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December 21, 2021

Brian Lee (A)
Open Market, LLC
3339 West Wilshire Boulevard
Los Angeles, CA 90010

3333 Wilshire Building, LLC. (O)
Attn: Phillip Lee
3470 Wilshire Boulevard
Los Angeles, CA 90013

Nikola Hlady (R)
Elizabeth Peterson Group, Inc.
400 South Main Street, Suite 808
Los Angeles, CA 90013

CASE NO. ZA 2021-6552-CUB
CONDITIONAL USE
3339 West Wilshire Boulevard (3331-
3343 West Wilshire Boulevard)
Wilshire Community Plan
Zone : C4-2
D.M. : 135B197
C.D. : 10
CEQA : ENV-2021-6553-CE
Legal Description: Lot FR3, TR 7517, MB
189-25

Pursuant to California Quality Act (CEQA) Guidelines Section 15301, I hereby
DETERMINE:

based on the whole of the administrative record, that the Project is exempt from
CEQA pursuant to CEQA Guidelines, Section 15301 and there is no substantial
evidence demonstrating that an exception to a categorical exemption pursuant to
CEQA Guidelines, Section 15300.2 applies, and

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

a Conditional Use Permit to allow the sale of beer and wine for off-site consumption
in conjunction with an existing retail food market in the C4-2 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 beer and wine for off-site consumption in conjunction with an existing 1,557 square-foot retail food market. The grant shall be subject to the following limitations:
 - a. The hours of operation shall be limited to 6:00 a.m. to 2:00 a.m., daily.
 - b. After hour use shall be prohibited, 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.
8. 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.
9. Coin operated game machines, pool tables or similar game activities or equipment shall not be permitted.

10. A camera surveillance system shall be installed and operating at all times to monitor the interior, entrance, exits and exterior areas, in front of and around the premises. Recordings shall be maintained for a minimum period of 30 days and are intended for use by the Los Angeles Police Department.
11. All exterior portions of the site 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 being disruptive to persons on adjacent properties.
12. **Complaint log.** 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 following locations:
 - a. Entry, visible to pedestrians
 - b. Customer service desk, front desk or near the reception area.

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.
13. **STAR/LEAD/RBS Training.** Within the first six months of operation, 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 or the Responsible Beverage Service (RBS) Training Program. Upon completing of such training, the applicant shall request the Police Department of Department of Alcohol and Beverage Control to issue a letter identifying which employees completed the training. STAR or LEAD or RBS training shall be conducted for all new hires within three months of their employment.
14. 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 such conduct does not adversely affect or detract from the quality of life for adjoining residents, property owners, and businesses.
15. 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 in and outside of the subject facility.
16. At least one on-duty manager with authority over the activities within the facility shall be on the premises during business hours. 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 Department of Alcoholic Beverage Control (ABC) and the conditional use herein. Every effort shall be undertaken in managing the subject

- premises and the facility to discourage illegal and criminal activities and any exterior area over which the building owner exercises control, 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.
17. The applicant shall be responsible for maintaining the premises and adjoining sidewalk free of debris or litter.
 18. Signage stating that alcohol shall not be consumed on the premises including the courtyard of the property shall be posted at a visible location within the market. The applicant shall also consider placing a stand alone sign near the courtyard reminding patrons that no alcohol shall be consumed within the courtyard.
 19. An electronic age verification device shall be purchased and retained on the premises to determine the age of any individual 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.
 20. Smoking tobacco or any non-tobacco substance, including from electronic smoking devices, is prohibited in or within 10 feet of the outdoor dining 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.
 21. The applicant(s) shall comply with 6404.5(b) of the Labor Code, which prohibits smoking within any place of employment. The applicant shall not possess ashtrays or other receptacles used for the purpose of collecting trash or cigarettes/cigar butts within the interior of the subject establishment.

ADMINISTRATIVE CONDITIONS

22. **Expedited Processing Section.** 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.
23. **MViP – Monitoring Verification and Inspection Program.** Prior to the effectuation of this grant, fees required per L.A.M.C Section 19.01-E,3 - Monitoring of Conditional Use Permits, Inspection, and Field Compliance for Review of Operations and Section 19.04 - Miscellaneous ZA Sign Offs 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.
24. Should there be a change in the ownership and/or the operator of the business, the property owner and the 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 floor plan, seating arrangement or number of seats of the new operation.
25. 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-E, 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.

INDEMNIFICATION AND REIMBURSTMENT OF LITIGATION COSTS

26. 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.

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 a said time and carried on diligently to completion, the authorization shall terminate and become void.

TRANSFERABILITY

The 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 **JANUARY 5, 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:

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

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

West Los Angeles
1828 Sawtelle Blvd. 2nd Floor
Los Angeles, CA 90025
(310) 231-2598

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

NOTICE

The applicant is further advised that all subsequent contact with this office regarding this determination must be with the Zoning Administrator who acted on the case. This would include clarification, verification of condition compliance and plans or building permit applications, etc., and shall be accomplished **BY APPOINTMENT ONLY**, in order to assure that you receive service with a minimum amount of waiting. You should advise any consultant representing you of this requirement as well.

FINDINGS OF FACT

After thorough consideration of the statements contained in the application, the plans submitted therewith, and the statements made at the public hearing on December 14, 2021, all of which are by reference made a part hereof, as well as knowledge of the property and surrounding district, I find that the requirements for authorizing a conditional use plan approval under the provisions of Section 12.24-M have been established by the following facts:

BACKGROUND

The subject property is a level, rectangular-shaped lot approximately 41,100 square feet in size and is developed with a multi-story, mixed-use commercial and residential building. The project site is bound by Wilshire Boulevard to the south with a street frontage of approximately 148 feet and is bound by Catalina Street to the east with a street frontage of approximately 237 feet. The property is developed with a multi-story, mixed-use building, totaling approximately 269,317 square feet in size. A variety of Commercial and office tenants occupy in the mixed-use building, including the Los Angeles County Department of Human Resources, the City of Los Angeles Department of Transportation, American Medical Careers. The subject property includes an on-site parking garage containing four-hundred and seventy-nine (479) shared parking stalls, with two (2) parking stalls designated for the retail food market.

The subject property is zoned C4-2 and is located within the Wilshire Community Plan. The Community Plan Area Map designates the subject property for Regional Center Commercial land uses corresponding to the CR, C1.5, C2, C4, P, PB, RAS3, RAS4, R3, R4, and R5 zones. The subject property's zoning is thus consistent with the General Plan's land use designation for the site. The subject property is not located within the boundaries of or subject to any other specific plan, community design overlay, or interim control ordinance. The subject property is located within the Los Angeles State Enterprise Zone (ZI-2374), an Urban Agriculture Incentive Zone, and is located within approximately 0.08 kilometers of the nearest fault zone (Puente Hills Blind Thrust Fault).

The subject establishment, Open Market, is an existing 1,577 square-foot retail food market occupying a tenant space on the first floor of a multi-story, mixed-use building. The applicant is requesting a Conditional Use Permit to allow the sale of beer and wine for off-site consumption in conjunction with the existing retail food market with hours of operation of 6:00 a.m. to 2:00 a.m., daily. The project will not change the height, size, or location of the existing commercial building in which the market currently occupies.

Surrounding properties are characterized by level topography and improved streets with a variety of commercial and residential uses along Wilshire Boulevard and Catalina Street. Properties to the north are zoned (T)(Q)C2-2 and are developed with a surface parking lot. Properties to the east, across Catalina Street, are zoned C4-2 and developed with a multi-story, mixed-use commercial building. Properties to the south, across Wilshire Boulevard, are zoned C4-2 and developed with a multi-story, mixed-use commercial and

residential building. Properties to the west are zoned C4-2 and developed with a multi-story residential building.

STREETS

Wilshire Boulevard, adjoining the property to the south, is a designated Avenue I, dedicated to a width of 100 feet and improved to a width of 70 feet with concrete curb, gutter, and sidewalk.

Catalina Street, adjoining the property to the east, is a designated Collector Street, dedicated to a width of 60 feet and improved to a width of 36 feet with a concrete curb, gutter, and sidewalk.

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

Subject Property (since 2016):

There are no previous cases, affidavits, permits or orders on the applicant's property.

Surrounding Properties within a 600-foot radius (since 2016):

Case No. ZA-2016-1751-CUB – On October 28, 2016, the Zoning Administrator approved plans to permit the continued sale and dispensation of beer and wine for on-site consumption in conjunction with an existing karaoke studio in the C4-2 Zone located at 3275 West Wilshire Boulevard, Unit 102.

Case No. ZA-2016-3299-CUB – On February 21, 2017, the Zoning Administrator approved plans to permit the sale and dispensing of beer and wine for on-site consumption in conjunction with a proposed restaurant in the (Q)C4-2 Zone located at 3377 Wilshire Boulevard, Unit 104.

Case No. ZA-2016-4390-CUB – On September 18, 2017, the Zoning Administrator approved plans to permit the sale and dispensing of beer and wine for on-site consumption in conjunction with an existing restaurant in the (Q)C2-2 and R5-2 Zones located at 3470 West 6th Street, Unit 2A.

Case No. ZA-2016-0940-CUB – On August 30, 2016, the Zoning Administrator approved plans to permit the sale and dispensing of beer and wine for on-site consumption in conjunction with a proposed restaurant in the (Q)C2-2 and R5-2 C2(PV) Zones located at 3470 West 6th Street, Unit 3.

Case No. ZA-2017-1710-CUB – On October 13, 2017, the Zoning Administrator approved plans to permit the sale and dispensing of beer and wine for on-site consumption in conjunction with an existing restaurant in the C2-2 Zone located at 3470 West 6th Street, Unit 7.

Case No. ZA-2017-2925-CUB – On December 4, 2017, the Zoning Administrator approved plans to permit the sale and dispensing of beer and wine for on-site consumption in conjunction with an existing restaurant in the (Q)C2-2 and R5-2 Zone located at 3470 West 6th Street, Units 9 and 10.

Case No. ZA-2017-3529-CUB – On May 22, 2018, the Zoning Administrator approved plans to permit the sale and dispensing of beer and wine for on-site consumption in conjunction with the operation of an existing restaurant in the C2-2 and C4-2 Zones, located at 3450 West 6th Street, Unit 103, which operate beyond the permitted hours of Mini Shopping Center/Commercial Corner requirement of 7:00 a.m. to 11:00 p.m.

Case No. ZA-2017-4023-CUB – On March 16, 2018, the Zoning Administrator approved plans to permit the continued sale and dispensing of beer and wine for on-site consumption in conjunction with the continued operation of a 3,037 square-foot restaurant in the (Q)C4-2 Zone located at 3377 Wilshire Boulevard, Unit 105.

Case No. ZA-2018-1295-ZV-CUB – On November 7, 2018, the Zoning Administrator approved a variance to allow an amusement venue (virtual batting cages) in conjunction with a restaurant with a bar and retail space in the C4 Zone located at 3377 Wilshire Boulevard, Units 205-210, and approved plans to permit the sale and dispensing of beer and wine for on-site consumption in conjunction with a proposed restaurant and amusement venue.

Case No. ZA-2018-2084-CUB – On September 7, 2018, the Zoning Administrator approved plans to permit the sales and dispensing of beer and wine for on-site consumption in conjunction with an existing restaurant in the (Q)C4-2 Zone located at 3377 Wilshire Boulevard, Unit 100, and to permit the continued hours of operation which exceed the otherwise daily permitted hours of 7:00 a.m. to 11:00 p.m. for a commercial corner development.

Case No. ZA-2018-0237-CUB – On June 18, 2018, the Zoning Administrator approved plans to permit the continued sale and dispensing of beer and wine for on-site consumption in conjunction with an existing restaurant in the C4-2 Zone located at 3281 West Wilshire Boulevard.

Case No. ZA-2018-3298-CUB – On April 17, 2019, the Zoning Administrator approved plans to permit the sale of a full line of alcoholic beverages for on-site consumption, in conjunction with a proposed restaurant in the C4-2 Zone located at 3322-3300 West Wilshire Boulevard.

Case No. ZA-2018-7083-CUB – On June 17, 2019, the Zoning Administrator approved plans to permit the continued sale and dispensing of beer and wine for on-site consumption in conjunction with an existing restaurant in the C4 Zone located at 3275 West Wilshire Boulevard.

Case No. ZA-2019-2221-CUB – On September 11, 2019, the Zoning Administrator approved plans to permit the sale and dispensing of beer and wine for on-site consumption in conjunction with an existing restaurant in the C2-2 Zone located at 3300 West 6th Street, Unit 1.

Case No. ZA-2019-0414-CUB – On September 18, 2019, the Zoning Administrator approved plans to permit the sale and dispensing of beer and wine for on-site consumption in conjunction with a proposed restaurant in the C2-1 Zone located at 3465 West 6th Street, Units 90 and 100.

Case No. ZA-2019-4237-CUB – On April 20, 2020, the Zoning Administrator approved plans to permit the sale and dispensing of beer and wine for on-site consumption in conjunction with an existing restaurant in the C2-2 Zone located at 3450 West 6th Street, Unit 101.

Case No. ZA-2019-4471-CUB – On March 5, 2020, the Zoning Administrator approved plans to permit the sale and dispensing of a full line of alcoholic beverages for on-site consumption in conjunction with a restaurant/bar/lounge in the C4-2 Zone located at 3322-3330 West Wilshire Boulevard, Suite 100.

Case No. ZA-2019-4817-CUB – On May 11, 2020, the Zoning Administrator approved plans to permit the sale and dispensing of beer and wine for on-site consumption in conjunction with an existing restaurant in the C2-2 Zone located at 3320-3324 West 6th Street, Unit E-1.

Case No. ZA-2019-6978-CUB – On July 9, 2020, the Zoning Administrator approved plans to permit the continued sale and dispensing of beer and wine for on-site consumption in conjunction with an existing restaurant in the (Q)C4-2 Zone located at 3377 West Wilshire Boulevard, Unit 109.

Case No. ZA-2019-6981-CUB – On July 14, 2020, the Zoning Administrator approved plans to permit the sale and dispensing of beer and wine for on-site consumption in conjunction with an existing restaurant in the (Q)C4-2 Zone located at 3377 West Wilshire Boulevard, Unit 110 and 111.

Case No. ZA-2019-0911-CUB-CUX – On October 24, 2019, the Zoning Administrator approved plans to permit the sale and dispensing of a full line of alcoholic beverages for on-site consumption, in conjunction with an existing restaurant/karaoke studio/nightclub venue in the C4-2 Zone located at 3319 West Wilshire Boulevard.

Case No. ZA-2020-1693-CUB – On October 30, 2020, the Zoning Administrator approved plans to permit the sale and dispensing of a full line of alcoholic beverages for on-site consumption in conjunction with a new restaurant with live entertainment in the C4-2 Zone located at 3330 West Wilshire Boulevard.

Public Hearing

The public hearing was held telephonically on Tuesday, December 14, 2021, at 9:30 a.m. due to concerns over COVID-19. The hearing was attended by the applicant's representative, Nikola Hlady, the applicant, Brian Lee, and a representative from Council District 10.

Mr. Hlady made the following statements:

- The conditional use request is for the property located at 3339 Wilshire Boulevard.
- The site is on the ground floor and located at the northwest corner of Wilshire and Catalina.
- The request is for beer and wine with hours of 6 a.m. to 2 a.m., daily, to allow for maximum flexibility.
- Open Market opened in April 2021. It is a community-minded, neighborhood store.
- Open Market offers locally made and locally produced goods. Foods are organic and sustainably grown foods with home goods.
- The market will offer produced goods. Breakfast and lunch will be offered.
- Expanded hours will be for dinner service.
- The store is comprised of 915 s.f. of market area and 662 s.f. of back of house area.
- High-quality beer and wine will be sold. This will be a valuable amenity to the area. The operator is very responsible. The request will help activate the courtyard and streetscape.
- A security guard is located at the ground level next to the store.
- Security is present until 9 p.m. The store will close at 8 p.m. Security will help enforce no consumption of alcohol will occur on the site.
- Outreach includes over 100 unique letters that were sent to the planning staff last Friday. The Wilshire Center Koreatown Neighborhood Council Planning and Land Use Committee unanimously approved the request. The General Board will be meeting on December 13. It is requested that the file be kept open for one week.
- CD 10's Hakeem Parke-Davis was also informed of the project.
- LAPD's Olympic Vice Unit was emailed about the project.

During the public comment portion of the public hearing, one person provided public testimony.

Hakeem Parke-Davis, Planning Deputy for Council District 10, asked why there was no on-site consumption, expressed concerns of open consumption in the courtyard, and asked for more signage and surveillance cameras for the operation.

At the conclusion of the public hearing, the Zoning Administrator stated he would wait for the Neighborhood Council Board letter to be submitted then issue a determination accordingly.

Public Correspondence

Planning received 115 letters from local residents and businesses in support for the project request.

On December 13, 2021, one neighbor wrote a letter expressing concern of the subject CUB request.

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.

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 sale and dispensing **full line of alcoholic beverages for off-site consumption in conjunction with a market** 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 subject property is a level, rectangular-shaped lot approximately 41,100 square feet in size and is developed with a multi-story, mixed-use commercial and residential building. The project site is bound by Wilshire Boulevard to the south with a street frontage of approximately 148 feet and is bound by Catalina Street to the east with a street frontage of approximately 237 feet. The property is developed with a multi-story, mixed-use building, totaling approximately 269,317 square feet in size. A variety of Commercial and office tenants occupy in the mixed-use building, including the Los Angeles County Department of Human Resources, the City of Los Angeles Department of Transportation, American Medical Careers.

The grant is for a Conditional Use Permit to allow the sale of beer and wine for off-site consumption in conjunction with the existing 1,577 square-foot retail food market with hours of operation of 6:00 a.m. to 2:00 a.m., daily.

The existing small-scale full-service market provides a service that benefits the neighborhood by keeping with the nature of the area's commercial development. The neighborhood-serving store offers a one-stop shopping convenience that benefits residents and employees of the area. The sale of alcohol is an expected offering of a retail food market and allows the Wilshire Center-Koreatown community to enjoy the same level of amenities and beverage options and as expected in other retail food markets. The sale of alcohol is only a portion of the goods and services offered from the retail food market, where select groceries, sundries, beverages, in addition to other goods typically offered at a retail food market are available. With the imposition of conditions, the sales of beer and wine for off-site consumption at the retail food market will be compatible with surrounding uses in the area.

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 subject establishment, Open Market, is an existing 1,577 square-foot retail food market occupying a tenant space on the first floor of a multi-story, mixed-use building. The applicant is requesting a Conditional Use Permit to allow the sale of beer and wine for off-site consumption in conjunction with the existing retail food market with hours of operation of 6:00 a.m. to 2:00 a.m., daily. The project will not change the height, size, or location of the existing commercial building in which the market currently occupies.

The subject property is zoned C4-2 with a Land Use designation of Regional Center Commercial within the Wilshire Community Plan. Grocery store uses are permitted in the C4 zone and are consistent with the Regional Center Commercial land use designation. The sale of beer and wine is compatible with the grocery store use and the surrounding commercial retail uses.

Properties to the north are zoned (T)(Q)C2-2 and are developed with a surface parking lot. Properties to the east, across Catalina Street, are zoned C4-2 and developed with a multi-story, mixed-use commercial building. Properties to the south, across Wilshire Boulevard, are zoned C4-2 and developed with a multi-story, mixed-use commercial and residential building. Properties to the west are zoned C4-2 and developed with a multi-story residential building. The site is located in a large Regional Commercial Center with many shopping centers. A full-service market provides surrounding neighborhoods and local employees with a necessary and convenient amenity, enhancing, rather than degrading, the surround neighborhood.

The hours of operation from 6 a.m. to 2 a.m., daily, will not affect or further degrade the adjacent properties, the surrounding neighborhood or the public health, welfare, and safety. Conditions requiring security cameras, adequate lighting, and responsible management practices will ensure that the presence of alcohol sales will not degrade community safety.

At the public hearing, the applicant stated there is an on-site security presence near the courtyard where seating is provided. Concerns were raised by the Council Office as well as the Zoning Administrator of the potential for patrons to purchase drinks and consume them in the courtyard. The applicant stated that building security is present until 9 p.m., and the subject operation, Open Market, intends to have operating hours cease by 8 p.m. Security would ensure that alcohol is not consumed on the premises. In regard to layout, concerns were raised of the floor plan and the potential for theft. The applicant stated that it was intended for an employee to be placed near the main entrance/exit door to greet and provide service to address, which would also address those concerns. Finally, signage reminding patrons that alcohol consumption is not permitted on the premises including the courtyard will be a required condition of this grant.

The grocery stores emphasis will be food items and the sale of beer and wine for off-site consumption completes the selection of beverage offerings and is an amenity incidental to general food market sales. As conditioned, the alcohol 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 specific plan.**

The General Plan is the City's roadmap for future growth and development. The General Plan Elements establish goals, policies, purposes, and programs that provide for the regulatory environment in managing the City, and for addressing environmental concerns and problems. The majority of the policies derived from these elements are implemented in the form of Municipal Code requirements. The General Plan is comprised of the Framework Element, seven state-mandated elements, and four additional elements.

The Framework Element establishes the broad overall policy and direction for the General Plan. The Framework Element includes Objective 3.10 which reinforces existing regional centers that accommodate a broad range of uses that serve, provide job opportunities, and are accessible to the region, are compatible with adjacent land uses, and are developed to enhance urban lifestyles. The proposed project furthers this policy objective by bring a new, viable, commercial use (a retail food market that also sells beer and wine) to an existing Reginal Center Commercial area.

The Land Use Element of the City's General Plan divides the City into 35 Community Plan areas. The Wilshire Community Plan designates the subject property for Regional Center Commercial land uses corresponding to the CR, C1.5, C2, C4, P, PB, RAS3, RAS4, R3, R4, and R5 zones. The subject property's C4 zoning is thus consistent with the General Plan's land use designation for the site.

The Community Plan text is silent with regards to alcohol. In such cases, the Zoning Administrator must interpret the intent of the Plan. Approval of the conditional use permit request is consistent with vision of the Community Plan which states the following:

GOAL 2: ENCOURAGE 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 services.*

Policy 2-1.2: *Protect existing and planned commercially zoned areas, especially in Regional Commercial Centers, from encroachment by stand-alone residential development by adhering to the community plan land use designations.*

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.*

Policy 2-2.3: *Encourage the incorporation of retail, restaurant, and other neighborhood serving uses in the first-floor street frontage of structures, including mixed use projects located in Neighborhood Districts.*

In addition to the goal, objectives, and their policies described above, the project fulfills the intent of the Wilshire Community Plan provisions regarding land use compatibility, by preserving and strengthening existing commercial uses within an established commercial district while maintaining desirable characteristics of surrounding residential neighborhoods. The project will support an existing establishment, thereby strengthening the vibrancy and longevity of the commercial corridor along Wilshire Boulevard and the surrounding neighborhood. The food market will provide neighboring residents and the local workforce with a convenient food and drink option that will bolster pedestrian activity in the neighborhood.

Moreover, the project does not propose any physical expansion to the existing building in which the food market currently occupies. The project's design, both in terms of physical layout and operations, is intended for the sale of beer and wine for off-site consumption to cater to the neighborhood-serving characteristics of this commercial corridor. As such, the project substantially conforms with the purpose, intent and provisions of the General Plan, and the applicable community plan.

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

The Conditional Use Permit allows the sale of beer and wine for off-site consumption in conjunction with the existing 1,577 square-foot retail food market with hours of operation of 6:00 a.m. to 2:00 a.m., daily.

Beer and wine sales are an expected amenity within a full-service food market. The retail food market (Open Market) provides convenience for residents within walking distance and visitors to the area. The grant includes a number of conditions to safeguard the community. Possible effects associated with a retail market selling alcoholic beverages are loitering and littering issues. The approval, as conditioned, will avert these impacts by requiring that there be no loitering, and that security cameras be installed to monitor activity on the premises. Employees will undergo training on the sale of alcoholic beverages including training provided by the Los Angeles Police Department STAR (Standardized Training for Alcohol Retailers) Program. The grant also requires conditions that will mitigate potential negative effects commonly associated lighting around the exterior of the subject site. Age verification devices, and monitoring of property, and the presence of an on-site security guard will ensure the operation will not adversely affect the welfare. These conditions will allow the sale of beer and wine to occur while protecting the welfare of the surrounding community.

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, two (2) on-site and one (1) off-site consumption licenses are allocated to subject Census Tract No. 2121.01. Currently there are fourteen (14) on-site licenses and four (4) off-site licenses in this Census Tract.

The subject request entails a Conditional Use Permit (CUB) to allow the sale and dispensing of beer and wine for off-site consumption in conjunction with an existing retail food market and will add one additional active license to the area.

Within 1,000 feet of the subject site, there are currently 35 establishments that have an ABC license:

<u>Alcohol Establishment</u>	<u>License Type</u>	<u>Address</u>
Escala Ktown Rest. & Bar	On-site, full line	3451 West 6 th Street
Ger Bar & Taproom	On-site, beer and wine	3465 West 6 th Street
Toe Bang Café	On-site, full line	3465 West Street, #10
Sake House by Hikari	On-site, full line	3465 West 6 th Street, #150
Kang Ho-Dong Baekjeong Korean Restaurant	On-site, beer and wine	3465 West 6 th Street, #20
Gaam Restaurant and Lounge	On-site, full line	3465 West 6 th Street, #300
Woo Hyang Woo Korean BBQ Restaurant	On-site, beer and wine	3429 West 6 th Street
Chevron Gas & Food Mart	Off-site, beer and wine	3325 West 6 th Street
Dick's Liquor Beer, Wine, and Spirits	Off-site, full line	3315 West 6 th Street
Arena Koreatown Nightclub	On-site, full line	3319 Wilshire Boulevard
HMS Bounty Restaurant	On-site, full line	3357 Wilshire Boulevard
Chunju Han-II Kwan Korean Restaurant	On-site, beer and wine	3450 West 6 th Street, #106
7 Eleven Mart	Off-site, full line	3470 West 6 th Street, #1
Sun Nong Dan Korean Restaurant	On-site, beer and wine	3470 West 6 th Street, #7
The Boiling Crab Seafood Restaurant	On-site, beer and wine	3377 Wilshire Boulevard, #114
Wako Donkasu Asian Restaurant	On-site, beer and wine	3377 Wilshire Boulevard, #112

Koko N Pizza	On-site, beer and wine	3377 Wilshire Boulevard, #112
Café Home	On-site, beer and wine	3377 Wilshire Boulevard, #108
Bongchu Restaurant	On-site, beer and wine	3377 Wilshire Boulevard, #100
Jjukku Jjukuu BBQ Restaurant	On-site, beer and wine	3377 Wilshire Boulevard, #105
Ham Ji Park Korean Restaurant	On-site, beer and wine	3407 West 6th Street, #101C
Gaam Karaoke Bar	On-site, full line	3309 West 6th Street
Hong Kong Banjum Chinese Restaurant	On-site, beer and wine	3470 West 6 th Street, #11
Hangari Kalguksu Korean Restaurant	On-site, beer and wine	3470 West 6 th Street, #9 and 10
Café Bleu Restaurant and Lounge	On-site, full line	3470 West 6 th Street, #8B
Chadolpoong Korean BBQ Restaurant	On-site, beer and wine	3470 West 6 th Street, #3
BBQ Chicken LA Ktown	On-site, beer and wine	3450 West 6 th Street, #102
365 Restaurant	On-site, beer and wine	3300 West 6 th Street, #1
Silverlake Ramen Restaurant	On-site, beer and wine	3465 West 6 th Street, #160
Quarters Korean BBQ Restaurant	On-site, full line	3465 West 6 th Street, #C130
Recital Karaoke Bar	On-site, full line	3500 West 6 th Street, #330
One Cafe		3250 Wilshire Boulevard
Café Brass Monkey Karaoke Bar	On-site, full line	3440 Wilshire Boulevard
Baja's Grill Mexican Restaurant	On-site, beer and wine	3250 Wilshire Boulevard
Gwang Yang BBQ Restaurant	On-site, full line	3435 Wilshire Boulevard

The number of active on-site ABC licenses within the census tract where the subject site is located exceeds ABC guidelines. 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. 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 a significant employee population, in addition to the resident population base in the area. 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. In addition, the Zoning Administrator is imposing conditions of approval in order to prevent public drinking, and public drunkenness.

As reported by the Los Angeles Police Department, Hollywood Division which has jurisdiction over the subject property, within Crime Reporting District No. 2027, a total of 194 crimes were reported in 2020 (126 Part I and 68 Part II crimes), compared to the Citywide Average of 141 crimes and compared to the High Crime Reporting District Average of 169 crimes. Alcohol related Part II Crimes reported include Narcotics (5), Liquor Laws (0), Public Drunkenness (0), Disturbing the Peace (0), Disorderly Conduct (0), Gambling (0), DUI related (7), and other offenses (29). 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.

The above statistics indicate that the crime rate in the reporting district where the subject site is located is higher than the citywide average. However, no evidence has been submitted indicating that the future off-site sales of beer and wine at the subject site would lead to an increase in crime rate. Furthermore, potential negative impacts commonly associated with the sale of alcoholic beverages, such as criminal activity, public drunkenness, and loitering are already below average in this area and are addressed by the imposition of conditions requiring camera surveillance, responsible management, and deterrents against loitering and public drinking. The conditions will safeguard the welfare of the community. As conditioned, allowing the sale of beer and wine for off-site consumption at the subject location will benefit the public welfare and convenience because it would provide a convenience and amenity within the existing neighborhood.

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

Residential

Multi-Family Residences

Schools/Day Care

Robert F. Kennedy Community School	701 South Catalina Street
Los Angeles High School of the Arts	701 South Catalina Street
New Open World Academy	3201 West 8 th Street
Ambassador School of Global Leadership	701 South Catalina Street
UCLA Community School	700 South Mariposa Avenue
Everest Value School	668 South Catalina Street
American Vocational College	639 New Hampshire Avenue

Trinity Academy	639 New Hampshire Avenue
Elite Educational Institute	3301 Wilshire Boulevard
Los Angeles Pacific College	3325 Wilshire Boulevard
Immanuel Love Church	3407 West 6 th Street, #103

Religious Institutions

Presbyterian Church	3434 West 6 th Street, #250
Immanuel Presbyterian Church	3300 Wilshire Boulevard
Westminster Chapel	665 Berendo Street
Chichester Chapel	3310 Wilshire Boulevard

Hospitals

N/A	N/A
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Recreational Areas

Robert F. Kennedy Inspirational Park	3300 Block of Wilshire Boulevard
Screen Baseball Strike Zone	3377 Wilshire Boulevard, #205

The following sensitive uses were observed within a 600 to 1,000-foot radius of the subject property:

Residential

Multi-Family Residences

Schools/Day Care

Pacific States University	3424 Wilshire Boulevard
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Religious Institutions

Basil Parish Korean Catholic Church	3535 West 6 th Street
Founders Church of Religious Science	3281 West 6 th Street

Hospitals

N/A	N/A
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Recreational Areas

YMCA	625 New Hampshire Avenue
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There were no letters, telephone calls, or public testimony from any of these sensitive uses indicating the operation has or will impact these uses. Consideration has been given to the distance of the subject establishment from the above-referenced sensitive uses.

The sale of alcohol for off-site consumption will not detrimentally affect nearby residential zones as the project is located within an existing commercial hub that was intended to offer variety of commercial services, such as full-service food markets. Furthermore, this grant has placed conditions upon the request and has not authorized the use of the property for activities which may create potential nuisances for the surrounding area. The potential effects of disruptive behavior have been considered and addressed by imposing conditions related to noise and loitering. The proposed project will allow an existing food market to sell beer and

wine for off-site consumption for both surrounding residents and employees and will therefore provide convenience to the surrounding neighborhood.

Alcoholic beverages are a common and expected good for sale in retail food markets. The sale of alcoholic beverages will not detrimentally affect the neighboring properties in the area, and will occur within a controlled environment by trained employees and is subject to multiple security and nuisance abatement measures.

The grant has been well conditioned, which should protect the health, safety and welfare of the surrounding neighbors. The project is consistent with the zoning and in keeping with the existing uses adjacent to the development. This project will contribute to a neighborhood and will serve the neighboring residents and the local employees. 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 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 outside the flood zone and is within Zone C.

Inquiries requiring this matter shall be directed to Jaime Espinoza, Planning Staff for the Department of City Planning at (213) 978-1357.



HENRY CHU
Associate Zoning Administrator

cc: Councilmember Mark Ridley-Thomas
Tenth District
Adjoining Property Owners