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(213) 978-1300

**CITY OF LOS ANGELES**  
CALIFORNIA



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**EXECUTIVE OFFICES**

200 N. SPRING STREET, ROOM 525  
LOS ANGELES, CA 90012-4801

VINCENT P. BERTONI, AICP  
DIRECTOR  
(213) 978-1271

KEVIN J. KELLER, AICP  
EXECUTIVE OFFICER  
(213) 978-1272

LISA M. WEBBER, AICP  
DEPUTY DIRECTOR  
(213) 978-1274

<http://planning.lacity.org>

November 30, 2017

Los Angeles City Council  
c/o Office of the City Clerk  
City Hall, Room 395  
Los Angeles, California 90012

Attention: PLUM Committee

Dear Honorable Members:

**REPORT BACK REGARDING OPEN FOR BUSINESS INITIATIVES; CF 16-0738,  
CF 16-0738 S1-S5)**

On June 22, 2016, Councilmember Mitch O'Farrell introduced six motions to help address challenges that small businesses often experience while establishing and maintaining themselves in the City of Los Angeles. Of particular concern to the small business community are fees and processing times for renewals of Conditional Use Permits for service of alcohol, identifying a dedicated point of contact for each department, burdensome State and City codes, difficulty establishing water and power services, and challenges in navigating the City's entitlement and permitting stages. The Councilman's overall intent is to provide City services in a manner that will assist applicants in opening their businesses and facilitate a better partnership between small business owners and the City family.

The motions requested a report back on the following: 1) What is the Department of City Planning (DCP) doing to eliminate the burden or impact businesses face when renewing their Conditional Use Permits for the sale/service of alcohol; 2) How is DCP working to improve inter-departmental communications to better service small businesses in the food industry; 3) How can the City remove unnecessary regulations which can make compliance for small businesses, particularly in older buildings, impractical; 4) How can the Department of Water and Power (DWP) better coordinate the delivery of services to these establishments so that it does not cause delays to the opening of the new businesses; 5) How can DCP adjust the entitlement fees so they do not create a financial burden on small businesses, and lastly; 6) How can the City provide case management services to small businesses to better guide and navigate them through the various City agency requirements.

The motions identify specific concerns which the Department of City Planning and the Department of Building and Safety (DBS) have been working towards addressing through various improvements to policies and operational procedures. Most of these improvements are also embedded within the Partnership Plan between DCP and DBS.

The following are the responses to the various motions.

**Motion CF 16-0738**

1. **Instructed DCP**, in consultation with the City Attorney, to prepare a report on the feasibility of an ordinance that could enable the DCP to administratively renew Conditional Use Permits every five to ten years, if business operators have been deemed good operators, as defined by the report.
2. **Instructed DCP**, with the assistance of the Chief Legislative Analyst, to review case studies of other municipal jurisdictions where set standards for permit renewals are being implemented and what criteria and terms of renewal are being implemented.

Prior to this motion, the practice for approving Conditional Use for Beverage (CUB) applications included imposing a condition for a term limit on the grant, usually five to seven years, with a requirement to file for a new CUB approval upon the expiration of the grant term. The new CUB process requirements allowed DCP to hold another public hearing and review how an operator had been complying with the previous conditions of approval and address any other concerns from the community. During the public hearing, a Zoning Administrator would hear from the applicant, community, and council office and determine whether to grant a new CUB or not, and if so, which conditions of approval may need to be updated. This processing time could take between six months to a year. The direct fees would be over \$8,000, not counting any consultant fees. While this approach addressed issues with a few bad operators, it also required all the good operators to go through a costly and time consuming process only to be approved and granted the exact conditions they started with originally. This approach assumed all operators need a high level of review from the start, and didn't afford a good operator an alternative for review.

To address this concern, DCP has eliminated the placement of default term limits on CUB grants, while reserving the option of a term limit if it is deemed necessary, especially if the grant also includes a Conditional Use for Entertainment (CUX). This new practice has been in place since the beginning of 2017, and since then, only one CUB has had a term grant placed on its entitlement. However, it should be noted that although the prescribed term limit has been eliminated, the Zoning Administrator still has the authority, and reserves the right, to recall an operator for a hearing and impose additional conditions if necessary. This authority is embedded in an administration condition, placed on all cases, which states:

"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.”

This change in policy, deleting term grants on CUBs, is consistent with common practice for many other local jurisdictions. The cities of Pasadena and San Fernando do not have term limits on their alcohol approvals. However, both jurisdictions still reserve the right to revoke an approval if a business is out of compliance. The City of Beverly Hills does not regulate alcohol at a local level. They rely on the State Department of Alcoholic Beverage Control (ABC) to issue and renew permits for operators in their city.

The process for approving CUB/CUX grants also includes the imposition of a new monitoring and inspection condition through the Monitoring, Verification, Inspection Program (MViP). MViP focuses on tracking and monitoring all operators, in order to identify bad operators and to initiate a process to encourage further compliance. This condition refers all new CUB/CUX approvals to the Department of Building and Safety's Proactive Code Enforcement section, for an inspection within the first six months from the effective date of the grant, or beginning of operations, to verify compliance with the conditions of approval. If a project is compliant, no further action is necessary. However, violations of conditions of approval could warrant citations, imposition of additional corrective conditions through a public hearing process, and ultimately revoking of the grant.

Through the MViP, DCP will put in place a central depository where the Los Angeles Police Department (LAPD) can directly forward electronic copies of complaints or citations. The proactive code enforcement inspection by DBS, records of complaints or citations by LAPD, and any other violations reported through DBS, will allow the Department of City Planning to assess the frequency and severity of violations and non-compliance. While all non-compliance issues will be corrected, depending on the frequency, severity or type of non-compliance, the operator may be required to come back for a new public hearing. The Department of City Planning will also work with the LAPD Vice Division to develop a criteria for evaluating the varying degrees of non-compliance. A challenge will be to develop a consistent level of measurement to determine how to respond to violations. Issues which may seem tolerable in one part of the City may not be acceptable in another part of the City. Typical violations identified by Vice include: deviation from operating hours; occupancy violations; adult entertainment when prohibited; sound violations; dancing when prohibited; etc. Developing a criteria on the frequency and severity of violations will enable DCP to use a uniform standard in responding to complaints in all communities and allocate the appropriate number of resources to correct the problems.

These changes allow good operators to continue their operation without having to re-apply for a new entitlement, which can result in saving thousands of dollars in application and consultant fees, saving months of processing time, and eliminating any potential disruptions in service.

**Motion CF 16-0738 S1**

Instructed the Department of City Planning (DCP) to report on the way the DCP currently fits into the Department of Building and Safety (DBS) Restaurant and Hospitality Express Program (RHEP), and the benefits of designating a Planning Case Manager that would be responsible for expediting restaurant uses Citywide, working in consultation with the DBS, Los Angeles Fire Department, and the Department of Public Works, Bureaus of Sanitation and Engineering, as well as any other departments and agencies as necessary, including but not limited to the Los Angeles County Department of Public Health-Environmental Health Division and the State of California Department of Alcoholic Beverage Control.

Conditional Use Permits for all restaurants serving alcohol (CUB) or for dancing/entertainment (CUX) are issued by a Zoning Administrator, within the Department of City Planning. This is a discretionary review process which includes a public hearing and any approval of such request is granted with a series of conditions to ensure any impacts to the community are addressed or kept to a minimum (if categorically exempt no mitigation is necessary). Since this discretionary process can take several months, and the outcome is not pre-determined, most restaurant operators wait for an approval prior to initiating a building permit and working with other departments such as Building and Safety, Fire, Public Works - Bureau of Sanitation, and Public Works – Bureau of Engineering to name a few. This linear approach could sometimes lead an applicant down a path of obtaining a CUB approval only to learn later that the project is still not in compliance with other zoning regulations, such as additional parking being required, upon Building and Safety's review of the building permit. This late hit could add significant costs to a project and delay the business opening by many months.

In collaboration with the Department of City Planning, Fire Department, Bureau of Sanitation, and the Los Angeles County Department of Public Health Environmental Health Division, the Restaurant and Hospitality Express Program (RHEP) helps facilitate the approval process for all Food Service Establishments (FSE). Work is facilitated through multiple agencies as a Case Management Network. The goal of the RHEP is to make the permitting and inspection process more efficient, enabling new Food Service Establishments to open on time and on budget. It acts to streamline the approval process, to provide assistance to restaurateurs, their design and construction teams, and to enhance the coordination in permitting and regulating FSEs.

During the design stage, Restaurant and Hospitality Express Program (RHEP) can coordinate a meeting with relevant agencies to clarify code requirements, solve foreseeable problems and help determine types of plans required. During the permitting stage, (RHEP) can help resolve unforeseeable issues and conflicts related to all involved agencies. During the construction stage, the (RHEP) can establish construction sequence, identify problems and find solutions, and assist in scheduling final inspections to achieve targeted opening date. And finally, during the completion stage, the FSECM can assist in closing out the job, acquiring the Certificate of Occupancy and getting approvals from other relevant agencies.

Mirroring and complementing the services of RHEP, the Department of City Planning has established the Beverage Entertainment Streamlined Program (BEST), which focuses on improving the discretionary approval process by streamlining the project review, providing a central point of contact for these types of applications and providing the customer with early notification of potential issues to facilitate the decision-making process for all those involved. DCP's BEST program works with RHEP and the City's Case Management Network during the design and permitting phases to ensure that proper entitlements are requested during the CUB/CUX review and any issues that come up during the building permit phase are resolved in a timely manner.

The BEST program has established a distinct unit with staff that have expertise in CUB/CUX applications and who work in collaboration with RHEP, the Police Department, the California Department of Alcoholic Beverage Control (ABC) and other relevant departments. The staff provides pre-application reviews of projects prior to filing for entitlements and tries to identify any potential red flags they may encounter. In addition, DCP has standard operational conditions which are applied to all CUB applications, giving businesses predictability as to what operational or physical conditions may be applied so they can incorporate them into their design earlier.

The Department of City Planning has also worked to improve coordination with the Department of Building and Safety during the approval process to ensure both departments are interpreting the zoning code and relevant conditions of approval consistently. This coordination will be important as we move into the implementation of the Monitoring, Inspection and Verification Program (MViP). This program will ensure that operational conditions are observed in order to mitigate any potential effects on the surrounding communities. Within several months of commencing business operations, the Department of Building and Safety will perform a site visit to verify compliance with the conditions of approval. DCP is working with the Department of Building and Safety to ensure that the conditions are clear and understandable. As a result, regardless of which inspector is sent to verify the conditions, the conditions will all be interpreted the same way.

The staff in the BEST unit also works with ABC to ensure the release of an applicant's liquor license occurs within a week of the CUP approval becoming final. Although the staff in the BEST program are not called case managers, they do provide the coordination services of a case manager. In addition, staff works with a sense of urgency as they are keenly aware that an applicant is trying to open for business and that every day counts.

### **Motion CF 16-0738 S2**

Instructed the Department of Building and Safety, with the assistance of the Department of City Planning, and in consultation with the City Attorney, to report on the Los Angeles Municipal Code requirements that present unique challenges to small business owners trying to open their doors within existing buildings and the City's ability to amend those requirements vis-a-vis State and County laws.

In order to best respond to some of the constraints of the building and zoning codes, both DCP and DBS agree that a survey of small business owners, designers, and restaurant hospitality industry representatives is necessary in order to identify what code regulations create the most challenges. These regulations will then be reviewed to see if they can be modified to make things easier for small businesses. There are some health, fire, and life safety code provisions which are the minimum regulations adopted by the State, who in turn mandates that local jurisdictions enforce them. The State does give authority to the local jurisdiction to amend the code regulations so long as the amendments are more restrictive. The Department of City Planning will provide assistance to the Department of Building and Safety for any zoning code amendments as identified and as necessary.

### **Motion CF 16-0738 S3**

Instructed the Department of Water and Power to report on the feasibility of dedicating staff to work with the Department of Building and Safety and the Department of City Planning to expedite water and power service for small businesses upon receiving appropriate clearances to commence operations.

Report to be provided by the Department of Water and Power.

### **Motion CF 16-0738 S4**

Instructed the Department of City Planning, and the Department of Building and Safety, with the assistance of the City Administrative Officer, and in consultation with the City Attorney, to prepare a report with recommendations to revise the Conditional Use Permit fees that would be applicable to small business operations.

The fees associated with obtaining a CUB entitlement and permits, coupled with the cost of a liquor license, are a significant factor for a small business and can become a major investment of money and time. The Councilman's request to evaluate the reduction of the cost of a CUB relative to the size of the establishment will require further study. The necessary steps in processing a CUB are the same regardless of the size of the project. Public notifications, public hearings by a Zoning Administrator, the preparation of determination letters, etc.-- have fixed costs and require approximately the same staff hours for both larger and smaller projects. However, as part of a future fee restudy, DCP can work with a consultant to consider breaking out small businesses into a separate category and developing a processing path which could possibly require fewer steps. This would enable the Department to recommend a fee change that is lower and yet meets our full cost recovery goals. In the meantime, the Department of City Planning has already implemented significant policies in response to Motion CF 16-0738, discussed above, to eliminate the grant term and the need for an applicant to renew their CUB. This change in policy alone, can save a substantial amount of money in filing and processing fees, as well as time, over the life of a business.

In addition, DCP has worked with ABC to look at other ways to streamline processes and to allow businesses to open sooner. This collaboration between the staff of the BEST program and the ABC agents, has ensured that only a couple of days pass between the

CUB effective date and the release of the liquor license. This allows an applicant to open for business as soon as possible.

Another recently introduced Council Motion (CF-17-0981, Krekorian – Blumenfield) has suggested the establishment of an over the counter process for CUBs for restaurants which meet certain criteria such as no live music being played. This is a new approach to alcohol sales in the City and would require significant analysis and discussion among decision makers. However, from a procedural standpoint this would be a big step towards reducing the fees and time involved in obtaining approval to sell or serve alcohol at restaurants throughout the City.

### **Motion CF 16-0738 S5**

Instruct the Department of Building and Safety (DBS) to report on the existing process for permitting and entitling new small businesses and developments, and how best to streamline this process, including the need for and feasibility of expanding the DBS Development Services Case Management Services to small projects.

Currently the LADBS Concierge Services Program, within the Citywide Development Services Case Management Division, has dedicated and experienced case managers located at both the Metro and Van Nuys Development Services Centers. The Concierge Service Program was designed for small projects and small businesses to be able to assist and guide business owners with any questions and problems that may arise, including laying out a plan to navigate the permitting process. As part of the program, concierge case managers assist projects by conducting feasibility studies tailored to customers' projects, troubleshooting, identifying conflicts, and resolving any issues upfront in order to mitigate any delays further in the process.

The full range of services available to all small business, that are currently offered through the Concierge Program include:

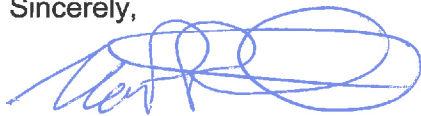
- Providing a "Road Map" to customers who are unfamiliar with the permitting process
- Walking around the Development Services Centers and actively engaging with customers to determine if further assistance can be provided
- Providing in-depth service for customers that are referred by City staff
- Providing customers with information on what to expect as they wait in line at the counters
- Preparing customers with the correct information, forms and applications needed for the counters they are waiting for
- Establishing and maintaining a network of supervisors from all development permitting counters to ensure customers will be referred to the correct place
- Providing information to customers with orders to comply issued by LADBS Code Enforcement and Housing Community Investment Department (HCID).

In addition, DBS's Restaurant and Hospitality Express Program (RHEP) has dedicated and experienced case managers available to assist small business restaurant owners to navigate the various stages of the development process, as discussed in more detail above, under Motion CF 16-0738 S1. The RHEP case managers work closely with DCP's BEST staff when a project needs a discretionary approval, as well as other City agencies, reducing time delays and streamlining the overall entitlement and permitting process.

### **Conclusion**

While the City as a whole has taken great steps to improve the business climate within Los Angeles for many industries, the motions above seek to provide greater improvements for small businesses including the Food and Beverage Service sector. The City Council identified specific industry concerns and has directed us to address them. The creation and joint efforts of the Restaurant and Hospitality Express Program by the Department of Building and Safety and the Beverage and Entertainment Streamlined program by the Department of City Planning have established a more positive environment for both new entrepreneurs and established business which will make it easier for them to grow and expand throughout the City. The increased coordination between the departments has helped eliminate redundancies and confusion experienced by applicants. These motions have brought a greater awareness to our departments and have encouraged us to continually look for ways to improve our services and to recognize the importance of our customers, the citizens of Los Angeles and businesses seeking to establish themselves here.

Sincerely,



VINCENT P. BERTONI, AICP  
Director of Planning

VPB:LMW:RZD:mn

- c: Osama Younan, Deputy Superintendent of Building, Department of Building and Safety
- Catherine Nuezca Gaba, Assistant Superintendent of Building, Department of Building and Safety
- Adrienne Khorasanee, Deputy City Attorney, City Attorney