

<p>CARNEGIE FORUM 305 WEST PINE STREET LODI, CALIFORNIA</p>	<p>AGENDA LODI PLANNING COMMISSION</p>	<p>REGULAR SESSION WEDNESDAY, OCTOBER 8, 2014 @ 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 23, 2014” & “September 10, 2014”
3. PUBLIC HEARINGS
 - a. Request for Planning Commission approval of a Use Permit to allow a charter school and self-storage space into an existing tenant space at 333 South Lower Sacramento Road. (Applicant: Westgate Shopping Center, LLC; File 2014-29 U; CEQA Determination: Exempt per Section 15303)
 - b. Request for Planning Commission approval of a Use Permit Amendment to allow a Type-48 General License for Ollie’s Lounge at 22 N School Street. (Applicant: JSAD – Ollie’s; File 2014-31 U; CEQA Determination: Exempt per Section 15321)

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

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

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

Right to 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 23, 2014**

1. CALL TO ORDER / ROLL CALL

The Regular Planning Commission meeting of July 23, 2014 was called to order by Vice Chair Kiser at 7:00 p.m.

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

Absent: Planning Commissioners – Olson

Also Present: Senior Planner Craig Hoffman, City Attorney Janice Magdich, and Administrative Secretary Kari Chadwick

2. MINUTES

“June 25, 2014”

MOTION / VOTE:

The Planning Commission, on motion of Commissioner Kirsten, Slater second, approved the minutes of June 25, 2014 as written.

3. PUBLIC HEARINGS

- a) Notice thereof having been published according to law, an affidavit of which publication is on file in the Community Development Department, Vice Chair Kiser called for the public hearing to consider the request of the Planning Commission for approval of a 9 lot subdivision map and design review of The Villas housing project at 2110 Tienda Drive. (Applicant: Mr. John M. Giannoni Jr.; File 2014-15 S SP; CEQA Determination: Exempt per Section 15332)

Senior Planner Craig Hoffman gave a brief PowerPoint presentation based on the staff report. Staff is recommending that Staff is recommending approval of the project as conditioned with the addition of condition #45 as illustrated on the blue sheet provided at the meeting.

Commissioner Heinitz asked if each resident will have their own trash cans or a single trash enclosure. Mr. Hoffman stated that each unit will have their own trash cans. Mr. Heinitz asked if there will be plumbing in the bonus room over the garage. Mr. Hoffman stated that plumbing could be added to the plans based on what the potential buyer would like to see in the space. Mr. Heinitz asked if the project could be conditioned to not allow plumbing to be put into those rooms to avoid having it turned into a secondary dwelling unit down the road. Mr. Hoffman stated that the Commission can add that if they choose.

Vice Chair Kiser stated his concern with the bonus room having plumbing as well as his concern about the trash cans needing to be pushed to the curb, so that the trucks do not have to try to drive into the development. Mr. Hoffman stated that the trash cans will need to be brought out to Tienda Drive to avoid having the trucks come into the development. Mr. Kiser also stated that he would like to see some signage at the entrance to the drive way stating that there is no parking along that area

Commissioner Slater asked if there is a yard for the dwellings. Mr. Hoffman stated that there is yard area for the residences. Mr. Slater would like to see some sort of sustainable fencing material used and asked about guest parking. Mr. Hoffman stated that there will be two guest parking spaces on site and other guest parking on the street.

Hearing Opened to the Public

- John Giannoni, applicant, came forward to answer questions. Mr. Giannoni stated that his vision for the Villas is to give all generations a place to call home. The single story

dwelling are meant to accommodate the older generation with the master bedrooms on the first floor and the townhouses will give the younger generation a place to settle. This project is going to be a high quality and energy efficient product. He added that the bonus room reflects a restroom because no matter what the space is used for it will need a restroom. The fence material will be 4x4 pressure treated wood. There is also a large trash bin and extra parking on the property to the south of this project and the residents can use that area in case they are having an extra-large gathering.

- Commissioner Heinitz asked if a truck could get into the complex to pick up a trash bin. Mr. Giannoni stated that he would prefer not to have a garbage truck driving into the complex. Mr. Heinitz asked if a walkway could be added on the east side of the property for the residents in the back. Mr. Giannoni stated that there is a gate and walkway along the eastern edge of the property that the residents can use to access Tienda Drive.
- Vice Chair Kiser asked if there can be something put into the CC&Rs that states that the residents can use the trash bin and parking on the property to the south of the project. Mr. Giannoni stated that would be a good idea.
- Zack Wong, Civil Engineer for the project, came forward to confirm the moving of the garage door from the side of the garage to the rear on the end unit. Vice Chair Kiser stated his support for the change.
- Al Ellis, Attorney for the applicant, came forward to answer questions. He has been working with Mr. Giannoni on the CC&Rs for the project and if the Commission has any questions he is available to answer them. Mr. Ellis added that Mr. Giannoni is Maintain the landscaping for three years going up to ten years depending on when the project is completed to ensure that it stays health.
- Commissioner Hennecke asked how the CC&Rs will be able to enforce the requirements for the common areas. Mr. Ellis stated that the CC&Rs are like any other contract and can be enforced through legal means.
- Vice Chair Kiser asked if a homeowners association could be set up later. Mr. Ellis stated that the applicant does not feel that an HOA is necessary, but if the future owners want to start an association then they should be able to do so. Mr. Giannoni came forward to further explain his vision with the help of the illustrations. The product being produced with this project will be individually owned except for the entrance.
- Commissioner Heinitz asked if the area in the middle is common area. Mr. Giannoni stated that the property lines all meet in the middle and every resident owns their own share of the Piazza.
- Fred Baker, Lodi resident, came forward to state some concerns for the project. Mr. Baker stated that a walkway was required with his project next door to allow for the garbage cans to be brought out to the street. He stated that he would like to see the residences in the back moved to the front and the two-story townhouses moved to the rear of the property. He believes this would be a better look on Tienda Drive. Mr. Baker would like to know who he will need to talk to if there are repairs to the shared drive lane.

Commissioner Kirsten excused himself from the meeting at 7:42 p.m. because he is feeling ill.

- Roger Barker, Lodi resident, came forward to express his concerns for the project. Mr. Barker stated his agreement with staff on keeping the garage buildings for the single-family dwellings single story. He supports the condition for CC&Rs and hopes they will deal with any possible issues that may arise.
- Vice Chair Kiser stated that each dwelling will have its own fire suppression system. Mr. Kiser asked for clarification regarding staff recommending that the garage buildings be single story. Mr. Hoffman stated his confirmation that staff is recommending the garage buildings for the residences in the rear be single story. He added that if the Commission wishes to allow them to be two-story staff recommends a condition be added to the CC&Rs that states that they cannot be leased, sublet or rented out separately.

Public Portion of Hearing Closed

- Commissioner Hennecke asked if the CC&Rs would come back to the Commission. Mr. Hoffman stated that staff from various departments will be looking at the CC&Rs and approving them. Commissioner Slater asked if they could be brought back to the Commission as an informational item. Mr. Hoffman stated that he will bring them back to the Commission.
- Commissioner Heinitz amended the conditions by eliminating Condition #14 and stating that the CC&Rs clarify that the bonus rooms not be allowed to become rentals.

MOTION / VOTE:

The Planning Commission, on motion of Commissioner Heinitz, Kiser second, finds the project has satisfied the requirements of the California Environmental Quality Act (CEQA) pursuant to Section 15332, the project is in-fill development and approve the Tentative Subdivision Map and architectural review for The Villas at 2110 Tienda Drive subject to conditions in the attached resolution along with additional condition 45 and amendments as stated below:

1 – Delete Condition #14.

2 - A statement to be added to the CC&Rs that will not allow for the bonus room to become a rental space.

The motion carried by the following vote:

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

- b) Notice thereof having been published according to law, an affidavit of which publication is on file in the Community Development Department, Vice Chair Kiser called for the public hearing to consider the request of the Planning Commission for a Use Permit Amendment (Condition 5 and 6) to allow an after school program (no additional students) at 2301 West Lodi Ave. (Applicant: Vineyard Christian Middle School; File 2014-21 U; CEQA Determination: Exempt per Section 15332)

Senior Planner Craig Hoffman gave a brief PowerPoint presentation based on the staff report. Staff recommends approval of the project as conditioned.

Vice Chair Kiser asked if the portable classroom units will be staying. Mr. Hoffman stated that they will remain.

Commissioner Slater asked if there have been any complaints for this site. Mr. Hoffman stated that there have not been any protests submitted. Ms. Magdich stated that the City Attorney’s office has not received any complaints.

Hearing Opened to the Public

- Randal Oliver, Principal of Vineyard Christian Middle School, came forward to answer questions.
- Commissioner Heinitz stated that he has heard positive comments about the school.
- Commissioner Slater asked about the after school program. Mr. Oliver stated that the program will be to allow parents that need the extra time to pick up their children. They will have both indoor and outdoor activities during that time.

Public Portion of Hearing Closed

MOTION / VOTE:

The Planning Commission, on motion of Commissioner Slater, Hennecke second, finds the project is exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15332, and

adopt a Resolution approving the Use Permit Amendment (Condition 5 and 6) to allow an after school program (no additional students) at 2301 West Lodi Avenue subject to the findings and conditions of approval contained in the draft Resolution. The motion carried by the following vote:

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

4. PLANNING MATTERS/FOLLOW-UP ITEMS

Senior Planner Hoffman stated that the Tentative Looking Ahead Project List has been provided and staff is available to answer any questions.

5. ANNOUNCEMENTS AND CORRESPONDENCE

Senior Planner Hoffman showed off the proposed façade improvements that Smart and Final has submitted. He added that the application will be going to the Site Plan and Architectural Review Committee in August.

6. ACTIONS OF THE CITY COUNCIL

None

7. ACTIONS OF THE SITE PLAN AND ARCHITECTURAL REVIEW COMMITTEE

None

8. ART IN PUBLIC PLACES

None

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

None

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

Commissioner Hennecke asked about the liquor license that has been approved in his neighborhood. Mr. Hoffman and Ms. Magdich stated that the resident has been approved for an office only. The license is a wholesale license only. There will not be any liquor sold out of the house.

Commissioner Slater stated that there is a need to have an upper end gated community. Mr. Hoffman stated that he also sees the need. Mr. Heinitz stated that there is a very low turn around in these types of developments.

11. REORGANIZATION

a. Planning Commission Chair & Vice Chair

MOTION / VOTE:

The Planning Commission, on motion of Commissioner Slater, Henitz second, approved the nomination of Commissioner Kiser for the 2014/15 Planning Commission Chair position. There being no other nominations the motion carried by the following vote:

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

MOTION / VOTE:

The Planning Commission, on motion of Commissioner Kiser, Slater second, approved the nomination of Commissioner Heinitz for the 2014/15 Planning Commission Vice Chair position. There being no other nominations the motion carried by the following vote:

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

b. Planning Commission Representatives to: SPARC and Art In Public Places

MOTION / VOTE:

The Planning Commission, on motion of Commissioner Heinitz, Slater second, approved the nomination of Commissioner Kiser for the 2014/15 Planning Commission representative for the Site Plan and Architectural Review Committee position. There being no other nominations the motion carried by the following vote:

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

MOTION / VOTE:

The Planning Commission, on motion of Commissioner Slater, Heinitz second, approved the nomination of Commissioner Kirsten for the 2014/15 Planning Commission representative for the Art In Public Places Committee position. There being no other nominations the motion carried by the following vote:

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

12. ADJOURNMENT

There being no further business to come before the Planning Commission, the meeting was adjourned at 8:13 p.m.

ATTEST:

Kari Chadwick
Planning Commission Secretary

**LODI PLANNING COMMISSION
REGULAR COMMISSION MEETING
CARNEGIE FORUM, 305 WEST PINE STREET
WEDNESDAY, SEPTEMBER 10, 2014**

1. CALL TO ORDER / ROLL CALL

The Regular Planning Commission meeting of September 10, 2014 was called to order by Chair Kiser at 7:00 p.m.

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

Absent: Planning Commissioners – Heinritz and Kirsten

Also Present: Senior Planner Craig Hoffman, City Attorney Janice Magdich, and Administrative Secretary Kari Chadwick

2. MINUTES

“July 23, 2014”

MOTION:

No motion made due to the lack of a quorum of Commissioners in attendance from the subject meeting. The July 23, 2014 minutes will be brought back to a future meeting.

“August 13, 2014”

MOTION / VOTE:

The Planning Commission, on motion of Commissioner Slater, Hennecke second, approved the minutes of August 13, 2014 as written. (Commissioners Cummins 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 Kiser called for the public hearing to consider the request of the Planning Commission for approval of a Use Permit to allow reconstruction of gas station canopy and gas storage tanks at 225 South Cherokee Lane. (Applicant: Mr. Ahmad Alruosan; File 2014-26 U; CEQA Determination: Exempt per Section 15303)

Senior Planner Craig Hoffman gave a brief PowerPoint presentation based on the staff report. Staff is recommending approval of the project as conditioned.

Commissioner Olson asked why the project is classified as exempt under CEQA. Ms Olson felt some mitigation would be necessary for the project. Mr. Hoffman stated that the project falls under minor construction and will be subject to the San Joaquin County Environmental Health regulations. At the time of Building Permit city staff will also have the opportunity to require items such as protection against stormwater run-off from the site.

Commissioner Slater asked about the type of tank that is going to be installed at the site. Mr. Hoffman deferred the question to the applicant.

Hearing Opened to the Public

- Ahmad Alruosan, applicant, came forward to answer questions.
- Commissioner Slater asked what type of tanks were going to be installed. Mr. Alruosan stated that they will be the latest version of the tanks required by the State. Mr. Slater asked staff who would be overseeing the installation. Mr. Hoffman stated

that Environmental Health as well as the City of Lodi Building Division, Public Works, and Fire will have eyes on the project throughout the process. Mr. Slater asked to be notified when the project breaks ground.

- Commissioner Olson stated that she has concerns with the removal of the concrete or asphalt from the soil and possibly exposing harmful PCB pollutants left over from the original tanks into the stormwater system. Mr. Hoffman stated that the contaminated soil was removed when the tanks were originally removed. Mr. Slater asked if there will be testing done on the soil when the cap (asphalt) is removed. Mr. Hoffman stated that the original remediation wasn't for the site to be capped; they cleaned the site by removing the soil. The site has a clean bill-of-health. Mr. Alruosan stated that all of the soil around the tanks was removed and clean dirt was brought in to fill the space before the asphalt was laid over the top. Ms. Magdich stated that the California Regional Water Quality Board in September 2009 stated in a letter that no further action was required on the storage tanks. Ms. Olson stated that the tanks aren't a concern, but if the soil was removed from the site then she is a little less concerned about contaminants getting into the storm drains. Mr. Hoffman stated that he can follow-up with additional information at the next Commission meeting.

Public Portion of Hearing Closed

MOTION / VOTE:

The Planning Commission, on motion of Commissioner Kiser, Olson second, finds the project has satisfied the requirements of the California Environmental Quality Act (CEQA) pursuant to Section 15303, the project is in-fill development and approve the Use Permit to allow reconstruction of gas station canopy and gas storage tanks at 225 South Cherokee Lane subject to conditions in the attached resolution. The motion carried by the following vote:

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

4. PLANNING MATTERS/FOLLOW-UP ITEMS

Senior Planner Hoffman stated that the Tentative Looking Ahead Project List has been provided and staff is available to answer any questions.

Chair Kiser asked if there was any new information regarding the existing Wal Mart Building. Mr. Hoffman stated that the applicant is still getting all the various options together before submitting the SPARC application.

5. ANNOUNCEMENTS AND CORRESPONDENCE

None

6. ACTIONS OF THE CITY COUNCIL

Senior Planner Hoffman stated that the memo has been provided and staff is available to answer any questions.

7. ACTIONS OF THE SITE PLAN AND ARCHITECTURAL REVIEW COMMITTEE

None

8. ART IN PUBLIC PLACES

None

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

None

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

Chair Kiser welcomed Commissioner Cummins back to the Commission. The sentiment was echoed by everyone present.

11. ADJOURNMENT

There being no further business to come before the Planning Commission, the meeting was adjourned at 7:19 p.m.

ATTEST:

Kari Chadwick
Planning Commission Secretary

Item 3a



**CITY OF LODI
PLANNING COMMISSION
Staff Report**

MEETING DATE: October 8, 2014

APPLICATION NO: Use Permit: 2014-29 U

REQUEST: Request for Planning Commission approval of a Use Permit to allow a charter school and self-storage space into an existing tenant space at 333 South Lower Sacramento Road. (Applicant: Westgate Shopping Center, LLC; File 2014-29 U; CEQA Determination: Exempt per Section 15303)

LOCATION: 333 South Lower Sacramento Road
APN 027-400-05

APPLICANT: Westgate Shopping Center, LLC
c/o Mr. Mark Enos
7700 College Town Drive
Sacramento, CA 95826

PROPERTY OWNER: Westgate Shopping Center, LLC
c/o Mr. Mark Enos
7700 College Town Drive
Sacramento, CA 95826

RECOMMENDATION

Staff recommends that the Planning Commission approve the Use Permit request of Westgate Shopping Center, LLC to allow a charter school and self-storage space into an existing tenant space at 333 South Lower Sacramento Road, subject to the conditions in the attached resolution.

PROJECT/AREA DESCRIPTION

General Plan Designation: Commercial
Zoning Designation: PD (35) Planned Development
Property Size: 8.51 acres

The adjacent zoning and land use characteristics:

	ADJACENT ZONING DESIGNATIONS AND LAND USES		
	GENERAL PLAN	ZONING CLASSIFICATION	EXISTING LAND USE
North	Low Density Residential	PD (42) Planned Development	Rose Gate Subdivision
South	Commercial	PD (35) Planned Development	Vacant
East	Low Density Residential	Low Density Residential	Low Density Residential
West	Medium and High Density Residential	PD (42) Planned Development	Vacant farmland

BACKGROUND

The area was annexed into the City in 1966. The shopping center was developed sometime prior to that. Many additions to the center have been made since its first phase was completed, including the U.S.A gas station, and the movie theater (since demolished).

In 2000, the property owner applied for a Zoning Amendment to change the zoning of the shopping center to Planned Development (PD). The underlying zoning designation is General Commercial.

REQUEST

Westgate Shopping Center is requesting a Use Permit for existing Suite 315 (18,137 square feet). The Use Permit would allow Vista Oaks Charter School to occupy 11,495 square feet and a self-storage facility to utilize 6,642 square feet.

Sak's furniture store occupied this space from 1990 until 2008. The space has been vacant since 2008. There are currently 80 parking spaces allocated to this tenant space.

The applicant has been trying to lease this space for the past 3 years to junior box users or other tenants that would want a large space. The shopping center location and other regional centers like Reynolds Ranch and the Lower Sacramento Road / Kettleman Lane intersection make attraction of a large tenant difficult.

The Charter School and storage space brings people to the Westgate Shopping Center that can support the existing businesses and services.

Vista Oaks Charter School

Vista Oaks Charter School is a public charter school that offers an alternative to traditional schooling and utilizes independent home schooling. Students do most of their schooling at home, coming to the site only for scheduled one-on-one meetings with credentialed teachers, as well as tutoring and small group workshops. The charter school is comprised of offices and meeting rooms looks more like a library than typical individual classrooms.

- Vista Oaks serves students in grades K through 12.
- Vista Oaks Learning Center will serve a total of approximately 150 students, but no more than 25 to 30 students would be at the facility at one time.
- Students will only come to the learning center during pre-scheduled appointment times.
- The school's operational hours will be Mondays – Thursdays, opening at 8:00 am and closing by 6:00 pm, and Fridays from 8:00 am – 3:00 pm.
- The school would need approximately 45 to 50 parking spaces at peak demand.

West Lodi Self Storage Expansion

The applicant has indicated that the existing West Lodi Self Storage is at approximately 99.5% occupancy and customers are turned away that need self-storage. The indoor storage facility will provide additional supply for the growing west side of Lodi.

- The expansion area will be managed by the West Lodi Self Storage operator.
- The facility will be able to be accessed 24 hours a day with a key card system for safety and security purposes. The building doors will be closed at all times.
- Storage area is completely inside the building footprint.

- Access to the storage building is from the west and south building areas.
- Office Hours: 9:00 am – 5:00 pm, 7 days per week.
- Storage Users shall not use the premises for the storage of illegal substances, perishable or food items, explosives, paint, varnish, thinner, gasoline and/or other highly flammable materials.

ANALYSIS

Staff has been working with the applicant to make sure the open tenant space is put to a highest and best use. The City is committed to ensuring that retail space and sales tax remain available for future growth. For this center, finding retail users that help grow the center has been difficult with changes in the economy and the need for brick and mortar tenant space. The existing 10 year lease with Raley's also limits competing businesses within the shopping center.

With the growth and development of other regional centers in Lodi, the need for larger retail space has diminished. Staff supports the applicants request and proposed tenants at the Westgate Shopping Center.

The discretionary Use Permit procedure enables Planning and other 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 believes that the Planning Commission can make the required findings, in accordance with Lodi Development Code § 17.40.040(F), 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 existing Westgate Shopping Center is zoned PD (35), the underlying designation is general commercial. A school and storage facility are allowed subject to a use permit in this zone. The project has been conditioned to be consistent with the zoning code and the use will not be detrimental to the welfare of persons or properties working, residing, or otherwise existing in the adjacent neighborhood areas.
2. *The proposed use is consistent with the General Plan and any applicable specific plan.* **Comment:** The General Plan land use designation for the project site is Commercial, which permits the proposed use. The conditions for the restriction of the conditional use are consistent with the General Plan, will not affect neighborhood compatibility; and will not cause the operation of the conditional use to be detrimental to the welfare of persons or properties working, residing, or otherwise existing in the adjacent neighborhood areas.
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:** There are no proposed changes to the site and the proposed use is consistent with the Zoning Code and the General Plan policies. As such, the subject site is adequate in size and shape to accommodate the proposed use within a commercial area with all the required off-street parking provided on the subject site. Further, the project will not have a negative effect on the public health, safety, or welfare; or be materially injurious to persons, properties or improvements in the vicinity.

4. *The location, size, design, and operating characteristics of the proposed use is compatible with the existing and future land uses in the vicinity.* **Comment:** The existing use complies with all requirements as set forth for the issuance of a 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 is located in a commercial area that is accessible from public streets. Existing street networks are adequate in size and shape to accommodate the quantity and quality of traffic generated by the proposed use without any significant impacts to the street system. 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 facility and no expansion is proposed.

5. *The proposed project is 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 §15303. Class 3 consists of construction and location of limited numbers of new, small facilities or structures; installation of small new equipment and facilities in small structures; and the conversion of existing small structures from one use to another where only minor modifications are made in the exterior of the structure and is consistent with the applicable general plan designation and all applicable general plan policies as well as with the applicable zoning designation and regulations and would not result in any significant effects relating to traffic, noise, air quality, or water quality, and the site of the proposed project can be adequately served by all required utilities and public services.

Staff believes the Commission can make the required findings to approve the Use Permit as proposed. In staff's opinion, the proposed modification would not produce any adverse impacts on the adjacent properties in terms of noise, parking, litter, disorderly behavior, or other objectionable influences. The permit is conditioned to mitigate typical concerns related to traffic and parking associated with a school. If, in the future, concerns arise, and the Director/Police Department determines it necessary, the Use Permit can be subject to review by the Planning Commission to consider the business's operation for compliance with the conditions of the Use Permit.

ENVIRONMENTAL ASSESSMENT:

The project is found to be categorically exempt from CEQA review under 14 CCR §15303. Class 3 consists of construction and location of limited numbers of new, small facilities or structures; installation of small new equipment and facilities in small structures; and the conversion of existing small structures from one use to another where only minor modifications are made in the exterior of the structure and is consistent with the applicable general plan designation and all applicable general plan policies as well as with the applicable zoning designation and regulations and would not result in any significant effects relating to traffic, noise, air quality, or water quality, and 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, September 27, 2014. Sixteen (16) 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 expressed their interest of the project.

RECOMMENDED MOTIONS

Should the Planning Commission agree with staff’s recommendation, the following motion is suggested:

“I move that the Planning Commission adopt a Resolution finding that the project is exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15303, and adopt a Resolution approving the Use Permit to allow a charter school and self-storage space into an existing tenant space at 333 South Lower Sacramento Road subject to the findings and conditions of approval contained in the draft Resolution.”

ALTERNATIVE PLANNING COMMISSION ACTIONS:

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

Respectfully Submitted,

Concur,

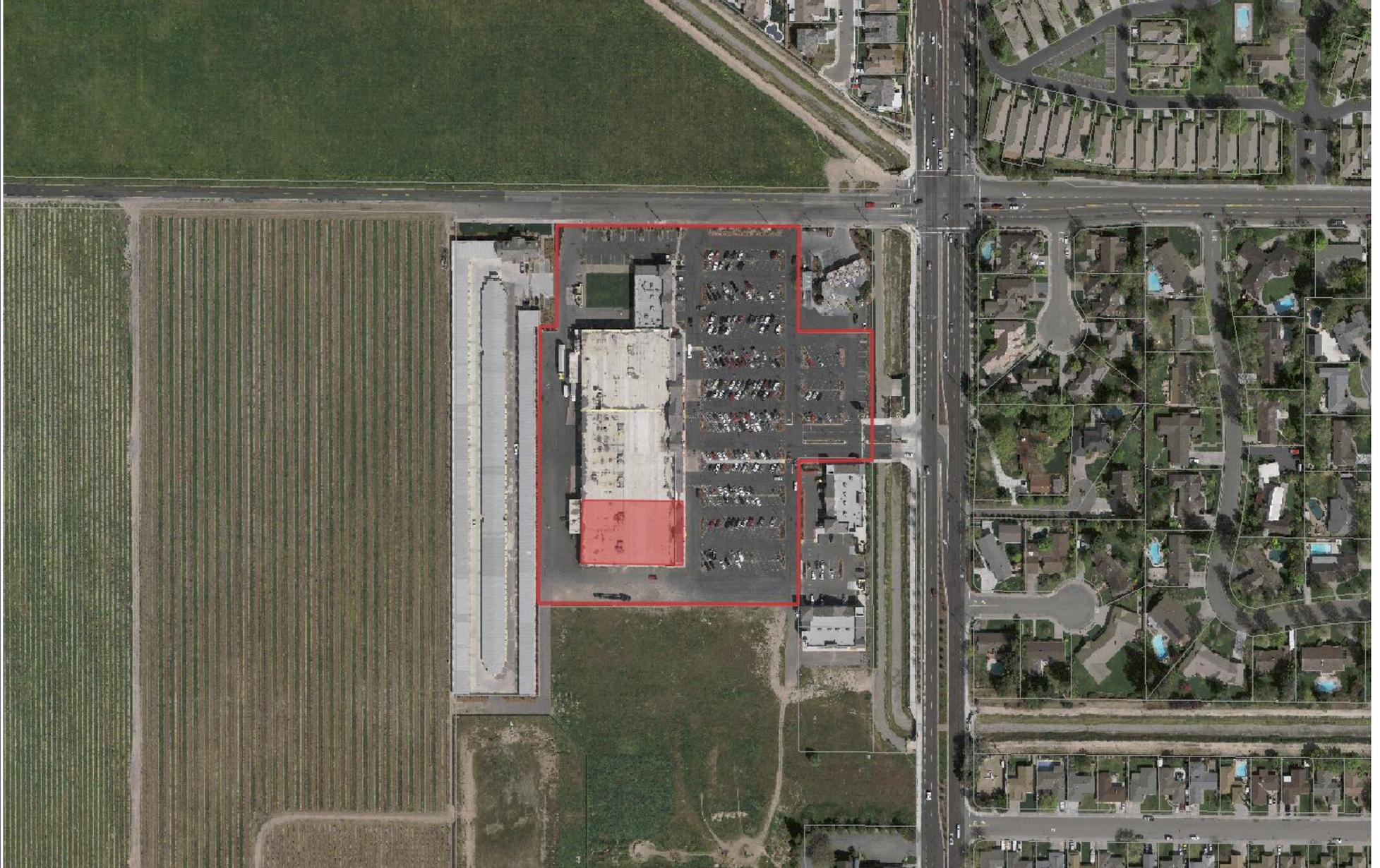
Craig Hoffman
Senior Planner

Stephen Schwabauer
Community Development Director

ATTACHMENTS:

- A. Vicinity / Aerial Map
- B. Applicant’s Request with floor plans
- C. Draft Resolution

VICINITY MAP



333 South Lower Sacramento Road

WESTGATE SHOPPING CENTER, LLC
7700 COLLEGE TOWN DRIVE, SUITE 101
SACRAMENTO, CA. 95826

August 29, 2014

Mr. Craig Hoffman
City of Lodi – Community Development
221 West Pine Street
P.O. Box 3006
Lodi, CA. 95241-1910

Re: 311-333 South Lower Sacramento Road, Conditional Use Permit

Dear Mr. Hoffman,

Please find enclosed Westgate Shopping Center LLC's ("WSC") application for a Conditional Use Permit ("CUP") at our property located at 311-333 South Lower Sacramento Road, Lodi, CA. The CUP will cover our existing Suite 315 (18,137 Square Feet) which will be demised into 2 new suites, referred to herein as Suite 315 and 315 A.

WSC requests the City of Lodi to grant a CUP for Vista Oaks Charter School to occupy Suite 315 (11,495 Square Feet), space plan attached and referenced as Exhibit A, as well as a CUP for Suite 315A (6,642 Square Feet) to be converted into self-storage, space plan attached and referenced as Exhibit B.

WSC has been actively marketing Suite 315 for almost a year without any success. We have marketed to both large and small size traditional retail users, yet have received little to no interest. We feel Vista Oaks Charter School will be complimentary to the existing uses in the Shopping Center and will service similar end users.

With Vista Oaks occupying the front 11,495 SF of Suite 315, the back half will have no demand to potential retail users due to limited exposure. WSC proposes to convert this back space into interior self storage to help serve the surrounding neighborhoods. WSC's affiliate, West Lodi Self Storage, is adjacent to the Shopping Center and is currently at 99.5% occupancy and is forced to turn away people that need self storage. We feel Suite 315 A will lend itself perfectly to a self-storage use to fill this lack of supply, while still maintaining a Class A consistent feel for the Shopping Center.

We look forward to your review of our application and please feel free to contact me should you have any questions or comments.

Sincerely,

Westgate Shopping Center, LLC, a California limited liability company
By: Kristmont West, a California corporation

By:



Mark Eves, President

COMMERCIAL REAL ESTATE SERVICES
Retail Properties



Chris Campbell
Executive Vice President
Lic. 01204114

500 Capitol Mall
Suite 2400
Sacramento, CA 95814-4599

CBRE, Inc.
Brokerage Services
Retail Properties
Broker Lic. 00409987

Tel 916 446.8760 Dir
Fax 916 446.8750

Chris.campbell@cbre.com
www.cbre.com/crcproperties

September 8, 2014

Josh Stark
AKT Properties
1415 L STREET, SUITE 880
Sacramento, CA 95814

RE: Regarding Westgate Shopping Center

Dear Josh,

As you are aware, we have been actively marketing the former furniture space at Westgate Shopping Center for the last two years. We have approached all of the active junior box users in Northern California on multiple occasions and have been unable to attract significant interest from any of these prospects. Some of the objections by prospective Tenants include lack of a regional draw, better future opportunities coming available in the market (i.e. Wal Mart), and the lack of promotional Tenants in the project. Due to lack of prospective Tenants, the combined occupancy of the school and the expansion of the storage option was the best alternative.

The addition of new business to the center will help our existing tenants, including Raley's, maintain a greater business and increase daytime population in the Center. Vista Oaks Charter School enrolls students of all ages from Kindergarten through High School, providing a variety of age groups and families to contribute to the synergy of the Center. With the presence of the Charter School, the quality of surrounding Tenants will improve making Westgate a more prominent Center in the area.

Sincerely,

CBRE, INC.

A handwritten signature in black ink that reads 'Chris Campbell'.

Chris Campbell
916.446.8760

CC/rs



September 14, 2014

City Of Lodi - Community Development
Attn: Craig Hoffman
221 West Pine Street
P.O. Box 3006
Lodi CA, 95241-1910

Dear Mr. Hoffman:

As requested, I am sending a brief overview of Vista Oaks Charter School.

Vista Oaks Charter School is a California public charter school, serving students in both San Joaquin County and Contra Costa County. The school is governed by the Vista Oaks Charter School's Board of Directors and is a non-profit 501(c)(3). The proposed site in Lodi would serve students residing in and around the city.

Vista Oaks offers families an alternative to the traditional "brick and mortar" school through an independent study school model. Students do most of their schooling at home, coming to the site only for scheduled one-on-one meetings with a credentialed teacher, as well as for tutoring and small group workshops. The learning center will look and feel more like a warm, welcoming library than a large, traditional school. Additional information about the program is listed below.

- Vista Oaks' serves students in grades K through 12.
- Vista Oaks' Lodi Learning Center will serve a total of approximately 150 students, but no more than 25 – 30 students would be on campus at any given time.
- Students will only come to the learning center during pre-scheduled appointment times.
- Because of the staggered student attendance times, the teacher/student ratio is very low, with an average of approximately 1:5.
- The school's operational hours will be Mondays – Thursdays, opening at 8:00 a.m. and closing by 6:00 p.m., and from 8:00 – 3:00 on Fridays.

Please do not hesitate to contact me if you have any questions. You can reach me by email at joy.groen@vistaoaks.net or by phone at (209) 365-4060.

Thank you,

Joy Groen
Executive Director
Vista Oaks Charter School

Exhibit B



Self Storage Westgate

315 S. Lower Sacramento Rd.
Lodi, CA

Preliminary Plan

+/- 6,649 USF

Not to Scale
8 - 25 - 14



RESOLUTION NO. P.C. 14-XX

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF LODI APPROVING THE REQUEST OF WESTGATE SHOPPING CENTER, LLC FOR A USE PERMIT TO ALLOW A CHARTER SCHOOL AND SELF-STORAGE SPACE INTO AN EXISTING TENANT SPACE AT 333 SOUTH LOWER SACRAMENTO ROAD

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 proponents are Westgate Shopping Center, LLC, 7700 College Town Drive, Sacramento, CA 95826; and

WHEREAS, the project parcel is owned by Westgate Shopping Center, LLC, 7700 College Town Drive, Sacramento, CA 95826; and

WHEREAS, the project is located at 333 South Lower Sacramento Road, Lodi, CA 95240 (APN: 027-400-05); and

WHEREAS, the property has a General Plan designation of Commercial and is zoned Planned Development (35); and

WHEREAS, a charter school and storage center requires the approval of a Use Permit by the Planning Commission; and; and

WHEREAS, based upon the facts and analysis presented in the staff report, and public testimony received and subject to the conditions of approval listed below, the Planning Commission finds that the establishment, maintenance or operation for the requested use or building applied for, will not, under the circumstances of this particular case, be detrimental to the health, safety, morals, comfort, convenience and general welfare of the persons residing or working in the neighborhood of such proposed use, or be injurious or detrimental to property and improvements in the neighborhood or to the general welfare of the City; 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 found to be categorically exempt from CEQA review under 14 CCR §15303. Class 3 consists of construction and location of limited numbers of new, small facilities or structures; installation of small new equipment and facilities in small structures; and the conversion of existing small structures from one use to another where only minor modifications are made in the exterior of the structure and is consistent with the applicable general plan designation and all applicable general plan policies as well as with the applicable zoning designation and regulations and would not result in any significant effects relating to traffic, noise, air quality, or water quality, and the site of the proposed project can be adequately served by all required utilities and public services.
2. The existing Westgate Shopping Center is zoned PD (35), the underlying designation is general commercial. A school and storage facility are allowed subject to a use permit in this zone. The project has been conditioned to be consistent with the zoning code and the use will not be detrimental to the welfare of persons or properties working, residing, or otherwise existing in the adjacent neighborhood areas.
3. The General Plan land use designation for the project site is Commercial, which permits the proposed use. The conditions for the restriction of the conditional use are consistent with the General Plan, will not affect neighborhood compatibility; and will not cause the

operation of the conditional use to be detrimental to the welfare of persons or properties working, residing, or otherwise existing in the adjacent neighborhood areas.

4. There are no proposed changes to the site and the proposed use is consistent with the Zoning Code and the General Plan policies. As such, the subject site is adequate in size and shape to accommodate the proposed use within a commercial area with all the required off-street parking provided on the subject site. Further, the project will not have a negative effect on the public health, safety, or welfare; or be materially injurious to persons, properties or improvements in the vicinity.
5. The existing use complies with all requirements as set forth for the issuance of a Use Permit, in that the site is adequate in size, shape and topography for the proposed use, consisting of an existing building.
6. The site is located in a commercial area that is accessible from public streets. Existing street networks are adequate in size and shape to accommodate the quantity and quality of traffic generated by the proposed use without any significant impacts to the street system.
7. 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 facility and no expansion is proposed.
8. 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.
9. The proposed use would not have a substantial adverse economic effect on nearby uses because operation of a restaurant/bar in accordance with applicable laws and under the conditions of this Use Permit is anticipated to be an economic benefit to the community.
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.

NOW, THEREFORE, BE IT DETERMINED AND RESOLVED by the Planning Commission of the City of Lodi that Use Permit Application No. 2014-29 is hereby approved, subject to the following conditions:

Community Development-Planning

1. The applicant/project proponent and/or property owner and/or developer and/or successors in interest and management shall, at their sole expense, defend, indemnify and hold harmless the City of Lodi, its agents, officers, directors and employees, from and against all claims, actions, damages, losses, or expenses of every type and description, including but not limited to payment of attorneys' fees and costs, by reason of, or arising out of, this Use Permit approval. The obligation to defend, indemnify and hold harmless shall include, but is not limited to, any action to arbitrate, attack, review, set aside, void or annul this Use Permit approval on any grounds whatsoever. The City of Lodi shall promptly notify the developer of any such claim, action, or proceeding and shall cooperate fully in the defense.
2. The applicant/project proponent and/or 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. Material violation of any of those laws in connection with the use may be cause for revocation of this Use Permit.

3. If operation of this use results in conflicts pertaining to parking, noise, traffic, loitering, public safety or other impacts, at the discretion of the Community Development Department, 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.
4. The City Council, Lodi Police Department, the Planning Commission and City staff may, at any time, request that the Planning Commission conduct a hearing on this 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 subject property and its immediate surrounding shall be maintained neat and clean at all times. The subject property and its immediate surrounding shall be maintained free from debris and graffiti at all times. The property owner shall remove any debris or graffiti within 24-hours upon notification by the City. Litter on the site and any litter scattered on nearby property, streets, and sidewalks shall be removed daily. If necessary, the applicant shall steam clean the project site and its immediate surrounding premises as often as needed.
6. In the event of graffiti or other extraneous markings occurring, the applicant/operator and/or successors in interest and management shall remove or cover said markings, drawings, or signage within 24 hours of such occurrence, weather permitting. Paint utilized in covering such markings shall be of a color that matches, as closely as possible, the color of the adjacent surfaces.
7. Any change in operational characteristics, expansion in area or other modification to the approved plans shall require an amendment to this Use Permit or the processing of a new Use Permit.
8. The applicant shall obtain Operational Permits from the Lodi Fire Department, Fire Prevention Bureau. The Operational Permits shall be obtained prior to commencement of sale of alcohol. The Fire Department may be contacted at 25 East Pine Street, Lodi, CA 95240-2127. Phone Number (209) 333-6739.
9. 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.
10. No variance from any City of Lodi adopted code, policy or specification is granted or implied by this approval.
11. Vista Oaks Charter School shall operate as described below. Substantial changes shall require subsequent review by the Planning Commission:
 - Vista Oaks serves students in grades K through 12.
 - Vista Oaks Learning Center will serve a total of approximately 150 students, typically 25 to 30 students would be at the facility at one time.
 - Students will come to the learning center during pre-scheduled appointment times and as needed to accomplish their studies.
 - The school's typical operational hours will be Mondays – Thursdays, opening at 8:00 am and closing by 6:00 pm, and Fridays from 8:00 am – 3:00 pm.
 - Any special events or activities outside of regularly scheduled hours should not impact Westgate Shopping Center operations.

12. West Lodi Self Storage Expansion shall operate as described below. Substantial changes shall require subsequent review by the Planning Commission:

- The expansion area will be managed by the West Lodi Self Storage operator.
- The facility will be able to be accessed 24 hours a day with a key card system for safety and security purposes. The building doors will be closed at all times.
- Storage area is completely inside the building footprint.
- Access to the storage building is from the west and south building areas.
- Office Hours: 9:00 am – 5:00 pm, 7 days per week.
- Storage Users shall not use the premises for the storage of illegal substances, perishable or food items, explosives, paint, varnish, thinner, gasoline and/or other highly flammable materials.

Building and Safety

13. Any changes to the existing building, which are regulated by the current codes, shall require a building permit. All plan submittals shall be based on the City of Lodi Building Regulations and currently adopted 2013 California Building code. Please review our policy handouts for specific submittal procedures.

14. The occupancy classification for portions of the existing building will change from an M/B to an E and S-1. Verify that this educational occupancy is allowed in the building. Plans to specify and show that in each story, the building area shall be such that the sum of the ratios of the actual building area of each separated occupancy, divided by the allowable building area of each separated occupancy shall not exceed 1. 2013 CBC, Section 508.4.2

15. Plans to specify the occupancies of the adjoining suites. A two hour fire separation (1 hour in sprinklered building) is required between the E occupancy and any B, M or S occupancies to either side and/or above this suite as per 2013 CBC, Section 508.4 and Table 508.4. Plans to provide listing information for the existing horizontal and vertical fire barriers. Or provide complete and adequate construction details and listing information for retrofit of existing walls and floor/ceiling assembly to provide the required fire rated barriers, so as to completely separate the adjacent occupancies. 2013 CBC, Sections 508.4, 707, & 711

16. Plumbing fixtures shall be provided for the type of occupancy and in the minimum number specified by 2013 CPC, Table 422.1. Plumbing occupant load shall be calculated using the plumbing occupant load factor specified by 2013 CPC Table A for each area use. The required number of plumbing fixtures (water closets, urinals, lavatories and drinking fountains) shall be provided, as specified for the occupancies by 2013 CPC, Table 422.1.

17. All buildings housing a Group E occupancy shall front directly on a public street or an exit discharge (sidewalk) not less than 20' in width to a public street. The exit discharge shall be unobstructed and maintained only as access to the public street. At least one required exit shall be on the public street or exit discharge. The exit discharge is to be accessible. 2013 CBC, Section 442.1.1

18. Any new doors or newly required entrance or exit doors are required to be accessible. The 2013 CBC, Section 11B-206.4.1 requires all entrances and ground-floor exit doors to building and facilities shall be accessible to persons with disabilities and shall be connected by an accessible route to the public way. Plans to specify and show the accessible path of travel from any new door(s) to the public way or to an area of safe dispersal in compliance with 2013 CBC, Section 1027.5, Exception.

19. Plans to specify walkways and sidewalks along accessible routes of travel (1) are continuously accessible, (2) have maximum 1/2" changes in elevation, (3) are minimum 48" in width, (4) have a maximum 2% cross slope, and (5) where necessary to change elevation at a slope exceeding 5% (i.e., 1:20) shall have ramps complying with 2013 CBC, Section 11B-405 or 11B-406 as appropriate. Where a walk crosses or adjoins a vehicular way, and the walking surfaces are not separated by curbs, railings or other elements between the pedestrian areas and vehicular areas shall be defined by a continuous detectable warning which is 36" wide, complying with 2013 CBC, Sections 11B-247.1.2.5 & 11B-705.1.2.5.
20. If the calculated occupant load for any area of the building exceeds 49, the plans shall show:
 - a) A minimum of two (2) exits that are separated by a minimum of 1/2 (1/3 in sprinklered buildings) of the diagonal distance of the area served. 2013 CBC, Section 1015.2.1
 - b) Exit doors shall swing in the direction of egress travel. 2013 CBC, Section 1008.1.2
 - c) The exit doors and exit access doors shall be equipped with panic hardware. 2013 CBC, Section 1008.1.10
 - d) A means of illuminating the egress path of travel in case of power failure, including path to the egress doors, the corridor and the exterior landings. The emergency power system shall provide backup power for the duration of at least 90 minutes and shall illuminate the path of travel at the rate of an average of 1 foot candle at floor level. 2013 CBC, Sections 1006.1 thru 1006.3.1
 - e) Show locations of required illuminated exit signs. 2013 CBC, Section 1011
 - f) Provide complete and adequate details and locations of the required tactile exit signs at the following locations:
 1. Each grade-level exterior exit door shall be identified by a tactile exit sign with the word, "EXIT."
 2. Each exit access door from an interior room or area that is required to have a visual exit sign, shall be identified by a tactile exit sign with the words, "EXIT ROUTE." 2013 CBC, Section 1011.4
21. It appears that the building is equipped with fire sprinklers. Any alteration to the existing Fire Sprinkler system shall be submitted under a separate permit and cover to the Building Department by a C-16 licensed contractor.
22. A manual and automatic fire alarm system is required in group E occupancies with an occupant load of 50 or more persons or contains more than 1 classroom or 1 or more rooms used for day care. New Fire Alarm System or any alterations to the existing Fire Alarm System shall be submitted under a separate permit and cover to the Building Department by a C-10 licensed fire alarm contractor. 2013 CFC, Section 907.2.3
23. Five (5) percent, but not less than one (1) of the self-storage units shall be accessible. 2013 CBC, Section 11B-225.3
24. The California Building Code (Title 24 Section 11B-202) 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.

If the construction costs of the alterations to the building are less than the current valuation threshold of \$139,934.00 and if the cost of the above listed accessibility upgrades are disproportionate (exceeds 20% of the project without the upgrades), then the required accessibility upgrades may be provided to the extent that is proportionate (20% of the valuation) as per 2013 CBC, Section 11B-202.4, Exception 8. In choosing which accessible elements to provide, priority should be given to those elements that will provide the greatest access.

I certify that Resolution No. 14-XX was passed and adopted by the Planning Commission of the City of Lodi at a regular meeting held on October 8, 2014 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: October 8, 2014

APPLICATION NO: Use Permit Amendment: 2014-31 U

REQUEST: Request for Planning Commission approval of a Use Permit Amendment to allow a Type-48 General License for Ollie's Lounge at 22 N School Street. (Applicant: JSAD – Ollie's; File 2014-31 U; CEQA Determination: Exempt per Section 15321)

LOCATION: 22 N. School Street
APN 043-035-30

APPLICANTS: JSAD (DBA Ollie's Pub)
18 North School Street
Lodi, CA 95240

PROPERTY OWNER Justin O'Byrne and Sean Guthrie
18 North School Street
Lodi, CA 95240

RECOMMENDATION

Staff recommends the Planning Commission approve the request of JSAD (DBA Ollie's Pub) for a Use Permit Amendment to allow the sale of beer, wine and spirits, Alcoholic Beverage Control (ABC) Type 48 license, at an existing wine tasting room, 22 N School Street, subject to conditions in the attached resolution. The applicants are expanding their license to create an upscale martini bar / scotch bar to serve additional patrons.

PROJECT/AREA DESCRIPTION

General Plan Designation: Downtown Mixed Use
Zoning Designation: Downtown Mixed Use
Property Size: 5,280 sq. ft. - building is approximately 4,000 sq. ft.

The adjacent zoning and land use characteristics:

	ADJACENT ZONING DESIGNATIONS AND LAND USES		
	GENERAL PLAN	ZONING CLASSIFICATION	EXISTING LAND USE
North	Downtown Mixed Use	Downtown Mixed Use	Retail/Services
South	Downtown Mixed Use	Downtown Mixed Use	Retail/Services
East	Downtown Mixed Use	Downtown Mixed Use	Retail/Services
West	Downtown Mixed Use	Downtown Mixed Use	Wine Tasting Room

SUMMARY

The applicant requests approval of a Use Permit Amendment to extend an existing type 48 ABC license into an adjacent tenant space. Ollie's Pub currently operates in the northern tenant space and holds a Type 48 On-Sale General (Bars, Taverns, nightclubs) ABC license and a Type 77 Events ABC license. Type 48 On-Sale General ABC license authorizes the sale of beer, wine and distilled spirits for onsite consumption. Type 77 ABC license authorizes the licensee to hold four special events per calendar year in conjunction with other ABC licenses. These special events may occur outside of the premise where a Type 48 license is granted.

The adjacent space was the Fields Wines tasting room. That establishment has left and the applicants are looking to turn the space into a high end martini bar / scotch bar lounge to complement the existing pub.

The site contains a single structure with two tenant spaces. The subject tenant space occupies northern portion of the building. A wine tasting room occupies the southern portion of the building. There is a backyard/patio used by their patrons for smoking purposes. No sale or consumption of alcohol in this area is permitted. The project site is within the Downtown Business District as well as Parking District. Businesses within the Downtown Business District do not have to provide onsite parking. As part of previous SPARC application approval by the Planning Commission, a patio area has been constructed and façade improvements have been constructed.

Floor Plan: The existing floor plan consists of bar area, bathrooms, storage, office, and other accessory rooms. According to approved maximum room occupancy per the Building Official, the bar (interior) maximum occupancy of 88 persons in Ollie's Pub and less than 49 persons in Ollie's Lounge. The patio (in the rear) is improved but there are no tables and chairs. The proposal requires no changes to the exterior of the building or the site.

Per Land Use Code Section 17.22.030, onsite consumption of alcohol is permitted in the Downtown Mixed Use (DMU) zoning designation, subject to a use permit. The City established the Use Permit requirement to gain local control over whether or not a license is appropriate for a particular location and place conditions upon the use. The State Department of Alcoholic Beverage Control primarily controls license issuance, based on concentration of licenses within a particular Census Tract.

The request involves the approval of a public convenience and necessity (PCN) and Use Permit in an area of the Downtown that historically is over-concentrated with alcohol licenses. In order to allow an additional ABC license, the Planning Commission must make a finding of necessity; and if determined necessary, then consider the appropriateness of conditions of approval for the Use Permit for the new use.

The project site is within Census Tract 42.04, which covers the area north of Lodi Avenue, west of the U.P.R.R., south of Lockeford Street and east of Ham Lane. The area is over-concentrated as defined by ABC for licenses. Planning staff is of the opinion that a public need and necessity is warranted in this case because the primary function of the establishment is an existing pub that is expanding its operations to provide an additional entertainment opportunity in the downtown district. In the past, the Planning Commission and City staff has supported businesses that bring people into the downtown area. The potential for an upscale lounge may attract additional people into the downtown area and enhance the City's vision of making downtown Lodi a tourist destination point with various business and draw opportunities.



The discretionary Use Permit procedure enables the Planning Commission to impose conditions designed to avoid, minimize potentially adverse effects. 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 proposal involves the expansion of an alcohol license in an existing tasting room within the downtown area. The Downtown Mixed Use (DMU) Zoning District, which allows sale of alcohol for on-site consumption in accordance with Development Code Section 17.22.030. The intent of the DMU zoning district is to provide for a range of uses, emphasizing high quality development, and to encourage revitalization of downtown. The proposal is consistent with this intent and making Lodi a wine tasting tourist destination point.
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 martini bar / scotch lounge is the type of business allowed by the General Plan. The proposed business will 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 sale of alcohol is compatible with existing and future land uses in the immediate vicinity of the project area. The Downtown Business District envisions bars, wine tasting rooms, retail services, restaurants and the like as the type of business encouraged to operate in the Downtown area. No aspect of the proposed use has 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, restaurants/bars, tasting rooms and other commercial uses with sale of alcohol operate in this area. 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 tasting room operation are customary for these types of businesses.
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 was found to be Categorical Exempt according to the California Environmental Quality Act, §15321, Class 21 (a) (2). The project is classified as an “Enforcement action by regulatory agencies” because it is the “adoption of an administrative decision for the use or enforcing the general rule, standard, or objective.” No significant environmental impacts are anticipated and no mitigation measures are required.

Staff sent a copy of the application to various City departments for comment and review. Their comments and requirements have been incorporated into the attached 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 businesses in the downtown area. 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. The proposed use is consistent with the City’s vision of making downtown Lodi a tourist destination. We, therefore, are recommending that the Use Permit be approved, subject to the attached resolution.

ENVIRONMENTAL ASSESSMENT:

The project was found to be Categorical Exempt according to the California Environmental Quality Act, Article 19 §15321, Class 21 (a) (2). The project is classified as an “Enforcement action by regulatory agencies” because it is the “adoption of an administrative decision or order enforcing or revoking the lease, permit, license, certificate, or entitlement for use or enforcing the general rule, standard, or objective.” No significant environmental impacts are anticipated and no mitigation measures are required.

PUBLIC HEARING NOTICE:

Legal Notice for the Use Permit was published in the Lodi News Sentinel on Saturday, September 27, 2014. Thirty-six (36) 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 expressed their interest of the project.

RECOMMENDED MOTIONS

Should the Planning Commission agree with staff’s recommendation, the following motions are suggested:

“I move that the Planning Commission adopt a Resolution finding that the project is exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15321 and approve the Use Permit Amendment to allow the sale of beer, wine and spirits Alcoholic

Beverage Control (ABC) Type 48 license at 20 N. School Street subject to the findings and conditions of approval contained in the draft Resolution.”

ALTERNATIVE PLANNING COMMISSION ACTIONS:

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

Respectfully Submitted,

Concur,

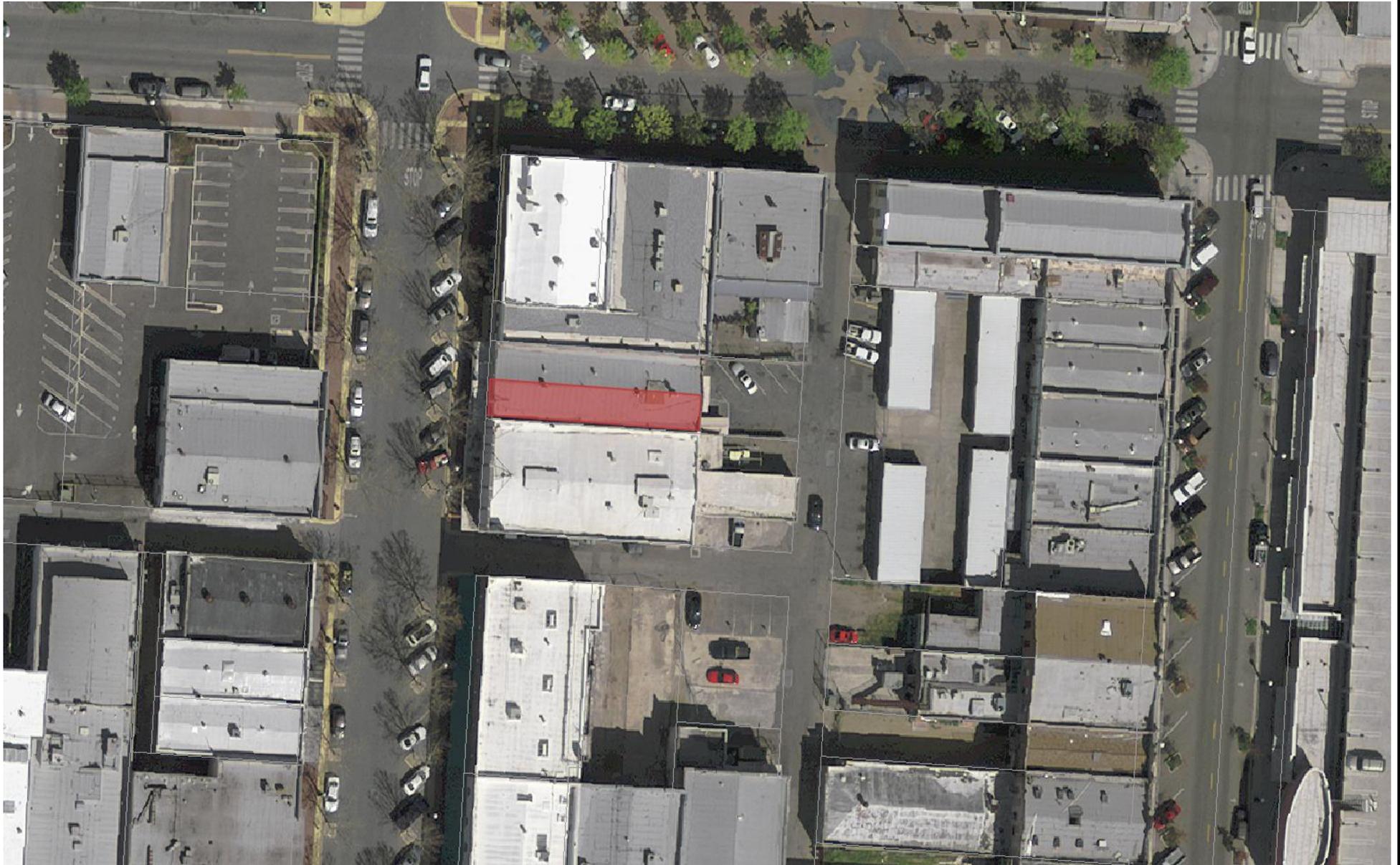
Craig Hoffman
Senior Planner

Stephen Schwabauer
Community Development Director

ATTACHMENTS:

- A. Vicinity / Aerial Map
- B. Frontage View
- C. Site Plan
- D. Draft Resolution

VICINITY MAP

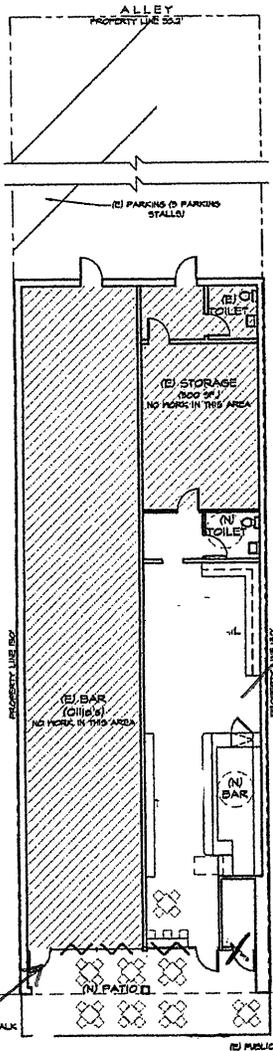


20 North School Street

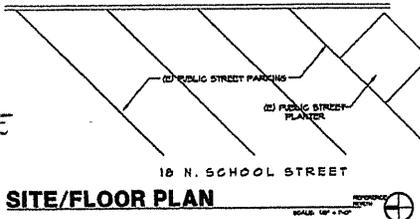
SITE FRONTAGE



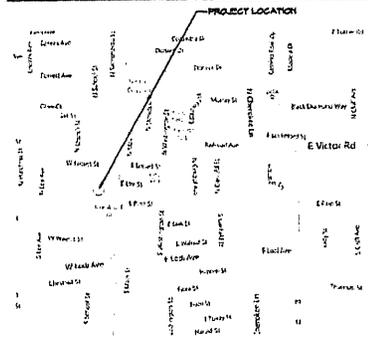
20 North School Street



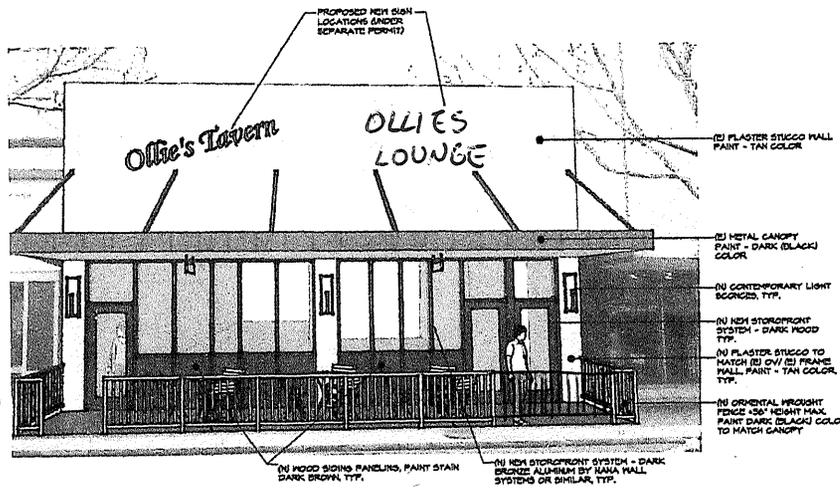
ENTRANCE TO PUB & LOUNGE



VICINITY MAP



OLLIES LOUNGE



COLOR FRONT EXTERIOR ELEVATION

SCALE: 1/4" = 1'-0"

Sheet contents
Project Data, Vacinity Map, Site/Floor Plan and Proposed Color Exterior Front Elevation

DESIGN/DRAWN BY:	Gerardo J. Espinoza 209.610.0824
SCALE:	AS NOTED
DATE:	03.07.11
SHEET	UP-1

RESOLUTION NO. P.C. 14-XX

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF LODI APPROVING THE REQUEST OF JSAD (DBA OLLIE’S PUB) FOR A USE PERMIT AMENDMENT FOR A TYPE 48 ABC LICENSE TO ALLOW SALE OF BEER, WINE AND DISTILLED SPIRITS AT 22 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 proponents are JSAD (DBA Ollie’s Pub), 18 North School Street, Lodi, CA 95240; and

WHEREAS, the project parcel is owned by Justin O’Byrne and Sean Guthrie, 18 North School Street, Lodi, CA 95240; and

WHEREAS, the project is located at 22 North School Street, Lodi, CA 95240 (APN: 043-026-07); and

WHEREAS, the property has a General Plan designation of Downtown Mixed Use and is zoned Downtown Mixed Use (DMU); and

WHEREAS, Census Tract 42.04 in which the proposed restaurant/bar 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, wine and distilled spirits alcohol licenses, the Planning Commission must make 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, based upon the facts and analysis presented in the staff report, and public testimony received and subject to the conditions of approval listed below, the Planning Commission finds that the establishment, maintenance or operation for the requested use or building applied for, will not, under the circumstances of this particular case, be detrimental to the health, safety, morals, comfort, convenience and general welfare of the persons residing or working in the neighborhood of such proposed use, or be injurious or detrimental to property and improvements in the neighborhood or to the general welfare of the City; and

WHEREAS, all legal prerequisites to the adoption of this Resolution have occurred; and

Based upon the evidence within the staff report and project file the Planning Commission finds:

1. The project was found to be Categorically Exempt according to the California Environmental Quality Act Section 15321, Class 21. The project is classified as an “Enforcement action by regulatory agencies” because it is the “adoption of an administrative decision or order enforcing or revoking the lease, permit, license, certificate, or entitlement for use or enforcing the general rule, standard, or objective.” No significant environmental impacts are anticipated and no mitigation measures are required.
2. The proposal involves the expansion of an alcohol license in an existing tasting room within the downtown area. The Downtown Mixed Use (DMU) Zoning District, which allows sale of alcohol for on-site consumption in accordance with Development Code Section 17.22.030. The intent of the DMU zoning district is to provide for a range of uses, emphasizing high quality development, and to encourage revitalization of downtown. The proposal is consistent with this intent and making Lodi a wine tasting tourist destination point.

3. The General Plan land use designation for this area is Downtown Mixed Use, which allows onsite beverage consumption. The proposed martini bar / scotch lounge is the type of business allowed by the General Plan. The proposed business will expand and improve their business activities and is therefore, consistent, with the General Plan.
4. The proposed sale of alcohol is compatible with existing and future land uses in the immediate vicinity of the project area. The Downtown Business District envisions bars, wine tasting rooms, retail services, restaurants and the like as the type of business encouraged to operate in the Downtown area. No aspect of the proposed use has been identified that would create new detrimental impacts.
5. 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.
6. Restaurants/bars, tasting rooms and other commercial uses with sale of alcohol operate in this area.
7. 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.
8. The characteristics of the proposed sale of alcohol in a martini bar / scotch lounge operation are customary for these types of businesses.
9. The proposed use would not have a substantial adverse economic effect on nearby uses because operation of a martini bar / scotch lounge in accordance with applicable laws and under the conditions of this Use Permit is anticipated to be an economic benefit to the community.
10. The availability of public facilities and utilities is adequate to serve the proposed use, in that Ollie's Lounge will be located within a building where public facilities and services are currently provided, including sewer, water, electricity, phone, etc.
11. Steps will 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.
12. 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.
13. 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 martini bar / scotch lounge is not associated with detrimental impacts to the community.
14. The sale of alcoholic beverages at this location can meet the intent of the DMU 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. 2014-31 is hereby approved, subject to the following conditions:

Community Development-Planning

1. The applicant/project proponent and/or property owner and/or developer and/or successors in interest and management shall, at their sole expense, defend, indemnify and hold harmless the City of Lodi, its agents, officers, directors and employees, from and against all claims, actions, damages, losses, or expenses of every type and description, including but not limited to payment of attorneys' fees and costs, by reason of, or arising out of, this Use Permit approval. The obligation to defend, indemnify and hold harmless shall include, but is not limited to, any action to arbitrate, attack, review, set aside, void or annul this Use Permit approval on any grounds whatsoever. The City of Lodi shall promptly notify the developer of any such claim, action, or proceeding and shall cooperate fully in the defense.
2. The applicant/project proponent and/or 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. Material violation of any of those laws in connection with the use may be cause for revocation of this Use Permit.
3. Starting from the effective date the business commences the sale of beer, wine and distilled spirits, this Use Permit shall be subject to a six-month and one-year review by Community Development Department and/or the Police Department. If the Community Development Department/Police Department determines it necessary, the Use Permit shall be subject to review by the Planning Commission to consider the business's operation for compliance with the conditions of the Use Permit, and in response to any legitimate complaints thereafter. Further, 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 Department, the Police Department and/or Planning Commission as needed during and after the one year probationary period.
4. If operation of this use results in conflicts pertaining to parking, noise, traffic, loitering, public safety or other impacts, at the discretion of the Community Development Department, 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.
5. The City Council, Lodi Police Department, the Planning Commission and City staff may, at any time, request that the Planning Commission conduct a hearing on this 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.
6. 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.

7. The business shall have interior security video cameras operating during all hours that the business is open. The videotapes of the security video cameras shall be maintained for a minimum period of 30 days, and the videotapes must be made immediately available for any law enforcement officer who is making the request as a result of official law enforcement business. The video cameras must be positioned in a way to capture the facial features of anyone entering the business and include cameras that capture all money handling areas. If the Chief of Police determines that there is a necessity to have additional security cameras installed, the owner of the business must comply with the request within 7 calendar days. The Chief of Police can also require that the business change the position of the video cameras if it is determined that the position of the cameras do not meet security needs. The owner of the business must comply with the request within 7 calendar days. The said security video camera shall be installed and approved prior to business opening.
8. All owners, managers and employees selling alcoholic beverages shall undergo and successfully complete a certified training program in responsible methods and skills for selling alcoholic beverages. The certified program must meet the standards of the California Coordinating Council on Responsible Beverage Service or other certifying/licensing body, which the State may designate. The establishment shall comply with the requirements of this section within 30 calendar days of effective date of this Use Permit. Records of each owner's, manager's and employee's successful completion of the required certified training program shall be maintained on the premises and shall be presented upon request by a representative of the City of Lodi. The business owner shall be responsible for on-going training to accommodate changes in personnel.
9. No person who is in a state of intoxication shall be permitted within the business nor shall an intoxicated patron be sold additional alcoholic beverages. It is the responsibility of the business owner/operator to ensure no patron in state of intoxication is allowed into the premise.
10. Prior to commencement of the use, the applicant shall prepare and submit a practical program for controlling litter, spills, and stains resulting from the use on the site to the Community Development Department for review and approval. The program shall include a detailed time frame for the policing and cleanup of the public sidewalk and right-of-way in front of the subject property as well as the adjacent public right-of-way (25 feet north and south of the subject property, and 25 feet down west down the alley) not just in front of the subject tenant space. Failure to comply with that program shall be considered a violation of the Use Permit and shall be subject to administrative remedy in accordance with Chapter 17.72 and Chapter 17.88 of the City of Lodi Municipal Code.
11. The subject property and its immediate surrounding shall be maintained neat and clean at all times. The subject property and its immediate surrounding shall be maintained free from debris and graffiti at all times. The property owner shall remove any debris or graffiti within 24-hours upon notification by the City. Litter on the site and any litter scattered on nearby property, streets, and sidewalks shall be removed daily. If necessary, the applicant shall steam clean the project site and its immediate surrounding premises as often as needed.
12. In the event of graffiti or other extraneous markings occurring, the applicant/operator and/or successors in interest and management shall remove or cover said markings, drawings, or signage within 24 hours of such occurrence, weather permitting. Paint utilized in covering such markings shall be of a color that matches, as closely as possible, the color of the adjacent surfaces.
13. Any change in operational characteristics, expansion in area or other modification to the approved plans shall require an amendment to this Use Permit or the processing of a new Use Permit.

- 14. All music and dancing-related activities, including live bands, video and disc jockeys, and karaoke, shall be conducted indoors at all times. Doors shall remain closed during all performances or while music is being played.
- 15. The applicant/project proponent and/or property owner and/or developer and/or successors in interest and management shall be responsible for the control of noise generated by the subject facility including, but not limited to, noise generated by patrons and employees. All noise generated by the proposed use shall comply with the provisions of Chapter 9.24 and other applicable noise control requirements.
- 16. The applicant shall obtain Operational Permits from the Lodi Fire Department, Fire Prevention Bureau. The Operational Permits shall be obtained prior to commencement of sale of alcohol. The Fire Department may be contacted at 25 East Pine Street, Lodi, CA 95240-2127. Phone Number (209) 333-6739.
- 17. The applicant shall obtain all required permits and licenses from the California Department of Alcoholic Beverage Control and the San Joaquin County Health Department prior to commencement of the use and maintain said permits at all times while the use is operating. Copies of all permits and licenses shall be submitted to the Community Development Department prior to commencement of the use.
- 18. 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.
- 19. No variance from any City of Lodi adopted code, policy or specification is granted or implied by this approval.

Building and Safety

- 20. Any changes to the existing building, which are regulated by the current codes, shall require a building permit. All plan submittals shall be based on the City of Lodi Building Regulations and currently adopted 2013 California Building code. Please review our policy handouts for specific submittal procedures.
- 21. The business change of name and/or ownership can be accomplished through the Authority to Connect Utilities permit and inspection, as long as the occupant load does not exceed 49, no openings are installed between the business and Ollie's Pub, and the two establishments are maintained as separate businesses.

I certify that Resolution No. 14-XX was passed and adopted by the Planning Commission of the City of Lodi at a regular meeting held on October 8, 2014 by the following vote:

AYES: Commissioners:
NOES: Commissioners:
ABSENT: Commissioners:

ATTEST _____
Secretary, Planning Commission