

ASSOCIATE ZONING ADMINISTRATORS

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

CITY OF LOS ANGELES
CALIFORNIA



ERIC GARCETTI
MAYOR

LOS ANGELES DEPARTMENT
OF CITY PLANNING
EXECUTIVE OFFICES

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DIRECTOR

SHANA M.M. BONSTIN
DEPUTY DIRECTOR

ARTHI L. VARMA, AICP
DEPUTY DIRECTOR

LISA M. WEBBER, AICP
DEPUTY DIRECTOR
planning.lacity.org

MEMORANDUM

Date: June 16, 2022

From: Jack Chiang, Associate Zoning Administrator, Department of City Planning

To: Office of City Clerk; Attention: Roberto Mejia, Chief Legislative Analyst

Subject: CF-22-0443; Report to City Clerk on the recommended modification and recommendation to the appeal of Case No. DIR-1993-36-RV-PA3-1A.

Council File No. 22-0443, is an appeal to City Council for a Revocation/Nuisance Abatement action under Department City Planning Case No. DIR-1993-36-RV-PA3-1A. The case matter is a condition compliance Plan Approval review of a liquor store formerly called Tom's Liquor. The Department of City Planning issued a determination on March 16, 2022. The business operator appealed the Department decision, and the matter is scheduled for the Planning Land Use Committee hearing on June 21, 2022.

The Planning staff has reviewed the appeal and the Department of City Planning recommended the Planning Land Use Committee to consider a modification of Condition No. 28, and also amend a recommendation condition to the California State Department of Alcoholic Beverage Control for consideration. The modification is necessary because the City only regulates the zoning and the land use and does not engage in regulating the sales of alcohol as the State Alcoholic Beverage Control is the assigned agency of regulating alcoholic beverage sales.

The Planning staff recommends the Planning Land Use Committee to modify Condition No. 28 and adopt the following revision:

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. The operator shall submit this copy of this decision to the California State Department of Alcoholic Beverage Control.~~

Secondly, the Planning staff also recommends the Planning Land Use Committee to adopt and amend the following requirement and the language in its entirety into Council decision and the DIR-1993-36-RV-PA3 report to the California Department of Alcoholic Beverage Control in the following:

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

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

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

- 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.