

(Q) QUALIFIED CONDITIONS OF APPROVAL

Pursuant to Section 12.32 G of the Los Angeles Municipal Code (LAMC), the following limitations are hereby imposed upon the use of the subject property, subject to the "Q" Qualified classification.

A. Development Conditions:

1. **Use.** The use of the subject property shall be limited to those uses permitted in the C2 Zone, as defined in Section 12.14 of the LAMC, and as otherwise permitted by LAMC Section 12.24.
2. **Automotive Repair.** No automotive repair use, as defined in Section 12.03 of the Municipal Code, shall be permitted.
3. **Floor Area.** The existing fueling station with 12 pumps and an ancillary minimart shall not be expanded and shall not exceed approximately 2,900 square feet of floor area. The new automated carwash shall not exceed approximately 1,100 square feet of floor area, for a total of approximately 4,000 square feet on-site, as shown on the project plans dated **December 18, 2015**, and labeled "**Exhibit B**", attached to the subject case file.
4. **Height.** No building or structure shall exceed 21 feet in height, as defined by Section 12.21.1 of the LAMC, and as shown on the project plans dated **December 18, 2015**, and labeled "**Exhibit B**", attached to the subject case file. Any structures on the roof, such as air conditioning units, and other equipment, may exceed the height limit.
5. **Plot/Site Plan.** Prior to the issuance of any building permits for the subject project, detailed development plans, including site, elevations, and complete landscape and irrigation plans prepared by a licensed landscape architect or architect, shall be submitted for review by the Department of City Planning for verification of compliance with the imposed conditions. The plans submitted to Building and Safety shall be in substantial conformance with the plans dated **December 18, 2015**, and labeled "**Exhibit B**", attached to the subject case file. 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.
6. **Vehicular Access.** Vehicular ingress and egress from the subject property shall be prohibited from the east and south property lines, except for an emergency access as may be required by the Fire Department. No change to the existing four (4) driveways is proposed or approved (two (2) on Tampa Avenue and two (2) on Nordhoff Street).
7. **Automobile Parking.** Provide parking as required by LAMC 12.21.A.4 at a rate of one (1) parking space per 500 square feet of floor area. No parking variance has been requested or granted herein.
8. **Bike Parking.** The site plan shall be revised to include bicycle parking, as required by the Municipal Code. Bicycle parking shall be located in a safe and accessible location and not at the rear of any building. Design and location of bicycle parking shall be reviewed and approved by the Department of City Planning.
9. **Tree Replacement.** There shall be at least one (1) new tree planted for every non-protected tree removed. Prior to Planning Clearance, both a site and/or landscape plan,

and tree report shall be submitted showing the same number of trees to be removed as the site plan **Exhibit B dated December 18, 2015** showed three (3) non-protected trees to be removed and the tree report dated June 16, 2016 only documented two (2) trees to be removed.

10. **Landscaping (Perimeter Screening).** Prior to Planning Clearance, a landscape plan, including an automatic irrigation system prepared by a licensed landscape architect or licensed architect, shall be submitted showing the following:

- a. Bushes, hedges or trees in the south landscaped buffer to create a noise and visual buffer for the automatic carwash, to screen the view of automobiles from the adjacent site and to replace those removed to reconstruct and relocate the existing curb and berm.
- b. Along the east property line in the existing landscaped area, the existing shrubbery and tree plantings shall remain and additional planting of shrubs and trees mainly on the southern portion along the east property line to screen and differentiate the subject property from the adjoining commercial property to the east.
- c. Low-level bushes in the northern landscaped area between the fueling area and the bus shelter in order to screen the gas fueling area, but to retain the security camera's view for safety purposes. These additional shrubs will serve to limit the amount of debris or shopping carts on the subject property.
- d. New plants shall be drought tolerant, native landscaping to limit irrigation needs and to conserve water. Mediterranean and local, climate-friendly plants may be used alongside native species.
- e. An irrigation plan shall be submitted showing that automated watering systems and drip irrigation and used to irrigate landscaped areas.

11. **Landscaping (Surface Parking).** A minimum of one 24-inch box tree (minimum trunk diameter of two (2) inches and a height of eight (8) feet at the time of planting) shall be planted for every four (4) required surface parking spaces (note, per LAMC Section 12.21.A.4, eight (8) vehicle spaces for the approximately 4,000 square feet of floor area are required, thus only two (2) trees are required, but more can be planted). The trees shall be dispersed within the parking area so as to shade the surface parking area and shall be protected by a minimum six-inch high curb, and landscape. Automatic irrigation plan shall be approved by the City Planning Department.

12. **Urban Design.**

- a. **Drive-thru.** Drive-thru element of the automated carwash shall be located directly to the south of the existing minimart and away from primary site corners and adjacent primary streets. The entrance to the automatic carwash shall be from the east going west towards Tampa Avenue.
- b. **Roof.** White or reflective painting shall be used on new rooftops and light paving materials should be installed to reflect heat away from buildings and reduce the need for mechanical cooling.
- c. Use exterior surface materials that will reduce the incidence and appearance of graffiti.

- d. Any new property perimeter masonry walls should incorporate changes in materials, texture and/or landscaping to avoid solid, uninterrupted walls. Material such as chain link, wrought iron spears and cyclone are prohibited.
13. **Trash/Recycling Area.** Details shall be provided for the trash and recycling area, as shown on the submitted Site Plan, Exhibit B dated **December 18, 2015**, including the method of enclosure, and design and material of enclosure, at the time of final plan sign off. The trash and recycling areas shall be secured with an enclosure that matches the design of the minimart and is at least six (6) feet in height that fully screens the view of the trash and recycling area.
14. **Block Wall.** Prior to issuance of a Certificate of Occupancy, a minimum six-foot-high, slump stone or decorative masonry wall shall be constructed along the south property line to the east and west of the new automated carwash, if no such wall already exists, as permitted by LAMC.
15. **Roof-Top Equipment.** Any new structures on the roof, such as air conditioning units and other equipment, shall be fully screened from view of any abutting properties.
16. **Security.** Prior to the utilization of this grant, a camera surveillance system shall be maintained, which covers all common areas, including entrances, exits and vacuum areas of the car wash. Tapes shall be maintained for 30 day and shall be made available to the Police Department or other enforcement agency upon request.
17. **Attendant.** An on-site attendant shall be on the premises during all hours of operation of the automated carwash. The attendant shall be responsible for serving customers, ensuring that all car wash equipment is shut off upon closing of the facility and that the site is secured.
18. **Lighting.**
- a. All outdoor lighting shall be shielded and down-casted within the site in a manner that prevents the illumination of adjacent public rights-of-way, adjacent properties, and the night sky (unless otherwise required by the Federal Aviation Administration (FAA) or for other public safety purposes).
 - b. Areas where retail and automotive uses are located shall be maintained to provide sufficient illumination of the immediate environment so as to render objects or persons clearly visible for the safety of the public and emergency response personnel. All other open exterior areas, such as walkways and trash areas, shall have low-level, security-type lighting.
 - c. All flood lighting shall be designed to eliminate glare to adjoining properties. All parking areas shall have a minimum of 3/4 foot-candle of flood lighting measured at the pavement.
 - d. There shall be at least two (2) new downward facing light fixtures along the south property line on either side of the automated carwash to replace the two (2) light fixtures proposed to be removed.
19. **Signs.** All signs shall comply with LAMC Section 14.4, shall be of an identifying nature only and shall be arranged and located so as not to be a distraction to vehicular traffic or adjacent developed areas.

- a. Signs may include gasoline price information as required by LAMC and State regulations;
- b. Flashing and animated signs are prohibited;
- c. Any free-standing sign (i.e. pole or monument sign) shall comply with LAMC and state law; and,
- d. Windows shall not be cluttered with advertisements. No opaque windows shall be permitted in order to create a connection between the interior and the exterior. Prior to Planning clearance, revised plans shall be submitted showing the location and size of all proposed window signs in compliance with LAMC.

20. Project Construction (General).

- a. Project construction shall comply with the City of Los Angeles Noise Ordinance Nos. 144,331 and 161,574, and any subsequent ordinances, which prohibit the emission or creation of noise beyond certain levels at adjacent uses unless technically infeasible.
- b. Construction and demolition activities shall be scheduled so as to avoid operating several pieces of equipment simultaneously that causes high noise levels.
- c. The project contractor shall use power construction equipment with state-of-the-art noise shielding and muffling devices.
- d. The project sponsor shall comply with the Noise Insulation Standards of Title 24 of the California Code Regulations, to insure an acceptable interior noise environment.

21. Construction (Time Restrictions). Construction and demolition shall be restricted to the hours of 7 a.m. to 6 p.m. Monday through Friday, and 8 a.m. to 6 p.m. on Saturday. No construction or demolition activities shall be permitted on Sundays or national holidays.

22. The authorized uses shall be conducted at all times with due regard for the character of the surrounding district, and the right is reserved to the Decision Maker 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.

23. LAMC. 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.

24. 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.

25. Fire Department. Prior to any sign-off of plans by the Development Services Center, the applicant shall submit for review and approval, a plot plan to the Fire Department. Said approval shall be provided in the form of a stamp on the plans submitted to the Development Services Center for sign-off.

26. Site Maintenance. The applicant shall be responsible for maintaining the area adjacent to the premises over its control free of litter, including any landscaped areas and parking area used specifically by patrons.

B. Environmental Conditions (ENV-2016-611-MND):**27. Objectionable Odors (Commercial Trash Receptacles)**

- a. Open trash receptacles shall be located a minimum of 50 feet from the property line of any residential zone or use.
- b. Trash receptacles located within an enclosed building or structure shall not be required to observe this minimum buffer.

28. Habitat Modification (Nesting Native Birds, Non-Hillside or Urban Areas)

- a. The project will result in the removal of vegetation and disturbances to the ground and therefore may result in take of nesting native bird species. Migratory nongame native bird species are protected by international treaty under the Federal Migratory Bird Treaty Act (MBTA) of 1918 (50 C.F.R Section 10.13). Sections 3503, 3503.5 and 3513 of the California Fish and Game Code prohibit take of all birds and their active nests including raptors and other migratory nongame birds (as listed under the Federal MBTA).
- b. Proposed project activities (including disturbances to native and non-native vegetation, structures and substrates) should take place outside of the breeding bird season which generally runs from March 1- August 31 (as early as February 1 for raptors) to avoid take (including disturbances which would cause abandonment of active nests containing eggs and/or young). Take means to hunt, pursue, catch, capture, or kill, or attempt to hunt, pursue, catch, capture or kill (Fish and Game Code Section 86).
- c. If project activities cannot feasibly avoid the breeding bird season, beginning thirty days prior to the disturbance of suitable nesting habitat, the applicant shall:
- d. Arrange for weekly bird surveys to detect any protected native birds in the habitat to be removed and any other such habitat within properties adjacent to the project site, as access to adjacent areas allows. The surveys shall be conducted by a qualified biologist with experience in conducting breeding bird surveys. The surveys shall continue on a weekly basis with the last survey being conducted no more than 3 days prior to the initiation of clearance/construction work.
- e. If a protected native bird is found, the applicant shall delay all clearance/construction disturbance activities within 300 feet of suitable nesting habitat for the observed protected bird species until August 31.
- f. Alternatively, the Qualified Biologist could continue the surveys in order to locate any nests. If an active nest is located, clearing and construction within 300 feet of the nest or as determined by a qualified biological monitor, shall be postponed until the nest is vacated and juveniles have fledged and when there is no evidence of a second attempt at nesting. The buffer zone from the nest shall be established in the field with flagging and stakes. Construction personnel shall be instructed on the sensitivity of the area.
- g. The applicant shall record the results of the recommended protective measures described above to document compliance with applicable State and Federal laws pertaining to the protection of native birds. Such record shall be submitted and received into the case file for the associated discretionary action permitting the project.

29. Tree Removal (Non-Protected Trees)

- a. Prior to the issuance of any permit, a plot plan shall be prepared indicating the location, size, type, and general condition of all existing trees on the site and within the adjacent public right(s)-of-way.
- b. Removal or planting of any tree in the public right-of-way requires approval of the Board of Public Works. Contact Urban Forestry Division at: 213-847-3077. All trees in the public right-of-way shall be provided per the current standards of the Urban Forestry Division, Bureau of Street Services, Department of Public Works.

30. Human Health Hazard (Vector Control)

- a. The property shall be maintained in a neat, attractive, and safe condition at all times.
- b. On-site activities shall be conducted so as not to create noise, dust, odor, or other nuisances to surrounding properties.
- c. Trash and garbage bins shall be maintained with a lid in working condition; such lid shall be kept closed at all times.
- d. Trash and garbage collection bins shall be maintained in good condition and repair such that there are no holes or points of entry through which a rodent could enter.
- e. Trash and garbage collection containers shall be emptied a minimum of once per week.
- f. Trash and garbage bin collection areas shall be maintained free from trash, litter, garbage, and debris.

31. Creation of a Health Hazard

- a. Prior to the issuance of a use of land or building permit, or issuance of a change of occupancy, the applicant shall obtain approval from the Fire Department and the Department of Public Works, for the transport, creation, use, containment, treatment, and disposal of the hazardous material(s).
- b. Approved plans for the transport, creation, use, containment, treatment, and disposal of the hazardous material(s) shall be submitted to the decision-maker for retention in the case file.

32. Hazardous Substances

- a. Prior to the issuance of a use of land or building permit, or a change in the existing occupancy/use permit, the applicant shall provide a letter from the Fire Department stating that it has permitted the facility's use, storage, and creation of hazardous substances.

33. Increased Noise Levels (Operational Noise from Machine and/or Other Electronic Devices)

- a. The proposed facility shall be designed with noise-attenuating features (physical as well as operational) by a licensed acoustical engineer to assure that operational sounds shall be inaudible beyond the property line.

34. Public Services (Fire)

- a. The following recommendations of the Fire Department relative to fire safety shall be incorporated into the building plans, which includes the submittal of a plot plan for approval by the Fire Department either prior to the recordation of a final map or the approval of a building permit. The plot plan shall include the following minimum design features: fire lanes, where required, shall be a minimum of 20 feet in width; all structures must be within 300 feet of an approved fire hydrant, and entrances to any dwelling unit or guest room shall not be more than 150 feet in distance in horizontal travel from the edge of the roadway of an improved street or approved fire lane.

35. Safety Hazards

- a. The developer shall install appropriate traffic signs around the site to ensure pedestrian, bicycle, and vehicle safety.
- b. The applicant shall submit a parking and driveway plan that incorporates design features that reduce accidents, to the Bureau of Engineering and the Department of Transportation for approval.

C. Administrative Conditions:

36. **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.
37. **Code Compliance.** The area, height and use regulations of the (T)(Q)C2-1L zone classification of the subject property shall be complied with, except where conditions herein are more restrictive.
38. **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.
39. **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.
40. **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.
41. **Building Plans.** A copy of the first page of this grant and all Conditions and/or any subsequent appeal of this grant and its resultant Conditions and/or letters of clarification

shall be printed on the building plans submitted to the Department of City Planning and the Department of Building and Safety for purposes of having a building permit issued at any time during the term of the grant.

42. **Project Plan Modifications.** Any corrections and/or modifications to the Project plans made subsequent to this grant that are deemed necessary by the Department of Building and Safety, Housing Department, or other Agency for Code compliance, and which involve a change in site plan, floor area, parking, building height, yards or setbacks, building separations, or lot coverage, shall require a referral of the revised plans back to the Department of City Planning for additional review and final sign-off prior to the issuance of any building permit in connection with said plans. This process may require additional review and/or action by the appropriate decision-making authority, including the Director of Planning, City Planning Commission, Area Planning Commission, or Board.
43. **Mitigation Monitoring.** Pursuant to California State Public Resources Code Section 21081.6 and the California Environmental Quality Act, the applicant and any future owners, successors, heirs or assigns shall provide the Planning Department with status reports for assessing and ensuring the efficacy of the mitigation measures (environmental conditions) required herein.

- a. Within 30 days of the effective date of this land use entitlement and prior to any Planning Department clearance of the conditions of approval contained herein, the applicant shall file a Mitigation Monitoring and Reporting Program (MMRP) in a manner satisfactory to the Planning Department which defines specific reporting and/or monitoring requirements to be enforced during Project implementation. Each environmental condition shall be identified as to the responsible mitigation monitor(s), the applicable enforcement agency, the applicable monitoring agency and applicable phase of Project implementation as follows:
- i. Pre-construction (prior to issuance of a building permit);
 - ii. Construction (prior to certificate of occupancy); and
 - iii. Post-construction / maintenance (post-issuance of certificate of occupancy).

In some cases, a specific mitigation measure may require compliance monitoring during more than one phase of Project implementation. Such measures shall be noted within the discussion of the specific mitigation measure in the MMRP.

- b. The applicant shall demonstrate compliance with each mitigation measure in a written report submitted to the Planning Department and the applicable enforcement agency prior to issuance of a building permit or certificate of occupancy, and, as applicable, provide periodic status reports to the Planning Department regarding compliance with post-construction / maintenance conditions.
- c. If the environmental conditions include post-construction / maintenance mitigation measures, the applicant and all future owners, successors, heirs or assigns shall be obligated to disclose these ongoing mitigation monitoring requirements to future buyers of the subject property.
- d. The applicant and any future owners, successors, heirs or assigns shall reimburse the Planning Department for its actual costs, reasonably and necessarily incurred, necessary to accomplish the required review of periodic status reports.

44. Indemnification and Reimbursement of Litigation Costs.

Applicant shall do all of the following:

- i. Defend, indemnify and hold harmless the City from any and all actions against the City, in whole or in part, relating to or arising out of 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 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.