



STAFF REPORT
9/9/2020

TO: Honorable Mayor and City Council Members

FROM: Juan Carrillo, Associate Planner

SUBJECT: Finding of Public Convenience and Necessity for “LA Mango” to re-establish an on-sale Beer License at the existing Snack Shop located at 51-704 Cesar Chavez Street.

STAFF RECOMMENDATION:

Staff recommends that the City Council authorize the Development Services Director to issue a Letter of Public Convenience and Necessity for a Type 40 (On-Sale Beer) to allow the sale of beer at “LA Mango” (Previously “La Mangoneada”) located at 51-704 Cesar Chavez Street.

DISCUSSION/ANALYSIS:

The new owner of “LA Mango” snack bar is requesting a determination from the City that the public convenience and necessity would be served by the issuance of an On-Sale Beer (Type 40) license by the Alcoholic Beverage Control (ABC) Board for the existing business located at 51-704 Cesar Chavez Street. Section 23958.4 of the Business and Professions Code requires the City Council to issue a letter of public convenience and necessity for any business requesting a new alcoholic beverage license of a certain type and which is in a census tract that has an over-concentration of licenses per the ABC’s guidelines. Staff has considered this request, and finds that the proposed license is for the sale of beer only, as part of an existing snack bar under new ownership. The prior business was established prior to the City’s passage of the ordinance requiring a conditional use permit for alcohol sales licenses. As such, the new owner is not required to apply for a conditional use permit because there has been no lapse in the business in excess of 12 months (pursuant to Section 17.78.010(H) of the Coachella Municipal Code which considers this use “as if it had a CUP”). Staff recommends that a letter of Public Convenience and Necessity be issued to LA Mango.

Type 40 licenses authorizes the sale of beer for consumption on the premises where sold, and minors are allowed on the premises. Due to the over-concentration of on-sale alcoholic beverage licenses within the census tract where this business is located, staff consulted with the Coachella Police Department regarding public safety concerns for this request.

Type 40 licenses are generally issued to places where meals are provided on the premises. Due to the recent pandemic, Covid-19, there has been a large portion of alcohol sales occurring for “take out” purposes and the California Department of Beverage Control allows this as a policy so long

as the beer is sold with the regular food items sold in the premises. Under existing law on-sale licensees may exercise off-sale retail privileges with respect to manufacturer pre-packaged containers of beer and wine (or beer only for Type-40 licenses).

Staff is recommending the following findings for the issuance of a letter of public convenience and necessity requested by LA Mango:

- 1) The proposed on-sale alcohol license would allow the sale of beer among a variety of other beverages and cold-prepared snacks and food items sold at the existing business. The “LA Mango” business sells a variety of appetizers, snacks, fruit platters, and smoothies. The applicant plans to include beer in the sale of snacks for its customers.
- 2) The applicant is not proposing the display of beer in the customer area at the business that may result in incidences of theft. Beer will only be sold for on-site consumption and can be displayed or sold for off-site consumption under the policies for Type 40 licenses per the California Alcohol and Beverage Control.

In addition to the above, the Coachella Police Department has not had any calls for service at the existing business location, and is not opposed to the issuance of an on-sale beer license at this location.

ALTERNATIVES:

1. Authorize the issuance of a Letter of Public Convenience and Necessity.
2. Deny the request and oppose the issuance of a Type 40 license.

FISCAL IMPACT:

There will be no fiscal impact to the City's General Fund if the Letter of Convenience and Necessity is issued.

RECOMMENDED ALTERNATIVE(S):

Staff recommends alternative #1.

Exhibits:

1. Section 23958.4 of the Business and Professions Code
2. Summary of existing Alcohol Licenses

California Business and Professions Code Section 23958.4

(a) For purposes of Section 23958, "undue concentration" means the case in which the applicant premises for an original or premises-to-premises transfer of any retail license are located in an area where any of the following conditions exist:

(1) The applicant premises are located in a crime reporting district that has a 20 percent greater number of reported crimes, as defined in subdivision (c), than the average number of reported crimes as determined from all crime reporting districts within the jurisdiction of the local law enforcement agency.

(2) As to on-sale retail license applications, the ratio of on-sale retail licenses to population in the census tract or census division in which the applicant premises are located exceeds the ratio of on-sale retail licenses to population in the county in which the applicant premises are located.

(3) As to off-sale retail license applications, 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.

(b) Notwithstanding Section 23958, the department may issue a license as follows:

(1) With respect to a nonretail license, a retail on-sale bona fide eating place license, a retail license issued for a hotel, motel, or other lodging establishment, as defined in subdivision (b) of Section 25503.16, a retail license issued in conjunction with a beer manufacturer's license, or a winegrower's license, if the applicant shows that public convenience or necessity would be served by the issuance.

(2) With respect to any other license, if the local governing body of the area in which the applicant premises are located, or its designated subordinate officer or body, 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 local governing body, or its designated subordinate officer or body, does not make a determination within the 90-day period, then the department may issue a license if the applicant shows the department that public convenience or necessity would be served by the issuance. In making its determination, the department shall not attribute any weight to the failure of the local governing body, or its designated subordinate officer or body, to make a determination regarding public convenience or necessity within the 90-day period.

(c) For purposes of this section, the following definitions shall apply:

(1) "Reporting districts" means geographical areas within the boundaries of a single governmental entity (city or the unincorporated area of a county) that are identified by the local law enforcement agency in the compilation and maintenance of statistical information on reported crimes and arrests.

(2) "Reported crimes" means the most recent yearly compilation by the local law enforcement agency of reported offenses of criminal homicide, forcible rape, robbery, aggravated assault, burglary, larceny theft, and motor vehicle theft, combined with all arrests for other crimes, both felonies and misdemeanors, except traffic citations.

(3) "Population within the census tract or census division" means the population as determined by the most recent United States decennial or special census. The population determination shall not operate to prevent an applicant from establishing that an increase of resident population has occurred within the census tract or census division.

(4) "Population in the county" shall be determined by the annual population estimate for California counties published by the Population Research Unit of the Department of Finance.

(5) "Retail licenses" shall include the following:

(A) Off-sale retail licenses: Type 20 (off-sale beer and wine) and Type 21 (off-sale general).

(B) On-sale retail licenses: All retail on-sale licenses, except Type 43 (on-sale beer and wine for train), Type 44 (on-sale beer and wine for fishing party boat), Type 45 (on-sale beer and wine for boat), Type 46 (on-sale beer and wine for airplane), Type 53 (on-sale general for train and sleeping car), Type 54 (on-sale general for boat), Type 55 (on-sale general for airplane), Type 56 (on-sale general for vessels of more than 1,000 tons burden), and Type 62 (on-sale general bona fide public eating place intermittent dockside license for vessels of more than 15,000 tons displacement).

(6) A "premises to premises transfer" refers to each license being separate and distinct, and transferable upon approval of the department.

(d) For purposes of this section, the number of retail licenses in the county shall be determined by the most recent yearly retail license count published by the department in its Procedure Manual.

(e) The enactment of this section shall not affect any existing rights of any holder of a retail license issued prior to April 29, 1992, whose premises were destroyed or rendered unusable as a result of the civil disturbances occurring in Los Angeles from April 29 to May 2, 1992, to reopen and operate those licensed premises.

(f) This section shall not apply if the premises have been licensed and operated with the same type license within 90 days of the application.

Exhibit 1

List of Existing ABC Licenses in Census Tract 0457.04

Business	Location	Type
1. Taqueria & Restaurante Arandas	51557 Cesar Chavez Street	41
2. Arco AM/PM	52138 Cesar Chavez Street	21
3. Fastrip Market	51893 Cesar Chavez Street	21
4. Beertown Market	85101 Avenue 52	20
5. Carniceria Rancho Grande	51508 Cesar Chavez Street	21