



THE CITY OF SAN DIEGO

REPORT TO THE HEARING OFFICER

HEARING DATE: November 21, 2012 REPORT NO. HO 12-093

ATTENTION: Hearing Officer

SUBJECT: NEIGHBORS SUPERMARKET – PROJECT NUMBER 288307

LOCATION: 2004 Dairy Mart Road

APPLICANT: Mr. Peter Impala

SUMMARY

Issue(s): Should the Hearing Officer approve a Conditional Use Permit for an alcoholic beverage outlet allowing the change from an existing Type 20 Alcohol Beverage Control (ABC) license that is limited to beer and wine, to a Type 21 ABC license to include the general sale of alcohol including distilled spirits?

Staff Recommendation - **APPROVE** Conditional Use Permit No. 1011610.

Community Planning Group Recommendation – On October 15, 2012, the San Ysidro Community Planning Group voted 9-2-0 to recommend approval of the Type 21 alcohol sales with no conditions (Attachment 9).

Environmental Review: The project was determined to be exempt pursuant to California Environmental Quality Act (CEQA) Guidelines Section 15301 (Existing Facility). This project is not pending an appeal of the environmental determination. The environmental exemption determination for this project was made on October 5, 2012, and the opportunity to appeal that determination ended October 31, 2012.

BACKGROUND

This application is seeking an upgrade to an existing Type 20 ABC license that limits the sale of alcoholic beverages to beer and wine, to a Type 21 ABC license that would allow the general sale of alcoholic beverages including distilled spirits. The 0.19-acre project site is located at 2004 Dairy Mart Road in the San Ysidro Planned District-Commercial (SYPD-CSF-2) Zone and the Federal Aviation Authority Part 77 Overlay Zone (Attachment 1).

There is single-family residential development to the north, multi-family residential development to the east and west, and commercial development to the south. The site is also within the San Ysidro Community Plan Area (Attachment 2). The site is zoned SYPD-CSF-2 which allows for commercial strip development with parking in the front or side of the building. The existing 8,700-square-foot supermarket was originally built as a 7-Eleven store in 1985. The Type 20 license was issued at the property in 1994 to Whitney & Ellison Investments and was transferred to the current owner, Mexfront Market Investments, in 2007.

The Type 20 license was issued by the ABC for this site prior to the year 2000. In 2000 the City began requiring a Conditional Use Permit for an alcoholic beverage outlet and this alcoholic beverage outlet is a previously conforming use with no conditions regulating the operation and requirements for the sale of alcohol. The existing market is within a fully developed urbanized community that includes small-scale retail and commercial uses east and west along Dairy Mart Road. The neighborhoods immediately north and south of the project site have been developed over several decades with medium to high density residential development (Attachment 3)

DISCUSSION

Development Regulations and Location Criteria

The proposed project requires a Conditional Use Permit pursuant to the City of San Diego's Land Development Code for an existing alcohol beverage outlet if the property is within 100 feet of residentially zoned property. The applicant is proposing to upgrade an existing Type 20 ABC license to a Type 21 license which allow the general sale of alcohol and include distilled spirits as well as the existing beer and wine. The pending ABC license is defined as "off-sales" which would require all of the alcohol sold at the store to be consumed off of the premises. The current alcoholic beverage outlet is considered a previously conforming use because it was obtained on the site prior to when the Land Development Code was amended to require a Conditional Use Permit for this type of use.

Alcoholic beverage outlets are permitted by right as a Limited Use pursuant to Section 141.0502(b) of the Land Development Code (LDC). However, alcoholic beverage outlets that are within 100 feet of residentially zoned property may still be permitted with a Conditional Use Permit pursuant to LDC Section 141.0502(c) of the LDC. There is single-family residential development to the north, multi-family residential development to the east and west, and commercial development to the south.

The Limited Use Regulations of the Land Development Code, Section 141.0502(b)(1) do not permit alcoholic beverage outlets by right (i.e. would require a Conditional Use Permit) in the following locations:

- 1. Within a census tract, or within 600 feet of a Census Tract, where the general crime rate exceeds the citywide average general crime rate by more than 20 percent.**

The property is in Census Tract No. 101.11 which reported a crime rate 61.7 percent. This is not considered high crime based on the statistics provided by the San Diego Police Department. A Census Tract is considered to have “high crime” if the crime rate exceeds 120 percent of the city-wide average. Therefore, a CUP is not required for the off-sale of alcoholic beverages at this location based on this factor.

2. Within a Census Tract, or within 600 feet of a Census Tract, where the ratio of alcoholic beverage outlets exceeds the standards established by the California Businesses and Professional Code Section 23958.4.

The subject property is within Census Tract No. 101.11, which based on the California Businesses and Professional Code Section 23958.4 permits a total of two (2) off-sale alcoholic beverage outlets. There are currently two (2) existing off-sale alcohol beverage outlets within Census Tract 101.11. One is the existing Type 20 for the Neighbors Supermarket and the other is for the Circle K located within the same strip mail (which is currently out of business) therefore the Census Tract would not be considered over saturated with the approval of this permit as the number of licenses doesn’t change due to the fact that the existing Type 20 will be converted to the Type 21. Therefore a CUP would not be required for the off-sale of alcoholic beverages based on this factor.

3. Within a Redevelopment Area.

The project site is not within the San Ysidro Redevelopment Project Area. Therefore a CUP would not be required for the off-sale of alcoholic beverages based on this factor.

4. Within 600 feet of a public or private accredited school, a public park, playground or recreational area, church, hospital or a San Diego County Welfare District Office.

The project is not within 600 feet of an incompatible facility therefore a CUP would not be required for the off-sale of alcoholic beverages based on this factor.

5. Within 100 feet of residentially zoned property.

The project site is within 100 feet of residentially zoned property. Therefore a CUP would be required for the off-sale of alcoholic beverages based on this factor

6. Within 600 feet of a place of religious assembly.

The project site is not known to be within 600 feet of religious assembly.

The proposed off-sale alcoholic beverage outlet at this site requires a Conditional Use Permit because the project site does not meet all of the location criteria of the Municipal Code. As demonstrated above, the project site is within 100 feet of residentially zoned property. Any one of these factors establishes the need for the Conditional Use Permit.

Alcohol Sales-Project Analysis:

The project has been reviewed by the Development Services staff and the San Diego Police Department for conformance to the applicable development regulations and land use polices. The staff recommendation to support the project relies on the fact that the site currently operates with a Type 20 ABC License within an existing supermarket. Although the use is previously conforming, there are no restrictions on the type of items allowed to be sold, no limits on the hours sales of alcohol are permitted and no conditions ensuring the outlet is a compatible land use in the neighborhood. The property is within an existing commercial strip center that serves the high density residential areas north, south and east of the site. The existing market is consistent with the commercial use designated by the community plan and Planned District Ordinance and would continue to operate as a supermarket. The addition of distilled spirits to beer and wine sales for off-site consumption would continue to be a commercial retail use and should not adversely impact the community. Accordingly, Staff is recommending approval of the project as conditioned by staff and the San Diego Police Department.

Draft Conditions of Approval

Approval of this application would allow previously conforming and unrestricted sale of alcohol to be conditioned so that the alcohol sales would not have a negative impact on the surrounding neighborhood (Attachment 6). The Conditional Use Permit includes a number of conditions that would limit the hours of sales, regulate advertising, provide for a well-lighted, cleaner site and prohibit specific on-site activities with the objective of reducing the likelihood of loitering and other criminal activity on the property. Additionally, the CUP provides an opportunity for the San Diego Police Department to petition the State Department of Alcohol Beverage Control (ABC) to include enforceable conditions regulating the type, size, quantities and alcoholic content (proof by volume) of the beverages. Further, both the staff and the Police Department concluded that if the permit were appropriately conditioned, the proposed alcohol sales would not have a negative impact on the surrounding neighborhood.

Specifically, the CUP conditions would limit the hours of alcohol beverage sales from 7:00 AM to 11:00 pm. The CUP would prohibit pinball games, arcade-style video and electronic games, or coin-operated amusement machines on the premises. Exterior and interior public pay phones would not be permitted on the premises, on adjacent public sidewalks, or areas under the control of the owner or operator. Advertising would be limited and "No Loitering" signs would be required to be prominently displayed on the premises. Finally, the Conditional Use Permit would include a 10-year expiration date from the date the CUP was approved. The permit could be extended through the appropriate review and decision process and may be subject to additional conditions at that time.

Conclusion

City staff, including the Development Services Department and San Diego Police Department supports the request for a Conditional Use Permit for the sale of alcohol.

The staff support is predicated primarily on the fact that the supermarket is currently permitted to sell beer and wine. While approval of the upgrade of the license type to permit general alcohol sales would permit additional liquor sales, this would also provide an opportunity for the City to place restrictions on the premises that would help make the operation much more compatible with the surrounding neighborhood. Permit conditions have been added that would help ensure the outlet is a cohesive element of the neighborhood and would not be detrimental to the public health, safety and welfare of the community. The project is consistent with the underlying commercial zone and the applicable land use plans and policies in affect for the site. An environmental initial study performed by the Development Services Department determined that the proposed project was exempt from further CEQA review as an existing facility and is supported with proposed conditions and ABC license recommendations by the San Diego Police Department.

ALTERNATIVES:

1. Approve Conditional Use Permit No. 1011610, with modifications; or
2. Deny Conditional Use Permit No. 1011610, if the findings required to approve the project cannot be affirmed.

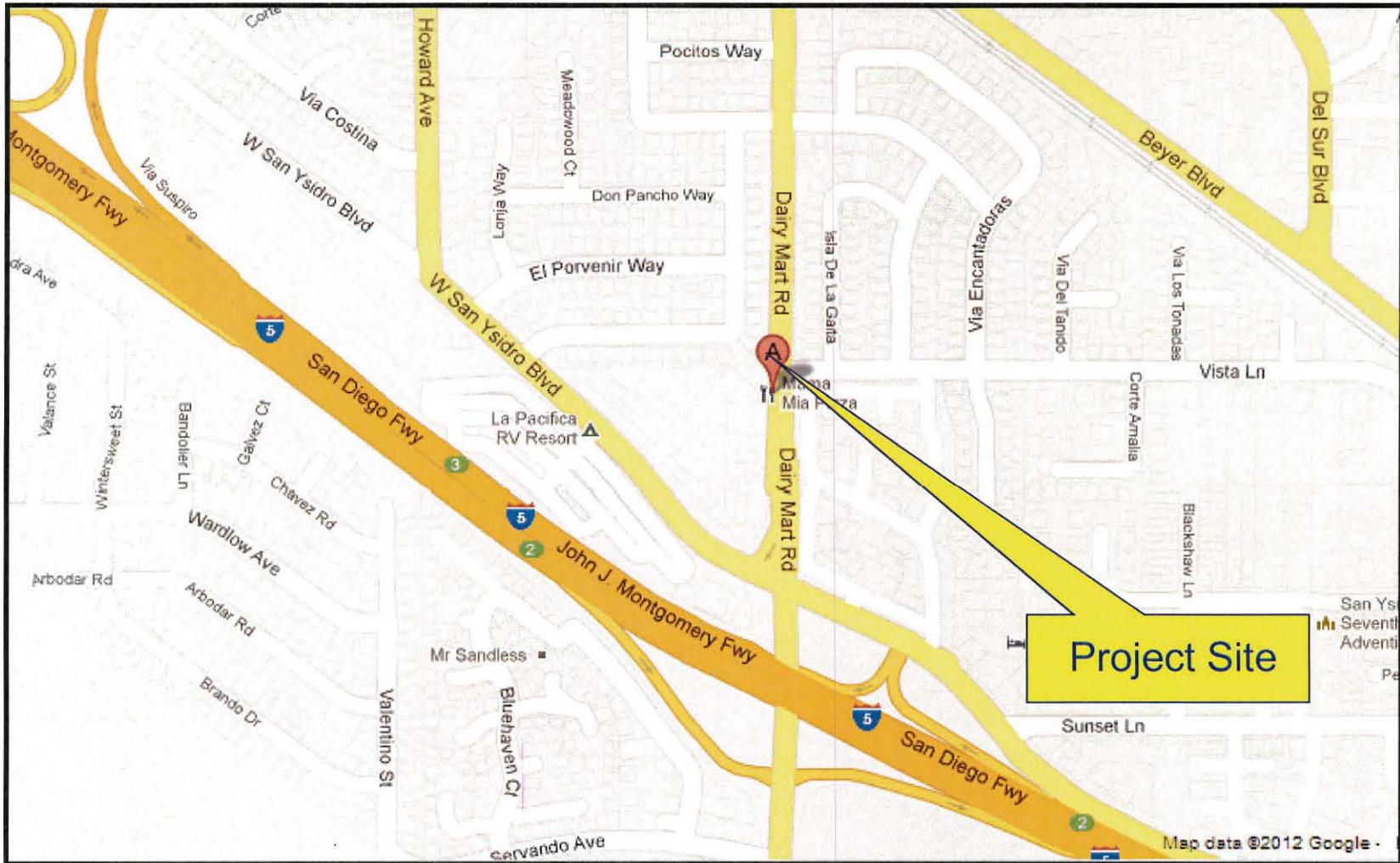
Respectfully submitted,



Renee Mezo, Development Project Manager

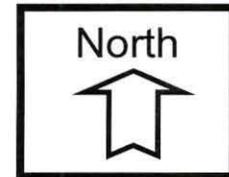
Attachments:

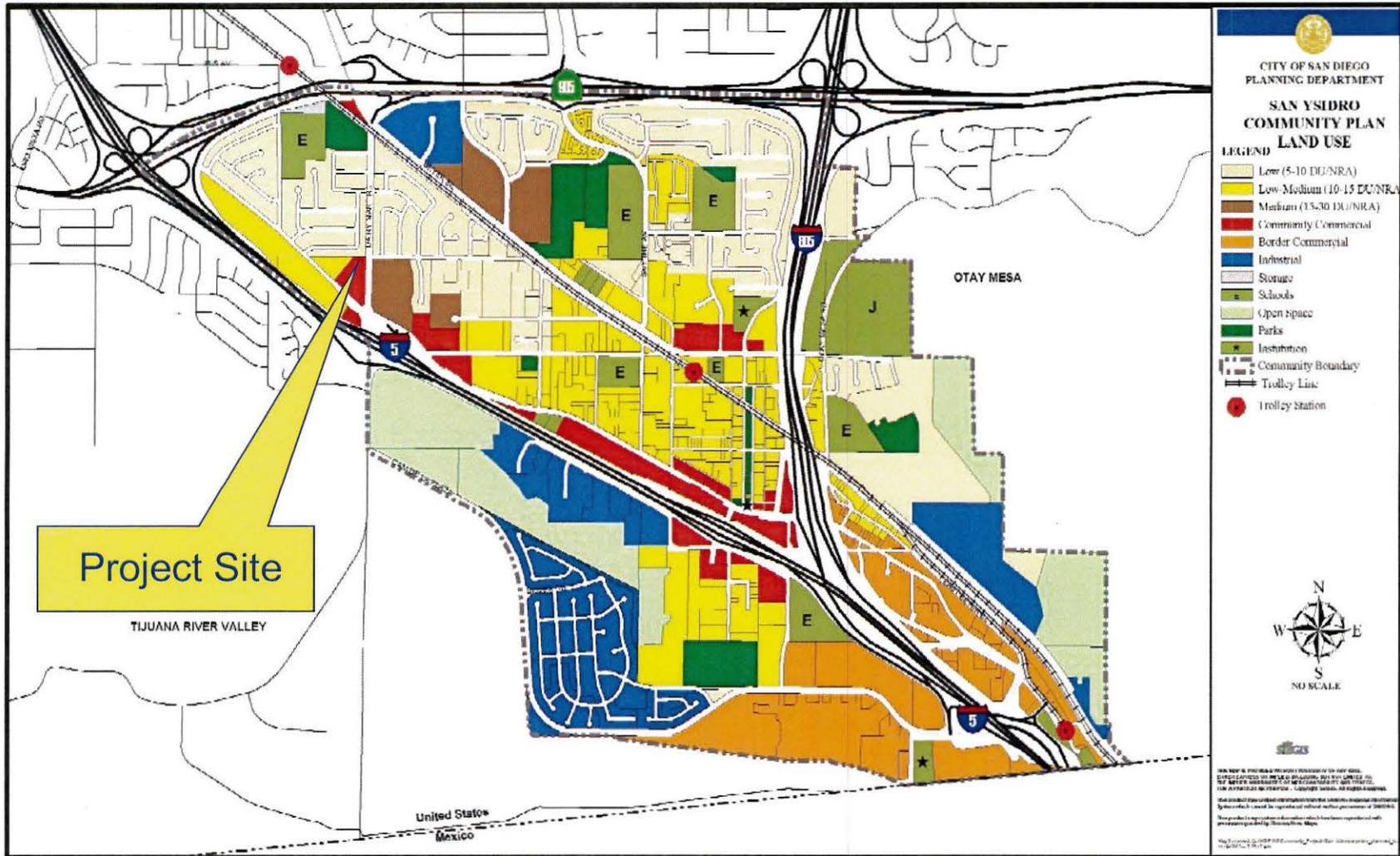
1. Project Location Map
2. Community Plan Land Use Map
3. Aerial Photograph
4. Surrounding Alcohol Beverage Outlets Map
5. Draft Permit Resolution with Findings
6. Draft Permit with Conditions
7. Environmental Exemption
8. Project Plans (Hearing Officer only)
9. San Diego Police Department Recommendation
10. Community Planning Group Recommendation
11. Ownership Disclosure Statement
12. Public Hearing Notice



Project Location Map

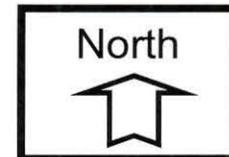
**NEIGHBORS SUPERMARKET CUP – 2004 DAIRY MART ROAD
PROJECT NO. 288307**





Land Use Map

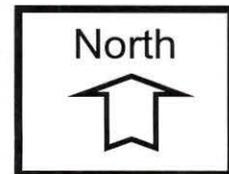
**NEIGHBORS SUPERMARKET CUP – 2004 DAIRY MART ROAD
PROJECT NO. 288307**





Aerial Photo

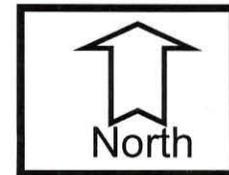
**NEIGHBORS SUPERMARKET CUP – 2004 DAIRY MART ROAD
PROJECT NO. 288307**





Existing ABC Licenses 0.2 mile radius

2004 DAIRYART ROAD
PROJECT NUMBER 288307



HEARING OFFICER RESOLUTION NO. (DRAFT)
CONDITIONAL USE PERMIT NO. 1011610
NEIGHBORS SUPERMARKET - PROJECT NO. 288307

WHEREAS, MEXFRONT BORDER INVESTMENTS INCORPORATED, Owner/Permittee, filed an application with the City of San Diego for a permit to upgrade a current Type 20 State of California Alcohol Beverage Control (ABC) license limited to beer and wine to a Type 21 license for the general sale of alcohol including distilled spirits (as described in and by reference to the approved Exhibits "A" and corresponding conditions of approval) for the associated Conditional Use Permit No. 1011610, on portions of a 0.19-acre site; and

WHEREAS, the project site is located at 2004 Dairy Mart Road in the San Ysidro Planned District-Commercial (SYPD-CSF-2) Zone and the Federal Aviation Authority Part 77 Overlay Zone within the San Ysidro Community Plan Area; and

WHEREAS, the project site is legally described as Parcels 1, 2, and 4, in the City of San Diego according to Parcel Map No. 14921, filed in the Office of the County Recorder of San Diego County, August 7, 1987; and

WHEREAS, on November 21, 2012, the Hearing Officer of the City of San Diego considered Conditional Use Permit No. 1011610, pursuant to the Land Development Code of the City of San Diego; and

WHEREAS, on October 5, 2012 the City of San Diego, as Lead Agency, through the Development Services Department, made and issued an Environmental Determination that the project is exempt from the California Environmental Quality Act (CEQA) (Public Resources Code section 21000 et. seq.) under CEQA Guideline Section 15301 (Existing Facility) and there was no appeal of the Environmental Determination filed within the time period provided by San Diego Municipal Code Section 112.0520; NOW, THEREFORE,

BE IT RESOLVED by the Hearing Officer of the City of San Diego as follows:

That the Hearing Officer adopts the following written Findings, dated November 21, 2012:

CONDITIONAL USE PERMIT FINDINGS - SECTION 126.0305:

1. The proposed development will not adversely affect the applicable land use plan.

The proposed development is requesting a conditional use permit to upgrade an alcoholic beverage outlet within an existing supermarket currently limited to beer and wine to a general license allowing the sale of distilled spirits. The proposed development is located at 2004 Dairy Mart Road within the San Ysidro Community Plan Area. The Plan designates the 0.19-acre site as Community Commercial. The Plan does not specifically address alcoholic beverage outlets; however the sale of alcohol products is defined as a commercial retail use in the Land Development Code and permitted as a Limited Use usually requiring a Conditional Use Permit. The Plan recommends the site be used for commercial development therefore the upgrade to a Type 21 ABC license would not adversely affect the applicable land use plan.

2. The proposed development will not be detrimental to the public health, safety, and welfare.

The proposed development is requesting a conditional use permit to upgrade an alcoholic beverage outlet within an existing supermarket currently limited to beer and wine to a general license allowing the sale of distilled spirits. The project site is in the San Ysidro Planned District-Commercial (SYPD-CSF-2) Zone within the San Ysidro Community Plan Area. The Plan designates the 0.19-acre parcel as Community Commercial land use. The existing market would continue to be consistent with the recommended commercial land use, therefore there would be no conflict with the current development pattern in the neighborhood. An Environmental Initial Study (EIS) was conducted by the Development Services Department and concluded there would be no environmental impacts associated with the proposed development. Permit conditions related to the sale of alcohol, limiting the type, quantity and proof and limiting the hours permitted to sell the beverages would be petitioned to be included on the ABC license. Conditions regulating signage, lighting and other land use issues would ensure a safe and well maintained operation. Therefore, the proposed development would not be detrimental to the public's health, safety or welfare.

3. The proposed development will comply with the regulations of the Land Development Code including any allowable deviations pursuant to the Land Development Code.

The proposed development is requesting a conditional use permit to upgrade an alcoholic beverage outlet within an existing supermarket currently limited to beer and wine to a general license allowing the sale of distilled spirits. The project site is in the San Ysidro Planned District-Commercial (SYPD-CSF-2) Zone, within the San Ysidro Community Plan Area. The use of the site as an alcoholic beverage outlet is permitted with a Conditional Use Permit due to the adjacency of residentially zoned property. The project complies with the applicable regulations of the Land Development Code and no deviation or variance is requested as a part of this application.

4. The proposed use is appropriate at the proposed location.

The proposed development is requesting a conditional use permit to upgrade an alcoholic beverage outlet within an existing supermarket currently limited to beer and wine to a general license allowing the sale of distilled spirits. The project site is within San Ysidro Planned District-Commercial (SYPD-CSF-2) Zone within the San Ysidro Community Plan Area. The Plan designates the 0.19-acre parcel as Community Commercial land use. The existing supermarket has been in existence since 1994. The Type 20 ABC license permits the sale of beer and wine whereas the proposed Type 21 would allow the addition of distilled spirits. Alcohol products are generally defined as a retail use therefore the addition of hard liquor would be considered an expansion of the existing retail merchandise therefore, the proposed development would be appropriate at the proposed location.

BE IT FURTHER RESOLVED that, based on the findings hereinbefore adopted by the Hearing Officer, Conditional Use Permit No. 1011610 is hereby GRANTED by the Hearing Officer to the referenced Owner/Permittee, in the form, exhibits, terms and conditions as set forth in Conditional Use Permit No. 1011610, a copy of which is attached hereto and made a part hereof.

Renee Mezo
Development Project Manager
Development Services

Adopted on: November 21, 2012

Job Order No. 24002994

RECORDING REQUESTED BY
 CITY OF SAN DIEGO
 DEVELOPMENT SERVICES
 PERMIT INTAKE, MAIL STATION 501

WHEN RECORDED MAIL TO
PROJECT MANAGEMENT
PERMIT CLERK
MAIL STATION 501

INTERNAL ORDER NUMBER: 24002994 SPACE ABOVE THIS LINE FOR RECORDER'S USE

CONDITIONAL USE PERMIT NO. 1011610
NEIGHBORS SUPERMARKET - PROJECT NO. 288307
HEARING OFFICER
DRAFT

This Conditional Use Permit No. 1011610 is granted by the Hearing Officer of the City of San Diego to MEXFRONT BORDER INVESTMENTS INCORPORATED, Owner/Permittee, pursuant to San Diego Municipal Code [SDMC] section 126.0305. The 0.19-acre site is located at 2004 Dairy Mart Road in the San Ysidro Planned District-Commercial (SYPD-CSF-2) Zone and the Federal Aviation Authority Part 77 Overlay Zone, within the San Ysidro Community Plan Area. The project site is legally described as: Parcels 1, 2, and 4, in the City of San Diego according to Parcel Map No. 14921, filed in the Office of the County Recorder of San Diego County, August 7, 1987.

Subject to the terms and conditions set forth in this Permit, permission is granted to Owner/Permittee to operate an alcoholic beverage outlet conditioned upon the issuance of a license from the State Department of Alcoholic Beverage Control (ABC) and subject to the City's land use regulations] described and identified by size, dimension, quantity, type, and location on the approved exhibits [Exhibit "A"] dated November 21, 2012, on file in the Development Services Department.

The project shall include:

- a. An existing 8,753-square-foot market with an upgrade from a Type 20 to a Type 21 State Department of Alcoholic Beverage Control license allowing the operation of an alcoholic beverage outlet to sell general alcoholic beverages including distilled spirits conditioned upon the issuance of such license from the ABC.
- b. Off-street parking;

- c. Public and private accessory improvements determined by the Development Services Department to be consistent with the land use and development standards for this site in accordance with the adopted community plan, the California Environmental Quality Act [CEQA] and the CEQA Guidelines, the City Engineer's requirements, zoning regulations, conditions of this Permit, and any other applicable regulations of the SDMC

STANDARD REQUIREMENTS:

1. This permit must be utilized within thirty-six (36) months after the date on which all rights of appeal have expired. If this permit is not utilized in accordance with Chapter 12, Article 6, Division 1 of the SDMC within the 36 month period, this permit shall be void unless an Extension of Time has been granted. Any such Extension of Time must meet all SDMC requirements and applicable guidelines in effect at the time the extension is considered by the appropriate decision maker. This permit must be utilized by December 7, 2015.
2. This Conditional Use Permit [CUP] and corresponding use of this site shall expire on December 7, 2022. Upon expiration of this Permit, the facilities and improvements relating to the sale of alcohol described herein shall be removed from this site and the property shall be restored to its original condition preceding approval of this Permit.
3. The utilization of this CUP is contingent upon the approval of a license to sell alcohol at this location by the California Department of Alcoholic Beverage Control [ABC]. The issuance of this CUP does not guarantee that the ABC will grant an alcoholic beverage license for this location.
4. No permit for the construction, occupancy, or operation of any facility or improvement described herein shall be granted, nor shall any activity authorized by this Permit be conducted on the premises until:
 - a. The Owner/Permittee signs and returns the Permit to the Development Services Department; and
 - b. The Permit is recorded in the Office of the San Diego County Recorder.
5. While this Permit is in effect, the subject property shall be used only for the purposes and under the terms and conditions set forth in this Permit unless otherwise authorized by the appropriate City decision maker.
6. This Permit is a covenant running with the subject property and all of the requirements and conditions of this Permit and related documents shall be binding upon the Owner/Permittee and any successor(s) in interest.
7. The continued use of this Permit shall be subject to the regulations of this and any other applicable governmental agency.

8. Issuance of this Permit by the City of San Diego does not authorize the Owner/Permittee for this Permit to violate any Federal, State or City laws, ordinances, regulations or policies including, but not limited to, the Endangered Species Act of 1973 [ESA] and any amendments thereto (16 U.S.C. § 1531 et seq.).

9. The Owner/Permittee shall secure all necessary building permits. The Owner/Permittee is informed that to secure these permits, substantial building modifications and site improvements may be required to comply with applicable building, fire, mechanical, and plumbing codes, and State and Federal disability access laws.

10. Construction plans shall be in substantial conformity to Exhibit "A." Changes, modifications, or alterations to the construction plans are prohibited unless appropriate application(s) or amendment(s) to this Permit have been granted.

11. All of the conditions contained in this Permit have been considered and were determined-necessary to make the findings required for approval of this Permit. The Permit holder is required to comply with each and every condition in order to maintain the entitlements that are granted by this Permit.

If any condition of this Permit, on a legal challenge by the Owner/Permittee of this Permit, is found or held by a court of competent jurisdiction to be invalid, unenforceable, or unreasonable, this Permit shall be void. However, in such an event, the Owner/Permittee shall have the right, by paying applicable processing fees, to bring a request for a new permit without the "invalid" condition(s) back to the discretionary body which approved the Permit for a determination by that body as to whether all of the findings necessary for the issuance of the proposed permit can still be made in the absence of the "invalid" condition(s). Such hearing shall be a hearing de novo, and the discretionary body shall have the absolute right to approve, disapprove, or modify the proposed permit and the condition(s) contained therein.

12. The Owner/Permittee shall defend, indemnify, and hold harmless the City, its agents, officers, and employees from any and all claims, actions, proceedings, damages, judgments, or costs, including attorney's fees, against the City or its agents, officers, or employees, relating to the issuance of this permit including, but not limited to, any action to attack, set aside, void, challenge, or annul this development approval and any environmental document or decision. The City will promptly notify Owner/Permittee of any claim, action, or proceeding and, if the City should fail to cooperate fully in the defense, the Owner/Permittee shall not thereafter be responsible to defend, indemnify, and hold harmless the City or its agents, officers, and employees. The City may elect to conduct its own defense, participate in its own defense, or obtain independent legal counsel in defense of any claim related to this indemnification. In the event of such election, Owner/Permittee shall pay all of the costs related thereto, including without limitation reasonable attorney's fees and costs. In the event of a disagreement between the City and Owner/Permittee regarding litigation issues, the City shall have the authority to control the litigation and make litigation related decisions, including, but not limited to, settlement or other disposition of the matter. However, the Owner/Permittee shall not be required to pay or perform any settlement unless such settlement is approved by Owner/Permittee.

PLANNING REQUIREMENTS:

13. The sales of alcoholic beverage shall be permitted only between the hours of 7:00 a.m. and 11:00pm.
14. The parking, the exterior of the premises, the adjacent public sidewalks, and all other adjacent areas under the licensee's control shall be illuminated to a level of 0.4 foot candles. The illumination shall be maintained during all hours of darkness that the premises are open for business, so that persons standing on or near the premises at night are identifiable to law enforcement personnel. Illumination shall be directed and shielded so that it does not shine onto others properties.
15. The premises shall conform to the transparency requirement for the zone in which it is located, and the licensee shall not post signage, or position displays or any other object that interferes with the transparency requirement.
16. The total area of advertising signage that indicates alcoholic beverages or alcohol sales shall not exceed 630 square inches total for the premises and shall not be placed so as to interfere with transparency.
17. Any graffiti applied to or any litter deposited on the premises or adjacent public sidewalks or adjacent area(s) under the licensee control shall be removed or painted over, as appropriate, within 48 hours of its application or deposit.
18. No amusement machines or video game, no pool or billiard table, no foosball or pinball machine, no arcade style video or electronic game, and no coin operated amusement device may be allowed on the premises.
19. No pay telephone shall be maintained anywhere on the premises or on any adjacent area under the licensee's control.
20. The licensee shall place trash receptacles convenient for use by patrons inside and outside the premises and in the parking area and near adjacent sidewalks and in any other adjacent area under the control of the licensee. At least one 13-gallon receptacle shall be located inside the premises. At least one 32-gallon receptacle shall be located outside the premises, and at least one additional 32-gallon receptacle shall be located in each parking area.
21. The licensee shall conspicuously post a copy of these Conditions at the premises and maintain them visible so they may be viewed by the public or any government official.
22. No loitering may be allowed on the premises or on any adjacent area under the control of the licensee. If necessary, the licensee shall hire and post security guards to enforce this condition.

23. The licensee shall post and maintain a professional quality sign facing each parking lot that reads as follows: NO LOITERING, NO LITTERING, NO OPEN CONTAINERS, NO DRINKING OF ALCOHOLIC BEVERAGES ON THE PREMISES, PARKING AREAS, OR ADJACENT SIDEWALKS. VIOLATORS ARE SUBJECT TO ARREST. The signs shall be in English and Spanish. The printing shall be two-inch or taller block lettering, and the signs shall be large enough to contain all the lettering.

24. Security cameras which cover all of the premises and parking shall be installed and maintained. Recordings shall be available to any law enforcement agent or agency on request.

25. No alcoholic beverages shall be consumed on the premises under the control of the business owner or the property owner.

26. No more than ten percent (10%) of the sales area will be dedicated to the display and sale of alcohol.

POLICE DEPARTMENT RECOMMENDATIONS FOR ABC LICENSE:

The following recommendations from the San Diego Police Department are requested to be included on the State of California Department of Alcohol Beverage Control license:

- The sales of alcoholic beverage shall be permitted between the hours of 7:00 a.m. and 11:00pm.
- No distilled spirits shall be sold in bottles or containers smaller than 375 milliliters.
- Any graffiti applied to or any litter deposited on the premises or adjacent public sidewalks or adjacent area(s) under the licensee control shall be removed or painted over, as appropriate, within 48 hours of its application or deposit.
- Wine shall not be sold in containers of less than 750 milliliters.
- Beer, Malt beverages and wine cooler products, regardless of container size, must be sold in manufacturer pre-packaged multi-unit quantities.
- Wine shall not be sold with an alcoholic content greater than 15 percent by volume with the exception of “dinner wines” aged two or more years.
- Wine shall not be sold in containers of less than 750 milliliters.

INFORMATION ONLY:

- The issuance of this discretionary use permit alone does not allow the immediate commencement or continued operation of the proposed use on site. The operation allowed by this discretionary use permit may only begin or recommence after all conditions listed

on this permit are fully completed and all required ministerial permits have been issued and received final inspection.

- Any party on whom fees, dedications, reservations, or other exactions have been imposed as conditions of approval of this Permit, may protest the imposition within ninety days of the approval of this development permit by filing a written protest with the City Clerk pursuant to California Government Code-section 66020.
- This development may be subject to impact fees at the time of construction permit issuance.

APPROVED by the Hearing Officer of the City of San Diego on November 21, 2012 pursuant to Hearing Officer Resolution No. (DRAFT).

Permit Type/PTS Approval No.:
Date of Approval:

AUTHENTICATED BY THE CITY OF SAN DIEGO DEVELOPMENT SERVICES
DEPARTMENT

NAME
Development Project Manager

**NOTE: Notary acknowledgment
must be attached per Civil Code
section 1189 et seq.**

**The undersigned Owner/Permittee, by execution hereof, agrees to each and every condition of
this Permit and promises to perform each and every obligation of Owner/Permittee hereunder.**

[NAME OF COMPANY]
Owner/Permittee

By _____
NAME
TITLE

[NAME OF COMPANY]
Owner/Permittee

By _____
NAME
TITLE

**NOTE: Notary acknowledgments
must be attached per Civil Code
section 1189 et seq.**

NOTICE OF EXEMPTION

(Check one or both)

TO: X RECORDER/COUNTY CLERK
P.O. BOX 1750, MS A-33
1600 PACIFIC HWY, ROOM 260
SAN DIEGO, CA 92101-2422

FROM: CITY OF SAN DIEGO
DEVELOPMENT SERVICES DEPARTMENT
1222 FIRST AVENUE, MS 501
SAN DIEGO, CA 92101

OFFICE OF PLANNING AND RESEARCH
1400 TENTH STREET, ROOM 121
SACRAMENTO, CA 95814

PROJECT No.: 288307 PROJECT TITLE: Neighbors Supermarket CUP

PROJECT LOCATION-SPECIFIC: 2004 Dairy Mart Road, San Diego, California

PROJECT LOCATION-CITY/COUNTY: San Diego/San Diego

DESCRIPTION OF NATURE AND PURPOSE OF THE PROJECT: THE PROJECT IS A REQUEST FOR A CUP TO ALLOW TYPE 21 ALCOHOL SALES AT AN EXISTING GROCERY STORE LOCATED ON A 0.34 ACRE SITE LOCATED AT 2004 DAIRY MART ROAD, IN THE SAN YSIDRO COMMUNITY PLAN AREA.

NAME OF PUBLIC AGENCY APPROVING PROJECT: City of San Diego

NAME OF PERSON OR AGENCY CARRYING OUT PROJECT: Mexfront Market Investments
Mariano Fernandez
2004 Dairy Mart Road, Ste 105
San Ysidro, California 92173
(626) 683-9777

EXEMPT STATUS: (CHECK ONE)

- () MINISTERIAL (SEC. 21080(b)(1); 15268);
() DECLARED EMERGENCY (SEC. 21080(b)(3); 15269(a));
() EMERGENCY PROJECT (SEC. 21080(b)(4); 15269 (b)(c))
(X) CATEGORICAL EXEMPTION: CEQA EXEMPTION 15301 (EXISTING FACILITIES)
() STATUTORY EXEMPTIONS:

REASONS WHY PROJECT IS EXEMPT: The proposed project is exempt from CEQA pursuant to Section 15301 which allows for the operation, repair maintenance, permitting, leasing, licensing, or minor alteration of existing facilities (public or private) involving negligible or no expansion of use beyond that existing at the time of the determination. The proposed project, a Conditional Use Permit, for a Type 21 liquor license in conjunction with an existing grocery store is a negligible expansion of use. No environmental impacts were identified for the proposed project. Additionally, none of the exceptions described in CEQA Guidelines Section 15300.2 apply.

LEAD AGENCY CONTACT PERSON: Anna L. McPherson

TELEPHONE: (619) 446-5276

IF FILED BY APPLICANT:

- 1. ATTACH CERTIFIED DOCUMENT OF EXEMPTION FINDING.
2. HAS A NOTICE OF EXEMPTION BEEN FILED BY THE PUBLIC AGENCY APPROVING THE PROJECT?
() YES () NO

IT IS HEREBY CERTIFIED THAT THE CITY OF SAN DIEGO HAS DETERMINED THE ABOVE ACTIVITY TO BE EXEMPT FROM CEQA

Anna L. McPherson / AICP / Senior Planner

SIGNATURE/TITLE

OCTOBER 5, 2012

DATE

CHECK ONE:

- (X) SIGNED BY LEAD AGENCY
() SIGNED BY APPLICANT

DATE RECEIVED FOR FILING WITH COUNTY CLERK OR OPR:

**SAN DIEGO POLICE DEPARTMENT
CONDITIONAL USE PERMIT RECOMMENDATION**

PREMISE ADDRESS: 2004 Dairy Mart Road #105, 107, 108, San Diego

TYPE OF BUSINESS: Neighbors Supermarket

FEDERAL CENSUS TRACT: 101.11

NUMBER OF ALCOHOL LICENSES ALLOWED: 2

NUMBER OF ALCOHOL LICENSES EXISTING: 2 (will not change)

CRIME RATE IN THIS CENSUS TRACT: 61.7%
(Note: Considered High Crime If Exceeds 120% of City-wide Average)

THREE OR MORE REPORTED CRIMES AT THIS PREMISE WITHIN PAST YEAR YES NO

IS THE PREMISE WITHIN 600 FEET OF INCOMPATIBLE FACILITY YES NO

IS THE PREMISE WITHIN 100 FEET OF RESIDENTIALLY ZONED PROPERTY YES NO

ABC LICENSE REVOKED AT THIS PREMISE WITHIN PAST YEAR YES NO

HAS APPLICANT BEEN CONVICTED OF ANY FELONY YES NO

WILL THIS BUSINESS BE DETRIMENTAL TO THE PUBLIC HEALTH, SAFETY,
AND WELFARE OF THE COMMUNITY AND CITY YES NO

COMMENTS/OTHER FACTORS CONSIDERED: This location has an existing type 20 license and the upgrade to a type 21 will not increase the number of alcohol licenses in the census tract. Census Tract #101.11 is not high crime or over concentrated.

SUGGESTED CONDITIONS:

1. Sales of alcoholic beverages shall be permitted only between the hours of 7:00 AM and 11:00pm each day of the week.
2. Wine shall not be sold in bottles or containers smaller than 750 ml.
3. No wine shall be sold with an alcoholic content greater than 15% by volume except for "Dinner Wines" which have been aged two years or more.
4. Beer, malt beverages or wine cooler products, regardless of container size, must be sold in manufacturer pre-packaged multi-unit quantities.
5. No distilled spirits shall be sold in bottles or containers smaller than 375ml.
6. The petitioner(s) shall post and maintain a professional quality sign facing the premises parking lot(s) that reads as the following: NO LOITERING, NO LITTERING, NO DRINKING OF ALCOHOLIC BEVERAGES. VIOLATORS ARE SUBJECT TO ARREST. The sign shall

be at least two feet square with two inch block lettering. The sign shall be in English and Spanish.

7. Any graffiti painted or marked upon the premises or on any adjacent area under the control of the licensee(s) shall be removed or painted over within 48 hours of being applied.
8. There shall be no amusement machines or video game devices on the premises at any time.
9. No loitering on the premises and if necessary a security guard to control enforcement of this provision.
10. Illumination in the parking lot. Security camera covering both interior and exterior premises.
11. No more than 10-percent of the square footage of the premises will be used for the display of alcoholic beverages.

SAN DIEGO POLICE DEPARTMENT RECOMMENDATION:

APPROVE X

DENY _____

Tom Underwood
Name of SDPD Vice Sergeant (Print)

619-531-2349
Telephone Number

[Signature]
Signature of SDPD Vice Sergeant

10/17/12
Date of Review



City of San Diego
 Development Services
 1222 First Ave., MS-302
 San Diego, CA 92101

Community Planning Committee Distribution Form Part 1

Project Name: Neighbors Supermarket CUP		Project Number: 288307	Distribution Date: 8/31/12	
Project Scope/Location: SAN YSIDRO, IO# 24002994, (PROCESS 3) Conditional Use Permit for allow new Type 21 alcohol sales at an existing grocery store located on a 0.34-acre site at 2004 Dairy Mart Rd, in the SYIO-CSF-2 Zone, San Ysidro Community Plan Area, FAA Part 77 Noticing, Council District 8, Notice Cards = 1				
Applicant Name: Peter Impala			Applicant Phone Number: (626) 683-9777	
Project Manager: Renee Mezo	Phone Number: (619) 446-5001	Fax Number: (619) 446-5245	E-mail Address: RMezo@sandiego.gov	
Project Issues (To be completed by Community Planning Committee for initial review): <i>NO SPECIFIC ISSUES</i>				
<i>Attach Additional Pages If Necessary.</i>			Please return to: Project Management Division City of San Diego Development Services Department 1222 First Avenue, MS 302 San Diego, CA 92101	
Printed on recycled paper. Visit our web site at www.sandiego.gov/development-services . Upon request, this information is available in alternative formats for persons with disabilities.				



City of San Diego
 Development Services
 1222 First Ave., MS-302
 San Diego, CA 92101

Community Planning Committee Distribution Form Part 2

Project Name: Neighbors Supermarket CUP	Project Number: 288307	Distribution Date: 8/31/12
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Project Scope/Location:
 SAN YSIDRO, IO# 24002994, (PROCESS 3) Conditional Use Permit for allow new Type 21 alcohol sales at an existing grocery store located on a 0.34-acre site at 2004 Dairy Mart Rd, in the SYIO-CSF-2 Zone, San Ysidro Community Plan Area, FAA Part 77 Noticing, Council District 8, Notice Cards = 1

Applicant Name: Peter Impala	Applicant Phone Number: (626) 683-9777
----------------------------------------	--------------------------------------------------

Project Manager: Renee Mezo	Phone Number: (619) 446-5001	Fax Number: (619) 446-5245	E-mail Address: RMezo@sandiego.gov
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Committee Recommendations (To be completed for Initial Review):

<input checked="" type="checkbox"/> Vote to Approve	Members Yes <i>9</i>	Members No <i>2</i>	Members Abstain <i>0</i>
<input type="checkbox"/> Vote to Approve With Conditions Listed Below	Members Yes	Members No	Members Abstain
<input type="checkbox"/> Vote to Approve With Non-Binding Recommendations Listed Below	Members Yes	Members No	Members Abstain
<input type="checkbox"/> Vote to Deny	Members Yes	Members No	Members Abstain
<input type="checkbox"/> No Action (Please specify, e.g., Need further information, Split vote, Lack of quorum, etc.)			<input type="checkbox"/> Continued

CONDITIONS: *N/A*

NAME: <i>MICHAEL R. FREEDMAN</i>	TITLE: <i>CHAIRMAN</i>
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SIGNATURE: <i>Michael R. Freedman</i>	DATE: <i>10/15/2012</i>
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<i>Attach Additional Pages If Necessary.</i>	Please return to: Project Management Division City of San Diego Development Services Department 1222 First Avenue, MS 302 San Diego, CA 92101
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Printed on recycled paper. Visit our web site at www.sandiego.gov/development-services.
 Upon request, this information is available in alternative formats for persons with disabilities.



City of San Diego
 Development Services
 1222 First Ave., MS-302
 San Diego, CA 92101
 (619) 446-5000

Ownership Disclosure Statement

Approval Type: Check appropriate box for type of approval (s) requested: Neighborhood Use Permit Coastal Development Permit
 Neighborhood Development Permit Site Development Permit Planned Development Permit Conditional Use Permit
 Variance Tentative Map Vesting Tentative Map Map Waiver Land Use Plan Amendment • Other _____

Project Title

Project No. For City Use Only

Neighbors Supermarket

Project Address:

2004 Dairy Mart Rd, Ste. 105, San Diego, CA 92173

Part I - To be completed when property is held by Individual(s)

By signing the Ownership Disclosure Statement, the owner(s) acknowledge that an application for a permit, map or other matter, as identified above, will be filed with the City of San Diego on the subject property, with the intent to record an encumbrance against the property. Please list below the owner(s) and tenant(s) (if applicable) of the above referenced property. The list must include the names and addresses of all persons who have an interest in the property, recorded or otherwise, and state the type of property interest (e.g., tenants who will benefit from the permit, all individuals who own the property). A signature is required of at least one of the property owners. Attach additional pages if needed. A signature from the Assistant Executive Director of the San Diego Redevelopment Agency shall be required for all project parcels for which a Disposition and Development Agreement (DDA) has been approved / executed by the City Council. Note: The applicant is responsible for notifying the Project Manager of any changes in ownership during the time the application is being processed or considered. Changes in ownership are to be given to the Project Manager at least thirty days prior to any public hearing on the subject property. Failure to provide accurate and current ownership information could result in a delay in the hearing process.

Additional pages attached Yes No

Name of Individual (type or print):

Owner Tenant/Lessee Redevelopment Agency

Street Address:

City/State/Zip:

Phone No:

Fax No:

Signature :

Date:

Name of Individual (type or print):

Owner Tenant/Lessee Redevelopment Agency

Street Address:

City/State/Zip:

Phone No:

Fax No:

Signature :

Date:

Name of Individual (type or print):

Owner Tenant/Lessee Redevelopment Agency

Street Address:

City/State/Zip:

Phone No:

Fax No:

Signature :

Date:

Name of Individual (type or print):

Owner Tenant/Lessee Redevelopment Agency

Street Address:

City/State/Zip:

Phone No:

Fax No:

Signature :

Date:

Project Title:

Project No. (For City Use Only)

Part II - To be completed when property is held by a corporation or partnership

Legal Status (please check):

Corporation (checked) Limited Liability -or- General) What State? Corporate Identification No. Partnership

By signing the Ownership Disclosure Statement, the owner(s) acknowledge that an application for a permit, map or other matter, as identified above, will be filed with the City of San Diego on the subject property with the intent to record an encumbrance against the property.. Please list below the names, titles and addresses of all persons who have an interest in the property, recorded or otherwise, and state the type of property interest (e.g., tenants who will benefit from the permit, all corporate officers, and all partners in a partnership who own the property). A signature is required of at least one of the corporate officers or partners who own the property. Attach additional pages if needed. Note: The applicant is responsible for notifying the Project Manager of any changes in ownership during the time the application is being processed or considered. Changes in ownership are to be given to the Project Manager at least thirty days prior to any public hearing on the subject property. Failure to provide accurate and current ownership information could result in a delay in the hearing process. Additional pages attached Yes No

Corporate/Partnership Name (type or print): MEXFRONT BORDER INVESTMENTS

Owner (checked) Tenant/Lessee

Street Address: 224 SYCAMORE RD # 35

City/State/Zip: SAN DIEGO CA 92173

Phone No: (619) 438-5483 Fax No: (619) 662-1148

Name of Corporate Officer/Partner (type or print): MARIANO FERNANDEZ

Title (type or print): PRESIDENT

Signature: [Signature] Date: 06/04/12

Corporate/Partnership Name (type or print):

This is the sole officer of the corporation

Corporate/Partnership Name (type or print):

Owner Tenant/Lessee

Street Address:

City/State/Zip:

Phone No: Fax No:

Name of Corporate Officer/Partner (type or print):

Title (type or print):

Signature: Date:

Corporate/Partnership Name (type or print):

Owner Tenant/Lessee

Street Address:

City/State/Zip:

Phone No: Fax No:

Name of Corporate Officer/Partner (type or print):

Title (type or print):

Signature: Date:

Corporate/Partnership Name (type or print):

Owner Tenant/Lessee

Street Address:

City/State/Zip:

Phone No: Fax No:

Name of Corporate Officer/Partner (type or print):

Title (type or print):

Signature: Date:

Corporate/Partnership Name (type or print):

Owner Tenant/Lessee

Street Address:

City/State/Zip:

Phone No: Fax No:

Name of Corporate Officer/Partner (type or print):

Title (type or print):

Signature: Date:



THE CITY OF SAN DIEGO

DATE OF NOTICE: November 6, 2012

NOTICE OF PUBLIC HEARING HEARING OFFICER

DEVELOPMENT SERVICES DEPARTMENT

DATE OF HEARING:	November 21, 2012
TIME OF HEARING:	8:30 A.M.
LOCATION OF HEARING:	Council Chambers, 12th Floor, City Administration Building, 202 C Street, San Diego, California 92101
PROJECT TYPE:	CONDITIONAL USE PERMIT, EXEMPT FROM CEQA, PROCESS 3
PROJECT NO:	<u>288307</u>
PROJECT NAME:	<u>NEIGHBORS SUPERMARKET</u>
APPLICANT:	PETER IMPALA
COMMUNITY PLAN AREA:	SAN YSIDRO
COUNCIL DISTRICT:	8
CITY PROJECT MANAGER:	RENEE MEZO, Development Project Manager
PHONE NUMBER/E-MAIL:	(619) 446-5001 rmezo@sandiego.gov

As a property owner, tenant, or person who has requested notice, please be advised that the Hearing Officer will hold a public hearing to approve, conditionally approve, or deny an application for a Conditional Use Permit to upgrade a Type 20 to a Type 21 alcohol sales at an existing grocery store. The 0.34-acre project site is located at 2004 Dairy Mart Road in the San Ysidro Planned District-Commercial (SYPD-CSF-2) Zone and the Federal Aviation Authority Part 77 Overlay Zone within the San Ysidro Community Plan Area.

The decision of the Hearing Officer is final unless appealed to the Planning Commission. In order to appeal the decision you must be present at the public hearing and file a speaker slip concerning the application or have expressed interest by writing to the Hearing Officer before the close of the public hearing. The appeal must be made within 10 working days of the Hearing Officer's decision. Please do not e-mail appeals as they will not be accepted. See Information Bulletin 505 "Appeal Procedure", available at www.sandiego.gov/development-services or in person at the Development Services Department, located at 1222 First Avenue, 3rd Floor, San Diego, CA 92101

The decision made by the Planning Commission is the final decision by the City.

This project was determined to be categorically exempt from the California Environmental Quality Act on October 5, 2012 and the opportunity to appeal that determination ended on October 19, 2012.

If you wish to challenge the City's action on the above proceedings in court, you may be limited to addressing only those issues you or someone else have raised at the public hearing described in this notice, or written in correspondence to the City at or before the public hearing. If you have any questions after reviewing this notice, you can call the City Project Manager listed above.

This information will be made available in alternative formats upon request. To request an agenda in alternative format or to request a sign language or oral interpreter for the meeting, call Support Services at (619) 321-3208 at least five working days prior to the meeting to insure availability. Assistive Listening Devices (ALD's) are also available for the meeting upon request.

Internal Order Number: 24002994

Revised 04/08/10 HRD