

**ATTACHMENT B  
DRAFT STATEMENT OF OFFICIAL ACTION**



City of Santa Monica  
City Planning Division

**PLANNING COMMISSION  
STATEMENT OF OFFICIAL ACTION**

**PROJECT INFORMATION**

CASE NUMBER:	Conditional Use Permit 20ENT-0262
LOCATION:	828 Pico Boulevard
APPLICANT:	Sarah Hendrix, Lady and Larder
PROPERTY OWNER:	Pico Fund II, LLC
CASE PLANNER:	Tiffany Lin, Associate Planner
REQUEST:	Conditional Use Permit (20ENT-0262) to allow for the ancillary sale of beer and wine for off-site consumption (Type 20 ABC license) in conjunction with the operation of a new small-scale retail cheese shop within the GC (General Commercial) District.
CEQA STATUS:	This request is exempt from the provisions of the California Environmental Quality Act (CEQA), pursuant to Section 15301 (Class 1), Existing Facilities, of the State Implementation Guidelines in that the project involves allowing a small-scale retail store the ability to conduct ancillary sales of alcohol with a Type 20 (beer and wine) ABC license.

**PLANNING COMMISSION ACTION**

February 17, 2021 Determination Date  
 \_\_\_\_\_ Approved based on the following findings and subject to the  
 \_\_\_\_\_ X conditions below.  
 \_\_\_\_\_ Denied.  
 \_\_\_\_\_ Other:  
 \_\_\_\_\_

<b>EFFECTIVE DATES OF ACTIONS IF NOT APPEALED:</b>	March 4, 2021
<b>EXPIRATION DATE OF ANY PERMITS GRANTED:</b> (2 years pursuant to SMMC 9.37.090 + 2 years pursuant to the Eighteenth Supplement to the Executive Order of the Director of Emergency Services Declaring the Existence of a Local Emergency adopted on May 29, 2020)	March 4, 2025
<b>LENGTH OF ANY POSSIBLE EXTENSION OF EXPIRATION DATES*:</b>	6 months

\* Any request for an extension of the expiration date must be received in the City Planning Division prior to expiration of this permit.

Each and all of the findings and determinations are based on the competent and substantial evidence, both oral and written, contained in the entire record relating to the Project. All summaries of information contained herein or in the findings are based on the substantial evidence in the record. The absence of any particular fact from any such summary is not an indication that a particular finding is not based in part on that fact.

**FINDINGS:**

**CONDITIONAL USE PERMIT FINDINGS**

1. The proposed use is one conditionally allowed within the applicable Zoning District and complies with all other applicable provisions of the Zoning Ordinance and all other titles of the Municipal Code in that an alcohol license for the sale or dispensation of alcohol is conditionally permitted citywide, pursuant to Section 9.31.040(B) of the Zoning Ordinance, unless otherwise exempted pursuant to the provisions of Sections 9.31.040(D) and 9.31.040(E) of the Zoning Ordinance. As proposed, the request to allow for the sale of beer and wine for off-site consumption does not satisfy the standards for the aforementioned provisions for an exemption and requires the Planning Commission’s approval of a Conditional Use Permit.
2. The proposed use is consistent with the General Plan and any applicable specific plan in that the proposal encourages the establishment of active retail along Pico Boulevard by allowing the subject retailer to expand its services and offerings to

its customers in a manner that is consistent with other similar types of uses and is consistent with statewide and local regulations. The project site is located along Pico Boulevard which is envisioned as an attractive, local-serving boulevard that provides an enhanced environment for pedestrians. This vision includes a wider choice of local-serving retail, expanded mobility, shared parking, and an enhanced pedestrian environment to create an attractive and cohesive streetscape. More specifically, the proposal is consistent with Policy B18.7 which limits ground floor uses to mostly active retail with generally continuous, transparent display windows facing the sidewalk.

3. The subject parcel is physically suitable for the type of land use being proposed. The small-scale specialty retail store at this site has all the necessary infrastructure in place to accommodate its operation as it is occupying an existing tenant space within a multi-tenant building. The introduction of the sale of beer and wine for off-site consumption will not intensify or significantly alter the retail operation. There will be no observable differences to the use from beyond its structure, and the use will not create any adverse impacts to the surrounding neighborhood. The proposed sale of beer and wine for off-site consumption will be incidental to the primary use as a small-scale retail store.
4. The proposed use is compatible with any of the land uses presently on the subject parcel if the land uses are to remain. The proposed sale of beer and wine for off-site consumption will not intensify or significantly alter the operation of the small-scale specialty retail store and will provide a service to the surrounding neighborhood in a compatible manner. Pico Boulevard contains a variety of neighborhood serving uses that include retail, personal services, and restaurants in which the small-scale specialty retail store will further enhance and provide additional services to the neighborhood. There will be no observable differences to the use from beyond its structure, and the proposed use will not create any adverse impacts to the surrounding neighborhood. The proposed sale of beer and wine for off-site consumption is incidental to the primary use as a small-scale retail store and adds beer and wine in order to complement their specialty cheeses and meats.
5. The proposed use is compatible with the existing and permissible land uses within the District and the general area in which the proposed use is to be located which may include but not be limited to size, intensity, hours of operation, number of employees, or the nature of the operation. The proposed sale of beer and wine for off-site consumption will be incidental to the primary small-scale retail use which is a permitted use in the GC zone. The specialty cheese store at this site will be located within an existing multi-tenant building that was designed to comply with all development standards in effect at the time the building was constructed. Existing land uses within the immediate vicinity include local-serving commercial and residential uses such as small-scale retail, restaurants, and personal services. Within the immediate vicinity are also a few minor vehicle service businesses. The new small-scale retail store will expand on the existing mix of uses in the area, in

particular specialty food options for the surrounding residential areas. No adverse impacts will be created to the surrounding neighborhood as the operation will be consistent with the recommended conditions of approval and the requirements of the State of California Department of Alcoholic Beverage Control (ABC) which include limiting the hours of alcohol sales within the normal operating hours of the small-scale retail store. The permitted hours of operation for the sale of alcoholic beverages shall be from 11 a.m.-7 p.m. daily, which is consistent with the retail store hours.

6. The physical location or placement of the use on the site is compatible with and relates harmoniously to the surrounding neighborhood. The proposed beer and wine sales will be incidental to the primary small-scale retail use which is a permitted use in the GC zone. There will be no observable differences to the use from beyond its structure, and the use will not create any adverse impacts to the surrounding neighborhood. As such, the small-scale specialty retail store with the proposed sale of beer and wine for off-site consumption will be compatible with the surrounding neighborhood and will provide a service to the surrounding residential and commercial uses.
7. Based on environmental review, the proposed project has no potentially significant environmental impacts or any potentially significant environmental impacts have been reduced to less than significant levels because of mitigation measures incorporated in the project or a Statement of Overriding Considerations has been adopted. The request to introduce a Type 20 (Off-Sale Beer and Wine) ABC license at a new small-scale specialty retail store is exempt from the provisions of the California Environmental Quality Act (CEQA), pursuant to Section 15301 (Class 1), Existing Facilities, of the State Implementation Guidelines. There is no proposed addition to the existing structure or use, and there will be no intensification of the existing use as a result of the proposed sale of beer and wine for off-site consumption within the retail store.
8. The proposed use and related project features will not be detrimental to the public interest, health, safety, convenience, or general welfare. The proposed introduction of the sale of beer and wine for off-site consumption is an incidental component to the primary specialty food retail use. The proposed introduction of the sale of beer and wine for off-site consumption does not involve any new square footage or building volume. There will be no observable differences to the use from beyond its structure and the use will not create any adverse impacts to the surrounding neighborhood.

#### ALCOHOL OUTLET FINDINGS

1. The proposed alcohol sales will not adversely affect the welfare of neighborhood residents in a significant manner. The primary use of the site is a small-scale retail store with the ancillary sale of beer and wine for off-site consumption within an

existing building. The introduction of a Type 20 (Off-Sale Beer and Wine) ABC license to allow for the sale of beer and wine for off-site consumption will occur within the retail store. There will be no observable differences to the use from beyond its structure, and the use will not create any adverse impacts to the surrounding neighborhood. Furthermore, the business operations are located within the GC, General Commercial, district which is intended to provide a broad range of commercial uses while respecting adjacent residential neighborhoods.

2. The proposed alcohol sales will not contribute to an undue concentration of alcohol outlets in the area. There are four other alcohol outlets within a 500-foot radius of the subject site, none of which are located in the same census tract: German American Club, 7-Eleven, Ed's Liquor Store, and Sushi Hanashi. Furthermore, of the four outlets only two include a similar alcohol license type for off-sale beer and wine and off-sale general: 7-Eleven and Ed's Liquor Store. The operation of the specialty retail store is inherently different from the two alcohol outlets that currently have off-sale licenses in that the specialty retail store only proposes beer and wine to complement the cheese and meat selection provided. Furthermore, a small-scale specialty store with an off-sale alcohol license is not typically considered to contribute to objectionable problems associated with alcohol outlets and is not intended to be its primary use.
3. The proposed alcohol sales will not detrimentally affect nearby neighborhoods, considering the distance of the alcohol outlet entry to residential buildings, churches, schools, playgrounds, parks, and other existing alcohol outlets as well as the operation of the business. There are no schools, parks, or churches within a 500-foot radius of the subject site. Although the proposed alcohol sales are located across the street from an existing off-sale alcohol outlet, the primary use of the small-scale retail store will be for the sale of specialty cheese boards and associated accompaniments. Residential uses are located to the rear of the subject site; however, the main entrance to the business is located along Pico Boulevard, and the rear entrance will only be used by employees. Hours of operation for the business are limited to 11 a.m. to 7 p.m. and due to the small-scale nature of the retail business, deliveries will be provided via vans and during normal hours of operation only. The requested Type 20 (Beer and Wine) ABC license will not adversely impact the existing sensitive uses in the area identified above because the primary use of the small-scale retail store will not change as a result of the sale of beer and wine for off-site consumption. Additionally, the alcoholic beverages will be an ancillary component of the specialty retail store that will be unnoticeable from the exterior of the structure.
4. The sale of alcohol will not increase traffic congestion or generate a demand for parking that will adversely affect surrounding businesses and residents in that the proposed sale of beer and wine for off-site consumption will provide an ancillary amenity to customers who are visiting the use for its primary service as a small-scale specialty store. The proposed use does not trigger the need for additional parking and is a use that is consistent with the previous businesses that occupied

the subject tenant space. The sale of beer and wine will not result in a significant increase of patrons, in and of itself, and therefore will not generate an increased traffic or parking demand that will adversely affect surrounding businesses and residents.

## **CONDITIONS OF APPROVAL:**

### **COMMUNITY DEVELOPMENT**

#### **Project Specific Conditions**

1. This approval is for a Type 20 (Off-Sale Beer and Wine) ABC license only. Any request to modify this license type shall require approval from the Planning Commission.
2. The permitted hours of operation for the sale of alcoholic beverages shall be from 11 a.m.-7 p.m. daily which is consistent with the retail store operating hours with complete closure and all employees vacated from the building within one hour after closing. No “after hours” of the market operations shall be permitted.
3. The small-scale retail store shall have a maximum 12 square feet of display area devoted to alcoholic beverage display.

#### **Administrative**

4. The Planning Commission’s approval, conditions of approval, or denial of this application may be appealed to the City Council if the appeal is filed with the Zoning Administrator within fourteen consecutive days following the date of the Planning Commission’s determination in the manner provided in Section 9.37.130 of the SMMC. An appeal of the approval, conditions of approval, or denial of a subdivision map must be filed with the City Clerk within ten consecutive days following the date of Planning Commission determination in the manner provided in Section 9.54.070(G). Any appeal must be made in the form required by the Zoning Administrator. The approval of this permit shall expire if the rights granted are not exercised within 48 months from the permit’s effective date. Exercise of rights shall mean issuance of a building permit to commence construction, or actual commencement of the use granted by this Conditional Use Permit if a building permit is not required.
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. Prior to issuance of a final inspection, 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, is available upon request. This notice shall remain posted at all times the establishment is in operation.
7. 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.
8. 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 Community Development 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 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.
9. 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.
10. 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.

## **Indemnity**

11. Applicant shall defend, indemnify, and hold harmless the City and its boards, commissions, agents, officers, and employees (collectively, "City") from any claims, actions, or proceedings (individually referenced as "Claim" and collectively

referenced as "Claims") against the City to attack, set aside, void, or annul, the approval of 20ENT-0262 or any Claims brought against the City due to the acts or omissions in any way connected to the Applicant's project. City shall promptly notify the applicant of any Claim and shall cooperate fully in the defense. Nothing contained in this paragraph prohibits the City from participating in the defense of any Claims, if both of the following occur:

- (A) The City bears its own attorney's fees and costs.
- (B) The City defends the action in good faith.

Applicant shall not be required to pay or perform any settlement unless the settlement is approved by the Applicant.

In the event any such action is commenced to attack, set aside, void or annul all, or any, provisions of any approvals granted for the Project, or is commenced for any other reason against the City for the act or omissions relating to the Applicant's project, within fourteen (14) days following notice of such action from the City, the Applicant shall file with the City a performance bond or irrevocable letter of credit, or other form of security satisfactory to the City ("the Security") in a form satisfactory to the City, and in the amount of \$100,000 to ensure applicant's performance of its defense, indemnity and hold harmless obligations to City. The Security amount shall not limit the Applicant's obligations to the City hereunder. The failure of the Applicant to provide the Security shall be deemed an express acknowledgment and agreement by the Applicant that the City shall have the authority and right, without consent of the Applicant, to revoke the approvals granted hereunder.

### **Conformance with Approved Plans**

- 12. This approval is for those plans dated January 14, 2021, 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 Community Development. An increase of more than 5% of the floor area of the premises or 10% increase in shelf area used for the display of alcoholic beverages, or a significant change in the approved concept shall be subject to Planning Commission Review. No expansion in intensity of operation shall occur without prior approval from the City of Santa Monica and State ABC.

### **Project Operations**

- 14. The primary use of the premises (small-scale specialty retail store) shall be for the offering of specialty food items, including but not limited to cheese, meats, bread, jams, and other associated items.



15. The small-scale retail use shall not serve or provide any alcoholic beverage tastings on the premises.
16. Window or other signage visible from the public right-of-way that advertises beer or alcohol shall not be permitted.
17. The operation shall at all times be conducted in a manner not detrimental to surrounding properties by reason of lights, noise, activities or other actions.
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 business is subject to the provisions of SMMC Section 4.12.150 (Business Support Operations). Employees of the establishment shall walk a 100-foot radius from the facility at some point prior to 30 minutes after closing and shall pick up and dispose of any discarded beverage containers and other trash left by patrons.
20. Applicant is on notice that all temporary signage is subject to the restrictions of the City sign ordinance.
21. Prior to occupancy, the operator shall submit a plan for approval by the Director 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 an ABC-sponsored alcohol awareness training program within ninety days of the effective date of the exemption determination. In the case of new employees, the employee shall attend the alcohol awareness training within ninety 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. The operator shall provide the City with an annual report regarding compliance with this requirement. The operator shall be subject to any future citywide alcohol awareness training program affecting similar establishments.
22. Within 30 days from the date of approval of this CUP, the applicant shall provide a copy of the signed CUP to the local office of the State ABC.
23. The CUP shall apply to approved and dated plans, 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. Minor amendments to the plans shall be subject to approval by the Director.

### **Fees**

24. As required by California Government Code Section 66020, the project applicant is hereby notified that the 90-day period has begun as of the date of the approval of this application, in which the applicant may protest any fees, dedications, reservations, or other exactions imposed by the City as part of the approval or as a condition of approval of this development. The fees, dedications, reservations, or other exactions are described in the approved plans, conditions of approval, and/or adopted city fee schedule.

### **Standard Conditions**

25. The property owner shall insure any graffiti on the site is promptly removed through compliance with the City's graffiti removal program.

### **Police**

26. 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.
27. 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.

### **VOTE**

*Ayes:*  
*Nays:*  
*Abstain:*  
*Absent:*

**NOTICE**

If this is a final decision not subject to further appeal under the City of Santa Monica Comprehensive Land Use and Zoning Ordinance, the time within which judicial review of this decision must be sought is governed by Code of Civil Procedure Section 1094.6, which provision has been adopted by the City pursuant to Municipal Code Section 1.16.010.

**I hereby certify that this Statement of Official Action accurately reflects the final determination of the Planning Commission of the City of Santa Monica.**

\_\_\_\_\_  
Shawn Landres, Chairperson

\_\_\_\_\_  
Date

**Acknowledgement by Permit Holder**

I hereby agree to the above conditions of approval and acknowledge that failure to comply with such conditions shall constitute grounds for potential revocation of the permit approval.

\_\_\_\_\_  
Print Name and Title

\_\_\_\_\_  
Date

\_\_\_\_\_  
Applicant's Signature