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October 21, 2015

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CASE NO. ZA 2015-825(CUB)
CONDITIONAL USE
1115 West Sunset Boulevard, #100
Zone : C2-2D
D. M. : 136-5A211
C. D. : 1
CEQA : ENV-2015-826-CE
Legal Description: Lot A, P M 1999-
3180

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 in conjunction with a new restaurant in the C2-2D Zone,

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 submitted with the application 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.

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. Prior to the effectuation of this grant, a covenant acknowledging and agreeing to comply with all the terms and conditions established herein shall be recorded 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 Development Services Center or the Condition Compliance Unit for approval before being recorded. After recordation, a certified copy bearing the Recorder's number and date shall be provided to the Development Services Center or Condition Compliance Unit for inclusion in the case file.
7. Approved herein is the sale and dispensing of a full line of alcoholic beverages for on-site consumption in conjunction with an approximately 2,100 square-foot restaurant, including an approximately 1,000 square-foot patio dining area, having a total of 124 seats consisting of 56 indoor seats and 68 outdoor patio seats. Hours of operation shall be from 7:00 a.m. to 12:00 midnight, daily.
8. The authorization granted herein for the on-site sale and dispensing of a full line of alcoholic beverages is for a period of **seven (7) years** from the effective date of this grant. Thereafter, a new authorization to allow the on-site sale and dispensing of beer and wine will be required. The applicant is advised that he/she should allow appropriate time for a new entitlement application to be processed and the application should be approved prior to the expiration date of this grant in order to continue the sale of beer and wine at the restaurant.
9. Parking shall be provided in compliance with the Municipal Code and to the satisfaction of the Department of Building and Safety. No variance from the parking requirements has been requested or granted herein.
10. If at any time during the period of the grant, should documented evidence be submitted showing continued violation(s) of any condition(s) of the grant, resulting in a disruption or interference with the peaceful enjoyment of the adjoining and neighboring properties, the Zoning Administrator will have the right to require the petitioner(s) to file for a plan approval application together with the associated fees, to hold a public hearing to review the petitioner's compliance with and the effectiveness of the conditions of the grant. The petitioner(s) shall submit a summary and supporting documentation of how compliance with each condition of the grant has been attained.

11. There shall be no entertainment such as a piano bar, jukebox, dancing, live entertainment, movies, etc. There shall be no karaoke, disc jockey, male or female performers or fashion shows.
12. No music, sound or noise shall be emitted from the subject businesses at a level prohibited by the noise regulations of the Los Angeles Municipal Code. Amplified recorded-music shall not be audible beyond the area under control of the applicant, and any sound or noise emitted that is under the control of the petitioner shall constitute a violation of Section 116.01 of the LAMC, including any loud, unnecessary or unusual noise that disturbs the peace or quiet of any neighborhood or that causes discomfort. The establishment shall make an effort to control any unnecessary noise made by restaurant staff or any employees contracted by the restaurant, or any noise associated with the operation of the establishment, or equipment of the restaurant.
13. The premises shall be maintained as a bona-fide eating place, in conformance with section 23038 of the California Business and Professions Code, which an operational kitchen complying with the definition in Section 91.0403 of the Los Angeles Municipal Code and shall provide a menu containing an assortment of foods normally offered in such restaurants.
14. Use of the restaurant for private parties shall be within the normal business hours and shall comply with operating conditions of this grant.
15. No after hour use of the establishment is permitted. This includes but is not limited to private or promotional events, excluding any activities which are issued film permits by the City.
16. There shall be no admission or cover charge at any time. There shall not be a requirement to purchase a minimum number of drinks at any time on the premises.
17. There shall be no coin-operated game machines or video machines permitted on the premises at any time.
18. There shall be no pool or billiard tables maintained on the premises at any time.
19. 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 six feet in height above the ground so as to permit surveillance into the premise by Police and private security.
20. The conditions of this grant, a police permit, a copy of a business license, insurance information and an emergency contact phone number for the operator and valet service(s), if any, shall be retained on the premises at all times and be immediately produced upon request of the Los Angeles Police Department, the Department of City Planning, State Department of Alcoholic Beverage Control or other responsible agencies. The manager and all employees shall be knowledgeable of these Conditions.

21. Within six months of the effective date of this action, all employees involved with the sale of alcoholic beverages shall enroll in the Los Angeles Police Department "Standardized Training for Alcohol Retailers" (STAR). Upon completion of such training, the applicant shall request the Police Department to issue a letter identifying which employees completed the training. The applicant shall transmit a copy of the letter from the Police Department to the Zoning Administrator who acted on this case as evidence of compliance. In the event there is a change in the licensee, within one year of such change, this training program shall be required for all new staff. 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.
22. The applicant shall not permit any loitering on the premises or on property adjacent to the premises.
23. The applicant shall be responsible for maintaining free of litter the area adjacent to the premises over which they have control, including the sidewalk in front of the restaurant.
24. An electronic age verification device shall be retained on the premises available for use during operational hours. This device shall be maintained in operational condition and all employees shall be instructed in its use.
25. The applicant/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 entry, and the cashier or customer service desk,
 - responded to within 24-hours of any complaints/inquiries received on this hot line.
26. The applicant shall document and maintain a log of complaints received, the date and time received and the disposition of the response. The log shall be made available for review by the Los Angeles Police Department and the Zoning Administrator upon request.
27. The applicant shall comply with 6404.5(b) of the Labor Code, which prohibits smoking within any place of employment. The applicant shall not possess ashtrays or other receptacles used for the purpose of collecting trash or cigarettes/cigar butts within the interior of the subject establishment.
28. Only the front door shall be used for patron access. All other doors shall be equipped on the inside with an automatic locking device and shall be kept closed at all times other than to permit temporary access for delivery of supplies and trash removal. These doors shall be solid.

29. Trash/recycling pick-up and emptying or disposing of trash/recycling into outside containers is permitted to occur only between the hours of 7:00 a.m. and 8:00 p.m., Monday through Friday, and 10:00 a.m. to 4:00 p.m., Saturdays and Sundays.
 - a. Trash/recycling containers shall be locked when not in use.
 - b. Trash/recycling containers shall not be placed in or block access to required parking.
30. Petitioner(s) shall install and maintain security cameras and a two-week DVR that covers all common areas of the business, high-risk areas, entrances and exits. The DVRs shall be made available to the Los Angeles Police Department upon request.
31. No pay phone may be maintained on the exterior of the premises.
32. Within 30 days of the effective date of the Department of Alcoholic Beverage Control license, and within 30 days of the effective date of any modification or alteration of terms of said license, the applicant shall transmit a copy of the valid Department of Alcoholic Beverage Control license to the Zoning Administrator for attachment to the case file.
33. Prior to the clearance of any conditions, the applicant shall show proof that all fees have been paid to the Department of City Planning, Expedited Processing Section.
34. Within 30 days of the effective date of this determination, the applicant shall notify the Condition Compliance Unit via email or U.S. Mail when operations are scheduled to begin and shall submit a copy of the Certificate of Occupancy for the Case File. The notification shall be submitted to planning.ccu@lacity.org, with the subject of the email to include the case number, "**ZA 2015-0825-CUB/Operation Notification**". The applicant shall also submit (attached or mailed) evidence of compliance with any conditions which require compliance "prior to the beginning of operations" as stated by these conditions.
35. Within 30 days of the effective date of this determination, the manager of the facility shall be made aware of the conditions and shall inform his/her employees of the same. A statement with the signature, printed name, position and date signed by the manager and his/her employees shall be provided to the Condition Compliance Unit within 30 days of the beginning day of operation of the establishment. The statement shall read as follows,

We, the undersigned, have read and understand the conditions of approval to allow the sale and dispensing of a full line of alcoholic beverages for on-site consumption, in conjunction a yet to be named restaurant operated by the applicant's Frank & Beans LLC, and agree to abide and comply with said conditions.
36. Should there be a change in the ownership and/or the operator of the business, the property owner and the business owner or 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. Evidence that a copy of this determination has been provided to the prospective owner/operator, including the conditions required herewith, shall be submitted to the Condition Compliance Unit in a letter from the new operator indicating the date that the new operator/management began and attesting to the receipt of this approval and its conditions. The new operator shall submit this letter to the Condition Compliance Unit within 30 days of the beginning day of his/her new operation of the establishment along with the dimensioned floor plan, seating arrangement and number of seats of the new operation.

37. Should there be a change in the ownership and/or the operator of the business, the Zoning Administrator reserves the right to require that the new owner or operator file a Plan Approval application if it is determined that the new operation is not in substantial conformance with the approved floor plan, or the operation has changed in mode or character from the original approval, or If at any time during the period of validity of this grant, documented evidence is submitted showing continued 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 application, in association with the appropriate fees, shall be submitted to the Department of Planning, Condition Compliance Unit within 30 days of the date of legal acquisition by the new owner or operator. The purpose of the plan approval will be to review the operation of the premise and establish conditions applicable to the use as conducted by the new owner or operator, consistent with the intent of the Conditions of this grant. Upon this review, the Zoning Administrator may modify, add or delete conditions, and if warranted, reserves the right to conduct a public hearing, that may also be conducted for nuisance abatement/revocation purposes.
38. MVIP – Monitoring, Verification and Inspection Program. At any time, before, during, or after operating hours, a City inspector may conduct a site visit to assess compliance with, or violations of, any of the conditions of this grant. Observations and results of said inspection will be documented and used to rate the operator according to the level of compliance. If a violation exists, the owner/operator will be notified of the deficiency or violation and will be required to correct or eliminate the deficiency or violation. Multiple or continued documented violations or Orders to Comply issued by the Department of Building and Safety which are not addressed within the time prescribed therein, may result in denial of future requests to renew or extend this grant.
39. INDEMNIFICATION AND REIMBURSEMENT OF LITIGATION COSTS.

Applicant shall do all of the following:

- a. Defend, indemnify and hold harmless the City from any and all actions against the City relating to or arising out of the City's processing and approval of this entitlement, including but not limited to, an action to attack, challenge, set aside, void or otherwise modify or annul the approval of the entitlement, the environmental review of the entitlement, or the approval of

subsequent permit decisions or to claim personal property damage, including from inverse condemnation or any other constitutional claim.

- b. Reimburse the City for any and all costs incurred in defense of an action related to or arising out of the City's processing and approval of the entitlement, including but not limited to payment of all court costs and attorney's fees, costs of any judgments or awards against the City (including an award of attorney's fees), damages and/or settlement costs.
- c. Submit an initial deposit for the City's litigation costs to the City within 10 days' notice of the City tendering defense to the Applicant and requesting a deposit. The initial deposit shall be in an amount set by the City Attorney's Office, in its sole discretion, based on the nature and scope of action, but in no event shall the initial deposit be less than \$25,000. The City's failure to notice or collect the deposit does not relieve the Applicant from responsibility to reimburse the City pursuant to the requirement in paragraph (b).
- d. Submit supplemental deposits upon notice by the City. Supplemental deposits may be required in an increased amount from the initial deposit if found necessary by the City to protect the City's interests. The City's failure to notice or collect the deposit does not relieve the Applicant from responsibility to reimburse the City pursuant to the requirement. (b)
- e. If the City determines it necessary to protect the City's interests, execute an indemnity and reimbursement agreement with the City under terms consistent with the requirements of this condition.

The City shall notify the applicant within a reasonable period of time of its receipt of any action and the City shall cooperate in the defense. If the City fails to notify the applicant of any claim, action or proceeding in a reasonable time, or if the City fails to reasonably cooperate in the defense, the applicant shall not thereafter be responsible to defend, indemnify or hold harmless the City.

The City shall have the sole right to choose its counsel, including the City Attorney's office or outside counsel. At its sole discretion, the City may participate at its own expense in the defense of any action, but such participation shall not relieve the applicant of any obligation imposed by this condition. In the event the Applicant fails to comply with this condition, in whole or in part, the City may withdraw its defense of the action, void its approval of the entitlement, or take any other action. The City retains the right to make all decisions with respect to its representations in any legal proceeding, including its inherent right to abandon or settle litigation.

For purposes of this condition, the following definitions apply:

"City" shall be defined to include the City, its agents, officers, boards, commission, committees, employees and volunteers.

"Action" shall be defined to include suits, proceedings (including those held under alternative dispute resolution procedures), claims or lawsuits. Actions includes actions, as defined herein, alleging failure to comply with any federal, state or local law.

Nothing in the definitions included in this paragraph are intended to limit the rights of the City or the obligations of the Applicant otherwise created by this condition.

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 \$2,500 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 NOVEMBER 5, 2015, 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 statements made at the public hearing on July 22, 2015, 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,1 have been established by the following facts:

BACKGROUND

The site is an approximately 22,037 square-foot, sloping, irregular-shaped parcel of land with a curved frontage of approximately 25 feet along White Knoll Drive. The property is zoned C2-2D and designated for General Commercial uses under the Central City North Community Plan with the corresponding zones of C1.5, C2, C4, RAS3, and RAS4. The site is not located within any specific plan area. Other related designations include the Central City Revitalization Zone, East Los Angeles State Enterprise Zone, Hillside Area, Methane Zone, and Special Grading Area. The project does have a "D" (Development) Limitations pursuant to Ordinance No. 174,327 (Sub-Area 12) which effectively limits the allowable Floor Area to a ratio of 3:1. The proposed project is not affected by the D Limitation as no new construction is proposed as part of the project.

The subject property is currently developed with an eight-story live/work loft building with parking provided partially within an onsite basement parking structure along with a surface parking lot located on the abutting parcel to the south at 1111 West Sunset Boulevard. The abutting lot is currently developed with a church use. The subject restaurant will be located within an approximately 2,000 square-foot commercial space on the basement floor, with parking to be provided within the onsite basement parking structure.

Based on a review of building permit records, the existing building was originally constructed in 1963 as a three-story office building to serve as the Metropolitan Water District headquarters building, and spanned across the subject property and the abutting parcel to the south at 1111 West Sunset Boulevard. The current eight-story configuration was constructed in 1973 to create additional office space for the Metropolitan Water District. The original parcel was subdivided into two lots under Parcel Map No. 1999-3180 in June of 2000, and thus created the subject lot (Lot A, PM 1999-3180). The street address of 1115 West Sunset Avenue was also assigned to the subject property as a result of the subdivision.

The conversion from office space to the current 96 live/work units was approved under ZA-2004-1323-ZAD-PA2 in November of 2013. Condition No. 7.b of the prior ZA determination required the adaptive reuse project to provide a total of 164 parking to be located on-site or within 750 feet of the site or within the parking structure owned by the Metropolitan Water District bounded by Beaudry Avenue, Alpine Street, Figueroa Street, and Bartlett Street. Parking was required to be provided at a ratio of 1.5 parking spaces per dwelling unit (144 total residential spaces) and one space per 1,000 square feet of commercial uses (20 total commercial spaces).

The applicant is requesting a Conditional Use to permit the sale and dispensing of a full line of alcoholic beverages for on-site consumption in conjunction with an existing, approximately 2,000 square-foot restaurant with a total of 124 patron seats, including 56 indoor seats and 68 seats within an approximately 1,000 square-foot outdoor patio area, and hours of operation from 7:00 a.m. to 2:00 a.m., daily. A small retail component for the sale of food and non-alcoholic beverages to-go for residents in the building is proposed in conjunction with the full-service restaurant. No live entertainment is proposed in conjunction with the project.

The adjacent properties to the north and east are zoned C2-1VL, [Q]R3-1VL, RD1.5-1, R3-1, and are developed with a single-story auto repair use and a mix of single- and multi-family residential uses generally one- to two-stories in height. The adjacent properties to the south are zoned C1-1, R4P-1, C2-2D and developed with commercial uses, including office and retail, and an LA County Metropolitan Water District facility. The adjacent properties to the west, across Sunset Boulevard, are zoned C2-1VL and developed with a dance club, surface parking lot, and a single-story office building.

White Knoll Drive is a Collector Street dedicated to a varying width and improved with asphalt roadway, concrete gutter, curb, sidewalk, and street trees.

Sunset Boulevard is a Class II Major Highway dedicated to a width of 100 feet and improved with asphalt roadway, concrete gutter, curb, sidewalk, and street trees.

Previous Cases on the Subject Property:

Case No. ZA 2004-1323(ZAD) – On August 11, 2004, the Zoning Administrator denied a Zoning Administrator's Determination for an adaptive reuse project to permit the conversion of an existing eight-story and basement office building into 71 live/work units, with 71 on-site parking spaces, and observing zero rear and side yards on the subject property.

Case No. ZA-2004-1323(ZAD)-1A – The above Zoning Administrator's denial was overturned on January 12, 2005 by the East Los Angeles Area Planning Commission in granting a Zoning Administrator's Determination to permit 71 live/work units, with 107 parking space onsite or within 750 feet from the site, observing zero rear and side yards.

Case No. ZA 2004-1323(ZAD)(PA1) – On December 18, 2008, the Zoning Administrator approved an Approval of Plans to permit a modification of ZA-2004-1323(ZAD)-1A to allow an increase from the originally permitted 71 live/work units to 92 live/work units on Lot A.

Case No. ZA 2004-1323(ZAD)(PA1)(1A) – On March 24, 2009, the Central Los Angeles Area Planning Commission sustained the action of the Zoning Administrator dated December 18, 2009 and modified Condition No. 7.b to allow required parking to be provided in a parking structure under the ownership of Metropolitan Water District.

Case No. ZA 2004-1323(ZAD)(PA2) – On November 15, 2013, the Zoning Administrator approved an Approval of Plans to permit a modification of ZA-2004-1323(ZAD)(PA1)(1A) to allow an increase from the previously permitted 92 live/work units to 96 live/work units on Lot A.

Case No. PMLA 1999-3180 – On June 16, 2000, the Deputy Advisory Agency approved with conditions Preliminary Parcel Map LA No. 1999-3180, at 1111 Sunset Boulevard for one parcel and one air space lot.

Previous Cases on Surrounding Properties:

Case No. ZA 1996-355(CUB)(ZV) – On October 7, 1996, the Zoning Administrator approved a Conditional Use to permit the sale of beer and wine for off-site consumption as an accessory use to a drug store, and a Variance from Section 12.11-A of the LAMC to permit the construction, use and maintenance of a drug store within the R4 Zone on property located at 1034-1080 Sunset Boulevard.

Public Hearing Summary

A public hearing was held by the Associate Zoning Administrator on July 22, 2015 at Los Angeles City Hall, Room 1020. The hearing was attended by the applicant, the applicant's

representative, several members of the community, and a representative from the Council Office (CD 1).

The applicant and the applicant's representative gave an overview of the request and made the following points in support of the application:

- Site was previously issued a CUB for a different project.
- There will be no customer dancing or live entertainment.
- Restaurant will be family friendly with a menu offering new American comfort foods.
- There are no full service restaurants in the immediate vicinity and the proposed restaurant will fill this void.
- There will be a small retail component to the business offering kitchen and cooking products.
- Applicant has experience in operating a restaurant (Hollywood).
- Project has the support of the Historic-Cultural Neighborhood Council.

Four speakers spoke in opposition to the application, their points in opposition were generally for the following points:

- Proposed 2:00 a.m. closing is excessive and not desirable for this location.
- There will be significant noise impacts to the residents of the area, especially if there is outdoor dining.
- Parking is inadequate in the neighborhood and will be exacerbated by the proposed restaurant.
- Traffic may become a problem as the area has small hillside streets.
- There is already an excess of alcohol serving venues in the area that have created problems, notably Club Bahia across the street.
- The proposed restaurant does not meet the needs of the residents of the neighborhood who are generally working class families with limited incomes.
- There was inadequate notification and the site is near boundary with adjacent Neighborhood Council.

The representative for the Council Office made general comments about the project with the following points:

- The Council office generally supports new businesses but has some concerns with this application.
- The proposed use does not have full support of local residents.
- Applicant should meet with LAPD and get their support or at least comments.
- Ask that the Zoning Administrator take the case under advisement to meet with Council Office and LAPD.

Correspondences Received

A letter dated September 23, 2015 was received from the Echo Park Improvement Association in support of the application with hours of 7:00 a.m. to 11:00 p.m. Sunday through Thursday, and 7:00 to 12:00 a.m. on Friday and Saturday.

A letter was received from the Greater Echo Park Elysian Neighborhood Council dated July 29, 2015 opposed to the application as submitted and until certain outstanding issues are addressed. Specifically their concern was related to obligation to parking rights, rights to patio usage, and reduced hours of operation to 12:00 midnight daily.

Seven letters and emails were received in opposition to the application. Reasons for opposing the application were similar to those reasons offered in opposition at the public hearing held on July 22, 2015.

Fourteen letters and emails were received in support of the application.

Five letters and emails were received with general comments about the proposed restaurant.

CONDITIONS IDENTIFIED FOR CONSIDERATION BY THE STATE DEPARTMENT OF ALCOHOLIC BEVERAGE CONTROL RELATIVE TO THE SALE AND DISTRIBUTION OF ALCOHOLIC BEVERAGES

In approving the instant grant, the Zoning Administrator has not imposed Conditions specific to the sale or distribution of alcoholic beverages, even if such Conditions have been volunteered or negotiated by the applicant, in that the Office of Zoning Administration has no direct authority to regulate or enforce Conditions assigned to alcohol sales or distribution.

The Zoning Administrator has identified a set of Conditions related to alcohol sales and distribution for further consideration by the State of California Department of Alcoholic Beverage Control (ABC). In identifying these conditions, the Office of Zoning Administration acknowledges the ABC as the responsible agency for establishing and enforcing Conditions specific to alcohol sales and distribution. The Conditions identified below are based on testimony and/or other evidence established in the administrative record, and provide the ABC an opportunity to address the specific conduct of alcohol sales and distribution in association with the Conditional Use granted herein by the Zoning Administrator.

- No "Happy Hour" type of reduced-price alcoholic beverage or "2 for 1" promotion shall be allowed at any time. Discounted food promotions are encouraged.
- No cocktail lounge shall be maintained on the premises separate from the dining area.
- No portable bars shall be permitted at this location.
- There shall be no bottle service allowed on the premises at any time.
- No alcohol shall be allowed to be consumed on any adjacent property under the control of the applicant.
- There shall be no exterior advertising of any kind or type, including advertising directly 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.
- The sale of alcohol shall be incidental to the sale of food.

- The sale of alcoholic beverages for consumption off the premises is prohibited.
- The quarterly gross sales of alcohol shall not exceed the quarterly gross sales of food. The business operator shall maintain records which reflect these numbers and make them available to the Police Department upon request.
- No person under the age of 21 years shall sell or deliver alcoholic beverages.
- The subject alcoholic beverage license shall not be exchanged for a public premise type license.
- All service of alcoholic beverages shall be conducted by a waitress or waiter or bartender.
- Alcohol may only be served to patrons who are seated at a table and only in conjunction with a food order. Patrons shall not be served while standing or while waiting to be seated.
- All personnel selling, dispensing and serving the alcoholic beverages must be 21 years old or older.
- The subject Alcoholic Beverage license shall not be exchanged for a public premises type license.
- No self-service of alcoholic beverages by patrons from behind the bar is permitted.

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 beer and wine for on-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 applicant is requesting a Conditional Use to permit the sale and dispensing of a full line of alcoholic beverages for on-site consumption in conjunction with a new restaurant with seating for 124 patrons, including 56 indoor seats and 68 outdoor patio seats, and hours of operation from 7:00 a.m. to 2:00 a.m., daily. The Zoning Administrator in consideration of the testimony taken and the surrounding residential neighborhood has limited the hours of operation to 12:00 midnight.

The proposed restaurant will serve the residents within the live/work units above and in general, the surrounding residential community within the Victor Heights neighborhood. To the extent that the immediate segment of the Sunset Boulevard commercial corridor currently lacks full service dining options and that the sale and

dispensing of alcoholic beverages is generally an integral menu option for a full service restaurant, the granting of the Conditional Use permit will allow a beneficial amenity to the restaurant for the surrounding community. The project site fronts on White Knoll Drive, however, Sunset Boulevard, a designated Class II Major Highway, has historically served as the site's frontage street and is a primary east-west commercial corridor within the Central City North Community Plan area. The site's relative proximity to the neighboring communities of Chinatown, Echo Park, and Downtown LA will further prove its enhanced accessibility to the residents in the surrounding area. Therefore, the project will provide a service that is essential or beneficial to the surrounding community.

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

The subject property is a sloped, irregular-shaped parcel of land located near the southeast corner of Sunset Boulevard and White Knoll Drive. The site is approximately 22,000 square feet in area with a frontage of approximately 24 feet along White Knoll Drive. Both vehicular and pedestrian access to the site are located along its frontage on White Knoll Drive. The subject property is zoned C2-2D and developed with an eight-story mixed-use building and a basement parking garage. The proposed project will be limited to tenant improvements within an existing, approximately 2,000 square-foot ground-floor commercial space. The approximately 1,000 square-foot outdoor patio dining area will be located in a currently open area, just outside the front entrance across a driveway. Parking will be provided within the onsite basement parking lot and adjacent surface lot using a validation service. The proposed restaurant will consist of 124 patron seats, including 56 indoor seats, 68 outdoor patio seats, and no live entertainment is proposed.

The adjacent properties to the north and east are zoned C2-1VL, [Q]R3-1VL, RD1.5-1, R3-1, and are developed with a single-story auto repair use and a mix of single- and multi-family residential uses generally one- to two-stories in height. The adjacent properties to the south are zoned C1-1, R4P-1, C2-2D and developed with commercial uses, including office and retail, and an LA County Metropolitan Water District facility. The adjacent properties to the west, across Sunset Boulevard, are zoned C2-1VL and developed with a dance club, surface parking lot, and a single-story office building.

The proposed hours of operation until 2:00 a.m. was a concern with the community. The Zoning Administrator however has conditioned the closing hours to 12:00 midnight. In reviewing the surrounding zoning and existing uses, there is a significant amount of residential uses within the 500-foot radius including some single family homes, and much of the multi-family residential is lower density and not medium or high density multiple family uses. The surrounding commercial uses are more community serving and the immediate area is not a significant entertainment area where there are late night restaurants and late operating businesses. There has been some issue with the existing dance club use at Club

Bahia at 1130 Sunset Boulevard which is open past 2:00 a.m. on weekends. There is some fear among the community members that this site will also be used as a night club. However, the project as approved is for a restaurant use and not for a night club use with dancing and entertainment. The site is also located along a transitional stretch of White Knoll Drive where the street transitions into a residential neighborhood immediately north of the subject site. The Zoning Administrator agrees that allowing the restaurant to close at 12:00 midnight does allow for community residents an option for late night dining beyond the existing fast food choices or having to go beyond the immediate area.

During the public hearing and in written letters it was expressed that there is concern among the community pertaining to noise impacts on the surrounding residents. The concern is especially in regards to the outdoor patio area. The use of the outdoor patio as part of the restaurant is not in question since it is permitted with or without the requested conditional use for alcohol service. Noise mitigation measures have been included to alleviate the concerns of neighbors and regardless of the type of commercial use at this location, all businesses are required to comply with the City's Noise Ordinance.

The proposed parking area was of concern for the residents of the neighborhood. The requested conditional use for alcohol service at the restaurant cannot be denied solely on what community members see as a potential parking problem on-site. The parking requirement is triggered by the use itself, in this case a restaurant, and not the alcohol service. The restaurant use is permitted in the C2 Zone and does not require discretionary approval, however because of the request to sell alcoholic beverages as part of the menu, the Conditional Use is required, but only for the alcohol service. Parking requirements are the same regardless if there is alcohol or not and the applicant has not requested deviations from the parking requirement of the Municipal Code and therefore is not under the review of the Zoning Administrator. There is a condition requiring that the project comply with parking requirements of the LAMC as determined by the Department of Building and Safety. LAMC Section 12.21-4(g) does allow required on-site parking to be provided within 750 feet of the site to meet parking requirements. If it is later determined that parking cannot comply with the LAMC, the applicant may be required to file for a separate approval.

A conditional use is a discretionary request for a particular use, in this case alcohol service within a restaurant, which is not allowed as a matter of right within the zone. The conditional use process singles out types of uses or services which can be compatible and even desirable, but because of potential impacts are not always desirable at every location in unlimited numbers, or in a location without restrictions and conditions tailored to the specific use. The use will not be materially detrimental to the character of the development in the immediate area if feasible and conditions of approval are imposed.

As conditioned, the project's location, size, height, operations and other significant features will be compatible with and will not 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.**

There are eleven elements of the General Plan. Each of these Elements establishes policies that provide for the regulatory environment in managing the City and for addressing environmental concerns and problems. The majority of the policies derived from these Elements are in the form of Code Requirements of the Los Angeles Municipal Code. Except for those entitlements described herein, the project does not propose to deviate from any of the requirements of the Los Angeles Municipal Code.

The Land Use Element of the City's General Plan is divided into 35 separate Community Plans, each representing a distinct geographic area within the City. The subject property is located within the Central City North Community Plan area and is designated for General Commercial land uses with the corresponding zones of C1.5, C2, C4, RAS3, and RAS4. The project is not subject to any specific plans.

The Community Plan text is silent with regards specifically to the sale of alcohol. However, Objective 2-1 of the Central City North Community Plan states: *"To conserve and strengthen viable commercial development in the community and to provide additional opportunities for new commercial development and services,"* and Policy 2-1.1 states: *"New commercial uses should be located in existing established commercial areas or shopping centers."* Objective 2-2 states *"To attract uses which strengthen the economic base and expand market opportunities for existing and new businesses,"* Policy 2-2.3 states *"Require that the first floor street frontage of structures, including mixed use projects and parking structures located in pedestrian oriented districts, incorporate commercial uses."*

The proposed restaurant use will activate an existing vacant space within an existing mixed-use building allowing a new business to locate within the community and activate the ground floor of the building. Therefore, the proposed project will conform with the purpose, intent and provisions of the General Plan, and the Central City North Community Plan.

4. **The proposed use will not adversely affect the welfare of the pertinent community.**

The proposed restaurant will operate within an existing ground floor tenant space along an established commercial corridor. The proposed restaurant with alcohol service use will likely serve residents on-site as well as neighboring residential uses that surround the subject site. The restaurant will also add a much needed full service dining option to the diversity of commercial uses along this stretch of Sunset Boulevard. The requested approval is for a conditional use to allow the on-site sales and dispensing of a full line of alcoholic beverages as an incidental use within a proposed restaurant. The approval of the conditional use will not adversely affect the welfare of the community as the subject property is zoned for commercial uses which includes restaurants and will be utilized as such with the proposed incidental sale of alcohol in conjunction with a bona fide restaurant use.

The grant authorized herein incorporates a number of conditions which have been imposed upon the restaurant use to maintain its compatibility with the character of the immediate neighborhood. The subject grant is authorized for a term grant of six years. The term grant 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 on a new conditional use may take that into favorable consideration. A record of poor compliance and/or nuisance complaints would allow the City the discretion to not grant a conditional use and thus avoid the need to proceed with prolonged nuisance abatement proceedings.

5. **The granting of the application will not result in an undue concentration of premises for the sale or dispensing for consideration of alcoholic beverages, including beer and wine, in the area of the City involved, giving consideration to applicable State laws and to the California Department of Alcoholic Beverage Control's guidelines for undue concentration; and also giving consideration to the number and proximity of these establishments within a one thousand foot radius of the site, the crime rate in the area (especially those crimes involving public drunkenness, the illegal sale or use of narcotics, drugs or alcohol, disturbing the peace and disorderly conduct), and whether revocation or nuisance proceedings have been initiated for any use in the area.**

According to the California State Department of Alcoholic Beverage Control (ABC) licensing criteria, four on-site and three off-site licenses are allocated to the subject Census Tract No. 1977.00, which had a population of 5,103 as of August, 2014. There is currently one on-site and two off-site licenses active within this census tract.

Based on ABC criteria, the census tract is not oversaturated with on-site alcohol licenses and granting the proposed Conditional Use will not contribute to an oversaturation within the census tract. The subject property currently does not have a pending license application in process with ABC. The Zoning Administrator has recommended a set of conditions to include in the final ABC license.

Statistics from the Los Angeles Police Department's Central Division Vice Unit reveal that in Crime Reporting District No. 101, which has jurisdiction over the subject property, a total of 153 crimes were reported in 2014, compared to the citywide average of 163 crimes and the high crime reporting district average of 196 crimes for the same period. Part I Crimes reported by LAPD include Rape (2), Robbery (6), Aggravated Assault (10), Burglary (2), Auto Theft (7), and Larceny (47). Part II Arrests include Other Assault (4), Forgery/Counterfeit (1), Weapons Violation (1), Narcotics/Drugs (7), Liquor Laws (18), Public Drunkenness (7), Disturbing the Peace (2), Disorderly Conduct (3), DWI (15), and All Other Violations (17).

As noted from the data above, the crime rate in the census tract where the subject site is located is below the city average and is not in a high crime area. The proposed restaurant is family oriented and will not have hours of operation into the

morning hours and no dancing or live entertainment is proposed. The restaurant will not contain a cocktail lounge or fixed bar. The restaurant's emphasis will be food service and the service of alcoholic beverages will be incidental to food service.

The instant grant by the Zoning Administrator includes operational conditions that will ensure that the project does not generate any criminal or nuisance activity. The site's location is proper in relation to adjacent uses and the surrounding community to the extent that the site is designated for General Commercial uses, and existing land uses in the surrounding area are characterized by low-medium density residential developments including various commercial uses along the Sunset Boulevard corridor. As conditioned, it is not anticipated that the restaurant with an alcohol license on the premises would adversely affect the public safety of the community.

6. **The proposed use will not detrimentally affect nearby residentially zoned communities in the area of the City involved, 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 use is located within 1,000 feet of the subject site:

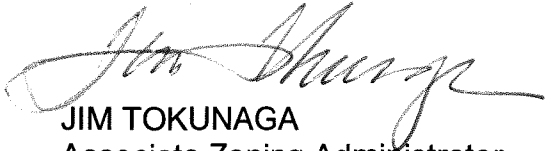
- Holy Hill Community Church
1111 West Sunset Boulevard
- Everett Park
1010 North Everett Street
- Multi-family and single family residences

The proposed restaurant use, with exception to the proposed sale of a full line of alcoholic beverages, is permitted by-right and therefore can be considered a proper use at the subject location. The imposition of operational conditions that clearly define the limits under which the restaurant may operate will reduce the potential for detrimental effects to nearby residents and sensitive institutions in the area. Therefore, the Zoning Administrator finds that the approval of the Conditional Use will not detrimentally affect the neighboring residential properties or any other sensitive uses in the area.

ADDITIONAL MANDATORY FINDINGS

7. 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 Flood Zone C, and outside the flood zone.

8. On June 30, 2015, the project was issued a Notice of Exemption pursuant to Article III, Section I of the City CEQA Guidelines, (ENV-2015-826-CE), for a Categorical Exemption, Class 5, Category 34, City CEQA Guidelines, Article III, Section 1, State EIR Guidelines, Section 15300. I hereby adopt that action.



JIM TOKUNAGA
Associate Zoning Administrator
Direct Telephone No. (213) 978-1307

JT:SK

cc: Councilmember Gilbert Cedillo
First Council District
Adjacent Property Owners