.

Background:

The requested license is a Type-20 Off-Sale license, which is defined as follows, "*Authorizes the sale of beer and wine for consumption off the premises where sold. Minors are allowed on the premises.*" The approval of this request would allow the Casmalia Corner Market to sell bottled beer and wine. The subject application is for 3401 Point Sal Road, #3, Casmalia located in Census Tract 25.02. The size of the census tract is based on population and encompasses an approximately 63 square mile area. The census tract extends roughly from the Pacific Ocean to Black Road, and from the Santa Maria River to Point Sal Road. Census Tract 25.02 includes Casmalia and Guadalupe.

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 establishments granted licenses for the sale of alcohol for consumption off the premises where sold (classified as "Off-Sale" licenses).(Bus. & Prof. Code § 23817.) 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 retail licenses is deemed a census tract of "undue concentration." (Bus. & Prof. Code § 23958.4(a)(3).) Specifically, undue concentration exists when "*the ratio of off-sale retail licenses to population in the census tract or census division in which the applicant premises are located exceeds the ratio of off-sale retail licenses to population in the county in which the applicant premises are located.*" Census Tract 25.02 has a population of 7,345 and is allowed 7 off-sale licenses (per the ABC Census Tract Authorizations (All Counties) report). There are currently 7 existing off-sale licenses within Census Tract 25.02, the exact number that is allowed by concentration criteria. Therefore, pursuant to the ABC, undue concentration would exist in Census Tract 25.02 with the approval of anymore off-sale licenses.

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).) Pursuant to the Santa Barbara County Sheriff's Department, 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 Department, Santa Maria Station, has been notified of the request and has indicated that the Department has no objections. Therefore, undue concentration does not exist based upon crime data.

When a census tract is subject to an undue concentration of off-sale licenses, Business and Professions Code Section 23958.4(b)(2) 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.*" If the Board of Supervisors 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.

The following table summarizes and defines the number of off-sale licenses in Census Tract 25.02:

Off-sale Licenses in Census Tract 25.02 (Per the California ABC License Query System)		
ABC License Type	Definition	Number
Type 20	Off-Sale Beer & Wine - Authorizes the sale of beer and wine for consumption off the premises where sold.	5
Type 21	Off-Sale General – Authorizes the sale of beer, wine and distilled spirits for consumption off the premises where sold.	2
Grand Total	-----	7

Within the subject census tract, all establishments with an off-sale license are located in Guadalupe. There are currently no establishments in Casmalia with off-sale licenses. As stated in the letter from the applicant (Attachment-4) the Casmalia Corner Market will serve as a convenience store for the community. The requested license would serve public convenience by providing the only establishment within Casmalia that would allow residents to purchase beer and wine for off-site consumption. Therefore, it is recommended that the Board determine that public convenience will be served by issuing the new “Off-Sale Beer & Wine” license to the Casmalia Corner 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 \$1,923 (10 staff hours), and is budgeted in the Planning and Development Permitting Budget Program on page D-289 of the adopted 2016-2018 fiscal year 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 Matt Austin, 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: Nereyda (Rey) Montaña.

Attachments:

1. Board of Supervisors letter to State Department of Alcohol Beverage Control
2. Alcohol Beverage Control Form ABC 245
3. CEQA Exemption
4. Letter from Applicant, dated April 19, 2017

Authored by:

Nereyda (Rey) Montaña, Planner