

(R-88-1234)

RESOLUTION NUMBER R-269480

ADOPTED ON OCTOBER 13, 1987

WHEREAS, on May 8, 1987, the Zoning Administrator held a public hearing to consider the request of Robert J. Jadow, owner, and Talal M. Habi, lessee, Case No. C-19562, to sell beer and wine at a grocery store where the establishment of an alcohol outlet is permitted by Conditional Use Permit - Lots 32 through 40, Block 18, Reed Hubble's Addition, Map 327, located at 2850 Main Street, Suite I, in Area B of the Barrio Logan Planned District; and

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

WHEREAS, the Zoning Administrator considered the report and recommendation of the San Diego Police Department; and

WHEREAS, the Zoning Administrator found that the proposed request could not be approved as submitted. The subject property is located in Census Tract 39.00. The number of reported crimes in this census tract is one hundred forty-eight percent (148%) above the city-wide average. There are currently seven (7) off-sale outlets licensed by the State Department of Alcohol and Beverage Control ("ABC") in this census tract. The ABC in accordance with California Administrative Code, Title 4,

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Section 61.3, has designated the census tract as having a condition of undue concentration. The Police Department spoke in opposition to the issuance of another ABC license in the area because of the high crime rate. It cited prostitution and gang related crime as particular problems in the immediate area of the requested CUP. Nearby residents did advocate approval of the request for convenience shopping; and

WHEREAS, the Zoning Administrator reviewed that all of the licensed, off-sale outlets in the census tract were located north of Interstate 5 and that the closest outlet was located on National Avenue, thus distinguishing this outlet by geographic separation in terms of distance and Interstate 5. Consistent with this distinction, it is intended that this establishment serve the adjacent residents, specifically second-floor tenants in this complex and not the community at large; and

WHEREAS, the Zoning Administrator found that the proposed use would adversely affect the health, safety and general welfare of neighborhood residents; and

WHEREAS, the Zoning Administrator found that the proposed use would result in an undue concentration of establishments dispensing alcoholic beverages as defined by the State ABC, Rule 61.3 or as determined by the Zoning Administrator; and

WHEREAS, the Zoning Administrator found that the proposed use if approved would not be located within three hundred (300) horizontal feet of a church, school, hospital, public park or recreational area, or a social welfare institution; and

WHEREAS, the Zoning Administrator denied the Conditional Use Permit as requested but approved it subject to the following conditions:

1. That no wine shall be sold with an alcoholic content greater than 15% by volume and in containers less than seven hundred fifty (750) milliliters;

2. That no malt beverage products shall be sold in less than six (6) pack quantities per sale;

3. That no refrigerated or otherwise chilled alcoholic beverages shall be sold or maintained on the licensed premises;

4. That no alcoholic beverages shall be sold or delivered except between the hours of 8:00 a.m. and 11:00 p.m. of each day of the week;

5. That no pool tables or coin-operated amusement devices shall be maintained on the licensed premises;

6. That no signs that are visible from the exterior shall be maintained on the premises;

7. That all alcoholic beverages shall be displayed in the rear of the store on the last row of shelving. The shelving to be maximum of three feet (3') wide and one and one-half feet (1½') deep. Six (6) such shelves may be used for displaying alcoholic beverages;

8. That this Permit shall be subject to review in six (6) months;

9. That this Conditional Use Permit shall be signed and notarized by the applicant and returned to the Zoning Administrator to be recorded with the County Recorder within thirty (30) days of receipt of this resolution; and

WHEREAS, on July 1, 1987, the Board of Zoning Appeals considered the appeal of Robert J. Jadow, owner, and Tahal M. Habi, lessee, in the above referenced case; and

WHEREAS, in arriving at their decision, the Board of Zoning Appeals considered the Zoning Administrator's decision, considered the staff report and the plans and materials submitted prior to and at the public hearing, conducted an inspection of the subject property and heard public testimony presented at the hearing; and

WHEREAS, the Board of Zoning Appeals considered the report and recommendation of the San Diego Police Department; and

WHEREAS, the Board of Zoning Appeals found that the conditions imposed were too restrictive, and their findings are incorporated herein by this reference; and

WHEREAS, in light of their findings, the Board of Zoning Appeals granted the appeal, modified the decision of the Zoning Administrator and approved the request subject to conditions; and

WHEREAS, on October 13, 1987, the City Council considered the appeal of the San Diego Police Department, by Sgt. Steven D. Creighton, from the approval with conditions of the Board of Zoning Appeals; and

WHEREAS, in arriving at its decision, the City Council reviewed the appellants' testimony and the decisions of the Zoning Administrator and the Board of Zoning Appeals and heard public testimony on this matter; and

WHEREAS, the City Council found the census tract had an undue concentration of off-sale alcohol outlets as determined by the ABC, and that the number of reported crimes was higher than the City average, and that some residents from the neighborhood were not in favor of any more off-sale alcohol outlets in the census tract due to the high crime rate; and

WHEREAS, other nearby residents did advocate approval of the CUP as originally requested for convenience shopping and the manager of the subject property told the City Council that a security guard would be on the property from 11:00 a.m. to 10:00 p.m.; and

WHEREAS, The City Council found that the applicant's proposed use would adversely affect the health, safety and general welfare of neighborhood residents; NOW, THEREFORE,

BE IT RESOLVED, by the Council of The City of San Diego, that the appeal of the San Diego Police Department, by Sgt. Steven D. Creighton, from the decision of the Board of Zoning Appeals is granted, and the applicant's request is approved subject to the conditions as set forth by the Zoning Administrator with condition No. 8 modified to read as follows:

8. That the Permit shall be subject to review by the City Council in six (6) months.

BE IT FURTHER RESOLVED, that the City Manager is hereby directed to report back to the City Council on the decision by the Alcoholic Beverage Control Board decision regarding the project.

BE IT FURTHER RESOLVED, that the decision of the City Council shall be final.

APPROVED: JOHN W. WITT, City Attorney

By


Allisyn L. Thomas
Deputy City Attorney

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Or.Dept:Clerk
R-88-1234
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Passed and adopted by the Council of The City of San Diego on..... OCT 13 1987.....
by the following vote:

Council Members	Yeas	Nays	Not Present	Ineligible
Abbe Wolfsheimer	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Bill Cleator	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Gloria McColl	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
District 4	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> VACANT
Ed Struiksma	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Mike Gotch	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Judy McCarty	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Celia Ballesteros	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Mayor Maureen O'Connor	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

AUTHENTICATED BY:

MAUREEN O'CONNOR
Mayor of The City of San Diego, California.

(Seal)

CHARLES G. ABDELNOUR
City Clerk of The City of San Diego, California.

By *Ellen Boyard* Deputy.

Office of the City Clerk, San Diego, California

Resolution Number *R-269480* Adopted *OCT 13 1987*