

<p>CARNEGIE FORUM 305 WEST PINE STREET LODI, CALIFORNIA</p>	<p>AGENDA LODI PLANNING COMMISSION</p>	<p>REGULAR SESSION WEDNESDAY, FEBRUARY 8, 2012 @ 7:00 PM</p>
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For information regarding this agenda please contact:

Kari Chadwick @ (209) 333-6711
Community Development Secretary

NOTE: All staff reports or other written documentation relating to each item of business referred to on the agenda are on file in the Office of the Community Development Department, located at 221 W. Pine Street, Lodi, and are available for public inspection. If requested, the agenda shall be made available in appropriate alternative formats to persons with a disability, as required by Section 202 of the Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12132), and the federal rules and regulations adopted in implementation thereof. To make a request for disability-related modification or accommodation contact the Community Development Department as soon as possible and at least 24 hours prior to the meeting date.

1. ROLL CALL
2. MINUTES – “May 11, 2011” & “September 14, 2011” & “December 14, 2011”
3. PUBLIC HEARINGS
 - a. Request for Planning Commission approval of a Use Permit to establish a wood processing, composting and recycling facility at 1045 East Lockeford Street. (Applicant: Eric Horton, on behalf of Green Man Materials: File Number: 11-U-20) – **Item 3a has been postponed to a future meeting at the applicants request.**
 - b. Request for Planning Commission approval of a Use Permit to allow a Type-48 On-Sale General ABC license at 117 North Sacramento Street. (Applicants: Rodney Paiste and John Russell. File Number: 11-U-21)
 - c. Request for Planning Commission approval of a Use Permit to allow a Type 42 On-Sale Beer and Wine Alcoholic Beverage Control license at 100 North Cherokee Lane, Suite 5. (Applicant: Antonia Marquez de Perez. File Number: 12-U-01)

NOTE: The above item is a quasi-judicial hearing and requires disclosure of ex parte communications as set forth in Resolution No. 2006-31

4. PLANNING MATTERS/FOLLOW-UP ITEMS
5. ANNOUNCEMENTS AND CORRESPONDENCE
6. ACTIONS OF THE CITY COUNCIL
7. GENERAL PLAN UPDATE/DEVELOPMENT CODE UPDATE
8. ACTIONS OF THE SITE PLAN AND ARCHITECTURAL REVIEW COMMITTEE
9. ART IN PUBLIC PLACES
10. COMMENTS BY THE PUBLIC (NON-AGENDA ITEMS)
11. COMMENTS BY THE PLANNING COMMISSIONERS & STAFF (NON-AGENDA ITEMS)
12. ADJOURNMENT

Pursuant to Section 54954.2(a) of the Government Code of the State of California, this agenda was posted at least 72 hours in advance of the scheduled meeting at a public place freely accessible to the public 24 hours a day.

****NOTICE:** Pursuant to Government Code §54954.3(a), public comments may be directed to the legislative body concerning any item contained on the agenda for this meeting before (in the case of a Closed Session item) or during consideration of the item.

Right of Appeal:

If you disagree with the decision of the commission, you have a right of appeal. Only persons who participated in the review process by submitting written or oral testimony, or by attending the public hearing, may appeal.

Pursuant to Lodi Municipal Code Section 17.72.110, actions of the Planning Commission may be appealed to the City Council by filing, within ten (10) business days, a written appeal with the City Clerk and payment of \$300.00 appeal fee. The appeal shall be processed in accordance with Chapter 17.88, Appeals, of the Lodi Municipal Code. Contact: City Clerk, City Hall 2nd Floor, 221 West Pine Street, Lodi, California 95240 – Phone: (209) 333-6702.

**LODI PLANNING COMMISSION
REGULAR COMMISSION MEETING
CARNEGIE FORUM, 305 WEST PINE STREET
WEDNESDAY, MAY 11, 2011**

1. CALL TO ORDER / ROLL CALL

The Regular Planning Commission meeting of May 11, 2011, was called to order by chair Hennecke at 7:00 p.m.

Present: Planning Commissioners – Cummins, Kirsten, Kiser and Chair Hennecke

Absent: Planning Commissioners – Jones, Heinitz, and Olson

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:

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

“April 13, 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 allow Type 21 off-Sale Alcoholic Beverage Control license at 2350 West Kettleman Lane. (Applicant: Miriam Montesinos, on behalf of Wal-Mart Stores, Inc. File Number: 11-U-09)

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

Hearing Opened to the Public

- Miriam Montesinos, applicant on behalf of Wal Mart, came forward to answer questions. Ms Montesinos stated that there have not been any protests filed with ABC to date.
- Chair Hennecke asked if this type of application was typical of other Wal Mart Stores. Ms. Montesinos stated that it is typical of other Wal Mart Stores.
- Troy Johnson, Store Manager in Lodi, came forward to answer questions. Mr. Johnson gave a brief statement regarding the ways that the Lodi Wal Mart Store has been a good neighbor to the City through various donations to local charity groups and fundraisers.

- Commissioner Kiser asked if local wines will be stocked. Mr. Johnson stated that they have already contacted Gallo and are also going to try to get more of the local area wines on the shelf.
- Pat Patrick, President of Lodi Chamber of Commerce, came forward to support this project.

Public Portion of Hearing Closed

MOTION / VOTE:

The Planning Commission, on motion of Commissioner Cummins, Kiser second, approved the request of the Planning Commission for a Use Permit to allow Type 21 off-Sale Alcoholic Beverage Control license at 2350 West Kettleman Lane subject to the conditions in the resolution. The motion carried by the following vote:

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

- 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 bar) in conjunction with their existing Type-48 On-Sale General ABC license at 302 North California Street (Applicant: Christian Cole, ob behalf of Thirsty Inc., dba California Street Pub. File Number: 11-U-06.) – **Postponed to a future meeting.**
- c) 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 an amendment to an existing Use Permit to allow expansion of an existing restaurant that serves beer, wine and distilled spirits at 400 East Kettleman Lane, Suites 5-8. (Applicant: Petra Flores Pena. File Number: 10-U-14)

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

Hearing Opened to the Public

- Octavio Cruses, representative of the applicant, came forward to answer questions.
- Commissioner Kiser asked if the small bar that is already there is the bar that is proposed to stay. Mr. Cruses stated that is accurate.
- Barbara Flockhart, Elgin Avenue property owner, came forward to state that loud music has been a problem in the past from the stereo store that used to occupy a space in the building and would like to know if live music or any other type of noise producing issues will be occurring. Chair Hennecke stated that if the applicant wished to do live music they would be required to submit a separate application with the Planning Division, and deferred to Director Bartlam for further explanation. Director Bartlam stated that at this time there isn't an application in the process for live music, but there is the ability for the applicant to come back and apply for one. He added that if at any time there are any noise issues a complaint can be filed with both the Police Department and directly with the Planning Division, so that staff can follow-up on the complaint.

Public Portion of Hearing Closed

MOTION / VOTE:

The Planning Commission, on motion of Commissioner Kirsten, Kiser second, approved the request of the Planning Commission for an amendment to an existing Use Permit to allow expansion of an existing restaurant that serves beer, wine and distilled spirits at 400 East Kettleman Lane, Suites 5-8 subject to the conditions in the resolution. The motion carried by the following vote:

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

- d) 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 Type 42 Alcoholic Beverage Control license (on-sale beer and wine – public premises) at 1110 West Kettleman Lane, Suites 9-10. (Applicant: Sean Bocardo and Nichole Pendley. File Number: 11-U-10)

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

Commissioner Kiser asked if this project is within three-hundred feet of the residences behind this building. Mr. Bereket stated that it is within three-hundred feet of the residences, but the item being heard tonight is for the Use Permit for the ABC License and the Live Entertainment will come back at a later date. The residences will be notified as part of the procedure for that application.

Hearing Opened to the Public

- Nichole Pendley, co-applicant, came forward to answer questions. Ms. Pendley stated that they would like to be able to open up at 11:00 am or noon instead of 4:00 pm.
- Sean Bocardo, co-applicant, came forward to answer questions and stated that this will give local wineries that do not already have tasting rooms a place to highlight their wines.

Public Portion of Hearing Closed

MOTION / VOTE:

The Planning Commission, on motion of Commissioner Kiser, Cummins second, approved the request of the Planning Commission for a Use Permit to allow Type 42 Alcoholic Beverage Control license (on-sale beer and wine – public premises) at 1110 West Kettleman Lane, Suites 9-10 subject to the conditions in the resolution. The motion carried by the following vote:

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

- e) 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 the establishment of a religious facility within an existing commercial building located at 651 North Cherokee Lane, Suite C. (Applicant: Pastor Willie McGill Sr., on behalf of Miracle Temple Church. File Number: 11-U-11)

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

Commissioner Kirsten asked if there are currently two other churches in that development. The property owner started to answer from the audience, but was asked to wait until the public hearing was opened up to the public.

Hearing Opened to the Public

- Christine Santana, representative for the applicant and owner of the property, came forward to answer questions. Ms. Santana stated that there is currently one church operating on the property. Commissioner Kirsten stated that that answered his question.

Public Portion of Hearing Closed

MOTION / VOTE:

The Planning Commission, on motion of Commissioner Cummins, Kiser second, approved the request of the Planning Commission for a Use Permit to allow the establishment of a religious facility within an existing commercial building located at 651 North Cherokee Lane, Suite C subject to the conditions in the resolution. The motion carried by the following vote:

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

- f) 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 storage and wholesale distribution of wine at 927 Industrial Way. (Applicant: Donald Parker; File Number: 11-U-13)

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

Hearing Opened to the Public

- Don Parker, applicant, came forward to answer questions.
- Chair Hennecke asked if a distribution company of this type is competitive, because the Commission has seen a few of these types of applications. Mr. Parker stated that it can be competitive, but not all of the distribution companies ship the same volumes or products.

Public Portion of Hearing Closed

MOTION / VOTE:

The Planning Commission, on motion of Commissioner Kiser, Cummins second, approved the request of the Planning Commission for a Use Permit to allow storage and wholesale distribution of wine at 927 Industrial Way subject to the conditions in the resolution. The motion carried by the following vote:

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

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

None

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

None

10. COMMENTS BY THE PUBLIC

None

11. COMMENTS BY STAFF AND COMMISSIONERS

Commissioner Kiser asked about the email that went out regarding the use of electronic devices. City Attorney Schwabauer stated that during a quasi hearing the applicant has due process rights to have the full attention of the board that is hearing the item. If an email, text, or phone call is received during a hearing the applicant could assume that it might be about their item and therefore are not getting their due process.

12. ADJOURNMENT

There being no further business to come before the Planning Commission, the meeting was adjourned at 7:45 p.m.

ATTEST:

Konrad Bartlam
Planning Commission Secretary

**LODI PLANNING COMMISSION
REGULAR COMMISSION MEETING
CARNEGIE FORUM, 305 WEST PINE STREET
WEDNESDAY, SEPTEMBER 14, 2011**

1. CALL TO ORDER / ROLL CALL

The Regular Planning Commission meeting of September 14, 2011, was called to order by Vice Chair Kirsten at 7:00 p.m.

Present: Planning Commissioners – Cummins, Heinitz, Hennecke and Vice Chair Kirsten

Absent: Planning Commissioners – Jones, Kiser and Chair Olson

Also Present: Community Development Director Konradt Bartlam, Deputy City Attorney Janice Magdich, Associate Planner Immanuel Bereket, Neighborhood Services Manager Joseph Wood, and Administrative Secretary Kari Chadwick

2. MINUTES

“May 11, 2011”

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

“July 13, 2011”

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, Vice Chair Kirsten called for the public hearing to consider the request for a Use Permit to allow Type 2, 14, and 19 and Alcoholic Beverage Control licenses at 27 East Locust Street. (Applicant: Olde Ice House Cellars LLC; File Number: 11-U-17)

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

Commissioner Heinitz stated that the item looks to parallel the existing wineries that have been approved for the downtown, is that correct? Mr. Bereket stated that it has the same aspects as previous applications and approvals.

Hearing Opened to the Public

- Dean Shibler, applicant, came forward to answer questions.
- Commissioner Heinitz asked if Mr. Shibler owned the property. Mr. Shibler stated that he, his wife, and Mr. and Mrs. Greg Lewis from the Dancing Fox are the owners of the property.
- Darrell Drummond, 114 S. Sacramento Street, came forward to support the project.

Public Portion of Hearing Closed

MOTION / VOTE:

The Planning Commission, on motion of Commissioner Hennecke, Heinitz second, approved the request of the Planning Commission for a Use Permit to allow Type 2, 14, and 19 and Alcoholic Beverage Control licenses at 27 East Locust Street subject to the conditions in the resolution. The motion carried by the following vote:

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

- b) Notice thereof having been published according to law, an affidavit of which publication is on file in the Community Development Department, Vice Chair Kirsten called for the public hearing to consider the request of the Planning Commission for a Recommendation to the City Council to Approve the 2010-2016 Housing Element and Adopt an Interim Ordinance

Director Bartlam gave a PowerPoint presentation based on the information presented in the staff report. Mr. Bartlam went through the background process that has brought the Housing Element before the Commission. The approval process with the State Housing and Community Development Department was very lengthy. The document is broken up into sections; 1 – Introduction, 2 – Housing Needs Assessment, 3 – Resource and Constraints, 4 – Housing Strategy, and A – Accomplishments. The housing needs are further broken into four income categories; Above Moderate, Moderate, Low, and Extremely Low. The Extremely Low category is the toughest need to meet without government subsidies. If the State requirements are not met they can withhold funds to help subsidize the possible project such as the Eden Housing Senior Housing Project which has already been approved by the City.

Commissioner Cummins asked how far away the Eden project is from starting. Director Bartlam stated that the project is a grant away.

Hearing Opened to the Public

- Anne Cerney, 900 West Vine Street, came forward to support the approval of the document. Ms. Cerney would like to know if there are any home buyers that are being funded through the FTHB Program. Mr. Bartlam stated that there is one family that has gone through the program and purchased a home with the funds. There are several applications sitting in the approval process. One of the problems that the applicants are running into is finding homes that meet the requirements of the program within the price range allowed. The City Council has recently adjusted the requirements of the program to allow the funds to be used for rehab purposes before the applicant moves into the home. Ms. Cerney asked if that was the reason for the goal for 2024 being 23 more. Mr. Bartlam stated that the goal is based on the funding that we have received. That is a goal that can be achieved if we can find the number of families that can qualify.
- Commissioner Hennecke added that there are so many hoops to jump through for the buyers that a lot of time these types of buyers lose the home to a buyer that does not have to jump through the same hoops. Mr. Bartlam added that staff noticed this as a problem and why the Council has chosen to loosen the requirements for the applicants opening up more options for them to choose from.
- Commission Heinitz added that the lenders are also putting ridiculous requirements on the applicants.

Public Portion of Hearing Closed

MOTION / VOTE:

The Planning Commission, on motion of Commissioner Cummins, Heinritz second, approved the request of the Planning Commission for a Recommendation to the City Council to Approve the 2010-2016 Housing Element and Adopt an Interim Ordinance subject to the conditions in the resolution. The motion carried by the following vote:

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

4. PLANNING MATTERS/FOLLOW-UP ITEMS

None

5. ANNOUNCEMENTS AND CORRESPONDENCE

Director Bartlam pointed out the letter from the Union Pacific Railroad regarding item 3a and commented on the ridiculousness for the letter and added that he has never seen the Railroad comment on any project.

6. ACTIONS OF THE CITY COUNCIL

Director Bartlam stated that a memo will be provided in the next packet, but if there are any questions regarding any Council items staff would be happy to answer them.

7. GENERAL PLAN UPDATE/DEVELOPMENT CODE UPDATE

Director Bartlam stated that the Housing Element is the last part of the General Plan update. The City Council at the last meeting approved a Request for Proposals to bring on a contract planner on an hourly basis for the specific purpose of updating the Development Code.

8. ACTIONS OF THE SITE PLAN AND ARCHITECTURAL REVIEW COMMITTEE

None

9. ART IN PUBLIC PLACES

Vice Chair Kirsten gave a brief report regarding the last meeting.

10. COMMENTS BY THE PUBLIC

None

11. COMMENTS BY STAFF AND COMMISSIONERS

None

12. ADJOURNMENT

There being no further business to come before the Planning Commission, the meeting was adjourned at 7:39 p.m.

ATTEST:

Konradt Bartlam
Planning Commission Secretary

**LODI PLANNING COMMISSION
REGULAR COMMISSION MEETING
CARNEGIE FORUM, 305 WEST PINE STREET
WEDNESDAY, DECEMBER 14, 2011**

1. CALL TO ORDER / ROLL CALL

The Regular Planning Commission meeting of December 14, 2011, was called to order by Chair Olson at 7:00 p.m.

Present: Planning Commissioners – Cummins, Hennecke, Kiser and Chair Olson

Absent: Planning Commissioners – Heinitz, Jones, and Kirsten

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

2. MINUTES

“May 11, 2011”

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

“September 14, 2011”

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

“October 12, 2011”

MOTION / VOTE:

The Planning Commission, on motion of Commissioner Kiser, Cummins second, approved the Minutes of October 12, 2011 as written.

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 Olson called for the public hearing to consider the request for a Use Permit to allow a Type-41 On-Sale Beer and Wine Alcoholic Beverage Control License at 601 West Lockeford Street. (Applicant: Jose J. Vazquez. File Number: 11-U-19)

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

Hearing Opened to the Public

- Jose Vazquez, applicant, came forward to introduce himself and answer any questions.

Public Portion of Hearing Closed

MOTION / VOTE:

The Planning Commission, on motion of Commissioner Cummins, Kiser second, approved the request of the Planning Commission for a Use Permit to allow a Type-41 On-Sale Beer and Wine Alcoholic Beverage Control License at 601 West Lockeford Street subject to the conditions in the resolution. The motion carried by the following vote:

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

Chair Olson stated that item 3b at the request of the applicant will be postponed to a future meeting.

- b) Notice thereof having been published according to law, an affidavit of which publication is on file in the Community Development Department, Chair Olson called for the public hearing to consider making a Recommendation to the City Council to approve rezoning of properties located at 515 and 617 South Lower Sacramento Road from R-1, C-S and R-C-P to Planned Development (PD)-35. (Applicant, Kristmont West Shopping; File # 11-Z-01)

4. PLANNING MATTERS/FOLLOW-UP ITEMS

None

5. ANNOUNCEMENTS AND CORRESPONDENCE

Director Bartlam wished the Commission Happy Holidays on behalf of city staff.

6. ACTIONS OF THE CITY COUNCIL

None

7. GENERAL PLAN UPDATE/DEVELOPMENT CODE UPDATE

Director Bartlam stated that the development code contract will be taken to the City Council for recommendation next week.

8. ACTIONS OF THE SITE PLAN AND ARCHITECTURAL REVIEW COMMITTEE

None

9. ART IN PUBLIC PLACES

None

10. COMMENTS BY THE PUBLIC

None

11. COMMENTS BY STAFF AND COMMISSIONERS

Chair Olson thanked the Commissioners for their faith in her as the chair person.

12. ADJOURNMENT

There being no further business to come before the Planning Commission, the meeting was adjourned at 7:08 p.m.

ATTEST:

Konradt Bartlam
Planning Commission Secretary

Use Permit for a Wood Processing, Composting & Recycling Facility

**Item 3a Has Been Postponed to A Future Meeting
at The Applicants Request**

Item 3a

Use Permit to Allow a Type 48 ABC License @ 117 N. Sacramento St.
Applicants: Rodney Paiste & John Russell

Item 3b.

**CITY OF LODI
PLANNING COMMISSION
Staff Report**

MEETING DATE: February 8, 2012

APPLICATION NO: Use Permit: 11-U-21

REQUEST: Request for Planning Commission approval of a Use Permit to allow a Type-48 On-Sale General ABC license at 117 North Sacramento Street. (Applicants: Rodney Paiste and John Russell. File Number: 11-U-21).

LOCATION: 117 North Sacramento Street
(APN: 043-026-07)
Lodi, CA 95240

APPLICANT: Rodney Paiste and John Russell
125 Ridge Drive
Lodi, CA 95240

PROPERTY OWNER: Miguel Guerrero
1331 South Wilson Way
Stockton, CA 95205

RECOMMENDATION

Staff recommends that the Planning Commission approve the requested Use Permit to allow a Type-48 ABC license in conjunction with the operation of a proposed sports bar known as Vintage Sports Grill in an existing tenant space located at 117 North Sacramento Street, subject to the conditions outlined in the draft resolution.

PROJECT/AREA DESCRIPTION

General Plan Designation: DMU, Downtown Mixed Use

Zoning Designation: C-M, Commercial Light-Industrial

Property Size: 2,103 sq. ft.

The adjacent zoning and land use are as follows:

	General Plan	Zone	Land Use
North	Downtown Mixed use	C-M, , Commercial-Light Industrial	Vacant lot with miscellaneous improvements
South	Downtown Mixed use	C-M, , Commercial-Light Industrial	A restaurant
East	Downtown Mixed use	C-M, , Commercial-Light Industrial	Mixture of retail/commercial
West	Downtown Mixed use	C-M, , Commercial-Light Industrial	Vacant lot/private parking lot

SUMMARY

The applicants have requested approval of a Use Permit to occupy a vacant suite totaling 2,103-square-foot for a sports bar known as Vintage Sports Grill at 117 North Sacramento Street, near the corner of Elm Street and Sacramento Street. In addition, the applicant would like to create an enclosed outdoor patio along Sacramento Street frontage to serve alcohol. The project site is within the Downtown Business District, which conditionally permits alcohol sales as well as food service. If approved, the applicant would have to obtain a Type 48 On-Sale General (beer, wine, distilled spirits) Alcoholic Beverage Control (ABC) License. The Downtown Business District has an over-concentration of ABC

licenses. In order to approve an additional license, the Planning Commission must make a find of public need and necessity. Staff recommends the Commission approve the requested Use Permit application.

BACKGROUND

Available City records indicate the vacant tenant space has been used by adjacent restaurant called Taqueria El Grullense. Taqueria El Grullense, who owns the subject property, has used this space as an additional dining area as needed. The existing Taqueria El Grullense, which has its own dining area, is connected to the project site via a food pass-through window to serve food. Aside from the existing pass-through windows, there is no other opening that directly connects the proposed bar with the existing restaurant. Taqueria El Grullense has an active Type 41 On-Sale (eating place) beer and wine license. The restaurant has not been a source of police enforcement matters. There are no outstanding code violations.

ANALYSIS

The applicants request approval of a Use Permit to occupy a suite totaling 2,103-square-feet for a sports bar known as the Vintage Sports Grill, within the Downtown Business District. The project site is zoned Commercial- Light Industrial (C-M). Under the C-M zoning district, the applicants may sell alcohol for on consumption with the granting of a Use Permit by the Planning Commission. If approved, the applicant would be required to obtain a Type 48 On-Sale General (Bars, Taverns, nightclubs) ABC license, which authorizes the sale of beer, wine and distilled spirits for onsite consumption.

The proposed sports bar would function daily from 4:00 p.m. to 1:30 a.m. The primary function of the proposed use would be the showing of sporting events on the 8 televisions placed within the seating area. In addition, an outdoor seating area is proposed along the eastern frontage. A video and disc jockey booth would be installed inside to provide music for dancing and karaoke in the evenings. The proposed business would provide employment for approximately 7-10 people during operating hours, depending on the day of the week, with a larger number of employees on the weekends. The proposed bar would not prepare food on the premises. However, the adjacent restaurant, which is connected via a pass-through window, would provide full menu food service for the bar patrons. However, sale of alcohol under the bar's license could only occur within the bar's footprints and, if approved, along the approved outdoor seating area.

Site Layout: The site contains a single structure with two tenant spaces. An existing restaurant occupies one of the tenant spaces and the proposed bar would occupy the northerly tenant space. A food pass-through window connects the suites. An outdoor seating area, in conjunction with the bar, is proposed (see attachment E). There is a private parking lot behind the tenant spaces. However, the project site is within the Downtown Business District as well as Parking District. Businesses within the Downtown Business District do not have to provide onsite parking.

Floor Plan: The existing floor plan consists of bathrooms, stage area, an accessory room and open space (see Attachment D). The proposed use requires a tenant improvement permit the Building Division and Operational Permit from the Fire Department. It's maximum occupancy will need to be calculated during the permitting process.

Commercial Entertainment: The applicants have requested a Live Entertainment permit. The Live Entertainment permit will be reviewed by the Police Department and the Community Development Director per §17.53 of the Lodi Municipal Code. Live Entertainment hours would occur from 9:00 p.m. to 1:30 a.m. daily. Live Entertainment would consist of a disc jockey, bands, single musicians and singers, juke box, amplified music, karaoke, open microphone night, dancing and comedy acts.

Security: The applicant has spoken with staff on several occasions and recently met with both staff and Lt. Fernando Martinez of the Police Department to discuss a security plan for the proposed sports bar. Through these meetings, the applicant, staff and the Police have agreed on measures to help insure the safety of employees, patrons and other businesses within the center in the form of an enhanced security staff presence, installation of security cameras placed at prime locations, and a silent alarm to alert police of any problems. These conditions are outlined in the attached draft resolution.

Noise: The building in which the proposed sports bar would be located is surrounded by commercial and retail establishments. The closest residence is located approximately 450 feet away, at the corner of Locust and School Streets. The majority of activities are proposed to take place within the building. The outdoor seating area could, however, pose potential issues with respect to the proposed television use. As a result, staff has included a condition of approval prohibiting the use of televisions and any type of amplified device outside of the building envelop. Based on the proposed operation and conditions of approval, staff does not anticipate any adverse noise impacts upon the surrounding area. If there becomes a concern regarding noise, a condition has been added to allow for review of the permit by the Community Development Department or, if needed, return to the Planning Commission for additional conditions or even revocation of the permit.

Parking: The project site provides 5 private stalls behind the building. These stalls are shared between the existing restaurant and the proposed use. However, the business is located within the Downtown Parking District. Parking is provided on adjacent streets and public parking lots. Staff does not anticipate parking issues to arise due to the fact the proposed business would generate parking demands later in the evening, after the majority of other businesses in the vicinity have closed. Staff believes that there will be sufficient parking for the proposed use with no impacts upon the parking availability for other tenants. If parking becomes a concern in the future, a condition has been added to allow for review of the permit by the Community Development Department or, if needed, return to the Planning Commission for additional conditions or even revocation of the permit

Signage: None is proposed as part of this application; however, signage would need to be consistent with the Downtown Design Guideline, and would be submitted to the Community Development Department for review and permitting prior to installation.

Comments and Concerns:

Conditionally permitted uses are those uses which, by their nature, require special consideration so that they may be located properly with respect to the objectives of the Municipal Code and with respect to their effects on surrounding uses and properties. One of the primary concerns in reviewing a conditional use permit application is the effect of the proposed use on surrounding properties. As mentioned above, the site is located within a C-2 (General Commercial) zoning district and is also within the Downtown Business District. The Business District is designated for a variety of general commercial uses, including retail, food and drinking services, etc. The proposed expansion of the bar is consistent with the types of uses one would expect to find in a General Commercial zoning district. The proposal is consistent with the General Plan in that eating and drinking establishments and private party/banquet facilities which provide opportunities for cultural and private celebrations such as wedding receptions, wakes, and corporate parties are permitted on land designated Downtown Mixed Use in the Land Use Element of the General Plan.

Although staff is supportive of the project, staff recommends operational conditions to eliminate or mitigate adverse impacts the use may have on adjacent properties. Staff proposes that the use of the patio area for sale and consumption of alcohol should be limited from 4:00 p.m. to midnight daily, except on recognized holidays and special functions, such as Street Faire, Farmer's Market, etc, exempted from this restriction. Staff also has placed a condition requiring the applicants to submit a program or plan for controlling litter, spills, and stains resulting from the use on the site. The program must include and specify a detailed time frame for the policing and cleanup of the public sidewalk and right-of-way in front of the subject property as well as the adjacent public right-of-way (25 feet north and south of the subject property, and west down the alley) not just in front of the subject tenant space. Other conditions include installation of security cameras, presence of an employee in the patio at all times that alcoholic beverages are being served or consumed, and noise and live entertainment related restrictions.

Staff recognizes the project has real potential to change ambient noise levels above the City's noise threshold. Staff recommends the applicant should undertake building modifications to ensure nearby properties and businesses are not unduly affected by noise emanating from the club. To minimize overall sound levels and to meet conformance with the Noise Ordinance, conditions of approval mandate the applicant to install noise mitigation measures where the ambient dBA levels do not exceed the allowable 5 dBA ambient levels. As an added measure to ensure that noise levels generated from the

establishment comply with the Noise Ordinance, final sound measurements must be taken and submitted to Community Development Department prior to issuance of certificate of occupancy for review and approval. If the final measurements indicate that additional noise attenuation is needed, and if final sound measurements do not conform to the Noise Ordinance, the applicant/operator shall provide added measures to comply with the Noise Ordinance.

Staff also proposes operational conditions to limits days and hours live entertainment may occur. Staff proposes that entertainment days and hours should be limited to Thursday-Saturday from 7:00 p.m. to 1:30 a.m. and no live entertainment/DJ, involving dancing, should occur from Sunday-Wednesday, except on recognized holidays and private functions where noise levels fully comply with the Noise Ordinance. Karaoke/Juke boxes may be used at all time. This restriction should be in place for a period of one year at which time they may bring back a written statement for review by the Community Development Director and the Police Department to request extended live entertainment days and hours. In addition, staff has placed a condition requiring the applicants to implement "last call" for alcoholic beverages at 1:30 a.m. for a period of one year at which time they may bring back a written statement for review by the Community Development Department and Police Department to request alcohol sales be extended to a later time as permitted by State laws.

Section 17.72.040 of the Lodi Municipal Code requires a Use Permit for new Off-Sale and On-Sale alcohol licenses as well as changes in license type. The City established the Use Permit requirement to gain local control over whether or not a license is appropriate for a particular location. The State Department of Alcoholic Beverage Control primarily controls issuance based on concentration of licenses within a particular Census Tract. The project area is located on Census Tract 42.04, which covers the area south of Lockeford Street, north of Lodi Avenue, east of Ham Lane and west of Union Pacific Rail Road Company (UPRR) rail-line. This census tract encompasses the Downtown District and is over-concentrated. According to ABC, Census Tract 42.04 contains twenty-six (26) existing ABC on-sale licenses with only three (3) on-sale licenses allowed based on the ABC criteria. While this is the highest concentration in Lodi, it would not be unexpected in a downtown location. Generally downtowns have a high concentration of eating and drinking establishments. Many of the licenses are in conjunction with eating establishments. The City's Downtown Guidelines specifically call out drinking and eating establishments as the type of businesses that are encouraged in the Downtown area. Because the project area is within the downtown district, there is an existing over concentration of ABC licenses. In order to authorize additional licenses in this census tract, the Planning Commission must make a finding of public convenience and/or necessity.

The applicant's project was referred to the Police, Fire and Building Departments for review and recommendation. The key issues related to approval of bars, lounges and taverns involve the appropriateness of the location and whether or not such establishments can operate without detriment to nearby residential uses and general welfare of the surrounding area. Each department had conditionally recommended approval. Their requirements for approval have been incorporated into the attached draft resolution.

Staff feels the proposed use could be compatible with the surrounding area if properly operated and fully complies with conditions of approval attached herein. Additionally, the applicant will be required to take reasonable steps to discourage and correct objectionable conditions that constitute a nuisance, should they occur, to areas surrounding the bar and adjacent properties. It should be noted that the applicant has been very willing to work with staff and the Police Department making requested changes to create a secure establishment for their patrons and the community as a whole. Staff recommends the Planning Commission approve the Use Permit request subject to the conditions outlined in the attached draft resolution. Conditions have been added to mitigate typical concerns related to bars and other similar establishments. Approval of this Use Permit is essentially probationary. The Use Permit is subject to a six month, one year, and two year review by Community Development Director and/or the Police Department. If the Director/Police Department determines it necessary, the Use Permit is subject to review by the Planning Commission to consider the business's operation for compliance with the conditions of the Use Permit, and in response to any complaints thereafter. The City further reserves the right to periodically review the area for potential problems. If the operator is unable to abide by the

conditions of approval, or prevent objectionable conditions from occurring, the Police Department or the Planning Commission will have the authority to modify, suspend, or revoke this Use Permit approval.

ENVIRONMENTAL ASSESSMENTS

The project was found to be Categorically Exempt according to the California Environmental Quality Act, Article 19 §15321, Class 21 (a) (2). The project is classified as an “Enforcement action by regulatory agencies” because it is the “adoption of an administrative decision or order enforcing or revoking the lease, permit, license, certificate, or entitlement for use or enforcing the general rule, standard, or objective.” No significant environmental impacts are anticipated and no mitigation measures have been required.

PUBLIC HEARING NOTICE:

Legal Notice for the Use Permit was published on Saturday, January 28, 2012. Thirty-five (35) public hearing notices were sent to all property owners of record within a 300-foot radius of the project site as required by California State Law §65091 (a) 3. Public notice also was mailed to interested parties who had expressed their interest of the project. City has received three (3) letters in support of this Use Permit application.

ALTERNATIVE PLANNING COMMISSION ACTIONS:

- Approve with additional/different conditions
- Deny the Use Permit request
- Continue the request

Respectfully Submitted,

Concur,

Immanuel Bereket
Associate Planner

Konradt Bartlam
Community Development Director

ATTACHMENTS:

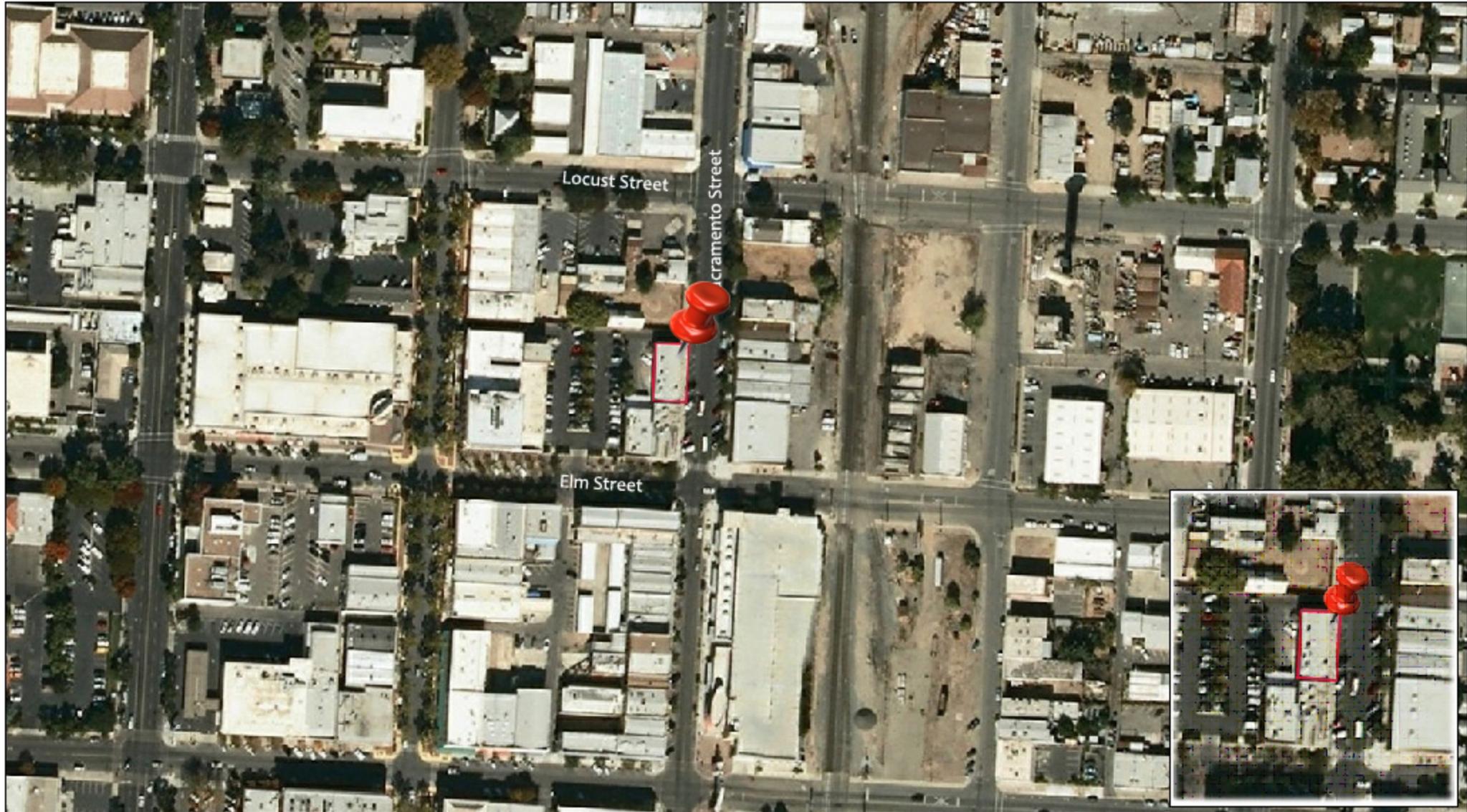
- A. Vicinity Map
- B. Aerial Photo
- C. Existing Floor Plan
- D. Proposed Floor Plan
- E. Comments Received
- F. Police Department Comments
- G. Draft Resolution



Vicinity Map
117 North Sacramento Street
(APN: 043-026-07)
Lodi, CA 95240

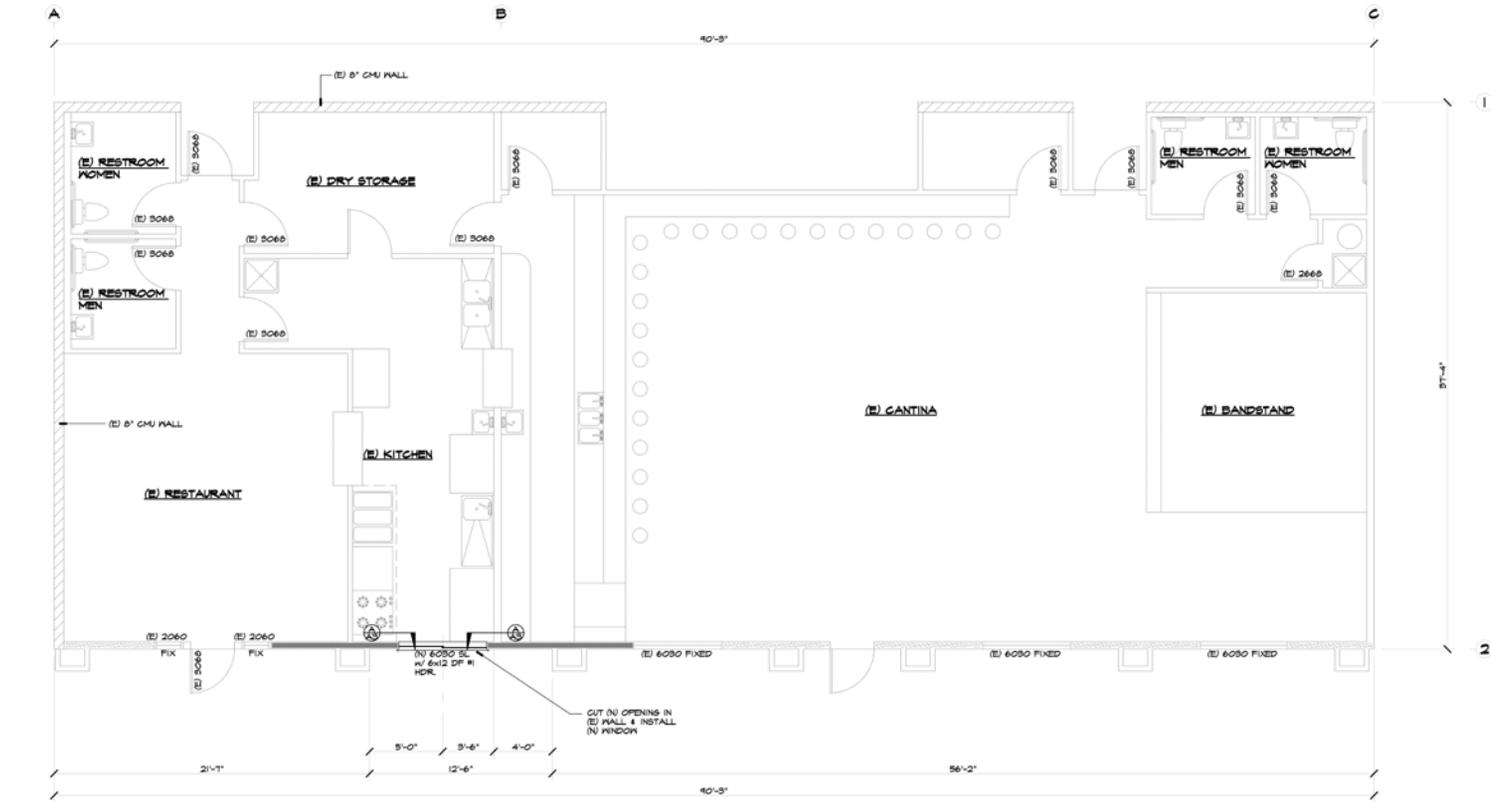


Aerial Map



Vintage Sports Grill
117 North Sacramento Street
(APN: 043-026-07)
Lodi, CA 95240

 Project Area



FLOOR PLAN

WALL LEGEND	
(R) STUD WALL	
(R) CMU WALL	
(R) SHEAR WALL NOT APART OF CONSTRUCTION	
(R) SHEAR WALL MODIFIED BY INSTALLATION OF (N) WINDOW	

REVISION	BY

MIKE SMITH ENGINEERING, INC.
 4 NORTH MAIN STREET
 LODI, CALIFORNIA 95240
 PHONE (509) 334-2332

TITLE:
FLOOR PLAN

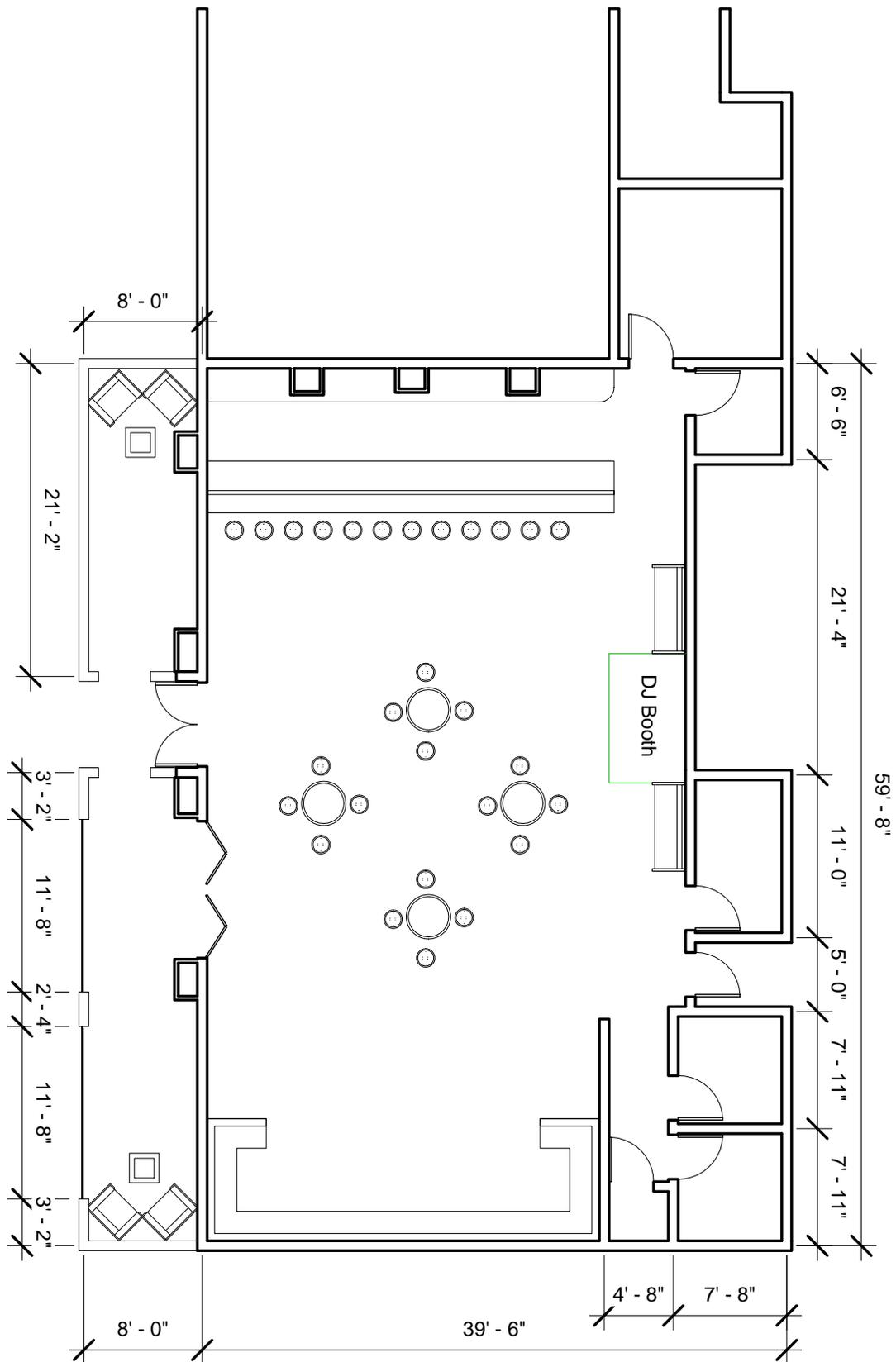
PROJECT:
 NEW WINDOW INSTALLATION FOR
EL GRILLE RESTAURANT
 PROJECT LOCATION:
 111 N. SACRAMENTO ST.
 LODI, CA 95240



DRAWN	RJP
CHECKED	MS
DATE	5/24/09
SCALE	AS NOTED
JOB NO.	040254
SHEET	

A2

1 2 3 SHEETS



Vintage Sports Grill

Prelim Layout

Project number		A101
Date	1/10/12	
Drawn by	Author	
Checked by	Checker	Scale 3/32" = 1'-0"

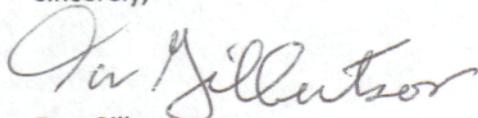
Dear Lodi Police Dept. and Planning Commission,

My name is Donald Gilbertson and I have been employed by the Sacramento Police Department for 24 years. In 2004, I had the opportunity to meet Mr. Russell. Mr. Russell participated in the Sacramento Police Department's Supplemental Employment Program and hired officers as an additional outside security presence.

I worked at Mr. Russell's establishment, Avalon, from the time it opened in 2004 until 2006. During these years it was owned by Mr. Russell. I found him to be a proactive and responsible business owner, who took pride in its operation. If operated in the same manner, Mr. Russell's proposed new venue could be a great addition to downtown Lodi.

Feel free to contact me with any questions.

Sincerely,



Don Gilbertson

916-716-0919

SACRAMENTO POLICE DEPARTMENT



DONALD GILBERTSON
POLICE OFFICER

(916) 566-6401
FAX (916) 566-6467

3550 MARYSVILLE BLVD.
SACRAMENTO, CA 95838



LODI
VINTNERS

Dear Planning Commission,

My name is Tyson Rippey owner and Vice-President of Lodi Vintners winery. I'm writing this letter to voice my approval for the addition of Vintage Sports Grill to the downtown Lodi business community.

I have had the pleasure of visiting 2 of Mr. Russell's downtown Venues. Both of his establishments have helped add to the synergy in Sacramento's Downtown/Midtown corridor. During these 8 years he has owned and operated 2 venues all of which have boosted the local economy by catering to both Sacramentans and visitors alike.

I trust that if given the opportunity, Mr. Russell and his business will both contribute to and compliment the downtown Lodi environment.

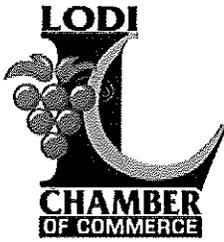
Sincerely

Tyson Rippey
Lodi Vintners

RECEIVED

JAN 26 2012

COMMUNITY DEVELOPMENT DEPT
CITY OF LODI



January 26, 2012

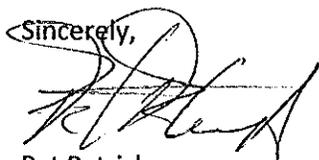
Lodi Planning Commission

221 W. Pine St., Lodi, CA 95240

The Lodi Chamber of Commerce wants to express their support for the proposed Vintage Sports Grill to be located at 117 North Sacramento Street No. 2 in Downtown Lodi. After a tour of the location and speaking with the proprietors, we feel that The Vintage Sports Grill will be a great enhancement to the downtown area for the following reasons:

- 1) Increased Tax Revenue – The Vintage Sports Grill will generate additional tax revenues from their food and alcohol sales.
- 2) New Jobs to Lodi – Their establishment will bring badly needed jobs to Lodi
- 3) Tourist Destination – This will be an added attraction to developing downtown Lodi as a tourist destination.
- 4) Increase the value of existing properties – By renovating this long vacant building, and increasing the consumer traffic to Sacramento Street, will enhance the attractiveness of future businesses locating to Sacramento Street.
- 5) Proven track record – The ownership of The Vintage Sports Grill has a reputation for success from their previous endeavors in Sacramento.
- 6) Compliments other nearby establishments such as Toasted Toad, Whisky Barrel Saloon, Estate Crush, AH Wines and other venues visited by tourists and wine-tasters in downtown.

The Lodi Chamber of Commerce looks forward to partnering with The Vintage Sports Grill in helping promote Lodi and the downtown Lodi area as a premiere destination for an exceptional dining and entertainment experience.

Sincerely,

Pat Patrick

President/CEO

Lodi Chamber of Commerce

Immanuel Bereket

From: Fernando Martinez
Sent: Monday, January 09, 2012 1:53 PM
To: Immanuel Bereket
Subject: vintage sports grill

Hey Manny how are you I'm sending back the packet for the establishment at 117 N Sacramento st. I met with the managing group and they seem to have their act together. Other than a couple of spelling errors the packet looks good.

Lieutenant Fernando Martinez
Lodi Police Department
Operations Division
Central and Heritage Districts Commander
215 W. Elm Street
Lodi, CA 95240
(209)333-5596
fmartinez@pd.lodi.gov

RESOLUTION NO. P.C. 12-

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF LODI APPROVING THE REQUEST OF RODNEY PAISTE AND JOHN RUSSELL FOR A USE PERMIT TO ALLOW SALE OF BEER, WINE AND DISTILLED SPIRITS AT 117 NORTH SACRAMENTO STREET

- WHEREAS**, the Planning Commission of the City of Lodi has heretofore held a duly noticed public hearing, as required by law, on the requested Use Permit, in accordance with the Lodi Municipal Code, Section 17.72.070; and
- WHEREAS**, the project proponents are Rodney Paiste and John Russell, 125 Ridge Drive, Lodi, CA 95240; and
- WHEREAS**, the project parcel is owned by Miguel Guerrero, 1331 South Wilson Way, Stockton, CA 95205; and
- WHEREAS**, the project is located at 117 North Sacramento Street, Lodi, CA 95240 (APN: 043-026-07); and
- WHEREAS**, the property has a General Plan designation of Downtown Mixed Use and is zoned C-M, Commercial-Light Industrial; and
- WHEREAS**, the requested Use Permit to allow on-site consumption of beer, wine and distilled spirits is an enforcement action in accordance with the City of Lodi Zoning Ordinance; and
- WHEREAS**, Census Tract 42.04 in which the proposed restaurant is to be located is over concentrated of licenses allowing on premise consumption of alcoholic beverages; and
- WHEREAS**, because Census Tract 42.04 has an over-concentration of On-sale beer, wine and distilled spirits alcohol licenses, the Planning Commission must make a finding of necessity and/or public convenience in order to permit the issuance of an additional Alcohol Beverage Control license in this tract; and
- WHEREAS**, the State Department of Alcoholic Beverage Control has training available that clearly communicates State law concerning the sale of alcoholic beverages; and
- WHEREAS**, based upon the facts and analysis presented in the staff report, and public testimony received and subject to the conditions of approval listed below, the Planning Commission finds that the establishment, maintenance or operation for the requested use or building applied for, will not, under the circumstances of this particular case, be detrimental to the health, safety, morals, comfort, convenience and general welfare of the persons residing or working in the neighborhood of such proposed use, or be injurious or detrimental to property and improvements in the neighborhood or to the general welfare of the City; and
- WHEREAS**, all legal prerequisites to the adoption of this Resolution have occurred; and

Based upon the evidence within the staff report and project file the Planning Commission finds:

1. The project was found to be Categorically Exempt according to the California Environmental Quality Act, Article 19 §15321, Class 21 (a) (2). The project is classified as an “Enforcement action by regulatory agencies” because it is the “adoption of an administrative decision or order enforcing or revoking the lease, permit, license, certificate, or entitlement for use or enforcing the general rule, standard, or objective.”

No significant environmental impacts are anticipated and no mitigation measures have been required.

2. The sale of alcoholic beverages for on-premise consumption as part of a restaurant is a permitted use in the C-M Zoning District. The site is suitable and adequate for the proposed use because establishment of a restaurant on this site would not create negative impacts on businesses, residents and instructional uses in the vicinity.
3. On-sale of beer, wine and distilled spirits, in accordance with a Type 48 Alcoholic Beverage Control License and with the conditions attached herein, would be consistent and in harmony with the Downtown Mixed Use General Plan Land Use Designation and C-M Zoning District.
4. The proposed use is consistent with the General Plan because commercial uses such as the one proposed are permitted in accordance with Land Use Policy subject to a discretionary review.
5. The proposed use would not have a substantial adverse economic effect on nearby uses because operation of a restaurant in accordance with applicable laws and under the conditions of this Use Permit is anticipated to be an economic benefit to the community.
6. The harmony in scale, bulk, coverage and density of the proposed project is consistent with and compatible to the existing built-in environment and land uses around the subject site, in that the proposed Vintage Sports Grill will be located primarily within an existing building, with minor exterior/patio area additions, thereby maintaining the approved scale, bulk, coverage and density of the building.
7. The availability of public facilities and utilities is adequate to serve the proposed use, in that the Vintage Sports Grill will be located within a building where public facilities and services are currently provided, including sewer, water, electricity, phone, etc.
8. The proposed use is consistent with the General Plan because commercial uses such as the one proposed are permitted in accordance with Land Use Policy subject to a discretionary review.
9. The proposed use would not have a substantial adverse economic effect on nearby uses because operation of a restaurant in accordance with applicable laws and under the conditions of this Use Permit is anticipated to be an economic benefit to the community.
10. The sale and consumption of alcohol can sometimes result in customer behavior problems that can require police intervention.
11. Steps can be taken by the Applicant/Operator to reduce the number of incidents resulting from the over-consumption of alcohol including the proper training and monitoring of employees serving alcohol; the careful screening of IDs of customers to avoid sales to under-aged individuals; limiting the number of drinks sold to individual customers to avoid over-consumption; providing properly trained on-site security to monitor customer behavior both in and outside of the establishment; and working with the Lodi Police Dept. to resolve any problems that may arise.
12. The proposed use can be compatible with the surrounding use and neighborhood if the business is conducted properly and if the Applicant/Operator works with neighboring businesses and residents to resolve any problems that may occur.
13. The proposed use would not be detrimental to the general welfare of persons residing and working in the immediate vicinity, the neighborhood or the community at large

because the sale of alcohol with a restaurant operation is not associated with detrimental impacts to the community.

14. The sale of alcoholic beverages at this location can meet the intent of the C-M Zoning District and can provide a public convenience or necessity for customers of the business.

NOW, THEREFORE, BE IT DETERMINED AND RESOLVED by the Planning Commission of the City of Lodi that Use Permit Application No. 11-U-21 is hereby approved, subject to the following conditions:

1. The applicant/project proponent and/or property owner and/or developer and/or successors in interest and management shall, at their sole expense, defend, indemnify and hold harmless the City of Lodi, its agents, officers, directors and employees, from and against all claims, actions, damages, losses, or expenses of every type and description, including but not limited to payment of attorneys' fees and costs, by reason of, or arising out of, this Use Permit approval. The obligation to defend, indemnify and hold harmless shall include, but is not limited to, any action to arbitrate, attack, review, set aside, void or annul this Use Permit approval on any grounds whatsoever. The City of Lodi shall promptly notify the developer of any such claim, action, or proceeding and shall cooperate fully in the defense.
2. The applicant/project proponent and/or property owner and/or developer and/or successors in interest and management shall 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. Material violation of any of those laws in connection with the use may be cause for revocation of this Use Permit.
3. Starting from the effective date the business commences the sale of beer, wine and distilled spirits, this Use Permit shall be subject to a six-month, one-year, and two-year review by Community Development Director and/or the Police Department. If the Director/Police Department determines it necessary, the Use Permit shall be subject to review by the Planning Commission to consider the business's operation for compliance with the conditions of the Use Permit, and in response to any complaints thereafter. Further, 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 Use Permit may be subject to review and revocation by the City of Lodi after a public hearing and following the procedures outlined in the City of Lodi Municipal Code. Additional reviews may be prescribed by the Community Development Director, the Police Department and/or Planning Commission as needed during and after the first two years of probationary period.
4. If operation of this use results in conflicts pertaining to parking, noise, traffic, loitering, public safety or other impacts, at the discretion of the Community Development Director, this conditional use permit may be referred to the Planning Commission for subsequent review at a public hearing. If necessary, the Commission may modify or add conditions of approval to mitigate such impacts, or may revoke said conditional use permit bound upon applicable findings.
5. "Last call" for alcohol shall be at 1:30 a.m. for a period of one year from commencement of use. At the end of the one year period, the applicant may submit a written request to the Community Development Director and Police Department for

review to allow alcohol sales to extend to a later time. The Community Development Director and Police Department may approve, deny or refer the request to the Planning Commission.

6. The City Council, Lodi Police Department, the Planning Commission and City staff may, at any time, request that the Planning Commission conduct a hearing on this Use Permit for the purpose of amending or adding new conditions to the Use Permit or to consider revocation of the Use Permit if the Use Permit becomes a serious policing problem.
7. The Applicant/Operator and/or successors in interest and management shall insure that the sale of alcohol does not cause any condition that will cause or result in repeated activities that are harmful to the health, peace or safety of persons residing or working in the surrounding area. This includes, but is not limited to: disturbances of the peace, illegal drug activity, public intoxication, drinking in public, harassment of people passing by, assaults, batteries, acts of vandalism, loitering, excessive littering, illegal parking, excessive loud noises, traffic violations or traffic safety based upon last drink statistics, curfew violations, lewd conduct, or police detention and arrests.
8. The business shall have interior security video cameras operating during all hours that the business is open. The videotapes of the security video cameras shall be maintained for a minimum period of 30 days, and the videotapes must be made immediately available for any law enforcement officer who is making the request as a result of official law enforcement business. The video cameras must be positioned in a way to capture the facial features of anyone entering the business and include cameras that capture all money handling areas. If the Chief of Police determines that there is a necessity to have additional security cameras installed, the owner of the business must comply with the request within 7 calendar days. The Chief of Police can also require that the business change the position of the video cameras if it is determined that the position of the cameras do not meet security needs. The owner of the business must comply with the request within 7 calendar days. The said security video camera shall be installed and approved prior to business opening.
9. All owners, managers and employees selling alcoholic beverages shall undergo and successfully complete a certified training program in responsible methods and skills for selling alcoholic beverages. The certified program must meet the standards of the California Coordinating Council on Responsible Beverage Service or other certifying/licensing body, which the State may designate. The establishment shall comply with the requirements of this section within 30 calendar days of effective date of this Use Permit. Records of each owner's, manager's and employee's successful completion of the required certified training program shall be maintained on the premises and shall be presented upon request by a representative of the City of Lodi. The business owner shall be responsible for on-going training to accommodate changes in personnel.
10. No alcoholic beverages shall be consumed on any property adjacent to the licensed premises under the control of ABC license issued to Vintage Sports Grill.
11. A minimum of four (4) Professional security staff shall be present during the hours entertainment occurs and one additional security guard for every 25 patrons. All persons responsible for security for the business shall have training as State-licensed security personnel. Security staff shall be stationed at the entry to the bar, in the area surrounding the premise and in the inside of the business itself. Security staff and their training program shall be subject to the review and approval of the Chief of Police.
12. Prior to the effective date of this Use Permit, a security plan which includes a management training plan, employee and security resource placement, crowd control

and security measures, and provisions for overflow customers shall be submitted to the Community Development Department for review, and shall be approved by the Community Development Director and the Police Chief, or a designee thereof.

13. No person under the age of twenty-one (21) years shall be allowed on the premise at any time.
14. No person who is in a state of intoxication shall be permitted within the business nor shall an intoxicated patron be sold additional alcoholic beverages. It is the responsibility of the business owner/operator to ensure no patron in state of intoxication is allowed into the premise.
15. Consumption of alcohol in the proposed patio area shall be restricted to 1:00 p.m. to 1:30 a.m daily, except recognized holidays and special functions, such as Street Faire, Farmer's Market, etc, shall be exempt from this restriction.
16. The licensee(s) or an employee of the licensee(s) shall be present at the patio area at all times that alcoholic beverages are being served or consumed, to ensure that Alcoholic Beverage Control Act, State statute, County, or City Ordinances are not violated upon this portion of the licensed premises. In addition, a security staff shall be stationed at the entry to the patio area at all times that the patio whenever alcohol beverages are being served or consumed in the patio area. Security staff and their training program shall be subject to the review and approval of the Chief of Police or designee(s) thereof.
17. Prior to commencement of the use, the applicant shall prepare and submit a practical program for controlling litter, spills, and stains resulting from the use on the site to the Community Development Department for review and approval. The program shall include a detailed time frame for the policing and cleanup of the public sidewalk and right-of-way in front of the subject property as well as the adjacent public right-of-way (25 feet north and south of the subject property, and 25 feet down west down the alley) not just in front of the subject tenant space. Failure to comply with that program shall be considered a violation of the Use Permit and shall be subject to administrative remedy in accordance with Chapter 17.72 and Chapter 17.88 of the City of Lodi Municipal Code.
18. Installation of sign(s) shall require a building permit from the Community Development Department. Said sign(s) shall be in full compliance with the City of Lodi Sign Ordinance and any applicable master sign program for the subject site.
19. Window signage shall not exceed twenty-five percent (25%) of the glass area, or separate window pane, upon which the sign is located. All new signage is subject to review and approval by the Planning Division prior to installation.
20. The subject property and its immediate surrounding shall be maintained neat and clean at all times. The subject property and its immediate surrounding shall be maintained free from debris and graffiti at all times. The property owner shall remove any debris or graffiti within 24-hours upon notification by the City. Litter on the site and any litter scattered on nearby property, streets, and sidewalks shall be removed daily. If necessary, the applicant shall steam clean the project site and its immediate surrounding premises as often as needed.
21. In the event of graffiti or other extraneous markings occurring, the applicant/operator and/or successors in interest and management shall remove or cover said markings, drawings, or signage within 24 hours of such occurrence, weather permitting. Paint utilized in covering such markings shall be of a color that matches, as closely as possible, the color of the adjacent surfaces.

22. Any change in operational characteristics, hours of operation, expansion in area, or other modification to the approved plans, shall require an amendment to this Use Permit or the processing of a new Use Permit.
23. There shall be no on-site radio television, video, film, or other electronic or media broadcasts, including recordings to be broadcasted at a later time, which include the service of alcoholic beverages, without first obtaining an approved special event permit issued by the City of Lodi.
24. All music and dancing-related activities, including live bands, video and disc jockeys, and karaoke, shall be conducted indoors at all times. Doors shall remain closed during all performances or while music is being played.
25. Any event or activity staged by an outside promoter or entity, where the applicant, operator, owner or his employees or representatives share in any profits, or pay any percentage or commission to a promoter or any other person based upon money collected as a door charge, cover charge or any other form of admission charge shall be prohibited. A Special Events Permit is required for any event or promotional activity outside the normal operational characteristics of the approved use, as conditioned, or that would attract large crowds, involve the sale of alcoholic beverages, include any form of onsite media broadcast, or any other similar activities.
26. The applicant/project proponent and/or property owner and/or developer and/or successors in interest and management shall be responsible for the control of noise generated by the subject facility including, but not limited to, noise generated by patrons and employees. All noise generated by the proposed use shall comply with the provisions of Chapter 9.24 and other applicable noise control requirements.
27. The applicant shall submit to the Planning Department final sound measurements of the bar/nightclub prior to approval of the Final Certification of Occupancy. If final sound measurements do not conform to the Noise Ordinance, the applicant/operator shall provide added measures to comply with the Noise Ordinance. Failure to comply with this requirement shall void and annul this Use Permit.
28. The applicant shall obtain Operational Permits from the Lodi Fire Department, Fire Prevention Bureau. The Operational Permits shall be obtained prior to commencement of sale of alcohol. The Fire Department may be contacted at 25 East Pine Street, Lodi, CA 95240-2127. Phone Number (209) 333-6739.
29. The applicant shall obtain an encroachment permit from Public Works Department for the proposed outdoor seating and serving area. Encroachment permit shall be obtained prior to commencement of sale of alcohol in the proposed outdoor/patio area. The Public Works Department may be contacted at 221 West Pine Street, Lodi, CA 95240-2127. Phone number (209)333-6706.
30. The applicant shall obtain a tenant improvement permit prior to occupancy. All plan submittals shall be based on the City of Lodi Building Regulations and currently adopted 2010 California Building Code. Please review our policy handouts for specific submittal procedures. The Building and Safety Division may be contacted at 221 West Pine Street, Lodi, CA 95240-2127. Phone number (209)333-6714.
31. The applicant shall obtain all required permits and licenses from the California Department of Alcoholic Beverage Control and the San Joaquin County Health Department prior to commencement of the use and maintain said permits at all times while the use is operating. Copies of all permits and licenses shall be submitted to the Community Development Department prior to commencement of the use.

- 32. Any fees due the City of Lodi for processing this Project shall be paid to the City within thirty (30) calendar days of final action by the approval authority. Failure to pay such outstanding fees within the time specified shall invalidate any approval or conditional approval granted. No permits, site work, or other actions authorized by this action shall be processed by the City, nor permitted, authorized or commenced until all outstanding fees are paid to the City.
- 33. No variance from any City of Lodi adopted code, policy or specification is granted or implied by this approval.

Dated: February 8, 2012

I certify that Resolution No. 12- was passed and adopted by the Planning Commission of the City of Lodi at a regular meeting held on February 8, 2012 by the following vote:

AYES: Commissioners:

NOES: Commissioners:

ABSENT: Commissioners:

ATTEST _____
Secretary, Planning Commission

Use Permit to Allow a Type 42 ABC License @ 100 N. Cherokee Ln, Suite 5
Applicant: Antonia Marquez de Perez

Item 3c.

**CITY OF LODI
PLANNING COMMISSION
Staff Report**

MEETING DATE: February 8, 2012

APPLICATION NO: Use Permit: 12-U-01

REQUEST: Request for Planning Commission approval of a Use Permit to allow a Type 42 On-Sale Beer and Wine Alcoholic Beverage Control license at 100 North Cherokee Lane, Suite 5. (Applicant: Antonia Marquez de Perez. File Number: 12-U-01).

LOCATION: 100 North Cherokee Lane, Suite 5
(APN: 043-210-65)
Lodi, CA 95241

APPLICANT: Antonia Marquez de Perez
711 South Washington Street. Apt #1
Lodi, CA 95240

PROPERTY OWNER: Chris and Pauline Gianulias
3108 Fleur De Lis Drive
Modesto, CA 95356

RECOMMENDATION

Staff recommends the Planning Commission approve the request of Ms. Antonia Perez for a Use Permit to allow a Type 42 On-Sale Beer and Wine Alcoholic Beverage Control license at 100 North Cherokee Lane, Suite 5, subject to the conditions outlined in the attached resolution.

PROJECT AREA DESCRIPTION

General Plan Designation: Mixed Use Corridor
Zoning Designation: C-2, General Commercial
Property Size: 48,364 sq. ft.

The adjacent zoning and land use characteristics:

	General Plan	Zone	Land Use
North	Mixed Use Corridor M-1, Light Industrial	C-2, General Commercial M-1, Light Industrial	Commercial Use
South	Mixed Use Corridor M-1, Light Industrial	C-2, General Commercial M-1, Light Industrial	Commercial Use
East	M-1, Light Industrial	M-1, Light Industrial	Commercial Use
West	Mixed Use Corridor	C-2, General Commercial	Commercial Use

SUMMARY

The applicant, Ms. Antonia Perez, is requesting a Use Permit approval to allow a Type 42 On-Sale Beer and Wine license in conjunction with billiard hall/pool hall and live entertainment/dancing in the C-2, General Commercial zoning district. The project site was previously occupied by a similar establishment which went out of business in April of 2011. The applicant has an application pending with the State Department of Alcohol Beverage Control for ABC license Type-42, which authorizes the sale of beer and wine for

consumption on the licensed premises. The proposed project site currently has an over-concentration of Alcoholic Beverage Control licenses. A finding of public necessity and/or convenience is required in order to approve additional license within the project census tract. The live entertainment portion of the request would consist of a band, single performers, a disc jockey (DJ), karaoke, and an associated dancing area.

BACKGROUND

On August 11, 2010, the Planning Commission reviewed and approved a Use Permit to allow a nightclub at the project site. Approval of a Use Permit effectively established a billiard hall with live entertainment features. The previous business owner obtained necessary building permits and opened for business in September of 2010. The business operated in accordance with the permit for some time, but the business closed in April 2011. The previous owner's ABC license was revoked for non-payment after he decided not to renew the license. The applicant, Ms. Antonia Perez, has proposed that a similar establishment take its place. Whereas the previous business had Type 48 On-Sale General Alcoholic Beverage Control license, the current applicant seeks to obtain a Use Permit for a Type-42 ABC license which authorizes the sale of beer and wine only.

ANALYSIS

The applicant requests approval of a Use Permit to allow the sale of beer and wine at 100 North Cherokee Lane Suite 5 in conjunction with a billiard hall operation. The applicant has an application pending with the State Department of Alcohol Beverage Control for ABC license Type-42, which authorizes the sale of beer and wine for consumption on the licensed premises. The project site is zoned General Commercial (C-2). Under the C-2 zoning district, the applicant may sell alcohol for on- and off-site consumption with the granting of a Use Permit by the Planning Commission.

Site Layout: The project site is within a neighborhood commercial center located at 100 North Cherokee Lane. The parcel contains three buildings and variety of businesses ranging from a beauty salon to a restaurant along with other similar establishments. The project site is accessed from Cherokee Lane from the west and Houston Lane from the east. Standard parking stalls are provided onsite to meet the parking requirements. Parking requirements for neighborhood commercial centers are based on a flat rate for all uses in the center, and not by describing each use in the center individually, unless the center has a high concentration of uses with similar peak hours of operation. In this case, sufficient onsite parking is provided.

Commercial Entertainment: The applicant proposes to open a beer and wine bar with entertainment on Thursday, Friday, and Saturday nights from 9:00 p.m. until 1:30 a.m. For entertainment there will be a "DJ", open microphone night, comedians, single musicians and singers, juke box, amplified music, live entertainment, karaoke, patron dancing, and pool/billiard tables. The proposed uses appear to indicate that the intent of the business is to function primarily as a bar/nightclub. In accordance with the requirements of the State Department of Alcoholic Beverage Control, the applicant must not allow patrons under 21 years of age in the establishment at all times.

Project Review and Comments:

The applicant's project was referred to the Police, Fire and Building Departments for review and recommendation. The key issues related to approval of billiard/pool halls, bars, taverns, and nightclubs involve the appropriateness of the location and whether or not such establishments can operate without detriment to nearby residential uses and general welfare of the surrounding area. As stated above, the site is located within a C-2 (General Commercial) zoning district and abuts industrial and commercial uses (see attachment B).

The subject property has historically operated as a restaurant but has been vacant for some time. Bars are a permitted use in the C-2 zoning district. The nearest residences are located approximately 450 ft to the west of the project site whereas the LMC Sec. 17.73.020(E) requires a minimum of three hundred feet buffer zone between residential properties and nightclubs.

The City's Police Department has reviewed this request as well as activities related to similar uses in the immediate vicinity. The Police Department has requested conditions related to security cameras and parking lot lighting. The concerns of the Police Department have been incorporated into the draft resolution. Condition No. 8 addresses issues related to exterior lighting. Exterior lighting fixtures are needed to illuminate the parking lot and roadway along Houston Lane. Lighting fixtures should be sufficient enough so that all exterior building elevations and the common parking lot are readily visible from adjacent streets. Conditions No. 9 and 10 require the applicant to provide security cameras along the business perimeters. Security cameras must be installed prior to business opening and would need to be reviewed and approved by the City. It should be noted that the previous business owner had installed security cameras as required by the Planning Commission Resolution, but removed those cameras upon closing the business.

Section 17.72.040 of the Lodi Municipal Code requires a Use Permit for new Off-Sale and On-Sale alcohol licenses as well as changes in license type. The City established the Use Permit requirement to gain local control over whether or not a license is appropriate for a particular location. The State Department of Alcoholic Beverage Control primarily controls issuance based on concentration of licenses within a particular Census Tract. Census Tract 45 covers the area south of the Mokelumne River, north of Lodi Avenue, east of the Union Pacific Rail Road (U.P.R.R), and west of Guild Avenue. According to ABC, Census Tract 45 contains 13 existing ABC licenses with 7 on-sale licenses allowed based on the ABC criteria. Because this census tract is over-concentrated, the Planning Commission must make a finding of public necessity or convenience in order to approve an additional ABC license. The proposed ABC license is essentially a replacement of the previous revoked license. In addition, this ABC license is downgraded to beer and wine license as opposed to the previous ABC license, which allowed sale of beer, wine and distilled spirits.

Staff recommends the Planning Commission approve the Use Permit request subject to the conditions outlined in the attached resolution. Conditions have been added to mitigate typical concerns related to bars and other similar establishments. Approval of this Use Permit is essentially probationary. The Use Permit is subject to a six month, one year, and two year review by the Community Development Director and/or the Police Department. If the Director/Police Department determines it necessary, the Use Permit shall be subject to review by the Planning Commission to consider the business's operation for compliance with the conditions of the Use Permit, and in response to any complaints thereafter. The City further reserves the right to periodically review the area for potential problems. These requirements are outlined in Condition No. 2. If problems or concerns related to the sale of alcoholic beverages occur in the future, the Police Dept, staff and/or the Planning Commission may initiate a public hearing where the Commission would have the ability to amend conditions and/or revoke the Use Permit.

ENVIRONMENTAL ASSESSMENTS

The project was found to be Categorically Exempt according to the California Environmental Quality Act, Article 19 §15321, Class 21 (a) (2). The project is classified as an "Enforcement action by regulatory agencies" because it is the "adoption of an administrative decision or order enforcing or revoking the lease, permit, license, certificate, or entitlement for use or

enforcing the general rule, standard, or objective.” No significant environmental impacts are anticipated and no mitigation measures have been required.

PUBLIC HEARING NOTICE:

Legal Notice for the Use Permit was published on Saturday, January 28, 2012. 41 public hearing notices were sent to all property owners of record within a 300-foot radius of the project site as required by California State Law §65091 (a) 3. Public notice also was mailed to interested parties who had expressed their interest of the project. To date, no protest letter has been received.

ALTERNATIVE PLANNING COMMISSION ACTIONS:

- Approve with additional/different conditions
- Deny the Use Permit request
- Continue the request

Respectfully Submitted,

Concur,

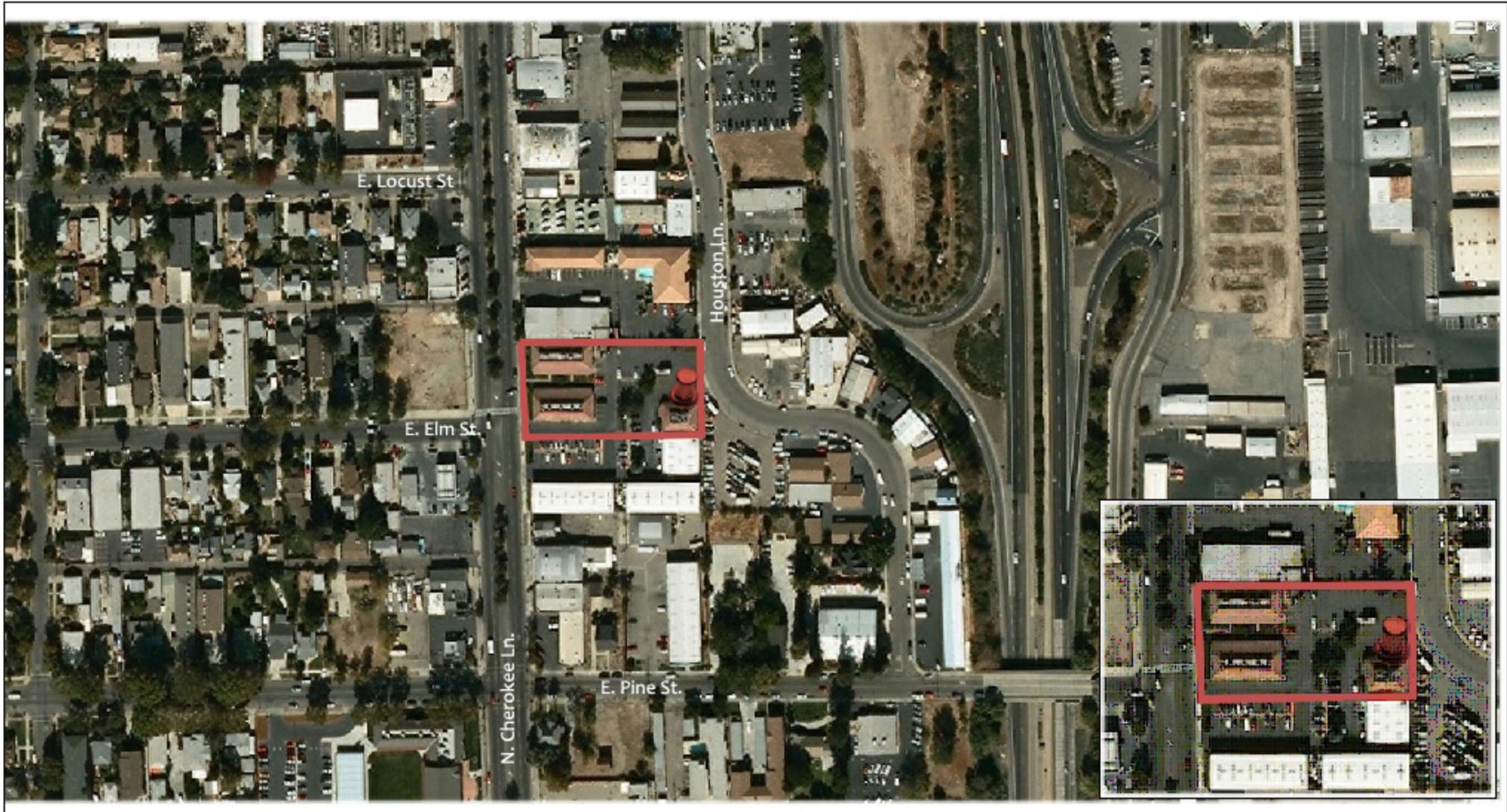
Immanuel Bereket
Associate Planner

Konradt Bartlam
Community Development Director

ATTACHMENTS

- A. Vicinity Map
- B. Aerial Photos
- C. Site Plan and Floor Plan
- D. Police Department Comment
- E. Draft Resolution

Aerial Map



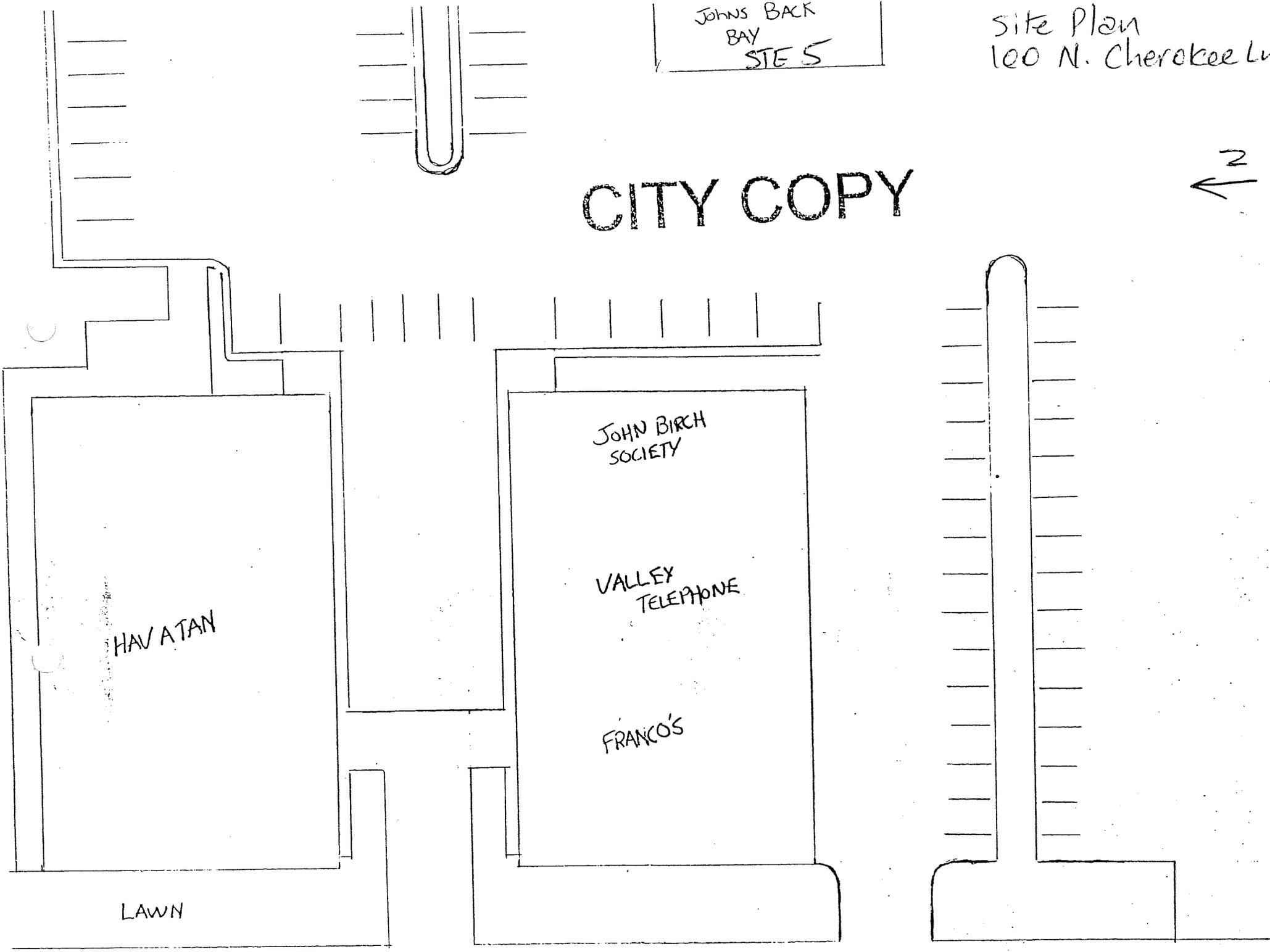
Centro Butanero La Luna
100 North Cherokee Lane, STE 5
APN: 043-210-65
Lodi, CA 95240

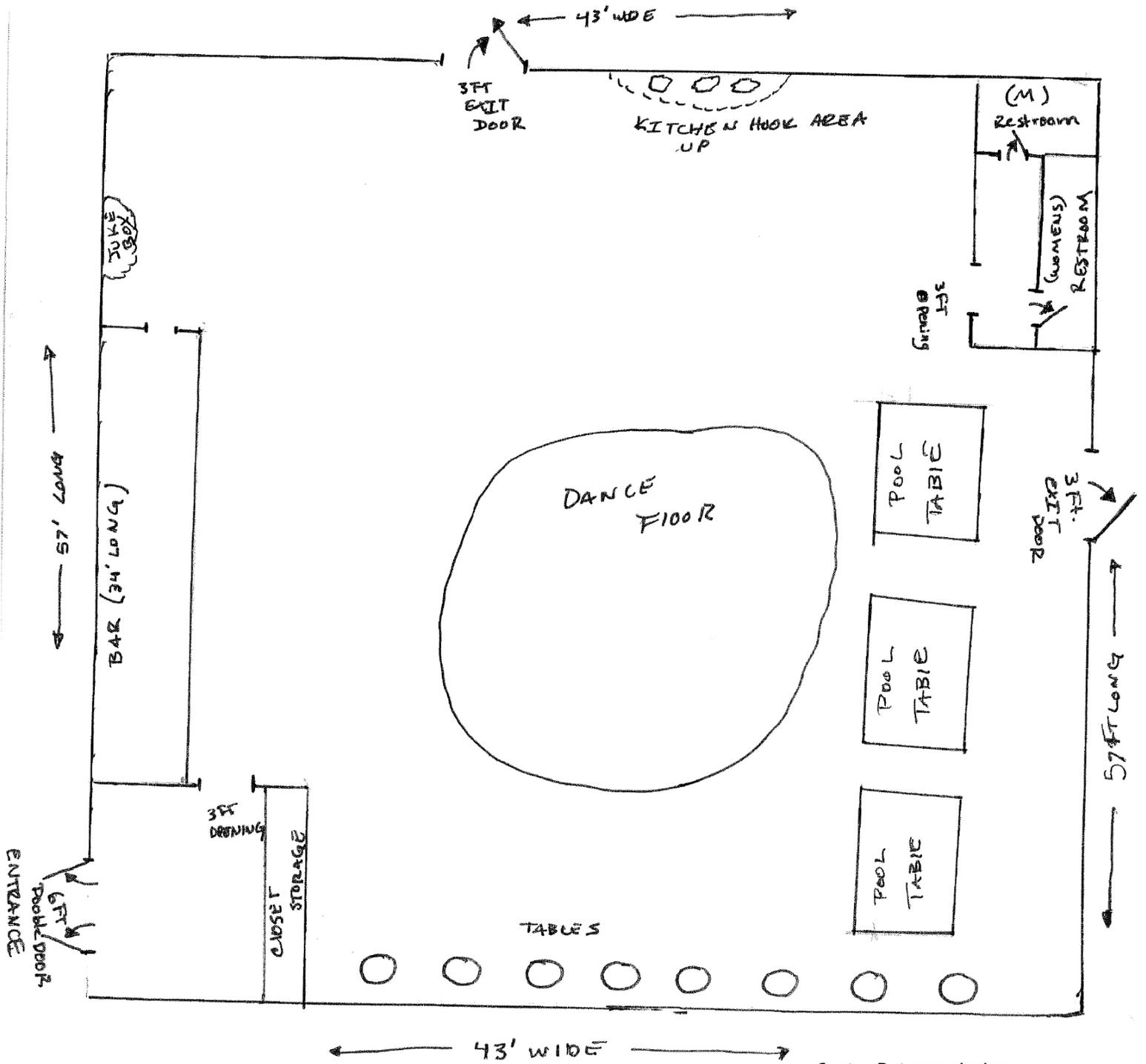


JOHNS BACK
BAY
STES

Site Plan
100 N. Cherokee Ln

CITY COPY





Centro Butanero La Luna
 100 North Cherokee Lane, Suite 5
 (APN: 043-210-65)
 Lodi, CA 95241



RESOLUTION NO. P.C. 12-

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF LODI FOR THE APPROVAL OF THE REQUEST OF ANTONIA MARQUEZ DE PEREZ FOR A USE PERMIT TO ALLOW A TYPE 42 ON-SALE BEER AND WINE ALCOHOLIC BEVERAGE CONTROL LICENSE AT 100 NORTH CHEROKEE LANE, SUITE 5

WHEREAS, the Planning Commission of the City of Lodi has heretofore held a duly noticed public hearing, as required by law, on the requested Use Permit, in accordance with the Lodi Municipal Code, Section 17.72.070; and

WHEREAS, the project site is located at 100 North Cherokee Lane Suite 5, Lodi, CA 95240 (APN 043-210-65); and

WHEREAS, the project proponent is Antonia Marquez de Perez, 711 South Washington Street, Apt#1, Lodi CA 95240; and

WHEREAS, the project property owner is Chris and Pauline Gianulias, 3108 Fleur De Lis Drive, Modesto, CA 95356; and

WHEREAS, the property has a General Plan designation of Mixed Use Corridor and is zoned C-2, General Commercial; and

WHEREAS, the requested Use Permit to allow the selling of beer and wine for On-site consumption in conjunction with operation of a nightclub/pool hall is an enforcement action in accordance with the City of Lodi Zoning Ordinance; and

WHEREAS, Census Tract 45 in which the business is located currently is over-concentrated with ABC licenses allowing the sale of beer, wine and distilled spirits for consumption on and/or off the licensed premise where sold; and

WHEREAS, the Planning Commission makes a finding of public convenience and need for the request of Ms. Antonia Perez for a Use Permit to allow issuance of an additional Alcohol Beverage Control license in this tract; and

WHEREAS, the State Department of Alcoholic Beverage Control has training available that clearly communicates State law concerning the sale of alcoholic beverages; and

WHEREAS, all legal prerequisites to the adoption of this Resolution have occurred; and

Based upon the evidence within the staff report and project file the Planning Commission finds:

1. The project was found to be Categorical Exempt according to the California Environmental Quality Act, Article 19 §15321, Class 21 (a) (2). The project is classified as an "Enforcement action by regulatory agencies" because it is the "adoption of an administrative decision or order enforcing or revoking the lease, permit, license, certificate, or entitlement for use or enforcing the general rule, standard, or objective." No significant environmental impacts are anticipated and no mitigation measures have been required.
2. The proposed use complies with all requirements as set forth for the issuance of this Use Permit, in that the site is adequate in size, shape and topography for the proposed use, consisting of an existing building. Second, the site has sufficient access to streets, adequate in width and pavement type to carry the quantity and quality of traffic generated by the proposed use, which is not expected to significantly increase due to the project. Third, the proposed use is deemed to be part of the General Plan and the Zoning Ordinance, as on-sale alcoholic beverage sales are permitted in the C-2 (General Commercial) Zone with Use Permit approval. Fourth, the proposed use, as conditioned, will not have an adverse effect upon the use, enjoyment or valuation of property in the neighborhood in that a similar on-sale use had previously compatibly existed at the project site. Lastly, the proposed use will not have an adverse effect on the public health, safety, and general welfare in that security measures and the limited size of the use will limit any potential adverse effects to neighboring properties.

3. The on-sale of beer, wine and distilled spirits, in accordance with a Type 42 Alcoholic Beverage Control License and with the conditions attached herein, would be consistent and in harmony with the Mixed Use Corridor General Plan Land Use Designation and C-2 zoning district.
4. The proposed use is consistent with the General Plan because commercial uses such as the one proposed are permitted in accordance with Land Use Policy subject to a discretionary review.
5. The proposed use would not have a substantial adverse economic effect on nearby uses because operation of a bar in accordance with applicable laws and under the conditions of this Use Permit is anticipated to be an economic benefit to the community.
6. The sale of alcoholic beverages for on-premise consumption is a normal part of business operations and provides a convenience for customers of the business.
7. The sale and consumption of alcohol can sometimes result in customer behavior problems that can require police intervention.
8. Steps can be taken by the Applicant/Operator and/or successors in interest and management to reduce the number of incidents resulting from the over-consumption of alcohol including the proper training and monitoring of employees serving alcohol; the careful screening of IDs of customers to avoid sales to under-aged individuals; limiting the number of drinks sold to individual customers to avoid over-consumption; providing properly trained on-site security to monitor customer behavior both in and outside of the establishment; and working with the Lodi Police Dept. to resolve any problems that may arise.
9. The proposed use can be compatible with the surrounding use and neighborhood if the business is conducted properly and if the Applicant/Operator and/or successors in interest and management work with neighboring businesses and residents to resolve any problems that may occur.
10. The sale of alcoholic beverages at this location can meet the intent of the General Commercial zoning district and can provide a public convenience or necessity for customers of the business.

NOW, THEREFORE, BE IT DETERMINED AND RESOLVED by the Planning Commission of the City of Lodi that Use Permit Application No. 12-U-01 is hereby approved, subject to the following conditions:

1. The applicant/Operator and/or successors in interest and management shall defend, indemnify, and hold the City of Lodi, its agents, officers, and employees harmless of any claim, action, or proceeding (including legal costs and attorney's fees) to attack, set aside, void, or annul this Use Permit, so long as the City promptly notifies the applicant of any claim, action, or proceedings, and the City cooperates fully in defense of the action or proceedings. The City may elect, in its sole discretion, to participate in the defense of said claim, action, or proceeding.
2. Starting from the effective date the business commences the sale of beer and wine, this Use Permit shall be subject to a six-month, one-year, and two-year review by Community Development Director and/or the Police Department. If the Director/Police Department determines it necessary, the Use Permit shall subject to review by the Planning Commission to consider the business's operation for compliance with the conditions of the Use Permit, and in response to any complaints thereafter. Further, 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 Use Permit may be subject to review and revocation by the City of Lodi after a public hearing and following the procedures outlined in the City of Lodi Municipal Code. Additional reviews may be prescribed by the Community Development Director, the Police Department and/or Planning Commission as needed during and after the first two years of probationary period.

3. The Lodi Police Department may, at any time, request that the Planning Commission conduct a hearing on this Use Permit for the purpose of amending or adding new conditions to the Use Permit or to consider revocation of the Use Permit if the Use Permit becomes a serious policing problem.
4. The Applicant/Operator and/or successors in interest and management shall insure that the sale of alcohol does not cause any condition that will cause or result in repeated activities that are harmful to the health, peace or safety of persons residing or working in the surrounding area. This includes, but is not limited to: disturbances of the peace, illegal drug activity, public intoxication, drinking in public, harassment of people passing by, assaults, batteries, acts of vandalism, loitering, excessive littering, illegal parking, excessive loud noises, traffic violations or traffic safety based upon last drink statistics, curfew violations, lewd conduct, or police detention and arrests.
5. The applicant/Operator and/or successors in interest and management shall be prohibited from externally advertising or promoting beer & wine and/or distilled spirits, including but not limited to, window and wall signage.
6. Business hours shall be limited to 11:00 AM to 1:45 AM daily. Alcoholic beverages shall be sold onsite only between the hours of 11:00 AM and 1:30 AM. Alcohol sales shall commence via an open bar.
7. Adequate exterior lighting shall be provided to illuminate the facility and the parking lot during hours of darkness. In particular, exterior lighting fixtures shall be provided to illuminate the parking lot and roadway along Houston Lane. Lighting fixtures should be sufficient enough so that all exterior building elevations and the common parking lot are readily visible from adjacent streets. The said lighting fixtures shall be subject to issuance of a building permit, implemented prior to opening of the business and installed to the satisfaction of the Lodi Police Department and Community Development Department. **Note:** Exterior lighting of the parking area shall be kept at an intensity of between one and two foot-candles so as to provide adequate lighting for patrons while not disturbing surrounding residential or commercial uses.
8. A photometric exterior lighting plan and fixture specification shall be submitted for review and approval of the Community Development Director prior to the issuance of any building permit.
9. The business shall have interior security video cameras operating during all hours that the business is open. The videotapes of the security video cameras shall be maintained for a minimum period of 30 days, and the videotapes must be made immediately available for any law enforcement officer who is making the request as a result of official law enforcement business. The video cameras must be positioned in a way to capture the facial features of anyone entering the business and include cameras that capture all money handling areas. If the Chief of Police determines that there is a necessity to have additional security cameras installed, the owner of the business must comply with the request within 7 calendar days. The Chief of Police can also require that the business change the position of the video cameras if it is determined that the position of the cameras do not meet security needs. The owner of the business must comply with the request within 7 calendar days. The said security video camera shall be installed and approved prior to business opening.
10. The parking lot and the back side of the business shall also have security video cameras that capture vehicles parked in the parking lot. Specifically, security camera or cameras shall be oriented in a manner to monitor the sidewalk area to the north and south of the business along Houston Lane. The videotapes of the security video cameras shall be maintained for a minimum period of 30 days, and the videotapes must be made immediately available for any law enforcement officer who is making the request as a result of official law enforcement business. If the Chief of Police determines that there is a necessity to have additional security cameras installed, the owner of the business must comply with the request within 7

days. The Chief of police can also require that the owners/lessees of the business change the position of the video cameras if it is determined that the position of the cameras do not meet security needs. The owner of the business must comply with the request within 7 days. The said security video camera shall be installed and approved prior to business opening.

11. Any changes to the interior layout of the business operation shall be subject to review and approval by the Community Development Department and shall require appropriate City permits. The applicant must also submit a request with the Fire Department to review and possibly recalculate the maximum room occupancy.
12. Live Entertainment hours shall be limited to Thursday, Friday and Saturday evening between the hours of 9:00 p.m. and 1:30 a.m. and shall be limited to the interior of the building. Recognized holidays, special events, and private functions may be permitted but shall not occur between the hours of 1:30 a.m. to 11:00 a.m.
13. A minimum of four (4) Professional security staff shall be present during the hours entertainment occurs and one additional security guard for every 25 patrons. All persons responsible for security for the business shall have training as State-licensed security personnel.
14. Security staff shall be stationed at the entry to the bar, in the area surrounding the premise and in the inside of the business itself. Security staff and their training program shall be subject to the review and approval of the Chief of Police.
15. The Applicant/Operator and/or successors in interest and management of the bar/club shall police the area surrounding the business to prevent patrons from congregating/loitering outside the premises and to prevent excessive noise or other objectionable behavior. Noise levels shall be monitored to insure that noise does not violate the City's Noise Ordinance Section 9.24.020 and Section 9.24.030.
16. Noise emanating from the property shall be within the limitations prescribed by the City's Noise Ordinance and shall not create a nuisance to surrounding residential neighborhoods, and/or commercial establishments. Exterior doors of the establishment shall remain closed with the exception of ingress and egress during periods of live entertainment and dancing.
17. No exterior amplified music shall be permitted as part of this Use Permit approval.
18. The exterior of all the premises shall be maintained in a neat and clean manner, and maintained free of graffiti at all times. Graffiti shall be removed within twenty-four hours after issuance of a notice of order.
19. No person under the age of twenty-one (21) years shall be allowed in the premise at all times.
20. No person who is in a state of intoxication shall be permitted within the business nor shall an intoxicated patron be sold additional alcoholic beverages. It is the responsibility of the business owner/operator to ensure no patron in state of intoxication is allowed into the premise.
21. The Use Permit shall require the Applicant/Operator and/or successors in interest and management to secure an ABC License Type 42 On-Sale Beer and wine.
22. Prior to the issuance of a Type 42 ABC license, the Applicant/Operator and/or successors in interest and management shall complete Licensee Education on Alcohol and Drugs as provided by the State Department of Alcoholic Beverage Control.
23. The operator/applicant and/or successors in interest and management shall comply with all the Municipal Codes relating to loitering, open container laws and other nuisance-related issues.
24. Approval of this Use Permit shall be subject to revocation procedures contained in Section 17.72 of the Lodi Municipal Code in the event any of the terms of this approval are violated

or if the sale of beer and wine is conducted or carried out in a manner so as to adversely affect the health, welfare or safety of persons residing or working in the neighborhood.

25. Any fees due the City of Lodi for processing this Project shall be paid to the City within thirty (30) calendar days of final action by the approval authority. Failure to pay such outstanding fees within the time specified shall invalidate any approval or conditional approval granted. No permits, site work, or other actions authorized by this action shall be processed by the City, nor permitted, authorized or commenced until all outstanding fees are paid to the City.
26. No variance from any City of Lodi adopted code, policy or specification is granted or implied by this approval.

Dated: February 8, 2012

I certify that Resolution No. 12- was passed and adopted by the Planning Commission of the City of Lodi at a regular meeting held on February 8, 2012 by the following vote:

AYES: Commissioners:

NOES: Commissioners:

ABSENT: Commissioners:

ATTEST_____

Secretary, Planning Commission