

File No. 110332

Committee Item No. 1

Board Item No. _____

**COMMITTEE/BOARD OF SUPERVISORS
AGENDA PACKET CONTENTS LIST**

Committee: **City Operations & Neighborhood
Services Committee**

Date 7/11/11

Board of Supervisors Meeting

Date _____

LIQUOR LICENSE HEARING

Cmte Board

- | | | |
|-------------------------------------|--------------------------|----------------------------|
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | Applicant's Letter |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | Police Department Report |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | Planning Department Report |
| <input type="checkbox"/> | <input type="checkbox"/> | Clerk's Correspondence |
| <input type="checkbox"/> | <input type="checkbox"/> | Public Correspondence |
| <input type="checkbox"/> | <input type="checkbox"/> | Resolution |
| <input type="checkbox"/> | <input type="checkbox"/> | Other |

- _____
- _____
- _____
- _____
- _____
- _____

Completed by Gail Johnson

Date 7/7/11

Completed by _____

Date _____



HAASNAJARIANLLP
Attorneys at Law

58 Maiden Lane
2nd Floor
San Francisco
California
94108

March 21, 2011

Via Federal Express
Tracking No. 794557363454

San Francisco Board of Supervisors
City Operations and Neighborhood Services
1 Dr. Carlton B. Goodlet Place, Room 244
San Francisco, CA 94102
Attn: Gail Johnson, Committee Clerk

T 415.788.6330
F 415.398.6555
5641/384
2011 MAR 22 AM 10:28
RECEIVED
BOARD OF SUPERVISORS
SAN FRANCISCO
PC

Re: Request for Determination of Public Convenience or Necessity for the Walgreens Store Located at 2801 Jones Street, San Francisco, California 94133

Dear Ms. Johnson and Members of the City Operations and Neighborhood Services Committee:

This firm represents Walgreen Co. ("Walgreens"). Walgreens recently applied for the transfer (application no. 502576) of a Type-21 license currently held by Tong Van Le and Phan Nguyen and located at 511 Crescent Street, San Francisco, CA, to its store located at 2801 Jones Street, San Francisco, CA (the "Store").

We have been informed by the Department of Alcoholic Beverage Control that a determination of public convenience or necessity by the Board of Supervisors is a condition to the ABC's issuance of this license.

On behalf of Walgreens, we respectfully request that the Board determine that the sale of beer and wine at this Store will serve public convenience or necessity.

I. Project Description.

As part of a national effort, Walgreens has begun to reintroduce beer and wine into stores throughout the country, including a carefully selected number of its San Francisco stores. Working in close conjunction with the San Francisco Police Department ("SFPD"), Walgreens has identified a limited number of stores in which beer and wine would be a benefit to our customers without putting any additional burden on the community. One of these stores is 2801 Jones Street, in which we are transferring a Type-21 license from a problematic location into a more hospitable part of the city that is frequented by shoppers and tourists. This particular application has been made with the

support of Inspector Dave Falzon and the SFPD, which sees many benefits to the project outlined below.

Although the transfer involves a Type-21 license, Walgreens is committed to only selling beer and wine at the Store, and is willing to sign conditions imposing such a limitation. The sale of beer and wine at the Store will be ancillary to its existing use as a pharmacy and general retailer. Walgreens estimates that only 18 feet of shelf space and one 10-foot wide cooler will be devoted to the display of beer and wine (please see attached photos of a similar layout). It is estimated that the sale of beer and wine at this Store will amount to less than 5% of total sales.

The introduction of beer and wine will involve no physical change to the interior space (other than some minor rearrangement of merchandise, shelving and coolers) nor to the building envelope, building exterior or landscaping. These minor interior changes will involve no grading, construction or construction equipment at the Store. Moreover, the sale of beer and wine at the Store will not expand the existing hours of operation, which are currently 7:00 a.m. to midnight, seven days per week.

II. The Product Mix is Designed to Appeal to Walgreens' Existing Customers.

Walgreens prides itself on offering its customers a safe, clean, customer-friendly shopping experience, and has carefully selected its beer and wine product mix to avoid attracting those who are looking to abuse alcohol, instead choosing to appeal to light to moderate drinkers. Nearly 70% of Walgreens shoppers are women, and Walgreens understands that they are looking for a safe and secure shopping environment. Accordingly, Walgreens will only sell beer in 6 packs, 12 packs, 18-packs, and cases, and the wine selection will consist predominantly of well-known, reasonably-priced labels. The Store will **not** sell any of the following products: single bottles or cans of beer, 40 oz. bottles or cans of beer, spirits, malt liquor in excess of 5.9 percent alcohol by volume, or fortified wine.

III. The Sale of Beer and Wine at the Store will serve Public Convenience or Necessity.

As indicated above, the liquor license is currently located at 511 Crescent Street, a location that has a history of crime and violence. Sadly, Mr. Le, the current licensee, was murdered in 2008 after reporting an unarmed robbery that he had witnessed at his store.

In contrast, Walgreens is committed to being a good community partner and providing this service to its customers without causing harm to the surrounding area. The subject Walgreens Store is located in near Fisherman's Wharf – a commercial part of town heavily frequented by local shoppers and hundreds of thousands of tourists each

year. By adding beer and wine to its inventory, Walgreens intends to provide a “one-stop” shopping experience for its customers so they can pick up a bottle of wine for dinner or a six pack for the house while shopping for their general sundries, without having to get back in the car to go to another store. This “one-stop” shopping will result in increased efficiency for shoppers, and is consistent with what today’s consumers expect from a retail pharmacy and general merchandiser such as Walgreens.

Additionally, it is Walgreens’ expectation that the limited selection of beer and wine will not materially increase the number of truck deliveries or vehicles that currently come to the Store, and the additional vehicular traffic generated by the addition of beer and wine will be minimal.

Accordingly, the City of San Francisco will benefit by having one less liquor license at a problematic location, and Walgreens’ customers will benefit from the “one-stop” shopping experience, without a negative impact on the neighborhood surrounding the Store. Significantly, Walgreens will also be taking an existing Type 21 and intentionally limiting its use to beer and wine, reducing the amount of spirits, malt liquor, and other beverages that are more commonly associated with alcohol abuse from being available in San Francisco.

IV. The Sale of Beer and Wine at the Store is Consistent with Adjacent Uses.

The Walgreens store is located in a zone designated as Community Business (C-2). This zoning does not prohibit the sale of alcohol for off-premises consumption. The City’s Planning Code describes the C-2 district as an area where the “emphasis is upon compatible retail uses, but a wider variety of goods and services is included to suit the longer-term needs of customers....” (*Planning Code Sect. 210.2*) By providing a small display of alcohol, Walgreens intends to offer a wider variety of goods and a convenience to its customers.

Current adjacent uses around the Store include numerous restaurants, shops, hotels, and markets. Many of these businesses are licensed to sell alcohol, and some are licensed to sell alcohol off-premises. Therefore, because the Store is adjacent to other businesses where the sale of alcohol is an ancillary use, the sale of beer and wine at the Store is consistent with adjacent uses.

V. The Issuance of a License to the Store will Not Create a Burden on the Police Department.

The Store is located in census tract 101. Based on information provided by the ABC, the number of off-sale liquor licenses currently active in census tract 101 results in an “undue concentration” (as defined by Business & Professions Code § 23958.4).

However, due to the methodology by which “undue concentration” is determined, the vast majority of census tracts in California located in heavily commercial/retail areas with lower population densities – such as census tract 101 – fall under this designation.

Despite the “undue concentration” that currently exists in this census tract, Walgreens believes that the nature of the product mix, coupled with Walgreens’ security procedures (identified below) is such that the addition of beer and wine at the Store will not add to crime or any police-related problems in the surrounding community.

VI. The Sale of Beer and Wine at the Store will Not have a Detrimental Impact on the Surrounding Area.

So as to ensure minimal disruption to surrounding neighborhoods and be consistent with both the City’s Good Neighbor policies and the conditions required by the SFPD, Walgreens has taken preemptive measures to ensure that alcoholic beverages will be sold in a highly responsible and conscientious manner. Detailed alcohol sales policies and procedures, endorsed by legal counsel, senior management and consistent with SFPD recommendations are already in place and will be strictly enforced. Some of these policies and procedures are:

- Employees must undergo significant training prior to beer and wine being made available at the Store (specific details of which can be provided upon request);
- Each cash register clerk must submit a policy acknowledgement as part of the daily log-in and log-out process;
- Cash register clerks are required to request identification and proof of age for any customer attempting to purchase beer or wine who appears to be under the age of 40. Pre-programmed cash register “prompts” will remind the clerks to request this proof; and
- Under-aged employees will not be allowed to handle the selling or stocking of alcoholic beverages.

Training will be through a Walgreens internal alcohol sales training program, which focuses on recognizing and preventing any sales of alcohol that may be detrimental to the public welfare (i.e., the sale of alcohol to minors and intoxicated persons) and was designed with the most up-to-date information regarding adult learning and automated education. Walgreens is also willing to undergo in-person training from the SFPD to understand any conditions specific to San Francisco, should they deem it necessary. This will help ensure that the sale of beer and wine at the Store will not be detrimental to

residents, shoppers, or other businesses in the vicinity of this Store.

Walgreens also has closed-circuit security cameras that monitor the alcohol sales area and a public view monitor, which serves to discourage loitering and acts as an additional security measure. For security purposes, the beer and wine will not be located near any exit area, thereby discouraging theft.

Lastly, there are no residences within 500 feet of this Walgreens store, further reducing any potential impact that increased traffic could have on surrounding residences.

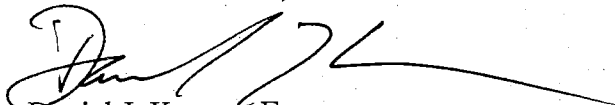
VII. Conclusion.

The sale of beer and wine as an ancillary use at the Store will enable Walgreens to provide the convenience of one-stop shopping that consumers have come to expect from a national pharmacy and general retailer. Walgreens is committed to providing this convenience in a safe and conscientious manner, with minimal disruption to the surrounding neighborhood. In fact, Walgreens has been providing these products at five of its San Francisco stores for the past eighteen months, and has done so without incident.

Moreover, by transferring the liquor license from a problematic location to an area frequented by shoppers and tourists, this transfer will benefit the entire city. Walgreens has been working closely with the SFPD throughout this process to guarantee that its efforts are consistent with their work to ensure public safety throughout the city – and purchasing and transferring a Type-21 license from a notorious difficult neighborhood into an area that does not have the same concerns, while also agreeing to treat that license as a Type-20, is just one indication of Walgreens' commitment to this community. The SFPD recognizes that Walgreens is a responsible retailer of beer and wine and supports this transfer.

For these reasons, Walgreens respectfully requests that the Board determine that public convenience or necessity will be served by the sale of beer and wine at the Store. Thank you in advance for your consideration.

Very truly yours,
HAAS NAJARIAN, LLP



Daniel J. Kramer, Esq.




San Francisco Police Department
ABC Liaison Unit

Alcoholic Beverage License -
*Public Convenience and
Necessity Recommendation*

To: The San Francisco Board of Supervisors' Committee on City Operations
& Neighborhood Services

Supervisor Avalos
Supervisor Mar
Supervisor Elsbernd

From: Inspector Dave Falzon 
Officer in Charge
ABC Liaison Unit (ALU) 553-1049

Date: May 20, 2011

Subject: P.C.N. Investigation Regarding: Walgreens CO
2801 Jones Street
Mr. Daniel Kramer
415/788-6330

Mr. Daniel Kramer on behalf of Walgreens CO has filed an application with the California Department of Alcoholic Beverage Control seeking a Type 42 (On-Sale Beer & Wine Public Premises) license for 2801 Jones Street (located between Beach Street and North Point Street).

Hours of Operation:

Daily

7:00 a.m. to 12:00 midnight

Digest:

If approved, this license will allow the applicant to sell off-sale beer and wine. This is an existing retail pharmacy/convenience store which has numerous outlets throughout the City and County.

Letters of Protest:

No Record

Letters of Support:

No Record

Police Calls for Service:

From May 2010 to May 2011

4

Police Reports:

From May 2010 to May 2011

4

San Francisco Plot Information:

This premise is located in Plot **108**

362 Police Reports were recorded for this plot in *2010*

This plot is 141 Police Report(s) over the citywide average (plus 20%) of 221 Police Reports.

State Census Tract Information:

This premise is located in Census Tract: **0101**

Population for this tract is: **2879**

On-sale license authorized by census tract: **10**

Active on-sale licenses: **48** with **0** pending

Off-sale licenses authorized by census tract: **4**

Active off-sale licenses: **14** with **1** pending.

Departmental Recommendation:

Points of consideration:

No opposition from **Central Station**

Applicant premise is located in a "high crime" area.

Applicant premise is located in an "undue concentration" area.

No Record of protest.

No Record of support.

ALU Recommendation: Approval with Conditions

Sales of alcoholic beverages shall be permitted only between the hours of 10:00 a.m. to 10:00 p.m. daily.

The sale of distilled spirits is strictly prohibited.

No more than 5% of the square footage of the premises will be used for the display of alcoholic beverages.

No noise shall be audible beyond the area under control of the license.

The petitioner shall be responsible for maintaining free of litter the area adjacent to the premises over which they have control.

Graffiti shall be removed from the premises and all parking lots under the control of the licensee within seventy-two (72) hours of application. If the graffiti occurs on a Friday or weekend day, or on a holiday, the licensee shall remove the graffiti within seventy-two (72) hours following the beginning of the next weekday.

The exterior of the premises shall be equipped with lighting of sufficient power to illuminate and make easily discernible the appearance and conduct of all persons on or about the premises. Additionally, the position of such lighting shall not disturb the normal privacy and use of any neighboring residences.

Loitering (loitering is defined as "to stand idly about; linger aimlessly without lawful business") is prohibited on any sidewalks or property adjacent to the licensed premises under the control of the licensee as depicted on the ABC-257, dated _____.

No person under the age of 21 shall sell or deliver alcoholic beverages.

No malt beverage shall be sold with an alcoholic content great than 5.7% by volume.

The sales of beer or malt beverages in quantities of 16 oz., 22 oz., 32 oz., 40 oz., or similar size containers is prohibited.

No beer or malt beverages shall be sold in quantities of less than manufacturer pre-packaged six packs per sale with the exception of wine-coolers, beer coolers which must be sold in manufacturer pre-packaged multi-unit quantities of four (4) or more.

No wine shall be sold with an alcoholic content of great than 15% by volume except for "Dinner Wines" which have been aged two years or more and maintained in corded bottles.

Wine shall not be sold in bottles or containers smaller than 750 ml.

A copy of the ABC license and applicable operating conditions shall be available during operating hours for viewing by the general public and Law Enforcement.

Electronic surveillance shall be maintained in the area where alcoholic beverages are on display.

end.

FROM: PT00TIUE ISN: 1 ITIME: 10/15/2010 16:11:06
TO: PP00TIUZ OSN: 2 OTIME: 10/15/2010 16:11:06

Original Message

FROM: CABLE ISN: 24100 DATE: 10/15/10 TIME: 16:10:56 ADMIN MSG
TO: PT00TIUE OSN: 00000 DATE: 10/15/10 TIME: 16:10:57

74000 MISSING ADULT UNASG: 5T
INCACCNO:090704278/A OCCFROMTO:07/10/09/1150
2801 JONES ST

CLEARED:

06372 PETTY THEFT OF PROPERTY UNASG: 5G
INCACCNO:096097837/A OCCFROMTO:10/10/09/1600
2801 JONES ST

CLEARED:

06303 PETTY THEFT FROM A BUILDING UNASG: 5D
INCACCNO:100051939/A OCCFROMTO:01/16/10/1210
2801 JONES ST

CLEARED:

06313 PETTY THEFT BICYCLE
INCACCNO:081063417 DATE:10/05/08 LAST-SUFFIX:B UNIT-ASSIGNED:5D
PADDR:2801/JONES/ST

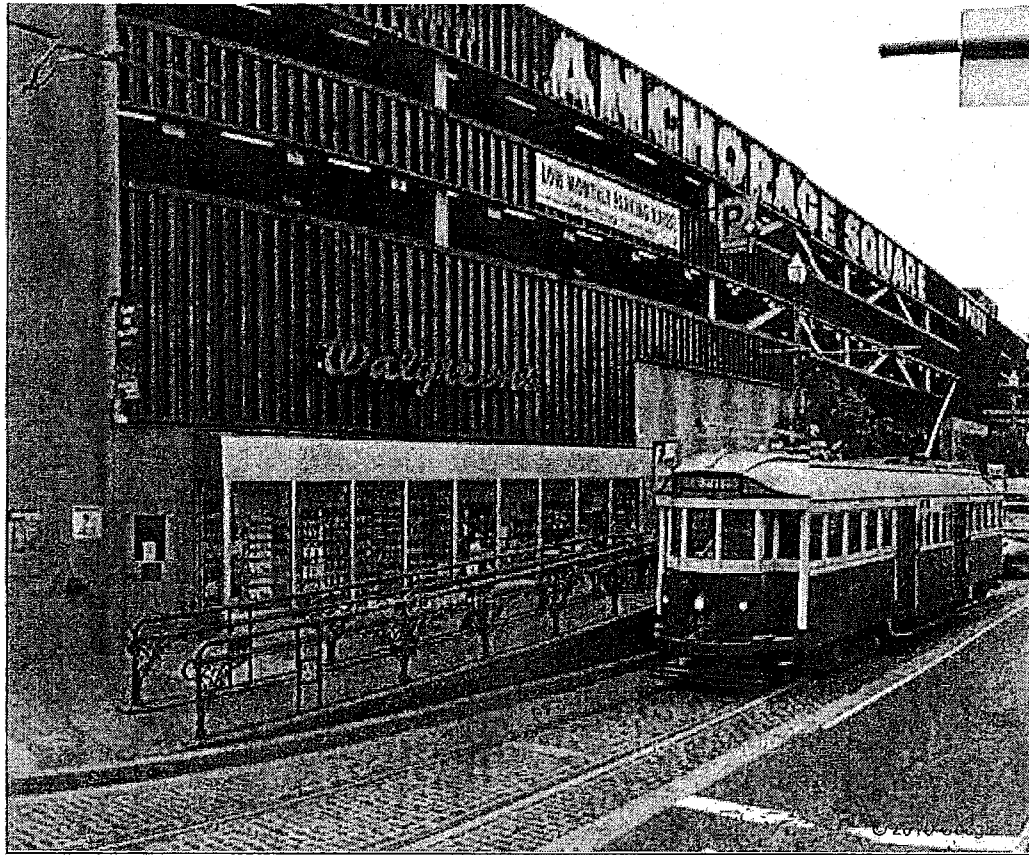
THIS RECORD NOT IN COMPUTER - IT IS AVAILABLE IN RECORD ROOM

(CONT)

Google maps

Address 2801 Jones St
San Francisco, CA 94133

Walgreens

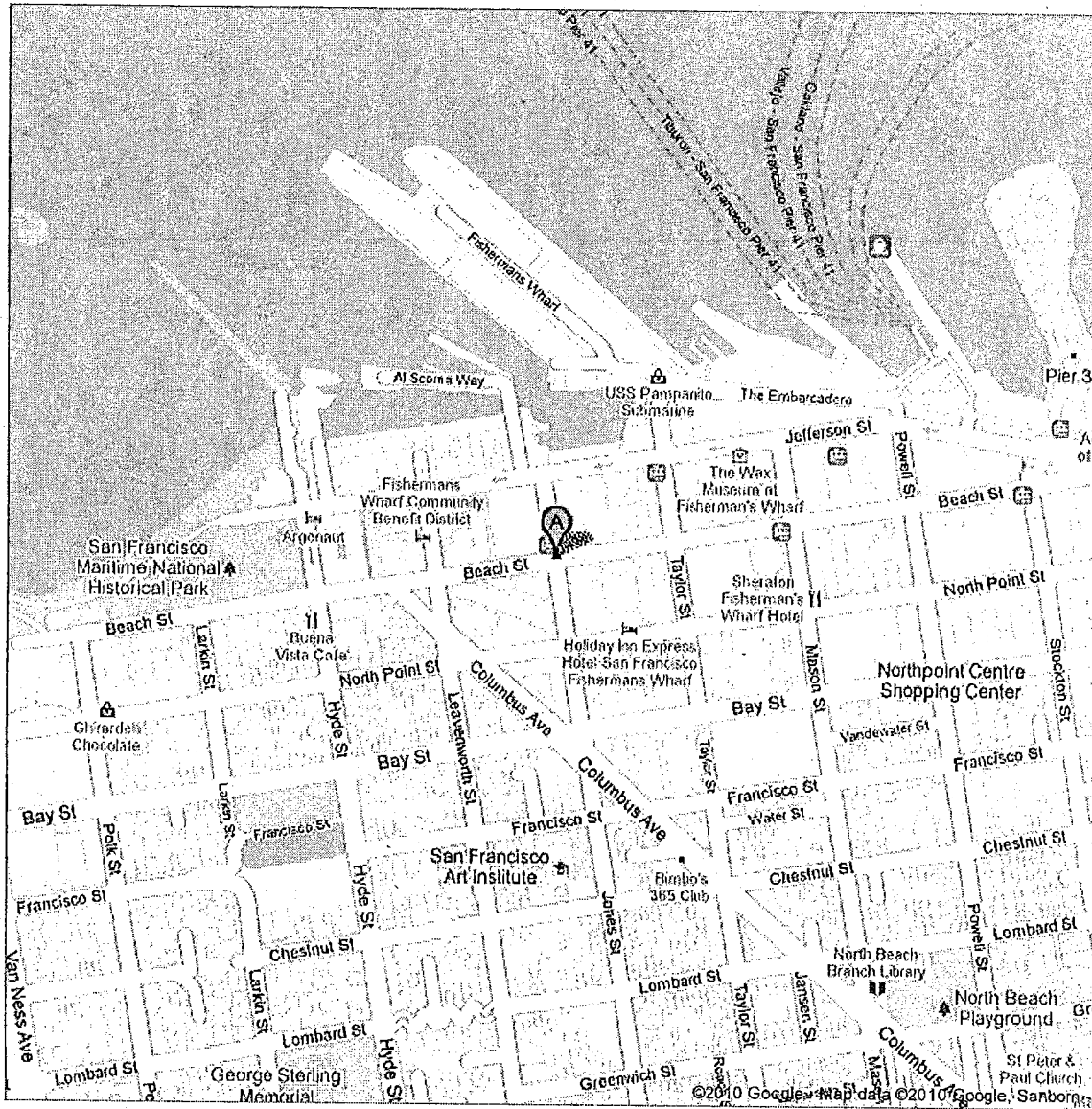


Google maps

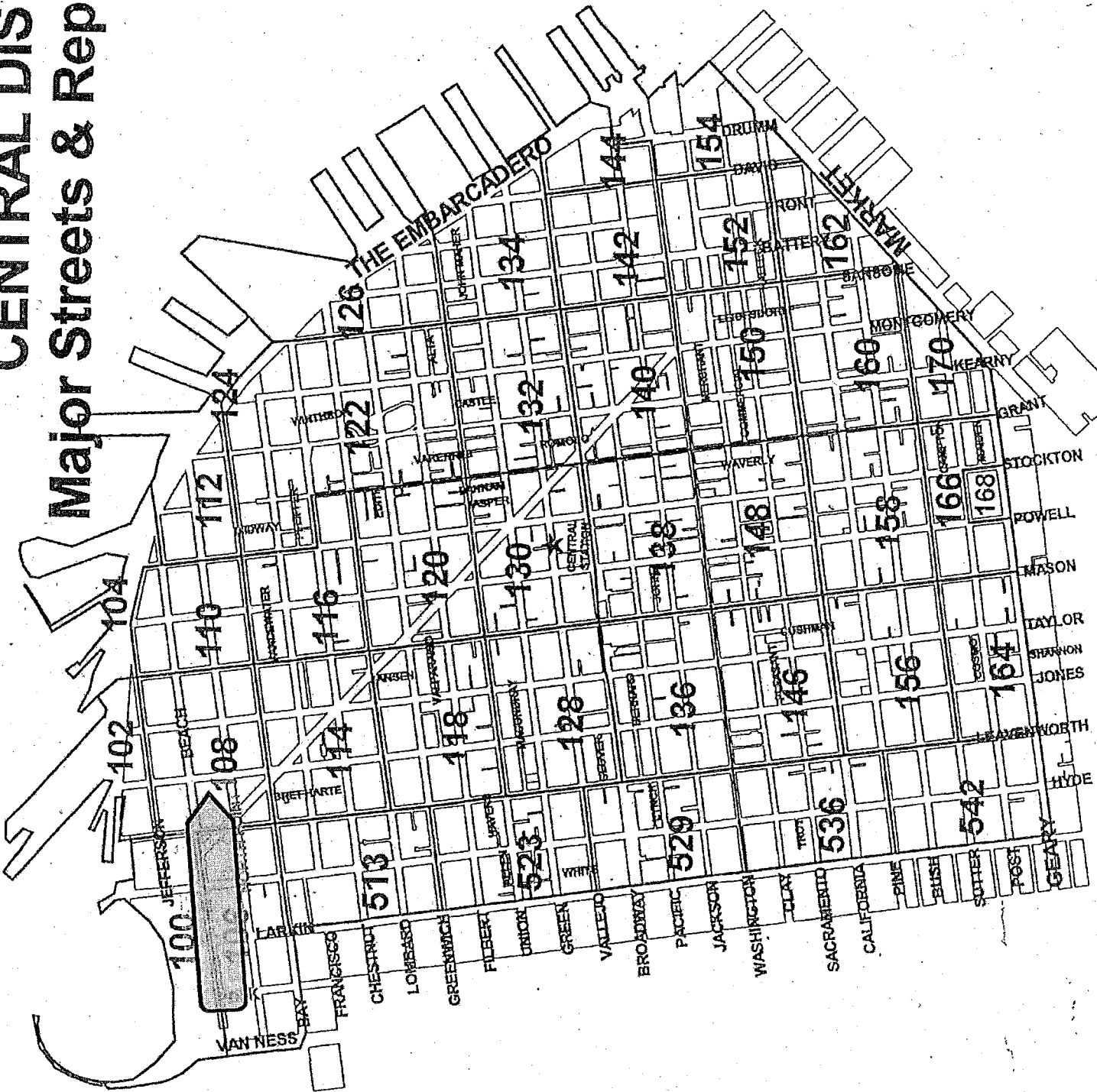
Address 2801 Jones St
San Francisco, CA 94133

Notes Walgreens

Print



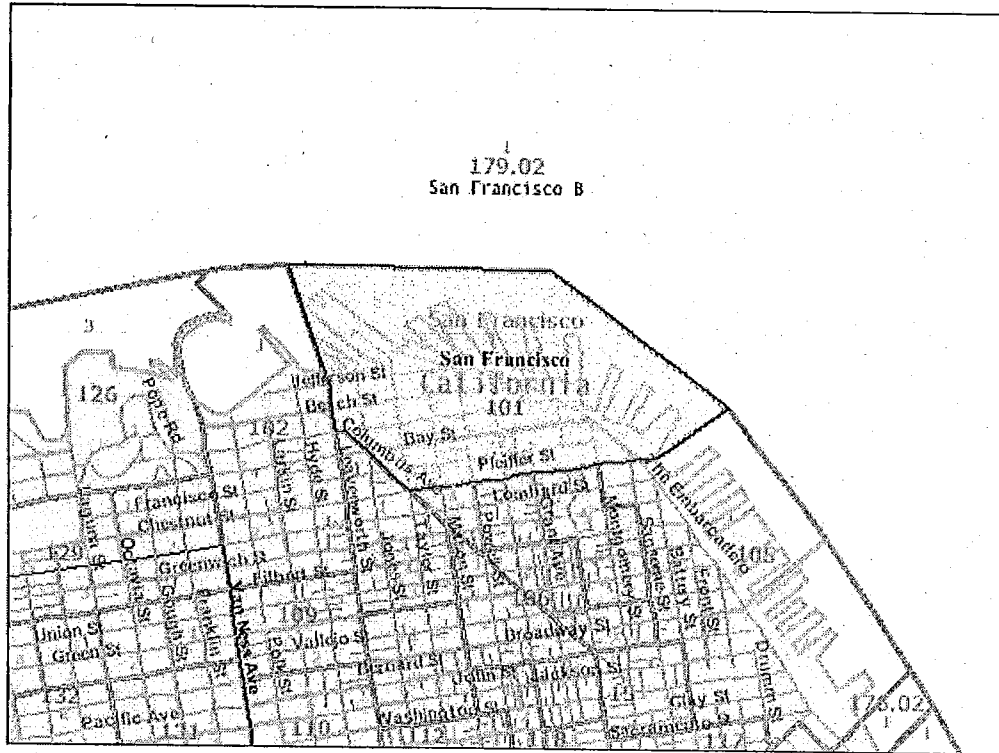
CENTRAL DISTRICT Major Streets & Reporting Plots



Census Tract 101, San Francisco County, California

- Boundaries**
- State
 - '00 County
 - '00 Census Tract
 - '00 Block Group
 - '00 Block
 - '00 Place
 - '00 Place
 - '00 Urban Area
 - '00 Urban Area

- Features**
- Major Road
 - Street
 - Stream/Waterbody
 - Stream/Waterbody



2.8 miles across

Close

LIQUOR LICENSE REVIEW

TO: Planning Department
AnMarie Rodgers/CTYPLN/SFGOV
Georgia Powell/CTYPLN/SFGOV@SFGOV
Fax No.: 558-6409

File: 110332

Block/Lot: 0011 / 008
Zoning: C-2
Quad: NE
MS # 1100796

TO: Inspector Dave Falzon
Police Department
Fax No.: 553-1463

DATE: March 25, 2011

This item is scheduled to be heard at a meeting on April 25, 2011. **PLEASE E-MAIL YOUR RESPONSE BY:** April 21, 2011, to Gail Johnson, Clerk, City Operations and Neighborhood Services Committee.

Gail.Johnson@sfgov.org - Fax No: 554-7714.

Applicant Name: Daniel J. Kramer, Esq.
and Business Name: Walgreens Store (2801 Jones Street)

Applicant Address: Haas Najarian, LLP
58 Maiden Lane, 2nd Floor
and Phone No. (415) 788-6330

PLANNING COMMENTS: Approval Denial

permitted per Planning Code Section 218(b)

[Signature] 4/1/11
Rick Crawford

POLICE COMMENTS: Approval Denial