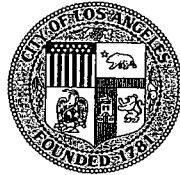


CITY OF LOS ANGELES
CALIFORNIA



JAMES K. HAHN
MAYOR

ROBERT JANOVICI
CHIEF ZONING ADMINISTRATOR

ASSOCIATE ZONING ADMINISTRATORS

GARY BOOHER
R. NICOLAS BROWN
ANIK CHARRON
EMILY J. GABEL-LUDDY
DANIEL GREEN
LOURDES GREEN
DAVID KABASHIMA
ALBERT LANDINI
JON PERICA

DEPARTMENT OF
CITY PLANNING
CON HOWE
DIRECTOR

FRANKLIN P. EBERHARD
DEPUTY DIRECTOR

OFFICE OF
ZONING ADMINISTRATION

200 N. SPRING STREET, 7TH FLOOR
LOS ANGELES, CA 90012
(213) 978-1318
FAX: (213) 978-1334

September 23, 2004

Chief Zoning Administrator (A)
Office of Zoning Administration
200 North Spring Street, #763
Los Angeles, CA 90012

John C. Gambina (O)
Dorothy M. Gambina Trust
3020 Calle Juarez
San Clemente, CA 92673

George and Salam Wanies (Op)
Canyon Market
7421 Hillrose Street
Tujunga, CA 91042

CASE NO. DIR 2004-2104(RV)
IMPOSITION OF CONDITIONS
7421 Hillrose Street
Sunland-Tujunga-Lake View Terrace-
Shadow Hills-East La Tuna Canyon
Planning Area
Zone : [Q]C1-1VL
D. M. : 207B197
C. D. : 2
CEQA : ENV 2004-2105-CE
Fish and Game : Exempt
Legal Description : Lots 77 and 78 of
the Zachau Tract

Department of Building and Safety

Pursuant to Los Angeles Municipal Code Section 12.27.1, I hereby require:

the modification of the operation of Canyon Market, in order to mitigate continuing adverse impacts on residential uses adjacent to its operation,

upon the following additional terms and conditions:

1. All other use, height and area regulations of the Municipal Code and all other applicable government/regulatory agencies shall be strictly complied with in the development and use of the property, except as such regulations are herein specifically varied or required.
2. The authorized use shall be conducted at all times with due regard for the character of the surrounding district, and the right is reserved to the Zoning Administrator to impose additional corrective conditions, if, in the Administrator's opinion, such conditions are proven necessary for the protection of persons in the neighborhood or occupants of adjacent property.





3. All graffiti on the site shall be removed or painted over to match the color of the surface to which it is applied within 24 hours of its occurrence.
4. The permitted hours of operation are 7 a.m. to 10:30 p.m., daily.
5. The business owner, manager, and staff, shall abide by all laws and established conditions. They shall properly manage the establishment to discourage illegal activity on the premises.
6. The business owner, managers and security guard shall be familiar with these conditions and shall sign a statement which shall be submitted to the Zoning Administrator within 30 days of the effective date of this determination indicating that they have read the list of these conditions and shall implement them as required. These conditions shall be posted in the business for all City staff to review.
7. One uniformed, State licensed security guard hired by the property owner shall patrol in and outside the premises 24 hours a day. The guard shall control loitering, drug sales on the site, and protect school children waiting at the bus stop next to the market by asking people to leave or calling the police.
8. No interior noise shall be audible beyond the exterior of the business.
9. The rear door shall have an automatic closing arm installed to keep it closed at all times. The door shall be locked to the outside, except for deliveries, so no one may enter during business hours. A sign on the door shall direct patrons to enter from the front of the business.
10. No flashing signs of any type are permitted. All outside lights for the parking lot and top of the bar shall be shielded so as not to be directly visible to any adjacent neighbor. The exterior lighting shall be increased to the satisfaction of the Foothill Division Senior Lead Officer ((Officer Carpenter).
11. No exterior uses except for parking are permitted.
12. All outstanding Building and Safety violations shall be resolved within 90 days of the effective date of this determination and proof provided to the Zoning Administrator.
13. All staff shall attend the LAPD, "STAR" alcohol service training program, and proof of attendance shall be submitted to the Zoning Administrator within 90 days of the effective date of this determination.
14. The site shall be cleaned on a daily basis. Trash pick up is allowed only between 9 a.m. and 6 p.m. daily. All delivery vehicles shall use the rear parking lot to deliver goods.

Page 2

RE: 7421 Hillrose St.
Order to Comply Effective 05/16/03

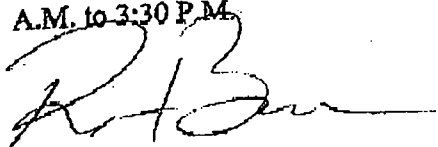
5. The trailer in the rear of the lot being occupied. Remove the trailer from the lot or provide department approvals for such use. LAMC Section 1221A1a, 12.13A

Any person who violates or permits another person to violate any provisions or requirements of Los Angeles Municipal Code (LAMC) is guilty of a misdemeanor which is punishable by a fine of not more than \$1000.00 and/or six months imprisonment. LAMC Section 11.00M.

Failure to comply with this order will result in the issuance of non-compliance fees, and the case being referred to the office of the City Attorney for further enforcement. LAMC Section 98.0411, 91.103.3.

There is an appeal procedure established by the City whereby the Board of Building and Safety Commissioners has the authority to hear and determine requests for modification of, or extension of time to comply with, the requirements contained in this order. LAMC Sec. 98.0403.2.

For information regarding this order or if assistance is needed in securing a permit, Building Mechanical Inspector Bruce can be reached at (213) 252-3963 Monday through Friday, from 7:00 A.M. to 3:30 P.M.



Roger Bruce
Building Mechanical Inspector
Los Angeles Department of Building and Safety
Code Enforcement Bureau
Nuisance Abatement Revocation Section
3550 Wilshire Blvd. #1800
Los Angeles, CA 90010

15. The applicant shall post a 2-foot by 2-foot sign in both parking areas reading: "No loitering or consumption of alcohol in public allowed". A picture of the sign shall be sent to the Zoning Administrator within 30 days of the effective date of this letter.
16. All non operator vehicles, trailers and junk, shall be removed from the site within 30 days of the effective date of this determination. A picture shall be submitted to the Zoning Administrator as proof.
17. The operator shall use an electronic age verification machine to ensure only legal age people buy alcohol.
18. The property owner shall secure the entire site with a 6-foot fence/wall where none currently exists including rolling gates and the gates must be locked between 10:45 p.m. and 6:45 a.m., daily.
19. The site shall be cleaned daily.
20. The property owner shall post a 2-foot by 2-foot sign at the main driveway on Hillrose Street with a phone number for community contact. The phone number shall be for 24 hour calling each day.
21. The business operator shall file a Plan Approval application (\$576) within 60 days of the effective date of this determination to allow for a review of the effectiveness in implementing all conditions of this action and whether the public nuisance problems have been eliminated. Failure to file the plan approval may result in revocation of the subject use.
22. Within 30 days of the effective date of the subject revocation action, or any subsequent revocation action associated with the subject proceedings, an agreement to comply with all the terms conditions established herein shall be recorded in the County Recorder's Office. The agreement shall run with the land and shall be binding on any subsequent owners, heirs or assigns. The agreement with the conditions attached must be submitted to the Zoning Administrator for approval before being recorded. After recordation, a certified copy bearing the Recorder's number and date shall be provided to the Zoning Administrator for attachment to the subject case file.

TRANSFERABILITY

This action runs with the land. In the event the property is to be sold, leased, rented or occupied by any person or corporation other than the current owner, it is incumbent that the owner advise them regarding the conditions of this action.

VIOLATIONS OF THESE CONDITIONS IS A MISDEMEANOR

It shall be unlawful to violate or fail to comply with any requirement or condition imposed by final action of the Zoning Administrator, Board or Council. Such violation or failure to comply shall constitute a violation of Chapter 1 of the Municipal Code and shall be subject

CITY OF LOS ANGELES
CALIFORNIA



JAMES K. HAHN
MAYOR

BOARD OF
BUILDING AND SAFETY
COMMISSIONERS

- ILAN ISRAELY
PRESIDENT
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- EFREN R. ABRATIQUÉ, P.E.
- FRANCISCO ARRIZON
- BARBARA BOUDREAUX

DEPARTMENT OF
BUILDING AND SAFETY
201 NORTH FIGUEROA STREET
LOS ANGELES, CA 90012

ANDREW A. ADELMAN, P.E.
GENERAL MANAGER

TOM WHELAN
EXECUTIVE OFFICER

05/14/03

John Gambina
7421 Hillrose St.
Tujunga Ca. 91042

Dorothy Gambina
3020 Calle Juarez
San Clemente Ca. 92673

Dorothy Gambina
7421 Hillrose St.
Tujunga Ca. 91042

RE: 7421 Hillrose St.

Effective Date: 05/16/03
Compliance Date: 06/16/03

ORDER TO COMPLY

On 05/09/03 the Los Angeles Department of Building and Safety (LADBS) conducted an inspection of the premises noted above and observed the following Los Angeles Municipal Code (LAMC) violation(s).

1. The approx. 8' X 4' store front patio enclosed with out permits and inspections. Remove the front plywood wall that encloses the store front or obtain all the required permits and inspections. LAMC Section 91.103, 91.106.1, 91.108.1, 91.109.1
2. The approx. 8' x 8' addition constructed to the left side of the structure with out permits or inspections. Demolish and remove the addition or obtain all required permits and inspections. LAMC Section 91.103, 91.106.1, 91.108.1, 91.109.1
3. The patio cover in the rear constructed with out permits and inspections. Demolish and remove the rear patio cover (being used to store debris on top of) or obtain all required permits and inspections. LAMC Section 91.103, 91.106.1, 91.108.1, 91.109.1
4. The use of the rear of the lot for the storage of vehicles, inoperative vehicles, appliances, trash and debris with out department approvals. Remove all vehicles and debris form the rear of the lot or obtain all department approvals to use the lot for storage. LAMC Section 12.13A, 12.21A1a

to the same penalties as any other violation of such Chapter. (Section 12.27.1 of the Municipal Code)

Every violation of this determination is punishable as a misdemeanor and shall be punishable by a fine of not more than \$1,000 or by imprisonment in the county jail for a period of not more than six months, or by both such fine and imprisonment. (Section 11.00-M of the Municipal Code)

APPEAL PERIOD - EFFECTIVE DATE

The Zoning Administrator's determination in this matter will become effective after OCTOBER 8, 2004, unless an appeal therefrom is filed with the City Planning Department. It is strongly advised that appeals be filed early during the appeal period and in person so that imperfections/incompleteness may be corrected before the appeal period expires. Any appeal must be filed on the prescribed forms, accompanied by the required fee, a copy of the Zoning Administrator's action, and received and receipted at a public office of the Department of City Planning on or before the above date or the appeal will not be accepted. **Forms are available on-line at www.lacity.org/pln**. Public offices are located at:

Figueroa Plaza
201 North Figueroa Street,
4th Floor
Los Angeles, CA 90012
(213) 482-7077

Marvin Braude San Fernando
Valley Constituent Service Center
6262 Van Nuys Boulevard, Room 251
Van Nuys, CA 91401
(818) 374-5050

The time in which a party may seek judicial review of this determination is governed by California Code of Civil Procedure Section 1094.6. Under that provision, a petitioner may seek judicial review of any decision of the City pursuant to California Code of Civil Procedure Section 1094.5, only if the petition for writ of mandate pursuant to that section is filed no later than the 90th day following the date on which the City's decision becomes final.

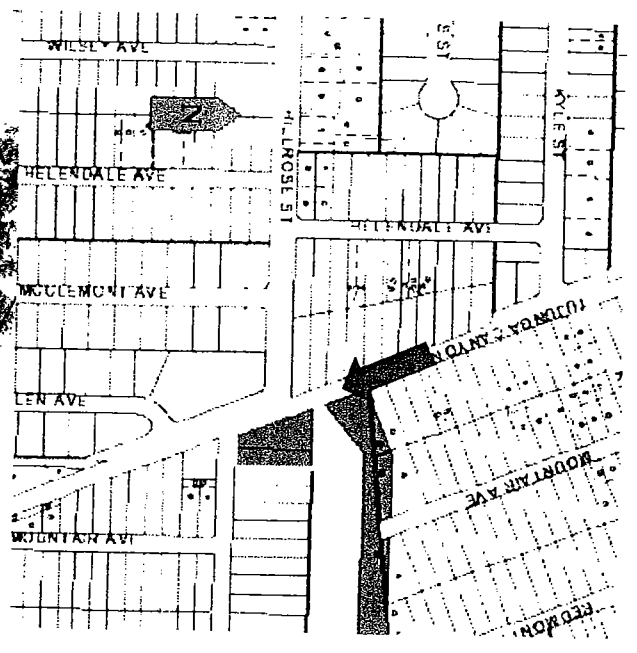
NOTICE

The public is further advised that all subsequent contact with this Office regarding this determination must be with the Zoning Administrator who acted on the case. This would include clarification, verification of condition compliance and plans or building permit applications, etc., and shall be accomplished **BY APPOINTMENT ONLY**, in order to assure that you receive service with a minimum amount of waiting. You should advise any consultant representing you of this requirement as well.

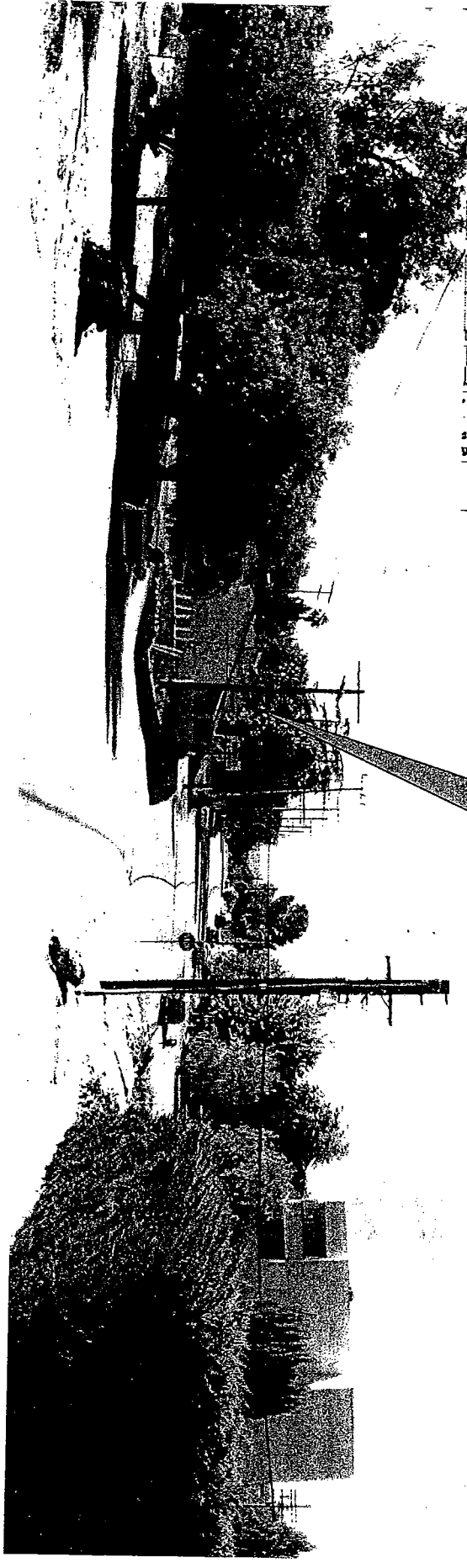
FINDINGS OF FACT

After thorough consideration of the statements contained in the application, the report of the Zoning Analyst thereon, and the statements made at the public hearing before the Zoning Administrator on May 28, 2004, all of which are by reference made a part hereof, as well as knowledge of the property and the surrounding district, I find that there is cause

DIR 2004-2104 (RV)



Subject
Market



View southerly on Tujunga Cyn. Blvd. Subject site and surrounding properties.

for imposition of conditions based upon the provisions of Section 12.27.1 of the Municipal Code as established by the following facts:

BACKGROUND

The property is a sloping, irregular-shaped, corner, record lot, consisting of approximately 0.43 acres, having a frontage of approximately 78 feet on the north side of Hillrose Street and an approximate depth of 175 feet.

The site is developed with a one-story commercial structure occupied by Canyon Market and associated parking.

Properties to the north of the site are zoned R1-1 and OS-1XL and is open space and Los Angeles County Flood Control District.

Properties to the south of Hillrose Street are zoned R1-1, developed with a one-story single-family dwellings.

Properties to the west of Tujunga Canyon Boulevard are zoned R1-1 and R3-1, developed with one-story single-family dwellings and three-story apartments. The closest residential uses are approximately 100 feet.

Properties to east of the site are zoned R1-1, and developed with one-story single-family dwellings.

Tujunga Canyon Boulevard, adjoining the property to the west, is a Collector Street and is fully improved.

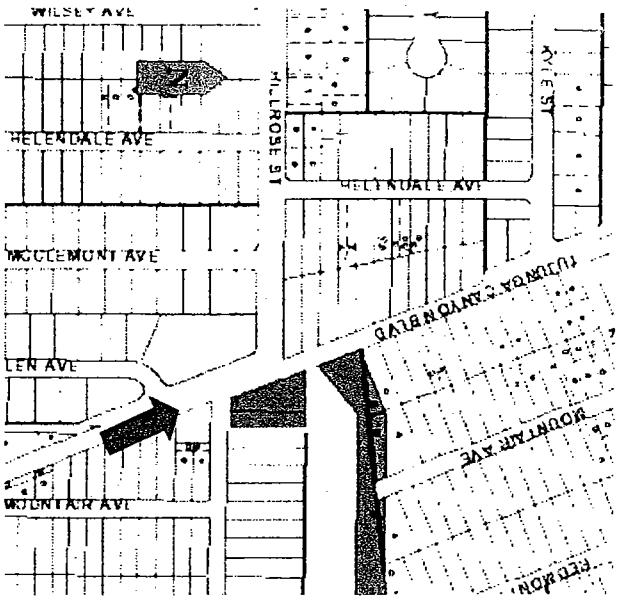
Hillrose Street, adjoining the property to the south, is a Collector Street and is fully improved.

Previous zoning related actions on the site include:

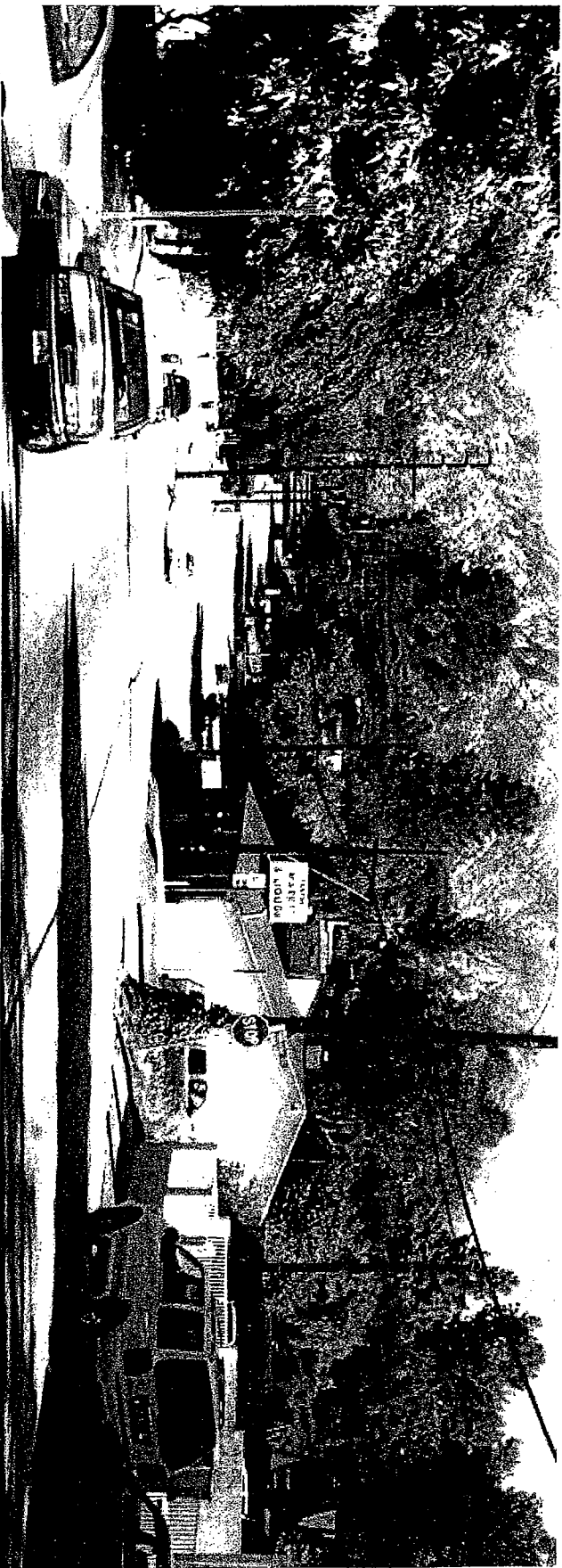
Department of Building and Safety Order to Comply - Issued on May 14, 2003. On May 9, 2003, the Los Angeles Department of Building and Safety (LADBS) conducted an inspection of the premises noted and observed the following LAMC violations:

- Non-permitted 8' x 4' patio.
- 8' x 8' non-permitted addition to the left side of the structure.
- Non-permitted patio cover in the rear of the structure.
- Use of the rear lot for the storage or vehicles, inoperative vehicles, appliances, trash and debris without department approvals.
- Trailer in the rear of the lot occupied without approvals.

City Planning Commission Case No. 95-0358 CPU - On April 7, 1997, the City Planning Commission adopted the community plan revision for Sunland-Lake View Terrace-East La Tuna Canyon District Plan and was approved by the City Council



DIR 2004-2104 (RV)



Northerly view of the Canyon Market at the intersection of Tujunga Canyon Boulevard and Hillrose Street.

on March 23, 1999. The parcel was designated [Q]C1-1VL. The "Q" condition states that residential uses shall be limited to those first permitted in the RD5 Zone.

Alcohol sales have been previously approved by the State Department of Alcoholic Beverage Control at this site and this approval predates the City requirement for separate conditional use approval.

PUBLIC HEARING

The public hearing on May 28, 2004 lasted one and one-half hours and 15 people were present. There were five police officers, a representative from the Council Office, a staff person from Building and Safety, the Fire Department and local homeowners, all speaking against the continued operation of the business unless it changes its operation. The major opposition points were:

- Loud noise at night from patrons talking for long times in the rear parking lot or from their motorcycles leaving the site at night.
- Lack of adequate supervision and management of the market.
- Excessive calls for police service caused by this business.
- Fear of personal safety for nearby neighbors. Bad people who use or sell drugs still loiter on-site.
- Shooting of weapons into the air or at animals.
- A history of past shootings, fights, assaults and criminal threats at the site against local residents.
- Noise from inside the business and from the security alarm.
- Alcohol sales to underage customers.
- Patrons loitering and drinking outdoors on the site. The site has a bad reputation which still draws transients.
- Untrained and underage staff sell alcohol and cigarettes.
- Hours operation too late for a business adjacent to single-family homes.
- The presence of many school children at the bus stop next to the subject site. (See attached letter from LAUSD concerning adverse impacts on Verdugo Hill School students, Exhibit B.)

In addition, seven letters of opposition, including one letter from LAUSD, and three letters in support of the new operator were submitted. A letter from the Sunland-Tujunga Neighborhood Council in opposition was received. Three neighbors spoke in opposition

Exhibit
Site
Photos



Front
of mark
without
fence



main pav
ing lot
with fence

and two police officers and one Building and Safety person spoke against the nuisance problems at the site. The police report no problems in the market in 2004 since the current property owner stopped operating the market and the new lessee took over with a long term lease. There has been a long four year history of previous problems on the whole site. There are currently outstanding Building and Safety violations for illegal storage of vehicles and trailers on the rear lot behind the market.

Speaking in favor of the continued operation of the market were the new lessees who have run the market since December of 2003, and local residents. Five local residents who shop at the market say since January 2004, there have not been problems due to the new operation. The owner spoke briefly. The new market lessee made the following points:

- He serves a local need for convenience shopping. A petition in favor with 225 names proves this.
- The new owner will try to address all the concerns of the neighbors and police department.
- The site is clean both on the inside and outside. A broader line of food products is now sold.
- There is a 15 year lease for the market which makes it uneconomical to leave the site.
- The business has been a neighborhood fixture for many years and will be fixed up with new exterior lighting.
- Since starting to run the market in December of 2003, there have been no problems with alcohol sales.
- There is an electronic age verification machine used to make sure no underage people are sold alcohol.
- The new owner has a City business tax certificate and an alcohol sales permit from the State Alcoholic Beverage Control to sell a full line of alcohol.

The police described a long history of problems with alcohol sales to minors, numerous instances of firearms being discharged on the site, drinking in public and threats from patrons to residents. Reduced closing to 10 p.m. was requested. The Council Office wanted 24-hour security to eliminate the continuing loitering/drug sales. Police records show that one person living in a trailer on the rear of the site was cited for drug sales. All stored vehicles and trash behind the market by about 100 feet should immediately be removed from the site.

The case was taken under advisement to allow any other written information.

Los Angeles Unified School District

ROY ROMER
Superintendent of Schools

ANGELO J. BELLOMO
Director,
Office of Environmental Health and Safety

Environmental Review File
Miscellaneous "AO"

JP

May 26, 2004

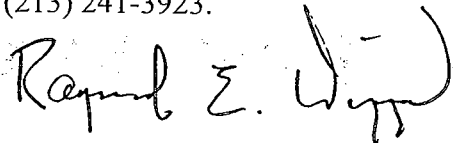
Office of Zoning Administration
200 N. Spring Street, 7th Floor
Los Angeles, CA 90012

**SUBJECT: NOTICE OF PUBLIC HEARING – 7421 WEST HILLROSE ST.
CASE NO. DIR 2004-2104 (RV) – CANYON MARKET**

Thank you for giving the Los Angeles Unified School District (LAUSD) the opportunity to comment on Case No. DIR 2004-2104 (RV). The subject market is located on student walk routes of **Verdugo High School**. The school's Principal is concerned due to the close proximity of the above market and its history of nuisance activities, shootings, and assaults. The market generates negative impacts, including endangerment to the public health and safety of the school's students, teachers, and the neighborhood residents.

The District requests the City exercise its police powers to protect the health, safety, and general welfare of the students, teachers, and school parents. The School District's opposition to this project is legally sound. The impact of this project upon the school students is not acceptable: it is an invasion upon the safety, morals and general welfare of the students attending Verdugo High School. Therefore, the District does not approve the permitting of the above market.

Thank you for your attention to this matter. If you need additional information please call me at (213) 241-3923.



Raymond E. Dippel
Assistant Environmental Planning Specialist

RD:rd
Attachment

c: Ms. Dellepiane
Ms. Shannon
Mr. Smith

RECEIVED
CITY OF LOS ANGELES
JUN 1 2004
CITY PLANNING DEPT.
ZONING ADMINISTRATION

DESCRIPTION OF PUBLIC NUISANCE ACTIVITIES

There have been allegations from Los Angeles Police Department - Foothill Area and letters from the community that the market activities on the site have adversely impacted nearby residential uses jeopardizing and/or endangering the public health and safety of persons residing or working on the premises or in the surrounding area, thereby constituting a public nuisance. Numerous complaints and letters from surrounding residences and the Los Angeles Police Department allege that there has been shootings, assaults, excessive loud noises, criminal threats, assaults with deadly weapon, and that these activities have contributed to the physical deterioration of the adjacent community and impacted the quality of life of those working and residing in the area.

ARREST REPORTS

Period between December 27, 2000 to July 11, 2003

- 12/27/00 - Worthless Document Investigation. Bad checks at store. (On-site)
- 02/02/01 - Preliminary investigation of burglary. Unknown suspects broke lock on storage to gain entry, removed property and fled location no suspects seen. (On-site)
- 02/01/01 - Preliminary investigation of battery. Suspect jumps in victim #1 vehicle places victim #2 in headlock; punches victim #1, three to four times in the head; suspect exits vehicle; victims leave location. Suspect is the owner of the Canyon Market. Vehicle is parked in front of market.
- 02/17/01 - Worthless Document Investigation. Canyon Market accepting a bad check.
- 03/20/01 - Preliminary investigation of theft from vehicle; unknown suspects entered location (Canyon Market parking lot). Suspects entered unlocked travel trailer and consumed victims bottle of wine. (On-site)
- 03/30/01 - Preliminary investigation of vandalism 4 suspects spray painted wall on business (Canyon Market) and fled location when witness came outside.
- 04/25/01 - Preliminary investigation of domestic disturbance. Victim (Canyon Market owner's ex-wife) and witness (Canyon Market owner) are divorced with 4 children in common. Victim and witness became involved in verbal dispute. During dispute witness picked up victim's bag and kicked it into street. Witness stepped on victims bag several times.
- 05/28/01 - Preliminary investigation of assault with a deadly weapon. Suspect upset became upset victim (Canyon Market owner) refused sale of

alcohol without ID ran over victim's foot after verbal confrontation outside of market (Canyon Market). Suspect fled south on Tujunga Boulevard.

- 07/01/01 - Preliminary investigation of assault with a deadly weapon. Suspect (market owner) approached victim (former employee) with knife stated "You want some mother f***er?" Swung knife (2) times. Suspect walked away.
- 07/16/01 - Preliminary investigation of burglary from a motor vehicle. Unknown suspects used unknown tool to gain access to victims (market owner) vehicle remove property and flee location in unknown direction. (On-site)
- 07/14/01 - Follow-up investigation Suspect (ex-wife) backed car up running over victim's (market owner) foot. (On-site)
- 07/25/01 - Preliminary investigation of vandalism. Suspect climbed on top of victims (market owner) vehicle leaving dents on top of truck's shell. Suspects then climbed over fence from on top of truck causing wood fence to break. (On-site)
- 07/25/01 - Preliminary investigation of criminal threats. Victim (market employee). Victim and suspect are involved in verbal dispute. Suspect became enraged at victim and stated. "I'll pop you!" while holding up his closed right fist. Suspect then flees to unknown location. (On-site)
- 08/15/01 - Preliminary investigation of vandalism. Unknown suspects tagged the south side wall of the Canyon Market. (On-site)
- 10/19/01 - Preliminary investigation of assault deadly weapon. Suspect put vehicle in reverse, turn steering right. Vehicle continued backwards and left front wheel hit victim (market owner). (On-site)
- 11/24/01 - Preliminary investigation of throwing substance at moving vehicle. Rock thrown at car. (Off-site)
- 01/08/02 - Preliminary investigation of burglary. Suspects entered single-family dwelling and removed property. (Off-site)
- 01/08/02 - Arrests for criminal threats 422PC. Suspect (market owner) and victim are boyfriend and girlfriend who have lived together for 3 months. During a dispute the suspect bit the victim and stated "If you call the police, I will fu**ing kill you." (Off-site)
- 01/30/02 - Preliminary investigation of battery. Suspect (former girlfriend) waited for victim (market owner) at store, suspect yelled at victim, punched

Purpose - The purpose of the review is to determine in an open, public setting whether or not the Conditions have been followed and whether the nuisance problems have been mitigated. The review will be dependent upon factual information such as arrests, detentions, investigations, photographs, video, issuance or suspension of licenses or permits, timeliness of actions and other indices upon which a reasonable judgment can be made. An earlier review may not allow the business operator sufficient time to implement necessary physical or behavioral changes. Even if the changes are implemented immediately, a more valid test is whether there is staying power over a longer time frame. A later review is also inappropriate as failure to comply may result in continued significant impact to the community and the City would want to correct significant breaches of public safety. The notice of the review hearing will be mailed to the same persons as were noticed by the City of the original hearing.

Condition No. 22 - Recording covenant.

Purpose - The City's conditions need to be recorded with a legal covenant so that any future similar business operation and owner of the site/business will also have to follow the same conditions.

IT IS THE PURPOSE OF THESE PROCEEDINGS UNDER ORDINANCE NO. 171,740 TO PROVIDE A JUST AND EQUITABLE METHOD TO BE CUMULATIVE AND IN ADDITION TO ANY OTHER REMEDY AVAILABLE FOR THE ABATEMENT OF CERTAIN PUBLIC NUISANCES. THIS ACTION IS, THEREFORE, TO ADVISE THE OWNER AND ANY FUTURE OWNER OR LESSEE THAT THE DETERMINATION CONSTITUTES THE **FIRST** GOVERNMENTAL ACTION PROVIDED FOR BY THE ABOVE CITED ORDINANCES TO MAKE THE HEREIN CITED CORRECTIONS AND CHANGES; **FAILURE TO COMPLY WILL PUT YOU AT RISK OF TOTAL REVOCATION. FAILURE TO COMPLY WITH THE CONDITIONS CITED HEREIN ABOVE SHALL PUT YOU AT RISK OF REVOCATION AND THE ABILITY TO OPERATE A MARKET WITH ALCOHOLIC BEVERAGES FOR SALE AT CANYON MARKET LOCATED AT 7421 WEST HILLROSE STREET.**

CON HOWE
Director of Planning



JON PERICA
Associate Zoning Administrator
Direct Telephone No. (213) 978-1306

JP:lmc

cc: Councilmember Wendy Greuel
Second District
Adjoining Property Owners
County Assessor
LAPD - Foothill Vice Area

him several times with closed fist and slapped his face, suspect then beat victim about the head and shoulders with a package of sunflower seeds.

- 02/18/02 - Preliminary investigation of annoying phone calls. (On-site)
- 06/12/02 - Preliminary investigation of attempted robbery. Suspects 1 and 2 entered store removed two 12 pack beer ran out door. Wit. 1 went after Suspect 1 and Suspect 2 and they dropped the beer. Witness 1 held onto car, Suspect 3 drove vehicle and dragged Witness 1. (On-site)
- 06/14/02 - Preliminary investigation of assault deadly weapon. Suspect lunged at victim 1 with a pair of garden shears. When Victim 2 attempted to call police, suspect grabbed her by the back of the neck. Pointed the shears at her and stated, "You want some problems." (Market parking lot)
- 06/12/02 - Preliminary investigation of shots fired in city limit. Seven witnesses saw the suspect shooting his firearm four times during a dog fight. The shooting took place in front of the suspect's place of business (Canyon Market). Two of the seven witnesses saw the suspect shooting at two dogs while they were fighting in front of the business, and other witnesses saw the suspect chasing one of the dogs to kill him. Two witnesses saw the suspect put the dead dog in a trash dumpster and leave the crime location. Officers responded and the suspect's mother gave the officers the firearm used by her son. The suspect's mother told officers that her son had killed one of their two dogs.
- 06/25/02 - Arrest for 245 (A)(1) PC; assault with a deadly weapon. Victim and suspect began to argue over business matters. Suspect became angry and swung baseball bat at victim, missing victim's head. (On-site)
- 08/11/02 - Property report and Follow-Up Investigation. Foothill Vice officers recover pistol, cartridges, clips, marijuana, and bong at Canyon Market. Possessor of property was market owner.
- 08/21/02 - Arrest for 245 (A)(1) PC, 12021 (C)1PC. Officers respond to possible shots fired and possible assault with a deadly weapon at the Canyon Market. Owner was intoxicated, fled inside when police arrived, was also belligerent and advanced towards officers. Officers use of force was a taser. The suspect ceased aggressive behavior and was taken into custody.
- 09/08/02 - Worthless Document Investigation. Suspect attempted to cash possible stolen or forged check at store.

Condition No. 12 - Correct all City Code violations.

Purpose - This will improve the health and safety of the site and the neighborhood. There are current Building and Safety citations for junked vehicles on the rear portion of the site.

Condition No. 13 - Alcohol sales training.

Purpose - The LAPD offers free training to reduce alcohol sales to drunk patrons or to underage buyers. There were two sales to minors violations in 1998 and 2003. This is a standard City condition for all operators who sell off-site alcohol.

Condition No. 14 - Hours of trash control and cleaning.

Purpose - To reduce noise from early or late trash deposit and pick up, limited hours are needed. Daily cleaning is a health and aesthetic benefit.

Condition No. 15 - No public drinking or loitering signs.

Purpose - This will follow ABC law and reduce gatherings on the site which causes noise and safety problems.

Condition No. 16 - Remove all inoperable vehicles and trash.

Purpose - The rear 1/3 of the overall site has numerous vehicles and trash that is an eyesore and a health problem. Loitering and drug sales have taken place in this area.

Condition No. 17 - Improved exterior lighting.

Purpose - Foothill Vice reports that the current parking lot lighting needs to be improved for safety concerns.

Condition No. 18 - Fence/gate the site.

Purpose - To secure the entire site from loitering during non business hours and to prevent drug sales on-site. Police and neighbors report after hours loitering and possible drug sales.

Condition No. 19 - Daily exterior cleaning.

Purpose - This will keep the exterior of the site and nearby homes clean, improve aesthetics, reduce blight, and create a healthier environment.

Condition No. 20 - Community contact phone number and name.

Purpose - This will allow neighbors to easily call the business 24 hours a day if problems occur.

Condition No. 21 - File for public review hearing.

- 0917/02 - Arrest for possession of drug paraphernalia 11364HS. (Off-site)
- 05/30/03 - Arrests for 25658 (a) B&P; 25658 (d) B&P sales of alcohol to a minor and owner present during sales of alcohol to a minor; failure to have ABC license clearly posted.
- 06/16/03 - Preliminary investigation of attempted robbery. Suspect entered location and selected various items. When Witness #1 confronted suspect, suspect slapped Witness #2 and exited the location via front door, leaving victim's property at location. (On-site)
- 06/23/03 - Preliminary investigation of criminal threats. Victim stated that suspects pulled alongside him and suspect #1 pulled an unknown object out and stuck it in the air stating, "I'm going to get you." (Off-site)
- 07/11/03 - Preliminary investigation of assault with a deadly weapon. Victim was driving south on Tujunga Canyon. Stopped at stop sign when victim observed suspect pull gun and shot in air in the victims's direction. (Off-site)

Sergeant's Daily Reports

August 1, 2002

1140 hrs "Responded to a supervisor request at 7900 Wentworth Street, for 16X64 (Officers Boylls and Pelczar), and 16A65 (Officers Rodarte and Delacerda). Upon arrival the officers were completing a Police Investigation Report for two victims of Criminal Threats. The named suspect is Ralph Gambina, who is the owner of the "Canyon Market" which is located at the intersection of Tujunga Canyon Road and Hillrose Street. In the past Gambina has been belligerent with officers and has a history of making questionable personal complaints against officers."

"We went back to the Canyon Market where the incident started. Gambina's vehicle was still at the location so we searched the store for Gambina. Our search revealed that he was not at the location. After the search Gambina called the store. I spoke to him and he explained his recollection of the incident. I relayed Gambina's statements to Officer Boylls. I left a business card with Mrs. Gambina.

08/15/02: Foothill Vice personnel and Building and Safety inspectors go to Canyon Market for inspection of possible code violations.

Calls for Service:

Period between January 1, 2001 and June 4, 2004, at 7421 Hillrose Street: 53

RELATIONSHIP OF CONDITIONS TO FINDINGS

Condition Nos. 1-3 - Administrative conditions.

Purpose - Standard City conditions for all cases. All City building and operational conditions must be followed. Future changes in operation may justify future new conditions. Graffiti must be removed in a timely manner to prevent blight.

Condition No. 4 - Hours of operation - 7 a.m. to 10:30 p.m., daily.

Purpose - Based on neighbors' reports of when most of the noise, loitering, trash and behavioral problems have occurred, these would be eliminated or greatly reduced by these reduced hours from the current weekend midnight closing and 11 p.m. weekday closing. These longer hours cause the most disruption to neighbors' enjoyment of their property. Loitering is reduced and so would be potential drug sales.

Condition Nos. 5 and 6 - Management compliance with City conditions.

Purpose - All staff must be familiar with all City conditions and continually comply with them. Compliance will ensure the effective implementation of all conditions and will reduce or eliminate the public nuisance impacts from the site.

Condition No. 7 - One Security Guard 24 hours a day.

Purpose - There are continuing loitering and drug problems taking place on the rear portion of the site in the evening and early morning and school children walk pass this site in large numbers who could be harmed by transients on-site. Police testimony indicated that transients live nearby and often gather on-site.

Condition No. 8 - No audible outside noise.

Purpose - This will limit noise problems, which have been frequent and allow a peaceful night's sleep.

Condition No. 9 - Automatic rear closing door.

Purpose - Neighbors' report this door is regularly kept open and noise will be reduced if the door is automatically closed.

Condition No. 10 - Shielded exterior lighting.

Purpose - To restrict exterior lights so neighbors can sleep. Brighter shielded lights will help the police identify who is on the property at night and was requested by them.

Condition No. 11 - No exterior uses.

Purpose - To prevent any future outdoor uses such as loitering which cause noise problems.

Period between January 1, 2004 and June 4, 2004, at 7421 Hillrose Street: 6

Period between January 1, 2003 and September 7, 2003, at 7421 Hillrose Street: 22

Period between January 1, 2002 and July 8, 2002, at 7421 Hillrose Street and 10655 Tujunga Canyon Boulevard 28

Period between January 1, 2001, to December 31, 2001, at 7421 Hillrose Street and 10655 Tujunga Canyon Boulevard 38

Period between January 1, 2000 to December 31, 2000, at 7421 Hillrose Street and 10655 Tujunga Canyon Boulevard 24

Period between January 1, 1999 and December 31, 1999, at 7421 Hillrose Street and 10655 Tujunga Canyon Boulevard 26

Period between January 1, 1998 and December 31, 1998, at 7421 Hillrose Street and 10655 Tujunga Canyon Boulevard 25

Period between January 1, 1997 to December 31, 1997, at 7421 Hillrose Street and 10655 Tujunga Canyon Boulevard 35

Period between January 1, 1996 to December 31, 1996, at 7421 Hillrose Street and 10655 Tujunga Canyon Boulevard 29

Grand Total of 244 Calls for Service.

ALCOHOLIC BEVERAGE CONTROL RECORD

On September 7, 1999, the subject market was licensed for full alcohol sales (Type 21 Off-Sales) to Mr. John Gambina and was cited for "sales to a minor" on that date.

Eight letters of correspondence was submitted to the file via LAPD and the Office of the City Attorney. Numerous complaints and letters from surrounding residences state the following problems that emanate from the market:

- Residents living in fear of the market operator's terrorist threats and intimidation
- Late night noise and shouting
- Shooting of a dog
- Loud music
- Gunshots fired
- Justifiable Homicide
- Non-specific operating hours
- Loitering
- Drug sales

caused directly by the owner. The police history speaks for itself. The new tenant has started to make progress in operating a good business, but the property owner must implement, or cause to be implemented, all new required City conditions of this case to stop the nuisance problems at this site.

The Los Angeles Unified School District has sent a letter of opposition because of the danger that the market has caused in the past (see Exhibit B) for students at the local Verdugo High School.

Further, pursuant to Section 12.27.1 of the Municipal Code, I find that the conditions imposed herein are deemed appropriate, including those necessary to protect the best interests of the surrounding neighborhood; to lessen any detrimental effect thereon and such conditions include the maintenance and operation of the subject use. To preclude such future problems and to protect the residential neighborhood, the Zoning Administrator has imposed conditions upon the site which are intended to steer the operation of Canyon Market in a more satisfactory manner.

Finally, pursuant to Section 12.27.1 of the Los Angeles Municipal Code, I find that this action does not impair the constitutional rights of any person or entity. Proper notice and opportunity to be heard has been afforded to the respective residents and other parties consistent with the Municipal Code. The language in the Municipal Code addresses land use issues and impacts.

There are valid compelling governmental interests in this case -- i.e., the protection of residential areas from unreasonable interference with the residents' peaceful enjoyment of their property. If, as an incidental consequence of the restaurant/bar observing the conditions imposed herein, there is modification of the operation of the subject business, so it must be. The conditions have been carefully considered, are tailor-made to treat the particular serious problems resulting from the particular type of business and its operation and do not reach any further than is necessary to attain that goal. The City wants the subject business and its customers to be a better neighbors than they have been.

The conditions imposed herein are further, common to land uses which contain business activities from which issues of nuisance conduct, trash, personal safety of residents, loud noise, spillover parking, and disturbances to the peace and quiet of residential neighborhoods arise. Limiting hours of late night operation is fairly typical for any business which operates with long hours of use and sells alcohol. The conditions herein are very much in keeping with the types of conditions imposed upon land uses where these kinds of problems express themselves.

It is, however, the determination of the Zoning Administrator that the record, commencing with the record of the past testimony at the public hearing held on May 28, 2004, subsequent photographs, written correspondence and police arrest reports provides clear evidence that a significant degree of public nuisance has been shown within the subject market at 7421 West Hillrose Street.

SECTION 12.27.1 OF THE LOS ANGELES MUNICIPAL CODE ESTABLISHED BY ORDINANCE NO. 172,056

On July 17, 1998, Ordinance No. 172,056 became effective establishing procedures for the modification, discontinuance or removal of a use, building or structure that constitutes a public nuisance or endangers the public health or safety or violates any provision of City, State or Federal statutes or ordinance. That ordinance became Section 12.27.1 of the Los Angeles Municipal Code.

FINDINGS

The Canyon Market and adjacent ownership has been a public nuisance as defined in Section 12.27.1 of the Los Angeles Municipal Code. The Zoning Administrator hereby finds that the use of the site at 7421 Hillrose Street as a market continues to:

1. Adversely impact nearby residential uses.

This market has been a major problem for the nearby residential area for over six years under the operation of the property owner through the end of 2003. The list of problems is long and includes: 1) serious criminal activities including a murder, numerous assaults, firing of deadly weapons at suspects and a former girl friend and animals, 2) the creation of a threatening atmosphere for nearby neighbors where they fear for their own safety, 3) excessive noise from loud parties and music from the inside of the market and security alarms going off on a regular basis, 4) continuing loitering in front and back of the market and drinking of alcohol, 5) a tremendous number of calls for police service, 6) unregulated hours of operation into the early morning time, 7) sales of alcohol and cigarettes by untrained and underage staff, 8) being a dangerous location due to criminal problems and loitering customers near a school bus stop for four different local public and private schools, and 9) creating and refusing to correct serious Building and Safety Code violations.

Reports by numerous neighbor letters and by speakers at the public hearing on May 28, 2004 indicate that these problems started in 1997 and have continued through the end of 2003 when the property owner stopped operating the market and leased it to the current operator.

The current market operator took over at the beginning of January 2004 and by all accounts has operated the market well without causing any nuisance problem on the inside. The market is on the larger of the two lots that make up the total site and all of the public parking is on this larger site. The current operator has been willing to upgrade the outside lighting. The smaller rear lot still has ongoing occurrences of littering and abandoned vehicles and a felon tenant who was involved with drug sales is still living on-site in a trailer. The police reported that as recently as February 2004 to April 2004, there were illegal drug sale problems at the rear property behind the market where the junk vehicles and trailer is located. In the words of the police, "Bad people from the past are still loitering" on the rear lot. These current loitering and drug sale problems are more troubling given the three bus pick ups for four different schools that take place in front of the market. The

<u>DR/BKG NO.</u>	<u>RD</u>	<u>OCC DATE</u>	<u>CRIME OR ARREST CHARGE</u>
011619832	1669	07/01/2001	Assault With Deadly Weapon
011623694	1669	08/15/2001	Felony Vandalism
011621842	1669	07/25/2001	Verbal Threats
011611559	1669	03/30/2001	Misdemeanor Vandalism
011621849	1669	02/17/2001	Forged/Stolen Document-Fel
011610861	1669	03/20/2001	Petty Theft From Vehicle
011621017	1669	07/16/2001	Burglary From Vehicle
011622007	1669	07/25/2001	Misd VndI-To Vehicle (CNVY)
011632894	1669	11/24/2001	Throw Substance At Vehicle
011633118	1669	01/17/2002	Impounded Vehicle
021618372	1669	06/12/2002	Robbery
021611389	1669	03/15/2002	Non-Crime Report
021624920	1669	08/21/2002	Property Report
021619582	1669	06/25/2002	Assault With Deadly Weapon
021606590	1669	01/30/2002	Misdemeanor Battery
021623801	1669	08/11/2002	Property Report
7389553	1669	08/21/2002	Poss Firearm W/Prior Spec Misd Conv
021609027	1669	02/18/2002	Lewd Calls/Letters
7328716	1687	06/25/2002	ADW, Not Firearm, W/GBI
0216265347	1687	09/08/2002	Forged/Stolen Document-Fel
021618552	1669	06/14/2002	Assault With Deadly Weapon
021681553	1669	06/14/2002	Assault With Deadly Weapon
021618685	1669	06/16/2002	Firearm Discharge
021604689	1669	01/08/2002	Verbal Threats
7140577	1669	01/08/2002	Terrorist Threats
021627425	1669	09/17/2002	Property Report
7418714	1669	09/17/2002	Possession Cntl Substance Paraphern
031619160	1669	06/23/2003	Verbal Threats
031622654	1669	07/28/2003	Misd VndI - Other Than CNVY
031616864	1669	05/30/2003	Property Report
031616865	1669	05/30/2003	Sale/Etc. of Alcoholic Beverage to M
031618469	1669	06/16/2003	Atmp Robbery - Business
031616866	1669	05/30/2003	25658 (D) BP

The Canyon Market property owner has been oblivious to the impacts they have caused neighbors. The six year history is full of so many adverse impacts that just one of them such as the calls for police service of 244 police complaints through September of 2003 would justify the imposition of these conditions. The owner is still facing possible criminal violations with the City Building and Safety Department and the Police Department. There have been so many different problems which are directly impacting the neighbors, such as allowing a criminal with a parole violation to possess and perhaps sell drugs from the back of the site, that it is hard to focus on just one. It is the collection of problems that causes the public nuisance. The property owner is responsible for all of the criminal calls for service at the market. It is one thing for an owner not to correct nuisance problems caused by others on his property, but it is far worse to have the significant source of nuisance problems

market operator, who signed a 15 year lease, cannot be expected to solve the adjacent rear lot problem with drug sales and loitering. The property owner has this responsibility. Therefore the conditions of this grant for on-site security around the clock is aimed at the person who has been responsible for allowing the rear loitering and drug sales to continue on this subject property.

This City nuisance action is being taken against the owner of the property who was the operator of the Canyon Market when all of these above listed problems were ongoing. The new lessee has not caused any significant problems with the sales of beer and wine and the overall operation of the market. While it is a positive improvement, the owner can always revert to the operation of the market and so this case will create new protective conditions that would apply to whomever would operate the market. These conditions will run with the land so no matter who the owner is, they will have to be a good neighbor and not cause any nuisance problems. The Foothill Vice spokesperson described the high amount of time spent in responding to calls for service, the numerous arrests, many of them involving the previous market operator who is still the current property owner. The Council Office and community are very concerned about how out of control this market had become with a constant series of ongoing problems and only with new protective conditions can loitering/drug sales on the adjacent lot behind the market be prevented and the recent successful operation of the market be maintained.

2. Adversely affects the health, peace, or safety of persons residing or working on the premises or in the surrounding area.

The neighbors have reported that they live in constant fear for their own safety and for their children based on loitering and drug sales behind the market and how the owner of the property has managed the site the last six years. The history of the owner shooting at people, dogs and into the air is so long that residents feel they have been held captive to this threatening operation of the market by the property owner from through all of 2001 to the end of 2003 and how current dangerous drug sales and "bad people" loitering nearby where school children are picked up each day continue to be a threat. It is not safe to walk by the site, children catching buses from four local schools use a bus stop right next to the market and parents fear for their children from the crimes that have occurred at the site, the gunfire and drug sales, homeless people who are reported loitering behind the market. Many local residents complained that security alarms went off on a regular basis at the market between 1 a.m. and 3 a.m. and they can't get any decent sleep until the beginning of 2004 when the new tenant began to run the market. The current property owner has been abusive to local residents by calling them offensive names and threatening them. Loud private parties on-site have kept neighbors awake and have brought an undesirable element into the local neighborhood. Residents do not feel that they control their own local community and are always having to take defensive action just to remain safe. The high demand for Police services at this one property places an inequitable burden on that Department to provide similar services needed elsewhere in the community. Indirectly, therefore, the larger community is short changed. Undercover operations require several officers. Arrests and bookings require several officers and considerable processing and

travel time. The ongoing and potential impact of business is far greater than simply within its property lines. Numerous calls for police service have been made by these business operators. A security presence funded by the property owner should alleviate the burden placed on the Police Department. The Department has operated as if it was an adjunct partner of the businesses.

3. Constitutes a public nuisance.

A public nuisance is any adverse impact caused by the operation of a use which significantly affects a large number of people, and in this case, a whole neighborhood and of 143 homes and a small apartment, all within a 500-foot radius of the subject property are adversely impacted. For over six years, residents have been under siege with a whole series of criminal, and environmental impacts. The only improvement recently is that the cause of the public nuisances, the current property owner, is not operating the market. To prevent any future problems, a new series of mitigation conditions is being imposed by this case that should address the past history of problems.

The conditions cover reduced hours of market operation, new 24-hour a day security, better staff training, controls on noise, loitering, code enforcement, better community contacts, a further public review to ensure that all new City conditions are implemented and that there are no more reports of serious public nuisance problems. The required Plan Approval review must be filed by the property owner and is the one chance the City is giving the owner to ensure that there are no more problems at this site. If the City has to solve future problems due to the owner's inability to eliminate the public nuisances caused at the site, the final resolution will be more severe and would lead to the closing of the business by revoking the City Certificate of Occupancy and the closing of the market. The new market lessee has been trying to operate the market in a responsible manner, but the short period of improvement could cease and the presence of the property owner could still lead to new problems beyond the control of the tenant. All conditions of this case must be followed and no future report of any public nuisance is acceptable.

4. Has resulted in repeated nuisance activities including but not limited to disturbances of the peace, loitering, excessive, loitering, illegal parking, and excessive loud noises, especially in the late night or early morning hours.

The following information summarizes police crimes and arrests from 2001-2003. Highlights include: assaults - 7, verbal threats - 4, battery - 1, firearm shooting - 2, drug possession - 1, and alcohol sales to minor - 1.

DR/BKG SUMMARY

<u>DR/BKG NO.</u>	<u>RD</u>	<u>OCC DATE</u>	<u>CRIME OR ARREST CHARGE</u>
011613682	1669	04/25/2001	Non-Crime Report
011616552	1669	05/28/2001	Assault With Deadly Weapon
011616553	1669	05/28//2001	Assault With Deadly Weapon