



# EAST LOS ANGELES AREA PLANNING COMMISSION

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

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## LETTER OF DETERMINATION

Mailing Date: **JAN 05 2021**

Case No. ZA-2020-981-CUB-1A

CEQA: ENV-2020-982-CE

Plan Area: Northeast Los Angeles

Council District: 14 – de León

**Project Site:** 4878-4884 North Eagle Rock Boulevard

**Applicant:** Maggie Mackay, Vidiots Foundation  
Representative: Sarah Houghton, three6ixty

**Appellant:** Greg Merideth, The Eagle Rock Association (TERA)

At its meeting of **December 9, 2020**, the East Los Angeles Area Planning Commission took the actions below in conjunction with the approval of the following project:

The sale and dispensing of beer and wine for on-site consumption in conjunction with a 10,672 square foot existing motion picture theater and associated retail space with 271 seats, live entertainment and hours of operation from 11:00 a.m. to 1:00 a.m. daily in the [Q]C4-1XL Zone in lieu of the otherwise restricted hours of operation from 7:00 a.m. to 11:00 p.m. as restricted by Commercial Corner Development Standards.

1. **Determined**, based on the whole of the administrative record, the Project is exempt from CEQA pursuant to CEQA Guidelines, Section 15301, and that there is no substantial evidence demonstrating that an exceptions to a categorical exemption pursuant to CEQA Guidelines Section 15300.2, applies;
2. **Granted** the appeal in part; **denied** the appeal in part;
3. **Sustained** the Zoning Administrator's determination dated September 8, 2020, to approve pursuant to Section 12.24 W.1 of the Los Angeles Municipal Code (LAMC), a Conditional Use Permit to allow the sale and dispensing of beer and wine for the on-site consumption in conjunction with an existing Motion Picture Theater and retail store in the C4 Zone;
4. **Adopted** the modified attached Conditions of Approval; and
5. **Adopted** the amended attached Findings.

This action was taken by the following vote:

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

Vote: **4 - 0**

*Etta Armstrong*

Etta Armstrong, Commission Executive Assistant I  
East Los Angeles Area Planning Commission

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

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

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

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

Attachments: Modified Conditions of Approval, Amended Findings, Interim Appeal Procedure

c: Estineh Mailian, Chief Zoning Administrator  
Michelle Carter, City Planning Associate

**CONDITIONS OF APPROVAL**

*(As modified by the East Los Angeles Area Planning Commission on December 9, 2020)*

1. All other use, height and area regulations of the Municipal Code and all other applicable government/regulatory agencies shall be strictly complied with in the development and use of the property, except as such regulations are herein specifically varied or required.
2. The use and development of the property shall be in substantial conformance with the plot plan and floor plan submitted with the application and marked Exhibit "A", except as may be revised as a result of this action.
3. The authorized use shall be conducted at all times with due regard for the character of the surrounding district, and the right is reserved to the Zoning Administrator to impose additional corrective Conditions, if, in the Administrator's opinion, such Conditions are proven necessary for the protection of persons in the neighborhood or occupants of adjacent property.
4. All graffiti on the site shall be removed or painted over to match the color of the surface to which it is applied within 24 hours of its occurrence.
5. A copy of the first page of this grant and all Conditions and/or any subsequent appeal of this grant and its resultant Conditions and/or letters of clarification shall be printed on the building plans submitted to the Department of City Planning and the Department of Building and Safety for purposes of having a building permit issued at any time during the term of this grant.
6. Prior to the effectuation of this grant, a covenant acknowledging and agreeing to comply with all the terms and conditions established herein shall be recorded in the County Recorder's Office. The agreement (standard master covenant and agreement form CP-6770) shall run with the land and shall be binding on any subsequent owners, heirs or assigns. The agreement with the conditions attached must be submitted to the Department of City Planning for approval before being recorded. After recordation, a certified copy bearing the Recorder's number and date shall be provided for inclusion in case file.
7. Authorized herein is the sale and dispensing of beer and wine for on-site consumption within a 10,672 square foot existing Motion Picture Theater and associated retail space. The grant shall be subject to the following limitations:
  - a. The hours of operation shall be limited to 11:00 a.m. to 1:00 a.m. daily.
  - b. Indoor seating shall be limited to a maximum of 271 seats within the theater. The number of seats shall not exceed the maximum allowable occupant load as determined by the Department of Building and Safety.
  - c. No sale or dispensing of beer and wine shall occur within the retail space.
8. After hour use shall be prohibited, except routine clean-up. This includes but is not limited

to private or promotional events, special events, excluding any activities which are issued film permits by the City.

9. The applicant shall file a Plan Approval application no sooner than 24 months but within 36 months from the operational date of this determination. The operational date of this determination shall be identified and confirmed by the Department of City Planning. The Plan Approval application shall be subject to filing fees established by the Los Angeles Municipal Code Section 19.01-E. A public hearing shall be conducted subject to notification requirements established by the Los Angeles Municipal Code Section 12.24-D. The purpose of the Plan Approval is to review the effectiveness of, and compliance with the express terms of the Condition(s) of this grant. Upon review of the effectiveness of and compliance with the conditions, the Zoning Administrator may modify such conditions, delete, or add new ones as appropriate and require a subsequent plan approval, as necessary, and reserves the right to conduct this public hearing for nuisance abatement/revocation purposes.
10. Live entertainment shall be limited to performers utilizing acoustic instruments, comedians, and the like with limited amplification. No more than 5 band members may perform at one time. Performances shall be limited to three (3) days each month and shall be conducted entirely within the theater. No entertainment of any kind is permitted outside of the theater.
11. **Cafe and Entertainment Permit.** A Cafe and Entertainment Permit shall be obtained from the Los Angeles Police Commission. A copy shall be submitted to the Department of City Planning for inclusion in the case file.
12. Any music, sound or noise including amplified or acoustic music which is under control of the applicant shall not constitute a violation of Sections 112.06 or 116.01 of the Los Angeles Municipal Code (Citywide Noise Ordinance) and shall not be audible beyond the subject premises. At any time during the term of the grant a City inspector may visit the site during operating hours to measure the noise levels using a calibrated decibel/sound level meter. If, upon inspection, it is found that the noise level exceeds those allowed by the Citywide Noise Ordinance, the owner/operator will be notified and will be required to modify or, eliminate the source of the noise or retain an acoustical engineer to recommend, design and implement noise control measures within property such as, noise barriers, sound absorbers or buffer zones.
13. **STAR/LEAD/RBS Training.** Within the first six months of operation, all employees involved with the sale of alcohol shall enroll in the Los Angeles Police Department "Standardized Training for Alcohol Retailers" (STAR) or Department of Alcoholic Beverage Control "Licensee Education on Alcohol and Drugs" (LEAD) training program or the Responsible Beverage Service (RBS) Training Program. Upon completion of such training, the applicant shall request the Police Department or Department of Alcohol Beverage Control to issue a letter identifying which employees completed the training. STAR or LEAD or RBS training shall be conducted for all new hires within three months of their employment.

14. An electronic age verification device shall be purchased and retained on the premises to determine the age of any individual attempting to purchase alcoholic beverages and shall be installed on at each point-of-sales location. This device shall be maintained in operational condition and all employees shall be instructed in its use.
15. A camera surveillance system shall be installed and operating at all times to monitor the interior, entrance, exits and exterior areas, in front of and around the premises. Recordings shall be maintained for a minimum period of 30 days and are intended for use by the Los Angeles Police Department.
16. Security Plan. The security plan must be reviewed and approved by the Police Department. The approved security plan will be maintained by the Department of City Planning and be made be available to the Police Department and the Department of Building and Safety for the purpose of verification or inspections. The plan shall include but not be limited to recommending the number of security personnel, their operations, the need to include security monitoring during late night exiting of patrons of the theater to usher them to parking facilities, and positioning of security personnel in and around the premise.
17. Theater staff shall be on duty to monitor and usher the exiting of patrons to remind them to be quiet while accessing their cars during the hours of 7:00 p.m. to one-half hour after closing time.–Staff shall regularly patrol the area under the control of the establishment including the block face of Eagle Rock Boulevard between Yosemite Avenue and Addison Way to prevent loitering or undesirable activity by persons around the premises.
18. The operator shall attend periodic meetings with the LAPD, the Council Office, and community members to discuss ongoing operations, recent complaints, and shall make revisions to operational procedures in order to address issues to the satisfaction of the LAPD.
19. Signs shall be posted at the exit to remind patrons leaving to “Please be respectful of neighbors and quietly walk to your vehicle.”
20. Only the front door shall be used for patron access. All other doors shall be equipped on the inside with an automatic locking device and shall be kept closed at all times, other than to permit access for deliveries, trash removal, and emergency access.
21. All exterior portions of the site shall be adequately illuminated in the evening so as to make discernible the faces and clothing of persons utilizing the space. Lighting shall be directed onto the site without being disruptive to persons on adjacent properties.
22. The exterior windows and glass doors of the store shall be maintained substantially free of signs and other materials from the ground to at least 6 feet in height above the ground so as to permit surveillance into the store by Police and/or private security.

23. There shall be no disc jockey, topless entertainment, male or female performers or fashion shows. Any background music or other recorded ambient music shall not be audible beyond the area under the control of the applicant.
24. There shall be no pool tables, coin-operated games, or video machines permitted on the premises at any time.
25. No employee or agent shall be permitted to accept money or any other thing of value from a customer for the purpose of sitting or otherwise spending time with customers while in the premises, nor shall the licensee(s) provide, permit, or make available, either gratuitous or for compensation, male or female patrons who act as escorts, companions or guests of and for the customers.
26. At least one on-duty manager with authority over the activities within the facility shall be on the premises during business hours. 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 subject premises and the facility to discourage illegal and criminal activities 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 and truancy occur.
27. No conditional use for dancing has been requested or approved herein. Dancing is prohibited.
28. Lighting shall be installed in all areas within the business in conformance with the Los Angeles Municipal Code. The lighting shall be such that it renders all objects and persons clearly visible within the establishment.
29. Loitering is prohibited on or around these premises or the area under the control of the applicant. "No Loitering or Public Drinking" signs shall be posted in and outside of the subject facility.
30. The applicant shall be responsible for maintaining free of litter the area adjacent to the premises over which they have control, including the sidewalk in front of the establishment and the pedestrian route to any associated parking facility for which the applicant has contracted with.
31. The business operator and/or the operators shall comply with California Labor Code Section 6404.5(c) which prohibits the smoking of tobacco or any non-tobacco substance, including from electronic smoking devices, within any place of employment.
32. Parking shall be provided in conformance to the L.A.M.C. including parking attendants pursuant to Section 12.21-A,5(h) for the approved tandem parking. No variance from the parking requirements has been granted herein.

- 33. **[REMOVED]**
- 34. Valet parking may be provided to theater patrons. If valet parking is provided, the availability of said validated parking and the location of said parking shall be made known to the public via a posting of the information at readily visible locations on the premises and on the theater website.
- 35. **[REMOVED]**
- 36. **[REMOVED]**
- 37. **[REMOVED]**
- 38. Any passenger loading shall be limited to be along Eagle Rock Boulevard which shall also apply to any valet service, rideshare service, or personal vehicles. The passenger loading station shall be reviewed by the Department of Transportation. The applicant will, in good faith, work with DOT to establish a white curb loading zone along Eagle Rock Boulevard.
- 39. Valet service shall not utilize any local streets for the parking of vehicles at any time.
- 40. The applicant shall prepare and implement an incentive program to encourage employees to walk, bike, use public transit or carpool to work. Said program may include but not be limited to: subsidies for public transit and installation of bike racks. A copy of the program shall be submitted to the Development Services Center for inclusion in the file.
- 41. The applicant shall utilize social media, webpages, or other media to provide travel information to the restaurant. Such information shall promote the use of alternate travel means to automotive transportation (walk, bike, public transit, rideshare/service, or carpool). For any patrons desiring to drive a personal vehicle to the venue, parking information must direct them to either use the valet service or park on surface streets within commercial streets (i.e. Eagle Rock Boulevard). Further, patrons shall be notified that parking unlawfully within the public street will be subject to being ticketed and their vehicles may be towed.
- 42. All deliveries shall be made on Eagle Rock Boulevard. No loading or unloading of deliveries shall be permitted along Yosemite Drive.
- 43. Trash pick-up, compacting, loading and unloading and receiving activities shall be limited to 8 a.m. to 6 p.m. Monday through Friday and 10 a.m. to 4 p.m. on Saturday. No deliveries or trash pick-up shall occur on Sunday. Deliveries and trash pick-up shall be coordinated with vendors and trash companies so that these activities are not conducted within one-hour of the start time of Eagle Rock Elementary School or within one hour of the end time of regular school hours.

44. The outside disposal of glass bottles and containers shall only occur between the hours of 8:00 a.m. and 5:00 p.m. daily."
45. **[REMOVED]**
46. The premises shall not be leased or rented to outside promoters or to any third parties for private parties or special events. The applicant/operator may host private parties or events where a fixed number of customers is predetermined and does not exceed the seating capacity or maximum occupancy approved by the Fire Department. The conduct of the business during any private parties shall be under the direct control of the business owner/operator and restaurant management staff shall be present during private parties. The person responsible for the private party or event shall be provided with a copy of the conditions of this grant and the language below or similar language shall be included in the contract related to any private party or event.
47. A copy of the conditions of this letter of determination, business permit and insurance information shall be retained on the premises at all times and produced upon request by the Police Department, the Department of Building and Safety or the State Department of Alcoholic Beverage Control
48. **Complaint Log.** Prior to the utilization of this grant, a telephone number and email address shall be provided for complaints or concerns from the community regarding the operation. The phone number and email address shall be posted at the following locations:
- a. Entry, visible to pedestrians
  - b. Customer service desk, front desk or near the reception area.
- Complaints shall be responded to within 24-hours. The applicant shall maintain a log of all calls and emails, detailing: (1) date complaint received; (2) nature of complaint, and (3) the manner in which the complaint was resolved.
49. **MVIP – Monitoring Verification and Inspection Program.** Prior to the effectuation of this grant, fees required per LAMC Section 19.01-E, 3 for Monitoring of Conditional Use Permits and Inspection and Field Compliance Review of Operations shall be paid to the City.
- a. Within 24 months from the beginning of operations or issuance of a Certificate of Occupancy, a City inspector will conduct a site visit to assess compliance with, or violations of, any of the conditions of this grant. Observations and results of said inspection will be documented and included in the administrative file.
  - b. The owner and operator shall be notified of the deficiency or violation and required to correct or eliminate the deficiency or violation. Multiple or continued documented violations or Orders to Comply issued by the Department of Building and Safety which are not addressed within the time prescribed, may result in additional corrective conditions imposed by the Zoning Administrator.



50. Should there be a change in the ownership and/or the operator of the business, the property owner and the business owner or operator shall provide the prospective new property owner and the business owner/operator with a copy of the conditions of this action prior to the legal acquisition of the property and/or the business. Evidence that a copy of this determination including the conditions required herewith has been provided to the prospective owner/operator shall be submitted to the Department of City Planning in a letter from the new operator indicating the date that the new operator/management began and attesting to the receipt of this approval and its conditions. The new operator shall submit this letter to the Department of City Planning within 30-days of the beginning day of his/her new operation of the establishment along with any proposed modifications to the existing the floor plan, seating arrangement or number of seats of the new operation.
51. At any time during the period of validity of this grant, if it is determined that the 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 Zoning Administrator reserves the right to require that the owner or operator file a Plan Approval application together with associated fees. 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 Zoning Administrator may modify, add or delete conditions, and if warranted, reserves the right to conduct this public hearing for nuisance abatement/revocation purposes.
52. **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.

### **FINDINGS**

*(As amended by the East Los Angeles Area Planning Commission on December 9, 2020)*

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

The subject property is comprised of one (1) lot measuring approximately 10,380 square feet (0.24 acres) with a Neighborhood Commercial land use designation in the [Q]C4-1XL Zone. The site has a street frontages along Eagle Rock Boulevard and Yosemite Drive. The subject site is located with the Northeast Los Angeles Community Plan Area, and the East Los Angeles State Enterprise Zone.

The existing motion picture theater and retail will provide a service to the community and provide an ancillary amenity. There are no requests to change the existing physical structure of the building. Interior tenant improvements are proposed to ensure that the building remains compatible with the existing use of the site. The applicant has received conditional use approval from the East Los Angeles Area Planning Commission on appeal to allow the sale and dispensing of beer and wine for on-site consumption in conjunction with a 10,672 square foot existing motion picture theater and associated retail space with 271 seats, live entertainment and hours of operation from 11:00 a.m. to 1:00 a.m. daily in the [Q]C4-1XL Zone in lieu of the otherwise restricted hours of operation from 7:00 a.m. to 11:00 p.m. as restricted by Commercial Corner Development Standards.

The surrounding properties are zoned [Q]C4-1XL and R1-1 and are developed with mostly commercial and residential uses. The use of the subject site in conjunction with the conditions imposed to address the operational and alcohol-related conduct will assure that the service of a beer and wine on the subject site will continue to be beneficial to the community.

The use of the subject site in conjunction with the conditions that are imposed by this grant will address the operational and alcohol-related conduct and issues to assure that the service of beer and wine for on-site consumption will not be detrimental to the community. Therefore, as conditioned the approval of the request will enhance the built environment in the surrounding neighborhood by revitalizing an underutilized commercial building and will perform a function or provide a service that is essential or beneficial to the community.

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

The property is located at the southeast corner of Eagle Rock Boulevard and Yosemite Drive and is improved with a one-story and mezzanine commercial building and includes the existing motion picture theater and retail space. The project site is currently vacant and was previously used to conduct religious services. The project's location, size, height, operations and other significant features are compatible with the adjacent properties and surrounding land uses. The project is consistent with the uses envisioned in the Northeast Los Angeles Community Plan. The subject site is an existing 10,672 square foot motion

picture theater and associated retail space with 271 seats. The applicant seeks the authorization for the on-site sale, dispensing and consumption of beer and wine along with live entertainment and hours of operation from 11:00 a.m. to 1:00 a.m. daily in the [Q]C4-1XL Zone in lieu of the otherwise restricted hours of operation from 7:00 a.m. to 11:00 p.m. as restricted by Commercial Corner Development Standards.

The surrounding area is developed with improved streets, residential and commercial uses. The adjacent properties to the north across Yosemite Drive are zoned [Q]C4-1XL and are developed with commercial uses. The abutting property to the south are zoned [Q]C4-1XL and is improved with commercial uses. The property to the west across Eagle Rock Boulevard is zoned [Q]C4-1XL and is developed with an Auto Zone location. The abutting properties to the east are zoned R1-1 and are improved with residential uses.

During the public process, correspondence received include three letters of opposition from neighboring residents that raised the following points:

- the site does not have adequate parking and patrons will park in the neighborhood
- drunken behavior from patrons accessing their cars will disturb residents at night.
- consider the implementation of permit parking in the community (not within the authority of the Zoning Administrator)
- This area of Eagle Rock Boulevard typically does not have businesses open into the late hours.
- the movie house and bar are adjacent to residential, the concern is that large groups of people would be release at one time to infiltrate the neighborhood.
- patrons will be drawn regionally as well as locally that will result in additionally traffic impacts that would be inconclusive to meet the required findings.
- Although the project proposed no change of use and will benefit from the same parking standards (requiring no additional parking) the new requests of additional operating hours and alcohol service will also draw regional traffic compounded by newer development since the theater was constructed.
- Any clean-up by staff or question and answer programming that can be held within permitted hours.
- Any minor improvements to parking or transportation alternatives will not be enough to offset the traffic and parking impacts.

There were also nine (9) communications in support of the requests and project from the Eagle Rock Neighborhood Council, The Eagle Rock Association (TERA), Eagle Rock Chamber of Commerce, Collaborative Eagle Rock Beautiful, and other stakeholders. Further, between July 28 and August 27, 2020, a total of one hundred twenty-nine (128) email communications were received from individuals that expressed support for the project as proposed. These were primarily derivatives of a form letter expressing support for beer and wine sales, the hours of operation, and the revitalization of the site, and identifies the community benefits of the operation including inviting community engagement. These were also filled with personalized notations. Approximately 121 individuals indicated that they were Eagle Rock residents or business stakeholders who are based within 2 miles of the subject property. Some indicated that they would use alternative means of transit instead of a personal vehicle to travel to the theater.

The Zoning Administrator's public hearing was held on July 28, 2020 at 9:30 a.m. telephonically in conformity with the Governor's Executive Order N-29-20 (March 17, 2020) and due to concerns over COVID-19. There were approximately six persons who called in to attend – the applicant, her representative, and stakeholders in the area. Sara Houghton of Three6ixty, representative for Maggie Mackay, the applicant, indicated that the applicant was present and commented that the location of the site as being within an Enterprise Zone. There will be no change to the site or the area. The original use of the property was the Eagle Theater. The site is served by local bus routes. The project will include renovations and upgrades with ADA updates. The theater will remain and the retail space will become the video store and accessories sales area. Beer and wine will only be served in the lobby of the theater space. The theater will include live entertainment - small music performances, comedy, etcetera. There will be screening of motion pictures. There is a mezzanine in the floor plan where the projection room exists. Vidiots has a long history in the LA region with its Santa Monica store. Maggie Mackay, the applicant, indicated immense support from their patrons in the local area and expressed support from the TERA organization.

Jeremy Rubenstein, representing his daughter who owns property on Addison Way expressed the following concerns of the project's intensity. The diner on Eagle Rock Boulevard "Abby's" just a smaller diner already causes issues in the area. The project would impact substantially more with 300+ people that will be arriving and exiting at one time. They will be arriving in cars that will have no place to park. Large groups talking would be detrimental to peace in the neighborhood. At one time in history, it did have a theater operating, but now there is the alcohol proposed. Mr. Rubenstein intends to file an appeal on the case. He requests that the application be amended to no later than closing at 11 PM.

Maria Sanchez, a resident of Eagle Rock, agreed with Mr. Rubenstein's points. There is no parking on site and no street parking for residents who will compete for theater parking. She intends to appeal if the case is approved.

Sara Houghton and Maggie Mackay responded to the issues raised. They clarified that existing building meets the parking regulations of the LAMC. There is a mix of neighborhood services established along Eagle Rock Boulevard. The scale and use are not the same as other theaters such as multi-cinemas. This will not be a bar. Video retail use is compatible with the neighborhood. The Neighborhood Council was supportive of the project. The Vidiots organization is community oriented with work spaces, matinee and video retail store that will be compatible with the neighborhood. 'We are mindful of noise as a resident of the neighborhood as well. Parking in relation to the seating has been reduced from the former 300 theater seats to 271 seats. If there are movie star events, it would be well coordinated with parking arranged. Beer and wine sale is supportive of business and retail uses as an accessory function. We have the support of residents along Yosemite Drive and around the neighborhood. We will expect bike and rideshare transportation.

The Zoning Administrator indicated his longtime familiarity with the neighborhood and the availability of public transit. There are 2 local bus routes at this intersection and very limited off-site parking. A striped bike lane now exists on Eagle Rock Boulevard. The shopping center across the street has been further built-out over the years with additional retail stores and may no longer have available parking. Other hours of worship or schools nearby may provide some parking availability that can be used with valet services. Bike parking could support alternative means of transit as well. With Vidiots being potentially a region-wide draw, not all patrons will be local individuals. Therefore, there is a concern over the extensive use of automobile use and the very real need for parking and valet service.

The Zoning Administrator closed the public hearing and indicated no immediate disposition. He further stated that the case will be held on advisement for a period of 30 days pending the receipt of additional transit information beyond local bus and rideshare. This will include bike, off-site parking, valet services. The Administrator also sought entertainment schedule including typical hours of movie and activity schedule, LAPD's recommendations, Council District recommendations, and the Neighborhood Council letter. Following the public hearing, the applicant provided information including volunteered operating conditions, a revised site plan with 10 proposed bike parking spaces on- and off-site, a letter from a parking management company to secure 75 parking off-site spaces, an invoice from a security company for installation cameras and security services were noted, and Vidiots background and programming information. The information was added to the record and was found to be extremely helpful to determining the operating characteristic of the proposal.

Upon reviewing the administrative record, it was determined that the reduced seating from approximately 300 theater seats to 271 will slightly diminish the intensity that was originally approved. Residential, educational, and houses of worship are identified as sensitive uses for which enhanced conditions may be implemented to address any adverse effects. Bike parking is also established to accommodate bike transit in support of the Mobility 2035 Plan and its designated bike path existing in adjacent Eagle Rock Boulevard. Further, a drop-off station will be established on Eagle Rock Boulevard to accommodate valet and rideshare services. Valets shall not be able to park cars in adjacent residential streets. An employee incentive program is also required to reduce vehicle trips among theater and retail staff.

Because of overarching issues raised by residential stakeholders, including inadequate parking, patrons will park in the neighborhood, drunken behavior from patrons accessing their cars, late hours of operation, release of large crowds into the neighborhood, regional traffic/parking, and other impacts of alcohol, a condition requiring a Plan Approval review after 3 years of operation is imposed to review the effectiveness of the conditions and provide accountability. Within that time, the standard Monitoring Verification Program review, and a required Security Plan will provide some oversight to the operational characteristics of the grant as well.

The Zoning Administrator reviewed the record and determined that the proposal will meet the required findings necessary to grant the conditional use. Additionally, the deviation in hours of operation will also conform to the necessary findings of Commercial Corner/Mini-Shopping Center. Based on standard practices and policy established by the City Department of Transportation, ingress to and egress from the project will not create a traffic hazard or cause significant traffic congestion or disruption of vehicular circulation on adjacent streets. There is no additional floor area that will be created by new construction nor change of use. Therefore, the project will not trigger any additional vehicle trips or cause any change to existing circulation patterns. Secondly, project approval will not create or add to a detrimental concentration of Mini-Shopping Centers or Commercial Corner Developments in the vicinity of the proposed project. The center and Motion Picture Theater and associated retail space is existing and will continue with the existing use. No additional floor area or modifications will impact the status quo of the neighborhood. The request for an expansion of hours beyond 7am to 11pm is within the scope of existing operations of other uses in the immediate vicinity and its operation has been conditioned to coexist in the neighborhood.

Following the Zoning Administrator's determination letter, the decision was appealed by an aggrieved party. The appeal contested several conditions of approval relating to limiting hours, security, and valet parking. At the December 9, 2020 East Los Angeles Area Planning Commission, the Commission heard the case on appeal. The applicant requested to amend their operating hours, to remove the requirement that security services be state licensed, and to loosen restrictions on valet parking. The Commission ruled in favor of the appellant to extend operating hours from 11:00 am to 11:00 pm Monday through Thursday and 11:00 am and 1:00 am Saturday and Sunday to 11:00 am to 1:00 daily. In addition, the requirement to have state licensed security was revised to allow licensed security guards and theater staff to perform security functions for the theater. Lastly, the Commission omitted a condition that the theater provide off-site parking and loosened the requirement for valet services.

Consideration has been given to the operating hours and the availability of the on-site sale and consumption of beer and wine. The conditional approval of this grant provides alleviation for any potential effects from the sale and on-site consumption of beer and wine within the existing motion picture theater. The retail space is not able to sell or dispense alcohol. Further, beer and wine will primarily be consumed within the theater. These operating conditions in conjunction with the Monitoring, Verification and Inspection Program (MViP) will allow the City the opportunity to continue to monitor and verify compliance of the conditions imposed by this grant. Therefore, as conditioned, the sale and dispensing of beer and wine for on-site consumption within the existing theater/retail will not adversely affect or further degrade the adjacent properties, the surrounding neighborhood, or the public health, welfare, and safety of the community.

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

The City of Los Angeles' General Plan consists of elements that dictates policies and provides the regulatory environment in managing the City and addressing environmental concerns. The resulting policies from these Elements are translated into requirements of Los Angeles Municipal Code. The Land Use Element of the City's General Plan divides

the City into Community Plans. The subject site is located in the Northeast Los Angeles Community Plan area. The project site is also located within the East Los Angeles State Enterprise Zone, the Urban Agriculture Incentive Zone and a Liquefaction area. The authorization of the sale, dispensing on-site consumption of beer and wine within an existing motion picture theater and retail shop will allow for a neighborhood serving use that will provide a variety of options for the community.

The Northeast Los Angeles Community Plan Map designates the property for Neighborhood Commercial land use with the corresponding zones of C1, C1.5, P, C2, C4, and RAS3. The land use designation and surrounding zoning permits for a variety of mixed commercial and residential uses including the existing motion picture theater and retail. The conditional authorization for the sale and dispensing of beer and wine for on-site consumption within the subject site is allowed through the approval of the Zoning Administrator, subject to certain findings. The purpose of the Northeast Los Angeles Community Plan is to promote an arrangement of land uses, streets, and services that will encourage and contribute to the economic, social and physical health, safety, welfare, and convenience of the people who live and work in the community and improve the function, design, and economic vitality of the commercial districts. The use of the subject site is consistent with and aids to advance the following goals and policies identified in the Northeast Los Angeles Community Plan.

*Goal 2                                      Strong and competitive commercial areas that suitably serve the needs of the community and attracts customers from outside the Plan area by satisfying market demand and maximizing convenience and accessibility while preserving unique historic and cultural identities of each commercial area.*

*Objective 2-1                              To conserve and strengthen potentially viable commercial areas in order to stimulate and revitalize existing businesses and create opportunities for appropriate new commercial development.*

The request is also consistent with Chapter 7 of the General Plan Framework Element objectives:

*Objective 7.2                              Establish a balance of land uses that provides for commercial and industrial development which meets the needs of local residents, sustains economic growth, and assures maximum feasible environmental quality.*

The proposed use of the subject site conforms with the intent, purpose, and provisions of the General Plan and the Northeast Los Angeles Community Plan and advances the goals and policies of the plan by offering a service that addresses the needs of the community and attracts customers from outside the Plan area by providing a convenient and accessible service.

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

The subject site is zoned for commercial uses and is currently vacant. The revitalization of the site will enhance the use of an underutilized existing motion picture theater with



associated retail and will provide the community with access to a wide range of film events and education programs, as well as proposed live entertainment events including comedy shows, podcast recordings and musical performances. The retail component of the project will allow for the availability of a video collection for rent. The availability of amenities including the on-site consumption of beer and wine encourages the success of a local businesses, including theaters.

The Zoning Administrator and East Los Angeles Area Planning Commission have imposed conditions to safeguard peaceful enjoyment and quality of life for neighboring properties. The applicant is responsible for assuring that the operation will not adversely affect or detract from the quality of life for adjoining residents, property owners, and businesses. The conditions will also ensure that the subject site does not become a nuisance to the community. The grant requires the operator to provide contact information that will allow the community to communicate complaints and concerns due to the operations of the subject site to the operator. Additionally, the applicant is required to monitor both patron and employee conduct on the premises and within the parking areas under their control to assure behavior that does not adversely affect or detract from the quality of life for adjoining residents, property owners, and businesses. Further, a Plan Approval Review is required at 3 years of operation. The request is for the continued on-site sale and dispensing of beer and wine in conjunction with the operation of the existing motion picture theater and retail space will not adversely affect the welfare of the pertinent community.

The subject grant has been conditioned to address the potential impacts that may arise from the sale and dispensing of alcoholic beverages for on-site consumption. The conditions imposed by this grant require responsible management and deterrents against underage drinking. It also requires employees who are involved in the sale and dispensing of alcohol, undergo training provided by the Los Angeles Police Department "Standardized Training for Alcohol Retailers" (STAR) or Department of Alcoholic Beverage Control "Licensee Education on Alcohol and Drugs" (LEAD) training program or the Responsible Beverage Service (RBS) Training Program. There are no requests for patron dancing. Moreover, the imposed conditions will ensure that the use is desirable to the public convenience and general welfare of local patrons, tourists and residents within close proximity and not adversely affect the welfare of the pertinent community.

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

According to the California Department of Alcoholic Beverage Control ("ABC") licensing criteria, four (4) on-sale and two (2) off-sale alcoholic beverage licenses are allocated to subject Census Tract No. 1816.00. Data provided on the ABC's License Query System

indicate that there are five (5) existing on-site and one (1) existing off-site alcoholic beverage licenses within the subject Census Tract.

According to statistics provided by the Los Angeles Police Department Northeast Division, which has jurisdiction over the subject property within Crime Reporting District No. 1117, a total of 92 crimes were reported in 2019 (56 Part I Crimes and 36 Part II Arrests) compared to the citywide average of 170 crimes and arrests and the high crime average of 204 crimes for 2019. In 2019, there were (0) Forgery/Counterfeit, (0) Fraud/Embezzlement, (0) Receive Stolen Property, (0) Weapon (carry/poss), (4) Prostitution/Allied, (1) Sex (except rape/prst), (1) Against Family/Child (6) Narcotics, (0) Liquor Law, (1) Public Drunkenness, (0) Disturbing the Peace, (0) Disorderly Conduct, (0) Gambling, and (1) DWI related arrests. These numbers do not reflect the total number of arrests in the subject reporting district over the accountable year. Arrests for this calendar year may reflect crimes reported in previous years.

Concentration can be undue when the addition of a license will negatively impact a neighborhood. Concentration is not undue when the approval of a license does not negatively impact an area, but rather such license benefits the public welfare and convenience. The subject site is located within a Census Tract where the number of active on-site ABC licenses exceeds ABC guidelines. The motion picture theater and retail is not expected to result in any criminal or nuisance activity or excessive alcohol consumption, especially with oversight from security personnel. The project will not adversely affect community welfare because the existing theater and retail space is a desirable use in an area designated for commercial uses. In this case, theater and retail space will provide a convenience and positive amenity to workers, visitors, and residents in the immediate neighborhood and, as conditioned, will not negatively impact the area.

The subject site is also located along a heavily traveled commercial corridor. Additionally, the data regarding the crime rate in the reporting district where the subject site is located is lower than those rates identified for the City. Additionally, there was no evidence submitted for the record establishing any link between the subject site and the area's crime rate. The approval of the request will allow the applicant to provide a convenient amenity to the community, and visitors. The conditions of this grant will ensure the use remains compatible with surrounding uses. Therefore, approval of the request will not contribute to the area's crime and will not result in an undue concentration of licensed premises.

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

The subject property is zoned for commercial use and will continue to be utilized as such with the approval of this request. The following sensitive uses were observed within a 1,000-foot radius of the subject property:

- Single family and Multiple family Residential Uses
- Pathways Child Development Center, 4824 N. Eagle Rock Boulevard
- Filipino Community Presbyterian Church, 4848 N. Eagle Rock Boulevard
- Westminster Child Center Preschool, 4848 N. Eagle Rock Boulevard
- The Universal Church, 4884 Eagle Rock Boulevard
- TLC Church, 5000 N. Eagle Rock Boulevard
- Eagle Rock Elementary School, 2025 Fair Park Avenue
- The Vine Church, 2057 Fair Park Avenue
- St. Barnabas Episcopal Church, 2109 Chickasaw Avenue
- Eagle Rock Branch Public Library, 5027 Casper Avenue
- St. Dominic's Catholic Church, 2002 Merton Avenue
- Eagle Rock Seventh-Day Adventist Church, 2322 Merton Avenue

The project is consistent with the zoning and in keeping with the existing uses adjacent to theater and retail space. The surrounding neighborhood is characterized with a mixture of commercial and residential uses. The Zoning Administrator has considered the distance of the subject establishment from the sensitive and residential uses. The conditions of the grant address safety, noise and security to protect the health, safety and welfare of the community. The availability of beer and wine for on-site consumption within the theater and retail space will contribute to the development of the community and will serve residents and the local employees as well as visitors. There was no substantial evidence presented indicating that the approval of the conditional use would be detrimental to any of these sensitive uses. Statements were made that expressed concerns of noise disturbances from drunken behavior; however, conditions of approval were imposed to address these concerns. Therefore, as conditioned, the project will not detrimentally affect residentially zoned properties or any other sensitive uses in the area.

#### **ADDITIONAL MANDATORY FINDING**

7. The National Flood Insurance Program rate maps, which are a part of the Flood Hazard Management Specific Plan adopted by the City Council by Ordinance No. 172,081, have been reviewed and it has been determined that this project is not located within a Flood Zone.

# COVID-19 UPDATE

## Interim Appeal Filing Procedures

April 17, 2020



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

### OPTION 1: NON-APPLICANT ONLINE APPEAL PORTAL

([planning.lacity.org/development-services/appeal-application-online](https://planning.lacity.org/development-services/appeal-application-online))

Non-applicant appeals of entitlements can now be submitted online and payment can be made by credit card. The online appeal portal allows non-applicants to fill out and submit the appeal application directly to the Development Services Center. Once the appeal is accepted, the portal allows for appellants to submit a credit card payment, enabling the appeal and payment to be submitted entirely electronically. *Note: a 2.7% credit card processing service fee will be charged. CEQA appeals, Building and Safety appeals (LAMC Section 12.26K), and Applicant appeals can only be filed using Option 2 or 3 below.*

### OPTION 2: EMAIL PLUS US MAIL

This is a two-step process including pre-clearance by email of the appeal application followed by application and payment submittal via US Mail.

#### STEP 1:

Email [planning.figcounter@lacity.org](mailto:planning.figcounter@lacity.org) with the subject line: **"Request to File Appeal."** In the email body provide:

- The case number
- Appellant contact information (name, email, telephone number)

Include as individual attachments to the email:

- Copy of Signed Appeal Application
- Justification
- Letter of Determination

City Planning staff will contact the appellant to confirm whether the appeal is complete and meets the applicable provisions of the Los Angeles Municipal Code (LAMC). The appellant will then be instructed to move forward with Step 2.

#### STEP 2:

Send appeal application via US Mail, postmarked no later than the last day of the appeal period. The package shall include:

- Original Appeal Application (wet signatures),
- Copy of email correspondence with City Planning staff (from Step 1)
- Appeal fee, check payable to the City of Los Angeles (\$109.47 for an aggrieved party, not the Project Applicant.)
- **Mail the appeal application to:**  
Department City Planning - Metro DSC  
201 N. Figueroa St., 4th Floor  
Los Angeles, CA 90012

City Planning staff will email and mail the appellant with a receipt for payment. Note: only the original application, email, and check need to be sent via US Mail. This ensures a standard envelope with standard postage is sufficient, and no trip to the Post Office is necessary. **Steps 1 and 2 must both be completed. An email alone is not sufficient to satisfy appeal requirements.**

### OPTION 3: DROP OFF AT DSC

An appellant may continue to submit an appeal application and payment at any of the three Development Services Center (DSC) locations. City Planning established drop off areas at the DSCs with physical boxes where appellants can drop off appeal applications and payment. **Drop off areas are monitored in secure locations outside the three DSCs (Metro/ Downtown, Van Nuys, and West Los Angeles) and are available during regular business hours.**

City Planning staff will follow up with the appellant via email and phone to:

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