

<p>CARNEGIE FORUM 305 WEST PINE STREET LODI, CALIFORNIA</p>	<p><b>AGENDA</b> <b>LODI</b> <b>PLANNING COMMISSION</b></p>	<p>REGULAR SESSION WEDNESDAY, MAY 09, 2012 @ 7:00 PM</p>
---	---	--

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 – “March 14, 2012” & “April 11, 2012”
3. PUBLIC HEARINGS
  - a. Request for Planning Commission approval of a Use Permit to allow Type 21 Off-Sale General and Type 42 On-Sale Beer and Wine Alcoholic Beverage Control license at 2418 West Kettleman Lane. (Applicant: Denise Rowman, on behalf of Beverages and More, Inc. File Number: 12-U-07)

**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
  - a. Council Summary Memo
7. 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 2<sup>nd</sup> 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, MARCH 14, 2012**

1. CALL TO ORDER / ROLL CALL

The Regular Planning Commission meeting of March 14, 2012, was called to order by Chair Olson at 7:00 p.m.

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

Absent: Planning Commissioners – 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

“February 8, 2012”

MOTION / VOTE:

The Planning Commission, on motion of Commissioner Cummins, Kiser second, approved the Minutes of February 8, 2012 as written.

Chair Olson stated that item 3a at the request of the applicant will be postponed to a future 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 Olson called for the public hearing to consider the request to make 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)
- 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 the request for a Use Permit to establish a retail landscape supply business and a collection center for wood and yard waste for an off-site processing at 1101 East Lodi Avenue. (Applicant: Eric Horton, on behalf of Green Man Materials: File Number: 11-U-20)

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

Hearing Opened to the Public

- Eric Horton, applicant, came forward to answer questions. Mr. Horton thanked staff for their assistance during this process. He gave a brief history of his participation in this type of business.
- Commissioner Heinitz asked if this is going to be an ancillary business to the one in Stockton. Mr. Horton stated that this location will mimic the business in Stockton except for the processing will take place off site. Commissioner Heinitz expressed his concern regarding the excessive amount of parking and asked if it was going to be too overwhelming for this type of business. He stated that after visiting the Stockton location he felt that the Lodi location would have excess parking and does not want to see outside storage of unauthorized merchandise. Mr. Horton stated that he believes that the parking will be perfect. The Stockton location could benefit from more parking.

- Jack Fiori, Lodi resident and local business owner, came forward to support the project.
- Martin Thorpe, Lodi resident and local business owner, came forward to support the project.

Public Portion of Hearing Closed

MOTION / VOTE:

The Planning Commission, on motion of Commissioner Heinitz, Kiser second, approved the request of the Planning Commission for a Use Permit to establish a retail landscape supply business and a collection center for wood and yard waste for an off-site processing at 1101 East Lodi Avenue subject to the conditions in the resolution. The motion carried by the following vote:

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

- c) 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 operate a fitness center known as Anytime Fitness, in an approximately 4,050 sq. ft. building located at 210 North Ham Lane. (Applicants: Stone Bros. Management Inc.; File Number: 12-U-02)

Commissioner Heinitz recused himself from this item. The applicant is the landlord of the property where his business is located.

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

Chair Olson stated her concern with the parking and the sharing of the parking with the Starbucks store. Director Bartlam stated that the parking has been considered and the peak hours do not coincide. He also added that the employees can be encouraged to park across the street in the Lakewood Mall parking lot.

Hearing Opened to the Public

- Jay Allen, applicant, came forward to answer questions. Mr. Allen stated that the peak time uses for the fitness center and Starbucks will be opposite of each other with Starbucks in the morning and the fitness center in the evening. He pointed out that there was information provided as part of the staff report regarding the study that was done showing how parking will not have a negative effect on the property because of this use.
- Claire Lima, resident on Elm Street, came forward to express her concerns over the 24 hour availability and the lack of parking. Ms Lima has taken the time to drive by the site at all times o the day and there have been very few times when the parking lot has not been full or close to full. The lot already has a problem with the cars backing up on to Ham Lane when trying to get into Starbucks.
- Randall Heinitz, Lodi resident and business owner in the Lakewood Mall, came forward to support the project. The only deficiency is the cueing of the cars that are trying to park or go through the drive through at Starbucks during the morning hours.

Public Portion of Hearing Closed

- Commissioner Cummins spoke in support of the project.
- Commissioner Hennecke spoke in support of the project.

**MOTION / VOTE:**

The Planning Commission, on motion of Commissioner Cummins, Kiser second, approved the request of the Planning Commission for a Use Permit to operate a fitness center known as Anytime Fitness, in an approximately 4,050 sq. ft. building located at 210 North Ham Lane 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

Commissioner Heinitz rejoined the Commission.

- d) 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 2 (Winery) Alcoholic Beverage Control license at 14 South School Street. (Applicant: Alan Freeman; File Number: 12-U-03)

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

Hearing Opened to the Public

- Alan Freeman, applicant, came forward to answer questions.
- Commissioner Heinitz gave a brief history regarding the space that Mr. Freeman is moving into and wished him good luck.
- Commissioner Hennecke asked about the leasing plan. Mr. Freeman stated that they will be leasing space to local wineries that do not currently have space downtown.
- Chair Olson asked if there are prospective tenants. Mr. Freeman stated that they are in discussion with a few.

Public Portion of Hearing Closed

- Chair Olson asked if this covers all other licenses. Director Bartlam stated that this covers the wine tasting, but not any other types of ABC licenses.
- Commissioner Heinitz asked if this is similar to other types of wine tasting rooms that are currently downtown. Director Bartlam stated that it is the same type of business as Benson Ferry.

**MOTION / VOTE:**

The Planning Commission, on motion of Commissioner Kiser, Heinitz second, approved the request of the Planning Commission for a Use Permit to allow a Type 2 (Winery) Alcoholic Beverage Control license at 14 South School Street subject to the conditions in the resolution. The motion carried by the following vote:

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

4. PLANNING MATTERS/FOLLOW-UP ITEMS

None

5. ANNOUNCEMENTS AND CORRESPONDENCE

None

6. ACTIONS OF THE CITY COUNCIL

Director Bartlam stated that a memo has been provided and staff would be happy to answer any questions.

7. DEVELOPMENT CODE UPDATE

Director Bartlam stated that staff is meeting with the consultant on a bi-weekly basis and may have some draft documents ready to bring to the Commission some time in June.

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

None

12. ADJOURNMENT

There being no further business to come before the Planning Commission, the meeting was adjourned at 7:40 p.m.

ATTEST:

Konradt Bartlam  
Planning Commission Secretary

**LODI PLANNING COMMISSION  
REGULAR COMMISSION MEETING  
CARNEGIE FORUM, 305 WEST PINE STREET  
WEDNESDAY, MARCH 14, 2012**

1. CALL TO ORDER / ROLL CALL

The Regular Planning Commission meeting of April 11, 2012, was called to order by Chair Olson at 7:00 p.m.

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

Absent: Planning Commissioners – Cummins and Heinitz

Also Present: Associate Planner Immanuel Bereket, Deputy City Attorney Janice Magdich, and Administrative Secretary Kari Chadwick

2. MINUTES

“March 14, 2012”

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

Vice Chair Kirsten recused himself from item 3a because he owns property within a 500 foot radius of the subject property.

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 located at 123 West Elm Street (applicant: Tina Chavarria. File Number (12-U-05)

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

Hearing Opened to the Public

- Tina Chavarria, applicant, came forward to answer questions.
- Commissioner Kiser stated that he has visited felt this would be a positive asset to the downtown.
- Commissioner Jones asked if this restaurant is related to the one in Lone. Ms. Chavarria stated that it is and the one in Sutter Creek.
- Chair Olson asked if the hours of operation were going to accommodate the bar area that is in the restaurant. Ms. Chavarria stated that the hours of operation may change on Fridays and Saturdays for late dining if there is a need for it.

Public Portion of Hearing Closed

MOTION / VOTE:

The Planning Commission, on motion of Commissioner Kiser, Hennecke 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 located at 123 West Elm Street subject to the conditions in the resolution. The motion carried by the following vote:

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

Vice Chair Kirsten rejoined the Commission.

4. PLANNING MATTERS/FOLLOW-UP ITEMS

None

5. ANNOUNCEMENTS AND CORRESPONDENCE

None

6. ACTIONS OF THE CITY COUNCIL

None

7. DEVELOPMENT CODE UPDATE

Associate Planner stated that the meetings with the consultant are ongoing and something should be brought before the Commission sometime in June.

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

None

12. ADJOURNMENT

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

ATTEST:

Immanuel Bereket  
Planning Commission Secretary

Use Permit Type 21 & 42 ABC License @ 2418 W. Kettleman Ln.  
Applicant: Denise Rowman on behalf of Beverages & More, Inc.

# Item 3a

**CITY OF LODI  
PLANNING COMMISSION  
Staff Report**

---

**MEETING DATE:** May 9, 2012

**APPLICATION NO:** Use Permit: 12-U-07

**REQUEST:** Request for Planning Commission approval of a Use Permit to allow Type 21 Off-Sale General and Type 42 On-Sale Beer and Wine Alcoholic Beverage Control license at 2418 West Kettleman Lane. (Applicant: Denise Rowman, on behalf of Beverages and More, Inc. File Number: 12-U-07).

**LOCATION:** 2418 West Kettleman Lane  
APN: 058-140-43  
Lodi, CA 95242

**APPLICANT:** Denise Rowman, on behalf of Beverages and More, Inc.  
1401 Willow Pass Road, Suite 900  
Concord, CA 94520

**PROPERTY OWNER:** First Lodi Plaza Associates  
1556 Parkside Drive  
Walnut Creek, CA 94596-3556

**RECOMMENDATION**

Staff recommends the Planning Commission approve the request of Denise Rowman, on behalf of Beverages and More, Inc., for a Use Permit to allow Type 21 Off-Sale General and Type 42 On-Sale Beer and Wine Alcoholic Beverage Control (ABC) license at 2148 West Kettleman Lane, subject to the conditions in the attached resolution.

**PROJECT AREA DESCRIPTION**

**General Plan Designation:** Commercial  
**Zoning Designation:** C-S: Commercial Shopping  
**Property Size:** .89 acres.

**The adjacent zoning and land use characteristics:**

	<b>General Plan</b>	<b>Zone</b>	<b>Land Use</b>
<b>North</b>	Commercial	C-S: Commercial Shopping	Variety of stores
<b>South</b>	Medium Density Residential	R-MD: Residential Medium Density	Vacant land
<b>East</b>	Low Density Residential	PD-24: Planned Development 24	Residences
<b>West</b>	Commercial/Medium Density Residence	C-S: Commercial Shopping	Vacant land/Residences

**SUMMARY**

The applicant, Beverages & More, Inc., is requesting a Use Permit for the off-site sale of beer, wine and distilled spirits and for on-site wine tasting associated with a retail business at 2418 West Kettleman Lane. As part of the review, the Planning Commission will need make a determination as to whether the sale of alcohol at this location serves a public convenience or necessity, in accordance with the requirements of the State Department of Alcoholic Beverage

Control (ABC) because the subject site is located in an area of undue concentration, as defined by Business and Professions Code 23958.

## **BACKGROUND**

This site is located within commercial Center (Sunwest Plaza), near the corner of Lower Sacramento Road and Kettleman Lane. The shopping center currently contains large chain-retailers, restaurants, electronic stores and other similar uses. The project site is a parcel within the shopping center. Available City records indicate the project site was used by Hollywood Video from its construction in 1994 until the fall of 2008. The building was specifically built for Hollywood Video rental chain. The site measures approximately .89 acres (38,768 sq. ft.) in area. The site contains one building totaling 8,036 sq. ft and provides fifty-six (56) onsite parking stalls. There are additional parking stalls throughout the center available for use. The center has a recorded access and shared facilities agreement. Vehicular access to the site is provided from Kettleman Lane.

## **ANALYSIS**

As noted, the applicant, Beverages & More, Inc doing business as BevMo, is proposing off-site sale of beer, wine, and distilled spirits and on-site wine tasting associated with retail liquor and specialty market located in an existing vacant building in the Sunwest Plaza along the Kettleman Lane corridor. The focus of the proposed retail store would be the off-site sale of beer, wine, and spirits with a complimentary and secondary component of gourmet foods and accessories. In addition, the store will offer educational beer and wine tasting services on limited basis. The applicant has indicated that the BevMo stores offer a wide selection of specialty spirits and craft beers that are not easily found elsewhere. Store hours are proposed to be 9 a.m. to 10 p.m., seven days a week. BevMo would have to acquire a Type 21 Off-Sale General and a Type 42 On-Sale Beer and Wine ABC licenses. Type 21 Off-Sale General (Packages only) ABC license authorizes the sale of beer, wine and distilled spirits for consumption off the premises where sold. Minors are allowed on the premises. Type 42 On-Sale Beer and Wine authorizes the sale of beer and wine for consumption on or off the premises where sold. Food service is not required.

### Beer and Wine Tasting

As proposed, tastings would occur everyday from 12:00 p.m. to 7:00 p.m., but with no more than ten (10) hours per week. For example, in a given week, the applicant would offer tastings on Friday and Saturday afternoons (for approximately 3-4 hours each day). They do not anticipate offering three tasting days per week every week. It is intended allow for special occasions. Samples drinks would be limited to approximately one ounce portions for a nominal fee, as required by the ABC. Service in the area would be done by store staff, vendor representatives or by the winemakers. The tasting area would be clearly delineated as a 10-foot by 10-foot area during tasting hours and only patrons over the age of 21 would be permitted within this area. No drinks would be permitted outside the boundaries of the tasting area. Likewise, spirits and other drinks that are not part of the tasting are not allowed to be consumed within the tasting area or elsewhere on site.

The project site is located within Census Tract 43.05. Census Tract 43.05 covers the area south of Kettleman Lane, north of Harney Lane, west of Mills Avenue and east of Lower Sacramento Road. Census Tract 43.05 contains four (4) active off-sale licenses with only three (3) off-sale licenses allowed based on the ABC criteria. According to ABC requirements, the proposed subject site is located within an area of undue concentration, as defined per Business and Professions Code Section 23958. Prior to the licensing of a new "off-sale alcohol" establishment in an area of undue concentration (as defined by State law), the Department of Alcoholic Beverage Control (ABC) requires the local jurisdiction to make a determination of Public Convenience or Necessity. In Lodi, such a determination is made by the Planning Commission in

conjunction with any associated application such as a Use Permit for the actual retail off-site sale of alcohol.

The proposed off-site sale of alcohol requires the Planning Commission to make finding that the proposed use will not be detrimental to the health, safety, morals, comfort and general welfare of the persons residing or working in the neighborhood or the general welfare of the city. The finding is generally based upon land use compatibility and convenience to the public. The Sunwest Plaza, where the project site is located, is zoned C-S (Shopping Commercial), which is the city's most general commercial district, allowing most commercial uses as of right. The C-S zoning district contains a mix of uses, including offices, retail stores, restaurants, personal services, and automotive-related uses such as fueling stations.

Staff believes that the proposed location and surrounding land uses are key factors for why staff believes the proposed use is appropriate. The existing building is part of a larger commercial development, which is intended to attract retailers that could complement one another for one-stop shopping. The existing shopping center already contains several brand name retailers, provides convenient access from major thoroughfares, ample on-site parking, and is not located near schools or immediately adjacent to residences. Staff believes that the proposed business would enhance and help revitalize a center that has faced with several vacancies without being detrimental to the community. Additionally, the proposed business may help attract other tenants or new customers to the area, potentially generating additional investment into the community and generate employment opportunities.

In reviewing the application, the Commission should consider whether the addition of the retail store would serve a public convenience or necessity. While the Sunwest Plaza contains multiple retail establishments for the off-site sale of alcohol, most of these venues are offered in conjunction with a market, where a combination of foods and products is the main focus. The proposed use focuses primarily on a variety of specialty wine, craft beers and distilled spirits where a broad selection and service on these products is the main focus. In addition, BevMo works with selected wine growers and makers to offer approximately 300 unique wines that are only available at BevMo stores. The shopping center, and census tract in which this business is located, do not contain a similar type store. Staff believes that the proposed store would provide greater access to goods in-town and serve a convenience, allowing patrons to shop local instead of traveling to its other branches in nearby jurisdictions.

In the project description letter (Attachment 5), the applicant states that BevMo is committed to the responsible marketing of alcoholic beverage products and proposes to operate in a different manner than a traditional liquor/convenience store. As a company policy, the store would: 1) prohibit the sale of cigarettes and products of abuse (such as 40 ounce containers of malt liquor, screw-top fortified wines and pints or half pints of spirits); and 2) prohibit the use of video or pinball games, sales of pornographic videos or magazines, lottery tickets, newspaper stands or pay phones that could potentially encourage loitering or minors patronizing the store. Additionally, the company will post and maintain signage stating, "No Loitering. No public drinking of alcoholic beverages," and "Stop you must be 21 to enter unless accompanied by an adult." Staff is of the opinion company policy creates an environment conducive for orderly conduct.

In reviewing the proposal, staff sent copies of the application to various City departments for review. Their comments and requirements have been incorporated into the attached resolution. Staff has contacted the Lodi Police Department for their requirement for approval of the proposed Use Permit application and they do not anticipate alcohol related problems. The Lodi Police Department recommends approval subject to the conditions outlined in the attached resolution. The Police Department does not anticipate alcohol related problems due to the

manner BevMo trains its staff, conducts business and its security arrangements. As mentioned in the previous sections, staff believes that the proposed use would be appropriate for the specific site location, within a retail center. Staff believes that a mix of large and independent retailers can co-exist successfully, providing options and complimentary and sometimes, competing services. The inclusion of an additional large retailer would not necessarily diminish the character of the center or the city, given its location at the Sunwest Shopping Plaza where large format, chain operations already exist and provide valuable services to residents and businesses to the City.

**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...the lease, permit, license, certificate, or entitlement for use or enforcing the general rule, standard, or objective.” No significant impacts are anticipated and no mitigation measures have been required.

**PUBLIC HEARING NOTICE:**

Legal Notice for the Use Permit was published on April 30, 2011. Fifteen (15) public hearing notices were sent to all property owners of record within a 300-foot radius of the subject property as required by California State Law §65091 (a) 3.

**ALTERNATIVE PLANNING COMMISSION ACTIONS:**

- Approve the request with attached or alternate conditions
- Deny the request
- Continue the request

Respectfully Submitted,

Concur,

Immanuel Bereket  
Assistant Planner

Konradt Bartlam  
Community Development Director

**ATTACHMENTS:**

1. Vicinity Map
2. Aerial Map
3. Site Plan
4. Floor Plan
5. Project Description Letters
6. Draft Resolution

**RESOLUTION NO. P.C. 12 -**

**A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF LODI FOR APPROVAL OF THE REQUEST OF REQUEST OF DENISE ROWMAN, ON BEHALF OF BEVERAGES AND MORE, INC., FOR A USE PERMIT TO ALLOW TYPE 21 OFF-SALE GENERAL AND TYPE 42 ON-SALE BEER AND WINE ALCOHOLIC BEVERAGE CONTROL (ABC) LICENSE AT 2148 WEST KETTLEMAN LANE**

**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 2418 West Kettleman Lane., Lodi, CA 95242 (APN: 058-140-43) and

**WHEREAS**, the project proponent is Denise Rowman, on behalf of Beverages and More, Inc., 1401 Willow Pass Rd, Suite 9000, Concord, CA 95240; and

**WHEREAS**, the project property owner is First Lodi Plaza Associates, 1556 Parkside Drive, Walnut Creek, CA 94596-3556; and

**WHEREAS**, the property has a General Plan designation of Commercial and is zoned C-S, Commercial Shopping; and

**WHEREAS**, the requested Use Permit to allow Type 21 Off-Sale General Alcoholic Beverage Control license, which would authorize the selling of beer, wine and distilled spirits for off-site consumption; and for Type 42 On-Sale Beer and Wine, which would authorize the sale and onsite consumption of beer and wine at the existing vacant building located at 2418 West Kettleman Lane is an enforcement action in accordance with the City of Lodi Zoning Ordinance; and

**WHEREAS**, Census Tract 43.05 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 off- the license premises where sold; and

**WHEREAS**, the Planning Commission makes a finding of public convenience and need for the request of Denise Rowman, on behalf of Beverages and More, Inc., 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 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 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- and off-sales alcoholic beverage sales are permitted in the C-S (Commercial Shopping) 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 off-sales use had previously compatibly existed nearby. 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 off-sale of beer, wine and distilled spirits, in accordance with a Type 21 Alcoholic Beverage Control License, on-sale of beer and wine in accordance with a Type 42 Alcoholic Beverage Control license, and with the conditions attached herein, would be consistent and in harmony with the Commercial General Plan Land Use Designation and C-S 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 sale and consumption of alcohol can sometimes result in customer behavior problems that can require police intervention.
6. Steps can be taken by the applicant/operator and/or developer 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.
7. 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 developer and/or successors in interest and management work with neighboring businesses and residents to resolve any problems that may occur.
8. The sale of alcoholic beverages at this location can meet the intent of the 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-07 is hereby approved, subject to the following conditions:

1. The 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 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.
3. 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. Further, starting from the effective date the business commences the sale of beer, wine and distilled spirits, this Use Permit shall be subject to a one year, and two year review by Community Development Director. If the Director determines it necessary, the Director shall forward the review to the Planning Commission to review the business's operation for compliance with the conditions of the Use Permit, and in response to any complaints thereafter.

4. The Lodi Police Department may, at any time, request that the Planning Commission conduct a hearing on the 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.
5. The property owner and/or developer 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. Onsite consumption of beer and wine shall be limited to the hours of 12:00 p.m. and 7:00 p.m., daily, and shall not exceed the hours of ten (10) hours per week.
7. No sales of alcoholic beverages shall occur between the hours of 2:00 a.m. and 6:00 a.m.
8. No single-serving containers shall be sold separately. All single-serving beer and wine containers shall be sold as part of a pack or carton.
9. Paper or plastic cups shall not be sold in quantities less than their usual customary packaging.
10. The Use Permit shall require the property owner and/or developer and/or successors in interest and management to secure an Alcoholic Beverage Control licenses Type 21 Off-Sale General (Package Store) and Type 41 On-Sale Beer and Wine.
11. Prior to the issuance of a Type 21 and Type 41 ABC licenses, the property owner and/or developer 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.
12. The applicant shall submit a tenant improvement permit. All plan submittals shall be based on the City of Lodi Regulations and currently adopted 2012 California building Code.
13. 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 the owner and/or developer and/or successors in interest and management to ensure no patron in state of intoxication is allowed into the building.
14. The property owner and/or developer and/or successors in interest and management of the business 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 shall not violate the City's Noise Ordinance Section 9.24.020 and Section 9.24.030.
15. The property owner and/or developer 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.
16. The property owner and/or developer and/or successors in interest and management shall ensure 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.

17. The exterior of all the premises shall be maintained in a neat and clean manner, and maintained free of graffiti at all times.
18. Approval of this Use Permit shall be subject to revocation procedures contained in Section 17.72 LMC in the event any of the terms of this approval are violated or if the sale of beer, wine and distilled spirits 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.
19. 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.
20. No variance from any City of Lodi adopted code, policy or specification is granted or implied by this approval.

**Dated: May 9, 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 May 9, 2012 by the following vote:

**AYES:** Commissioners:

**NOES:** Commissioners:

**ABSENT:** Commissioners:

**ATTEST** \_\_\_\_\_  
**Secretary, Planning Commission**



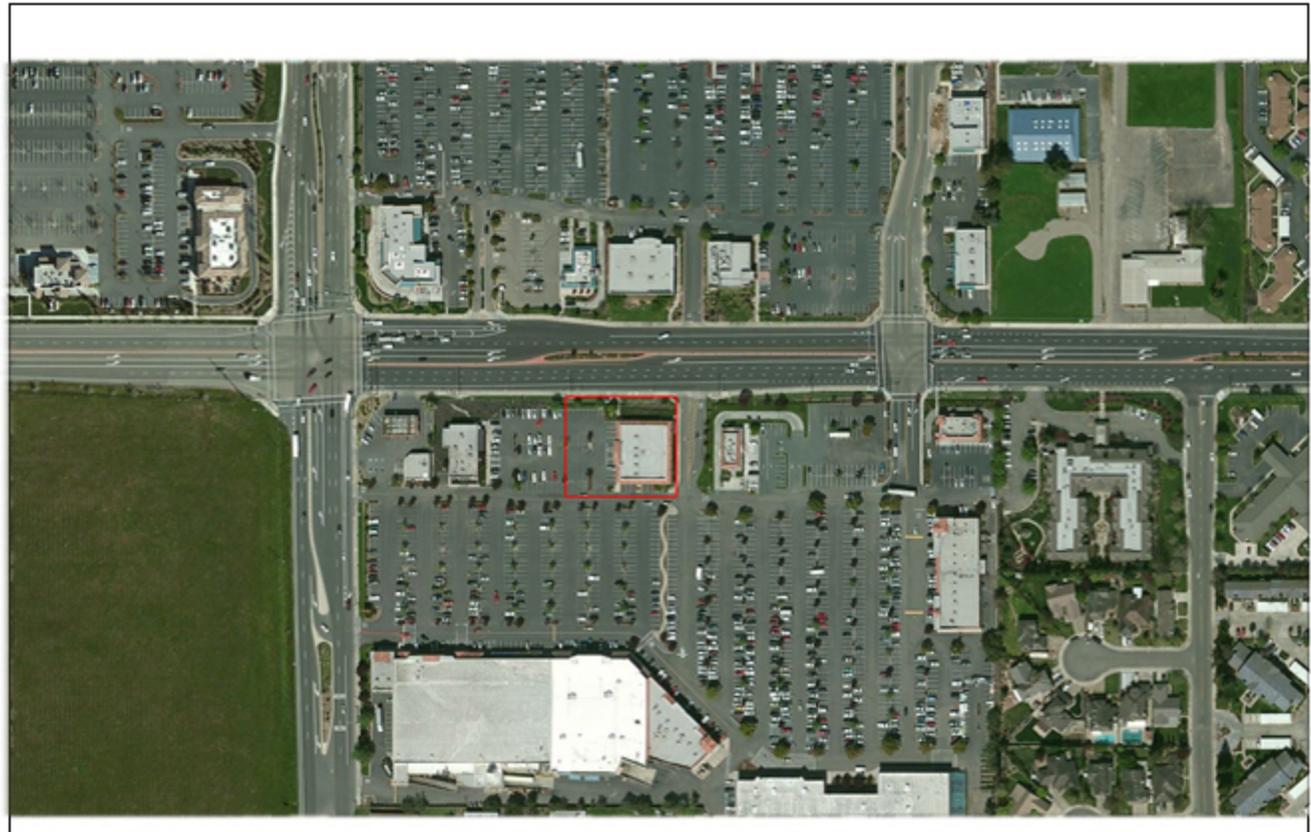


Street View



Project Area Map

## Aerial Map

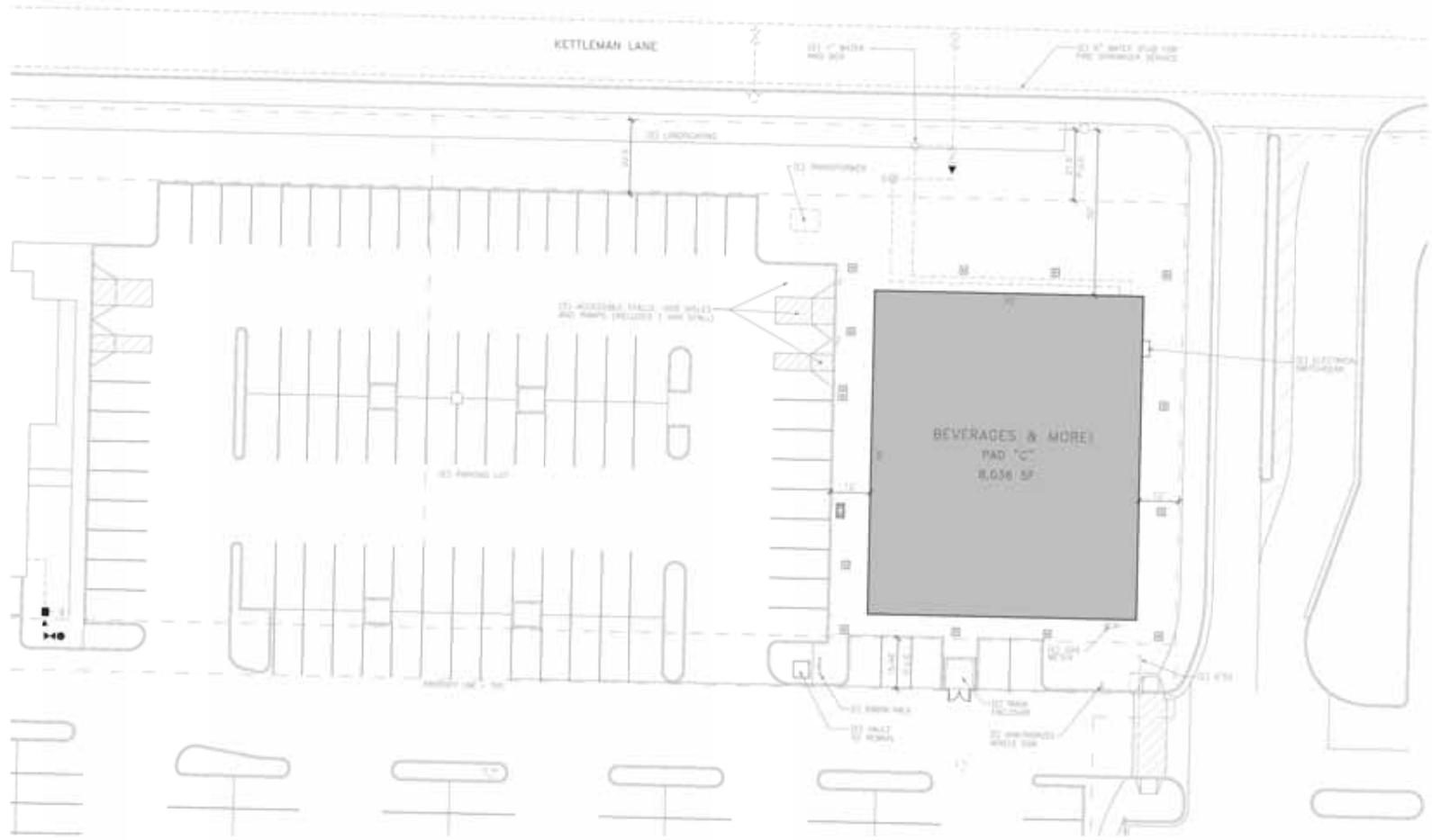


Not Scaled

**BevMo!**  
2418 West Kettleman Lane  
Lodi, CA 95242

 Project Site





1 SITE PLAN  
SD1

1/16" = 1'-0"



FOR REFERENCE ONLY

**HAYASHIDA ARCHITECTS**  
A CALIFORNIA CORPORATION  
1200 4th Street, Suite 200  
Folsom, CA 95630  
Tel: 916-952-9971  
www.hayashidaarchitects.com

**Beverages & more!**  
Sun West Plaza  
Kettleman Ln @ Lower Sacramento Rd  
Lodi, California



NO.	REVISIONS	BY

ERIC WRIGHT  
DREW TAYLOR  
TITHE HOANG

SITE PLAN	
JOB NO.	12-430-12
DATE	APR 18, 2012
DRAWN	
CHECKED	

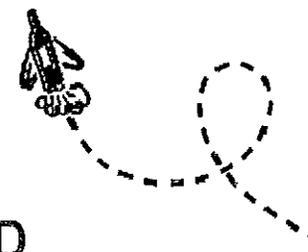
SD1

# BevMo!

1401 Willow Pass Rd, Suite 900 • Concord, California 94520 • T 925.609.6074 • F 925.798.7150 • www.bevmo.com

April 10, 2012

City of Lodi  
Community Development Department  
221 West Pine Street  
Lodi, CA 95241



**RECEIVED**

APR 19 2012

COMMUNITY DEVELOPMENT DEPT  
CITY OF LODI

Re: **Conditional Use Permit Application, Beverages and More, Inc.**  
**2418 W. Kettleman Lane, Lodi, CA 95242**  
**Company Overview and Project Description**

## About BevMo!

BevMo! is the largest specialty retailer of wine in California and was awarded Retailer of the Year in 2006 by Wine Enthusiast, and in 2009 was awarded the Market Watch Leader Award for management. BevMo! offers a convenient and unique store for local residents to browse an extensive inventory of wine, spirits, beer, gourmet food and related items such as glassware and other wine accessories, not easily found elsewhere. BevMo! offers over 3,000 wines (1,000 from California), 1,200 specialty spirits, 600 beers including many "craft" beers and over 2,000 "& More" products. The store will provide the residents with a convenient new place to shop in a well-lit and maintained facility.

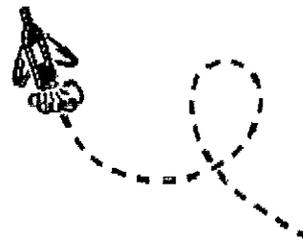
## Responsible Contributing Member of the Community

The store will have a positive influence on the local economy by providing jobs and retail tax revenue to the City of Industry, as well as competitive pricing to the consumer.

BevMo! will employ approximately 15 local residents, with the possibility of additional help hired during the holidays.

BevMo! is committed to the responsible marketing of alcoholic beverage products, which is demonstrated by:

- 1) Our hours of operation being limited to: 9 a.m. – 10 p.m. Sunday through Saturday.
- 2) Our company policy prohibiting the sale of cigarettes and products of abuse (such as 40 oz. of malt liquor, low-priced, screw-top fortified wines and pints or half-pints of spirits).
- 3) Our company policy prohibits the use of video or pinball games, sales of pornographic videos and magazines, pay telephones, lottery tickets, newspaper stands and other items that would encourage loitering or minors patronizing the store (unlike some convenience stores).
- 4) Our company posts and maintains a professional quality sign stating "No Loitering", "No public drinking of alcoholic beverages", and "Stop you must be 21 to enter unless accompanied by an adult".



1401 Willow Pass Rd, Suite 900 • Concord, California 94520 • T 925.609.6074 • F 925.798.7150 • www.bevmo.com

**California Alcoholic Beverage Control Licenses Required**

In addition to a license type 21 for the off-premises sale of alcoholic beverages, BevMo! requires a license type 42 (On-Sale Beer and Wine, Public Premises) for educational beer and wine tastings. Beer and wine tastings will be offered in-store Sunday through Saturday and during our Grand Opening. The size of the tasting area is typically 10x10, and there are no furnishings or counters in the area. All samples must take place within the boundaries of the tasting area. A sign is posted stating that no one under 21 is allowed in the tasting area. Customers are also not allowed to bring in spirits or shopping carts of any kind into the area. Service in the area is by winemakers, vendor representatives, and trained store staff. Samples are approximately 1 oz in size, served in disposable plastic tasting cups, and a nominal fee is charged for each sample as required by the ABC.

Permitting the sale of alcoholic beverages and offering tastings at this location will provide residents with a convenient, well-maintained facility with reasonable prices that will have a positive impact on the local economy and community. Therefore, we respectfully request approval of our application for a Conditional Use Permit.

Sincerely,

*Elizabeth Zaninovich*  
Liz Zaninovich  
Licensing/Permit Entitlement Specialist  
BevMo!  
zaninoviche@bevmo.com  
(925)334-2420

**RECEIVED**

**APR 19 2012**

**COMMUNITY DEVELOPMENT DEPT  
CITY OF LODI**

# BevMo!

1401 Willow Pass Rd., Suite 900 • Concord, California 94520 • T 925.609.6000 925.798.7150 • www.bevmo.com

## VIA EMAIL

April 23, 2012

Immanuel Bereket  
Planning Division  
221 West Pine Street  
Lodi, CA 95240

**Re: Beverages & More, Inc. ("Tenant")  
2418 W. Kettleman Lane, Lodi, CA  
CUP Application-Tasting Hours**

Dear Mr. Bereket:

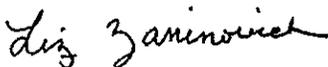
Along with offering a wide selection of beer, wine, spirits, and specialty food and bar items, BevMo! also offers educational beer and wine tastings with a type 42 liquor license from the California Department of Alcoholic Beverage Control. While our store hours of operation are typically 9am-10pm, our tastings hours are much more limited.

BevMo! proposes the following hours for tastings: Sunday through Monday from 12pm-7pm, with no more than 10 hours per week of tastings. For example, in a given week, BevMo! would likely only offer tastings on Friday and Saturday afternoons (for approximately 3-4 hours each day); however, on occasion we would like to offer a special tasting event that would also last between 3-4 hours. We do not anticipate offering three tasting days per week every week, our proposal is only intended to allow for special occasions. For example, in our stores that do not have strict limits on tasting hours, we occasionally have tastings on holidays or for special events like the beer tasting we held in several stores celebrating the end of "tax day."

BevMo! understands the City of Lodi's concern about public safety and potential concerns about excessive tastings/drinking at establishments in the city. We believe a 10 hour cap on tastings addresses such concerns, while allowing some flexibility on our end for when we can offer tastings, particularly for special events. We therefore request approval of our Conditional Use Permit.

If you have any questions, please feel free to contact me at the number listed below.

Sincerely,



Liz Zaninovich  
Licensing/Permit Entitlement Specialist  
925-334-2420

**RESOLUTION NO. P.C. 12 -**

**A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF LODI FOR APPROVAL OF THE REQUEST OF REQUEST OF DENISE ROWMAN, ON BEHALF OF BEVERAGES AND MORE, INC., FOR A USE PERMIT TO ALLOW TYPE 21 OFF-SALE GENERAL AND TYPE 42 ON-SALE BEER AND WINE ALCOHOLIC BEVERAGE CONTROL (ABC) LICENSE AT 2148 WEST KETTLEMAN LANE**

**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 2418 West Kettleman Lane., Lodi, CA 95242 (APN: 058-140-43) and

**WHEREAS**, the project proponent is Denise Rowman, on behalf of Beverages and More, Inc., 1401 Willow Pass Rd, Suite 9000, Concord, CA 95240; and

**WHEREAS**, the project property owner is First Lodi Plaza Associates, 1556 Parkside Drive, Walnut Creek, CA 94596-3556; and

**WHEREAS**, the property has a General Plan designation of Commercial and is zoned C-S, Commercial Shopping; and

**WHEREAS**, the requested Use Permit to allow Type 21 Off-Sale General Alcoholic Beverage Control license, which would authorize the selling of beer, wine and distilled spirits for off-site consumption; and for Type 42 On-Sale Beer and Wine, which would authorize the sale and onsite consumption of beer and wine at the existing vacant building located at 2418 West Kettleman Lane is an enforcement action in accordance with the City of Lodi Zoning Ordinance; and

**WHEREAS**, Census Tract 43.05 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 off- the license premises where sold; and

**WHEREAS**, the Planning Commission makes a finding of public convenience and need for the request of Denise Rowman, on behalf of Beverages and More, Inc., 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 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 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- and off-sales alcoholic beverage sales are permitted in the C-S (Commercial Shopping) 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 off-sales use had previously compatibly existed nearby. 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 off-sale of beer, wine and distilled spirits, in accordance with a Type 21 Alcoholic Beverage Control License, on-sale of beer and wine in accordance with a Type 42 Alcoholic Beverage Control license, and with the conditions attached herein, would be consistent and in harmony with the Commercial General Plan Land Use Designation and C-S 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 sale and consumption of alcohol can sometimes result in customer behavior problems that can require police intervention.
6. Steps can be taken by the applicant/operator and/or developer 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.
7. 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 developer and/or successors in interest and management work with neighboring businesses and residents to resolve any problems that may occur.
8. The sale of alcoholic beverages at this location can meet the intent of the 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-07 is hereby approved, subject to the following conditions:

1. The 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 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.
3. 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. Further, starting from the effective date the business commences the sale of beer, wine and distilled spirits, this Use Permit shall be subject to a one year, and two year review by Community Development Director. If the Director determines it necessary, the Director shall forward the review to the Planning Commission to review the business's operation for compliance with the conditions of the Use Permit, and in response to any complaints thereafter.

4. The Lodi Police Department may, at any time, request that the Planning Commission conduct a hearing on the 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.
5. The property owner and/or developer 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. Onsite consumption of beer and wine shall be limited to the hours of 12:00 p.m. and 7:00 p.m., daily, and shall not exceed the hours of ten (10) hours per week.
7. No sales of alcoholic beverages shall occur between the hours of 2:00 a.m. and 6:00 a.m.
8. No single-serving containers shall be sold separately. All single-serving beer and wine containers shall be sold as part of a pack or carton.
9. Paper or plastic cups shall not be sold in quantities less than their usual customary packaging.
10. The Use Permit shall require the property owner and/or developer and/or successors in interest and management to secure an Alcoholic Beverage Control licenses Type 21 Off-Sale General (Package Store) and Type 41 On-Sale Beer and Wine.
11. Prior to the issuance of a Type 21 and Type 41 ABC licenses, the property owner and/or developer 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.
12. The applicant shall submit a tenant improvement permit. All plan submittals shall be based on the City of Lodi Regulations and currently adopted 2012 California building Code.
13. 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 the owner and/or developer and/or successors in interest and management to ensure no patron in state of intoxication is allowed into the building.
14. The property owner and/or developer and/or successors in interest and management of the business 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 shall not violate the City's Noise Ordinance Section 9.24.020 and Section 9.24.030.
15. The property owner and/or developer 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.
16. The property owner and/or developer and/or successors in interest and management shall ensure 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.

17. The exterior of all the premises shall be maintained in a neat and clean manner, and maintained free of graffiti at all times.
18. Approval of this Use Permit shall be subject to revocation procedures contained in Section 17.72 LMC in the event any of the terms of this approval are violated or if the sale of beer, wine and distilled spirits 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.
19. 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.
20. No variance from any City of Lodi adopted code, policy or specification is granted or implied by this approval.

**Dated: May 9, 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 May 9, 2012 by the following vote:

**AYES:** Commissioners:

**NOES:** Commissioners:

**ABSENT:** Commissioners:

**ATTEST** \_\_\_\_\_  
**Secretary, Planning Commission**

# Item 6a.



**MEMORANDUM, City of Lodi, Community Development Department**

**To:** City of Lodi Planning Commissioners  
**From:** Rad Bartlam, Community Development Director  
**Date:** Planning Commission Meeting of 05/09/2012  
**Subject:** Past meetings of the City Council and other meetings pertinent to the Planning Commission

---

In an effort to inform the Planning Commissioners of past meetings of the Council and other pertinent items staff has prepared the following list of titles.

If you have any questions, please feel free to contact the Planning Department or visit the City of Lodi website at: <http://www.lodi.gov/city-council/AgendaPage.html> to view Staff Reports and Minutes from the corresponding meeting date.

Date	Meeting	Title
April 17, 2012	Shirtsleeve	Receive Update on Harney Lane Grade Separation at the Union Pacific Railroad Crossing (PW)