

CHARLES J. RAUSCH, JR.
INTERIM CHIEF ZONING ADMINISTRATOR

ASSOCIATE ZONING ADMINISTRATORS

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

CITY OF LOS ANGELES
CALIFORNIA



ERIC GARCETTI
MAYOR

DEPARTMENT OF
CITY PLANNING

VINCENT P. BERTONI, AICP
DIRECTOR
(213) 978-1271

KEVIN J. KELLER, AICP
DEPUTY DIRECTOR
(213) 978-1272

LISA M. WEBBER, AICP
DEPUTY DIRECTOR
(213) 978-1274

JAN ZATORSKI
DEPUTY DIRECTOR
(213) 978-1273

<http://planning.lacity.org>

April 3, 2017

Charles Khalil (A)(O)
Golden West Triangle Inc.
26722 Rolling Hills Road, Unit #100
Rolling Hills Estates, CA 90274

Larry Mondragon (R)
Craig Fry and Associates
1010 South Arroyo Parkway, Unit #6
Pasadena, CA 91105

CASE NO. ZA-2016-3861 (CUB)
CONDITIONAL USE
8483-8489 West Beverly Boulevard
Wilshire Planning Area
Zone: C2-1VL-O
C.D.: 5
D.M.: 138B173
CEQA: ENV-2016-3862-CE
Legal Description: Lot 28, Tract 4353

Pursuant to Los Angeles Municipal Code Section 12.24-W, 1, I hereby APPROVE:

a Conditional Use Permit to allow the sale of beer and wine for off-site consumption in conjunction with an existing 1,130 square-foot convenience store and service station in the C2-1VL-O Zone,

upon the following additional terms and conditions:

1. All other use, height, and area regulations of the Municipal Code and all other applicable government/regulatory agencies shall be strictly complied with in the development and use of the property, except as such regulations are herein specifically varied or required.
2. The use and development of the property shall be in substantial conformance with the plot plan and floor plan submitted with the application and marked Exhibit "A", except as may be revised as a result of this action.
3. The authorized use shall be conducted at all times with due regard for the character of the surrounding district, and the right is reserved to the Zoning Administrator to impose additional corrective Conditions, if, in the Administrator's opinion, such Conditions are proven necessary for the protection of persons in the neighborhood or occupants of adjacent property.
4. All graffiti on the site shall be removed or painted over to match the color of the surface to which it is applied within 24 hours of its occurrence.

5. A copy of the first page of this grant and all Conditions and/or any subsequent appeal of this grant and its resultant Conditions and/or letters of clarification shall be printed on the building plans submitted to the Department of City Planning and the Department of Building and Safety for purposes of having a building permit issued at any time during the term of this grant.
6. Authorized herein is the sale of beer and wine for off-site consumption, in conjunction with an existing 1,130 square-foot convenience store with 24-hour operation from the effective date of this grant.
7. 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.
8. The Zoning Administrator reserves the right to require that the new owner or operator file a Plan Approval application, including a 500-foot notification radius, 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 grant, or if documented evidence submitted shows 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, 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 premises 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. The Zoning Administrator may modify, add or delete conditions, and if warranted, reserves the right to conduct this public hearing for nuisance abatement/revocation purposes.
9. **Prior to the effectuation of this grant**, a covenant acknowledging and agreeing to comply with all the terms and conditions established herein shall be recorded in the County Recorder's Office. The agreement (standard master covenant and agreement form CP-6770) shall run with the land and shall be binding on any subsequent owners, heirs or assigns. The agreement with the conditions attached must be submitted to Department of City Planning for approval before being recorded. After recordation, a certified copy bearing the Recorder's number and date shall be provided for inclusion in case file. Fees required per L.A.M.C section 19.01 E (3) for Monitoring of Conditional Use Permits and Inspection and Field

Compliance Review of Operations shall be paid to the City prior to the final clearance of this condition.

10. **Prior to the utilization of this grant**, a camera surveillance system shall be installed to monitor the interior, entrance, exits and exterior areas, in front of and around the premises. Recorded tapes/images shall be maintained for a minimum period of 30 days. The tapes shall be furnished to the Los Angeles Police Department upon request. The plan must be reviewed and approved by the Police Department. The approved plan will be maintained by the Department of City Planning and be made available to the Police Department and the Department of Building and Safety for the purpose of verification or inspections.
11. Lighting shall be installed in all areas within the business in conformance with the Los Angeles Municipal Code. The lighting shall be such that it renders all objects and persons clearly visible within the establishment.
12. **Prior to the utilization of this grant**, an electronic age verification device shall be purchased and retained on the premises for use during operational hours. This device shall be maintained in operational condition and all employees shall be instructed in its use.
13. At least one on-duty manager with authority over the activities within the facility shall be on the premises at all times that the facility is open for business. The on-duty manager's responsibilities shall include the monitoring of the premises to ensure compliance with all applicable State laws, Municipal Code requirements and the conditions imposed by the Department of Alcoholic Beverage Control (ABC) and the conditional use herein. Every effort shall be undertaken in managing the facility to discourage illegal and criminal activity on the subject premises and any exterior area over which the building owner exercises control, in effort to ensure that no activities associated with such problems as narcotics sales, use or possession, gambling, prostitution, loitering, theft, vandalism and truancy occur.
14. **Prior to the utilization of this grant**, 24-hour "hot line" shall be provided for complaints or concerns from the community regarding the operation. The 24-hour phone number shall be posted at the following locations:
 - a. Entry, visible to pedestrians
 - b. Customer service desk, cashier's area, or front desk

The applicant shall maintain a log of all calls, detailing: (1) date complaint received; (2) nature of complaint, and (3) the manner in which the complaint was resolved. This log shall be made available to law enforcement personnel upon request and presented as part of the application if and when a new application to continue the operation is submitted to the Department. Complaints shall be responded to within twenty-four hours. The applicant shall provide photographs of the sign postings and a copy of the log to the Department of City Planning for inclusion in the Case File.

15. Within the **first six months of the beginning of operations** at this establishment, all employees involved with the sale of beer and wine shall enroll in the Los Angeles Police Department "Standardized Training for Alcohol Retailers" (STAR). Upon completion of such training, the applicant shall request the Police Department to issue a letter identifying which employees completed the training. The applicant shall transmit a copy of the letter referencing Case No. ZA-2016-3861-CUB, from the Police Department to the Department of City Planning as evidence of compliance. In the event there is a change in the licensee, within six months of such change, this training program shall be required for all new staff. The STAR training shall be conducted for all new hires within two months of their employment.
16. Coin operated game machines, pool tables or similar game activities or equipment shall not be permitted. Official California State lottery games and machines are allowed.
17. The applicant shall be responsible for maintaining the area adjacent to premises over which they have control, free of litter.
18. Loitering is prohibited on or around these premises or the area under the control of the applicant. "No Loitering or Public Drinking" signs shall be posted in and outside of the subject facility. Signs shall be in English and in the predominant language of the facility's clientele.
19. **MViP – Monitoring Verification and Inspection Program. Prior to the effectuation of this grant,** fees required per L.A.M.C section 19.01 E (3) for Monitoring of Conditional Use Permits and Inspection and Field Compliance Review of Operations shall be paid to the City. 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.
20. **INDEMNIFICATION AND REIMBURSEMENT OF LITIGATION COSTS.**
Applicant shall do all of the following:
 - (i) Defend, indemnify and hold harmless the City from any and all actions against the City relating to or arising out of, in whole or in part, the City's processing and approval of this entitlement, including but not limited to, an action to attack, challenge, set aside, void, or otherwise modify or annul the approval of the entitlement, the environmental review of the entitlement, or the approval of subsequent permit decisions, or to claim personal property damage, including from inverse condemnation or any other constitutional claim.

- (ii) Reimburse the City for any and all costs incurred in defense of an action related to or arising out of, in whole or in part, the City's processing and approval of the entitlement, including but not limited to payment of all court costs and attorney's fees, costs of any judgments or awards against the City (including an award of attorney's fees), damages, and/or settlement costs.
- (iii) Submit an initial deposit for the City's litigation costs to the City within 10 days' notice of the City tendering defense to the Applicant and requesting a deposit. The initial deposit shall be in an amount set by the City Attorney's Office, in its sole discretion, based on the nature and scope of action, but in no event shall the initial deposit be less than \$50,000. The City's failure to notice or collect the deposit does not relieve the Applicant from responsibility to reimburse the City pursuant to the requirement in paragraph (ii).
- (iv) Submit supplemental deposits upon notice by the City. Supplemental deposits may be required in an increased amount from the initial deposit if found necessary by the City to protect the City's interests. The City's failure to notice or collect the deposit does not relieve the Applicant from responsibility to reimburse the City pursuant to the requirement in paragraph (ii).
- (v) If the City determines it necessary to protect the City's interest, execute an indemnity and reimbursement agreement with the City under terms consistent with the requirements of this condition.

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

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

For purposes of this condition, the following definitions apply:

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

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

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

OBSERVANCE OF CONDITIONS - TIME LIMIT - LAPSE OF PRIVILEGES

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

TRANSFERABILITY

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

VIOLATIONS OF THESE CONDITIONS, A MISDEMEANOR

Section 12.29 of the Los Angeles Municipal Code provides:

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

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

APPEAL PERIOD - EFFECTIVE DATE

The applicant's attention is called to the fact that this grant is not a permit or license and that any permits and licenses required by law must be obtained from the proper public agency. Furthermore, if any Condition of this grant is violated or if the same be not complied with, then the applicant or his successor in interest may be prosecuted for violating these Conditions the same as for any violation of the requirements contained in the Municipal Code. The Zoning Administrator's determination in this matter will become effective after **APRIL 18, 2017** unless an appeal therefrom is filed with the City Planning

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

Figueroa Plaza
201 North Figueroa Street, 4th Floor
Los Angeles, CA 90012
(213) 482-7077

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

If you seek judicial review of any decision of the City pursuant to California Code of Civil Procedure Section 1094.5, the petition for writ of mandate pursuant to that section must be filed no later than the 90th day following the date on which the City's decision became final pursuant to California Code of Civil Procedure Section 1094.6. There may be other time limits which also affect your ability to seek judicial review.

NOTICE

The applicant is further advised that all subsequent contact with this office regarding this determination must be with Planning Staff assigned to this case. This would include clarification, verification of condition compliance and plans or building permit applications, etc.

FINDINGS OF FACT

After thorough consideration of the statements contained in the application, the plans submitted therewith and the testimony presented at the public hearing of February 14, 2017, 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 under the provisions of Section 12.24-W, 1 have been established by the following facts:

BACKGROUND

The project site is a corner lot comprised of three adjoining lots measuring approximately 14,424 square feet. The project site is zoned C2-1-VL-O with a Neighborhood Office Commercial land use designation within the Wilshire Community Plan Area. The subject property is within the Transit Priority Area (ZI-2452) and the Neighborhood Conservation ICO – Lower Council District 5 (ZI-2443). The subject property is developed with a service station and a one-story 1,130 square-foot convenience. The subject site has a 128-foot frontage along Beverly Boulevard and a 108-foot frontage along La Cienega Boulevard.

The subject property was originally constructed in 1989 and is currently improved with a service station and a one-story convenience store. The applicant is requesting a Conditional Use Permit to allow for the sale of beer and wine for off-site consumption in

conjunction with an existing 1,130 square-foot convenience store and service station with 24-hour operation, daily.

Properties located to the north across Beverly Place are zoned (T)(Q)RAS4-1D-O/C2-1VL-O and developed with vacant lot and surface parking lot. Properties located to the south across Beverly Boulevard are zoned [T][Q]C2-1VL-O and developed with a commercial shopping center. Properties located to the west across La Cienega Boulevard of the subject property are zoned C2-1-O and developed with a hotel and restaurants. Properties located to the east are zoned C2-1VL-O and developed with two story commercial buildings.

Beverly Boulevard – adjoining ownership to the south, is a designated a Modified Avenue I, and is improved with sidewalk, gutter, and paved roadway.

Beverly Place – adjoining ownership to the north is an alley with a right-of-way width of 20 feet.

La Cienega Boulevard – adjoining ownership to the west is designated as an Avenue I, with a right-of-way width of 100 feet, a roadway width of 70 feet, and is improved with curbs, gutters, and sidewalks.

Previous zoning cases, permits and orders on the subject property:

Case No. ZA-1995-123-CUB – On June 8, 1995, the Zoning Administrator denied a conditional use to permit the off-site sale of beer and wine in conjunction with an existing service station.

Building Permit No. 1989LAWL84073 – Issued on August 14, 1989 for the revision to the foundation of the mini-mart located at 8489 Beverly Blvd.

Building Permit No. 1982LA45409 – Issued June 25, 1982 for the storage addition to service station building, 6' x 35'

Affidavit 36673 – Issued May 12, 1970 for a Lot Tie of Lots 26-28 inclusive.

Certificate of Occupancy No. 1953LA59639 – Issued September 23, 1954 for a 1 Story, Type IV; 12' 9" x 22' addition to existing 22' x 25' Service Station, Relocated on same lot, F-1 Occupancy.

Cases on Surrounding Properties

Staff utilized a 600-foot radius map via the Zoning Information Mapping Access System (ZIMAS) and the Planning Case Tracking System (PCTS), seeking past Zoning Administrator determinations associated with the sales and dispensing of alcoholic beverages. Past cases include:

Case No. ZA-2016-3822-CUB – On February 28, 2017, the Zoning Administrator considered a Conditional Use Permit to allow the sale and dispensing of beer and wine for onsite consumption in conjunction with an existing 2,018 square-foot restaurant with

58 seats and a 211 square-foot uncovered patio with 14 seats. Proposed hours of operation from 11:00 a.m. to 12 midnight. The Zoning Administrator also considered deviations from Commercial Corner Development regulations to allow closing hour of 12 midnight in lieu of 11:00 p.m., located at 8459 West Beverly Boulevard.

Case No. ZA-2015-347-CUB – On October 23, 2015, the Zoning Administrator approved a Conditional Use Permit to allow the sale and dispensing of a full line of alcoholic beverages for on-site consumption in conjunction with a 1,731 square-foot restaurant with 34 indoor seats and 16 outdoor patio seats, located at 8420 Beverly Boulevard

Case No. ZA-2011-3304-CUB – On April 27, 2012, the Zoning Administrator approved a Conditional Use to permit the sale of a full line alcoholic beverages for off-site and on-site consumption in conjunction with an 8,429 square-foot specialty store in the C2-IVL-O Zone, located at 330 North La Cienega Boulevard.

Case No. ZA-2008-2873-CUB – On May 14, 2009, the Zoning Administrator approved a Conditional Use Permit to allow the sale and dispensing of beer and wine for on-site consumption in conjunction with an existing 900 square-foot reception lounge, accommodating 60 people within a two-story 13,652 square-foot, 280-seat theatre complex, located at 364 North La Cienega Boulevard.

PUBLIC HEARING

The public hearing was held on Tuesday, February 14, 2017 at approximately 10:30 a.m. at City Hall located at 200 N. Spring Street, Room 1070.

The purpose of the hearing was to obtain public testimony from affected and/ or interested persons regarding the application. Interested parties were also invited to submit written comments regarding the request prior to the public hearing.

The public hearing was attended by the applicant's representatives Gavin McKiernan and Larry Mondragon, Charles Khalil, the applicant and five members of the public in support of the application.

Mr. Gavin McKiernan, the applicant's representative, provided the following testimony:

- The subject site is an existing Mobil service station with convenience store
- The applicant/owner has been there for over 30 years
- The applicant is requesting to add beer and wine sales to the existing convenience store
- They need beer and wine addition to make it a viable business
- It is a small convenience store with 25 square feet dedicated to alcohol storage
- Applicant has letters of support for the project
- Reached out to Mid-City Neighborhood Council but email listed on their website was incorrect. As a result, they presented to the full Neighborhood Council. However, they were subsequently informed that it is not protocol to present to full neighborhood council without first presenting to the land use committee.
- Reached out to Shawn Bayliss, Planning Deputy for Council District 5
- Reached out to the Los Angeles Police Department

- My client does not intend to sell single cups
- It is important for local businesses to remain competitive
- ABC has rules/ regulations for beer and wine sales for convenience store
- The applicant has started a nonprofit, is a community partner and a local businessman
- The applicant owns two stations (the subject site) and another one in Westwood. He recently applied for beer and wine sales at the Westwood location.
- The subject site is located on a major thoroughfare
- The applicant will purchase an age verification device
- The site is currently equipped with 17 cameras

Mr. Larry Mondragon, the applicant's representative, provided the following testimony:

- My client is a rare type of person in the petroleum business
- He has seen the evolution of the gas business

Mr. Charles Khalil, the applicant provided the following testimony:

- He started the business 44 years ago
- The business has changed over the last years
- His business was one of the first to add a mini-mart component
- They will close the doors at midnight
- Some employees have been working for me for over 33 years
- He's cleaned up the alley abutting the subject site
- Constantly updates security cameras
- Beer and wine will be sold from 10 a.m. to midnight

Mr. Cesar Bruni, provided the following testimony:

- He has known the applicant for many years
- He would like to have the convenience to purchase beer near his home

Mr. Kyle Ogata, provided the following testimony:

- He works at the Beverly Center
- He purchases his gas at the subject site after work
- He would like to have the convenience of picking up beer at this location after work

Ms. Maggie Ibrahim, provided the following testimony:

- She is at the hearing on behalf of her dad who is disabled
- She is here to support the applicant
- She usually picks up alcohol for her father and it would be convenient to have a location close to his place
- It is difficult for her father to get in and out of the car

Mr. Jason Ho, provided the following testimony:

- He has been a customer of this location for over 20 years

- He always asks when they will add beer and wine sales to the convenience store
- It makes sense to have beer and wine sales at this location for three reasons: 1) convenience; 2) safety; and 3) sensibility.
- He is at the location once or twice a week
- Safety, if he has to go to a convenience store it is a seedy environment
- Sensibility, most of his friends and family live in Orange County. He would like to buy beer and wine locally.

Mr. Mena Youssef, provided the following testimony:

- He has been going to the minimart for more than eight years
- The addition of beer and wine sales would be convenient
- It takes him two hours to get home to Norwalk
- Having the ability to buy beer and wine at this location would be convenient

Public Correspondence:

- Electronic Correspondence dated February 14, 2017, from Mr. Gavin Mc Kiernan, providing a PDF copy of the Mid City West Board Meeting Agenda, in which the applicant's request was scheduled for comment.
- Electronic Correspondence dated February 14, 2017 from Mr. Gavin Mc Kiernan, referencing LAPD Officer Taff's recommendations for LAPD STAR Training, adequate lighting, and windows free of signage. Mr. Mc Kiernan also acknowledged issues with public drinking in the alleyway with transients.
- On February 14, 2017, a petition signed by 284 community members was submitted at the public hearing expressing support of the applicant's request to sell beer and wine for off-site consumption.
- On February 14, 2017, twelve letters of support were submitted at the public hearing stating the following:
 - I am a local resident/business person, taxpayer and voter who supports the Mobil Station at 8489 Beverly Blvd, being allowed to sell beer and wine.
 - The fewer trips in my car that I am required to make on any given day the better, and when I need to get gas and also want to get a bottle of wine to go with my dinner, it would improve my quality of life and decrease local traffic if I could fulfill both those needs at one time.
 - When purchasing a six pack of beer before having a friend over or watching a game, it can take 20 minutes to park and walk in and out of big stores like BevMo, being able to get in and out quickly at this Mobil station would be a big improvement.
 - Any other time I purchase beer and/or wine I then get in my car and drive somewhere, purchasing it at a gas station does not change the fact and does nothing to increase the likelihood that someone will drive drunk and consume a beer while driving.
 - Charles is a local businessman and I think we should do whatever we can to support our local people so they can compete with the large operators.

He has been here for 30 years; I think he has earned the trust of the community.

- I want our city and community to encourage convenience not stand in its way, selling beer and wine at this mini-mart would clearly be an added convenience for the neighborhood.
- Electronic Correspondence dated January 28, 2017, from Steven Freedman stating concerns with homeless loitering, panhandling, littering, and nuisance activities related to alcohol.

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 conditions were provided for consideration

BASIS FOR CONDITIONAL USE PERMITS

A particular type of development is subject to the conditional use plan 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 beer and wine for off-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

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

The project site is a corner lot comprised of three adjoining lots measuring approximately 14,424 square feet. The project site is zoned C2-1-VL-O with a Neighborhood Office Commercial land use designation within the Wilshire Community Plan Area. The subject property is within the Transit Priority Area (ZI-2452) and the Neighborhood Conservation ICO – Lower Council District 5 (ZI-2443). The subject property is developed with a service station and a one-story 1,130 square-foot convenience. The subject site has a 128-foot frontage along Beverly Boulevard and a 108-foot frontage along La Cienega Boulevard. The applicant is requesting a Conditional Use Permit for the off-site sale of beer and wine in conjunction with the 1,130 square-foot convenience store and service station having 24-hour operations. The project will perform a beneficial function to the local economy by providing a revenue-generating use within the vicinity. There are no requests to change the existing physical structure of the service station and building which was originally built in 1989. The proposed request in conjunction with the conditions that are imposed address the operational issues to ensure that the service of alcohol will not be disruptive to the community. Therefore the service station and convenience store will function to enhance the quality and safety of the neighborhood's environment.

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 property is zoned C2-1VL-O with a Neighborhood Office Commercial land use designation within the Wilshire Community Plan Area. The project site is located at the intersection Beverly Boulevard and La Cienega Boulevard, two corridors developed with a range of commercial, retail, and restaurants uses. The project's location, size, height, operations and other significant features are compatible with the adjacent properties and surrounding land uses. There are no proposed changes to the project's location, size, height, primary operations, and other significant features.

The surrounding properties are developed with commercial and residential uses. Properties located to the north across Beverly Place are zoned (T)(Q)RAS4-1D-O/C2-1VL-O and developed with vacant lot and surface parking lot. Properties located to the south across Beverly Boulevard are zoned [T][Q]C2-1VL-O and developed with a commercial shopping center. Properties located to the west across La Cienega Boulevard of the subject property are zoned C2-1-O and developed with a hotel and restaurants. Properties located to the east are zoned C2-1VL-O and developed with two story commercial buildings.

The service station and convenience market in conjunction with the imposition of a number of conditions addressing noise, safety and security will safeguard public welfare. These mitigating conditions include but is not limited to the implementation of a camera surveillance system, a 24-hour hotline, an age verification device, and requiring the applicant to provide adequate lighting that will render all objects and persons clearly visible within the establishment. At least one manager with authority over activities within the business is required to be on

duty on the premises at all times. These operating conditions in conjunction with the Monitoring, Verification and Inspection Program (MViP) will allow the City the opportunity to continue to monitor and verify compliance of the imposed conditions. Therefore as conditioned, the sale of beer and wine will not adversely affect or further degrade the adjacent properties, the surrounding neighborhood, or the public health, welfare, and safety of the community.

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

The City of Los Angeles' General Plan consists of eleven elements that dictate policies that provides the regulatory environment in managing the City and addressing environmental issues. The subject site is zoned C2-1VL-O and is located within the Wilshire Community Plan Area, the Transit Priority Area (ZI-2452) and the Neighborhood Conservation ICO – Lower Council District (ZI-2443).

The Wilshire Community Plan Map designates the property for Neighborhood Office Commercial land uses. The land use designation and surrounding zoning permits for a variety of mixed commercial and residential uses including the existing service station and convenience market. The Wilshire Community Plan text is silent in regard to alcohol sales however, the Los Angeles Municipal Code authorizes the Zoning Administrator to grant the requests for conditional use in the zones that correspond to the Plan land use designation. The General Plan promotes the provision of services throughout the City in locations that are convenient to the public yet has little to no impact on nearby properties. The purpose of the Wilshire Community Plan is to maintain the community's distinctive character by improving the function, design and economic vitality of commercial areas. The existing use of the subject site is consistent with and aids to advance the following objectives, and polices identified in the Wilshire Community Plan.

Objective 2-1: Preserve and strengthen viable commercial development and provide additional opportunities for new commercial development and services within existing commercial areas.

Policy 2-3.1: Enhance the viability of existing neighborhood stores and businesses which support the needs of local residents and are compatible with the neighborhood.

The existing use conforms to the intent, purpose, and provisions of the General Plan and the Wilshire Community Plan and advances the objectives and policies of the plan by offering a service that will address the needs of the community and persons who travel to the area.

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

These imposed conditions will ensure that the use is desirable to the public convenience and general welfare of local clients and nearby residents. The sales of beer and wine as regulated by the conditions imposed by this grant and those

imposed by the California Department of Alcoholic Beverage Control seeks to protect the community from the effects of alcohol sales. The conditions imposed will reinforce the primary use of the service station and convenience market, as well as monitor the sale of beer and wine for off-site consumption. The grant imposes conditions that requires security measures such as implementation of a camera surveillance system and adequate installed lighting to render all objects and persons clearly visible within the subject property. The grant also requires the applicant to install an age verification device at all points of sale, to deter underage purchases and drinking. Employees will be required to participate in training provided by the Los Angeles Police Department STAR (Standardized Training for Alcohol Retailers) Program. The condition requiring a 24-hour hotline will allow the community to communicate complaints and concerns due to the operations to the operator. With the implementation of these conditions, the applicant will ensure a safe environment for its clients and employees.

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.**

The project site is located within Census Tract No. 1945.00. According to the California Department of Alcoholic Beverage Control ("ABC") licensing criteria, three on-sale and two off-sale alcoholic beverage licenses are allocated to subject Census Tract No. 1945.00. Data provided on the ABC's License Query System indicates that there are currently 20 existing on-site and two existing off-site licenses within this Census Tract.

Within Census Tract No. 1945.00, the following types of alcoholic beverage licenses are active or pending:

- (1) Type 20 – Off-Sale Beer and Wine
- (1) Type 21 – Off-Sale General
- (10) Type 41 – On-Sale Beer and Wine Eating Place
- (6) Type 47 – On-Sale General Eating Place
- (1) Type 48 – On Sale General Public Premises
- (1) Type 70 – On Sale General Restrictive Services

According to statistics provided by the Los Angeles Police Department (LAPD), which has jurisdiction over the subject property within Crime Reporting District No. 711, a total of 83 crimes were reported in 2015, compared to the citywide average of 181 crimes and the high crime reporting district average of 217 crimes for the same period.

According to statistics provided by the Los Angeles Police Department's Wilshire Division Vice Unit, within Crime Reporting District No. 711, which has jurisdiction over the subject property, a total of 157 crimes were reported in 2015 (111 Part I and 46 Part II crimes), compared to the city-wide average of 181 offenses and the high crime reporting district of 217 crimes for the same reporting period.

Part 1 Crimes reported by LAPD include, Homicide (0), Rape (2), Robbery (4), Aggravated Assault (11), Burglary (26), Auto Theft (7), Larceny (61). Part II Crimes reported include, Other Assault (4), Forgery/Counterfeit (1) Embezzlement/Fraud (1), Stolen Property (1), Weapons Violation (0), Prostitution Related (0), Sex Offenses (0), Offenses Against Family (0), Narcotics (2), Liquor Laws (0), Public Drunkenness (1), Disturbing the Peace (0), Disorderly Conduct (0), Gambling (0), DUI related (10) and other offenses (20). Of the 255 total crimes reported for the census tract, zero arrests was made for liquor laws, one arrest was made for under the influence of alcohol, and ten arrests were made for driving under the influence. Crime reporting statistics for 2016 are not yet available.

Over concentration can be undue when the addition of a license will negatively impact a community. Over concentration is not undue when the approval of a license does not negatively impact an area, but rather such a license will benefit the public welfare and convenience. The subject site is located in a neighborhood where there is a concentration of hotels, retail, entertainment, residential, and offices thus a higher number of alcoholic beverage licenses is anticipated.

In active commercial areas where the demand for alcohol licenses is in excess of the allocated number and where an over-concentration of licenses is suggested the ABC has recognized that high activity retail, entertainment, commercial centers, and designated points within a community are supported by a significant employee population. The California Department of Alcoholic Beverage Control has the discretion to approve or deny an application based on evidence of the effects of normal operations on the public welfare and quiet enjoyment of property by residents. In addition, negative impacts commonly associated with the sale of beer and wine, such as criminal activity, public drunkenness, and loitering are mitigated by the conditions imposed by this grant. The conditions imposed will safeguard the welfare of the community.

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 following sensitive uses were observed within a 1,000-foot radius of the subject property:

- Residential uses
- Cedars Sinai Medical Center, 8700 Beverly Boulevard
- Gindi Maimonides Academy, 8511 Beverly Boulevard

- Royal Palace, 365 North La Cienega Boulevard

Consideration has been given to the distance of the service station and convenience market from the above-referenced sensitive uses. The project is located along commercial corridors that are characterized by commercial uses along La Cienega Boulevard and Beverly Boulevard. The surrounding neighborhood is characterized as a mixture of commercial and residential uses. The service station and convenience store has operated at this location for decades and has co-existed with the nearby residential neighborhood. The sale of beer and wine will be incidental to the primary refueling and retail function of the development. The project is consistent with the zoning and keeping with the existing uses adjacent to the development. This project will contribute to a neighborhood and will serve the neighboring resident and the local employees as well as visitors. Therefore as conditioned, the project will not detrimentally affect residentially zoned properties or any other sensitive uses in the area.

ADDITIONAL MANDATORY FINDINGS

7. The National Flood Insurance Program rate maps, which are a part of the Flood Hazard Management Specific Plan adopted by the City Council by Ordinance No. 172,081, have been reviewed and it has been determined that this project is in Flood Zone X areas of minimal flooding.
8. On October 11, 2016, the project was issued a Notice of Exemption [Log No. ENV-2016-3862-CE]. Pursuant to Section 15300 et seq. of the State CEQA Guidelines and Article III, Sec 1, Class 5, Category 23 of the City CEQA Guidelines, the above reference project has been determined not to have a significant effect on the environment and shall therefore be exempt from the provisions of CEQA. The subject grant approved a Conditional Use Permit to allow the sale of beer and wine for off-site consumption in conjunction with an existing service station and 1,130 square-foot convenience market. This is considered a grant for a conditional use for the off-site consumption of beer and wine within a service station and convenience market built in 1989. The proposed project does not introduce a new use or significant alterations to the existing service station and convenience market, therefore it qualifies for the Article III, Sec 1, Class 5, Category 23 exemption. I hereby adopt that action.

Inquiries regarding the matter shall be directed to Zuriel Espinosa, Planning Staff for the Development Service Centers, (213) 202-5474.



ALETA D. JAMES
Associate Zoning Administrator

ADJ:MV:ZE

cc: Councilmember Paul Koretz
Fifth Council District
Adjacent Property Owners