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October 11, 2019

Matthew Mathis (A)
Shake Shack
225 Varick Street
New York, NY 10014

Topanga Canyon Partners, LLC (O)
11865 Porter Valley Drive
Porter Ranch, CA 91326

Margaret Taylor (R)
Apex LA
11301 West Olympic Boulevard
Los Angeles, CA 90064

CASE NO. ZA-2019-1640-CUB
RELATED CASE: ADM-2019-0614-OVR
CONDITIONAL USE
6443-6449 North Topanga Canyon Boulevard
Canoga Park-Winnetka-Woodland Hills-West
Hills Planning Area
Zone : (WC)TOPANGA-SN-RIO
C.D. : 3 – Blumenfield
D.M. : 180B101
CEQA : ENV-2019-1641-CE
Legal Description: Lots 163 and 164, Tract
18734

Pursuant to California Environmental Quality Act (CEQA) Guidelines Section 15061, I hereby **DETERMINE:**

based on the whole of the administrative record, that the Project is exempt from CEQA pursuant to CEQA Guidelines, Section 15303 and there is no substantial evidence demonstrating that an exception to a categorical exemption pursuant to CEQA Guidelines, Section 15300.2 applies,

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

a Conditional Use Permit to allow the sale and dispensing of beer and wine for on-site consumption in conjunction with a new restaurant in the (WC) TOPANGA-SN-RIO Zone,

Upon the following additional terms and conditions:

1. All other use, height and area regulations of the Municipal Code and all other applicable government/regulatory agencies shall be strictly complied with in the development and use of the property, except as such regulations are herein specifically varied or required.
2. The use and development of the property shall be in substantial conformance with the plot plan and floor plan submitted with the application and marked Exhibit "A", except as may be revised as a result of this action.

3. The authorized use shall be conducted at all times with due regard for the character of the surrounding district, and the right is reserved to the Zoning Administrator to impose additional corrective Conditions, if, in the Administrator's opinion, such Conditions are proven necessary for the protection of persons in the neighborhood or occupants of adjacent property.
4. All graffiti on the site shall be removed or painted over to match the color of the surface to which it is applied within 24 hours of its occurrence.
5. A copy of the first page of this grant and all Conditions and/or any subsequent appeal of this grant and its resultant Conditions and/or letters of clarification shall be printed on the building plans submitted to the Department of City Planning ("DEPARTMENT OF CITY PLANNING") and the Department of Building and Safety for purposes of having a building permit issued at any time during the term of this grant.
6. Prior to the effectuation of this grant, a covenant acknowledging and agreeing to comply with all the terms and conditions established herein shall be recorded in the County Recorder's Office. The agreement (standard master covenant and agreement form CP-6770) shall run with the land and shall be binding on any subsequent owners, heirs or assigns. The agreement with the conditions attached must be submitted to the Department of City Planning for approval before being recorded. After recordation, a certified copy bearing the Recorder's number and date shall be provided for inclusion in case file. Fees required per L.A.M.C Section 19.01-E, 3 for Monitoring of Conditional Use Permits and Inspection and Field Compliance Review of Operations shall be paid to the City prior to the final clearance of this condition.
7. Authorized herein is the sale and dispensing of beer and wine for on-site consumption in conjunction with a 3,585 square-foot restaurant with a 515 square-foot on-site outdoor patio. The grant shall be subject to the following limitations:
 - a. The hours of operation shall be limited to 7:00 a.m. to 11:00 p.m., daily.
 - b. Indoor seating shall be limited to a maximum of 80 seats. The number of seats shall not exceed the maximum allowable occupant load as determined by the Department of Building and Safety.
 - c. Outdoor on-site seating shall be limited to a maximum of 30 seats.
8. No after-hours use is permitted, except routine clean-up. This includes but is not limited to private or promotional events, special events, excluding any activities, which are issued film permits by the City.
9. 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. **Complaint Log.** Prior to the utilization of this grant, a telephone number and email address shall be provided for complaints or concerns from the community regarding the operation. The phone number and email address shall be posted at the 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.

11. **STAR/LEAD/RBS Training.** Within the first six months of operation, all employees involved with the sale of alcohol shall enroll in the Los Angeles Police Department "Standardized Training for Alcohol Retailers" (STAR) or Department of Alcoholic Beverage Control "Licensee Education on Alcohol and Drugs" (LEAD) training program or the Responsible Beverage Service (RBS) Training Program. Upon completion of such training, the applicant shall request the Police Department or Department of Alcohol Beverage Control to issue a letter identifying which employees completed the training. STAR or LEAD or RBS training shall be conducted for all new hires within three months of their employment.
12. 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.
13. Loitering is prohibited on or around these premises or the area under the control of the applicant. "No Loitering or Public Drinking" signs shall be posted in and outside of the subject facility.
14. At least one on-duty manager with authority over the activities within the facility shall be on the premises at all times that the facility is open for business. The on-duty manager's responsibilities shall include the monitoring of the premises to ensure compliance with all applicable State laws, Municipal Code requirements and the conditions imposed by the Department of Alcoholic Beverage Control (ABC) and the conditional use herein. Every effort shall be undertaken in managing the facility to discourage illegal and criminal activity on the subject premises and any exterior area over which the building owner exercises control, in effort to ensure that no activities associated with such problems as narcotics sales, use or possession, gambling, prostitution, loitering, theft, vandalism or truancy occur.
15. 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.
16. Parking shall be provided in compliance with the Municipal Code and to the satisfaction of the Department of Building and Safety. No variance from the parking requirements has been requested or granted herein.
17. Coin operated game machines, pool tables or similar game activities or equipment shall not be permitted. Official California State lottery games and machines are allowed.
18. An electronic age verification device shall be retained on the premises available for use during operational hours. This device shall be maintained in operational condition and all employees shall be instructed in its use.
19. 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.
20. 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.

21. 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.
22. The premises shall be maintained as a bona fide restaurant and shall provide a menu containing an assortment of foods normally offered in restaurants. Food service shall be available at all times during normal operating hours.
23. Any use of the restaurant for private events, including corporate events, birthday parties, anniversary parties, weddings or other private events which are not open to the general public, shall be subject to all the same provisions and hours of operation stated herein.
24. There shall be no Adult Entertainment of any type pursuant to LAMC Section 12.70.
25. No conditional use for dancing has been requested or approved herein. Dancing is prohibited.
26. Any music, sound or noise including amplified or acoustic music which is under control of the applicant shall not constitute a violation of Sections 112.06 or 116.01 of the Los Angeles Municipal Code (Citywide Noise Ordinance) and shall not be audible beyond the subject premises. At any time during the term of the grant a City inspector may visit the site during operating hours to measure the noise levels using a calibrated decibel/sound level meter. If, upon inspection, it is found that the noise level exceeds those allowed by the Citywide Noise Ordinance, 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 the property such as noise barriers, sound absorbers or buffer zones.
27. There shall be no live entertainment or amplified music on the premises. There shall be no karaoke, disc jockey, topless entertainment, male or female performers or fashion shows. Any background music or other recorded ambient music shall not be audible beyond the area under the control of the applicant.
28. Entertainment in conjunction with the restaurant is limited to ambience music to compliment the dining experience, and shall be limited to background music at a low volume such that it is not audible beyond the premises. Independent, professional or amateur disc jockeys are not allowed.
29. These Conditions of Approval shall be retained on the property at all times and shall be produced immediately upon the request of a Police Officer. The manager shall be made aware of these conditions and inform their employees of the same. The manager shall also maintain an emergency contact number for the property owner.

ADMINISTRATIVE CONDITIONS

30. **MViP – Monitoring Verification and Inspection Program.** Prior to the effectuation of this grant, fees required per L.A.M.C section 19.01-E, 3 for Monitoring of Conditional Use Permits and Inspection and Field Compliance Review of Operations shall be paid to the City.

- a. Within 24 months from the beginning of operations or issuance of a Certificate of Occupancy, a City inspector will conduct a site visit to assess compliance with, or violations of, any of the conditions of this grant. Observations and results of said inspection will be documented and included in the administrative file.
 - b. The owner and operator shall be notified of the deficiency or violation and required to correct or eliminate the deficiency or violation. Multiple or continued documented violations or Orders to Comply issued by the Department of Building and Safety which are not addressed within the time prescribed, may result in additional corrective conditions imposed by the Zoning Administrator.
31. Should there be a change in the ownership and/or the operator of the business, the property owner and the business owner or operator shall provide the prospective new property owner and the business owner/operator with a copy of the conditions of this action prior to the legal acquisition of the property and/or the business. Evidence that a copy of this determination including the conditions required herewith has been provided to the prospective owner/operator shall be submitted to the Department of City Planning in a letter from the new operator indicating the date that the new operator/management began and attesting to the receipt of this approval and its conditions. The new operator shall submit this letter to the Department of City Planning within 30 days of the beginning day of his/her new operation of the establishment along with any proposed modifications to the existing the floor plan, seating arrangement or number of seats of the new operation.
32. Should there be a change in the ownership and/or the operator of the business, the Zoning Administrator reserves the right to require that the new owner or operator file a Plan Approval application, if it is determined that the new operation is not in substantial conformance with the approved floor plan, or the operation has changed in mode or character from the original approval, or if documented evidence be submitted showing a continued violation(s) of any condition(s) of this grant resulting in a disruption or interference with the peaceful enjoyment of the adjoining and neighboring properties. The application, in association with the appropriate fees, and a 500-foot notification radius, shall be submitted to the Department of City Planning within 30 days of the date of legal acquisition by the new owner or operator. The purpose of the plan approval will be to review the operation of the premise and establish conditions applicable to the use as conducted by the new owner or operator, consistent with the intent of the Conditions of this grant. Upon this review, the Zoning Administrator may modify, add or delete conditions, and if warranted, reserves the right to conduct this public hearing for nuisance abatement/revocation purposes.
33. **INDEMNIFICATION 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

construction work is not begun within said time and carried on diligently to completion, the authorization shall terminate and become void.

TRANSFERABILITY

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

VIOLATIONS OF THESE CONDITIONS, A MISDEMEANOR

Section 12.29 of the Los Angeles Municipal Code provides:

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

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

APPEAL PERIOD - EFFECTIVE DATE

The applicant's attention is called to the fact that this grant is not a permit or license and that any permits and licenses required by law must be obtained from the proper public agency. Furthermore, if any Condition of this grant is violated or if the same be not complied with, then the applicant or his successor in interest may be prosecuted for violating these Conditions the same as for any violation of the requirements contained in the Municipal Code. The Zoning Administrator's determination in this matter will become effective after **OCTOBER 28, 2019**, unless an appeal therefrom is filed with the City Planning Department. It is strongly advised that appeals be filed early during the appeal period and in person so that imperfections/incompleteness may be corrected before the appeal period expires. Any appeal must be filed on the prescribed forms, accompanied by the required fee, a copy of the Zoning Administrator's action, and received and receipted at a public office of the Department of City Planning on or before the above date or the appeal will not be accepted. **Forms are available on-line at <http://planning.lacity.org>**. Public offices are located at:

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

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

West Los Angeles
 West Los Angeles Development
 Services Center
 1828 Sawtelle Boulevard, 2nd Floor
 Los Angeles, CA 90025
 (310) 231-2598

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

judgments or awards against the City (including an award of attorney's fees), damages, and/or settlement costs.

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

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

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

For purposes of this condition, the following definitions apply:

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

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

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

OBSERVANCE OF CONDITIONS - TIME LIMIT - LAPSE OF PRIVILEGES

All terms and conditions of the approval shall be fulfilled before the use may be established. The instant authorization is further conditional upon the privileges being utilized within three years after the effective date of approval and, if such privileges are not utilized or substantial physical

NOTICE

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

FINDINGS OF FACT

After thorough consideration of the statements contained in the application, the plans submitted therewith, and the statements made at the public hearing on August 6, 2019, all of which are by reference made a part hereof, as well as knowledge of the property and surrounding district, I find that the requirements for authorizing a conditional use approval under the provisions of Section 12.24-W, 1 have been established by the following facts:

BACKGROUND

The subject site is an 14,397 square-foot level, rectangular-shaped, interior parcel of land consisting of two lots, with a frontage of 120 feet on the west side of Topanga Canyon Boulevard and 120 feet on the east side of an alleyway. The project is the construction, use, and maintenance of a new 3,585 square-foot restaurant with a 515 square-foot outdoor patio area. The restaurant building will be located mostly on the southern lot with the northern lot utilized as a surface parking lot. The patio area will front Topanga Canyon Boulevard. The site was developed with a restaurant that has since been demolished.

The site is zoned (WC)TOPANGA-SN-RIO. The site is located within the Canoga Park-Winnetka-Woodland Hills-West Hills Community Plan with a General Plan Land Use Designation of Regional Center Commercial. The project site is located within the boundaries of the Warner Center Specific Plan – Topanga District. The site is further located within Tier 2 TOC, an Urban Agriculture Incentive Zone, a Liquefaction area, and is within 13.65 kilometers of the nearest known fault (Santa Susana Fault). The site is served by the LAPD Valley Bureau Topanga Division and is located within Reporting District No. 2145.

The applicant is requesting a Conditional Use Permit to allow the sale and dispensing of beer and wine for on-site consumption, in conjunction with a proposed 3,585 square-foot restaurant (Shake Shack) with 80 seats and a 515 square-foot outdoor patio with 30 seats. Proposed hours of operation are from 7:00 a.m. to 11:00 p.m., daily.

SURROUNDING PROPERTIES

Surrounding properties are generally developed with commercial and residential uses. The northern adjoining property is zoned (WC)TOPANGA-SN-RIO and is developed with single-story commercial. The eastern adjoining property (across Topanga Canyon Boulevard) is zoned (WC)UPTOWN-SN-RIO and is developed with the Westfield Topanga shopping center. The southern adjoining property is zoned (WC)TOPANGA-SN-RIO and is developed with a retail store. The western adjoining properties (across the alley) are zoned RS-1-RIO and are developed with single-family dwellings.

STREETS

Topanga Canyon Boulevard, adjoining the subject property to the east, is a designated Boulevard II, dedicated to a width of 100 feet and improved with asphalt roadway, concrete curb, gutter, and sidewalk.

An alleyway, adjoining the subject property to the west, is dedicated to a width of 20 feet and improved with asphalt roadway with concrete curb and gutter.

Previous Cases, Affidavits, Permits, and Orders on the Applicant's Property:

Case No. ADM-2019-4239-OVR – On July 18, 2019, an Administrative Clearance per WC2035 Plan Section 5.B.8 for the installation of two new illuminated channel letter wall signs for “Shake Shack” were approved.

Case No. ADM-2019-614-OVR – On May 28, 2019, an Administrative Clearance per WC2035 was approved for the demolition of an existing restaurant and the construction of a new restaurant.

Previous Cases on Surrounding Properties

Case No. ZA-2014-1944-CUB– On April 29, 2015, the Zoning Administrator approved a conditional use to permit the sale of beer and wine for on-site consumption at a 2,675 square-foot restaurant with 63 interior seats and hours of operation from 10:00 a.m. to 11:00 p.m., daily, within the WC-RIO Zone at 6501 North Topanga Canyon Boulevard.

Case No. ZA-2014-1668-CUB– On September 17, 2014, the Zoning Administrator approved a conditional use to permit the sale of a full line of alcoholic beverages for on-site consumption in conjunction with a 2,493 square-foot restaurant within the Nordstrom department store at Westfield Topanga, within the WC Zone at 21725 West Victory Boulevard.

Case No. ZA-2014-0999-CUB– On July 1, 2014, the Zoning Administrator approved a conditional use to permit the sale of beer and wine for on-site consumption in conjunction with a new barber shop located within the Westfield Topanga shopping center, within the WC Zone at 6600 North Topanga Canyon Boulevard.

Case No. ZA-2013-0140-CUB– On May 24, 2013, the Zoning Administrator approved a conditional use to permit the sale of beer and wine for on-site consumption at a 2,808 square-foot restaurant with 84 interior seats and 62 outdoor patio seats and hours of operation from 11:00 a.m. to 11:00 p.m., daily, within the WC Zone at 6201 North Topanga Canyon Boulevard.

Case No. ZA-2012-1233-CUB– On November 8, 2012, the Zoning Administrator approved a conditional use to permit the sale of a full line of alcoholic beverages for off-site consumption at an existing Target retail store located within the (WC)C4-17/1.0 Zone at 6700 North Topanga Canyon Boulevard.

PUBLIC CORRESPONDENCE

On April 24, 2019, the Los Angeles Police Department Topanga Area Vice Unit submitted a letter requesting 21 conditions of approval if the Conditional Use is granted.

A letter dated October 1, 2019 received from the Woodland Hills Warner Center Neighborhood Council expressed their support for the project and conditional use request with four recommended conditions.

PUBLIC HEARING

The public hearing was held on August 6, 2019 at 9:35 a.m. at the Marvin Braude San Fernando Valley Constituent Service Center, 6262 Van Nuys Boulevard, First Floor Conference Room. There were approximately seven persons in attendance – the applicant, his representative, and a representative of the Council Office.

Margaret Taylor of Apex Consulting representative for Mathew Mathis, the applicant, indicated that the applicant was present and made the following comments:

- Ms. Taylor described the request in detail. This is a new Shake Shack Restaurant that had just received an administrative approval from the Planning Department. The applicant is filing for a conditional use for beer and wine.
- Outreach includes meet with the Neighborhood Council.
- Ms. Taylor submitted a copy of a PowerPoint presentation prior to making a presentation.
- The site is located just west of the Topanga Plaza shopping center. The project was originally submitted as a very restrictive project. There is a railing surrounding the outdoor dining area. A total of nine parking spaces are required for the project; however, 13 parking spaces are provided. The driveway design has been improved.
- DOT has required a right turn sign at the alley exit because it is easier to access Topanga Canyon Boulevard. Additionally, queuing for parking lot not anticipated but will provided attendant if needed in the future. We will require an employee parking incentive where parking may be worked with the neighboring mattress store if needed in the future.
- LAPD has submitted a letter with recommended conditions.

Andrew Pennington of Council District No. 3 representing Councilperson Blumenfeld indicated that their office supports the request. Further, he recommended that the Zoning Administrator hold the record open for one week in order to receive the conditions recommended by LAPD be incorporated into the letter of decision.

The Zoning Administrator closed the public hearing and stated that the case will be held on advisement for a period of one week pending the receipt of the following information:

- LAPD's letter

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

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

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

The following conditions are submitted for consideration:

- No person under 18 years of age shall sell or serve alcoholic beverages.
- There shall be no exterior advertising of any kind of type, including advertising directed to the exterior from within, promoting or indicating the availability of alcoholic beverages, except that the restaurant may post a menu.

- No illuminated (i.e. neon) or alcohol advertising or digital signage of any type will be located in the window or on the business storefront.
- Signs shall be posted in English and in the prominent language of the facility's clientele, if different, that California State Law prohibits the sale of alcoholic beverages to persons who are under 21 years of age.
- No alcoholic beverage shall be consumed on any property adjacent to the licensed premises under the control of the licensees.
- No intoxicated person or persons observed publicly drinking shall be admitted to the location.

BASIS FOR CONDITIONAL USE PERMITS

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

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 proposed project is a Conditional Use Permit to allow the sale and dispensing of beer and wine in conjunction with operation of a new restaurant (Shake Shack), with proposed operating hours of 7:00 a.m. to 11:00 p.m., daily. The project will offer a beneficial service to the surrounding community by providing a late night dining option that includes the sale of beer and wine. Shake Shack's primary operation is a restaurant with food service. The granting of the sale of beer and wine for on-site consumption will enable the restaurant to offer an additional amenity to consumers that will complement the establishment's food options. The restaurant specializes in burgers, hot dogs, frozen custard, shakes, with ancillary beer and wine sales. The availability of beer and wine for on-site consumption will offer an amenity for local residents, visitors, and workers and will provide a beneficial service by providing a full service food option that operates late into the evening. The imposition of a number of conditions addressing operational and alcohol-related issues will ensure that the project will not be disruptive to the surrounding community.

A variety of commercial uses is an intrinsic part of the service amenities that are necessary for the conservation, development, and success of a vibrant neighborhood. The ability for the subject site to offer beer and wine in addition to its usual menu options will allow the restaurant to remain competitive with other restaurants serving the same area. In light of the above, the project will perform a function and provide a service that is beneficial to the Canoga Park-Winnetka-Woodland Hills-West Hills 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 site is an 14,397 square-foot level, rectangular-shaped, interior parcel of land consisting of two lots, with a frontage of 120 feet on the west side of Topanga Canyon Boulevard with an alleyway at the rear. The project is the construction, use, and maintenance of a new 3,585 square-foot restaurant with a 515 square-foot outdoor patio area. The restaurant building will be located mostly on the southern lot with the northern

lot utilized as a surface parking lot. The patio area will front Topanga Canyon Boulevard. The site was developed with a restaurant that has since been demolished. The scale of the building is within the scale of commercial buildings along the Topanga Canyon corridor to the north and south which are also single story. The eastern adjoining property (across Topanga Canyon Boulevard) is zoned (WC)UPTOWN-SN-RIO and is developed with the Westfield Topanga shopping center. The western adjoining properties (across the alley) are zoned RS-1-RIO and are developed with single-family dwellings of the same scale.

The subject property recently received an Administrative Clearance for conformance with the Warner Center Specific Plan. The project meets the use, floor area, buildable area, height, street wall, and street standard requirements of the Plan. In addition, the project is providing required parking (13 spaces) and publicly accessible open space (PAOS). The project's outdoor patio will front Topanga Canyon Boulevard and will be shielded from abutting residential uses by distance and the restaurant building. Thus, the project will not have any additional adverse impacts and will be compatible with adjacent properties and the surrounding community.

The applicant is requesting a Conditional Use Permit to allow the sale and dispensing of beer and wine for on-site consumption, in conjunction with a proposed 3,585 square-foot restaurant (Shake Shack) with 80 seats and a 515 square-foot outdoor patio with 30 seats. Proposed hours of operation are from 7:00 a.m. to 11:00 p.m., daily. There will be no live entertainment and no dancing, and the operation will be similar to other operations along this portion of Topanga Canyon Boulevard, which is generally characterized by fast food restaurants and neighborhood serving shops and services.

During the public process, correspondence received on the matter includes a letter from the Los Angeles Police Department Topanga Area Vice Unit requesting 21 conditions of approval if the Conditional Use is granted. Additionally, a letter received from the Woodland Hills Warner Center Neighborhood Council expressed their support for the project and conditional use request with four recommended conditions.

The public hearing was held on August 6, 2019 at 9:35 a.m. at the Marvin Braude San Fernando Valley Constituent Service Center, 6262 Van Nuys Boulevard, First Floor Conference Room. There were approximately seven persons in attendance – the applicant, his representative, and a representative of the Council Office. Margaret Taylor of Apex Consulting representative for Mathew Mathis, the applicant, indicated that the applicant was present and described the request in detail. The new Shake Shack Restaurant that had just received an administrative approval from the Planning Department. The applicant is filing for a conditional use for beer and wine. Outreach includes multiple meetings with the Neighborhood Council. Ms. Taylor submitted a copy of a PowerPoint presentation prior to making a presentation. The site is located just west of the Topanga Plaza shopping center. The project was originally submitted as a very restrictive project. There is a railing surrounding the outdoor dining area. A total of 9 parking spaces are required for the project; however, 13 parking spaces are provided. The driveway design has been improved. DOT has required a right turn sign at the alley exit because it is easier to access Topanga Canyon Boulevard. Additionally, queuing for parking lot not anticipated but will be provided attendant if needed in the future. We will require an employee parking incentive where parking may be worked with the neighboring mattress store if needed in the future. LAPD has submitted a letter with recommended conditions.

Andrew Pennington of Council District No. 3 representing Councilperson Blumenfeld indicated that their office supports the request and recommended that the Zoning Administrator hold the record open for one week in order to receive and incorporate the conditions recommended by LAPD.

After holding the case on advisement for one week, the Zoning Administrator did review the LAPD's letter and recommended conditions along with the administrative record. Multiple operating conditions were applied to the grant herein. Concerns were raised by the Neighborhood Council on vehicle queuing; however, in finding that the minimum requirements for on-site parking has been met, and driveway improvements along with the posting of a "Right Turn Only" sign at the alley exit, no impending parking and circulation issues could be foreseen. Further, review of the Administrative Clearance Form indicated that all transportation related improvements and fees were met. As a result, no additional parking or queuing conditions were necessary for the addition of beer and wine sales and dispensing were required. Imposed conditions will encourage responsible management, ensure the mode and character remains as a restaurant, address the potential for nuisances, and deter criminal activity. These conditions will ensure that the operation complies with all applicable regulations and that any aspects of the operation will not adversely affect the surrounding area. As conditioned, the operation of a restaurant with the sale of beer and wine for on-site consumption 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.**

There are eleven elements of the General Plan. Each of these elements establishes policies that provide for the regulatory environment in managing the City and for addressing environmental concerns and problems. The majority of the policies derived from these Elements are in the form of Code requirements of Los Angeles Municipal Code. Except for the entitlements described herein, the project does not propose to deviate from any of the requirements of the Municipal Code.

The Land Use Element of the City's General Plan is divided into 35 Community Plans. The subject property is located within the Canoga Park-Winnetka-Woodland Hills-West Hills Community Plan, which designates the site for Regional Center Commercial land use with corresponding zones of CR, C1.5, C2, C4, RAS3, RAS4, R3, R4, and R5 Zones. The property is within the Warner Center Specific Plan – Topanga District, which requires a Conditional Use Permit for the service of alcohol for on-site consumption. The Topanga District is described as follows:

The Topanga District is generally bounded by Bassett Street to the north, Topanga Canyon Boulevard to the east, Burbank Boulevard to the south, and generally by Glade Street to the west. This District will provide a transition between the urbanized core of Warner Center and the predominant single-family and multiple family development pattern to the west. Due to past development, the District is expected to remain commercial. The District is anticipated to provide the local-serving uses needed by adjacent residential neighborhoods to the west. By virtue of being a State Highway, Topanga Canyon Boulevard is expected to remain a major North-South thoroughfare for the West San Fernando Valley

The project is consistent with the Specific Plan's purpose to encourage infill development to create a vibrant transit oriented district. The project is also located within the River Improvement Overlay District. The Overlay District poses no impact upon the current request to serve beer and wine at a proposed restaurant. The Community Plan text allows a variety of commercial uses but is silent with regards to the sale of alcohol, leaving interpretation of the intent of the Plan to the Zoning Administrator. The project is consistent with the following objective of the Community Plan:

Objective 2-1 To conserve and strengthen viable commercial development and encourage recycling of obsolete commercial development.

The project is recycling an obsolete commercial development, by creating a new infill commercial development that is viable. The new structure will conform with the latest requirements of the Specific Plan, which requires a walk easement to encourage pedestrian activity, the provision of bicycle parking, publicly accessible open space (PAOS), amongst other improvements. The restaurant with beer and wine sales will help activate the Topanga District with a viable commercial use that will provide a local serving use that is accessible to nearby residences. Therefore, the project substantially conforms to the purpose, intent and provisions of the General Plan, the applicable community plan, and any specific plan.

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

The proposed restaurant use is allowed by-right in the (WC)TOPANGA-SN-RIO zone and the addition of a beer and wine license will occur as an ancillary use within the confines of the proposed restaurant. The request does not include public dancing, a cocktail lounge, video game machines, or any form of live entertainment. The emphasis of the business will be foodservice that is required to be available at all times the restaurant is operating. Shake Shack describes itself as a modern day roadside burger stand that specializes in burgers, hot dogs, frozen custard, shakes, with ancillary beer and wine. Conditional authorization for the sale and dispensing of beer and wine for on-site consumption is allowed through the approval of the Zoning Administrator, subject to certain findings. Negative impacts commonly associated with the sale of alcoholic beverages, such as criminal activity, public drunkenness, and loitering are mitigated by the imposition of conditions requiring responsible management and deterrents against loitering. Employees will undergo training on the sale of alcoholic beverages, including training provided by the Los Angeles Police Department Standardized Training for Alcohol Retailers (STAR) Program or the Department of Alcoholic Beverage Control's Licensee Education on Alcohol and Drug (LEAD) Program. Other conditions related to excessive noise, noise prevention, and litter will safeguard the residential community. Therefore, with the imposition of such conditions, the sale and dispensing of beer and wine at this location will not adversely affect the welfare of the surrounding community.

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

According to the California State Department of Alcoholic Beverage Control licensing criteria, three (3) on-site and two (2) off-site licenses are allocated to the subject Census Tract No. 1351.11. There are currently three active licenses within this census tract, including one (1) on-site alcohol licenses and two (2) off-site licenses. There is one surrendered Type 47 license within the census tract, attributed to the subject site's previous restaurant use (Yang Chow Restaurant – License No. 350320).

The granting of the Conditional Use will not result in an undue concentration of premises with

such licenses. The granting of an application for the sale or dispensing of beer and wine would be undue when the addition of a license will negatively impact a neighborhood. It is not undue when approval of a license does not negatively impact an area, but rather such license benefits the public welfare and serves as a convenience. As support by the aforementioned facts, the project involves the granting of an application to sell and dispense beer and wine in conjunction with a proposed restaurant. The grant will be an asset to the community and will not adversely affect the community welfare. As a result, the instant grant will not result in an undue concentration of such licenses.

Statistics from the LAPD Topanga Area Vice Division reveal that in Crime Reporting District No. 2145, a total of 84 crimes (73 Part I Crimes and 11 Part II Crimes) were reported in 2018, compared to the Citywide Average of 185 crimes and the High Crime Reporting District Average of 222 crimes for the same period. In 2018, there were (1) Narcotics, (0) Liquor Law, (0) Public Drunkenness, (0) Disturbing the Peace, (0) Disorderly Conduct, and (1) Driving Under Influence (DUI) related arrests, and (1) Other Offences. These numbers do not reflect the total number of arrests in the subject reporting district over the accountable year. Arrests for this calendar year may reflect crimes reported in previous years.

In active commercial areas where there is a demand for licenses beyond the allocated number, the Department of Alcoholic Beverage Control (ABC) has recognized that high-activity commercial areas are supported by a significant and growing employee, visitor, and resident population in the area. The ABC has discretion to approve an application if there is evidence that normal operations will not be contrary to public welfare and will not interfere with the quiet enjoyment of property by residents. As proposed by the submitted application and conditioned herein by the City, the requested application will be implemented with conditions intended to prevent public drinking, driving under the influence, and public drunkenness. Negative impacts commonly associated with the sale of alcoholic beverages, such as criminal activity, public drunkenness, and loitering are mitigated by the imposition of conditions requiring surveillance, responsible management and deterrents against loitering. The conditions will safeguard the welfare of the community. As conditioned, allowing the sale of beer and wine for on-site consumption at a proposed restaurant will not result in undue concentration and is not anticipated to create a law enforcement issue.

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

The project site is zoned for commercial uses and will continue to be utilized as such with the restaurant use. The following sensitive uses were observed within a 1,000-foot radius of the subject property:

- Single Family Residential uses

Consideration has been given to the distance of the subject establishment from the above-referenced sensitive uses. While the site is within the proximity of sensitive uses, the restaurant does not directly open up to these sensitive uses and service of beer and wine for on-site consumption is anticipated to be ancillary to the sale of food. This grant has placed conditions on the restaurant to ensure that it continues to operate as a compatible neighbor. The potential effects of excessive noise or disruptive behavior have been considered and addressed by imposing conditions related to noise and loitering. As conditioned, the granting of the conditional use to allow the sale of beer and wine for on-site consumption in conjunction

with the operation of a new existing restaurant will not detrimentally affect nearby sensitive uses.

ADDITIONAL MANDATORY FINDINGS

7. The National Flood Insurance Program rate maps, which are a part of the Flood Hazard Management Specific Plan adopted by the City Council by Ordinance No. 172,081, have been reviewed and it has been determined that this project is located in Zone C, areas of minimal flooding.

Inquiries regarding this matter shall be directed to JoJo Pewsawang, Planning Staff for the Department of City Planning, at 213-978-1214.



FRANKLIN N. QUON
Associate Zoning Administrator

FNQ:JP:bk

cc: Councilmember Bob Blumenfield
Third Council District
Adjoining Property Owners