

RESOLUTION NO. 10-42

A RESOLUTION OF THE CITY COUNCIL OF THE  
CITY OF LANCASTER, CALIFORNIA, UPHOLDING  
THE PLANNING COMMISSION DECISION BY  
DENYING CONDITIONAL USE PERMIT NO. 10-04

WHEREAS, a conditional use permit has been filed by Crosspoint Development, LLC, to add Type 21 (Off Sale General) alcohol sales of beer, wine, and distilled spirits for the primary off-sale of alcoholic beverages at an existing mini-mart with gasoline sales located at 1006 West Avenue H in the CPD Zone, as shown on the attached site map; and

WHEREAS, an application for the above-described conditional use permit has been filed pursuant to the regulations contained in Article I of Chapter 17.32 and Chapter 17.42 of the Lancaster Municipal Code; and

WHEREAS, a written report was prepared by staff which included a recommendation for denial of this conditional use application because the applicant's request does not meet the distance requirements of Chapter 42, Alcoholic Beverage Establishments and could create a public safety and welfare hazard; and

WHEREAS, public notice was provided as required by law and a public hearing was held on April 19, 2010, and June 22, 2010; and

WHEREAS, the proposed project is not subject to the California Environmental Quality Act (CEQA) per Section 15061(b)(3), which states that "where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA". As the proposed project is a use permit for to add the off-sale of alcoholic beverages at an existing mini-mart with gasoline sales, no impacts on environmental resources would be expected to occur; and

WHEREAS, this Council hereby adopts the following findings in denial of this conditional use permit:

1. The proposed use will adversely affect nearby residents and facilities primarily devoted to use by children, families, and the general public, after giving consideration to the distance or proximity of the proposed alcoholic beverage establishment to residential districts, schools (public or private), day care centers, public parks, playgrounds and other recreational facilities, churches or other places of religious, hospitals clinics or other health care facilities due to the following:
  - a. The proposed use does not meet the distance requirements from sensitive uses (i.e. residences, residential zoning, schools, parks, churches, etc.) as per Section 17.42.040A-B. The proposed location is surrounded by existing residential uses within 300 feet of the property lines.

- b. The applicant has not adequately justified the findings under Section 17.42.040.C for granting a waiver from the distance requirement to the existing residences.
  - c. The proposed use does not meet the findings for the conditional use per Section 17.42.050B-C. Staff does not support the primary off-sale of alcoholic beverages within close proximity to residential uses. In order to protect the health, safety, and welfare of the general public, staff does not support the off-sale of alcohol in conjunction with the sale of gasoline on the premises.
  - d. The proposed use does not meet the factors regarding public convenience or necessity as per Section 17.42.060. Specifically, the convenience benefits provided to the community do not outweigh potential negative effects of off-site alcohol sales in this location. The Los Angeles County Sheriff's Department (Lancaster Station) has indicated a concern for public safety associated with the proposed use. The close proximity to residences and the existing sale of gasoline on the premises is an added concern for staff and local law enforcement.
2. The proposed request, if approved could have a long term impact on the health, peace comfort, or welfare of persons residing or working in the area. In addition, the request could be materially detrimental to the use, enjoyment, or valuation of property because the proposed location is surrounded by existing residential uses.

NOW, THEREFORE, BE IT RESOLVED:

WHEREAS, this Council, after considering all the evidence presented, hereby denies the appeal and upholds the Planning Commission denial of Conditional Use Permit No. 10-04.

PASSED, APPROVED and ADOPTED this \_\_\_\_\_ day of \_\_\_\_\_, 2010, by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

ATTEST:

APPROVED:

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GERI K. BRYAN, CMC  
 City Clerk  
 City of Lancaster

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R. REX PARRIS  
 Mayor  
 City of Lancaster

STATE OF CALIFORNIA                    )  
COUNTY OF LOS ANGELES            )        ss  
CITY OF LANCASTER                    )

CERTIFICATION OF RESOLUTION  
CITY COUNCIL

I, \_\_\_\_\_, \_\_\_\_\_ City  
of Lancaster, California, do hereby certify that this is a true and correct copy of the original  
Resolution No. 10-42, for which the original is on file in my office.

WITNESS MY HAND AND THE SEAL OF THE CITY OF LANCASTER, on this  
\_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

(seal)

\_\_\_\_\_

# PLANNING COMMISSION

AGENDA ITEM: 6.

**ACTION** APPROVED (5-0-0-2)  
(ABSENT: Jacobs and Smith)

DATE: 04-19-10

## STAFF REPORT

### CONDITIONAL USE PERMIT NO. 10-04

DATE: April 19, 2010

TO: Lancaster Planning Commission

FROM: Planning Department *SRP for BZ*

APPLICANT: Crosspoint Development, LLC

LOCATION: 1006 West Avenue H

REQUEST: A Conditional Use Permit to add Type 21 (Off Sale General for beer, wine, and distilled spirits) for the primary off-sale of alcoholic beverages at an existing mini-mart with gasoline sales in the CPD (Commercial Planned Development) Zone

RECOMMENDATION: Adopt Resolution No. 10-13 denying Conditional Use Permit No. 10-04.

BACKGROUND: On April 21, 2008, the Planning Commission approved Conditional Use Permit No. 07-06 for a 19,028 square-foot commercial/retail center to include a convenience store, car wash, gas station and a drive-thru restaurant on 2.5± gross acres.

GENERAL PLAN DESIGNATION, EXISTING ZONING AND LAND USE: The subject location is designated C (Commercial) by the General Plan and is zoned CPD (Commercial Planned Development), and is partially developed with an existing 2,250 square-foot mini-mart, 2,067 square-foot gasoline canopy, 1,440 square-foot car wash facility, and a vacant 600 square-foot retail building. The General Plan designation, zoning, and land use of the surrounding properties are as follows:

	<u>GENERAL PLAN</u>	<u>ZONING</u>	<u>LAND USE</u>
NORTH	LI	HI (Proposed LI)	Vacant
EAST	UR	R-7,000	Single Family Residences
SOUTH	UR	R-7,000	Single Family Residences
WEST	C, UR	CPD, R-7,000, R-10,000	Vacant, Single Family Residences

PUBLIC IMPROVEMENTS: The site is bounded to the north by Avenue H, and to the east by 10<sup>th</sup> Street West, both of which are improved with one travel lane in each direction. All utilities are available to serve the site.

ENVIRONMENTAL REVIEW: The proposed project is not subject to the California Environmental Quality Act (CEQA) per Section 15061(b)(3), which states that “where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA”. As the proposed project is a use permit for the sale of alcohol at an existing facility, no impacts on environmental resources would be expected to occur. Notice of intent to find that the action is categorically exempt has been legally advertised.

LEGAL NOTICE: Notice of Public Hearing was mailed to all property owners within a 500-foot radius of the project, posted in three places, posted on the subject property, and noticed in a newspaper of general circulation per prescribed procedure.

ANALYSIS: Crosspoint Development, LLC, the applicant and owner of the existing 2,250 square-foot mini-mart with gasoline sales, is requesting a conditional use permit to allow the off-sale of alcoholic beverages. A conditional use permit is required for the off-site sale of beer, wine and distilled spirits (Lancaster Municipal Code, Section 17.42.030). The applicant has requested a Type 21 (Off Sale General) license for the off-sale of beer, wine, and distilled spirits for consumption off the premises where sold from the California State Department of Alcoholic Beverage Control (ABC).

The proposed business is considered a “mini-mart”, which is a primary off-sale alcoholic beverage establishment, as established by Municipal Code Section 17.42.020. The code defines a primary off-sale alcoholic beverage establishment as, “any business established which is making application for, or which has obtained a liquor license from ABC authorizing the sale of alcoholic beverages for consumption off the premises in original, unopened containers, and which exceeds the amount of floor area devoted to alcoholic beverage sales area as defined under “incidental off-sale alcoholic beverage establishment”. For the purposes of this Chapter, liquor stores and mini-markets shall be deemed primary off-sale alcoholic beverage establishments.” According to Section 17.42.020, the location of the proposed use is not considered a “convenience market” due to the sale of gasoline, and that the store does not devote a minimum of ten percent (10%) of overall floor area to the display and sale of fresh meat and produce. The floor plan indicates 3.5 percent or 80 square feet of the sales floor area will be utilized for the sale and display of alcoholic beverages. In addition, the change in the use to add the off-site sale of alcoholic beverages is a substantial change in the mode and character of the current operation and, therefore, requires a conditional use permit.

The applicant feels that the addition of alcohol sales to the site will provide convenience to the surrounding residents within walking or short driving distance, and has requested a waiver from the distance requirements established by the ordinance. In addition, the applicant has stated that the off-sale of alcohol will help the new business (mini-mart and gasoline station) to meet its financial obligations and expenses. According to the applicant, employees would be trained to provide security in addition to their normal work assignments.

Staff is recommending denial of the proposed change to allow the primary off-sale of alcoholic beverages at the existing mini-mart with gasoline sales, because it does not meet the requirements of Chapter 42, Alcoholic Beverage Establishments, and will adversely affect nearby residences or businesses in this area of Lancaster for the following reasons:

- The applicant has not adequately justified the findings under Section 17.42.040.C for granting a waiver from the distance requirement to the existing residences.
- The proposed use does not meet the factors regarding public convenience or necessity as per Section 17.42.060. Staff's opinion is that the benefits provided to the community from a convenience standpoint do not outweigh potential negative factors. The Los Angeles County Sheriff's Department (Lancaster Station) has indicated a concern for public safety associated with the proposed use. According to their data, there have been a total of 99 crimes committed within a one-half-mile radius of the project site in a six-month period from September 28, 2009, through February 28, 2010. The close proximity to residences and the existing sale of gasoline on the premises is a concern for the Sheriff's Department as well.

Based on the foregoing information, staff does not support the applicant's request to allow the primary off-sale of alcoholic beverages at the existing mini-mart with gasoline sales for Conditional Use Permit No. 10-04.

Respectfully submitted,

  
\_\_\_\_\_  
Brigitte Ligons, Assistant Planner

cc: Applicant

## RESOLUTION NO. 10-13

### A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF LANCASTER, CALIFORNIA, DENYING CONDITIONAL USE PERMIT NO. 10-04

WHEREAS, a conditional use permit has been filed by Crosspoint Development, LLC, to add Type 21 (Off Sale General) alcohol sales of beer, wine, and distilled spirits for the primary off-sale of alcoholic beverages at an existing mini-mart with gasoline sales located at 1006 West Avenue H in the CPD Zone, as shown on the attached site map; and

WHEREAS, an application for the above-described conditional use permit has been filed pursuant to the regulations contained in Article I of Chapter 17.32 and Chapter 17.42 of the Lancaster Municipal Code; and

WHEREAS, a written report was prepared by staff which included a recommendation for denial of this conditional use application because the applicant's request does not meet the requirements of Chapter 42, Alcoholic Beverage Establishments and could create a public safety and welfare hazard; and

WHEREAS, public notice was provided as required by law and a public hearing was held on April 19, 2010; and

WHEREAS, the proposed project is not subject to the California Environmental Quality Act (CEQA) per Section 15061(b)(3), which states that "where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA". As the proposed project is a use permit for to add the off-sale of alcoholic beverages at an existing mini-mart with gasoline sales, no impacts on environmental resources would be expected to occur; and

WHEREAS, this Commission hereby adopts the following findings in denial of this conditional use permit:

1. The proposed use will adversely affect nearby residents and facilities primarily devoted to use by children, families, and the general public, after giving consideration to the distance or proximity of the proposed alcoholic beverage establishment to residential districts, schools (public or private), day care centers, public parks, playgrounds and other recreational facilities, churches or other places of religious, hospitals clinics or other health care facilities due to the following:
  - a. The proposed use does not meet the distance requirements from sensitive uses (i.e. residences, residential zoning, schools, parks, churches, etc.) as per Section 17.42.040A-B. The proposed location is surrounded by existing residential uses within 300 feet of the property lines.
  - b. The applicant has not adequately justified the findings under Section 17.42.040.C for granting a waiver from the distance requirement to the existing residences.

- c. The proposed use does not meet the findings for the conditional use per Section 17.42.050B-C. Staff does not support the primary off-sale of alcoholic beverages within close proximity to residential uses. In order to protect the health, safety, and welfare of the general public, staff does not support the off-sale of alcohol in conjunction with the sale of gasoline on the premises.
  - d. The proposed use does not meet the factors regarding public convenience or necessity as per Section 17.42.060. Specifically, the convenience benefits provided to the community do not outweigh potential negative effects of off-site alcohol sales in this location. The Los Angeles County Sheriff's Department (Lancaster Station) has indicated a concern for public safety associated with the proposed use. The close proximity to residences and the existing sale of gasoline on the premises is an added concern for staff and local law enforcement.
2. The proposed request, if approved could have a long term impact on the health, peace comfort, or welfare of persons residing or working in the area. In addition, the request could be materially detrimental to the use, enjoyment, or valuation of property because the proposed location is surrounded by existing residential uses.

NOW, THEREFORE, BE IT RESOLVED:

This Commission hereby denies Conditional Use Permit No. 10-04.

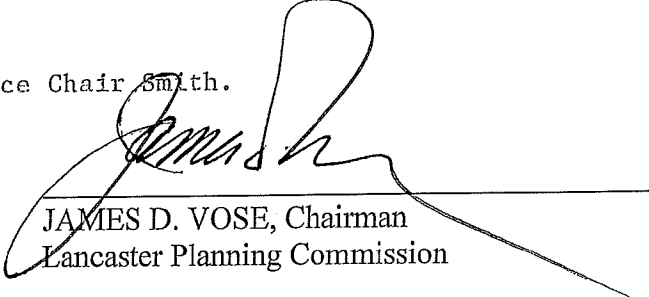
PASSED, APPROVED and ADOPTED this 19<sup>th</sup> day of April, 2010 by the following vote:

AYES: Commissioners Burkey, Harvey, Haycock and Malhi, and Chairman Vose.

NOES:

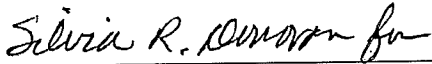
ABSTAIN:

ABSENT: Commissioner Jacobs and Vice Chair Smith.



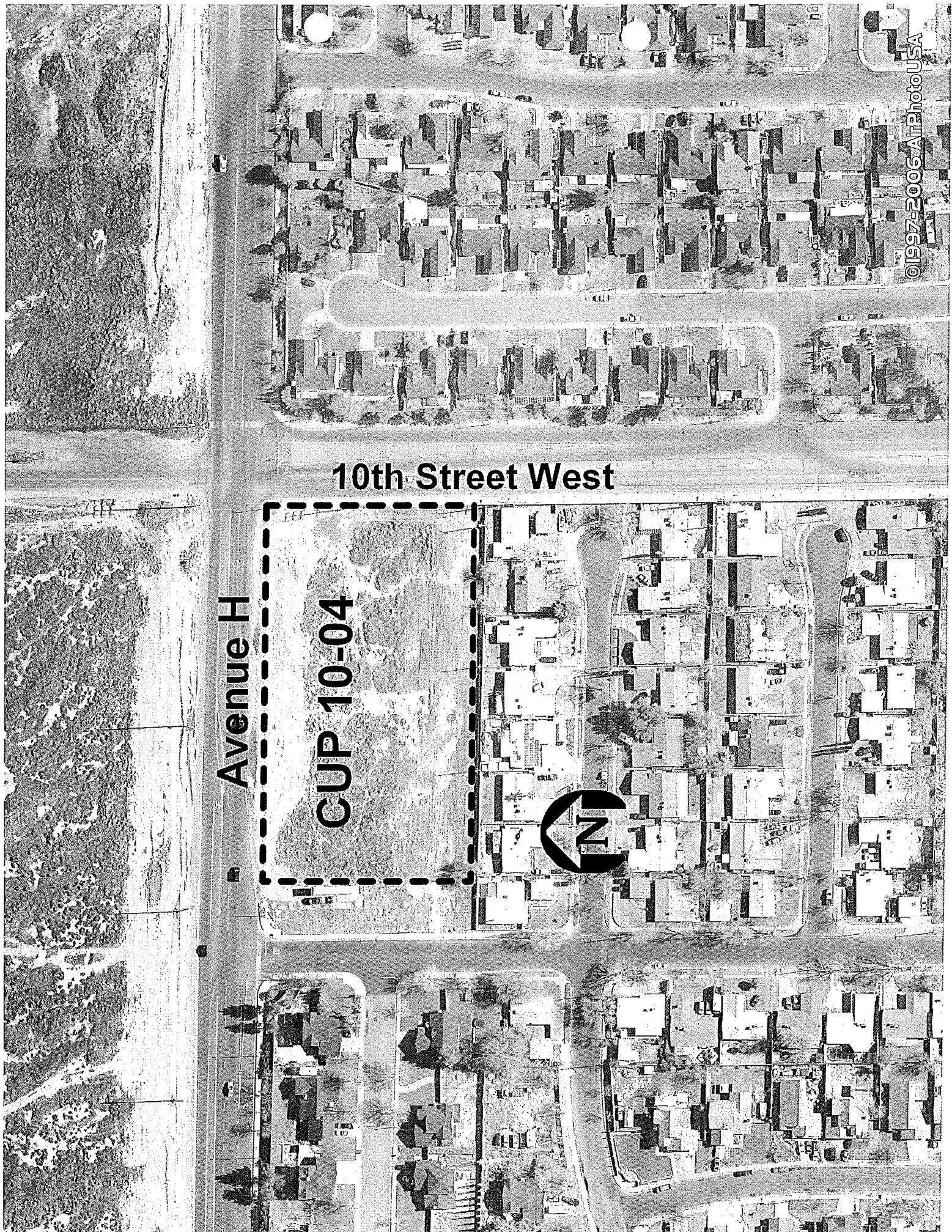
JAMES D. VOSE, Chairman  
Lancaster Planning Commission

ATTEST:



BRIAN S. LUDICKE, Planning Director  
City of Lancaster





10th Street West

Avenue H

CUP 10-04



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# PLANNING COMMISSION

**ACTION** APPROVED (5-0-0-2)  
(ABSENT: Jacobs and Smith)

AGENDA ITEM: 6.

DATE: 04-19-10

## STAFF REPORT

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- The applicant has not adequately justified the findings under Section 17.42.040.C for granting a waiver from the distance requirement to the existing residences.
- The proposed use does not meet the factors regarding public convenience or necessity as per Section 17.42.060. Staff's opinion is that the benefits provided to the community from a convenience standpoint do not outweigh potential negative factors. The Los Angeles County Sheriff's Department (Lancaster Station) has indicated a concern for public safety associated with the proposed use. According to their data, there have been a total of 99 crimes committed within a one-half-mile radius of the project site in a six-month period from September 28, 2009, through February 28, 2010. The close proximity to residences and the existing sale of gasoline on the premises is a concern for the Sheriff's Department as well.

Based on the foregoing information, staff does not support the applicant's request to allow the primary off-sale of alcoholic beverages at the existing mini-mart with gasoline sales for Conditional Use Permit No. 10-04.

Respectfully submitted,

  
\_\_\_\_\_  
Brigitte Ligons, Assistant Planner

cc: Applicant

## RESOLUTION NO. 10-13

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WHEREAS, a written report was prepared by staff which included a recommendation for denial of this conditional use application because the applicant's request does not meet the requirements of Chapter 42, Alcoholic Beverage Establishments and could create a public safety and welfare hazard; and

WHEREAS, public notice was provided as required by law and a public hearing was held on April 19, 2010; and

WHEREAS, the proposed project is not subject to the California Environmental Quality Act (CEQA) per Section 15061(b)(3), which states that "where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA". As the proposed project is a use permit for to add the off-sale of alcoholic beverages at an existing mini-mart with gasoline sales, no impacts on environmental resources would be expected to occur; and

WHEREAS, this Commission hereby adopts the following findings in denial of this conditional use permit:

1. The proposed use will adversely affect nearby residents and facilities primarily devoted to use by children, families, and the general public, after giving consideration to the distance or proximity of the proposed alcoholic beverage establishment to residential districts, schools (public or private), day care centers, public parks, playgrounds and other recreational facilities, churches or other places of religious, hospitals clinics or other health care facilities due to the following:
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  - b. The applicant has not adequately justified the findings under Section 17.42.040.C for granting a waiver from the distance requirement to the existing residences.

- c. The proposed use does not meet the findings for the conditional use per Section 17.42.050B-C. Staff does not support the primary off-sale of alcoholic beverages within close proximity to residential uses. In order to protect the health, safety, and welfare of the general public, staff does not support the off-sale of alcohol in conjunction with the sale of gasoline on the premises.
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2. The proposed request, if approved could have a long term impact on the health, peace comfort, or welfare of persons residing or working in the area. In addition, the request could be materially detrimental to the use, enjoyment, or valuation of property because the proposed location is surrounded by existing residential uses.

NOW, THEREFORE, BE IT RESOLVED:

This Commission hereby denies Conditional Use Permit No. 10-04.

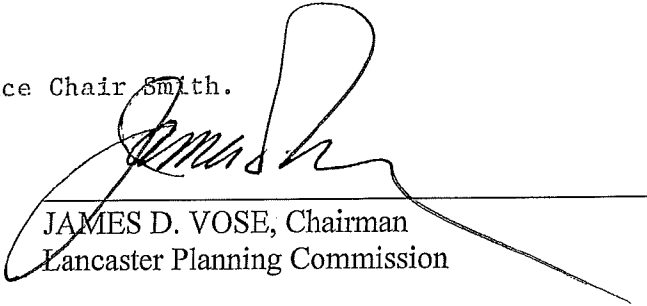
PASSED, APPROVED and ADOPTED this 19<sup>th</sup> day of April, 2010 by the following vote:

AYES: Commissioners Burkey, Harvey, Haycock and Malhi, and Chairman Vose.

NOES:

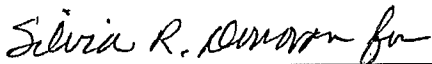
ABSTAIN:

ABSENT: Commissioner Jacobs and Vice Chair Smith.

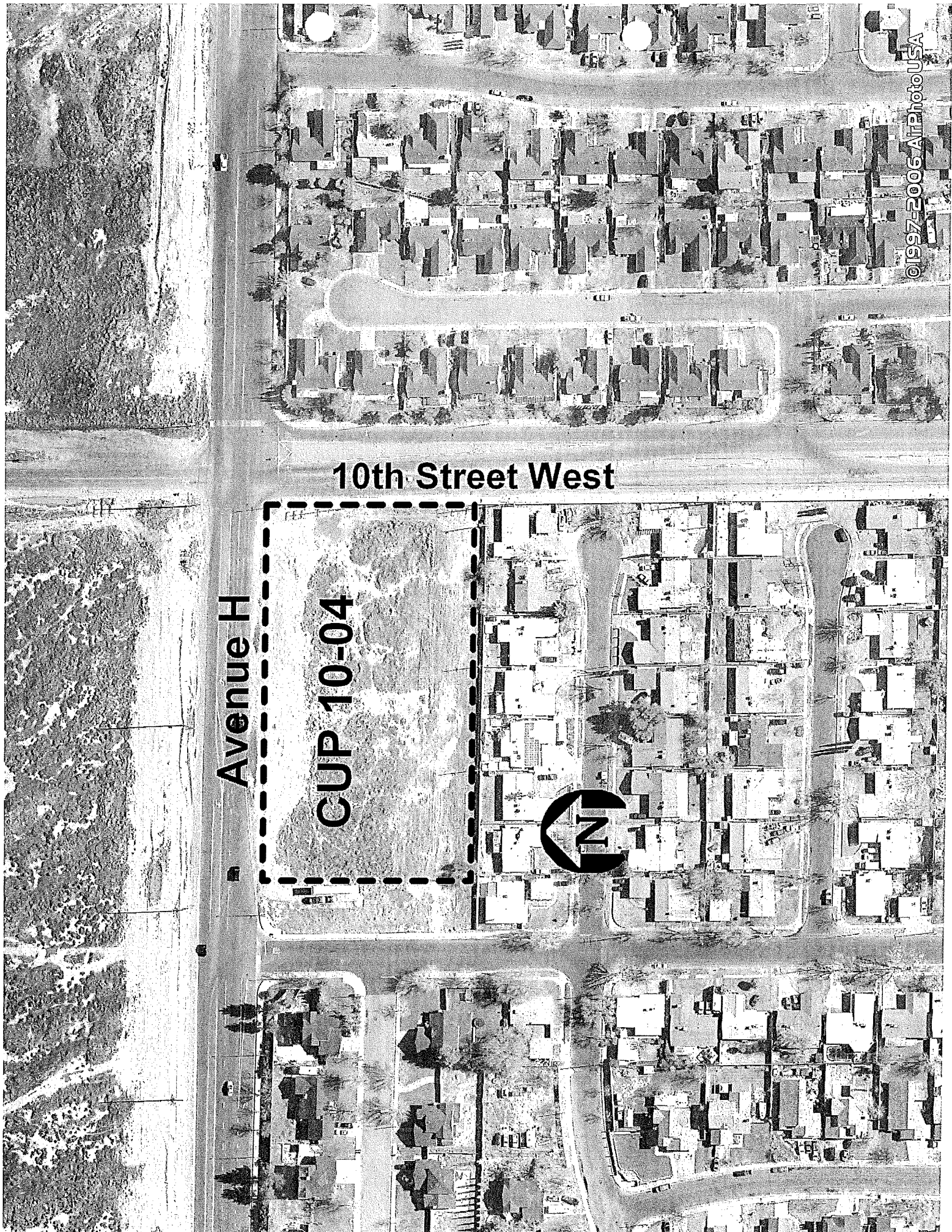


JAMES D. VOSE, Chairman  
Lancaster Planning Commission

ATTEST:



BRIAN S. LUDICKE, Planning Director  
City of Lancaster



Avenue H

CUP 10-04

10th Street West

