

**LODI PLANNING COMMISSION  
REGULAR COMMISSION MEETING  
CARNEGIE FORUM, 305 WEST PINE STREET  
WEDNESDAY, JANUARY 9, 2013**

1. CALL TO ORDER / ROLL CALL

The Regular Planning Commission meeting of January 9, 2013 was called to order by Chair Kirsten at 7:00 p.m.

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

Absent: Planning Commissioners – Cummins and Hennecke

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

2. MINUTES

“September 12, 2012”

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.

“December 12, 2012”

MOTION / VOTE:

The Planning Commission, on motion of Commissioner Kiser, Jones second, approved the Minutes of December 12, 2012 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 Kirsten called for the public hearing to consider the request for Planning Commission approval of a Use Permit to allow a Type 2 (Winery) Alcoholic Beverage Control license at 1370 East Turner Road. (Applicants: Michael McCay, on behalf of McCay Cellars; File Number: 12-U-20)

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

Vice Chair Jones disclosed that he spoke with the applicant regarding the project.

Hearing Opened to the Public

- Michael McCay, applicant, came forward to answer questions.
- Frank Alegre, Lodi resident and local business owner, came forward to remind everyone that the area has a lot of dust due to the types of businesses that surround this project. He would like to put it on the record that the applicant has been warned. Chair Kirsten asked staff how Mr. Alegre gets his concerned on the record. Director Bartlam stated that he just did.
- Mike Hass, tenant in the same space, came forward to express his concerns that the grape husks from the previous winery, Vino Con Brio, plugged the sewer line. Chair Kirsten stated that this application does not include production, so that should not be a problem

with this project and will have to come back before the Planning Commission if the applicant wishes to change it.

- Commissioner Kiser asked if there was a standard condition for wineries regarding hauling away the debris. Director Bartlam stated that is the case, but because Vino Con Brio is long out of business the City can not go back to them. The property owner should be notified, so that he can take care of the issue.

Public Portion of Hearing Closed

MOTION / VOTE:

The Planning Commission, on motion of Commissioner Kiser, Jones second, approved the request for a Use Permit to allow a Type 2 (Winery) Alcoholic Beverage Control license at 1370 East Turner Road subject to the conditions in the resolution. The motion carried by the following vote:

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

- b) Notice thereof having been published according to law, an affidavit of which publication is on file in the Community Development Department, Chair Kirsten called for the public hearing to consider the request of the Planning Commission for approval of a Tentative Parcel Map to divide one parcel in to two lots at 903 West Turner Road. (Applicant: Foster Advantage, Inc. File No. 12-P-02)

Chair Kirsten stated that Item 3b has been postponed to a future Planning Commission date.

- c) Notice thereof having been published according to law, an affidavit of which publication is on file in the Community Development Department, Chair Kirsten called for the public hearing to consider the request of the Planning Commission for approval of a Use Permit to operate a fitness facility in an existing building located at 1320 West Lockeford Street. (Applicants: Sandra Homan, on behalf of In-Shape Health Clubs, Inc.; File Number: 12-U-19)

Commissioner Heinitz recused himself because he is a tenant in the same shopping center.

Chair Kirsten disclosed that he had a phone conversation with Wade Cellars with Stone Brothers, and Mel Young with Apple Market Central Mart, regarding the project.

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

Hearing Opened to the Public

- Jay Allen, representative for Stone Brothers property owner, came forward to answer questions. Mr. Allen stated that his father-in-law, Max Stone, along with a partner, Yamada Family, built the original shopping center. The Yamada Family owned and operated of the Sell Rite Store and when the second generation didn't want to step up and take over the business the store shut down. Another grocery store, Landucci's Market, went into the space and that store went out of business. After that store Apple Market went into the space and now they are struggling to stay open and have decided to close. There have been many efforts made to get another grocery store back into the space. The first time In-Shape Fitness organization approached the owner they told them that they were not interested in putting a fitness center into the space. After a second look at the options the space being filled with a fitness center looked better than an empty commercial space.

- Commissioner Olson asked what happens when a space like this remains vacant. Mr. Allen stated that there will be a down grade in use if the space stays vacant for a long period of time. Placing In-shape in this space is not a down grade in use, but rather a change in use. Olson asked if this use is compatible to the other uses in the shopping center. Allen stated that there shouldn't be any detriment to the other tenants. There have not been any negative comments from the other tenants to this point.
- George Petrulakis, Attorney for the folks that are concerned with the project, came forward to object to the project. Mr. Petrulakis has concerns with the findings that there will not be an impact to the surrounding area. The California Environmental Quality Act (CEQA) Article 19, 15321, that is being used for this application doesn't necessary apply. Staff seems to use this Article as a catch-all for all types of applications. There is a change of use, grocery store to 24 hour fitness center, for the space and an Initial Study and a Negative Declaration should have been done to ensure compatibility with the local environment which is primarily residential. There are a lot of concerns that could have been addressed within an Initial Study. Chair Kirsten asked staff to expand on the exemption that was used. Director Bartlam stated that staff is very satisfied with the exemption used. CEQA allows for a litany of categorical exemptions for these types of items. Staff used the exemptions outlined in Class 21, which should give you some sense of how many there are. These are used when the items that are brought before you are much to do about nothing. The infill categorical exemption could have been used as well; staff chose not to use it. This property is less than five acres and fits in the infill category.
- Randal Heinitz, tenant in the center, came forward to support the project. The uses in the surrounding area are primarily Commercial Uses, not residential. Mr. Heinitz would rather see a Fitness Center in the space then to see it sit empty. All of the tenants that have spoken to him about the change have all expressed positive comments and are excited about the new tenant.
- Paul Rothbard, CEO of In-Shape Health Clubs, came forward to answer questions. Members and non-members have been asking In-Shape to open a center in Lodi for many years. He is extremely confident that this will bring a positive customer flow to the entire center. Commissioner Kiser asked how many employees will be employed. Mr. Rothbard stated that the facility should employ up to 50 employees. 10 to 15 full time and the rest part time. Commissioner Olson asked how many memberships are estimated for this facility. Mr. Rothbard stated that there are 3000 memberships estimated. Chair Kirsten asked during peak hours how many members will be using the facility. Mr. Rothbard stated about 100 to 125 during peak hours of 5 pm to 7 pm on a Monday, Tuesday, and Wednesday Night. Kirsten asked if the parking will be sufficient. Mr. Rothbard stated that the company has more to loose by underestimating available parking, so parking has been taken into consideration and deemed sufficient.

Public Portion of Hearing Closed

MOTION / VOTE:

The Planning Commission, on motion of Commissioner Kiser, Jones second, approved the request for a Use Permit to operate a fitness facility in an existing building located at 1320 West Lockeford Street subject to the conditions in the resolution. The motion carried by the following vote:

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

Commissioner Heinitz rejoined the Commission.

4. PLANNING MATTERS/FOLLOW-UP ITEMS

None

5. ANNOUNCEMENTS AND CORRESPONDENCE

None

6. ACTIONS OF THE CITY COUNCIL

None

7. ACTIONS OF THE SITE PLAN AND ARCHITECTURAL REVIEW COMMITTEE

None

8. ART IN PUBLIC PLACES

None

9. COMMENTS BY THE PUBLIC (NON-AGENDA ITEMS)

None

10. COMMENTS BY STAFF AND COMMISSIONERS (NON-AGENDA ITEMS)

Director Bartlam wished the Commissioners a Happy New Year on behalf of Staff.

11. ADJOURNMENT

There being no further business to come before the Planning Commission, the meeting was adjourned at 7:53 p.m.

ATTEST:

Konradt Bartlam  
Planning Commission Secretary