Los Angeles County
Department of Regional Planning

Planning for the Challenges Ahead

Richard J. Bruckner
Director

December 19, 2012

Justin Kim
SEO & Co.
3450 Wilshire Blvd., Suite 108-4A
Los Angeles, CA 90010

REGARDING: **PROJECT NO. 03-341-(2)**
MODIFICATION TO CONDITIONAL USE PERMIT NO. 03-341
10537 S. VERMONT AVE., LOS ANGELES

Hearing Officer Gina Natoli, by her action of **December 18, 2012,** has **APPROVED** the above-referenced project. Enclosed are the Hearing Officer's Findings and Modified Conditions of Approval. Please carefully review each condition. This approval is not effective until the appeal period has ended and the required documents and applicable fees are submitted to Regional Planning Department (see enclosed Affidavit of Acceptance Instructions).

The applicant or any other interested persons may appeal the Hearing Officer's decision. The appeal period for this project will end at 5:00 p.m. on **January 2, 2013. Appeals must be delivered in person.**

Appeals: **To file an appeal, please contact:**
Regional Planning Commission, Attn: Commission Secretary
Room 1350, Hall of Records
320 West Temple Street, Los Angeles, CA 90012
(213) 974-6409

Upon completion of the appeal period, the notarized Affidavit of Acceptance and any applicable fees must be submitted to the planner assigned to your case. Please make an appointment to ensure that processing will be completed in a timely manner. Failure to submit these documents and applicable fees within 60 days will result in a referral to Zoning Enforcement for further action.

For questions or for additional information, please contact Rudy Silvas of the Zoning Permits West Section at (213) 974-6462, or by email at rsilvas@planning.lacounty.gov. Our office hours are Monday through Thursday, 7:30 a.m. to 5:30 p.m. We are closed on Fridays.

Sincerely,
DEPARTMENT OF REGIONAL PLANNING
Richard J. Bruckner

Mi Kim, Supervising Regional Planner
Zoning Permits West Section

Enclosures: Findings, Conditions of Approval, Affidavit of Acceptance (Permittee's Completion)

c: Board of Supervisors; DPW (Building and Safety); Fire (Fire Prevention Bureau), Zoning Enforcement West

MKK:RS

FINDINGS AND ORDER OF THE HEARING OFFICER
COUNTY OF LOS ANGELES
PROJECT NO. 03-341-(2)
MODIFICATION OF CONDITIONS TO
CONDITIONAL USE PERMIT NO. 03-341

1. **ENTITLEMENT(S) REQUESTED.** Modification of Conditions to Conditional Use Permit (CUP) for the sale of alcoholic beverages at an existing liquor store in the C-3 (Unlimited Commercial) Zone pursuant to County Code Section 22.56.1600.

2. **HEARING DATE:** November 6, 2012

   PROCEEDINGS BEFORE THE HEARING OFFICER. A duly noticed hearing on the application was held on November 6, 2012, before the Hearing Officer Gina Natoli. Staff gave a presentation recommending denial of the application for the Elimination of Conditions to CUP 03-341.

   The applicant's representative testified before the hearing officer that Condition No. 18 (i) was of special concern to them, referring to a section of Finding No. 11 which stated that the County's standard conditions for the sale of alcoholic beverages strictly prohibit the sale of beer in single containers of 16 ounces or less. The representative stated that they are not interested in selling beer singles of 16 ounces or less, but in selling singles of 24, 32 and 40 ounce sized containers.

   The representative also questioned if Condition No. 18 (j) could be modified to allow wine to be sold in containers less than 750 milliliters in size if sold in four-packs. The applicant referred to the section in Finding No. 11 that stated that the County's standard conditions for the sale of alcoholic beverages strictly prohibited the sale of wine sold in containers of less than 750 milliliters, with the exception of wine coolers sold in four-pack quantities. The representative asked if the rule for the exception on wine coolers could also be applied for regular wine bottles under 750 milliliters sold in four-pack quantities.

   Staff stated before the Hearing Officer that the applicant's representative was informed, prior to the scheduling of the hearing on the application, that they could apply for a new CUP and ask for a new condition to allow the sale of 24-ounce singles of beer. Condition 18 (i) simply stated that the permitte could not sell beer in less than six-pack quantities, regardless of what size the beer container was. Staff stated that Condition 18 (i) could not be modified with the current application.

   Mr. Henry Porter, the Southwest Community Association representative, testified before the Hearing Officer that they objected to the granting of the elimination of the conditions identified for the application.

   The Hearing Officer stated that there were no findings that could substantiate eliminating Conditions No. 18 (g), 18 (i), and 18 (j). The representative, in his rebuttal statement, stated that they understood that Condition No. 18 (g) could not

be eliminated, but asked for some latitude in allowing Conditions No. 18 (i) and 18 (j) to be modified so that singles of beer greater than 16 ounces could be sold, and to also allow wine coolers less than 750 milliliters to be sold in four-pack quantities only.

The Hearing Officer allowed the applicant the opportunity to return with the application requesting modification of Conditions No. 18 (i) and 18 (j) on December 18, 2012, and instructed Staff to work with the community and with the applicant on the modification of Conditions No. 18 (i) and 18 (j). Staff stated that the hearing of the application would have to be re-noticed. The hearing was continued to December 18, 2012.

3. **HEARING DATE:** December 18, 2012

Staff appeared before the Hearing Officer Gina Natoli for the continued hearing on December 18, 2012. Staff reported that the modified application was re-noticed to the Community for modification of Conditions No. 18 (i) and 18 (j). No protests to the application were received and Staff found that the modified Burdens of Proof for the Conditional Use Permit and Alcoholic Beverage Sales were now found to be acceptable in accordance with the modified conditions. Staff recommended approval for the Modification to Conditional Use Permit No. 03-341.

The applicant's agent testified before the Hearing Officer that they found acceptable the language contained in the modification to Conditions No. 18 (i) and No. 18 (j). The agent ensured the Hearing Officer that the business will be run efficiently.

Mr. Henry Porter of the Southwest Community Association appeared before the Hearing Officer and testified that no problem was found with the modification to Conditions Nos. 18 (i) and 18 (j). Mr. Porter emphasized that the health and welfare of the Community is of the utmost importance. The conditions as modified would not create a problem.

The Hearing Officer directed that a finding of public convenience be added for the store, and that Findings No. 14, No. 17, No. 18, and No. 23 be updated with minor wording for clarification purposes.

The Hearing Officer closed the public hearing, and determined that the project was categorically exempt under California Environmental Quality Act (CEQA) reporting requirements, under a Class 1 Categorical Exemption for Existing Facilities, and approved the Modification to Conditional Use Permit No. 03-341, Project No. 03-341-(2); subject to the attached findings and conditions of approval.

4. **PROJECT DESCRIPTION.** Application filed for a modification to conditions to CUP No. 03-341 for an existing liquor store. Original request to eliminate Condition No.

18 (g) "Display of alcoholic beverages shall be limited to five (5) percent of the total merchandising shelf space or 25 percent of the store's floor space, whichever is less"; Condition No. 18 (i) "The permittee shall not sell beer in less than six-pack quantities"; and Condition No. 18 (j) "There shall be no wine sold in containers of less than 750 milliliters, and no miniatures of any type shall be sold", was withdrawn and application modified for modification to Conditions Nos. 18 (i) and 18 (j), to allow the sale of single beer containers greater than 16 ounces and sale of wine-coolers in four-pack quantities .

5. **LOCATION.** 10537 S. Vermont Ave., Westmont

6. **SITE PLAN DESCRIPTION.** Site plan depicts liquor store on corner property, driveway access from Vermont Avenue and 106th Street, parking stalls, and liquor store floor plan depicting storage shelves, cooler area and cashier counter.

7. **EXISTING ZONING.** C-3, West Athens/Westmont Community Standards District (CSD)

8. **EXISTING LAND USES.** Liquor Store

9. **PREVIOUS CASES/ZONING HISTORY.** CUP 03-341 was approved by a Hearing Officer on June 15, 2004, with final grant approval on July 15, 2004, for authorization to sell a full line of alcoholic beverages for off-site consumption at the existing liquor store/market, and in compliance with the code sections cited above. CUP 03-341 expires on June 28, 2014.

10. **GENERAL PLAN / COMMUNITY PLAN CONSISTENCY.** The project site is located within the Regional Commercial (C.1) land use category of the West Athens/Westmont Community Plan. The Regional Commercial land use category designation is consistent with the C-3 Zone and is intended to allow commercial development in West Athens/Westmont. The existing liquor store, as approved by CUP 03-341 does serve a commercial purpose and does not conflict with the permitted uses of the underlying land use category, but liquor stores have been identified as a problem in past community meetings when excessive in number. The basis for the goals and objectives for the Community Plan are the comments and suggestions made at community meetings.

11. **ZONING ORDINANCE AND DEVELOPMENT STANDARDS COMPLIANCE.** Pursuant to Section 22.28.210 of the County Code, establishments in the C-3 Zone which sell alcoholic beverages for either on-site or off-site consumption require a CUP and are subject to the requirements of Section 22.56.195, which requires additional findings for the sale of alcoholic beverages. The applicant initially proposed to eliminate Conditions No. 18 (g), (i) and (j) of CUP 03-341, and subsequently proposed to only modify Conditions No. 18 (i) and No. 18 (j) with this application.

The proposed elimination of Conditions No. 18 (g); (i); and (j) would be inconsistent with the County Code and the County's standard conditions for the sale of alcoholic beverages. Those conditions strictly prohibit the expansion of shelving and floor space used to sell alcoholic beverages; the sale of beer in single containers of 16 ounces or less; the sale of wine sold in containers of less than 750 milliliters, with the exception of wine coolers sold in four-pack quantities; and no miniature alcoholic beverage sales of any kind.

The applicant's request to eliminate Condition 18 (g), which regulates the display of alcoholic beverages to five (5) percent of the total merchandising shelf space, conflicts with findings required to allow the sale of alcoholic beverages in an area of undue concentration of similar premises. This finding is required pursuant to County Code Section 22.56.195-B.3, and states that a separation of not less than 500 feet shall not be construed as undue concentration. However, to the northeast across Vermont Avenue from the subject liquor store, there is a second liquor store within a 500-foot radius (E&O Liquor). No finding could be justified to allow the elimination of Condition 18 (g) and still maintain that the liquor store is a public convenience or necessity in an area of undue concentration of alcohol sales.

NEIGHBORHOOD IMPACT/LAND USE COMPATIBILITY. Pursuant to County Code Section 22.56.1620 for noticing requirements on this application, the surrounding community was notified of the applicant's request for the elimination of conditions 18 (g), (i) and (j) of CUP 03-341. The Southwest Community Association submitted a letter with their concerns about allowing the elimination of the proposed conditions. The letter states that the elimination of those conditions may affect the stability, integrity and quality of life within the community. The Southwest Community Association does not support this Modification or Elimination of Conditions.

The elimination of the highlighted conditions for the existing liquor store would conflict with the permitted use of the underlying land use category of Regional Commercial (C.1) of the West Athens/Westmont Community Plan. A liquor store which exceeds five percent of its shelf space devoted to alcoholic beverages in an area of undue concentration selling small-size wine bottles or other miniature-sized liquor bottles or beer containers in less than six-pack quantities contributes to a category of liquor stores that have a potential to become a problem in the community. Because the basis for the goals and objectives of the Community Plan are the comments and suggestions made at community meetings, and because past community meetings have identified a concern for liquor stores when excessive in number, any elimination of the highlighted conditions could set the precedent for allowing businesses without restrictions on sale of alcoholic beverages. This is inconsistent with the goals and objectives of the Community Plan.

12. **COUNTY DEPARTMENT COMMENTS AND RECOMMENDATIONS.** Staff consulted with the County Sheriff Department's South Los Angeles Station during the processing of this application. The Sheriff Department reported that there have been no recent calls related to public drunkenness, or other closely-related incidents at or around the existing liquor store.

13. **OTHER AGENCY COMMENTS AND RECOMMENDATIONS.** No other agencies were consulted during the processing of this application.

14. **LEGAL NOTIFICATION AND PUBLIC OUTREACH.** Pursuant to the provisions of Sections 22.56.1620 of the County Code, the community was appropriately notified of the application to go before the hearing officer by mail, newspaper, property posting, library posting and DRP website posting.

    In order to ensure a 15-day comment period upon receipt of the notice, prior to the scheduled hearing date of November 6, 2012, and in accordance with the above provision, a total of 103 hearing notices were mailed out on September 26, 2012 to all property owners within a 500-foot radius of the subject property.

    Also in compliance with the noticing requirement, the Notice of Hearing was published and advertised in *The Sentinel* newspaper on October 4, 2012, and was also sent on September 25, 2012, to the AC Bilbrew County Library located at 150 E. El Segundo Boulevard, Los Angeles, along with the Factual Sheet.

    Staff verified that the Notice of Application Hearing was posted at the site in accordance with Section 22.56.1620 of the County Code.

    The same procedure identified above was utilized to re-notify the Community for the modification to the application and its hearing on December 18, 2012. Notices of the hearing were sent out on November 8, 2012, and publication of the hearing appeared in *The Sentinel* newspaper on November 15, 2012.

15. **PUBLIC COMMENTS.** The Southwest Community Association responded in writing to Regional Planning stating that they did not support the original application for Elimination of Conditions to CUP 03-341. They also requested that a public hearing be conducted so that the surrounding community may have input on the total scope of the applicant's proposal and intentions.

    The Southwest Community Association did not oppose the subsequent application changing the applicant's request from elimination to modification of conditions.

MODIFICATION OF CONDITIONS TO CONDITIONAL USE PERMIT NO. 03-341 SPECIFIC FINDINGS

16. The applicant's initial request, to allow the existing liquor store to expand the total shelf space devoted to display of alcoholic beverages beyond five (5) percent of the total merchandising shelf space, conflicts with findings required to allow the sale of alcoholic beverages in an area of undue concentration of similar premises, as required in County Code Section 22.56.195-B.3.

    Therefore, the finding of the applicant's request to eliminate Condition No. 18 (g) "Display of alcoholic beverages shall be limited to five (5) percent of the total merchandising shelf space or 25 percent of the store's floor space, whichever is less", cannot be substantiated. Elimination of Condition No. 18 (g) would be inconsistent with County Code Section 22.56.195-B.3, which limits shelf space in an area with undue concentration of similar premises. In addition, the request to eliminate this condition would not satisfy the Burden of Proof Sections 22.56.040 and 22.56.195 of the County Code. The proposed elimination of Condition No. 18 (g) has the potential to adversely affect the health, peace, comfort and welfare of persons residing or working in the surrounding area; may be materially detrimental to the use, enjoyment or valuation of property of other persons located in the vicinity of the site; and may jeopardize, endanger or otherwise constitute a menace to the public health, safety or general welfare of the community. Elimination of Condition No. 18 (g) also has the potential for the subject use to adversely affect the use of a place used exclusively for religious worship, a school, park, playground, or any similar use within a 600-foot radius. New West Technical Academy, a private school for children in grades seven through twelve, adjoins the subject property directly to the north. Opportunity Baptist Church is located directly north of the Academy, with Greater Faith Baptist Church located further north across 105th Street, and a preschool with playground across 106th Street to the south of the subject property and all within a 600-foot radius.

17. The applicant's initial request to allow the existing liquor store to sell beer in less than six-pack quantities, without restriction, conflicts with the County's standard conditions of approval for alcoholic beverage sales. The County's standard condition prohibits the sale of beer in single containers of 16 ounces or less.

    Therefore, the finding of the applicant's request to eliminate Condition No. 18 (i), "The permittee shall not sell beer in less than six-pack quantities", cannot be substantiated. To support the elimination of Condition No. 18 (i) would be inconsistent with the County's policies for Standard Permit Specific Conditions on CUPs for Alcoholic Beverage Sales, and would not satisfy the modified Burdens of Proof per Section(s) 22.56.040 and 22.56.195 of the County Code. The proposed elimination of Condition No. 18 (i) has the potential to adversely affect the health, peace, comfort and welfare of persons residing or working in the surrounding area; may be materially detrimental to the use, enjoyment or valuation of property of other persons located in the vicinity of the site; and may jeopardize, endanger or

otherwise constitute a menace to the public health, safety or general welfare of the community. Elimination of Condition No. 18 (i) also has the potential for the subject use to adversely affect the use of a place used exclusively for religious worship, a school, park, playground, or any similar use within a 600-foot radius. New West Technical Academy, a private school for children in grades seven through twelve, adjoins the subject property directly to the north. Opportunity Baptist Church is located directly north of the Academy, with Greater Faith Baptist Church located further north across 105th Street, and a preschool with playground across 106th Street to the south of the subject property and all within a 600-foot radius.

18. The applicant's initial request to allow the existing liquor store to sell wine in containers less than 750 milliliters in size, which could include the sale of miniature containers of distilled spirits, would conflict with findings required to show compliance and consistency with the County's standard conditions of approval for the sale of alcohol. Those conditions strictly prohibit the sale of wine sold in containers of less than 750 milliliters, without restriction, with the exception of wine coolers sold in four-pack quantities; and prohibits miniature alcoholic beverage sales of any kind.

    Therefore, the finding of the applicant's request to eliminate Condition No. 18 (j) of CUP 03-341, "There shall be no wine sold in containers of less than 750 milliliters, and no miniatures of any type shall be sold", cannot be substantiated. To support the elimination of Condition No. 18 (j) would be inconsistent with the County's policies for Standard Permit Specific Conditions on CUPs for Alcoholic Beverage Sales, and would not satisfy the modified Burdens of Proof per Section(s) 22.56.040 and 22.56.195 of the County Code. The proposed elimination of Condition No. 18 (j) has the potential to adversely affect the health, peace, comfort and welfare of persons residing or working in the surrounding area; may be materially detrimental to the use, enjoyment or valuation of property of other persons located in the vicinity of the site; and may jeopardize, endanger or otherwise constitute a menace to the public health, safety or general welfare of the community. Elimination of Condition No. 18 (j) also has the potential for the subject use to adversely affect the use of a place used exclusively for religious worship, a school, park, playground, or any similar use within a 600-foot radius. New West Technical Academy, a private school for children in grades seven through twelve, adjoins the subject property directly to the north. Opportunity Baptist Church is located directly north of the Academy, with Greater Faith Baptist Church located further north across 105th Street, and a preschool with playground across 106th Street to the south of the subject property and all within a 600-foot radius.

19. The applicant's initial request to allow the existing liquor store to eliminate Conditions No. 18 (g), 18 (i) and 18 (j) of CUP 03-341 would conflict with findings required to show compliance and consistency with the West Athens-Westmont Community Plan.

The West Athens-Westmont Community Plan discourages the proliferation of liquor stores in the community. To support the elimination of the highlighted conditions would be counter to the goals and objectives of the Community Plan to prevent an excessive number of liquor stores in the community. Any elimination of the highlighted conditions could set the precedent for allowing similar types of businesses within the community, with less restriction on the quantity and sale of a full line of alcoholic beverages. This is inconsistent with the goals and objectives of the Community Plan.

20. At the conclusion of the initial hearing of November 6, 2012, the applicant was granted an opportunity by the Hearing Officer to change his application request from an elimination of Conditions No. 18 (g), No. 18 (i) and No. 18 (j), to a modification of Conditions No. 18 (i) and 18 (j) to allow the applicant the ability to sell single beer containers greater than 16 ounces, and to sell wine cooler bottles less than 750 milliliters in four-packs only. The change in the application was re-noticed to the Westmont community for comments. Although Staff received several phone calls from community members inquiring about the application, no protests to the application for modification of the conditions were received. In addition, following the conclusion of the initial hearing, Staff was provided a set of petitions by the applicant containing 572 original signatures supporting the liquor store's application to sell beer in single containers over 16 ounces.

21. Staff, after further review, has concluded that the modification to Condition No. 18 (i) "The permittee shall not sell beer in less than six-pack quantities", in order to allow the sale of beer in single containers greater than 16 ounces would be consistent with the County's policies for Standard Permit Specific Conditions on CUPs for Alcoholic Beverage Sales. However, no singles of malt liquor and/or malt-based products with alcoholic content greater than five percent by volume shall be sold in single containers, regardless of size. This language shall be incorporated into the modified condition. The modified Burdens of Proof per Section(s) 22.56.040 and 22.56.195 of the County Code are found to be acceptable for the modified Condition No. 18 (i). The proposed modification of Condition No. 18 (i) would not adversely affect the health, peace, comfort and welfare of persons residing or working in the surrounding area; or be materially detrimental to the use, enjoyment or valuation of property of other persons located in the vicinity of the site; or jeopardize, endanger or otherwise constitute a menace to the public health, safety or general welfare of the community. Modification of Condition No. 18 (i) would not adversely affect the use of a place used exclusively for religious worship, a school, park, playground, or any similar use within a 600-foot radius.

22. Staff, after further review, has also concluded that the modification to Condition No. 18 (j) "There shall be no wine sold in containers of less than 750 milliliters, and no miniatures of any type shall be sold", in order to allow the sale of wine coolers in containers of less than 750 milliliters, in four-packs only, would be consistent with

the County's policies for Standard Permit Specific Conditions on CUPs for Alcoholic Beverage Sales. However, no miniature alcoholic beverages of any type are allowed to be sold. This language shall be incorporated into the modified condition. The modified Burdens of Proof per Section(s) 22.56.040 and 22.56.195 of the County Code are found to be acceptable for the modified Condition No. 18 (j). The proposed modification of Condition No. 18 (j) would not adversely affect the health, peace, comfort and welfare of persons residing or working in the surrounding area; or be materially detrimental to the use, enjoyment or valuation of property of other persons located in the vicinity of the site; or jeopardize, endanger or otherwise constitute a menace to the public health, safety or general welfare of the community. Modification of Condition No. 18 (j) would not adversely affect the use of a place used exclusively for religious worship, a school, park, playground, or any similar use within a 600-foot radius.

23. Staff has determined that the subject liquor store in an area of overdue concentration with similar-type uses, with its off-site sale of a full line of alcoholic beverages, still provides a public convenience to the community if operated in accordance and compliance with the existing and modified conditions attached. Although the store is also located within a 600-foot radius of surrounding sensitive uses, the modification to the Conditions Nos. 18 (i) and 18 (j) will not have an adverse effect on the public health and welfare of the community.

ENVIRONMENTAL DETERMINATION

24. Staff of the Los Angeles County Department of Regional Planning (DRP) has recommended that a Categorical Exemption, Class 1 – Existing Facilities, is the appropriate environmental documentation under California Environmental Quality Act (CEQA) reporting requirements. The project is to modify conditions at an existing facility for the sale of beer and wine, and the modifications do not alter the intensity or density of the existing use.

25. **RECORD OF PROCEEDINGS.** The location of the documents and other materials constituting the record of proceedings upon which the Hearing Officer's decision is based in this matter is at the Los Angeles County Department of Regional Planning, 13th Floor, Hall of Records, 320 West Temple Street, Los Angeles, CA 90012. The custodian of such documents and materials shall be the Section Head of the Zoning Permits West Section, Los Angeles County Department of Regional Planning.

BASED ON THE FOREGOING, THE HEARING OFFICER CONCLUDES:

A. Modification of Conditions No. 18 (i), and No. 18 (j) of Conditional Use Permit No. 03-341, which would allow the applicant to sell single beer containers greater than 16 ounces, and to sell wine cooler containers less than 750 milliliters in no less than four-packs only, with no sales of single-malt liquor containers and/or malt-based products with alcoholic content greater than five percent by volume in any size or sale of miniature alcoholic beverages, would be consistent with the

County's policies for Standard Permit Specific Conditions on CUPs for Alcoholic Beverage Sales. The modification of the two conditions would not conflict with the adopted West Athens-Westmont Community Plan; and

B. The modification of Conditions No. 18 (i), and No. 18 (j), would not adversely affect the health, peace, comfort or welfare of persons residing or working in the surrounding area, would not be materially detrimental to the use, enjoyment or valuation of property of other persons located in the vicinity of the site, and would not jeopardize, endanger or otherwise constitute a menace to the public health, safety or general welfare. The applicant now meets the required Burdens of Proof of County Code Sections 22.56.040 and 22.56.195.

C. Modification of Conditions No. 18 (i) and No. 18 (j) of Conditional Use Permit No. 03-341, which would allow the applicant to sell single beer containers greater than 16 ounces, and to sell wine cooler containers less than 750 milliliters in no less than four-packs only, with no sales of single-malt liquor containers and/or malt-based products with alcoholic content greater than five percent by volume in any size or sale of miniature alcoholic beverages, would not substantially alter or materially deviate from the terms and conditions imposed in the granting of the previously-approved conditional use permit, and would not conflict with the County's standard conditions for sale of alcoholic beverages.

THEREFORE, the information submitted by the applicant and presented at the hearing substantiates the required findings for an **APPROVAL** of the application for Modification of Conditions to Conditional Use Permit No. 03-341, as set forth in Section 22.56.1630 of the Los Angeles County Code (Zoning Ordinance).

HEARING OFFICER ACTION:

1. The Hearing Officer has considered the Categorical Exemption for this project and certifies that it is consistent with the finding by the State Secretary for Resources or by local guidelines that this class of projects does not have a significant effect on the environment.

2. In view of the findings of fact and conclusions presented above, Modification of Conditions to Conditional Use Permit Number 03-341 is Approved.

MKK:RS
12/19/12

c: Zoning Enforcement West, Building and Safety

CONDITIONS

1. This grant authorizes the use of the subject property for the sale of a full line of alcoholic beverages at an existing liquor store/market, as depicted in the approved Exhibit "A", subject to all of the following conditions of approval.

2. Unless otherwise apparent from the context, the term "permittee" shall include the applicant and any other person, corporation, or other entity making use of this grant.

3. This grant shall not be effective for any purpose until the permittee, and the owner of the subject property if other than the permittee, have filed at the office of the Department of Regional Planning their affidavit stating that they are aware of and agree to accept all of the conditions of this grant, and that the conditions of the grant have been recorded as required by Condition No. 8, and until all required monies have been paid pursuant to Conditions No. 10.

4. The permittee shall defend, indemnify and hold harmless the County, its agents, officers, and employees from any claim, action, or proceeding against the County or its agents, officers, or employees to attack, set aside, void or annul this permit approval, which action is brought within the applicable time period of Government Code Section 65009 or any other applicable limitation period. The County shall notify the permittee of any claim, action, or proceeding and the County shall reasonably cooperate in the defense.

5. In the event that any claim, action, or proceeding as described above is filed against the County, the permittee shall within ten days of the filing pay the Department of Regional Planning an initial deposit of $5,000, from which actual costs shall be billed and deducted for the purpose of defraying the expenses involved in the department's cooperation in the defense, including but not limited to, depositions, testimony, and other assistance to permittee or permittee's counsel. The permittee shall also pay the following supplemental deposits, from which actual costs shall be billed and deducted:

   a. If during the litigation process, actual costs incurred reach 80 percent of the amount on deposit, the permittee shall deposit additional funds sufficient to bring the balance up to the amount of the initial deposit. There is no limit to the number of supplemental deposits that may be required prior to completion of the litigation.

   b. At the sole discretion of the permittee, the amount of an initial or supplemental deposit may exceed the minimum amounts defined herein.

   The cost for collection and duplication of records and other related documents will be paid by the permittee in accordance with to Los Angeles County Code Section 2.170.010.

6. This grant will expire unless used within 2 years from the date of approval. A one-year time extension may be requested, in writing with payment of the applicable fee,

at least six months before the expiration date.

7. If any provision of this grant is held or declared to be invalid, the permit shall be void and the privileges granted hereunder shall lapse.

8. Prior to the use of this grant, the property owner or permittee shall record the terms and conditions of the grant in the office of the County Recorder. In addition, upon any transfer or lease of the subject property during the term of this grant, the property owner or permittee shall promptly provide a copy of the grant and its conditions to the transferee or lessee of the subject property.

9. **This grant will terminate June 28, 2014.** Entitlement to the use of the property thereafter shall be subject to the regulations then in effect. If the permittee intends to continue the sale of beer and wine after such date, a new Conditional Use Permit application shall be filed with the Department of Regional Planning at least six months prior to the expiration of this permit, whether or not any modification of the use is requested at that time.

10. The subject property shall be maintained and operated in full compliance with the conditions of this grant and any law, statute, ordinance, or other regulation applicable to any development or activity on the subject property. Failure of the permittee to cease any development or activity not in full compliance shall be a violation of these conditions. Prior to the use of this grant, the permittee shall deposit with the County of Los Angeles the sum of **$1,500.00**. These monies shall be placed in a performance fund which shall be used exclusively to compensate the Department of Regional Planning for all expenses incurred while inspecting the premises to determine the permittee's compliance with the conditions of approval, including adherence to development in accordance with the approved site plan on file. The fund provides for 10 annual inspections. Inspections shall be unannounced.

    If additional inspections are required to ensure compliance with the conditions of this grant, or if any inspection discloses that the subject property is being used in violation of any condition of this grant, the permittee shall be financially responsible and shall reimburse the Department of Regional Planning for all additional inspections and for any enforcement efforts necessary to bring the subject property into compliance. The amount charged for additional inspections shall be the amount equal to the recovery cost at the time of payment (currently $150.00 per inspection).

11. Notice is hereby given that any person violating a provision of this grant is guilty of a misdemeanor. Notice is further given that the Regional Planning Commission or a hearing officer may, after conducting a public hearing, revoke or modify this grant, if the Commission or hearing officer finds that these conditions have been violated or that this grant has been exercised so as to be detrimental to the public health or safety or so as to be a nuisance.

12. All requirements of the Zoning Ordinance and of the specific zoning of the subject

property must be complied with unless specifically modified by this grant, as set forth in these conditions or shown on the approved plans.

13. The subject property shall be developed and maintained in substantial compliance with the approved revised Exhibit "A." All revised plot plans must be accompanied by the written authorization of the property owner.

14. Any new or additional signage shall comply with Part 10, Chapter 22.52 of the Los Angeles County Code.

15. All structures shall comply with the requirements of the Division of Building and Safety of the Department of Public Works, the Forester and Fire Warden, and the Department of Health Services.

16. All structures, walls, and fences open to public view shall remain free of extraneous markings, drawings, or signage. These shall include any of the above that do not directly relate to the business being operated on the premises or that do not provide pertinent information about said premises. The only exceptions shall be seasonal decorations or signage provided under the auspices of a civic or non-profit organization.

17. In the event such extraneous markings occur, the permittee shall remove or cover said markings, drawings, or signage within 24 hours of such occurrence, weather permitting. Paint utilized in covering such markings shall be of a color that matches, as closely as possible, the color of the adjacent surfaces.

18. The sale of a full line of alcoholic beverages shall be further subject to the following conditions:

    a. The permittee shall maintain all areas of the premises over which the permittee has control in a neat and orderly fashion, free of litter and debris;

    b. The placement of portable signs on sidewalks adjacent to the subject property, and temporary signs on walls and poles, is prohibited;

    a. Permitted commercial signs and graphic displays shall be confined to the facade surface of the convenience store building, and shall not project above the roofline or disrupt the architectural design of the building;

    b. Outside display and storage is prohibited;

    c. The permittee shall not advertise the sale of alcoholic beverages on the exterior walls or fascia of the building;

    d. Telephone numbers of the Sheriff's Department, the permittee, and the Department of Regional Planning Enforcement Section (213-974-6453) shall

be posted in the store adjacent to the cashier's area;

e. The permittee shall maintain a current contact name, address and phone number on file with the Department of Regional Planning at all times.

f. No telephones shall be installed on the exterior of the building nor on the perimeter boundaries of the property;

g. Display of alcoholic beverages shall be limited to five (5) percent of the total merchandising shelf space or 25 percent of the store's floor space, whichever is less;

h. No display or sale of alcoholic beverages shall be made from an ice tub;

i. No beer in containers of 16 ounces or less shall be sold by single container, but must be sold in manufacturer pre-packaged multi-unit quantities but no less than six-pack quantities, and no malt liquors and/or malt-based products with alcoholic content greater than five percent by volume shall be sold in single containers of any size;

j. There shall be no wine sold in containers of less than 750 milliliters, with the exception of wine coolers sold in no less than four-pack quantities only, and no miniature alcoholic beverages of any type shall be sold;

k. No ice in quantities of less than two pounds shall be sold, furnished, or given away;

l. No single cups shall be sold, furnished, or given away;

m. The permittee shall not provide any type of seating or structure which could be used as seating on the exterior of the building;

n. Hours of operation for the store shall be 6:00a.m. – 2:00a.m., seven days a week;

o. Permittee or an employee 21 years or older shall be present in the store at all times during business hours;

p. All employees shall be instructed and trained on the regulations prohibiting loitering and consumption of alcoholic beverages on the premises, and they shall be required to enforce the subject conditions and call local law enforcement if necessary;

q. There shall be no loitering or alcohol consumption permitted on the premises under the control of the permittee. Signage prohibiting loitering shall be posted on the premises in English and in the predominant second language

in the neighborhood;

r. The permittee shall provide adequate lighting above the entrance of the store and in the parking lot. This lighting shall be of sufficient power to illuminate and make easily discernible the appearance and conduct of all persons entering or exiting the premises. Lighting shall be illuminated in such a ways as to prevent glare on nearby residential property;

s. A licensed security guard shall be hired or security cameras shall be installed and maintained on the premises to ensure that loitering and alcohol consumption does not occur on the premises;

t. The permittee shall not install or maintain video games, pool tables, or similar game activities or equipment on the subject property;

u. The permittee shall not allow any other coin-operated amusements, such as small carousel rides or similar riding machines, at any time, with the exception of official State Lottery machines;

v. The conditions of this grant shall be retained on the premises at all times and shall be immediately produced upon the request of any County Sheriff, Zoning Inspector, or ABC investigator. All employees of the subject convenience store and gas station shall be knowledgeable about the conditions contained herein;

w. A minimum of 8 parking spaces shall be provided, including at least one (1) that is accessible to persons with disabilities

KC:PH: 6-28-04

MK:RS: Modified 12-19-12