



THE CITY OF SAN DIEGO

## REPORT TO THE PLANNING COMMISSION

**DATE ISSUED:** May 17, 2013 **REPORT NO.** PC-13-053

**ATTENTION:** Planning Commission, Agenda of May 23, 2013

**SUBJECT:** 7-ELEVEN – WASHINGTON STREET - PROJECT NO. 286427.  
PROCESS THREE.

**REFERENCE:** Report to the Hearing Officer No. HO-13-130  
<http://www.sandiego.gov/development-services/pdf/hearingofficer/reports/2013/HO-13-030sevenelevenwashingtonstreet.pdf>

**PROPERTY OWNER:** Gaslamp Investments, LLC (Attachment 15)

**APPLICANTS:** Tom Bergerson, DMB Architects  
7-Eleven, Inc. (Attachment 15)

### SUMMARY

**Issues:** Should the Planning Commission approve or deny the applicant's appeal of the Hearing Officer's decision to deny a Conditional Use Permit for alcohol sales (Type 20 Beer and Wine License) in an existing building located at 126 Washington Street in the Uptown Community Plan?

**Staff Recommendation:** DENY the appeal and DENY Conditional Use Permit No. 1005315.

**Community Planning Group Recommendation:** The Uptown Planners voted 9-4-1 to recommend denial of the proposed project on October 2, 2012 (Attachment 14).

**San Diego Police Department:** The San Diego Police Department provided a written recommendation dated September 5, 2012, which states they are currently unable to provide support for the proposed alcohol sales based on numerous community complaints and police concerns.

**Environmental Review:** The project has been determined to be exempt from CEQA pursuant to Section 15301 (Existing Facilities). The environmental exemption determination for this project was made on February 14, 2013, and the opportunity to appeal that determination ended March 19, 2013.

**Fiscal Impact Statement:** None with this action; the costs of processing this project have been paid by the applicant through a deposit account.

**Code Enforcement Impact:** None with this action.

**Housing Impact Statement:** The Uptown Community Plan designates the project site for Mixed-Use. According to the community plan, this land use designation is characterized by residential development at very high density 73-110 dwelling units per acre or office above street level commercial located within the commercial nodes. Based on the current land use designation the 0.38-acre site would potentially allow 28 to 42 dwelling units on site where none currently exist. The community plan recognizes that mixed-use development would be encouraged as redevelopment of properties occur, however given that the proposed project consist of tenant improvements to an existing commercial retail space with multiple existing tenants and that the underlying zoning does allow stand-alone commercial uses, mixed use development would not be required as part of the this development proposal.

## **BACKGROUND**

The subject property is located at 126 Washington Street, in the CN-2A Zone of the Mid-City Communities Planned District, the FAA Part 77 Notification Area, the Residential Tandem Parking Overlay Zone, and the Transit Area Overlay Zone, within the Uptown Community Plan Area (Attachment 1). The Uptown Community Plan designates the project site for Mixed-Use (Attachment 2).

The proposed 7-Eleven is located on Washington Street, on the east side of the alley between 1<sup>st</sup> and 3<sup>rd</sup> Avenues, in a small strip mall with four spaces for business and a parking lot behind the building (Attachment 3). The strip mall includes a Daphne's Greek Café, a Supercuts Salon, a vacant space, and a 7-Eleven convenience store. The 7-Eleven has been in operation for approximately four months. Prior to the 7-Eleven, the space previously contained a Blockbuster store. The 7-Eleven business is allowed by right; the Conditional Use Permit request is only to include alcohol sales.

It should be noted that the Report to the Hearing Officer mistakenly identified three commercial spaces at the strip mall, and not the four that are existing.

### **Hearing Officer Decision:**

On March 20, 2013, the 7-Eleven-Washington Street permit application was presented to the Hearing Officer of the City of San Diego at a noticed public hearing. The Hearing Officer was provided with a staff report and recommendations from the Development Services Department, the

San Diego Police Department, and the Southeastern San Diego Community Planning Group recommending denial of the project. After hearing public testimony, both in support and opposition, the Hearing Officer denied the proposed project, based on an inability to make required Findings 2 and 4 (Attachment 5).

## **DISCUSSION**

### **Project Description:**

The applicant is requesting a Conditional Use Permit in order to obtain a Type 20 Beer and Wine License to sell beer and wine within the existing building located at 126 Washington Street. Although the proposed use is generally permitted within the underlying CN-2A Zone of the Mid-City Communities Planned District, a Conditional Use Permit is also required because Land Development Code (LDC) Section 151.0103 (General Provisions for Planned Districts) specifies that the “*alcoholic beverage outlets regulations contained in Land Development Code Section 141.0502*” apply in all Planned Districts. In addition, LDC Section 141.0502 (Alcoholic Beverage Outlets) specifies these regulations would apply to all establishments seeking a Type 20 Beer and Wine License or a Type 21 General Liquor License. Therefore, a Conditional Use Permit is required for alcohol sales. The general subcategories within the 141.0502 that address limited use regulations are not relevant to this requirement, because a Conditional Use Permit is required regardless of location (proximity to school, park, etc.) due to the above requirements.

It should be noted the project was initially distributed with a request for a Planned Development Permit (PDP) for a 24-hour operation as well as the Conditional Use Permit, however, it was determined during the course of the first review that a PDP was not required for this proposed activity because the hours of operation are not restricted in the CN-2A Zone of the Mid-City Communities Planned District. Therefore that portion of the request is no longer included, and only a Process Three CUP is required for the proposal.

### **Community Plan Analysis:**

According to the Uptown Community Plan, the Mixed-Use land use designation is characterized by residential development at very high density 73-110 dwelling units per acre or office above street level commercial located within commercial nodes. Based on the current land use designation the project site would have the ability to include 28 to 42 dwelling units on site.

The Uptown Community Plan recognizes that mixed-use development would be encouraged as redevelopment of properties occur, however given that the proposed project consists of tenant improvements to an existing commercial retail space with multiple existing tenants and that the underlying zoning does allow stand-alone commercial uses, mixed use development is not required as part of the this development proposal.

The project includes a proposal for the sale of beer and wine. Although the Uptown Community Plan does not specifically address the sale of alcohol with respect to zoning requirements, it is highly encouraged that uses such as those that sell alcohol incorporate measures to reduce and limit negative impacts such as loitering, excessive noise, and littering, so that they do not become a

nuisance to adjacent residences and businesses or exacerbate any negative conditions within the area.

### San Diego Police Department Analysis:

The San Diego Police Department approved the applicant's application for Public Convenience or Necessity (PCN) on August 1, 2012, although the form indicated the number of existing licenses (5) exceeds that allowed (2) for Census Tract 04.00 (Attachment 6). However, despite the approval of the PCN determination, the Police Department later provided a recommendation dated September 5, 2012, which concluded that it is currently unable to provide support for the proposed alcohol sales based on numerous community complaints and police concerns (Attachment 7). Based on this later recommendation, City staff is unable to recommend approval of the project.

It should be noted that although the Police Department's recommendation dated September 5, 2012, indicates 3 licenses are allowed, that is a typographical error, and the correct number is 2. The excerpt below from the ABC website (data confirmed unchanged on May 2, 2013) illustrates this requirement:

Census Tract  
0004.00

DEPARTMENT OF ALCOHOLIC BEVERAGE CONTROL  
NUMBER OF LICENSES AUTHORIZED  
BY CENSUS TRACT

# of off-site sales licenses

| COUNTY    | CENSUS TRACT | POPULATION | ON SALE | OFF SALE |
|-----------|--------------|------------|---------|----------|
| SAN DIEGO | 0001.00      | 3,029      | 3       | 1        |
| SAN DIEGO | 0002.01      | 1,801      | 2       | 1        |
| SAN DIEGO | 0002.02      | 4,208      | 4       | 2        |
| SAN DIEGO | 0003.00      | 4,732      | 5       | 3        |
| SAN DIEGO | 0004.00      | 3,669      | 4       | 2        |
| SAN DIEGO | 0005.00      | 2,722      | 3       | 1        |
| SAN DIEGO | 0006.00      | 3,108      | 3       | 2        |
| SAN DIEGO | 0007.00      | 3,754      | 4       | 2        |
| SAN DIEGO | 0008.00      | 4,280      | 4       | 2        |
| SAN DIEGO | 0009.00      | 5,178      | 5       | 3        |
| SAN DIEGO | 0010.00      | 4,733      | 5       | 3        |
| SAN DIEGO | 0011.00      | 3,098      | 3       | 2        |
| SAN DIEGO | 0012.00      | 5,660      | 6       | 3        |
| SAN DIEGO | 0013.00      | 6,197      | 7       | 4        |
| SAN DIEGO | 0014.00      | 3,084      | 3       | 1        |
| SAN DIEGO | 0015.00      | 3,934      | 4       | 2        |

Updated: May 2012

Staff informed the applicant that the Police Department could not support the request after the first review cycle. The applicant acknowledged this fact and elected to move forward with the permit application process.



### **Community Concerns:**

Staff has received several emails and phone calls in opposition to the proposed project since the Notice of Application was published. In general, these calls identified concerns regarding an over-concentration of beer, wine and alcohol uses in the vicinity, litter, inadequate parking, an over-concentration of 24-hour operations in the vicinity, and impacts relating to public safety due to existing transients.

The Uptown Planners reviewed the proposed 7-Eleven project at their meeting of October 2, 2012, and the motion to oppose the application for a CUP for Type 20 off-site alcohol sales was approved by a 9-4-1 vote (Attachment 14).

### **Appeal Issues:**

On March 27, 2013, the Development Services Department received an appeal of the Hearing Officer decision (Attachment 13). This appeal was filed by William Adams of Norton, Moore & Adams LLP, on behalf of the applicant (7-Eleven, Inc.). The appellant cited factual error, conflict with other matters, findings not supported, and new information as the Grounds for Appeal (Section 5). Staff has reviewed the appeal and provides the following responses:

1. *“Denial on basis public health, safety, and welfare conflicted with contrary binding findings by City Agency given exclusive authority under City Council resolution R-294124, and thus the Hearing Officer did not proceed in the manner prescribed by law.” [sic]*

One of the Conditional Use Permit Findings required by the Land Development Code is that the proposed development will not be detrimental to the public health, safety, and welfare (Finding 2). The San Diego Police Department appears to be the only other City Agency specified in City Council Resolution R-294124, in that the resolution authorizes the Police Chief or his designee to make the PCN determination. The PCN determination by the Police Department is made pursuant to the State statute governing alcohol licensing, and is not in lieu of a CUP finding that must be made by a decisionmaker. In addition, despite the PCN approval, the Police Department is unable to support the proposal. The Police Department provided a later recommendation dated September 5, 2012, and is currently unable to provide support for the proposed alcohol sales based on numerous community complaints and police concerns. Based on this current recommendation, City staff is unable to recommend approval of the project. After consideration of this information, and additional information provided during public testimony during the March 20, 2013, hearing, the Hearing Officer determined this finding could not be made.

2. *“Denial was not supported by the evidence, which among other things, impacts could be mitigated with conditions on operation.” [sic]*

The Hearing Officer was unable to make all findings in the affirmative after receiving all public testimony at the March 20, 2013, hearing. Public testimony included both supportive and opposing information.

3. *"Denial was factually in error and did not address the concerns of opposition in an appropriate and sufficiently direct manner."* [sic]

Staff does not have not enough information in this statement to provide a response. As indicated above, the Hearing Officer was unable to make all findings in the affirmative after receiving all public testimony at the March 20, 2013, hearing. Public testimony included both supportive and opposing information.

4. *"New information will be produced at the appeal hearing supporting approval."* [sic]

Statement noted.

5. *"Denial violated appellant's due process rights by disregarding the prior proceedings and findings made by the City and subjecting appellant to administrative double jeopardy, and a CUP denial that was arbitrary and an abuse of discretion."* [sic]

If the reference to "prior proceedings and findings made by the City" is to the PCN determination by the Police Department, as stated in response to Issue #1, the PCN determination is not lieu of the CUP issuance by the decisionmaker. After the Notice of Application for the proposed Conditional Use Permit was published as required, several issues were raised by the community and the SDPD modified their recommendation based on this new information. As stated during the Hearing Officer hearing on March 20, 2013, the SDPD's process for providing a PCN does not include a mechanism for public notification of a request for a PCN or for receiving public input when initially submitted. Furthermore, the SDPD provides a recommendation to the decisionmaker for the CUP process. The required findings are made by the decisionmaker, not by the SDPD. The March 20, 2013, hearing was the first public hearing and decision made by the City of San Diego, therefore there were no prior proceedings or findings. As indicated above, the Hearing Officer was unable to make all findings in the affirmative after receiving all public testimony at the March 20, 2013, hearing. Public testimony included both supportive and opposing information.

6. *"Hearing officer made prejudicial error in allowing a Police Department representative to testify contrary to the Police Dept's prior official determination in the Business & Professions Code sec. 23958.4 and City Council Resolution R-294124 process."* [sic]

Staff does not believe a "prejudicial error" was made by the Hearing Officer. This is a public hearing, during which all testimony is accepted. In addition, as indicated in the Hearing Officer Report, and as stated at the March 20, 2013, hearing, the applicant was advised in the initial assessment letter provided for this proposed Conditional Use Permit that the request was not supported by the San Diego Police Department. The applicant acknowledged this fact and elected to move forward with the permit application process.

7. *"Denial of the conditional use permit was in error as a matter of law, and void, because the Planned District Ordinance "1512.0305, indicate both Liquor Stores and Food Stores*

*are permitted uses in the CN-2A Zone” and Section 151.0103 does not give the hearing officer authority to disregard 1512.0305, only to apply conditions under a CUP.” [sic]*

As indicated above and in the Report to the Hearing Officer No. HO-13-130, although the proposed use is generally permitted within the underlying CN-2A Zone of the Mid-City Communities Planned District, a Conditional Use Permit is also required because Land Development Code (LDC) Section 151.0103 (General Provisions for Planned Districts) specifies that the “*alcoholic beverage outlets regulations contained in Land Development Code Section 141.0502*” apply in all Planned Districts. In addition, LDC Section 141.0502 (Alcoholic Beverage Outlets) specifies these regulations would apply to all establishments seeking a Type 20 Beer and Wine License or a Type 21 General Liquor License. Therefore, a Conditional Use Permit is required for alcohol sales. The general subcategories within the 141.0502 that address limited use regulations are not relevant to this requirement, because a Conditional Use Permit is required regardless of location (proximity to school, park, etc.) due to the above requirements.

To state that a decisionmaker may only apply conditions for a CUP is erroneous. A CUP is a discretionary action that requires every finding be made in the positive in order to be granted. Frequently, conditions may be imposed in a discretionary permit that result in the ability to make findings in the positive, resulting in a project approval. However, when all findings cannot be made in the positive, the discretionary permit must be denied. The discretionary permit and required findings are not independent or mutually exclusive documents.

### **Conclusion:**

The Hearing Officer determined the required findings did not support a decision to approve the proposed project’s Conditional Use Permit, in that Findings 2 and 4 could not be made in the affirmative. Staff agrees with that determination and recommends the Planning Commission reaffirm the denial of the proposed Conditional Use Permit.

Although staff is recommending denial of this Conditional Use Permit request, a draft permit is included with this report in the event the Planning Commission determines an approval is warranted (Attachment 10). The draft permit includes potential conditions proposed by staff which are common for such alcohol sales uses. In addition, during the public testimony at the Hearing Officer hearing, the business operator, Bharat Patel, testified that he operates an existing 7-Eleven a few blocks away and incorporates business practices there that he believes would ameliorate negative issues at this location. Staff has not received information regarding these business practices, so has no input at this time.

### **ALTERNATIVES**

- 1. Approve Conditional Use Permit No. 1005315, with conditions (Attachment 10).**
- 2. Approve Conditional Use Permit No. 1005315, with modified conditions.**

Respectfully submitted,



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Mike Westlake  
Assistant Deputy Director  
Development Services Department



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Michelle Sokolowski, Project Manager  
Development Services Department

WESTLAKE/MS

Attachments:

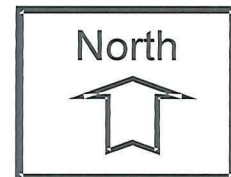
1. Aerial Photograph
2. Community Plan Land Use Map
3. Project Location Map
4. Photos of Location
5. Hearing Officer Resolution No. HO-6613
6. PCN from SDPD, dated 8-1-12
7. Recommendation of Denial from SDPD, dated 9-5-12
8. Census Tract 04.00 Map with Distribution of Liquor Licenses from ABC
9. Draft Planning Commission Permit Resolution with Findings
10. Draft Planning Commission Permit with Conditions
11. Environmental Exemption
12. Project Plans
13. Copy of Appeal
14. Community Planning Group Recommendation
15. Ownership Disclosure Statement
16. City Council Resolution No. R-294124 (referenced in Appeal)
17. California Business & Professions Code Section 23958.4 (referenced in Appeal)



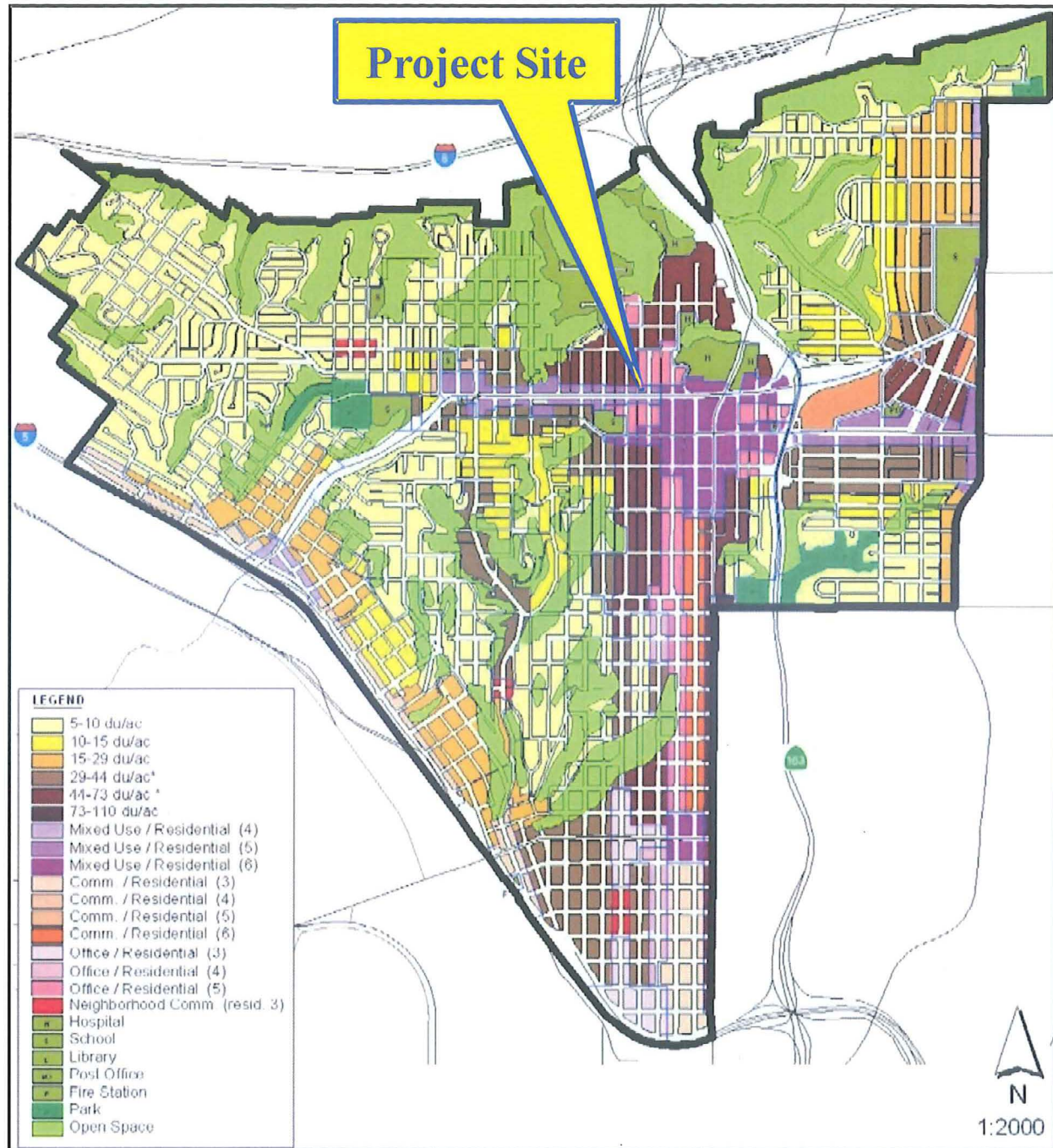


## Aerial Photo

7-Eleven – 126 Washington Street  
PROJECT NO. 286427





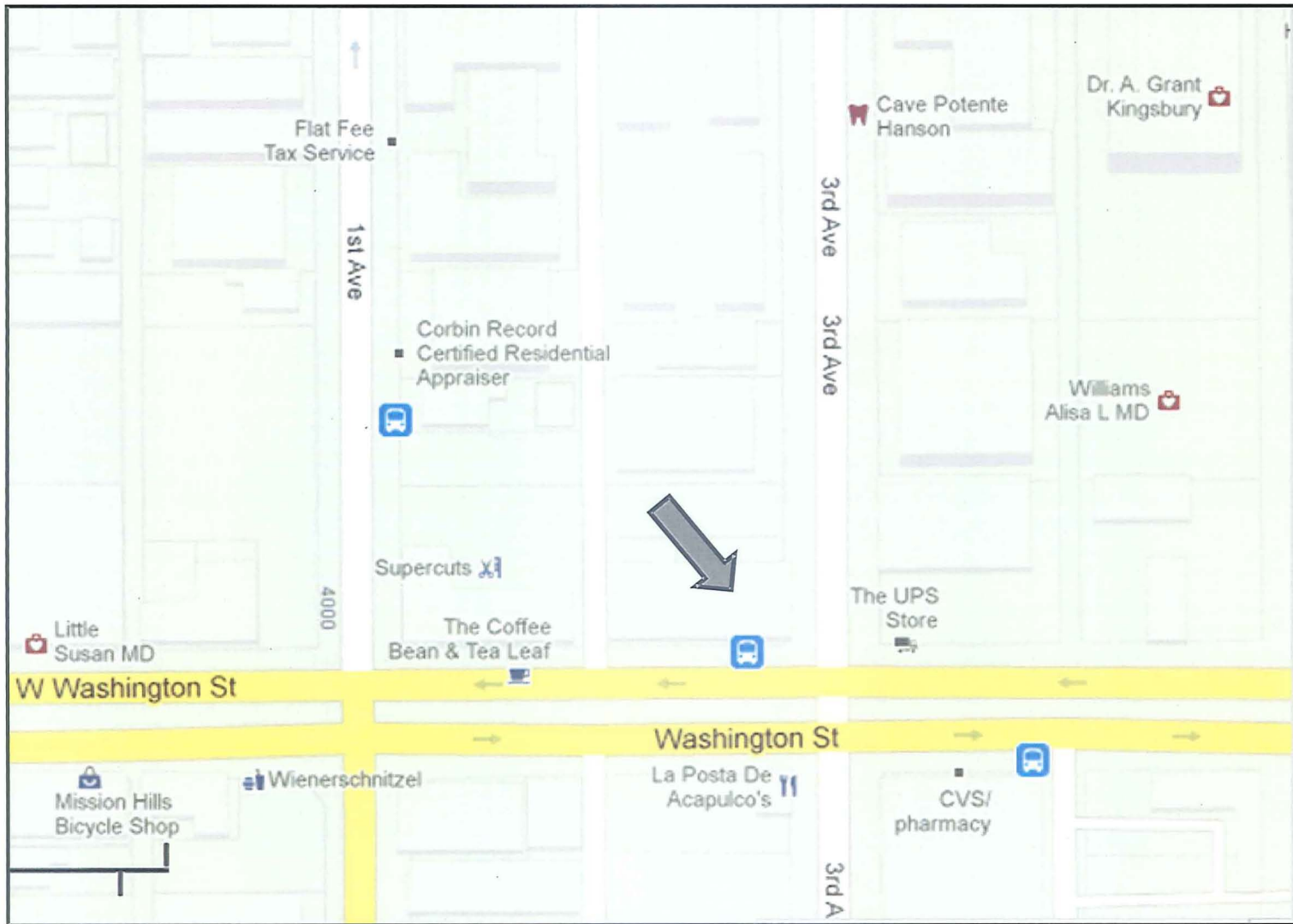


## Land Use Map

7-Eleven – 126 Washington Street

**PROJECT NO. 286427 – Uptown Community Plan**





## Project Location Map

7-Eleven – 126 Washington Street  
PROJECT NO. 286427







Photo 13



Photo 14





Photo 15

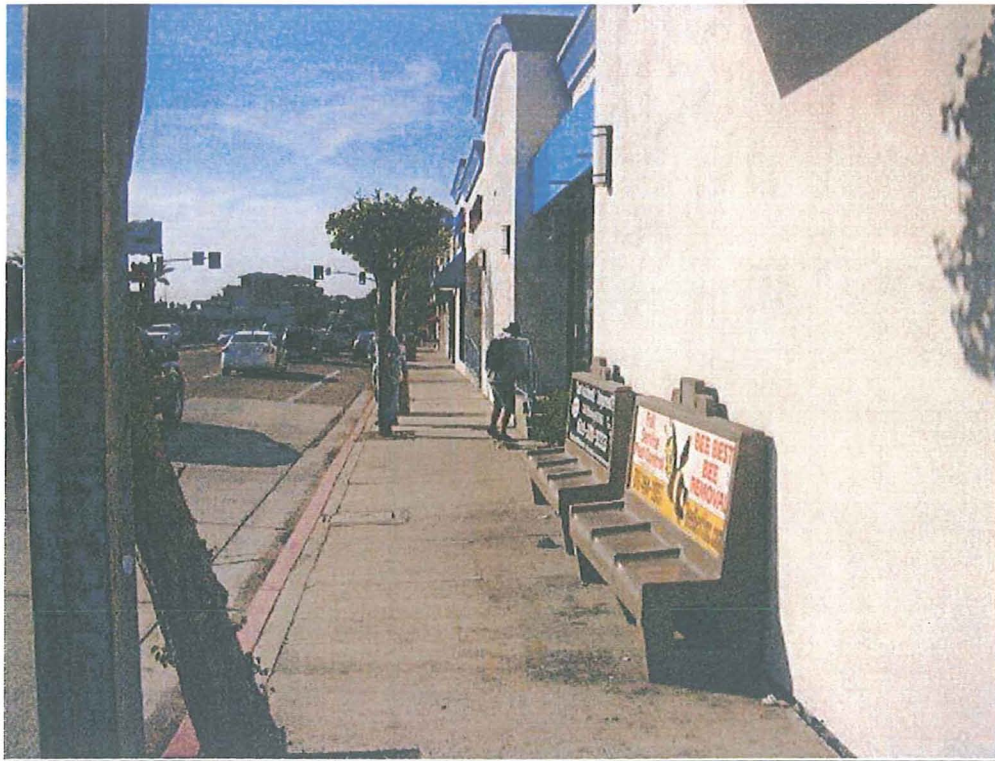


Photo 16





Photo 27



Photo 28





Photo 29



Photo 30

HEARING OFFICER  
RESOLUTION NO. HO-6613  
DENYING CONDITIONAL USE PERMIT NO. 1005315  
**7- ELEVEN – WASHINGTON ST.**  
**PROJECT NO. 286427**

WHEREAS, GASLAMP INVESTMENTS, LLC, Owner, and 7-ELEVEN, INC., Permittee, filed an application with the City of San Diego for a Conditional Use Permit for an alcohol beverage outlet in an existing building (as described in and by reference to Exhibit "A"), on portions of a 0.38-acre site;

WHEREAS, the project site is located at 126 Washington Street in the CN-2A Zone of the Mid-City Communities Planned District, the FAA Part 77 Notification Area, the Residential Tandem Parking Overlay Zone, and the Transit Area Overlay Zone, within the Uptown Community Plan Area;

WHEREAS, the project site is legally described as Lots 17, 18, and 19, Block 5, Hillcrest, Map No. 1024;

WHEREAS, on March 20, 2013, the Hearing Officer of the City of San Diego considered Conditional Use Permit No. 1005315 pursuant to the Land Development Code of the City of San Diego and denied the Conditional Use Permit No. 1005315;

WHEREAS, on February 14, 2013, the City of San Diego, as Lead Agency, through the Development Services Department, made and issued an Environmental Determination that the project is exempt from the California Environmental Quality Act (CEQA) (Public Resources Code section 21000 et. seq.) under CEQA Guidelines Section 15301 (Existing Facilities), and there was no appeal of the Environmental Determination filed within the time period provided by San Diego Municipal Code Section 112.0520; NOW, THEREFORE,

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

That the Hearing Officer denies Conditional Use Permit No. 1005315 and adopts the following written Findings, dated March 20, 2013.

CONDITIONAL USE PERMIT FINDINGS – Section §126.0305

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

The 7-Eleven – Washington Street project is a request for a Conditional Use Permit to allow alcohol sales (Type 20 - beer/wine) at a proposed 24-hour convenience store to be located in an existing building. The Uptown Community Plan designates the project site for Mixed-Use. According to the community plan, this land use designation is characterized by residential development at very high density 73-110 dwelling units per acre or office above street level commercial located within commercial nodes. Based on the current land use designation the project site would have the ability to include 28 to 42 dwelling units on site.

The community plan recognizes that mixed-use development would be encouraged as redevelopment of properties occur, however given that the proposed project consists of tenant improvements to an existing commercial retail space with multiple existing tenants and that the underlying zoning does allow stand-alone commercial uses, mixed use development would not be required as part of the this development proposal.

The project includes a proposal for the sale of beer and wine. Although the Uptown Community Plan does not specifically address the sale of alcohol with respect to zoning requirements, it is highly encouraged that uses such as those that sell alcohol incorporate measures to reduce and limit negative impacts such as loitering, excessive noise, and littering, so that they do not become a nuisance to adjacent residences and businesses or exacerbate any negative conditions within the area.

Applicants are encouraged to establish such measures such as a litter control program and provide on-site security around the premises especially along the sidewalks surrounding the project site as well as the parking lot in the rear to meet objectives in the Commercial Element of the community plan for improving pedestrian safety, access, and circulation within commercial areas and improve the appearance of commercial activity in areas accessible to neighborhood residents.

Therefore, the proposed alcohol sales would not adversely affect the Uptown Community Plan and the General Plan.

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

The 7-Eleven – Washington Street project is a request for a Conditional Use Permit to allow alcohol sales (Type 20 - beer/wine) at a proposed 24-hour convenience store to be located in an existing building. The San Diego Police Department has reviewed the proposal and is unable to support the proposed project. They indicated that although 7-Eleven has an established and recognized business plan and the proposed sale of alcohol is an accessory use and not the primary commodity and the convenience store (not including the alcohol sales) would be good for the community in a general sense, there are law enforcement and public safety concerns that the issuance of an additional liquor license would aggravate an existing police problem in the community. The site is located in a high crime area with a large transient population, and numerous citizen and business complaints from the community have been vetted by the Western Division command staff, which is responsible for policing this census tract. Due to the numerous community complaints regarding public safety and the over-concentration of alcohol sales establishments in the area, the San Diego Police Department is unable to support the proposed Conditional Use Permit for alcohol sales due to the potential detrimental impacts to the public's health, safety and welfare. Public testimony and documents submitted into the record at the March 20, 2013, Hearing Officer public hearing provided additional information regarding the existence of a large number of transients in the area and the negative impacts of alcohol sales related to crimes.

Based on this information, the proposed development will be detrimental to the public health, safety and welfare.

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

The 7-Eleven – Washington Street project is a request for a Conditional Use Permit to allow alcohol sales (Type 20 - beer/wine) at a proposed 24-hour convenience store to be located in an existing building. The project proposes a Conditional Use Permit for an alcohol beverage outlet in an existing building. The San Diego Municipal Code regulations of the CN-2A Zone of the Mid-City Communities Planned District, Section 1512.0305, indicate both Liquor Stores and Food Stores are permitted uses in the CN-2A Zone. There are no deviations proposed with this request.

The proposed development will comply with the regulations of the Land Development Code, although it should be noted there are no deviations requested pursuant to the Land Development Code.

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

The 7-Eleven – Washington Street project is a request for a Conditional Use Permit to allow alcohol sales (Type 20 - beer/wine) at a proposed 24-hour convenience store to be located in an existing building. The project site is located at 126 Washington Street in the CN-2A Zone of the Mid-City Communities Planned District, within the Uptown Community Plan area. The San Diego Police Department has reviewed the proposal and is unable to support the proposed project. They indicated that although 7-Eleven has an established and recognized business plan and the proposed sale of alcohol is an accessory use and not the primary commodity and the convenience store would be good for the community in a general sense, there are law enforcement and public safety concerns that the issuance of an additional liquor license would aggravate an existing police problem in the community. The site is located in a high crime area with a large transient population, and numerous citizen and business complaints from the community have been vetted by the Western Division command staff, which is responsible for policing this census tract. Due to the numerous community complaints regarding public safety and the over-concentration of alcohol sales establishments in the area, the San Diego Police Department is unable to support the proposed Conditional Use Permit for alcohol sales. Public testimony and documents submitted into the record at the March 20, 2013, Hearing Officer public hearing provided additional information regarding the existence of a large number of transients in the area and the negative impacts of alcohol sales related to crimes.

Based on this information, the proposed development would not be appropriate at this location.

BE IT FURTHER RESOLVED that, based on the findings hereinbefore adopted by the Hearing Officer, Conditional Use Permit No. 1005315 is hereby DENIED by the Hearing Officer to the referenced Owner/Permittee because the Hearing Officer is unable to make the findings required by the Land Development Code.

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Michelle Sokolowski  
Development Project Manager  
Development Services

Adopted on: March 20, 2013



Internal Order No. 24002910



## THE CITY OF SAN DIEGO

August 1, 2012

IN REPLYING PLEASE  
GIVE OUR REF. NO.  
1914141113

Tom Bergerson  
8911 Research Drive, 1<sup>st</sup> Floor  
Irvine, CA 92618  
Reference: PCN Application

**THIS LETTER IS TIME SENSITIVE**

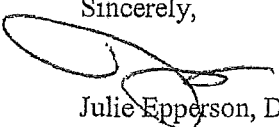
Dear Mr. Bergerson:

On June 15, 2012, you requested a Public Convenience or Necessity evaluation of the premises located at 126 Washington Street, San Diego, CA 92103, in consideration of a Type 20 Off Sale Beer & Wine (Package Store) License.

In accordance with Business and Professions Code, section 23958.4 your application is required to meet standards for public convenience and necessity. Further, it is your responsibility to ensure whether a Conditional Use Permit (CUP) is needed from the city. You may contact David Vega from the City of San Diego Department of Development Services at (619) 446-5433 for more information regarding the CUP process.

Your application for Public Convenience or Necessity has been **approved**. However, please note that conditions for size and type of alcohol, floor space, and hours of operation will be placed on your Type 20 license. Additionally, you will be required to install a facial recognition security camera to be positioned near the front entrance.

Sincerely,



Julie Epperson, Detective  
San Diego Police Department  
Vice Admin Unit

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



FORM PER SECTION 23958.4 B&PCITY OF SAN DIEGO  
For Off-Sale, On-Sale Beer, and Public Premises Licenses

2012 JUN 20 PM 9:08

VICE ADMIN. S.D.P.D.

1. PREMISE ADDRESS: 126 Washington St. San Diego, CA 92103

2. LICENSE TYPE: Type 20

3. TYPE OF BUSINESS: 7-Eleven Convenience Store

CRIME REPORTING DISTRICT 0004.00

NUMBER OF LICENSES ALLOWED 2 NUMBER EXISTING 5

DISTRICT AVERAGE 244.7 X 120% = 293.64 = HIGH CRIME (20% average)

CRIMES IN THIS REPORTING DISTRICT 533 BEAT MAP NO. 217.8 %

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)

☒ YES☐ NO

JUDE EPPERSON DETECTIVE  
Name of SDPD Vice Officer  
(Please print name and title)

019-531-2274  
Phone Number

[Signature]  
Signature of SDPD Vice Officer

8-1-12  
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 SUBMISSIONAPPLICANT'S SIGNATURE: Tom BergersonDATE: 6/15/12

(Please Print)  
APPLICANT'S NAME:

Tom Bergerson

MAILING ADDRESS:

DMB Architects, 8911 Research Drive, 1st Floor, Irvine, CA 92618

TELEPHONE NUMBER:

949-272-0202

CALL

619-299-8463

ROY SALAMEH  
WADW6 WHEN SERVING OUT

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

PREMISE ADDRESS: 126 Washington, San Diego, CA

TYPE OF BUSINESS: 7-Eleven Convenience Store

FEDERAL CENSUS TRACT: 04.00

NUMBER OF ALCOHOL LICENSES ALLOWED: 3

NUMBER OF ALCOHOL LICENSES EXISTING: 5

CRIME RATE IN THIS CENSUS TRACT: 217.8%  
(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: The applicant is applying for a CUP for a 7-Eleven Convenience Store with a Type 20 Beer & Wine License. 126 W. Washington is a strip mall with four spaces for businesses and an attached parking lot. It includes a Super Cuts Salon, a Daphne Greek Café and two vacant spaces. Currently, the proposed space for the 7-Eleven is vacant.

7-Eleven has an established and recognized business plan and the sale of alcohol is an accessory and not the primary commodity.

Although the convenience store would be good for the community in a general sense, there are law enforcement concerns that the issuance of an additional liquor license would aggravate an existing police problem in the community. Due to its location in a high crime area and transient population, numerous citizen and business complaints from the community have been vetted by Western Division command staff, who is responsible for policing this census tract. Due to the numerous community complaints, The Department is unable to approve recommendations for a CUP.

SUGGESTED CONDITIONS: .

SAN DIEGO POLICE DEPARTMENT RECOMMENDATION:

APPROVE \_\_\_\_\_

DENY X

Tom Underwood

Name of SDPD Vice Sergeant (Print)

[Signature]

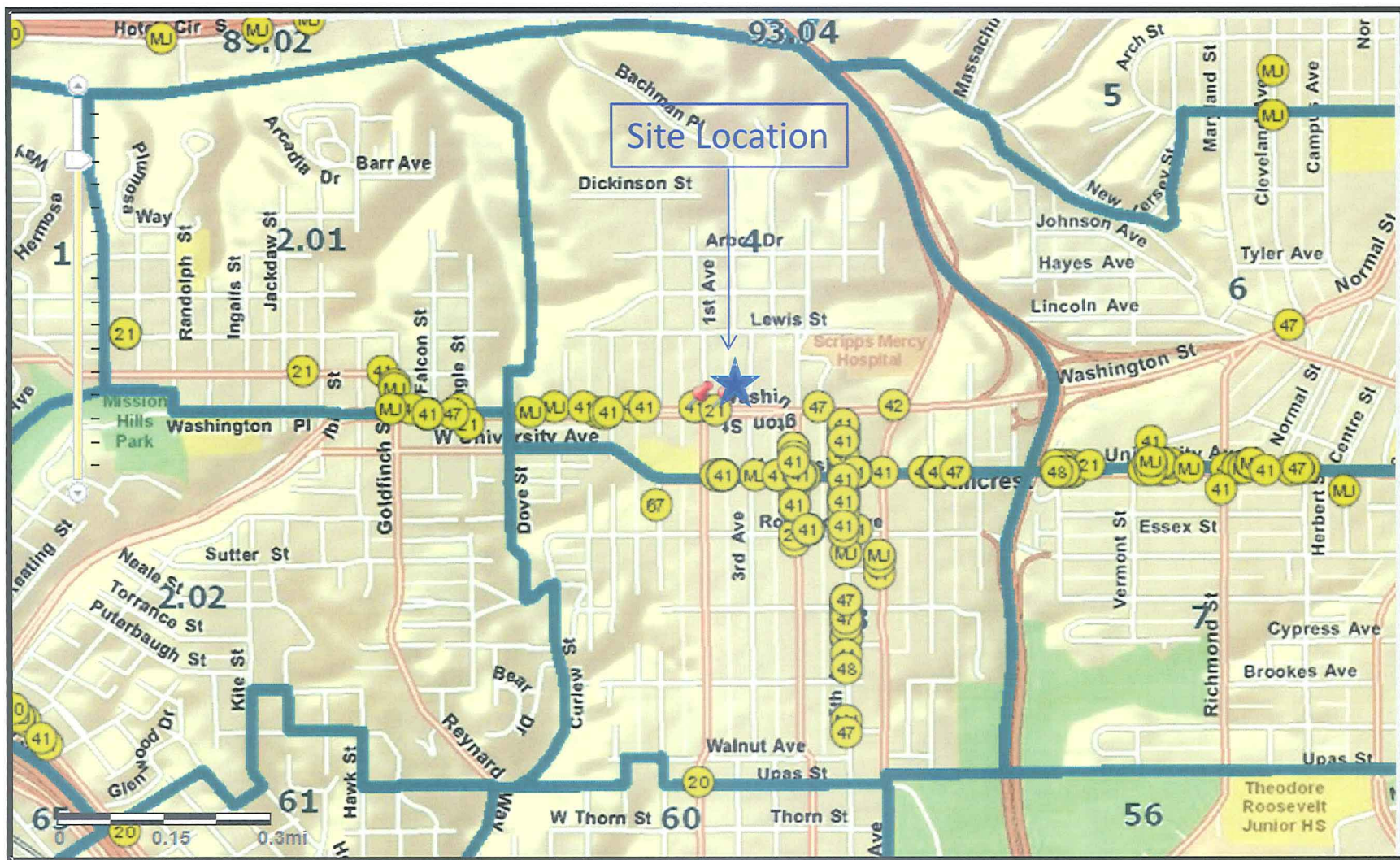
Signature of SDPD Vice Sergeant

615-531-2349

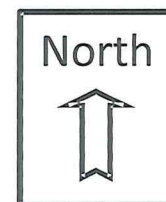
Telephone Number

9/5/12

Date of Review



7-Eleven – 126 Washington Street  
PROJECT NO. 286427



PLANNING COMMISSION  
RESOLUTION NO. \_\_\_\_\_  
DENYING CONDITIONAL USE PERMIT NO. 1005315  
**7- ELEVEN – WASHINGTON ST.**  
**PROJECT NO. 286427**

**DRAFT**

WHEREAS, GASLAMP INVESTMENTS, LLC, Owner, and 7-ELEVEN, INC., Permittee, filed an application with the City of San Diego for a Conditional Use Permit for an alcohol beverage outlet in an existing building (as described in and by reference to Exhibit "A"), on portions of a 0.38-acre site;

WHEREAS, the project site is located at 126 Washington Street in the CN-2A Zone of the Mid-City Communities Planned District, the FAA Part 77 Notification Area, the Residential Tandem Parking Overlay Zone, and the Transit Area Overlay Zone, within the Uptown Community Plan Area;

WHEREAS, the project site is legally described as Lots 17, 18, and 19, Block 5, Hillcrest, Map No. 1024;

WHEREAS, on February 14, 2013, the City of San Diego, as Lead Agency, through the Development Services Department, made and issued an Environmental Determination that the project is exempt from the California Environmental Quality Act (CEQA) (Public Resources Code section 21000 et. seq.) under CEQA Guidelines Section 15301 (Existing Facilities), and there was no appeal of the Environmental Determination filed within the time period provided by San Diego Municipal Code Section 112.0520;

WHEREAS, on March 20, 2013, the Hearing Officer of the City of San Diego considered Conditional Use Permit No. 1005315, and pursuant to Resolution No. HO-6613, denied the Permit;

WHEREAS, on March 27, 2013, William A. Adams of Norton, Moore & Adams, LLP, representing 7-Eleven, Inc., appealed the Hearing Officer decision to the Planning Commission of the City of San Diego; and

WHEREAS, on May 23, 2013, the Planning Commission of the City of San Diego considered the appeal of the Hearing Officer's decision to deny Conditional Use Permit No. 1005315 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 denies Conditional Use Permit No. 1005315 and adopts the following written Findings, dated May 23, 2013.

CONDITIONAL USE PERMIT FINDINGS – Section §126.0305

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



The 7-Eleven – Washington Street project is a request for a Conditional Use Permit to allow alcohol sales (Type 20 - beer/wine) at a proposed 24-hour convenience store to be located in an existing building. The Uptown Community Plan designates the project site for Mixed-Use. According to the community plan, this land use designation is characterized by residential development at very high density 73-110 dwelling units per acre or office above street level commercial located within commercial nodes. Based on the current land use designation the project site would have the ability to include 28 to 42 dwelling units on site.

The community plan recognizes that mixed-use development would be encouraged as redevelopment of properties occur, however given that the proposed project consists of tenant improvements to an existing commercial retail space with multiple existing tenants and that the underlying zoning does allow stand-alone commercial uses, mixed use development would not be required as part of the this development proposal.

The project includes a proposal for the sale of beer and wine. Although the Uptown Community Plan does not specifically address the sale of alcohol with respect to zoning requirements, it is highly encouraged that uses such as those that sell alcohol incorporate measures to reduce and limit negative impacts such as loitering, excessive noise, and littering, so that they do not become a nuisance to adjacent residences and businesses or exacerbate any negative conditions within the area.

Applicants are encouraged to establish such measures such as a litter control program and provide on-site security around the premises especially along the sidewalks surrounding the project site as well as the parking lot in the rear to meet objectives in the Commercial Element of the community plan for improving pedestrian safety, access, and circulation within commercial areas and improve the appearance of commercial activity in areas accessible to neighborhood residents.

Therefore, the proposed alcohol sales would not adversely affect the Uptown Community Plan and the General Plan.

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

The 7-Eleven – Washington Street project is a request for a Conditional Use Permit to allow alcohol sales (Type 20 - beer/wine) at a proposed 24-hour convenience store to be located in an existing building. The San Diego Police Department has reviewed the proposal and is unable to support the proposed project. They indicated that although 7-Eleven has an established and recognized business plan and the proposed sale of alcohol is an accessory use and not the primary commodity and the convenience store (not including the alcohol sales) would be good for the community in a general sense, there are law enforcement and public safety concerns that the issuance of an additional liquor license would aggravate an existing police problem in the community. The site is located in a high crime area with a large transient population, and numerous citizen and business complaints from the community have been vetted by the Western Division command staff, which is responsible for policing this census tract. Due to the numerous community complaints regarding public safety and the over-concentration of alcohol sales establishments in the area, the San Diego Police Department is unable to support the proposed Conditional Use Permit for alcohol sales due to the potential detrimental impacts to the public's health, safety and welfare. Public testimony and documents submitted into the record at the March

20, 2013, Hearing Officer public hearing provided additional information regarding the existence of a large number of transients in the area and the negative impacts of alcohol sales related to crimes.

Based on this information, the proposed development will be detrimental to the public health, safety and welfare.

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

The 7-Eleven – Washington Street project is a request for a Conditional Use Permit to allow alcohol sales (Type 20 - beer/wine) at a proposed 24-hour convenience store to be located in an existing building. The project proposes a Conditional Use Permit for an alcohol beverage outlet in an existing building. The San Diego Municipal Code regulations of the CN-2A Zone of the Mid-City Communities Planned District, Section 1512.0305, indicate both Liquor Stores and Food Stores are permitted uses in the CN-2A Zone. There are no deviations proposed with this request.

The proposed development will comply with the regulations of the Land Development Code, although it should be noted there are no deviations requested pursuant to the Land Development Code.

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

The 7-Eleven – Washington Street project is a request for a Conditional Use Permit to allow alcohol sales (Type 20 - beer/wine) at a proposed 24-hour convenience store to be located in an existing building. The project site is located at 126 Washington Street in the CN-2A Zone of the Mid-City Communities Planned District, within the Uptown Community Plan area. The San Diego Police Department has reviewed the proposal and is unable to support the proposed project. They indicated that although 7-Eleven has an established and recognized business plan and the proposed sale of alcohol is an accessory use and not the primary commodity and the convenience store would be good for the community in a general sense, there are law enforcement and public safety concerns that the issuance of an additional liquor license would aggravate an existing police problem in the community. The site is located in a high crime area with a large transient population, and numerous citizen and business complaints from the community have been vetted by the Western Division command staff, which is responsible for policing this census tract. Due to the numerous community complaints regarding public safety and the over-concentration of alcohol sales establishments in the area, the San Diego Police Department is unable to support the proposed Conditional Use Permit for alcohol sales. Public testimony and documents submitted into the record at the March 20, 2013, Hearing Officer public hearing provided additional information regarding the existence of a large number of transients in the area and the negative impacts of alcohol sales related to crimes.

Based on this information, the proposed development would not be appropriate at this location.

BE IT FURTHER RESOLVED that, based on the findings hereinbefore adopted by the Planning Commission, Conditional Use Permit No. 1005315 is hereby DENIED by the Planning Commission to the referenced Owner/Permittee because the Planning Commission is unable to make the findings required by the Land Development Code.

---

Michelle Sokolowski  
Development Project Manager  
Development Services

Adopted on: March 20, 2013

Internal Order No. 24002910

DRAFT

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

**WHEN RECORDED MAIL TO**  
**PROJECT MANAGEMENT**  
**PERMIT CLERK**  
**MAIL STATION 501**

SPACE ABOVE THIS LINE FOR RECORDER'S USE

INTERNAL ORDER NUMBER: 24002910

## **DRAFT**

**CONDITIONAL USE PERMIT NO. 1005315**  
**7- ELEVEN – WASHINGTON ST. – PROJECT NO. 286427**  
**PLANNING COMMISSION**

This Conditional Use Permit No. 1005315 is granted by the Planning Commission of the City of San Diego to GASLAMP INVESTMENTS, LLC, Owner, and 7-ELEVEN, INC., Permittee, pursuant to San Diego Municipal Code [SDMC] section 126.0305. The 0.38-acre site is located at 126 Washington Street in the CN-2A Zone of the Mid-City Communities Planned District, the FAA Part 77 Notification Area, the Residential Tandem Parking Overlay Zone, and the Transit Area Overlay Zone, within the Uptown Community Plan Area. The project site is legally described as: Lots 17, 18, and 19, Block 5, Hillcrest, Map No. 1024.

Subject to the terms and conditions set forth in this Permit, permission is granted to Owner/Permittee to operate an alcoholic beverage outlet in an existing building conditioned upon the issuance of a license from the State Department of Alcoholic Beverage Control and subject to the City's land use regulations, described and identified by size, dimension, quantity, type, and location on the approved exhibits [Exhibit "A"] dated May 23, 2013, on file in the Development Services Department.

The project shall include:

- a. Operation of an alcoholic beverage outlet conditioned upon the issuance of a license from the State Department of Alcoholic Beverage Control (Type 20 - beer/wine) at a proposed 24-hour convenience store to be located in an existing building;

- b. A small strip mall with four spaces for business and a parking lot behind the building. The strip mall currently includes a Daphne's Greek Café, a Supercuts Salon, a vacant space, and the space for the convenience store proposing alcohol sales; and
- c. Public and private accessory improvements determined by the Development Services Department to be consistent with the land use and development standards for this site in accordance with the adopted community plan, the California Environmental Quality Act [CEQA] and the CEQA Guidelines, the City Engineer's requirements, zoning regulations, conditions of this Permit, and any other applicable regulations of the SDMC.

#### **STANDARD REQUIREMENTS:**

1. This permit must be utilized within thirty-six (36) months after the date on which all rights of appeal have expired. If this permit is not utilized in accordance with Chapter 12, Article 6, Division 1 of the SDMC within the 36 month period, this permit shall be void unless an Extension of Time has been granted. Any such Extension of Time must meet all SDMC requirements and applicable guidelines in effect at the time the extension is considered by the appropriate decision maker, and as further specified in Condition 4 of this Permit. This permit must be utilized by May 23, 2016.
2. The utilization of this CUP is contingent upon the approval of a license to sell alcohol at this location by the California Department of Alcoholic Beverage Control [ABC]. The issuance of this CUP does not guarantee that the ABC will grant an alcoholic beverage license for this location.
3. This Conditional Use Permit [CUP] and corresponding use of this site shall expire on May 23, 2023. Upon expiration of this Permit, the use, facilities and improvements described herein for alcohol sales shall be removed from this site and the property shall be restored to its original condition preceding approval of this Permit.
4. The Owner/Permittee may request that the expiration date be extended in accordance with the following provisions:
  - a. An application for an extension shall be filed before the expiration of the approved Conditional Use Permit.
  - b. An application for an extension shall be considered in accordance with Process Two if there is no record in the City of San Diego Police Department or other department or with any other governmental agency of any violations of the State of California Department of Alcoholic Beverage Control rules, regulations, and orders or of any violation of city, county, state or federal law, code, regulation or policy related to prostitution, drug activity or other criminal activity on the premises.

- c. An application for an extension shall be considered in accordance with Process Three if there is a record of violations as described in SDMC Section 141.0502(c)(7)(B).
  - d. Prior violations of any conditions contained in an approved Conditional Use Permit shall constitute grounds for denying an application for an extension.
5. No permit for the construction, occupancy, or operation of any facility or improvement described herein shall be granted, nor shall any activity authorized by this Permit be conducted on the premises until:
- a. The Owner/Permittee signs and returns the Permit to the Development Services Department; and
  - b. The Permit is recorded in the Office of the San Diego County Recorder.
6. While this Permit is in effect, the subject property shall be used only for the purposes and under the terms and conditions set forth in this Permit unless otherwise authorized by the appropriate City decision maker.
7. This Permit is a covenant running with the subject property and all of the requirements and conditions of this Permit and related documents shall be binding upon the Owner/Permittee and any successor(s) in interest.
8. The continued use of this Permit shall be subject to the regulations of this and any other applicable governmental agency.
9. Issuance of this Permit by the City of San Diego does not authorize the Owner/Permittee for this Permit to violate any Federal, State or City laws, ordinances, regulations or policies including, but not limited to, the Endangered Species Act of 1973 [ESA] and any amendments thereto (16 U.S.C. § 1531 et seq.).
10. The Owner/Permittee shall secure all necessary building permits. The Owner/Permittee is informed that to secure these permits, substantial building modifications and site improvements may be required to comply with applicable building, fire, mechanical, and plumbing codes, and State and Federal disability access laws.
11. Construction plans shall be in substantial conformity to Exhibit "A." Changes, modifications, or alterations to the construction plans are prohibited unless appropriate application(s) or amendment(s) to this Permit have been granted.
12. All of the conditions contained in this Permit have been considered and were determined-necessary to make the findings required for approval of this Permit. The Permit holder is required to comply with each and every condition in order to maintain the entitlements that are granted by this Permit.

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

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

#### **ENGINEERING REQUIREMENTS:**

14. Prior to the operation of the Alcohol Beverage Outlet, the pedestrian ramp at the alley adjacent to the building shall be reconstructed per City standards, to the satisfaction of the City Engineer.

#### **PLANNING/DESIGN REQUIREMENTS:**

15. Owner/Permittee shall maintain a minimum of 26 off-street parking spaces on the property at all times in the approximate locations shown on the approved Exhibit "A" for all uses within the existing strip mall, to the satisfaction of the Development Services Department. Parking spaces shall comply at all times with the SDMC and shall not be converted for any other use unless otherwise authorized by the appropriate City decision maker in accordance with the SDMC.

16. The owner or operator shall post a copy of the Conditional Use Permit conditions in the licensed premises in a place where they may be readily viewed by any member of the general public or any member of a government agency.



17. All signs associated with this development shall be consistent with sign criteria established by the City-wide sign regulations.

18. 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.

19. The sales of alcoholic beverage shall be permitted between the hours of 8:00 a.m. and 12:00 midnight, each day of the week.

20. 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 square feet in size, with two-inch-high block lettering. The sign shall be in English and Spanish.

21. Exterior advertising of alcoholic beverages or interior advertising of alcoholic beverages that is visible from the exterior of the premises shall be prohibited.

22. 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.

23. No pay telephone shall be maintained on the exterior of the premises.

24. No loitering on the premises is permitted. If necessary, a security guard to control enforcement of this provision shall be provided by the Owner/Permittee.

25. Illumination in the parking lot is required, in conjunction with Condition 18 of this Permit.

26. Functioning security cameras, which record and store images, providing coverage of both the interior and exterior of the premises is required.

27. No more than 10 percent of the square footage of the premises used by the convenience store shall be used for the display of alcoholic beverages.

**RECOMMENDATIONS FOR ABC LICENSE:**

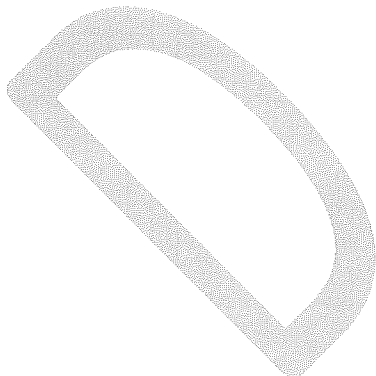
- The sales of alcoholic beverage shall be permitted between the hours of 8:00 a.m. and 12:00 midnight, each day of the week.
- Wine shall not be sold in bottles or containers smaller than 750 ml.
- No wine shall be sold with any alcoholic content greater than 15% by volume except for "Dinner Wines," which have been aged two years or more.
- Beer, malt beverages or wine cooler products, regardless of container size, must be sold in manufacturer pre-packaged multi-unit quantities.

- The premises shall be maintained as a convenience store, and the quarterly annual sales of alcoholic beverages shall not exceed 10 percent of the quarterly annual sales of all other products.

**INFORMATION ONLY:**

- The issuance of this discretionary use permit alone does not allow the immediate commencement or continued operation of the proposed use on site. The operation allowed by this discretionary use permit may only begin or recommence after all conditions listed on this permit are fully completed and all required ministerial permits have been issued and received final inspection.
- Any party on whom fees, dedications, reservations, or other exactions have been imposed as conditions of approval of this Permit, may protest the imposition within ninety days of the approval of this development permit by filing a written protest with the City Clerk pursuant to California Government Code-section 66020.
- This development may be subject to impact fees at the time of construction permit issuance.

APPROVED by the Planning Commission of the City of San Diego on May 23, 2013, by Resolution No. \_\_\_\_\_.



Conditional Use Permit No. 1005315  
Date of Approval: May 23, 2013

AUTHENTICATED BY THE CITY OF SAN DIEGO DEVELOPMENT SERVICES  
DEPARTMENT

\_\_\_\_\_  
MICHELLE SOKOLOWSKI  
Development Project Manager

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

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

GASLAMP INVESTMENTS, LLC  
Owner/Permittee

By \_\_\_\_\_  
NAME  
TITLE

7-ELEVEN, INC  
Owner/Permittee

By \_\_\_\_\_  
NAME  
TITLE

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

## NOTICE OF EXEMPTION

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

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

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

PROJECT NO.: 286427

PROJECT TITLE: 7 Eleven-Washington Street

PROJECT LOCATION-SPECIFIC: 126 Washington Street, San Diego, California 92103

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

DESCRIPTION OF NATURE AND PURPOSE OF THE PROJECT: The project proposes a Conditional Use Permit (CUP) to allow for a Type 20 alcohol sales (beer/wine) at a proposed 24 hour convenience store within 7,708 square-foot existing building. The convenience store would be approximately 2,999 square-feet.

NAME OF PUBLIC AGENCY APPROVING PROJECT: City of San Diego

NAME OF PERSON OR AGENCY CARRYING OUT PROJECT: Tom Bergerson (Applicant)  
 DMB Architects (Firm)  
 8911 Research Drive, 1<sup>st</sup> Floor  
 Irvine, CA 92618  
 (949) 272-0202

EXEMPT STATUS: (CHECK ONE)

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

REASONS WHY PROJECT IS EXEMPT: The City of San Diego conducted an environmental review that determined the project would not have the potential for causing a significant effect on the environment. The project meets the criteria set forth in CEQA Section 15301 which allows for the operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing facilities (public or private) involving negligible or no expansion of use beyond that existing at the time of the determination. A CUP to allow for Type 20 alcohol sales at a proposed convenience store in an existing building is a negligible expansion of use. In addition; the exceptions listed in CEQA Section 15300.2 would not apply.

LEAD AGENCY CONTACT PERSON: Rhonda Benally

TELEPHONE: (619) 446-5468

IF FILED BY APPLICANT:

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

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

Anaah. M. [Signature] / Senior Planner  
 SIGNATURE/TITLE

February 14, 2013  
 DATE

CHECK ONE:

- ☒ SIGNED BY LEAD AGENCY  
☐ SIGNED BY APPLICANT

DATE RECEIVED FOR FILING WITH COUNTY CLERK OR OPR:





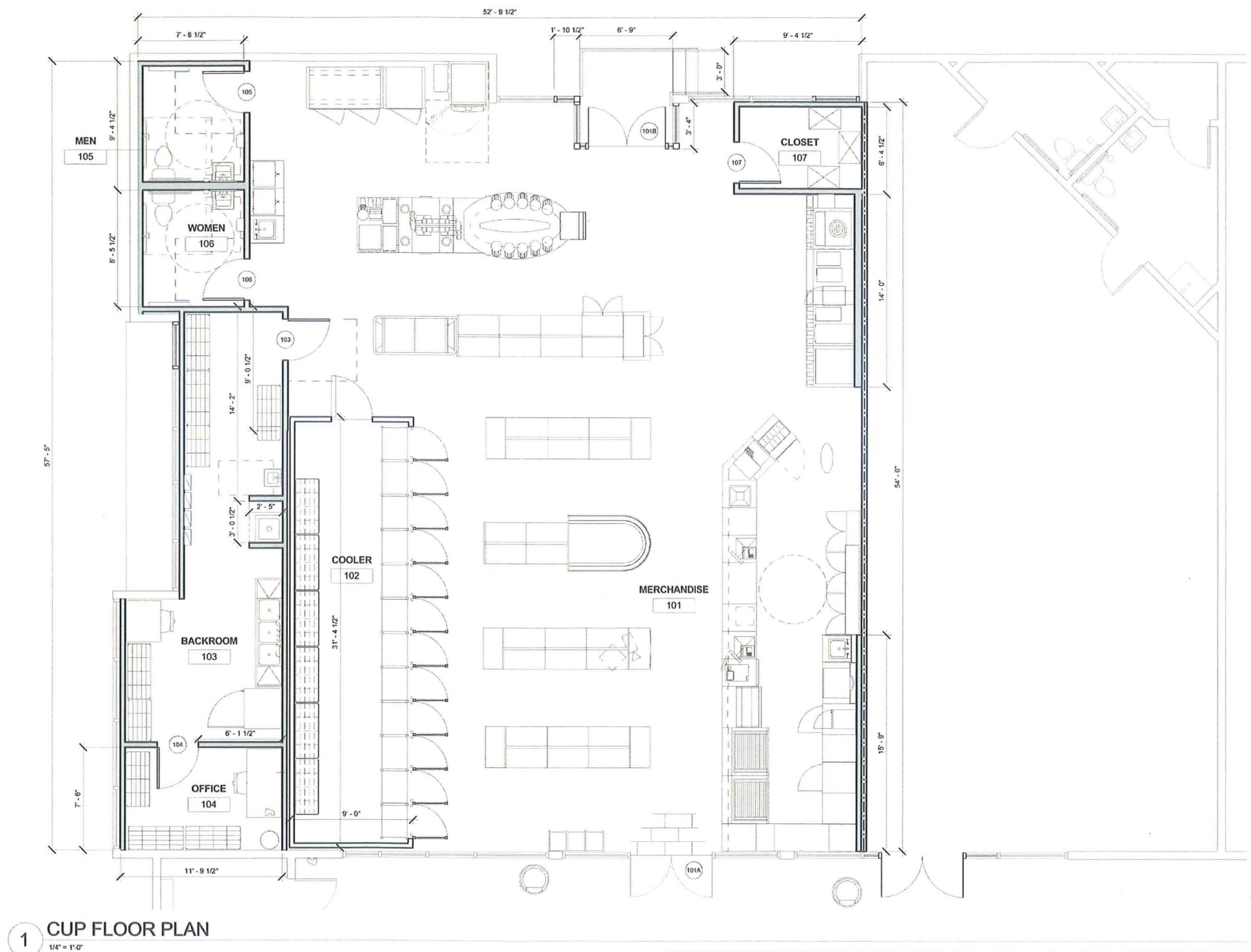


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|                |          |
|----------------|----------|
| STORE NO.:     | 1029213  |
| DOCUMENT DATE: | 07/03/12 |
| CHECKED BY:    | CS       |
| DRAWN BY:      | RS       |

### FLOOR PLAN

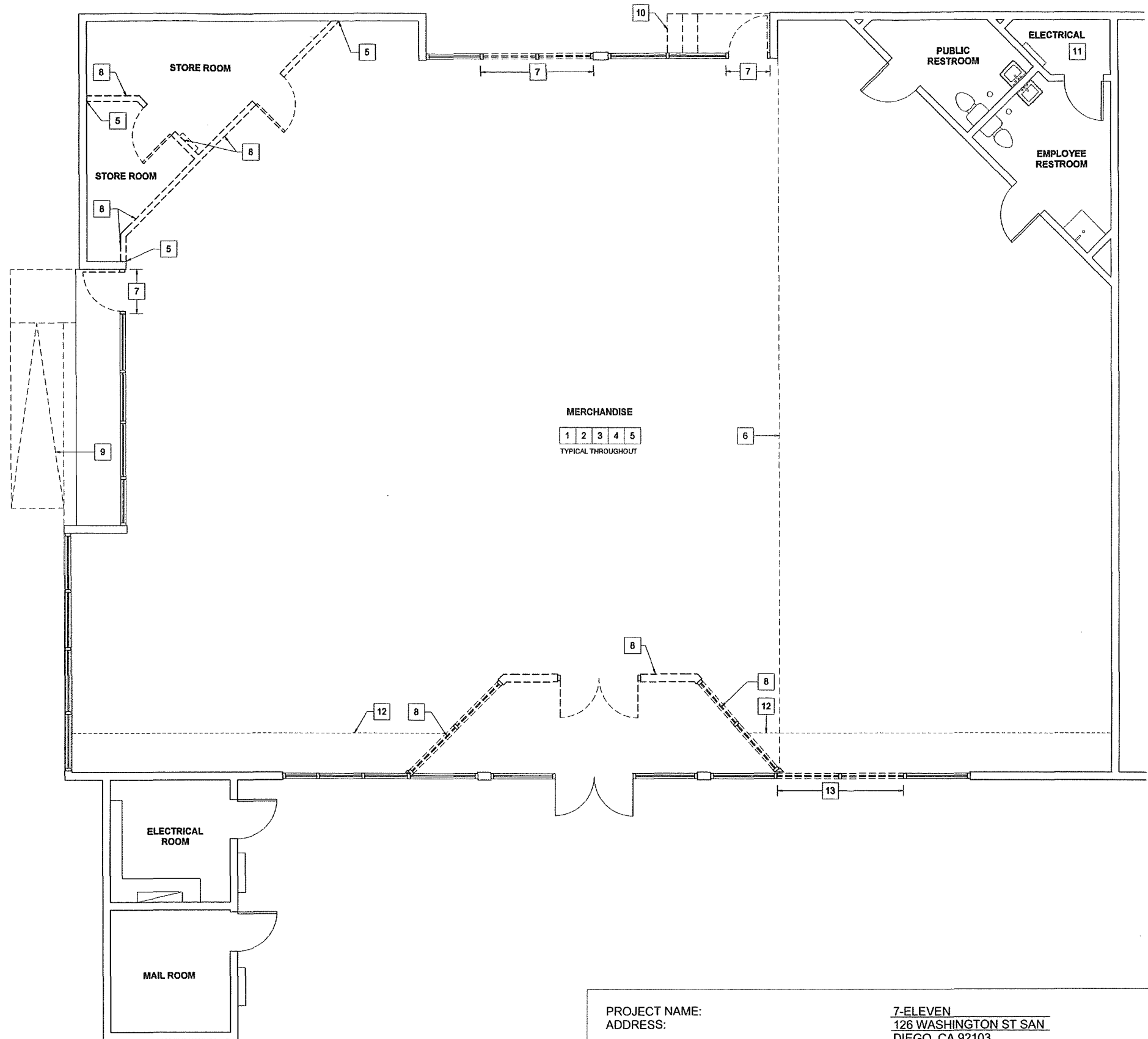
A102



|                                    |  |
|------------------------------------|--|
| PROJECT NAME:                      | 7-ELEVEN                                 |
| ADDRESS:                           | 126 WASHINGTON ST SAN<br>DIEGO, CA 92103 |
| SHEET TITLE:                       | FLOOR PLAN                               |
| SHEET NUMBER:                      | 2 OF 3                                   |
| ORIGINAL DRAWING PREPARATION DATE: | 07/03/12                                 |
| REVISION DATE:                     | 07/09/12                                 |

|   |  |
|---|--|
| A | GENERAL CONTRACTOR TO INSPECT PREMISES PRIOR TO DEMOLITION TO DETERMINE EXTENT OF WORK INVOLVED AND TO MAINTAIN STRUCTURAL INTEGRITY. ELECTRICAL CONTRACTOR TO DISCONNECT ALL ELECTRICAL ITEMS AND REMOVE WRING OF DEBRIS. SHOW AND REPAIR TO NEW PLUMBING AND INSPECT PREMISES TO DETERMINE EXTENT OF WORK. CAP ELECTRICAL LINES WHERE REMOVED. PLUMBING CONTRACTOR TO DISCONNECT, CAP AND REMOVE PLUMBING FIXTURES, WATER, SEWER AND GAS PIPING AS REQUIRED PER NEW PLUMBING PLANS. INSPECT PREMISES TO DETERMINE EXTENT OF WORK. VERIFY QUANTITY AND LOCATIONS. |
| B | PROTECT EXISTING CONDITIONS TO REMAIN WITH TEMPORARY COVERS, SHORING, BRACING AND SUPPORTS AS REQUIRED.  |
| C | ITEMS WHICH ARE TO REMAIN AND ARE DAMAGED DURING PERFORMANCE OF WORK SHALL BE REPAIRED TO THE ORIGINAL CONDITION OR REPLACED WITH NEW.   |
| D | DO NOT OVERLOAD STRUCTURAL ELEMENTS. PROVIDE NEW SUPPORTS AND REINFORCEMENT FOR EXISTING CONSTRUCTION WEAKENED BY DEMOLITION.  |
| E | TERMINATE ELECTRICAL AND MECHANICAL SERVICES TO BE REMOVED IN A MANNER CONFORMING TO THE NATIONALLY RECOGNIZED CODES GOVERNING THE SPECIFIC UTILITY AND SATISFACTORY TO THE OWNER AND BUILDING OFFICIALS.  |
| F | PROTECT ALL ELECTRICAL AND MECHANICAL WHICH ARE TO REMAIN.   |
| G | ON THE COMPLETION OF EACH DAY'S WORK, DEMOLITION DEBRIS AND RUBBISH SHALL BE REMOVED TO THE SATISFACTION OF THE OWNER'S REP.   |
| H | AFTER DEMOLITION, THE CONTRACTOR SHALL VERIFY AND INSURE FULL OPERATION OF EXISTING ELECTRICAL DEVICES TO REMAIN.  |
| I | PROVIDE DUST BARRIERS AT LOCATIONS PER DIRECTION OF OWNER'S REP.   |
| J | ANY CHANGES TO THE DRAWINGS OR CONTRACT DOCUMENTS SHALL BE APPROVED IN WRITING BY 7-ELEVEN CONSTRUCTION MANAGER PRIOR TO START OF WORK.  |
| K | GENERAL CONTRACTOR TO COORDINATE WITH ALL TRADES DURING DEMOLITION.  |
| L | GENERAL CONTRACTOR SHALL BROOM SWEEP CLEAN AT END OF EACH DAY. UNDER NO CIRCUMSTANCES SHALL DEBRIS BE LEFT TO ACCUMULATE.  |
| M | GENERAL CONTRACTOR SHALL IMMEDIATELY NOTIFY OWNER OF ITEMS IN QUESTION AND/OR CONFLICTS PRIOR TO CONTINUING DEMO.  |
| N | ALL SURFACES TO RECEIVE NEW FINISHES SHALL BE PRIMED & PREPARED PER MANUFACTURERS REQUIREMENTS.  |
| O | GENERAL CONTRACTOR SHALL BE RESPONSIBLE TO DISPOSE OF GENERAL CONSTRUCTION DEBRIS AND/OR UNDO.   |
| P | IF SUSPECT ASBESTOS CONTAINING MATERIALS ARE ENCOUNTERED DURING DEMOLITION WORK, CONTACT THE 7-ELEVEN CONSTRUCTION MANAGER FOR TESTING AND ANALYSIS OF SAMPLES PRIOR TO DISTURBANCE.   |

|    |   |
|----|---|
| 1  | REMOVE ANY REMAINING CABINETS, COUNTERS AND EQUIPMENT. CAP OFF OR RELOCATE PLUMBING AND ELECTRICAL AS NEEDED FOR NEW LAYOUT AND PER ALL APPLICABLE CODE REQUIREMENTS.                           |
| 2  | REMOVE EXISTING FLOOR FINISH AND BASE. PREP SUBFLOOR FOR NEW FLOOR FINISH.  |
| 3  | REMOVE EXISTING WALL FINISH AND PROMOS SIGNAGE THROUGHOUT. PATCH BACK SURFACE TO REMAIN AS REQUIRED FOR NEW FINISHES.   |
| 4  | REMOVE EXISTING CEILING, GRID, TILES, LIGHTS AND HVAC GRILLES/DIFFUSERS, SECURITY CAMERAS, SPEAKERS, EXIT SIGNS AND ASSOCIATED WIRING.  |
| 5  | REPAIR WALL WHERE WALL/COUNTER WAS REMOVED. PATCH BACK SURFACE TO REMAIN AS REQUIRED FOR NEW FINISHES.  |
| 6  | DASHED LINE INDICATES LOCATION OF FUTURE DEMISING WALL AND THE LIMITS OF THIS DEMOLITION.   |
| 7  | REMOVAL OF PORTION OF EXISTING STOREFRONT. PROVIDE NEW STOREFRONT AS PER NEW LAYOUT ON SHEET A2.0.  |
| 8  | REMOVE PATIONS AND ALL ASSOCIATED DOGS, HANDRAILS AND FRAMES. REMOVE/RELOCATE INCIDENTAL MECHANICAL, ELECTRICAL AND PLUMBING AS NEEDED FOR NEW LAYOUT AND PER ALL APPLICABLE CODE REQUIREMENTS. |
| 9  | REMOVE EXISTING CONCRETE RAMP, LANDING AND HANDRAILS. PATCH AND REPAIR CONCRETE SIDEWALK TO MATCH EXISTING.   |
| 10 | REMOVE EXISTING CONCRETE STAIRS, LANDING, AND HANDRAILS. PATCH SIDEWALK AND WALLS OF BUILDING TO MATCH EXISTING.  |
| 11 | EXISTING ELECTRICAL TO REMAIN; REFERENCE ELECTRICAL DRAWINGS FOR FULL SCOPE OF WORK.  |
| 12 | REMOVE EXISTING BULKHEAD/SOFFIT.  |
| 13 | LANDLORD SHALL REMOVE PORTION OF EXISTING STOREFRONT AND PROVIDE NEW STOREFRONT AS PER NEW LAYOUT ON SHEET A2.0.  |



7-ELEVEN  
126 WASHINGTON ST SAN  
DIEGO, CA 92103  
DEMOLITION PLAN  
3 OF 3  
07/03/12  
07/09/12

REF: A103



City of San Diego  
Development Services  
1222 First Ave. 3rd Floor  
San Diego, CA 92101  
(619) 446-5210

# Development Permit/ Environmental Determination Appeal Application

FORM  
DS-3031  
OCTOBER 2012

See Information Bulletin 505, "Development Permits Appeal Procedure," for information on the appeal procedure.

## 1. Type of Appeal:

- ☐ Process Two Decision - Appeal to Planning Commission  
☒ Process Three Decision - Appeal to Planning Commission  
☐ Process Four Decision - Appeal to City Council
- ☐ Environmental Determination - Appeal to City Council  
☐ Appeal of a Hearing Officer Decision to revoke a permit

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

Name: 7-Eleven, Inc. c/o William A. Adams, Norton, Moore, & Adams, LLP E-mail Address: wadams@nmalawfirm.com  
Address: 525 B Street, #1500 City: San Diego State: CA Zip Code: 92101 Telephone: (619) 233-8200

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

7-Eleven, Inc.

## 4. Project Information

|  |                                 |                       |
|--|---------------------------------|-----------------------|
| Permit/Environmental Determination & Permit/Document No.:  | Date of Decision/Determination: | City Project Manager: |
| PROJECT NUMBER 286427; Permit No. 1005315  | March 20, 2013                  | Michelle Sokolowski   |
| Decision (describe the permit/approval decision):<br>Conditional Use Permit for alcoholic beverage sales outlet (beer and wine - type 20) at 126 Washington St. - DENIED |                                 |                       |

## 5. Grounds for Appeal (Please check all that apply)

- ☒ Factual Error  
☒ Conflict with other matters  
☒ Findings Not Supported
- ☒ New Information  
☐ City-wide Significance (Process 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.)

- 1) Denial on basis public health, safety, and welfare conflicted with contrary binding findings by City Agency given exclusive authority under City Council resolution R-294124, and thus the Hearing Officer did not proceed in the manner prescribed by law.
- 2) Denial was not supported by the evidence, which among other things, impacts could be mitigated with conditions on operation
- 3) Denial was factually in error and did not address the concerns of opposition in an appropriate and sufficiently direct manner.
- 4) New information will be produced at the appeal hearing supporting approval.
- 5) Denial violated appellant's due process rights by disregarding the prior proceedings and findings made by the City and subjecting appellant to administrative double jeopardy, and a CUP denial that was arbitrary and an abuse of discretion.
- 6) Hearing officer made prejudicial error in allowing a Police Department representative to testify contrary to the Police Dept's prior official determination in the Business & Professions Code sec. 23958.4 and City Council Resolution R-294124 process.
- 7) Denial of the conditional use permit was in error as a matter of law, and void, because the Planned District Ordinance "1512.0305, indicate both Liquor Stores and Food Stores are permitted uses in the CN-2A Zone" and Section 151.01 03 does not give the hearing officer authority to disregard 1512.0305, only to apply conditions under a CUP.

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

Signature: WILLIAM A. ADAMS Date: March 26, 2013  
NORTON MOORE & ADAMS LLP  
525 B STREET, SUITE 1500  
SAN DIEGO, CA 92101

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

RECEIVED

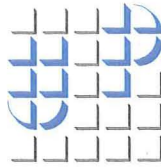
Printed on recycled paper. Visit our web site at [www.sandiego.gov/development-services](http://www.sandiego.gov/development-services).  
Upon request, this information is available in alternative formats for persons with disabilities.

DS-3031 (10-12)

MAR 27 2013

DEVELOPMENT SERVICES





## UPTOWN PLANNERS

Uptown Community Planning Group

October 2, 2012

MEETING MINUTES

Meeting Place: Joyce Beers Community Center

Meeting called to order at 6:00 p.m. by Chair Beth Jaworski.

Present: Matt Winter, Bob Grinchuk, Tom Fox, Ernie Bonn, Gary Bonner, Rhett Butler, Chris Ward, Ken Tablang, Neil Ferrier, Joe Naskar, Don Liddell, Beth Jaworski, Janet O'Dea, Jennifer Pesqueira, Tony Winney, Jim Mellos

Absent: Kim Adler

Approximately 30 people were in attendance

### **I. Board Meeting: Parliamentary Items/ Reports:**

#### Adoption of Agenda:

Motion by Ferrier, seconded by Bonner, to approve the agenda; motion passed by a 15-0 vote.

#### Approval of the September 4, 2012 Minutes:

Correction to minutes regarding the date Uptown Planners recommendations regarding the CIP are due, and vote on Mission 8 project.

Bonn made motion to approve minutes; seconded by Bonner; motion passed by 15-0 vote.

#### Treasurer's Report:

Treasurer Fox reported there was \$256.20 in the Uptown Planners bank account.

#### Website Report:

Winney recommended that Uptown Planners establish a Facebook page. He had a conversation about the idea with Chair Jaworski. The board briefly discussed the proposal; which will be placed on a future agenda, and a draft policy presented for review by the board. Winney and Ward favored utilizing social media to conduct outreach; other board members expressed reservations involving Brown Act compliance, and inclusion of a public comment which could have in legal implications. Chair Jaworski recommended moving forward with caution. Marlon Pangilinan indicated planning staff had been supportive of community planning groups using Facebook, but were concerned it was properly administered so it did not contain offensive comments, conversations, or violate the Brown Act. As yet, the city had not established guidelines for how community planning groups should utilize social media. It was noted that there should be no comments on Facebook pages, and any comments should go directly to the city.

Chair/CPC Report:

Chair Jaworski provided a report about the September meeting of the Community Planners Committee. Kelly Broughton, the head of Development Service's Department, spoke regarding the reorganization of the department. Several positions had been abolished, including that of Assistant Planning Director Mary Wright.

Both candidates for mayor also spoke at the Community Planners Committee; and were asked 10 questions regarding planning issues prepared by CPC members.

Jaworski indicated the community planning group recommendations were due November 7<sup>th</sup>. Jaworski also stated that one Uptown Planner reported having been subject to harassing treatment from a member of the public resulting from his/her vote at the last meeting on the topic of the Uptown Parking District issue.

**II. Non-Agenda Public Comment:**

Zack Schlegel, from UCSD Hospital, provided an update regarding the traffic circulation study being done in the Hospital District. UCSD has purchased a vacant lot on Montecito Drive, between Front Street and First Avenue, and is developing a paid 105-space paid parking lot for patients and visitors. The parking lot will be constructed between October 1<sup>st</sup> and December 2012.

Leo Wilson announced a "Taste of Bankers Hill" that would be held on October 10, 2012, at Top of the Park at 525 Spruce Street.

Sharon Gehl, of the Mission Hills Town Council, indicated there were board seats open on that organization's board.

Karen Lenyoun, from Social Advocates for Youth, indicated Hillcrest had a high crime rate; which she attributed to the high number of alcohol outlets; similar crime rates existing in Pacific Beach, East Village and North Park, which also had a high number of alcohol licensees.

**III. Representatives of Elected Officials:**

Jessica Poole, representing Congresswoman Susan Davis, stated that the House of Representatives had recessed early because of the pending election; Davis had had opposed the recess and wanted Congress to remain in session.

Anthony Bernal, representing Third City Council District, stated the passage of Proposition B had significantly contributed to creating a budget deficit for the next fiscal year in the City of San Diego. Bernal also spoke about the proposed Abandoned Property Ordinance, which would require that banks and lending institutions keep foreclosed properties in good repair; and a proposed trenching ordinance that would require multiple excavation projects be done at one time. A forum had been held in Balboa Park regarding undergrounding of utility boxes.

Jason Weisz, from State Assemblymember Atkins Office, spoke about a bill Atkins was supporting which would waive the requirement that victims of violent abuse pay spousal support to their attackers, and a about a bill regarding active duty members of the military and their concern for professional/licensing while on deployment. He also indicated the proposal DMV redevelopment project would not move forward.

Ian Clampett, from Second City Council District Tem Faulconer's Office, spoke regarding proposed improvements to Pioneer Park, the replacement of stolen historic plaques, in Mission Hills, and a new city

policy regarding hanging banners into the public right-of way. He indicated that because of redistricting, Faulconer would no longer be representing western Uptown in December, so this was his last meeting.

#### IV. Consent Agenda:

None

#### V. Potential Action Items: Planning:

**CAPITAL IMPROVEMENT PROGRAM PROCESS:** The Community Planning Groups will be making recommendations regarding the City of San Diego's Fiscal Year 2014 Capital Improvement Budget. Recommendations from each community planning group must be received by no later than November 21, 2012. *(Report from Ad Hoc Subcommittee)*

Chris Ward, the chair of the ad hoc subcommittee, provided an update regarding the CIP budget process. The Mayor's Office has requested each community planning group make recommendations regarding potential projects that should be included in the City's 2013-2014 capital improvement budget, which city staff will begin to prepare in December 2012. The community planning group recommendations are due by November 7, 2012.

The ad hoc subcommittee met on September 22, 2012, and decided to recommend one priority project from each of the five communities of Uptown – Hillcrest, University Heights, Mission Hills, Bankers Hill/Park West and Middletown. Lists of public facilities projects that had been proposed in Uptown were reviewed ("Attachment B – List of Known Projects") – as well as other possible projects. Besides the recommendations for five projects from each of the above communities, there would also be recommendation regarding projects that are significant to the whole Uptown planning area. The projects recommended need to have existing development plans so construction may commence if funded in the 2013-2014 fiscal year. The CIP budget is very limited, (reportedly around \$10 million dollars for the entire city for the next fiscal year, so only a few projects in the city will be funded.

#### Public comment:

Tom Mullaney spoke in favor of a proposed park at Reynard Way, that would be comprised of four acres.

Rich Gorin, from Hillcrest, spoke in favor of making University Avenue and Robinson Street in the Hillcrest Core into one way streets.

Sol Schumer spoke regarding the process of submitting proposed projects.

Arne Hornick, a University Height business owner, spoke in favor of more alternative transportation such as bicycles.

Chris Cole, of the Western Slopes Community Association, supported the implementation of a Quiet Zone to reduce the train noise in Middletown.

Motion by Ward, seconded by Butler, that Uptown Planners hold a special meeting on October 22, 2012 to make a recommendation of the community improvement projects in Uptown that should be included in the 2013-2014 budget; and that the ad hoc subcommittee meet on October 20, 2012 prior to the board meeting to make initial recommendations that would be forwarded to the full board. Motion passed 14-1-1. Voting in favor: Grinchuk, Fox, Bonn, Bonner, Butler, Ward, Tablang, Ferrier, Naskar, Liddell, O'Dea, Pesqueira, Winney, and Mellos. Voting against: Winter. Non-voting chair Jaworski abstained.

**SANDAG UPTOWN REGIONAL BIKE CORRIDOR PROJECT** – The Uptown Regional Bike Corridor Project was identified in the San Diego Regional Plan and is among the first set of high priority projects to be funded for implementation. The project is now in the design

phase of the implementation process. During the design phase alignment and design alternatives will be analyzed and a final design selected for construction. A Community Advisory Group to help develop options and alternatives – Uptown Planners will need to designate a representative to the Community Advisory Group.

Beth Robrahn made a presentation regarding the San Diego Regional Bike Plan. A high priority bicycle route has been identified along Washington Street from Five Points to Hillcrest, along Third Avenue in Hillcrest, then south along Fourth and Fifth Avenues through Bankers Hill/Park West. SANDAG is now developing plans for a bicycle route along this corridor, and is setting up an advisory committee to study the various options for the design of the project. SANDAG has set aside funds to implement this portion of the high priority regional bicycle project. Robrahn is managing that segment of the plan.

Robrahn has indicated the design hopefully will be completed by 2014, prior to the construction moratorium being implemented for Balboa Park Centennial Celebration. There is no set project, the goal is to make the corridor safe for bicycles; while protecting existing parking and traffic circulation. There is also a desire to establish a buffer between bicycles and traffic so that bicycles have their own travel lane.

Sharon Gehl and Luke Terpstra spoke during public comment.

In response to board questions, Robrahn indicated she would come back to Uptown Planners with the final design of the project. She requested Uptown Planners appoint members to the community advisory committee.

Motion by Naskar, seconded by O'Dea, that Jim Mellos, Ken Tablang, and Chris Ward be appointed Uptown Planners representatives to the bicycle plan advisory committee. Motion passed by a 15-0-1 vote; with non-voting chair Jaworski abstaining.

**UPTOWN COMMUNITY PLAN UPDATE -- Potential Action Item** – Uptown -- Discussion of Uptown Community Plan Update Draft Planned Land Use Map; and proposed changes to underlying densities and zoning in Uptown — Marlon Pangilinan, Senior Planner, Development Services Department

Marlon Pangilinan gave a brief update on the status of the draft density/zoning map for Uptown.

#### Bankers Hill/Park West:

Gary Bonner made a presentation of a proposed Bankers Hill/Park West Community Plan map, which proposed to downzone areas of western Bankers Hill/Park West, while leaving existing zoning in place along Fourth, Fifth and Sixth Avenues. Bonner passed out a document entitled "Bankers Hill/Park West Community Plan (Formulated during the 2010 Charrette)", which included a draft map showing proposed zoning for Bankers Hill/Park West.

As indicated in the document, the proposal originated during the Uptown Plan charrette conducted by city planning in 2010: Both the Bankers Hill/Park West/Five Points Community Development Corporation, and Bankers Hill/Park West Community Association, voted in favor of the proposal at their September 2012 meetings.

During public comment, Ian Epley spoke against any downzone, indicated it violated the requirements of AB 32; which would require a compensatory up zone in another area of the city. Sharon Gehl also spoke against any down zone. Tom Mullaney stated the provisions of AB 32 did not apply, as there was land zoned for additional housing to meet San Diego's housing requirements. Leo Wilson indicated the areas proposed for downzone in Bankers Hill/Park West were in fire hazard zones, or under the airport flight path, and therefore not suitable for high density development. There also was not sufficient transportation infrastructure on the west side to support more development.

During board discussion, Bob Grinchuk, who resides on First Avenue, indicated concerns over downzone below the existing densities. It was unclear whether an existing property owner would be allowed to rebuild or renovate their property. Grinchuk, a board member of the Bankers Hill/Park West CDC, had been one of three votes against the proposal. Bonner responded by indicating his motion would expressly require all existing development densities be retained should there be a need to rebuild.

Motion by Bonner, seconded by Liddell, to support the Bankers Hill/Park West Community Plan map, developed at the Uptown Plan charrette in 2010, as presented and request it be implemented in the community plan update with the condition that all existing development retain the right to rebuild at its current existing densities. Motion passed by 13-2-1. Voting in favor: Fox, Bonn, Bonner, Butler, Ward, Tablang, Ferrier, Naskar, Liddell, O'Dea, Pesqueira, Winney, Mellos. Voting against: Grinchuk, Winter. Non-voting chair Jaworski abstained.

#### Middletown/ Western Slope:

Joe Naskar, on behalf of the Western Slopes Community Association, presented a letter with the recommendations of that organization for Middletown.

Naskar briefly reviewed the handout titled Community Plan Update from Western Slopes Community Association dated September 17, 2012. Included in the recommendations were: (1) opposing the proposed residential prohibition in Middletown along Interstate 5; (2) maintaining the 30-foot height limit established in the 1988 plan for Middletown; (3) making a railway quiet zone as an urgent priority; (4) creating a park & ride facility at the Washington Street trolley station; (5) undergrounding utilities as a priority; (6) installing new concrete at steep sloped streets upon completion of undergrounding; (7) improving pedestrian crossing at India/San Diego at Washington; (8) establishing a safe school zone/slow zone for Old Town Academy; (9) study airport parking impacts in Middletown; (10) providing added parking for businesses, especially in the Five Points community; and (11) installing traffic calming measures along India and San Diego Avenue through to Old Town.

Motion by Naskar, seconded by O'Dea, to support the Western Slopes Community Association plan update recommendations; motion passed by a 15-0-1 vote; non-voting chair Jaworski abstaining.

#### **VI. Potential Action Items: Projects:**

**2900 SIXTH AVENUE SDP ("PALM STREET PROPERTIES") – Process Four --** Bankers Hill/Park West – Site Development Permit to construct two 150 ft. high buildings with 145 for-rent residential units and a 56-room extended stay hotel and relocate an existing historically designated building on a 1.33-acre site at 2900 Sixth Avenue in the CV-1 and MR-400 Zones; FAA Park 77, Transit Area Overlay Zone, Residential Tandem Parking Overlay Zone.

Presentation by Joseph Wong, architect, and Richard Ledford, on behalf of Palm Properties; the project had previously been presented as an informational item to Uptown Planners in February 2012. The project was below the 150-foot height limitation, and exceeded the parking required by city code. The project was revised as to not relocate the Hazzard House on Sixth Avenue from the corner of Palm Street to Quince Street; instead it would remain at its current location. The extended stay hotel would allow individuals to stay up to 33 days.

During public comment, concerns were expressed over the amount of hardscape at the center of the project. The driveway into the parking garage was in an entryway between the buildings to the extended stay hotel. Leo Wilson, spoke in favor of the project, and indicated the applicant had worked with the Bankers Hill/Park West community over many years to design the project, and preserve the Hazzard House.

Board member Bonn inquired of the location of the loading zone. O'Dea asked about use of solar energy; the applicant indicated no solar would be used, however the project would incorporate sustainable features and would have a LEED silver score. Naskar and Ward indicated support for the project design.

Motion by Liddell, seconded by Fox, to approve the project as presented; motion approved by a 14-0-1; Grinchuk, Fox, Bonn, Bonner, Butler, Ward, Tablang, Ferrier, Naskar, Liddell, Winter, Pesqueira, Winney, Mellos. Chair Jaworski abstained. (O'Dea left meeting prior to vote)

**126 WASHINGTON STREET ("7 Eleven CUP/PDP") – Process Four -- Mission Hills --**  
Conditional Use Permit/Planned Development Permit to allow Type 20 (beer/wine) alcohol sales at a proposed convenience store and to allow 24-hour operation at 126 Washington Street, in the CN-2A Zone of the Mid-Communities Planned District; FAA Part 77

The applicant's representative made the presentation; applicant wants a Type 20 beer/wine license for off-site sales. The San Diego Police Department opposes the license based on high crime and the number of transients in the area of the convenience store.

Several neighborhood residents and business owners objected to the granting of the CUP; including Delour Younan, owner of a Shell station in close proximity of the proposed 7-11. He is concerned about crime and transients, and does not sell alcohol at his convenience store. Another individual pointed out there were 43 alcohol licenses in the census tract, but only eight so be permitted. ?????????

Ben Nichols, director of the Hillcrest BID, stated some of his members were concerned over having another alcohol license in the area. If one is granted, he hopes the franchisee of 7-11 will be as responsible as the owner of the 7-11 on University Avenue and Normal Street, and prevent alcohol-related problems.

A letter was received from Robert Mahlowitz, Esq., the President of the Montana Loft HOA, opposing the project because of the concentration of alcohol licenses, transients, and proximity to residential property. Attorney Heller, who presented petition signed by 200 neighbors in opposition to the CUP, expressed concern about the CUP's impact on homelessness and crime.

Luke Terpstra, President of the Hillcrest Town Council, indicated his organization has voted to oppose the CUP for the alcohol license. Karen Lenyoun, of Social Advocates for Youth, opposed the CUP, stating there already was a saturation of alcohol licenses in the neighborhood.

Board members Mellos, Ferrier and Butler expressed concern over the number of transients in the neighborhood, and were opposed to granting the CUP for the liquor license. Winney opposed telling a business what products they can carry; and suggested alcohol sales could be regulated through hours of operation; Grinchuk and Pesqueira agreed with Winney. Butler questioned whether the CUP should be approved before a franchisee is found for the store. Naskar questioned if a CUP could effectively be enforced, and if the business was viable without alcohol sales.

Motion by Mellos, seconded by Butler, to oppose the application for a CUP for Type 20 off-site alcohol sales; approved by a 9-4-1 vote. In favor: Fox, Bonn, Bonner, Butler, Ward, Tablang, Ferrier, Mellos, Naskar. Opposing the motion: Winter, Pesqueira, Winney, Grinchuk. Non-voting chair Jaworski abstained.

A motion to adjourn by Ferrier, seconded by Butler, was approved at approximately 9:00 P.M.

Respectfully submitted,  
Joe Naskar, Secretary



**Project No. 286427**  
**7-Eleven – 126 Washington Street**

**Property Owner:**

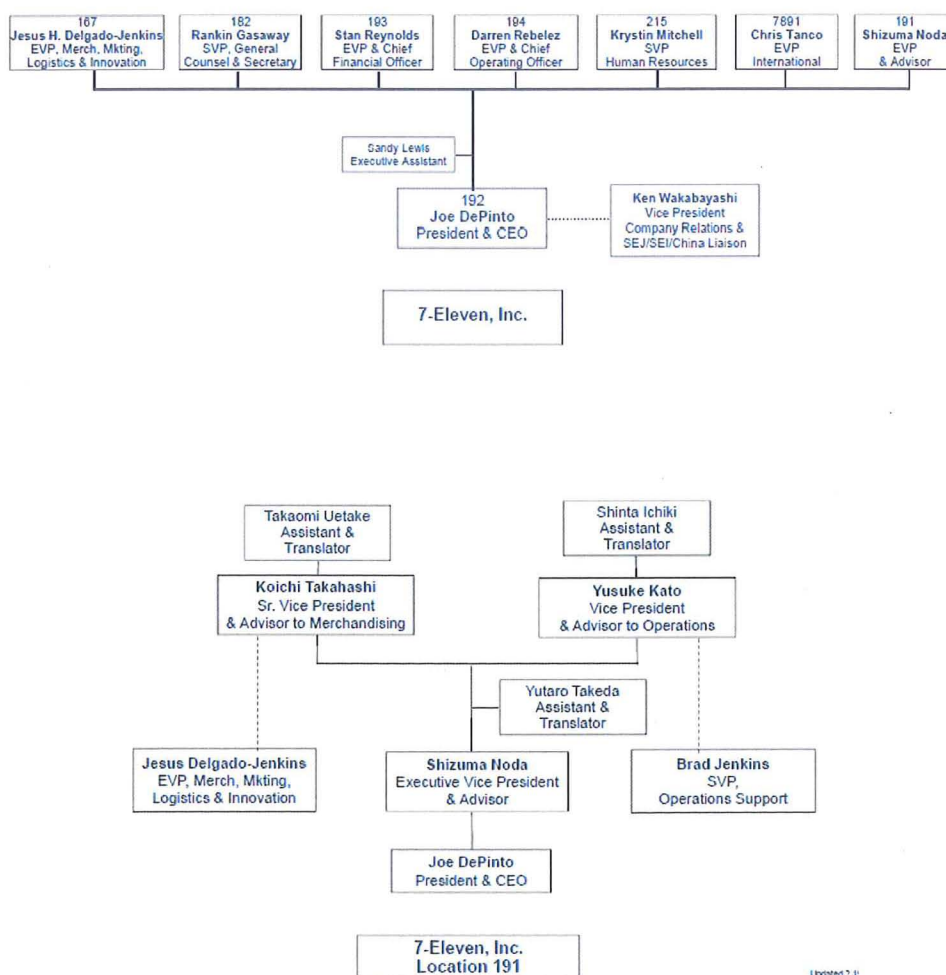
Gaslamp Investments, LLC,  
a California Limited Liability Company

Members: George Salameh  
Roy Salameh  
Larry Murnane

**Project No. 286427**  
**7-Eleven – 126 Washington Street**

**Permittee (Lessee) – 7-Eleven**

Corporate flowchart 7-11 List of Officers dated 2-19-13



**Permittee (Lessee) – 7-Eleven**

**7-Eleven – List of Officers - California**

|   |
|---|
| 7 ELEVEN INC  |
| <b><i>Company Information</i></b>                       |
| Officer: DEPINTO, JOSEPH (CHIEF EXECUTIVE OFFICER)      |
| Officer: DEPINTO, JOSEPH (CHIEF EXECUTIVE OFFICER)      |
| Officer: DEPINTO, JOSEPH (PRESIDENT)                    |
| Officer: DEPINTO, JOSEPH (PRESIDENT)                    |
| Officer: AUSTIN, MICHAEL DON (SECRETARY/ASST SEC)       |
| Officer: BONNVILLE, STEVEN R (SECRETARY/ASST SEC)       |
| Officer: EDWARDS, SEAN MCKINNON (SECRETARY/ASST SEC)    |
| Officer: FENTON, DAVID (SECRETARY/ASST SEC)             |
| Officer: GRIFFITH, GARY (SECRETARY/ASST SEC)            |
| Officer: HALVERSON, WILLIAM (SECRETARY/ASST SEC)        |
| Officer: HUGHES, LAWRENCE G (SECRETARY/ASST SEC)        |
| Officer: PICHININO, CRAIG (SECRETARY/ASST SEC)          |
| Officer: SHEARER, SHAWN E (SECRETARY/ASST SEC)          |
| Officer: VARELA, ANTONIO ENRIQUE (SECRETARY/ASST SEC)   |
| Officer: WILLIAMS, GREGORY (SECRETARY/ASST SEC)         |
| Officer: YOW, SHAWNTEL (SECRETARY/ASST SEC)             |
| Officer: ABE, SHINJI (VICE PRESIDENT)                   |
| Officer: ABE, SHINJI (VICE PRESIDENT)                   |
| Officer: COZENS, ROBERT J (VICE PRESIDENT)              |
| Officer: DONEGAN, W TIMOTHY (VICE PRESIDENT)            |
| Officer: ELLIOTT, KEVIN E (VICE PRESIDENT)              |
| Officer: GAMBINA, FRANK S (VICE PRESIDENT)              |
| Officer: HARGROVE, WESLEY M (VICE PRESIDENT)            |
| Officer: HEDRICK, JOHN (VICE PRESIDENT)                 |
| Officer: JENKINS, C BRAD (VICE PRESIDENT)               |
| Officer: KAPOOR, RAJNEESH (VICE PRESIDENT)              |
| Officer: KOSCHEL, ENA WILLIAMS (VICE PRESIDENT)         |
| Officer: MITCHELL, KRYSTIN E (VICE PRESIDENT)           |
| Officer: OZEKI, SHIRO (VICE PRESIDENT)                  |
| Officer: PACK, ALLEN P (VICE PRESIDENT)                 |
| Officer: REBELEZ, DARREN M (VICE PRESIDENT)             |
| Officer: SAKAI, RYOJI (VICE PRESIDENT)                  |
| Officer: SCHENCK, JEFF (VICE PRESIDENT)                 |
| Officer: SELTZER, DAVID (VICE PRESIDENT)                |
| Officer: SMITH, NANCY A (VICE PRESIDENT)                |
| Officer: STRONG, JOSEPH M (VICE PRESIDENT)              |
| Officer: THOMAS, DONALD E (VICE PRESIDENT)              |
| Officer: REYNOLDS, STANLEY W (VICE PRESIDENT/TREASURER) |

(R-2001-677)

RESOLUTION NUMBER R- 294124ADOPTED ON NOV 14 2000

RESOLUTION DELEGATING THE AUTHORITY TO  
DETERMINE PUBLIC CONVENIENCE OR NECESSITY FOR  
ALCOHOLIC BEVERAGE LICENSING TO THE POLICE  
DEPARTMENT AND ESTABLISHING A REVIEW PROCESS.

WHEREAS, pursuant to applicable sections of the Business and Professions Code, the Department of Alcoholic Beverage Control is charged with the responsibility of reviewing applications and issuance of licenses for the sale and manufacture of alcoholic beverages in the State of California; and

WHEREAS, Section 23958 of the Business and Professions Code provides that the Department of Alcoholic Beverage Control shall deny an application for a license if issuance of that license would tend to create a law enforcement problem, or if issuance would result in, or add to an undue concentration of licenses, except as provided in Section 23958.4 of the Business and Professions Code; and

WHEREAS, Section 23958.4 of the Business and Professions Code provides that, notwithstanding the limitations of Section 23958, the Department of Alcoholic Beverage Control may issue a license if the "public convenience or necessity" would be served by the issuance of such license; and

WHEREAS, Section 23958.4 further provides that the determination of "public convenience or necessity" for all off-sale liquor licenses, and certain on-sale liquor licenses, be made by the local governing body, or its designated subordinate officer or body, in which the

applicant premises are located; and

WHEREAS, the determination of whether a business would meet the "public convenience or necessity" is based on, among other things, crime statistics, and the ratio of licenses to population in the area; and

WHEREAS, the City Council finds that the Police Department has the ability and resources to determine incidence of crime and the effect of undue concentration of businesses selling alcoholic beverages; and

WHEREAS, the City Council desires to delegate the authority to make the "public convenience or necessity" determination to the San Diego Police Department, and to establish a procedure for appeal of such determinations, and to provide for certain other procedural matters concerning the review of such determinations by the San Diego Police Department, NOW, THEREFORE,

BE IT RESOLVED, by the Council of the City of San Diego, as follows:

1. That the Police Chief, or his designee, is authorized to make the "public convenience or necessity" determinations for purposes of Business and Professions Code 23958.4.
2. All off-sale or on-sale alcoholic beverage license applications that require a determination of "public convenience or necessity", pursuant to Business and Professions Code Section 23958.4, shall be processed as follows:
  - (a) The applicant shall submit a form provided by the Department of Alcoholic Beverage Control for a determination of "public convenience or necessity" to the San Diego Police Department, together with an application cost recovery fee as may be established



by the Police Department, and any information or documentary evidence to be considered by the Police Department tending to show that the "public convenience or necessity" would be served by issuance of the license.

(b) For purposes of determining whether the "public convenience or necessity" would be served by issuance of the license, The Chief of Police, or his designee, shall consider the following criteria:

(1) Whether the issuance involves an existing business with a license which is being transferred to a new location, and which will not result in an increase in the total number of off-sale retail liquor licenses or on-sale retail liquor licenses in the City, or in the census tract in which the business would be located.

(2) Whether the business, by reason of its location, character, manner or method of operation, merchandise, or potential clientele, will serve a segment of the City's business or residents not presently being served.

(3) Whether the business will be located within a 600-foot radius of incompatible facilities, such as public and private schools, day care centers, churches, parks, homeless shelters, and alcohol rehabilitation centers, and facilities designed and operated to serve minors.

(4) Whether the location of the license will be in a crime data area covered by police department statistics, which has a twenty percent greater number of reported crimes than the average number of reported crimes for all crime data areas in the City, over the previous year. For this purpose, "reported crimes" means reported offenses of criminal homicide, forcible rape, robbery, aggravated assault, burglary, larceny theft, and motor vehicle theft.

combined with all arrests for other misdemeanor or felony crimes.

(5) Whether the issuance of the license involves an existing business, which has been located at a site which has had three or more reported crimes as defined in (4) above within the previous one-year period.

(6) Whether the issuance of the license will promote the goals and policies of the City's General Plan, any applicable specific plan, or any similar policies that have been adopted by the City Council.

(7) Whether the application is for a premises where a previous license has been revoked within the previous one-year period.

(8) Whether the applicant has been convicted of any felony.

(9) Whether the premises are located within 100 feet of residentially zoned property. If a parking lot exists for the benefit of patrons then the 100 feet begins at the perimeter of the parking lot.

(10) Whether any other information supplied by the applicant, or other competent evidence shows that the "public convenience or necessity" will be served by issuance of the license.

When consideration is given in determining "public convenience or necessity", any one of the foregoing guidelines may be sufficient grounds for denial. Each application shall be judged on an individual basis and any one criteria or combination of criteria may be waived as the result of imposed conditions.

(c) The Chief of Police, or his designee, shall approve or deny the request for the determination of "public convenience or necessity" on the form provided by the Department

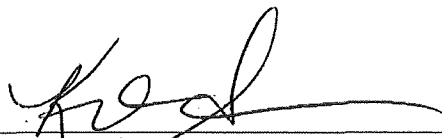
of Alcoholic Beverage Control within 90 days of receipt of the application. An explanation outlining the reasons for denial shall be made available to applicants in writing, upon request. The Chief of Police, or his designee, shall notify the Department of Alcoholic Beverage Control of their determination, along with any conditions required as a basis for such determination.

(d) A decision denying a determination of "public convenience or necessity" may be appealed by the applicant to the City Manager, or his designee, and ultimately to the City Council pursuant to the appeal procedures provided in San Diego Municipal Code section 33.0501. Written notice of any final decision approving or denying a determination of "public convenience or necessity" shall be given to the applicant and the Department of Alcoholic Beverage Control.

(e) For applicants requiring both a "public convenience or necessity" determination and a separate conditional use permit or other land use permit, the application to the Department of Alcoholic Beverage Control shall not be deemed complete unless the "public convenience or necessity" determination has been made and any required land use permits have been approved.

APPROVED: CASEY GWINN, City Attorney

By

  
Kristin Schenone  
Deputy City Attorney

KS:cdk  
10/23/00  
Or.Dept:Plan&Dev.Rev.  
R-2001-677  
Form=estcpr.frm

## BUSINESS AND PROFESSIONS CODE

### SECTION 23958.4

(from <http://www.leginfo.ca.gov/>) April 2013

23958.4. (a) For purposes of Section 23958, "undue concentration" means the case in which the applicant premises for an original or premises-to-premises transfer of any retail license are located in an area where any of the following conditions exist:

(1) The applicant premises are located in a crime reporting district that has a 20 percent greater number of reported crimes, as defined in subdivision (c), than the average number of reported crimes as determined from all crime reporting districts within the jurisdiction of the local law enforcement agency.

(2) As to on-sale retail license applications, the ratio of on-sale retail licenses to population in the census tract or census division in which the applicant premises are located exceeds the ratio of on-sale retail licenses to population in the county in which the applicant premises are located.

(3) As to off-sale retail license applications, the ratio of off-sale retail licenses to population in the census tract or census division in which the applicant premises are located exceeds the ratio of off-sale retail licenses to population in the county in which the applicant premises are located.

(b) Notwithstanding Section 23958, the department may issue a license as follows:

(1) With respect to a nonretail license, a retail on-sale bona fide eating place license, a retail license issued for a hotel, motel, or other lodging establishment, as defined in subdivision (b) of Section 25503.16, a retail license issued in conjunction with a beer manufacturer's license, or a winegrower's license, if the applicant shows that public convenience or necessity would be served by the issuance.

(2) With respect to any other license, if the local governing body of the area in which the applicant premises are located, or its designated subordinate officer or body, determines within 90 days of notification of a completed application that public convenience or necessity would be served by the issuance. The 90-day period shall commence upon receipt by the local governing body of (A) notification by the department of an application for licensure, or (B) a completed application according to local requirements, if any, whichever is later.

If the local governing body, or its designated subordinate officer or body, does not make a determination within the 90-day period, then the department may issue a license if the applicant shows the department that public convenience or necessity would be served by the issuance. In making its determination, the department shall not attribute any weight to the failure of the local governing body, or its designated subordinate officer or body, to make a determination regarding public convenience or necessity within the 90-day period.

(c) For purposes of this section, the following definitions shall apply:

(1) "Reporting districts" means geographical areas within the boundaries of a single governmental entity (city or the

unincorporated area of a county) that are identified by the local law enforcement agency in the compilation and maintenance of statistical information on reported crimes and arrests.

(2) "Reported crimes" means the most recent yearly compilation by the local law enforcement agency of reported offenses of criminal homicide, forcible rape, robbery, aggravated assault, burglary, larceny theft, and motor vehicle theft, combined with all arrests for other crimes, both felonies and misdemeanors, except traffic citations.

(3) "Population within the census tract or census division" means the population as determined by the most recent United States decennial or special census. The population determination shall not operate to prevent an applicant from establishing that an increase of resident population has occurred within the census tract or census division.

(4) "Population in the county" shall be determined by the annual population estimate for California counties published by the Population Research Unit of the Department of Finance.

(5) "Retail licenses" shall include the following:

(A) Off-sale retail licenses: Type 20 (off-sale beer and wine) and Type 21 (off-sale general).

(B) On-sale retail licenses: All retail on-sale licenses, except Type 43 (on-sale beer and wine for train), Type 44 (on-sale beer and wine for fishing party boat), Type 45 (on-sale beer and wine for boat), Type 46 (on-sale beer and wine for airplane), Type 53 (on-sale general for train and sleeping car), Type 54 (on-sale general for boat), Type 55 (on-sale general for airplane), Type 56 (on-sale general for vessels of more than 1,000 tons burden), and Type 62 (on-sale general bona fide public eating place intermittent dockside license for vessels of more than 15,000 tons displacement).

(6) A "premises to premises transfer" refers to each license being separate and distinct, and transferable upon approval of the department.

(d) For purposes of this section, the number of retail licenses in the county shall be established by the department on an annual basis.

(e) The enactment of this section shall not affect any existing rights of any holder of a retail license issued prior to April 29, 1992, whose premises were destroyed or rendered unusable as a result of the civil disturbances occurring in Los Angeles from April 29 to May 2, 1992, to reopen and operate those licensed premises.

(f) This section shall not apply if the premises have been licensed and operated with the same type license within 90 days of the application.