

P98-064 • APPEAL OF THE DECISION OF THE CHIEF OF POLICE

REQUEST:                   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  
                                      6105 Stockton Boulevard

LOCATION:                   6105 Stockton Boulevard  
                                  038-0081-015  
                                  Council District 6

APPLICANT:	Vinh Phat Supermarket 6105 Stockton Boulevard Suying Plaskett, 424-8613 San Vong, Chan Ly, and Tu Luong
APPLICATION FILED:	Date of Appeal May 21, 1998
STAFF CONTACT:	Lynne Ohlson, Police, 264-5787 Dawn 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 Alcohol Beverage Control license for a 20,000 square foot grocery store.

RECOMMENDATION:

**Staff recommends denial of the appeal.** This recommendation is based on the opposition of residents and property owners in the 1000 foot radius of the applicant business; and the over-concentration of alcoholic beverage licensees in a one mile radius of the project site.

PROJECT INFORMATION:

General Plan Designation:	Community/Neighborhood Commercial & Offices
South Sacramento Community Plan Designation:	General Commercial
Existing Land Use of Site:	Grocery Store
Existing Zoning of Site:	General Commercial (C-2)

## Surrounding Land Use and Zoning:

North:	General Commercial, C-2
South:	General Commercial, C-2
East:	General Commercial, C-2 and Multi- Family, R-2B-R
West:	General Commercial, C-2

Census Tract:	32.02
Allowed Alcohol Concentration:	4 off-sale establishments
Existing Alcohol Concentration:	6 off-sale establishments
Square Footage of Building:	20,000 square feet
Proposed Hours of Operation:	8:00 a.m. to 9:00 p.m.

BACKGROUND INFORMATION:

The project site 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 4 off-sale (retail store, convenience store, grocery or liquor store) licenses. Currently there are 6 off-sale licenses existing within this census tract. In addition, the project site is within a one mile radius of 12 off-sale licenses and 7 on-sale licenses, for a total of 19 existing alcohol licenses. Due to this over-concentration, any business owners wanting an off-sale license in this census tract must apply to the Chief of Police for a letter of public convenience or necessity as required by ABC.

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 ten to twelve telephone comments in opposition to this project. Opponents stated that issuance of this license would contribute to the existing problems of litter, loitering, public inebriation and aggravation of vice conditions (narcotic transactions and usage, prostitution and gang activity) and a disproportionate ratio of violations of the alcoholic beverage control acts and related Penal Code Statutes (burglaries, vandalism, automobile theft and assaults).

The Stockton Boulevard Project Area Committee and the Stockton Boulevard Merchants Association support the applicant stating that issuance of a general license will allow the applicant to be competitive.

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 SCC. In the case of the Vinh Phat Supermarket application, the following factors were considered in the denial of the letter of public convenience or necessity:

- (1) The extent of support or opposition to the proposed license from members of the community;
- (2) The number of licenses within a one-mile radius of the proposed licensed location; and
- (3) 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 the appeal that they will only realize one (1) percent of their total annual gross receipts from the sales of alcoholic beverages. The applicant is a grocery store which specializes in Asian food products. The applicant currently holds an A.B.C. off-sale beer and wine license. The applicant states that the store does not currently experience a problem with loitering or litter and do not expect to see an exacerbation of that nuisance if granted a license.

PROJECT REVIEW PROCESS:

- A. Environmental Determination: The proposed project is exempt from environmental review pursuant to State EIR Guidelines (CEQA Section 15061).

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).

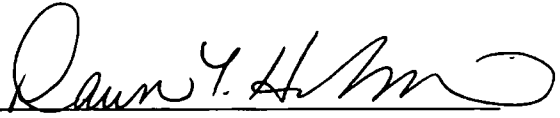
- B. Adopt the attached Notice of Decision and Findings of Fact denying the Appeal of the Chief of Police's Decision to deny a Letter of Public Convenience or Necessity for 6105 Stockton Boulevard.

Report Prepared by,

Report Reviewed by,



Lynne E. Ohlson  
Police Department

  
for Barbara L. Wendt  
Senior Planner

Attachments

- |              |                                       |
|--------------|---------------------------------------|
| Attachment 1 | Notice of Decision & Findings of Fact |
| Exhibit 1-a  | Appeal                                |
| Exhibit 1-b  | Concentration Map                     |
| Attachment 2 | Vicinity Map                          |

**NOTICE OF DECISION AND FINDINGS OF FACT TO DENY  
THE LETTER OF PUBLIC CONVENIENCE OR NECESSITY FOR  
THE VINH PHAT SUPERMARKET LOCATED AT 6105  
STOCKTON BOULEVARD, SACRAMENTO, CALIFORNIA IN  
THE GENERAL COMMERCIAL (C-2) ZONE. (P98-064)**

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At the regular meeting of July 9, 1998, 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 6105 Stockton Boulevard.**

These actions were made based upon the following findings of fact and subject to the following conditions:

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**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 alcohol beverage licenses in this neighborhood.

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CHAIRPERSON

ATTEST:

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SECRETARY TO CITY PLANNING COMMISSION

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DATE (P98-064)

# CITY OF SACRAMENTO

ITEM # 5  
PAGE 6

DEPARTMENT OF PLANNING & DEVELOPMENT  
1231 I Street, Sacramento, CA 95814

PLANNING DIVISION  
Rm. 200 (916) 264-5604

## APPEAL OF THE DECISION OF THE SACRAMENTO CITY CHIEF OF POLICE

TO THE PLANNING DIRECTOR:

DATE: 5-15-98

I do hereby make application to appeal the decision of the Sacramento City Chief of Police on April 21, 1998 (date of decision), when the Request for a Letter of Public Convenience or Necessity for Greenhaven Supermarket Inc (Business Name) at 6105 Stockton Blvd, Sacramento (Business Address) was:

Denied by the Chief of Police

Approved by the Chief of Police

→ APPELLANT: (please print) Greenhaven Supermarket Inc PHONE#: 424-8613 *Suying* or 363-5100 (Lee)

→ ADDRESS: 6105 Stockton bld. Sacramento *Lee Sanders*

→ APPELLANT'S SIGNATURE *[Signature]*

→ GROUNDS FOR APPEAL: (ATTACH WRITTEN STATEMENT - EXPLAIN IN DETAIL) - See attached.

<<<-----OFFICE USE ONLY----->>>

Property Parcel Number	<u>038-0081-015</u>				
Property Size	<u>5.16</u> + acres	Property Dimensions	_____		
Land Use: Undeveloped/Vacant	_____	Developed	<u>X</u>	Existing Zoning:	<u>C-2</u>
<b>ZONE</b>		<b>EXISTING LAND USE - ATTACH ZONING MAPS FOR SITE &amp; ADJACENT PROPERTIES &amp; FORWARD TO LYNNE OHLSON</b>			
North:	<u>C-2</u>	_____	_____	_____	_____
South:	<u>C-2</u>	_____	_____	_____	_____
East:	<u>C-2</u>	_____	_____	_____	_____
West:	<u>C-2</u>	_____	_____	_____	_____

Filing Fee:	<input checked="" type="checkbox"/> \$650.00 by applicant	Received by:	<u>H. Perry</u>
	<input type="checkbox"/> \$100.00 by third party	Date:	<u>5-21-98</u>
Distribute Copies To:	GLS, Geo Team Senior (with receipt), Grace G., Lynne Ohlson-Police (original appeal & zoning maps, Org. #2121)		
P#	Forwarded to Lynne Ohlson by/date: <u>HP/5-21-98</u>		

CITY OF SACRAMENTO  
Department of Planning & Development  
1231 I Street  
Sacramento, CA 95814

Attn: Planning Director:

We wish to appeal the Decision of the Sacramento City Police Department in which they wrote a letter Denying our request for a letter of Public Convenience and Necessity. (Copy of letter attached.)

Our Corporation operates a large Oriental Supermarket at 6105 Stockton Blvd. in Sacramento. We currently have an off Sale Beer and Wine license and have filed with the Alcoholic Beverage Control to add Distilled Spirits. As such, we are not adding another license to the area, only upgrading the privileges to provide a better service to our customers. This is the same type application that you recently approved for the Gold ~~Harvest~~ **Star Harvest** Market. We would like to provide the same services to our customers as you authorized for their customers.

Our customers have requested this service and if you wish, we can start a petition having our neighbors and customers sign that they support us in this application. None of our neighbors have opposed this request. The Sacramento Housing and Redevelopment Agency's Stockton Boulevard Project Area Committee (Pac) committee has voted to approve our application. The Stockton Merchants Association has also voted to approve our application. As part of our application with the State Department of Alcoholic Beverage Control, we have Posted a large sign in our window, reporting we have applied for this license, we published a notice in the newspaper 3 times, stating we have applied for this license, and we mailed letters to all residents within 500' of our store notifying them of our application and their right to protest the application. The ABC has advised us that no calls or protest have been received regarding this application.

Although we share and understand the concerns of the Police Department with alcoholic beverage related problems, "drinking in public, loitering, litter, disturbances" these problems do not occur at our store. We provide security, including our parking area, to prevent such incidents. As reported by members of the Merchants Association, at the PAC meeting, these problems do not involve the supermarkets, but the businesses whose primary business is selling alcoholic beverages. The adding of this license will result in less than 1% of our total sales.

We appreciate your review of this appeal and solicit your support.



Sincerely  
Vin Phat Supermarket, Inc.



DEPARTMENT OF  
POLICE

CITY OF SACRAMENTO  
CALIFORNIA

900 - 8TH STREET  
SACRAMENTO, CA  
95811-2506

ARTURO VENEGAS, JR.  
CHIEF OF POLICE

PH 916-264-5121  
FAX 916-448-4620  
E-MAIL  
spdcou@sacpd.org  
www.sacpd.org

April 21, 1998

Suying Plaskett  
SanVong  
Chan Ly  
Tu Luong  
Vinh Phat Supermarket, Inc.  
6105 Stockton Boulevard  
Sacramento, California 95824

Ref. No.: LC8-04-6

Dear Ms. Plaskett, Mr. Vong, Mr. Ly and Mr. Tuong,

The Police Department has reviewed your application for a letter of public necessity or convenience. As required by ordinance, the application review consists of notification to all applicable City of Sacramento Departments, the Council member 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. The most commonly cited reason for denial was the existing over-concentration of licenses (twelve off-sale, one bar and seven restaurant for a total of 20 within a one mile radius of your business); the problems which have been observed at those licensees (drinking in public, loitering, litter, disturbances).

The residents within the thousand feet of the store were most concerned with the impact on their neighborhood with the increased availability of distilled spirits if this license were to be issued. Callers to this office expressed fears that even the smallest increase in sales would be detrimental to the health, safety and welfare of the community. They believed that the Stockton Boulevard Design Plan guidelines which prohibit new alcoholic beverage licenses along the Boulevard would be weakened by the issuance of this license.

The Police Department has long experienced alcohol related crime problems along Stockton Boulevard for many years. Viewing it as one of the City's problem areas, we applied for and received an ABC GALE (Grant to Assist Law Enforcement) to specifically address the violations of the Business and Professions Codes related to the sales of alcoholic beverages, penal code

*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.*



VINH PHAT SUPERMARKET, INC.

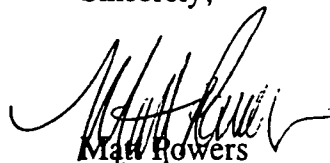
Page 2

and Sacramento City Code violations related to alcohol and nuisance problems in this area.

These reasons for denial are enhanced as the premises are located in a census tract of Sacramento which has been designated by Alcoholic Beverage Control as over-concentrated. The State of California has determined that an over-concentration of licenses contribute to a continuance and aggravation of vice conditions and a disproportionate ratio of violations of the alcoholic beverage control acts and related Penal Code Statutes in those areas.

You may appeal the decision of this Department by appeal to the Planning Commission at 1231 I Street, 2nd Floor Permit Assistance Counter, within fifteen (15) days of the mailing date of this letter. You may contact Lynne Ohlson, Licensing Coordinator, 264-5787 with any questions regarding this decision.

Sincerely,

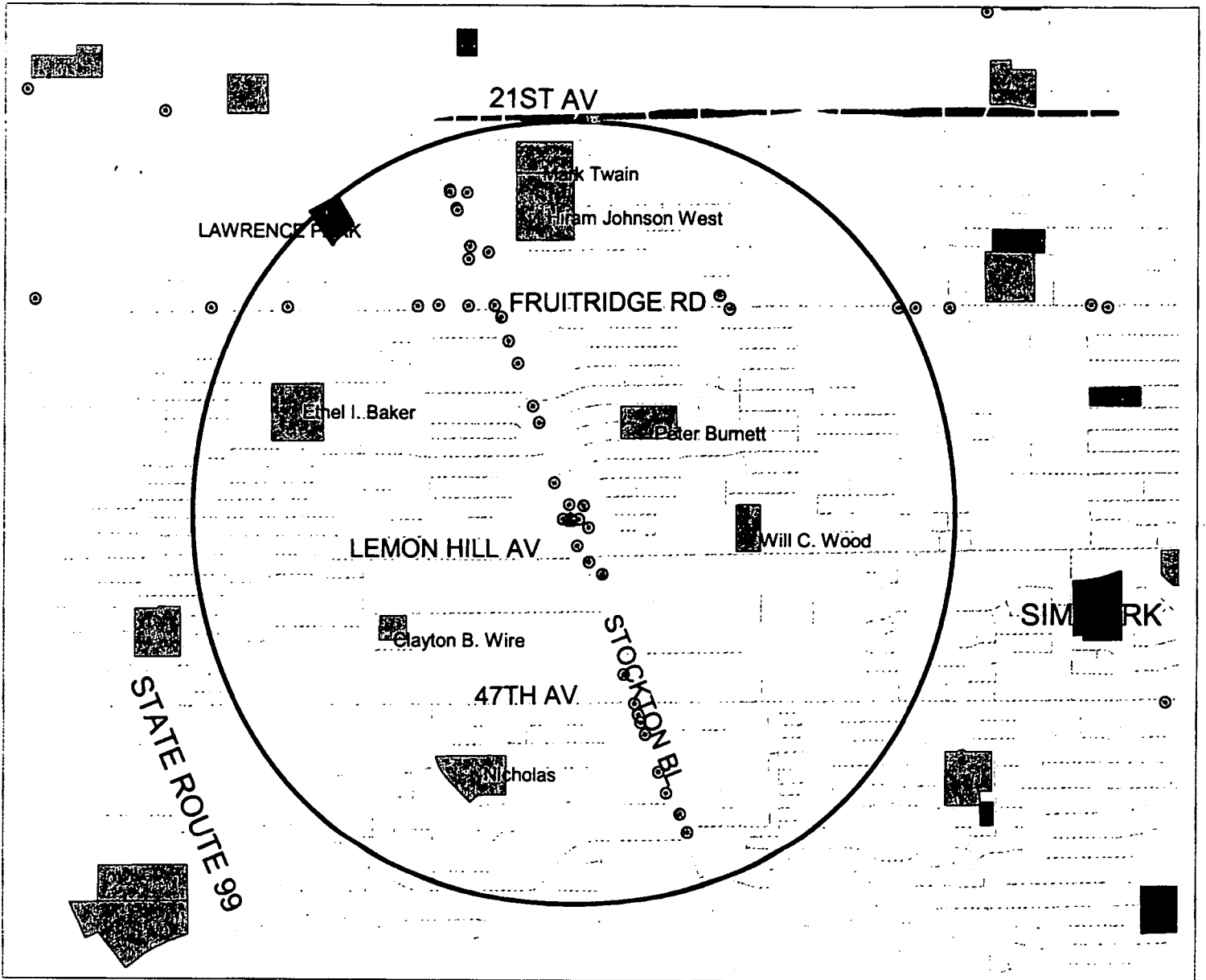


Matt Powers

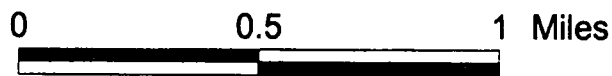
Deputy Chief of Police

MP:LEO:lo

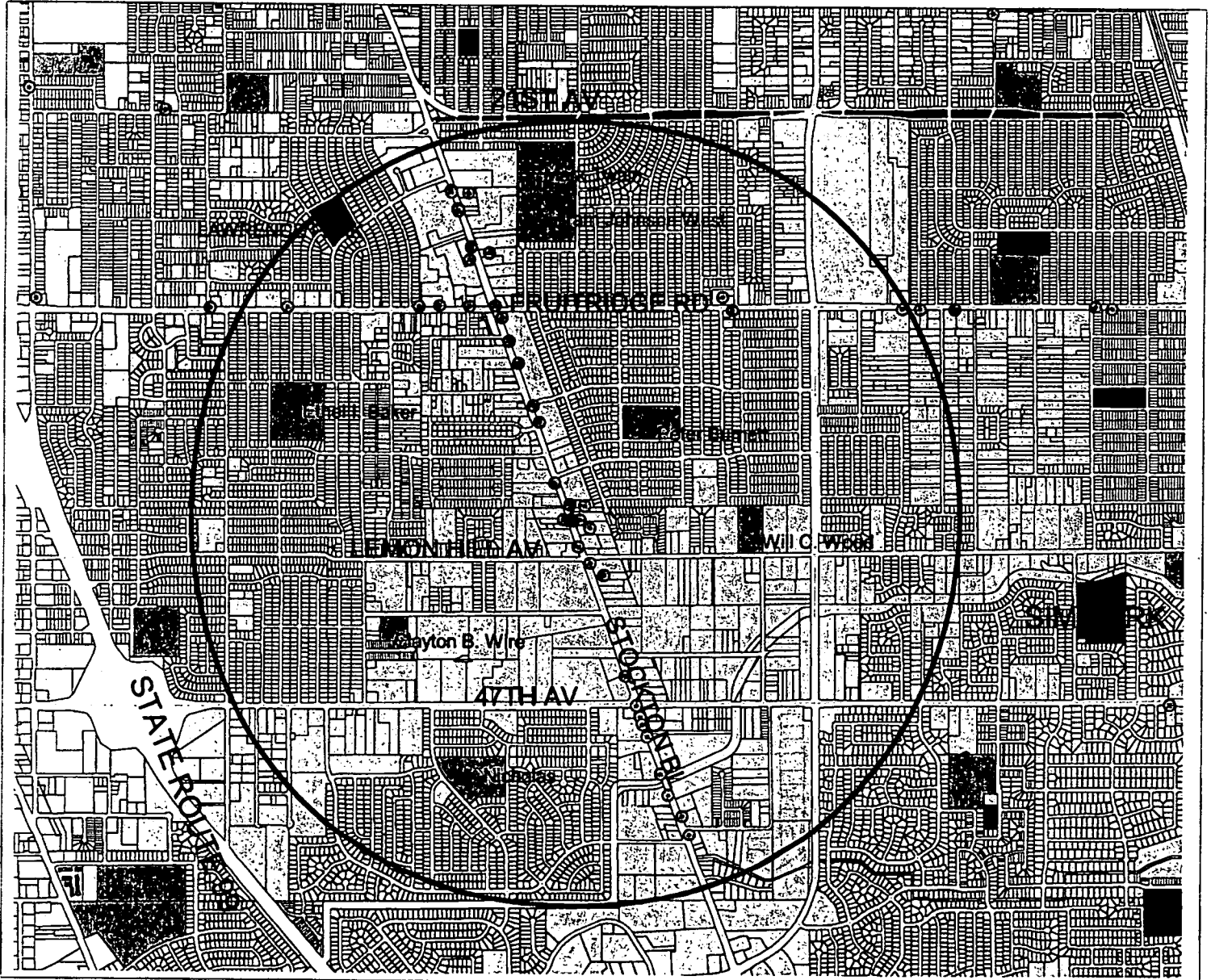
ABC LOCATIONS WITHIN A  
1 MILE RADIUS OF  
6015 STOCKTON BL







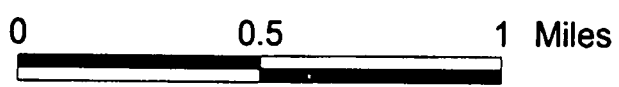
	6015 STOCKTON BL
	ABC Locations
	Schools
	Parks



### ABC LOCATIONS WITHIN A 1 MILE RADIUS OF 6015 STOCKTON BL



-  6015 STOCKTON BL
-  ABC Locations
-  Schools
-  Parks



NAMES OF ALCOHOL LOCATIONS  
W/IN 1 MILE OF 6015 STOCKTON BL



MIRANDA JUAN A	4591 FRUITRIDGE RD	
THRIFTY PAYLESS INC	5051 FRUITRIDGE RD	
STEP AHEAD INVESTMENTS INC	5101 FRUITRIDGE RD	
DHINGSA AMARJIT K	5301 FRUITRIDGE RD	
DHARNI KULWANT S	5399 FRUITRIDGE RD	
CHAC KHIEM	6230 FRUITRIDGE RD	
BEL AIR MART	6231 FRUITRIDGE RD	
CHEUNG YUK J	5050 STOCKTON BLVD	
NAUGLE JOHN B	5060 STOCKTON BLVD	
RAPICO INC	5085 STOCKTON BLVD	
SAINI TARVINDER S	5140 STOCKTON BLVD	
PNS STORES INC	5150 STOCKTON BLVD	
NGUYEN QUYEN KHANH	5304 STOCKTON BLVD	
ALBERTSONS INC	5330 STOCKTON BLVD	
FONG YANG CHA	5331 STOCKTON BLVD	
LOVERDE JOSEPHINE C	6814-6816 FRUITRIDGE RD	
SELBY BILLIE	6400 STOCKTON BLVD	
GEE EDMUND	6418 STOCKTON BLVD	
ORTEGA JOHN S	6420 STOCKTON BLVD	
GILL PARAMJEET SINGH	6432 STOCKTON BLVD	
WONG STANLEY S	6450 STOCKTON BLVD	
KIEN PHAT	6540 STOCKTON BLVD 8	
RUSTIC LOUNGE INC	6590 STOCKTON BLVD	
TRAN THAI QUANG	6645 STOCKTON BLVD STE 300	
SINGH AMRIK	6685 STOCKTON BLVD	

NAMES OF ALCOHOL LOCATIONS  
W/IN 1 MILE OF 6015 STOCKTON BL

Business Name	Address
GREENHAVEN SUPERMARKET INC	5621 STOCKTON BLVD
ALONZO JESUS P	5649 STOCKTON BLVD
LY BAU THIN	5731 STOCKTON BLVD
HOANG HUY	5815 STOCKTON BLVD
TRINH MUI A	5829 STOCKTON BLVD
THRIFTY PAYLESS INC	5930 STOCKTON BLVD
SILVER F INC THE	6010 STOCKTON BLVD
BINGENHEIMER ELIZABETH D	6019 STOCKTON BLVD K
SINGH JAGIR	6019 STOCKTON BLVD A
WING WA INC	6021 STOCKTON BLVD
DUONG LAM	6035 STOCKTON BLVD UNIT A
LAM TY	6070 STOCKTON BLVD
TRAN THUY THI CHIEU	6070 STOCKTON BLVD UNIT C
LY CHAN CAM	6105 STOCKTON BLVD A
VINH PHAT SUPERMARKET INC	6105 STOCKTON BLVD A