

**LODI PLANNING COMMISSION
REGULAR COMMISSION MEETING
CARNEGIE FORUM, 305 WEST PINE STREET
WEDNESDAY, JUNE 8, 2011**

1. CALL TO ORDER / ROLL CALL

The Regular Planning Commission meeting of June 8, 2011, was called to order by Chair Hennecke at 7:00 p.m.

Present: Planning Commissioners – Heinitz, Jones, Kirsten, Kiser, Olson and Chair Hennecke

Absent: Planning Commissioners – Cummins

Also Present: Community Development Director Konradt Bartlam, City Attorney Stephen Schwabauer, Associate Planner Immanuel Bereket, and Administrative Secretary Kari Chadwick

2. MINUTES

“January 12, 2011”

MOTION / VOTE:

The Planning Commission, on motion of Commissioner Kiser, Jones second, approved the Minutes of January 12, 2011 as written. (Commissioners Heinitz and Kirsten abstained because they were not in attendance of the subject meeting)

“April 13, 2011”

MOTION / VOTE:

The Planning Commission, on motion of Commissioner Kirsten, Heinitz second, approved the Minutes of April 13, 2011 as written. (Commissioner Kiser abstained because he was not in attendance of the subject meeting)

“May 11, 2011”

MOTION / VOTE:

No Motion made because there was not a quorum of Commissioners in attendance to make the motion. Item continued to the next meeting

3. PUBLIC HEARINGS

- a) Notice thereof having been published according to law, an affidavit of which publication is on file in the Community Development Department, Chair Hennecke called for the public hearing to consider the request for a Use Permit to establish a warehousing and storage use for recycled materials, including California Redemption Value (CRV), cardboard, scrap metal and electronic waste at 1803 South Stockton Street (Applicant: Fawad Ebrahimi, on behalf of Go Green Recycling Center: File Number: 11-U-12)

Associate Planner Bereket gave a brief PowerPoint presentation based on the staff report. Staff recommends approval of the project.

Hearing Opened to the Public

- Fawad Ebrahimi, applicant, came forward to answer questions. Mr. Ebrahimi stated that the business is currently functioning at the site; they are just looking to expand the type of materials they can take in for recycling. He added that cleanliness is one of the main focuses for the area surrounding the business.

- Commissioner Jones asked what step will be taken to assure that the materials being recycled are not stolen. Mr. Ebrahimi stated that there are very strict rules to assure that centers do not accept stolen materials. Managers are trained to look at customer's identification, fingerprinting, and a picture is taken at the time that the materials are submitted as well as a contractor's license if it is a big load.
- Commissioner Kiser asked if the general staff, not just management, will be instructed on how to look for items that could possibly be stolen. Mr. Ebrahimi stated that anything over twenty dollars is considered a big load. He added that pictures, fingerprints and ID's are required for big loads and for suspicious loads headquarters is called to do further verification. Mr. Ebrahimi added that this center will not be taking in cardboard.
- Commissioner Heinritz stated that he heard certain words such as; trucks, big loads, and shipments, and asked if product will be accepted from the individuals that will be on their bikes or have shopping carts. Mr. Ebrahimi stated that everyone is welcome to redeem product so long as they have identification. Loitering is not allowed by any customer.

Public Portion of Hearing Closed

- Commissioner Heinritz stated his concerns and support for this type of project. He would like to see stricter standards placed on recycling centers to avoid the possibility of stolen property being submitted.
- Chair Hennecke asked staff if there is anything that can be done to place stricter standards on this project. Director Bartlam stated that the Commission can, so long as they do not conflict with the State Standards that are already in place.
- Commissioner Kirsten stated his support for this project. He also added that he wished that there wasn't the concern of items being stolen and redeemed at any of the recycling centers, but he feels that Mr. Ebrahimi has answered all of the questions and concerns that he had.

MOTION / VOTE:

The Planning Commission, on motion of Commissioner Kirsten, Jones second, approved the request of the Planning Commission for a Use Permit to establish a warehousing and storage use for recycled materials, including California Redemption Value (CRV), cardboard, scrap metal and electronic waste at 1803 South Stockton Street subject to the conditions in the resolution.

Commissioner Kiser stated that Mr. Ebrahimi stated that his center was not going to be taking in cardboard and asked if the motion needed to reflect that. Commissioner Kirsten stated that he was going to take Mr. Ebrahimi at his word and leave the language in the motion.

The motion carried by the following vote:

Ayes: Commissioners – Heinritz, Jones, Kirsten, Kiser, Olson and Chair Hennecke
Noes: Commissioners – None
Absent: Commissioners – Cummins

- b) Notice thereof having been published according to law, an affidavit of which publication is on file in the Community Development Department, Chair Hennecke called for the public hearing to consider the request for a Use Permit to allow outdoor seating/standing and drinking area at California Street Pub (formerly Barking Dog) in conjunction with their existing Type-48 On-Sale General ABC license at 302 North California Street (Applicant: Christian Cole, on behalf of Thirsty Inc., dba California Street Pub. File Number: 11-U-06)

Associate Planner Bereket gave a brief PowerPoint presentation based on the staff report. Staff recommends denial of the project.

Director Bartlam added that staff and the Planning Commission receive Use Permit applications on a routine basis. Staff is given the opportunity to evaluate the request and determine the impact to the surrounding area. This is a good example of why we have the Use Permit process.

Chair Hennecke asked staff if there are any steps being taken to address the current license. Director Bartlam stated because the current ABC license is grandfathered-in and never went through the Use Permit process; it is up to ABC to enforce any issues with the current license.

Commissioner Kirsten asked for the aerial photo to be placed on the screen. He then asked for staff to point out the area in question. Director Bartlam pointed to the location.

Vice Chair Olson asked who is making the various calls for Police assistance. Director Bartlam stated that the calls are coming from various sources, most of whom are probably here tonight. Olson asked if most of the calls are for the noise issues. Bartlam stated that based on the discussion that he has had with the neighbors to the south noise is the main issue. Olson asked if most of the issues are coming in from twelve to two in the morning. Bartlam stated that from his discussions with the neighbors, the noise comes from patrons entering and exiting the premises.

Commissioner Kiser asked if the applicant is in violation of their license if they are serving food. Director Bartlam stated no.

Chair Hennecke stated that procedure for comments from the public

Commissioner Kiser asked if the Commission had any authority to revoke the current ABC license. Director Bartlam stated no.

Vice Chair Olson stated that the Barking Dog has been operated from this location for a long time. She then asked if the issues are related to a management problem. Director Bartlam stated that it is staff's opinion that it is related to a management problem. Olson asked if this was managed better would the neighbors not have as many issues. She would like to get a better feel for if this is a mismanaged establishment or if it is just cranky neighbors. Bartlam stated that if you compare the calls for the establishment for the previous management versus the management of today it is a night and day difference.

Hearing Opened to the Public

- Christian Cole, applicant, came forward to answer questions.
- Jeffrey Fitzer, applicant's attorney, also came forward to answer questions. Mr. Fitzer stated that the applicant would like to open up the patio area for patrons. It is not the intention of the applicant to increase the occupant load with this additional area. There are block walls to the east and west of the patio area which will help cut down on the noise. The patio area has been used for many years. When Mr. Cole took over he put down some concrete and built a fence. Apparently, the fence was built too high and that has been fixed. There are thirty parking spaces in the parking lot and with the current zoning requirements, one space for every four chairs, this accommodates the occupancy. Mr. Fitzer handed out a version of the zoning map that is found in the packet with the residential areas shaded. He stated that he and Mr. Cole walked the neighborhood and talked with the residences and found that not all of the residences share the few complaints that can be found in the packet.
- Chair Hennecke stated that the Use Permit is the only item that is before the Commission tonight, but there is an obviously lack of cooperation from the current owners to address the issues that have been presented. Mr. Hennecke stated that he can not support the project as it has been presented. Mr. Fitzer stated that early on there were some issues that the neighbors have not gotten over, but it has gotten

better in the recent past. He added that some of the information stated in the report is just not true.

- Commissioner Kirsten stated that it is a difficult business climate and owners are going to do anything to keep their business going. He added that he feels that the timing of this application is coming at a bad time with a full force of negative information backing it. He recommended that the applicant try to make amends with the neighbors and demonstrate the sincerity of his intent. Mr. Cole stated that he has tried to make it work, but what is presented isn't what is really happening. Most of the problems are not even coming from the bar, but happen to fall in front of the bar area. Mr. Cole gave other examples of false or inaccurate calls that have been blamed on the bar. He has taken noise meter readings from every corner during various times of the day and yes when the front door opens the noise level skyrockets. Using the patio entrance will cut down on this issue because the front door will be used as an emergency exit.
- Vice Chair Olson stated that she appreciates hearing Mr. Cole's side of this issue, but ultimately there is a problem and it doesn't instill much confidence. What is the goal for security? Mr. Cole stated that there will be security personnel posted at the back gate, one at the back door, and two inside the bar to eliminate under aged patrons. Olson stated that under age patrons are not your problem. Cole expressed his frustration that he doesn't understand how residences that are thirty feet apart can be having completely different experiences. He feels that these issues all stem back to when he bought the bar and some issues happened that he did not handle well, but he has tried to make amends. He then added that the purpose of the back area is to have the noise level moved to the back so that the front door will not have to be used. The security will be stationed: one at the gate to check ID's, two on the patio, one at the back door leading into the bar from the patio, two inside the bar, that will put four outside patrolling with two inside at closing.
- Commissioner Heinritz stated his issues with the way the problem has been handled from the very beginning. Mr. Cole stated that he was not the managing partner when the bar was opened with new management. Heinritz stated that he can not support this project tonight.
- Commissioner Kiser asked where the noise is going to go when the back patio is in use. He also recommended that he install a vestibule at the front door. Mr. Cole stated that the noise will have a buffer with the commercial property and the railroad tracks. Kiser stated that he will have to do what is best for the community.
- Chair Hennecke stated his objections over the fact that Mr. Cole is falling back on the grandfathered-in status and the only why he can support this is if the current license can be conditioned to current standards.
- Vice Chair Olson stated that she would like to see staff be the bridge to help make this a more positive business.
- Commissioner Heinritz stated that in the past when someone comes before the Commission with a plan from the very beginning it gives the neighbors a chance to weigh in on how they would like to see this business conducted, now it is too late.
- Mr. Cole stated that City Staff supported this project up until last month when there was an incident in the parking lot and he doesn't understand why on incident warrants the loss of support.
- Jeffrey Fitzer stated that based on the feed back from the Commission the California Street Pub would like to withdraw their application for the expansion of their existing ABC license.

Public Portion of Hearing Closed

Continued

4. PLANNING MATTERS/FOLLOW-UP ITEMS

None

5. ANNOUNCEMENTS AND CORRESPONDENCE

None

6. ACTIONS OF THE CITY COUNCIL

Director Bartlam stated that there is a memo in the packet and staff is available to answer any questions.

7. GENERAL PLAN UPDATE/DEVELOPMENT CODE UPDATE

Director Bartlam stated that Staff had a conference call with Housing and Community Development (HCD) regarding the Housing Element and he remains pessimistic.

8. ACTIONS OF THE SITE PLAN AND ARCHITECTURAL REVIEW COMMITTEE

Commissioner Kiser gave a brief report regarding the item that was brought before the Committee earlier this evening.

9. ART IN PUBLIC PLACES

Commissioner Kirsten gave a brief report regarding the last meeting. The Taco Truck Cook-Off has been moved to June 18th at noon in the Smart & Final parking lot. The Mud Mill will be donating the trophies.

10. COMMENTS BY THE PUBLIC

None

11. COMMENTS BY STAFF AND COMMISSIONERS

Vice Chair Olson stated that she has enjoyed seeing people take pictures with the statues that have been placed downtown.

12. ADJOURNMENT

There being no further business to come before the Planning Commission, the meeting was adjourned at 8:22 p.m.

ATTEST:

Konradt Bartlam
Planning Commission Secretary