



THE CITY OF SAN DIEGO

Report to the Hearing Officer

DATE ISSUED: November 29, 2017 REPORT NO. HO-17-075

HEARING DATE: December 6, 2017

SUBJECT: KIM'S MART CUP. Process Three Decision

PROJECT NUMBER: [501951](#)

OWNER/APPLICANT: MIRAMAR PLAZA LTD., Owner and PIC MIRAMAR, INC., Permittee

SUMMARY

Issue: Should the Hearing Officer approve Conditional Use Permit (CUP) for the operation of an alcoholic beverage outlet for the sale of beer and wine within an existing 2,700-square-foot retail space in the Mira Mesa Community Plan area?

Staff Recommendation: APPROVE Conditional Use Permit No. 1767965.

Community Planning Group Recommendation: On November 21, 2016 the Mira Mesa Community Planning Group voted 12-0-1 (Chair abstaining) to recommend approval of the proposed project with conditions (Attachment 8).

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 June 19, 2017, and the opportunity to appeal that determination ended July 3, 2017 (Attachment 7).

BACKGROUND

The project proposes a CUP to allow a Type 20, Off-Sale Beer & Wine ABC license in a 2,700-square-foot, convenience store located within an existing 33,360-square-foot commercial center. The 2.54-acre project site is located at 7094 Miramar Road, Suite 104, on the northeast corner of Miramar Road and Distribution Avenue (Attachment 1). The site is within the Mira Mesa Community Plan (MMCP), Business Commercial land use designation (Attachment 2), CC-4-2 Zone, and the Airport Land Use Compatibility (Marine Corps Air Station Miramar), and Airport Influence Area (Review Area 1).

The existing commercial center contains fifteen tenant spaces with a common shared parking lot. No revision to current parking is required with the proposed addition of the alcohol beverage outlet. The project site abuts a mix of industrial and commercial uses (Attachment 3). Marine Corps Air Station Miramar is to the southeast of the site.

DISCUSSION

Development Regulations and Location Criteria

The project proposes a CUP for a Type 20 ABC (beer and wine) license. A Type 20 ABC license is defined as “off-sales,” which does not allow the alcohol sold at the store to be consumed on the premises. The underlying CC-4-2 zone is a community commercial zone that is intended to accommodate development with a pedestrian orientation and include community serving commercial services and retail uses. Alcoholic beverage outlets are allowed in the CC-4-2 Zone as a Limited Use subject to regulations set forth in San Diego Municipal Code (SDMC) Section [141.0502\(b\)](#). An alcoholic beverage outlet that does not comply with these requirements, including certain location criteria per SDMC Section 141.0502(b)(1), may still be permitted with a Process Three, CUP pursuant to SDMC Section 141.0502(c), and requires a recommendation from the San Diego Police Department (SDPD). The proposed alcoholic beverage outlet at this location requires a CUP because the project site does not meet certain location criteria set forth in SDMC Section 141.0502(b) (1) as explained below:

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 subject property is in Census Tract No. 83.50 (Attachment 11) which reported a crime rate of 168.6 percent of the city-wide average based on the statistics provided by the SDPD (Attachment 9). The alcohol related crime rate is noted as 101.1 percent. A Census Tract is considered to have “high crime” if the crime rate exceeds 120 percent of the city-wide average. The project site is located within a “high crime” Census Tract.

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 Business and Professional Code Section 23958.4.

The subject property is in Census Tract No. 83.50, which based on the California Business and Professional Code Section 23958.4 permits a total of four off-sale alcoholic beverage outlets. There are currently 15 existing off-sale alcoholic beverage outlets within Census Tract 83.50. This project would increase the number of licenses to 16 and exceeds the established standard for this Census Tract.

3. 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.

Uses existing within 600 feet of the project site include: 1) Pacific Lighthouse Christian Ministries at 7060 Miramar Road, Suite 105, and 2) World International Ministries at 7060 Miramar Road, Suite 103. A CUP is required for the off-sale of alcoholic beverages at this location based on the project’s location within 600 feet of religious facilities.

4. Within 100 feet of residentially Zoned property.

The project site abuts the commercial and industrial zoned land but is not located within 100 feet of residentially zoned properties.

Community Plan Consistency

The MMCP designates the site for Business Commercial uses intended to support commercial centers to serve employees of the surrounding industrial parks. Typical uses are similar to those specified in neighborhood commercial areas with an added emphasis on uses that serve the business community. The proposed sale of beer and wine within a convenience store is consistent with the underlying Business Commercial land use designation, and would add to the range of goods available from the convenience store serving the community.

Alcohol Sales-Project Analysis

The proposed alcoholic beverage outlet at this location requires a CUP because the project site does not meet location criteria of SDMC Section 141.0502(b) (1). With the approval of this application, the sale of alcohol, limited to beer and wine, would be conditioned so that the alcohol sales would not have a negative impact on the surrounding neighborhood. The project has been reviewed by City staff and the SDPD for conformance to the applicable development regulations and land use policies. Staff support of the proposed alcoholic beverage outlet at this location is based on the commercial nature of the site, and its location within a commercial center at the core of the community. The expansion of the convenience store operations to include off premises alcoholic beverage sale of beer and wine is consistent with the community plan land use designated and the underlying zone. Furthermore, both staff and SDPD concluded that if the permit were appropriately conditioned, the proposed alcohol sales would not have an adverse impact on the surrounding neighborhood. SDPD has provided conditions for the permit and the ABC license.

Staff is recommending approval of the project as conditioned by reviewing disciplines and the SDPD (Attachment 6). The CUP includes conditions that prohibit amusement machines or video game devices on the premises and prohibit loitering and graffiti. The CUP also includes recommended conditions for the ABC license that would regulate the type, volume, and alcohol content of the beverages.

Conclusion

City staff has reviewed the application for the CUP for the off-sale of beer and wine, and has determined that the project complies with all applicable regulations and policy documents. The project is consistent with the recommended land use and the development standards in effect for this site per the adopted MMCP and the SDMC. Furthermore, the permit has been conditioned to ensure the proposed sale of beer and wine at this location would not be detrimental to the public health, safety and welfare. Therefore, staff recommends the Hearing Officer approve the CUP.

ALTERNATIVES

1. Approve Conditional Use Permit, No. 1767965, with modifications.
2. Deny Conditional Use Permit, No. 1767965, if the findings required to approve the project cannot be affirmed.

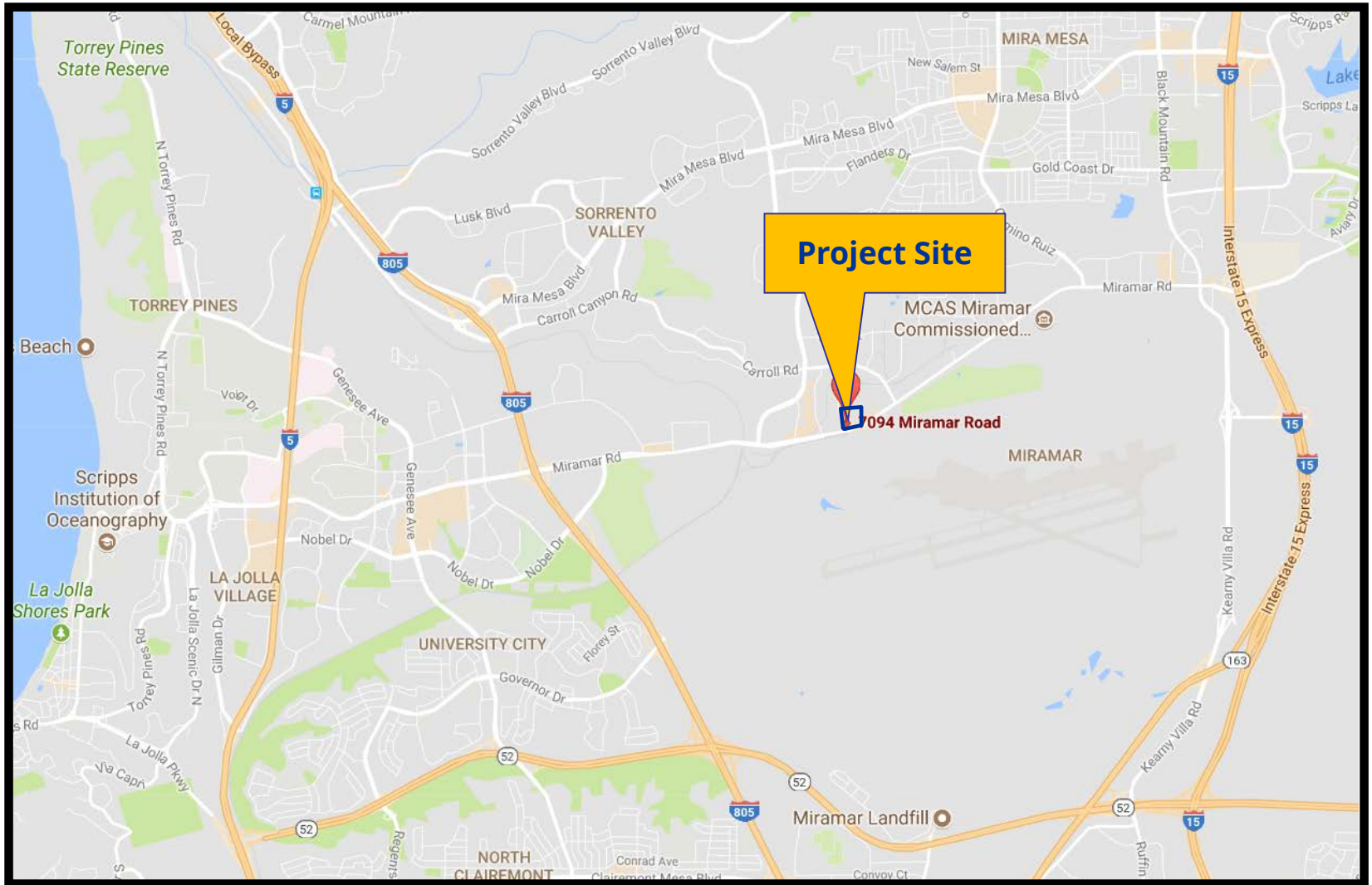
Respectfully submitted,



Karen Bucey, Development Project Manager

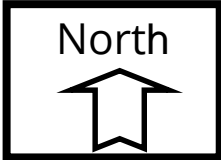
Attachments:

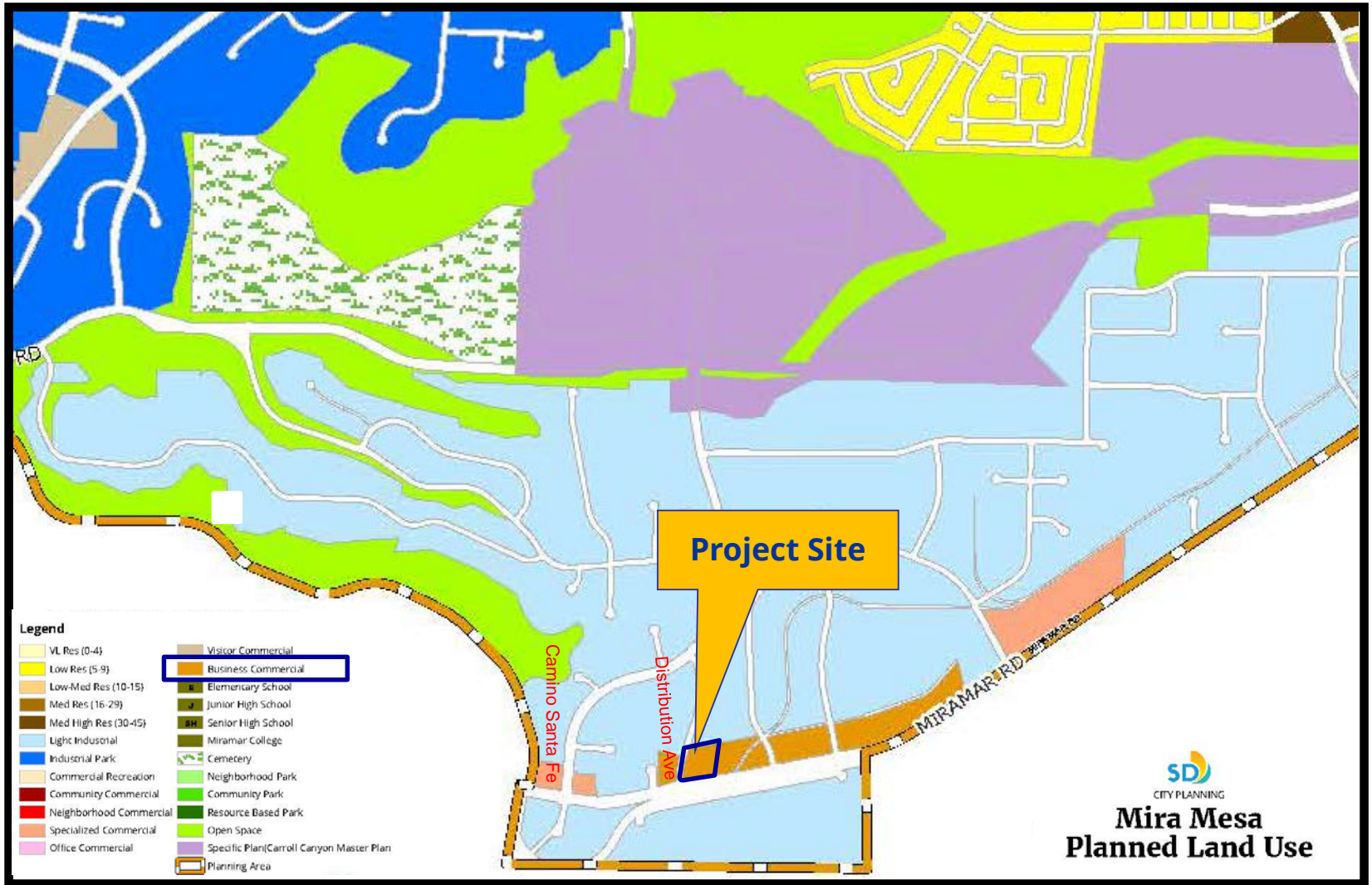
1. Project Location Map
2. Community Plan Land Use Map
3. Aerial Photograph
4. Project Data Sheet
5. Draft Resolution with Findings
6. Draft Permit with Conditions
7. Environmental Exemption
8. Community Planning Group Recommendation
9. San Diego Police Department Recommendation
10. Ownership Disclosure Statement
11. Census Tracts with Distribution of ABC Licenses
12. Project Plans



Project Location Map

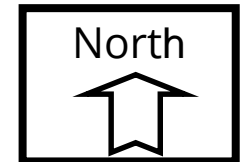
Kim's Market CUP; Project No. 501951
7094 Miramar Road





Community Plan Land Use Map

Kim's Market CUP; Project No. 501951
7094 Miramar Road

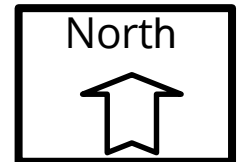


SD
CITY PLANNING
**Mira Mesa
Planned Land Use**



Aerial Photo

Kim's Market CUP; Project No. 501951
7094 Miramar Road



PROJECT DATA SHEET

PROJECT NAME:	Kim's Mart CUP – PTS 501951	
PROJECT DESCRIPTION:	Permit for the operation of an alcoholic beverage outlet in accordance with a Type 20 Alcohol and Beverage Control License for the sale of beer and wine within an existing 2,700-square-foot retail space located at 7094 Miramar Road, Suite 104.	
COMMUNITY PLAN AREA:	Mira Mesa Community Plan	
DISCRETIONARY ACTIONS:	Conditional Use Permit	
COMMUNITY PLAN LAND USE DESIGNATION:	Business Commercial	
ZONING INFORMATION:		
<p style="text-align: center;"> ZONE: CC-4-2 HEIGHT LIMIT: 30 feet LOT SIZE: 2.54 FLOOR AREA RATIO: 1.0 FRONT SETBACK: --/10 feet (minimum/standard) SIDE SETBACK: 10 feet (standard)/0 feet (optional) STREETSIDE SETBACK: --/10 feet (minimum/standard) REAR SETBACK: 10 feet (standard)/0 feet (optional) PARKING: 151 </p>		
ADJACENT PROPERTIES:	LAND USE DESIGNATION & ZONE	EXISTING LAND USE
NORTH:	Open Space; IL-3-1	Industrial
SOUTH:	designation; AR-1-1 zone	Industrial, commercial, MCAS Miramar
EAST:	designation; IL-3-1 zone	Commercial Retail
WEST:	designation; CC-4-2 zone	Commercial Office, Religious Assembly, Commercial Retail
DEVIATION REQUESTED:	None	
COMMUNITY PLANNING GROUP RECOMMENDATION:	On November 21, 2016, the Mira Mesa Community Group voted 12-0-1 (Chair abstains) to recommend approval of the project with a condition prohibiting the sale of single beer or malt beverages.	

HEARING OFFICER RESOLUTION NO.
CONDITIONAL USE PERMIT NO. 1767965
KIM'S MART CUP PROJECT NO. 501951

WHEREAS, MIRAMAR PLAZA LTD., Owner and PIC MIRAMAR, INC., Permittee, filed an application with the City of San Diego for a permit to operate an alcoholic beverage outlet (as described in and by reference to the approved Exhibits "A" and corresponding conditions of approval for the associated Conditional Use Permit (CUP) No. 1767965), on portions of a 2.54-acre site;

WHEREAS, the project site is located at 7094 Miramar Road, Suite 104, within the Mira Mesa Community Plan (MMCP), Business Commercial land use designation, CC-4-2 Zone, and the Airport Land Use Compatibility (Marine Corps Air Station Miramar), and Airport Influence Area (Review Area 1);

WHEREAS, the project site is legally described as Lot 1 of G-W Industrial Park Annex, according to the Map thereof No. 7913, filed in the office of the County Recorder of San Diego County, December 17, 1973;

WHEREAS, on June 19, 2017 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 Facilities;

WHEREAS, on December 6, 2017, the Hearing Officer of the City of San Diego considered CUP No. 1767965 pursuant to the Land Development Code of the City of San Diego; NOW, THEREFORE,

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 December 6, 2017.

A. CONDITIONAL USE PERMIT APPROVAL - SAN DIEGO MUNICIPAL CODE (SDMC) SECTION 126.0305

1. Findings for all Conditional Use Permits:

(a) The proposed development will not adversely affect the applicable land use plan.

The project is an application for a CUP for an alcoholic beverage outlet to allow the sale of beer and wine, in accordance with a Type-20 Alcohol and Beverage Control (ABC) license, within a 2,700-square-foot convenience store. The convenience store is a tenant space within an existing 33,360-square-foot commercial center on a 2.54-acre site located at 7094 Miramar Road, Suite 104, on the northeast corner of Miramar Road and Distribution Avenue.

The MMCP supports conveniently located and well-designed commercial development centers by designating appropriate land uses, applying corresponding zoning, and recommends development consistent with the planned land use in these areas. The MMCP designates the site for Business Commercial use, which is intended to support development of commercial centers to serve the employees of the surrounding industrial parks. Typical uses are similar to those specified in neighborhood commercial areas with an added emphasis on uses that serve the business community.

The proposed sale of beer and wine within a convenience store is consistent with the underlying Business Commercial land use designation, and would add to the range of goods available to the community. Therefore, based on the commercial nature of the convenience store and consistency with the MMCP, the proposed project would not adversely affect the applicable land use plan.

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

The primary use of the site is a convenience store within a commercial development. The operation of an alcoholic beverage outlet within the convenience store is consistent with the Business Commercial use designated by the MMCP, and allowed in the CC-4-2 Zone with a CUP. Approval of this application would allow the sale of beer and wine for off-site consumption to be conditioned so that the alcohol sales would not have a negative impact on the surrounding neighborhood. The CUP includes conditions that prohibit amusement machines or video game devices on the premises and prohibit loitering and graffiti. The CUP also includes recommended conditions for the ABC license that would regulate the type, volume, and alcohol content of the beverages. Furthermore, the project is subject to all federal, state, and other local codes related to alcohol beverage sales, which would further ensure that the subject alcoholic beverage outlet would not have an adverse impact on the public health, safety, and welfare.

The project is not subject to the requirements of the SDMC Chapter 13, Article 2, Division 15, applicable to development within the Airport Land Use Compatibility Overlay Zone because the project is proposed within an existing commercial building, and will not increase the density, floor area, or height of the existing structure. The City of San Diego conducted an environmental review of this project in accordance with the State of California Environmental Quality Act (CEQA) guidelines, and concluded there would be no environmental impacts associated with the proposed project. Based on the above analysis, the proposed development would not be detrimental to the public's health, safety, and welfare.

(c) The proposed development will comply with the regulations of the Land Development Code including any allowable deviations pursuant to the Land Development Code.

The project proposes an alcoholic beverage outlet in accordance with an ABC Type 20 license, in a convenience store located within an existing commercial building. A Type 20

ABC license is defined as “off-sales,” which does not allow the alcohol, limited to beer and wine, sold at the store to be consumed on the premises. The underlying CC-4-2 Zone, is a community commercial zone that is intended to accommodate community serving commercial services, retail uses, and limited industrial uses of moderate intensity and small to medium scale with a pedestrian orientation. Alcoholic beverage outlets are allowed as a Limited Use subject to regulations set forth in SDMC Section 141.0502(b). While the proposed alcoholic beverage outlet does not meet the aforementioned Limited Use regulations, the outlet can be permitted at this location with a CUP approval pursuant to SDMC Section 141.0502(c). The CUP includes conditions that prohibit amusement machines or video game devices on the premises and prohibit loitering and graffiti. These conditions will ensure the project would not have an adverse impact on the community. The project is proposed within an existing structure that is in compliance with all applicable development regulations including floor area ratio, height, and parking. The project does not propose to increase density, height, or floor area of the existing structure; therefore, it is exempt from the supplemental development regulations of the MCAS Miramar Airport Land Use Compatibility Overlay Zone. No variance or deviations are requested as part of this application. Therefore, the proposed development will comply with the regulations of the Land Development Code.

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

The site is designated Business Commercial land use in the MMCP. The MMCP supports established commercial centers by designating appropriate land uses and applying corresponding zoning, and recommends development consistent with the Development Criteria for Commercial and Industrial Development. The MMCP designates the site for Business Commercial use, which is intended to support development of commercial centers to serve the employees of the surrounding industrial parks. Typical uses include retail goods and services for the convenience of the adjacent neighborhood and with an added emphasis on uses that serve the business community. The project is a request for a CUP to allow the sale of alcoholic beverages, limited to beer and wine, within a convenience store. The convenience store is a tenant space within an existing commercial center. The use of the site as a retail establishment will remain the same and consistent with the commercial designation.

The site is zoned CC-4-2, which is a community commercial zone that is intended to accommodate community serving commercial services, retail uses, and limited industrial uses of moderate intensity and small to medium scale with a pedestrian orientation. An alcoholic beverage outlet is allowed at this location subject to approval of a CUP pursuant to SDMC Section 141.0502(c). Approval of this application would allow the sale of alcohol, limited to beer and wine, to be conditioned so that the alcohol sales would not have a negative impact on the surrounding neighborhood. The CUP includes conditions that prohibit amusement machines or video game devices on the premises, prohibit loitering, graffiti and, which would help to ensure a safe and well maintained operation. The CUP also includes recommended conditions for the ABC license that limit the hours of sales, prohibit beer, malt liquor, or wine cooler products sold as single

servings, limit advertising, regulate the type, volume, and alcohol content of the beverages.

The proposed sale of beer and wine within the convenience store would expand the existing retail merchandise, and is consistent with the commercial nature of the primary use. The proposed alcoholic beverage outlet is also consistent with the underlying commercial designation per the community plan and zone. Therefore, based on the commercial retail nature of the convenience store and conditions of approval, the proposed development would be appropriate at the proposed location.

BE IT FURTHER RESOLVED that, based on the findings hereinbefore adopted by the Hearing Officer, CUP No. 1767965 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. 1767965, a copy of which is attached hereto and made a part hereof.



Karen Bucey
Development Project Manager
Development Services

Adopted on: December 6, 2017

IO#: 24006856

RECORDING REQUESTED BY
CITY OF SAN DIEGO
DEVELOPMENT SERVICES
PERMIT INTAKE, MAIL STATION
501
WHEN RECORDED MAIL TO
PROJECT MANAGEMENT
PERMIT CLERK
MAIL STATION 501

INTERNAL ORDER NUMBER: 24006856

SPACE ABOVE THIS LINE FOR RECORDER'S USE

CONDITIONAL USE PERMIT NO. 1767965
KIM'S MART CUP PROJECT NO. 501951
HEARING OFFICER

This Conditional Use Permit No. 1767965 is granted by the Hearing Officer of the City of San Diego to MIRAMAR PLAZA LTD., Owner, and PIC MIRAMAR INC., Permittee, pursuant to San Diego Municipal Code (SDMC) section 141.0502. The 2.54-acre site is located at 7094 Miramar Road, Suite 104 in the CC-4-2 zone of the Mira Mesa Community Plan area. The project site is legally described as Lot 1 on G-W Industrial Park Annex, according to the map thereof No. 7813, filed in the Office of the County Recorder of San Diego County, December 17, 1973.

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 December 6, 2017, on file in the Development Services Department.

The project shall include:

- a. The operation of an alcoholic beverage outlet in accordance with a Type 20 ABC License for the sale of beer and wine within an existing 2,700-square-foot retail space located at 7094 Miramar Road, Suite 104;
- b. Maintenance of existing off-street parking;
- c. Public and private accessory improvements determined by the Development Services Department (DSD) 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 December 20, 2020.
2. This Conditional Use Permit (CUP) and corresponding use of this site shall expire on December 6, 2027. The Owner/Permittee may request that the expiration date be extended in accordance with SDMC section 141.0502(c)(7).
3. The utilization of this CUP is contingent upon the approval of a license to sell alcohol at this location by the California Department of ABC. The issuance of this CUP does not guarantee that the ABC will grant an alcoholic beverage license for this location.
4. No permit for the construction, occupancy, or operation of any facility or improvement described herein shall be granted, nor shall any activity authorized by this Permit be conducted on the premises until:
 - a. The Owner/Permittee signs and returns the Permit to the DSD; and
 - b. The Permit is recorded in the Office of the San Diego County Recorder.
5. While this Permit is in effect, the subject property shall be used only for the purposes and under the terms and conditions set forth in this Permit unless otherwise authorized by the appropriate City decision maker.
6. This Permit is a covenant running with the subject property and all of the requirements and conditions of this Permit and related documents shall be binding upon the Owner/Permittee and any successor(s) in interest.
7. The continued use of this Permit shall be subject to the regulations of this and any other applicable governmental agency.
8. Issuance of this Permit by the City of San Diego does not authorize the Owner/Permittee for this Permit to violate any Federal, State or City laws, ordinances, regulations or policies.
9. The Owner/Permittee shall secure all necessary construction permits. The Owner/Permittee is informed that to secure these permits, substantial building modifications and site improvements may be required to comply with applicable building, fire, mechanical, and plumbing codes, and State and Federal disability access laws.

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

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

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

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

CLIMATE ACTION PLAN REQUIREMENTS:

12. Owner/Permittee shall comply with the Climate Action Plan (CAP) Consistency Checklist stamped as Exhibit "A." Prior to issuance of any construction permit, all CAP strategies shall be noted within the first three (3) sheets of the construction plans under the heading "Climate Action Plan Requirements" and shall be enforced and implemented to the satisfaction of the Development Services Department.

ENGINEERING REQUIREMENTS:

13. The Owner/Permittee shall assure by permit and bond the construction of the east driveway on Miramar Road, adjacent to the site to current City Standards, to the satisfaction of the City Engineer. If this work is not constructed within one calendar year of the approval of this permit, the Permittee shall be deemed to be out of compliance with the CUP and subject to rescission by the Development Services Director.

14. Prior to the issuance of any construction permit, the Owner/Permittee shall incorporate any construction Best Management Practices necessary to comply with Chapter 14, Article 2, Division 1 (Grading Regulations) of the SDMC, into the construction plans or specifications.

15. Prior to the issuance of any construction permit the Owner/Permittee shall submit a Water Pollution Control Plan (WPCP). The WPCP shall be prepared in accordance with the guidelines in Appendix E of the City's Storm Water Standards.

PLANNING/DESIGN REQUIREMENTS:

16. Owner/Permittee shall maintain off-street parking spaces on the property at all times in the approximate locations shown on the approved Exhibit "A." Parking spaces shall comply at all times with the SDMC and shall not be converted for any other use unless otherwise authorized by the appropriate City decision maker in accordance with the SDMC.

17. Owner/Permittee shall post a copy of the CUP 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.

18. The sale of alcoholic beverages shall be accessory and limited to a maximum of 270-square feet or ten percent of the floor area of the mart as shown on Exhibit "A".

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 that permit incoming calls are not permitted on the premises, adjacent public sidewalks, or areas under the control of the Owner/Permittee.

21. The Owner/Permittee 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/Permittee. 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, except for any advertising prohibited by law. 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.

23. The petitioner shall post and maintain professional quality sign facing the front of the premises that reads: NO LOITERING, NO LITTERING, NO DRINKING OF ALCOHOLIC BEVERAGES. VIOLATORS ARE SUBJECT TO ARREST. The sign shall be at least two-foot square with two-inch block lettering. The sign shall be in English and Spanish.

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

25. The Owner/Permittee 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/Permittee. 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/Permittee.

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

POLICE DEPARTMENT REQUIREMENTS:

27. The sales of alcoholic beverage shall be permitted between the hours of 7:00 AM and 10:00 PM each day of the week.

28. No loitering shall be allowed on the premises. If it necessary, a licensed security guard shall be present to control enforcement of this provision.

29. 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 condition.

POLICE DEPARTMENT RECOMMENDATIONS FOR ABC LICENSE:

- Wine shall not be sold in containers of less than 750 milliliters.
- The sale of beer or malt beverages in quantities or quarts, 40-ounces, or similar sized containers are prohibited.
- Beer, malt beverages or wine cooler products, regardless of container size, must be sold in manufacturer pre-packaged multi-unit quantities.

- Wine shall not be sold with an alcoholic content greater than 15 percent by volume except for "Dinner Wines".

INFORMATION ONLY:

- The issuance of this discretionary permit alone does not allow the immediate commencement or continued operation of the proposed use on site. Any operation allowed by this discretionary 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 December 6, 2017 and Resolution No. ****.

Permit Type/PTS Approval No.: Conditional Use Permit 1767965
Date of Approval: December 6, 2017

AUTHENTICATED BY THE CITY OF SAN DIEGO DEVELOPMENT SERVICES DEPARTMENT



Karen Bucey
Development Project Manager

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

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

MIRAMAR PLAZA LTD.
Owner

By _____
NAME
TITLE

PIC MIRAMAR INC.
Permittee

By _____
NAME
TITLE

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

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 Name: KIM'S MARKET CUP**Project No. / SCH No.:** 501951**Project Location-Specific:** 7094 Miramar Rd, Ste 104, San Diego, CA 92121**Project Location-City/County:** San Diego/San Diego

Description of nature and purpose of the Project: Conditional Use Permit (CUP) for a Type 20 alcohol and beverage outlet to sell beer and wine with an existing 2,700 sq. ft. retail space. The site is located in the CC-4-2 zone and the Mira Mesa Community plan. The site is located in a large strip mall with a variety of general and personal retail services. No construction or new development is proposed.

Name of Public Agency Approving Project: City of San Diego

Name of Person or Agency Carrying Out Project: Danny McDonald, Merker & McDonald, 4725 Mercury Street, Suite 200, San Diego, CA 92111, 858-777-9560

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: Section 15301 (Existing Facilities)
- Statutory Exemptions:

Reasons why project is exempt: The City of San Diego determined that the project would qualify to be categorically exempt from CEQA pursuant to Section 15301 (Existing Facilities) which allows for the permitting of existing private structures involving negligible or no expansion of use beyond that existing at the time of the lead agency's determination. Since the project is permitting an allowable use which would not substantially increase capacity the exemption is appropriate. Furthermore, the exceptions listed in CEQA Section 15300.2 would not apply in that no cumulative impacts were identified; no significant effects on the environment were identified; the project is not adjacent to a scenic highway; the project was not identified on a list of hazardous waste sites pursuant to Section 65962.5 of the Government Code.

Lead Agency Contact Person: Courtney Holowach

Telephone: (619) 446-5187

If filed by applicant:

1. Attach certified document of exemption finding.
2. Has a notice of exemption been filed by the public agency approving the project? Yes No

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

 / SENIOR PLANNER
Signature/Title

July 3, 2017
Date

Check One:

- Signed By Lead Agency
- Signed by Applicant

Date Received for Filing with County Clerk or OPR:

Mira Mesa Community Planning Group Meeting Minutes

November 21, 2016 7:00 pm

Mira Mesa Public Library, 8405 New Salem Street, San Diego CA 92126

- | | | | |
|-----------------|-----------------|--------------------|--------------------|
| 1. Robert Mxon | 6. Kent lee | 11. Ralph Carlin | 16. Michael Linton |
| 2. Craig Radk | 7. Jeff Stevens | 12. Julie Schriber | 17. John Horst |
| 3. | 8. Ted Brengel | 13. Joe Frichtel | 18. Albert Lee |
| 4. Bruce Brown | 9. Ken Kaplan | 14. Tom Derr | 19. Chris Morrow |
| 5. Joe Punsalan | 10. Jon Labaw | 15. Craig Jackson | 20. Marv Miles |

Call to Order/Confirm quorum: quorum confirmed.

- 1) Non-Agenda Public Comments: None
- 2) Modifications to the Agenda: None
- 3) Adopt Previous Meeting Minutes (Action).
- 4) Report of the Chair
- 5) Old Business
 - a) 896 Aquarius Drive Lot Split - Jose Martinez (Action)
Owner to return with Landscaping plan, fencing plan and soils, staff report. Motion 10- 1-1 (Marv Miles - No, Albert -Abstain)
- 6) New Business
 - a) **Type 20 ABC license for off sale beer and wine at Kim's Mart, 7094 Miramar Road -Dan McDonald. (Action)**

CUP required because of census tract
Odd census tract because no residential in Miramar
Conditions: cannot sell single sources of beer/liquor
MOTION Brengel/Derr to approve project 12 -0 -1 (Albert - abstain)
 - b) Speeding traffic on Flanders near Baron Lane
Motion Horst/Brown To request engineering study 12 - 0 -1 (Albert - abstain)
- 7) Elected Officials/Government Agencies
- 8) Announcements: None
- 9) Reports
- 10) Adjorn

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

PREMISE ADDRESS: 7094 Miramar Rd Suite 104, San Diego

TYPE OF BUSINESS: Kims Mart (Type-20 Off Sales Beer and Wine License #55457)

FEDERAL CENSUS TRACT: 83.50

NUMBER OF ALCOHOL LICENSES ALLOWED: 4

NUMBER OF ALCOHOL LICENSES EXISTING: 15

CRIME RATE IN THIS CENSUS TRACT: 168.6%
(Note: Considered High Crime If Exceeds 120% of City-wide Average)

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

IS THE PREMISE WITHIN 600 FEET OF INCOMPATIBLE FACILITY YES NO

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

ABC LICENSE REVOKED AT THIS PREMISE WITHIN PAST YEAR YES NO

HAS APPLICANT BEEN CONVICTED OF ANY FELONY YES NO

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

COMMENTS/OTHER FACTORS CONSIDERED: The crime rate for census tract 83.50 dropped from 185.9% in 2014 to 168.6% in 2015. A crime rate above 120% is considered high. The alcohol crime rate for census tract 83.50 was 101.1% in 2015. The concentration level for on-sale licenses are (15) fifteen in a census tract that allows (4) four. This shows the area is over concentrated with off-sale licenses. Public Convenience and Necessity was approved in April of 2015 using the statistical year of 2014.

There are two churches located in a back of commercial buildings located within 600 feet of the location. Pacific Lighthouse Christian Ministries is located at 7060 Miramar Rd, suite 105. World International Ministries is located at 7060 Miramar Rd, suite 103. The proposed license has off-sale incorporated into it. The Police Department has concerns with noise and alcohol related crimes in the area.

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

1. Sales and service of alcoholic beverages shall be permitted only between the hours of 7:00 AM and 10:00 PM each day of the week.
2. Wine shall not be sold in bottles or containers smaller than 750 ml.
3. The sales of beer or malt beverages in quantities of quarts, 40 oz., or similar size containers are prohibited.

ATTACHMENT 9

4. No wine shall be sold with an alcohol content of greater than 15% by volume except for "Dinner Wines".
5. The petitioner(s) shall post and maintain a professional quality sign facing on the front of the premises that reads as the 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.
6. No loitering shall be allowed on the premises. If it necessary, a licensed security guard shall be present to control enforcement of this provision.
7. Any graffiti painted or marked upon the premises or on any adjacent area under the control of the licensee(s) shall be removed or painted over within 48 hours of being applied.
8. Beer, malt beverages or wine cooler products, regardless of container size, must be sold in manufacturer pre-packaged multi-unit quantities.
9. 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.
10. There shall be no amusement machines or video game devices on the premises at any time.

SAN DIEGO POLICE DEPARTMENT RECOMMENDATION:

APPROVE

DENY

ROBERT STANSON
Name of SDPD Vice Sergeant (Print)

619-531-2282
Telephone Number

[Signature]
Signature of SDPD Vice-Sergeant

11/9/16
Date of Review



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

Conditional Use ABC Type 20

Project No. For City Use Only

501951

Project Address:

7089 Miramar Road, Suite 104, San Diego, CA 92121

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):

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:

Name of Individual (type or print):

Owner Tenant/Lessee Redevelopment Agency

Street Address:

City/State/Zip:

Phone No:

Fax No:

Signature :

Date:

Project Title:

Conditional Use ABC Type 20


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):
PIC MIRAMAR, INC.
 Owner Tenant/Lessee
Street Address:
7094 Miramar Road, Suite 104
City/State/Zip:
San Diego, CA 92121
Phone No: _____ Fax No: _____
619-756-2343
Name of Corporate Officer/Partner (type or print):
Sung Soo Kim
Title (type or print):
President
Signature :  Date: 2/28/16

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: _____

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): Miramar Plaza Ltd	
<input checked="" type="checkbox"/> Owner	<input type="checkbox"/> Tenant/Lessee
Street Address: 8799 Balboa Ave, Suite 260	
City/State/Zip: San Diego, CA 92123	
Phone No: 858-569-8799	Fax No: 858-569-8781
Name of Corporate Officer/Partner (type or print): Paul Petit	
Title (type or print): President	
Signature : 	Date: July 5 2016

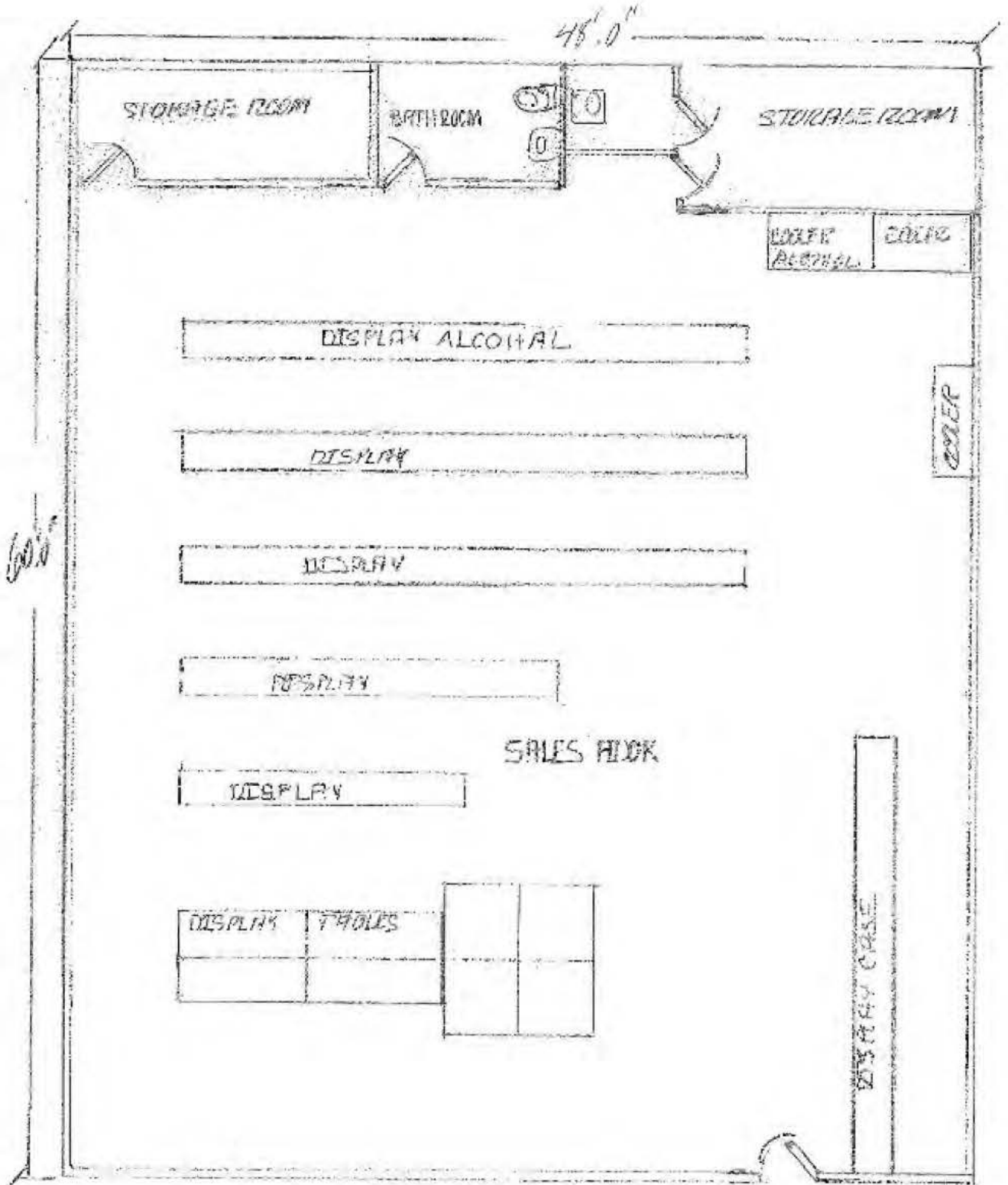
Corporate/Partnership Name (type or print):	
<input type="checkbox"/> Owner	<input type="checkbox"/> Tenant/Lessee
Street Address:	
City/State/Zip:	
Phone No:	Fax No:
Name of Corporate Officer/Partner (type or print):	
Title (type or print):	
Signature :	Date:

Corporate/Partnership Name (type or print):	
<input type="checkbox"/> Owner	<input type="checkbox"/> 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):	
<input type="checkbox"/> Owner	<input type="checkbox"/> 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):	
<input type="checkbox"/> Owner	<input type="checkbox"/> 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):	
<input type="checkbox"/> Owner	<input type="checkbox"/> 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:



KIM'S MART 7094 MERRIMACK ROAD, SUITE 104, SAN DIEGO, CA
 SINGLE STORY BUILDING, FLOOR PLAN, 2700 SQ FOOT APPX.
 SCALE 1" = 2' OCT 29, 2017
 ALCOHOL SALES AREA 270 SQ FOOT APPX, 100% OF AREA