

## **RESOLUTION NO. 24-53**

### **Resolution Of The City Council Of The City Of Emeryville Determining That Public Convenience Or Necessity Would Be Served By The Issuance Of Type 21 And Type 42 Licenses By The Department Of Alcoholic Beverage Control To Total Wine & More For A Proposed Retail Store At 3938 Horton Street, Emeryville, California**

**WHEREAS**, California Business and Professions Code Section 23958 requires the Department of Alcoholic Beverage Control (“ABC”) to deny a license if such license would create a “law enforcement problem” or “undue concentration of licenses” as those terms are defined by statute and determined by existing statistical data; and

**WHEREAS**, Business and Professions Code Section 23958.4(b) provides that notwithstanding the undue concentration of licenses, the ABC will issue the license if the governing body determines that the public convenience or necessity would be served by the issuance of the license; and

**WHEREAS**, Total Wine & More, to be located at 3938 Horton Street, has applied to ABC for a Type 21 license to sell beer, wine and distilled spirits for off premises consumption and a Type 42 license to sell beer and wine for consumption on or off the premises and has been referred by the ABC to the City of Emeryville for a determination of public convenience or necessity; and

**WHEREAS**, The Target department store, Pak’ n Save grocery store, and Black & White Liquor store are existing nearby uses with approved Type 21 licenses; and

**WHEREAS**, the Police Department does not anticipate problems from the sale of alcoholic beverages at this location; and

**WHEREAS**, on April 25, 2024 the Planning Commission held a public hearing and approved an application for a Major Conditional Use Permit for the proposed Total Wine & More liquor sales retail store at 3938 Horton Street; and

**WHEREAS**, the sale of beer, wine and distilled spirits for off premises consumption and for consumption on or off the premises at Total Wine & More, to be located at 3938 Horton Street, will provide public convenience to Emeryville residents and employees; now therefore, be it

**RESOLVED**, that the City Council of the City of Emeryville hereby determines that the public convenience or necessity would be served by the issuance of a Type 21 license and Type 42 license by the Department of Alcoholic Beverage Control to Total Wine & More Retail Store, to be located at 3938 Horton Street, Emeryville, California.

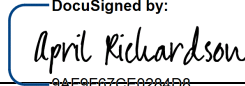
Resolution No. 24-53  
Total Wine & More Retail Store – Determination of Public Convenience or Necessity  
City Council Meeting | May 21, 2024  
Page 2 of 2

**ADOPTED**, by the City Council of the City of Emeryville at a regular meeting held Tuesday, May 21, 2024, by the following vote:

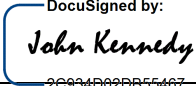
AYES:	<u>5</u>	Mayor Welch, Vice Mayor Mourra and Council Members Bauters, Kaur and Priforce
NOES:	<u>0</u>	
ABSTAIN:	<u>0</u>	
ABSENT:	<u>0</u>	

DocuSigned by:  
  
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MAYOR

ATTEST:

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CITY CLERK

APPROVED AS TO FORM:

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CITY ATTORNEY