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September 30, 2022

Raising Cane's (A)  
6800 Bishop Road  
Plano, TX 75024

KB Sunset McCadden, LLC (O)  
9350 Wilshire Boulevard, #200  
Beverly Hills, CA 90212

Sherrie Olson (R)  
Permits N More, Inc.  
1030 Mountain Avenue  
Ontario, CA 91762

CASE NO. ZA-2021-4710-CU-ZV-SPR  
CONDITIONAL USE, ZONE VARIANCE,  
SITE PLAN REVIEW  
6726-6740 West Sunset Boulevard,  
1434-1456 North McCadden Place  
Hollywood Community Plan  
Zones: C4-2D-SN, RD1.5-1XL  
C.D: 13 – O'Farrell  
D.M.: 147A185  
CEQA: ENV-2021-4711-MND  
Legal Description: Lots FR13-FR17,  
Boyle Place Tract

Pursuant to California Environmental Quality Act, I hereby:

FOUND, pursuant to CEQA Guidelines Section 15074(b), after consideration of the whole of the administrative record, including the Mitigated Negative Declaration, No. ENV-2021-4711-MND, as circulated on August 18, 2022, ("Mitigated Negative Declaration"), and all comments received, with the imposition of mitigation measures, there is no substantial evidence that the project will have a significant effect on the environment; FOUND the Mitigated Negative Declaration reflects the independent judgment and analysis of the City; FOUND the mitigation measures have been made enforceable conditions on the project; and ADOPTED the Mitigated Negative Declaration and the Mitigation Monitoring Program prepared for the Mitigated Negative Declaration.

Pursuant to Los Angeles Municipal Code (LAMC) Section 12.24 W.17, I hereby APPROVE:

a Conditional Use to allow the construction, use, and maintenance of a drive-through fast-food establishment in the C4 Zone adjoining a residential zone,

Pursuant to LAMC Section 12.27, I hereby APPROVE:

a Zone Variance to permit a drive-through fast-food use partially in the RD1.5-1XL Zone,

a Zone Variance to permit an outdoor eating area in excess of 50 percent of the interior dining area in the C4-2D-SN Zone,

a Zone Variance to permit access and accessory parking from a more restrictive zone to a less restrictive zone; and

Pursuant to Los Angeles Municipal Code (LAMC) Section 12.24 W.27, I hereby DISMISS:

a Conditional Use Permit to allow deviations from Commercial Corner development standards including less than 50 percent window transparency for exterior walls and doors of a ground floor containing non-residential uses that front adjacent streets and hours of operation exceeding 7:00 a.m. to 11:00 p.m. daily.

Pursuant to LAMC Section 16.05, I hereby DISMISS:

a Site Plan Review for a change of use to a drive-through fast-food establishment inasmuch as such development will not result in a net increase of 500 or more average daily vehicle trips;

Upon the following additional terms and conditions:

1. All other use, height and area regulations of the Municipal Code and all other applicable government/regulatory agencies shall be strictly complied with in the development and use of the property, except as such regulations are herein specifically varied or required.
2. The use and development of the property shall be in substantial conformance with the plot plan and floor 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 Los Angeles City Planning and the Department of Building and Safety for purposes of having a building permit issued at any time during the term of this grant.

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 Los Angeles 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.
7. Authorized herein is the construction, use and maintenance of an approximately 3,448 square-foot drive-through fast food restaurant with two drive-through lanes and order boards/speakers and a 568 square-foot outdoor onsite eating area in the C4 Zone, with a portion of the drive-through lanes and vehicle parking in the RD1.5 Zone, adjacent to a residential zone, as depicted in the plans in Exhibit A.
8. Parking shall be provided in compliance with the LAMC and to the satisfaction of the Department of Building and Safety. No variance from the parking requirements has been requested or granted herein.
9. A camera surveillance system shall be installed and operating at all times to monitor the interior, entrance, exits and exterior areas, in front of and around the premises. Recordings shall be maintained for a minimum period of 30 days and are intended for use by the Los Angeles Police Department.
10. All exterior portions of the site shall be adequately illuminated in the evening so as to make discernible the faces and clothing of persons utilizing the space. Lighting shall be directed onto the site without being disruptive to persons on adjacent properties.
11. Noise from the speaker box(es) shall not be audible beyond the property line. Speaker boxes shall be directed away from the adjacent residential uses and shall be hooded toward the ordering vehicles.
12. Trash storage bins shall be located within a gated, covered enclosure constructed of materials to match the exterior wall materials of the building.
13. Prior to issuance of a building permit, a parking area and driveway plan shall be submitted to the Department of Transportation for review and approval.
14. Outdoor lighting shall be designed and installed with shielding, such that the light source does not disrupt adjacent residential properties.
15. Staff shall be available to remotely take orders from queueing vehicles during peak lunch and dinner hours.
16. All loading and unloading of vehicles to supply the restaurant shall occur onsite.

17. The project shall install improvements at the juncture of the pedestrian crossing and the drive-through exit lane to heighten awareness and improve safety, such as signage, reflectors, pavement texture, etc. to the satisfaction of the Department of Building and Safety and/or the Department of Transportation.
18. The applicant shall be responsible for monitoring both patron and employee conduct on the premises and within the parking areas under their control to assure behavior that does not adversely affect or detract from the quality of life for adjoining residents, property owners, and businesses.
19. Loitering is prohibited on or around these premises or the area under the control of the applicant. "No Loitering" signs shall be posted in and outside of the subject facility.
20. The approved conditions shall be retained on the premises at all times and produced immediately upon request of the Planning Department or the Department of Building and Safety. The on-site manager and employees shall be knowledgeable of the conditions herein.
21. The applicant shall be responsible for maintaining free of debris or litter the area adjacent to the premises over which they have control, including the sidewalk in front of the establishment.
22. Smoking tobacco or any non-tobacco substance, including from electronic smoking devices, is prohibited in or within 10 feet of the outdoor dining areas in accordance with Los Angeles Municipal Code Section 41.50 B 2 C. This prohibition applies to all outdoor areas of the establishment if the outdoor area is used in conjunction with food service and/or the consumption, dispensing or sale of alcoholic or non-alcoholic beverages.
23. The applicant(s) 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.
24. Any music, sound or noise which is under control of the applicant shall not violate Sections 112.06 or 116.01 of the Los Angeles Municipal Code (Citywide Noise Ordinance). At any time, a City representative may visit the site during operating hours to measure the noise levels. If, upon inspection, it is found that the noise level exceeds those allowed by the citywide noise regulation, the owner/operator will be notified and will be required to modify or eliminate the source of the noise or retain an acoustical engineer to recommend, design and implement noise control measures within property such as, noise barriers, sound absorbers or buffer zones.
25. All building façades shall utilize a minimum of two different materials. Windows, doors, balcony railings, decorative features (such as light fixtures, planters, etc.), and perimeter walls (e.g. walls along a street or alley that are not a part of the building) are excluded from meeting this requirement.

26. **Signage.** On-site signs shall comply with the Municipal Code. Signage rights are not part of this approval.
27. **Inadvertent Discovery.** In the event that any archaeological, paleontological, cultural, or historic resources are encountered during the course of any ground disturbance activities, all such activities shall temporarily cease on the project site and no archaeological and/or associated materials may be collected or moved until the potential resources are properly assessed and addressed by a qualified archaeologist and/or paleontologist pursuant to all applicable regulatory guidelines and procedures, including those set forth in California Public Resources Code Section 21083.2.

## ENVIRONMENTAL CONDITIONS

28. **MM-HAZ-1.** A Soil Management Plan shall be prepared by a qualified professional and submitted to the City of Los Angeles Building Department for review and approval prior to the issuance of a building, grading, or demolition permit. The Soil Management Plan shall address all excavation activities conducted on the project site, and shall be implemented in the event that excavation occurs in an area that may contain contaminants and for situations when contaminants that were not previously identified are suspected or discovered. The Soil Management Plan shall identify appropriate measures to be followed if contaminants are encountered during excavation. The appropriate measures shall identify personnel to be notified, emergency contacts, and a sampling protocol. The excavation and demolition contractors shall be made aware of the possibility of encountering known and unknown hazardous materials, and shall be provided with appropriate contact and notification information. The Soil Management Plan shall include a provision stating at what point it is safe to continue with the excavation, and identify the person authorized to make that determination. Removal, transportation, and disposal of impacted soil or groundwater shall be performed in accordance with applicable federal, State, and local laws, regulations, and ordinances. A soil excavation report would be required to document all remediation activities completed on the project site.
29. **MM-HAZ-2.** Based on recommendation from the December 2020 Phase I Environmental Site Assessment, a soil vapor intrusion mitigation system (VIMS) shall be shown on building plans and implemented beneath the foundation of the proposed building. The Applicant shall submit design documents for the VIMS for review and approval by the Site Mitigation Unit of the Los Angeles County Fire Department, City of Los Angeles Fire Department, and City of Los Angeles Department of Building and Safety prior to issuance of any permit for demolition, grading, or construction. The VIMS shall be designed in conformance with standard engineering principles and practices. The VIMS shall include a depressurization system that can monitor pressure sensors and send real time notifications if the system fails. Sub-slab vapor and/or soil vapor are required to be sampled periodically to evaluate the need for and the effectiveness of the VIMS. An operation, maintenance, and monitoring (OM&M) plan shall also be prepared for the VIMS. The OM&M plan shall include a contingency plan in the event that monitoring shows that the VIMS is not working as designed.

The contingency plan shall include specific measures to correct the problem in a timely manner.

### **ADMINISTRATIVE CONDITIONS**

30. **Expedited Processing Section.** Prior to the clearance of any conditions, the applicant shall show proof that all fees have been paid to Los Angeles City Planning, Expedited Processing Section.
31. At any time during the period of validity of this grant, should documented evidence be submitted showing continued violation of any condition of this grant, resulting in an unreasonable level of disruption or interference with the peaceful enjoyment of the adjoining and neighboring properties, the Zoning Administrator reserves the right to call for a public hearing requiring the applicant to file for a plan approval application together with associated fees pursuant to LAMC Section 19-01 E, the purpose of which will be to review the applicant's compliance with and the effectiveness of these conditions. The applicant shall prepare a radius map and cause notification to be mailed to all owners and occupants of properties within a 500-foot radius of the property and the Council Office. The applicant shall also submit a summary and any supporting documentation of how compliance with each condition of this grant has been attained. Upon this review, the Zoning Administrator may modify, add or delete conditions, and reserves the right to conduct this public hearing for nuisance abatement/revocation purposes.
32. **INDEMINIFICATION 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, in whole or in part, 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, in whole or in part, 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 \$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).

- 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 in paragraph (ii).
- e. 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 include 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 **OCTOBER 17, 2022**, unless an appeal therefrom is filed with Los Angeles City Planning. 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 Los Angeles 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:

**Downtown**  
Figueroa Plaza  
201 North Figueroa Street,  
Fourth Floor  
Los Angeles, CA 90012  
(213) 482-7077

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

**West Los Angeles**  
West Los Angeles  
Development Services Center  
1828 Sawtelle Boulevard,  
Second Floor  
Los Angeles, CA 90025  
(310) 231-2598



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 subsequent contact regarding this determination must be with the staff assigned to this 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, and the statements made at the public hearing on September 21, 2022, 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 approval and zone variance approval under the provisions of Sections 12.24 W.17, 12.24 W.27, and 12.27 of the LAMC have been established by the following facts:

### **BACKGROUND**

The project involves the demolition of an existing one-story commercial building and surface parking lot for the development of a new approximately 3,448 square-foot drive-through fast food restaurant with two parallel drive-through lanes, an approximately 568 square-foot outdoor eating area, and a new surface parking lot. The project proposes two drive-through lanes and 35 vehicle parking spaces. Proposed hours of operation are from 9:00 a.m. to 1:00 a.m. Sunday through Thursday and from 9:00 a.m. to 3:30 a.m. Friday through Saturday.

The subject property is a parcel of land totals approximately 36,956 square feet. The rectangular-shaped property is located at the southeastern corner of Sunset Boulevard and McCadden Place and has street frontages of approximately 145 feet along the southern side of Sunset Boulevard and approximately 258 feet along the eastern side of McCadden Place. The subject property is currently developed with an existing one-story commercial building and surface parking lot which was formerly occupied by a Rite-Aid retail pharmacy and is now vacant. The project proposes to demolish all existing improvements on the site for development of the proposed new restaurant.

The subject property is located within the boundaries of the Hollywood Community Plan Area. The Community Plan designates the northern portion of the subject property for Regional Center Commercial land uses corresponding to the C2, C4, P, PB, RAS3, and RAS4 Zones, and the southern lot of the subject property for Low Medium II Residential land uses corresponding to the RD2 and RD1.5 Zones. The northern portion project site is currently zoned C4-2D-SN while the southern lot is currently zoned RD1.5-1XL; the property

is thus consistent with the existing land use designations on the site. The property is located within the Hollywood Redevelopment Project area and will thus be subject to any additional requirements of the Hollywood Redevelopment Plan. The project site is also located within the Los Angeles State Enterprise Zone and a Transit Priority Area in the City of Los Angeles. There are no other specific plans, overlays, or interim control ordinances pertaining to the project site.

The surrounding area is heavily urbanized and has generally flat topography. The subject property is located in central Los Angeles in the Hollywood area, approximately 1,000 feet south of Hollywood Boulevard and the Walk of Fame. The project site is located along Sunset Boulevard just east of Highland Avenue, two major arterial roadways in the area lined with a variety of commercial and residential uses. Immediately adjacent to the project site are a plant nursery and various multi-story commercial buildings to the north, a two-story motel to the east, and a drive-through fast-food restaurant to the west, all zoned C4-2D-SN; and a two-story residential building to the south, zoned RD1.5-1XL.

Sunset Boulevard, adjoining the subject property to the north, is a designated Avenue I and is currently dedicated to a right-of-way width of approximately 102 feet along the project's street frontage and improved with curb, gutter, and sidewalk.

McCadden Place, adjoining the subject property to the north, is a Standard Local Street and is currently dedicated to a right-of-way width of approximately 55 feet along the project's street frontage and improved with curb, gutter, and sidewalk.

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

Case No. ZA-2005-3842-CUB-ZV – On June 16, 2006, the Zoning Administrator approved a Conditional Use for the sale and dispensing of a full line of alcoholic beverages for off-site consumption, in conjunction with a proposed drug store with drive-through facility, and a variance to permit a loading dock and trash enclosure in the RDI -5-1XL Zone, located at 6726 Sunset Boulevard.

#### **Relevant Cases on Surrounding Properties:**

Staff utilized a 1,000-foot radius map via the Zoning Information Mapping Access System (ZIMAS) and the Planning Case Tracking System (PCTS), seeking past Zoning Administrator determinations associated with non-alcohol-related conditional use and zone variance approvals. The following cases were identified to be within 1,000 feet of the subject property and filed within the last 20 years:

Case No. ZA-2021-2125-CU – On September 10, 2021, the Zoning Administrator approved a Conditional Use to permit a drive-through fast food establishment on a lot that abuts a residential use or zone, with hours of operation from 7:00 a.m. to 2:00 a.m. daily, in the C4-2D-SN Zone, located at 6800 Sunset Boulevard.

On December 14, 2021, the Central Los Angeles Area Planning Commission denied an appeal of the Zoning Administrator's decision.

Case No. ZA-2001-1406-CU – On September 19, 2001, the Zoning Administrator denied a Conditional Use to permit a major expansion of a drive-through fast food restaurant located within 300 feet of an R Zone and with deviations from commercial corner requirements including transparency, hours of operation, and landscape setback, in the C4-2D-SN Zone, located at 6800 Sunset Boulevard.

### **PUBLIC CORRESPONDENCE**

In correspondence dated February 28, 2022, the Central Hollywood Neighborhood Council voted to support the request herein.

Planning also received two emails from members of the public primarily expressing concerns regarding parking and traffic impacts.

### **PUBLIC HEARING**

A public hearing was held before the Zoning Administrator on September 21, 2022, at 11:00 a.m. Due to COVID-19 and continued concerns that meeting in person would present imminent risks to the health and safety of the attendees, the hearing was conducted entirely telephonically.

Sherrie Olson, the project representative presented the project and stated the following:

- Started the process in March/April 2021 and met with LADOT and BOE
- Made site plan pedestrian friendly
- Met with the Neighborhood Council and PLUM board and both supported the project
- Seating is proposed in the interior and exterior; pedestrian friendly
- Looked at circulation of the site
- Meets parking and setbacks
- Ingress and egress off McCadden Place; Sunset is for ingress only
- Speaker box is labeled #17 on the plans with the order board
- During prime hours, employee will go out and take orders; move line quickly

Robert Vann, the Development Manager, stated the following:

- Speaker box programmed with ambient noise level; increase and decrease decimal; very low
- No breakfast; serve lunch and dinner
- When the number of customers increase, crew will take orders and deliver food to vehicles
- One lane will be utilized and if customers increase will increase to two lanes
- Several cameras will be installed at the rear to see customers and crew members will make more food

Benjamin Perry, the project landscape architect stated the following:

- Will have a screen wall
- Plant palette will be drought tolerant

One member of the public spoke in opposition with the following:

- Concerns with waste and trash

- Heavy traffic already from the competitor
- Having this is short-sited and can have another use such as apartments

In response to the concerns raised during the public hearing, Sherri Olson stated the following:

- Trash and waste are located near the center of the site
- Raising Cane's is corporate owned and not franchise and the manage and operate the restaurants; take great pride
- Regarding the high end apartments, offers indoor seating and added benefit
- Block wall at south and west

The Zoning Administrator closed the public hearing and indicated that the case would be under advisement for a period of one week to review the Zone Variance findings and intends to conditionally grant approval of the case. The plans do indicate that the trash will be in an enclosure and landscaping and a wall will buffer the residential uses. Although the site is zoned C4, it is located in 2D and therefore not subject to the Commercial Corner development standards. Based on LADOT, the trips will decrease by 454 trips as the site was previously a drugstore and no increase in daily trips; therefore not necessitating the Site Plan Review. The Conditional Use from the Commercial Corner development standards and Site Plan Review are not needed, and the Zoning Administrator is hereby dismissing these request.

### **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.

### **CONDITIONAL USE FINDINGS**

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 project involves a Conditional Use Permit to allow the construction, use, and maintenance of a drive-through fast-food establishment in the C4 Zone adjoining a residential zone. The subject property is currently developed with an existing one-story commercial building and surface parking lot which was formerly occupied by a Rite-Aid retail pharmacy and is now vacant. The project proposes to demolish all existing improvements on the site for development of the proposed new restaurant.

The project will redevelop an underutilized and unoccupied site with a new active commercial service. With development of the proposed project, the property will be an improvement over the existing aging improvements on the site and will add attractive landscaping where there currently is none. The project has been thoughtfully designed and conditioned to provide varied and high-quality architectural materials to further enhance the physical environment. By improving the property, the project will add a new vibrant commercial use along a major commercial corridor developed with other similar and compatible uses and will contribute to the economy.

In addition, the project will provide a new and unique commercial service and will provide greater convenience with vehicle drive-through lanes. The project is a desirable use in a heavily urbanized and populated neighborhood with a high number and wide variety of residents and visitors alike and will add and expand upon the existing food options in the area and the hours they are available. Therefore, the project will both enhance the built environment in the surrounding neighborhood and will provide a service that is beneficial to the community and region. The imposition of a number of conditions addressing operational issues will ensure that the project will not be disruptive 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 currently developed with an existing one-story commercial building and surface parking lot which was formerly occupied by a Rite-Aid retail pharmacy and is now vacant; the project proposes to demolish all existing improvements on the site for development of a proposed new drive-through fast-food restaurant. The new restaurant will encompass approximately 3,448 square feet of interior space and approximately 538 square feet of outdoor eating space and operate from 9:00 a.m. to 1:00 a.m. Sunday through Thursday and from 9:00 a.m. to 3:30 a.m. Friday through Saturday.

The proposed drive-through fast-food restaurant use is consistent with the zoning on the property and the City's land use designation for the site and the surrounding area. The project is further compatible with the project's location along a major commercial corridor lined with a variety of restaurants and other commercial service uses. As the development of a new commercial service which will provide unique dining amenities and convenience with vehicle drive-through lanes, the project is a desirable and compatible use with the other uses in the area. The project has been thoughtfully designed and carefully conditioned to contribute to and enhance the form and function of the neighborhood while minimizing potential impacts. The project maximizes the appearance of the proposed building by locating the main entrance and accompanying façade transparency along the main roadway, and by further activating Sunset Boulevard and enhancing the pedestrian experience with an outdoor eating area along the road. The project has also been designed and conditioned to provide varied and high-quality architectural materials to further enhance the physical environment. The project reduces potential operational impacts by siting and shielding order boxes away from residential uses, by providing two parallel drive-through lanes to provide greater vehicle queueing capacity on-site, and by providing mobile staff attendants to take orders from queueing vehicles to expedite ordering. Additionally, the proposed project represents a smaller footprint over the existing vacant commercial retail store and will also provide additional improvements such as landscaped buffers around the entirety of the property where there currently is none; as such, the project is less intensive in some regards and will be an improvement versus the existing development on the site. Accordingly, the project will not have any additional adverse physical impacts and will be compatible with adjacent properties and the surrounding community.

Additional conditions have been imposed to encourage responsible management and deter criminal activity. These conditions will ensure that the operation will address nuisances, enhance security and safety, and minimize potential impacts on adjacent properties and the community. As conditioned, the development of the proposed project will not adversely affect or further degrade adjacent properties, the surrounding neighborhood, or the public health, welfare, and safety and the development of the community.

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

The elements in the General Plan establish policies and provide the regulatory environment for managing the city and for addressing concerns and issues. The majority of the policies derived from the elements in the General Plan are in the form of Code Requirements, which collectively form the LAMC. The subject entitlements are for conditionally permissible uses and deviations, and thus do not propose to deviate from any of the requirements of the LAMC.

The subject property is located within the boundaries of the Hollywood Community Plan Area. The Community Plan designates the northern portion of the subject property for Regional Center Commercial land uses corresponding to the C2, C4, P, PB, RAS3, and RAS4 Zones, and the southern lot of the subject property for Low Medium II Residential land uses corresponding to the RD2 and RD1.5 Zones. The northern portion project site is currently zoned C4-2D-SN while the southern lot is currently zoned RD1.5-1XL; the property is thus consistent with the existing land use designations on the site. The property is located within the Hollywood Redevelopment Project area and will thus be subject to any additional requirements of the Hollywood Redevelopment Plan. Although the project includes requests for variances, the requested conditional use is consistent with the existing zoning and land use designations on the site.

The project is substantially consistent with the overarching goals of the Hollywood Community Plan, which specifically encourages the form and function of Sunset Boulevard in this area as a major commercial corridor and neighborhood serving center. As the project will redevelop an existing closed retail building with a new and active restaurant which will provide unique dining amenities and convenience, the project contributes to and furthers the economic development and commercial activity along Sunset Boulevard. Additionally, the project is surrounded by many other compatible and complementary uses. The project follows an established pattern of zoning and land use that is consistent and compatible with other properties and uses in the surrounding area, which include other restaurants (both drive-through and standalone) and a variety of commercial services. Thus, the project substantially conforms with the purpose, intent, and provisions of the General Plan and the Community Plan.

## **ZONE VARIANCE FINDINGS**

In order for a plan approval 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:

4. **The strict application of the provisions of the zoning ordinance would result in practical difficulties or unnecessary hardships inconsistent with the general purposes and intent of the zoning regulations.**

The strict application of the provisions of the zoning ordinance would result in practical difficulties and unnecessary hardships inconsistent with the general purposes and intent of the zoning regulations and would be averse to the City's goal of further developing and supporting the local economy if the requested variances are not granted. The requests herein are to permit a drive-through fast-food restaurant use in the RD1.5 Zone, to permit access from a less restrictive zone to a more restrictive zone, and to permit an outdoor eating area in excess of 50 percent of the interior dining area. These requests are necessary to allow for the continued use of the subject property for viable commercial uses and to enable the provision of an outdoor eating patio in an area where such uses are desirable and present on other nearby properties.

The majority of the subject property is zoned C4-2D-SN and has a land use designation of Regional Center Commercial, while the southernmost lot is zoned RD1.5-1XL and has a land use designation of Low Medium II Residential. The project site is currently developed with an existing vacant commercial retail building and accompanying surface parking lot, the latter of which extends into the residentially-zoned portion of the property. According to building records, the site has been developed as such since 1945, and thus the residential lot has long been utilized for incidental commercial parking. The applicant is seeking to continue utilizing the entirety of the property for commercial uses, and specifically to utilize the residential lot primarily for vehicle parking and access (primary features such as the proposed restaurant, outdoor eating area, and drive-through order boxes are all located on the commercially zoned portion of the property). It would be an unnecessary hardship to sever the applicant's property and prevent a portion of the property from being used to support the continued use of the property for a commercial development as it has been for decades. In addition, the project is unique in that as a fast-food restaurant, both the overall footprint of the restaurant and the interior dining area are relatively small; as a result, strict adherence to the zoning code's limitations would result in an impractically sized outdoor dining area. This would also be an unnecessary hardship because it would needlessly impact the viability of the proposed restaurant and the continued use of the property for a commercial service.

The general intent of the relevant zoning regulations in this case is to ensure that development is compatible with surrounding properties. Despite the need for the requested variances, the project is compatible with its surroundings. The requested variances enable the continued use of the property for commercial uses without representing a significant change of use or development intensity; rather, the proposed project is a significantly smaller footprint and building envelope than the



existing vacant building. The project will further provide landscaped buffers and setbacks around the entirety of the property and where there currently are none, and thus will both enhance the physical environment and further minimize any potential impacts on adjacent properties, all of which support the general purposes of the zoning regulations. The Hollywood Community Plan further specifically encourages the use of vehicle parking to serve as a buffer between commercial uses lining the main arterial roadways and residences behind them, especially in the core of Hollywood along Hollywood Boulevard and Sunset Boulevard, and the proposed project will do exactly that. In addition, many other properties and operations in the area feature outdoor dining areas and such areas contribute to the urban form of the neighborhood and enhance the physical environment and pedestrian experience; as such, the requested deviation for a larger outdoor eating area does not introduce any unusual uses and enables a desirable use and feature for this location, consistent with other developments in the area and with good planning practice. For all of these reasons, the strict application of the provisions of the zoning regulations would result in practical difficulties or unnecessary hardships inconsistent with the general purposes and intent of the zoning regulations.

5. **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.**

There are special circumstances applicable to the property which do not generally apply to other properties in the area. The majority of the subject property is zoned C4-2D-SN and has a land use designation of Regional Center Commercial, while the southernmost lot is zoned RD1.5-1XL and has a land use designation of Low Medium II Residential. The project site is currently developed with an existing vacant commercial retail building and accompanying surface parking lot, the latter of which extends into the residentially-zoned portion of the property. According to building records, the site has been developed as such since 1945, and thus the residential lot has long been utilized for incidental commercial parking. The applicant is seeking to continue utilizing the entirety of the property for commercial uses, and specifically to utilize the residential lot primarily for vehicle parking and access (primary features such as the proposed restaurant, outdoor eating area, and drive-through order boxes are all located on the commercially zoned portion of the property). It would be an unnecessary hardship to sever the applicant's property and prevent a portion of the property from being used to support the continued use of the property for a commercial development as it has been for decades. In addition, the project is unique in that as a fast-food restaurant, both the overall footprint of the restaurant and the interior dining area are relatively small; as a result, strict adherence to the zoning code's limitations would result in an impractically sized outdoor dining area. This would also be an unnecessary hardship because it would needlessly impact the viability of the proposed restaurant and the continued use of the property for a commercial service.

Other commercially-zoned properties in the area are not generally partially zoned for residential land uses like the subject property, and this condition limits the redevelopment and viability of the site without the requested variances. Therefore, there are special circumstances on the subject property that do not generally apply to other properties in the same zone and vicinity.

6. **The 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 the special circumstances and practical difficulties or unnecessary hardships, is denied to the property in question.**

The requested variances are necessary for the preservation and enjoyment of existing property rights, but which would otherwise be denied to the proposed project due to special circumstances. The requests herein are to permit a drive-through fast-food restaurant use in the RD1.5 Zone, to permit access from a less restrictive zone to a more restrictive zone, and to permit an outdoor eating area in excess of 50 percent of the interior dining area. These requests are necessary to allow for the continued use of the subject property for viable commercial uses and to enable the provision of an outdoor eating patio in an area where such uses are desirable and present on other nearby properties.

The majority of the subject property is zoned C4-2D-SN and has a land use designation of Regional Center Commercial, while the southernmost lot is zoned RD1.5-1XL and has a land use designation of Low Medium II Residential. The project site is currently developed with an existing vacant commercial retail building and accompanying surface parking lot, the latter of which extends into the residentially-zoned portion of the property. According to building records, the site has been developed as such since 1945, and thus the residential lot has long been utilized for incidental commercial parking. The applicant is seeking to continue utilizing the entirety of the property for commercial uses, and specifically to utilize the residential lot primarily for vehicle parking and access (primary features such as the proposed restaurant, outdoor eating area, and drive-through order boxes are all located on the commercially zoned portion of the property). It would be an unnecessary hardship to sever the applicant's property and prevent a portion of the property from being used to support the continued use of the property for a commercial development as it has been for decades. In addition, the project is unique in that as a fast-food restaurant, both the overall footprint of the restaurant and the interior dining area are relatively small; as a result, strict adherence to the zoning code's limitations would result in an impractically sized outdoor dining area. This would also be an unnecessary hardship because it would needlessly impact the viability of the proposed restaurant and the continued use of the property for a commercial service.

The property has long been developed with commercial service uses with incidental parking on the residentially-zoned portion of the site. Other commercially-zoned properties in the area are not generally partially zoned for residential land uses like the subject property, and this condition limits the redevelopment and viability of the site without the requested variances. In addition, functionally sized outdoor eating areas are generally present on other similarly zoned properties and in the vicinity, but would otherwise be denied for the proposed project without the requests herein.

Therefore, the requested variances are necessary for the preservation and enjoyment of uses of property which are generally possessed by other property in the same zone and vicinity but which, because of the special circumstances and practical difficulties or unnecessary hardships, is denied to the property in question.

7. **The granting of the 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 proposed project will not be materially detrimental to the public welfare or injurious to other property and improvements in the same zone and vicinity. The majority of the subject property is zoned C4-2D-SN and has a land use designation of Regional Center Commercial, while the southernmost lot is zoned RD1.5-1XL and has a land use designation of Low Medium II Residential. The project site is currently developed with an existing vacant commercial retail building and accompanying surface parking lot, the latter of which extends into the residentially-zoned portion of the property. According to building records, the site has been developed as such since 1945, and thus the residential lot has long been utilized for incidental commercial parking. The applicant is seeking to continue utilizing the entirety of the property for commercial uses, and specifically to utilize the residential lot primarily for vehicle parking and access (primary features such as the proposed restaurant, outdoor eating area, and drive-through order boxes are all located on the commercially zoned portion of the property).

The general intent of the relevant zoning regulations in this case is to ensure that development is compatible with surrounding properties. Despite the need for the requested variances, the project is compatible with its surroundings. The requested variances enable the continued use of the property for commercial uses without representing a significant change of use or development intensity; rather, the proposed project is a significantly smaller footprint and building envelope than the existing vacant building. The project will further provide landscaped buffers and setbacks around the entirety of the property and where there currently are none, and thus will both enhance the physical environment and further minimize any potential impacts on adjacent properties, all of which support the general purposes of the zoning regulations. The Hollywood Community Plan further specifically encourages the use of vehicle parking to serve as a buffer between commercial uses lining the main arterial roadways and residences behind them, especially in the core of Hollywood along Hollywood Boulevard and Sunset Boulevard, and the proposed project will do exactly that. In addition, many other properties and operations in the area feature outdoor dining areas and such areas contribute to the urban form of the neighborhood and enhance the physical environment and pedestrian experience; as such, the requested deviation for a larger outdoor eating area does not introduce any unusual uses and enables a desirable use and feature for this location, consistent with other developments in the area and with good planning practice. For all of these reasons, granting of the 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.

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

The requested variances will not adversely affect any element of the General Plan because the project is substantially consistent with the General Plan. The subject property is located within the boundaries of the Hollywood Community Plan Area. The project is substantially consistent with the overarching goals of the Hollywood Community Plan, which specifically encourages the form and function of Sunset Boulevard in this area as a major commercial corridor and neighborhood serving center. As the project will redevelop an existing closed retail building with a new and active restaurant which will provide unique dining amenities and convenience, the project contributes to and furthers the economic development and commercial activity along Sunset Boulevard. Additionally, the project is surrounded by many other compatible and complementary uses. The project follows an established pattern of zoning and land use that is consistent and compatible with other properties and uses in the surrounding area, which include other restaurants (both drive-through and standalone) and a variety of commercial services. The requested variances serve only to enable the continued and viable use of the entirety of the subject property for commercial uses as it has long been utilized. Thus, the project substantially conforms with the purpose, intent, and provisions of the General Plan and the Community Plan and will not adversely affect any element of the General Plan.

**FLOOD HAZARD FINDING**

9. The National Flood Insurance Program rate maps, which are a part of the Flood Hazard Management Specific Plan adopted by the City Council by Ordinance No. 172,081, have been reviewed and it has been determined that this project is located in Zone C, areas outside of a flood zone.

Inquiries regarding this matter shall be directed to More Song, Planning Staff for Los Angeles City Planning, at (213) 978-1319.



CHRISTINA TOY LEE  
Associate Zoning Administrator

CTL:MS:nm

cc: Councilmember Mitch O'Farrell  
Thirteenth Council District  
Adjoining Property Owners  
Interested Parties