



THE CITY OF SAN DIEGO

## REPORT TO THE HEARING OFFICER

HEARING DATE: November 12, 2014

REPORT NO. HO 14-066

ATTENTION: Hearing Officer

SUBJECT: BEACH MARKET CUP  
PROJECT NUMBER: 367867

LOCATION: 3419 Mission Boulevard

APPLICANT: Robert Zakar

### SUMMARY

Issue(s): Should the Hearing Officer approve a Conditional Use Permit to upgrade an existing Type 20 license (beer and wine) to a Type 21 (general liquor) within an existing market within the Mission Beach Planning area?

Staff Recommendation - APPROVE Conditional Use Permit No. 1370617.

Community Planning Group Recommendation - On September 16, 2014, the Mission Beach Precise Planning Board recommended approval of the project by a vote of 5-4-0 with conditions (attachment 8).

Environmental Review - The proposed activity is exempt from California Environmental Quality Act (CEQA) pursuant to Section 15301 (interior or exterior alterations). This project is not pending an appeal of the environmental determination. The environmental exemption determination for this project was made on July 3 2014, and the opportunity to appeal that determination ended on July 17, 2014.

### BACKGROUND

The project proposes a Conditional Use Permit to upgrade an alcohol beverage license from a Type 20 (beer and wine sales) to a Type 21 (general liquor) within an existing 1,200 square-foot market on a 0.04-acre site located at 3419 Mission Boulevard in the MBPD-NC-S zone within the Mission Beach Planned District of the Mission Beach Community Plan Area. The market is within the Neighborhood Commercial designation identified as the Lido Court District of the Mission Beach Precise Plan which is characterized for minor commercial services to adjoining residential uses. The market, a beach rental store, and a vacation rental office are the only

commercial services within the commercial district. Surrounding the site are multi-family residential developments. The market obtained a Type 20 liquor license in 1978 has been selling beer and wine since. The current owner of the market has been managing the market since 2003.

## DISCUSSION

The project proposes to upgrade its existing Type 20 liquor license to a Type 21. No new development is proposed with this application. The proposed display area for the distilled spirits would be located behind the cashier counter.

The pending Alcohol Beverage Control (ABC) license (Type 21) is defined as “off sales” which would require all of the alcohol sold at the store to be consumed off the premises. Alcoholic beverage outlets are s “Limited Use” in the MBND-NC-S zone pursuant to San Diego Municipal Code (SDMC) section 141.0502(b) of the Land Development Code (LDC). A Limited Use is permitted by right in the zone if the alcohol beverage outlet meets all of the development regulations and location criteria of the separately regulated use. Alcoholic beverage outlets that do not comply with the location criteria of this section may still be permitted with a Conditional Use Permit pursuant to SCMC section 141.0502(c).

Section 141.0502(b) determines when the 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 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 California Business and Professional Code section 23958.4;
- Within 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*, a hospital, or a San Diego County welfare district office; and
- Within 100 feet of residentially zoned property.

City staff has reviewed the subject project which includes changing an existing alcohol beverage license from a Type 20 (beer and wine sales) to a Type 21 (general liquor). Staff has determined a Conditional Use Permit is required for the following reasons:

1. The property is located within 100 feet of residentially zoned properties. The subject site borders the MBPD- R-S which is a residential zone within the Mission Beach Planned District.

2. The project is 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 site is within census tract 76.00. Statistics provided by the San Diego Police Department for Federal Census Tract No. 76.00 show the area to be 526.6 percent of the citywide average.
  
3. The project is within a census tract, or within 600 feet of a census tract, where the ratio of alcohol beverage outlets exceeds the standards established by California Business and Professional Code section 23958.4. Census Tract No. 76.00 allows up to 3 alcoholic beverage outlets where 13 exist.

The San Diego Police Department (SDPD) reviewed the proposed project and found that the project provides a public convenience and necessity and recommends approval with conditions for the Conditional Use Permit (Attachment 6). Conditions within the draft permit include restriction for types of wine and beer to be sold, container limitation, and signage restrictions. All Police Department conditions have been added to the draft permit. The San Diego Police Department'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.

Mission Beach Precise Planning Board Recommendation:

September 16, 2014, the Mission Beach Precise Planning Board recommended approval of the project by a vote of 5-4-0 with the following conditions:

1. *Video cameras are required;*
  
2. *Advertisement signs are not allowed in front of the store on the sidewalk.*

Response to recommended condition: The draft Conditional Use Permit contains a condition implementing video surveillance of the premises (Attachment 6, condition no. 18) and the prohibition of the sidewalk advertising signs (Attachment 6, condition no. 17) The applicant has indicated that there are surveillance cameras currently installed at the market.

CONCLUSION

Development Services Staff has determined that the project complies with the development regulations of all applicable sections of the Land Development Code. Development Services staff has determined that the required land development findings can be made as the project meets the applicable San Diego Municipal Code regulations and requirements. Staff recommends approval of the project as proposed.

ALTERNATIVES

1. Approve Conditional Use Permit No. 1370617, with modifications or;
2. Deny Conditional Use Permit No. 1370617, if the findings required to approve the project cannot be affirmed.

Respectfully submitted,

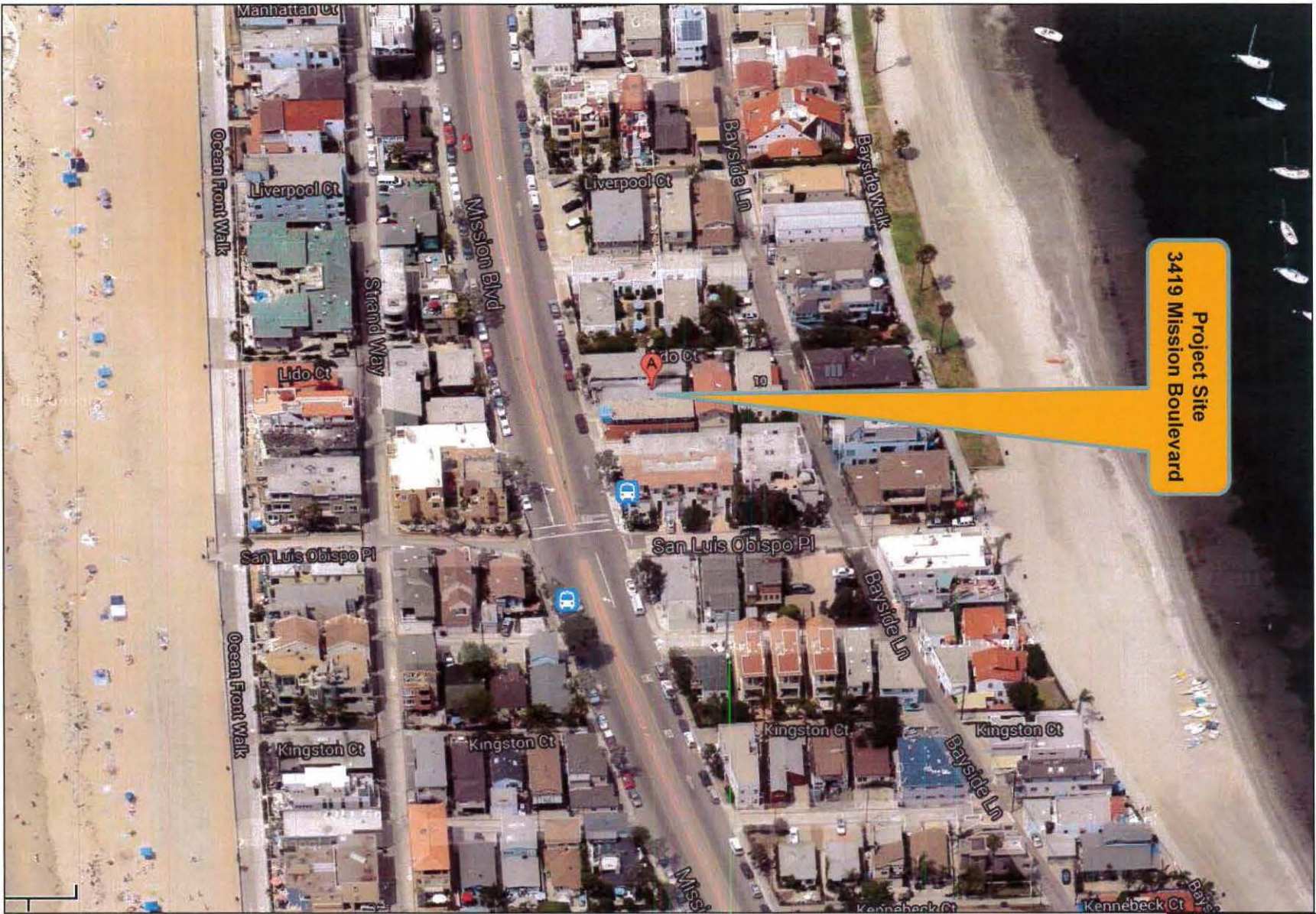


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William Zounes,  
Development Project Manager

Attachments:

1. Aerial Photograph
2. Community Plan Land Use Map
3. Project Location Map
4. Project Data Sheet
5. Draft Permit with Conditions
6. Draft Resolution with Findings
7. Community Planning Group Recommendation
8. Project Chronology
9. SDPD Conditional Use Permit Recommendation
10. Project Site Plan



Project Site  
3419 Mission Boulevard

Attachment 1  
Aerial Photograph of Site



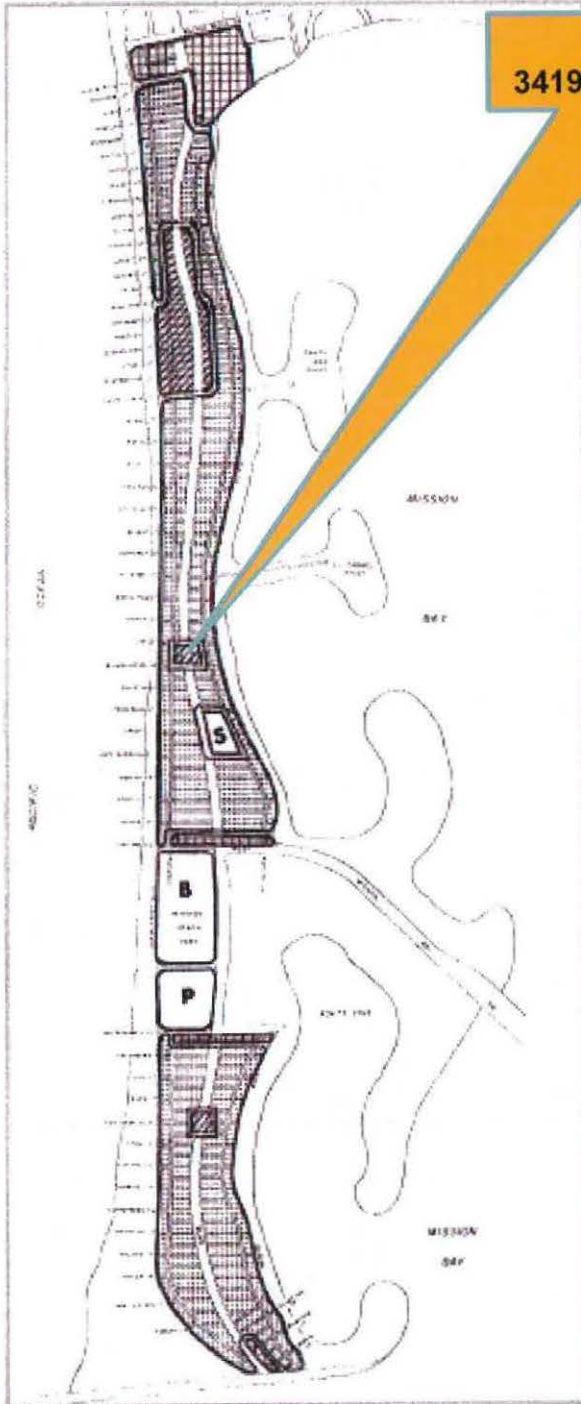
**Aerial Photograph (Birds Eye)**  
Beach Market CUP Project No. 367867  
3419 Mission Boulevard










Attachment 2  
Mission Beach Land Use Plan



Project Site  
3419 Mission Boulevard

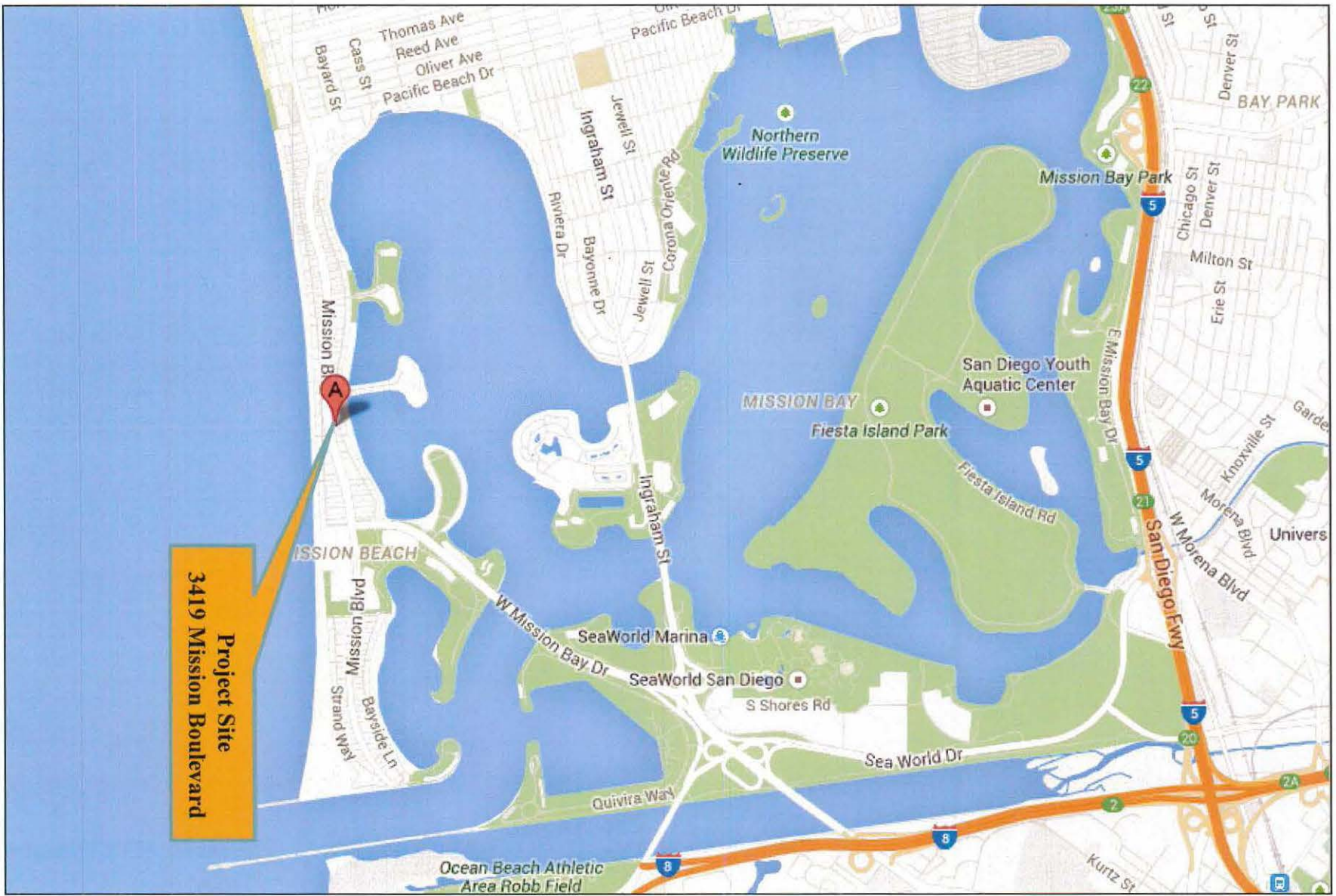


legend

-  residential (36 units per acre)
-  neighborhood commercial
-  commercial recreation
-  public facilities
-  parking
-  belmont amusement park
-  school

**Land Use Plan**  
Beach Market CUP Project No. 367867  
3419 Mission Boulevard





**Project Site**  
**3419 Mission Boulevard**



**Project Location Map**  
 Beach Market— Project No. 367867  
 3419 Mission Boulevard



**ATTACHMENT 3- Project Location Map**

## PROJECT DATA SHEET

<b>PROJECT NAME:</b>	Beach Market CUP	
<b>PROJECT DESCRIPTION:</b>	Conditional Use Permit to upgrade an existing Type 20 license (beer and wine) to a Type 21 (general liquor) within an existing market.	
<b>COMMUNITY PLAN AREA:</b>	Mission Beach	
<b>DISCRETIONARY ACTIONS:</b>	Conditional Use Permit	
<b>COMMUNITY PLAN LAND USE DESIGNATION:</b>	Neighborhood Commercial	
<b><u>ZONING INFORMATION:</u></b>		
<b>ZONE:</b> MBPD-NC-S <b>HEIGHT LIMIT:</b> 30 feet <b>LOT SIZE:</b> 0.04-acres. <b>FLOOR AREA RATIO:</b> 1.25 <b>FRONT SETBACK:</b> 5 feet <b>SIDE SETBACK:</b> 5 feet <b>STREETSIDE SETBACK:</b> 5 feet <b>REAR SETBACK:</b> 5 feet <b>PARKING:</b> In accordance with Ch. 14, Art. 2, Div. 5		
<b><u>ADJACENT PROPERTIES:</u></b>	<b>LAND USE DESIGNATION &amp; ZONE</b>	<b>EXISTING LAND USE</b>
<b>NORTH:</b>	Commercial Neighborhood/MBPD-NC-S	Residential
<b>SOUTH:</b>	Commercial Neighborhood/MBPD-NC-S	Retail businesses
<b>EAST:</b>	Residential/MBPD-R-S	Multi-Family Residential
<b>WEST:</b>	Commercial Neighborhood/MBPD-NC-S	Multi-Family Residential
<b>DEVIATIONS OR VARIANCES REQUESTED:</b>	None	
<b>COMMUNITY PLANNING GROUP RECOMMENDATION:</b>	On September 16, 2014, the Mission Beach Precise Planning Board recommended approval of the project by a vote of 5-4-0 with conditions.	



**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**

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SPACE ABOVE THIS LINE FOR RECORDER'S USE

INTERNAL ORDER NUMBER: 24004620

**CONDITIONAL USE PERMIT NO. 1370617**  
**BEACH MARKET CUP PROJECT NO. 367867**  
**HEARING OFFICER**

This Conditional Use Permit No. 1305279 is granted by the Hearing Officer of the City of San Diego to ISSAM HURMIZ, Owner, and Permittee, pursuant to San Diego Municipal Code [SDMC] section section 141.0502 and 126.0303. The 0.04-acre site is located at 3419 Mission Boulevard in the MBPD-NC-S zone within the Mission Beach Planned District within the Mission Beach Community Plan Area. The project site is legally described as: Lot O, Block 96, Mission Beach Altered Map, Map No. 1809;

Subject to the terms and conditions set forth in this Permit, permission is granted to Owner and Permittee to operate an alcoholic beverage outlet to sell general liquor within an existing market conditioned upon the issuance of a Type 21 license from the State Department of Alcoholic Beverage Control 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" of Conditional Use Permit No. 1370617] dated November 12, 2014, on file in the Development Services Department.

The project shall include:

- a. An upgrade to an existing alcohol beverage license from a Type 20 (beer and wine sales) to a Type 21 (general liquor) and continue operating an alcoholic beverage outlet conditioned upon the issuance of a license from the State Department of Alcoholic Beverage Control;
- b. Sales of alcoholic beverage shall be permitted between the hours of 6:00 a.m. and 12:00 midnight each day of the week.

**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 November 26, 2017.
2. This Conditional Use Permit [CUP] and corresponding use of this site shall expire on November 26, 2039. 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 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" of Conditional Use Permit No. 1370617. 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/DESIGN REQUIREMENTS:**

13. Any existing non-conforming signs shall be removed from the premises within 60 days of the public hearing approval of the Conditional Use Permit. If this work is not completed within

60 days of the public hearing approval of the Conditional Use Permit the Permittee shall be deemed out of compliance with the Conditional Use Permit, and the Permit is subject to rescission by the Development Services Director. Verification of the removed non-conforming signs shall be the responsibility of the owner of the premises and confirmed to the Project Management Division of the Development Services Department.

14. The owner or operator 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 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.

15. The sign area pertaining to or referencing alcoholic sales or beverages shall not exceed 630 square inches.

16. 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.

17. Advertisement signs shall be prohibited in front of the store on the sidewalk.

18. A video surveillance system which monitors, records, and stores for a minimum of 15 days, the interior and exterior of the store or the premises is required and shall be readily accessible to law enforcement.

19. 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.

20. 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.

21. 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.

**POLICE DEPARTMENT REQUIREMENTS:**

22. Beer, malt beverages, beer coolers, and wine coolers in containers of 16 oz. or less shall not be sold in single containers, but must be sold in manufacturer pre-packaged multi-unit quantities.
23. Wine shall not be sold in bottles or containers smaller than 750 ml unless sold in manufacturer's pre-packaged multi-unit quantities.
24. 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.
25. No distilled spirits shall be sold in bottles or containers smaller than 375 ml.
26. The permittee shall post and maintain a professional quality sign facing the premises' parking lot that reads as the following: NO LOITERING, NO LITERING, 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.
27. There shall be no amusement machines or video game devices on the premises at any time.
28. No loitering on the premises, and if necessary, a security guard to control enforcement of the this provision shall be incorporated.
29. No pay telephone will be maintained on the interior or exterior of the premises.

**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 Offiver of the City of San Diego on November 12, 2014.

**Attachment 5  
Draft Permit with Conditions**

Permit Type/PTS Approval No.: CUP No. 1370617  
Date of Approval: November 12, 2014

AUTHENTICATED BY THE CITY OF SAN DIEGO DEVELOPMENT SERVICES  
DEPARTMENT

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William Zounes  
Development Project Manager

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

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**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.

Owner/Permittee

By \_\_\_\_\_  
Issam Hurmiz

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

HEARING OFFICER  
RESOLUTION NO. XXXXXX  
CONDITIONAL USE PERMIT NO. 1370617  
**BEACH MARKET CUP NO. 367867**

WHEREAS, ISSAM HURMIZ, Owner/Permittee, filed an application with the City of San Diego for a permit to upgrade an existing Type 20 Alcohol Beverage License to a Type 21 Alcohol Beverage License as described in and by reference to the approved Exhibits "A" and corresponding conditions of approval for the associated Permit No. 1370617, on portions of a 0.04-acres site;

WHEREAS, the project site is located at 3419 Mission Boulevard in the MBPD-NC-S zone within the Mission Beach Planned District within the Mission Beach Community Plan Area;

WHEREAS, the project site is legally described as Lot O, Block 96, Mission Beach Altered Map, Map No. 1809;

WHEREAS, on July 3, 2014, 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 and there was no appeal of the Environmental Determination filed within the time period provided by San Diego Municipal Code Section 112.0520;

WHEREAS, on November 12, 2014, the Hearing Officer of the City of San Diego considered Conditional Use Permit No. 1370617 pursuant to the Land Development Code of the City of San Diego;

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 12, 2014:

FINDINGS:

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

The project proposes a Conditional Use Permit to upgrade an alcohol beverage license from a Type 20 (beer and wine sales) to a Type 21 (general liquor) within an existing 1,200 square-foot market located at 3419 Mission Boulevard in the MBPD-NC-S zone within the Mission Beach Planned District of the Mission Beach Community Plan Area.

The proposed alcohol beverage outlet upgrade pertains to a retail establishment located within the Neighborhood Commercial designation identified as the Lido Court District of the Mission Beach Precise Plan, which is characterized for minor commercial services to adjoining residential uses. The commercial facilities are of a retail and personal services nature. The Community Plan recommends that this area function as a small convenience center for the residents in the immediate area. The Community Plan also encourages neighborhood and community shopping facilities which are adequate to provide a wide variety of goods and services to Mission Beach.

The existing market with the sales of beer and wine would support the intent and objective of the community Plan. Therefore, the proposed upgrade in liquor license within an existing market, will continue to be consistent with the applicable land use plan.

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

The project proposes a Conditional Use Permit to upgrade an alcohol beverage license from a Type 20 (beer and wine sales) to a Type 21 (general liquor) within an existing 1,200 square-foot market located at 3419 Mission Boulevard in the MBPD-NC-S zone within the Mission Beach Planned District of the Mission Beach Community Plan Area.

The project was determined to be exempt from the California Environmental Quality Act (CEQA, interior or exterior alterations) as it was determined that no land use issues or environmentally sensitive resources would be impacted.

The site is within census tract 76.00. Statistics provided by the San Diego Police Department for census tract No. 76.00 show the area to be 526.6 percent of the citywide average. Census tract No. 76.00 allows up to 3 alcoholic beverage outlets where 13 exist. The San Diego Police Department (SDPD) reviewed the proposed project and found that the project provides a public convenience and necessity and recommends approval with conditions for the Conditional Use Permit despite the high crime rate and over concentration of the Alcohol Beverage Outlets (ABO). SDPD staff has determined that the proposed “off sales” for general liquor is a component of the market and is not the principal sales product. The products sold at the market vary in diversity and will serve mostly residential and the surrounding commercial traffic. The SDPD supports the sale of general liquor as conditioned by the Conditional Use Permit to ensure that the sale of alcoholic beverages is maintained only as an incidental part of the store. Conditions within the permit restrict the hours that general liquor can be sold, advertising requirements, and security obligations. All conditions recommended by the SDPD have been added to the Conditional Use Permit. The SDPD Vice Unit will work with the applicant and the ABC to place additional conditions on the alcohol license to minimize the law enforcement concerns, if necessary. The SDPD has determined that the proposed upgrade from a Type 20 to a Type 21 off-site sales of general liquor at the proposed site would not be detrimental to the public health, safety, and welfare.

The project will not be detrimental to the public as this is merely the addition of a new product, which will be conditioned to include: restrictions to adequate illumination; signs to restrict loitering; and provisions to maintain the property in a neat and orderly fashion. Therefore, the proposed development would not be detrimental to the public health, safety and welfare.

**3. The proposed development will comply to the maximum extent feasible with the regulations of the Land Development Code.**

The project proposes a Conditional Use Permit to upgrade an alcohol beverage license from a Type 20 (beer and wine sales) to a Type 21 (general liquor) within an existing 1,200 square-foot market located at 3419 Mission Boulevard in the MBPD-NC-S zone within the Mission Beach Planned District of the Mission Beach Community Plan Area.



The proposed Conditional Use Permit to change from a Type 20 (beer and wine sales) to a Type 21 (general liquor) liquor license will be in accordance with the California Building Code and Municipal Code administering Alcohol Beverage Outlets and is contingent upon the issuance of a license by the State of California Alcohol Beverage Control Board [ABC]. Additionally, the permit requires all non-conforming signs on the premises be removed. Therefore the project will comply with the regulations of the Land Development Code.

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

The project proposes a Conditional Use Permit to upgrade an alcohol beverage license from a Type 20 (beer and wine sales) to a Type 21 (general liquor) within an existing 1,200 square-foot market located at 3419 Mission Boulevard in the MBPD-NC-S zone within the Mission Beach Planned District of the Mission Beach Community Plan Area.

The existing use of the site as a market with the off-site sale of beer and wine as an accessory use is consistent with the existing commercial use of the property and compatible with the Neighborhood Commercial land use designation of the Community Plan. The market has been established and selling beer and wine for over 36 years. The site is within census tract 76.00 which currently has a crime rate of 526 percent of the City average in 2013. The City of San Diego considers high crime to be 120 percent of the city's average. Census tract 76.00 allows up to 3 alcohol beverage outlets. Currently there are 13. However the upgrade from a Type 20 to Type 21 will not increase the number of licenses within Tract 76.00, as it will simply reduce the number of Type 20 licenses by one and increase the number of Type 21 by one. The net effect will be no increase in alcohol beverage outlets. The SDPD found that the project provides a public convenience and necessity and recommends approval with certain conditions contained in the proposed Conditional Use Permit. Therefore the proposed use is appropriate at the proposed location.

BE IT FURTHER RESOLVED that, based on the findings hereinbefore adopted by the Hearing Officer, Conditional Use Permit No. 1370617 is hereby GRANTED by the Hearing Officer to the referenced Owner/Permittee, in the form, exhibits, terms and conditions as set forth in Permit No. 1370617, a copy of which is attached hereto and made a part hereof.

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William Zounes  
Development Project Manager  
Development Services

Adopted on: November 12, 2014

Job Order No. 24004620

**Mission Beach Precise Planning Board**  
**Tuesday, September 16, 2014 @ 7 PM**  
**Belmont Park Coaster Terrace – Community Room**  
**Minutes of Meeting**

**Board Members Present:**

Peggy Bradshaw	Bob Craig	Tim Cruickshank	Carole Havlat
Dennis Lynch	Mike Meyer	John Ready	Mary Saska
Gernot Trolf	Debbie Watkins		

**Absent:** Robert Ondeck; Jenine Whittecar

**OPENING FUNCTIONS**

Meeting was called to order by Chair Debbie Watkins at 7:08 PM

- **Approval of Minutes** for July, 2014  
The Board was dark in August. Copies of the draft July 15, 2014 Minutes of Meeting were distributed and reviewed. There were no changes. The Minutes were approved by unanimous consent as written.

**ADMINISTRATIVE ITEMS**

- **Revisions to Agenda**  
Copies of the September 16, 2014 Agenda were distributed and reviewed. The following motion was duly made adding the following Action Item to the September 16, 2014 by unanimous vote regarding DecoBike and the City's bike-share program in Mission Beach:

**Motion 1 was made by Debbie Watkins and seconded by Mike Meyer to ADD as an ACTION ITEM and discussion to send a letter to City officials and DecoBike representatives asking them not to implement the bike-share program in Mission Beach until issues with proposed locations are vetted and resolved by the community.**

**VOTE                      For: 9                      Against: 0                      Abstain: 0**

Motion passes.

- **Chair's Report**

1. **Project Update Re: 3826 Bayside Walk – Utility Alley at Seagirt and Bayside Walk**  
Chair Watkins reminded the Board that it heard this matter in March and April of 2014. It concerned a demo and rebuild of a non-conforming structure to allow for a ground floor rear yard setback of 0'-0" allowing the applicant to use the substandard 8'-0 of right of way frontage to reconstruct a single car garage to provide off street secure parking to the lot. The Board approved the project plans and variance at the April meeting. The project plans and variance were then approved by the City. However, two Coastal Commission members appealed the decision opposing the variance and setback because the variance would set a precedent and violates the open view corridor requirements to the Bay. It was scheduled before the Coastal Commission on August 13<sup>th</sup>, but was continued because the applicant gave them a 49-day waiver and asked to be continued to another hearing. Chair pointed out this ruling could impact over

Chair commented that before the Board can consider this Tentative Map Waiver, it needs to make sure these conditions were remedied.

Golba Architecture handled this project's current redesign and Tim Golba was able to confirm that the project was redesigned and the above-mentioned conditions were corrected and no longer exist. Plan Reviewer Dennis Lynch confirmed this to be true. After further discussion, the following motion was duly made:

**Motion 3 was made by Mike Meyer and seconded by Peggy Bradshaw to APPROVE The Tentative Map Waiver and Coastal Development Permit (Process 3) to create two (2) residential condominium units at 3458 & 3460 Bayside Walk as presented.**

**VOTE For: 9 Against: 0 Abstain: 0**

Motion passes.



- **Beach Market, 3419 Mission Boulevard – Project No. 367867: Conditional Use Permit for a Type 21 Off-Sale General Liquor License in an Existing Store**

Present: Owner Issam Ibrahim Hurmiz; Consultant Robert Zakar

Chair Watkins distributed a copy of the "San Diego Police Department Conditional Use Permit Recommendation" dated September 13, 2014 for the Beach Market for review. Chair Watkins pointed out the Conditional Use Permit has been approved by the San Diego Police Department based upon Mr. Zakar's agreement that Beach Market will have the exact conditions as Harry's Market, located at 750 Ventura Place, which is also owned by Mr. Hurmiz. The conditions at Harry's Market consist of recommendations by the Mission Beach Precise Planning Board that were incorporated into the Conditional Use Permit dated September 28, 2011 for Harry's Market.

Mr. Zakar informed the Board that the Beach Market will get a new façade to code and liquor will be controlled behind the counter – customers will have to ask for the liquor.

Board Members were concerned about the number of alcohol licenses allowed in this Census Tract – 3 allowed and the number of alcohol licenses existing – 13 existing, and the high crime rate of 526.6% for 2013, with 812 violations of alcohol related crime (1955.8%). According to the Police report, both of these figures are over the acceptable rate of 120%. Bob Craig commented that there is no need to increase alcohol licenses in Mission Beach.

After further discussion, the following motion was duly made:

**Motion 4 was made by Mike Meyer and seconded by Carole Havlat to SUPPORT the San Diego Police Department Conditional Use Permit Recommendation with two additional requirements: (1) requires placing and maintaining a video camera at 3419 Mission Boulevard for surveillance of outside building area; and (2) advertisement signs are not allowed in front of the store on the sidewalk.**

**VOTE For: 5 Against: 4 Abstain: 0**

**This vote represents the majority of the voting members present.**

[Against: B. Craig; P. Bradshaw; J. Ready; G. Trolf]

**Project Chronology  
Hazard Automart CUP Map Waiver  
PROJECT NO. 368185**

<b>Date</b>	<b>Action</b>	<b>Description</b>	<b>City Review Time</b>	<b>Applicant Response</b>
6/3/14	First Submittal	Project Deemed Complete and distributed		
7/1/14	First Submittal Assessment Letter out		28 days	
11/12/14	Hearing Officer Hearing		134 days	
<b>TOTAL STAFF TIME**</b>			<b>5 month 12 days</b>	
<b>TOTAL APPLICANT TIME**</b>				<b>months days</b>
<b>TOTAL PROJECT RUNNING TIME**</b>		From Deemed Complete to HO Hearing	<b>5 months 12 days</b>	

\*\*Based on 30 days equals to one month.

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

PREMISE ADDRESS: 3419 Mission Bl.

TYPE OF BUSINESS: Market

FEDERAL CENSUS TRACT: 76

NUMBER OF ALCOHOL LICENSES ALLOWED: 3

NUMBER OF ALCOHOL LICENSES EXISTING: 13

CRIME RATE IN THIS CENSUS TRACT: 526.6%  
(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: Beach Market has applied for a type 21, Off-Sale General license. Census Tract 76 has thirteen (13) alcohol licenses existing and three (3) are allowed. The premises is located in a "high crime" area with a crime rate of 526.6% (2013). The alcohol related crime for this census tract is 812 violations (1955.8%). Both of these figures are over the acceptable rate of 120%.

The premise is also located within 100 ft of residentially zoned property . On March 24, 2014 Public Convenience or Necessity was affirmed by the San Diego Police Department. The San Diego Police Department recommends approving the CUP with the below conditions.

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 6:00 AM and 12:00 AM, Midnight, each day of the week.
2. Beer, Malt Beverages, beer coolers, and wine coolers in containers of 16 oz. or less shall not be sold by single containers, but must be sold in manufacturer pre-packaged multi-unit quantities.

3. Wine in bottles or containers less than 750 ml. cannot be sold by single containers, but must be sold in manufacturer pre-packaged multi-unit quantities.
4. No wine shall be sold with an alcohol content of greater than 15% by volume except for "Dinner Wines" that have been aged for two years or more.
5. No distilled spirits shall be sold in bottles or containers smaller than 375 ml.
6. The petitioner(s) shall post and maintain professional quality signs facing the premises and rear alley that reads as follows: 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. The petitioner(s) shall be responsible for maintaining free of litter the area adjacent to the premises over which they have control.
11. No pay phones shall be maintained on the interior or exterior of the premises.

SAN DIEGO POLICE DEPARTMENT RECOMMENDATION:

APPROVE X

DENY \_\_\_\_\_

ROBERTO A. CASILAS  
Name of SDPD Vice Sergeant (Print)

619-531-2349  
Telephone Number

[Signature]  
Signature of SDPD Vice Sergeant

9-3-14  
Date of Review



Owr

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: BEACH MARKET Project No. For City Use Only: 367867

Project Address:  
3419 MISSION BLVD., SAN DIEGO, CA 92109

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):  
ISSAM HURMIZ  
 Owner  Tenant/Lessee  Redevelopment Agency  
 Street Address:  
3419 MISSION BLVD  
 City/State/Zip:  
SAN DIEGO, CA 92109  
 Phone No: 619-993-0063 Fax No: 858-345-3906  
 Signature: [Signature] Date: 4-18-14

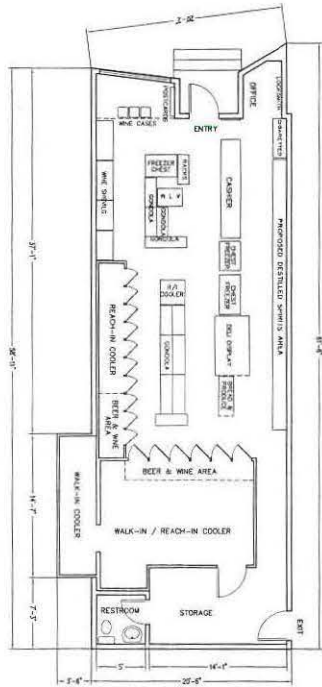
Name of Individual (type or print):  
\_\_\_\_\_  
 Owner  Tenant/Lessee  Redevelopment Agency  
 Street Address:  
\_\_\_\_\_  
 City/State/Zip:  
\_\_\_\_\_  
 Phone No: \_\_\_\_\_ Fax No: \_\_\_\_\_  
 Signature: \_\_\_\_\_ Date: \_\_\_\_\_

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: \_\_\_\_\_







DATE: 09/26/14

## FLOOR PLAN

SCALE: 1/4" = 1'-0"

<p><small>OWNER:</small>                  BRCAJ HABET                  2419 WISSON BOULEVARD                  SAN DIEGO, CA 92108</p>	<p><small>APPLICANT:</small>                  SHAW DESIGN &amp; ARCHITECTURE                  241 W. CAMDEN ST.                  SAN DIEGO, CA 92101</p>
<p><small>PROJECT NAME:</small>                  2419 WISSON BOULEVARD                  SAN DIEGO, CA 92108</p>	<p><small>PROJ. NO.:</small>                  2419 WISSON BOULEVARD</p>
<p><small>REPRESENTATIVE:</small>                  SHAW DESIGN &amp; ARCHITECTURE                  241 W. CAMDEN ST.                  SAN DIEGO, CA 92101</p>	<p><small>REVISIONS:</small></p>
<p><small>DATE:</small>                  MAY 29, 2014</p>	<p><small>PROJECT NO.:</small>                  2419 WISSON BOULEVARD</p>

SHEET 1 OF 2