



Los Angeles County
Department of Regional Planning

Planning for the Challenges Ahead



Richard J. Bruckner
Director

September 22, 2011

Ragaa Fahmi
14155 Imperial Highway
La Mirada, L. A. 90638

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

**REGARDING: PROJECT NO. R2009-01838 – (4)
CONDITIONAL USE PERMIT NO. 201000091
14155 IMPERIAL HIGHWAY**

Dear Applicant:

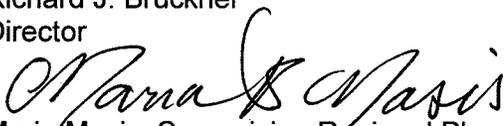
Hearing Officer Gina Natoli, by her action of September 20, 2011, **APPROVED** the above described project and entitlements. The attached documents contain the Hearing Officer's findings and conditions relating to the approval. Please carefully review each condition. Condition No. 6, requires that the 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 October 4, 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, **hand deliver** a notarized affidavit of acceptance form, a certified copy of the recorded findings and conditions of approval, and any other required fees or materials to the planner assigned to your case (see attached instructions for more information). Please **make an appointment** with the case planner to ensure that processing will be completed expeditiously. If the required documents and fees are not received within 60 days of this final letter's date, this permit will be transferred to Zoning Enforcement for further action.

For further information on appeal procedures or any other matter pertaining to these approvals, please contact Jeantine Nazar of the Zoning Permits East Section 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 Permit East Section

Enclosures: Findings and Conditions, Affidavit (Permittee's Completion)
c: Zoning Enforcement, California Department of Alcoholic Beverage Control, Sheriff

MM: JN

**FINDINGS AND ORDER OF THE HEARING OFFICER
COUNTY OF LOS ANGELES**

**PROJECT NUMBER R2009-01838 – (4)
CONDITIONAL USE PERMIT 201000091**

REQUEST:

The applicant requests a conditional use permit to authorize off-site sale of beer and wine in an existing snack shop and gas station.

PROCEEDINGS BEFORE THE HEARING OFFICER:

September 20, 2011 Public Hearing

A duly noticed public hearing was held on September 20, 2011 before the Hearing Officer, Gina Natoli. The owner, Fahmi Ragaa, presented testimony in favor of the request and answered questions presented by the Hearing Officer.

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 subject property is located at 14155 Imperial Highway, in the Sunshine Acres Zoned District within the unincorporated community of South Whittier – Sunshine Acres.
2. The site is located on a flat commercial lot immediately adjacent to residential and commercial areas. The lot size is 22,365 square feet containing a gas station, a snack shop and a smog shop, a smog testing shop and also provides propane gas tanks, air and water services. The landscaped area covers 13.34 percent or a total of 2,984 square feet consisting of small islands within the property.
3. The applicant, Ragaa Fahmi, requests a conditional use permit to allow the sale of beer and wine for off-site consumption in conjunction with an existing snack shop and Chevron Gas Station located at 14155 Imperial Hwy within the unincorporated community of South Whittier – Sunshine Acres in the C-1 (Restricted Business) Zone. The applicant is purchasing a new license to sell beer and wine on the subject property. The gas station and the snack shop are open 24/7 and the smog shop operates from 8:00 am to 6:00 pm Monday through Saturday. The alcohol sales would be limited to between the hours of 6:00 am to 2:00 am. No alcohol sales are allowed between the hours of 2:00 am and 6:00 am.
4. Off-site sales of beer and wine is subject to a conditional use permit in zone C-1 pursuant to the Los Angeles County Zoning Code Section 22.28.110. The request must meet the Conditional Use Permit Burden of Proof requirements of Section 22.56.040, the Additional Findings requirements for off-site alcoholic beverages sales in Section 22.56.195; and the additional conditions for sale of beer and wine in conjunction with the sale of motor vehicle fuel in Section 22.56.245 of the Los Angeles County Code.
5. The subject property is zoned C-1 (Restricted Business).
6. Surrounding properties within a 500'-foot radius consists of the following:
North: Apartments
South: Gas Station

East: Flower Shop
West: Auto Parts

7. Surrounding properties within a 500-foot radius are as follows:
 - North: C-1(Restricted Business)
 - South: City of La Mirada
 - East: C-3-BE (Unlimited Commercial Billboard Exclusion)
 - West: C-1(Restricted Business)
8. The land use designation for the subject property within the Countywide General Plan is 1 (Low-Density Residential). This land designation is primarily suitable for single-family detached housing units, including large-lot estates and typical suburban tract developments. It is, however, not the intent of the General Plan Policy to preclude local commercial and industrial services. The draft General Plan Land Use designation indicates the subject property is located within a CG-(General Commercial) land use designation, consistent with the current use.
9. The existing Chevron gas station, snack shop and smog shop are allowed uses within the C-1 zone. The smog shop does not include body or smog-related repairs. There is a masonry wall, 10 feet in height, which separates the gas station from the residential area to the north. The smog shop operating hours are from 8:00 am to 6:00 pm Monday through Saturday.
10. The snack shop requires 10 parking spaces and the smog shop an additional parking space for a total of eleven spaces. The existing site includes six standard parking spaces, four compact and one ADA accessible parking spaces and thereby complies with the parking standards.
11. Plot Plan 201000309 approved a total of 2,792 square feet or 12.5-percent built coverage area, and landscaping of 2,984 square feet or 13 percent coverage area which are within the required standards.
12. The site plan depicts a 22,365-square-foot lot containing 2,510 square feet of snack shop, and 246 square feet of smog shop, with lot coverage of 12.5 percent or a total 2,750-square-foot built area and with 13.3 percent and 2,984 square feet of landscaping area. There are 11 parking spaces including six standard parking spaces, four compact and one handicapped accessible. Four driveways provide access to the site through Imperial Highway to the south and Valley View Avenue to the east, two on each side. The trash enclosure is located on the north side of the lot by the smog shop. There are two canopy areas covering ten gas pumps.
13. The applicant provided a shelf plan for off-site sales of alcohol. The alcohol shelves occupy about five percent or 61.5 linear feet of the existing total shelf space, which is 1,234 linear feet. Staff has included a copy of the shelf calculation and the floor-area plan with this report.
14. There is one sensitive use within a 300-foot radius.
15. Staff has one opposition letter from a religious establishment within a 300-foot radius indicating that granting of the alcohol permit would increase vandalism in the area. Crime statistics indicates that there was only one report for vandalism at the gas station in 2008.

16. The Hearing Officer finds that there is no relationship between vandalism and alcohol sales as per crime report statistics in the area and at this location.
17. The subject property is buffered from adjacent apartment units on the north side by a 10-foot-high masonry wall.
18. There is an overconcentration of alcohol sales within a 500-foot radius. There are two alcohol sales for off-site consumption; a market located at 12721 Valley View Avenue and a liquor store located at 14214 Imperial Hwy. Both establishments are on the other side of Imperial Hwy and to the south of the subject property within a 500-foot radius.
19. The Norwalk Sheriff's station indicated in its report dated July 15, 2011, that the subject property had a total of 13 calls for service from 2007 to 2011. The reports include the following: a case of arson in 2007, six drug-related incidents in 2008, stolen vehicle, stolen license plate, vandalism, towed vehicle and receiving stolen property, one stolen vehicle in 2011 and no incidents in 2009 and 2010.
20. The patrol officer indicated that he has no problems with issuance of the conditional use permit.
21. The crime-reporting district for the subject community is Crime Reporting District No. 495. The subject census tract is located within a crime-reporting district with higher than average crime. The average number of offenses per district countywide is 151.74 criminal offenses. An area is considered a "high crime" area if 120% of average criminal offenses are present (120% of 151.74 is 182.1 offenses). The reported crimes total 427; this represents about two times the average criminal offenses estimated countywide. This percentage exceeds the 120 percent threshold of 180 offenses. The area, therefore, is considered a "high-crime" reporting district.
22. The California Department of Alcoholic Beverage Control (ABC) monitors alcoholic licenses based on countywide population formulas for total licenses issued and the resale of existing licenses no longer in use, included in its analysis is information by census tract indicating the number of licenses allowed and the numbers of existing licenses in the subject census tract. ABC indicates whether an "undue concentration" of alcohol exists based on those statistics. In the report, ABC provided the following information: The census tract for the subject community is Tract No. 5031.01. Seven liquor licenses are located within the subject census tract and five licenses are "allowed" according to ABC formulas. An undue concentration of licenses exists and a letter of public convenience or necessity is required by a Governing Body.
23. Pursuant to the provisions of Sections 22.60.174 of the County Code, the Notice of Public Hearing was advertised in La Opinion on August 18, 2011 and in the San Gabriel Valley Tribune on August 19, 2011. A total of 68 public hearing notices regarding the subject application were mailed out to the owners of properties located within the 500-foot radius on August 15, 2011. 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 South Whittier Library, located at 14433 Leffingwell Road, Whittier, CA 90604 on

August 11, 2011. The same information was posted on the Department of Regional Planning's web site.

Pursuant to the provisions of Sections 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 received photos and the Certificate of Posting stating that the Notice of Public Hearing was posted on August 17, 2011 from the applicant's agent.

24. Staff finds that a public necessity and convenience for an additional facility selling alcoholic beverages exist. The proposed sale of alcoholic beverages would provide an easy access to its customers most specifically to pedestrians on the north side of Imperial Highway. However, a condition limits the alcoholic beverage sales shelf space to a maximum of five percent of the total merchandise shelves in the store as required by the Code.
25. 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 15 years.
26. The location of the documents and other materials constituting the record of proceedings upon which the Hearing Officer'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:

- A. That the proposed use is consistent with the adopted general plan for the area; and
- B. That the requested use at the proposed location will not adversely affect the health, peace, comfort, or welfare of persons residing or working in the surrounding area, will 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 or general welfare; and
- C. That the proposed site is adequate in size and shape to accommodate the development features prescribed in Title 22 of the County Code, or as is otherwise required in order to integrate said use with the uses in the surrounding area; and
- D. That the proposed site is adequately served by highways or streets of sufficient width and improved as necessary to carry the kind and quantity of traffic such use would generate, and by other public or private service facilities as are required; and
- E. That the proposed use is consistent with the adopted general plan for the area; and
- F. That the requested use at the proposed location will not adversely affect the health, peace, comfort, or welfare of persons residing or working in the surrounding area, will 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 or general welfare; and

- G. That the proposed site is adequate in size and shape to accommodate the development features prescribed in Title 22 of the County Code, or as is otherwise required in order to integrate said use with the uses in the surrounding area; and
- H. That the proposed site is adequately served by highways or streets of sufficient width and improved as necessary to carry the kind and quantity of traffic such use would generate, and by other public or private service facilities as are required.

AND, THEREFORE, the information submitted by the applicant and presented at the public hearing substantiates the required findings and burden of proof for a Conditional Use Permit for alcohol sales as set forth in Sections 22.56.040 and 22.56.195 of the Los Angeles County Code.

HEARING OFFICER ACTION:

- 1. I have considered the Categorical Exemption for this project and certify 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, Conditional Use Permit 201000091–(4) is APPROVED subject to the attached conditions.

c: Hearing Officer, Zoning Enforcement, Building and Safety

MM:JN
9/20/2011

PROJECT DESCRIPTION

This grant authorizes the sale of beer and wine for off-site consumption in a snack shop and gas station located at 14155 Imperial Hwy, as depicted on the approved Exhibit "A" and subject to all of the following conditions of approval:

CONDITIONS

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. The recorded affidavit shall be filed and the required monies shall be paid by **November 20, 2011**.
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. Additionally, 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 September 20, 2026.** Entitlement to use of the property thereafter shall be subject to the regulations then in effect. If the permittee intends to continue operations after such date, whether or not the permittee proposes any modifications to the use at that time, the permittee shall file a new permit application with Regional Planning, or shall otherwise comply with the applicable requirements at that time. Such application shall be filed at least six (6) months prior to the expiration date of this grant and shall be accompanied by the required fee. In the event that the permittee seeks to discontinue or otherwise change the use, notice is hereby given that the use of such property may require additional or different permits and would be subject to the then-applicable regulations.
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. Inspections shall be made to ensure compliance with the conditions of this grant as well as to ensure that any development undertaken on the subject property is in accordance with the approved site plan on file. The permittee shall deposit with the County the sum of **\$1400.00**. The deposit shall be placed in a performance fund, which shall be used exclusively to compensate Regional Planning for all expenses incurred while inspecting the premises to determine the permittee's compliance with the conditions of approval. The fund provides for **seven (7) 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 Regional Planning for all additional enforcement efforts necessary to bring the subject property into compliance. The amount charged for additional inspections shall be **\$200.00** per inspection, or the current recovery cost at the time any additional inspections are required, 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. 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.
12. All structures shall conform to the requirements of the Division of Building and Safety and Department of Public Works.
13. 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.
14. 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.
15. 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.
16. There shall be eleven parking spaces available on the site including one for handicapped accessible.
17. The subject property shall be developed and maintained in substantial compliance with the plans marked Exhibit "A."
18. 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.
19. The subject property shall be buffered by a 10-foot-high masonry wall from the adjacent residential use to the north.
20. The operation of the facility is further subject to all of the following conditions:
 - a. The consumption of alcoholic beverages shall be prohibited on the subject property. The permittee shall post signage on the premises prohibiting consumption of alcoholic beverages on the premises;
 - b. The conditions of this grant shall be retained on the premises at all times and shall be immediately produced upon request of any County Sheriff, Zoning

Inspector or Department of Alcoholic Beverage Control agent. The manager and all employees of the facility shall be knowledgeable of the conditions herein;

- c. Loitering shall be prohibited on the subject property, including loitering by employees of the subject property. Signage in compliance with Part 10 of Section 22.52 of the County Code shall be placed on the premises indicating said prohibition. Employees shall be instructed to enforce these regulations and to call local law enforcement if necessary;
- d. The permittee, and all managers and designated employees of the establishment, who directly serve or are in the practice of selling alcoholic beverages, shall participate in the LEAD (Licensee Education on Alcohol and Drugs) Program provided by the State of California Department of Alcoholic Beverage Control. All new designated employees shall be required to attend. The licensee shall display a certificate or plaque in a publicly accessible area of the establishment such as the lobby, indicating they have participated in this program. Proof of completion of the facilities' training program by employees, the licensee and all managers shall be available upon request;
- e. The permittee shall not advertise the sale of alcoholic beverages on the exterior of any structure on the subject property including windows, walls, fences or similar structures;
- f. All regulations of the State of California prohibiting the sale of alcoholic beverages to minors shall be strictly enforced;
- g. The permittee shall post or otherwise provide telephone numbers of local law enforcement agencies and taxicab companies at or near the cashier, or similar public service area. Such telephone numbers shall be visible by and available to the general public;
- h. The subject property shall be equipped with a security camera that is capable of receiving an image on disc or tape that can be made a permanent record and that can be enlarged through projection or other means. Cameras shall be subject to periodic inspections by local law enforcement. The tapes shall be kept 60 days and shall be available to the Sheriff, if requested.
- i. No sale of alcoholic beverages shall be made from a drive-in window;
- j. No beer or wine shall be displayed within five feet of the cash register or the front door unless it is in a permanently affixed cooler;
- k. No self-illuminated advertising for beer or wine shall be located on buildings or windows.
- l. The gas station and the snack shop operate 24 hours per day, seven days per week. Conditions on hours of alcohol sale should be consistent with store operating hours. Alcohol sales shall be prohibited between 2:00 a.m. to 6:00 a.m. on any day, consistent with California state law;

- m. No display of alcoholic beverages shall be made from an ice tub;
- n. The permittee shall maintain the property in a neat and orderly fashion.
- o. The permittee shall display alcoholic beverages only in the cooler or shelving designated for storage of said beverages as depicted on the "shelf plan" labeled Exhibit 'A'. No additional display of alcoholic beverages shall be provided elsewhere on the premises;
- p. The alcohol shelves shall not exceed five percent of the total shelf space.
- q. The licensed premises shall have no coin-operated amusements, such as pool tables, juke boxes, video games, small carousel rides or similar riding machines, with the exception of official State Lottery machines;
- r. Employees on duty after 10:00 pm shall be at least 21 years of age;
- s. No beer or wine advertising shall be located on motor fuel islands (pursuant to Title 22);
- t. There shall be no beer sold in containers under one quart or in less than six-pack quantities. The permittee shall post signs on the coolers and cashier station stating the selling of single containers of beer is prohibited;
- u. There shall be no wine, with the exception of wine coolers, sold in containers of less than 750 milliliters. No miniatures of any type may be sold. Wine coolers shall not be sold in less than four-pack quantities;
- v. No malt liquors and/or malt-based products with alcoholic content greater than five percent by volume shall be sold;
- w. 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. The permittee shall provide adequate lighting in all parking areas, above all entrances and exits to the premises and walkways;
- x. The sale of fortified wines shall be prohibited;
- y. Trash enclosure areas shall be screened from public and private view. All litter and trash shall be collected regularly from the premises and the adjacent right-of-way.
- z. No outside storage shall be allowed;

- aa. Temporary signs or banners advertising alcoholic beverages "specials" or any similar promotions shall not be displayed on the exterior walls or fascia of the building;
- bb. Exterior advertising on the subject property shall be maintained in compliance with all of the requirements of Section 22.52 Part 10 of the County Zoning Ordinance;
- cc. 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; and
- dd. The permittee shall maintain a current contact name, address, and phone number on file with the Department of Regional Planning at all times.
- ee. There shall be only one freestanding sign on the subject property as approved by Plot Plan 200901237 on March 30, 2010. The applicant shall remove the second freestanding sign.

MM: JN

09/08/2011