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August 21, 2019

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:

**HOLLYWOOD DISTILLERY, CF-18-0778  
5975 W. SANTA MONICA BLVD**

This letter is in reference to the Environmental Clearance, Case Nos. ENV-2017-2808-CE, for a project located at 5975 W. Santa Monica Boulevard. The case (Item No. 6) will be heard at PLUM on August 27, 2019.

The following is a summary of the case, safety information of microdistilleries, and with response to the appellant's points, and conclusion:

**Summary**

On August 10, 2018, the appellant, Susan Hunter of Save Hollywood, filed an appeal on the environmental clearance, stating reasons that do not directly pertain to the subject case, but for a Zoning Administrator's Interpretation that was issued on May 3, 2018.

Briefly, the Environmental Clearance was for a Conditional Use to permit the sale and dispensing and instructional tasting of a full line of alcoholic beverages for on-site and off-site consumption in conjunction with a tasting room within a craft distillery manufacturing operation. Conditions of approval were included as part of the grant, and two Categorical Exemptions were determined to be appropriate. The first exemption, a Class 1, Category 22 was determined appropriate because the project involves an existing facility with a conditional use request. The second exemption, a Class 5, Category 34, was determined appropriate because the project involves on-site consumption of alcohol, and was added as an additional exemption by the Central Area Planning Commission.

The appellant, Susan Hunter of Save Hollywood filed an appeal basically stating: 1) the City should not have categorized microdistillery with a microbrewery, and 2) there are dangers of a micro-distillery in less aggressive zoning due to the explosive nature of ethanol alcohol and the

site's proximity to sensitive uses. Such include the Youth Policy Institute and LAPD's Tomorrow's Future Youth Center and Santa Monica Charter School.

## **Information of Microdistilleries and the Department of City Planning**

### Case History

Prior to the filing of Case No. 2018-2807-CUB, the Chief Zoning Administrator had reviewed the floor plans and determined the operation was similar to that of a microbrewery. Since this type of operation/use was not specific in the Code, the Chief Zoning Administrator's interpretation was used and accepted to be filed.

A letter of determination was issued on January 5, 2018, granting approval of a conditional use authorizing the sale, dispensing, instructional tasting of a full line of alcoholic beverages for on- and off-site consumption in conjunction with a tasting room within a craft distillery manufacturing operation in the CM-1VL Zone.

On January 22, 2018, an appeal was filed for the entire decision.

On July 24, 2018, the Central Area Planning Commission denied the appeal, and issued a letter of decision on August 1, 2018.

### Modification to Zoning Administrator's Interpretation

In December of 2016, Los Angeles Municipal Code Section 12.21 A.2 addressed several new alcohol-related uses. Such uses included a Wine Bar, Gastropub, Cocktail Lounge, Tavern, and Microbrewery. Because these uses were interpreted to be similar to eating and drinking establishments, they were permitted in commercial zones by a Conditional Use Permit. Such zones include the R5, CR, C1, C1.5, C2, C4, C5, MR1, MR2, M2 and M3 Zones. In a Modification to a Zoning Administrator's Interpretation, Case No. ZA-2015-2348(ZAI), issued on May 3, 2018, the Interim Chief Zoning Administrator interpreted that other establishments included Microdistillery" because it is limited by its Alcoholic Beverage Control license to a maximum output of 100,000 gallons per year, and is unlike a traditional distillery which is industrial in nature and not regulated. As such, the modification allowed for a Microdistillery in the following zones: CR, C1, C1.5, C2, C4, C5, CM, MR1, MR2, M2, M3, and must meet ABC requirements.

### Examples of Microdistilleries

The subject use is not the first of its kind in the City of Los Angeles. There are many examples throughout the City of Los Angeles of microdistilleries, also referred to as "craft distilleries". Such include the following

- Greenbar Distillery, 2459 E. 8<sup>th</sup> Street
- Y.SA Inc., 1300 Factory Place, Unit 304
- Our/Los Angeles Vodka, 915 South Santa Fe
- Fog Shots, 1545 E. Washington Boulevard
- Modern Spirits LLC, 2459 E. 8<sup>th</sup> Street
- The Spirit Guild LLC, 586 Mateo Street
- Dead of Night Distillery, 2190 E. 14<sup>th</sup> Street Unit 145
- Relentless Brewing and Spirits, LLC, 2133 Colorado
- Loft & Bear Distillery, 6414 McKinley Avenue

### **Safety Information of Microdistilleries and Response to Appellant**

The Department of City Planning has received correspondence from an expertise in the craft distillery industry to respond to the safety concerns of these types of operations raised by the appellant. It is expected the industry expert will be present on the day of the August 27, 2019 PLUM meeting.

The following are responses from distillation expert, Mr. Shane Baker, Co-Founder and CEO of Ferm Solutions Inc. and Wilderness Trail Distillery. Mr. Baker serves as the distillery's Master Distiller. Ferm Solutions has served the industrial and beverage alcohol industry with analytical services, engineering, problem solving, and training. Wilderness Trail Distillery started in 2012 and produces KY Bourbon, Rye Whiskey, Rum and Vodka. In addition, he serves as an adjunct professor at the University of Kentucky in their Distilled Spirits program and has worked with hundreds of distilleries around the world to optimize their process or start up.

His communication and responses to the appellant's points are summarized as follows:

- Distilleries are safe operations when designed properly and with correct equipment. In Kentucky, the distillers follow the DISCUS regulations, which are *above both federal and state codes for alcohol production and storage. DISCUS codes as followed, allow for very safe operations with various fail safe equipment and process design compared the backwoods myths of stills blowing up and buildings being destroyed.*
- *A few of the examples the appellant cites are 180 degrees opposite of the situation with Hollywood Distillery, here are a few to speak too.*
  - Making the claim it is unlawful to distill at home due to the danger of explosions is completely false. *The reason is taxation and the TTB is clear about that. Distilled spirits are taxed heavy and highly regulated, due to its regulation they cannot allow distilled spirits at home. That would be "moonshining". Unlike beer, which isn't taxed anywhere near the same rate and you are allowed a certain amount of brewery home activity before taxes kick in. You can however get a small license and distill at home, so if it was unlawful because it's dangerous, getting a permit to do it wouldn't change that*
  - Depicting a high occurrence of distillery explosions is also false, there isn't that many per year. *The ones that do happen can ALL be traced back to an improper code or negligence in the operation but not from the operation itself. For example once fire in Texas was caused by the owners using a residential drill and blender with high proof alcohol and caused a fire, it had nothing to do with the distillery equipment.*
  - The 1960 incident again has no bearing on Hollywood's situation, they are not a large operation with 10,000 of thousands of barrels, they are a small craft operation that will have less alcohol in it than any area liquor store.
  - The Silver Trail incident was because it was not regulated and did not possess safety devices. *That distillery founder was a proclaimed real life "moonshiner" gone legal but he was still a rebel. His still was handmade by a non-asme mfg, unlike Hollywood using Vendome Copper and Brass works, a certified asme producer and with over 119 years of experience in making stills. Silver Trials still didn't possess the safety devices*

*found on any legitimate made still, such as pressure reliefs, blow down tubes, water bottles and the proper thickness of copper for the actual vessel. Silver trail also fired their Still with a live flame underneath, it was found to be just a residential cooking pot heat source with non-regulated gas and no-gas shut off device installed, because the owner did it all himself. The owner also modified the inside of his rectification column by packing it with marbles to attempt to get a increased condensing area, the problem is that when he added the marbles, he stopped up the plates. That caused the still to pressurize and without the pressure relief valve (required), the thin copper walled home made still ruptured and then exposed alcohol vapors to a live flame and ignited the still and contents. As I just outlined there was several factors that lead to the final result, had any one of those been at code, it would not have happened. Just as in Hollywood's case, their equipment and design would "never" allow that type of event to happen, it is an open system with vents, safety devices and controls that not only wouldn't allow any pressurization or potential rupture, but they are also without any live flame or ignition source as the operation using steam to produce the alcohol, not any flame or such to make a fire.*

- *The author of the objection is also incorrect that breweries are non-explosive. Breweries operate under high pressure in closed system vessels, which have and do fail and explode. Distilleries are open systems and low pressure. For example the steam in a distillery operation is low pressure 12-15psi, that means even in an event of "closed system" which can't happen with the equipment design but even if it could be closed, the system pressure would only be 12-15psi whereas the equipment is made to handle near 100psi. huge safety factor.*
- *The author attached a picture of humans and a "300 gallon still", that is really funny because that still is like 1000 gallon still. A 300 gallon still is around 48" in diameter and only 30" tall, that still shown is well over 6-7' tall and is for certain no-300 gallon still. Even if it was, that is not alarming.*
- *The author made reference to another distillery explosion. That was due to a boiler malfunction and the boiler exploded. In the City of LA you likely have thousands of boilers in businesses and maybe older homes. Boilers are not the problem, it is maintenance of boilers and I would bet the school next door might have a boiler, if the author is concerned about boilers exploding they might want to look at the school itself for proper maintenance programs with their equipment as that is a far great concern that an operating well maintained boiler.*
- *The author made reference to the Heaven Hill fire – this fire was caused by lightening at one of the largest distilleries in the US at that time. Lightening struck a warehouse and being it as built before containment codes, the fire simply flowed from one warehouse to another due to its design, which is not allowed today and the code was updated in 2010 for barreled storage.*
- *Lastly the author made references to flash points. First the flashpoint that was referenced is for pure alcohol 200 proof, a distillery doesn't make 200 proof alcohol, nor can it with conventional equipment it can only make up to 190 proof. Alcohol coming off the still will be around 60 F due to the process, this aides in calibration of the hydrometers for checking proof but also maintains a*

*very low temp to reduce or eliminate vapor at room temp operations. The alcohol storage tanks are also designed with open system that go into flame arrestors that prevent any potential ignition opportunity, so even as fresh produced alcohol is being stored for further processing, the vapor concerns are non-existent inside the operation as the tanks are properly vented outdoors and offer no opportunity of explosion.*

- *We have successful safe craft distillery operations next door to a lot of businesses across the country. They co-exist with zero issues and it might be prudent to speak to several of those businesses if you desire. Bottom line, Hollywood isn't in the backwoods on a hill side and the owners of Hollywood have spent a lot of time training in alcohol production, they purchased the best equipment in the industry and their design is following the DISCUS code principles for safety of person, environment and property.*

### **Conclusion and Staff's Responses**

What is before the PLUM Committee is the Environmental Clearance for the subject project. The operation qualifies for two categorical exemptions pursuant to CEQA Guidelines because 1) the project involves an existing facility with a conditional use request (Class 1, Category 22), and 2) the project involves on-site consumption of alcohol (Class 5, Category 34).

In addition, none of the Exceptions, as part of Article 19, Section 15300 of the CEQA Guidelines are applicable for the following reasons:

- a. Location. The site the project will not impact an environmental resource of hazardous or critical concern where designated. The site was previously utilized as 4,500 square-foot ware building and a 9-stall rear surface parking lot. The project will reuse the building for a microdistillery.
- b. Cumulative Impact. There are no successive projects of this type proposed in the area. There would be no cumulative impact.
- c. Significant Effect. There will be no activity where there is a reasonable possibility that the activity will have a significant effect on the environment due to unusual circumstance. The grant allows sales and dispensing of a full line of alcoholic beverages in conjunction with a microdistillery. In addition, there will be tastings on-site. A microdistillery is permitted in the CM zone and there are many microdistilleries throughout the City of Los Angeles. The microdistillery is regulated by ABC, and will be subject to all applicable Codes to ensure the operation is safe. In addition, the operation will also be subject to Building Code regulations and Fire Department requirements to ensure safe operations. Equipment will meet ANDSI, API, ASME, NBIC, TEMA and National Board of Boiler and Pressure Vessel Inspectors, and will be outfitted with explosion proof features such as vacuum relief valves, pressure relief valves, explosion proof pumps, and other standard equipment. The entire micro distillery will be fully automated and monitored with automatic safety shut down features built into all controllers and equipment. The project will not create a significant effect and will not be a hazard to the community.
- d. Scenic Highways. There are no impacts to a State designated Scenic Highway since no such highway is near the project site.
- e. Hazardous Waste Sites. The site is not part of any Hazardous Waste Sites. Compiled pursuant to Section 65962.5 of the Government Code.

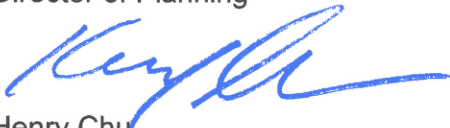
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- f. Historical Resource. The subject site does not contain any historical structures and monuments, nor will it cause a substantial adverse change in the significance of a historical resource. The project will reuse an existing building or a microdistillery.

In view of the project meeting all CEQA requirements for a Categorical Exemption and having no exceptions apply, Staff recommends the PLUM Committee deny the appeal.

Sincerely,

VINCENT P. BERTONI, AICP  
Director of Planning



Henry Chu  
Associate Zoning Administrator

VPB:HC:rm

Enclosures

Modification to Zoning Administrator's Interpretation ZA-2015-2348(ZAI)

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May 3, 2018

Department of City Planning  
Office of Zoning Administration  
Department of Building and Safety  
All Interested Parties

MODIFICATION TO  
CASE NO. ZA 2015-2348(ZAI)  
ZONING ADMINISTRATOR'S  
INTERPRETATION

Lists of Uses Permitted in Various Zones

CITYWIDE

Section 12.21 A.2. of the LAMC provides in pertinent part as follows:

2. Other Uses Determined by Administrator – The Administrator shall have the authority to determine other uses, in addition to those specifically listed in this Article, which may be permitted in each of the various zones, when in his or her judgment, such other uses are similar to and no more objectionable to the public welfare than those listed. The Zoning Administrator shall also have the authority to interpret zoning regulations when the meaning of the regulation is not clear, either in general or as it applies to a specific property or situation.

**BACKGROUND**

Pursuant to authority contained in Section 12.21 A.2 of the Los Angeles Municipal Code, the Zoning Administrator amended the Lists of Uses Permitted in Various Zones in 2016 to include new land uses determined to be similar to those specifically mentioned in the Comprehensive Zoning Plan.

In the December 2016 Use List Update, several new alcohol-related uses were added, including Wine Bar, Gastropub, Cocktail Lounge, Tavern, and Microbrewery. These uses were interpreted to be similar to eating and drinking establishments, which are permitted by a Conditional Use Permit (CUP) in commercial zones. Thus, the Use List clarified that all of these uses were to be permitted through a CUP in the R5, CR, C1, C1.5, C2, C4, C5, MR1, M1, MR2, M2, and M3 Zones.

The interpretation above also pertains to other establishments that serve alcoholic beverages on-site, such as microdistilleries. While a traditional distillery is industrial in nature, is not regulated as to output, and is permitted only in the M3 Zone, a "Microdistillery" is limited by its Alcoholic Beverage Control License to a maximum output of 100,000 gallons per year and is another alcohol-related use similar to those described above. Therefore, they shall be regulated in the same manner.

### **AMENDMENT**

The "Microdistillery" use shall be added to the Use List as follows:

Microdistillery (on-site consumption) – CUP in R5 (see ZA 2007-5927 for restrictions), CR, C1, C1.5, C2, C4, C5, CM, MR1, M1, MR2, M2, M3; must meet ABC requirements.

### **APPEAL PERIOD – EFFECTIVE DATE**

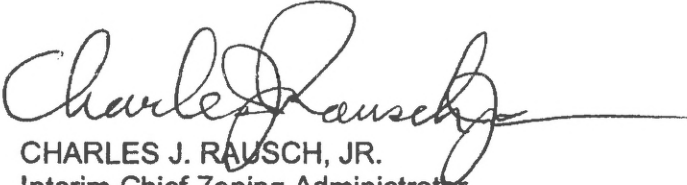
The Zoning Administrator's determination in this matter will become effective after May 18, 2018, unless an appeal therefrom is filed with the City Planning Department. It is strongly advised that appeals be filed early during the appeal period and in person so that imperfections/incompleteness may be 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:

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201 North Figueroa Street,  
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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.

  
CHARLES J. RAUSCH, JR.  
Interim Chief Zoning Administrator

CJR:TR