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November 16, 2012

Patricia Bergougnoux (A)  
Bon Vivant Market and Café, Inc.  
1652 Cherokee Avenue  
Los Angeles, CA 90028

Leona F. Gardner, Trustee (O)  
2006 Leona F. Gardner Revocable Trust  
3365 Longwood Avenue  
Boulder, Colorado 80305

Michael Gonzales (R)  
Gonzales Law Group  
555 West 5th Street, 31st Floor  
Los Angeles, CA 90013

CASE NO. ZA 2012-2005(CUB)  
CONDITIONAL USE  
3155 Glendale Boulevard  
Northeast Los Angeles Planning Area  
Zone : [Q]C4-1XL  
D. M. : 154.5A207  
C. D. : 13  
CEQA : ENV 2012-2006-CE  
Legal Description: Lots 41 and 42,  
Block A, Tract No. 5006

Pursuant to Los Angeles Municipal Code Section 12.24-W, 1, I hereby APPROVE:

a conditional use to permit the sale and dispensing of a full line of alcoholic beverages for on-site consumption; and

a conditional use to permit the sale of beer and wine for off-site consumption, in conjunction with an existing market and café,

upon the following additional terms and conditions:

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 the floor plan stamp dated November 1, 2012 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.



AN EQUAL EMPLOYMENT OPPORTUNITY – AFFIRMATIVE ACTION EMPLOYER



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 Development Services Center and the Department of Building and Safety for purposes of having a building permit issued.
6. The applicant shall defend, indemnify and hold harmless the City, its agents, officers, or employees from any claim, action, or proceeding against the City or its agents, officers, or employees to attack, set aside, void or annul this approval which action is brought within the applicable limitation period. The City shall promptly notify the applicant of any claim, action, or proceeding and the City shall cooperate fully in the defense. If the City fails to promptly notify the applicant of any claim action or proceeding, or if the City fails to cooperate fully in the defense, the applicant shall not thereafter be responsible to defend, indemnify, or hold harmless the City.
7. The market and restaurant shall be limited to 4,220 square feet of floor area and 88 patron seats that include 8 seats on an outdoor patio within the public right-of-way along Glendale Boulevard as shown on Exhibit "A".

The patron seats above shall not exceed the maximum capacity/occupancy permitted by the Los Angeles Fire Department and the Department of Building and Safety.

8. Any use or development within the public right-of-way shall require approval of a revocable permit by the Department of Public Works subject to the following.
  - a. A maximum of 8 seats are permitted within the public right-of-way; the number of seats and tables may be reduced if pedestrian access within the public right-of-way is obstructed, subject to final determination by the responsible City agencies.
  - b. A barrier with a minimum height of 3 feet 6 inches shall be provided on an outdoor patio in order to separate the dining area and pedestrian traffic within the public right-of-way. The barrier shall be landscaped with planters or flower pots in order to shield the view of the patio area.
9. The hours of operation shall be limited to 9 a.m. to 2 a.m. daily.

After hours use of the facility, other than for routine clean-up and maintenance, is not permitted. The operating hours shall be posted at the entrance of the restaurant and on the menu.
10. Amplified music inside the restaurant shall be limited to background music at a low volume such that any music playing shall not be audible beyond the subject premises.

No amplified music or any type of entertainment shall be permitted on the outdoor patio.

No public address system, no paging system shall be installed or maintained on the subject property, which are audible outside the building in which it is located.

Noise generated on-site shall not exceed the decibel levels stated in the Citywide Noise Ordinance.

11. Should there be a change in the ownership of the property/the restaurant and/or the business operator, the property owner and the business owner/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. Prior to the closing of escrow for a potential change in the ownership of the property/business owner or operator, evidence showing that a copy of this determination including the conditions required herewith has been provided to the prospective owner/operator, shall be submitted to the satisfaction of the Zoning Administrator.
12. The privileges granted for the sale of a full line of alcoholic beverages for on-site consumption and the sale of beer and wine for off-site consumption shall be for a period of **five years** from the effective date of the subject grant, after which a new grant should be "approved" to continue the sale of alcohol. The new entitlement application shall include condition compliance review with supporting documents showing that the required conditions have been complied with.

Further, at any time during the period of validity of this grant, should documented evidence be submitted showing a violation 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 the applicant to file for a plan approval application together with associated fees, the purpose of which will be to hold a public hearing to review the applicant's compliance with and the effectiveness of these conditions. The applicant/petitioner(s) shall provide a summary and supporting documentation of how compliance with each condition of the grant has been attained. Upon this review the Zoning Administrator may modify, add or delete conditions, and reserves the right to conduct the public hearing for nuisance abatement/revocation purposes.

13. No deviation from the required parking has been requested or granted herein. Parking shall be provided in compliance with the code and the Atwater Village Neighborhood Oriented District Parking Credit Condition Clearance Affidavit filed under Covenant and Agreement, Instrument No. 20120501380 agreeing to comply with the following:
  - a. Pay yearly for the parking credits for so long as the market/restaurant is maintained.

- b. Pay an annual fee pursuant to LAMC Section 19.01 (Miscellaneous Clearance – Director or Commission) in order to compensate the City for the costs of administering the parking program.
- c. Should the use be terminated for a period of six or more months, the credits granted shall automatically return to the pool of available credits for the Atwater Parking Credit Area, and the applicant and the City.

14. The rear/side door(s) of the premises shall be equipped on the inside with an automatic locking device and shall be kept closed at all times. The door(s) shall not be used as a means of access by patrons to and from the premises. Temporary use of this door(s) for delivery of supplies does not constitute a violation. Said door(s) are not to consist solely of a screen or ventilated security door.

15. The premises shall be maintained as a bona fide market and restaurant with a kitchen to be used for cooking and preparing of food as defined by Section 91.0403 of the Los Angeles Municipal Code, and shall provide a menu containing an assortment of foods normally offered in such restaurants. Food service shall be available at all times during operating hours.

16. The applicant shall secure a City permit decal denoting approval of alcoholic beverage sales from a Planning Department public counter subsequent to the Zoning Administrator's signature on the Planning Department sign-off form and mount it on either the inside of the window of the subject site facing the street or on the outside of the building (if inside mounting is not possible). The decal shall be visible at all times and mounted before the privileges granted herein are utilized.

17. Coin operated game machines, pool tables or similar game activities or equipment shall not be permitted. Official California State lottery games and machines are allowed.

18. Pool tables, billiard tables, and Adult Entertainment uses [Municipal Code Section 12.70] shall be prohibited. There shall be no topless entertainment, no disc jockey, no karaoke, no male or female performers, or no fashion shows at the restaurant.

No dancing is authorized. The applicant shall not sublet the premises for nightclub activity.

19. The Conditions of this grant shall be retained on the premises at all times and be immediately provided upon request of any Los Angeles Police officer or ABC investigator. The manager and all employees shall be knowledgeable of the Conditions herein.

20. The conditions of the subject grant shall be provided to employees for their review. Prior to the utilization of the grant, a statement signed by the employees stating that they reviewed and agree to comply with the conditions shall be submitted to the Zoning Administrator.

21. Prior to the utilization of the grant, all personnel acting in the capacity of a manager of the premise and all part time and full time employees who serve alcoholic beverages shall complete the STAR (Standardized Training for Alcohol Retailers) session sponsored by the Los Angeles Police Department.

All employees who serve alcoholic beverages shall attend follow-up STAR classes every 24 months. The STAR training shall be conducted for all new hires within two months of their employment.

Within 60 days after the effective date of the subject grant, a list of employees who serve alcoholic beverages, their hire date and written confirmation of their STAR training shall be submitted to the Zoning Administrator and shall be retained on the premises at all times and be immediately made available upon request of any Los Angeles Police officer or Department of Alcoholic Beverage Control investigator.

22. The applicant/business operator shall be responsible for maintaining free of litter, the area and adjacent to the premises over which they have control.
23. The applicant shall establish a designated driver program that may include signs on each table alerting patrons of the program, including a statement in the menus, or post signs in prominent locations in the dining areas.

Prior to the utilization of this grant, a written statement of the program shall be submitted to the satisfaction of the Zoning Administrator prior to the utilization of the grant.

24. Partitions separating booth/dining areas shall not exceed 54 inches in height. No obstructions shall be attached, fastened or connected to the booths/dining areas within the interior space of the facility that restrict, limit or obstruct the clear observation of the occupants.

No enclosed room, other than restrooms, intended for use by patrons or customers shall be permitted. No private dining room with a separate access door shall be permitted.

25. The business operator shall comply with Section 6404.5(b) of the Labor Code which prohibits smoking within any place of employment. There shall be no ashtrays or other receptacles used for the purpose of collecting ash or cigarette/cigar butts inside the restaurant or bathrooms.
26. Loitering shall be prohibited on or around these premises or this area under the control of the licensee.
27. The applicant / the restaurant operator shall identify a contact person and provide a 24-hour "hot line" telephone number for any inquiries or complaints from the community regarding the subject facility. Prior to the utilization of this grant, the

phone number shall be posted on the site so that is readily visible to any interested party. The hot line shall be:

- posted at the entrances, and the cashier,
- responded to within 24-hours of any complaints/inquiries received on this hot line, and
- documented in a log and available for review by the Los Angeles Police Department and the Zoning Administrator upon request on when the calls were received, returned and the action taken at a minimum.

28. All lighting shall be shielded and directed onto the site. No floodlighting is permitted. This Condition shall not preclude the installation of low-level security lighting.

29. An electronic age verification device(s) which can be used to determine the age of any individual attempting to purchase alcoholic beverages shall be installed on the premises at each point-of-sales location. These device(s) shall be maintained in an operational condition and all employees shall be instructed in their use prior to the utilization of this approval.

30. The exterior windows and glass doors of the restaurant 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 restaurant by Police and private security.

31. The following Conditions are alcoholic beverage specific conditions, which are volunteered by the applicant and/or recommended by the LAPD (and agreed to by the applicant), and shall be complied with:

- a. The quarterly gross sales of alcoholic beverages shall not exceed the gross sales of food during the same time period. The licensee shall at all times maintain records which reflect separate numbers for the gross sales of food and the gross sales of alcoholic beverages of the licensed business. Said records shall be kept no less frequently than on a quarterly basis and shall be made available to the Police Department upon request.
- b. There shall be no exterior advertising or signs of any type, including advertising directed to the exterior from within, promoting or indicating the availability of alcoholic beverages. Interior displays of alcoholic beverages or signs which are clearly visible to the exterior shall constitute a violation of this condition. This condition is not meant to preclude an interior display of alcoholic beverage containers within the interior of the restaurant space. The only exception to this restriction is the posting of a single menu on the outside wall.
- c. There shall be no self-service of alcohol for on-site consumption. All alcoholic beverages sold/ordered for on-site consumption shall be delivered to patron tables by the restaurant employees.

- d. The sale of alcoholic beverages for off-site consumption shall be limited to beer and wine only.
- e. No person under 21 years of age shall sell or deliver alcoholic beverages. [LAPD]
- f. There shall be no admission or cover charge, nor a minimum purchase or minimum drink sales. [LAPD]

32. Within 30 days of the effective date of this grant, the property owner shall record a covenant acknowledging and agreeing to comply with all the terms and conditions established herein 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 Zoning Administrator for approval before being recorded. After recordation, a certified copy bearing the Recorder's number and date shall be provided to the Zoning Administrator for attachment to the subject case file.

### **OBSERVANCE OF CONDITIONS - TIME LIMIT - LAPSE OF PRIVILEGES**

All terms and conditions of the approval shall be fulfilled before the use may be established. The instant authorization is further conditional upon the privileges being utilized within three years after the effective date of approval and, if such privileges are not utilized or substantial physical construction work is not begun within said time and carried on diligently to completion, the authorization shall terminate and become void.

### **TRANSFERABILITY**

This authorization runs with the land. In the event the property is to be sold, leased, rented or occupied by any person or corporation other than yourself, it is incumbent upon you to advise them regarding the conditions of this grant.

### **VIOLATIONS OF THESE CONDITIONS, A MISDEMEANOR**

Section 12.29 of the Los Angeles Municipal Code provides:

"A variance, conditional use, adjustment, public benefit or other quasi-judicial approval, or any conditional approval granted by the Director, pursuant to the authority of this chapter shall become effective upon utilization of any portion of the privilege, and the owner and applicant shall immediately comply with its Conditions. The violation of any valid Condition imposed by the Director, Zoning Administrator, Area Planning Commission, City Planning Commission or City Council in connection with the granting of any action taken pursuant to the authority of this chapter, shall constitute a violation of this chapter and shall be subject to the same penalties as any other violation of this Code."

Every violation of this determination is punishable as a misdemeanor and shall be punishable by a fine of not more than \$1,000 or by imprisonment in the county jail for a period of not more than six months, or by both such fine and imprisonment.

### **APPEAL PERIOD - EFFECTIVE DATE**

The applicant's attention is called to the fact that this grant is not a permit or license and that any permits and licenses required by law must be obtained from the proper public agency. Furthermore, if any Condition of this grant is violated or if the same be not complied with, then the applicant or his successor in interest may be prosecuted for violating these Conditions the same as for any violation of the requirements contained in the Municipal Code. The Zoning Administrator's determination in this matter will become effective after DECEMBER 3, 2012, 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:

Figueroa Plaza  
201 North Figueroa Street,  
4th Floor  
Los Angeles, CA 90012  
(213) 482-7077

Marvin Braude San Fernando  
Valley Constituent Service Center  
6262 Van Nuys Boulevard, Room 251  
Van Nuys, CA 91401  
(818) 374-5050

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.

### **NOTICE**

The applicant is further advised that all subsequent contact with this office regarding this determination must be with the Zoning Administrator who acted on the case. This would include clarification, verification of condition compliance and plans or building permit applications, etc., and shall be accomplished **BY APPOINTMENT ONLY**, in order to assure that you receive service with a minimum amount of waiting. You should advise any consultant representing you of this requirement as well.

### **FINDINGS OF FACT**

After thorough consideration of the statements contained in the application, the plans submitted therewith, the report of the Zoning Analyst thereon, the statements made at the public hearing on October 30, 2012, all of which are by reference made a part hereof, as well as knowledge of the property and surrounding district, I find that the requirements for

authorizing a conditional use permit under the provisions of Section 12.24-W have been established by the following facts:

### **BACKGROUND**

The property is comprised of two, level, rectangular-shaped lots, approximately 5,000 square feet in area, approximately 100 feet in depth, with a frontage of approximately 50 feet on Glendale Boulevard. A 15-foot wide alley separates the rear of the subject site from the rear property lines of predominately single-family dwellings fronting on Glenmanor Place, northwesterly of the subject site. The subject property is located within the East Los Angeles State Enterprise Zone and within the Atwater Village Pedestrian Oriented District Overlay.

The property is improved with a one-story, approximately 4,200 square-foot building, originally built in the 1940's, previously used for an adult day care facility, and recently remodeled into the applicant's market and restaurant. According to the applicant's representative, Bon Vivant Market and Café opened on June 28, 2012, offering gourmet dining and prepared foods.

On April 3, 2012, a covenant and agreement was recorded against the property as Instrument No. 20120501380, which states that the applicant and owner agree to pay an annual parking credit fee, maintaining a total of 109.69 parking credits, which entitles the applicant up to 28 of the off-site pool parking spaces of the Atwater Village Pedestrian Oriented District in satisfaction of Los Angeles Municipal Code-required parking. The parking credits were calculated based on a floor area of 3,711 square feet, 2,864 square feet of which is occupied by a restaurant and 1,027 square feet of which is occupied by a market. According to staff responsible for the Atwater Village Pedestrian Oriented District, the Department of Building and Safety determined that the required parking for the new use would have been 35.39 spaces. The applicant was given credit for eight parking spaces in conjunction with the previous adult day care use, and therefore, the Department of Building and Safety determined that 28 additional parking spaces would have been required for the applicant's new market and café. These 28 spaces are being satisfied by the purchase of parking credits for the off-site parking available in the area.

The applicant proposes to offer a full line of alcoholic beverages for on-site consumption in conjunction with the existing café, and beer and wine for off-site consumption in conjunction with the existing gourmet market, having hours of operation from 9 a.m. to 2 a.m. daily. Plans show a double-sided fireplace, an "L"-shaped food case/order counter, and seating for 88 patrons: 12 at a bar, 44 at two communal tables, and 32 at 16 round tables. Customer entrances are from Glendale Boulevard, one located at each end of the building. Behind the patron area are facilities for storage, a small office, kitchen, dishwashing area, and walk-in refrigerator and freezer. A small covered porch behind the kitchen leads to a loading area and trash receptacle.

According to the applicant's representative:

*"The project will be operated by Bon Vivant's Tricia La Belle Bergougnoux, who is a very experienced restaurant and bar operator. She is committed to bringing to the area a gourmet market and café featuring local and farm fresh foods as well as*

*packaged gourmet foods from around the world, combined with an upscale yet casual dining venue... While the project is not a bar and no "well" will be provided as all beverages are created to be paired with the menu items..., a full line of alcoholic beverages is of paramount importance to Bon Vivant's plans.... Most patrons in search of an upscale dining experience expect a full line of alcoholic beverages ...Bon Vivant has connected with Napa Valley wineries and other California and US wineries catering to a growing community of foodies who desire fine wines and handcrafted beers. Just like any other gourmet market, Bon Vivant proposes to offer its customers a wide array of artisan and hand-crafted beer and wine for off-site consumption."*

Glendale Boulevard, adjoining the property on the southeast, is a northeasterly-southwesterly Scenic Divided Major Highway, Class II with to a width of approximately 150 feet and improved with asphalt roadway, landscaped median, concrete curb, gutter, sidewalk, street lights, and parking meters.

An alley, adjoining the property on the northwest is a northeasterly-southwesterly public right-of-way, dedicated to a width of approximately 15 feet and improved with asphalt roadway.

Previous zoning related actions on the site/in the area include:

Subject Property:

Ordinance No. 173,466 – On October 3, 2000, an ordinance changing the zone and height district on the subject site from C1.5-1-VL to [Q]C4-1-XL became effective. The [Q] conditions preclude 100 percent residential developments and limit residential density to the equivalent of the RD1.5 Zone.

Ordinance No. 173,676 – On January 14, 2001, an ordinance establishing the Atwater Village Pedestrian Oriented District overlay became effective.

Ordinance No. 182,033 – On March 5, 2012, an ordinance amending Ordinance No. 173,676 to allow the use of parking credits in lieu of Los Angeles Municipal Code required parking became effective.

Instrument No. 20120501380 – On April 3, 2012, a covenant and agreement was recorded against the property with the Los Angeles County Recorder to comply with the Atwater Village Neighborhood Oriented District Parking Credit Condition Clearance Affidavit, which stipulates that the applicant is entitled to up to 28 of the off-site pool parking spaces, is using a total of 109.69 parking credits, and must pay an annual fee for the parking credits so long as the use is maintained.

Certificate of Occupancy No. 11016-10000-18748 – On August 1, 2012, a certificate of occupancy was issued for the conversion of an existing adult day care into a combination café/delicatessen/coffee bar, and retail market with required parking waived by the Planning Department pursuant to the Atwater Village Pedestrian Oriented District.

Surrounding Properties:

Case No. ZA 2011-1677(CUB) – On November 30, 2011, the Zoning Administrator approved the sale of beer and wine for on-site consumption in conjunction with a proposed 1,438 square-foot restaurant in the [Q]C4-1XL Zone and allow restaurant hours of operation of 8 a.m. to 12 midnight Sunday through Thursday and 8 a.m. to 1 a.m. Friday and Saturday, in lieu of the Mini-Shopping Center limitation of 7 a.m. to 11 p.m., daily, located at 3111 North Glendale Boulevard.

Case No. ZA 2009-0746(CUB) – On October 13, 2009, the Zoning Administrator approved the sale of beer and wine for on-site consumption in conjunction with an existing restaurant in the [Q]C4-1VL Zone, located at 3133-1/2 North Glendale Boulevard.

Case No. ZA 2006-7665(CUB)(ZV) – On May 18, 2007, the Zoning Administrator approved the sale of beer and wine for on-site consumption [Type 42 license] for beer and wine tasting purposes only and the sale of beer and wine for off-site consumption, and a variance to permit reduced parking for specified uses in the [Q]C4-1XL Zone, located at 3111 North Glendale Boulevard.

Case No. ZA 2006-10192(CUB)(ZAD) – On March 16, 2007, the Zoning Administrator approved the sale of beer and wine for on-site consumption in conjunction with a new 2,500 square-foot restaurant in the C4 Zone and shared off-street parking of 53 parking spaces in lieu of the required additional 15 spaces, located at 3140 North Glendale Boulevard.

Case No. ZA 2003-8689(CUE) – On February 19, 2004, the Zoning Administrator approved the sale of beer and wine for on-site consumption in conjunction with a proposed restaurant in the [Q]C4-1XL Zone, located at 3175 Glendale Boulevard.

Case No. DIR 2003-0647(RV) – On September 8, 2003, the Zoning Administrator modified the conditions of Case No. ZA 88-1095(CUB) in response to complaints regarding the market's operations, including its recycling center, parking lot, and basement with respect to noise, drinking, and loitering by transients and violations of the conditions of approval.

Case No. ZA 95-0809(CUB)(CUZ) – On February 1, 1996, the Zoning Administrator denied the sale of beer and wine for off-site consumption in conjunction with an existing automobile service station and approved the conversion of an auto repair bay into a mini-market operating after 11 p.m. in the C1.5-1VL Zone, located at 3047 Glendale Boulevard.

Case No. ZA 90-1033(CUB) – On January 25, 1991, the Zoning Administrator approved the sale of alcoholic beverages for off-site consumption in conjunction with the expansion of an existing liquor store, having hours of operation from 7 a.m. to 11 p.m., Monday through Thursday; from 7 a.m. to 12 midnight, Friday and Saturday; and from 8 a.m. to 10 p.m., Sunday in the C1.5-1VL Zone, located at 3152-3154 Glendale Boulevard. On January 4, 1996, the Zoning Administrator determined that all entitlements are in force and valid for a previously authorized

expansion of an existing liquor store in the C1.5-1VL Zone, located at 3150-3154 Glendale Boulevard.

Case No. ZA 88-1095(CUB) – On January 24, 1989, the Zoning Administrator approved the sale of beer and wine for off-site consumption in conjunction with a proposed 6,000 square-foot neighborhood market in an existing structure, having hours of operation from 7 a.m. to 10 p.m. daily, within the C1.5-1VL Zone at 3111 Glendale Boulevard.

Case No. ZA 88-0897(E) – On August 17, 1988, the Zoning Administrator determined that the sale of beer and wine for on-site consumption at a 42-seat restaurant located at 3219 Glendale Boulevard is exempt from the requirements of Los Angeles Municipal Code Sections 12.21 and 12.24.

Case No. ZA 85-0813(CUB) – On December 17, 1985, the Zoning Administrator denied an application for the sale and dispensing of alcoholic beverages, dancing, and reduced parking at a private nightclub, located at 3160 Glendale Boulevard.

On October 10, 2012, at approximately 1:30 p.m., staff conducted an unannounced on-site observation of the premises. The first impression was one of an immaculate, well-run, rustic and stylish, niche restaurant establishment. The layout appeared substantially as presented in the submitted plans, except for a few details - the wide expanse of window between the two entries is depicted in the plans as fixed panels, but has been built to open wide. The wide opening creates a sense of indoor/outdoor dining at the front of the restaurant where sofa, easy-chair, and stool seating were available between the fireplace and the opening. Seating at small tables under market umbrellas was also available immediately beyond the opening spilling onto the adjoining sidewalk. Menus are available at the counters where patrons place their orders and receive numbers for wait-staff to identify when serving. Food cases contained a range of cheeses, prepared savory foods, and desserts and pastries.

Angled parking stalls with two-hour parking meters, enforced between 8 a.m. and 8 p.m., except Sunday, are available on the westerly side of Glendale Boulevard; parallel stalls with similar meters are available on the easterly side of Glendale Boulevard; and additional publicly-owned parking facilities are available behind the storefronts easterly of Glendale Boulevard, between Larga and Madera Avenues.

The westerly adjoining alley is in need of pot-hole repair but, in the vicinity of the subject restaurant, appeared to be generally devoid of graffiti, except for at the back of the building located at the northwest corner of Glendale Boulevard and Edenhurst Avenue (florist's mural). Some litter was observed along the westerly edge. At the rear of the restaurant was a loading area, a can for the storage of grease, locker for linens, and a locked commercial trash bin.

The commercial neighborhood in the vicinity is a combination of quaint and upscale establishments, such as bakeries, restaurants, and specialty shops, mixed with older and less gentrified uses such as a liquor store/junior market, check cashing, payday loans, and thrift shop, and appears to be an emerging trendy enclave. Homes between Glenmanor Place and the alley are part of what appears to be a stable and generally maintained

neighborhood and have various combinations of fences, walls, setbacks, foliage, and garages serving as a buffer from the alley and the commercial uses along Glendale Boulevard. Residential properties fronting on the other side of Glenmanor Place appear to be a little more manicured than the properties backing onto the alley.

The northwesterly adjoining and northerly abutting properties, northwesterly of the alley, are zoned R1-1 and improved with single-family dwellings. The southwesterly adjoining property is zoned [Q]C4-1XL and improved with a one-story commercial building (sewing/fabrics). The northeasterly adjoining property is zoned [Q]C4-1XL and improved with a one-story commercial building (records/tapes and used/rare books). The southeasterly adjoining property across Glendale Boulevard is zoned [Q]C4-1XL and improved with a one-story commercial building (bakery, shipping, liquor store). The southeasterly abutting property across Glendale Boulevard is zoned [Q]C4-1XL and improved with a one-story commercial building (thrift store).

The following was submitted to the file:

- The Atwater Village Neighborhood Council in support of the application.
- The Los Angeles Police Department [LAPD], Northeast Area Community Police Station with 29 recommended conditions. The letter indicates that the LAPD would not oppose the sale of alcoholic beverages for on-site consumption; however, would oppose the alcohol sales for off-site consumption.
- At the hearing, which was held on October 20, 2012, the applicant submitted multiple pages of a petition in support of the application.

### **BASIS FOR CONDITIONAL USE PERMITS**

A particular type of development is subject to the conditional use process because it has been determined that such use of property should not be permitted by right in a particular zone. All uses requiring a conditional use permit from the Zoning Administrator are located within Section 12.24-W of the Los Angeles Municipal Code. In order for the sale of a full line of alcoholic beverages for on-site consumption and beer and wine for off-site consumption to be authorized, certain designated findings have to be made. In these cases, there are additional findings in lieu of the standard findings for most other conditional use categories.

### **FINDINGS**

Following (highlighted) is a delineation of the findings and the application of the relevant facts to same:

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 request entails a conditional use to permit the sale of a full line of alcoholic beverages for on-site consumption and the sale of beer and wine for off-site consumption with hours of operation from 9 a.m. to 2 a.m. daily in an existing market and restaurant known as Bon Vivant Market Cafe. The existing one-story building was previously occupied by an adult day care center, which was remodeled for the subject restaurant. A Certificate of Occupancy was issued for the subject market/restaurant on August 1, 2012.

No physical changes will be made to the existing market/restaurant in conjunction with the subject application. Seating is limited to 88 seats, 80 seats of which are inside the market/restaurant and 8 seats of which are within the public right-of-way on Glendale Boulevard subject to a revocable permit from the Bureau of Engineering.

Amplified music is allowed only inside the market/restaurant for background music at a low volume. No amplified music or any kind of entertainment will be permitted on the patio. Given the lack of entertainment, dancing, and a cocktail lounge, no security guard has been required. The restaurant fronts onto Glendale Boulevard, a busy thoroughfare developed with a variety of commercial uses. The property is located in proximity to a variety of other commercial uses and residential uses within easy access of a variety of transportation modes. The surrounding area already includes a number of restaurants as well as businesses, residential dwelling units and other mixed uses. The predominantly commercial nature of development along Glendale Boulevard serves as an appropriate location for the existing market/restaurant, which in conjunction with the imposition of a number of conditions addressing operational and alcohol-related issues, should safeguard public welfare and enhance public convenience.

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

The market/restaurant will have no separate bar or cocktail lounge, live entertainment, dancing, or video games. There will be no exterior advertising of the availability of alcoholic beverages, and sales of alcoholic beverages will secondary to food sales. No deviation from the required parking has been requested or granted herein. According to the applicant, there are public parking lots near the subject site at 3528 Garden Avenue and 3528 Larga Avenue.

The grant authorized herein incorporates a number of conditions which have been imposed upon the use as well as many which have been volunteered by the applicant and suggested by the Police Department. The conditions recommended by the LAPD have been incorporated in this action. These conditions will continue to make the use more compatible with other uses in the surrounding community. A number of alcohol-specific conditions have also been volunteered by the applicant and are part of this grant. Employees are required to undergo training regarding sale of alcohol conducted by the Los Angeles Police Department prior to the utilization of the grant.

The subject grant for alcohol sales is authorized for a term of five years, after which time the applicant will have to request authorization to continue the sales of alcohol. This allows the City an opportunity to review the operation of the restaurant anew. If the operation has been conducted appropriately and without creating problems, then a subsequent decision to allow the continuation of such sales may take that into favorable consideration. A record of poor compliance and/or nuisance complaints would allow the City the discretion to not continue the requested use and thus avoid the need to proceed with prolonged nuisance abatement proceedings. Thus, as conditioned the sale of alcoholic beverages at this location is not anticipated to adversely affect or further degrade adjacent properties, the surrounding neighborhood, or the public health, welfare and safety.

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

The Northeast Los Angeles Community Plan Map (as of November 3, 2010) designates the property for Neighborhood Commercial land uses with corresponding zones of C1, C1.5, P, C2, C4, and RAS3 with a footnote indicating that these designations include associated parking. The property is within the area of the Atwater Village Pedestrian Oriented Overlay District, established by Ordinance No. 173,676 and amended by Ordinance No. 182,033. The requested approval for alcoholic beverage service and sales in an existing restaurant is not among the list of prohibited uses. The applicant filed a covenant and agreement affidavit under Instrument No. 20120501380 as required in the Atwater Village Pedestrian Oriented Overlay District for the required parking.

The subject property is planned and zoned for commercial/industrial uses. The conditional authorization for the sale of alcoholic beverages on- and off-site consumption is allowed through the approval of the Zoning Administrator subject to certain findings. The required findings in support have been made herein.

**4. The proposed use will not adversely affect the welfare of the pertinent community or result in an undue concentration of premises for the sale of alcoholic beverages after given consideration to the State laws and to the California Department of Alcoholic Beverage Control's guidelines for undue concentration after giving consideration to the number and proximity of these establishments within a 1,000-foot radius of the site, and giving consideration to crime rates in the area.**

According to the State of California Department of Alcoholic Beverage Control (ABC) licensing criteria, 3 on-sale and 2 off-sale licenses are allocated to Census Tract No. 1883. There are currently 10 on-site and 2 off-site licenses in this Census Tract.

Within a 1,000-foot radius of the subject property, the following types of alcoholic beverage licenses are active or pending:

(2) Type 20 – Off-Sale – Beer and Wine

- (2) Type 21 – Off-Sale – General
- (0) Type 40 – On-Sale – Beer
- (5) Type 41 – On-Sale – Beer and Wine – Eating Place
- (1) Type 42 – On-Sale – Beer and Wine – Public Premises
- (1) Type 47 – On-Sale – General – Eating Place
- (1) Type 48 – On-Sale – General – Public Premises

According to statistics provided by the Los Angeles Police Department, within Crime Reporting District No. 1123, which has jurisdiction over the subject property, a total of 67 crimes were reported in 2011, compared to the citywide average of 144 crimes and the high crime reporting district average of 173 crimes for the same period.

In 2011, there were 40 Narcotics, 0 Liquor Law, 0 Public Drunkenness, 0 Disturbing the Peace, 0 Disorderly Conduct, and 7 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.

Based upon the numbers reported by these two agencies, the Zoning Administrator concludes that an undue concentration of on-site facilities does exist, and the Conditions imposed in this determination are necessary in order to justify the increase in intensity of use occasioned by this request. The Zoning Administrator is aware that the number of allocated licenses is primarily calculated based upon resident population and that the employment and visitor populations of the area far exceed the resident population of this census tract. The subject site is located in a commercial corridor where a concentration of restaurants is evident and thus the higher number is anticipated.

The crime rate numbers are lower than those rates identified for the City. Nonetheless, the public safety measures to mitigate nuisance activities have been incorporated into the grant to assure better oversight. The operating conditions recommended by the Los Angeles Police Department have been incorporated as the conditions of the subject grant.

5. **The use will not detrimentally affect the nearby residentially zoned communities in the area 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 following sensitive uses are located in close proximity to the site:

Namseoul Grace Church	3525 Glenhurst Avenue
A Place to Create (Child Art Classes)	3137 Glendale Boulevard
Chapel of St. Francis	3621 Brunswick Avenue

No correspondence was received from any of these institutions noted above. There are residential dwelling units across the adjoining alley to the north of the project site. Here are also other establishments which sell alcohol for on-site and off-site

consumption. As noted, since the site is located in a prime commercial corridor, the diversity amongst the uses is not uncommon. This grant has placed numerous conditions on the proposed project and not authorized uses of the property which might create potential nuisances for the surrounding area. Such imposition of conditions, as well as the imposition of a five-year term grant, will make the use a more compatible and accountable neighbor to the surrounding uses than would otherwise be the case. The Zoning Administrator believes the restrictions established herein will protect any unspoken legitimate interests of those groups.

### **ADDITIONAL MANDATORY FINDINGS**

6. 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 located in Zone C, areas of minimal flooding.
7. On October 10, 2012, the project was issued a Notice of Exemption (Subsection c, Section 2, Article II, City CEQA Guidelines), log reference ENV 2012-2006-CE, for a Categorical Exemption, Class 1, Category 22, Article III, Section 1, City CEQA Guidelines (Sections 15300-15333, State CEQA Guidelines). I hereby adopt that action.



SUE CHANG  
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SC:lmc

cc: Councilmember Eric Garcetti  
Thirteenth District  
Adjoining Property Owners