



MILPITAS PLANNING COMMISSION AGENDA REPORT

PUBLIC HEARING

Meeting Date: September 9, 2009

APPLICATION:	THREE MONTH REVIEW OF CONDITIONAL USE PERMIT UP08-0039, ICC FARMER'S MARKET
APPLICATION SUMMARY:	Review of the operation of the India Community Center farmer's market during summer peak period.
LOCATION:	525 Los Coches Street (APN 86-28-052)
APPLICANT:	John Silveria, Pacific Coast Farmer's Market, 5056 Commercial Circle, Suite E, Concord, CA 94520
OWNER:	India Community Center, 525 Los Coches Street, Milpitas, CA 95035
RECOMMENDATION:	Staff recommends that the Planning Commission: 1. Close the public hearing following public testimony; 2. Note receipt and file.
PROJECT DATA:	
General Plan/ Zoning Designation:	Industrial Park (INP)/Industrial Park with Site and Architectural Overlay (MP-S)
Project Site Area:	2.44 Acres
Max Vendor Booths:	60 Vendor Booths
On-site Parking Spaces:	150
Shared Parking Spaces:	155
CEQA Determination:	Categorically exempt per Class 9, Section 15309 (Inspections) of the California Environmental Quality Act (CEQA)
PLANNER:	Cindy Hom, Assistant Planner
PJ:	2405
ATTACHMENTS:	A. June 10, 2009 Planning Commission Staff Report B. June 10, 2009 Planning Commission Meeting Minutes C. Police Incident Report D. Site Photos

LOCATION MAP



No scale

BACKGROUND

On June 10, 2009, the Planning Commission held a public hearing for a three month review of the India Community Center Farmer's Market that operates on Sundays between 7:00AM and 1:00PM in the India Community Center parking west parking lot area. The project site is shown in the aerial photo shown on the previous page. At its June 10th meeting, the Planning Commission added a subsequent three-month review to evaluate the operations during the peak summer period and to ensure resolution on the parking and litter issues with the adjacent property located at 555 Los Coches Street. A copy of the June 10, 2009 Planning Commission staff report and meeting minutes are provided in Attachment A and B.

PERMIT REVIEW FOR COMPLIANCE WITH CONDITIONS AND OPERATIONS

Traffic

Staff conducted several site visits to observe the operations of the market. Based on staff's observations, there continues to be no significant traffic safety issues and the operations are in substantial compliance with the traffic handling plan. The Police Department reports no traffic issues and recommends no further measures.

Parking

During the three month review period, there was one reported incident that occurred on July 20, 2009 in which the property manager for the 555 Los Coches property filed a police report for vandalism. The front driveway entries on the adjacent property were spray painted "Tow Away Zone" in orange and later covered up with black spray paint. Attached is a copy of the Police Department Incident Report (Attachment C). Staff notified the ICC of the incident. According to applicant it was not done with their knowledge. Based on a recent staff site visit, there were no cars parked in the adjacent 555 Los Coches property. The driveways were blocked with barricades with "No Parking" signs to prevent parking. Since the last permit review in June, the ICC conducted more outreach on instructing visitors to the designated off-site parking areas. Site photos are provided in Attachment D. Staff determined that the illegal parking condition on Sundays for the farmer's market is deterred and no further action is needed.

Litter

As conditioned, the market operator is responsible for picking up litter after the market closes. Based on staff's site visit, staff did not observe any litter and debris associated with the market. As such, the project is in substantial conformance with this condition.

PUBLIC COMMENT/OUTREACH

Staff publicly noticed the application in accordance with City and State law. As of the time of writing this report, staff has no comments from the public.

CONCLUSION

Based on staff's review the project is in substantial compliance with conditions and there are no operational deficiencies that warrant any changes to the conditions of approval.

RECOMMENDATION

STAFF RECOMMENDS THAT the Planning Commission note receipt and file this review.

Attachments:

- A. June 10, 2009 Planning Commission Staff Report
- B. June 10, 2009 Planning Commission Meeting Minutes
- C. Police Incident Report
- D. Site Photos



MILPITAS PLANNING COMMISSION AGENDA REPORT

PUBLIC HEARING

Meeting Date: June 10, 2009

- APPLICATION:** **THREE MONTH REVIEW OF CONDITIONAL USE PERMIT UP08-0039, ICC FARMER'S MARKET**
- APPLICATION SUMMARY:** Review of the operation of the India Community Center farmer's market and to address issues raised by the public.
- LOCATION:** 525 Los Coches Street (APN 86-28-052)
- APPLICANT:** John Silveria, Pacific Coast Farmer's Market, 5056 Commercial Circle, Suite E, Concord, CA 94520
- OWNER:** India Community Center, 525 Los Coches Street, Milpitas, CA 95035
- RECOMMENDATION:** **Staff recommends that the Planning Commission:**
- 1. Close the public hearing following public testimony;**
 - 2. Note receipt and file, and**
 - 3. Add a subsequent three month review**
- PROJECT DATA:**
- General Plan/
Zoning Designation: Industrial Park (INP)/Industrial Park with Site and Architectural Overlay (MP-S)
- Project Site Area: 2.44 Acres
- Max Vendor Booths: 60 Vendor Booths
- On-site Parking Spaces: 150
- Joint Parking Spaces: 155
- CEQA Determination: Categorically exempt per Section 15301 (Existing Facilities) of the California Environmental Quality Act.
- PLANNER:** Cindy Hom, Assistant Planner
- PJ:** 2405
- ATTACHMENTS:**
- A. Adopted Conditions of Approval for project
 - B. December 10, 2008 Planning Commission Staff Report
 - C. December 10, 2008 Planning Commission Minutes
 - D. Compliance with Conditions of Approval

Exhibit 1: Business License

Exhibit 2: Indemnification Agreement

Exhibit 3: License and Operating Agreement

E. Letter dated May 18, 2009 and Photos

LOCATION MAP



No scale

BACKGROUND

On December 10, 2008, the Planning Commission recommended approval of Conditional Use Permit No. UP08-0039, Zoning Amendment No. ZA08-0009, and Environmental Assessment No. EA08-0007 to the City Council to allow for the operations of a farmer's market at the India Community Center parking lot located at 525 Los Coches Street as referenced in the aerial photo shown on the previous page. The Farmer's Market operates on Sundays between the hours of 7:00AM to 1:00PM. A project description and analysis of the project is provided in the attached Planning Commission Staff Report and meeting minutes dated December 10, 2008. Pursuant to Special Condition No. 17, a three-month review is required upon commencement of the use to review the operations and address any issues raised by the public.

PERMIT REVIEW FOR COMPLIANCE WITH CONDITIONS AND OPERATIONS

Compliance with the adopted conditions of approval is included as Attachment D to this report. Staff conducted several site visits to observe the operations of the market. Based on staff's observations, there were no significant traffic safety issues. Staff has found the applicant is adhering to the traffic handling plan. However, given the high volume of market patrons, staff recommends that the flaggers continue to assist with pedestrian crossing due and continue monitoring traffic and safety condition during the peak summer season.

Since the commencement of the market, staff has also received two complaints from public regarding overflow parking in unauthorized areas and display of advertising signs along Calaveras Boulevard and at the intersection of the Hillview and Calaveras which are further discussed in the sections below:

Advertising Signs

Staff received a complaint regarding display of signs within the public right-of-way on Calaveras and at the Calaveras/Hillview intersection. However, some of the said signs were part of the approved Traffic Handling Plan. The purpose of the signs to serve as temporary way finding signs to promote safe and orderly traffic circulation as well as establish a customary route for market patrons. Since there were no reported traffic issues, staff recommends discontinuing the directional signs but maintaining the "Event Parking" and "No Parking" signs. As for the other advertising A-Frames signs, which are within the Calaveras/Hillview/Town Center Drive corridor, the signs will be abated through the city's code enforcement procedures.

Parking

The adjacent property owner at 555 Los Coches Street cited parking issues that has resulted in illegal parking in the motor courtyard between the two buildings; accumulation of debris around their building, and damage to irrigation equipment from people that transverse the site. A copy of parking complaint and photos are provided in Attachment E.

Staff had informed the applicant of the complaints and requested additional parking enforcement and to discontinue the display of signs. Staff also requested that they re-evaluate their current level of trash service with Allied Waste to remedy the trash accumulation that is currently being experienced. To ensure resolution of the issues, *staff recommends* another three month review to reevaluate the traffic circulation and parking demand during peak summer months.

PUBLIC COMMENT/OUTREACH

Staff publicly noticed the application in accordance with City and State law. As of the time of writing this report, staff has received two complaints about the operations of the farmer's market.

CONCLUSION

Based on staff's review the project is in substantial compliance with conditions and there are no operational deficiencies that warrant any changes to the conditions of approval with exception of a subsequent three month review.

RECOMMENDATION

STAFF RECOMMENDS THAT the Planning Commission recommend note receipt and file

Attachments:

- A. Resolution/Conditions of Approval
- B. December 10, 2008 Planning Commission Staff Report and Resolution
- C. December 10, 2008 Planning Commission Minutes
- D. Attachment D: Compliance with Conditions of Approval
 - Exhibit 1: Business License
 - Exhibit 2: Indemnification Agreement
 - Exhibit 3: License and Operating Agreement
- E. Letter dated May 18, 2009 and Photos

APPROVED

PLANNING COMMISSION MINUTES

June 10, 2009

- I. PLEDGE OF ALLEGIANCE** Chair Williams called the meeting to order at 7:00 P.M. and led the Pledge of Allegiance.
- II. ROLL CALL/SEATING OF ALTERNATE** Present: Larry Ciardella, Alex Galang, Sudhir Mandal, Gurdev Sandhu, Noella Tabladillo, Mark Tiernan, and Cliff Williams
Absent: Aslam Ali
Staff: Andrade, Hom, Lacey, and Lindsay
Alternate Commissioner Mark Tiernan was seated as a member of the voting body.
- III. PUBLIC FORUM** Chair Williams invited members of the audience to address the Commission on any topic not on the agenda, noting that no response is required from the staff or Commission, but that the Commission may choose to agendize the matter for a future meeting.
There were no speakers from the audience.
- IV. APPROVAL OF MINUTES**
May 27, 2009
Chair Williams called for approval of the minutes of the Planning Commission meeting of May 27, 2009.
There were no changes to the minutes.
Motion to approve the minutes of May 27, 2009 as submitted.
M/S: Mandal, Galang
AYES: 7
NOES: 0
ABSENT: 1 (Aslam Ali)
ABSTAIN: 0
- V. ANNOUNCEMENTS** James Lindsay, Planning Director, stated he is looking at dates for the project walking tour and will email the Commission in a couple of weeks with some possible dates for the tour in the summer either June or July.
Chair Williams stated he will not be at the June 24th meeting; he will be out of town for training.
- VI. CONFLICT OF INTEREST** Deputy City Attorney Bronwen Lacey asked if any member of the Commission has any personal or financial conflict of interest related to any of the items on tonight's agenda. There were no Commissioners who identified a conflict of interest.
- VII. APPROVAL OF AGENDA** Chair Williams asked whether staff or the Commission have any changes to the agenda.
There were no changes to the agenda.
Motion to approve the agenda as submitted.
M/S: Mandal, Galang
AYES: 7
NOES: 0
ABSENT: 1 (Aslam Ali)

ABSTAIN: 0

**VIII. CONSENT
CALENDAR**

Chair Williams asked whether staff, the Commission, or anyone in the audience wish to remove or add any items to the consent calendar.

There were no items on the Consent Calendar.

IX. PUBLIC HEARING

**1. THREE MONTH
REVIEW FOR
CONDITIONAL USE
PERMIT NO. UP08-0039**

Cindy Hom, Assistant Planner, stated this was a review of the Planning Commission's approval of the operation of a farmer's market located at 525 Los Coches Street. The purpose of the review is to address issues raised by the public and evaluate the last three months of operation of the market. Ms. Hom is recommending the Commission note receipt and file and add a subsequent three month review.

Ms. Hom stated the farmer's market was approved on January 23, 2009. Staff conducted a review and found the farmer's market is in conformance with the Conditions of Approval. The farmer's market adheres to the traffic handling plan. Staff recommends that the flaggers continue to assist with pedestrian crossing and continue monitoring traffic and safety conditions during the peak summer season.

Since the start of the market, staff has received two complaints from the public regarding overflow parking in unauthorized areas and the display of advertising signs. Staff received a complaint regarding display of signs within the public right-of-way on Calaveras and at the intersection of Calaveras/Hillview. However, some of the said signs were part of the approved traffic handling plan. There was a complaint with parking conflicts with the adjacent neighbor at 555 Los Coches Street.

Vice-Chair Mandal asked the number of people directing traffic. Ms. Hom stated currently there is only 1 flagger.

Commissioner Ciardella asked if there will be monitoring of the parking situation. Ms. Hom stated the applicant will install barricades between the 2 properties.

Commissioner Tabladillo asked about the trash overflow. Ms. Hom said the applicant will increase services with Allied Waste. Commissioner Tabladillo also asked who does the clean up after the market is over. Ms. Hom said the market operators and ICC has volunteers to do the cleanup.

John Silveria, Director, Pacific Coast Farmer's Market Assoc., Concord, CA, said they operate several certified farmer's markets in the Bay Area.

Chair Williams asked Mr. Silveria if he was aware of the damage on his neighbor's property. Mr. Silveria stated he was aware of the claim. Chair Williams asked if he did a site inspection. Mr. Silveria said they do not do site inspections they have on site market managers that are on the site two hour before and one hour after the market closes just for clean up purposes. Chair Williams asked if there was a policy in place to address issues such as broken sprinklers. Mr. Silveria said they do not have a policy. He said that if any damage happened on his watch they have an insurance policy that would take care of the damage. He feels that this situation regarding the sprinklers is between the two parties involved.

Vice-Chair Mandal asked Mr. Silveria in his opinion how the market is working. Mr. Silveria stated the market has been great. The community is a great support. Vice-Chair Mandal stated the Commission expects that these issues are resolved properly and on a timely basis and they move forward.

Mr. Silveria stated that with regards to the trash, the market is responsible for hauling the trash. ICC is willing to increase their trash pick up to make sure that happens and be

APPROVED

Planning Commission Minutes

June 10, 2009

a good neighbor. Mr. Silveria stated that if any of the property owners have any issues to please contact him.

Chair Williams opened the public hearing.

Larry Russel, 987 University Ave, Los Gatos, CA, is one of the partners of Calaveras Assoc. which owns the building to the east of 555 Los Coches. He stated they have had problems with parking. He stated they have towed vehicles; they never received notices on the farmer's market. There is no traffic control at ICC.

Barry, 555 Los Coches, stated they have a church they are working with and that the City has taken away their ability for future conditional use permits for those types of uses. He supports the 3 month review. He requests that the City work with ICC for their parking problems.

Motion to close the public hearing.

M/S: Mandal, Sandhu

AYES: 7

NOES: 0

ABSENT: 1 (Aslam Ali)

ABSTAIN: 0

Chair Williams asked staff for clarification of notification. Ms. Hom stated that the property owner of 555 Los Coches was notified per the Assessors Office.

Vice-Chair Mandal stated he understood both sides. He supports the 3 month review.

Commissioner Tiernan asked staff to review the notices sent to various owners of the buildings in the area to make sure they received them. James Lindsay, Planning Director, said the City has 3 ways that they send out notices: 1) mail notices to property owners and tenants within 1,000 ft of subject property per the Assessors Office, 2) site is posted with bright yellow signs notifying date of hearing, and 3) advertisement in the Milpitas Post. The City does not have a process by which they can confirm if a piece of mail is indeed received by the owner or tenant.

Commissioner Sandhu asked who put the yellow tape on the adjacent building from the farmer's market. Ms. Hom stated the market operator put the yellow tape to further restrict people from parking in that area.

Motion to close the public hearing after public testimony, note receipt and file, and add a subsequent three month review.

M/S: Mandal, Galang

AYES: 7

NOES: 0

ABSENT: 1 (Aslam Ali)

ABSTAIN: 0

Motion for staff to review the Conditional Use Permit for the ICC in regards to the parking situation and overflow at their facility to make sure they are in compliance.

M/S: Tabladillo, Galang

AYES: 7

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Planning Commission Minutes

June 10, 2009

NOES: 0

ABSENT: 1 (Aslam Ali)

ABSTAIN: 0

Vice-Chair Mandal stated that the 3 methods that the Planning Director explained about notices if sufficient. Mr. Lindsay stated he will give a presentation at the next meeting regarding the requirements for public notification.

X. NEW BUSINESS

**2. DISCUSSION OF
PLANNING
COMMISSION
STIPEND**

Bronwen Lacey, Deputy City Attorney, stated the Planning Commission By-Laws and the Milpitas Municipal Code provides a stipend to the Planning Commissioners. In order to modify those provisions, the City Council would have to take action on the recommendations the Commissioners decide which would take 3 to 4 months. An alternate action staff would recommend is that the Commissioners donate their stipend back to the City for 6 months.

Chair Williams asked how the Commissioners would donate their stipend back to the City. Ms. Lacey stated the Commissioners could write a check to the City and deliver it to the cashier.

Commissioner Ciardella feels it would cost the City a lot of money by having to write a check to the City after receiving the check. He asked if there was another way to do this. Ms. Lacey stated the only other way is to change the By-Laws and to change the municipal code. Chair Williams stated the Commission is considered employees and it becomes an IRS issue.

Commissioner Sandhu asked if the Commissioners want to give more to the City can they do that. Ms. Lacey stated yes they can and use it as a donation on their taxes.

Vice-Chair Mandal stated to keep it simple. If the Commissioners want to write a check to the City let it be up to the individual to decide how much to give back.

Commissioner Tiernan asked if it would be possible to just sign the back of the check and hand it over to the cashier. Mr. Lindsay said unfortunately the City posts to the IRS the money that is issued to the Commissioners. The simplest approach is to change the By-laws and the ordinance. Commissioner Tiernan stated he is willing to donate his stipend back to the City.

Motion to approve Resolution 09 encouraging the Commission to voluntarily donate their stipends for 6 months due to the urgent financial challenges facing the City.

M/S: Ciardella, Tabladillo

AYES: 7

NOES: 0

ABSENT: 1 (Aslam Ali)

ABSTAIN: 0

**XI.
ADJOURNMENT**

The meeting was adjourned at 8:20 p.m. to the next regular meeting of June 24, 2009.

Respectfully Submitted,

James Lindsay
Planning & Neighborhood
Services Director

Yvonne Andrade
Recording Secretary

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Planning Commission Minutes
June 10, 2009

REPORT TYPE CLASS: 20500 <input type="checkbox"/> SUPPLEMENTAL 544(b)(2)(A) PC VANDALISM		CONTINUATION MILPITAS POLICE DEPARTMENT 1275 N. Milpitas Blvd., Milpitas, CA 95035 408-586-2400			CASE NO. 09201109		
DATE OF ORIGINAL REPORT 7/20/09 TOC: 1418 HRS.			DATE AND TIME OF CONTINUATION 7/23/09 1500 HRS.				
LOCATION: 555 LOS COCHES ST.							
1. R/P: LORIE KAUSTINE RUSSELL, WFA, 10/18/71, 987 UNIVERSITY AV. STE #3 LOS GATOS CA 95032							
2. (W) (408) 395-9050 (C) (408) 568-0660							
3. VICTIM: CALAVERAS OWNERS ASSOCIATION 3, 987 UNIVERSITY AV STE #3 LOS GATOS CA 95032							
4. (W) (408) 395-9050							
5. SUSPECT: UNKNOWN							
6.							
7. PROPERTY DAMAGED: ASPHALT ENTRANCE/EXIT TO ULTIM PROPERTY							
8. SPRAY PAINTED "TOW AWAY ZONE" APPROX. VALUE \$400 -							
9. TIME ELEMENT: 7/19/09 0800 - 1200 HRS.							
10.							
11. NARRATIVE:							
12. ON 7/20/09, AT APPROXIMATELY 1418 HRS., RUSSELL, WHO IS THE MANAGER FOR							
13. CALAVERAS OWNERS ASSOCIATION, CALLED THE MID TO REPORT A VANDALISM THAT OCCURRED							
14. DURING THE TIME ELEMENT. RUSSELL TOLD ME THAT THERE HAS BEEN AN ON-GOING "PARKING							
15. ISSUE" WITH THE INDIA COMMUNITY CENTER, WHICH IS LOCATED NEXT TO THE BUSINESS SHE							
16. MANAGES. RUSSELL TOLD ME THAT ON 7/19/09 AN UNKNOWN SUSPECT(S) PAINTED "TOW							
17. AWAY ZONE" IN ORANGE SPRAY PAINT ON BOTH ENTRANCES/EXITS TO THE PROPERTY. THE SUSPECT(S)							
18. THEN PAINTED OVER THE ORANGE SPRAY PAINT WITH BLACK SPRAY PAINT LATER IN THE DAY.							
19. RUSSELL EMAILED SEVERAL PHOTOGRAPHS WHICH I HAVE ATTACHED TO THE REPORT.							
20. RUSSELL REQUESTED A REPORT FOR DOCUMENTATION PURPOSES. I WENT TO THE PROPERTY							
21. AND SAW THE DAMAGE THAT RUSSELL TOLD ME ABOUT.							
22.							
23.							
24.							
25. SEE: PHOTOGRAPHS							
26.							
27. RE: CINDY NOM / PLANNING							
28.							
29.							
30.							
OFFICER'S NAME HANSEN	ID NUMBER 214	DATE 7/29/09	CHIEF/DAYS OFF SWANUS	SUPERVISOR REVIEW JH	ID NUMBER 154	DATE 7-29-09	PG ___ OF ___



Photo 1: Traffic management plan demonstrating barricades to prevent parking in certain areas.



Photo 2: Traffic management plan demonstrating barricades to prevent parking in certain areas.



Photo 3: Traffic management plan demonstrating barricades preventing parking in certain areas.



Photo 4: Market in operation



Photo 5: Traffic management plan demonstrating successful prevention of parking in certain areas.