

**ATTACHMENT B  
DRAFT STATEMENT OF OFFICIAL ACTION**



City of  
**Santa Monica**<sup>SM</sup>

City of Santa Monica  
City Planning Division

**CITY COUNCIL  
STATEMENT OF OFFICIAL ACTION**

**PROJECT INFORMATION**

CASE NUMBER: 17ENT-0186 (APPEAL)

LOCATION: 2953 Delaware Avenue

APPLICANT: Laila Taslimi, Untitled No. 1 School

PROPERTY OWNER: Untitled No. 1 School

CASE PLANNER: Elizabeth Bar-EI, AICP, Senior Planner

REQUEST: Change of use from a single-family home to a childcare facility serving up to 20 children of mixed income levels, with equal numbers of lower, middle and upper income enrollment, with three on-site parking spaces, one on-site passenger loading space and an off-site short-term parking space.

As volunteered by the applicant, the applicant shall offer tuition assistance for lower and moderate income families to ensure that a minimum of 1/3 of the children at the center shall be residents in the 90404 zip code, with preference to children at qualifying income levels within a ¼ mile radius of the subject property. The applicant has also agreed to consult with Connections for Children to offer childcare for families on their waitlist(s) for the 1/3 of children from lower and moderate income families.

Variances from SMMC 9.28.070.A and 9.28.120.B.3 to allow unenclosed surface parking, including one front yard parking space accessed from the street on a property where alley access exists; variance from SMMC 9.28.080.E.4 to provide only one passenger loading space

	mitigated by providing one short-term parking space on the street. Fence Modification per SMMC 9.31.120.A to allow a fence in the front setback area greater than 48" in height.
CEQA STATUS:	The project is categorically exempt from the provisions of CEQA, pursuant to Class 15303(a)

**CITY COUNCIL ACTION**

December 5, 2017      Determination Date

\_\_\_\_\_ Appeal granted based on the following findings.  
 \_\_\_\_\_ Appeal Denied; Application approved based on the following  
 \_\_\_\_\_ findings and subject to the conditions below

\_\_\_\_\_ Other:

<b>EFFECTIVE DATES OF ACTION</b>	December 5, 2017
<b>EXPIRATION DATE OF ANY PERMITS GRANTED:</b>	December 5, 2019
<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.

The City Council, having held a public hearing on December 5, 2017, hereby denies Appeal 17ENT-0861 and approves 17ENT-0075 (Conditional Use Permit); 17ENT-0147 (Variance) and 17ENT-0148 (Fence/Wall/Hedge Modification) to permit a childcare facility at 2953 Delaware Avenue.

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 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 childcare centers are a conditionally permitted use in the R1 Zoning District. Through design and conditions included herein, the project complies with the specific use standards for childcare centers and with property development standards in the district, with the exception of those requirements that have been modified by variance approval.

2. The proposed use is consistent with the General Plan in that it addresses goals related to encouraging childcare and serving residential neighborhoods with services that are within walking distance. Goal CE9 of the LUCE strives to integrate the childcare and early education needs of those who live or work in the community into the City's land use planning process. This goal is implemented through Policy CE9.1, which seeks to support the development of high-quality Child Care and Early Education Facilities to meet the needs of workers and residents of the City by maintaining streamlined processing and permit regulations, encouraging harmonious integration with the neighborhood, and providing fee reductions as incentives. Furthermore, LUCE Goal N1 strives to "protect preserve and enhance the residential neighborhoods." Under this goal are policies aimed at respecting and preserving existing housing stock, creating places that promote sociability and human interaction, and other policies to create complete neighborhoods that meet residents' needs within walking distance. The proposed project integrates both of these LUCE goals by providing a service for children in the community, including a potential pool of children within walking distance. The project preserves the original house and upgrades it to meet State requirements. The proposal is sensitive to its surroundings through the design of the fence, the proposed limitation to the number of children, the proactive suggestions for pick-up and drop-off management and the programming and design of indoor and outdoor play spaces for small groups of children to distribute activity and reduce noise levels. As such, the proposed use bridges the intents of both Goal CE1 and Goal N1 and is consistent with the City's General Plan.
3. The subject parcel is physically suitable for the type of land use being proposed, in that it is served by all necessary public improvements and access to utilities. The project involves the re-use of the existing single-family dwelling on the parcel with only minor interior and exterior alterations proposed to facilitate conversion to a Child Care and Early Education Facility. The size and location of the existing structure and outdoor play areas are sufficient to accommodate the proposed student enrollment of 20 children according to the requirements of the State of California's Child Care Licensing regulations.
4. The proposed childcare facility will be the only use remaining on the property and thus the finding of compatibility with any land uses presently on the subject parcel is not applicable.
5. The proposed use is compatible with existing and permissible land uses within the District and the general area in which it 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, in that the City, through R1 zoning regulations, has confirmed that childcare is appropriate in proximity to single-family homes as an educational and social activity that supports residents. The facility will be moderate in size, restricted to a maximum of 20 children, with both indoor and outdoor activities. Parking as required by the Zoning Code is located on-site and an additional short-term parking space will be provided (pending Transportation Engineering approval) in front of the property. Furthermore, conditions require that the applicant work with parents to direct them to utilize the alley parking for access in order to decrease the number of peak hour trips on Delaware Avenue. Most trips to the site will take place during one-hour periods in the mornings and evenings on weekdays. The facility will not generate weekend, nighttime or early morning noise or traffic that would impact the quality of life in the neighborhood. In the case that issues develop, the applicant is required to maintain open communications to resolve issues through an on-site liaison required herein. Based on the above design and conditions required by this permit, the proposed use would not impair the integrity and character of the neighborhood in which it is located.

6. The physical location or placement of the use on the site is compatible with and relates harmoniously to the surrounding neighborhood in that the facility would provide childcare in the existing one-story home that is an original structure in the neighborhood. To comply with State regulations, the front yard must be enclosed with a four-foot high fence. This fence will be set back from the property line retaining wall by two feet, with the space created to be landscaped with seating to interact in a more friendly manner with the sidewalk and streetscape. Since fencing of this height is not otherwise found on this block, a condition herein requires the fencing type to be as open as possible while complying with State requirements in order to retain a harmonious character in relation to the surrounding neighborhood.
7. Based on environmental review, the proposed project has no potentially significant environmental impacts in that the project is exempt from environment review, pursuant to Section 15303 (Class 3 – New Construction or Conversion of Small Structures) of the California Environmental Quality Act Implementation Guidelines. This exemption applies to the conversion of existing small structures from one use to another where only minor modifications are made in the exterior of the structure. The proposed conversion involves interior modifications to the existing structure, removal of an accessory garage structure, and minor exterior modifications to accommodate the proposed new use.
8. The proposed use and related project features would not be detrimental to the public interest, health, safety, convenience, or general welfare in that childcare does not result in detrimental effects to the community and, in fact, the proposed use will provide a valuable service to nearby residents, community, and a part of the City's workforce located in the area. The use is conditionally permitted in the R1 (Single Unit Residential) district, but must be acknowledged as introducing a different type of activity into the neighborhood. As conditioned, the use gives consideration to retain the quality of life of nearby residents through its design and

operation. The facility would provide for the needs of its employees and families by supplying all the required parking on-site, as well as an on-site loading space and a short-term parking space on the street in front of the property (pending PCD Director approval). Furthermore, by limiting enrollment to 20 children, the proposed facility cannot expand beyond the intended size that has been analyzed and deemed appropriate herein, further ensuring that project features and use would not be detrimental to the public interest, health, safety, convenience, or general welfare.

## 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 in that the proposed childcare is an exceptional use in the R1 District so the “special circumstances” are due to the intended use of the property. The R1 parking standards are oriented toward compatibility of single-unit uses, which is the predominant use in the zoning district. While childcare facilities are conditionally permitted, the standards do not consider the very different functioning of parking and loading for these uses as compared with single-unit homes. Enclosing the parking in a garage is not practical for this use, and it would necessitate a very large structure in order to meet ADA requirements, which are not applicable to single-unit homes. The childcare use must accommodate three parking spaces as well as at least one loading space on the property. Use of the front driveway in a similar manner to the previous residential use, which had a driveway that could be used for additional parking, meets the needs of the use. However, as a required space, it is not permitted, which is again a special circumstance occasioned by the proposed use. The last variance request, to reduce one loading space and provide instead an on-street, short-term parking space, is also justified by the special circumstance of the childcare use, which is the only such use in the district that is allowed an on-street loading space. However, the Building Code requirements for loading, as opposed to short-term parking, create a special circumstance that would compel the applicant to undertake right-of-way improvements that would be both costly and incompatible with the neighborhood, including the removal of a mature street tree. Granting this variance addresses the conflict caused by these requirements, given the special circumstances of the childcare use.
2. The granting of such variance will not be detrimental nor injurious to the property or improvements in the general vicinity and district in which the property is located in that the project provides all required parking, and one passenger loading space on-site. The Director may approve a second passenger loading space for a childcare facility on the adjacent street, but a short-term street parking space is requested in place of the on-street loading space in order to avoid the need to make right-of-way modifications including loss of a street tree that would be

inconsistent with the character of the residential neighborhood street. Furthermore, in regard to the variance request to locate one space in the front yard setback area, it is typical for neighborhood residents to park their cars on front driveways, although driveways are not considered their required parking. Designating the front driveway as one of the three required parking spaces for the use supports the childcare while resulting in essentially the same use of the driveway as it served for the previous use as a residence and does not substantially alter the relationship of the property's access to the street. Concerning the reduction of one loading space, with substitution of a short-term parking space, the Code already allows the Director to approve one on-street loading space in front of a childcare. The short-term space would not be injurious to the surrounding improvements in the general facility because it would function similarly and thus meet the intent of the Code. Furthermore, the space will be available for general use outside of the facility's operating hours. Thus, this finding can be made for all three of the requested variances.

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 there are practical difficulties at this property for a childcare facility, which is required to provide five parking or loading spaces rather than the usual two spaces needed in this district, to provide alley-accessed parking in a garage and avoid parking in the front yard setback area. The requirement for parking in a garage accessed from the alley, combined with ADA requirements that do not normally apply to single-family homes, would result in the need to develop a large three-car garage structure. Providing such a structure would then leave insufficient space along the 50-foot property width to provide the required refuse, recovery and recycling storage and an accessible passenger loading space. Additionally, the child care facility might be forced to reduce the amount of play area and possibly the number of children served in order to meet all parking location and access requirements in the rear of the property in an enclosed structure. Furthermore, the structure would increase lot coverage and be less compatible with the surrounding properties. Concerning the reduction of one loading space, with substitution of a short-term parking space, the Code's nomenclature that designates only a loading zone and not a short-term parking space option, would result in practical difficulties due to Building Code requirements for right-of-way improvements that are not compatible with the single-unit residential area and not required for short-term parking. However, the short-term parking will provide equivalent service for the drop off and pick up of children at the childcare facility. Therefore, this finding can be made for all three of the requested variances.
4. The granting of three variances 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, LUCE Policy CE9.1 supports the development of high-quality Child Care and Early Education Facilities to meet the needs of workers and residents of the City. The Zoning Code supports this policy by providing

specific use standards aimed at removing obstacles to implementation of this policy, but in this district, there are unique requirements that are incompatible with providing a childcare use as intended. These include the requirement to provide parking within a garage, a standard that has been determined to maintain the form of a single-family residential use. This precludes counting an uncovered space toward meeting the requirement, although it is typical in practice for residents to park their cars on their front driveways, providing additional non-required parking capacity. This childcare use, which is encouraged in the General Plan and supported by the Zoning Ordinance, requires variances in order to be permitted, as the Specific Use Standards have not addressed all conflicts with the R1 Standards that were developed specifically for the primary single-family use in the District. Therefore, the granting of these variances would support, and not conflict, with the general purposes and intent of the General Plan and Zoning Ordinance.

5. The variance would not impair the integrity and character of the district in which it is to be located in that the variances from parking location standards and use of a short-term parking space instead of a loading space will facilitate the best design for providing parking and loading as required by Code without imposing the need for a large enclosed garage structure across the rear of the property. It is typical for neighborhood residents to park their cars on front driveways, although driveways are not considered their required parking. Designating the front driveway as one of the three required parking spaces for the use supports the childcare while resulting in essentially the same use of the driveway as it served for the previous use as a residence. Thus it will not impair the integrity and character of the district. In regard to the request to substitute a short-term parking space for a required loading space, the neighborhood's character will not be impaired because during non-operational hours, which includes evening, overnight and weekend hours, the space would continue to follow the restrictions of the rest of the neighborhood and remain for use of all visiting the street.
6. The subject site is physically suitable for the proposed variances in that it is a standard lot on which all of the childcare facility's needs can otherwise be met with the granting of these variances.
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 the granting of this variance will have any effect on the service needs of the property and use.
8. There will be adequate provisions for public access to serve the subject variance proposal in that the proposed variances support provision of parking that is accessed from an existing alley and street, with an existing front driveway.

9. The strict application of the provisions of the Zoning Ordinance would result in unreasonable deprivation of the use or enjoyment of the property in that the General Plan encourages childcare and the Zoning Code conditionally permits the use in this single-family zoning district, but requires more parking than a residential use, within an enclosed garage. These locational requirements reflect residential needs and character, but on a typical lot such as the subject property, the requirements taken together become unreasonable for the establishment of a childcare facility. Requiring the applicant to construct a three-car garage in the rear of the property, as well as providing an ADA-compliant loading space would preclude the optimal siting to meet the needs of the childcare, which deprives the applicant of the property's use, including a potential reduction in play area and enrollment. Furthermore, due to the need for one space more than the typical single-family residential use in the R1 District, allowing the additional space to be located on the existing front driveway is necessary to allow the facility to serve 20 children, making it possible to develop a viable facility. In this way, the variances in combination provide relief from the strict application of the Zoning Ordinance to avoid unreasonable deprivation of the property's use for providing childcare to the community.

#### FENCE/WALL HEDGE MODIFICATION FINDINGS

1. The subject fence, wall, or hedge will be compatible with other similar structures in the neighborhood and is required to mitigate impacts from adjacent land uses, the subject property's proximity to public rights-of-way, or safety concerns in that the proposed five foot-high wood fence is required to provide a four foot height from the interior to meet State regulations for protection of outdoor play areas in the proposed childcare facility. The fence has been designed to step back 18" from the sidewalk to create a landscaped bench that mitigates the overall appearance of height. Furthermore, the fence is conditioned herein to include some openness to reflect the open character of the surrounding neighborhood. Although other properties on the street do not have similar fences, the Zoning Code conditionally permits childcare facilities in the district and anticipates front yard fences of at least four feet in height. The modification allowing one additional foot, as designed and conditioned, is compatible.
2. The granting of such modification 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 fence is required to provide a 5' triangular area free of hazardous visual obstructions adjacent to the driveway on the subject site and the adjacent driveway to the west. The fence as designed and conditioned herein will not be detrimental or injurious to other properties.
3. The modification will not impair the integrity and character of the neighborhood in which the fence, wall, or hedge is located because it has been designed in a sensitive manner to present a friendly front to the sidewalk through the bench element while meeting the State requirements to protect the childcare facility's play

yard.

## **CONDITIONS OF APPROVAL**

### **PLANNING AND COMMUNITY DEVELOPMENT**

#### **Project Specific Conditions**

1. The approved use is for a childcare facility serving a maximum of 20 children, ages 4-6 present at the site at any given time. Only activities directly associated with the childcare use shall be allowed at the site, which includes events such as open houses and parent meetings to which parents of children associated with the use are invited. Such meetings shall be held indoors only if they are outside of the authorized hours. Residents within a 300-foot radius of the property shall be notified at least one week prior to any activity planned to take place outside of the facility's regularly authorized hours. Notwithstanding, limited additional activities may be held provided that a permit is obtained per #5, below.
2. The childcare facility shall be operated according to all applicable State and local regulations.
3. Enrollment in the childcare facility shall be limited to children 6 years of age and younger.
4. The use of the childcare facility shall be limited to Monday through Friday between the hours of 7:30 am - 6:00 pm. The applicant shall be responsible to ensure that all activity between 7:30 a.m. and 8:00 a.m. is restricted to the indoors areas with no use of outdoor play yards permitted.
5. Other than activities described in #1, above, up to two special events per year may be requested outside of the facility's authorized hours upon written request to the Director of Planning and Community Development. Written requests for special events must be submitted a minimum of 45 days prior to the proposed event, and such requests shall be reviewed in accordance with the required findings and reasonable conditions in SMMC Sections 9.44.030 and 9.44.040. In addition, at least one week prior to the event, the applicant shall provide public notice of the event to all residents within a 300-foot radius of the property.
6. Organized outdoor activities shall be limited to the hours of 8:00 a.m. to 6:00 p.m. or sunset, whichever comes first, on weekdays
7. Any substantial change in the mode or character of the operation of the proposed use shall require approval from the Planning Commission.

8. The operation shall at all times be conducted in a manner that is not detrimental to surrounding properties or residents in terms of excessive and unreasonable noise levels and illegal parking and/or loading by employees and visitors to the facility.
9. The front yard fencing may be a maximum height of five feet, provided that the portion above the retaining wall is set back from the property line by a minimum of 18 inches. The fencing shall be designed with some transparency in order to comply with State licensing requirements while maintaining the neighborhood's open character to the extent possible, with review and approval by the Director prior to issuance of Building Permits. Front yard fencing above the height generally permitted in the R1 zone shall be removed should the childcare use be terminated and a residential use reestablished.
10. Prior to issuance of a Certificate of Occupancy, the applicant shall prepare a drop off/pick up plan for the Mobility Division's approval that includes assigning all parents to use specific loading zones, both in the alley and on the street, in order to distribute trips between the alley and Delaware Avenue and avoid causing back-ups that would inconvenience neighbors. Assignments shall be made with consideration to the regular schedules of each family. The applicant shall provide a letter to parents at the beginning of each school year explaining this policy and their assignment, emphasizing need to respect the neighborhood's residential character by driving courteously and parking legally. All parents shall be required to sign a Drop Off and Pick Up Agreement that acknowledges their assignment and assures compliance.
11. A total of three parking spaces, including one accessible space for persons with disabilities, and one accessible loading space shall be provided on the subject property to serve the approved use. A minimum of two bicycle racks, as shown on the approved plans, shall be provided and maintained for the use. The applicant shall explore the potential of providing an additional on-site parking space at the rear of the property if it is feasible with respect to other site requirements.
12. Prior to issuance of building permits, the applicant shall submit a request to the City's Transportation Engineer to permit a short-term parking space on the street adjacent to the front of the subject property. The request will be to designate the space for short-term parking of up to 15 minutes during weekdays between the hours of 8:00 a.m. and 5:30 p.m.
13. An on-site contact person shall be designated to serve as a neighborhood liaison to address any neighborhood concerns related to the facility. Notification of the staff liaison and applicable contact information, including telephone and email address, shall be provided to all residents within a 300-foot radius of the subject site prior to the commencement of the use on the site, and at least once per year thereafter.
14. No signage is permitted at the facility, per SMMC 9.61.190.F.1.

15. The applicant shall encourage employees to commute through alternatives to single-occupancy driving and shall provide employees with incentives to rideshare, including, at a minimum, providing transit passes or other transit reimbursement to employees in order to minimize trips and parking generated by the facility. The applicant shall also encourage bike riding by assisting staff to find the best bike routes to the subject property.
16. Should the property's use be returned to residential use in the future, it shall be required to comply with the Municipal Code's parking requirements. Any on-street short-term parking or loading signs that have been installed shall be removed and the curb shall be identified as a regular street parking space.
17. At such time that staff is being hired for the facility, the applicant shall provide City Planning staff with evidence of good faith outreach to recruit qualified staff living locally within the City and particularly in the 90404 zip code.

### **Administrative**

18. The approval of this permit shall expire if the rights granted are not exercised within 30 months from the permit's effective date. Exercise of rights shall mean issuance of a building permit to commence construction.
19. 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.
20. 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**

21. This approval is for those plans dated November 22, 2017, 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.

22. Minor amendments to the plans shall be subject to approval by the Director of Planning. A significant change in the approved concept shall be subject to Planning Commission Review. Construction shall be in conformance with the plans submitted or as modified by the Planning Commission, Architectural Review Board or Director of Planning.
23. 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.

### **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.

### **Cultural Resources**

25. If any archaeological remains are uncovered during excavation or construction, work in the affected area shall be suspended and a recognized specialist shall be contacted to conduct a survey of the affected area at project's owner's expense. A determination shall then be made by the Director of Planning to determine the significance of the survey findings and appropriate actions and requirements, if any, to address such findings.

### **Project Operations**

26. 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.
27. The project shall at all times comply with the provisions of the Noise Ordinance (SMMC Chapter 4.12).

### **Final Design**

28. The design, landscaping, screening, parking, loading, and trash enclosures shall be consistent with the plans approved herein.

29. Landscaping plans shall comply with Subchapter 9.26.040 (Landscaping Standards) of the Zoning Ordinance including use of water-conserving landscaping materials, landscape maintenance and other standards contained in the Subchapter.
30. Refuse areas, storage areas and mechanical equipment shall be screened in accordance with SMMC Sections 9.21.100, 9.21.130 and 9.21.140. Refuse areas shall be of a size adequate to meet on-site need, including recycling. Any rooftop mechanical equipment shall be minimized in height and area, and shall be located in such a way as to minimize noise and visual impacts to surrounding properties. Rooftop mechanical equipment shall be located at least five feet from the edge of the roof. Except for solar hot water heaters, no residential water heaters shall be located on the roof.
31. No gas or electric meters shall be located within the required front or street side yard setback areas.
32. The applicant shall review disabled access requirements with the Building and Safety Division and make any necessary changes in the project design to achieve compliance with such requirements.

### **Construction Plan Requirements**

33. During demolition, excavation, and construction, this project shall comply with SCAQMD Rule 403 to minimize fugitive dust and associated particulate emission, including but not limited to the following:
  - All material excavated or graded shall be sufficiently watered to prevent excessive amounts of dust. Watering shall occur at least three times daily with complete coverage, preferably at the start of the day, in the late morning, and after work is done for the day.
  - All grading, earth moving, or excavation activities shall cease during periods of high winds (i.e., greater than 20 mph measured as instantaneous wind gusts) so as to prevent excessive amounts of dust.
  - All material transported on and off-site shall be securely covered to prevent excessive amounts of dust.
  - Soils stockpiles shall be covered.
  - Onsite vehicle speeds shall be limited to 15 mph.
  - Wheel washers shall be installed where vehicles enter and exit the construction site onto paved roads or wash off trucks and any equipment leaving the site each trip.
  - An appointed construction relations officer shall act as a community liaison concerning onsite construction activity including resolution of issues related to PM<sub>10</sub> generation.

- Streets shall be swept at the end of the day using SCAQMD Rule 1186 certified street sweepers or roadway washing trucks if visible soil is carried onto adjacent public paved roads (recommend water sweepers with reclaimed water).
  - All active portions the construction site shall be sufficiently watered three times a day to prevent excessive amounts of dust.
34. Final building plans submitted for approval of a building permit shall include on the plans a list of all permanent mechanical equipment to be placed indoors which may be heard outdoors.

### **Demolition Requirements**

35. Until such time as the demolition is undertaken, and unless the structure is currently in use, the existing structure shall be maintained and secured by boarding up all openings, erecting a security fence, and removing all debris, bushes and planting that inhibit the easy surveillance of the property to the satisfaction of the Building and Safety Officer and the Fire Department. Any landscaping material remaining shall be watered and maintained until demolition occurs.
36. Prior to issuance of a demolition permit, applicant shall prepare for Building Division approval a rodent and pest control plan to insure that demolition and construction activities at the site do not create pest control impacts on the project neighborhood.
37. The proposed garage removal would demolish an accessory building that is more than 40 years old. However, as the structure is less than 400 square feet and not listed on the City's Historic Resources Inventory, it is exempt from the provisions of Chapter 9.25 (Demolition and Relocation), including the requirement for a 75-day waiting period for Landmarks review following the filing of a demolition permit.

### **Indemnity**

38. 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 17ENT-0075, 17ENT-0147 and 17ENT-0148 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:
- i. The City bears its own attorney's fees and costs.
  - ii. The City defends the action in good faith.

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

### **Construction Period**

- 39. Immediately after demolition and during construction, a security fence, the height of which shall be the maximum permitted by the Zoning Ordinance, shall be maintained around the perimeter of the lot. The lot shall be kept clear of all trash, weeds, etc.
- 40. Vehicles hauling dirt or other construction debris from the site shall cover any open load with a tarpaulin or other secure covering to minimize dust emissions. Immediately after commencing dirt removal from the site, the general contractor shall provide the City of Santa Monica with written certification that all trucks leaving the site are covered in accordance with this condition of approval.
- 41. Developer shall prepare a notice, subject to the review by the Director of Planning and Community Development, that lists all construction mitigation requirements, permitted hours of construction, and identifies a contact person at City Hall as well as the developer who will respond to complaints related to the proposed construction. The notice shall be mailed to property owners and residents within a 200-foot radius from the subject site at least five (5) days prior to the start of construction.
- 42. A sign shall be posted on the property in a manner consistent with the public hearing sign requirements which shall identify the address and phone number of the owner and/or applicant for the purposes of responding to questions and complaints during the construction period. Said sign shall also indicate the hours of permissible construction work.

43. A copy of these conditions shall be posted in an easily visible and accessible location at all times during construction at the project site. The pages shall be laminated or otherwise protected to ensure durability of the copy.

### **Standard Conditions**

44. Mechanical equipment shall not be located on the side of any building which is adjacent to a residential building on the adjoining lot, unless otherwise permitted by applicable regulations. Roof locations may be used when the mechanical equipment is installed within a sound-rated parapet enclosure.
45. Final approval of any mechanical equipment installation will require a noise test in compliance with SMMC Section 4.12.040. Equipment for the test shall be provided by the owner or contractor and the test shall be conducted by the owner or contractor. A copy of the noise test results on mechanical equipment shall be submitted to the Community Noise Officer for review to ensure that noise levels do not exceed maximum allowable levels for the applicable noise zone.
46. Final parking lot, bicycle parking and loading layout and specifications shall be subject to the review and approval of the Mobility Division.
47. The property owner shall insure any graffiti on the site is promptly removed through compliance with the City's graffiti removal program.

### **PUBLIC WORKS DEPARTMENT (PW)**

#### **Drainage**

48. To mitigate storm water and surface runoff from the project site, an Urban Runoff Mitigation Plan may be required by the Department of Public Works pursuant to Municipal Code Chapter 7.10. Prior to submittal of landscape plans for Architectural Review Board approval, the applicant shall contact Public Works to determine applicable requirements, which include the following:
  - Non-stormwater runoff, sediment and construction waste from the construction site and parking areas is prohibited from leaving the site;
  - Any sediments or materials which are tracked off-site must be removed the same day they are tracked off-site;
  - Excavated soil must be located on the site and soil piles should be covered and otherwise protected so that sediments do not go into the street or adjoining properties;
  - Washing of construction or other vehicles shall be allowed adjacent to a construction site. No runoff from washing vehicles on a construction site shall be allowed to leave the site;
  - Drainage controls may be required depending on the extent of grading and topography of the site; and

- New development is required to reduce projected runoff pollution by at least twenty percent through incorporation of design elements or principles, such as increasing permeable surfaces, diverting or catching runoff via swales, berms, and the like; orientation of drain gutters towards permeable areas; modification of grades; use of retention structures and other methods.

### **Hazardous Materials**

49. Prior to the demolition of any existing structure, the applicant shall submit a report from an industrial hygienist to be reviewed and approved as to content and form by the Public Works /Environmental Programs Division. The report shall consist of a hazardous materials survey for the structure proposed for demolition. The report shall include a section on asbestos and in accordance with the South Coast AQMD Rule 1403, the asbestos survey shall be performed by a state Certified Asbestos Consultant (CAC). The report shall include a section on lead, which shall be performed by a state Certified Lead Inspector/Assessor. Additional hazardous materials to be considered by the industrial hygienist shall include: mercury (in thermostats, switches, fluorescent light); polychlorinated biphenyls (PCBs) (including light Ballast), and fuels, pesticides, and batteries.

### **Streets**

50. Unless otherwise approved by the Department of Public Works, all sidewalks shall be kept clear and passable during the grading and construction phase of the project.
51. Sidewalks, curbs, gutters, paving and driveways which need replacing or removal as a result of the project as determined by the Department of Public Works shall be reconstructed to the satisfaction of the Department of Public Works. Approval for this work shall be obtained from the Department of Public Works prior to issuance of the building permits.
52. Street and/or alley lighting shall be provided on public rights of way adjacent to the project if and as needed per the specifications and with the approval of the Department of Public Works.

### **Off-site**

53. All off-site improvements required by the City Engineer shall be installed. Plans and specifications for off-site improvements shall be prepared by a registered civil engineer and approved by the City Engineer.
54. A subdivision improvement agreement for all off-site improvements required by the City Engineer shall be prepared and a performance bond posted through the City Attorney's office.

## **Environmental Mitigation**

55. To mitigate solid waste impacts, prior to issuance of a Certificate of Occupancy, project owner shall submit a recycling plan to the Department of Public Works for its approval. The recycling plan shall include:
- 1) List of materials such as white paper, computer paper, metal cans, and glass to be recycled;
  - 2) Location of recycling bins;
  - 3) Designated recycling coordinator;
  - 4) Nature and extent of internal and external pick-up service;
  - 5) Pick-up schedule; and
  - 6) Plan to inform tenants/ occupants of service.
56. Ultra-low flow plumbing fixtures are required on all new development and remodeling where plumbing is to be added, including dual flush toilets, 1.0 gallon urinals and low flow shower heads.

## **Construction Period Mitigation**

57. A construction period mitigation plan shall be prepared by the applicant for approval by the Department of Public Works prior to issuance of a building permit. The approved mitigation plan shall be posted on the site for the duration of the project construction and shall be produced upon request. As applicable, this plan shall:
- 1) Specify the names, addresses, telephone numbers and business license numbers of all contractors and subcontractors as well as the developer and architect;
  - 2) Describe how demolition of any existing structures is to be accomplished;
  - 3) Indicate where any cranes are to be located for erection/construction;
  - 4) Describe how much of the public street, alleyway, or sidewalk is proposed to be used in conjunction with construction;
  - 5) Set forth the extent and nature of any pile-driving operations;
  - 6) Describe the length and number of any tiebacks which must extend under the property of other persons;
  - 7) Specify the nature and extent of any dewatering and its effect on any adjacent buildings;
  - 8) Describe anticipated construction-related truck routes, number of truck trips, hours of hauling and parking location;
  - 9) Specify the nature and extent of any helicopter hauling;
  - 10) State whether any construction activity beyond normally permitted hours is proposed;
  - 11) Describe any proposed construction noise mitigation measures, including measures to limit the duration of idling construction trucks;

- 12) Describe construction-period security measures including any fencing, lighting, and security personnel;
- 13) Provide a drainage plan;
- 14) Provide a construction-period parking plan which shall minimize use of public streets for parking;
- 15) List a designated on-site construction manager;
- 16) Provide a construction materials recycling plan which seeks to maximize the reuse/recycling of construction waste;
- 17) Provide a plan regarding use of recycled and low-environmental-impact materials in building construction; and
- 18) Provide a construction period water runoff control plan.

## **OPEN SPACE MANAGEMENT**

58. Street trees shall be maintained, relocated or provided as required in a manner consistent with the City's Community Forest Management Plan 2000, per the specifications of the Public Landscape Division of the Public Works Department and the City's Tree Code (SMMC Chapter 7.40). No street trees shall be removed without the approval of the Public Landscape Division.

## **COMPLIANCE**

59. 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 City Council of the City of Santa Monica.**

\_\_\_\_\_  
Denise Anderson-Warren, City Clerk

\_\_\_\_\_  
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

\_\_\_\_\_  
Date