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CALIFORNIA



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January 25, 2011

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Los Angeles, CA 90049

CASE NO. ZA 2006-5028(CUB)(PA1)

APPROVAL OF PLANS

1427 and 1429 Abbot Kinney Boulevard
Venice Planning Area

Zone : C2-1-O-CA

D. M. : 108B145

C. D. : 11

CEQA: ENV 2010-1043-CE

Legal Description : Lots 10 and 11, Block
23, Venice of America Tract

Pursuant to Los Angeles Municipal Code Section 12.24-M, for a Zoning Administrator's determination of Approval of Plans to review compliance with the conditions of operation imposed on the use, I hereby DETERMINE:

the use is in partial compliance with the Conditions of the prior action of the Zoning Administrator for ZA 2006-5028(CUB) in association with the continued operation of a restaurant dispensing beer and wine; and

hereby retain the following conditions as previously approved by the Zoning Administrator on May 4, 2007 with the following modifications, deletions and additions as follows:

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. **MODIFIED:** 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. A new Exhibit "A" shall be prepared to the satisfaction of the Zoning Administrator that will show plans approved under related Case No. DIR 2006-6829(SPP) or any subsequent revisions approved by the Director of Planning or his designee. The plans shall also address the following:~~ a) removal of the previously requested bar, b) the construction or installation of a noise barrier either solid or of plant material along the eastern and southern edge of the patio, c) a note on the plans that indicate absolutely no use of the patio past 11 p.m., and d) a note on the plans that the existing one car garage shall be used for parking only and not for storage.

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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. **MODIFIED:** Maximum seating for the restaurant shall ~~not exceed 44 indoor seats and 16 outdoor seats for a total of 60 seats~~ be as determined by the Director of Planning under related Case No. DIR 2006-6829(SPP). No outdoor seating in the public right-of-way sidewalk area shall be permitted.
7. **MODIFIED:** Approved herein is the sale and dispensing of beer and wine only for on-site consumption in an approximately a 2,619 square-foot ~~proposed~~ restaurant ~~with seating for 44 patrons indoors and 16 patrons on the patio~~, with operating hours of 6 a.m. to 1 a.m. daily for the interior of the premises. The patio shall not be used for any activity whatsoever after 11 p.m. No after hours use of the restaurant is permitted, including any use for private or promotional events.
8. The applicant shall install a noise buffer in order to minimize noise associated with trash disposal to nearby residential neighbors. The type of buffer proposed shall be depicted on the plans submitted to the Zoning Administrator.
9. **MODIFIED:** No amplified music is permitted indoors or outdoors. Any indoor background music shall not be audible beyond the property line. Photographs and plans shall be submitted to the Zoning Administrator's Office reflecting the installation of the noise barrier required by Condition No. 2 of this grant.
10. No live entertainment or dancing is permitted.
11. No bar or cocktail lounge is permitted
12. No delivery of food is permitted. At the time of the required plan approval review hearing of compliance with conditions, the impact if any on traffic or parking of any take-out service shall be evaluated.
13. No pool or billiard tables or coin operated electronic, video or mechanical amusement devices shall be maintained on the premises.
14. The applicant shall maintain on the premises and present upon request by any law enforcement office, a copy of the Business Permit, Insurance information, and a

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valid emergency contact phone number for the security services as well as valid emergency contact phone numbers for the security company service used by the applicant.

15. Notice of the existence of conditions on the premises shall be available and posted in a window or visible location in decal form, obtained from the Planning public counter.
16. The applicant shall be responsible for maintaining the area adjacent to the premises over its control free of litter.
17. Any exterior lighting shall be installed such that the light is directed onto the subject site. Lighting shall be adequate to identify anyone in the front of the building at night.
18. The applicant owner and on-site manager(s) shall comply with all 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.
19. Within six months of the opening of the restaurant, 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** (note: bold added for emphasis but no change to condition language). 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.
20. The premises shall be maintained as a bona fide eating establishment (restaurant). A kitchen shall be maintained in the restaurant in accordance with the definition of such in the Los Angeles Municipal Code. Food service shall be available at all times that the restaurant is open for business.
22. Electronic age verification devices which can be used to determine the age of any individual attempting to purchase alcoholic beverages or tobacco products shall be installed on the premise at each point-of-sale location. This device shall be maintained in an operational condition and all employees shall be instructed in its use prior to the sale of any alcoholic beverage.
23. There shall be no exterior advertising or sign of any kind or type, including advertising directed to the exterior from within, promoting or indicating the availability of any beverages.
24. The quarterly gross sales of alcoholic beverages shall not exceed the gross sales of food during the same period. The licensee shall at all times maintain records which reflect separately the gross sales of food and the gross sales of alcoholic beverages

of the licensee's business. Said records shall be kept no less frequently than on a quarterly basis and shall be made available to the Police Department upon demand.

25. **MODIFIED:** Notwithstanding any other provisions of the Code or permitted time extensions, the authorization granted herein for the sale of alcohol is for a period of **five (5) years** from the effective date of ~~this~~ the original grant dated May 4, 2007. Thereafter, this authorization shall become null and void and a new conditional use authorization for the sale of alcohol will be required.
26. **MODIFIED:** The project and operation of the business shall fully comply with all of the conditions identified in Case No. DIR-2006-6829(SPP), or modifications hereto, to the satisfaction of the Director of Planning or her designee and hence comply with the Venice Specific Plan (Ordinance No. 168,999).
27. **DELETED:** ~~The project shall fully comply with the Central Transportation Corridor Specific Plan (Ordinance No. 168,999) to the satisfaction of the Department of Building and Safety. (Staff note: Ordinance No. 168,999 is the Venice Coastal Zone Specific Plan and is addressed by Condition No. 26 above. Otherwise, the site is located outside the boundaries of the West Los Angeles Traffic Improvement and Mitigation Specific Plan.)~~
28. All of the conditions stated in Environmental Clearance Case No. ENV 2006-5029-MND and listed below shall be fully complied with.
 - a. Aesthetics (Graffiti)
 - 1) Every building, structure, or portion thereof, shall be maintained in a safe and sanitary condition and good repair, and free from graffiti, debris, rubbish, garbage, trash, overgrown vegetation or other similar material, pursuant to Municipal Code Section 91.8104.
 - 2) The exterior of all buildings and fences shall be free from graffiti when such graffiti is visible from a public street or alley, pursuant to Municipal Code Section 91,8104.15.
 - b. Aesthetics (Signage)
 - 1) On-site signs shall be limited to the maximum allowable under the Code.
 - 2) Multiple temporary signs in the store windows and along the building walls are not permitted.
 - c. Air Pollution (Stationary)

COMMERCIAL/INSTITUTIONAL - The applicant shall install air filters capable of achieving a Minimum Efficiency Rating Value (MERV) of at least

11 or better in order to reduce the effects of diminished air quality on the occupants of the project.

d. Air Quality (Objectionable Odors)

The trash receptacle shall be relocated at least 50 feet from the property line of any adjacent residential property.

e. Explosion/Release (Asbestos Containing Materials)

Prior to the issuance of any 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.

f. Food Service Industry (Restaurants, Bakeries, Food Processors)

- 1) 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.
- 2) Post development peak stormwater runoff discharge rates 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.
- 3) Any connection to the sanitary sewer must have authorization from the Bureau of Sanitation.
- 4) Cleaning of oily vents and equipment to be performed within designated covered area, sloped for wash water collection, and with a pretreatment facility for wash water before discharging to properly connected sanitary sewer with a CPI type oil/water separator. The separator unit must be: designed to handle the quantity of flows; removed for cleaning on a regular basis to remove any solids; and the oil absorbent pads must be replaced regularly according to manufacturer's specifications.
- 5) Store trash dumpsters either under cover and with drains routed to the sanitary sewer or use non-leaking and water tight dumpsters with lids. Wash containers in an area with properly connected sanitary sewer.

- 6) Reduce and recycle wastes, including oil and grease.
 - 7) Store liquid storage tanks (drums and dumpsters) in designated paved areas with impervious surfaces in order to contain leaks and spills. Install a secondary containment system such as berms, curbs, or dikes. Use drip pans or absorbent materials whenever grease containers are emptied.
 - 8) 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.
 - 9) 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. Legibility of stencils and signs must be maintained.
 - 10) Materials with the potential to contaminate stormwater must be: (1) placed in an enclosure such as, but not limited to, a cabinet, shed, or similar stormwater conveyance system; or (2) protected by secondary containment structure such as berms, dikes, or curbs.
 - 11) The storage area must be paved and sufficiently impervious to contain leaks and spills.
 - 12) The storage area must have a roof or awning to minimize collection of stormwater within the secondary containment
 - 13) 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.
 - 14) Prescriptive Methods detailing BMPs specific to the "Restaurant" project category are available. Applicants are encouraged to incorporate the prescriptive methods into the design plans. These Prescriptive Methods can be obtained at the Public Counter or downloaded from the City's website at www.lastormwater.org. (See Exhibit A).
- g. Increased Noise Levels (Retail Markets, Bars, Entertainment etc...)

A 6-foot-high solid decorative masonry wall adjacent to the residential properties shall be constructed, if no such wall currently exists.

h. Public Services (Police General)

The plans shall incorporate the design guidelines relative to security, semi-public 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 818, Los Angeles, (213)485-3134. These measures shall be approved by the Police Department prior to the issuance of building permits.

i. Insufficient Parking Capacity (Commercial Parking)

The applicant shall provide parking spaces at a minimum of 2 spaces per 1,000 square feet of floor area.

ZA Note: This issue has been addressed in Case No. DIR-2006-6829(SPP) and it has been determined by the Director of Planning that no additional parking is required. Further the applicant is participating with the Department of Transportation (Shahin Khajavi, P.E.) to re-designate some additional parking on Electric Avenue between Milwood and Palms. This effort will require a change in signage and street striping.

j. Utilities (Solid Waste)

Recycling bins shall be provided at appropriate locations to promote recycling of paper, metal, glass, and other recyclable material.

29. ~~DELETED: No earlier than 10 months and no later than 12 months from the opening date of the restaurant, the applicant/property owner shall file a plan approval review application for the subject premises. The plan approval review application must be accompanied by the payment of appropriate fees and must be accepted as complete by the Planning Department.~~

~~Mailing labels shall be provided by the applicant for all property owners and tenants within 500 feet of the subject site, for all persons who requested notification of this determination, for the local neighborhood council, for the Council Office and for the Los Angeles Police Department. A public hearing shall be conducted. The applicant shall also submit a written summary and any supporting documentation with the application of how compliance with each condition, as revised by of this grant, has been attained. The Zoning Administrator may modify, add or delete to the conditions or may initiate revocation procedures if so warranted by the record.~~

30. Within 30 days of the effective date of this action, 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 shall run with the land and shall be binding on any subsequent owners, heirs or assigns. The agreement must be submitted to the Zoning Administrator for approval before being recorded. After recordation, a copy bearing the Recorder's number and date shall be provided to the Zoning Administrator for attachment to the subject case file.
31. **NEW:** The existing dwelling unit on the second floor shall be maintained as a dwelling unit and the one-car garage shall be maintained as parking for the existing dwelling unit. The conversion of the dwelling unit or garage to any other use shall require an application for a change of use and conformance to applicable provisions of the L.A.M.C. and the Venice Coastal Zone Specific Plan.
32. **NEW:** The curb directly in front of the subject premises on Abbot Kinney Boulevard shall not be utilized as a loading zone without approval by the Department of Transportation and shall not be used or designated as parking for the exclusive use of the restaurant.

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, prior to the termination date of the period, 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,

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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 FEBRUARY 3, 2011, 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 September 30, 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 plan approval under the provisions of Section 12.24-M have been established by the following facts:

BACKGROUND

The subject site is a rectangular-shaped, corner lot, with approximately 60 feet of frontage on the north side of Abbot Kinney Boulevard and approximately 87 feet of frontage on the west side of Millwood Avenue. The site is improved with a two-story, 4,982 square-foot building constructed in 1921 with ground floor retail and one dwelling unit on the second level. There is a one-car garage accessible from Millwood Avenue for the dwelling.

On October 12, 2006, the Director of Planning approved related Case No. DIR-2006-6829(SPP) to allow a change of use of a 1,744 square-foot retail space and a 988 square-foot water analysis laboratory on the ground floor into a restaurant with a bar. A Project Permit Compliance Review was required because the change of use resulted in an increase in the total occupant load by more than 10 percent per the Venice Coastal Zone Specific Plan. However, based on a Certificate of Occupancy issued on March 12, 1970, it was determined that the proposed change of use would not require any additional parking. The conditions of approval do not stipulate the maximum occupancy or the maximum allowable Service Floor, however, Condition 'A' of the grant requires that: *"The use and development of the subject property shall be in substantial conformance with the site, floor and elevation plans labeled "A-0.0, A-0.2, A-0.3, A-0.5, A-1.0, A-2.0 and A-1.5 dated October 12, 2006"*.

A review of these plans (Sheet A-0.2) shows a proposed parking calculation diagram based on 600 square feet of indoor Service Floor area and 120 square feet of outdoor Service Floor area. The Venice Coastal Zone Specific Plan defines Service Floor as: *"All areas where a customer can be served, except the restroom, including the indoor and outdoor dining area, bar, waiting room and tavern"*. These plans show an interior dining area with a fixed bar with seating for approximately 49 persons (including the bar) and 8 persons in an outdoor patio for a total of 57 persons.

Subsequently, on May 4, 2007, the Zoning Administrator approved the instant case, Case ZA-2006-5028(CUB), to allow a conditional use to permit the sale and dispensing of beer and wine only for on-site consumption in connection with the proposed restaurant. As originally proposed, the request was for a full line of alcoholic beverages with an interior dining area with a fixed bar, live entertainment and an outdoor dining area. The proposed floor plan was generally similar to those approved under DIR-2006-6829(SPP) with a slightly different seating arrangement consisting of 44 indoor seats (including the proposed bar) and 12 seats in the outdoor patio for a total of 56 seats.

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In response to testimony and concerns raised at the original public hearing on March 29, 2007, the Zoning Administrator approved the sale and dispensing of beer and wine only in lieu of the requested full line of alcoholic beverages and prohibited the maintenance of a bar or cocktail lounge and prohibited any live music in the patio. In the Zoning Administrator's view, as conditionally approved, the sale of beer and wine only in lieu of a full line of alcoholic beverages and the elimination of the bar and live music would result in a less intensive use and less environmental impacts.

Condition No. 2 of the grant required that a revised Exhibit 'A' be prepared to the satisfaction of the Zoning Administrator showing: (1) the removal of the bar, (2) the construction or installation of a noise barrier either solid or of plant material along the eastern and southern edge of the patio, (3) a note on the plans indicating absolutely no use of the patio after 11 p.m.; and (4) a note on the plans that the existing one-car garage shall be used for parking only and not for storage. In addition, Condition No. 6 restricted seating for the restaurant to 44 indoor seats and 16 outdoor seats; Condition No. 7 restricted the hours of operation from 6 a.m. to 1 a.m. and restricted use of the patio until 11 pm; and Condition No. 9 prohibits amplified music indoors or outdoors and requires that any indoor background music shall not be audible beyond the property line. Condition No. 10 of the grant prohibits live entertainment or dancing, Condition No. 11 prohibits a bar or cocktail lounge and Condition No. 26 requires conformance to related Case No. DIR-2006-6829(SPP).

The Public Hearing summary below provides a summary of issues raised at the hearing.

Surrounding properties the north are in the C2-1-O-CA Zone and consist of public, city owned parking. Properties to the south across Abbot Kinney Boulevard are in the C2-1-O-CA Zone and consist of retail and commercial uses. Property to the east across Milwood Avenue is in the C2-1-O-CA Zone and is improved with a new two-story office building. The adjacent property to the west is in the C2-1-O-CA Zone and contains a furniture store.

Abbot Kinney Boulevard, adjoining the property to the south is a designated Scenic Secondary Highway, dedicated a variable width of 70 to 76 feet and improved with curb, gutter and sidewalk.

The alley, adjoining the property to the rear through alley improved with asphalt pavement and concrete gutter within a 25-foot dedication and is access to city parking.

Previous zoning related actions in the area include:

Case No. DIR-20066829(SPP) – On October 12, 2006, the Director of Planning approved a Specific Plan Project Permit Compliance to allow a change of use of 1,174 square-foot retail/commercial and 988 square-foot water analysis laboratory into a restaurant.

Case No. ZA 89-0378(ZA1) - On September 8, 1989, the Zoning Administrator in an interpretation approved the sale of alcoholic beverages at 1616-1616-1/2 West Washington Boulevard (now renamed Abbot Kinney Boulevard), maximum occupancy 49 patrons.

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Case No. ZA 2000-0343(CU) - On April 27, 2000, the Zoning Administrator approved a conditional use at 1635 Abbot Kinney Boulevard to permit the sale and dispensing of a full line of alcoholic beverages for on-site consumption in conjunction with an existing 1,165 square-foot restaurant accommodating 44 persons.

Case No. ZA 2000-3356(CDP) - On November 29, 2000, the Zoning Administrator approved a Coastal Development Permit at 1635 Abbot Kinney Boulevard, authorizing the conversion, use and maintenance of an existing 1,718 square-foot market/store into two restaurants; one for take-out only and one sit-down facility, on a site in the M1-1-O Zone in the single-permit jurisdiction of the California Coastal Zone.

Case No. ZA 89-0378(ZAI) - On September 8, 1989, the Zoning Administrator denied the sale of alcoholic beverages for on-site consumption, with a maximum occupancy load of 49 patrons, located at 1616-1/2 Washington Boulevard.

Case No. ZA 2001-3132(CDP)(CUB)(ZV)(SPP) - On February 27, 2002, the Zoning Administrator approved at 1432 Abbot Kinney Boulevard, a Coastal Development Permit to allow a 1,516 gross square-foot sushi bar with a 1,996 square-foot dwelling unit within the single-permit area of the California Coastal Zone; approved a Conditional Use to permit the sale of beer and wine for on-site consumption in conjunction with a proposed restaurant; approved Variances to permit three deep tandem parking instead of the permitted two deep tandem spaces, and two compact spaces instead of one; and, approved a Directors Determination for Specific Plan Project Permit Compliance to permit the construction, use and maintenance of a three-story restaurant and dwelling.

PUBLIC HEARING

A public hearing was conducted on September 30, 2010 in the West Los Angeles Municipal Building. The hearing was attended by the applicant and co-owner of the restaurant, Mr. Robert Schwan and by several local residents and members of the local Neighborhood Council.

Mr. Schwan did not make a presentation but made himself available for questions. Ms. Arminda Diaz, a local resident on Andalusia Avenue indicated that the indoor seating exceeded 40 persons (in violation of Condition No. 6. She indicated that an office on the ground floor has been converted into dining area and that approximately 300 square feet on the second floor (permitted as a dwelling unit) was being utilized for dining, and that areas designated for landscaping in the patio on the approved plans have been converted to dining area as well.

Ms. Diaz further indicated that additional parking is required based on the parking requirement for Service Floor area under the Venice Coastal Zone Specific Plan. She also indicated that the existing one-car garage was utilized for storage instead of parking. Ms. Diaz requested that the applicant be required to limit the seating capacity to a maximum of 720 square feet (of Service Floor) and that the matter be set for a subsequent hearing

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within six months with periodic site inspections to review compliance. Ms. Diaz submitted an Exhibit and photos depicting the seating lay-out.

Ms. Amy Alkon, an adjacent neighbor on Electric Avenue testified that amplified music was audible beyond the premises (in violation of Condition No. 9) and that the restaurant had seating for approximately 120 persons and had over 100 employees. She indicated that parking was a major problem and that "Permitted Parking" on the adjacent residential streets was not allowed because the neighborhood is within the Coastal Zone. She indicated that the curb in front of the restaurant has been painted as a "Passenger Loading Zone" without approval from the Department of Transportation and is utilized for "VIP Parking".

Mr. Arnold Springer, also an adjacent resident on Electric Avenue indicated he was on the Land Use Committee of the Venice Neighborhood Council at the time the restaurant was proposed. Mr. Springer requested that this determination be linked with the request (by the applicant) to open a separate restaurant with take-out service in the adjoining space next door in the same building.

Ms. Jory Tremblay, a member of the Land Use and Planning Committee of the Venice Neighborhood Council indicated that the applicant was not in compliance with Condition No. 6 (which limited seating to 44 indoor seats and 16 outdoor seats) and Condition No. 22 which requires electronic age verification (Note: The Zoning Investigator's Report indicates that an electronic age verification device was observed on the premises at the time of his site visit). Ms. Tremblay indicated that there were approximately 46 indoor seats and 38 outdoor seats.

The Hearing Officer inquired with the applicant as to compliance with the STAR training required by Condition No. 19, the use of the curb in front of the restaurant for parking and the use of the second floor for dining area. Mr. Schwan was unaware whether STAR training had been completed and did not acknowledge use of the curb for parking or use of the second of floor for dining. However, Mr. Schwan acknowledged that the second floor was included as part of the lease agreement.

The matter was taken under advisement and the record was kept open for two weeks until October 14, 2010. The advisement period was subsequently extended until December 1, 2010. Subsequent to the hearing, the applicant furnished a copy of a sign-in sheet for a STAR Training session conducted by the Hollywood Vice Section of the Los Angeles Police Department on August 5, 2009 which shows a staff member of Gjelina's was in attendance.

The applicant also furnished a copy of the Certificate of Occupancy for the premises and a copy of the maximum occupant load allowed by the Fire Department for the premises. The Certificate of Occupancy indicates the approved use consists of 3,513 square feet of restaurant, 1,149 square feet of retail (not a part of restaurant) and no change to a 1,000 square-foot dwelling unit located on the second floor. The maximum occupant load permitted by the Fire Department is 82 persons inside and 40 persons in the patio for a total occupancy of 122.

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The applicant also submitted a request to modify Condition No. 6 to increase the seating capacity consistent with the occupancy allowed by the Fire Department. The applicant submitted an exhibit showing an increase in Service Floor from 600 square feet to 825 square feet for indoor dining and from 120 square feet to 425 square feet for outdoor dining.

The following is a summary of the correspondence and communications received subsequent to the hearing. Most of the correspondence reiterated the testimony at the hearing:

Opposition:

Parking has grown worse in the neighborhood and parking is extremely scarce. Gjelina provides no parking for customers or employees and displaces residential parking on adjacent residential streets. Residents are forced to drive around to find parking and park further from their residences.

Gjelina is in violation of the Venice Coastal Zone Specific Plan by doubling the "Service Area" of the restaurant by illegally converting an office into dining area and using the entire patio area as dining. This expansion would require 15 additional parking spaces.

All areas in excess of 720 square feet of restaurant service area approved on October 12, 2006 (related Case No. DIR-2006-6829-SPP) are converted back to office and landscaped areas only or provide 15 additional parking spaces.

The laws must be applied consistent to all businesses on Abbot Kinney. Other businesses have had to provide additional parking or have had to limit their seating capacity in order to comply with existing code regulations.

Gjelina should be required to limit the seating capacity to 60 persons or to provide the required additional on-site parking if they wish to operate as they are now.

A video was submitted showing that music can be heard emanating from the restaurant onto the sidewalk adjacent to the premises on Milwood Avenue. A Gjelina's business card was also furnished which provides a phone number for inquiries concerning services on the second floor.

The restaurant is in violation of the conditions of the CUB (amplified music outdoors) and in violation of the VCZSP by doubling the service floor area. A new condition requiring another Plan Approval review in six months should be required.

Residents must jockey for parking spaces and complete with valets for parking on residential streets.

Support:

I frequent Gjelina's and drive from Long Beach and never have a problem finding parking easily. Gjelina's is a wonderful place and one of the best things on Abbot Kinney. It's a

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pleasant place and staff never turns over. Reducing the size would only hurt other businesses on the street and result in immediate lay-offs.

I am a local resident and have live on Abbot Kinney for ten years and witnessed the changes in the community. Gjelina is one of the best additions on the block and Gjelina has embraced local residents. The business thinks globally and acts locally and I support any expansion plans.

I live in Hermosa Beach and frequent Gjelina's two to three times per week. I never visited the area much until Gjelina opened. I have never parked at a residence and have not had any trouble finding parking in the area around Gjelina. The restaurant employs numerous workers and the city should allow more seating to keep their constituents working and have more people hired.

Please allow Gjelina to maintain their current capacity. It's a token establishment on Abbot Kinney and one of the best restaurants we have.

Please do not reduce seating and keep Gjelina at 100 seats, it's hard enough to eat there already.

HEARING OFFICER COMMENTS:

The instant case presents a challenge in balancing the city's desire to promote business development in an area that has become a regional destination against the needs of local residents, without infringing on the rights of businesses or residents. As noted in the Public Hearing summary above, testimony at the public hearing primarily revolved around the restaurant's capacity and associated parking impacts as well noise emanating beyond the premises. While the Zoning Administrator has the authority to modify or impose corrective conditions, such as increasing or decreasing the capacity of the restaurant, in this case, the question of seating capacity and associated parking is a technical issue governed by the Venice Coastal Zone Specific Plan.

As noted by the Zoning Administrator on the original determination, Abbot Kinney Boulevard is an area that has undergone a transition with a growing number of galleries, artist-in-residence units, boutiques, restaurants and bars. Similar to other commercial corridors Indeed, Abbot Kinney Boulevard, like La Brea Avenue, Melrose Avenue, Larchmont Avenue and Main Street and Montana Avenue in Santa Monica is becoming a destination street. Visitors to Venice peruse the antique shops and art galleries and boutiques on Abbot Kinney Boulevard and also visit the growing number of restaurants in the area.

The dilemma is determining the appropriate level of seating capacity, given the circumstances surrounding the site. The existing building is an older, two-story building constructed in 1921 and contains no on-site parking except for a one-car garage for a permitted dwelling unit on the second floor. The record is clear that in approving the original determination to permit on-site consumption of beer and wine only in lieu of the applicant's request for a full line of alcoholic beverages, and in prohibiting the maintenance of a bar or cocktail lounge and live music, it was the Zoning Administrator's intent to lessen

the intensification of the restaurant operation. However, the record is not clear whether in limiting the seating capacity, the Zoning Administrator also intended to limit the intensity of the use or was simply a reflection of the applicant's proposal.

While many of the commercial uses along Abbot Kinney have inadequate on-site parking, the city has partially mitigated the lack of parking by converting an approximately four block segment of Irving Tabor Court located to the rear of the commercial buildings on the north side of Abbot Kinney Boulevard to public parking. This has substantially increased the supply of commercial parking in the area and in addition, there is street parking available along the south side of Electric Avenue as well as along Abbot Kinney Boulevard. Nevertheless, the supply appears to remain a challenge.

Meanwhile, the residential neighborhood north of Electric Avenue is congested and has inadequate on-site parking as well. A spot survey conducted by the Hearing Officer in the residential area north of the subject site encompassing the area bounded by California Avenue to the west, Palms Boulevard to the east and Shell Avenue to the north indicates that the area is characterized by older cottages and small multi-family residential uses built in the early 1920's with minimal on-site parking. These properties consist of smaller individual lots (that are not assembled) approximately 40 feet wide and contain approximately 5,400 square feet. These lots are improved with one to five units (except for one 10-unit structure on Electric Ave). The lots improved with multiple units are not apartment style buildings with at-grade or subterranean parking but consist generally of one-story attached or detached cottages scattered over the site and typically have detached garages to the rear with access from an alley. Such garages are only adequate to serve one or two dwelling units. Excluding the lots fronting on Electric Avenue between Milwood and California Avenue, there are a total of 59 lots in this area with 29 lots containing a single-family dwelling and 30 lots containing a combined total of 80 units. Thus, street parking on the residential streets is congested and competitive.

In view of the parking circumstances in the community as a whole, it is difficult to measure the extent to which the demand for commercial parking is impacting the residential neighborhood and to what extent the problem is also attributable to a lack of residential parking – let alone attempting to gauge an individual business' fair share of the parking problem. The easy solution would be to restrict parking on residential streets for residents only but due to the neighborhood's location within the Coastal Zone, preferential permitted parking is not permitted.

The Hearing Officer conducted a site visit of the area surrounding the site on Saturday, October 23, 2010 between approximately 11:00 and 11:30 p.m. Abbot Kinney Boulevard was lively and active at the time of the site visit. The Hearing Officer spent approximately 30 minutes in the area and observed that all of street parking along Abbot Kinney, Electric Avenue and along Tabor Court was in use. Some pedestrians were observed walking from the direction from Abbot Kinney to a vehicle parked on Electric Avenue (approximately two blocks west of the site). During this period, parking in the interior residential streets north of Electric Avenue was completely occupied, however, no patrons from the commercial district were observed walking to or from the interior residential streets at the time of the site visit other than a couple patrons who were parked immediately adjacent to Electric Avenue. The Hearing Officer did observe parking spaces along Irving Tabor turning-over

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with other vehicles waiting to utilize the same parking. Some patrons were observed arriving in taxis and some patrons were observed departing on bicycle.

The upper level of Gjelina's was inspected and was not being used for dining at the time of the site visit but was set-up as an office and storage. Ambient noise and music could be heard on the adjacent sidewalk but the music was not blaring. The first floor was not inspected and no decibel measurements were taken nor did the Hearing Officer confirm whether the music was audible across Electric Avenue.

While it is not uncommon for a Zoning Administrator to restrict the maximum seating capacity for a restaurant (in connection with on-site sale of alcoholic beverages), in this case, the question of seating capacity and associated parking is a technical issue governed by the Venice Coastal Zone Specific Plan. However, as noted in the background above, related Case No. DIR-2006-6829(SPP) contains no conditions that explicitly limit the Service Floor area or seating capacity.

Condition No. C.5. of related Case DIR-2006-6829(SPP) reads as follows:

On March 12, 1970, the Department of Building and Safety issued a Certificate of Occupancy for a repair shop and water analysis laboratory addition to an existing retail store and one dwelling with a detached one-car garage. The project site is non-conforming as to parking. The change of use from retail/commercial and water analysis laboratory into a restaurant requires no additional parking.

While a review of the plans in the related case contains a parking analysis diagram, the required findings do not reference this exhibit. With respect to parking, Finding No. 2.d. states:

The proposed project requires no additional parking. The current use of the subject property, retail and water analysis laboratory, has a non-conforming right of 26 parking spaces and provides one space on-site. The proposed change of use of a portion of the retail space and the laboratory also require 26 parking spaces.

The Findings do not substantiate or provide details on the parking analysis and do not make reference to Service Floor area.

Subsequently, the Zoning Administrator's approval of the original grant for the instant case eliminated the proposed bar which resulted in a different seating arrangement and lay-out than that approved under the related case. While Condition No. 26 of the instant original grant required the business to comply with all conditions identified in Case No. DIR-2006-6829(SPP), revised plans (eliminating the bar) were signed-off for the instant case on September 5, 2007.

In addition, the Certificate of Occupancy describes the approved use as follows: "Convert 3,513 square feet retail/laboratory/dwelling unit bldg. into sit-down restaurant. The new building will be 3,513 sq. ft. restaurant, 1,149 sq. ft. retail and no change to 1,000 sq. ft. dwelling unit located on the second floor". No information concerning required parking or use of the existing garage is provided.

In view of the foregoing, and in order to eliminate confusion concerning jurisdiction between the two entitlements issued on the site, any conditions in the instant case limiting seating capacity, have been deleted. Any desire by the applicant to modify the approved plans or increase capacity will require review by the Community Planning Bureau.

In addition, existing conditions have been modified and new conditions have been added to address any areas of non-compliance.

AUTHORITY FOR PLAN APPROVAL

Section 12.24-M of the Los Angeles Municipal Code provides in part:

"M. Development, Change or Discontinuance of Uses:

1. Development of Site. On any lot or portion thereof on which a conditional use is permitted pursuant to the provisions of this section, new buildings or structures may be erected, enlargements may be made to existing buildings, existing uses may be extended on an approved site, and existing institutions or school developments may be expanded as permitted in Subsection L of this Section, provided plans therefore are submitted to and approved by the Commission or by a Zoning Administrator, whichever has jurisdiction at that time ...".

FINDINGS

1. Status of Compliance

After consideration of all information presented by the applicant, and testimony at the public hearing, written communications, photographs, and evidence in the case file, I find that under the provisions of Municipal Code Section 12.24-M that the use of the site located at 1427 South Abbot Kinney Boulevard is in partial compliance with Conditions imposed by a prior discretionary land use determination, ZA 2006-5028(CUB).

2. Conditions of Approval

The establishment is not in full compliance to all conditions. This grant maintains the original conditions under Case No. ZA 2006-5028(CUB) plus the addition, modification and deletion of certain conditions, as appropriate, to address non-compliance with certain conditions. The revised Conditions of approval are adequate to insure that the operation of the use continues with regard to the character of the surrounding neighborhood, and in compliance with the full intent of the original grant conditions. Due consideration has been given to the effects of any modifications on surrounding properties.

Although the operation is not in full compliance, to the extent that the instant grant expires on May 4, 2012, no further Approval of Plans has been required.

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ADDITIONAL MANDATORY FINDINGS

3. 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.
4. On April 26, 2010, the subject project was issued a Notice of Exemption (Subsection c, Section 2, Article II, City CEQA Guidelines), log reference ENV 2010-1043-CE, for a Categorical Exemption, Class 1, Category 22. Article III, Section 1, City CEQA Guidelines (Sections 15300-15333, State CEQA Guidelines). I hereby adopt that action.

I concur with the report prepared by Fernando Tovar, Planning Staff for the Office of Zoning Administration, on this application and approve same.

FERNANDO TOVAR
City Planner
Direct Telephone No. (213) 978-1303



LINN K. WYATT
Acting Chief Zoning Administrator

LKW:FT:lmc

cc: Councilmember Bill Rosendahl
Eleventh District
Adjoining Property Owners