

**Hehar & Sons Inc.; DBA Mobil Mart  
Land Convenience Store**

**February 1, 2019**

City of Merced Planning Division  
Development Application  
678 S. 18th St.  
Merced CA 95340

RE: Hehar & Sons Inc.; DBA Mobil Mart; Convenience Store

Please consider this letter our official request for a finding of Public Convenience or Necessity required by the Department of Alcoholic Beverage Control pursuant to 23958.4 of the Business and Professions Code. Please consider the following as justification of Public Convenience and Necessity, for the proposed Hehar & Sons Inc. Land Convenience Store with a planned location at 782 Carol Ave, Merced, CA 95341.

Statement of Public Convenience or Necessity

Hehar & Sons Inc. is committed to taking all feasible steps to address law enforcement concerns about the site. In addition, Hehar & Sons Inc has an extensive employee - training program and is a responsible retailer of alcoholic beverages. Hehar & Sons Inc. markets are designed to provide a safe environment for patrons and employees through the Mobil Mart; convenience store. To that end, the following design elements are incorporated into our security plan. The storefront includes a significant number of windows so that the interior of the store is visible from the exterior of the building. Additional security measures include; adequate lighting levels both on the interior and exterior of the store, employee supervision of the facility, closed circuit video monitoring system with cameras -located strategically throughout the property, and careful window signage and landscaping placement to avoid obstruction of visibility into and out of the facility. Along with the storefront; a franchise "Baja Fresh" will join with Hehar & Sons Inc.; to provide a healthy food choice inside the Mobil Mart; convenience store.

Public Convenience or Necessity

First, it is important to emphasize that Business & Professions Code §23958.4 require a positive finding of public convenience "or" necessity in order for an off-site ABC application to be approved. This is legally sufficient if Hehar & Sons Inc. shows either public convenience or public necessity. It is not legally necessary to show both.

Second. it is only necessary to show public convenience or necessity where there is an "undue concentration" of licensees in the census tract. The term "undue concentration" (also referred as "over concentration") is specifically defined in Business and Professions Code 923958.4 as simply a ratio of *the number of licenses in a census tract* compared to *the average number of licenses in a county*, as a whole. It does not mean that a particular census tract necessarily has too many licenses for the needs or convenience of residents in that tract.

"Over Concentration" also does not mean that the state. or anyone else. Has previously looked at this census tract and determined that it has suffered any deleterious effects from the actual number of licenses existing; or that it will suffer if a new license is issued. It merely provides a guideline for making such a determination. in the form of determining whether in a particular situation, the ABC license would serve the public "convenience or necessity".

Thus, the fact that the census tract in which the Hehar & Sons Inc. site is located is statutorily "over concentrated" does not mean that the selling of alcoholic beverages at a small convenience store will have adverse impacts. Rather. It simply means that either public convenience with food options or public necessity will be served by the sale of alcoholic beverages at .he site in conjunction with the sales of other items carried.

## **BASIS FOR SUPPORTING OFFSITE ALCOHOLIC BEVERAGES SALES AS AN INTEGRAL PART OF THE PROPOSED PROJECT**

### **1. The Convenience of Hehar & Sons Inc.; Store/Food Concept**

For the last 13 years; Hehar & Sons Inc., has been delivering convenience and value to our customers from our current location in Modesto, CA. We are committed to helping shoppers save time and money every day and to make, shopping for everyday needs simple and hassle free by offering a clear fully edited assortment of the quality private and nationally branded items that are frequently overlooked or forgotten, such as non-alcoholic beverages, snacks, prepared foods, cigarettes and e-cig items. and seasonal items in a convenient neighborhood setting.

At Hehar & Sons Inc., our goal is to provide our customers with an expedient and centrally located market. Our customer's reliance on Hehar & Sons Inc. will vary from using the store for regular purchases to the occasional "oops. I forgot", purchase and do not want the hassle of driving to and finding parking at a big box store for a single item. This can vary from a convenient item; or a fresh food item from the Restaurant chain inside the Convenient Mobil Mart; (Baja Fresh).

We believe that our value and convenience proposition attracts customers from a, wide range of income brackets and life stages. Hehar & Sons Inc.; Mobil Mart with Baja Fresh in Merced will feature an expanded food and non-alcoholic beverage offering including snacks and prepared food items as well as a larger footprint than our Modesto store.

Although alcoholic beverages comprise only a small percent of the store shelf-space, it is nevertheless necessary in order to provide Mobil Mart/ Baja Fresh customers with a varied range of products. Thus, alcoholic beverages are a key element of the Mobil Mart concept. By providing an assortment of products, including alcoholic beverages. Readily available to the Mobil Mart/ Baja Fresh consumer, the public convenience of the area is certainly served.

Without it, customers may be obliged to travel to a range of big box retail outlets in order to complete their shopping needs. Alcoholic beverages will comprise no more than approximately 10% of total sales floor space.

Furthermore, Mobil Mart/ Baja Fresh want to maximize the availability of a large diversity of food and sundry items at the site pursuant to its concept. Permitting the sale of beer and wine at the site will complete Mobil Mart/Baja Fresh's concept, enabling customers to purchase a variety of products at one convenient stop. Providing customers all of this at one location is what "public convenience or necessity" is really all about.

### **2. "Over Concentration" in primarily Commercial Census Tracts is consistent with Good Zoning Policy**

According to the Department of Alcoholic Beverages Control, in Census Tract 3.01, the tract in which the Hehar & Sons Inc.; DBA Mobil Mart/ Baja Fresh will be located, there are currently twenty off-sale alcoholic beverage licenses and there may more allowed if ABC; is on board. The threshold for overconcentration established by the A.B.C., while a vulnerable, guideline is determined directly by population and does take into account zoning or general plan designation. As a result, the ABC established high license limits for largely residential census tracts and low thresholds for densely commercial tracts, while the General Plan encourages the concentration of commercial activity, opposed to an even dispersal among residential neighborhoods. As a result, almost all commercial areas are over concentrated"

### **3. Hehar & Sons Inc. DBA Mobil Mart/ Baja Fresh distinction among other Existing Off-Sale Licensed Retailers in the Census Tract**

As noted, the Department of Alcoholic Beverages Control reported that there are 20 active off-

sale alcoholic beverage licenses in Census Tract 13.0 I. Hehar & Sons Inc. Land will be purchasing an existing Type 20 Off-Sale License in Merced County. This application will not increase the number of active licensees in the area.

Each licensed retail format serves a different consumer shopping need. The large supermarkets in the tract are all traditional full service supermarkets that shoppers tend to do their weekly grocery shopping. Mobil Mart is distinctly different from these retailers. The shopping trip to Mobil Mart is significantly different in term of parking, time and overall convenience from that of a large format supermarket. Customers of the large supermarkets must walk farther to park, enter the store, and wait in lines that are much longer than those at the Mobil Mart. Our customer, who, for example, simply desires to purchase a snack and cigarettes, could now purchase beer and wine at the same time and in the same transaction without making any other stop, without navigating through a large box store, or waiting in long lines next to customers purchasing a weeks' worth of groceries. This would clearly serve the public convenience.

Although there are small convenience and gas station type stores in the census tract, there are none at the end of Childs Ave., which serves a large residential area. We do not intend our focus to be on alcohol sales, but to merely have them available for convenience sake, as important but secondary product lines. Moreover, Mobil Mart/Baja Fresh land is well lit has great visibility into the store and is open traditional retail hours and is closed by 11: 00pm. While Liquor Stores and Gas Stations thrive on late night sales and often, have signs covering the windows.

In summary, consumer's shopping needs vary and their use of different retail store formats to fulfil those needs can be demonstrated by the diversity of retailers found in this retail-shopping district. Public convenience or necessity refers to the character and style of the licensed premises, not the mere availability of alcoholic beverages and whether the proposed premises will serve a community desire or need. Hehar & Sons Inc. DBA Mobil Mart/ Baja Fresh serves the public convenience by offering a carefully edited assortment of the quality private (local) and national branded items that are frequently purchased by customers in one convenient location.

#### **4. A Good Neighbor:**

Hehar & Sons Inc. DBA Mobil Mart/ Baja Fresh think it is important to be a good neighbor. That is why we will be keeping our stores, front parking lots, and landscaping at the best shape possible. Our deliveries will be scheduled accordingly, to minimize noise and disruption.

#### **5. Security and Control:**

Hehar & Sons Inc. DBA Mobil Mart/ Baja Fresh are committed to taking all feasible steps to address law enforcement concerns about the site. In addition, Hehar & Sons Inc. DBA Mobil Mart/ Baja Fresh recognize the seriousness of loitering, delinquency, crime, and underage drinking and will have an aggressive minor policy, which will prove to be successful. We comply with all education/certificate requirements for each county, city and district we are in, and conduct internal training and refresher training programs in addition to state required education. Hehar & Sons Inc. DBA Mobil Mart/ Baja Fresh are designed to provide a safe environment for patrons. and employees. To that end, the following design elements are incorporated into our security plan. Security measures include; adequate lighting levels both on the interior and exterior of the store, employee supervision of the facility, closed circuit video monitoring system with cameras located strategically throughout the property, careful window signage and landscaping placement to avoid obstruction of visibility into and out of the facility .

Hehar & Sons Inc. DBA Mobil Mart/ Baja Fresh understand the important of maintaining the appearance of a facility to both expand their customer base and preventing criminal activity.

Hehar & Sons Inc. DBA Mobil Mart/ Baja Fresh maintenance program includes timely graffiti

and litter removal, repairs to structures and replacement of dead or diseased plant material, and strategic trash receptacle placement.

**6. The site will not result in an adverse impact on public health, safety, or welfare:**

Hehar & Sons Inc. DBA Mobil Mart/ Baja Fresh acquisition of this site will have a positive impact on public health, safety, and welfare. In fact, by providing a new, safe, and convenient location to make convenience purchase, public health, safety, and welfare will be advanced by this site. The addition of selling beer and wine will not change this.

**7. Community Service and Investment:**

Hehar & Sons Inc. DBA Mobil Mart/ Baja Fresh, we believe in promoting a spirit of involvement, and carry our mission to serve the communities we call home.

When you shop Hehar & Sons Inc. DBA Mobil Mart/ Baja Fresh, you join an effort to make our community and our world a better place. We are committed to conducting business in a way that promotes healthy families, thriving communities and a cleaner environment. At Hehar & Sons Inc. DBA Mobil Mart / Baja Fresh, corporate responsibilities are built into our mission to serve others. By providing safe products, supporting our communities and enforcing environmentally friendly practices, we proudly display the values that make our companies great. We wish to provide fresh food; with the modern look, as a brand new group up build; for the city of Merced. Hehar & Sons; will also generate income for the City of Merced, through beverages, lottery, gasoline, and food items; along with sundries. An investment of 3.5 million is in the process for the new future, to build and grow with the City of Merced; for the Mobil Mart/ Baja Fresh. Hehar & Sons Inc.; DBA Mobil Mart/Baja Fresh will make generous contributions to various programs through the City of Merced; once given permission to build and generate revenue.

**8. Conclusion:**

Hehar & Sons Inc. DBA Mobil Mart/ Baja Fresh have been a responsible retailer for over 13 years with one store currently in Stanislaus County. Permitting the sale of beer and wine at this site will not change this, but will allow our concept to grow at this site, providing customers the added convenience to make purchases of beer, wine, and food. Hehar & Sons Inc. DBA Mobil Mart/ Baja Fresh due to its location, character, manner, and method of operation, merchandise, and potential clientele; will serve the community of Merced. To that end, Hehar & Sons Inc. DBA Mobil Mart/ Baja Fresh respectfully request that are granted a finding of Public Convenience for location permitted at all levels for location 782 Carol Ave, Merced, CA.

Thank You for your time and consideration if you have any question or comments please feel free to call me at 209-985-9310

(Managing Member) Hehar & Sons Inc. DBA Mobil Mart/ Baja Fresh