

RESOLUTION NO. 16-08

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LANCASTER, CALIFORNIA, UPHOLDING THE PLANNING COMMISSION'S DECISION, BY DENYING THE APPEAL FOR CONDITIONAL USE PERMIT NO. 15-11

WHEREAS, a conditional use permit has been requested by David Shamsian to allow a Type 21 (Off Sale General for beer, wine, and distilled spirits) Alcohol Beverage Control (ABC) license, at an existing mini-mart with gasoline sales, car wash, and quick lube, located at 1752 West Avenue K, in the Commercial (C) 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 for the Planning Commission meeting of November 16, 2015, 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, the Planning Commission, after considering all evidence in the public record, took action to deny the request; and

WHEREAS, an appeal was filed by the applicant on November 30, 2015, pursuant to Chapter 2.44 of the Lancaster Municipal Code; and

WHEREAS, the City Council held a duly noticed public hearing on the appeal on February 9, 2016, to consider the appeal request; and

WHEREAS, the City Council, after considering all evidence in the record, hereby adopts the following findings in denial of this appeal:

1. The proposed use may 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 bounded by existing residential uses within 300 feet of the western and southern 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 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, due to current crime levels and the proximity to residential use. Further, a minimum of three (3) other premises exist within the ¼ mile of the subject location.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF LANCASTER AS FOLLOWS:

This Council hereby denies the appeal and affirms the Planning Commission denial of Conditional Use Permit No. 15-11.

PASSED, APPROVED and ADOPTED this 23rd day of February, 2016, by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

ATTEST:

APPROVED:

BRITT AVRIT, CMC
City Clerk
City of Lancaster

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. 16-08 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 ACTION:

APPROVED (5-1-0-0-0) (NOES: Terracciano)

AGENDA ITEM:

4.

DATE:

11-16-15

STAFF REPORT

CONDITIONAL USE PERMIT NO. 15-11

DATE: November 16, 2015

TO: Lancaster Planning Commission

FROM: Planning Section, Community Development Division *BL*
Development Services Department

APPLICANT: David Shamsian

LOCATION: 1752 West Avenue K

REQUEST: 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, car wash, and quick lube in the C (Commercial) Zone

RECOMMENDATION: Adopt Resolution No. 15-33 denying Conditional Use Permit No. 15-11.

BACKGROUND: On May 13, 1996, the Planning Commission denied Conditional Use Permit No. 96-01 for a Chevron gasoline station and a 2,000 square-foot mini-market. On May 14, 1996, the applicant appealed the decision of the Planning Commission to the City Council. On June 17, 1996, the City Council upheld the appeal and approved Conditional Use Permit No. 96 01. On July 16, 2001, the Planning Commission approved Conditional Use Permit No. 01-05 to expand the existing gas station to include a car wash and quick lube.

GENERAL PLAN DESIGNATION, EXISTING ZONING AND LAND USE: The subject location is designated C by the General Plan and is zoned C, and is currently a mini mart with gasoline sales, car wash and quick lube. The General Plan designation, zoning, and land use of the surrounding properties are as follows:

	<u>GENERAL PLAN</u>	<u>ZONING</u>	<u>EXISTING USE</u>
NORTH	C	C	Office and vacant
SOUTH	UR	R-7,000	Single-family residences
EAST	C	C	Vacant
WEST	C	C	Single-family residences

PUBLIC IMPROVEMENTS: The site is bounded to the north by Avenue K and to the west by 18th Street West. 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 is requesting an ABC License 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, car wash, and quick lube. A conditional use permit is required for an ABC license to be held in the City of Lancaster per Lancaster Municipal Code Section 17.42.030.

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 establishment 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.

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 (see Attachment “A”). In addition, the applicant has stated that the off-sale of alcohol will help the business meet its financial obligations and expenses.

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 the property does not meet the requirements of Chapter 42, Alcoholic Beverage Establishments, and may adversely affect nearby residences and/or businesses in this area of Lancaster for the following reasons:

- The proposed project does not meet the distance requirement from sensitive uses (i.e. residences, residential zoning, schools, parks, churches, etc.) as per Section 17.42.040A-B. The proposed location is bounded by existing residential uses within 300 feet of the western and southern property lines.

- 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 440 crimes committed within a one-half-mile radius of the project site in a one-year period from October 15, 2014, through October 15, 2015 (see Attachment "B"). 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 and is recommending denial to allow the primary off-sale of alcoholic beverages at the existing mini-mart with gasoline sales for Conditional Use Permit No. 15-11.

Respectfully submitted,


Christopher Aune, Assistant Planner

cc: Applicant
Engineer

Attachments: "A" – Email letter received from David Shamsian on October 27, 2015
"B" – Crime Stats Report

RESOLUTION NO. 15-33

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF LANCASTER, CALIFORNIA, DENYING CONDITIONAL USE PERMIT NO. 15-11

WHEREAS, a conditional use permit has been requested by David Shamsian to allow a Type 21 (Off Sale General for beer, wine, and distilled spirits) Alcohol Beverage Control (ABC) license, at an existing mini-mart with gasoline sales, car wash, and quick lube, located at 1752 West Avenue K, in the Commercial (C) 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, 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 November 16, 2015; 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 denial of this conditional use permit:

1. The proposed use may 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 bounded by existing residential uses within 300 feet of the western and southern 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. The Planning Commission does not support the primary off-sale of alcoholic beverages within close proximity to residential uses.
- 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, due to current crime levels and the proximity to residential use.

NOW, THEREFORE, BE IT RESOLVED:

This Commission hereby denies Conditional Use Permit No. 15-11.

PASSED, APPROVED and ADOPTED this 16th day of November 2015, by the following vote:

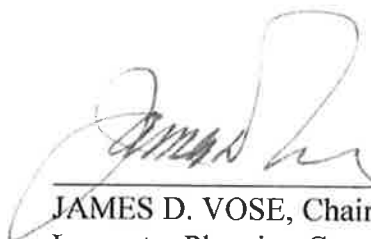
AYES: Commissioners Cook, Coronado, Harvey, Vice Chair Hall, and Chairman Vose.

NOES: Commissioner Terracciano.

ABSTAIN: None.


RECUSED: None.

ABSENT: None.

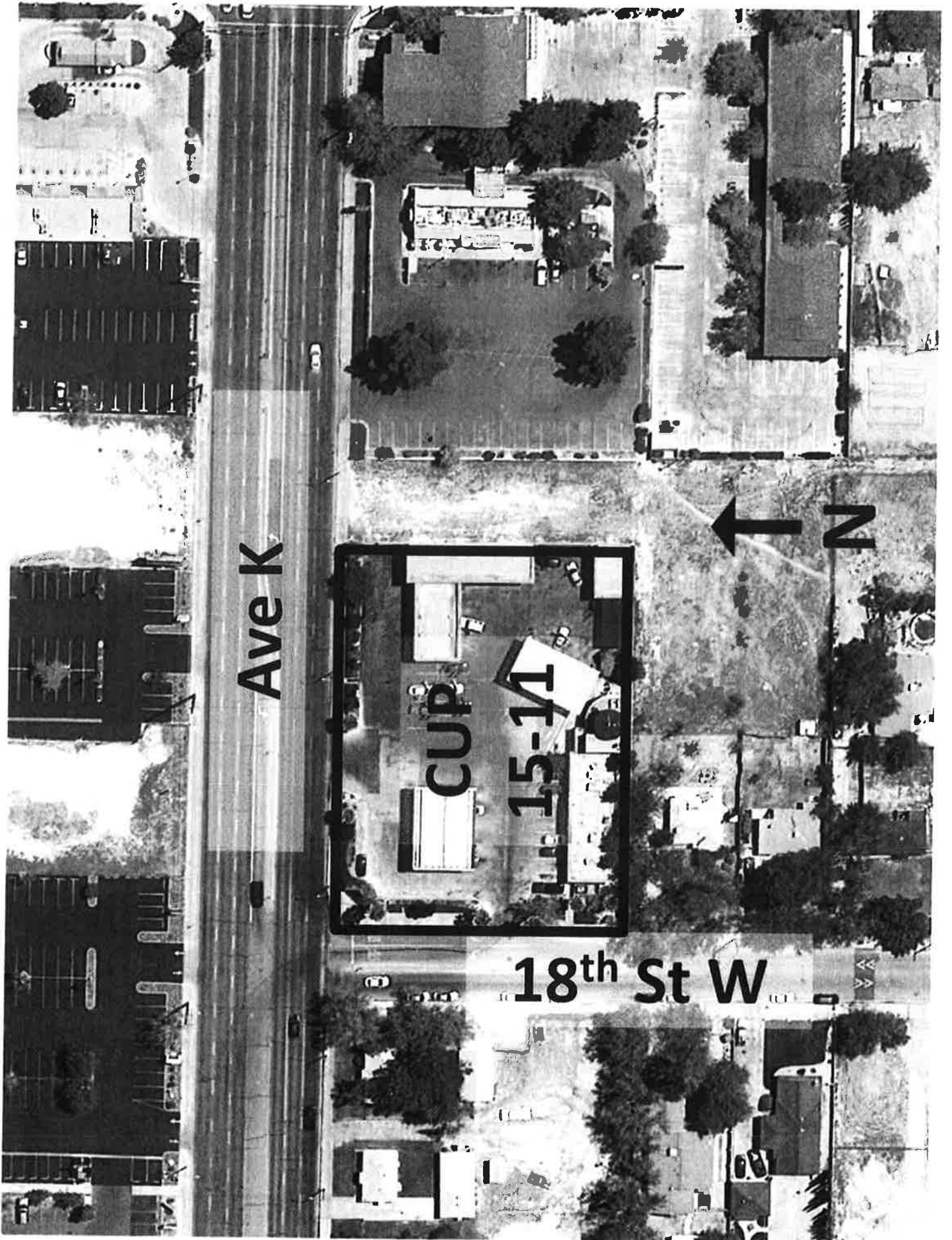


JAMES D. VOSE, Chairman
Lancaster Planning Commission

ATTEST:



BRIAN S. LUDICKE, Planning Director
City of Lancaster



Ave K

CUP

15-11



18th St W

Crime Stats for a 1/2 mile Radius around 1752 W Ave K, Lancaster (10/15/2014-10/15/2015)

Crime Type	Count
AGGRAVATED ASSAULT	14
ARSON	1
BURGLARY	33
DISORDERLY CONDUCT	1
DRUNK / ALCOHOL / DRUGS	4
DRUNK DRIVING VEHICLE / BOAT	10
FEDERAL OFFENSES WITH MONEY	1
FELONIES	6
FORCIBLE RAPE	2
FORGERY	8
FRAUD AND NSF CHECKS	16
GRAND THEFT AUTO	17
JUVENILE	23
LARCENY THEFT	73
MENTALLY ILL	14
MISCELLANEOUS	37
MISDEMEANORS	10
NARCOTICS	29
NON-AGGRAVATED ASSAULTS	40
OFFENSES AGAINST FAMILY	5
PERSONS DEAD	3
PERSONS MISSING	11
RECEIVING STOLEN PROPERTY	1
ROBBERY	11
SEX OFFENSES	4
SUICIDE AND ATTEMPT	3
VANDALISM	23
VEHICLE / BOATING LAWS	36
WARRANTS	2
WEAPON LAWS	2
TOTAL	440

Alan Piolatto

Los Angeles County Sheriff's Department

Crime Analyst

Lancaster Station

APPEAL FORM

PLEASE PRINT OR TYPE:

David Shamsian / WESTSIDE Petroleum & Carwash INC *310-279-2752*
Name of Appellant Home Telephone Number

804 N. Camden Ave. N.H CA 90210 *461-948-0700*
Home Address of Appellant City & State Zip Code Business Telephone Number

Send Correspondence and Notices to the following party: *David Shamsian*

1752 W. Ave K Lancaster CA 93534
Name and Address

1752 W. Ave K Lancaster CA 93534 Carwash/gas station/liquor/c-store
Address and Description of Real Property Involved

Planning Commission
Commission, Board, Official or Department whose action is being appealed

Date of action/decision from which appeal is taken: *11-16-15* Case Number: *COP 15-11*

Specific Action or Decision being appealed: *Denying conditional use permit NO. 15-11*

Grounds for Appeal: *Distance required between subject property and Residential, Definition and distinguishing between minimant and Convenience store and the square footage requirement for such. Distance between subject property and other establishment selling beer/liquor. Relieving congestion on 20th ST west and Ave K.*

[Signature] *11-24-15*
Appellant Signature Date

If applicable, a duplicate set of mailing labels submitted for the original Planning Commission consideration shall be provided by the appellant at the time of the appeal filing.