



BUSINESS DEPARTMENT - Business Services
Facilities Development & Planning Branch
Donald K. Allen Building Services Facility
2425 Webster Ave., Long Beach, CA 90810
(562) 997-7550 Fax (562) 595-8644

April 11, 2011

City Council
City of Long Beach
333 West Ocean Blvd.
Long Beach, California 90802

**Re: Application for Premise-to-Premise Transfer of an Alcoholic Beverage Control
(ABC) License for 4th Street Vine; City Council Agenda Item R-21, 04/12/11**

Dear Council Members,

On behalf of the Long Beach Unified School District, the purpose of this correspondence is to reiterate the District's previous concerns related to the conditional use permit and ABC license for this business as outlined in correspondence submitted to City staff dated October 18, 2010 and July 26, 2010 (attached).

Limited alcohol sales were originally established for 4th Street Vine in a 2008 CUP. The conditions were imposed, because the site is within 120 feet of LBUSD's Burbank Elementary School (ES) located at 501 Junipero Avenue. At that time, the District's understanding was that this was a retail business and not a bar. Significant modifications to the 2008 CUP conditions -- including an increase in alcohol consumption and expanded hours -- were approved in May 2010 by the City through an "administrative" process.

The proposed premise-to-premise ABC license transfer would expand "On Sale Beer and Wine" alcohol sales at 4th Street Vine from a minimal back area of the premise to now include the entire premise, including the front and patio areas. The purpose of this letter is to reiterate the District's concerns over the operation of a bar, expansion of alcohol sales and consumption, and expanded hours in close proximity to Burbank ES.

If you should have any questions or concerns please do not hesitate contact my office at (562) 997-7500.

Sincerely,

Carri M. Matsumoto
LBUSD Executive Director
Facilities Development and Planning

cc: Chris Steinhauser – LBUSD Superintendent of Schools

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| Mary Stanton District 1 Member | Felton Williams District 2 President | John McGinnis District 3 Member | Jon Meyer District 4 Member | David Barton District 5 Vice President |
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LONG BEACH UNIFIED SCHOOL DISTRICT

Office of the Chief Business and Financial Officer
1515 Hughes Way, CA 90810-1839
(562) 997-8189 FAX (562) 997-8284

October 18, 2010

Patrick H. West
City Manager
City of Long Beach
333 West Ocean Blvd.
Long Beach, California 90802

Re: 4th Street Vine /Modification to an Approved Permit Revised Conditions of Approval (Case No. 0803-11)

Dear Mr. West, *Pat*

On behalf of the Long Beach Unified School District, the purpose of this correspondence is to request that the City of Long Beach reconsider the Modification to an Approved Permit Revised Conditions of Approval (Case No. 0803-11) which modified the conditions to the Conditional Use Permit (CUP) for 4th Street Vine, located at 2142 East 4th Street. The District is requesting that the Conditions of Approval be formally reviewed by the Planning Commission and/or City Council as recent action taken by the Zoning Officer in July 2010 has significantly modified the original conditions of the CUP which is contrary to the original CUP approved back in July 2008. In 2008, the District had sent correspondence to the City expressing our concerns over the close proximity of the proposed business to Luther Burbank Elementary School (located 120 feet away, across the street). The District had understood the 4th Street Vine business to be primarily a retail wine establishment. But with the recent modifications to the conditions, the business will be allowed to increase the amount of patrons and the volume of alcoholic consumption on site.

The changes made by the Zoning Officer were significant and inappropriate. The original conditions restricted the hours of operation to Thursday, Friday and Saturday from 5:00 p.m. to 9:00 p.m. and Sunday from 2:00 p.m. to 6:00 p.m., including, restrictions on the number of people per tasting event, the amount of alcohol consumed per patron, and the amount of the service area was limited. As a matter of fact, these original conditions were used as the justification to waive the "finding" that the use shall not be located within five hundred feet of a public school. The changes to the conditions allow unlimited consumption of wine, rather than limited wine tasting, and greatly expand the area in which wine can be consumed. The result is that a business established for retailing wine by the bottle with a small area for wine tasting will now have a license for a large wine/beer bar, directly across the street from an elementary school.

While it is true that certain changes to conditional use permit conditions are covered under the administration exception that allows a minor adjustment (to a special use or conditional use permit, per City of Long Beach Municipal Code Section 21.25.205 subsection B) in this particular case, the District does not believe the conditions that were modified and removed were, in fact, minor, and accordingly were not dealt with under the appropriate section of the City of Long Beach Municipal Code.

Re: 4th Street Vine /Modification to an Approved Permit Revised Conditions of Approval (Case No. 0803-11), p.2

For your reference, please note that the exception provided, in Subsection B of Section 21.25.205 of the City of Long Beach Municipal Code, that allows for minor changes to be approved by the Zoning Officer, expressly does not apply to the sale of alcoholic beverages. The District believes the Zoning Officer mistakenly assumed that this exception gave him the authority to make substantial adjustments to the amount of alcohol that could be consumed. The adjustments that are at issue here should be addressed through the process established in Chapters 21.25 and 21.52 of the City of Long Beach Municipal Code, not through the process used for minor exceptions under City of Long Beach Municipal Code Section 21.25.205 subsection B. Accordingly, the 4th Street Vine applicant's requested adjustments to the CUP conditions, if dealt with appropriately, must be granted through the CUP process which necessitates a legislative act by the City's Planning Commission.

Furthermore, the District was recently contacted by the owner/applicant of the 4th Street Vine business with a request to negotiate the terms of its operating conditions as they pertain to the modification to the Alcoholic Beverage Control license. The District does not believe such negotiations are appropriate, as the District does not have legal jurisdiction to negotiate with the applicant for approval. Consequently, because the office of Alcoholic Beverage Control relies on the City's approval as the legal authority, we believe that further consideration of the applicant's request lies within the granting agency's jurisdiction.

The District respectfully requests that the City reconsider the modification of the CUP conditions and rescind the Zoning Officer's actions by requiring the Planning Commission's review so that the changes can go through the proper legal and review procedures as required by the City of Long Beach Municipal Code.

If you should have any questions or concerns please do not hesitate to contact me at (562) 997-8189.

Sincerely,



Kim Stallings

cc: Long Beach Unified School District Board of Trustees
Chris Steinhauser – Long Beach Unified School District Superintendent of Schools
Carri Matsumoto – LBUSD Executive Director Facilities
Amy Bodek, City of Long Beach Development Services Director



BUSINESS DEPARTMENT - Business Services
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July 26, 2010

Via Fax and US Mail

Annie Chu
Licensing Representative
Department of Alcoholic Beverage Control
3950 Paramount Blvd., Ste 250
Lakewood, CA 90712

**RE: Proposed changes to conditions for liquor-related business and
ABC License for 2142 E 4th Street, Long Beach, CA 90814**

Dear Ms. Chu,

The Long Beach Unified School District (District) wants to thank you for the notification of the proposed changes to the licensed conditions for the sale of alcoholic beverages at 2124 E 4th Street. We appreciate the opportunity to comment on the proposed changes which include the removal of conditions that limit the number of patrons and amount of alcohol consumed, the extension of time for the consumption of alcoholic beverages, and the expansion of square footage inside and an outside patio area for the consumption of alcohol. This proposed location is within **120 feet** of the District's Burbank Elementary School located at 501 Junipero Avenue, Long Beach, CA 90814. The Burbank Elementary school students remain on-site after school hours in a Long Beach Unified School District after school care program that runs until 5:30pm with 100 students currently enrolled, and a City of Long Beach Parks and Recreation program called WRAP that runs until 6:00 pm with 137 students currently enrolled.

The California Business and Professions Code 23789(b) conveys the Department Alcohol Beverage Control (ABC) the exclusive power to license and regulate alcohol sales proposed near existing schools. The ABC is authorized to refuse the issuance of retail licenses for premises located within six hundred (**600 feet**) of schools. The ABC generally refuses to issue either on-sale or off-sale licenses for premises within 600 feet of a school site when it is shown that the issuance of the license would be contrary to the public welfare and morals. ABC may also impose restrictions or conditions with regard to the hours of sales, advertising, and/or entertainment that could alleviate objections to the operation.

Further, the project is subject to the City of Long Beach Zoning Code Section 21.52.201, which provides that all alcoholic beverage sales use requiring a Conditional Use Permit (CUP) shall not be located within five hundred feet (**500 feet**) of a public school except for

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| President | Vice President | Member | Member | Member |

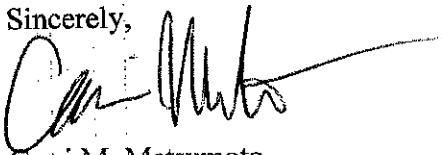
(1) locations in the greater downtown area; or (2) stores of more than twenty thousand (20,000) square feet of floor area and also providing fresh fruit, vegetables, and meat in addition to canned goods (Ord. C-7032 § 42, 1992; Ord. C-6533 § 1 (part), 1988).

The District is concerned with inappropriate activities that may occur in or around a business that would be in conflict with the operation of a school and/or interfere with students as they travel to and from school. The conditions that were imposed on both the CUP and the ABC license were a result of the District's objection to the ABC license that was approved in 2008 for this business. We hope that consideration is given to the potential impacts, from the proposed changes, on the Burbank Elementary School. The District was unaware of the changes to the conditions in the CUP that the City of Long Beach approved in May 2010. The District was disappointed in 2008 when several of the required findings for a CUP (per City Code) were waived in the original CUP application process for this business, and is again disappointed that the City of Long Beach staff did not notify the District that changes to the CUP conditions were being considered.

The safety of our students is our utmost concern. Due to the significance of the changes being considered, as stated above and in the letter received by us on July 12, 2010 from the ABC, the District is forced to oppose the requested changes for the business at 2124 E. 4th Street, Long Beach CA. The District believes that the close proximity of such a business to a school site is a safety issue and a land use incompatibility. The District requests that the original conditions imposed on the approved ABC license remain.

Thank you for your assistance with this matter. Should you have any questions or concerns, please do not hesitate to contact me at (562) 997-7550.

Sincerely,



Carri M. Matsumoto
Executive Director, Facilities Development & Planning

CM:sa

Cc: Chris Steinhauser, Long Beach Unified School District Superintendent of Schools
Kim Stallings, Long Beach Unified School District Chief Business and Financial Officer
Reginald Harrison, City of Long Beach Interim Director Developmental Services
Facilities Branch File