



THE CITY OF SAN DIEGO

REPORT TO THE HEARING OFFICER

HEARING DATE: November 21, 2012 REPORT NO. HO 12-096

ATTENTION: Hearing Officer

SUBJECT: RAINBOW MARKET – PROJECT NUMBER 285228

LOCATION: 4727 Federal Boulevard

APPLICANT: Mr. Robert Zakar

SUMMARY

Issue(s): Should the Hearing Officer approve a Conditional Use Permit for an alcoholic beverage outlet allowing the change from an existing Type 20 Alcohol Beverage Control (ABC) license that is limited to beer and wine, to a Type 21 ABC license to include the general sale of alcohol including distilled spirits?

Staff Recommendation - **APPROVE** Conditional Use Permit No. 1002779.

Community Planning Group Recommendation – The City Heights Area Planning Committee (CHAPC) voted 7-1-1 (chair abstaining) recommending the Hearing Officer approve the application with a caveat the applicant present the item to the Webster neighborhood at their monthly meeting (Attachment 10).

Environmental Review: The project was determined to be exempt pursuant to California Environmental Quality Act (CEQA) Guidelines Section 15301 (existing facility). This project is not pending an appeal of the environmental determination. The environmental exemption determination for this project was made on September 21, 2012, and the opportunity to appeal that determination ended October 12, 2012.

BACKGROUND

The 01.35-acre project site is located at 4727 Federal Boulevard at the intersection of Federal Boulevard and 47th Street (Attachment 1). The site is within the City Heights Neighborhood Element of the Mid-City Communities Plan area (Attachment 2). However, the site is not within the Central Urbanized Planned District but rather citywide zoning and subject to the development regulations of the Land Development Code. The site is zoned CC-5-3 which permits a variety of commercial retail and service uses along with mixed use residential and commercial development. The purpose of the CC zones is to accommodate community-serving

commercial services, retail uses, and limited industrial uses of moderate intensity and small to medium scale. 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 CC-5-3 is intended to accommodate development with an auto orientation. The commercial land use of the Mid-City Communities Plan and the CC-5-3 zone designation are appropriate in that the project is in a auto-oriented strip mall on Federal Boulevard which is defined as a major street.

The existing 9,550 square-foot market is part of a larger 1.35-acre strip mall with a variety of commercial uses including restaurants, a hardware store, a dollar discount store and a dry-cleaning operation. The existing market is within a fully developed urbanized community that includes small-scale retail and commercial uses east and west along Federal Boulevard. The neighborhoods immediately adjacent the project site have been developed over several decades with a mix of multi-family and single-family residential development (Attachment 3).

DISCUSSION

Project Description

This application is seeking an upgrade to an existing type 20 ABC license that limits the sale of alcoholic beverages to beer and wine, to a Type 21 ABC license that would allow the general sale of alcoholic beverages including distilled spirits. The nearly 10,000 square-foot market sells a wide variety of goods including fresh produce and meat as well as food staples. Alcohol products are accessory to the overall retail aspect of the market.

The market sells beer and wine under the current Type 20 license which was issued to the address circa 1972. The Type 20 license was issued by the ABC for this site prior to the 1986 requisite that a Conditional Use Permit be granted by the City for an alcoholic beverage outlet. Therefore the current alcoholic beverage outlet is a previously conforming use with no conditions regulating the operation and requirements for the sale of alcohol.

Development Regulations and Location Criteria

The proposed project requires a Conditional Use Permit pursuant to the City of San Diego's Land Development Code for an existing alcohol beverage outlet if the property does not comply with specific location criteria with regard to incompatible uses. The applicant is proposing to upgrade an existing Type 20 ABC license to a Type 21 license which allow the general sale of alcohol and include distilled spirits as well as the existing beer and wine. The pending ABC license is defined as "off-sales" which would require all of the alcohol sold at the store to be consumed off of the premises. The current alcoholic beverage outlet is considered a previously conforming use because it was obtained on the site prior to when the Land Development Code was amended to require a Conditional Use Permit for this type of use.

Alcoholic beverage outlets are permitted by right as a Limited Use pursuant to Section 141.0502(b) of the Land Development Code (LDC). However, alcoholic beverage outlets that do not comply with the locational criteria of this section may still be permitted with a Conditional Use Permit pursuant to LDC Section 141.0502(c) of the LDC.

The Limited Use Regulations of the Land Development Code, Section 141.0502(b)(1) do 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 147 percent higher than the citywide average 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 four (4) off-sale alcoholic beverage outlets. There are currently eight (8) existing off-sale alcohol beverage outlets within Census Tract 34.01 therefore the Census Tract would be considered over saturated. 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 the City Heights Redevelopment Project 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 not within 600 feet of an incompatible facility therefore a CUP would not 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. 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 within 600 feet 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, the project site is within a Census Tract that: 1) is defined as having a high crime rate; 2) Is within a Census Tract that is oversaturated; 3) is within 100 feet of residentially zoned property. Any one of these factors establishes the need for the Conditional Use Permit; and 4) within an established redevelopment project area.

Alcohol Sales-Project Analysis:

The project has been reviewed by the Development Services staff and the San Diego Police Department for conformance to the applicable development regulations and land use polices. The staff recommendation to approve the upgrade to the type 21 license relies on two principal factors: 1) that the site currently operates as an unregulated alcoholic beverage outlet and, 2) that the primary use of the premises is a medium-sized food store.

As for the unregulated alcohol sales, although the use is previously conforming, there are no restrictions on the type or quantity of items allowed to be sold, no limits on the hours sales of alcohol are permitted and no conditions ensuring the outlet is a compatible land use in the neighborhood. Development Services would apply land use conditions that cover the overall appearance of the site, signage limits and hours of operations for the sale of alcohol, while the San Diego Police Department provides recommendations to the ABC regarding restrictions for the Type 21 License.

Staff and the SDPD are also swayed by the fact that the existing market is approximately 10,000 square-feet and sells both dry and fresh food as well as other products similar to larger retail grocery chains. The typical concern with an upgrade in license type from 20 to 21 is that the alcohol sales dominate smaller stores and the de facto result is a liquor store rather than a market. That would not be the case with the Rainbow market both based on the size of the retail area and a condition limiting the sales area dedicated to alcohol to 15 percent of the sales floor.

The property is within the commercial corridor along Federal Boulevard but serves a large residential population in the immediate vicinity. The existing market is consistent with the commercial use designated by the community plan and Planned District Ordinance and would continue to operate as a convenience store with the retail sale of various and sundry goods. The addition of distilled spirits to beer and wine sales for off-site consumption would continue to be a commercial retail use and should not adversely impact the community. Accordingly, Staff is recommending approval of the project as conditioned by staff and the San Diego Police Department.

Draft Conditions of Approval

Approval of this application would allow previously conforming and unrestricted sale of alcohol to be conditioned so that the alcohol sales would not have a negative impact on the surrounding neighborhood (Attachment 6). The Conditional Use Permit includes a number of conditions that would limit the hours of sales and display area, 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 provides an opportunity for the San Diego Police Department to petition the State Department of Alcohol Beverage Control (ABC) to include enforceable conditions regulating the type, size, quantities and alcoholic content (proof by volume) of the beverages. Further, both the staff and the Police Department concluded that if the permit were appropriately conditioned, the proposed alcohol sales would not have a negative impact on the surrounding neighborhood.

Specifically, the CUP conditions would limit the hours of alcohol beverage sales from 8:00 AM to Midnight where the current license allows sales from 6:00 AM to 2:00 AM. Advertising would be limited and "No Loitering" signs would be required to be prominently displayed on the premises. The CUP would prohibit pinball games, arcade-style video and electronic games, or coin-operated amusement machines 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. Finally, the Conditional Use Permit would include a 30-year expiration date from the date the CUP was approved. The permit could be extended through the appropriate review and decision process and may be subject to additional conditions at that time.

Community Planning Group Recommendation

On September 11, 2012, the City Heights Area Planning Committee heard the proposed project at their monthly board meeting and voted 7-1-1 with the chair abstaining to recommend the project be approved (Attachment 10). A stipulation of the approval was that the applicant presents the project to the sub-neighborhood community group of Webster as a courtesy which they did later in the same month.

Conclusion


City staff, including the Development Services Department and San Diego Police Department supports the request for a Conditional Use Permit for the sale of alcohol. The staff support is predicated primarily on the facts that the market is a large retail food store and is currently permitted to sell beer and wine as a previously conforming use with no restrictions neither on the type, proof or the packaging of alcoholic beverages; nor hours of operation or any other land use condition. While allowing the upgrade of the license type to permit general alcohol sales would permit additional liquor sales would also provides an opportunity for the City to place restrictions on the premises that would help make the operation much more compatible with the surrounding neighborhood. Permit conditions have been added that would help ensure the outlet is maintained primarily as a food market that would be 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. An environmental initial study performed by the Development Services Department determined that the proposed project was exempt from further CEQA review as an existing facility and is supported with proposed conditions and ABC license recommendations by the San Diego Police Department.

ALTERNATIVES:

1. Approve Conditional Use Permit No. 1002779, with modifications; or
2. Deny Conditional Use Permit No. 1002779, if the findings required to approve the project cannot be affirmed.

Respectfully submitted,



John P. Hooper, Development Project Manager

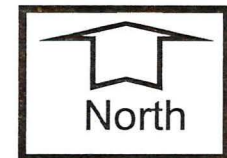
Attachments:

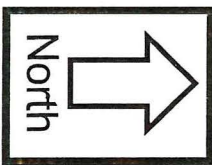
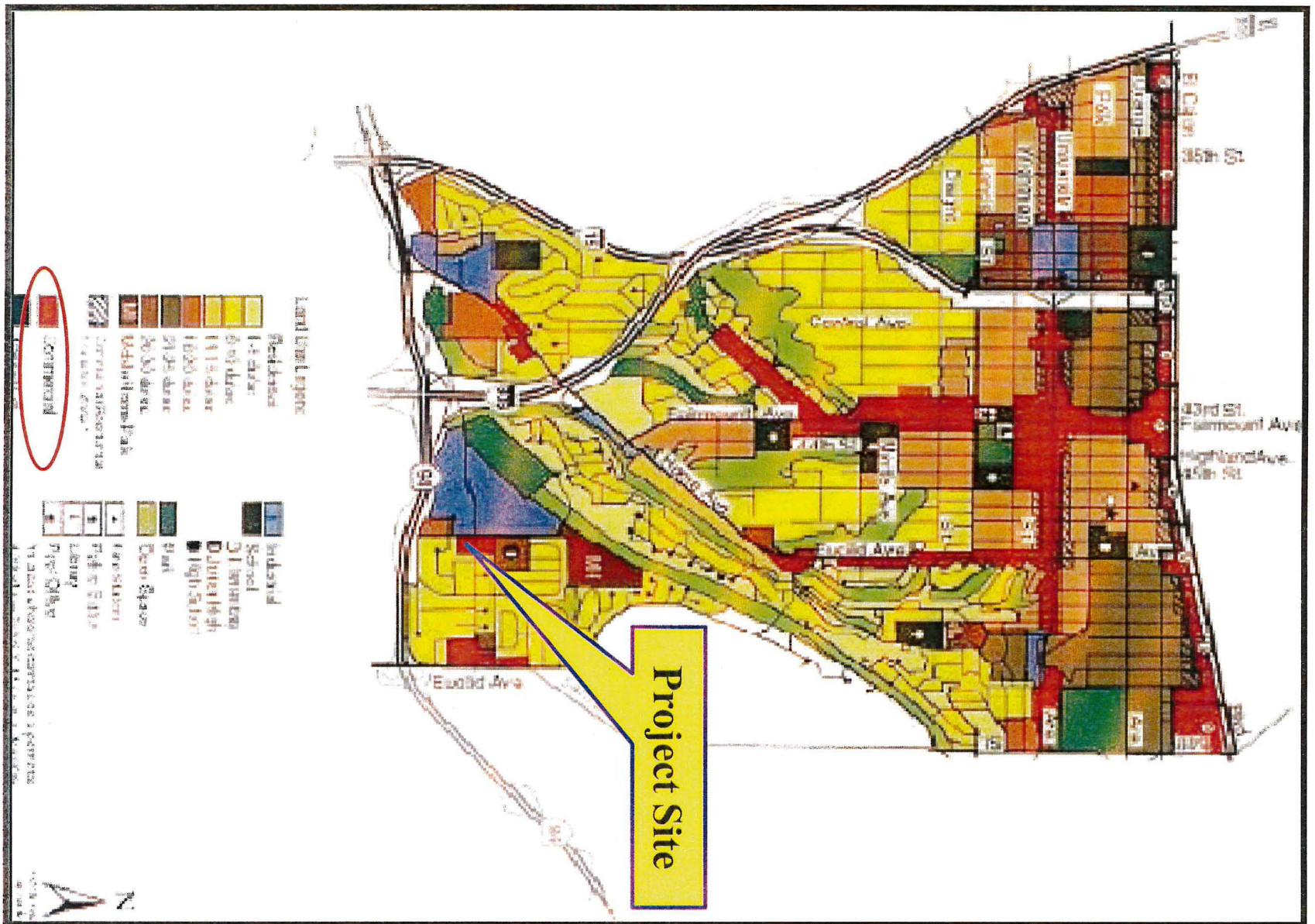
1. Project Location Map
2. Community Plan Land Use Map
3. Aerial Photograph
4. Surrounding Alcohol Beverage Outlets Map
5. Draft Permit Resolution with Findings
6. Draft Permit with Conditions
7. Environmental Exemption
8. Project Site and Floor Plans
9. SDPD Recommendation
10. Community Planning Group Recommendation
11. Ownership Disclosure Statement



Project Location Map

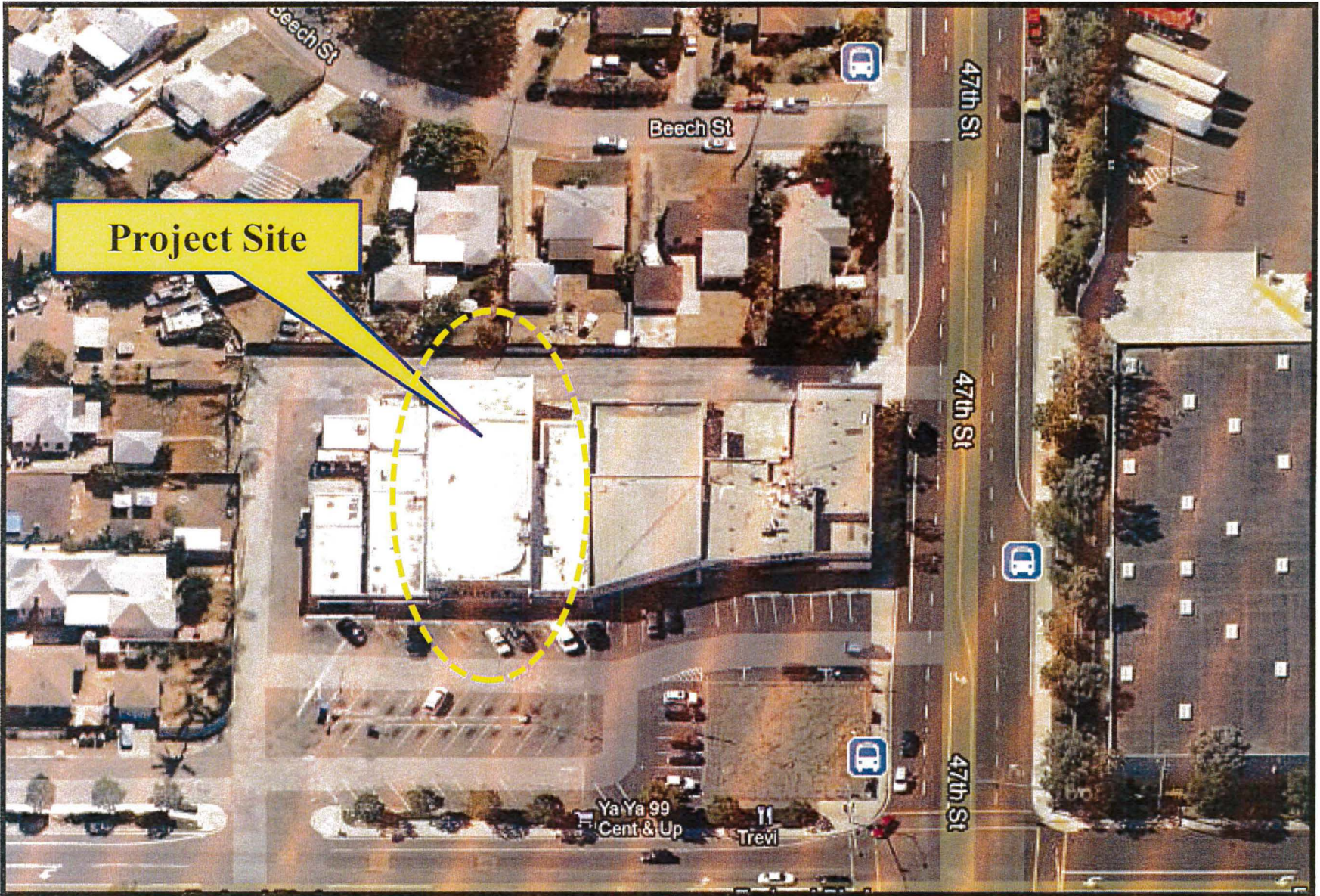
RAINBOW MARKET – 4727 FEDERAL BOULEVARD
PROJECT NUMBER 285228





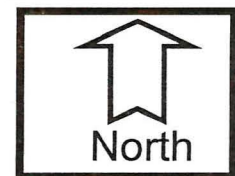
Land Use Map
RAINBOW MARKET – 4727 FEDERAL BOULEVARD
 PROJECT NUMBER 285228

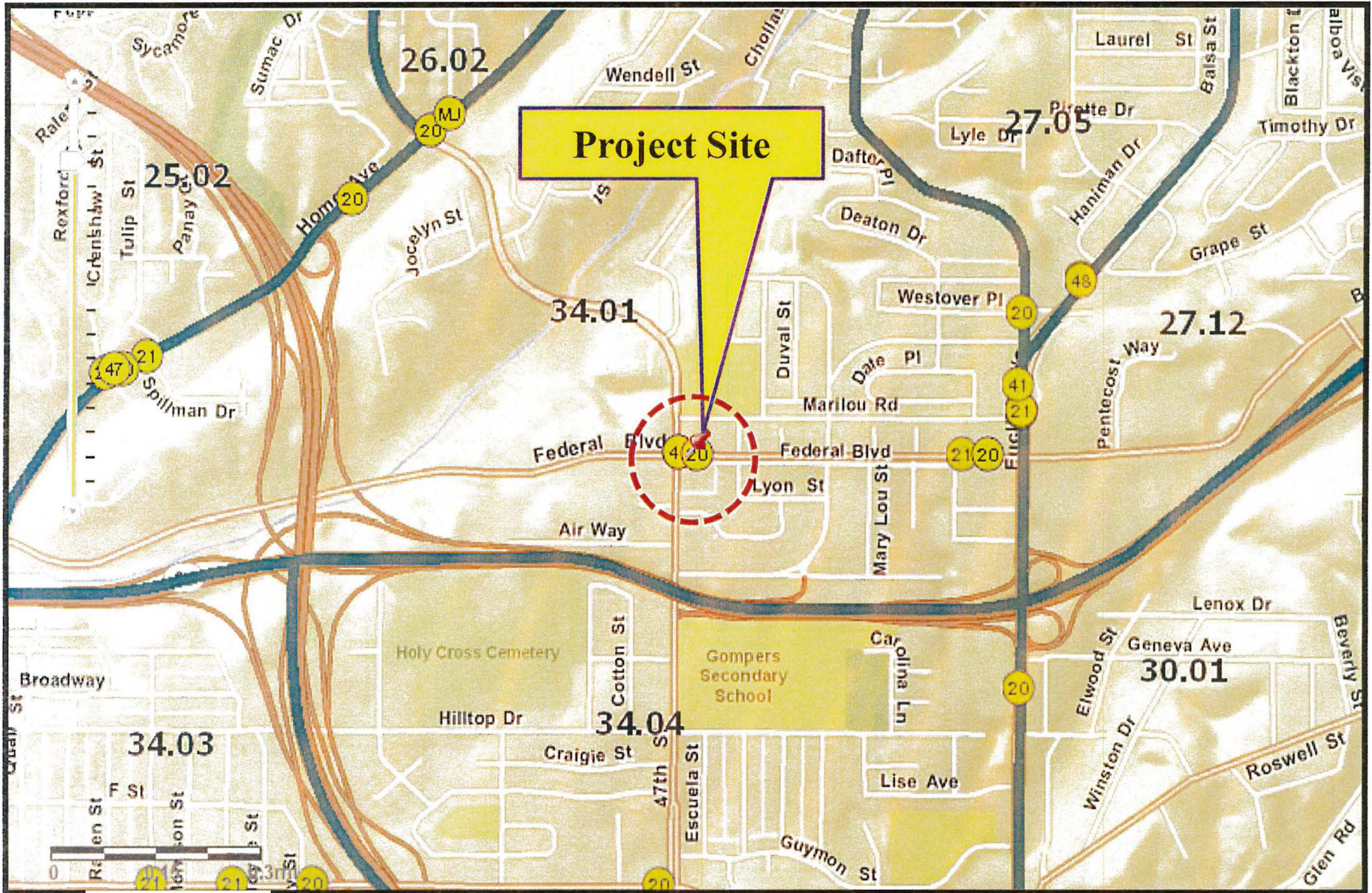




Aerial Photo

RAINBOW MARKET – 4727 FEDERAL BOULEVARD
PROJECT NUMBER 285228





EXISTING ABC LICENSE MAP
RAINBOW MARKET – 4727 FEDERAL BOULEVARD
PROJECT NUMBER 285228



HEARING OFFICER RESOLUTION NO. HO-**DRAFT**
 CONDITIONAL USE PERMIT NO. 1002779
RAINBOW MARKET PROJECT NO. 285252

WHEREAS, THE HALLAK FAMILY TRUST, Owner, and RAINBOW SUPERMARKET, INC., Permittee, filed an application with the City of San Diego for a permit to upgrade a current Type 20 State of California Alcohol Beverage Control (ABC) license limited to beer and wine to a Type 21 license for the general sale of alcohol including distilled spirits (as described in and by reference to the approved Exhibits "A" and corresponding conditions of approval for the associated Conditional Use Permit No. 1002779, on portions of a 3.15-acre site; and

WHEREAS, the project site is located at 4727 Federal Boulevard in the CC-5-3 Zone of the Land Development Code in the City Heights Neighborhood of Mid City Communities Plan Area; and

WHEREAS, the project site is legally described as Lots 6 through 10 of Map No. 2260; and

WHEREAS, on November 21, 2012, the Hearing Officer of the City of San Diego considered Conditional Use Permit No. 1002779, pursuant to the Land Development Code of the City of San Diego; and

WHEREAS, on September 11, 2012 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; 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 for Conditional Use Permit Approval – Section §126.0305 dated November 21, 2012:

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

The proposed development is located at 4727 Federal Boulevard within the City Heights Neighborhood Element of the Mid-City Communities Plan Area. The Plan designates the 3.15-acre site for commercial development. 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 as a Limited Use usually requiring a Conditional Use Permit. The Plan recommends the site be used for commercial development therefore the upgrade to a Type 21 ABC license 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 proposed development is requesting a conditional use permit to upgrade an alcoholic beverage outlet within an existing market currently limited to beer and wine to a general license allowing the sale of

distilled spirits. The project site is within the City Heights Neighborhood Element of the Mid-City Communities Plan area on a property zoned CC-5-3 of the Land Development Code. The Plan designates the 3.15-acre parcel as commercial and mixed use land use. 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. A preliminary environmental review of the application was conducted by the Development Services Department and concluded there would be no environmental impacts associated with the proposed development. All construction including interior improvements, public right-of-way improvements and landscape upgrades would be designed and inspected according to the applicable sections of the Land Development Code and Uniform Building Code. Permit conditions related to the sale of alcohol, limiting the type, quantity and proof and limiting the hours permitted to sell the beverages would be petitioned to be included on the ABC license. Conditions regulating signage, lighting and other land use issues would insure a safe and well maintained operation. Therefore, the proposed development would not be detrimental to the public's health, safety or 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 proposed development is requesting a conditional use permit to upgrade an alcoholic beverage outlet within an existing market currently limited to beer and wine to a general license allowing the sale of distilled spirits. The project site is within the City Heights Neighborhood Element of the Mid-City Communities Plan area on a property zoned CC-5-3 which permits a wide variety of commercial and mixed use land use. The use of the site as an alcoholic beverage outlet is permitted as a limited use in the CC-5-3 Zone with an approved Conditional Use Permit. The project complies with the applicable regulations of the Land Development Code and no deviation or variance is requested as a part of this application.

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

The proposed development is requesting a conditional use permit to upgrade an alcoholic beverage outlet within an existing market currently limited to beer and wine to a general license allowing the sale of distilled spirits. The project site is within the City Heights Neighborhood Element of the Mid-City Communities Plan area on a property zoned CC-5-3. The existing market has existed and operated as a neighborhood food market since 1960 and as an alcoholic beverage outlet with a Type 20 license from the State of California Alcohol and Beverage Control (ABC) since 1972. The Rainbow Market has established a presence in the community for over half a century and would continue to provide commercial retail alternative to the surrounding area. The Type 20 ABC license permits the sale of beer and wine whereas the proposed Type 21 would allow the addition of distilled spirits. Alcohol products are generally defined as a retail use therefore the addition of hard liquor to the existing beer and wine would be considered an expansion of the retail merchandise therefore, 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, Conditional Use Permit No. 1002779 is hereby GRANTED by the Hearing Officer to the referenced Owner and Permittee, in the form, exhibits, terms and conditions as set forth in Conditional Use Permit No. 1002779, a copy of which is attached hereto and made a part hereof.

John P. Hooper
Development Project Manager
Development Services

Adopted on: November 21, 2012

Job Order No. 24002859

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: 24002859

SPACE ABOVE THIS LINE FOR RECORDER'S USE

CONDITIONAL USE PERMIT NO. 1002779
RAINBOW MARKET - PROJECT NO. 285228
HEARING OFFICER

This Conditional Use Permit No. 1002779 is granted by the Hearing of the City of San Diego to THE HALLAK FAMILY TRUST, Owner, and RAINBOW SUPERMARKET, INC., Permittee, pursuant to San Diego Municipal Code [SDMC] section 126.0305. The 3.15-acre site is located at 4727 Federal Boulevard in the CC-5-3 Zone of the Land Development Code in the City Heights Neighborhood of Mid City Communities Plan Area. The project site is legally described as: Lots 6 through 10 of Map No. 2260.

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 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 November 21, 2012, on file in the Development Services Department.

The project shall include:

- a. An existing 9, 625 square-foot market with an upgrade from a Type 20 to a Type 21 State Department of Alcoholic Beverage Control license allowing the operation of an alcoholic beverage outlet to sell general alcoholic beverages including distilled spirits conditioned upon the issuance of such license from the ABC.
- b. Existing commercial retail and restaurants occupying lease space in the center or any new use permitted within the CC-5-3 zone;
- c. Off-Street parking facilities

- d. 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 December 7, 2015.
2. This Conditional Use Permit [CUP] and corresponding use of this site shall expire on December 7, 2042. Upon expiration of this Permit, the facilities and improvements relating to the sale of alcohol described herein shall be removed from this site and the property shall be restored to its original condition preceding approval of this Permit.
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 Alcoholic Beverage Control [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 Development Services Department; 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 including, but not limited to, the Endangered Species Act of 1973 [ESA] and any amendments thereto (16 U.S.C. § 1531 et seq.).

9. 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.

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 or 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.

ENGINEERING REQUIREMENTS:

13. Owner/Permitee shall upgrade the existing pedestrian ramps at the south west side of the alley and the south east corner of Federal Boulevard and 47th Street to the current City Standards and satisfactory to the City Engineer. This work must be completed within 90 days of the public hearing approval of or the operator shall be deemed to be out of compliance with the Conditional Use Permit, and the Permit is subject to rescission by the Development Services Director.

PLANNING REQUIREMENTS:

14. The sales of alcoholic beverage shall be permitted between the hours of 8:00 a.m. and 12:00 Midnight.

15. The parking, the exterior of the premises, the adjacent public sidewalks, and all other adjacent areas under the licensee's control shall be illuminated to a level of 0.4 foot candles. The illumination shall be maintained during all hours of darkness that the premises are open for business, so that persons standing on or near the premises at night are identifiable to law enforcement personnel. Illumination shall be directed and shielded so that it does not shine onto others properties.

16. The premises shall conform to the transparency requirement for the zone in which it is located, and the licensee shall not post signage, or position displays or any other object that interferes with the transparency requirement.

17. The total area of advertising signage that indicates alcoholic beverages or alcohol sales shall not exceed 630 square inches total for market and shall not be placed so as to interfere with transparency.

18. Any graffiti applied to or any litter deposited on the premises or adjacent public sidewalks or adjacent area(s) under the licensee control shall be removed or painted over, as appropriate, within 48 hours of its application or deposit

19. No amusement machines or video game, no pool or billiard table, no foosball or pinball machine, no arcade style video or electronic game, and no coin operated amusement device may be allowed on the premises.

20. No pay telephone shall be maintained anywhere on the premises or on any adjacent area under the licensee's control.

21. The licensee shall place trash receptacles convenient for use by patrons inside and outside the premises and in the parking area and near adjacent sidewalks and in any other adjacent area under the control of the licensee. At least one 13-gallon receptacle shall be located inside the premises. At least one 32-gallon receptacle shall be located outside the premises, and at least one additional 32-gallon receptacle shall be located in each parking area.

22. The licensee shall conspicuously post a copy of these Conditions at the premises and maintain them visible so they may be viewed by the public or any government official.
23. No loitering may be allowed on the premises or on any adjacent area under the control of the licensee. If necessary, the licensee shall hire and post security guards to enforce this condition
24. The licensee shall post and maintain a professional quality sign facing each parking lot that reads as follows: NO LOITERING, NO LITTERING, NO OPEN CONTAINERS, NO DRINKING OF ALCOHOLIC BEVERAGES ON THE PREMISES, PARKING AREAS, OR ADJACENT SIDEWALKS. VIOLATORS ARE SUBJECT TO ARREST. The signs shall be in English and Spanish. The printing shall be two-inch or taller block lettering, and the signs shall be large enough to contain all the lettering.
25. Security cameras which cover all of the premises and parking shall be installed and maintained. Recordings shall be available to any law enforcement agent or agency on request.
26. No alcoholic beverages shall be consumed on the premises under the control of the business owner or the property owner.
27. No more than fifteen percent (15%) of the sales area will be dedicated to the display and sale of alcohol.

TRANSPORTATION REQUIREMENTS:

28. Owner/Permittee shall maintain a minimum of **fifty-one (51)** off-street parking spaces including two handicap 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.

POLICE DEPARTMENT RECOMMENDATIONS FOR ABC LICENSE:

The following recommendations from the San Diego Police Department are requested to be included on the State of California Department of Alcohol Beverage Control license:

- The sales of alcoholic beverage shall be permitted between the hours of 8:00 a.m. and 12:00 Midnight.
- The sale of single cans or bottles of beer or malt beverage is prohibited.
- Wine shall not be sold in containers of less than 750 milliliters.
- Beer, Malt beverages and 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 with the exception of “dinner wines” aged two or more years.
- Wine shall not be sold in containers of less than 750 milliliters, 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.
- Distilled Spirits must be sold in containers greater than one pint (.375 ml.).

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 November 21, 2012 pursuant to Hearing Officer Resolution No. HO-(**DRAFT**).

Conditional Use Permit No. 1002779
Date of Approval: November 21, 2012

AUTHENTICATED BY THE CITY OF SAN DIEGO DEVELOPMENT SERVICES
DEPARTMENT

John P. Hooper
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.

[HALLAK FAMILY TRUST]
Owner

By _____
NAME
TITLE

[RAINBOW SUPERMARKET INC.]
Permittee

By _____
Robert Zakar
President

**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 92101-2422

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

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

PROJECT NO.: 285228 PROJECT TITLE: Rainbow Farms Market

PROJECT LOCATION-SPECIFIC: 4727 Federal Boulevard, San Diego, California 92102

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

DESCRIPTION OF NATURE AND PURPOSE OF THE PROJECT: The project is a request for a Conditional Use Permit for a Type 21 liquor license in conjunction with an existing 9,625 square foot supermarket. The facility currently operates with a Type 20 liquor license.

NAME OF PUBLIC AGENCY APPROVING PROJECT: City of San Diego

NAME OF PERSON OR AGENCY CARRYING OUT PROJECT: Rainbow Supermarket Inc.
 Robert Zakar
 10451 Harvest View Way
 San Diego, California 92128
 (619) 654-7532

EXEMPT STATUS: (CHECK ONE)

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

REASONS WHY PROJECT IS EXEMPT: The proposed project is exempt from CEQA pursuant to Section 15301 which allows for the operation, repair maintenance, permitting, leasing, licensing, or minor alteration of existing facilities (public or private) involving negligible or no expansion of use beyond that existing at the time of the determination. The proposed project, a Conditional Use Permit, for a Type 21 liquor license in conjunction with an existing 9,625 square foot supermarket is a negligible expansion of use. No environmental impacts were identified for the proposed project. Additionally, none of the exceptions described in CEQA Guidelines Section 15300.2 apply.

LEAD AGENCY CONTACT PERSON: Anna L. McPherson

TELEPHONE: (619) 446-5276

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

Anna L. McPherson, AICP/Senior Planner

SIGNATURE/TITLE

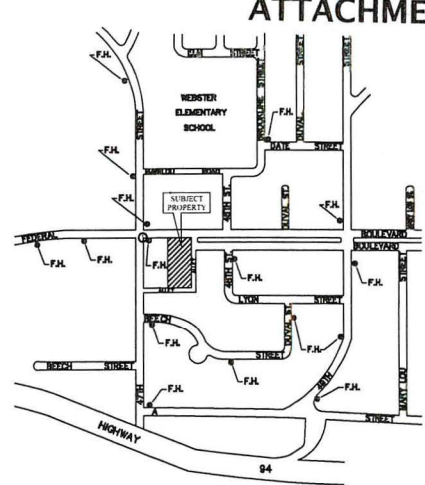
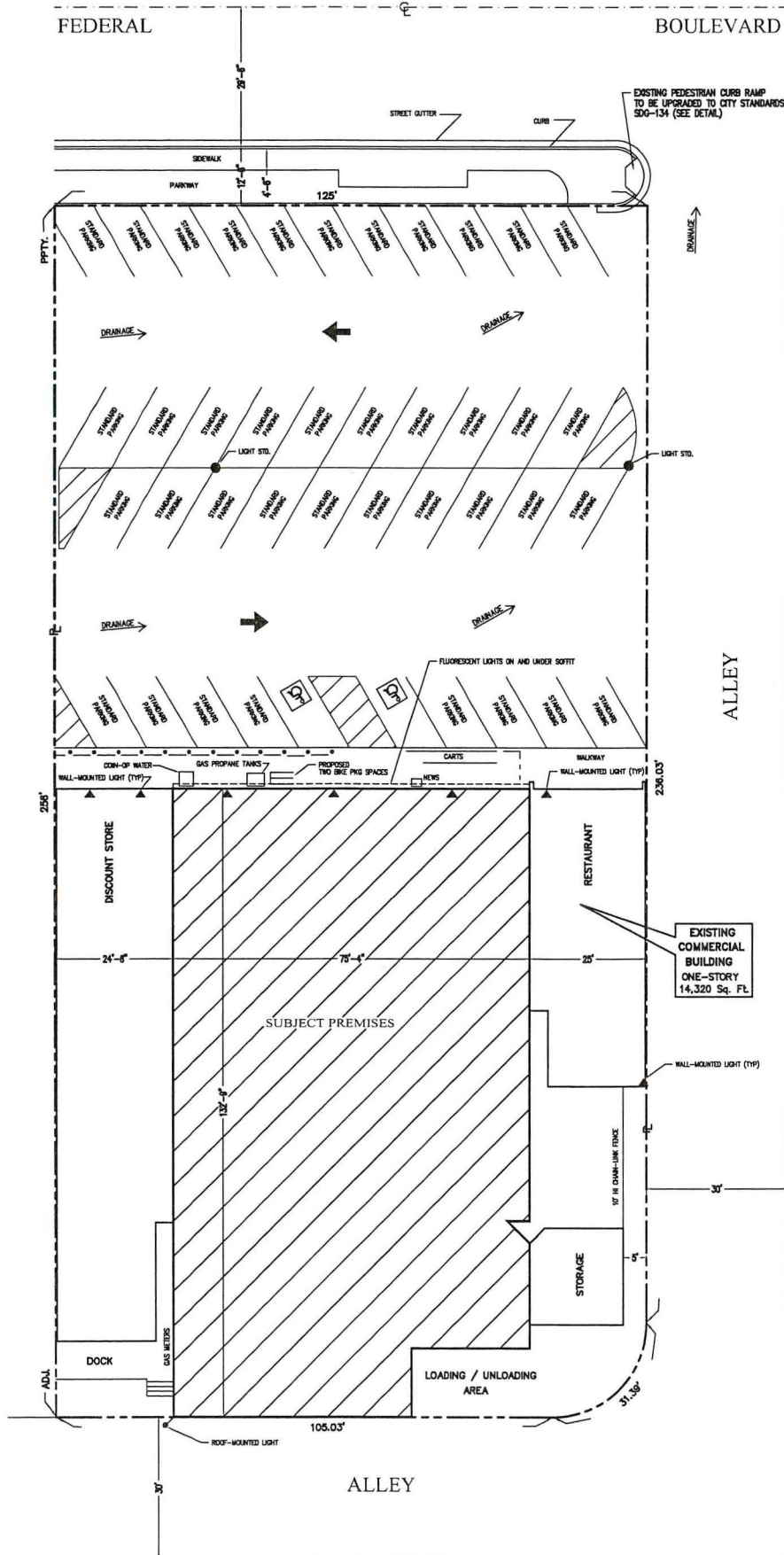
September 21, 2012

DATE

CHECK ONE:

- SIGNED BY LEAD AGENCY
 SIGNED BY APPLICANT

DATE RECEIVED FOR FILING WITH COUNTY CLERK OR OPR:



VICINITY MAP
SCALE: N.T.S.

PARKING CALCULATION

PARKING REQUIRED

AUTOMOBILE
14,320 Sq.Ft. MIXED USE 14,320SF X 2.1 = 30 SPACES
TOTAL PARKING REQUIRED = 30 SPACES
per SDMG Table 155-COE SDMG

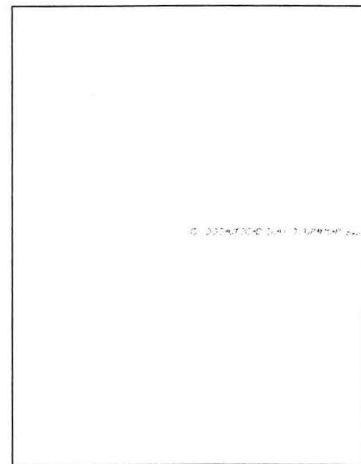
LESS THAN 50 PARKING SPACES = 1 VAN ACCESSIBLE DISABLED SPACE
1 CAR ACCESSIBLE DISABLED SPACE
per CBC Chapter 11A, Section 11208

BICYCLE
14,320 Sq.Ft. MIXED USE 14,320SF X 0.1 = 1.43 SPACES
per SDMG 142.0520a
BICYCLE PARKING REQUIRED = 2 SPACES

PARKING PROVIDED

AUTOMOBILE
STANDARD = 38 SPACES
VAN ACCESSIBLE = 1 SPACE
CAR ACCESSIBLE = 1 SPACE
TOTAL = 41 SPACES

BICYCLE PARKING PROVIDED = 2 SPACES



CURB RAMP DETAIL
SCALE: N.T.S.

SITE PLAN
SCALE 3/32" = 1'-0"

PROJECT TITLE:
TO REQUEST A CONDITIONAL USE PERMIT TO ALLOW AN UPGRADE IN THE LIQUOR LICENSE STATUS FROM A TYPE 20: OFF-SALE BEER AND WINE TO A TYPE 21: OFF-SALE GENERAL ALCOHOLIC BEVERAGE, IN CONJUNCTION WITH AN EXISTING 9,825 SQUARE-FOOT SUPERMARKET, HAVING HOURS OF OPERATION FROM 8 A.M. TO 2 A.M. DAILY, IN THE CC-5-3 ZONE

SITUS: RAINBOW FARMS MARKET
4727-29 FEDERAL BOULEVARD
SAN DIEGO, CA 92102

REPRESENTATIVE / APPLICANT: ROBERT ZAKAR 10451 HARVEST VIEW WAY SAN DIEGO, CA 92128 619-654-7532	PROPERTY OWNER: HALLAK FAMILY TRUST 3822 VIA ESCUDO LA MESA, CA 91941
---	---

LEGAL DESCRIPTION: LOTS 6-10, MAP 2280 AND POR. OF CLOSED STREET, A.P.N. 541-330-01-00

ZONE INFORMATION:
BASE ZONE = CC-5-3
COMMUNITY PLAN AREA = MID-CITY-EASTERN AREA
CENTRAL URBANIZED PLANNED DISTRICT

GROSS SITE AREA = 0.73 ACRES
TOTAL FLOOR AREA = 14,320 Sq.Ft.
SUPERMARKET FLOOR AREA = 9,825 Sq.Ft.

EXISTING/PROPOSED USE: SUPERMARKET
HOURS OF ALCOHOLIC BEVERAGE SALES: 8:00 A.M. TO 12:00 A.M. DAILY

PREPARATION DATE: NOVEMBER 30, 2011
REVISED DATE: JUNE 26, 2012
REVISED DATE: AUGUST 23, 2012
REVISED DATE:

NOTES:

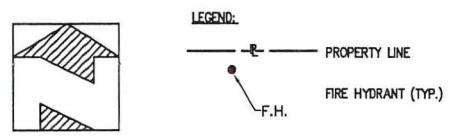
NO EXISTING OR PROPOSED EASEMENTS ON THE PROPERTY
ALL STRUCTURES AND OTHER CONSTRUCTION ARE EXISTING TO REMAIN OTHERWISE NOTED

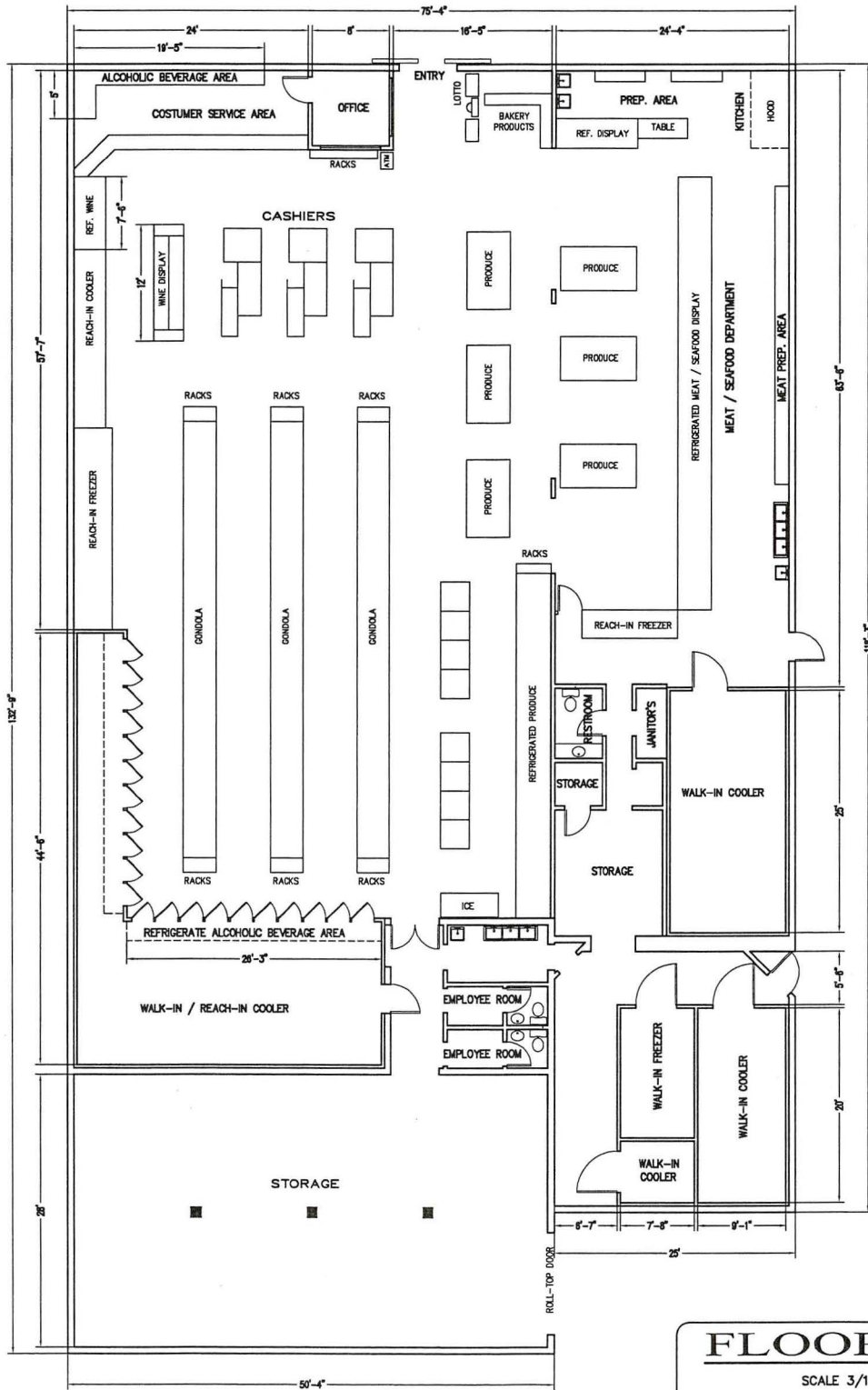
NO EXISTING OR PROPOSED BUS STOP ON THE PROPERTY
BUILDING ADDRESS NUMBER PAINTED ON TRANSOM, ENTRY DOOR, PER FHPS POLICY P-00-8 (UFC 901.4.4)

EXISTING SECURITY MEASURES:
ALARM
3/2 CAMERA SURVEILLANCE SYSTEM

PARKING LAYOUT IS EXISTING TO REMAIN

EXISTING PEDESTRIAN CURB RAMP AT SOUTH EAST CORNER OF FEDERAL BLVD AND 47TH ST. (1) ON VICINITY MAP) TO BE UPGRADED TO CITY STANDARDS SDG-134 (SEE DETAIL)





CIRCLE No. 140000-1P

FLOOR PLAN

SCALE 3/16" = 1'-0"

SITUS:
 RAINBOW FARMAS MARKET
 4727-29 FEDERAL BOULEVARD
 SAN DIEGO, CA 92102

REPRESENTATIVE / APPLICANT:
 ROBERT ZAKAR
 10451 HARVEST VIEW WAY
 SAN DIEGO, CA 92128
 619-654-7532

PREPARATION DATE: NOVEMBER 30, 2011
 REVISION DATE: JUNE 26, 2012
 REVISION DATE: AUGUST 23, 2012
 REVISION DATE:



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

PREMISE ADDRESS: 4727 Federal Boulevard, San Diego, CA 92102

TYPE OF BUSINESS: Rainbow Market

FEDERAL CENSUS TRACT: 34.01

NUMBER OF ALCOHOL LICENSES ALLOWED: 4

NUMBER OF ALCOHOL LICENSES EXISTING: 8

CRIME RATE IN THIS CENSUS TRACT: 147.5%
(Note: Considered High Crime If Exceeds 120% of City-wide Average)

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

IS THE PREMISE WITHIN 600 FEET OF INCOMPATIBLE FACILITY YES NO

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

ABC LICENSE REVOKED AT THIS PREMISE WITHIN PAST YEAR YES NO

HAS APPLICANT BEEN CONVICTED OF ANY FELONY YES NO

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

COMMENTS/OTHER FACTORS CONSIDERED:

This particular area of San Diego is already overconcentrated with alcohol permits. However, the applicant already has a Type 20 license and wants to upgrade to a type 21 license. Therefore, approval of the Type 21 license will not add to the number of licenses in existence.

Because of the high crime rate in the community, the number of transients in the area, and the ambivalence from community groups for approval of this license, SPPD believes it is in the best interest of the community to condition this license appropriately.

SUGGESTED CONDITIONS:

The following conditions, in addition to their current conditions on the Type 20, should be incorporated into the regulatory licenses and land use for this location:

1. Sales of alcoholic beverages shall be permitted only between the hours of 8:00 AM and Midnight each day of the week.
2. Wine shall not be sold in bottles or containers smaller than 750 ml. Wine coolers, beer coolers, and malt beverages must be sold in manufacturer pre-packaged multi-unit quantities of no less than three (3). No single sales of beer.
3. No wine shall be sold with an alcoholic content greater than 15% by volume except for "Dinner Wines" which have been aged two years or more.

4. Distilled spirits must be sold in containers greater than 1 pint (375 ml).
5. The petitioner(s) shall post and maintain a professional quality sign facing the premises parking lot(s) that reads as the following: NO LOITERING, NO LITTERING, NO DRINKING OF ALCOHOLIC BEVERAGES. VIOLATORS ARE SUBJECT TO ARREST. The sign shall be at least two feet square with two inch block lettering. The sign shall be in English and in Spanish.
6. Security personnel or employees must actively monitor the parking lot to ensure and enforce the no loitering on the property.
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. There shall be no amusement machines or video game devices on the premises at any time.
9. Proper illumination will be maintained in the parking lot.
10. The petitioner(s) shall be responsible for maintaining free of litter the area adjacent to the premises over which they have control, as depicted on the ABC-257 and ABC 253 forms.
11. A video recording security camera is to be positioned to cover the main entrance for facial recognition. Upon request by police, video recording shall be provided within 24 hours of their request.
12. No more than 15% of gross floor space shall be allocated for the display of alcohol.

This is a conditional approval of this project pending community/business support.

SAN DIEGO POLICE DEPARTMENT RECOMMENDATION:

APPROVE X

DENY _____

Tom Vanderveen
Name of SDPD Vice Sergeant (Print)

619-531-2439
Telephone Number

[Signature]
Signature of SDPD Vice Sergeant

8/13/12
Date of Review

EASTERN AREA COMMUNITIES PLANNING COMMITTEE

HOLY SPIRIT CATHOLIC CHURCH
2725 55TH STREET, SAN DIEGO, CA 92105
Chair – Laura Riebau – 619-208-6813

CONDITIONAL USE PERMIT RECOMMENDATION

PROJECT NO: **285228**

PROJECT NAME: **RAINBOW FARMS MARKET
CONDITIONAL USE PERMIT UPGRADE TO
TYPE 21 LIQUOR LICENSE**

ADDRESS: **4747 FEDERAL BLVD
SAN DIEGO, CA 92102**

PROJECT MGR: **PATRICK HOOPER**

DATE OF EACPC
MEETING: **SEPTEMBER 11, 2012**

EACPC MEETING DISCUSSION: The owners of Rainbow Farms Market attended the EACPC meeting. Robert Zakar, one of the owners, led the presentation and discussion on applicant's behalf. Board discussion on Rainbow Farms Market request for approval to upgrade its current liquor license to Type 21 allowing store to add distilled spirits to its current beer and wine sales included:

- Current inventory and store layout;
- Services;
- Security system;
- Location where distilled spirits will be stored;
- That other inventory will not be decreased for addition of distilled spirits;
- That addition of distilled spirits will allow better service for customers by way of one-stop shopping;
- That other liquor stores are in area, so this store will add competition;
- That the store is located more than 600 feet from neighborhood schools;
- Review of liquor license lottery timeframe and likelihood applicant will obtain license;
- Review of the liquor license of the owners of Rainbow Farms Market showing no violations; and
- That the San Diego Police Department have approved the application by this applicant;

RECOMMENDATION: **APPROVAL** of Conditional Use Permit to upgrade liquor license to Type 21 on the condition that the owners of Rainbow Farms Market attend the next Webster Community meeting to discuss the upgrade with the community.

**The vote was – 7 for approval
1 against approval
Chair abstained**



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** _____
 RAINBOW FARMS MARKET 285228
Project Address:
 4727 FEDERAL BLVD. SAN DIEGO, CA 92102

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):
 George Hallak
 Owner Tenant/Lessee Redevelopment Agency
 Street Address:
 3822 VIA ESCUADA
 City/State/Zip:
 LA MESA, CA 91941
 Phone No: 619 818-2514 Fax No: 619-670-0633
 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: _____