



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:** February 13, 2018  
**Placement:** Administrative  
**Estimated Time:** N/A  
**Continued Item:** No  
**If Yes, date from:**  
**Vote Required:** Majority

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**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 Vino et Amicis Wine Bar  
Case No. 17PCN-00000-00005, Fourth Supervisorial District**

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**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 "On-Sale Beer & Wine – Public Premises" license to Vino et Amicis Wine Bar, located at 165 S. Broadway Street, Suite 101, in Orcutt; 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 December 18, 2017, Planning and Development (P&D) received a request (ABC form 245) for a Public Convenience or Necessity (PCN) determination for Vino et Amicis Wine Bar, located at 165 S. Broadway Street, Suite 101, in Orcutt. The requested license would allow the sale of beer and wine for consumption on or 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 "On-Sale Beer & Wine – Public Premises" 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-42 On-Sale license, which is defined as follows: *"Authorizes the sale of beer and wine for consumption on or off the premises where sold. No distilled spirits may be on the premises. Minors are not allowed to enter and remain (see Section 25663.5 for exception, musicians). Food service is not required."* The approval of this request would allow Vino et Amicis Wine Bar to sell beer and wine for consumption on or off the premises. The subject application is for 165 S. Broadway Street, Suite 101, Orcutt located in Census Tract 20.12. The size of the census tract is based on population and encompasses an approximately 1.27 square mile area. The census tract extends roughly between Highway 1 and Highway 135, and Foster Road to the north, in Orcutt.

The Department of Alcoholic Beverage Control (ABC) establishes a threshold for the number of licenses, including Type-42 licenses, issued in each census tract in order to control the concentration of establishments granted licenses for the sale of alcohol for consumption on the premises where sold (classified as "On-Sale" licenses)[Bus. & Prof. Code § 23816]. The threshold is the ratio derived from the number of on-sale licenses County-wide compared to the County's total population. Any census tract that exceeds the threshold for on-sale licenses is deemed a census tract of "undue concentration". Census Tract 20.12 has a population of 3,036 and is allowed 5 on-sale licenses (per the ABC Census Tract Authorizations (All Counties) report). There are currently 11 existing on-sale licenses within Census Tract 20.12, 6 more than allowed by concentration criteria. Therefore, pursuant to the ABC, undue concentration exists in Census Tract 20.12.

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 Office, 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 Santa Maria jurisdictional area. Therefore, undue concentration does not exist based upon crime data. In addition, the Sheriff's Office has expressed no concerns with this request.

When a census tract is subject to an undue concentration of on-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 on-sale licenses in Census Tract 20.12:

<b>On-Sale Licenses in Census Tract 20.12 (Per the California ABC License Query System)</b>		
<b>ABC License Type</b>	<b>Definition</b>	<b>Number</b>
<b>Type 41</b>	<b>On-Sale Beer &amp; Wine – Eating Place – (Restaurants)</b> Authorizes the sale of beer and wine for consumption on or off the premises where sold.	<b>4</b>  (Kay’s Country Kitchen, Old Town Mexican Café, Niya Restaurant, and Jack’s of Old Orcutt)
<b>Type 42</b>	<b>On-Sale Beer &amp; Wine – Public Premises – (Bar, Tavern)</b> Authorizes the sale of beer and wine for consumption on or off the premises where sold.	<b>1</b>  (Old Town Market)
<b>Type 47</b>	<b>On-Sale General – Eating Place – (Restaurant)</b> Authorizes the sale of beer, wine, and distilled spirits for consumption on the licenses premises. Authorizes the sale of beer and wine for consumption off the licenses premises.	<b>3</b>  (Trattoria Uliveto, Far Western Tavern, and Grevino)
<b>Type 48</b>	<b>On-Sale General – Public Premises (Bar, Night Club)</b> Authorizes the sale of beer, wine and distilled spirits for consumption on the premises where sold. Authorizes the sale of beer and wine for consumption off the premises where sold.	<b>1</b>  (Elmer’s Bar)
<b>Type 51</b>	<b>Club</b> – Authorizes the sale of beer, wine, and distilled spirits, to members and guests only, for consumption on the premises where sold. No off-sale privileges.	<b>1</b>  (Lions Club of Orcutt)
<b>Type 75</b>	<b>On-Sale General – Brewpub – (Restaurants)</b> Authorizes the sale of beer, wine and distilled spirits for consumption on a bona fide eating place plus a limited amount of brewing of beer. This license does not authorize the sale of alcoholic beverages for consumption off the premises where sold.	<b>1</b>  (Rooney’s Irish Pub)
<b>Total</b>	-----	<b>11</b>

Within the subject census tract, Old Town Market is the only establishment with a Type-42 license. However, Old Town Market offers wine tasting for the public only during tasting events. As stated in the letter from the applicant (Attachment-4), the applicant is requesting the license in order to provide a tasting room for consumers to taste wines from smaller, local wineries. The requested license would serve public convenience by providing the only establishment within the census tract which would allow consumers to taste wines from smaller, local wineries on or off the premises on a regular basis. Therefore, it is recommended that the Board determine that public convenience will be served by issuing the new “On-Sale Beer & Wine – Public Premises” license to Vino et Amicis Wine Bar.

**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 \$2,260 (10 staff hours), and is budgeted in the Planning and Development Permitting Budget Program on page D-286 of the adopted 2017-2018 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 December 18, 2017

**Authored by:**

Nereyda (Rey) Montaña, Planner  
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