

**CHARLES J. RAUSCH, JR.**  
INTERIM CHIEF ZONING ADMINISTRATOR

**ASSOCIATE ZONING ADMINISTRATORS**

JACK CHIANG  
HENRY CHU  
LOURDES GREEN  
THEODORE L. IRVING  
ALETA D. JAMES  
FRANKLIN N. QUON  
FERNANDO TOVAR  
DAVID S. WEINTRAUB  
MAYA E. ZAITZEVSKY

**CITY OF LOS ANGELES**  
CALIFORNIA



**ERIC GARCETTI**  
MAYOR

**DEPARTMENT OF  
CITY PLANNING**

VINCENT P. BERTONI, AICP  
DIRECTOR  
(213) 978-1271  
KEVIN J. KELLER, AICP  
EXECUTIVE OFFICER  
(213) 978-1272  
LISA M. WEBBER, AICP  
DEPUTY DIRECTOR  
(213) 978-1274  
JAN ZATORSKI  
DEPUTY DIRECTOR  
(213) 978-1273

<http://planning.lacity.org>

November 9, 2017

Peter A. Pappas (A)(O)  
Medallion Properties LLC  
2050 Huntington Drive, Unit A  
South Pasadena, CA 91030

Michael Pauls (R)  
Michael Pauls Associates  
6475 East Pacific Coast Highway #135  
Long Beach, CA 90803

CASE NO. ZA 2017-1933(CUB)  
CONDITIONAL USE  
1234 West Wilshire Boulevard (1230-  
1260 West Wilshire Boulevard)  
Westlake Planning Area  
Zone : CW  
D.M. : 130-5A207  
C.D. : 1  
CEQA: ENV-2003-5274-MND-REC2  
Legal Description: Lot LT1 of Tract TR  
65289-C

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

a Conditional Use to permit the sale and dispensing of beer and wine for off-site consumption, in conjunction with the operation of a new convenience store (7-Eleven) within the ground floor of a mixed use building in the CW Zone,

upon the following additional terms and conditions:

1. All other use, height and area regulations of the Municipal Code and all other applicable government/regulatory agencies shall be strictly complied with in the development and use of the property, except as such regulations are herein specifically varied or required.
2. The use and development of the property shall be in substantial conformance with the plot plan submitted with the application and marked Exhibit "A", except as may be revised as a result of this action.
3. The authorized use shall be conducted at all times with due regard for the character of the surrounding district, and the right is reserved to the Zoning Administrator to impose additional corrective Conditions, if, in the Administrator's opinion, such Conditions are proven necessary for the protection of persons in the neighborhood or occupants of adjacent property.

4. All graffiti on the site shall be removed or painted over to match the color of the surface to which it is applied within 24 hours of its occurrence.
5. A copy of the first page of this grant and all Conditions and/or any subsequent appeal of this grant and its resultant Conditions and/or letters of clarification shall be printed on the building plans submitted to the Development Services Center and the Department of Building and Safety for purposes of having a building permit issued.
6. Approved herein is the sale of beer and wine for off-site consumption in conjunction with a 1,968 square-foot convenience store (7-Eleven) on the ground floor of a mixed use building.
7. The hours of operation shall be 24 hours, daily.
8. This conditional use authority to sell alcoholic beverages applies only to the subject facility (7-Eleven).
9. The Applicant shall file a **Plan Approval** application within one (1) year from the effective date of this determination. The operational date of this determination shall be identified and confirmed by the Planning Department's Condition Compliance Unit. The Plan Approval application shall be subject to filing fees shall be conducted subject to notification requirements established by the Los Angeles Municipal Code Section 12.24-D. The purpose of the Plan Approval is to review the effectiveness of, and compliance with the terms of this grant. Upon review of the effectiveness of and compliance with the conditions, the Zoning Administrator may modify such conditions, delete, or add new ones, including adding security for the convenience store operation, as appropriate and require a subsequent plan approval, as necessary, and reserves the right to conduct this public hearing for nuisance abatement/revocation purposes.
10. Parking shall be provided in compliance with the Municipal Code and to the satisfaction of the Department of Building and Safety. No variance from the parking requirements has been requested or granted herein.
11. A manager shall be on duty at all times during hours of operation. A minimum two employees shall be present at all times of operation.
12. No public pay phones shall be maintained on the exterior of the premises.
13. There shall be no coin-operated games, no electronic or video game machines permitted on the premises at any time.
14. That "No Loitering" and No Public Drinking of Alcoholic Beverages" signs will be posted at the front, side and rear of the site's exterior. These signs must be in English and Spanish.
15. That the herein-authorized use will be conducted at all times with due regard for the character of the surrounding district.

16. That the subject facility, including any associated parking, will be maintained in an attractive condition and will be kept free of trash and debris.
17. That all exterior public spaces front, side and rear will be illuminated with sufficient lighting for the police to identify all person standing outdoors at night.
18. An employee of the site will, hourly, observe the exterior of the site to ensure that no loitering, harassment of customers, and panhandling occurs. Loiterers, panhandlers and those harassing customers will be asked to leave the site.
19. The applicant shall maintain a log of all calls, detailing: date complaint received; nature of complaint, and 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.
20. That signs will be posted stating that California State Law prohibits the sale of alcoholic beverages to persons who are under twenty-one years of age.
21. Within six months of the effective date of this action, all employees and managers involved with the sale of alcoholic beverages shall enroll in the Los Angeles Police Department "Standardized Training for Alcohol Retailers (STAR)". Upon completion of such training, the applicant shall request the Police Department to issue a letter identifying which employees completed the training. The applicant shall transmit a copy of the letter from the Police Department to the Zoning Administrator/Planning Department as evidence of compliance. All new employees shall complete the training within 60 days of hire and then every 12 months thereafter.
22. Security cameras will be provided inside and outside of the premises to cover the entire site, including the entrance and exit, and running at all times. Data will be stored for 60 days. The videotapes shall be made available to Police upon request.
23. Electronic age verification device(s) which can be used to determine the age of any individual attempting to purchase alcoholic beverages and shall be installed on the premises at each point-of-sale location. The device(s) shall be maintained in an operational condition and all employees shall be instructed in their use prior to the sale of any alcoholic beverages.
24. All licenses, permits, and conditions shall be posted in a conspicuous location at the facility. Additionally, a copy shall be provided to all employees who shall sign an acknowledgement form stating that they have read and understood all of the ABC and conditional use permit conditions. Said form shall be maintained at the location by the owner and/or manager who shall present it to Police personnel, ABC investigators, or any other City agency upon request.

25. The applicant, owner, and on-site manager(s) shall comply with applicable laws and conditions and shall properly manage the facility to discourage illegal and criminal activity on the subject premises and any accessory parking areas over which they exercise control, including insuring that no activities associated with narcotics sales, use or possession, gambling, or prostitution occur.
26. The applicant shall maintain locked beer and wine cooler doors at all times. Customer access to cooler doors containing beer and wine shall only be provided by store employees upon customer request.
27. A security plan shall be prepared to the satisfaction of the LAPD who shall approve said plan in writing. This plan shall be in place and operational prior to applicant's utilization of any zoning entitlement granted herein.
28. The exterior windows and glass doors of the store shall be maintained substantially free of signs and other materials from the ground to at least six feet above the ground to as to permit surveillance into the store by Police. All exterior portions of the site shall be adequately illuminated in the evening so as to make discernible the faces and clothing of person utilizing the space. Lighting shall be directed onto the site and no lighting shall be located as to be seen directly by person on adjacent properties. No exterior advertising of alcoholic beverages shall be permitted.
29. Window coverings will not exceed 25 percent of total windows.

**The following Condition No. 30 is required pursuant to the Mitigated Negative Declaration ENV-2003-5274-MND and subsequent Addendums (ENV-2003-5274-REC1 and ENV-2003-5274-REC2), and shall be complied with.**

**NOTE:** Construction of the building has been completed. In order to obtain building permits, the applicant was required to comply with environmental conditions issued in Case No. ZA-2003-5273-ZAA-SPP-SPPA-SPR found in the determination letter dated March 31, 2004 and Vesting Tentative Tract No. 65289 found in the determination letter dated April 25, 2006. As such, the majority of construction mitigation measures have already been satisfied. For consistency, these conditions have been carried over to the Environmental Conditions herein and the project shall continue to comply with all operational mitigation measures imposed. In addition, the applicant shall provide copies of the recorded master covenant and agreements pertaining to the above-referenced cases to the Department of City Planning for inclusion in the case file for Case No. ZA-2017-1933-CUB.

30. Environmental Conditions.
  - a. Aesthetics (Landscaping). All open areas not used for buildings, driveways, parking areas, recreational facilities or walks shall be attractively landscaped and maintained in accordance with a landscape plan, including an automatic irrigation plan, prepared by a licensed landscape architect to the satisfaction of the Planning Department.

- b. Aesthetics (Graffiti). The owners shall maintain the subject property clean and free of debris and rubbish and to promptly remove any graffiti from the walls, pursuant to Municipal Code Sections 91.8101-F, 91.8904-1 and 91.1707-E. Exterior walls of new commercial and residential buildings of other than glass may be covered with clinging vines, screened by oleander trees or similar vegetation capable of covering or screening entire walls up to heights of at least 9 feet, excluding windows and signs.
- c. Aesthetics (Light). Outdoor lighting shall be designed and installed with shielding, so that the light source cannot be seen from adjacent residential properties.
- d. Air Pollution (Stationary). The applicant shall install air filtration system(s) to reduce the diminished air quality effects on occupants of the project.
- e. Tree Removal (Non-Oaks).
  - i. Prior to the issuance of a grading permit, a plot plan prepared by a reputable tree expert as defined by Ordinance 153,478, indicating the location, size, type, and condition of all existing trees on the site shall be submitted for approval by the Department of City Planning and the Street Tree Division of the Bureau of Street Maintenance. All trees in the public right-of-way shall provided per the current Street Tree Division standards.
  - ii. The plan shall contain measures recommended by the tree expert for the preservation of as many trees as possible. Mitigation measures such as replacement by a minimum of 24-inch box trees in the parkway and on the site, on a 1:1 basis, shall be required for the unavoidable loss of desirable trees on the site, and to the satisfaction of the Street Tree Division of the Bureau of Street Maintenance and the Advisory Agency.

Note: Removal of all trees in the public right-of-way shall require approval of the Board of Public Works. Contact: Street Tree Division at 213-485-5675.

- f. Cultural Resources (Archaeological).
  - i. If any archaeological materials are encountered during the course of the project development, the project shall be halted. The services of an archaeologist shall be secured by contacting the Center for Public Archaeology - Cal State University Northridge, or a member of the Society of Professional Archaeologist (SOPA) or a SOPA-qualified archaeologist to assess the resources and evaluate the impact.
  - ii. Copies of the archaeological survey, study or report shall be submitted to the UCLA Archaeological Information Center.
  - iii. A covenant and agreement shall be recorded prior to obtaining a grading permit.

## g. Erosion/Grading/Short-Term Construction Impacts.

## i. Air Quality.

1. All unpaved demolition and construction areas shall be wetted at least twice daily during excavation and construction, and temporary dust covers shall be used to reduce dust emissions and meet SCAQMD District Rule 403. Wetting could reduce fugitive dust by as much as 50 percent.
2. The owner or contractor shall keep the construction area sufficiently dampened to control dust caused by construction and hauling, and at all times provide reasonable control of dust caused by wind.
3. All loads shall be secured by trimming, watering or other appropriate means to prevent spillage and dust.
4. All materials transported off-site shall be either sufficiently watered or securely covered to prevent excessive amount of dust.
5. All clearing, earth moving, or excavation activities shall be discontinued during periods of high winds (i.e., greater than 15 mph), so as to prevent excessive amounts of dust.
6. General contractors shall maintain and operate construction equipment so as to minimize exhaust emissions.

## ii. Noise.

1. The project shall comply with the City of Los Angeles Noise Ordinance Nos. 144,331 and 161,574, and any subsequent ordinances, which prohibit the emission or creation of noise beyond certain levels at adjacent uses unless technically infeasible.
2. Construction shall be restricted to the hours of 7 a.m. to 6 p.m. Monday through Friday, and 8 a.m. to 6 p.m. on Saturday.
3. Construction activities shall be scheduled so as to avoid operating several pieces of equipment simultaneously, which causes high noise levels.
4. The project contractor shall use power construction equipment with state-of-the-art noise shielding and muffling devices.
5. The project sponsor must comply with the Noise Insulation Standards of Title 24 of the California Code Regulations, which insure an acceptable interior noise environment.

## iii. General Construction.

1. All waste shall be disposed of properly. Use appropriately labeled recycling bins to recycle construction materials including: solvents, water-based paints, vehicle fluids, broken asphalt and concrete, wood, and vegetation. Non recyclable materials/wastes must be taken to an appropriate landfill. Toxic wastes must be discarded at a licensed regulated disposal site.
  2. Clean up leaks, drips and spills immediately to prevent contaminated soil on paved surfaces that can be washed away into the storm drains.
  3. Do not hose down pavement at material spills. Use dry cleanup methods whenever possible.
  4. Cover and maintain dumpsters. Place uncovered dumpsters under a roof or cover with tarps or plastic sheeting.
  5. Use gravel approaches where truck traffic is frequent to reduce soil compaction and limit the tracking of sediment into streets.
  6. Conduct all vehicle/equipment maintenance, repair, and washing away from storm drains. All major repairs are to be conducted off-site. Use drip pans or drop clothes to catch drips and spills.
- h. Explosion/Release (Asbestos Containing Materials). Prior to the issuance of the demolition permit, the applicant shall provide a letter to the Department of Building and Safety from a qualified asbestos abatement consultant that no ACM are present in the building. If ACM are found to be present, it will need to be abated in compliance with the South Coast Air Quality Management District's Rule 1403 as well as all other state and federal rules and regulations.
- i. Single Family Dwelling (1 0+ Home Subdivision/Multi Family).
- i. Project applicants are required to implement stormwater BMPs to retain or treat the runoff from a storm event producing 3/4 inch of rainfall in a 24 hour period. The design of structural BMPs shall be in accordance with the Development Best Management Practices Handbook Part B Planning Activities. A signed certificate from a California licensed civil engineer or licensed architect that the proposed BMPs meet this numerical threshold standard is required.
  - ii. Post-development peak storm water runoff discharge rates shall not exceed the estimated pre-development rates and shall not exceed the estimated pre-development rate for developments where the increase peak stormwater discharge rate will result in increased potential for downstream erosion.
  - iii. Concentrate or cluster development on portions of a site while leaving the remaining land in a natural undisturbed condition.

- iv. Limit clearing and grading of native vegetation at the project site to the minimum needed to build lots, allow access, and provide fire protection.
- v. Maximize trees and other vegetation at each site by planting additional vegetation, clustering tree areas, and promoting the use of native and/or drought tolerant plants.
- vi. Preserve riparian areas and wetlands.
- vii. Any connection to the sanitary sewer must have authorization from the Bureau of Sanitation.
- viii. Reduce impervious surface area by using permeable pavement materials where appropriate, including: pervious concrete/asphalt; unit pavers, i.e. turf block; and granular materials, i.e. crushed aggregates, cobbles.
- ix. Install roof runoff systems where site is suitable for installation. Runoff from rooftops is relatively clean, can provide groundwater recharge and reduce excess runoff into storm drains.
- x. Guest parking lots constitute a significant portion of the impervious land coverage. To reduce the quantity of runoff, parking lots can be designed one of two ways.
  1. Hybrid Lot - parking stalls utilize permeable materials, such as crushed aggregate, aisles are constructed of conventional materials such as asphalt.
  2. Parking Grove - is a variation on the permeable stall design, a grid of trees and bollards are added to delineate parking stalls. This design presents an attractive open space when cars are absent, and shade when cars are present.
- xi. Paint messages that prohibits the dumping of improper materials into the storm drain system adjacent to storm drain inlets. Prefabricated stencils can be obtained from the Dept. of Public Works, Stormwater Management Division.
- xii. Promote natural vegetation by using parking lot islands and other landscaped areas.
- xiii. All storm drain inlets and catch basins within the project area must be stenciled with prohibitive language (such as "NO DUMPING – DRAINS TO OCEAN") and/or graphical icons to discourage illegal dumping.
- xiv. Signs and prohibitive language and/or graphical icons, which prohibit illegal dumping, must be posted at public access points along channels and creeks within the project area.

- xv. Legibility of stencils and signs must be maintained.
  - xvi. Materials with the potential to contaminate stormwater must be: (a) placed in an enclosure such as, but not limited to, a cabinet, shed, or similar stormwater conveyance system; or (b) protected by secondary containment structures such as berms, dikes, or curbs.
  - xvii. The storage area must be paved and sufficiently impervious to contain leaks and spills.
  - xviii. The storage area must have a roof or awning to minimize collection of stormwater within the secondary containment area.
  - xix. Design an efficient irrigation system to minimize runoff including: drip irrigation for shrubs to limit excessive spray; shutoff devices to prevent irrigation after significant precipitation; and flow reducers.
  - xx. Runoff from hillside areas can be collected in a vegetative swale, wet pond, or extended detention basin, before it reaches the storm drain system.
  - xxi. Cut and fill slopes in designated hillside areas shall be planted and irrigated to prevent erosion, reduce runoff velocities and to provide long term stabilization of soil. Plant materials include: grass, shrubs, vines, ground covers, and trees.
  - xxii. Incorporate appropriate erosion control and drainage devices, such as interceptor terraces, berms, vee-channels, and inlet and outlet structures, as specified by Section 91.7013 of the Building Code. Protect outlets of culverts, conduits or channels from erosion by discharge velocities by installing rock outlet protection. Rock outlet protection is physical device composed of rock grouted, riprap, or concrete rubble placed at the outlet of a pipe. Install sediment traps below the pipe-outlet. Inspect, repair and maintain the outlet protection after each significant rain.
  - xxiii. The owner(s) of the property will prepare and execute a covenant and agreement (Planning Department General form CP-6770) satisfactory to the Zoning Administrator binding the owners to post construction maintenance on the structural BMPs in accordance with the Standard Urban Stormwater Mitigation plan and/or per manufacturer's instructions.
- j. Increased Noise Levels (Parking Structure Ramps).
- i. Concrete, not metal, shall be used for construction of parking ramps.
  - ii. The interior ramps shall be textured to prevent tire squeal at turning areas.
  - iii. Parking lots located adjacent to residential buildings shall have a solid decorative wall adjacent to the residential.

- k. Severe Noise Levels (Residential Only).
  - i. All exterior windows having a line of sight of Wilshire Boulevard shall be constructed with double-pane glass and use exterior wall construction which provides a Sound Transmission Class of 50 or greater as defined in UBC No. 35-1, 1979 edition or any amendment thereto.
  - ii. The applicant, as an alternative, may retain an acoustical engineer to submit evidence, along with the application for a building permit, any alternative means of sound insulation sufficient to mitigate interior noise levels below a CNEL of 45 dBA in any habitable room.
- l. Public Services (Fire). The following recommendations of the Fire Department relative to fire safety shall be incorporated into the building plans, which includes the submittal of a plot plan for approval by the Fire Department either prior to the recordation of a final map or the approval of a building permit. The plot plan shall include the following minimum design features: fire lanes, where required, shall be a minimum of 20 feet in width; all structures must be within 300 feet of an approved fire hydrant, and entrances to any dwelling unit or guest room shall not be more than 150 feet in distance in horizontal travel from the edge of the roadway of an improved street or approved fire lane.
- m. Public Services (Police General). Incorporate into the plans the design guidelines relative to security, semipublic and private spaces, which may include but not be limited to access control to building, secured parking facilities, walls/fences with key systems, well-illuminated public and semi-public space designed with a minimum of dead space to eliminate areas of concealment, location of toilet facilities or building entrances in high-foot traffic areas, and provision of security guard patrol throughout the project site if needed. Please refer to Design Out Crime Guidelines: Crime Prevention Through Environmental Design published by the Los Angeles Police Department's Crime Prevention Section (located at Parker Center, 150 N. Los Angeles Street, Room 81 8, Los Angeles, (213) 485-3134. These measures shall be approved by the Police Department prior to the issuance of building permits.
- n. Public Services (Schools).
  - i. The developer and contractors must maintain ongoing contact with administrator of the school. The administrative offices should be contacted when demolition, grading and construction activity begin on the project site so that students and their parents will know when such activities are to occur. The developer must obtain school walk and bus routes to the schools from either the administrators or from the LAUSD's Transportation Branch (323) 227-4400 and guarantee that safe and convenient pedestrian and bus routes to the school be maintained.
  - ii. The developer should install appropriate traffic signs around the site to ensure pedestrian and vehicle safety.

- iii. Haul route scheduling should be sequenced to minimize conflicts with pedestrians, school buses and cars at the arrival and dismissal times of the school day. Haul route trucks shall not be routed past the school during periods when school is in session especially when students are arriving or departing from the campus.
- iv. There shall be no staging or parking of construction vehicles, including vehicles to transport workers on any of the streets adjacent to the school.
- v. Due to noise impacts on the schools, no construction vehicles or haul trucks may be staged or idled on these streets during school hours.
- vi. Fences shall be constructed around the site to minimize trespassing, vandalism, short-cut attractions and attractive nuisances.
- o. Public Services (Street Improvements Not Required By DOT). The project shall comply with the Bureau of Engineering's requirements for street dedications and improvements that will reduce traffic impacts in direct portion to those caused by the proposed project's implementation.
- p. Increased Vehicle Trips/Congestion. Implementing measure(s) detailed in said Department's communication to the applicant dated December 8,2003 and attached. Such report and mitigation measure(s) are incorporated herein by reference.
- q. Safety Hazards. Submit a parking and driveway plan, that incorporates design features that shall reduce accidents, to the Bureau of Engineering and the Department of Transportation for approval.
- r. Utilities (Solid Waste).
  - i. The applicant shall institute a recycling program to the satisfaction of the Zoning Administrator to reduce the volume of solid waste going to landfills in compliance with the City's goal of a 50% reduction in the amount of waste going to landfills by the year 2000.
  - ii. Recycling bins shall be provided at appropriate locations to promote recycling of paper, metal, glass, and other recyclable material.
- s. Rock outlet protection is a physical devise composed of rock, grouted riprap, or concrete rubble placed at the outlet of a pipe. Install sediment traps below the pipe-outlet. Inspect, repair and maintain the outlet protection after each significant rain.
- t. The owner(s) of the property will prepare and execute a covenant and agreement (Planning Department General form CP-6770) satisfactory to the Planning Department binding the owners to post construction maintenance on the structural BMPs in accordance with the Standard Urban Stormwater Mitigation Plan and or per manufacturer's instructions.

- u. Submit a parking and driveway plan to the Bureau of Engineering and the Department of Transportation for approval that shall provide code-required emergency access.
  - v. That a sign be required on site clearly stating a contact/complaint telephone number that provides contact to a live voice, not a recording or voice mail, during all hours of construction, the construction site address, and the tract map number. **YOU ARE REQUIRED TO POST THE SIGN 7 DAYS BEFORE CONSTRUCTION IS TO BEGIN.**
    - i. Locate the sign in a conspicuous place on the subject site or structure (if developed) so that it can be easily read by the public. The sign must be sturdily attached to a wooden post if it will be free-standing.
    - ii. Regardless of who posts the site, it is always the responsibility of the applicant to assure that the notice is firmly attached, legible, and remains in that condition throughout the entire construction period.
    - iii. If the case involves more than one street frontage, post a sign on each street frontage involved. If a site exceeds five (5) acres in size, a separate notice of posting will be required for each five (5) acres, or portion thereof. Each sign must be posted in a prominent location.
31. A 24-hour "hot line" telephone number shall be provided for the receipt of complaints or inquiries from the community regarding the subject facility. Prior to the utilization of this grant, the phone number shall be posted on the site so that is readily visible to any interested party. The hot line shall be:
- posted at the entry and the cashier or customer service desk;
  - provided to the immediate neighbors, schools, and Neighborhood Council; and
  - responded to within 24-hours of any complaints/inquiries received on this hot line.
- The applicant shall document and maintain a log of complaints received, the date and time received and the disposition of the response. The log shall be made available for review by the Los Angeles Police Department and the Zoning Administrator upon request.
32. The conditions of this grant, a police permit, a copy of a business license, insurance information and an emergency contact phone number for the operator and valet service(s), if any, shall be retained on the premises at all times and be immediately produced upon request of the Los Angeles Police Department, the Department of City Planning, State Department of Alcoholic Beverage Control or other responsible agencies. The manager and all employees shall be knowledgeable of these Conditions.
33. No music, sound or noise shall be emitted from the subject businesses at a level prohibited by the noise regulations of the Los Angeles Municipal Code. Amplified recorded-music shall not be audible beyond the area under control of the applicant,

and any sound or noise emitted that is under the control of the petitioner shall constitute a violation of Section 116.01 of the LAMC, including any loud, unnecessary or unusual noise that disturbs the peace or quiet of any neighborhood or that causes discomfort.

34. The applicant shall be responsible for maintaining free of litter the area adjacent to the premises over which they have control, including the sidewalk in front of the convenience store.
35. Deliveries shall be limited between the hours of 8 a.m. to 10 p.m., daily.
36. Trash/recycling containers shall be locked when not in use. Trash/recycling containers shall not be placed in or block access to required parking.
37. Within 30 days of the effective date of the Department of Alcoholic Beverage Control license, and within 30 days of the effective date of any modification or alteration of terms of said license, the applicant shall transmit a copy of the valid Department of Alcoholic Beverage Control license to the Zoning Administrator for attachment to the case file.
38. Prior to the clearance of any conditions, the applicant shall show proof that all fees have been paid to the Department of City Planning, Expedited Processing Section.
39. Within 30 days of the effective date of this grant, a covenant acknowledging and agreeing to comply with all the terms and conditions established herein shall be recorded in the County Recorder's Office. The agreement (standard master covenant and agreement form CP-6770) shall run with the land and shall be binding on any subsequent owners, heirs or assigns. The agreement with the conditions attached must be submitted to the Development Services Center or the Condition Compliance Unit for approval before being recorded. After recordation, a certified copy bearing the Recorder's number and date shall be provided to the Development Services Center or Condition Compliance Unit for attachment to the subject case file.
40. ***Prior to the beginning of operations***, the applicant shall notify the Condition Compliance Unit via email or U.S. Mail when operations are scheduled to begin and shall submit a copy of the Certificate of Occupancy for the Case File. The notification shall be submitted to [planning.ccu@lacity.org](mailto:planning.ccu@lacity.org), with the subject: of the email to include the case number, ***"ZA 2017-1933-CUB/Operation Notification"***. The applicant shall also submit (attached or mailed) evidence of compliance with any conditions which require compliance "prior to the beginning of operations" as stated by these conditions.
41. **Prior to the beginning of operations**, the manager of the facility shall be made aware of the conditions and shall inform his/her employees of the same. A statement with the signature, printed name, position and date signed by the manager and his/her employees shall be provided to the Condition Compliance Unit within 30-days of the beginning day of operation of the establishment. The statement shall read as follows,

*We, the undersigned, have read and understand the conditions of approval to allow the sale and dispensing of a 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.*

42. 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 has been provided to the prospective owner/operator, including the conditions required herewith, shall be submitted to the Condition Compliance Unit 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 Condition Compliance Unit within 30-days of the beginning day of his/her new operation of the establishment along with the dimensioned floor plan, seating arrangement and number of seats of the new operation.
43. If at any time during the period of the grant, should documented evidence be submitted showing continued violation(s) of any condition(s) of the grant, resulting in a disruption or interference with the peaceful enjoyment of the adjoining and neighboring properties, the Zoning Administrator will have the right to require the petitioner(s) to file for a plan approval application together with the associated fees, to hold a public hearing to review the petitioner's compliance with and the effectiveness of the conditions of the grant. The petitioner(s) shall submit a summary and supporting documentation of how compliance with each condition of the grant has been attained.
44. Should there be a change in the ownership and/or the 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 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, shall be submitted to the Department of Planning, Condition Compliance Unit 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.
45. **MViP – Monitoring, Verification and Inspection Program.** At any time, before, during, or after operating hours, a City inspector may conduct a site visit to assess compliance with, or violations of, any of the conditions of this grant. Observations

and results of said inspection will be documented and used to rate the operator according to the level of compliance. If a violation exists, the operator/operator will be notified of the deficiency or violation and will be required to correct or eliminate the deficiency or violation. Multiple or continued documented violations or Orders to Comply issued by the Department of Building and Safety which are not addressed within the time prescribed therein, may result in denial of future requests to renew or extend this grant.

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 (b).
- (d) Submit supplemental deposits upon notice by the City. Supplemental deposits may be required in an increased amount from the initial deposit if found necessary by the City to protect the City's interests. The City's failure to notice or collect the deposit does not relieve the Applicant from responsibility to reimburse the City pursuant to the requirement in paragraph (b).
- (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 includes actions, as defined herein, alleging failure to comply with any federal, state or local law.

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

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

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

### **TRANSFERABILITY**

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

### **VIOLATIONS OF THESE CONDITIONS, A MISDEMEANOR**

Section 12.29 of the Los Angeles Municipal Code provides:

"A variance, conditional use, adjustment, public benefit or other quasi-judicial approval, or any conditional approval granted by the Director, pursuant to the authority of this chapter shall become effective upon utilization of any portion of the privilege, and the owner and applicant shall immediately comply with its

Conditions. The violation of any valid Condition imposed by the Director, Zoning Administrator, Area Planning Commission, City Planning Commission or City Council in connection with the granting of any action taken pursuant to the authority of this chapter, shall constitute a violation of this chapter and shall be subject to the same penalties as any other violation of this Code.”

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

### **APPEAL PERIOD - EFFECTIVE DATE**

The applicant's attention is called to the fact that this grant is not a permit or license and that any permits and licenses required by law must be obtained from the proper public agency. Furthermore, if any Condition of this grant is violated or if the same be not complied with, then the applicant or his successor in interest may be prosecuted for violating these Conditions the same as for any violation of the requirements contained in the Municipal Code. The Zoning Administrator's determination in this matter will become effective after **NOVEMBER 27, 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:

**Downtown**  
 Figueroa Plaza  
 201 North Figueroa Street, 4th  
 Floor  
 Los Angeles, CA 90012  
 (213) 482-7077

**San Fernando Valley**  
 Marvin Braude San Fernando  
 Valley Constituent Service  
 Center  
 6262 Van Nuys Boulevard,  
 Room 251  
 Van Nuys, CA 91401  
 (818) 374-5050

**West Los Angeles**  
 West Los Angeles Development  
 Services Center  
 1828 Sawtelle Boulevard, 2nd  
 Floor  
 Los Angeles, CA 90025  
 (310) 231-2598

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 the Zoning Administrator who acted on the 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, the report of the Zoning Analyst thereon, the statements made at the public hearing on September 6, 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 permit under the provisions of Section 12.24-W have been established by the following facts:

### **BACKGROUND**

The subject property is a level, irregularly-shaped parcel, of approximately 1.64 acres having frontages on Wilshire Boulevard, Ingraham Street, and Witmer Street. The property is developed with a six-story mixed-use development containing 197 residential condominium units at 6,000 square feet of ground floor commercial space, constructed in 2006. The request herein includes a 7-Eleven convenience store in which the applicant is requesting a Conditional Use Permit to allow the sale and dispensing of beer and wine for off-site consumption. The store area will have 1,968 square feet and is proposed to operate 24-hours, daily. The sale and dispensing of beer and wine for off-site consumption are proposed from 6:00 AM to 1:00 AM, daily. The entire mixed-use development provides 416 parking spaces, of which 28 parking spaces are designated for the commercial uses.

The project site is located within the Westlake Community Plan, which designates the site for High Density Residential and Regional Center Commercial land uses. The site is also located within the boundaries of the Central City West Specific Plan. However, in a Project Planning Referral Form, dated May 4, 2017, it was determined that the request does not meet the definition for "project" that would necessitate further Specific Plan review. The property is not within the area of any other overlays or interim control ordinances, but is located within the City of Los Angeles Transit Priority Area and Los Angeles State Enterprise Zone. The property is served by the LAPD's Central Bureau, Rampart Station and the Fire Department's Central Bureau, Battalion 11, Fire Station No. 11.

Surrounding properties are within the CW Zone and improved with a mix of residential, commercial, office, institutional, and parking uses. Property to the north, across Wilshire Boulevard, is developed with the Good Samaritan Hospital. Easterly, fronting Wilshire Boulevard, adjoining property is improved with a two-story office building. East of that is a six-story office building. South of the subject property, across Ingraham Street, is a surface parking lot. To the west of the project site, fronting Ingraham Street, is a three-story apartment building containing 29 dwelling units. West of that is a four-story, 40-unit apartment development and surface parking at the southeast corner of Ingraham Street and Witmer Street.

### **Streets**

Wilshire Boulevard, adjoining the subject property to the north, is an Avenue II, dedicated to a 100-foot width at the project's street frontage, and improved with curb, gutter, and sidewalk.

Ingraham Street, adjoining the subject property to the south, is a Collector Street, dedicated to a 60-foot width at the project's street frontage, and improved with curb, gutter, and sidewalk.

Witmer Street, adjoining the subject property to the west, is a Collector Street, dedicated to a 77-foot width at the project's street frontage, and improved with curb, gutter, and sidewalk.

### **Previous Cases, Affidavits, Permits, and Orders on the Applicant's Property**

Case No. ZA 2003-5273-ZAA-SPP-SPPA-SPR – On March 31, 2004, the Zoning Administrator approved a Zoning Administrator's Adjustment, Specific Plan Project Permit Compliance Review, and Specific Plan Project Permit Adjustment, and dismissed a Site Plan Review, in conjunction with a proposed 235-unit mixed-use development with 12,500 square feet of ground floor commercial space.

Vesting Tentative Tract No. 65289 – On April 24, 2006, the Advisory Agency approved Vesting Tentative Tract No. 65289 composed of one lot for a maximum 197-unit residential condominium and one commercial condominium containing 7,560 square feet.

Case No. DIR-2007-5545-SPP – On March 19, 2008, the Director of Planning approved a Specific Plan Project Permit Compliance Review for a sign program including nine signs, which include the approval of two existing signs, identification signs, and the installation of seven illuminated wall signs above the commercial spaces on the ground floor of the building.

### **Previous Cases, Affidavits, Permits, and Orders on Surrounding Properties**

The following cases were identified to be within 500 feet of the subject property and filed in the last 10 years:

Case No. ZA 2013-1182-CUB – On July 22, 2013, the Zoning Administrator approved a Conditional Use to allow the sale and dispensing of a full line of alcoholic beverages for on-site consumption in conjunction with a restaurant in the C4(CW)-U/6 Zone, at 1101-1123 West Wilshire Boulevard and 633-637 South Bixel Street.

Case No. ZA 2013-2868-CUB-CUX-SPP – On December 13, 2013, the Zoning Administrator approved a Conditional Use to allow the sale of a full line of alcoholic beverages for on-site consumption with live entertainment and incidental patron dancing in conjunction with the operation of a 9,453 square-foot theater and restaurant in the C4(CW)-U/4.5 Zone, at 1232-1238 West 7<sup>th</sup> Street.

Case No. ZA 2015-3926-CU-CUB-SPPA-SPP – On May 30, 2017, a public hearing was held to consider requests in conjunction with the construction of a new mixed-use unified development consisting of: 1) a new, 36-story, approximately 403,000 square foot mixed-use building with 422 dwelling units and approximately 6,000 square feet of ground floor retail uses, and; 2) a new, 7-story, approximately 72,000 square foot mixed use building with 126 hotel rooms over ground floor retail uses. Requests include a Conditional Use to allow for the sale of a full line of alcoholic beverages for on-site consumption within the proposed hotel. The property is in the C4(CW)-U/6 Zone at 675 South Bixel Street and 1111 West 7<sup>th</sup> Street. The decision is pending.

Case No. APCC-2016-1150-SPE-CU-CUB-CUX-SPP – On October 28, 2016, the Central Los Angeles Area Planning Commission granted in part the requested Conditional Use for the sale of alcoholic beverages and approved a Conditional Use to allow for the continued sale of a full line of alcoholic beverages for on-site consumption in two restaurants, a banquet hall, and to expand the sale of alcoholic beverages to a new pool deck in conjunction with the expansion of an existing non-conforming hotel use in the C4(CW)-U/4.5 and R5(CW)-U/6 Zones at 1250-1256 West 7<sup>th</sup> Street and 713-727 South Hartford Street.

### **Public Hearing**

A public hearing was held by the Associate Zoning Administrator on September 5, 2017 at the Marvin Braude San Fernando Valley Constituent Service Center First Floor Conference Room in Van Nuys. The hearing was attended by the applicant, the applicant's representative, Michael Pauls and his team, Lead Officer Chong and Sargent Min of the Los Angeles Police Department, and several members from the public, including residents of the subject mixed use building where the convenience store is proposed, and of the surrounding area.

Mr. Pauls, made the following statements in his presentation:

- The subject building was constructed in 2009, and was developed as a mixed use building with ground floor retail.
- The subject space has been vacant/never been occupied since the building opened.
- The applicant's outreach of the project includes notification to residents in the neighborhood, Good Samaritan Hospital, and Los Angeles Sargent Min of the Los Angeles Police Department. Also included were:
  - Los Angeles Department of Transportation, who stated the project would not create significant traffic impacts.
  - The subject VERO building's HOA Board of Directors and President, Anthony Curzi.
  - The Downtown Los Angeles Neighborhood Council.
- The operator, 7-Eleven, proposes to operate 24 hours per day, every day. The project request is for alcohol sales limited to beer and wine with hours of sale being 6:00 a.m. to 1:00 a.m., daily.
- The applicant will be volunteering conditions related to the following:
  - no single sales of alcohol or fortified wines
  - alcohol display be less than 2 percent of the store floor area
  - ID card reader be used by the operator
  - the store not be a beer and wine shop
  - security cameras be installed.
- The project would be consistent with the overlay of the area and is a TOD use.
- There is a bus stop in front of the subject building.
- The business would be pedestrian-friendly.
- The project is consistent with the Central City West Plan, which is supportive of 24 hour uses.
- Since the building space has been vacant the past nine years, there is no oversight for that portion of the building. The operation would bring a presence/lighting on

that corner of the building, and would bring eyes on the street.

- Training from the 7-Eleven's Coming of Age program and LAPD's STAR program would be required of all employees of the operation.
- The operator would be subject to the 7-Eleven operation policies and protocol including those related to store cleanliness.

LAPD's Lead Officer Chong and Sargent Min attended the hearing and provided testimony. The following statements were made:

- LAPD did a walk-through of the area and building on August 3, 2017.
- There was mention of volunteered conditions.
- The Vice Division did a surveillance in the surrounding areas of other locations.
- There were four liquor stores within a one minute walking distance.
- The area is saturated with establishments that have sale of alcohol for off-site consumption.
- The LAPD has identified several issues in the area including homelessness and encampment. Homelessness often leads to crimes, rape, robbery, fighting.
- The LAPD has worked for years to clean up the area of homeless encampment, including the alley to the south.
- There are no encampment issues on Wilshire Boulevard, but there is a significant difference south of Wilshire.
- The project will draw a large number of homeless people and impact residents in a negative way.
- There are many problems in the area. Just one block south of the site, there have been 40 separate calls to the police this year.
- The LAPD opposes the addition of another 7-Eleven store. This will create havoc and affect quality of life issues, increase transient encampments, defecation in alley and disturbances in the area.

Public Testimony in **Support** of the Project includes the following:

- The project would bring convenience to the area. Bicycles can be used to get to the store.
- Other stores with cashiers behind bulletproof windows give the perception of being in a dangerous area.
- The area has experienced an explosion of development. The area needs different tenants. This store fits well into this area.
- This area is not the same as the area south of the site.
- Need eyes to watch the place. This tenant will help security.
- Instead of vacant building, this will be an improvement to this portion of the building.
- The operator will bring convenience to the community with coffee and foods.
- The project will enhance foot traffic.
- The project will bring employment and city tax revenues, and a well-known franchise.
- Other stores only accept cash.
- The project would bring more cameras and people into the area.

- Police typically visit the store for their own needs and because of the hours of operation. A police presence will help reduce crime in the area.
- The area will be well lit and safer than other areas.
- The project is not like other liquor stores in the area. It would bring a positive impact to the area.
- Don't trust/fee safe with other liquor stores in the area. This is a well-known brand with policies that ensure safety, convenience and cleanliness.
- The 7-Eleven near 3rd Street and Witmer improved the area and helped reduce crime rates and gang presence. Gang members went elsewhere since the 7-Eleven added more lighting and cameras at that corner.
- Need convenience in the area and have the option to walk to do shopping. A 7-Eleven with no beer or wine will likely fail.

Public Testimony Against the Project includes the following:

- There would not be enough parking in the area.
- The owner has 20 to 30 7-Elevens in other locations. This is an absentee owner, and there is evidence of negligence. The owner has multiple citations.
- The project will bring bad elements into the area, including traffic, robberies, and homeless sleeping inside the subject building.
- There is concern for the safety of students at schools and the families in the immediate area.
- The area is subject to the Caldera Bill.
- Retail attracts more criminal elements.
- The project would bring in more nuisances. Homeless people would be drawn towards the site.
- Children may get access to alcohol. Need a safe display for alcohol.
- There is a high concentration of alcohol sales to the area.
- There are too many accidents in the area, and this would not be safe for the kids in the area.
- There would be an increase in unnecessary safety concerns and an increase in graffiti in the area.

General Public Testimony related to the project includes the following:

- The applicant should work with the HOA on conditions that would be agreeable.
- The subject building as hiding places in the stairwell.
- The applicant should require their own security guard.
- No signage should be placed on the windows.
- Concerns for the hours of operation.

Gerald Gubatan, Senior Planning Deputy for Council Office 1, requested the project be placed on hold. The councilman is supportive of constructive communication. Also, LAPD's comments are acknowledged. The area has issues that need to be addressed. There are new investments in the area, including the Good Samaritan Hospital expansion project. The VERO building was supported because it was a new proactive development that lifts up other development. This issue at hand is whether the sale of alcohol will lead to crime. Since this project would be subject to the Caldera Bill, findings would have to

be made by City Council. The Council Office solicits LAPD's opinions and supports giving the HOA a forum to discuss this project.

### **Public Correspondence**

Staff received correspondence from two nearby property owners objecting to the requested Conditional Use for beer and wine sales. The concerns raised in the letters include:

- The overconcentration of alcohol-dispensing establishments, in particular 7-Elevens, in the surrounding neighborhood
- Homelessness should be resolved prior to granting additional liquor licenses.
- The use will be contrary to public welfare and morals given its proximity to two schools.
- The use will interfere with the quiet enjoyment of residents at 1234 Wilshire Boulevard.
- The applicant should be required to meet with the Vero Homeowners Association representing homeowners at 1234 Wilshire Boulevard.

At the public hearing, a petition with 484 names opposing the proposed 7-Eleven were submitted. Also submitted were three separate Before the Alcoholic Beverage Control Appeals Board of the State of California documents dated 1997, 2002, and 2013) where the owner appealed the decision of the Department of Alcoholic Beverage Control for violation of Business and Professions Code.

After the public hearing, one letter of support, and two letters of opposition were submitted to the Planning Department.0

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

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 quarterly gross sales of alcohol shall not exceed the quarterly gross sales of food. The business operator shall maintain records which reflect these numbers and make them available to the Police Department upon request.
- No employee or agent shall solicit or accept any alcoholic or non-alcoholic beverage from any customer while in the premises.
- No alcoholic beverages shall be consumed on any property adjacent to the licensed premises. No open alcoholic beverages shall be taken out of the subject premise.

- The applicant shall comply with all ABC regulations regarding advertising of alcohol. No neon signage shall be used to advertise alcoholic beverages.
- Alcohol hours shall be from 6:00 a.m. to 12:00 a.m., daily.
- No single sale of malt liquors, malt-based products, and wine or beers are permitted with the exception of single wine bottles which shall only be sold in 750 ml bottles or larger. Only pre-packaged multiple packs by the manufacturer is acceptable.
- A maximum of 2% g.f.a. for beer and wine sales and no exterior alcohol advertisement.
- There shall be no exterior advertising of any kind or type, including advertising directly to the exterior from within, promoting or indicating the availability of alcoholic beverages. Interior displays of alcoholic beverages or signs which are clearly visible to the exterior shall constitute a violation of this condition.
- No fortified wines shall be sold.
- There shall be no cups, glasses, or similar receptacles commonly used for the drinking of beverages, sold, furnished, or given away at the petitioner's premises in quantities of less than twenty-four (24) in their original multi-container package.
- Ice shall be sold only in three (3) pound bags or larger.

### **BASIS FOR CONDITIONAL USE PERMITS**

A particular type of development is subject to the conditional use process because it has been determined that such use of property should not be permitted by right in a particular zone. All uses requiring a conditional use permit from the Zoning Administrator are located within Section 12.24-W of the Los Angeles Municipal Code. In order for the sale of a beer and wine 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 project involves the remodel of a ground floor tenant space within a mixed use building. The proposed operator is 7-Eleven, a convenience store franchising throughout all of Southern California and this country. The proposed convenience store will operate 24 hours daily and sell prepared foods, snacks, hot and cold beverages, sundries, magazines, cigarettes, and other miscellaneous items. Included in the beverages sold are the sale of beer and wine for off-site consumption.

The project will utilize an existing tenant space that has been vacant since the building opened in 2009. The subject building is located along Wilshire Boulevard across from the Good Samaritan Hospital. Residents live within the subject building, along Wilshire Boulevard, and within the neighborhoods north and south of Wilshire Boulevard. Wilshire Boulevard consists of office and retail uses with

mixed use buildings that include residential uses, and even includes churches, a hospital and schools.

The project provides a function that benefits the community. The vacant tenant space, which has remained vacant since the building's opening, will be occupied and provide a presence at the corner of Wilshire Boulevard and Witmer Street. With 24 hour operation and the vast number of products sold, residents, employees and visitors of the area can stop by and conveniently purchase foods, beverages or sundries any time. The presence of people from the activity of the store will bring more eyes on the street especially on this corner of the intersection where there has been no ground floor use.

The proposed 7-Eleven food store is also located across from the 24-hour Good Samaritan Hospital, which employs over 850 medical and non-medical staff, and receives many visitors for hospital patients throughout the day. The hospital does not have a convenience market presence on-site and a new 7-Eleven food store, located immediately across from the hospital, will benefit employees who wish to purchase convenient food or beverage items before, during, or after their work shifts, as well as visitors who are visiting their loved ones in the hospital.

Residents will be able to conveniently purchase foods, beverages and alcohol, sundries and medicines during all parts of the day. Hours of sale of alcohol beer and wine will be limited as determined by the Alcohol Beverage Control, but the store will provide an amenity customarily found in other convenience stores and markets in the community. Considering the surrounding uses and residents of the immediate area, patrons will be able to conveniently walk to the store and make purchases without having to get in their vehicles. In addition, several bus lines run through Wilshire Boulevard adding to the convenience of the store and its location.

The proposed use is complementary and consistent with the surrounding land uses of the immediate area, which include retail, offices, and service-oriented uses. There are three eating establishments, and a pharmacy at the ground floor of the subject Vero building. The project will complement the neighborhood serving uses of the subject building by providing a convenient, neighborhood-serving use that will benefit 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.**

The project's location, size, height, operations and other significant features will be compatible with the surrounding neighborhood and will not adversely affect or degrade adjacent properties. The subject building is located along Wilshire Boulevard near Witmer Street and across the Good Samaritan Hospital in the Westlake Community Plan area. The project will be located within a 1,968 square-foot corner space on the ground floor of an existing 6-story mixed use building, where there are three other restaurants and a pharmacy also located on the ground floor.

The project will not increase the building height nor will it add to the building's square footage. The 7-Eleven store will operate 24 hours daily, and will have two trained employees on-site at all times. The operator will have security cameras installed throughout the store and outside of the store. Deliveries to the store will only be permitted from 8:00 a.m. to 10:00 p.m., daily. As proposed, locking coolers will be installed to control access of alcohol from behind the cashier counter.

At the public hearing held on September 6, 2017, residents of the building and near the project site expressed concern for the requested entitlement. Concerns included loitering, a high number of establishments that sell alcohol, trespassing, litter, and safety, as well as the 7-Eleven franchise being a magnet for crime.

The Los Angeles Police Department also stated their concerns for the operation since the area south of the site has had a history of homeless encampments, which have led to more crimes in the area. Concerns on the potential for children and thieves accessing alcohol from the store were raised. At the conclusion of the hearing, the applicant stated they would meet with the Vero Condominium Owners Association Board of Directors and with LAPD to work out issues.

On September 27, 2017, the Vero Condominium Owners Association Board of Directors submitted a letter summarizing a meeting held with the applicant, residents of the building and LAPD. The letter identified suggested conditions would address many concerns of these residents. Most of those conditions were included as conditions of approval for the applicant's request. A suggested condition requiring security personnel at all times of the operation was not included as a condition of approval since several security measures have been included and it would likely not be economically sustainable to impose such requirement for this operation.

With the proposed operating characteristics and the conditions imposed on the project, the project will enhance adjacent properties. Since the corner of the subject building is on the southeast intersection that has had no presence for quite some time, the 24-hour daily presence of an operator would help bring more lighting to that intersection and deter the possibility of more crime.

The 7-Eleven store will be required to discourage loitering and be responsible for maintaining the subject facility free of trash and debris. Employees will be required to participate in LAPD's Standardized Training for Alcohol Retailers on a regular basis in addition to the 7-Eleven franchise's Coming of Age Program, which provides training for the operation of the business, including safety protocols both inside and outside the premise. The store window coverings will not be permitted to cover more than 25 percent of the total windows, and there will be no alcohol advertising permitted on those windows. In addition, the Associate Zoning Administrator has recommended that hours of sales for beer and wine be limited from 6:00 a.m. to 12 midnight, daily.

A condition requiring a plan approval be filed to review conformance of the conditions of approval has been placed to ensure review of the operation and to allow any modification to any of the conditions imposed, or any conditions be

added. This may include the requirement to have security personnel present in the event that evidence is submitted to the decision maker.

With the space being within an existing building, the applicant would be required to work with the building's condominium board. Coordination with the building's existing security would help enhance the area to reduce criminal elements for the building. Graffiti will be required to be removed within 24 hours. The subject convenience store will be compatible with adjacent properties and would not further degrade them.

**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 Westlake Community Plan designates the property for High Density Residential and Regional Center Commercial land uses. The Community Plan text is silent with regards to alcohol sales. Approval of the request is consistent with the general purpose, intent and provisions of the Westlake Community Plan, including:

Purposes

- B. Establish a complete 24-hour community for all segments of the population, with jobs and housing, needed public facilities, recreation/entertainment and amenities, open space and pedestrian oriented places;

The project is a 24 hour operation that will provide a neighborhood-serving use for residents of the community. Residents in the area will be offered convenience of accessing foods, beverages, sundries and medicine at all times of the day and night. Also, guests of Good Samaritan Hospital will be offered the convenience to obtain this same convenience without having to get into their own cars.

Objectives

- a. To conserve and strengthen viable commercial development in the community and to provide additional opportunities for new commercial development and services
- b. To provide a range of commercial facilities at various locations to accommodate the shopping needs of residents and to provide increased employment opportunities within the community.
- c. To improve the compatibility between commercial and residential uses.

Policies

1. That commercial facilities be located on existing traffic arteries and commercial corridors.
- d. That neighborhood markets and retail and service establishments oriented to the residents be retained throughout the community, within walking distance of residents.

The subject project will be on Wilshire Boulevard and will bring a presence to the corner of Wilshire Boulevard and Witmer Street. It will be compatible with surrounding uses since it offers a convenience store that offers foods, beverages, sundries and medicine. Patrons will be able to walk to the store and meet their needs. In addition, with the conditions imposed on the project, the project will be compatible with surrounding uses. As such, the project is consistent with the adopted General Plan in that the requested application will be given numerous conditions of approval for the instant requests. As such, the proposed project substantially conforms with the purpose, intent and provision of the General Plan.

**ADDITIONAL REQUIRED FINDINGS FOR THE SALE OF ALCOHOLIC BEVERAGES**

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

The approval of a Conditional Use Permit to allow the off-site sales of beer and wine in conjunction with a new convenience store in the CW Zone is not anticipated to adversely affect the welfare of the community since the requested entitlement is generally conditioned to limit any adverse effects of alcohol sales.

Testimony of two 7-Eleven stores near the site were given by the public at the public hearing. The 7-Eleven store located at 1324 W. 7<sup>th</sup> Street was generally identified by residents near the project site as having high crime, robberies, loitering and other negative elements. The 7-Eleven store located at 1463 W. Witmer Street was identified as being more positive for the community.

While there was testimony at the hearing of the history of the owner's three citations (selling to minors) with the Alcohol Beverage Control, the Los Angeles Police Department indicated the owner is responsible, and acknowledges the 7-Eleven store at 1463 W. Witmer Street at the 3<sup>rd</sup> Street and Witmer Street intersection operates well, and they acknowledged the owner, who will operate the subject convenience store inside the Vero building, is responsible. They also acknowledged the improvement in the area since the 7-Eleven store began operating on the site near 3<sup>rd</sup> Street and Witmer. Public testimony from residents in the area confirmed the 1463 Witmer 7-Eleven has improved the safety of the area by providing cameras and lighting on the site, reducing loitering, gang and criminal activity. While the operator does have a history of selling to the minors on three separate occasions in a span of 16 years, the incidents are not recent, and LAPD has acknowledged the owner is responsible.

Considering the testimony of LAPD of the owner, improvement the 1462 Witmer 7-Eleven has had on the community, and the testimony of the residents near this store location, the proposed convenient store will likely operate in a responsible manner.

The Zoning Administrator has imposed numerous conditions to prevent impacts and integrate the use into the community as well as protect community members from adverse potential impacts. For example, all graffiti on the site shall be removed or painted over to match the color of the surface with graffiti within 24 hours and a 24-hour "hot line" telephone number must be provided for the receipt of complaints or inquiries from the community regarding the subject facility. Other conditions imposed will maintain the order and ensure cleanliness of the convenience store's surroundings, and enhance the perception of area as being well-maintained. In addition, conditions imposed were imposed to address the specific concerns raised at the public hearing and have been reviewed by the Los Angeles Police Department. A plan approval condition has also been imposed to assess the need to modify the conditions imposed, and ensure the welfare of the community is not adversely affected. With the responsible owner and appropriate conditions to deter criminal activity and other negative elements, the proposed use will not affect the general welfare of the community.

5. **The granting of the application will not result in an undue concentration of premises for the sale or dispensing for consideration of alcoholic beverages, including beer and wine, in the area of the City involved, giving consideration to applicable State laws and to the California Department of Alcoholic Beverage Control's guidelines for undue concentration; and also giving consideration to the number and proximity of these establishments within a one thousand foot radius of the site, the crime rate in the area (especially those crimes involving public drunkenness, the illegal sale or use of narcotics, drugs or alcohol, disturbing the peace and disorderly conduct), and whether revocation or nuisance proceedings have been initiated for any use in the area.**

According to the California State Department of Alcoholic Beverage Control (ABC) licensing criteria (August 2016), there are five on-sale licenses and three off-sale licenses allocated for Census Tract No. 2091.02. There are currently four on-site and four off-site licenses.

Within the Census Tract, the following types of alcoholic beverage licenses are active or pending:

- (3) Type 20 – Off-Sale – Beer and Wine
- (1) Type 21 – Off-Sale – General
- (2) Type 41 – On-Sale – Beer and Wine – Eating Place
- (2) Type 47 – On-Sale – General – Eating Place

The number of licenses for off-site sales is above the allocated threshold. The property is located within a commercial, residential, and mixed-use corridor where a concentration of uses catering to visitors, employees, and residents is increasing. Overconcentration can be undue when the addition of a license will negatively

impact a neighborhood. Overconcentration is not undue when the approval of a license does not negatively impact an area, but rather such a license benefits the public welfare and convenience. The off-site issued alcohol licenses within the subject census tract are for three food markets and a liquor store located between 0.1 mile and 0.4 mile from the subject property.

According to statistics provided by the Los Angeles Police Department's Rampart Division Vice Unit, within Crime Reporting District No. 257, which has jurisdiction over the subject property, a total of 249 crimes were reported in 2016 (105 Part I and 144 Part II crimes), compared to the total area average of 189 crimes for the same reporting period. Part II Crimes reported include, Narcotics (7), Liquor Laws (16), Public Drunkenness (17), Disturbing the Peace (1), Disorderly Conduct (1), Gambling (0), DUI related (9) and other offenses (26). These numbers do not reflect the total number of arrests in the subject reporting district over the accountable year. Arrests for this calendar year may reflect crimes reported in previous years.

The Los Angeles Police Department, in their letter dated September 6, 2017, stated current 2017 statistics shown that there were a total of 443 reported Part I crimes, including 11 arrests involving alcohol related offenses. In 2017 alone, there have been 23 reported aggravated assaults, and 27 theft related crimes, including eight robberies. They stated Rampart Area Vice's familiarity with this location is that of numerous police responses and crimes committed in the area (Reporting District 257).

While the site is also located in a district where the crime rate is substantially higher than the citywide average, there is no specifically established link between the above information and the property, since the statistics cover an entire district and do not pertain particularly to the subject site. The incorporation of conditions relative to the specific operation of the establishment was deemed necessary in order to mitigate any possible adverse impact on the welfare of the surrounding area. The presence of a lit operation at the corner of Witmer Street and Wilshire Boulevard will bring more eyes on the street and help promote a 24-hour community the Community Plan envisions. The 24-hour activity will allow for more presence on the street and could help deter negative elements from occurring. Considering the tenant space is at an important intersection, having a presence at the corner is important in letting the community know negative elements can be quickly reported to the police.

Public safety measures to mitigate potential nuisance activities have been incorporated into the grant to assure better oversight. More specifically, in a conversation with LAPD, Sargent Min, the LAPD acknowledges adding a condition requiring coolers stocked with beer and wine be locked would reduce theft occurrences within the operation and strongly supports this condition. Other conditions have been imposed to address the potential issues identified by residents. Thus, as conditioned, it is not anticipated that the sale and dispensing of beer and wine for off-site consumption would adversely affect the community welfare.

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 located within 1,000 feet of the subject site:

- Mission Cristiana "Rosa de Saron", 1424 West 7<sup>th</sup> Street
- Jesus el Salvador Del Mundo, 1301 West 7<sup>th</sup> Street
- John H. Liechty Middle School, 650 Union Avenue
- Good Samaritan Hospital, 1225 Wilshire Boulevard
- Residential Uses

While the proposed sale of a beer and wine will be located in proximity to these sensitive uses, the proposed alcohol sale is anticipated to be ancillary to the sale of food items in the new convenient store (7-Eleven). Alcohol sales for off-site consumption will not detrimentally affect the neighboring residential, commercial, and institutional uses in the area because they will occur in a controlled environment within the retail store by trained employees and subject to multiple security measures. Conditions imposed by the Zoning Administrator and for consideration by the State Department of Alcoholic Beverage Control will reduce any potential impacts related to the sale of alcohol and the proposed use will, therefore, not be detrimental to these sensitive uses within proximity of the subject site.

#### **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 the subject site is located in Zone C, areas of minimal flooding.
10. On August 10, 2017, the Department of City Planning released a second Addendum to the previously adopted Mitigated Negative Declaration (MND) No. ENV-2003-5274-MND (ENV-2003-5274-MND-REC2).

On January 14, 2004, the original MND (ENV-2003-5274-MND) was issued. It was adopted on March 31, 2004 in conjunction with the approval of Case No. ZA-2003-5273-ZAA-SPP-SPPA-SPR for a 235-unit apartment building with 11,250 square feet of ground floor commercial floor area. The MND identified potential impacts related to: Aesthetics, Air Quality, Biological Resources, Geology and Soils, Hazards and Hazardous Materials, Hydrology and Water Quality, Noise, Public Services, Recreation, Transportation and Traffic, and Utilities and Service Systems. It was determined that the project, as originally proposed, would not have a significant effect on the environment with the incorporation of mitigation measures.

On April 25, 2006, the Department of City Planning issued a first Addendum to the Mitigated Negative Declaration (Case No. ENV-2003-5274-MND-REC1) in conjunction with Case No. VTT-65289 for the subdivision of one lot for a maximum 197-unit residential condominium and one commercial condominium containing 7,560 square feet. The second Addendum incorporated mitigation measures relating to rock outlet protection and the installation of sediment traps, stormwater Best Management Practices, submitting a parking and driveway plan to the Bureau of Engineering and Department of Transportation regarding emergency access, and additional construction mitigation measures.

The second Addendum (ENV-2003-5274-MND-REC2) incorporates no changes to existing mitigation measures under ENV-2003-5274-MND or ENV-2003-5274-MND-REC1.

Pursuant to the California Environmental Quality Act (CEQA) Guidelines Section 15164, the lead or responsible agency shall prepare an addendum to a previously certified EIR if some changes or additions are necessary but none of the conditions described in Section 15162 calling for preparation of a subsequent EIR have occurred. An addendum to an adopted negative declaration may be prepared if only minor technical changes or additions are necessary or none of the conditions described in Section 15162 calling for the preparation of a subsequent EIR or negative declaration have occurred. An addendum need not be circulated for public review but can be included in or attached to the final EIR or adopted negative declaration. The decision-making body shall consider the addendum with the final EIR or adopted negative declaration prior to making a decision on the project. A brief explanation of the decision not to prepare a subsequent EIR pursuant to Section 15162 should be included in an addendum to an EIR, the lead agency's required findings on the project, or elsewhere in the record. The explanation must be supported by substantial evidence.

Pursuant to CEQA Guidelines Section 15162, when a negative declaration has been adopted for a project, no subsequent EIR shall be prepared for that project unless the lead agency determines, on the basis of substantial evidence in the light of the whole record, one or more of the following:

- a. Substantial changes are proposed in the project which will require major revisions of the previous EIR or negative declaration due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects;
- b. Substantial changes occur with respect to the circumstances under which the project is undertaken which will require major revisions of the previous EIR or negative declaration due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects; or
- c. New information of substantial importance, which was not known and could not have been known with the exercise of reasonable diligence at the time the previous EIR was certified as complete or the negative declaration was adopted, shows any of the following:

- d. The project will have one or more significant effects not discussed in the previous EIR or negative declaration;
- e. Significant effects previously examined will be substantially more severe than shown in the previous EIR;
- f. Mitigation measures or alternatives previously found not to be feasible would in fact be feasible and would substantially reduce one or more significant effects of the project, but the project proponents decline to adopt the mitigation measure or alternative; or
- g. Mitigation measures or alternatives which are considerably different from those analyzed in the previous EIR would substantially reduce one or more significant effects on the environment, but the project proponents decline to adopt the mitigation measure or alternative.

Given the fact no new significant impacts were identified as a result of the now Modified Project, an Addendum was prepared. This Addendum reflects the independent judgment of the lead agency and determined that this project would not have a significant effect upon the environment provided the potential impacts are mitigated to a less than significant level. All feasible mitigation measures have been incorporated into the project as Conditions of Approval to ensure that there will be no significant unavoidable environmental impacts.

The Proposed Modified Project may cause potentially significant impacts on the environment without mitigation. The Addendum to the environmental analysis (ENV-2003-5274-MND and ENV-2003-5274-MND-REC1), concludes that none of the proposed changes to the Project would generate or result in any new significant environmental impacts and the mitigation measures identified in the adopted Mitigated Negative Declaration shall be required for the purposes of avoiding and mitigating all potential adverse impacts on the environment. Finally, based on the fact that these impacts can be feasibly mitigated to less than significant, and based on the findings and thresholds for Mandatory Findings of Significance as described in the California Environmental Quality Act, section 15065, the overall project impacts(s) on the environment (after mitigation) will not:

- Substantially degrade environmental quality.
- Substantially reduce fish or wildlife habitat.
- Cause a fish or wildlife habitat to drop below self-sustaining levels.
- Threaten to eliminate a plant or animal community.
- Reduce number, or restrict range of a rare, threatened, or endangered species.
- Eliminate important examples of major periods of California history or prehistory.
- Achieve short-term goals to the disadvantage of long-term goals.
- Result in environmental effects that are individually limited but cumulatively considerable.
- Result in environmental effects that will cause substantial adverse effects on human beings.

The records upon which this decision is based are with the Environmental Review Section of the Planning Department in Room 750, 200 North Spring Street.

Inquiries regarding this matter should be directed to Courtney Shum at (213)978-1916, Planning Staff for the Expedited Processing Section.

A handwritten signature in black ink, appearing to read 'Henry Chu', with a long horizontal flourish extending to the right.

HENRY CHU  
Associate Zoning Administrator

HC:CS:bk

cc: Councilmember Gilbert Cedillo  
First District  
Adjacent Property Owners