

<p>CARNEGIE FORUM 305 WEST PINE STREET LODI, CALIFORNIA</p>	<p>AGENDA LODI PLANNING COMMISSION</p>	<p>REGULAR SESSION WEDNESDAY, AUGUST 14, 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 – “July 10, 2013”
3. PUBLIC HEARINGS
 - a. Request for Planning Commission approval of a Use Permit to establish a wine production facility at 1023 E Vine Street, Suite G. (Applicant: Erin Taylor, on behalf of Riaza Wines, LLC; File Number: 13-U-10)
 - b. Request for Planning Commission approval of a Use Permit to allow a Type 2 (Winery) Alcoholic Beverage Control license at 13 North School Street. (Applicants: Judi Holly, on behalf of Weibel Family Vineyards; File Number: 13-U-12)
 - c. Request for Planning Commission approval of a Use Permit to allow a Type-41 On-Sale Beer and Wine Alcoholic Beverage Control License located at 722 West Lodi Avenue. (Applicant: Melissa Ng, on behalf of Zin Bistro; File Number: 13-U-13)
 - d. Request for Planning Commission approval of a Use Permit to allow a Type-47 On-Sale Beer, Wine and Distilled Spirits in conjunction with a restaurant operation at 910 South Cherokee Lane. (Applicant: Alberto Ortiz; File Number: 13-U-08) – **Postponed to a future meeting**

NOTE: The above items are quasi-judicial hearings and require 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. REORGANIZATION
 - a. Planning Commission Chair & Vice Chair
 - b. Planning Commission Representatives to: SPARC and Art In Public Places
12. ADJOURNMENT

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

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

Right of Appeal:

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

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

**LODI PLANNING COMMISSION
REGULAR COMMISSION MEETING
CARNEGIE FORUM, 305 WEST PINE STREET
WEDNESDAY, JULY 10, 2013**

1. CALL TO ORDER / ROLL CALL

The Regular Planning Commission meeting of July 10, 2013 was called to order by Chair Kirsten at 7:00 p.m.

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

Absent: Planning Commissioners – None

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

Chair Kirsten welcomed new Commissioner, Mitch Slater, to the Planning Commission. Chair Kirsten also thanked Bill Cummins for his years of service.

2. MINUTES

“May 8, 2013”

MOTION / VOTE:

The Planning Commission, on motion of Commissioner Kiser, Olson second, approved the Minutes of May 8, 2013 as written. (Commissioner Slater abstained because he was not in attendance of the subject 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 Kirsten called for the public hearing to consider the request of the Planning Commission for 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)

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

- Gerardo Espinosa, applicant, came forward to answer questions. Mr. Espinosa stated that Estate Crush is currently crushing their grapes and this will give his family the opportunity to produce their own wine.
- Commissioner Heinitz stated that the Wine Stroll could really benefit by expanding its area to Central Avenue. He added that there are plenty of nice venues on Central Avenue that could participate and encouraged Mr. Espinosa to talk with the Chamber about it.
- Vice Chair Jones asked if he would be pulling his business out of the current location. Mr. Espinosa stated that he will not be pulling out of the current location at the Tapas Restaurant.

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 606 South Central Avenue subject to the conditions in the resolution. The motion carried by the following vote:

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

4. PLANNING MATTERS/FOLLOW-UP ITEMS

None

5. ANNOUNCEMENTS AND CORRESPONDENCE

Director Bartlam stated that the Commission’s new Commissioner has served on several boards and commission in the past one of which is the City’s Site Plan and Architectural Review Committee.

6. ACTIONS OF THE CITY COUNCIL

Director Bartlam 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 stated that there was a meeting, but he was unable to attend.

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

None

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

None

10. ADJOURNMENT

There being no further business to come before the Planning Commission, the meeting was adjourned at 7:10 p.m.

ATTEST:

Konradt Bartlam
Planning Commission Secretary

Item 3a

**CITY OF LODI
PLANNING COMMISSION
Staff Report**

MEETING DATE: August 14, 2013

APPLICATION NO: Use Permit: 13-U-10

REQUEST: Request for Planning Commission approval of a Use Permit to establish a wine production facility at 1023 E Vine Street, Suite G. (Applicant: Erin Taylor, on behalf of Riaza Wines, LLC; File Number: 13-U-10).

LOCATION: 1023 East Vine Street, Suite G
APN: 049-150-04
Lodi, CA 95240

APPLICANT: Erin Taylor, on behalf of Riaza Wines, LLC
230 Dunsmuir Drive
Lodi, CA 95240

PROPERTY OWNER: James and Arlene Hewatt
2420 Sand Creek Rd #C1
Lodi, CA 95240

RECOMMENDATION

Staff recommends that the Planning Commission approve the request of Erin Taylor, on behalf of Riaza Wines, LLC, for a Use Permit to allow a winery production facility at 1023 East Vine Street, Suite G, subject to the conditions in the attached resolution.

PROJECT AREA DESCRIPTION

General Plan Designation: Industrial
Zoning Designation: Industrial
Property Size: 1.03-acre (Tenant Space measures 1,330 sq. ft.)

The adjacent zoning and land use characteristics:

	ADJACENT ZONING DESIGNATIONS AND LAND USES		
	GENERAL PLAN	ZONING CLASSIFICATION	EXISTING LAND USE
North	Industrial	Industrial	Warehouse/industrial use
South	Open Space	Open Space	Pixley Park
East	Industrial	Industrial	Warehouse/industrial use
West	Industrial	Industrial	Warehouse/industrial use

SUMMARY

The applicant, Erin Taylor, on behalf of Riaza Wines, LLC, requests Planning Commission approval of a Use Permit to operate a wine center winery production facility at 1023 East Vine Street, Suite G. The proposed project will adaptively re-use existing vacant industrial buildings. No exterior changes are proposed. The proposal includes grape crushing, fermentation, storage and distribution of wine to local and overseas businesses. The application is conditioned to remove all wine waste within twenty-four (24) hours. Riaza winery operates a wine tasting room in Downtown District. They are seeking to establish their own production facility.

BACKGROUND

Available City records indicate that the building has been used for various retail type uses since its construction. The subject tenant space measures approximately 1,330 square feet in area. The most recent use was a storage facility. The design and construction of the building permits the proposed use. There are no outstanding code violations as of the preparation of this staff report.

ANALYSIS

The applicant's proposal is to utilize a vacant industrial building located at 1023 East Vine Street, Suite G for a wine production facility consisting of the crushing of grapes, fermenting wine, the aging of wine in barrels and wholesale distribution of products. The majority of the wine production will take place during the months of harvest in the fall. Grapes will be brought in from off-site to be crushed and fermented at the proposed facility. Truck traffic will be limited to the morning hours and consist of one daily delivery during a week-long harvest period. The facility is expected to employ up to 2 people. At any given time there may be 20-25 barrels of fermenting wine and between 100-200 cases of finished wine being stored on the site.

The subject property and all the surrounding properties are within Industrial Zoning District, which permits a variety of industrial and commercial uses, including manufacturing and sale of alcohol for on and/or off site consumption. The business would also require an alcohol license Type 2 from the California Department of Alcoholic Beverage Control (ABC) to allow the proposed use. Type 02 (Winery) ABC license authorizes the sale of wine and brandy to any person holding a license authorizing the sale of wine and brandy, and to consumers for consumption off the premises where sold. It also allows wine tastings.

Per Land Use Code Section 17.24.030, wine production is permitted in the Industrial 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 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 follows:

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 Industrial, 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 a permitted type of business in the Industrial 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 Industrial, which provides for manufacturing, warehousing, general service, storage and distribution activities. The proposed wine manufacturing and storage of wine is a 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 is compatible with existing and future land uses because this subject property is located within the Industrial Zoning District and will be conducted entirely within the building footprint. 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 Industrial 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 question 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 a copy of the application to various City departments for review and comment. 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. The project site is appropriate for the proposed use given its isolation from residential and commercial uses. 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 industrial district is a means in which the city can continue to support the industry and preserve land for agricultural uses. Therefore, staff finds that the use of an existing building for this business will be compatible with the adjacent uses and will not negatively impact the surrounding neighborhood. In addition, the proposed project would provide additional employment opportunities and help preserve the City of Lodi's economic welfare by occupying an underutilized building. As such, staff recommends that the Planning Commission approve the project, subject to the conditions outlined in the attached resolution.

ENVIRONMENTAL ASSESSMENTS

The project is categorically exempt from CEQA review under 14 CCR §15301(a) and 14 CCR §15061(b)(3). For the reasons discussed above, no significant environmental effects would occur as the result of the proposed project.

PUBLIC HEARING NOTICE:

Legal Notice for the Use Permit was published on Saturday, August 3, 2013. Twelve (12) 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
Associate Planner

Konradt Bartlam
Community Development Director

ATTACHMENTS:

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

PROJECT SITE

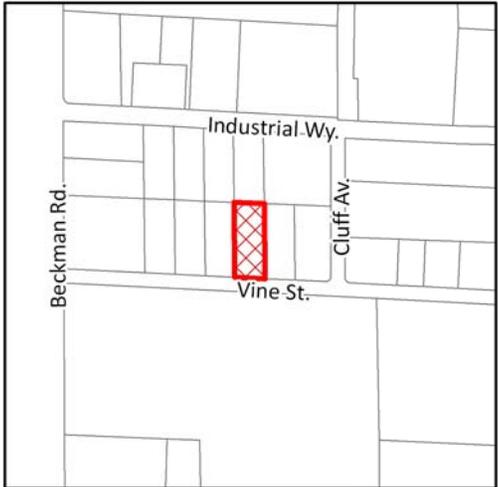


Legend

-  Riaza Winery
-  City Limits



0 245490 980 1,470 1,960 Feet

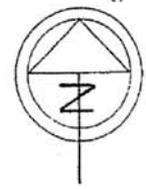
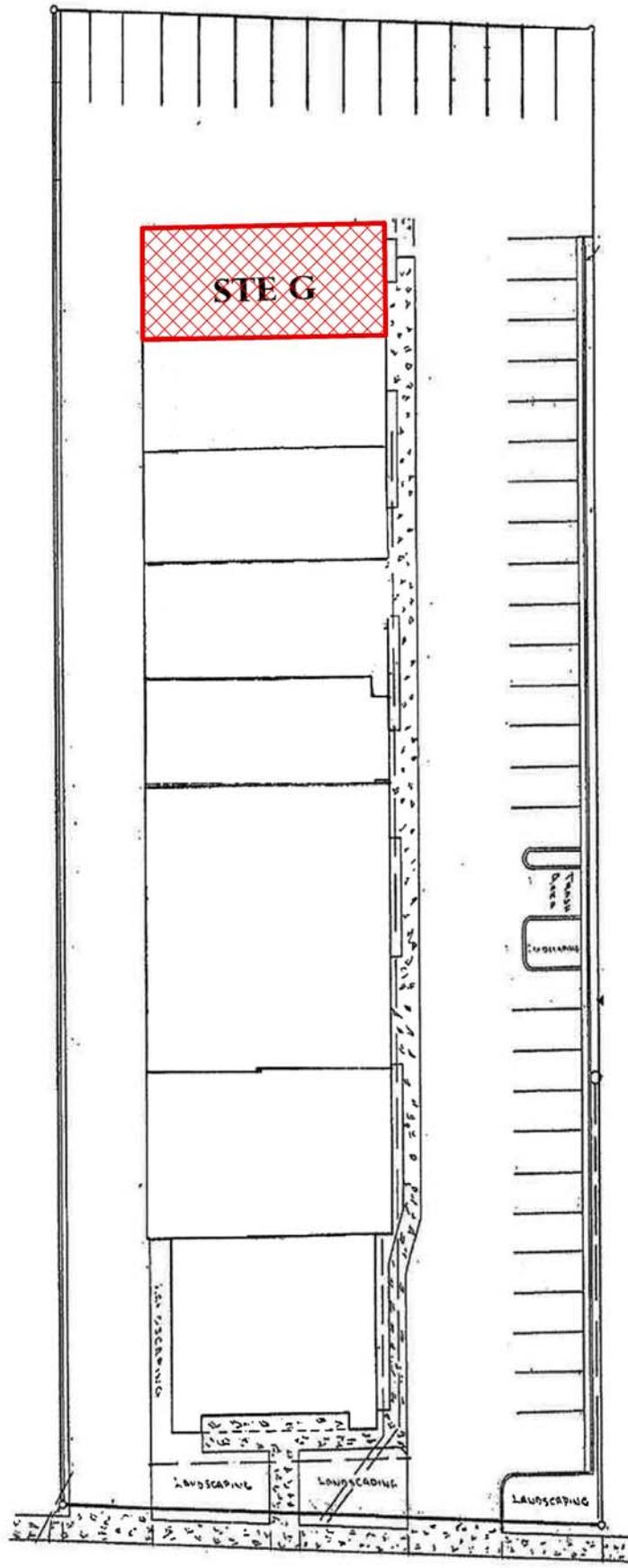


AERIAL MAP



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

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SITE PLAN
1023 EAST VINE STREET



**1023-G East Vine Street
Lodi, CA 95240
APN: 04915004**

Property Owner:
James & Arlene Hewatt

Property Tenant:
Riaza Wines

Proposed Use:
Winemaking Facility

Date:
June 24, 2013

Floor Plan (8.5 x 14)
Scale: 1 inch = 10 feet

RESOLUTION NO. P.C. 13-

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF LODI APPROVING THE REQUEST OF ERIN TAYLOR, ON BEHALF OF RIAZA WINES, LLC, FOR A USE PERMIT TO ALLOW A WINERY PRODUCTION FACILITY AT 1023 EAST VINE STREET

WHEREAS, the Planning Commission of the City of Lodi has heretofore held a duly noticed public hearing, as required by law, on the requested Use Permit, in accordance with the Lodi Municipal Code, Section 17.74; and

WHEREAS, the project site is located at 1023 East Vine Street, Suite G, (APN: 049-150-04), Lodi, CA 95240; and

WHEREAS, the project proponent is Erin Taylor, on behalf of Riaza Wines, LLC, 230 Dunsmuir Drive, Lodi, CA 95240; and

WHEREAS, the project property owners are James and Arelen Hewatt, 2420 Sand Creek Rd #C1, Lodi, CA 95240; and

WHEREAS, the property has a General Plan designation of Industrial and is zoned Industrial; and

WHEREAS, the requested Use Permit is to establish a wine manufacturing facility (ABC Type 2) at 1023 East Vine Street, Suite G; and

WHEREAS, pursuant to the California Environmental Quality Act of 1970, and State Guidelines thereto; this project has been found to be categorically exempt from CEQA under 14 CCR §15301(a) and 14 CCR §15061(b)(3); and

WHEREAS, pursuant to City of Lodi Zoning Ordinance § 17.72.110, 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 found to be 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 Industrial, which permits beverage production and on-site consumption subject to a Use Permit per Lodi Municipal Code. The proposed wine manufacturing establishment with limited on-site consumption (wine tasting) is the type of business specifically permitted in the Industrial Zoning District per Lodi Municipal Code Section 17.24.030.
3. The proposed use is consistent with the General Plan. The General Plan land use designation for this area is Industrial, 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 wine production facility is compatible with existing and future land uses because this subject property is located within the Industrial Zoning District. In addition, the proposed use will not detrimentally affect residential buildings, churches, schools, hospitals, public playgrounds, and other similar uses, as well as other establishments dispensing alcoholic beverages, including beer and wine, for sale or other consideration in that the property is not proximate to any churches or hospitals; and does not directly abut residentially zoned properties, or schools. No aspects of the proposed use have been identified that would create new detrimental impacts.
5. The location, size, design, and operating characteristics of the proposed use would be compatible with the existing and future land uses in the vicinity. 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 industrial neighborhood because the proposed use will be located within an existing building with no additions to the footprint of the building. Fourth, the characteristics of the proposed manufacturing of wine are consistent with various manufacturing uses located within the vicinity of the project site and throughout the Industrial Zoning District. 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 Industrial Zoning District, and the facility will be located within an existing building. No conflicts with existing and potential uses have been identified.
6. The proposed use will not create an enforcement problem in that the proposed use is primarily industrial in nature and is properly located in the Industrial zoning district and will continue to operate under a suite of environmental health and safety measures.
7. 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.
8. 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.
9. 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.

NOW, THEREFORE, BE IT DETERMINED AND RESOLVED by the Planning Commission of the City of Lodi that Use Permit Application No. 13-U-10 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 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.
3. 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.
4. 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.
5. 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-10).
6. The Use Permit shall not become effective until ten (10) business days after approval, providing that the action is not appealed by the City Council or any other 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 the sale of wine, 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, 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. The business hours of operation shall be from 6:00 a.m. to 6:00 p.m., Monday through Sunday, unless modified in writing and approved by the Planning Division. All business related to the facility, including removal recyclable materials shall be within these approved hours.
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. 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 California Building code. Please review our policy handouts for specific submittal procedures.
22. Storage racks greater than 6' in height are required to be submitted under separate permit and cover. Storage racks greater than 8' in height shall be provided with structural calculations. Storage 12' or greater in height must be reviewed as high piled storage." City of Lodi Policy and Procedure B-[08]-[09]
23. The California Building Code (Title 24 Section 1134B) requires that existing buildings, when alterations are made, shall be verified for compliance with disabled access requirements. These requirements shall apply only to the specific area of alteration and shall include an accessible entrance, an accessible route to the altered area, at least one accessible restroom for each sex, telephones and drinking fountains (if existing), and when possible additional items such as parking, storage and alarms.

- 24. 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.
- 25. 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.
- 26. 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.
- 27. 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.
- 28. No variance from any City of Lodi adopted code, policy or specification is granted or implied by this approval.

Dated: August 14, 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 August 14, 2013 by the following vote:

AYES: Commissioners:

NOES: Commissioners:

ABSENT: Commissioners:

ATTEST _____
Secretary, Planning Commission

Item 3b.

**CITY OF LODI
PLANNING COMMISSION
Staff Report**

MEETING DATE: August 14, 2013

APPLICATION NO: Use Permit: 13-U-12

REQUEST: Request for Planning Commission approval of a Use Permit to allow a Type 2 (Winery) Alcoholic Beverage Control license at 13 North School Street. (Applicants: Judi Holly, on behalf of Weibel Family Vineyards; File Number: 13-U-12).

LOCATION: 13 North School Street
APN: 043-033-06
Lodi, CA 95240

APPLICANT: Judi Holly, on behalf of Weibel Family Vineyards
1 Winemaster Way, Suite D
Lodi, CA 95240

PROPERTY OWNER: Robert Nakamura
1552 Deer Crossing Drive
Diamond Bar, CA 91765

RECOMMENDATION

Staff recommends the Planning Commission approve the request of Judi Holly, on behalf of Weibel Family Vineyards, for a Use Permit to allow a Type 2 Alcoholic Beverage Control licenses at 13 North School Street, subject to the conditions outlined in the attached resolution.

PROJECT/AREA DESCRIPTION

General Plan Designation: Downtown Mixed Use
Zoning Designation: Downtown Mixed Use
Property Size: Tenant space is approximately 1,257 sq. ft.

	ADJACENT ZONING DESIGNATIONS AND LAND USES		
	GENERAL PLAN	ZONING CLASSIFICATION	EXISTING LAND USE
North	Downtown Mixed use	Downtown Mixed use	Alley, Wine tasting room
South	Downtown Mixed use	Downtown Mixed use	Mixture of retail/commercial
East	Downtown Mixed use	Downtown Mixed use	Mixture of retail/commercial
West	Downtown Mixed use	Downtown Mixed use	Office

SUMMARY

The applicant, Judi Holly, on behalf of Weibel Family Vineyards, seeks a Use Permit approval to operate a wine retail and wine tasting room at 13 North School Street. The facility plans to function primarily as a wine tasting room and retail services, and may serve beer tasting events in the future. The facility will be located within an existing commercial tenant space in the Downtown Business District. No exterior changes to the building are proposed. However, the applicant proposes an outdoor seating area for wine tasting purposes, similar to the other wineries in the Downtown District. The applicant is not requesting signage at this time. Any future signage will be reviewed at staff level to ensure conformance with the approved sign program for the Downtown Business District. No wine production is proposed. Weibel Family Vineyards has a presence in Lodi at 1 Winemaster Way where they manufacture their wine.

BACKGROUND

Available City records indicate that the building has been used for various retail type uses since its construction. The subject tenant space measures approximately 1,257 square feet in area. The most recent use is a clothing retail business. Currently, there are no outstanding City or Building Code violations. The project site is bordered by a variety of businesses on all sides. The project site is within the Downtown Parking District and, therefore, no onsite parking is required.

ANALYSIS

The applicant, Judi Holly, on behalf of Weibel Family Vineyards, requests approval of a Use Permit to open a wine tasting room and retail sales in an existing building located at 13 North School Street. The applicant intends to use this location to sell wine related gift items such as decanters, stemware, cork screws and the like. Wearable logo items will also be made available for purchase. A Type 2 license is required by the State Department of Alcohol Beverage Control (ABC) for the operation of a wine retail and wine tasting. The applicant also plans to hold beer tasting events as a normal part of business in the future. This portion of the business would require the applicant to secure a Type 42 On-Sale Beer and Wine license. Type 42 license authorizes the sale of beer and wine for consumption on or off the premises where sold. Food service is not required. The proposed hours of operations are Tuesday through Sunday from 11:00 a.m. to 7:00 p.m., The proposed hours of operation are similar to other wine tasting rooms in Lodi.

The project site is located in a Downtown Mixed Use (DMU) zoning district. The DMU zoning district is designated for a variety of general commercial uses, including wineries, bars, restaurants, wine manufacturing and associated retail businesses. The proposed winery is consistent with the types of uses one would expect to find in a Downtown Business District. In the future, the applicant would like to serve wine on the sidewalk, similar to the Cellar Door and Benson Ferry Wine Tasting rooms. No crushing or making activities will occur at this location. The proposed business will be located within the City's downtown and will support and compliment other downtown businesses.

Per Land Use Code Section 17.22.030, wine tasting is permitted in the Downtown Mixed Use 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 belongs in Census Tract 42.04. Census Tract 42.04 covers the area south of Holly Drive, west of Sacramento Street, north of Lodi Avenue, and east of Ham Lane. The Downtown Business District is located within this census tract. Because this area is within the Downtown Business District, there is an existing over concentration of ABC licenses (29 on-sale and 4 off-sale) within this Census Tract. In order to authorize additional licenses in this census tract, the Planning Commission must make a finding of public convenience and/or necessity.

While this is the highest concentration in Lodi, it would not be unexpected in a downtown location. Generally, downtown districts have a high concentration of eating and drinking establishments. Many of the licenses are in conjunction with eating establishments. The City's Downtown Guidelines specifically call out drinking and eating establishments as the type of businesses that are encouraged in the Downtown area. In the past, the Planning Commission and the Planning staff have generally supported wine tasting rooms that wish to acquire an ABC on-sale license, because typically, wineries, wine production facilities and associated wine tasting rooms and retail sales of wine that serve alcohol in conjunction with wine tasting rooms do not create alcohol related problems. All of the existing similar businesses (wine tasting rooms) have not created any policing problems. The proposed business is similar to other wine tasting rooms and the proposed business is anticipated to operate in similar manner. The Community Development Department has determined that the applicant's request for a Use Permit can meet the criteria for the finding of public convenience.

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 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 Downtown Mixed Use, which permits onsite beverage consumption subject to a Use Permit per Lodi Municipal Code. The proposed wine tasting room with limited on-site beer consumption is the type of business permitted in the Downtown Mixed Use Zoning District per Lodi Municipal Code Section 17.22.030.
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 Downtown Mixed Use, which allows onsite beverage consumption. The proposed wine tasting room is the type of business allowed by the General Plan. Limited beer tasting events in conjunction with a wine tasting facility is a common way for wine manufacturers to expand and improve their business 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 tasting facility, retail sales and limited onsite beer consumption establishment is compatible with existing and future land uses because the Downtown Business District envisions wine tasting rooms, retail services, restaurants and the like as the type of business encouraged to operate in the Downtown area. In addition, the primary function of the facility is wine tasting room and retail services. 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 Downtown Mixed Use 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. Finally, 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.

As part of the recommendation of approval, staff, working with the Police Department, has recommended operational conditions based upon the individual business plan to ensure the establishment will be compatible with the surroundings. The Police Department has reviewed and recommended operational conditions, which are incorporated into the draft resolution. The Public Works Department has reviewed the application and advised that the proposed outdoor area will require an encroachment permit. Their requirement has been incorporated into the attached draft resolution. The Community Development Department is of the opinion that the proposed project is consistent with the surrounding land uses and zoning; and with the City's policy to encourage the wine production and wine tasting industry. The intended nature of this operation does not promote excessive onsite consumption of alcohol and, therefore, staff does not expect any problems with the proposed establishment. Since no onsite crushing is being proposed as part of this Use Permit, there will be no wine waste to be concerned about. The proposed use is consistent with the City's vision of making Lodi a wine tasting tourist destination. We, therefore, are recommending that the Use Permit be approved, subject to the attached resolution.

ENVIRONMENTAL ASSESSMENTS

The project was found to be categorically exempt according to the California Environmental Quality Act, 14 CCR §15301(a), 14 CCR §15061(b)(3) and Article 19 15332 Class 32 (a) (b) (c) (d) and (e). 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, August 3, 2013. Thirty-seven (37) 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 request
- Continue the request

Respectfully Submitted,

Concur,

Immanuel Bereket
Associate Planner

Konradt Bartlam
Community Development Director

ATTACHMENTS

1. Vicinity Map
2. Aerial Map
3. Site and Floor Plans
4. Draft Resolution

Vicinity Map

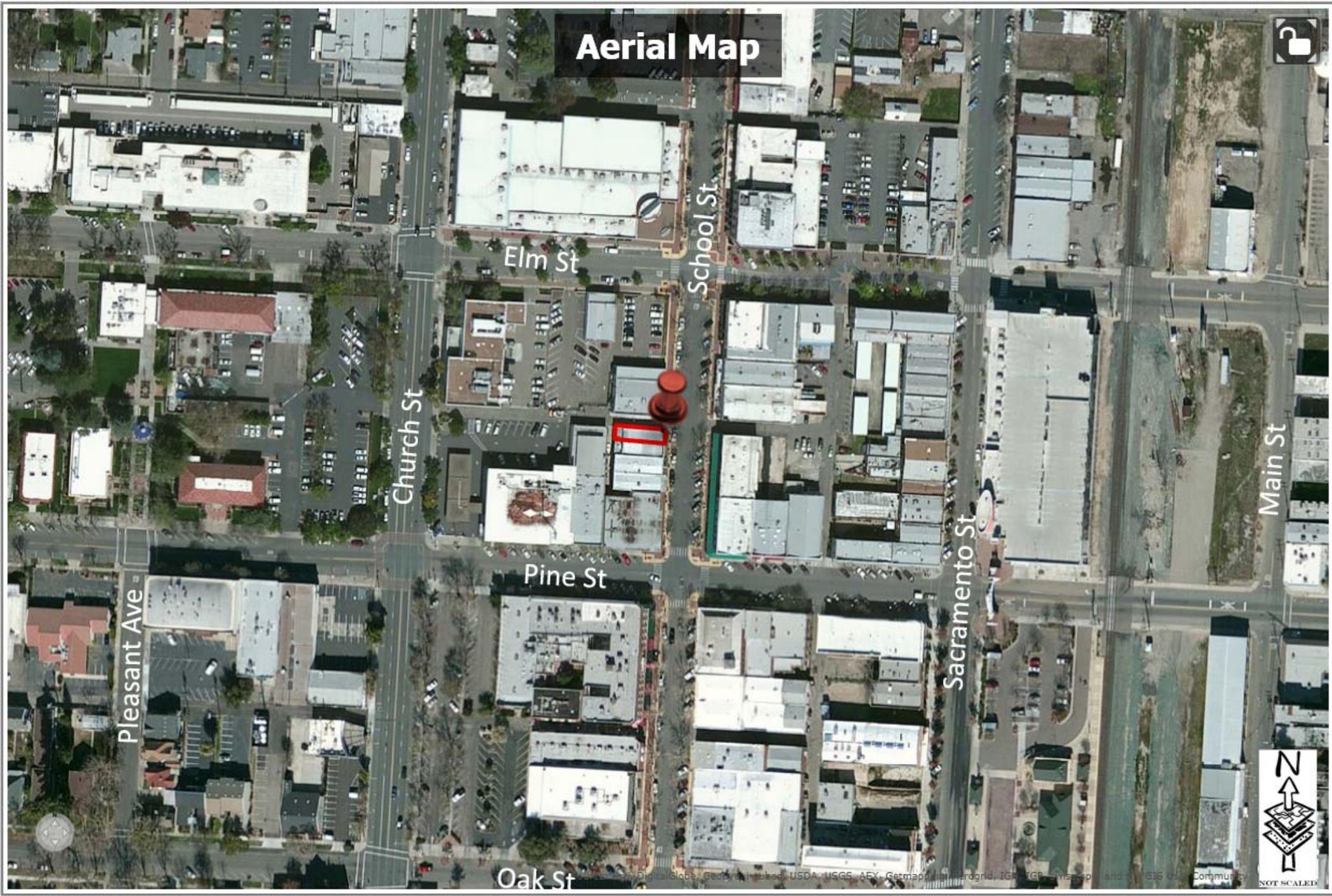


Legend

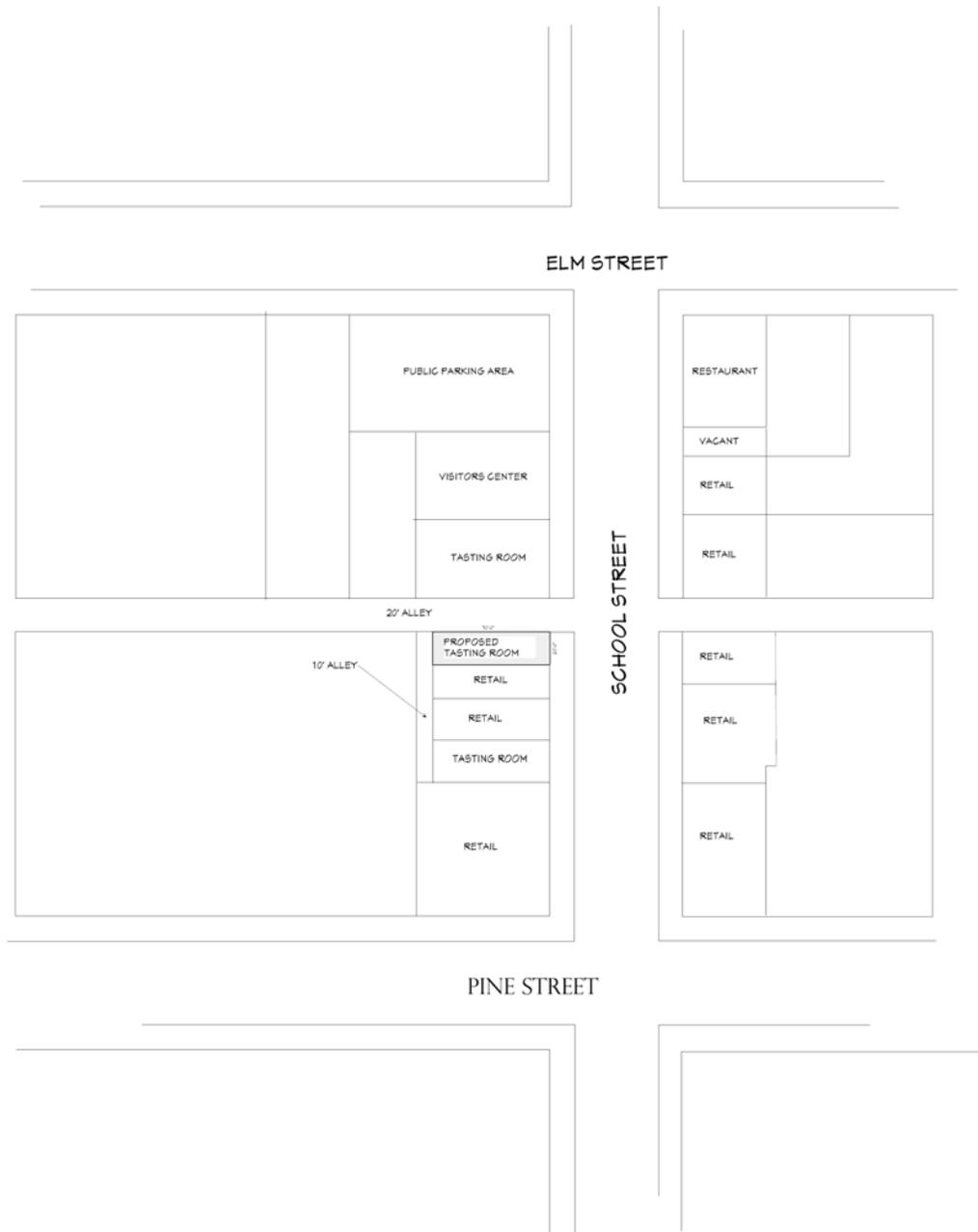
-  13 North School Street
-  Downtown Parking District



Aerial Map



NOT SCALED



SITE PLAN

NOT SCALED



PROPOSED WINE TASTING ROOM
 FOR
WEIBEL FAMILY VINEYARDS
 13 N. SCHOOL STREET
 LODI, CALIFORNIA

Drawn: JMT
 Date: 7-10-13
 Revised:

1

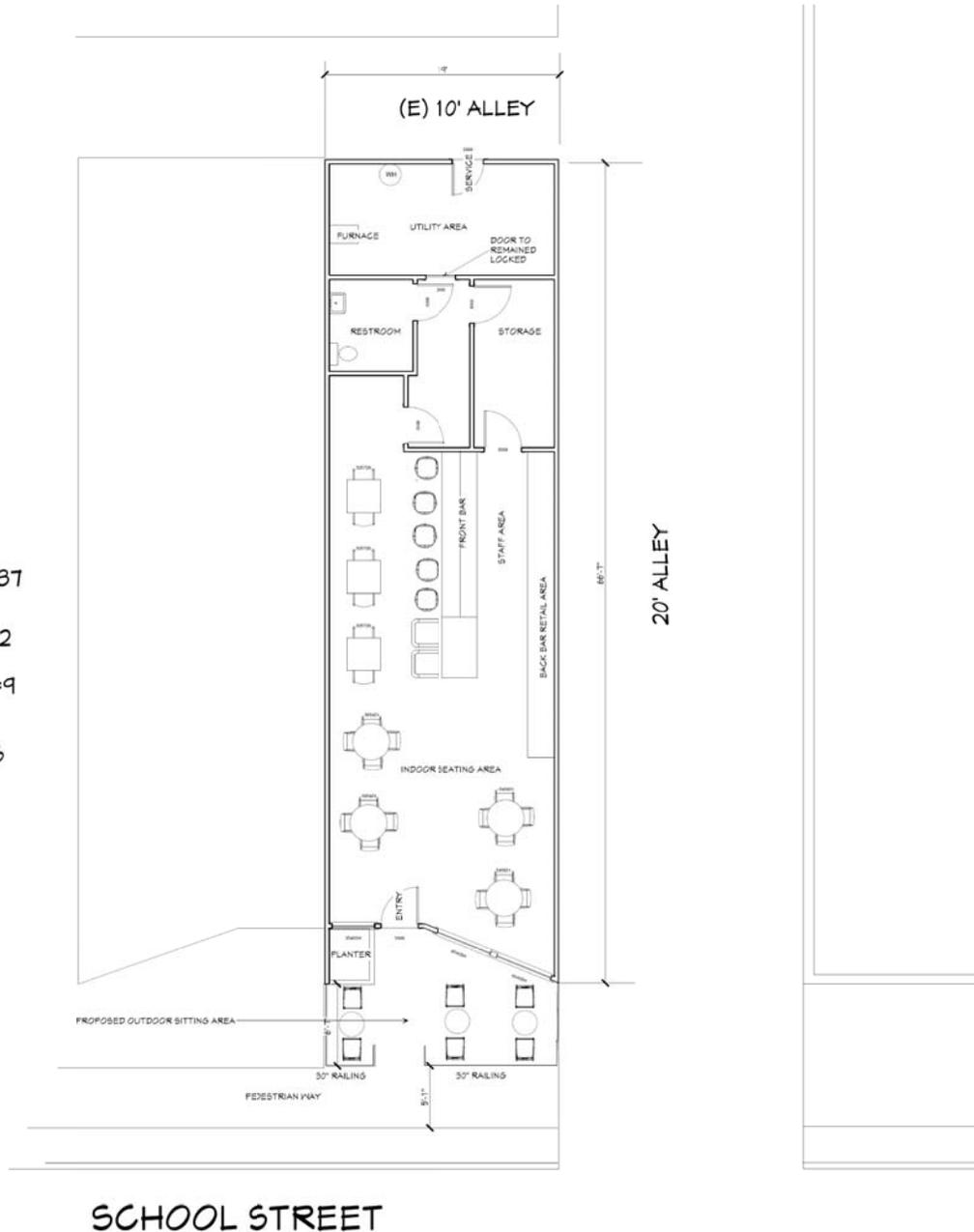
SITE PLAN

The information, plans, designs, drawings, and specifications in this drawing are confidential and may not be reproduced in any form without the express written permission of:
 James A. Weber - Architect
 Jeff Johnson - Architect

San Joaquin Design Group
 Architecture & Planning
 7877 N. Pershing Ave. - Stockton, Ca. 95207
 Tel: (209) 478-4013 Fax: (209) 478-0266

PROPOSED OCCUPANCY

GENERAL SEATING AREA	555 SQ. FT./ 15= 37
BAR AREA/RETAIL STAFF	2
SEATING AT BAR	45 SQ. FT/5=9
TOTAL	46



SCHOOL STREET

FLOOR PLAN

NOT SCALED

NORTH

San Joaquin Design Group
 Architecture & Planning
 7877 N. Pershing Ave. - Stockton, Ca. 95207
 Tel: (209) 478-4013 Fax: (209) 478-0266

The information, plans, designs and arrangements shown on this drawing are confidential and shall remain the property of the architect. No part of this drawing shall be reproduced or used in any way without the written permission of the architect.
 James A. Tribbens - Architect
 Bill Johnston - Architect

FLOOR PLAN

PROPOSED WINE TASTING ROOM
 FOR
WEIBEL FAMILY VINEYARDS
 13 N SCHOOL STREET
 LODI, CALIFORNIA

Drawn: JMT
 Date: 7-10-13
 Revised:

2

RESOLUTION NO. P.C. 13-

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF LODI APPROVING THE REQUEST OF JUDI HOLLY, ON BEHALF OF WEIBEL FAMILY VINEYARDS, FOR A USE PERMIT TO ALLOW A TYPE 2 ALCOHOLIC BEVERAGE CONTROL LICENSES AT 13 NORTH SCHOOL STREET

- WHEREAS**, the Planning Commission of the City of Lodi has heretofore held a duly noticed public hearing, as required by law, on the requested Use Permit, in accordance with the Lodi Municipal Code, Section 17.74; and
- WHEREAS**, the project proponent is Judi Holly, on behalf of Weibel Family Vineyards, 1 Winemaster Way, Suite D, Lodi, CA 95240; and
- WHEREAS**, the project is located at 13 North School Street, Lodi, CA 95240 (APN: 043-033-06); and
- WHEREAS**, the property has a General Plan designation of Downtown Mixed Use and is zoned Mixed Use Corridor and is within the Downtown Business District as well as the Downtown Parking District; and
- WHEREAS**, the project parcel is owned by Robert Nakamura, 1552 Deer Crossing Drive, Diamond Bar, CA 91765; and
- WHEREAS**, the requested Use Permit to allow Type 2 on-site wine tasting and retail sales, and Type 42 On-Sale Beer and Wine (special event only), which would authorize the sale and onsite consumption of beer and wine at the existing vacant building located at 13 North School Street, and the request is an enforcement action in accordance with the City of Lodi Municipal Code; and
- WHEREAS**, Census Tract 42.04 in which the business is located currently is over-concentrated with ABC licenses allowing the sale of beer and wine for consumption on- and off- the license premises where sold; and
- WHEREAS**, because Census Tract 42.04 has an over-concentration of On-sale beer and wine alcohol licenses, the Planning Commission makes a finding of necessity and/or public convenience in order to permit the issuance of an additional Alcohol Beverage Control license in this tract; and
- WHEREAS**, the State Department of Alcoholic Beverage Control has training available that clearly communicates State law concerning the sale of alcoholic beverages; and
- WHEREAS**, 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 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. Finally, 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.

2. 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.
3. 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 Downtown Mixed Use 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.
4. The proposed use is consistent with the General Plan. The General Plan land use designation for this area is Downtown Mixed Use, which provides for retail business, wine bars, restaurants, offices and other similar uses. The proposed wine tasting room is the type of business allowed by the General Plan.
5. The on- and off-sale of beer and wine, in accordance with a Type 2 and a Type 42 Alcoholic Beverage Control licenses, and with the conditions attached herein, would be consistent and in harmony with the Commercial General Plan Land Use Designation and Downtown Mixed Use Zoning District.
6. 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.
7. 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.
8. 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.
9. Steps can be taken by the Applicant/Operator to reduce the number of incidents resulting from the over-consumption of alcohol including the proper training and monitoring of employees serving alcohol; the careful screening of IDs of customers to avoid sales to under-aged individuals; limiting the number of drinks sold to individual customers to avoid over-consumption; providing properly trained staff to monitor customer behavior both in and outside of the establishment; and working with the Lodi Police Department to resolve any problems that may arise.
10. The proposed use can be compatible with the surrounding use and neighborhood if the business is conducted properly and if the Applicant/Operator works with neighboring businesses and residents to resolve any problems that may occur.
11. The proposed use would not be detrimental to the general welfare of persons residing and working in the immediate vicinity, the neighborhood or the community at large because the sale of alcohol with a wine tasting operation is not typically associated with detrimental impacts to the community.
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-12 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 insure that the serving 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.
3. 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.
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 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 wine, this Use Permit shall be subject to a one year, and two year review by the 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.
6. 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.
7. 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 Licenses Type 2 and Type 42.
8. Prior to the issuance of a Type-2 and Type 42 licenses, 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.
9. That applicants shall be allowed to use the wine tasting space for various events such as wine dinners catered by outside vendors, private mixers, wine tasting and parties for organizations and businesses who want to rent space, and to host feature wine tasting events that may include educational components.

- 9. All temporary and permanent signage proposed in connection with the wine making and wine tasting operation shall be reviewed and approved by the Community Development Department.
- 10. The wine tasting operation, as well as the special beer tasting events, shall be conducted in a manner that will not adversely impact neighboring properties or businesses.
- 11. No wine crushing and/or making operations shall occur at this site.
- 14. The subject site shall be maintained in a sanitary, litter-free, graffiti-free, and respectable appearance. Any damage or vandalism sustained to the property shall be repaired within a maximum of fourteen (14) days.
- 15. The project proponent/applicant/operator and/or developer and/or successors in interest and management shall obtain a Downtown Encroachment Permit from the Public Works Department for the proposed outdoor seating.
- 16. Due to change of use and/or occupancy of the building, the applicant shall submit complete and adequate Tenant Improvement plans to the Building Division for review and approval. The said plans shall be based on the City of Lodi Building Regulations and currently adopted California Building Code.
- 17. The applicant/project proponent and/or developer and/or successors in interest and management shall obtain annual Operational Permit issued by the Lodi Fire Department, and meet all the conditions outlined therein. The Fire Department may be contact at the Lodi Fire Department, 25 East Pine Street, Lodi, CA 95240-2127. Phone Number (209) 333-6739.
- 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 or wine is conducted or carried out in a manner so as to adversely affect the health, welfare or safety of persons residing or working in the neighborhood.
- 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. All project design and construction shall be in full compliance with the Americans with Disabilities Act (ADA). Project compliance with ADA standards is the developer's responsibility.
- 21. No variance from any City of Lodi adopted code, policy or specification is granted or implied by the approval of this resolution.

Dated: August 12, 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 August 14, 2013 by the following vote:

AYES: Commissioners:

NOES: Commissioners:

ABSENT: Commissioners:

ATTEST _____
Secretary, Planning Commission

Item 3c.

**CITY OF LODI
PLANNING COMMISSION
Staff Report**

MEETING DATE: August 14, 2013

APPLICATION NO: Use Permit: 13-U-13

REQUEST: Request for Planning Commission approval of a Use Permit to allow a Type-41 On-Sale Beer and Wine Alcoholic Beverage Control License located at 722 West Lodi Avenue. (Applicant: Melissa Ng, on behalf of Zin Bistro; File Number: 13-U-13)

LOCATION: 722 West Lodi Avenue
APN: 033-190-25
Lodi, CA 95240

APPLICANT: Melissa Ng, on behalf of Zin Bistro
1722 Douglas Rd
Stockton, CA 95207

PROPERTY OWNER: John and Paula Schwerin
33 Seville Way
San Mateo, CA 94402

RECOMMENDATION

Staff recommends the Planning Commission approve the request of Melissa Ng, on behalf of Zin Bistro for a Use Permit to allow Type-41 On-Sale Beer and Wine Alcoholic Beverage Control (ABC) license at 722 West Lodi Avenue, subject to conditions in the attached resolution.

PROJECT/AREA DESCRIPTION

General Plan Designation: Mixed Use Corridor
Zoning Designation: Mixed Use Corridor (MCO)
Property Size: .07 acres (Restaurant measures approximately 1,050 sq. ft.)

The adjacent zoning and land use characteristics:

	ADJACENT ZONING DESIGNATIONS AND LAND USES		
	GENERAL PLAN	ZONING CLASSIFICATION	EXISTING LAND USE
North	Low Density Residential	Low Density Residential (LDR)	Residential
South	Mixed Use Corridor	Mixed Use Corridor (MCO)	Commercial uses
East	Mixed Use Corridor	Mixed Use Corridor (MCO)	Commercial uses
West	Mixed Use Corridor	Mixed Use Corridor (MCO)	Commercial uses

SUMMARY

The applicant, Melissa Ng, on behalf of Zin Bistro, is requesting approval of a Use Permit to allow a Type 41 On-Sale license for a proposed restaurant located at 722 West Lodi Avenue. The Type 41 license authorizes the sale of beer and wine for consumption on the premises in conjunction with a restaurant. In accordance with ABC requirements, receipts from alcohol sales shall not be in excess of food sales receipts. The project site is over-concentrated, and the Planning Commission must make a finding of public convenience and necessity in order to approve the requested Use Permit.

BACKGROUND

Available City records indicate that the tenant space has been used by a variety of commercial uses. The most recent use was a restaurant called Andre's Café, which closed earlier this year. Currently, there are no outstanding City or Building Code violations.

ANALYSIS

According to the applicant, the proposed restaurant will offer lunch and dinner menu. The proposed hours of operations will be from 11:00 a.m. - 9:00 p.m., daily. The restaurant measures approximately 1,050 square-feet in size. The applicant requests a Use Permit approval to allow a Type 41 (Eating Place) ABC license, which authorizes the sale of beer and wine for consumption on or off the premise where sold. Type 41 prohibits the sale of distilled spirits and minors are allowed on the premise. In accordance with the State Department of Alcoholic Beverage Control (ABC) requirements, receipts from alcohol sale cannot be in excess of food sale receipts. ABC requires that restaurants with an alcohol license must operate and maintain the premise as a bona fide eating establishment.

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 restaurants and sale of alcohol for on and off site consumption. Per Land Use Code Section 17.22.030, onsite consumption of alcohol beverages is permitted in the Mixed Use Corridor (MCO) 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 area is located on Census Tract 43.04, which covers the area south of Lodi Avenue, north of Kettleman Lane, east of Ham Lane and west of Union Pacific Rail Road Company (UPRR) rail-line. According to ABC, Census Tract 43.04 contains eight (8) existing ABC on- and off-sale licenses with only five (5) licenses allowed based on the ABC criteria. There area is considered over-concentrated. Because the project area partially covers the downtown district, there is an existing over concentration of ABC licenses. In order to authorize additional licenses in this census tract, the Planning Commission must make a finding of public convenience and/or necessity.

The applicant's request is to sell alcohol in conjunction with operation of a bona fide eating establishment. This is consistent with the Commission's past actions. In the past, the Planning Commission and the Planning staff have generally supported restaurants that wish to acquire an ABC on-sale license, because typically, restaurants that serve alcohol in conjunction with food sales do not create alcohol related problems. The Community Development Department has determined that the applicant's request for a Use Permit can meet the criteria for the finding of public convenience.

The discretionary Use Permit procedure enables the Planning and the city staff to impose conditions designed to avoid, minimize or mitigate potentially adverse effects of a certain use upon the community or other properties in the vicinity. Staff proposes operational conditions requiring ABC training for staff, and noise 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 follows:

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 on and off sale of alcohol beverages subject to a Use Permit. The sale of alcoholic beverages, as part of a restaurant

operation, is the type of business permitted in the commercial centers. The sale of alcohol is ancillary to the bone fide restaurant operation.

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 sale of alcohol. The proposed sale of beer and wine in conjunction with a bone fide restaurant operation is the type of business allowed by the General Plan. The sale of alcoholic beverages as part of a restaurant is required by the State Department of Alcoholic Beverage Control to be secondary to food sales. Sale of beer and wine in conjunction with a restaurant is a common way to increase sales.
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 sale of beer and wine in conjunction with a restaurant operation is compatible with existing and future land uses in this commercial center. The sale of beer and wine in a restaurant is consistent with the General Plan because commercial uses such as the one proposed are permitted to sell alcohol in accordance with Land Use Policy subject to a discretionary review. The sale of alcoholic beverages for on-premise consumption is a normal part of business operations for a restaurant and provides a convenience for customers of the business.
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, restaurants with sale of alcohol license have operated at this location and did not create policing problems. 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. Fourth, the characteristics of the proposed sale of alcohol in a restaurant operation are secondary to the sale of food. In accordance with ABC requirements, receipts from alcohol sales shall not be in excess of food sales receipts. Lastly, it is found that the sale of alcoholic beverages as part of a restaurant is a convenience that does not typically create alcohol related problems.
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 found to be categorically exempt from CEQA review under 14 CCR §15332. Class 32 consists of projects characterized as in-fill development meeting the following conditions: (a) the project is consistent with the applicable general plan designation and all applicable general plan policies as well as with the applicable zoning designation and regulations, (b) the proposed development occurs within city limits on a project site of no more than five (5) acres substantially surrounded by urban uses, (c) the project site has no value as habitat for endangered, rare or threatened species, (d) approval of the proposed project would not result in any significant effects relating to traffic, noise, air quality, or water quality, and (e) the site of the proposed project can be adequately served by all required utilities and public services.

Staff sent a copy of the application to various City departments for review and comment. 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 on-sale beer and wine application and they do not anticipate alcohol related problems. The Lodi Police Department supports the approval of the project subject to the conditions outlined in the attached

resolution. Because the applicant's request is for a Use Permit to allow sale of alcohol in conjunction with a full service restaurant, staff does not anticipate the alcohol sales portion of the business to create any problems. This operation would be similar to other restaurants within Lodi. The Planning Commission and Planning staff have generally supported restaurants that wish to acquire an ABC license. If problems or concerns related to the sale of alcoholic beverages occur in the future, staff and/or the Planning Commission may initiate a public hearing where the Commission would have the ability to amend conditions or revoke the Use Permit.

ENVIRONMENTAL ASSESSMENT

The project is found to be categorically exempt from CEQA review under 14 CCR §15332. Class 32 consists of projects characterized as in-fill development meeting the following conditions: (a) the project is consistent with the applicable general plan designation and all applicable general plan policies as well as with the applicable zoning designation and regulations, (b) the proposed development occurs within city limits on a project site of no more than five (5) acres substantially surrounded by urban uses, (c) the project site has no value as habitat for endangered, rare or threatened species, (d) approval of the proposed project would not result in any significant effects relating to traffic, noise, air quality, or water quality, and (e) the site of the proposed project can be adequately served by all required utilities and public services.

PUBLIC HEARING NOTICE:

Legal Notice for the Use Permit was published in the Lodi News Sentinel on Saturday, August 3, 2013. Thirty-three (33) 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
Associate Planner

Konradt Bartlam
Community Development Director

ATTACHMENTS:

- A. Vicinity Map
- B. Aerial Map
- C. Site Plan
- D. Floor Plan
- E. Menu
- F. Draft Resolution

Vicinity Map

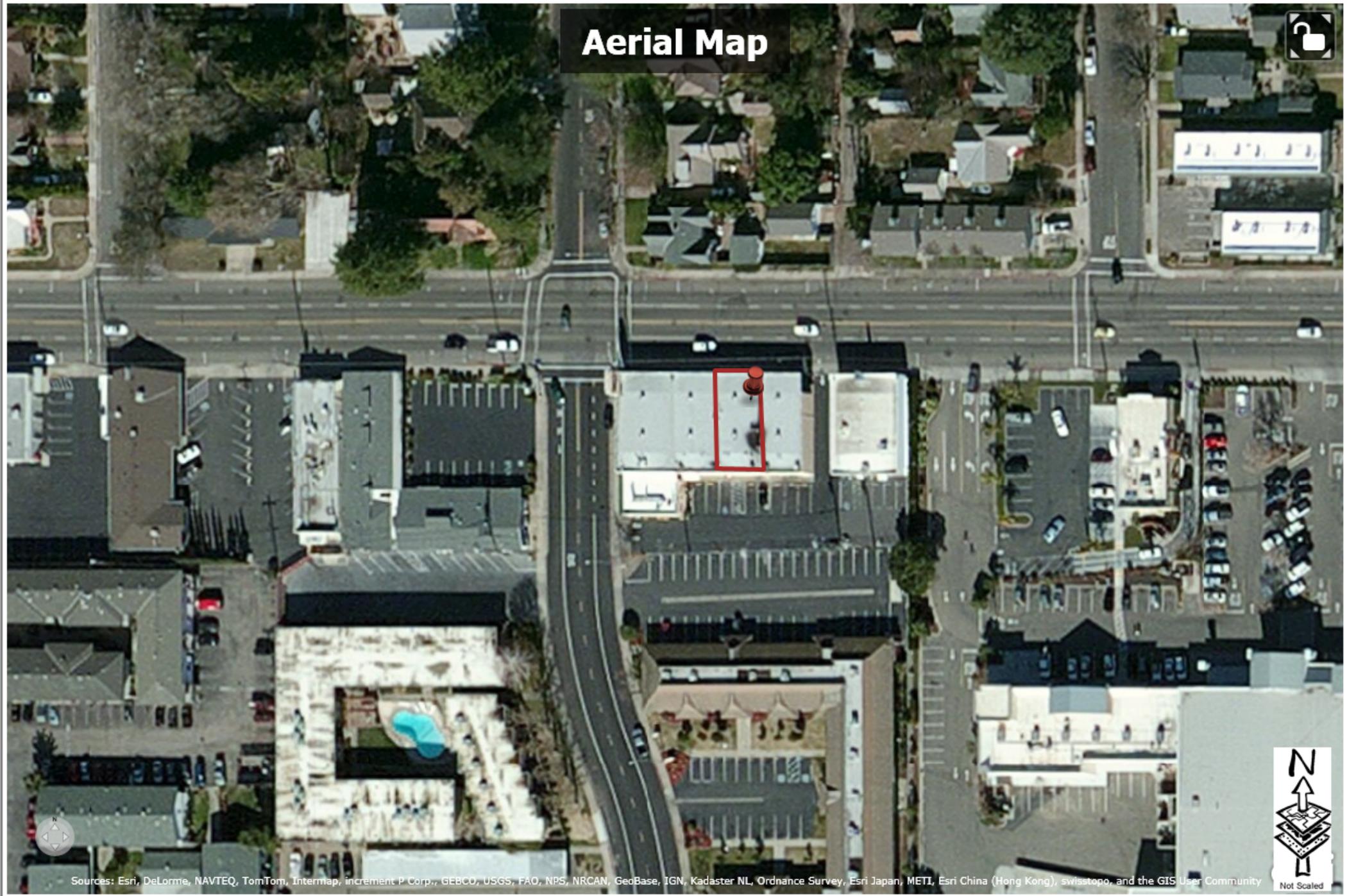


Legend

 Zin Bistro

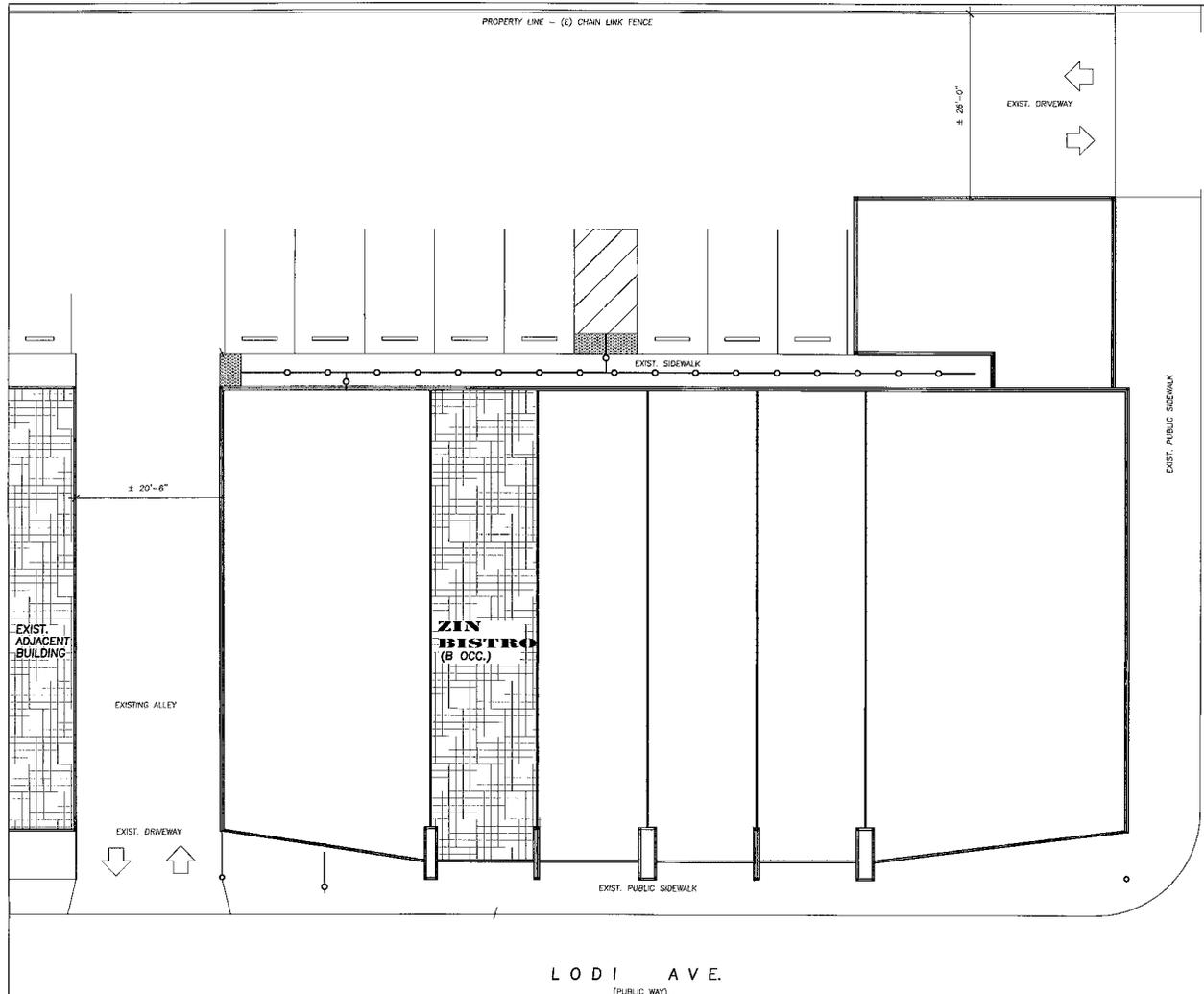


Aerial Map



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

Not Scaled



CRESCENT AVE.
(PUBLIC WAY)

LODI AVE.
(PUBLIC WAY)

EXISTING SITE PLAN

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



Consultant

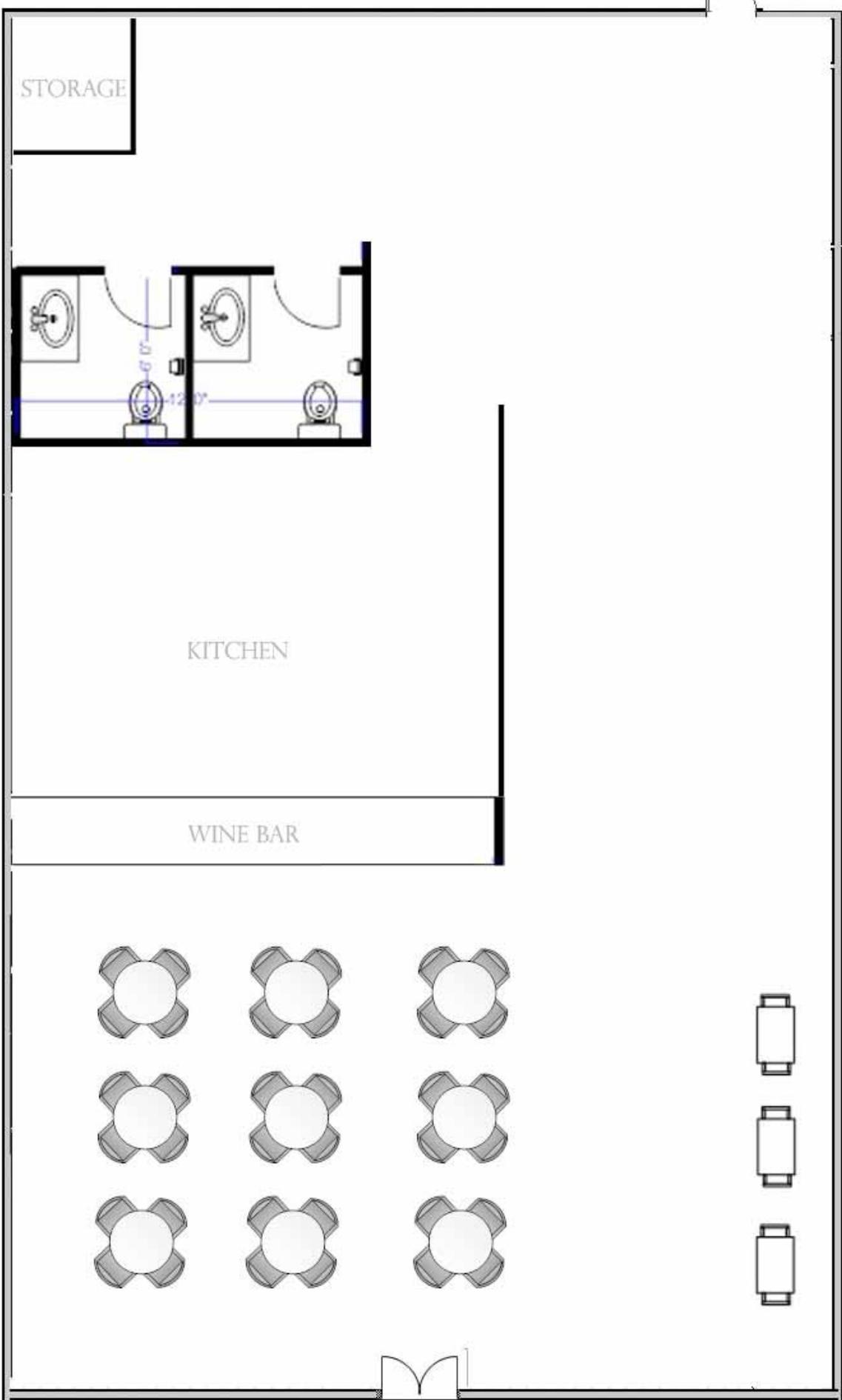
Project
ZIN BISTRO
722 W. Lodi Ave
Lodi, CA 95240

Sheet Contents
Site Plan

DRAWING STATUS	DATE
ISSUED	07-27-12
PLAN REVIEW NO. 1	09-06-12

BUILDING PERMIT NO.:	B12-0795
DRAWN BY:	NEO KLAYBO
CHECKED BY:	GAR
SCALE:	AS NOTED
PROJECT NO.:	PSM-21207174
SHEET:	

A-1



ZIN BISTRO
722 WEST LODI AVENUE
NOT SCALED

Zin Bistro

New York Steak Sandwich \$12.50

Choice New York Steak with Red Wine Reduction Sauce. Served Open Faced on a French Roll with Your Choice of House Salad, Garlic French Fries or Potato Salad.

Classic Burger \$7.95

¼ Pound Beef Burger with Lettuce, Tomato and Red Onion. Served with your choice of House Salad, Garlic French Fries, or Potato Salad.

With Cheese add \$0.50

BLT \$7.50

Crisp Bacon with Fresh Tomato and Iceberg Lettuce on Grilled Sour Dough Bread. Served with your choice of House Salad, Garlic French Fries or Potato Salad.

Patty Melt \$8.50

¼ Pound Beef Burger with Grilled Onion and Swiss Cheese. Served with your choice of House Salad, Garlic French Fries or Potato Salad.

Chicken Ranch Sandwich \$8.75

Succulent Grilled Chicken Breast with Crisp Bacon, Tomatoes, and Creamy Ranch Dressing served open faced on a French Roll. Served with your choice of House Salad, Garlic French Fries or Potato Salad

Zin Bistro

Rib-Eye Steak \$18.00

Choice Rib-Eye Steak, Pan Seared with Blue Cheese Crumbles.
Served with Today's Side Dish and Fresh Vegetable Sauté

Braised Lamb Shank \$16.00

Lamb Shanks Braised Tender with Sherry and White Beans,
Served with Today's Side Dish and Fresh Vegetable Sauté

Pork Tenderloin \$16.00

Succulent Pork Tenderloin with a Port-Cherry Reduction.
Served with Today's Side Dish and Fresh Vegetable Sauté

Chicken Saltimbocca \$15.00

Scaloppini of Chicken with Prosciutto and Provolone in White
Wine. Served with Today's Side Dish and Fresh Vegetable Sauté

Scampi \$16.00

Tender Shrimp Scampi with Bacon and Pesto Cream on a Bed
of Spaghetti

Lighter Fare \$11.00

Rigatoni Bolognese

RESOLUTION NO. P.C. 13-

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF LODI APPROVING THE REQUEST OF MELISSA NG, ON BEHALF OF ZIN BISTRO FOR A USE PERMIT TO ALLOW TYPE-41 ON-SALE BEER AND WINE ALCOHOLIC BEVERAGE CONTROL (ABC) LICENSE AT 722 WEST LODI 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 Melissa Ng, on behalf of Zin Bistro 1722 Douglas Rd, Stockton, CA 95207; and
- WHEREAS,** the project is located at 722 West Lodi Avenue, (APN: 033-190-25), Lodi, CA 95240; and
- WHEREAS,** the property has a General Plan designation of Mixed Use Corridor and is zoned MCO, Mixed Use Corridor; and
- WHEREAS,** the requested Use Permit to allow the selling of beer and wine for on-site consumption within a restaurant is an enforcement action in accordance with the City of Lodi Zoning Ordinance; and
- WHEREAS,** Census Tract 42.04 in which the proposed restaurant is to be located is over concentrated of licenses allowing on premise consumption of alcoholic beverages; and
- WHEREAS,** because Census Tract 42.04 has an over-concentration of On-sale beer and wine alcohol licenses, the Planning Commission makes a finding of necessity and/or public convenience in order to permit the issuance of an additional Alcohol Beverage Control license in this tract; and
- WHEREAS,** the State Department of Alcoholic Beverage Control has training available that clearly communicates State law concerning the sale of alcoholic beverages.
- 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 is found to be categorically exempt from CEQA review under 14 CCR §15332. Class 32 consists of projects characterized as in-fill development meeting the following conditions: (a) the project is consistent with the applicable general plan designation and all applicable general plan policies as well as with the applicable zoning designation and regulations, (b) the proposed development occurs within city limits on a project site of no more than five (5) acres substantially surrounded by urban uses, (c) the project site has no value as habitat for endangered, rare or threatened species, (d) approval of the proposed project would not result in any significant effects relating to traffic, noise, air quality, or water quality, and (e) the site of the proposed project can be adequately served by all required utilities and public services. No significant environmental impacts are anticipated and no mitigation measures have been required.
2. The sale of alcoholic beverages for on-premise consumption as part of a restaurant is a permitted use in the Mixed Use Corridor (MCO) Zoning District. The site is suitable and adequate for the proposed use because establishment of a restaurant on this site would not create negative impacts on businesses, residents and instructional uses in the vicinity.
3. The on-sale of beer and wine, in accordance with a Type 41 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.
4. The proposed use is consistent with the General Plan because commercial uses such as the one proposed are permitted in accordance with Land Use Policy subject to a discretionary review.

5. The proposed use would not have a substantial adverse economic effect on nearby uses because operation of a restaurant in accordance with applicable laws and under the conditions of this Use Permit is anticipated to be an economic benefit to the community.
6. The sale of alcoholic beverages for on-premise consumption is a normal part of business operations for a restaurant and provides a convenience for customers of the business.
7. The sale and consumption of alcohol can sometimes result in customer behavior problems that can require police intervention.
8. Steps can be taken by the Applicant/Operator to reduce the number of incidents resulting from the over-consumption of alcohol including the proper training and monitoring of employees serving alcohol; the careful screening of IDs of customers to avoid sales to under-aged individuals; limiting the number of drinks sold to individual customers to avoid over-consumption; providing properly trained on-site security to monitor customer behavior both in and outside of the establishment; and working with the Lodi Police Dept. to resolve any problems that may arise.
9. The proposed use can be compatible with the surrounding use and neighborhood if the business is conducted properly and if the Applicant/Operator works with neighboring businesses and residents to resolve any problems that may occur.
10. The proposed use would not be detrimental to the general welfare of persons residing and working in the immediate vicinity, the neighborhood or the community at large because the sale of alcohol with a restaurant operation is not associated with detrimental impacts to the community.
11. The sale of alcoholic beverages at this location can meet the intent of the MCO 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. 13-U-13 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 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.
3. The Applicant/Operator and/or successors in interest and management shall insure that the sale of alcohol does not cause any condition that will cause or result in repeated activities that are harmful to the health, peace or safety of persons residing or working in the surrounding area. This includes, but is not limited to: disturbances of the peace, illegal drug activity, public intoxication, drinking in public, harassment of people passing by, assaults, batteries, acts of vandalism, loitering, excessive littering, illegal parking, excessive loud noises, traffic violations or traffic safety based upon last drink statistics, curfew violations, lewd conduct, or police detention and arrests.
4. The Applicant/Operator 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.

5. The Applicant/Operator shall operate and abide by the requirements and conditions of the State of California Department of Alcoholic Beverage Control License Type 41. The Type 41 License shall be limited to on-site sale and consumption of beer and wine during the hours that the restaurant is open for business or as otherwise modified by the Community Development Director.
6. 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 and wine, 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.
7. 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.
8. The Use Permit shall require the Applicant/Operator and/or successors in interest and management to secure an ABC Type 41 license, On Sale Beer and Wine – Eating Place.
9. Prior to the issuance of a Type 41 ABC license, the Applicant/Operator and/or successors in interest and management shall complete Licensee Education on Alcohol and Drugs as provided by the State Department of Alcoholic Beverage Control.
10. Any changes to the interior layout of the business operation shall be subject to review and approval by the Planning Department and shall require appropriate City permits.
11. No person who is in a state of intoxication shall be permitted within the restaurant nor shall an intoxicated patron already in the establishment be served additional alcoholic beverages. It is the responsibility of the business owner/operator to ensure no patron in state of intoxication is allowed into the building.
12. The exterior of all the premises shall be maintained in a neat and clean manner, and maintained free of graffiti at all times.
13. The applicant/project proponent and/or developer and/or successors in interest and management shall obtain Operational Permit issued by the Lodi Fire Department, and meet all the conditions outlined therein. The Fire Department may be contact at the Lodi Fire Department, 25 East Pine Street, Lodi, CA 95240-2127. Phone Number (209) 333-6739.
14. Tenant Improvement plan submittal required for any alteration to the existing restaurant. All plan submittals shall be based on the City of Lodi Building Regulations and currently adopted California Building code.
15. 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 and wine is conducted or carried out in a manner so as to adversely affect the health, welfare or safety of persons residing or working in the neighborhood.
16. 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.

17. No variance from any City of Lodi adopted code, policy or specification is granted or implied by this approval.

Dated: August 14, 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 August 14, 2013 by the following vote:

AYES: Commissioners:

NOES: Commissioners:

ABSENT: Commissioners:

ATTEST _____
Secretary, Planning Commission

ITEM POSTPONED TO AN UNKNOWN FUTURE MEETING

Item 3d.

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 08/14/13
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
July 17, 2013	Regular	Post for Vacancy on Site Plan and Architectural Review Committee (CLK)
August 6, 2013	Shirtsleeve	Receive an Update on Lodi's Business Development Efforts