

RESOLUTION NUMBER R-288832

ADOPTED ON JUNE 10, 1997

WHEREAS, at a noticed public hearing of the Council of the City of San Diego (the "Council"), National Enterprises, Inc., for San Diego Investments #1 LLC., Sam's Super Food, Mike Gardy, Lessee ("Sam's Super Food"); and Geralda Stryker, Chairperson, on behalf of the City Heights Area Planning Committee, appealed the decision of the Board of Zoning Appeals which partially approved a request to amend a Conditional Use Permit regarding Sam's Super Food market located at 4111 Home Avenue, and more particularly described as Lot 1, Terrace View Villas, Map 11840, in the Mid-City Community Plan area, in the CN (Neighborhood Commercial) zone; and

WHEREAS, the matter came to the Council for public hearing on June 10, 1997, at which time testimony was heard and evidence was submitted; and

WHEREAS, the Council was fully advised and fully considered the matter before them;

NOW, THEREFORE,

BE IT RESOLVED, by the Council of The City of San Diego, that the request to amend Conditional Use Permit No. C-20805 by Sam's Super Food, Mike Gardy, Lessee, for property located at 4111 Home Avenue be denied based on the following findings of fact:

1. That the applicant's proposed intensification of the use, including specifically his requests to:

(a) Increase the amount of interior building space dedicated to the sale of beer and wine from 115 square feet to 640 square feet;

(b) Extend the hours of operation of the business from its current 6:00 a.m. to 12:00 a.m. daily hours, to 6:00 a.m. to 2:00 a.m.;

(c) Increase the allowable window advertising relating to alcoholic beverages to 630 square inches (33 percent of window area);

(d) Sell malt liquor and fortified wines; and

(e) Sell single can alcohol containers;

would be detrimental to the health and safety of the surrounding community.

2. That in the census tract where this use is located (Census Tract 34.01) there are presently seven "off-sale" establishments where five would be permitted based on the population of the census tract. Because of the over concentration of "off-sale" establishments, to allow an intensification of this use by approving the modifications to the existing operational standards of the facility beyond what were approved in 1991 would encourage the consumption of alcohol in close proximity to residentially zoned property and a child care center. This would, in turn, detrimentally effect both the uses immediately adjacent to Sam's Super Food as well as the surrounding community.

3. That the operational limitations approved on August 2, 1991, as part of the original permit were sufficient to ensure the continued compatible operation of this use on the subject property with adjacent residential uses.

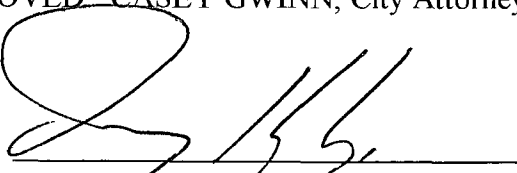
4. That the applicant's argument concerning equitable use of his property compared to other businesses nearby was not compelling due to the fact that the property on which the use is located is zoned CN (Neighborhood Commercial). The property was zoned CN because of its close proximity to residential uses to the south. This zone was in place at the time the Conditional Use Permit was initially approved and at the time the present lessee leased the property. The

properties located to the north and east, which have commercial uses to sell alcohol, are zoned CA (Area Shopping Center) and are subject to different use restrictions than is the property located at 4111 Home Avenue.

5. That it was the City's clear intent, by placing different zones on these properties, to apply different use allowances to the effected properties.

BE IT FURTHER RESOLVED, that the appeal of National Enterprises, Inc., for San Diego Investments #1 LLC, Sam's Super Food, Mike Gardy, Lessee, is denied; the appeal of Geralda Stryker, Chairperson, on behalf of the City Heights Area Planning Committee, is granted; and the original Conditional Use Permit No. C-20805 remains in effect.

APPROVED: CASEY GWINN, City Attorney

By 
Douglas K. Humphreys
Deputy City Attorney

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07/25/97
Or.Dept:Clerk
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