



THE CITY OF SAN DIEGO

REPORT TO THE PLANNING COMMISSION

DATE ISSUED: August 28, 2008 **REPORT NO.** PC-08-0112

ATTENTION: Planning Commission, Agenda of September 11, 2008

SUBJECT: APPEAL OF STAFF'S DECISION TO APPROVE THE BLUEFOOT BAR & LOUNGE – PROJECT NO. 143884.
PROCESS TWO

OWNERS Ghorban Mohtadi

APPLICANT: Adam Cook

SUMMARY

Issue(s): Should the Planning Commission approve or deny the appeal of Staff's decision to approve a Neighborhood Use Permit to reinstate previously-conforming rights for the operation of the Bluefoot Bar & Lounge, and the addition of a sidewalk café to the existing bar located at 3404 30th Street within the Greater North Park Community Plan?

Staff Recommendation: Deny the appeal and Approve Neighborhood Use Permit No. 503450.

Community Planning Group Recommendation: At their January 15, 2008 meeting, the Greater North Park Community Planning Committee voted 10-1-0 to recommend approval of the proposed project with recommendations as detailed in this report (Attachment 8).

Environmental Review: This project was determined to be categorically exempt from the California Environmental Quality Act on November 29, 2007 and the opportunity to appeal that determination ended December 20, 2007.

Fiscal Impact Statement: None with this action. Project costs are paid by the applicant through a deposit account.

Code Enforcement Impact: A Civil Penalty Notice and Order, Case No. NC 128399, was issued on February 8, 2008 as detailed in this report. The requested Neighborhood Development Permit would correct the violation.



Housing Impact Statement: None with this action. No residential development is existing or proposed on this commercial site.

BACKGROUND

The Bluefoot Bar & Lounge is located between Upas Street and Myrtle Avenue within the Greater North Park Community Plan (Attachment 1). The project site is approximately 0.23-acre in size and is located in the CN-1-2 Zone, the FAA Part 77 Notification Area and the North Park Redevelopment Project Area, within the Greater North Park Community Plan area.

The site is currently occupied by the Bluefoot Bar & Lounge. The site is bounded by commercial development to the north and east, by single-family residential and commercial to the south, and single-family residential development to the west. Prior zoning for the site included the C zone applied in 1930, and the CN zone applied to the site in 1987. The site was rezoned in 2000 to its current CN-1-2 zone. Under the current Municipal Code, eating and drinking establishments are permitted by right except for drive-in and drive-through restaurants and live entertainment; the sale of intoxicating beverages other than beer and wine are not permitted in the CN zones.

Based on the California Department of Alcoholic Beverage Control records, the project site has operated with a Type 47 or 48 ABC license, which allows for the sale of beer, wine, and distilled spirits, from 1935-1943, 1945-1980, and 1981-1984. Since 1984, the premises has operated under a Type 42 license, which allows for a bar or tavern in which only beer and wine are sold (no distilled spirits allowed). The resumption of a previously-conforming use that has been discontinued for a period of 2 or more years requires a Process Two Neighborhood Use Permit, pursuant to Municipal Code section 126.0203 (b).

Project Description:

On November 16, 2007, the applicant filed an application for a Process 2 Neighborhood Use Permit pursuant to Municipal Code section 127.0108, which establishes the criteria for reinstating previously-conforming uses after 2 years of discontinuance. The following three uses are requested for reinstatement:

- 1) Sale of intoxicating beverages other than beer and wine;
- 2) Operating hours until 2:00 a.m.;
- 3) Operating with live entertainment.

The project also requires a Process 2 Neighborhood Use Permit, per section 141.0621, for the addition of an approximately 315-square-foot sidewalk café.

On June 19, 2008, Development Services Staff approved (Attachment 13) a Neighborhood Use Permit to: reinstate the sale of intoxicating beverages other than beer and wine; limit the hours of operation to 6:00 am - 12:00 Midnight Sunday through Thursday and 6:00 am - 2:00 am on Friday and Saturday; limit live entertainment during the hours of operation provided that all doors and

windows of the establishment are closed; allow amplified music between the hours of 6:00 am - 11:00 pm Sunday through Thursday and 6:00 am - 1:00 am Friday through Saturday; permit the use of the sidewalk café; as well as other conditions contained within the Neighborhood Use Permit (Attachment 6).

Neighborhood Code Compliance (NCC)

NCC received a complaint December 10, 2007 regarding the subject site. A Civil Penalty Notice and Order (CPN&O) (Attachment 12) was issued on February 8, 2008. The violations of the San Diego Municipal Code listed are: operating a business contrary to the zoning regulations of the Land Development Code; construction of a sidewalk café without the required Neighborhood Use Permit, Encroachment Maintenance Removal Agreement and Engineering Permits; and a non-permitted sign being displayed.

On November 16, 2007, the applicant filed an application for a Process 2 Neighborhood Use Permit for the reinstatement of previously-conforming uses and the sidewalk café. Compliance inspections were conducted on the following dates:

- February 13, 2008. The result of the inspection was that the business continues to use the sidewalk café contrary to the CPN&O.
- March 21, 2008. Compliance inspection showed the following violations: serving distilled spirits after midnight; sidewalk café was being used; there was live entertainment; and an A-frame sign was placed in the public right-of-way.
- April 8, 2008. Business continues to use the sidewalk café.
- April 25, 2008. The following violations were observed: serving distilled spirits after midnight; sidewalk café was being used; there was live entertainment; and an A-frame sign was placed in the public right-of-way.
- NCC had set a hearing for violation of the CPN&O. The original hearing date was rescheduled for May 20, 2008. While the case was being reviewed by Development Services, NCC did not go forward with the hearing. The case is still open and as of the last inspection is in violation of the CPN&O.

Community Plan Analysis:

The project is located within the Greater North Park Community Planning area. The Greater North Park Community Plan designates the proposed site for Commercial Use and allows residential development in a mixed-use setting. The Commercial Element of the community plan identifies this site within Area 7 "Other Neighborhood Centers." Uses within this area are intended to serve as neighborhood commercial centers for residents of the surrounding area. The community plan does not provide specific goals, objectives, or recommendations regarding uses that propose the sale of alcohol; only that in general uses under the existing commercial zone be allowed. It is highly encouraged that uses such as those that sell alcohol take measures to reduce and limit negative impacts such as loitering, excessive noise, littering, etc. especially where such a use is proposed adjacent to existing low density, single-residences.

Community Planning Group Recommendations:

At their January 15, 2008, meeting the Greater North Park Community Planning Committee voted 10-1-0 to recommend approval of the proposed project with the following recommendations;

1. The business owners will manage loitering during business hours and after closing. *The permit has been conditioned to address loitering.*
2. The permit shall expire within 5 years in order to reevaluate compatibility with surrounding development and, if necessary, to add conditions to protect the public health, safety, and welfare. *The permit has been conditioned to expire in 5 years.*
3. The operator of the establishment shall take reasonable steps to prevent loitering on the premises, in parking lots serving the premises, and on public sidewalks adjacent to the premises. *The permit has been conditioned to address the issue of loitering.*
4. A litter control plan shall be implemented to keep the facility and adjacent property free of litter. *The permit has been conditioned to address the issue of litter.*

Appeal Issues

On June 25, 2008, the applicant filed an appeal (Attachment 11) of the staff decision. The applicant's only issue was the objection of Condition No. 14 which limits the hours of amplified music from 6:00 am - 11:00 pm Sunday through Thursday and 6:00 am - 1:00 am on Friday and Saturday provided that all doors and windows of the establishment are closed. The applicant requests the hours of amplified music be extended one hour from 6:00 am - 12:00 am Sunday through Thursday and 6:00 am - 2:00 am on Friday and Saturday. In making the original decision, Staff considered the findings necessary to approve the project as well as community input regarding noise on adjacent residential neighborhoods and determined the conditions contained in the permit, were essential to protect the public health, safety, and welfare. Staff still feels these conditions are appropriate.

Conclusion:

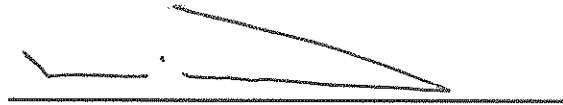
Staff has reviewed the application for the Neighborhood Use Permit and has determined that the permit conditions comply with the purpose and intent of the Land Development Code. Staff believes the required findings can be made to support the project. Therefore, staff recommends that the Planning Commission deny the appeal and approve the Neighborhood Use Permit as originally approved by staff.

ALTERNATIVES

1. **Deny** the appeal and **Approve** Neighborhood Use Permit No. 503450, with modifications.
2. **Uphold** the appeal and **Deny** Neighborhood Use Permit No. 503450, if the findings required

to approve the project cannot be affirmed.

Respectfully submitted,



**Mike Westlake, Program Manager
Development Services Department**



**Renee Mezo, Project Manager
Development Services Department**

WESTLAKE/ROM

Attachments:

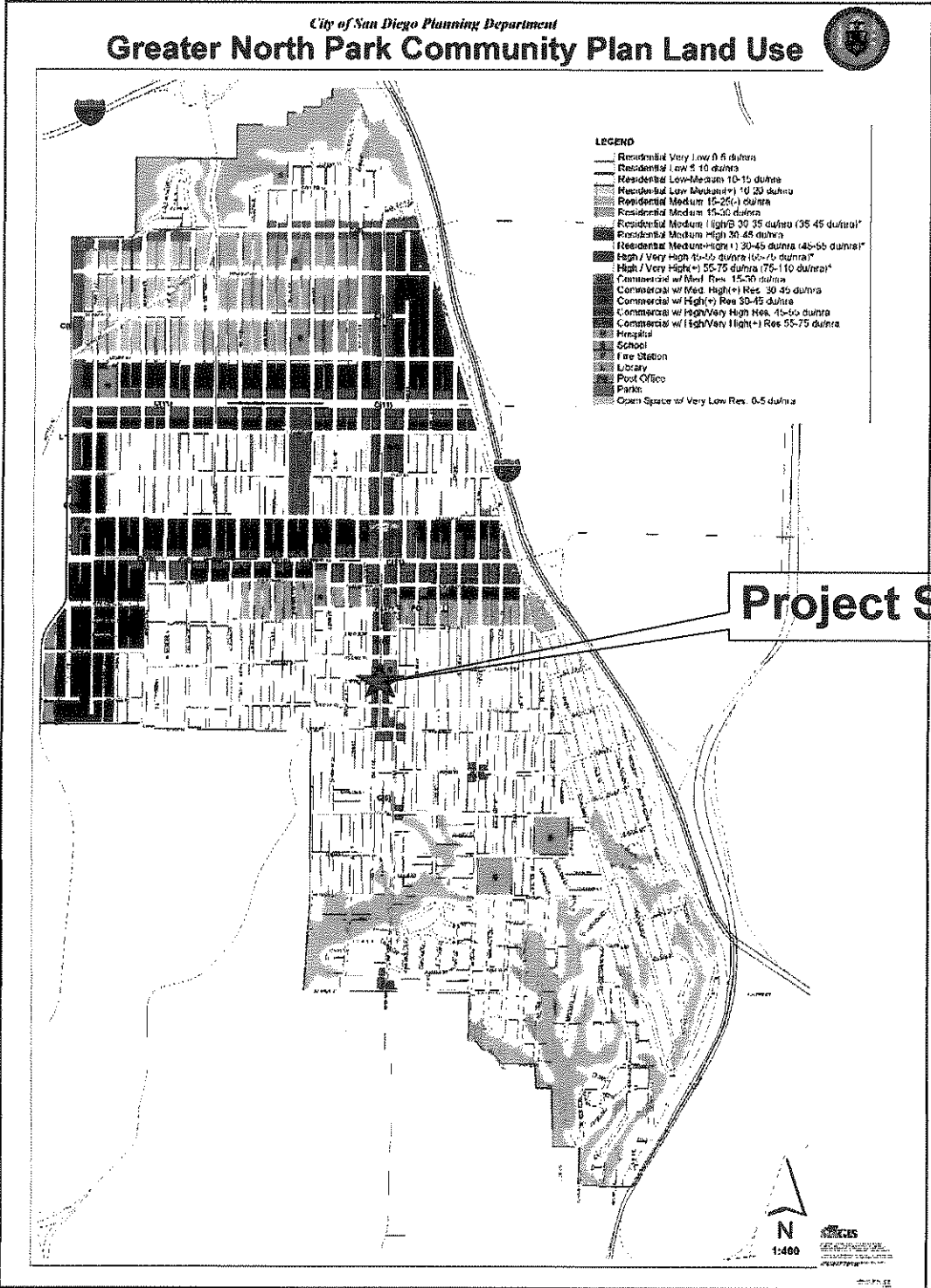
1. Aerial Photograph
2. Community Plan Land Use Map
3. Project Location Map
4. Project Data Sheet
5. Project Plans
6. Draft Permit and Conditions
7. Draft Permit Findings and Resolution
8. Community Planning Group Recommendation
9. Ownership Information
10. Project Chronology
11. Appeal- June 25, 2008
12. Civil Penalty Notice and Order- February 8, 2008
13. Notice of Decision- June 19, 2008
14. Site Photos



Aerial Photo

BLUEFOOT BAR & LOUNGE – 3404 30TH STREET
PROJECT NUMBER 143884





Community Plan Land Use Map

BLUEFOOT BAR & LOUNGE – 3404 30TH STREET

PROJECT NUMBER 143884





Project Location Map

BLUEFOOT BAR & LOUNGE – 3404 30TH STREET

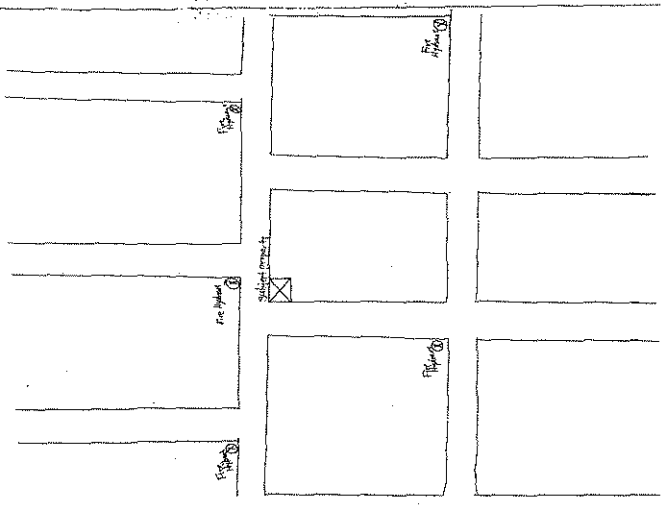
PROJECT NUMBER 143884



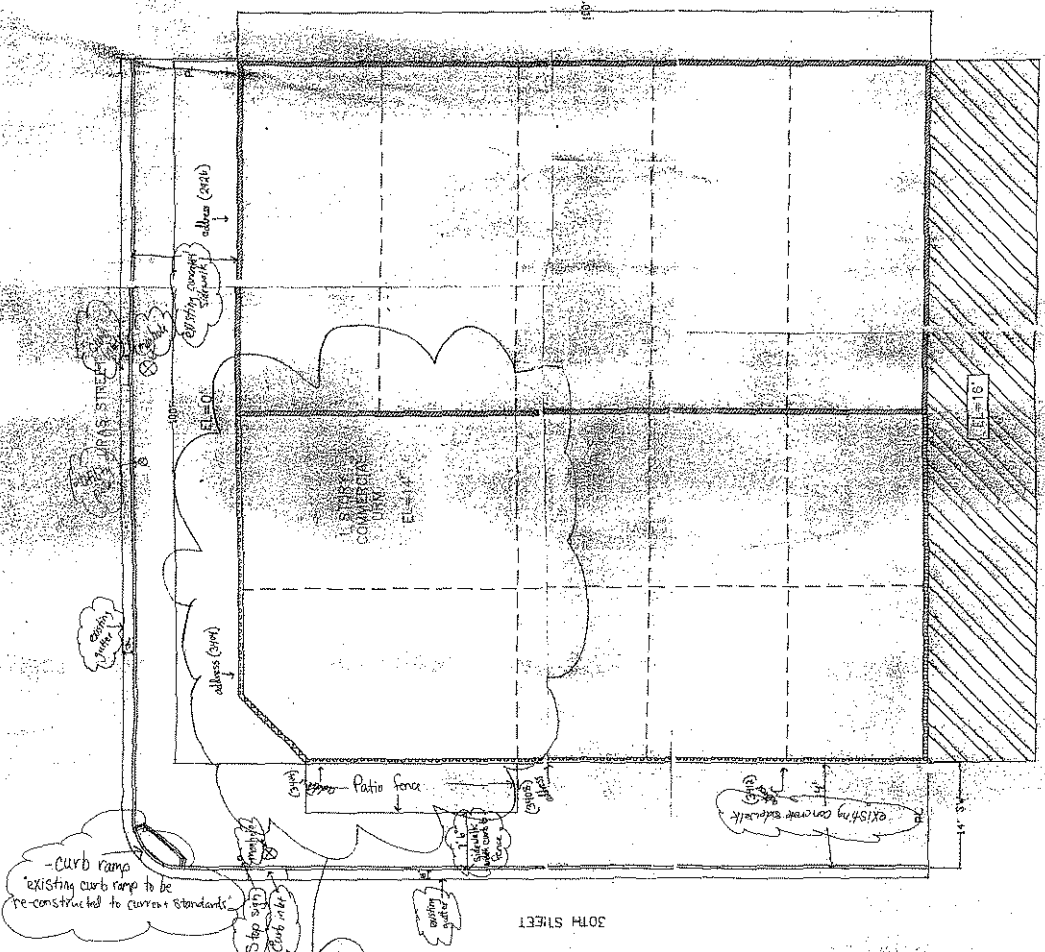
PROJECT DATA SHEET

PROJECT NAME:	Bluefoot Bar and Lounge	
PROJECT DESCRIPTION:	Reinstate previously conforming rights for the operation of a bar and nightclub, and the addition of a 315-square-foot sidewalk café.	
COMMUNITY PLAN AREA:	Greater North Park	
DISCRETIONARY ACTIONS:	Neighborhood Use Permit (Appeal)	
COMMUNITY PLAN LAND USE DESIGNATION:	Neighborhood Commercial	
<u>ZONING INFORMATION:</u>		
ZONE: CN-1-2 (Neighborhood commercial zone for small scale, low-intensity development)		
HEIGHT LIMIT: 30' maximum height limit		
LOT SIZE: 5,000 sf minimum lot size, 10 acre max		
FLOOR AREA RATIO: 1.0 maximum		
FRONT SETBACK: none required		
SIDE SETBACK: 10' or optional 0'		
STREETSIDE SETBACK: none required		
REAR SETBACK: 10' or optional 0'		
PARKING: n/a		
<u>ADJACENT PROPERTIES:</u>	LAND USE DESIGNATION & ZONE	EXISTING LAND USE
NORTH:	Neighborhood Commercial; CN-1-2	Commercial
SOUTH:	Nbhd Com & Low-Dens Res; CN-1-2 & RS-1-7	Commercial, Single Family Res
EAST:	Neighborhood Commercial; CN-1-2	Commercial
WEST:	Low-Density Residential; RS-1-7	Single Family Res
DEVIATIONS OR VARIANCES REQUESTED:	None	
COMMUNITY PLANNING GROUP RECOMMENDATION:	At their January 15, 2008 meeting, the Greater North Park Community Planning Committee voted 10-1-0 to recommend approval of the proposed project with recommendations.	

- Submittal for MUP to re-instate previous conforming rights of the sale of distilled spirit and the hours of operation for 3704 30th St. San Diego, CA 92104
 - business owners Adam Cook 619 305 5156 Cheryl Nguyen 619 355 5422
 - Property owner: Sharon A. Mahdi 572 201 5970 On: Danitis, CA 92104
 - site square footage 2500 sq. ft.
 - existing use is type 49 AOC license bar/laenge with hours of operation Sun-Sun Proposed to keep the 49 license and hours due to previous conforming rights
 - Current zoning CA 1-2
 - Location APP: 453-415-0700
 - the following described real property in the City of San Diego, County of San Diego, State of California: Lots 5 and 6 in Block 32 of West End, in the City of San Diego, County of San Diego, State of California according to the Map thereof No. 589 filed in the office of the County Recorder of San Diego County, May 17, 1933.



Page 1 of 2



- Curb ramp
 existing curb ramp to be re-constructed to current standards

3704 30th St
 proposed MUP property

Adjoining Building

N
 PLAT PLAN
 1/10 Scale

VIA HAND-DELIVERY

June 11, 2008

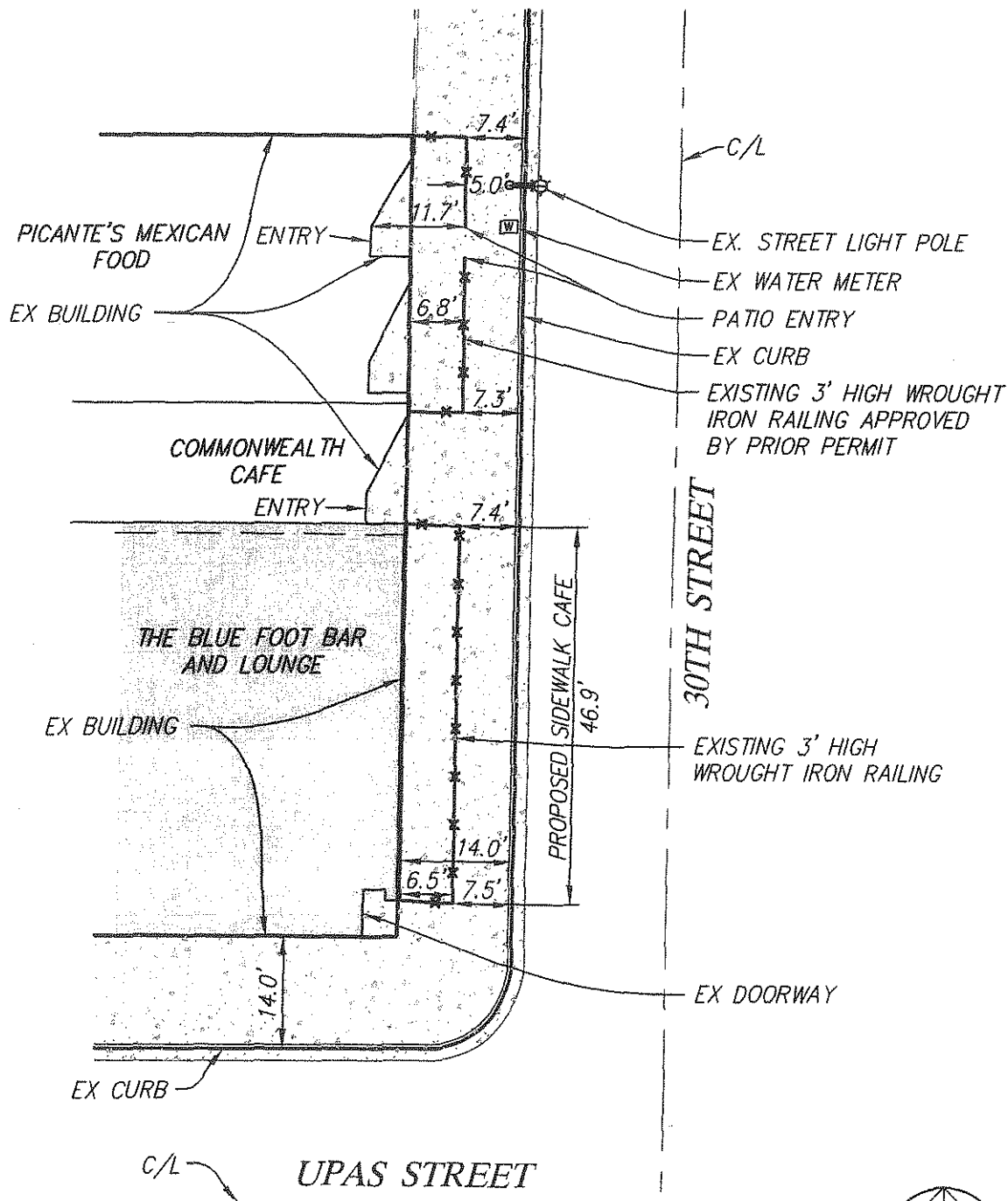
Renee Mezo
 City of San Diego
 Development Services
 Development Project Manager
 1222 First Ave. MS501
 San Diego, CA 92101-4155

Sidewalk Café Permit Development Summary
Bluefoot Bar and Lounge

Scope of Work	<ul style="list-style-type: none"> • Approximately 46.9 ft. long x 6.5 ft. wide x 3 ft. tall black, metal railing enclosure for patio/sidewalk café area
Existing Improvements	<ul style="list-style-type: none"> • Railing enclosure exists
Proposed Improvements	<ul style="list-style-type: none"> • No additional improvements proposed
Deviations	<ul style="list-style-type: none"> • The sidewalk clearance is 7.5 ft. between railing to curb.
Required Permits/Approvals	<ul style="list-style-type: none"> • Encroachment Maintenance and Removal Permit • Public ROW Permit
Project Team	<ul style="list-style-type: none"> • Steve Bundy (engineer), BHA, Inc. - (760) 931-8700 • Felix Tinkov (attorney), LFA&P, LLP – (760) 743-1201
Legal Description	<ul style="list-style-type: none"> • Lots 5 & 6 in Block 32 of WEST END, in the City of San Diego, County of San Diego, State of California, according to the Map thereof No. 590, filed in the office of the County Recorder of San Diego County, May 17, 1873.
APN	<ul style="list-style-type: none"> • 453-415-0700
Property Owner	<ul style="list-style-type: none"> • Ghorban Mohtadi, 577 Willowspring Dr., Encinitas, CA 92024
Adjacent Businesses	<ul style="list-style-type: none"> • Commonwealth Café – Existing (closed) • Picantes Mexican Food– Existing • Vég ‘N Out Vegetarian Eatery– Existing • Lefty’s Chicago Pizzeria – Existing • Jack in the Box – Existing • Zensei Sushi – Existing
Total Sq. Ft.	<ul style="list-style-type: none"> • Approximately 304.85 sq.ft.
Zoning	<ul style="list-style-type: none"> • CN-1-2

SITE PLAN FOR SIDEWALK CAFE

SHEET 1 OF 3

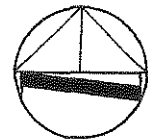


bha, inc.
land planning, civil engineering, surveying

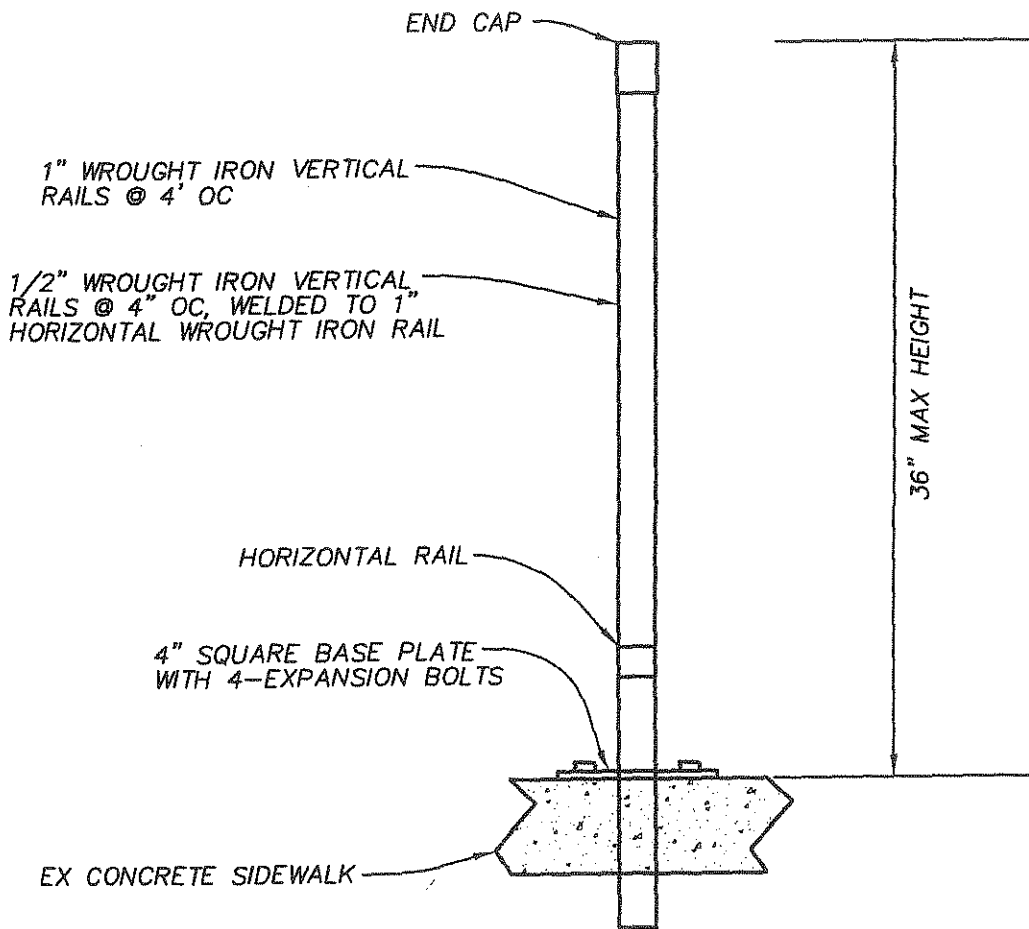
5115 AVENIDA ENCINAS
SUITE "L"
CARLSBAD, CA. 92008-4387
(760) 931-8700



SCALE: 1" = 20'

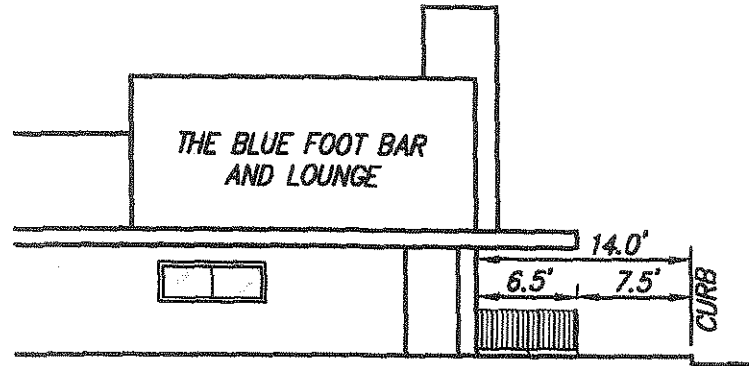


TENANT	SIDEWALK CAFE ADDRESS	LEGAL DESCRIPTION
ADAM COOK CAP ENTERTAINMENT CORP 4170 PARK BLVD, #6 SAN DIEGO, CA 92103	3404 30TH STREET SAN DIEGO, CA 92104	LOTS 5,6, BLK 32 OF WEST END, MAP 590



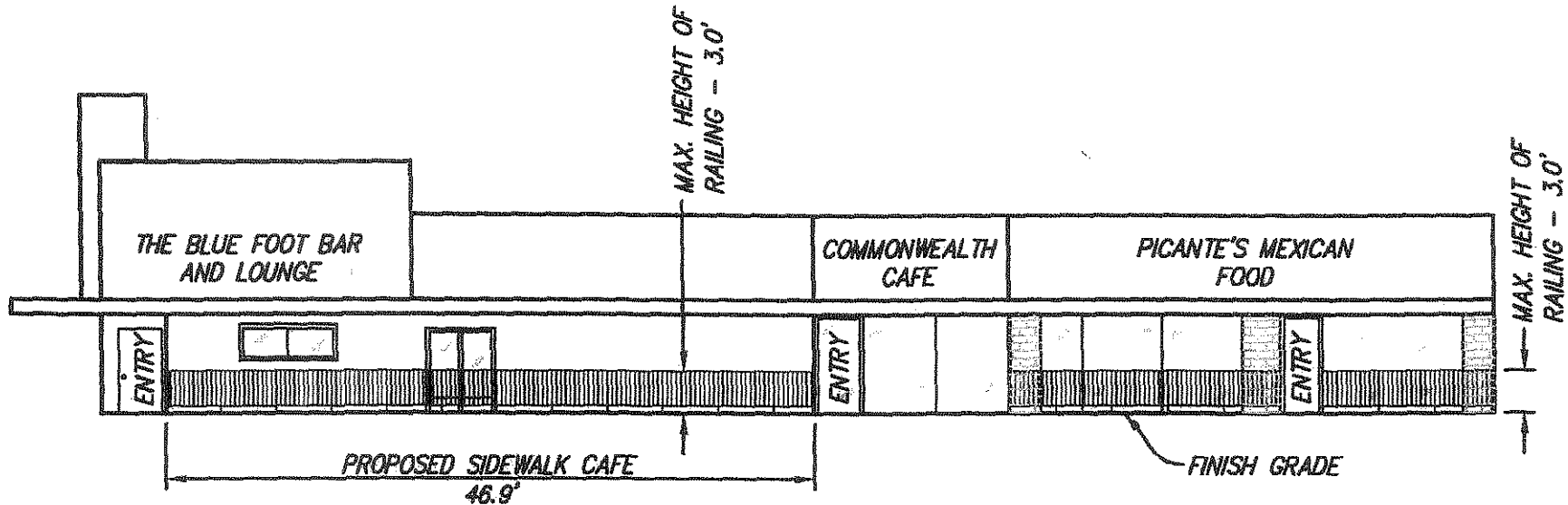
DETAIL OF RAIL ATTACHMENT
NTS

1. Lighting in Sidewalk Cafe - Low voltage string lights encased in plastic along upper railing
2. Furniture in Sidewalk Cafe - Six 2'x2' tables with three chairs at each table
3. 15' distance between Bluefoot Sidewalk Cafe and existing Picantes Mexican Food Sidewalk Cafe



ELEVATION ALONG UPAS STREET

N.T.S.



ELEVATION ALONG 30TH STREET

N.T.S.

K&M and Projects 31850-1165-100\dwg\sp\850-1165-sp-03.dwg 06/19/2008

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

JOB ORDER NUMBER: 42-8814

NEIGHBORHOOD USE PERMIT NO. 503450
BLUEFOOT BAR & LOUNGE – PROJECT NO. 143884
PLANNING COMMISSION
DRAFT

This Neighborhood Use Permit No. 503450 is granted by the PLANNING COMMISSION of the City of San Diego to GHORBAN MOHTADI, Owner, and ADAM COOK, Permittee pursuant to San Diego Municipal Code [SDMC] section 127.0101 and 141.0621. The site is located at 3404 30th Street in the CN-1-2 Zone, the FAA Part 77 Notification Area and the North Park Redevelopment Project Area, within the Greater North Park Community Plan Area. The project site is legally described as Lots 5 and 6 in Block 32 of West End, Map No. 590.

Subject to the terms and conditions set forth in this Permit, permission is granted to Owner/ Permittee to reinstate previously-conforming rights for the operation of the Bluefoot Bar & Lounge, and the addition of an approximately 315-square-foot sidewalk café, described and identified by size, dimension, quantity, type, and location on the approved exhibits [Exhibit "A"], dated September 11, 2008, on file in the Development Services Department.

The project or facility shall include:

- a. The reinstatement of previously-conforming rights for hours of operation, the sale of alcoholic beverages other than beer and wine and operating with live entertainment as specified in Condition No. 12-14.
- b. The construction of an approximately 315-square-foot sidewalk café.
- c. Accessory improvements shall include a railing separating the patio from the public-right-of way.
- d. Accessory improvements determined by the City Manager to be consistent with the land use and development standards in effect for this site per the adopted community plan,

California Environmental Quality Act Guidelines, public and private improvement requirements of the City Engineer, the underlying zone(s), conditions of this Permit, and any other applicable regulations of the SDMC in effect for this site.

STANDARD REQUIREMENTS:

1. This permit must be utilized within thirty-six (36) months after the date on which all rights of appeal have expired. Failure to utilize and maintain utilization of this permit as described in the SDMC will automatically void the permit unless an Extension of Time has been granted. Any such Extension of Time must meet all SDMC requirements and applicable guidelines in affect at the time the extension is considered by the appropriate decision maker.
2. 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.
3. Unless this Permit has been revoked by the City of San Diego, the property included by reference within this Permit shall be used only for the purposes and under the terms and conditions set forth in this Permit unless otherwise authorized by the Development Services Department.
4. This Permit is a covenant running with the subject property and shall be binding upon the Owner/Permittee and any successor or successors, and the interests of any successor shall be subject to each and every condition set out in this Permit and all referenced documents.
5. The continued use of this Permit shall be subject to the regulations of this and any other applicable governmental agency.
6. 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.).
7. The Owner/Permittee shall secure all necessary building permits. The Owner/Permittee is informed that to secure these permits, substantial modifications to the building and site improvements to comply with applicable building, fire, mechanical and plumbing codes and State law requiring access for disabled people may be required.
8. Construction plans shall be in substantial conformity to Exhibit "A." No changes, modifications or alterations shall be made unless appropriate application(s) or amendment(s) to this Permit have been granted.

9. All of the conditions contained in this Permit have been considered and have been determined to be necessary in order to make the findings required for this Permit. It is the intent of the City that the holder of this Permit be required to comply with each and every condition in order to be afforded the special rights, which the holder of the Permit is entitled as a result of obtaining this Permit.

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 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.

10. The applicant 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 applicant of any claim, action, or proceeding and, if the City should fail to cooperate fully in the defense, the applicant 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, applicant 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 applicant 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 applicant shall not be required to pay or perform any settlement unless such settlement is approved by applicant.

ENGINEERING REQUIREMENTS:

11. Prior to the recordation of the permit, the applicant shall provide documentation to the Development Services Project Manager that the curb ramp at the corner of 30th Street and Upas Street has been reconstructed to current standards, satisfactory to the City Engineer. If this work is not completed within 90 days of the approved permits, the Neighborhood Use Permit shall be rescinded.

PLANNING/DESIGN REQUIREMENTS:

12. Hours of operation shall be limited to 6:00 am - 12:00 Midnight Sunday through Thursday and 6:00 am - 2:00 am on Friday and Saturday.
13. Live entertainment may be provided during the hours of operation provided that all doors and windows of the establishment are closed.
14. Amplified music may be provided between the hours of 6:00 am - 11:00 pm Sunday through Thursday and 6:00 am - 1:00am on Friday and Saturday provided that all doors and windows of the establishment are closed.
15. The establishment shall employ at least one licensed security officer commencing from at least 10:00 pm and continuing until one half hour after closing. The primary duty of the security officer shall be to patrol the interior and exterior of the licensed premises in order to alleviate police problems, excessive noise, abusive behavior, disturbances and any other violations of law that occur on or about the premises.
16. The telephone number of the establishment shall be provided inside or outside the structure, doors or windows. The telephone number must be posted and viewable from the outside, in an area that is convenient and accessible for public view. The telephone number shall be a line, direct or otherwise, to an employee or employees designated by the establishment to handle complaints from neighbors.
17. The operator of the establishment shall take reasonable steps to prevent loitering on the premises, in parking lots serving the premises, and on public sidewalks adjacent to the premises.
18. A litter control plan shall be implemented to keep the facility and adjacent property free of litter.
19. The business shall comply with all conditions of the Department of Alcoholic Beverage Control (ABC) license. If conditions in the ABC license are more restrictive than the conditions of this Neighborhood Use Permit, the more restrictive conditions shall prevail.
20. This permit shall expire within 5 years from the date of approval (September 11, 2013) in order to reevaluate compatibility with surrounding development and, if necessary, to add conditions to protect the public health, safety, and welfare.

SIDEWALK CAFÉ REQUIREMENTS

21. The sidewalk cafe shall be used only for drinking and circulation. The cafe may provide either waiter/waitress service or self-service.
22. Sales, service, and consumption of alcoholic beverages within the sidewalk cafe shall be permitted only between the hours of 6:00 am - 10:00 pm Sunday through Thursday and 6:00 am - 12:00 Midnight on Friday and Saturday.

23. A clear path, free of all obstructions to the flow of pedestrian traffic, shall be provided in the public right-of-way and shall be maintained at all times.
24. The furnishings of the sidewalk café shall consist solely of moveable tables, moveable chairs, and moveable umbrellas.
25. Musical instruments or sound reproduction devices shall not be operated or used within the sidewalk café. For purposes of enforcement of Municipal Code Section 59.5.0101 et. seq., the property line shall be considered the boundary of the sidewalk café.
26. The sidewalk café shall be free of litter at all times.
27. Trash or storage areas shall not be located on or adjacent to the public right-of-way.
28. The height of the railing shall not exceed those heights set forth in the conditions and the exhibits, unless a deviation or variance to the height limit has been granted as a specific condition of this Permit.
29. All signs associated with this development shall be consistent with Citywide sign regulations.
30. 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.

INFORMATION ONLY:

- Any party on whom fees, dedications, reservations, or other exactions have been imposed as conditions of approval of this development 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 §66020.
- This development may be subject to impact fees at the time of construction permit issuance.

APPROVED by the PLANNING COMMISSION of the City of San Diego on September 11, 2008, Resolution No. XXXX.

PLANNING COMMISSION
RESOLUTION NO. XXXX
NEIGHBORHOOD USE PERMIT NO. 503450
BLUEFOOT BAR & LOUNGE – PROJECT NO. 143884
DRAFT

WHEREAS, GHORBAN MOHTADI, Owner, and ADAM COOK Permittee, filed an application with the City of San Diego for a Neighborhood Use Permit to reinstate previously conforming rights for the operation of the Bluefoot Bar & Lounge, and the addition of an approximately 315-square-foot sidewalk café as described in and by reference to the approved Exhibits "A" and corresponding conditions of approval for the associated Permit No. 503450;

WHEREAS, the project site is located at 3404 30th Street in the CN-1-2 Zone, the FAA Part 77 Notification Area and the North Park Redevelopment Project Area, within the Greater North Park Community Plan Area;

WHEREAS, the project site is legally described as Lots 5 and 6 in Block 32 of West End, Map No. 590;

WHEREAS, on September 11, 2008, Development Services staff approved Neighborhood Use Permit No. 503450 by Resolution No. XXXX. The applicant appealed staff's decision on June 25, 2008; and

WHEREAS, on September 11, 2008, the PLANNING COMMISSION of the City of San Diego considered the appeal of Neighborhood Use Permit No. 503450 pursuant to the Land Development Code of the City of San Diego; NOW, THEREFORE,

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

That the Planning Commission adopts the following written Findings dated September 11, 2008.

FINDINGS:

Neighborhood Use Permit - Section 126.0205

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

The project proposes to reinstate previously conforming uses and the addition of a sidewalk café located at 3404 30th Street. The project is located within the Greater North Park Community Planning area. The Greater North Park Community Plan designates the proposed site for Commercial and allows residential development in a mixed-use setting. The Commercial Element of the community plan

identifies this site within Area 7 "Other Neighborhood Centers." Uses within this area are intended to serve as neighborhood commercial centers for residents of the surrounding area. The community plan does not provide specific goals, objectives, or recommendations regarding uses that propose the sale of alcohol, only that in general uses under the existing commercial zone be allowed. It is highly encouraged that uses such as those that sell alcohol take measures to reduce and limit negative impacts such as loitering, excessive noise, littering, etc. especially where such a use is proposed adjacent to existing low density, single-residences. Therefore, the project along with the conditions in the permit will not adversely affect the applicable land use plan.

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

The project proposes to reinstate previously conforming uses and the addition of a sidewalk café located at 3404 30th Street. The proposed development is consistent with Municipal Code section 127.0108, which establishes the criteria for reinstating previously conforming uses after 2 years of discontinuance. The project site is located adjacent to residential development and the conditions would allow the continued operation of the commercial establishment while still preserving the residential quality of life existing in the neighborhood. The conditions added to the permit are necessary to ensure that project is not detrimental to public health, safety, and welfare. The proposed development is also consistent with Municipal Code section 141.0621, which establishes safe and effective guidelines for sidewalk cafes. The project establishes eight (8)-feet of clear path and free of obstruction to the flow of pedestrian traffic. The sidewalk café has been conditioned to comply with all code regulations applicable to such use and therefore is not detrimental to public health, safety, and welfare.

3. The proposed development will comply with the applicable regulations of the Land Development Code.

The project proposes to reinstate previously conforming uses and the addition of a sidewalk café located at 3404 30th Street. The project is consistent with the Greater North Park Community Plan and complies with the development standards of the underlying CN-1-2 Zone, and the Land Development Code Section 141.0621, regulations for sidewalk cafés and 127.0108 for previously conforming uses. The proposed project does not require any deviation from the applicable regulations. Therefore, the project as conditioned complies with the Land Development Code.

BE IT FURTHER RESOLVED that, based on the findings hereinbefore adopted by the PLANNING COMMISSION, Neighborhood Use Permit No. 503450 is hereby GRANTED by the PLANNING COMMISSION to GHORBAN MOHTADI and ADAM COOK, in the form, exhibits, terms and conditions as set forth in Permit No. 503450, a copy of which is attached hereto and made a part hereof.

Renee Mezo
Development Project Manager
Development Services

Adopted on: September 11, 2008

Job Order No. 42-8814

cc: Legislative Recorder, Planning Department

GREATER NORTH PARK COMMUNITY PLANNING COMMITTEE
2901 NORTH PARK WAY, 2ND FLOOR
P.O. BOX 4825, SAN DIEGO, CA 92164
DRAFT MINUTES: JANUARY 15, 2008

- I. Called to Order:** 6:32 pm.
- II. In Attendance:** Sal Arechiga, Steve Chipp, Ed Cronan, Mike Forbes, Vernon Franck, Vicki Granowitz, Brenda Martin, Judith O'Boyle, Dean Petersen, Keoni Rosa, Rob Steppke, Liz Studebaker, Stephen Whitburn.
Absent: Rene Vidales.
Secretary Report on Attendance: Ms. Armelin's position on the Committee remains vacant.
- III. Motion to Adopt January 15, 2008 Agenda** (with modification that Consent Item IV.C. (Walgreens) be pulled and considered as Action Item V. A.): **Martin/Petersen 13-0-0**
- IV. Chair's Report/CPC**
- A.** Chair allowed Officer David Surillo to introduce himself as the new North Park Community Officer. The Hillcrest Office at 1001 University Avenue has reopened. He can be reached at (619) 876-9646. He stressed that emergency calls should be made to 911 and any non-emergency calls should be directed to 619-531-2000.
 - B.** Chair announced the upcoming March Annual Elections for the Committee. Rob Steppke is the Chair of the Election Subcommittee. Serving with him will be Ed Cronan and Judi O'Boyle.
 - C.** UD/PR Subcommittee will need to find a new location for its meetings. A possibility is Jefferson Elementary. Judi O'Boyle is looking into this. Meetings there would have to end at 9:00 pm and there will be costs. UD/PR will need to find a location before its February Meeting. The Chair, Ms. Granowitz, would like to have a location where both the UD/PR and the full Committee would be able to meet.
 - D.** Year End Report is due in March. The Chair needs goals from the Subcommittee Chairs by February 12, 2008.
 - E.** An article in the UHCA newsletter indicated an interest in annexing University Heights- currently a part of the North Park planning area- into Uptown Planners' area of planning.
- V. Motion to approve November 20, 2007 minutes:** **Steppke/Whitburn 13-0-0**
- VI. Treasurer's Report:** Balance as of January 1, 2008 was \$345.22 At the UD/PR Subcommittee meeting, \$96.50 was collected and \$50.00 was used to pay for the rental of the meeting location. \$46.50 remains in that account.
- VII. Announcements**
- 1. Lynn Elliot announced that planning has begun for the upcoming Summer Bird Park Concerts. The NPCA is looking for input.
 - 2. Sheila Hardin, Community Relations Manager for CCDC announced that there will be a Multicultural Festival downtown on Saturday, January 19, 2008 from 11:00am- 5:00pm. In addition, the Balboa Theatre will have its opening gala on January 31, 2008.
 - 3. Dana Hosseini spoke about the recent UD/PR subcommittee Meeting regarding the Bluefoot Lounge. He was disappointed in the process that took place. Mr. Hosseini alleged the following: There was not equal time for the opponents; there was a random pattern of speakers; subcommittee members expressed opinions and anecdotes before the public spoke; the proponents were allowed to sit at the table with the Subcommittee; the Subcommittee Chair was disinterested in the elements of a Neighborhood Use Permit and the Subcommittee Chair failed to disclose a conflict of interest.
 - 4. Mr. Petersen announced that Committee Member Keoni Rosa received an Environmental Award from Assembly Member Lori Saldana in December

5. Mr. Cronan announced that the Historical Resources Board is considering some significant changes to the Mills Act qualifications, which may restrict its availability.

VIII. Planner's Report: Marlon Pangilinan, (619) 235-5293, mpangilinan@sandiego.gov.

Mr. Pangilinan stated he had some issues to discuss. There are some concerns regarding the way the UD/PR Subcommittee has been conducted.

1. The Brown Act notice requirements must be followed pertaining to timeliness and compliance regarding items on the Agenda.
2. There have been alleged violations of the Brown Act. These need to be addressed by the Chair of the full GNPCPC. An investigation should be conducted and remedies devised, up to and perhaps including the removal of the UD/PR Subcommittee Chair.
3. Meetings must be fair. Matters should be introduced objectively:
 - A. The applicants are heard from.
 - B. The Board can ask technical questions.
 - C. Public Comment. There may be time limits. Then public comment is closed.
 - D. Then the Board can comment and ask questions. Questions can be directed to the applicants or the public, both of which may respond.
4. A conflict of interest does not apply to the GNPCPC and its subcommittees. There must be a Direct Economic Interest. A member *may* have other interests that they may want to fully disclose and state that they do not have a Direct Economic Interest.
5. The Planning Staff strives to remain out of these matters and prefers that the individual community planning committees handle these matters on their own. If necessary, the City Attorney's Office can provide guidance as well. The GNPCPC is now on notice. The Chair, Ms. Granowitz, will meet with Mr. Pangilinan to discuss this. This meeting was approved by the full board, in that no objection was made and the Chair asked for approval

IX. Elected Officials Report

1. Todd Gloria (rep for Congresswoman Susan Davis, U.S. Congressional District 53): Todd is leaving on a leave of absence to run for City Council. He introduced his replacement, Nick Norvell. Nick can be reached at (619) 280-5353. Nick noted that all are welcome to sign up for e-news from the Congresswoman's office. He noted that there have been changes in requirements crossing the border in returning from Mexico. You will need a passport soon.
2. Kirsten Clemons (rep for Lori Saldana, CA State Assembly District 76): Kirsten can be reached at (619) 645-3090. Two critical items at the State level are the Budget and the Health Care Bill. The governor has called a fiscal emergency in light of the \$14.5 Billion deficit. The legislature has 45 days to act. So far, the governor has called for a 10% cut. Among items affected, education will see a \$400 million reduction and state beaches will see reductions in lifeguards. The Health Care bill has passed out of the Assembly. Once through the Senate, the governor has indicated a willingness to sign it. As noted earlier, Keoni Rosa was one of the recipients of Ms. Saldana's Environmental Awards. California Center for Sustainable Energy is available for workshops.
3. Monica Pelaez (rep for Toni Atkins, City Council District 3): Monica can be reached at (619) 533-4068. On January 23, 2008 at 2:30 pm there will be a meeting of the Land Use and Housing Committee. On the agenda to be discussed will be demolition permits. The City Council passed the second reading of the min-dorm ordinance. With the inclusion of a provision regarding low-income families, Ms. Atkins voted for the ordinance. Ms. Atkins remains on a number of committees and will continue to chair the Budget Committee for the City Council.

X. Consent Agenda

(Members Present PF/PA January 3, 2008: René Vidales, Sal Aréchiga, Rob Steppke, Judi O'Boyle, Michael Forbes, Jeffrey Wergeles).

1. **Installation of Stop Sign on Boundary Street at Palm Street.** This petition replaces the previously presented petition and motion passed by the NPPC on the installation of a stop sign on Boundary Street at Cooper Street. A new request by the McKinley Elementary School Officer was presented. **Motion:** To recommend the City to install a Stop Sign on both northbound and southbound Boundary Street at the intersection with Palm Street, and a Crosswalk at its intersection with Palm Street. O'Boyle/PFPA On Consent 13-0-0.

2. **Drainage at the end of the 2300 block of 34th Street.** The end of the cul-de-sac for 34th Street drains into a canyon, but the driveway for 2345 34th Street is on the path of the drainage pattern with every storm. **Motion:** To recommend the City to install a Curb Inlet and Storm Drain to discharge public runoff coming from the 2300 to 2500 blocks of 34th Street in order to eliminate surface drainage from entering the private property at 2345 34th Street. O'Boyle/ PFFA On Consent 13-0-0.

Note: Vernon Franck left at 7:10 pm.

XI Action Items

1. **Walgreens Neighborhood Use Permit (PTS# 141798)** 3202 University Ave. Replacement of an existing manual changing copy sign on an existing pole sign with a double-sided electronic changeable copy message center type sign with 40 SF of sign face on each side. CL-1 zone of the Mid-City PDO. **Motion:** Approve the replacement of manual copy sign with electronic changeable copy sign conditioned by low voltage LED letters, no animation, and no more than 4 - 5 copy changes per hour. Passed in UDPR Franck/Petersen 6-2-0. Following discussion by the Full Board, there was a Motion to Postpone this Matter: **Motion to Postpone 10-2-0 (Those opposed were Cronan and Petersen. All others present voted for the motion to postpone.)**
2. **PAC Elections.** The GNPCPC needs a candidate to run for the PAC. **Motion to Nominate Judi O'Boyle 11-0-1 (Martin abstained.)** Mike Forbes was designated to be the voting member for the GNPCPC at the PAC Elections.
3. **Gibbins Vacation (#5719)** Applicants John and Karen Gibbons. Item was heard and approved at the Sept 2, 2003 UDPR meeting. Following discussion **Motion to approve the vacation with the condition that the applicant returns with the final plan of grading, street and curb improvements they will be making.** Petersen/Rosa 12-0-0
4. **4052 32nd Street Map Waiver (PTS# 139502)** Daniel Dillard. (Process 4) to convert 6 residential units (UNDER CONSTRUCTION) to condominiums on a 7,000 SF site in the MR-1250-B Zone of Mid-City PDO; Transit Area Overlay Zone. Extensive discussion by the Board members. Concerns among those opposing this application were rooted in the original plans lacking architectural diversity. Those members in favor expressed appreciation for the applicants picking up a project that had stalled at 90% of completion. Applicants indicated a good faith willingness to return to the Board with their landscape plans. Denial at UDPR was on a 4-3 vote. After close of discussion, **Motion to Approve the Project Cronan/Petersen** Following further discussion, Mr. Arechiga moved the question. **Motion passed 7-5-0 (Voting in favor- Chipp, Cronan, Forbes, Granowitz, Martin, Petersen, Whitburn. Those opposed- Arechiga, O'Boyle, Rosa, Steppke, Studebaker.)**
4. **Bluefoot Bar & Grill NUP (PTS# 143884)** 3404 30th Street. (Process 2) to re-establish previously conforming use for an existing bar/lounge in the CN-1-2 zone within the Greater North Park Community Plan. Prior to this being heard, Ms. Studebaker declared that she works for North Park Main Street. The Applicant is not yet within the BID, and Ms. Studebaker has no Direct Economic Interest.. Following this disclosure, Planner Pangilinan indicated that Ms. Studebaker was fine to stay to hear this matter. Applicant's Attorney, Felix Tinkoff stated that a bar had been at this location since 1935. In 1984, the City Council restricted the liquor license to beer and wine only, a type 42 license. When the current applicants came onto the scene, they applied to have the full type 48 (beer, wine and spirits) license re-instituted. The City mistakenly approved this and ABC granted a full type 48 license. Following an appeal by a group of nearby residents, the ABC granted a restricted type 48 license. Among the restrictions was that the bar had to close at midnight from Sunday through Thursday, and could only remain open until 2:00 AM on Friday and Saturday nights. The Applicants are now applying for a Neighborhood Use Permit, which actually should have preceded the City's approval in the first place. The current City Planning Staff recommendation has 6 conditions attached. If the N.U.P. is denied, the

Applicants will simply revert to their type 42 license (beer and wine), which has no restrictions, thus allowing them to stay open until 2:00 AM every day. Cuong Nguyen, one of the bar owners, spoke to the bar's involvement in the renewal of the community and their efforts to alleviate the issues of concern by employing security at the door, a person to monitor the patio and a roving security person. They empathize with the neighbors and are trying to be responsible business owners.

Dana Hosseini spoke for the organized opposition. The opponents have no objection to the bar being there. They want a balance. The CN-1-2 Zoning accomplishes that, by allowing establishments to serve alcohol only until midnight, every day of the week. There is a proliferation of businesses in the neighborhood that are able to serve alcohol, soon to be 6. Jaime Rosales lives behind the bar on 29th Street. His property abuts Upas Street, as shown on an aerial photograph. He had no issues with noise before the bar opened. Since then, the level is "unreal." Patrons are disrespectful on their way to their cars parked near Mr. Rosales' home. He noted that since the Bluefoot has been closing earlier from Sunday through Thursday, it has been a "lot more" quiet.

Mr. Hosseini read from excerpts from the ABC hearing officer's decision. Mr. Hosseini set forth 6 conditions proposed by the Residents. In essence, the conditions are:

1. Only allow sale of beer, wine and spirits until midnight every day.
2. Alternatively, allow the applicants to serve only beer and wine (type 42) until 2:00 AM every day.
3. No amplified music after midnight every night of the week.
4. If no other conditions, at least an independently managed and licensed security staff of 2 guards to patrol the nearby neighborhood.
5. Direct phone line to the bar to handle complaints.
6. Quarterly meeting with bar owners and residents, to be mediated by the NPPC.

Both sides were allotted equal time in their presentations.

A Motion to Approve the NUP, with certain conditions, was read. Thereafter, various Board Members posed numerous questions to the Applicants and Opponents. Following this, the discussion was opened up to Public Comment.

19 people spoke in favor of the Applicants. The crux of their statements was that they supported the bar; it is a cultural hub and has made a significant contribution to the revitalization of the corner of Upas and 30th Street. An additional 13 names were read of people who supported the Applicants, but did not need to speak.

9 people spoke in opposition to the Applicants. The main thrust of the opponents' comments related to issues of excessive noise by departing patrons late at night; trash; the negative impact on neighborhood parking, and that these issues all arose after Bluefoot opened for business. 2 additional names were read of people who opposed the Applicants, but did not wish to speak.

A Motion was formally made to Approve, but first, Mr. Whitburn presented an Amendment. The Amendment entailed adding on 2 additional conditions: the quarterly meetings and that the NUP shall expire in 2 years.

Further discussion ensued among the Board Members regarding the Amendment. Following this, Mr. Whitburn split the question, to vote on each additional condition separately. Accordingly:

Part 1. Motion To Amend, to add the additional condition that there be quarterly meetings between the bar owners and residents, to be mediated by a member of the GNPCPC. Whitburn/Rosa Motion failed 6-6-0 (Voting in favor of the Motion to Amend Part 1- Arechiga, Chipp, Granowitz, Rosa, Steppke, Whitburn. Voting opposed- Cronan, Forbes, Martin, O'Boyle, Petersen, Studebaker.)

Part 2. Motion to Amend, adding the condition that the NUP expire after 2 years Whitburn/Rosa Motion failed 3-9-0 (Voting in favor- Rosa, Steppke, Whitburn. Voting opposed- Arechiga, Chipp, Cronan, Forbes, Granowitz, Martin, O'Boyle, Petersen, Studebaker.)

Thereafter the original Motion was put to the vote:

Motion: Approve the NUP with the following conditions: 1. The business owners will responsibly manage loitering during business hours and after closing; 2. This permit shall expire within 5 years in order to reevaluate compatibility with surrounding development and, if necessary, to add conditions to protect the public health, safety, and welfare; 3. The operator of the establishment shall take reasonable steps to prevent loitering on the premises, in parking lots serving the premises, and on public sidewalks adjacent to the premises; 4. A litter control plan shall be implemented to keep the facility and adjacent property free of litter. (Conditions 2-4 conform to City Conditions 4-6) Martin/Cronan Motion passed 10-1-0 (Steppke opposed. All other members present voting for the motion as read.)

Note: Ms. Studebaker departed at 9:10 PM.

XII. Information Items

At the request of the full Board, the Chair deferred the information item on Balboa Park, due to the late hour.

XIII. Subcommittee Reports

1. **Policy/Community Relations**, Rob Steppke, North Park Main Street Office, 3076 University Ave., 6:30 pm, 2nd Wednesday. Subcommittee did not meet. Will probably meet next month to discuss the upcoming Annual Elections.

XIV. Liaison Reports

1. **Project Area Committee**- Rob Steppke. Discussed the Housing Enhancement Loan Program.
2. **Maintenance Assessment District**. Brenda Martin. City presented 3 different budgets to spend down the balance in M.A.D.'s account.
3. **NP Parking Garage/Art Selection Working Group**- Granowitz noted that this group is still in process.
4. **North Park Main Street**- Ed Cronan. Shooters bar has been purchased. A big remodel is planned. It will be upscale and have food available from nearby Urban Solace.

XV. Future Business

1. Secretary Petersen suggested, in light of Planner Pnagilinan's comments at the beginning of the meeting, that the full Board consider the matter of the removal of Mr. Franck as Chair of the UDPR Subcommittee.
2. Mr. Forbes indicated that he would like the Board to consider the matter of the Mobile Needle Exchange.

XVI. Next Meeting on February 19, 2008

**XVII. Motion to Adjourn Petersen/Arechiga 12-0-0
Meeting adjourned at 9:25 PM.**

Submitted by:

Dean Petersen, Secretary.



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

Ownership Disclosure Statement

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

Project Title: N.U.P. Submittal Project No. For City Use Only: 143884

Project Address: 3404 30th St. San Diego CA 92104

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): Ghorban A. Mottadi
 Owner Tenant/Lessee Redevelopment Agency
 Street Address: 577 Willow Spring Dr.
 City/State/Zip: Encinitas CA 92024
 Phone No: 760-943-7427 Fax No: same
 Signature: X G-A MOHTADI Date: 11/1/07

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: _____

DEVELOPMENT SERVICES
Project Chronology
 BLUEFOOT BAR & LOUNGE; PROJECT NO. 143884

	Action	Description	City Review Time	Applicant Response
11/16/07	First Submittal	Project Deemed Complete		
12/6/07	First Assessment Letter	First assessment letter sent to applicant.	20 days	
1/18/08	Second submittal	Applicant's response to first assessment letter		43 days
2/20/08	Second Assessment Letter	Second assessment letter sent to applicant	33 days	
5/6/08	Third submittal	Applicant's response to second assessment letter		76 days
6/19/08	All issues resolved	Project approved by staff	44 days	
6/27/08	Appeal filed			28 days
9/11/08	Public Hearing-Planning Commission	Planning Commission Hearing - First Available	76 days	
TOTAL STAFF TIME**			173 days	
TOTAL APPLICANT TIME**				147 days
TOTAL PROJECT RUNNING TIME**		From Deemed Complete to PC Hearing	320 days	

**Based on 30 days equals to one month.

 THE CITY OF SAN DIEGO	City of San Diego Development Services 1222 First Ave. 3rd Floor San Diego, CA 92101 (619) 446-5210	<h2 style="margin:0;">Development Permit/ Environmental Determination Appeal Application</h2>	FORM DS-3031 MARCH 2007
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See Information Bulletin 505, "Development Permits Appeal Procedure," for information on the appeal procedure.

- 1. Type of Appeal:**
- | | |
|--|--|
| <input checked="" type="checkbox"/> Process Two Decision - Appeal to Planning Commission | <input type="checkbox"/> Environmental Determination - Appeal to City Council |
| <input type="checkbox"/> Process Three Decision - Appeal to Planning Commission | <input type="checkbox"/> Appeal of a Hearing Officer Decision to revoke a permit |
| <input type="checkbox"/> Process Four Decision - Appeal to City Council | |

2. Appellant Please check one Applicant Officially recognized Planning Committee "Interested Person" (Per M.C. Sec. 113.0103)

Name
Adam Cook - CAP Entertainment

Address	City	State	Zip Code	Telephone
Bluefoot Bar and Lounge, 3404 30th Street	San Diego	CA	92104	(619) 255-0460

3. Applicant Name (As shown on the Permit/Approval being appealed). Complete if different from appellant.

Adam Cook

4. Project Information	Date of Decision/Determination:	City Project Manager:
Permit/Environmental Determination & Permit/Document No.: BLUEFOOT BAR & LOUNGE/ Project #143884	June 19, 2008	Renee Mezo

Decision (describe the permit/approval decision):

Approval of a neighborhood use permit to reinstate previously conforming rights for the operation of the Bluefoot Bar & Lounge, and the addition of an approximately 315-square-foot sidewalk café.

- 5. Grounds for Appeal (Please check all that apply)**
- | | |
|--|--|
| <input type="checkbox"/> Factual Error (Process Three and Four decisions only) | <input type="checkbox"/> New Information (Process Three and Four decisions only) |
| <input type="checkbox"/> Conflict with other matters (Process Three and Four decisions only) | <input type="checkbox"/> City-wide Significance (Process Four decisions only) |
| <input type="checkbox"/> Findings Not Supported (Process Three and Four decisions only) | |

Description of Grounds for Appeal (Please relate your description to the allowable reasons for appeal as more fully described in Chapter 11, Article 2, Division 5 of the San Diego Municipal Code. Attach additional sheets if necessary.)

Pursuant to SDMC §112.0504, the Applicant appeals condition of approval #14, found on page 4 of the neighborhood use permit, as a restriction on the bar's previously conforming use in contradiction to the San Diego Police Department issued Business Permit # 2006007953 (otherwise known as an Entertainment Permit when associated with a bar use). The applicant pleads that said amplified music restriction on the premises after 11PM Sundays through Thursdays and after 1AM on Fridays and Saturdays is without basis in law or fact - the premises has been a bar-type use since 1935 and has never suffered a restriction on music, nor has the current incarnation of the business, the Bluefoot Bar and Lounge, been cited by the either the San Diego Police Department, Neighborhood Code Compliance or the ABC for noise violations. The applicant therefore asks that the Planning Commission reconsider condition #14 and remove said restriction to comply with the premises' Entertainment Permit, attached hereto for the Commission's review.

(Additional materials attached)

6. Appellant's Signature. I certify under penalty of perjury that the foregoing, including all names and addresses, is true and correct.

Signature:  Date: 6-25-08

Note: Faxed appeals are not accepted. Appeal fees are non-refundable.

**LOUNSBERY FERGUSON
ALTONA & PEAK LLP**

ATTORNEYS AT LAW

960 Canterbury Place, Suite 300
Escondido, California 92025-3870
Telephone (760) 743-1201
Facsimile (760) 743-9926
Email lfap@lfap.com

OF COUNSEL
GARTH O. REID
PARKS & OBERHANSLEY

SPECIAL COUNSEL
JOHN W. WITT

VIA COURIER

June 24, 2008

City of San Diego
Planning Commission
1222 First Ave, 4th floor
San Diego, CA 92101

Subject: Appeal of Condition #14 for Bluefoot Bar & Lounge Neighborhood Use Permit/Project #143884

Honorable Planning Commissioners:

This firm represents the ownership of the Bluefoot Bar & Lounge, located at 3404 30th Street, San Diego, CA 92104 in the North Park Community. My clients are law-abiding, small-business owners who have worked hard to put together a reputable neighborhood pub, which supports the arts and is well-loved by its neighboring business owners and much of the local community. We bring this appeal of condition #14 of the Process Two Neighborhood Use Permit (NUP) for Project #143884 because the City staff have come to a conclusion which will only act to injure my clients' economic interests.

Upon being informed of an error made by a City of San Diego staffer in approving a California Department of Alcoholic Beverage Control form for a type 48 license (on-sale distilled spirits), prior to the City's approval of a NUP for the same purpose, my clients jumped into action to remedy the situation. After attending meetings with City staffers on several occasions and making all necessary preparations, we were pleased to receive recommendations for approval for the NUP both before the Urban Design Review Subcommittee (7-1) and the Greater North Park Community Planning Group (11-1).

All the while, one or two residential property owners in the area were making their best efforts to torpedo my clients' efforts by starting petitions, antagonizing bar patrons, berating bar staff and repeatedly engaging in letter and email writing campaigns to City staffers and elected

LOUNSBERY FERGUSON ALTONA & PEAK LLP

June 24, 2008

Page 2 of 3

officials. The purported reason for these efforts was to limit the Bluefoot Bar's hours of operation in order to limit patrons passing by their homes, notwithstanding the fact that the premises has been a bar which has operated with the same, and even greater hours of operation, for well over 25 years, and possibly longer.

When my clients approached the complaining parties, in order to remedy the situation, it quickly became clear that nothing short of closing the Bluefoot Bar at midnight daily, in contradiction to their previously conforming rights, would suffice. Since this would be the death knell of a budding new enterprise, my clients decided to do their best, within reason, to ameliorate the situation. Additional security was hired to patrol not only the inside of the premises, but also along the adjoining street. Janitorial staff has been employed to clean litter along the adjacent street. Doors and windows are closed daily at 9PM. Additional sound insulation has been installed within the premises. Yet, my clients have been met with more complaints from the same parties.

After meeting and speaking with police department representatives on several occasions, we were informed that these same complaining neighbors had been warned to limit their calls to the station house, as such calls were considered to be unwarranted – the police had shown up to the Bluefoot Bar repeatedly in order to attend to these complaints and left each time without incident, never leaving a warning or citation.

My clients and I proceeded to meet with City staff again, on several occasions, to discuss the NUP conditions and we were left believing that we had resolved all issues. It was not until very recently that we learned that the staff had made a baseless determination to limit the hours of amplified music on the premises to one hour before closing each day (11PM Sunday through Thursday and 1AM Friday and Saturday). This restriction runs counter to the San Diego Police Regulated Business Permit #2006007953 (the "Entertainment License"), attached for review, which states that the Bluefoot is allowed to provide live entertainment daily, and that a disc jockey may be employed to play amplified music without limitation as to hours.

In that the Entertainment License is revocable upon violation of any condition in the license, and no citations have been given to my client on the grounds of noise from amplified music, or on any other account, there is no reason in the record why the staff have determined that the nightly one hour pre-closing restriction should be in effect. Such a condition runs counter to my client's vested rights to the previously conforming uses on the premises, for which no NUP is necessitated, and it goes so far as to countermand a condition put upon the premises by the City's own Police Department.

We understand that the staff feel the need to be equitable in making their discretionary determinations on permit conditions, so as to be fair to all sides, but in this instance it appears

LOUNSBERY FERGUSON ALTONA & PEAK LLP

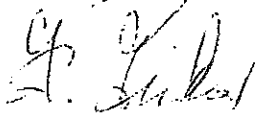
June 24, 2008

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that the condition is simply being imposed in order to say that the staff has done "something" to appease the complaining parties. In the end, this capricious condition will not put an end to complaints of the neighbors as that will only occur if they succeed in shutting down the Bluefoot Bar. It will, however, serve to significantly damage my clients' business unnecessarily, and without cause.

We implore you to take a reasoned approach, review the approvals of the community planning group and subgroup, examine the evidence in the record and come to the conclusion that Condition #14 is ill-advised and must be stricken from the NUP.

Sincerely,



Felix M. Tinkov, Esq.

Lounsbery Ferguson Altona & Peak, LLP



POLICE REGULATED BUSINESS PERMIT

Permit # 2006007953

Expires 08/31/2008

THIS PERMIT IS ISSUED PURSUANT TO THE SAN DIEGO MUNICIPAL CODE IN ADDITION TO ANY OTHER LICENSE OR PERMIT THAT MAY BE REQUIRED. THIS PERMIT IS VALID ONLY AT THE LOCATION SHOWN.

MAILING ADDRESS
PO BOX 2501
LA MESA, CA 91943-2501

THIS LICENSE IS NOT TRANSFERABLE, AND MUST BE VISIBLY DISPLAYED ON THE BUSINESS PREMISE

VALID FROM
08/09/2007

EXPIRES
08/31/2008

BUSINESS TYPE: ENTERTAINMENT ALC OR DANCE 50+

BUSINESS NAME: BLUEFOOT BAR & LOUNGE
BUSINESS LOCATION: 3404 30TH ST SAN DIEGO, CA 92104

ISSUED BY POLICE PERMITS AND LICENSES

SIGNATURE OF ISSUING OFFICER

CONDITIONS

CONDITIONS

CITY OF SAN DIEGO - ENTERTAINMENT PERMIT CONDITIONS - SINGLE EVENT 50+ (WITH ALCOHOL) TYPE 48 ABC LICENSE

IN THE MATTER OF:

BLUEFOOT BAR & LOUNGE
3404 30TH ST
SAN DIEGO, CA 92104

POLICE PERMIT # 2006-007953

THESE CONDITIONS ARE MADE PURSUANT TO PROVISIONS OF SAN DIEGO MUNICIPAL CODE (SDMC) SECTION 33.1513. PERMITTEE MUST RETAIN A COPY OF THESE CONDITIONS WITH POLICE PERMIT FOR ENTERTAINMENT AND BE PREPARED TO PROVIDE THEM TO ANY PEACE OFFICER UPON REQUEST. ANY VIOLATION OF THE FOLLOWING CONDITIONS SHALL BE GROUNDS FOR SUSPENSION OR REVOCATION OF POLICE PERMIT. IMPOSITION, SUSPENSION OR REVOCATION OF ANY PARTICULAR CONDITION IS APPEALABLE THROUGH PROCEDURES SET FORTH IN SDMC CHAPTER III, ARTICLE 3, DIVISION 5. THIS POLICE PERMIT FOR ENTERTAINMENT IS CONDITIONED AS FOLLOWS:

MUST COMPLY WITH SDMC CHAPTER III, ARTICLE 3, DIVISION 15 AND THE FOLLOWING CONDITIONS:

1. LIVE ENTERTAINMENT PURSUANT TO ABC CONDITIONS MAY BE PROVIDED ON A DAILY BASIS.
2. LIVE ENTERTAINMENT PROVIDED SHALL BE UN-AMPLIFIED WITH THE EXCEPTION OF A DISC JOCKEY.
3. ON THE DAYS WHEN THERE IS AMPLIFIED ENTERTAINMENT AND/OR DANCING, PERMITTEE SHALL EMPLOY ONE (1) CALIFORNIA STATE DEPARTMENT OF CONSUMER AFFAIRS LICENSED SECURITY GUARD FOR EVERY FIFTY (50) PERSONS IN THE LICENSED PREMISE. SECURITY OFFICERS SHALL WEAR CLOTHING THAT IDENTIFIES THEM AS SECURITY GUARDS, AND SHALL BE ON DUTY FROM THE TIME ENTERTAINMENT AND/OR DANCING BEGINS UNTIL ONE-HALF HOUR AFTER ENTERTAINMENT AND/OR DANCING CEASES. THEIR PRIMARY DUTY SHALL BE TO PATROL THE INTERIOR OF THE LICENSED PREMISES IN ORDER TO ALLEVIATE POLICE

CONDITIONS

PROBLEMS, EXCESSIVE NOISE, ABUSIVE BEHAVIOR, DISTURBANCES, AND ANY OTHER VIOLATIONS OF LAW THAT OCCUR ON OR ABOUT THE LICENSED PREMISES.

4. IN ADDITION TO THE AFOREMENTIONED SECURITY REQUIREMENTS, BLUE FOOT BAR & LOUNGE SHALL EMPLOY ONE (1) CALIFORNIA STATE DEPARTMENT OF CONSUMER AFFAIRS LICENSED SECURITY GUARD FOR EACH ENTRANCE AND EXIT. AN ADDITIONAL ONE (1) SECURITY GUARD SHALL BE REQUIRED FOR EVERY FIFTY (50) PATRONS WAITING ENTRANCE TO THE ESTABLISHMENT.
5. BLUEFOOT BAR & LOUNGE SHALL EMPLOY AT LEAST ONE (1) CALIFORNIA STATE DEPARTMENT OF CONSUMER AFFAIRS SECURITY GUARD ON SUNDAY THROUGH THURSDAY NIGHTS COMMENCING FROM AT LEAST 10:00 PM AND CONTINUING UNTIL ONE-HALF HOUR AFTER CLOSING EVEN WHEN THERE IS NO ENTERTAINMENT AND/OR DANCING.
6. ALL DOORS SHALL REMAIN CLOSED AFTER 9:00 PM EVERY DAY OF THE WEEK EXCEPT FOR NORMAL INGRESS AND EGRESS.
7. ALL WINDOWS SHALL REMAIN CLOSED AFTER 9:00 PM EVERY DAY OF THE WEEK.
8. BLUE FOOT BAR & LOUNGE SHALL MONITOR AND STRICTLY ENFORCE OCCUPANCY LEVELS SET BY THE FIRE MARSHAL. ANY MODIFICATION OF BUSINESS CONFIGURATION OR OCCUPANCY LEVELS MUST BE REPORTED TO THE SAN DIEGO POLICE DEPARTMENT, AND ABC, PRIOR TO MODIFICATION. ALL MODIFICATIONS MUST HAVE FIRE MARSHAL APPROVAL.
9. ENTERTAINMENT PROVIDED SHALL NOT BE AUDIBLE OUTSIDE THE PREMISES.
10. BLUE FOOT BAR & LOUNGE SHALL NOT USE SERVICES OF AN UNLICENSED PROMOTER OR OTHER UNLICENSED PERSONS FOR THE PURPOSE OF PROFIT SHARING. MONEYES COLLECTED AS A DOOR CHARGE, COVER CHARGE, OR ANY OTHER FORM OF ADMISSION CHARGE, INCLUDING MINIMUM DRINK ORDERS SHALL BE THE SOLE PROFIT OF PETITIONER.
11. NO PERSONS UNDER THE AGE OF TWENTY ONE (21) YEARS SHALL BE PERMITTED ON THE PREMISES AT ANYTIME.

February 8, 2008

CIVIL PENALTY NOTICE AND ORDER

Location: 3404 30th Street

APN NO.: 453-415-07

Responsible Person

Property Owner: Ghorban A. Mohtadi
Address: 577 Willowspring Drive
Encinitas, CA 92024

Responsible Person

Business Owner: CAP Entertainment Corporation
Agent for Service: Linh Nguyen
Address: 835 Fifth Avenue, Suite 200A
San Diego, CA 92101

Zone: CN-1-2

You are hereby notified that the property at 3404 30th Street is in violation of the San Diego Municipal Code (SDMC) and you are subject to civil penalties pursuant to San Diego Municipal Code Section 12.0801 through 12.0810.

Civil Penalties for violations of the Municipal Code may be assessed at a daily rate not to exceed **\$2,500** per day per violation; not to exceed a total maximum of **\$250,000** per parcel or structure for any related series of violations.

Penalties may be assessed for each individual code section violated. These penalties may accrue daily for as long as the violations exist.

You are violating the law by operating a business contrary to the zoning regulations of the Land Development Code, City Wide Zone CN-1-2, footnotes 1 and 4. The Blue Foot Bar & Lounge is open for business after midnight, serves intoxicating beverages other than beer and wine (distilled spirits) and has live entertainment.

A sidewalk café has been installed and consists of a railings, table and chairs, installation of tile which raised the elevation of the sidewalk, without the required Neighborhood Use Permit, Encroachment Maintenance Removal Agreement and Engineering Permit. A non-permitted sign is being displayed.

<u>SDMC Sec.</u>	<u>Violation Description & Location</u>
121.0302(a)	It is unlawful for any person to maintain or use any premises in violation of any of the provisions of the Land Development Code, without a required permit, contrary to permit conditions, or without a required variance.
121.0302(b)	It is unlawful for any person to engage in any of the following activities, or cause any of the activities to occur in a manner contrary to the provisions of the Land Development Code: (1). To erect, place, construct, convert, establish, alter, use, enlarge, repair, move, remove, equip, maintain, improve, occupy, or demolish any premises.
131.0520(a)	<p>Use Regulations of Commercial Zones. The regulations of Section 131.0522 apply in the commercial zones unless otherwise specifically provided by footnotes indicated in Table 131-05B.</p> <p>Within the commercial zones, no structure or improvement, or portion thereof, shall be constructed, established, or altered, nor shall any premises be used or maintained except for one or more of the purposes or activities listed in Table 131-05B. It is unlawful to establish, maintain, or use any premises for any purpose or activity not listed in this section or Section 131.0522.</p>
131.0522	<p>Use Regulations Table of Commercial Zones. The uses allowed in the commercial zones are shown in Table 131-05B. Commercial Services: Eating & Drinking Establishments in the CN-1-2 zone are permitted but restricted by footnotes 1 and 4. Footnote 1. Uses shall not begin operating before 6:00 a.m. or continue operating later than 12:00 midnight in CN zones. Footnote 4. Drive-in and drive-through restaurants, live entertainment, and the sale of intoxicating beverages other than beer and wine are not permitted in the CN zones.</p> <p>Separately Regulated Commercial Services Uses in Table 131-05B: Sidewalk Cafés require a Neighborhood Use Permit in CN-1-2 zone.</p>

- 126.0203(a) When a Neighborhood Use Permit Is Required. An application for the following use requires a Neighborhood Use Permit within the CN-1-2 zone; sidewalk cafes.
- 129.0715(a) Encroachment Maintenance and Removal Agreement. An Encroachment Maintenance and Removal Agreement are required for any privately owned facilities or structures in the public right-of-way constructed and maintained by the property owner.
- 95.0135(a) Sign Violations on Public Property; It is unlawful for any person, including a Responsible Party, to place, post, paint or secure any sign, pennant, flag, banner, balloon, or similar attention-seeking device on public property or within the public rights-of-way.
- 142.1206(a)(3)(4) Violations of Sign Regulations. It is unlawful to do the following: Display any sign without the required Sign Permit Sticker; or Erect any sign on any premises contrary to the provisions of this division.
- 121.0308(a) No Permission to Violate Codes. The issuance or granting of any development permit or construction permit or any plan, specifications, computations, or inspection approval does not constitute a permit for, or an approval of, any violation of any of the provisions of the Land Development Code, including the Building, Electrical, Plumbing, or Mechanical Regulations or any other ordinance of the City. Development permits, construction permits, or inspections presuming to give authority to violate or cancel the provisions of the Land Development Code, Building, Electrical, Plumbing, or Mechanical Regulations or other ordinances of the City are not valid.

You are hereby ordered to correct the violations by completing the following actions set forth below:

You shall **immediately** cease using the sidewalk café and remove the non-permitted sign.

By: February 11, 2008, you shall not begin operating your business before 6:00 a.m. or continue operating later than 12:00 midnight. You shall not serve distilled sprits only beer and wine.

Civil Penalty Notice and Order
3404 30th Street
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Page 4

By: March 10, 2008, you shall submit an application and plans for a Neighborhood Use Permit, Encroachment Maintenance and Removal Agreement and required Engineering Permit for the sidewalk café and have the plans deemed complete. You must reference this Civil Penalty Notice and Order on the application and within the scope of work on the plans or obtain an Engineering Permit to remove the sidewalk café and return the Public-Right-of-Way to a permitted condition. Once the plans are approved you shall obtain the required permit within 15 days and obtain a final inspection approval within 90 days.

Failure to Comply with Notice and Order

Failure to comply with this Notice and Order will result in the ongoing assessment of Civil Penalties:

1. Civil Penalties Hearing

This Notice and Order may cause a date, time, and place to be set for a hearing regarding the existing violations and confirmation of assessed civil penalties.

Written notice of the time and place of the hearing will be served on you at least ten days prior to the date of the hearing.

At the hearing, you, your agent or any other interested person may present testimony or evidence concerning the existence of the violations and the means and time frames for correcting the violations. Testimony or evidence may also be presented relating to the duration, frequency of recurrences, nature and seriousness, and history of the violations; whether the offense impacted environmentally sensitive lands or historical resources the willfulness of the responsible person's misconduct, after issuance of the Notice and Order; the good faith effort by the responsible person to comply; the economic impact of the penalty on the responsible person; the impact of the violation upon community; and/or any other factor which justice may require.

Failure to attend the hearing shall constitute a waiver of your rights to an administrative hearing and administrative adjudication of the Notice and Order.

2. Assessment of Penalties

Any person violating any provision of the Municipal Code or applicable State Codes is subject to assessment of Civil Penalties.

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February 8, 2008
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Civil penalty amounts are established by the Deputy Director of the Neighborhood Code Compliance. The following factors were used in determining the amount: Failure to comply with the Development Services Department letter dated August 29, 2007, advising you to cease and desist from selling intoxicating beverages other than beer and wine and discontinue daily business operations by 12:00 midnight. The surrounding residential neighborhood is impacted by the reduction of on-street parking by patrons. The early morning business hours impact the residential neighborhood by noise of patrons walking to their parked vehicles or home. A sidewalk café has been built in the Public-Right-of-Way without the required Neighborhood Use Permit, Encroachment Maintenance and Removal Agreement and Engineering Permit and increases the noise level in the surrounding business area. Failure to remove non-permitted sign per NCCD letter dated September 10, 2007.

The penalty rate for the above listed violations have been established at **\$500.00 per day** and shall be an ongoing assessment of penalties at the daily rate until the violations are corrected in accordance with Municipal Code Sections 12.0801 et seq.

Pursuant to SDMC, Section 12.0805(a), in determining the date on which civil penalties shall begin to accrue and the duration, the Deputy Director may consider a date when Neighborhood Code Compliance first discovered the violations as evidenced by the issuance of a Notice of Violation or any other written correspondence.

Administrative Costs

The Deputy Director or Hearing Officer is authorized to assess administrative costs. Administrative cost may include scheduling and processing of the hearing and all subsequent actions.

Waiver

Failure to attend the hearing shall constitute a waiver of your rights to an administrative hearing and adjudication of the Notice and Order or any portion thereof.

If you fail, neglect or refuse to obey an order to correct the violations, civil penalties will continue to accrue on a daily basis until the violation is corrected, except that such amount shall not exceed \$250,000.

If you fail, neglect or refuse to obey an order to pay civil penalties, the unpaid amount shall constitute a personal obligation and/or a lien upon the real property. Failure to pay a personal obligation will cause the Deputy Director to refer the obligation to the City Attorney to file a

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court action to recover these costs. Failure to pay a lien will cause the Deputy Director to refer the lien to the County Auditor for collection in the same manner that ordinary municipal taxes are collected.

If you have any questions concerning this Notice and Order, or to schedule a compliance inspection, please contact **Lewis Dennis, Land Development Investigator II at (619) 533-6265.**

Melody Negrete
Code Enforcement Coordinator

MN/LD/lm

cc: File

NC# 128399

This information will be made available in alternative formats upon request.

3404_30th St_nc105_L5d



THE CITY OF SAN DIEGO

Date of Notice: June 19, 2008

NOTICE OF DECISION

DEVELOPMENT SERVICES DEPARTMENT

Job Order No. 42-8814

APPROVAL TYPE(S): NEIGHBORHOOD USE PERMIT
PROJECT NAME/NUMBER: BLUEFOOT BAR & LOUNGE/ 143884
APPLICANT: ADAM COOK
COMMUNITY PLAN AREA: GREATER NORTH PARK
COUNCIL DISTRICT: 3
CITY PROJECT MANAGER: Renee Mezo
MAILING ADDRESS: 1222 First Ave., MS 501, San Diego, CA 92101-4155
PHONE NUMBER: (619) 446-5001

On June 19, 2008, Development Services Staff APPROVED an application for A Neighborhood Use Permit (Process 2) to reinstate previously conforming rights for the operation of the Bluefoot Bar & Lounge, and the addition of an approximately 315-square-foot sidewalk café to an existing bar located at 3404 30th Street in the CN-1-2 Zone, the FAA Part 77 Overlay Zone and the North Park Redevelopment Project Area within the Greater North Park Community Plan Area. If you have any questions about this project, the decision, or wish to receive a copy of the resolution approving the project, contact the City Project Manager above.

The decision by staff can be appealed to the **Planning Commission** no later than twelve (12) business days of the decision date. 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 of the Planning Commission is final. The decision of the Planning Commission is final.

This project was determined to be categorically exempt from the California Environmental Quality Act on November 29, 2007 and the opportunity to appeal that determination ended December 20, 2007.

This information will be made available in alternative formats upon request.

cc: Rob Steppke, Greater North Park Community Planning Group

