



Los Angeles County Department of Regional Planning



Planning for the Challenges Ahead

Richard J. Bruckner
Director

January 20, 2011

HAYDY TREVINO
14701 OAK CANYON DRIVE
HACIENDA HEIGHTS, CA 91745

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

**REGARDING: PROJECT NUMBER R2009-01221 (1)
NONCONFORMING REVIEW CASE NO 200900008
501 S FETTERLY, EAST LOS ANGELES**

Dear Applicant:

Hearing Officer, Mitch Glaser by his action of January 18, 2011 **APPROVED** the above described application. 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 February 1, 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.

The attached documents contain the Hearing Officer's findings and conditions relating to the approval. Please carefully review each condition. A Condition requires that the permittee records an affidavit accepting the conditions before the grant becomes effective.

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 Jeantine Nazar of the Zoning Permits at (213)974-6435 or e-mail at jnazar@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,

DEPARTMENT OF REGIONAL PLANNING
Richard J. Bruckner
Director

Maria Masis, Supervising Regional Planner Zoning Permits East Section

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

c: DPW (Building and Safety); Zoning Enforcement

FINDINGS AND ORDER OF THE HEARING OFFICER COUNTY OF LOS ANGELES

**PROJECT NUMBER R2009-01221 – (1)
NONCONFORMING REVIEW - 200900006**

REQUEST:

The applicant is requesting a nonconforming review (“NCR”) due to use and standards for the continued operation of a legally established community market in the R-2 – Two Family Residence Zone, located at 501 S Fetterly Avenue within the unincorporated Community of East Los Angeles.

Hearing Date: January 18, 2011

PROCEEDINGS BEFORE THE HEARING OFFICER:

January 18, 2011 Public Hearing

A duly noticed public hearing was held on January 18, 2011 before the Hearing Officer, Mitch Glaser. The applicant was sworn in and testified in favor of the request. The Hearing Officer indicated that the existing market is consistent with the policy in the East Los Angeles Community Plan that supports “mom and pop” stores on the basis of fulfilling the community needs and being compatible with the surrounding neighborhood. The Hearing Officer requested that changes be made to assure compatibility within the area in terms of signage, landscaping, color and outside storage. The Hearing Officer asked questions from staff and the applicant and recommended to amend Findings number 10, 13, and Conditions number 16, 17, 20.c, j, and k.

There being no further testimony, the Hearing Officer closed the public hearing and approved the permit with changes to the findings and conditions as agreed to by the applicant.

Findings

1. The applicant is requesting a nonconforming review to allow continued operation and maintenance of a 1,748 square-foot community market located at 501 S Fetterly Avenue within the East Side Unit No. 4 Zoned District and in the East Los Angeles Community Standards District.
2. As per the Code Section 22.56.1510 “A nonconforming use or a building or structure nonconforming due to use and/or standards may be continuously maintained provided there is no alteration, enlargement or addition to any building or structure, no increase in occupant load; nor any enlargement of area, space or volume occupied by or devoted to such use, except as otherwise provided in Title 22.” Section 22.56.1540.B.i.B identifies the termination of a nonconforming structure due to use or standards for a Type IV and Type V building used as a store 25 years after the use became nonconforming.

3. The subject property was legally built between 1925 and 1930 prior to the inception of current zoning restrictions prohibiting commercial uses in residential zones. The site was zoned C-1 in 1942 and the market was an allowed use at that time. Subsequently, the property was re-zoned in 1988 to an R-2 (Two-Family Residence) zone, and the use became nonconforming. The nonconforming status of the existing use terminates in 2013 or 25 years after establishing its nonconforming status.
4. Property to the north, south, east and west is zoned R-2 (Two-Family Residence).
5. The subject property is bounded by residences on all sides consisting of single-family residences to the north and south, a duplex to the immediate east and a triplex to the west. Two other community markets exist within a 500 and a 1000-foot radius. In addition, two schools and a church are within a 1000-foot radius of the subject property.
6. The lot is approximately 2,575 square feet (50 x 51.5) in size, square in shape and of level topography. The site is located at the intersection of South Eagle Street and Fetterly Avenue. The main entrance for pedestrian access to the site is via Fetterly Avenue. There are two other exit gates, one on Eagle Street reserved for trash removal and the other on Fetterly; neither is for public use. There are no parking spaces available on the site and customers park on the street. As per the owner, most customers walk to the store. There is a shed and a trash container on the west side and a water machine, and a telephone booth on the east side of the property facing Fetterly Avenue.
7. The Department of Regional Planning has determined that a Categorical Exemption, Class 1 – Existing Facilities, is the appropriate environmental documentation under California Environmental Quality Act (CEQA) reporting guidelines.
8. Pursuant to the provisions of Section 22.60.174 of the County Code, the Notice of Public Hearing was advertised in “East Los Angeles Tribune” on December 16, 2010 and in “La Opinion” on December 14, 2010. A total of 126 public hearing notices regarding the subject application were mailed out to the owners of properties located within a 500-foot radius on December 9, 2010. Three notices were sent to the local community groups and residents on the Zoned District courtesy list.

Case information materials, including the Notice of Public Hearing and Factual Sheet were sent to the East Los Angeles Library at 4837 E 3rd Street Los Angeles, Calif. 90022. The same information was posted on the Department of Regional Planning’s website.

Pursuant to Code Section 22.60.175 of the County Code, the applicant must post the public hearing notice on the property no less than 30 days prior to the public hearing date. Staff has not received photos and the Certificate of Posting from the

applicant stating that the Notice of Public Hearing was posted.

9. The Description Blanks show the store structure of 1,748 square-feet (38'x46'). The use type is identified as a store. There has not been any alteration or modification to the original plan.
10. San Antonio's Meat Market's business license expired on December 31, 2010. The applicant shall obtain a valid business license extending the expiration date. Public Health license expires on June 30, 2011.
11. The existing structure was built prior to the establishment of the CSD. The market does, however, conform to some of the development standards of the East Los Angeles CSD and the R-2 zone.
12. The subject property is surrounded by a 6-foot wooden fence to the west and a masonry wall to the south that varies in height from 3-1/2 to 6-feet. There is a portion of the fence that is separated by a plywood. The Hearing Officer finds that the existing wooden fence should be continued to replace the plywood.
13. The Hearing Officer finds that the applicant shall provide a sign plan complying with the provisions of Part 10 Chapter 22.52 and the sign requirements as per Section 22.44.118.C.3.b.
14. The subject property is designated as Low-Medium Density Residential (LMD) within the East Los Angeles Community Plan. As per the plan on page 6 "...LMD designation are predominantly single-family housing, duplex and townhouse development on moderately sized lots with some low-rise garden apartments on consolidated lots. The maximum density is 17 dwelling units per net acre. This equates to about two homes or a duplex on each 5,000 square-feet of lot area." The maximum building height is 35-feet.
15. The East Los Angeles Community Plan encourages existing neighborhood oriented ("mom and pop") stores that fill a neighborhood need and are compatible within surrounding uses, such as the subject market.
16. A nonconforming structure shall be compatible with the neighborhood, provide a need for the residents in the area, and not have adverse impact on the neighborhood. The subject market provides the need for the residents, schools and churches within the neighborhood. Most customers walk to the store and there is a loading area reserved for trucks to serve the market. However, the market currently has adverse visual impact in terms of signs, buffering, outside storage and design compatibility.
17. The proposed use provides a public convenience by offering food and merchandise for local residents, schools and churches in the neighborhood. The facility does not

generate significant traffic and noise. The continuation of the existing structure and use on the subject property does not adversely affect the health, peace or welfare of persons residing or working in the surrounding area. The market is frequently used and there are no known violations or complaints regarding the subject store.

18. The existing building was built in 1925 and it has been operated as a store for over 80 years. The applicant may enhance the appearance of the store front as well as provide adequate buffering with residential area in order to integrate said use in the residential area.
19. The subject property is located at the intersection of Fetterly Avenue and Eagle Street. The pedestrian access is from Fetterly. The traffic impact on the neighborhood is minimal considering that the market serves the immediate neighborhood and most customers walk to the store. There is a loading area reserved for trucks on Fetterly Avenue.
20. The existing market serves the nearby residential area, schools and churches within a 1000-foot radius. The market offers a variety of goods and supplies to the residents at a walking distance. There have not been any major violations on the site. The store does not sell alcohol.
21. Staff visited the site on December 20th, 2010 and made the following findings: The market is a convenience store selling a variety of merchandise such as fresh meat, school supplies and non-alcoholic drinks. A surveillance camera is mounted inside the store and records are kept for 30 days. There is a Glacier water machine on the premises off Fetterly Avenue and a pay phone on the sidewalk for which the applicant receives allowances. Three employees work in shifts from 7:00 am to 9:00 pm Monday through Saturdays and from 8:00 am to 8:00 pm on Sundays. The current owner purchased the property in 1999 and has been leasing the store.

The main entrance door for customers is on Fetterly and there are two other exit doors for staff only on the east and west portion opening to the setback areas. The loading zone is by the front entrance with yellow curb line reserved for loading. There are a total of four to six deliveries per week. There is a bathroom inside the store but it is not for customer use. There are several outdoor lights on Fetterly. Staff included a condition regarding lighting to assure the adjacent properties and activities are not disturbed. There is no parking or landscaping on the premises.

The market has two side yard setback areas of 8-feet and 5-feet that are used to store the merchandise. The trash enclosure is also within the west setback area next to the gate that opens on Eagle Street. Staff noticed that empty cartons and empty bottles are trashed in the setback area. Also, non-alcoholic beverages are stored in both east and west setback area. Staff recommends that the beverages stored at front area be removed to the back and that the setback areas remain free of trash.

Staff noticed graffiti on the wall and the fence on Eagle Street. Staff also included a draft condition to address this.

Los Angeles Unified School District is at two locations on 4th and 6th Street, two churches on Fetterly and Ferris are within a 1000-foot radius from the subject property. Two other community markets located on the corner of Eagle Street and Kern and at 4754 6th street (Tom's Market) exist within a 500 and a 1000-foot radius. Both markets sell alcoholic beverages. The owner believes that since the subject store is not selling alcoholic beverages, it provides a safer environment. During the site visit staff noticed many customers visiting the store from within walking distance.

22. Staff received a letter dated October 28, 2009 from the Fire Department stating the project is cleared for public hearing and that the applicant shall file additional forms to determine the fire flow, water requirement and fire hydrant availability.
23. The Hearing Officer finds that adjustments need to be made to ensure the façades on Fetterly and Eagle are integrated within the residential area in terms of signage, color, fencing and landscaping.
24. Outside storage is provided on Fetterly Avenue behind the wrought iron fence.
25. There are currently no sign permits.
26. Staff has not received any opposition letters in regards to this project.
27. To assure continued compatibility between the use of the subject property allowed by this grant and surrounding land uses, the Hearing Officer determines that it is necessary to limit the term of the grant to 20 years.
28. The location of the documents and other materials constituting the record of proceedings upon which the Commission's decision is based in this matter is at the Los Angeles County Department of Regional Planning, 13th Floor, Hall of Records, 320 West Temple Street, Los Angeles, CA 90012. The custodian of such documents and materials shall be the Section Head of the Zoning Permits East Section, Los Angeles County Department of Regional Planning.

BASED ON THE FOREGOING, THE HEARING OFFICER CONCLUDES:

1. That to require cessation of such use, building or structure would impair the property rights of any person to such an extent as to be an unconstitutional taking of property; and/or
2. That such use, building or structure does not now and will not during the extension period requested:

- a. Adversely affect the health, peace or welfare of persons residing or working in the surrounding area, or
- b. Be materially detrimental to the use, enjoyment or valuation of the property of other persons located in the vicinity of the site, or
- c. Jeopardize, endanger or otherwise constitute a menace to the public health, safety or general welfare.

AND, THEREFORE, the information submitted by the applicant and presented at the public hearing substantiates the required findings and burden of proof for a non-conforming review as set forth in Section 22.56.1550 of the Los Angeles County Code.

1. The Hearing Officer has considered the Categorical Exemption for this project and certifies that it is consistent with the finding by the State Secretary for Resources or by local guidelines that this class of projects does not have a significant effect on the environment.
2. In view of the findings of fact and conclusions presented above, Nonconforming Review No. 200900006 – (1) is APPROVED, subject to the attached draft conditions.

c: Commission Services, Zoning Enforcement, Building and Safety

MM: JN

This grant authorizes the continued operation of a market located at 501 S Fetterly Avenue, as depicted on the approved Exhibit "A" and subject to all of the following conditions of approval:

1. 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.
2. This grant shall not be effective for any purpose until the permittee, and the owner of the subject property if other than the permittee, have filed at the office of the Department of Regional Planning their affidavit stating that they are aware of, and agree to accept, all of the conditions of this grant and that the conditions of the grant have been recorded as required by Condition No. 6, and until all required monies have been paid pursuant to Condition No. 9. Notwithstanding the foregoing, this condition (No. 2), and Conditions No. 3 [indemnification], 4 [litigation deposit], and 8 [expiration date] shall be effective immediately upon final approval of this grant by the County.
3. 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 promptly notify the permittee of any claim, action, or proceeding and the County shall cooperate reasonably in the defense. If the County fails to promptly notify the permittee of any claim, action or proceeding, or if the County fails to cooperate fully in the defense, the permittee shall not thereafter be responsible to defend, indemnify, or hold harmless the County.
4. 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 according to Los Angeles County Code Section 2.170.010.

5. 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.
6. 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 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.
7. **This grant will terminate on January 18, 2031.** Entitlement to use of the property thereafter shall be subject to the regulations then in effect. At least six (6) months prior to the expiration of this permit and in the event that the permittee intends to continue operations after such date, a new nonconforming review application shall be filed with the Department of Regional Planning. The application shall be a request for continuance of the use permitted under this grant.
8. This grant shall expire unless used within two years from the date of final approval by the County. The date of final approval is the date of the approval action plus any applicable appeal period. A single one-year time extension may be requested in writing and with the payment of the applicable fee prior to such expiration date.
9. 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 **\$2,000.00**. The deposit 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. The deposit provides for **ten (10) biennial (one every other year)** 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 one of the conditions of this grant, the permittee shall be financially responsible and shall reimburse the Department of Regional Planning for all additional 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.

10. 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's health or safety or so as to be a nuisance.
11. The permittee shall contact the Fire Prevention Bureau of the Los Angeles County Fire Department and provide evidence to Los Angeles County Fire Department that the existing public hydrant(s) and available flow rate and water requirements meet the current Fire Department requirements, or as otherwise required by said Department.
12. All requirements of the Zoning Ordinance and of the specific zoning of the subject property must be complied with unless otherwise set forth in these conditions or shown on the approved plans.
13. All structures shall conform to the requirements of the Division of Building and Safety and Department of Public Works.
14. All structures, walls and fences open to public view shall remain free of extraneous markings, drawings or signage that was not approved by the Department of Regional Planning. 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.
15. In the event of graffiti or other extraneous markings occurring, 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. The only exceptions shall be seasonal decorations or signage provided under the auspices of a civic or non-profit organization.
16. The subject property shall be developed and maintained in substantial compliance with the plans marked Exhibit "A." The applicant shall submit to the Department of Regional Planning a Revised Exhibit "A" as instructed at the public hearing, to show the signage, landscaping, outside color and/ or murals within sixty (60) days of the date of approval for the conditional use permit. The applicant shall make the required improvements 180 days after the Revised Exhibit "A" approval.

17. The permittee shall provide a sign plan showing one wall mounted identification sign permitted per principal use with a maximum sign area of 10 percent of the total building face area.
18. The permittee shall maintain all landscaping on the subject property in a neat, clean and healthful condition, including proper pruning, weeding, removal of litter, fertilizing and replacement of plants when necessary.
19. The subject facility shall be developed and maintained in accordance with requirements of Los Angeles County Department of public Health. Adequate water and sewage disposal facilities shall be provided to the satisfaction of said Department;
20. The operation of the facility is further subject to all of the following conditions:
 - a. The hours of operation shall be limited to 7:00 am to 9:00 pm Monday through Saturday and from 8:00 am to 8:00 pm on Sundays;
 - b. The permittee shall not sell alcohol beverages in the subject market;
 - c. No outside storage shall be allowed on Fetterly Avenue;
 - d. The plywood on the east side separating the store from the residential area shall be replaced by a wooden fence similar to the existing fence on the subject property;
 - e. No display is permitted in the public right-of-way;
 - f. Trash pick-up before 7:00 a.m. and after 6:00 p.m. is prohibited;
 - g. The permittee shall provide adequate lighting above the entrance of the premises. This lighting shall be of sufficient power to illuminate and make easily discernible the appearance and conduct of persons entering or exiting the premises;
 - h. The permittee shall maintain the subject property in a neat and orderly fashion. The permittee shall keep free of litter all areas on the premises over which the permittee has control;
 - i. The permittee shall obtain sign permits from Building and Safety, if required;
 - j. The permittee shall install landscaping and/or planters in the areas that were formerly outside storage along Fetterly Avenue, as depicted on the Revised Exhibit "A";

- k. That the entire building shall be repainted to an earth tone color and/ or to install a wall mural.
- l. Delivery trucks shall park at the loading zone area;
- m. To ensure that any and all future operators of the subject property understand conditions of approval, the permittee shall promptly inform the department of Regional Planning of any changes in permittee and /or ownership. New operators shall provide written affirmation of their acceptance and understanding of the conditions of the grant as required by the Director of Planning;
- n. The permittee shall keep telephone numbers of local law enforcement agencies posted near the cashier's or similar public service area;
- o. The permittee shall maintain a current contact name, address, and phone number on file with the Department of Regional Planning at all times; and
- p. The conditions of this grant shall be retained on the premises at all times and be immediately produced upon request of any County Sheriff, or Zoning Inspector. The manager and all employees of the facility shall be knowledgeable of the conditions herein.

MM: JN

01/19/2011