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March 16, 2022

In Ok Choi (A)(Op)(O)
445 South Del Sol Lane,
Diamond Bar, CA 91765

Alex Woo (R)
Genesis Consulting, Inc.
3600 Wilshire Boulevard, Suite 1510
Los Angeles, CA 90010

Tom's Market (FKA Tom's Liquor)
1355 West Florence Avenue
Los Angeles, CA 90044

CASE NO. DIR-1993-36-RV-PA3
REVIEW OF CONDITIONS
1355 West Florence Avenue
South Los Angeles Planning Area
Zone : C2-1-CPIO
D. M. : 102B197
C. D. : 8 – Harris-Dawson
CEQA : ENV-2021-6105-CE
Legal Description: Fr. Lots 505-508,
Tract 1356

Pursuant to CEQA Guidelines Section 15061, I hereby DETERMINE:

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) pursuant to CEQA Guidelines, Section 15321, of the State's CEQA Guidelines for enforcement actions by regulatory agencies 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 sites, or historical resources applies;

Pursuant to Los Angeles Municipal Code (LAMC) Section 12.27.1, I hereby DETERMINE:

that the operation of the Tom's Market (formerly known as Tom's Liquor) has substantially complied with the corrective conditions set forth in the subject case, and continued imposition of conditions is necessary in order to mitigate land use impacts caused by the subject business; and,

Pursuant to LAMC Section 12.27.1, I hereby MODIFY AND ADD:

modify Condition Nos. 2, 6, 7, 10, 12, 14, 15, 17, 18, and 22; and add Condition Nos. 24 through 38.

The Zoning Administrator hereby modifies, adds to and/or retains the existing Conditions (as shown in underlined or cross-out) as follows:

1. Code. Compliance with all other use, height and area regulations of the Municipal Code shall be strictly complied with in the development and use of the property, except as such regulations are herein specifically varied or required.
2. **[MODIFIED]** Condition modification (more restrictive conditions). 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 Director of Planning 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.
3. Implements. No corkscrews or can openers of any kind or type shall be sold, furnished or given away.
4. Receptacles and Ice. Any cups, glasses or other receptacles commonly used for the consumption of beverages shall not be sold, furnished or given away except as packages for retail-wholesale sales; or except for those cups, glasses or receptacles commonly used to dispense soft drink, coffee or tea for immediate consumption on the premises. The store shall not sell or dispense ice for single-serving purposes or sell in quantities less than 4-pound packages.
5. Hours. Hours of operation for the store shall be limited to those between 7 a.m. and 10 p.m., seven days per week. The operating hours shall be posted in a visible location near the front entrance to the store.
6. **[MODIFIED]** Loitering/complaint number. Signs prohibiting loitering or public drinking shall be prominently displayed on the storefront, side and rear of the involved building.

Further, the business operator shall identify a contact person and provide a 24-hour "hot line" telephone number for any inquiries or complaints from the community regarding the subject facility. ~~Within 15 days from the effective date of this determination,~~ The posted phone number shall be maintained ~~posted~~ on the site so that it is readily visible to any interested party. The hot line shall be:

- posted at the entrances and at the cashier,
- responded to within 24-hours of any complaints/inquiries received on this hot line, and,

- documented in a log and available for review by the Los Angeles Police Department and the Director of Planning upon request on when the calls were received, returned and the action taken.

This condition is to document any public complaints about criminal activities, public nuisance and/or any anti-social behavior that may be associated with the operation of the store. The evidence that shows compliance with this condition shall be provided with a compliance review required in Condition No. 15.e and subsequent plan approvals.

7. **[MODIFIED]** A State licensed, uniformed security guard shall be stationed at the exterior of the premises during all hours of operation including one-half hour after closing on any given day to patrol the exterior of the entire ownership. If the owner so desires, an additional security guard may also be provided to patrol the interior of the premises. At no time that the premises is open for business shall the exterior of the premises be left unguarded in order to guard the interior. Security guards on the premises shall not permit, and shall actively discourage loitering of any kind on the premises.

The security guard shall, at a minimum, have the following qualifications and responsibilities:

- a. A State licensed security guard shall not have a criminal background.
- b. The guard shall wear a uniform.
- c. The guard shall not be the owner or have any association with the operation of the establishment.
- d. The guard shall not conduct any other activities while employed at the store other than those of a security guard, which include checking identification and escorting undesirable patrons off the premises. The security guards shall maintain order and prevent activity that would interfere with the quiet enjoyment of the surrounding properties. The guard shall be responsible for preventing loitering and any criminal activity on and around the store including public drinking, littering, trespassing, transactions involving controlled substances, and other illegal and public nuisance activities. If unlawful activity inside and outside the store related to loitering, drinking alcoholic beverages, or for solicitation of sex or drugs is observed or reasonably assumed, then the guard(s) shall request such persons to leave the area. The guard shall request the assistance of the Los Angeles Police Department (LAPD) if, based upon the guard's training, the situation so warrants.
- e. The business owner/operator and security guard shall maintain a daily log of patrol activities in the store, which shall include the following:

- Name of the security guard on duty
- Date and time for check-in and check-out for security duties
- Date, time and descriptions of any incidents that may occur in and around the store during the security patrol
- Resolution of the incidents

Within 30 days of the effective date of this action, the business operator shall provide a copy of the executed security contracts to the satisfaction of the Director of Planning /~~Zoning Administrator~~. The contracts shall include the minimum-security service requirements as required by the conditions of this determination. The security contract shall include the names of the security guards, their working hours and copies of their State guard licenses as well as a clearance of their criminal background from the LAPD.

8. Graffiti. Notwithstanding the "graffiti ordinance" requirements pursuant to Municipal Code Sections 91.8101(f), 91.8904.1 and 91.1707(e), or any amendment thereto, graffiti shall be removed from the exterior walls and structures on the subject property at least once a week and within 24 hours after the graffiti has been reported to the management of the facility.
9. Service deliveries/trash (hours). Deliveries and trash hauling to or from the site shall be limited to the hours between 9 a.m. and 4 p.m., seven days per week.
10. **[MODIFIED]** ~~Within 30 days of the effective date of this action, an~~ The amended lighting plan (submitted as part of Case No. ZA-93-0036-RV and BZA 4810, no date) shall be maintained and submitted to and approved by the Zoning Administrator. any changes from plans previously submitted shall be noted on the plans. The lighting plan shall continue to demonstrate lighting of sufficient luminosity to make all exterior areas clearly visible and readily visible to a person with normal eyesight. Lighting of the exterior of the premises shall be maintained on timers so that the system will operate during the hours of darkness whether the facility is opened or closed. The owner shall obtain the approval of the 77th Street Division of the Los Angeles Police Department that the premises are sufficiently illuminated to provide typical illumination necessary to aid as a deterrent to criminal activity. All lighting on the exterior of the premises shall be maintained in first class operating order at all times with burned out or broken bulbs or fixtures replaced when inoperative. [Amended by Settlement Agreement]
11. Phone. Any public telephones shall be strictly prohibited.
12. **[MODIFIED]** Maintenance. The adjacent sidewalks, gutter and parking area shall be swept on a daily basis and litter and trash removed. The trash enclosure and recycling bin in the parking lot shall remain locked at all times except as necessary to deposit or empty trash bins. Trash deposit in the dumpsters will be carried out quietly and the liquor store staff will be respectful to neighbors. The operator/owner shall insure that there is no overflow of trash outside the enclosure and that any trash left anywhere on the property or outside of the trash enclosure or along the alley frontage of the subject premises is promptly picked up.

13. Games. The installation and operation of any type of game machines (video, etc.) is strictly prohibited.
14. **[MODIFIED]** ~~Within 30 days of the effective date of this action, The amended plot plan, including the parking area and a floor plan (submitted as part of Case No. ZA-93-0036-RV and BZA 4810, dated December 23, 1993) shall be submitted for approval by the Zoning Administrator maintained.~~ Plans shall have been previously reviewed by the 77th Street Division of the Los Angeles Police Department to assure, that to the extent feasible, interior and exterior of the building allow for the premises to be observed by law enforcement as a deterrent to potential crime, and so that views to the interior of the premises are not inappropriately blocked by merchandise, displays, gondolas and the like. [Amended by Settlement Agreement]
15. **[MODIFIED]** Administrative. [Amended by Settlement Agreement]
 - a. The conditions of this determination, a copy of a business license, insurance information and applicable Police permits shall be retained on the premises at all times and shall be immediately made available upon request of any Los Angeles Police officer, Department of Alcoholic Beverage Control investigator or other responsible agencies.

The manager and all employees shall be knowledgeable of these Conditions. The conditions of this action shall be provided to and reviewed by employees. The employees shall be informed that any violations of the required conditions will result in disciplinary action including termination of employment.
 - b. **[MODIFIED] Covenant.** Within 30 days of the effective date of this determination or any subsequent revocation action associated with the subject proceeding, an agreement concerning all the information contained in these conditions 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 must be submitted to the Planning Department for approval before being recorded. After recordation, a copy bearing the Recorder's number and date shall be provided to the Planning Department for attachment to the subject case file. Any previously recorded document containing these conditions shall be terminated subsequent to the recordation of these amended conditions.
 - c. Definition. Any agencies, public officials or legislation referenced in these conditions shall mean those agencies, public officials, legislation or their successors, designees or amendments to any legislation.
 - d. **[MODIFIED]** Definition. The term "Planning Department" shall mean Office of Zoning Administration ~~/Zoning Administrator~~, or any successor or delegated agent.

- e. **[MODIFIED]** Review. ~~The property owner shall file a Plan Approval application within 18 to 24 months of the effective date of this action to allow for a review of the effectiveness in implementing the conditions established herein. A public hearing shall be conducted. Notice of the public hearing shall be mailed to all property owners and occupants located within 500 feet of the property.~~

Condition Compliance Plan Approval – 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 Director of Planning (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, the purpose of which will be to review the operator's compliance with and the effectiveness of these conditions. The operator 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 operator 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 Director of Planning may modify, add or delete conditions, and reserves the right to conduct this public hearing for nuisance abatement/revocation purposes.

Should there be a change in the ownership and/or the operator of the business, the property owner, 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.

The Director of Planning reserves the right to require that the new owner or operator file a Plan Approval application, if it is determined that the new operation is not in substantial conformance with the approved floor plan, or the operation has changed in mode or character from the original approval, or if documented evidence be submitted showing a continued violation(s) of any condition(s) of this grant resulting in a disruption or interference with the peaceful enjoyment of the adjoining and neighboring properties. The

application, in association with the appropriate fees, and a 500-foot notification radius, shall be submitted to the Department of City Planning within 30 days of the date of legal acquisition by the new owner or operator. 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 new owner or operator, consistent with the intent of the Conditions of this grant. Upon this review, the Director of Planning may modify, add or delete conditions, and if warranted, reserves the right to conduct this public hearing for nuisance abatement/revocation purposes.

- i. ~~Hearing/Review. The owner/operator of the store shall submit a report outlining the efforts made by the owners/operators to comply with these conditions with the first report between 6 months from the effective date of this determination and every 12 months thereafter. The Director of Planning/Zoning Administrator may schedule a non-public hearing with the owner, the owner's representative, a representative from the Los Angeles Police Department, a representative from the City Attorney's office and representatives of Council District 8 to review the report and any oral statements made at the hearing to determine whether the owner/operator is complying with these conditions. [Revised by the Settlement Agreement in 1998].~~
- ii. ~~After the non-public hearing compliance review as described above, if the Director of Planning/Zoning Administrator determines that the nuisance problems associated with the subject store continue to result in detrimental impacts to the surrounding properties, the property owner and the business owner/operator will be required to file a plan approval together with associated fees. A public hearing shall be conducted. Notice of the public hearing shall be mailed to all property owners and occupants located within 500 feet of the property. The owner/operator shall submit evidence of compliance of each condition with the Plan Approval application. The Zoning Administrator conducting the hearing may add, modify or delete Conditions as determined appropriate. The Zoning Administrator may also revoke the uses on the property if the applicable findings can be made.~~

~~Further, at any time, should documented evidence be submitted showing a violation of any condition(s) of this determination resulting in a disruption or interference with the peaceful enjoyment of the adjoining and neighboring properties, the Director of Planning/Zoning Administrator reserves the right to require the property/business owners and operator to file for a plan approval application together with associated fees, the purpose of which will be to hold a public hearing to review the business owner/operator's compliance with and the effectiveness of these conditions. The owners/operators shall provide a summary and supporting documentation of how compliance with each condition of the grant has been attained. Upon this review the Zoning Administrator may modify, add or delete conditions, or revoke the use on the property if the applicable findings can be made.~~

- iii. ~~Notwithstanding the above review procedure, if the Planning Department determines prior to the expiration of the continuance period that the conditions and requirements of this action have not been complied with or that the use has been operated in a detrimental or unsafe manner, the Planning Department may revoke or discontinue the use or permit.~~
- f. **Procedure** termination. As a part of the review process, the Planning Department, or City Council on appeal, may terminate the subject procedure and corrective conditions if it is deemed that:
 - i. Corrective conditions are no longer needed;
 - ii. The use no longer constitutes a nuisance or other problem as defined under the subject nuisance procedure, which was used in the subject action,
 - iii. The discontinuance proceedings are terminated, as set forth by the Municipal Code for termination, because the Constitutional rights of the property owner are being denied by the continued imposition of corrective conditions which no longer are necessary to protect the peace, safety and welfare of the community.
- 16. [Deleted by the Settlement Agreement in 1998]
- 17. **[MODIFIED]** Should there be a change in the ownership of the property/the store and/or the business operator, the property owner and the business owner/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. Prior to the closing of escrow for a potential change in the ownership of the property/business owner or operator, evidence showing that a copy of this determination including the conditions required herewith has been provided to the prospective owner/operator, shall be submitted to the satisfaction of the Director of Planning /~~Zoning Administrator~~.
- 18. **[MODIFIED]** Within 45 days from the effective date of this determination, all personnel acting in the capacity of a manager of the premises and all personnel shall complete the STAR (Standardized Training for Alcohol Retailers) session sponsored by the Los Angeles Police Department. All employees shall attend follow-up STAR classes every 24 months. The STAR training shall be conducted for all new hires within 2 months of their employment.

Within 60 days from the utilization of this grant, a list of employees, their hire date and written confirmation of their STAR training shall be submitted to the Director of Planning ~~Zoning Administrator~~, and shall be retained on the premise at all times and be immediately produced upon request of any LAPD officer or Department of Alcoholic Beverage Control investigator.

19. A video surveillance system shall be provided on the interior and exterior of the store to the satisfaction of the Los Angeles Police Department. Management shall routinely monitor the cameras and keep the video tapes/DVD for at least 14 days. Management shall immediately notify the LAPD when criminal activity is observed and shall keep and make available to the LAPD upon request any and all tapes, which indicate possible criminal activity.

Signs indicating the use of a 24-hour video surveillance system shall be posted at the store entrance, in the parking lot and on the outside of the wall facing the adjoining alley and streets. The signs shall state the following:

WARNING

**THIS STORE (TOM'S LIQUOR) IS UNDER 24-HOUR
SURVEILLANCE BY THE STORE MANAGEMENT AND THE LOS
ANGELES POLICE DEPARTMENT WITH A VIDEO
SURVEILLANCE MONITORING SYSTEM.**

The sign(s) shall be at least 2 square feet with 2-inch block lettering. The sign(s) shall be in English and Spanish.

Within 30 days from the effective date of this determination, the business owner/operator or property owner shall submit evidence that shows compliance with this condition including but not be limited to photographs of such a posting.

20. INDEMNIFICATION AND REIMBURSEMENT OF LITIGATION COSTS.

Applicant shall do all of the following:

- i. 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.
- ii. 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.
- iii. 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).

- iv. 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).
- v. 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.

- 21. There shall be general merchandise items such as milk, juice, water and other non-alcoholic beverages available for purchase at the store.

22. **[MODIFIED]** An electronic age verification device shall be ~~purchased and~~ retained on the premises to determine the age of any individual and shall be installed at each point-of-sales location. This device shall be maintained in operational condition and all employees shall be instructed in its use.
23. 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 State Department of Alcoholic Beverage Control and the conditions 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, including parking lot commonly used by patrons, in effort to ensure that no activities associated with such problems as narcotic sales, use or possession, gambling, prostitution, loitering, theft, vandalism, and truancy occur.
24. **[NEW]** All windows shall be maintained free of signs and other materials that inhibit views into the market by law enforcement agencies.
25. **[NEW]** The property owner shall, within 10 days of the effective date of this determination, sign and deliver to the Los Angeles Police Department, a "Trespass Arrest Authorization" form, which authorizes the LAPD to arrest individuals unlawfully loitering on the property pursuant to LAMC Section 41.24. A copy of the executed form shall also be provided to the Office of Zoning Administration Nuisance Abatement and Revocations Unit within the same 10 days.
26. **[NEW]** The business owners shall join and actively participate in the monthly meeting of the Community Police Advisory Board (CPAB) Coordinator at Community Relations Office (213-485-4285) and shall meet with the 77th Division Patrol and Vice Division, Community Problems Unit representatives of the Los Angeles Police Department (213-486-0910) quarterly in March, June, September, and December to receive appropriate training and information, regarding alcoholic beverage control laws and procedures.

The property owner(s) shall meet with the 77th Division Patrol and Vice unit representatives of the Los Angeles Police Department, Detective Support and Vice Division, Community Problems Unit (213-486-0910) every 6 months in January and July.

The required meetings above shall be initiated by the business owners/operators and the property owners with the first meeting within 90 days from the effective date of this determination. The business owners/operators and the property owner(s) shall keep record of the required meetings. The evidence that shows compliance with this condition shall be provided with a compliance review required in Condition No. 15.e and subsequent plan approvals.

27. **[NEW]** The applicant shall fully comply with all filings State Department of Alcoholic Beverage Control regulations governing the sale of alcoholic beverages for the subject convenience store/mini-market.
28. **[NEW]** There shall not be any sale of single cans or bottles of beer, wine coolers, or malt liquor from pre-packaged 6- or 4- packs. The sale of individual cans or bottles of craft beer from 21+ fluid ounce containers is permissible.
29. **[NEW]** No single cigarettes shall be sold.
30. **[NEW]** All signs and advertisement of alcohol is visible to exterior of the establishment shall be removed.
31. **[NEW]** The applicant, owner, and on-site manager(s) shall comply with all applicable laws and conditions and shall properly manage the facility to discourage illegal criminal activity on the subject premises and any accessory parking areas over which they exercise control.
32. **[NEW]** Operator and its personnel shall, at all times maintain a policy of not selling obviously intoxicated patrons and taking preventative measure to help avert intoxication-related problems.
33. **[NEW]** The applicant shall be responsible for monitoring both patron and employee conduct on the premises and within the parking areas under his/her control to assure behavior that does not adversely affect or detract from the quality of life for adjoining residents, property owners, and businesses.
34. **[NEW]** The business operator shall not allow access onto the property by persons known to them to be prostitutes, pimps, prostitution customers, parolees with prior narcotic or prostitution offenses, narcotic users, narcotic possessors, narcotics sellers or manufacturers of illegal controlled substances.
35. **[NEW]** Staff and the security personnel shall monitor the immediate vicinity in order to ensure that no public consumption of alcoholic beverages occurs. Staff and the security personnel will also be responsible to constantly monitor and ensure patrons do not open sealed alcoholic beverage containers for on-site consumption beyond the entrance doors onto the sidewalk.
36. **[NEW]** The business operator shall inform the Police Department immediately if any person on the property is engaging in narcotics activity, or if narcotics paraphernalia is observed on the property. All trespassers and loiterers on the property shall be immediately reported to the Police Department.
37. **[NEW]** Any perimeter fencing behind the structure shall be repaired as necessary and maintained in good condition so as to prevent direct access into the alley.

38. **[NEW]** The property owner and/or the business owner/operator shall reimburse the City of Los Angeles applicable fees and surcharges for the subject application, as set forth at Los Angeles Municipal Code Section 19.01 E., within 60 days of the effective date of this determination.

TRANSFERABILITY

These conditions of operation run with the land. In the event the property is to be sold, leased, rented or occupied by any person or corporation other than the current owner, it is incumbent that the owner advises them regarding the conditions of this action.

VIOLATIONS OF THESE CONDITIONS, A MISDEMEANOR

It shall be unlawful to violate or fail to comply with any requirement or condition imposed by final action of the Zoning Administrator, Board or Council pursuant to this subsection. Such violation or failure to comply shall constitute a violation of this Chapter 1 of the Los Angeles Municipal Code and shall be subject to the same penalties as any other violation of such Chapter. (Section 12.27.1 of the Municipal Code)

Every violation of this determination is punishable as a misdemeanor and shall be punishable by a fine of not more than \$1,000 or by imprisonment in the county jail for a period of not more than six months, or by both such fine and imprisonment. (Section 11.00-M of the Municipal Code)

APPEAL PERIOD - EFFECTIVE DATE

The Zoning Administrator's determination in this matter will become effective after **March 31, 2022** unless an appeal therefrom is filed with the Department of City Planning. 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
Constituent Service Center
6262 Van Nuys Boulevard,
Room 251
Van Nuys, CA 91401
(818) 374-5050

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 all subsequent contact with this office regarding this determination must be with the staff member assigned to this case. This would include clarification, verification of Condition compliance, submittal of all required evidence as required in this determination, 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 report of the Staff Investigator thereon, and the statements made at the public hearing before the Zoning Administrator on December 14, 2021, all of which are by reference made a part hereof, as well as knowledge of the property and the surrounding district, I find that there has been substantial compliance with the imposed conditions based upon the provisions of Section 12.27.1 of the Municipal Code as established by the following facts:

NUISANCE ABATEMENT AUTHORITY - SECTION 12.27.1 OF THE LOS ANGELES MUNICIPAL CODE

The Zoning Administrator, on behalf of the Director of Planning, has the authority to investigate and initiate corrective actions against any use which constitutes a public nuisance, adversely affects the safety of persons residing or working in the surrounding area, and does so on a repeated basis, pursuant to the provisions of Section 12.27.1 of the Los Angeles Municipal Code, established under Ordinance No. 171,740 on October 27, 1997. This Ordinance amended earlier nuisance abatement authority established May 25, 1989, under Ordinance No. 164,749. It has been the City's practice and policy to impose corrective conditions when a property is initially determined to be a nuisance location and to give any owner/operator an opportunity to correct the problems before any possible revocation.

Prior to an action by the Zoning Administrator requiring that a use be discontinued, it must be found that prior governmental efforts to eliminate the problems associated with the use have failed and the owner or lessee has failed to demonstrate to the satisfaction of the Zoning Administrator a willingness and ability to eliminate the problems associated with the use. The Zoning Administrator, in the instant matter, may modify the conditions to make them more restrictive so as to protect the neighborhood, modify the conditions to make them less restrictive if deemed no longer necessary to mitigate the impacts of the use, or may revoke the authority allowing the use.

Section 12.27.1 authorizes the Director of Planning to eliminate conditions imposed by a previous administrative nuisance abatement decision if there have been substantial changes in the nature and operation of the land use, or if there has been a change in circumstances such that the continued enforcement of the previously imposed conditions is no longer reasonable or necessary.

Background

On April 14, 1993, the Zoning Administrator determined that the operation of Tom's Market constituted a public nuisance under Case No. ZA-93-0036-RV. Allegations and complaints of nuisance activities included sale of alcoholic beverages to minors, disturbances of the peace, illegal drug activity, theft, assaults, battery, vandalism, litter, lewd conduct, acts of violence, use of firearms, drinking in public, public urination, and gambling. The Zoning Administrator imposed corrective conditions pursuant to LAMC Section 12.21-A, 15, in order to LAMC mitigate adverse impacts caused by the operations of the subject liquor store.

The property owner filed an appeal and on June 29, 1993, the Board of Zoning Appeals (BZA 4810) denied the appeal and modified several of the Zoning Administrator's conditions such as deleting Condition Nos. 3 (alcohol consumption) and 5 (ice sales); modifying Condition Nos. 4 (advertising) and 6 (corkscrews/can openers); clarifying Condition Nos. 8 (hours of operation), 13 (lighting) and 17 (plot plan); and adding Condition No. 18 (administrative). On November 9, 1993, the Planning and Land Use Management Committee also denied the appeal and adopted the Board of Zoning Appeals modified conditions and deleted Condition No. 4 (advertising).

On November 23, 1993, the City Council (CF 93-1598) granted in part the appeal and adopted the Board of Zoning Appeals modified conditions and the Planning and Land Use Management Committees recommendation to delete Condition No. 4. Pursuant to Modified Condition No. 18.e. (approved by the City Council on November 23, 1993, Council File No. 93-1598), the owner was required to file for a Plan Approval in one year to review the effectiveness of the conditions as well as compliance.

On February 16, 1994, the property owner appealed the decision to the Superior Court which granted a petition for a writ of mandate. The City, in compliance therewith, took action to vacate the Council action of November 23, 1993. On April 8, 1996, the Court of Appeal reversed the trial court's judgment and vacated the order granting relief. A subsequent request for review by the petitioner was denied by the Supreme Court. As a result of these court decisions, on September 10, 1996, the City Council reinstated the corrective conditions that were imposed on November 23, 1993. Although Modified Condition No. 18.e, required the owner/operator to file for a Plan Approval application for a Condition Compliance Review from one year, the owner/operator did not file a Plan Approval application and the City Planning Department initiated a public hearing on September 11, 1997.

On November 25, 1997, the Zoning Administrator issued a determination (Case No. ZA-93-0036-RV-PAD) and modified Condition Nos. 7 (security guard), 10 (lighting plan), 14 (plot plan), 15 (administrative), and added Condition No. 16 (fee). Los Angeles Police Department testified that there were arrests related to drinking in public and loitering. Other incidents include drug sales and alcoholic beverages were sold to a minor decoy during undercover investigations, in violation of the California Alcoholic Beverage Control regulations.

The determination action was challenged in court and on July 1, 1998, a settlement agreement was executed between the owners of the subject business and the City of Los Angeles (Office of City Attorney). One of the terms of the Settlement Agreement requires the owners of the liquor store to submit a compliance report. On January 9, 1999, January 26, 1999, and October 2, 2008, a Request for Condition Compliance Report letter was sent to the owner/operator and they were non-responsive. On April 27, 2009, the City Planning Department initiated a hearing based on reports from the Los Angeles Police Department, Eighth Council District, and community members regarding nuisance activities of: attempted murder, assault with a deadly weapon, sale of narcotics, possession of illegal drugs, carjacking and drinking in public.

On August 26, 2009, the Zoning Administrator determined (Case No. DIR-93-0036-RV-PA1) that the operation of Tom's Liquor partially complied with the Corrective Conditions that were previously imposed on November 25, 1997, under Case No. ZA-93-0036-RV-PAD and stipulated by the Settlement Agreement in the lawsuit. The Zoning Administrator modified Condition Nos. 5 (hours of operation), 6 (loitering/compliant number), 7 (security guard), and 15 (administrative); deleted condition no. 16 (fee), and added Condition Nos. 17 (ownership change), 18 (STAR), 19 (surveillance system), and 20 (indemnification).

The City Planning Department received a referral from Eighth Council District due to community complaints that include: theft, shootings and death. On September 17, 2019, the Zoning Administrator conducted a hearing and Los Angeles Police Department testified that during the site visit, he observed an overselling of alcohol to intoxicated people; security guard lacked a guard card/identification; and single cups behind the counter. Los Angeles Police Department reports confirmed the community allegations and other incidents including robbery, vandalism, and burglary.

On March 24, 2020, the Zoning Administrator determined (Case No. DIR-1993-36-RV-PA2) that the subject business partially complied with the imposed conditions and modified Condition Nos. 4 (cups and ice), 8 (graffiti), 15.e (plan approval), 20 (indemnification) and added Condition Nos. 21 (incidental goods), 22 (age verification), and 23 (on-duty manager). Pursuant to Condition No. 15.e, the operator was required to file for a Plan Approval within 15 months to review effectiveness of the conditions as well as compliance.

On March 8, 2021, the City Planning Department sent an overdue Plan Approval letter reminding the operator to file a Plan Approval application for Condition Compliance Review as the application by July 8, 2021. On July 20, 2021, the operator filed a Plan Approval application.

The South Los Angeles Community Plan Map designates the property for Community Commercial land uses with corresponding zones of CR, C1, C1.5, C2, C4, RAS3, R3 and Height District No. 1. The property is within the Commercial Corridor Subarea of the South Los Angeles Community Plan Implementation Overlay (ZA-2484), Western/Slauson Redevelopment Project (ZI-2488), South Los Angeles Community Implementation Overlay (ZI-2484), and Transit Priority Area (ZI-2452). The site is in a liquefaction area and approximately 2.9 kilometers from the Newport – Inglewood Fault Zone. The site is in Reporting District 1245, of Los Angeles Police Department's South Bureau – 77th Street Area Station. The property is within the area of the South Los Angeles Alcohol Sales Specific Plan (ZI-1231). The application is not affected.

The subject property is comprised of two flat rectangular parcels, having a frontage of approximately 62 feet on the north side of Florence Avenue with a depth of approximately 80 feet of street frontage on Normandie Street, for a total of approximately 7,343 square feet of lot area in the C2-1-CPIO Zone. The subject site is developed with a one-story multi-tenant commercial building consisting of Tom's Market (formerly known as Tom's Liquor) and a mobile phone store, with approximately 14 parking spaces. The abutting property to the east is owned by the Bunda Eddie, LLC and the Chief Executive Officer is In Ok Choi, which is the same property owner as Tom's Market. Vehicular ingress and egress to the parking lot is via Florence Avenue and Normandie Avenue.

The subject property has a deemed approved conditional use status (Ordinance No. 159,598) because the business and the license to sell alcohol were existing prior to the effective date of the ordinance establishing the conditional use requirement for the sale of alcoholic beverages for on-site/off-site consumption as well as the South Los Angeles Alcohol Sales Specific Plan. The site has been licensed for the off-site sales of alcoholic beverages since November 2, 1981, with a Type 21 license (off-sale general) to Tom's Liquor Market, which was transferred to the current owners, 1355 Florence Inc., on December 3, 2010 (California Alcohol Beverage Control License No. 503816).

The subject business sells incidental grocery items such as milk, juice, water, bread, canned goods, dog food, toilet paper, and other dry goods.

The hours of operation of the subject liquor store are from 7:00 a.m. to 10:00 p.m. daily.

Streets

Florence Avenue, adjoining the property to the south, is a designated by the Mobility Plan 2035 as Avenue I, right-of-way width of 100 feet and is fully improved with a curb and gutter.

Normandie Avenue, adjoining the property to the west, is designated by the Mobility Plan 2035 as a designated Modified Avenue II, right-of-way width of 80 feet and is fully improved with a curb and gutter.

Surrounding Land Uses

Properties to the north are zoned R3-1VL and R1-1 and are developed with one-story, single-family dwellings.

Properties to the south, across Florence Avenue are zoned C2-1-CPIO and is developed with a gas station (76 Gas Station).

Properties to the east are zoned C2-1-CPIO are developed with one-story, vacant commercial buildings.

Properties to the west, across Normandie Avenue are zoned C2-1-CPIO and is developed with an auto parts store (Auto-Zone).

On-Site Cases, Affidavits, Permits, and Orders**Applicant's Property**

California Alcohol Beverage Control License No. 503816 – Type 21 license, for Tom's Market located at 1355 West Florence Avenue, allowing off-site sales of a full line of alcohol, expires on November 30, 2022.

Case No. DIR-1993-36-RV-PA2 - On March 24, 2020, the Zoning Administrator determined that the subject business partially complied with the imposed conditions and modified condition nos. 4 (cups and ice), 8 (graffiti), 15e (plan approval), 20 (indemnification) and added condition nos. 21 (incidental goods), 22 (age verification), and 23 (on-duty manager).

Communication - On July 13, 2015, a communication was sent to the business operator explaining the process to modify conditions of operation under Case No. DIR-93-0036-RV-PA1.

Off-Site Sign Periodic Inspection Program – On March 23, 2010, the Department of Building and Safety opened an investigation because the subject property has an existing billboard pole sign. According to Building and Safety on March 3, 2022, the case is open because the property is surveyed every two years as part of the Off-site Sign Periodic Inspection Program.

Case No. DIR-93-0036-RV-PA1 – On August 26, 2009, 15.e (i) of Case No. ZA-93-0036-RV-PAD as stipulated in the Settlement Agreement in the lawsuit between the parties entitled Tadashi and Reiko Suzuki v. City of Los Angeles, Case No. BS027313 the Zoning Administrator found that the operation of Tom's Liquor located at 1347, 1351 and 1355 West Florence Avenue has complied with some but not all of the corrective Conditions that were previously imposed on November 25, 1997 under Case No. ZA-93-0036-RV-PAD and stipulated by the Settlement Agreement in the lawsuit. The determination modified, added, and/or retained the existing Conditions.

Communication - On October 2, 2008, a communication was sent to the business operator to provide condition compliance outline for a non-public hearing with the City Attorney, Council District 8 and the Office of Zoning Administration.

Communication - On March 3, 1999, a communication was sent to the business operator to advise them that there must be strict compliance with all of the corrective conditions imposed on the operation of the store and the Office of Zoning Administration will continue to monitor compliance.

Communication - On January 26, 1999, a second communication was sent to the business operator to submit a condition compliance report for a non-public hearing with the City Attorney, Council District 8 and the Office of Zoning Administration. The letter was addressed to the new business owner Edward I. Yoon.

Communication - On January 8, 1999, a communication sent to the business operator to provide condition compliance report for a non-public hearing with the City Attorney, Council District 8 and the Office of Zoning Administration.

Case No. BS027, 313 - On June 23, 1998, a settlement agreement was executed between Tadashi and Reiko Suzuki v. City of Los Angeles, without any admission of liability or violation of law that, in exchange for dismissal of the lawsuit, with prejudice, the City's Zoning Administrator agreed to modify the revocation action in Case No. ZA-93-0036-RV-PAD.

Case Nos. ZA 93-0036-RV-PAD; BZA 4810; CF 93-1598 - On November 25, 1997, pursuant to Section 12.27.1 of the Los Angeles Municipal Code and Condition No. 18e of ZA Case No. 93-0036-RV and Council File No. 93-1598 which provided for review of conditions and compliance with the required operational conditions for the subject business known as Tom's Liquor, it has been determined that, based upon specific incidents, and the totality of police citations, reports, and police and public testimony, Tom's Liquor has operated in a manner that has adversely affected the health, peace, or safety of persons in the surrounding area and has jeopardized or endangered the public health or safety of such persons, constituted a public nuisance, has resulted in repeated nuisance activities, and has operated in violation of State and local regulations and Ordinances. The Zoning Administrator, retained, amended and/or added conditions relative to the operation of Tom's Liquor.

Communication - On October 3, 1996, a communication was sent to the business operator of a reinstatement of the City Council's previous Nuisance Abatement action of November 23, 1993, imposing restrictions and conditions on the operation of a retail market and liquor store ("Tom's Liquor") at 1355 West Florence Avenue, in connection with the case of Suzuki v. City of Los Angeles.

Case No. CF 93-1598 - On September 10, 1996, as a result of an appeal court decision, for "Suzuki vs. City of Los Angeles", in connection the City Council adopted resolution reinstating their previous action of November 23, 1993, which imposed nuisance abatement conditions in connection with the operation of a retail market and liquor store.

Case No. CF 93-1598 - On September 13, 1995, the City Council set aside the Council's action of November 23, 1993, relating to the operation of Tom's Liquor Market at 1355 West Florence Avenue, pursuant to peremptory Writ of Mandate issued by California Superior Court on March 1, 1995 [Case No. BS 027,313] and formally initiating public nuisance revocation proceedings for said property

Communication – On August 15, 1995, a letter from the City Attorney advising the Chief Zoning Administrator, requiring the City to set aside the revocation action and advised a stay of enforcement.

Council File No. CF 93-1598 – On November 23, 1993, the City Council, granted in part and adopted the Board of Zoning Appeals modified conditions and the Planning and Land Use Management Committees recommendation to delete Condition No. 4 (advertising).

Case No. BZA 4810 - On July 14, 1993, the Board of Zoning Appeals denied the operator appeal and modified the prior Zoning Administrator's conditions and Findings.

Case No. ZA 93-0036-RV - On April 14, 1993, the Zoning Administrator, found sufficient evidence the subject liquor store constituted a public nuisance and imposed corrective operating conditions.

Certificate of Occupancy Permit No. 26451, 28340, and 39943 – On February 25, 1977, the Department of Building and Safety issued a Certificate of Occupancy for a one-story, type v, 65-foot by 50-foot retail liquor store.

Surrounding Properties

There are no similar or relevant Nuisance Abatement/Revocation cases on surrounding properties.

Comments from Other Departments and/or the General Public

The Los Angeles Police Department submitted the following reports:

Detective Case Tracking System: There were three incidents submitted for the property located at 1355 West Florence Avenue between October 27, 2020, and December 15, 2020, regarding stolen vehicle and assault.

Calls for Service: There were seven calls for service submitted for the property located at 1355 West Florence Avenue, between May 2, 2020, and October 8, 2021.

No.	Date	Time	Code	DESCRIPTION
1.	5/2/2020	7:57 PM	620	MAN/WOMAN DISPUTE
2.	5/31/2020	6:13 PM	900	UNKNOWN TROUBLE
3.	9/4/2020	10:32 PM	100	OTHER
4.	12/15/2020	3:41 PM	242	BATTERY

5.	8/21/2021	10:10 PM	900	UNKNOWN TROUBLE
6.	9/11/2021	10:08 AM	006	POLICE RESPONDING
7.	10/8/2021	9:03 AM	100	OTHER

Arrest and Investigative Reports:

Los Angeles Police Department submitted investigative reports for two incidents at 1355 West Florence Avenue between October 27, 2020, and December 15, 2020:

1. October 27, 2020, 7:35 p.m. – Stolen Vehicle – Vehicle Report – A vehicle was stolen in the parking lot in front of the subject business.
2. December 15, 2020, 3:30 p.m. – Elder Abuse – Investigative Report – After a verbal argument, the suspect pushed the victim and fell hitting his head on a yellow cement pole.

PUBLIC HEARING

The hearing was noticed and mailed to the applicant/property owner, and to the owners and occupants of properties within a 500-foot radius, in compliance with Municipal Code requirements. The purpose of the hearing was to obtain testimony from the owner/operator of the subject facility and from any other affected or interested parties regarding the operation of the subject convenience store/liquor store with off-site consumption for a full line, (Type 21, Off-Sale General), and to determine whether the use continues to constitute a public nuisance and whether conditions should be maintained, added, or eliminated on the operation of the subject business.

The Associate Zoning Administrator conducted a public hearing via Zoom application and telephonically on December 14, 2021, at 10:00 a.m. In attendance at the hearing and testifying were the business owners and their representative, Staff from the Office of Eighth Council District, and members of the public.

Prior to opening the hearing to public testimony, the Department of City Planning staff investigator presented a summary of the staff report, which is included in the case file.

The following is a summary of the testimony provided at the public hearing:

Alex Woo - Genesis Consulting Inc., Operator/Owner's Representative

- The operator has demonstrated substantial compliance as the Staff Investigator's report details compliance with the conditions.
- Because of the pandemic things were not done in a timely manner such as recording the covenant and plan approval application.
- Mr. and Mrs. Choi purchased the business and property in 2008 and there have been no ABC disciplinary actions.

- In regard to the conditions that were partial or non-compliant, Condition No. 6, usually the cashier or manager answers the phone, and the manager was talking with LAPD when City Planning staff called. The graffiti on the monument sign is cleaned and removed with 24 hours of noticing it. In regard to the STAR training, LAPD was not offering the classes last year. The age verification machine was being repaired.
- The reason why the second Plan Approval application was not filed in a timely manner was Mr. and Mrs. Choi were not aware of the conditions.
- Sergeant James Oh does not provide security.
- Per Condition No. 7, there is a licensed on-site security guard during the business hours of operation and remains to one-half hour after closing.
- In regard to people loitering or over-intoxicated individuals looking to buy alcohol, usually the security guard escorts the property off the premises. There is no loitering or public drinking on-site and debris is removed two to three times a day.
- The mode and character of the business is a market as the name changed in 2019, carrying paper and dairy goods such as cereal, dog food, and cat litter. It is not intended to be a liquor store.

Maria Isabel Rutledge – Resident and Community Coalition member

- Passes by daily and observes drinking in public across the street.
- Children should not be walking by and see people drinking.
- Feels that there is overconcentration of alcohol in the area.

Darryl Lewis – Resident

- A substitute teacher for Los Angeles Unified School District.
- Resident since 1985, remembers the LA Riots.
- Since ownership changed, the new owners got rid of the panhandlers and cleaned up the lot.
- There are people loitering at Auto Zone, across the street.
- There are people that buy alcohol and drink responsibly.
- This market is a staple in the community as the operator provides a credit for people.
- The new owners stopped the drug abuse that there once was.

Robert Rozier – Resident

- Resident since 1988 on the corner of 74th and Normandie.
- There are drug attics and people loitering in the alley across the street at the Auto Zone and the bus stop.
- The subject market gives you items. When I didn't have money, they allowed me to take things and I'd pay them back.
- In regard to liquor, they sell more food and toilet items than liquor.
- If the market was closed, it would be a travesty to the community.

Carlos Leon – Organizer for Community Coalition

- In previous hearings regarding, giving away items that is not what we are looking for when talking about revitalizing South Los Angeles.
- Grew up in South Los Angeles and we are not looking to shut down the business.
- Selling alcohol should be a privilege. Rather we need food accessibility, mental health hospitals, and housing units.
- This is not a real market, not just one that sells alcohol.

Sharry Croxton – Resident

- Resident since 1967.
- He was a patron even before Tom's took it over.
- People buy liquor from Super Buy Liquor on Florence and Vermont, not just at Tom's Market.
- When COVID started, we came here to buy our groceries such as toilet tissue, milk, eggs, and other food.
- We come here to support the store, there is no line. There are no problems here and feels safe shopping at Tom's Market.
- People are not loitering, especially at night.

Edward Taylor – Resident

- Resident for 74 years (before the Harbor Freeway was built), lives off 65th Street.
- New owners cleaned up the market and got rid of people loitering at the market.
- There are a lot of other places that sell alcohol around here.
- Supports the subject market.
- Auto Zone should clean up their property and the bus stop.

Issaic Richardson – Resident

- Lives in Normandie Senior Citizens home.
- It is a nice store, with friendly people.
- Although I purchased alcohol at the market, I buy bread.
- There is no loitering.

Leroy Johnson – Resident

- Lives on 79th and Normandie for 20 years.
- The market is a pillar of the community.
- Not only do they sell alcohol, but they have soda, chips, and other food.
- The operator is a good person and prevents loitering.
- He supports the market.

Johnny Robertson – Resident

- He lives in the area.
- It is a good store and does not see any problems.

Eric Fuller – Resident

- He has lived in the area for five years.
- Market is clean and no one is loitering.
- If you remove the alcohol, then people will go to another store that may not be as safe as this store.
- The operator is a good person and the store is good for the community.

Sam Oh

- Business owner, James' son. He drops his father at the store daily.
- Best community store in the area.
- No violence or people loitering at the subject market.
- The people drinking across the street do not get their liquor from the subject market. Tom's Market staff is trained to not sell to the people that loiter at the bus stop or across the street.
- Store is kept clean.
- Feels safer at the market than other stores in Koreatown.
- Trash is removed frequently.
- No graffiti on the building and is cleaned up immediately.

James Oh, the business owner of Tom's Market

- Toms Market is a clean and positive store.

Isaias Benavides – Field Deputy, Council District 8

- Encouraged by the progress that the business made over 1.5 years.
- There were issues and problems that were neglected
- The operator changed to improve operations because of the last public hearing.
- There are people loitering drinking in public, at the bus stop, Auto Zone, and near the residential area. We requested from the operator to stop selling alcohol to them.

Martin Martinez – Retired LAPD Officer

- Worked in the area as an officer
- Encouraged the operator to carry hygiene products.
- Met with the operator to get rid of the nuisance activities.
- Operator has improved the business to make it a cleaner and safer place.
- Spoke with other LAPD Officers and they have positive comments to say about the subject market.

Alex Woo – Operator’s Representative

- The business has overwhelming support from the community.
- Strive for full compliance.
- Be a good neighbor and part of the community.
- As staff pointed out, we received over 230 signatures of support.

After testimony was taken, the case was taken under advisement until January 14, 2022, (four weeks), to allow time for Los Angeles Police Department to submit comments because they were unable to attend the hearing. Based on the case file and the testimony there is improvement with the subject market. However, the changes occurred because the City initiated a public hearing and vigilant about monitoring the subject business. The City is not looking to revoke the subject market as we want conveniences for the community to shop. The City is looking to improve the operations of businesses that sell alcohol. The operator has the right to not sell alcohol to the individuals loitering and drinking in public.

Submittal on the day of Public Hearing

The representative submitted 221 signatures of support regarding the subject business.

Submittals Post Public Hearing

On January 6, 2022, the Senior Lead Officer Christopher McPheeters sent an email explaining:

I can honestly say that the Liquor Store owners have made changes and improvement for the better. I keep in contact mostly with James and every time I have suggested a plan to James, he is very quick and responsive. I have had very little crime at that location. I also noticed the security for the Liquor Store is always there and the location is kept clean. I have no issues at this time with Tom's Liquor Store.

On January 13, 2022, Alex Woo, the operator’s representative submitted photographs of the following: removed graffiti on the monument sign, age verification device, and Tom's Market security log.

REVIEW OF COMPLIANCE OF CONDITIONS

The following section identifies the degree of compliance with the Conditions based upon testimony at the public hearing, planning staff visit to the site and other information in the case file. Planning staff, escorted by LAPD officers conducted a field analysis on December 2, 2021, between 2:00 p.m. and 3:00 p.m., as part of the nuisance investigation to observe compliance with the operating conditions of Case No. DIR-1993-36-RV-PA2. Condition Compliance:

1. Code. Compliance with all other use, height and area regulations of the Municipal Code shall be strictly complied with in the development and use of the property, except as such regulations are herein specifically varied or required.

Status: In compliance. During the site visit, City Planning staff did not observe any changes to the subject property.

2. Condition modification (more restrictive conditions). 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.

Status: Standard condition.

3. Implements. No corkscrews or can openers of any kind or type shall be sold, furnished or given away.

Status: In compliance. During the site visit, staff did not observe any corkscrews or can openers.

4. Receptacles. Any cups, glasses or other receptacles commonly used for the consumption of beverages shall not be sold, furnished or given away except as packages for retail-wholesale sales; or except for those cups, glasses or receptacles commonly used to dispense soft drink, coffee or tea for immediate consumption on the premises.

Status: In compliance. During the site visit, City Planning staff did not observe any single-serving cups or quantities of ice less than 4-pound bags.

5. Hours. Hours of operation for the store shall be limited to those between 7 a.m. and 10 p.m., seven days per week. The operating hours shall be posted in a visible location near the front entrance to the store.

Status: In compliance. During the site visit, City Planning staff observed the posted hours of operation from 7 a.m. and 10 p.m., seven days a week.

6. Loitering/complaint number. Signs prohibiting loitering or public drinking shall be prominently displayed on the store front, side and rear of the involved building.

Further, the business operator shall identify a contact person and provide a 24-hour "hot line" telephone number for any inquiries or complaints from the community regarding the subject facility. Within 15 days from the effective date of this determination, the phone number shall be posted on the site so that it is readily visible to any interested party. The hot line shall be:

- posted at the entrances and at the cashier,
- responded to within 24-hours of any complaints/inquiries received on this hot line, and
- documented in a log and available for review by the Los Angeles Police Department and the Director of Planning upon request on when the calls were received, returned and the action taken.

This condition is to document any public complaints about criminal activities, public nuisance and/or any anti-social behavior that may be associated with the operation of the store. The evidence that shows compliance with this condition shall be provided with a compliance review required in Condition No. 15.e and subsequent plan approvals.

Status: Partial compliance. During the site visit, City Planning staff observed signs prohibiting loitering or public drinking. Also, posted is a hot line telephone number (323) 305-6110 at the front of the building facing Florence Avenue. On December 7, 2021, City Planning staff verified that the telephone number is working, but no one answered the phone and the voice-mail greeting does not indicate that it is a Tom's Market customer service phone number. Also, there was no hot line log on-site.

7. A State licensed, uniformed security guard shall be stationed at the exterior of the premises during all hours of operation including one-half hour after closing on any given day to patrol the exterior of the entire ownership. If the owner so desires, an additional security guard may also be provided to patrol the interior of the premises. At no time that the premises is open for business shall the exterior of the premises be left unguarded in order to guard the interior. Security guards on the premises shall not permit, and shall actively discourage loitering of any kind on the premises.

The security guard shall, at a minimum, have the following qualifications and responsibilities:

- a. A State licensed security guard shall not have a criminal background.
- b. The guard shall wear a uniform.
- c. The guard shall not be the owner or have any association with the operation of the establishment.
- d. The guard shall not conduct any other activities while employed at the store other than those of a security guard which include checking identification and escorting undesirable patrons off the premises. The security guards shall maintain order and prevent activity that would interfere with the quiet enjoyment of the surrounding properties. The guard shall be responsible for preventing loitering and any criminal activity on and around the store including public drinking, littering, trespassing, transactions involving controlled substances, and other illegal and public nuisance activities. If unlawful activity inside and outside the store related to loitering, drinking alcoholic beverages, or for solicitation of sex or drugs is observed or reasonably assumed, then the guard(s) shall request such persons to leave the area. The guard shall request the assistance of the Los Angeles Police Department if, based upon the guard's training, the situation so warrants.
- e. The business owner/operator and security guard shall maintain a daily log of patrol activities in the store, which shall include the following:

- Name of the security guard on duty
- Date and time for check-in and check-out for security duties
- Date, time and descriptions of any incidents that may occur in and around the store during the security patrol
- Resolution of the incidents

Within 30 days of the effective date of this action, the business operator shall provide a copy of the executed security contracts to the satisfaction of the Director of Planning/Zoning Administrator. The contracts shall include the minimum security service requirements as required by the conditions of this determination. The security contract shall include the names of the security guards, their working hours and copies of their State guard licenses as well as a clearance of their criminal background from the LAPD.

Status:

- a. In compliance – Although City Planning staff could not verify if the operator conducted a background check regarding the security guard, an online search confirmed that he had an active security guard license no. 6473221, expires on December 31, 2023 and there were no complaints;
- b. In compliance – The guard wore a shirt identifying him as a security guard;
- c. In compliance – During the site visit, staff did not observe the security guard behind the cash register;
- d. In compliance – During the site visit, staff observed that the security guard patrol the parking lot and posted at the entrance of the subject business;
- e. Partial compliance – During the site visit, the security guard did not have a security log on-site, but explained that any crime that occurs at the subject property is notated to the security company office. Therefore, there was no security log on-site. On January 13, 2022, after the hearing, the representative submitted a picture of the daily log with dates from December 10, 2019 to December 24, 2019.

8. Graffiti. Notwithstanding the "graffiti ordinance" requirements pursuant to Municipal Code Sections 91.8101(f), 91.8904.1 and 91.1707(e), or any amendment thereto, graffiti shall be removed from the exterior walls and structures on the subject property at least once a week and within 24 hours after the graffiti has been reported to the management of the facility.

Status: In Compliance. During the site visit, staff did not observe any graffiti on the subject building, but observed graffiti on the monument sign. On January 13, 2022, after the hearing, the representative submitted a picture of the monument sign showing the removed graffiti.

9. Service deliveries/trash (hours). Deliveries and trash hauling to or from the site shall be limited to the hours between 9 a.m. and 4 p.m., seven days per week.

Status: In compliance. During the site visit, the representative explained that trash is collected twice a week at around 10:00 a.m.

10. Within 30 days of the effective date of this action an amended lighting plan shall be submitted to and approved by the Zoning Administrator. Any changes from plans previously submitted shall be noted on the plans. The lighting plan shall continue to demonstrate lighting of sufficient luminosity to make all exterior areas clearly visible and readily visible to a person with normal eyesight. Lighting of the exterior of the premises shall be maintained on timers so that the system will operate during the hours of darkness whether the facility is opened or closed. The owner shall obtain the approval of the 77th Street Division of the Los Angeles Police Department that the premises are sufficiently illuminated to provide typical illumination necessary to aid as a deterrent to criminal activity. All lighting on the exterior of the premises shall be maintained in first class operating order at all times with burned out or broken bulbs or fixtures replaced when inoperative. [Amended by Settlement Agreement]

Status: In compliance. The lighting plan was submitted as part of Case No. ZA-93-0036-RV and BZA 4810.

11. Phone. Any public telephones shall be strictly prohibited.

Status: In compliance. During the site visit, City Planning staff did not observe any public telephones at the subject site.

12. Maintenance. The adjacent sidewalks, gutter and parking area shall be swept on a daily basis and litter and trash removed.

Status: In compliance. During the site visit, staff observed that the property was clean without trash/debris.

13. Games. The installation and operation of any type of game machines (video, etc.) is strictly prohibited.

Status: In compliance. During the site visit, City Planning staff did not observe any type of game machine at the subject business.

14. Within 30 days of the effective date of this action, amended plot plan, including the parking area, and a floor plan shall be submitted for approval by the Zoning Administrator. Plans shall have been previously reviewed by the 77th Street Division of the Los Angeles Police Department to assure, that to the extent feasible, interior and exterior of the building allow for the premises to be observed by law enforcement as a deterrent to potential crime, and so that views to the interior of the premises are not inappropriately blocked by merchandise, displays, gondolas and the like. [Amended by Settlement Agreement]

Status: In compliance. The plot plan and floor plan were submitted as part of Case No. ZA-93-0036-RV and BZA 4810, dated December 23, 1993.

15. Administrative. [Amended by Settlement Agreement]

- a The conditions of this determination, a copy of a business license, insurance information and applicable Police permits shall be retained on the premises at all times and shall be immediately made available upon request of any Los Angeles Police officer, Department of Alcoholic Beverage Control investigator or other responsible agencies.

The manager and all employees shall be knowledgeable of these Conditions. The conditions of this action shall be provided to and reviewed by employees. The employees shall be informed that any violations of the required conditions will result in disciplinary action including termination of employment.

- b **Covenant.** Within 30 days of the effective date of this determination or any subsequent revocation action associated with the subject proceeding, an agreement concerning all the information contained in these conditions 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 must be submitted to the Planning Department for approval before being recorded. After recordation, a copy bearing the Recorder's number and date shall be provided to the Planning Department for attachment to the subject case file. Any previously recorded document containing these conditions shall be terminated subsequent to the recordation of these amended conditions.
- c **Definition.** Any agencies, public officials or legislation referenced in these conditions shall mean those agencies, public officials, legislation or their successors, designees or amendments to any legislation.
- d **Definition.** The term "Planning Department" shall mean Office of Zoning Administration/Zoning Administrator, or any successor or delegated agent.
- e **Review.** The discontinuance proceedings are continued for a period of 90 days from the effective date of the subject action to enable the property owner time to comply with the corrective conditions of the subject action to enable the property owner time to comply with the corrective conditions of the subject action and to mitigate nuisance problems associated with the subject use.
 - i. **Hearing/Review.** The owner/operator of the store shall submit a report outlining the efforts made by the owners/operators to comply with these conditions with the first report between 12 months and 15 months from the effective date of this determination and every 12 months thereafter. The Director of Planning/Zoning Administrator may schedule a non-public hearing with the owner, the owner's representative, a representative from the Los Angeles Police Department, a representative from the City Attorney's office and

representatives of Council District 8 to review the report and any oral statements made at the hearing to determine whether the owner/operator is complying with these conditions. [Revised by the Settlement Agreement in 1998].

- ii. After the non-public hearing compliance review as described above, if the Director of Planning/Zoning Administrator determines that the nuisance problems associated with the subject store continue to result in detrimental impacts to the surrounding properties, the property owner and the business owner/operator will be required to file a plan approval together with associated fees. A public hearing shall be conducted. Notice of the public hearing shall be mailed to all property owners and occupants located within 500 feet of the property. The owner/operator shall submit evidence of compliance of each condition with the Plan Approval application. The Zoning Administrator conducting the hearing may add, modify or delete Conditions as determined appropriate. The Zoning Administrator may also revoke the uses on the property if the applicable findings can be made.

Further, at any time, should documented evidence be submitted showing a violation of any condition(s) of this determination resulting in a disruption or interference with the peaceful enjoyment of the adjoining and neighboring properties, the Director of Planning/Zoning Administrator reserves the right to require the property/business owners and operator to file for a plan approval application together with associated fees, the purpose of which will be to hold a public hearing to review the business owner/operator's compliance with and the effectiveness of these conditions. The owners/operators shall provide a summary and supporting documentation of how compliance with each condition of the grant has been attained. Upon this review the Zoning Administrator may modify, add or delete conditions, or revoke the use on the property if the applicable findings can be made.

- iii. Notwithstanding the above review procedure, if the Planning Department determines prior to the expiration of the continuance period that the conditions and requirements of this action have not been complied with or that the use has been operated in a detrimental or unsafe manner, the Planning Department may revoke or discontinue the use or permit.
- f. **Procedure** termination. As a part of the review process, the Planning Department, or City Council on appeal, may terminate the subject procedure and corrective conditions if it is deemed that:
- i. Corrective conditions are no longer needed;
 - ii. The use no longer constitutes a nuisance or other problem as defined under the subject nuisance procedure, which was used in the subject action,

- iii. The discontinuance proceedings are terminated, as set forth by the Municipal Code for termination, because the Constitutional rights of the property owner are being denied by the continued imposition of corrective conditions which no longer are necessary to protect the peace, safety and welfare of the community.

Status:

- a. In compliance. City Planning staff confirmed with the employees that they knew about the conditions.
 - b. In compliance. On July 19, 2021, a covenant (Instrument No. 20211108151) was recorded with the Los Angeles County Recorder's Office.
 - c. No Comment. Standard definition
 - d. No Comment. Standard definition
 - e. Partial Compliance. On July 20, 2021, the owner/operator filed a Plan Approval application for Condition Compliance, but it was overdue as it should have been filed by July 8, 2021. On March 8, 2021, City Planning sent an overdue Plan Approval letter to the owner/operator reminding them to file a Plan Approval application.
 - i. Not in compliance. No condition compliance reports were submitted as they were due on October 8, 2020 and April 8, 2021.
 - ii-iii. – No comment.
 - f. i-iii. – No comment. To be determined if conditions are no longer warranted.
16. [Deleted by the Settlement Agreement in 1998]
17. Should there be a change in the ownership of the property/the store and/or the business operator, the property owner and the business owner/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. Prior to the closing of escrow for a potential change in the ownership of the property/business owner or operator, evidence showing that a copy of this determination including the conditions required herewith has been provided to the prospective owner/operator, shall be submitted to the satisfaction of the Director of Planning/Zoning Administrator.

Status: In compliance. The owner/operator, Bunda Eddie, LLC has not changed since December 19, 2014 and according to the California Secretary of State Statement of Information, Mr. In Ok Choi is the Chief Executive Officer.

18. Within 45 days from the effective date of this determination, all personnel acting in the capacity of a manager of the premises and all personnel shall complete the STAR (Standardized Training for Alcohol Retailers) session sponsored by the Los Angeles Police Department. All employees shall attend follow-up STAR classes every 24 months. The STAR training shall be conducted for all new hires within 2 months of their employment.

Within 60 days from the utilization of this grant, a list of employees, their hire date and written confirmation of their STAR training shall be submitted to the Zoning Administrator, and shall be retained on the premise at all times and be immediately produced upon request of any Los Angeles Police officer or Department of Alcoholic Beverage Control investigator.

Status: Not in compliance. No STAR training information or, a list of employees, the hiring dates and written confirmations of their STAR training was submitted to the case file.

19. A video surveillance system shall be provided on the interior and exterior of the store to the satisfaction of the Los Angeles Police Department. Management shall routinely monitor the cameras and keep the video tapes/DVD for at least 14 days. Management shall immediately notify the LAPD when criminal activity is observed and shall keep and make available to the LAPD upon request any and all tapes, which indicate possible criminal activity.

Signs indicating the use of a 24-hour video surveillance system shall be posted at the store entrance, in the parking lot and on the outside of the wall facing the adjoining alley and streets. The signs shall state the following:

WARNING

**THIS STORE (TOM'S LIQUOR) IS UNDER 24-HOUR
SURVEILLANCE BY THE STORE MANAGEMENT AND THE LOS
ANGELES POLICE DEPARTMENT WITH A VIDEO
SURVEILLANCE MONITORING SYSTEM.**

The sign(s) shall be at least 2 square feet with 2-inch block lettering. The sign(s) shall be in English and Spanish.

Within 30 days from the effective date of this determination, the business owner/operator or property owner shall submit evidence that shows compliance with this condition including but not be limited to photographs of such a posting.

Status: In compliance. During the site visit, City Planning staff observed outdoor and indoor cameras. There are two monitors inside the store, one above the coolers and the other is behind the register.

20. INDEMNIFICATION AND REIMBURSEMENT OF LITIGATION COSTS.

Applicant shall do all of the following:

- i. 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.

- ii. 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.
- iii. 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).
- iv. 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).
- v. 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.

Status: Standard condition as directed by the Office of the City Attorney.

21. There shall be general merchandise items such as milk, juice, water and other non-alcoholic beverages available for purchase at the store.

Status: In compliance. During the site visit, staff observed that there was general merchandise items such as milk, juice, water, bread, canned goods, dog food, toilet paper, and other dry goods.

22. An electronic age verification device shall be purchased and retained on the premises to determine the age of any individual and shall be installed at each point-of-sales location. This device shall be maintained in operational condition and all employees shall be instructed in its use.

Status: In compliance. During the site visit, staff did not see an electronic age verification device. The operator explained that it is being repaired. On January 13, 2022, the representative submitted photographic evidence of an age verification device.

23. 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.

Status: In compliance. During the site visit, Mr. In Ok Choi stated that he is at the subject business during the hours of operation and is familiar with the imposed conditions.

FINDINGS

On April 14, 1993, the Zoning Administrator determined that the operation of Tom’s Market constituted a public nuisance under Case No. ZA-93-0036-RV. Allegations and complaints of nuisance activities included sale of alcoholic beverages to minors, disturbances of the

peace, illegal drug activity, theft, assaults, battery, vandalism, litter, lewd conduct, acts of violence, use of firearms, drinking in public, public urination, and gambling. The Zoning Administrator imposed corrective conditions pursuant to Los Angeles Municipal Code Section 12.21-A, 15, in order to mitigate adverse impacts caused by the operations of the subject liquor store.

The property owner filed an appeal and on June 29, 1993, the Board of Zoning Appeals (BZA 4810) denied the appeal and modified several of the Zoning Administrator's conditions such as deleting Condition Nos. 3 (alcohol consumption) and 5 (ice sales); modifying Condition Nos. 4 (advertising) and 6 (corkscrews/can openers); clarifying Condition Nos. 8 (hours of operation), 13 (lighting) and 17 (plot plan); and adding Condition No. 18 (administrative).

On November 9, 1993, the Planning and Land Use Management Committee also denied the appeal and adopted the Board of Zoning Appeals modified conditions and deleted Condition No. 4 (advertising). On November 23, 1993, the City Council (CF 93-1598) granted in part the appeal and adopted the Board of Zoning Appeals modified conditions and the Planning and Land Use Management Committees recommendation to delete Condition No. 4. Pursuant to Modified Condition No. 18.e. (approved by the City Council on November 23, 1993, Council File No. 93-1598), the owner was required to file for a Plan Approval in one year to review the effectiveness of the conditions as well as compliance.

On February 16, 1994, the property owner appealed the decision to the Superior Court which granted a petition for a writ of mandate. The City, in compliance therewith, took action to vacate the Council action of November 23, 1993. On April 8, 1996, the Court of Appeal reversed the trial court's judgment and vacated the order granting relief. A subsequent request for review by the petitioner was denied by the Supreme Court. As a result of these court decisions, on September 10, 1996, the City Council reinstated the corrective conditions that were imposed on November 23, 1993. Although Modified Condition No. 18.e, required the owner/operator to file for a Plan Approval application for a Condition Compliance Review from one year, the owner/operator did not file a Plan Approval application and the City Planning Department initiated a public hearing on September 11, 1997.

On November 25, 1997, the Zoning Administrator issued a determination (Case No. ZA-93-0036-RV-PAD) and modified Condition Nos. 7 (security guard), 10 (lighting plan), 14 (plot plan), 15 (administrative), and added Condition No. 16 (fee). Los Angeles Police Department testified that there were arrests related to drinking in public and loitering. Other incidents include drug sales and alcoholic beverages were sold to a minor decoy during undercover investigations, in violation of the California Department of Alcoholic Beverage Control regulations.

The determination action was challenged in court and on July 1, 1998, a settlement agreement was executed between the owners of the subject business and the City of Los Angeles. One of the terms of the Settlement Agreement is for the owners of the liquor

store submit a compliance report. On January 9, 1999, January 26, 1999, and October 2, 2008, a Request for Condition Compliance Report letter was sent to the owner/operator, and they were non-responsive. On April 27, 2009, the City Planning Department initiated a hearing based on reports from the LAPD, Eighth Council District, and community members regarding nuisance activities of: attempted murder, assault with a deadly weapon, sale of narcotics, possession of illegal drugs, carjacking and drinking in public.

On August 26, 2009, the Zoning Administrator determined (Case No. DIR-93-0036-RV-PA1) that the operation of Tom's Liquor partially complied with the Corrective Conditions that were previously imposed on November 25, 1997, under Case No. ZA-93-0036-RV-PAD as well as stipulated by the Settlement Agreement in the lawsuit. The Zoning Administrator modified Condition Nos. 5 (hours of operation), 6 (loitering/compliant number), 7 (security guard), and 15 (administrative); deleted Condition No. 16 (fee), and added Condition Nos. 17 (ownership change), 18 (STAR), 19 (surveillance system), and 20 (indemnification).

The City Planning Department received a referral from Eighth Council District due to community complaints that include: theft, shootings and death. On September 17, 2019, the Zoning Administrator conducted a hearing and Los Angeles Police Department testified that during the site visit, he observed an overselling of alcohol to intoxicated people; security guard lacked a guard card/identification; and single cups behind the counter. Los Angeles Police Department reports confirmed the community allegations and other incidents including robbery, vandalism, and burglary.

On March 24, 2020, the Zoning Administrator determined (Case No. DIR-1993-36-RV-PA2) that the subject business partially complied with the imposed conditions and modified Condition Nos. 4 (cups and ice), 8 (graffiti), 15.e (plan approval), 20 (indemnification) and added Condition Nos. 21 (incidental goods), 22 (age verification), and 23 (on-duty manager). Pursuant to Condition No. 15.e, the operator was required to file for a Plan Approval within 15 months to review effectiveness of the conditions as well as compliance.

On March 8, 2021, the City Planning Department sent an overdue Plan Approval letter reminding the operator to file a Plan Approval application for Condition Compliance Review as the application by July 8, 2021. On July 20, 2021, the operator filed a Plan Approval application.

In regard to the conditions of Case No. DIR-1993-36-RV-PA2, of the 23 imposed conditions, the applicant is either partial or not in compliance with Condition Nos. 6 (hotline), 7.e. (security log), 15.e. (Plan Approval), 15.e.i. (Condition Compliance Reports), and 18 (STAR training). However, the representative provided photographic evidence of a security log. At the hearing, the representative explained that due to the COVID-19 pandemic, there has been no opportunity for STAR training and that once offered the subject convenience store/liquor store staff will enroll in the class. Per Condition No. 15, the operator did not submit Condition Compliance Report as it was past due on October 8, 2020. Overall, the Zoning Administrator finds that the subject convenience store/liquor store is in substantial compliance with the imposed conditions.

The subject business has made a conscious effort to improve operations and added more non-alcoholic beverages and dry goods since 2019. At the September 17, 2019, Plan Approval 2 hearing, the representative submitted photographic evidence of a change in the wall sign from Tom's Liquor to Tom Market Bread & Milk. The representative also submitted pictures of a site free of debris and a building with no graffiti. Other pictures that were submitted include: cleaning supplies, toilet paper, charcoal, shampoo, foil, disposable plates, garbage bags, milk, juice, motor oil, canned food, and canned dog food. This was confirmed by City Planning staff during site visits on October 16, 2019, and December 2, 2021. Therefore, the subject business has become a better neighbor and it is to be commended that there is a wide selection of dry goods as found at a typical convenience store. At the December 14, 2021, public hearing, there are numerous local residents and patrons supporting the business and stating that Tom's Market is an asset to the community, especially during the COVID period which the business provided the essential household and food items to the patrons in needs. Although there are public drinking and loitering across the street, no evidence that the loiters obtained the alcoholic beverages from Tom's Market as there are other outlets in the neighborhood. The operator also stated that they monitor the known loiters and do not sell alcohol to them.

LAPD Crime Analysis Mapping System Calls for Service Report: There were seven calls for service submitted for the site location, 1355 West Florence Avenue between May 2, 2020, and October 8, 2021. The majority of the types of calls were Officer Initiated to report man and woman dispute and battery. Detective Case Tracking System indicates there were three incidents between October 27, 2020, and December 15, 2020, for the site at 1355 West Florence Avenue that included stolen vehicle and assault. A vehicle report and investigative report were submitted for the site location at 1355 West Florence Avenue between October 27, 2020, and December 15, 2020, that included a stolen vehicle and elder abuse. Overall crime at the subject property has been reduced.

Considering that the business went through three approval reviews and substantial improvements have been recently made in 2019, a regularly scheduled plan approval review at a certain interval appears no longer necessary based on the condition compliance review and the reduction of crime at the subject property. The Zoning Administrator finds that additional mandatory filing of a Plan Approval is no longer necessary as the business has demonstrated that nuisance activities have substantially decreased, and LAPD does not spend its valuable resources as it once did. While the operator demonstrated improvements to the business, the business has been in operation since 1977 (well prior to the onset of the recorded nuisance activity) and should be brought up to current City requirements for operators of liquor retail facilities. The Associate Zoning Administrator finds existing conditions shall be maintained as well as additional to assure a quality and lawful operation of the business. The added Conditions will assure the increased safety for customers, employees and neighbors through security, more responsive and updated operational practices, such as not serving obviously intoxicated patrons and attending Community Police Advisory Board meetings. In the event that the business creates nuisance the City continues to reserve the right to require a Plan Approval for Condition Compliance review, should documented evidence be submitted showing continued violation.

It is the purpose of these proceedings, under Ordinance No. 180,409 to provide a just and equitable method to be cumulative with and in addition to any other remedy available for the abatement of public nuisance activities.

MODIFICATIONS AND ADDITIONS TO CONDITIONS

The following modification and addition of conditions have been made based upon the current review of administrative records, requests received from the applicant/operator, and testimony received at the public hearing:

Condition No. 2 – This condition is modified to update the Director of Planning will reserve the right to impose additional corrective conditions.

Condition No. 6 – This condition is modified that the posted phone number will be maintained.

Condition No. 7 – This condition is modified to update that the business operator shall provide a copy of the security contract to the satisfaction of the Director of Planning.

Condition No. 10 – This condition is modified to maintain the lighting plan that was submitted as part of Case No. ZA-93-0036-RV and BZA 4810.

Condition No. 12 – This condition is modified to maintain the trash enclosures remain locked and that no overflow trash is left outside of the enclosure.

Condition No. 14 – This condition is modified to maintain the plot plan, dated December 23, 1993, that was submitted as part of Case No. ZA-93-0036-RV and BZA 4810.

Condition No. 15 – This condition is modified to update the name of the covenant. Also, the Condition Compliance Plan Approval is modified to reflect that the operator/owner will not submit a scheduled Plan Approval application.

Condition No. 17 – This condition is modified that if a change in ownership occurs, evidence of providing the imposed conditions to the new owner/operator be submitted to the Director of Planning.

Condition No. 18 – This condition is modified that STAR (Standardized Training for Alcohol Retailers) be submitted to the Director of Planning.

Condition No. 22 – This condition is modified to update that the electronic age verification device is maintained at the subject business.

Condition No. 24 – This condition is added to remove alcohol advertisement and remove signage blocking views into the convenience store so that the public and law enforcement can see in the interior of the business.

Condition No. 25 – This condition is added to allow the Los Angeles Police Department to arrest individuals unlawfully loitering on the property.

Condition No. 26 – This condition is added to engage the operator/owner with the Los Angeles Police Department by attending meetings.

Condition No. 27 – This condition is added to ensure that the operator/owner complies with the California Alcoholic Beverage Control regulations.

Condition No. 28 – This condition is added to ensure that no sale of singles from pre-packaged 6- or 4- packs.

Condition No. 29 – This condition is added to ensure that no single cigarettes will be sold at the subject business.

Condition No. 30 – This condition is added to remove alcohol advertisement and remove signage blocking views into the convenience store so that the public and law enforcement can see in the interior of the business.

Condition No. 31 – This condition is added for an on-duty manager to monitor and comply with applicable state and local laws and discourage illegal activity and/or criminal activity.

Condition No. 32 – This condition is added so that the operator does not sell alcohol to intoxicated patrons.

Condition No. 33 – This condition is added to ensure that the operator is responsible for monitoring patrons and employees on the subject premises and parking areas to control behavior so that it does not affect the adjacent area.

Condition No. 34 – This condition is added to ensure that operator shall discourage prostitution and drug use on the subject property.

Condition No. 35 – This condition is added to ensure that the operator and security monitor the subject property so that no public drinking occurs.

Condition No. 36 – This condition is added to ensure that the operator contact Los Angeles Police Department of any persons engaging in narcotics activity.

Condition No. 37 – This condition is added to ensure that the operator shall repair and maintain the perimeter fencing.

Condition No. 38 – This condition is added to ensure that the operator/owner reimburse the City of Los Angeles for applicable fees and surcharges for the subject application.

The Zoning Administrator hereby finds that without the imposition of the corrective conditions previously established, and modified and amended herein, the business located at 1347, 1351 and 1355 West Florence Avenue would continue to adversely impact nearby uses, jeopardize or endanger public health or safety of persons residing or working on the premises or in the surrounding area, or continue to constitute a public nuisance and continue to repeat instances of nuisance activities. It is through the imposition of existing conditions, modification of existing conditions, and the addition of new conditions that the use can be made compatible with the neighborhood, and the continued existence of the convenience store/liquor store and compliance with conditions is intended to bring any nuisance problems under control.

It is further determined that the instant action by the Zoning Administrator is in compliance with all the procedures as set forth in Section 12.27.1 of the Municipal Code and has been conducted so as not to impair the constitutional right of any person. Further, conditions imposed are not so onerous as to prevent the viable operation of the business.

The owner/operator of this business has been afforded the opportunity to review the file in advance of the hearing, which was duly noticed, and testify to any allegations concerning the impacts of the operation of Tom's Market. The operator and a representative attended and testified at the public hearing and submitted additional materials subsequent to the hearing.

Inquiries regarding this matter shall be directed to Matthew Lum, Planning staff at the Office of Zoning Administration, at (213) 978-1912 or e-mail Matthew.Lum@lacity.org.

VINCENT P. BERTONI, AICP
Director of Planning



JACK CHIANG
Associate Zoning Administrator

JC:VS:ML:mr

cc: Councilmember Harris-Dawson
Eighth Council District
Adjoining Property Owners