



Los Angeles County
Department of Regional Planning

Planning for the Challenges Ahead



Richard J. Bruckner
Director

May 3, 2011

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Christina Hernandez
8279 Bryn Glen Way
San Diego, CA 92129

**REGARDING: PROJECT NUMBER 85014-(2)
NONCONFORMING REVIEW NUMBER 201000011
1158 EAST 88TH PLACE, FLORENCE-FIRESTONE**

Dear Applicant:

Hearing Officer Alex Garcia, by his action of May 3, 2011, **APPROVED** the above described project and entitlements. The attached documents contain the Hearing Officer's findings and conditions relating to the approval. Please carefully review each condition. Condition No. 3 requires that the permittee file an affidavit accepting the conditions before the grants becomes effective.

The applicant or and other interested person may appeal the Hearing Officer's decision to the Regional Planning Commission at the office of the Commission secretary, Room 1350, Hall of Records, 320 West Temple Street, Los Angeles, California 90012. Please contact the Commission secretary for the appeal procedures and fee at (213) 974-6409. **The appeal period for this project will end at the 5:00 p.m. on May 17, 2011.** Any appeal must be delivered in person to the commission secretary by this time. If no appeal is filed during the specified period, the Hearing Officer's action is final.

Upon completion of the appeal period, please notarize the attached acceptance forms and **hand deliver** this form and any other required fees or materials to the planner assigned to your case. Please **make an appointment** with the case planner to assure that processing will be completed expeditiously.

For further information on appeal procedures or any other matter pertaining to these approvals, please contact Tyler Montgomery of the Zoning Permits West Section at (213) 974-6462 or e-mail at TMontgomery@planning.lacounty.gov. Our office hours are Monday through Thursday, 7:30 a.m. to 5:30 p.m. We are closed on Fridays.

Sincerely,

Richard J. Bruckner
Director

Mi Kim, Acting Section Head
Zoning Permits West Section

Enclosures: Findings and Conditions, Affidavit (Permittee's Completion)

c: Applicant; DPW (Building and Safety); Commission Services

MK:TM

HEARING OFFICER'S FINDINGS AND ORDER:

PROJECT NO. 85014-(2)

NONCONFORMING REVIEW NO. 201000011

REQUEST: Pursuant to the provisions of Section 22.56, Part 1 of the Los Angeles County Planning and Zoning Code ("Title 22"), a nonconforming review to authorize the continued operation and maintenance of a market and a single-family residence on the same property in the R-2 (Two Family Residence) zone.

PROCEEDINGS BEFORE THE HEARING OFFICER:

May 3, 2011 Public Hearing

A duly noticed public hearing was held before the Hearing Officer on May 3, 2011. The applicant, Mr. Nabor Gutierrez, and his representative, Ms. Christina Hernandez, were sworn in and testified in favor of the project. The Hearing Officer, Mr. Alejandro Garcia, inquired as to the continued presence of a food truck in a no parking zone in front of the market, about which several complaints had been received from area residents. The applicant stated that the truck no longer parked adjacent to the property. After a brief discussion, the Hearing Officer subsequently closed the public hearing and approved the permit.

Findings

1. The applicant requests a nonconforming review (NCR) to allow the continued operation and maintenance of a 1,523-square-foot market (Nabor's Meat Market) selling beer and wine for off-site consumption and a 1,440-square-foot single-family residence with an attached 404-square-foot garage on a 5,100-square-foot property in the R-2 (Two Family Residence) zone. The property is located at 1158 East 88th Place (residence) and 8851 Hooper Avenue (market), within the Firestone Park Zoned District of unincorporated Los Angeles County.
2. The project site is zoned R-2 (Two Family Residence).
3. The project site is a developed, rectangular parcel of approximately 5,225 square feet (0.12 acre). A 1,523-square-foot market is located on the northeastern portion of the project site, facing Hooper Avenue to the east and 88th Place to the north. A 1,440-square-foot single-family residence with attached garage is located on the western portion of the site, facing 88th Place to the north. The 404-square-foot attached garage also takes access from 88th Place, although no other parking is located on the site. Approximately 770 square feet of landscaping is located on the project site.
4. Surrounding properties within 500 feet are all zoned R-2 (Two Family Residence) and consist of single-family residences and some duplexes.

5. Pursuant to Section 22.56.1550 of the Los Angeles County Planning and Zoning Code (Title 22), the applicant is requesting a nonconforming review (NCR) to authorize the continued operation of a market selling beer and wine for off-site consumption and single-family residence on the same property in the R-2 (Two Family Residence) zone. Pursuant to Section 22.56.1540 of Title 22, a nonconforming use or structure may continue to be maintained beyond its specified amortization period upon approval of an NCR, provided that it was legally established.
6. The amortization period for stores and markets is specified as 20 years after the use becomes nonconforming or 25 years after the building's construction—whichever is greater. The existing market was legally constructed in 1931, and the property obtained its current R-2 zoning in 1946 upon adoption of the Firestone Park Zoned District by the Board of Supervisors (Ord. 4733). Therefore, the nonconforming use amortized in 1966. It was subsequently extended to 1995 through the NCR process (NCR 85014). In 2010, it was discovered that the use had been operating without a valid NCR for approximately 15 years, and an application was filed.
7. The Department of Regional Planning has determined that the project qualifies for a Class 1 Categorical Exemption (Existing Facilities) under the California Environmental Quality Act (CEQA) reporting requirements.
8. The subject property is designated as "2" (Low/Medium Density Residential—6-12 dwelling units/acre) in the Land Use Element of the Los Angeles County General Plan. While this land use category is intended primarily for residential uses, the Plan allows unmapped commercial uses that are locally serving in nature. The operation of a small market in a residential neighborhood would be consistent with this description. Therefore, both the single-family residence and the market would be consistent with this land use designation.
9. A 1,523-square-foot market is located on the northeastern portion of the project site, facing Hooper Avenue to the east and 88th Place to the north. A 1,440-square-foot single-family residence with attached garage is located on the western portion of the site, facing 88th Place to the north. The 404-square-foot attached garage also takes access from 88th Place. The residence has a minimum separation from the market of 2'-6". Structures have a minimum southern side-yard setback of four feet and a zero lot-line setback to the north, east, and west. Approximately 770 square feet of landscaping is located on the project site. The market, Nabor's Meat Market, sells beer and wine for off-site consumption, as well as fresh meat, produce, and a variety of packaged foods, beverages, and household goods. The market has no dedicated off-street parking, and its public entrance is at the southwest corner of Hooper Avenue and East 88th Place. It also has two hand-painted signs on its eastern and southern walls with approximate areas of 51 square feet and 18 square feet, respectively, as well as an awning with

incidental business lettering on the east façade of the market structure. The maximum height of any structure is 23 feet.

10. A total of 157 public hearing notices regarding the proposal were mailed to property owners within the 500-foot radius of the subject property on March 23, 2011. The hearing notice was also published in the *Press-Telegram* and in *La Opinion* on March 26, 2011. Case-related materials were also sent to the local library and posted on the Regional Planning web page. The hearing notice was posted on the property on March 30, 2011. No public comments regarding the project have been received.
11. The Land Development Unit of the Los Angeles County Fire Department was consulted regarding this project. This unit provided a letter clearing the project for public hearing on December 7, 2010.
12. Staff did not receive any comments from the public regarding this project.
13. The market and single-family residence were both legally constructed in 1931, which was before the implementation of R-2 zoning on the subject property in 1946. Therefore, as long as the uses and structures remain the same and are not expanded—and continue to maintain a valid NCR—they are not required to conform to current zoning standards.
14. The continued operation of the existing market is unlikely to adversely affect the health, comfort, welfare, property values, or safety of the surrounding neighborhood. The market has been in operation for approximately 80 years and has had a relatively good operating history. The California Department of Alcoholic Beverage Control (ABC) has issued no disciplinary actions against the facility, which has been selling alcoholic beverages for more than 30 years. The exterior of the market is attractive and free of graffiti, and the total signage area has decreased from what was approved in 1985. In addition, the market also sells fresh meat and produce and is within walking distance of many area residents, both of which help promote healthy lifestyles in the community.
15. While the market does not have any off-street parking, there is no shortage of street parking in the vicinity.
16. There have been two zoning enforcement cases on the property in the last six years. The first in 2005 was related to graffiti and inoperable vehicles on the property. These were removed, and Regional Planning has since received no complaints about these issues. The second case in December 2010 involved the operation of a food truck in conjunction with the market. The truck was observed parked in a red zone directly in front of the market, from which it was connected by an electric extension cord. When cited for this violation, the truck was moved and the case was closed in January 2011. Although Regional Planning staff has received no communication from community members, staff has been notified that

area residents have contacted the Second District Office of the Board of Supervisors to complain about the ongoing nature of this violation.

17. In order to address the issue with the food truck, four (4) unannounced Zoning Enforcement inspections shall be required during the first year. In addition, a condition will be added that specifically prohibits the permittee from providing electricity, water, restrooms, or other supplies or services to any business operating within the public right-of-way. The permittee shall also enforce a no loitering policy on the sidewalk in front of the store and shall remove litter from this area on a daily basis. The permittee shall also be required to remove the dumpster from the public right-of-way or obtain an encroachment permit from the Department of Public Works. If any inspection reveals that the permittee has failed to comply with these conditions, Regional Planning staff would have the ability to bring the permit before a Hearing Officer to consider its revocation, which would result the market being required to cease operations.

BASED ON THE FOREGOING, THE HEARING OFFICER CONCLUDES:

- A. The proposed use is consistent with the adopted General Plan;
- B. The requested use at the proposed locations will not adversely affect the health, peace, comfort, or welfare of persons residing and working in the surrounding areas, not be materially detrimental to the use, enjoyment, or valuation of property of other persons located in the vicinity of the site, and will not jeopardize, endanger, or otherwise constitute a menace to the public health, safety and general welfare;
- C. That the proposed site is adequately served:
 1. By highways or streets of sufficient width and improved as necessary to carry the kind and quantity of traffic such use would generate, and
 2. By other public or private service facilities as are required.
- D. That the nature of the improvement is such that to require cessation of use would impair the current use of the market on the property, and
- E. That such adjustment will not be materially detrimental to the public health, safety, or general welfare, or to the use, enjoyment, or valuation of property of other persons located in the vicinity.

THEREFORE, the information submitted by the applicant and presented at the public hearing substantiates the required findings for nonconforming reviews as set forth in Sections 22.56.1550, Title 22, of the Los Angeles County Code (Zoning Ordinance).

HEARING OFFICER ACTION:

1. The Hearing Officer finds that the project is categorically exempt from the provisions of the California Environmental Quality Act (CEQA). The project is within a class of projects, which have been determined not to have a significant effect on the environment in that it meets the criteria set forth in section 15301 of the State CEQA Guidelines and Class 1 of the County Environmental Document Reporting Procedures and Guidelines, Appendix G
2. In view of the findings of facts presented above, Nonconforming Review No. 201000011 is **APPROVED**, subject to the attached conditions.

Attachments: Conditions, Affidavit of Acceptance

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1. This grant authorizes the continued operation and maintenance of a market and a single-family residence on one property in the R-2 (Two Family Residence) zone, as depicted on the approved Exhibit "A", subject to all of the following conditions of approval.
2. Unless otherwise apparent from the context, the term "permittee" shall include the applicant and any other person, corporation, or other entity making use of this grant.
3. This grant shall not be effective for any purpose and cannot be used until the permittee, and the owner of the subject property if other than the permittee, have filed at the office of the Los Angeles County Department of Regional Planning their affidavit stating that they are aware of, and agree to accept, all conditions of this grant and until all required fees have been paid pursuant to Condition No. 10. Notwithstanding the foregoing, this condition, and Condition Nos. 4, 5, and 6 shall be effective immediately upon final approval of this grant by the County.
4. The permittee shall defend, indemnify and hold harmless the County, its agents, officers, and employees from any claim, action, or proceeding against the County or its agents, officers, or employees to attack, set aside, void or annul this permit approval, which action is brought within the applicable time period of Government Code Section 65009. The County shall notify the permittee of any claim, action, or proceeding and the County shall reasonably cooperate in the defense.
5. In the event that any claim, action, or proceeding as described above is filed against the County, the permittee shall within ten days of the filing pay the Department of Regional Planning an initial deposit of \$5,000, from which actual costs shall be billed and deducted for the purpose of defraying the expenses involved in the Department's cooperation in the defense, including but not limited to, depositions, testimony, and other assistance to permittee or permittee's counsel. The permittee shall also pay the following supplemental deposits, from which actual costs shall be billed and deducted:
 - a. If during the litigation process, actual costs incurred reach 80 percent of the amount on deposit, the permittee shall deposit additional funds sufficient to bring the balance up to the amount of the initial deposit. There is no limit to the number of supplemental deposits that may be required prior to completion of the litigation.
 - b. At the sole discretion of the permittee, the amount of an initial or supplemental deposit may exceed the minimum amounts defined herein.

The cost for collection and duplication of records and other related documents will be paid by the permittee in accordance with to Los Angeles County Code Section 2.170.010.
6. This grant will expire unless used within two (2) years from the date of approval. A one-

year time extension may be requested, in writing with payment of the applicable fee before the expiration date.

7. If any provision of this grant is held or declared to be invalid, the permit shall be void and the privileges granted hereunder shall lapse.
8. Prior to the use of this grant, the property owner or permittee shall record the terms and conditions of the grant in the office of the County Recorder. In addition, upon any transfer or lease of the subject property during the term of this grant, the property owner or permittee shall promptly provide a copy of the grant and its conditions to the transferee or lessee of the subject property.
9. **This grant shall terminate on May 3, 2021.** Entitlement to the use of the property thereafter shall be subject to the regulations then in effect. If the permittee intends to continue the sale of beer and wine after such date, a new conditional use permit application shall be filed with the Department of Regional Planning at least six months prior to the expiration of this permit, whether or not any modification of the use is requested at that time. The expiration of this grant shall not apply to the continued use of the market without alcohol sales.
10. The subject property shall be maintained and operated in full compliance with the conditions of this grant and any law, statute, ordinance, or other regulation applicable to any development or activity on the subject property. Failure of the permittee to cease any development or activity not in full compliance shall be a violation of these conditions. **The permittee shall deposit with the County of Los Angeles the sum of \$1,800.00.** These monies shall be placed in a performance fund which shall be used exclusively to compensate the Department of Regional Planning for all expenses incurred while inspecting the premises to determine the permittee's compliance with the conditions of approval. These funds provide for four (4) inspections during the first year and five (5) subsequent biennial inspections. Inspections shall be unannounced.

If additional inspections are required to ensure compliance with the conditions of this grant, or if any inspection discloses that the subject property is being used in violation of any condition of this grant, the permittee shall be financially responsible and shall reimburse the Department of Regional Planning for all additional inspections and for any enforcement efforts necessary to bring the subject property into compliance. Inspections shall be made to ensure compliance with the conditions of this grant as well as adherence to development in accordance with the approved site plan on file. The amount charged for additional inspections shall be \$200.00 per inspection, or the current recovery cost, whichever is greater.

11. **Notice is hereby given that any person violating a provision of this grant is guilty of a misdemeanor. Notice is further given that the Regional Planning Commission or a hearing officer may, after conducting a public hearing, revoke or modify this grant,** if the Commission or hearing officer finds that these conditions have been violated or that this grant has been exercised so as to be detrimental to the

public health or safety or so as to be a nuisance.

12. All requirements of the Zoning Ordinance and of the specific zoning of the subject property must be complied with unless specifically modified by this grant, as set forth in these conditions or shown on the approved plans.
13. All structures shall comply with the requirements of the Division of Building and Safety of the Department of Public Works, the Forester and Fire Warden, and the Department of Public Health.
14. All structures, walls, and fences open to public view shall remain free of extraneous markings, drawings, or signage. These shall include any of the above that do not directly relate to the business being operated on the premises or that do not provide pertinent information about said premises. The only exceptions shall be seasonal decorations or signage provided under the auspices of a civic or non-profit organization.
15. In the event such extraneous markings occur, the permittee shall remove or cover said markings, drawings, or signage within 24 hours of such occurrence, weather permitting. Paint utilized in covering such markings shall be of a color that matches, as closely as possible, the color of the adjacent surfaces.
16. The subject property shall be developed and maintained in substantial compliance with the plans on file marked Exhibit "A". In the event that subsequent plans are submitted, the written authorization of the property owner is necessary.
17. This grant allows continued operation and maintenance of a market and a single-family residence on the same property, located at 8851 Hooper Avenue and 1158 East 88th Place, respectively, subject to the following conditions:
 - a. The conditions of this grant shall be retained on the premises at all times and shall be immediately produced upon request of any Sheriff Officer or Zoning Inspector. The manager and all employees of the facility shall be knowledgeable of the conditions herein;
 - b. The permittee shall post telephone numbers of local law enforcement agencies at or near the cashier, or similar public service area. Such telephone numbers shall be visible by and available to the general public;
 - c. The permittee shall provide adequate lighting above all entrances and exits to the premises. All lighting required by this grant shall be of sufficient power to illuminate and make easily discernable the appearance and conduct of all persons within lighted areas during operating hours and shall be designed so as to direct light and glare only onto the facility premises. Said lighting and

- glare shall be deflected, shaded and focused away from all adjoining properties;
- d. All litter and trash shall be collected from the premises and the adjacent right-of-way on a daily basis;
 - e. The permittee shall maintain a maximum of 70 square feet of wall signage. All other signage, including banner signage, is prohibited;
 - f. No trash bins, newspaper racks, vending machines, tables, chairs, or other similar objects related to the operation of the market or other business are permitted on the sidewalk, which is located in the public right-of-way, without an encroachment permit issued by the Department of Public Works;
 - g. There shall be no loitering permitted on or adjacent to the premises. Signage shall be posted on the premises prohibiting loitering. The signage shall be in English and Spanish;
 - h. The permittee shall not provide electricity, water, restrooms, seating, picnic materials, or any other services or supplies to any business operating on an adjacent property or public right-of-way;
 - i. The permittee shall not coordinate the market's operations or hours of business with any business operating in an illegal manner;
 - j. Black, or a similar dark color, shall not be utilized as a base or primary color for any wall or structure;
 - k. Alcoholic beverages shall be sold only between the hours of 8:00 a.m. and 8:00 p.m., seven days a week.

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