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October 4, 2022

Caitlin Leathers (A)
Tesla Inc.
3500 Deer Creek Road
Palo Alto, CA 94538

Orange Mix AM, LLC
Orange Mix JM, LLC (O)
1425 North Cahuenga Boulevard
Los Angeles, CA 90028

Bill Hofman (R)
Hofman Planning Associates
5900 Pasteur Court #200A
Carlsbad, CA 92008

CASE NO. ZA-2022-3534-CU-WDI
CONDITIONAL USE, WAIVER OF
DEDICATION AND IMPROVEMENT
7001 - 7003 West Santa Monica
Boulevard
Hollywood Community Plan Area
Zone : C2-1D
C.D. : 13 - Mitch O'Farrell
D.M. : 144B181
CEQA: ENV-2022-3535-CE
Legal Description: Lots 72-75, TR 1658
Tract

Pursuant to California Environmental Quality Act, I hereby DETERMINE:

based on the whole of the administrative record, that the Project is exempt from CEQA pursuant to CEQA Guidelines, Section 15332 (Class 32) and there is no substantial evidence demonstrating that an exception to a categorical exemption pursuant to CEQA Guidelines, Section 15300.2 applies.

Pursuant to Los Angeles Municipal Code Section 12.24-W,27, I hereby APPROVE:

a Conditional Use to allow 24 hours of operation, daily, in lieu of the 7 a.m. to 11 p.m. hours as restricted by the commercial corner/mini-shopping center regulations of a restaurant and electric vehicle charging station; to allow a building canopy overhang into the 5-foot landscape setback along Orange Drive; to allow a 0-foot rear setback on northern property line in lieu of the otherwise required 5-feet; and to allow reduce parking lot shade requirement from 50 percent to 32 percent, reduction of the landscape requirement.

a Conditional Use to permit specified deviations from the Commercial Corner regulations in conjunction with a new restaurant, electric vehicle charging stations with 45-foot tall bamboo plantings, and outdoor movie screens.

Pursuant to Los Angeles Municipal Code Section 12.37, I hereby APPROVE:

a Waiver of Dedication of the 12-foot dedication along Santa Monica Boulevard and 3-foot dedication along Orange Street;

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 the Department of 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 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.
7. Authorized herein are the following deviations from the commercial corner regulations in conjunction with a proposed restaurant, electric vehicle charging stations and two outdoor movie screens with 45-foot tall bamboo installation/planting. The grant shall be subject to the following limitations:
 - a. The hours of operation for the restaurant and charging station shall be 24 hours daily.
 - b. The hours of operation for the showing of the outdoor movie screens shall be limited to 7:00 a.m. to 11:00 p.m., daily. All screens showing movies shall be subject to all applicable outdoor lighting regulations of the Code.

- c. The project is permitted a building canopy overhang into the 5-foot landscape setback along Orange Drive as shown on Exhibit A.
 - d. The project is permitted a 0-foot rear setback on northern property line in lieu of the otherwise required 5-feet.
 - e. The project is permitted a reduce parking lot shade requirement from a 50 percent to a 32 percent reduction of the landscape requirement.
8. **Dedication and Improvements.** No dedications along Santa Monica Boulevard and Orange Drive shall be required in association with the development of the project. All improvements otherwise required by the Bureau of Engineering or other agencies shall be provided.
 9. **Circulation.** The applicant shall submit a final driveway plan to the Department of Transportation for approval.
 10. After hour use shall be prohibited, except routine clean-up. This includes but is not limited to private or promotional events, special events, excluding any activities which are issued film permits by the City.
 11. Parking shall be provided in compliance with the Municipal Code and to the satisfaction of the Department of Building and Safety. No variance from the parking requirements has been requested or granted herein.
 12. Coin operated game machines, pool tables or similar game activities or equipment shall not be permitted. Official California State lottery games and machines are allowed.
 13. There shall be no Adult Entertainment of any type pursuant to LAMC Section 12.70.
 14. 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.
 15. **Complaint Log.** A telephone number and email address shall be provided for complaints or concerns from the community regarding the operation. The phone number and email address shall be posted at the following locations:
 - a. Entry, visible to pedestrians
 - b. Customer service desk, front desk or near the reception area.

Complaints shall be responded to within 24-hours. The applicant shall maintain a log of all calls and emails, detailing: (1) date complaint received; (2) nature of complaint, and (3) the manner in which the complaint was resolved.

16. The applicant shall be responsible for monitoring both patron and employee conduct on the premises and within the parking areas under his/her control to assure such conduct does not adversely affect or detract from the quality of life for adjoining residents, property owners, and businesses.
17. Loitering is prohibited on or around these premises or the area under the control of the applicant. "No Loitering or Public Drinking" signs shall be posted in and outside of the subject facility.
18. At least one on-duty manager with authority over the activities within the facility shall be on the premises during business hours. The on-duty manager's responsibilities shall include the monitoring of the premises to ensure compliance with all applicable State laws, Municipal Code requirements and the conditional use herein. Every effort shall be undertaken in managing the subject premises and the facility to discourage illegal and criminal activities and any exterior area over which the building owner exercises control, in effort to ensure that no activities associated with such problems as narcotics sales, use or possession, gambling, prostitution, loitering, theft, vandalism and truancy occur.
19. The applicant shall be responsible for maintaining the premises over which they have control, including the adjoining sidewalk and any public or temporarily closed alleys abutting the site, free of debris or litter.
20. 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.
21. 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.
22. **Private Events.** Any use of the premises for private events, including corporate events, birthday parties, anniversary parties, weddings or other private events which are not open to the general public, shall be subject to all the same provisions and hours of operation stated herein.
23. 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.

24. Any outdoor lighting shall be directed onto the site and away from adjacent properties without being disruptive to persons on adjacent properties.
25. The applicant/operator shall possess a working noise meter to measure sound levels from the operation do not exceed the City's Noise Ordinance.
26. The applicant shall be responsible to alleviate potential negative impacts of its operation on the surrounding uses. This includes, but not limited to noise and crowd control derived from patrons entering and exiting, and any music played from vehicles utilizing the charging stations.
27. Trash enclosure shall be enclosed and in compliance with Code requirements, and locked when not in use.
28. **Debris Removal.** The lot or lots shall at all times be kept clear of weeds, rubbish, and all types of litter and combustible materials. Trash receptacles shall be located throughout the open areas of the lot or lots.
29. **Landscape Maintenance.** Maintenance of landscaped areas shall include continuous operations of watering, removal of weeds, mowing, trimming, edging, cultivation, reseeding, plant replacement, fertilization, spraying, control of pests, insects, and rodents, or other operations necessary to assure normal plant growth. All trees, shrubs and ground cover shall be maintained as healthy and vigorous at all times. Irrigation systems shall be installed and continuously maintained in accordance with the LAMC.
30. **Hours.** Parking lot cleaning and sweeping, and trash collections from and deliveries to a Mini-Shopping Center or Commercial Corner Development, shall occur no earlier than 7 a.m., nor later than 8 p.m., Monday through Friday, and no earlier than 10 a.m., nor later than 4 p.m., on Saturdays and Sundays.

ADMINISTRATIVE CONDITIONS

31. **Expedited Processing Section Fee.** 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.
32. Should there be a change in the ownership and/or the operator of the business, the property owner and the business owner or operator shall provide the prospective new property owner and the business owner/operator with a copy of the conditions of this action prior to the legal acquisition of the property and/or the business. Evidence that a copy of this determination including the conditions required herewith has been provided to the prospective owner/operator shall be submitted to the Department of City Planning in a letter from the new operator indicating the date that the new operator/management began and attesting to the receipt of this approval and its conditions. The new operator shall submit this letter to the Department of City Planning within 30-days of the beginning day of his/her new operation of the establishment along with any proposed modifications to the existing the floor plan, seating arrangement or number of seats of the new operation.

33. At any time during the period of validity of this grant, if it is determined that the operation is not in substantial conformance with the approved floor plan, or the operation has changed in mode or character from the original approval, or if documented evidence be submitted showing a continued violation(s) of any condition(s) of this grant resulting in a disruption or interference with the peaceful enjoyment of the adjoining and neighboring properties, the Zoning Administrator reserves the right to require that the owner or operator file a Plan Approval application together with associated fees. The purpose of the plan approval will be to review the operation of the premise and establish conditions applicable to the use as conducted by the new owner or operator, consistent with the intent of the Conditions of this grant. Upon this review, the Zoning Administrator may modify, add or delete conditions, and if warranted, reserves the right to conduct this public hearing for nuisance abatement/revocation purposes.

34. **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, 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.
- ii. 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.
- 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 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 19, 2022**, 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:

**Development Services Center-
Metro**
Figueroa Plaza
201 North Figueroa St, 4th Floor
Los Angeles, CA 90012
(213) 482-7077

**Development Services Center-
Valley**
Valley Constituent Service Center
6262 Van Nuys Boulevard, Room 251
Van Nuys, CA 91401
(818) 374-5050

**Development Services Center-
West Los Angeles**
1828 Sawtelle Blvd. 2nd 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 public comments received 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 and prerequisites for approving a conditional use as enumerated in Section 12.24 of the Municipal Code have been established by the following facts.

BACKGROUND

The subject property is comprised of four (4) parcels measuring 24,639 square-feet located on Santa Monica Boulevard and Orange Drive in the Hollywood Community Planning Area. The property has a frontage of 147-feet along Santa Monica Boulevard and a 166-feet along Orange Drive. The subject property is in the C2-1D Zone with a General Commercial land use designation within the Los Angeles State Enterprise Zone. The property is also located within the Transit Priority Area in the City, and an Urban Agriculture Incentive Zone. The property is not located within a Specific Plan area, a Special Grading Area, a Very High Fire Hazard Severity Zone, Flood Zone, Hazardous Waste Site, Landslide, Liquefaction, High Wind Velocity Area nor within a Methane Hazard Zone. The subject property is located approximately 1.5 kilometers from the Hollywood Fault. The property is improved with a one-story 5,920 square foot restaurant and associate surface parking.

The proposed project involves the demolition of existing structures and the construction, use, and maintenance of a new a restaurant, electric vehicle charging stations and outdoor drive-in movie theater. The restaurant will consist of two levels totaling 40 feet 10 inches; approximately 4,050 square feet enclosed lower level and a 5,655 square foot outdoor open seating area and enclosed food preparation area. The electric vehicle charging station will have 33 parking stalls with 28 supercharger stations equipped to serve a majority of those spaces. In order to construct the proposed project, that applicant has requested the following deviations: hours of operation 24-hours daily in lieu of the hours permitted from 7 a.m. to 11 p.m. for the new restaurant, electric vehicle charging stations, and outdoor drive-in movie theater; to allow a building canopy overhang into the 5-foot landscape setback along Orange Drive; to allow a zero-foot rear setback on northern property line in lieu of the otherwise required 5-feet; and to allow reduce parking lot shade requirement from 50 percent to 32 percent, reduction of the landscape requirement.

SURROUNDING PROPERTIES

Surrounding properties are within the C2-1D, (Q)C2-2D, R3-1XL, and MR1-1 zones and are generally developed with commercial and residential uses. The abutting property to the north is zoned C2-1D and R3-1XL and is developed with a four-story multi-family building. Properties to the south across Santa Monica Boulevard are zoned MR1-1 and developed with commercial buildings. The abutting properties to the west are zoned C2-1D and developed with commercial structures. The property to the east across Orange Drive is zoned (Q)C2-2D and is currently being developed with a seven-story mixed use building.

STREETS

Santa Monica Boulevard, abutting the property to the south, is a designated Modified Avenue I, dedicated to a width of 104 feet and improved with asphalt roadway and concrete curb, gutter and sidewalk.

Orange Drive, abutting the property to the east, is a designated Collector, dedicated to a width of 66 feet and improved with asphalt roadway and concrete curb, gutter and sidewalk.

Previous relevant cases, affidavits and orders on the subject property:

There were no relevant cases found on the subject site.

Cases on Surrounding Properties:

A search of relevant cases within 600-feet of the project site utilizing PTCS was conducted. There were no relevant cases found.

PUBLIC CORRESPONDENCE

Correspondence dated June 27, 2022, was received from the Central Hollywood Neighborhood Council, in support of the proposed project upon inclusion of a dog bathroom area and waste station and pending input from LAPD.

Correspondence dated July 26, 2022, was received from the Hollywood Chamber of Commerce in support of the proposed project.

PUBLIC HEARING

A public hearing was held before the Zoning Administrator on September 20, 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

The hearing was attended by the applicant's representative, Bill Hofman, the applicant, Caitlin Leathers, and members of the applicant's team, as well as members from the community.

Ms. Leathers and Mr. Hofman made the following statements:

- (Leathers) I'm here with the applicant's team for the project located at 7001 Santa Monica Boulevard.
- The project site is located in the Central Hollywood neighborhood, close to an outdoor mall.
- This maps shows the current supercharger stations in the greater Los Angeles region.
- This location would include 33 parking stalls (Level 3 charging enabled), a restaurant, and two drive-in movie screens.

- Driveways would be off of Orange Drive and Santa Monica Boulevard.
- Vehicles would back into the spots to charge.
- This image shows the location of the movie screens.
- The second floor plans show bleacher seating that will allow people to sit and watch movies. Movies will be about 30 minutes so people will not want to stay long.
- (Hofman) The project is requesting waivers of dedication. As stated in the application filing, other properties are built out the areas where dedication would be required and this would be lined with them. Making these buildings observe the dedication requirement would be too expensive and bring a burden in order to observe these dedication requirements.

During the public comment portion of the public hearing, three participants provided public testimony.

The first speaker, Kristen Rose, stated she has been a Hollywood resident for the past eight years. She lives in the adjacent apartment bedroom and can look directly onto the site. Living in Hollywood, she has seen the area has more lighting, more disturbances, and more construction. She is concerned about the movie screens. This is alarming as this will bring more people on-site. Orange Drive will be where the project driveway will be located right next to the apartment building she lives in. She states residents will be trapped in the building. She is trying to understand how the project will not make the area situation worse.

The second speaker, Jim McQuiston, stated he is an owner of one of the industrial building south of Orange Drive. He stated ten points: 1) The Zoning Administrator is not allowed to make changes in zoning, 2) LAMC doesn't contain use in allowable variances, 3) LAMC prohibits use variation, 4) LAMC prohibits recycling use in a or near manufacturing zones, 5) across Santa Monica Boulevard, the use restricted to manufacturing, 6) recharging batteries is a recycling use, 7) zoning restricts repair to five or less operators. The project can be very explosive. You cannot have five or more repair operators. This needs to be in the CM zone. 8) 8 feet setback is needed for safety. There is 5 feet of separation. Fire trucks need to get in through those setbacks, 9) Hours of operation are a concern. We are jeopardizing safety and noise, and 10) I spent \$30,000 in repairs for damage to my property. The City has to obey the laws.

The third speaker, Mike, shared similar concerns as the first speaker. He lives in the complex across the street. There are 450 units along Orange Drive. The area is a large area and the ambient noise is high. Orange Drive is a release valve. Traffic will use Orange Drive and cars line up the street. Other cars will be coming to the restaurant. Crime will increase and there is concern of the setback from the residents. Residents are too close to the project site. Ambient noise will be louder with this 24 hour operation, and there are two other major projects going on.

After the public comment portion of the hearing, the applicant's representative, Bill Hofman, made the following statements:

- The operation is an EV charging station.
- Movie clips will be short, and this will not bring in 100s of people blaring their speakers. As for the 24 hour operation, this area is subject to being noisy.
- We will have eyes on the street. The operation will ensure customers are safe.
- This will not be a party atmosphere. Movies will stop by 11 p.m., so ambient noise will not be an issue. Orange Drive is an arterial road. The project was reviewed by LA DOT and they said the plan was fine. The station will follow the mandates of California law. We are not expecting demand that will queue cars down Orange Drive.
- We are not in the CM zone. We are in a commercial zone.
- We are not proposing to change the zone or asking for a zone variance. There is no change of use. This use is allowed by-right.
- Battery charging is not recycling. This is not a recycling center.
- Ambient noise will be within the City Noise Ordinance.
- Traffic was reviewed by LA DOT.
- We are one year away from construction.
- There will be construction noise.
- Customers will be able to see available spaces before they arrive.
- We will comply with the Fire Department and we have engaged with LAPD.
- There is a need for an EV charging station. This will be in compliance with the City and State requirements.
- The screen will be an LED screen. Bamboo keeps light from escaping.

At the conclusion of the public hearing, the Zoning Administrator stated that appropriate conditions are required when issuing a conditional use. The operation will have a restaurant where staff can deal with potential noise nuisances and ensure the project will not exceed the City's Noise Ordinance sound levels. Conditions will be included to ensure glare or light does not spillover to adjacent properties. The Department of Transportation has reviewed the layout of the project site as well as assessed traffic. Also, additional conditions will be considered to ensure the project is compatible with surrounding uses. There will also be a standard plan approval condition that allows the public to submit documented evidence of any non-compliance with conditions imposed. This allows residents to have the opportunity to bring the project back to the Zoning Administrator for review of condition compliance and to determine if additional measures should be added, removed or modified.

At the conclusion of the public hearing, the Zoning Administrator stated he would approve the project but include conditions that would address the potential for spillover lighting and noise.

BASIS FOR CONDITIONAL USE PERMITS

A particular type of development is subject to the conditional use process because it has been determined that such use of property should not be permitted by right in a particular zone. All uses requiring a Conditional Use Permit from the Zoning Administrator are located within Section 12.24-W of the Los Angeles Municipal Code. In order for the sale of beer and wine for on-site consumption be authorized, certain designated findings have to be made.

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 subject property is a flat, 24,639 square-foot site comprised of four (4) parcels with a 147-foot frontage along Santa Monica Boulevard and an 166-foot frontage along Orange Drive. The property is zoned C2-1D with a General Commercial land use designation. The site is located within the Hollywood Community Plan Area. The property is also located within the Los Angeles State Enterprise Zone, a Transit Priority Area in the City, and an Urban Agriculture Incentive Zone. The property is not located within a Specific Plan area, a Special Grading Area, a Very High Fire Hazard Severity Zone, Flood Zone, Hazardous Waste Site, Landslide, Liquefaction, High Wind Velocity Area nor within a Methane Hazard Zone. The property is currently improved with a one-story 5,920 square-foot restaurant and associate surface parking.

The Conditional Use allows deviations from the operating and development standards contained in Section 12.22-A,23 of the L.A.M.C. (Commercial Corner / Mini-Shopping Center regulations). The applicant following deviations have been granted: hours of operation of 24-hours daily in lieu of the hours permitted from 7 a.m. to 11 p.m. for the new restaurant, and electric vehicle charging stations; to allow a building canopy overhang into the five-foot landscape setback along Orange Drive; to allow a zero-foot rear setback on northern property line in lieu of the otherwise required five-feet; and to allow reduce parking lot shade requirement from 50 to 32 percent, reduction of the landscape requirement.

The subject site is located along a heavily traveled commercial corridor. The project will provide convenience and a benefit to the community by bringing in a service that addresses the need for electric chargers in the area. Hollywood is an older community with older buildings, including many multi-family buildings that are in need of addressing the shift to alternative low or zero emission sources of energy to fuel vehicles. Many of the buildings have not been able to accommodate the demand for electric chargers within these buildings because of either the cost of installation and/or the lack of parking spaces within the properties of these buildings. The project will bring in supercharger stations that will begin to address the needs of this area. During the charging of vehicles, drivers will be able to go inside the restaurant and dine and watch a short movie during the time of charging. The second level of the restaurant offers outdoor seating and dining, to allow patrons to enjoy the outdoor dining and viewing areas. According to the applicant, vehicles will average about 30 minutes to charge their vehicles. The movie clips will be short so it will not encourage longer stays than necessary.

Deviations from the commercial corner standards allow for the project to bring the benefit to the community. Hours of operation of 24 hours allow for convenience of charging vehicles any time during the day or evening. The

restaurant provides the place where drivers can dine and watch a quick movie while vehicles are charged. The movies, however, will be shown from 7:00 a.m. to 11:00 p.m., daily.

Section 12.22-A,23 requires a landscaped, planted area having a minimum inside width of five feet along all street frontages of the lot and on the perimeters of all parking areas of the lot or lots which abut a residential zone or use. The site has two street frontages and abuts commercial uses to the east and residential uses to the north. A review of the plans submitted with the application shows a minimum five-foot-wide landscaped buffer along the site's Santa Monica Boulevard frontage and along the southerly property line and a minimum five-foot landscape buffer is provided on Orange Drive along the site's east property line. The request is not to deviate from the required landscape buffer along the street frontages, but to allow for the canopy of the proposed building to encroach within the required landscape buffer along Orange Drive. As proposed, this would allow for shade within the landscape buffer, providing additional shade on-site. The shading would contribute to the project benefitting the community.

Additionally, the zero-foot setback along the northern property line, which abuts the residential building, allows for the development of the proposed project. There is an existing wall that is connected to the residential building to the north of the project site that cannot be demolished. The movie screen and bamboo planting are proposed on the northern property line. Adhering to the five-foot landscape setback would create a space between the screen/bamboo and property line which could present challenges to provide adequate parking and circulation of the parking area. Therefore, as proposed, the request to maximize the use of the subject site by deviating from the required five-foot setback would result in providing more vehicle charging spaces serving the community.

Further, the proposed project requests deviation from the required shading requirements for the parking lot associated with the number of parking spaces. The applicant is required to provide one (1) tree per four (4) parking spaces a total of nine (9) trees. As proposed the project will provide one tree per 4.86 spaces, a total of seven (7) trees. Shading for the project will also be facilitated by the canopies of the building and shading for the charging spaces.

The new restaurant, electric vehicle charging station, and screens for short movies will provide valuable amenities to visitors and residents alike offering a viable dining option with the amenity of watching a short movie, and an electric vehicle charging station to the community. The operation provides a presence on the site throughout the day and night, bringing eyes on the street to help deter criminal activity. Therefore, approval of the request will provide the opportunity to enhance the built environment in the surrounding neighborhood and providing a service that is essential or beneficial to the 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 project site is located at the northwest corner of Santa Monica Boulevard and Orange Drive. The site is currently developed with a 5,920 square-foot restaurant with associated parking. The surrounding land uses consist of a variety of commercial and residential uses. Surrounding properties are within the C2-1D, (Q)C2-2D, R3-1XL, and MR1-1 zones and are generally developed with commercial and residential uses. The abutting property to the north is zoned C2-1D and R3-1XL and is developed with a four-story multi-family building. Properties to the south across Santa Monica Boulevard are zoned MR1-1 and developed with commercial buildings. The abutting properties to the west are zoned C2-1D and developed with commercial structures. The property to the east across Orange Drive is zoned (Q)C2-2D and is currently being developed with a seven-story mixed use building.

The project involves the demolition of the existing restaurant for the construction of a new electric vehicle super charging station, a two-story, 40-foot, 10-inch tall restaurant, and two screens to show movies. The restaurant will be two levels where the first level will be 4,050 square feet, and the second level will be 5,655 square feet of outdoor open seating and enclosed food preparation area. There will be 33 parking spaces and 28 electric vehicle Level 3 supercharging stations. The restaurant and charging station will operate 24 hours, daily, while the showing of short movie clips will be limited from 7 a.m. to 11 p.m., daily. LED screens will be mounted along the west and north perimeters of where the bamboo plantings are located. These bamboo plantings will be 45-foot tall and will allow for air and lighting to continue to be provided to the abutting uses.

The project will be compatible with the surrounding neighborhood and will not adversely affect or further degrade adjacent properties, the surrounding neighborhood, or the public health, welfare and safety. The project will limit the movie showings so as to not disturb adjacent uses. The operation is not a drive-in movie theater, where anyone from the public can pull up to the site and watch a movie. The operation is offering electric vehicle drivers an amenity by offering food at a restaurant and a short 30 minute clip to help time pass. According to the applicant, the movies are intended to be short so as to not encourage drivers charging their vehicles to stay longer than necessary. Showings will not be mainstream movies that are shown in movie theaters, and this will not be a movie theater or a drive-in theater operation. No admission ticket will be collected to view movies. It will be more drivers charging their vehicles. The showing of movies will be ancillary to the supercharging station and restaurant operations.

The project will be conditioned to operate in a compatible manner through mode and character, through operating hours, and through the addressing of nuisances. The project has been conditioned to not have any light spilling over to adjacent properties. In addition, any noise impacts will be addressed through the conditions of approval. The applicant will be required to retain a noise meter to ensure any noise generated from the operation of the project does not exceed the City's Noise Ordinance. The applicant will be required to address potential nuisances to not only noise, but litter and loitering.

With regard to the design of the project, the Department of Transportation has determined the project will not need a traffic study and has approved the circulation plan for the project site. A final driveway plan will be reviewed by the Department of Transportation. The project will have ingress and egress from the east driveway located along Orange Drive. Egress only will be along the south portion of the site, leading into Santa Monica Boulevard. According to the applicant, Tesla drivers will have information made available to them of the availability of these super charger stations. This will also allow for drivers to plan when to come to the site to avoid long lines to charge vehicles.

The Conditional Use authorizes deviations from the commercial corner/mini shopping center regulations in conjunction with a proposed restaurant, electric vehicle charging station, and movie screens. As stated earlier, the restaurant and vehicle charging station will be allowed to operate 24 hours, daily, deviating from the commercial corner standards for hours of operation, however, the movie screens will not operate after 11:00 p.m. as regulated by the commercial corner standards.

The project will provide the minimum five-foot-wide landscaped buffer along the site's Santa Monica Boulevard frontage and Orange Drive. The project proposes a canopy of the restaurant building to encroach into the required landscape buffer along Orange Drive in order to allow for shading within the landscape buffer. It would provide additional shade on-site without being detrimental to surrounding properties or the public right-of-way. The zero-foot setback along the northern property line allows for the development of the proposed project. The encroachment allows for the operation of the business while still allowing for air and buffering of uses. There is an existing wall that separates the residential building to the north of the project site that cannot be demolished. A movie screen and bamboo planting are proposed on the northern property line. The project is conditioned to not allow any spillover light or glare to abutting properties, and is also subject to the City's Noise Ordinance.

Further, the proposed project requests deviation from the required shading requirements for the parking lot associated with the number of parking spaces. The applicant is required to provide one (1) tree per four (4) parking spaces a total of nine (9) trees. As proposed, the project will provide one tree per 4.86 spaces, a total of seven (7) trees. Shading for the project will also be facilitated by the canopies of the building and shading for the charging spaces. The canopies will not be detrimental to surrounding uses as they will be subject to all Code requirements.

These conditions imposed on the project will ensure that the operation will not adversely affect or further degrade adjacent properties, the surrounding neighborhood, or the public health, welfare, and safety by ensuring security and safety, and responsible management. In addition, a 24-hour complaint hotline and email address are required to be posted on the site to allow the community to inform the applicant/operator of any complaints due to the operation of the subject restaurant. Also, the Zoning Administrator reserves the right to require a public hearing in the event documented evidence is presented indicating the

project is not in compliance with these conditions. The Zoning Administrator can review compliance of the operation and impose additional conditions, or delete and modify any of these conditions. The conditions of the grant will ensure that the location and other characteristics of the use of the subject site will be compatible with and will not adversely affect or degrade adjacent properties, the surrounding neighborhood, or the public health, welfare, and safety.

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

The elements of the General Plan establish policies that provide for the regulatory environment in managing the City and for addressing environmental concerns and problems. The majority of the policies derived from these Elements are in the form of Code Requirements of the Los Angeles Municipal Code. Except for those entitlements described herein, the project does not propose to deviate from any of the requirements of the Los Angeles Municipal Code. The Land Use Element of the City's General Plan divides the city into 35 Community Plans. The subject site is located within the Hollywood Community Plan, which designates the property for General Commercial land uses with corresponding zones of C1, C2, P, RAS3 and RAS4. The property is zoned C2-1D. The project is consistent with the following objectives of the Hollywood Community Plan:

Objective 1: To further the development of Hollywood as a major center of population, employment retail services, and entertainment, and to perpetuate its image as the international center of the motion picture industry.

Objective 4: "To promote economic well-being and public convenience through: (a) allocating and distributing commercial lands for retail, service, and office facilities in quantities and patterns based on accepted planning principles and standards.

Objective 6: To make provision for a circulation system coordinated with land uses and densities...

The proposed restaurant, electric vehicle charging stations and ancillary movie screens project is consistent with the following objectives of the General Plan Framework:

Objective 3.10: Reinforce existing and encourage the development of new regional centers that accommodate a broad range of uses that serve, provide job opportunities, and are accessible to the region, are compatible with adjacent land uses, and are developed to enhance urban lifestyles.

Additionally, the project as designed will support the development of the Networks and meets the following goals and objectives of Mobility Plan 2035:

Policy 5.4 Continue to encourage the adoption of low and zero emission fuel sources, new mobility technologies, and supporting infrastructure.

The proposed project will not be detrimental to the immediate neighborhood but will serve as an added convenient amenity for the community. The hours of operation will promote safety and bring an evening presence along Santa Monica Boulevard. The deviations requested will not be detrimental to surrounding uses as the intent of setbacks and shading is met by the project characteristics. The project is neighborhood serving and addresses a shift the way the community will be utilizing/operating vehicles both now and in the future. Electric vehicles are considered low and zero emission fuel sources, the project supports new mobility technologies and provides infrastructure to this growing form of alternative fuel sources. As stated in Finding No. 1, the Hollywood Community is comprised of many multi-family buildings, some of which do not have on-site parking. The project addresses the shift in demand for low and zero emission fuel sources and the existing context of the Hollywood Community. The project will bring a service that will benefit the community. As conditioned, the proposed project will not be materially detrimental to the character of the neighborhood and is consistent with the site's zoning and land use designation, the location can be determined to be in harmony with the various elements and objectives of the General Plan and the Community Plan.

ADDITIONAL COMMERCIAL CORNER/MINI SHOPPING CENTER FINDINGS

4. **That based on data provided by the City Department of Transportation or by a licensed traffic engineer, that ingress to and egress from the project will not create a traffic hazard or cause significant traffic congestion or disruption of vehicular circulation on adjacent streets.**

Vehicular access to the site is provided by two driveways. A two-way driveway will be off of Orange Drive and a one-way driveway (egress only) will be off of Santa Monica Boulevard. The proposed project was reviewed by the Los Angeles Department of Transportation (LADOT) and was determined satisfactory. LADOT requires the review of a project's site access, circulation, and operational plan to determine if any access enhancements, transit amenities, intersection improvements, traffic signal upgrades, neighborhood traffic calming, or other improvements are needed. LADOT issued a memo dated September 19, 2022, regarding the proposed project, which accounted for other known development projects in evaluating potential cumulative impacts and adequately evaluated the project's traffic impacts on the surrounding community. As stated by LADOT, the conceptual site plan for the project is acceptable with regard to access and circulation. The proposed project provides access from west Orange Drive and north Santa Monica Boulevard. Final review and approval of the proposed project's driveways, internal circulation, and parking scheme will be determined during plan check and prior to issuance of any building permits. Therefore, as designed, and with final review from LADOT, the project is not expected to cause a traffic hazard or significant traffic congestion, or disruption of vehicular circulation on adjacent streets.

5. **That project approval will not create or add to a detrimental concentration of Mini-Shopping Centers or Commercial Corner Developments in the vicinity of the proposed project.**

The conditional use extends operating hours for a new restaurant and electric vehicle super charging station, to allow a building canopy overhang into the 5-foot landscape setback along Orange Drive, to allow a 0-foot rear setback on northern property line in lieu of the otherwise required 5-feet, and to allow a reduce parking lot shade requirement from 50 percent to 32 percent, reduction of the landscape requirement. As configured, the subject property is considered a commercial corner development by virtue of the project site's commercial zoning and adjacency to residentially zoned and used parcels to the north. The proposed project will be located on an approximately 24,639 square-foot site that is currently developed with an existing restaurant which will be demolished to facilitate proposed development. No new shopping center will be added and it will not add to a detrimental concentration of mini-shopping centers or commercial corner developments in the project area.

WAIVER OF DEDICATION AND IMPROVEMENT FINDING

6. **The dedication or improvement is not necessary to meet the City's mobility needs for the next 20 years based on guidelines the Streets Standards Committee has established.**

The City's General Plan Transportation Element was updated with Mobility Plan 2035 which aims to guide the continuing development of a citywide transportation system and provide efficient movement of people and goods to achieve a transportation system that will balance the needs of all road uses. The Plan recognizes that since the 1999 Transportation Element was adopted, "there has been growing interest in restricting streets from being widened to match their currently assigned designation." The subject property is comprised of four (4) lots resulting in approximately 24,639 square feet of lot area with a 147-foot frontage along Santa Monica Boulevard and a 166-foot frontage along Orange Drive. Santa Monica Boulevard, abutting the property to the south, is a designated Modified Avenue I, dedicated to a width of 104 feet and improved with asphalt roadway and concrete curb, gutter and sidewalk. Orange Drive, abutting the property to the east, is a designated Collector, dedicated to a width of 66 feet and improved with asphalt roadway and concrete curb, gutter and sidewalk. In order to comply with the applicable Mobility Plan 2035 standards, the project would be required to provide a 15 by 15 corner cut dedication or a 20-foot curved radius dedication at the northwest intersection of Santa Monica Boulevard and Orange Drive; a 12-foot dedication and an eight-foot widening along Santa Monica Boulevard to provide a half-right-of-way and roadway; a three-foot dedication along Orange Drive to provide half-right-of-way; construct new ADA curb ramp at the northwest intersection of Santa Monica Boulevard and Orange Drive; construct new AC pavement, new full height curb, gutter, and sidewalk along Santa Monica Boulevard; fill in newly dedicated area along Orange Drive with concrete sidewalk; and repair damaged, cracked, off-grade sidewalk along Orange Drive.

The applicant has requested a Waiver of the required 12-foot dedication on Santa Monica Boulevard and a Waiver of three-foot dedication on Orange Drive. The waiver of dedication and improvement process, pursuant to LAMC Section

12.37 is intended to waive, reduce, or modify the required dedication or improvement as appropriate subjected to making the applicable finding. Properties to the south across Santa Monica Boulevard are zoned MR1-1 and the abutting properties to the west are zoned C2-1D and are developed with commercial buildings. Orange Drive is improved primarily with residential structures the abutting residential building to the north was constructed within the last 15 years. In addition, the mixed used development across Orange Drive to the east, is currently under construction. It is unlikely that a significant number of properties will be dedicated in the near-term to enable enough sidewalk expansion to have a practical effect on pedestrian movement and demand, and thus, the dedication requirement for the request herein would not result in any practical benefit towards meeting the City's mobility needs. The Mobility Plan recognizes that there may be a unique nature of a street segment and situations where widening the roadway width to the standard dimension could prove unnecessary or impractical relative to the resulting public benefits or result in other adverse changes (Mobility Plan 2035 Section 2.17). The project is still required to provide the necessary improvements to ensure that the site is ADA compliant and to ensure that the sidewalks are repaired as required by BOE. Pedestrian access to the site and surrounding areas will be maintained and improved and vehicular access to the site and surrounding areas will be maintained. Therefore, the required dedication is not necessary to meet the mobility needs of the area for the next 20 years as the waiver of dedication, as conditioned, will implement the City's mobility goals or needs.

FLOOD HAZARD FINDINGS

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

ENVIRONMENTAL CLEARANCE FINDING

8. On September 20, 2022, the subject project was issued a Notice of Exemption (Subsection c, Section 2, Article II, City CEQA Guidelines), log reference ENV-2021-10415-CE, for a Categorical Exemption, Class 32, City CEQA Guidelines (Sections 15300-15333, State CEQA Guidelines). The Zoning Administrator determined the Class 32 Categorical Exemption was appropriate because the following Conditions for a Class 32 Exemption are met:

- The project is consistent with the applicable general plan designation and all applicable general plan policies as well as with the applicable zoning designation and regulations;
- The proposed developed occurs within city limits on a project site of no more than five acres substantially surrounded by urban uses;
- The project site has no value as habitat for endangered, rare, or threatened species;

- Approval of the project would not result in any significant effects relating to traffic, noise, air quality, or water quality; and
- The site can be adequately served by all required utilities and public services.

The project is located within the Hollywood Community Plan which designates the subject property for General Commercial land uses with corresponding zones of C1, C2, P, RAS3, and RAS4. The subject property is zone C2-1D. The project is consistent with the applicable general plan land use designation and all applicable general plan policies as well as with the applicable zoning designation and regulations.

The subject site is wholly within the City of Los Angeles, on a site that is approximately 0.57 acres in size. Lots adjacent to the subject properties are developed with the following urban uses: residential and office uses. The project site is bounded to the east by an apartment building along North Orange Drive, and an apartment building to the north of the project site. Office studios are located to the south and west along Santa Monica Boulevard. The site is currently developed with an existing commercial structure and surface parking lot and is surrounded by development and therefore is not, and has no value as a habitat for endangered, rare or threatened species.

The project will be subject to Regulatory Compliance Measures (RCMs), which require compliance with the City of Los Angeles Noise Ordinance, pollutant discharge, dewatering, stormwater mitigations, and Best Management Practices for stormwater runoff. These RCMs will ensure the project will not have significant impacts on noise and water. The project would not result in any significant effects related to traffic, noise, air quality, or water quality.

- An Air Quality Technical Report dated August 2022, was prepared by LSA, for the proposed project indicating that the project will result in less than significant impacts to air quality.
- A Noise and Vibration Impact Analysis dated August 2022, was prepared by LSA, for the proposed project indicating that noise impacts would be less than significant.
- A preliminary review of the subject project required LADOT review for the project and site plan. On September 19, 2022, the Department of Transportation submitted correspondence to the Department of City Planning indicating the Linscott, Law and Greenspan, Engineers' June 17, 2022 report for the project's access and circulation assessment for the subject project was reviewed and satisfactory to the Department of Transportation.
- Construction and operational noise levels would not have a significant impact. Based on a review of similar projects, the project would not create significant levels of construction or operational emissions, nor toxic air contaminants. In addition, the project would not result in significant impacts to water quality.

The project site will be adequately served by all public utilities and services given that the construction of a new restaurant, electric vehicle charging stations and outdoor drive-in movie theater development will be on a site which has been previously developed and is consistent with the General Plan. Therefore, the project meets all the Criteria for the Class 32.

Exceptions to Categorical Exemptions

There are six (6) exceptions to categorical exemptions must be considered in order to find a project exempt from CEQA: (a) Location; (b) Cumulative Impacts; (c) Significant Effect; (d) Scenic Highways; (e) Hazardous Waste Sites; and (f) Historical Resources.

The project is not located on or near any environmental resource of hazardous or critical concern where designated, precisely mapped, and officially adopted pursuant to law by federal, state, or local agencies. There is not a succession of known projects of the same type and in same place as the subject project. The project would not reasonably result in a significant effect on the environment due to unusual circumstances. The project is not located near a State Scenic Highway. The only State Scenic Highway within the City of Los Angeles is the Topanga Canyon State Scenic Highway, State Route 27. Furthermore, according to Envirostor, the State of California's database of Hazardous Waste Sites, neither the subject site, nor any site in the vicinity is identified as an active hazardous waste site. The project site has not been identified as a historic resource by local or state agencies, and the project site has not been determined to be eligible for listing in the National Register or Historic Places, California Register of Historical Resources, the Los Angeles Historic-Cultural Monuments Register, and/or any local register, and was not found to be a potential historic resource based on the City's HistoricPlacesLA website. Based on this, the project will not result in a substantial adverse change to the significance of a historic resource and this exception does not apply.

Inquiries regarding the matter shall be directed to Michelle Carter, Department of City Planning at michelle.carter@lacity.org or (213) 978-1262.



HENRY CHU
Associate Zoning Administrator

HC:MC:bk

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