

CITY OF MERCED
Planning & Permitting Division

STAFF REPORT: #17-03

AGENDA ITEM: 4.2

FROM: Kim Espinosa,
Planning Manager

PLANNING COMMISSION
MEETING DATE: Jan. 18, 2017

PREPARED BY: Francisco Mendoza-Gonzalez,
Planner

SUBJECT: **Conditional Use Permit #1215**, initiated by Jammu & Kashmir Inc. on behalf of Kashmir Rentals, LLC, property owner(s). This application involves a request to modify an existing beer and wine Alcoholic Beverage Control License (Type 20) to include the sale of general alcohol for off-site consumption (Type 21) for Jessi's Market, generally located on the south side of E. 13th Street, approximately 100 feet west of E Street (at 110 E. 13th Street), within a General Commercial (C-G) Zone. *PUBLIC HEARING*

ACTION: Approve/Disapprove/Modify

- 1) Environmental Review #16-32 (Categorical Exemption)
- 2) Conditional Use Permit #1215

SUMMARY

Jessi's Market is requesting approval to modify their existing beer and wine Alcoholic Beverage Control (ABC) License to include the sale of liquor for off-site consumption. The 7,500-square-foot convenience market is located at 110 E. 13th street, approximately 100 feet west of the southwest corner of E Street and 13th Street (Attachment A), within a General Commercial (C-G) Zone. A Conditional Use Permit is required for any business with alcoholic beverage sales for off-site consumption inside a building of 20,000 square feet or less within a C-G Zone. Section 20.44.010 of the Zoning Ordinance requires the Planning Commission to make specific findings related to the business' potential impacts on sensitive uses, economic/societal welfare, and crime rates (these findings are shown on the "Alcohol Sales" section of this staff report).

In addition, because the subject site is located within an ABC Census Tract that is over-concentrated with alcohol licenses for off-site consumption, this request will require a Finding of Public Convenience or Necessity by City Council. The Police Department has determined that they would support a Type 21 ABC License if specific conditions are included to reduce the potential for alcohol-related incidents. Staff is recommending approval of this application subject to the conditions contained in the staff report.

RECOMMENDATION

Planning staff recommends that the Planning Commission approve Environmental Review #16-32 (Categorical Exemption) and Conditional Use Permit #1215 (including the adoption of the Resolution at Attachment M), subject to the following conditions:

- *1) The proposed project shall be constructed/designed as shown on Exhibit 1 (floor plan) -- Attachment B, except as modified by the conditions.
- *2) All conditions contained in Resolution #1249-Amended (“Standard Conditional Use Permit Conditions”—except for Condition #16 which has been superseded by Code) shall apply.
- *3) The developer/applicant shall indemnify, protect, defend (with counsel selected by the City), and hold harmless the City, and any agency or instrumentality thereof, and any officers, officials, employees, or agents thereof, from any and all claims, actions, suits, proceedings, or judgments against the City, or any agency or instrumentality thereof, and any officers, officials, employees, or agents thereof to attack, set aside, void, or annul, an approval of the City, or any agency or instrumentality thereof, advisory agency, appeal board, or legislative body, including actions approved by the voters of the City, concerning the project and the approvals granted herein. Furthermore, developer/applicant shall indemnify, protect, defend, and hold harmless the City, or any agency or instrumentality thereof, against any and all claims, actions, suits, proceedings, or judgments against any governmental entity in which developer/applicant’s project is subject to that other governmental entity’s approval and a condition of such approval is that the City indemnify and defend (with counsel selected by the City) such governmental entity. City shall promptly notify the developer/applicant of any claim, action, or proceeding. City shall further cooperate fully in the defense of the action. Should the City fail to either promptly notify or cooperate fully, the developer/applicant shall not thereafter be responsible to indemnify, defend, protect, or hold harmless the City, any agency or instrumentality thereof, or any of its officers, officials, employees, or agents.
- *4) The developer/applicant shall construct and operate the project in strict compliance with the approvals granted herein, City standards, laws, and ordinances, and in compliance with all State and Federal laws, regulations, and standards. In the event of a conflict between City laws and standards and a State or Federal law, regulation, or standard, the stricter or higher standard shall control.
- 5) Sufficient lighting shall be provided throughout the site to provide a safe environment for employees and patrons of the business.
- 6) All landscaping shall be kept healthy and maintained in good condition and any damaged or missing landscaping shall be replaced immediately.
- 7) The premises shall remain clean and free of debris and graffiti at all times. Any damaged materials shall be replaced by matching materials.
- 8) A temporary banner permit shall be obtained prior to installing any temporary signs. Free-standing temporary signs (i.e., sandwich boards, A-frame signs, etc.) are prohibited.
- 9) The proprietor and/or successors in interest and management shall be prohibited from advertising or promoting beer & wine and/or distilled spirits on the building or in the windows. No self-illuminated advertising for beer or wine shall be permitted.
- 10) No beer or wine shall be displayed or stored outside of the cooler areas.
- 11) No display or sale of beer or wine shall be made from an ice tub.

- 12) Employees on duty between the hours of 9 p.m. and 11 p.m. shall be at least 21 years of age to sell alcohol.
- 13) Alcohol sales shall cease by 11:00 p.m. regardless of the business hours for the store in general.
- *14) The proprietor and/or successors in interest and management shall comply with all Municipal Codes relating to loitering, open container laws and other nuisance-related issues.
- 15) The area within the convenience market dedicated to the display and sale of alcoholic beverages (beer and wine) shall not be more than 6 cooler spaces (typical of those found in a grocery store or convenience market) or 176 square feet. The display of liquor shall be located behind the cashier and not exceed 60 square feet.
- 16) The City reserves the right to periodically review the area for potential problems. If problems (on-site or within the immediate area), including but not limited to, public drunkenness, the illegal sale or use of narcotics, drugs or alcohol, disturbing the peace, and disorderly conduct result from the proposed land use, the conditional use permit may be subject to review and revocation by the City of Merced after a public hearing and in conformance with the procedures outlined in the Merced Municipal Code.
- 17) No single-serving containers shall be sold separately unless authorized by the City of Merced Police Department. All single-serving beer and wine containers shall be sold as part of a pack or carton.
- 18) The business shall comply with all applicable requirements from the Merced County Health Department.
- *19) Prior to obtaining a license from the Alcoholic Beverage Control to sell alcohol, the business (for the convenience market) shall obtain approval for a Finding of Public Convenience or Necessity from the Merced City Council.
- 20) This approval is subject to the business owner being in good standing with all laws of the State of California, including the Alcohol Beverage Control (ABC), City of Merced, and other regulatory agencies.

(*) Denotes non-discretionary conditions.

PROJECT DESCRIPTION

The applicant is requesting approval to modify an existing beer and wine ABC License (Type 20) to include the sale of general alcohol (Type 21) for off-site consumption (additional information about ABC license types shown on Attachment D). Jessi's Market is approximately 7,500 square feet in size and is generally located 100 feet west of the southwest corner of E Street and 13th Street. Jessi's Market has been in operation for over 6 years and sells everyday products such as food, snacks, apparel, cleaning supplies, beauty aids, beer, and wine. Police Department staff has not had any particular issues with Jessi's Market or their management of alcohol sales. Approval of this conditional use permit would allow Jessi's Market to sell a maximum of 60 square feet of liquor and 176 square feet of beer and wine. Liquor would be stocked behind the cashier,

inaccessible to customers, and with the existing beer and wine sales would occupy approximately 5% of total sales floor area (Attachment B).

Because the subject site is located within a Census Tract that is over-concentrated with alcohol sales, this request will require a Finding of Public Convenience or Necessity from City Council (scheduled to be reviewed on January 17, 2017).

Surrounding Uses
(Attachment A)

Surrounding Land	Existing Use of Land	City Zoning Designation	City General Plan Land Use Designation
North	Vacant (across 13 th Street)	R-3-1.5	High to Medium Residential Density (HMD)
South	Apartments	R-3-1.5	High to Medium Residential Density (HMD)
East	Consolidated Electrical Distributors	C-G	General Commercial (CG)
West	Pro-Tech Security and Electronics	C-G	General Commercial (CG)

BACKGROUND

The subject site has had a Type 20 ABC License since 1993, prior to the City requiring conditional use permits for alcohol sales for off-site consumption for businesses under 20,000 square feet. Zoning Ordinance #94-01 was adopted by the City Council on June 19, 1995. This amended the Merced Municipal Code dealing with conditional uses in the C-G, C-C, and C-T zoning districts by requiring a conditional use permit prior to obtaining a license from ABC for the sale of alcoholic beverages for off-site consumption (for business under 20,000 square feet). City records show that the ordinance was primarily directed at the proliferation of alcoholic beverage establishments, such as liquor stores and convenience markets throughout central and south Merced. In addition, Zoning Ordinance #94-01 established a criteria by which to evaluate requests to sell alcoholic beverages for off-site consumption. The details of those criteria are described in the Findings section of this report. These findings and procedures were not changed in the recent Zoning Ordinance Update.

FINDINGS/CONSIDERATIONS:

General Plan/Zoning Compliance and Policies Related to This Application

- A) The proposed project complies with the General Plan designation of General Commercial (CG) and the General Commercial (C-G) Zone with approval of a Conditional Use Permit.

Alcohol Sales

- B) The Merced Municipal Code requires a Conditional Use Permit, because Jessi’s Market is less than 20,000 square feet in size. In addition, alcohol sales require a Finding of Public Convenience or Necessity from City Council, because the subject site is located within a Census Tract that is considered over-concentrated by ABC standards. City Council will

take action on the Finding of Public Convenience or Necessity after this report is distributed, during the City Council Meeting of January 17, 2017. The Council action will be available at the Planning Commission Meeting of January 18, 2017.

In order for the Planning Commission to approve or deny a request for the sale of alcoholic beverages for off-site consumption, they must consider the following criteria and make findings to support or deny each criteria per MMC 20.44.010:

Criteria #1

The proposed use will not result in an "undue concentration" of establishments dispensing alcoholic beverages as defined by Section 23958 and 23958.4 of the California Business and Professional Code and giving consideration to the California Department of Alcoholic Beverage Control's guidelines related to number and proximity of such establishments within a 1,000-foot radius of the site.

Finding #1:

The subject site is located within Alcoholic Beverage Control Census Tract 16.01. In checking with the State of California Alcoholic Beverage Control District, this census tract is allowed three off-sale licenses, but there are currently six issued (Attachment E). Based on these results, this census tract is considered over-concentrated with businesses selling alcohol for off-site consumption. Even though Census Tract 16.01 has six businesses serving alcohol for off-site consumption, most of these businesses are located between 2,000 and 3,000 feet away from the subject site, along Martin Luther King, Jr. Way, between 13th Street and 11th Street (Attachment F).

Criteria #2

The proposed use will not adversely affect the economic and societal welfare of the pertinent community or residentially zoned community in the area of the City involved, after giving consideration to the distance of the proposed use from residential buildings, churches, schools, hospitals, public playgrounds, and other similar uses; and other establishments dispensing, for sale or other considerations, alcoholic beverages including beer and wine.

Finding #2:

Residential uses (both single-family and multi-family), a City park, and Don Stowell Elementary School are located within 200 feet of the subject site (Attachment G).

Criteria #3

The crime rate in the area of the proposed site. Particular attention shall be given to those crimes involving public drunkenness, the illegal sale of narcotics, disturbing the peace, and disorderly conduct.

Finding #3:

Between November 1, 2015, and October 31, 2016, the Merced Police Department recorded 183 incidents within a 500-foot radius of the subject site. The table on the next page shows the number of incidents within that area involving public intoxication, assaults,

MMC violations, and narcotics violations (totaling 43 incidents during the 12-month period). As shown on the attached Incident Map (Attachment I), the majority of those incidents occurred south of the subject site, within a residential zone. The number of incidents reported City-wide for the same time period was 63,204. Based on the total number of calls within the City, the 183 calls to this area equals 0.28% of the overall calls for service within the City. As shown on the attached Crime Hot Spot Map for the City of Merced (Attachment H), crime rates in this area are considered moderate compared to the rest of the City. However, Police staff believe that most of those incidents were not related to alcohol. Alcohol sales for off-site consumption, therefore, will not likely have a significant impact on Police Department resources.

Incidents and Cases Reported (November 1, 2015 – October 31, 2016)

Incident/Case Type	Number of Incidents
Public Intoxication	1
Disturbance (assaults)	35
MMC*	4
Narcotics violations	3

*Municipal Code Violations regarding open containers, drinking in public, etc.

Planning staff consulted with the Merced Police Department regarding alcohol sales at this location. The Police Department did not have significant concerns with this request and is not requiring any conditions of approval not normally associated with alcohol sales for off-site consumption. Beer and wine have been sold at this location by Jessi’s Market for approximately six years, under the current ownership (with a total of 23 years by different ownerships), and the Police Department has not had any particular issues with their management of alcohol sales. Based on the information provided by the Police Department, and the fact that alcohol sales are currently provided by the applicant, staff does not anticipate that the approval of this request would adversely affect the economic and social welfare of the surrounding area.

Neighborhood Impact/Interface

- C) The subject site is surrounded by residential and commercial uses. The properties to the west and east are occupied by Pro-Tech Security/Electronics and Consolidated Electrical Distributors respectively. There are residential uses to the north and south of the subject site. There is a City Park and an Elementary School within 200 feet of the subject site. Jessi’s Market is located within an area that has moderate crime rates. The Police Department has not had any particular issues with Jessi’s Market or their management of alcohol sales. However, to improve the safety of patrons, employees, and the neighborhood in general, the applicant is proposing to install indoor and outdoor surveillance cameras, improve parking lot lighting, store liquor in areas that are inaccessible to customers (behind the cashier), provide staff with training regarding alcohol sales, and limit the store’s hours of operation until 10:00 p.m. (Condition #13 would allow alcohol sales until 11:00 p.m.).

Given that Jessi’s Market has been selling beer and wine for approximately six years, this request to sell liquor for off-site consumption would not create any unusual circumstances

for the neighborhood. A Public Hearing Notice was circulated in the Merced County Times and mailed to property owners within 300 feet of the subject site three weeks prior to this public hearing. As of the date that this report was prepared, staff received a call regarding the cleanliness of the Jessi's Market. This was brought to the business owner's attention, and he has agreed to clean his site more often to keep his business clean and free of debris/graffiti at all times (Condition #7). In addition, the Planning Department received one letter in opposition from a neighboring property owner who is concerned that trash from items sold at the market (including alcohol bottles) will continue to be discarded on his vacant lot. This letter of opposition can be found at Attachment K.

Signage

- D) The applicant is not proposing to make any changes to signage at this time. However, staff is recommending that certain restrictions regarding the advertisement of alcohol be included with this permit. Said restrictions would prohibit the advertisement of beer, wine, and distilled spirits on the elevations, windows, and parking lot (Conditions #8 and #9). As shown on the north elevation (Attachment C), there is currently various wall signs, window signs, A-Frame signs, illuminated signs, and wall panel signs advertising alcohol that should be removed immediately.

Site Plan

- E) The applicant is not requesting any changes to site plan at this time. Future changes to the site plan would require building permit applications reviewed by City staff for compliance with Development Standards.

Parking

- F) This request will have no impact on parking. The subject site has 6 parking spaces on the north side of the parcel. The subject site was developed prior to the adoption of City parking requirements. On-site parking is considered legally non-confirming and current codes would require 30 parking spaces for this use (based on the requirement of one parking space for every 250 square feet of floor area for the 7,500-square-foot building). However, future expansions or changes in use may require additional parking spaces that conform with City parking requirements and satisfy City Engineering Standards. There is ample space on the southern portion of the parcel to accommodate future parking needs.

Environmental Clearance

- G) Planning staff has conducted an environmental review (Environmental Review #16-32) of the project in accordance with the requirements of the California Environmental Quality Act (CEQA), and a Categorical Exemption is being recommended (Attachment L).

Attachments:

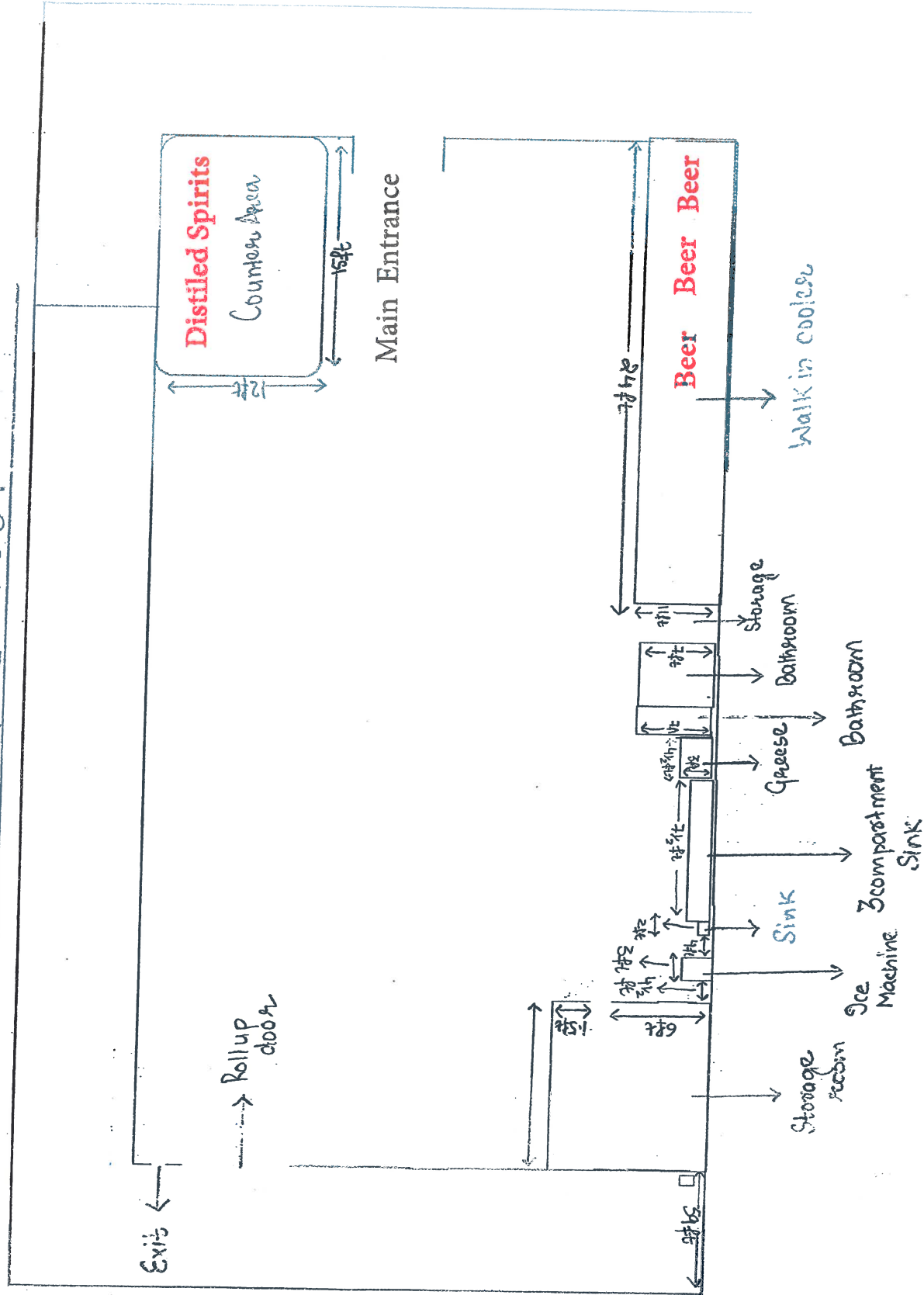
- A) Location Map
- B) Floor Plan
- C) Elevation Showing Exterior Alcohol Advertisements

- D) ABC License Types
- E) Census Tract 16.01 License Chart with Business Address
- F) Census Tract 16.01 Map
- G) Sensitive Uses in Proximity to Subject Site
- H) Crime Hot Spot Map for the Entire City
- I) Incident Map Near Subject Site (500-foot Radius)
- J) Incident Temporal Heat Index
- K) Letter of Opposition and Associated Invoice
- L) Categorical Exemption
- M) Draft Planning Commission Resolution



ATTACHMENT A

INTERIOR LAYOUT



JESSI'S MARKET



ATTACHMENT C

Department of Alcoholic Beverage Control
**COMMON ABC LICENSE TYPES
 AND THEIR BASIC PRIVILEGES**

State of California

LICENSE TYPE	DESCRIPTION
01	BEER MANUFACTURER - (Large Brewery) Authorizes the sale of beer to any person holding a license authorizing the sale of beer, and to consumers for consumption on or off the manufacturer's licensed premises. Without any additional licenses, may sell beer and wine, regardless of source, to consumers for consumption at a bona fide public eating place on the manufacturer's licensed premises or at a bona fide eating place contiguous to the manufacturer's licensed premises. May conduct beer tastings under specified conditions (Section 23357.3). Minors are allowed on the premises.
02	WINEGROWER - (Winery) Authorizes the sale of wine and brandy to any person holding a license authorizing the sale of wine and brandy, and to consumers for consumption off the premises where sold. Authorizes the sale of all wines and brandies, regardless of source, to consumers for consumption on the premises in a bona fide eating place that is located on the licensed premises or on premises owned by the licensee that are contiguous to the licensed premises and operated by and for the licensee. May possess wine and brandy for use in the preparation of food and beverage to be consumed at the bona fide eating place. May conduct winetastings under prescribed conditions (Section 23356.1; Rule 53). Minors are allowed on the premises.
* 20	OFF SALE BEER & WINE - (Package Store) Authorizes the sale of beer and wine for consumption off the premises where sold. Minors are allowed on the premises.
* 21	OFF SALE GENERAL - (Package Store) Authorizes the sale of beer, wine and distilled spirits for consumption off the premises where sold. Minors are allowed on the premises.
23	SMALL BEER MANUFACTURER - (Brew Pub or Micro-brewery) Authorizes the same privileges and restrictions as a Type 01. A brewpub is typically a very small brewery with a restaurant. A micro-brewery is a small-scale brewery operation that typically is dedicated solely to the production of specialty beers, although some do have a restaurant or pub on their manufacturing plant.
40	ON SALE BEER - (Bar, Tavern) Authorizes the sale of beer for consumption on or off the premises where sold. No wine or distilled spirits may be on the premises. Full meals are not required; however, sandwiches or snacks must be available. Minors are allowed on the premises.
41	ON SALE BEER & WINE - EATING PLACE - (Restaurant) Authorizes the sale of beer and wine for consumption on or off the premises where sold. Distilled spirits may not be on the premises (except brandy, rum, or liqueurs for use solely for cooking purposes). Must operate and maintain the licensed premises as a bona fide eating place. Must maintain suitable kitchen facilities, and must make actual and substantial sales of meals for consumption on the premises. Minors are allowed on the premises.
42	ON SALE BEER & WINE - PUBLIC PREMISES - (Bar, Tavern) Authorizes the sale of beer and wine for consumption on or off the premises where sold. No distilled spirits may be on the premises. Minors are not allowed to enter and remain (see Section 25663.5 for exception, musicians). Food service is not required.
47	ON SALE GENERAL - EATING PLACE - (Restaurant) Authorizes the sale of beer, wine and distilled spirits for consumption on the licenses premises. Authorizes the sale of beer and wine for consumption off the licenses premises. Must operate and maintain the licensed premises as a bona fide eating place. Must maintain suitable kitchen facilities, and must make actual and substantial sales of meals for consumption on the premises. Minors are allowed on the premises.
48	ON SALE GENERAL - PUBLIC PREMISES - (Bar, Night Club) Authorizes the sale of beer, wine and distilled spirits for consumption on the premises where sold. Authorizes the sale of beer and wine for consumption off the premises where sold. Minors are not allowed to enter and remain (see Section 25663.5 for exception, musicians). Food service is not required.
49	ON SALE GENERAL - SEASONAL - Authorizes the same privileges and restrictions as provided for a Type 47 license except it is issued for a specific season. Inclusive dates of operation are listed on the license certificate.





**California Department of Alcoholic Beverage
Control
For the County of MERCED - (Off-Sale Licenses)
and Census Tract = 16.01**

Report as of 1/10/2017

License Number	Status	License Type	Orig. Iss. Date	Expir Date	Primary Owner and Premises Addr.	Business Name	Mailing Address	Geo Code
1) 321962	ACTIVE	20	9/9/1996	8/31/2017	ELTAREB, FAWAS THAHER 561 W 8TH ST MERCED, CA 95340 Census Tract: 0016.01	ELTAREB MARKET 1		2406
2) 394508	ACTIVE	20	10/31/2002	1/31/2017	SAEED, SIDQI ALAMEIR 1108 G ST MERCED, CA 95340 Census Tract: 0016.01	BUY & BYE MARKET		2406
3) 412582	ACTIVE	21	9/2/2004	8/31/2017	SINGH, AMAR 1230 MARTIN LUTHER KING JR WY MERCED, CA 95340 Census Tract: 0016.01	STOP 2 SAVE		2406
4) 416045	ACTIVE	20	9/3/2004	8/31/2017	MERCED FOOD CENTER 1148-1150 MARTIN LUTHER KING JR WY MERCED, CA 95341 Census Tract: 0016.01	MERCED FOOD CENTER	1150 MARTIN LUTHER KING JR WY MERCED, CA 95341	2406
5) 477457	ACTIVE	21	4/24/2009	2/28/2017	ELTAREB, FAWAS THAHER 1103 MARTIN LUTHER KING JR WY MERCED, CA 95340-6161 Census Tract: 0016.01	BI RITE LIQUORS		2406
6) 543788	ACTIVE	20	7/30/2014 11:11:05 AM	6/30/2017	JAMMU & KASHMIR, INC. 110 E 13TH ST MERCED, CA 95341-6208 Census Tract: 0016.01	JESSIS MARKET	PO BOX 3273 MERCED, CA 95344	2406

--- End of Report ---

For a definition of codes, view our [glossary](#).



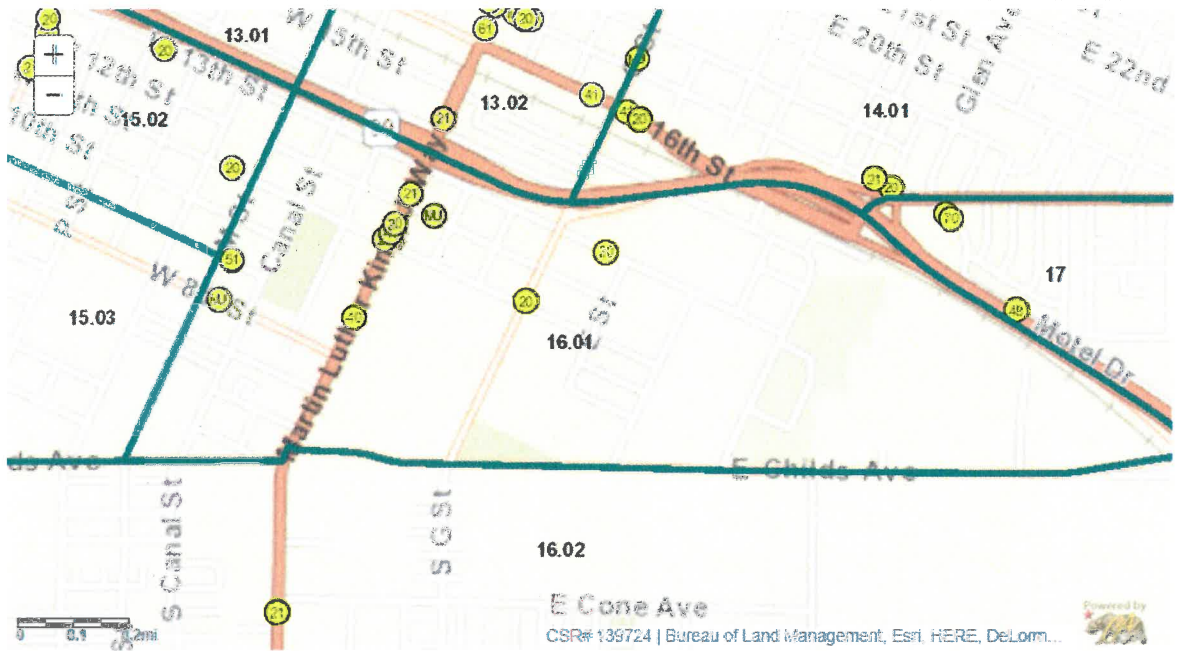
License Query System - Map Query

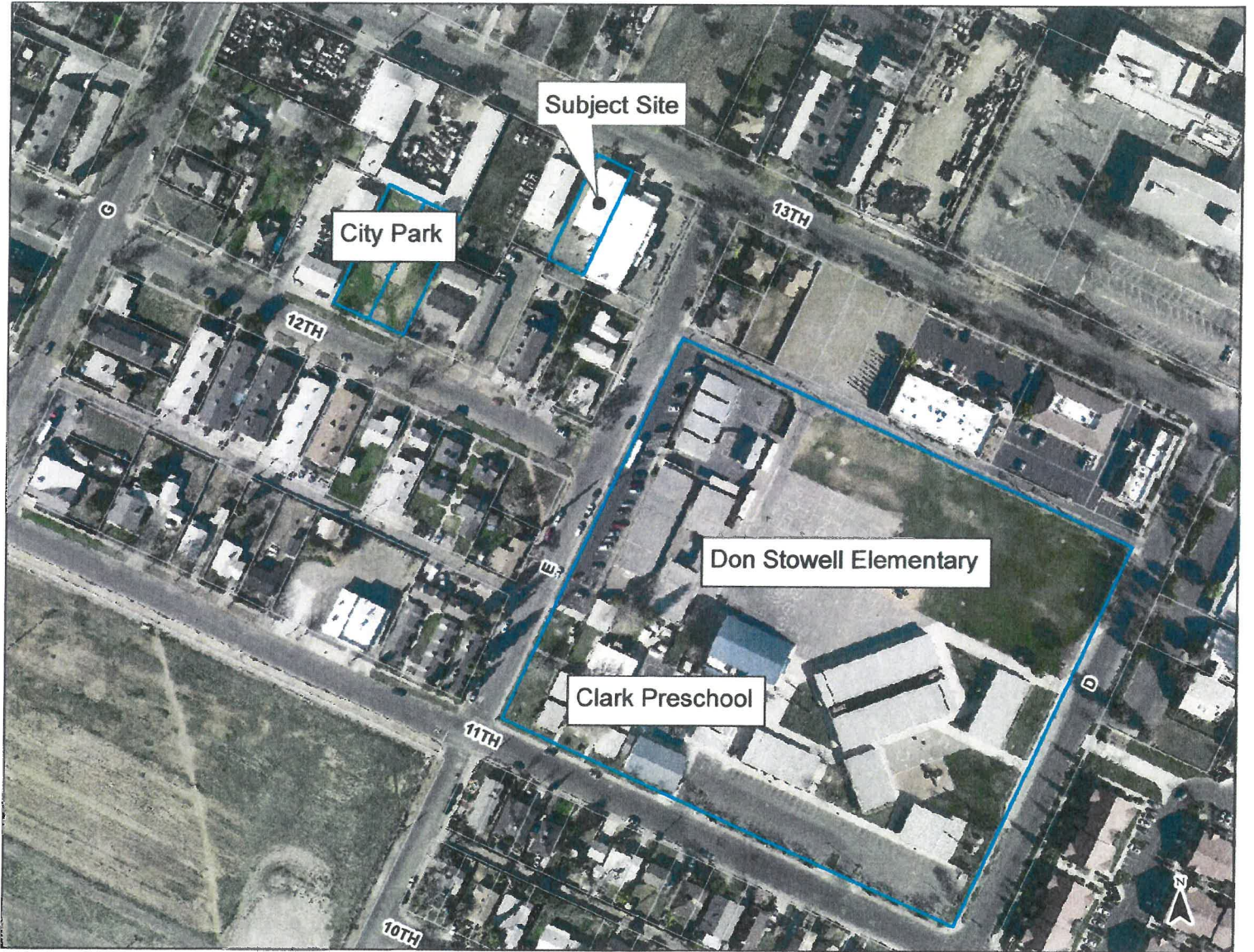
Search for a specific

License Number:

Or, locate a general area by entering:

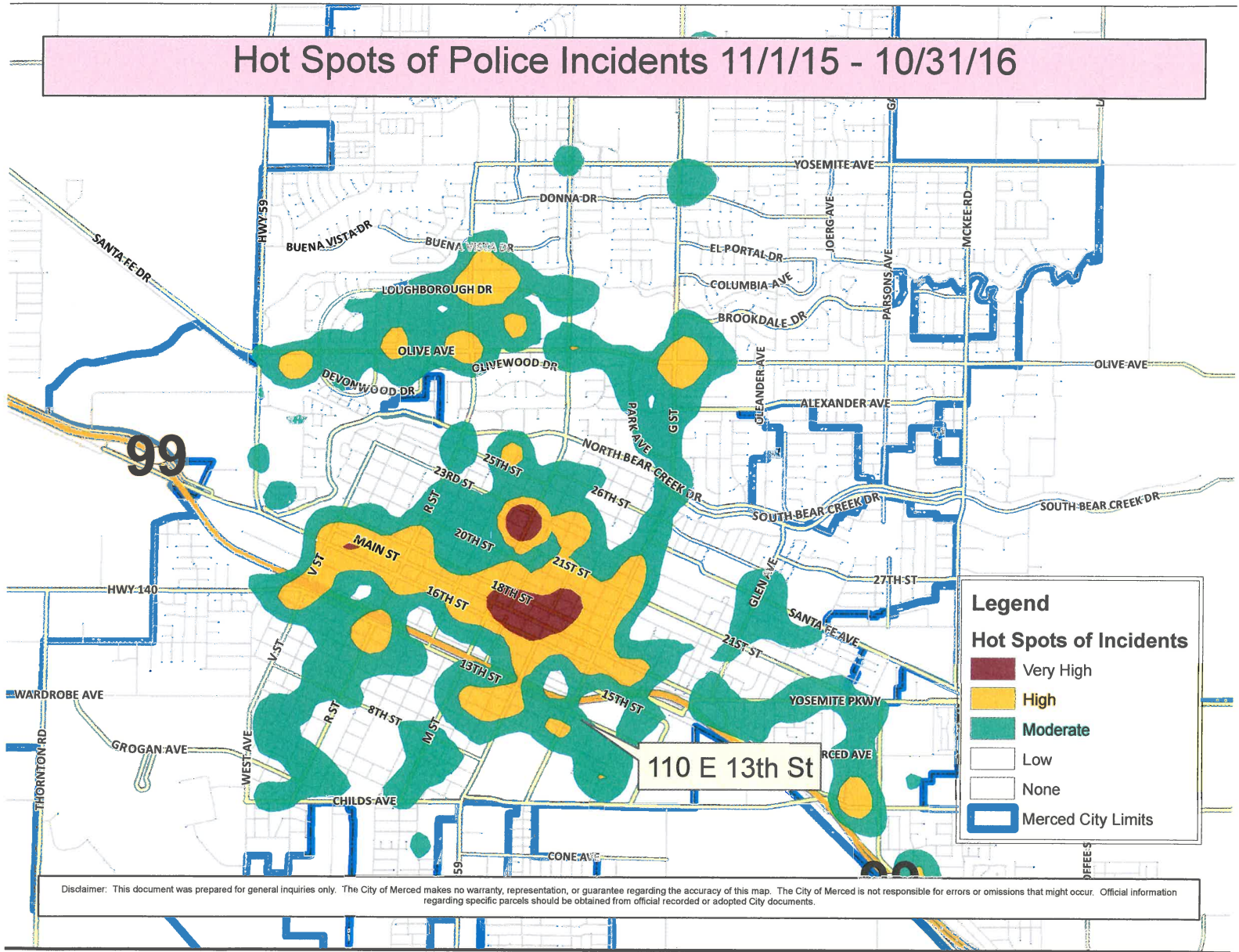
Address:
Census Tract: 16.01 City: MERCED



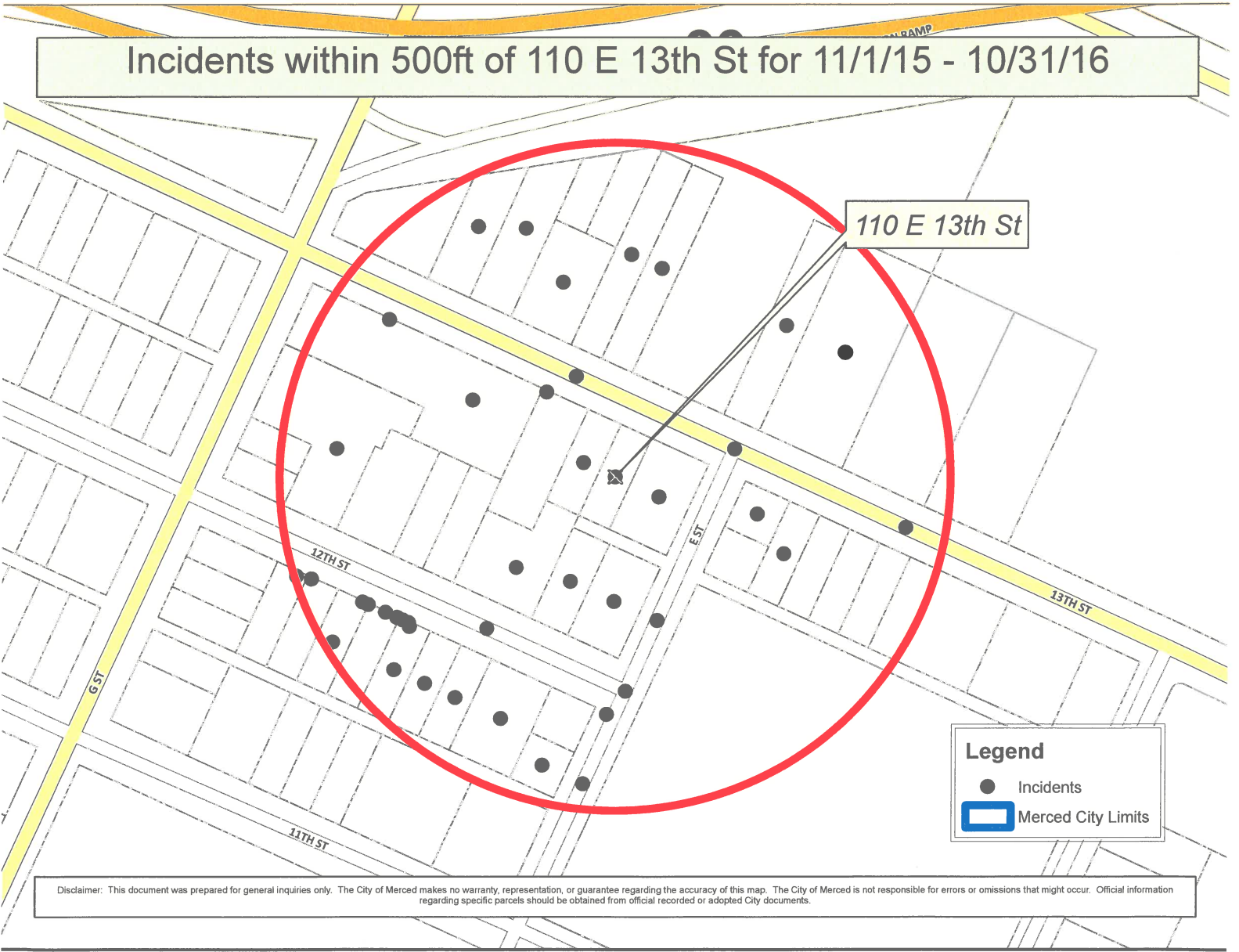


ATTACHMENT G

Hot Spots of Police Incidents 11/1/15 - 10/31/16



Incidents within 500ft of 110 E 13th St for 11/1/15 - 10/31/16





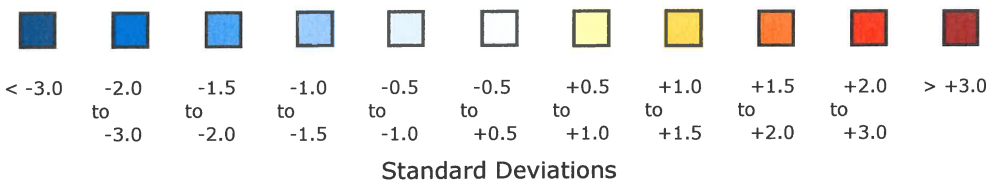
Merced Police Department

Incident Temporal Heat Index
(Hour Of Day by Day Of Week)



Incidents within 500 feet of 110 E 13th St (11/1/15 ~ 10/31/16)

	Sun	Mon	Tue	Wed	Thu	Fri	Sat	Total
00	0	1	0	1	1	0	2	5
01	1	1	1	0	2	0	3	8
02	0	1	0	2	0	0	0	3
03	0	0	1	0	0	0	1	2
04	0	0	1	0	1	0	0	2
05	0	1	2	1	0	0	0	4
06	1	0	0	0	1	0	0	2
07	0	0	1	0	0	2	0	3
08	1	5	3	1	0	0	1	11
09	1	1	3	4	1	2	0	12
10	1	1	2	0	1	3	1	9
11	2	3	2	1	1	0	1	10
12	0	0	2	1	0	0	2	5
13	3	1	3	3	1	0	1	12
14	2	1	2	1	4	0	1	11
15	0	2	1	0	1	0	1	5
16	2	1	2	2	2	1	1	11
17	0	2	1	1	3	1	2	10
18	3	2	1	2	2	1	1	12
19	0	1	1	1	0	2	1	6
20	2	3	2	2	2	0	1	12
21	1	3	3	1	0	2	2	12
22	0	4	3	1	0	6	3	17
23	0	0	1	0	0	0	3	4
Total	20	34	38	25	23	20	28	188



Average: 1.12
 Std. Dev.: 1.15
 Minimum: 0
 Maximum: 6

Dear Members of the Merced Planning Commission,

I am writing to oppose the selling of alcohol from a market requested on a **Conditional Use Permit #1215**. My wife, brother-in-law, and I recently inherited a 50% ownership in the property. Our vacant lot property ((ASMT 035-020-030-000) is located across the street from 110 E 13th Street . (ASMT 035-020-030-000).

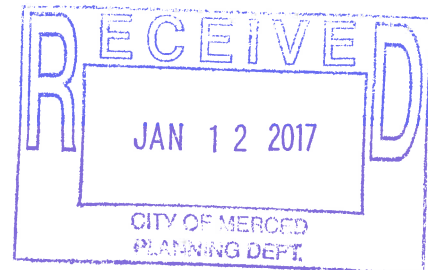
We are concerned some of the bottles and trash from what the market sells could end up on our vacant lot (125 E 13th Street) across the way rather than someone's home (see map). I have not seen how the market proposing to sell alcohol plans to mitigate the impact of what they sell on the neighborhood and the potential loss of property values. Already we have had to have an annual cleanup of the property that costs upwards of \$1000.00 to weed, remove, and haul debris away-- I see where things are going to get worse with the unfettered selling of alcohol that results in consumption of alcohol in close proximity to the market.

What is the economic imperative to sell alcohol? Who are the customers that they are targeting.

Sincerely,



Marc Gelman
214 Spring Grove Ave
San Rafael, Ca 94901
January 9, 2017



ATTACHMENT K

VA MINOR
5762 E. Hwy 140
Merced, CA 95340

209-756-0470

INVOICE

Ingrid Gelman
214 Spring Grove Avenue
San Rafael, CA 94901

Invoice # 0000225
Invoice Date 05/22/2016
Due Date 05/31/2016

Item	Description	Unit Price	Quantity	Amount
Service	Disc property	475.00	1.00	475.00
	Weed eat park strip and sidewalk area; pick up grass and debris; haul to landfill	540.00	1.00	540.00
NOTES: 125 E. 13th Street, Merced				
		Subtotal		1,015.00
		Total		1,015.00
		Amount Paid		0.00
		Balance Due		\$1,015.00

NOTICE OF EXEMPTION

To: _____ Office of Planning and Research
P.O. Box 3044
Sacramento, CA 95812-3044

From: (Public Agency)
City of Merced
678 West 18th St.
Merced, CA 95340

X County Clerk
County of Merced
2222 M Street
Merced, CA 95340

Project Title: CUP #1215 (Environmental Review #16-32)

Project Applicant: Jammu & Kashmir Inc.

Project Location (Specific): 110 E. 13th Street APN: 035-031-004

Project Location - City: Merced **Project Location - County:** Merced

Description of Nature, Purpose, and Beneficiaries of Project:

Name of Public Agency Approving Project: City of Merced

Name of Person or Agency Carrying Out Project: Jammu & Kashmir Inc.

Exempt Status: (check one)

- Ministerial (Sec. 21080(b)(1); 15268);
- Declared Emergency (Sec. 21080(b)(3); 15269(a));
- Emergency Project (Sec. 21080(b)(4); 15269(b)(c));
- Categorical Exemption. State Type and Section Number: 15301 (a)
- Statutory Exemptions. State Code Number: _____.
- General Rule (Sec. 15061 (b)(3))

Reasons why Project is Exempt: As defined under the above referenced Section, the proposed project consists of minor interior and exterior alterations, which are considered to be exempt under the CEQA Guidelines per Section 15301 (a).

Lead Agency: City of Merced

Contact Person: Francisco Mendoza-Gonzalez **Area Code/Telephone:** (209) 385-6858

Signature:  _____ **Date:** 12-22-2016 **Title:** Planner

Signed by Lead Agency **Date Received for Filing at OPR:** _____
(If applicable)

Authority Cited: Sections 21083 and 21110. Public Resources Code
Reference: Sections 21108, 21152, and 21152.1. Public Resources Code

CITY OF MERCED
Planning Commission

Resolution #_____

WHEREAS, the Merced City Planning Commission at its regular meeting of January 18, 2017, held a public hearing and considered **Conditional Use Permit #1215**, initiated by Jammu & Kashmir Inc. on behalf of Kashmir Rentals, LLC, property owner(s). This application involves a request to modify an existing beer and wine Alcoholic Beverage Control License (Type 20) to include the sale of general alcohol for off-site consumption (Type 21) for Jessi's Market, generally located on the south side of E. 13th Street, approximately 100 feet west of E Street (at 110 E. 13th Street), within a General Commercial (C-G) Zone; also known as Assessor's Parcel Number 035-031-004; and,

WHEREAS, the Merced City Planning Commission concurs with Findings A through G of Staff Report #17-03; and,

NOW THEREFORE, after reviewing the City's Draft Environmental Determination, and discussing all the issues, the Merced City Planning Commission does resolve to hereby adopt a Categorical Exemption regarding Environmental Review #16-32, and approve Conditional Use Permit #1215, subject to the Conditions set forth in Exhibit A attached hereto and incorporated herein by this reference.

Upon motion by Commissioner _____, seconded by Commissioner _____, and carried by the following vote:

AYES: Commissioner(s)

NOES: Commissioner(s)

ABSENT: Commissioner(s)

ABSTAIN: Commissioner(s)

ATTACHMENT M

PLANNING COMMISSION RESOLUTION # _____

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January 18, 2017

Adopted this 18th day of January 2017

Chairperson, Planning Commission of
the City of Merced, California

ATTEST:

Secretary

Attachment:

Exhibit A – Conditions of Approval

n:shared:planning:PC Resolutions: CUP#1215 Jessi's Market (110 E. 13th Street)

Conditions of Approval
Planning Commission Resolution # _____
Conditional Use Permit #1215

1. The proposed project shall be constructed/designed as shown on Exhibit 1 (floor plan) -- Attachment B of Staff Report #17-03, except as modified by the conditions.
2. All conditions contained in Resolution #1249-Amended (“Standard Conditional Use Permit Conditions”—except for Condition #16 which has been superseded by Code) shall apply.
3. The developer/applicant shall indemnify, protect, defend (with counsel selected by the City), and hold harmless the City, and any agency or instrumentality thereof, and any officers, officials, employees, or agents thereof, from any and all claims, actions, suits, proceedings, or judgments against the City, or any agency or instrumentality thereof, and any officers, officials, employees, or agents thereof to attack, set aside, void, or annul, an approval of the City, or any agency or instrumentality thereof, advisory agency, appeal board, or legislative body, including actions approved by the voters of the City, concerning the project and the approvals granted herein. Furthermore, developer/applicant shall indemnify, protect, defend, and hold harmless the City, or any agency or instrumentality thereof, against any and all claims, actions, suits, proceedings, or judgments against any governmental entity in which developer/applicant’s project is subject to that other governmental entity’s approval and a condition of such approval is that the City indemnify and defend (with counsel selected by the City) such governmental entity. City shall promptly notify the developer/applicant of any claim, action, or proceeding. City shall further cooperate fully in the defense of the action. Should the City fail to either promptly notify or cooperate fully, the developer/applicant shall not thereafter be responsible to indemnify, defend, protect, or hold harmless the City, any agency or instrumentality thereof, or any of its officers, officials, employees, or agents.
4. The developer/applicant shall construct and operate the project in strict compliance with the approvals granted herein, City standards, laws, and ordinances, and in compliance with all State and Federal laws, regulations, and standards. In the event of a conflict between City laws

and standards and a State or Federal law, regulation, or standard, the stricter or higher standard shall control.

5. Sufficient lighting shall be provided throughout the site to provide a safe environment for employees and patrons of the business.
6. All landscaping shall be kept healthy and maintained in good condition and any damaged or missing landscaping shall be replaced immediately.
7. The premises shall remain clean and free of debris and graffiti at all times. Any damaged materials shall be replaced by matching materials.
8. A temporary banner permit shall be obtained prior to installing any temporary signs. Free-standing temporary signs (i.e., sandwich boards, A-frame signs, etc.) are prohibited.
9. The proprietor and/or successors in interest and management shall be prohibited from advertising or promoting beer & wine and/or distilled spirits on the building or in the windows. No self-illuminated advertising for beer or wine shall be permitted.
10. No beer or wine shall be displayed or stored outside of the cooler areas.
11. No display or sale of beer or wine shall be made from an ice tub.
12. Employees on duty between the hours of 9 p.m. and 11 p.m. shall be at least 21 years of age to sell alcohol.
13. Alcohol sales shall cease by 11:00 p.m. regardless of the business hours for the store in general.
14. The proprietor and/or successors in interest and management shall comply with all Municipal Codes relating to loitering, open container laws and other nuisance-related issues.
15. The area within the convenience market dedicated to the display and sale of alcoholic beverages (beer and wine) shall not be more than 6 cooler spaces (typical of those found in a grocery store or convenience market) or 176 square feet. The display of liquor shall be located behind the cashier and not exceed 60 square feet.
16. The City reserves the right to periodically review the area for potential problems. If problems (on-site or within the immediate area), including but not limited to, public drunkenness, the illegal sale or use of narcotics, drugs or alcohol, disturbing the peace, and disorderly conduct result from the proposed land use, the conditional use permit may be subject to

review and revocation by the City of Merced after a public hearing and in conformance with the procedures outlined in the Merced Municipal Code.

17. No single-serving containers shall be sold separately unless authorized by the City of Merced Police Department. All single-serving beer and wine containers shall be sold as part of a pack or carton.
18. The business shall comply with all applicable requirements from the Merced County Health Department.
19. Prior to obtaining a license from the Alcoholic Beverage Control to sell alcohol, the business (for the convenience market) shall obtain approval for a Finding of Public Convenience or Necessity from the Merced City Council.
20. This approval is subject to the business owner being in good standing with all laws of the State of California, including the Alcohol Beverage Control (ABC), City of Merced, and other regulatory agencies.

n:shared:planning:PC Resolutions: CUP #1215 Exhibit A