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ASSOCIATE ZONING ADMINISTRATORS
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FERNANDO TOVAR
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CITY OF LOS ANGELES

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February 13, 2017

Michael Coffman (A)
7-Eleven, Inc.
1722 Routh Street Unit 100
Dallas, TX 75201

MS Partnership (O)
1517 South Sepulveda Boulevard
Los Angeles, CA 90025

R. Bruce Evans (R)
Solomon, Saltsman, & Jamieson
426 Culver Boulevard
Playa Del Rey, CA 90293

CASE NO. ZA-2016-3109 (CUB)
CONDITIONAL USE
939-945 West Pacific Coast Highway
Wilmington – Harbor City Planning Area
Zone: [Q]C2-1VL-O-CUGU
C.D.: 15
D.M.: 036B201
CEQA: ENV-2016-3110-CE
Legal Description: Fr Lots 48-50, Tract
2249

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

a Conditional Use Permit to allow the continued sale of beer and wine for off-site consumption in conjunction with an existing convenience store; and

Pursuant to Los Angeles Municipal Code Section 12.24-W,27, I hereby APPROVE:

a Conditional Use Permit to allow the 24-hour operation, daily, in lieu of 7:00 a.m. to 11:00 p.m. daily, as restricted by Mini-Shopping Center Development Standards, in conjunction with an existing convenience store,

upon the following additional terms and conditions:

1. All other use, height and area regulations of the Municipal Code and all other applicable government/regulatory agencies shall be strictly complied with in the development and use of the property, except as such regulations are herein specifically varied or required.

2. The use and development of the property shall be in substantial conformance with the plot plan and floor plan submitted with the application and marked Exhibit "A", except as may be revised as a result of this action.
3. The authorized use shall be conducted at all times with due regard for the character of the surrounding district, and the right is reserved to the Zoning Administrator to impose additional corrective Conditions, if, in the Administrator's opinion, such Conditions are proven necessary for the protection of persons in the neighborhood or occupants of adjacent property.
4. All graffiti on the site shall be removed or painted over to match the color of the surface to which it is applied within 24 hours of its occurrence.
5. A copy of the first page of this grant and all Conditions and/or any subsequent appeal of this grant and its resultant Conditions and/or letters of clarification shall be printed on the building plans submitted to the Department of City Planning and the Department of Building and Safety for purposes of having a building permit issued at any time during the term of this grant.
6. Authorized herein is the sale of beer and wine for off-site consumption in conjunction with an existing 2,510 square-foot convenience store and 24-hour operation, daily.
7. The authorization granted herein is for the sale of beer and wine for off-site consumption from the effective date of this grant.
8. **Prior to the effectuation of this grant**, a covenant acknowledging and agreeing to comply with all the terms and conditions established herein shall be recorded in the County Recorder's Office. The agreement (standard master covenant and agreement form CP-6770) shall run with the land and shall be binding on any subsequent owners, heirs or assigns. The agreement with the conditions attached must be submitted to the Development Services Center or the Department of City Planning for approval before being recorded. After recordation, a certified copy bearing the Recorder's number and date shall be provided to the Department of City Planning for inclusion in case file.
9. **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 Department of City Planning. The statement shall state,

We, the undersigned, have read and understood the conditions of approval to allow the sale of beer and wine for off-site consumption, in conjunction with the convenience store, known as 7-Eleven, and agree to abide and comply with said conditions.

A copy of the conditions of this letter of determination, business permit and insurance information shall be retained on the premises at all times and produced

upon request by the Police Department, the Department of Building and Safety or the State Department of Alcoholic Beverage Control.

10. **Prior to the beginning of operations**, an electronic age verification device shall be purchased and retained on the premises for use during operational hours. This device shall be maintained in operational condition and all employees shall be instructed on its use.
11. 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.
12. 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.
13. **Prior to the beginning of operations**, a camera surveillance system shall be installed by a State licensed contractor 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.

14. 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.
15. Only the front door shall be used for patron access. All other doors shall be equipped on the inside with an automatic locking device and shall be kept closed at all times, other than to permit access for deliveries and trash removal.
16. At least one on-duty manager with authority over the activities within the facility shall be on the premises at all times that the facility is open for business. The on-duty manager's responsibilities shall include the monitoring of the premises to ensure compliance with all applicable State laws and Municipal Code requirements. Every effort shall be undertaken in managing the facility to discourage illegal and criminal activity on the subject premises and any exterior area over which the building owner exercises control, in effort to ensure that no activities associated with such problems as narcotics sales, use or possession, gambling, prostitution, loitering, theft, vandalism and truancy occur.
17. **Prior to the beginning of operations**, 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
18. The applicant shall maintain a log of all calls, detailing: (1) date complaint received; (2) nature of complaint, and (3) the manner in which the complaint was resolved. This log shall be made available to law enforcement personnel upon request and presented as part of the application if and when a new application to continue the operation is submitted to the Department. Complaints shall be responded to within twenty four hours. The applicant shall provide photographs of the sign postings and a copy of the log to the Department of City Planning for inclusion in the Case File.
19. Loitering is prohibited on or around these premises or the area under the control of the applicant. "No Loitering or Public Drinking" signs shall be posted in and outside of the subject facility. Signs shall be in English and in the predominant language of the facility's clientele.
20. Within the **first six months of the beginning of operations** at this establishment, all employees involved with the sale of beer and wine shall enroll in the Los Angeles Police Department "Standardized Training for Alcohol Retailers" (STAR). Upon completion of such training, the applicant shall request the Police Department to issue a letter identifying which employees completed the training. The applicant shall transmit a copy of the letter referencing Case No. [ZA-2016-3109-CUB], from the Police Department to the Department of City Planning as evidence of compliance. In the event there is a change in the licensee, within six months of such change, this training program shall be required for all new staff.

The STAR training shall be conducted for all new hires within two months of their employment.

21. The applicant shall be responsible for maintaining the area adjacent to premises over which they have control, free of litter.
22. 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.
23. **MViP – Monitoring, Verification and Inspection Program.** Prior to the effectuation of this grant, fees required per L.A.M.C section 19.01 E (3) for Monitoring of Conditional Use Permits and Inspection and Field Compliance Review of Operations shall be paid to the City, Within 12 to 18 months from the beginning of operations or issuance of a Certificate of Occupancy, a City inspector will conduct a site visit to assess compliance with, or violations of, any of the conditions of this grant. Observations and results of said inspection will be documented and included in the administrative file. The owner/operator shall be notified of the deficiency or violation and required to correct or eliminate the deficiency or violation. Multiple or continued documented violations or Orders to Comply issued by the Department of Building and Safety which are not addressed within the time prescribed, may result in additional corrective conditions imposed by the Zoning Administrator.
24. **INDEMNIFICATION AND REIMBURSEMENT OF LITIGATION COSTS.**
Applicant shall do all of the following:
 - (i) Defend, indemnify and hold harmless the City from any and all actions against the City relating to or arising out of, in whole or in part, the City's processing and approval of this entitlement, including but not limited to, an action to attack, challenge, set aside, void, or otherwise modify or annul the approval of the entitlement, the environmental review of the entitlement, or the approval of subsequent permit decisions, or to claim personal property damage, including from inverse condemnation or any other constitutional claim.
 - (ii) Reimburse the City for any and all costs incurred in defense of an action related to or arising out of, in whole or in part, the City's processing and approval of the entitlement, including but not limited to payment of all court costs and attorney's fees, costs of any judgments or awards against the City (including an award of attorney's fees), damages, and/or settlement costs.
 - (iii) Submit an initial deposit for the City's litigation costs to the City within 10 days' notice of the City tendering defense to the Applicant and requesting a deposit. The initial deposit shall be in an amount set by the City Attorney's Office, in its sole discretion, based on the nature and scope of action, but in no event shall the initial deposit be less

than \$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 (ii).

- (iv) Submit supplemental deposits upon notice by the City. Supplemental deposits may be required in an increased amount from the initial deposit if found necessary by the City to protect the City's interests. The City's failure to notice or collect the deposit does not relieve the Applicant from responsibility to reimburse the City pursuant to the requirement in paragraph (ii).
- (v) If the City determines it necessary to protect the City's interest, execute an indemnity and reimbursement agreement with the City under terms consistent with the requirements of this condition.

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

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

For purposes of this condition, the following definitions apply:

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

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

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

OBSERVANCE OF CONDITIONS - TIME LIMIT - LAPSE OF PRIVILEGES

All terms and conditions of the approval shall be fulfilled before the use may be established. The instant authorization is further conditional upon the privileges being

utilized within three years after the effective date of approval and, if such privileges are not utilized or substantial physical construction work is not begun within said time and carried on diligently to completion, the authorization shall terminate and become void.

TRANSFERABILITY

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

VIOLATIONS OF THESE CONDITIONS, A MISDEMEANOR

Section 12.29 of the Los Angeles Municipal Code provides:

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

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

APPEAL PERIOD - EFFECTIVE DATE

The applicant's attention is called to the fact that this grant is not a permit or license and that any permits and licenses required by law must be obtained from the proper public agency. Furthermore, if any Condition of this grant is violated or if the same be not complied with, then the applicant or his successor in interest may be prosecuted for violating these Conditions the same as for any violation of the requirements contained in the Municipal Code. The Zoning Administrator's determination in this matter will become effective after **FEBRUARY 28, 2017**, unless an appeal therefrom is filed with the City Planning Department. It is strongly advised that appeals be filed early during the appeal period and in person so that imperfections/incompleteness may be corrected before the appeal period expires. Any appeal must be filed on the prescribed forms, accompanied by the required fee, a copy of the Zoning Administrator's action, and received and receipted at a public office of the Department of City Planning on or before the above date or the appeal will not be accepted. **Forms are available on-line at <http://planning.lacity.org>**. Public offices are located at:

Figueroa Plaza
201 North Figueroa Street,
4th Floor

Marvin Braude San Fernando
Valley Constituent Service Center
6262 Van Nuys Boulevard, Room 251

Los Angeles, CA 90012
(213) 482-7077

Van Nuys, CA 91401
(818) 374-5050

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

NOTICE

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

FINDINGS OF FACT

After thorough consideration of the statements contained in the application, the plans submitted therewith and the testimony presented at the public hearing on December 6, 2016, all of which are by reference made a part hereof, as well as knowledge of the property and surrounding district, I find that the requirements for authorizing a conditional use under the provisions of Section 12.24-W.27 have been established by the following facts:

BACKGROUND

The subject property is a rectangular-shaped, corner lot consisting of three tied parcels and approximately 16,476 square feet. It is bound by Pacific Coast Highway with a frontage of approximately 138 feet, and Wilmington Boulevard to the west with a frontage of approximately 126 feet. The property is zoned [Q]C2-1VL-O-CUGU with a General Commercial land use designation in the Wilmington-Harbor City Community Plan Area. The subject property is located within the Harbor Gateway State Enterprise Zone (ZI-2350), Clean Up Green Up Supplemental Use District (ZI-2458), Fire District 38, and is within 2.64 kilometers of the nearest known fault (Palos Verdes Fault). Given that the convenience store will be located within an existing building, it does not meet the qualifying criteria to be considered a project, thus not subject to the Clean Up Green Up Supplemental Use District.

On August 30, 2011, Certificate of Occupancy No. 95316 was issued for a tenant improvement to convert an existing Radio Shack into a 7-Eleven. The property is improved with a one-story, 9,041 square-foot commercial structure with 17 off-street surface parking spaces constructed in 1987. The tenants on the property include a laundromat, a Chinese food restaurant, and a cell phone store. On March 24, 2011, the Zoning Administrator approved Case No. ZA-2010-3110(CUB)(CU) for a Conditional Use Permit to allow the sale and dispensing of beer and wine for off-site consumption in conjunction with the operation of a 2,510 square-foot convenience market (7-Eleven) in the (Q) C2-1VL-O zone, and approval of a Conditional Use Permit to allow 24 hour

operation, daily, in lieu of the Mini-Shopping Center requirements limiting hours of operation from 7:00 a.m. to 11:00 p.m. On June 3, 2011, the Harbor Area Planning Commission denied an appeal by an aggrieved party in regards to Case No. ZA-2010-3110(CUB)(CU)(1A) and sustained the Zoning Administrator's decision for a Conditional Use Permit to allow the sale and dispensing of beer and wine for off-site consumption and to allow 24 hour operation, daily, in lieu of the Mini-Shopping Center requirements limiting hours of operation from 7:00 a.m. to 11:00 p.m. The grant was issued for a total of five years and expired on April 8, 2016.

On August 22, 2016, the applicant, 7-Eleven, Inc., filed a new case requesting a Conditional Use Permit to allow the continued sale of beer and wine for off-site consumption in conjunction with an existing convenience store, and a request for a Conditional Use Permit to allow the 24-hour operation, daily, in lieu of 7:00 a.m. to 11:00 p.m. daily, as restricted by Mini-Shopping Center Development Standards.

Properties to the north, adjacent to the subject site, are zoned [Q]C2-1VL-O-CUGU and developed with automotive repair businesses.

Properties to the south, across Pacific Coast Highway, are zoned [Q]C2-1VL-O-CUGU and developed with a gas station.

Properties to the east, adjacent to the subject site, are zoned [Q]C2-1VL-O-CUGU and R1-1XL-O-CUGU and developed with a Pizza Hut restaurant and single-family dwellings.

Properties to the west, across Wilmington Avenue, are zoned [Q]C2-1VL-O-CUGU and developed with a gas station and a motel.

Pacific Coast Highway, designated as a Boulevard II, with a right-of-way width of 110 feet, improved with a curb, gutter and sidewalk.

Gulf Avenue, designated as a Local Street-Standard, with a right-of-way width of 60 feet, improved with a curb, gutter and sidewalk.

Wilmington Boulevard, designated as an Avenue II, with a right-of-way width of 86 feet, improved with a curb, gutter and sidewalk.

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

Permit No. 10016-10000-22950 – On June 28, 2011, a Building Permit was issued for a tenant improvement to convert an existing Radio Shack into a 7-Eleven. New finishes including plumbing, electrical, equipment, counters, light package, restrooms.

Certificate of Occupancy No. 95316 – On August 30, 2011, a Certificate of Occupancy was issued for a tenant improvement to convert an existing Radio Shack into a 7-Eleven. New finishes including plumbing, electrical, equipment, counters, light package, restrooms.

Certificate of Occupancy No. 1987SP05982 – On July 25, 1990, a Certificate of Occupancy for a one story, Type VN, 32'x80', retail sales and food service. B2 Occupancy. 17 parking stalls.

Case No. ZA 2010-3110(CUB)(CU)(1A) – On June 3, 2011 the Harbor Area Planning Commission denied the appeal and sustained the Zoning Administrator's decision for the approval of a Conditional Use Permit to allow the sale and dispensing of beer and wine for off-site consumption in conjunction with the operation of a 2,510 square-foot convenience market (7-Eleven) in the (Q) C2-1VL-O zone, and approval of a Conditional Use Permit to allow 24 hour operation, daily, in lieu of the Commercial Corner requirements limiting hours of operation from 7:00 a.m. to 11:00 p.m.

Case No. ZA 2010-3110(CUB)(CU) – On March 24, 2011, the Zoning Administrator approved a Conditional Use Permit to allow the sale and dispensing of beer and wine for off-site consumption in conjunction with the operation of a 2,510 square-foot convenience market (7-Eleven) in the (Q) C2-1VL-O zone, and approval of a Conditional Use Permit to allow 24 hour operation, daily, in lieu of the Commercial Corner requirements limiting hours of operation from 7:00 a.m. to 11:00 p.m.

Case No. ZA 1985-0728(CUB) – On October 23, 1985, the Zoning Administrator approved a conditional use authorizing the sale and dispensing of alcoholic beverages for off-site consumption in conjunction with a proposed mini-market in the C2-1- O zone.

Zoning Cases on Surrounding Properties:

No surrounding cases were found within a 600-foot radius within the previous five years.

Public Hearing:

The public hearing was held on Tuesday, December 6, 2016 at approximately 9:30 a.m. at City Hall, 200 North Spring Street, Room 1070. The purpose of the hearing was to obtain public testimony from affected and/or interested persons regarding the application. Interested persons were also invited to submit written comments regarding the request prior to the public hearing.

The public hearing was attended by the applicant's representative, Jennifer Oden, Officer Stacey Young of the Los Angeles Police Department and Nathan Holmes, Representative for Council District No. 15, Joe Buscaino.

Jennifer Oden, applicant's representative presented the following:

- Here today with me is the marketing manager, field consultant for Franchisee
- This request is for a CUB renewal for the continued sale of beer and wine for off-site consumption at 7-Eleven in Wilmington
- Original use was approved in 2011 with a 5-year entitlement
- Applicant not requesting any changes to 2011 entitlement
- 9/5/2016 reached out to Wilmington Neighborhood Council's Land Use Committee. Received unanimous support. No regular meeting held with full Board

in May and June

- Request record be left open for 6 weeks to allow meeting with LAPD, Officer Young to address some concerns LAPD may have. We need at least to the end of January due to the holidays
- No ABC violations on their license
- Alcohol is kept in the back of store to prevent it from being close to door for theft problems
- Cooler doors are locked when alcohol is not being sold
- Surveillance system is in place
- A training program is required by 7-Eleven for employees involved with alcohol sales
- This location is in substantial compliance with 2011 CUB conditions
- We reached out to Council Office Rep., Mr. Holms. They are waiting to hear back from LAPD

Speaker

Veronica Sahagun

- I'm in support of the project
- I'm a customer of 7-Eleven
- I visit there 2-3 times each day
- You always get what you need there

Officer Stacey Young, Los Angeles Police Department, Detective Vice and Support Unit, provided the following testimony:

- I handle all CUB permits and investigations for the Harbor Division working with the Captain of Harbor Division, Officer Andrew Gonzales and Danny Ibarra
- In general we are having lots of 7-Elevens popping up in South Bureau Area in already high crime areas so we want security.
- We will go over a security plan
- Captain is not in favor of 24-hour operation but will allow for consistency with other 7-Eleven operations
- Request hours for alcohol sales suggested be restricted from 8:00 a.m. to 11:00 p.m. daily. Not opposed to 24-hour operation.
- Request file to remain open for 6-weeks and we accept offer to meet with applicants to develop a security plan for operation

RUBUTTAL

Jennifer Oden:

- Currently there is no roving security guard at location
- There are surveillance videos which record for at least 30 days and will be shared with LAPD upon request
- Employees are trained to monitor the location both inside and out for nuisance

activities, clean the premises and enforce no loitering.

- Most of the location within the mini-shopping center close at 10:00 p.m.
- A 24-hour hot line is posted
- Will include for the record two letters of support from neighbors

Nathan Holmes, Representative for Council District No. 15, Joe Buscaino presented the following:

- Council Office will refer to request from LAPD for restricted sale of alcohol
- In favor of keeping the record open for 6 weeks
- Would like to confirm applicant did show good faith effort to meet with Neighborhood Council full board. Board was undergoing elections at the time

In summary the Zoning Administrator note the file would remain open for a period of 6 weeks until Friday, January 20, 2017 to allow applicant to meet with LAPD to craft security conditions for the operation. The public hearing was closed for further testimony.

Correspondence:

- A letter written by Triston Dion in support of the project was submitted at the public hearing by the representative on December 6, 2016.
- A letter written by Luis Arizmendi in support of the project was submitted at the public hearing by the representative on December 6, 2016.
- A meeting agenda from the Wilmington Neighborhood Council Land Use & Planning (WNC) / Gateway & Beautification (LUPGB) Committee on May 9, 2016, was submitted at the public hearing from the representative on December 6, 2016, requesting the WNC Executive committee add the item to the agenda so the entire WNC may vote on the project.

CONDITIONS IDENTIFIED FOR CONSIDERATION BY THE STATE DEPARTMENT OF ALCOHOLIC BEVERAGE CONTROL RELATIVE TO THE SALE AND DISTRIBUTION OF ALCOHOLIC BEVERAGES

In approving the instant grant, the Zoning Administrator has not imposed Conditions specific to the sale or distribution of alcoholic beverages, even if such Conditions have been volunteered or negotiated by the applicant, in that the Office of Zoning Administration has no direct authority to regulate or enforce Conditions assigned to alcohol sales or distribution.

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

sales and distribution in association with the Conditional Use granted herein by the Zoning Administrator.

No conditions submitted for consideration.

BASIS FOR CONDITIONAL USE PERMITS

A particular type of development is subject to the conditional use process because it has been determined that such use of property should not be permitted by right in a particular zone. All uses requiring a conditional use permit from the Zoning Administrator are located within Section 12.24-W of the Los Angeles Municipal Code. In order to permit a deviation from Mini-Shopping Center/Development Standards, certain designated findings have to be made. In these cases, there are additional findings in lieu of the four 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 property is a rectangular-shaped, corner lot consisting of three tied parcels and approximately 16,476 square feet. It is bound by Pacific Coast Highway with a frontage of approximately 138 feet, and Wilmington Boulevard to the west with a frontage of approximately 126 feet. The property is zoned [Q]C2-1VL-O-CUGU with a General Commercial land use designation in the Wilmington-Harbor City Community Plan Area. The property is improved with a one-story, 9,041 square-foot commercial building and 17 off-street parking spaces. The subject property is located in the Harbor Gateway State Enterprise Zone (Z1-2350), Clean Up Green Up Supplemental Use District (Z1-2458), Fire District 38, and is within 2.64 kilometers of the nearest known fault (Palos Verdes Fault).

The applicant, 7-Eleven Inc., is requesting a Conditional Use Permit to continue the sale and dispensing of beer and wine for off-site consumption in conjunction with an existing 2,510 square-foot convenience store (7-Eleven), and a Conditional Use Permit to allow a 24-hour operation, daily. The request for the sale of beer and wine requires a discretionary action to ensure that if approved, the availability of such beverages would not have a negative impact on the surrounding community. The project will continue to provide a service to the community by providing a convenience store within walking distance to nearby residences, commercial, and retail establishments. The request for off-site sales of beer and wine will allow the business to remain competitive with other businesses in the area and provide a function that is fitting and compatible with the character of the surrounding community and commercial viability of the region as a whole.

2. **The project's location, size, height, operations and other significant features will be compatible with and will not adversely affect or further degrade adjacent properties, the surrounding neighborhood, or the public health, welfare and safety.**

The subject property is in the [Q]C2-1VL-O-CUGU Zone with a General Commercial land use designation in the Wilmington-Harbor City Community Plan Area. The property is improved with a one-story, 9,041 square-foot commercial building and 17 off-street surface parking spaces. Additionally, the subject property is located within the Harbor Gateway State Enterprise Zone (ZI-2350) and the Clean Up Green Up Supplemental Use District (ZI-2458).

Adjacent land uses consist of residential and commercial uses including retail, gas stations, offices, restaurants, and other mini-shopping center developments. Properties to the north, adjacent to the subject site, are zoned [Q]C2-1VL-O-CUGU and developed with automotive repair businesses. Properties to the south, across Pacific Coast Highway, are zoned [Q]C2-1VL-O-CUGU and developed with a gas station. Properties to the east, adjacent to the subject site, are zoned [Q]C2-1VL-O-CUGU and R1-1XL-O-CUGU and developed with a Pizza Hut restaurant and single-family dwellings. Properties to the west, across Wilmington Avenue, are zoned [Q]C2-1VL-O-CUGU and developed with a gas station and a motel.

The use of a convenience store providing beer and wine for off-site sales is consistent with the surrounding uses as it was previously approved in 2011 and has remained a good operator since. There are no new uses or changes being proposed along with this request. The height and location of the establishment is not changing and will remain the same. Therefore, as proposed, the project's location, size, height, operations and other significant features will continue to be compatible with and will not adversely affect or further degrade adjacent properties, the surrounding neighborhood, or the public health, welfare and safety.

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

There are eleven elements of the General Plan. Each of these Elements establishes policies that provide for the regulatory environment in managing the City and for addressing environmental concerns and problems. The majority of the policies derived from these Elements are in the form of Code Requirements of the Los Angeles Municipal Code. 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 subject convenience store is located within the Wilmington-Harbor City Community Plan, which designates the property for General Commercial land uses with corresponding zones of C1.5, C2, C4, RAS3, and P with the corresponding zone of [Q]C2-1VL-O-CUGU. The property is not currently within the area of any specific plan or interim control ordinances.

The Wilmington-Harbor City Community Plan is silent in regards to alcohol sales. In such cases, the Zoning Administrator must interpret the intent of the Plan. The sale beer and wine for off-site consumption in conjunction with the existing convenience store with hours of operation of 24 hours daily advance the goals of the community plan to encourage a strong and competitive commercial sector which best serves the needs of the community through maximum efficiency and accessibility while preserving the unique commercial and cultural character of the community.

The request is consistent with Objective 2-1 of the Wilmington-Harbor City Community Plan, which states "To conserve, strengthen and encourage investment in all commercial districts" as well as Objective 2-4 which states "To maintain an adequate level of commercial services and increase the commercial employment base for residents." Granting of the conditional use permit can be deemed to substantially conform to the purpose, intent and provisions of the General Plan and the Wilmington-Harbor City Community Plan.

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

The subject convenience store is located within an existing shopping center at the intersection of Pacific Coast Highway and Wilmington Boulevard in a commercially designated area. The convenience store, 7-Eleven, was previously entitled for beer and wine sales in 2011 and has an active ABC license (License No. 565840). A query of the Department of Alcohol Beverage Control's license system indicates the site has not had any disciplinary history. The approval of the conditional use request will not adversely affect the welfare of the community. The subject property is zoned for commercial uses and will be continued to be utilized as such with the existing convenience store. The request is strictly for the off-site sales of beer and wine within an existing convenience store that provides food and many household items. The requested entitlement is generally conditioned to reflect the mode of operation stated in the application. As conditioned herein, the existing use will not adversely affect the welfare of the pertinent community.

5. **The granting of the application will not result in an undue concentration of premises for the sale or dispensing for consideration of alcoholic beverages, including beer and wine, in the area of the City involved, giving consideration to applicable State laws and to the California Department of Alcoholic Beverage Control's guidelines for undue concentration; and also giving consideration to the number and proximity of these establishments within a 1,000-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 State Department of Alcoholic Beverage Control Licensing criteria, four on-sale and three off-sale licenses are allocated to subject Census Tract No. 2942.00. There are currently two on-site and two off-site licenses allocated to the Census Tract, for a total of four licenses.

Within a 1,000 feet of the subject site, the following types of alcoholic beverage licenses are active:

- Ferydoun Foladpour 910 W. Pacific Coast Highway
- PCH Petro 980 W. Pacific Coast Highway
- Glory Liquor 835 W. Pacific Coast Highway
- Los Tres Cochinitos 803 W. Pacific Coast Highway

According to statistics provided by the Los Angeles Police Department, within Crime Reporting District No. 515, which has jurisdiction over the subject property, a total of 235 crimes were reported in 2015, compared to the citywide average of 217 crimes and the high crime reporting district average of 181 crimes for the same period.

In 2015, there were (15) Narcotics, (1) Liquor Law, (10) Public Drunkenness, (0) Disturbing the Peace, (0) Disorderly Conduct, and (7) DWI related arrests. These numbers do not reflect the total number of arrests in the subject reporting district over the current accountable year.

Although the crime rate may be considered high in relation to the citywide average, it is found that the granting of this request will not result in an undue concentration of alcoholic beverages, including beer and wine, in the area of the City involved. Additionally, no disciplinary actions were found on the applicant's subject License No. 565840. Furthermore, the Alcoholic Beverage Control 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.

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

The following sensitive uses are within 1,000 feet of the project site:

- Single- and multi-family residences
- AA Clinic 1453 Wilmington Avenue

Consideration has been given to the distance of the convenience store from residential buildings and 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, nuisances, or disruptive behavior have been considered and addressed by providing security measures such as surveillance cameras, providing sufficient outdoor lighting, deterring loitering, removing graffiti within 24 hours, and keeping the surrounding area free of trash and litter. The Los Angeles Police Department did not submit a comment letter for the proposed request, however, as conditioned, the subject convenience store will continue to contribute significantly toward the enhancement of the quality of life for the community by providing extended operating hours, food, and numerous household items.

FINDINGS – MINI-SHOPPING CENTER/COMMERCIAL CORNER

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

The proposed request for the continued operation of 24-hours daily, will not cause or constitute a traffic hazard, cause significant traffic congestion, or disruption of vehicular circulation on adjacent streets as the request will include hours well beyond any peak traffic hour. The existing 7-Eleven has been occupying the existing tenant space within an existing mini-shopping center with 17 off-street parking spaces since 2010. Therefore, no new impacts are anticipated.

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 proposed project only seeks an approval for the continued off-site sales of beer and wine pursuant to an ABC Type 20 License. The existing convenience store will be located within the existing tenant space in an existing building. The subject site has been developed as a Mini-Shopping Center since 1987. Therefore, the instant request does not create or add to a detrimental concentration of Mini-Shopping Centers as no construction or building permits are associated with this request.

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, outside a flood zone.
10. On October 11, 2016, the subject project was issued a Notice of Exemption (Subsection C, Section 2, Article II, City CEQA Guidelines), log reference ENV - 2016-3110-CE, for a Categorical Exemption, Class 5, Category 23. Article III,

Section 1, City CEQA Guidelines (Sections 15300-15333, State CEQA Guidelines). I hereby adopt that action.

Inquiries regarding the matter shall be directed to the Project Planner Jose Elias at (213) 202-5437.



ALETA D. JAMES
Associate Zoning Administrator

AJ:IFA:je

cc: Councilmember Joe Buscaino
Fifteenth Council District
Adjacent Property Owners