

AGENDA ITEM: 3.

DATE: 09-19-11

**STAFF REPORT**

**CONDITIONAL USE PERMIT NO. 08-10**

DATE: September 19, 2011  
TO: Lancaster Planning Commission  
FROM: Planning Department  
APPLICANT: Rami Darghalli  
LOCATION: 45232 10<sup>th</sup> Street West, Suite 101  
REQUEST: A Conditional Use Permit to operate a convenience market within an existing commercial building, and the incidental off-sale of alcoholic beverages (Type 21) in the Commercial Zone

RECOMMENDATION: Adopt Resolution No. 11-13 approving Conditional Use Permit No. 08-10.

BACKGROUND: The request by Rami Darghalli to continue Conditional Use Permit No. 08-10 indefinitely was approved by the Planning Commission on July 21, 2008.

GENERAL PLAN DESIGNATION, EXISTING ZONING AND LAND USE: The subject location is designated C (Commercial) by the General Plan and is zoned C (Commercial), and is developed as an existing 3,000 square foot suite. 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	MR1	MDR	Single family residential
EAST	Commercial	C	Retail Building
SOUTH	Commercial	CPD	Restaurant
WEST	Commercial	C	Commercial Center

PUBLIC IMPROVEMENTS: The site is located at 45232 10<sup>th</sup> Street West, Suite 103. 10<sup>th</sup> Street West is improved with two travel lanes 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.

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, Rami Darghalli, is requesting a conditional use permit to locate a convenience market within an existing suite in a commercial building. A conditional use permit is required for a convenience market and the incidental sale of alcoholic beverages (Type 21). Access is provided from an existing driveway from 10<sup>th</sup> Street West and Avenue I. The sale of alcoholic beverages would be co-terminus with the hours of operation, which would be between the hours of 8:00 a.m. and 11:00 p.m., Sunday through Thursday, and between the hours of 8:00 a.m. and 12:00 a.m., Friday and Saturday.

The Lancaster Municipal Code Section 17.42.020 states: “convenience markets must be no larger than 10,000 square feet, not connected with a petroleum products, and which is characterized by retail sales of food products and household items, and which devote a minimum of ten percent of overall food products for display and sale of fresh meat and produce.” The floor plan indicates that the display area for alcoholic sales would be 203 square feet which is 6.7% of the total 3,000 square feet building. The floor plan indicates 1040 square feet of floor area would be devoted to fresh meat and produce which would exceed the ten percent requirement.

The applicant shall at all time limit the display and sales of alcohol to a maximum of ten percent of sales floor area, and devote a minimum of ten percent of overall floor area for display and sale of fresh meat and produce. The applicant would also be prohibited from separating packaged alcoholic packages (2-packs, 4- packs, etc) to sell individual containers, cans or bottles of alcoholic beverages.

The subject property is located in an over concentrated and a high crime reporting district. The approval of the continued sale of beer, wine and spirits for off-sale consumption will require a finding of public convenience and necessity. The current alcohol license is located in the same census tract; therefore, this request is not an increase in the number of licenses but merely a transfer of an existing license. According to the Sheriff’s Department the applicant has previously operated the business with no recent history of violations. In addition, the Alcoholic Beverage Control Board had no negative reports for the existing establishment.

The convenience market is considered an incidental off-sale alcohol beverage establishment per Chapter 17 Section 42 of the Municipal Code, because the market utilizes ten percent of the maximum square-footage of sales floor and shelf area for the sale of alcohol; therefore, distance separation requirements are not applicable. The project has been conditioned to comply with the requirements of Section 17.42.080, as well as added conditions.

Staff is recommending approval of the proposed convenience market because with added conditions, it meets all the requirements of the zone and will not adversely affect nearby residences. Additionally, the convenience market would provide the sale of fresh meat and produce to an underserved area that should be easily reached by pedestrians.

Respectfully submitted,

---

Christopher Aune, Assistant Planner

cc: Applicant  
Engineer

## RESOLUTION NO. 11-13

### A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF LANCASTER, CALIFORNIA, APPROVING CONDITIONAL USE PERMIT NO. 08-10

WHEREAS, a conditional use permit has been requested by Rami Darghalli, to operate a convenience market and the incidental off-sale of alcoholic beverages (Type 21) in an existing 3,000 square-foot suite in a commercial center located at 45232 10<sup>th</sup> Street West, Suite 101, 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 September 19, 2011; and

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

1. The proposed convenience market use, located in an existing 3,000 square-foot building will be in conformance with the General Plan land use designation of Commercial.
2. The proposed convenience market is located in the Commercial zone, which permits alcoholic beverages to be sold, served or given away for off-sale consumption with a conditional use permit.
3. The requested 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 existing building entrance faces the parking lot, buffers the residential use to the north with a 20-foot-wide alley and a block wall, and the hours of sale of alcohol would be co-terminus with the hours of operation between the hours of 8:00 a.m. and 11:00 p.m. Sunday through Thursday and between the hours of 8:00 a.m. and 12:00 a.m. Friday and Saturday.
  - 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

have been met and adequate parking is provided. The proposed buildings are of a height compatible with the height limits of the commercial zones and are designed with adequate setbacks from the adjacent street.

- c. Jeopardize, endanger or otherwise constitute a menace to the public health, safety, or general welfare, because adequate sewer, water, drainage, and improvements will be part of the project.
4. The proposed use will not 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 establishments 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 health care facilities; because in this case the convenience market is considered an incidental alcohol use with a floor area of 203 square feet or 6.7 percent, and is exempt from the distance requirement; and
5. The proposed convenience market serves the public convenience and necessity based on all factors outlined in Section 17.42.060 of the Municipal Code.
6. The proposed 3,000 square-foot suite is adequate in size and shape to accommodate the building setback, 12 parking spaces, and landscaping, and other development features prescribed in the Zoning Ordinance or as otherwise required in order to integrate said use with the use in the surrounding areas.
7. The proposed site is adequately served:
  - a. By Avenue I and 10th Street West, which is of sufficient width, and improved as necessary 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 are required.
8. 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.
9. There is a need for the proposed commercial project to serve the immediately adjacent area, because the project can serve the area with commercial retail uses, and the proposed uses would provide a wide range of goods and services currently not available in this area.

NOW, THEREFORE, BE IT RESOLVED:

This Commission hereby approves Conditional Use Permit No. 08-10, subject to the conditions attached hereto and incorporated herein.

PASSED, APPROVED and ADOPTED this 19<sup>th</sup> day of September 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. 11-13**  
**CONDITIONAL USE PERMIT NO. 08-10**  
**CONDITIONS LIST**  
**September 19, 2011**

**GENERAL ADVISORY**

1. All standard conditions as set forth in Planning Commission Resolution No. 10-23 for Conditional Use Permits shall apply, except for Condition Nos. 7.a-c,e, 10, 11-14, 16-22, 24-30, 34, 36, 37, 42-46, and modified Conditions Nos. 48, 49.

**ALCOHOL CONDITIONS**

2. A copy of the conditions of approval for the conditional use permit must be kept on the premises of the establishment, and be presented to the City of Lancaster or Los Angeles County Sheriff's personnel upon request.
3. The sale of alcoholic beverages would be co-terminus with the hours of operation, which would be between the hours of 8:00 a.m. and 11:00 p.m., Sunday through Thursday, and between the hours of 8:00 a.m. and 12:00 a.m., Friday and Saturday.
4. Any change to the amount of floor area devoted to the display and sale of alcohol, fresh meat, or produce shall require review and approval by the Planning Director.
5. No illuminated alcohol advertising will be located on the windows or door of the storefront.
6. No beer or wine shall be sold from ice tubs.
7. No beer or wine shall be displayed within five feet of the cash register or the front door, unless it is in a permanently affixed cooler.
8. The sale of alcoholic beverages will be made only to persons who are within the licensed premises, and not through a drive-up window, pass-out, or slide out tray to the exterior of the premises.
9. No sales of individual containers, cans or bottles of beer shall be allowed.
10. No sales of any size or type of product commonly described as fortified wine shall be allowed.
11. No malt beverage products (e.g. malt liquor, etc) shall be sold.
12. There shall be no coin operated games or video machines maintained on the premises.
13. There shall be no sales or rentals of any adult magazines, videos, tapes, discs, films or any other harmful matter as described in Penal Code Section 313.

14. Signs shall be posted with current language of the Penal code, Business and Professions Code, and Lancaster Municipal Code, regarding the prohibition of loitering, open containers, and consumption of alcoholic beverages at the premises.
15. Signs shall be posted at the location in English and predominant second language in the area with regard to prohibitions to open containers and loitering at the location.
16. Per the direction of the Planning Director, the applicant shall post “No Loitering” signs on the property.
17. The applicant shall provide on-site monitoring by staff to prevent loitering during business hours.
18. The establishment shall be equipped with a silent alarm system registered at the nearest police department, which can be activated by three (3) buttons situated at strategic locations throughout the business (modified Condition No. 48).
19. The Conditional Use Permit shall be subject to annual review pursuant to Section 17.42.120 of the Lancaster Municipal Code (modified Condition No. 49).
20. Prior to the transfer of ownership and/or operation of the site, the owner shall provide a written copy of the applications, staff report and resolutions for the project to the new owner and/or operator.
21. Prior to issuance of an alcohol license, the applicant shall provide landscaping and irrigation along the planter adjacent to 10<sup>th</sup> Street West per Ordinance 907.