

**LODI PLANNING COMMISSION  
REGULAR COMMISSION MEETING  
CARNEGIE FORUM, 305 WEST PINE STREET  
WEDNESDAY, AUGUST 8, 2012**

1. CALL TO ORDER / ROLL CALL

The Regular Planning Commission meeting of August 8, 2012, was called to order by Chair Olson at 7:00 p.m.

Present: Planning Commissioners – Cummins, Heinitz, Hennecke, Jones, Kirsten (arrived at 8:08 pm), Kiser, and Chair Olson

Absent: Planning Commissioners – None

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

2. MINUTES

“July 11, 2012”

MOTION / VOTE:

The Planning Commission, on motion of Commissioner Kiser, Hennecke second, approved the Minutes of July 11, 2012 as written. (Commissioners Cummins and Jones abstain because they were not in attendance of the subject meeting)

3. PUBLIC HEARINGS

Chair Olson announced that Item 3c will be heard first due to the amount of interest that has been expressed for the other two items.

- 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 Planning Commission to recommend to the City Council to Approve Growth Management Allocations to Permit and Construct 12 Residential Units at 2110 Tienda Drive. (Applicant: John Giannoni; File No: 12-GM-01)

Associate Planner Bereket gave a brief PowerPoint presentation based on the staff report. Staff recommends approval of the request for the Planning Commission to recommend that the City Council approve twelve Growth Management Allocations.

Commissioner Hennecke asked how long that parcel has been zoned R-C-P. Director Bartlam stated that it has had that zoning since its annexation more than fifteen years ago.

Commissioner Heinitz asked if this parcel was already approved for nine units. Director Bartlam stated that that is correct.

Commissioner Kiser asked if these are going to be built as condominiums or apartments. Director Bartlam stated that is a good question for the applicant. The applicant has indicated that he will be submitting a tentative map and splitting the units to be sold individually.

Hearing Opened to the Public

- John Giannoni Jr., applicant, came forward to answer questions. Mr. Giannoni stated that the plan will be to build twelve townhouses that will be for owner occupied. This is

going to be a PD not a PUD. There will not be any carports involved with the site plan. The plan is to have a piazza in the middle.

- Commissioner Heinitz asked Mr. Gianonni to explain what a PD and PUD are. Mr. Gianonni stated that this plan is a PD because of the individual lots. There will not be any shared walls involved in the dwelling units. All common areas will be on the exterior.
- Commissioner Kiser asked if the units will be built with zero lot lines and how the maintenance agreements for the common areas will work. Mr. Gianonni stated that the CC&R's that will regulate the common areas have already been drafted.
- Loel Flemmer, Lodi resident, came forward to object to the density twelve allocations would cause. He does not think that the project will live up to the current standards of the neighborhood, based on what has been submitted at this time.
- Roger Barker, Lodi resident, came forward to object to the number of allocations. Mr. Barker stated that twelve units are too many for this parcel. He also feels that there are many safety issues associated with the proposed project. He feels that a second driveway would help to alleviate the safety hazards with the dead end driveway that splits the units. Anything that is built should be of equal or higher standard than what is currently in the neighborhood.
- Commissioner Hennecke stated that the Commission's focus tonight has nothing to do with what the exterior is going to look like and encouraged Mr. Barker to return to the Commission when the development plans are brought forward.
- Commissioner Kiser asked if the Fire Department has looked at this to determine if twelve units can fit on the property and allow safety equipment to access the rear units. He is concern about approving twelve units if there will be a safety issue. Mr. Bartlam stated that twelve units are not being approved with this application. Twelve allocations are being approved. The applicant will need to come back with development and SPARC plans and show that twelve units will work on the property before the building of the dwelling units can move forward to the next step. These are the plans that Fire as well as the other departments will review and then those comments will be brought before the Commission for approval.
- Mr. Barker asked why allocate twelve units if you don't know if they will fit.
- Fred Baker, Lodi resident, came forward to object to the number of allocations. Mr. Baker stated that he was in support of the original nine units that was approved for this parcel and would like to see only nine units allocated. Commissioner Heinitz asked if there was a lot line adjustment to accommodate his project next door to this parcel. Mr. Baker stated that the original plan had nine units on each side of the private driveway and they were mirror images of each other. The plan for the west parcel then changed to have only eight units, four duplexes, on four parcels.
- Suzanne Burns, Lodi resident, came forward to object to the project. Ms. Burns does not believe that this project will have a positive impact on the neighborhood.
- Brenda Akin, Lodi resident, came forward to object to the number of allocations. Safety for the seniors and children in this neighborhood are Ms Akin's major concerns. The traffic is already busy and would like to see a traffic report done and distributed to the neighborhood.

Public Portion of Hearing Closed

- Commissioner Heinitz stated that this has been looked at before with nine allocations and it was going to be a tight fit then. Now trying to fit twelve units on the same if not smaller parcel is relevant.

- Commissioner Cummins asked for the definition of Medium Density. Director Bartlam stated that the definition according to the General Plan is eight to twenty units per acre. The property as proposed with twelve units comes in at about 9.2 units per acre. Cummins stated that Tienda has always been a busy street and will not be anything but a busy street.
- Commissioner Kiser stated that this has been looked at before and doesn't want to keep adding to a problem such as traffic if it isn't necessary.
- Chair Olson asked for clarification on the allocation process being a maximum of twelve then the applicant goes back to his office and draws it and then brings it back for approval. Director Bartlam stated that that is correct. It has been six years since staff and the Commission have been through the Growth Management Allocation process. He stated that if this were an application for twelve single family lots to be allocated the Commission wouldn't see the development plan until early next year. Bartlam stated that there are a number of projects that have been given more allocations than they needed or used.
- Commissioner Hennecke stated his appreciation for the fact that someone is expressing a desire to build something. He also added that the applicant will still have to bring the actual development plan back to staff for review, then the Commission will get another look at it and if it doesn't look right at that time it can still be denied.
- Director Bartlam stated that 660 allocations exist, there is no competition for the units and he is the only application in for this year, there is no reason why he should not be able to move forward to the next level.

MOTION / VOTE:

The Planning Commission, on motion of Commissioner Jones, Hennecke second, approved the request of the Planning Commission to recommend to the City Council to Approve Growth Management Allocations to Permit and Construct 12 Residential Units at 2110 Tienda Drive subject to the conditions in the resolution. The motion carried by the following vote:

Ayes: Commissioners – Cummins, Hennecke, Jones, and Chair Olson  
Noes: Commissioners – Kiser and Heinitz  
Absent: Commissioners - Kirsten

The Chair called for a short break 7:53 pm

The meeting was called back to order 7:58 pm

- 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 of the Planning Commission for a Use Permit and a SPARC Review to Allow Development of a Gas Station with 8-Dispenser Canopy, 3,078 Square Foot Convenience Store with sale of beer and wine (Type-20), and a drive through carwash facility on a .94-acre site located at 255 East Harney Lane. (Applicant: Peter Tobin, on behalf of Hardev Singh Gill; File Number: 12-U-06 and 12-SP-02)

Vice Chair Kirsten joined the Commission meeting (8:08pm).

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

Commissioners Jones, Hennecke, and Kirsten all disclosed that they spoke with the applicant prior to the meeting.

Commissioner Jones asked if this Use Permit is approved tonight does it include all of the conditions that were outlined in the staff report and in the staff presentation. Mr. Bereket stated that it does.

Hearing Opened to the Public

- Peter Tobin, applicant, came forward to answer questions.
- Chair Olson asked if this is a standard plan. Mr. Tobin stated that the general layout is a nice size allowing for a lot of buffering and the architecture is a bit more detailed than a normal standard plan for this type of project.
- Ken Dharni, owner, came forward to answer questions.
- Connie Ibarra, Lodi resident, came forward to express her concerns regarding the project. Ms. Ibarra is concerned with the extra noise over and above the noise that can already be heard from Harney Lane. She would like to know where the trash bins will be kept. How bright will the lights be and will they shine into her yard? Where will the traffic be flowing in and out of the property? She wanted to know which neighbors' staff spoke to? Ms. Ibarra would like to be able to use her back yard without smelling trash and fuel fumes.
- Commissioner Hennecke asked if Commissioners are following the proper procedure when making their disclosures. City Attorney Schwabauer stated that the Commissioners should be disclosing that the meeting took place and then any material items presented in that meeting that are pertinent to making a decision on the project. Hennecke disclosed that he was shown the design plans for the project. Schwabauer stated that if they were the same plans as presented tonight then there isn't a problem, but if they were different then you would need to disclose the differences.
- Vice Chair Kirsten disclosed that he and the applicant discussed the feed back that the applicant had been getting from the neighbors.
- Vice Chair Kirsten asked Ms. Ibarra if she has seen the site plan. Ms. Ibarra stated that she has not. Kirsten stated that one can be provided for her tonight. Mr. Bartlam pointed out on the site plan from the PowerPoint slide Ms. Ibarra's residence in relation to the project site and he added that of all the parcels adjacent to the project her residence will have the most buffering.
- Chair Olson asked if this is the final look at this project. Mr. Bartlam stated that all approvals are included with application before the Planning Commission tonight. The next step will be for the applicant to submit the plans to the Building Division for review and approval.
- Ms Ibarra would like to know the hours of operation. Mr. Bartlam stated that the store will operate 24 hours except for the car wash which will be from 7am to 7pm. Ibarra asked if there was someone local to contact if there are any problems. Chair Olson stated that that information can be gotten from the applicant. Commissioner Kiser added that the lighting and noise concerns are just two of the items that are being addressed by the Commission tonight. The impact to the surrounding neighborhood is a great concern to the Commission. Olson added that there is always recourse for bringing the item back to the Commission if there are concerns that are not being addressed by the property owner.
- Richard Karsting, Lodi resident, came forward to object to this type of project for this parcel. Mr. Karsting is concerned that his renters will not want to rent near this type of use and he will lose the home. He would like the Commission to put themselves in the

position of living near the proposed project with the car wash and vehicle vacuums. Commissioner Cummins asked for clarification on weather or not Mr. Karsting was told about the commercial development when purchasing the property. Mr. Karsting stated that he was told that the development was supposed to be a little strip mall with shops. Commissioner Hennecke stated that he has lived near this type of development and the recourse is to complain if they are not following the guidelines set out for the approval.

- Terry Tarditi, owner of the Montessori School on Stockton Street, came forward to object to the selling of alcohol within 200 feet of the school. He would like the Commission to consider not allowing the sale of alcohol and tobacco.
- Vice Chair Kirsten asked the City Attorney if he needs to recues himself from this item due to the personal nature of his association with Mr. Tarditi. Mr. Schwabauer stated that Commissioner Kirsten would only need to recues himself if there is a financial relationship between him and Mr. Tarditi.
- Terry Tarditi stated that all the paperwork has been approved for the school to re-open.
- Commissioner Kiser asked if there are any restrictions for the sale of alcohol near a school. Mr. Bartlam stated that there are no restrictions for off-sale alcohol licenses. There are restrictions for on-site consumption such as bars, nightclubs, and lounges.
- Fred Ergonis, potential owner of the Montessori School, came forward to object to the project. Has there been any consideration or mitigations regarding the school. Considerations for the residential neighborhood have been made. He does not believe that this is the right use for that location. The school will have 130 students starting Monday, August 13, 2012. This is a tobacco and beer store. There is the potential for the store to get robbed and that will put all the students and staff at the school in danger.
- Commissioner Hennecke asked if this school location has a valid use permit. Mr. Bartlam stated that a use permit was issued in about 2003. Hennecke asked if it was valid. Bartlam stated that he will need to look into it and added that staff may not have been aware that the school was closed. Hennecke asked if the school would then have trouble revalidating their use permit with the proximity to the sale of tobacco and alcohol. Mr. Bartlam stated that there are no restrictions for the proximity of the sale of tobacco and alcohol and the school. Mr. Bartlam added that back when the original application for the school came before City Staff Mr. Tarditi was cautioned that this is an industrial area.
- Commissioner Cummins asked if Mr. Ergonis was concerned with the attendance if this project is approved. Mr. Ergonis stated that he is concerned for the safety of the children that attend the school.
- Vice Chair Kirsten stated that there isn't a proximity issue. The Commission is here to apply the code within the boundaries that they are given. Mr. Ergonis stated that staff did a study for the lighting and noise and how it would impact the residential neighborhood did anyone do a study to see how this type of project would affect the school. Kirsten stated that there isn't anything in the application from a planning standpoint that would require the Commission to consider an impact on the school.
- Commissioner Kiser asked Mr. Bartlam if there is a valid use permit for the school. Mr. Bartlam stated that he would research it as soon as possible.
- Chair Olson stated that this parcel has been zoned for this type of use for some time. This is not a new zoning designation. Mr. Bartlam stated that it was a part of the original development plan when it was annexed. The eight foot wall was part of the

development because the property has always been zoned as C-1, General Commercial. In 2004 the same type of use was approved for this parcel. Olson asked what the recourses are for Mr. Ergonis if this is approved and the applicant is not operating under the guidelines of the use permit approvals. Mr. Bartlam stated that the Use Permit can be re-opened should there be any issues regarding alcohol. The issues will need to be brought to the attention of staff before they can be acted on, so if Mr. Ergonis is experiencing any issues he is encouraged to report them.

- Lowell Flemmer came forward to state that his questions have been answered.
- Peter Tobin, came forward to introduce Paulo Bollard who did the noise study. Mr. Bollard stated that staff has done their due diligence and the noise from the vacuums will not be an issue.
- Richard Karsting asked if the outdoor vacuums will also be regulated to the 7 am to 7 pm time frame. Mr. Karsting would like to know when the carwash portion of the application was brought into the discussion. It was not a part of the original approvals for this site. Mr. Bartlam stated that there are two separate types of vacuums proposed on this site. One set in the car wash facility and the other set sits along Stockton Street and they will service the inside of the vehicles. The set along Stockton Street have not had any time regulations placed on them, but the Commission is welcome to address that if they wish.
- Pete Tobin came forward to say that the applicant is willing to limit the use of the outside vacuums from 7 am to 7 pm.
- Fred Ergonis came forward to clarify if this item was being voted on tonight without the follow-up to the question of whether or not his school's Use Permit is valid. Mr. Bartlam stated that it will have no bearing on the decision. Mr. Ergonis asked if the school complains about drinking on site what is the threshold required to bring it back to the Commission for further review. Mr. Bartlam stated that condition number six of the resolution covers the items that Mr. Ergonis is concerned about; condition number seven limits the advertising and visibility of alcohol to the public right-of-way; and condition number eight allows for periodic review by staff and or the Planning Commission based on the information that has been reported to either Planning Staff or the Police Department Staff. Ergonis asked about the threshold. Bartlam stated that there isn't a threshold. Staff will investigate the reports and if the reports violate the conditions of the Use Permit it can be brought back for review.

Public Portion of Hearing Closed

- Commissioner Heinitz stated that he understands the concerns expressed but this is not a new idea. There are several convenient stores within blocks of schools all around town.
- Vice Chair Kirsten stated his support for the project.

**MOTION / VOTE:**

The Planning Commission, on motion of Commissioner Kiser, Heinitz second, approved the request for a Use Permit and a SPARC Review to Allow Development of a Gas Station with 8-Dispenser Canopy, 3,078 Square Foot Convenience Store with sale of beer and wine (Type-20), and a drive through carwash facility on a .94-acre site located at 255 East Harney Lane subject to the conditions in the resolution with the amendment to condition number nine to include the time limitations on the outdoor vacuums. The motion carried by the following vote:

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

- 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 of the Planning Commission for a Use Permit to allow a Type 2 (Winery) Alcoholic Beverage Control license at 20 West Elm Street. (Applicant: Erin Taylor, on behalf of Riaza Wines, LLC; File Number: 12-U-11)

Item 3c was the first public hearing heard by the Commission at this meeting.

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

Hearing Opened to the Public

- Erin Taylor, applicants, came forward to answer any questions.

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 2 (Winery) Alcoholic Beverage Control license at 20 West Elm Street subject to the conditions in the resolution. The motion carried by the following vote:

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

4. PLANNING MATTERS/FOLLOW-UP ITEMS

None

5. ANNOUNCEMENTS AND CORRESPONDENCE

Director Bartlam wished our City Attorney, Steve Schwabauer a Happy Birthday.

6. ACTIONS OF THE CITY COUNCIL

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

7. DEVELOPMENT CODE UPDATE

- a. Staff presentation on the Draft Development Code Section 2, Commercial and Industrial Districts.

Director Bartlam gave a PowerPoint presentation based on the staff report.

Opened for Public Comment

- No comments made.

Closed to Public Comment

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

Director Bartlam congratulated Commissioners Kiser and Heinitz on being re-appointed to the Commission. He also added that the Supreme Court has decided not to take up the issue that was brought before them, so the Super Wal Mart project is moving forward. Kiser asked if there is a use for the old building. Bartlam stated that a tenant occupying the old building or the building being torn down is a condition for Wal Mart to occupy the new building.

Chair Olson stated that she has a concern over the way that the growth management allocations role over from year to year and she would like to have staff look at finding a way to limit the number of allocations that can be rolled over from year to year. She would like to have a discussion item brought back to the Commission in the near future.

12. ADJOURNMENT

There being no further business to come before the Planning Commission, the meeting was adjourned at 9:20 p.m.

ATTEST:

Konradt Bartlam  
Planning Commission Secretary