

ASSOCIATE ZONING ADMINISTRATORS

JACK CHIANG  
HENRY CHU  
LOURDES GREEN  
THEODORE L. IRVING  
ALETA D. JAMES  
FRANKLIN N. QUON  
FERNANDO TOVAR  
DAVID S. WEINTRAUB  
MAYA E. ZAITZEVSKY

CITY OF LOS ANGELES  
CALIFORNIA



ERIC GARCETTI  
MAYOR

DEPARTMENT OF  
CITY PLANNING

VINCENT P. BERTONI, AICP  
DIRECTOR  
(213) 978-1271  
KEVIN J. KELLER, AICP  
EXECUTIVE OFFICER  
(213) 978-1272  
LISA M. WEBBER, AICP  
DEPUTY DIRECTOR  
(213) 978-1274

<http://planning.lacity.org>

February 16, 2018

Ron Semler (A)  
Malibu Management Services No. 2, Inc.  
3211 Mulholland Hwy  
Malibu, CA 90265

Michael Harris (O)  
Sherman Way – West Hills  
Partners, LLC  
22801 Ventura Boulevard, Unit 111  
Woodland Hills, CA 91364

Steve Hunter / Jimmy Lee (R)  
Land Design Consultants, Inc  
800 Royal Oaks Drive  
Monrovia, CA 91016

CASE NO. ZA 2017-2535(ZV)  
ZONE VARIANCE  
23130 West Sherman Way  
Related Cases: CPC-2015-4680-GPA-ZC;  
VTT-73814-SL  
Zone : (T)(Q)RD5-1; A1-1  
D. M. : 183B093; 183B097  
C. D. : 12 - Englander  
CEQA : ENV-2017-2536-CE  
Legal Description: Lots PT 1056 Arb 7, 8,  
and 11; TR 1000

Pursuant to Los Angeles City Charter Section 562 and Los Angeles Municipal Code Section 12.27-B, I hereby APPROVE:

a zone variance to permit a change of use to a commercial wine tasting room with an outdoor area with on- and off-site sales of beer and wine as otherwise not permitted in the A1-1 and (T)(Q)RD5-1 Zones, and

a zone variance to permit the required parking area to remain unimproved and not striped in conjunction with the change of use to a commercial wine tasting room with an outdoor area as otherwise required pursuant to LAMC Section 12.21-A,5 and 6(s),

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. Approved herein is the change of use of an existing 2,079 square-foot building to a commercial wine tasting room and the establishment of an approximately 12,992 square-foot outdoor garden area. The operations of the wine tasting room and outdoor area shall be subject to the following limitations:
  - a. Hours of operation shall be limited to: 10:00 a.m. to 7:00 p.m., Sunday through Thursday; 10:00 a.m. to 9:00 p.m., Friday and Saturdays. After hours use of the facility, other than for routine clean-up and maintenance, is not permitted.
  - b. The wine tasting room may have a maximum of 28 seats and the outdoor garden may have a maximum capacity of 200 non-fixed seats/occupants
  - c. The establishment shall not provide full dining / kitchen services. Food service shall be limited to food trucks and light snacks.
7. Parking shall be provided pursuant to the Los Angeles Municipal Code, except that the parking area for the required parking spaces may remain unimproved and not striped.
8. Prior to the issuance of a permit, the applicant shall submit proof of a valet service agreement to the Department of City Planning.
9. Live Entertainment is permitted and limited to up to four (4) musicians. Live Entertainment is limited to Fridays, Saturdays, and Saturdays, and limited to 9 p.m.
10. The applicant shall not alter any building, fence, or structures that are recognized as part of the Historic Monument.
11. Landscaping shall be in substantial conformance with the Landscape Plan as shown in "Exhibit A".
12. 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.

13. 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. Any music shall not be audible beyond the area under control of the applicant, and any sound or noise emitted that exceeds the decibel levels permitted by the City's Noise Ordinance and 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 staff or any employees contracted by the restaurant, or any noise associated with the operation of the establishment, or equipment of the restaurant.
14. There shall be no use of the subject premises which involve Section 12.70 of the Los Angeles Municipal Code uses (Adult Entertainment).
15. The applicant shall be responsible for maintaining free of litter, the area and adjacent to the premises over which they have control.
16. No alcoholic beverage shall be consumed on any property adjacent to the licensed premises under the control of the licensees.
17. No intoxicated person or persons observed publicly drinking shall be admitted to the location.
18. The parking lot of the premises shall be equipped with lighting of sufficient power to illuminate and make easily discernible the appearance and conduct of all persons on or about the parking lot. No commercial lighting will be added with the exception of Italian style outside strong lights or similar.
19. There shall be no weddings or like events permitted on the site.
20. "No Left Turn" signage shall be placed at the egress of the site to discourage left turns on to Sherman Way.
21. "No Drinking Beyond This Point" signage shall be placed near areas that lead to the Designated Overflow/Valet Parking Area and designated On-Site Parking Area for the Proposed Wine Tasting Room, as shown on the site plan of "Exhibit A" to the satisfaction of the Zoning Administrator. An exhibit identifying these areas shall be submitted to the Department of City Planning to be included in the case file folder.
22. The applicant shall either provide signage, assign a staff person, or incorporate an appropriate safety mechanism that alerts drivers exiting the premises of students approaching the property's driveways along Sherman Way to reduce potential conflicts with students who walk to and from school to the satisfaction of the Department of City Planning. In the event a staff person is used, the applicant shall inform the Zoning Administrator of the times of day the staff person will be utilized.
23. Signs shall be posted in English and in the predominant language of the facility's clientele, if different, that California State Law prohibits the sale of alcoholic beverages to person who are under 21 years of age.

24. Lighting shall be adequate enough around the property, including in the patio, to make discernible anyone at night. Lighting shall be shielded from residential uses.
25. The applicant/operator shall identify a contact person and provide a "hot line" telephone number during all hours of operation for any inquiries or complaints from the community regarding the subject facility. The phone number shall be provided to the units on the upper floors of the subject building.

The "hot line" shall be:

- a. Posted at the entry, and the cashier.
  - b. Responded to within 24 hours of any complaints/inquiries received on this "hot line."
  - c. Documented in a log and available for review by the Police Department, the Department of Building and Safety and any other City agency upon request.
  - d. This log shall, at a minimum, record when the calls were received, the nature of the complaint, date/time of call returned, and the action taken to address the concern, as well as contact information for the complainant for independent follow up.
26. The applicant shall install video surveillance cameras and monitors inside the premises and cameras outside which show the outside frontage area, to the satisfaction of the Police Department prior to the exercise of the grant. Evidence of compliance shall be submitted by the business operator to the Zoning Administrator. The business operator shall maintain the tapes for at least two weeks and have them made available to the Police Department upon request.
  27. Loitering shall be prohibited on or around the premises under the control of the applicant. Employees shall routinely patrol these areas to insure that no loitering occurs therein.
  28. 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.
  29. Should there be a change in the ownership or business operator, the owner and/or the business operator shall provide the prospective new owner and/or operator with a copy of these conditions prior to the legal acquisition of the property and/or business. Prior to any closing of escrow for a change in owner or operator, evidence that a copy of this action has been provided to the prospective owner/operator shall be submitted to the Zoning Administrator for inclusion in the file.

30. All licenses, permits, and conditions shall be posted in a conspicuous location at the facility. Additionally, a copy shall be provided to all employees who shall sign an acknowledgement form stating that they have read and understood all of the ABC and variance conditions. Said form shall be maintained at the location by the owner and/or manager who shall present it to Police personnel, ABC investigators, or any other City agency upon request.
31. That the authorized use shall be conducted at all times with due regard for the character of the surrounding district, and the right is reserved by 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 or to revoke or amend this authorization if conditions are not met or operation of the site continues to constitute a nuisance.
32. These conditions of approval as well as a copy of any Business permit, insurance information, security, and any emergency contact phone numbers shall be retained on the property at all times and shall be produced immediately upon the request of the Zoning Administrator, the Police Department, the Department of Building and Safety or other enforcement agency.
33. 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 Department of City Planning for approval before being recorded. After recordation, a certified copy bearing the Recorder's number and date shall be provided for inclusion in case file. Fees required per L.A.M.C section 19.01-E(3) for Monitoring of Conditional Use Permits and Inspection and Field Compliance Review of Operations shall be paid to the City prior to the final clearance of this condition.
34. Within one year of the effective date of this determination, all personnel acting in the capacity of manager or server at the premise shall attend at 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 Condition Compliance Unit as evidence of compliance. New employees shall receive such training within 60 days of hiring. Subsequently this training program shall be required for all staff annually.
35. 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.
36. INDEMNIFICATION AND REIMBURSEMENT OF LITIGATION COSTS.

Applicant shall do all of the following:

- (i) 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.
- (ii) 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.
- (iii) 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 \$50,000. 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 (ii).
- (iv) 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 in paragraph (ii).
- (v) If the City determines it necessary to protect the City's interest, 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, commissions, 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.

37. Prior to the utilization 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 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 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 \$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 **MARCH 5, 2018**, unless an appeal therefrom is filed with the City Planning Department. It is strongly advised that appeals be filed early during the appeal period and in person so that imperfections/incompleteness may be corrected before the appeal period expires. Any appeal must be filed on the prescribed forms, accompanied by the required fee, a copy of the Zoning Administrator's action, and received and receipted at a public office of the Department of City Planning on or before the above date or the appeal will not be accepted. **Forms are available on-line at <http://planning.lacity.org>.** Public offices are located at:

<b>Downtown</b>	<b>San Fernando Valley</b>	<b>West Los Angeles</b>
Figueroa Plaza 201 North Figueroa Street, 4th Floor Los Angeles, CA 90012 <u>(213) 482-7077</u>	Marvin Braude San Fernando Valley Constituent Service Center 6262 Van Nuys Boulevard, Room 251 Van Nuys, CA 91401 <u>(818) 374-5050</u>	West Los Angeles Development Services Center 1828 Sawtelle Boulevard, 2nd Floor Los Angeles, CA 90025 <u>(310) 231-2598</u>

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 January 16, 2018, 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 12.27 have been established by the following facts:

### **BACKGROUND**

The subject site as it exists today consists of three parcels, with approximately 155,524 square feet of lot area. On October 26, 2016, the City Council denied an appeal and sustained the approval of Vesting Tentative Tract Map No. 73814-SL, which would subdivide the current site. After the recordation of the tract map, the Project Site would be an irregularly shaped site with approximately 78,408 square feet of lot area. The site would have approximately 36 feet of frontage along the eastern side of Woodlake Avenue and 178 feet of frontage along the southern side of Sherman Way.

The site is located within the Canoga Park – Winnetka – Woodland Hills – West Hills Community Plan area and has a land use designation of Low Residential and Very Low Residential. The subject site is currently zoned (T)(Q)RD5-1 and A1-1. According to the zoning map attached to Ordinance No. 184,763, the Project Site would be zoned A1-1 after the recordation of the tract map.

The Project Site is developed with the Canoga Mission Gallery, which is a City of Los Angeles Historic-Cultural Monument (No. 135). The Office of Historic Resources has indicated that the site has been utilized as an art gallery. The Project proposes to change the use of the building to permit the operation of a wine tasting room which would have a maximum of 28 interior seats. The Project does not propose additional floor area for the building. As part of the operations of the wine tasting room, the applicant proposes to designate an approximate 12,992 square-foot outdoor area for outdoor wine tasting. The area would have an occupancy of approximately 200 non-fixed seats.

The change of use would require 23 parking spaces be provided on-site. The applicant has requested a variance to not improve the area in which the parking spaces would be provided. The site is currently improved with gravel. The Office of Historic Resources has indicated that paving the parking area would not fit with the historic nature of the monument.

The applicant proposes to operate the wine tasting room during the hours of 10:00 a.m. to 7:00 a.m. Sunday through Thursday and 10:00 a.m. to 9:00 p.m. on Fridays and Saturdays. The applicant does not propose to have a full service kitchen, but proposes to provide light snacks, such as cheese and crackers to compliment the wine tasting experience. Additionally, the applicant proposes to provide live music Friday through Sunday. The applicant indicates that the Canoga Mission Gallery wishes to hold special functions associated with the wine tasting experience such as receptions, private parties, and corporate parties throughout the year, wedding events are not proposed.

Sherman Way, is a designated Avenue I, dedicated a width of approximately 100 feet and is improved with a roadway and landscaping.

Woodlake Avenue, is a designated Avenue II, dedicated a width of 90 feet and is unimproved.

**Previous Cases, Affidavits, Permits, and Orders on the Applicant's Property:**

Case No. CPC-2015-4680-GPA-ZC: On September 14, 2016, the City Planning Commission approved and recommended that the City Council adopt an amendment of the land use designation from Very Low Residential to Low Residential and a zone change from A1-1- to (T)(Q)RD5-1 for a portion of the subject site.

Case No. VTT-73814-SL: On October 26, 2016, the City Council denied an appeal and sustained the City Planning Commission's denial of an appeal and approval of Vesting Tentative Tract Map No. 73814-SL for a maximum of 16 lots including 15 small lots and one remainder lot.

Case No. ZA 2012-1146-ELD-SPR-1A: On October 11, 2013, the South Valley Area Planning Commission granted an appeal and overturned the action of the Zoning Administrator in approving an Eldercare Facility.

**Previous Cases, Affidavits, Permits, and Orders on the Surrounding Properties:**

Case No. CPC-2015-4684-ZC: On September 14, 2016, the City Planning Commission approved and recommended that the City Council adopt a zone change from A1-1 to (T)(Q)RD3-1 for a site located at 23200 Sherman Way.

Case No. VTT-73714-SL: – On October 26, 2016, the City Council denied an appeal and sustained the City Planning Commission's denial of an appeal and approval of Vesting Tentative Tract Map No. 73714-SL for a maximum of 37 lots including 36 small lots and one remainder lot.

**Public Correspondence**

One phone call was received from a resident in the area requesting additional information regarding the proposed use and expressed concern regarding the volume of cars and the dangerous driving conditions due to the curve in the road.

A letter of support from the West Hills Neighborhood Council, dated December 14, 2017 was submitted to the file. The letter states that the Neighborhood Council voted in support of the project. It should be noted that the letter of support is for a maximum of 200 people and 100 vehicles on site at any given time.

After the public hearing the Associate Zoning Administrator allowed the record to remain open for a period of one week. During that time, one email was submitted requesting clarification of the alcohol request.

**Public Hearing**

A public hearing was conducted on Tuesday, January 16, 2018, at the Marvin Braude Constituent Services Center on January 16, 2018. The hearing was attended by the applicant's representatives, Michael Harris and David Spiegel, as well as the applicant and his team, neighbors near the project site, and a representative from Council District 12.

Mr. Harris and Mr. Spiegel made the following points:

- The project is requesting on- and off-site sales of beer and wine in the A zone.
- The applicant met with the neighborhood council on three occasions.
- The meeting with the neighborhood council was noticed to all abutting neighbors for the second presentation.
- The Councilmember expressed an interest in the idea of a winery for the subject site.
- A letter of support from the West Hills Neighborhood Council was received, which stated the support for the proposed hours of operation.
- The applicant consents to the No Left turn/Right Turn Only sign off of Sherman Way.
- The project will be limited to 200 people/100 vehicles.
- A traffic study was conducted for the project. The number of attendants was increased in the analysis.
- Data used was from the related neighboring cases, VTT-73714-SL and VTT-73814-SL.
- The applicant concurs with the neighborhood council and is not looking to increase its operating capacity.
- The operation would be seven days a week and include special events.
- Off-site consumption of beer and wine would allow patrons to purchase wine to take home.
- Food preparation would occur through food trucks selling their foods on-site.
- Five outdoor lights will be provided to the satisfaction of DWP.
- The parking lot will be well-lit.
- The applicant met with Officer Jose Fernandez, who expressed non opposition to the project request.
- Live entertainment would only occur on Fridays, Saturdays, and Sundays within the hours recommended by the neighborhood council.

During the public comment portion of the hearing, five people spoke of the project. The following is a summary of the testimony for each speaker:

Speaker: Diane Higgs

- She lives across the street from the site.
- She thought the operation would be open at 11 am not 10 am.
- Wanted to know where delivery trucks and food trucks would be located during operation.

Speaker: Alice Allen

- There are two driveways along Sherman Way.
- Recommended driveways be off of Woodlake Avenue.
- The project should abandon the southwest access points to reduce conflicts with pedestrians.
- The project would create an impact to the historic structure on the site.

Speaker: Rabbi Mark Sobel

- The project should not be granted a permit to sell alcohol pursuant to California Business Code 23789.

- The site is near the walking routes of schools. It has the potential to impact children walking from and to their school along Sherman Way.

Speaker: Chris Matthewson

- Lives on Woodlake Avenue.
- The owner is responsible and wants to participate in the community.

Speaker: Dang Ng, Associate Planning Deputy, Councilmember Mitchell Englander (CD12)

- A change in the maximum seating was considered.
- The original request was to allow for 200 maximum seats.
- The Council Office reviewed the project exceeding this maximum and is okay with the going beyond the maximum.

At the end of the public comment period, the applicant addressed all the comments of the community, including the recommendation of a driveway off of Woodlake. At the conclusion of the hearing, the Associate Zoning Administrator allowed for the public record to be open for one week to allow for the public to respond.

**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.

They may include those identified during hearing testimony, received as part of correspondence via stakeholder groups, city agency, other responsible agency, Council District, Mayor's office, etc.)

- 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.
- There shall be no cocktail lounge or separate bar area.
- 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 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.
- The off-site sale of alcoholic beverages as a secondary use (i.e., “take out”) is not permitted.
- No sale of alcohol shall be permitted at any self-service, automated check-out station (checkout conducted primarily by the customer, with assistance by a store monitor) if such are available on the site. All sales of alcohol shall be conducted at a full-service checkout station directly attended by a cashier/checkout clerk specifically assigned solely to that station.
- The alcoholic beverage license shall not be exchanged for a public premises type license nor operated as a public premises.

### **MANDATED FINDINGS**

In order for a variance to be granted, all five of the legally mandated findings delineated in City Charter Section 562 must be made in the affirmative. Following (highlighted) is a delineation of the findings and the application of the relevant facts of the case to same:

1. **The strict application of the provisions of the Zoning Ordinance would result in practical difficulties or unnecessary hardships inconsistent with the general purpose and intent of the zoning regulations.**

The subject property is located within the Canoga Park – Winnetka – Woodland Hills – West Hills Community Plan area, at the southeast corner of Sherman Way and Woodlake Avenue. As previously discussed above, after the recordation of the Vesting Tentative Tract Map No. 73814-SL, the Project Site would consist of approximately 78,408 square feet of lot area. The site is currently zoned A1-1 and is developed with a building known as the Canoga Mission Gallery. The building is designated as a City of Los Angeles Historic-Cultural Monument (No. 135).

As the site is zoned A1-1, commercial uses such as the proposed wine tasting room and the associated sale of beer and wine for on- and off-site consumption would not be permitted. Additionally, the proposed change of use would require that parking be provided consistent with the current regulations. This would entail paving and striping the existing gravel area. Due to the historic designation of the existing building, the ability to utilize the building for a non-commercial use is limited. Additionally, the paving of the gravel area would not fit with the historic nature of the site as designated.

2. **There are special circumstances applicable to the subject property such as size, shape, topography, location or surroundings that do not apply generally to other property in the same zone and vicinity.**

The project site is a residentially zoned property which is developed with a building known as the Canoga Mission Gallery. The building is designated as a City of Los Angeles Historic-Cultural Monument (No. 135). As the site is zoned A1-1, use of the site would be limited to a single-family dwelling and other agricultural uses. The combination of historic designation of the existing building and the agricultural zone presents a special circumstance that is applicable to the subject property that is not

generally applied to other properties in the same zone and vicinity. The ability to rehabilitate and utilize the site for residential uses is limited. The proposed wine tasting room could be conducted within the existing building and would not disrupt the historic nature of the site.

3. **Such variance is necessary for the preservation and enjoyment of a substantial property right or use generally possessed by other property in the same zone and vicinity but which, because of such special circumstances and practical difficulties or unnecessary hardships, is denied the property in question.**

Other A1 zoned properties in the surrounding area are able to develop based on the regulations of the A1 zone. In this instance, the site is developed with an existing building designated as a City of Los Angeles Historic-Cultural Monument (No. 135). The building has historically been utilized for commercial uses and the ability to redevelop the site for residential purposes is limited. The variance for the change of use to wine tasting and to maintain an unpaved parking area would be necessary to continue use of the site that is consistent with the historic designation, while allowing the applicant to effectively utilize the site despite its zoning and historic designation.

4. **The granting of such variance will not be materially detrimental to the public welfare or injurious to the property or improvements in the same zone or vicinity in which the property is located.**

The project site is located along Shermay Way within the Canoga Park – Winnetka – Woodland Hills – West Hills Community Plan area. While the area is developed primarily with low density residential uses, properties to the northeast are commercially zoned and are developed with the West Hills Medical Hospital and Medical Center. The Project Site is currently developed with an existing building known as the Canoga Mission Gallery, which is a City of Los Angeles Historic-Cultural Monument (No. 135). The Project proposes to change the use of the building to allow for a wine tasting room and to establish an outdoor garden area for the on- and off-site consumption of beer and wine.

According to the California State Department of Alcoholic Beverage Control (ABC) licensing criteria for the subject Census Tract No. 1344.22, there are four on-site and two off-site licenses allocated. There is currently one (1) existing on-site license for the sale of beer and wine for a restaurant.

Statistics from the Los Angeles Police Department's Topanga Division reveal that in Crime Reporting District No. 2133, which has jurisdiction over the subject property, a total of 107 crimes were reported in 2016, compared to the area average of approximately 119 crimes and the high crime reporting district average of approximately 42 crimes for the same period. In 2016 there were 0 Liquor Laws, 0 Public Drunkenness, 11 DWI related, 2 Moving Traffic Violations, and 7 other offence-related arrests in the District. 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.

At the public hearing, comments and issues were raised concerning the location of the driveway and the potential for pedestrian conflicts, especially with school students. The project has been conditioned to maintain the driveway as proposed since its relocation off of Woodlake was not required by the Department of Transportation in their letter, dated December 7, 2017, in addition to potentially conflicting with the queueing of vehicles off of Woodlake Avenue. In regards to pedestrian conflicts, the applicant will be required to provide safety elements to ensure vehicles would be mindful of pedestrians crossing along Sherman Way. The project not striping the parking area would preserve the character and historic nature of the site.

**5. The granting of the variance will not adversely affect any element of the General Plan.**

The granting of the variances will lead to a project that is in conformance with the General Plan and the Winnetka – Woodland Hills – West Hills Community Plan.

Commercial Goals and Objectives of the Community Plan are as follows:

Goal 2: An economically vital commercial sector offering a diversity of goods and services to meet the needs of the community plan area. This means that commercial land use policies must support maximum efficiency and accessibility of commercial development while preserving the historic commercial and cultural character of the district.

Objective 2-1: Conserve and strengthen viable commercial development and encourage recycling of obsolete commercial development.

The granting of the variances will allow for the site to be used for commercial purposes that would bring a unique experience to the area. The use will allow for commercial wine tasting within an outdoor area where on- and off-site sales are permitted. The site would also provide for a venue for special events, thus making use of a site that has limitations based on its zoning and historic nature.

Also, the parking area will remain unimproved and not striped in conjunction with the change of use. The request to have the parking lot remain unstriped preserves the unique nature of the site and contributes to the historic character what's developed on the site. The proposed use and the granted variance requests will help bring a use that encourages the conservation and reuse of the site that is consistent with the community plan.

**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.

7. DETERMINED based on the whole of the administrative record, that the Project is exempt from CEQA pursuant to City CEQA Guidelines Article III, Section I Class 5 Category 23, and there is no substantial evidence demonstrating that an exception to a categorical exemption pursuant to CEQA Guidelines, Section 15300.2 applies.

Inquiries regarding this matter should be directed to May Sirinopwongsagon, Planning Staff for the Office of Zoning Administration.

A handwritten signature in black ink, appearing to read 'Henry Chu', is positioned above the printed name and title.

Henry Chu  
Associate Zoning Administrator

HC:MS:bk

cc: Councilmember Mitchell Englander  
Twelfth District  
Adjoining Property Owners  
Interested Parties