



MEMORANDUM

Planning Division

Date: January 18, 2008
To: Tom Williams, City Manager
Through: James Lindsay, Planning and Neighborhood Services Director
From: Cindy Hom, Junior Planner
Subject: Permit Review No. PR08-0001: Six-Month Review for Jerry's Market located at 1491 S. Main Street.

COMPLIANCE WITH CONDITIONS

Special Condition (SC) 1: EFFECTIVE DATE OF THESE CONDITIONS: The following conditions become effective when the applicant obtains its Type 21 Off-Sale General license from the California Department of Alcoholic Beverage Control (ABC). The applicant shall submit evidence of ABC license issuance no later than 10 days of the ABC license approval. (CC)

Comment: Complies. The Department of Alcoholic Beverage Control (ABC) issued an interim license on May 15, 2007. Based on the Certificate of Decision, the ABC permit was permanently issued and became operative as of October 22, 2007.

SC2: HOURS OF OPERATION: The store's hours of operation may be from 6:00 a.m. until 11:00 p.m., seven days a week every night. (P)

Comment: Complies. The display sign for Store hours indicate 6:00AM to 11:00PM Monday through Friday.

SC3: CLOSING ACCESS TO REAR PARKING LOT: The applicant will close off vehicle access to the rear parking lot from 10:00 p.m. until 6:00 a.m., seven days a week. Plans and details of the proposed driveway gates shall be submitted for Planning Division review and approval. (P)

Comment: Complies. See photos 5 and 6.

SC4: "GOOD NEIGHBOR" SIGNS: The applicant shall maintain the "Good Neighbor" signs already installed in its parking lot reminding customers to avoid loud noise and music that might disturb our nearby neighbors. (P)

Comment: Complies. See Photo 1 and 2.

SC5: LITTER AND GRAFFITI PREVENTION: On its property, the applicant will pick up litter twice a day and paint over graffiti within one day. (P)

Comment: Staff conducted a site visit and did not identify any issues of concern.

SC6: ADD AUDIO AND VIDEO SURVEILLANCE OF JERRY'S MARKET PARKING AREA: The applicant shall install and maintain four exterior video cameras to give complete coverage of the parking area. All interior and exterior surveillance cameras shall be equipped with audio recording. Jerry's Market shall install and maintain a monitor that is viewable by the store's clerks in the counter area. The store will keep the video recordings for 14 days and make them available to law enforcement upon request. (P) (CC)

Comment: Complies. Staff reviewed recent video footage to ensure the audio and video surveillance is operational. The applicant also has a monitor installed that is visible from the sales clerk counter. See photo 7.

SC7: VIDEO SURVEILLANCE OF HOA'S COMMON AREA: The applicant shall negotiate in good faith with the Starlight Pines Homeowners Association (HOA) to provide and maintain on Jerry's Market property one or more video surveillance cameras that will view the HOA side of the common wall, provided the HOA agrees that Jerry's Market will not be liable for providing such service. (P)

Comment: The HOA has not expressed interest to the applicant to have additional surveillance cameras installed to view the HOA side of the common wall.

SC8: SIGNS NOT TO LOITER AND NO DRINKING OF ALCOHOL: The applicant shall provide signs prohibiting loitering and open alcoholic containers on its property. (P)

Comment: Complies. See Photo 7.

SC9: REPAIR OF COMMON WALL: The applicant will reimburse the HOA up to \$50,000.00 toward the cost of repairing the common wall separating Jerry's Market property and the HOA property. (P)

Comment: The applicant has not fulfilled the monetary obligation for the repairs of the common wall. However, the applicant and Pines HOA are in discussion and are working toward an agreement. Enclosed is a copy of status update received via e-mail from Russ Bargstadt, Pines HOA Board Member.

SC10: FLOOR AREA THAT MAY DISPLAY ALCOHOLIC BEVERAGES: The applicant may not display alcoholic beverages on more than 45% of its customer floor area. (P)

Comment: Staff inspected the premise and found the site to be in conformance with the approved floor plan. The total display for alcoholic beverages is approximately 210 square feet, which is less than 10% of the customer floor area.

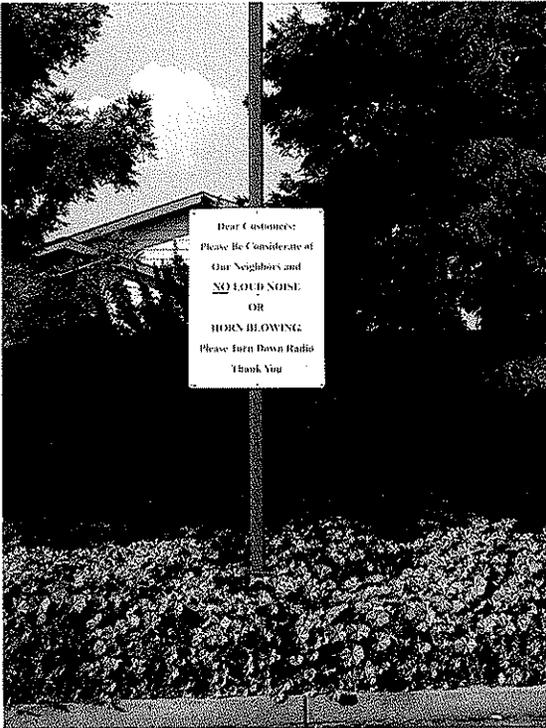
SC11: SIX-MONTH REVIEW: The applicant shall be subject to a six-month review to ensure compliance with the conditions of approval and address any issues. Six-month reviews shall be an agenda item for City Council review. The applicant shall bear the cost of all materials and fees associated with the hearing. (P) (CC)

Comment: The six month review is scheduled for the February 5, 2008 City Council meeting.

REVIEW OF JERRY'S MARKET OPERATIONS

1. Based on Police Department records, there are four calls for services that included the following:
 - (1) Minors attempting to purchase alcohol.
 - (2) Loud noises.
 - (1) Driving under the influence (DUI) accident.
2. There is no pending code violations associated with the site.
3. Department of Alcoholic Beverage Control reports no violations.

Photo 1



“Good Neighbor” Sign located on north edge of the property.

Photo 2



“Good Neighbor” Sign located along in rear parking lot.

Photo 3



“No Loitering or Drinking Alcohol” Sign located along the north driveway.

Photo 4



“No Loitering or Drinking Alcohol” Sign located on the common wall.

Photo 5



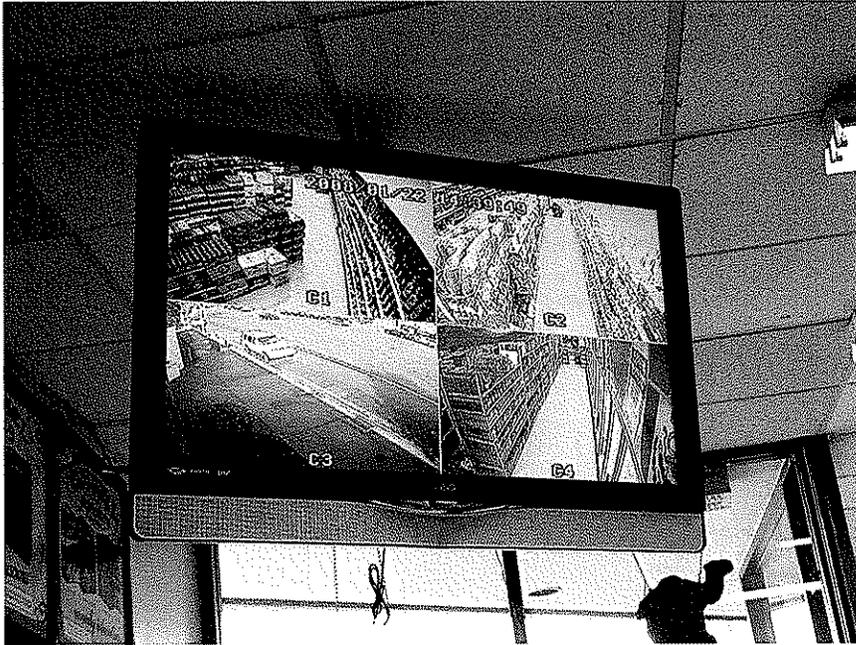
Parking lot gate - Entrance driveway

Photo 6



Parking lot gate - Exit driveway

Photo 7



Video surveillance monitor

APPROVED SPECIAL CONDITIONS

USE PERMIT NO. UA2006-2 PJ# 2450

A request for approval to add sales of all types of alcohol in conjunction with an existing convenience store.

1491 South Main Street (APN 86-18-052)

City Council Approval: January 16, 2007

SPECIAL CONDITIONS

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2. **HOURS OF OPERATION:** The store's hours of operation may be from 6:00 a.m. until 11:00 p.m., seven days a week every night. (P)
3. **CLOSING ACCESS TO REAR PARKING LOT:** The applicant will close off vehicle access to the rear parking lot from 10:00 p.m. until 6:00 a.m., seven days a week. Plans and details of the proposed driveway gates shall be submitted for Planning Division review and approval. (P)
4. **"GOOD NEIGHBOR" SIGNS:** The applicant shall maintain the "Good Neighbor" signs already installed in its parking lot reminding customers to avoid loud noise and music that might disturb our nearby neighbors. (P)
5. **LITTER AND GRAFFITI PREVENTION:** On its property, the applicant will pick up litter twice a day and paint over graffiti within one day. (P)
6. **ADD AUDIO AND VIDEO SURVEILLANCE OF JERRY'S MARKET PARKING AREA:** The applicant shall install and maintain four exterior video cameras to give complete coverage of the parking area. All interior and exterior surveillance cameras shall be equipped with audio recording. Jerry's Market shall install and maintain a monitor that is viewable by the store's clerks in the counter area. The store will keep the video recordings for 14 days and make them available to law enforcement upon request. (P) (CC)
7. **VIDEO SURVEILLANCE OF HOA'S COMMON AREA:** The applicant shall negotiate in good faith with the Starlight Pines Homeowners Association (HOA) to provide and maintain on Jerry's Market property one or more video surveillance cameras that will view the HOA side of the common wall, provided the HOA agrees that Jerry's Market will not be liable for providing such service. (P)
8. **SIGNS NOT TO LOITER AND NO DRINKING OF ALCOHOL:** The applicant shall provide signs prohibiting loitering and open alcoholic containers on its property. (P)

9. REPAIR OF COMMON WALL: The applicant will reimburse the HOA up to \$50,000.00 toward the cost of repairing the common wall separating Jerry's Market property and the HOA property. (P)
10. FLOOR AREA THAT MAY DISPLAY ALCOHOLIC BEVERAGES: The applicant may not display alcoholic beverages on more than 45% of its customer floor area. (P)
11. SIX-MONTH REVIEW: The applicant shall be subject to a six-month review to ensure compliance with the conditions of approval and address any issues. Six-month reviews shall be an agenda item for City Council review. The applicant shall bear the cost of all materials and fees associated with the hearing. (P) (CC)

From: BARGSTADT, RUSS [russ_bargstadt@appsig.com]
Sent: Monday, January 14, 2008 11:02 AM
To: Cindy Hom
Subject: RE: Jerry's Market
Hi Cindy:

It is correct that the monetary consideration owed the Pines by Aslam has not yet been completed. We have been in communication with Aslam on a regular basis and are working on options as to how to best utilize these funds. The delay is not a result of any hesitation or lack of good will on his part. I anticipate successful conclusion in the near future. Thanks.

Russ Bargstadt
Pines HOA

From: Cindy Hom [mailto:chom2@ci.milpitas.ca.gov]
Sent: Tuesday, January 08, 2008 5:19 PM
To: BARGSTADT, RUSS
Subject: Jerry's Market

Hi Russ,

Happy New Year and I hope this email finds you well. The six month review for Jerry's Market is schedule for February 5, 2008. I was told by Aslam that the monetary contribution to the Pines HOA has not been fulfilled. Can you give me an update on what agreements or discussion you've had in regards to the monetary contribution. Please give me a call to further discuss.

Thanks,
Cindy
408-586-3284



City of Milpitas 455 E. Calaveras Blvd. Milpitas, CA 95035

City Clerk's Office

JAN 30 2008

RECEIVED

NOTICE OF PUBLIC HEARING

NOTICE IS HEREBY GIVEN that the City Council has set the hour of 7:00 p.m., Tuesday, February 5, 2008, in the City Hall Council Chambers, 455 E. Calaveras Blvd., Milpitas, as the time and place for a Public Hearing on an application by Aslam Ali, **Permit Review No. PR08-0001**, a six-month review of the Conditional Use Permit (UA2006-2) for Jerry's Market located at 1491 S. Main Street (APN 86-18-052), zoned General Commercial. Applicant: Aslam Ali. Staff Contact: Cindy Hom, (408) 586-3284.

NOTICE IS FURTHER GIVEN pursuant of Government Code Sec. 65009, that any challenge of this application in court, may be limited to raising only those issues raised by you or on your behalf at the public hearing described in this notice, or in written correspondence delivered to the Commission at or prior to this hearing.

ANY AND ALL PERSONS INTERESTED in or having objections may appear and be heard, or written comments may be submitted to the City Council, via the City Clerk, prior to the hearing. Written comments may be: mailed to the City Clerk's Office, City of Milpitas, 455 E. Calaveras Blvd., Milpitas, CA 95035; faxed to (408) 586-3030; delivered to the Information Desk on the first floor at City Hall, 455 E. Calaveras Blvd., Milpitas, CA; or sent via email to mlavelle@ci.milpitas.ca.gov.

Mary Lavelle
City Clerk

*On behalf of my wife & me,
"We cast a "NO" vote to
any permit for selling liquor"
Because we donot want drunk &
vagrabond in our
Area.
Thanks
Abdul Jafar Diwan
(ABDUL L. DIWAN)*