



COUNTY OF SAN MATEO
Inter-Departmental Correspondence
County Counsel



Date: July 11, 2014

Board Meeting Date: August 5, 2014

Special Notice / Hearing: None

Vote Required: Majority

To: Honorable Board of Supervisors

From: John C. Beiers, County Counsel

Subject: Public Convenience or Necessity for Application for Alcoholic Beverage License by AV Energy LLC

RECOMMENDATION:

Adopt a Resolution determining that public convenience or necessity would not be served by issuance of an off-sale beer and wine license to AV Energy LLC, for the premises at 3201 El Camino Real, Menlo Park, California

BACKGROUND:

State law requires that the County make a finding of whether the public convenience or necessity would be served by the issuance of an Alcoholic Beverage License if the establishment seeking the license is in a location with an “undue concentration” of establishments selling alcoholic beverages. The California Department of Alcoholic Beverage Control (“ABC”) has determined that an undue concentration of such establishments exists in the census tract at issue in this case and has requested that the County consider whether the public convenience or necessity (“PCN”) will be served by issuance of the instant license. This Board has established a process for consideration of such requests that requires that they be referred to the Sheriff and to the affected community advisory council for a recommendation regarding whether the request for PCN determination should be granted.

DISCUSSION:

This request relates to the Alcoholic Beverage License Application made by AV Energy in connection with a proposal to conduct off-sale of beer and wine at the premises located at 3201 El Camino Real, Menlo Park, California, which is a convenience store collocated with a gas station. The Department of Alcoholic Beverage Control has determined that the number of licenses already issued in the census tract in which this premises is located is more than the number allowed under the formula established by law. (Under this formula, four licenses would be allowed, and there are presently twelve.) Further, the number of criminal offenses reported in the affected district (125)

exceeds 120% of the County-wide average (69.69 offenses per district), further establishing an undue concentration of establishments selling alcohol in the area in question. Therefore, under state law, the Department of Alcoholic Beverage Control may not issue a license to AV Energy without the Board of Supervisors first determining whether the public convenience or necessity would be served by issuance of the license.

The matter was forwarded to the North Fair Oaks Community Council for its consideration and a recommendation to the Board under correspondence of this office dated May 30, 2014. In response, at its regular public meeting on June 26, 2014, the Council considered the matter. After consideration of the matter, including a presentation by the Office of the County Counsel and by the applicant's attorney, Mr. George Eshoo, the Council voted to recommend that the Board deny the instant request. The Council cited to the large number of licensed establishments in the vicinity already selling alcohol and expressed concerns about the impact of additional alcohol sales on crime levels.

The matter was also forwarded to the Sheriff's Office for its consideration and this office has been informed by the Patrol Lieutenant responsible for the area that the Sheriff's Office does not see a need for further establishments selling alcohol, given the number already in existence.

Based on the foregoing, the recommendation is that this Board deny the applicant's request and find that the public convenience or necessity would not be served by the issuance of a license.

Responding to the request of the Department of Alcoholic Beverage Control will contribute to the Shared Vision 2025 outcome of Collaborative Community by providing necessary input to the Department to assist it in making a decision on the subject license.

FISCAL IMPACT:

No fiscal impact.