

AGENDA ITEM: 3.

DATE: 08-15-11

STAFF REPORT

CONDITIONAL USE PERMIT NO. 11-08

DATE: August 15, 2011

TO: Lancaster Planning Commission

FROM: Planning Department

APPLICANT: Jesse's Pizza

LOCATION: 1048 East Avenue K

REQUEST: A Conditional Use Permit to allow on-sale consumption of alcoholic beverages (Alcoholic Beverage Control Type 41, on-sale beer and wine) within a restaurant (Jesse's Pizza), and five video games, in the CPD (Commercial Planned Development) Zone

RECOMMENDATION: Adopt Resolution No. 11-11 approving Conditional Use Permit No. 11-08.

BACKGROUND: There have been no prior hearings before either the City Council or the Planning Commission concerning this property.

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 currently a 3,200± square-foot restaurant. 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	C	CPD	Retail
EAST	UR	R-7,000	Single-Family Residential
SOUTH	UR	R-7,000	Single-Family Residential
WEST	C	CPD	Retail

PUBLIC IMPROVEMENTS: The site is bounded to the west by Challenger Way, which is improved with two lanes in each direction and to the north by Avenue K, which is improved with three lanes of traffic 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 and a video game arcade at an existing facility, no impacts on environmental resources would be expected to occur.

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: The applicant, Jesse's Pizza, is seeking approval of a Conditional Use Permit to allow on-sale consumption of alcoholic beverages (Alcoholic Beverage Control Type 41, on-sale beer and wine), and five video games within an existing bona-fide restaurant (Jesse's Pizza). A conditional use permit is required to operate the entertainment use portion of the business per Lancaster Municipal Code Section 17.12.080.C. A video game arcade is defined as any use having five or more coin-operated games of skill kept and maintained for public use. A conditional use permit is required for an Alcoholic Beverage Control license type per Lancaster Municipal Code Section 17.42.030.

The floor plan shows a mixture of tables and booths. The primary use would be a restaurant with the addition of five video games. The video games are aimed at restaurant patrons. Generally, no one would be allowed into the facility without purchasing food or drink. To prevent any loitering issues, the applicant would monitor the restaurant and video games. The regular hours of operation would be from Monday through Thursday, 11:00 a.m. to 10:00 p.m., and Friday through Sunday, 10:00 a.m. to 10:00 p.m.

As a bona fide restaurant, the alcohol use is exempt from the distance requirements of the City code, since the general alcohol sales will be incidental to the sale of food. The applicant will be required to comply with all standard conditions from the alcohol ordinance for on-sale alcoholic beverage establishments (Section 17.42.070).

The proposed five video games will be a service enhancement for the existing business and a good fit within the retail center. Operation of the restaurant will be conducted by well-trained staff in a manner that will create a pleasant dining experience.

The proposed project meets the requirements of the zone, and will not adversely affect nearby residences or businesses. The conditions of approval have been included, which would ensure that the safety and general welfare of the surrounding area would be maintained. Staff believes the Planning Commission could make a favorable determination in support of the proposal.

Respectfully submitted,

Christopher Aune, Assistant Planner

cc: Applicant
Engineer

RESOLUTION NO. 11-11

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF LANCASTER, CALIFORNIA, APPROVING CONDITIONAL USE PERMIT NO. 11-08

WHEREAS, a conditional use permit has been requested by Jesse's Pizza, to allow on-sale consumption of alcoholic beverages (Alcoholic Beverage Control Type 41, on-sale beer and wine) within a restaurant (Jesse's Pizza), and five video games, in the CPD (Commercial Planned Development) 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 notice of intention to consider the granting of a Conditional Use Permit has been given as required in Article V of Chapter 17.32 of the Lancaster Municipal Code, and in Section 65905 of the Government Code of the State of California; and

WHEREAS, staff has performed necessary investigations, prepared a written report, and recommended approval of this conditional use application, subject to conditions; and

WHEREAS, public notice was provided as required by law and a public hearing was held on August 15, 2011; 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 the sale of alcohol at an existing facility, no impacts on environmental resources would be expected to occur."

WHEREAS, this Commission hereby adopts the following findings in support of approval of this application:

1. The proposed use would be located within an existing building, and will be in conformance with the General Plan land use designation of (C) Commercial.
2. The requested alcohol use at the location proposed will not:
 - a. Adversely affect the health, peace, comfort, or welfare of persons residing or working in the surrounding area, because the request is for on-sale and consumption of alcoholic beverages (Alcoholic Beverage Control Type 41 beer and wine) within a bona-fide restaurant. The hours of operation would be from Monday through Thursday, 11:00 a.m. to 10:00 p.m., and Friday through Sunday, 10:00 a.m. to 10:00 p.m.

- b. Be materially detrimental to the use, enjoyment, or valuation of property of other persons located in the vicinity of the site, because City development standards will be met, and adequate parking is provided.
 - c. Jeopardize, endanger or otherwise constitute a menace to the public health, safety, or general welfare, because adequate sewer, water, drainage, and improvements are be part of the project.
3. The proposed site is adequately served:
 - a. By Avenue K and Challenger Way which are of sufficient width and improved to carry the anticipated daily vehicle trips such use would generate; and
 - b. By other public or private service facilities, including sewer, water, fire, and police services as are required.
4. The proposed use will not result in a significant effect on the environment because all potential impacts have been found to not be significant as noted in the environmental review section of the staff report prepared for this project.

WHEREAS, this Commission hereby adopts the following Conditional Use Permit findings, per Section 17.42.050, in support of approval of this application:

1. The proposed use for on-sale and consumption of beer and wine within a bona-fide restaurant is located in the CPD (Commercial Planned Development) zone, which permits alcoholic beverages to be sold, served or given away for on-sale or off-sale consumption with a conditional use permit.
2. The proposed use will not adversely affect the 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 worship, hospitals, clinics or other health care facilities, because the alcohol sales is in conjunction with a bona fide restaurant.
3. The proposed restaurant serves the public convenience and necessity based on all factors outlined in Section 17.42.060 of the Municipal Code.

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NOW, THEREFORE, BE IT RESOLVED:

This Commission hereby approves Conditional Use Permit No. 11-08,
subject to the conditions attached hereto and incorporated herein.

PASSED, APPROVED and ADOPTED this 15th day of August 2011, by the following
vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

JAMES D. VOSE, Chairman
Lancaster Planning Commission

ATTEST:

BRIAN S. LUDICKE, Planning Director
City of Lancaster

ATTACHMENT TO PC RESOLUTION NO. 11-11
CONDITIONAL USE PERMIT NO. 11-08
CONDITIONS LIST
August 15, 2011

GENERAL ADVISORY

1. All standard conditions as set forth in Planning Commission Resolution Number 10-23 for Conditional Use Permits shall apply except for Condition Nos. 4, 7, 10, 11, 13, 14, 16-30, 36, 37, and 43-46.

ALCOHOL CONDITIONS

2. The regular hours of operation would be from Monday through Thursday, 11:00 a.m. to 10:00 p.m., and Friday through Sunday, 10:00 a.m. to 10:00 p.m.
3. Per the direction of the Planning Director, the applicant shall comply with Chapter 17.42.070 of the Lancaster Municipal Code.
4. Pursuant to Section 17.42.070.E of the Lancaster Municipal Code, on-site monitoring shall be provided for the restaurant and video games to prevent any potential loitering issues.

RESOLUTION NO. 10-23

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF LANCASTER, CALIFORNIA, ADOPTING CERTAIN STANDARDIZED CONDITIONS OF APPROVAL FOR CONDITIONAL USE PERMITS

WHEREAS, the Planning Department staff presented to the Planning Commission a list of forty-nine (49) conditions which are applied to Conditional Use Permits when they are approved by said Commission; and

WHEREAS, the staff explained to the Commission that since these are standard conditions for almost all use permits, it might be more appropriate to adopt them by resolution for reference purposes as it would save staff time in preparing the reports and Commission time in hearing said reports; and

WHEREAS, it was further explained by staff that adoption of these standard conditions and incorporating by reference would be a more efficient and consistent approach to applying said conditions to the use permits approved by the Commission; and

WHEREAS, after discussion, it was the consensus of the Commission that it would be in the best interest of all concerned that the above-mentioned conditions of approval be adopted by resolution and referred to by resolution number for all Conditional Use Permits;

NOW, THEREFORE THE LANCASTER PLANNING COMMISSION DOES HEREBY RESOLVE, DETERMINE, AND FIND AS FOLLOWS:

The Planning Commission hereby establishes the following conditions of approval as standard conditions to be used by reference in conjunction with all Conditional Use Permit approvals.

1. Unless otherwise indicated herein, the development of the site shall be in substantial conformance with approved site plans on file in the Planning Department.
2. This Conditional Use Permit must be used within two (2) years from the date of approval; the Conditional Use Permit will expire. The applicant may, not less than sixty (60) days prior to the expiration date, request a total of three one-(1)-year extensions in writing to the Planning Director. Modifications to the plan, including timing of on and off site improvements that do not raise significant new issues or extend the overall time frame beyond the approval period may be approved by the Planning Director

NOTE: Issuance of building permits, installation of off-site improvements, and grading of the site do not constitute "use" of the conditional use permit. Under the Zoning Ordinance, construction or other development authorized by the conditional use permit must have commenced. Generally, the City requires that the slab of a major building in the project be poured and inspected in order to consider the permit used, although the circumstances of each case may vary depending on the land use involved.

3. All requirements of the Municipal Code and of the specific zoning of subject property must be complied with unless otherwise set forth in the permit or shown on the approved plot plan.
4. The Planning Director is authorized to review and approve the elevations of future buildings proposed to ensure that they are compatible with the architectural design guidelines established for the overall development. Design and location of such buildings are subject to review and approval of the Planning Director, including but not limited to architectural style, color, exterior materials, material and type of walls. The applicant shall provide 360 degree architectural treatments for all proposed buildings. In the event disputes arise between the applicant and the Planning Director regarding elevations, or design of the buildings, the matter may be appealed to the Architectural and Design Commission (ADC) and the ADC shall render the final decision.
5. The applicant shall contact the City of Lancaster Fire Warden to determine improvements that may be required to protect the property from the fire hazard and shall provide and install at his expense such improvements as may be deemed necessary by the Fire Warden. Fire protection improvements shall be completed to the satisfaction of the Director of Public Works prior to certification of completion and occupancy of the subject buildings.
6. Three (3) copies of a signage plan shall be submitted for approval by the Planning Director at the time of building plan issuance to be in compliance with the Municipal Code and Design Guidelines. Such plan shall be comprehensive and shall include: location, height, square-footage, method of attachment, construction materials, and colors of each sign proposed to be placed on the site.
7. The following items/plans shall be submitted to the Department of Public Works, which shall route them to the Planning Department for concurrent review and approval prior to issuance of permits:
 - a. Lighting Plan: Such plan shall include decorative, directional, and security lighting. Such lighting shall be directed away or shielded from neighboring properties.
 - b. Building Plan: Such plan shall demonstrate adherence to design elements approved by the Planning Commission including but not limited to: building elevations (all sides), construction materials and colors, and the method of screening rooftop equipment.
 - c. Grading Plan: Such plan shall show height of finished building pads in addition to walls, berming and/or contour mounding if such features are approved by the Planning Commission.
 - d. Landscape Plan: Landscape plans shall be prepared in accordance with Ordinance No. 907 and submitted to the Building and Safety Department, along with required plan check fees, for review and approval prior to the installation of landscaping or

irrigation systems. Such plans are to be incorporated into development of the site and shall show size, type, and location of all plants, trees and irrigation facilities

- e. Trash Enclosure Plan: Such plan shall show location, design, construction materials, and color of materials and shall be in accordance with such plans contained within the Municipal Code and Design Guidelines. All trash enclosures shall be located in a covered area or the covered with a roof or metal lattice treatment to prevent wind-blown trash from leaving the enclosure.
8. The development shall comply with all requirements of Ordinance No. 907 (Water Efficient Landscaping Requirements).
9. All necessary permits shall be obtained from the City Engineering Division of the Public Works Department prior to any construction, remodeling, or replacement of buildings or other structures.
10. The applicant is hereby advised that this project is subject to development fees at the time of building permit issuance, including, but not limited to, the following as applicable: 1) Los Angeles County Sanitation District Sewer Connection Fee; 2) Interim School Facilities Financing Fee; 3) Installation or Upgrade of Traffic Signals Fee; 4) Planned Local Drainage Facilities Fee; 5) Dwelling Unit Fee; 6) Traffic Impact Fees; and 7) Urban Structure Fee (Park Development Fee, Administrative Office Fee, Corporate Yard Fee, and Operations Impact Fee, etc); 8) Landscape Fee.
11. Per the direction of the Director of Public Works, the submission of a hydrology study will be required with the grading plan check.
12. An encroachment permit shall be obtained from the Department of Public Works prior to doing any work within the public right-of-way.
13. Per the direction of the Director of Public Works, construct ADA “walk arounds” at driveway locations to the specifications of the Director of Public Works and install ADA curb ramps at all intersection.
14. Per the direction of the Director of Public Works, all street lighting systems designed after July 1, 2007, shall be designed as City owned and maintained street lighting systems. The Developer’s engineer shall prepare all plans necessary to build said street lighting system in accordance with Southern California Edison and City of Lancaster standards.
15. All construction and/or installation of improvements shall be undertaken to the specifications of the City of Lancaster Municipal Code.
16. Per direction of the Director of Public Works, comply with City Municipal Code, Chapter 13.20 Article II, entitled Installation/Relocation for New/Expanded Development of Overhead Utilities.

17. If determined necessary by the Director of Public Works, testing of the existing pavement section is to be performed prior to submitting street plans for plan checking. The minimum allowable structural section will be per the City requirement or the soil test recommendation whichever is greater based on the City's Traffic Index for the street. Removal and reconstruction of the street centerline may be necessary to meet the required structural section.
18. Street grades shall meet the specifications of the Department of Public Works.
19. Per the direction of the Director of Public Works, the asphalt surface course for all arterial streets shall be constructed with rubber modified asphalt. The type of rubber modified asphalt shall be as specified by the City and shall be determined in final design.
20. Per the direction of the Director of Public Works, a Dust Control Plan shall be prepared and submitted to the Antelope Valley Air Quality Management District (AVAQMD) in accordance with Rule 403 of the AVAQMD. An approved copy of the Dust Control Plan shall be submitted to Public Works prior to issuance of a grading permit within the City for commercial/industrial projects of 5 acres or larger. In lieu of an approved plan, a letter waiving this requirement shall be submitted.
21. Prior to grading, the applicant shall provide a contact name and valid phone number where someone is available 24-hours, 7 days a week to report the blowing of dust or debris from the site.
22. Per the direction of the Director of Public Works, the Developer shall install a conduit pull rope, and pull boxes along regional, primary, and secondary arterials to the nearest arterial intersection to be used for future Traffic Signal Communication Interconnect. The interconnect system shall be installed in accordance with the specifications approved by the Traffic Section.
23. The project shall comply with the Best Management Practices (BMPs) of the National Pollutant Discharge Elimination System (NPDES) and all NPDES Permit Requirements.
24. Per the direction of the Director of Public Works, install a clarifier or other BMP to treat first flush.
25. Per the direction of the Director of Public Works, if the project is located in Flood Zone AO (1), elevate the building one-foot above the highest adjacent grade.
26. Mitigate onsite nuisance water and developmental storm water runoff to the satisfaction of the Director of Public Works.
27. Box culverts or other structures acceptable to the Director of Public Works are required at all intersections with arterial streets to eliminate nuisance water from crossing the streets above ground. (No cross gutters allowed).

28. Prior to occupancy, the property shall be annexed into the Lancaster Lighting Maintenance District.
29. Prior to occupancy, the property shall be annexed into the Lancaster Drainage Maintenance District.
30. Street lights are required per adopted City ordinance or policy.
31. The applicant is hereby advised that the use of any signs, strings or pennants, banners or streamers, clusters of flags and similar attention-getting devices are prohibited, except where there has been prior approval from the Planning Department.
32. If any provision of this permit is held or declared to be invalid, the permit shall be void, and the privileges granted hereunder shall lapse.
33. It is further declared and made a condition of this permit that if any condition hereof is violated, or if any law, statute, or ordinance is violated, the permit shall be suspended and the privileges granted hereunder shall lapse provided that the applicant has been given written notice to cease such violation and has failed to do so for a period of thirty (30) days.
34. Prior to occupancy of any buildings or structures, the permittee shall request, not less than forty-eight (48) hours in advance, that on-site inspection be made by the Planning Department to verify that development of the property has occurred in conformity with conditions as enumerated in this permit.
35. Landscape materials, once approved, shall be maintained in perpetuity.
36. If the project is developed in phases, undeveloped portions of the site shall not contribute to blowing debris, dirt or dust.
37. If the project is developed in phases, all the development requirements shall be met for each phase including parking, landscaping, trash enclosures, drainage, etc.
38. The applicant shall be responsible for notifying the Planning Department in writing of any change in ownership, designation of a new engineer, or a change in the status of the developer, within thirty (30) days of said change.
39. The Planning Director shall execute the necessary documents to ensure the recording of this permit with the County Recorder's Office.
40. This conditional use permit will not be effective until ten (10) working days after the date upon which it is granted by the Planning Commission and until the applicant has executed and returned to the Planning Department an authorized acceptance of the conditions of approval applicable to said permit.

41. Expansion or intensification of the use beyond the approval specified herein would require subsequent review and possible application for amendment. The Planning Director is authorized to approve modifications to the site plan provided such modifications do not substantially change the intent of the approved use, avoid issues raised at the public meeting, or raise new issues not previously addressed.
42. Pursuant to Section 65089.6. of the Government Code, the project will be subject to the Congestion Management Plan (CMP) mitigation requirements, including mitigation fees.

ENVIRONMENTAL

43. Per the direction of the Planning Director, a Phase I Cultural Resource Study is required for any off-site area which will be disturbed by the development, such as staging areas and turn-arounds not covered by the Cultural Resource Study, or all work shall be conducted on the site by installation of a fence to determine limits of development.
44. Pursuant to Section 21089(b) of the Public Resource Code, approval of this Conditional Use Permit will not be valid, and no development right shall be vested, until such times the required fees, as set forth under Section 711.4 of the Fish and Game Code, have been paid. Said fees, in the form of a check made payable to the County of Los Angeles Clerk's Office shall be submitted to the Planning Department within three (3) days of the Commission's action.
45. The applicant shall, prior to or concurrent with the approval of a grading permit, pay a fee to the City of Lancaster in the sum of \$770.00 per gross acre, to be held in the biological mitigation fund as established by the City Council. Additionally, should the applicant be required to pay mitigation fees under the California Department of Fish and Game, these fees can be deducted from the amount collected by the City of Lancaster.
46. The project shall comply with all mitigation measures adopted in the mitigation monitoring program.

ALCOHOL CONDITIONS

47. Per the direction of the Planning Director, the applicant shall comply with Chapter 17.42 (Alcoholic Beverage Establishments).
48. On-site security shall be provided if determine necessary by the Planning Director.
49. The conditional use permit shall be subject to an annual review by the Planning Commission should on-site operations or effects on adjacent uses warrant such review.

PASSED, APPROVED AND ADOPTED this 17th day of May, 2010, by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

JAMES D. VOSE, Chairman
Lancaster Planning Commission

ATTEST:

BRIAN S. LUDICKE, Planning Director
City of Lancaster