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February 16, 2018

Zeferino Garcia (A)  
La Mayordomia  
3315 West Pico Boulevard  
Los Angeles, CA 90019

Van Ness Property LLC (O)  
14491 Sleepy Creek Drive  
Los Angeles, CA 92880

Patrick E. Panzarello (R)  
Patrick E. Panzarello Consulting Services  
P.O. Box 1085  
Sun Valley, CA 91353

CASE NO. ZA 2017-0714-CUB  
CONDITIONAL USE  
3315 West Pico Boulevard  
Wilshire Planning Area  
Zone : C4-1-O  
C.D. : 10  
D.M. : 129B189  
CEQA : ENV-2017-0715-CE  
Legal Description: Lot FR 1, Tract Country  
Club Park Subdivision No. 2

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

a Conditional Use Permit to allow the sale and dispensing of a full line of alcoholic beverages for off-site consumption, in conjunction with an existing bakery in the C4-1-O Zone, and

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

a Conditional Use to allow the hours of operation from 6:00 a.m. to 10:00 p.m. in lieu of the allowable hours of operation from 7:00 a.m. to 11:00 p.m. for Mini-shopping Center/Commercial Corner Development,

Upon the following additional terms and conditions:

1. All other use, height and area regulations of the Municipal Code and all other applicable government/regulatory agencies shall be strictly complied with in the development and use of the property, except as such regulations are herein specifically varied or required.
2. The use and development of the property shall be in substantial conformance with the plot plan and floor plan submitted with the application and marked Exhibit "A", except as may be revised as a result of this action.

3. The authorized use shall be conducted at all times with due regard for the character of the surrounding district, and the right is reserved to the Zoning Administrator to impose additional corrective Conditions, if, in the Administrator's opinion, such Conditions are proven necessary for the protection of persons in the neighborhood or occupants of adjacent property.
4. All graffiti on the site shall be removed or painted over to match the color of the surface to which it is applied within 24 hours of its occurrence.
5. A copy of the first page of this grant and all conditions and/or any subsequent appeal of this grant and its resultant conditions and/or letters of clarification shall be printed on the building plans submitted to the Zoning Administrator and the Department of Building and Safety for purposes of having a building permit issued.
6. Authorized herein is the sale and dispensing of a full line of alcoholic beverages for off-site consumption, in conjunction with an existing 2,600 square-foot bakery from the effective date of this grant. Subject to the following limitations:
  - a. The hours of operation shall be limited to 6:00 a.m. to 10:00 p.m., daily.
  - b. No after-hours use is permitted, except routine clean-up. This includes but is not limited to private or promotional events, special events, excluding any activities which are issued film permits by the City.
7. Should there be a change in the ownership and/or the operator of the business, the property owner and the business owner or operator shall provide the prospective new property owner and the business owner/operator with a copy of the conditions of this action prior to the legal acquisition of the property and/or the business. Evidence that a copy of this determination including the conditions required herewith has been provided to the prospective owner/operator shall be submitted to the Department of City Planning in a letter from the new operator indicating the date that the new operator/management began and attesting to the receipt of this approval and its conditions. The new operator shall submit this letter to the Department of City Planning within 30 days of the beginning day of his/her new operation of the establishment along with any proposed modifications to the existing the floor plan, seating arrangement or number of seats of the new operation.
8. Should there be a change in the ownership and/or operator of the business, the Zoning Administrator reserves the right to require that the new owner or operator file a Plan Approval application if it is determined that the new operation is not in substantial conformance with the approved floor plan, or the operation has changed in mode or character from the original approval, or if at any time during the period of validity of this grant, documented evidence is submitted showing continued violation of any conditions of this grant resulting in a disruption or interference with the peaceful enjoyment of the adjoining and neighboring properties. The application, in association with the appropriate fees, shall be submitted to the Department of 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 this review, the Zoning

Administrator may modify, add or delete conditions, and if warranted, reserves the right to conduct a public hearing, that may also be conducted for nuisance abatement/revocation purposes.

9. The Zoning Administrator reserves the right to require that the new owner or operator file a Plan Approval application, if it is determined that the new operation is not in substantial conformance with the approved floor plan, or the operation has changed in mode or character from the original approval, or if documented evidence be submitted showing a continued violation(s) of any condition(s) of this grant resulting in a disruption or interference with the peaceful enjoyment of the adjoining and neighboring properties. The application, in association with the appropriate fees, and a 500-foot notification radius, 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 this review, the Zoning Administrator may modify, add or delete conditions, and if warranted, reserves the right to conduct this public hearing for nuisance abatement/revocation purposes.
10. Prior to the utilization of this grant, a camera surveillance system shall be installed to monitor the interior, entrance, exits and exterior areas, in front of and around the premises. Recorded tapes/images shall be maintained for a minimum period of 30 days. The tapes shall be furnished to the Los Angeles Police Department upon request. The plan must be reviewed and approved by the Police Department. The approved plan will be maintained by the DEPARTMENT OF CITY PLANNING and be made be available to the Police Department and the Department of Building and Safety for the purpose of verification or inspections.
11. Lighting shall be installed in all areas within the business in conformance with the Los Angeles Municipal Code. The lighting shall be such that it renders all objects and persons clearly visible within the establishment.
12. Prior to the utilization of this grant, 24-hour "hot line" shall be provided for complaints or concerns from the community regarding the operation. The 24-hour phone number shall be posted at the following locations:
  - a. Entry, visible to pedestrians
  - b. Customer service desk, front desk or near the hostess station

The applicant shall maintain a log of all calls, detailing: (1) date complaint received; (2) nature of complaint, and (3) the manner in which the complaint was resolved. This log shall be made available to law enforcement personnel upon request and presented as part of the application if and when a new application to continue the operation is submitted to the Department of City Planning. Complaints shall be responded to within 24 hours.

13. Within the 60 days from the effective date of this grant, the applicant shall make arrangements with the Los Angeles Police Department to conduct "Standardized Training for Alcohol Retailers" (STAR) training for all employees who manage,

supervise or dispense alcoholic beverages to patrons. This training shall be conducted for all new hires within 60 days of their employment. The applicant shall request written confirmation of completion of the initial training from the Police Department. The applicant shall transmit a copy of the letter referencing Case No. ZA 2017-0714-CUB, from the Police Department to the Department of City Planning as evidence of compliance.

14. In the event there is a change in the licensee, within six months of such change, this training program shall be required for all new staff. The STAR training shall be conducted for all new hires within two months of their employment.
15. The applicant shall be responsible for monitoring both patron and employee conduct on the premises and within the parking areas under his control to assure behavior that does not adversely affect or detract from the quality of life for adjoining residents, property owners, and businesses.
16. The exterior windows and any glass doors of the market shall be maintained substantially free of signs and other materials including shrubbery, from the ground to at least six (6) feet in height above the ground so as to permit surveillance into the location by Police and/or private security. Updated photographic evidence shall be provided to the Department of City Planning.
17. Loitering is prohibited on or around these premises or the area under the control of the applicant. "No Loitering or Public Drinking" signs shall be posted in and outside of the subject facility.
18. The applicant shall be responsible for maintaining free of debris or litter the area adjacent to the premises over which they have control, including the sidewalk in front of the establishment.
19. Parking shall be subject to the determination of the Department of Building and Safety. Any off-site parking shall be provided pursuant to the requirements of Los Angeles Municipal Code Sections 12.21-A,4(g) and 12.26-E,1(b). No variance from the parking requirements has been granted herein.
20. Coin operated electronic game machines, pool tables, video or mechanical amusement devices shall or similar game activities or equipment shall not be permitted.
21. 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.
22. At least one on-duty manager with authority over the activities within the facility shall be on the premises at all times that the facility is open for business. The on-duty manager's name and photo shall be posted daily at the front entrance, clearly identifying the individual responsible for the operation of the facility for the benefit of the Police, any other enforcement agency and the public. The on-duty manager's responsibilities shall include the monitoring of the premises to ensure compliance with all applicable State laws, Municipal Code requirements and the conditions imposed

by the Department of Alcoholic Beverage Control (ABC) and the conditional use herein. Every effort shall be undertaken in managing the facility to discourage illegal and criminal activity on the subject premises and any exterior area over which the building owner exercises control, in effort to ensure that no activities associated with such problems as narcotics sales, use or possession, gambling, prostitution, loitering, theft, vandalism or truancy occur.

23. Prior to the utilization of this grant, the applicant shall establish a "Designated Driver Program" which shall include, but not be limited to, signs/cards notifying patrons of the program. The signs/cards shall be visible to the customer and posted or printed in prominent locations or areas. These may include signs/cards on each table, at the entrance, at the host station, in the waiting area, at the bars, or on the bathrooms, or a statement on the menus.
24. Any music, sound or noise including amplified or acoustic music which is under control of the applicant shall not constitute a violation of Sections 112.06 or 116.01 of the Los Angeles Municipal Code (Citywide Noise Ordinance) and shall not be audible beyond the subject premises. At any time during the term of the grant a City inspector may visit the site during operating hours to measure the noise levels using a calibrated decibel/sound level meter. If, upon inspection, it is found that the noise level exceeds those allowed by the Citywide Noise Ordinance, the owner/operator will be notified and will be required to modify or, eliminate the source of the noise or retain an acoustical engineer to recommend, design and implement noise control measures within property such as, noise barriers, sound absorbers or buffer zones.
25. There shall be no Adult Entertainment of any type pursuant to LAMC Section 12.70.
26. Any use of the bakery for private events, including corporate events, birthday parties, anniversary parties, weddings or other private events which are not open to the general public, shall be subject to all the same provisions and hours of operation stated herein.
27. No conditional use for dancing has been requested or approved herein. Dancing is prohibited.
28. There shall be no live entertainment or amplified music on the premises. There shall be no karaoke, disc jockey, topless entertainment, male or female performers or fashion shows. Any background music or other recorded ambient music shall not be audible beyond the area under the control of the applicant.

**Condition Nos. 2 through 38 are volunteered by the applicant:**

29. There will be no refrigeration of any alcohol product.
30. There will be no self-service of any alcohol product. All alcohol will be displayed behind the counter accessible by an employee only.
31. The maximum display area of alcohol will not exceed 50 square feet (approximately 5' by 10' max).

32. No alcohol will be sold in containers less than 750 ml or 24 ounces.
33. No alcohol or any signs advertising alcohol will be displayed in the windows and no alcohol will be visible from the street.
34. No domestic alcohol will be featured. All alcohol products must be imported.
35. No beer or wine will be featured or sold. Only Full Alcohol products will be featured.
36. Alcohol sales will be from 10 a.m. to 10 p.m. daily. There will be no alcohol sales prior to 10 a.m. or after 10 p.m.
37. A sign will be prominently displayed stating, "No Consumption of Alcohol Allowed in the Premises or on the Property Except for Permitted Areas."
38. A sign will be prominently displayed stating, "No Consumption of Alcohol allowed in the Premises or on the Property Except for Permitted Areas."
39. No rental of either of the establishments to an outside party or promoter is permitted.
40. No employee or agent shall solicit or accept any beverage from any customer while on the premises.
41. Applicant/owner/operator/employee must check and verify every patron's age prior to any alcohol sales. Age shall be verified with a bona fide identification. A bona fide identification is a card that must provide all information listed:
  - Issued by a Government agency (Federal, State, County, or City)
  - Name of Person
  - Date of Birth
  - Physical Description
  - Photograph
  - Currently valid (not expired)
42. MViP – Monitoring Verification and Inspection Program. Prior to the effectuation of this grant, fees required per LAMC Section 19.01-E,3 for Monitoring of Conditional Use Permits and Inspection and Field Compliance Review of Operations shall be paid to the City. Within 12 to 18 months from the beginning of operations or issuance of a Certificate of Occupancy, a City inspector will conduct a site visit to assess compliance with, or violations of, any of the conditions of this grant. Observations and results of said inspection will be documented and included in the administrative file. The owner/operator shall be notified of the deficiency or violation and required to correct or eliminate the deficiency or violation. Multiple or continued documented violations or Orders to Comply issued by the Department of Building and Safety which are not addressed within the time prescribed, may result in additional corrective conditions imposed by the Zoning Administrator.
43. 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 Department of City Planning for approval before being recorded. After recordation, a certified copy bearing the Recorder's number and date shall be provided for inclusion in case file. Fees required per LAMC Section 19.01-E,3 for Monitoring of Conditional Use Permits and Inspection and Field Compliance Review of Operations shall be paid to the City prior to the final clearance of this condition.

44. A copy of the conditions of this letter of determination, State licenses, business permits and insurance information shall be retained on the premises at all times. All forms shall be produced upon request by the Los Angeles Police Department, Department of Building and Safety, Department of City Planning or the State Department of Alcoholic Beverage Control.
45. Prior to the effectuation of grant, the owner and manager(s) 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 Los Angeles Police personnel, ABC investigators or any other City agency upon request. All statements shall be maintained at the location at all times.

The statement shall state:

*We, the undersigned, have read and understood the conditions of approval to allow the sale and dispensing of a full line of alcoholic beverages, in conjunction with this said market and agree to abide and comply with said conditions at all times. In further agreement, We, the undersigned, could be held liable by City and State laws if found in violation and could be cited and/or arrested for such violations.*

46. **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 \$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).
- 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 in paragraph (ii).
- e. If the City determines it necessary to protect the City's interest, execute an indemnity and reimbursement agreement with the City under terms consistent with the requirements of this condition.

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

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

For purposes of this condition, the following definitions apply:

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

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

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



**OBSERVANCE OF CONDITIONS - TIME LIMIT - LAPSE OF PRIVILEGES**

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

**TRANSFERABILITY**

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

**VIOLATIONS OF THESE CONDITIONS, A MISDEMEANOR**

Section 12.29 of the Los Angeles Municipal Code provides:

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

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

**APPEAL PERIOD - EFFECTIVE DATE**

The applicant's attention is called to the fact that this grant is not a permit or license and that any permits and licenses required by law must be obtained from the proper public agency. Furthermore, if any Condition of this grant is violated or if the same be not complied with, then the applicant or his successor in interest may be prosecuted for violating these Conditions the same as for any violation of the requirements contained in the Municipal Code. The Zoning Administrator's determination in this matter will become effective after **MARCH 5, 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:

<b>Downtown</b>	<b>San Fernando Valley</b>	<b>West Los Angeles</b>
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 staff assigned to this case. 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 August 8, 2017, all of which are by reference made a part hereof, as well as knowledge of the property and surrounding district, I find that the requirements for authorizing a conditional use approval under the provisions of Section 12.24-W, 1 have been established by the following facts:

**BACKGROUND**

The subject site, comprised of two tied lots, is a 26,556 square-foot rectangularly-shaped parcel of land having a frontage of 179 feet along Pico Boulevard and 122 feet along Van Ness Avenue. The subject property is within a multi-tenant mini-shopping center.

The project site is zoned C4-1-O with a land use designation of Neighborhood Office Commercial within the Wilshire Community Plan Area.

The predominant land use pattern with the Community Plan Area is mainly strip commercial uses along Pico Boulevard and single-family uses in the rest of the vicinity.

The applicant seeks a conditional use approval to allow the sale and dispensing of a full line of alcohol for off-site consumption in conjunction with the continued operation of an existing 2,600 square-foot bakery (La Mayordomia), operating from 6:00 a.m. to 10:00 p.m. daily. The project would not expand the footprint of the existing building.

This proposed bakery will continue to be located in existing shopping center where the applicant currently owns and operates another tenant space as a bakery and has no history of any violations or citations in relation to alcohol sales.

Vehicular access is provided via a driveway off of Pico Boulevard and another off of Van Ness Avenue. Pedestrian street access is also located off of Pico Boulevard and Van Ness Avenue.

The subject property is located within the Mid City Recovery Redevelopment Project Area (ZI-2174 and ZI-2280), a Transit Priority Area in the City of Los Angeles (ZI-2452), and the Los Angeles State Enterprise Zone (ZI-2374).

Adjoining properties to the north are zoned RE9-1-O-HPOZ and developed with single-family uses. Properties to the south, across Pico Boulevard are zoned PF-1-O and developed with the Pio Pico Middle School. Properties to the east of Van Ness Avenue are zoned C4-1-P and developed with a pre-school and commercial uses. Adjoining properties to the west are zoned C4-1-O and developed with commercial and retail uses.

Van Ness Avenue, adjoining the subject property to the east is designated as a Local Street – Standard dedicated with a width of 80 feet and improved with curb, gutter, and sidewalk.

Pico Boulevard, adjoining the subject property to the north is designated as a Avenue II dedicated with a varying width of 83 feet to 85 feet.

#### **Previous relevant cases, permits, affidavits and orders on the subject property:**

##### **Building Permits:**

Building Permit No.14016-20000-04461 – Change of Use: irregular 54' X 46'-9" (2200 SF) portion of the existing retail to new bakery and retail on ground floor of the existing two-story building.

Building Permit No. 14016-20001-04461 – Supplemental for permit no. 14016-20000-04461 to expand bakery to adjacent tenant space and change of use from retail to bakery.

##### **Certificate of Occupancy:**

Certificate of Occupancy No. 125796 – change of use: irregular 2,200 square feet portion of existing retail on ground floor of the existing two-story building. A supplemental permit expands the change of use to include tenant space 3317, which is an additional 570 square feet.

##### **Cases on Surrounding Properties:**

Case No. ZA 2015-4236(CUB) – On November 29, 2016, the Zoning Administrator approved a conditional use to permit the sale and dispensing of a full line of alcoholic beverages for on-site consumption in conjunction with an existing bakery in the C4-1-O Zone and approved the closing at midnight Friday and Saturday in lieu of 11:00 p.m. as restricted by Commercial Corner regulations, located at 3301 West Pico Boulevard.

Case No. ZA 2013-1386(CUB) – On September 30, 2013, the Zoning Administrator approved a conditional use to allow the sale and dispensing of beer and wine for on-site consumption in an existing 2,850 square-foot bakery with live entertainment in the C4-1-O Zone, located at 3301 West Pico Boulevard.

Case No. ZA 2000-2316(CUZ) – On October 13, 2000, the Zoning Administrator approved a conditions use to permit the installation, use, and maintenance of a wireless telecommunications facility on the steeple of an existing church in the C4-1-O Zone, located at 3405 West Pico Boulevard.

### **PUBLIC CORRESPONDENCE**

Two communications were received prior to the public hearing. A letter from the president of the Olympic Park Neighborhood Council (OPNC) and dated August 7, 2017 was received expressing support of the project. A letter in opposition from the Los Angeles School District (LAUSD) was received on August 3, 2017.

### **PUBLIC HEARING**

The public hearing was held on Tuesday, August 8, 2017 at approximately 9:00 a.m. at City Hall located at 200 North Spring Street, Room 1070. There were approximately 7 people in attendance including the applicant, his applicant's representative, and one representatives of the council office.

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

Patrick Panzarello, the applicant's representative, described the request and the project setting, and made the following comments:

- The applicant wishes to import special liquor products from Oaxaca, Mexico, his hometown. He owns two other stores in the area - one at Broadway and 59th Street.
- The location was formerly a tortilla factory but is now a bakery/market.
- Zeferino Garcia, the owner has never had a violation at any of his businesses.
- We appeared before the full board of the neighborhood council on August 8.
- Zeferino is a musician as well who has provided live entertainment at his other venues. The applicant is invested in the neighborhood
- He has met with LAPD Vice who perceived no opposition to this proposal.
- Mr. Panzarello read his letter that was submitted to the Planning Department dated August 8, 2017 (in the file). A copy was submitted to the record.
- He requested that the application be approved.

Isai Pazos, Regional Oaxaca President, supports the applicant's proposal. He indicated that the applicant has been involved in the community as a musician, a sponsor of arts and crafts events, and a volunteer in the large community of Oaxacians. Zeferino has been a positive influence in the community.

Eimon Smith, representing the Los Angeles Unified School District, indicated that the Pio Pico Middle School in the LAUSD is opposed to the project. The School community has expressed concern of the usual issues listed in alcohol sales including the following:

- Student walking routes is adjacent to the bakery.
- Parking
- General safety

Because of these issues the LAUSD does not approve of the project.

Regina Kim, representing her parents who are property owners in the neighborhood is opposed to the sales of alcohol on the site.

- She noted that the applicants already have alcohol sales in their other neighborhood facility. She questioned what is the purpose of the alcohol sales – will this turn into a liquor store?
- More sales will perpetuate crime. There is already a liquor store at Wilton and Pico.
- She is concerned with more trips created by “beer runs” in the neighborhood.

Tom Smith, a representative of the Country Club Park Residents Association opposes the project and cites the following:

- He brings back a conversation that occurred three years ago on the same topic. Though the applicant also lives in the neighborhood, he questions the timing and need for additional liquor sales. Is this a liquor store?
- There was a previous crime problem in the neighborhood, which is why a wall was built around the neighborhood.
- He does not see a need for full line alcohol sales at this location.

Jordan Beroukhim of Council District No. 10 representing Councilperson Wesson indicated that their office supports the applicant’s project with the following notes:

- They’re office has met with the applicant and representative who said that Mr. Garcia is well received in the area.
- They recommend that there be an advisement period to resolve the current issues raised during the public hearing and indicated their support for the Zoning Administrator’s decision.

Officer Francisco Guzman, of the Los Angeles Police Department’s Olympic Vice Division noted the following:

- Their office had met with the applicant who indicated that they only intend to sell a specialty alcohol at the back shelf accessed by the employees. This will not be a liquor store. There is no cooler equipment – only the specialty beverage area.
- The LAPD has no issue with this request or other Mr. Garcia’s establishments. They are not opposed to the request.
- The LAPD also request a three week advisement period to allow their office to develop recommended conditions of approval.

Patrick Panzarello, the applicant’s representative, responded to the previous testimony with the following comments:

- There is a liquor store to the east, however the applicant will not be competing with the store as they will be only offering the specialty liquor of the Oaxacan region.
- On the issue of school children’s route to the school – the Bakery/Store is not at the location of the signalized crosswalk (located at Pico and Van Ness). Their venue is

at Van Ness and Pico. Further, they specifically will open at between the hours of 10 am to 11 pm, thereby avoiding the morning arrival of school children for opening session.

- Van Ness is a gated community –protected from vehicular traffic.
- The beer runs will not be the case because there is no refrigeration equipment proposed to cool the beer.
- Council District 10 had no concerns on the discussion.

The Zoning Administrator closed the public hearing and stated that the case will be on hold over on advisement for 3 weeks in order to allow the LAPD commentary to be received and discussion of a resolution between the applicant and neighboring stakeholders are made before rendering a decision. No decision was made at the hearing.

**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.

The following conditions are submitted for consideration:

- No employee or agent shall solicit or accept any alcoholic or non-alcoholic beverages from any customer while in the premises.
- There shall be no minimum drink required of patrons.
- No person under 21 years of age shall sell or serve alcoholic beverages.
- The quarterly gross sale of alcoholic beverages shall not exceed the gross sales of food during the same period. The Petitioner(s) shall at all times maintain records which reflect separately the gross sales of alcoholic beverages of the licensed business. Said records shall be kept no less frequently than on a quarterly basis and shall be made available to the police department upon demand.
- There shall be no exterior advertising of any kind of type, including advertising directed to the exterior from within, promoting or indicating the availability of alcoholic beverages.
- Petitioner(s) shall not have a cover charge for admission. There shall not be a requirement to purchase a minimum number of drinks.

- Sales of alcoholic beverages to consumers shall be made from behind a counter where an employee will obtain the product. No self-service of alcoholic beverages by patrons will be permitted.
- The maximum display area of alcohol shall not exceed 50 square-feet.
- No alcohol shall be sold in containers less than 750 ml or 24 oz.
- There shall be no alcohol sales prior to 10:00 a.m. and after 10:00 p.m.
- 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 customer.
- Portable bars are prohibited.
- There will be no refrigeration of any alcohol product.
- There will be no self-service of any alcohol product. All alcohol will be displayed behind the counter accessible by an employee only.
- The maximum display area of alcohol will not exceed 50 square feet (approximately 5' by 10' max).
- No alcohol will be sold in containers less than 750 ml or 24 ounces.
- No alcohol or any signs advertising alcohol will be displayed in the windows and no alcohol will be visible from the street.
- No domestic alcohol will be featured. All alcohol products must be imported.
- No beer or wine will be featured or sold. Only Full Alcohol products will be featured.
- Alcohol sales will be from 10 a.m. to 10 p.m. daily. There will be no alcohol sales prior to 10 a.m. or after 10 p.m.
- A sign will be prominently displayed stating, "No Consumption of Alcohol Allowed in the Premises or on the Property Except for Permitted Areas."
- A sign will be prominently displayed stating, "No Consumption of ALcohol allowed in the Premises or on the Property Except for Permitted Areas."

### **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, 1 of the Los Angeles Municipal Code. In order for the sale of a full line of alcoholic beverages for off-site consumption to be authorized, certain designated findings have to be made. In these cases, there are additional findings in lieu of the standard findings for most other conditional use categories.

### **FINDINGS**

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 subject site fronts Pico Boulevard to the south and Van Ness Avenue to the east. The site is developed with an approximately 15,906 square-foot one-story mini-shopping center building and a surface parking lot. The portion of the building where the subject 2,600 square-foot tenant space is located, is two-stories. The location is easily accessible via the driveways on Pico Boulevard and Van Ness Avenue. The bakery will be desirable to the public convenience and welfare as it is near commercial and residential uses and is zoned for commercial uses.

The applicant is seeking a Conditional Use to authorize the off-site sale of a full line of alcohol in conjunction with the operation of an existing bakery, located within a tenant space of an existing mini-shopping center building.

The sale of alcohol within the bakery will provide an amenity and convenience in the commercial district at this location and conforms to the commercial zoning on the subject site. Therefore, the proposed location is proper in relation to adjacent uses and the development of the community.

A review of prior actions taken within the shopping center reveals that alcoholic beverages are available in other establishments. Further, there is no indication that such availability has resulted in adverse or negative impacts to the community.

Since the project is proposing the continuance of an existing bakery, no physical alterations are proposed to the building where the bakery is located. The project will be beneficial to the surrounding area by providing a viable shopping option to the area and reintroducing a use that strengthens the identity of the site. As such, approval of the request will have no adverse impact on the built environment and the use will provide a service that is beneficial to the surrounding community.

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. (LAMC Section 12.24-E,2, required for all CUP's.)**

The subject property is developed with a shopping center consisting of a variety of commercial and retail uses with a shared ground surface parking lot. The subject bakery occupies the tenant space with the address 3315 West Pico Boulevard. The use on the subject site is an existing 2,600 square-foot bakery as established by Building Permit No. 14016-20000-04461 and 14016-20001-04461.

Adjoining properties to the north are zoned RE9-1-O-HPOZ and developed with single-family uses. Properties to the south, across Pico Boulevard are zoned PF-1-O and developed with the Pio Pico Middle School. Properties to the east of Van Ness Avenue are zoned C4-1-P and developed with a pre-school and commercial uses. Adjoining properties to the west are zoned C4-1-O and developed with commercial and retail uses.

Conditions have been imposed to encourage responsible management and deter criminal activity. Also, loitering has been discouraged through the prohibition of video games, and the inclusion of signage to prohibit loitering. In response to comments from the Los Angeles Unified School District, the grant has included conditions,



including those volunteered by the applicant, to ensure the operation will not change its mode and character of a bakery/market, and that the operation does not become one of a convenience store. Alcohol sales will be subject to the conditions of this grant which are aimed to protect adjacent uses, and also subject to the conditions imposed ABC, which reflect the regulations of how alcohol is served for off-site consumption. Furthermore, the project has been conditioned to have employees partake in Los Angeles Police Department Standardized Training for Alcohol Retailers (STAR) Program, install surveillance cameras, and provide a 24 hour hotline to allow for complaints. In addition, the Zoning Administrator has imposed a condition that allows the project to be subject to review for compliance of these conditions in the event documented evidence showing noncompliance is submitted to the City. The conditions may be modified, added onto, or deleted, or may considered for revocation of the grant. As conditioned, the operation of the bakery with the sale of alcohol for off-site consumption will not adversely affect or further degrade adjacent properties, the surrounding neighborhood, or the public health, welfare and safety and the development of the community.

3. **The project substantially conforms with the purpose, intent and provisions of the General Plan, the applicable community plan, and any specific plan. (LAMC Section 12.24-E,3, required for all CUP's.)**

The elements of the General Plan establish policies that provide for the regulatory environment in managing the City and for addressing concerns and issues. The majority of the policies derived from these Elements are in the form of Code Requirements of the Los Angeles Municipal Code (LAMC). Except for the entitlement described herein, the project does not propose to deviate from any of the requirements of the LAMC.

Except for those entitlements described herein, the project does not propose to deviate from any of the requirements of the Los Angeles Municipal Code. The Land Use Element of the City's General Plan divides the City into 35 Community Plans. The Wilshire Community Plan designates the subject property for Community Commercial land use, which is consistent with its existing zoning and the proposed bakery use.

The Community Plan text is silent in regard to alcohol sales and hours of operation. In such cases, the Zoning Administrator must interpret the intent of the Plan. The sale of alcoholic beverages within the proposed bakery will provide a service and amenity to patrons of the subject shopping center and the surrounding community. As such, it is consistent with numerous provisions of the Wilshire Community Plan.

The subject property is located in the C4-1-O Zone with a Neighborhood Office Commercial land use designation within the Wilshire Community Plan Area. The predominant land use pattern with the Community Plan Area is mainly strip commercial uses and single- and multi-family uses.

The subject property is located within the Mid City Recovery Redevelopment Project Area (ZI-2174 and ZI-2280), a Transit Priority Area in the City of Los Angeles (ZI-2452), and the Los Angeles State Enterprise Zone (ZI-2374). Conditional authorization for the sale of alcohol for off-site consumption is allowed through the

approval of the Zoning Administrator subject to certain findings. Given the scope of the Conditions and limitations established herein, the surrounding land uses will not be significantly impacted by the sale of alcohol for off-site consumption. Therefore, the proposed project will be consistent with the intent of the General Plan and Community Plan.

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

The proposed project will not adversely affect the welfare of the pertinent community. As previously mentioned, the bakery has been in existence within the shopping center. The Zoning Administrator has imposed a number of conditions addressing alcohol related issues that have safeguarded public welfare. The approval of the instant request will impose conditions which will require that security measures be implemented to mitigate the negative impacts commonly associated with the sale of alcoholic beverages.

The existing bakery will remain as is within shopping center and no new construction is proposed. The operating hours will be from 6:00 a.m. to 10:00 p.m. daily. It is the intent of the Applicant to maintain the subject site as a bakery with the addition of Mexican imported alcohol. The applicant is proposing a small display area that is only serviced by an employee and will not be no refrigeration of any alcohol.

The subject bakery is located within an established shopping center in an area designated for commercial uses and surrounded mostly by other commercial and single- and multi-family uses. This approval involves tenant improvements, hour of operations and a new off-site license for a full line of alcohol consumption. The bakery is oriented to the interior of the L-shaed mini-shopping center (located at the northwestern corner), and away from surrounding properties. All nearby residential and other sensitive uses are buffered from the subject bakery by the commercial buildings and parking areas of the shopping center, a Local Street, an Avenue II Street, and other commercial development. In addition, the Zoning Administrator has imposed numerous conditions of approval to prevent adverse environmental impacts to the surrounding uses and community.

As conditioned, the sale of a full line of alcohol for off-site consumption will not adversely affect the welfare of the pertinent community. Negative impacts commonly associated with the sale of alcoholic beverages, such as criminal activity, public drunkenness, and loitering are mitigated by the imposition of conditions requiring deterrents against loitering and responsible management. Employees will undergo training on the sale of alcohol including training provided by the Los Angeles Police Department Standardized Training for Alcohol Retailers (STAR) Program. Other conditions related to excessive noise, litter and noise prevention will safeguard the residential community. Therefore, with the imposition of such conditions the sale of a full line of alcoholic beverages for off-site consumption at this location will not adversely affect or further degrade adjacent properties, the surrounding neighborhood, or the public health, welfare and safety.

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 California Department of Alcoholic Beverage Control (ABC) licensing criteria, two on-site and one off-site consumption licenses are allocated to the subject census tract (Census Tract 2131.00). Currently there are eight (8) on-site licenses and three (3) off-site licenses in this census tract. Records from the California Department of Alcoholic Beverage Control show that the applicant currently operates another tenant space at 3301 West Pico Boulevard called Expresion Oaxaquena Restaurant and has an active Type 41 Licence. No active disciplinary action was found. The grant will not be adding an additional Type 21 ABC license to the census tract.

According to statistics provided by the Los Angeles Police Department's Olympic Division Vice Unit, within Crime Reporting District No. 2062, which has jurisdiction over the subject property, a total of 192 crimes were reported in 2016 (115 Part I and 77 Part II crimes), compared to the total area average of 173 crimes for the same reporting period. Part II Crimes reported include, Narcotics (3), Liquor Laws (5), Public Drunkenness (8), Disturbing the Peace (0), Disorderly Conduct (0), Gambling (0), DUI related (11) and other offenses (13). 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.

In these active commercial areas where there is a demand for licenses beyond the allocated number and where an over-concentration of licenses is suggested, the ABC has recognized that high-activity retail and commercial centers located within revitalized hubs are supported by a significant employee population, in addition to the increasing resident population base 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. In addition, the Zoning Administrator is imposing conditions of approval in order to prevent public drinking and public drunkenness.

Negative impacts commonly associated with the sale of alcoholic beverages, such as criminal activity, public drunkenness, and loitering are mitigated by the imposition of conditions requiring surveillance, responsible management and deterrents against loitering. The conditions will safeguard the welfare of the community. As conditioned, allowing the sale of a full line of alcohol for off-site consumption at the subject location will benefit the public welfare and convenience because it would add an amenity to nearby residences.

6. **The proposed use will not detrimentally affect nearby residentially zoned communities in the area of the City involved, after giving consideration to the distance of the proposed use from residential buildings, churches, schools, hospitals, public playgrounds and other similar uses, and other establishments dispensing, for sale or other consideration, alcoholic beverages, including beer and wine.**

The project site is zoned for commercial uses and will continue to be utilized as such with the existing bakery use. The following sensitive uses are located within a 1,000-foot radius of the site:

- Pio Pico High School – 1512 Arlington Avenue
- Ethiopian Christian Fellowship Church – 3405 West Pico Boulevard
- Iglesia De Dios Pentecosta – 3273 West Pico Boulevard
- Sound of Music Pre-School – 1256 Van Ness Avenue

Consideration has been given to the distance of the subject establishment from the above-referenced sensitive uses. The grant has been well conditioned, which should protect the health, safety and welfare of the surrounding neighbors. The potential effects of excessive noise or disruptive behavior have been considered and addressed by imposing conditions related to noise and loitering. The project is consistent with the zoning and in keeping with the existing uses adjacent to the development. This project will contribute to a neighborhood and will serve the neighboring residents and the local employees as well as visitors. Therefore as conditioned, the project will not detrimentally affect residentially zoned properties or any other sensitive uses in the area.

#### **ADDITIONAL FINDINGS FOR EXTENDED HOURS OF OPERATION CONDITIONAL USE**

7. **Based on data provided by the City Department of Transportation or by a licensed traffic engineer, ingress to and egress from the project will not create a traffic hazard or cause significant traffic congestion or disruption of vehicular circulation on adjacent streets.**

The proposed bakery will continue to be located in an existing space within a 15,906 square-foot multi-tenant commercial building on an approximately 26,556 square foot property. The use at the subject property will continue and no expansion of the building footprint is proposed. There are 33 parking spaces, including one handicapped parking. The project site is also within the Los Angeles State Enterprise Zone, which reduces the number of parking spaces required onsite. Since the building already exists and the proposed project will not necessitate new circulation and access ways, no traffic study was required. The project is not expected to cause a traffic hazard or significant traffic congestion, or disruption of vehicular circulation on adjacent streets.

8. **Project approval will not create or add to a detrimental concentration of Mini-Shopping Centers or Commercial Corner Developments in the vicinity of the proposed project.**

The requested application is for the sale of alcoholic beverages for on-site consumption in conjunction with an existing bakery within an existing multi-tenant building. The project will not necessitate the development of a new commercial center. The project is located in an existing mini-shopping center in a fully developed commercial land use environment. The approval of the request, therefore, will not create or add to a detrimental concentration of mini-shopping centers in the project area.

**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 outside of a flood zone.
- 10. DETERMINED based on the whole of the administrative record, that the Project is exempt from CEQA pursuant to CEQA Guidelines, Section 1, Class 5, Category 34, and there is no substantial evidence demonstrating that an exception to a categorical exemption pursuant to CEQA Guidelines, Section 15300.2 applies.

Inquiries regarding this matter shall be directed to Lilian Rubio, Planning Staff for the Department of City Planning at (213) 978-1840.



HENRY CHU  
Associate Zoning Administrator

HC:LR:bk

cc: Councilmember Herb J. Wesson, Jr.  
Tenth Council District  
Adjoining Property Owners