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Agenda Date: 1/28/2020  
Agenda Placement: 9A  
Set Time: 9:00 AM  
Estimated Report Time: 25 Minutes

## NAPA COUNTY BOARD OF SUPERVISORS Board Agenda Letter

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**TO:** Board of Supervisors  
**FROM:** David Morrison - Director  
Planning, Building and Environmental Services  
**REPORT BY:** Terri L Abraham, Planner I - 299-1331  
**SUBJECT:** Public Convenience or Necessity to Retail Alcohol Beverage Type 21

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### **RECOMMENDATION**

Director of Planning, Building and Environmental Services (PBES) requests approval of a Certificate of Public Convenience or Necessity for a Type 21 Off-Sale General License for Raconteur Fine Wines, as required by the State Department of Alcoholic Beverage Control for property located at 521 Alexis Court, in the Napa Valley Business Park (Assessor's Parcel No. 057-220-028).

### **EXECUTIVE SUMMARY**

The applicant is applying for a Type 21 Off-Sale General License at 521 Alexis Court, in the Napa Valley Business Park (Assessor's Parcel No. 057-220-028). Raconteur Fine Wines is requesting the ability to offer its retail customers bottled spirits in addition to fine wines. This license allows for retail sales of alcoholic beverages (wine, beer, spirits) by the internet, mail order, or telephone, which are then directly shipped to retail customers. The license would also allow for over-the-counter sales, but products could not be consumed on-site.

The Department of Alcoholic Beverage Control (ABC) has determined that there is a high concentration of this type of license in the census tract where Raconteur Fine Wines is located. Pursuant to Business and Professions Code Section 23958.4, the local governing body must issue a Certificate of Public Convenience or Necessity (in the form of a Board Minute Order), prior to issuance of the Type 21 license.

### **PROCEDURAL REQUIREMENTS**

1. Open Public Hearing
2. Staff Reports
3. Public Comment
4. Closed Public Hearing

## 5. Motion, second, discussion and vote on the item

**FISCAL & STRATEGIC PLAN IMPACT**

Is there a Fiscal Impact?	Yes
Is it currently budgeted?	No
What is the revenue source?	A fee is paid by the applicant to process the requested determination of public convenience or necessity
Is it Mandatory or Discretionary?	Discretionary
Discretionary Justification:	If the license is to be approved, the Board's determination of public convenience or necessity is required by the Alcoholic Beverage Control (ABC)
Is the general fund affected?	Yes
Future fiscal impact:	There is no future impact.
Consequences if not approved:	ABC will not be able to issue the license for the applicant in a timely manner.
County Strategic Plan pillar addressed:	The public hearing before the Board is a State mandated requirement for this request.
Additional Information:	

**ENVIRONMENTAL IMPACT**

General Rule. It can be seen with certainty that there is no possibility the proposed action may have a significant affect on the environment and therefore CEQA is not applicable [See Guidelines For the Implementation of the California Environmental Quality Act, 14 CCR 15061(b)(3)].

**BACKGROUND AND DISCUSSION**

Alexis I, LLC, DBA Raconteur Fine Wines LLC, is currently in escrow to purchase a Type 21 Retail Off-Sale General License to authorize the sale of bottled spirits for consumption off-premises, for property located at 521 Alexis Court in the Napa Valley Business Park. A Type 21 license allows the sale of beer, wine and distilled spirits for off-premises consumption. The Type 21 license would replace the applicant's current Type 20 License which only allows the sale of beer and wine for off-premise consumption. In addition to the Type 20 license, the applicant also holds a Type 9 license (beer and wine importer) and a Type 17 license (beer and wine wholesaler). The applicant will continue operating in the same fashion as they currently operate. They will sell their lines of fine wines and spirits over the internet, by mail order, and telephone, and ship the products directly to their California customers, as well as occasional over-the-counter sales for off-premises consumption. This is not an advertised activity.

Under Section 23958 of the Business and Professions Code (BPC), the ABC shall deny the application for a license if it results in an "undue concentration" of licenses. An "undue concentration" is defined in BPC Section 23958.4 as when 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.

ABC determined that criterion No. 3 above applied to this request. The Napa Valley Business Park is located within Census Tract 2010.05. According to the Department of Alcoholic Beverage Control (ABC), Tract 2010.05 contains 112 active alcohol retail licenses, including the current Type 20 License held by Raconteur Fine Wines.

Pursuant to BPC Section 23958.4, ABC may still grant a license when there is an undue concentration, so long as the local governing body makes a determination of public convenience or necessity.

The applicant has submitted the required application and fee to the Planning, Building and Environmental Services Department in order to process the request for issuance of a Certificate of Public Convenience or Necessity by the Board of Supervisors. This activity is allowed within the scope of the applicant's existing approved Use Permit (98432-UP). There are no pending violations associated with this business. The Sheriff's Department has been contacted regarding the application and they have no objection. Consequently, staff recommends that this location is appropriate for the requested license.

Should the Board approve the applicant's request, a Certificate of Public Convenience or Necessity, in the form of a Board Minute Order, will be forwarded to ABC to complete the approval process.

The applicant's request was submitted to PBES on October 10, 2019, and was determined to be complete on November 11, 2019. Under BPC Section 23958.4, if the Board of Supervisors does not take action on the Certificate of Public Convenience or Necessity within 90 days of the completed application (February 7, 2020), then ABC may still approve the Type 21 License if the applicant can demonstrate to the State that the public convenience or necessity would be served by the license issuance.

## **SUPPORTING DOCUMENTS**

A . Application Materials

CEO Recommendation: Approve

Reviewed By: Leigh Sharp