



# West Los Angeles Area Planning Commission

200 North Spring Street, Room 272, Los Angeles, CA 90012, (213) 978-1300

## DETERMINATION OF THE WEST LOS ANGELES AREA PLANNING COMMISSION

Determination Mailing Date: MAR 25 2009

Applicant: Gerald Milne; Witzend

**CASE NO. APCW-2008-295-SPE-CUB-CDP-SPP**  
Location: 1711-1717 S. Lincoln Boulevard  
Council District: 11  
Plan Area: VENICE  
Request(s): Specific Plan Exception, Conditional  
Use Alcohol, Coastal Development  
Permit, Project Permit Compliance

**At its meeting on March 4, 2009, the following action was taken by the West Los Angeles Area Planning Commission:**

- 1. Denied a Specific Plan Exception** from Section 13 C and D of the Venice Coastal Specific Plan to permit zero parking spaces in lieu of the minimum two parking spaces otherwise required. Required parking will be provided by a lease agreement at 1600 Lincoln Boulevard.
- 2. Approved a Conditional Use Permit** for the on site sale and consumption of a full line of alcoholic beverages.
- 3. Approved a Coastal Development Permit** for a change of use from retail to one restaurant
- 4. Approved a Project Permit Compliance** determination with the Venice Coastal Zone Specific Plan.
- 5. Adopted Mitigated Negative Declaration No. ENV-2008-294 MND and Environmental Findings** contained in the staff report.
- 6. Adopted the attached Findings.**
- 7. Advised** the applicant that pursuant to State Fish and Game Code Section 711.4, a Fish and Game Fee and / or Certificate of Fee Exemption is now required to be submitted to the County Clerk prior to or concurrent with the Environmental Notice of Determination (NOD) filing.

Fiscal Impact Statement: There is no General Fund impact as administrative costs are recovered through fees.

This action was taken by the following vote:

**Moved:** Foster

**Seconded:** Martinez

**Ayes:** Chang, Foster, Linnick, Martinez

**Vote:** 4-0

Carmen Montgomery, Commission Executive Assistant  
West Area Planning Commission

**Effective Date / Appeals:** The Commission's determination on the specific plan exception, Conditional Use and Project Permit Compliance will be final 15 days from the mailing date of this determination unless an appeal is filed to the City Council within that time. All appeals shall be filed on forms provided at the Planning Department's Public Counters at 201 N. Figueroa Street, Fourth Floor, Los Angeles, or at 6262 Van Nuys Boulevard, Suite 251, Van Nuys.

The time in which a party may seek judicial review of this determination is governed by California Code of Civil Procedure Section 1094.6. Under that provision, a petitioner may seek judicial review of any decision of the City pursuant to California Code of Civil Procedure Section 1094.5, only if the petition for writ of mandate pursuant to that section is filed no later than the 90th day following the date on which the City's decision becomes final.

Attachments: Findings, Conditions  
City Planner: Lynda Smith

**CONDITIONS OF APPROVAL****A. Entitlement Conditions – Project Permit Compliance.**

1. **Use.** The use of the property shall be limited to the use and maintenance of a restaurant in the [Q]C2-1-CDO Zone. The project as approved is for the change of use from retail to restaurant totaling 2,432 square-feet with seating for 45 patrons. Hours of operation will be from 10:00 a.m. to 10:00 p.m. Sunday through Thursday, and 10:00 a.m. to 12:00 a.m. Friday and Saturday.
2. **Site Plan.** The development of the subject property shall be in substantial compliance with the site plan and floor plan labeled "Exhibit A" dated January 21, 2009, and attached to the subject case file. Prior to the issuance of any permits for the subject project, detailed development plans shall be submitted for review and approval by the Department of City Planning for verification of compliance with the imposed conditions.
3. **Parking Lease.** The applicant shall submit on an annual basis to the Planning Department, valid agreements between the restaurant and the lessor of property where off-site parking is provided for the subject restaurant (1600 Lincoln Boulevard). The agreement shall identify the location, hours, and number of parking spaces provided.
4. **Landscaping.** Any portion of the lot which is not used for buildings, parkways, driveways or other access features, shall be landscaped.
5. **Light.** All lighting shall be directed away from residential development and any identified Environmentally Sensitive Habitat Area(s).
6. **Trash.** Recycling bins shall be provided at appropriate locations to promote recycling of paper, metal, glass, and other recyclable material.

**B. Conditional Use Permit Conditions. Pursuant to Section 12.24 W of the Municipal Code, a Conditional Use for the on site sale and consumption of a full line of alcoholic beverages in conjunction with one restaurant use.**

4. This Conditional Use authorization granted herein for the sale of alcoholic beverages for consumption ON the premises shall be limited to a total of 1 license, in conjunction with a restaurant use.
5. 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 maybe revised as a result of this action.
6. The hours of operation shall be from 10:00 a.m. to 10:00 p.m. Sunday through Thursday, and 10:00 a.m. to 12:00 a.m. Friday and Saturday.
7. The quarterly sales of alcoholic beverages shall not exceed the gross sales of food for 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 licensed business. Said records shall be kept no less frequently than on a quarterly basis and shall be made available to the Department of City Planning and Los Angeles Police Department upon reasonable notice.

8. The alcoholic beverage license for the restaurant shall not be exchanged for "public premises" licenses unless approved through a new conditional use authorization. "Public Premises" is defined as a premises maintained and operated for sale or service of alcoholic beverages to the public for consumption on the premises, and in which food is not sold to the public as a bona fide eating place.
9. The hours of alcohol sales shall be determined by the Department of Alcoholic Beverage Control permits.
10. Twelve months from the issuance of the Certificate of Occupancy (temporary or permanent) the property owner/operator shall file an application for conditional use "planapproval" for review for compliance and impact.
11. The purpose of the Plan Approval review is to review the proposed restaurant permitted under this authorization in greater detail for such matters as individual premises' security, signs, parking arrangements, hours of operation, etc. (the detail of which cannot be known under the instant grant).-
12. The Los Angeles Police Department requests notification of all applications for a plan approval of an alcohol sale site and for all reviews for all sites. Additionally notification shall be sent to the local Council Office and Neighborhood Council.
13. The owners, operators, managers, and all employees serving alcohol to patrons shall enroll in and complete a certified training program that is recognized by the State Department of Alcoholic Beverage Control for the responsible service of alcohol. This training shall be completed by new employees within four weeks of employment and shall be completed by all employees serving alcoholic beverages every 24 months.
14. 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 beverages. Interior displays of beverages or signs, which are clearly visible to the exterior, shall constitute a violation of this condition.
15. A 24-hour telephone hot line shall be provided to residents, local neighborhood associations and the Certified Neighborhood Council for reporting of any complaints. The hotline shall be answered promptly at all times to receive and resolve complaints regarding the operation of the use or violations of the permit.
16. A phone number to a responsible representative of the owner shall be posted at the establishment for the purposes of allowing residents to report an emergency or a complaint about the method of operation of the facility.
17. Amplified music shall not be audible outside the premises.
18. A "Designated Driver Program" shall be operated to provide an alternative driver for restaurant patrons unable to safely operate a motorvehicle. The restaurant operator shall submit the details of the program to the Department of City Planning for review and approval prior to the opening of any restaurant offering alcoholic beverages.
19. The Applicant shall monitor the area under its control, in an effort to prevent the loitering of persons about the premises.

20. All personnel acting in the capacity of a manager of the premises and all personnel who serve alcoholic beverages shall attend the Standardized Training for Alcohol Retailers (STAR) sponsored by the Los Angeles Police Department at the session immediately following the opening of the restaurant. All employees who serve alcoholic beverages shall attend follow-up STAR classes every 24 months.
21. Petitioner(s) shall maintain on the premises and present upon request to any law enforcement officer, a copy of the Business Permit, Insurance information and a valid emergency contact phone number for the Valet service(s) used by the Petitioner(s).
22. Recommendations of the Fire Department relative to fire safety shall be incorporated into all building plans, to the satisfaction of the Fire Department.
23. The Applicant and any future ABC Licensee shall ensure that no alcoholic beverages, which are purchased within the establishment, are consumed on any property adjacent to the licensed premises that is under the control of the Licensee.
24. The Applicant shall be responsible for maintaining the site free of litter.
25. All graffiti on the site shall be removed or painted over to match the color of the wall surface to which it is applied within 24 hours of its occurrence.
26. All public telephones shall be located within the interior of the establishment structure. No public phones shall be located on the exterior of the premises under the control of the establishment.
27. The Grass Roots Venice Neighborhood Council shall be notified should there be an attempt to modify or add any conditions to the existing conditions for this project.
28. The following shall apply:
  - a. This establishment may include a bar or lounge area, which is separate from the main food service area of the establishment.
  - b. Sales of alcoholic beverages shall only be made from behind a counter where an employee of the restaurant/café obtains the product. No self-service of alcoholic beverages shall be permitted.
  - c. Sales of alcoholic beverages from drive-up or walk-up windows is prohibited.
  - d. Entertainment activities, such as live or recorded music, may be permitted so long as no less than 70% of the restaurant floor area is dedicated to food preparation, food service, eating areas, and entertainment and not to other areas where alcoholic beverages are not sold, such as dance floors, bowling alleys, stages and other performance areas and associated back of house areas, performance viewing areas, restrooms and storage areas.
  - e. There shall be a full-service kitchen and a full menu.
29. 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 City Planning Department to impose additional corrective conditions, if, it is determined by the City Planning Department that such conditions are proven necessary for the protection of persons in the neighborhood or occupants of adjacent property
30. Any future operator or owner for this site must file a new Plan Approval application to allow the City of Los Angeles to review the "mode and character" of the usage.

31. 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 City Planning Department will have the right to require the Petitioner(s) to file for a Plan Approval application together with the associated fees and 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.

**C. Environmental Conditions.**

32. **Aesthetics (Graffiti).** 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. 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.
33. **Aesthetics (Signage).** On-site signs shall be limited to the maximum allowable under the Code. Multiple temporary signs in the store windows and along the building walls are not permitted.
34. **Air Pollution (Stationary).** COMMERCIAL/INSTITUTIONAL - An air filtration system shall be installed and maintained with filters meeting or exceeding the ASHRAE Standard 52.2 Minimum Efficiency Reporting Value (MERV) of 12, to the satisfaction of the Department of Building and Safety.
35. **Air Quality (Objectionable Odors).** The trash receptacle shall be relocated at least 50 feet from the property line of any adjacent residential property.
36. **Food Service Industry (Restaurants, Bakeries, Food Processors).** Environmental impacts may result from the release of toxins into the stormwater drainage channels during the routine operation of restaurants, bakeries, and food producers. However, the potential impacts will be mitigated to a level of insignificance by incorporating stormwater pollution control measures. Ordinance No. 172,176 and Ordinance No. 173,494 specify Stormwater and Urban Runoff Pollution Control which requires the application of Best Management Practices (BMPs). Chapter IX, Division 70 of the Los Angeles Municipal Code addresses grading, excavations, and fills. Applicants must meet the requirements of the Standard Urban Stormwater Mitigation Plan (SUSMP) approved by Los Angeles Regional Water Quality Control Board, including the following: (A copy of the SUSMP can be downloaded at: <http://www.swrcb.ca.gov/rwqcb4/>).

Project applicants are required to implement stormwater BMPs to treat and infiltrate 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.

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.

Any connection to the sanitary sewer must have authorization from the Bureau of Sanitation.

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.

Store trash dumpsters both 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.

Reduce and recycle wastes, including oil and grease.

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.

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.

Legibility of stencils and signs must be maintained.

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 structures such as berms, dikes, or curbs.

The storage area must be paved and sufficiently impervious to contain leaks and spills.

The storage area must have a roof or awning to minimize collection of stormwater within the secondary containment area.

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.

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](http://www.lastormwater.org).

37. **Flooding/Tidal Waves.** The project shall comply with the requirements of the Flood Hazard Management Specific Plan, Ordinance No. 172081 effective 7/3/98.
38. **Land Use.** The applicant shall abide by Sections 9 and 10.g. and Exhibit 4b of the Venice Coastal Specific Plan.

39. **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.
40. **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.
41. **Insufficient Parking Capacity (Commercial Parking).** The applicant shall provide parking spaces to the satisfaction of the Area Planning Commission.
42. **Utilities (Local or Regional Water Supplies).** The project shall comply with Ordinance No. 170,978 (Water Management Ordinance), which imposes numerous water conservation measures in landscape, installation, and maintenance (e.g, use drip irrigation and soak hoses in lieu of sprinklers to lower the amount of water lost to evaporation and overspray, set automatic sprinkler systems to irrigate during the early morning or evening hours to minimize water loss due to evaporation, and water less in the cooler months and during the rainy season). If conditions dictate, the Department of Water and Power may postpone new water connections for this project until water supply capacity is adequate.

**(All New Construction, Commercial/Industrial Remodel, Condominium Conversions, and Adaptive Reuse)** Unless otherwise required, and to the satisfaction of the Department of Building and Safety, the applicant shall install

- a. High-efficiency toilets (maximum 1.28 gpf), including dual-flush water closets, and high-efficiency urinals (maximum 0.5 gpf), including no-flush or waterless urinals, in all restrooms as appropriate. Rebates may be offered through the Los Angeles Department of Water and Power to offset portions of the costs of these installations.
- b. Restroom faucets with a maximum flow rate of 1.5 gallons per minute.

Single-pass cooling equipment shall be strictly prohibited from use. Prohibition of such equipment shall be indicated on the building plans and incorporated into tenant lease agreements. (Single-pass cooling refers to the use of potable water to extract heat from process equipment, e.g. vacuum pump, ice machines, by passing the water through equipment and discharging the heated water to the sanitary wastewater system.)

**(Change of Use to a Restaurant, Bar, or Nightclub).** Unless otherwise required, and to the satisfaction of the Department of Building and Safety, the applicant shall:

- a. Install high-efficiency toilets (maximum 1.28 gpf), including dual-flush water closets, and high-efficiency urinals (maximum 0.5 gpf), including no-flush or waterless urinals, in all restrooms as appropriate. Rebates may be offered through the Los Angeles Department of Water and Power to offset portions of the costs of these installations.
- b. Install restroom faucets with a maximum flow rate of 1.5 gallons per minute.
- c. Install and utilize only restroom faucets of a selfclosing design.
- d. Install and utilize only high-efficiency Energy Star-rated dishwashers in the project, if proposed to be provided. If such appliance is to be furnished by a tenant, this requirement shall be incorporated into the lease agreement, and the applicant shall be responsible for ensuring compliance.

Single-pass cooling equipment shall be strictly prohibited from use. Prohibition of such equipment shall be indicated on the building plans and incorporated into tenant lease agreements. (Single-pass cooling refers to the use of potable water to extract heat from process equipment, e.g. vacuum pump, ice machines, by passing the water through equipment and discharging the heated water to the sanitary wastewater system.)

43. **Utilities (Solid Waste).** Recycling bins shall be provided at appropriate locations to promote recycling of paper, metal, glass, and other recyclable material. These bins shall be emptied and recycled accordingly as a part of the project's regular solid waste disposal program.

#### D. Administrative Conditions.

44. **Review of Compliance and Project Impact (Compliance Report).** Within one year after the issuance of the Certificate of Occupancy for the Change of Use and each year for a period of 2 years, the applicant/owner shall be required to file an annual Compliance Report (using Plan Approval forms), with the Director of Planning, the applicable Council District Office, and any other applicable/effected entities, as determined by the Director of Planning, for the purpose of evaluating compliance with the operating requirements of this permit authorization and to evaluate the parking and CUB approval impacts of the Project upon the surrounding community. The Plan Approval may require a public hearing to be determined by the Director of Planning. Public notice shall be made to owners and occupants of property located within a radius of 500 feet.
45. **Approval, Verification and Submittal(s).** Copies of any approvals, guarantees or verification of consultations, review or approval, plans, etc., as may be required by the subject conditions, shall be provided to the Planning Department for placement in the subject file.
46. **Code Compliance.** Area, height and use regulations of the zone classification of the subject property shall be complied with, except where herein conditions are more restrictive.
47. **Covenant.** Prior to the issuance of any permits relative to this matter, an agreement concerning all the information contained in these conditions shall be recorded in the County Recorder's Office. The agreement shall run with the land and shall be binding on any subsequent property owners, heirs or assigns. The agreement shall be submitted to the Planning Department for approval before being recorded. After recordation, a copy bearing the Recorder's number and date shall be provided to the Planning Department for attachment to the file.



48. **Definition.** Any agencies, public officials or legislation referenced in these conditions shall mean those agencies, public offices, legislation or their successors, designees or amendment to any legislation.
49. **Enforcement.** Compliance with these conditions and the intent of these conditions shall be to the satisfaction of the Planning Department and any designated agency, or the agency's successor and in accordance with any stated laws or regulations, or any amendments thereto.
50. **Building Plans.** Page 1 of the grant and all the conditions of approval shall be printed on the building plans submitted to the City Planning Department and the Department of Building and Safety.
51. **Project Plan Modifications.** Any corrections and/or modifications to the Project plans made subsequent to this grant that are deemed necessary by the Department of Building and Safety, Housing Department, or other Agency for Code compliance, and which involve a change in site plan, floor area, parking, building height, yards or setbacks, building separations, design or lot coverage, shall require a referral of the revised plans back to the Department of City Planning for additional review and final sign-off prior to the issuance of any building permit in connection with said plans. This process may require additional review and/or action by the appropriate decision making authority including the Director of Planning, City Planning Commission, Area Planning Commission, or Design Review Board.
52. **Indemnification.** 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.
53. **Corrective Conditions.** 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 Director of Planning to impose additional corrective conditions, if, in the Director of Planning's opinion, such conditions are proven necessary for the protection of persons in the neighborhood or occupants of adjacent property.
54. **Utilization of Entitlement.** The applicant/owner shall have a period of two years from the effective date of the subject grant to effectuate the terms of this entitlement by either securing a building permit or a certificate of occupancy for the authorized use, or unless prior to the expiration of the time period to utilize the privileges, the applicant files a written request and is granted an extension to the termination period for up to one additional year pursuant to Section 12.24 J of the Municipal code. Thereafter, the entitlement shall be deemed terminated and the property owner shall be required to secure a new authorization for the use.

**FINDINGS****1. General Plan/Charter Findings**

The subject property is located within the Venice Community Plan area. The Community Plan Update was adopted by the City Council September 29, 2000 (Case No. CPC 97-0047 CPU). The Plan map designates the subject property as General Commercial with a corresponding zone(s) of C1.5, C2, C4, CR, RAS3 and RAS4).

**2. Venice Coastal Zone Specific Plan.**

The subject site is located within the area covered by the Venice Coastal Zone Specific Plan which was adopted by the City Council on December 10, 2003 Ordinance No. 173693 (Effective Date 1/19/2004). The Purpose of the Venice Coastal Zone Specific Plan is as follows:

To implement the goals and policies of the Coastal Act.

To implement the Local Coastal Program (LCP) for that portion of the Venice community within the Coastal Zone as designated by the State Legislature.

To protect, maintain, enhance and, where feasible, restore the overall quality of the Coastal Zone environment and its natural and man-made resources.

To assure that public access to the coast and public recreation areas is provided as required by the Coastal Act and the LCP.

To prepare specific provisions tailored to the particular conditions and circumstances of Venice Coastal Zone, consistent with the general policies of the adopted Los Angeles General Plan.

To regulate all development, including use, height, density, setback, buffer zone and other factors in order that it be compatible in character with the existing community and to provide for the consideration of aesthetics and scenic preservation and enhancement, and to protect environmentally sensitive areas.

**3. Specific Plan Exception (Denial) Findings. Specific Plan Exception from Section 13 C and D of the Venice Coastal Specific Plan (Ordinance 175,693) to permit zero on-site parking spaces in lieu of the minimum two parking spaces otherwise required. (Required parking will be provided off-site by a lease agreement at 1600 Lincoln Boulevard).**

- a. ***The strict application of the policies, standards and regulations of the specific plan to the subject property will not result in practical difficulties or unnecessary hardships inconsistent with the general purpose and intent of the Plan.***

The proposed project is a change of use from retail to restaurant. Pursuant to Section 13.C of the Venice Coastal Specific Plan, the change in intensity of the use (increased required parking) requires compliance with the parking requirements of the Specific Plan. The Applicant has requested an Exception from the Venice Coastal Zone Specific Plan's parking requirement of one parking space for every 50 square feet of service area. The proposed use is located within an existing commercial structure, and will be comprised of approximately 670 square feet of service area, requiring two additional parking spaces. There are currently 11 parking spaces grandfathered for the commercial use, but there are no existing on-site parking spaces attached to the use, and the existing structure is built to the rear property line. Without removal of a portion of the physical structure no additional on-site parking spaces can be provided.

Pursuant to Section 12.21 A 4 (g) of the Los Angeles Municipal Code required parking spaces shall be provided either on the same lot as the use or on another lot not more than 750 feet distant there-from. The Venice Coast Specific plan does not prohibit the placement of required parking off-site, therefore required parking can be located pursuant to LAMC requirements. The intent of the LAMC location is to allow an alternative for required off-street where existing development has occurred and there are no feasible options for placing parking on-site. The required two additional parking spaces for the subject change of use can be provided within 750 feet of the subject lot, and therefore, no practical difficulty or unnecessary hardship has been presented.

- b. ***There are not exceptional circumstances or conditions that are applicable to the subject property or to the intended use or development of the subject property that do not generally apply to other properties within the specific plan area***

The proposed change of use will occur within an existing structure located within the Venice Coastal Zone Specific Plan area. The immediate area is comprised of other existing structures, the majority of which were in place prior to the adoption of the Specific Plan. The area is also characterized by limited street parking along Lincoln Boulevard and low density residential uses to both the north and south. While the existing structure is built to the property line and does not allow for the development of

on-site parking, the area is subject to overflow parking from commercial use along Lincoln Boulevard onto adjacent residential streets.

The Venice coastal Specific Plan requires compliance with the parking requirements contained in Section 13 D of the Plan, or payment of an in-lieu fee into the Venice Coastal Parking Impact Trust fund. The subject Exception request would permit zero required parking for the subject change of use, and would therefore, permit a use that is not compliant with the parking requirements of the Venice Coastal Specific Plan. The subject site is located within the established Lincoln Boulevard commercial area and is similar in size, development and use to other existing properties within the commercial area. There are therefore, no exceptional circumstances or conditions that are applicable to the subject property or to the intended use or development of the subject property that do not generally apply to other properties within the specific plan area.

- c. ***The requested exception is not necessary for the preservation and enjoyment of a substantial property right or use generally possessed by other property within the geographically specific plan in the same zone and vicinity but which, because of such special circumstances and practical difficulties or unnecessary hardships is denied to the property in question.***

**Section 13 D** of the Venice Coastal Specific Plan states, ***EXISTING DEVELOPMENTS***. *A Change of Use that results in a Change in Intensity of Use shall be required to comply with the parking standards set forth in Subsections D and E as if it were a new project or provide an in-lieu fee payment into the Venice Coastal Parking Impact Trust Fund for any deficiency created due to the change of use.* The Specific Plan requires payment of an in lieu fee when a project cannot meet the Specific Plan parking requirements unless an Exception to the parking requirements is approved. In addition, the Specific Plan is silent when addressing the permitted location of this parking, therefore LAMC requirements shall apply. The LAMC permits required off-street parking to be located within 750 feet of the subject use. The subject use is being required to provide off-street parking within 750 feet of the subject site through a lease agreement.

The intent of the Venice Coastal Specific Plan in-lieu and LAMC location requirements is to allow those properties or uses that cannot physically provide required parking off-street, options for compliance. There are no special circumstances, practical difficulties or unnecessary hardships associated with the proposed use that would limit the property rights of the property owner, therefore, the subject Exception to permit zero required parking spaces is not substantiated, as other options for compliance exist.

- d. ***The granting of the exception will be detrimental to the public welfare and injurious to property or improvements adjacent to or in the vicinity of the subject property.***

The granting of the subject Exception request will permit a use that has a greater intensity than the existing retail use and no additional parking, in an area where street parking is not readily available. The subject use is located on major commercial corridor, immediately adjacent to low density residential uses. Overflow parking into these adjacent residential areas would be more likely if the subject Exception for zero required parking spaces is approved. By requiring the project parking within 750 feet of the subject site, it is more likely than patrons who drive will use that off-street parking, instead of parking on local residential streets.

- e. ***The granting of the exception is NOT consistent with the principles, intent and goals of the specific plan and the General Plan.***

Section 3 of the Venice Coastal Specific Plan is as follows: The purposes of this Specific Plan are as follows:

- A. To implement the goals and policies of the Coastal Act.
- B. To implement the Local Coastal Program (LCP) for that portion of the Venice community within the Coastal Zone as designated by the State Legislature.
- C. To protect, maintain, enhance and, where feasible, restore the overall quality of the Coastal Zone environment and its natural and man-made resources.
- D. To assure that public access to the coast and public recreation areas is provided as required by the Coastal Act and the LCP.
- E. To prepare specific provisions tailored to the particular conditions and circumstances of Venice Coastal Zone, consistent with the general policies of the adopted Los Angeles General Plan.
- F. To regulate all development, including use, height, density, setback, buffer zone and other factors in order that it be compatible in character with the existing community and to provide for the consideration of aesthetics and scenic preservation and enhancement, and to protect environmentally sensitive areas.

The proposed Specific Plan Exception is inconsistent with the general intent and purpose of the Venice Coastal Plan in that it does not protect existing residential uses from encroachment of over-flow parking on residential streets.

**4. Project Permit Compliance Findings.**

- a. *The project does substantially comply with the applicable regulations, standards and provisions of the specific plan.***

The proposed project does comply with the applicable regulations, standards and provisions of the specific plan in that the proposed change of use from retail to restaurant is permitted by the Specific Plan and is in compliance with all other regulations of the Specific Plan. Parking for the subject site is being provided within 750 of the subject site through a lease agreement as permitted by Section 4B of the Venice Coastal Specific Plan and as pursuant to LAMC Section 12.21 A 4 (g)

- b. *That the project incorporates mitigation measures, monitoring measures when necessary, or alternatives identified in the environmental review which would mitigate the negative environmental effects of the project, to the extent physically feasible.***

A Mitigated Negative Declaration (ENV-2008-294 MND) was prepared for the proposed project. On the basis of the whole of the record before the lead agency including any comments received, the lead agency finds that, with imposition of the mitigation measures described in the MND, there is no substantial evidence that the proposed project will have a significant effect on the environment. The attached Mitigated Negative Declaration reflects the lead agency's independent judgment and analysis.

- c. *The Venice Coastal Development Project is compatible in scale and character with the existing neighborhood, and that the Venice Coastal Development Project would not be materially detrimental to adjoining lots or the immediate neighborhood.***

As indicated above, the subject change of use from retail to restaurant located within an existing structure on Lincoln Boulevard does not create a new physical structure or change the scale of the existing structure. The existing structure is compatible in scale and character with the existing neighborhood and no change in the physical design of the building is proposed.

- d. ***That the Venice Coastal Development Project is in conformity with the certified Venice Local Coastal Program.***

The subject Venice Coastal Development Project is in conformity with the Certified Venice Local Coastal Program (Land Use Plan) which states:

**Policy I. B. 11. Intensification of Commercial Uses.** Intensification of existing commercial uses, including, but not limited to additions to commercial structures, expansion of indoor or outdoor dining areas, and conversions of retail uses to sit-down restaurants, shall be required to provide adequate parking to meet the demands of the intensification consistent with LUP Policies II.A3 and II.A.4.

The subject Exception to permit zero required parking spaces for the proposed change of use is not in conformity with the intent of the Venice LCP. Required parking is being provided through a lease agreement within 750 feet of the subject site as permitted by LAMC Section 12.21 A4(g). Therefore the proposed project is consistent with the intent and purposes of the Venice Coastal Specific Plan and is therefore, in conformity with the subject Certified Venice Local Coastal Program.

- e. ***That the applicant has guaranteed to keep the rent levels of any Replacement Affordable Unit at an affordable level for the life of the proposed Venice Coastal Development Project and to register the Replacement Affordable Units with the Los Angeles Department of Housing.***

The subject request is for a change of use from retail to restaurant and does not contain any approved Replacement Affordable housing units, therefore, the subject Replacement Affordable unit requirement is not applicable.

- f. ***That the Venice Coastal Development Project is consistent with the special requirements for low and moderate income housing units in the Venice Coastal Zone as mandated by California Government Code Section 65590 (Mello Act).***

The proposed project is exempt from Mello Act Compliance (See Finding below).

5. **Conditional Use Findings.** Pursuant to Section 12.24 W of the Municipal Code, a Conditional Use for the on site sale and consumption of a full line of alcoholic beverages in conjunction with one restaurant with seating for a total of 45 patrons had having hours of operation from 10:00 a.m. to 10:00 p.m. Sunday through Thursday, and 10:00 a.m. to 12:00 a.m. Friday and Saturday.

a. ***The location of the project will be desirable to the public convenience and welfare.***

The location of the project will be desirable to the public convenience and welfare as it augments existing uses and supports the intent of the redevelopment of the community to bring neighborhood serving uses into the Venice Community. The addition of a neighborhood serving restaurant will contribute to a positive street presence, creating an active environment and additional neighborhood serving uses for the local residents.

The proposed restaurant will be open from 10:00 am to 10:00 pm Sunday through Thursday and from 10:00am to 12:00am Friday and Saturday. These hours will allow for food service augmented by alcohol service throughout the day. The project has been conditioned to meet the needs of a full service sit-down restaurant.

b. ***The proposed project will be proper in relation to adjacent uses or the development of the community.***

The proposed project will be proper in relation to adjacent uses because surrounding land uses include other neighborhood serving commercial uses such as hardware stores, medical office and office supply stores. There are no other sit-down neighborhood restaurants in the immediate area (only fast food), so the proposed use will fill a needed gap in services provided.

c. ***The Project will not be detrimental to the character of development in the immediate neighborhood and will be in harmony with the various elements of the General Plan.***

The Project will not be detrimental to the character of development in the area because the proposed uses are in keeping with surrounding uses. Other commercial developments are located in the immediate vicinity and the area is characterized by a mix of retail outlets and service-oriented businesses. The scale and intensity of the existing building and the proposed sit-down restaurant use are compatible with surrounding buildings and uses, and are appropriate for the Lincoln Boulevard



commercial corridor. The Project is in harmony with the General Plan through its support of the goals of the Venice Land Use Plan. The Project will help facilitate the following policy related to Neighborhood Commercial Areas as it a neighborhood serving use, located in an existing commercial building immediately adjacent to low density residential uses:

### **Neighborhood Commercial Areas**

**Policy I. B. 5. Neighborhood Commercial Land Use.** *The Neighborhood Commercial designation is intended to accommodate local neighborhood commercial facilities and services which provide daily convenience goods and services to persons living in nearby residential areas. Small scale neighborhood stores and community services shall be preserved and encouraged. Neighborhood retail goods and services include, but are not limited to the following: art galleries; barber shops or beauty parlors; dry cleaners; laundry services; shoe repair; tailors; florists; hardware stores; drug stores; food/grocery stores; newsstands; medical facilities; and job service centers. Drive-thru facilities and billboards shall be prohibited on properties designated as neighborhood commercial. Community services include day-care, community-meeting rooms, recreational, religious or cultural facilities and similar uses. The clustering of uses minimizes multiple vehicle trips and encourages walking to and from adjacent residential neighborhoods. Areas designated for Neighborhood Commercial Land Use are shown in Exhibits 9 through 12. Physically, Neighborhood Commercial areas are generally characterized by one and two story low-rise structures. Pedestrian activities shall be encouraged by the emphasis on local serving uses, design of buildings, and the incorporation of streetscape amenities.*

The proposed project will be proper in relation to adjacent uses because surrounding land uses include other neighborhood serving commercial uses such as hardware stores, medical office and office supply stores. There are no other sit-down neighborhood restaurants in the immediate area (only fast food), so the proposed use will fill a needed gap in neighborhood oriented services provided locally.

- d. *The approval of the Conditional Use at this location will not adversely affect the welfare of the pertinent community.***

Approval of the Conditional Use Permit (the "CUB") will not adversely affect the welfare of the community because the proposed sit-down restaurant is a service in the area, currently not provided. The approval of the CUB, which will allow the sale of alcohol as ancillary to meal service, will merely ensure that the restaurant provides a full range of service expected of such a commercial establishment. The sale and limited on-site consumption of alcohol at this location will not impact the welfare of the community since proper identification will be checked by trained store employees prior to service, and no off-site consumption of sales are permitted. The Property will remain well lighted and well maintained.

The CUB approval will contribute to the enhancement of the level of services available to the surrounding community inherent in providing a quality full-service restaurant, and will not affect the physical appearance of the property in any way. Individuals within the neighborhood and communities beyond, facilitated by the nearby public transportation system, will have easy access to the restaurant.

- e. ***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.***

The subject use will be a sit-down restaurant with no off-site sale of alcoholic beverages. Beverage service will be incidental to food sales. There are currently no other establishments in the immediate area that have been approved for the on-site sale and consumption of alcohol. The subject site will not be approved for off-site sales but for consumption and sale on-site only and as incidental to food service.

- f. ***The proposed use will not detrimentally affect nearby residentially zoned communities in the area of the City involved, after giving consideration of 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.***

Approval of the CUB will not detrimentally affect the residential character of the area as the proposed use is a sit-down restaurant that will not have off-site sales of alcohol. The restaurant will fit appropriately with nearby properties in terms of scale and character and complement the goods and services offered in the area. As mentioned, no other existing establishments within a half-mile vicinity offer similar amenities to those proposed in this Project. As such, the approval of the CUB in relation to

a restaurant use that is not a fast food provider, will supply a needed amenity for residents of the area. In this way, the proposed use will enhance public convenience and contribute positively to the livability of the area and to the commercial environment.

The proposed use is not an adult entertainment/night club use, but attempts to enhance the services ancillary to a full service restaurant. Live music/entertainment is proposed. Parking will be provided within 750 feet of the use.

6. **Coastal Development Permit** Pursuant to Section 12.20.2 G 1 of the Municipal Code:

a. ***The development is in conformity the Certified Local Coastal Program LCP.***

The Venice Local Coastal Program (LCP) was certified June 14, 2001, by the California Coastal Commission for this location, pursuant to the California Coastal Act of 1976. The proposed project will be in conformance with development standards contained in the Venice Coastal Specific Plan.

The project site is located in the Venice Community Plan and the Venice Coastal Specific plan areas. The proposed restaurant project is permitted for this location in these Plans and it is consistent with the existing Zone and General Plan Land Use. The property is not adjacent to the shoreline and will not affect visual, scenic, ecological coastal resources.

The project has been designed to comply with the numerous development standards applicable to the site and would not be materially detrimental to adjoining lots or the immediate neighborhood.

b. **That the Coastal Development is in conformity with all applicable provisions of any adopted community plan and specific Plan for the area.**

The requested Specific Plan Exception for reduced parking is not consistent with the intent of the Venice Community Plan or with the Venice Coastal Specific Plan and has been recommended for denial as required parking will be provided within 750 feet of the subject use through a lease agreement.

- c. **If the development is located between the nearest public road and the sea or shoreline of any body of water located within the coastal zone, that the development is in conformity with the public access and public recreation policies of Chapter 3 of the California Coastal Act of 1976.**

The subject property is not located between the sea shoreline of a body of water within the coastal zone and the nearest public road to such geographical features, but is located within the jurisdiction of the Venice Coastal Specific Plan. The project site is also located at the corner of Lincoln Boulevard, a designated Major Class II Highway and Superba Avenue. The proposed project is in conformity with intent and purposes of the Venice Coastal Specific Plan.

**7. CEQA Findings.**

A Mitigated Negative Declaration (ENV-2008-294 MND) was prepared for the proposed project. On the basis of the whole of the record before the lead agency including any comments received, the lead agency finds that, with imposition of the mitigation measures described in the MND, there is no substantial evidence that the proposed project will have a significant effect on the environment. The attached Mitigated Negative Declaration reflects the lead agency's independent judgment and analysis.

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. I hereby adopt that the Mitigated Negative Declaration, imposed the conditions shown in that document on this approval.