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Los Angeles City Council  
Planning and Land Use Committee  
200 North Spring Street, Room 340  
Los Angeles, CA 90012

January 31, 2022

FE Design & Consulting  
327 E 2<sup>nd</sup> Street, Suite 222  
Los Angeles, CA 90012

Re: CF 21-1271

Honorable Council Members,

My name is Manny Diaz and I am representing Howie Goldklang and Carly Flynn (Makisupa LA LLC) in their request for a Conditional Use Permit to allow the sale of beer for on- and off-site consumption in conjunction with their proposed cafe. The applicant's request has been approved by the Silver Lake Neighborhood Council, the Los Angeles Police Department, the Office of Zoning Administration, and the East Los Angeles Area Planning Commission. We respectfully ask that you deny the appeal and allow the applicants to finally open their small business.

**BACKGROUND**

For the past ten years, Mr. Goldklang and Carly Flynn have owned and operated a salon called "The Establishment" in the tenant space adjacent to the premises subject to this request. When the lease for the subject tenant space became available, they jumped at the opportunity to fulfill their dream of opening a small café featuring their favorite craft beers. As long-time stakeholders in the community, they are invested in the success and well-being of the Rowena Avenue neighborhood and look forward to being part of the community for years to come.

The property is developed with a two-story commercial building housing a mix of retail and office uses and an associated surface parking lot. The tenant space subject to this request fronts Rowena Avenue adjacent to the existing salon and is accessible from the public right-of-way.



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The café will serve sandwiches, salads, baked goods, coffee, and smoothies. Some of these items will be prepared on-site at the café, and others will be prepared at off-site locations and sold to patrons on-site in pre-packaged containers. Patrons will be able to consume their food and beverages on-site or take them to-go.

In addition to these items, the applicants will also serve a variety of beer-based cocktails and seltzers and feature a specially curated selection from Los Angeles microbreweries. These specialty beer items will also be available for consumption at the café or for off the premises, as will the food and coffee. The ability for hospitality uses to sell food and drinks (including alcoholic beverages) for both on and off-site consumption has been critical to the industry's survival, and this need will continue into the future.

### **OUTREACH**

The applicants presented their request to the Silver Lake Neighborhood Council's (SLNC) Urban Design & Preservation Advisory Committee (UDPAC) on June 9<sup>th</sup>, 2021 and SLNC's General Board meeting on June 23<sup>rd</sup>, 2021. Notice of the UDPAC meeting was sent to all residents within 500 feet of the premises. Both the Committee and the Board voted to support this request and this correspondence is attached.

The Northeast Division of the Los Angeles Police Department issued a letter on September 10<sup>th</sup>, 2021 stating the Department's non-opposition to the applicant's request and this correspondence is attached.

The Office of Zoning Administration issued a letter of determination approving the applicant's request on July 13<sup>th</sup>, 2021.

The East Los Angeles Area Planning Commission denied an appeal of the Associate Zoning Administrator's decision on September 22<sup>nd</sup>.

On April 2<sup>nd</sup> of this year, the applicants applied for a Type 40 license from the Alcoholic Beverage Control. Per the ABC's description of license types, this license:



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*Authorizes the sale of beer for consumption on or off the premises where sold. No wine or distilled spirits may be on the premises. Full meals are not required; however, sandwiches or snacks must be available. Minors are allowed on the premises.*

There are currently 732 Type 40 ABC licenses in California. Per 23985.5 of the California Business & Professions Code, the applicants noticed this pending license application by mail to all residents within 500 feet of the premises. Per 23985 of the California Business & Professions Code, the applicants also posted a notice at the premises for 30 consecutive days stating the same. No protests to this application were filed to the Alcoholic Beverage Control.

### **RESPONSE TO APPEALANTS STATEMENTS**

The appellant makes several claims as to why the Area Planning Commission erred in their decision.

1 – 11)

12.24 I6 b of the LAMC states that “When a conditional use decision of the Zoning Administrator is appealed to an Area Planning Commission, the appellate decision of the Area Planning Commission shall be final and effective as provided in Charter Section [245](#)”. As such, the Conditional Use Approval for beer service at the proposed location is a settled issue, and only the propriety of the environmental review remains. As the Los Angeles Municipal Code (LAMC) allows all other aspects of the project by-right, that is the sole issue at hand.

No municipality in the State of California requires an Environmental Impact Report (EIR) to serve beer at a café. There are approximately 250 – 400 Conditional Use Permits for alcoholic beverage service filed every year in the City of Los Angeles and zero have been required to obtain an EIR. EIRs serve an invaluable role in many planning and land use processes, but the subject request is not one of them.

12) *Notice of Public Hearing.*

The Department of City Planning followed all required procedures for noticing this public hearing. Everyone receiving this notice would have lived within 500 feet of the proposed establishment and, as such, would be aware of the different uses along Rowena Blvd.

13) *Traffic*

There are 23 on-site, shared parking spaces on the property, and no additional parking spaces are required for this project. Due to the effects of the Coronavirus pandemic and to “support the vitality and viability of its commercial corridors and districts that support the employment of local residents and contribute to the overall health of the local economy and generally improve the public welfare of the City,” the City Council passed Ordinance 187096 which waives additional parking for changes of use at small businesses.

Due to their long history in the neighborhood, the applicants are very familiar with traffic patterns and how patrons arrive at the businesses on the block. As a neighborhood-oriented establishment, a large portion of their clientele will arrive on foot or by rideshare. Those who drive will have the shared on-site stalls and two parking meters directly in front of the business.



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The change of use will not disturb existing traffic patterns. A traffic light with crosswalks is already located 126 feet to the east of the subject property. In addition, this property features an off-site parking lot. As such, the proposed use does show regard for the surrounding district.



### 14) *Character of the Neighborhood*

The Silver Lake neighborhood is known for its small, neighborhood-oriented retail and restaurant options. In this instance, surrounding properties already contain a mix of commercial uses, including restaurants. Little Pine Restaurant at 2870 Rowena (approximately 280 feet to the east) and Blair’s Restaurant (approximately 114 feet to the north across Rowena Avenue) have operated on Rowena for many years without issue. In addition, there is a Yoga Studio, Market, and spa on the same block as the proposed establishment. These businesses are part of what makes the neighborhood such a desirable place to live and work.

The applicants wish to run a local coffee shop, which will offer a mix of drinks and light meals, and snacks for the community. There are no independent coffee shops in the immediate area, so this business will serve local residents and the many people who work along this stretch of Rowena. The applicants would like to offer very limited beer service for customers to enjoy lunch or after-work treat with neighbors and co-workers. Coffee shops are a desired amenity in mixed-use neighborhoods, and many customers enjoy having a local spot to enjoy an alcoholic beverage. The business is proposing modest hours of operation and will be for sit-down or to-go service only – it will never function as a bar or a nuisance to the community.

### 15) *Proximity to Schools*

Approval of a new café with beer service will not result in the type of activity described above. Both Little Pine and Blair’s currently operate Alcoholic Beverage Control (ABC) licenses, both during school hours and



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after, without endangering the surrounding neighborhood. They are located in the same immediate neighborhood and both were issued Conditional Use Permits from the City of Los Angeles and Licenses from the ABC using the same process as the applicants.

In her approval, the Associate Zoning Administrator (AZA) imposed 28 conditions of approval onto the applicant's request. These include conditions to mitigate noise (#23), provide sufficient lighting (#22), verify ages for beer service (#19), prevent loitering (#14), require training of staff (#12), and monitoring the area through security cameras (#10) and staff oversight (#13). There will be no dancing, live entertainment, or outdoor service at this business. These conditions, and those imposed by the ABC, will prevent the establishment from creating the type of nuisance activities described above.

According to a memo issued by former Chief Zoning Administrator Robert Janovici, the City of Los Angeles is preempted by State law from directly conditioning alcohol service hours. If the City were to use its zoning authority instead to condition the hours of operation to meet the appellant's request, an undue burden would be placed on the applicant's ability to operate at this location. Instead, the AZA issued 28 conditions that set parameters on the business operations, which make it compatible with the surrounding neighborhood during all proposed hours of operation.

### 16) *Alcoholic Beverage Control*

Section 23790 of the Business & Professions Code does not allow the Alcoholic Beverage Control to issue a license to sell alcoholic beverages without local approval. As such, the applicant's request is pending.

### 17) *Tract Map*

This project does not require the alteration or approval of any Tract Map.