



# DEPARTMENT OF CITY PLANNING

## RECOMMENDATION REPORT



### WEST LOS ANGELES AREA PLANNING COMMISSION

**Date:** July 16, 2008  
**Time:** after 4:30 p.m.\*  
**Place:** Henry Medina West Los Angeles  
Parking Enforcement Facility  
11214 W. Exposition Boulevard  
2<sup>nd</sup> Floor Roll Call Room  
Los Angeles, CA. 90064  
**Public Hearing:** REQUIRED  
**Appealable Status:** City Council  
**Expiration Date:** August 26, 2008

**CASE NO.:** APCW 2007-4515-SPE-SPP  
**CEQA No.:** ENV-2007-5467-MND  
**Related Case:** ZA-2006-7948-CUB-ZV-SPP  
ZA-1997-0849-CUB  
**Council No.:** 11  
**Plan Area:** Venice  
**Specific Plan:** Venice Coastal Zone  
**Certified NC:** Grass Roots Venice  
**GPLU:** Community Commercial  
**Zone:** C2-1-CA  
**Applicant:** AXE Restaurant  
**Representative:** Stephen Jamieson

**PROJECT LOCATION:** 1009 South Abbot Kinney Boulevard

**PROPOSED PROJECT:** Expansion of a 690 square foot existing restaurant with seating for 40 patrons by adding outdoor service onto a 600 square foot patio. The project is located on a 5,000 square foot parcel classified in the C2-1-CA Zone. There is no on-site parking.

#### REQUESTED ACTION:

1. Pursuant to Section 11.5.7 F of the Municipal Code, an **Exception** from the Section 13.D of the Venice Coastal Zone Specific Plan (Ordinance no. 175,693) to permit zero on-site parking spaces in lieu of the 12 parking spaces that would otherwise be required for the new patio service area. Parking will instead be provided by lease agreement as follows: five off-site parking spaces Sunday through Thursday at 920 Abbot Kinney Boulevard and 15 off-site parking spaces Friday through Saturday at 1010 Abbot Kinney Boulevard (Westminster Elementary School).
2. Pursuant to Section 11.5.7 C of the Municipal Code, **Project Permit Compliance** with the Venice Coastal Zone Specific Plan.

#### RECOMMENDED ACTIONS:

1. **Approve** the requested Specific Plan Exception to permit zero on-site parking spaces in lieu of the 12 parking spaces that would otherwise be required for the new patio service area, subject to Conditions of Approval.
2. **Approve** Project Permit Compliance with the Venice Coastal Zone Specific Plan.
3. **Adopt** Mitigated Negative Declaration No. ENV 2007-5467-MND.
4. **Adopt** the attached Findings.
5. **Advise** the applicant that, pursuant to California State Public Resources Code Section 21081.6, the City shall monitor or require evidence that mitigation conditions are implemented and maintained throughout the life of the project and the City may require any necessary fees to cover the cost of such monitoring.

S. GAIL GOLDBERG, AICP  
Director of Planning

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Betsy Weisman, Principal City Planner

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Jim Tokunaga, City Planner (213)978-1309

ADVICE TO PUBLIC: \*The exact time this report will be considered during the meeting is uncertain since there may be several other items on the agenda. Written communications may be mailed to the Commission Secretariat, Room 532, City Hall, 200 North Spring Street, Los Angeles, CA 90012 (Phone No. 213-978-1300). While all written communications are given to the Commission for consideration, the initial packets are sent the week prior to the Commission's meeting date. If you challenge these agenda items in court, you may be limited to raising only those issues you or someone else raised at the public hearing agendaized herein, or in written correspondence on these matters delivered to this agency at or prior to the public hearing. As a covered entity under Title II of the Americans with Disabilities Act, the City of Los Angeles does not discriminate on the basis of disability, and upon request, will provide reasonable accommodation to ensure equal access to its programs, services and activities. Sign language interpreters, assistive listening devices, or other auxiliary aids and/or other services may be provided upon request. To ensure availability of services, please make your request not later than three working days (72 hours) prior to the meeting by calling the Commission Secretariat at (213) 978-1300.

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## PROJECT ANALYSIS

### **Background**

The subject property is a level rectangular shaped parcel having a street frontage of 40 feet on the northeast side of Abbot Kinney Boulevard with a varying depth from 120.75 to 123.35 feet. The site is developed with a two story commercial building and the Applicant (AXE Restaurant) occupies the ground floor while a commercial office occupies the second floor.

The proposed project has been before the West Los Angeles Area Planning Commission (WLAAPC) on several occasions as an appeal by the Applicant of a Zoning Administrator's denial of Conditional Use for serving alcoholic beverages, and dismissal of a parking covenant variance (Case No. ZA-2006-7948-CUB-ZV-SPP). After several meetings, the WLAAPC on October 17, 2007, granted the appeal and overturned the action of the Zoning Administrator thereby granting the Conditional Use permit to serve beer and wine on the patio and to allow the required parking off-site by lease agreement in lieu of the Code provision allowing required parking off-site by a recorded covenant. The Commission did not grant approval of the Project Permit with the Venice Coastal Zone Specific Plan ("the Specific Plan") when it was determined that the project did not comply with the parking requirements of the Specific Plan.

Specifically, the Venice Coastal Zone Specific Plan requires project parking be located on-site and unlike the Municipal Code, has no provision for allowing required parking off-site. While the variance granted by the WLAAPC on October 17, 2007 relieved the Applicant from having to provide the required parking by Covenant and Agreement and allowed parking off-site by lease agreement, the variance does not extend the same relief from Specific Plan requirements. The Venice Coastal Zone Specific Plan as all Specific Plans have their own regulations and relief from Specific Plan provisions can only be granted through the Specific Plan Exception procedures (Section 11.5.7.F). As a result the Applicant has filed an application for a Specific Plan Exception which is now before the Planning Commission. The previously approved Conditional Use for alcoholic beverages and the parking variance is not a subject of the Specific Plan Exception and will not be modified in any way.

### **Surrounding Land Use and Zoning**

Surrounding properties are zoned and developed with commercial and public facility uses. Properties to the northeast are zoned C2-1-CA and developed with residential lofts that front on Electric Avenue. The property to the northwest is zoned C2-1-CA and is developed with a two-story, four-unit apartment building. The property to the southeast is zoned C2-1-CA and is currently being developed. Across Abbot Kinney Boulevard to the south is the two-story Westminster Avenue Elementary School and is zone [Q]PF-1XL.

*Abbot Kinney Boulevard* adjoining the property is a designated Scenic Secondary Highway that is dedicated a width of 70-feet and is improved with curb, gutter, and sidewalk.

*Electric Avenue* near the property to the rear is a designated Local Street dedicated to a width of 40-feet and is improved with curb, gutter, and sidewalk on the north side of the street only.

Street parking is allowed on both sides of Abbot Kinney Boulevard adjacent to the subject site except on street cleaning days. Street parking is also allowed on both sides of Broadway and Electric Avenue.

### **Previous Relevant Cases**

*Case ZA-93-0780(CUB)* – On November 9, 1993, the Zoning Administrator approved a Conditional Use to permit the sale and dispensing of beer and wine for on-site consumption in conjunction with an existing restaurant accommodating approximately 45 persons and having hours of operation from 11:00 a.m. to 12 midnight, seven days a week.

*Case ZA-97-0849(CUB)* – On October 5, 1998, the Zoning Administrator approved a Conditional Use to permit the sale and dispensing of beer and wine for on-site consumption in a 690 square foot restaurant.

### **Issues**

During the public hearings for the Zoning Administrator case, significant testimony was presented regarding the following major issues:

- lack of parking in the area
- noise levels
- trash

In an effort to alleviate the neighborhood concerns, Conditions of Approval were imposed by the WLAAPC to address these issues. All of the previous conditions are still in force, and approval of the Specific Plan Exception does not negate the prior approval conditions. Similar conditions have been attached to this Exception request in order to maintain consistency in approvals.

### **Conclusion**

The Applicant wishes to expand her business onto an outdoor patio offering a different dining option to the interior space. The Specific Plan however requires 12 parking spaces on-site in order to expand the restaurant business. While the intent of the parking requirement is to insure adequate parking for commercial uses in the Venice community, there are no provisions for existing businesses established prior to the adoption of the Specific Plan. AXE Restaurant has been at this location for 13 years and has developed a regular customer base.

Although the neighboring residents have concerns over increased noise on the patio, the issue is not whether the patio is an appropriate place for dining since there are no regulations against this and is encouraged in a commercial zone. Conditions have been placed to ensure that neighbors are buffered from excessive noise and light. The subject of the Exception request is whether parking off-site by a lease agreement is an appropriate means to provide customer parking. The Planning Department is recommending approval of the Specific Plan Exception. The restaurant site is built out and it is a physical hardship to put 12 parking spaces on site without having to demolish existing portions of the building and major reconstruction. The Applicant has made an effort to provide some parking at a nearby office location and at the neighboring Westminster Elementary School. With Conditions of Approval established by the prior ZA-2006-7948-CUB-ZV-SPP-1A, and APCW-2007-4515-SPE, expansion of the restaurant to accommodate outdoor dining will contribute to the commercial vitality of Abbot Kinney Boulevard.

## CONDITIONS OF APPROVAL

### A. Entitlement Conditions

1. **Use.** The use of the property shall be limited to the construction, use, and maintenance of a restaurant in the C2-1-CA Zone. The project as approved is for the addition of a 600 square foot outdoor patio dining area and an additional 32 seats to an existing restaurant.
2. **Site Plan.** The development of the subject property shall be in substantial compliance with the site plan and floor plan labeled "Exhibit A" dated July 16, 2008, and attached to the subject case file. Prior to the issuance of any permits for the subject project, detailed development plans including new seating areas on the patio shall be submitted for review and approval by the Department of City Planning for verification of compliance with the imposed conditions.
3. **Parking Lease.** The applicant shall submit on an annual basis to the Planning Department, valid agreements between the restaurant and the valet company and the lessor of property where off-site parking is provided for the subject restaurant. The agreement shall identify the location, hours, and number of parking spaces provided. In addition the following parking conditions shall be complied with:
  - A. A copy of the contract shall be provided for valet parking services for parking spaces every night exclusively for AXE Restaurant (Applicant). The contract shall specify that no street parking or any other spaces available to the public will be used to satisfy the valet parking condition.
  - B. AXE Restaurant employees shall not park on any public street or other spaces available to the public.
  - C. The valet parking program shall be submitted to the Los Angeles City Department of Building and Safety.
  - D. Should the valet contract terminate, the right to use the outdoor patio area also terminates unless a new valet contract is signed.
4. **Patio Use.** The sole use of the patio shall be sit down meal services. No events, including but not limited to, weddings, meetings, reunions, parties, ceremonies, etc. shall be scheduled to take place on the patio. In addition, events taking place during permitted hours of operation within the non-patio portion of the restaurant premises shall not make use of any portion of the outdoor patio. In addition the following patio use conditions shall be complied with:
  - A. The patio shall be covered to minimize noise impacts for the adjacent residential uses. The cover shall consist of a fabric cover.
  - B. There shall be no music or live entertainment or other amplified sounds on the patio.
  - C. Patio hours of operation:  
Sunday through Thursday 11:00 a.m. to 9:00 p.m.  
Friday and Saturday 11:00 a.m. to 10:00 p.m.
  - D. The restaurant shall maintain in a clean and sanitary manner that area specifically designated for the restaurant's trash collection bins. The trash bins shall be fully enclosed and located a minimum of 20-feet from residential property.

**B. Environmental Conditions**

4. **Aesthetics (Graffiti).** Every building, structure, or portion thereof, shall be maintained in a safe and sanitary condition and good repair, and free from graffiti, debris, rubbish, garbage, trash, overgrown vegetation or other similar material, pursuant to Municipal Code Section 91.8104. The exterior of all buildings and fences shall be free from graffiti when such graffiti is visible from a public street or alley pursuant to Municipal Code Section 91.8104.15.
5. **Aesthetics (Lighting).** Outdoor lighting shall be designed and installed with shielding so that the light source cannot be seen from adjacent properties.
6. **Public Services (Fire).** The project shall comply with all applicable State and local codes and ordinances, and the guidelines found in the Fire Protection and Fire Prevention Plan, as well as the Safety Plan. In addition the following recommendations of the Fire Department relative to fire safety shall be incorporated into the building plans which includes the submittal of plot plans for approval by the Fire Department either prior to the approval of a building permit.
  - Fire lanes, where required, shall be a minimum of 20-feet in width.
  - All structures must be within 300 feet of an approved fire hydrant and entrances to any guest room shall not be more than 150 feet in horizontal distance from the edge of the roadway of an improved street or approved fire lane.
7. **Public Services (Police).** Upon completion of the project, the applicant shall provide the Los Angeles Police Department (Pacific Community Area Commanding Officer) with a diagram of each portion of the property. The diagram shall include access routes and any additional information that facilitates police response. The building plans shall incorporate design guidelines relative to security, semi-public and private spaces (which may include but not be limited to access control to building), secured parking facilities, walls/fences with key systems, well-illuminated public and semi-public space designed with a minimum of dead space to eliminate areas of concealment, location of toilet facilities and building entrances in high-foot traffic areas, and provision of security guard patrol throughout the project site if needed. Refer to *Design out Crime Guidelines: Crime Prevention Through Environmental Design* published by the Los Angeles Police Department's Crime Prevention Section. These measures shall be approved by the Police Department prior to the issuance of building permits.
8. **Utilities (Solid Waste).** Recycling bins and receptacles shall be provided at appropriate locations to promote recycling of paper, metal, glass, and other recyclable materials.

**C. Administrative Conditions**

9. **Approval, Verification and Submittals.** Copies of any approvals, guarantees or verification of consultations, review or approval, plans, etc., as may be required by the subject conditions, shall be provided to the Department of City Planning for placement in the subject file.
10. **Code Compliance.** Area, height and use regulations of the zone classification of the subject property shall be complied with, except where herein conditions are more restrictive.
11. **Covenant.** Prior to the issuance of any permits relative to this matter, an agreement concerning all the information contained in these conditions shall be recorded in the County Recorder's Office. The agreement shall run with the land and shall be binding on any subsequent property

## AXE Restaurant

owners, heirs or assigns. The agreement shall be submitted to the Department of City Planning for approval before being recorded. After recordation, a copy bearing the Recorder's number and date shall be provided to the Department of City Planning for attachment to the file.

- 12. Definition.** Any agencies, public officials or legislation referenced in these conditions shall mean those agencies, public offices, legislation or their successors, designees or amendment to any legislation.
- 13. Enforcement.** Compliance with these conditions and the intent of these conditions shall be to the satisfaction of the Department of City Planning and any designated agency, or the agency's successor and in accordance with any stated laws or regulations, or any amendments thereto.
- 14. Building Plans.** Page 1 of the grant and all the conditions of approval shall be printed on the building plans submitted to the Department of City Planning and the Department of Building and Safety.
- 15. Utilization of Entitlement.** The applicant/owner shall have a period of two years from the effective date of the subject grant to effectuate the terms of this entitlement by either securing a building permit or a certificate of occupancy for the authorized use, or unless prior to the expiration of the time period to utilize the privileges, the applicant files a written request and is granted an extension to the termination period for up to one additional year pursuant to Section 11.5.7.C.4(e) of the Municipal Code. Thereafter, the entitlement shall be deemed terminated and the property owner shall be required to secure a new authorization for the use.
- 16. Project Plan Modifications.** Any corrections and/or modifications to the Project plans made subsequent to this grant that are deemed necessary by the Department of Building and Safety, Housing Department, or other Agency for Code compliance, and which involve a change in site plan, floor area, parking, building height, yards or setbacks, building separations, or lot coverage, shall require a referral of the revised plans back to the Department of City Planning for additional review and final sign-off prior to the issuance of any building permit in connection with said plans. This process may require additional review and/or action by the appropriate decision making authority including the Director of Planning, City Planning Commission, Area Planning Commission, or Board.
- 17. Corrective Conditions.** The authorized use shall be conducted at all times with due regard for the character of the surrounding district, and the right is reserved to the City Planning Commission, or the Director pursuant to Section 12.27.1 of the Municipal Code, to impose additional corrective conditions, if, in the Commission's or Director's opinion, such conditions are proven necessary for the protection of persons in the neighborhood or occupants of adjacent proper.
- 18. Idemnification.** The applicant shall defend, idemnify and hold harmless the City, its agents, officers, or employees from any claim, action, or proceeding against the City or its agents, officers, or employees to attack, set aside, void or annul this approval which action is brought within the applicable limitation period. The City shall promptly notify the applicant of any claim, action, or proceeding and the City shall cooperate fully in the defense. If the City fails to promptly notify the applicant of any claim, action, or proceeding, or if the City fails to cooperate fully in the defense, the applicant shall not thereafter be responsible to defend, idemnify, or hold harmless the City.



## FINDINGS

1. **General Plan Land Use Designation.** The subject property is located within the Venice Community Plan area, which was adopted by the City Council on September 29, 2000 (pursuant to Council File 2000-1505 and CPC-97-0047-CPU). The Plan Map designates the subject property for Community Commercial land use with corresponding zones of CR, C2, C4, RAS3, and RAS4. The subject site is zoned C2-1-CA and consistent with the land use designation. Restaurant uses are permitted in the Community Commercial designation and the C2 Zone. Footnote No. 12 on the Community Plan Map identifies the CA (commercial and artcraft district) overlay designation along Abbot Kinney Boulevard.

2. **General Plan Text.** Chapter III of the Venice Community Plan contains the following Goal, Objectives, and Policies regarding the commercial sector of the plan area.

GOAL 2 A strong and competitive commercial sector which promotes economic vitality, serves the needs of the community through well designed, safe and accessible areas while preserving the historic, commercial and cultural character of the community.

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

The proposed 600 square foot expansion is to an existing restaurant that has been at the present location for approximately 13 years. The restaurant, which is locally owned and operated, contributes to the commercial and pedestrian activity of Abbot Kinney Boulevard, a recognized community commercial district in the Venice community. The expansion will allow the restaurant to expand its table service and thereby strengthening the economic vitality of the commercial corridor.

3. **Specific Plan Exception Findings.** Pursuant to Section 11.5.7.F of the Municipal Code the following:

A. *The strict application of the policies, standards and regulations of the Specific Plan to the subject property will result in practical difficulties or unnecessary hardships inconsistent with the general purpose and intent of the Plan for the following requests.*

The Applicant has requested an Exception from the Venice Coastal Zone Specific Plan's parking requirement of one parking space for every 50 square feet of service area. The restaurant expansion involves adding 600 square feet of outdoor dining area resulting in an on site parking requirement of 12 spaces. The existing restaurant comprised of approximately 690 square feet does not have parking on site and maintains the non-conforming rights (the restaurant existed prior to the adoption of the Specific Plan) of not providing parking for the existing interior dining area.

Unlike the Municipal Code which allows parking off-site by a Covenant and Agreement, the Specific Plan does not allow for alternatives to the parking requirement. New uses must provide parking on-site or pay an in-lieu fee. In this particular case, the additional parking requirement is triggered by the proposed expansion of an existing restaurant but is not a new use. The Applicant was previously granted a Variance to allow parking by a lease agreement and is now

seeking an Exception to mirror the Variance approval already granted under Case no. ZA-2007-7948-CUB-ZA-SPP-1A. Parking will be provided by a lease agreement with a valet company for off-site parking.

- B. There are exceptional circumstances or conditions that are applicable to the subject property or to the intended use or development of the subject property that do not generally apply to other properties within the Specific Plan area.*

The restaurant is an existing use and not a new use proposed for the site. The subject property is built out and there is no available space on site to locate the 12 required parking spaces. In order to provide parking on-site, significant demolition would have to occur to the existing building to physically position 12 parking spaces and is an exceptional circumstance. Without approval of the requested exception the restaurant cannot expand on to the patio area. The restaurant is not a national chain restaurant drawing on advertising with name recognition and brand loyalty, instead it is a small locally operated restaurant intended to serve local residents.

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

The restaurant is a small privately owned local restaurant that has been at the present location for the past 13 years. The business was established prior to the Venice Coastal Zone Specific Plan and the parking requirements and as a result, the existing restaurant has no parking on-site. A hardship exists in that it would require the demolition of an existing two story building in order to provide on-site parking for the restaurant.

Abbot Kinney Boulevard is a relatively small community commercial district occupied by other small restaurants, stores, and offices geared towards serving the Venice community. There is an emphasis on maintaining the street character towards local independent businesses and a pedestrian friendly environment. The intended clientele of the restaurant is to continue serving the local community who can walk to the site or to capture those pedestrians who are already on the street. Because the project site is fully developed, it would be a hardship to require putting parking on-site. However, without the exception, the restaurant could never expand its business. In order to meet the parking needs, the Applicant will provide parking off-site through a lease agreement.

- D. The granting of the exception will not be detrimental to the public welfare and injurious to property or improvements adjacent to or in the vicinity of the subject property.*

Conditions have been placed to ensure that the outdoor dining is not a detriment to the surrounding neighborhood. Conditions include; limiting the hours, location of trash bins, prohibiting music and live entertainment on the patio, ensuring lighting is directed onto the site and not on adjacent residential properties, and requiring a covered patio to minimize noise. In addition, the Applicant must provide the Planning Department with an annual proof of a valet parking lease in order to allow the continued use of the patio dining area. Prior conditions regarding the sale of beer and wine (ZA-2006-7948-CUB) are still applicable and must also be complied with.

- E. Granting of the exception is consistent with the principles, intent and goals of the specific plan and any applicable element of the General Plan.*

The Applicant is proposing to provide restaurant customer parking through a lease agreement and valet parking off-site. Specifically, the restaurant will provide five off-site parking spaces on Sundays through Thursdays at 920 Abbot Kinney Boulevard, and 15 off-site parking spaces at the Westminster Elementary School (across the street) on Friday and Saturday evenings. Letters from the property owners agreeing to the lease agreement have been submitted. By providing the off-site parking at these locations, granting the requested exception is consistent with the intent of the Specific Plan as well as the General Plan in requiring parking for the restaurant.

**4. Specific Plan Project Permit Compliance.** Pursuant to section 11.5.7 C of the Municipal Code:

- A. The project substantially complies with the applicable regulations, standards and provisions of the specific plan.*

With approval of an Exception from the Venice Coastal Zone Specific Plan for parking (see Finding #3), the project complies with Section 8.G.1 (Land Use Limitation) of the Specific Plan inasmuch as the proposed project is an expansion of a restaurant in the C2-1-CA Zone, a commercial zone that permits the use. Conditional use approvals have previously been granted for serving alcoholic beverages inside and on the outside patio of the restaurant. The building itself was constructed prior to the enactment of the Specific Plan, however there are no additions proposed to the height or bulk of the building.

- B. The project incorporates mitigation measures, monitoring measures when necessary, or alternatives identified in the environmental review which would mitigate the negative environmental effects of the project, to the extent physically feasible.*

The project has been conditioned with conditions of approval that will mitigate to acceptable levels, all environmental impacts that may be associated with the project (ENV 2006-5467-MND). In addition, conditions have been imposed for compliance with the Specific Plan Exception. All of the conditions must be met, to the satisfaction of the Planning Department, prior to the issuance of a building permit.

**5. Environmental.** A Mitigated Negative Declaration (ENV 2007-5467-MND) was prepared for the proposed project. On the basis of the whole of the record before the lead agency including any comments received, the lead agency finds that there is no substantial evidence that the proposed project will have a significant effect on the environment. The attached Mitigated Negative Declaration reflects the lead agency's independent judgement and analysis. The records upon which this decision is based are with the Environmental Review Section in Room 750, 200 North Spring Street, City Hall.

**6.** The action, as recommended, has been made contingent upon compliance with the conditions of approval imposed herein. Such limitations are necessary to protect the best interests of and to assure a development more compatible with surrounding properties, to secure an appropriate development in harmony with the General Plan, and to prevent or mitigate the potential adverse environmental effects of the subject recommended action.