



CITY OF LONG BEACH

DEPARTMENT OF DEVELOPMENT SERVICES

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May 16, 2013

CHAIR and PLANNING COMMISSIONERS
City of Long Beach
California

RECOMMENDATION:

Recommend that City Council adopt amendments to the Zoning Ordinance by adding Chapter 21.57 relating to Alcohol Nuisance Abatement. (Citywide)

APPLICANT: City of Long Beach
Department of Development Services
333 West Ocean Boulevard, 5th Floor
Long Beach, CA 90802

DISCUSSION

In July 2012, the City Council requested that the Planning Commission review current zoning regulations as they relate to existing liquor stores that have Type 21 licenses (beer, wine and distilled spirits for off premises consumption); consider the feasibility of implementing performance standards and/or a Conditional Use Permit (CUP) requirement for those stores without such regulations; consider possible incentives that could be offered to existing businesses that are willing to immediately accept the imposition of appropriate regulations; and finally, that North Long Beach be established as a pilot study area for the proposed action due to its high concentration of liquor stores without CUPs.

Currently, liquor stores are permitted in commercial zoning districts, subject to a CUP. The CUP allows the City to review each application on an individual basis, and attach necessary conditions of approval to minimize the negative land use impacts associated with the use. However, many liquor stores existed prior to the adoption of the CUP provision in 1988, and therefore operate as a legal nonconforming ("grandfathered") use without specific operating conditions. Absent a CUP, the likelihood for nuisance activity increases and the City's ability to address nuisance issues is limited.

In an effort to develop an ordinance and implementation strategy that will reduce the negative land use impacts associated with liquor stores operating without CUPs, staff has researched and reviewed various models and best practices across the country and throughout California. Based on this research, and collaboration with the City Attorney's office and the Police Department, staff has developed the Alcohol Nuisance Abatement

Ordinance (ANAO). The framework of this ordinance was presented to the Planning Commission at a study session held in December 2012. Staff has met with all of the business and property owners of impacted liquor stores to inform the owners of the proposed ordinance and provide guidance on proper implementation.

The ANAO allows the City to implement meaningful and reasonable performance standards on existing legal nonconforming liquor stores. Additionally, it establishes a process to ensure continued compliance with performance standards, including the possibility of revoking the store's deemed approved status after continued noncompliance with the standards. In contrast to other tools, such as amortization, the proposed ordinance and implementation strategy is an efficient administrative process that is beneficial to both the City and business and property owners. Additionally, the amortization process is not an available tool in this context, as the sale of alcoholic beverages is considered a protected business class under the State constitution.

The proposed draft Alcohol Nuisance Abatement Ordinance (ANAO) (Exhibit A – ANAO) implements the following core objectives:

- The ANAO eliminates the “legal nonconforming” status of existing liquor store activities and automatically grants these activities “deemed approved” status, contingent on compliance with performance standards set forth in the ANAO.
- The proposed performance standards are intended to reduce or eliminate nuisance behavior through reasonable and meaningful operating and aesthetics standards.
- The performance standards cannot regulate the sale of alcohol, including container size, number of units per sale, or hours of operation.
- Non-compliance can result in the addition of or modification of performance standards or revocation of deemed approved status.
- Revocation will not necessarily or immediately result in the loss of a business license; rather, the business would be required to obtain a CUP in order to sell alcohol.

Owners of deemed approved liquor stores will be required to fully comply with the proposed performance standards within 90 days of the effective date of the ordinance. Staff will work with business and/or property owners impacted by the ordinance to ensure that full compliance is achieved in a reasonable and timely manner. If a violation of the performance standards is found, through a complaint, inspection, or other fashion, the City will notify the business and/or property owner with a notice of violation. The business and/or property owner will be required to correct the violation, or take reasonable action to begin correction within 10 days of receiving notification of the violation.

In the event that a violation isn't corrected in the prescribed timeframe, the Site Plan Review Committee will have the authority to conduct a due process hearing with the business and/or property owner and possibly add or modify performance standards. All actions taken by the Site Plan Review Committee will be appealable to the Planning Commission. Further, the Planning Commission will have the authority to revoke the

deemed approved status of any liquor store that is found to continually violate the provisions of the proposed ordinance.

Staff is recommending that initial implementation of the ordinance begin north of Del Amo Boulevard, extending to the City's northern boundary, between the City's east and west boundaries. This area deserves special attention for a variety of factors including the total number (36) of businesses involved in the sale of liquor in the area, the proportion of those liquor stores operating without a CUP or other regulations, the residential nature of the area, and the nuisance activity and behavior associated with liquor stores in this location. Additionally, residents of the 8th and 9th Council districts have requested that the City actively work to address problems associated with liquor stores in their neighborhoods as displayed in the attached map (Exhibit B – Liquor Store Map).

PUBLIC HEARING NOTICE

Public hearing notices were distributed on April 26, 2013. No responses were received as of the date of preparation of this report.

ENVIRONMENTAL REVIEW

In accordance with the California Environmental Quality Act (CEQA), a Categorical Exemption (CE-1313) has been prepared for this ordinance amendment (Exhibit C – Categorical Exemption).

Respectfully submitted,


DEREK BURNHAM *for*
PLANNING ADMINISTRATOR


AMY J. BODEK, AICP *for*
DIRECTOR OF DEVELOPMENT SERVICES

AJB:DB:BB

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Attachments: Exhibit A – Draft Ordinance
Exhibit B – Liquor Store Map
Exhibit C – Categorical Exemption