



APPLICATIONS:

APPEAL APPLICATION

Instructions and Checklist

Related Code Section: Refer to the City Planning case determination to identify the Zone Code section for the entitlement and the appeal procedure.

Purpose: This application is for the appeal of Department of City Planning determinations authorized by the Los Angeles Municipal Code (LAMC).

A. APPELLATE BODY/CASE INFORMATION

1. APPELLATE BODY

- Area Planning Commission City Planning Commission City Council Director of Planning
- Zoning Administrator

Regarding Case Number: ZA-2021-4710-CU-ZV-SPR

Project Address: 6726 W SUNSET BLVD

Final Date to Appeal: 05/10/2023

2. APPELLANT

Appellant Identity:
(check all that apply)

- Representative Property Owner
- Applicant Operator of the Use/Site
- Person, other than the Applicant, Owner or Operator claiming to be aggrieved

Person affected by the determination made by the **Department of Building and Safety**

- Representative Owner Aggrieved Party
- Applicant Operator

3. APPELLANT INFORMATION

Appellant's Name: Madeline Brozen

Company/Organization: 6712 Leland Way

Mailing Address: _____

City: Los Angeles State: California Zip: 90028

Telephone: (612) 747-9618 E-mail: mwbrozen@gmail.com

a. Is the appeal being filed on your behalf or on behalf of another party, organization or company?
 Self Other: _____

b. Is the appeal being filed to support the original applicant's position? Yes No

4. REPRESENTATIVE/AGENT INFORMATION

Representative/Agent name (if applicable): _____

Company: _____

Mailing Address: _____

City: _____ State: _____ Zip: _____

Telephone: _____ E-mail: _____

5. JUSTIFICATION/REASON FOR APPEAL

a. Is the entire decision, or only parts of it being appealed? Entire Part

b. Are specific conditions of approval being appealed? Yes No

If Yes, list the condition number(s) here: _____

Attach a separate sheet providing your reasons for the appeal. Your reason must state:

- The reason for the appeal
- How you are aggrieved by the decision
- Specifically the points at issue
- Why you believe the decision-maker erred or abused their discretion

6. APPLICANT'S AFFIDAVIT

I certify that the statements contained in this application are complete and true:

Appellant Signature: Madeline Brozen Date: 5/8/23

GENERAL APPEAL FILING REQUIREMENTS

B. ALL CASES REQUIRE THE FOLLOWING ITEMS - SEE THE ADDITIONAL INSTRUCTIONS FOR SPECIFIC CASE TYPES

1. Appeal Documents

a. **Three (3) sets** - The following documents are required for each appeal filed (1 original and 2 duplicates) Each case being appealed is required to provide three (3) sets of the listed documents.

- Appeal Application (form CP-7769)
- Justification/Reason for Appeal
- Copies of Original Determination Letter

b. Electronic Copy

Provide an electronic copy of your appeal documents on a flash drive (planning staff will upload materials during filing and return the flash drive to you) or a CD (which will remain in the file). The following items must be saved as individual PDFs and labeled accordingly (e.g. "Appeal Form.pdf", "Justification/Reason Statement.pdf", or "Original Determination Letter.pdf" etc.). No file should exceed 9.8 MB in size.

c. Appeal Fee

- Original Applicant - A fee equal to 85% of the original application fee, provide a copy of the original application receipt(s) to calculate the fee per LAMC Section 19.01B 1.
- Aggrieved Party - The fee charged shall be in accordance with the LAMC Section 19.01B 1.

d. Notice Requirement

- Mailing List - All appeals require noticing per the applicable LAMC section(s). Original Applicants must provide noticing per the LAMC
- Mailing Fee - The appeal notice mailing fee is paid by the project applicant, payment is made to the City Planning's mailing contractor (BTC), a copy of the receipt must be submitted as proof of payment.

SPECIFIC CASE TYPES - APPEAL FILING INFORMATION

C. DENSITY BONUS / TRANSIT ORIENTED COMMUNITES (TOC)

1. Density Bonus/TOC

Appeal procedures for Density Bonus/TOC per LAMC Section 12.22.A 25 (g) f.

NOTE:

- Density Bonus/TOC cases, only the *on menu or additional incentives* items can be appealed.
- Appeals of Density Bonus/TOC cases can only be filed by adjacent owners or tenants (must have documentation), and always only appealable to the Citywide Planning Commission.

- Provide documentation to confirm adjacent owner or tenant status, i.e., a lease agreement, rent receipt, utility bill, property tax bill, ZIMAS, drivers license, bill statement etc.

D. WAIVER OF DEDICATION AND OR IMPROVEMENT

Appeal procedure for Waiver of Dedication or Improvement per LAMC Section 12.37 I.

NOTE:

- Waivers for By-Right Projects, can only be appealed by the owner.
- When a Waiver is on appeal and is part of a master land use application request or subdivider's statement for a project, the applicant may appeal pursuant to the procedures that governs the entitlement.

E. TENTATIVE TRACT/VESTING

1. Tentative Tract/Vesting - Appeal procedure for Tentative Tract / Vesting application per LAMC Section 17.54 A.

NOTE: Appeals to the City Council from a determination on a Tentative Tract (TT or VTT) by the Area or City Planning Commission must be filed within 10 days of the date of the written determination of said Commission.

- Provide a copy of the written determination letter from Commission.

F. BUILDING AND SAFETY DETERMINATION

- 1.** Appeal of the Department of Building and Safety determination, per LAMC 12.26 K 1, an appellant is considered the **Original Applicant** and must provide noticing and pay mailing fees.

a. Appeal Fee

- Original Applicant - The fee charged shall be in accordance with LAMC Section 19.01B 2, as stated in the Building and Safety determination letter, plus all surcharges. (the fee specified in Table 4-A, Section 98.0403.2 of the City of Los Angeles Building Code)

b. Notice Requirement

- Mailing Fee - The applicant must pay mailing fees to City Planning's mailing contractor (BTC) and submit a copy of receipt as proof of payment.

- 2.** Appeal of the Director of City Planning determination per LAMC Section 12.26 K 6, an applicant or any other aggrieved person may file an appeal, and is appealable to the Area Planning Commission or Citywide Planning Commission as noted in the determination.

a. Appeal Fee

- Original Applicant - The fee charged shall be in accordance with the LAMC Section 19.01 B 1 a.

b. Notice Requirement

- Mailing List - The appeal notification requirements per LAMC Section 12.26 K 7 apply.
- Mailing Fees - The appeal notice mailing fee is made to City Planning's mailing contractor (BTC), a copy of receipt must be submitted as proof of payment.

G. NUISANCE ABATEMENT

1. Nuisance Abatement - Appeal procedure for Nuisance Abatement per LAMC Section 12.27.1 C 4

NOTE:

- Nuisance Abatement is only appealable to the City Council.

a. Appeal Fee

Aggrieved Party the fee charged shall be in accordance with the LAMC Section 19.01 B 1.

2. Plan Approval/Compliance Review

Appeal procedure for Nuisance Abatement Plan Approval/Compliance Review per LAMC Section 12.27.1 C 4.

a. Appeal Fee

Compliance Review - The fee charged shall be in accordance with the LAMC Section 19.01 B.

Modification - The fee shall be in accordance with the LAMC Section 19.01 B.

NOTES

A Certified Neighborhood Council (CNC) or a person identified as a member of a CNC or as representing the CNC may not file an appeal on behalf of the Neighborhood Council; persons affiliated with a CNC may only file as an individual on behalf of self.

***Please note** that the appellate body must act on your appeal within a time period specified in the Section(s) of the Los Angeles Municipal Code (LAMC) pertaining to the type of appeal being filed. The Department of City Planning will make its best efforts to have appeals scheduled prior to the appellate body's last day to act in order to provide due process to the appellant. If the appellate body is unable to come to a consensus or is unable to hear and consider the appeal prior to the last day to act, the appeal is automatically deemed denied, and the original decision will stand. The last day to act as defined in the LAMC may only be extended if formally agreed upon by the applicant.*

This Section for City Planning Staff Use Only		
Base Fee:	Reviewed & Accepted by (DSC Planner):	Date:
Receipt No:	Deemed Complete by (Project Planner):	Date:
<input type="checkbox"/> Determination authority notified		<input type="checkbox"/> Original receipt and BTC receipt (if original applicant)

May 8, 2023

RE: Appeal Justification for Raising Cane’s (6726-6740 West Sunset Boulevard, 1434-1456 North Mccadden Place, Los Angeles CA 90028); DCP Case Nos. **ZA-2021-4710-CU-ZV-SPR; Approval Made Effective by April 25, 2023 Letter of Determination**

To the Members of the City of Los Angeles City Council,

I am appealing (“Appeal”) the zone variance for the above-referenced development involving the proposed demolition of a one-story, commercial structure and the construction of a one-story Raising Cane’s drive-thru fast food restaurant (“Project”) located at 6726-6740 West Sunset Boulevard, 1434-1456 North Mccadden Place (“Site”) proposed by Raising Cane’s (“Applicant”). In furtherance of the Project, the Applicant seeks approval of i) multiple land use entitlements (“Entitlements”) under DCP Case No. ZA-2021-4710-CU-ZV-SPR under DCP Case No. ENV-2021-4711-MND (collectively “Project Approvals”). The Associate Zoning Administrator (“ZA”) re-approved the Project’s Entitlements, relying on findings in a Letter of Determination mailed on April 25, 2023 (“LOD”), which identifies the applicable appeal deadline as May 10, 2023.

REASON FOR THE APPEAL

Based on the review of the Letter of Determination (LOD) and other relevant documents, granting of the Entitlements violates the Los Angeles Municipal Code (“LAMC” or “Code”) and the zone variance request fails to make affirmative findings for all five of the legally mandated findings delineated in City Charter Section 562. We respectfully request that the City grant this Appeal and deny the Project Approvals.

HOW ARE YOU AGGRIEVED BY THE DECISION

I live within the immediate area, specifically within 500 ft. of the proposed project. The decision aggrieves me because the project as proposed – an additional drive-thru – will decrease pedestrian safety. Allowing for the drive-through zone variance increases my likelihood of being injured or killed by a driver while I walk around my neighborhood. Further, the existing drive-through fast food restaurant, located directly adjacent to the proposed project, currently generates a high number of daily trips that increase localized congestion around the intersection of Sunset Blvd. and Highland Ave., delaying public transit and private vehicles. Given that the previous use at this site has been non-operational for three years prior to this project seeking approval, I am questioning whether this project will have a reduced net impact on trips as projected by the city VMT calculator. Increased trips in the area degrade my air quality, bring additional noise and trash, and reduce my quality of life in the project’s immediate vicinity.

HOW DID THE DECISION-MAKER ERRED OR ABUSED THEIR DISCRETION:

The ZA erred because it improperly granted the zone variance without affirmatively making findings in all five legally mandated criteria. Details for the errors are detailed on the following pages.

The specific zone variance in question is a Zone Variance to partially permit drive-through fast-food use in the RD1.5-1XL Zone.

SPECIFIC POINTS IN ISSUE

REBUTTAL OF THE ZONE VARIANCE FINDINGS

All five legally mandated findings delineated in City Charter Section 562 must be made in the affirmative for plan approval to be granted. The Zoning Administrator failed to provide such findings in the affirmative in all five areas of the re-issued Letter of Determination. This appeal is not directed at the existence of the Raising Cane's. Rather, we submit the following concerns about the existence of the drive-thru element to this project (the zone variance specifically in question) and demonstration that the Zoning Administrator erred in the following ways for each of the Findings (numbers correspond to Amended Findings in Letter of Determination, mailing date April 25, 2023):

7. The strict application of the provisions of the zoning ordinance would result in practical difficulties or unnecessary hardships inconsistent with the general purposes and intent of the zoning regulations.

In discussing this mandated finding, the Zoning Administrator failed to engage with the practical difficulty of whether a drive-thru allowance is required for the business to operate at this location, requiring the zone variance. The Zoning Administrator explained that "these requests are necessary to allow for the continued use of the subject property for viable commercial uses." This does not justify in the affirmative that the drive-thru element is required for the business to operate. In 2021, Raising Cane's opened a new location in Davis, California, that does not include a drive-thru. Since the business can operate without a drive-thru in another location, this calls into question that the variance for a drive-thru truly represents a practical difficulty.

Further, multiple other nearby fast-food restaurants operate successfully without a drive-thru element. This includes the following:

- Taco Bell, 6741 Hollywood Boulevard. (opened in 2023);
- McDonald's, 6776 Hollywood Boulevard;
- Fatburger, 6760 Hollywood Boulevard.

The applicant may argue that their Davis location and these other nearby establishments do not have a drive-thru element because they are sitting on smaller properties that do not have space for a drive-thru. However, Chick-Fil-A, a similar fast-food chicken restaurant, proposed on a larger lot in the City of Los Angeles, has recently agreed to operate without a drive-thru (Case No. ZA-2021-3341-CU-SPR). On page 10 of the Letter of Determination for that project, the Zoning Administrator for that case writes, "the applicant will no longer provide and construct the originally proposed dual drive-through lanes and components."

Given that Raising Cane's can operate without a drive-thru element, other similar restaurants in the Hollywood neighborhood operate with a drive-thru element, and other similar businesses operate without drive-thrus on larger lots in the City of Los Angeles, this calls into question whether the zone variance to allow a drive-thru presents a practical difficulty or unnecessary hardship.

8. There are special circumstances applicable to the subject property such as size, shape, topography, location or surroundings that do not apply generally to other property in the same zone and vicinity

While it is true that the southernmost lot, the lot zoned RD1.5XL, has been used in support of commercial uses since 1945, it is not definite that the proposed Raising Cane's needs the use of this lot for operations. In practical terms, the project would have to be smaller in size. But there are examples of smaller-sized drive-thru fast food restaurants nearby.

The Chick-fil-A property directly across McCadden Place from the proposed site is 150 feet from

Sunset Boulevard to the south. Without the southernmost lot, the remaining C4-2D-SN portion would be approximately 200 feet deep from Sunset Boulevard to the south. The Chick-fil-A located at 6750 Sunset Boulevard, across the street from the project site, operates on approximately 17,450 sq ft; the C4-2D-SN portion of the proposed sit is approximately 29,850 sq ft.

Other nearby locations like the soon-to-open Hart House drive-thru fast food restaurant at 6800 Sunset Boulevard (~18,450 sq ft), the Jack in the Box at 1243 N Highland Ave (~11,380 sq ft) are also smaller than a commercially-zoned-only project site. The existing drive-thru fast food restaurant with the largest property is the In-N-Out Burger at 7009 Sunset Boulevard (~35,500 sq ft) and the proposed Raising Cane's Total Lot Area is larger than that at 38,625.

The proposed Raising Cane's would have the largest footprint for a drive-thru fast food restaurant in a neighborhood heavily saturated with them, and with successful examples of smaller footprints, it is not definite. Therefore, using the RD1.5-1XL lot is unnecessary for operations, and the variance does not meet the special circumstances finding in the affirmative.

9. The variance is necessary for the preservation and enjoyment of a substantial property right or use generally possessed by other property in the same zone and vicinity but which, because of the special circumstances and practical difficulties or unnecessary hardships, is denied to the property in question

As stated in answer to the 8th finding, the use and enjoyment of the commercial use of the property is not dependent on the use of the southernmost RD1.5-1XL zone. Indeed, the vicinity boasts numerous examples of drive-thru fast food restaurants fully utilizing smaller properties for successful operations, such as the Chick-fil-A at 6750 Sunset Boulevard (~17,450 sq ft) and the Jack in the Box at 1243 N Highland Ave (~11,380 sq ft). The landowner could split the lot, and the Applicant could utilize a smaller property and be reasonably expected to be able to operate under similar conditions to other nearby drive-thru fast food restaurants.

10. The granting of the variance will not be materially detrimental to the public welfare, or injurious to the property or improvements in the same zone or vicinity in which the property is located.

During the Central Area Planning Commission appeal meeting, there was a lengthy discussion about how the drive-thru element of this project is likely to harm public welfare in the form of decreased pedestrian safety in the vicinity. This project proposes adding a drive-thru entrance and exit onto Sunset Boulevard. This portion of Sunset Boulevard is included on the City of Los Angeles High-Injury Network. The High-Injury network represents 6% of the 8,500 miles of City of Los Angeles streets, accounting for 70% of deaths and severe injuries for people walking. Adding another drive-thru business on the street in an unsafe pedestrian safety environment significantly questions how this project will not materially harm public welfare. Despite this lengthy discussion in the appeal meeting, the zoning administrator did not seek to rebut the claim that the project may decrease pedestrian safety when they made this finding. This again fails to demonstrate how the project meets this finding in the affirmative.

The proposed site plan also has an ingress and egress on McCadden Place, at the southern end of the property, contained in a consolidated 24' driveway. This will negatively affect pedestrian travel on McCadden Place, which is already an intensive use with the Chick-fil-A drive-thru fast food restaurant on the other side of McCadden Place. In the re-issued letter of determination, the Zoning Administrator did not engage with the concern about how someone on McCadden Place will have to

contend with two nationally-popular drive-thru fast food restaurant chains' driveways navigating the walk up to Sunset Boulevard – a necessary route of travel to get to the Metro Route 2 bus stops, the Metro Bike Share station at Hollywood High School, and north along Highland Avenue, the Metro B (Red) Line Station at Hollywood/Highland. Currently, the Chick-fil-A business spills out onto McCadden Place regularly, if the Raising Cane's does as well, one can expect extended periods of sidewalk obstruction on both sides of McCadden Place. The concern is significantly heightened given how students walk to school along Sunset Blvd. Traffic collisions are a leading cause of death for children in Los Angeles. Therefore, any decision that may decrease pedestrian safety for students who walk to Hollywood High is materially detrimental to their public welfare.

Drive-throughs negatively affect pedestrian safety because drivers are less likely to be alert in drive-thru environments. The increased number of driveway cuts decreases pedestrian safety because each driveway allows conflicts and the likelihood of injurious interactions between pedestrians and drivers. Existing research¹ demonstrates that pedestrian crashes are heightened in areas with a higher density of fast-food restaurants. This highlights how the existing density of drive-thru in the area likely contributes to the inclusion of this segment on the High-Injury network and that adding another drive-thru is likely to degrade pedestrian safety further, negatively contributing to public welfare in the area. Most disturbingly, children are at greater risk of being involved in a vehicle collision because of the proximity to drive-thru businesses². We submit that given that traffic collisions are a leading cause of death for children in Los Angeles and research demonstrates that children are at greater risk from drive-thru businesses specifically, this again demonstrates how the Zoning Administrator erred in their decision-making that this project will not be materially detrimental to public welfare.

Specifically, there are at least two specific dangerous conditions can be foreseen given the site plan:

- Queueing onto McCadden Place off of Sunset Boulevard blocks pedestrian travel on Sunset Boulevard or hinders visibility of pedestrians to turning vehicles;
- Without a physical barrier to prevent turns from westbound Sunset Boulevard directly into the Raising Cane's Sunset Boulevard driveway, cars turning into that driveway could be screened by cars in the southbound left turn lane at McCadden Place. This is worrisome for sidewalks where people bike and scooter due to the lack of facilities on Sunset Boulevard and therefore may be traveling faster than a walking speed and not have time to react to a screened turning vehicle.

Finally, during the Central Area Planning Commission meeting, new information came to light about how the city used the VMT calculator to estimate the total number of new trips from the project. The city relied on conditions from the previous use (Rite Aid) that had not been in operation for three years prior to the original Letter of Determination for the project. Relying on these old data call into question whether the City has appropriately determined the net new trips for this project. Demand for needs on this project site may have increased in the time since the previous operator ceased operations. If this is the case, then the project could add more vehicle trips to the area, bringing with more air pollution, traffic and delays for people using public transit or driving in the area.

¹ Pei Sung-Lin et al., *Development of Countermeasures to Effectively Improve Pedestrian Safety in Low-Income Areas*, 6 Journal of Traffic and Transportation Engineering 162-74 (Apr. 2019)

² Mark Braseth, Note, *The Effects of Land Use Patterns and Street Network Connectivity on the frequency of Child Pedestrian-Vehicle Collisions: An aggregate analysis in Portland, Oregon*, Department of Planning, Public Policy & Management, School of Architecture and Allied Arts, of the University of Oregon 43-44 (2012),

11. The granting of the variance will not adversely affect any element of the General Plan.

The Zoning Administrator's discussion of how this project will not adversely affect any element of the General Plan is general and fails to engage closely with specific concerns raised in the original appeal. The Zoning Administrator does not advance any affirmative arguments regarding how the project meets the goals of Mobility Plan 2035, the Circulation Element of the General Plan, and only discusses conformity with the Hollywood Community Plan. Neglecting to discuss how the project advances the goals of Mobility Plan 2035 demonstrates how the Zoning Administrator erred in their judgment in this re-issued Letter of Determination.

To restate the concerns raised in the first appeal, Mobility Plan 2035 repeatedly calls for strong linkages between transportation, land use, and air quality. This neighborhood is a densely populated area, and allowing for a drive-thru variance is not following the types of land uses that are well-connected to pedestrian-enhanced districts, like Sunset Boulevard, where the Project is located.

The Zoning Administrator failed again to contend with the concerns raised in the original appeal about the *cumulative* amount of drive-thru fast food restaurants in the immediate area and how the proposed project represents the addition of the largest footprint for one of the currently most-popular fast food chains. As stated in the appeal to the original Letter of Determination, the proposed project would represent the *seventh* drive-thru fast food restaurant within a half-mile of the project site and the *third drive-thru fast food restaurant in a row* from the project site to the southwest corner of Sunset Boulevard and Highland Avenue.

The Sites where the Project will be located are classified as within Transit Priority Zones and Tier 3 within Transit Oriented Community classification. Low-density drive-thru establishments are not well-linked to land uses and circulation within transit-priority areas. As an example, within the Southeast Los Angeles Community Plan Implementation Overlay District⁹, drive through establishments are prohibited in the transit-oriented development subareas. As explained in this document, "TOD Subareas...promote walkable, vibrant, attractive and complete transit centers that provide a greater mix of housing for a range of incomes, jobs, goods and services, and that enhance community identity." Therefore, an existing ordinance in the City of Los Angeles has found inconsistency between drive-thru establishments' land use and circulation within transit-oriented districts and communities. Advancing such a decision within a Transit Priority Zone and Tier 3 Transit Oriented Community is inconsistent with the call for strong linkages between transportation and land use as outlined in the General Plan, Mobility Circulation Element, Plan 2035.

Furthermore, as proposed with the drive-thru element, the project presents a health and safety risk because of traffic crashes on a segment of known concern which conflicts with the objectives and goals of the Plan for Healthy LA, another element of the City of Los Angeles General Plan. The vision outlined in this plan is for a "balanced, multi-modal, and sustainable transportation system that offers safe and efficient options for all users." The degradation of the safety for people walking that this project will create stands in conflict with the outlined vision in the Plan for Healthy LA.

These negative effects and conflicts with Mobility Plan 2035 and the Plan for Healthy LA are a result of the drive-thru component to the project.

CONCLUSION

All five legally mandated findings delineated in City Charter Section 562 must be made in the affirmative for plan approval to be granted. The Zoning Administrator failed to provide such findings in the

affirmative in all five areas of the re-issued Letter of Determination as we have demonstrated.

This appeal is not directed at the existence of the Raising Cane's, rather to the existence of the drive-through portion of the project. We have highlighted the specific points at issue as to why allowing a zone variance to permit a drive-through partially in the RD1.5-1XL Zone should not have been approved by the Zoning Administrator and, therefore, why the Appeal should be supported, and the Zone Variance denied.



CENTRAL AREA PLANNING COMMISSION

200 North Spring Street, Room 272, Los Angeles, California, 90012-4801, (213) 978-1300
www.planning.lacity.org

LETTER OF DETERMINATION

MAILING DATE: APRIL 25, 2023

Case No. ZA-2021-4710-CU-ZV-SPR-1A
CEQA: ENV-2021-4711-MND
Plan Area: Hollywood

Council District: 13 – Soto-Martinez

Project Site: 6726 – 6740 West Sunset Boulevard; 1434 – 1456 North McCadden Place

Applicant: Raising Cane's
Representative: Sherrie Olson, Permits N More, Inc.

Appellant: Madeline Brozen (on behalf of Madeline Brozen, Louis Abramson, Spencer Hillman, Ralph Samuel Lehman, Mollie Lehman and John Samuel Stady)

At its meeting of **March 14, 2023**, the Central Area Planning Commission took the actions below in conjunction with the approval of the following Project:

Demolition of an existing commercial building and surface parking lot and the construction, use, and maintenance of a new approximately 3,448 square-foot fast-food drive-through restaurant and surface parking lot. The Project proposes two drive-through lanes and 35 vehicle parking spaces. Proposed hours of operation are from 9:00 a.m. to 1:00 a.m. Sunday through Thursday and from 9:00 a.m. to 1:30 a.m. Friday through Saturday.

1. **Found**, pursuant to CEQA Guidelines Section 15074(b), after consideration of the whole of the administrative record, including the Mitigated Negative Declaration, No. ENV-2021-4711-MND, as circulated on August 18, 2022 (“Mitigated Negative Declaration”), and all comments received, with the imposition of mitigation measures, there is no substantial evidence that the Project will have a significant effect on the environment; **Found**, the Mitigated Negative Declaration reflects the independent judgment and analysis of the City; **Found**, the mitigation measures have been made enforceable conditions on the Project; and **Adopted** the Mitigated Negative Declaration and the Mitigation Monitoring Program prepared for the Mitigated Negative Declaration;
2. **Denied** the appeal in part and **granted** the appeal in part, **sustained** the Zoning Administrator’s Determination dated September 30, 2022;
3. **Approved**, pursuant to Section 12.24 W.17 of the Los Angeles Municipal Code (LAMC), a Conditional Use to allow the construction, use, and maintenance of a drive-through fast-food establishment in the C4 Zone adjoining a residential zone;
4. **Approved**, pursuant to LAMC Section 12.27, a Zone Variance to:
 - a. Permit a drive-through fast-food use partially in the RD1.5-1XL Zone;
 - b. Permit an outdoor eating area in excess of 50 percent of the interior dining area in the C4-2D-SN Zone; and
 - c. Permit access and accessory parking from a more restrictive zone to a less restrictive zone;
5. **Dismissed**, pursuant to LAMC Section 12.24 W.27, a Conditional Use Permit to allow deviations from Commercial Corner development standards including less than 50 percent window transparency for exterior walls and doors of a ground floor containing non-residential uses that front adjacent streets and hours of operation exceeding 7:00 a.m. to 11:00 p.m. daily;

- 6. **Dismissed**, pursuant to LAMC Section 16.05, a Site Plan Review for a change of use to a drive-through fast-food establishment inasmuch as such development will not result in a net increase of 500 or more average daily vehicle trips;
- 7. **Adopted** the attached Modified Conditions of Approval; and
- 8. **Adopted** the attached Amended Findings.

The vote proceeded as follows:

Moved: Lindgren
 Second: Gold
 Ayes: Kang, Lawrence
 Absent: Delgado

Vote: 4 – 0

Cecilia Lamas, Commission Executive Assistant II
 Central Area Planning Commission

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

Effective Date/Appeals: The decision of the Central Area Planning Commission related to the Conditional Use Permit and the Site Plan Review is not appealable. The decision related to the Zone Variance is appealable to City Council within 15 days after the mailing date of this determination letter. Any appeal not filed within the 15-day period shall not be considered by the Council. All appeals shall be filed on forms provided at the Planning Department’s Development Service Centers located at: 201 North Figueroa Street, Fourth Floor, Los Angeles; 6262 Van Nuys Boulevard, Suite 251, Van Nuys; or 1828 Sawtelle Boulevard, West Los Angeles.

FINAL APPEAL DATE: MAY 10 2023

Notice: An appeal of the CEQA clearance for the Project pursuant to Public Resources Code Section 21151(c) is only available if the Determination of the non-elected decision-making body (e.g., ZA, AA, APC, CPC) **is not further appealable** and the decision is final.

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.

Attachments: Modified Conditions of Approval, Amended Findings, Interim Appeal Filing Procedures (CEQA)

c: Christina Toy Lee, Associate Zoning Administrator
 More Song, City Planner

CONDITIONS OF APPROVAL

(As Modified by the Central Area Planning Commission at its meeting on March 14, 2023)

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 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 Los Angeles 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 Los Angeles 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 construction, use and maintenance of an approximately 3,448 square-foot drive-through fast food restaurant with two drive-through lanes and order boards/speakers and a 568 square-foot outdoor onsite eating area in the C4 Zone, with a portion of the drive-through lanes and vehicle parking in the RD1.5 Zone, adjacent to a residential zone, as depicted in the plans in Exhibit A.
8. Parking shall be provided in compliance with the LAMC and to the satisfaction of the Department of Building and Safety. No variance from the parking requirements has been requested or granted herein.
9. 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.

10. 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.
11. Noise from the speaker box(es) shall not be audible beyond the property line. Speaker boxes shall be directed away from the adjacent residential uses and shall be hooded toward the ordering vehicles.
12. Trash storage bins shall be located within a gated, covered enclosure constructed of materials to match the exterior wall materials of the building.
13. Prior to issuance of a building permit, a parking area and driveway plan shall be submitted to the Department of Transportation for review and approval.
14. Outdoor lighting shall be designed and installed with shielding, such that the light source does not disrupt adjacent residential properties.
15. Staff shall be available to remotely take orders from queueing vehicles during peak lunch and dinner hours.
16. All loading and unloading of vehicles to supply the restaurant shall occur onsite.
17. The project shall install improvements at the juncture of the pedestrian crossing and the drive-through exit lane to heighten awareness and improve safety, such as signage, reflectors, pavement texture, etc. to the satisfaction of the Department of Building and Safety and/or the Department of Transportation.
18. The applicant shall be responsible for monitoring both patron and employee conduct on the premises and within the parking areas under their control to assure behavior that does not adversely affect or detract from the quality of life for adjoining residents, property owners, and businesses.
19. Loitering is prohibited on or around these premises or the area under the control of the applicant. "No Loitering" signs shall be posted in and outside of the subject facility.
20. The approved conditions shall be retained on the premises at all times and produced immediately upon request of the Planning Department or the Department of Building and Safety. The on-site manager and employees shall be knowledgeable of the conditions herein.
21. The applicant shall be responsible for maintaining free of debris or litter the area adjacent to the premises over which they have control, including the sidewalk in front of the establishment.

22. 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.
23. 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.
24. Any music, sound or noise which is under control of the applicant shall not violate Sections 112.06 or 116.01 of the Los Angeles Municipal Code (Citywide Noise Ordinance). At any time, a City representative 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.
25. All building façades shall utilize a minimum of two different materials. Windows, doors, balcony railings, decorative features (such as light fixtures, planters, etc.), and perimeter walls (e.g. walls along a street or alley that are not a part of the building) are excluded from meeting this requirement.
26. **Signage.** On-site signs shall comply with the Municipal Code. Signage rights are not part of this approval.
27. **Inadvertent Discovery.** In the event that any archaeological, paleontological, cultural, or historic resources are encountered during the course of any ground disturbance activities, all such activities shall temporarily cease on the project site and no archaeological and/or associated materials may be collected or moved until the potential resources are properly assessed and addressed by a qualified archaeologist and/or paleontologist pursuant to all applicable regulatory guidelines and procedures, including those set forth in California Public Resources Code Section 21083.2.
28. The applicant shall designate that the vehicle entrance to the site located along Sunset Boulevard will be limited to the restaurant's dine-in patrons, while the drive-through vehicle entrance shall be located along McCadden Place.
29. The hours of operation for the restaurant shall not exceed 1:30 a.m. on Friday and Saturday and 1:00 a.m. on Sunday through Thursday.

30. The applicant shall conduct regular trash patrols (except for days with inclement weather) on its property and along the streets and sidewalks located adjacent to and in the immediate vicinity of the restaurant. The applicant shall conduct the trash patrols for the duration of the restaurant operations.
31. **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.

ENVIRONMENTAL CONDITIONS

32. **MM-HAZ-1.** A Soil Management Plan shall be prepared by a qualified professional and submitted to the City of Los Angeles Building Department for review and approval prior to the issuance of a building, grading, or demolition permit. The Soil Management Plan shall address all excavation activities conducted on the project site, and shall be implemented in the event that excavation occurs in an area that may contain contaminants and for situations when contaminants that were not previously identified are suspected or discovered. The Soil Management Plan shall identify appropriate measures to be followed if contaminants are encountered during excavation. The appropriate measures shall identify personnel to be notified, emergency contacts, and a sampling protocol. The excavation and demolition contractors shall be made aware of the possibility of encountering known and unknown hazardous materials, and shall be provided with appropriate contact and notification information. The Soil Management Plan shall include a provision stating at what point it is safe to continue with the excavation, and identify the person authorized to make that determination. Removal, transportation, and disposal of impacted soil or groundwater shall be performed in accordance with applicable federal, State, and local laws, regulations, and ordinances. A soil excavation report would be required to document all remediation activities completed on the project site.
33. **MM-HAZ-2.** Based on recommendation from the December 2020 Phase I Environmental Site Assessment, a soil vapor intrusion mitigation system (VIMS) shall be shown on building plans and implemented beneath the foundation of the proposed building. The Applicant shall submit design documents for the VIMS for review and approval by the Site Mitigation Unit of the Los Angeles County Fire Department, City of Los Angeles Fire Department, and City of Los Angeles Department of Building and Safety prior to issuance of any permit for demolition, grading, or construction. The VIMS shall be designed in conformance with standard engineering principles and practices. The VIMS shall include a depressurization system that can monitor pressure sensors and send real time notifications if the system fails. Sub-slab vapor and/or soil vapor are required to be sampled periodically to evaluate the need for and

the effectiveness of the VIMS. An operation, maintenance, and monitoring (OM&M) plan shall also be prepared for the VIMS. The OM&M plan shall include a contingency plan in the event that monitoring shows that the VIMS is not working as designed. The contingency plan shall include specific measures to correct the problem in a timely manner.

ADMINISTRATIVE CONDITIONS

34. **Expedited Processing Section.** Prior to the clearance of any conditions, the applicant shall show proof that all fees have been paid to Los Angeles City Planning, Expedited Processing Section.
35. 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, resulting in an unreasonable level of disruption or interference with the peaceful enjoyment of the adjoining and neighboring properties, the Zoning Administrator 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 and the Council Office. 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.
36. **INDEMINIFCATION AND REIMBURSEMENT OF LITIGATION COSTS**

Applicant shall do all of the following:

- a. Defend, indemnify and hold harmless the City from any and all actions against the City relating to or arising out of, in whole or in part, the City's processing and approval of this entitlement, including but not limited to, an action to attack, challenge, set aside, void, or otherwise modify or annul the approval of the entitlement, the environmental review of the entitlement, or the approval of subsequent permit decisions, or to claim personal property damage, including from inverse condemnation or any other constitutional claim.
- b. Reimburse the City for any and all costs incurred in defense of an action related to or arising out of, in whole or in part, the City's processing and approval of the entitlement, including but not limited to payment of all court costs and attorney's fees, costs of any judgments or awards against the City (including an award of attorney's fees), damages, and/or settlement costs.

- c. Submit an initial deposit for the City's litigation costs to the City within 10 days' notice of the City tendering defense to the Applicant and requesting a deposit. The initial deposit shall be in an amount set by the City Attorney's Office, in its sole discretion, based on the nature and scope of action, but in no event shall the initial deposit be less than \$50,000. The City's failure to notice or collect the deposit does not relieve the Applicant from responsibility to reimburse the City pursuant to the requirement in paragraph (ii).
- d. Submit supplemental deposits upon notice by the City. Supplemental deposits may be required in an increased amount from the initial deposit if found necessary by the City to protect the City's interests. The City's failure to notice or collect the deposit does not relieve the Applicant from responsibility to reimburse the City pursuant to the requirement in paragraph (ii).
- e. If the City determines it necessary to protect the City's interest, execute an indemnity and reimbursement agreement with the City under terms consistent with the requirements of this condition.

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

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

For purposes of this condition, the following definitions apply:

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

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

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

FINDINGS

(As Amended by the Central Area Planning Commission at its meeting on March 14, 2023)

CONDITIONAL USE 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 project involves a Conditional Use Permit to allow the construction, use, and maintenance of a drive-through fast-food establishment in the C4 Zone adjoining a residential zone. The subject property is currently developed with an existing one-story commercial building and surface parking lot which was formerly occupied by a Rite-Aid retail pharmacy and is now vacant. The project proposes to demolish all existing improvements on the site for development of the proposed new restaurant.

The project will redevelop an underutilized and unoccupied site with a new active commercial service. With development of the proposed project, the property will be an improvement over the existing aging improvements on the site and will add attractive landscaping where there currently is none. The project has been thoughtfully designed and conditioned to provide varied and high-quality architectural materials to further enhance the physical environment. By improving the property, the project will add a new vibrant commercial use along a major commercial corridor developed with other similar and compatible uses and will contribute to the economy. In addition, the project will provide a new and unique commercial service and will provide greater convenience with vehicle drive-through lanes. The project is a desirable use in a heavily urbanized and populated neighborhood with a high number and wide variety of residents and visitors alike and will add and expand upon the existing food options in the area and the hours they are available. Therefore, the project will both enhance the built environment in the surrounding neighborhood and will provide a service that is beneficial to the community and region. The imposition of a number of conditions addressing operational issues will ensure that the project will not be disruptive 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 subject property is currently developed with an existing one-story commercial building and surface parking lot which was formerly occupied by a Rite-Aid retail pharmacy and is now vacant; the project proposes to demolish all existing improvements on the site for development of a proposed new drive-through fast-food restaurant. The new restaurant will encompass approximately 3,448 square feet of interior space and approximately 538 square feet of outdoor eating space and operate from 9:00 a.m. to 1:00 a.m. Sunday through Thursday and from 9:00 a.m. to 3:30 a.m. Friday through Saturday.

The proposed drive-through fast-food restaurant use is consistent with the zoning on the property and the City's land use designation for the site and the surrounding area. The project is further compatible with the project's location along a major commercial corridor lined with a variety of restaurants and other commercial service uses. As the development of a new commercial service which will provide unique dining amenities and convenience with vehicle drive-through lanes, the project is a desirable and compatible use with the other uses in the area. The project has been thoughtfully designed and carefully conditioned to contribute to and enhance the form and function of the neighborhood while minimizing potential impacts. The project maximizes the appearance of the proposed building by locating the main entrance and accompanying façade transparency along the main roadway, and by further activating Sunset Boulevard and enhancing the pedestrian experience with an outdoor eating area along the road. The project has also been designed and conditioned to provide varied and high-quality architectural materials to further enhance the physical environment. The project reduces potential operational impacts by siting and shielding order boxes away from residential uses, by providing two parallel drive-through lanes to provide greater vehicle queueing capacity on-site, and by providing mobile staff attendants to take orders from queuing vehicles to expedite ordering. Additionally, the proposed project represents a smaller footprint over the existing vacant commercial retail store and will also provide additional improvements such as landscaped buffers around the entirety of the property where there currently is none; as such, the project is less intensive in some regards and will be an improvement versus the existing development on the site. Accordingly, the project will not have any additional adverse physical impacts and will be compatible with adjacent properties and the surrounding community.

Additional conditions have been imposed to encourage responsible management and deter criminal activity. These conditions will ensure that the operation will address nuisances, enhance security and safety, and minimize potential impacts on adjacent properties and the community. At its meeting of March 14, 2023, the Central Area Planning Commission added Conditions Nos. 28-31 to address concerns related to hours and traffic for further minimize impacts to the surrounding neighborhood. As conditioned, the development of the proposed project will not adversely affect or further degrade adjacent properties, the surrounding neighborhood, or the public health, welfare, and safety and the development of the community.

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

The elements in the General Plan establish policies and provide the regulatory environment for managing the city and for addressing concerns and issues. The majority of the policies derived from the elements in the General Plan are in the form of Code Requirements, which collectively form the LAMC. The subject entitlements are for conditionally permissible uses and deviations, and thus do not propose to deviate from any of the requirements of the LAMC.

The subject property is located within the boundaries of the Hollywood Community Plan Area. The Community Plan designates the northern portion of the subject

property for Regional Center Commercial land uses corresponding to the C2, C4, P, PB, RAS3, and RAS4 Zones, and the southern lot of the subject property for Low Medium II Residential land uses corresponding to the RD2 and RD1.5 Zones. The northern portion project site is currently zoned C4-2D-SN while the southern lot is currently zoned RD1.5-1XL; the property is thus consistent with the existing land use designations on the site. The property is located within the Hollywood Redevelopment Project area and will thus be subject to any additional requirements of the Hollywood Redevelopment Plan. Although the project includes requests for variances, the requested conditional use is consistent with the existing zoning and land use designations on the site.

The project is substantially consistent with the overarching goals of the Hollywood Community Plan, which specifically encourages the form and function of Sunset Boulevard in this area as a major commercial corridor and neighborhood serving center. As the project will redevelop an existing closed retail building with a new and active restaurant which will provide unique dining amenities and convenience, the project contributes to and furthers the economic development and commercial activity along Sunset Boulevard. Additionally, the project is surrounded by many other compatible and complementary uses. The project follows an established pattern of zoning and land use that is consistent and compatible with other properties and uses in the surrounding area, which include other restaurants (both drive-through and standalone) and a variety of commercial services. Thus, the project substantially conforms with the purpose, intent, and provisions of the General Plan and the Community Plan.

CONDITIONAL USE DRIVE-THROUGH FINDINGS

4. **That residential uses in the vicinity of a proposed drive-through fast-food establishment will be adequately protected from any significant noise resulting from outdoor speakers, autos, or other sources of noise associated with the lot.**

The subject property is located at the southeastern corner of Sunset Boulevard and McCadden Place. Residential uses abutting the subject property include a single-family residence to the south of the project site (with a multi-family apartment complex further to the south of this lot) and a multi-family apartment complex to the southeast of the project site. The subject property is surrounded by various commercial uses on all other sides and the surrounding area is primarily developed with commercial uses; other residential uses in the vicinity are separated from the subject property by at least several other lots.

The project proposes a new drive-through fast-food restaurant with two drive-through lanes wrapping around the southern and eastern edges of the property; the restaurant building will be located on the northern portion of the property, while a surface parking lot is proposed for the western portion of the property. As shown in the plans in Exhibit A, the drive-through order boards and voice boxes are located in the interior of the property approximately 100 feet north of the southern property line, with the restaurant building and pick-up window located approximately 50 and 100 additional feet, respectively, north of the order boards.

The project proposes a site plan and layout that results in most activity, especially those associated with vehicle queueing and ordering via voice boxes, being located in the interior and towards the northern side of the property; as such, these potential sources of noise face other commercial uses or the streets and are oriented away from residential uses. As only the southernmost 50 feet of the subject property boundaries abut residential uses, the proposed project is unlikely to result in any significant noise impacts to such uses. In addition, the eastern and southern property lines will have a six-foot high screening wall and will be thoroughly landscaped and planted with a variety of shrubs and flowering plants. In particular, along the southern property line which abuts a single-family use and along the southeastern corner, the project proposes a fully landscaped area of nearly 25 feet in depth, which will further prevent any significant noise impacts. The project has also been conditioned to further prevent any potential noise impacts. Therefore, residential uses in the vicinity of the proposed drive-through fast-food establishment will be adequately protected from any significant noise associated with the project.

5. **That all stationary light generated on the lot is screened to avoid any significant adverse impact on nearby residential uses.**

The subject property is located at the southeastern corner of Sunset Boulevard and McCadden Place. Residential uses abutting the subject property include a single-family residence to the south of the project site (with a multi-family apartment complex further to the south of this lot) and a multi-family apartment complex to the southeast of the project site. The subject property is surrounded by various commercial uses on all other sides and the surrounding area is primarily developed with commercial uses; other residential uses in the vicinity are separated from the subject property by at least several other lots.

The project proposes a new drive-through fast-food restaurant with two drive-through lanes wrapping around the southern and eastern edges of the property; the restaurant building will be located on the northern portion of the property, while a surface parking lot is proposed for the western portion of the property. As shown in the plans in Exhibit A, surface lighting is proposed in a few locations throughout the property, with only one towards the southeastern corner of the property that is within proximity to the abutting residential uses. However, this (and all) lighting associated with the project is unlikely to result in any significant adverse impact on nearby residential uses because all lighting for the project will be designed and shielded such that they do not shine directly onto or otherwise impact any nearby properties. In addition, the eastern and southern property lines will have a six-foot high screening wall and will be thoroughly landscaped and planted with a variety of shrubs and flowering plants. In particular, along the southern property line which abuts a single-family use and along the southeastern corner, the project proposes a fully landscaped area of nearly 25 feet in depth. Lighting in this area will be ambient lighting and will be surrounded by lush landscaping, and will not impact the abutting residential uses. The six-foot wall surrounding the property will prevent any glare or spillover of vehicle lights from reaching any abutting properties. Therefore, all stationary light generated on the lot will be screened and will not result in any significant adverse impacts on nearby residential uses.

6. **That trash storage, trash pickup hours, driveways, parking locations, screening walls, trees and landscaping are provided for and located so as to minimize**

disturbance to the occupants of nearby residential uses, and to enhance the privacy of those uses.

The subject property is located at the southeastern corner of Sunset Boulevard and McCadden Place. Residential uses abutting the subject property include a single-family residence to the south of the project site (with a multi-family apartment complex further to the south of this lot) and a multi-family apartment complex to the southeast of the project site. The subject property is surrounded by various commercial uses on all other sides and the surrounding area is primarily developed with commercial uses; other residential uses in the vicinity are separated from the subject property by at least several other lots.

The project proposes a new drive-through fast-food restaurant with two drive-through lanes wrapping around the southern and eastern edges of the property; the restaurant building will be located on the northern portion of the property, while a surface parking lot is proposed for the western portion of the property. A trash enclosure (and adequate pick-up space) is also proposed within the surface parking area. As shown in the plans in Exhibit A, vehicular access to the property is provided via one two-way driveway on McCadden Place, one right-turn-only ingress-only driveway on Sunset Boulevard, and one right-turn-only egress-only driveway on Sunset Boulevard. The property will be entirely screened by a six-foot screening wall along the eastern and southern property lines. Landscaping will also be provided along the entirety of the eastern and southern property lines, with the depth of the setback areas ranging from 5 feet at the narrowest point to nearly 25 feet along the southern property line.

The project has been thoughtfully designed to minimize disturbances to abutting residential uses. The project proposes a site plan and layout that results in most activity, such as vehicle parking and trash pickup, being located in the interior and towards the northern side of the property; as such, these potential sources of noise face other commercial uses or the streets and are oriented away from residential uses. The six-foot wall surrounding the property will enhance the privacy of abutting residential uses to the south and southeast. In addition, the eastern and southern property lines will be thoroughly landscaped and planted with a variety of shrubs and flowering plants. In particular, along the southern property line which and along the southeastern corner, the project proposes a fully landscaped area of nearly 25 feet in depth, which will further enhance the privacy of the abutting residential uses to the south and southeast. Therefore, trash storage, parking, screening walls, and landscaping are provided for and otherwise designed such that the project will minimize disturbance to and will enhance the privacy of nearby residential uses.

ZONE VARIANCE FINDINGS

In order for a plan approval to be granted, all five of the legally mandated findings delineated in City Charter Section 562 must be made in the affirmative. Following (highlighted) is a delineation of the findings and the application of the relevant facts of the case to same:

- 7. The strict application of the provisions of the zoning ordinance would result in practical difficulties or unnecessary hardships inconsistent with the general purposes and intent of the zoning regulations.**

The strict application of the provisions of the zoning ordinance would result in practical difficulties and unnecessary hardships inconsistent with the general purposes and intent of the zoning regulations and would be averse to the City's goal of further developing and supporting the local economy if the requested variances are not granted. The requests herein are to permit a drive-through fast-food restaurant use in the RD1.5 Zone, to permit access from a less restrictive zone to a more restrictive zone, and to permit an outdoor eating area in excess of 50 percent of the interior dining area. These requests are necessary to allow for the continued use of the subject property for viable commercial uses and to enable the provision of an outdoor eating patio in an area where such uses are desirable and present on other nearby properties.

The majority of the subject property is zoned C4-2D-SN and has a land use designation of Regional Center Commercial, while the southernmost lot is zoned RD1.5-1XL and has a land use designation of Low Medium II Residential. The project site is currently developed with an existing vacant commercial retail building and accompanying surface parking lot, the latter of which extends into the residentially-zoned portion of the property. According to building records, the site has been developed as such since 1945, and thus the residential lot has long been utilized for incidental commercial parking. The applicant is seeking to continue utilizing the entirety of the property for commercial uses, and specifically to utilize the residential lot primarily for vehicle parking and access (primary features such as the proposed restaurant, outdoor eating area, and drive-through order boxes are all located on the commercially zoned portion of the property). It would be an unnecessary hardship to sever the applicant's property and prevent a portion of the property from being used to support the continued use of the property for a commercial development as it has been for decades. In addition, the project is unique in that as a fast-food restaurant, both the overall footprint of the restaurant and the interior dining area are relatively small; as a result, strict adherence to the zoning code's limitations would result in an impractically sized outdoor dining area. This would also be an unnecessary hardship because it would needlessly impact the viability of the proposed restaurant and the continued use of the property for a commercial service.

The general intent of the relevant zoning regulations in this case is to ensure that development is compatible with surrounding properties. Despite the need for the requested variances, the project is compatible with its surroundings. The requested variances enable the continued use of the property for commercial uses without representing a significant change of use or development intensity; rather, the proposed project is a significantly smaller footprint and building envelope than the existing vacant building. The project will further provide landscaped buffers and setbacks around the entirety of the property and where there currently are none, and thus will both enhance the physical environment and further minimize any potential impacts on adjacent properties, all of which support the general purposes of the zoning regulations. The Hollywood Community Plan further specifically encourages the use of vehicle parking to serve as a buffer between commercial uses lining the main arterial roadways and residences behind them, especially in the core of Hollywood along Hollywood Boulevard and Sunset Boulevard, and the proposed project will do exactly that. In addition, many other properties and operations in the area feature outdoor dining areas and such areas contribute to the urban form of the neighborhood and enhance the physical environment and pedestrian experience; as

such, the requested deviation for a larger outdoor eating area does not introduce any unusual uses and enables a desirable use and feature for this location, consistent with other developments in the area and with good planning practice. For all of these reasons, the strict application of the provisions of the zoning regulations would result in practical difficulties or unnecessary hardships inconsistent with the general purposes and intent of the zoning regulations.

8. **There are special circumstances applicable to the subject property such as size, shape, topography, location or surroundings that do not apply generally to other property in the same zone and vicinity.**

There are special circumstances applicable to the property which do not generally apply to other properties in the area. The majority of the subject property is zoned C4-2D-SN and has a land use designation of Regional Center Commercial, while the southernmost lot is zoned RD1.5-1XL and has a land use designation of Low Medium II Residential. The project site is currently developed with an existing vacant commercial retail building and accompanying surface parking lot, the latter of which extends into the residentially-zoned portion of the property. According to building records, the site has been developed as such since 1945, and thus the residential lot has long been utilized for incidental commercial parking. The applicant is seeking to continue utilizing the entirety of the property for commercial uses, and specifically to utilize the residential lot primarily for vehicle parking and access (primary features such as the proposed restaurant, outdoor eating area, and drive-through order boxes are all located on the commercially zoned portion of the property). It would be an unnecessary hardship to sever the applicant's property and prevent a portion of the property from being used to support the continued use of the property for a commercial development as it has been for decades. In addition, the project is unique in that as a fast-food restaurant, both the overall footprint of the restaurant and the interior dining area are relatively small; as a result, strict adherence to the zoning code's limitations would result in an impractically sized outdoor dining area. This would also be an unnecessary hardship because it would needlessly impact the viability of the proposed restaurant and the continued use of the property for a commercial service.

Other commercially-zoned properties in the area are not generally partially zoned for residential land uses like the subject property, and this condition limits the redevelopment and viability of the site without the requested variances. Therefore, there are special circumstances on the subject property that do not generally apply to other properties in the same zone and vicinity.

9. **The variance is necessary for the preservation and enjoyment of a substantial property right or use generally possessed by other property in the same zone and vicinity but which, because of the special circumstances and practical difficulties or unnecessary hardships, is denied to the property in question.**

The requested variances are necessary for the preservation and enjoyment of existing property rights, but which would otherwise be denied to the proposed project

due to special circumstances. The requests herein are to permit a drive-through fast-food restaurant use in the RD1.5 Zone, to permit access from a less restrictive zone to a more restrictive zone, and to permit an outdoor eating area in excess of 50 percent of the interior dining area. These requests are necessary to allow for the continued use of the subject property for viable commercial uses and to enable the provision of an outdoor eating patio in an area where such uses are desirable and present on other nearby properties.

The majority of the subject property is zoned C4-2D-SN and has a land use designation of Regional Center Commercial, while the southernmost lot is zoned RD1.5-1XL and has a land use designation of Low Medium II Residential. The project site is currently developed with an existing vacant commercial retail building and accompanying surface parking lot, the latter of which extends into the residentially-zoned portion of the property. According to building records, the site has been developed as such since 1945, and thus the residential lot has long been utilized for incidental commercial parking. The applicant is seeking to continue utilizing the entirety of the property for commercial uses, and specifically to utilize the residential lot primarily for vehicle parking and access (primary features such as the proposed restaurant, outdoor eating area, and drive-through order boxes are all located on the commercially zoned portion of the property). It would be an unnecessary hardship to sever the applicant's property and prevent a portion of the property from being used to support the continued use of the property for a commercial development as it has been for decades. In addition, the project is unique in that as a fast-food restaurant, both the overall footprint of the restaurant and the interior dining area are relatively small; as a result, strict adherence to the zoning code's limitations would result in an impractically sized outdoor dining area. This would also be an unnecessary hardship because it would needlessly impact the viability of the proposed restaurant and the continued use of the property for a commercial service.

The property has long been developed with commercial service uses with incidental parking on the residentially-zoned portion of the site. Other commercially-zoned properties in the area are not generally partially zoned for residential land uses like the subject property, and this condition limits the redevelopment and viability of the site without the requested variances. In addition, functionally sized outdoor eating areas are generally present on other similarly zoned properties and in the vicinity, but would otherwise be denied for the proposed project without the requests herein. Therefore, the requested variances are necessary for the preservation and enjoyment of uses of property which are generally possessed by other property in the same zone and vicinity but which, because of the special circumstances and practical difficulties or unnecessary hardships, is denied to the property in question.

10. **The granting of the variance will not be materially detrimental to the public welfare, or injurious to the property or improvements in the same zone or vicinity in which the property is located.**

The proposed project will not be materially detrimental to the public welfare or injurious to other property and improvements in the same zone and vicinity. The majority of the subject property is zoned C4-2D-SN and has a land use designation of Regional Center Commercial, while the southernmost lot is zoned RD1.5-1XL and has a land use designation of Low Medium II Residential. The project site is currently

developed with an existing vacant commercial retail building and accompanying surface parking lot, the latter of which extends into the residentially-zoned portion of the property. According to building records, the site has been developed as such since 1945, and thus the residential lot has long been utilized for incidental commercial parking. The applicant is seeking to continue utilizing the entirety of the property for commercial uses, and specifically to utilize the residential lot primarily for vehicle parking and access (primary features such as the proposed restaurant, outdoor eating area, and drive-through order boxes are all located on the commercially zoned portion of the property).

The general intent of the relevant zoning regulations in this case is to ensure that development is compatible with surrounding properties. Despite the need for the requested variances, the project is compatible with its surroundings. The requested variances enable the continued use of the property for commercial uses without representing a significant change of use or development intensity; rather, the proposed project is a significantly smaller footprint and building envelope than the existing vacant building. The project will further provide landscaped buffers and setbacks around the entirety of the property and where there currently are none, and thus will both enhance the physical environment and further minimize any potential impacts on adjacent properties, all of which support the general purposes of the zoning regulations. The Hollywood Community Plan further specifically encourages the use of vehicle parking to serve as a buffer between commercial uses lining the main arterial roadways and residences behind them, especially in the core of Hollywood along Hollywood Boulevard and Sunset Boulevard, and the proposed project will do exactly that. In addition, many other properties and operations in the area feature outdoor dining areas and such areas contribute to the urban form of the neighborhood and enhance the physical environment and pedestrian experience; as such, the requested deviation for a larger outdoor eating area does not introduce any unusual uses and enables a desirable use and feature for this location, consistent with other developments in the area and with good planning practice. For all of these reasons, granting of the variance will not be materially detrimental to the public welfare, or injurious to the property or improvements in the same zone or vicinity in which the property is located.

11. The granting of the variance will not adversely affect any element of the General Plan.

The requested variances will not adversely affect any element of the General Plan because the project is substantially consistent with the General Plan. The subject property is located within the boundaries of the Hollywood Community Plan Area. The project is substantially consistent with the overarching goals of the Hollywood Community Plan, which specifically encourages the form and function of Sunset Boulevard in this area as a major commercial corridor and neighborhood serving center. As the project will redevelop an existing closed retail building with a new and active restaurant which will provide unique dining amenities and convenience, the project contributes to and furthers the economic development and commercial activity along Sunset Boulevard. Additionally, the project is surrounded by many other compatible and complementary uses. The project follows an established pattern of zoning and land use that is consistent and compatible with other properties and uses in the surrounding area, which include other restaurants (both drive-through and

standalone) and a variety of commercial services. The requested variances serve only to enable the continued and viable use of the entirety of the subject property for commercial uses as it has long been utilized. Thus, the project substantially conforms with the purpose, intent, and provisions of the General Plan and the Community Plan and will not adversely affect any element of the General Plan.

FLOOD HAZARD FINDING

12. 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.

COVID-19 UPDATE

Interim Appeal Filing Procedures

Fall 2020



Consistent with Mayor Eric Garcetti's "Safer At Home" directives to help slow the spread of COVID-19, City Planning has implemented new procedures for the filing of appeals for non-applicants that eliminate or minimize in-person interaction.

OPTION 1: Online Appeal Portal

(planning.lacity.org/development-services/appeal-application-online)

Entitlement and CEQA appeals can be submitted online and payment can be made by credit card or e-check. The online appeal portal allows appellants to fill out and submit the appeal application directly to the Development Services Center (DSC). Once the appeal is accepted, the portal allows for appellants to submit a credit card payment, enabling the appeal and payment to be submitted entirely electronically. A 2.7% credit card processing service fee will be charged - there is no charge for paying online by e-check.

Appeals should be filed early to ensure DSC staff has adequate time to review and accept the documents, and to allow Appellants time to submit payment. On the final day to file an appeal, the application must be submitted and paid for by 4:30PM (PT). Should the final day fall on a weekend or legal holiday, the time for filing an appeal shall be extended to 4:30PM (PT) on the next succeeding working day. Building and Safety appeals (LAMC Section 12.26K) can only be filed using Option 2 below.

OPTION 2: Drop off at DSC

An appellant may continue to submit an appeal application and payment at any of the three Development Services Center (DSC) locations. City Planning established drop off areas at the DSCs with physical boxes where appellants can drop.

Metro DSC

(213) 482-7077
201 N. Figueroa Street
Los Angeles, CA 90012

Van Nuys DSC

(818) 374-5050
6262 Van Nuys Boulevard
Van Nuys, CA 91401

West Los Angeles DSC

(310) 231-2901
1828 Sawtelle Boulevard
West Los Angeles, CA 90025

City Planning staff will follow up with the Appellant via email and/or phone to:

- Confirm that the appeal package is complete and meets the applicable LAMC provisions
- Provide a receipt for payment