

P97-022 Goldstar Supermarket Letter of Public
Convenience or Necessity

REQUEST: A. Environmental Determination: Exemption

 B. Appeal of the Sacramento City Chief of Police's
Action Denying a Request for a Letter of Public
Convenience or Necessity to allow the sale of beer
and wine for off-premise consumption in the existing
Goldstar Supermarket.

LOCATION: 5815 B Stockton Boulevard
027-0171-011
Council District 6

APPLICANT:	Goldstar Supermarket 5815 B Stockton Boulevard John Tran, 453-8992
APPEAL DATE:	February 28, 1997
STAFF CONTACT:	Lynne E. Ohlson, Police, 264-5787 Dawn T. Holm, Planner, 264-5851

BACKGROUND:

On May 22, 1997, the Planning Commission heard and considered the appeal of the decision of the Chief of Police to deny a letter of convenience or necessity for a retail liquor license by John Tran, the owner of Goldstar Supermarket at 5815 - B Stockton Boulevard.

After hearing testimony from the appellant and community members expressing support for issuance of the letter, the Commission found sufficient evidence of public convenience and necessity and passed an intent motion 7-0 with one abstention to grant the appeal

with conditions. Those conditions are as follows:

1. The sale of beer and malt beverages shall be in quantities of not less than a six pack;
2. The sale of wine shall be in bottles or containers no smaller than 750 ml.
3. Wine coolers, whether made from wine or malt products, shall not be sold in quantities of less than factory packaged four packs.
4. There shall be no sales of domestically produced wine products with an alcohol content greater than 15%.
5. Distilled spirits shall be sold in containers of at least 200 ml.
6. No advertising of beer or wine sales shall be allowed on exterior signs or window signs on the site.
7. The applicant shall be responsible for the daily removal of litter from adjacent property and streets that result from this project.

During the public hearing, the Commission discussed the possible prohibition of all domestic alcohol products from this business, however, the applicant has indicated that this prohibition would create a hardship for his business and patrons. The Stockton Boulevard Merchant's Association President and a community spokesperson both contacted staff following the Commission meeting to express mutual concern that the prohibition would create a trade limitation that was unfair to American industry.

Staff discussed the proposed conditions with Alcohol Beverage Control (ABC) administration who indicated that similar conditions which have uniformly prohibited all domestic alcohol products have been successfully challenged in court in Southern California by the local manufacturers on restraint of trade issues. Staff met with the applicant and discussed the condition to be limited to the sale of domestically produced wine products with an alcohol content greater than 15%. The applicant indicated that this approach was acceptable and expressed his belief that this would allow him to sell the products he wished to sell. Staff believes this condition would successfully prohibit the sales of products which are known to contribute to public inebriation and similar violations of penal and business and professions code.

With the imposition of the above conditions, staff supports the granting of the appeal, thereby approving the request for a letter of public convenience or necessity.

RECOMMENDATION

Staff recommends the Planning Commission take the following actions:

- A. Adopt the attached Notice of Decision 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 approving the appeal of the Chief of Police, there by approving the applicant's request for a Letter of Public Convenience or Necessity for the Goldstar Supermarket at 5815-B Stockton Boulevard.

Report Prepared By,

Report Reviewed By,



Lynne E. Ohlson
Police Department



David Melko
Senior Planner

Attachments

Attachment 1	Notice of Decision & Findings of Fact
Exhibit 1-a	Appeal
Exhibit 1-b	Liquor License Concentration Map

CITY OF SACRAMENTO

Exhibit 7-a

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

ITEM #1
PAGE 6
PLANNING DIVISION
Rm. 200 (916) 264-5604

RECEIVED

APPEAL OF THE DECISION OF THE
SACRAMENTO CITY CHIEF OF POLICE

FEB 28 1997

TO THE PLANNING DIRECTOR:

DATE: 2-28-97

I do hereby make application to appeal the decision of the Sacramento City Chief of Police on 2-27-97 (date of decision), when the Request for a Letter of Public Convenience or Necessity for GOLDSTAR SUPERMARKET (Business Name) at 5815 B STOCKTON BLVD SACRAMENTO CA 95824 (Business Address) was:

Denied by the Chief of Police Approved by the Chief of Police
APN: 027-0171-011

→ APPELLANT: (please print) JOHN HOA TRAN PHONE #: (916) 453-5992

→ ADDRESS: 8132 ELSIE AVE SACRAMENTO CA 95828

→ APPELLANT'S SIGNATURE [Signature]

RECEIVED

→ GROUNDS FOR APPEAL: (ATTACH WRITTEN STATEMENT - EXPLAIN IN DETAIL) ←

FEB 28 1997

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

CITY OF SACRAMENTO
PLANNING DIVISION

Property Parcel Number 027-0171-011

Property Size 3.7[±] + acres Property Dimensions 310' x 550' ^(±)

Land Use: Undeveloped/Vacant Developed Existing Zoning: C-4 (Heavy Commercial)

ZONE **EXISTING LAND USE - ATTACH ZONING MAPS FOR SITE & ADJACENT PROPERTIES & FORWARD TO LYNNE OHLSON**

North: C-2

South: C-4

East: R1

West: (?) County

Filing Fee: \$650.00 by applicant Received by: [Signature]
 \$100.00 by third party Date: 2.28.97

Distribute Copies To: GLS, Geo Team Senior (with receipt), Grace G.,
 Lynne Ohlson-Police (original appeal & zoning maps, Org. #2121)

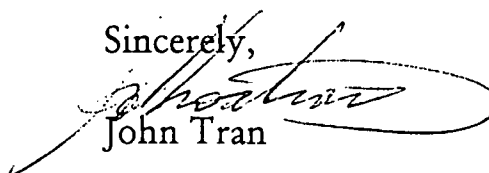
P# P97-122 Forwarded to Lynne Ohlson by/date: _____

Goldstar Supermarket
5815 B Stockton Blvd
Sacramento, CA 95824
Tel: (916) 453-8992
Fax: (916) 453-1228

To Whom It may concern:

The Sacramento Police Department has denied my application for a letter of Public Convenience/Necessity for an ABC License. I wish to appeal this Decision as I believe that my grocery store will not become a public nuisance. As my expected alcohol sales will be less than 3% yearly and my store is not a liquor store. I'm selling alcohol for the convenience of my customers not for self gain.

Sincerely,



John Tran

. P97-022



ITEM #1
PAGE 7

DEPARTMENT OF
POLICE

CITY OF SACRAMENTO
CALIFORNIA

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

ARTURO VENEGAS, JR.
CHIEF OF POLICE

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

February 27, 1997

John Tran
Goldstar Supermarket
5815 B Stockton Boulevard
Sacramento, California 95824

Ref. No.: LC7-02-24

Dear Mr. Tran,

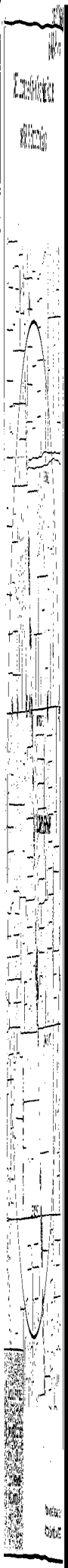
The Police Department has reviewed your application for a letter of public necessity or convenience. As required by ordinance, the application review consists of notification to all applicable City of Sacramento Departments, the Councilmember of your district, Neighborhood Services Area Manager and the 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. The most commonly cited reasons for denial was the existing over-concentration of licenses (twelve off-sale, one bar and seven restaurant for a total of 20 within an one half 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,

Albert Najera
Deputy Chief of Police



1234

1234

1234

1234

1234

1234

1234

1234

1234

1234

1234

1234

1234

1234

1234

1234

1234

1234

1234