

## **MODIFICATIONS TO CONDITIONAL USE PERMIT CONDITIONS OF APPROVAL**

1. All other use, height, and area regulations of the Municipal Code and all other applicable government/regulatory agencies shall be strictly complied with in the development and use of the property, except as such regulations are herein specifically varied or required.
2. The use and development of the property shall be in substantial conformance with the plot plan submitted with the application and marked Exhibit "A", except as may be revised as a result of this action.
3. The authorized use shall be conducted at all times with due regard for the character of the surrounding district, and the right is reserved to the Zoning Administrator to impose additional corrective Conditions, if, in the Administrator's opinion, such Conditions are proven necessary for the protection of persons in the neighborhood or occupants of adjacent property.
4. All graffiti on the site shall be removed or painted over to match the color of the surface to which it is applied within 24 hours of its occurrence.
5. A copy of the first page of this grant and all Conditions and/or any subsequent appeal of this grant and its resultant Conditions and/or letters of clarification shall be printed on the building plans submitted to the Development Services Center and the Department of Building and Safety for purposes of having a building permit issued.
6. The proposed restaurant shall be limited to approximately 1,999 square feet.
7. Drive-through use shall be permitted at the restaurant adjoining an RA Zone.
8. Relief from Commercial Corner hours of operation will be allowed to be limited from 5:00 a.m. to 12:00 a.m. on Monday through Saturday and the restaurant and drive-through will be open to the public during the hours of 6:00 a.m. to 10:00 p.m. Monday through Saturday.
  - a. The existing 40-foot tall pole sign having a double-face sign board shall remain on the subject property and will be rehabilitated consistent with Exhibit A.
  - b. The exterior walls and doors of the ground floor of proposed building may contain window transparency of less than then 50%, but in no case less than that shown on Exhibit A.
  - c. The project may include one informational sign (menu board) and a structural canopy to be incorporated with the drive-through ordering speaker as shown on Exhibit A.
  - d. Deliveries shall be limited to Monday through Fridays between 10:00 p.m. to 12:00 a.m. and at no time shall be made on White Oak Avenue. The applicant shall require delivery or pick-up staging to occur during non-peak hours, and without the use of travel lanes, bus stops, crosswalks, and red zones.

9. Parking shall be permitted in the RA-1 Zoned portion of the property as shown in “Exhibit A” in conjunction with the restaurant use having a drive-through window service.
10. All unused curb cuts on Ventura Boulevard and White Oak Avenue shall be removed and curbs shall be replaced to the satisfaction of the Bureau of Engineering.
11. The applicant shall maintain the previously installed “No Left Turn” signs at the drive-through exit on Ventura Boulevard and the sign to remind drivers not to block the sidewalk at the entrance on White Oak Avenue.
12. Trash storage bins shall be located within a gated, covered enclosure constructed of materials to match the exterior wall materials of the building.
13. Trash/recycling pick-up and emptying or disposing of trash/recycling into outside containers is permitted to occur only between the hours of 7:00 a.m. and 8:00 p.m., Monday through Friday, and 10 a.m. to 4 p.m., Saturdays and Sundays. In addition:
  - a. Trash/recycling containers shall be locked when not in use.
  - b. Trash/recycling containers shall not be placed in or block access to required parking.
14. The applicant/business operator shall be responsible for maintaining free of litter, the area and adjacent to the premises over which they have control. The applicant shall survey the subject premises and adjacent to the premises at both the beginning and end of peak hours for the subject operation, and at the end of business hours, and maintain these respective areas free of litter.
15. Parking shall be provided in compliance with the Municipal Code and to the satisfaction of the Department of Building and Safety. No variance from the parking requirements has been requested or granted herein.
16. Landscaping shall conform to the landscape plan shown on approved “Exhibit A”.
17. Outdoor lighting shall be designed and installed with shielding, such that the light source cannot be seen from adjacent residential properties, the public right-of-way, nor from above.
18. An automatic irrigation system shall be provided for all landscaped areas and shall be installed prior to issuance of a Certificate of Occupancy.
19. Noise from the speaker box shall be inaudible beyond the property line.
20. Dual drive-through lanes shall be operated during the peak hours of 11:00 a.m. to 2:00 p.m. and 5:00 p.m. to 8:00 p.m. on days of operation. An employee shall be stationed at the drive-through aisle during the peak ordering times of 11:00 a.m. to 2:00 p.m. and 5:00 p.m. to 8:00 p.m. on days of operation to facilitate traffic movement, order and payment.

21. Loitering is prohibited on or around these premises or the area under the control of the applicant. "No Loitering" signs in English and the predominant language of the facility's clientele shall be posted in and outside of the subject facility.
22. Prior to the utilization of this grant, a camera surveillance system shall be installed to monitor all common areas of the business, high-risk areas, the interior, entrance, exits and exterior areas, in front of and around the premises. Recorded tapes/images shall be maintained for a minimum period of 30 days. The recordings shall be furnished to the Los Angeles Police Department upon request. The plan must be reviewed and approved by the Police Department. The approved plan will be maintained by the DEPARTMENT OF CITY PLANNING and be made available to the Police Department and the Department of Building and Safety for the purpose of verification or inspections.
23. **24-Hour Hotline for Complaints and Signage.** A 24-hour "hot line" shall be provided for complaints or concerns from the community regarding the operation. The 24-hour phone number shall be posted at the following locations:
  - a. Entry, visible to pedestrians
  - b. Drive-Thru Entry, visible to pedestrians
  - c. Customer service desk or front desk, if available

The applicant shall maintain a log of all calls, detailing (1) date complaint is received; (2) nature of complaint; and (3) the manner in which the complaint was resolved. This log shall be made available to law enforcement personnel upon request and presented as part of the application if and when a new application to continue the operation is submitted to the Department of City Planning. Complaints shall be responded to within 24 hours.

The Applicant/Operator shall provide photographic evidence to the Zoning Administrator within 30 days of compliance with the signage being visible at the Drive- Thru Entry to pedestrians. Information of log of calls shall be provided to the Encino Neighborhood Council and the Encino Property Owners on a monthly basis, and shall be made available to the Zoning Administrator upon request.

24. Certificate of Occupancy. Prior to the issuance of a certificate of occupancy, and in addition to all other requirements of the Department of Building and Safety, the property owner shall provide a letter of certification by a licensed landscape architect to the Department of City Planning, that all required landscape and relevant streetscape elements have been implemented.
25. Prior to the clearance of any conditions, the applicant shall show proof that all fees have been paid to the Department of City Planning, Expedited Processing Section.
26. Within 30 days of the effective date of this grant, a covenant acknowledging and agreeing to comply with all the terms and conditions established herein shall be recorded in the County Recorder's Office. The agreement (standard master covenant and agreement form CP-6770) shall run with the land and shall be binding on any subsequent owners, heirs or

assigns. The agreement with the conditions attached must be submitted to the Development Services Center for approval before being recorded. After recordation, a certified copy bearing the Recorder's number and date shall be provided to the Development Services Center for attachment to the subject case file.

27. **[DELETED]**

**VENTURA/CAHUENGA BOULEVARD CORRIDOR SPECIFIC PLAN**

28. **Site Development.** Except as modified herein, the project shall be in substantial conformance with the plans and materials submitted by the Applicant, labeled Exhibit "A", dated March 6, 2018 (revised), and attached to the subject case file. No change to the plans shall be made without prior review by the Department of City Planning, Valley Project Planning Division, and written approval by the Director of Planning. Each change shall be identified and justified in writing. Minor deviations may be allowed in order to comply with the provisions of the Municipal Code, the project conditions, or the project permit authorization.
29. **Floor Area.** The project shall be limited to 1,910 square feet.
30. **Lot Coverage.** The project has a lot coverage of 0.1:1 (not to exceed 1:1).
31. **Height.** The height of the building shall be limited to 25 feet 5-1/2 inches in height, as shown on the project plans, Exhibit "A", attached to the subject case file.
32. **Mechanical and Rooftop Equipment Screening.** No mechanical or rooftop equipment shall be visible from Ventura Boulevard and White Oak Avenue, and shall be screened behind architectural elements.
33. **Wall Sign.** This approval shall permit the installation of one (1) wall sign facing Ventura Boulevard, and one (1) sign facing White Oak Avenue the secondary street or parking lot, measuring no more than a total of 118 square feet combined. The two proposed signs each 58.75 square feet fit well within the restricted area. The construction plans shall be in substantial conformance with the project plans, Exhibit "A", except as modified herein.
34. **Wall Sign Depth.** No wall sign may project from a building face more than 12 inches, or above the lowest elevation of the roof eave visible from the street.
35. **Repair.** Prior to installation of any sign, any wall defects, holes, faded paint areas, or impressions made from the removal of previous signs shall be repaired, filled and painted to match the material and color finishes of the existing exterior wall.
36. **Window Signs.** All Window Signs shall not exceed 10 percent of the window they occupy. Holiday paintings shall not be placed in the window more than 30 business days before a holiday and shall be removed within ten business days after the holiday.
37. **Projecting Sign.** Only one (1) projecting sign is permitted for the building by the Specific Plan. Should the applicant wish to add one (1) projecting sign, such sign shall measure no

more than 16 square feet, and shall be no more than four (4) feet from the building face, provided no other projecting sign is present on the building. Prior to Planning clearance, the applicant shall document that there are no other projecting signs on the building.

38. **Projecting Sign Location.** Any new projecting sign shall be located by a front pedestrian entrance. Prior to Planning clearance, the applicant shall document that the proposed projecting sign is located by the pedestrian entrance.
39. **Pole Signs.** The applicant shall provide permit for the existing on-site pole signs for re-facing. If no permit can be produced, all unpermitted pole signs shall be removed. Under the Specific Plan Section 8 B.2(b)(3), no pole sign shall be permitted on corner lots.
40. **Illegal Signs.** Prior to the Department of Building and Safety issuance of a final sign-off on any sign approved, any existing exterior signs, temporary banners, window signs, and signs used for advertising products, merchandise and services which are not permitted by the Ventura-Cahuenga Boulevard Corridor Specific Plan shall be removed from the business or multi-tenant storefronts by the respective tenants, property manager, or the property owner.
41. **In-Lieu Bicycle Parking.** As a result of the change of use, a parking deficiency of six (6) spaces is created. The new 1,910 square-foot drive-through restaurant requires 19 parking spaces per the Ventura/Cahuenga Specific Plan. In lieu of six (6) of the required automobile parking spots (no more than 30 percent per LAMC Sections 12.21 A.4 and 12.24 Y), the applicant shall provide a minimum 24 bicycle parking spots (20 of which shall be short term, and 4 of which shall be long-term bicycle parking spots) pursuant to LAMC Ordinance 182,386 (Bike Parking Ordinance). The parking spaces and related landscape plan shall be in substantial conformance with the project plans, Exhibit "A", except as modified herein.
42. **Parking Lot Landscaping.** A landscape plan shall be submitted to show additional plantings in the parking area, and ensure that:
  - a. Four (4) trees shall be added to the parking area. While the Encino Streetscape Plan recommends Chinese Flames and London Plane species for private lots and a minimum 24-inch box size pursuant to the Landscape Ordinance (Ordinance 170,978). These trees shall be evenly distributed throughout the parking lot so as to shade the surface parking area. The trees are encouraged to be installed with root barriers or to receive infrequent and deep watering sessions in order to encourage deep roots that will not break up the parking lot.
  - b. Pursuant to Section 7.D.1.c of the Specific Plan and LAMC Section 11.5.7 E.2(c), the rear eight 8 feet of the property abutting White Oak Avenue shall be landscaped and maintained in lieu of the 10 feet required.
  - c. At least 15 percent of the total area of a surface parking lot shall be landscaped. The rear landscape buffer may count toward this total.

- d. The applicant shall maintain the landscape in a good, healthy condition by performing daily maintenance, removing trash, and replacing any dead plant materials, broken irrigation sprinklers and watering devices.
43. **Certification of Landscape Installation.** Prior to obtaining a Certificate of Occupancy, the project architect, landscape architect, or engineer shall certify in a letter to the Department of City Planning and to the Department of Building and Safety that the approved landscape plan has been implemented.
44. **Project Impact Assessment Fee.** Prior to Planning clearance, the applicant shall meet with the Department of Transportation (DOT) for assessment of this change-of- use project. A “Project Impact Assessment” (PIA) fee may be required and paid to the satisfaction of DOT for the purpose of funding the Specific Plan improvements and services, as well as pedestrian improvements which are intended to mitigate the cumulative impacts of new developments within the Specific Plan area.
- NOTE: PIA fees to be paid are subject to change due to increases to the Annual Indexing as determined by the DOT.
45. **Lighting.** Lighting should be directed onto the site, and be adequately aimed and shielded so as to not spill over onto adjacent properties, especially into areas planned and zoned for residential uses.
46. **Specific Plan Covenant and Agreement.** A Covenant and Agreement shall be recorded with the Los Angeles County Recorder acknowledging the contents and limitations of the Ventura/Cahuenga Boulevard Corridor Specific Plan, as well as the conditions of approval established herein. The Covenant and Agreement shall run with the land and shall be binding on any subsequent property owners, heirs or assigns and shall be submitted to the Department of City Planning for approval prior to being recorded. After recording, a copy bearing the County Recorder’s number and date shall be provided to the Department of City Planning for attachment to the administrative file.
47. **Modifications.** Any modifications, change of use, or increase in floor area of the property shall be cause for separate discretionary review pursuant to the definition of a Project per the Specific Plan, and Section 11.5.7 of the LAMC and other applicable statutory requirements.
48. The applicant has secured and shall continue to secure off-site parking spaces via lease agreements for its employees. Off-site parking spaces shall be made available for its employees during all hours of operation. Employees, immediately prior to, during, and immediately after their shifts, shall be prohibited from parking on any residential streets and public rights-of-way south of Ventura Boulevard. The Applicant/Operator shall provide evidence of the lease agreements to the Zoning Administrator of compliance within 30 days of the appeal letter of determination, which shall be made part of the Zoning Administrator’s case file for public inspection.
49. **[DELETED]**

50. **[DELETED]**

51. **INDEMNIFICATION AND REIMBURSEMENT OF LITIGATION COSTS.**

Applicant shall do all of the following:

- a. Defend, indemnify and hold harmless the City from any and all actions against the City relating to or arising out of, in whole or in part, the City's processing and approval of this entitlement, including but not limited to, an action to attack, challenge, set aside, void, or otherwise modify or annul the approval of the entitlement, the environmental review of the entitlement, or the approval of subsequent permit decisions, or to claim personal property damage, including from inverse condemnation or any other constitutional claim.
- b. Reimburse the City for any and all costs incurred in defense of an action related to or arising out of, in whole or in part, the City's processing and approval of the entitlement, including but not limited to payment of all court costs and attorney's fees, costs of any judgments or awards against the City (including an award of attorney's fees), damages, and/or settlement costs.
- c. Submit an initial deposit for the City's litigation costs to the City within 10 days' notice of the City tendering defense to the Applicant and requesting a deposit. The initial deposit shall be in an amount set by the City Attorney's Office, in its sole discretion, based on the nature and scope of action, but in no event shall the initial deposit be less than \$50,000. The City's failure to notice or collect the deposit does not relieve the Applicant from responsibility to reimburse the City pursuant to the requirement in paragraph (ii).
- d. Submit supplemental deposits upon notice by the City. Supplemental deposits may be required in an increased amount from the initial deposit if found necessary by the City to protect the City's interests. The City's failure to notice or collect the deposit does not relieve the Applicant from responsibility to reimburse the City pursuant to the requirement in paragraph (ii).
- e. If the City determines it necessary to protect the City's interest, execute an indemnity and reimbursement agreement with the City under terms consistent with the requirements of this condition.

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

The City shall have the sole right to choose its counsel, including the City Attorney's office or outside counsel. At its sole discretion, the City may participate at its own expense in the defense of any action, but such participation shall not relieve the applicant of any obligation imposed by this condition. In the event the Applicant fails to comply with this

condition, in whole or in part, the City may withdraw its defense of the action, void its approval of the entitlement, or take any other action. The City retains the right to make all decisions with respect to its representations in any legal proceeding, including its inherent right to abandon or settle litigation.

For purposes of this condition, the following definitions apply:

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

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

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

**52. PERFORMANCE OF VOLUNTARILY IMPLEMENTED MEASURES.**

The applicant has undertaken and shall maintain certain voluntary measures subject to the continued approval of the Los Angeles Department of Transportation:

- a. The applicant has installed and shall maintain a designated right-turn lane on White Oak Avenue.
- b. The applicant has widened and shall maintain, as widened, the driveways on White Oak Avenue and Ventura Boulevard.
- c. The applicant has restriped and added a storage lane to White Oak Avenue, which shall remain in place.
- d. The applicant has modified the traffic signals at White Oak Avenue and Ventura Boulevard.

**53. PLAN APPROVAL.** Prior to any change in the operation and use of the site from its condition as of the date of this Conditional Use Permit, as modified, to a new use or a new restaurant, the applicant shall file a complete application for a third Plan Approval with an official case number to be generated by the City of Los Angeles Planning Department.