



THE CITY OF SAN DIEGO

REPORT TO THE HEARING OFFICER

HEARING DATE: July 24, 2013 REPORT NO. HO-13-066

ATTENTION: Hearing Officer

SUBJECT: BROTHERS PROVISIONS
PROJECT NUMBER: 316812

LOCATION: 16451 Bernardo Center Drive

APPLICANT/
OWNER: Trifecta Ventures, LLC/ Del Sol Development Corp. (Attachment 11)

SUMMARY

Issue: Should the Hearing Officer approve a Conditional Use Permit to allow the sales of beer and wine in accordance with a Type 20 liquor license within an existing building, for an existing specialty food store/café within the Rancho Bernardo Community Plan area?

Staff Recommendation - APPROVE Conditional Use Permit No. 1108951.

Community Planning Group Recommendation – On April 18, 2013, the Rancho Bernardo Community Planning Board, voted 14-0-1 to recommend approval of the project with no conditions (Attachment 9).

Environmental Review - The proposed activity is exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15301 (Existing Facilities) of the State CEQA Guidelines in that Section 15301 allows minor alterations of existing facilities that involve negligible or no expansion of an existing use (Attachment 10). This project is not pending an appeal of the environmental determination. The environmental exemption determination for this project was made on June 20, 2013, the opportunity to appeal that determination ended on July 5, 2013 and no appeal was filed.

BACKGROUND

The project proposes the sale of beer and wine for a 3,100 square-foot specialty food store with a 1,800 square foot patio café at an existing building (Attachment 1). The site is located at 16451 Bernardo Center drive in the CC-2-3 zone within the Rancho Bernardo Community Plan area (Attachment 2). The site is designated as Specialized Commercial in the Rancho Bernardo Community Plan (RBCP) (Attachment 3). Per page 27 of the RBCP, application of the CC-2-3 zone (formerly known as CA-RR) would help to ensure that the commercial uses in the

Specialized Commercial area would not be usurped by residential development. Eating and drinking establishments are consistent with the designated CC-2-3 uses. The business operator already has a Type 41 alcohol license which allows on-site consumption. The building is part of a Planned Commercial Development, approved in 1992, PCD 91-0695, which governs the larger 7.43-acre development consisting of eight one and two-story structures (Attachment 4).

DISCUSSION

Project Description

The project proposes the off-site sales of beer and wine within a 3,100 square-foot specialty food store/café, with an outdoor 1,800 square foot patio café, that has a Type 41 license for on-site consumption (Attachment 5). A Conditional Use Permit for the off-site sale of alcoholic beverages is permitted pursuant to Section 141.0502(c) of the Land Development Code (Attachment 6). The sales of beer and wine will be limited between the hours of 10:00 a.m. to 10:00 p.m., Monday through Sunday as conditioned by the San Diego Police Department (SDPD) and LDR-Planning review (Attachment 7).

Section 141.0502 determines when the off-site sale of alcohol is permitted by right or when a Conditional Use Permit is required in accordance with a Process Three (Hearing Officer) decision. The off-site sale of alcohol requires a Conditional Use Permit in the following instances:

- 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.
- Within a census tract, or within 600 feet of a census tract, where the ratio of alcohol beverage outlets exceeds the standards established by the California Business and Professions Code section 23958.4.
- In an adopted Redevelopment Project Area.
- Within 600 feet of a public or private accredited school, a public park, a playground or recreational area, a church except those established in association with section 141.0404(a), a hospital or a San Diego County welfare district office.
- Within 100 feet of a residentially zoned property.

A Conditional Use Permit is required for the subject site because it is adjacent to residentially zoned property, governed by Planned Residential Development Permit No. 83-0560.

The San Diego Police Department (SDPD) reviewed the proposed project and recommends approval with recommendations and conditions for the Conditional Use Permit (Attachment 8). Conditions within the permit include, but are not limited to, the time restriction for the sale of beer and wine, security assurances, and a prohibition on exterior advertising regarding the sale of alcoholic beverages. All SDPD recommendations and conditions are included in the draft permit. The SDPD's Vice Unit will work with the applicant and the Department of Alcoholic

Beverage Control to place additional conditions on the alcohol license to minimize the law enforcement concerns, if necessary.

CONCLUSION

Staff has determined that the project complies with the development regulations of all applicable sections of the Land Development Code. Staff has also considered the alcohol beverage outlet statistics from the Department of Alcoholic Beverage Control and the recommendation and conditions from the SDPD-Vice Operations. Staff has determined that the required findings can be made as the project meets the applicable San Diego Municipal Code regulations and requirements. Therefore, staff recommends approval of the project as proposed.

ALTERNATIVES

1. Approve Conditional Use Permit No.1108951, with modifications or;
2. Deny Conditional Use Permit No. 1108951, if the findings required to approve the project cannot be affirmed.

Respectfully submitted,



Jeannette Temple
Development Project Manager

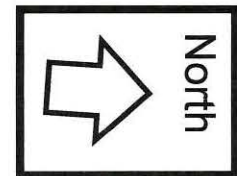
Attachments:

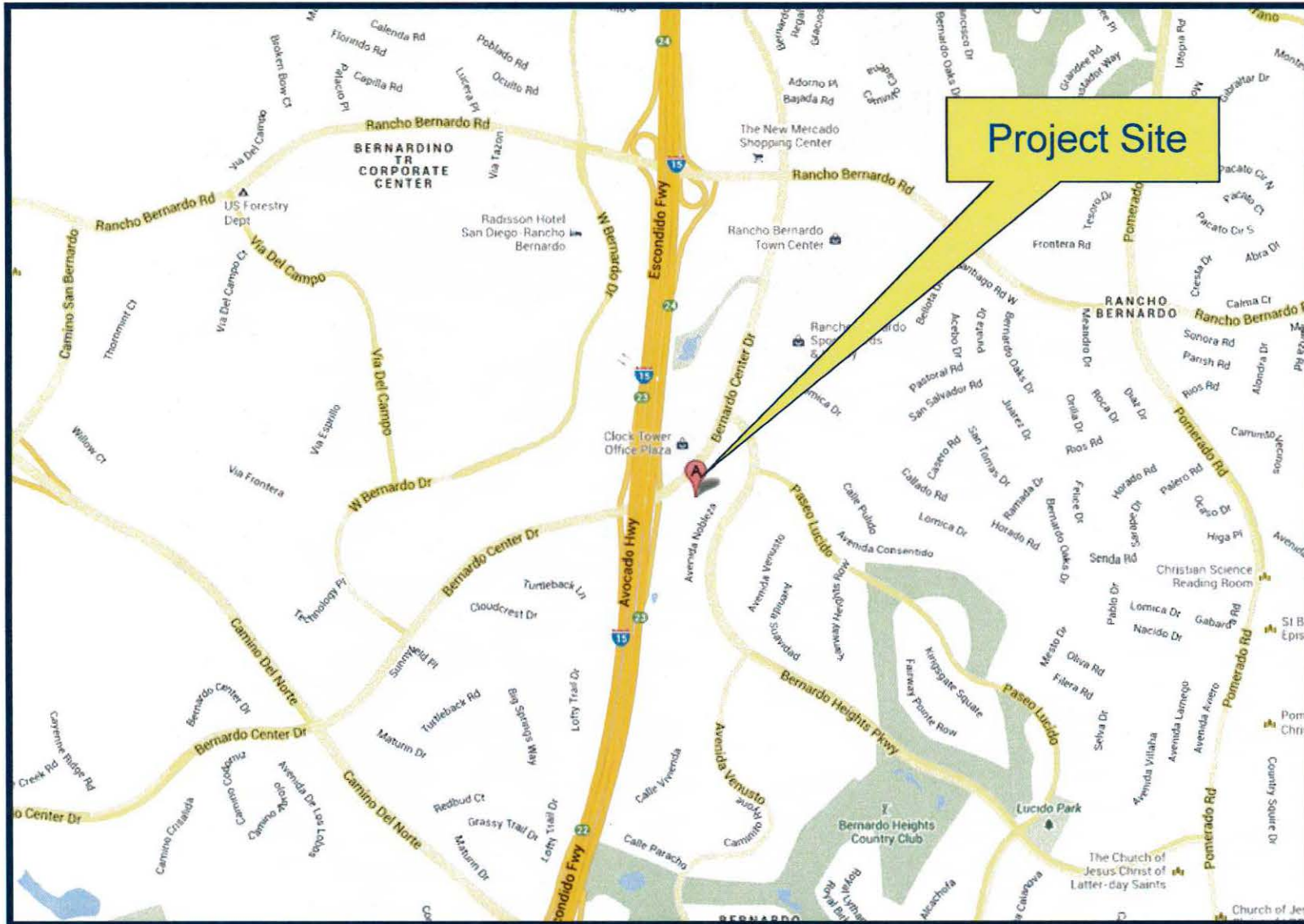
1. Aerial Photograph
2. Project Location Map
3. Community Plan Land Use Map
4. PCD 91-0695
5. Project Data Sheet and Project Plans
6. Draft Resolution with Findings
7. Draft Permit with Conditions
8. SDPD Recommendations
9. Community Planning Group Recommendation
10. Notice of Exemption
11. Ownership Disclosure Statement
12. Notice of Hearing



Aerial Photo

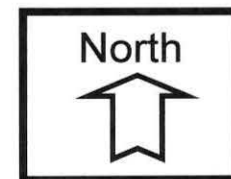
BROTHERS PROVISIONS – 16451 Bernardo Center Drive
PROJECT NO. 316812

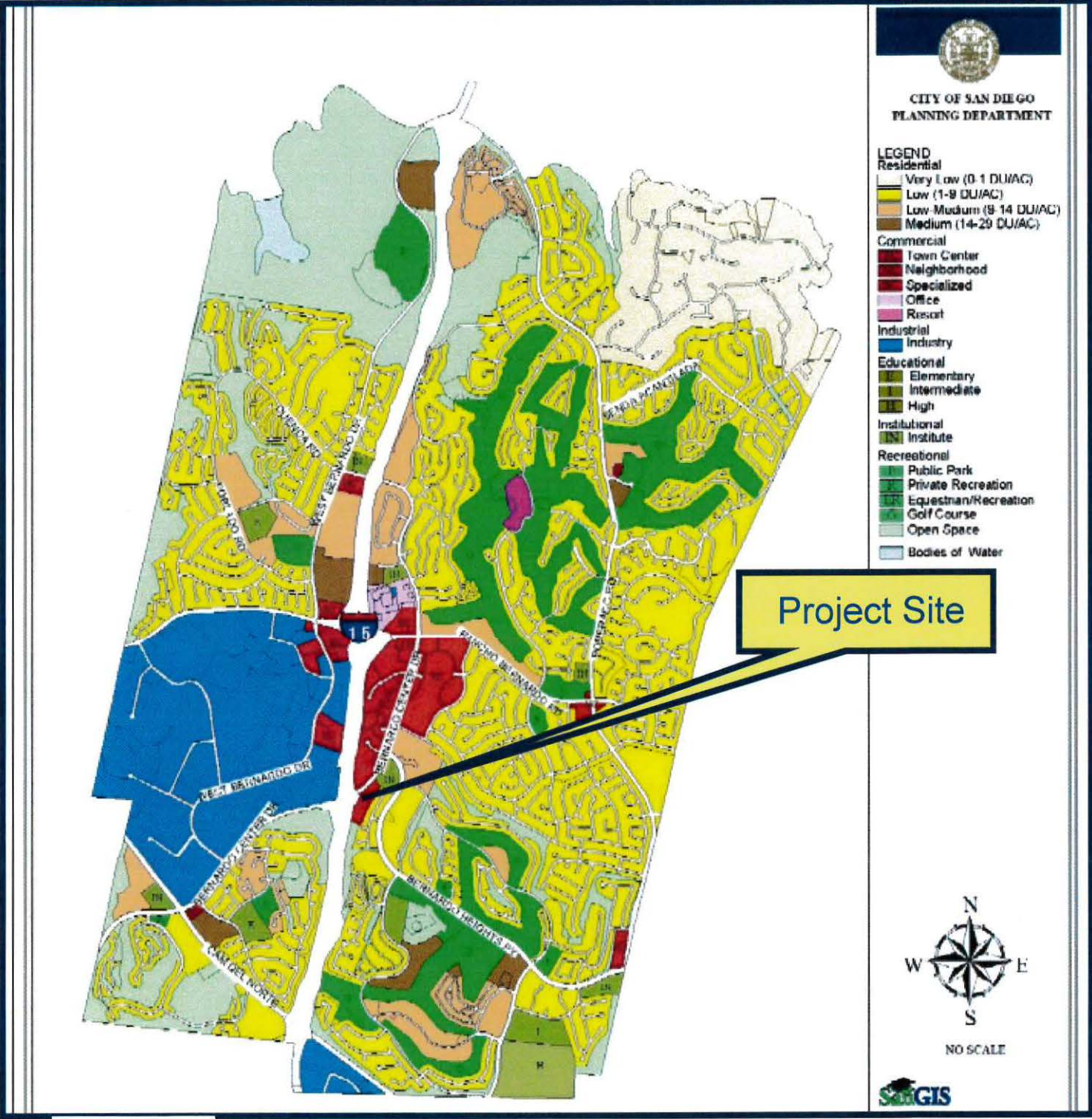




Project Location Map

BROTHERS PROVISIONS – 16451 Bernardo Center Drive
PROJECT NO. 316812





Rancho Bernardo Land Use Map

BROTHERS PROVISIONS – 16451 Bernardo Center Drive
PROJECT NO. 316812



ording requested by
Mail to: Permit-Intake
City of San Diego
Planning Department
202 C Street, M.S. 4C
San Diego, CA 92101-3864

NOTE: COUNTY RECORDER, PLEASE RECORD AS
RESTRICTION ON USE OR DEVELOPMENT OF
REAL PROPERTY AFFECTING THE TITLE TO
OR POSSESSION THEREOF.

ATTACHMENT 4 - 2181

ATTACHMENT - 4LF

PLANNED COMMERCIAL DEVELOPMENT PERMIT NO. 91-0695
PLANNING DIRECTOR
BERNARDO CENTER

This Planned Commercial Development Permit is granted by the Planning Director of the City of San Diego to TICOR TITLE INSURANCE COMPANY, Owner/Permittee, pursuant to Section 101.0910 of the Municipal Code of the City of San Diego.

1. Permission is granted to Owner/Permittee, to implement a Planned Commercial Development located on the east side of Bernardo Center Drive, between Bernardo Heights Parkway and Interstate 5 within the Rancho Bernardo Community Plan area, described as Lots 72 through 75, inclusive, Bernardo Heights Unit No. 3, Map No. 9573, in the CA Zone.

2. The permit shall consist of the following (existing) facilities:

- a. Five (existing) commercial retail structures totaling 49,696 square feet of gross floor area; and related improvements; and
- b. Two (existing) financial institution structures totaling 15,294 square feet of gross floor area; and other improvements; and;
- c. Two (existing) detached restaurants totaling 14,600 square feet of gross floor area; and other improvements; and
- d. Accessory uses as may be determined incidental and approved by the Planning Director.

3. No fewer than 409 (existing) off-street parking spaces shall continue to be maintained on the property. All parking spaces shall be consistent with Division 8 of the Municipal Code and shall be permanently maintained and not converted for any other use. Parking spaces and aisles shall conform to Planning Department standards. Parking areas shall be marked.

4. No permit for the contained operation and maintenance of any facility on the site shall be granted nor shall any activity existing authorized by this permit be conducted on the premises until:

- a. The Permittee signs and returns the permit to the Planning Department;

ORIGINAL

- b. The Planned Commercial Development Permit is recorded in the office of the County Recorder.
5. All outdoor lighting shall be so shaded and adjusted that the light is directed to fall only on the same premises as light sources are located.
6. The effective date of this permit shall be the date of final action following all appeal dates. The permit must be utilized within 36 months after the effective date. Failure to utilize the permit within 36 months will automatically void the permit unless an extension of time has been granted by the Planning Director, as set forth in Section 101.0910, M, of the Municipal Code. Any such extension of time must meet all the Municipal Code requirements and applicable guidelines in effect at the time the extension is considered by the Planning Director.
7. Construction and operation of the approved use shall comply at all times with the regulations of this or any other governmental agencies.
8. After establishment of the project, the property shall not be used for any other purposes unless:
 - a. Authorized by the Planning Director; or
 - b. The proposed uses meet every requirement of the zone existing for the property at the time of conversion;
 - c. The permit has been revoked by the City.
9. The property included within this Planned Commercial Development shall be used only for the purposes and under the terms and conditions set forth in this permit unless authorized by the Planning Director or the permit has been revoked by the City of San Diego.
10. This Planned Commercial Development Permit may be cancelled or revoked if there is any material breach or default in any of the conditions of this permit. Cancellation or revocation may be instituted by the City of San Diego or Permittee.
11. This Planned Commercial Development Permit is a covenant running with the subject property and shall be binding upon the Permittee and any successor or successors, and the interests of any successor shall be subject to each and every condition set out.

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12. All signs requested and proposed for this project shall conform to Citywide Sign Regulations and be administered by the Sign Code Administration Division of the Planning Department.

13. To the extent this condition is consistent with state and local laws, this project shall comply with the standards, policies and requirements in effect at the time of approval of this project, including any successor or new policies, financing mechanisms, phasing schedules, plans and ordinances relating to growth management adopted by the City of San Diego after January 11, 1990. The owner/permittee may challenge the legality of the imposition of future requirements pursuant to this condition at the time such future requirements and their impact on the project are defined.

14. If any existing hardscape or landscape indicated on the approved plans is damaged or removed, it shall be repaired and/or replaced in kind per the approved plans.

15. In the event that 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 the event that a challenge pertaining to future growth management requirements is found to be unreasonable, the Planning Director shall have the right, but not the obligation, to review this permit to confirm that the purpose and intent of the original approval will be maintained.

16. This permit shall comply with the conditions of the final map for Tentative Map No. 91-0695.

17. This community may be subject to impact fees, as established by the City Council, at the time of issuance of building permits.

18. A minimum of ten carpool parking spaces shall be provided on site at all times. Additional spaces shall be provided as needed to accommodate all carpoolers. These spaces shall be clearly labeled and conveniently located.

19. Bicycle racks for at least six bicycles shall be provided on site.

20. Prior to the recordation of the final map for this project, the applicant shall assure the following:

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- a. Planting and irrigations plans in accordance with exhibit "A" must be submitted to the satisfaction of the Planning Department.
 - b. All planting and irrigation must be installed according to the approved plans, inspected and approved by the Planning Department.
21. The hours of operation for those buildings located along the eastern property boundary shall be restricted to 6:00 a.m. to midnight.
22. The sale of alcoholic beverages shall be permitted only in association with a restaurant establishment.
23. Fast food restaurants are permitted on the site. However, these uses shall be prohibited from operating a drive-thru facility.

APPROVED by the Planning Director of the City of San Diego on February 10, 1992.

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PLANNING DIRECTOR RESOLUTION NO. 9257
GRANTING PLANNED COMMERCIAL DEVELOPMENT PERMIT NO. 91-0695
BERNARDO CENTER

WHEREAS, TICOR TITLE INSURANCE, Owner/Permittee, filed an application for a Planned Commercial Development, described as Lots 72 through 75, inclusive, Bernardo Heights Unit No. 3, Map No. 9573, located on the east side of Bernardo Center Drive, between Interstate 5 and Bernardo Heights Parkway within the Rancho Bernardo Community Plan area in the CA Zone; and

WHEREAS, on February 10, 1992, the Planning Director of the City of San Diego considered Planned Commercial Development Permit No. 91-0695 pursuant to Section 101.0900 of the Municipal Code of the City of San Diego; NOW, THEREFORE,

BE IT RESOLVED by the Planning Director of the City of San Diego as follows:

1. That the Planning Director adopts the following written Findings, dated February 10, 1992:

Planned Commercial Development Permit Findings:

- a. The proposed use will fulfill a community need and will not adversely affect the General Plan or the community plan. As an existing facility (including site landscaping and related site improvements), this development was constructed in conformance with the existing CA zone, the then existing Rancho Bernardo community plan, and the City's General Plan and Progress Guide. The tenant uses contained within the existing nine structures on this site have continued to fulfill a demonstrated need for commercial retail and financial institution uses in the community.
- b. The proposed use, because of conditions that have been applied to it, will not be detrimental to the health, safety, and general welfare of persons residing or working in the area and will not adversely affect other property in the vicinity. The existing structures and facilities on this site have complied with all regulations and guidelines that were imposed as a requirement to obtain all building and occupancy permits from the City and therefore would not be detrimental to the health, safety and general welfare of persons residing or working in the area and would not adversely affect other property in the vicinity.

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In addition, the conditions contained within the draft PCD permit will assure compliance with development guidelines and restrictions of the Planned Commercial Development Ordinance, existing CA zone and other relevant requirements of the Municipal Code.

- c. The proposed use will comply with the relevant regulations in the Municipal Code. The existing development, and related facilities on this site fully comply with requirements of the existing zone, PCD Ordinance, and other relevant requirements and guidelines of the Municipal Code.

Brush Management (Alternative Compliance) Findings:

- a. The proposed landscape improves the appearance of the commercial center by visually softening the parking lot and the building facades. In addition, the proposed landscape will not adversely affect the General Plan and will meet the requirements of the Rancho Bernardo Community Plan for the underlying zone by meeting the intent of the City-Wide Landscape Regulations, Section 101.0712, C, as described in finding C.
 - b. The proposed landscape improvements will be installed and maintained in accordance with the requirements of the "Landscape Technical Manual", Sections three, four, five, and eight. Therefore, the proposed improvements will not be detrimental to the health, safety and general welfare of persons residing or working in the area, nor adversely affect other property in the vicinity.
 - c. The proposed landscape improvements include large canopy street trees in the public right-of-way, and additional trees and shrubs located to visually buffer the parking lot and building facades visible from the public right-of-way. Therefore, the additional landscape will improve the appearance, quality and quantity of landscaping visible from the public right-of-way and adjacent streets.
2. That said Findings are supported by maps and exhibits, all of which are herein incorporated by reference.

BE IT FURTHER RESOLVED that, based on the Findings hereinbefore adopted by the Planning Director, Planned Commercial Development Permit No. 91-0695, is hereby GRANTED to Owner/Permittee in the form and with the terms and conditions set forth in Permit

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No. 91-0695, a copy of which is attached hereto and made a part hereof.

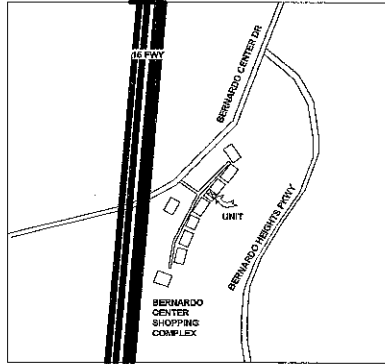


Robert Korch
Senior Planner

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PROJECT DATA SHEET

PROJECT NAME:	Brothers Provisions	
PROJECT DESCRIPTION:	Addition of off-sale beer and wine for existing store/café in existing building	
COMMUNITY PLAN AREA:	Rancho Bernardo	
DISCRETIONARY ACTIONS:	Conditional Use Permit	
COMMUNITY PLAN LAND USE DESIGNATION:	Specialized Commercial	
<u>ZONING INFORMATION:</u>		
ZONE: CC-2-3		
HEIGHT LIMIT: 45-Foot maximum height limit.		
LOT SIZE: 5,000 square-foot minimum lot size.		
FLOOR AREA RATIO: 0.75 maximum.		
FRONT SETBACK: 0 feet.		
SIDE SETBACK: 10 feet.		
STREETSIDE SETBACK: 0 feet.		
REAR SETBACK: 10 feet.		
PARKING: 409 parking spaces required for entire PCD development.		
<u>ADJACENT PROPERTIES:</u>	LAND USE DESIGNATION & ZONE	EXISTING LAND USE
NORTH:	Specialized Commercial CC-2-3	Commercial retail
SOUTH:	Residential / IL-3-1	Residential
EAST:	Residential/ IL-3-1	Residential
WEST:	Industrial; IP-2-1.	I-15
DEVIATIONS OR VARIANCES REQUESTED:	none	
COMMUNITY PLANNING GROUP RECOMMENDATION:	On April 18, 2013, the Rancho Bernardo Community Planning Board voted unanimously (14-0-1) to approve this project, with no conditions.	



VICINITY MAP

NTS

GENERAL NOTES

Permit Conditions:

- Existing Use:** Restuarant.
- Pool or billiard Table, football, or pinball game, arcade style video and electronic games, or coin-operated amusement devices are not permitted on the premises with an alcoholic beverage outlet.
- Exterior public pay phones that permit incoming calls are not permitted on the premises, adjacent public sidewalks, or areas under the control of the owner or operator.
- The owner or operator shall provide illumination, at a minimum level of 0.4 footcandles per square foot, on the exterior of the alcoholic beverage outlet, including adjacent public sidewalks and areas under the control of the owner or operator. The illumination shall be in operation during all hours of darkness while the outlet is open for business so that persons standing on or near the premises at night are identifiable by law enforcement personnel. The required illumination shall be shielded and directed so that it does not shine on adjacent properties.
- The sign area pertaining to or referencing alcoholic sales or beverages shall not exceed 630 square inches.
- The owner or operator of the alcoholic beverage outlet shall post a prominent, permanent sign or signs stating, "No loitering, consumption of alcoholic beverages, or open alcoholic beverage containers are allowed inside the premises, in the parking area, or on the public sidewalks adjacent to the premises."

GENERAL NOTES CONT.

- The owner or operator shall list a business address and telephone number in the AT&T/San Diego telephone directory or other similarly distributed directory.
- A maximum of 33 percent of the square footage of the windows and doors of the premises may bear advertising or signs of any sort, and all advertising and signs shall be placed and maintained in a manner that ensures that law enforcement personnel have a clear and unobstructed view of the interior of the outlet.
- The owner or operator shall maintain the premises, adjacent public sidewalks, and areas under the control of the owner or operator, free of litter and graffiti at all times. The owner or operator shall provide for daily removal of trash, litter, and debris. The owner or operator shall eliminate graffiti within 48 hours of application.
- The owner or operator shall provide trash receptacles, conveniently located for use by patrons, inside and outside the alcoholic beverage outlet, including adjacent public sidewalks and areas under the control of the owner or operator. At least one 13-gallon trash receptacle shall be located inside the premises. At least one 32-gallon trash receptacle shall be located outside the alcoholic beverage outlet, and at least one additional 32-gallon trash receptacle shall be located in the parking areas under the control of the owner or operator.
- The owner or operator shall post a copy of the Conditional Use Permit conditions in the licensed premises in a place where they may be readily viewed by any member of the general public or any member of a government agency. The Conditional Use Permit shall included a date on which the permit will expire and become void. This date shall not be less than 25 years from the approval date of the Conditional Use Permit.
- An applicant may request that the expiration date be extended in accordance with the following provision:
 - * An application for an extension shall be filed before the expiration of the approved Conditional Use Permit.
 - * An application for an extension shall be considered in accordance with Process Two if there is no record in the City of San Diego Police Department or other department or with any other governmental agency of any violations of the State of California Department of Alcoholic Beverage Control rules, regulations, and orders or of any violation of city, county, state or federal law, code, regulation or policy related to prostitution, drug activity or other criminal activity on the premises.
- An application for an extension shall be considered in accordance with Process Three if there is a record of violations as described in section 141.0502(c)(7)(B).

BROTHERS PROVISIONS
16451 BERNARDO CENTER DR
SAN DIEGO, CA 92128

RESTAURANT HOURS OF OPERATION
MONDAY - SATURDAY 8AM - 12 AM
SUNDAY 8AM - 12 AM

HOURS FOR OFF-PREMISE SALES OF ALCOHOL
MONDAY - SATURDAY 10AM - 10PM
SUNDAY 10AM - 10PM

Our specialty neighborhood restaurant is built around the love of high quality food, the people who produce it, and the rest of us who seek to find it passionately. Brothers Provisions vision is to share our devotion to excellence in food and service.

Our specialties include hand cut artisan cheese, charcuterie, party trays, olives, spreads, jams, fresh bread delivered daily, wine, beer, cigars, and a number of other specialty food items. Visit us today to see what delicious and unique items we have for you!

SQUARE FOOTAGE
GROSS SQUARE FOOTAGE - 3,100 sq.ft.
INTERIOR NET FOOTAGE - 2,800 sq.ft.
OUTDOOR SEATING AREA - 1,800 sq.ft.

RANCHO BERNARDO SHOPPING CENTER LIST OF BUSINESSES:

- RB SHUSHI
- SIGNATURE DENTAL
- BIKRAM YOGA
- REALTY EXPERTS
- LEO HAMEL JEWELRY BUYERS
- SDAR RANCHO BERNARDO SERVICE CENTER
- PHO HOANG EXPRESS
- SPICES THI CAFE
- RASHID REALTY SVE
- WEST COAST ESCROW
- RGB DENTAL
- LITTLE CESARS PIZZA
- PILATES PASSION
- SEQUOIA ROOFING
- BROTHERS PROVISIONS RESTAURANT

SHEET INDEX

- T100 TITLE SHEET
- A101 SITE PLAN
- A102 FLOOR PLAN
- A103 ALCOHOL AREA / PATIO LIGHTING

ARCHITECTURAL DESIGN
Urban Realty Design Studio
3777 Florida St.
San Diego, Ca 92104
urbanrealitydesignstudio@gmail.com
(714) 282-8477

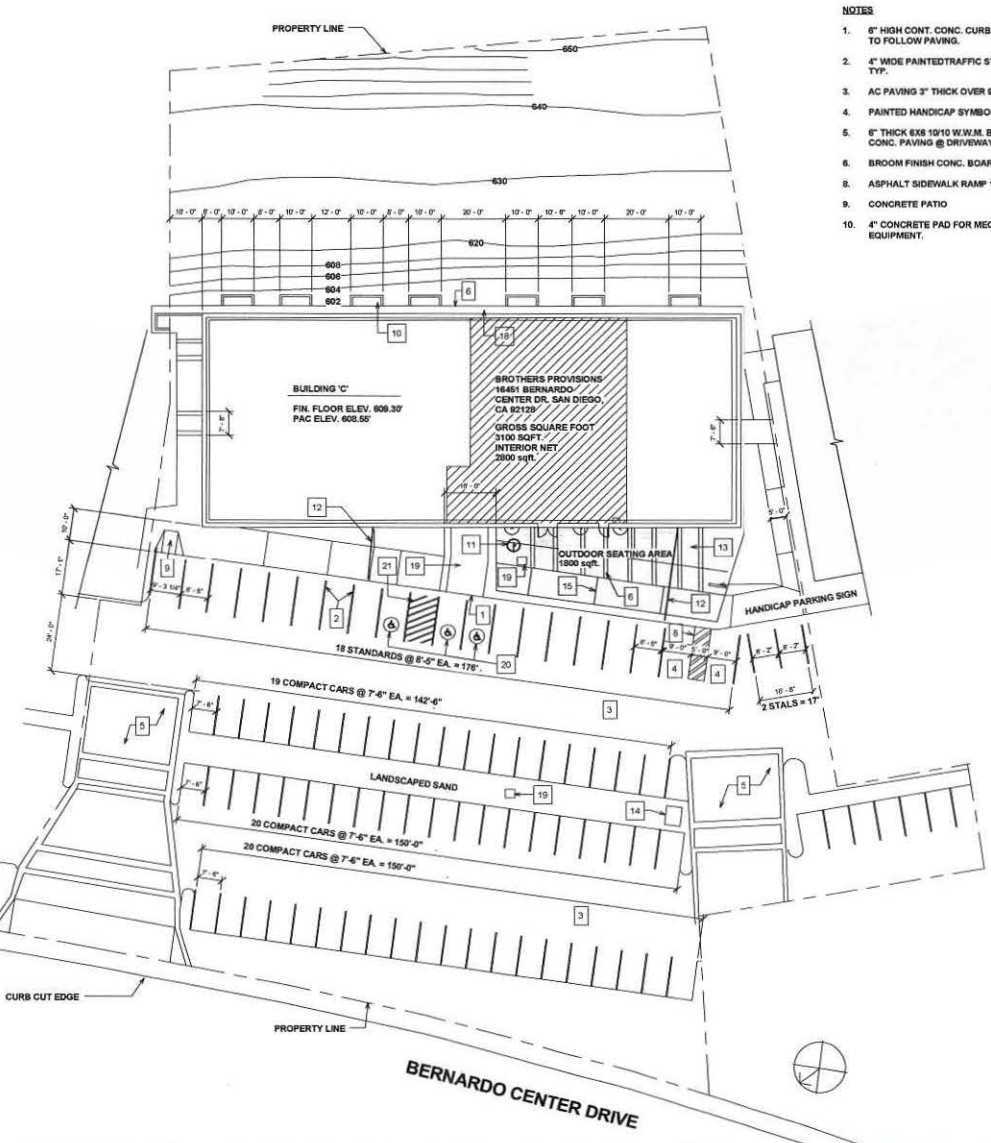
APN #:

No.	Description	Date
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BROTHERS PROVISIONS
16451 Bernado Center Dr.
San Diego, Ca 92128

TITLE SHEET

Project number
Date
Drawn by: _____ Author
Checked by: _____ Checker
A100
Scale 8" = 1'-0"



- NOTES**
- 6" HIGH CONT. CONC. CURB SLOPE TO FOLLOW PAVING.
 - 4" WIDE PAINTED TRAFFIC STRIPES TYP.
 - AC PAVING 3" THICK OVER 8" BASE TYP.
 - PAINTED HANDICAP SYMBOL
 - 6" THICK 6X8 10/10 W.W.M. BOMANITE CONC. PAVING @ DRIVEWAY.
 - BROOM FINISH CONC. BOARDER
 - ASPHALT SIDEWALK RAMP 1:12 MAX
 - CONCRETE PATIO
 - 4" CONCRETE PAD FOR MECHANICAL EQUIPMENT.
 - 30'-0" HIGH FLAG POLE.
 - 3" DIAMETER PVC 2000 - DRAIN UNDER SIDEWALK.
 - CONCRETE SIDEWALK - ROCK SALT FINISH.
 - 5'-0" X 8'-0" CONCRETE PAD FOR TRANSFORMER.
 - EXPANSION JOINT @ 20'-0" O.C.
 - 4" DIAMETER SLOTTED PVC SLAB DRAIN
 - QUARRY TILE SIDEWALK
 - CONC. GUTTER 2'-0" W 1% SLOPE MIN.
 - 32 GALLON TRASH RECEPTACLE.
 - HANDICAP PARKING STALL
 - ADA ACCESS AISLE

LEGEND

- EXISTING STRUCTURES
- PROPERTY LINE
- CURBE CUT EDGE LINE

ARCHITECTURAL DESIGN:
 Urban Reality Design Studio
 3777 Florida St.
 San Diego, Ca 92104
 Urbanrealitydesignstudio@gmail.com
 (714) 262-5177

APN #:

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BROTHERS PROVISIONS
 16451 Bernado Center Dr.
 San Diego, Ca 92128

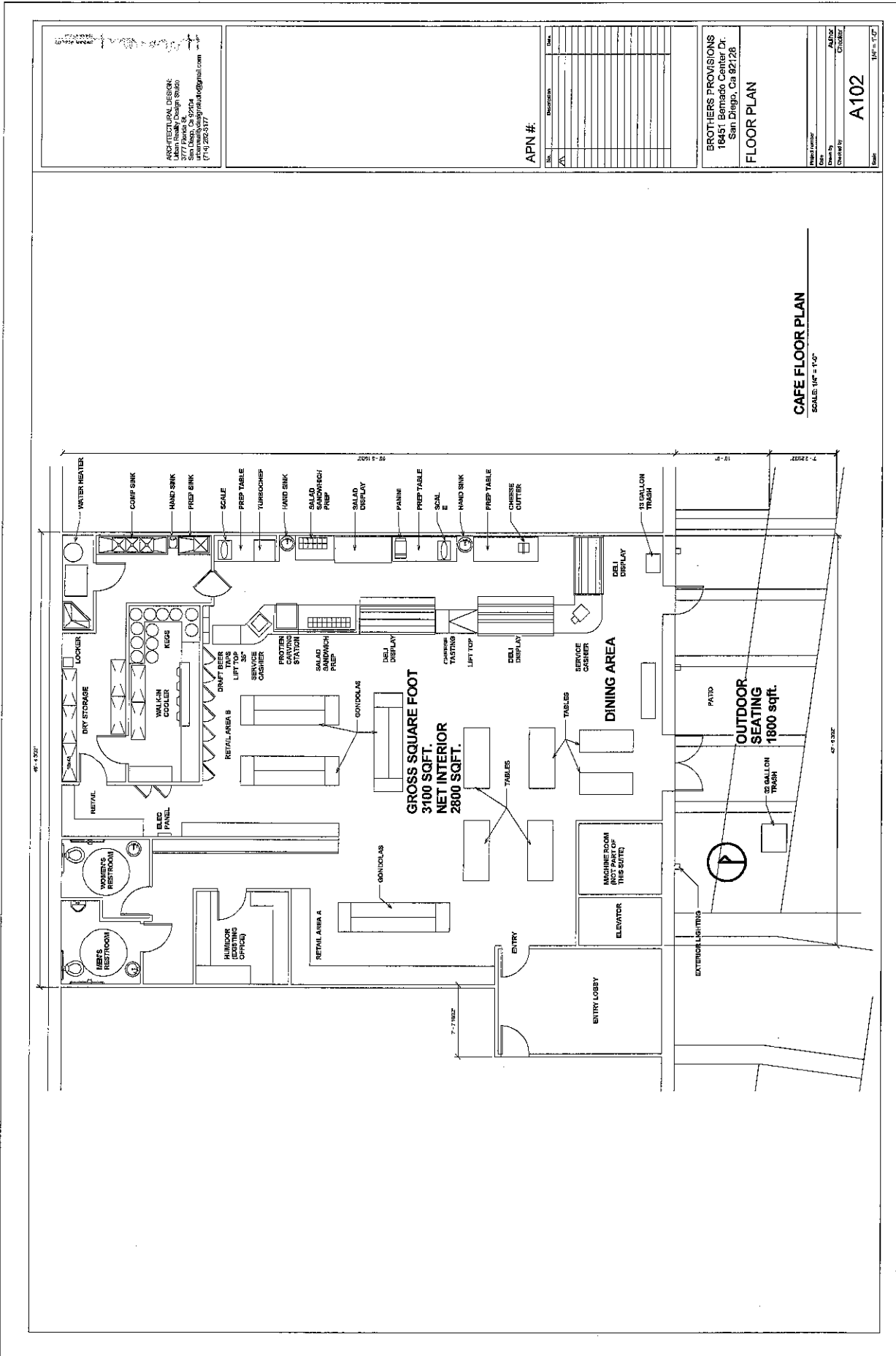
SITE PLAN

Project Number: _____
 Date: _____
 Drawn by: _____
 Checked by: _____

A101

Scale: 1/16" = 1'-0"

BUILDING SITE PLAN
 SCALE: 1/16" = 1'-0"



ARCHITECTURAL DESIGN
 John Smith, Designer
 3777 Pacific & Coast
 San Diego, CA 92128
 (714) 253-3177
 john.smith@architect.com

APN #:

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BROTHERS PROVISIONS
 18451 Bernardo Center Dr.
 San Diego, CA 92128

FLOOR PLAN

CAFE FLOOR PLAN
 SCALE: 1/4" = 1'-0"

Project Number: A102
 Date: 01/15/2014
 Drawn By: [Blank]
 Checked By: [Blank]
 Title: A102
 Scale: 1/4" = 1'-0"

ARCHITECTURAL LESSON
16451 BERNARDO CENTER DR
SAN DIEGO, CA 92128
PH: (619) 591-2317
WWW.ARCHITECTURALLESSON.COM

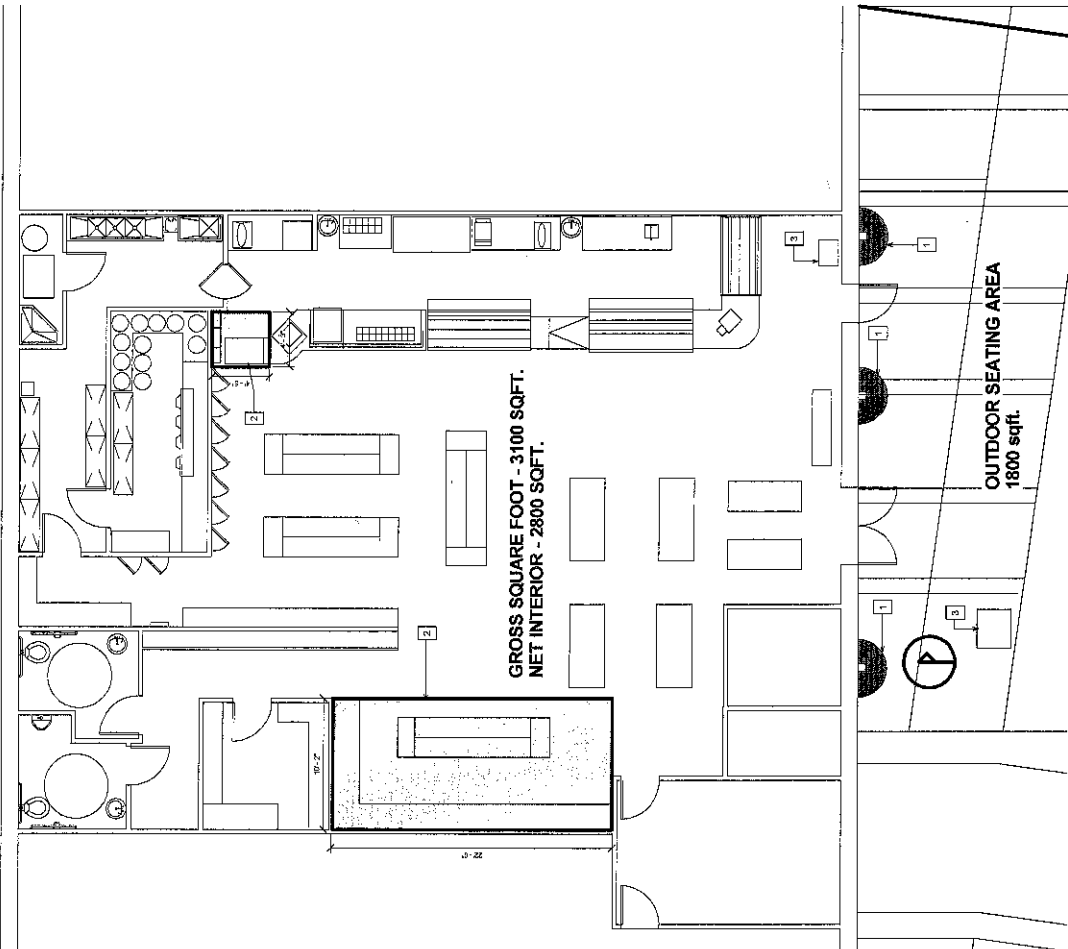
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BROTHERS PROVISIONS
16451 Bernardo Center Dr.
San Diego, CA 92128

ALCOHOL AREA /
PATIO LIGHTING

Project Number	Sheet Number	Author
	A103	



NOTES

- 1. EXTERIOR LIGHTING
- 2. DESIGNATED ALCOHOLIC BEVERAGE SALE AREA
- 3. 18 & 30 GALLON TRASH RECYCLING

LIGHTING

The owner or operator shall provide illumination, as a minimum level of 0.4 footcandles per square foot, in all areas under the control of the owner or operator, including adjacent public sidewalks and areas under the control of the owner or operator, during all hours of operation. The outdoor lighting shall be permanent. The required illumination shall be maintained throughout the hours of operation of the subject premises.

MAINTENANCE

The owner or operator shall maintain the exterior, including public sidewalks, and areas under the control of the owner or operator, free of litter and debris in all areas under the control of the owner or operator, including adjacent public sidewalks and areas under the control of the owner or operator, during all hours of operation.

DESIGNATED AREAS

The owner or operator shall provide signs and other markings to identify areas which are designated as alcohol sale or consumption areas. Such areas shall be clearly marked and the signs shall be clearly legible to the public. The signs shall be permanent and shall be maintained throughout the hours of operation of the subject premises.

PERMITTED AREAS

The sign areas pertaining to or reflecting alcoholic sales or beverages shall not exceed 630 square inches in area. The owner or operator of the alcoholic beverage outlet shall post a prominent, permanent sign or signs identifying the alcoholic beverage outlet and the owner or operator of the alcoholic beverage outlet shall be responsible for the maintenance and repair of the signs and other markings at all times.

CONDITIONS

The owner or operator shall bear a copy of the Conditional Use Permit conditions in the permitted premises in a place where they may be readily viewed by any member of the public. The Conditional Use Permit shall include a date on which the permit expires and a renewal date. The date shall not be later than 24 months after the date of the expiration of the Conditional Use Permit.

HEARING OFFICER RESOLUTION NO. HO-XXXX
CONDITIONAL USE PERMIT NO. 1108951
BROTHERS PROVISIONS PROJECT NO. 316812

WHEREAS, DEL SOL DEVELOPMENT CORPORATION, Owner, and TRIFECTA VENTURES, LLC, Permittee, filed an application with the City of San Diego for a permit to allow the off-sale of alcoholic beverages within an existing 4,900 square-foot lease space (as described in and by reference to the approved Exhibits "A" and corresponding conditions of approval for the associated Conditional Use Permit No. 1108951), on portions of a 7.43 acre site; and

WHEREAS, the project site is located at 16451 Bernardo Center Drive in the CC-2-3 zone within the Rancho Bernardo Community Plan area; and

WHEREAS, the project site is legally described as Portions of Lots 72 and 73 of Bernardo Heights, Unit No. 3, according to Map No. 9573, filed in the Office of the County Recorder of San Diego County, February 25, 1980; and

WHEREAS, on July 24, 2013, the Hearing Officer of the City of San Diego considered Conditional Use Permit No. 1108951, pursuant to the Land Development Code of the City of San Diego; and

WHEREAS, on June 20, 2013, 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 Facilities) 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 Hearing Officer adopts the following written Findings for Approval of Conditional Use Permit No. 1108951 pursuant to Land Development Code Sections 126.0305, dated July 24, 2013.

Conditional Use Permit – SDMC section 126.0305

(a) The proposed development will not adversely affect the applicable land use plan.

The project proposes operation of an alcoholic beverage outlet, including the off-sale of beer and wine, in an existing specialty food store and café that already has a Type 41 alcohol license for on-site sales. The leased space, within the multiple building 7.43 acre development, is 3,100 square feet within a structure with an 1,800 square foot outdoor patio café area. The site is located at 16451 Bernardo Center Drive and is governed by Planned Commercial Development no. 91-0695. The Permittee has submitted an application to the California Department of Alcoholic Beverage Control for a new Type 20, off-sale beer and wine license

The property is zoned CC-2-3 and is designated as Specialized Commercial within the Rancho Bernardo Community Plan (Plan). The proposed establishment of an alcoholic beverage retailer within the existing commercial building is consistent with the underlying commercial zoning as allowed by a Conditional Use Permit. General policies of the Plan state that specialized commercial uses and business office complexes are oriented toward visitor and special

community activities and have easy access to I-15. Brothers Provisions is a specialty food store and anticipated to have both a local and visitor draw as it is adjacent to Interstate 15. Furthermore, the existing shopping center has ample parking, pedestrian friendly sidewalks, and is located along transit routes, which is consistent with the Plan's recommendations.

Based on the specialty retail nature of the existing store, the convenient access of Interstate 15, and the type of existing uses in the shopping center, the proposed project will not adversely affect the applicable land use plan.

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

The project proposes operation of an alcoholic beverage outlet, including the off-sale of beer and wine, in an existing specialty food store and café that already has a Type 41 alcohol license for on-site sales, at 16451 Bernardo Center Drive. The Permittee has submitted an application to the California Department of Alcoholic Beverage Control for a new Type 20, off-sale beer and wine license.

Alcohol sales at this location is supported by the San Diego Police Department (SDPD). Census Tract 170.52 has zero off sale alcohol licenses where three are allowed. Required conditions within the Permit include limitations on the hours of operation, advertising of alcohol, and container limits on cold beverages. The SDPD Vice Unit will work with the Permittee and the Department of Alcoholic Beverage Control to place additional conditions on the license to minimize law enforcement concerns, if necessary.

The Permit prepared for this project includes various conditions and corresponding exhibits of approvals relevant to achieving compliance with the regulations of the Municipal Code. These conditions include limitations on the hours of operation, litter and graffiti control, signage, as well as a prohibition of live entertainment. In addition, the proposed retail establishment must abide by all Federal, State, and Local codes related to alcohol beverage sales. Therefore, the project will not be detrimental to the public health, safety, and welfare.

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

The project proposes operation of an alcoholic beverage outlet, including the off-sale of beer and wine, in an existing specialty food store and café that already has a Type 41 alcohol license for on-site sales, at 16451 Bernardo Center Drive. The Permittee has submitted an application to the California Department of Alcoholic Beverage Control for a new Type 20, off-sale beer and wine license.

The Municipal Code permits such use if a Conditional Use Permit is approved and no deviations are proposed for this facility. The Permit prepared for this project includes various conditions and corresponding exhibits of approvals relevant to achieving compliance with the regulations of the Municipal Code. These conditions include limitations on the hours of operation and restrictions as to the on-site consumption. Therefore, the proposed development will comply with the regulations of the Land Development Code.

(d) The proposed use is appropriate at the proposed location.

The project proposes operation of an alcoholic beverage outlet, including the off-sale of beer and wine, in an existing specialty food store and café that already has a Type 41 alcohol license for on-site sales, at 16451 Bernardo Center Drive. The Permittee has submitted an application to the California Department of Alcoholic Beverage Control for a new Type 20, off-sale beer and wine license. The existing use is a specialty food store with a café, with a Type 41 alcohol license for on-site consumption. The property is adjacent to commercial development on this site and to the North, Interstate 15 to the East and residential development to the West and South.

The property is zoned and designated for commercial uses. The use of the site as a retail establishment will remain the same. The San Diego Police Department (SDPD) has recommended approval of the use, as the alcoholic beverage outlet would be the first off-sale alcohol outlet in the census tract. The SDPD has provided recommendations for the sale of alcohol on the site. Therefore, the proposed use 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. 1108951 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. 1108951, a copy of which is attached hereto and made a part hereof.

Jeannette Temple
Development Project Manager
Development Services

Adopted on: July 24, 2013

Internal Order No. 24003634

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

SPACE ABOVE THIS LINE FOR RECORDER'S USE

INTERNAL ORDER NUMBER: 24003634

CONDITIONAL USE PERMIT NO. 1108951
BROTHERS PROVISIONS PROJECT NO. 316812
 HEARING OFFICER

This Conditional Use Permit No. 1108951 is granted by the Hearing Officer of the City of San Diego to Del Sol Development Corporation, A California Corporation, Owner, and Trifecta Ventures, LLC, Permittee, pursuant to San Diego Municipal Code [SDMC] section 126.0305. The 4,900 square foot space as part of a larger 7.43 acre site is located at 16451 Bernardo Center Drive in the CC-2-3 zone within the Rancho Bernardo Community Plan area. The project site is legally described as Portions of Lots 72 and 73 of Bernardo Heights, Unit No. 3, according to Map No. 9573, filed in the Office of the County Recorder of San Diego County, February 25, 1980.

Subject to the terms and conditions set forth in this Permit, permission is granted to Owner and Permittee to operate an alcoholic beverage outlet conditioned upon the issuance of a Type 20 license from the State Department of Alcoholic Beverage Control, for off-site sales of beer and wine, 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 July 24, 2013, on file in the Development Services Department.

The project shall include:

- a. 16451 Bernardo Center Drive, a 3,100 square foot suite with a 1,800 square foot outdoor cafe within an existing building to operate a Type 20 Beer and Wine alcoholic beverage outlet, conditioned upon the issuance of a license from the State Department of Alcoholic Beverage Control; and
- b. 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 August 7, 2016.
2. This Conditional Use Permit [CUP] and corresponding use of this site shall expire on August 7, 2033. Upon expiration of this Permit, the facilities and improvements 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 Owner/Permittee may request that the expiration date be extended in accordance with the San Diego Municipal Code.
4. The utilization of this CUP is contingent upon the approval of a Type 20 license to sell alcohol, for off-site consumption 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.
5. 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.
6. 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.
7. 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.
8. The continued use of this Permit shall be subject to the regulations of this and any other applicable governmental agency.

9. 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.).

10. 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.

11. 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.

12. 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.

13. 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/DESIGN REQUIREMENTS:

14. Owner/Permittee shall post a copy of the Conditional Use Permit conditions in the licensed premises in a place where they may be readily viewed by any member of the general public or any member of a government agency.
15. The sales of alcoholic beverages shall be permitted between the hours of 10:00 a.m. and 10:00 p.m.
16. No interior or exterior public pay phones are permitted on the premises, adjacent public sidewalks, or areas under the control of the Owner/Permittee.
17. The owner or operator shall list a business address and telephone number in the AT&T/San Diego telephone directory or other similarly distributed directory.
18. All signs associated with this development shall be consistent with sign criteria established by either the approved Exhibit "A" or City-wide sign regulations.
19. There shall be no exterior advertising or sign of any kind or type, including advertising directed to the exterior from within, promoting or indicating the availability of alcoholic beverages. Interior displays of alcoholic beverages or signs which are clearly visible to the exterior shall constitute a violation of this condition.
20. The Owner/Permittee of the alcoholic beverage outlet shall post a prominent, permanent sign or signs stating, "No loitering, consumption of alcoholic beverages, or open alcoholic beverage containers are allowed inside the premises, in the parking area, or on the public sidewalks adjacent to the premises." A security guard controlling enforcement and/or security cameras covering both interior and exterior of the premises may be necessary to enforce this condition.
21. A maximum of 33 percent of the square footage of the windows and doors of the premises may bear advertising or signs of any sort, and all advertising and signs shall be placed and maintained in a manner that ensures that law enforcement personnel have a clear and unobstructed view of the interior of the outlet.
22. All private outdoor lighting shall be shaded and adjusted to fall on the same premises where such lights are located and in accordance with the applicable regulations in the SDMC.
23. The Owner/Permittee shall provide illumination, at a minimum level of 0.4 foot-candles per square foot, on the exterior of the alcoholic beverage outlet, including adjacent public sidewalks and areas under the control of the Owner/Permittee. The illumination shall be in operation during all hours of darkness while the outlet is open for business so that persons standing on or near the premises at night are identifiable by law enforcement personnel. The required illumination shall be shielded and directed so that it does not shine on adjacent properties.

24. The Owner/Permittee shall maintain the premises, adjacent public sidewalks, and areas under the control of the owner or operator, free of litter and graffiti at all times. The owner or operator shall provide for daily removal of trash, litter, and debris. The owner or operator shall eliminate graffiti within 48 hours of application.

25. The Owner/Permittee shall provide trash receptacles, conveniently located for use by patrons, inside and outside the alcoholic beverage outlet, including adjacent public sidewalks and areas under the control of the owner or operator. At least one 13-gallon trash receptacle shall be located inside the premises. At least one 32-gallon trash receptacle shall be located outside the alcoholic beverage outlet, and at least one additional 32-gallon trash receptacle shall be located in the parking areas under the control of the owner or operator.

26. There shall be no live entertainment of any type, no pool tables, amusement or video arcade games on the premises at any time.

POLICE DEPARTMENT RECOMMENDATIONS FOR ABC LICENSE:

27. Single sales of beer less than 22 oz shall not be refrigerated unless sold in multipacks of 3 or more.

28. Wine shall not be sold in bottles or containers smaller than 750 ml, nor sold with an alcoholic content greater than 15% by volume except for "Dinner Wines" which have aged two years or more.

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 July 24, 2013 and resolution number HO-XXXX.

Permit Type/PTS Approval No.: CUP No. 1108951
Date of Approval: July 24, 2013

AUTHENTICATED BY THE CITY OF SAN DIEGO DEVELOPMENT SERVICES
DEPARTMENT

Jeannette Temple
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.**

Del Sol Development Corporation, a
California Corporation
Owner

By _____
Name
Title

Trifecta Ventures, LLC
Permittee

By _____
Name
Title

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

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

PREMISE ADDRESS: 16451 Bernardo Center Dr.

TYPE OF BUSINESS: Deli

FEDERAL CENSUS TRACT: 170.52

NUMBER OF ALCOHOL LICENSES ALLOWED: 3

NUMBER OF ALCOHOL LICENSES EXISTING: 0

CRIME RATE IN THIS CENSUS TRACT: 50.1% (2012)from CT 170.26
(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:

Census Tract 170.52 has (0) off sale alcohol license existing and (3) are allowed. Public Convenience or Necessity was not necessary due to low concentration of licenses and lower than average crime rate. ABC posted the premises and received no community protests. The Rancho Bernardo Community Planning Board approved the issuance of a CUP for the Off-sales beer and wine license.

With the below listed conditions, the San Diego Police Department recommends approving the CUP.

SUGGESTED CONDITIONS: If the CUP is approved, the Department would respectfully request the below conditions.

1. Sales of alcoholic beverages shall be permitted only between the hours of 8:00 AM and 10:00pm 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. Single container sales of beer, malt beverages or wine cooler products, regardless of container size, shall be not refrigerated.
5. There shall be no exterior advertising or sign of any kind or type, including advertising directed to the exterior from within, promoting or indicating the availability of alcoholic beverages. Interior displays of alcoholic beverages or signs which are clearly visible to the exterior shall constitute a violation of these conditions.
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.

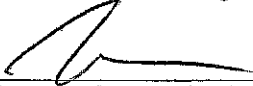
SAN DIEGO POLICE DEPARTMENT RECOMMENDATION:

APPROVE

DENY

JOHNSAKANA
Name of SDPD Vice Sergeant (Print)

619-531-2349
Telephone Number


Signature of SDPD Vice Sergeant

5/6/13
Date of Review



Rancho Bernardo Community Planning Board
 PO Box 270831, San Diego, CA 92198
www.rbplanningboard.com

April 18, 2013 MINUTES
 7:00 p.m. @ RB Swim & Tennis Club Club 21 Room
 16955 Bernardo Oaks Drive

2013 RB PLANNING BOARD									
P = present		A = absent				ARC = arrived after roll call			
Lou Dell'Angela	P	Mike Lutz	P	Wolfie Pores	P				
Teri Denlinger	P	Richard House	P	Matt Stockton	P				
Joe Dirks	P	Dick Katz	P	Peter Tereschuck	P				
Fred Gahm	P	John Kowalski	P					Total Seated	12
Robin Kaufman	P							Total in Attendance	12

ITEM #1 (1minute)

CALL TO ORDER – REGULAR MEETING

Roll Call: After 10 minutes of comments made by Richard House and Teri Denlinger, Teri Denlinger took roll call by stating who was present. Secretary did not take roll. Comments leading up to start of meeting included procedures according to bylaws by having nominating committee chair start the meeting vs. Teri Denlinger; what the board did the previous year, etc. Teri Denlinger also commented a formal complaint was made regarding appointment of members at March meeting. No formal complaint was ever filed. Dick Katz yelled out a number of negative comments, objecting to procedures. Richard House called for point of order a few times. Teri Denlinger stated she can ignore when people call for point of order.

ITEM #2 (5 minutes)

RE-VOTE ON 2 APPOINTMENTS TO DISTRICTS C & F

Speaker Slip – Robin Kaufman commented that Teri Denlinger falsely stated Robin Kaufman filed a formal complaint on the appointments. Robin Kaufman stated she spoke to Brian Schoenfish who said anyone can contact him to verify that no complaint was ever filed with him. If a complaint was filed, there would be a paper trail. There is no paper trail. Richard House attempted to explain the situation to the audience at which point Teri Denlinger and John Kowalski commented on physically removing someone. Richard House called for point of order, which was ignored by Teri Denlinger. Teri Denlinger then asked for motion to appoint Roberta Mikles. Motion made DickKatz/Wolfie Pores. Teri Denlinger once again ignored Richard House's request for point of order. Motion passed 10-0-2. Lou Dell Angela and Joe Dirks abstained as they felt we were not following procedures. Motion made DickKatz/Peter Tereschuck to appoint Eugenia Contratto. Motion passed 11-0-2. Joe Dirks and Lou Dell Angela abstained as they felt we were not following procedures. Richard House called for point of order but was again ignored by Teri Denlinger. Voting membership now at 14.

ITEM #3 (5 minutes)

NON-AGENDA PUBLIC COMMENT

-Resident Harold Johnson requested copies of documents for items that are on the agenda. Teri Denlinger asked if she could email to him later. He stated he wanted them now as they are on the agenda as voting items, which is the right of the audience. Teri Denlinger stated he can come up and look at Matt Stockton's laptop which has the information on it. Harold Johnson then stated past documents were always shared with the audience and now the audience doesn't have any copies. Teri Denlinger stated that's what the speakers are present for – to answer any questions. Richard

House commented in the future, all documents will be posted ahead of time with the agendas and/or copies will be available at the meetings.

-Resident Lucille Rabinowitz wanted to know if procedures were followed last month since the article in the local paper stated procedures were not followed. She was informed the two people were just appointed.

-Robin Kaufman stated she received a four page email from Teri Denlinger that was sent to the administrative committee and two non-members (Eugenia Contratto and John Kowalski). One of the comments stated Robin Kaufman requested the planning board not to be allowed to hold the administrative meetings at Bernardo Heights. Robin Kaufman has never communicated with Bernardo Heights Community Center, nor its manager. The manager has confirmed this information. Anyone can contact the manager to verify this information. Teri Denlinger also commented in the long email that Robin Kaufman should not have run the March meeting. According to Robert's Rules, if the chair and vice chair are not present, the next person in line to run a meeting is indeed the secretary.

-Richard House commented he received an email from Teri Denlinger after the March meeting stating he was in violation of the Brown Act and Council Policy, without ever substantiating her accusations.

-Lou Dell Angela inquired why he or the rest of the board was not included in the communications. Teri Denlinger stated she did not know what he was referring to and that it will be discussed after the meeting.

ITEM #4 (5 minutes)**MODIFICATION OF AGENDA/ADOPT DRAFT AGENDA**

-Wolfie Pores stated his name is not on the second portion of the agenda roll call. Richard House called for point of order in regard to the roll call of members and reinstate the newly seated members. Seconded by Joe Dirks. Motion failed: 4 (Richard House, Joe Dirks, Lou Dell Angela, Robin Kaufman)-10-0.

-Richard House asked to vote on #13 first, by having the newly elected members seated now. Seconded by Lou Dell Angela. Motion passed 13-1(John Kowalski)-0. Kim Coutts and John Cochran (JC) joined the table. John Kowalski left. Membership now at 15.

ITEM #5 (5-7 minutes)**ADMINISTRATIVE ITEMS**

-Motion made Mike Lutz/Lou Dell Angela to approve March 5 minutes. Motion passed 14-0-1. Abstained: J.C., Kim Coutts, Roberta Mikles, Eugenia Contratto as they were not members. Joe Dirks also abstained as he felt we are not following procedures.

-Motion made Matt Stockton/Wolfie Pores to approve March 21 minutes. Motion passed 14-0-1. Abstained: J.C., Kim Coutts, Roberta Mikles, Eugenia Contratto as they were not members. Joe Dirks also abstained as he felt we are not following procedures.

-Treasurer's report: presently have \$427.63 in regular account; spent \$183.66 from grant fund. Motion made Mike Lutz/Matt Stockton to accept. Motion passed 14-0-1 (Joe Dirks as he felt we were not following procedures).

-Reverse approval of March 21 to award \$100 gift card to George Cooke for his assistance with the website. George Cooke stated he did not want to accept any gift from the board due to conflict of interest. Motion made Fred Gahm/Wolfie Pores. Motion passed 14-0-1 (Joe as he felt we were not following procedures).

ITEM #6 (5-10 minutes)**COUNCILMEMBER MARK KERSEY LIAISON REPORT**

Tiffany Vinson introduced Bill Feather, new intern. She reviewed information in the Newsletter; reviewed the PFFP hand-out; discussed road improvement. Dick Katz inquired about removal of bus stop by Casa de las Campanas. Lou Dell Angela inquired about the water tower site. Peter Tereschuck commented the City has allocated \$600,000 from DIF towards the water tower property.

ITEM #7 (20 minutes)**SPRINT WIRELESS PROJECT:**

Lou Dell Angela inquired why this project was not first brought to Development Review which is proper procedures. Teri Denlinger commented there was no time from the time she received the documents and this meeting. Richard House commented the documents were received quite some

time ago, but Teri Denlinger did not pass them along to Development Review. Danielle Goldman presented for 18655 West Bernardo Drive. There are presently eight antennas, two more efficient ones will replace them. After some discussion, motion made Dick Katz/Matt Stockton to accept project. Motion passed 14-0-1 (Joe – did not know if procedures were legal).

ITEM #8 (10-15 minutes)**VERIZON PROJECT AT OAKS NORTH**

Kerrigan Diehl presented the project for 12578 Oaks North Drive to install wireless equipment Inside new concrete block wall building with stucco and tile roof. This project was not first reviewed by Development Review Committee. Three canary pines will be added with the antenna to match the trees. There were a number of questions pertaining to Oaks North input and concerns on the project. Lou Dell Angela commented these issues should have first been brought up at Development Review and therefore, made a motion that it go to Development Review and then come back to the full board. Seconded by Wolfie Pores. Motion passed 14-0-1 (Joe Dirks abstained as he felt we may not be in compliance with procedures).

ITEM #9 (10 minutes)**BROTHERS PROVISIONS CUP**

Off premises sales of beer and wine at 16451 Bernardo Center Drive. Clint Carney presented Zachary Higson, owner. It was explained that the ABC has not yet signed off on the license as it is waiting for City approval. **The hour restrictions will be 10 am – 10 pm.** After some discussion, **motion made Dick Katz/Kim Coutts to approve CUP.** Motion passed 14-0-1 (Joe abstained as he felt we may not be in compliance with procedures).

Teri Denlinger made motion to extend meeting due to lateness – not seconded, but meeting proceeded.

ITEM #10 (10 minutes)**COMMITTEE AND LIAISON REPORTS**

- Teri Denlinger asked for brevity due to lateness.
- Mike Lutz, in charge of website, asked for everyone to send their bios to him for posting.
- No other reports.

ITEM #12 (10 minutes)**CHAIRS REMARKS**

- Teri Denlinger commented if a member is interested in participating in PFFP proceedings to contact Peter Tereschuck.
- The Smart Growth initiative information will be passed along to the new chair.
- Teri Denlinger stated she has two new environmental reports.
- Date change for Town Hall meeting is now June 5.

ITEM #13 (10 minutes)**SEAT 2013-2014 ELECTED PLANNING BOARD MEMBERS**

Taken care of under item # 4, Modifications and Approval of Agenda.

ITEM #14**NOMINATING COMMITTEE REPORT/ELECT 2013-2014 BOARD OFFICERS**

-Richard House made a disclaimer he was asked to state by the City on officer nominations. As nominating chair, he declined accepting any nominations for him as an officer. After several meetings he changed his mind, as precedence was set last year with Estelle being on the nominating committee and she accept nominations by Teri Denlinger, John (Woods) and herself for vice chair.

-Nominations for Chair were announced and then accepted from the floor. Dick Katz nominated Matt Stockton; Lou Dell Angela nominated Richard House. Robin Kaufman asked if they would both give brief introductions. Vote taken, with Richard House receiving majority of votes. In favor of Matt Stockton: Matt Stockton, Dick Katz, Teri Denlinger. In favor of Richard House: Lou Dell Angela,

Richard House, Mike Lutz, Robin Kaufman, Fred Gahm, Roberta Mikles, Peter Tereschuck, Joe Dirks, Eugenia Contratto, Kim Coutts, J.C.

-Nominations for Vice Chair were announced and taken from the floor. Mike Lutz and Lou Dell Angela were nominated ahead of time. Dick Katz nominated Matt Stockton. Lou Dell Angela withdrew his nomination in support of Mike Lutz.

Matt Stockton then withdrew his nomination. Mike Lutz was elected Vice Chair 13-0-0 (Teri Denlinger did not vote, Dick Katz left).

-Change in voting members at this time to indicate Dick Katz left at this point.

-Nomination for Secretary were announced and taken from the floor. Robin Kaufman, Roberta Mikles and Kim Coutts were nominated. Both Roberta Mikles and Kim Coutts stated due to being new to the board, they prefer not to hold the position at this time. Robin Kaufman was elected Secretary 10-1-0 (Matt voted against, Eugenia Contratto did not vote). Change in voting members at this time to indicate Teri Denlinger left meeting at this point.

-Nominations for Treasurer were announced and taken from the floor. Joe Dirks and Fred Gahm were nominated. Joe Dirks withdrew his nomination. Fred Gahm was elected as Treasurer 13-0-0.

ITEM #15

APPOINT CANDIDATES TO OPEN DISTRICT SEATS

-Vicki Touchstone presented herself for one of the one year terms in District F, Bernardo Heights. Motion made Robin Kaufman/Lou Dell Angela to accept Vicki Touchstone. Motion passed unanimously.

Due to lateness of meeting, Richard House requested to defer appointment of committee chairs to next meeting – all agreed.

ITEM #16

RB Alive

Robin Kaufman asked for brief discussion on RB Alive since it's right around the corner. Robin Kaufman will file the paperwork for a booth. Richard House stated he can supply a table, chairs, canopy.

ADJOURMENT:

Motion made Richard House/Lou Dell Angela to adjourn at 9:40 pm. Passed unanimously.
Respectfully submitted by Robin Kaufman

NEXT BOARD MEETING:

Thursday May 16, 2013 @ 7:00 PM
RB Swim & Tennis Club – Club 21 Room

COMMITTEE MEETINGS:

Administrative Committee

6:00 PM - Monday, 10 days prior to Board meeting

Publicity & Election Committee

To Be Announced

Bernardo Heights Community Center

Development Review Committee

5:30 PM - First Tuesday of month
RB Swim & Tennis Club

Traffic & Transportation Committee

7:00 PM - Last Monday of month
Westwood Club – Adult Lounge

Regional Issues Committee

7:00 PM - First Tuesday of month.
RB Swim & Tennis Club – Club 21 Rm.

NOTICE OF EXEMPTION

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.: 316812 PROJECT TITLE: Brothers Provisions CUP

PROJECT LOCATION-SPECIFIC: 16451 Bernardo Center Drive, San Diego, CA 92128

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

DESCRIPTION OF NATURE AND PURPOSE OF THE PROJECT: CONDITIONAL USE PERMIT (CUP) to sell beer and wine at an existing café. The project is located within an existing commercial center at 16451 Bernardo Center Drive. No expansion of the existing business is proposed. The project is located within the CC-2-3 zone, and is also within the Rancho Bernardo Community Plan area, in Council District 5.

NAME OF PUBLIC AGENCY APPROVING PROJECT: City of San Diego

NAME OF PERSON OR AGENCY CARRYING OUT PROJECT: Zachary Higson, 16451 Bernardo Center Drive, Suite O, San Diego, CA 92128; 858-850-2767

EXEMPT STATUS: (CHECK ONE)

- MINISTERIAL
- DECLARED EMERGENCY
- EMERGENCY PROJECT
- CATEGORICAL EXEMPTION: SECTION 15301: EXISTING FACILITIES

REASONS WHY PROJECT IS EXEMPT: The project has been determined to be exempt from CEQA pursuant to Section 15301 of CEQA Guidelines. Section 15301 allows minor alterations of existing facilities that involve negligible or no expansion of an existing use. None of the exceptions listed in CEQA Guidelines Section 15003.2 apply, therefore this exemption is applicable to the proposed project.

LEAD AGENCY CONTACT PERSON: M. Blake

TELEPHONE: (619) 446-5375

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

SIGNATURE/SENIOR PLANNER

JUNE 8, 2013
DATE

CHECK ONE:

- SIGNED BY LEAD AGENCY
- SIGNED BY APPLICANT

DATE RECEIVED FOR FILING WITH COUNTY CLERK OR OPR:



**State of California
Secretary of State**

**STATEMENT OF INFORMATION
(Limited Liability Company)**

Filing Fee \$20.00. If this is an amendment, see instructions.

IMPORTANT — READ INSTRUCTIONS BEFORE COMPLETING THIS FORM

1. LIMITED LIABILITY COMPANY NAME
Trifecta Ventures, LLC

This Space For Filing Use Only

File Number and State or Place of Organization
2. SECRETARY OF STATE FILE NUMBER: 201201110268
3. STATE OR PLACE OF ORGANIZATION (if formed outside of California): CA

No Change Statement
4. If there have been any changes to the information contained in the last Statement of Information filed with the California Secretary of State, or no statement of information has been previously filed, this form must be completed in its entirety.
 If there has been no change in any of the information contained in the last Statement of Information filed with the California Secretary of State, check the box and proceed to Item 15.

Complete Addresses for the Following (Do not abbreviate the name of the city. Items 5 and 7 cannot be P.O. Boxes.)
5. STREET ADDRESS OF PRINCIPAL EXECUTIVE OFFICE: 11177 Catarina Lane, #108, San Diego, CA 92128
6. MAILING ADDRESS OF LLC, IF DIFFERENT THAN ITEM 5
7. CALIFORNIA OFFICE WHERE RECORDS ARE MAINTAINED (DOMESTIC ONLY): 11177 Catarina Lane, #108, San Diego, CA 92128

Name and Complete Address of the Chief Executive Officer, If Any
8. NAME: Zak Higson, ADDRESS: 11177 Catarina Lane, #108, CITY: San Diego, STATE: CA, ZIP CODE: 92128

Name and Complete Address of Any Manager or Managers, or if None Have Been Appointed or Elected, Provide the Name and Address of Each Member (Attach additional pages, if necessary)
9. NAME: Grant Tondro, ADDRESS: 16761 Bernardo Center Drive, CITY: San Diego, STATE: CA, ZIP CODE: 92128
10. NAME: Nate Higson, ADDRESS: 16765 Bernardo Center Dr # 1, CITY: San Diego, STATE: CA, ZIP CODE: 92128
11. NAME

Agent for Service of Process. If the agent is an individual, the agent must reside in California and Item 13 must be completed with a California address, a P.O. Box is not acceptable. If the agent is a corporation, the agent must have on file with the California Secretary of State a certificate pursuant to California Corporations Code section 1505 and Item 13 must be left blank.
12. NAME OF AGENT FOR SERVICE OF PROCESS: James Harrington
13. STREET ADDRESS OF AGENT FOR SERVICE OF PROCESS IN CALIFORNIA, IF AN INDIVIDUAL: 2445 5th Ave, #332, San Diego, CA 92101

Type of Business
14. DESCRIBE THE TYPE OF BUSINESS OF THE LIMITED LIABILITY COMPANY: Food service

15. THE INFORMATION CONTAINED HEREIN, INCLUDING ANY ATTACHMENTS, IS TRUE AND CORRECT
DATE: 3/2/2012, TYPE OR PRINT NAME OF PERSON COMPLETING THE FORM: James Harrington, TITLE: Attorney, SIGNATURE

Clear Form Print Form



**State of California
Secretary of State**

S

Statement of Information

(Domestic Stock and Agricultural Cooperative Corporations)

FEEES (Filing and Disclosure): \$25.00.

If this is an amendment, see instructions.

IMPORTANT - READ INSTRUCTIONS BEFORE COMPLETING THIS FORM

1. CORPORATE NAME

DEL SOL DEVELOPMENT CORPORATION

2. CALIFORNIA CORPORATE NUMBER

C1809549

This Space for Filing Use Only

No Change Statement (Not applicable if agent address of record is a P.O. Box address. See instructions.)

3. If there have been any changes to the information contained in the last Statement of Information filed with the California Secretary of State, or no statement of information has been previously filed, this form must be completed in its entirety.

If there has been no change in any of the information contained in the last Statement of Information filed with the California Secretary of State, check the box and proceed to Item 17.

Complete Addresses for the Following (Do not abbreviate the name of the city. Items 4 and 5 cannot be P.O. Boxes.)

	CITY	STATE	ZIP CODE
4. STREET ADDRESS OF PRINCIPAL EXECUTIVE OFFICE 2290 HUNTINGTON DR., STE 200,	SAN MARINO	CA	91108
5. STREET ADDRESS OF PRINCIPAL BUSINESS OFFICE IN CALIFORNIA, IF ANY 2290 HUNTINGTON DR., STE 200	SAN MARINO	CA	91108
6. MAILING ADDRESS OF CORPORATION, IF DIFFERENT THAN ITEM 4 2290 HUNTINGTON DR., STE 200	SAN MARINO	CA	91108

Names and Complete Addresses of the Following Officers (The corporation must list these three officers. A comparable title for the specific officer may be added; however, the preprinted titles on this form must not be altered.)

	ADDRESS	CITY	STATE	ZIP CODE
7. CHIEF EXECUTIVE OFFICER/ YING CHONG TO	SAME AS #4			
8. SECRETARY MICHAEL TO	SAME AS #4			
9. CHIEF FINANCIAL OFFICER/ SEE ATTACHMENT	SAME AS #4			

Names and Complete Addresses of All Directors, Including Directors Who are Also Officers (The corporation must have at least one director. Attach additional pages, if necessary.)

	ADDRESS	CITY	STATE	ZIP CODE
10. NAME YING CHONG TO	SAME AS #4			
11. NAME MICHAEL TO	SAME AS #4			
12. NAME YUK FONG NG	SAME AS #4			

13. NUMBER OF VACANCIES ON THE BOARD OF DIRECTORS, IF ANY:

Agent for Service of Process If the agent is an individual, the agent must reside in California and Item 15 must be completed with a California street address, a P.O. Box address is not acceptable. If the agent is another corporation, the agent must have on file with the California Secretary of State a certificate pursuant to California Corporations Code section 1505 and Item 15 must be left blank.

14. NAME OF AGENT FOR SERVICE OF PROCESS
TSENG & LEE LLP

	CITY	STATE	ZIP CODE
15. STREET ADDRESS OF AGENT FOR SERVICE OF PROCESS IN CALIFORNIA, IF AN INDIVIDUAL 2290 HUNTINGTON DR., STE 200,	SAN MARINO	CA	91108

Type of Business

16. DESCRIBE THE TYPE OF BUSINESS OF THE CORPORATION
REAL ESTATE LEASE

17. BY SUBMITTING THIS STATEMENT OF INFORMATION TO THE CALIFORNIA SECRETARY OF STATE, THE CORPORATION CERTIFIES THE INFORMATION CONTAINED HEREIN, INCLUDING ANY ATTACHMENTS, IS TRUE AND CORRECT.

6/25/12

JOSEPH TSENG

CPA

x

DATE

TYPE/PRINT NAME OF PERSON COMPLETING FORM

TITLE

SIGNATURE

ATTACHMENT 11

ADDITIONAL OFFICERS:

<u>NAME</u>	<u>ADDRESS</u>	<u>TITLE</u>
MICHAEL TO	2290 HUNTINGTON DR., STE 200 SAN MARINO, CA 91108	CHIEF FINANCIAL OFFICER
YUK FONG NG	SAME AS ABOVE	VICE PRESIDENT
MICHAEL TO	SAME AS ABOVE	VICE PRESIDENT
SAN SAN TO	SAME AS ABOVE	VICE PRESIDENT



THE CITY OF SAN DIEGO

ATTACHMENT 12

DATE OF NOTICE: July 10, 2013

NOTICE OF PUBLIC HEARING HEARING OFFICER

DEVELOPMENT SERVICES DEPARTMENT

DATE OF HEARING:	July 24, 2013
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 with a CEQA Exemption, Process 3
PROJECT NO:	<u>316812</u>
PROJECT NAME:	<u>BROTHERS PROVISIONS</u>
APPLICANT:	Marco Cortes
COMMUNITY PLAN AREA:	Rancho Bernardo
COUNCIL DISTRICT:	District 5
CITY PROJECT MANAGER:	Jeannette Temple, Development Project Manager
PHONE NUMBER/E-MAIL:	(619) 557-7908/jtemple@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 (Process 3) for a Type 20 Alcohol Beverage Control Permit for the off-premise Sale of Beer and Wine at an existing specialty food store/café within an existing building. The project site is located at 16451 Bernardo Center Drive, in the CC-2-3 zone within the Rancho Bernardo Community Plan area, Council District 5.

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 June 20, 2013, and the opportunity to appeal that determination ended July 5, 2013.

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: 24003634