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August 26, 2020

Chelsey Rosetter & Ben Farber (A)
Benny Boy Brewing
1014 Marco Place
Venice, CA 90291

DK 1821 Daly, LLC (O)
5405 Wilshire Boulevard
Los Angeles, CA 90036

Gary Benjamin (R)
Alchemy Planning and Land Use
4470 West Sunset Boulevard
Los Angeles, CA 90027

CASE NO. ZA 2019-6754-ZV-RDPA
ZONE VARIANCE/REDEVELOPMENT
PLAN ADJUSTMENT
1821 North Daly Street
Northeast Los Angeles

Zone : PF-1

C.D. : 1- Cedillo

D.M. : 135A221

CEQA: ENV-2019-6755-CE

Legal Description: Lot No. FR 20-24,
Fremont Tract

Pursuant to California Environmental Quality Act (CEQA) Guidelines Section 15305, I hereby DETERMINE:

That based on the whole of the administrative record as supported by the justification prepared and found in the environmental case file, the project is exempt from the California Environmental Quality Act (CEQA) Guidelines, Section 15305 (Class 5) and there is no substantial evidence demonstrating that any exceptions contained in Section 15300.2 of the State CEA Guidelines regarding location, cumulative impacts, significant effects of unusual circumstance, scenic highways, or hazardous waste sites, or historical resources applies; and

Pursuant to Los Angeles Municipal Code (LAMC) Section 12.27, I hereby APPROVE:

a Zone Variance from LAMC Section 12.04.09 to allow the sale, dispensing, and manufacturing of beer and wine for on- and off-site consumption in conjunction with the use and maintenance of a brewery with occasional outdoor live entertainment in the Public Facilities (PF) Zone; and

Pursuant to LAMC Section 11.5.14 and the Adelante Eastside Redevelopment Plan Section 504.1, I hereby APPROVE:

an adjustment to allow the sale, dispensing, and manufacturing of beer and wine for on- and off-site consumption in conjunction with the use and maintenance of a brewery with an outdoor dining area within the Public Facilities (PF) designation;

Upon the following additional terms and conditions:

1. All other use, height and area regulations of the Municipal Code and all other applicable government/regulatory agencies shall be strictly complied with in the development and use of the property, except as such regulations are herein specifically varied or required.
2. The use and development of the property shall be in substantial conformance with the plot plan and floor plan submitted with the application and marked Exhibit "A", except as may be revised as a result of this action.
3. The authorized use shall be conducted at all times with due regard for the character of the surrounding district, and the right is reserved to the Zoning Administrator to impose additional corrective Conditions, if, in the Administrator's opinion, such Conditions are proven necessary for the protection of persons in the neighborhood or occupants of adjacent property.
4. All graffiti on the site shall be removed or painted over to match the color of the surface to which it is applied within 24 hours of its occurrence.
5. A copy of the first page of this grant and all Conditions and/or any subsequent appeal of this grant and its resultant Conditions and/or signed Letters of clarification shall be printed on the building plans submitted to the Department of City Planning and the Department of Building and Safety for purposes of having a building permit issued at any time during the term of this grant.
6. Prior to the effectuation of this grant, a covenant acknowledging and agreeing to comply with all the terms and conditions established herein shall be recorded in the County Recorder's Office. The agreement (standard master covenant and agreement form CP-6770) shall run with the land and shall be binding on any subsequent owners, heirs or assigns. The agreement with the conditions attached must be submitted to the Department of City Planning for approval before being recorded. After recordation, a certified copy bearing the Recorder's number and date shall be provided for inclusion in case file.
7. Authorized herein is the sale, dispensing, and manufacturing of beer and wine for on- and off- site consumption in conjunction with the use and maintenance of a new 3,474 square-foot brewery and a 1,542 square-foot cider house with a new 891 square-foot outdoor dining area, subject to the following limitations:
 - a. The hours of operation shall be limited to from 5:00 a.m. to 11:00 p.m. Sunday through Wednesday and from 5:00 a.m. to 12:00 midnight Thursday through Saturday.
 - b. Interior seating shall be limited to 51 seats in the northern building (Cider House) along Luisa Street and to 69 seats in the southern building (Brewery)

adjacent to Daly Street. Maximum occupancy shall be as determined by the Department of Building and Safety and/or Fire Department.

- c. Outdoor seating adjacent to the southern building shall be limited to 60 exterior seats.
8. No after-hour use is permitted, except routine clean-up. This includes but is not limited to private or promotional events, special events, excluding any activities which are issued film permits by the City.
9. Any music, sound or noise which is under control of the applicant shall not constitute a violation of Sections 112.06 or 116.01 of the Los Angeles Municipal Code (Citywide Noise Ordinance) and shall not be audible beyond the subject premises. At any time during the term of the grant a City inspector may visit the site during operating hours to measure the noise levels using a calibrated decibel/sound level meter. If, upon inspection, it is found that the noise level exceeds those allowed by the Citywide Noise Ordinance, the owner/operator will be notified and will be required to modify or, eliminate the source of the noise or retain an acoustical engineer to recommend, design and implement noise control measures within property such as, noise barriers, sound absorbers or buffer zones.
10. Live entertainment shall be limited to acoustical instruments and shall be limited to a maximum of 12 times per year and shall only be permitted Friday through Sunday and national holidays between the hours of 10:00 a.m. to 10:00 p.m. No live entertainment is permitted outside these days or hours.
11. Any live entertainment shall be subject to the issuance of any applicable Cafe/Entertainment permit by the Los Angeles Police Commission CID.
12. No dancing is permitted on the premises.
13. Prior to the utilization of this grant, a camera surveillance system shall be installed to monitor the interior, entrance, exits and exterior areas, in front of and around the premises. Recorded tapes/images shall be maintained for a minimum period of 30 days.
14. Lighting shall be installed in all areas within the business in conformance with the Los Angeles Municipal Code. The lighting shall be such that it renders all objects and persons clearly visible within the establishment.
15. **Complaint Log.** Prior to the utilization of this grant, a phone number and an email address shall be provided for complaints or concerns from the community regarding the operation. The phone number and email address shall be posted at the following locations:
 - a. Entry, visible to pedestrians.
 - b. Customer service desk, front desk or near the cash registers.

The applicant shall maintain a log of all calls and emails, detailing: (1) date complaint received; (2) nature of complaint, and (3) the manner in which the complaint was

resolved. This log shall be made available to law enforcement personnel upon request and presented as part of the application if and when a new application to continue the operation is submitted to the Department of City Planning. Complaints shall be responded to within 24 hours.

16. **STAR/LEAD/RBS Training.** Within the first six months of operation, all employees involved with the sale of alcohol shall enroll in the Los Angeles Police Department "Standardized Training for Alcohol Retailers" (STAR) or Department of Alcoholic Beverage Control "Licensee Education on Alcohol and Drugs" (LEAD) training program of such training, the applicant shall request the Police Department or Department of Alcohol Beverage Control to issue a signed Letter identifying which employees completed the training. STAR and LEAD or RBS training shall conducted for all new hires within three months of their employment.
17. Parking shall be provided in compliance with the code and to the satisfaction of the Department of Building and Safety. No variance from the parking requirements has been requested or granted herein.
18. Loitering is prohibited on or around the premises or the area under the control of the applicant. "No Loitering or Public Drinking" signs shall be posted in and outside of the subject facility.
19. The applicant shall be responsible for maintaining free of debris or litter the area adjacent to the premises over which they have control, including the sidewalk in front of the establishment.
20. There shall be a minimum of one (1) California licensed security guard on the premises daily, displaying "Security" on the front and rear of their shirt, monitoring the interior, and exterior from the hours of 6:00 p.m. to one half hour after closing, daily. The security shall monitor the interior and exterior of the premises and adjacent sidewalks to prevent and discourage any nuisance or criminal activity on the site or adjacent to the site. The security guard shall ensure patrons do not loiter on adjacent public streets and will ensure that patron conduct does not disturb or interfere with the quiet enjoyment of residential uses located across the site.
21. There shall not be a cover charge for admission.
22. The establishment shall not be subleased to outside promoters for any type of events.
23. No alcoholic beverage shall be consumed on any property adjacent to the licensed premises, under the control of the licensees.
24. Coin operated game machines, pool tables or similar game activities or equipment shall not be permitted. Official State lottery games and machines are allowed.
25. An electronic age verification device shall be retained on the premises available for use during operational hours. This device shall be maintained in operational condition and all employees shall be instructed in its use.

26. At least one on-duty manager with authority over the activities within the facility shall be on the premises at all times that the facility is open to business. The on-duty manager's responsibilities shall include the monitoring of the premises to ensure compliance with all applicable State laws, Municipal Code requirements and the conditions imposed by the Department of Alcoholic Beverage Control (ABC) and the conditional use herein. Every effort shall be undertaken in managing the facility to discourage illegal and criminal activity on the subject premises and any exterior area over which the building owner exercises control, in effort to ensure that no activities associated with such problems such as narcotics sales, use or possession, gambling prostitution, loitering, theft, vandalism or truancy occur.
27. There shall be no Adult Entertainment of any type pursuant to LAMC Section 12.70.
28. No pool or billiard tables may be maintained on the premises;
29. Smoking or tobacco or any non-tobacco substance including from electronic smoking devices is prohibited in or within 10 feet of any outdoor dining/entrance to the restaurant in accordance with LAMC Section 41.50 B2C.
30. The business operator and or the operator's agents shall comply with California Labor Code Section 6404.5 which prohibits the smoking of tobacco or any non-tobacco substance, including from electronic smoking devices, within any place of employment.
31. No Smoking signs shall be posted in English and in the predominant language of the facility's clientele, if different, at the front entrance and at any other entrance utilized by the public.
32. A copy of the conditions of this determination, business permit and insurance information shall be retained on the premises at all times and produced upon request by the Police Department, the Department of Building and Safety or the State Department of Alcoholic Beverage Control.
33. Prior to the beginning of operations, the manager of the facility shall be made aware of the conditions and shall inform his/her employees of the same. A statement with the signature, printed name, position and date signed by the manager and his/her employees shall be provided to the Department of City Planning. The statement shall state:

*We, the undersigned, have read and understood the conditions of approval to allow the sale, dispensing, and manufacturing of beer and wine for on- and off-site consumption in conjunction with the use and maintenance of a brewery known as **Benny Boy Brewing**, and agree to abide and comply with said conditions.*

ADMINISTRATIVE CONDITIONS

34. Should there be a change in the ownership and/or the operator of the business, the property owner and the business owner or operator shall provide the prospective new property owner and the business owner/operator with a copy of the conditions of this action prior to the legal acquisition of the property and/or the business. Evidence that

a copy of this determination including the conditions required herewith has been provided to the prospective owner/operator shall be submitted to the Department of City Planning in a signed Letter from the new operator indicating the date that the new operator/management began and attesting to the receipt of this approval and its conditions. The new operator shall submit this signed Letter to the Department of City Planning within 30 days of the beginning day of his/her new operation of the establishment along with any proposed modifications to the existing floor plan, seating arrangement or number of seats of the new operation.

35. If at any time during the period of the grant, should documented evidence be submitted showing continued violation(s) of any condition(s) of the grant, resulting in a disruption or interference with the peaceful enjoyment of the adjoining and neighboring properties, the Zoning Administrator will have the right to require the petitioner(s) to file for a plan approval application together with the associated fees, to hold a public hearing to review the petitioner's compliance with and the effectiveness of the conditions of the grant. The petitioner(s) shall submit a summary and supporting documentation of how compliance with each condition of the grant has been attained. The purpose of the plan approval will be to review the operation of the premise and establish conditions applicable to the use as conducted by the owner or operator, consistent with the intent of the Conditions of this grant. Upon this review, the Zoning Administrator may modify, add or delete conditions, and if warranted, reserves the right to conduct this public hearing for nuisance abatement/revocation purposes.
36. **MViP- Monitoring Verification and Inspection Program.** Prior to the effectuation of this grant, fees required per LAMC Section 19.01-E,3 for monitoring of Conditional Use Permits and Inspection and Field Compliance Review of Operations shall be paid to the City.
- a. Within 24 months from the beginning of operations or issuance of a Certificate of Occupancy, a City inspector will conduct a site visit to assess compliance with, or violations of, any of the conditions of this grant. Observations and results of said inspection will be documented and included in the administrative file.
 - b. The owner and operator shall be notified of the deficiency or violation and required to correct or eliminate the deficient or violation. Multiple or continued documented violations or Orders to Comply issued by the Department of Building and Safety which are not addressed within the time prescribed, may result in additional corrective conditions imposed by the Zoning Administrator.

33. **INDEMNIFICATION AND REIMBURSEMENT OF LITIGATION COSTS.**

Applicant shall do all of the following:

- a. Defend, indemnify and hold harmless the City from any and all actions against the City relating to or arising out of, in whole or in part, the City's processing and approval of this entitlement, including but not limited to, an action to attack, challenge, set aside, void, or otherwise modify or annul the approval of the entitlement, the environmental review of the entitlement, or the approval of

subsequent permit decisions, or to claim personal property damage, including from inverse condemnation or any other constitutional claim.

- b. Reimburse the City for any and all costs incurred in defense of an action related to or arising out of, in whole or in part, the City's processing and approval of the entitlement, including but not limited to payment of all court costs and attorney's fees, costs of any judgments or awards against the City (including an award of attorney's fees), damages, and/or settlement costs.
- c. Submit an initial deposit for the City's litigation costs to the City within 10 days' notice of the City tendering defense to the Applicant and requesting a deposit. The initial deposit shall be in an amount set by the City Attorney's Office, in its sole discretion, based on the nature and scope of action, but in no event shall the initial deposit be less than \$50,000. The City's failure to notice or collect the deposit does not relieve the Applicant from responsibility to reimburse the City pursuant to the requirement in paragraph (b).
- d. Submit supplemental deposits upon notice by the City. Supplemental deposits may be required in an increased amount from the initial deposit if found necessary by the City to protect the City's interests. The City's failure to notice or collect the deposit does not relieve the Applicant from responsibility to reimburse the City pursuant to the requirement in paragraph (b).
- e. If the City determines it necessary to protect the City's interest, execute an indemnity and reimbursement agreement with the City under terms consistent with the requirements of this condition.

The City shall notify the applicant within a reasonable period of time of its receipt of any action and the City shall cooperate in the defense. If the City fails to notify the applicant of any claim, action, or proceeding in a reasonable time, or if the City fails to reasonably cooperate in the defense, the applicant shall not thereafter be responsible to defend, indemnify or hold harmless the City.

The City shall have the sole right to choose its counsel, including the City Attorney's office or outside counsel. At its sole discretion, the City may participate at its own expense in the defense of any action, but such participation shall not relieve the applicant of any obligation imposed by this condition. In the event the Applicant fails to comply with this condition, in whole or in part, the City may withdraw its defense of the action, void its approval of the entitlement, or take any other action. The City retains the right to make all decisions with respect to its representations in any legal proceeding, including its inherent right to abandon or settle litigation.

For purposes of this condition, the following definitions apply:

"City" shall be defined to include the City, its agents, officers, boards, commissions, committees, employees, and volunteers.

"Action" shall be defined to include suits, proceedings (including those held under alternative dispute resolution procedures), claims, or lawsuits. Actions include actions, as defined herein, alleging failure to comply with any federal, state or local law.

Nothing in the definitions included in this paragraph are intended to limit the rights of the City or the obligations of the Applicant otherwise created by this condition.

OBSERVANCE OF CONDITIONS - TIME LIMIT - LAPSE OF PRIVILEGES

All terms and conditions of the approval shall be fulfilled before the use may be established. The instant authorization is further conditional upon the privileges being utilized within three years after the effective date of approval and, if such privileges are not utilized or substantial physical construction work is not begun within said time and carried on diligently to completion, the authorization shall terminate and become void.

TRANSFERABILITY

This authorization runs with the land. In the event the property is to be sold, leased, rented or occupied by any person or corporation other than yourself, it is incumbent upon you to advise them regarding the conditions of this grant.

VIOLATIONS OF THESE CONDITIONS, A MISDEMEANOR

Section 12.29 of the Los Angeles Municipal Code provides:

“A variance, conditional use, adjustment, public benefit or other quasi-judicial approval, or any conditional approval granted by the Director, pursuant to the authority of this chapter shall become effective upon utilization of any portion of the privilege, and the owner and applicant shall immediately comply with its Conditions. The violation of any valid Condition imposed by the Director, Zoning Administrator, Area Planning Commission, City Planning Commission or City Council in connection with the granting of any action taken pursuant to the authority of this chapter, shall constitute a violation of this chapter and shall be subject to the same penalties as any other violation of this Code.”

Every violation of this determination is punishable as a misdemeanor and shall be punishable by a fine of not more than \$2,500 or by imprisonment in the county jail for a period of not more than six months, or by both such fine and imprisonment.

APPEAL PERIOD - EFFECTIVE DATE

The applicant's attention is called to the fact that this grant is not a permit or license and that any permits and licenses required by law must be obtained from the proper public agency. Furthermore, if any Condition of this grant is violated or if the same be not complied with, then the applicant or his successor in interest may be prosecuted for violating these Conditions the same as for any violation of the requirements contained in the Municipal Code. The Zoning Administrator's determination in this matter will become effective after **SEPTEMBER 10, 2020**, unless an appeal therefrom is filed with the City Planning Department. It is strongly advised that appeals be filed early during the appeal period and in person so that imperfections/incompleteness may be corrected before the appeal period expires. Any appeal must be filed on the prescribed forms, accompanied by the required fee, a copy of the Zoning Administrator's action, and received and receipted at a public office of the Department of City Planning on or before the above date or the appeal will not be accepted. **Forms are available on-line at <http://planning.lacity.org>**. Public offices are

located at:

Downtown
Figueroa Plaza
201 North Figueroa Street,
4th Floor
Los Angeles, CA 90012

San Fernando Valley
Marvin Braude San Fernando
Valley Constituent Service Center
6262 Van Nuys Boulevard,
Room 251
Van Nuys, CA 91401
[\(818\) 374-5050](tel:(818)374-5050)

West Los Angeles
West Los Angeles Development
Services Center
1828 Sawtelle Boulevard,
2nd Floor
Los Angeles, CA 90025
[\(310\) 231-2598](tel:(310)231-2598)

If you seek judicial review of any decision of the City pursuant to California Code of Civil Procedure Section 1094.5, the petition for writ of mandate pursuant to that section must be filed no later than the 90th day following the date on which the City's decision became final pursuant to California Code of Civil Procedure Section 1094.6. There may be other time limits which also affect your ability to seek judicial review.

NOTICE

The applicant is further advised that subsequent contact regarding this determination must be with the staff assigned to this case. This would include clarification, verification of condition compliance and plans or building permit applications, etc., and shall be accomplished **BY APPOINTMENT ONLY**, in order to assure that you receive service with a minimum amount of waiting. You should advise any consultant representing you of this requirement as well.

FINDINGS OF FACT

After thorough consideration of the statements contained in the application, the plans submitted therewith, and the statements made at the public hearing on, **June 17, 2020** all of which are by reference made a part hereof, as well as knowledge of the property and surrounding district, I find that the requirements and prerequisites for granting a variance as enumerated in Section 562 of the City Charter and Section 12.27 of the Municipal Code have been established by the following facts:

BACKGROUND

The subject property is a flat, irregular-shaped, 12,208 square-foot corner lot with a frontage of 84 linear feet along Luisa Street, 225 linear feet along of Daly Street, and 20 linear feet along Alhambra Avenue. The property is zoned Public Facilities (PF-1) and is located within the Adelante Eastside Redevelopment Area which designates the property as an Open Space (OS) designation.

The subject request entails a Zone Variance and Redevelopment Plan Project Area Adjustment to allow the sale, dispensing, and manufacturing of beer and wine for on- and off-site consumption in conjunction with the use and maintenance of a 5,907 square-foot brewery and occasional live entertainment, otherwise not permitted in the Public Facilities Zone or in the Adelante Eastside Redevelopment Project Area Open Space (OS) designation.

The subject property is located within the East Los Angeles State Enterprise Zone (ZI-2129), Adelante Eastside Redevelopment Project Area (ZI-2488), Freeway Adjacent Advisory

Notice Area (ZI-2427), and a Transit Priority Area in the City of Los Angeles (ZI-2452). The property is not within the area of any specific plans or active interim control ordinances. The site is currently improved with two industrial buildings, both totaling approximately 7,431 square-feet per the LA County Assessor. After a partial demolition and restroom addition to the building along Daly Street, the new brewery building will measure approximately 3,474 square-feet. The northern building along Luisa Street will measure 1,542 square-feet after partial demolition. In addition, a new 891 square-foot patio will be utilized as an outdoor dining area. The aggregate gross floor area of the proposed brewery total 5,907 square-feet of gross floor area. At the time of filing, the applicant also requested occasional live entertainment, including up to four musicians or a background DJ (no dancing), within the “cider house” building along Luisa Street and within the southern west outdoor area of the “brewery” building, as shown on “Exhibit A”. All live entertainment is proposed to end by 10 p.m. and will occur no more than twelve times per year.

The surrounding properties are zoned CM-1VL, R3-1, and PF-1. They are primarily developed with industrial buildings, single-family residential, railroad tracks, and the I-5 Freeway. Properties to the north across Luisa Street are developed with a one-story industrial building. Properties to the east across Daly Street are developed with single-family homes. Properties to the south across Alhambra Avenue are developed with railroad tracks. Properties to the east are developed with the I-5 freeway.

On September 30, 2019, the Los Angeles City Council and Mayor approved a resolution and accompanying Ordinance No. 186,325, transferring the land use authority from the CRA/LA, Designated Local Authority (CRA/LA-DLA) to the City of Los Angeles (City). The City is now responsible for implementing and enforcing the unexpired Redevelopment Plans and associated Design for Development Guidelines and Development Guidelines (collectively known as “DFDs”).

The industrial buildings are located in the Adelante Eastside Redevelopment Project Area. The principal thrust of the project is the preservation of industrial and commercial uses within the community to promote a stable industrial base to provide jobs for the community, as well as enhancing the existing shopping areas to provide alternative commercial choices for residents. The Adelante Eastside Redevelopment Project, is located approximately two miles east of the downtown Central Business District. The approximately 2,200 acre industrial and commercial redevelopment project contains the areas south of Olympic Boulevard to the city limits of Vernon from the Los Angeles River to Indiana Street; North Main Street east to Valley Boulevard and Alhambra Avenue to the city limits of Alhambra; and all east - west commercial streets in Boyle Heights such as Cesar Chavez Avenue, First Street, Fourth Street and Whittier Boulevard from the Los Angeles River to Indiana Street.

The Adelante Eastside Redevelopment Project area designates property as Open Space (OS). The Los Angeles Municipal Code provides OS land use designation regulations for publicly owned land. At the time of filing, the applicant requested to deviate from the “OS” land use designation to allow a brewery use that would otherwise not be permitted. Part of the review process from the Adelante Eastside Redevelopment Project Area requires that additional findings be made and show conformance to Section 507, 511, 514, 515, and 518 of Eastside Redevelopment Project area.

Conformance with Section 507, 511, 514, 515, 518

Section 507. New Construction and Rehabilitation of Properties- The change of use and

addition will be constructed and rehabilitated in a manner that will be safe and sound in all physical aspects, and be attractive in appearance and not detrimental to the surrounding uses.

Section 511. Open Space, Landscaping, Light, Air, and Privacy- The applicant has provided ample outdoor open space areas within the subject site and adequate distance between existing structures to allow for adequate light, air and privacy. The project has provided substantial landscaping throughout parking area and outdoor seating areas to ensure optimum use of living plant material.

Section 514. Parking and Loading Facilities – The applicant has provided more parking than required (1 space required; 7 provided) and the parking lot is landscaped per City requirements. No parking is located within required setback areas. The parked area is paved and will comply with LID drainage standards. All lighting will be shielded and directed downward and away from nearby properties and streets.

Section 515. Setbacks – No setback areas are required in the PF-1 Zone. All open space areas adjacent to buildings will be landscaped, unless paved as required for access.

Section 518. Minor Variations – The applicant has reviewed the Redevelopment Plan Section and prepared findings for LAMC Section 11.5.14, further explained in the Adelante Eastside Redevelopment Project Area Adjustment findings below.

STREETS

Daly Street, abutting the property to the east, is a Avenue II, dedicated to a Right-of-Way width of 86 feet and a designated Roadway Width of 56 feet and improved with asphalt roadway and concrete curb, gutter and sidewalk, and a center landscaped median.

Luisa Street, abutting the property to north, is a Local Street-Standard, dedicated to a Right-of-Way width of 60 feet and a designated Roadway width of 36 feet and improved with asphalt roadway and concrete curb, gutter and sidewalk.

Previous relevant cases, affidavits and orders on the subject property:

Case. No. 2005-7107-PAD – On April 6, 2006, the Zoning Administrator approved a Conditional Use and plans for a co-location of a wireless telecommunications facility on an existing 55-foot in height monopole.

Cases on Surrounding Properties:

None

PUBLIC CORRESPONDENCE

A letter of non-opposition dated April 15, 2020 was submitted by LAPD Hollenbeck Area Vice subject to recommended conditions of approval.

The applicant provided a signed Letter of Support from local realtor, Jose Urbina.

The applicant provided a signed Letter of Support from a neighborhood resident, Vera Padilla, dated February 21, 2020.

The applicant provided a signed Letter of Support from a neighborhood resident, Sampson Chan, dated February 21, 2020.

The applicant provided a signed Letter of Support from a neighborhood resident, Christian Maese, dated February 21, 2020.

The applicant provided a signed Letter of Support from a neighborhood resident, Jason Taban, dated February 21, 2020.

The applicant provided a signed Letter of Support from a neighborhood resident, Richard Kim, dated February 21, 2020.

The applicant provided a signed Letter of Support from a neighborhood resident, David Mandela, dated February 21, 2020.

The applicant provided a signed Letter of Support from a neighborhood resident, Kwon Li, dated February 21, 2020.

The applicant provided a signed Letter of Support from a neighborhood resident, Joshua Gomez, dated April 1, 2020.

The applicant provided a signed Letter of Support from a neighborhood resident, Alicia Gomez, dated April 11, 2020.

The applicant provided a signed Letter of Support from a neighborhood resident, Bryson Reaume, dated April 28, 2020.

The applicant provided a signed Letter of Support from artist Teale Hatheway, dated April 28, 2020.

The applicant provided a signed Letter of Support from the President and CEO of Los Angeles LDC- Michael Banner- dated April 30, 2020.

The applicant provided a signed Letter of Support from the owner of A&A Auto Wrecking - Robert Vega- dated April 30, 2020.

The applicant provided a signed Letter of Support from an employee of the Department of Water and Power-Stephen Patino- dated May 1, 2020.

The applicant provided a signed Letter of Support from a neighborhood resident, Patricia Guzman, dated May 1, 2020.

The applicant provided a signed Letter of Support from the Editor and Founder of Wapshott Press,- Ginger Mayerson- dated May 1, 2020.

The applicant provided a signed Letter of Support from a neighborhood resident, Mathew

The applicant provided a signed Letter of Support from an employee of A&A Company- Marco Vargas- dated May 1, 2020.

The applicant provided a signed Letter of Support from a Metro employee- Jose F. Garcia- dated May 1, 2020.

The applicant provided a signed Letter of Support from a neighborhood resident, George Vega, dated May 1, 2020.

The applicant provided a signed Letter of Support from a neighborhood resident, Erik Rodriguez, dated May 1, 2020.

The applicant provided a signed Letter of Support from a neighborhood resident, Erick Gomez, dated May 1, 2020.

The applicant provided a signed Letter of Support from a neighborhood resident, Erik Barcenas, dated May 1, 2020.

The applicant provided a signed Letter of Support from a neighborhood resident, Cierra Vega, dated May 1, 2020.

The applicant provided a signed Letter of Support from a neighborhood resident, David Bell, dated May 1, 2020.

The applicant provided a signed Letter of Support from a neighborhood resident, Anthony Sacazar, dated May 1, 2020.

The applicant provided a signed Letter of Support from a neighborhood resident, Ariel Maya, dated May 1, 2020.

The applicant provided a signed Letter of Support from a neighborhood resident, Armando Martinez, dated May 1, 2020.

The applicant provided a signed Letter of Support from Scott W. Lee, on behalf of Jack and Betty Lee Enterprises, LLC, dated May 6, 2020.

The applicant provided a signed Letter of Support from Steve Kasten, owner of local business Steven Kasten Properties, dated May 6, 2020.

The applicant provided a signed Letter of Support from Martin V. Lee, managing member of Jack and Summit Western Limited, LLC, dated May 7, 2020.

The applicant provided a signed Letter of Support from Ulises Sanchez, dated May 15, 2020.

The applicant provided a signed Letter of Support the owner of Puro Rabjohn Water Equipment Co.- Mike Hernandez- dated May 19, 2020.

The applicant provided a signed Letter of Support from the production manager at Boomtown- Benjamin Turkel- dated May 19, 2020.

The applicant provided a signed Letter of Support from Executive Director of the Lincoln Heights Benefit Association of Los Angeles- Misty Iwatsu- dated May 20, 2020.

PUBLIC HEARING

The public hearing was held on June 17, 2020 at approximately 11:30 a.m. A Notice of Public Hearing was sent to nearby property owners and/or occupants within 500 feet from the subject site. In conformance to with the Governor's Executive Order N-29-20, and due to concerns over COVID-19, the hearing was conducted telephonically via ZOOM. All interested persons were invited to participate in the virtual hearing at which they could listen, ask questions, or present testimony regarding the project.

The hearing participants included the applicants, Chelsey Rosetter and Ben Farber, the applicant's representative, Gary Benjamin, and by numerous residents, business owners and stakeholders.

Mr. Benjamin described the scope of the project, the site's location and context and the requested entitlements. He noted that the subject property is privately owned and historically occupied by industrial uses but was rezoned from M3 to PF for unknown reasons. The nearest PF Zoned properties are owned by the County of Los Angeles and a Post Office but it appears the subject property was inadvertently rezoned to PF. Mr. Benjamin noted that no public entities have expressed interest in the subject site and the PF Zone is very restrictive. Therefore, a variance is requested to allow a change of use from the current industrial use to a micro-brewery and to allow the sale of beer and wine for on-site and off-site consumption as well as a Redevelopment Plan Adjustment to allow the change of use to a brewery in the PF Zone.

Mr. Benjamin noted that the site is located on the west side of Daly Street and directly abuts the Golden State Freeway and located. He noted that the site is tucked away and well buffered from the nearest residential uses across Daly Street due to the topography and street configuration and an overpass.

Mr. Benjamin described the layout and design of the project. He noted that the scope of the work entails partial demolition and conversion of two existing industrial buildings to a brewery and a cider house. The buildings are oriented along Daly Street and Luisa Street with an interior patio. The northerly building will contain a cider house with a tasting room and the southerly building will include the microbrewery with a tasting room.

Mr. Benjamin noted that the proposed hours of operation are from 5:00 a.m. to 12 midnight daily and noted that the applicant is also requesting to conduct live entertainment limited to a maximum of 12 times per year. Live entertainment will cease by 10 p.m. and will be limited to a 3 or 4 piece band. After further inquiry by the Zoning Administrator, Mr. Benjamin noted that live entertainment would be conducted primarily on weekends and national holidays.

The Zoning Administrator inquired whether the applicant had reviewed the conditions recommended by LAPD and was in agreement with the recommended conditions.

Public Testimony:

The following testimony was received in opposition to the request:

- The community does not need an additional outlet serving alcohol. There is a 7-Eleven across the site. There are three other breweries in the area including the Highland Park brewery and bars along Broadway and Daly. Business owners support other business owners but gentrification is a big factor. We should not support a food business disguised as alcohol.
- The variance amounts to a rezoning and it's not fair to adjacent residents who have been living next to a light industrial business to now live next to a bar.
- The proposed use will generate noise and disturb adjacent residents across the site.
- Parking is a big problem. The site does not have adequate on-site parking. Only 4 on-site parking spaces are provided and the business has 180 seats.
- Traffic congestion is very problematic between 3 p.m. and 6 p.m. with a very high volume of 18 wheel rigs and UPS trucks at the intersection of Daly and Main.
- The business will not cater to local residents and will have a negative impact by causing displacement of community members and contribute to gentrification. The community is already suffering from gentrification.
- There has been a lack of transparency. The hearing notice was only received one week ago. The full board of the Lincoln Heights Neighborhood Council has not approved the request, there was no quorum at the board meeting and the Neighborhood Council failed to unanimously approve.
- The bar will cause more gentrification and displacement. The PF Zone is more beneficial to the community. The variance to allow a bar in the PF zone amounts a rezoning of the property. The bar will cater to USC students and employees of the USC Biomedical Zone but will not serve the existing community.
- The homeless population has increased by 12%, we should be working on addressing homelessness, not opening more bars.
- I operate a business in the subject building and have two years remaining on my lease. There are also 16 local artists living in the building and we will be displaced. Parking is a problem. The venue has 160 seats and no parking and parking will be a mess. Live music bounces and travels and affects surrounding residents.

The following testimony was received in support of the request:

- The applicants, Ben and Chelsey, have character and are respectful and responsible business owners.

- The neighborhood is evolving and I support the request.
- My family owns a business at the southwest corner of Griffin and Broadway and I support the request. The neighborhood needs the types of business proposed by the applicant to keep up with the Arts District and Highland Park.
- I own a wine business less than a mile away. I understand the community's concerns but in midst of COVID, we need businesses that provide outdoor space.
- I own a business 1 ½ blocks away and the applicant reached out and made a presentation at my business and nobody opposed the request.
- The location is hidden and is a plus for the community. The business will help keep money in the community and I won't have to leave the community to find a business like this.
- I live in Echo Park and live in the area and am an advocate for small businesses. I know the owner and he has a solid reputation and a passion for craft beer. Benny Boy will be inclusive and provide a price point accessible to all people. I support live entertainment too.
- I live next door to the applicants and they are good neighbors and responsible business operators. The business will provide a gathering place for the community.
- I own a business at 1700 N. Spring Street and my staff spends time in Lincoln Heights. I have seen both positive and negative changes in the community. Some don't show appreciation for this owner is not tone deaf.
- I know the owners and they are good advocates for the community. Breweries bring value to the neighborhood and it don't function like a bar. The business will serve tourists and families.

At the conclusion of the hearing, the Zoning Administrator took the request under advisement.

CONDITIONS IDENTIFIED FOR CONSIDERATION BY THE STATE DEPARTMENT OF ALCOHOLIC BEVERAGE CONTROL RELATIVE TO THE SALE AND DISTRIBUTION OF ALCOHOLIC BEVERAGES

In approving the instant grant, the Zoning Administrator has not imposed Conditions specific to the sale or distribution of alcoholic beverages, even if such Conditions have been volunteered or negotiated by the applicant, in that the Office of Zoning Administration has no direct authority to regulate or enforce Conditions assigned to alcohol sales or distribution.

The Zoning Administrator has identified a set of Conditions related to alcohol sales and distribution for further consideration by the State of California Department of Alcoholic Beverage Control (ABC). In identifying these conditions, the Office of Zoning Administration acknowledges the ABC as the responsible agency for establishing and enforcing Conditions specific to alcohol sales and distribution. The conditions identified below are based on testimony and/or the evidence established in the administrative record, and provide the ABC an opportunity to address the specific conduct of alcohol sales and distribution in association

with the Conditional Use granted herein by the Zoning Administrator.

The following conditions were submitted for consideration by LAPD Hollenbeck Vice Unit:

- Hours for sales of alcohol shall be limited from 9:00 a.m. to 12:00 Midnight daily.
- There shall not be a requirement to purchase a minimum number of drinks.
- Sales and delivery of alcoholic beverages to customers shall be made from behind a counter where an employee will obtain the product. No self-service of alcoholic beverages by patrons will be permitted. A waitress or waiter shall conduct all alcoholic beverage service.
- No person under 21 years of age shall sell or serve alcoholic beverages.

ZONE VARIANCE FINDINGS

In order for a variance to be granted, all five of the legally mandated findings delineated in City Charter Section 562 must be made in affirmative. Following (highlighted) is a delineation of the findings and the application of the relevant facts of the case to same:

1. **The strict application of the provisions of the Zoning Ordinance would result in practical difficulties or unnecessary hardships inconsistent with the general purposes and intent of the zoning regulations.**

The project site is designated for Public Facilities and is zoned PF-1. The site is within the Northeast Los Angeles Community Plan Area and within the boundaries of the Adelante Eastside Redevelopment Project. The PF Zone is generally only applied to publicly owned properties and is limited to uses such as agricultural and public facilities, including public parking facilities, fire and police stations, government buildings and maintenance facilities, public libraries, post offices, public health facilities and schools. By City policy, privately owned properties are generally not zoned PF as this would essentially render the property unviable for private uses and essentially amounts to a condemnation or “taking”.

On January 12, 2000, the property was rezoned from M3-1 to PF-1 pursuant to Ordinance 172,917 in connection with the Northeast Los Angeles Community Plan Revision program. At the time, Northeast Los Angeles Community Plan underwent a comprehensive plan revision that resulted in the rezoning of several thousand parcels and hundreds of subareas throughout the Northeast Los Angeles Community Plan area.

The subject site is an irregular, triangular shaped lot composed of six substandard lots containing a combined total of 12,067 square feet. The site is privately owned and is improved with two detached industrial buildings constructed in 1925 and 1946 containing approximately 2,300 and 5,130 square feet. The subject site directly abuts the Golden State Freeway to the west, which is also designated and zoned for Public Facility uses.

Properties to the north of the subject site also abut the freeway and were rezoned by the same Ordinance 172,917 from M1-2 to CM-1VL. Properties

across the site on the east side of Daly Street were also rezoned by Ordinance 172,917 from RD1.5-1 to R3-1.

The property is privately owned and has been continuously used and maintained for industrial uses. The permit history shows the most recent uses to be office and warehouse uses. The applicant proposes to renovate the existing industrial buildings and proposes a change of use to a brewery and cider house. The site has no history of ownership by any public agency. As stated, the purpose of the PF Zone is to enable construction and maintenance of public facilities owned and operated by State and local governments. The nearest public ownership is the adjoining freeway but the property has no history of ownership by the California Department of Transportation nor is the property needed for public purposes. In certain cases, parcels adjoining a right of way such as the freeway are often zoned "PF" when they are owned by a public agency such as Cal Trans to enable access and staging areas for maintenance purposes. However, that is not the case here and nothing in the record supports the rezoning of the property from M3 to PF. Due to the high volume of parcels rezoned manually at the time, occasional errors have been discovered on properties that were inadvertently rezoned incorrectly.

The only logical conclusion, in the Zoning Administrator's view, is that the rezoning of the subject property is an error. The more appropriate zoning in keeping with good planning practice and consistent with the nearest similarly zoned properties would have been to rezone the property to the CM Zone, similar to the properties to the north. The existing PF zone restricts the property owner from changing the use of the buildings on the property to anything but a public government use. Thus, the zone is severely restrictive and deprives the property of reasonable or viable use. The property owner did not initiate the zone change to the PF Zone and placing the onerous on the applicant to rezone the property would be an unfair burden. The "PF" zone creates an unnecessary hardship as it precludes any change of use of the existing buildings to alternative viable uses suitable to the design of the existing structures.

The proposed use is otherwise consistent with the CM uses permitted on the nearest properties to the north and consistent with the existing improvements. The proposed commercial uses entails a brewery where beer will be manufactured on-site as well as a cider house. The proposed use will not be offensive to surrounding land uses. Denial of the variance result in practical difficulties or unnecessary hardships which would be inconsistent with the general purpose and intent of the zoning regulations. Therefore, the strict application of the provisions of the Zoning Ordinance would result in practical difficulties or unnecessary hardships inconsistent with the general purpose and intent of the zoning regulations.

2. **There are special circumstances applicable to the subject property such as size, shape, topography, location or surroundings that do not apply generally to other property in the same zone and vicinity.**

The subject property is a flat, irregular, triangular-shaped parcel containing

approximately 12,208 square feet located at the southwest corner of Daly Street and

Luisa Street. The lot has approximately 84 feet of frontage along Luisa Street and 225 feet of frontage along Daly Street with a shallow variable depth between 20 feet to 83 feet. The property is zoned PF and is located within the Northeast Los Angeles

Community Plan which designates the property for Public Facilities land uses, corresponding to the PF Zone.

The site is privately owned and is improved with two detached industrial buildings constructed in 1925 and 1946 containing approximately 2,300 and 5,130 square feet. The subject site directly abuts the Golden State Freeway to the west.

On January 12, 2000, the property was rezoned from M3-1 to PF-1 pursuant to Ordinance 172,917 in connection with the Northeast Los Angeles Community Plan Revision program. As noted under Finding No. 1 above, the property has no history of public ownership and has never been occupied by a public use. The property has been privately held for many years and has historically been utilized for light industrial uses including office and warehouse uses.

As stated, the PF Zone limits uses on the property to public uses such as police and fire buildings, libraries and the like. The PF Zone is inappropriate as the property is privately owned and as noted, the property appears to have been rezoned to the PF Zone in error. Moreover, the site's relatively small size, its irregular triangular shape and very shallow lot depth constrain the site's buildable area and the site's ability to provide on-site parking. Therefore, even if the applicant pursued a zone change, redevelopment of the site would be difficult. Meanwhile, the existing buildings are relatively small and obsolete by today's standards for warehouse or industrial uses. The PF Zone essentially requires the building to be used for public uses only and essentially precludes any change of use to an income producing use, thus, rendering the building unviable. The applicant seeks to repurpose the buildings to a viable commercial use and proposes a brewery and a cider house.

As stated, given the site's history of private ownership and history of industrial uses on the site, and given that the property owner did not initiate the zone change to the PF Zone, it would place a significant burden and hardship on the applicant to rezone the property simply to complete a partial demolition and interior tenant improvements. The property is surrounded by privately owned properties that are zoned "R3", "CM", "M2", and "M3". The nearest zone, other than the "PF" zone of the I-5 freeway, is the "CM" zone, which is located approximately 60 feet to the north across Luisa Street. Nearby "M2" and "M3" zones are approximately 150-250 feet away to the southwest and southeast across Alhambra Avenue, which serves as a railroad right-of-way.

The existing PF Zone on the subject property is essentially a spot zone (and there are no similarly zoned properties in the vicinity). The property's PF Zone is not in keeping with the zoning on adjacent private properties and is not in keeping with the property's history of private ownership and its historic use for industrial and commercial uses. Thus, the site's circumstances, with a relatively small irregular shaped lot that makes it impractical to redevelop the site and the site's PF Zoning, which essentially precludes a change of use on the site, are unique circumstances that do not apply to

other properties in the same vicinity.

3. **Such variance is necessary for the preservation and enjoyment of a substantial property right or use generally possessed by other property in the same zone and vicinity but which, because of such special circumstances and practical difficulties or unnecessary hardship, is denied the property in question.**

The project site is zoned PF-1 and is within the Northeast Los Angeles Community Plan. Public Facilities with a Height District of 1 are limited to uses such as agricultural and public facilities, including public parking facilities, fire and police stations, government buildings and maintenance facilities, public libraries, post offices, public health facilities and schools. The property is surrounded by privately owned properties that are zoned "R3", "CM", "M2", and "M3". The nearest zone, other than the "PF" zone of the I-5 freeway, is the "CM" zone, which is located approximately 60 feet to the north across Luisa Street. Nearby "M2" and "M3" zones are approximately 150-250 feet away to the southwest and southeast across Alhambra Avenue, which serves as a railroad right-of-way.

The subject property is privately owned and therefore it does not share property rights or privileges of any privately owned properties in the vicinity of the subject site. Properties in the PF Zone are intended to be owned or operated by a public entity, and the uses allowed within the zone are limited to a narrow scope of uses that are almost exclusively employed by cities, counties, and other public entities. However, this property is not and has never been owned by a public entity. Therefore, the scope of uses limited to the current warehouse use pursuant to legally non-conforming rights. Unlike any other parcel in the vicinity, the existing buildings cannot be adapted to new uses consistent with the underlying zone. Specifically, the "PF" zone precludes the use of a brewery and service of alcohol, which would otherwise be a permitted use with a Conditional Use Permit in an "M" Zone, thereby creating special circumstances.

Therefore, approval of the variance will enable a viable use on the subject property on parity with surrounding properties.

4. **The granting of such variance will not be materially detrimental to the public welfare or injurious to the property or improvements in the same zone or vicinity in which the property is located.**

The subject site is a level, irregular, triangular-shaped parcel containing approximately 12,208 square feet with approximately 84 feet of frontage along Luisa Street and 225 feet of frontage along Daly Street. The site is improved with two detached industrial buildings constructed in 1925 and 1946 containing approximately 2,300 and 5,130 square feet. The subject site directly abuts the Golden State Freeway to the west. The scope of the project involves the partial demolition and conversion of the existing buildings to a brewery and cider house that will contain a combined total of approximately 5,235 square feet.

The cider house will be located in the northerly building along Luisa Street and will contain 1,525 square feet. The brewery building will be located in the southerly building along Daly Street and will contain 3,710 square feet. A total of four on-site

parking spaces will be provided. Activities on the site will consist of on-site beer manufacturing and tasting rooms in each building. The hours of operation are proposed from 5:00 a.m. to 12:00 midnight daily. The early morning hours will be devoted to beer manufacturing and cider making. The brewery will contain 69 interior seats and the cider house will contain 51 interior seats. A new approximately 891

square-foot patio dining area with 60 seats will be oriented to the interior of the site between the brewery and the adjoining freeway. The applicant also proposed to conduct live entertainment a maximum of twelve times per year.

The subject site abuts the Golden State Freeway to the west. Properties to the north are zoned CM-1 VL and are improved with a large bottle supply company and surface parking. Properties across the site on the east side of Daly Street are zoned R3-1 and are improved with one and two-story single-family homes or duplexes. Properties to the south, on the south side of Alhambra Avenue are zoned M2-1VL and improved with a media company.

Concerns were raised at the public hearing that the proposed change of use is an intensification that will increase demand for parking and generate on-street parking impacts on Daly Street adjacent to residential uses. Concerns were also raised about the site's proximity to residential uses on the east side of Daly Street and potential noise from intoxicated patrons as well as live music on the premises. Additional concerns were raised the proposed use will not cater to the local community and will contribute to further gentrification of the community.

The subject property is privately owned and the city has no jurisdiction to consider alternative uses on the site. The Zoning Administrator's purview is limited to determining whether the proposed use is proper in relation to surrounding uses and can coexist with surrounding uses without be detrimental to surrounding properties.

The site indeed only has four on-site parking spaces and patrons are likely to park along Daly Street. The site is located within an Enterprise Zone which allows reduced parking. The project will require a total of 7 on-site parking spaces. The applicant is providing on-site bicycle parking to meet the required parking as permitted by the code resulting in a requirement for only four on-site parking spaces. The applicant has not requested relief from the parking regulations and parking is provided in conformance to the code.

The street configuration adjoining the site is unique and buffers the site from residential uses across the site. Daly Street is a four lane highway with two lanes in each direction and a parking lane on both sides of the street. The right-of-way exceeds 100 feet and is wider along the site's frontage. The site is located at the northerly terminus of a bridge on Daly Street that takes vehicular traffic over the railroad right-of-way and Alhambra Avenue beneath the bridge. Daly Street is wider adjacent to the site as the two north bound lanes fork into a separate two lanes (one way in each direction) that veer off the main part of Daly Street to provide access to Alhambra Avenue below the bridge. A retaining wall separates a significant portion of the site's frontage from the four lane portion of Daly Street. Thus, the site is tucked away at the terminus of the bridge. Adequate street parking is available on Daly Street between Luisa Street and Alhambra Avenue and additional street parking is available north of Luisa. Street.

The hours of operation do not consist of excessively late night hours. However, to ensure the uses remains compatible with residential uses on the east side of Daly Street, hours of operation have been limited to 5:00 a.m. to 11:00 p.m. Sunday through Wednesday and to 5:00 a.m. to 12:00 midnight Thursday through Saturday.

In addition, live entertainment is limited to acoustical instruments a maximum of 12 times per year and is limited from 11:00 a.m. to 9:00 p.m. Sunday through Thursday and from 11:00 a.m. to 10:00 p.m. Friday and Saturday. The site's outdoor patio is not visible from the street and is well buffered by the existing buildings on the site. Noise from normal activities are not anticipated to be significant and are not anticipated to adversely affect adjacent residential uses. Nevertheless, Condition No. 9 requires conformance to the City's Noise Ordinance.

The premises seeks a beer and wine license only, no spirits will be sold on the premises, thus, reinforcing the use a brewery for craft beer and cider. The mode and character of the business is not anticipated to result in unruly conduct by patrons that would interfere with the quiet enjoyment of surrounding uses. In addition, Condition No. 20 requires the maintenance of state licensed security guard on the premises to maintain order and to ensure patrons do not loiter off the premises. Therefore, as conditioned, the granting of the variance for a brewery use will not be materially detrimental to the public welfare or injurious to the property or improvements in the same zone or vicinity in which the property is located.

5. **The granting of the variance will not adversely affect any element of the General Plan.**

There are twelve elements of the General Plan, each establishing policies that provide for the regulatory environment in managing the future growth of the City. The majority of the policies derived from these Elements are implemented through the Los Angeles Municipal Code (LAMC). In particular the Land Use element, which is comprised of 35 Community Plans, is implemented through the Zoning Code. The City's General Plan provides incentives to encourage the development of housing, jobs, and services in close proximity to one another; and to create balanced communities and neighborhoods. The Housing Element of the General Plan encourages the location of housing, jobs, and services in close proximity and includes an objective to accommodate a diversity of uses to support existing and future residents of the City.

The subject property is located in the Northeast Los Angeles Community Plan which designates the proposed project for "Public Facility" (PF) land uses. However, as noted in more detail under Finding No. 1, the subject site is privately owned and has a history of private ownership. The PF designation and zone is inconsistent with City policy and inconsistent with the site's private ownership. The property clearly appears to have been rezoned to PF in error. The site was previously zoned M3 and the nearest properties to the north are zoned CM. The existing improvements were originally constructed as a warehouse but are relatively small and functionally obsolete.

The Northeast Los Angeles Community Plan has several goals, objectives and policies which are consistent with the proposed Variance.

One of the opportunities in the Community Plan encourages “Industrial uses to provide needed employment opportunities and economic benefits to the community and should be encouraged when impacts to surrounding land uses can be mitigated.”

Associated objectives and policies are as follows:

- Goal 3* *Sufficient land for the range of industrial uses necessary to provide maximum employment opportunities, especially for local residents; that are safe for the environment and the work force; and have minimal adverse impact on adjacent uses and infrastructure resources.*
- Objective 3-1:* *To resolve conflicts between industrial uses and other adjacent uses.*
- Policy 3-1.1:* *Preserve existing industrial areas that have the greatest viability and compatibility and the least adverse impact on nearby uses.*
- Objective 3-2:* *To provide for existing and future industrial uses that contribute job opportunities for residents and minimize adverse environmental and visual impacts on the community.*
- Policy 3-2.1:* *Designates lands for the continuation of appropriate existing industry and development of new industrial parks, research and development uses, light manufacturing, and similar uses that are compatible with nearby uses, provide employment opportunities, and have minimal impact on the environment.*
- Objective 3-3:* *To retain industrial plan designations in order to attract appropriate industrial development to maintain the industrial employment base for community residents.*

The proposed change of use will have a manufacturing component that is consistent with the site’s historic M Zoning and consistent with the nearest CM Zones and will generate jobs.

The project site is in close proximity to the Broadway Corridor and Downtown Los Angeles which includes numerous restaurants, live theater venues, and retail shops. As the brewery is proposed to be located adjacent to the I-5 freeway, industrial uses, and within 125 feet of a residential zone the scope and intensity of the use is relatively small and neighborhood-serving.

Therefore, the variance to allow a brewery use makes the project compatible with the adjacent community. The brewery use will not adversely affect any element of the General Plan, in fact it can be considered a tool of the proposed project to make it more compatible and consistent with the elements of the General Plan and more specifically the objectives and policies of the Northeast Los Angeles Community Plan.

REDEVELOPMENT PROJECT AREA (RDPA) ADJUSTMENT FINDINGS

In order for a RDPA project adjustment to be granted, all three of the legally mandated findings delineated in City Charter Section 504.1 of the Adelante-Eastside Redevelopment Plan must be made in affirmative. Following (highlighted) is a delineation of the findings and the application of the relevant facts of the case to same:

6. Substantially complies with the applicable Redevelopment Regulations.

The Adelante Eastside Redevelopment Project, is located approximately two miles east of the downtown Central Business District. The principal thrust of the project is the preservation of industrial and commercial uses within the community to promote a stable industrial base to provide jobs for the community, as well as enhancing the existing shopping areas to provide alternative commercial choices for residents. The approximately 2,200 acre industrial and commercial redevelopment project contains the areas south of Olympic Boulevard to the city limits of Vernon from the Los Angeles River to Indiana Street; North Main Street east to Valley Boulevard and Alhambra Avenue to the city limits of Alhambra; and all east - west commercial streets in Boyle Heights such as Cesar Chavez Avenue, First Street, Fourth Street and Whittier Boulevard from the Los Angeles River to Indiana Street.

On September 30, 2019, the Los Angeles City Council and Mayor approved a resolution and accompanying Ordinance No. 186,325, transferring the land use authority from the CRA/LA, Designated Local Authority (CRA/LA-DLA) to the City of Los Angeles (City). The City is now responsible for implementing and enforcing the unexpired Redevelopment Plans and associated Design for Development Guidelines and Development Guidelines (collectively known as “DFDs”).

The Adelante Eastside Redevelopment Project area designates the property as Open Space (OS). The Los Angeles Municipal Code provides OS Zones regulations for publicly owned land and states:

“...to preserve and protect natural resources and natural features of the environment; to provide outdoor recreation opportunities and advance the public health and welfare; to enhance environmental quality; to encourage the management of public lands in a manner which protects environmental characteristics; and to encourage the maintenance of open space uses ...”

The general objectives of the project area are to promote the elimination and prevention of the spread of blight and deterioration; improve the quality of life for residents through enhanced business; and the conservation, rehabilitation and appropriate use or reuses of existing buildings. More specifically, the plan encourages the conservation of existing commercial uses through rehabilitation, revitalization and expansion.

As previously mentioned, the land has historically been owned by private ownership and utilized for industrial uses. The proposed project is in keeping with the general

objectives of the plan. The proposed project will promote the elimination and prevention of blight through enhanced business and the rehabilitation and appropriate reuse of an existing building.

7. Complies with CEQA.

This project is Categorically Exempt under the California Environmental Quality Act (CEQA).

8. All findings for variations and minor variations, as required by the applicable Redevelopment Plan are met.

The Redevelopment Plan grants the decision-maker the authority to permit an alternative use on a site within the Redevelopment Plan designation of Open Space, provided it satisfies the below findings:

Section 504.1

1. *After a review of the environmental effects of the proposed use and the proposed development concept, the Agency finds that the change of use is consistent with the goals of the Redevelopment Plan.*

The site is currently improved with two industrial buildings, both totaling approximately 7,431 square-feet per the Los Angeles County Assessor. After partial demolition and new construction of a restroom and outdoor patio area—the aggregate gross floor area of the proposed brewery will be 5,907 square-feet. After a partial demolition and restroom addition to the building along Daly Street, the new brewery building will measure approximately 3,474 square-feet. The northern building along Luisa Street will measure 1,542 square-feet after partial demolition. In addition, a new 891 square-foot patio will be utilized as an outdoor dining area.

This project is Categorically Exempt under the California Environmental Quality Act (CEQA).

The proposed change of use to allow a brewery operation with on- and off-site consumption, with occasional live entertainment is consistent with the goals of the Redevelopment Plan include the following:

- Improve the quality of life for those who live and work in and visit the Project Area through enhanced business, employment, housing, shopping, entertainment, recreational, and educational opportunity.
- Promote the elimination and prevention of the spread of blight and deterioration, and promote the conservation, rehabilitation, renewal and redevelopment of the Project Area.
- Preserve and increase employment, training, business and investment opportunities through redevelopment programs, and to the greatest

extent feasible, promote these opportunities for residents who reside in or adjacent to the Project Area and for businesses that are located in the Project Area.

- Promote and support the conservation, rehabilitation and appropriate use or reuse of existing buildings, groupings of buildings and other physical features, especially those having significant historic and/or architectural value, and ensure that new development is sensitive to these features through land use and development criteria.
- Encourage the development of an industrial environment that positively relates to adjacent land uses, including an emphasis on the development of industrial parks and industrial operations that are environmentally safe and that expand employment opportunities for residents of the Project Area and adjacent neighborhoods.

The proposed project will create employment opportunities and offer entertainment/recreational opportunities. The proposed project will help to eliminate blight and reuse an existing industrial structures to create an active use.

2. *The change of use is compatible with the land use designations for the adjacent areas.*

The surrounding properties within the City of Los Angeles are zoned CM-1VL, R3-1, and PF-1. The surrounding properties are primarily developed with industrial buildings, single-family residential, railroad tracks, and the I-5 Freeway. Properties to the north across Luisa Street are developed with one-story industrial building. Properties to the east across Daly Street are developed with single-family homes. Properties to the south across Alhambra Avenue are developed with railroad tracks. Properties to the east are developed with the I-5 freeway.

Immediately north of the site, on the west side of Daly Street between North Main Street and Luisa Street, are a total of four parcels, all located in the CM-1-VL Zone and in the Redevelopment Plan's "Open Space" area. The properties to the north are occupied by water Fountain Company, a bottle and a container company, and a mini shopping center with restaurant, laundry, nail salon, and retail uses.

To the west of the site is the Golden State (I-5) freeway, and adjacent to the west is land designated as Industrial. To the south of the site is the railroad right-of-way and more land in the Industrial land use designation, and to the east are residential properties that are not within the Redevelopment Plan area.

The proposed change of use will be compatible with the Limited Industrial land use designation immediately to the north.

3. *In a situation where open space and/or recreation areas are the current use, the open space and/or recreation are uses will be replaced within a reasonable and specified time period.*

This finding is not applicable to the project because “open space” and/or “recreation areas” are not the current use. The existing building is currently assessed under “Industrial and Light Manufacturing.”

4. *The change in use shall be subject to all required City approvals and shall conform to the applicable Community Plan as it may be amended from time to time in the future.*

In addition to the requested Project Adjustment, at the time of filing, the applicant also requested a Zone Variance to permit the brewery use in the Public Facilities Zone.

Section 518

1. *The application of certain provisions of this Plan would result in practical difficulties of unnecessary hardships, which would make development inconsistent with the general purpose and intent of the plan, as discussed in the prior section.*

Strict application of the provisions of the Zoning Ordinance would result in practical difficulties or unnecessary hardships inconsistent with the general purposes and intent of the zoning regulations. The project site is zoned Public Facilities, PF-1, and is within the Northeast Los Angeles Community Plan Area. Public Facilities with a Height District of 1, limited to uses such as agricultural and public facilities, including public parking facilities, fire and police stations, government buildings and maintenance facilities, public libraries, post offices, public health facilities and schools. In addition, the property is located with the Adelante Eastside Redevelopment Project area with an “Open Space” (OS) designation.

The Adelante Eastside Redevelopment Project, is located approximately two miles east of the downtown Central Business District. The principal thrust of the project is the preservation of industrial and commercial uses within the community to promote a stable industrial base to provide jobs for the community, as well as enhancing the existing shopping areas to provide alternative commercial choices for residents. The approximately 2,200 acre industrial and commercial redevelopment project contains the areas south of Olympic Boulevard to the city limits of Vernon from the Los Angeles River to Indiana Street; North Main Street east to Valley Boulevard and Alhambra Avenue to the city limits of Alhambra; and all east - west commercial streets in

Boyle Heights such as Cesar Chavez Avenue, First Street, Fourth Street and Whittier Boulevard from the Los Angeles River to Indiana Street.

The subject property has been used for various industrial uses throughout its history, which was consistent with the original “M3-2” zone. On January 12,

2000, a zone change was effectuated pursuant to Ordinance 172,917, which implemented the Northeast Los Angeles Community Update (CPU). The Northeast Los Angeles CPU maintained “M” zoning in all other industrial properties in the vicinity. However, the subject property was rezoned to PF (public facilities), not allowing any change of use or redevelopment consistent with the industrial uses of the surrounding zones. Certain parcels adjacent to the freeway are zoned “PF” but are owned by public agencies, as they are in the public right-of-way.

The “PF” zone creates an unnecessary hardship as it precludes any change of use of the building to any other industrial use, suitable to the design of the existing structures and the surrounding “M” zone. Few uses are permitted in the “PF” zones, and most uses are permitted only by a public entity. The

subject property is not publically owned and there is no evidence of past public ownership. The property is privately owned and has been continuously used and maintained for industrial uses. The applicant proposes to renovate the existing industrial buildings and proposes a change of use to a brewery.

The site is located within the Northeast Los Angeles Community Plan which designates the project site as Public Facilities. The community plan identifies the site as a public facilities site with the goal to provide regulations for the use and development of publicly owned land and encourage circulation, public recreation, and service systems elements. The use is in-keeping with the intent of the Community Plan as the proposed use will create a pedestrian oriented use which will be frequented by local residents and employees. This proposal requires a Zone Variance to overcome the regulatory barriers that apply only to the “PF” zone and would not otherwise be required of neighboring properties in the “M” zones.

Denial of the variance request would result in practical difficulties or unnecessary hardships which would be inconsistent with the general purpose and intent of the zoning regulations. The strict application of the zoning code has resulted in the practical difficulties and unnecessary hardship of approving a new use for the subject property, and the enforcement of “PF” zone regulations on a privately owned industrial property is inconsistent with the intent of the Public Facilities Zone. Therefore, the strict application of the provisions of the Zoning Ordinance would result in practical difficulties or unnecessary hardships inconsistent with the general purpose and intent of the zoning regulations.

2. *There are exceptional circumstances or conditions applicable to the property or to the intended development of the property, which do not apply generally to other properties having the same standards, restrictions and controls.*

The subject property is a flat, irregular-shaped, 12,208 square-foot corner lot with a frontage of 84 linear feet along Luisa Street, 225 linear feet along Daly Street, and 20 linear feet along Alhambra Avenue. The property is zoned PF and is located within the Northeast Los Angeles Community Plan which designates the property for Public Facilities land uses, corresponding to the PF Zone.

The parcel is relatively irregular compared to surrounding parcels and has been improved with industrial buildings. It is not improved a “Public Facility” such as a school, service yard, or structure that is consistent with said zone, nor is it owned by a public agency.

The property is unique as it is surrounded by privately owned properties that are zoned “R3”, “CM”, “M2”, and “M3”. The nearest zone, other than the “PF” zone of the I-5 freeway, is the “CM” zone, which is located approximately 60 feet to the north across Luisa Street. Nearby “M2” and “M3” zones are approximately 150-250 feet away to the southwest and southeast across Alhambra Avenue, which serves as a railroad right-of-way.

Adding to the site’s uniqueness, the site is located in close proximity to Downtown Los Angeles and the Broadway Corridor which is characterized by many retail uses, cafes, restaurants and taverns that form a vibrant pedestrian-oriented environment. The site is located in a progressively mixed-use, pedestrian neighborhood. Therefore, there are special circumstances applicable to the subject property’s location and surroundings that do not apply generally to other properties in the same zone and vicinity.

3. *Permitting a variation will not be materially detrimental to the public welfare or injurious to property or improvements in the area or contrary to the objectives of this Plan or the applicable Community Plan.*

The granting of the Zone Variance would allow the change of use, operation, and maintenance of a brewery with tasting rooms. A brewery at the subject property may have relatively minor impacts to the surrounding environment. The surrounding properties are primarily developed with industrial buildings, single-family residential, railroad tracks, and the I-5 Freeway. Properties to the north across Luisa Street are developed with one-story industrial building. Properties approximately 130 linear feet to the east across Daly Street are developed with single-family homes. Properties to the south across Alhambra Avenue are developed with railroad tracks. Properties to the east are developed with the I-5 freeway.

The property is uniquely buffered from sensitive uses. The property is abutting the I-5 freeway right-of-way to the west, a railroad right-of-way to the south, Daly Street Bridge to the east, and a business to the north. The project is also not located within close proximity to any school, church, or hospital- institutions that are generally considered sensitive in relationship to alcohol serving facilities.

Given the site’s close proximity to the Broadway Corridor and Downtown Los Angeles, it is expected that the proposed brewery will likely be patronized by residents and employees who will access the site by public transit or by walking. The proposed brewery will contribute to the surrounding neighborhood providing a pedestrian oriented ground level use that residents of the neighborhood can patronize. The site is also in close proximity to parking

spaces located within the Culver City's Commercial District. The granting of a variance to allow a brewery in the PF Zone will not be materially detrimental to the public welfare or injurious to the property or improvements in the same zone or vicinity in which the property is located.

Furthermore, the brewery will provide local jobs and a public place for neighborhood residents to gather and enjoy the brewery. The proposed project includes the renovation of the existing buildings, therefore the updated facilities and landscaping will improve the appearance of the property from the public right-of-way. Customers of the brewery will also add to the daytime and evening street uses, thereby improving public safety for pedestrians and local residents.

As conditioned, the granting of the variance for a brewery use will not be materially detrimental to the public welfare or injurious to the property or improvements in the same zone or vicinity in which the property is located.

ADDITIONAL MANDATORY FINDINGS

9. The National Flood Insurance Program rate maps, which are a part of the Flood Hazard Management Specific Plan adopted by the City Council by Ordinance No. 172,081, have been reviewed and it has been determined that this project is located in Zone X, an area of minimal flooding.

Inquiries regarding this matter shall be directed to **Jessica C. Jimenez**, Planning Staff for the Department of City Planning at **(213) 978-1344**.



FERNANDO TOVAR
Associate Zoning Administrator

FT:JT:JJ:bk

cc: Councilmember Gilbert Cedillo
First Council District
Adjoining Property Owners