



City Council Report

City Council Meeting: September 24, 2013

Agenda Item: 6-A

To: Mayor and City Council
From: David Martin, Director of Planning and Community Development
Subject: Appeal of Conditional Use Permit and Variance Approvals to Allow On-Site Sale of Alcohol and Off-Site Parking for a New Restaurant at 1519 Wilshire Boulevard

Recommended Action

Staff recommends the City Council deny the appeal and uphold the Planning Commission's approval of Conditional Use Permit 12-012 and Variance 12-019 for a new restaurant at 1519 Wilshire Boulevard based on the draft findings and conditions of approval contained in this staff report.

Executive Summary

On April 17, 2013, the Planning Commission approved a Conditional Use Permit (CUP) to allow the on-site sale and consumption of alcoholic beverages in conjunction with a new, full-service restaurant and a Variance to allow the required parking for the use to be located at an off-site location. An appeal was filed on April 30, 2013, by a residential neighbor of the project site.

The appellant, Heidi Gordon, requests that the City Council overturn the Planning Commission's approval of the CUP and Variance due to the restaurant's proposed hours of operation, number of seats, potential noise and traffic impacts, and inability to enforce the conditions of approval.

In consideration of the full record to date, it is recommended that the Council deny the appeal and uphold the Planning Commission's approval of the on-site sale of alcohol and off-site parking for a new restaurant at 1519 Wilshire Boulevard. This report highlights the Planning Commission's action, the points of the appeal, and staff's analysis of the appeal. The recommendation on this matter does not have any budgetary or fiscal impact.

Background

The subject property is located on the north side of Wilshire Boulevard between 15th Street and 16th Street in the C6 (Boulevard Commercial) district and N (Neighborhood Commercial) overlay district. The existing two-story building consists of approximately

1,800 square feet (SF) of office space and 6,300 SF of vacant commercial space and does not contain any on-site parking or vehicular access. City Parking Lot 8, with 22 public parking spaces, is located to the rear of the property and is accessed from 16th Street and exits to an adjacent alley.



1519 Wilshire Blvd

The relevant permit history for the site is described as follows:

- December 1980: Planning Commission approved Parking Variance, ZA #4321-Y, on appeal, for Verdi's Restaurant in 1980 (predated alcohol CUP requirement).
- February 1982: Change in restaurant operator, Cinch Restaurant (predated alcohol CUP requirement).
- September 2007: Change in restaurant operator, The Parlor, received a compliance citation for operating without a business license. Further investigation revealed that the ZA#4321-Y had expired. The Parlor applied for a Conditional Use Permit (08CUP015) and Variance (08VAR021) requesting restaurant use (50+seats with alcohol) and off-site parking.
- September 16, 2009: Planning Commission approved Conditional Use Permit (08CUP015) and Variance (08VAR021) for The Parlor.

- September 30, 2009: The property owner of 1519 Wilshire Boulevard filed an appeal of Planning Commission's approval 08CUP015 and 08VAR02. Applicant/Appellant objected to specific operational conditions imposed on the project.
- March 9, 2010: City Council denied the appeal of Conditional Use Permit (08CUP015) and Variance (08VAR021) for The Parlor.
- August 2010: The Parlor ceased operations. The entitlements for 08CUP015 and 08VAR021 subsequently expired.
- April 17, 2013: Planning Commission approved Conditional Use Permit (12CUP012) and Variance (12VAR019) for the subject restaurant.
- April 30, 2013: Subject appeal filed.

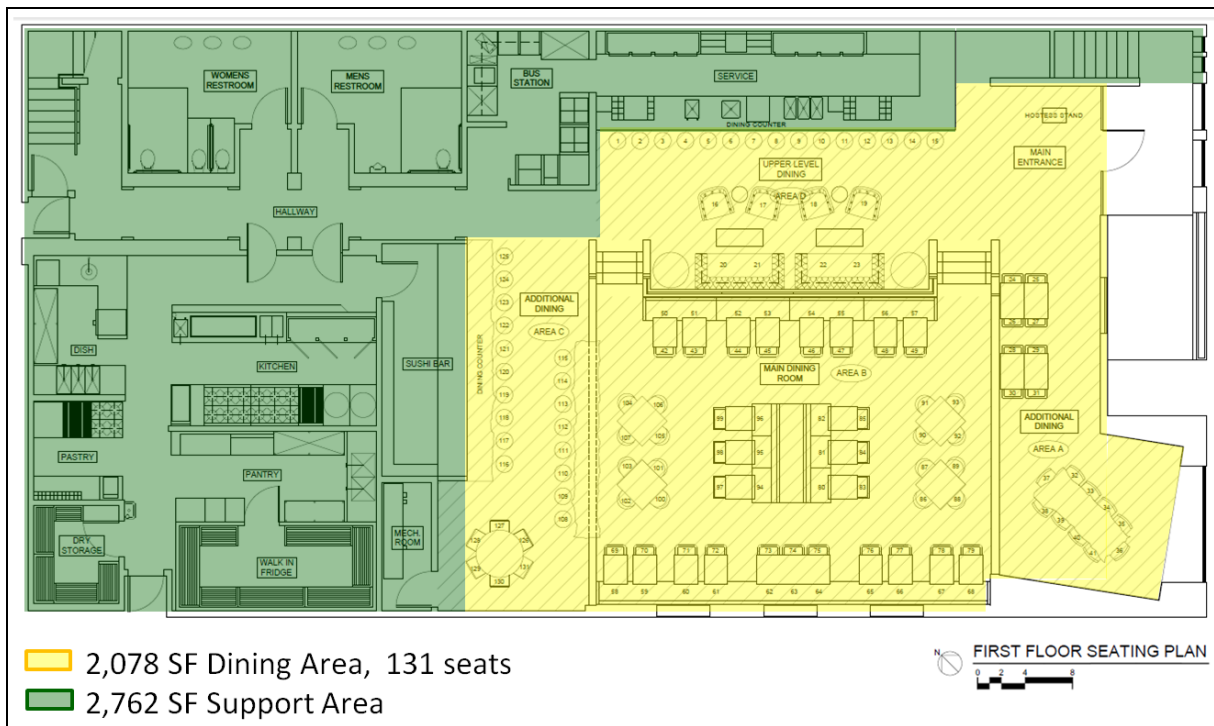


1519 Wilshire Blvd

Project Description

The proposed restaurant would function as a full-service restaurant, under a different operator than the previous restaurant at this site, with a host seating patrons and wait staff providing table service during the operating hours of 11:00 AM to 11:00 PM on Sunday through Thursday and 11:00 AM to 12:00 midnight on Friday and Saturday. The restaurant operations for both the upstairs and downstairs areas would have the full menu available to patrons at all times of restaurant operation. The proposed alcohol service would be ancillary to the primary restaurant use, and the operation will be subject to Condition No. 17 which limits alcohol sales to 35% of total gross revenues per

year. Condition No. 19 specifies that the primary use of the premises is for sit-down meal service and that alcohol will not be served to persons except those intending to purchase meals. The applicant proposes an open floor plan that yields a variety of seating arrangements for full-service dining that includes traditional table top seating, sushi counter dining, and casual lounge dining. Local restaurants which utilize similar variations of dining arrangements include BOA, Fig, The Penthouse, Sonoma Wine Garden, Wilshire, and Michael's. The first floor of the restaurant includes 2,078 SF of dining area with 131 seats and 2,762 SF of kitchen/support area.



The restaurant also provides a second floor level including 1,101 SF of dining area with 55 seats and 378 SF of support area. The support area consists of an ancillary beverage/dining bar and service station that would allow the restaurant to efficiently serve beverages, bus tables, and generate receipts/collect payment for patrons seated upstairs. The purpose of this space is to provide an additional dining area that can also serve as a space for private dining functions. The second floor is not permitted to operate as a separate bar area and will be licensed with the same Type 47 alcohol license administered to bona-fide eating establishments/restaurants. As outlined in Condition Nos. 25 & 28, no dancing or video/amusement games are permitted on the

premises. The remaining second floor building area of the building is not a part of the restaurant tenant space.



As required in the previous and most recent CUP (08CUP-015), Alcohol Outlet Condition No. 35 would prohibit patron access to the roof and require a building permit to be obtained to close the open air portion of the 2nd floor that faces Wilshire Boulevard. The applicant shall utilize double pane glass windows or other suitable architectural treatments that would reduce the noise emanating from the premises. The enclosure design would be subject to review and approval by the Architectural Review Board or staff approval, if applicable.

The subject site does not have any parking available on the property as the existing footprint of the structure occupies the entire site. As a result, the applicant is seeking a parking variance to allow the required 32 parking spaces to be provided at an off-site location in conjunction with valet service during dinner hours. However, as conditioned by the Planning Commission, the valet service would be required during all restaurant business hours. The valet operator would provide curbside service in front of the

restaurant and transport the vehicles approximately 600-feet from the subject site to 1260 15th Street on the northwest corner of Arizona Avenue and 15th Street. The development at 1260 15th Street consists of a 14-story medical office building with six parking levels continuing 124 surplus parking spaces. In conjunction with the request, the applicant has agreed to work with the City's Transportation Management Office to create a specific Transportation Demand Management Program for employees of the restaurant. The applicant would provide annual documentation of a lease agreement for at least 32 off-site parking spaces during all operating hours, a valet service agreement during all operating hours, approved valet permits issued by the City, and quantifiable data on the utilization and effectiveness of the TDM program as required by Condition No. 41 and on the ongoing demand for and management of the off-site parking spaces (Condition Nos. 40-41).

Planning Commission Action

On [April 17, 2013](#), the Planning Commission reviewed and approved the Conditional Use Permit and Variance for the proposed restaurant. The Commission identified the need for more late-night dining venues in the City while also preventing any potential impacts to surrounding residential areas. The Commission believed that the proposed conditions of approval would mitigate potential impacts to the adjacent residential neighbors created by prior restaurant uses at the subject site.

In order to further ensure the compatibility of the restaurant use with the surrounding neighborhood, the Commission changed the hours of operation on Friday and Saturday nights from closure at 1:00 AM to an earlier closure at 12:00 midnight. The Commission also added a condition that after one year of operation, the applicant be required to submit a report to the City documenting compliance with the conditions of approval. A condition restricting employees from parking on adjacent residential streets at all times was also added along with a requirement that valet service be available during all restaurant business hours as reflected in the Planning Commission's [Statement of Official Action](#). The April 17, 2013 [minutes](#) reflect the Planning Commission's actions.

Discussion

Appeal Summary

The appellant requests that the City Council overturn the Planning Commission's approval of the CUP and Variance due to the restaurant's proposed hours of operation, number of seats, potential noise and traffic impacts, and inability to enforce the conditions of approval. In particular, the appellant states the following:

- The hours of operation are not consistent with other restaurants of this size.
- The number of approved seats is more than previously allowed and is designed more for a bar than a restaurant.
- The restaurant contains a back door that opens directly onto residences.
- The staircases do not conform to Building Code requirements.
- There will be noise, traffic, and congestion impacts to the adjacent neighborhood.
- There is a history of noise and general non-conformance at the subject site.
- The enforcement provisions are vague.

The City Council, in its de novo review of this appeal, must determine whether the proposed project meets the findings required for a Conditional Use Permit and Variance identified in SMMC Sections 9.04.20.12.040 and 9.04.20.10.050, respectively and as provided in Attachment A. The City Council may uphold the appeal or uphold the decision of the Planning Commission, in whole or in part, based upon these findings.

Appeal Analysis

Based on the full record to date, including testimony and review presented at the Planning Commission public hearing and review of the appeal statement detailed more fully below, staff continues to recommend approval of both applications.

The appellant states that the approved hours of operation are not consistent with other restaurants. The Planning Commission approved hours of operation are 11:00 AM to 11:00 PM Sunday through Thursday and 11:00 AM to 12:00 midnight Friday and Saturday, with complete closure and all patrons and employees vacated from the

building within one hour thereafter. No “after hours” operations are permitted. Staff reviewed the proposed hours of alcohol service in comparison with other nearby alcohol licensed establishments with Type 41 or 47 alcohol licenses along the Wilshire Boulevard Corridor.

Alcohol Establishments	Address	Approved Hours	Advertised Hours
Santa Monica Seafood (08CUP003)	1000 Wilshire	8AM-10PM, Daily	11AM-9PM (Mon-Sat) 11AM-8PM (Sun)
Huckleberry (09AE-002)	1014 Wilshire	Service until 2AM	8AM-8PM (Mon-Fri) 8AM-5PM (Sat-Sun)
El Cholo [CUP503 (1988)] (97AD-003)	1025 Wilshire	No alcohol service after 12 midnight	11AM-10PM (Mon-Thu) 11AM-11PM (Fri-Sat) 11AM-9PM (Sun)
Dakota Lounge	1026 Wilshire	Legal, Non-Conforming Outlet	6PM-2AM
Melisse (99CUP002)	1104 Wilshire	11AM-Midnight (Sun-Th) 11AM-1AM (Fri & Sat)	6PM-9:30PM (Tue-Thu) 6PM-10PM (Fri-Sat)
Rustic Canyon (12CUP003)	1119 Wilshire	5:30PM-1AM, Daily	5:30P-10:30PM (Sun-Thu) 5:30P-11:30PM (Fri-Sat)
NY&C Pizza (12AE-001)	1120 Wilshire	Service until 2AM	11:30A-2:30AM (Sun-Wed) 11:30A-3:30AM (Thu-Sat) (alcohol service ceases at 2AM)
Sushi King (92AD-005)	1330 Wilshire	Service until 2AM	5:30PM-10:30PM
Izzy's Deli	1433 Wilshire	Legal, Non-Conforming Outlet	24 Hours (alcohol service ceases at 2AM)
Nawab of India	1621 Wilshire	Legal, Non-Conforming Outlet	12PM-10:30PM (Sat) 11:30A-10:00PM (Sun-Mon) 11AM-9:30PM (Tue-Fri)
Fromin's	1832 Wilshire	Legal, Non-Conforming Outlet	7AM-10PM
Thai Dishes (93AD-002)	1910 Wilshire	Service Until 2AM	11AM-10:30PM
V Lounge	2020 Wilshire	Legal, Non-Conforming Outlet	9PM-2AM (Thu-Sat)
Poquito Mas	2025 Wilshire	Legal, Non-Conforming Outlet	11AM-10:05PM (Sun-Thu) 11AM-11:05PM (Fri-Sat)
Veggie Grill (10CUP011)	2025 Wilshire	11AM-11PM	11AM-11PM
Noma	2031 Wilshire	Legal, Non-Conforming Outlet	11:30AM-10PM (Sun-Thu) 11:30AM-10:30PM (Fri-Sat)

Many of the establishments listed above retain legal, non-conforming hours of alcohol service which allow service until 2:00 AM. Smaller restaurants (50 seats or fewer) that comply with SMMC Section 9.04.10.18.040 are issued Alcohol Exemptions, which also allow service until 2:00 AM. However, in reviewing the alcohol outlets on Wilshire

Boulevard entitled with alcohol CUPs, the latest hours of operations for the two full-service restaurants are conditioned with closure at 1:00 AM, daily (Rustic Canyon 12CUP003) and 12:00 midnight, Monday – Thursday, and 1:00 AM on Friday and Saturday (Melisse 99CUP002). The hours of operation approved by the Planning Commission for the subject restaurant are more restrictive than these previously approved restaurants and are consistent with the overall hours of neighboring restaurants. The applicant is requesting that the Council approve extended hours of operation on Fridays and Saturdays until 1:00 AM – one hour later than the midnight closure time on Fridays and Saturdays approved by the Planning Commission. Staff supports the hours of operation as previously approved by the Planning Commission.

The approved seating plan for the subject restaurant contains a maximum of 186 seats. The approved plan for the previous CUP for The Parlor allowed for 135 seats with the provision that up to 40 more seats could be allowed if additional off-site parking spaces were provided subject to a parking plan approved by the Director of Planning, for a possible total of 175 seats. The current approval of 186 seats exceeds the previous approval of a possible 175 seats. However, the Planning Commission believed the conditions of approval including the operational conditions (Condition Nos. 16-37) and parking variance conditions (Conditions Nos. 39-43) would address any potential noise and parking impacts to surrounding neighbors. Although the seating configuration shows some of the seats located along dining counters, meals are required to be available at these dining counters at all times the restaurant is open for business. The majority of the seats in the restaurant would be at tables.

The appellant states that the building contains an existing rear door that opens directly onto residences. The rear door opens onto an existing public surface parking lot that separates the subject site from adjacent residences. Condition No. 39 has been added to require that all customer entry to the restaurant occur through the front of the building along Wilshire Boulevard. The appellant also contends that the stairs to the second floor do not meet Building Code requirements. However, these existing stairs are

grandparented and would not require modification unless the restaurant space was completely rebuilt.

According to the appellant, the proposed restaurant use will generate noise, traffic, and congestion impacts to the adjacent neighborhood. The property is located in an area of the City featuring a high concentration of commercial and restaurant activity that is adjacent to multi-residential uses to the north and hospital/medical uses to the south. The proposed restaurant use is consistent with the C6 zoning district, which involves a mix of residential, commercial, and retail uses. The project is also consistent with the 'N' overlay district which is intended to protect and enhance concentrations of neighborhood commercial uses that are located in districts other than the C2 (Neighborhood Commercial) district. As conditioned, the operating hours are similar to other full-service restaurant operations that are located along Wilshire Boulevard, as well as restaurants in C2 Districts. The Zoning Code requires restaurants with more than 50 seats to obtain a CUP in the Neighborhood Commercial Overlay and C2 Zones. Previous restaurant operators at the subject location were not required to acquire a CUP since the restaurant had been grandparented and predated such entitlement requirements. As conditioned, the project is intended to preserve an existing restaurant location and enhance the concentration of neighborhood commercial uses with operational standards that are sensitive to adjacent residences located approximately 50-feet from the subject restaurant. Specifically, restrictions on exterior activity (i.e. trash disposal and deliveries) and physical improvements to mitigate potential noise emitting from the second floor area have been included in Condition Nos. 36-39. The proposed valet service would operate the vehicle pick-up and drop-off in front of the subject site on Wilshire Boulevard and involves a route that minimizes vehicular maneuvering in residential areas. Condition No. 41 requires that the Transportation Management Office review and approve the valet parking operation to ensure that the adjacent residential neighborhood is not impacted.

In areas of the City where commercial corridors abut residentially zoned district, neighborhoods have voiced that residential streets have been impacted by commercial

patron parking when businesses lack sufficient on-site parking or when customers wish to avoid paying for parking. Consequently, a number of preferential parking districts have been approved in these residential areas throughout the City. The blocks north of Wilshire Boulevard on 14th, 15th and 16th Street allow two hour parking 9AM-6PM and prohibit parking 6PM-2AM daily, except by permit. The permit parking program in this area is intended to alleviate the on-street parking issues in the residential area associated with commercial uses on Wilshire Boulevard. Conditions associated with the variance request including Condition No. 40 requiring an employee transportation demand management program, Condition No. 41 requiring an off-site parking and valet program during all restaurant operating hours, and Condition No. 43 requiring the applicant to prohibit employees parking on the residential streets would also help to reduce traffic impacts in the neighborhood and impacts on the limited on-street parking in the area. As conditioned, the project would alleviate the potential adverse impacts of the restaurant use and increase neighborhood compatibility. The applicant is requesting that the Council modify Conditions No. 41 and 44 to allow valet service to begin at 5:00 PM instead of requiring valet service during all hours of restaurant operation. Staff supports the hours of valet operation as previously approved by the Planning Commission for service during all hours of restaurant operation.

While there has been a documented history of noise complaints and other Police Department calls for service at the subject site, the proposed conditions of approval would address these previous issues and mitigate any potential impacts to the surrounding neighborhood. Pursuant to Condition No. 15 the applicant would be required to submit a compliance report after one year of operation documenting compliance with each condition of approval as well as an annual report documenting the lease of the off-street parking spaces and a valet service agreement pursuant to Condition No. 40. Condition No. 27 prevents the queuing of patrons at the entry, checking of identification at entry, cover charges, and drink minimums to ensure the use is consistent with a restaurant and not a bar use. The operator will also be required by Condition No. 32 to patrol the neighborhood to monitor patron behavior. Condition Nos. 40 and 42 require an employee transportation demand management program with the

goal of reducing the number of employee vehicle trips to the site and to help reduce any potential parking and traffic impacts to the neighborhood. In addition, the proposed restaurant operator is different than the previous operator who had been the subject of prior complaints.

The Santa Monica Police Department has been contacted regarding this proposal, and although they have confirmed past noise and parking complaints from patrons parking in the neighborhood, they have reviewed the recommended conditions of approval and indicated that they have no objections to the proposed operation of the restaurant.

Alternatives

As an alternative to the staff recommendation, the Council may consider the following with respect to the pending appeal if supported by the full evidentiary record:

1. Uphold the appeal of Conditional Use Permit (12CUP012) and Variance (12VAR019) and deny the subject applications.
2. Articulate revised findings and/or conditions to Approve OR Deny the subject applications.

Public Outreach

Pursuant to Municipal Code Section 9.04.20.22.050, notice of the public hearing was mailed to all owners and residential and commercial tenants of property located within a (500 foot) radius of the project and published in the Santa Monica Daily Press at least ten consecutive calendar days prior to the hearing.

Environmental Analysis

The project is categorically exempt from the provisions of CEQA pursuant to Section 15301 Class (1) of the State Guidelines in that the project involves interior improvements to an existing building to establish a 186-seat restaurant with the on-site sale of beer and wine and a modification to the off-street parking requirements associated with the proposed project. The scope of the improvements will occur within an existing tenant space and involve only minor alterations.

Financial Impacts & Budget Actions

There is no immediate financial impact or budget action necessary as a result of the recommended action.

Prepared by: Tony Kim, Senior Planner

Approved:

Forwarded to Council:

David Martin, Director
Planning and Community Development

Rod Gould
City Manager

Attachments:

- A. Draft Findings and Conditions of Approval
- B. Appeal Statement
- C. Public Notification
- D. Project Plans and Renderings

ATTACHMENT A

Draft Findings and Conditions of Approval

FINDINGS:

CONDITIONAL USE PERMIT FINDINGS

1. The proposed use is one conditionally permitted within the subject district and complies with all of the applicable provisions of the "City of Santa Monica Comprehensive Land Use and Zoning Ordinance", in that SMMC Section 9.04.08.40.040(a) provides that all uses listed as Conditionally Permitted Uses in the C2 or underlying District may be permitted subject to approval of a Conditional Use Permit, and Section 9.04.10.18.020 provides that existing alcohol outlets shall also obtain a Conditional Use Permit if the operations have been discontinued for a period of over one year.
2. The proposed use would not impair the integrity and character of the district in which it is to be established or located, in that the Boulevard Commercial (C6) with Neighborhood Overlay (N) district permits restaurants with more than 50 seats pursuant to the approval of Conditional Use Permit. The proposed restaurant is consistent and complementary to other uses in the area and located in a tenant space that has operated as a food-serving/restaurant use with alcohol service for approximately 19 years. Conditions Nos.1-39 have been added to address potential operational concerns such as, limiting the amount of alcohol sales, restricting hours of outdoor maintenance and refuse/recycling activities, enclosing the balcony area and prohibiting patrons from using the roof.
3. The subject parcel is physically suitable for the type of land use being proposed, in that the building was constructed as a two-story structure and has operated as a restaurant with more than 50 seats and alcohol licensing for approximately 19 years without on-site improvements for vehicular access or parking. The proposed CUP for ancillary alcohol service and consumption requires minimal physical improvements within the restaurant tenant space and is conditioned to provide the required parking spaces during all operating hours.
4. The proposed use is compatible with any of the land uses presently on the subject parcel if the present land uses are to remain, in that the site has historically served as a restaurant with more than 50 seats and incidental alcohol service for approximately 19 years. A full-service restaurant on Wilshire Boulevard is compatible with permitted uses and other existing restaurant and commercial/retail establishments in the area.
5. The proposed use would be compatible with existing and permissible land uses within the district and the general area in which the proposed use is to be located, in that the Zoning Ordinance conditionally permits restaurants with more than 50 seats in the Neighborhood Overlay District. A full-service restaurant with incidental alcohol service on Wilshire Boulevard is compatible with permitted uses and other existing restaurant and commercial uses in the area. Conditions

- No. 1-39 will ensure that the use operates in a harmonious manner with the adjacent land uses and will not create any alcohol-related problems in the area.
6. There are adequate provisions for water, sanitation, and public utilities and services to ensure that the proposed use would not be detrimental to public health and safety, in that the site is located in an urbanized area adequately served by existing infrastructure.
 7. Public access to the proposed use will be adequate, in that the valet service will operate automobile drop-off and pick-up from Wilshire Boulevard, (an arterial street) and the primary restaurant entrance is also accessed by pedestrians on Wilshire Boulevard.
 8. The physical location or placement of the use on the site is compatible with and relates harmoniously to the surrounding neighborhood, in that a full-service restaurant approved by the Conditional Use Permit, will provide a floor plan and operation conditions for the restaurant use which have not been required by previous operators. The proposed restaurant with more than 50 seats and incidental alcohol service will provide a floor plan and operational conditions for the use which have expired and do not currently exist. Conditions No. 1-39 will ensure that the use operates in a harmonious manner with the adjacent land uses and will not create any alcohol-related problems in the area.
 9. The proposed use is consistent with the goals, objectives, and policies of the General Plan, in that Wilshire Boulevard Policy B1.2 promotes a mix of uses in new projects including ground level local-serving retail and neighborhood services and Goal E.4 supports the retail sector that provides for the needs of local residents and visitors to augment sales tax revenues. The proposed restaurant use will provide a new dining option to the neighborhood, which includes employees in nearby hospital/medical facilities, offices and local residents.
 10. The proposed use would not be detrimental to the public interest, health, safety, convenience, or general welfare, in that the proposed use is consistent with the Zoning Ordinance and the Land Use Element of the General Plan, and alcohol specific conditions have been added to mitigate any potential adverse impacts.
 11. The proposed use conforms precisely to the applicable performance standards contained in Subchapter 9.04.12 and special conditions outlined in Subchapter 9.04.14 of the City of Santa Monica Comprehensive Land Use and Zoning Ordinance, in that a performance standards permit is not required for the proposed use.
 12. The proposed use will not result in an over concentration of such uses in the immediate vicinity, in that there are two Type 41 public eating places within a 500-foot radius, which is not considered to be an over concentration for a

commercial corridor such as Wilshire Boulevard.

ALCOHOL OUTLET FINDINGS

1. The proposed use will not adversely affect the welfare of neighborhood residents in a significant manner in that the proposed restaurant is consistent and complementary to other uses in the area and located in a tenant space that has operated as a food-serving/restaurant use with alcohol service for approximately 19 years. Conditions Nos. 1-39 have been added to address potential operational concerns such as, limiting the amount of alcohol sales, restricting hours of outdoor maintenance and refuse/recycling activities, enclosing the balcony area and prohibiting patrons from using the roof.
2. The proposed use will not contribute to an undue concentration of alcohol outlets in the area in that there are two Type 41 public eating places within a 500-foot radius, which is not considered to be an over concentration for a commercial corridor such as Wilshire Boulevard.
3. The proposed use will not detrimentally affect nearby neighborhoods considering the distance of the alcohol outlet to residential buildings, churches, schools, hospitals, playgrounds, parks, and other existing alcohol outlets in that the conditions for approval, such as the requirements that the establishment operate with specific closing hours, no separate bar area, and limited alcohol sales, will minimize the potential effect on the residential uses in the vicinity.
4. The proposed use is compatible with existing and potential uses within the general area in that the Zoning Ordinance conditionally permits new alcohol outlets, specifically new restaurants with more than 50 seats. The full-service restaurant with incidental alcohol service in a commercial district is compatible with permitted uses in the area. Condition Nos. 1-39 will ensure that the use operates in a harmonious manner and not created any alcohol-related problems in the area.
5. Traffic and parking congestion will not result from the proposed use in that the applicant proposes a valet parking program that will meet the demand generated by the proposed restaurant in close proximity to the subject site. It is also anticipated that customers will visit the restaurant in addition to other destinations in the area and utilize transit or nearby parking facilities, such as City Parking Lot 8, located behind the subject site.
6. The public health, safety, and general welfare are protected in that the project is consistent with the provisions of the Zoning Ordinance in that the conditions of approval have been incorporated to minimize potential adverse impacts on nearby land uses. Similar conditions imposed on other full-service restaurant

operations with incidental alcohol service in the City have not been associated with alcohol related problems.

7. No harm to adjacent properties will result in that the conditions of approval will ensure that the establishment operates as a full-service restaurant in a manner which protects the adjacent neighborhood.
8. The proposed use is consistent with the objectives of the General Plan in that the Land Use Element of the General Plan designates the area as Mixed-Use Boulevard. As envisioned in Wilshire Boulevard Policy B1.2, the proposed restaurant use with incidental alcohol service, promotes a mix of uses in new projects including ground level local-serving retail and neighborhood services. The proposed restaurant also fulfills Goal E.4, which promotes the retail sector and facilitates needs of local residents and visitors to augment sales tax revenues. The proposed restaurant use will provide a new dining option to the employees in nearby hospital/medical facilities, offices, visitors and local residents.

VARIANCE FINDINGS

1. There are special circumstances or exceptional characteristics applicable to the property involved, including size, shape, topography, location, or surroundings, or to the intended use or development of the property that do not apply to other properties in the vicinity under an identical zoning classification. Specifically, the site is improved with an existing two-story commercial structure constructed in 1926 with a building footprint that occupies the entire parcel. The existing infrastructure/improvements prohibit the creation or placement of on-site parking. In 1981 a restaurant use with alcohol service was authorized with the approval of parking variance (ZA#4321-Y) and has historically been occupied with restaurant tenants for approximately 19 years.
2. The granting of such variance will not be detrimental or injurious to the property or improvements in the general vicinity and district in which the property is located in that the proposed valet program will meet the parking demand generated by the proposed restaurant. It is also anticipated that the parking demand will be further reduced since patrons will visit the proposed restaurant in addition to other destinations along the Wilshire Boulevard corridor, given the character of the area as both a neighborhood and regional destination for those using the UCLA Santa Monica Hospital across the street. Consequently, both transit or nearby public parking facilities within the Boulevard Commercial District will be utilized to support patron transportation needs. City Public Parking Lot 8 is also located behind the subject property and includes 23 metered parking spaces that can accommodate customer who wish to self-park. To ensure the continued use of the valet, staff has included a condition of approval (Condition No. 41).
3. The strict application of the provisions of this Chapter would result in practical

difficulties or unnecessary hardships, not including economic difficulties or economic hardships in that the site is improved with an existing two-story commercial structure constructed in 1926 with a building footprint that occupies the entire parcel. There are no existing and/or opportunities to pave parking spaces on the premises. The specific conditions, including the provision of off-site parking during all operational hours, would allow the continued use of the restaurant at the site denial of the variance would require the closure of the existing restaurant.

4. The granting of a variance will not be contrary to or in conflict with the general purposes and intent of this Chapter, nor to the goals, objectives, and policies of the General Plan. Specifically, the proposed off-site parking is in alignment with Circulation Policies T26.1 and T26.8 which encourages shared parking and coordinated valet services to balance parking supply and demand.
5. The variance would not impair the integrity and character of the district in which it is to be located in that the subject location has historically operated as a restaurant for approximately 19 years without on-site parking. The proposed valet program will encourage patrons and employees to utilize of the off-site parking space via valet operator. In addition, a transportation management plan will encourage employees and patrons to take multi-modal means of transportation to the restaurant to further minimize parking demands generated by the restaurant use.
6. The subject site is physically suitable for the proposed variance in that the site is improved with an existing two-story building constructing in 1926 with a building footprint that occupies the entire parcel. The site is also within close proximity to efficiently utilize off-site parking opportunities on a property developed with surplus parking spaces in conjunction with the proposed valet operations.
7. There are adequate provisions for water, sanitation, and public utilities and services to ensure that the proposed variance would not be detrimental to public health and safety in that the subject property is located within a developed urbanized environment that is adequately served by existing infrastructure, public utilities and services. It is not anticipated that approval of the subject application will create a need for additional utilities or services.
8. There will be adequate provisions for public access to serve the subject variance proposal in that although there is no vehicular access provided directly on the site or on-site parking, a valet pick-up and drop-off area can be accommodated for vehicles on Wilshire Boulevard and adjacent the restaurant's patron/pedestrian entry.
9. The strict application of the provisions of this Chapter would result in unreasonable deprivation of the use or enjoyment of the property in that due to existing parcel constraints of the existing two-story building footprint and inability

to situate on-site parking spaces. The building has historically been occupied with restaurant tenants for approximately 19 years and as conditioned is compatible with the use within the district.

CONDITIONS OF APPROVAL:

Project Specific Conditions

1. Seating arrangements for sit-down patrons shall not exceed 131 seats on the first floor and 55 seats on the second floor.
2. The permitted hours of service shall be from 11:00 AM to 11:00 PM Sunday through Thursday; 11:00 AM to 12:00 midnight Friday and Saturday, with complete closure and all patrons and employees vacated from the building within one hour thereafter. No “after hours” operation or activity shall be permitted.
3. This approval is for a Type 47 (On Sale General – Eating Place) or Type 41 (Beer & Wine – Eating Place) alcohol license only. Any request to modify the license type shall require approval from the Planning Commission.

Administrative

4. The approval of this permit shall expire if the rights granted are not exercised within one year from the permit’s effective date. Exercise of rights shall mean commencement of the use granted by both permits, which rights are not severable. Additionally, the rights associated with this approval shall expire if the establishment ceases operation for a period of one year or longer.
5. Within ten days of City Planning Division transmittal of the Statement of Official Action, project applicant shall sign and return a copy of the Statement of Official Action prepared by the City Planning Division, agreeing to the conditions of approval and acknowledging that failure to comply with such conditions shall constitute grounds for potential revocation of the permit approval. By signing same, applicant shall not thereby waive any legal rights applicant may possess regarding said conditions. The signed Statement shall be returned to the City Planning Division. Failure to comply with this condition shall constitute grounds for potential permit revocation.
6. Within thirty (30) days after final approval of the project, a sign shall be posted on site stating the date and nature of the approval. The sign shall be posted in accordance with the Zoning Administrator guidelines and shall remain in place until a building permit is issued for the project. The sign shall be removed promptly when a building permit is issued for the project.

7. Prior to the commencement of restaurant operations, the applicant shall post a notice at the building entry stating that the site is regulated by a Conditional Use Permit and the Statement of Official Action, which includes the establishment's conditions of approval, and the establishment's approved floor plan is available upon request. This notice shall remain posted at all times the establishment is in operation.
8. Within thirty (30) days from date of the approval of the Statement of Official Action, the applicant shall provide a copy of the approved Statement of Official Action for this project to the local office of the State Alcoholic Beverage Control department.
9. Prior to issuance of a Certificate of Occupancy, or a business license, or commencement of alcohol service as applicable, the operator shall submit a plan for approval by the Director of Planning regarding employee alcohol awareness training programs and policies. The plan shall outline a mandatory alcohol awareness training program for all employees having contact with the public and shall state management's policies addressing alcohol consumption and inebriation. The program shall require all employees having contact with the public to complete a California Department of Alcoholic Beverage Control (ABC) sponsored alcohol awareness training program within 90 days of the effective date of this approval. In the case of new employees, the employee shall attend the alcohol awareness training within 90 days of hiring. In the event the ABC no longer sponsors an alcohol awareness training program, all employees having contact with the public shall complete an alternative program approved by the Director of Planning and Community Development. The operator shall provide the City with an annual report regarding compliance with this condition. This project shall be subject to any future City-wide alcohol awareness training program condition affecting similar establishments.
10. Prior to issuance of a Certificate of Occupancy, or a business license, or commencement of alcohol service as applicable, the operator shall also submit a plan describing the establishment's designated driver program, which shall be offered by the operator to the establishment's patrons. The plan shall specify how the operator will inform patrons of the program, such as offering on the menu a free non-alcoholic drink for every party of two or more ordering alcoholic beverages.
11. In the event permittee violates or fails to comply with any conditions of approval of this permit, no further permits, licenses, approvals or certificates of occupancy shall be issued until such violation has been fully remedied.

Conformance with Approved Plans

12. This approval is for those plans dated October 31, 2012, as modified by these conditions, a copy of which shall be maintained in the files of the City Planning

Division. Project development shall be consistent with such plans, except as otherwise specified in these conditions of approval.

13. Minor amendments to the plans shall be subject to approval by the Director of Planning. An increase of more than 10% of the square footage, and increase of seating, or a significant change in the approved concept shall be subject to Planning Commission Review. Construction shall be in substantial conformance with the plans submitted or as modified by the Planning Commission, Architectural Review Board, or Director of Planning. No expansion in number of seats, intensity of operation, or outdoor areas shall occur without prior approval from the City of Santa Monica and State ABC.
14. Project plans shall be subject to complete Code Compliance review when the building plans are submitted for plan check and shall comply with all applicable provisions of Article IX of the Municipal Code and all other pertinent ordinances and General Plan policies of the City of Santa Monica prior to building permit issuance.
15. After one year of operation, the applicant shall submit to the Planning and Community Development Department a Compliance Review with supporting documentation showing how compliance with each condition of approval has been attained.

Project Operations

16. The operation shall at all times be conducted in a manner not detrimental to surrounding properties or residents by reason of lights, noise, activities, parking or other actions. No alcoholic beverage shall be sold for consumption beyond the premises.
17. Except for special events, alcohol shall not be served in any disposable container such as disposable plastic or paper cups.
18. No more than 35% of total gross revenues per year shall be from alcohol sales. The operator shall maintain records of gross revenue sources which shall be submitted annually to the City of Santa Monica City Planning Division at the beginning of the calendar year and also available to the City of Santa Monica and the State ABC upon request.
19. The primary use of the premises shall be for sit-down meal service to patrons. Alcohol shall not be served to persons except those intending to purchase meals.
20. Bottle service shall not be available to patrons unless full meal service is provided concurrent with the Bottle service. All food items shall be available from the full service menu. Bottle service shall mean the service of any full bottle of wine or beer, of more than 375 ml, along with glass ware, garnishes, etc., in

which patrons are able pour their own wine or beer. Bottle service of distilled spirits shall be prohibited.

21. The establishment shall maintain a kitchen or food-serving area in which a variety of food is prepared and cooked on the premises.
22. The establishment shall serve food to patrons during all hours the establishment is open for customers.
23. Customers shall be permitted to order meals at the bar at all times the bar or restaurant is open for business.
24. Any minimum purchase requirement may be satisfied by the purchase of beverages or food.
25. Take out service shall be only incidental to the primary sit-down use.
26. No dancing or live entertainment beyond that allowed in the restaurant definition contained in the Zoning Ordinance shall be permitted on the premises.
27. No queuing of patrons at the entry or checking of identification at the entry or any portion of the restaurant shall be permitted. There shall not be any age limitation imposed restricting access to the restaurant (e.g. persons of all ages must be allowed to enter the restaurant). There shall be no cover charge or related minimum drink purchase requirement.
28. The restaurant shall not organize or participate in organized “pub-crawl” events where participants or customers pre-purchase tickets or tokens to be exchanged for alcoholic beverages at the restaurant.
29. No video or other amusement games shall be permitted on the premises.
30. No more than three televisions may be located in the restaurant. The placement of televisions shall be limited to the dining counter areas.
31. The owner shall prohibit loitering around the restaurant premises and shall control noisy patrons leaving the restaurant.
32. The operator shall patrol the neighborhood to monitor patron behavior and pick up any trash left behind by patrons. The route and the frequency of the patrols shall be approved by the City’s Planning Division and maintained as part of the site operations plan until such time as the City may deem the patrols unnecessary.
33. Window or other signage visible from the public right-of-way that advertises beer or alcohol shall not be permitted.

34. Applicant is on notice that all temporary signage is subject to the restrictions of the City sign ordinance.
35. The 2nd Floor roof deck shall be accessed for maintenance purposes only and prohibited from customer/patron use. In addition, subject to review by the Architectural Review Board (ARB) or staff ARB approval if applicable, a building permit shall be obtained to close the open air portion of the 2nd floor veranda that faces Wilshire Boulevard with double pane window glass or another suitable architectural treatment that would lessen noise emanating from the premises.
36. No exterior activity such as trash disposal, deliveries or other maintenance activity generating noise audible from the exterior of the building shall occur from one hour after closing to 6:00AM. In addition, there shall be no disposal of bottles or noise generating trash between 11:00PM and 6:00AM daily. Trash containers shall be secured with locks.
37. The project shall at all times comply with the provisions of the Noise Ordinance (SMMC Chapter 4.12).
38. Pursuant to SMMC Section 4.12 (Noise), establishments with amplified music may be required to provide entrances and exits, except exits which are solely emergency exits, designed as two-door vestibules, so that only one set of doors is open at a time. Doors shall be of solid core design. Windows shall be constructed with double-paned glass.
39. Customer entry to the restaurant shall occur through the front entrance facing Wilshire Boulevard. Customer entry through the rear door shall not be permitted at any time. However, the rear door may be used for exiting purposes as necessary to meet any Building Code requirements.

Parking Variance Conditions

40. The applicant shall work with the City's Transportation Management Office to create a specific transportation demand management program for the employees of the restaurant. The goal of this management program is to reduce the employees Average Rider Vehicle (ARV) trips to and from their place of work. A program shall be implemented within 60 days of opening the restaurant.
41. Off-site parking shall be provided through a parking plan approved by the Director of Planning. The restaurant operator shall submit an annual report due October 1st of each year to the City's Transportation Management Office, which provides documentation of the lease agreement for at least 32 off-site parking spaces during all operating hours, a valet service agreement during all operating hours, approved valet permits issued by the City, and quantifiable data on the

utilization and effectiveness of the TDM program as required by Condition No. 41 and on the ongoing demand for and management of the off-site parking spaces.

42. The Transportation Demand Management program shall include the following:
- Transportation Information. The applicant will provide on-site information for employees and customers about transit services (including ride share programs and shuttles) and bicycle facilities (including routes and parking).
 - Free Transit Passes for Employees. The applicant will provide all of its employees who commit to transit use each month an EZ Transit Pass through the Santa Monica Big Blue Bus or Metro program (or a similar bus pass if the EZ Transit Pass is no longer available).
 - The applicant will provide four secured employee bicycle parking/storage spaces. Spaces shall be provided and installed on-site or in a location approved by the City's Strategic and Transportation Planning Division at the expense of the applicant.
 - The applicant will provide a cash incentive to employees who carpool to work on a regular basis in an amount equal to a monthly transit pass.
 - The applicant will encourage customers to use public transit, bicycles, or walk to the restaurant on the restaurant's website and associated social media accounts. The applicant shall offer various incentives, including a weekly drawing to offer a complementary menu items for those individuals that use such alternate modes of transit to the restaurant (random selection from names collected), or through incentives of similar effectiveness as may be designed and implemented periodically.

In the annual report required by Condition No. 40, the applicant shall provide quantifiable data on the utilization of alternative modes of transportation (other than single-occupant private vehicle) and the provision of incentives for both employees and customers, including the number of free transit passes provided to employees and the cash or other incentives provided to both employees and customers.

43. The applicant shall prevent employees from parking on residential streets at all times.
44. The valet operator shall at all times conduct the vehicle transport services between the site and the off-site parking lease area in a manner that protects the adjacent neighbors from nuisance, including but not limited to excessive noise, litter, and inappropriate behavior, and adherence to the rules and conditions of the City's approved valet permit. The valet service shall operate daily during

restaurant operating hours. The valet parking operation shall be subject to the review and approval of the Strategic & Transportation Planning Division.

45. The Santa Monica Building and Safety Division and Fire Department (SMFD) shall review the restaurant's occupancy load to ensure compliance with existing Codes.

Police & Inspections

46. Prior to issuance of a Certificate of Occupancy, or a business license, or commencement of alcohol service as applicable, a security plan shall be submitted to the Chief of Police for review and approval. The plan shall address both physical and operational security issues.
47. The applicant authorizes reasonable City inspection of the property to ensure compliance with the conditions of approval imposed by the City in approving this project and will bear the reasonable cost of these inspections as established by Santa Monica Municipal Code Section 2.72.010 and Resolution No. 9905 (CCS) or any successor legislation thereto. These inspections shall be no more intrusive than necessary to ensure compliance with conditions of approval.

ATTACHMENT B

Appeal Statement

ATTACHMENT C

Public Notification

**NOTICE OF A PUBLIC HEARING
BEFORE THE SANTA MONICA CITY COUNCIL**

SUBJECT: 13APP004 (Appeal 13-004 of Planning Commission Approvals of 12CUP012 and 12VAR019)
1519 Wilshire Blvd

APPLICANT: Larry Greenwood
APPELLANT: Heidi Gordon
PROPERTY OWNER: 1519 Wilshire Blvd Ltd Partnership

A public hearing will be held by the City Council to consider the following request:

Appeal of Conditional Use Permit (12CUP012) and Variance (12VAR019) approvals to allow on-site sale of alcohol and off-site parking for a new restaurant at 1519 Wilshire Boulevard

DATE/TIME: TUESDAY, SEPTEMBER 24, 2013, AT 6:45 p.m.

LOCATION: City Council Chambers, Second Floor, Santa Monica City Hall
1685 Main Street, Santa Monica, California

HOW TO COMMENT

The City of Santa Monica encourages public comment. You may comment at the City Council public hearing, or by writing a letter. Written information will be given to the City Council at the meeting.

Address your letters to: City Clerk
Re: 13APP004 (1519 Wilshire Blvd)
1685 Main Street, Room 102
Santa Monica, CA 90401

MORE INFORMATION

If you want more information about this project or wish to review the project file, please contact Tony Kim at (310) 458-8341, or by e-mail at tony.kim@smgov.net. The Zoning Ordinance is available at the Planning Counter during business hours and on the City's web site at www.santa-monica.org.

The meeting facility is wheelchair accessible. For disability-related accommodations, please contact (310) 458-8341 or (310) 458-8696 TTY at least 72 hours in advance. All written materials are available in alternate format upon request. Santa Monica Big Blue Bus Lines numbered 1, 2, 3, 4, 5, 7, 8, 9, and the Tide Ride serve City Hall.

Pursuant to California Government Code Section 65009(b), if this matter is subsequently challenged in Court, the challenge may be limited to only those issues raised at the public hearing described in this notice, or in written correspondence delivered to the City of Santa Monica at, or prior to, the public hearing.

ESPAÑOL

Esto es una noticia de una audiencia pública para revisar aplicaciones proponiendo desarrollo en Santa Monica. Si deseas más información, favor de llamar a Carmen Gutierrez en la División de Planificación al número (310) 458-8341.

APPROVED AS TO FORM:

AMANDA SCHACHTER
Planning Manager

ATTACHMENT D

Project Plans and Renderings

Electronic version of attachment is not available for review. Document is available for review at the City Clerk's office and the Libraries.