

**RESOLUTION NO. 2008-05**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LOS ALTOS TO APPROVE USE PERMIT APPLICATION 07-UP-05 (994 LOS ALTOS AVENUE)**

WHEREAS, the City Council of the City of Los Altos ("City") adopted Los Altos Municipal Code ("LAMC") Chapter 14.66.100, which allows nonconforming uses to be re-established through the approval of a use permit application; and

WHEREAS, the owners of the property located at 994 Los Altos Avenue applied for a use permit to re-establish a nonconforming neighborhood retail market in a single-family residential zoning district, application 07-UP-05 ("Project"), in accordance with the LAMC; and

WHEREAS, the Planning Commission held duly noticed public meetings on October 4 and December 6, 2007, and at such meetings reviewed and considered the written staff reports dated September 27 and November 29, 2007, and other written and oral evidence concerning the Project; and

WHEREAS, the Planning Commission after reviewing and considering all of the written and oral evidence recommended approval of the Project on December 6, 2007, based on the findings and conditions contained in the staff report dated November 29, 2007, and the additional conditions of the prohibition of service and consumption of alcohol and the operational hours to be extended until 8:00 p.m.; and

WHEREAS, on January 22, 2008, the City Council conducted a duly noticed public meeting, at which the City Council reviewed the entire record of this matter, including the Planning Commission's findings, the staff reports dated September 27 and November 29, 2007, the City Council Memorandum dated January 17, 2008, and all evidence introduced at the hearing, heard the oral evidence and testimony, and reviewed the documentary evidence relating to the Project; and

WHEREAS, the Project has been reviewed and considered by the City Council in accordance with the provisions of the California Environmental Quality Act of 1970, as amended ("CEQA"), and the guidelines promulgated thereunder and, further, said Council finds that the Project is exempt from the requirements of the CEQA pursuant to the provisions of Section 15301 and 15305 of Division 6 of Title 14 of the California Code of Regulations ("CEQA Guidelines"). CEQA Guidelines Sections 15301 and 15305 apply to this Project because it is a minor alteration to an existing structure and does not result in a change of the land use.

WHEREAS, the location and custodian of the documents or other materials which constitute the record of the proceedings upon which this approval is based is the office of the City Clerk.

NOW, THEREFORE, BE IT RESOLVED THAT the City Council hereby adopts findings and makes a decision in this matter as follows:

1. The City Council, after reviewing and considering the entire record of this matter, including the Planning Commission's findings, the staff reports dated September 27 and November 29, 2007, and the City Council Memorandum dated January 17, 2008, , which are attached hereto as Exhibit "A" and incorporated by this reference, and all evidence introduced at the hearing, heard the oral evidence and testimony, and reviewed the documentary evidence relating to the Project, and therefore adopts the following findings as its own and it specifically finds that substantial evidence in the record supports each of the findings, and that the findings support its decision to approve the Project.
2. The Project promotes the purpose and intent of the LAMC Section 14.80.060 in that the proposed location of the Project is desirable or essential to the public health, safety, comfort, convenience, prosperity, or welfare because it is re-establishing a nonconforming neighborhood retail market that has been determined by evidence in the record that is substantially the same or similar to the existing neighborhood retail market use.
3. The proposed location of the Project is in accordance with the objectives of the zoning plan as stated in Chapter 14.02 because re-establishing the nonconforming neighborhood retail market, which provides for ancillary food products for consumption both off-site and on-site, complies with the zoning definition for a "retail use" and it is not prohibited as a "take-out" service. As stated in Chapter 14.02, take-out food services do *not* include ice cream parlors, candy stores and other similar specialty, primarily retail food businesses, such as proposed for the Project.
4. The proposed location of the Project, under the circumstances of the particular case, will not be detrimental to the health, safety, comfort, convenience, prosperity or welfare of persons residing or working in the vicinity or injurious to property or improvements in the vicinity because the Project is subject to 14 conditions of approval including but not limited to: the outdoor seating is limited to two tables and four chairs, the hours of operation are limited and there will be no alcohol sold, served or consumed on site.
5. The proposed Project will comply with the regulations prescribed for this district in which the site is located, the general provisions of Chapter 14.02, and the conditions of approval for 07-UP-05.
6. The City Council further finds that the Project promotes the public health, safety, community welfare, and the visual quality of the City as set forth within the goals, objectives and policies of the City's General Plan in that "[I]and use decisions in Los Altos are shaped by the community's desire to preserve and promote its unique character and existing land use patterns."

7. This decision constitutes a final decision pursuant to the Code of Civil Procedure section 1094.6. Any petition for judicial review of this decision must be sought within the time limits and pursuant to the procedures established by the Code of Civil procedure section 1094.6.

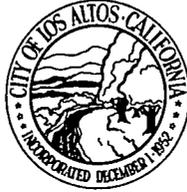
I HEREBY CERTIFY that the foregoing is a true copy of a Resolution duly passed and adopted by the City Council of the city of Los Altos on the 12<sup>th</sup> day of February, 2008 by the following roll call vote:

AYES: PACKARD, CASAS, BECKER, SATTERLEE, CARPENTER  
NOES: NONE  
ABSENT: NONE

  
\_\_\_\_\_  
Valorie Cook Carpenter, MAYOR

Attest:

  
\_\_\_\_\_  
Susan Kitchens, CITY CLERK



## MEMORANDUM

**DATE:** January 17, 2008  
**TO:** City Council  
**FROM:** Planning Commission  
**SUBJECT:** 07-UP-05—994 LOS ALTOS AVENUE

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### RECOMMENDATION

Motion to approve use permit application 07-UP-05 subject to the recommended findings and conditions.

### BACKGROUND

This is a use permit application to re-establish a nonconforming neighborhood market with retail food products in a single-family, residential zoning district. The proposal re-establishes the business on the subject property, improves the aesthetic quality of the structure by re-siding and adding a trellis off of the side of the building, and re-landscapes the front yard by defining the parking, adding an enclosed patio, and installing a sidewalk along Los Altos Avenue.

The Planning Commission held a public hearing on October 4, 2007 to consider the project. Several members of the public voiced their support for the project, while immediate neighbors expressed concerns about the negative impacts on their properties and expanding the nonconforming use. Following discussion, the Planning Commission continued their discussion so that the applicants could address some concerns from the Planning Commission pertaining to on-site parking, reducing patio space, and access to the property. Upon reviewing the changes made to address their initial concerns, the Planning Commission unanimously voted to recommend approval of the use permit on December 6, 2007, subject to the listed findings and conditions, along with additional conditions to prohibit alcohol sales and to extend the allowed operational hours to 8:00 p.m.

In addition, the Planning Commission recommended that a raised crosswalk be installed at the intersection of Los Altos Avenue and Loucks Avenue for pedestrian safety purposes, subject to the City Traffic Engineer's input. Upon review, the City's Traffic Engineer does not recommend the raised crosswalk since stop signs are already provided at the intersection. The plans include an enhanced crosswalk with ladder-style striping at the intersection.

An adjacent neighbor to the north of the property has raised the following concerns about the project, represented in bold font. Staff's responses follow.

- **Allowing commercial use in the side yard will increase the noise level and intensity of activity to a level that is inappropriate in a residential neighborhood. He also states that**

### ***CITY COUNCIL AGENDA***

*January 22, 2008*

**such a use would even be prohibited in a commercial zoning district citing the requirement of a 50-foot buffer provision for new commercial buildings.**

The north side yard of the subject property is currently entirely paved and its use has evolved over time. In the past, the area has been used for both residential and commercial parking and loading. It may also have been used as an outdoor patio – the City cannot necessarily control how outdoor space is used. A partial outdoor patio should not be noisier or more intensive than commercial parking and loading activities.

A 50-foot wide side yard is required for new commercial construction abutting a single-family residential district. However, this is a pre-existing nonconforming commercial use. These setback regulations include a required 10-foot landscape buffer, but also permit that side yard setback to be used for parking and outdoor seating..

- **The proposal violates Municipal Code section 14.66.100 in that it allows the expansion of a nonconforming use.**

The Municipal Code allows nonconforming uses to be re-established via the granting of a use permit, but they may not be expanded. However, staff does not agree that modifying the hardscape along the north side of the property “expands” the nonconforming use. Physically enlarging the existing building would be an expansion, but removing the asphalt and improving the property with a sidewalk, defined parking, decorative paving, a patio and landscaping is not.

- **Restricting the commercial activity to the inside of the building would mitigate excessive noise and put the project into compliance with the non-conforming use laws.**

The property historically has had various activities outside the building related to operating the neighborhood market including residential parking, bicycle parking, consumption of food and drinks outside, and commercial loading. As noted above, the City cannot necessarily control how outdoor space is used. A partial outdoor patio should not be noisier or more intensive than previous outdoor activities that occurred in this area.

The Planning Commission considered these concerns at their two meetings and found that the proposed use permit was substantially consistent with the former use of the site and recommended its conditional approval. However, the Council does have the authority to further limit the market’s activities through the conditional use permit as deemed appropriate. The patio area also provides the required parking for the residential unit at the back of the property – should it again be used as a residence in the future – and access to the building, so at least part of that area will need to remain hardscape. It could be scaled back to eliminate the bicycle parking and a condition could be added that outdoor tables and chairs are not permitted. However, this would eliminate an otherwise positive element of the market, and it would still not be possible to completely control how people congregate in this area.

The attached memorandums to the Planning Commission explain the project in greater detail and required findings for approval. Additionally, the Planning Commission meeting minutes and the City Traffic Engineer's memorandum are attached for reference.

Shaun Lacey  
Assistant Planner

Cc: Peter and Stacy Sullivan, Owners  
Steven T. Kikuchi, ASLA

Attachments

1. City Traffic Engineer Memorandum dated January 10, 2008
2. Planning Commission Meeting Minutes dated December 6, 2007
3. Planning Commission Memorandum dated November 29, 2007
4. Correspondence

**FINDINGS**

07-UP-05—994 Los Altos Avenue

With regard to recommending approval of the use permit, the City Council finds the following in accordance with Section 14.80.060 (A-D) of the Municipal Code:

1. That the proposed location of the conditional use is desirable or essential to the public health, safety, comfort, convenience, prosperity, or welfare;
2. That the proposed location of the conditional use is in accordance with the objectives of the zoning plan as stated in Chapter 14.02 of this title;
3. That the proposed location of the conditional use, under the circumstances of the particular case, will not be detrimental to the health, safety, comfort, convenience, prosperity or welfare of persons residing or working in the vicinity of injurious to property or improvements in the vicinity; and
4. That the proposed conditional use will comply with the regulations prescribed for this district in which the site is located and the general provisions of Chapter 14.02.

**CONDITIONS**

07-UP-05—994 Los Altos Avenue

**GENERAL**

1. The approval is based on the plans date stamped January 9, 2008, and the written application materials provided by the applicant, except as modified by these conditions.
2. The applicant shall convert the existing residence to underground utilities within 90 days of the issuance of a building permit for the proposed development.
3. All projects shall comply with the Urban Runoff Pollutions Prevention Program regulations in place at the time of construction. The improvement plans shall include the “Blueprint for a Clean Bay” plan sheet as page 2 in all plan submittals.
4. The operational hours shall be limited to 8:30 am to 8:00 pm on weekdays and 11:00 am to 8:00 pm on weekends.
5. Sign review shall be evaluated at staff level.

**PRIOR TO ISSUANCE OF BUILDING PERMIT**

6. a. All works within the public right-of-way shall be done in accordance with plans to be approved by the City Engineer.
- b. The applicant shall submit a cost estimate for review for work in the public right of way and shall submit a 100 percent performance bond (to be held until acceptance of improvements) and a 50 percent labor and material bond (to be held 6 months after acceptance of improvements) in an amount as approved by the City Engineer. A one-year, 10 percent maintenance bond shall be submitted upon acceptance of improvements in the public right of way.
- c. The applicant shall contact the Los Altos Garbage Company and submit a solid waste disposal plan indicating the type and size of containers proposed and the frequency of pick-up service subject to the approval of the Engineering Department. The applicant shall submit evidence that LAGCo has reviewed and approved the size and location of the proposed new enclosure for recyclables. The enclosure shall be roofed to prevent rainwater from mixing with the enclosure’s contents and then draining out and into the sewer system. The enclosure’s pad shall be designed to not drain outward, and the grade surrounding the enclosure designed to not drain into the enclosure.
- d. The plans shall show one-hour construction rating for walls within 20 feet parallel to the side property line.
- e. Business activity shall be limited to a market that provides ancillary food products for consumption both off-site and on-site; the sale of alcoholic beverages shall be prohibited.
- f. For the trash enclosure, the plans shall show a drain in the center of the pad which needs to connect to the sanitary sewer and the trash area needs to be enclosed by adding a roof over it.
- g. The plans shall show a gravity grease interceptor for the proposed facility.

- h. The applicant shall provide an off-site development plan including: a new ADA curb cut at the west side of Los Altos, relocate existing STOP and Street Name signs, remove existing yellow centerline and raised pavement markers, remove existing STOP bar, remove existing STOP message and repaint STOP message and paint new, ladder-style white crosswalk at the intersection of Los Altos Avenue and Loucks Avenue, as approved by the City Engineer.
- i. The plans shall provide an eight-foot wide loading area for the accessible parking space.

**PRIOR TO OCCUPANCY**

7. The applicant shall remove and replace any broken, cracked, or damaged curb and gutter as directed by the City Engineer.
8. The applicant shall remove and replace the entire width of the alley way as directed by the City Engineer.
9. The applicant shall label all new or existing public and private catch basin inlets which are on or adjacent to the site with the “NO DUMPING – FLOWS TO ADOBE CREEK” logo (Stencils will be provided by the City).
10. The applicant shall install a standard ADA compliant concrete sidewalk in the public right-of-way along the existing curb from property line to property line conforming into the existing concrete sidewalk. The porous paving shall be installed to the back of the new concrete sidewalk.



## MEMORANDUM

**DATE:** November 29, 2007  
**TO:** Planning Commission  
**FROM:** Shaun Lacey, Assistant Planner  
**SUBJECT:** 07-UP-05—994 LOS ALTOS AVENUE

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### RECOMMENDATION

Motion to approve use permit application 07-UP-05 subject to the recommended findings and conditions.

### BACKGROUND

This is a use permit application to re-establish a nonconforming retail market in a single-family, residential zoning district that was a continued item the October 4, 2007 Planning Commission meeting. After substantial public comment at that meeting, and discussion amongst staff and Commissioners, the Planning Commission continued their review to a later date subject to the following direction:

- Provide two residential parking spaces;
- Reduce or eliminate the patio seating on the right hand side so as to mitigate the impact of the project on the neighbors;
- Provide adequate commercial parking spaces to serve the business, and details on the ADA parking space, access to building and interior access;
- Show public sidewalk location and configuration; and
- Investigate raised crosswalks at the intersection with Loucks Avenue.

As a condition of the motion, the Commission agreed to close the public hearing and hold a follow-up meeting to discuss the remaining issues.

The applicant's modifications to the plans are discussed below. The previous staff report and meeting minutes are attached for reference.

### DISCUSSION

The applicant redesigned the site plan to include two tandem residential parking spaces on-site directly to the right of the market. To accommodate one of these spaces, a proposed trellis extends off of the side of the market. The outdoor patio along the side of the building

was revised to include a swinging gate towards the rear and a sliding gate towards the front for vehicular access. The functional space of the patio was limited by a planting area along the northerly property line; however staff finds that the location of the bicycle rack within the covered patio may still create a noise impact to the neighbor north of the property. Therefore, staff recommends that the applicant limit the paving of the outdoor patio to under the trellis by increasing the planting area, and relocate the bicycle rack to reduce the impact on the adjoining property to the north.

The main entrance to the market faces the street, which is consistent with the existing orientation of the building. An accessible parking space with a five-foot wide loading zone has been included at the front of the property. A walking path has also been indicated on the site plan to provide access from the sidewalk to the front of the building. As a result of providing the required accessible parking space and the walkway, the parking at the front of the property has been reduced by one space.

The building code requires an eight-foot wide loading area. Therefore, staff included a condition that the loading area be widened to meet code. The applicant also included a raised crosswalk at the intersection of Los Altos Avenue and Loucks Avenue, which connects to the sidewalk along the public right-of-way along Los Altos Avenue. Although the proposed raised crosswalk addresses the Commission's direction, the Public Works Department recommends that the crosswalk not be raised since stop signs at the intersections of Los Altos Avenue and Loucks Avenue already help calm traffic.

Staff finds that with the recommended conditions, the proposed changes substantially address the Commission's direction. Therefore, staff recommends approval of the project subject to the listed findings and conditions, including the applicant's proposed operational hours.

Shaun Lacey  
Assistant Planner

Cc: Peter and Stacy Sullivan, Owners  
Steven T. Kikuchi, ASLA

Attachments

- A. Planning Commission memorandum dated September 27, 2007
- B. Planning Commission meeting minutes dated October 4, 2007
- C. Correspondence

**FINDINGS**

07-UP-05—994 Los Altos Avenue

With regard to recommending approval of the use permit, the Planning Commission finds the following in accordance with Section 14.80.060 (A-D) of the Municipal Code:

1. That the proposed location of the conditional use is desirable or essential to the public health, safety, comfort, convenience, prosperity, or welfare;
2. That the proposed location of the conditional use is in accordance with the objectives of the zoning plan as stated in Chapter 14.02 of this title;
3. That the proposed location of the conditional use, under the circumstances of the particular case, will not be detrimental to the health, safety, comfort, convenience, prosperity or welfare of persons residing or working in the vicinity of injurious to property or improvements in the vicinity; and
4. That the proposed conditional use will comply with the regulations prescribed for this district in which the site is located and the general provisions of Chapter 14.02.

## **CONDITIONS**

07-UP-05—994 Los Altos Avenue

### **GENERAL**

1. The applicant shall convert the existing residence to underground utilities within 90 days of the issuance of a building permit for the proposed development.
2. All projects shall comply with the Urban Runoff Pollutions Prevention Program regulations in place at the time of construction. The improvement plans shall include the “Blueprint for a Clean Bay” plan sheet as page 2 in all plan submittals.
3. The operational hours shall be limited to 8:30 am to 5:00 pm on weekdays and 11:00 am to 5:00 pm on weekends.
4. Sign review shall be evaluated at staff level.

### **PRIOR TO ISSUANCE OF BUILDING PERMIT**

5.
  - a. All works within the public right-of-way shall be done in accordance with plans to be approved by the City Engineer.
  - b. The applicant shall submit a cost estimate for review for work in the public right of way and shall submit a 100 percent performance bond (to be held until acceptance of improvements) and a 50 percent labor and material bond (to be held 6 months after acceptance of improvements) in an amount as approved by the City Engineer. A one-year, 10 percent maintenance bond shall be submitted upon acceptance of improvements in the public right of way.
  - c. The applicant shall contact the Los Altos Garbage Company and submit a solid waste disposal plan indicating the type and size of containers proposed and the frequency of pick-up service subject to the approval of the Engineering Department. The applicant shall submit evidence that LAGCo has reviewed and approved the size and location of the proposed new enclosure for recyclables. The enclosure shall be roofed to prevent rainwater from missing with the enclosure’s contents and then draining out and into the sewer system. The enclosure’s pad shall be designed to not drain outward, and the grade surrounding the enclosure designed to not drain into the enclosure.
  - d. The plans shall show one-hour construction for walls within 20 feet parallel to the side property line.
  - e. The plans shall omit paving beyond the structural posts of the trellis and expand the planting area within the outdoor patio, and relocate the bicycle rack to mitigate the noise impact on the adjoining property to the north.
  - f. For the trash enclosure, the plans shall show a drain in the center of the pad which needs to connect to the sanitary sewer and the trash area needs to be enclosed by adding a roof over it.
  - g. The plans shall show a gravity grease interceptor for the proposed facility.
  - h. The applicant shall provide a parking plan to show the on-site and off-site parking and to include a crosswalk on the north leg of Los Altos Avenue at the intersection of Los

Altos Avenue and Loucks Avenue. For the proposed crosswalk the applicant shall construct a new ADA curb cut at the west side of Los Altos, relocate existing STOP and Street Name signs, remove existing yellow centerline and raised pavement markers, remove existing STOP bar, remove existing STOP message and repaint STOP message and paint new white crosswalk.

- i. The plans shall provide an eight-foot wide loading area for the accessible parking space.

### **PRIOR TO OCCUPANCY**

6. The applicant shall remove and replace any broken, cracked, or damaged curb and gutter as directed by the City Engineer.
7. The applicant shall remove and replace the entire width of the alley way as directed by the City Engineer.
8. The applicant shall label all new or existing public and private catch basin inlets which are on or adjacent to the site with the "NO DUMPING – FLOWS TO ADOBE CREEK" logo (Stencils will be provided by the City).
9. The applicant shall install a standard ADA compliant concrete sidewalk in the public right-of-way along the existing curb from property line to property line conforming into the existing concrete sidewalk. The porous paving shall be installed to the back of the new concrete sidewalk.



MEMORANDUM

**DATE:** September 27, 2007  
**TO:** Planning Commission  
**FROM:** Shaun Lacey, Assistant Planner  
**SUBJECT:** 07-UP-05 — 994 LOS ALTOS AVENUE

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**RECOMMENDATION**

Motion to deny use permit application 07-UP-05 subject to the recommended finding.

**PROJECT DESCRIPTION**

The owners of 994 Los Altos Avenue propose to re-establish a nonconforming retail market in a single-family, residential zoning district. The proposal re-establishes the existing market building on the subject property, adds a covered entry, and re-landscapes the front yard. The following table summarizes the project's technical details from the perspective of the market:

**GENERAL PLAN DESIGNATION:** Single Family (3.0-4.0 du/net acre)  
**ZONING:** R1-10 Single-Family  
**PARCEL SIZE:** 6,000 square feet  
**MATERIALS:** Cedar shingle siding, stone veneer, composition shingle roof

|                    | <b>Existing</b>         | <b>Proposed</b>         | <b>Allowed/Required</b> |
|--------------------|-------------------------|-------------------------|-------------------------|
| <b>COVERAGE:</b>   | 1,698 square feet (28%) | 1,758 square feet (29%) | 2,100 square feet (35%) |
| <b>FLOOR AREA:</b> | 1,652 square feet (28%) | N-A                     | 2,100 square feet (35%) |
| <b>SETBACKS:</b>   |                         |                         |                         |
| Front              | 15 feet (to market)     | N-A                     | 25 feet                 |
| Rear               | 75 feet (to market)     | 72 feet (to market)     | 25 feet                 |
| Right side         | 23 feet (to market)     | 17 feet (to market)     | 5 feet                  |
| Left side          | 2 feet (to market)      | N-A                     | 5 feet                  |
| <b>HEIGHT:</b>     | 16 feet                 | 12 feet (covered entry) | 20 feet                 |

***PLANNING COMMISSION AGENDA***

*October 4, 2007*

## **BACKGROUND**

The subject parcel is zoned for single-family residential use (R1-10). The nonconforming retail market on the lot dates back to approximately 1940. In 1974, the City allowed the property to continue its commercial use by granting a use permit with no conditions limiting the use.

The market was in operation until approximately 2001, where it has since remained vacant. The market has a nonconforming front yard setback of 14 feet, 10-inches where 25 feet is required, and a nonconforming left side yard setback of two feet, five-inches where five feet is required. There are four nonconforming parking stalls that service the market; they are technically located partially in the public right-of-way and there is no turnaround for them. The lot also lacks a loading area for deliveries. There is a single-family residence located behind the market that is currently undergoing some routine maintenance under a separate building permit. Two, residential uncovered parking spaces exist on the property along the north property line.

Section 14.66.110 of the Municipal Code allows a nonconforming use that has been discontinued to resume with the granting of a use permit. This use permit requires Planning Commission and City Council review.

## **DISCUSSION**

The project restores the market and relocates its main entrance to the side of the building with a new covered porch. The floor plan is designed to primarily sell products such as candy, ice cream, and drinks. The seating shown on the plan creates an incidental cafe use. The project also proposes to include an outdoor patio on the north side. The applicant proposes operational hours of 8:30 am to 5:00 pm on weekdays and 11:00 am to 5:00 pm on weekends (see attached letter).

A trash enclosure is proposed to the rear of the market. The front yard would be landscaped with porous pavers and an 18-inch tall stone wall, while a taller, four-foot tall wall would enclose the side patio. The four parking stalls in the front of the property are proposed to remain. The project proposes to remove six existing trees on the lot, and replace them with new trees around the market.

Parking is a concern for the property. As proposed, the parking does not satisfy the market or residential parking requirements. By Code, one parking space for every 200 square feet of retail space must be provided on the property, which equates to four spaces. The required parking for the incidental cafe use is four spaces. Since the lot is zoned for residential use, one covered and uncovered parking space is required. Therefore, a total amount of ten spaces would be required for the combined uses, where six spaces exist. Since no on-street parking is allowed in the bike lane, the project focuses the overflowing parking onto Loucks Avenue.

The four maintained parking spaces are nonconforming, in that they overhang the public right-of-way and back out into the intersection of Los Altos Avenue and Loucks Avenue. If the use permit is granted, the Public Works Department will require a sidewalk extension across the front of the

property and a crosswalk on the north leg of Los Altos Avenue at the intersection of Loucks Avenue.

Staff supports the concept of re-establishing the nonconforming retail market use. However, the project is under-parked and proposes to decrease the parking by removing the existing uncovered parking spaces on the right side of the property. The limited parking on Los Altos Avenue may potentially add additional on-street parking along Loucks Avenue. Also, the project maintains a situation where vehicles back out into an intersection, which is not ideal. For these reasons, staff finds that the project does not promote a safe, workable traffic circulation system as stated in Chapter 14.02 of the zoning code. Therefore, staff recommends that the Planning Commission deny the use permit request.

An alternative is to maintain the residential parking in place of the patio area on the right side of the property, allow the use, and maintain all the existing parking in front of the market. If the Planning Commission supports this alternative, staff recommends that the applicant work with the Public Works Department to improve the sidewalk and limit the front yard landscaping to maintain the parking.

Should the Planning Commission support the project, staff suggests the following conditions:

- The operational hours shall be limited to 8:30 am to 5:00 pm on weekdays and 11:00 am to 5:00 pm on weekends;
- The applicant shall provide a parking plan to show residential on-site parking and to include a crosswalk on the north leg of Los Altos Avenue at the intersection of Los Altos Avenue and Loucks Avenue;
- The applicant shall provide a concrete sidewalk in the public right-of-way along the existing curb from the property line to property line conforming into the existing concrete sidewalk. The porous paving shall be installed to the back of the concrete sidewalk; and
- Sign review shall be evaluated at the staff level.

To grant a use permit, the Planning Commission must make the following findings:

1. That the proposed location of the conditional use is desirable or essential to the public health, safety, comfort, convenience, prosperity, or welfare;
2. That the proposed location of the conditional use is in accordance with the objectives of the zoning plan as stated in Chapter 14.02 of this title;
3. That the proposed location of the conditional use, under the circumstances of the particular case, will not be detrimental to the health, safety, comfort, convenience, prosperity or welfare of persons residing or working in the vicinity of injurious to property or improvements in the vicinity; and
4. That the proposed conditional use will comply with the regulations prescribed for this district in which the site is located and the general provisions of Chapter 14.02.

Staff finds that the project does not comply with the regulations prescribed for this district in which the site is located and the general provisions of Chapter 14.02, in that the project does not promote a safe, workable traffic circulation system.

