

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.