

# PLANNING DEPARTMENT TRANSMITTAL TO THE CITY CLERK'S OFFICE

<b>CITY PLANNING CASE:</b>	<b>ENVIRONMENTAL DOCUMENT:</b>	<b>COUNCIL DISTRICT:</b>
ZA-2015-3213-CUB-CUX-ZV-1A	ENV-2015-3214-MND	14-Huizar
<b>PROJECT ADDRESS:</b>		
649 South Olive Street		
<b>APPLICANT/REPRESENTATIVE:</b>	<b>TELEPHONE NUMBER:</b>	<b>EMAIL ADDRESS:</b>
649 South Olive LLC 30 W. 26 <sup>th</sup> Street New York, NY 10010	718-208-5608	<a href="mailto:igullixson@sydellgroup.com">igullixson@sydellgroup.com</a>
Elizabeth Peterson (Representative) Elizabeth Peterson Group 400 S. Main Street, Suite 808 Los Angeles, CA 90013 <input type="checkbox"/> New/Changed	213-620-1904	<a href="mailto:elizabeth@epgla.com">elizabeth@epgla.com</a>
<b>APPELLANT/REPRESENTATIVE:</b>	<b>TELEPHONE NUMBER:</b>	<b>EMAIL ADDRESS:</b>
Jesus Hermosillo UNITE HERE LOCAL 11 464 Lucas Avenue Los Angeles, CA 90017	213-481-8530 ext. 328	<a href="mailto:JHERMOSILLO@UNITEHERE11.ORG">JHERMOSILLO@UNITEHERE11.ORG</a>
<b>PLANNER CONTACT INFORMATION:</b>	<b>TELEPHONE NUMBER:</b>	<b>EMAIL ADDRESS:</b>
Fernando Tovar	213-978-1303	<a href="mailto:fernando.tovar@lacity.org">fernando.tovar@lacity.org</a>
<b>APPROVED PROJECT DESCRIPTION:</b>		
<p>Mitigated Negative Declaration, Mitigation Monitoring Program and the related California Environmental Quality Act findings, and an appeal filed by Jesus Hermosillo, on behalf of UNITE HERE LOCAL 11, under California Public Resources Code Section 21151(c) of CEQA, from the determination of the Central Area Planning Commission in adopting the MND (ENV-2015-3214-MND) and approving a Zone Variance to permit an open air, outdoor rooftop pool and bar in conjunction with the operation of a new hotel and ancillary uses in the C2-4D Zone for the property located at 649 South Olive Street.</p>		

**COMMISSION ACTION(S) / ZONING ADMINISTRATOR ACTION(S): (CEA's PLEASE CONFIRM)**

1. Adopted the Findings of the Zoning Administrator
2. Denied the Appeal.
3. Sustained the action of the Zoning Administrator's decisions to approve:
  - a. a Conditional Use to permit the on-site sales and dispensing of a full line of alcoholic beverages in conjunction with the operation of a new hotel and ancillary uses in the C2-4D Zone.
  - b. a Conditional Use to permit public and patron dancing in conjunction with the operation of a new hotel and ancillary uses in the C2-4D Zone.
  - c. a Zone Variance to permit an open air, outdoor rooftop pool and bar in conjunction with the operation of a new hotel and ancillary uses in the C2-4D Zone.
  - d. the proposed correction to Items No. 8e, 13, and 15 for the Conditions.
4. Adopted the Mitigated Negative Declaration No. **ENV-2015-3214-MND** as the environmental clearance for the project.
5. Adopted the Mitigation Monitoring Program for **ENV-2015-3214-MND**.

**ENTITLEMENTS FOR CITY COUNCIL CONSIDERATION:**

Zone Variance  
Mitigated Negative Declaration

**FINAL ENTITLEMENTS NOT ADVANCING:**

Conditional Use permit

**ITEMS APPEALED:**

Zone Variance and MND

ATTACHMENTS:	REVISED:	ENVIRONMENTAL CLEARANCE:	REVISED:
<input checked="" type="checkbox"/> Letter of Determination	<input type="checkbox"/>	<input type="checkbox"/> Categorical Exemption	<input type="checkbox"/>
<input checked="" type="checkbox"/> Findings of Fact	<input type="checkbox"/>	<input type="checkbox"/> Negative Declaration	<input type="checkbox"/>
<input checked="" type="checkbox"/> Staff Recommendation Report	<input type="checkbox"/>	<input checked="" type="checkbox"/> Mitigated Negative Declaration	<input type="checkbox"/>
<input checked="" type="checkbox"/> Conditions of Approval	<input type="checkbox"/>	<input type="checkbox"/> Environmental Impact Report	<input type="checkbox"/>
<input type="checkbox"/> Ordinance	<input type="checkbox"/>	<input type="checkbox"/> Mitigation Monitoring Program	<input type="checkbox"/>
<input type="checkbox"/> Zone Change Map	<input type="checkbox"/>	<input type="checkbox"/> Other _____	<input type="checkbox"/>
<input type="checkbox"/> GPA Resolution	<input type="checkbox"/>		
<input type="checkbox"/> Land Use Map	<input type="checkbox"/>		
<input type="checkbox"/> Exhibit A - Site Plan	<input type="checkbox"/>		
<input checked="" type="checkbox"/> Mailing List	<input type="checkbox"/>		
<input type="checkbox"/> Land Use	<input type="checkbox"/>		
<input checked="" type="checkbox"/> Other _____	<input type="checkbox"/>		



**NOTES / INSTRUCTION(S):**

NONE

**FISCAL IMPACT STATEMENT:**☐ Yes☒ No

\*If determination states administrative costs are recovered through fees, indicate "Yes".

**PLANNING COMMISSION:**☐ City Planning Commission (CPC)☐ Cultural Heritage Commission (CHC)☒ Central Area Planning Commission☐ East LA Area Planning Commission☐ Harbor Area Planning Commission☐ North Valley Area Planning Commission☐ South LA Area Planning Commission☐ South Valley Area Planning Commission☐ West LA Area Planning Commission**PLANNING COMMISSION HEARING DATE:**

May 10, 2016

**COMMISSION VOTE:**

3 - 0

**LAST DAY TO APPEAL:**

June 1, 2016

**APPEALED:**

Yes

**TRANSMITTED BY:**  
Iris F. Awakuni**TRANSMITTAL DATE:**

June 2, 2016



# CENTRAL AREA PLANNING COMMISSION

200 N. Spring Street, Room 532, Los Angeles, California, 90012-4801, (213) 978-1300

[www.planning.lacity.org](http://www.planning.lacity.org)

Determination Letter Mailing Date: MAY 17 2016

Case No.: ZA-2015-3213-CUB-CUX-ZV-1A

CEQA: ENV-2015-3214-MND

Location: 649 South Olive Street

Council District: 14 - Huizar

Plan Area: Central City

Zone: C2-4D

**APPLICANT:** 649 South Oliver, LLC

Representative: Elizabeth Peterson, Elizabeth Peterson Group, Inc.

**APPELLANT:** Jesus Hermosillo, Unite Here Local 11

At its meeting on **May 10, 2016** the following action was taken by the Central Area Planning Commission:

1. Adopted the Findings of the Zoning Administrator
2. Denied the Appeal.
3. Sustained the action of the Zoning Administrator's decisions to approve:
  - a. a Conditional Use to permit the on-site sales and dispensing of a full line of alcoholic beverages in conjunction with the operation of a new hotel and ancillary uses in the C2-4D Zone.
  - b. a Conditional Use to permit public and patron dancing in conjunction with the operation of a new hotel and ancillary uses in the C2-4D Zone.
  - c. a Zone Variance to permit an open air, outdoor rooftop pool and bar in conjunction with the operation of a new hotel and ancillary uses in the C2-4D Zone.
  - d. the proposed correction to Items No. 8e, 13, and 15 for the Conditions.
4. Adopted the Mitigated Negative Declaration No. **ENV-2015-3214-MND** as the environmental clearance for the project.
5. Adopted the Mitigation Monitoring Program for **ENV-2015-3214-MND**.

Fiscal Impact Statement: There is no General Fund impact as administrative costs are recovered through fees.

This action was taken by the following vote:

Moved:	Commissioner Chung-Kim
Seconded:	Commissioner Brogdon
Aye:	Commissioner Chemerinsky
Nay:	
Absent:	Commissioner Oh

**Vote:** 3 - 0

Renee A. Glasco, Commission Executive Assistant  
Central Area Planning Commission



**Effective Date/Appeals:** The Central Area Planning Commission's determination regarding the *Zone Variance* will be final within 15 days from the mailing date on this determination unless an appeal is filed within that time to the City Council. Any appeal not filed within the 15-day period shall not be considered by the City Council. All appeals shall be filed on forms provided at the Planning Department's public Counters at 201 North Figueroa Street, Fourth Floor, Los Angeles, or at 6262 Van Nuys Boulevard, Room 251, Van Nuys. Forms are also available on-line at [www.planning.lacity.org](http://www.planning.lacity.org).

**FINAL APPEAL DATE:** JUN 01 2016

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.

cc: Notification List  
Fernando Tovar

## CONDITIONS

1. All other use, height and area regulations of the Municipal Code and all other applicable government/regulatory agencies shall be strictly complied with in the development and use of the property, except as such regulations are herein specifically varied or required.
2. The use and development of the property shall be in substantial conformance with the plot plan submitted with the application and marked Exhibit "A", except as may be revised as a result of this action.
3. The authorized use shall be conducted at all times with due regard for the character of the surrounding district, and the right is reserved to the Zoning Administrator to impose additional corrective Conditions, if, in the Administrator's opinion, such Conditions are proven necessary for the protection of persons in the neighborhood or occupants of adjacent property.
4. All graffiti on the site shall be removed or painted over to match the color of the surface to which it is applied within 24 hours of its occurrence.
5. A copy of the first page of this grant and all Conditions and/or any subsequent appeal of this grant and its resultant Conditions and/or letters of clarification shall be printed on the building plans submitted to the Development Services Center and the Department of Building and Safety for purposes of having a building permit issued.
6. The hotel shall be limited to a maximum 242 guest rooms.
7. Dancing shall be limited to one approximately 700 square-foot dance floor on the ground floor and one approximately 705 square-foot dance floor on the roof-top deck.
8. **MODIFIED:** The sale and dispensing of a full line of alcoholic beverages for on-site consumption is authorized in the following areas in conjunction with the hotel:
  - a. Within the Vault Lounge and Lobby in the basement level containing approximately 471 square feet.
  - b. Within the ground floor restaurants, cafes and bars containing a combined total of approximately 11,504 328 interior seats and 100 outdoor seats.
  - c. Within the Mezzanine level dining and bar area containing approximately 8,308 square with 258 seats.
  - d. Within the 2<sup>nd</sup> Floor courtyard containing approximately 9,897 square feet with 72 outdoor seats.
  - e. On the roof deck restaurant, bar, event space and lounge containing approximately 7,644 square feet with 242 307 seats. (Modified by Central APC).



- f. Within the in-room cabinets.
9. Any outdoor seating located within the right-of-way shall require a revocable permit to the satisfaction of the Department of Public Works.
10. The authorization granted herein for the sale of a full line of alcoholic beverages for on-site consumption on the subject premises is for a period of **seven (7) years** from the effective date of this grant. Thereafter, a new authorization shall be required to continue the sale of a full line of alcoholic beverages for on-site consumption.

The applicant is advised that he/she should allow appropriate time for a new entitlement applicant to be processed and the application should be approved prior to the expiration date of this grant in order to continue the sale of alcoholic beverages at the restaurant.

11. If at any time during the period of the grant, should documented evidence be submitted showing continued violation(s) of any condition(s) of the grant, resulting in a disruption or interference with the peaceful enjoyment of the adjoining and neighboring properties, the Zoning Administrator shall have the right to require the applicant to file a plan approval application together with the associated fees and to hold a public hearing to review the applicant's compliance with, and effectiveness of, the conditions of the grant. The applicant shall be required to submit a summary and supporting documentation demonstrating how compliance with each condition of the grant has been attained. Upon review, the Zoning Administrator may modify, add or delete conditions and reserves the right to conduct the public hearing for nuisance abatement revocation purposes if so warranted by documentation.
12. Parking shall be provided in compliance with the Municipal Code and to the satisfaction of the Department of Building and Safety.
13. **MODIFIED:** Any valet parking for the hotel or accessory uses shall be reviewed and approved by the Department of Transportation required to obtain a valid LAPD Commission Investigation Division (CID) Valet Operator Permit pursuant to LAMC Section 103.203 (b) and each valet attendant shall have a valid CID permit along with a valid California Driver License in their possession while on duty. (Modified by Central APC).
14. Adult Entertainment uses [Municipal Code Section 12.70] shall be prohibited. There shall be no topless entertainment, male or female entertainers, or fashion shows.
15. **MODIFIED:** The sound system on the roof top deck shall include a volume limiter which shall be adjusted so that the noise level measured at the edge of the deck does not exceed 74 dba during day time hours or 72 dba during evening hours the values shown in the table below as recommended by the noise transmission report dated December 4, 2015 prepared by Veneklasen Associates. (Modified by Central APC).

Allowed Noise Levels (dBA) at Edge of Rooftop Deck

Time of Day	East (Olive Street)	South (7 <sup>th</sup> Street)	West
Daytime	89	93	90
Nighttime	87	91	88

16. Coin-operated game machines, pool or billiard tables or similar game activities or equipment shall not be permitted.
17. No obstructions shall be attached, fastened or connected to any proposed booths, partitions, dining areas or ceiling within the interior space of the facility that restrict, limit or obstruct the clear observation of the occupants within the interior space of the licensed premises.
18. Security cameras shall be installed and maintained that cover all common areas of the business, high-risk areas, entrances and exits. The tapes shall be maintained for one month and made available to the Los Angeles Police Department, Alcoholic Beverage Control investigators/personnel and the City of Zoning Administration upon request.
19. Within 90 days from the effective date of this grant, the applicant shall make arrangements with the Los Angeles Police Department to conduct "STAR" training for all employees who manage, supervise or dispense alcoholic beverages to patrons. This training shall be conducted for all new hires within 60 days of their employment. The applicant shall request written confirmation of completion of the initial training from the Police Department and shall concurrently submit a copy of such request to the Zoning Administrator for retention in the case file.
20. The operator shall implement a Designated Driver Program (i.e., free soft drinks or coffee to a designated driver of the group) which shall be submitted to the Zoning Administrator for inclusion in the file. The availability of this program shall be made known to restaurant patrons via a two-sided card placed on all tables and a program description printed on the menu.
21. An electronic age verification device shall be retained on the premises available for use during operational hours. This device shall be maintained in operational condition and all employees shall be instructed in its use.
22. Signs shall be prominently posted in English, and the predominant language of the facility's clientele, if different, stating that California State law prohibits sale of alcoholic beverages to persons who are under 21 years of age. "No Loitering or Public Drinking" signs shall be posted in and outside of the facility in the same languages.



23. The applicant, may not employ, solicit, nor allow to operate on premise, any employee or agent to be permitted to accept money or anything of value from a customer for the purpose of sitting or otherwise spending time with customers while in the premises, nor shall the licensee provide, permit, or make available, either gratuitously or for compensation, male or female patrons who act as escorts, companions or guests of and for the customers.
24. Recycling bins shall be provided at appropriate locations to promote recycling of paper, metal, glass, and other recyclable material. These bins shall be emptied and recycled accordingly as a part of the project's regular solid waste disposal program.
25. The applicant shall be responsible for maintaining free of litter the area adjacent to the premises over which they have control.
26. A 24-hour "hot line" phone number shall, be provided for the receipt of complaints from the community regarding the subject facility and shall be:
  - Posted at the entry.
  - Posted at the Customer Service desk.
  - Provided to the immediate neighbors, schools, and local neighborhood council groups.
27. Hotel management shall keep a log of complaints received, the date and time received, and the disposition of the response. This shall be available for inspection by the Police Department, Department of Building and Safety, or Department of City Planning.
28. The conditions of this grant, police permit(s), business license, insurance information, and an emergency contact phone number for the valet service(s) (if any), shall be retained on the premises at all times and be immediately produced immediately upon request by any Los Angeles Police Department officer, Department of Alcoholic Beverage Control investigator or other responsible agencies. The manager and all employees shall be knowledgeable of these Conditions. A copy shall be provided to all employees who shall sign an acknowledgement form stating that they have read and understood all of the ABC and Conditional Use Permit conditions. Said form, as well as these conditions, shall be maintained at the location by the owner and/or manager who shall present these to Los Angeles Police personnel, ABC investigators or any other City agency upon request.
29. Within 30 days of the effective date of this grant, a covenant acknowledging and agreeing to comply with all the terms and conditions established herein shall be recorded in the County Recorder's Office. The agreement (standard master covenant and agreement form CP-6770) shall run with the land and shall be binding on any subsequent owners, heirs or assigns. The agreement with the conditions attached must be submitted to the Development Services Center for approval

before being recorded. After recordation, a certified copy bearing the Recorder's number and date shall be provided to the Zoning Administrator for attachment to the subject case file.

30. The following conditions are required as Mitigation Measures included in ENV-2015-3214-MND and shall be complied with:

- a. Aesthetics (Light). Outdoor lighting shall be designed and installed with shielding, such that the light source cannot be seen from adjacent residential properties or the public right-of-way, nor from above.
- b. Air Quality (Objectionable Odors). Open trash receptacles shall be located a minimum of 50 feet from the property line of any residential zone or use. Trash receptacles located within an enclosed building or structure shall not be required to observe this minimum buffer.
- c. Biology (Tree Removal in the Public Right-of-Way).
  - 1) Removal of trees in the public right-of-way requires approval by the Board of Public Works.
  - 2) The required Tree Report shall include the location, size, type, and condition of all existing trees in the adjacent public right-of-way and shall be submitted for review and approval by the Urban Forestry Division of the Bureau of Street Services, Department of Public Works (213-847-3077).
  - 3) The plan shall contain measures recommended by the tree expert for the preservation of as many trees as possible. Mitigation measures such as replacement by a minimum of 24-inch box trees in the parkway and on the site, on a 1:1 basis, shall be required for the unavoidable loss of significant (8-inch or greater trunk diameter, or cumulative trunk diameter if multi-trunked, as measured 54 inches above the ground) trees in the public right-of-way.
  - 4) All trees in the public right-of-way shall be provided per the current Urban Forestry Division standards
- d. Green House Gas Emissions. Low- and non-VOC containing paints, sealants, adhesives, solvents, asphalt primer, and architectural coatings (where used), or pre-fabricated architectural panels shall be used in the construction of the Project to reduce VOC emissions to the maximum extent practicable.
- e. Increased Noise Levels (Demolition, Grading, and Construction Activities).



- 1) Construction and demolition shall be restricted to the hours of 7:00 a.m. to 6:00 p.m. Monday through Friday, and 8:00 a.m. to 6:00 p.m. on Saturday.
  - 2) Demolition and construction activities shall be scheduled so as to avoid operating several pieces of equipment simultaneously, which causes high noise levels.
  - 3) The project contractor shall use power construction equipment with state-of-the-art noise shielding and muffling devices.
- f. Increased Noise Levels (Mixed-Use Development). Wall and floor-ceiling assemblies separating commercial tenant spaces, residential units, and public places, shall have a Sound Transmission Coefficient (STC) value of at least 50, as determined in accordance with ASTM E90 and ASTM E413.
- g. Public Services (Police). The plans shall incorporate the design guidelines relative to security, semi-public and private spaces, which may include but not be limited to access control to building, secured parking facilities, walls/fences with key systems, well-illuminated public and semi-public space designed with a minimum of dead space to eliminate areas of concealment, location of toilet facilities or building entrances in high-foot traffic areas, and provision of security guard patrol throughout the project site if needed. Please refer to "Design Out Crime Guidelines: Crime Prevention Through Environmental Design", published by the Los Angeles Police Department. Contact the Community Relations Division, located at 100 W. 1st Street, #250, Los Angeles, CA 90012; (213) 486-6000. These measures shall be approved by the Police Department prior to the issuance of building permits.
- h. Transportation/Traffic.
- 1) Applicant shall plan construction and construction staging as to maintain pedestrian access on adjacent sidewalks throughout all construction phases. This requires the applicant to maintain adequate and safe pedestrian protection, including physical separation (including utilization of barriers such as K-Rails or scaffolding, etc.) from work space and vehicular traffic and overhead protection, due to sidewalk closure or blockage, at all times.
  - 2) Temporary pedestrian facilities should be adjacent to the project site and provide safe, accessible routes that replicate as nearly as practical the most desirable characteristics of the existing facility.
  - 3) Covered walkways shall be provided where pedestrians are exposed to potential injury from falling objects.

- 4) Applicant shall keep sidewalk open during construction until only when it is absolutely required to close or block sidewalk for construction staging. Sidewalk shall be reopened as soon as reasonably feasibly taking construction and construction staging into account.
31. 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. **Prior to the beginning of operations**, the applicant shall notify the Condition Compliance Unit via email or U.S. Mail when operations are scheduled to begin and shall submit a copy of the Certificate of Occupancy for the Case File. The notification shall be submitted to [planning.ccu@lacity.org](mailto:planning.ccu@lacity.org), with the subject of the email to include the case number, **"ZA-2015-3213(CUB)(CUX)(ZV)/Operation Notification"**. The applicant shall also submit (attached or mailed) evidence of compliance with any conditions which require compliance "prior to the beginning of operations" as stated by these conditions.
33. 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 acquisition of the property and/or the business. Evidence that a copy of this determination has been provided to the prospective owner/operator, including the conditions required herewith, shall be submitted to the Condition Compliance Unit in a letter from the new operator indicating the date that the new operator/management began and attesting to the receipt of this approval and its conditions. The new operator shall submit this letter to the Condition Compliance Unit within 30 days of the beginning day of his/her new operation of the establishment along with the dimensioned floor plan, seating arrangement and number of seats of the new operation.
34. Indemnification and Reimbursement of Litigation Costs.

Applicant shall do all of the following:

- a. Defend, indemnify and hold harmless the City from any and all actions against the City relating to or arising out of, 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 \$25,000. The City's failure to notice or collect the deposit does not relieve the Applicant from responsibility to reimburse the City pursuant to the requirement in paragraph (b).
  - d. Submit supplemental deposits upon notice by the City. Supplemental deposits may be required in an increased amount from the initial deposit if found necessary by the City to protect the City's interests. The City's failure to notice or collect the deposit does not relieve the Applicant from responsibility to reimburse the City pursuant to the requirement. (b)
  - e. If the City determines it necessary to protect the City's interests, execute an indemnity and reimbursement agreement with the City under terms consistent with the requirements of this condition.

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

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

For purposes of this condition, the following definitions apply:

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

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

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

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

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

### **TRANSFERABILITY**

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

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

Section 12.29 of the Los Angeles Municipal Code provides:

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

Every violation of this determination is punishable as a misdemeanor and shall be punishable by a fine of not more than \$2,500 or by imprisonment in the county jail for a period of not more than six months, or by both such fine and imprisonment.



### 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 January 20, 2016, all of which are by reference made a part hereof, as well as knowledge of the property and surrounding district, I find that the requirements for authorizing a conditional use permit under the provisions of Section 12.24-W have been established by the following facts:

### BACKGROUND

In conjunction with the adaptive reuse of an existing 12-story commercial office building, that formerly operated as the Bank of Italy (Los Angeles Historical-Cultural Monument #354), into a 151,632 square-foot, 242-room hotel, Conditional Uses and a Zone Variance have been requested to permit the on-site sales and dispensing of a full line of alcoholic beverages, to permit public patron dancing, and to permit the use of an outdoor rooftop bar and pool in the C2-4D Zone. In addition to room service & in-room alcohol access cabinets, the hotel proposes the dispensing of alcohol within a basement vault lounge and lobby bar; a ground floor restaurant, bar & café; a mezzanine level dining & lounge area; a 2nd floor level outdoor courtyard; and a roof deck level bar & pool area. Live entertainment, amplified music & public patron dancing will occur incidental to the hotel uses.

As filed, the project is in request of a Conditional Use to permit the on-site sales of a full line of alcohol, in conjunction with the operation of a new hotel & ancillary uses in the C2-4D Zone; a Conditional Use to permit dancing to occur throughout the hotel, within the ground floor restaurant, lobby bar, and rooftop restaurants; and a Zone Variance to permit the use of an outdoor rooftop restaurant, bar & pool in the C2-4D Zone.

The property is a level, square-shaped parcel of land that is located at the northwest corner of 7<sup>th</sup> and Olive Streets. The site is composed of over 13,000 square feet of lot area and is occupied by a 12 story, 155-foot tall historic bank building (Bank of Italy) that totals approximately 143,112 square feet of existing floor area. The proposed project will involve the adaptive reuse of the existing building into a hotel and entertainment use. The renovation of the building will not increase the total floor area nor will it alter the building footprint.

The site is located in the C2-4D Zone, within the Central City Community Plan and is designated for Regional Center Commercial uses. The site is located within the CRA's City Center Redevelopment Project area, within the Greater Downtown Housing Incentive Area, a Los Angeles State Enterprise Zone, and the Downtown and Central City Parking Districts. Given the historic designation of the Bank of Italy building (Los Angeles Historic-Cultural Monument #354), the site is subject to Historic Preservation Review.

The designated land uses and zoning within 500 feet of the project site is reflective of dense commercial uses that are characterized by the nearby Financial and Jewelry Districts. The northerly adjoining property is zoned C2-4D and is developed with a vacant 11-story, commercial office building. The southerly adjoining property, across 7<sup>th</sup> Street, is

zoned C2-4D and is developed within a four-story, mixed use building composed of loft spaces located above ground floor commercial retail and restaurant uses. The easterly adjoining property, across Olive Street, is zoned C2-4D and is developed with a 12-story commercial office building. The westerly adjoining property, located across from the alley is zoned C2-4D and is developed with a 4-story, commercial office building that contains a ground floor restaurant use.

## **STREETS AND CIRCULATION**

Olive Street is a designated Modified Avenue II that is currently dedicated to 80-foot right-of-way; however, approximately 8 feet of the existing building is located within the dedication area. The established standards for this street designation are an 80-foot public right-of-way and a 56-foot roadway width.

7<sup>th</sup> Street is a designated Modified Avenue II that is currently dedicated to 80-foot right-of-way. The established standards for this street designation are an 80-foot public right-of-way and a 56-foot roadway width.

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

VTT-66908: On April 5, 2007, the Advisory Agency approved Vesting Tentative Tract Map No. 66908 composed of one-lot located at 649 South Olive Street and 505 West 7<sup>th</sup> Street for the adaptive reuse of an existing 12 story office building into 117 joint live work quarters condominium and 30 commercial condominium units for retail space (32,480 square feet) as shown on map stamp-dated December 21, 2006. On January 7, 2009, the map was granted an extension of time that established a new expiration date of April 5, 2017.

ZA-1987-0374(ZV): On May 22, 1987, the Zoning Administrator approved a Zone Variance to permit a waiver of the required 5 parking spaces for the addition of 4,900 square feet to the mezzanine floor of an existing 12-story building (Giannini Place).

## **PUBLIC HEARING**

The public hearing was conducted on January 20, 2016 at Los Angeles City Hall, 200 N. Spring Street, Room 1020. The hearing was attended by the applicant's representative, Ms. Elizabeth Person and by a representative of Council District 14, Ms. Claire Eberly.

Ms. Peterson, provided background on the subject site and existing building and described the scope of the proposed project and the requested entitlements. She noted that the site is located in downtown Los Angeles and is improved with a historic 12-story building with a basement level constructed in 1923 which originally served as the headquarters for the Bank of Italy. The building was designed by the architectural firm of Morgan, Walls and Clement and is designated a Historic-Cultural Monument.



Ms. Peterson indicated that the existing building is vacant and is occupied by vagrants which has been problematic. The applicant, Sydel Group, proposes to convert the building to a 241-room hotel (NOMAD Los Angeles) with accessory uses that will include a roof-top deck with a pool, restaurant and bar as well as a basement level cocktail lounge, various ground floor restaurants and café's with outdoor sidewalk dining and a second floor courtyard. The guest rooms will be located on floors 2 through 12.

Ms. Peterson noted that this is the applicant's 2<sup>nd</sup> NOMAD Hotel. The Sydel Group currently operates the NOMAD Hotel in New York and the Line Hotel in Los Angeles' Koreatown. The proposed hotel will be a luxury, high-end boutique hotel with hand-selected custom designs and artwork for all the guest rooms and high quality food service.

Ms. Peterson noted that the applicant is seeking a Conditional Use to allow the on-site sale of a full line of alcoholic beverages throughout the hotel, within the ground floor restaurants and cafes, the basement lounge, the roof top restaurant and bar and within the in-room cabinets. A conditional use was also requested to err on the side of caution to allow dancing on the premises (Ms. Peterson noted that dancing is permitted by right provided the dance floor occupies less than 10% of the floor area within the existing building).

Ms. Peterson noted that the site would be well illuminated and that a security plan was submitted to the LAPD for their consideration. An acoustical study was prepared to measure sound transmission from the roof top deck and the mitigation measure recommended by the acoustical report would be complied with to minimize noise. A traffic study was completed for the proposed project that studied 14 intersections and concluded that the project would have no significant traffic impacts. Ms. Peterson confirmed that the historic building has no on-site parking and that zero parking is required due to the building's historic status. However, she noted that off-site parking would be provided via curbside valet service and that the off-site parking and valet agreements are currently in process.

Ms. Eberly of Council District 14 testified in support of the request and she noted that the Downtown LA Neighborhood Council and the Central City Association Historic Core BID were in support of the request.

#### Correspondence

A Public Records Act request and request for mailed notice of public hearings and actions was received from CREEDLA on January 14, 2016.

A letter dated November 10, 2015 in support of the request was submitted by the Downtown Los Angeles Neighborhood Council.

A letter dated January 15, 2016 in support of the request was submitted by the Central City Association.

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

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

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

- No alcohol related conditions were submitted for consideration.

**BASIS FOR CONDITIONAL USE PERMITS**

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

**FINDINGS**

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

1. **The project will enhance the built environment in the surrounding neighborhood or will perform a function or provide a service that is essential or beneficial to the community, city or region.**

The subject site is located in the Central City Community Plan and has a Regional Center Commercial land use designation and is zoned C2-4D. It is improved with an approximately 151,632 square-foot 12-story historic building Italy (Los Angeles Historical-Cultural Monument #354). The proposed project will utilize the Adaptive Reuse Ordinance to convert the building into a hotel with restaurant and retail uses,



which are permitted uses in the C2-4D zone. The building was originally occupied by the Bank of Italy. The proposed project consists of 242 guest rooms and accessory uses including restaurants, café's, bars, lounges, courtyards and a roof-top deck.

The applicant seeks a Conditional Uses to permit the on-site sales and dispensing of a full line of alcoholic beverages and to permit public and patron dancing. Service of alcoholic beverages is in conjunction with the hotels accessory uses that include a basement vault lounge and lobby bar; ground floor restaurants, bars & cafés; a mezzanine level dining & lounge area; a 2nd floor outdoor courtyard; and a roof deck level bar & pool area. Music and live entertainment and dancing will occur incidental to the hotel uses. There are two dance floors proposed, one at ground level and one on the roof top deck. The building is currently vacant and the proposed project will reactivate this historic building and will contribute to the revitalization of Downtown's Historic Core. The adaptive reuse and proposed change of use restores the property to a use that is more in-line with the needs and projected growth of Downtown Los Angeles, and will contribute to a demonstrated need for more hotel rooms Downtown.

The project site is located within walking distance to the Financial District and the Historic Core is in close proximity to many other Downtown tourist amenities, including the theaters on Broadway, the Fashion District, and the Arts District, making the site suitable location for a hotel. The proposed project will provide much-needed hospitality amenities to this stretch of Downtown in the way of a restaurant and café for dining needs as well as a rooftop bar and event space for entertainment. Additionally, the project will enhance the surrounding community by restoring an architecturally and historically significant building. The project is also located along the \$9.175 million streetscape improvement plan funded by the new Wilshire Grand Center to improve pedestrian and multi-modal access along 7th Street. The proposed project complements these improvements by providing vibrant street-fronting activity with sidewalk dining.

As such, the project will enhance the built environment and will provide a service that is beneficial to the downtown 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's size, height, and operation will be compatible with the surrounding neighborhood. The building was built in 1923 as Bank of Italy and is currently designated as Los Angeles Historic-Cultural Monument #354. The building is currently vacant and the adaptive reuse of the building as a hotel will impart the building with renewed viability and activate the ground floor with restaurants, cafes and sidewalk dining. The building was designed by the architecture firm Morgan,

Wells and Morgan and is characterized by "neo-classical" beaux arts architecture. The building is iconic and will not only be better preserved but will be brought to new viability by its conversion to hotel use. The applicant is utilizing the adaptive reuse ordinance to transfer floor area from one part of the building to another; as such, the building will not increase substantially in bulk or size.

Dancing, music and live entertainment are proposed incidental to the hotel's accessory restaurants, bars and lounges. The hotel will have two dance floors, one on the ground floor and one on the roof top deck. The roof top deck will include a restaurant, pool, lounge, bar and event space. The designated land uses and zoning within 500 feet of the project site is reflective of dense commercial uses that are characterized by the nearby Financial and Jewelry Districts. The northerly adjoining property is zoned C2-4D and is developed with a vacant 11-story, commercial office building. The southerly adjoining property, across 7<sup>th</sup> Street, is zoned C2-4D and is developed within a four-story, mixed use building composed of loft spaces located above ground floor commercial retail and restaurant uses. The easterly adjoining property, across Olive Street, is zoned C2-4D and is developed with a 12-story commercial office building. The westerly adjoining property, located across from the alley is zoned C2-4D and is developed with a 4-story, commercial office building that contains a ground floor restaurant use.

The site would be well illuminated at night and a security plan was submitted to the LAPD for their consideration that outlines the hotel's security procedures to protect the safety of guests and employees and includes safety procedures and protocol in the event of an emergency. The applicant submitted an acoustical report that measured sound transmission from the roof top deck and outlined sound mitigation measures to ensure compliance to the city's noise regulations. Those mitigation measures have been incorporated as conditions of the grant. A traffic study was also completed for the proposed project that studied 14 intersections and concluded that the project would have no significant traffic impacts. The hotel proposes to provide off-site parking with valet service.

In addition, operational conditions have been imposed to ensure that management and employees are knowledgeable about the conditions of approval; that the applicant is on notice that should the use become problematic, they may be compelled to file for a Plan Approval application for a review of compliance with the conditions of approval; and that the life of the grant is for a limited 7-year term so as to avoid potentially lengthy revocation proceedings should the operations ultimately prove to be problematic. If the applicant is able to demonstrate responsible operation, in compliance with the conditions of this approval, such positive performance will reflect well upon them in future requests.

The grant authorized herein incorporates a number of conditions that are intended to insure that the proposed operation with the addition of alcohol sales will be compatible with other uses in the surrounding community. In addition, the project's location within an established commercial center helps to minimize potential



impacts on nearby uses. Thus, as conditioned, the project's location, size, height, operations and other significant features will be compatible with and will not adversely affect or further degrade adjacent properties, the surrounding neighborhood, or the public health, welfare and safety.

Thus, rather than degrade adjacent properties and the surrounding neighborhood, the redevelopment of the underutilized building will provide a cultural, economic, and safety benefit to the surrounding community. The hotel and its offered amenities of restaurants and alcohol service will renew life into a vacant building, restoring the architectural integrity of the building and providing renewed activity to this area during day and nighttime periods. The restoration of the building will remove the current signs of blight and degradation such as graffiti and broken windows, restoring a sense of safety to this corner. Additionally, the physical presence and 24-hour nature of the hotel will enhance the public welfare and safety, ensuring a comfortable pedestrian experience.

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

The purpose, intent, and provisions of the General Plan, Community Plan, and related Specific Plans all seek to ensure compatibility with surrounding uses, both in development and use, and to encourage economic development through the establishment of new businesses, and the expansion of successful businesses.

The Land Use Element of the City's General Plan divides the city into 35 Community Plans. The Central City Community Plan designates the property for Regional Center Commercial land uses with a corresponding zone of CR, C1, C1.5, C2, C4, C5, RAS3, and RAS4 and Height District No. 4. The property is not located within a Specific Plan area.

The General Plan designates and the zone classification provides land for commercial purposes subject to appropriate planning regulations and standards. An approval would further the goals of the Plan to promote the economic well-being of the community. The proposed conditional use to allow the sale and dispensing of a full line of alcohol will aide in promoting a vibrant mixture of commercial and entertainment uses. Additionally, a more urbanized and dense feeling is envisioned by the Central City Community Plan in designating the Regional Center Commercial General Plan Land Use. This proposed continued use would continue to foster a pedestrian-friendly retail environment in which economic opportunities are created and serve the needs of the surrounding residential and business community.

Entertainment destinations, such as the project site, will help keep the Downtown area a viable place to live, work and visit. The project proposed is a desired continued commercial use to the public convenience and welfare. The proposed project is located within the Central City Community Plan within the General Plan of the City of Los Angeles. The General Plan Land Use designation is Regional Center

Commercial which corresponds to, and permits, the proposed hotel, bar and restaurant uses. The Central City Community Plan states that, "[t]ourism and entertainment play a significant role in the commercial activity of Los Angeles and Central City" and that "[t]he Convention Center and Staples Arena add significantly to the draw of downtown for visitors" (Page III-4). The Community Plan also encourages the proposed hotel use.

While not specifically mentioning alcohol, serving alcohol within the mix of food and beverage options provided by a hotel is customary to meet the needs of visitors staying at the hotel to attend meetings or a special event.

The proposed project is consistent with the goals and intent of the Community Plan. The hotel, with its ancillary entertainment and alcohol service, will compliment the surrounding area which attracts visitors and tourists from around the world. The General Plan promotes the provision of services throughout the City in locations that are convenient to the public yet do not impact nearby properties. The proposed project is in harmony with the various elements and objectives of the General Plan and the Central City Community Plan.

#### **ADDITIONAL REQUIRED FINDINGS FOR THE SALE OF ALCOHOLIC BEVERAGES**

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

The proposed hotel located within an established regional commercial center and is not in close proximity to any sensitive uses. The availability of alcoholic beverages in a hotel is an expected part of the traveling experience expected by discerning travelers. Food and beverage offerings in a hotel restaurant, including cocktail lounges, event and meeting catering, outdoor dining, room service and in-room mini-bars are basic amenities for travelers and conventioners. The alcohol service complements the other food and beverage choices. The service of alcohol will be completely on-site. Community residents, in addition to hotel guests, will be able to enjoy the eating and drinking establishments.

Numerous conditions have been adopted in conjunction with this approval to ensure that the operation of the hotel is compatible with the surrounding community, and to minimize any potential adverse impacts from all its operations. The grant was given a 7 year life to preclude further sales of alcohol if management is not able to operate within the terms of this grant, and in doing so, becomes a nuisance to the community. Thus, it can be found that the proposed use will not adversely affect the welfare of the pertinent community.

Therefore, as conditioned herein, the proposed use will not adversely affect the welfare of the pertinent community. The Zoning Administrator has imposed numerous conditions to integrate the use into the community and reflect the mode of operation stated in the application.



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

According to the California State Department of Alcoholic Beverage Control licensing criteria, there are two (2) on-site and one (1) off-site license authorized to Census Tract No. 2077.1. Due to the Regional Center Commercial, high density character of the area, there are 17 existing off-site licenses and 88 existing on-site licenses. The LA Live campus, FIGat7th, high end hotels and restaurants as well as supermarkets comprise the majority of the existing licenses. ABC license allocations are based on population, and thus results in a low allocation for the area that is comprised primarily of retail and office uses. The number of permitted licenses is based on the population of the census tract and in the most recent census update, the population was reported as 2,490 residents. The population of the Census Tract will increase substantially with the Metropolis Project, but the increase in alcohol permits as a result of the Metropolis Project will only be a fraction of the anticipated population increase. The area has had an increase in restaurants with alcohol conditional use permits to serve both the expanding residential population and nearby office work population and tourists.

The following are the existing types of On-Site ABC licenses in the census tract:

- 16 On-site Beer and Wine for Bona Fide Public Eating Place (Type 41)
- 62 On-site General for Bona Fide Public Eating Place (Type 47)
- 5 On-site General for Public Premises (Type 48)

The following are the existing types of Off-Site ABC Licenses in the census tract:

- 5 Off-site Beer and Wine (Type 20)
- 11 Off-site General (Type 21)

According to the statistics provided by the Los Angeles Police Department, within Crime Reporting District No. 152, which has jurisdiction over the subject property, a total of 619 Part I Crimes and Part II Arrests were reported in 2014, compared to the citywide average of 163 Part I Crimes and Part II Arrests and the high crime reporting district average of 196 Part I Crimes and Part II arrests for the same period. Crimes reported by LAPD include: 3 Rape, 17 Robbery; 25 Aggravated Assault; 10 Burglary, 7 Auto Theft; 189 Larceny; 28 Other Assault; 2 Forgery/Counterfeit, 8 Embezzlement Fraud, 6 Weapon Violations; 12 Sexual Offenses; 32 Narcotic Drug, 14 Liquor Laws, 12 Drunk in Public; 161 Disorderly

Conduct; 14 DWI Related; and 74 other. The conditions that relate to the sale and service of alcoholic beverages have been listed above for the consideration of ABC when reviewing the proposed license application. As conditioned, the approval of the request will provide for public convenience and should not result in an undue concentration of ABC licensed premises in the census tract.

Over-concentration can be undue when the addition of a license will negatively impact a neighborhood. Over-concentration is not undue when the approval of a license does not negatively impact an area, but rather such license benefits the public welfare and convenience. While the number of active ABC licenses within the census tract where the site is located exceeds ABC guidelines, the existing building is currently vacant and occupied by vagrants and contributes to blight. The project will not adversely affect the community welfare because the hotel and ancillary uses are desirable uses and will provide a needed amenity for that will contribute to the economic health of nearby entertainment uses. The restoration of the building will remove the current signs of blight such as graffiti and broken windows, restoring a sense of safety to this corner. Additionally, the physical presence and 24-hour nature of the hotel, including sidewalk dining, will enhance the public welfare and safety, ensuring a comfortable pedestrian experience.

6. **The proposed use will not detrimentally affect nearby residentially zoned communities in the area of the City involved, after giving consideration to the distance of the proposed use from residential buildings, churches, schools, hospitals, public playgrounds and other similar uses, and other establishments dispensing, for sale or other consideration, alcoholic beverages, including beer and wine.**

The requested entitlements will not detrimentally affect nearby residential zones or uses. Currently, the subject property is surrounded primarily by commercially zoned properties with commercial uses. The subject property is designed to concentrate the restaurant and bar/ dining establishments to the ground floor/ basement and rooftop to match the mode and character of the surrounding buildings and uses. The intermediate floors will be reserved for the hotel guests and rooms, aligning the residential components of surrounding uses with areas of the hotel intended for sleeping and quieter enjoyment.

Additionally, the proposed use will provide positive amenities to the residents, making the neighborhood more walkable and safe, and providing enjoyable dining options within easy access of their homes. To ensure pleasant enjoyment of their properties, the applicant is prepared to provide security to monitor use of the site, ensuring patron safety and the community's quiet enjoyment. The requested entitlements, if granted, will also be accompanied by conditions set forth from the Office of the Zoning Administrator and LAPD on behalf of the residents.

The Hotel Indigo will serve to support the adjacent to the Historic and Financial Core, which is primarily developed with office and commercial retail uses, and the



nearby Convention Center, LA Live and the Staples Center. As conditioned, the proposed hotel will not detrimentally affect nearby residentially zoned properties.

### **MANDATED ZONE VARIANCE FINDINGS**

In order for a variance to be granted, all five of the legally mandated findings delineated in City Charter Section 562 and Municipal Code Section 12.27 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:

7. **That 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.**

LAMC Section 12.14-A,1 (b)(3) requires the following:

*"In connection with the stores, shops or businesses listed in Paragraph (a) all activities other than incidental storage and outdoor eating areas for ground floor restaurants, shall be conducted wholly within a completely enclosed building (Amended by Ord. No. 165,403, Eff. 2/17/90.)"*

The current zoning code provisions would impair and prevent the applicant from enjoying reasonable and optimum use of the subject site and the existing building at 649 S Olive. The zoning regulations allow certain land uses in the various zones in order to achieve compatibility between respective uses. Such regulations, however, are written on a City-wide basis and cannot take into account individual, unique characteristics which a specific parcel and its intended use may have. In this instance, the Code's limitation of outdoor activities to solely that of ground floor restaurants and incidental storage hinders the applicant's ability to have practical enjoyment of the full use of their site and maximize on the full use of the height district and C2 zoning. The allowance of the use of the outdoor dining with alcohol service on the rooftop restaurant, bar, and pool deck will allow the proposed hotel to enjoy use of its rooftop, which is currently underutilized useable space for much needed dining and entertainment uses. The existing building takes up the entirety of the footprint of the parcel, limiting the opportunity for outdoor dining and alcohol service. By utilizing vacant space on the rooftop for dining, the hotel can offer food amenities to their guests as well as the surrounding community.

The applicant is adapting an existing structure to accommodate the new mode and character of the hotel; however, the prior office use did not have need to utilize the vacant rooftop space. For the adaptation of the building to hotel, including restaurants and dining/bar was necessary for financial viability of the redevelopment as well as required services for patrons and guests, and the code's limitation of outdoor dining threatens that viability of those additional services and necessary ancillary uses.

Furthermore, visitors and guests in the Downtown area deserve a unique experience that attracts visitors and lends itself to the development of a growing neighborhood. Providing a rooftop dining feature to this proposed hotel allows for such a drawing feature, and provides beautiful views of the Downtown region, creating a positive image of Downtown that the Central City Community Plan calls for. The proposed ancillary uses would not be expected to create additional impacts above and beyond the allowable uses.

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

The unique features of this site include its configuration and surroundings: the unique layout and existing structural features of the existing building which the proposed hotel will be adapted from, and the growing Downtown tourism and entertainment draw and business communities contained within it. Downtown is undergoing a revitalization that has made this property and its proposed use a key feature to the success of the area by providing hotel and dining services to the many visitors to the community. Prior to the Adaptive Reuse Ordinance, many office buildings in Downtown were abandoned and derelict, as this one is now. By utilizing these initiatives, this project will provide necessary tourist and business amenities that match and support the growing resurgence of tourism in Downtown Los Angeles. However, without the opportunity to utilize all aspects of the site, including the open rooftop, this project will not be able to adequately provide the necessary amenities that tourists expect from such high-end accommodations, including open space and the ability to relax outdoors. It is typical for hotels to offer residents such luxuries in the form of pools and outdoor patios and bars for dining; due to the bulk of the existing building taking up nearly the entirety of its lot, the applicant does not have the ability to offer such accommodations on the side or in the back of the property at the ground floor level.

Additionally, the size, shape, and existing configuration of the site, as well as the location of existing improvements, make proposed request logical, as it would allow for the functional integration with existing improvements on the site. The existing building is 12 stories tall, providing ample distance between the proposed outdoor features and the surrounding buildings. To fully capitalize on the entirety of their site, including the roof, this entitlement is necessary.

As the building is existing, the footprint of the lot is taken by the structure itself, leaving no room for outdoor enjoyment. By granting this request, guests and residents will have opportunity to enjoy al-fresco dining as well as outdoor activities including a pool with lounge chairs, which would not be feasible if required to be indoors. The physical features of this site, including the proposed rooftop use, make the request logical, as it would allow for a unique experience and destination for the community in which the subject site will provide an anchor for new and continued growth. The subject lot is in a unique position to provide such an amenity and thusly serve the needs of guests and the surrounding community.



9. **That 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 such special circumstances and practical difficulties or unnecessary hardships is denied to the property in question.**

The modest request to allow use of a currently vacant space for the necessary use of dining and entertainment with alcohol service will allow the subject property to fully realize its potential as a hotel and restaurant, allowing enough seating and amenities to make the hotel financially viable. Proposed outdoor seating and pool deck takes advantage of the unique siting of the building within Downtown and its views of the Los Angeles skyline, creating a feature that is both enjoyable for patrons and positive for Los Angeles. Downtown Los Angeles is home to many restaurants and hotels that feature this positive architectural element of rooftop dining, including Perch, the Bonaventure, the Ace Hotel, and the Standard Hotel, all of which have found it necessary to utilize all aspects of their property for both aesthetic and financial success. If the requested zone variance is not granted, the proposed hotel would be at a significant disadvantage to these other fine hotel and dining destinations, causing unnecessary hardship to the success of the project.

10. **That 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.**

With the use of an outdoor rooftop dining space, bar, and pool deck, the subject property use 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 use is compatible with the subject property's surroundings in the commercial nature of 7th and Olive and the uses surrounding the subject site. Currently, the surrounding uses are improved with commercial buildings between 4 and 10 stories in height. Both buildings directly abutting the subject site are several stories shorter than the subject site, providing a noise buffer from the proposed outdoor hotel activities. Allowing this use will predictably benefit the public welfare by providing local residents and business owners as well as employees and visitors with a unique high quality dining and hospitality location.

The applicant submitted an acoustical report that measured sound transmission from the roof top deck and outlined sound mitigation measures to ensure compliance to the city's noise regulations. Those mitigation measures have been incorporated as conditions of the grant.



**11. That the granting of the variance will not adversely affect any element of the General Plan.**

The granting of this variance will not compromise any element of the General Plan. The "Regional Center Commercial" General Plan Land Use designation will remain intact, and the property's variance request will complement the requirements for Regional Center developments. The primary goal of the General Plan for Regional Centers is to create environments "that provide jobs, entertainment, culture, and serve the region." As opposed to adversely affecting the General Plan, the use of this property for a hotel with ancillary restaurants and rooftop dining/ pool deck will promote the desires of the General Plan. The proposed outdoor features will provide a dining and entertainment element to the hotel that is intended to promote and serve the Downtown region of Los Angeles. Additionally, the proposed development, including the rooftop restaurant and pool, will contribute to job opportunities for Los Angeles residents. Furthermore, the General Plan supports the maintenance of the commercial base of the City and occupancy of vacant office buildings, and the request is consistent with such goals.

Additionally, the granting of this variance will not hinder the goals of the Central City Community Plan, but will assist in Downtown's continued revitalization. The Community Plan calls for the development of commercial spaces that further amenities offered to tourists and create vibrant 24-hour features, particularly by promoting restaurants and nighttime entertainment. Further, the Downtown Design Guide promotes the use of roof terraces, especially in conjunction with hotel and residential uses. As such, the variance will not degrade from the vision for downtown but rather help promote its goal to reactivate roof tops. This proposal for a hotel with an outdoor restaurant and entertainment fully supports these initiatives by the Community Plan.

**ADDITIONAL MANDATORY FINDINGS**

12. The National Flood Insurance Program rate maps, which are a part of the Flood Hazard Management Specific Plan adopted by the City Council by Ordinance No. 172,081, have been reviewed and it has been determined that this project is located in Zone C, areas of minimal flooding.
13. On February 3, 2016, the City Planning Department issued Mitigated Negative Declaration No. ENV-2015-3214-MND. This Mitigated Negative Declaration reflects the independent judgment of the lead agency and determined that this project would not have a significant effect upon the environment provided the potential impacts are mitigated to a less than significant level. I hereby adopt that action. The custodian of the documents or other material which constitute the record of proceedings upon which the decision is based are located with the City of Los Angeles, Planning Department located at 200 North Spring Street, Room 750, Los Angeles, California.

Inquiries regarding this matter shall be directed to Jenna Monterrosa, Planning Staff for the Office of Zoning Administration at (213) 978-1377.





**DETERMINATION LETTER**  
**ZA-2015-3213-CUB-CUX-ZV-1A**  
**MAILING DATE: 5/17/16**

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