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August 9, 2018

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Los Angeles, CA 90027

701 Virgil LLC (O)
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Los Angeles, CA 90012

CASE NO. ZA-2018-1928-CUB-SPP
CONDITIONAL USE, SPECIFIC PLAN
PROJECT PERMIT COMPLIANCE
713 North Virgil Avenue
Hollywood Planning Area
Vermont/Western Station
Neighborhood Area Plan (SNAP)
Specific Plan – Subarea B (Mixed
Use Boulevards)
Zone : C1-1D
D. M. : M R 15-97
C. D. : 13
CEQA : ENV-2018-1929-CE
Legal Description: Lots FR 431 and FR
432, Ford's Temple Street Addition
Tract

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

a Conditional Use to allow the sales and dispensing of beer and wine for on- and off-site consumption in conjunction with a new retail store and bar; and,

Pursuant to Los Angeles Municipal Code Section 11.5.7 C. and the Vermont/Western Station Neighborhood Area Specific Plan, Ordinance No. 184,414, I hereby **APPROVE**:

a Project Permit Compliance to allow a change of use from retail to retail and bar use within Subarea B (Mixed Use Boulevards) of the Vermont/Western Station Neighborhood Area Plan (SNAP) Specific Plan,

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 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. Authorized herein is the sale and of dispensing of beer and wine for on- and off-site consumption in conjunction with a new retail store and bar. Maximum square footage of the retail and bar not exceed 887 square feet, consistent with "Exhibit A."
7. Seating shall be limited to a maximum of 33 indoor seats, provided that the number of seats does not exceed the maximum allowable occupancy as determined by the Department of Building and Safety and/or the Fire Department. No outdoor seating on private property or within the public right-of-way has been requested or approved herein.
8. Hours of operation shall not exceed 10:00 a.m. to 11:00 p.m., daily. There shall be no after-hours use of the facility, other than for routine cleanup and maintenance.
9. No live entertainment including but not limited to live music, Disc Jockey, jukebox or karaoke nights is permitted. Such a request is subject to a Specific Plan Exception. Indoor background ambient music is permitted, provided it is not audible beyond the footprint of the retail store and bar.
10. Any ambient music, sound or noise emitted that is under the control of the Applicant shall not be audible beyond the subject premises and shall not exceed the levels prohibited by the City's noise regulations (Section 116.01 of the Los Angeles Municipal Code). The Applicant shall make an effort to control any unnecessary noise made by the retail store and bar staff or any employees contracted by the retail store and bar, or any noise associated with the operation of the establishment or equipment of the retail store and bar.
11. No patron dancing is permitted. Such a request is subject to a Specific Plan Exception.
12. No coin-operated electronic, video or mechanical games, or pool or billiard tables shall be maintained upon the premises at any time.

13. No Adult Entertainment of any type pursuant to Section 12.70 of the Los Angeles Municipal Code is permitted.
14. The bar shall not be leased to promoters or music groups or similar entities for nightclub or concert activity at any time.
15. The bar shall not be used exclusively for private parties in which the general public is excluded with the exception of the twelve (12) Special and/or Private Events permitted per year noted herein.
16. Up to a maximum of 12 Special and/or Private Events shall be permitted annually wherein the bar may be closed to the general public. A Special and/or Private Event is any event which is held weekly, monthly or annually or that includes outside advertisement demonstrating a change in the mode and character of the normal bar operation. The Applicant shall obtain approval from the Los Angeles Police Department's Hollywood Vice for said Events in writing 14 days in advance with the date, duration and type of Event being requested. Upon receiving written approval from Hollywood Vice, the Applicant may hold said Event.
17. All exterior portions of the property shall be adequately illuminated so as to make discernible the faces and clothing of anyone at night. Lighting shall be directed onto the site and no floodlighting shall be located so as to be seen directly by persons on adjacent properties. Lighting shall be shielded from residential uses.
18. Exterior windows and glass doors shall be maintained substantially free of signs and other materials from the ground to at least six feet in height above the ground so as to permit surveillance into the establishment by Police and private security.
19. The property including any adjacent area under the control of the operator and the sidewalk shall be maintained in an attractive condition and shall be kept free of obstruction, trash, litter and debris at all times.
20. Loitering is prohibited within the area under the control of the Applicant.
21. The Applicant shall install and maintain security cameras and a one-month video library that covers all common areas of the business, high-risk areas and entrances or exits, including the indoors and both abutting sidewalks. The tapes shall be kept for a minimum of 30-days and made available to the Los Angeles Police Department upon request.
22. 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.
23. The business operator shall comply with Section 6404.5(b) of the Labor Code which prohibits smoking within any place of employment. There shall be no ashtrays or other receptacles used for the purpose of collecting ash or cigarette/cigar butts inside the premises.

24. 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:
- a. Posted at the entry and the cashier.
 - b. Provided to immediate neighbors, schools and the Neighborhood Council.
 - c. Responded to within 24 hours of any complaint or inquiry.

Additionally, the Applicant/operator shall keep a log of complaints received, the date and time received, and the disposition of the response. The log shall be available for inspection by the Police Department, the Department of City Planning or other agency upon request.

25. Signs shall be prominently posted in English and the prominent language of the retail and bar's clientele, if different, stating that California State law prohibits the sale of alcoholic beverages to persons who are under the age of 21 years of age. "No Loitering or Public Drinking" signs shall be posted in and outside of the facility in the same language(s).
26. No pay phones shall be maintained on the exterior of the premises.
27. If any non-required parking is made available off-site for patrons at any time, the Applicant shall insure that information regarding its availability is advertised on the menu and on any website used to promote the business.
28. The applicant shall maintain a minimum of seventeen (17) on-site parking spaces as shown on Exhibit "A."
29. No requests for any other deviations from the Municipal Code have been requested or approved herein.
30. **Within six months of the initiation of alcohol sales**, all managers and employees involved with the sale of alcoholic beverages 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 from the Police Department to the Zoning Administrator as evidence of compliance. New employees shall receive such training within 60 days of hiring. Subsequently this training program shall be required for all staff annually.
31. These conditions of approval as well as a copy of any Business permit, insurance information, security and any emergency contact phone numbers shall be maintained in the office at all times and produced immediately upon request of the Police Department, the Zoning Administrator, the Department of Building and Safety or other enforcement agency.
32. The manager and all employees of the facility shall be knowledgeable of the conditions herein. Additionally, a copy shall be provided to all employees who shall

sign an acknowledgment form stating that they have read and understood all the ABC conditions as well as all the conditions of this grant. Said form shall be maintained at the location by the owner and/or manager who shall present it to Police personnel, ABC investigators or any other City agency upon request

33. All future signs shall be reviewed by Central Project Planning staff for compliance with the Vermont/Western Station Neighborhood Area Plan design guidelines. Filing for a Project Permit for a sign shall not be necessary unless a Project Permit Adjustment or Exception is required. Any pole, roof or off-site sign, any sign containing flashing, mechanical or strobe lights are prohibited. Canned signs shall not be used.
34. Prior to the effectuation of this grant, a covenant acknowledging and agreeing to comply with all the terms and conditions established herein shall be recorded in the County Recorder's Office. The agreement (standard master covenant and agreement form CP-6770) shall run with the land and shall be binding on any subsequent owners, heirs or assigns. The agreement with the conditions attached must be submitted to the Development Services Center or the Condition Compliance Unit for approval before being recorded. After recordation, a certified copy bearing the Recorder's number and date shall be provided to the Development Services Center or Condition Compliance Unit for inclusion in the case file.
35. 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 floor plan, seating arrangement or number of seats of the new operation.
36. The Zoning Administrator reserves the right to require that a 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 is submitted showing 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.

37. **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.
38. **Indemnification and Reimbursement of Litigation Costs.** The 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 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.

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 **AUGUST 24, 2018**, 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:

Downtown	San Fernando Valley	West Los Angeles
Figueroa Plaza 201 North Figueroa Street, 4th Floor Los Angeles, CA 90012 <u>(213) 482-7077</u>	Marvin Braude San Fernando Valley Constituent Service Center 6262 Van Nuys Boulevard, Room 251 Van Nuys, CA 91401 <u>(818) 374-5050</u>	West Los Angeles Development Services Center 1828 Sawtelle Boulevard, 2nd Floor Los Angeles, CA 90025 <u>(310) 231-2598</u>

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

NOTICE

The Applicant is further advised that subsequent contact regarding this determination must be with the Development Services Center. This would include clarification, verification of condition compliance and plans or building permit applications, etc., and shall be accomplished **BY APPOINTMENT ONLY**, in order to assure that you receive service with a minimum amount of waiting. You should advise any consultant representing you of this requirement as well.

FINDINGS OF FACT

After thorough consideration of the statements contained in the application, the plans submitted therewith, and the statements made at the public hearing on July 24, 2018, 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 of the Los Angeles Municipal Code and Project Permit Compliance pursuant to Section 11.5.7 C of the Los Angeles Municipal Code have been established by the following facts:

BACKGROUND

The project site is a 15,500 square-foot corner lot bound by Melrose Avenue to the south, Marathon Street to the north, and Virgil Avenue to the east, within Subarea B (Mixed Use Boulevards) of the Vermont/Western Station Neighborhood Area Plan (SNAP) Specific Plan. The site is currently developed with an approximately 10,811 square-foot two-story, commercial building containing six (6) tenant spaces. The tenant space for the project is on the ground floor. The property is zoned C1-1D, designated for Limited Commercial land uses. Pedestrian access to the building is from the Virgil Avenue frontage. Vehicular access is provided by two parking lots at the northern and southern portions of the site. The property is located within the Hollywood Community Plan area and is subject to the regulations set forth within Subarea B (Mixed Use Boulevards) of the Vermont/Western Station Neighborhood Area Plan (SNAP).

Surrounding properties are characterized by level topography and improved streets, and developed with a variety of neighborhood serving commercial, retail, and office uses along Virgil Avenue. Outside of this commercial corridor on Virgil Avenue, there are a multitude of multi-family residential apartment buildings. The commercial corridor along Virgil is zoned C1-1D north of Melrose Avenue and C2-1 south of Melrose Avenue. The properties outside of this commercial corridor and north of Melrose Avenue are zoned RD1.5-1XL. The properties outside of this commercial corridor and south of Melrose Avenue are zoned R3-1.

The applicant is applying for a Conditional Use Permit, to allow the sales and dispensing of beer and wine for on- and off-site consumption in conjunction with a new retail store and bar, which seats up to 33 people. The applicant will be applying to the California Department of Alcoholic Beverage Control (ABC) for a Type 42 license which allows for the on-site sale of beer and wine at a bar. Although there will be food preparation equipment on-site, the proposed kitchen will not be enough to qualify as a "bona fide restaurant." However the applicant will offer high end food and wine such as craft beers, seasonal salads and deserts, and cheese plates.

Virgil Avenue, adjoining the subject property to the East, is a Modified Avenue II, dedicated to a roadway width of 56 feet and improved with asphalt roadway, concrete curb, gutter, and sidewalk.

Melrose Avenue, adjoining the property to the south, is a Modified Avenue III, dedicated to a roadway width of 44 feet and improved with asphalt roadway, concrete curb, gutter, and sidewalk.

Marathon Street, adjoining the property to the north, is a Local Street - Standard, dedicated to a roadway width of 36 feet and improved with asphalt roadway, concrete curb, gutter, and sidewalk.

Previous zoning related actions on the site include:

Case No. DIR-2018-232-SPP – On March 23, 2018, the Director of City Planning approved a Project Permit Compliance Review for a change of use from retail to a bakery and cafe for 1,800 square feet of floor area within an existing two-story, building located in Subarea B (Mixed Use Boulevards) of the Vermont/Western Station Neighborhood Area Plan (SNAP).

Surrounding Properties (within a 500 foot radius):

Case No. ZA-2017-910-CUB – On August 14, 2017, the Zoning Administrator approved a Conditional Use Permit to allow the sale and dispensing of beer and wine only for on-site consumption in conjunction with a restaurant located in the C1-1D Zone, located at 751 North Virgil Avenue.

Case No. ZA-2016-3606-CUB – On March 8, 2017, the Zoning Administrator approved a Conditional Use Permit to allow the sale and dispensing of beer and wine only for on-site consumption in conjunction with a new restaurant located in the C2-1 Zone, and a Project Permit Compliance Review to allow a change of use from retail to a restaurant within 2,500 square feet of floor area of an existing one-story commercial building located in Subarea B of the Vermont/Western Station Neighborhood Area Plan, located at 611-615 North Virgil Avenue.

Case No. ZA-2010-1152-CUB – On March 7, 2011, the Zoning Administrator approved a Conditional Use Permit to allow the sale and dispensing of beer and wine only for on-site consumption within an existing restaurant located in the C1-1D Zone, located at 751 North Virgil Avenue.

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.

- There will be no "Happy Hour" in which beverages will be offered at a discounted price when sold individually. However, beverages may be offered at a discounted price when it is sold in combination with a food item.
- No alcohol shall be allowed to be consumed on any adjacent property under the control of the Applicant.
- No employee or agent shall be permitted to accept money or any other thing 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.
- Staff will monitor the immediate vicinity in order to ensure that no public consumption of alcoholic beverages occurs. Staff will also be responsible to constantly monitor and ensure patrons do not take alcoholic beverages beyond the entrance doors onto the sidewalk.
- No self-service of alcoholic beverages is permitted.
- The applicant shall fully comply with all Department of Alcoholic Beverage Control regulations governing the sale of alcoholic beverages for the retail store and bar.
- There will be no cover charge, admission fee or minimum drink fee.
- No self-service of alcoholic beverages is permitted.
- There shall be a sign at the business exits which reads, "No alcohol consumption permitted beyond this point."

PUBLIC HEARING

A Notice of Public Hearing was sent to property owners and/or occupants within a 500-foot radius of the site for which an application as described below had been filed with the Department of City Planning. The public hearing was conducted on July 24, 2018 at approximately 9:30 a.m., in Los Angeles City Hall, 200 N. Spring Street, Room 1020. 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 hearing. The hearing was attended by Dafne Gokcen, the applicant's representative, Co-Chair of East Hollywood Neighborhood Council and a member of the community.

Dafne Gokcen, presented the following:

- Project is located in an East Hollywood neighborhood within a plaza just north of Melrose.

- Requesting two entitlements. A Conditional Use for the sale of beer and wine for on and off-site consumption in conjunction with a new retail store and bar having hours of operation from 10 am to 11 am daily. Also requesting a Project Permit Compliance to permit a change of use from retail to retail and bar within the Vermont/Western Transit Oriented District Specific Plan (SNAP).
- Previously the space was Marshalls Security Training Academy for security guards. Tenant vacated and space was divided up into a few retail spaces. Applicant took one of the spaces for 887 square feet.
- This will not be a large establishment.
- Applicant is focusing on Bio-dynamic wines. Bio-dynamic processing is used to grow the fruit and during post harvesting processing. Process is similar to organic farming.
- Owners are in Europe now doing research for their shop.
- Owners live close to the site.
- Floor plan shows a customer are with both a retail shopping and seating. It's both a wine shop and tasting room at the same time.
- Customer can buy wine to go or stay and purchase by the glass or bottle.
- There will be a limited food menu. Not enough space for a kitchen. Food will be assembled. This will result in an ABC bar license and not a restaurant license for on-site tasting.
- Use called a bar as a technical term however, it operates more as a wine tasting room/wine retail store.
- No features of a bar. No live music. No special promotion nights.
- A similar concept is Silver Lake Wines. Ralphs grocery store in Downtown has a wine bar in middle of store.
- ABC Type 42 License also allows off-site beer and wine sales. We are only getting one license from ABC. We are asking for both on and off-site sales from the City to ensure no prohibitions for off-site sales.
- Site has two parking lots with one on each end for a total of 17 shared parking spaces.
- Only one other restaurant in the plaza and it closes by 8:30 p.m., daily. No alcohol sales. Other businesses in plaza are retail and close early
- Met with LAPD Rampart Vice at site on April 23rd. No issues. Letter was sent to the file. LAPD withdrew condition requiring no public premises license permitted as a Type 42 license is for a public premises.
- We have no issues with the LAPD letter.
- East Hollywood Neighborhood Council is here today. I've been trying to meet with the Land Use Committee since April.
- Submitted to the record today is a chain email showing several attempts to meet with Neighborhood Council Land Use Committee. Meetings for Committee and Full board were cancelled. Attended meeting last night which did not have a quorum.

PUBLIC SPEAKERS

Doug Haines

- I'm with the East Hollywood Neighborhood Council and Co-Chair of the Land Use Committee.
- Board member since 2007 and Co-Chair since 2012
- This is a relatively new Board. By laws allow only four consecutive terms with one

term off. I'm currently off. Current Co-Chair didn't inform me of the applicant's request for a meeting.

- Due to summer vacation schedule it's difficult to schedule meetings. Next meeting is August 9th.
- In 2012 the Board took the position of not supporting anymore alcohol markets. Current Co-Chair was unaware.
- There are six existing alcohol and/or markets in the census tract. Eight are within 1,000 ft. There will be a total of ten if this request is approved including one pending.
- I was unaware of the email chain with applicant and Co-Chair. This is an internal issue which I will address. I don't want this to impede the applicant's request.
- 42-seats are a lot for this small space
- As a Neighborhood Council we want to know more about the sale of beer as there has been problems in the past.
- Parking lot is immediately adjacent to residential. We would like to see some type of mitigation.
- We would like to see a bona fide restaurant in order to support the alcohol
- If there is no security we have our public safety committee review plans and develop a security plan for consideration.
- We would like to bring this before the Planning Committee in August

REBUTTAL

Dafne Gokcen

- There is no license for wine only. There is a beer only license however, we do not intend to sell beer.
- Regarding the concentration, there are 2 on-site licenses for census tract and 3 are allowed although we are using the off-site licensing privileges but it is considered an on-site license. Area is actually under concentrated for the census tract.
- In response to parking next to residence. Business is closing at 11:00 p.m. daily which is very conservative for Los Angeles.
- Owners really wanted to provide a bona fide kitchen but with 887square feet, there is no space. This would take away from the customer area and business would not be viable. They are providing food and will have a menu available
- Owners would be happy with a condition to require food but not a bona fide kitchen. Food will be assembled not cooked.
- We met with Police Department and they had no issues. The hours are so conservative. This is not a late night establishment.
- The name of the business Voodoo Vin is French for wine
- We are happy to meet with the Neighborhood Council in August. We ask that the determination not be delayed. Concerns have been presented here today.

The Zoning Administrator noted all those present wishing to speak were provided the opportunity therefore, the public hearing was closed. A Letter of Determination will be issued by mail to all interested parties.

COMMUNICATIONS TO THE FILE

- The Los Angeles Police Department included a list of conditions for the project.
- Email dated July 11, 2018, received from Los Angeles Police Department, Rampart Area Vice, requesting Condition No. 27 of recommended conditions be deleted. Applicant will have food preparation however, not enough to qualify as a bona fide restaurant.
- July 24, 2018, applicant submitted several emails as evidence of good faith effort to request a project review by East Hollywood Neighborhood Council.
- July 24, 2018, applicant submitted several letters of support for inclusion in the case file
- July 24, 2018, staff received email from Craig Bullock, Planning Deputy for Councilmember Mitch O'Farrell in support of the project.

BASIS FOR CONDITIONAL USE PERMITS

A particular type of development is subject to the Conditional Use process because it has been determined that such use of property should not be permitted by right in a particular zone. All uses requiring a Conditional Use Permit from the Zoning Administrator are located within Section 12.24 W of the Los Angeles Municipal Code. In order for the sale of beer and wine for on- and off-site consumption, 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 project site is a corner lot bound by Melrose Avenue to the south, Marathon Street to the north, and Virgil Avenue to the east, within Subarea B (Mixed Use Boulevards) of the Vermont/Western Station Neighborhood Area Plan (SNAP) Specific Plan. The site is currently developed with an approximately 10,811 square-foot two-story, commercial building containing six (6) tenant spaces. The building has a Certificate of Occupancy for a store and food use which was issued on August 16, 1965 with no required parking identified. There are currently 17 parking spaces on site and there are also no additional parking spaces required per the Vermont/Western SNAP Specific Plan, although the existing parking spaces must be maintained. The request also entails a change of use from retail to retail and bar with minor tenant improvements. The project is currently not proposing altering the building façade.

The applicant is requesting a Conditional Use to permit the sale and dispensing of beer and wine for on- and off- site consumption. There will be 33 indoor seats proposed with no outdoor seating requested or approved. Hours are limited to 10:00 a.m. to 11:00 p.m., daily which are the within the permitted time range for uses located on a Commercial Corner, which is how the project site is classified.

A grant of the request will allow for an enhanced service that will be beneficial to the community. The combination of store and bar provides a variety of food choices and dining options in a casual setting. The subject site is located within an area that is established as a retail corridor that shares a similar massing, scale and intensity of uses. It is accessible by car, foot and public transit and also supported by surrounding commercial and residential uses. Therefore, in conjunction with the imposition of conditions addressing operational issues, the request should result in a use which is compatible with and an asset to the local neighborhood and the community at large.

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 grant authorized herein incorporates a number of conditions, including those recommended by the Police Department, which has noted it is not opposed to the request. These conditions are intended to ensure that the proposed operation with the sale and dispensing of beer and wine will be compatible with other uses in the surrounding community. The hours of operation will be from 10:00 a.m. to 11:00 p.m., daily, which are reasonable also given that there are residential developments easterly of the site. No after-hour use of the facility is permitted other than for routine cleanup and maintenance. Conditions have also been imposed to control any ambient indoor music and not permit it to be audible beyond the subject premises and no live entertainment of any type is permitted.

Furthermore, conditions include but are not limited to alcohol-service training for employees, site maintenance, security camera surveillance, limits on Special Events, posting of a hotline number for reporting of any complaints and lighting. The Zoning Administrator reserves the right to require the filing of a plan approval application in the event of a change in operator or a record of noncompliance with any of the conditions. Alcohol-related conditions, which the Zoning Administrator is not authorized to impose are identified as conditions for consideration by the State Department of Alcoholic Beverage Control (ABC), in its issuance of the alcohol license. Therefore, based on the facts herein and in conjunction with the imposition of operational conditions, 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.

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

The Hollywood Community Plan designates the property for a Limited Commercial

land use with corresponding zone of C1, and Height District 1D. Moreover, the property is also located within Subarea B (Mixed Use Boulevards) of the Vermont/Western Station Neighborhood Area Plan (SNAP), which allows residential uses permitted in the R3 Zone and commercial uses permitted in the C1.5 Zone, regardless of the underlying zoning. The project has been determined to be in compliance with the SNAP as evaluated in the Project Permit Compliance review of this grant. As a bar with food, beer and wine sales, the project conforms to the intent of the Specific Plan, and to its provision, as outlined in the Project Permit Compliance findings below. Therefore, the restaurant use is permitted by the Subarea B (Mixed Used Boulevards) of the SNAP.

Although the sale of beer and wine is not addressed directly in the Plan, it is permitted through the conditional use process subject to specific findings which have been made herein. There are 11 elements of the General Plan. Each of these Elements establishes policies that provide for the regulatory environment in managing the City and for addressing environmental concerns and problems. One of the objectives of the Hollywood Community Plan includes promoting economic well-being and public convenience through allocating and distributing commercial lands for retail, service and office facilities in quantities and patterns based on accepted planning principles and standards. These Elements contain purposes, policies and programs for the development of the City.

The grant of the conditional use, in conjunction with the imposition of conditions, will substantially conform with the purpose, intent and provisions of the General Plan, Hollywood Community Plan, and Vermont/Western SNAP.

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

The subject property is zoned for commercial uses and will continue to operate as such given the proposed change of use from retail to retail store and bar. Standard Conditions of Approval from the Los Angeles Police Department have been included to the determination ensuring the use will not be materially detrimental to the character or the development in the immediate neighborhood. Said conditions include, but are not limited to: limited hours of operation; the prohibition of entertainment and live music; and the requirement for on-site surveillance cameras, 24-hour hotline and STAR training. Additional conditions have also been recommended for consideration by the California Department of Alcoholic Beverage Control that regulate the sales of alcohol to prevent potentially negative impacts to neighborhood. Therefore, based on the information herein and in conjunction with the operational conditions, the proposed use will not adversely affect the welfare of the pertinent community.

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 State of California Department of Alcoholic Beverage Control (ABC) licensing criteria, there are three (3) on-sale licenses and two (2) off-sale licenses authorized for subject Census Tract No. 1914.20. There are currently a total of eight (8) licenses in this census tract. This includes two (2) on-sale licenses and six (6) off-sale licenses.

Within 600-foot radius of the subject property, the following types of alcoholic beverage licenses are active or pending:

- (2) Type 20 Off-Sale Beer/Wine
- (2) Type 21 Off-Sale General
- (1) Type 41 On-Sale Beer/Wine Eating Place

Concentration can be undue when the addition of a license will negatively impact a neighborhood. Concentration is not undue when the approval of a license does not negatively impact an area, but rather such licenses benefit the public welfare and convenience. In active commercial areas where there is a demand for licenses beyond the allocated number, the Department of Alcoholic Beverage Control (ABC) has recognized that high-activity retail and commercial centers are supported by a significant and growing employee, visitor, and resident population in the area. The ABC has discretion to approve an application if there is evidence that normal operations will not be contrary to public welfare and will not interfere with the quiet enjoyment of property by residents. As proposed by the submitted application and conditioned herein by the City, the project will be implemented with conditions intended to prevent nuisance activities. As such, the project will not result in an undue concentration of licenses.

When factoring in the proposed project, the number of on-site licenses is consistent with the number currently allocated within the census tract. No evidence was submitted for the record establishing any link between the subject property and crime rates in the community. The location is within a predominantly commercial corridor, where a concentration of restaurants exists. The project has been reviewed closely by the Police Department which did not oppose the request and submitted conditions of approval.

According to statistics provided by the Los Angeles Police Department, which has jurisdiction over the subject property, within Crime Reporting District No. 203, a total of 58 crimes were reported in 2015, while the citywide average number of crimes was 181 and the high crime reporting district average of 217 crimes for the same period.

In 2015, there were (3) Narcotics, (1) Liquor Law, (13) Public Drunkenness, (0) Disturbing the Peace, (0) Disorderly Conduct, and (4) DUI related arrests. These numbers do not reflect the total number of arrests in the subject reporting district over the accountable year. Arrests for this calendar year may reflect crimes

reported in previous years.

The crime rates are below the rates identified for the citywide average and the district average. Nonetheless, conditions of approval have been imposed to mitigate any adverse impacts on the area, including a requirement for surveillance cameras, prohibiting loitering, limited signs on exterior windows and glass doors to permit surveillance into the establishment, and limited hours of operation. As noted, the Police Department has also suggested operational and alcohol-related conditions to be considered by the State upon issuance of the alcohol license. Therefore, the request is anticipated to not adversely affect the welfare of the community or result in an undue concentration of premises for the sale of alcoholic beverages after giving consideration to the State laws and to the California Department of Alcoholic Beverage Control's guidelines for undue concentration and crime rates in the area.

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.**

There are residential uses in the vicinity as well as other locations which sell alcohol. The area includes a wide variety of commercial uses including sensitive uses. However, being located in a commercial area, the diversity and proximity to sensitive uses is not uncommon.

The following sensitive uses are located within 1,000-foot radius of the project site:

Religious Institutions

Kingdom Hall of Jehovah's Witnesses	621 N Virgil Avenue
Ukrainian Orthodox Church of St Vladimir	4051 Melrose Avenue
Iglesia Cuadrangular Faro De Luz	771 N Virgil Avenue
The Church on Melrose	652 N Westmoreland Avenue
Monroe Street Christian Church	4150 Monroe Avenue

Educational Institutions

Dayton Heights Elementary School	607 N Westmorland
Dayton Heights Early Education Center	3917 Clinton Street

To ensure that the nearby sensitive uses are adequately buffered from any potential adverse impacts of this project, conditions of approval have been imposed to ensure that nearby sensitive uses are adequately buffered from any potential adverse impacts of this project. These include prohibition on any live entertainment, adult entertainment, or coin-operated games or video machines on the premises. Additionally, any music, sound or noise shall not be audible beyond the subject premises. The Applicant is also responsible for maintaining the premises and areas adjacent to premises, over which the Applicant has control, free of litter and loitering. In the event the community needs to file complaints, the Applicant is required to provide a 24-hour hot line phone number regarding the

subject retail store and bar. There is no rear entrance or windows that face the adjacent residential buildings located to the west of the project site, which will minimize the proposed use's impacts on sensitive uses. As such, the establishment will be within a contained environment where monitoring is facilitated through the enforcement of numerous conditions that will minimize the potential to create nuisances for the surrounding sensitive uses. Therefore, as conditioned, the proposed use will not detrimentally affect the nearby residentially zoned communities or sensitive uses in the neighborhood.

PROJECT PERMIT COMPLIANCE FINDINGS

7. **The project substantially complies with the applicable regulations, findings, standards, and provisions of the specific plan.**
 - A. **Use.** Section 8.A of the Vermont/Western Specific Plan states that residential uses permitted in the R3 Zone by LAMC Section 12.10 and commercial uses permitted in the C1.5 Limited Commercial Zone by LAMC Section 12.13.5 shall be permitted by-right on any lot located within Subarea B of the Specific Plan area with incidental sales of alcohol. The proposed project includes a change of use from retail to retail with bar, a use which is permitted in the C1.5 Zone. No live entertainment is proposed or permitted on this site per the Specific Plan. Therefore, as conditioned and in conjunction with the Conditional Use Permit to allow the sales and service of beer and wine for on and off-site consumption, the project complies with Section 8.A of the Specific Plan.
 - B. **Height and Floor Area.** Section 8.B of the Vermont/Western Specific Plan states that the height of any building comprised exclusively of commercial uses shall not exceed a maximum building height of 35 feet and a floor area ratio (FAR) of 1.5:1. The building has an existing height of 22 feet, floor area of 10,811 square feet, and FAR of 0.7:1. The project involves a change of use from retail to retail and bar, which will not result in additional floor area or change in building height. Therefore, Section 8.B of the Specific Plan does not apply.
 - C. **Transitional Height.** Section 8.C of the Vermont/Western Specific Plan states that portions of buildings on a lot located within Subarea B shall not exceed specified 25 feet in height when located within 0-49 feet of a lot located in Subarea A. The project site does not abut any Subarea A lots. Therefore, the project complies with Section 8.C of the Specific Plan.
 - D. **Usable Open Space.** Section 8.D of the Vermont/Western Specific Plan states that a project containing two or more residential units shall provide usable open space in accordance with LAMC Section 12.21 G.2. The project proposes a non-residential change of use from retail to retail and bar. Therefore, Section 8.D of the Specific Plan does not apply.
 - E. **Project Parking Requirements.** Section 8.E.4 of the Vermont/Western Specific Plan states that no additional parking shall be required for a change of use within an existing building provided that existing onsite parking is

maintained. Per Certificate of Occupancy No. LA 78087/64, issued on July 16, 1965 for the existing building, 18 parking spaces are required. The site currently has 17 spaces, as one of the spaces was removed to comply with the Americans with Disabilities Act (ADA). The proposed project will maintain the existing 17 parking spaces currently existing within a surface parking lots located at the northern and southern ends of the property. Therefore, as proposed and conditioned, the project complies with Section 8.E.4 of the Specific Plan.

- F. **Conversion Requirements.** Section 8.F of the Vermont/Western Specific Plan sets forth requirements pertaining to the conversion of existing structures from commercial uses to residential condominium uses. The Applicant proposes a change of use from a retail to a retail and a bar, and is not subject to conversion requirements for condominium uses. Therefore, Section 8.F of the Specific Plan does not apply.
 - G. **Yards.** Section 8.G of the Vermont/Western Specific Plan specifies that no front, side or rear yard setbacks shall be required for the development of any project within Subarea B. The project involves a change of use within an existing building, which will not result in any expansion of the existing building footprint. Therefore, Section 8.G of the Specific Plan does not apply.
 - H. **Pedestrian Throughways.** Section 8.H of the Vermont/Western Specific Plan requires a pedestrian walkway, throughway or path for every 250 feet of street frontage for a project. The subject site occupies approximately 310 feet of street frontage along Virgil Avenue and 50 feet of street frontage along both Marathon Street and Melrose Avenue. The applicant is not making changes to the building other than minor façade improvements. Therefore Section 8.H of the Specific Plan does not apply.
 - I. **Development Standards.** Section 8.I of the Vermont/Western Specific Plan requires that all Projects be in substantial conformance with the Guidelines. However, the Development Standards apply only to new development and extensive remodeling Projects. The proposed scope of work, which includes a change of use from retail to retail and bar, does not qualify as new development or extensive remodeling. Therefore, the Development Standards do not apply. However, the project is a change of use within an existing commercial building but is not proposing any exterior changes. Therefore the Design Guidelines do not apply.
8. **The project incorporates mitigation measures, monitoring measures when necessary, or alternatives identified in the environmental review, which would mitigate the negative environmental effects of the project, to the extent physically feasible.**

Mitigation measures are not necessary for the subject project, and there are no potentially significant negative environmental effects associated with the project. The project is Categorically Exempt from environmental review pursuant to Article III, Section 1, Class 1, Category 22 (granting a conditional use for a nonsignificant

change of use in an existing facility) and Class 5, Category 34 (granting of a conditional use for the on-site consumption of alcoholic beverages), and that there is no substantial evidence demonstrating that an exception to a categorical exemption pursuant to State CEQA Guidelines, Section 15300.2 applies.

ADDITIONAL MANDATORY FINDINGS

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

On June 14, 2018, the subject project was issued a Notice of Exemption (Subsection c, Section 2, Article II, City CEQA Guidelines), log reference ENV-2018-1929-CE, for a Categorical Exemption, Class 5, Category 34, and Class 1, Category 22, Section 1, Article III, City CEQA Guidelines (Sections 15300-15333, State CEQA Guidelines).

Inquiries regarding this matter shall be directed to Ricky Reaser, Project Planner for the Central Project Planning Division.

Ricky Reaser

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Aleta D. James
Associate Zoning Administrator

AJ:CTL:MN:RR

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

