

EXHIBIT C
CONDITIONAL USE PERMIT & STANDARDS VARIANCE FINDINGS
CASE NO. 1804-10 (CUP18-008, SV18-006)
3639 E. 7th Street
January 17, 2019

CONDITIONAL USE PERMIT FINDINGS

Pursuant to Section 21.25.206 of the Long Beach Municipal Code, the Planning Commission shall not approve or deny a Conditional Use Permit unless all of the following findings are analyzed. These findings and staff analysis are presented for consideration, adoption and incorporation into the record of proceedings:

- 1. THE APPROVAL IS CONSISTENT WITH AND CARRIES OUT THE GENERAL PLAN, ANY APPLICABLE SPECIFIC PLANS SUCH AS THE LOCAL COASTAL PROGRAM AND ALL ZONING REGULATIONS OF THE APPLICABLE DISTRICT;**

The subject property is located in General Plan Land Use District (LUD) #4 High Density Residential and the Community Commercial Pedestrian-Oriented (CCP) Zoning District. According to the General Plan, LUD #4 was established to encourage an intensification or recycling of dwelling units in limited areas of the City where apartment and condominium lifestyles are logically related to transportation and services. Design for all projects in this district shall show particular concern for abutting lower density housing. While there are existing retail and service uses in small clusters in the vicinity, the intention of LUD #4 and the overall character of this area prioritizes residential uses, supporting commercial services, such as restaurants, are important to serve these high-density residential uses. Based on site plan revisions advised by the Planning Commission and City staff, the proposed expansion, alignment, and proximity of a drive-through lane and speaker box will be mitigated from having excessive increases in noise, air and light pollution from idling vehicles on adjacent residential uses. Therefore, the proposed plans seek to protect and buffer commercial uses from residential uses, consistent with the General Plan.

The CCP Zone permits retail and service uses with a development character where buildings are built to the street property line and parking is to the side or the rear. Within the CCP zone, restaurants and ready-to-eat foods with drive-through lanes are permitted upon the approval of a Conditional Use Permit (CUP). In conjunction with the CUP application, the approval of a Standards Variance to reduced on-site parking to eight (8) spaces will allow the site to accommodate a 162-foot drive-through lane, consistent with Zoning Code 21.45.130, which requires a minimum queuing distance of one hundred fifty feet (150'). The proposed 162-foot drive-through lane will help prevent vehicles from spilling over into adjacent public right-of-ways, impeding pedestrian and vehicular traffic. The 162-foot queuing length is especially important for this corner

CONDITIONAL USE PERMIT & STANDARDS VARIANCE FINDINGS

CASE NO. 1804-10 (CUP18-008, SV18-006)

January 17, 2019

Page 2 of 5

property, where vehicles would be entering the site (and potentially blocking the right-of-way) so close to an intersection. Therefore, the reduction of required on-site parking spaces from eleven (11) to eight (8) will allow the proposed drive-through lane to conform to the General Plan and Zoning Code.

2. THE PROPOSED USE WILL NOT BE DETRIMENTAL TO THE SURROUNDING COMMUNITY INCLUDING PUBLIC HEALTH, SAFETY OR GENERAL WELFARE, ENVIRONMENTAL QUALITY OR QUALITY OF LIFE;

This site is designated by the General Plan as Land Use #4 High Density Residential, and prioritizes residential uses throughout the area. The Applicant's proposed alignment of the drive-through lane, the direction of the speaker box and menu board, and the increase landscaping have been redesigned to limit the impact of spillover noise, light and air pollution from idling vehicles on adjacent residential uses. These treatments are thoughtfully designed and located, and they will provide significant buffers from unwanted noise, light and air pollution from the vehicles using the drive-through (*see Exhibit H – Proposed Plans; Exhibit J – Conditions #27 and 30*).

Additionally, this site is in the CCP zone, prioritizing pedestrian circulation and pedestrian-oriented frontages on all streets. The proposed drive-through lane will also feature signs and striping reminding motorists to, "Look both ways," to further protect and prioritize pedestrian circulation along East 7th Street and the surrounding community.

3. THE APPROVAL IS IN COMPLIANCE WITH THE SPECIAL CONDITIONS FOR THE SPECIFIC CONDITIONAL USES, AS LISTED IN CHAPTER 21.52; AND,

Section 21.52.231 states that the following conditions shall apply to fast food restaurants:

A. The site shall not adjoin or abut a residential use district;

The project site is located at the northwest corner of East 7th Street and Euclid Avenue in the CCP zone. While this site is across an alley from a multifamily building in the R-3-S zoning district to the north, the existing fast food restaurant was legally established before the current Zoning Code was approved; therefore, the existing fast food restaurant is a legal-nonconforming use. However, the proposed landscaping, block wall, lighting, orientation of the menu board and speaker will mitigate the impacts of possible noise, light, odors, and other nuisances on nearby residences.

CONDITIONAL USE PERMIT & STANDARDS VARIANCE FINDINGS

CASE NO. 1804-10 (CUP18-008, SV18-006)

January 17, 2019

Page 3 of 5

B. The proposed site shall not interrupt or intrude into a concentration of retail uses and shall not impede pedestrian circulation between retail uses;

The site is located on a corner lot at the intersection of East 7th Street and Euclid Avenue in the CCP zone. This zone requires that the site and use to contribute to greater pedestrian circulation and pedestrian-oriented frontages along all streets. The existing unpermitted drive-through exits onto East 7th Street through a legally-approved curb-cut. The long-standing presence of this curb-cut and confirmation from the City's Police Department that there have been no vehicular or pedestrian-oriented collisions at this site indicate that the legal presence of drive-through will not impede pedestrian circulation between retail uses.

C. The use shall not constitute a nuisance to the area due to noise, litter, loitering, smoke or odor;

The proposed 162-foot drive-through lane will increase vehicular capacity on the site, and will result in fewer vehicles queuing in the adjacent public streets. The addition of increased landscaping, block walls, and re-oriented menu boards and speaker boxes will further buffer noise, litter, smoke and odor from adjacent areas.

To date, the Long Beach Police Department reported that the existing site and use has not resulted in excessive or out-of-the-ordinary calls for service (see *Staff Report*, page 3).

D. Order board speakers shall be oriented and directed away from adjacent residential uses.

The Applicant will re-orient the menu board and callbox speakers to face away from adjacent residential uses. Future menu boards and callboxes will be located approximately thirty-feet away from adjacent residential districts and uses (see *Exhibit H – Proposed Plans*, page A-0.3; *Exhibit J – Conditions #27 and 30*).

4. THE RELATED DEVELOPMENT APPROVAL IF APPLICATBLE IS CONSISTANT WITH THE GREEN BUILDING STANDARDS FOR PUBLIC AND PRIVATE DEVELOPMENT AS LISTED IN SECTION 21.45.400

The site is developed with an existing commercial building. All improvements to the building and site will be consistent with all applicable green building standards.

STANDARDS VARIANCE FINDINGS

Pursuant to Section 21.25.306 of the Long Beach Municipal Code, the following findings must be analyzed, made and adopted before any action is taken to approve or deny the subject standards variance and must be incorporated into the record of proceedings relating to such approval or denial:

1. THE SITE OR THE IMPROVEMENTS ON THE SITE ARE PHYSICALLY UNIQUE WHEN COMPARED TO OTHER SITES IN THE SAME ZONE.

The existing fast food restaurant has maintained an unpermitted drive-through lane and walk-up counter over the past several decades. While there are other drive-through and auto-oriented uses exist in the area (including car washes and gas stations) this site is unique in that it is smaller than other parcels; however, the walk-up and drive-through nature of the business is unique and requires less parking than other restaurants in the same zone.

This site is also a 7,800-square-foot corner lot with an odd size and orientation abutting a sub-standard 10-foot alley to the north. Because of these existing site constraints, parking the required eleven space on site is physically infeasible while preserving the pedestrian street walk-up orientation of the restaurant. Additionally, the curb-cuts for the proposed drive-through entrance and exit are already existing. This approval of the CUP and Standards Variance will not introduce new curb-cuts to the site, and are not anticipated to alter existing vehicular or pedestrian circulation.

Pending approval, the proposed improvements will not interfere with the pedestrian-oriented options for this business. On the contrary, the improvements seek to enhance pedestrian safety and circulation on the public right-of-way by accommodating more vehicles on site and improving signage prioritizing pedestrian movement and walk-up access.

2. THE UNIQUE SITUATION CAUSES THE APPLICANT TO EXPERIENCE HARDSHIP THAT DEPRIVES THE APPLICANT OF A SUBSTANTIAL RIGHT TO USE OF THE PROPERTY AS OTHER PROPERTIES IN THE SAME ZONE ARE USED AND WILL NOT CONSTITUTE A GRANT OF SPECIAL PRIVILEGE INCONSISTENT WITH LIMITATIONS IMPOSED ON SIMILARLY ZONED PROPERTIES OR INCONSISTENT WITH THE PURPOSE OF THE ZONING REGULATIONS.

Per Zoning Code Section 21.32.110, the CCP zone allows for fast food restaurants with drive-throughs with the approval of a Conditional Use Permit (CUP). Because drive-throughs are commonly found in the CCP zone, and the

CONDITIONAL USE PERMIT & STANDARDS VARIANCE FINDINGS

CASE NO. 1804-10 (CUP18-008, SV18-006)

January 17, 2019

Page 5 of 5

restaurant has safely operated the existing drive-through despite the discussed site constraints and the corner-lot location, and the existing restaurant maintains business license in good-standing and abated code enforcement, the Applicant has investment-backed expectations for the continued use of the drive-through. In this case, the application of the “estoppel” principle, or the inability to deny the Applicant’s rights to use the site as a drive-through many years later, is appropriate for the Planning Commission to consider.

The Planning Commission, having weighed all the relevant physical factors, operational details, public testimony, and proposed mitigations, found the proposed Standards Variance the best way to balance contradictory planning policies and the interests of the existing restaurant.

3. THE VARIANCE WILL NOT CAUSE SUBSTANTIAL ADVERSE EFFECTS UPON THE COMMUNITY.

The subject standards variance for reduced on-site parking will not cause substantial impacts on the community. Based on staff observation and consultation with the property tenants, the parking lot is largely underutilized, with a majority of business patrons being pedestrians and drive-through users.

Based on reports of vehicular-related incidents from the Police Department, this site, the intersection of 7th and Euclid Avenue, and the surrounding community is not anticipated to experience adverse effects from the reduction of three on-site parking spaces.

4. IN THE COASTAL ZONE, THE VARIANCE WILL CARRY OUT THE LOCAL COASTAL PROGRAM AND WILL NOT INTERFERE WITH PHYSICAL, VISUAL AND PSYCHOLOGICAL ASPECTS OF ACCESS TO OR ALONG THE COAST.

This site is not located in the coastal zone; therefore, this finding is not applicable.