



APPLICATIONS:

**APPEAL APPLICATION
CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)
Instructions and Checklist**

Related Code Section: The Los Angeles Municipal Code (LAMC) Section 11.5.13 (Ord. No. 186,338) established the appeal procedure to the City Council for California Environmental Quality Act (CEQA) determinations.

Purpose: *The Appeal* - A CEQA clearance can only be appealed if a non-elected decision-making body (ZA, APC, CPC, DIR) makes a determination for a project that is not further appealable. To initiate appeal of a CEQA document this form must be completely filled out with the required materials attached and filed within 15 calendar days from the final administrative decision, of the entitlement application.

General Information

Appealable CEQA documents:

- Certified Environmental Impact Report (EIR)
- Sustainable Communities Environmental Assessment (SCEA)
- Mitigated Negative Declaration (MND)
- Negative Declaration (ND)
- Categorical Exemption (CE)
- Sustainable Exemption (SE)

NOTE:

- Actions not appealable include an addendum, findings made pursuant to CEQA Guidelines Section 15162, or an action in which the determination does not constitute a project under CEQA.
- All CEQA appeals are heard by the City Council.
- This form is only for the appeal of Department of City Planning determinations: All other CEQA appeals are filed with the City Clerk pursuant to the LAMC Section 197.01.
- A Certified Neighborhood Council (CNC) or a person identified as a member of a CNC or as representing the CNC may not file an appeal on behalf of the Neighborhood Council; persons affiliated with a CNC may only file as an individual on behalf of self.

1. Case Information

Environmental Case Number: ENV-2021-1635-CE

Related Entitlement Case Number(s): ZA-2021-1634-CUB

Project Address: 2894 Rowena Avenue Los Angeles CA 90039

Date of Final Entitlement Determination: 10/12/2021

The CEQA Clearance being appealed is a(n):

- EIR
 SCEA
 MND
 ND
 CE
 SE

2. Appellant Identity (check all that apply)

- Representative
 Property Owner
 Other Person
 Applicant
 Operator of the Use/Site

3. Appellant Information

Appellant Name: David Wheatley

Company/Organization: _____

Mailing Address: 2988 Avenel Terrace

City: Los Angeles State: CA Zip: 90039

Telephone: (323) 821-0203 E-mail: freshwater@prodigy.net

a. Is the appeal being filed on your behalf or on behalf of another party, organization or company?
 Self
 Other: _____

b. Is the appeal being filed to support the original applicant's position?
 Yes
 No

4. Representative/Agent Information

Representative/Agent name (if applicable): _____

Company: _____

Mailing Address: _____

City: _____ State: _____ Zip: _____

Telephone: _____ E-mail: _____

5. Appeal Justification

Attach a separate sheet providing your specific reasons for the appeal. Your reasons must state how you believe CEQA was incorrectly applied, providing a legal basis for the appeal.

6. Applicant 's Affidavit

I certify that the statements contained in this application are complete and true:

Appellant Signature: David Whetley Date: 10/25/21

ENVIRONMENTAL APPEAL FILING REQUIREMENTS

Note: City Clerk prepares mailing list for CEQA appeals per LAMC Section 11.5.13 E.

1. Three (3) sets - The following documents are required for each appeal filed (1 original and 2 duplicates) Each case being appealed is required to provide three (3) sets of the listed documents.

- Environmental Appeal Application (form CP-7840)
- Justification/Reason for Appeal
- Copies of the written Determination Letter, from the final appellate body, which must be a non-elected decision-making body

2. Electronic Copy

- Provide an electronic copy of your appeal documents on a flash drive (planning staff will upload materials during filing and return the flash drive to you) or a CD (which will remain in the file). The following items must be saved as individual PDFs and labeled accordingly (e.g. "Environmental Appeal Application.pdf", "Justification/Reason Statement.pdf", "Final Determination Letter.pdf"). No file should exceed 9.8 MB in size.

3. Appeal Fee

- Original Applicant - A fee equal to 85% of the original application fee of the Environmental case; provide a copy of the original application receipt(s) to calculate the fee per LAMC Section 19.01B 1.
- Other Persons - The fee charged shall be in accordance with the LAMC Section 19.01B 1.

| This Section for City Planning Staff Use Only | | |
|---|---------------------------------------|---|
| Base Fee: | Reviewed & Accepted by (DSC Planner): | Date: |
| Receipt No: | Deemed Complete by (Project Planner): | Date: |
| <input type="checkbox"/> Determination authority notified | | <input type="checkbox"/> Original receipt and BTC receipt (if original applicant) |

David Wheatley
2988 Avenel Terrace
Los Angeles CA 90039
323-821-0203
freshwater@prodigy.net

APPELLANT

October 26 2021

To the Los Angeles City Council and Interested Parties

2894 West Rowena Avenue Los Angeles CA 90039

Case: ENV-2021-1635-CE

Related case ZA-2021-1634-CUB

JUSTIFICATIONS FOR APPEAL

This project does not qualify for Exemption from CEQA.

There are procedural problems with the processing of the case so far.

The East Los Angeles Area Planning Commission was biased against the Appellant and towards the Applicant and the City.

There are questions about the sufficiency of a quorum at the September 22 2021 meeting.

Key information has not been made available to the Public by the City as required.

LEGAL BACKGROUND The California Environmental Quality Act (“CEQA”)

1. “The ‘foremost principle’ under CEQA is that the Legislature intended the act ‘to be interpreted in such a manner so as to afford the fullest possible protection to the environment within the reasonable scope of the statutory language.’” (Laurel Heights Improvement Assn. v. Regents of Univ. of Calif. (1988) 47 Cal.3d 376, 390 (Laurel Heights I) [citation omitted].) With certain exceptions, CEQA requires an agency to analyze the potential environmental impacts of proposed projects in an EIR. (Public Resources Code (“PRC”) § 21100.) The EIR is “the heart of CEQA” and the “primary means” of ensuring that public agencies “take all action necessary to protect, rehabilitate, and enhance the environmental quality of the state.” (Laurel Heights I, 47 Cal.3d at 392.) Adherence to the EIR process ensures that “the public will know the basis on which its responsible officials either approve or reject environmentally significant action, and the public, being duly informed, can respond accordingly to action with which it disagrees.” (Id.)

2. CEQA has two purposes. First, CEQA is designed to truthfully inform the public about the potential environmental effects of a project. (CEQA Guidelines § 15002(a)(1).) “Thus, the EIR ‘protects not only the environment but also informed self-government.’” (Citizens of Goleta

Valley v. Bd. of Supervisors (1990) 52 Cal. 3d 553, 564.) Second, CEQA requires agencies to reduce environmental damage when “feasible” by requiring “environmentally superior” alternatives and mitigation measures. If the project will have significant effects, the agency may approve the project only if it makes express findings that it has “eliminated or substantially lessened all significant effects on the environment where feasible” and that any unavoidable significant effects are “acceptable due to overriding concerns.” (PRC § 21081.)

3. When performing an initial review of the adequacy of an EIR, the courts apply a hybrid standard, reviewing the adequacy of the EIR as an informational document de novo, while reviewing factual conclusions for substantial evidence. *Sierra Club v. County of Fresno* (2018) 6 Cal. 5th 502, 512.

4. Under CEQA, the standard of review is abuse of discretion. (PRC §§ 21168.5, 21005.) As the California Supreme Court has recently clarified, “[A]n agency may abuse its discretion under CEQA either by failing to proceed in the manner CEQA provides or by reaching factual conclusions unsupported by substantial evidence.” (*Sierra Club v. County of Fresno* (2018) 6 Cal. 5th 502, 512 [quoting *Vineyard Area Citizens for Responsible Growth, Inc. v. City of Rancho Cordova* (2007) 40 Cal. 4th 412, 435 (*Vineyard Area Citizens*).].) However, judicial review differs depending on whether the issue is procedural or factual: “While we determine de novo whether the agency has employed the correct procedures, . . . we accord greater deference to the agency’s substantive factual conclusions.” (Id.)

5. Under the procedural versus factual dichotomy, clear-cut procedural issues—such as whether “the agency provide[d] sufficient notice and opportunity to comment on a draft EIR” or whether “the agency omit[ted] the required discussion of alternatives”—are reviewed de novo and “courts will invalidate an EIR that fails to meet them.” (*Sierra Club*, at 512.) In contrast, when reviewing factual determinations—such as the decision to use a particular methodology and reject another—substantial evidence review is appropriate. (Id. at 514.)

6. In addition to resolving clear-cut procedural and factual issues, courts are also faced with determining “whether an EIR’s discussion of environmental impacts is adequate, that is, whether the discussion sufficiently performs the function of facilitating ‘informed agency decision making and informed public participation.’” (*Sierra Club*, 6 Cal.5th at 513 [quoting *California Native Plant Soc’y v. City of Santa Cruz* (2009) 177 Cal.App.4th 957, 988].) The California Supreme Court has noted that “the adequacy of an EIR’s discussion of environmental impacts is an issue distinct from the extent to which an agency is correct in its determination whether the impacts are significant.” (Id. at 514.) As such, “adequacy of discussion claims are not typically amenable to substantial evidence review.” (Id. at 515.)

7. Rather than defer to an agency's determination when evaluating the adequacy of an EIR as an informational document, the courts instead must focus on CEQA's intent to inform citizens of an agency's decision-making process. To that end, "[t]he ultimate inquiry, as case law and the CEQA guidelines make clear, is whether the EIR includes enough detail 'to enable those who did not participate in its preparation to understand and to consider meaningfully the issues raised by the proposed project.'" (Sierra Club, 6 Cal.5th at 516 [quoting Laurel Heights I, 47 Cal.3d at 405].) Thus, when determining the adequacy of an EIR, the court must engage in de novo review to determine "whether the EIR serves its purpose as an informational document." (Id. at 516.)

8. The "substantial evidence" standard of CEQA section 21166 and CEQA Guidelines section 15162 must be truthful, understandable and complete.

In the case of *Coal. for Clean Air v. City of Visalia*, 209 Cal. App. 4th 408, 423-26 (2012), the court held that a notice of determination may not be filed until the CEQA document is approved and the project receives final approval. Any challenge cannot be brought until after project approval.

9. Even under the substantial evidence standard of CEQA section 21166 and CEQA Guidelines section 15162, an EIR is required.

10. Section 15164(a) of the CEQA Guidelines states that "the lead agency or a responsible agency shall prepare an addendum to a previously certified EIR if some changes or additions [to the previous EIR] are necessary, but none of the conditions described in section 15162 calling for preparation of a subsequent EIR have occurred." CEQA Guidelines section 15162 provides that a subsequent or supplemental environmental impact report is required if any one of the following occurs: (1) substantial changes are proposed in the project that will require major revisions of the EIR, (2) there are substantial changes to the project's circumstances that will require major revisions to the EIR, or (3) new information becomes available. CEQA Guidelines § 15162; Pub. Res. Code § 21166.

11. Where an original environmental document does retain some informational value, then the agency must prepare a subsequent or supplemental EIR if the changes are "[s]ubstantial" and require "major revisions" of the previous EIR. (*Friends of Coll. of San Mateo Garden*, 1 Cal.5th at 943. "[W]hen there is a change in plans, circumstances, or available information after a project has received initial approval, the agency's environmental review obligations turn[] on the value of the new information to the still pending decision making process." (Id. at 951-52.) The agency must "decide under CEQA's subsequent review provisions whether project changes will require major revisions to the original environmental document because of the involvement of new, previously unconsidered significant environmental effects." (Id., at 952.)

The Letter of Determination from the East Los Angeles Area Planning Commission dated October 12 2021 is incomplete.

The Notice of Public Hearing for September 22 2021 after 430pm did not truthfully inform the Public about the environmental effects of the project. It did this by omitting a material fact from the map. The map does not show the presence of Ivanhoe Elementary School. The school is located across the street from the project. The school has a student population of approximately 400.

Traffic is heavy on Rowena Avenue and nearby streets. A traffic study needs to be done to assess the environmental impact of adding this project to other cumulative projects. The other projects include new developments on Waverly Drive and on Riverside Drive.

Character of the Neighborhood

The character of the neighborhood is primarily single family homes, restaurants, low story multi-unit dwellings, a school, a pre-school and a retirement facility. This project does not fit in.

The Los Angeles Unified School district has expressed its preference that the project not be permitted to serve alcohol during school hours.

Ivanhoe Elementary School is directly across the street from the Project.

Camelot Kids Pre-School is a close neighbor.

The project includes a significant expansion of use from not serving or selling alcohol to selling and serving alcohol from 7am until closing. This also an unusual circumstance. CEQA needs to be in.

The project includes a significant expansion of use from neither a bar nor coffee shop to a bar and a coffee shop across the street from an Elementary School and near a Pre-School. This is also an unusual circumstance. CEQA needs to be in.

This project does not fit the character of the neighborhood.

There are no other coffee shops nearby that sell beer. There are no coffee shops nearby that serve beer at 7am.

The Alcoholic Beverage Commission (“ABC”) has a hold on the license application. Appellant has filed a protest with the ABC. The protest is pending. City Planning is improperly proceeding without the project having been granted a liquor license.

City Planning has done inadequate research into the area.

City Planning has not properly informed the Public of the information it has. The file is disorganized and incomplete. No index has been made available.

The City has improperly allowed the tract map to be recorded prior to completing the appeals process.

The Fiscal Impact Statement: No documentation has been provided by City Planning to show that fees alone will cover the additional costs of the project.

City Planning has not made “the whole of the administrative record” available to the Public.

It was not possible for the Public to follow along before during and after the meeting on September 22 2021. The staff report was read too quickly. The format of the meeting beyond that described in the agenda was not provided.

Time for the Appellant to present was too limited.

The ABC has not yet completed its investigation so those materials are not yet available,

The Commission was biased in favor of the Applicant and the City. The Commission allowed a city staff member to share planning documents on the Zoom but did not similarly do so for the Appellant as requested by the Appellant at the time.

Without a go ahead from ABC the decision by the Zoning Administrator was pre-mature. The same applies to the East Los Angeles Area Planning Commission decisions.

At least one affected City agency or department did not provide its reports.

There is some concern that members of the Commission have not completed their Form 700 and Form 60 and are therefore ineligible to serve on the Commission.

Appellant intends to supply additional documents through the portal for the guidance of the City Council.

I respectfully request that the City Council grant my appeal and reverse the East Los Angeles Area Planning Commission decisions.



EAST LOS ANGELES AREA PLANNING COMMISSION

200 North Spring Street, Room 272, Los Angeles, California, 90012-4801, (213) 978-1300

www.planning.lacity.org

LETTER OF DETERMINATION

MAILING DATE: OCT 12 2021

Case No. **ZA-2021-1634-CUB-1A**

Council District: 4 – Raman

CEQA: ENV-2021-1635-CE

Plan Area: Silver Lake – Echo Park – Elysian Valley

Project Site: 2894 West Rowena Avenue (2894 – 2896 West Rowena Avenue)

Applicant: Makisupa LA, LLC
Representative: Manny Diaz and Eddie Navarrette, FE Design & Consulting

Appellant: David Wheatley

At its meeting of **September 22, 2021**, the East Los Angeles Area Planning Commission took the actions below in conjunction with the approval of the following project:

Conditional use to allow the sale and dispensing of beer for on-site and off-site consumption in conjunction with a proposed 920 square-foot coffee shop with 40 seats, having hours of operation from 7:00 a.m. to 10:00 p.m., Sunday through Wednesday, and from 7:00 a.m. to 12:00 a.m. Thursday through Saturday.

1. **Determined**, that based on the whole of the administrative record, that the Project is exempt from CEQA pursuant to CEQA Guidelines Section 15301, Class 1, and there is no substantial evidence demonstrating that any exceptions contained in Section 15300.2 of the State CEQA Guidelines regarding location, cumulative impacts, significant effects or unusual circumstances, scenic highways, or hazardous waste site, or historical resources applies;
2. **Denied** the appeal and **sustained** the Zoning Administrator's determination dated July 13, 2021;
3. **Approved**, pursuant to Section 12.24 W.1 of the Los Angeles Municipal Code, a Conditional Use to allow the sale and dispensing of beer only for on-site and off-site consumption in conjunction with a proposed coffee shop in the [Q]C2-1 VL Zone;
4. **Adopted** the attached Conditions of Approval; and
5. **Adopted** the attached Findings.

The vote proceeded as follows:

Moved: Campos
Second: Rascon
Ayes: Arellano, Espinoza, Stevens

Vote: 5 – 0

Cecilia Lamas (Electronic Signature due to COVID-19)

Cecilia Lamas, Commission Executive Assistant
East Los Angeles Area Planning Commission

Fiscal Impact Statement: There is no General Fund impact as administrative costs are recovered through fees.

Effective Date/Appeals: The decision of the East Los Angeles Area Planning Commission is not further appealable and shall become final upon the mailing of this determination letter.

Notice: An appeal of the CEQA clearance for the Project pursuant to Public Resources Code Section 21151(c) is only available if the Determination of the non-elected decision-making body (e.g., ZA, AA, APC, CPC) **is not further appealable and the decision is final.**

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.

Attachments: Zoning Administrator's determination dated July 13, 2021, Interim Appeal Procedures (CEQA)

- c: Estineh Mailian, Chief Zoning Administrator
Christina Toy-Lee, Associate Zoning Administrator
Heather Bleemers, Senior City Planner
Esther Ahn, City Planner
Sarahi Ortega, Planning Assistant

OFFICE OF ZONING ADMINISTRATION
200 N. SPRING STREET, ROOM 763
LOS ANGELES, CA 90012-4801
(213) 978-1318

ESTINEH MAILIAN
CHIEF ZONING ADMINISTRATOR

ASSOCIATE ZONING ADMINISTRATORS

JACK CHIANG
HENRY CHU
JONATHAN A. HERSHEY, AICP
THEODORE L. IRVING, AICP
CHARLES J. RAUSCH JR.
CHRISTINA TOY LEE

CITY OF LOS ANGELES
CALIFORNIA



ERIC GARCETTI
MAYOR

**LOS ANGELES DEPARTMENT
OF CITY PLANNING
EXECUTIVE OFFICES**

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planning.lacity.org

July 13, 2021

Makisupa LA, LLC (A)
2894 West Rowena Avenue
Los Angeles, CA 90039

Richard Ottaviano (O)
2222 Nottingham Avenue
Los Angeles, CA 90027

Eddie Navarrette (R)
FE Design & Consulting
327 East 2nd Street, Unit 222
Los Angeles, CA 90012

CASE NO. ZA-2021-1634-CUB
CONDITIONAL USE
2894 West Rowena Avenue
(2894-289 West Rowena Avenue)
Silver Lake-Echo Park-Elysian Valley
Community Plan
Zone : [Q]C2-1VL
C.D. : 4
D.M. : 151-5A205
CEQA: ENV-2021-1635-CE
Legal Description: Lot 3, Supplemental
Map of Lots 1 to 18 Inclusive of Block
16 Ivanhoe Tract

Pursuant to California Environmental Quality Act, I hereby DETERMINE:

based on the whole administrative record, that the project is exempt from CEQA pursuant to CEQA Guidelines Section 15301, Class 1, and there is no substantial evidence demonstrating that any exceptions contained in Section 15300.2 of the State CEQA Guidelines regarding location, cumulative impacts, significant effects or unusual circumstances, scenic highways, or hazardous waste site, or historical resources applies.

Pursuant to Los Angeles Municipal Code Section 12.24-W,1, I hereby APPROVE:

a Conditional Use to allow the sale and dispensing of beer only for on-site and off-site consumption in conjunction with a proposed coffee shop in the [Q]C2-1VL Zone.

Upon the following additional terms and conditions:

1. All other use, height and area regulations of the LAMC 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 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 and dispensing of beer only for on-site and off-site consumption in conjunction with a proposed 920 square-foot coffee shop. The grant shall be subject to the following limitations:
 - a. The hours of operation shall be limited to 7:00 a.m. to 10:00 p.m., Sunday through Wednesday, and from 7:00 a.m. to 12:00 a.m., Thursday through Saturday.
 - b. Indoor seating shall be limited to a maximum total of 40 seats provided that number of seats does not exceed the maximum allowable occupant load as determined by the Department of Building and Safety.
8. After hour use shall be prohibited, 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. Parking shall be provided in compliance with the Municipal Code and to the satisfaction of the Department of Building and Safety. No variance from the parking requirements has been requested or granted herein.

10. A camera surveillance system shall be installed and operating at all times to monitor the interior, entrance, exits and exterior areas, in front of and around the premises. Recordings shall be maintained for a minimum period of 30 days and are intended for use by the Los Angeles Police Department.
11. **Complaint Log.** Prior to the utilization of this grant, a telephone number and 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 hostess station

Complaints shall be responded to within 24-hours. 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.
12. **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 or the Responsible Beverage Service (RBS) Training Program. Upon completion of such training, the applicant shall request the Police Department or Department of Alcohol Beverage Control to issue a letter identifying which employees completed the training. STAR or LEAD or RBS training shall be conducted for all new hires within three months of their employment.
13. The applicant shall be responsible for monitoring both patron and employee conduct on the premises and within the parking areas under their control to assure behavior that does not adversely affect or detract from the quality of life for adjoining residents, property owners, and businesses.
14. Loitering is prohibited on or around these 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.
15. 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 for 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 as narcotics sales, use or possession, gambling, prostitution, loitering, theft, vandalism or truancy occur.

16. 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.
17. There shall be no Adult Entertainment of any type pursuant to LAMC Section 12.70.
18. Coin operated game machines, pool tables or similar game activities or equipment shall not be permitted. Official California State lottery games and machines are allowed.
19. An electronic age verification device shall be purchased and retained on the premises to determine the age of any individual attempting to purchase alcoholic beverages and shall be installed on at each point-of-sales location. This device shall be maintained in operational condition and all employees shall be instructed in its use.
20. Smoking tobacco or any non-tobacco substance, including from electronic smoking devices, is prohibited in or within 10 feet of the outdoor dining areas in accordance with Los Angeles Municipal Code Section 41.50 B 2 C. This prohibition applies to all outdoor areas of the establishment if the outdoor area is used in conjunction with food service and/or the consumption, dispensing or sale of alcoholic or non-alcoholic beverages.
21. The applicant(s) shall comply with 6404.5(b) of the Labor Code, which prohibits smoking within any place of employment. The applicant shall not possess ashtrays or other receptacles used for the purpose of collecting trash or cigarettes/cigar butts within the interior of the subject establishment.
22. All exterior portions of the site shall be adequately illuminated in the evening so as to make discernible the faces and clothing of persons utilizing the space. Lighting shall be directed onto the site without being disruptive to persons on adjacent properties.
23. 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 LAMC (Citywide Noise Ordinance). At any time, a City representative may visit the site during operating hours to measure the noise levels. If, upon inspection, it is found that the noise level exceeds those allowed by the citywide noise regulation, 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.

ADMINISTRATIVE CONDITIONS

24. **Expedited Processing Section Fee.** Prior to the clearance of any conditions, the applicant shall show proof that all fees have been paid to the Department of City Planning, Expedited Processing Section.

25. **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/operator shall be notified of the deficiency or violation and required to correct or eliminate the deficiency 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.
26. 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 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 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 the floor plan, seating arrangement or number of seats of the new operation.
27. At any time during the period of validity of this grant, should documented evidence be submitted showing continued violation of any condition of this grant and/or the ABC license of the location, resulting in an unreasonable level of disruption or interference with the peaceful enjoyment of the adjoining and neighboring properties, the Zoning Administrator (Upon his/her initiative, or upon written request by LAPD or Department of ABC) reserves the right to call for a public hearing requiring the applicant to file for a plan approval application together with associated fees pursuant to LAMC Section 19-01-E, the purpose of which will be to review the applicant's compliance with and the effectiveness of these conditions. The applicant shall prepare a radius map and cause notification to be mailed to all owners and occupants of properties within a 500-foot radius of the property, the Council Office and the Los Angeles Police Department's corresponding division. The applicant shall also submit a summary and any supporting documentation of how compliance with each condition of this grant has been attained. Upon this review, the Zoning Administrator may modify, add or delete conditions, and reserves the right to conduct this public hearing for nuisance abatement/revocation purposes.

28. 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 (ii).
- 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 (ii).
- 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 **JULY 28, 2021**, 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
(213) 482-7077

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

West Los Angeles
West Los Angeles Development
Services Center
1828 Sawtelle Boulevard,
2nd Floor
Los Angeles, CA 90025
(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 23, 2021, 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 for authorizing a conditional use approval under the provisions of Section 12.24-W,1 have been established by the following facts:

BACKGROUND

The subject site is an approximately 18,062 square-foot rectangular-shaped parcel, located on the south side of Rowena Avenue. The property has a street frontage of approximately 73 feet. The property is developed with a two-story commercial building consisting of retail and office uses and is improved with a surface parking lot with 23 parking spaces.

The subject property is located within the boundaries of the Silver Lake-Echo Park-Elysian Valley Plan area. The Community Plan designates the subject property for Neighborhood Commercial land uses corresponding to the RAS3, C1, C1.5, C2, and C4 Zones. The subject site is currently zoned [Q]C2-1VL. The "Q" condition on the property restricts automotive uses, pole signs, and building height, none of which affect the proposed coffee shop use. There are no other specific plans, overlays, or interim control ordinances pertaining to the project site.

The project, Makisupa, will occupy a 920 square foot commercial tenant space within the existing commercial building. The applicant will request a change of use from an existing retail space to a new coffee shop. As part of their business, the operator would like to offer limited alcohol service, beer only. The proposed project will not be building out a full kitchen but will have a mixture of food cooked at off-site kitchens and cold food such as sandwiches and salads that are assembled on-site. The primary use of the business will be a coffee shop, with a variety of coffee and tea items, as well as food such as pastries, sandwiches, and salads.

The applicant is requesting a Conditional Use to allow the sale and dispensing of beer only for on-site and off-site consumption, in conjunction with a proposed 920 square-foot coffee shop, known as Makisupa, with a total of 40 indoor seats. The proposed hours of operation are from 7:00 a.m. to 10:00 p.m. Sunday through Wednesday and from 7:00 a.m. to 12:00 a.m. Thursday through Saturday. The project involves a change of use and tenant improvements to an existing commercial building; no new construction involving the expansion of the existing commercial building is proposed. No additional parking will be provided as part of the request herein. In addition, the proposed coffee shop will not have outdoor seating, nor will it feature any live entertainment or dancing.

SURROUNDING PROPERTIES

Surrounding properties are zoned [Q]PF-1XL, [Q]C2-1VL, and R1-1VL primarily having school, commercial, and residential uses. The property to the north, across Rowena is zoned [Q]PF-1XL and is improved with an elementary school and associated parking and school yard areas. The property to the east is zoned [Q]C2-1VL and is improved with a two-story preschool with associated parking. The property to the west is zoned [Q]C2-1VL and is improved with a two-story office building and associated surface parking lot. The properties to the south are zoned R1-1VL and are improved with single family homes.

STREETS

Rowena Avenue, adjoining the subject property to the north, is a designated Modified Avenue II and is currently dedicated to a varying right-of-way width of between approximately 80 and 83 feet along the project's street frontage and improved with curb, gutter, and sidewalk.

Previous Cases, Affidavits, Permits, and Orders on the Applicant's Property:

There are no previous planning cases regarding the subject establishment.

Relevant Cases on Surrounding Properties

Staff utilized a 600-foot radius map via the Zoning Information Mapping Access System (ZIMAS) and the Planning Case Tracking System (PCTS), seeking past Zoning Administrator determinations associated with the sales and dispensing of alcoholic beverages. The following cases were identified to be within 600 feet of the subject property and filed within the last 10 years:

Case No. ZA-2015-359-CUB – On May 24, 2016, the Zoning Administrator approved a Conditional Use to allow the continued sale and dispensing of a full line of alcoholic beverages for on-site consumption in conjunction with an existing 5,500 square-foot restaurant in the [Q]C2-1VL Zone, with hours of operation from 10:00 a.m. to 2:00 a.m. daily, located at 2838 West Rowena Avenue.

Case No. ZA-2015-1652-CUB – On September 22, 2015, the Zoning Administrator approved a Conditional Use to allow the sale and dispensing of beer and wine for on-site consumption in conjunction with the operation of a proposed 1,484 square-foot restaurant in the [Q]C2-1VL Zone, with hours of operation from 7:30 a.m. to 12:00 a.m. daily, located at 2870 West Rowena Avenue.

PUBLIC CORRESPONDENCE

A correspondence was received dated June 27, 2021, stating the following:

- Concerned with parking.
- Blair's restaurant uses its parking lot as a dining area, parking on Rowena has been difficult between 6:30 p.m. to 10:00 p.m.

A letter was received from the Silver Lake Neighborhood Council, dated June 24, 2021, stating support of the proposed project.

A letter was received from the Los Angeles Unified School District, dated June 18, 2021, stating the following:

- Request no alcohol be served in the outdoor seats during school hours.
- Request mitigation to be added to reduce construction air pollutant impacts on the school.
- Construction noise impacts.
- Ensure effective conditions are employed to reduce construction and operation related transportation impacts, including net increase of 1,000 or more daily trips and included a list of seven related conditions.
- Included a list of eight conditions to reduce construction and operation related pedestrian safety impacts.

Five form letters were received stating in support of the proposed project

PUBLIC HEARING

The public hearing was held on June 23, 2021 at approximately 10:30 a.m. In conformity with the Governor's Executive Order N-29-20 (March 17, 2020) and due to concerns over COVID-19, the hearing was conducted entirely telephonically.

Dafney Gokcen, the project representative, stated the following:

- This is a two-story building.
- The coffee shop faces Rowena Avenue.
- There are 23 parking spaces on the site.
- This is a change of use.
- There is an atrium area.
- The tenant space is small and you can't cook inside and have a full kitchen.
- Will sell coffee, pastries, salads, and sandwiches.
- Not eligible for a restaurant and this is not a bar and would like to serve families and will obtain a Type 40 license.
- Met with the Silver Lake Neighborhood Council Land Use and amended the hours to midnight.
- Will meet with the full board Neighborhood Council tonight.
- Met with LAPD Office Mejia, but have not heard back regarding a letter.
- The council office stated that they would submit a letter or attend the hearing.
- Five letters of support were submitted to the case file.
- There is an elementary school across the street and a preschool next door and received no opposition.
- Families will be able to enjoy the food and alcohol served at night.
- The residential use to the rear is approximately 200 feet from the subject tenant space and there are 23 parking spaces in between.

- Fully enclosed and no new construction.

One member of the public spoke in support of the project.

Dafney Gokcen, the project representative, responded with the following information:

- Clarified the atrium is enclosed and is not a patio.
- There is no menu yet but will have one available.
- Menu will have vegan items and bakery items from Sweet Lily.

The Zoning Administrator closed the public hearing and stated that the case will be held on advisement for a period of two weeks pending the receipt of the following information:

- Menu
- Neighbor Council letter
- Reach out to LAPD if a letter would be submitted.

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 other 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.

- No alcohol shall be allowed to be consumed on any adjacent property under the control of the applicant.
- There shall be no exterior advertising of any kind or type, including advertising directly to the exterior from within, promoting or indicating the availability of alcoholic beverages. Interior displays of alcoholic beverages or signs which are clearly visible to the exterior shall constitute a violation of this condition.
- Fortified wine (greater than 16% alcohol) shall not be sold.
- There shall be no cocktail lounge or separate bar area.
- No signs are permitted on the outside of the building or directed from the inside to the outside which display or advertise the availability of alcoholic beverages.
- All service of alcoholic beverages shall be conducted by a waitress or waiter or bartender.

- Electronic age verification device(s) which can be used to determine the age of any individual attempting to purchase alcoholic beverages and shall be installed on the premises at each point-of-sale location. The device(s) shall be maintained in an operational condition and all employees shall be instructed in their use prior to the sale of any alcoholic beverages.
- Alcohol may only be served to patrons who are seated at a table or seated. Patrons shall not be served while standing or while waiting to be seated.
- No sale of alcohol shall be permitted at any self-service, automated check-out station (checkout conducted primarily by the customer, with assistance by a store monitor) if such are available on the site. All sales of alcohol shall be conducted at a full-service checkout station directly attended by a cashier/checkout clerk specifically assigned solely to that station.

BASIS FOR CONDITIONAL USE PERMITS

A particular type of development is subject to the conditional use process because it has been determined that such use of property should not be permitted by right in a particular zone. All uses requiring a Conditional Use Permit from the Zoning Administrator are located within Section 12.24 of the Los Angeles Municipal Code. In order for the sale and dispensing of beer for on-site and off-site consumption to be authorized, certain designated findings have to be made. In these cases, there are additional findings in lieu of the standard findings for most other conditional use categories.

CONDITIONAL USE FINDINGS

1. **The project will enhance the built environment in the surrounding neighborhood or will perform a function or provide a service that is essential or beneficial to the community, city or region.**

The subject site is an approximately 18,062 square-foot rectangular-shaped parcel, located on the south side of Rowena Avenue. The property has a street frontage of approximately 73 feet. The property is developed with a two-story commercial building consisting of retail and office uses and is improved with a surface parking lot with 23 parking spaces.

The applicant is requesting a Conditional Use to allow the sale and dispensing of beer only for on-site and off-site consumption, in conjunction with a proposed 920 square-foot coffee shop, known as Makisupa, with a total of 40 indoor seats. The proposed hours of operation are from 7:00 a.m. to 10:00 p.m. Sunday through Wednesday and from 7:00 a.m. to 12:00 a.m. Thursday through Saturday. The project involves a change of use and tenant improvements to an existing commercial building with no new construction involving the expansion of the existing commercial building is proposed.

A variety of commercial uses are an intrinsic part of the service amenities necessary for the conservation, development, and success of a vibrant neighborhood. The availability of alcoholic beverages ancillary to food service, is consistent with the pattern of many neighborhood restaurants in Los Angeles. The grant to allow the ancillary sale of beer and wine for on and off-site consumption will help augment the desirability of an existing restaurant, thereby supporting the vibrancy and longevity of the commercial corridor along Rowena Avenue and the surrounding Silver Lake neighborhood. The restaurant will continue to provide neighboring residents and the local workforce with a coffee and food option that will bolster pedestrian activity in the neighborhood. In addition, the grant to allow the ancillary alcohol service has been well conditioned to ensure that that use will not adversely impact neighboring residents. As such, the project will enhance the built environment in the surrounding neighborhood and will provide a service that is beneficial to the community, city and region.

- 2. The project's location, size, height, operations and other significant features will be compatible with and will not adversely affect or further degrade adjacent properties, the surrounding neighborhood, or the public health, welfare and safety.**

The subject site is an approximately 18,062 square-foot rectangular-shaped parcel, located on the south side of Rowena Avenue. The property has a street frontage of approximately 73 feet. The property is developed with a two-story commercial building consisting of retail and office uses and is improved with a surface parking lot with 23 parking spaces.

Adjacent properties are zoned [Q]PF-1XL, [Q]C2-1VL, and R1-1VL primarily having school, commercial, and residential uses. The property to the north, across Rowena is zoned [Q]PF-1XL and is improved with an elementary school and associated parking and school yard areas. The property to the east is zoned [Q]C2-1VL and is improved with a two-story preschool with associated parking. The property to the west is also zoned [Q]C2-1VL and is improved with a two-story office building and associated surface parking lot. The properties to the south are zoned R1-1VL and are improved with single family homes.

Makisupa, will occupy a 920 square foot commercial tenant space within this existing commercial building. The applicant is requesting a Conditional Use to allow the sale and dispensing of beer only beverages for on-site and off-site consumption incidental to the operation of the proposed coffee shop, with a total of 40 indoor seats and proposed hours of operation from 7:00 a.m. to 10:00 p.m. Sunday through Wednesday and from 7:00 a.m. to 12:00 a.m. Thursday through Saturday.

The project coffee shop involves a change of use and tenant improvements to an existing commercial building; no new construction involving the expansion of the existing commercial building is proposed. No additional parking will be provided as part of the request herein. In addition, the proposed coffee shop will not have outdoor seating, nor will it feature any live entertainment or dancing.

Furthermore, the Zoning Administrator has imposed numerous conditions to prevent adverse impacts and integrate the use into the neighborhood. Conditions address the mode and character remaining a restaurant, responsible management, addressing of nuisance, and surveillance and training. In addition, the Alcoholic Beverage Control will impose their own set of conditions, which the applicant will also be subject to. Therefore, the project's location, size, height, operations, and other significant features will be compatible with and will not adversely affect or further degrade adjacent properties, the surrounding neighborhood, or the public health, welfare, and safety of the community.

3. The project substantially conforms with the purpose, intent and provisions of the General Plan, the applicable community plan, and any specific plan.

The General Plan is the City's roadmap for future growth and development. The General Plan Elements establish goals, policies, purposes, and programs that provide for the regulatory environment in managing the City, and for addressing environmental concerns and problems. The majority of the policies derived from these elements are implemented in the form of Municipal Code requirements. The General Plan is comprised of the Framework Element, seven state-mandated elements, and four additional elements. The Framework Element establishes the broad overall policy and direction for the General Plan. Policy 7.3.2 of the Framework Element encourages the establishment and retention of "neighborhood commercial activities within walking distance of residential areas."

The Land Use Element of the City's General Plan divides the City into 35 Community Plans. The subject property is located within the boundaries of the Silver Lake-Echo Park-Elysian Valley Plan, which establishes land use designations and planning policies for the area. The Community Plan designates the subject property Neighborhood Commercial land uses corresponding to RAS3, C1, C1.5, C2, and C4 Zones. The subject property is currently zoned [Q]C2-1VL and is thus consistent with the existing land use designation. The "Q" condition on the property restricts automotive uses, pole signs, and building height, none of which affect the proposed coffee shop use. There are no other specific plans, overlays, or interim control ordinances pertaining to the project site. The Silver Lake-Echo Park-Elysian Valley Community Plan text is silent with regards to the sale and dispensing of alcohol. In such, the Zoning Administrator must interpret the intent of the Plans. The project is consistent with the following goal, objectives and policies of the Silver Lake-Echo Park-Elysian Valley Community Plan:

- | | |
|--------|--|
| Goal 2 | An economically vital commercial sector and strong viable commercial areas that offer a diversity of goods and services to meet the needs of the community in the plan area. Commercial areas should satisfy market demand, maximize convenience and accessibility while preserving and enhancing the unique historic and cultural identities of the district. |
|--------|--|

Objective 2-1 Conserve and strengthen viable commercial development and encourage the reuse of obsolete commercial development.

Policy 2-1.1 New commercial uses shall be located in established commercial areas, emphasizing more intense and efficient use of existing commercial land, ultimately contributing to and enhancing the existing urban form and village atmosphere.

Objective 2-3 Enhance the appearance of existing commercial districts.

Policy 2-3.1 Proposed developments should be designed to enhance and be compatible with existing adjacent development.

The project will allow the proposed coffee shop to add a desirable service and the sale of beer for on-site and off-site consumption to the surrounding community. Thus, the project furthers the function and identity of Rowena Avenue, a commercial corridor, in the Silver Lake-Echo Park-Elysian Valley Community Plan area and contributes to the preservation of the area as there are no substantive changes to the project. The proposed project would conserve and strengthen the existing commercial building as a viable commercial development that serves the surrounding neighborhood as a commercial amenity and local gathering place for people to dine and socialize. The project would allow for a new use in the area that can attract customers from both the immediate neighborhood and from outside the community, thus providing additional employment opportunities and revenue to the City. The project will complement the existing character of the neighborhood while promoting economic vitality and serving the needs of the greater community. The project is surrounded by many other compatible and complementary uses and follows an established pattern of zoning and land use that is consistent and compatible with other properties and uses in the surrounding area. Moreover, the project does not propose any physical expansion to the existing commercial building in which the coffee shop will occupy. Therefore, the project substantially conforms with the purpose, intent, and provisions of the General Plan and the Community Plan.

4. **The proposed use will not adversely affect the welfare of the pertinent community.**

The coffee shop is a use allowed by-right in the C2 Zone. The grant to allow the sale and dispensing of beer and wine for on- and off-site consumption will be ancillary to the coffee shop service. Additionally, the project will not physically alter the subject building's location, size, or height. The restaurant does not contain an outdoor dining area and will not feature any form of live entertainment. Operational conditions imposed on the project will help to ensure that the ancillary alcohol service in conjunction with the restaurant use will not adversely affect the neighborhood, including surrounding residences and businesses.

Negative impacts commonly associated with the sale of alcoholic beverages, such as criminal activity, public drunkenness, and loitering are mitigated by the imposition of conditions requiring responsible management and deterrents against loitering. Employees will undergo training on the sale of alcoholic beverages, including training provided by the Los Angeles Police Department Standardized Training for Alcohol Retailers (STAR) Program or the Department of Alcoholic Beverage Control's Licensee Education on Alcohol and Drugs (LEAD) Program. In addition, the Alcoholic Beverage Control will impose their own set of conditions, which the applicant will also be subject to.

Furthermore, the Zoning Administrator has imposed numerous conditions to integrate the use into the community as well as protect community members from adverse potential impacts. Additional conditions have been included to ensure the operation provides adequate security measures, includes a surveillance system, and adequate lighting, adherence to the City's Noise Ordinance, and responsible management practices. Both the Conditions of Approval and the requirements of the California Department of Alcoholic Beverage Control are intended to protect the public health, welfare and safety of the community. Therefore, as conditioned herein, the sale and dispensing of beer and wine for on- and off-site consumption in conjunction with a proposed coffee shop will not adversely affect the welfare of the pertinent community.

5. **The granting of the application will not result in an undue concentration of premises for the sale or dispensing for consideration of alcoholic beverages, including beer and wine, in the area of the City involved, giving consideration to applicable State laws and to the California Department of Alcoholic Beverage Control's guidelines for undue concentration; and also giving consideration to the number and proximity of these establishments within a one thousand foot radius of the site, the crime rate in the area (especially those crimes involving public drunkenness, the illegal sale or use of narcotics, drugs, or alcohol, disturbing the peace, and disorderly conduct), and whether revocation or nuisance proceedings have been initiated for any use in the area.**

According to the California Department of Alcoholic Beverage Control (ABC) licensing criteria, there are four on-site and two off-site consumption licenses allocated to the subject Census Tract 1951.00. Currently, there are 21 active on-site licenses and 4 active off-site licenses total in this census tract. Within 1,000 feet of the subject site, there are currently five on-site consumption and three off-site consumption alcohol-selling retail establishment with a license.

Concentration can be undue when the addition of a license will negatively impact a neighborhood. However, concentration is not undue when the approval of a license provides a public service and benefits the community. In this case, the granting of the application will not result in undue concentration as the project will enable the provision of an additional service and destination to complement the neighborhood. Although the number of existing licenses exceeds the number allocated to the subject census tract, a higher number of alcohol-serving establishments is to be expected in an area which functions as a major commercial corridor with a variety of commercial

services and amenities. In active commercial areas where there is a demand for licenses beyond the allocated number, the ABC has recognized that high-activity retail and commercial centers are supported by significant employee population, in addition to the increasing resident population base in the area. The ABC has discretion to approve an application if there is evidence that normal operations will not be contrary to public welfare and will not interfere with the quiet enjoyment of property by residents.

According to statistics provided by the Los Angeles Police Department's Northeast Division Vice Unit, within Crime Reporting District No. 1144 which has jurisdiction over the subject property, a total of 137 crimes were reported in 2020 (130 Part I and 7 Part II crimes, compared to the Citywide average of 141 crimes and the High Crime Reporting District average of 169 crimes for the same reporting period. In 2020, Alcohol-related Part II crimes reported include Narcotics (2), Liquor Laws (0), Public Drunkenness (0), Disturbing the Peace (0), Disorderly Conduct (0), Gambling (0), DUI-related (1), and Miscellaneous Other Violations (2). These numbers do not reflect the total number of arrests in the subject reporting district over the accountable year. Arrests for this calendar year may reflect crimes reported in previous years.

The crime numbers are far lower than the citywide average and high reporting district, and there has been no evidence submitted for the record establishing any nexus between the subject site and the area's crime rate. No complaints were submitted for the record concerning any criminal or nuisance activity associated with the subject site. The incorporation of conditions relative to the specific operation of the establishment will address and minimize any possible adverse impact on the welfare of the surrounding area, including restrictions on noise, safety and security to ensure the proposed use is conducted with due regard for surrounding properties and to reduce any potential crime issues or nuisance activity. As such, approval of the request will not result in an undue concentration of licensed premises.

6. **The proposed use will not detrimentally affect nearby residentially zoned communities in the area of the City involved, after giving consideration to the distance of the proposed use from residential buildings, churches, schools, hospitals, public playgrounds and other similar uses, and other establishments dispensing, for sale or other consideration, alcoholic beverages, including beer and wine.**

The project site is zoned for commercial uses and will continue to be utilized as such with the coffee shop use. The following sensitive uses are located within a 1,000-foot radius of the site:

- Residential Uses
- Ivanhoe Elementary School, 2828 Herkimer Street
- Camelot Kids, 2880 Rowena Avenue
- Country Villa Los Feliz Healthcare Center, 3002 Rowena Avenue

Consideration has been given to the distance of the subject establishments from the above-referenced sensitive uses. The grant has been well conditioned, which should protect the health, safety, and welfare of the surrounding neighbors. The potential effects of excessive noise or disruptive behavior have been considered and addressed by imposing conditions related to noise and loitering. The project is consistent with the zoning and in keeping with the existing uses adjacent to the development. The project will contribute to the neighborhood and will serve neighboring residents and local employees as well as visitors. Therefore, as conditioned, the project will not detrimentally affect nearby residentially zoned communities, schools, or any other sensitive uses in the area.

FLOOD HAZARD FINDING

7. 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 C, which is categorized as an area outside of a flood zone.

Inquiries regarding this matter shall be directed to Sarahi Ortega, Planning Staff for the Department of City Planning, at Sarahi.Ortega@lacity.org or (213) 978-1383.



CHRISTINA TOY LEE
Associate Zoning Administrator

CTL:EA:SO:bk

cc: Councilmember Nithya Raman
Fourth Council District
Adjoining Property Owners



PROJECT INFORMATION

| AREA | SO.FT. | SEATS |
|----------------------|--------|-------|
| CUSTOMER AREA | 144 | 12 |
| ATRIUM CUSTOMER AREA | 320 | 28 |
| SERVICE AREA | 91 | - |
| WASH/ STORAGE | 52 | - |
| RESTROOM | 56 | - |
| CABINET | 10 | - |
| TOTAL | 673 | 40 |

GRAPHIC SYMBOLS

- ENTRANCE TO THE PARKING
- ENTRANCE TO THE RESTAURANT & RESTAURANT

SITE PLAN
 SCALE 1/16" = 1'-0"
 COFFEE SHOP FLOOR AREA : 920 SQ.FT.

PROJECT INFORMATION

LEGAL DESCRIPTION

SITE ADDRESS : 2896 W ROWENA AVE
 SITE ADDRESS : 2894 W ROWENA AVE
 ZIP CODE : 90039
 PIN NUMBER : 151-5A205 215
 LOT/PARCEL AREA (CALCULATED) : 18,062.3 (SQ FT)
 THOMAS BROTHERS GRID : PAGE 594 - GRID D3
 ASSESSOR PARCEL NO. (APN) : 5434035004
 TRACT : SUPPLEMENTAL MAP OF LOTS 1 TO 18 INCLUSIVE OF BLOCK 16 IVANHOE
 MAP REFERENCE : M R 17-68
 BLOCK : NONE
 LOT : 3
 ARB (LOT CUT REFERENCE) : NONE
 MAP SHEET : 150A205
 MAP SHEET : 151-5A205

JURISDICTIONAL

COMMUNITY PLAN AREA : SILVER LAKE - ECHO PARK - ELYSIAN VALLEY
 AREA PLANNING COMMISSION : EAST LOS ANGELES
 NEIGHBORHOOD COUNCIL : SILVER LAKE
 COUNCIL DISTRICT : CD 4 - NITHYA RAMAN
 CENSUS TRACT # : 1951.00
 LADBS DISTRICT OFFICE : LOS ANGELES METRO
 BUILDING PERMIT INFO : VIEW

PLANNING & ZONING

SPECIAL NOTES : NONE
 ZONING : [O]C2-1VL
 ZONING INFORMATION (ZI) : NONE
 GENERAL PLAN LAND USE : NEIGHBORHOOD COMMERCIAL
 GENERAL PLAN NOTE(S) : YES
 HILLSIDE AREA (ZONING CODE) : YES
 SPECIFIC PLAN AREA : NONE
 SUBAREA : NONE
 SPECIAL LAND USE / ZONING : NONE
 HISTORIC PRESERVATION REVIEW : NO
 HISTORICPLACESLA : VIEW
 CDO: COMMUNITY DESIGN OVERLAY : NONE
 CPIO: COMMUNITY PLAN IMP. OVERLAY : NONE
 SUBAREA : NONE
 CUGU: CLEAN UP-GREEN UP : NONE
 HCR: HILLSIDE CONSTRUCTION REGULATION : NO
 NSO: NEIGHBORHOOD STABILIZATION OVERLAY : NO
 POD: PEDESTRIAN ORIENTED DISTRICTS : NONE
 RFA: RESIDENTIAL FLOOR AREA DISTRICT : NONE
 RIO: RIVER IMPLEMENTATION OVERLAY : NO
 SN: SIGN DISTRICT : VIEW
 SB 35 ELIGIBILITY : NO
 STREETSCAPE : NONE
 ADAPTIVE REUSE INCENTIVE AREA : NONE
 AFFORDABLE HOUSING LINKAGE FEE : NONE
 RESIDENTIAL MARKET AREA MEDIUM-HIGH : NONE
 NON-RESIDENTIAL MARKET AREA HIGH : NONE
 TRANSIT ORIENTED COMMUNITIES (TOC) : NOT ELIGIBLE
 RPA: REDEVELOPMENT PROJECT AREA : NONE
 CENTRAL CITY PARKING : NO
 DOWNTOWN PARKING : NO
 BUILDING LINE : NONE
 500 FT SCHOOL ZONE ACTIVE : IVANHOE ELEMENTARY SCHOOL
 500 FT PARK ZONE : NO

PROJECT DETAILS

TYPE OF USE : COFFEE SHOP
 TYPE OF ALCOHOL : TYPE 40 - ON-SALE BEER
 HOURS OF OPERATION : 7AM-10PM DAILY
 RESTAURANT : 920 SQ.FT.
 LIVE ENTERTAINMENT : NO
 PARKING : 1 ADA +22 S. STALLS PROVIDED ON SITE (GROUND FL)



PE DESIGN & CONSULTING

307 E. 2ND ST. #700 LOS ANGELES, CALIFORNIA 90012

PROJECT INFORMATION

MAKISUPA

2894 ROWENA AVE
 LOS ANGELES, CA 90039

SUBMITTALS

| DATE | DESCRIPTION |
|-----------|--------------------|
| 2/17/2021 | PLANNING SUBMITTAL |

SHEET NAME

COVER & SITE PLAN

SHEET NUMBER

A-0.0

EXHIBIT "A"

Page No. 2 of 2
 Case No. ZA-2021-1634-cwb

COVID-19 UPDATE

Interim Appeal Filing Procedures

Fall 2020



Consistent with Mayor Eric Garcetti's "Safer At Home" directives to help slow the spread of COVID-19, City Planning has implemented new procedures for the filing of appeals for non-applicants that eliminate or minimize in-person interaction.

OPTION 1: Online Appeal Portal

(planning.lacity.org/development-services/appeal-application-online)

Entitlement and CEQA appeals can be submitted online and payment can be made by credit card or e-check. The online appeal portal allows appellants to fill out and submit the appeal application directly to the Development Services Center (DSC). Once the appeal is accepted, the portal allows for appellants to submit a credit card payment, enabling the appeal and payment to be submitted entirely electronically. A 2.7% credit card processing service fee will be charged - there is no charge for paying online by e-check.

Appeals should be filed early to ensure DSC staff has adequate time to review and accept the documents, and to allow Appellants time to submit payment. On the final day to file an appeal, the application must be submitted and paid for by 4:30PM (PT). Should the final day fall on a weekend or legal holiday, the time for filing an appeal shall be extended to 4:30PM (PT) on the next succeeding working day. Building and Safety appeals (LAMC Section 12.26K) can only be filed using Option 2 below.

OPTION 2: Drop off at DSC

An appellant may continue to submit an appeal application and payment at any of the three Development Services Center (DSC) locations. City Planning established drop off areas at the DSCs with physical boxes where appellants can drop.

Metro DSC

(213) 482-7077
201 N. Figueroa Street
Los Angeles, CA 90012

Van Nuys DSC

(818) 374-5050
6262 Van Nuys Boulevard
Van Nuys, CA 91401

West Los Angeles DSC

(310) 231-2901
1828 Sawtelle Boulevard
West Los Angeles, CA 90025

City Planning staff will follow up with the Appellant via email and/or phone to:

- Confirm that the appeal package is complete and meets the applicable LAMC provisions
- Provide a receipt for payment

Applicant Copy
 Office: Downtown
 Application Invoice No: 75972

City of Los Angeles
 Department of City Planning



Scan this QR Code® with a barcode reading app on your Smartphone. Bookmark page for future reference.



6800175972



City Planning Request

NOTICE: The staff of the Planning Department will analyze your request and accord the same full and impartial consideration to your application, regardless of whether or not you obtain the services of anyone to represent you.

This filing fee is required by Chapter 1, Article 9, L.A.M.C.

If you have questions about this invoice, please contact the planner assigned to this case. To identify the assigned planner, please visit <https://planning.lacity.org/pdiscaseinfo/> and enter the Case Number.

Receipt Number:261021EC0-1691D887-9874-499C-ADB7-9FE9F5F763D9, Amount:\$109.47, Paid Date:10/26/2021

| |
|--|
| Applicant: WHEATLEY, DAVID (323-8210203) |
| Representative: |
| Project Address: 2896 W ROWENA AVE, 90039 |

NOTES:

| ENV-2021-1635-CE-1A | | | |
|---|---------|------|----------------|
| Item | Fee | % | Charged Fee |
| Appeal by Aggrieved Parties Other than the Original Applicant * | \$89.00 | 100% | \$89.00 |
| Case Total | | | \$89.00 |

| Item | Charged Fee |
|--|-----------------|
| *Fees Subject to Surcharges | \$89.00 |
| Fees Not Subject to Surcharges | \$0.00 |
| Plan & Land Use Fees Total | \$89.00 |
| Expediting Fee | \$0.00 |
| Development Services Center Surcharge (3%) | \$2.67 |
| City Planning Systems Development Surcharge (6%) | \$5.34 |
| Operating Surcharge (7%) | \$6.23 |
| General Plan Maintenance Surcharge (7%) | \$6.23 |
| Grand Total | \$109.47 |
| Total Invoice | \$109.47 |
| Total Overpayment Amount | \$0.00 |
| Total Paid (this amount must equal the sum of all checks) | \$109.47 |

Council District: 4
 Plan Area: Silver Lake - Echo Park - Elysian Valley
 Processed by CHAN, JASON on 10/26/2021

Signature: _____

Building & Safety Copy
 Office: Downtown
 Application Invoice No: 75972

City of Los Angeles
 Department of City Planning



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