



Memorandum

TO: HONORABLE MAYOR AND
CITY COUNCIL

FROM: Joseph Horwedel

SUBJECT: SEE BELOW

DATE: November 13, 2006

Approved:

Kay Winer

Date:

11/22/06

COUNCIL DISTRICT: 7
SNI AREA: None

SUBJECT: CP06-015. APPEAL OF THE PLANNING COMMISSION'S DECISION TO DENY A CONDITIONAL USE PERMIT TO ALLOW THE OFF-SALE OF ALCOHOLIC BEVERAGES AT AN EXISTING RETAIL ESTABLISHMENT LOCATED ON THE SOUTH SIDE OF STORY ROAD, APPROXIMATELY 200 FEET WEST OF KING ROAD (1690 STORY ROAD #117).

RECOMMENDATION

The Director of Planning, Building and Code Enforcement recommends the City Council uphold the Planning Commission's decision to deny a Conditional Use Permit (CP06-015) to allow off-sale of alcoholic beverages at an existing retail store (Dollar Market).

OUTCOME

Adopt a resolution denying the subject Conditional Use Permit. This would preclude the applicant from obtaining an ABC Permit from the State to allow the off-sale of alcohol at the retail establishment.

BACKGROUND

On August 23, 2006, the Planning Commission held a public hearing to consider the proposed Conditional Use Permit (CUP). The Director of Planning had recommended denial of the Conditional Use Permit for reasons stated in the original staff report (see attached). The applicant's representative, Rick Cole, and the property owner, Dennis Fong, spoke in behalf of his request. Approximately 11 members of the public spoke in opposition to the proposal. No members of the public spoke in favor. The Planning Commission denied the proposed project by a vote of 5-1-1 (Commissioner Dhillon opposed and Platten absent). Staff has attached an excerpt of the Planning Commission August 23, 2006 Synopsis with the discussion on the item.

Subsequent to the hearing, on September 25, 2006, the applicant appealed the Planning Commission's decision to deny the subject proposal. As part of the information submitted with the appeal, the applicant/appellant attached a letter detailing the reasons for the appeal.

ANALYSIS

Appeal Issues

The Permit Appeal letter submitted by the applicant (see attached) identified three reasons that the City Council should consider overturning the Planning Commission's decision to deny the subject permit request. These points are noted below and followed by staff's response.

1. *The use is not located closer than 500 feet from any elementary school and is not closer than 150 feet from any residentially owned property, and further the use is situated and oriented in such a manner that it would not adversely affect such school or residential use.*

The Zoning Code, in Section 20.80.900, gives specific use regulations for the off-sale of alcohol. Section 20.80.900(A)(2) states the following:

For such a use at a location closer than five hundred (500) feet from any child care center, public park, social service agency, residential care facility, residential service facility, elementary school, secondary school, college or university, or closer than one hundred fifty (150) feet from any residentially zoned property, that the building in which the proposed use is to be located is situated and oriented in such a manner that would not adversely affect such residential, child care center, public park, social service agency, residential care facility, residential service facility and/or school use.

While the Code is not explicit in its direction, staff consistently evaluates projects on the premise that the above referenced section refers to distances from the subject property to other properties with the specified sensitive receptor uses. The walking distance that the applicant references can be used to help make the required finding that the proposed use is situated and oriented in such a manner that the proposed use would not adversely impact said sensitive receptors, however, the separation measurement is taken from property line to property line.

The subject property abuts residential properties to the south; an elementary school is located just across King Road to the east/southeast, approximately 100 feet from property line to property line; and a public park is located across Story Road, immediately to the north, approximately 120 feet from the subject site. Given the proximity of the subject property to the properties with the noted sensitive receptors, the additional finding that the proposed use would not adversely affect them must be made. While the walking distances from the front of the subject store to the sensitive receptors (approximately 720 feet to Emma Prush Park, approximately 500 feet to the front of the nearest residence, and approximately 560 feet to the Miller Elementary School property line) are greater than the minimum thresholds, staff still believes that the proposed off-sale of alcohol could adversely affect the sensitive receptors. The proximity of each of the sensitive receptors to the subject site, coupled with the history of alcohol-related problems in the area (as evidenced by the public testimony at the Planning Commission hearing), leads staff to conclude that an additional establishment with off-sale of alcohol may have adverse impacts on the surrounding area. Further, other than the statements from the applicant that the walking distance from the store entrance to sensitive receptors is further than the minimum separation distances specified in the Zoning Ordinance, no evidence has

been provided to substantiate the claim that the proposed use would not adversely affect the nearby sensitive receptors.

2. *The findings that the proposed use will adversely affect the peace, health, safety, morals or welfare of persons residing or working in the surrounding area, or impair the utility of the site; or be detrimental to public health, safety, or general welfare are arbitrary, capricious, without factual basis and constitute an abuse of discretion of the Planning Commission.*

The Planning Commission heard testimony from 11 members of the community who were passionately opposed to the proposed use. Leaders of the East Valley/680 SNI group and the King/Ocala SNI group spoke on behalf of their organizations and urged denial of the application. Specifically, the community members noted that they had been working together to remove alcohol sales from their community altogether, and they noted that they would be opposed to any new alcohol sales in their community, regardless of what type of establishment proposed such sale. This testimony demonstrates that the morals and recent community-based activities to improve the welfare of residents in the surrounding area would be adversely impacted by a new off-sales of alcohol establishment.

Further, the community indicated that the improved crime levels at the project corner were a result of ongoing neighborhood efforts. They noted that other off-sale establishments in the vicinity of the subject site had impacted the surrounding area, and that the addition of another off-sale establishment could result in similar impacts. Given the history of crime in the area and the proximity of the site to a public park, an elementary school, and residential uses, staff echoes the neighborhood's concern that the proposed use could be detrimental to the public health, safety, or general welfare.

3. *The regulatory framework established by the City of San Jose pursuant to Chapter 20.100 of Title 20 of the San Jose Municipal Cod conflicts with and is inconsistent with the superseding authority of the State of California by Article XX Section 22 of the California Constitution, and therefore the denial by the Planning Commission under these ordinances is unlawful.*

The City is aware of the provisions and requirements of Article XX Section 22 of the California Constitution which states that the "State of California... shall have the exclusive right and power to license and regulate the manufacture, sale, purchase, possession and transportation of alcoholic beverages within the State." The City, however, does not regulate these specific elements of alcohol sales. Whereas the state dictates the who and how of alcohol sales, the City maintains the right to identify the appropriate locations for alcohol sales.

Conditional Use Permit Findings

The original staff report (attached) provides a full analysis of this project with respect to the required findings that must be made by the Planning Commission to approve a Conditional Use Permit. In summary, staff's review provided the Planning Commission with information which the Commission stated did not enable them to make the required findings for the Conditional Use Permit. Specifically, staff believes that the City Council cannot make the finding that "the proposed use at the location requested will not: (a) Adversely affect the peace, health, safety, morals or welfare of persons residing or working in the surrounding area; (b) Impair the utility or value of property of other person locate in the vicinity of the site; or (c) Be detrimental to public health, safety or general

welfare.” Due to the adjacency to sensitive receptors and the history of crime in the area, staff does not believe that this finding can be made. While the site itself is not in a high crime area, the other three corners of the Story/King intersection are located in high crime areas. Staff believes that approval of an off-sale of alcohol outlet on the subject site could not only exacerbate crime on the subject site, but in the surrounding area, which is highly affected by crime. Staff considered the over concentration of crime in the surrounding area, the site’s proximity to sensitive receptors, and the significant investment towards revitalization of the properties surrounding the Story and King intersection as key factors in recommending denial of this off-sale of alcohol proposal.

POLICY ALTERNATIVES

The proposed project is aligned with applicable General Plan and development policies. If the City Council chooses to approve the subject project, the applicant will be able to pursue licensing from the State Department of Alcoholic Beverage Control to allow the off-sale of alcohol at the subject location. If the City Council chooses to deny the subject application, the applicant will not be able to sell alcohol at the subject retail establishment.

PUBLIC OUTREACH

- Criteria 1:** Requires Council action on the use of public funds equal to \$1 million or greater. **(Required: Website Posting)**
- Criteria 2:** Adoption of a new or revised policy that may have implications for public health, safety, quality of life, or financial/economic vitality of the City. **(Required: E-mail and Website Posting)**
- Criteria 3:** Consideration of proposed changes to service delivery, programs, staffing that may have impacts to community services and have been identified by staff, Council or a Community group that requires special outreach. **(Required: E-mail, Website Posting, Community Meetings, Notice in appropriate newspapers)**

Although this item does not meet any of the above criteria, staff followed Council Policy 6-30: Public Outreach Policy. Notices for the public hearings for the project and for this appeal were mailed to the owners and tenants of all properties located within 1,000 feet of the project site. Additionally, prior to the public hearing, an electronic version of the staff report has been made available online, accessible from the City Council agenda, on the City’s website. Further, staff has e-mailed representatives of both the East Valley / 680 SNI and KONA SNI groups to inform them of the public hearing. Staff has been available to discuss the proposal with members of the public.

COORDINATION

Preparation of this memorandum has been coordinated with the City Attorney’s office.

FISCAL/POLICY ALIGNMENT

The proposed project is aligned with applicable General Plan and development policies.

COST SUMMARY/IMPLICATIONS

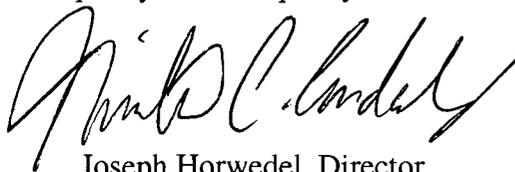
Not applicable.

BUDGET REFERENCE

Not applicable.

ENVIRONMENTAL REVIEW

Under the provisions of Section 15301(a), Existing Facilities, of the State Guidelines for Implementation of the California Environmental Quality Act (CEQA) as stated below, this project is found to be exempt from the environmental review requirements of Title 21 of the San José Municipal Code, implementing the California Environmental Quality Act of 1970, as amended. Approval of the project would not result in any significant effects relating to traffic, noise, air quality or water quality.



Joseph Horwedel, Director
Planning, Building and Code Enforcement

For questions, please contact Mike Enderby with the Department of Planning, Building and Code Enforcement at (408) 535-7800.

Attachments:

- Planning Commission Staff Report & Attachments
- Synopsis of Planning Commission hearing
- Appeal Application and Supplemental Letter
- Petition from Neighborhood in Opposing the Project
- Letters of Opposition from the KONA and East Valley / 680 Communities SNI Groups

cc: Applicant/Appellant

CITY OF SAN JOSÉ, CALIFORNIA
Department of Planning, Building and Code Enforcement
200 East Santa Clara Street
San José, California 95113

Hearing Date/Agenda Number
8/23/06 P.C. Item # 4b

File Number
CP06-015

Application Type
Conditional Use Permit

Council District
7

Planning Area
Alum Rock

Assessor's Parcel Number(s)
48610089

STAFF REPORT

PROJECT DESCRIPTION

Completed by: Reena V. Mathew

Location: South side of Story Road, approximately 200 feet west of King Road

Gross Acreage: 3.34

Net Acreage: N/A

Net Density: N/A

Existing Zoning: CN-Commercial
Neighborhood

Existing Use: retail

Proposed Zoning: No change

Proposed Use: retail and off sale of alcohol

GENERAL PLAN

Completed by: RVM

Land Use/Transportation Diagram Designation
Neighborhood Community Commercial

Project Conformance:
 Yes No
 See Analysis and Recommendations

SURROUNDING LAND USES AND ZONING

Completed by: RVM

North: Commercial & Public park

R-1-5 Residence District

East: Commercial

CP Commercial Pedestrian Zoning District

South: Single-family residences

R-1-8 Residence District

West: Commercial

CN Commercial Neighborhood Zoning District

ENVIRONMENTAL STATUS

Completed by: RVM

Environmental Impact Report found complete

Exempt

Negative Declaration circulated on

Environmental Review Incomplete

Negative Declaration adopted on

FILE HISTORY

Completed by: RVM

Annexation Title: Hillview No 6

Date: 1/2/57

PLANNING DEPARTMENT RECOMMENDATIONS AND ACTION

Approval
 Approval with Conditions
 Denial
 Uphold Director's Decision

Date: 8/8/06

Approved by: 
 Action
 Recommendation

APPLICANT

Rick Cole
Liquor License Services, Ltd.
1060 Minnesota Ave.
San Jose, CA 95125

BUSINESS OWNER

Nhon Ngoc Nguyen
Dollar Market
1690 Story Road #117
San Jose, CA 95125

PUBLIC AGENCY COMMENTS RECEIVED

Completed by: Reena V. Mathew

Department of Public Works

N/A

Other Departments and Agencies

Police Crime Analysis and Police Memorandum

GENERAL CORRESPONDENCE

Petition from King Ocala Neighborhood Area SNI

ANALYSIS AND RECOMMENDATIONS

BACKGROUND

Rick Cole, on behalf of Nhon Ngoc (Daniel) Nguyen, is requesting a Conditional Use Permit to allow the sale of beer and wine for off-site consumption in a 4,000 square foot gross square-foot retail space located in the Tropicana Shopping Center on the southwest corner of Story and King Roads in the Story Road Business District. A Conditional Use permit is required for the sale of alcohol for off-site consumption in the CN Commercial Neighborhood Zoning District.

The Tropicana Shopping Center is a multi-tenant building, which includes the Dollar Market and over 52 retail vendors and/or tenants. The subject building is adjacent to a variety of commercial uses to the west and east. Single-family residential uses are located to the south and Emma Prusch Park is located north of the site.

Since 2000, the Redevelopment Agency in conjunction with private property owners have made significant efforts to revitalize all four corners of the Story and King intersection. In addition to the construction of a new 200,000 square foot retail center on the southeast corner of Story and King, this broader revitalization effort included improvements to the area streetscapes and street capacity, Prusch Park, and existing retail developments.

Project Description

The applicant has indicated that The Dollar Market proposes to sell beer for off-site consumption. The applicant is proposing to sell six-packs of beer for \$4.50-\$5.00. An application for a Type 20 license would also allow the sale of wine for off-site consumption. The alcohol sales would be incidental to the sale of discount household and personal goods. The existing store operates seven (7) days a week and closes at 9:00 p.m.

ENVIRONMENTAL REVIEW

Under the provisions of Section 15301(a), Existing Facilities, of the State Guidelines for Implementation of the California Environmental Quality Act (CEQA) as stated below, this project is

found to be exempt from the environmental review requirements of Title 21 of the San José Municipal Code, implementing the California Environmental Quality Act of 1970, as amended. The retail sale of goods and merchandise is an existing use at the site, and the proposed off-sale of alcoholic beverages would be incidental to that existing use. Approval of the project would not result in any significant effects relating to traffic, noise, air quality or water quality.

GENERAL PLAN CONFORMANCE

The project site has a designation of Neighborhood/Community Commercial on the San José 2020 General Plan Land Use/Transportation Diagram. The proposed commercial use is in conformance with the General Plan in that commercial uses are supported by the Neighborhood/Community Commercial designation.

ANALYSIS

In order for a retail store in the Commercial Neighborhood Zoning District to sell alcohol, the applicants must obtain of a Conditional Use Permit. A Determination of Public Convenience or Necessity is not required for this proposal because the police beat in which the subject site is located in does not have crime statistics greater than 20% of the City's average, and because this proposal will not create a ratio of off-sale retail licenses to population in the census tract that the proposed site is located, greater than the ratio of off-sale of licenses to population in the county.

The primary issues for this project include 1) conformance with the Zoning Code requirements for approval of off sale of alcohol proposals and 2) Zoning Code requirements for all Conditional Use Permits.

Zoning Code Requirements for the Off-Sale of Alcohol Proposals

A Conditional Use Permit for the off-sale of any alcoholic beverages may be only be issued pursuant to section 20.80.900 of the Zoning Ordinance only if the decision-making body first makes the following three special findings, if they are applicable:

1. For such use at a location closer than five hundred (500) feet from any other use involving the off-sale of alcoholic beverages, situate either within or outside the City, that the proposed location of the off-sale of alcoholic beverages use would not result in a total of more than four (4) establishments that provide alcoholic beverages for off-site consumption within a one-thousand (1,000) foot radius from the proposed location.

Analysis of Required Finding. Within five hundred (500) feet of the proposed use, there is one (1) existing off-sale establishment located at Tropicana Foods. There are only two (2) existing businesses located within a one thousand (1,000) foot radius of the proposed use that provide alcoholic beverages for off-site consumption, including Tropicana Foods and Mi Pueblo Food Center. The proposed use together with existing facilities would not result in a total of more than four (4) such establishments within a one thousand (1,000) foot radius.

2. For such use at a location closer than five hundred (500) feet from any other use involving the off-sale of alcoholic beverages, situate either within or outside the City, where the

proposed location of the off-sale of alcoholic beverages use would result in a total of more than four (4) establishments that provide alcoholic beverages for off-site consumption within a one thousand (1,000) foot radius from the proposed location, that the resulting excess concentration of such uses will not:

- a. Adversely affect the peace, health, safety, morals, or welfare of persons residing or working in the surrounding area; or
- b. Impair the utility or value of property of other persons located in the vicinity of the area; or
- c. Be detrimental to public health, safety or general welfare.

Analysis of Required Finding. As stated above, the proposed use will not result in more than four (4) establishments that provide alcoholic beverages for off-site consumption within a one thousand (1,000) foot radius of the proposed location. Thus this is not an applicable finding for this proposal.

3. For such a use at a location closer than five hundred (500) feet from any child care center, public park, social service agency, residential care facility, residential service facility, elementary school, secondary school, college or university, or closer than one hundred fifty (150) feet from any residentially zoned property, that the building in which the proposed use is to be located is situated and oriented in such a manner that would not adversely affect such residential, childcare center, public park, social service agency, residential care facility, residential service facility and/or school use.

Analysis of Required Finding. The proposed use is located within 500 feet of the Miller Elementary school on South King Road, within 150 feet of residentially zoned properties located to the south of the subject site on Marsh Street, and just slightly over 500 feet from Emma Prush Park north of the subject site.

The applicant has not provided Staff with any information on how these sensitive receptors will not be adversely affected and therefore the proposal does not meet the intent of this finding.



Due to the proximity of the proposed off-sale of alcohol outlet to identified sensitive receptors, Staff believes that the Conditional Use Permit findings for the Off-Sale of Alcohol within the Zoning Ordinance cannot be made for this application.

Zoning Code requirements for all Conditional Use Permits

In addition to the specific findings for the off-sale of alcohol, the Planning Commission must also be able to make three findings per sections 20.100.720 of the Zoning Ordinance in order to approve any a Conditional Use Permit, regardless of the type of proposal. These findings, are listed below:

1. The proposed use at the location requested will not:
 - a. Adversely affect the peace, health, safety, morals or welfare of persons residing or working in the surrounding area;
 - b. Impair the utility or value of property of other person locate in the vicinity of the site;
or
 - c. Be detrimental to public health, safety or general welfare; and
2. The proposed site is adequate in size and shape to accommodate the yards, walls, fences, parking and loading facilities, landscaping and other development features prescribed in this Title, or as otherwise required in order to integrate said use with the uses in the surrounding area; and
3. The proposed site is adequately served:
 - a. By highways or streets or sufficient width and improved as necessary to carry the kind and quantity of traffic such use would generate; or by other forms of transit adequate to carry the kind and quantity of individuals such use would generate; and
 - b. By other public or private service facilities as are required.

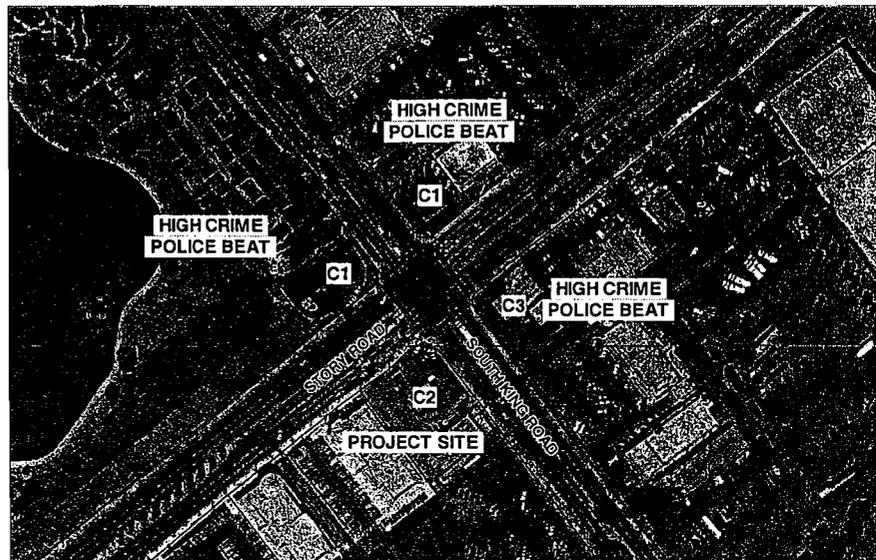
Conditional Use Permit findings numbered 2 and 3 address the adequacy of the proposed site's design and connections to streets. These findings can be made given that the Dollar Market is located in an existing commercial building in accordance with relevant site design considerations. However, due to the adjacency to sensitive receptors and prevalence of crime in the area, which is further discussed below, Staff cannot make the first required finding.

Adjacency to high crime area

The City has traditionally used the number of incidences of crimes that occur in a police beat to determine whether the incidences of crimes at a location are over the 20% crime index, and therefore determined to be "unduly concentrated" by crime. While this method serves as a litmus test for determining if a subject *police beat* is considered unduly concentrated, Staff believes it does not always give an accurate depiction of crime in the *overall neighborhood*. This is the case with the Dollar Market proposal, where the boundaries of multiple police beats are adjacent to the subject use. The attached Police Memorandum indicates the Dollar Market being located in police beat C2, which is not "unduly concentrated" by crime. However, as indicated in the aerial photo below, there are a total of three (3) police beats at the intersection of Story and King Roads, where the Dollar Market is located. The Dollar Market is on the southwest corner of

Story and King Roads. Two additional police beats (C1 and C3) cover the remaining northeast, northwest, and southeast corners of the Story and King intersection, and both of those beats have crime statistics that are over the 20% crime index. Although the Dollar Market is technically in a police beat that does not have crime statistics over the 20% crime index, it is clearly located immediately adjacent to a high crime area. Attached is a Police Memorandum, which lists the crime statistics within 1,000 feet from the Dollar Market. This memorandum demonstrates the high call volume and type of crimes that occur within close proximity to the Dollar Market.

If the subject proposal was within a 20% crime index area, the findings for public convenience or necessity (PCN) per Title 6 of the San Jose Municipal Code would need to be made. These findings are very strict and would not be able to be made if applied to this site. Although the findings for a PCN are not technically required, given the close knit relationship to the Story Road business district that borders the intersection of Story Road and King Road, the introduction of a new off-sale alcohol establishment, that improves access to a new off-sale alcohol establishment, that improves access to inexpensive alcoholic beverages directly adjacent to a higher crime area could be problematic in the overall neighborhood.



Staff believes that approval of an off-sale of alcohol outlet, would not only be exacerbate crime on the subject site, but in the surrounding area, which is highly affected by crime. Staff considered the over concentration of crime in the surrounding area, the site's proximity to sensitive receptors, and the significant investment towards revitalization within the Story and King intersection as key factors in recommending denial of this off-sale of alcohol proposal.

Staff believes that approval of an off-sale of alcohol outlet, would not only be exacerbate crime on the subject site, but in the surrounding area, which is highly affected by crime. Staff considered the over concentration of crime in the surrounding area, the site's proximity to sensitive receptors, and the significant investment towards revitalization within the Story and King intersection as key factors in recommending denial of this off-sale of alcohol proposal.

PUBLIC OUTREACH

Approximately seven people attended the community meeting held for this project at the Miller Elementary School on May 16, 2006. A majority of those in attendance indicated opposition to the proposed alcohol use, expressing concerns regarding the negative effect of additional alcohol sales on the surrounding neighborhood and the existence of crime in the neighborhood. The project was also presented at the June 19, 2006 King Ocala Neighborhood Area (KONA) SNI NAC meeting. There were approximately 20 community members present at the NAC meeting. Aside from the applicant, the owner of the Tropicana Shopping Center, Dennis Fong, was the only other person present who voiced support for the proposal. Residents spoke to the existence of crime at Emma Prusch Park, the close proximity of the Miller School to the Dollar Market, the several drinking establishments in the Tropicana Shopping Center, concerns of alcoholism in the community, and the fact that community safety is a priority item on the NAC's Top Ten list. Also, a community member, Terrence Johnson, was present and indicated being recently hit by a

drunk driver at the intersection of Story and King Roads. At the end of the discussion, the NAC voted against the proposal. Attached is a petition against the proposal signed by 183 residents provided by the NAC.

The applicant has posted a notification sign at the site in conformance with the Public Outreach Council Policy. Notices of the public hearing were distributed to the owners and tenants of all properties located within 500 feet of the project site. The Planning Commission's agenda is posted on the City of San Jose's website along with this staff report. Staff has been available to answer questions and discuss the proposal with members of public.

CONCLUSION

Based on the above analysis, staff concludes that all the required findings for the off sale of alcohol cannot be made with regard to the Dollar Market proposal. In particular, the proposed use is located within 500 feet of an elementary school and located within 150 feet of residentially zoned properties. Staff has not been provided any information from the applicant about how the orientation of the proposed use would not have an adverse effect on these two sensitive receptors.

Staff also cannot make one of the findings required for the issuance of any Conditional Use Permit, which specifically addresses any adverse impact on the adjacent area that would result from the proposal. In addition to the nearby residential and school uses, the site is also in close proximity to a park, and crime is a significant issue in the surrounding area.

Therefore staff recommends denial of the subject Conditional Use Permit.

RECOMMENDATION

Planning staff recommends that the Planning Commission deny the requested Conditional Use Permit and include the following facts and findings in its resolution.

1. The subject site is located within the CN Commercial Neighborhood Zoning District.
2. This site has a designation of Neighborhood Community Commercial on the adopted San José 2020 General Plan Land Use/Transportation Diagram. Commercial uses such as the proposed retail store are consistent with the General Commercial designation.
3. The proposed project is to allow the off-sale of alcoholic beverages at The Dollar Market.
4. The applicant has indicated his intention to sell beer only and brands that can be sold between \$4.50 to \$5.00 per six-pack.
5. The project site has adequate parking for the existing and proposed use.

6. The subject site is located within the Story Road Neighborhood Business District, a commercial district with a mix of retail, personal service, restaurant/food service, home improvement and office uses that draws customers from the surrounding neighborhood.
7. Under the provisions of Section 15301(a), Existing Facilities, of the State Guidelines for Implementation of the California Environmental Quality Act (CEQA) as stated below, this project is found to be exempt from the environmental review requirements of Title 21 of the San José Municipal Code, implementing the California Environmental Quality Act of 1970, as amended. Approval of the project would not result in any significant effects relating to traffic, noise, air quality or water quality.
8. The project site is across the street from police beats C1 and C3, both of which have crime statistics over the 20% crime index.
9. Crime analysis from the Police Department indicate that a total of 2,535 calls for service and self-initiate events occurred within a 1000 feet radius of 1690 Story Road in a 12 month period (July 14, 2005-July13, 2006).
10. The Police Department memorandum indicates that the project site is not located within an area of high crime and that the area does not have an over-concentration of existing liquor licenses.
11. The project site is developed with a multi-tenant building offering sales of household and personal goods and services.
12. Tropicana Foods and Mi Pueblo Food Center are the only two other off-sale of alcohol outlets within a 1,000-foot radius of the subject site.
13. The City does not need to grant a Determination of Public Convenience or Necessity because the site is not located an area which is over concentrated in sales of alcohol or crime.
14. The store operates seven days a week until 9PM.
15. The subject building is adjacent to a variety of commercial uses to the west and east. Single-family residential uses are located to the south and Emma Prusch Park is located north of the site.
16. The project site is located approximately 450 feet from the Miller Elementary School site.
17. The project site is located within 150 feet from residentially zoned property on Marsh Street, to the south.
18. The project site is located within the KONA SNI area.
19. The KONA SNI NAC provided the Planning Department with a petition, including 183 signatures, opposing the proposal for the off-sale of alcohol at the Dollar Market.
20. The Story and King intersection is undergoing a major revitalization effort by the Redevelopment Agency and private property owners.

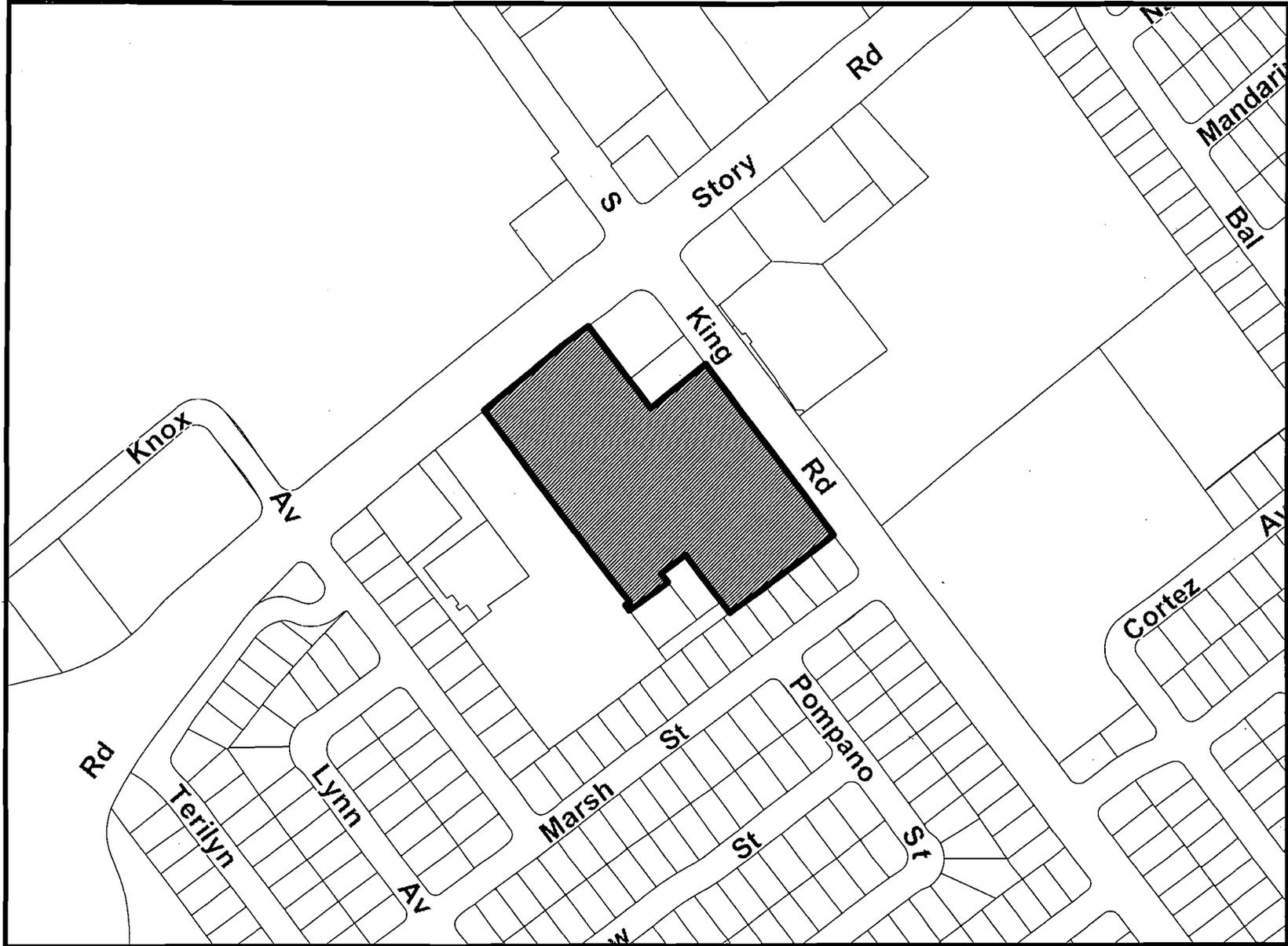
The Planning Commission concludes and finds, based on the analysis of the above facts in regards to the Conditional Use Permit, that:

- a) For the use located closer than five hundred (500) feet from any other use involving the off-sale of alcoholic beverages, situate either within or outside the City, that the proposed location of the off-sale of alcoholic beverages use would not result in a total of more than four (4) establishments that provide alcoholic beverages for off-site consumption within a one-thousand (1,000) foot radius from the proposed location; and
- b) The proposed location of the off-sale of alcoholic beverages use would result in a total of less than five (5) establishments that provide alcoholic beverages for off-site consumption within a one thousand (1,000) foot radius from the proposed location, and therefore 20.80.900 is not an applicable finding to be made for this proposal.
- c) The use is located closer than five hundred (500) feet from any child care center, public park, social service agency, residential care facility, residential service facility, elementary school, secondary school, college or university, or closer than one hundred fifty (150) feet from any residentially zoned property, where the proposed use is situated and oriented in such a manner that would adversely affect such residential use.

Finally, based on the above-stated findings and subject to the conditions set forth below, the Planning Commission finds that:

1. The proposed use at the location requested will:
 - a. Adversely affect the peace, health, safety, morals or welfare of persons residing or working in the surrounding area; or
 - b. Impair the utility or value of the property of other persons located within the vicinity of the site; or
 - c. Be detrimental to public health, safety or general welfare; and
2. The proposed site is adequate in size and shape to accommodate the yards, walls, fences parking, loading facilities, landscaping and other development features prescribed in this Title, or as is otherwise required in order to integrate said use with the surrounding area.
3. The proposed site is adequately served:
 - a. By highways or streets of sufficient width and improved as necessary to carry the kind and quantity of traffic such use would generate; or by other forms of transit adequate to carry the kind and quantity of individuals such use would generate; and
 - b. By other public or private service facilities as are required.

Based on the above findings, this project is hereby denied.



Scale: 1"=300'
Noticing Radius: 500 feet

Map Created On:
03/03/2006

File No: CP06-015

District: 7

Quad No: 84

Memorandum

TO: Reena Mathew
Planning

FROM: Ofc. Rick Galea #3495
San Jose Police Vice Unit

SUBJECT: The Dollar Market
1690 Story Road

DATE: August 7, 2006

Approved

Date

I have received your request for crime statistics regarding The Dollar Market, 1690 Story Road, San Jose, Ca. 95122. The Dollar Market is applying for a Conditional Use Permit to sell beer and wine.

A crime analysis indicated a total of 2535 calls for service and self-initiated events occurred within a 1000 ft radius of 1690 Story Rd. in a 12 month period (July 14, 2005 thru July 13, 2006). Some of the calls are listed in the table below.

Crime Analysis

Number	Nature of Call
145	Disturbances
119	Vehicle Accidents / Hit and Run
20	Assault
13	Drunk in Public
10	DUI
6	Vandalism

The San Jose Police Department remains neutral in the issuance of this permit as stated in the memo written to Planning on March 28, 2006. Please feel free to contact me at 277-4322 if you have any questions.

Ofc. Rick Galea #3495
Administrative Officer
Special Investigations/Vice

CP06-015. Conditional Use Permit for the off-sale of beer and wine for an existing retail store on a 5.18 gross acre site in the CN Neighborhood Commercial Zoning District, located on the south side of Story Road approximately 200 feet west of South King Road (Dollars Market-1604 Story Road)(Dennis Fong, Owner). Council District 7. SNI: K.O.N.A., East Valley/680 Communities. CEQA: Exempt.

DENIED (5-1-1; DHILLON OPPOSED AND PLATTEN ABSENT)

The applicant stated his concern about the measurements of the project site's distance from sensitive receptors, and stated actual walking distance is longer than shown in report, that the beer sold at \$4.50 to \$5.00 a six-pack is not discount beer, and that this project site is not in a high crime area, but adjacent to one. The applicant also indicated that the police memoranda indicated they would remain neutral, and that the applicant would be willing to be conditioned to limit shelf space of store devoted to alcohol.

In response to Commissioner Dhillon, the applicant stated he had paced off the actual distances but had not provided the information to the staff prior to the hearing, and that the probable price had been requested by staff, but that the connotation of "discount" is a problem.

Commissioner Kalra stated that the neighborhood had worked to address prior problem in area with liquor outlets in past and asked how applicant felt project would fit in. The applicant noted that the area will not be over-concentrated with this permit. In response to Commissioner Kalra, regarding his concern about the placement near the front door of the cooler location for beer display, the applicant indicated they could work with staff to relocate cooler.

Dennis Fong provided petitions from area customers on why this request for beer sales should be approved. Dennis Fong stated that community was supportive, and that as a landlord, he had signed the application. In response to Commissioner Pham, Dennis Fong indicated good track record of applicant for off-sale license, and explained location of subject store relative to grocery store, Tropicana Foods. In response to Commissioner Zito, Dennis Fong indicated he had owned property since about 1990, and when asked if site had had beer and wine sales in last 5 years, he said no, but then mercardo concept developed. Further, in response to Commissioner Zito, Dennis Fong stated he could assist with relocation of cooler for beer sales if required, and explained recent security charges added to shopping center and other recent improvements.

Commissioner Zito stated he was concerned about findings which needed to be made and the distances from residential and other sensitive uses. Mr. Fong explained his methodology which was in his exhibit provided to the Commission. In response to Commissioner Kalra, the applicant explained that distances were counted from entrance to entrance, and stated store owner had been on site for 3 years, and explained why now would be a good time to allow this small businessman a chance to include beer sales. Dennis Fong indicated that additional conditions could be added. Deputy Hamilton stated measurements from sensitive uses are radial in nature, but that barriers such as fences could be considered.

In response to Commissioner Kamkar, Dennis Fong stated none of the signers of his petition were in audience. Commissioner Campos noted for the record, that goal of redevelopment of area was to reduce liquor outlets in area.

East Valley/680 SNI leader in area expressed opposition to the project stating area should not have more liquor licenses added. Chair of King/Ocala area SNI urged denial of application, stating work of community to clean up area, and efforts do not need another outlet. In response to Commission Zito, speaker indicated that SNI group would prefer to have area be alcohol free, including grocery stores. Another speaker, a victim of drunk driving, indicated opposition to another liquor outlet, and expressed that neighborhood has been working together to remove liquor outlets, and stated this should not be approved.

In response to Commissioner Kamkar, one speaker stated that neighborhood efforts had helped improve crime levels at project corner, while other 3 corners of intersection are high crime, and that it was important to keep crime rate down. Commissioner Kalra noted that Police Beat areas are significantly larger than just the corners.

Several speakers from KONA SNI Neighborhood asked for denial of permit for alcohol, stating how hard neighborhood had worked to clean area up; and supported staff recommendation. In response to Commissioner Zito, one speaker stated grocery store might not be as much of a problem, but SNI members generally want no liquor outlets in community. Several area residents explained location of existing liquor store in area on McCreery that had been a problem for years.

Another speaker indicated that within 1 mile radius of Story/King intersection are more than 100 off-sale licenses.

The applicant reminded the Commission about the good track record of business owner making the request.

The Commission closed the public hearing.

Staff clarified that the zoning code does specify that it's actual distance, not walking distance, and that the characterization of "discount " market came from the name "Dollar Store", and further explained the nature of the intersection of 3 police beats.

In response to Commissioner Zito, staff indicated measurements in report were valid under the zoning code and clarified staff's position on location next to multiple sensitive receptors, and nature of specific findings for both off sale of alcohol, and also the more general finding to approve a Conditional Use Permit relative to having potential to adversely affect safety of persons in area.

Commissioner Zito moved denial of permit.

Commissioner Kamkar asked what the status was of police substation on site, and Dennis Fong responded that the lease was not renewed, but the subsidy money is used for off-duty officers and security cameras.

Commissioner Dhillon asked if there was a liquor store in shopping center. Staff responded no, and explained computer technology that allows staff to do measurements.

In response to a question by Commissioner Dhillon about whether beer price is land use criteria. Counsel clarified price is unlikely to be central issue, but could be a factor in how many people would come in to buy beer. Commissioner Dhillon expressed concern about need for level playing field and that subsequent analysis determines if there are sufficient barriers. Further, Deputy Hamilton indicated that the Public Convenience & Necessity findings would be more absolute regarding the ability of the Commission to approve.

Commissioner Kalra stated that a business can't operate in a vacuum, and that with no reflection on the business owner, the neighborhood has come a long way in being cleaned up. Commissioner Zito concurred and explained that the neighborhood, and other SNIs, had long term commitment opposed to all new alcohol outlets and that this area is susceptible and vulnerable.

Commissioner Kamkar indicated it was not just a matter of the distances, but the neighborhood issues.

Commissioner Zito indicated he was adding the finding to his motion about the proposed project adversely affecting peace, safety and morals or welfare of persons in area.

Commissioner Campos commended the community for their hard work, and stated it was short-sighted for this proposal to have come back to this area. He recommended neighbors be vigilant in future.

NOTICE OF PERMIT APPEAL

TO BE COMPLETED BY PLANNING STAFF

FILE NUMBER <u>CP06-015</u>	RECEIPT # <u>420938</u>
PROJECT LOCATION <u>APN: 486-10-071</u> <u>S. side of Story Rd, approx 200' w. of S. King Rd.</u>	AMOUNT <u>\$ 2060.00</u>
	DATE <u>9-25-06</u>
	BY <u>Lesley X.</u>

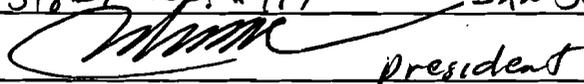
TO BE COMPLETED BY PERSON FILING APPEAL

PLEASE REFER TO PERMIT APPEAL INSTRUCTIONS BEFORE COMPLETING THIS PAGE.

THE UNDERSIGNED RESPECTFULLY REQUESTS AN APPEAL FOR THE PROPERTY WHICH IS LOCATED AT:
1690 STORY Road #117, San Jose, CA 95135

REASON(S) FOR APPEAL (For additional comments, please attach a separate sheet.):
(SEE ATTACHED REASONS)
(Conditional Use Permit, File No. CP06-015)

PERSON FILING APPEAL

NAME <u>N & L TRADING INC.</u>	DAYTIME TELEPHONE <u>(408) 836-9716</u>
ADDRESS <u>1690 STORY RD. #117</u>	CITY <u>SAN JOSE</u>
SIGNATURE 	STATE <u>CA</u>
RELATIONSHIP TO SUBJECT SITE: (e.g., adjacent property owner, property owner within one thousand (1,000) feet)	ZIP CODE <u>95135</u>
DATE <u>9-25-06</u>	
applicant (business owner)	

CONTACT PERSON (IF DIFFERENT FROM PERSON FILING APPEAL)

NAME <u>Rick Cole</u>			
ADDRESS <u>1060 Minnesota Ave #2</u>		CITY <u>SAN JOSE</u>	
STATE <u>CA</u>		ZIP CODE <u>95125</u>	
DAYTIME TELEPHONE <u>(408) 297-2587</u>	FAX NUMBER <u>(408) 999-0184</u>	E-MAIL ADDRESS <u>rickcole@pachell.net</u>	

PROPERTY OWNER

NAME <u>Dennis B.K. Fong</u>	DATE <u>9-25-06</u>
ADDRESS <u>377 S 1st St.</u>	CITY <u>SAN JOSE</u>
STATE <u>CA</u>	ZIP CODE <u>95113</u>

PLEASE SUBMIT THIS APPLICATION IN PERSON TO THE DEVELOPMENT SERVICES CENTER, CITY HALL.

**ATTACHMENT for NOTICE OF PERMIT APPEAL
1690 Story Rd. #117, San Jose, CA 95135**

September 25, 2006

The Applicant, (N & L Trading, Inc.) appeals from the denial of the Planning Commission based upon the following:

- 1. The use is not located closer than 500 feet from any elementary school and is not closer than 150 feet from any residentially owned property, and further the use is situated and oriented in such a manner that it would not adversely affect such school or residential use;**
- 2. The findings that the proposed use will adversely affect the peace, health, safety, morals or welfare of persons residing or working in the surrounding area, or impair the utility of the site; or be detrimental to public health, safety or general welfare are arbitrary, capricious, without factual basis and constitute an abuse of discretion of the Planning Commission;**
- 3. The regulatory framework established by the City of San Jose pursuant to Chapter 20.100 of Title 20 of the San Jose Municipal Code conflicts with and is inconsistent with the superseding authority of the State of California by Article XX Section 22 of the California Constitution, and therefore the denial by the Planning Commission under these ordinances is unlawful.**



KING OCALA NEIGHBORHOOD AREA SNI

1535 Santee Drive, San Jose, California 95122

(408) 277-2980

June 19, 2006

Dear Honorable Mayor, Councilmembers, Planning Commissioners, SJPD Chief, and To Whom It May Concern,

On behalf of the Lanai Cunningham Neighborhood Association (LCNA), Tully Ocala Capitol King Neighborhood Association (TOCKNA), and the King Ocala Neighborhood Area SNI, we write this letter to ask for your support in voting **NO** on the request (**ABC06-010**) by the Dollar Store, inside the Tropicana Shopping Center located at the corner of King and Story, for a Liquor License Exception Permit to allow "off-sale" of alcoholic beverages.

For the past ten (10) years plus, the City of San Jose and Councilmembers, along with the RDA, SJPD, and the residents of our neighborhood worked hard to clean-up the four corners of King & Story, the gateway to our community, and we are at the edge of a new horizon full of promises, but it cannot be continue on the right path if we allow the re-emerging of more alcoholic beverages sales. We strongly urge everyone who has a direct and an indirect decision making to **VOTE NO** on the request (**ABC06-010**) by the Dollar Store.

Thank you in advance for your time and support in our endeavor to build a strong, vibrant, and healthy neighborhood where we feel safe to be home and proud of our CommUnity, the City of San Jose.

Sincerely,

Residents of LCNA, TOCKNA, and KONA SNI

Attachment

LCNA / TOCKNA / KONA SNI
PETITION

I'm signing this petition to support the Lanai Cunningham Neighborhood Association, Tully Ocala Capitol King Neighborhood Association, and the King Ocala Neighborhood Area SNI to urge the Honorable Mayor, Councilmembers, SJPD, RDA, Planning Commisssioners, and all direct and indirect personnel to **VOTE NO** on the request (ABC06-010) by the Dollar Store for a Liquor License Exception Permit to allow "off-sale" of alcoholic beverages.

<u>LAST NAME</u>	<u>FIRST NAME</u>	<u>ADDRESS</u>	<u>SIGNATURE</u>
Abutin	ZENAIDA	1938 Winter Park Way	Jan Jose
McCullough	Ben	1966 Winter Park Way	Ben McCullough
BADILLO	V. LEGAS MAURA	1992 Winter Park Way	Maura Legas
Reider del Rio		1876 Winter Park Way	Reider del Rio
Decena	NICOLE	1808 Winter Park Way	Nicole Decena
Reider del Rio	Lois	1868 Winter Park Way	Lois Reider del Rio
JUAN JR	CORTAZ	1820 Winter Park Way	Juan Cortaz
Rhone	Sarah	1809 Daytona Dr S/J	Sarah Rhone
Ortiz	Tony	1817 Daytona Dr. A	Tony Ortiz
Hale		1833 DAYTONA DR	Hale
Ytrena	Graciela	1841 Daytona Dr.	Graciela Ytrena
Martinez	Trinidad	1849 Daytona Dr.	Trinidad Martinez

LCNA / TOCKNA / KONA SNIPETITION

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<u>LAST NAME</u>	<u>FIRST NAME</u>	<u>ADDRESS</u>	<u>SIGNATURE</u>
Morales	Ana	1849 DANTONA DR. SJ CA 95122	Ana Morales
Luis	Carlos	1505 DANFORD AVE. SAN JOSE	Luis
Clarkson	Linda	1873 DAYTONA DR. SAN JOSE 95122	Linda Clarkson
Muscoza	Veronica	1531 DAYTONA DR. SAN JOSE 95122	Veronica
Juan		409 DAYTONA DR. SAN JOSE 95122	Juan
BARNETT	LOUIS	2066 INMAN WAY SAN JOSE CA 95122	LOUIS
De la Torre	Matthe	1921 DAYTONA DR. SAN JOSE 95122	Matthe De la Torre
De la Torre	Humberto	1931 DAYTONA DR. SAN JOSE 95122	Humberto De la Torre
gutierrez	JUAN	1905 DANFORD DR. SAN JOSE 95122	JUAN
MORAN	IRMA	1929 DAYTONA DR. SJ 95122	IRMA
MORAN	FANY	1929 DAYTONA DR. SJ 95122	FANY
H SGENZ	LUZ MARIA	1929 DAYTONA DR. SJ 95122	LUZ MARIA

LCNA / TOCKNA / KONA SNIPETITION

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<u>LAST NAME</u>	<u>FIRST NAME</u>	<u>ADDRESS</u>	<u>SIGNATURE</u>
Mercin	JOSE	1424 DAYTONA DR. ST 95122	JOSE
Mercin	Nelson	1424 DAYTONA DR. ST 95122	Nelson
Mercin	HERBERT	1424 DAYTONA DR. ST 95122	HERBERT
Gonzalez	Maria	1937 DAYTONA DR 95122	Maria Gonzalez
Thru	Juan	1944 DAYTONA DR 95122	Juan
HIA	MARIBETH	1946 DAYTONA DR.	MARIBETH
HAYNES	JAMES	1948 DAYTONA DRIVE ST 95122	JAMES HAYNES
Salvador	Amando	1950 WINTERPARK WAY	Amando
Salazar	Liana	1930 WINTERPARK WAY	Liana Salazar
WARCIA	BERTHA	1977 WINTERPARK WAY	BERTHA
Emilia	Carlota	1977 WINTERPARK WAY	Emilia
Ilhary	Charito	1977 WINTERPARK WAY	Charito

LCNA / TOCKNA / KONA SNIPETITION

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<u>LAST NAME</u>	<u>FIRST NAME</u>	<u>ADDRESS</u>	<u>SIGNATURE</u>
Arechiga	Laura	2102 Inman Way San Jose 95122	Laura Arechiga
Cardelario	Volanda	2215 Huron DR San Jose, 95122	Volanda Cardelario
Marquez	maurie	2118 Interbay Dr. San Jose 95122	Maurie Marquez
Rivera	Gloria	1678 Terilyn AVE San Jose 95122	Gloria Rivera
Ruben Dominguez	Ruben A.	3941 HomePark CT SAN Jose 95122	Ruben Dominguez
Peter	Barbara L.	2107 Mendota Wy S.J 95122	Barbara Peter
Peter	Harlo R	2107 Mendota w S.J. 95122	Harlo Peter
FRANCISCO MACIAS	FRANCISCO	2101 INMAN WY. San Jose. 95122	Francisco Macias
MANDEZ	ALFONSO	1655 MIAMI DR SAN JOSE CA 95122	Alfonso Mandez
CHAVEZ	Frank	1625 Myrtle Rd SAN JOSE CA 95127	Frank Chavez
Julian	Julian	1170 STORY RD. SAN JOSE CA 95122	Julian
Tran	Ben	2143 Randize Ave 95122	Ben Tran

LCNA / TOCKNA / KONA SNIPETITION

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<u>LAST NAME</u>	<u>FIRST NAME</u>	<u>ADDRESS</u>	<u>SIGNATURE</u>
CREPS	JOE	2960 Vanport Dr	Joe Creps
Nawann	Catherine	2792 Chapin Ave	Cat
LOPEZ	JUAN S	1832 Monrovia Dr.	Juan S Lopez
MORENO	JUANNA	1830 Keyra Cir	Juanna R. Moreno
MORALES	CATALINA	2916 BRADBURY DR	Catalina Morales
MORALES	CARLOS	2916 Bradbury Drive	Carlos E. Morales
Gourd	Bernice	1617 Center Ridge DR	Bernice Gourd
JONES	BARBARA	1856 MONROVIA DR.	Barbara J.
ANTL	KATHY	2951 BRADBURY DR	Kathleen Antl
Moreno	Clemente	1830-Cora Cir	Clemente
Jack Pham	Nicholas	1840 Monrovia Dr	Nicholas Pham
Antoinette	Cervantes Antoinette	1529 Flanigan Dr.	Antoinette Cervantes

~~LANAI COUNCILMAN FROM SNI~~
~~PETITION~~

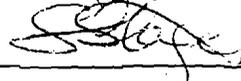
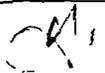
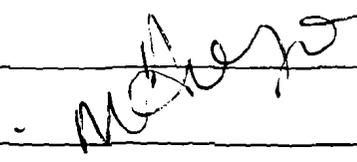
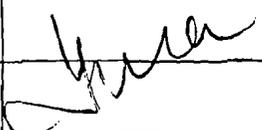
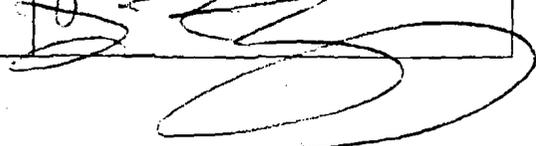
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LAST NAME	FIRST NAME	ADDRESS	SIGNATURE
LÓPEZ	MARIA	2751 Othello ave Sanford	Maria Lopez
Flores	Graciela	1634 Kickel av	Graciela Flores
Huynh	Mui	2574 Fountaine rd #11	Mui Huynh
Shang	Jiang	3060 Spring Shadow	Jiang Shang
Ordon a	Ana	2948 Stallion way S.D. Ct	Ana Ordon
Ortiz	Susana	Isle Flanigan Dr apt #10	Susana Ortiz
CERVANTES	Margarit	1529 Flanigan DR #93	Margarit Cervantes
Cortez	Maria	1698 Tierra Buena Dr	Maria Cortez
Permastrand	Serena	1617 Center Ridge Dr	Serena Permastrand
Kojan		1617 Center Ridge Dr	Kojan
Corona Mora	Alejandro	1630 Tierra Buena Dr	Alejandro Corona Mora
Eliseo	Cardona	2723 Alvin Av. S.T	Eliseo Cardona

LCNA / TOCKNA / KONA SNI

PETITION

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<u>LAST NAME</u>	<u>FIRST NAME</u>	<u>ADDRESS</u>	<u>SIGNATURE</u>
TESFAUDET	Alma	1792 Redfield Ct	
Stager	Shirley	1528 Eulonia Dr ST	
Gallardo	Francisco	2701 Alhambra Ave	
Leo Gray	Leo	1518 Center Ridge Dr	Leo
Trejo	Tina	2156 Mendocino Way	
Monales	Mariela	1655 E. Resco Ave	
Monales	Chris	1655 E. Resco Ave	
Gonzales	Jesse	1655 E. Resco Ave	
Gonzales	Jasmin	1655 E. Resco Ave	
Perez	Josaf	272 E. Resco Ave.	
Harris Valle	Jessica	1630 Nickel Ave	
Dominguez	TERESA	1694 Savannah Dr	

~~LANAI JOURNAL~~ ~~LANAI SNI~~
PETITION

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<u>LAST NAME</u>	<u>FIRST NAME</u>	<u>ADDRESS</u>	<u>SIGNATURE</u>
Ortega	Monet	10081 Bedford St. San Jose, CA 95127	Monet Ortega
CORTEZ	GRACE	6698 TIERRA BUENA DR. CA 95121	Grace Cortez
CORONA	Rosario	1630 Tierra Buena Dr.	Rosario M. Corona
CASANO	Maria	1630 Tierra Buena Dr	Maria T. Casano
Morillo	Maria	1634 SARALynn. Dr.	Maria E Miller
John Mello	John	1602 Sarah Lynn Dr	John Mello
Bill Helms	Bill	1708 Sarah Lynn	Bill Helms
Jay Smith	Jay	1615 Tierra Buena Dr	
SOTELO	TARA	2902 Bradbury Dr. SJ	Tara Sotelo
Scott Alamy	Sindy	2679 ALVIN AVE SJ	Synthia Alamy
ITOMSCI	SCOTT	SAN JOSE CA	Scott
Frank James	Frank	1016 Tierra Buena Dr	Frank

~~LOSER / KONA SNI~~

~~PETITION~~

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LAST NAME	FIRST NAME	ADDRESS	SIGNATURE
VA	Markus	1699 NICKEL AVE	
HANNAH	CHARLES	5700	L. C. H. H. H. H. H.
ORTIZ	ROBERT	1699 Nickel Ave S.J. CA 95121	
ORTIZ	DESIREE	1699 Nickel Ave S.T. CA 95121	
HERRERA	MICHAEL	1694 SANTA LUCIA ST	
LE	TINA	2685 CAMINO ELLO	
PEREDA	ISMAEL	3176 Orange St.	
Corona Mora	Veronica	1630 Tierra Buena Dr.	
ARANDA	JOSE	no address	
Ladbury	LUPE	1690 Nickel ave	Serge Ladley
Gothewright	Dolores Palome	2677 Mozart Ave	
Kent	ROCHELLE	3174 Orange St.	

~~LANAI CUNNINGHAM NEIGHBORHOOD ASSOCIATION~~
PETITION

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LAST NAME	FIRST NAME	ADDRESS	SIGNATURE
Castro	Jane	1600 Emerald Ave	Jane Castro
Lopez	Simon	1154 Tierra Buena	Simon Lopez
Gonzalez	Javier	200 E. Santa Clara 95113	Javier Gonzalez
Camacho	Maria	2657 Puccini Ave	Maria Camacho
Emmanuel	MORENO	1615 Santa Rosa Dr	EMMANUEL MORENO
NOVIA	MADISON	CITY OF SAN JOSE	Madi Novia
Olmas	Alberto	170 W. San Carlos St	Alberto Olmas
MA Lopez	MARIA	Tierra Buena	
SANDEVAL	VIRGINIA	2679 Alvin Ave	Virginia Sandeval
CARDONA	IRENE	10681 Bedford St	Irene Cardona
MUNOZ	MARGARITA	1610 BOWLING GREEN DR.	Margarita Munoz
Hernandez	Rodrigo	1609 Jessica Wy	Rodrigo Hernandez

LCNA / TOCKNA / KONA SNIPETITION

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<u>LAST NAME</u>	<u>FIRST NAME</u>	<u>ADDRESS</u>	<u>SIGNATURE</u>
Pabst	Jody	2444 VANPORT DR ST 95122	Joanna F. Pabst
DaSilva	Carlos	1670 Sarelynn Dr. ST 95121	
Adame	Maria	1657 Jessica way S. 95121	
Hernandez	Socorro	1609 Jessica. WY 95121	Socorro Hernandez
Maracida	Ulerio	2722 Aiden Ave., S.J. 95122	Ulerio Maracida
Marcela	Navarro	2722 camino ecco S.J. 95121	Marcela Navarro
Ceja	Antonia	2703 Alvin Ave San Jose	Antonia Ceja
Cadenas	Alma	1486 lakme way San Jose	Alma D Cadenas
Calvining	Elma	285 Stemple Ct	Elma Calvining
Stahlnecker	Diana	848 Leyte Ct. San Jose, CA	Diana R. Stahlnecker
MORENO	Emmanuel	1641 Center Ridge Dr.	Emmanuel Moreno
Alta Tomps	Emmar	812 Vlna St	

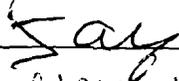
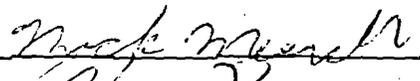
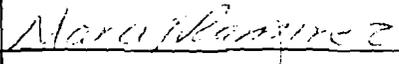
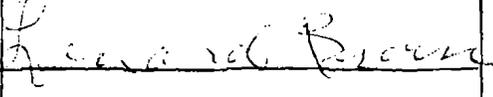
LCNA / TOCKNA / KONA SNIPETITION

I'm signing this petition to support the Lanai Cunningham Neighborhood Association, Tully Ocala Capitol King Neighborhood Association, and the King Ocala Neighborhood Area SNI to urge the Honorable Mayor, Councilmembers, SJP, RDA, Planning Commission, and all direct and indirect personnel to **VOTE NO** on the request (ABC06-010) by the Dollar Store for a Liquor License Exception Permit to allow "off-sale" of alcoholic beverages.

<u>LAST NAME</u>	<u>FIRST NAME</u>	<u>ADDRESS</u>	<u>SIGNATURE</u>
Cadenas	Mercedes	1525 Flamingo Dr #69	Mercedes Cadenas
Valverde	Rama	2695 Alvin Ave	
Ayala	Esmeralda	1624 Orleans Dr	Esmeralda Ayala
RODRIGUEZ	JOANNA	1624 ORLEANS DR. ST.	Joanna Rodriguez
BAUTISTA	CHEYL	3173 OAKGATE WY SAN JOSE 95249	Cheryl
Tule	Rich	2562 Hwood Ct ST	RT 68
Garcia-Ramos	Gracie	2764 Othello Ave. SJCA 95222	Gracie Ramos
SANDOVAL	VIRGINIA	2679 ALVIN AVE S.J.C. ⁹⁵¹⁰¹	V. R. Sandoval
CARDONAY	IRENE	10051 Bedford St. S.J.C. ⁹⁵¹³¹	Irene Cardonay
Dobson	Dobson	Tierra Buena Dr.	Dobson
Simon Lopez	SIMON	659 TIERRA BUENA DR	Simon Lopez
Robert Lopez	Robert	2679 Alvin Ave	Robert Lopez

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<u>LAST NAME</u>	<u>FIRST NAME</u>	<u>ADDRESS</u>	<u>SIGNATURE</u>
KENT	MICHELLE	1809 RIGOLETTO DR.	
TORRES	GILBERTO	SJPD	
Jay Garcia	Jay	1816 - S. King Rd	
Nichols	Esmeralda	1159 ENESCO AVE	
MORALES	NICK	1659 Enesco Ave	
Thompson	SHAWNA	2676 S. King Rd S.J. CA 95122	
Marcia Ramirez		1492 puritani way S.J. ca 95121	
Betty Valdez	BETTYE	1522 PEARL RIDGE DR	
Hernandez	ERIC	145 OAK ST / Washington SNI	
Kenard Brown	Lennie	1522 Pearl Ridge Dr	

LCNA / TOCKNA / KONA SNI

PETITION

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LAST NAME	FIRST NAME	ADDRESS	SIGNATURE
Pelayo	Carlos	1655 Marsh St San Jose CA 95122	<i>[Signature]</i>
Sorto	Walter	1551 June Av San Jose CA 95122	<i>[Signature]</i>
Quinones	Gladys	1425 Marsh St San Jose CA 95122	X
H. Ramiro	Seraise	1254 Pamparo San Jose CA 95122	<i>[Signature]</i>
Ramiro	Nancy	1254 Pamparo San Jose CA 95122	<i>[Signature]</i>
Sorto	Sandra	1550 June Av Sd, CA 95122	<i>[Signature]</i>
Osorio	Daniel	1550 June Av Sd, CA 95122	<i>[Signature]</i>
Guillermo	Diviel	1518 June Av Sd (11) 95122	<i>[Signature]</i>
Pelayo	Nancy	1655 Marsh St Sd CA 95122	<i>[Signature]</i>

LCNA / TOCKNA / KONA SNI
PETITION

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LAST NAME	FIRST NAME	ADDRESS	SIGNATURE
JOHNSON	Theodore B	1871 DARWIN WAY SJ 95122	Theodore B Johnson
Gutiérrez	MARCOS	1751 Foley Ave, San Jose, CA 95122	Marcos Gutierrez
Gutiérrez	Teresa	1751 Foley Ave San Jose CA 95122	Teresa Gutierrez
ESPINO	Marian	1678 Terilyn Ave San Jose CA 95122	Marian Espino
Rivera	Jesse	1678 Terilyn Ave SJ 95122	Jesse Rivera
Garcia	Josh	1751 Foley Ave San Jose CA 95122	Josh Garcia
Morgan	Hernandez	1852 Waverly Av SJ	Hernandez Morgan
Juarez	Felipe	1159 Lynn Avenue, S.J. CA	Felipe Juarez



East Valley / 680 Communities
Strong Neighborhood Initiative – Neighborhood Advisory Committee

NAC Board

March 17, 2004

Chair

Roberto Cruz II

Mr. Joe Horwedel
Deputy Director, Planning – PBCE
First Street, Room 400
San Jose, CA 95110

Co-Chair

Aaron Resendez

Gil Bracamontes

Olga Ruiz

Kathleen Dolci

Bob Dolci

Bud Beacham

Ted Johnson

Alofa Talivaa

Ezequiel Nevarez

Scorro Nevarez

Naomi Lopez

Betty Howard

Jesus Cardinas

Minerva Cardinas

Javier Davila

Virginia Davila

Rebecca Sweeney

Frank Chavez

Rick Salinas

Kim Salinas

Lionel Elizarraraz

Horacio Lucero

Dear Deputy Director Horwedel:

Thank you for accepting this letter expressing our concern about the prevalence of alcohol outlets in our neighborhoods. It is the position of our Strong Neighborhood Advisory Committee to oppose any issuance of approvals to permits for the sale of alcohol in our community.

As you know, the City of San Jose established the Strong Neighborhoods Initiative to empower underserved neighborhoods by developing community leaders to take a more proactive role in the improvement of their neighborhoods. Since its inception, we have made great strides to improve and “clean-up” our neighborhoods. We believe it is imperative to let you know our position on the issuance of alcohol permits in our area in order to secure the health and safety of our community and maintain the great progress we have made so far.

The East Valley / 680 Communities planning area is located east of Highway 101 and Interstate 680 and is comprised of ten neighborhoods, namely: Arbuckle, Capitol/Goss, Dobern, Nancy, NHU, Ryan, Sierra, Cassell, Dorsa, and Lyndale. Our area contains two neighborhood business districts, shopping centers and bars that qualify of our neighborhoods under the Caldera Act to be “over-concentrated” with alcohol outlets and at-risk due to federal crime indices.

Again, we would like to thank you for accepting our letter and continuing to apprise us of alcohol permitting activity in the east side. Please keep this letter on file to apply to any new requests for alcohol permits.

Respectfully,

Roberto Cruz, II
NAC Co-Chair

Aaron Resendez
NAC Co-Chair

CC: Councilmember Nora Campos, District 5
San Jose City Council

Communities Coming Together To Work Together

1050 McCreery Ave Apt #1 San Jose, CA 95116 408/ 277-5639

K.O.N.A. Strong Neighborhoods Initiative
1807 Sarasota Way
San Jose, Ca 95122

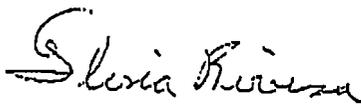
April 15th, 2004

Dear Council Members Gregory and Cortese,

The King Ocala Neighborhood Area (K.O.N.A.) is working to create a family friendly neighborhood. With your help, much needed improvements are underway at the Boys and Girls Club located on Cunningham Ave. We have planted 30 + trees to beautify several streets. We have obtained a SNAP grant of approximately \$25,000, which enables us to schedule three (3) dumpster days in the neighborhood. We have taken advantage of the Housing Departments rehabilitation grant program to make improvements to ten houses in FY 02-03, the first year of the program and the Housing Department will complete another 33 projects in FY 03-04. We have worked directly with Code Enforcement and the Department of Transportation to address specific code, and traffic calming issues in the neighborhood, and have seen improvements in both areas. We are working constantly to make our top ten list a reality.

Recently we were informed that "24 Market" has applied for a liquor license. We feel that the K.O.N.A. neighborhood already has sufficient places where liquor can be purchased. The area does not need another location for liquor and the people that it will attract. This goes against our goal to be a more family friendly neighborhood. We would like to ask for your support in opposing this and ANY new liquor licenses in the K.O.N.A. Area.

Sincerely,



Gloria Rivera



Jose Gonzalez

K.O.N.A. NAC Co-chairs on behalf of the K.O.N.A. Neighborhood

Cc:
Council Member Nora Campos
Joe Horwedel
Robert Sylwia