

P97-031 - APPEAL OF THE DECISION OF THE CHIEF OF POLICE

REQUEST: A. Environmental Determination: Exemption

 B. Appeal of the Sacramento City Chief of Police's
 Action denying a Letter of Public Convenience or
 Necessity to upgrade an existing beer and wine
 license to allow the sale of distilled spirits (hard liquor)
 for off-premise consumption in the existing Smart and
 Final Store.

LOCATION: 2431 28th Street
 010-0243-020
 Council District 4

APPLICANT:	Smart and Final 2431 28th Street Dee Ann Catlin, 213-584-9832
DATE OF APPEAL:	March 27, 1997
STAFF CONTACT:	Lynne E. Ohlson, Police, 264-5787 Dawn T. Holm, Planner, 264-5851

SUMMARY:

The applicant is appealing the decision of the Chief of Police to deny a letter of public convenience or necessity for an off-sale general liquor license for a 15,802 square foot grocery store.

RECOMMENDATION:

The Chief of Police recommends denial of the appeal. This recommendation is based on the opposition of residents and property owners within the 1000 foot radius of the

existing Smart and Final business; and, the over-concentration of alcoholic beverage licensees in a one mile radius of the applicant site.

PROJECT INFORMATION:

General Plan Designation: Community/Neighborhood Commercial & Offices
Central City Community Plan Designation: General Commercial

Existing Land Use of Site: Grocery Store
Existing Zoning of Site: C-2

Surrounding Land Use and Zoning:

North: Parking C-2
South: Shopping Center, C-2
East: Highway 99
West: Retail Sales and Residential, C-2

Census Tract: 19
Off-Sale Licenses authorized: 3
Off-Sale Licenses existing: 5

Square Footage of Building: 15,802 square feet
Hours of Operation: 7:00 a.m to 10 p.m. daily

BACKGROUND INFORMATION:

The existing Smart and Final Store is located in a census tract deemed over concentrated by the State Department of Alcoholic Beverage Control (ABC). This tract is authorized under ABC's formula to allow 3 off-sale (retail store, convenience store, grocery or liquor store) licenses. At this date, 5 off-sale licenses exist in this census tract. Due to the over-concentration, the applicant applied to the Chief of Police for a letter of public convenience or necessity as required by ABC. The applicant currently holds a type 20 ABC license which permits the retail sale of beer and wine with the conditions that beer is sold in six packs only, wine coolers in factory four bottle packages minimum and wine in quantities no less than 750 ml. The request from the applicant is to upgrade the type 20 to a type 21 license which would permit the applicant to also sell distilled (hard liquor) spirits.

The Police Department conducted an investigation into the application as prescribed in Sacramento City Code Chapter 30.05. The Department noticed residents and property owners within 1000 feet of the outside boundaries of the property requesting comments to the Chief of Police regarding the issuances of the letter. Staff received written and telephone comments in opposition to this project.

Opponents stated that issuance of this license would contribute to the existing problems of litter, loitering, the public inebriation will lead to an aggravation of vice conditions and a disproportionate ratio of violations of the alcoholic beverage control acts and related Penal Code Statutes. The opponents frequently referred to the problems experienced in the neighborhood due to the cruise and the efforts of the Broadway Task Force to reduce those problems.

The project is within a one mile radius of 30 off-sale licenses, 23 bars and 24 restaurant licenses, for a total of 77 existing alcohol licenses.

STAFF EVALUATION: Staff has the following comments:

A. Policy Considerations

In all cases in which an applicant applies for a letter of public convenience or necessity, the Chief of Police may exercise his discretion with consideration to factors found in Section 30.05.125 (a) (2) SCC. In the case of the Smart and Final application, the following subsections were considered in the denial of the letter of public convenience or necessity:

- (iii) The extent of support or opposition to the proposed license from members of the community;
- (v) The number of licenses with-in a one-mile radius of the proposed licensed location;
and,
- (vi) The type of licensed premises within a one-mile radius of the proposed licensed location and the extent to which the proposed license would cause a further over concentration of that particular type of premises in the area.

The applicant has indicated on his application that Smart and Final will only realize three (3) percent of his total annual gross receipts from the sales of alcoholic beverages. The applicant is a "cash and carry wholesale grocery and janitorial supply store" which specializes in quantity buying by small businesses, clubs, groups and non-profit organizations. If the appeal is granted, the sales of distilled spirits will be in larger (750 ml and greater) quantities.

PROJECT REVIEW PROCESS:A. Environmental Determination

The proposed project is exempt from environmental review pursuant to State EIR Guidelines (CEQA Section 15061(b)(1) and 15061(b) (3)).

RECOMMENDATION

Staff recommends the Planning Commission take the following actions:

- A. Adopt the attached Notice of Decision and Findings of Fact which finds that the project is Exempt pursuant to CEQA Section 15061(b)(1) ; and 15061(b)(3).
- B. Adopt the attached Notice of Decision and Findings of Fact denying the Appeal of the Chief of Police's Decision thereby denying the request for a Letter of Public Convenience or Necessity for 2431 28th Street.

Report Prepared By,

Report Reviewed By,



Lynne Ohlson
Police Department



Barbara L. Wendt
Senior Planner

Attachments

Attachment 1	Notice of Decision & Findings of Fact
Exhibit 1-a	Appeal
Exhibit 1-b	A.B.C. License Concentration Map
Attachment 2	Vicinity /Zoning Map
Attachment 3	Letters received in opposition

***NOTICE OF DECISION AND FINDINGS OF FACT TO DENY
THE LETTER OF PUBLIC CONVENIENCE OR NECESSITY FOR
THE SMART AND FINAL STORE LOCATED AT 2431 28th
STREET, SACRAMENTO, CALIFORNIA IN THE GENERAL
COMMERCIAL (C-2) ZONE. (P97-031)**

At the regular meeting of June 12, 1996, the City Planning Commission heard and considered evidence in the above entitled matter. Based on verbal and documentary evidence at said hearing, the Planning Commission took the following actions for the location listed above:

- A. Environmental Determination (Exemption).
- B. Denied the Appeal of the Chief of Police's Decision to deny a Letter of Public Convenience or Necessity for 2431 28th Street.

These actions were made based upon the following findings of fact:

FINDINGS OF FACT

- A. Categorical Exemption: The City Planning Commission finds and determines that the proposed project is exempt from environmental review pursuant to Section # 15061(b)(1) and 15061(b)(3) of the CEQA Guidelines.
- B. Letter of Public Convenience or Necessity: The appeal of the decision of the Chief of Police to Deny a Letter of Public Convenience or Necessity is denied based upon the following findings of fact:
 - 1. The proposed project would pose a threat to the public health, safety or welfare of the City of Sacramento and issuance of a license would not serve the public convenience or necessity; and,
 - 2. The proposed project would cause a further over-concentration of off-sale alcoholic beverage licenses in this neighborhood.

CHAIRPERSON

ATTEST:

SECRETARY TO CITY PLANNING COMMISSION

DATE (P97-031)

Smart & Final.

Food · Supplies · Business · Home

Legal DepartmentP.O. Box 2377 GMF
Los Angeles, CA 90051-0377
213/589-9726 • FAX 213/589-0415
www.smartnfinal.com

March 14, 1997

City of Sacramento
Dept. of Planning Development
1231 I Street
Sacramento, CA 95814Re: Smart & Final #405
2431 28th St.
Sacramento, CA

To Whom It May Concern:

The Smart & Final store which currently operates at the above mentioned address with a beer and wine license would like to upgrade their license to an off sale general alcohol license. In order to proceed with this transfer the Dept. of A.B.C. requires that a public necessary and/or convenience finding be made by the governing body which, as you know, in your city is the police dept. The police dept. has denied our request for this finding. Therefore, we would like to appeal their decision and bring this matter in front of the Planning Commission. Enclosed please find our application for appeal as well as a check in the amount of \$650. to cover the application fee.

We would like this letter to serve as an attachment to our appeal and would like to explain our position in why this license should be considered a public necessity and/or convenience.

To briefly familiarize you, if you are not already, with a Smart & Final store, we operate cash and carry wholesale grocery and janitorial supply stores which cater to small businesses, clubs, groups and non-profit organizations. The typical customer at a Smart & Final store is one who is desirous of purchasing supplies in quantity at quantity prices but does not desire or is unable to patronize typical wholesale suppliers who do not provide the cash and carry convenience. Smart & Final does not encourage a retail walk-in trade for alcohol at any of our licensed locations. Sales of alcohol is made in larger size amounts, the likelihood of customers purchasing alcohol for immediate consumption, particularly on the premises, is very minimal. We feel that regardless of the concentration of other off-sale licenses in the area, our operation is unique and should not be considered as an addition to this concentration. As well as the fact that this license would be replacing the license that we currently operate with, therefore, the number of licenses in the area would not increase as a result of the upgrade of this license.

City Planning Dept.
March 14, 1997
Page 2

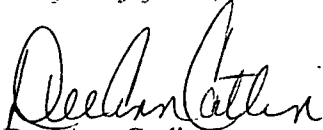
Part of the convenience Smart & Final endeavors to provide its customers is the opportunity for one-stop shopping. For example, a group that wants to make purchases for a reception may come to Smart & Final to purchase the decorations, food, paper supplies, clean up supplies, beverage and, if permitted, alcohol. With this complete product line, our customer doesn't need to drive from location to location making purchases. Historically, our customer counts do not increase as the result of an ABC license.

The hours of operations at a typical Smart & Final store are Monday through Sunday 7:am to 10:pm. Again, the hours of operation are designed to accommodate the needs of our typical customer who makes purchases during regular working hours.

Based on the above I believe you will understand why we believe that Smart & Final is unique and unlike a typical grocery store or club and to include alcohol in our product line would be a convenience to our customers.

If you need more information or have any questions you may reach me at (213) 584-9832.

Very truly yours,



Dee Ann Catlin
Paralegal
/dac

cc: C. Block



ITEM#8
PAGE 8

DEPARTMENT OF
POLICE

ARTURO VENEGAS, JR.
CHIEF OF POLICE

CITY OF SACRAMENTO
CALIFORNIA

HALL OF JUSTICE
813 SIXTH STREET
SACRAMENTO, CA
95814-2495

PH 916-264-5121
FAX 916-448-4620
E-MAIL
spdcu@quiknet.com
http://
www.quiknet.com/spd/

March 6, 1997

Donald G. Alvarado
Smart & Final Stores Corporation
4700 S. Boyle Avenue
Vernon, California 90058

Ref. No.: LC7-02-27

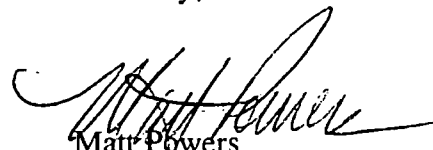
Dear Mr. Alvarado,

The Sacramento Police Department has reviewed your application for a letter of public necessity or convenience for an off-sale license for a Smart and Final Store located at 2431 28th Street. As required by ordinance, the application review consists of notification to all applicable City of Sacramento Fire and Planning Departments, the Councilmember of your district, Neighborhood Services Area Manager and the property owners and residents in an one thousand foot radius of your place of business. Comments from each source is weighed to determine if issuance of an alcoholic beverage license would pose a serious threat to the health, safety, welfare, security, economic viability and stability of the City of Sacramento.

In the review of your application, our department received strong opposition from the neighborhood regarding the issuance of an alcohol beverage license. In addition to telephone calls and letters, a petition with sixteen signatures was presented. The most commonly cited reasons for denial were the existing over-concentration of licenses (thirty off-sale, 23 bars and 24 restaurants for a total of 77 within an one mile radius of your business); the problems which have been observed at those licensees (drinking in public, loitering, litter, disturbances); and, the strongly held belief that the addition of another license would exacerbate the nuisances that the community is fighting to eliminate.

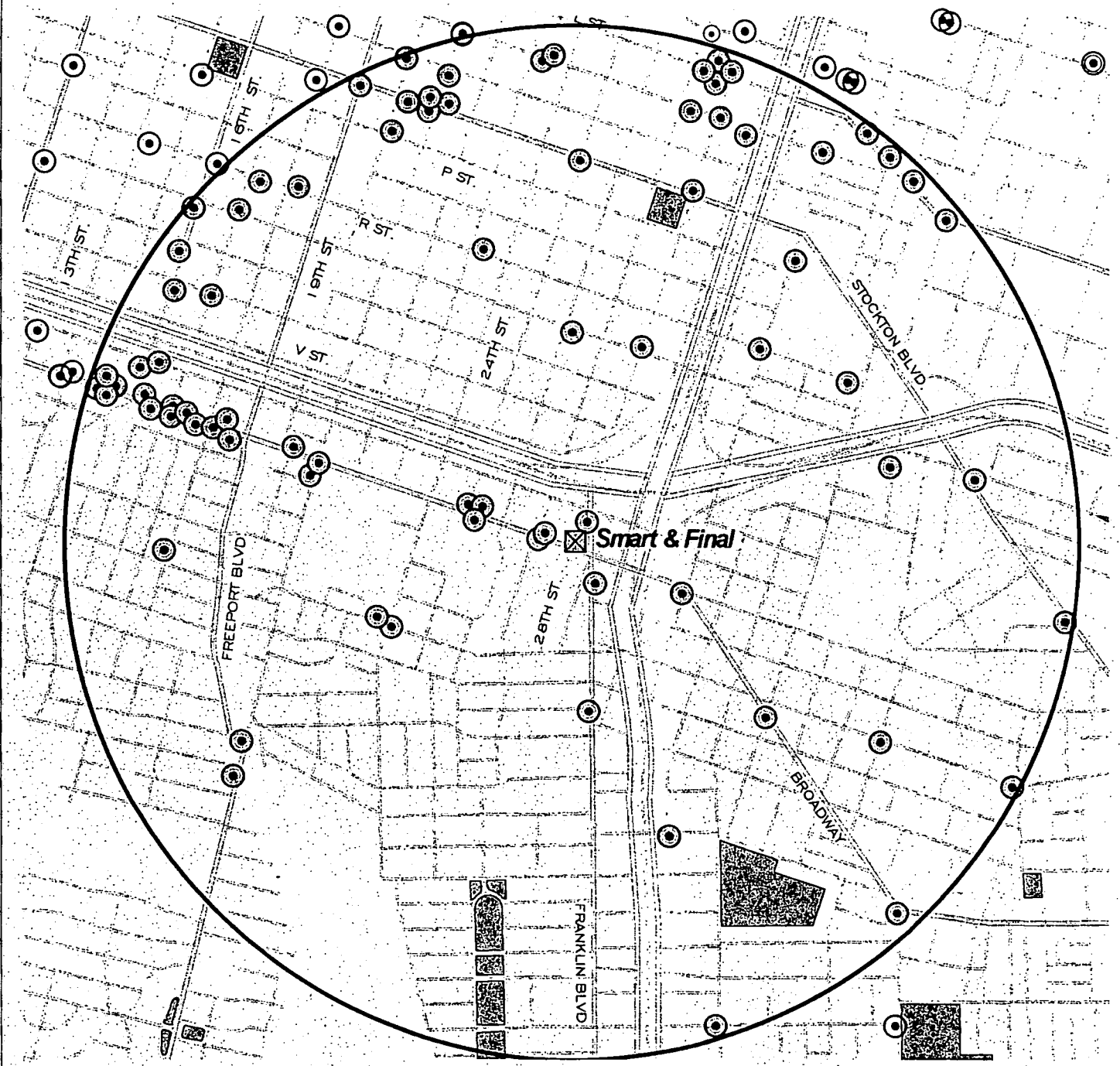
It is the decision of the Police Department, based on the opposition received from the neighbors, that there is no public convenience or necessity presented. Therefore, your application is denied.

Sincerely,


Matt Powers
Deputy Chief of Police

The Mission of the Sacramento Police Department is to work in partnership with the Community to protect life and property, solve neighborhood problems, and enhance the quality of life in our City.

ABC LOCATIONS WITHIN ONE MILE RADIUS OF 28TH & BROADWAY (SMART & FINAL)



- ☒ SMART & FINAL 28TH & BROADWAY
- ⊙ ABC LOCATIONS WITHIN 1 MILE RADIUS OF SMART & FINAL (28TH/BROADWAY) (79 LOCATIONS)
- ▨ PARKS

PRODUCED BY THE CRIME ANALYSIS UNIT
DETECTIVE DOROTHY PEARSON 3/9/97

ABC LOCATIONS WITHIN 1 MILE OF
SMART & FINAL

ITEM#8
PAGE10

License#	Prinname	Addr1
41	LEE BOSCHAL	2424 16TH ST
47	HAMILTON WILLIAM K	1510 20TH ST
47	BUCK KARL O	1517 21ST ST
41	SZETO TONY	1614 21ST ST
58	FREDETTE GERARD	1900 P ST
48	JOHNSTON KIRK	2030 P ST
47	LICHINE ALEX	2013 Q ST
41	SAKOH PETER S	1730 S ST
47	COOPER SHIRLEY E	1831 S ST
58	PARAMOOR INC	1401 28TH ST
40	RAPICO INC	1420 29TH ST
48	GAGE ADA M	1400 ALHAMBRA BLVD
41	WENMAT INC	1671 ALHAMBRA BLVD
20	SACRAMENTO NATURAL FOODS C	1900 ALHAMBRA BLVD
41	PARAMOOR INC	2726 CAPITOL AVE
58	BAILIE DOYLE	2726 CAPITOL AVE
20	DIPSIA GEORGE B	2730 CAPITOL AVE
58	BENVENUTI JOSEPH	2801 CAPITOL AVE
47	PBJS INC	3145 FOLSOM BLVD
48	PARINO BEN	3221 FOLSOM BLVD
41	HAINES FRED S	3301 FOLSOM BLVD
21	SIDHU KEWAL	3440 FOLSOM BLVD
20	PATEL DEVYANI J	2330 N ST
20	BHoola ELLABEN	2331 N ST
47	MCKINSTRY SCOTT GP	2730 N ST
21	KESHAV PRAMOUDKUMAR RAMA	2101 P ST
20	DHIR AMAN	2103 P ST

ABC LOCATIONS WITHIN 1 MILE OF
SMART & FINAL

ITEM #8
PAGE 11

License#	Prinname	Addr1
20	KALOTIA GURDEV K	2500 P ST
41	BURKE VINCENT DEPAUL	2801 P ST
48	ORSI JOE	2333 S ST
47	WOLLENBERG KENNETH	3348 S ST
20	PATEL HARSHADKUMAR	2620 T ST
20	KALOTIA HARCHARANJIT SINGH	2801 T ST
20	HAYASHI TOKIO	3400 33RD ST
16	SILVA DALE GEORGE	2048 35TH ST
21	CUSTOMER COMPANY THE	3100 BROADWAY
48	MALDONADO PRIMO H	3406 BROADWAY
40	CASILLAS JUANITA	3820 BROADWAY
41	UNIVERSITY OF THE PACIFIC	3200 FIFTH AVE
20	KIM GENE T	3700 SECOND AVE
20	PARK CHANGHO	3994 SECOND AVE
41	KIM HYOSEOP	2033 STOCKTON BLVD
41	WORLD OF GOOD TASTES INC	2248 STOCKTON BLVD
21	WONG TONY K	2248 STOCKTON BLVD
21	LIM BEVERLY	2020 16TH ST
47	BRIGHAM JOANNE	2130 16TH ST
20	PRESTIGE STATIONS INC	2225 16TH ST
20	SIU WILLIAM	2401 16TH ST
20	NARESH CHURA M	2684 18TH ST
41	WONG GIN H	2530 21ST ST
21	HOLIDAY MARKETS INC	2703 24TH ST
20	SMART & FINAL STORES CORPC	2431 28TH ST
47	KEIUNJI NOBORU D	1500 BROADWAY
47	RIVERVIEW DEVELOPMENT GROU	1517 BROADWAY

ABC LOCATIONS WITHIN 1 MILE OF
SMART & FINAL

ITEM#8
PAGE 12

Licenses	Prinname	Addr1
41	Z STREET INC	1518 BROADWAY
21	TRANLE CAM T	1525 BROADWAY
41	NG SUSAN P	1624 BROADWAY
41	IWANAGA AIKO	1628 BROADWAY
20	FULSTER CHRIS V JR	1701 BROADWAY
47	TORNGREN SUE	1704 BROADWAY
41	GIDHA DARSHAN S	1728 BROADWAY
41	NG HARRY	1800 BROADWAY
21	CHACKO THOMAS T	1812 BROADWAY
58	CAPLES LARRY W	1827 BROADWAY
20	ANDREWS DANA	1828 BROADWAY
41	ANDY NGUYEN COMPANIES INC	2007 BROADWAY
20	KHATAMI MOHAMMAD R	2100 BROADWAY
41	PLASENCIA MARGARITA G	2509 BROADWAY
42	SLING ENTERPRISES INC	2513 BROADWAY
47	NEW CANTON RESTAURANT L-PS	2523 BROADWAY
47	GARNICA ANTONIO H	2700 BROADWAY
47	INNER LIGHT CORPORATION	2721 BROADWAY
58	J R Z X INC	2565 FRANKLIN BLVD
20	CHATHA BALWINDER	2830 FRANKLIN BLVD
21	JOHNSON DAN	2900 FREEPORT BLVD
41	MUMS KITCHEN INC	2968 FREEPORT BLVD
41	CHAN GUY C	2355 SECOND AVE
20	CHOW KAY A	1701 T ST
20	PATEL BHARTI N	1700 V ST

Richard G. & Louise Fields
7466 Circle Parkway
Sacramento, CA 95823
(916)4282955

March 8, 1997

Lynne Ohlson
Licensing Coordinator
813 6th St
Sacramento, CA 95814-2495

Lynne,

I had a phone conversation with you in January and promised to put in writing our objections to issuing a alcoholic beverage license to the Smart and Final store at 28th and Broadway. I misplaced your notice and just found it yesterday. Your hearing may have already passed by this date but I'm writing this letter so you can include it in your file.

Our objection has to do with the experience we had with the market that was located on the alley between 27th and 28th st. and Broadway. It has since been torn down and a state Motor Vehicle building is proposed to be built on the property. Our property includes a 4-plex at 2607 27th st behind the house at 2605 27th st. The parking lot for the 4-plex is located on the alley between 27th and 28th sts. Access to this parking lot is via this alley. The market that was torn down sold liquor of all kinds and the tenants of a large apartment down the alley from us frequented it often.

Many times we would find people passed out drunk in our parking lot and sometimes, if they could stand, they would jump our fence and use our property as a short cut to and from 27th St. Our tenants would often complain about this nuisance.

If Smart and Final is issued a license to sell liquor we believe the same problem will occur. Since the demolition of the old grocery store we haven't experienced any problems with drunks, but feel we will again if license is granted.

We encourage you to deny this license. Thank you for giving us the opportunity to express our views.

Sincerely,


Richard G. Fields & Louise Fields

M, CLARK
R, CLARK
1/11/97

Dear Lynne Okeson:

My wife and I are property
owners of 2606 San Fernando Way and
2611 " " "

We bought in 1973.

Sorry we are definitely against hard
liquor license. We are not in favor of
this passing at all. Our property is
straight across the highway from Smart +
Fenal. we have worked so hard on a fixed
income to improve our properties. As property
owners age 70 and 72 we express a no vote.
We have enough problems with beer drinkers
lots of problems - those in the apartments are
all welfare tenants - drunk most of the time -
drugs are ramped - police called often -
no on type 21 off sale alcohol license
location 2431-28th street
Smart + Fenal

2519 28th St.
Sacramento, Ca. 95818

January 13, 1997

Lynne Ohlson, Licensing Coordinator
City of Sacramento Police Dept.
813 6th St.
Sacramento, Ca. 95814-2495

Dear Ms. Ohlson,

I am writing contesting the necessity for an ABC license for Smart and Final at 2431 28th St. This is the last thing our neighborhood needs. As a neighbor, I already have to pick up liquor bottles from my front yard in the mornings. Issuing a liquor license will hamper neighborhood efforts to improve the Broadway corridor. Smart and Final has been in business several years without an ABC license and we do not need another "Food and Liquor Cheaper store" and its associated problems in the area. Thank you for your assistance in this matter.

Sincerely,

Charles H. Ramsey
Charles H. Ramsey

Ilse & Roger Martin
4830 Winding Way
Sacramento, CA 95841

January 23, 1997

Lynne Ohlson
Licensing Coordinator
813 6th Street
Sacramento, Ca 95814-2495

Dear Ms. Ohlson,

Thank you for the notification that Smart and Final at 2431 28th Street has requested an Alcoholic Beverage Sales License.

As owners of 7 apartments at 2512 X Street we are very concerned that Smart & Final at 2431 28th Street may be issued a license to sell alcoholic beverages. We have heard about the problems that the Store at Alhambra and Broadway faces with crime in its parking lot. We fear that there will be similar problems at 2431 29th Street if an Alcoholic Beverage license will be granted. The neighborhood already suffers from all sorts of problems such as homeless people rummaging through garbage bins, drug addicts using needles in the shadows of the apartment buildings (our tenant who picks up the garbage around the apartment has often found needles in the parking lot), vandals smashing car windows, burglars stealing gas, cars and even some circuit breakers. We also had our washer and dryer in the laundry room repeatedly vandalized and had a number of burglaries. Our tenants have been frightened by people who have slept in the alley on abandoned pieces of furniture and one person has even come out of a garbage bin. We also had complaints of gunshots at night. All these problems have scared away good tenants and make it difficult to attract decent new ones.

In short, there is already so much crime in the area and an alcoholic beverage license at Smart & Final will only attract more problem people with an associated rising crime rate to the area. We therefore urge you to deny the issuance of the license.

Sincerely,

Ilse Martin
Roger C Martin

Petition to Deny Alcoholic Beverage Sales License
to Smart & Final at 2431 28th Street, Sacramento

To:
Lynne Ohlsen
Licensing Coordinator
Sacramento City Police Department

We, the undersigned, are living near Smart & Final at 2431 28th Street, and we understand that said store has requested a license to sell alcoholic beverages. We fear that a liquor-selling store will attract individuals who may contribute to a deterioration of the neighborhood and an increase in crime. We therefore ask you to consider the impact that an alcohol-selling store will have on the neighborhood and to deny the license. Thank you!

Tanda Trejo
Signature

Tanda Trejo
Name in Print

2512 X ST #4 Sac. 95818

Address

Sharon L. Martin
Signature

SHARON L. MARTIN

Name in Print

2512 X #7 Sac Ca. 95818

Address

Veronica K. Penn
Signature

VERONICA K. PENN

Name in Print

2512 X #3 Sacto, CA. 95818

Address

Sherry Springer
Signature

Sherry Springer

Name in Print

2512 X Street, SAC. CA 95818

Address

Longo
Signature

2512 X Street #2 Sacto CA 95818

Name in Print

2512 X ST #4 SACTO 95818

Address

Cecilia Aragon
Signature

Cecilia Aragon

Name in Print

2512 X ST #4 Sacto 95818

Address

Hilda August
Signature

Hilda August

2700 X ST Sac. Ca 95818

Page 2

Cristina Orozco
Signature

Cristina Orozco
Name in Print

2518 X St. Apt. #1. Sac. Ca. 95818
Address

Ramón Muñoz
Signature

Ramón Muñoz
Name in Print

2518 X ST. APT. #2 SAC. CA. 95818
Address

Sergio S.
Signature

2518 X ST #3 Sac. 95818
Name in Print

Sergio Sanchez
Address

Gabriela S.
Signature

Gabriela Sanchez
Name in Print

2518 X ST #3 Sac. 95818
Address

Maria Mejia
Signature

2518 X ST #4 Sac. 95818
Name in Print

Maria Mejia
Address

Rosa Magaña
Signature

2518 X ST #4 Sac. 95818
Name in Print

Rosa Magaña
Address

Cynthia Pritchett
Signature

Cynthia Pritchett
Name in Print

2518 X Street #5 95818
Address

Anthony Teeling
Signature

2604 X STREET
Name in Print ANTHONY TEELING,

Address

Connie F. Godwin

2706 X ST.
Sacto, Ca. 95818