

<p>CARNEGIE FORUM 305 WEST PINE STREET LODI, CALIFORNIA</p>	<p>AGENDA LODI PLANNING COMMISSION</p>	<p>REGULAR SESSION WEDNESDAY, JULY 10, 2013 @ 7:00 PM</p>
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For information regarding this agenda please contact:

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

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

1. ROLL CALL
2. MINUTES – “May 8, 2013”
3. PUBLIC HEARINGS
 - a. Request for Planning Commission approval of a Use Permit to allow a Type 2 (Winery) Alcoholic Beverage Control license at 606 South Central Avenue. (Applicant: Gerardo Espinosa; File Number: 13-U-09)

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. ACTIONS OF THE SITE PLAN AND ARCHITECTURAL REVIEW COMMITTEE
8. ART IN PUBLIC PLACES
9. COMMENTS BY THE PUBLIC (NON-AGENDA ITEMS)
10. COMMENTS BY THE PLANNING COMMISSIONERS & STAFF (NON-AGENDA ITEMS)
11. ADJOURNMENT

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

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

Right of Appeal:

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

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

**LODI PLANNING COMMISSION
REGULAR COMMISSION MEETING
CARNEGIE FORUM, 305 WEST PINE STREET
WEDNESDAY, MAY 8, 2013**

1. CALL TO ORDER / ROLL CALL

The Regular Planning Commission meeting of May 8, 2013 was called to order by Chair Kirsten at 7:00 p.m.

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

Absent: Planning Commissioners – Cummins

Also Present: Associate Planner Immanuel Bereket and Administrative Secretary Kari Chadwick

2. MINUTES

“April 10, 2013”

MOTION / VOTE:

The Planning Commission, on motion of Commissioner Kiser, Jones second, approved the Minutes of April 10, 2013 as written. (Commissioners Heinitz and Olson abstained because they were not in attendance of the subject meeting)

3. PUBLIC HEARINGS

- a) Continued from the April 10, 2012 Planning Commission Meeting, the request for Planning Commission approval of a Use Permit to establish concrete recycling for onsite processing and outdoor storage facility for recycling materials at 1011 East Lockeford Street. (Applicant: David Burkhart, on behalf of Lodi Aggregates, Inc; File Number: 13-U-03)

Chair Kirsten stated that this item was withdrawn by the applicant.

- 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 Use Permit to allow a Type-41 On-Sale Beer and Wine Alcoholic Beverage Control License located at 307 South Lower Sacramento Road, Suite D. (Applicant: Feng Min Zhao, on behalf of Komachi Sushi Restaurant; File Number: 13-U-06)

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

Hearing Opened to the Public

- None

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-41 On-Sale Beer and Wine Alcoholic Beverage Control License located at 307 South Lower Sacramento Road, Suite D subject to the conditions in the resolution. The motion carried by the following vote:

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

4. PLANNING MATTERS/FOLLOW-UP ITEMS

None

5. ANNOUNCEMENTS AND CORRESPONDENCE

None

6. ACTIONS OF THE CITY COUNCIL

Associate Planner Bereket stated that a memo has been provided in the packet and staff is available to answer any questions.

7. ACTIONS OF THE SITE PLAN AND ARCHITECTURAL REVIEW COMMITTEE

None

ART IN PUBLIC PLACES

Chair Kirsten gave a brief report regarding the most recent meeting. An art project has been approved to place art on a building in the Reynolds Ranch Shopping Center.

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

None

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

Commissioner Kiser asked about the controversy regarding the sign for the Cardroom saying casino. Associate Planner Bereket stated that the City Attorney's Office is looking into it. Bereket added that the billboard is outside of the City Limits.

Chair Kirsten mentioned that two electronic signs were brought before the Art In Public Places Committee and were voted down. These proposed signs were also believed to be outside the city limits.

10. ADJOURNMENT

There being no further business to come before the Planning Commission, the meeting was adjourned at 7:09 p.m.

ATTEST:

Konradt Bartlam
Planning Commission Secretary

Item 3a

**CITY OF LODI
PLANNING COMMISSION
Staff Report**

MEETING DATE: July 10, 2013

APPLICATION NO: Use Permit: 13-U-09

REQUEST: Request for Planning Commission approval of a Use Permit to allow a Type 2 (Winery) Alcoholic Beverage Control license at 606 South Central Avenue. (Applicant: Mr. Gerardo Espinosa, on behalf of Viñedos Aurora; File Number: 13-U-09).

LOCATION: 606 South Central Avenue
APN: 047-330-02
Lodi, CA 95240

APPLICANT: Gerardo Espinosa
P. O. Box 185
Victor, CA 95220

PROPERTY OWNER: Victor Anaya
603 South Central Avenue
Lodi, CA 95253

RECOMMENDATION

Staff recommends that the Planning Commission approve the request of Mr. Gerardo Espinosa, on behalf of Viñedos Aurora, for a Use Permit to allow a winery production facility at 606 South Central Avenue, subject to the conditions in the attached resolution.

PROJECT/AREA DESCRIPTION

General Plan Designation: MCO, Mixed Use Corridor
Zoning Designation: Mixed Use Corridor
Property Size: 3,230 sq. ft.

	ADJACENT ZONING DESIGNATIONS AND LAND USES		
	GENERAL PLAN	ZONING CLASSIFICATION	EXISTING LAND USE
North	Mixed Use Corridor	Mixed Use Corridor (MCO)	Restaurant
South	Mixed Use Corridor	Mixed Use Corridor (MCO)	Mixture of retail/commercial
East	Mixed Use Corridor	Mixed Use Corridor (MCO)	Residential
West	Mixed Use Corridor	Mixed Use Corridor (MCO)	Mixture of retail/commercial

SUMMARY

The applicant, Gerardo Espinosa, on behalf of Viñedos Aurora Cellars, seeks a Use Permit approval to operate a wine retail and wine tasting room at 606 South Central Avenue. The facility will be located within an existing commercial tenant space previously occupied by a retail establishment. The facility will be used for the purpose of crushing and fermenting of wine, a small wine tasting room and retail services. No new structures or additions to the existing footprint are proposed with this application. Viñedos Aurora has a presence in a Lodi through Alebrijes Mexican Bistro where they showcase their products and their production activities occur at Estate Crush winery and Fields Winery in Woodbridge. They are seeking to establish their own production facility.

BACKGROUND

Available City records indicate that the tenant space was previously occupied by a variety of retail establishments. The last store closed approximately 2 years ago. The subject project site measures

approximately 3,230 sq. ft. in area and features a fully improved storage area in the basement with an elevator for access and a ground level store. Currently, there are no outstanding City or Building Code violations. The project site is bordered by a restaurant to the north, variety of commercial uses to the south and west, and residential uses to the east. Onsite parking is provided on the rear of the building and provides a buffer zone between the residences to the east and the subject site.

ANALYSIS

The applicant, Gerardo Espinosa, on behalf of Viñedos Aurora Cellars, requests approval of a Use Permit to open a wine production facility, retail sales and wine tasting room in an existing building located at 606 South Central Avenue. The applicant currently showcases his wine products at Alebrijes Mexican Bistro and their wine production occurs at Estate Crush and Field Winery (outside of City limits). The applicant intends to use the subject space to manufacture, showcase and sale their wine products, and offer wine tasting services. The wine tasting room would be ancillary and only by appointment. A Type 2 license is required by the State Department of Alcohol Beverage Control (ABC) for the operation of a wine production, retail and tasting services facility.

The project site is located in a Mixed Use Corridor (MCO) zoning district. The MCO zoning district is designated for a variety of general commercial uses, including wineries, wine manufacturing and associated retail businesses. All the winemaking operation will be enclosed in the existing vacant building. The production area will include a climate controlled barrel room and case storage area. The grape crushing will involve bringing the grapes into the winery by 1/2 ton vessels using pick-ups and small flatbed trucks. According to the project description provided by the applicant, the winery will produce 3,000 gallons of wine annually. The application has been conditioned to remove all wine related waste within 24 hours. In addition, the applicant is required to filter and manage all run off from the project site in accordance with the City's Storm Water Management Program.

Per Land Use Code Section 17.24.030, wine production is permitted in the Mixed Use Corridor zoning designation subject to an approved use permit by the Planning Commission. The City established the Use Permit requirement to gain local control over whether or not a license is appropriate for a particular location. The State Department of Alcoholic Beverage Control primarily controls issuance based on concentration of licenses within a particular Census Tract. The project site belongs in Census Tract 44.03, which covers the area north of Kettleman Lane, east of the UPRR line, south of Lodi Avenue and west of the CCT line. The area is over-concentrated as defined by ABC for license authorizing onsite consumption of beer and distilled spirits. However, wineries, wine production facilities and associated wine tasting rooms and whole and retail sales of wine are exempt from ABC regulations related to over-concentration and the need to obtain public necessity and convenience from the Planning Commission. However, the Commission should review the application to ensure that sale of alcohol will not adversely affect surrounding residents, businesses, and institutions and to ensure that any such use operates in a manner compatible with existing and future adjacent uses. In the past, the Planning Commission and the Planning staff have generally supported wineries and wine manufacturing operations that wish to acquire an ABC on-sale license because, typically, they do not create alcohol related problems.

The discretionary Use Permit procedure enables the Commission to impose conditions designed to avoid, minimize or mitigate potentially adverse effects of a certain use upon the community or adjacent properties. Staff proposes operational conditions requiring orderly removal of wine waste within 24 hours, prohibition of public queuing, and noise and odor control mitigation measures. Staff believes that the Planning Commission can make the required findings to approve the requested Use Permit. The required findings are as followed:

1. *The proposed use is allowed with a Use Permit within the applicable zoning district and complies with all applicable provisions of this Development Code.* **Comment:** The Zoning designation for this property is Mixed Use Corridor, which permits beverage production and on-site consumption subject to a Use Permit per Lodi Municipal Code Section 17.040.030. The proposed wine manufacturing establishment with limited on-site consumption (wine tasting) is the type of

business permitted in the Mixed Use Corridor Zoning District per Lodi Municipal Code Section 17.24.030.

2. *The proposed use is consistent with the General Plan and any applicable specific plan.*
Comment: The General Plan land use designation for this area is Mixed Use Corridor, which provides for manufacturing, warehousing, general service, storage and distribution activities. The proposed wine manufacturing and storage of wine is the type of business allowed by the General Plan. Limited retail sale of wine in conjunction with a wine manufacturing facility is a common way for wine manufacturers to expand and improve their activities and is therefore, consistent, with the General Plan.
3. The location, size, design and operating characteristics of the use or development is compatible with and shall not adversely affect or be materially detrimental to the health, safety, or welfare of persons residing or working in the area, or be detrimental or injurious to public or private property or improvements. **Comment:** The proposed wine production facility, retail sales and limited onsite consumption (wine tasting) establishment is compatible with existing and future land uses because all production activities will occur within the building. In addition, the primary function of the facility is wine storage and aging. No aspect of the proposed uses have been identified that would create new detrimental impacts.
4. The location, size, design, and operating characteristics of the proposed use would be compatible with the existing and future land uses in the vicinity. **Comment.** 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. Third, the proposed use, as conditioned, will not have an adverse effect upon the use, enjoyment or valuation of property in the neighborhood because the proposed use will be located within an existing building with no additions to the footprint of the building. 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 mitigate any potential adverse effects to neighboring properties. The proposed business is a permitted use within the MCO zoning district, and the facility will be located within an existing building. No conflicts with existing and potential uses have been identified.
5. The proposed project has been reviewed in compliance with the California Environmental Quality Act (CEQA) and the Lodi Environmental Review Guidelines. **Comment:** The project is categorically exempt from CEQA review under 14 CCR §15301(a). Class 1 consists of the operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing public or private structures, facilities or mechanical equipment, involving negligible or no expansion of use beyond that existing at the time of the lead agency's determination. The project meets this exemption because the proposed use does not expand the physical use of the existing structure. Further, proposed alterations are to be made primarily to the interior of the existing building without increasing the square footage of the structure or changing its zoning designation. In addition, the proposed project is exempt from CEQA review under 14 CCR §15061(b)(3). A project is exempt from CEQA if it does not have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in questions may have a significant effect on the environment, the activity is not subject to CEQA. For the reasons discussed above, no significant environmental effects would occur as the result of the proposed project.

Staff sent copies of the application to various City departments for comments and review. Their comments and requirements have been incorporated into the attached resolution. Staff believes that the proposed Use Permit is consistent with the requirements of the Zoning Ordinance and the policies outlined in the General Plan. In addition, one of the primary goals of Lodi's General Plan is the continued support and preservation of agriculture and the wine industry. Establishing industry specific uses such as production facilities within the city's Mixed Use Corridor district is a means in which the city can continue to support the industry and preserve land for agricultural uses. Further, the project

addresses one of the community's concerns related to employment opportunity. The project is expected to employ up to four people (2 part time and 2 full time). The proposed project would provide additional employment opportunities and help preserve the City of Lodi's economic welfare and the project will occupy underutilized buildings. As such, staff recommends the Planning Commission approve the applicant's request subject to the conditions outlined above.

ENVIRONMENTAL ASSESSMENTS

The project was found to be exempt from environmental review under Section 15301(a), Existing Facilities of the CEQA Guidelines, which exempts the leasing, licensing, or minor alteration of existing public or private facilities, involving negligible or no expansion of use. Only minor modifications would be made to the interior of the existing the structure. The project is in an area where all public services and facilities are available to allow for maximum development permissible under the General Plan, and the area in which the project is located is not environmentally sensitive. The project was also found to be categorically exempt according to the California Environmental Quality Act, Article 19 15332 Class 32 (a) (b) (c) (d) and (e). The project is classified as in-fill development meeting the conditions described therein. No significant impacts are anticipated and no mitigation measures have been required. No significant impacts are anticipated and no mitigation measures have been required.

PUBLIC HEARING NOTICE:

Legal Notice for the Use Permit was published on Saturday, June 29, 2013. Fifty-six (56) public hearing notices were sent to all property owners of record within a 300-foot radius of the project site as required by California State Law §65091 (a) 3. Public notice also was mailed to interested parties who had expressed their interest of the project.

ALTERNATIVE PLANNING COMMISSION ACTIONS:

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

Respectfully Submitted,

Concur,

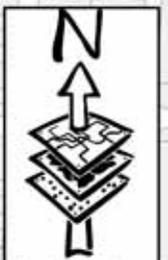
Immanuel Bereket
Associate Planner

Konradt Bartlam
Community Development Director

ATTACHMENTS

1. Vicinity Map
2. Aerial Map
3. Site
4. Proposed Floor Plan
5. Draft Resolution

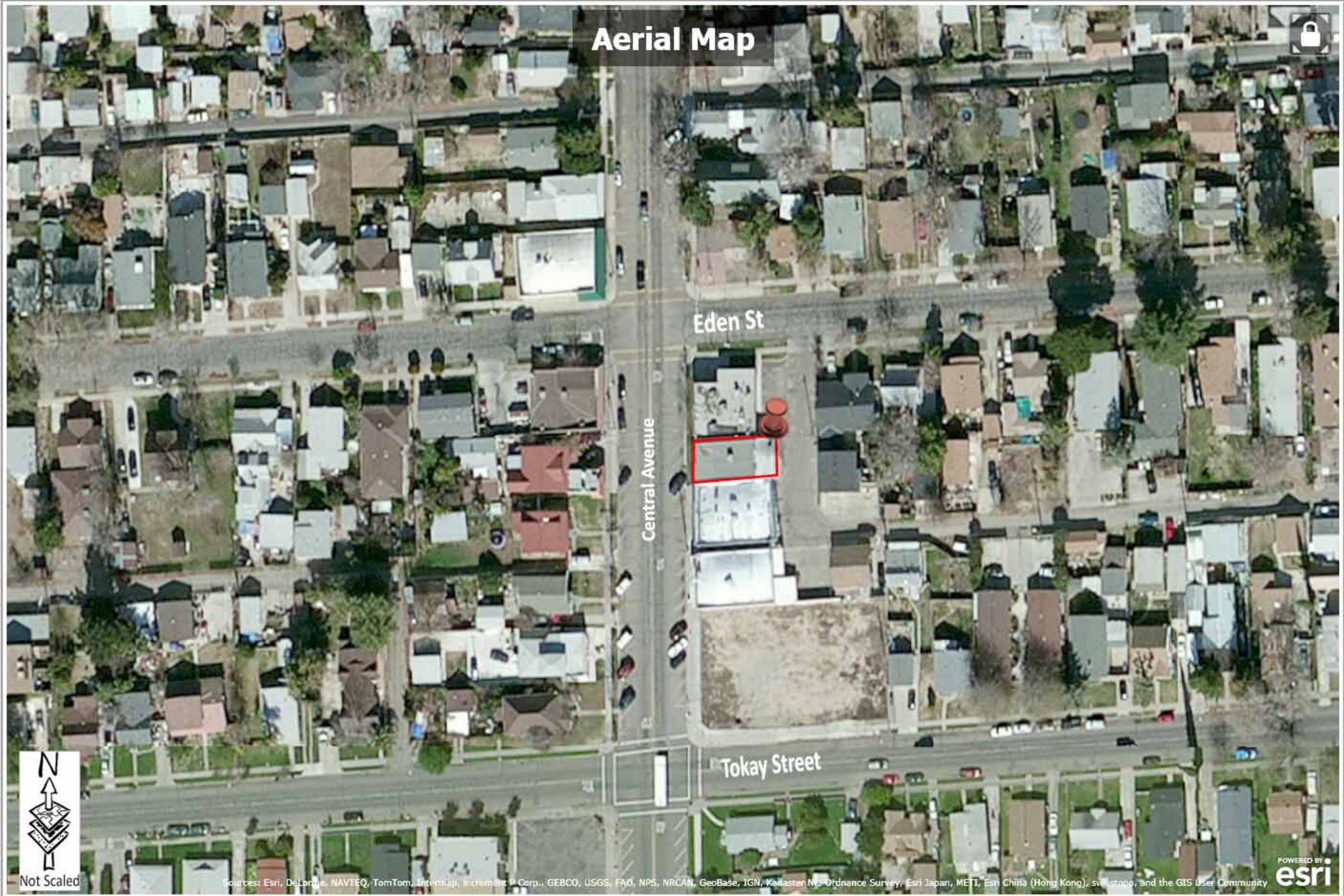
VICINITY MAP



Not Scaled



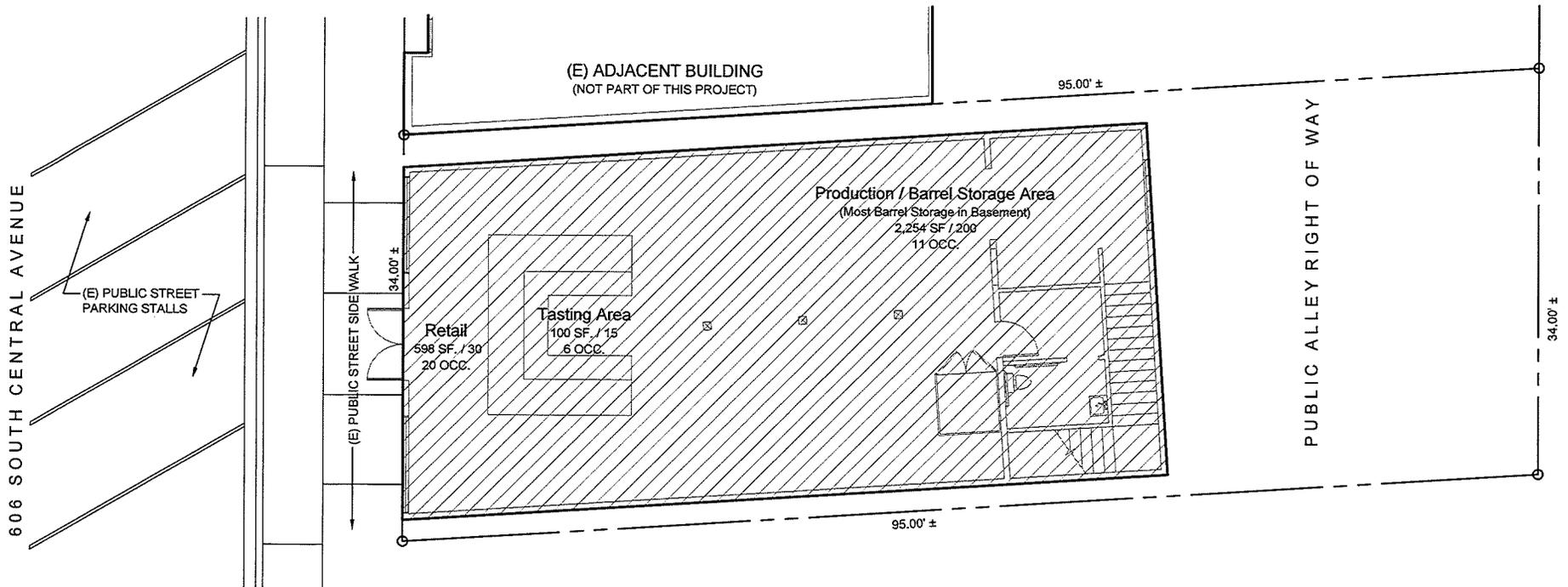
Aerial Map



Not Scaled

Sources: Esri, DeLorme, NAVTEQ, TomTom, Intermap, increment P Corp., GEBCO, USGS, FAO, NPS, NRCAN, GeoBase, IGN, Kadaster NL, Ordnance Survey, Esri Japan, METI, Esri China (Hong Kong), Swisstopo, and the GIS User Community

POWERED BY
esri



SITE PLAN

SCALE: 1/8" = 1'-0"

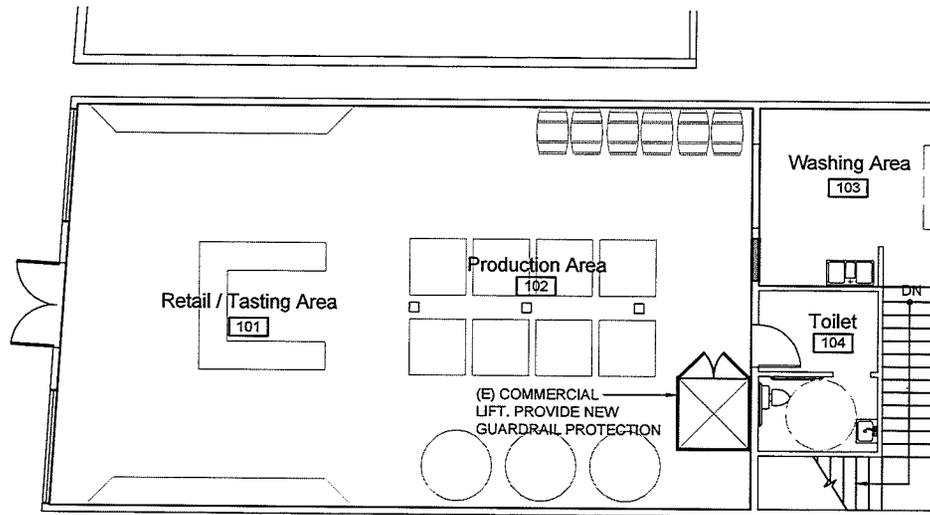
Vinedos Aurora T.I.
606 S. Central Ave.
Lodi, Ca. 95240

gerardo espinoza
209.810.0824

09.28.12

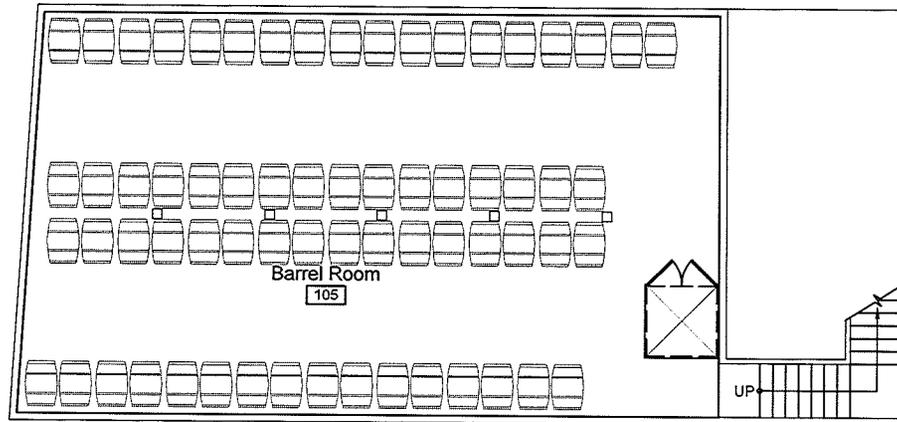


1/8" = 1'-0"



FLOOR PLAN

SCALE: 1/8" = 1'-0"



BASEMENT FLOOR PLAN

SCALE: 1/8" = 1'-0"

Vinedos Aurora T.I.
606 S. Central Ave.
Lodi, Ca. 95240

gerardo espinosa
209.810.0624

09.28.12



RESOLUTION NO. P.C. 13-

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF LODI APPROVING THE REQUEST OF MR. GERARDO ESPINOSA, ON BEHALF OF VIÑEDOS AURORA CELLARS, FOR A USE PERMIT TO ALLOW A WINERY PRODUCTION FACILITY AT 606 SOUTH CENTRAL AVENUE

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 17.74; and

WHEREAS, the project proponent is Mr. Gerardo Espinosa, on behalf of Viñedos Aurora, P. O. Box 185, Victor, CA 95253; and

WHEREAS, the project is located at 606 South Central Avenue, Lodi, CA 95240 (APN: 047-330-02); and

WHEREAS, the property has a General Plan designation of Mixed Use Corridor and is zoned MCO, Mixed Use Corridor; and

WHEREAS, the project parcel is owned by Victor Anaya, 603 South Central Avenue, Lodi, CA 95240; and

WHEREAS, the requested Use Permit to allow Type 2 on-site wine tasting and retail sales, and the request is an enforcement action in accordance with the City of Lodi Zoning Ordinance; 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, pursuant to City of Lodi Zoning Ordinance § 17.70.060, this resolution becomes effective ten (10) business days from its adoption in the absence of the filing of an appeal; 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 has been reviewed in compliance with the California Environmental Quality Act (CEQA) and the Lodi Environmental Review Guidelines. The project is categorically exempt from CEQA review under 14 CCR §15301(a). Class 1 consists of the operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing public or private structures, facilities or mechanical equipment, involving negligible or no expansion of use beyond that existing at the time of the lead agency's determination. The project meets this exemption because the proposed use does not expand the physical use of the existing structure. Further, proposed alterations are to be made primarily to the interior of the existing building without increasing the square footage of the structure or changing its zoning designation. In addition, the proposed project is exempt from CEQA review under 14 CCR §15061(b)(3). A project is exempt from CEQA if it does not have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in questions may have a significant effect on the environment, the activity is not subject to CEQA. For the reasons discussed above, no significant environmental effects would occur as the result of the proposed project.
2. The Zoning designation for this property is Mixed Use Corridor (MCO), which permits beverage production, retail and wholesale of alcohol products, public warehousing and on-site and off-site consumption of alcohol subject to a Use Permit per Lodi Municipal Code Section 17.040.030. The proposed wine manufacturing establishment is the type of business permitted in the Mixed Use Corridor Zoning District per Lodi Municipal Code Section 17.22.030.
3. The proposed use is consistent with the General Plan. The General Plan land use designation for this area is Mixed Use Corridor (MCO), which provides for manufacturing, warehousing, general service, storage and distribution activities. The proposed wine manufacturing and storage of wine is the type of business allowed by the General Plan. Limited retail sale of wine in conjunction with a

wine manufacturing facility is a common way for wine manufacturers to expand and improve their activities and is therefore, consistent, with the General Plan.

4. The location, size, design and operating characteristics of the use or development is compatible with and will not adversely affect or be materially detrimental to the health, safety, or welfare of persons residing or working in the area, or be detrimental or injurious to public or private property or improvements. 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. Third, the proposed use, as conditioned, will not have an adverse effect upon the use, enjoyment or valuation of property in the neighborhood because the proposed use will be located within an existing building with no additions to the footprint of the building. 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 mitigate any potential adverse effects to neighboring properties. The proposed business is a permitted use within the MCO zoning district, and the facility will be located within an existing building. No conflicts with existing and potential uses have been identified.
5. The proposed use will not create an enforcement problem in that the proposed use is primarily Mixed Use Corridor in nature and is properly located in the Mixed Use Corridor zoning district and will continue to operate under a suite of environmental health and safety measures.
6. The proposed use will not create a demand for public services within the City beyond that of the ability of the City to meet in the light of taxation and spending restraints in that the use is private and does not require any additional public services.
7. The proposed use would not have a substantial adverse economic effect on nearby uses because operation of the proposed business in accordance with applicable laws, and under the conditions of this Use Permit, is anticipated to be an economic benefit to the community.
8. The conditional use is subject to and must comply with specific local conditions and additional regulations as deemed necessary by other regulatory or permit authorities. The approval does not relieve the applicant from an obligation to obtain applicable state or federal permits for manufacturing and sale of alcohol products.
9. The on- and off-sale wine, in accordance with a Type 2 Alcoholic Beverage Control License, and with the conditions attached herein, would be consistent and in harmony with the Mixed Use Corridor General Plan Land Use Designation and MCO zoning District.
10. 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.
11. The sale and consumption of alcohol can sometimes result in customer behavior problems that can require police intervention.
12. The proposed use is consistent with the City's vision of making Lodi a wine tasting tourist destination point.
13. The wine tasting room will add to the character of the City by promoting local wineries and viticulture.

NOW, THEREFORE, BE IT DETERMINED AND RESOLVED by the Planning Commission of the City of Lodi that Use Permit Application No. 13-U-09 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 development 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

development 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 property owner and/or developer and/or successors in interest and management shall insure that the sale of alcohol does not cause any condition that will cause or result in repeated activities that are harmful to the health, peace or safety of persons residing or working in the surrounding area. This includes, but is not limited to: disturbances of the peace, illegal drug activity, public intoxication, drinking in public, harassment of people passing by, assaults, batteries, acts of vandalism, loitering, excessive littering, illegal parking, excessive loud noises, traffic violations or traffic safety based upon last drink statistics, curfew violations, lewd conduct, or police detention and arrests.
4. If any of the following conditions fail to occur, or if they are, by their terms, to be implemented and maintained over time, if any of such conditions fail to be so implemented and maintained according to their terms, the City shall have the right to revoke or modify all approvals herein granted; deny or further condition issuance of all future building permits; deny, revoke, or further condition all certificates of occupancy issued under the authority of approvals herein granted; record a notice of violation on the property title; institute and prosecute litigation to compel their compliance with said conditions or seek damages for their violation. No vested rights are gained by Developer or a successor in interest by the City's approval of this Use Permit (13-U-09).
5. The Use Permit shall be vested within six (6) months from the effective date of approval. A building permit for the tenant improvements allowed under this Use Permit shall have been obtained within six (6) months from the effective date of the Use Permit or the Use Permit shall expire; provided however that the Use Permit may be extended pursuant to the Lodi Municipal Code.
6. The Use Permit shall not become effective until ten (10) business days after approval, providing that the action is not appealed to the City Council by any interested party within that 10 day period.
7. Any request for an extension of the Use Permit must be justified in writing and received by the Planning Department at least thirty (30) days prior to expiration.
8. The project proponent/applicant/operator and/or developer and/or successors in interest and management shall operate and abide by the requirements and conditions of the State of California Department of Alcoholic Beverage Control License Type 2.
9. 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, 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.
10. Prior to the issuance of a Type 2 license, the project proponent/applicant/operator 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.

11. 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.
12. All temporary and permanent signage proposed in connection with the wine making operation shall be reviewed and approved by the Community Development Department.
13. All winery waste shall not be stored outside and shall be properly disposed of within 24 hours of crush activity.
14. All delivery truck cueing shall take place off of the public right-of-way.
15. The project proponent/applicant and/or developer and/or successors in interest and management shall maintain the project site free of litter, shopping-carts or any other undesirable materials and shall be cleaned of loose debris on a daily basis.
16. Any equipment used for the business shall comply with the Noise Ordinance. If complaints are received and verified by the City regarding noise from equipment associated with the facility, the applicant/operator and/or successors in interest and management shall mitigate and/or make any necessary modifications so noise levels comply with acceptable standards identified in the City's General Plan.
17. Noise levels shall not exceed sixty-five (65) dBA, as measured from the outside wall of the building envelop.
18. Subsequent modifications of this approval, which do not intensify the use, including but not limited to alteration of parking and circulation design, minor changes to the conditions of approval, interpretations of the conditions of approval relative to intent, necessity of, and timing, may be approved by the Community Development Director, unless the Community Development Director requires a Substantial Conformance or Revised Permit application in accordance with the Zoning Ordinance.
19. In the event the use hereby permitted under this permit is: (a) found to be in violation of the terms and conditions of this permit; (b) found to have been obtained by fraud or perjured testimony; or (c) found to be detrimental to the public health, safety or general welfare, or a public nuisance; this permit shall be subject to the revocation procedures in accordance with the City of Lodi Municipal Code.
20. At all times during the conduct of the use(s) allowed by this permit, the use(s) shall maintain and keep in effect valid licensing from appropriate local, state and/or federal agencies as required by law. Should such required licensing be denied, expire or lapse at any time in the future, this permit shall become null and void.
21. Any sign(s) shall require a building permit from the Community Development Department. Said sign(s) shall be in full compliance with the City of Lodi Sign Ordinance and any applicable master sign program for the subject site.
22. Tenant Improvement plans are required for the change of use. All plan submittals shall be based on the City of Lodi Building Regulations and currently adopted 2010 California Building code. Please review our policy handouts for specific submittal procedures.
23. An operational permit shall be required from the Lodi Fire Department for the operation of the wine manufacturing facility. Please contact the Lodi Fire Prevention Bureau at 25 East Pine Street, Lodi - (209) 333-6735.
24. All conditions of approval for this project shall be written by the project developer on all building permit plan check sets submitted for review and approval. These conditions of approval shall be on, at all times, all grading and construction plans kept on the project site. It is the responsibility of the building developer to ensure that the project contractor is aware of, and abides by, all conditions of approval. Prior approval from the Planning Manager must be received before any changes are constituted in site design, grading, building design, building colors or materials, etc.

- 25. If operation of this use results in conflicts pertaining to parking, noise, traffic, or other impacts, at the discretion of the Community Development Director, this conditional use permit may be referred to the Planning Commission for subsequent review at a public hearing. If necessary, the Commission may modify or add conditions of approval to mitigate such impacts, or may revoke said conditional use permit bound upon applicable findings.
- 26. 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.
- 27. No variance from any City of Lodi adopted code, policy or specification is granted or implied by this approval.

Dated: July 10, 2013

I certify that Resolution No. 13- was passed and adopted by the Planning Commission of the City of Lodi at a regular meeting held on July 10, 2013 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 07/10/13
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
May 15, 2013	Regular	Public Hearing to Consider Introducing Ordinance Revising the Growth Management Ordinance by Expiring Unused Allocations and Suspending the Required Schedule (CM)
June 5, 2013	Regular	Adopt Resolution Approving the City of Lodi Financial Plan and Budget for the Fiscal Year Beginning July 1, 2013 and Ending June 30, 2014, and Approving the Fiscal Year 2013/14 Appropriation Spending Limit (CM)
June 19, 2013	Regular	Appointments to the Lodi Planning Commission (CLK)