



THE CITY OF SAN DIEGO

REPORT TO THE PLANNING COMMISSION

DATE ISSUED: December 2, 2010

REPORT NO. PC-10-110

ATTENTION: Planning Commission, Agenda of December 9, 2010

SUBJECT: BRUNOS'S MARKET – PROJECT NUMBER 204786, DECISION
PROCESS LEVEL 3 (APPEAL)

OWNER/
APPLICANT: IMPERIAL AVENUE, LLC
IKHLAS JABRO

SUMMARY

Issue(s): Should the Planning Commission approve or deny an appeal of the Hearing Officer decision allowing the limited sale of beer and wine within an existing market?

Staff Recommendation:

1. **DENY** the appeal of the Hearing Officer decision; and
2. **APPROVE** Conditional Use Permit No. 788948; and
3. **APPROVE** Site Development Permit No. 788954.

Community Planning Group Recommendation: The Southeastern San Diego Community Planning Group voted 5-5-0 on September 13, 2010 to support the limited sale of alcohol with the conditions that all City issues were resolved and the San Diego Police Department recommendations were implemented. The 5-5-0 vote resulted in the motion failing to pass by a majority and no subsequent motion was entertained (Attachment 9).

San Diego Police Department Recommendation: APPROVE Conditional Use Permit No. 788948 with conditions and recommended Alcohol Beverage Control (ABC) license restrictions (Attachment 8).

Environmental Review: The proposed activity was determined to be exempt pursuant to the 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 June 25, 2010, and the opportunity to appeal that determination ended July 20, 2010 (Attachment 11).

Fiscal Impact Statement: There are no fiscal impacts with this application. All of the costs associated with processing this application are paid for by the applicant.

Code Enforcement Impact: None.

Housing Impact Statement: This project proposes a commercial use on a commercially zoned property. No residential units are proposed with this application.

BACKGROUND

The 0.32-acre project site is located at 2988 Imperial Avenue within the Southeastern San Diego Community Plan area (Attachment 1). The Plan designates the property for commercial land uses corresponding to the underlying CSR-2 Zone of the Southeastern San Diego Planned District Ordinance (Attachment 2). Both the community plan designation and the zoning encourage a wide array of community retail and commercial services as well as the potential for residential development. The project is located within a commercial corridor at the corner of Imperial Avenue and 30th Street (Attachment 3). The immediate neighborhood is dominated by commercial retail and service oriented businesses. The outlying blocks adjacent to the commercial corridor are primarily multi-family development and to a lesser degree some older single-family homes remain.

The project site is developed with a 6,600 square-foot market that sells a wide variety of staples and food products including fresh meat and produce. The original and slightly smaller structure was constructed in 1934 and had been operating as a market continuously on the site until it was destroyed by a fire in 2007. The store was rebuilt and reopened in 2008. The applicant owned and operated the market from 1981 to 2002, then sold the business, leased the property and transferred the liquor license to a new operator. After the fire, the applicant regained ownership of the business and rebuilt the market as it exists today however the previous liquor license was not transferred back to this address. The previous license to sell alcohol was a general type 21 license and as such was not limited to beer and wine only. The previous license received a Conditional Use Permit in 2008 and will be in use at a neighboring address currently under construction.

DISCUSSION

The applicant is proposing the sale of beer and wine only through a Type 20 Liquor License within an existing market. The pending Alcohol Beverage Control (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. 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 regulations 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 subject property is in Census Tract No. 0040 which reported a crime rate 177 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. 0040 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 four (4) existing off-sale alcohol beverage outlets within Census Tract 0040 therefore it is considered over saturated by the defined standard. Therefore a CUP would be required for the off-sale of alcoholic beverages based on this factor.

3. **Within a Redevelopment Area.**

The project site is not within a Redevelopment Project Area.

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 site is located within 600 feet of the Greater Saint Paul Church of God. Therefore a CUP would be required for the off-sale of alcoholic beverages based on this factor.

5. **Within 100 feet of residentially zoned property.**

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

Alcohol Sales-Project Analysis:

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 defined as being over concentrated (Attachment 4); 3) is within 100 feet of residentially zoned property; and 4) within 600 feet of a church. Any one of these factors establishes the need for the Conditional Use Permit.

The project has been reviewed by the City staff and the San Diego Police Department for conformance to the applicable land use regulations and policies. The staff recommendation to support the project relies on the fact that the primary use of the site is a supermarket and the sale of beer and wine is accessory to that use. Additionally, the existing market previously held a Type 20 ABC license prior to the fire (transferred to a neighboring property) and had an exemplary record as a responsible outlet. Therefore, the addition of beer and wine for off-site consumption should not adversely impact the community. Accordingly, Staff is recommending approval of the project as proposed.

Draft Conditions of Approval

The project approval would allow the sale of liquor to be conditioned so that the alcohol sales would not have a negative impact on the surrounding neighborhood (Attachment 6). The CUP includes a number of conditions that would limit the hours of sales, regulate advertising, provide for a well-lighted, clean 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 permit the hours of alcohol beverage sales from 7:00 AM to Midnight. The CUP would prohibit pinball games, arcade-style video and electronic games, or coin-operated amusement machines on the premises. Exterior public pay phones that permit incoming calls would not be permitted on the premises, on adjacent public sidewalks, or areas under the control of the owner or operator. Advertising would be limited and insure visibility into the premises and "No Loitering" signs would be required to be prominently displayed on the site. 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

As previously stated, on September 13, 2010, the Southeastern San Diego Community Planning Group meeting resulted in a split vote on a motion to support the limited sale of alcohol with the

conditions that all city issues were resolved and the San Diego Police Department recommendations were implemented. The 5-5-0 vote resulted in the motion failing to pass by a majority and no subsequent motion was entertained. Therefore, the community group does not forward a recommendation regarding this project (Attachment 9).

APPEAL

The matter of the Bruno's Market Conditional Use Permit and Site Development Permit was before the Hearing Officer of the City of San Diego in a publicly noticed hearing on October 20, 2010. Upon hearing public testimony both in favor of and opposed to the project, the Hearing Officer approved the permits for the limited sale of beer and wine at the existing market as conditioned by staff and San Diego Police Department. On October 29, 2010, the Hearing Officer decision to approve the project was appealed to the Planning Commission citing factual error, conflict with other matters, findings not supported and new information (Attachment 12).

No specific evidence was provided as to why the findings could not be supported or what constituted new information, or how the decision conflicted with other matters, however in a separately attached letter the appellant generally states that the applicant misstated the fact that no violations have been recorded against the license when the applicant operated the market. The appeal also contends that several alcohol outlets exist in the area and the census tract should be considered oversaturated. And lastly, the appellant claims that the 2008 decision approving the Conditional Use Permit (that was the subject of the transferred ABC license) included a prohibition on obtaining a new license for the 2988 Imperial Avenue property.

Staff Response:

Regarding previous violations, a records search of the ABC web site indicates that one violation against the terms of the ABC license was administered to the applicant when they held the license and operated the market. The violation was for the failure to remove graffiti from the parking lot area within 48 hours. The graffiti was removed after notification by the ABC. The applicant has stated that in his testimony he was eluding to the fact that the store had no violations for infractions such as selling liquor to under aged customers or not requiring appropriate identification. In other words, more serious violations that he considered characteristic of a disreputable retailer.

Regarding over saturation, census tract no. 0040 allows for four off-sale licenses and four currently exist in the area. The San Diego Police Department, Vice Officer reviewed the application and determined a fifth off-sale license would not adversely impact the neighborhood because of the accessory nature of the alcohol sales in relation to the market. The SDPD recommendation states that the market operates primarily as a food store and approximately 50 square feet of display area would be dedicated to alcohol. Fifty square-feet of shelve and cooler space would comprise less than one percent of the store's gross floor area.

Regarding a prohibition on granting a Conditional Use Permit for this site, staff has reviewed the administrative record from the August 13, 2008 hearing and determined that no mention of

that type of restriction occurred. The discussion focused on the opinion that having a new CUP for the existing license (required as part of the transfer) was preferred by staff and the police department over operating an alcoholic beverage outlet without a CUP due to previously conforming rights as was the case at 2988 Imperial Avenue. Further discussion included reference to the Southeastern San Diego Community Plan that discouraged the proliferation of new liquor stores within the Planned District. However, an outright ban on restoring an ABC license to the site was not a part of the deliberations and it would violate the 2988 Imperial Avenue property owner's rights to do so as a condition of granting an entitlement on an adjacent property.

Conclusion:


The project proposes the addition of limited beer and wine sales to a neighborhood market that was rebuilt and improved after a fire in 2007. Staff notes that the market was originally constructed in 1934 and has served the community primarily as a food store for 76 years. The store was enlarged by approximately 2,000 square-feet after the fire and reopened in 2008 with a full service meat counter and fresh produce section. The store provides a large variety of staples, dry food products and sundries and therefore operates as a grocery store and not a convenience store. This distinction was paramount in the determination of the staff and San Diego Police Department in supporting the limited sale of alcohol at this location.

While the Census Tract is defined as a high crime area and four alcohol outlets currently exist, the addition of beer and wine sales to the supermarket would not constitute an adverse impact to the neighborhood. Conditions of the permit would regulate hours of operation, lighting, signage and require upgrades to the surrounding sidewalks. Restrictions on the ABC license would limit the type, quantity, proof and packaging of the alcohol products and maintain the primary use of the site as a supermarket. Therefore, staff recommends the Planning Commission deny the appeal of the Hearing Officer decision to approve the project and approve the limited sale of alcoholic beverages at 2988 Imperial Avenue.

ALTERNATIVES:

1. **APPROVE** the appeal and **APPROVE** Conditional Use Permit No. 788948 and Site Development Permit No. 788954, with modifications.
2. **APPROVE** the appeal and **DENY** Conditional Use Permit No. 788948 and Site Development Permit No. 788954, if the findings required to approve the project cannot be affirmed.

Respectfully submitted,



Mike Westlake
Program Manager
Development Services Department

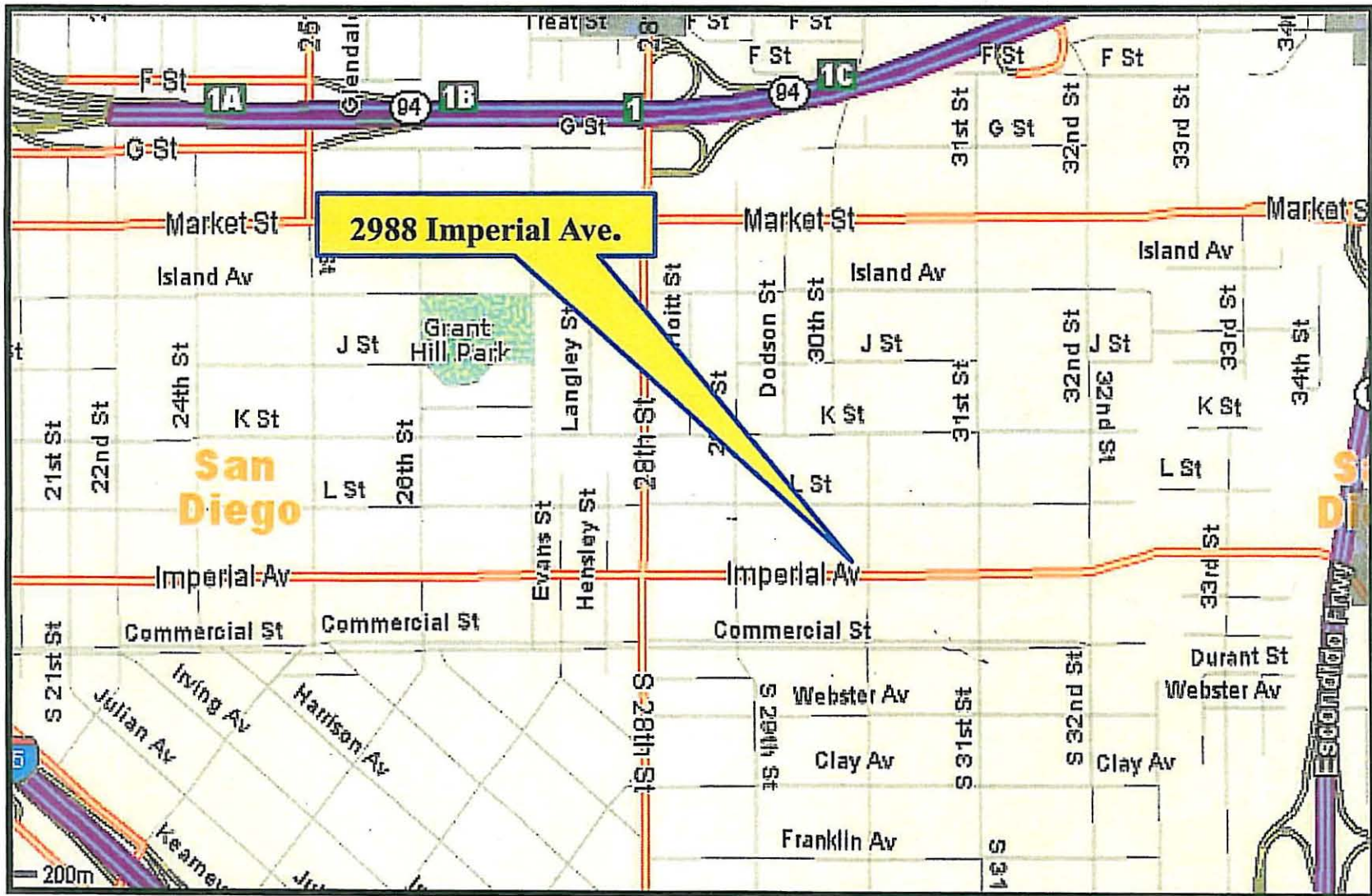


Patrick Hooper
Project Manager
Development Services Department

WESTLAKE/JPH

Attachments:

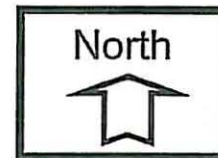
1. Project Location Map
2. Community Plan Land Use Map
3. Aerial Photograph
4. ABC Data
5. Draft Resolution with Findings
6. Draft Permit with Conditions
7. Project Site Plan
8. SDPD Recommendation
9. Community Planning Group Recommendation
10. Ownership Disclosure Statement
11. Environmental Exemption
12. Appeal Application

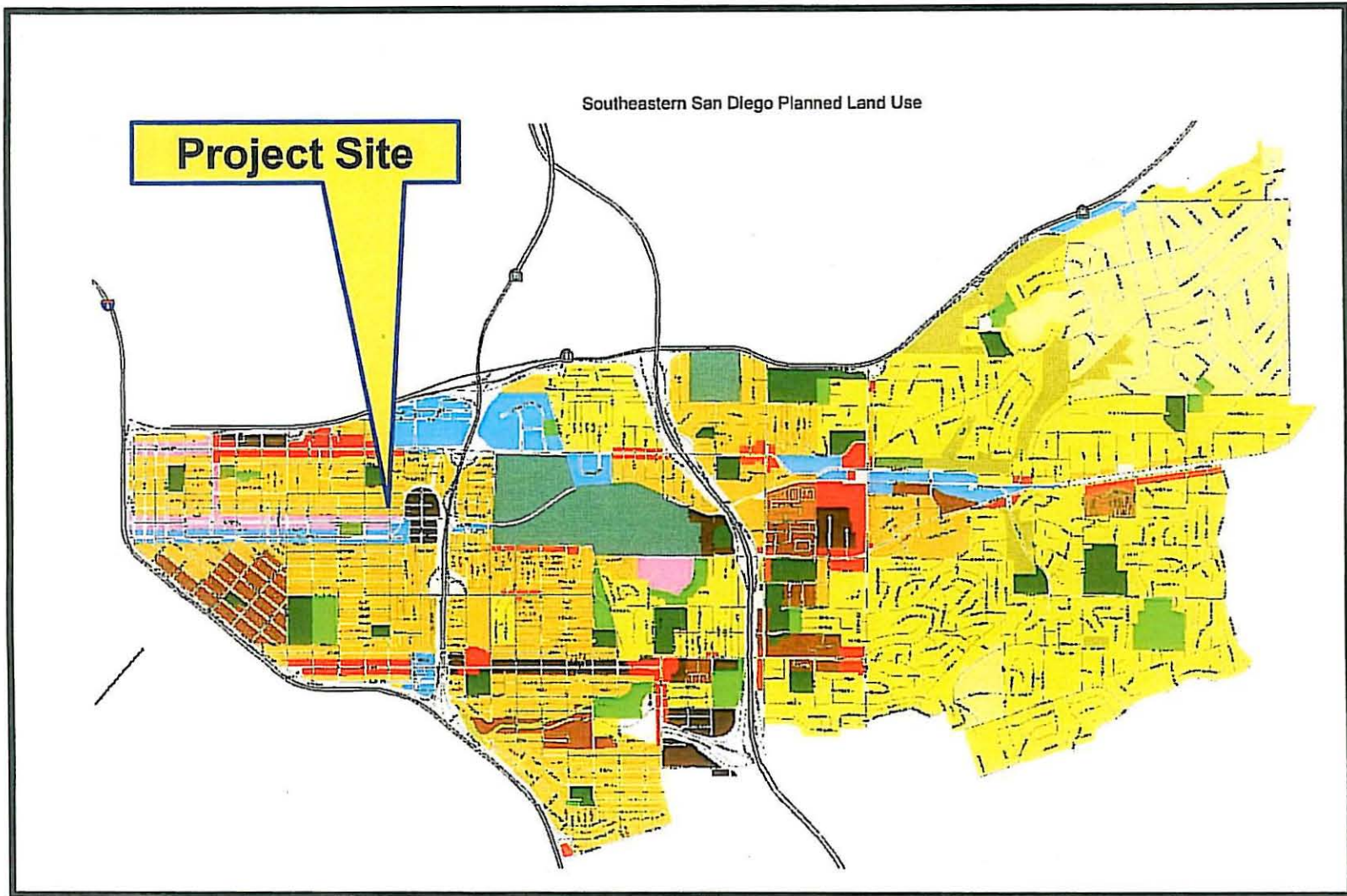


Location Map

BRUNO'S MARKET – 2988 IMPERIAL AVENUE

PTS 204786

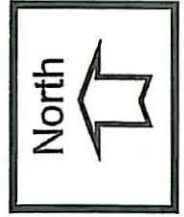
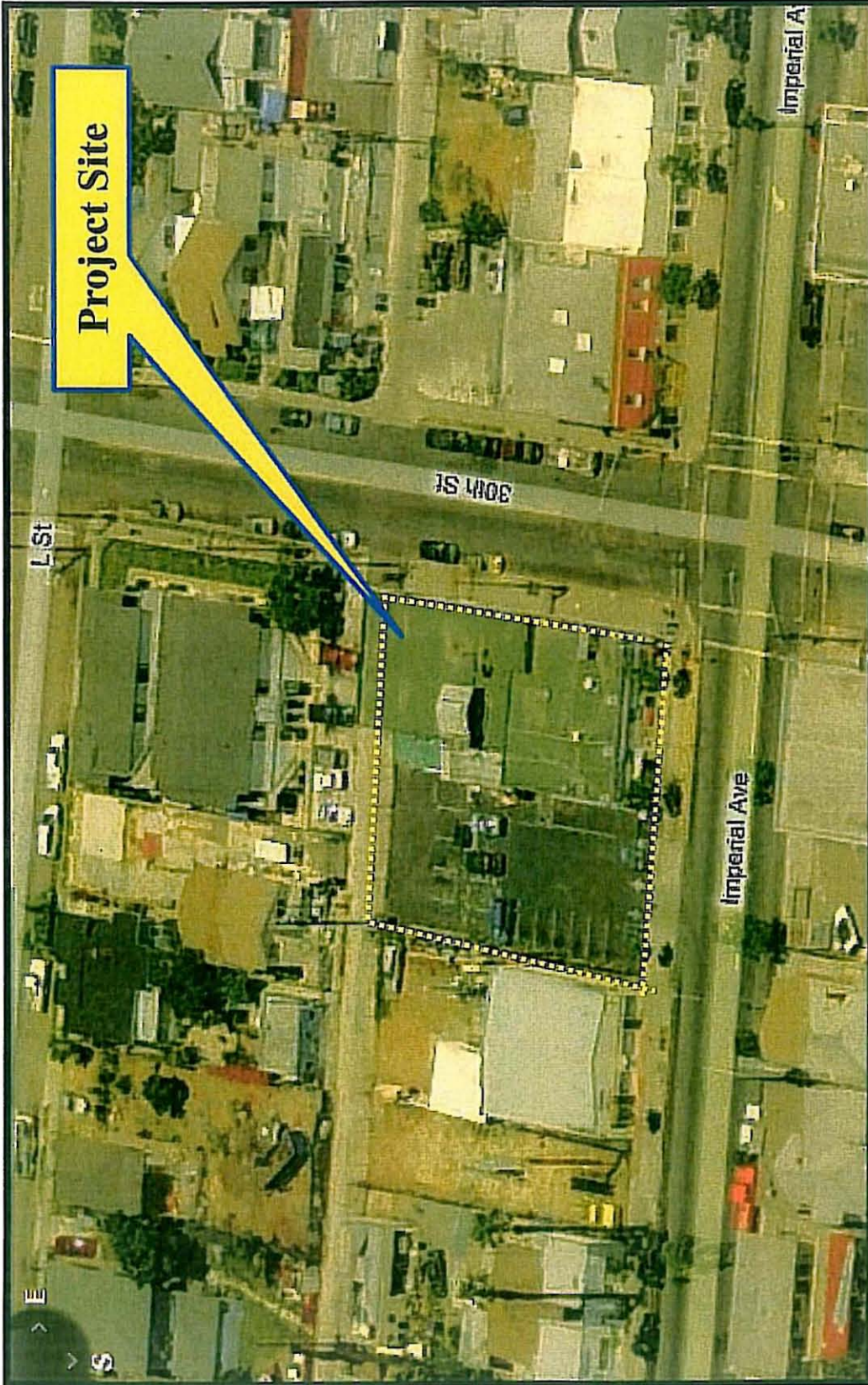




Project Location Map

BRUNO'S MARKET - 2988 IMPERIAL AVENUE
PTS 2988



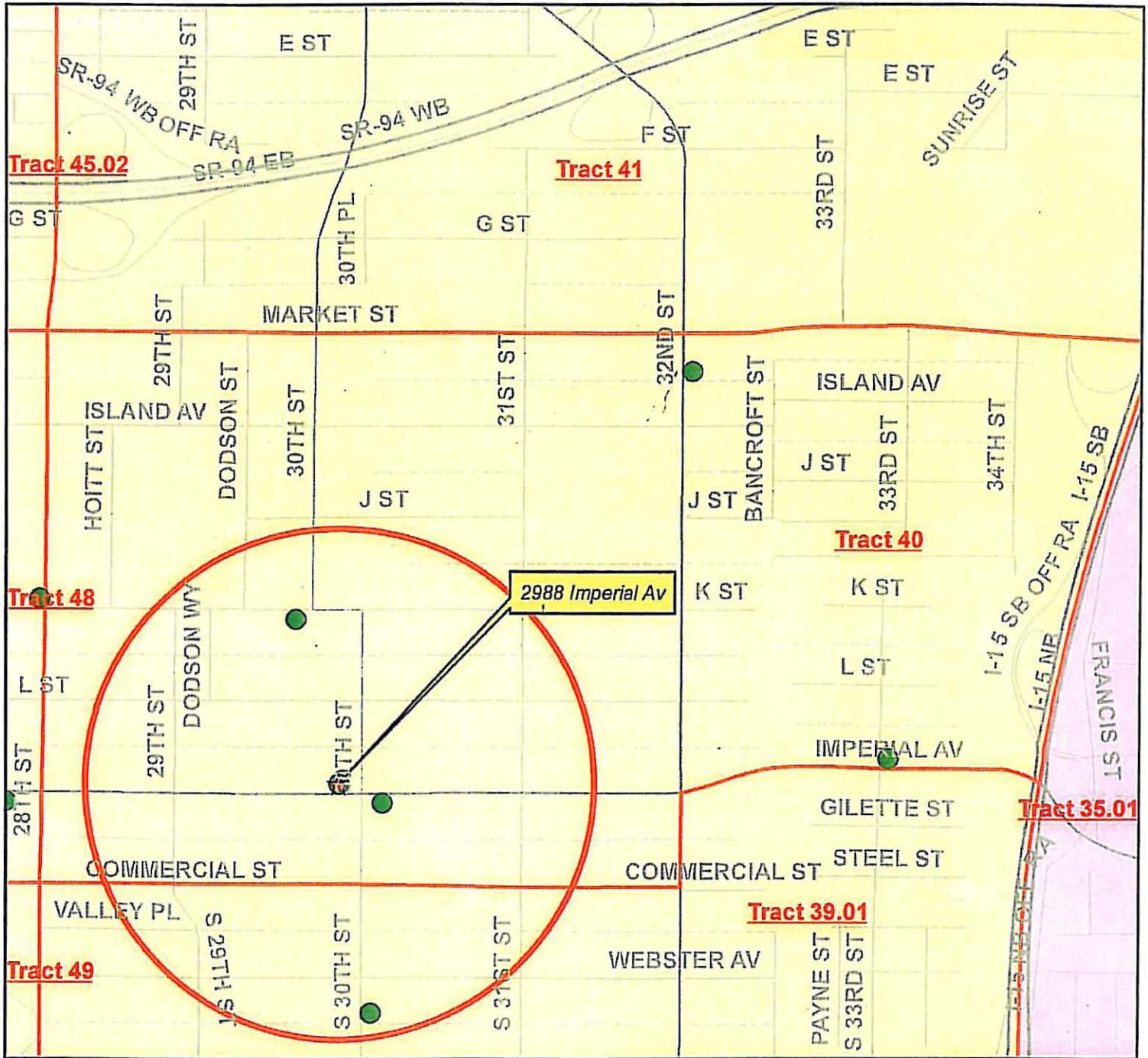


Aerial Photo
BRUNO'S MARKET - 2988 IMPERIAL AVE.
PTS 204786



Alcohol And Beverage Control Licenses (San Diego) 2988 Imperial Av. - 0.2 Mile Radius

ATTACHMENT 4



SanGIS San Diego Police Department
Crime Analysis Unit
February 2010

THIS MAP IS PROVIDED WITHOUT WARRANTY OF ANY KIND, EITHER EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. Copyright © 2010. All Rights Reserved.
This product may contain information from the SANDAG Regional Information System that cannot be reproduced without the written permission of SANDAG.
This product may contain information that has been reproduced with permission granted by Thomas Brothers Maps.

Note: Hot spot layer is extremely geographically limited in order to show only the very worst overconcentrations of liquor licenses. The intent is to indicate areas where the City Plan permits high concentration, and areas where concentrations have occurred independent of planning action.



- | | |
|---|----------------------------------|
| ■ Winegrower 2 | ▲ On Sale General Plane 46 |
| ● Off Sale Beer & Wine 20 | ▲ On Sale Large Boat 56 |
| ● Off Sale General 21 | ● On Sale Special 57 |
| ● On Sale Beer 40 | ○ Caterer 68 |
| ● On Sale Beer & Wine Eating Place 41 | ▲ On Sale General Dockside 62 |
| ● On Sale Beer & Wine Public Premise 42 | ● On Sale Theater 64 |
| ▲ On Sale Beer Boat 44 | ● Controlled Cabinate 66 |
| ▲ On Sale Beer & Wine Boat 45 | ● Bed & Breakfast 67 |
| ● On Sale General Eating Place 41 | ● Portable Bar 68 |
| ● On Sale General Public Premise 42 | ● On Sale General Restrictive 70 |
| ▲ On Sale General Club 50 | ● On Sale General Brew Pub 75 |
| ▲ Club 51 | ▲ On Sale General Museum 76 |
| ▲ Vets Club 52 | ● Event Permit 77 |
| ▲ On Sale General Boat 45 | |

ATTACHMENT 4



**California Department of Alcoholic Beverage
Control
For the County of SAN DIEGO - (Retail Licenses)
and Census Tract = 40**

Report as of 10/13/2010

License Number	Status	License Type	Orig. Iss. Date	Expir Date	Primary Owner and Premises Addr.	Business Name	Mailing Address	Geo Code
1) 319186	ACTIVE	21	5/29/1996	4/30/2011	MATTIA, NAMIR GERGES 543 32ND ST SAN DIEGO, CA 92102 Census Tract: 0040.00	DAVIDS FRIENDLY MARKET		3710
2) 321420	ACTIVE	21	9/18/1996	4/30/2011	MULLENS MARKET INC 3011 IMPERIAL AVE SAN DIEGO, CA 92102 Census Tract: 0040.00	MULLENS MARKET INC		3710
3) 372808	ACTIVE	21	2/16/2001	1/31/2011	ISSAK, ABDELAHAD F 2955 K ST SAN DIEGO, CA 92102 Census Tract: 0040.00	ALS FOOD MARKET		3710
4) 449995	ACTIVE	20	5/29/2007	4/30/2011	DANIEL, EMMANUEL 3302 IMPERIAL AVE SAN DIEGO, CA 92102-4329 Census Tract: 0040.00	LEWS MARKET		3710
5) 450460	SUREND	21	2/13/2007	3/31/2011	MIKHAEL, AMIR KAMIL 2988 IMPERIAL AVE SAN DIEGO, CA 92102-4126 Census Tract: 0040.00	RANCHO MARKET & LIQUOR	1806 HACIENDA DR EL CAJON, CA 92020-1058	3710

--- End of Report ---

For a definition of codes, view our [glossary](#).

PLANNING COMMISSION RESOLUTION NO.
CONDITIONAL USE PERMIT NO. 788948
SITE DEVELOPMENT PERMIT NO. 788954
BRUNO'S MARKET - PROJECT NO. 204786

WHEREAS, IMPERIAL AVENUE, LLC, Owner and IKHLAS JABRO, 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 No. 788948 and Site Development Permit No. 788954, on portions of a 0.32-acre site; and

WHEREAS, the project site is located at 2988 Imperial Avenue in the CSR-2/R-1500 Zone of Southeastern San Diego Planned District Ordinance within the Southeastern San Diego Community Plan; and

WHEREAS, the project site is legally described as Lots 47 and 48, Block 78, Seaman and Choate's Subdivision, Map No. 300; and

WHEREAS, on June 25, 2010, 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; and

WHEREAS, on October 20, 2010, the Hearing Officer of the City of San Diego APPROVED Conditional Use Permit No. 788948 and Site Development Permit No. 788954 pursuant to the Land Development Code of the City of San Diego; and

WHEREAS, on October 29, 2010, the decision of the Hearing Officer was appealed to the Planning Commission; and

WHEREAS, on December 9, 2010, the Planning Commission of the City of San Diego considered Conditional Use Permit No. 788948 and Site Development Permit No. 788954 pursuant to the Land Development Code of the City of San Diego; and

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

That the Planning Commission adopts the following written Findings, dated October 20, 2010.

Findings for Conditional Use Permit Approval – Section §126.0305:

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

The proposed development is within the Southeastern San Diego Community Planning area and designated for commercial land use. The existing food market has served the neighborhood since 1934

and had a previous liquor license up until 2007. In 2007, the original structure was damaged by fire and closed and the ABC license to sell alcohol was transferred to an alternative operator. The use of the site would continue to be a commercial land use and as such would not be detrimental to the applicable land use plan.

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

The proposed development was determined to be categorically exempt from the California Environmental Quality Act as an existing facility and no adverse environmental impacts would be created with the sale of beer and wine at this location. The development permit has been conditioned to limit the amount of exterior advertising so as to not promote underage drinking, ensure visibility into the store so law enforcement can maintain views into the facility, exterior lighting and signage to discourage loitering and make the corner location as safe as possible. Therefore, the proposed development would not be detrimental to the public health, safety or welfare.

3. The proposed development will comply to the maximum extent feasible with the regulations of the Land Development Code;

The proposed development complies with all applicable regulations of the Land Development Code and the South Eastern San Diego Planned District Ordinance. No deviation or variance is sought in conjunction with this development permit. Therefore, the proposed development would comply to the maximum extent possible with the regulations of the Land Development Code.

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

The proposed development was developed as a food market in 1934 and included the sale of beer and wine until destroyed by fire in 2007. The previous license to sell alcohol was transferred to a different operator after the fire. The market has served the community for 76 years at the same location and therefore the addition of limited alcohol sales should be considered appropriate at the proposed location.

Findings for Southeastern San Diego Development Permit Approval – Section §1519.0202:

5. The proposed use and project design meet the purpose and intent of the Southeastern San Diego Planned District Ordinance, comply with the recommendations of the Southeastern San Diego Community Plan, and will not adversely affect the General Plan or other applicable plans adopted by the City Council;

The proposed development meets the purpose and intent of the Southeastern San Diego Planned District Ordinance through compliance of the development regulations and the application and approval of a Conditional Use Permit and Site Development Permit for the limited sale of alcohol within the existing market. The proposed development complies with the recommendations of the Southeastern San Diego Community Plan by providing a commercial use consistent with the recommended land use and enhancing and reviving the existing commercial neighborhood. The use and operation of the site would not adversely affect the General Plan and would be consistent with adopted City Council Policies on land use.

6. The proposed development shall be compatible with existing and planned land use on adjoining properties and shall not constitute a disruptive element to the neighborhood and community. In addition, architectural harmony with the surrounding neighborhood and community shall be achieved as far as practicable;

The proposed development was constructed in 1934 and reconstructed and improved in 2007 after damaged by fire. The existing market has been a staple of the neighborhood for 76 years and is compatible with the existing and planned land use plans. The sale of alcohol has been limited and conditioned in a manner that would not pose a disruptive element in the neighborhood, including adequate lighting, signage and restrictions on pay phones, video games and advertising. The building is existing and the architectural style is part of the fabric and harmony of the surrounding community.

7. The proposed use, because of conditions that have been applied to it, will not be detrimental to the health, safety and general welfare of persons residing or working in the area, and will not adversely affect other property in the vicinity;

The proposed development was determined to be categorically exempt from the California Environmental Quality Act as an existing facility and no adverse environmental impacts would be created with the sale of beer and wine at this location. The development permit has been conditioned to limit the amount of exterior advertising so as to not promote underage drinking, ensure visibility into the store so law enforcement can maintain views into the facility, exterior lighting and signage to discourage loitering and make the corner location as safe as possible. Therefore, the proposed development would not be detrimental to the public health, safety or welfare.

8. The proposed use will comply with the relevant regulations of the Municipal Code.

The proposed development complies with all applicable regulations of the Land Development Code and the South Eastern San Diego Planned District Ordinance. No deviation or variance is sought in conjunction with this development permit. Therefore, the proposed development would comply with the relevant regulations of the Municipal Code.

BE IT FURTHER RESOLVED that, based on the findings hereinbefore adopted by the Planning Commission, the APPEAL is DENIED and Conditional Use Permit No. 788948 and Site Development Permit No. 788954 is hereby GRANTED by the Planning Commission to the referenced Owner/Permittee, in the form, exhibits, terms and conditions as set forth in Conditional Use Permit No. 788948 and Site Development Permit No. 788954 a copy of which is attached hereto and made a part hereof.

John P. Hooper
Development Project Manager
Development Services

Adopted on: December 9, 2010

Job Order No. 24000687

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: 24000687

SPACE ABOVE THIS LINE FOR RECORDER'S USE

CONDITIONAL USE PERMIT NO. 788948
SITE DEVELOPMENT PERMIT NO. 788954
BRUNO'S MARKET - PROJECT NO. 204786
PLANNING COMMISSION

This Conditional Use Permit No. 788948 and Site Development Permit No. 788954 is granted by the Planning Commission of the City of San Diego to IMPERIAL AVENUE LLC, Owner, and IKHLAS JABRO, Permittee, pursuant to San Diego Municipal Code [SDMC] sections 126.0305 and 1519.0202 . The 0.32 -acre site is located at 2988 Imperial Avenue in the CSR-2/R-1500 Zone of Southeastern San Diego Planned District Ordinance within the Southeastern San Diego Community Plan. The project site is legally described as: Lots 47 and 48, Block 78, Seaman and Choate's Subdivision, Map No. 300.

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 October 20, 2010, on file in the Development Services Department.

The project shall include:

- a. An existing 6,600 square-foot food market
- b. The operation of an alcoholic beverage outlet conditioned upon the issuance of a license from the State Department of Alcoholic Beverage Control];
- b. Landscaping (planting, irrigation and landscape related improvements);
- c. Off-street parking;

- 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.
2. This Conditional Use Permit [CUP] and corresponding use of this site shall expire on December 9, 2040. Upon expiration of this Permit, the facilities and improvements dedicated to the sale of alcohol and 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/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. Once the Conditional Use Permit (CUP) is recorded the applicant shall provide documentation to the Development Services Project Manager that the following work has been completed:

- Damaged portions of the sidewalk will be reconstructed with City Standard sidewalk, maintaining the existing sidewalk scoring pattern, adjacent to the site on Imperial Avenue; and
- The curb ramp at the northwest corner of Imperial Avenue and 30th Street will be reconstructed, with current City Standard curb ramp Standard Drawing SDG-130 and SDG-132 with truncated domes; and
- The existing curb ramps on both sides of the alley entrance, adjacent to the site, will be reconstructed with current City Standard Drawing SDG-136 with truncated domes, all to the satisfaction of the City Engineer.

If this work is not completed within 60 days of the public hearing approval of the CUP the Permittee 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/DESIGN REQUIREMENTS:

14. Owner/Permittee shall maintain a minimum of eighteen (18) off-street parking spaces, including one (1) accessible space 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.

15. All signs associated with this development shall be consistent with sign criteria established by either the approved Exhibit "A" or City-wide sign regulations.

16. All private outdoor lighting shall be shaded and adjusted to fall on the same premises where such lights are located and in accordance with the applicable regulations in the SDMC.

17. The sales of alcoholic beverage shall be permitted between the hours of 7:00 a.m. and Midnight.

18. There shall be no amusement machines or video games in the premises at any time.

19. No payphone will be permitted in the interior or on the exterior of the premises.

20. The owner or operator shall provide illumination, at a minimum level of 0.4 foot candles per square foot, on the exterior of the alcoholic beverage outlet, including adjacent public sidewalks and areas under the control of the owner or operator. The illumination shall be in

operation during all hours of darkness while the outlet is open for business so that persons standing on or near the *premises* at night are identifiable by law enforcement personnel. The required illumination shall be shielded and directed so that it does not shine on adjacent properties.

21. The *sign* area pertaining to or referencing alcoholic sales or beverages shall not exceed 630 square inches.

22. A maximum of 33 percent of the square footage of the windows and doors of the *premises* may bear advertising or *signs* of any sort, and all advertising and *signs* shall be placed and maintained in a manner that ensures that law enforcement personnel have a clear and unobstructed view of the interior of the outlet.

23. The owner or operator of the alcoholic beverage outlet shall post a prominent, permanent *sign* or *signs* stating, "No loitering, No consumption of alcoholic beverages, or open alcoholic beverage containers are allowed inside the *premises*, in the parking area, or on the public sidewalks adjacent to the *premises*."

POLICE DEPARTMENT RECOMMENDATIONS FOR ABC LICENSE:

- 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.
- Wine shall not be sold with an alcoholic content greater than 15 percent by volume.
- Sale space dedicated to alcoholic beverages should not exceed 50 square feet.

INFORMATION ONLY:

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

APPROVED by the Planning Commission of the City of San Diego on December 9, 2010 and Resolution Number _____.

Permit Type/PTS Approval No.:
Date of Approval:

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.**

[IMPERIAL AVENUE, LLC]
Owner

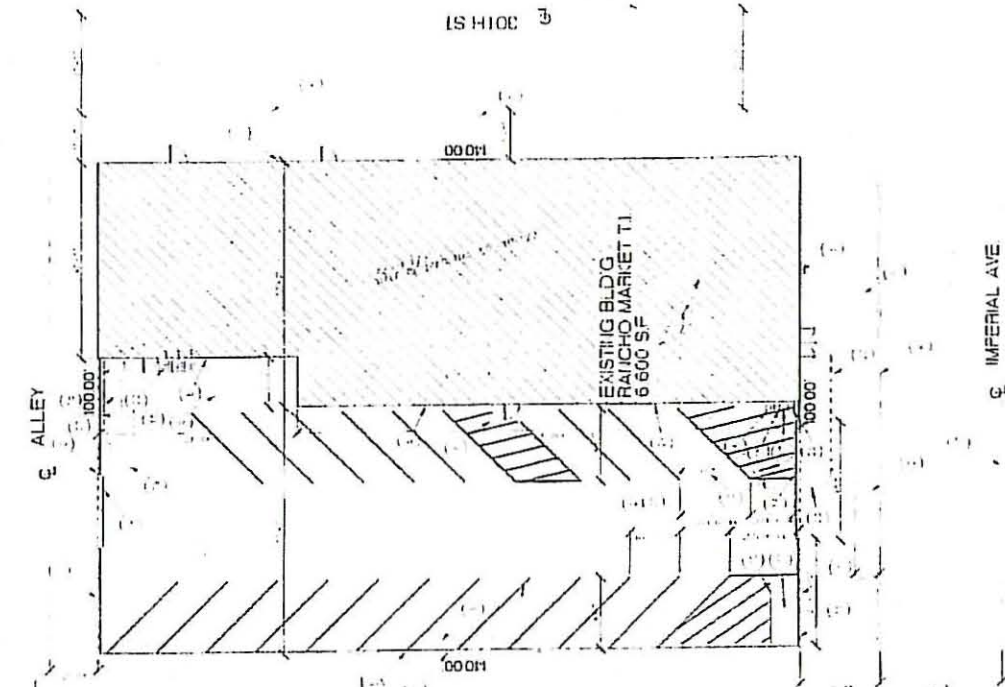
By _____
Ilkhas Jabro
TITLE

[NAME OF COMPANY]
Owner/Permittee

By _____
NAME
TITLE

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

RANCHO MARKET
 HIRSHAT JABRO
 2900 IMPERIAL AVE.
 SAN DIEGO, CA 92102
 JANUARY 11, 2011



SITE PLAN

A100

KEY NOTES

1. ALL DIMENSIONS ARE TO FACE UNLESS NOTED OTHERWISE.

2. THE EXISTING BUILDING IS TO BE DEMOLISHED AND A NEW BUILDING IS TO BE CONSTRUCTED IN ITS PLACE.

3. THE NEW BUILDING IS TO BE CONSTRUCTED TO THE EXISTING FOUNDATION.

4. THE NEW BUILDING IS TO BE CONSTRUCTED TO THE EXISTING ROOF.

5. THE NEW BUILDING IS TO BE CONSTRUCTED TO THE EXISTING WALLS.

6. THE NEW BUILDING IS TO BE CONSTRUCTED TO THE EXISTING FLOOR.

7. THE NEW BUILDING IS TO BE CONSTRUCTED TO THE EXISTING CEILING.

8. THE NEW BUILDING IS TO BE CONSTRUCTED TO THE EXISTING ROOF.

9. THE NEW BUILDING IS TO BE CONSTRUCTED TO THE EXISTING WALLS.

10. THE NEW BUILDING IS TO BE CONSTRUCTED TO THE EXISTING FLOOR.

11. THE NEW BUILDING IS TO BE CONSTRUCTED TO THE EXISTING CEILING.

12. THE NEW BUILDING IS TO BE CONSTRUCTED TO THE EXISTING ROOF.

13. THE NEW BUILDING IS TO BE CONSTRUCTED TO THE EXISTING WALLS.

14. THE NEW BUILDING IS TO BE CONSTRUCTED TO THE EXISTING FLOOR.

15. THE NEW BUILDING IS TO BE CONSTRUCTED TO THE EXISTING CEILING.

16. THE NEW BUILDING IS TO BE CONSTRUCTED TO THE EXISTING ROOF.

17. THE NEW BUILDING IS TO BE CONSTRUCTED TO THE EXISTING WALLS.

18. THE NEW BUILDING IS TO BE CONSTRUCTED TO THE EXISTING FLOOR.

19. THE NEW BUILDING IS TO BE CONSTRUCTED TO THE EXISTING CEILING.

20. THE NEW BUILDING IS TO BE CONSTRUCTED TO THE EXISTING ROOF.

SITE NOTES

1. THE SITE IS TO BE GRADENED TO THE EXISTING FINISH GRADE.

2. THE SITE IS TO BE GRADENED TO THE EXISTING FINISH GRADE.

3. THE SITE IS TO BE GRADENED TO THE EXISTING FINISH GRADE.

4. THE SITE IS TO BE GRADENED TO THE EXISTING FINISH GRADE.

5. THE SITE IS TO BE GRADENED TO THE EXISTING FINISH GRADE.

6. THE SITE IS TO BE GRADENED TO THE EXISTING FINISH GRADE.

7. THE SITE IS TO BE GRADENED TO THE EXISTING FINISH GRADE.

8. THE SITE IS TO BE GRADENED TO THE EXISTING FINISH GRADE.

9. THE SITE IS TO BE GRADENED TO THE EXISTING FINISH GRADE.

10. THE SITE IS TO BE GRADENED TO THE EXISTING FINISH GRADE.

11. THE SITE IS TO BE GRADENED TO THE EXISTING FINISH GRADE.

12. THE SITE IS TO BE GRADENED TO THE EXISTING FINISH GRADE.

13. THE SITE IS TO BE GRADENED TO THE EXISTING FINISH GRADE.

14. THE SITE IS TO BE GRADENED TO THE EXISTING FINISH GRADE.

15. THE SITE IS TO BE GRADENED TO THE EXISTING FINISH GRADE.

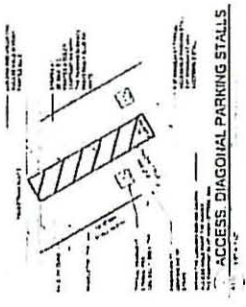
16. THE SITE IS TO BE GRADENED TO THE EXISTING FINISH GRADE.

17. THE SITE IS TO BE GRADENED TO THE EXISTING FINISH GRADE.

18. THE SITE IS TO BE GRADENED TO THE EXISTING FINISH GRADE.

19. THE SITE IS TO BE GRADENED TO THE EXISTING FINISH GRADE.

20. THE SITE IS TO BE GRADENED TO THE EXISTING FINISH GRADE.



ACCESS DIAGONAL PARKING STALLS

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

PREMISE ADDRESS: 2988 Imperial Avenue

TYPE OF BUSINESS: Supermarket (Brunos Market)

FEDERAL CENSUS TRACT: 0040.

NUMBER OF ALCOHOL LICENSES ALLOWED: 4

NUMBER OF ALCOHOL LICENSES EXISTING: 5 (Over-concentrated)

CRIME RATE IN THIS CENSUS TRACT: 177.2% - High Crime
(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 census tract currently has four other active off-sale license, therefore the census tract will not be adversely impacted by the issuance of this license. The applicant intends to maintain the establishment primarily as a supermarket, selling a variety of staples and food items. The sale of alcohol will be an accessory and not the primary commodity. The applicant plans to maintain approximately 50 sq ft of display space dedicated to the sale of alcoholic beverages.

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

1. Sales of alcoholic beverages shall be permitted only between the hours of 7:00 AM and 12:00 AM Midnight each day of the week.
2. Wine shall not be sold in bottles or containers smaller than 750 ml and wine coolers or beer coolers must be sold in manufacturer pre-packaged multi-unit quantities.
3. No wine shall be sold with an alcoholic content greater than 15% by volume except for "Dinner Wines" which have been aged two years or more.
4. Beer, malt beverages or wine cooler products, regardless of container size, shall not be sold in single quantities, but must be sold in manufacturer pre-packaged multi-unit quantities.

5. The petitioner(s) shall post and maintain a professional quality sign facing the premises parking lot(s) that reads as the following: NO LOITERING, NO LITTERING, NO DRINKING OF ALCOHOLIC BEVERAGES. VIOLATORS ARE SUBJECT TO ARREST. The sign shall be at least two feet square with two inch block lettering. The sign shall be in English and Spanish.
6. Any graffiti painted or marked upon the premises or on any adjacent area under the control of the licensee(s) shall be removed or painted over within 48 hours of being applied.
7. There shall be no exterior advertising or sign of any kind or type, including advertising directed to the exterior from within, promoting or indicating availability of alcoholic beverages. Interior displays of alcoholic beverages or signs which are clearly visible to the exterior constitute a violation of this condition.
8. There shall be no amusement machines or video game devices in the premises at any time.
9. No pay phone will be maintained on the interior or exterior of the premises.

SAN DIEGO POLICE DEPARTMENT RECOMMENDATION:

APPROVE X

DENY _____

Sgt. Andra Brown
Name of SDPD Vice Sergeant (Print) 3950

(619) 531-2349
Telephone Number

Sgt. Andra Brown
Signature of SDPD Vice Sergeant 3950

03-22-10
Date of Review

**CITY OF SAN DIEGO
M E M O R A N D U M**

DATE: 10/13/2010
TO: Sgt. Andra Brown, Vice Unit
FROM: Joe Dalton, Crime Analysis
SUBJECT: Off Sale

Search Criteria:

2988 Imperial Av.
Jan. 1, 2008 to Dec. 31, 2008

Request Summary:

The owners are requesting a type 20 (Off-Sale Beer & Wine ABC licenses at the subject address. Supply ABC Board required statistics and any relevant supplemental information to assist in the evaluation of this application.

Results Summary:

Calls for Service - There was 1 service call to the address for January 1, 2008 to December 31, 2008 with an out of service time of 0.0 hours. 2009 calls are included in the packet.

MOI11 - There were 0 arrests at the location and 203 arrests within a 0.2-mile radius from the location in 2008.

CCS50I - There were 0 crime cases at the location and 147 crime cases within a 0.2-mile radius from the location in 2008.

ABC Report - The requested address is located in federal census tract 40.00 based on ARJIS geographical coding. I reviewed the static ABC report for 2008. The report shows that census tract 40.00 has a percent total crime rate of 177.2%. Please note that anything 120% or above is considered a high crime area. I also pulled the alcohol related arrests and citations for census tracts within the city and found that census tract 40.00 had 132 in 2008.

MAP - The attached map displays the location of current ABC licenses within federal census tract 40.00 as well as the requested location.

If you have any questions regarding this report, call me at 531-1536.

Joe Dalton
Crime Analyst

B. BRUNO'S MARKET, 2988 Imperial Ave., Project #204786, CUP Application

Conditional Use Permit (CUP) application for off-sales beer and wine. Southeastern Development Permit (SDP) will be processed as a Site Development Permit concurrently with this CUP application. Site is a 6,600SF building. Presenter: Michael Jabro.

Presentation:

- Interior and exterior had been previously damaged by fire, while occupied by previous tenant.
- Hours of operation will be from 7:00AM-11:00PM, 7 days/week.
- Parking consists of 13 off-street spaces and 1 handicap space.
- Previous tenant had an off-site sales license for beer, wine, and distilled spirits, which was transferred to a new store to be built a couple of doors to the west of this site.

Committee Concerns:

1. Bruno's Market is in Census Tract 46 and this will be the 6th license in that area, resulting in a questionable over saturation since this is a high crime area, with a Crime Rate of 177.2% and according the Alcoholic Beverages Control Board (ABC) 4 licenses are the limit for this Census Tract based on the population. Furthermore, an Administrative Law Judge can deny a liquor license in Census Tracts having Crime Rates of 120% or more.

Documents Provided:

1. Presented 14 pictures of renovated buildings and market previously know as "Rancho Market."
2. Project Assessment Letter and Project Tracking Report, (PTS) dated May 3, 2010, and July 23, 2010.
3. Police Department Recommendations, dated March 22, 2010.
4. Police Department Liquor CUP Recommendations dated, March 22, 2010, and June 16, 2010.
5. Area Crime Data dated June 17, 2010.
6. Site Plan, A100; and, Floor Plan A200.
7. Environmental Document - Notice of Exemption dated June 25, 2010.
8. Petition signed by customers of Bruno's Market supporting liquor sales.

Committee Consensus: Recommend Support to the Planning Group with the following conditions:

1. That all the Project Tracking System, (PTS), issues be cleared.
2. That the Police Department Recommendations be implemented.

Patrick, The foregoing is from the Projects Committee meeting held on July 26, 2010....

In answer to your question:

The Motion made by the Southeaster San Diego Planning Group:

Motion: to recommend support of the July 26, 2010, Projects Committee of support with conditions:

1. That all the Project Tracking System (PTS) issues be cleared; and,
2. That the Police Departments Recommendations be addressed and implemented.

VOTE: 5-5-0 Motion Failed.

* needs amendment



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 Brunos Market Project No. For City Use Only _____

Project Address:
2988 Imperial Ave., 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):
Ikhlas Jabro
 Owner Tenant/Lessee Redevelopment Agency
Street Address:
11341 Treyburn Way
City/State/Zip:
San Diego, CA 92131
Phone No: 658-693-8799 Fax No: 619-528-2287
Signature: Ikhlas Jabro Date: 2/16/2010

Name of Individual (type or print):
Hikmat Jabro
 Owner Tenant/Lessee Redevelopment Agency
Street Address:
11341 Treyburn Way
City/State/Zip:
San Diego, CA 92131
Phone No: 658-693-8799 Fax No: 619-528-2283
Signature: Hikmat Jabro Date: 2/16/2010

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: _____

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.: 204786

PROJECT TITLE: BRUNOS MARKET

PROJECT LOCATION-SPECIFIC: 2988 Imperial Avenue, San Diego, California 92102

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

DESCRIPTION OF NATURE AND PURPOSE OF THE PROJECT: Neighborhood Use Permit to re-establish a Type 20 alcohol license for an existing grocery market.

NAME OF PUBLIC AGENCY APPROVING PROJECT: City of San Diego

NAME OF PERSON OR AGENCY CARRYING OUT PROJECT: Hikmat Jabro, Applicant
 2988 Imperial Avenue
 San Diego, CA 92102
 (619) 719-3059

EXEMPT STATUS: (CHECK ONE)

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

REASONS WHY PROJECT IS EXEMPT: The City of San Diego conducted an Initial Study that determined that the project would not have the potential for causing a significant effect on the environment. The project meets the criteria set forth in CEQA Section 15301 which allows for the operation, repair, maintenance, permitting, 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 re-establishment of a Type 20 alcohol license for an existing grocery market is a negligible expansion. In addition; the exceptions listed in CEQA Section 15300.2 would not apply.

LEAD AGENCY CONTACT PERSON: Rhonda Benally

TELEPHONE: (619) 446-5468

IF FILED BY APPLICANT:

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

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


Rhonda Benally / Senior Planner
 SIGNATURE/TITLE

DATE

CHECK ONE:

- SIGNED BY LEAD AGENCY
 SIGNED BY APPLICANT

DATE RECEIVED FOR FILING WITH COUNTY CLERK OR OPR:

 <p>City of San Diego Development Services 1222 First Ave. 3rd Floor San Diego, CA 92101 (619) 446-5210</p>	<p>RECEIVED CITY OF SAN DIEGO OCT 29 PM 3:22</p>	<p>Development Permit/ Environmental Determination Appeal Application</p>	<p>FORM DS-3031 MARCH 2007</p>
	<p>THE CITY OF SAN DIEGO</p>		

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

1. Type of Appeal:
- Process Two Decision - Appeal to Planning Commission
 - Process Three Decision - Appeal to Planning Commission
 - Process Four Decision - Appeal to City Council
 - Environmental Determination - Appeal to City Council
 - Appeal of a Hearing Officer Decision to revoke a permit

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

Name: Sylvia Bengay
 Address: 2974 Imperial Ave City SD State CA Zip Code 92102 Telephone 619-756-0003

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

4. Project Information Permit/Environmental Determination & Permit/Document No.: <u>Conditional Use Permit Exempt Environmental</u>	Date of Decision/Determination: <u>OCT-20 2010</u>	City Project Manager: <u>Patrick Hooper</u>
---	---	--

Decision (describe the permit/approval decision):

Process 3
Project # 204786

5. Grounds for Appeal (Please check all that apply)
- Factual Error (Process Three and Four decisions only)
 - Conflict with other matters (Process Three and Four decisions only)
 - Findings Not Supported (Process Three and Four decisions only)
 - New Information (Process Three and Four decisions only)
 - City-wide Significance (Process Four decisions only)

Description of Grounds for Appeal (Please relate your description to the allowable reasons for appeal as more fully described in Chapter 11, Article 2, Division 5 of the San Diego Municipal Code. Attach additional sheets if necessary.)

Please see attached:
map of area lig noted:
Melius - 50 Feet away to the East (south East)
Rancho Market 50 feet to the west
Hand Lig = 100 yards to the south
Al's Lig = Block away to the North K street
Post A = on K street 28th street 2 blocks away -
Missing Performance Facts: Not a new building as
stated in July meeting.
MAY I see or hear transcript from closed door
meeting?

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

Signature: [Signature] Date: 10-29-10
619-756-0003

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

Sylva Bungay

2974 imperial Ave. 92102

Re: Against Bruno's Market getting Beer and Wine. # 204786

RECEIVED
CLERK'S OFFICE

10 OCT 29 PH 3:26

SAN DIEGO, CALIF.

To whom it may concern:

I was content in sitting and just listening to the council proceedings. But when I saw heard the misleading statements made by applicants I had to stand up and speak. I am sure because of the time constraints you did not have time to notice or act on them. I ask you to please use these appeal procedures you have in place to get the truth and do what is just. You have no bigger supporter of the system than me, I am sure my trust is not misplaced.

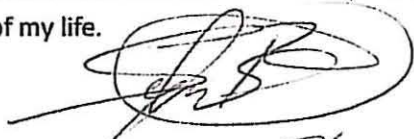
When I heard the applicants mention that they had a clean liquor license and a detractor showed the contrary, I knew that was serious enough to make a difference. Conduct your own investigation and act on it. Perjury may be too strong of a word but certainly their lawyer should have been aware of not to mislead your sitting council of that day. (Did their lawyer disclose he was a lawyer? I can't make pretend I know the law because I don't, but I thought we could not have a lawyer speak in these proceedings. I could be wrong).

What was also downplayed by the applicants is that the saturation point of Beer and Wine License is somewhat over the tipping point. Not 50 feet away is Mullins whom the applicants depicted as a drug haven that brought fear to those in the neighborhood. Let me say that many times I have purchased from Mullins and have received good service and by no means was I scared. Just felt I had to say that on behalf of Mullins who was not there at the meeting.

Under 100 feet to the west you have Rancho Market who already has their License, I know Rancho Market played by the rules and complied with your city council ant they are truly neighborhood supporters not out just to look good for self gain. I know they have made individual and family sacrifices based on your past city council verdicts to make a go at their new store. This is the way the system should work. Work with the system not abuse it or make a farce of it. Lol, doing it the right way does not always mean it is the easy or most expedient way. I am proud to know them they are working hard to get their store ready. They will be good for the neighborhood.

I leave it up to you to seek out the truth and be strong enough to do what is right. No more closed door meetings please. Look at your own records of the meeting Aug.13th2008.in which you said no liquor license will be issued on 2988 Imperial Avenue. We trusted you then we trust you now. I know that your position as city council is not an easy one. You have to try to please all. All I ask is for you to enforce your rule Aug. 13. 2008 and don't be lied to or mislead. We count on that. Deny the license on 2988 Imperial or at least postpone and investigate and get to the truth.

I am not afraid to speak out despite the threats to others around me, seek me out, I will talk. I hope my speaking out wont cost me more than I can afford, but I know keeping quite will change me for the worse for the rest of my life.

 10-29-10
Please don't Discard