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January 31, 2022

8247-8253 W. 3<sup>rd</sup> Street, LLC. (O)  
3806 Cross Creek Road  
Malibu, CA 90265

Bibiana J. Joo (A)  
J Market  
8253 W. 3<sup>rd</sup> Street.  
Los Angeles, CA 90048

Jason Kho (R)  
AAA Liquor License Consulting  
15332 Antioch Street  
Pacific Palisades, CA 90272

CASE NO. ZA-2020-7732-CUB  
CONDITIONAL USE  
SITE ADDRESS: 8251-8253 W. 3rd Street  
Wilshire Community Plan  
Zone: C2-1VL-O Zone  
C.D: 5-Koretz  
D.M.: 138B173  
CEQA: ENV-2020-7735-CE  
Legal Description: Lot FR150, FR151,  
Block None, Tract 10389

Pursuant to California Environmental Quality Act (CEQA), I hereby DETERMINE:

based on the whole of the administrative record, that the Project is exempt from the CEQA pursuant to CEQA Guidelines, Section 15301, Class 1 (Existing Facilities), and there is no substantial evidence demonstrating that any exceptions contained in Section 15300.2 of the State CEQA Guidelines regarding location, cumulative impacts, significant effects or unusual circumstances, scenic highways, or hazardous waste sites, or historical resources applies; and,

Pursuant to Los Angeles Municipal Code (LAMC) Section 12.24 W.1, I hereby APPROVE:

a Conditional Use to permit the sale of a full line of alcoholic beverages for off-site consumption in conjunction with an existing market in the C2-1-VL-O Zone.

Upon the following additional terms and conditions:

1. All other use, height and area regulations of the Municipal Code and all other applicable government/regulatory agencies shall be strictly complied with in the development and use of the property, except as such regulations are herein

specifically varied or required.

2. The use and development of the property shall be in substantial conformance with the plot plan and floor 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 Zoning 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 Department of City Planning and the Department of Building and Safety for purposes of having a building permit issued at any time during the term of this grant.
6. Prior to the effectuation 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 Department of City Planning for approval before being recorded. After recordation, a certified copy bearing the Recorder's number and date shall be provided for inclusion in case file.
7. Authorized herein is the sale of a full line of alcoholic beverages for off-site consumption in conjunction with the operation an existing 1,334 square-foot market from the effective date of this grant.
8. The hours of operation shall be limited to 7:00 a.m. to 11:00 p.m. daily. No after-hour use is permitted, except routine clean-up. This includes but is not limited to private or promotional events, special events, excluding any activities which are issued film permits by the City.
9. No portion of the market shall be deemed to be "private", for the purpose of selling or dispensing alcoholic beverages to selected patrons.
10. Within 30 days of the effective date of this action, the applicant shall submit the plot plan and floor plans to the Fire Department for review and approval. Said approval shall be noted via a stamp on the plan and submitted to the Zoning Administrator for inclusion in the file.
11. 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.
12. There shall be no bar or lounge area upon the licensed premises maintained solely for the purpose of sales, service or consumption of alcoholic beverages. The main purpose and use of the facility shall always be a market.
  13. This establishment is restricted from having private events at the location without prior approval from Los Angeles Police Department (LAPD), Wilshire Division Vice Unit. Any use of the property for private events, including corporate events, birthday parties, anniversary parties, weddings or other private events which are not open to the general public shall be subject to the same provision and hours of operation unless further restricted LAPD.
  14. No coin-operated electronic, video, or mechanical game machines, or pool or billiard tables shall be maintained upon the premises at any time.
  15. All exterior portions of the site including the rear parking lot shall be adequately illuminated in the evening so as to make discernible the faces and clothing of persons utilizing the space. Lighting shall be directed onto the site without unreasonable illumination and being disruptive to persons on adjacent residential properties.
  16. A camera surveillance system shall be maintained at all times to monitor the common areas of the business, high-risk areas, sidewalk areas, and entrances or exits. Recordings shall be maintained for a minimum period of 30 days and are intended for use by the Los Angeles Police Department.
  17. No pay phone shall be maintained on the exterior and inside of the premises.
  18. Only the front door(s) or entryway(s) shall be used for patron access. All other doors shall be equipped on the inside with an automatic locking device and shall be kept closed at all times other than to permit temporary access for delivery of supplies and trash removal. These doors shall not consist solely of a screen or ventilated security door, but shall be solid.
  19. The main purpose and use of the facility shall always be a market.
  20. The applicant shall fully comply with all California State Department of Alcoholic Beverage Control (ABC) regulations governing the sale of alcoholic beverages for the market.
  21. Coin operated game machines, pool tables or similar game activities or equipment shall not be permitted. Official California State lottery games and machines area allowed.
  22. Prior to the utilization of this grant, an electronic age verification device shall be

purchased and retained on the premises to determine the age of any individual attempting to purchase alcoholic beverages or tobacco products, and shall be installed on at each point-of-sales location. This device shall be maintained in operational condition and all employees shall be instructed in its use.

23. **STAR/LEAD Training.** Within the first six months of already selling alcohol, all employees involved with the sale of alcohol shall enroll in the Los Angeles Police Department “Standardized Training for Alcohol Retailers” (STAR) or Department of Alcoholic Beverage Control “Licensee Education on Alcohol and Drugs” (LEAD) training program. Upon completion of such training, the applicant shall request the LAPD to issue a letter identifying which employees completed the training. The applicant shall transmit a copy of the letter referencing Case No. ZA-2020-7732-CUB from the Police Department to the Department of City Planning as evidence of compliance. In the event there is a change in the licensee, within six months of such change, this training program shall be required for all new staff. The STAR training shall be conducted for all new hires within two months of their employment.
24. At least one on-duty manager with authority over the activities within the facility shall be on the premises at all times that the facility is open for business. The on-duty manager’s responsibilities shall include the monitoring of the premises to ensure compliance with all applicable State laws, Municipal Code requirements and the conditions imposed by the State Department of ABC and the conditional use herein. Every effort shall be undertaken in managing the facility to discourage illegal and criminal activity on the subject premises and any exterior area over which the building owner exercises control, including parking lot commonly used by patrons, in effort to ensure that no activities associated with such problems as narcotics sales, use or possession, gambling, prostitution, loitering, theft, vandalism and truancy occur.
25. The manager and all employees of the facility shall be knowledgeable of the conditions herein. Additionally, a copy shall be provided to all employees who shall sign an acknowledgment form stating that they have read and understood all the ABC conditions as well as all the conditions of this grant. Said form shall be maintained at the location by the owner and/or manager who shall present it to Police personnel, ABC investigators or any other City agency upon request.
26. 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.
27. Operator and its personnel shall, at all times maintain a policy of not selling alcoholic beverages to obviously intoxicated patrons and taking preventative measure to help avert intoxication-related problems.
28. Staff will monitor the immediate vicinity in order to ensure that no public consumption of alcoholic beverages occurs. Staff will also be responsible to

constantly monitor and ensure patrons do not take alcoholic beverages for on-site consumption.

29. The applicant shall be responsible for monitoring both patron and employee conduct on the premises and within the parking areas under his/her control to assure behavior that does not adversely affect or detract from the quality of life for adjoining residents, property owners, and businesses.
30. The owner or the operator shall comply with California Labor Code 6404.5 which prohibits the smoking of tobacco or any non-tobacco substance, including from electronic smoking devices or hookah pipes, within any enclosed place of employment.
31. Smoking tobacco or any non-tobacco substance, including from electronic smoking devices, is prohibited in or within 10 feet of the outdoor areas in accordance with Los Angeles Municipal Code Section 41.50 B 2 C. This prohibition applies to all outdoor areas of the establishment if the outdoor area is used in conjunction with food service and/or the consumption, dispensing or sale of alcoholic or non-alcoholic beverages.
32. Signs shall be prominently posted in English and the predominant language of the facility's clientele, if different, and a notice shall be placed therein stating California State Law prohibits the sale of alcoholic beverages to persons under the age of twenty-one years or to intoxicated persons and no such sales will be made.
33. Any background music or other recorded ambient music shall not be audible beyond the area under the control of the applicant. Any music, sound or noise including amplified or acoustic music which is under control of the applicant shall not constitute a violation of Sections 112.06 or 116.01 of the Los Angeles Municipal Code (Citywide Noise Ordinance). At any time, a City inspector may visit the site during operating hours to measure the noise levels. If, upon inspection, it is found that the noise level exceeds those allowed by the citywide noise regulation, the owner/operator will be notified and will be required to modify or, eliminate the source of the noise or retain an acoustical engineer to recommend, design and implement noise control measures within property such as, noise barriers, sound absorbers or buffer zones.
34. Loitering is prohibited on or around these premises or the area under the control of the applicant. "No Loitering or Public Drinking" signs shall be posted outside of the subject facility and in the parking lot. The applicant shall be responsible for ensuring persons are dissuaded from loitering on or immediately around the subject premises.
35. The establishment shall make an effort to control any unnecessary noise made by staff or any employees contracted by the market, or any noise associated with the operation of the establishment, or equipment of the market.



36. The business operator/manager shall be responsible for mitigating the potential negative impacts of its operation on surrounding uses, especially noise derived from patrons during entry and exiting at late nights.
37. The petitioner(s) shall place legible signs on the exterior walls of the subject property and at the rear of the building alerting patrons and employees to keep noise to a minimum, and to be respectful of the residential properties at the rear.
38. The owner/market operator shall at all times maintain the abutting public access ways free of obstruction as well as maintaining the premises and adjoining sidewalk, free of debris or litter.
39. Any outside trash and recycling bins shall be locked. Trash deposit in dumpsters will be carried out quietly and the market staff will be respectful to neighbors.
40. These conditions of approval as well as a copy of any Business permit, insurance information, security and any emergency contact phone numbers shall be maintained in the office at all times and produced immediately upon request of the Police Department, the Zoning Administrator, the Department of Building and Safety or other enforcement agency.
41. A copy of the conditions of this letter of determination shall be retained on the premises at all times and produced upon request by the Police Department, the Department of Building and Safety, the Department of City Planning, or the State Department of ABC.
42. Prior to the utilization of this grant, a telephone number and email address shall be provided for complaints or concerns from the community regarding the operation. The phone number and email address shall be posted at the entry, customer service desk, and front desk or near the hostess station visible to the public.
43. **Complaint Log.** Complaints shall be responded to within 24-hours. The applicant shall maintain a log of all calls and emails, detailing: (1) date complaint received; (2) nature of complaint, and (3) the manner in which the complaint was resolved. This log shall be made available to LAPD, law enforcement, and ABC 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. (4) Complaint log shall be located at entrance of establishment, visible to patrons, and at the Customer service desk, front desk, or near the cash registers.
44. Prior to the beginning of the operations, the manager of the facility shall be made aware of the conditions and shall inform his/her employees of the same. A statement with the signature, printed name, position and date signed by the manager and his/her employees shall be provided to the Department of City Planning. The statement shall state:

*We, the undersigned, have read and understood the conditions of approval to allow the sale of a full line of alcoholic beverages for off-site consumption, in conjunction with the market known as 'J Market' and agree to abide and comply with said conditions.*

A copy of the conditions of this letter of determination, business permit and insurance information shall be retained on the premises at all times and produced upon request by the Police Department, the Department of Building and Safety or the State of Department of Alcoholic Beverage Control.

45. **MViP – Monitoring Verification and Inspection Program.** Prior to the effectuation of this grant, fees required per LAMC section 19.01 E.3 for Monitoring of Conditional Use Permits and Inspection and Field Compliance Review of Operations shall be paid to the City.
- a. Within 24 months from the beginning of operations or issuance of a Certificate of Occupancy, a City inspector will conduct a site visit to assess compliance with, or violations of, any of the conditions of this grant. Observations and results of said inspection will be documented and included in the administrative file.
  - b. The owner and operator shall be notified of the deficiency or violation and required to correct or eliminate the deficiency or violation. Multiple or continued documented violations or Orders to Comply issued by the Department of Building and Safety which are not addressed within the time prescribed, may result in additional corrective conditions imposed by the Zoning Administrator.
46. At any time during the period of validity of this grant, should documented evidence be submitted showing continued violation of any condition of this grant and/or the ABC license of the location, resulting in an unreasonable level of disruption or interference with the peaceful enjoyment of the adjoining and neighboring properties, the Zoning Administrator (Upon his/her initiative, or upon written request by LAPD or Department of ABC) reserves the right to call for a public hearing requiring the applicant to file for a plan approval application together with associated fees pursuant to LAMC Section 19-01-I (Miscellaneous Plan Approval), the purpose of which will be to review the applicant's compliance with and the effectiveness of these conditions. The applicant shall prepare a radius map and cause notification to be mailed to all owners and occupants of properties within a 500-foot radius of the property, the Council Office and the Los Angeles Police Department's corresponding division. The applicant shall also submit a summary and any supporting documentation of how compliance with each condition of this grant has been attained. Upon this review, the Zoning Administrator may modify, add or delete conditions, and reserves the right to conduct this public hearing for nuisance abatement/revocation purposes.

47. Should there be a change in the ownership and/or the operator of the business, the property owner, business owner, or operator shall provide the prospective new property owner and the business owner/operator with a copy of the conditions of this action prior to the legal acquisition of the property and/or the business. Evidence that a copy of this determination including the conditions required herewith has been provided to the prospective owner/operator shall be submitted to the Department of City Planning in a letter from the new operator indicating the date that the new operator/management began and attesting to the receipt of this approval and its conditions. The new operator shall submit this letter to the Department of City Planning within 30-days of the beginning day of his/her new operation of the establishment along with any proposed modifications to the existing the floor plan, seating arrangement or number of seats of the new operation.
48. The Zoning Administrator reserves the right to require that the new owner or operator file a Plan Approval application, if it is determined that the new operation is not in substantial conformance with the approved floor plan, or the operation has changed in mode or character from the original approval, or if documented evidence be submitted showing a continued violation(s) of any condition(s) of this grant resulting in a disruption or interference with the peaceful enjoyment of the adjoining and neighboring properties. The application, in association with the appropriate fees, and a 500-foot notification radius, shall be submitted to the Department of City Planning within 30 days of the date of legal acquisition by the new owner or operator. The purpose of the plan approval will be to review the operation of the premise and establish conditions applicable to the use as conducted by the new owner or operator, consistent with the intent of the Conditions of this grant. Upon this review, the Zoning Administrator may modify, add or delete conditions, and if warranted, reserves the right to conduct this public hearing for nuisance abatement/revocation purposes.
49. INDEMNIFICATION AND REIMBURSEMENT OF LITIGATION COSTS.

Applicant shall do all of the following:

- i) 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.
- ii) 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.

- iii) 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).
- iv) 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).
- v) If the City determines it necessary to protect the City's interest, execute an indemnity and reimbursement agreement with the City under terms consistent with the requirements of this condition.

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

The City shall have the sole right to choose its counsel, including the City Attorney's office or outside counsel. At its sole discretion, the City may participate at its own expense in the defense of any action, but such participation shall not relieve the applicant of any obligation imposed by this condition. In the event the applicant fails to comply with this condition, in whole or in part, the City may withdraw its defense of the action, void its approval of the entitlement, or take any other action. The City retains the right to make all decisions with respect to its representations in any legal proceeding, including its inherent right to abandon or settle litigation.

For purposes of this condition, the following definitions apply:

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

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

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

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

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

### **TRANSFERABILITY**

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

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

Section 12.29 of the Los Angeles Municipal Code provides:

“A variance, conditional use, adjustment, public benefit or other quasi-judicial approval, or any conditional approval granted by the Director, pursuant to the authority of this chapter shall become effective upon utilization of any portion of the privilege, and the owner and applicant shall immediately comply with its Conditions. The violation of any valid Condition imposed by the Director, Zoning Administrator, Area Planning Commission, City Planning Commission or City Council in connection with the granting of any action taken pursuant to the authority of this chapter, shall constitute a violation of this chapter and shall be subject to the same penalties as any other violation of this Code.”

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

### **APPEAL PERIOD – EFFECTIVE DATE**

The applicant's attention is called to the fact that this grant is not a permit or license and that any permits and licenses required by law must be obtained from the proper public agency. Furthermore, if any Condition of this grant is violated or if the same be not complied with, then the applicant or his successor in interest may be prosecuted for violating these Conditions the same as for any violation of the requirements contained in the Municipal Code. The Zoning Administrator's determination in this matter will become effective after February 15, 2022, unless an appeal therefrom is filed with the City Planning Department. It is strongly advised that appeals be filed early during the appeal period and in person so that imperfections/incompleteness may be corrected before the

appeal period expires. Any appeal must be filed on the prescribed forms, accompanied by the required fee, a copy of the Zoning Administrator's action, and received and receipted at a public office of the Department of City Planning on or before the above date or the appeal will not be accepted. **Forms are available on-line at <http://planning.lacity.org>**. Public offices are located at:

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

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

**West Los Angeles**  
Development Services Center  
1828 Sawtelle Boulevard,  
2nd Floor  
Los Angeles, CA 90025  
(310) 231-25159

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 subsequent contact regarding this determination must be with the Development Services Center. 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 statements made at the public hearing on November 18, 2021, and the subsequent correspondence, 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 and prerequisites for granting a Conditional Use as enumerated in Sections 12.24 W.1 of the Los Angeles Municipal Code have been established by the following facts:

### **BACKGROUND**

The site is located within the Wilshire Community Plan, which designates the property for Neighborhood Office Commercial land uses, with corresponding zones of C1, C1.5, C2, C4, RAS3 and RAS4 and Height District No. 1. The site is zoned C2-1-VL-O and is thus consistent with the existing land use designation. The property is in the Transit Priority Area (ZI-2452), Local Emergency Temporary Regulation – Time Limits and Parking Relief Area LAMC 16.02.1 (ZI-2498) and is approximately 2.6 kilometers from the Hollywood Fault. The site is not located within the boundaries of or subject to any specific plan or community design overlay.

The surrounding properties are developed with a combination of commercial and residential uses in the C2-1VL-O and R3-1-O, and RD1.5-1-O Zones. The properties to the east, west and south of the subject site are zoned C2-1-VL-O and are developed with one and two-story commercial properties. The lots located the rear of the subject lot are separated by a public alley and are zoned R3-1-O and are developed with two-story multi-family residential units.

**3<sup>rd</sup> Street**, adjoining the property to the south, is designated as an Avenue II, with a right-of-way width of 86 feet, a roadway width of 56 feet and improved with curb, gutter and sidewalk.

**S. Sweetzer Avenue**, adjoining the property to the west, is designated as a Collector, with a right-of-way width of 66 feet, a roadway width of 40 feet and improved with curb, gutter and sidewalk

The property is a level, rectangular shaped parcel of land consisting of two (2) lots totaling approximately 10,941 square feet, located at corner of S. Sweetzer Avenue and 3<sup>rd</sup> Street with a frontage totaling approximately 104 feet along 3<sup>rd</sup> Street and an approximate depth of 105 feet. The subject site is improved with an L-shaped one-story 5,440 square foot commercial building and surface parking lot constructed in 1977. There are three separate tenants currently operating within the commercial building. The tenants in the building include a market (J Market), a dry-cleaners establishment ('Paramount Cleaners'), and a laundry mat ('The Washing Machine'). There is surface parking lot in front of the subject building which contains ten (10) vehicular on-site parking spaces that are shared by all tenants. Driveway access to the subject site is off 3<sup>rd</sup> Street and Sweetzer Avenue.

The requested entitlement is for the existing 1,334 sq. ft. square foot market, 'J Market' located within the one-story commercial building. The subject market has been in operation since 1991 and has existing hours of operation from 7:00 am to 11:00 pm, Monday through Sunday. J Market has a current Liquor license issued in 1991 for Liquor License type 20 for Off Sales Beer and Wine with an expiration date of March 31, 2022. The current applicant is requesting a conditional use permit for a Liquor License Type 21, off sale General Liquor in conjunction with the continued operation of the market. Type 21 liquor license gives the licensee privileges to sell beer, wine, and distilled spirits, in package form for consumption off the retail establishments premises. The operators of J Market have not changed since it was first established in 1991. The applicant will be applying to the California Department of Alcoholic Beverage Control (ABC) for a Type 21 license which allows for the sale of off site consumption of beer and wine and distilled spirits. The project does not propose any new construction or expansion of the existing building.

**Previous Cases on the subject property:**

There are no relevant cases on the subject site



**Cases on surrounding Properties:**

Staff utilized a 500-foot radius map via the Zoning Information Mapping Access System (ZIMAS) and the Planning Case Tracking System (PCTS), seeking past Zoning Administrator determination associated with the sales and dispensing of alcoholic beverage. Past cases include:

**ZA-2020-334-CUB-** On September 20, 2020, the Zoning Administrator approved a conditional use permit to allow the sale and dispensing of beer and wine for onsite consumption for an existing restaurant located on a lot zoned C2-1-VL-O at 8312 W. 3<sup>rd</sup> Street.

**ZA-2016-4846-CUB-ZV** – On August 3, 2017, The Zoning Administrator a conditional use permit to allow the sale of a full of alcohol in conjunction with a 2,602 square feet restaurant located on a lot zoned C2-1-VL-O 8221 W. 3<sup>rd</sup> Street.

**ZA-2012-554-CUB-** On January 16, 2013, the Zoning Administrator approved a conditional use permit authorizing the upgrade of beer and wine only to a full line of alcoholic beverages for on-site consumption in conjunction with an existing restaurant in the C2-1VL-O, located at 8222 ½ W. 3<sup>RD</sup> Street.

**ZA-2011-831-CUB** On November 2, 2011 the Zoning Administrator approved a conditional use permit for on-site sale and beer and wine in an existing restaurant on a lot zoned C2-1-VL-O located at 8310 W. 3<sup>rd</sup> Street.

**ZA-2005-1003-CUB** On February 1, 2006 the Zoning Administrator approved a conditional use to permit the sale and dispensing for consideration for on and off site sale of alcohol for a lot zoned C2-1-VL-O located at 8164 W 3<sup>rd</sup> Street.

**ZA-1999-753-CUB** -On October 20, 2010, and March 4, 2014 the Zoning Administrator approved plan approvals on a lot zoned C2-1VL-O located at 8334 W. 3<sup>rd</sup> Street. The initial approval for the sale and dispensing of a full line of alcoholic beverages for on-site consumption in conjunction with an existing 1,558 square-foot restaurant was granted on April 20, 2000.

**ZA-1994-905-CUB** On March 30, 1996 the Zoning Administrator approved a conditional use to permit the sale and dispensing of beer and wine (Type 41 license) for on-site consumption, in conjunction with an existing restaurant on a lot zoned C2-1VL-O located at 8334 3RD ST.

**PUBLIC HEARING**

A Notice of Public Hearing was sent to property owners and residents within 500-feet from the subject site for which an application as detailed below was filed with the Department of City Planning. The purpose of the hearing was to obtain testimony from affected and/or interested persons regarding the project. All interested persons were invited to attend the public hearing where they could listen, ask questions or present testimony regarding the

project. Interested parties were also invited to submit written comments regarding the request prior to the public hearing. The hearing was held on Thursday, November 18, 2021, at approximately 9:30 a.m. In conformity with the Governor's Executive Order N-29-20 (March 17, 2020) and due to concerns over COVID- 19, the hearing was conducted entirely telephonically.

Jason Kho - Applicant's Representative

- The request is for a conditional use for fill line of alcohol sales,
- The market is opened from 7:00am to 11:00pm,
- The business has been operating in this location since 1979 selling beer and wine,
- The applicant is the owner since 1991,
- The liquor is to be stored behind the counter and accessed only by the cashier,
- At no time will the customer have access to alcohol,
- The Neighborhood Council submitted an approval letter,
- These are the findings (showed Slide No. 6)
- The applicant will clear out the current area that has retail goods,

Rosalie Klien – Neighboring Resident

- I'm a resident and real estate broker serving the area for decades,
- Livnig
- Because of the current [rate, we are losing residents and the neighborhood,
- We don't have any protection against drunks in the neighborhood,
- We can be done to present the both from being open
- We have lots of family in the neighborhood,
- I'm concern the customers will open the bottle as they lease the store,

Andrew Kagen – Neighboring Resident

- I'm a homeowner and I live two blocks away,
- I also own two commercial properties,
- I've been in the neighborhood for over twenty years,
- A full line of alcohol is a very bad idea,
- My family is afraid to walk along 3<sup>rd</sup> Street,
- The homeless have started an .....
- Neighbors are struggling with the homeless ness,
- All are three blocks from the market,
- This is a safety issue for family and children,
- You can see elements of peoplr around liquor stors
- Since homeless has increase increase, crime has gone up,
- Only other full service liquor store is just blocks away near Orlando
- The other liquor styor wa robbed at gun point and the owner was killed,
- No one is testifying because on-one know of the hearing,
- Who in the Neighborhood Council approved this?

Chas Stevens – Neighboring Resident for 25 years,

- The neighborhood has seen a decline for years,
- We have been fighting this issue for 30 years,
- This will only intensify the issue,
- Fire three weeks ago next to the power plan,
- Given, the direction the neighborhood is moving, it cannot sustain alcohol sales,
- One person should not be allowed alcohol sales at the expense of the neighborhood,

- One employee behind the plexiglass counter cannot manage to lookout for .....
- A long history of denying alcohol permits,
- Do not introduce a liquor operation in the neighborhood,
- This will turn into a 7-Eleven,

### **Communication**

Mid City West Neighborhood Council submitted a support letter, dated September 28, 2021 communicating their support for the proposed conditional use permit application for the sale of beer, wine and liquor for off site consumption.

John Lorick submitted an email dated November 21, 2021 expressing opposition to the proposed conditional use application, indicating there are too many bars and restaurants serving alcohol in the small stretch of street. ....There is no need or community benefit to adding another liquor distribution location or permanently altering the zoning for the location.

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

In approving the instant grant, the Zoning Administrator has not imposed Conditions specific to the sale or distribution of alcoholic beverages, even if such Conditions have been volunteered or negotiated by the Applicant, in that the Office of Zoning Administration has no direct authority to regulate or enforce Conditions assigned to alcohol sales or distribution.

The Zoning Administrator has identified a set of Conditions related to alcohol sales and distribution for further consideration by the State of California Department of Alcoholic Beverage Control (ABC). In identifying these conditions, the Office of Zoning Administration acknowledges the ABC as the responsible agency for establishing and enforcing Conditions specific to alcohol sales and distribution. The Conditions identified below are based on testimony and/or other evidence established in the administrative record, and provide the ABC an opportunity to address the specific conduct of alcohol sales and distribution in association with the Conditional Use granted herein by the Zoning Administrator.

- There shall be no exterior advertising of any kind or type, including advertising directly to the exterior from within, promoting or indicating the availability of alcoholic beverages. Interior displays of alcoholic beverages or signs which are clearly visible to the exterior shall constitute a violation of this condition.
- The quarterly gross sales of alcohol shall not exceed the quarterly gross sales of food. The business operator shall maintain records which reflect these numbers and make them available to the Police Department upon request.
- Fortified wine (greater than 16% alcohol) shall not be sold.

- The alcoholic beverage license shall not be exchanged for a public premises type license nor operated as a public premises.

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

A particular type of development is subject to the Conditional Use plan approval process because it has been determined that such use of property should not be permitted by right in a particular zone. All uses requiring a Conditional Use permit from the Zoning Administrator are located within Section 12.24 W of the Los Angeles Municipal Code. In order for the sales and dispensing of a full line of alcohol for on-site consumption to be authorized, certain designated findings have to be made. In these cases, there are additional findings in lieu of the standard findings for most other Conditional Use categories.

### **FINDINGS**

1. **The Project will enhance the built environment in the surrounding neighborhood or will perform a function or provide a service that is essential or beneficial to the community, city or region.**

The applicant is requesting a Conditional Use Permit to allow the sale of beer, wine, and distilled spirits for off-site consumption in conjunction with the operation of an existing market totaling 1,334 square-feet. The existing hours of operation for the market are from 7:00 a.m. to 11:00 p.m., daily. The subject property is zoned C2-1-VL-O with a land use designation of Neighborhood Office and Commercial within the Wilshire Community Plan area. The project site is not located within any overlay areas. The property is located at the north east intersection of S. Sweetzer Avenue and 3rd Street. The subject property is currently developed with a one-story Mini-Shopping Center totaling approximately 5,440 square-feet in area, with a surface parking lot with ten (10) parking stalls.

The project will continue to enhance the built environment by providing activation of a tenant space within a commercial shopping center along 3rd Street commercial corridor. The project will maintain an existing 1,334 square-foot market. This request is to allow the sale of a full line of alcoholic beverages including beer, wine, and distilled spirits, in conjunction with the existing market. The existing market currently sells a variety of grocery items including but not limited to the following milk, produce, eggs, soft drinks, fruit, teas, coffee, bread, ice, pre-packaged foods, candy, and toiletries. The market also sells beer and wine for off site consumption and currently holds an active Liquor license (Type 20) which allows for the sale of beer and wine for offsite consumption. The sale of a full line of alcohol for off-site consumption will continue to activate the site and promote pedestrian activity and commercial activity by contributing to the viability of mixed uses in the area including markets, restaurants, and other neighborhood serving uses.



The area serves a mixture of uses which includes a concentration of residential and commercial uses. The subject property is also developed in a manner similar to surrounding properties – with retail and neighborhood services such as the dry cleaners and laundry mat, that serve a diverse population and the subject property is zoned appropriately for the proposed use. The proposed project also does not include any exterior alterations or expansions of the existing building. The hours of operation for the existing market will not change. The market provides a service that is beneficial to the community which, in conjunction with the imposition of a number of conditions addressing operational conduct, will result in the enhancement of the built environment and will assure that the sale of alcohol is not disruptive to the community. As such, the market will offer a convenient location and amenity for local community, local employees, patrons of adjacent commercial uses, and the residents in the neighborhood and will perform a function and provide a service that is beneficial to the surrounding community.

2. **The Project's location, size, height, operations and other significant features will be compatible with and will not adversely affect or further degrade adjacent properties, the surrounding neighborhood, or the public health, welfare and safety.**

The proposed project is for approval of a conditional use to permit for the sale and dispensing of beer, wine and distilled spirits for off-site consumption in conjunction with the existing market. The market will continue to occupy a tenant space in an existing shopping center. No new or additional floor area is proposed and there are no physical alterations to the location, size or height of the building being proposed.

The subject property is zoned C2-1VL-O with a Land Use designation of Office Neighborhood Commercial. Markets and grocery stores uses are permitted in the C2 zone and are compatible with the Neighborhood Office Commercial land use designation. The proposed 1,334 square foot market is located in an area with many commercial shopping centers and ground floor retail and variety of neighborhood services and uses. This existing market use is compatible with the commercial uses the neighborhood and will continue to complement the various, services and commercial amenities available along 3<sup>rd</sup> Street. Residential uses are located in the area and the project will continue to provide local residents and visitors with a variety of grocery items as well as beer, wine, and distilled spirits.

The applicant is not requesting a change to the current hours of operation which are from 7:00 a.m. to 11:00 p.m., daily. The continued hours of operation will not affect or further degrade the adjacent properties, the surrounding neighborhood or the public health, welfare, and safety as it has been operating with these hours of operations for years, without any code violations or complaints. Furthermore, the subject market has been operating responsibly until the evening for many years. No evidence has been presented suggesting the hours of operation are degrading to the neighborhood or public welfare and safety. Conditions requiring

security cameras, adequate lighting, and responsible management practices ensure that the presence of alcoholic beverages will ensure community safety.

The grant authorized herein incorporates a number of conditions that have been imposed upon the use. These conditions will continue to make the use more compatible with other uses in the surrounding community. Employees are required to undergo training regarding the sale of alcohol conducted by the Los Angeles Police Department. Conditions on compliance to State ABC, sales of beer and wine, business management, security, noise, loitering and nuisance control, site maintenance, mode and character, compliant reporting and resolution, as well as a Plan Approval Action requirement is evidence of nuisance is documented are all incorporated into the grant to ensure that the operator will conduct the restaurant with the sale of beer and wine and distilled spirits for off-site consumption in good standing.

The project's location, size, height, operations and significant features will be compatible with and will not adversely affect or further degrade adjacent properties. The existing site is subject to uses in the C2 Zone and compatible with the surrounding uses on 3<sup>rd</sup> Street and the abutting properties. Therefore, as conditioned, and for the reasons stated above, the project's location, size, height, operations and other significant features will be compatible with and will not adversely affect or further degrade adjacent properties, the surrounding neighborhood, or the public health, welfare and safety.

**3. The project substantially conforms with the purpose, intent and provisions of the General Plan, the applicable community plan and any applicable specific plan.**

There are twelve elements of the General Plan and each of these Elements establishes policies that provide for the regulatory environment in managing the City and for addressing concerns and issues. The majority of the policies derived from these Elements are in the form of Code Requirements of the LAMC. The project does not propose to deviate from any of the requirements of the LAMC.

The Land Use Element of the City's General Plan divides the city into 35 Community Plans. The subject property is located within the Wilshire Community Plan which designates the property for Neighborhood and Office Commercial land uses, with corresponding zones C1, C1.5, C2, C4, RAS3 and RAS4 and Height District No. 1. The property is zoned C2-1-VL-O consistent with the range of zones associated with the site's land use designation. The Community Plan text allows a variety of commercial uses but is silent with regards to the sale of alcohol, leaving interpreting the intent of the Plan to the Zoning Administrator. The subject property is planned and zoned for commercial. The property is within the Transit Priority Area (ZI-2452), Area LAMC 16.02.1 (ZI-2498). The site is not located within the boundaries of or subject to any specific plan or community design overlay. The conditional use authorization for the sale of beer and wine and distilled spirits for off-site consumption are allowed through the approval of the Zoning Administrator subject to certain findings. Given the scope of the Conditions and limitations established herein, the surrounding land uses will not be significantly impacted by

the sale of beer and wine and distilled spirits for off-site consumption. The project is consistent with the following components of the Wilshire Community Plan:

**GOAL 2** Encourages strong and competitive commercial sectors which promote economic vitality and serve the needs of the Wilshire community through well-designed, safe and accessible areas, while preserving historic and cultural character.

**Objective 2-1:** Preserve and strengthen viable commercial development and provide additional opportunities for new commercial development and within existing commercial areas.

**Policy 2-1.3:** Enhance the viability of existing neighborhood stores and businesses which support the needs of local residents and are compatible with the neighborhood.

**Objective 2-2:** Promote distinctive commercial districts and pedestrian-oriented areas.

The site is located within the Wilshire Community Plan and the subject market is a continuation of an established use. The existing restaurant use is in alignment with the intent of the Community Plan to maintain the area's commercial sector, promote economic vitality, promote distinct districts, and the project continues to provide a convenience to workers, visitors, and residents in the immediate neighborhood. The Zoning Administrator has incorporated numerous operational conditions to the grant that address noise, safety and security to ensure the proposed use is conducted with due regard for surrounding properties and to reduce any potential crime issues or nuisance activity. As such, the project substantially conforms with the purpose, intent and provisions of the General Plan and the Wilshire Community Plan.

#### **ALCHOLIC BEVERAGE FINDINGS**

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

Given the scope of the conditions and limitations established herein, the surrounding land uses will not be significantly impacted by the proposed conditional use. J market is an existing bonafide local neighborhood serving market which has been operating since 1991. The market was granted an approval for the sale of beer and wine in December of 1991. No complaints were documented in the file. The property is zoned for commercial use and will be utilized as such with the addition of the sale and dispensing of beer and wine, and distilled spirits for off-site consumption for an existing market.

The Community Plan lists issues expressed from the community such as the desire for quality and vitality of commercial area as well as planned land use and zoning that permits the appropriate type of development and mix of uses desirable for and characteristic of the Plan area's urban neighborhoods. Maintaining and expanding

existing commercial amenities is intrinsic to the conservation, development, and success of a vibrant neighborhood. As conditioned, the continued sale of beer and wine for off-site consumption will not adversely affect the welfare of the pertinent community. Negative impacts commonly associated with the sale of beer and wine, such as criminal activity, public drunkenness, and loitering are mitigated by the imposition of conditions requiring deterrents against loitering and responsible management. Further, employees will undergo training on the sale of beer and wine including training provided by the Los Angeles Police Department Standardized Training for Alcohol Retailers (STAR) Program, or its equivalent. Should there be a change in the ownership and/or the operator of the business, the Zoning Administrator reserves the right to require that the new owner or operator file a Plan Approval application if it is determined that the new operation is not in substantial conformance with the approved floor plan, or the operation has changed in mode or character from the original approval, or if at any time during the period of validity of this grant, documented evidence is submitted showing continued violation of any condition(s) of this grant resulting in a disruption or interference with the peaceful enjoyment of the adjoining and neighboring properties. A record of poor compliance and / or nuisance complaints would allow the City the discretion to not authorize the continuation of the requests and thus avoid the need to proceed with prolonged nuisance abatement proceedings.

The operations of the existing market will be managed by compliance with imposed conditions and City requirements regarding noise, including the City's noise ordinance. Other conditions related to excessive noise, litter and noise prevention will safeguard the surrounding residential and sensitive uses. Therefore, with the imposition of such conditions, the sale of beer and wine and distilled spirits for off-site consumption at this location will not adversely affect or further degrade adjacent properties, the surrounding neighborhood, or the public health, welfare and safety.

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

According to the California Department of Alcoholic Beverage Control (ABC) licensing criteria, there are two on-site and one-off site consumption licenses allocated to the subject Census Tract 2146. Currently there are more than two off-site licenses and more than one on-site license in this census tract.



According to statistics provided by the Los Angeles Police Department, within Crime Reporting District No. 723, which has jurisdiction over the subject property, a total of 215 crimes (130 Part I and 26 Part II crimes), were reported in 2020 compared with the Citywide crime average of 141 and high crime reporting district of 169. In 2020, there were 3 Narcotics, 0 Liquor Laws, 0 Public Drunkenness, 2 Disturbing the Peace, 0 Disorderly Conduct, 0 Gambling, and 1 DUI related arrests. These numbers do not reflect the total number of arrests in the subject reporting district over the accountable year. Arrests for this calendar year may reflect crimes reported in previous years.

There are currently 28 active ABC licenses within the census tract for on-site and off site alcohol sales for the subject establishment. Although the number of existing licenses exceeds the number allocated to the subject census tract, the higher number of alcohol-serving establishments is to be expected in an area which functions as a major commercial corridor with a variety of restaurant and retail uses. Concentration can be undue when the addition of a license will negatively impact a neighborhood. Concentration is not undue when the approval of a license does not negatively impact an area, but rather such license benefits the public welfare and convenience. The incorporation of conditions relative to the specific operation of the establishment will address and minimize any possible adverse impact on the welfare of the surrounding area, including restrictions on noise, safety and security to ensure the proposed use is conducted with due regard for surrounding properties and to reduce any potential crime issues or nuisance activity. In this case, the granting of the application will not result in undue concentration as the project provides a unique amenity and service and enhances the community. In addition, the granting of this entitlement will not increase the number of alcohol licenses in the area, as the market currently holds Type 20 license to sell beer and alcohol for off-site consumption, and is applying for Type 21 license to sell a full line of alcohol, including distilled spirits in addition to the sale of beer and alcohol.

In active commercial areas where there is a demand for licenses beyond the allocated number, the ABC has recognized that high-activity retail and commercial centers are supported by significant employee population, in addition to the increasing resident population base in the area. The ABC has discretion to approve an application if there is evidence that normal operations will not be contrary to public welfare and will not interfere with the quiet enjoyment of property by residents. No evidence was submitted for the record establishing any link between the subject site and the area's crime rate. The statistics cover an entire district and do not pertain particularly to the subject site. No complaints were submitted for the record concerning any criminal or nuisance activity associated with the subject site.

The application is for the sale of a full line of alcohol in conjunction with an existing market, with alcoholic beverages being one of many types of items for sale within the market. The property must abide by the conditions that are a part of this grant, helping to ensure that operation of this property will not negatively affect the community. Therefore, given the data provided by LAPD and ABC, there are no



indications that the approval of this entitlement will cause undue concentration of alcohol establishments in this area or that criminal activity will be affected.

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

The project site is zoned for commercial uses and will continue to be utilized as a market use.

The following sensitive uses are located within a 600-foot radius of the site:

The subject site is within 600 feet of a single-family neighborhood.

There following sensitive uses were observed within a 0 to 600-foot radius of the subject property:

1. Institute of Jewish Education –a preschool located at 8339 W 3rd Street.
2. Sharon Care Center – a nursing facility located at 8167 W 3rd Street.
3. Youth Academy of Dramatic Arts a youth theatrical training center located at 8115 W. 3rd Street

These uses are buffered from the location of the request. The potential effects of excessive noise or disruptive behavior have been considered and addressed by imposing conditions related to noise and loitering. The project is consistent with the zoning and in keeping with the existing uses adjacent to the development. This project will continue to contribute to a neighborhood and will continue to serve the neighboring residents and the local employees as well as visitors. Therefore, as conditioned, the project will not detrimentally affect residentially zoned properties or any other sensitive uses in the area.

Consideration has been given to the distance of the subject establishment from the above referenced sensitive uses.

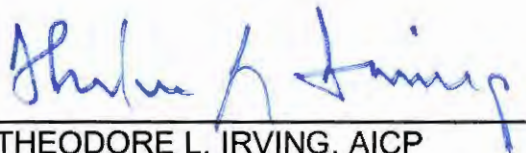
There are low to medium-density residential and commercial uses in the vicinity of the project site. Consideration has been given to the distance of the subject establishment from the above-referenced sensitive uses. The grant has been well conditioned, which should protect the health, safety and welfare of the surrounding neighbors. Furthermore, the existing market has been operating successfully without any major issues. The market has been authorized to sell beer and wine for off site consumption since 1991. The project is consistent with the zoning and in keeping with the existing uses adjacent to the development. The subject site is located on 3<sup>rd</sup> street, which is developed with a variety of retail, and commercial uses, including several restaurants. It is a highly pedestrian area, that provides a variety of services for the local residents. This project will serve the neighboring residents and the local employees as well as visitors. Such imposition of conditions will make the use a more compatible and accountable neighbor to the surrounding uses than would otherwise be the case. Therefore, as conditioned,

the project will not detrimentally affect residentially zoned properties or any other sensitive uses in the area.

#### **ADDITIONAL MANDATORY FINDINGS**

7. 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 outside of a flood zone.
8. Based on the whole of the administrative record, that the Project is exempt from the CEQA pursuant to CEQA Guidelines, Section 15301, Class 1 (Existing Facilities), and there is no substantial evidence demonstrating that any exceptions contained in Section 15300.2 of the State CEQA Guidelines regarding location, cumulative impacts, significant effects or unusual circumstances, scenic highways, or hazardous waste sites, or historical resources applies.

Inquiries regarding this matter shall be directed to Griselda Gonzalez, Planning Staff for the Department of City Planning at (213) 978-1414.



THEODORE L. IRVING, AICP  
Associate Zoning Administrator

TLI:DK:GG:

Cc: Councilmember Koretz  
Fifth Council District  
Adjoining Property Owners