



THE CITY OF SAN DIEGO

Report to the Planning Commission

DATE ISSUED: January 12, 2017 REPORT NO. PC-17-001

HEARING DATE: January 19, 2017

SUBJECT: My Market CUP - Process Three Decision on Appeal.

PROJECT NUMBER: 439049

REFERENCE: Hearing Officer Report HO-16-42 (Attachment 1)

OWNER/APPLICANT: Mid-Cajon/Home Avenue, LP/ Samim H. Bidi

SUMMARY:

Issue: Should the Planning Commission grant an appeal of the Hearing Officer decision to deny a Conditional Use Permit for an alcohol beverage outlet located at 4111 Home Avenue within the City Heights neighborhood of the Mid-City Communities Plan?

Staff Recommendation: Grant the appeal, reverse the Hearing Officer's decision, and approve Conditional Use Permit No. 1542494 as modified.

Community Planning Group Recommendation: On May 2, 2016, the City Heights Community Planning Group voted 13-3-0 to recommend denial of the proposed project due to the high crime rate and oversaturation of Alcohol Beverage Control (ABC) licenses in the area.

Environmental Review: The project was determined to be exempt pursuant to California Environmental Quality Act (CEQA) Guidelines Section 15301 (Existing Facilities). This project is not pending an appeal of the environmental determination. The environmental exemption determination for this project was made on May 26, 2016, and the opportunity to appeal that determination ended June 10, 2016.

Fiscal Impact Statement: None. All staff costs associated with the processing of this project are paid from a deposit account maintained by the applicant.

Housing Impact Statement: None with this action.

BACKGROUND

The Hearing Officer Report No. HO-16-42 (Attachment 1) includes all the project specific background and analysis of the Conditional Use Permit requirements and necessary findings by which Staff recommended approval of the project. The 1.04-acre site is located at 4111 Home Avenue, Suite A, in an existing strip mall constructed in 1991. The site is in the CC-5-3 (Commercial Community) zone of the Central Urbanized Planned District within the City Heights neighborhood of the Mid-City Communities Plan (Plan) area. There is commercial retail to the north and east and single-family residential to the south and west. The existing 3,592-square-foot market sells groceries, produce and meat. Adjacent suites include a pizzeria, barber shop, a restaurant and a Head Start/preschool program.

The project site is located within the Commercial Community designation of the Plan. The sale of alcoholic beverages is not addressed in the Plan except in a general recommendation "to provide an expanded array of commercial goods and services in neighborhoods that lack them, through appropriate regulatory and promotional activities." The Land Development Code defines the sale of alcohol products as a commercial retail use, which is permitted with the approval of a Conditional Use Permit (CUP). The Plan recommends the site be used for commercial development, therefore a CUP to allow the sale of beer, wine and distilled spirits would not adversely affect the applicable land use plan.

Existing Conditional Use Permit: The applicant filed an appeal of the Hearing Officer's decision on August 2, 2016. After filing the appeal, the applicant performed a title search and found a valid Conditional Use Permit (CUP) No. C-20805 approved on August 2, 1991 (Attachment 5), of which City staff was not previously aware. Therefore, the applicant is allowed to sell beer and wine under the existing CUP No. C-20805. The existing CUP contains conditions that restrict annual sales, window advertising, sizes of containers for beer and wine and hours of operation. There is no expiration date on the existing CUP. On March 24, 1995 and June 10, 1997, a previous owner had requested modifications to the existing CUP conditions to reduce restrictions and the proposed changes were denied.

Subsequent to the public hearing and after reviewing the existing CUP, staff prepared suggested modifications to the proposed CUP (Attachment 3) to be considered by the Planning Commission. These modifications include an expiration date, further restrictions related to the floor area dedicated to alcohol sales, lighting, and signage as further described on Page 3 of this report.

DISCUSSION

This item is an appeal of the Hearing Officer's July 20, 2016, decision to deny a Conditional Use Permit for an alcohol beverage outlet to sell distilled spirits. The CUP application was presented to the Hearing Officer of the City of San Diego at a noticed public hearing. Public testimony was presented in favor and in opposition at the hearing. Numerous members of the community spoke in opposition to the proposed project, including the chair of the City Heights Community Planning Group. After public testimony and deliberation, the Hearing Officer denied the CUP for an alcohol

beverage outlet to sell distilled spirits on the basis of an oversaturation of ABC licenses, high crime rates and close proximity to the Head Start program.

On August 3, 2016, the City received an appeal (Attachment 2) submitted by Samim H. Bidi, who is the applicant. The following are the appeal issues and responses by staff.

Appeal Issue #1 as Stated by Appellant: *"Listed were various facts that cased the denial of the CUP. First, the close proximity to an incompatible use-Head Start/daycare when in fact, the Early Learning center has no objection and still does not object to My Market obtaining a CUP. My Market obtained a letter from the Head Start Program stating they are in support of the CUP."*

Staff Response: The project is located within 600 feet of a Head Start/day care center for pre-school children. The Head Start program is located within Suite F of the strip mall. Staff did receive a letter of support from the Head Start Program. The reason a CUP is necessary is due to the locational criteria listed in the Hearing Officer Report (Attachment 1) and San Diego Municipal Code Section (SDMC) Section 141.0502(b)(1) which states, "If you are within the locational criteria then it does not permit alcoholic beverage outlets by right." The site is within 600 feet of a public or private accredited school, and therefore a CUP is required.

Based on the information provided, staff supports granting the Applicant's appeal and approval of the CUP subject to the modified conditions (Attachment 3). Staff acknowledges the close proximity of a preschool and adjacent residential development, however granting the appeal with the suggested modifications would allow the sale of alcohol to be further conditioned to avoid negative impacts on the surrounding neighborhood. The proposed CUP (would supersede the existing CUP) and includes stricter operational conditions:

- Hours of operation have been reduced from 8:00 am to 12:00 am to 8:00 a.m. to 10:00 p.m.
- Annual sales of alcohol have been reduced from 25% to 10%.
- Floor area dedicated for the display of alcohol has been reduced from 20% to 5%.

Conditions from the existing CUP also include the regulation of advertising and providing for a well-lit, clean site, prohibition of specific on-site activities with the objective of reducing the likelihood of loitering and other criminal activity on the property. Additionally, the proposed CUP would prohibit amusement machines or video game devices on the premises. Exterior and interior public pay phones would not be permitted on the premises, on adjacent public sidewalks, or areas under the control of the owner or operator. Furthermore, advertising would be limited and "No Loitering" signs would be required to be prominently displayed on the premises as required per San Diego Municipal Code Section 141.0502(b).

Appeal Issue #2 as Stated by Appellant: *"The application was denied due to the crime rate, the proximity of a methadone clinic, a police services rate of calls, and assault with a deadly weapon near the premises. The police department was well aware of the above facts and approved the application on April 27, 2016."*

Staff Response: The Police Department has acknowledged the proximity of a methadone clinic (.3 miles to the south at 3940 Home Avenue) as well as the service calls to the area. A Police Department Conditional Use Permit Recommendation (Attachment 6) was provided to Development Services on April 27, 2016, which stated, "There were no arrests, no crime cases, and 11 calls for police service at 4111 Home Avenue (not specifically to any suite). There were 54 crime cases and 21 arrests in a .2 mile radius of this address in 2015. There were 20 alcohol related arrests/citations (63.2%) in census tract 34.01 in 2015. The San Diego Police Department will support the issuance of this Type-21 license with conditions."

Appeal Issue #3 as Stated by Appellant: *"There was a reference to code enforcement cases which were all addressed and cleared prior to applying for the Type 21 License. These issues should not have been factored into the decision to deny the CUP along with the issues mentioned above which had already been considered."*

Staff Response: Throughout this CUP application, staff and the applicant were unaware of the existing CUP. During the winter of 2014, the applicant requested a zoning affidavit from the City. This affidavit is a standard form completed by the Development Services Department at the request of a customer to inform the Department of Alcoholic Beverage Control of the zoning of a premises and any requirement for a Conditional Use Permit. The affidavit was required by the ABC as part of an application for a Type 21 license to allow for the sale of beer, wine and distilled spirits for off-site consumption. City staff completed the affidavit in error and informed the applicant a new Conditional Use Permit was not required for a Type 21 license in the tenant space, when in fact a CUP was required due to the locational criteria in SDMC section 141.0502.

In April 2015, the applicant applied to the Department of Alcoholic Beverage Control for a Type 21 license allowing for the sale of beer, wine and distilled spirits for off-site consumption. The ABC granted the Type 21 license. In May 2015, based on a complaint by a citizen, the City's Code Enforcement Division opened a case concerning the use of a Type 21 license without a CUP. In December 2015, the applicant submitted an application for a CUP to correct its violation of the San Diego Municipal Code.

Conclusion

The existing CUP under which the facility operates has limited conditions. Approval of the proposed CUP provides an opportunity for the City to place additional more restrictive operating conditions on the premises which would help ensure the use would not be detrimental to the public health, safety and welfare of the community.

The project is consistent with the underlying commercial zone and the applicable land use plans and policies in affect for the site. The project with the proposed conditions and the ABC license recommendations are supported by the San Diego Police Department. Staff has provided draft findings to support approval of the proposed project (Attachment 4) and draft conditions of approval (Attachment 3). Staff recommends the Planning Commission grant the appeal, reversing the Hearing Officers decision, and approve Conditional Use Permit No. 1542494 as modified.

Respectfully submitted,



Elyse W. Lowe
Deputy Director

Development Services Department



Renee Mezo

Development Project Manager

Development Services Department

EWL/RDM

Attachments:

1. Hearing Officer Report HO-16-042
2. Appeal Application
3. Draft Permit with Conditions
4. Draft Resolution with Findings
5. Conditional Use Permit No. C-20805
6. Police Department Conditional Use Permit Recommendation, dated 4/27/2016
7. Hearing Officer minutes from July 20, 2016
8. Site Plan



THE CITY OF SAN DIEGO

Report to the Hearing Officer

DATE ISSUED: July 13, 2016

REPORT NO. HO-16-042

HEARING DATE: July 20, 2016

SUBJECT: MY MARKET CUP, Process Three Decision

PROJECT NUMBER: 439049

OWNER/APPLICANT: Mid-Cajon/Home Avenue, LLC/Samin H. Bidi

SUMMARY:

Issue: Should the Hearing Officer approve a Conditional Use Permit for an alcohol beverage outlet within the City Heights Community Plan Area?

Staff Recommendation:

1. **APPROVE** Conditional Use Permit No. 1542494.

Community Planning Group Recommendation: On May 2, 2016, the City Heights Community Planning Group voted 13-3-0 (chair not voting) to recommend denial of the proposed project due to the high crime rate and oversaturation of Alcohol Beverage Control (ABC) licenses as well as other reasons detailed in Attachment 6.

Environmental Review: The project was determined to be exempt pursuant to California Environmental Quality Act (CEQA) Guidelines Section 15301(Existing Facilities). This project is not pending an appeal of the environmental determination. The environmental exemption determination for this project was made on May 26, 2016, and the opportunity to appeal that determination ended June 10, 2016.

BACKGROUND

The 1.04-acre site is located at 4111 Home Avenue in an existing strip mall (originally built in 1991). The site is in the CC-5-3 (Commercial Community) Zone of the Central Urbanized Planned District within the City Heights Community Plan Area. There is commercial retail to the north and east and single-family residential to the south and west. The existing 3,592-square-foot market is within Suite A and sells groceries, produce and meat. Adjacent suites include a pizzeria, barber shop, restaurant and a Head Start/preschool program.

The CC-5-3 Zone allows for community-serving commercial services, retail uses, and limited industrial uses of moderate intensity. The CC zones are intended to provide for a range of development patterns from pedestrian-friendly commercial streets to shopping centers and auto-oriented strip commercial streets. Property within the CC zones will be primarily located along collector streets, major streets, and public transportation lines.

The project site is also located within the Commercial Community designation of the City Heights Community Plan area. The sale of alcoholic beverages is not addressed in the Community Plan except for a recommendation..., "to provide an expanded array of commercial goods and services in neighborhoods that lack them, through appropriate regulatory and promotional activities."

Alcoholic Beverage Control License History

A Type 20 license that allowed the sale of beer and wine for off-site consumption was originally issued for this tenant space in April of 1993. This license was issued to the previous owner of the market in the space. The City's requirement to obtain a Conditional Use Permit (CUP) for Alcoholic Beverage Outlets became effective in 1995. An Alcoholic Beverage Outlet is a business that has a Type 20 or Type 21 license. A Type 20 license allows the sale of beer and wine for off-site consumption and a Type 21 license allows for the sale of beer, wine, and distilled spirits for off-site consumption.

The existing Type 20 license for this tenant space did not require a CUP in 1993 because at the time it was not a requirement of the San Diego Municipal Code (SDMC). Several changes of ownership have occurred over time. The current applicant assumed the existing Type 20 license for the sale of beer and wine for off-site consumption in May of 2015. This license was obtained without a Conditional Use Permit as previously conforming rights were maintained.

The process to obtain a license to sell alcohol starts with an application to the ABC. As part of that application, a zoning affidavit (from the Development Services Department) is obtained which may or may not require additional discretionary review from the City and a Public Convenience or Necessity evaluation from the San Diego Police Department.

During the winter of 2014, the applicant requested a zoning affidavit from the City. This affidavit is a standard form that is completed by the Development Services Department to inform the Department of Alcoholic Beverage Control of the zoning of a premises and any requirement for a Conditional Use Permit. The affidavit was needed by the ABC as part of the application for a Type 21 license to allow for the sale of beer, wine, and distilled spirits for off-site consumption. City staff completed the affidavit and indicated a Conditional Use Permit was not required for a new Type 21 license in the tenant space. City staff made an error on the affidavit by saying a Conditional Use Permit was not required, when after further review, a CUP should have been required at that time.

In April 2015, the Department of Alcoholic Beverage Control issued a Type 21 license allowing for the sale of beer, wine, and distilled spirits for off-site consumption to the applicant. In May 2015, based on a complaint the City's Code Enforcement Division opened a case concerning the use of a Type 21 license without a CUP. In December 2015, the applicant submitted an application for a CUP to correct its violation of the San Diego Municipal Code.

DISCUSSION

Development Regulations and Location Criteria

The project proposes a CUP for the operation of an alcohol beverage outlet accessory to the existing market, specifically for a Type 21 license allowing for the sale of beer, wine, and distilled spirits for off-site consumption.

Alcoholic beverage outlets are permitted by right as a Limited Use pursuant to Section 141.0502(b) of the San Diego Municipal Code (SDMC). Alcoholic beverage outlets that are within a Census Tract, or within 600 feet of a Census Tract, where the ratio of alcoholic beverage outlets exceeds the standards established by the California Businesses and Professional Code Section 23958.4 may be permitted with a Conditional Use Permit pursuant to SDMC Section 141.0502(c). Currently the census tract has eight existing alcohol licenses where three are allowed.

The Limited Use Regulations of SDMC, Section 141.0502(b)(1) does not permit alcoholic beverage outlets by right (i.e. would require a Conditional Use Permit) in the following locations:

- 1. Within a census tract, or within 600 feet of a Census Tract, where the general crime rate exceeds the citywide average general crime rate by more than 20 percent.**

The property is in Census Tract No. 34.01 which reported a crime rate 144.8 percent. This is considered high crime based on the statistics provided by the San Diego Police Department. A Census Tract is considered to have "high crime" if the crime rate exceeds 120 percent of the city-wide average. Therefore, a CUP is required for the off-sale of alcoholic beverages at this location based on this factor.

- 2. Within a Census Tract, or within 600 feet of a Census Tract, where the ratio of alcoholic beverage outlets exceeds the standards established by the California Businesses and Professional Code Section 23958.4.**

The subject property is within Census Tract No. 34.01, which based on the California Businesses and Professional Code Section 23958.4 permits a total of three off-sale alcoholic beverage outlets. There are currently eight existing off-sale alcohol beverage outlets within Census Tract 34.01 (Attachment 10) which includes this project and would maintain the number of licenses to eight. Therefore a CUP would be required for the off-sale of alcoholic beverages based on this factor.

- 3. Within a Redevelopment Area.**

The project site is not within a Redevelopment Area. Therefore a CUP would not be required for the off-sale of alcoholic beverages based on this factor.

4. Within 600 feet of a public or private accredited school, a public park, playground or recreational area, church, hospital or a San Diego County Welfare District Office.

The project is within 600 feet of a Head Start/day care center for pre-school children. In Suite F of the strip mall, there is a Head Start program and day care center. Therefore a CUP would be required for the off-sale of alcoholic beverages based on this factor.

5. Within 100 feet of residentially zoned property.

The project site is within 100 feet of residentially zoned property to the south. Therefore a CUP would be required for the off-sale of alcoholic beverages based on this factor.

6. Within 600 feet of a place of religious assembly.

The project site is not known to be within 600 feet of a place of religious assembly.

The proposed off-sale alcoholic beverage outlet at this site requires a Conditional Use Permit because the project site does not meet all of the location criteria of the Municipal Code. As demonstrated above any one of these factors establishes the need for the Conditional Use Permit.

Draft Conditions of Approval

Approval of this application would allow the sale of alcohol to be conditioned so that the alcohol sales would not have a negative impact on the surrounding neighborhood (Attachment 5). The Conditional Use Permit includes a number of conditions that would limit the hours of sales, regulate the square footage of area for alcohol to be sold, regulate advertising, provide for a well-lighted, cleaner site and prohibit specific on-site activities with the objective of reducing the likelihood of loitering and other criminal activity on the property. Additionally, the CUP includes enforceable conditions regulating the hours of alcohol beverage sales from 8:00 a.m. to 10:00 p.m. The CUP would prohibit amusement machines or video game devices on the premises. Exterior and interior public pay phones would not be permitted on the premises, on adjacent public sidewalks, or areas under the control of the owner or operator. Advertising would be limited and "No Loitering" signs would be required to be prominently displayed on the premises. Further, both staff and the San Diego Police Department concluded that if the permit were appropriately conditioned as proposed in Attachment 4, the project would not have a negative impact on the surrounding neighborhood.

Conclusion

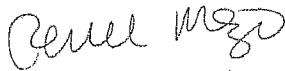
Currently, the Type 20 license under which the facility operates is without conditions as it predates the conditional use permit regulations. Approval of the license to permit alcohol sales, under the Type 21 license, provides an opportunity for the City to place restrictions on the premises that would help ensure the outlet is a cohesive element of the neighborhood and would not be detrimental to the public health, safety and welfare of the community. The project is consistent with the underlying commercial zone and the applicable land use plans and policies in affect for the site. The Development Services Department determined that the proposed project was exempt from further CEQA review as an existing facility. The project with the proposed conditions and the ABC license

recommendations are supported by the San Diego Police Department. City staff and the San Diego Police Department support the request for a Conditional Use Permit for the sale of alcohol for off-site consumption.

ALTERNATIVES:

1. Approve Conditional Use Permit No. 1542494, with modifications; or
2. Deny Conditional Use Permit No. 1542494, if the findings required to approve the project cannot be affirmed.

Respectfully submitted,



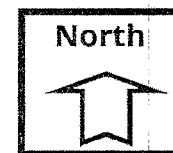
Renee Mezo
Development Project Manager

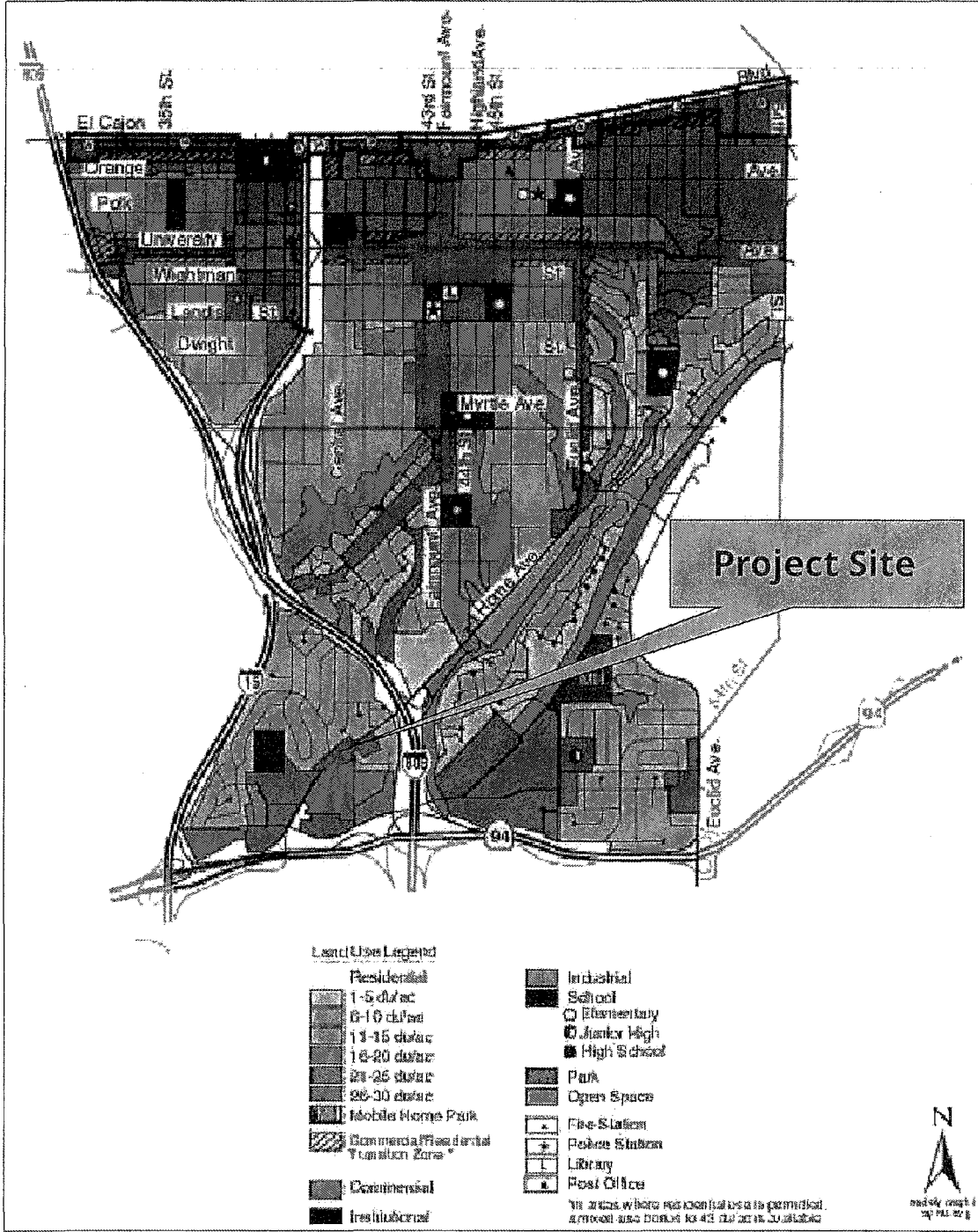
Attachments:

1. Aerial Photograph
2. Community Plan Land Use Map
3. Draft Resolution with Findings
4. Draft Permit with Conditions
5. Environmental Exemption
6. Community Planning Group Recommendation
7. Ownership Disclosure Statement
8. Project Plans (Hearing Officer only)
9. San Diego Police Department Recommendation
10. Liquor Licenses within Census Tract 34.01



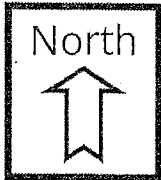
Location Aerial Photo
MY MARKET CUP - 4111 HOME AVENUE
 PROJECT NO. 439049





Land Use Map

MY MARKET CUP – 4111 HOME AVENUE
PROJECT NO. 439049



HEARING OFFICER RESOLUTION NO. _____
CONDITIONAL USE PERMIT NO. 1542494
MY MARKET PROJECT NO. 439049
DRAFT

WHEREAS, Mid-Cajon/Home Avenue, LLC (a California Limited Liability Corporation), Owner, and Samim H. Bidi, Permittee, filed an application with the City of San Diego to operate an alcoholic beverage outlet and conditioned upon the issuance of a license (Type 21 General Liquor License for the sale of alcoholic beverages for off-site consumption) from the State Department of Alcoholic Beverage Control (ABC) and subject to the City's land use regulations (as described in and by reference to the approved Exhibits "A" and corresponding conditions of approval for the associated Permit No. 1542494), on portions of a 1.04-acre site;

WHEREAS, the project site is located in the CC-5-3 Zone of the Central Urbanized Planned District within the City Heights Community Plan Area. The 1.04-acre site is located at 4111 Home Avenue in an existing strip mall (originally built in 1991). The existing 3,592-square-foot market is within Suite A and sells groceries, produce and meat;

WHEREAS, the project site is legally described as Parcel 1, Lot 1 of Terrace View Villas, Map No. 11840;

WHEREAS, on July 20, 2016, the Hearing Officer of the City of San Diego considered Conditional Use Permit No. 1542494 pursuant to the Land Development Code of the City of San Diego;

WHEREAS, on May 26, 2016, the City of San Diego, as Lead Agency, through the Development Services Department, made and issued an Environmental Determination that the project is exempt from the California Environmental Quality Act (CEQA) (Public Resources Code Section 21000 et seq.) under CEQA Guideline Section 15301 (existing facility) and there was no appeal of the Environmental Determination filed within the time period provided by San Diego Municipal Code Section 112.0520;

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

That the Hearing Officer adopts the following written Findings, dated July 20, 2016.

CONDITIONAL USE PERMIT (CUP) FINDINGS - SECTION 126.0305:

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

The project proposes a CUP for the operation of an alcohol beverage outlet accessory to the existing market, specifically for a Type 21 license allowing for the sale of beer, wine, and distilled spirits for off-site consumption, to replace an existing Type 20 license allowing the sale of beer and wine.

The project site is also located within the Commercial Community designation of the City Heights Community Plan area. The sale of alcoholic beverages is not addressed in the Community Plan except for a recommendation..., "to provide an expanded array of commercial goods and services in neighborhoods that lack them, through appropriate regulatory and promotional activities."

The Plan does not specifically address alcoholic beverage outlets; however the sale of alcohol products is defined as a commercial retail use in the Land Development Code and permitted with the approval of a Conditional Use Permit (CUP). The Plan recommends the site be used for commercial development therefore the CUP to allow the sale of alcohol would not adversely affect the applicable land use plan. The Economic Prosperity Element of the General Plan recommends economically healthy neighborhood and community commercial areas that are easily accessible to residents. The project site is located directly to the south of single-family residential development. The market provides conveniences to residents by selling groceries, meat, and produce. The alcohol sales are accessory to the market and as conditioned within the permit, make up a maximum of 20 percent of the floor area. This allows residents easy access to convenience and contributes to the economic viability of the community.

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

The project proposes a CUP for the operation of an alcohol beverage outlet accessory to the existing market, specifically for a Type 21 license allowing for the sale of beer, wine, and distilled spirits for off-site consumption. The site is zoned CC-5-3 (Commercial Community) which allows for community-serving commercial services, retail uses, and limited industrial uses of moderate intensity. The CC zones are intended to provide for a range of development patterns from pedestrian-friendly commercial streets to shopping centers and auto-oriented strip commercial streets. Property within the CC zones will be primarily located along collector streets, major streets, and public transportation lines.

The existing market would continue to be consistent with the recommended commercial land use, therefore there would be no conflict with the current development pattern in the neighborhood. An environmental review was conducted by the Development Services Department and concluded the project was exempt pursuant to California Environmental Quality Act (CEQA) Guidelines Section 15301 (existing facility).

Separate from the Alcoholic Beverage Control (ABC), this CUP allows the City to regulate and place restrictions on the market which relate to the sale of alcohol. Approval of this application would allow the sale of alcohol to be conditioned so that the alcohol sales would not have a negative impact on the surrounding neighborhood. The CUP includes a number of conditions that would limit the hours of sales, regulate the square footage of area for alcohol to be sold, regulate advertising, provide for a well-lighted, cleaner site and prohibit specific on-site activities with the objective of reducing the likelihood of loitering and other criminal activity on the property. Additionally, the CUP includes enforceable conditions regulating the type, size and quantities of the beverages. Specifically, the conditions would limit the hours of alcohol beverage sales from 8:00 a.m. to 10:00 p.m. The CUP would prohibit amusement machines or video game devices on the premises. Exterior and interior public pay phones would not be permitted on the premises, on adjacent public sidewalks, or areas under the control of the owner or operator. Advertising would be limited and "No Loitering" signs would be required to be prominently displayed on the premises.

Further, both staff and the San Diego Police Department concluded that if the permit were appropriately conditioned, the proposed alcohol sales would not have a negative impact on the surrounding neighborhood. Therefore, with the proposed conditions regulating the sale of alcoholic

beverages, the proposed development would not be detrimental to the public's health, safety or 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 site is zoned CC-5-3 (Commercial Community) which allows for community-serving commercial services, retail uses, and limited industrial uses of moderate intensity. The CC zones are intended to provide for a range of development patterns from pedestrian-friendly commercial streets to shopping centers and auto-oriented strip commercial streets. Property within the CC zones will be primarily located along collector streets, major streets, and public transportation lines.

Alcohol sales are an allowed use with a Conditional Use Permit pursuant to San Diego Municipal Code Section 141.0502 and the project complies with the applicable regulations of the Land Development Code including the use of the market, floor area ratio and no deviations are requested as a part of this application.

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

The project proposes a CUP for the operation of an alcohol beverage outlet accessory to the existing market, specifically for a Type 21 license allowing for the sale of beer, wine, and distilled spirits for off-site consumption.

The 1.04-acre site is located at 4111 Home Avenue, Suite A within the CC-5-3 (Commercial Community) Zone of the Central Urbanized Planned District within the City Heights Community Plan Area. There is commercial retail to the north and east and single-family residential to the south and west. The existing 3,592-square-foot market, which sells groceries, produce and meat, is within a strip mall (originally built in 1991) and has been selling alcoholic beverages under a Type 20 license since 1993. The strip mall includes a pizzeria, barber shop, restaurant and a Head Start/preschool program.

Separate from the Alcoholic Beverage Control (ABC), this CUP allows the City to regulate and place restrictions on the market which relate to the sale of alcohol. Approval of this application would allow the sale of alcohol to be conditioned so that the alcohol sales would not have a negative impact on the surrounding neighborhood. The CUP includes a number of conditions that would limit the hours of sales, regulate the square footage of area for alcohol to be sold, regulate advertising, provide for a well-lighted, cleaner site and prohibit specific on-site activities with the objective of reducing the likelihood of loitering and other criminal activity on the property.

Specifically, the CUP includes enforceable conditions regulating the type, size, and quantities of the beverages. Conditions would limit the hours of alcohol beverage sales from 8:00 a.m. to 10:00 p.m. and limit a maximum of 20 percent of the floor area dedicated to alcohol sales. The premises shall be maintained as a market, and the quarterly annual sales of alcoholic beverages shall not exceed 10 percent of the quarterly annual sales of all other products. Additional conditions prohibit amusement machines or video game devices on the premises, exterior and interior public pay phones would not be permitted on the premises, on adjacent public sidewalks, or areas under the

control of the owner or operator, advertising would be limited and "No Loitering" signs would be required to be prominently displayed on the premises.

Further, both staff and the San Diego Police Department concluded that if the permit were appropriately conditioned, the proposed alcohol sales would not have a negative impact on the surrounding neighborhood. Therefore, with the proposed use is appropriate at the proposed location.

BE IT FURTHER RESOLVED that, based on the findings hereinbefore adopted by the Hearing Officer, Conditional Use Permit No. 1542494 is hereby GRANTED by the Hearing Officer to the referenced Owner/Permittee, in the form, exhibits, terms and conditions as set forth in Permit No. 1542494, a copy of which is attached hereto and made a part hereof.

Renee Mezo
Development Project Manager

Adopted on: July 20, 2016

IO#: 24006367

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

PROJECT MANAGEMENT
PERMIT CLERK
MAIL STATION 501

SPACE ABOVE THIS LINE FOR RECORDER'S USE

INTERNAL ORDER NUMBER: 24006367

CONDITIONAL USE PERMIT NO. 1542494

MY MARKET PROJECT NO. 439049

HEARING OFFICER

DRAFT

This Conditional Use Permit No. 1542494 is granted by the Hearing Officer of the City of San Diego to Mid-Cajon/Home Avenue, LLC (a California Limited Liability Corporation), Owner, and Samim H. Bidi, Permittee, pursuant to San Diego Municipal Code [SDMC] section 141.0502. The 1.04-acre site is in the CC-5-3 Zone of the Central Urbanized Planned District within the City Heights Community Plan Area and is located at 4111 Home Avenue, Suite A within an existing 3,592-square-foot market. The project site is legally described as: Parcel 1, Lot 1 of Terrace View Villas, Map No. 11840.

Subject to the terms and conditions set forth in this Permit, permission is granted to Owner and Permittee to operate an alcoholic beverage outlet conditioned upon the issuance of a license from the State Department of Alcoholic Beverage Control (ABC) 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 July 20, 2016, on file in the Development Services Department.

The project shall include:

- a. Operate an alcoholic beverage outlet and conditioned upon the issuance of a license (Type 21 General Liquor License for the sale of alcoholic beverages for off-site consumption) from the State Department of Alcoholic Beverage Control;
- b. Public and private accessory improvements determined by the Development Services Department to be consistent with the land use and development standards for this site in accordance with the adopted community plan, the California Environmental Quality Act [CEQA] and the CEQA Guidelines, the City Engineer's requirements, zoning regulations, conditions of this Permit, and any other applicable regulations of the SDMC.

STANDARD REQUIREMENTS:

1. This permit must be utilized within thirty-six (36) months after the date on which all rights of appeal have expired. If this permit is not utilized in accordance with Chapter 12, Article 6, Division 1 of the SDMC within the 36 month period, this permit shall be void unless an Extension of Time has been granted. Any such Extension of Time must meet all SDMC requirements and applicable guidelines in effect at the time the extension is considered by the appropriate decision maker. This permit must be utilized by August 3, 2019.
2. The utilization of this CUP is contingent upon 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. 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.
4. 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.
5. 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.
6. The continued use of this Permit shall be subject to the regulations of this and any other applicable governmental agency.
7. 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.).
8. 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.
9. 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.

10. 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.

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

PLANNING/DESIGN REQUIREMENTS:

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

13. The business shall operate as a market and the sale of alcoholic beverages shall be accessory and limited to a maximum of 20 percent of the floor area of the market.

14. 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.

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

16. Pool or billiard tables, foosball or pinball games, arcade style video and electronic games, or coin-operated amusement devices are not permitted on the premises with an alcoholic beverage outlet.

17. Exterior public pay phones that permit incoming calls are not permitted on the premises, adjacent public sidewalks, or areas under the control of the owner or operator.

18. The sales of alcoholic beverage shall be permitted between the hours of 8:00 a.m. and 10:00 p.m.

POLICE DEPARTMENT REQUIREMENTS:

19. The sale of distilled spirits in containers less than 375 milliliters (ml) is prohibited.

20. Beer, malt beverages and wine coolers in containers of 16-ounce or less cannot be sold in single containers, but must be sold in manufacturer pre-packaged multi-unit quantities.

21. Wine shall not be sold in bottles smaller than 750 ml. and wine coolers, beer coolers, or pre-mixed distilled spirit cocktails must be sold in manufacturer pre-packaged multi-unit quantities.

22. No wine shall be sold with an alcoholic content greater than 15 percent by volume except for "Dinner Wines" which have been aged two years or more.

23. Any graffiti painted or marked upon the premises or on any adjacent area under the control of the license shall be removed or painted over within 48 hours of being applied.

24. The applicant shall post and maintain a professional quality sign facing the premises parking lot that reads : NO LOITERING, NO LITTERING, NO DRINKING OF ALCOHOLIC BEVERAGES. VIOLATORS ARE SUBJECT TO ARREST. The sign shall be at least two square feet with two inch block lettering. The sign shall be in English and Spanish.

25. Exterior advertising of alcoholic beverages or interior advertising of alcoholic beverages that is visible from the exterior of the premises shall be prohibited in order to prevent under-age drinking.

POLICE DEPARTMENT RECOMMENDATIONS FOR ABC LICENSE:

- Wine shall not be sold in containers of less than 750 ml., with the exception of wine coolers sold in four-pack containers or more per sale.
- Malt beverages shall not be sold in less than six-pack containers per sale.
- Wine shall not be sold with an alcoholic content greater than 15 percent by volume.

INFORMATION ONLY:

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

APPROVED by the Hearing Officer of the City of San Diego on July 20, 2016 and Resolution No. XXXX.

NOTICE OF EXEMPTION

(Check one or both)

TO: ☒ Recorder/County Clerk
P.O. Box 1750, MS A-33
1600 Pacific Hwy, Room 260
San Diego, CA 92101-2400

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.: 439049

Project Title: My Market

Project Location-Specific: 4111 Home Avenue, Suite A, San Diego, California 92105

Project Location-City/County: San Diego/San Diego

Description of nature and purpose of the Project: This project proposes a CONDITIONAL USE PERMIT to allow the continual sale of alcoholic beverages with a Type 21 General Liquor License from an existing 3,592 square foot market. The 1.046 acre site is located at 4111 Home Avenue, Suite A in the CC-5-3 zone of the Central Urbanized Planned District within the City Heights Community Plan area. Additionally the project site is within the San Diego International Airport Influence Area- Review Area 2, and Very High Fire Hazard Severity Zone. (LEGAL DESCRIPTION: Parcel A in the City of San Diego according to Parcel Map No. 387, filed in the Office of the County Recorder of San Diego County).

Name of Public Agency Approving Project: City of San Diego

Name of Person or Agency Carrying Out Project: Samim H. Bidi
4111 Home Avenue
San Diego, California 92105
(619) 991-7501

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: 15301 (Existing Facilities)
- ☐ Statutory Exemptions:

Reasons why project is exempt: The City of San Diego conducted an environmental review which determined the project would not have the potential for causing a significant effect on the environment in that the project is consistent with the community plan and the applicable zone. The project would not result in any significant environmental impacts. The project meets the criteria set forth in CEQA Section 15301 (Existing Facilities) which allows for the interior or exterior alterations involving such things as interior partitions, plumbing, and electrical conveyances. Furthermore, the exceptions listed in 15300.2 would not apply.

Lead Agency Contact Person: Morgan Dresser

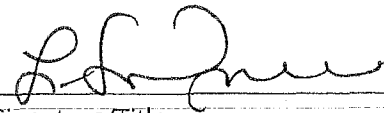
Telephone: (619) 446-5404

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

Revised 010410mjh

It is hereby certified that the City of San Diego has determined the above activity to be exempt from CEQA

 Sr. Planner
Signature/Title

May 26, 2016

Date

Check One:

☒ (X) Signed By Lead Agency

☐ () Signed by Applicant

Date Received for Filing with County Clerk or OPR:

CITY HEIGHTS AREA PLANNING COMMITTEE

Postoffice Box 5859
City Heights CA 92165
(619) 284-2184

May 9, 2016

MEMORANDUM FOR: Renee Mezo
Development Project Manager

From: Committee Chairwoman

Patty Vaccariello



Subj: My Market CUP PTN 439049

At its May 2, 2016 meeting the City Heights Area Planning Committee heard a request for a Conditional Use Permit for a Type 21 General Liquor License at 4111 Home Avenue. We heard a presentation from the owner's representative, the owners, and neighbors both in favor and against the upgrade from the Type 20 License that the previous owner had acquired. After an hour of testimony it was moved and seconded to deny the CUP for the Type 21 license. The Committee voted 13/3/0 (chair not voting) and the motion passed.

Although the Police Department approved the Notice of Public Convenience or Necessity the CHAPC members could not ignore the following issues:

- the fact that in the census tract there are 8 ABC licenses although only 3 are authorized
- a crime rate of 144.8% of the citywide average
- the close proximity to an incompatible use – Head Start/daycare
- that the project is located within 100 yards of an existing ABC licensed liquor store
- the increasing homeless population in that specific area
- the presence of other ABC licenses in the vicinity
- the proximity of a methadone clinic within one-quarter mile of the premises
- a Police services rate of 11 calls to the premises in 2015 [nearly one per month]; the fact of 54 crimes [≈ 1 per week] and 21 arrests [≈ 2 per month] within a two-block radius of the premises in 2015;
- an assault with a deadly weapon near the premises in April 2016
- five Code Enforcement cases from November 2014 to May 2015.

We understand the city and the applicant are in a difficult position having subverted the CUP process, not coming before the CHAPC before acquiring the Type 21 license. But we believe the community should not have to suffer a bad project and the consequences from errors not of our making.

Cc: Jorge Brambila
Samim Jihad



THE CITY OF SAN DIEGO

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

Ownership Disclosure Statement

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

Project Title

Project No. For City Use Only

MY MARKET

439049

Project Address:

4111 HOMECARE #A SAN DIEGO, CA 92105.

Part I - To be completed when property is held by individual(s)

By signing the Ownership Disclosure Statement, the owner(s) acknowledge that an application for a permit, map or other matter, as identified above, will be filed with the City of San Diego on the subject property, with the intent to record an encumbrance against the property. Please list below the owner(s) and tenant(s) (if applicable) of the above referenced property. The list must include the names and addresses of all persons who have an interest in the property, recorded or otherwise, and state the type of property interest (e.g., tenants who will benefit from the permit, all individuals who own the property). A signature is required of at least one of the property owners. Attach additional pages if needed. A signature from the Assistant Executive Director of the San Diego Redevelopment Agency shall be required for all project parcels for which a Disposition and Development Agreement (DDA) has been approved / executed by the City Council. Note: The applicant is responsible for notifying the Project Manager of any changes in ownership during the time the application is being processed or considered. Changes in ownership are to be given to the Project Manager at least thirty days prior to any public hearing on the subject property. Failure to provide accurate and current ownership information could result in a delay in the hearing process.

Additional pages attached ☐ Yes ☐ No

Name of Individual (type or print):

Samir H. Bidi

☒ Owner ☒ Tenant/Lessee ☐ Redevelopment Agency

Street Address:

544 Morehouse Dr #4000

City/State/Zip:

San Diego

Phone No: 858-362-8790 Fax No: _____

Signature :

Date:

12-07-2015

Name of Individual (type or print):

☐ Owner ☐ Tenant/Lessee ☐ Redevelopment Agency

Street Address:

City/State/Zip:

Phone No:

Fax No:

Signature :

Date:

Name of Individual (type or print):

☐ Owner ☐ Tenant/Lessee ☐ Redevelopment Agency

Street Address:

City/State/Zip:

Phone No: Fax No:

Signature :

Date:

Name of Individual (type or print):

☐ Owner ☐ Tenant/Lessee ☐ Redevelopment Agency

Street Address:

City/State/Zip:

Phone No:

Fax No:

Signature :

Date:

Project Title:

Project No. (For City Use Only)

Part II - To be completed when property is held by a corporation or partnership**Legal Status (please check):**

☐ Corporation ☐ Limited Liability -or- ☐ General) What State? _____ Corporate Identification No. _____
☐ Partnership

By signing the Ownership Disclosure Statement, the owner(s) acknowledge that an application for a permit, map or other matter, as identified above, will be filed with the City of San Diego on the subject property with the intent to record an encumbrance against the property. Please list below the names, titles and addresses of all persons who have an interest in the property, recorded or otherwise, and state the type of property interest (e.g., tenants who will benefit from the permit, all corporate officers, and all partners in a partnership who own the property). A signature is required of at least one of the corporate officers or partners who own the property. Attach additional pages if needed. **Note:** The applicant is responsible for notifying the Project Manager of any changes in ownership during the time the application is being processed or considered. Changes in ownership are to be given to the Project Manager at least thirty days prior to any public hearing on the subject property. Failure to provide accurate and current ownership information could result in a delay in the hearing process. **Additional pages attached** ☐ Yes ☐ No

Corporate/Partnership Name (type or print):

☒ Owner ☒ Tenant/Lessee

Street Address:

544 morehouse Dr #4000

City/State/Zip:

San Diego 92121

Phone No:

(619) 991-7501

Fax No:

Name of Corporate Officer/Partner (type or print):

Samim A. Bidi

Title (type or print):

Owner

Signature :

Date: 12-7-15

Corporate/Partnership Name (type or print):

☐ Owner ☐ Tenant/Lessee

Street Address:

City/State/Zip:

Phone No:

Fax No:

Name of Corporate Officer/Partner (type or print):

Title (type or print):

Signature :

Date:

Corporate/Partnership Name (type or print):

☐ Owner ☐ Tenant/Lessee

Street Address:

City/State/Zip:

Phone No:

Fax No:

Name of Corporate Officer/Partner (type or print):

Title (type or print):

Signature :

Date:

Corporate/Partnership Name (type or print):

☐ Owner ☐ Tenant/Lessee

Street Address:

City/State/Zip:

Phone No:

Fax No:

Name of Corporate Officer/Partner (type or print):

Title (type or print):

Signature :

Date:

Corporate/Partnership Name (type or print):

☐ Owner ☐ Tenant/Lessee

Street Address:

City/State/Zip:

Phone No:

Fax No:

Name of Corporate Officer/Partner (type or print):

Title (type or print):

Signature :

Date:

Corporate/Partnership Name (type or print):

☐ Owner ☐ Tenant/Lessee

Street Address:

City/State/Zip:

Phone No:

Fax No:

Name of Corporate Officer/Partner (type or print):

Title (type or print):

Signature :

Date:

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

PREMISE ADDRESS: 4111 Home Ave #A, San Diego

TYPE OF BUSINESS: Convenience Market

FEDERAL CENSUS TRACT: 34.01

NUMBER OF ALCOHOL LICENSES ALLOWED: 3

NUMBER OF ALCOHOL LICENSES EXISTING: 8 (Over-Concentrated)

CRIME RATE IN THIS CENSUS TRACT: 144.8%
(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 Conditional Use Permit for a Convenience Market with a Type 21 Off-Sale General license at 4111 Home Ave #A. There is an incompatible facility called the Early Learning Center at 4111 Home Ave #F. This is a Headstart program and day care center for pre-school children.

There were no arrests, no crime cases, and 11 calls for police service at 4111 Home Ave. There were 54 crime cases and 21 arrests in a .2 mile radius of this address in 2015. There were 20 alcohol related arrests/citations (63.2%) in census tract 34.01 in 2015.

The San Diego Police Department will support the issuance of this Type-21 license with the following conditions.

SUGGESTED CONDITIONS:

1. Sales of alcoholic beverages shall be permitted only between the hours of 6:00 AM and 1:00 AMt each day of the week.
2. The sale of distilled spirits in containers less than 375 ml. is prohibited.
3. Beer, Malt beverages and Wine coolers in containers of 16 ounce or less cannot be sold in single containers, but must be sold in manufacturer pre-packaged multi-unit quantities.

4. Wine shall not be sold in bottles or containers smaller than 750 ml. and wine-coolers, beer coolers, or pre-mixed distilled spirit cocktails must be sold in manufacturer pre-packaged multi-unit quantities.
5. No wine shall be sold with an alcoholic content greater than 15% by volume except for "Dinner Wines" which have been aged two years or more.
6. Any graffiti painted or marked upon the premises or on any adjacent area under the control of the licensee(s) shall be removed or painted over within 48 hours of being applied.
7. The petitioner(s) shall post and maintain a professional quality sign facing the premises parking lot(s) that reads as the following: NO LOITERING, NO LITTERING, NO DRINKING OF ALCOHOLIC BEVERAGES. VIOLATORS ARE SUBJECT TO ARREST. The sign shall be at least two feet square with two inch block lettering. The sign shall be in English and Spanish.
8. There shall be no exterior advertising or sign of any kind, including advertising, directed to the exterior from within, promoting or indicating the availability of alcoholic beverages. Interior displays of alcoholic beverages which are clearly visible from the exterior shall constitute a violation of this conditions.
9. There shall be no amusement machines or video game devices on the premises at any time.

SAN DIEGO POLICE DEPARTMENT RECOMMENDATION:

APPROVE ☒DENY ☐ROBERT STINSON

Name of SDPD Vice Sergeant (Print)

619-531-2282

Telephone Number



Signature of SDPD Vice Sergeant

4-27-2016

Date of Review

BEFORE THE
DEPARTMENT OF ALCOHOLIC BEVERAGE CONTROL
OF THE STATE OF CALIFORNIA

IN THE MATTER OF THE APPLICATION OF

SAMIM H BIDI
MY MARKET
4111 HOME AVE
STE A
SAN DIEGO, CA 92105

} FILE 21-549600

} REG.

} PETITION FOR CONDITIONAL
} LICENSE

For Issuance of an Off-Sale General - License

Under the Alcoholic Beverage Control Act

WHEREAS, petitioner(s) has/have filed an application for the issuance of the above-referred-to license(s) for the above-mentioned premises; and,

WHEREAS, the San Diego Police Department filed a protest against the issuance of the applied-for license; and,

WHEREAS, the protest(s) deal(s) with the proposed operation of the applied-for premises; and,

WHEREAS, pursuant to Section 23958 of the Business and Professions Code, the Department may deny an application for a license where issuance would result in or add to an undue concentration of licenses; and,

WHEREAS, the proposed premises are located in Census Tract 0034.01 where there presently exists an undue concentration of licenses as defined by Section 23958.4 of the Business and Professions Code; and,

WHEREAS, the proposed premises are located in a crime reporting district that has a 20% greater number of reported crimes, as defined in subdivision (c) of Section 23958.4, than the average number of reported crimes as determined from all crime reporting districts within the jurisdiction of the local law enforcement agency; and,

WHEREAS, the petitioner(s) stipulate(s) that by reason of the aforementioned high crime and over concentration of licenses, grounds exist for denial of the applied-for license; and,

WHEREAS, the proposed premises and/or parking lot, operated in conjunction therewith, are located within 100 feet of residences(s); and,

WHEREAS, issuance of the applied-for license without the below-described conditions would interfere with the quiet enjoyment of the property by nearby residents and constitute grounds for the denial of the application under the provisions of Rule 61.4, of Chapter 1, Title 4, of the California Code of Regulations; and,

S.B

Initials

21-549600.
Page 2

WHEREAS, the issuance of an unrestricted license would be contrary to public welfare and morals;

NOW, THEREFORE, the undersigned petitioner(s) do/does hereby petition for a conditional license as follows, to-wit:

- 1 Beer, malt beverages, and wine coolers in containers of 16 oz. or less cannot be sold by single containers, but must be sold in manufacturer pre-packaged multi-unit quantities.
- 2 No distilled spirits shall be sold in bottles or containers smaller than 375ml.
- 3 Wine shall not be sold in bottles or containers smaller than 750 ml. and wine-coolers, beer coolers, or pre-mixed distilled spirit cocktails (if allowed by the licensee) must be sold in manufacturer pre-packaged multi-unit quantities.
- 4 No wine shall be sold with an alcohol content of greater than 15% by volume except for "Dinner Wines" which have been aged two years or more.
- 5 There shall be no amusement machines or video game devices in the premises at any time.
- 6 The petitioner(s) shall post and maintain a professional quality sign facing the premises parking lot(s) that read as follows:

NO LOITERING, NO LITTERING,
NO DRINKING OF ALCOHOLIC BEVERAGES

VIOLATORS ARE SUBJECT TO ARREST

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

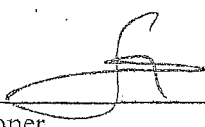
This petition for conditional license is made pursuant to the provisions of Sections 23800 through 23805 of the Business and Professions Code and will be carried forward in any transfer at the applicant-premises.

Petitioner(s) agree(s) to retain a copy of this petition on the premises at all times and will be prepared to produce it immediately upon the request of any peace officer.

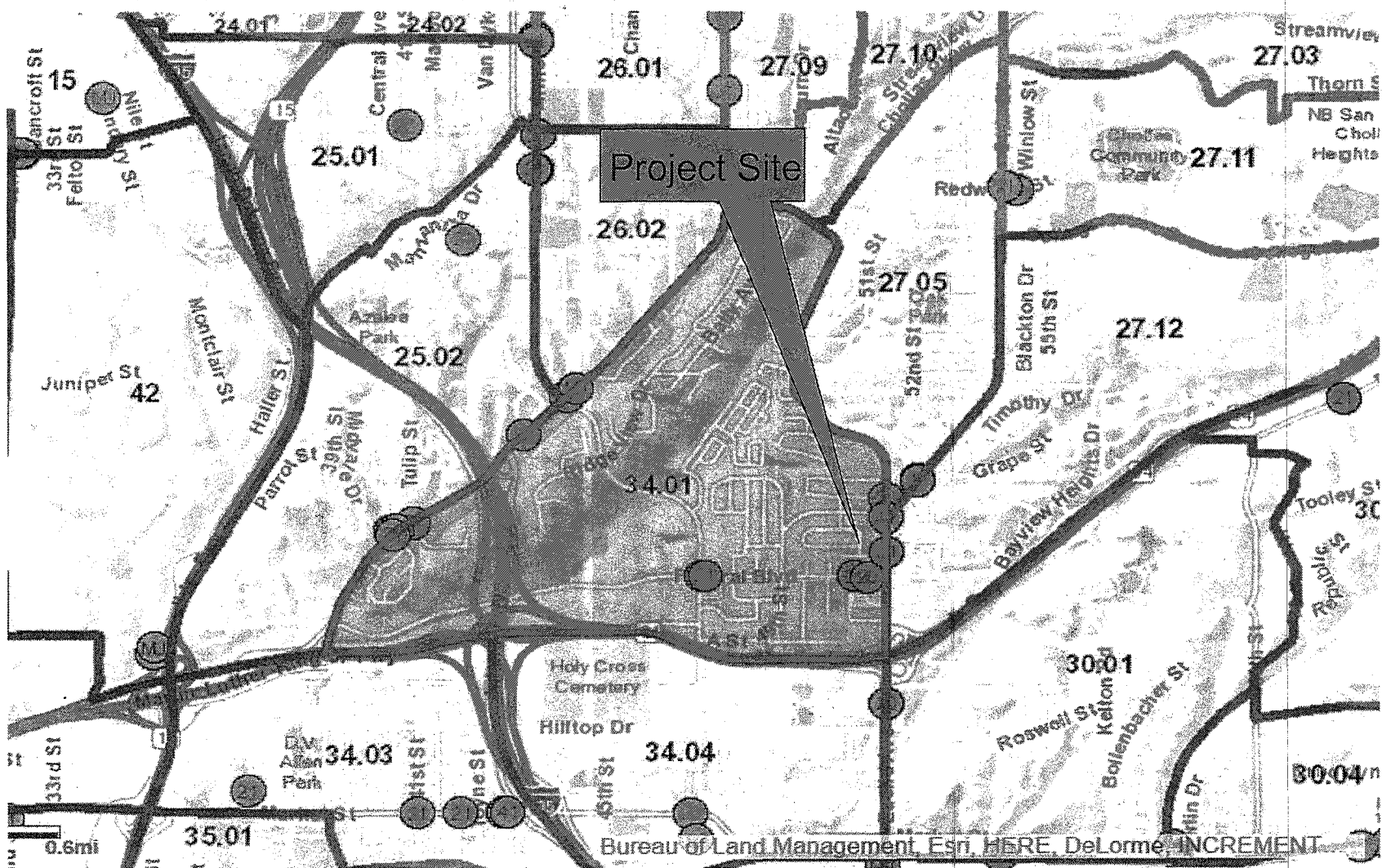
The petitioner(s) understand(s) that any violation of the foregoing condition(s) shall be grounds for the suspension or revocation of the license(s).

DATED THIS 25th DAY OF MARCH, 20 15

Samim H. Bidi


Applicant/Petitioner

Owner
Title



Liquor Licenses within Census Tract 34.01

MY MARKET CUP - PROJECT NO. 439049
4111 HOME AVENUE



 <p>City of San Diego Development Services 1222 First Ave. 3rd Floor San Diego, CA 92101</p> <p>THE CITY OF SAN DIEGO</p>	<p>Development Permit/ Environmental Determination Appeal Application</p>	<p>FORM</p>
		<p>DS-3031</p> <p>AUGUST 2015</p>

In order to assure your appeal application is successfully accepted and processed, you must read and understand Information Bulletin 505, "Development Permits/Environmental Determination Appeal Procedure".

<p>1. Type of Appeal:</p> <p><input checked="" type="checkbox"/> Appeal of the Project</p> <p><input type="checkbox"/> Appeal of the Environmental Determination</p>		
<p>2. Appellant: Please check one <input type="checkbox"/> Applicant <input type="checkbox"/> Officially recognized Planning Committee <input checked="" type="checkbox"/> "Interested Person" (Per M.C. Sec. 113.0103)</p>		
<p>Name: <u>SAMI JIHAD</u></p>		<p>E-mail Address:</p>
<p>Address: <u>5440 MOREHOUSE DR. #4000 SAN DIEGO, CA 92121 6</u></p>		
<p>3. Project Name: <u>MY MARKET CUP</u></p>		
<p>4. Project Information</p> <p>Permit/Environmental Determination & Permit/Document No.: <u>15 42494</u></p>	<p>Date of Decision/Determination: <u>JULY 20, 2016</u></p>	<p>City Project Manager: <u>RENEE MEZO</u></p>
<p>Decision: (Describe the permit/approval decision)</p> <p><u>DENIAL OF CUP</u></p>		
<p>5. Grounds for Appeal: (Please check all that apply)</p> <p><input type="checkbox"/> Factual Error <input type="checkbox"/> New Information</p> <p><input type="checkbox"/> Conflict with other matters <input type="checkbox"/> City-wide Significance (Process Four decisions only)</p> <p><input checked="" type="checkbox"/> Findings Not Supported</p> <p>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.)</p> <p><u>SEE ATTACHED APPEAL LETTER</u></p>		
<p>6. Appellant's Signature: I certify under penalty of perjury that the foregoing, including all names and addresses, is true and correct.</p> <p>Signature: <u>[Signature]</u> Date: <u>7-22-2016</u></p>		
<p>Note: Faxed appeals are not accepted. Appeal fees are non-refundable.</p>		

RECEIVED
AUG 03 2016
DEVELOPMENT SERVICES

August 2, 2016

Appeal: Project Number 439049

Property Owner/Address: Mid-Cajon/Home Avenue, LLC
5440 Morehouse Drive #4000
San Diego, CA 92121

Responsible Person/
Tenant: My Market
4111 Home Avenue #A
San Diego, CA 92105

Re: My Market Conditional Use Permit Project 439049

Dear Planning Commission:

I am writing to appeal the decision made by the the City Hearing officer on July 20, 2016, which denied My Market a Conditional Use Permit for Type 21 General Liquor License at 4111 Home Avenue. The CUP for type 21 license was denied due to issues mentioned in memorandum dated May 9, 2016 and are described in this letter. I feel this appeal is necessary to prove that the CUP was denied based on issues that had been factored in prior to My Market obtaining their Type 21 License. My Market owner referred to guidelines, and requirements set forth and approved by City Staff. Had these issues been grounds for denial, the license would not have originally been approved. We strongly believe that the community will not be affected, as they are all in support of the approval of Conditional Use Permit No. 1542494 and as you will see in all support letters from residents, Head Start School, the San Diego Police Department as well as staff recommended approval.

Background:

A type 20 license that allowed the sale of beer and wine for off-site consumption was originally issued of the original tenant for the space in April 1993. The license was issue to the previous owner of the market in the space. The city's requirements to obtain a CUP for Alcoholic Beverage Outlets became effective two years later, in 1995. Any business that had a type 20 or 21 license is considered an Alcoholic Beverage Outlet. The ABC Type 21 license was obtained under the premises that there was no CUP required, review from the city, San Diego Police Department, or Development Services. On December 15, 2014 the owner displayed a posting for one month and there was no opposition. Also, on December 15, 2014 letters were mailed to the neighborhood within a 600 ft. radius announcing the My Market owner has applied for type 21 license, no opposition. In 2014, ABC requested My Market to obtain a zoning affidavit from he city and city staff completed the affidavit which states the CUP was not required for a new

type 21 license in My Market's space. ABC Type 21 license was approved on April 1, 2015. A complaint was filed with the Code enforcement in December 2015 and My Market owner submitted the Application for a CUP based on this alone.

Facts for Denial with Supporting Arguments:

Listed were various facts that caused the denial of the CUP. First, the close proximity to an incompatible use— Head Start/ daycare when in fact, the Early Learning center had no objection and still does not object to My Market obtaining a CUP. **My Market obtained a letter from the Head Start Program stating they are in support of the CUP.**

The application was denied due to the crime rate, the proximity of a methadone clinic, a police services rate of calls, and assault with a deadly weapon near the premises. **The police department was well aware of the above facts and approved the application on April 27, 2016.**

There was a reference to code enforcement cases which were all addressed and cleared prior to applying for the Type 21 License. These issues should not have been factored into the decision to deny the CUP along with the issues mentioned above which had already been considered.

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

PROJECT MANAGEMENT
PERMIT CLERK
MAIL STATION 501

SPACE ABOVE THIS LINE FOR RECORDER'S USE

INTERNAL ORDER NUMBER: 24006367

CONDITIONAL USE PERMIT NO. 1542494

MY MARKET PROJECT NO. 439049

PLANNING COMMISSION

DRAFT

This Conditional Use Permit No. 1542494 is granted by the Planning Commission of the City of San Diego to Mid-Cajon/Home Avenue, LP, a California Limited Partnership, Owner, and Samim H. Bidi, Permittee, pursuant to San Diego Municipal Code [SDMC] section 141.0502. The 1.04-acre site is in the CC-5-3 Zone of the Central Urbanized Planned District in the City Heights neighborhood of the Mid-City Communities Plan area and is located at 4111 Home Avenue, Suite A within an existing 3,592-square-foot market. The project site is legally described as Lot 1 of Terrace View Villas, Map thereof No. 11840.

Subject to the terms and conditions set forth in this Permit, permission is granted to Owner/Permittee to operate an alcoholic beverage outlet conditioned upon the issuance of a license from the State Department of Alcoholic Beverage Control (ABC) 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 January 19, 2017, on file in the Development Services Department.

The project shall include:

- a. The operation of an alcoholic beverage outlet to sell beer, wine and distilled spirits, conditioned upon the issuance of a Type 21 General Liquor License for the sale of alcoholic beverages for off-site consumption from the State Department of Alcoholic Beverage Control;
- b. Rescission of Conditional Use Permit No. C-20805. This permit supersedes Conditional Use Permit No. C-20805, approved by the City of San Diego on August 2, 1991 and recorded on November 15, 1991 in the San Diego County Recorder's Office as Document Number 1991-0592473. Conditional Use Permit No. C-20805 is null and void and shall have no operative effect;

- 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. This permit must be utilized by January 19, 2020.
2. This Conditional Use Permit and corresponding use of this site shall expire on January 19, 2027. Upon expiration of this Permit, the facilities and improvements described herein shall be removed from this site and the property shall be restored to its original condition preceding approval of this Permit.
3. This use and associated improvements shall comply with all requirements of Planned Commercial Development Permit No. 88-0404.
4. The utilization of this CUP is contingent upon a license to sell alcohol at this location by the California Department of Alcoholic Beverage Control. The issuance of this CUP does not guarantee that the California Department of Alcoholic Beverage Control will grant an alcoholic beverage license for this location.
5. No permit for the construction, occupancy, or operation of any facility or improvement described herein shall be granted, nor shall any activity authorized by this Permit be conducted on the premises until:
 - a. The Owner/Permittee signs and returns the Permit to the Development Services Department; and
 - b. The Permit is recorded in the Office of the San Diego County Recorder.
6. While this Permit is in effect, the subject property shall be used only for the purposes and under the terms and conditions set forth in this Permit unless otherwise authorized by the appropriate City decision maker.
7. This Permit is a covenant running with the subject property and all of the requirements and conditions of this Permit and related documents shall be binding upon the Owner/Permittee and any successor(s) in interest.

8. The continued use of this Permit shall be subject to the regulations of this and any other applicable governmental agency.

9. Issuance of this Permit by the City of San Diego does not authorize the Owner/Permittee for this Permit to violate any Federal, State or City laws, ordinances, regulations or policies including, but not limited to, the Endangered Species Act of 1973 [ESA] and any amendments thereto (16 U.S.C. § 1531 et seq.).

10. The Owner/Permittee shall secure all necessary building permits. The Owner/Permittee is informed that to secure these permits, substantial building modifications and site improvements may be required to comply with applicable building, fire, mechanical, and plumbing codes, and State and Federal disability access laws.

11. Construction plans shall be in substantial conformity to Exhibit "A." Changes, modifications, or alterations to the construction plans are prohibited unless appropriate application(s) or amendment(s) to this Permit have been granted.

12. All of the conditions contained in this Permit have been considered and were determined necessary to make the findings required for approval of this Permit. The Permit holder is required to comply with each and every condition in order to maintain the entitlements that are granted by this Permit.

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

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

Owner/Permittee shall not be required to pay or perform any settlement unless such settlement is approved by Owner/Permittee.

PLANNING/DESIGN REQUIREMENTS:

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

15. The sale of alcoholic beverage shall be permitted only between the hours of 8:00 a.m. and 10:00 p.m.

16. The sale of alcoholic beverages shall be accessory and limited to a maximum of five (5) percent of the floor area of the market.

17. 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.

18. The quarterly annual sales of alcoholic beverages shall not exceed ten (10) percent of the quarterly annual sales of all other products.

19. Pool or billiard tables, foosball or pinball games, arcade style video and electronic games, or coin-operated amusement devices are not permitted on the premises.

20. Exterior public pay phones allowing incoming calls are not permitted on the premises, adjacent public sidewalks, or areas under the control of the owner or operator.

21. The owner or operator shall provide illumination, at a minimum level of 0.4 foot candles per square foot, on the exterior of the alcoholic beverage outlet, including adjacent public sidewalks and areas under the control of the owner or operator. The illumination shall be in operation during all hours of darkness while the outlet is open for business so that persons standing on or near the premises at night are identifiable by law enforcement personnel. The required illumination shall be shielded and directed so that it does not shine on adjacent properties.

22. A maximum of 33 percent of the square footage of the windows and doors of the premises may bear advertising or signs of any sort, and all advertising and signs shall be placed and maintained in a manner that ensures that law enforcement personnel have a clear and unobstructed view of the interior of the outlet. Interior advertising of alcoholic beverages that is visible from the exterior of the premises shall be prohibited in order to prevent under-age drinking.

23. The owner or operator of the alcoholic beverage outlet shall post a prominent, permanent sign or signs stating, "No loitering, consumption of alcoholic beverages, or open alcoholic beverage containers are allowed inside the premises, in the parking area, or on the public sidewalks adjacent to the premises violators are subject to arrest." The sign shall be at least two square feet with two inch block lettering. The sign shall be in English and Spanish.

24. The owner or operator shall list a business address and telephone number in the Pacific Bell/San Diego telephone directory or other similarly distributed directory.

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

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

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

POLICE DEPARTMENT REQUIREMENTS:

28. The sale of distilled spirits in containers less than 375 milliliters (ml) is prohibited.

29. Beer, malt beverages and wine coolers in containers of 16-ounce or less cannot be sold in single containers, but must be sold in manufacturer pre-packaged multi-unit quantities.

30. Wine shall not be sold in bottles smaller than 750 ml. and wine coolers, beer coolers, or pre-mixed distilled spirit cocktails must be sold in manufacturer pre-packaged multi-unit quantities.

31. No wine shall be sold with an alcoholic content greater than 15 percent by volume except for "Dinner Wines" which have been aged two years or more.

32. ~~Any graffiti painted or marked upon the premises or on any adjacent area under the control of the licensee. **Owner/Permittee** shall be removed or painted over within 48 hours of being applied.~~

33. ~~Exterior advertising of alcoholic beverages or interior advertising of alcoholic beverages that is visible from the exterior of the premises shall be prohibited in order to prevent under-age drinking.~~

POLICE DEPARTMENT RECOMMENDATIONS FOR ABC LICENSE:

- Wine shall not be sold in containers of less than 750 ml., with the exception of wine coolers sold in four-pack containers or more per sale.
- Malt beverages shall not be sold in less than six-pack containers per sale.
- Wine shall not be sold with an alcoholic content greater than 15 percent by volume.

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 January 19, 2017 and by Resolution No. XXXX.

PLANNING COMMISSION RESOLUTION NO. _____
 CONDITIONAL USE PERMIT NO. 1542494
MY MARKET PROJECT NO. 439049
 DRAFT

WHEREAS, Mid-Cajon/Home Avenue, LP (a California Limited Partnership), Owner, Samim H. Bidi, Permittee, filed an application with the City of San Diego to operate an alcoholic beverage outlet to sell beer, wine and distilled spirits and conditioned upon the issuance of a license (Type 21 General Liquor License for the sale of alcoholic beverages for off-site consumption) from the State Department of Alcoholic Beverage Control (ABC) and subject to the City's land use regulations (as described in and by reference to the approved Exhibits "A" and corresponding conditions of approval for associated Permit No. 1542494), on portions of a 1.04-acre site;

WHEREAS, the project site is located in the CC-5-3 Zone of the Central Urbanized Planned District within the City Heights neighborhood of the Mid-City Communities Plan area. The site is located at 4111 Home Avenue, Suite A within an existing 3,592-square-foot market;

WHEREAS, the project site is legally described as Lot 1 of Terrace View Villas, Map No. 11840;

WHEREAS, on July 20, 2016 the Hearing Officer of the City of San Diego denied Conditional Use Permit No 1542494. On August 3, 2016, an appeal of the Hearing Officer's decision was filed by Samim H. Bidi (Applicant);

WHEREAS, on January 19, 2017, the Planning Commission of the City of San Diego considered Conditional Use Permit No. 1542494 pursuant to the Land Development Code of the City of San Diego;

WHEREAS, on May 26, 2016, the City of San Diego, as Lead Agency, through the Development Services Department, made and issued an Environmental Determination that the project is exempt from the California Environmental Quality Act (CEQA) (Public Resources Code Section 21000 et seq.) under CEQA Guideline Section 15301 (existing facility) and there was no appeal of the Environmental Determination filed within the time period provided by San Diego Municipal Code Section 112.0520;

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

That the Planning Commission adopts the following written Findings, dated January 19, 2017.

CONDITIONAL USE PERMIT FINDINGS - SECTION 126.0305:

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

The project proposes a Conditional Use Permit for the operation of an alcohol beverage outlet accessory to the existing market, upon issuance of a Type 21 license allowing for the sale of beer, wine, and distilled spirits for off-site consumption, to replace the existing Conditional Use Permit No. C-20805 allowing the sale of beer and wine.

The project site is located within the Commercial Community designation of the Mid-City Communities Plan (Plan) area. The sale of alcoholic beverages is not addressed in the Plan except for a recommendation..., "to provide an expanded array of commercial goods and services in neighborhoods that lack them, through appropriate regulatory and promotional activities."

The Plan does not specifically address alcoholic beverage outlets; however the sale of alcohol products is defined as a commercial retail use in the Land Development Code and permitted with the approval of a Conditional Use Permit. The Plan recommends the site be used for commercial development therefore the Conditional Use Permit to allow the sale of alcohol will not adversely affect the applicable land use plan. The Economic Prosperity Element of the General Plan recommends economically healthy neighborhood and community commercial areas that are easily accessible to residents. The project site is located directly to the south of single-family residential development. The market provides conveniences to residents by selling groceries, meat, and produce. The alcohol sales are accessory to the market and as conditioned within the permit, make up a maximum of five percent of the floor area. As conditioned, the CUP will allow alcohol sales under certain operational parameters, providing residents easy access to convenience and contributes to the economic viability of the community. Therefore, the proposed development will not adversely affect the applicable land use plan.

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

The project proposes a Conditional Use Permit for the operation of an alcohol beverage outlet accessory to the existing market, upon issuance of a Type 21 license allowing for the sale of beer, wine, and distilled spirits for off-site consumption, to replace an existing Conditional Use Permit No. C-20805 allowing the sale of beer and wine. The site is zoned CC-5-3 (Commercial Community) which allows for community-serving commercial services, retail uses, and limited industrial uses of moderate intensity. The existing 3,592-square-foot market is within Suite A and sells groceries, produce and meat. After filing the appeal, the applicant performed a title search and found a valid Conditional Use Permit (CUP) No. C-20805 approved on August 2, 1991 of which City staff was not previously aware. Therefore, the applicant is allowed to sell beer and wine under the existing CUP No. C-20805. The existing CUP contains conditions that restrict annual sales, window advertising, sizes of containers for beer and wine, hours of operation. There is no expiration date on the existing CUP. Modifications to the Hearing Officer's decision as recommended by staff have been revised to include an expiration date, further restrict the floor area related to alcohol sales, lighting, and signage.

Approval of the Conditional Use Permit will allow the sale of alcohol to be conditioned more strictly so that the alcohol sales will not have a negative impact on the surrounding neighborhood. The new CUP (which would supersede the existing CUP) includes stricter conditions. The hours of operation have been reduced from 8:00 am to 12:00 am to 8:00 a.m. to 10:00 p.m. The annual sales of alcohol have been reduced from 25 percent to 10 percent. The floor area dedicated for the display of alcohol has been reduced from 20 percent to five percent. Additional conditions for the proposed CUP include the regulation of advertising and providing for a well-lit, clean site, prohibition of specific on-site activities with the objective of reducing the likelihood of loitering and other criminal activity on the property. Additionally, the proposed CUP would prohibit amusement machines or video game devices on the premises. Exterior and interior public pay phones would not be permitted on the premises, on adjacent public sidewalks, or areas under the control of the owner or

operator. Furthermore, advertising would be limited and "No Loitering" signs would be required to be prominently displayed on the premises as required per San Diego Municipal Code Section 141.0502(b).

An environmental review was conducted by the Development Services Department and concluded the project was exempt pursuant to California Environmental Quality Act (CEQA) Guidelines Section 15301 (Existing Facilities).

The San Diego Police Department concluded that with an appropriately conditioned permit, the proposed alcohol sales would not have a negative impact on the surrounding neighborhood. Therefore, with the proposed conditions regulating the sale of alcoholic beverages, the proposed use will not be detrimental to the public's health, safety or 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 site is zoned CC-5-3 (Commercial Community) which allows for community-serving commercial services, retail uses, and limited industrial uses of moderate intensity. Alcohol sales are an allowed use with a Conditional Use Permit pursuant to San Diego Municipal Code Section 141.0502. The existing market with the ability to sell beer, wine, and distilled spirits for off-site consumption, will continue to be consistent with the recommended commercial land use; therefore there will be no conflict with the current development pattern in the neighborhood. The project complies with the applicable regulations of the Land Development Code including the use and floor area ratio and no deviations are requested as a part of this application.

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

The 1.04-acre site is located at 4111 Home Avenue, Suite A within the CC-5-3 (Commercial Community) zone of the Central Urbanized Planned District within the City Heights neighborhood of the Mid-City Communities Plan area. There is commercial retail to the north and east and single-family residential to the south and west. The existing 3,592-square-foot market, which sells groceries, produce and meat, is within a strip mall (originally built in 1991) and has been selling beer and wine under a Type 20 license since 1993 with a valid CUP (approved in 1991). The strip mall includes a pizzeria, barber shop, restaurant and a Head Start/preschool program. After filing the appeal, the applicant performed a title search and found a valid Conditional Use Permit (CUP) No. C-20805 approved on August 2, 1991 of which City staff was not previously aware. Therefore, the applicant is allowed to sell beer and wine under the existing CUP No. C-20805. The existing CUP contains conditions that restrict annual sales, window advertising, sizes of containers for beer and wine, hours of operation. There is no expiration date on the existing CUP. Modifications to the Hearing Officer's decision as recommended by staff have been revised to include an expiration date, further restrict the floor area related to alcohol sales, lighting, and signage as further described below.

There is a preschool and adjacent residential development in close proximity, however granting the appeal and approval of the modified CUP would allow the sale of alcohol to be further conditioned to avoid negative impacts on the surrounding neighborhood. The new CUP (which would supersede the existing CUP) includes stricter conditions. The hours of operation have been reduced from 8:00

am to 12:00 am to 8:00 a.m. to 10:00 p.m. The annual sales of alcohol have been reduced from 25 percent to 10 percent. The floor area dedicated for the display of alcohol has been reduced from 20 percent to five percent. Additional conditions from the proposed CUP include the regulation of advertising and providing for a well-lit, clean site, prohibition of specific on-site activities with the objective of reducing the likelihood of loitering and other criminal activity on the property. Additionally, the proposed CUP would prohibit amusement machines or video game devices on the premises. Exterior and interior public pay phones would not be permitted on the premises, on adjacent public sidewalks, or areas under the control of the owner or operator. Furthermore, advertising would be limited and "No Loitering" signs would be required to be prominently displayed on the premises as required per San Diego Municipal Code Section 141.0502(b).

The San Diego Police Department concluded that if the permit were appropriately conditioned, the proposed alcohol sales will not have a negative impact on the surrounding neighborhood. Therefore, with the revised permit conditions, the proposed use is appropriate at the proposed location.

BE IT FURTHER RESOLVED that, based on the findings hereinbefore adopted by the Planning Commission, Conditional Use Permit No. 1542494 is hereby GRANTED by the Planning Commission to the referenced Owner/Permittee, in the form, exhibits, terms and conditions as set forth in Permit No. 1542494, a copy of which is attached hereto and made a part hereof.

Renee Mezo
Development Project Manager

Adopted on: January 19, 2017

IO#: 24006367

OFFICIAL RECORDS, ANNETTE J. EVANS, SAN DIEGO RECORDER-COUNTY CLERK

RECORDING REQUESTED BY
AND MAIL TO:
ZONING SERVICES
(Mail Station 300)
City Operations Building
1222 First Avenue
San Diego, California 92101

2114

CITY OF SAN DIEGO
DECISION OF THE ZONING ADMINISTRATOR - C-20805
CONDITIONAL USE PERMIT - HEARING

WHEREAS, on August 2, 1991, a public hearing was held to consider the request of W. W. TERRACE VIEW VILLAS, LTD., OWNERS; SAM T. SHORES, LESSEE - To sell beer and wine within an existing grocery store where such use is permitted by Conditional Use Permit only - Lot 1, Terrace View Villas, Map No. 11840, located at 4111 Home Avenue, Suite A, CN zone; and,

WHEREAS, the Hearing Officer considered the plans and materials submitted prior to and at the public hearing, staff report, inspection of the subject property, and public testimony at the hearing; and,

WHEREAS, the Hearing Officer found that the use on this site could be approved. The Hearing Officer reviewed information provided by the Police Department and the City Heights Planning Group and determined that, with adequate conditions, the use could be compatible with other uses in this center and the surrounding area; and,

WHEREAS, the proposed use will not adversely affect the neighborhood, the General Plan or the Community Plan, and will not be detrimental to the health, safety and general welfare of persons residing or working in the area; and,

WHEREAS, the proposed use will comply with all relevant regulations in the Municipal Code; NOW, THEREFORE,

BE IT RESOLVED, by the Zoning Administrator of the City of San Diego, that in light of the foregoing, the Conditional Use Permit sought by W. W. TERRACE VIEW VILLAS, LTD., OWNERS; SAM T. SHORES, LESSEE, in Case No. C-20805, is hereby APPROVED, subject to the following conditions:

1. That the annual sales of alcoholic beverages shall not exceed twenty five percent (25%) of the annual sales of all products offered for sale;
2. That window advertising shall not contain any advertisement indicating the sale of alcoholic beverages at this location;
3. That the operator of this business shall take all necessary steps to prevent loitering on the subject property;

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

- 2 -

2115

C-20805

4. That there shall be no coin operated games on the premises;
5. That no wine or distilled spirits shall be sold in containers less than 750 ml. in size;
6. That no wine shall be sold with an alcoholic content greater than 13 percent by volume (no fortified wine) and no malt beverage shall be sold with an alcoholic content greater than 5 percent by volume or 4 percent by weight (no malt liquor);
7. That no malt beverage products shall be sold in less than six pack quantities;
8. That no alcoholic beverages shall be consumed on the subject property or on any property adjacent to a licensed premises under the control of the licensee;
9. That no alcoholic beverage shall be sold or delivered except between the hours of 8:00 a.m. and 12:00 a.m. (midnight) of each day of the week;
10. That the total area of this store used for the display and sales of beer and wine shall be limited to 115 sq. ft., as shown on Exhibit "A", dated August 2, 1991;
11. That this use, and associated improvements shall comply with all requirements of Planned Commercial Development Permit No. 88-0404; and,
12. That this Conditional Use Permit shall be signed and notarized by the applicant and returned to Zoning Services to be recorded with the County Recorder, within thirty (30) days of receipt of this resolution.

This Conditional Use Permit is not a permit or license and any permits and licenses required by law must be obtained from the proper department. Furthermore, if any condition of this Grant is violated, or if the same be not complied with in every respect, then this Conditional Use Permit shall be subject to revocation; provided, however, that after being notified in writing by the City that a condition has been violated and that subject permit is null and void within ten (10) days, an appeal may be filed with the Board of Zoning Appeals to show cause why subject permit should be reinstated.

Failure to utilize such Conditional Use Permit within the thirty-six (36) month period will automatically void the same, in

OFFICIAL RECORDS, ANNETTE J. EVANS, SAN DIEGO RECORDER/COUNTY CLERK

2116

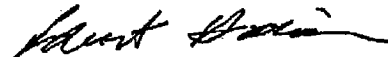
- 3 -

C-20805

accordance with Municipal Code Section 101.0510. Except as provided in Section 101.0510, during the thirty-six (36) month period referred to in this Section, the property covered by a Conditional Use Permit granted by the Zoning Administrator shall not be used for any purpose other than that authorized by the Permit.

The permission granted by this Conditional Use Permit shall become effective and final on the eleventh day after a decision is made, unless a written appeal is filed on official form and accompanied by required fee within ten (10) days; said appeal to be filed in Zoning Services, Third Floor, City Operations Building, 1222 First Avenue. An appeal from any decision of the Zoning Administrator may be taken to the Board of Zoning Appeals by the applicant, any governmental body or agency, any owner of real property located within the City, any resident of the City or any resident of property located outside the City but within 300 feet of the property for which the permit has been requested. See Municipal Code Section 101.0503.

CITY PLANNING DEPARTMENT



Robert W. Didion
Sign Code Administrator

RWD:pcv

AUG 02 1991

RIGHT OF APPEAL EXPIRES
10 DAYS
after the above date.

100% FINANCIAL A BUILDING PERMIT

OFFICIAL RECORDS, ANNETTE J. EVANS, SAN DIEGO RECORDER/COUNTY CLERK

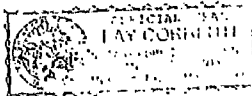
2117

ACKNOWLEDGEMENT

PUBLIC AGENCYSTATE OF CALIFORNIA)SS
COUNTY OF SAN DIEGO)

On this 2ND day of AUGUST in the year 1991, before me,
Fay Correnti, a Notary Public in and for said county and state, personally
appeared Robert W. Didion personally known to me to be the person who
executed this instrument as the Sign Code Administrator
of the City of San Diego, and acknowledged to me that such agent executed
the same.

IN WITNESS WHEREOF I have hereunto set my hand and official seal, in the
County of San Diego, State of California, the day and year in this
certificate first above written.

Name Fay CorrentiSignature Fay Correnti

NOTARY STAMP

2118

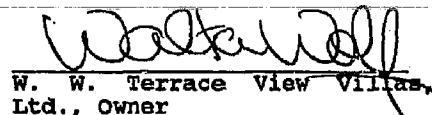
- 4 -

C-20805

Applicant shall have agreed to each and every condition hereof by having this permit signed and notarized within thirty (30) days of receipt of this resolution.

The undersigned Permittee by execution hereof agrees to each and every condition of this permit and promises to perform each and every obligation of Permittee hereunder.


Sam T. Shorees, Lessee


W. W. Terrace View Villas,
Ltd., Owner

8.27-91

9.3-91

(Corporation)

State of California

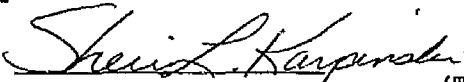
ss.

County of San Diego

On this 27th day of August, in the year 1991
before me, the undersigned, a Notary Public in and for said
State, personally appeared Sam T. Shorees
personally known to me (or proved to me on the basis of
satisfactory evidence) to be the person who executed the within
instrument as president (or secretary) or on behalf of the
corporation therein named and acknowledged to me that the
corporation executed it.

WITNESS my hand and official seal.

Signature



(This area for official
notarial seal)

OFFICIAL RECORDS, ANNETTE J. EVANS, SAN DIEGO RECORDER/COUNTY CLERK

STATE OF CALIFORNIA
COUNTY OF San Diego

ss.

2119

On September 3, 1991

said State, personally appeared

Walter E. Wolf

, before me, the undersigned, a Notary Public in and for

, personally known to me (or proved to me on the

basis of satisfactory evidence) to be the persons who executed the within instrument as

President and

Secretary, on behalf of

W. Wolf Industries, Inc.

the corporation therein named, and acknowledged to me that said corporation executed the within instrument pursuant to its by-laws or a resolution of its board of directors, said corporation being

known to me to be the general partner of

W.W. Terrace View Villas

the limited partnership that executed the within instrument, and acknowledged to me that such corporation executed the same as such partner and that such partnership executed the same.

WITNESS my hand and official seal.

Signature

Sheri L. Karpinski

(This area for official notarial seal)

DOC # 1991-0592473
15-NOV-1991 01:11 PM

2120

OFFICIAL RECORDS
SAN DIEGO COUNTY RECORDER'S OFFICE
ANNETTE EVANS, COUNTY RECORDER
RF: 9.00 FEES: 23.00
AF: 13.00
MF: 1.00

OFFICIAL RECORDS, ANNETTE J. EVANS, SAN DIEGO RECORDER/COUNTY CLERK

F8
np

SAN DIEGO POLICE DEPARTMENT CONDITIONAL USE PERMIT RECOMMENDATION

PREMISE ADDRESS: 4111 Home Ave #A, San Diego

TYPE OF BUSINESS: Convenience Market

FEDERAL CENSUS TRACT: 34.01

NUMBER OF ALCOHOL LICENSES ALLOWED: 3

NUMBER OF ALCOHOL LICENSES EXISTING: 8 (Over-Concentrated)

CRIME RATE IN THIS CENSUS TRACT: 144.8%
(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 Conditional Use Permit for a Convenience Market with a Type 21 Off-Sale General license at 4111 Home Ave #A. There is an incompatible facility called the Early Learning Center at 4111 Home Ave #F. This is a Headstart program and day care center for pre-school children.

There were no arrests, no crime cases, and 11 calls for police service at 4111 Home Ave. There were 54 crime cases and 21 arrests in a .2 mile radius of this address in 2015. There were 20 alcohol related arrests/citations (63.2%) in census tract 34.01 in 2015.

The San Diego Police Department will support the issuance of this Type-21 license with the following conditions.

SUGGESTED CONDITIONS:

1. Sales of alcoholic beverages shall be permitted only between the hours of 6:00 AM and 1:00 AMt each day of the week.
2. The sale of distilled spirits in containers less than 375 ml. is prohibited.
3. Beer, Malt beverages and Wine coolers in containers of 16 ounce or less cannot be sold in single containers, but must be sold in manufacturer pre-packaged multi-unit quantities.

4. Wine shall not be sold in bottles or containers smaller than 750 ml. and wine-coolers, beer coolers, or pre-mixed distilled spirit cocktails must be sold in manufacturer pre-packaged multi-unit quantities.
5. No wine shall be sold with an alcoholic content greater than 15% by volume except for "Dinner Wines" which have been aged two years or more.
6. Any graffiti painted or marked upon the premises or on any adjacent area under the control of the licensee(s) shall be removed or painted over within 48 hours of being applied.
7. The petitioner(s) shall post and maintain a professional quality sign facing the premises parking lot(s) that reads as the following: NO LOITERING, NO LITTERING, NO DRINKING OF ALCOHOLIC BEVERAGES. VIOLATORS ARE SUBJECT TO ARREST. The sign shall be at least two feet square with two inch block lettering. The sign shall be in English and Spanish.
8. There shall be no exterior advertising or sign of any kind, including advertising, directed to the exterior from within, promoting or indicating the availability of alcoholic beverages. Interior displays of alcoholic beverages which are clearly visible from the exterior shall constitute a violation of this conditions.
9. There shall be no amusement machines or video game devices on the premises at any time.

SAN DIEGO POLICE DEPARTMENT RECOMMENDATION:

APPROVE ☒DENY ☐

ROBERT STINSON
Name of SDPD Vice Sergeant (Print)

619-531-2282
Telephone Number


Signature of SDPD Vice Sergeant

4-27-2016
Date of Review

No Audio Recording Available

HEARING OFFICER OF THE CITY OF SAN DIEGO
MINUTES OF REGULAR SCHEDULED MEETING OF
JULY 20, 2016
CONFERENCE ROOM A, 12TH FLOOR
CITY ADMINISTRATION BUILDING

CHRONOLOGY OF THE MEETING:

The meeting was called to order by Chris Larson at 8:38 a.m.

Appeal Date: August 3, 2016

ITEM-1: **ANNOUNCEMENTS/PUBLIC COMMENT - ISSUES WITHIN THE JURISDICTION OF THE HEARING OFFICER NOT PREVIOUSLY HEARD.**

None

ITEM-2: **REQUESTS FOR CONTINUANCES OR WITHDRAWALS**

None

ITEM-3: **REQUESTS FOR ITEMS TO BE PLACED ON CONSENT AGENDA.**

Item No. 5

ITEM-4: *~This project heard by Duke Fernandez*

MY MARKET - PROJECT NO. 439049

City Council District: 9; Plan Area: City Heights

STAFF: Renee Mezo

6 speaker slips submitted in favor – Sami Jihad, Naseen Iesa, Samim Bid, Dana Davis, Jeff Williams and Koffi Korsovi

6 speaker slips submitted in opposition – Patty Vacariello, Jim Varnardore, Marti Emerald, Anita Calloway, Steven Elia and A. Cordova

ACTION:

PROJECT DENIED BY HEARING OFFICER.

Report NO. HO-16-042. RESOLUTION NO. HO-6944

ITEM-5: **HENCH RESIDENCE - PROJECT NO. 471580**

City Council District: 2; Plan Area: Pacific Beach

STAFF: Paul Godwin

1 speaker slip submitted in favor – Bill Currier

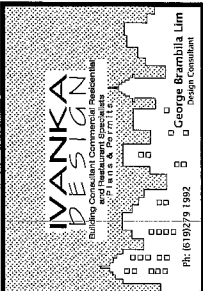
No speaker slips submitted in opposition.

ACTION:

PROJECT APPROVED ON CONSENT.

Report NO. HO-16-044. RESOLUTION NO. HO-6945

Meeting adjourned by Duke Fernandez at 9:42 a.m.



DATE	
REVISIONS	
Δ	DEC 27, 2016
Δ	
Δ	
Δ	
Δ	

MY MARKET
4111 HOME AVE # A SAN DIEGO, CA 92105

PROJECT # 1565
SHEET TITLE FLOOR PLAN
SHEET # A 2
SHEET OF

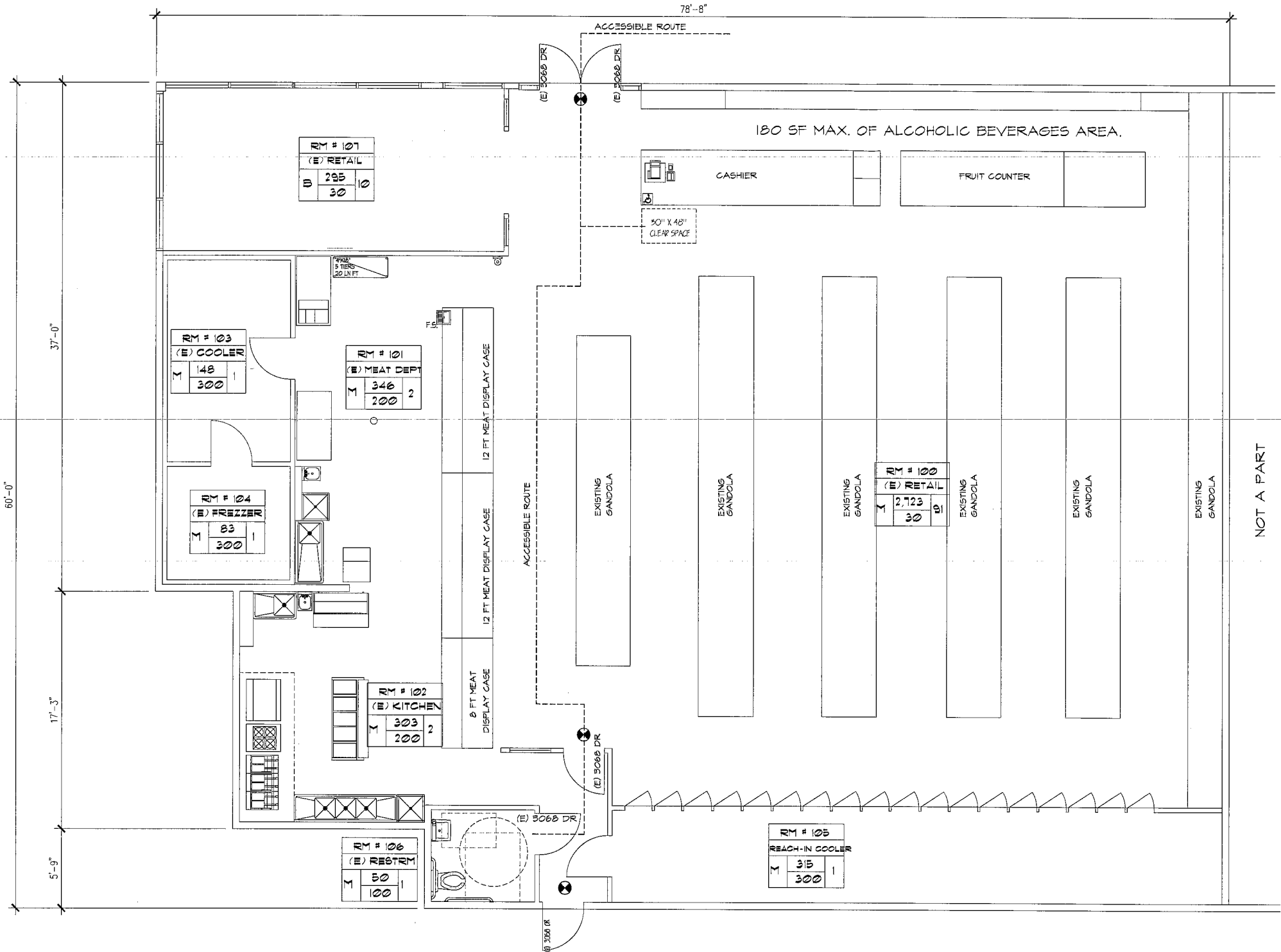
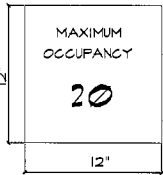
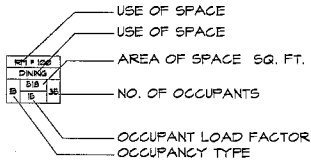
OCCUPANT LOAD

B RESTAURANT				
#	ROOM	AREA	OCC. LOAD FACTOR	#OCC
100	EXISTING RETAIL AREA	2,723 SF	30	91
101	EXISTING MEAT DEPT	346 SF	200	2
102	EXISTING KITCHEN	303 SF	200	2
103	EXISTING WALK-IN COOLER	148 SF	300	1
104	EXISTING WALK-IN FREEZER	83 SF	300	1
105	EXISTING REACH-IN COOLER	315 SF	300	1
106	EXISTING RESTROOM	50 SF	100	1
107	EXISTING RETAIL	295 SF	30	10

OCCUPANT LOAD 109

EGRESS NOTES

- EGRESS DOORS SHALL BE OF THE PIVOTED OR SIDE-HINGED SWINGING TYPE CBC 1002.1.2
- ALL DOORS SHALL BE OPENABLE FROM THE EGRESS SIDE WITHOUT THE USE OF A KEY OR SPECIAL KNOWLEDGE OR EFFORT.
- PROVIDE A SIGN ON OR NEAR THE EXIT DOOR, READING "THIS DOOR TO REMAIN UNLOCKED WHEN BUILDING IS OCCUPIED"
- ALL FINISH MATERIALS SHALL BE IN ACCORDANCE WITH CBC CHAPTER 8.
- MEANS OF EGRESS ILLUMINATION MUST BE PROVIDED WITH 1-FOOT CANDLE ILLUMINATION CBC 1006.2
- 90-MINUTE BATTERY BACKUP MUST BE PROVIDED IN ACCORDANCE WITH CBC 1006.3
- MEANS OF EGRESS ILLUMINATION LEVEL SHALL BE NOT LESS THAN 1-FOOT CANDLE AT THE WALKING SURFACE AND EQUIPPED WITH MINIMUM 90 MINUTE BATTERY BACKUP. CBC 1006
- EXIT SIGNS SHALL BE ILLUMINATED AT ALL TIMES.
- EXTERNALLY ILLUMINATED EXIT SIGNS SHALL HAVE AN INTENSITY OF NOT LESS THAN 5 FOOT-CANDLES.
- EXIT SIGNS AND MEANS OF EGRESS ILLUMINATION SHALL BE EQUIPPED WITH 90 MINUTE BATTERY BACKUP WHEN REQUIRED BY CBC 1006.3



EXISTING FLOOR PLAN

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

RESTROOMS NOTES

- TOILET ROOM FLOORS SHALL HAVE A SMOOTH, HARD, NON-ABSORBENT SURFACE WHICH EXTENDS UPWARD ONTO WALLS AT LEAST 6 INCHES.
- WALLS WITHIN WATER CLOSETS COMPARTMENTS AND WALL WITHIN 2 FEET OF THE FRONT AND SIDE OF THE URINALS SHALL BE SMOOTH, HARD, NON-ABSORBENT SURFACE (TO A HEIGHT OF 4 FEET).
- ALL WATER CLOSETS AND URINALS IN NEW CONSTRUCTION SHALL BE ULTRA-LOW-FUSH MODELS PURSUANT TO HEALTH & SAFETY CODE.

FIRE DEPARTMENT NOTES

- DOORS IN THE MEANS OF EGRESS SYSTEM TO BE OPENABLE FROM THE INSIDE WITHOUT THE USE OF A KEY OR ANY SPECIAL KNOWLEDGE OR EFFORT.
- PROVIDE A MINIMUM OF ONE 2A10BC CLASSIFICATION FIRE EXTINGUISHER WITHIN 75 FEET TRAVEL DISTANCE.
- INTERIOR FINISH SHALL COMPLY WITH CFC.
- ALL DECORATIVE MATERIALS SHALL BE MAINTAINED IN FLAME-RETARDANT CONDITIONS.
- BUILDING OCCUPANT SHALL SECURE PERMITS REQUIRED BY THE FIRE DEPARTMENT FROM THE FIRE PREVENTION BUREAU PRIOR TO OCCUPANCY THIS BUILDING.
- THE CONSTRUCTION, REMOVAL, OR DEMOLITION OF A BUILDING SHALL COMPLY WITH CFC.

DISABLED ACCESS NOTES

- EVERY PRIMARY PUBLIC ENTRANCE, AND AT EVERY MAJOR FUNCTION AREA ALONG OR LEADING TO AN ACCESSIBLE ROUTE OF TRAVEL, THERE IS TO BE A SIGN DISPLAYING THE INTERNATIONAL SYMBOL OF ACCESSIBILITY. SIGNS ARE REQUIRED TO INDICATE THE DIRECTION TO ACCESSIBLE BUILDING ENTRANCES AND FACILITIES.
- EXISTING RESTROOM IS FULLY ACCESSIBLE.
- ALL POINT-OF-SALE MACHINES USED BY CUSTOMERS FOR THE PRIMARY PURPOSE OF EXECUTING TRANSACTIONS BETWEEN THE BUSINESS ENTITY AND THE CUSTOMER SHALL COMPLY WITH CBC FOR ADA AND POINT OF SALE MACHINES.
- ACCESS TO FOOD PREPARATION AREAS COMPLY WITH THE PROVISIONS FOR ENTRANCE DOORS AND DOORWAYS, AND ASLES.
- TABLEWARE, DISHWARE, CONTAINERS, FOOD AND BEVERAGES DISPLAY SHELVES AND DISPENSING DEVICES ARE REQUIRED TO BE ACCESSIBLE.

LEGEND

- EXIT ILLUMINATED SIGN
SURFACE MOUNTED ILLUMINATED EXIT SIGN LIGHT
- EXIT DIRECTIONAL ILLUMINATED SIGN
SURFACE MOUNTED ILLUMINATED EXIT SIGN LIGHT
- F.E. FIRE EXTINGUISHER 42" A.F.F.
2:A-10:B.C. MINIMUM
MAX. TRAVEL DISTANCE 75 FT.
TO BE IN DEDICATED CABINETS
- ACCESSIBLE ROUTE