



## DEPARTMENT OF CITY PLANNING RECOMMENDATION REPORT



### West Los Angeles Area Planning Commission

**Date:** November 5, 2014  
**Time:** After 4:30 p.m.  
**Place:** Henry Medina West Los Angeles  
Parking Enforcement Facility  
11214 W. Exposition Boulevard  
2<sup>nd</sup> Floor Roll Call Room  
Los Angeles, CA. 90064

**Public Hearing:** September 8, 2014  
**Appeal Status:** Appealable to City Council  
**Expiration Date:** November 7, 2014  
**Multiple Approval:** Conditional Use, Zone  
Variance, Coastal  
Development Permit and  
Specific Plan Project Permit  
Compliance, Concurrent  
processing of Multiple  
Approvals pursuant to 12.36

**Case No.:** APCW-2014-1761-SPE-CU-ZV-  
CDP-SPP  
**CEQA No.:** ENV-2014-1762-MND

**Related Cases:** NA  
**Council No.:** 11 – Bonin  
**Plan Area:** Venice  
**Specific Plan:** Venice Coastal Zone;  
Los Angeles Coastal  
Transportation Corridor  
**Certified NC:** Venice Neighborhood Council  
**GPLU:** Neighborhood Commercial  
**Zone:** [Q]C2-1-CDO, [Q]P-1-CDO

**Applicant:** Ryan Bissett (Mrs. Gooch's Natural  
Foods Markets, INC)  
**Representative:** Lanny Kusaka (TMG Solutions)

**PROJECT LOCATION:** 225 South Lincoln Boulevard. Legally described as Tract DM3232-235; Lot FR LT A; ARB 195, 196, 197, 199. Tract 1763; MB21-94; Lots 16, 17, 18.

**PROPOSED PROJECT:** To permit the installation of a new sound wall, enclosure of an existing loading dock, legalization of an existing cargo container for storage, installation of a canopy over an existing landing area, and loading from the front of the supermarket between the hours of 5:00-7:00 AM.

- REQUESTED ACTIONS:**
1. Pursuant to Section 21082.1(c)(3) of the California Public Resources Code, **Adopt** the Mitigated Negative Declaration (ENV-2014-1762-MND) for the above referenced project.
  2. Pursuant to Section 11.5.7.F of the Municipal Code, a **Specific Plan Exception** from the Venice Coastal Zone Specific Plan, Ordinance 175,693, as follows:
    - A. From Section 13.D. to permit relief from the required nine additional parking spaces: eight additional parking spaces are required due to the enclosure of the existing loading dock and one existing parking space will be removed in order to construct the proposed sound wall.
  3. Pursuant to Section 12.24 W.27 of the Municipal Code, a **Conditional Use Permit** to permit loading in the front entrance of the supermarket between the hours of 5:00 a.m. to 7:00 a.m. as not otherwise permitted pursuant to Section 12.22 A.23 (b)(3) of the Municipal Code.

4. Pursuant to Section 12.27 of the Municipal Code, a **Variance** to permit:
  - A. The construction, use, and maintenance of 539 square feet of an enclosed loading dock. 72 square feet of the new canopy over the existing landing area and 320 square feet of a cargo container for incidental storage would be located in the [Q]P-1 Zone which is not permitted pursuant to Section 12.12.1 A of the Municipal Code.
  - B. Deliveries and loading at the front entrance of the existing supermarket, between the hours of 5:00-7:00 AM, located in the [Q]P-1 zone as otherwise not permitted pursuant to Section 12.12.1 A of the Municipal Code. The variance request is to temporarily allow all delivery and loading activities to occur at the front entrance during construction of the proposed sound wall and loading dock, and to permanently allow small and medium-sized delivery vehicles to continue deliveries and loading activities at the front entrances.
  - C. The cargo container for incidental storage to be one foot from the building in lieu of the 10 feet required as not otherwise allowed under Section 12.21 A.5 of the Municipal Code.
5. Pursuant to Section 12.20.2 of the Municipal Code, a **Coastal Development Permit** for the proposed project.
6. Pursuant to Section 11.5.7.C of the Municipal Code, a **Specific Plan Project Permit Compliance** with the Venice Coastal Zone Specific Plan, Ordinance 175,693.

#### RECOMMENDED ACTIONS:

1. **Adopt** Mitigated Negative Declaration No. 2014-1762-MND.
2. **Approve a Specific Plan Exception** to permit relief from the required nine (9) additional parking spaces: Eight (8) additional parking spaces are required due to the enclosure of the existing loading dock and one (1) existing parking space will be removed in order to construct the proposed sound wall.
3. **Approve a Conditional Use Permit** to permit loading in the front entrance of the supermarket between the hours of 5:00 a.m. to 7:00 a.m.
4. **Approve a Variance** to permit the construction, use, and maintenance of 539 square feet of an enclosed loading dock. 72 square feet of the new canopy over the existing landing area and 320 square feet of a cargo container for incidental storage would be located in the [Q]P-1 Zone.
5. **Approve a Variance** to permit Deliveries and loading at the front entrance of the existing supermarket, between the hours of 5:00-7:00 AM, located in the [Q]P-1 zone.
6. **Approve a Variance** to permit the cargo container for incidental storage to be one foot from the building in lieu of the 10 feet required

7. **Approve a Project Permit Compliance** determination with the Venice Coastal Zone Specific Plan.
8. **Approve a Coastal Development Permit** for the proposed project.
9. **Adopt** the attached Findings.

MICHAEL J. LOGRANDE  
Director of Planning

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## PROJECT ANALYSIS

### **PROJECT SUMMARY**

The proposed project consists of: the installation of a new 14-foot high sound wall along portions of the westerly property line (abutting 7<sup>th</sup> Avenue), enclosing an existing 1,719-square-foot loading area, installation of a 72-square-foot canopy (9 feet-3 inches by 7 feet-9 inches) over a rear landing, legalization of one existing cargo container (8 feet by 40 feet) for incidental storage, and both a temporary and permanent change in loading/delivery hours (to 5:00-7:00 AM) and location (to the front entrance of the supermarket).

The proposed project is on a site that is approximately 235,677 square feet, comprised of multiple irregularly shaped lots that are zoned [Q]C2-1-CDO and [Q]P-1-CDO. The subject property is within the boundaries of the Lincoln Boulevard Community Design Overlay (CDO), the Venice Coastal Zone Specific Plan, and the Los Angeles Coastal Transportation Corridor Specific Plan. The commercial lot, located within the Oakwood Subarea of the Venice Coastal Zone Specific Plan, is improved with a Whole Foods Market, CVS Pharmacy, 99 Cent Retailer, Venice Beach Laundry, and a surface parking lot. The site's main frontage is approximately 313 feet along the south side of Lincoln Boulevard.

### **Specific Plan Exception**

Pursuant to LAMC Section 11.5.7.F, the applicant requests an exception from Section 13.D. of the Venice Coastal Zone Specific Plan to permit relief from a requirement of nine additional parking spaces; eight parking spaces are required due to the enclosure of the existing dock and one existing parking space will be removed due to the construction of the proposed sound wall. Based on the parking requirements of Section 13.D of the Specific Plan, the addition of 1,791 square feet of floor area (proposed enclosure of the existing loading dock) is subject to the requirement of one space per 225 square feet of floor area, eight additional spaces. The subject site is required to provide a total of 310 parking spaces, but is asking relief to provide a total of 301 spaces.

### **Conditional Use**

Pursuant to LAMC Section 12.24 W.27, the applicant requests a Conditional Use Permit to allow deliveries to the front entrance between the hours of 5:00-7:00 a.m. in lieu of the hours outlined in LAMC Section 12.22 A.23 (b)(3). The Condition for Mini Shopping Centers regarding hours limits delivery hours 7:00 a.m. to 8:00 p.m. (Monday to Friday) and 10:00 a.m. to 4:00 p.m. (Saturday and Sunday).

### **Variance**

Pursuant to LAMC Section 12.27, the applicant requests a Variance to permit the construction, use, and maintenance of the 539 square feet of an enclosed loading dock (a portion of the 1,719-square-foot loading dock that is in both the [Q]C2-1 and [Q]P-1 zone) and a 72-square-foot canopy (over an existing loading area) that will be maintained in the [Q]P-1 zone, which are not permitted, pursuant to Section 12.12.1 A of the Municipal Code. The original intent of "footprint zoning" using the P-I Zone Classification was to create a physical constraint on the commercial development of properties throughout the City of Los Angeles. However, this planning tool is no longer the standard practice for land use and zoning and has since been replaced by building height and floor area limitations, specific plans and other planning tools. The applicant also requests a Variance to allow temporary and permanent loading at the front entrance during 5:00 a.m. to 7:00 p.m., located in the [Q]P-1 zone. The proposed loading and deliveries to the front entrance would be temporary, during the construction of the proposed sound wall. However, the proposed permanent change in loading and delivery location would be limited to small and medium-sized delivery vehicles. The applicant also requests a Variance to legalize an existing cargo container for incidental storage in the [Q]P-1 zone and to allow

the structure to be located one-foot from the existing building in lieu of the 10 feet required, as not otherwise allowed under LAMC Section 12.21 A.5.

## **BACKGROUND**

### **Existing Uses**

The subject site is located on a corner lot, approximately 235,677 square feet, at the intersection of Lincoln Boulevard and Rose Avenue within the Oakwood Subarea of the Venice Coastal Zone Specific Plan in the Venice Community Plan Area. The subject site consists of an irregularly shaped parcel that includes several lots, which maintains a mini shopping center (Lincoln Rose Shopping Center). The shopping center includes a Whole Foods Market, 99 Cent Retailer, CVS Pharmacy, laundry center (Venice Beach Laundry), and a surface parking lot that currently maintains 301 vehicle parking spaces in the front and rear parking areas. The eastern corner of the parcel includes a lot that maintains an Arco Gas Station and restaurant with an outdoor seating area.

The proposed project will be limited to the Whole Foods Market, which consists of approximately 53,468 square feet of floor area: 47,088-square-foot ground floor, 4,589-square-foot mezzanine, and the proposed 1,791 covered rear loading areas (currently uncovered and not calculated as floor area). The rear parking area includes two driveways at each end of the lot, accessed from 7<sup>th</sup> Avenue. The rear boundary of the lot, fronting 7<sup>th</sup> Avenue, includes two landscaped walls (6-foot tall hedges in front of a 3.5-foot concrete masonry wall) that extend approximately 122 feet and 61 feet in length along the center portion of the frontage. The existing loading dock, area, and ramp are situated parallel to 7<sup>th</sup> Avenue. The loading dock is currently completely enclosed by a concrete masonry wall and screened chain-link fence; the ramp and 72-square-foot loading area are adjacent to the dock.

### **Surrounding Zones and Uses**

The subject site fronts Lincoln Boulevard to the northeast, Rose Avenue to the southeast, 7<sup>th</sup> Avenue to the west, and abuts residential uses to the north. The properties along Lincoln Boulevard and those immediately north of the site consist of one and two-story commercial uses in the [Q]C2-1-CDO, within the boundaries of the Lincoln Boulevard Community Design Overlay. The properties immediately north, west, and south of the site along Machado Drive, 7<sup>th</sup> Avenue, and Rose Avenue, respectively consist primarily of residential uses. Those properties fronting Rose Avenue consist of both multi-family residential and commercial uses in the C2-1 and C4-1 zones; the properties fronting 7<sup>th</sup> Avenue consist primarily of single-family dwellings with several duplexes in the RD2-1 zone; the properties to the north along Machado Drive consist of single and multi-family dwellings in the RD1.5-1 and R3-1 zones. The heights of the residential structures in the neighborhood vary from one to two stories. The subject site is approximately 275 feet from the City of Santa Monica border (to the north), 0.2 miles from the Penmar Golf Course (to the east), and 0.8 miles from Venice Beach (to the west).

### **Streets and Circulation**

Lincoln Boulevard: provides the main frontage and adjoins the property to the northeast; Lincoln Boulevard is a designated Scenic Major Highway – Class II (not a State-designated Scenic Highway) with a dedicated roadway width of approximately 100 feet.

Rose Avenue: adjoins the subject property to the southeast and is a designated Collector Street with a dedicated width that varies between 73 and 85 feet.

7<sup>th</sup> Avenue: adjoins the property to the west and is a designated Local Street with a dedicated width of approximately 60 feet.

Machado Drive: is located north of the subject site and is a designated Local Street with a dedicated width that varies between 50 and 55 feet.

## **ISSUES**

### **Noise**

The existing commercial center is part of a commercial corridor along Lincoln Boulevard and is located at the intersection of Lincoln Boulevard and Rose, two heavily used corridors. However, the properties west of the subject site, along 7<sup>th</sup> Avenue, face the rear loading dock and delivery area of Whole Foods Market and are impacted by the noise associated with the delivery/loading activities: idling engines, braking and gear shifting, mechanical equipment, carts, pallets, and workers. Although the rear yard currently maintains a concrete masonry wall with a six-foot-tall hedge, the wall does not continuously span the rear property line. Furthermore, a 60-foot section of frontage (location of proposed sound wall) exposes the loading dock to the residential uses.

### **Parking**

The Venice Specific Plan requires commercial uses such as supermarkets to provide additional parking at a rate of one space for each 225 square feet of floor area. The proposed enclosure of an existing loading area would result in an additional 1,791 square feet of floor area to the site, requiring eight new parking spaces. The mini shopping center currently provides 301 parking spaces onsite but would need to maintain a total of 310 parking spaces onsite. Although Whole Foods Market employees are directed not to park on the residential streets adjacent to the site, there have been issues related to parking overflow into the residential neighborhoods. The rear parking area currently provides 31 spaces, however, one space will be removed as a result of the construction of the proposed sound wall.

## **CONCLUSION**

The Department recommends the conditioned approval of the Specific Plan Exception, Conditional Use Permit, Variances, Coastal Development Permit and Specific Plan Project Permit compliance as discussed in this report. The Department of City Planning has considered the proposed project, the surrounding land uses and zones and concludes that the requested entitlements for the subject site would be appropriate. The sound wall, enclosed loading dock, added canopy over a landing, and permitting loading activities from 5:00 a.m. to 7:00 a.m. will address the loading noise problems as discussed. The cargo container that provides incidental storage is considered as equipment and therefore additional off-street parking is not required per the City of Los Angeles Department of Building and Safety, LABC Reference 101.4, Document P/BC 2014-104.

The site has been used as a grocery store and other retail uses since 1966 as demonstrated by the Certificate of Occupancy. This has established certain rights to operation and parking levels. Testimony and communications indicate that the activity level of the store increased when the space was occupied by the current, well known tenant. The provisions of the LAMC, the Venice Coastal Specific Plan, or other provision do not contain provisions regarding activity levels. It should be noted that the grocery store has an active Conditional Use Permit, ZA-2007-5397-CUB, to allow for the sale and consumption of alcoholic beverages.

The parking reduction request is necessary due to the enclosure of the loading dock. The loading dock and landing area will continue that use but will not increase vehicular trips. The loading area is not indented for customer use or access. The removal of one (1) parking space

is to allow the construction of the sound wall. The Venice Neighborhood Council, parts of the Public Hearing testimony, and opponents of the project indicate that the parking problem is caused by employees parking in residential areas. The provisions of the Specific Plan and the LAMC do not provide for employee parking as a separate requirement.

The Department of City Planning recommends Conditions of Approval in the Conditions section of this report that can be administered and implemented with the provisions of the Specific Plan, the Los Angeles Municipal Code (LAMC), and other laws and policies. Recommendations regarding terms of employment, parking beyond the Specific Plan or LAMC requirements, store operations, and conditions related to other entitlements for this site have not been included as the nexus for their inclusion cannot be established due the scope of the request or legal limitations. The Specific Plan and the LAMC provide for parking amounts related to the floor area of the use based on formulas established by the Department of Transportation. These provisions do not provide a standardized formula for employee parking separate from the entire use as a grocery store.

The Department of City Planning has considered the requests for complaint resolution provisions from the community regarding the operations of the grocery store. The project description is the construction of a sound wall, the enclosing of a loading dock, the covering of a landing area, and a zone variance to allow a cargo container to be closer to the building than otherwise allowed. While the Department recognizes the request from the community, a nexus for establishing a general complaint resolution provision regarding store operation cannot be made with this request. The Department recommends conditions regarding loading operations exclusively at this time.

The Department of City Planning understands that the applicant and the interested community members prepared Volunteered Conditions of Approval. It should be noted that a version of those Conditions of Approval are part of the public record but are not fully included in this recommendation report for the reasons stated herein.



## CONDITIONS OF APPROVAL

### A. Entitlement Conditions

1. **Site Plan.** Prior to the issuance of any building permits for the subject project, detailed development site and elevation plans including complete landscape and irrigation plan by a licensed landscape architect or architect, shall be submitted for review and approval by the Department of City Planning for verification of compliance with the imposed conditions. The plans shall be modified from the site plans labeled as Exhibit "B" stamped and dated May 16, 2014, to comply with the parking provisions of the Venice Coastal Specific Plan or as modified by the West Los Angeles Area Planning Commission attached to the subject case file. Minor deviations may be allowed in order to comply with provisions of the Municipal Code, the subject conditions, and the intent of the subject permit authorization. This approval is for a new Sound Wall, an enclosed loading dock, installation of a canopy over an existing landing area, and loading from the front of a grocery store between the hours of 5:00 a.m. and 7:00 a.m.
2. **Parking Reduction.** A Specific Plan Exception is granted to permit relief from providing the required nine parking spaces in lieu of otherwise required parking. This exception shall be applicable to the existing buildings/structures only. Any demolition, addition of any floor area or height increase on the existing buildings shall render this Exception null and void requiring a new Discretionary Action.
3. **Loading - Permanent.** A Conditional Use Permit is granted to permit loading and unloading in the front entrance of the supermarket between the hours of 5:00 a.m. to 7:00 a.m. as not otherwise permitted pursuant to Section 12.22 A.23 (b)(3) of the Municipal Code.
4. **Enclosed Loading Dock.** A Variance is granted to permit the construction, use, and maintenance of 539 square feet of an enclosed loading dock. 72 square feet of the new canopy over the existing landing area and 320 square feet of a cargo container for incidental storage would be located in the [Q]P-1 Zone which is not permitted pursuant to Section 12.12.1 A of the Municipal Code.
5. **Loading in the [Q]P-1 zone.** A variance is granted to permit deliveries and loading at the front entrance of the existing supermarket, between the hours of 5:00 a.m. to 7:00 a.m., located in the [Q]P-1 zone as otherwise not permitted pursuant to Section 12.12.1 A of the Municipal Code. The variance request is to temporarily allow all delivery and loading activities to occur at the front entrance during construction of the proposed sound wall and loading dock, and to permanently allow small and medium-sized delivery vehicles to continue deliveries and loading activities at the front entrances.
6. **Cargo Container.** A variance is granted to permit the location of the cargo container for incidental storage to be one foot from the building in lieu of the 10 feet required as not otherwise allowed under Section 12.21 A.5 of the Municipal Code.

### B. Other Conditions

7. **Deliveries.** Deliveries shall be permitted at the front entrance between the hours of 5:00 a.m. to 7:00 a.m. Deliveries shall be conveyed directly from cargo vehicles into the store using loading equipment that does not operate with audible signaling devices unless other provisions from the City, County, State, or Federal codes require these devices as part of their operation. The area at the rear of the store shall not be used for receiving

deliveries during these hours. No Items delivered or unloaded in the front parking lot shall be moved to the loading area at the rear of the store during these hours. Deliveries and unloading at the rear loading area are permitted Monday through Saturday from 7:00 a.m. to 7:00 p.m. and Sunday from 9:00 a.m. to 6:00 p.m. Deliveries in the rear of the store shall only be permitted in the Loading Dock or entirely behind the Sound Wall. No loading activities are permitted from any Public Street to the subject site. Trucks are not permitted to stop, stand, or circulate on adjacent residential streets while cueing to access the approved loading areas. The applicant shall ensure that vendors making deliveries are notified of these restrictions and required to comply.

8. **Sound Wall.** The applicant shall construct the proposed Sound Wall abutting Seventh Avenue using the best available noise attenuation materials and technology, in substantial conformance with the plans attached as Exhibit B.
9. **Loading Dock.** The enclosed Loading Dock shall be upgraded using the noise attenuation materials and assembly as proposed and designed by an acoustical engineer in substantial conformance with the plans attached as Exhibit B. The size of the Loading Dock shall be in conformance with the plans attached as Exhibit B. Trucks that require the continuous operation of engines, compressors or are otherwise particularly noisy shall be fully accommodated within the space of the enclosed Loading Dock or behind the Sound Wall for noise attenuation. The applicant is advised that adequate ventilation may be required by the Department of Building and Safety. The Loading Dock shall be used for active loading and unloading activities and not for parking of vehicles or storage of products or materials.
10. **Loading Activities.** Noise from the moving of pallets shall be minimized by setting pallets down and avoid dropping pallets. Noise from carts or other moving equipment shall be minimized by replacing steel wheels with wheels that attenuate noise (rubber, plastic or other material).
11. **Loading Operation Complaint Monitoring.** The applicant shall identify a contact person and provide a 24-hour telephone number for the receipt of complaints on the loading operations of the subject facility. The phone number shall be posted on the site so that it is readily visible to an interested party at each of the entries and the Customer Service Desk. The telephone number shall be provided to abutting residential properties, the Neighborhood Council, the City Councilmember's Office and interested parties that request this contact information once every 12 months. Calls received during non-operating hours shall be returned within 24 hours of the following business day. The applicant shall keep a log of inquiries on loading operation complaints received, the date and time received and the disposition of the response. The log shall be retained for a minimum of two years and shall be made available on request to the Planning Department for review.

Thirty days after the final approval of this grant, the store operator shall appoint a community liaison. The store shall notify the Planning Department, the Department of Building and Safety, the Council District Office, and the Venice Neighborhood Council the name and phone number of the community liaison. The community liaison shall meet with the Venice Neighborhood Council once a year to discuss Loading operations.

12. **Plan Approval.** Pursuant to Sec. No 12.24.M, two (2) years and five (5) years from the issuance of a Certificate of Occupancy for the loading dock, the store operator shall file a Plan Approval application, the log of inquiries filed with the store operator and the Council Office, and associated fees together with mailing labels for all property owners and tenant within 500 feet of the subject property. The matter shall be set for public

hearing with appropriate notice. The purpose of the Plan Approval shall be to review the effectiveness of, and compliance with, the terms of conditions of this grant for loading operations specifically, and the promptness of the store's response to neighborhood complaints. Upon review of the effectiveness of and compliance with the conditions, the Area Planning Commission, or the Director of Planning as the designee, may add new terms and conditions or delete them, as deemed appropriate.

### **C. Environmental Conditions (MM)**

#### **13. Aesthetics**

- a. Every building, structure, or portion thereof, shall be maintained in a safe and sanitary condition and good repair, and free from, debris, rubbish, garbage, trash, overgrown vegetation or other similar material, pursuant to Municipal Code Section 91.8104. (MM)
- b. The exterior of all buildings and fences shall be free from graffiti when such graffiti is visible from a public street or alley, pursuant to Municipal Code Section 91,8104.15. (MM)

#### **14. Aesthetics (Signage on Construction Barriers)**

- a. The applicant shall affix or paint a plainly visible sign, on publically accessible portions of the construction barriers, with the following language: "POST NO BILLS". (MM)
- b. Such language shall appear at intervals of no less than 25 feet along the length of the publically accessible portions of the barrier. (MM)
- c. The applicant shall be responsible for maintaining the visibility of the required signage and for maintaining the construction barrier free and clear of any unauthorized signs within 48 hours of occurrence. (MM)

**15. Aesthetics** – Walls that can be viewed from the adjacent public right-of-way shall incorporate one or more of the following to minimize their visibility: clinging vines, espaliered plants, or other vegetative screening, decorative masonry, or other varied and textured façade; the method of compliance with this measure shall be noted on the required project plans. (MM)

#### **16. Air Pollution (Demolition, Grading, and Construction Activities)**

- a. All unpaved demolition and construction areas shall be wetted at least twice daily during excavation and construction, and temporary dust covers shall be used to reduce dust emissions and meet SCAQMD District Rule 403. (MM)
- b. The construction area shall be kept sufficiently dampened to control dust caused by grading and hauling, and at all times provide reasonable control of dust caused by wind. (MM)
- c. All clearing, earth moving, or excavation activities shall be discontinued during periods of high winds (i.e., greater than 15 mph), so as to prevent excessive amounts of dust. (MM)
- d. All dirt/soil loads shall be secured by trimming, watering or other appropriate means to prevent spillage and dust. (MM)
- e. All dirt/soil materials transported off-site shall be either sufficiently watered or securely covered to prevent excessive amount of dust. (MM)
- f. General contractors shall maintain and operate construction equipment so as to minimize exhaust emissions. (MM)
- g. Trucks having no current hauling activity shall not idle but be turned off. (MM)

**17. Cultural Resources (Archaeological)**

- a. If any archaeological materials are encountered during the course of project development, all further development activity shall halt and:
- b. The services of an archaeologist shall then be secured by contacting the South Central Coastal Information Center (657-278-5395) located at California State University Fullerton, or a member of the Society of Professional Archaeologist (SOPA) or a SOPA-qualified archaeologist, who shall assess the discovered material(s) and prepare a survey, study or report evaluating the impact. (MM)
- c. The archaeologist's survey, study or report shall contain a recommendation(s), if necessary, for the preservation, conservation, or relocation of the resource. (MM)
- d. The applicant shall comply with the recommendations of the evaluating archaeologist, as contained in the survey, study or report. (MM)
- e. Project development activities may resume once copies of the archaeological survey, study or report are submitted to: SCCIC Department of Anthropology, McCarthy Hall 477, CSU Fullerton, 800 North State College Boulevard, Fullerton, CA 92834. (MM)
- f. Prior to the issuance of any building permit, the applicant shall submit a letter to the case file indicating what, if any, archaeological reports have been submitted, or a statement indicating that no material was discovered. (MM)
- g. A covenant and agreement binding the applicant to this condition shall be recorded prior to issuance of a grading permit. (MM)

**18. Seismic** - The design and construction of the project shall conform to the California Building Code seismic standards as approved by the Department of Building and Safety. (MM)

**19. Stormwater Pollution (Demolition, Grading, and Construction Activities)**

- a. Leaks, drips and spills shall be cleaned up immediately to prevent contaminated soil on paved surfaces that can be washed away into the storm drains. (MM)
- b. All vehicle/equipment maintenance, repair, and washing shall be conducted away from storm drains. All major repairs shall be conducted off-site. Drip pans or drop clothes shall be used to catch drips and spills. (MM)
- c. Pavement shall not be hosed down at material spills. Dry cleanup methods shall be used whenever possible. (MM)
- d. Dumpsters shall be covered and maintained. Uncovered dumpsters shall be placed under a roof or be covered with tarps or plastic sheeting. (MM)

**20. Increased Noise Levels (Demolition, Grading, and Construction Activities)**

- a. The project shall comply with the City of Los Angeles Noise Ordinance No. 144,331 and 161,574, and any subsequent ordinances, which prohibit the emission or creation of noise beyond certain levels at adjacent uses unless technically infeasible. (MM)
- b. Construction and demolition shall be restricted to the hours of 7:00 am to 6:00 pm Monday through Friday, and 8:00 am to 6:00 pm on Saturday. (MM)
- c. Demolition and construction activities shall be scheduled so as to avoid operating several pieces of equipment simultaneously, which causes high noise levels. (MM)
- d. The project contractor shall use power construction equipment with state-of-the-art noise shielding and muffling devices. (MM)

**21. Public Services (Police – Demolition/Construction Sites)** - Fences shall be constructed around the site to minimize trespassing, vandalism, short-cut attractions and attractive nuisances. (MM)

**22. Public Services (Street Improvements Not Required By DOT)**

- a. The project shall comply with the Bureau of Engineering's requirements for street dedications and improvements that will reduce traffic impacts in direct portion to those caused by the proposed project's implementation. (MM)
- b. The project shall comply with the Order to Comply Letter, dated May 14, 2013 (reference number 20013-00099), issued by the Department of Public Works, Bureau of Engineering. (MM)

**23. Safety Hazards**

- a. The developer shall install appropriate traffic signs around the site to ensure pedestrian and vehicle safety. (MM)
- b. The applicant shall submit a parking, driveway, and circulation plan that incorporates design features that reduce accidents to the Bureau of Engineering and the Department of Transportation. (MM)

**24. Utilities (Solid Waste Recycling)**

- a. **(Construction/Demolition)** Prior to the issuance of any demolition or construction permit, the applicant shall provide a copy of the receipt or contract from a waste disposal company providing services to the project, specifying recycled waste service(s), to the satisfaction of the Department of Building and Safety. The demolition and construction contractor(s) shall only contract for waste disposal services with a company that recycles demolition and/or construction-related wastes. (MM)
- b. **(Construction/Demolition)** To facilitate on-site separation and recycling of demolition- and construction-related wastes, the contractor(s) shall provide temporary waste separation bins on-site during demolition and construction. These bins shall be emptied and the contents recycled accordingly as a part of the project's regular solid waste disposal program. (MM)

**25. Cumulative Impacts** - There may be environmental impacts which are individually limited, but significant when viewed in connection with the effects of past projects, other current projects, and probable future projects. However, these cumulative impacts will be mitigated to a less than significant level through compliance with the above mitigation measures. (MM)

**26. Effects On Human Beings** - The project has potential environmental effects which cause substantial adverse effects on human beings, either directly or indirectly. However, these potential impacts will be mitigated to a less than significant level through compliance with the above mitigation measures. (MM)

**27. End** - The conditions outlined in this proposed mitigated negative declaration which are not already required by law shall be required as condition(s) of approval by the decision-making body except as noted on the face page of this document. Therefore, it is concluded that no significant impacts are apparent which might result from this project's implementation. (MM)

**C. Administrative Conditions**

**28. Approval, Verification and Submittals.** Copies of any approvals, guarantees or verification of consultations, review or approval, plans, etc., as may be required by the subject conditions, shall be provided to the Department of City Planning for placement in the subject file.

- 29. Code Compliance.** Area, height and use regulations of the zone classification of the subject property shall be complied with, except where herein conditions may vary.
- 30. Covenant.** Prior to the issuance of any permits relative to this matter, an agreement concerning all the information contained in these conditions shall be recorded in the County Recorder's Office. The agreement shall run with the land and shall be binding on any subsequent property owners, heirs or assigns. The agreement shall be submitted to the Department of City Planning for approval before being recorded. After recordation, a copy bearing the Recorder's number and date shall be provided to the Department of City Planning for attachment to the file.
- 31. Definition.** Any agencies, public officials or legislation referenced in these conditions shall mean those agencies, public offices, legislation or their successors, designees or amendment to any legislation.
- 32. Enforcement.** Compliance with these conditions and the intent of these conditions shall be to the satisfaction of the Department of City Planning and any designated agency, or the agency's successor and in accordance with any stated laws or regulations, or any amendments thereto.
- 33. Project Plan Modifications.** Any correction and/or modifications to the Project plans made subsequent to this grant that are deemed necessary by the Department of Building and Safety, Housing Department, or other Agency for Code compliance, and which involve a change in site plan, floor area, parking, building height, yard or setbacks, building separations, or lot coverage, shall require a referral of the revised plans back to the Department of City Planning for additional review and final sign-off prior to the issuance of any building permit in connection with said plans. This process may require additional review and/or action by the appropriate decision making authority including the Director of Planning, City Planning Commission, Area Planning Commission or Board.
- 34. Utilization of Concurrent Entitlement.** The subject Specific Plan Exception, Zone Variance, Coastal Development Permit, and Project Determination requires completion of all applicable conditions of approval herein to the satisfaction of the Department of City Planning and the effective date of the Specific Plan Exception, Zone Variance, Coastal Development Permit, and Project Determination shall coincide with that of the associated Final Parcel Map Exemption on the property involved. The applicant/owner shall have a period of two years from the effective date of the subject Final Parcel Map Exemption to effectuate the terms of for the Specific Plan Exception, Zone Variance, Coastal Development Permit, and Project Determination entitlement by either securing a building permit or a Certificate of Occupancy for the authorized use, or unless prior to the expiration of the time period to utilize the grant, the applicant files a written request, and is granted an extension to the termination period for up to one additional year pursuant to applicable provisions of the Municipal Code.

Thereafter, the entitlements shall be deemed terminated and the property owner shall be required to secure a new authorization for the use. If a building permit is obtained during this period, but subsequently expires, this determination shall expire with the building permit.

- 35. Corrective Conditions.** 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 City Planning Commission, or the Director of Planning, pursuant to Section 12.27.1 of the Municipal Code, to impose additional corrective conditions, if in the decision makers

opinion, such actions are proven necessary for the protection of persons in the neighborhood or occupants of adjacent property.

**36. Indemnification.** The applicant shall defend, indemnify and hold harmless the City, its agents, officers, or employees from any claim, action, or proceeding against the City or its agents, officers, or employees relating to or to attack, set aside, void or annul this approval which action is brought within the applicable limitation period. The City shall promptly notify the applicant of any claim, action, or proceeding and the City shall cooperate fully in the defense. If the City fails to promptly notify the applicant of any claim, action, or proceeding, or if the City fails to cooperate fully in the defense, the applicant shall not thereafter be responsible to defend, indemnify, or hold harmless the City.

## FINDINGS

### GENERAL PLAN FINDINGS.

- 1. General Plan Land Use Designation.** The subject property is located within the Venice Community Plan, adopted by the City Council on April 28, 1980 (Case No. CPC 14311). A Community Plan Update was adopted by the City Council September 29, 2000 (Case No. CPC 97-0047 CPU). The Plan Map designates the subject property for Neighborhood Office Commercial land use. The subject site is zoned [Q]C2-1-CDO and [Q]P-1-CDO and is therefore consistent with the Neighborhood Office Commercial land use designation.
- 2. General Plan Text.** The Venice Community Plan text includes the following relevant land use objectives, policies, and programs:

#### Commercial Land Use

*Policy 2-1.5: Require that commercial projects be designed and developed to achieve a high level of quality, distinctive character and compatibility with surrounding uses and development.*

*Policy 2-3.3: Improve safety and aesthetics of parking lots and structures in commercial areas.*

- 3. Venice Coastal Zone Specific Plan.** The Specific Plan (Ordinance No. 175,693) was adopted by the City Council on December 2, 2003, effective January 19, 2004.

The Venice Coastal Zone Specific Plan regulates all development, including use, height, density, setbacks, buffer zones, and other factors in order that development is compatible and in character with the existing community, provide for the consideration of aesthetics and scenic preservation and enhancement, and to protect environmentally sensitive areas.

The project site is located in the Oakwood Subarea of the Venice Coastal Zone Specific Plan and the Local Coastal Program - Land Use Plan (LUP). The Specific Plan outlines parking requirements for Venice Coastal Development Projects; food stores, grocery stores, and supermarkets are required to provide parking at a ratio of one space for each 225 square feet of floor area. The proposed enclosure of the existing loading dock would require an additional eight space onsite while the construction of the proposed sound wall would remove one existing parking space. The project currently provides 302 parking spaces onsite and would be required to provide a total of 310 parking spaces.

- 4. Venice Coastal Zone Specific Plan Text.** The Venice Coastal Zone Specific Plan includes the following relevant land use policies applicable to projects within the :

- a. Parking (Section 13.D): Business and Commercial Uses – Food Store, Grocery Store, Supermarket, or similar use is required to provide one space for each 225 square feet of floor area.*

The subject site currently maintains a mini shopping center with a Whole Foods Market, 99 Cent Retailer and CVS Pharmacy which share a surface parking lot that provides 302 (existing) parking spaces onsite. The proposed enclosure of the existing loading area would add 1,791 square feet of floor area to the existing 51,677-square-foot supermarket and would be required to provide eight additional parking spaces, pursuant to Section 13.D of the Specific Plan. In addition, the construction of the proposed sound wall would



remove one existing parking space in the rear parking area. The applicant is seeking a Specific Plan Exception to allow for a total of 301 vehicle parking spaces onsite, in lieu of the required 310 spaces.

5. **Venice Local Coastal Program – Land Use Plan (LUP).** A Local Coastal Program (LCP) consists of a local government's Land Use Plan (LUP) and a Local Implementation Program (LIP). The LIP has not been certified by the State of California Coastal Commission, therefore a certified Local Coastal Program is not in place for the community of Venice. The Los Angeles City Council adopted the Venice Local Coastal Program - LUP on March 28, 2001. The Plan was subsequently certified by the California Coastal Commission on June 14, 2001. The Venice Land Use Plan (maintains the same boundaries of the Venice Coastal Zone Specific Plan) is the area generally bounded by Marine Street on the north, the City-County boundary, Washington Boulevard and Via Marina on the south, Lincoln Boulevard and Via Dolce on the east, and the Pacific Ocean on the west. The subject property is located within the Oakwood Subarea and is designated Neighborhood Commercial in the LUP.
6. **Coastal Transportation Corridor Specific Plan.** The Coastal Transportation Corridor Specific Plan became effective September 22, 1993 (Ordinance No. 168,999). The Specific Plan has established a mechanism and fee structure for new construction to fund the necessary transportation improvements in the area.
7. **The Transportation Element** of the General Plan will not be affected by the recommended action herein.
8. **The Sewerage Facilities Element** of the General Plan will not be affected by the recommended action.
9. **Environmental Findings (CEQA).** An environmental review of the project has been conducted, in full compliance with the California Environmental Quality Act. Accordingly, a mitigated negative declaration has been prepared for the project, incorporating those mitigation measures which are required in order to reduce any potentially significant environmental effects to a level less than significant. The project will comply with all such mitigation measures. For the reasons set forth in Proposed Mitigated Negative Declaration No. ENV 2014-1762-MND, the project will not have a significant effect on the environment.

**VENICE COASTAL ZONE SPECIFIC PLAN EXCEPTION FINDINGS.** Pursuant to LAMC Section 11.5.7 F.

10. ***The strict application of the regulations of the specific plan to the subject property WOULD result in practical difficulties or unnecessary hardships inconsistent with the general purpose and intent of the specific plan.***

The subject Specific Plan Exception is being requested to permit relief from the Specific Plan parking requirement: eight additional parking spaces required and the removal of one existing parking space. The surface parking lot currently maintains 302 vehicle parking spaces, however, the proposed enclosure of the existing loading dock requires that 310 parking spaces be provide onsite. The parking lot is shared by the commercial businesses in the Lincoln Rose Shopping Center: Whole Foods Market, 99 Cent Retailor, CVS Pharmacy, and the Venice Beach Laundry.

The Venice Coastal Zone Specific Plan requires parking at a ratio of 1 space for each 225 square feet, a higher ratio than the LAMC. The proposed enclosure of the existing loading dock would not result in a change of use or a higher intensity of use. The area would still

function as a loading area for delivery vehicles and would not create an additional demand for parking onsite. Similarly, the removal of one existing parking space (within the rear lot), in order to accommodate the construction of a new sound wall, would not significantly decrease the amount of parking available to the employees and visitors of the shopping center. The Specific Plan maintains more restrictive parking requirements than the LAMC parking regulations due to the lack of adequate parking in areas near Venice Beach as well as along commercial corridors (adjacent to residential neighborhoods) with nonconforming uses that provide inadequate onsite parking. However, the proposed project would not result in a greater number of visitors or vehicle trips. Enclosing the loading area and construction of a new sound wall would further buffer the noise associated with the loading area and mitigate the impact of the Whole Foods Market. Therefore, the strict application of the parking requirements of the Specific Plan would result in practical difficulties and unnecessary hardship that is inconsistent with the purpose and intent of the Specific Plan.

**11. *There ARE exceptional circumstances or conditions that are applicable to the subject property or to the intended use or development of the subject property that do not generally apply to other properties within the specific plan area.***

The Specific Plan Exception is necessary due to the Parking Requirements of the Specific Plan. However, the inability to conform to the parking provisions of the Plan are due to the volunteered effort (of the applicant: Whole Foods Market) to further mitigate the noise impact of the rear loading area to the residential neighborhood adjacent to the site. The subject site maintains a fully developed shopping center that includes a Whole Foods Market, 99 Cent Retailer, CVS Pharmacy, Venice Laundry Center, and surface parking lot with a small rear parking area. The site also abuts a small restaurant and gas station (eastern corner of the block), which is not included in the project area. The proposed project is subject to the parking provisions of the Specific Plan because the proposed enclosed loading dock is counted as floor area. However, because the enclosed loading dock area will continue to operate as a loading dock for receiving deliveries (loading and unloading only), the addition of floor area will not result in a change in intensity of use; the number of vehicle trips and visitors will not be impacted (Department of Transportation Referral Form, May 13, 2014). The proposed construction of a 14-foot-tall sound wall will also eliminate one existing parking space from the rear parking area. However, the proposed enclosure of the loading area and construction of a sound wall will benefit the adjacent residential uses by buffering noise related to the daily operation of the loading area. The benefit of both actions will more than offset the loss of one parking space and the requirement of eight additional spaces.

**12. *The requested exception IS necessary for the preservation and enjoyment of a substantial property right or use generally possessed by other property within the geographically specific plan in the same zone and vicinity but which, because of such special circumstances and practical difficulties or unnecessary hardships is denied to the property in question.***

The subject property has been operating as a shopping center for more than 48 years. Prior to being occupied by Whole Foods Market, the commercial space has been maintained as a market since December 9, 1966, as indicated by a Certificate of Occupancy Permit No. WLA60952/65 and WLA66056/66. Currently the grocery store has a floor area of approximately 53,468 square feet and 302 parking spaces. The loading area of approximately 1,791 sq. ft. is directly across the street from residential uses and will be covered to address the resident's concerns regarding noise from loading activities. The reduction of the number of parking spaces is to allow for the construction of the proposed sound wall and covering of the loading area. The grocery store is an appropriate use given the current Neighborhood Commercial land use designation and [Q]C2-1 zone.

**13. The granting of the exception WILL NOT BE detrimental to the public welfare or injurious to property or improvements adjacent to or in the vicinity of the subject property.**

The requested exception is to provide relief from the required nine additional parking spaces: eight additional parking spaces are required due to the enclosure of the existing loading dock and one existing parking space will be removed in order to construct the proposed sound wall. The primary goal of the project is to attenuate noise from loading activities that impacted residential use in the immediate area. The applicant determined that the enclosing of existing loading dock and addition of a Sound Wall would significantly address the noise issue of primary concern. The addition of a roof and wall to the loading dock would technically increase the building's floor area square footage and require parking spaces although this area would continue to function as a loading dock. This change would not produce additional vehicular trips but would result in a loss of one (1) parking space for the area. Given the minor loss of one parking space and the significant reduction of noise impacts on residential uses leads to the conclusion that the granting of the exception will not be detrimental to the public welfare or injurious to property or improvements in the vicinity.

**14. The granting of the exception is consistent with the principles, intent and goals of the Specific Plan and any applicable element of the General Plan.**

The subject site is designated Neighborhood Commercial in the Venice Community Plan.

The plan states (p. III-7), "Several areas in the Plan are designated for Neighborhood Commercial uses, totaling 15 acres. **They are characterized by small-scale commercial establishments that provide daily convenience services to local residents.** They include the west side of Abbot Kinney Boulevard between Washington Way and South Venice Boulevard; **the west side of Lincoln Boulevard bounded by Rose and Seventh Avenues and Machado Drive;** the west side of Main Street north of Rose Avenue; and the blocks bounded by Pacific and Westminster Avenues, and Market and Main Streets."

The Community Plan designates this site for neighborhood commercial uses which provide daily convenient services to local residents. Granting the subject application facilitates that designation, but allows it to continue in a manner which will lessen the impact on abutting residences along Seventh Avenue.

However, the General Plan also acknowledges the role of the subject site being located along Lincoln Boulevard (p. III-8):

"Lincoln Boulevard, the major north-south arterial traversing the Venice Community Plan Area, is part of California State Route 1. Because it carries traffic from Los Angeles International Airport to Santa Monica and other westside communities, it serves both local and transient populations."

In fulfillment of this purpose, the Plan identifies the following Goals and Objectives:

**GOAL 1: A SAFE, SECURE, AND HIGH QUALITY RESIDENTIAL ENVIRONMENT FOR ALL COMMUNITY RESIDENTS.**

The subject application will contribute to a safe, secure and high quality environment for those residents abutting along Seventh Avenue.

***Objective 1-1.2 Protect the quality of the residential environment and the appearance of communities with attention to site and building design.***

Planning regulations should help, not hinder, modifications to the site and building design which support compatibility with the surrounding residential environment.

***GOAL 2: A STRONG AND COMPETITIVE COMMERCIAL SECTOR WHICH PROMOTES ECONOMIC VITALITY, SERVES THE NEEDS OF THE COMMUNITY THROUGH WELL DESIGNED, SAFE AND ACCESSIBLE AREAS WHILE PRESERVING THE HISTORIC, COMMERCIAL AND CULTURAL CHARACTER OF THE COMMUNITY.***

***Objective 2-1 To conserve and strengthen viable commercial development in the community and to provide additional opportunities for new commercial development and services within existing commercial areas.***

The subject application supports a thriving commercial development and allows it to continue providing vital community services.

***Objective 2-1.1 New commercial uses shall be located in existing established commercial areas or shopping centers.***

The subject application enables the economic vitality of an existing use in an established commercial center.

***Program: The Plan designates adequate land for commercial uses and the Plan Map identifies areas where commercial uses are permitted, generally located along major thoroughfares, recreational centers and other focal points of community activity.***

The site has been designated for the intended use. Whole Foods takes additional care to make sure that the designation does not have to unnecessarily impact the abutting residential properties. The approval of the Specific Plan Exception will not undermine the general purpose of Venice Coastal Specific Plan to protect, maintain, and enhance the quality of the Coastal Zone environment. The goals of the project is to mitigate the neighborhood concerns regarding noise generated at loading areas and memorializing the use of a storage container for storage purposes.

**CONDITIONAL USE PERMIT FINDINGS.** Pursuant to LAMC Section 12.24 W. 27

**15. That 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.**

Loading in the front of the market will decrease the amount of loading activities in the rear of the market and improve circulation within the loading bay. The request is to allow Temporary (all deliveries during construction of the sound wall and loading dock) and Permanent (small and medium-sized delivery vehicles) loading in the front entrance of the supermarket between the hours of 5 a.m. to 7 a.m.

The hours of 5 a.m. - 7 a.m. are critical in that the market opens at 7 a.m., 7 days a week. This will minimize the interaction between loading activities and customer service while increasing efficiencies and safety. This is a neighborhood-oriented use and the community requires access to the market no later than 7 a.m.

**16. That 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.**

Loading in the front of the market has a positive impact on the public welfare. Abutting properties in the front are all commercial and the property faces a Major Highway (Lincoln Boulevard). Loading in the front of the market will decrease the amount of loading activities in the rear of the market and improve circulation within the loading bay. The request is to allow Temporary (all deliveries during construction of the sound wall and loading dock) and Permanent (small and medium-sized delivery vehicles) loading in the front entrance of the supermarket between the hours of 5 a.m. to 7 a.m.

The hours of 5 a.m. - 7 a.m. are critical in that the market opens at 7 a.m., 7 days a week. This will minimize the interaction between loading activities and customer service while increasing efficiencies and safety. This is a neighborhood-oriented use and the community requires access to the market no later than 7 a.m.

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

The subject site is designated Neighborhood Commercial in the Venice Community Plan. The plan states (p. III-7), "Several areas in the Plan are designated for Neighborhood Commercial uses. *They are characterized by small-scale commercial establishments that provide daily convenience services to local residents.* They include the west side of Abbot Kinney Boulevard between Washington Way and South Venice Boulevard; *the west side of Lincoln Boulevard bounded by Rose and Seventh Avenues and Machado Drive*; the west side of Main Street north of Rose Avenue; and the blocks bounded by Pacific and Westminster Avenues, and Market and Main Streets."

The Community Plan designates this site for neighborhood commercial uses which provide daily convenient services to local residents. Granting the subject application facilitates that designation, but allows it to continue in a manner which will lessen the impact on abutting residences to the rear along Seventh Avenue.

The Venice Coastal Zone Specific Plan is silent on the issue of loading hours.

**18. That based on data provided by the City Department of Transportation or by a licensed traffic engineer, that ingress to and egress from the project will not create a traffic hazard or cause significant traffic congestion or disruption of vehicular circulation on adjacent streets.**

The enclosed loading dock area will continue to operate as a loading dock for receiving deliveries (loading and unloading only), the addition of floor area will not result in a change in intensity of use; the number of vehicle trips and visitors will not be impacted (Department of Transportation Referral Form, May 13, 2014). The front of the market has adequate path of travel for the requested loading use.

**19. That project approval will not create or add to a detrimental concentration of Mini-Shopping Centers Commercial Corner Developments in the vicinity of the proposed project.**

The surrounding center is existing and no other properties will be impacted. No new Shopping Centers are proposed. The proposed project is a modification of existing facilities.

## **ZONE VARIANCE FINDINGS**

### **20. The strict application of the provisions of the Zoning Ordinance would result in practical difficulties or unnecessary hardships inconsistent with the general purpose and intent of the zoning regulations.**

#### Activities and Structures in the P Zone:

The project proponent has requested a Zone Variance to locate 539 sq. ft. of the loading dock, 320 sq. ft. of a cargo container for incidental storage, 72 sq. ft. of a canopy over the landing area and loading at the front of the market within the P Zone Classification. As stated in a grant for a similar application, ZA 2008-1988 (ZV), the Zoning Administrator was able to make the following finding of fact:

"The original intent of "footprint zoning" using the P-I Zone Classification was to create a physical constraint on the commercial development of properties throughout the City of Los Angeles. However, this planning tool is no longer the standard practice for land use and zoning and has since been replaced by building height and floor area limitations, specific plans and other planning tools. During the AB283 General Plan Zone Consistency Program, consideration was given to an outright elimination of the P Zone. However, staff concluded it would be more effective to consider zone changes on a case-by-case basis in order to tailor mitigation measures to the uniqueness of the site and proposed use.

Such regulations are written on a citywide basis and cannot take into account individual unique characteristics of a specific property as well as consider dynamic changes in the economy and the use of land. However, a variance is a grant of permission to depart from the literal enforcement of a zoning ordinance and allow the property to be used in a manner otherwise not permitted, provided that the spirit of the ordinance is observed and substantial justice is done without detrimental impacts to the community.

Strict application of the Zoning Ordinance would result in unnecessary hardship by eliminating the project proponent's ability to use P Zone portion of the subject site. This is not a self-imposed hardship considering the City has not provided another effective method of allowing use of the P Zone."

The same finding of fact holds true for the subject application.

The applicant has agreed with a request by the neighbors abutting the subject site across Seventh Avenue to the west to accept all deliveries during construction and deliveries from small and medium sized trucks permanently through the front entrance of the market. In order to facilitate this requirement, the market must allow said deliveries to occur between the hours of 5 a.m. - 7 a.m. so that the deliveries are complete prior to the market opening at 7 a.m. This frees up the new enclosed loading dock in the rear of the market for large deliveries and is a critical element to the neighborhood agreement and quality of life. Staff finds that this meets the spirit and intent of the Zoning Code.

#### Setback of Storage Container:

The location of the cargo container incidental to storage being 1-foot from the building is the best location considering the site design and layout. There is adequate access to the building since this is such a long frontage. In addition, Q Condition 7, Ordinance 179,906 on the property which created the zone states, "c. Utilities, storage areas, trash containers, air conditioning units, fire alarms, and similar equipment shall be placed to the rear of the site or

underground when feasible. If not feasible, structures housing such elements shall be screened with landscaping or designed in a way as to be as inconspicuous as possible.” This is the best location in the rear of the site for the container to be located.

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

The subject site consists of multiple lots totaling approximately 235,677 square feet. A large surface parking lot is located along the Lincoln Boulevard frontage with an additional parking lot in the rear, as well as perimeter parking spaces around the property.

The key special circumstance applicable to the subject property is limited options for development due to the location and orientation of the existing building on the subject site. In fact, it is the only feasible location for the proposed modifications. The loading dock is existing at this location and the encroachment only enables enclosure for noise mitigation purposes.

The container, while in the P Zone, does not eliminate parking, nor does it increase parking demand. The same holds true for the canopy.

Therefore, while other properties with footprint zoning may eliminate viable parking alternatives through encroachment, the subject site as currently designed can accommodate the proposed alterations without any negative impact on parking. The installation of the desired sound wall eliminates one (1) parking space.

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

The variance request should be considered given the nature of the use and development limitations due to the P Zone, configuration of the site, and limitations for development on the site due to existing buildings. Due to the unique footprint zoning of the site, the ability of this property to meet the needs of the property owner and their ability to address community requests are unnecessarily constrained. The approval is necessary to circumvent imposition of an antiquated zoning and land use pattern no longer employed by the City of Los Angeles, and but for the City's lack of initiating a rezoning, said antiquated zone continues to exist on the subject property.

The granting of the requested variance will allow a substantial and consistent use of the subject property with those properties in the same zone, plan designation and vicinity, thus overcoming the hardships imposed by the current and no longer appropriate zoning pattern

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

The granting of the variance will not be materially detrimental to the public welfare or injurious to the property in that the proposed structures minimize the potential impacts by design and through the conditions of approval. Furthermore, no environmental impacts would occur.

While the enclosing of the loading dock triggers additional parking requirements, it will not generate additional parking demand nor hinder use of the parking lot.

**24. The Granting of the variance will not adversely affect any element of the General Plan**

The Venice Community Plan Map designates the property for Neighborhood Commercial with corresponding zones of C1, C1.5, C2, C4, RAS3 and RAS4 and Height District 1.

**COASTAL DEVELOPMENT PERMIT FINDINGS.** Pursuant to LAMC Section 12.20.2.1 F.4.

**25. The development is in conformity with Chapter 3 of the California Coastal Act of 1976.**

The project site is located in the Oakwood subarea of the Venice Coastal Zone Specific Plan and the Local Coastal Program - Land Use Plan (LUP). The commercial grocery store use is permitted for this location in these plans. The property is not adjacent to the shoreline, will not affect visual, scenic, or ecological coastal resources, nor archeological or paleontological resources.

The applicant is proposing the installation of a Sound Wall, the enclosure of an existing loading dock, legalization of an existing cargo container for incidental storage, installation of a canopy over the landing area, and loading from the front of the grocery store between the hours of 5:00 a.m. and 7:00 a.m. The Venice Community Plan Land Use Designation for the subject site is Neighborhood and Office Commercial and the site has a corresponding zone of [Q]C2-1-CDO and [Q]P-1-CDO. The project involves the revisions of a grocery store use, therefore the request is consistent with the policy of providing community serving uses in the coastal zone.

The subject property is located within a developed commercial area and is an infill development and is not located within nor will affect any environmentally sensitive habitat area. The grocery store is similar to other commercial uses on Lincoln Boulevard and should not have significant adverse effects, either individually or cumulatively, on coastal resources as discussed in the Mitigated Negative Declaration ENV-2014-1762-MND.

The subject site is not identified as an environmentally sensitive habitat area, does not maintain an industrial development, and is not expected to have any identifiable impact on water and marine resources. Therefore, the proposed project is consistent with the provisions of the Coastal Act.

**26. The development will not prejudice the ability of the City of Los Angeles to prepare a Local Coastal Program (LCP) that is in conformance with Chapter 3 of the California Coastal Act. That the proposed Coastal Development is in conformity with the certified Local Coastal Program.**

The Land Use Plan (LUP) portion of the Venice Local Coastal Program (LCP) was certified by the California Coastal Commission on June 14, 2001, pursuant to the California Coastal Act of 1976. The Venice Community Plan and the Venice Specific Plan serve as a functional equivalent in conjunction with any pending LCP, there will not be any significant effect on the approval of the LCP under consideration. In the interim, the Coastal Commission's certified coastal Land Use Plan and the Venice Coastal Zone Specific Plan serve as the functional equivalent. The Venice Community Plan Land Use Designation for the subject site is neighborhood and Office Commercial and the site has a corresponding zone of [Q]C2-1-CDO and [Q]P-1-CDO. The site is also located within the Venice Specific



Plan area and the Coastal Transportation Corridor Specific Plan area. The continued use as a grocery store is in conformance with both the land use designation and zoning classification. The proposed development is in compliance with the current regulations, policies of the California Coastal Act and the adopted Venice Plans and as such will not prejudice the ability of the City to prepare a Local Coastal Program in conformity with Chapter 3 of the California Coastal Act.

The subject property includes site constraints or exceptional circumstances that prevent compliance with the Specific Plan. The request for an Exception to provide a Sound Wall, the covering and enclosing of the loading area and to allow a reduction of one parking space to address the community's concern regarding noise results in a hardship..

**27. The Interpretative Guidelines for Coastal Planning and Permits as established by the California Coastal Commission and any subsequent amendments thereto have been reviewed, analyzed and considered in making this determination.**

The Los Angeles County Interpretative Guidelines were adopted by the California Coastal Commission to supplement the Statewide Guidelines. Both regional and statewide guidelines, pursuant to Section 30620 (b) of the Coastal Act, are designed to assist local governments, the regional commissions, the commission, and persons subject to the provisions of this chapter in determining how the policies of this division shall be applied to the coastal zone prior to the certification of a local coastal program. The guidelines should assist in applying various Coastal Act policies to permit decisions; they in no case supersede the provisions of the Coastal Act nor enlarge or diminish the powers or authority of the Commissions or other public agencies.

The Venice Local Coastal Program – Land Use Plan (LUP) was certified on June 14, 2001. The proposed project is located in the Oakwood Subarea, as noted in the Regional Interpretative Guidelines. The Venice Community Plan designates the property as Neighborhood Commercial with corresponding zones of CR, C1, C2, and C4. The property is zoned [Q]C2-1-CD and [Q]P-1-CDO and is consistent with the land use designation. The lot is privately owned and there is no evidence of previous public ownership of the land. The lots in the immediate vicinity are classified in the commercial and residential land use designations and are developed.

**28. The decision herein has been guided by applicable decisions of the California Coastal Commission pursuant to Section 30625(c) of the California Public Resources Code.**

The proposed project requests an Exception to the Venice Coastal Zone Specific Plan to provide a Sound Wall, the covering and enclosing of the loading area and to allow a reduction of one parking space to address the community's concern regarding noise results in a hardship.

**29. The Development is not located between the nearest public road and the sea or shoreline of any body of water located within the Coastal Zone.**

The subject property is located in the Oakwood subarea of the Venice Specific Plan at the intersection of Lincoln Boulevard and Rose Avenue approximately 0.75 miles east of the shoreline. The proposed project is not located between Ocean Front Walk, the nearest public road, and the sea or shoreline. The site is not adjacent to the Venice Canals, Ballona Lagoon, or any inland body of water. There is no adjoining public recreational facility. The property does not provide access to or from the beach; the proposed project will not interfere with public access to the shoreline.

**VENICE COASTAL ZONE SPECIFIC PLAN PROJECT PERMIT FINDINGS.** Pursuant to LAMC Section 11.5.7 C.

**30. The Venice Coastal Development Project is compatible in scale and character with the existing neighborhood, and would not be materially detrimental to adjoining lots or the immediate neighborhood.**

The proposed project consists of the installation of a Sound Wall, the enclosure of an existing loading dock, legalization of an existing cargo container for incidental storage, installation of a canopy over the landing area, and loading from the front of the grocery store between the hours of 5:00 a.m. and 7:00 a.m. The project is requesting an exception to permit relief from the required nine (9) additional parking spaces: eight (8) additional spaces are required due to the enclosure of the existing loading dock and one (1) existing parking space will be removed to construct the proposed sound wall. The existing grocery store complies with height and setback requirements of the [Q]C2-1 zone and Oakwood Subarea; the proposed project would result in a grocery store that is compatible in character with the existing neighborhood. The primary goal of the project is to attenuate noise from loading activities and legalizing an incidental cargo container for storage uses.

**31. The Venice Coastal Development Project is in conformity with the Venice Local Coastal Program.**

The proposed project is consistent with the intent and purpose of the Land Use Plan and Specific Plan, which are parts of the Venice Local Coastal Program. The proposed project is subject to the applicable standards of General Land Use and Development Regulations in Section 13.D Parking Requirements. The project is requesting an exception to permit relief from the required nine (9) additional parking spaces: eight (8) additional spaces are required due to the enclosure of the existing loading dock and one (1) existing parking space will be removed to construct the proposed sound wall. The primary goal of the project is to attenuate noise from loading activities and legalizing an incidental cargo container for storage uses. The issue of noise from loading has been identified as an issue by the applicant after consulting with members of the surrounding area.

- a. Parking. Food stores, grocery stores. Supermarkets or similar uses are required to provide one (1) vehicle parking space for each 225 square feet of floor area. The building was originally built prior to 1966 as a grocery store. The site is improved with a Whole Foods Market, CVS Pharmacy, 99 Cent Retailer, Venice Beach Laundry, and the surface parking lot that currently provides 301 parking spaces. The applicant is seeking an Exception from the Specific Plan to permit relief from the required nine (9) additional parking spaces.

## **PUBLIC HEARING AND COMMUNICATIONS**

### **Summary of Public Hearing Testimony and Communications Received**

The Public Hearing on this matter was held at the West Los Angeles Municipal Building, 1645 Corinth Avenue, on September 8, 2014, at 10:00 AM.

1. Present: Approximately six (6) people attended.
2. Speakers: Three (3) speakers spoke in qualified support of the project with conditions. Each of the speakers provided testimony that identified problems with the operation of the store. They further explained that many issues have been addressed by the current store management team within the past year.

### **Public Hearing Testimony Notes**

The speakers spoke in support of the project with conditions that address significant loading dock noise. The sound wall is strongly desired at the proposed location. Parking is an equally significant issue in this general area. The speakers stated that many believe that employees of the store park in the surrounding residential area exhausting limited supplies. Other parking solutions have not been adequately explored. The applicant should search for off-site parking and provide shuttle service for shift changes. Employees should be directed to park in specific areas where there are minimal residential uses. The example given is near a golf course. Vendors must be made aware of conditions and limitations to reduce impacts to the residents in the area. One speaker stated that some conditions of a previous approval are not being complied with and requested that this approval should be tied to compliance with the conditions. The speakers requested a Plan Approval process to demonstrate compliance with any conditions that might be imposed as a part of this approval. One speaker requested that all employees be required to park on the given lot. One speaker wanted to link any approval for the cargo container to an increase in parking amounts.

### **Communications Received**

Letters:

The Venice Neighborhood Council provided a letter dated September 24, 2014 recommending approval of the sound wall, the reduction of parking, permanent delivery hours at the front entrance, and the construction of the canopy. The letter recommends 15 conditions of approval. However, Condition 10 of the letter indicates that the cargo container should be removed until additional employee parking is provided. The recommendation letter did not provide other information regarding the cargo container. The Department of City Planning recommends Conditions of Approval in the Conditions section of this report that can be administered and implemented with the provisions of the Specific Plan, the Los Angeles Municipal Code (LAMC), and other laws and policies. Recommendations regarding employment, parking beyond the Specific Plan or LAMC requirements, and conditions related to other entitlements for this site have not been included as the nexus for their inclusion cannot be established due the scope of the request or legal limitations. The Specific Plan and the LAMC provide for parking amounts related to the floor area of the use. These provisions do not provide any calculation amount.

The Department of City Planning received 12 letters of support of the project as proposed. These letters explained that the proposed project will address their concerns about noise from the loading dock. The letters stated that there should be no concern about the cargo container if the loading activities there follow the same loading activity limitation regarding time.

The Department has received 2 e-mails in opposition to the project. The e-mails say problems caused by the store are: store employees parking in residential areas, operational problems, noise from various sources other than the loading dock, and lack of response to complaints. One of these e-mails stated that it represented the residents on Flower Avenue one block south of the subject site. The opponents want the operator to be more responsive to complaints and trustworthy. The other e-mail stated opposition to the sound wall until the employee parking in residential area problem is addressed.