

Civic San Diego

DATE ISSUED: September 27, 20112 **REPORT NO. PS-12-104**

ATTENTION: **Planning Commission, Agenda of October 4, 2012**

SUBJECT: G Street Deli (601 Pacific Highway) – Appeal of the Civic San Diego Hearing Officer’s Decision to Approve Conditional Use Permit No. 2012-20 to allow the off-site sales of alcoholic beverages (Type 21 – Off-Sale General) – Marina Neighborhood of the Downtown Community Plan Area

OWNER/ Tim Benolken, Embassy Suites

APPLICANT: Jeries El-Raheb, Raheb Hadad and Associates

SUMMARY

Issue(s): Should the Planning Commission grant the appeal, by Raheb Hadad, of the Civic San Diego (“CivicSD”) Hearing Officer’s conditions of approval for Conditional Use Permit (CUP) No. 2012-20 for the G Street Deli located at 601 Pacific Highway in the Marina Neighborhood of the Downtown Community Plan Area?

Staff Recommendation: Staff recommends that the Planning Commission approves the appeal and modifies the conditions of approval for CUP No. 2012-20, increasing the amount of alcohol sales from 25 percent to 50 percent.

Community Planning Group Recommendation: On June 14, 2012, the Centre City Advisory Committee (CCAC) voted 16-3, with one abstention, to recommend that the CSD Hearing Officer grant CUP approval subject to the conditions in the draft permit. Members voiced concerns about allowing the establishment to have maximum alcoholic beverage quarterly gross sales of 50 percent versus the 25 percent applied to the rest of downtown. Some members also stated concerns with the off-site alcohol sales. After member discussion, they voted to support the permit application.

Environmental Review: This activity is covered under the Final Environmental Impact Report (FEIR) for the San Diego Downtown Community Plan, Centre City Planned District Ordinance, and 10th Amendment to the Centre City Redevelopment Plan, certified by the City Council and the Redevelopment Agency (“Former Agency”) on March 14, 2006 (Resolution R-301265 and R-04001, respectively) and subsequent addenda to the FEIR, certified by the Former Agency on August 3, 2007 (Former Agency Resolution R-04193), April 21, 2010 (Former Agency resolutions R-04508 and

R-04510), and August 3, 2010 (Former Agency Resolution R-04544). The FEIR is a "Program EIR" prepared in compliance with California Environmental Quality Act (CEQA) Guidelines Section 15168. CivicSD staff has concluded that the appeal of a decision of a CUP to allow the off-site sale of distilled spirits is within the scope of the development program described in the FEIR and that the environmental impacts of the were adequately addressed in the FEIR; therefore, no further environmental documentation is required under CEQA. The 2006 FEIR and subsequent addenda can be found online at <http://www.ccdc.com/planning/environmental-documents.html>

Fiscal Impact Statement: None.

Code Enforcement Impact: None.

BACKGROUND

The G Street Deli is located within a 1,200 square-foot ground-floor space of the Embassy Suites Hotel located on the south side of G Street between Pacific Highway and California Street (railroad tracks). Uses surrounding the site include the Archstone apartments to the north, Navy office buildings to the west, the Park Place and Park Row residential condominiums to the east, and Seaport Village to the south. A map showing adjacent land uses has been included as Attachment A to this report.

The G Street Deli is a typical convenience store and deli selling frozen foods, meats, a variety of health and beauty items and other general merchandise. The establishment's main clientele includes hotel guests and nearby residents. The establishment's hours of operation since they opened in 1988 have been from 8:00 a.m. to 10:00 p.m. seven days a week. Site photographs and the floor plans of the project site have been included as Attachment B.

The G Street Deli has been operating under an ABC Type 20 license allowing the off-site sale of beer and wine for the last 24 years. In 2010, the ownership of the G Street Deli was transferred to the current Applicant. The G Street Deli was established prior to the current regulations requiring a CUP for establishments engaged in the off-site sale of alcohol and is considered a Previously Conforming Use.

On March 21, 2012, CivicSD received a request from the Applicant seeking to upgrade their Type 20 license to a Type 21 license to allow the sale of distilled spirits in addition to beer and wine for off-site consumption. Under the Land Development Code (LDC), the proposed upgrade in license is considered an expansion and requires compliance with the current land use regulations.

DEVELOPMENT TEAM

ROLE	FIRM/CONTACT	OWNERSHIP
Applicant/Appellant/Tenant	Raheb Hadad and Associates/Jeries El-Raheb	Jeries El-Raheb, President (Privately Owned)
Property Owner	Embassy Suites Management/Tim Benolken	Tim Benolken, Senior Vice President (Privately Owned)

DISCUSSION

Under the Marina Planned District Ordinance (MPDO), establishments engaged in the off-site sale of alcohol are considered Separately Regulated Uses subject to the Alcohol Beverage Outlets regulations of the San Diego Municipal Code (SDMC), which require approval of a CUP. The CUP procedures establish a review process for the development of uses that may be desirable under appropriate circumstances, but are not permitted by right. The intent of these procedures is to review the uses, on a case-by-case basis, to determine whether the proposed use may be appropriate at a given site.

In addition, within the City of San Diego, ABC requires that all applicants requesting a Type 20 or 21 off-site alcohol sale license obtain Public Convenience and Necessity (PCN) approval from the San Diego Police Department (SDPD) Vice Unit. The intent of this approval is to determine whether the issuance of such a license would create a law enforcement problem or result in an undue overconcentration of licenses in the area. The SDPD makes a PCN determination based on crime statistics, the ratio of license to population in the area, and other similar criteria. The SDPD has approved the PCN for the proposed upgrade in addition to a number of recommended conditions of approval. The approved PCN and SDPD recommended conditions are included as an attachment to this report.

On April 25, 2012, staff deemed the Applicant's CUP application complete and a notice was sent to all owners and occupants within a 300-foot radius of the business. Public correspondence was received for this permit application from residents in the area who were concerned with quality of life issues such as littering, loitering, cleanliness, and other similar items.

On June 20, 2012, this item was presented to the Centre City Advisory Committee (CCAC), downtown's official community planning group. The CCAC voted 16-3, with one abstention, to recommend that the CivicSD Hearing Officer grant CUP approval subject to the conditions drafted by staff.

Hearing Officer

As previously mentioned, the retail sale of alcohol for off-site consumption requires approval of a CUP to be reviewed and approved by the CivicSD Hearing Officer. As part of the review process, the Hearing Officer reviews and evaluates the relationship of the proposed use to other uses in the vicinity. In addition, the Hearing Officer may impose reasonable conditions to ensure that the proposed alcohol beverage outlet does not become a nuisance to the neighborhood. Typical conditions include, but are not limited to, restriction of hours, restriction of alcoholic beverage size and quantity, and cleanliness of the establishment.

On July 26, 2012, the Hearing Officer held a public hearing to consider the G Street Deli's request for an expanded license. Staff recommended that the Hearing Officer review the staff report, take public testimony, and approve the Applicant's request, subject to conditions, including that the business be allowed to sell alcoholic beverages for off-site consumption from 8:00 a.m. to 10:00 p.m. and that the quarterly gross sales of alcohol be limited to 50 percent of the gross quarterly sales.

In the Downtown Community Plan (DCP) area (with the exception of the Marina Planned District), the off-site sales of alcohol are typically limited to the hours of 10:00 a.m. to 10:00 p.m. and the quarterly gross sales of alcohol are limited to no more than 25 percent of the quarterly gross sales of the establishment unless an exception has been granted by the Hearing Officer. In this case, however, since the establishment is located within the Marina Planned District and off-site alcohol sales are regulated by the SDMC, unlike other districts downtown, staff considered it appropriate to allow the G Street Deli to maintain their existing hours of operation (8:00 a.m. to 10:00 p.m.) and limit their quarterly gross sales to 50 percent rather than 25 percent. Staff also considered this appropriate given that the establishment has been operating under these conditions for the last 24 years. In addition, their license is in good standing without violations and the conditions are consistent with those recommended by SDPD.

After receiving input from the Applicant and members of the public, the CivicSD Hearing Officer determined that findings for approval of a CUP could be made and that the alcohol beverage outlet could be found consistent with the citywide regulations, MPDO and DCP and would not be detrimental to public health, safety, and welfare. The Hearing Officer approved the CUP, however, modified staff's recommended conditions related to the hours and percentage of alcohol sales for the establishment as follows:

1. Quarterly gross sales of alcoholic beverages shall not exceed ~~50~~ 25 percent of the quarterly gross sales of the establishment.
2. No alcoholic beverages shall be sold except between the hours of ~~8:00 a.m.~~ 10:00 a.m. and 10:00 p.m. of each day of the week.

The Hearing Officer felt that, despite the establishment being located within the Marina Planned District and regulated by the SDMC, that the G Street Deli should be consistent with the standard conditions of approval for alcohol beverage outlets as in the other downtown neighborhoods. The July 26, 2012 Public Hearing staff report, with attachments, is included as Attachment D.

Appeal

On August 9, 2012, an appeal was filed by Raheb Hadad, who is the business owner of G Street Deli. Under the LDC, an appeal application can be filed by: 1) an applicant, or 2) an interested person who files an application for a Process Three appeal hearing within 10 business days after the date of the Hearing Officer's decision. The appeal application is included as Attachment E to this report.

Under the LDC, the grounds for appeal include the following:

- Factual Error
- New Information
- Findings not Supported
- Conflict with Other Matters

The Appellant is challenging the CivicSD Hearing Officer's decision to require that the alcohol sales for the G Street Deli be limited to 25 percent of quarterly gross sales given that the G Street Deli has been operating under a Type 20 (beer and wine only) license for the last 24 years without limitations on quarterly gross sales. After the hearing, the Appellant conducted an analysis of the establishment's monthly sales of just beer and wine and noted that for the months of March and April their sales were 27 percent and for the period from May through July it was 29 percent. The Appellant has stated that they understand the need to comply with a set of reasonable conditions given that they are expanding their operations to include distilled spirits. However, the Appellant feels that a 25 percent limitation would be unreasonable and therefore is requesting that the CUP be amended to increase the percentage from 25 to 50 percent as originally recommended by CivicSD staff at the hearing.

CONCLUSION

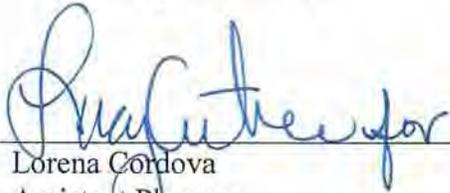
After hearing public testimony, carefully considering the staff report, and the Hearing Officer's decision, staff is requesting that the Planning Commission approves the appeal and modifies the conditions of the CUP related to the quarterly gross sales of alcohol as requested by the Appellant; or,

ALTERNATIVE RECOMMENDATION:

Deny the appeal and uphold the decision to approve CUP No. 2012-20 with the conditions approved by the Hearing Officer.

Respectfully submitted,

Concurred by:

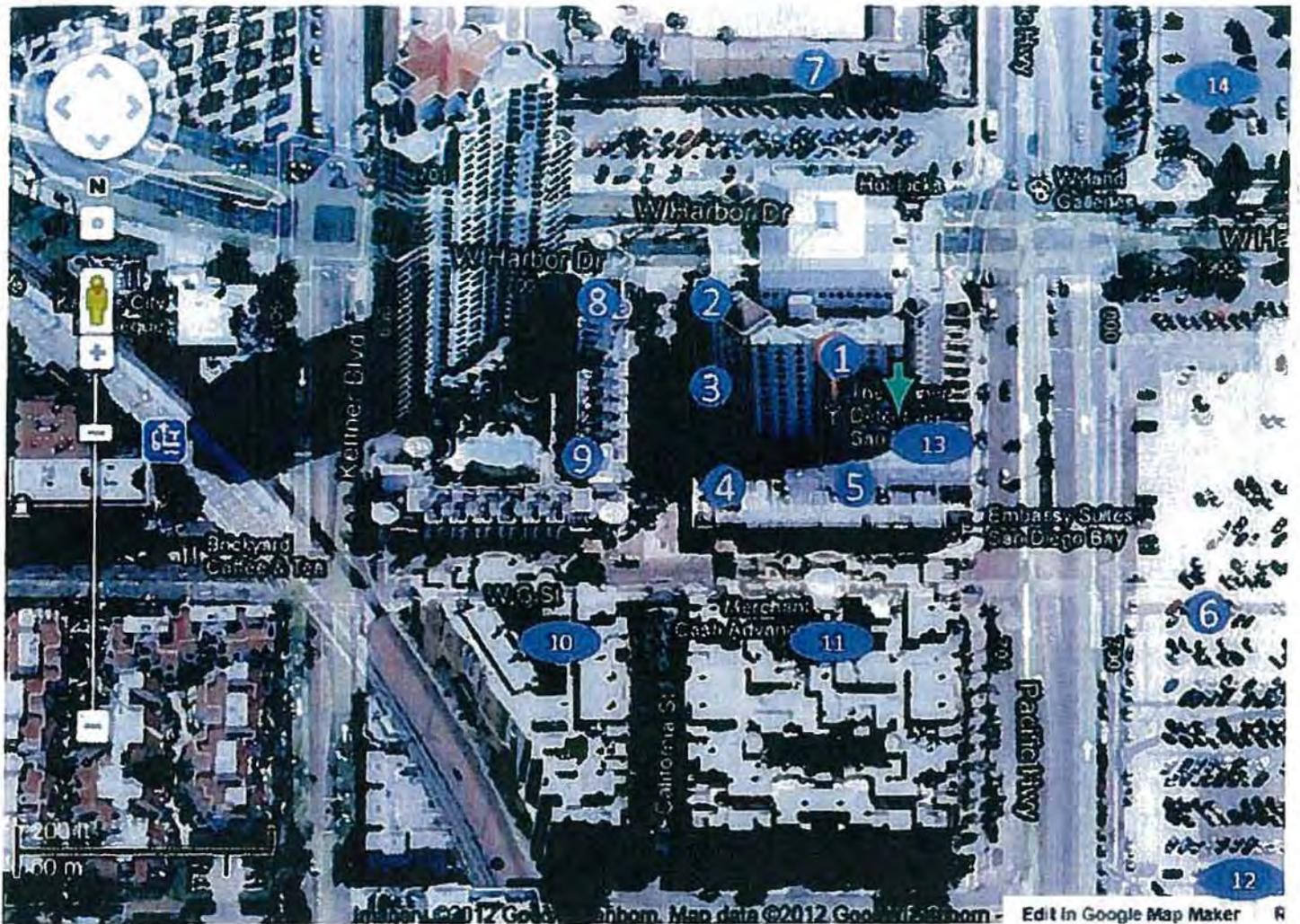


Lorena Cordova
Assistant Planner



Brad Richter
Assistant Vice President, Planning

Attachments: A – Map of Adjacent Land Uses
B – Site Photographs and Plans
C – PCN and SDPD Recommendation
D – July 26, 2012 Public Hearing Staff Report with Attachments
E – Appeal Application

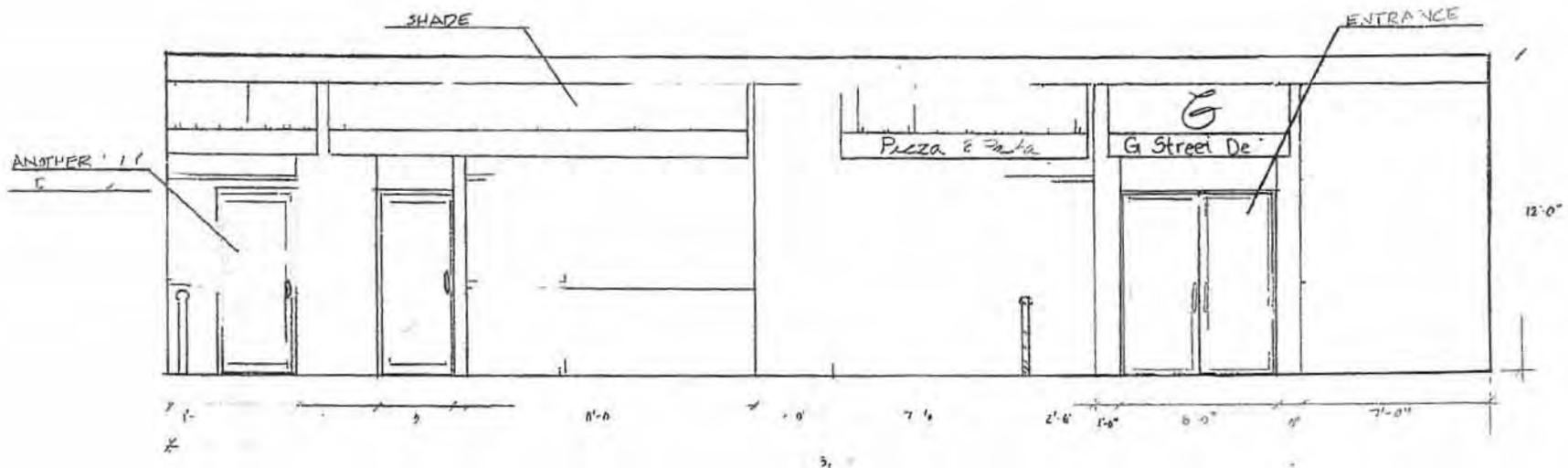


Legend

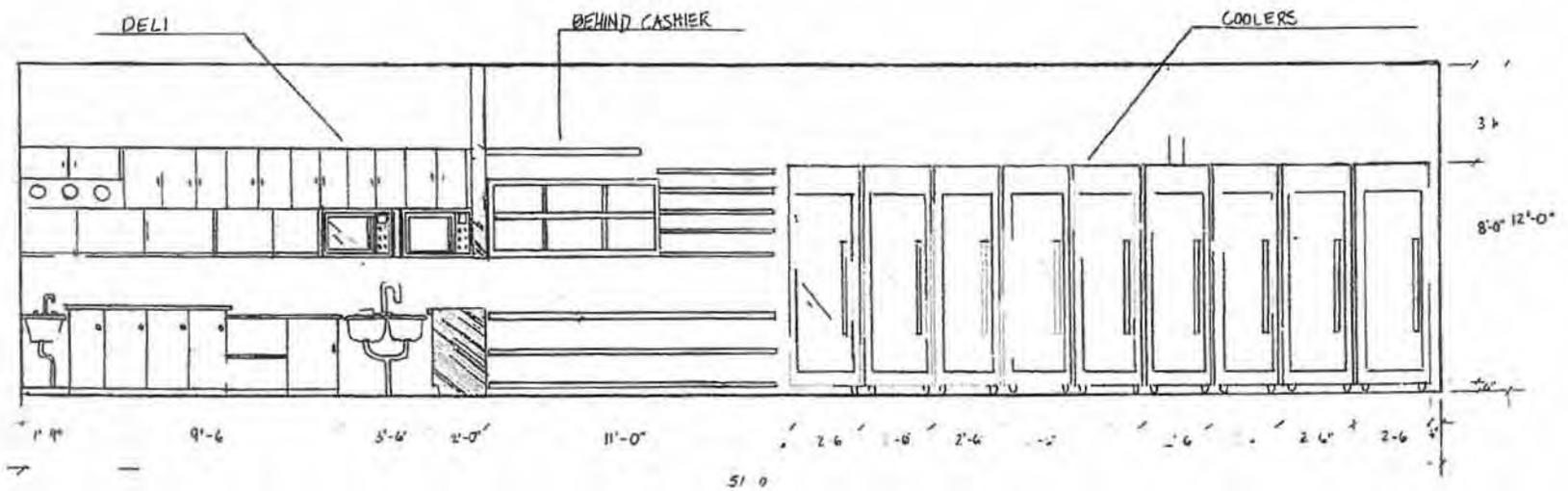
- 1 Embassy Suites Hotel
- 2 A Beauty Salon
- 3 Starbucks
- 4 G Street Deli
- 5 Razkallah Barber Shop
- 6 Navy Broadway Complex Parking
- 7 Seaport Grill
- 8 Pet Assistance Foundation
- 9 Park Place Condominium
- 10 Arch Stone Apartments
- 11 Arch Stone Apartments
- 12 Navy Broadway Complex
- 13 Garage Parking for Embassy Suite Hotel
- 14 Chesapeake Fish Parking



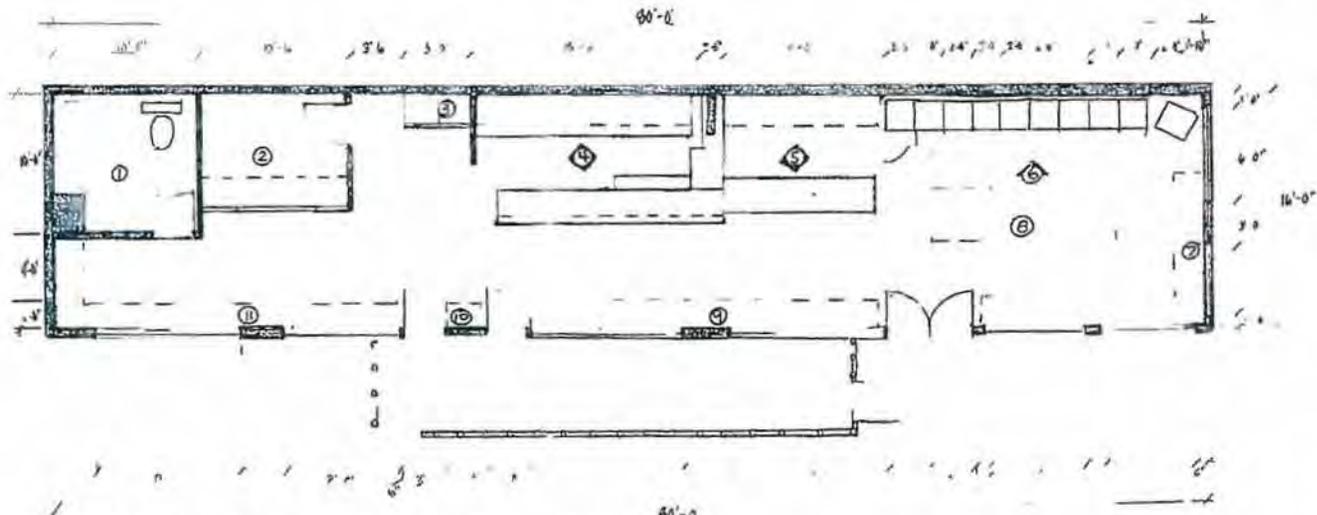
ATTACHMENT B




 EXTERIOR VIEW OF SECTION 1
 SCALE 1/8" = 1'-0"




 NORTH INTERIOR ELEVATION
 SCALE 1'-0" = 1/4"




FLOOR PLAN - G-TRUCK ILL-1
 SCALE 1'-0" = 1/8"

LEGEND	
1	RESTROOM
2	WALK IN COOLERS
3	COOLERS
4	DELI
5	CASHIER AREA
6	COOLERS
7	SHELVING
8	CENTER SHELVING
9	SHELVING
0	SHELVES
1	SHELVING



THE CITY OF SAN DIEGO

October 17, 2011

IN REPLY PLEASE
GIVE OUR REF.NO.
1914141113

Wael Hadad
601 Pacific Highway
San Diego, Ca. 92101
Reference: PCN Application

Dear Mr. Hadad:

On September 28, 2011, you requested a Public Convenience or Necessity evaluation of the premises located at 601 Pacific Highway, San Diego, CA. in consideration for a Type 21 Off-Sale General License.

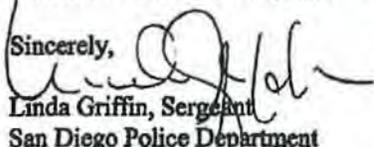
I conducted a site inspection on October 13, 2011 of the premises and the surrounding areas. The premise currently has an active Type 20 Off-Sale Beer and Wine License (501305). The current license is in good standing and no violations were noted per the Department of Alcohol Beverage and Control.

The issuance of a Type 21 license with the surrender of the current Type 20 license would bring no change to the ratio of off-sale licenses within Census Tract 0054.00. With appropriate restrictive conditions placed on the Type 21 license by the Department of Alcohol Beverage and Control it appears the business would benefit the area. Some of those restrictive conditions would include but are not limited to: appropriate hours, size limits of distilled (no less than 375ml), no single sales of beer, malt beverages and/or wine coolers and floor space dedicated to refrigerated product. Other conditions may be requested to mitigate any public safety issues.

In accordance with Business and Professions Code, section 23958.4 your application is required to meet standards for public convenience and necessity. After consulting with Centre City Development Corporation, I learned that you will still need to obtain a Conditional Use Permit in order to conduct the type of business planned for this location.

However, pending approval by the Centre City Development Corporation, your application for Public Convenience or Necessity has been approved.

Sincerely,


Linda Griffin, Sergeant
San Diego Police Department
Vice Admin Unit

401 B.st

CITY OF SAN DIEGO POLICE DEPARTMENT
VICE OPERATIONS
1401 BROADWAY, SAN DIEGO, CA 92101-5729
PHONE: (619) 531-2452 FAX: (619) 531-2449



ATTACHMENT C

TOTAL P.03

FORM PER SECTION 23958.4 B&P

CITY OF SAN DIEGO
For Off-Sale, On-Sale Beer, and Public Premises Licenses

- 1. PREMISE ADDRESS: 601 PACIFIC HWY STE A SAN DIEGO CA 92101
- 2. LICENSE TYPE: 21-OFF SALE GENERAL
- 3. TYPE OF BUSINESS: Convenience

CRIME REPORTING DISTRICT 0054.00

NUMBER OF LICENSES ALLOWED 3 NUMBER EXISTING 12

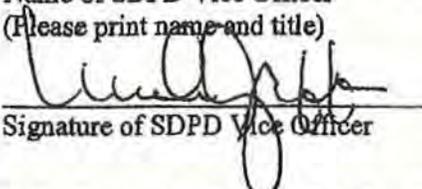
DISTRICT AVERAGE $244.7 \times 120\% = 293.64 =$ HIGH CRIME

CRIMES IN THIS REPORTING DISTRICT 1024 / 418-5

If the above premises are located in an area which has an over-concentration of alcoholic beverage licenses and/or a higher than average crime rate as defined in Section 23958.4 of the Business and Professions Code:

4. WILL PUBLIC CONVENIENCE OR NECESSITY BE SERVED BY ISSUANCE OF THIS ALCOHOLIC BEVERAGE LICENSE?

(This section to be completed by SDPD Vice Section)

<p style="text-align: center;"><input checked="" type="checkbox"/> YES</p> <p><u>LINDA G. AFFIN, SGT</u></p> <p>Name of SDPD Vice Officer (Please print name and title)</p> <p></p> <p>Signature of SDPD Vice Officer</p>	<p style="text-align: center;"><input type="checkbox"/> NO</p> <p style="font-size: 2em; text-align: center;">5312349</p> <p>Phone Number</p> <p style="text-align: center;">10-17-11</p> <p>Date</p>
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01 0928'11 11:32 N000004 PLU
77299PCN \$228.00
P

01 0928'11 11:32 N000004 TND
CHECK \$228.00
T

Under the penalty of perjury, I declare the information in this affidavit is true to the best of my knowledge. I acknowledge that any false or misleading information will constitute grounds for denial of the application for the license or if the license is issued in reliance on information in this affidavit which is false or misleading, then such information will constitute grounds for revocation of the license issued.

\$228.00 APPLICATION FEE AT TIME OF SUBMISSION

APPLICANT'S SIGNATURE:  DATE: 9-28-2011

(Please Print)
APPLICANT'S NAME: Waicel Hadad

MAILING ADDRESS: 601 Pacific Highway San Diego, CA 92104

TELEPHONE NUMBER: (619) 540-8210

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

PREMISE ADDRESS: 601 Pacific Highway #A, San Diego, CA

TYPE OF BUSINESS: Liquor/Deli Store-G Street Deli

FEDERAL CENSUS TRACT: 54.00

NUMBER OF ALCOHOL LICENSES ALLOWED: 7

NUMBER OF ALCOHOL LICENSES EXISTING: 24

CRIME RATE IN THIS CENSUS TRACT: 418.5%
(Note: Considered High Crime If Exceeds 120% of City-wide Average)

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

IS THE PREMISE WITHIN 600 FEET OF INCOMPATIBLE FACILITY YES NO

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

ABC LICENSE REVOKED AT THIS PREMISE WITHIN PAST YEAR YES NO

HAS APPLICANT BEEN CONVICTED OF ANY FELONY YES NO

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

COMMENTS/OTHER FACTORS CONSIDERED: This deli/grocery location is at the Embassy Suites building on Pacific Hwy. Currently, the deli has a Type 20 and is used by residents in nearby condos for grocery services. According to paperwork submitted by CCDC, the owner would like to sell distilled spirits and have alcohol purchase hours from 8am to 10 pm, daily.

SUGGESTED CONDITIONS: The San Diego Police Department agrees to the issuance of this license as long as the following conditions are included in the Alcoholic Beverage Control License:

1. Sales of alcoholic beverages shall be permitted only between the hours of 8 AM and 10 PM each day of the week.
2. Wine shall not be sold in bottles or containers smaller than 750 ml, and wine coolers or beer coolers must be sold in manufacturer pre-packaged multi-unit quantities.
3. No wine shall be sold with an alcoholic content greater than 15% by volume except for "Dinner Wines" which have been aged two years or more.
4. Beer, malt beverages or wine cooler products, regardless of container size, must be sold in multi-unit quantities of no less than three (3). No single sales of beer.
5. The petitioner(s) shall post and maintain a professional quality sign facing the premises parking lot(s) that reads as the following: NO LOITERING, NO LITTERING, NO DRINKING OF ALCOHOLIC BEVERAGES. VIOLATORS ARE SUBJECT TO ARREST. The sign shall

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

6. 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.
7. There shall be no amusement machines or video game devices on the premises at any time.
8. No pay telephone will be maintained on the interior or exterior of the premises.
9. The petitioner(s) shall be responsible for maintaining free of litter the area adjacent to the premises over which they have control, as depicted on the ABC-257 and ABC 253 forms.
10. Floor space dedicated to alcohol shall be limited to not more than 15% of their gross floor area.
11. Security personnel or employees must actively monitor the parking lot to ensure and enforce the no loitering on the property.
12. There shall be video security recording of both the interior and exterior of the premises. Upon request by police the video recording shall be provided within 24 hours of the request.

To include any additional conditions that may be appropriate as a result of an establishment being located within the control of CCDC.

SAN DIEGO POLICE DEPARTMENT RECOMMENDATION:

APPROVE

DENY

RAPALKE AUBREKSEN
Name of SDPD Vice Sergeant (Print)
4854
[Signature]
Signature of SDPD Vice Sergeant

(619) 531-2349
Telephone Number
6/4/12
Date of Review

Civic San Diego

DATE ISSUED: July 19, 2012

ATTENTION: Civic San Diego Hearing Officer
Public Hearing of July 26, 2012

SUBJECT: Public Hearing – G Street Deli (601 Pacific Highway) – A request for Conditional Use Permit No. 2012-20 to allow the off-site sale of alcohol for the G Street Deli, an existing convenience store, located at 601 Pacific Highway – Marina Neighborhood of the Downtown Community Plan Area

STAFF CONTACT: Lorena Córdova, Assistant Planner

REQUESTED ACTION: That the Civic San Diego (CSD) Hearing Officer considers Conditional Use Permit (CUP) No. 2012-20 to allow the off-site sale of alcohol at the G Street Deli, an existing convenience store, located at 601 Pacific Highway in the Marina Neighborhood of the Downtown Community Plan (DCP) Area.

STAFF RECOMMENDATION: That the CSD Hearing Officer approves CUP No. 2012-20, subject to conditions as outlined in the draft permit.

SUMMARY: Raheb, Haddad & Associates (“Applicant”), owns and operates the G Street Deli which has been operating with an Alcohol Beverage Control (ABC) Type 20 license allowing the off-site sale of beer and wine at 601 Pacific Highway since 1988. The G Street Deli was established prior to the current regulations requiring a CUP for establishments engaged in the off-site sale of alcohol and is considered a Previously Conforming Use. The Applicant is currently seeking to upgrade their Type 20 license to a Type 21 license which allows the sale of distilled spirits in addition to beer and wine for off-site consumption. Therefore, given the proposed upgrade in license, the G Street Deli is subject to obtaining approval of a CUP under the current regulations for off-site alcohol sales.

CENTRE CITY ADVISORY COMMITTEE: On June 14, 2012, the Centre City Advisory Committee (CCAC) voted 16-3, with one abstention, to recommend that the CSD Hearing Officer grant CUP approval subject to the conditions in the draft permit. Members voiced concerns about allowing the establishment to have maximum alcoholic beverage quarterly gross sales of 50 percent versus the 25 percent applied to the rest of downtown. Some members also stated concerns with the off-site alcohol sales. After member discussion, they voted to support the permit application.

BACKGROUND

The G Street Deli has been located at 601 Pacific Highway in the Marina neighborhood since 1988 and has been operating under an ABC Type 20 license allowing the off-site sale of beer and

wine for the last 24 years. In 2010, the ownership of the G Street Deli was transferred to the current Applicant. In order to expand their business, the Applicant is requesting a license upgrade from ABC from a Type 20 to a Type 21 allowing the off-site sale of beer, wine and distilled spirits. While the G Street Deli is considered a Previously Conforming Use, a proposed upgrade in license is considered an expansion and therefore would require compliance with current land use regulations.

The establishment is located within the Marina Planned District and is subject to the requirements of the Marina Planned District Ordinance (MPDO). Under the MPDO, establishments engaged in the off-site sale of alcohol are subject to the Alcohol Beverage Outlets regulations of the San Diego Municipal Code (SDMC) which require approval of a CUP. The CUP procedures establish a review process for the development of uses that may be desirable under appropriate circumstances, but are not permitted by right. The intent of these procedures is to review the uses, on a case-by-case basis, to determine whether the proposed use may be appropriate at a given site.

In addition, within the City of San Diego, ABC requires that all applicants requesting Type 20 or 21 off-site alcohol sale licenses obtain Public Convenience and Necessity (PCN) approval from the San Diego Police Department (SDPD) Vice Unit. The intent of this approval is to determine whether or not the issuance of such a license would create a law enforcement problem or result in an undue overconcentration of licenses in the area. The SDPD makes a PCN determination based on crime statistics, the ratio of license to population in the area, and other similar criteria. The SDPD has approved the PCN for the proposed upgrade in addition to a number of recommended conditions of approval. The approved PCN and SDPD recommended conditions have been included as an attachment to this report.

DEVELOPMENT TEAM

ROLE	FIRM/CONTACT	OWNERSHIP
Applicant	Raheb, Haddad & Associates, Inc./ Jeries El -Raheb	Jeries El-Raheb, President (Privately-owned)
Property Owner	Embassy Suites Management, LLC/Tim Benolken	Tim Benolken, Senior Vice President (Privately-owned)

DISCUSSION

Project Description

The G Street Deli is located within a 1,200 square-foot ground-floor space of the Embassy Suites Hotel located on the south side of G Street between Pacific Highway and California Street (railroad tracks). Uses surrounding the site include the Archstone apartments to the north, Navy office buildings to the west, the Park Place and Park Row residential condominiums to the east and Seaport Village to the south. A map showing adjacent land uses has been included as Attachment A to this report.

In the Marina neighborhood there are no establishments with a CUP allowing the off-site sale of alcohol. However, similar to the G Street Deli, the Ralph's Supermarket ("Ralph's") located at 101 G Street is also considered a Previously Conforming Use established prior to the requirement for a CUP. Ralph's currently operates with an ABC Type 21 license and sells beer, wine and distilled spirits between the hours of 6:00a.m. and 12:00 a.m. (Midnight) seven days of the week.

The G Street Deli is a typical convenience store and deli selling frozen foods, meats, a variety of health and beauty items and other general merchandise. The establishments main clientele includes hotel guests and nearby residents. The establishment's hours of operation since they opened in 1988 have been from 8:00 a.m. to 10:00 p.m. seven days a week. Site photographs and the floor plans of the project site have been included as Attachment B.

Conditional Use Permit

Under the MPDO, retail sales are a permitted use. However, the retail sale of alcohol for off-site consumption is considered a Separately Regulated Commercial Use under the SDMC and is therefore subject to approval of a CUP. As part of the CUP review process, the decision maker (in this case the CSD Hearing Officer) may impose reasonable conditions related to the following:

- A. Entertainment uses or activities or amusement devices on the premises;
- B. Separation, monitoring, or design of the area devoted to alcoholic beverage sales;
- C. Hours of operation;
- D. Security measures; and,
- E. Lighting, litter, graffiti or nuisance abatement, or any other special requirements for the premises.

The Applicant is requesting that G Street Deli be allowed to operate as they have been operating since they first opened in 1988 without limitations on quarterly gross sale, quantity or size limitations. Staff acknowledges that the establishment has been in operation for the past 24 years without any known incidents and has taken this into consideration. Staff has thoroughly evaluated the Applicant's request and supports issuance of the CUP subject to the following minimum conditions consistent with other off-site alcohol sale establishments downtown:

- A. No wine or distilled spirits shall be sold in containers of less than 750 milliliters.
- B. No beer or malt beverage products shall be sold in quantities of less than a six-pack or 64 ounces per sale.
- C. No alcoholic beverages shall be sold except between the hours of 8:00 a.m. and 10:00p.m.
- D. Quarterly gross sales of alcoholic beverages shall not exceed 50 percent of the quarterly gross sales of the establishment.

Within the DCP area, the off-site sales of alcohol are typically limited to the hours of 10:00 a.m. to 10:00p.m. and the quarterly gross sales of alcohol are limited to no more than 25% of the quarterly gross sales of the establishment unless an exception has been granted by the Hearing Officer. In this case, staff considers it appropriate to allow the G Street Deli to maintain their existing hours of operation (8:00 a.m. to 10:00 p.m.) and limit their quarterly gross sales to 50% rather than 25%. The establishment has been operating under these conditions for the last 24 years; their license is in good standing without violations per ABC and these conditions are consistent with those recommended by SDPD. That being said, understanding the concerns with the expansion of the types of alcoholic beverages being sold for off-site consumption, staff is also recommending that the CUP be subject to an administrative review six-months after the upgraded license has been issued and commencement of the expanded alcohol sales.

In addition, staff supports the recommended conditions proposed by SDPD and has incorporated them into the draft permit. The draft CUP is included as Attachment C and the SDPD recommended conditions are outlined in Attachment D.

Staff has received public correspondence in opposition to the CUP based on concerns related to the addition of distilled spirits (Attachment E). Several residents are concerned that allowing the business to expand their off-site alcohol sales to include distilled spirits could exacerbate the issues that they note already threaten the nearby residents' quality of life. Although these issues raised are of concern, based on discussions with SDPD, the license and business owner are in good standing and there have been no reported violations. Additionally, as the proposed upgrade requires a CUP, the Hearing Officer can impose a reasonable set of enforceable conditions that will ensure that the use does not become a nuisance to the surrounding neighborhood. Therefore, staff is recommending approval of the CUP with the conditions as recommended above.

Findings – Pursuant to Section 126.0305 of the SDMC, the following four findings must be made in order to approve a CUP:

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

The sale of alcoholic beverages at G Street Deli will not adversely affect the applicable land use plan as it adheres to the MPDO and is consistent with the goals of the DCP. The MPDO allows retail sales by right within the planned district and requires approval of a CUP for the off-site sale of alcoholic beverages. The DCP establishes a goal to pursue and promote strategic opportunities for retail and other neighborhood services. The G Street Deli is an existing convenience store that is applying for a CUP to provide an additional convenience to customers by offering distilled spirits for off-site consumption.

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

The proposed retail sales of alcohol will not be detrimental to the public health, safety and welfare when operated with the conditions of approval that include restriction of hours, size and quantity limitations, among others.

3. *The proposed use or development will comply to the maximum extent feasible with the regulations of the Land Development Code; and,*

The proposed use is consistent with the MPDO, LDC and the DCP. The use will be required to comply with all applicable regulations, conditions of approval and the requirements of the ABC and the SDPD.

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

The G Street Deli is appropriate at their existing location. The business is surrounded by hotels, residential buildings and located along the waterfront. At their current location, G Street Deli will continue to serve hotel guests, tourists and residents in the area.

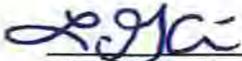
Environmental Impact: This activity is categorically exempt from the California Environmental Quality Act (CEQA) pursuant to State CEQA Guidelines Section 15301 Existing Facilities ("Class 1"). The categorical exemption applies to permitting, licensing, or minor alteration of existing public or private structures. The key consideration is whether the project involves negligible or no expansion of an existing use. The project consists of an existing convenience store that is seeking to sell distilled spirits for off-premise consumption where such use is customary and ancillary to the primary use. Therefore, the Class 1 exemption is applicable. The application of a categorical exemption to this project is not precluded by any of the exceptions set forth in State CEQA Guidelines Section 15300.2.

CONCLUSION

Based on this discussion, and the findings provided above, staff is recommending that the CSD Hearing Officer approve CUP No. 2012-20, subject to the conditions listed in the draft permit.

Respectfully submitted,

Concurred by:

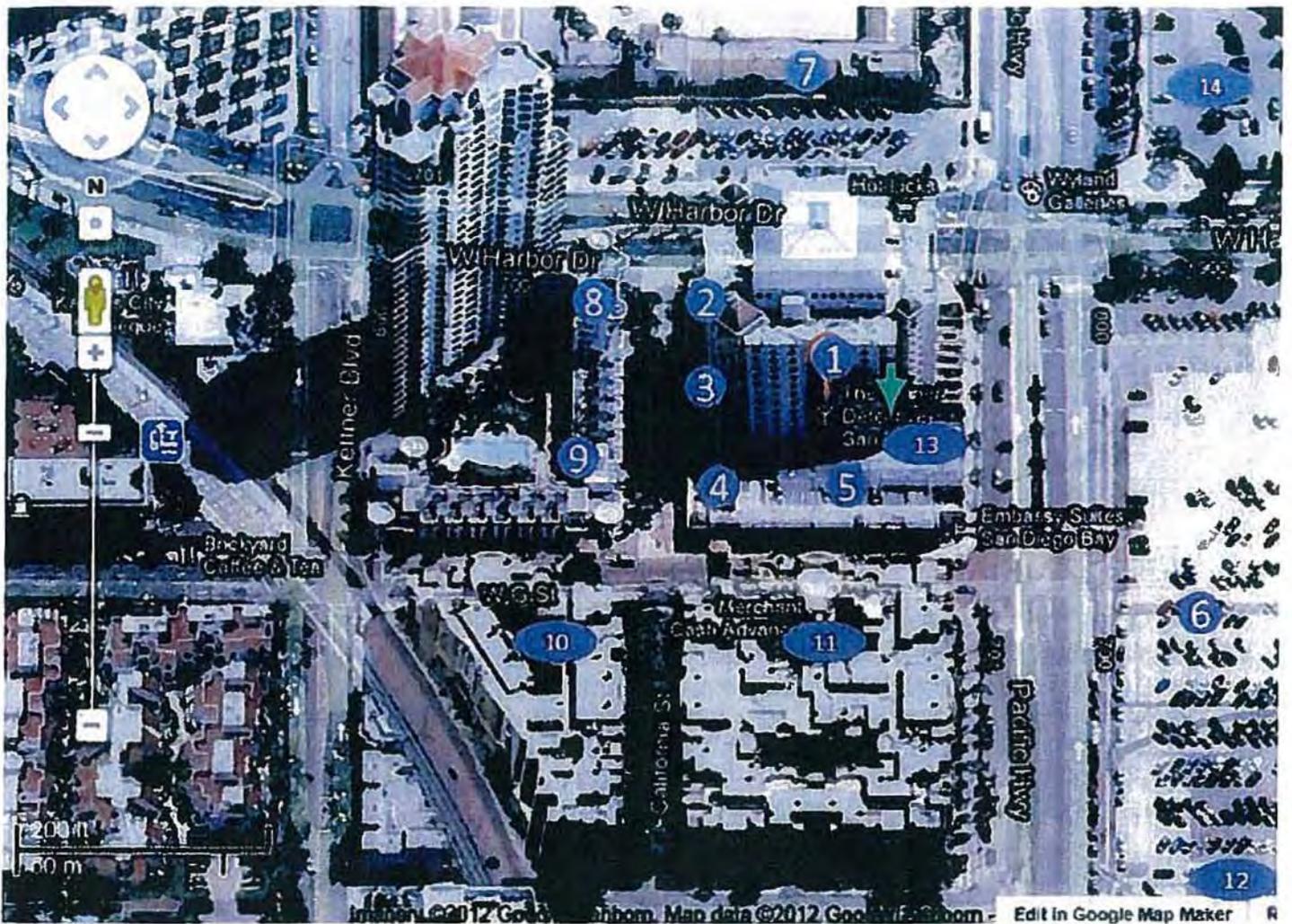


Lorena Cordova
Assistant Planner



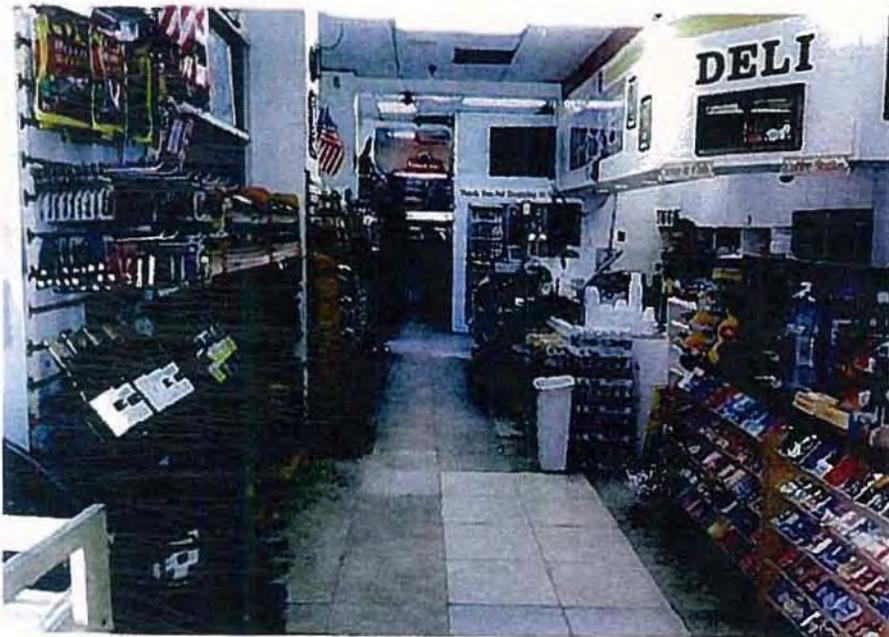
Brad Richter
Assistant Vice President, Planning

Attachments: Attachment A – Map of Adjacent Land Uses
Attachment B – Site Photographs and Plans
Attachment C – Draft CUP No. 2012-20
Attachment D – SDPD Approved PCN and CUP Recommendation
Attachment E – Public Correspondence

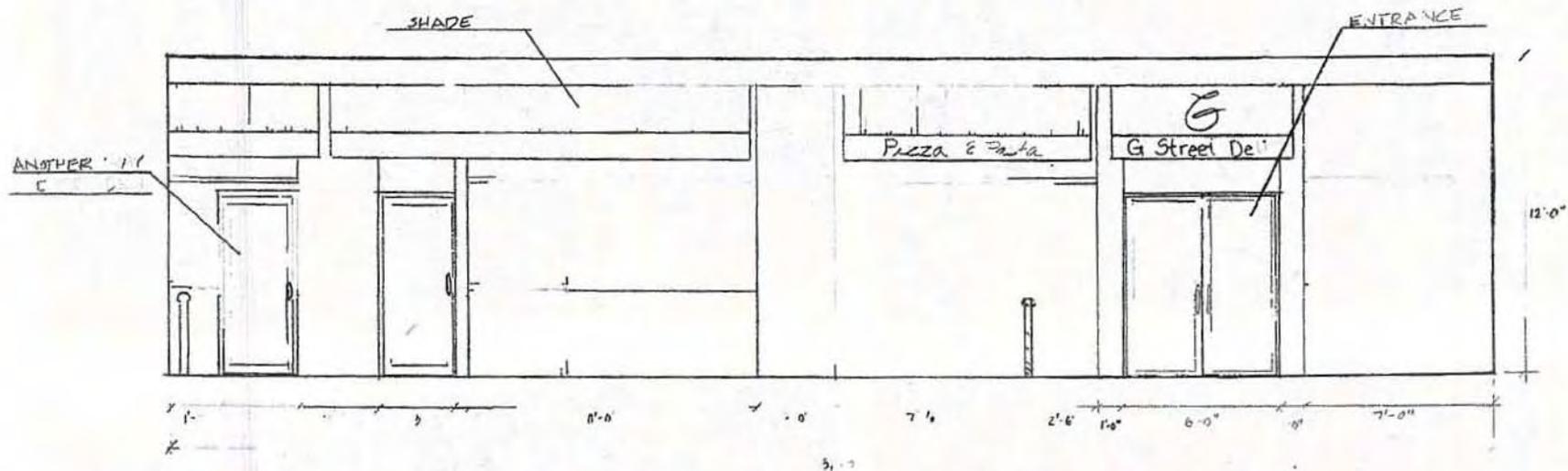


Legend

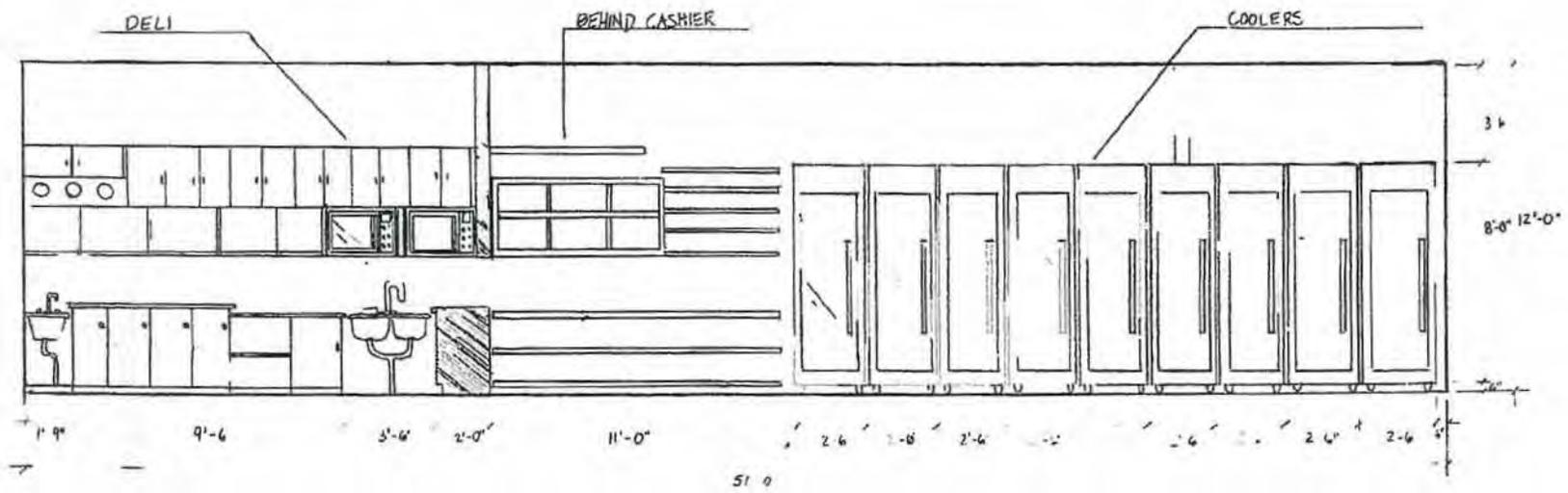
- 1 Embassy Suites Hotel
- 2 A Beauty Salon
- 3 Starbucks
- 4 G Street Deli
- 5 Razkallah Barber Shop
- 6 Navy Broadway Complex Parking
- 7 Seaport Grill
- 8 Pet Assistance Foundation
- 9 Park Place Condominium
- 10 Arch Stone Apartments
- 11 Arch Stone Apartments
- 12 Navy Broadway Complex
- 13 Garage Parking for Embassy Suite Hotel
- 14 Chesapeake Fish Parking



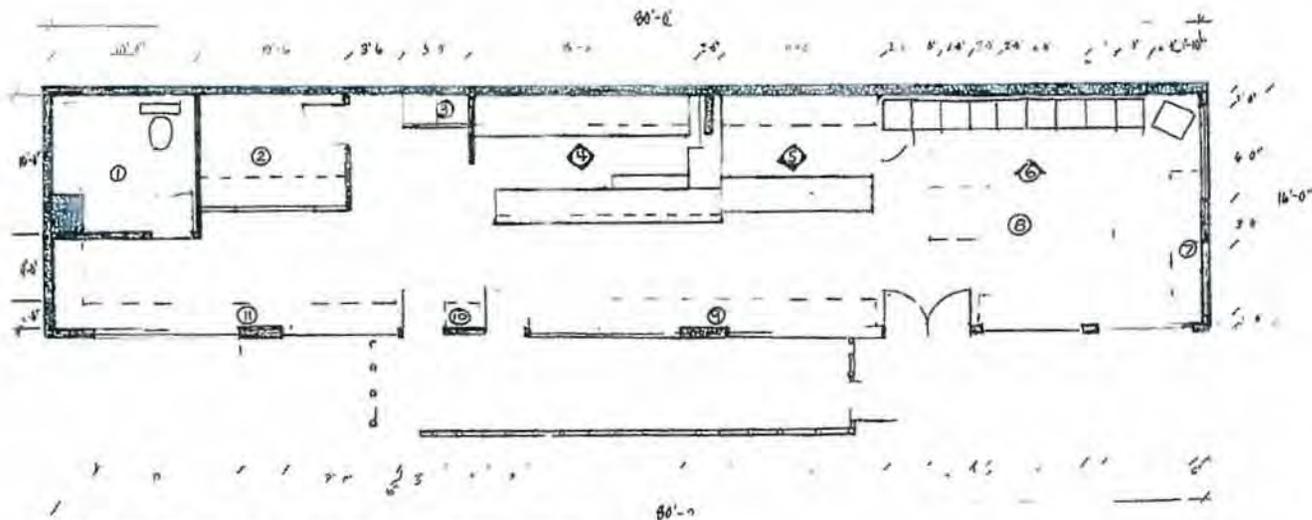
ATTACHMENT B




 EXTERIOR VIEW OF SEATING DECK
 SCALE 1/8" = 1'-0"




 NORTH INTERIOR ELEVATION
 SCALE 1'-0" = 1/4"



FLOOR PLAN - GUT FLOOR I-1
 SCALE 1'-0" = 1/8"

LEGEND	
1	RESTROOM
2	WALK IN COOLERS
3	COOLERS
4	DELI
5	CASHIER AREA
6	COOLERS
7	SHELVING
8	CENTER SHELVING
9	SHELVING
10	SHELVES
11	SHELVING

RECORDING REQUESTED BY:

Civic San Diego
401 B Street, Suite 400
San Diego, CA 92101

AND WHEN RECORDED MAIL TO:

Civic San Diego
401 B Street, Suite 400
San Diego, CA 92101

THIS SPACE FOR RECORDER'S USE ONLY

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

**DECISION OF THE CIVIC SAN DIEGO
HEARING OFFICER**

**MARINA PLANNED DISTRICT
CONDITIONAL USE PERMIT NO. 2012-20
601 PACIFIC HIGHWAY, SUITE A
[APN# 535-700-49]**

ATTACHMENT C

**Decision of the Civic San Diego Hearing Officer
MARINA PLANNED DISTRICT
CONDITIONAL USE PERMIT NO. 2012-20
601 PACIFIC HIGHWAY, SUITE A
[APN# 535-700-49]**

This Conditional Use Permit (CUP) No.2012-20 is granted by the Civic San Diego (CSD) Hearing Officer to Jeries El-Raheb, Owner/Permittee, pursuant to San Diego Municipal Code (SDMC) Sections 126.0304, 126.0305, 103.1904, 103.1925 and 103.1919. The 1,200 square-foot site is located at 601 Pacific Highway, Suite A, in the Marina Planned District of the Downtown Community Plan Area. The development site is legally described as shown in Exhibit A in the City of San Diego, County of San Diego, State of California, according to map thereof on file in the Office of the County Recorder of San Diego County.

On July 26, 2012, the Hearing Officer of CSD held a duly noticed public hearing and considered CUP No. 2012-20, including a staff report and recommendation and public testimony, pursuant to Sections 126.0304, 126.0305, 103.1904, 103.1925 and 103.1919 of the Municipal Code of the City of San Diego.

NOW THEREFORE, BE IT RESOLVED that subject to the terms and conditions set forth in this Permit, CUP No.2012-20 is GRANTED to the Owner/Permittee to allow the sale of alcoholic beverages for off-site consumption at a convenience store as described and identified by size, dimension, quantity, type and location as follows and on the approved exhibits on file in the CSD Planning Department.

1. The business shall maintain a valid Type 21 (Off-Sale General – Package Store) from the State Department of Alcoholic Beverage Control and shall be in compliance with all conditions of said license at all times.
2. No wine or distilled spirits shall be sold in containers of less than 750 milliliters.
3. No malt beverage products shall be sold in quantities of less than a six-pack or 64 ounces per sale.
4. Quarterly gross sales of alcoholic beverages shall not exceed 50 percent of the quarterly gross sales of the establishment.
5. No alcoholic beverages shall be sold except between the hours of 8:00 a.m. and 10:00 p.m. of each day of the week.
6. No more than 30% of the square footage of the windows and transparent doors of the premises may bear advertising or signs of any sort, and all advertising and signage shall be placed and maintained in a manner to ensure that law enforcement personnel have a clear and unobstructed view of the interior of the outlet.

CUP No. 2012-20
G Street Deli

7. An administrative review shall occur within six (6) months of the date of commencement of operation to ensure conformance with the conditions stated herein. This review shall be noticed to all interested parties identified in this application. At that time, staff will determine if a formal duly noticed public hearing is required, at which time modifications to, or revocation of the CUP may be considered.
8. The owner/operator shall post sign(s) that are prominent and permanent stating, "No loitering, no littering, no drinking of alcoholic beverages are allowed on the premises or on the public sidewalks adjacent to the premises."
9. Security personnel or employees must actively monitor the parking lot to ensure and enforce the no loitering on the property.
10. There shall be video security recording of both the interior and exterior of the premises.
11. The owner/operator shall maintain the premises and the adjacent public sidewalks free of litter, and the storefront free of graffiti, at all times.
12. A point of contact from G Street Deli shall be kept on file with CSD in case any complaints arise. Complaints shall be responded to by G Street Deli within 48 hours.
13. This CUP shall expire on July 26, 2022, unless an extension is granted. The permit may be extended through a duly noticed public process in accordance with applicable regulations, in effect at the time of the extension request.
14. This Permit may be revoked by CSD if there is a material breach or default in any of the conditions of this permit. If the business creates a nuisance to the surrounding neighborhood, based on a determination of the President of CSD, this permit may be revoked after the holding of a public hearing.
15. This Permit shall not become effective until:
 - a) The Permittee signs and returns the Permit to CSD; and
 - b) The Permit is recorded in the Office of the County Recorder.
 - c) This Permit must be used within 36 months after the date of approval or the Permit shall be void.
16. After establishment of the business, the Property shall not be used for other uses unless:
 - a) Authorized by CSD; or
 - b) The uses are consistent with all zoning and development regulations of the Centre City Planned District Ordinance; or

CUP No. 2012-20
G Street Deli

c) This permit has been revoked by CSD.

17. This Permit is a Covenant running with the lands and shall be binding upon the Permittee and any successor or successors, and the interests of any successor shall be subject to each and every condition set out in this permit and all referenced documents.
18. The owner or operator shall adhere to all Federal, State and local laws, ordinances and regulations at all times.
19. The owner or operator shall maintain the CUP and other business licenses in the establishment and shall make these documents available to anyone lawfully engaged in the inspections of the premises.

Passed and adopted by the Hearing Officer of CSD on July 26, 2012.

AUTHENTICATED BY THE CIVIC SAN DIEGO

Lorena Cordova
Assistant Planner

**Note: Notary Acknowledgement
must be attached per Civil Code
Section 1189 et seq.**

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

Jeries El-Raheb
Raheb, Haddad & Associates, Inc.
Owner/Permittee

By: _____
Jeries El-Raheb
Raheb, Haddad & Associates, Inc.

**Note: Notary Acknowledgement
must be attached per Civil Code
Section 1189 et seq.**

**CIVIC SAN DIEGO
HEARING OFFICER
RESOLUTION NO. 2012-20
CONDITIONAL USE PERMIT NO. 2012-20**

WHEREAS, Jeries El-Raheb, Owner/Permittee, filed an application for a Civic San Diego (CSD) Conditional Use Permit (CUP) No. 2012-20 to allow the sale of alcoholic beverages for off-site consumption for a convenience store, located at 601 Pacific Highway, Suite A, within the Marina Planned District of the Downtown Community Plan (DCP) Area and more particularly describes in "Exhibit A" in the City of San Diego, State of California, according to map thereof made on file in the office of the County Recorder of San Diego;

WHEREAS, on July 26, 2012, the CSD Hearing Officer held a duly noticed public hearing and considered CUP No.2012-20, including a staff report and recommendation, and public testimony, pursuant to Sections 126.0304, 126.0305, 103.1904, 103.1925 and 103.1919 of the Municipal Code of the City of San Diego; and,

WHEREAS, this project is categorically exempt from the California Environmental Quality Act (CEQA) under State CEQA Guidelines Section 15301 (entitled "Existing Facilities"). Section 15301 applies to a class of projects ("Class 1") that includes the operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing public and private structures, facilities, mechanical equipment, or topographical features when the project involves negligible or no expansion of the existing use. The project consists of an existing convenience store that is seeking to sell distilled spirits for off-premise consumption where such use is customary and ancillary to the primary use. Therefore, the Class 1 exemption is applicable. The application of a categorical exemption to this project is not precluded by any of the exceptions set forth in State CEQA Guidelines Section 15300.2.

NOW, BE IT RESOLVED, that the Hearing Officer adopts the following written findings under Section 126.0305 of the San Diego Municipal Code:

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

The sale of alcoholic beverages at G Street Deli will not adversely affect the applicable land use plan as it adheres to the MPDO and is consistent with the goals of the DCP. The MPDO allows retail sales by right within the planned district and requires approval of CUP for the off-site sale of alcoholic beverages. The DCP establishes a goal to pursue and promote strategic opportunities for retail and other neighborhood services. G Street Deli is an existing convenience store that is applying for a CUP to provide an additional convenience to customers offering distilled spirits for off-site consumption.

- b. *The proposed use or development will not be detrimental to the public health, safety and welfare.*

RESOLUTION NO. 2012-20
PERMIT NO. 2012-20
601 Pacific Highway

The proposed retail sales of alcohol will not be detrimental to the public health, safety and welfare when operated with the conditions of approval that include restrictions of hours, size and quantity limitations, among others.

c. The proposed use or development will comply to the maximum extent feasible with the regulations of the Land Development Code.

The proposed use is consistent with the MPDO and the DCP. The use will be required to comply with all applicable regulations, conditions of approval and the requirements of the ABC and the SDPD.

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

G Street Deli is appropriate at their existing location. The business is surrounded by hotels, residential buildings and located along the waterfront. At their current location, G Street Deli will continue to serve the hotel guests, tourists and residents in the area.

NOW THEREFORE, BE IT RESOLVED that based on the findings, hereinbefore adopted by the CSD Hearing Officer, CUP No. 2012-20 is hereby **GRANTED** to the referenced Owner/Permittee, in the form, exhibits, terms and conditions set forth in the Permit a copy of which is attached hereto and made part hereof.

ADOPTED AND APPROVED by the Hearing Officer on July 26, 2012.

AUTHENTICATED BY THE CIVIC SAN DIEGO

Lorena Cordova
Assistant Planner

Note: Notary Acknowledgement
must be attached per Civil Code
Section 1189 et seq.

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

By: _____
Jerjes El-Raheb
Raheb, Haddad & Associates, Inc.

Note: Notary Acknowledgement
must be attached per Civil Code
Section 1189 et seq.



THE CITY OF SAN DIEGO

October 17, 2011

IN REPLY PLEASE
GIVE OUR REF.NO.
1914141113

Wael Hadad
601 Pacific Highway
San Diego, Ca. 92101
Reference: PCN Application

Dear Mr. Hadad:

On September 28, 2011, you requested a Public Convenience or Necessity evaluation of the premises located at 601 Pacific Highway, San Diego, CA. in consideration for a Type 21 Off-Sale General License.

I conducted a site inspection on October 13, 2011 of the premises and the surrounding areas. The premise currently has an active Type 20 Off-Sale Beer and Wine License (501305). The current license is in good standing and no violations were noted per the Department of Alcohol Beverage and Control.

The issuance of a Type 21 license with the surrender of the current Type 20 license would bring no change to the ratio of off-sale licenses within Census Tract 0054.00. With appropriate restrictive conditions placed on the Type 21 license by the Department of Alcohol Beverage and Control it appears the business would benefit the area. Some of those restrictive conditions would include but are not limited to: appropriate hours, size limits of distilled (no less than 375ml), no single sales of beer, malt beverages and/or wine coolers and floor space dedicated to refrigerated product. Other conditions may be requested to mitigate any public safety issues.

In accordance with Business and Professions Code, section 23958.4 your application is required to meet standards for public convenience and necessity. After consulting with Centre City Development Corporation, I learned that you will still need to obtain a Conditional Use Permit in order to conduct the type of business planned for this location.

However, pending approval by the Centre City Development Corporation, your application for Public Convenience or Necessity has been approved.

Sincerely,


Linda Griffin, Sergeant
San Diego Police Department
Vice Admin Unit

401 B. St

CITY OF SAN DIEGO POLICE DEPARTMENT
VICE OPERATIONS
1401 BROADWAY, SAN DIEGO, CA 92101-5720
PHONE: (619) 531-2452 FAX: (619) 531-2449



FORM PER SECTION 23958.4 B&P

**CITY OF SAN DIEGO
For Off-Sale, On-Sale Beer, and Public Premises Licenses**

- 1. PREMISE ADDRESS: 601 PACIFIC HWY STE A SAN DIEGO CA 92101
- 2. LICENSE TYPE: 21-OFF SALE GENERAL
- 3. TYPE OF BUSINESS: Convenience

CRIME REPORTING DISTRICT 0054.00

NUMBER OF LICENSES ALLOWED 3 NUMBER EXISTING 12

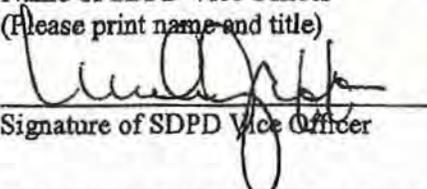
DISTRICT AVERAGE 244.7X 120% = 293.64 = HIGH CRIME

CRIMES IN THIS REPORTING DISTRICT 1024 / 418.5

If the above premises are located in an area which has an over-concentration of alcoholic beverage licenses and/or a higher than average crime rate as defined in Section 23958.4 of the Business and Professions Code:

4. WILL PUBLIC CONVENIENCE OR NECESSITY BE SERVED BY ISSUANCE OF THIS ALCOHOLIC BEVERAGE LICENSE?

(This section to be completed by SDPD Vice Section)

<input checked="" type="checkbox"/> YES	<input type="checkbox"/> NO	01 0928'11 11:32 N000004 PLU 77299PCN \$228.00
LINDA GRADIN, SGT Name of SDPD Vice Officer (Please print name and title)		P 5312349 Phone Number 01 0928'11 11:32 N000004 TND CHECK \$228.00 T
 Signature of SDPD Vice Officer		10-17-11 Date

Under the penalty of perjury, I declare the information in this affidavit is true to the best of my knowledge. I acknowledge that any false or misleading information will constitute grounds for denial of the application for the license or if the license is issued in reliance on information in this affidavit which is false or misleading, then such information will constitute grounds for revocation of the license issued.

\$228.00 APPLICATION FEE AT TIME OF SUBMISSION

APPLICANT'S SIGNATURE: Waicel Hadad DATE: 9-28-2011

(Please Print)
APPLICANT'S NAME: Waicel Hadad

MAILING ADDRESS: 601 Pacific Highway San Diego, CA 92104

TELEPHONE NUMBER: (619) 540-8210

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

PREMISE ADDRESS: 601 Pacific Highway #A, San Diego, CA

TYPE OF BUSINESS: Liquor/Deli Store-G Street Deli

FEDERAL CENSUS TRACT: 54.00

NUMBER OF ALCOHOL LICENSES ALLOWED: 7

NUMBER OF ALCOHOL LICENSES EXISTING: 24

CRIME RATE IN THIS CENSUS TRACT: 418.5%
(Note: Considered High Crime If Exceeds 120% of City-wide Average)

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

IS THE PREMISE WITHIN 600 FEET OF INCOMPATIBLE FACILITY YES NO

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

ABC LICENSE REVOKED AT THIS PREMISE WITHIN PAST YEAR YES NO

HAS APPLICANT BEEN CONVICTED OF ANY FELONY YES NO

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

COMMENTS/OTHER FACTORS CONSIDERED: This deli/grocery location is at the Embassy Suites building on Pacific Hwy. Currently, the deli has a Type 20 and is used by residents in nearby condos for grocery services. According to paperwork submitted by CCDC, the owner would like to sell distilled spirits and have alcohol purchase hours from 8am to 10 pm, daily.

SUGGESTED CONDITIONS: The San Diego Police Department agrees to the issuance of this license as long as the following conditions are included in the Alcoholic Beverage Control License:

1. Sales of alcoholic beverages shall be permitted only between the hours of 8 AM and 10 PM each day of the week.
2. Wine shall not be sold in bottles or containers smaller than 750 ml, and wine coolers or beer coolers must be sold in manufacturer pre-packaged multi-unit quantities.
3. No wine shall be sold with an alcoholic content greater than 15% by volume except for "Dinner Wines" which have been aged two years or more.
4. Beer, malt beverages or wine cooler products, regardless of container size, must be sold in multi-unit quantities of no less than three (3). No single sales of beer.
5. The petitioner(s) shall post and maintain a professional quality sign facing the premises parking lot(s) that reads as the following: NO LOITERING, NO LITTERING, NO DRINKING OF ALCOHOLIC BEVERAGES. VIOLATORS ARE SUBJECT TO ARREST. The sign shall

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

6. 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.
7. There shall be no amusement machines or video game devices on the premises at any time.
8. No pay telephone will be maintained on the interior or exterior of the premises.
9. The petitioner(s) shall be responsible for maintaining free of litter the area adjacent to the premises over which they have control, as depicted on the ABC-257 and ABC 253 forms.
10. Floor space dedicated to alcohol shall be limited to not more than 15% of their gross floor area.
11. Security personnel or employees must actively monitor the parking lot to ensure and enforce the no loitering on the property.
12. There shall be video security recording of both the interior and exterior of the premises. Upon request by police the video recording shall be provided within 24 hours of the request.

To include any additional conditions that may be appropriate as a result of an establishment being located within the control of CCDC.

SAN DIEGO POLICE DEPARTMENT RECOMMENDATION:

APPROVE

DENY

RAPALKE AUBREYSEN
Name of SDPD Vice Sergeant (Print)

(619) 5312349
Telephone Number

[Signature]
Signature of SDPD Vice Sergeant

6/4/12
Date of Review

Lorena Cordova

From: Chris & Judy Panagos [xnuyalkers@att.net]
Sent: Saturday, April 28, 2012 3:04 PM
To: Lorena Cordova
Subject: Conditional Permit No. 2012-20

Ms. Cordova,

As residents and taxpayers residing in the Marina district at 700 West Harbor Drive we are strongly opposed to this application. It will only add additional nuisances to the peace and quiet of our neighborhood and provides no benefit other than to create additional drunkenness in our city.

Please note our feelings.

Respectfully,

Chris & Judy Panagos

ATTACHMENT E

Lorena Cordova

From: Ron Vandenberg [ronvande@cox.net]
Sent: Thursday, May 10, 2012 1:56 PM
To: lgarrett.ccac@gmail.com
Cc: Lorena Cordova
Subject: Conditional Use Permit (CUP) (PROCESS THREE), No. 2012-20
Expires: Wednesday, August 08, 2012 12:00 AM

Dear Ms. Garrett, Chair CCAC and Ms Cordova, Project Planner:

I am Ronald Vandenberg, Chair of the Park Place Community Action Group (PPCAG). The PPCAG consists of about 90 members who are residents of Park Place Condominium at 700 West Harbor Drive. Our building is immediately across California Street from the G Street Deli which is requesting a Conditional Use Permit, No. 2012 -20, (Process Three) to sell alcoholic beverages for off-site consumption.

We understand that CUP (Process Three) places the following conditions on the seller:

- A. No wine or distilled spirits shall be sold in containers of less than 750 milliliters.
- B. No malt beverage products shall be sold in quantities of less than a six-pack or 64 ounces per sale.
- C. Quarterly gross sales of alcoholic beverages shall not exceed 25 percent of the quarterly gross sales of the establishment.
- D. No alcoholic beverages shall be sold except between the hours of 10:00 a.m. and 10:00 p.m. of each day of the week.

However, the CCDC Hearing Officer may approve exceptions to (C) or (D) above upon making the following findings:

- 1. The request for the exception was provided in the public notice for the hearing ... **WHICH WE BELIEVE HAS NOT BEEN DONE ...** and
- 2. The proposed use and operations are compatible with existing and planned surrounding land uses ... **WHICH WE BELIEVE THEY ARE NOT.**

We wish to comment on this CUP at the (CCAC), downtown's community planning group meeting and wish to be notified of the meeting and of the dates, times and location for community review of this project.

Thank you for providing us with this information.

Sincerely,

Ronald Vandenberg
Chair, Park Place Community Action Group
ronvande@cox.net
619-818-0705

To whom it may concern,

I want to take this opportunity to thank you, the board members and the staff for your time and effort to process my appeal application. Since our meeting on July 20, 2012 I have been studying some of these conditions and how it is going to impact the business. Furthermore I shared the potential changes with my loyal customers that have been shopping at the store for years, to see their reaction.

Number one the time regulation which is going to be changed our sales from no restriction to 10am to 10pm. Second selling any single cans of beer and malt beer with no restriction whatsoever to no single cans sales and no malt beer. So after this study I realized we can agree with this restriction because customers want the hard liquor since there is a high demand for it in my community. As you all know as this economy in general has declined, I am taking this opportunity to increase the business and move on from alcohol license twenty to twenty-one and to help my family and their futures.

As we went to the last meeting the hearing officer has changed the sales of alcohol from fifty percent as it was approved to us, to twenty-five percent. Because of this I went back into my business and checked my records to see what our current output of alcohol sales is even in this bad economy. Then I realized in March and April the total sales of alcohol which is mostly wine, due to our large selection, is twenty-seven percent of total sales of the store. In May through July it was twenty-nine percent of the total sales of the store. So I would like to take this opportunity now to ask the board members, how I would increase my business also increase the sales tax to the government and help my customers if I have to lower my current sales without the hard liquor included due to your regulations. For this reason I have come to you for an appeal because my goal is to increase the business not to decrease it. Also not to go from any restriction to multiple restrictions that does not make sense for my business. I am trying to be an honest and straight forward man if you could just help me out. I accepted all your restrictions but I can not decrease my business instead of increasing it. In the long run I need to be able to pay for all this fees that have gone out to the government and anyone in this process. I would like to say that I have been a good citizen to this community and check the reports from the ABC and Police Department has supported me as well as my neighbors that have agreed with this next step in my business.

Please let me know if you can support my request.

Thank you,

Jeris El-Raheb

§112.0506 Process Three Appeals

The Hearing Officer's decision may be appealed to the Planning Commission, as specified in Chapter 12, Article 6 for the type of *development* and review required. An appeal from a Hearing Officer's decision that involves applications consolidated in accordance with Section 112.0103 shall be heard by the Planning Commission. An appeal from a Process Three decision shall be made in the following manner.

- (a) **Persons Who Can Appeal.** A Process Three decision may be appealed by the following persons:
 - (1) An *applicant*; or
 - (2) An *interested person*.
- (b) **Time for Filing an Appeal.** A Process Three decision may be appealed by filing an application with the City Manager no later than 10 *business days* after the date of the Hearing Officer's decision.
- (c) **Grounds for Appeal.** A Process Three decision may be appealed on any of the following grounds:
 - (1) **Factual Error.** The statements or evidence relied upon by the decision maker when approving, conditionally approving, or denying a permit, map, or other matter were inaccurate;
 - (2) **New Information.** New information is available to the *applicant* or the *interested person* that was not available through that person's reasonable efforts or due diligence at the time of the decision; or
 - (3) **Findings Not Supported.** The decision maker's stated *findings* to approve, conditionally approve, or deny the permit, map, or other matter are not supported by the information provided to the decision maker; or
 - (4) **Conflicts.** The decision to approve, conditionally approve, or deny the permit, map, or other matter is in conflict with a *land use plan*, a City Council policy, or the Municipal Code.
- (d) **Scheduling the Appeal Hearing.** The appeal hearing before the Planning Commission shall be held, or the City Manager shall set a date for the appeal hearing, no later than 30 calendar days after the date on which the application for an appeal is filed. The appeal hearing shall be noticed in accordance with Section 112.0308.
- (e) **Power to Act on Appeal.** After the conclusion of the public hearing, the Planning Commission may affirm, reverse, or modify the decision being appealed.

(Added 12-9-1997 by O-18451 N.S.; effective 1-1-2000.)

(Amended 11-28-05 by O-19444 N.S.; effective 2-9-2006.)