

As approved by the Planning and Land Use Management Committee on
January 18, 2017

CONDITIONS OF APPROVAL

A. Entitlement Conditions

1. **Site Plan Review.** The project shall be granted a Site Plan Review for a project that creates an increase of 50 or more dwelling units, which in this case is 145 residential units.
2. **Residential Density.** The project shall be limited to a maximum of 145 residential units, including 7 units (5 percent of base units) for Very Low Income Households pursuant to State Density Bonus Law 65915 (C)(2); 1 additional unit for Very Low Income Household (not Density Bonus – based on 1 additional unit to reflect 5 percent of total units for Very Low Income); and 6 units for Moderate Income Households (not Density Bonus). If less than 145 residential units are developed, the number of affordable units shall be adjusted to be consistent with 5 percent of total units for Very Low Income Households and 6 units for Moderate Income Households.
3. **Residential Parking.** A minimum of 217 parking spaces for residential uses shall be provided in compliance with LAMC Section 12.21-A,4. If less than 145 residential units are developed, the number of parking spaces shall be re-calculated by the Department of Building and Safety based upon the ratios set forth in the LAMC.
4. **Commercial Parking.** A minimum of 119 parking spaces for commercial uses shall be provided in compliance with LAMC Sections 12.21-A,4, and a minimum of 25 parking spaces for retail employees of 8500 Burton Way in compliance with an existing lease.
5. **Density Bonus Residential Density.** The project density shall be limited to the (T)(Q)C2-2D-O Zone, within the General Commercial category of the Wilshire Community Plan, and a 16 percent Density Bonus.
6. **Affordable Units.**
 - a. A minimum of 7 units shall be reserved as Very Low Income units for 5 percent of the base dwelling units, as defined by the State Density Bonus Law 65915 (C)(2));
 - b. A minimum of 1 unit shall be reserved as a Very Low Income unit (not Density Bonus – based on additional unit to reflect 5 percent of total units for Very Low Income);
 - c. A minimum of 6 units shall be reserved as Moderate Income units (not Density Bonus); and
 - d. If less than 145 residential units are developed, the number of affordable units shall be adjusted to be consistent with 5 percent of total units for Very Low Income Households and 6 units for Moderate Income Households.
7. **Changes in Restricted Units.** Deviations that increase or decrease the number of restricted affordable units or that change the composition of units shall be consistent with LAMC Section 12.22-A,25.
8. **Housing Requirements.**
 - a. Prior to issuance of a building permit, the owner shall execute a covenant to the satisfaction of the Los Angeles Housing and Community Investment Department

(HCIDLA) to make the units available to Very Low Income Households and the units available to Moderate Income Households as set forth in Condition No. A-6 above, for sale or rental as determined to be affordable to such households by HCIDLA for a period of 55 years. Enforcement of the terms of said covenant shall be the responsibility of HCIDLA. The applicant will present a copy of the recorded covenant to the Department of City Planning for inclusion in this file. The project shall comply with the Guidelines for the Affordable Housing Incentives Program adopted by the City Planning Commission and with any monitoring requirements established by the HCIDLA.

- b. The developer shall make a contribution of \$500,000, prior to the issuance of the Certificate of Occupancy, to be deposited in a new account in the City's Affordable Housing Trust Fund, entitled "Housing Assistance in Council District Five."
9. **Floor Area Ratio.** The requested On-Menu Incentive to permit a 20 percent increase in FAR to permit a 4.8:1 FAR in lieu of 4:1 FAR set forth in the proposed "D" limitation.
 10. **Floor Area Ratio.** The requested Off-Menu Incentive to permit a 6:1 FAR in lieu of 4.8:1 FAR.
 11. **Setbacks.** The setbacks for the proposed mixed-use building shall be in conformance with Sections 12.14-C and 12.22-A,18(C)(3) of the LAMC, and shall be in substantial conformance with the site plan labeled as Exhibit "A" stamped, dated January 18, 2017. The Director of Planning may allow minor deviations in order to comply with provisions of the LAMC, the subject conditions, and the intent of the subject permit authorization.
 12. Prior to the issuance of the building permit, a copy of the letter of decision for Case No. VTT-74131 shall be submitted to the satisfaction of the Development Services Center.
 13. **Energy Efficiency.**
 - a. Electric Vehicle Parking. The project shall include at least twenty percent (20%) of the total Code-required parking spaces provided for all types of parking facilities, but in no case less than one location, shall be capable of supporting future electric vehicle supply equipment (EVSE). Plans shall indicate the proposed type and location(s) of EVSE and also include raceway method(s), wiring schematics and electrical calculations to verify that the electrical system has sufficient capacity to simultaneously charge all electric vehicles at all designated EV charging locations at their full rated amperage. Plan design shall be based upon Level 2 or greater EVSE at its maximum operating capacity. Of the 20% EV Ready, five (5)% of the total Code-required parking spaces shall be further provided with EV chargers to immediately accommodate electric vehicles within the parking areas. When the application of either the 20% or 5% results in a fractional space, round up to the next whole number. A label stating "EV CAPABLE" shall be posted in a conspicuous place at the service panel or subpanel and next to the raceway termination point.
 - b. Energy Efficiency. The project will achieve 15% more energy efficiency than Title 24 (2016) standards.
 - c. GHG Offset. Prior to the issuance of the earlier of: (i) a demolition permit for the existing structures on the property, or (ii) a building permit for construction of the project, the applicant shall provide a documentation from an Approved Registry, as hereinafter defined, evidencing the retirement of Carbon Offsets, as hereinafter defined, in a quantity equal to the lesser of: 78,500 metric tons of carbon dioxide (CO₂) equivalent,

OR, a quantity representing the estimated CO2 equivalent emissions as certified by an environmental expert to be released by the construction and operation of the project.

“Approved Registry” shall mean (i) the Climate Action Reserve, the American Carbon Registry, the Verified Carbon Standard and the Clean Development Mechanism, or (ii) any other entity approved by the California Air Resources Board to act as an “offset project registry” under the state's cap-and-trade program. "Carbon Offset" shall mean an instrument issued by an Approved Registry and shall represent the past reduction or sequestration of one metric ton of carbon dioxide equivalent achieved by any greenhouse gas emission reduction project or activity.

14. **Graffiti Removal.** 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.
15. **Aesthetics.** The structure, or portions thereof shall be maintained in a safe and sanitary condition and good repair and free of graffiti, trash, overgrown vegetation, or similar material, pursuant to Municipal Code Section 91,8104. All open areas not used for buildings, driveways, parking areas, recreational facilities or walks shall be attractively landscaped and maintained in accordance with a landscape plan, including an automatic irrigation plan, prepared by a licensed landscape architect to the satisfaction of the decision maker.

16. **Master Conditional Use Permit for Alcohol Conditions**

This grant shall be subject to the following conditions:

- a. **Grant.** The Master Conditional Use authorization herein to allow the on-site and off-site sale of a full line of alcoholic beverages shall be limited to the proposed grocery market. The Master Conditional Use authorization herein to allow the on-site sale and consumption of a full line of alcoholic beverages shall be limited to the proposed full service restaurant.
- b. **Plan Approval.** The applicant or individual operator shall file a plan approval(s) with the Department of City Planning pursuant to Section 12.24-M of the LAMC prior to the utilization of any grant made herein pursuant to the sale of alcoholic beverages. The plan approval(s) shall be accompanied by the payment of appropriate fees, pursuant to Section 19.01,C of the Municipal Code, and must be accepted as complete by the Department of City Planning. Mailing labels shall be provided by the applicant for all abutting property owners. The applicant shall submit an overall security plan for the Project Site which shall be prepared in consultation with the Los Angeles Police Department and which addresses security measures for the protection of visitors and employees. The project shall include appropriate security design features for semi-public and private spaces, which may include, but shall not be limited to: access control to buildings; secured parking facilities; walls/fences with key security; lobbies, corridors, and elevators equipped with electronic surveillance systems; well-illuminated semi-public space designed with a minimum dead space to eliminate areas of concealment; and location of toilet facilities or building entrances in high foot traffic areas. In reviewing the plan approval(s) for alcohol sales, the Director of Planning may consider conditions, as applicable, on the following: time period of the grant; hours and days of operation; primary use(s); security plans; maximum seating capacity; maximum floor area; noise; mode, character and nature of the operation; food service and age limits. The plan approval review application is for the purpose of evaluating the effectiveness of all conditions, associated with the sale of alcoholic beverages of this granted action, as to whether additional conditions are necessary or whether conditions may be deleted.

Modifications to these Conditions of Approval shall require that the applicant file a plan approval(s) with the Department of City Planning. The plan approval(s) shall be accompanied by the payment of appropriate fees, and must be accepted as complete by the Department of City Planning. Mailing labels shall be provided by the applicant for all abutting property owners. Mitigation Measures and/or Project Design Features shall not be changed, modified, or removed using the plan approval process related to the Master Conditional Use Permit for Alcohol.

- c. Within six months of the initiation of alcohol sales, all employees involved with the sale of alcoholic beverages shall enroll in the Los Angeles Police Department "Standardized Training for Alcohol Retailers" (STAR) program. Upon completion of such training, the applicant shall request the Police Department to issue a letter identifying which employees completed the training. The applicant shall transmit a copy of the letter from the Police Department to the Condition Compliance Unit as evidence of compliance. In the event there is a change in the licensee, within one year of such change, this training program shall be required for all new staff. All employees who serve alcoholic beverages shall attend follow-up STAR classes every 24 months. The STAR training shall be conducted for all new hires within 2 months of their employment.
- d. Electronic age verification device(s) which can be used to determine the age of any individual attempting to purchase alcoholic beverages and shall be installed on the premises at each point-of-sale location. The device(s) shall be maintained in an operational condition and all employees shall be instructed in their use prior to the sale of any alcoholic beverages.
- e. Prior to the utilization of this grant, surveillance cameras shall be installed which cover all common areas of the venues, including all high-risk areas, entrances and exits to each tenant space, including cameras that provide a view of the street. The camera installation plan shall also be reviewed by the Police Department individually or as part of the security plan. The applicant shall maintain a one-month tape library and such tapes shall be made available to Police or other enforcement agency upon request.
- f. There shall be no use of the subject premises which involves Section 12.70 of the Los Angeles Municipal Code uses (Adult Entertainment).
- g. The applicant shall maintain on the premises and present upon request to the Police or other enforcement agency, a copy of the Business Permit, Insurance Information, and valid emergency contact phone number for any Valet Service utilized and for any Security Company Service employed.
- h. The applicant shall identify a contact person and provide a 24-hour "hot line" telephone number for any inquiries or complaints from the community regarding the subject facility. Prior to the utilization of this grant, the phone number shall be posted on the site so that is readily visible to any interested party. The hot line shall be:
 - posted at the entry, and the cashier or customer service desk,
 - responded to within 24-hours of any complaints/inquiries received on this hot line, and
 - the phone number shall connect directly to the responsible person and not to an answering machine.
- i. The operator of each venue shall be responsible for maintaining the area adjacent to the premises under his/her control free of litter.

- j. The applicant and tenants shall monitor the areas under their control to prevent loitering of persons around their venues.
- k. There shall be no cover charge required at any time at any venue on the premise.
- l. No after-hour use of a venue in the complex is permitted. This includes but is not limited to private or promotional events, excluding any activities which are issued film permits by the City.
- m. 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 Department of City Planning to impose additional corrective conditions, if it is determined by the Department of City Planning that such conditions are proven necessary for the protection of person in the neighborhood or occupants of adjacent property.
- n. 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 Department of City Planning will have the right to require the Petitioner(s) to file for a Plan Approval application together with the associated fees and to hold a public hearing to review the Petitioner(s) compliance with and the effectiveness of the conditions of the grant. The Petitioner(s) shall submit a summary and supporting documentation of how compliance with each condition of the grant has been attained.
- o. The operator shall install and maintain surveillance cameras in all areas of the restaurant premises, including any outdoor dining area and a 30-day video library that covers all common areas of such business, including all high-risk areas and entrances or exits. The tapes shall be made available to the Police Department upon request.
- p. All establishments applying for an Alcoholic Beverage Control license shall be given a copy of these conditions prior to executing a lease and these conditions shall be incorporated into the lease. Furthermore, all vendors of alcoholic beverages shall be made aware that violations of these conditions may result in revocation of the privileges of serving alcoholic beverages on the premises.
- q. A copy of this grant and all Conditions and/or any subsequent appeal of this grant and 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.
- r. 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.

- s. The Zoning Administrator reserves the right to require that the new owner or operator file a Plan Approval application, if it is determined that the new operation is not in substantial conformance with the approved floor plan, or the operation has changed in mode or character from the original approval, or if 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 application, in association with the appropriate fees, and a 500-foot notification radius list, shall be submitted to the Department of City Planning within 30 days of the date of legal acquisition by the new owner or operator. The purpose of the plan approval will be to review the operation of the premise and establish conditions applicable to the use as conducted by the new owner or operator, consistent with the intent of the Conditions of this grant. Upon review, the Zoning Administrator may modify, add or delete conditions, and if warranted, reserves the right to conduct a public hearing including consideration for nuisance abatement/revocation purposes.
- t. **MVIP – Monitoring, Verification and Inspection Program.** Within 12 to 18 months from the beginning of operations or issuance of a Certificate of Occupancy, a City inspector will conduct a site visit to assess compliance with, or violations of, any of the conditions of this grant. Observations and results of said inspection will be documented and included in the administrative file. The owner/operator shall be notified of the deficiency or violation and required to correct or eliminate the deficiency or violation. Multiple or continued documented violations or Orders to Comply issued by the Department of Building and Safety which are not addressed within the time prescribed, may result in additional corrective conditions imposed by the Zoning Administrator.

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 City Planning Commission 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 City Planning Commission has no direct authority to regulate or enforce Conditions assigned to alcohol sales or distribution.

The City Planning Commission 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 City Planning Commission 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 City Planning Commission.

- There shall be no exterior window signs of any kind or type promoting alcoholic products.
- The alcoholic beverage license for the restaurants shall not be exchanged for “public premises” license unless approved through a new conditional use authorization. “Public Premises” is defined as a premise maintained and operated for sale or service of alcoholic beverages to the public for consumption on the premises, and in which food is not sold to the public as a bona fide eating place.

- No alcohol shall be allowed to be consumed on any adjacent property under the control of the applicant.
- There shall be no advertising of any alcoholic beverages visible from the exterior of the premises from the food and beverage areas, promoting or indicating the availability of alcoholic beverages.
- Alcohol sales and dispensing for on-site consumption shall only be served by employees.
- Signs shall be posted in a prominent location stating that California State Law prohibits the sale of alcoholic beverages to persons under 21 years of age. "No loitering or Public Drinking" signs shall be posted outside the subject facility.
- The venue operator, owner and the venue personnel shall at all times maintain a policy of not serving to obviously intoxicated patrons and shall take preventative measures to help avert intoxication-related problems.
- No person under the age of 21 years shall sell or deliver alcoholic beverages.
- The sale of distilled spirits by the bottle for same day or future consumption is prohibited.
- There shall not be a requirement to purchase a minimum number of drinks.
- There shall be no portable self-service bar(s) at either location. A wait person or bartender shall conduct all alcoholic beverage service, which may be from a portable bar.
- In the off-site venue, there shall not be any sale of single cans or bottles of beer, wine coolers, or malt liquor from pre-packaged 6- or 4- packs. The sale of individual cans or bottles of craft beer from 15+ fluid ounce containers is permissible.
- No sale of alcohol shall be permitted at any self-service, automated checkout station (checkout conducted primarily by the customer, with assistance by a store monitor) if such are available on the site. All sales of alcohol shall be conducted at a full-service checkout station directly attended by a cashier/checkout clerk specifically assigned solely to that station.

18. **Community Relations.** A 24-hour "hot-line" phone number for the receipt of construction-related complaints from the community shall be provided to immediate neighbors and the local neighborhood association, if any. The applicant shall be required to respond within 24-hours to any complaints received on this hotline.

19. **Posting of Construction Activities.** The adjacent residents shall be given regular notification of major construction activities and their duration. A visible and readable sign (at a distance of 50 feet) shall be posted on the construction site identifying a telephone number for inquiring about the construction process and to register complaints.

B. Administrative Conditions

1. **Approval, Verification and Submittals.** Copies of any approvals, guarantees or verification of consultations, review or approval, plans, etc., as may be required by the subject conditions, shall be provided to the Department of City Planning for placement in the subject file.
2. **Code Compliance.** Area, height and use regulations of the zone classification of the subject property shall be complied with, except where herein conditions may vary.
3. **Covenant.** Prior to the issuance of any permits relative to this matter, an agreement concerning all the information contained in these conditions shall be recorded in the County Recorder's Office. The agreement shall run with the land and shall be binding on any subsequent property owners, heirs or assigns. The agreement shall be submitted to the

Department of City Planning Development Services Center for approval before being recorded. After recordation, a copy bearing the Recorder's number and date shall be provided to the Department of City Planning for attachment to the file.

4. **Definition.** Any agencies, public officials or legislation referenced in these conditions shall mean those agencies, public offices, legislation or their successors, designees or amendment to any legislation.
5. **Enforcement.** Compliance with these conditions and the intent of these conditions shall be to the satisfaction of the Department of City Planning and any designated agency, or the agency's successor and in accordance with any stated laws or regulations, or any amendments thereto.
6. **Building Plans.** Page 1 of the grant and all the conditions of approval shall be printed on the building plans submitted to the Department of City Planning and the Department of Building and Safety.
7. **Corrective Conditions.** 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 City Planning Commission, or the Director of Planning, pursuant to Section 12.27.1 of the Municipal Code, to impose additional corrective conditions, if in the decision makers opinion, such actions are proven necessary for the protection of persons in the neighborhood or occupants of adjacent property.
8. **Project Plan Modifications.** Any corrections and/or modifications to the project plans made subsequent to this grant that are deemed necessary by the Department of Building and Safety, Fire Department, or other City Agency for Code compliance, and which involve a change in site plan, floor area, parking, building height, yards or setbacks, building separations, or lot coverage, shall require a referral of the revised plans back to the Department of City Planning for additional review and final sign-off prior to the issuance of any building permit in connection with said plans. This process may require additional review and/or action by the appropriate decision making authority including the Director of Planning, City Planning Commission, Area Planning Commission, or Board.
9. **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 \$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 (ii).
- iv) Submit supplemental deposits upon notice by the City. Supplemental deposits may be required in an increased amount from the initial deposit if found necessary by the City to protect the City's interests. The City's failure to notice or collect the deposit does not relieve the Applicant from responsibility to reimburse the City pursuant to the requirement in paragraph (ii).
 - v) If the City determines it necessary to protect the City's interest, execute an indemnity and reimbursement agreement with the City under terms consistent with the requirements of this condition.

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

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

For purposes of this condition, the following definitions apply:

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

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

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