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March 16, 2010

Jasbir Singh (A)  
Electric Lotus  
4656 Franklin Avenue  
Hollywood, CA 90028

Sung Ja Shin (O)  
2780 Hollyview Court  
Los Angeles, CA 90068

Patrick E. Panzarello (R)  
9111 Morning Glow Way  
Sun Valley, CA 91352

CASE NO. ZA 2009-2578(CUB)(CU)  
CONDITIONAL USE  
4656 Franklin Avenue  
Hollywood Planning Area  
Zone: C4-1D  
D. M.: 150B197  
C. D.: 4  
CEQA: ENV 2009-2579-CE  
Legal Description: Lots 26-28 and 46,  
Croake and McCann's Gem of Hollywood  
Tract

Pursuant to Los Angeles Municipal Code Sections 12.24-W,1 and 27, I hereby APPROVE:

a conditional use to allow the sale and dispensing of a full line of alcoholic beverages only for on-site consumption, with deviations from the requirements of Section 12.22-A,23(a) relating to the hours of operation, in conjunction with an existing restaurant,

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 Zoning Administrator and the Department of Building and Safety for purposes of having a building permit issued.
6. The applicant shall defend, indemnify and hold harmless the City, its agents, officers, or employees from any claim, action, or proceeding against the City or its agents, officers, or employees to attack, set aside, void or annul this approval which action is brought within the applicable limitation period. The City shall promptly notify the applicant of any claim, action, or proceeding and the City shall cooperate fully in the defense. If the City fails to promptly notify the applicant of any claim action or proceeding, or if the City fails to cooperate fully in the defense, the applicant shall not thereafter be responsible to defend, indemnify, or hold harmless the City.
7. The authorization shall be for the sale and dispensing of full line of alcoholic beverages for on-site consumption in conjunction with an existing 4,124 square-foot restaurant.
8. The maximum seating capacity for the restaurant shall be subject to review by the Fire Department, but under no circumstances shall seating capacity exceed a maximum of 91 patrons. No outdoor seating is permitted or authorized by this grant.
9. Hours of restaurant operation are limited to the time period beginning at 11 a.m. and ending at 2 a.m., daily.
10. No after hours use of the restaurant is authorized other than for routine clean up and maintenance. No after hours promotional events are permitted.
11. Parking shall be provided to the satisfaction of the Department of Building and Safety.
12. Parking lot cleaning and sweeping, and trash collections from and deliveries to the premises shall occur no earlier than 7 a.m., nor later than 8 p.m., Monday through Friday, and no earlier than 10 a.m., nor later than 4 p.m., on Saturdays and Sundays.
13. The facility shall be maintained as a restaurant with an operational kitchen and shall provide a menu containing an assortment of foods normally offered in restaurants. Food service shall be available at all times during operating hours.
14. No enclosed room intended for use by patrons or customers, other than restrooms, is allowed.
15. Recorded, or taped music shall be permitted only indoors and is expressly prohibited from occurring within any outdoor area. Any recorded or taped music or similar

noise shall not be audible beyond the interior of the restaurant premises. There shall be no amplified music permitted on the premises.

16. There shall be no live entertainment including but not limited to disc jockey, juke box, piano bar, karaoke, comedian, "spoken word" or performance art, or similar entertainment permitted on the premises.
17. No dancing is permitted. Dance hall or nightclub use is strictly prohibited.
18. Adult Entertainment pursuant to Municipal Code Section 12.70 shall not be allowed.
19. The applicant shall not permit any loitering on the premises or on property adjacent to the subject premises.
20. The business operator shall be responsible for maintaining the area adjacent to the premises free of litter.
21. Exterior lighting on the building and associated parking area shall be maintained and provide sufficient illumination so as to render objects or persons on the property clearly visible. Exterior lighting shall be directed so as not to disturb the privacy and normal use of any neighboring residences.
22. No public telephones on the leasehold shall be maintained outdoors.
23. Food preparation and storage areas shall be maintained in a sanitary condition and the premises shall be equipped with proper refrigeration for the keeping of food, and other facilities as are necessary to comply with all regulations of the local health department.
24. The kitchen shall remain open for at least 1/2 hour before closing.
25. Coin operated game machines, pool tables or similar game activities or equipment are not permitted.
26. The business operator shall comply with Section 6404.5(b) of the Labor Code which prohibits smoking within any place of employment.

**Note: Condition Nos. 27 through 44 have been volunteered by the applicant.**

27. The Conditions of this grant shall be retained in a conspicuous place in an office area on the premises at all times and be immediately produced upon request of any Los Angeles Police officer or Department of Alcoholic Beverage Control investigator. The manager and all employees shall be knowledgeable of the Conditions herein.
28. Alcoholic beverages offered for sale at the licensed premises shall be displayed and be made available for convenient inspection and purchase by the general public.
29. Sales of alcoholic beverages shall be made only in conjunction with food sales.

30. Sales and delivery of alcoholic beverages to customers shall be made from behind the counter, or by a waitperson or clerk; no self-service of alcoholic beverages shall be permitted.
31. The quarterly gross sales of food shall exceed the quarterly gross sales of alcohol. The business operator shall maintain records which reflect these numbers and make them available to the Police Department upon request.
32. Sales, services, and consumption of alcoholic beverages shall be permitted only between the hours of 11 a.m. to 1:45 a.m. seven days a week.
33. Delivery of alcoholic beverages to the business shall be permitted only between the hours of 9 a.m. and 8 p.m. Monday through Friday; no earlier than 10 a.m., nor later than 4 p.m., on Saturdays; no deliveries shall be permitted on Sunday.
34. No employee or agent shall be permitted to accept money or any other thing of value from a customer for the purpose of sitting or otherwise spending time with customers while in the premises, nor shall the licensee provide, permit or make available, either gratuitously or for compensation, male or female patrons who act as escorts, companions or guests of and for the customers.
35. No employee or agent shall solicit or accept any alcoholic or non-alcoholic beverage from any customer while in the premises.
36. No signs or advertisement are permitted on the outside of the building or directed from the inside to the outside which display, promote, or advertise the availability of alcoholic beverages.
37. The alcoholic beverage license shall not be exchanged for a public premises type license nor operated as a public premise.
38. The premises shall not be exclusively used for private parties in which the general public is excluded.
39. Signs shall be prominently posted in English and the predominant language of the facility's clientele, if different, and a notice shall be placed therein stating that California State law prohibits the sale of alcoholic beverages to persons under the age of twenty-one years or to intoxicated persons and that no such sales will be made.
40. The off-site sale of alcoholic beverages is strictly prohibited.
41. There shall be no cover charge, no prepayment required, nor shall there be a requirement to purchase a minimum number of drinks.
42. There shall be no "Happy Hour" or similar drink promotions for discounted beverages.

43. Within six months of the effective date of this action, all employees involved with the sale of alcoholic beverages shall enroll in the Los Angeles Police Department "Standardized Training for Alcohol Retailers (STAR)". Upon completion of such training, the applicant shall request the Police Department to issue a letter identifying which employees completed the training. The applicant shall transmit a copy of the letter from the Police Department to the Zoning Administrator as evidence of compliance. In the event there is a change in the licensee, within one year of such change, this training program shall be required for all staff. Any new employee shall be required to enroll in this training program within one year of the hiring.
44. 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.
45. The authorization granted herein for the sale of alcohol is for a period of **ten (10) years** from the effective date of this grant. Thereafter, this authorization shall become null and void and a new conditional use to allow the sale of alcohol will be required. If continued operation is desired as granted herein, a new application must be filed with the Office of Zoning Administration. Said application shall be filed no later than three months prior to the expiration of this grant.
46. At any time during the effective period of this grant, should there be a change in the property owner, the Zoning Administrator reserves the right to require the new owner to file for a plan approval application together with associated fees, the purpose of which will be to review and establish the new owner's responsibilities, as well as to affirm compliance with the Conditions of the grant. Upon this review the Zoning Administrator may modify, add or delete conditions, and reserves the right to conduct a public hearing and that such hearing may include review in regards to nuisance abatement/revocation purposes.
47. At any time during the effective period of this grant, should documented evidence be submitted showing continued violation of any condition of this grant, resulting in an unreasonable level of disruption or interference with the peaceful enjoyment of the adjoining and neighboring properties, the Zoning Administrator reserves the right to require the applicant to file for a plan approval application together with associated fees, the purpose of which will be to hold a public hearing to review the applicant's compliance with and the effectiveness of these Conditions. The applicant shall prepare a radius map and cause a notification to be mailed to all owners and occupants of properties within a 500-foot radius of the property, the Council Office, and the Los Angeles Police Department corresponding Division. The applicant shall also submit a summary and any supporting documentation of how compliance with each condition of this grant has been attained. Upon this review the Zoning Administrator may modify, add or delete conditions, and reserves the right to conduct this public hearing for nuisance abatement/revocation purposes.

48. **Within 30 days of the effective date of this action**, the property owner shall record a covenant acknowledging and agreeing to comply with all the terms and conditions established herein 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 Zoning Administrator for approval before being recorded. After recordation, a certified copy bearing the Recorder's number and date shall be provided to the Zoning Administrator for attachment to the subject case file.

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

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 two 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. A Zoning Administrator may extend the termination date for one additional period not to exceed one year, if a written request on appropriate forms, accompanied by the applicable fee is filed therefore with a public Office of the Department of City Planning setting forth the reasons for said request and a Zoning Administrator determines that good and reasonable cause exists therefore.

#### **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 \$1,000 or by imprisonment in the county jail for a period of not more than six months, or by both such fine and imprisonment.

**APPEAL PERIOD - EFFECTIVE DATE**

The applicant's attention is called to the fact that this grant is not a permit or license and that any permits and licenses required by law must be obtained from the proper public agency. Furthermore, if any Condition of this grant is violated or if the same be not complied with, then the applicant or his successor in interest may be prosecuted for violating these Conditions the same as for any violation of the requirements contained in the Municipal Code. The Zoning Administrator's determination in this matter will become effective after MARCH 31, 2010, unless an appeal therefrom is filed with the City Planning Department. It is strongly advised that appeals be filed early during the appeal period and in person so that imperfections/incompleteness may be corrected before the appeal period expires. Any appeal must be filed on the prescribed forms, accompanied by the required fee, a copy of the Zoning Administrator's action, and received and receipted at a public office of the Department of City Planning on or before the above date or the appeal will not be accepted. **Forms are available on-line at <http://planning.lacity.org>**. Public offices are located at:

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

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

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

**NOTICE**

The applicant is further advised that all subsequent contact with this office regarding this determination must be with 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 February 23, 2010, 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 site is a roughly square consolidation of four original lots on the southeast corner of Franklin and Vermont Avenues in Los Feliz Village. The site is level. The frontage is approximately 136 feet and the lot depth is 190 feet.

It is fully developed with a convenience store, parking lot, a restaurant, a coffeehouse, and a video store. The application concerns the restaurant portion only.

The site is located along a commercial strip on Vermont Avenue, a north-south thoroughfare, zoned C4-1D, Neighborhood Office Commercial. The interior residential lots to the east are zoned R2-1XL. The residential strip along Vermont, north of Franklin, is zoned R3-1XL. The interior residential lots west of Vermont are zoned R3-1 and R1-1.

Franklin Avenue is a fully-improved Secondary Highway with a standard dedication of 90 feet.

Vermont Avenue is a fully-improved Class II Major Highway with a standard dedication of 104 feet.

Previous zoning related actions on the site/in the area include:

**Subject Property:**

Case No. ZA 2001-5525(CUB)(PA1) - On June 14, 2005, the Area Planning Commission denied a request for the modification of Condition No. 8b of ZA 20015525(CUB) to allow an expansion from 91 permitted seats to 107 seats, and determined that partial, but not full compliance with the conditions of the prior action had been attained in association with the operation of a restaurant that sells a full line of alcohol for on-site consideration.

Case No. ZA 2001-5525(CUB)(PA2) - On April 27, 2007, the Zoning Administrator pursuant to Municipal Code Section 12.24-M denied a request for the modification of Condition No. 8b of ZA 2001-5525(CUB) to allow an expansion from 91 permitted seats to 109 seats, and a request to expand the hours of operation from 11 a.m. to 2 a.m. daily, and a request to be allowed a DJ with music from 8 p.m. to 10:30 p.m. Thursday through Saturday. Additionally, pursuant to Los Angeles Municipal Code 12.24-M and Condition No. 6 of Case No. ZA 2001-5525(CUB) the Zoning Administrator determined that partial, but not full compliance with the conditions of the prior action had been attained in association with the operation of a restaurant that sells a full line of alcohol for on-site consideration.

Case No. ZA 2001-5525(CUB)(PA3) - On June 20, 2008, the Zoning Administrator pursuant to Municipal Code Section 12.24-M determined that substantial compliance with the conditions of the prior action had been attained in association with the operation of a restaurant that sells a full line of alcohol for on-site consideration.

**Surrounding Properties:**

Case No. ZA 99-0322(CUB) - On June 6, 1989, the Zoning Administrator denied a request for a Conditional Use and Plan Approval for an addition to an existing

building; restaurants (136 seats) and storage, in conjunction with serving alcohol, in the C2-1 Zone, at 4641 Russell Avenue, in Franklin Village.

### **Public Hearing**

The Zoning Administrator conducted a public hearing on this matter on February 23, 2010, at the Los Angeles City Hall. The applicant, Jasbir Singh, and three community stakeholders attended.

The Zoning Administrator reviewed and confirmed with the applicant that the request and application were consistent with the project plans in the case file. Mr. Singh noted that the restaurant is an established use, within an established commercial-corner shopping center, and that the request for on-site sale of a full line of alcohol, in conjunction with continued operation of the restaurant, will be compatible with adjacent uses. The applicant acknowledged their agreement with and volunteered standard conditions of approval relating to the sale and dispensing of alcoholic beverages. The LAPD has previously noted that the applicant had maintained a responsible operation. The applicant noted that they would continue to work in coordination with the LAPD, local business improvement district (BID), and Council District office to assure that the sale of alcohol does not result in undesirable or adverse affects to neighboring properties or businesses. Mr. Singh noted support from other commercial tenants of the subject property. He noted that parking arrangements were maintained via a contract with the Masonic Temple and valet service.

Luciano Audet, a resident on New Hampshire Avenue, noted his objection to the introduction of a business allowed to sell alcohol within the neighborhood. He noted that the area near his residence was subject to vagrancy, illegal drinking, and other nuisance behavior.

Hermano Neiviller spoke in support of the applicant's request, noting that the restaurants in the area provided encourage activity desirable to the community, and that the local BID had been cooperative in addressing parking issues for area businesses.

The Zoning Administrator noted that the restaurant had been established at the location, conducting the sale of alcohol in association with dining service since 1999 and does not introduce a new use within the neighborhood. The applicant's record of responsible operation has been maintained with no record of incidents cited by the LAPD. The Zoning Administrator dismissed from further consideration a verbal request made by the applicant during the hearing on this matter for an increase in seating capacity from 91 to 130 persons, and allowances for a "Happy Hour". Said requests were not made in the application, identified on the plot plan, and the application noted specifically that a Happy Hour would not be conducted; additionally, these requests had not be given proper public notice.

The Zoning Administrator closed the public hearing and granted Conditional Approval of the request, noting specifically that the volunteered conditions regarding alcohol sales would be included as Conditions of the grant.

## **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 full line of alcoholic beverages for on-site consumption to be authorized, certain designated findings have to be made. In these cases, there are additional findings in lieu of the four standard findings for most other conditional use categories.

## **FINDINGS**

Following (highlighted) is a delineation of the findings and the application of the relevant facts to same:

1. **The proposed location will be desirable to the public convenience or welfare.**

The applicant proposes to sell a full line of alcohol as a use accessory to the operation of an existing restaurant. The restaurant has seating which is limited to 91 patrons, and will maintain the existing hours of operation (time period starting at 11 a.m. to closing at 2 a.m., daily). As proposed, the sale of a full line of alcoholic beverages maintains services provided by the existing establishment and does not introduce a use uncommon to the area. There will be no separate cocktail lounge. All areas of the restaurant will be used for dining.

The applicant is advised that all seating is to be maintained indoors, with no seating to be located within the public right-of-way along the Vermont Avenue frontage, and that such seating has not been authorized by this grant. It is noted that this provision of the grant maintains prior limitations assigned to the operation, specifically that no outdoor seated is permitted.

The ten-year term limit of the grant provides an inherent incentive to the applicant to comply with all of the Conditions in order to establish a viable track record in the event that an extension of the grant is pursued through a subsequent conditional use application. As conditioned herein, operational and alcohol-related issues have been comprehensively addressed to safeguard and insure the public welfare and to provide for their convenience. Therefore, the restaurant will continue to serve the public convenience and, as sited, is compatible with the character of the surrounding uses.

2. **The location is proper in relation to adjacent uses or the development of the community.**

The restaurant is located within an existing commercial corner shopping center, serving both residents and businesses within the local neighborhood and surrounding community. The restaurant is well-maintained and has operated without incident at the location demonstrating that the use is proper and will maintain this posture in relation to adjacent uses and development of the community.

3. **The use will not be materially detrimental to the character of the development in the immediate neighborhood.**

The applicant recognizes his obligation to be a respectful operator within the community. The applicant remains committed to maintaining a business that is both amenable to and desirable within the community.

The authorization herein, including the alcohol sales, maintains an established use and does not introduce new activities, or those that are uncommon to the area or that would result in a significant adverse change to existing conditions within the neighborhood.

The grant authorized herein incorporates Conditions which have been imposed upon the use, some of which have been volunteered by the applicant. Those Conditions directly related to the sale of alcohol, unless volunteered by the applicant, cannot otherwise be imposed by the City. The volunteered conditions serve to reinforce the purpose of the other conditions to insure compatibility with established uses in the surrounding community. Training regarding sale of alcohol will be conducted as required by the Los Angeles Police Department for all employees involved in the sale or dispensing of alcohol. Seating is limited to 91 patrons, subject to review by the Fire Department. The hours of operation are reasonable and are consistent with or more restrictive than other businesses of similar type in the area to mitigate potential public safety and noise impacts. The Conditions further mitigate potential noise impacts associated with trash pickup, deliveries, and parking. Parking is available in the adjoining parking lot and off-site locations contracted for use by the applicant.

The grant for the sale of a full line of alcohol is authorized for a term of ten years after which time the grantee will need to file a new conditional use for the same request. The term grant allows the City an opportunity to review the operation of the restaurant anew. If the operation has been conducted appropriately and without creating problems for the neighborhood, then a subsequent decision on a new conditional use may take that into favorable consideration. A record of poor compliance and/or nuisance complaints would allow the City the discretion to not grant a conditional use and thus avoid the need to proceed with prolonged nuisance abatement proceedings. As conditioned, the use will not be materially detrimental to the character of development in the immediate neighborhood.

4. **The proposed location will be in harmony with the various elements and objectives of the General Plan.**

The Hollywood Plan Map designates the property for Neighborhood Office Commercial land uses with a corresponding zone of C4 and Height District No. 1. The property is within the area of the Vermont/Western Station Neighborhood Area Plan Specific Plan. The request is not affected by the Specific Plan provisions.

The issue of alcoholic beverage sales is not specifically addressed in the Community Plan text. In such cases, the Zoning Administrator must interpret the

intent of the Plan; conditional authorization for the sale of alcoholic beverages on-site is allowed through the approval of the Zoning Administrator subject to certain findings. The grant conditions establish requirements and limitations to assure that the surrounding land uses will not be adversely impacted by the proposed use. The use is in conformance with the objectives of the Plan to encourage businesses and activities that enhance the vitality of the commercial districts and serve to improve the physical condition and appearance of properties within the area.

As evidenced by the information in the case file and presented in testimony, the request is in harmony with the General Plan elements and objectives.

5. **The location will not adversely affect the economic welfare of the community or result in an undue concentration of premises for the sale of alcoholic beverages.**

The sale of a full line of alcohol at this location will be an accessory use to the existing Electric Lotus restaurant. The restaurant will not operate as a nightclub, sports bar, or cabaret. The sale of a full line of alcohol at this location does not represent the introduction of a new use or one uncommon to the area; the use has been maintained with the allowance for sale of alcohol for on-site consumption only since 2002. As such, it can be reasonably assured that the economic welfare of the community will not be adversely impacted.

The location is within a commercial zone which is within the range of the allocated criteria for on-site licensing. According to the State of California Department of Alcoholic Beverage Control (ABC) licensing criteria, 5 on-site and 4 off-site licenses are allocated to subject Census Tract No. 1891.00. There are currently 27 on-site and 4 off-site licenses in this Census Tract. The ABC has recognized that commercial corridors historically positioned as high intensity use areas, including Vermont Avenue in the Los Feliz commercial district, are supported by a significant employee/visitor population in addition to the census tract resident population base. In these areas, where there is a demand for licenses beyond the allocated number and where an over-concentration of licenses exists, the ABC has discretion to approve an application if there is evidence that normal operations will not be contrary to public welfare and will not interfere with the quiet enjoyment of property by residents. This is reflected in the licensing statistics noted above.

Statistics from the Los Angeles Police Department reveal that in Crime Reporting District No. 1142, which has jurisdiction over the property, 314 crimes were reported 2008, compared to a high crime reporting district average of 282 crimes. Unlawful activity in the area does not reflect the general improvement to neighborhood environs recognized by area residents, business owners, community advocates, and the Council District representatives. The use is not associated with any undesirable activities and maintains a positive profile in the community. The ten-year term grant and other conditions related to the sale of alcohol, as well as reasonable hours of operation, provide for a responsible operation. The grant allows the City to impose corrective Conditions if determined necessary and to terminate the use in the event it has become a nuisance and to not extend any alcoholic beverage privileges thereafter.

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

A church and residential uses are located within 1,000 feet of the site. The church and residential sites are physically separated from the use by buildings, street rights-of-way, parking areas, setbacks, fences, and other structures. The applicant's tenant space is located internal to the shopping center and does not directly adjoin nor front on any of these uses. The applicant has maintained the business at this location without incident or record of disturbance, as verified by the Los Angeles Police Department (see Staff Investigator report, conversation with Office Rick Koval, February 19, 2010).

This grant has placed numerous Conditions on the proposed project and has not authorized use of the property which might create potential nuisances for the surrounding area. Such imposition of conditions, including a ten-year term grant on the approval regarding the sale of alcohol, will make the use a more compatible and accountable neighbor to the surrounding uses than would otherwise be the case.

#### **FINDINGS FOR COMMERCIAL CORNER DEVELOPMENT**

7. **The Commercial Corner Development use is consistent with the public welfare and safety.**

The project consists of the continued maintenance of a restaurant within a corner shopping center, operating from 11 a.m. to 2 a.m., daily. The business provides off-street parking facilities, loading areas, lighting, landscaping, trash collections, and other such improvements, that will continue to be compatible with existing and future development on neighboring properties. The restaurant includes adequate and strategically positioned functional and aesthetic lighting to enhance public safety. Ingress and egress portals from the parking area onto the adjoining streets are located to minimize and avoid potential hazards to pedestrians and vehicles.

8. **Access, ingress and egress to the Commercial Corner Development will not, based on data provide by the City Department of Transportation or by a licensed traffic engineer.**

Vehicular ingress/egress is via a driveway apron along Franklin Avenue in the vicinity of the property's northeast corner. No alteration to the existing physical character or design of the parking areas or access to the structure will occur in association with approval of the conditional use permit. No change in occupancy levels has been authorized by this grant, therefore maintenance of the existing restaurant use with extended hours of operation, as previously allowed under prior grants, will not constitute a traffic hazard or cause significant traffic congestion or disruption of vehicular circulation on adjacent streets.

9. **There is not a detrimental concentration of Commercial Corner Development in the vicinity of the proposed Commercial Corner Development.**

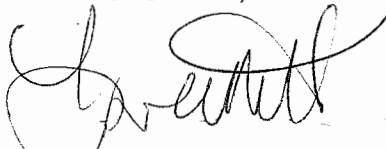
The request is for maintenance of an established restaurant operation within a commercial corner development with hours of operation that extend beyond 11 p.m., nightly. The restaurant has been maintained at the location since 1999 and maintained hours of operation from 11 a.m. to 2 a.m., as granted in 2002. This authorization does not result in any change to the number of commercial corner developments within the area.

10. **The Commercial Corner Development is not located in an identified pedestrian oriented area or zone, or if the lot is located in an identified pedestrian oriented area or zone, that the Commercial Corner Development would not have an adverse impact on the pedestrian oriented area or zone.**

The Commercial Corner Development is not located in an identified pedestrian oriented area or zone.

#### **ADDITIONAL MANDATORY FINDINGS**

11. The National Flood Insurance Program rate maps, which are a part of the Flood Hazard Management Specific Plan adopted by the City Council by Ordinance No. 172,081, have been reviewed and it has been determined that this project is located in Zone C, areas of minimal flooding.
12. On August 11, 2009, the project was issued a Notice of Exemption (Article III, Section 3, City CEQA Guidelines), log reference ENV 2009-2579-CE, for a Categorical Exemption, Class 5, Category 34, City CEQA Guidelines, Article VII, Section 1, State EIR Guidelines, Section 15100. I hereby concur with that action.



LINN K. WYATT  
Associate Zoning Administrator  
Direct Telephone No.: (213) 978-1306

LKW:Imc

cc: Councilmember Tom LaBonge  
Fourth District  
Adjoining Property Owners