

CONDITIONS FOR EFFECTUATING (T) TENTATIVE CLASSIFICATION REMOVAL

Pursuant to Section 12.32-G of the Municipal Code, the (T) Tentative Classification shall be removed by posting of guarantees through the B-permit process of the City Engineer to secure the following without expense to the City of Los Angeles, with copies of any approval or guarantees provided to the Department of City Planning for attachment to the subject planning case file.

Dedications and Improvements. Prior to the issuance of any building permits, the following public improvements and dedications for streets and other rights of way adjoining the subject property shall be guaranteed to the satisfaction of the Bureau of Engineering, Department of Transportation, Fire Department (and other responsible City, regional and federal government agencies, as may be necessary):

Responsibilities/Guarantees.

1. As part of early consultation, plan review, and/or project permit review, the applicant/developer shall contact the responsible agencies to ensure that any necessary dedications and improvements are specifically acknowledged by the applicant/developer.
2. **Bureau of Engineering.** Prior to issuance of sign offs for final site plan approval and/or project permits by the Department of City Planning, the applicant/developer shall provide written verification to the Department of City Planning from the responsible agency acknowledging the agency's consultation with the applicant/developer. The required dedications and improvements may necessitate redesign of the project. Any changes to project design required by a public agency shall be documented in writing and submitted for review by the Department of City Planning.
 - a. Street Dedications.
 1. Sunset Boulevard-None.
 2. Cahuenga Boulevard-None
 3. Ivar Avenue-None
 - b. Street Improvements.
 1. Sunset Boulevard – Repair all broken, off-grade or bad order concrete curb, gutter and sidewalk. Close all unused driveways with standard concrete curb height, gutter and sidewalk. Upgrade all driveways and access ramp to comply with ADA requirements.
 2. Cahuenga Boulevard - Repair all broken, off-grade or bad order concrete curb, gutter and sidewalk. Close all unused driveways with standard concrete curb height, gutter and sidewalk. Upgrade all driveways and access ramp to comply with ADA requirements.
 3. Ivar Avenue – Repair all broken, off-grade or bad order concrete curb, gutter and sidewalk. Close all unused driveways with standard concrete curb height, 2-foot

gutter and sidewalk. Upgrade all driveways and access ramp to comply with ADA requirements.

4. Install tree wells with root barriers and plant street trees satisfactory to the City Engineer and the Urban Forestry Division of the Bureau of Street Services. The applicant should contact the Urban Forestry Division for further information (213) 847-3077.

Notes:

Street lighting may be required satisfactory to the Bureau of Street Lighting (213) 847-1551.

Department of Transportation may have additional requirements for dedication and improvements.

- c. Roof drainage and surface run-off from the property shall be collected and treated at the site and drained to the streets through drain pipes constructed under the sidewalk through curb drains or connections to the catch basins.
- d. Sewer lines exist in Sunset Boulevard, Cahuenga Boulevard, and Ivar Street. All Sewerage Facilities Charges and Bonded Sewer Fees are to be paid prior to obtaining a building permit.
- e. An investigation by the Bureau of Engineering Central District Office Sewer Counter may be necessary to determine the capacity of the existing public sewers to accommodate the proposed development. Submit a request to the Central Office District of the Bureau of Engineering (213) 482-7048.
- f. Submit shoring and lateral support plans to the Bureau of Engineering Excavation Counter for review and approval prior to excavating adjacent to the right-of-way (213) 482-7048.
- g. Submit a parking area and driveway plan to the Central District Office of the Bureau of Engineering and the Department of Transportation for review and approval.

3. **Street Lighting.**

- a. Prior to recordation of the final map or issuance of the Certificate of Occupancy (C of O), street lighting improvement plans shall be submitted for review and the owner shall provide a good faith effort via a ballot process for the formation or annexation of the property within the boundary of the development into a Street Lighting Maintenance Assessment District.
- b. Construct new street lights: one (1) on Sunset Boulevard. If street widening per BOE improvement conditions, relocate and upgrade street lights: two (2) on Cahuenga and one (1) on Ivar Avenue.

4. **Urban Forestry – Street Trees.** The developer shall plant street trees and remove any existing trees within dedicated streets or proposed dedicated streets as required by the Urban Forestry Division of the Bureau of Street Services. All street tree plantings shall be brought up to current standards. The actual number and location of new trees shall be determined at the time of tree planting. The contractor shall notify the Urban Forestry Division at 213-847-3077 five working days prior to constructing the side walk for marking of the tree locations and species.

Note: Removal of parkway trees or Protected Trees requires the Board of Public Works' approval. Contact Urban Forestry Division at 213-847-3077 for tree removal permit information.

(Q) QUALIFIED CLASSIFICATIONS

Pursuant to Section 12.32-G of the Municipal Code, the following limitations are hereby imposed upon the use of the subject property, subject to the "Q" Qualified classification:

1. **Site Development.** Except as modified herein, the project shall be in substantial conformance with the plans and materials stamped "Exhibit B" and dated April 8, 2016, and attached to the subject case file. No change to the plans will be made without prior review by the Department of City Planning, and written approval by the Director of Planning, with each change being identified and justified in writing. Minor deviations may be allowed in order to comply with provisions of the Municipal Code, the subject conditions, and the intent of the subject permit authorization.
2. **Use.** Authorized herein is the construction, use and maintenance of a maximum 21-story hotel with up to 275 rooms. The total floor area on the project site shall not exceed 141,895 square feet. A new project shall be required to obtain a new approval pursuant to the "D" Development Limitation.
3. **Height.** The building height shall not exceed a 231 feet or 21 stories as shown on Exhibit "B".
4. **Signage.** All signage shall be in conformance with the Hollywood Signage Supplemental Sign District.

“D” DEVELOPMENT LIMITATIONS

Pursuant to Section 12.32-G of the Municipal Code, the following limitations are hereby imposed upon the use of the subject property, subject to the “D” Development Limitations.

1. **Floor Area.** A project on this site may be developed at a Floor Area Ratio of between 4.5:1 and not to exceed 6:1 provided that:
 - a. The Community Redevelopment Agency, any successor to the Community Redevelopment Agency, or the Department of City Planning of Los Angeles, pursuant to the transfer by ordinance of redevelopment land use plans and function to the City of Los Angeles (CF No. 12-0014-S4), finds that the project conforms to the Hollywood Redevelopment Plan with findings are required by Section 506.2.3 of the Redevelopment Plan.
 - b. The project applicant enters into an Owner Participation Agreement.
2. **Maximum Height.** No building or structure located on the subject property shall exceed a height of 231-feet, 3 inches, as shown on the attached Exhibit B, pursuant to Section 12.21.1 of the Municipal Code.

CONDITIONS OF APPROVAL

Pursuant to Sections 12.28, 12.24 and 16.05 of the Los Angeles Municipal Code, the following conditions are hereby imposed upon the use of the subject property:

Entitlement Conditions.

1. **Site Development.** Except as modified herein, the project shall be in substantial conformance with the architectural and landscape plans, renderings, and materials submitted by the Applicant, stamped Exhibit B. No change to the plans shall be made without prior review by the Department of City Planning and written approval of the Director of Planning. Each change shall be identified and justified in writing. Minor deviations may be allowed in order to comply with the provisions of the Municipal Code, or the project conditions.
2. **Parking.**
 - a. Automobile parking shall be provided in conformance with L.A.M.C. Section 12.21-A,4.
 - b. **Electric Vehicle Parking.** The project shall include at least 20 percent of the total code-required parking spaces capable of supporting future electric vehicle supply equipment (EVSE). Plans shall indicate the proposed type and location(s) of EVSE and also include raceway method(s), wiring schematics and electrical calculations to verify that the electrical system has sufficient capacity to simultaneously charge all electric vehicles at all designated EV charging locations at their full rated amperage. Plan design shall be based upon Level 2 or greater EVSE at its maximum operating ampacity. Of the twenty percent EV Ready parking, five percent of the total code required parking spaces shall be further provided with EV chargers to immediately accommodate electric vehicles within the parking areas. When the application of either the required 20 percent or five percent results in a fractional space, round up to the next whole number. A label stating "EVCAPABLE" shall be posted in a conspicuous place at the service panel or subpanel and next to the raceway termination point.
 - c. Bicycle parking shall be provide in conformance with L.A.M.C. Section 12.21-A,16.
3. **Signage.** All signage shall be in conformance with the Hollywood Signage Supplemental Sign District.
4. **Department of Transportation.**
 - a. A minimum of 20-foot reservoir space be provided between any security gate(s) and the property line.
 - b. Parking stalls shall be designed so that a vehicle is not required to back into or out of any public street or sidewalk.
 - c. A parking area and driveway plan be submitted to the Citywide Planning Coordination Section of the Department of Transportation for approval prior to submittal of building permit plans for plan check by the Department of Building and Safety. Transportation approvals are conducted at 201 N. Figueroa Street Suite 400, Station 3.

5. **Trash/recycling.** Trash and Recycling pick-up and emptying or disposing of trash/recycling into outside containers is permitted to occur only between the hours of 7:00 a.m. and 8:00 p.m., Monday through Friday, and 10 a.m. to 4 p.m., Saturdays and Sundays.
 - a. Trash/recycling containers shall be locked when not in use.
 - b. Trash/recycling containers shall not be placed in or block access to required parking.
6. **Solar Panels.** The project shall comply with the Los Angeles Municipal Green Building Code, Section 99.05.211, to the satisfaction of the Department of Building and Safety.
7. **Lighting.** Outdoor lighting shall be designed and installed with shielding, such that the light source cannot be seen from adjacent residential properties, the public right-of-way, nor from above.
8. **Graffiti.** 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.
9. **Landscaping.** The private terraces for the guest rooms on the third floor level shall be separated by permanent planters.
10. No live entertainment shall be permitted on the rooftop/pool deck. Ambient background music shall be permitted on the rooftop/pool deck between the hours of 7 a.m. and 11 p.m., daily.
11. **Fire Department.** Submit plot plans for Fire Department approval and review prior to the issuance of a building permit. The applicant is further advised that all subsequent contact regarding these conditions must be with the Hydrant and Access Unit. 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 please call (213) 482-6504. You should advise any consultant representing you of this requirement as well.
 - a. Access for Fire Department apparatus and personnel to and into all structures shall be required.
 - b. Building designs for multi-storied residential buildings shall incorporate at least one access stairwell off the main lobby of the building; But, in no case greater than 150ft horizontal travel distance from the edge of the public street, private street or Fire Lane. This stairwell shall extend unto the roof.
 - c. Entrance to the main lobby shall be located off the address side of the building.
 - d. Any required Fire Annunciator panel or Fire Control Room shall be located within 50ft visual line of site of the main entrance stairwell or to the satisfaction of the Fire Department.
 - e. Where rescue window access is required, provide conditions and improvements necessary to meet accessibility standards as determined by the Los Angeles Fire Department.

- f. No building or portion of a building shall be constructed more than 150 feet from the edge of a roadway of an improved street, access road, or designated fire lane.
- g. Adequate public and private fire hydrants shall be required.
- h. Any roof elevation changes in excess of 3 feet may require the installation of ships ladders.
- i. Where above ground floors are used for residential purposes, the access requirement shall be interpreted as being the horizontal travel distance from the street, driveway, alley, or designated fire lane to the main entrance of individual units.
- j. The entrance or exit of all ground dwelling units shall not be more than 150 feet from the edge of a roadway of an improved street, access road, or designated fire lane.
- k. The Fire Department may require additional vehicular access where buildings exceed 28 feet in height.

Conditional Use

- 12. Approved herein is a Conditional Use to allow the sale and dispensing of a full line of alcoholic beverages for on-site consumption which shall be limited to the following locations:
 - a. Ground floor lounge/restaurant area (including outdoor seating area);
 - b. Second floor meeting rooms; and
 - c. Controlled-access liquor cabinets ("mini bars") located inside guest rooms
- 13. **Sidewalk dining.** The outdoor seating area located within the public right-of-way shall obtain approval of a revocable permit from the Department of Public Work, Bureau of Engineering (BOE). A copy of the approved permit shall be submitted to the Development Services Center or Conditions Compliance Unit along with a plans showing the layout of tables and chairs approved by BOE.
- 14. The authorization granted herein for the sale of a full line of alcoholic beverages for on-site consumption on the subject premises is for the duration of establishment. Thereafter, a new authorization shall be required to continue the sale of alcoholic beverages for on-site consumption.
- 15. If at any time during the period of the grant, should documented evidence be submitted showing continued violation(s) of any condition(s) of the grant, resulting in a disruption or interference with the peaceful enjoyment of the adjoining and neighboring properties, the Zoning Administrator shall have the right to require the applicant to file a plan approval application together with the associated fees and to hold a public hearing to review the applicant's compliance with, and effectiveness of, the conditions of the grant. The applicant shall be required to submit a summary and supporting documentation demonstrating how compliance with each condition of the grant has been attained. Upon review, the Zoning Administrator may modify, add or delete conditions and reserves the right to conduct the public hearing for nuisance abatement revocation purposes if so warranted by documentation.

16. No dancing, live entertainment, karaoke or pool or billiard tables are permitted on the premises.
17. The operator shall be responsible for mitigating the potential negative impacts of its operation on surrounding users, especially, noise derived from patrons exiting and crowd control during entry and exiting.
18. Within six months of the effective date of this action, all 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 Conditional Compliance Unit of the Department of City Planning as evidence of compliance. Employees shall attend the training on an annual basis.
19. 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.
20. No cover charge or admission fee shall be charged to enter the premises and the premises shall not be utilized in any manner that would characterize the use as a night club. The subject premises shall not be leased to third-party promoters, rave parties or similar events.
21. The business operator shall maintain on the premises, and present upon request to any law enforcement officer, a copy of the Business Permit, Insurance information, and a valid emergency contact phone number used by the business.
22. The applicant shall be responsible for maintaining free of litter the area adjacent to the premises.
23. The approved conditions shall be retained on the premises at all times and produced immediately upon request of the Police Department or Department of City Planning. All employees working in the restaurant shall be knowledgeable of these conditions and shall sign a document acknowledging receipt of these conditions.
24. **Prior to the beginning of operations**, the applicant shall notify the Condition Compliance Unit via email or U.S. Mail when operations are scheduled to begin and shall submit a copy of the Certificate of Occupancy for the Case File. The notification shall be submitted to planning.ccu@lacity.org, with the subject of the email to include the case number, "**CPC-2015-2893-VZC-HD-CUB-ZAA-SPR/Operation Notification**". The applicant shall also submit (attached or mailed) evidence of compliance with any conditions which require compliance "prior to the beginning of operations" as stated by these conditions.
25. **Prior to the beginning of operations**, the manager of the facility shall be made aware of the conditions and shall inform his/her employees of the same. A statement with the signature, printed name, position and date signed by the manager and his/her employees shall be provided to the Condition Compliance Unit within 30 days of the beginning day of operation of the establishment. The statement shall read as follows,

We, the undersigned, have read and understand the conditions of approval to allow the sale and dispensing of a full line of alcoholic beverages for on-site consumption in conjunction with the operation of a hotel known as "Ivar Gardens", and agree to abide and comply with said conditions.

26. 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.
27. **MViP – Monitoring, Verification and Inspection Program.** At any time, before, during, or after operating hours, a City inspector may 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 used to rate the operator according to the level of compliance. If a violation exists, the owner/operator will be notified of the deficiency or violation and will be 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 therein, may result in denial of future requests to renew or extend this grant.

Zoning Administrator's Adjustment

28. **Rear Yard.** The project shall be permitted zero-foot rear yard (northerly yard) setback as shown in Exhibit "B".

Environmental Conditions

29. **Biological Resources.** Removal of trees in the public right-of-way requires approval by the Board of Public Works. The required Tree Report shall include the location, size, type, and condition of all existing trees in the adjacent public right-of-way and shall be submitted for review and approval by the Urban Forestry Division of the Bureau of Street Services, Department of Public Works (213-847-3077). The plan shall contain measures recommended by the tree expert for the preservation of as many trees as possible. All replacement trees in the public right-of-way shall be provided per the current Urban Forestry Division standards.
30. **Geology and Soils.**
 - a. The project shall comply with the conditions contained within the Department of Building and Safety's Geology and Soils Report Approval Letter for the proposed project, and as it may be subsequently amended or modified.
 - b. Chapter IX, Division 70 of the Los Angeles Municipal Code addresses grading, excavations, and fills. All grading activities require grading permits from the Department of Building and Safety. Additional provisions are required for grading activities within Hillside areas. The application of BMPs includes but is not limited to the following mitigation measures:
 - i. A deputy grading inspector shall be on-site during grading operations, at the owner's expense, to verify compliance with these conditions. The deputy inspector shall report weekly to the Department of Building and Safety (LADBS); however, they shall immediately notify LADBS if any conditions are violated.
 - ii. "Silt fencing" supported by hay bales and/or sand bags shall be installed based upon the final evaluation and approval of the deputy inspector to minimize water and/or soil from going through the chain link fencing potentially resulting in silt washing off-site and creating mud accumulation impacts.

- iii. "Orange fencing" shall not be permitted as a protective barrier from the secondary impacts normally associated with grading activities.
- iv. Movement and removal of approved fencing shall not occur without prior approval by LADBS.

31. Greenhouse Gas Emissions.

- a. Low- and non-VOC containing paints, sealants, adhesives, solvents, asphalt primer, and architectural coatings (where used), or pre-fabricated architectural panels shall be used in the construction of the Project to reduce VOC emissions to the maximum extent practicable.
- b. Any new construction shall include 20 percent of parking spaces set aside for EV ready parking.

32. Hazardous and Hazardous Materials.

- a. Prior to the issuance of any use of land, grading, or building permit, the applicant shall obtain a sign-off from the Fire Department indicating that all on-site hazardous materials, including contamination of the soil and groundwater, have been suitably remediated, or that the proposed project will not impede proposed or on-going remediation measures.
- b. Prior to the issuance of a building permit, the applicant shall develop an emergency response plan in consultation with the Fire Department. The emergency response plan shall include but not be limited to the following: mapping of emergency exits, evacuation routes for vehicles and pedestrians, location of nearest hospitals, and fire departments.

33. Noise

- a. Construction and demolition shall be restricted to the hours of 7:00 am to 6:00 pm Monday through Friday, and 8:00 am to 6:00 pm on Saturday.
- b. To the maximum extent practical, demolition and construction activities shall be scheduled so as to avoid operating several pieces of equipment simultaneously, which causes high noise levels.
- c. The project contractor shall use power construction equipment with state-of-the-art noise shielding and muffling devices. On-site power generators shall use either plug-in electric or solar generators.
- d. An acoustical sound blanket shall be erected along the Project Site's northerly property line to absorb construction noise levels generated by earthmoving equipment and foundation construction.
- e. An information sign shall be posted at the entrance to each construction site that identifies the permitted construction hours and provides a telephone number to call and receive information about the construction project or to report complaints regarding excessive noise levels. Any reasonable complaints shall be rectified within 24 hours.

- f. The Applicant shall provide a courtesy notice of the project's construction related activities to adjacent business owners a minimum of two weeks prior to commencement of construction.

34. Transportation/Traffic

- a. Implementing measure(s) detailed in DOT's communication to the Planning Department (DOT Case No. CEN 15-43958 dated January 6, 2016, See Appendix G to this MND) shall be complied with. Such report and mitigation measure(s) are incorporated herein by reference.
- b. A Construction work site traffic control plan shall be submitted to DOT for review and approval in accordance with the LAMC prior to the start of any construction work. The plans shall show the location of any roadway or sidewalk closures, traffic detours, haul routes, hours of operation, protective devices, warning signs and access to abutting properties. All construction related traffic shall be restricted to off-peak hours.
- c. All delivery truck loading and unloading shall take place on site or within the boundaries of an approved traffic control plan and the alley.
- d. The developer shall install appropriate traffic signs around the site to ensure pedestrian and vehicle safety.
- e. The applicant shall be limited to no more than two trucks at any given time within the site's staging area.
- f. There shall be no staging of hauling trucks on any public streets, unless specifically approved as a condition of an approved haul route.
- g. No hauling shall be done before 9 a.m. or after 3 p.m. Trucks shall be spaced so as to discourage a convoy effect.
- h. A minimum of two flag persons are required. One flag person is required at the entrance to the project site and one flag person at the next intersection along the haul route.
- i. Truck crossing signs are required within 300 feet of the exit of the project site in each direction.
- j. Loads shall be secured by trimming and watering or may be covered to prevent the spilling or blowing of the earth material.
- k. Trucks and loads are to be cleaned at the export site to prevent blowing dirt and spilling of loose earth.
- l. A log documenting the dates of hauling and the number of trips (i.e. trucks) per day shall be available on the job site at all times.
- m. The applicant shall identify a construction manager and provide a telephone number for any inquiries or complaints from residents regarding construction activities. The telephone number shall be posted at the site readily visible to any interested party during site preparation, grading and construction.

- n. The Applicant shall plan construction and construction staging as to maintain pedestrian access on adjacent sidewalks throughout all construction phases. This requires the Applicant to maintain adequate and safe pedestrian protection, including physical separation (including utilization of barriers such as k-rails or scaffolding, etc.) from work space and vehicular traffic and overhead protection, due to sidewalk closure or blockage, at all times.
- o. Temporary pedestrian facilities shall be adjacent to the project site and provide safe, accessible routes that replicate as nearly as practical the most desirable characteristics of the existing facility.
- p. Covered walkways shall be provided where pedestrians are exposed to potential injury from falling objects.
- q. The Applicant shall keep sidewalk open during construction until only when it is absolutely required to close or block sidewalk for construction staging. Sidewalk shall be reopened as soon as reasonably feasible taking construction and construction staging into account.

Administrative Conditions

- 35. **Approval, Verification and Submittals.** Copies of any approvals, guarantees or verification of consultations, review or approval, plans, etc., as may be required by the subject conditions, shall be provided to the Department of City Planning for placement in the subject file.
- 36. **Code Compliance.** Area, height and use regulations of the zone classification of the subject property shall be complied with, except where herein conditions are more restrictive.
- 37. **Covenant.** Prior to the issuance of any permits relative to this matter, an agreement concerning all the information contained in these conditions shall be recorded in the County Recorder's Office. The agreement shall run with the land and shall be binding on any subsequent property owners, heirs or assign. The agreement must be submitted to the Department of City Planning for approval before being recorded. After recordation, a copy bearing the Recorder's number and date shall be provided to the Department of City Planning for attachment to the file.
- 38. **Definition.** Any agencies, public officials or legislation referenced in these conditions shall mean those agencies, public officials, legislation or their successors, designees or amendment to any legislation.
- 39. **Enforcement.** Compliance with these conditions and the intent of these conditions shall be to the satisfaction of the Department of City Planning and any designated agency, or the agency's successor and in accordance with any stated laws or regulations, or any amendments thereto.
- 40. **Building Plans.** Page 1 of the grants and all the conditions of approval shall be printed on the building plans submitted to the Department of City Planning and the Department of Building and Safety.
- 41. **Corrective Conditions.** The authorized use shall be conducted at all time with due regards to the character of the surrounding district, and the right is reserved to the City Planning Commission, or the Director pursuant to Section 12.27.1 of the Municipal Code

to impose additional corrective conditions, if in the Commission's or Director's opinion such conditions are proven necessary for the protection of persons in the neighborhood or occupants of adjacent property.

42. **Expediting Processing Section.** Prior to the clearance of any conditions, the applicant shall show that all fees have been paid to the Department of City Planning Expedited Processing Section.
43. **Indemnification and Reimbursement of Litigation Costs.**

Applicant shall do all of the following:

- a. Defend, indemnify and hold harmless the City from any and all actions against the City relating to or arising out of, in whole or in part, the City's processing and approval of this entitlement, including but not limited to, an action to attack, challenge, set aside, void or otherwise modify or annul the approval of the entitlement, the environmental review of the entitlement, or the approval of subsequent permit decisions or to claim personal property damage, including from inverse condemnation or any other constitutional claim.
- b. Reimburse the City for any and all costs incurred in defense of an action related to or arising out of, in whole or in part, the City's processing and approval of the entitlement, including but not limited to payment of all court costs and attorney's fees, costs of any judgments or awards against the City (including an award of attorney's fees), damages and/or settlement costs.
- c. Submit an initial deposit for the City's litigation costs to the City within 10 days' notice of the City tendering defense to the Applicant and requesting a deposit. The initial deposit shall be in an amount set by the City Attorney's Office, in its sole discretion, based on the nature and scope of action, but in no event shall the initial deposit be less than \$25,000. The City's failure to notice or collect the deposit does not relieve the Applicant from responsibility to reimburse the City pursuant to the requirement in paragraph (b).
- d. Submit supplemental deposits upon notice by the City. Supplemental deposits may be required in an increased amount from the initial deposit if found necessary by the City to protect the City's interests. The City's failure to notice or collect the deposit does not relieve the Applicant from responsibility to reimburse the City pursuant to the requirement (b).
- e. If the City determines it necessary to protect the City's interests, execute an indemnity and reimbursement agreement with the City under terms consistent with the requirements of this condition.

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

The City shall have the sole right to choose its counsel, including the City Attorney's office or outside counsel. At its sole discretion, the City may participate at its own expense in the defense of any action, but such participation shall not relieve the applicant of any obligation imposed by this condition. In the event the Applicant fails to comply with this

condition, in whole or in part, the City may withdraw its defense of the action, void its approval of the entitlement, or take any other action. The City retains the right to make all decisions with respect to its representations in any legal proceeding, including its inherent right to abandon or settle litigation.

For purposes of this condition, the following definitions apply:

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

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

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

NOTE TO THE STATE OF CALIFORNIA DEPARTMENT OF ALCOHOLIC BEVERAGE CONTROL (ABC)

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 grants, the City Planning Commission has not imposed Conditions specific to the sale or distribution of alcoholic beverages, even if such Conditions have been volunteered or negotiated by the applicant, in that the City Planning Commission has no direct authority to regulate or enforce Conditions assigned to alcohol sales or distribution.

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

They may include those identified during hearing testimony, received as part of correspondence via stakeholder groups, city agency, other responsible agency, Council District, Mayor’s office, etc.)

For the lounge/restaurant:

1. The sale of a full line of alcoholic beverages shall be limited from 6 a.m. to 2 a.m. daily.
2. No “Happy Hour” type of reduced-price alcoholic beverage or “2 for 1” promotion shall be allowed at any time. Discounted food promotions are encouraged.
3. No cocktail lounge shall be maintained on the premises separate from the dining area.
4. No alcohol shall be allowed to be consumed on any adjacent property under the control of the applicant.

5. There shall be no exterior advertising of any kind or type, including advertising directly to the exterior from within, promoting or indicating the availability of alcoholic beverages. Interior displays of alcoholic beverages or signs which are clearly visible to the exterior shall constitute a violation of this condition.
6. The sale of alcohol shall be incidental to the sale of food, except in the lounge.
7. The sale of alcoholic beverages for consumption off the premises is prohibited.
8. Fortified wine (greater than 16% alcohol) shall not be sold.
9. There shall be no cocktail lounge or separate bar area.
10. No signs are permitted on the outside of the building or directed from the inside to the outside which display or advertise the availability of alcoholic beverages.
11. The off-site sale of alcoholic beverages as a secondary use (i.e., "take out") is not permitted.
12. All service of alcoholic beverages shall be conducted by a waitress or waiter or bartender.
13. The alcoholic beverage license shall not be exchanged for a public premises type license nor operated as a public premises.
14. Signs shall be prominently posted in English and the predominant language of the facility's clientele, if different, stating that California State Law prohibits sale of alcoholic beverages to persons who are under 21 years of age.