

<p>CARNEGIE FORUM 305 WEST PINE STREET LODI, CALIFORNIA</p>	<p>AGENDA LODI PLANNING COMMISSION</p>	<p>REGULAR SESSION WEDNESDAY, APRIL 08, 2015 @ 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 – “March 11, 2015”
3. PUBLIC HEARINGS
 - a. Request for Planning Commission approval of a Use Permit to allow an auto dismantler business in the industrial zone at 722 E Lodi Ave. (Applicant: Noe Montero; File 2015-05 U; CEQA Determination: Exempt per Section 15301)
 - b. Request for Planning Commission approval of a Use to allow a wine production facility, Type 2 ABC license, at 270 Commerce Street. (Applicant: Calwd, Inc., on behalf of Jeremy Wine Co. DBA.; File 2015-06 U; CEQA Determination: Exempt per Section 15321)
 - c. Request for Planning Commission to review previous and existing zoning code in regard to chickens in the residential zoning districts and make recommendation to the City Council. (Applicant: City of Lodi; File 2015-09 Z; 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, MARCH 11, 2015**

1. CALL TO ORDER / ROLL CALL

The Regular Planning Commission meeting of March 11, 2015 was called to order by Chair Kiser at 7:00 p.m.

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

Absent: Planning Commissioners – Heinitz

Also Present: Senior Planner Craig Hoffman, City Attorney Janice Magdich, Deputy Public Works Director Charles Swimley and Administrative Secretary Kari Chadwick

2. MINUTES

“February 11, 2015”

MOTION / VOTE:

The Planning Commission, on motion of Commissioner Slater, Kirsten second, approved the minutes of February 11, 2015 as written. (Commissioner 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 determination of consistency with the General Plan related to proposed abandonment of a portion of 0 block of East Vine Street between Sacramento Street and the Union Pacific Railroad (UPRR) right of way. (Applicant: City of Lodi; File 2015-03 A; CEQA Determination: Exempt per Section 15305)

Senior Planner Craig Hoffman gave a brief PowerPoint presentation based on the staff report. Staff is recommending that the determination of consistency with the General Plan be made as conditioned. Mr. Hoffman stated that Deputy Public Works Director Charles Swimley is present to answer any questions.

Commissioner Olson asked what the property can be used for in the future. Mr. Swimley stated that the adjacent property owners could use the property for anything that will not infringe on the City easements that exist on the property.

Commissioner Kirsten asked how fair market value is determined. Mr. Swimley stated that the value was calculated by using the square footage multiplied by the value in the estimate based on the Walnut Street appraisal.

Commissioner Hennecke asked if an appraiser will be hired to estimate a value. Mr. Swimley stated that staff used the value from the appraisal on Walnut Street. Mr. Hennecke stated that he had concerns with using a year old appraisal.

Hearing Opened to the Public

- Kevin Steenberg, owner of the property to the north, came forward to state his support of the abandonment. He is looking forward to being able to fence the property to make it secure. He added that there have been several break-ins on his property. He also added that he feels that the appraised value that the City has provided is fair.

- Chair Kiser asked if there were plans for the property yet. Mr. Steenberg stated that they planned on using it for storage.
- Commissioner Slater asked if there will be a fence added to the middle of the property. Mr. Steenberg stated that there will be a fence placed across Vine Street between the two buildings that are on the north and south sides of the street. Mr. Slater asked if there will be a gentleman’s agreement regarding the shared storage space in the middle. Mr. Steenberg stated that there is a gentleman’s agreement between the two property owners. Mr. Slater suggested putting something in writing. Mr. Steenberg stated that he would consider the suggestion.
- Richard Dillon, owner of the property to the south, came forward to answer questions. Mr. Dillon stated that the purchase of this property will help to secure the area from thieves because there have been several break-ins on his property.
- Commissioner Slater stated that it sounds like these two properties are prime for security cameras.

Public Portion of Hearing Closed

MOTION / VOTE:

The Planning Commission, on motion of Commissioner Olson, Kiser second, finds that the abandonment of a portion of 0 block of East Vine Street between Sacramento Street and the Union Pacific Railroad (UPRR) right of way, is consistent with the General Plan and does not conflict with policies and goals of the General Plan subject to conditions of approval contained in the draft resolution provided. The motion carried by the following vote:

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

- b) 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 a Type-47 On-Sale Beer, Wine and Spirits for Buffalo Wild Wings at Lodi Shopping Center – Pad 9 Building, Southwest corner of W. Kettleman Lane and Lower Sacramento Road. (Applicant: Blazin Wings, Inc.; File 2015-04 U; CEQA Determination: Exempt per Section 15321)

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

Hearing Opened to the Public

- Michael Ayaz, Attorney for the Owner, came forward along with a district manager for the organization to answer questions. Mr. Ayaz stated that the company is excited to be opening up here in Lodi and take ABC regulations very seriously. He stated that they had a couple of concerns with a few of the conditions; 1 – He asked if the review in number three is done internally; 2 – In number six they would like to change out the word “sale” of alcohol to “use” of alcohol; 3 – In number eight there is some concern with the the language “a state of intoxication”. What does that mean exactly, it is a little broad; and 4 – In number fourteen we would like the word “if” removed since it is the company’s intention to serve alcohol on the patio area. Mr. Hoffman stated that condition number three is done internally, unless there are excessive nuisance calls. Ms. Magdich stated that number six is intended to be for this establishment not what happens at other establishments. Ms. Magdich stated that number eight can be changed to read: exhibits recognized signs of intoxication in both the first and second sentences. Mr. Ayaz would

like it to read over intoxication. Chair Kiser stated that he has an issue with that language. He stated that if you're showing signs of intoxication you are already over intoxicated. Mr. Hoffman stated that the word "if" can be removed from number fourteen.

- Chair Kiser asked about the operating hours for special events. Mr. Ayaz stated that during the World Cup, the Olympics, and other types of sporting events they would like to open the doors early to accommodate the fact that these events take place all over the world and the timing will fall in the early morning hours.

Public Portion of Hearing Closed

MOTION / VOTE:

The Planning Commission, on motion of Commissioner Kirsten, Kiser second, finds that the project is exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15321, and adopt a Resolution approving the Use Permit Use to allow the sale of beer, wine and spirits Alcoholic Beverage Control (ABC) Type 47 license at Lodi Shopping Center – Pad 9 Building, southwest corner of W. Kettleman Lane and Lower Sacramento Road subject to conditions of approval contained in the draft resolution as amended above. The motion carried by the following vote:

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

4. PRESENTATION

- Receive Reports from the San Joaquin Partnership on Lodi Commercial Land Survey and from the Lodi Chamber of Commerce on Vision 2020

Mike Von from the San Joaquin Partnership came forward to give a PowerPoint presentation on the availability of Industrial and Commercial land that is available in the Lodi area. Mr. Von would like to see Lodi moving forward with the rest of the area.

Commissioner Kirsten asked if the inventory numbers given were county wide. Mr. Von stated that they are county wide. Mr. Kirsten asked how long the inventory will last. Mr. Von stated that the county is a draw because the rest of the areas are built out. He added that he believes that the 1200 acres in Tracy will not last the 50 years that they are estimating. Mr. Von stated that there is a shift in the market from big box to ecommerce facilities. Mr. Kirsten asked if more jobs can be packed into a smaller facility with the ecommerce facility. Mr. Von stated that along with the jobs you have the robotics and a high turn-around of inventory. Mr. Kirsten asked how far in advance we need to have this land available for these companies that will want to move here. Mr. Von stated that these companies are going to want to lease space and they are going to want it now. Mr. Kirsten stated that he looks at this as a wake-up call for this community for having sites ready to go rather than waiting and possibly losing this type of operation.

Commissioner Olson asked what Mr. Von thought Lodi's assets are to draw these companies here. Mr. Von stated that the dark fiber cable that surrounds the city is attractive to the tech companies and the housing and the schools in Lodi are attractive to the employees of these types of companies, but there is a problem with finding the sites that are ready to go. He added that the wine industry is a good selling point and he has used the fear of the earthquakes in the Bay Area to stir the wine industry in this direction. Ms. Olson stated that Lodi should be using its own Electric Utility as a benefit. Mr. Von stated that Lodi owning its own Electric Utility and the fact that Lodi has the dark fiber surrounding the city are both big selling points.

Commissioner Cummins asked what the projected square footage the city will need in the next fifteen years. Mr. Von stated that he would defer to the City Planners for that question. He added that the main problem the City of Lodi has right now is the lack of space to house both the local companies that would like to expand and other companies that would like to relocate.

Chair Kiser would like to know why the Tesla battery factory went to Nevada. Mr. Von stated that California came in a close second on that deal, but the State wasn't ready to make room for this business. Mr. Kiser asked if Mr. Von if he has studied our General Plan and are there investors that are willing to put up the money to build the buildings that these companies can come in and lease. Mr. Von stated that the General Plan has been studied and there is some land for smaller build projects.

Commissioner Hennecke asked if Lodi has the space to attract a company like Prologis. Mr. Von stated that Lodi does not currently have a large enough piece of property in the City limits. Mr. Hennecke asked if the General Mills site is a part of the numbers. Mr. Von stated that it isn't a part of the numbers because it isn't available yet. Mr. Hennecke asked if the valley lacks the educated work force to draw the tech companies. Mr. Von stated that the businesses will move here and hire the employee and if there are not enough skilled laborers the companies will draw them into the area with the jobs. Mr. Hennecke stated that this is the first time he has heard of the dark fiber surrounding the city. Why has that not been brought up before? Mr. Von stated that it is behind the scenes and will be used to attract the right company.

Chair Kiser stated that we should be using the fact that we have our own power company as a benefit.

Commissioner Olson asked if the legalization of marijuana will become a hindrance in getting qualified employees to pass their drug test. Mr. Von stated that he would like to leave that to Colorado and Washington to work out the kinks before California jumps on board. Ms. Olson stated that it is going to be an issue and employers are going to have to be aware that it is going to be an issue with the workforce whether we support the use or not.

Chair Kiser called for a five minute break at 9:02.

Chair Kiser called the meeting back to order at 9:08.

Craig Hoffman state that the area that is being discussed is the area east of Highway 99, south of Kettleman Lane, west of the traction line, and north of Hogan Lane. This area is not currently in the City's Sphere of Influence.

Pat Patrick with the Chamber of Commerce gave a PowerPoint presentation based on Vision2020 document in the packet. There were approximately 65 local companies that put together the five areas of economic opportunity.

Chair Kiser expressed his desire to see the ROP programs brought back to our schools to help train students for specific jobs that may not want to continue in school beyond high school. Mr. Patrick agreed.

Commissioner Cummins expressed his appreciate for the presentation.

Bob Johnson, Lodi City Council Mayor and Lodi resident, came forward to express his appreciation for allowing these presentations to come before the Commission. Mr. Johnson stated that the presentation that was given here was not the same presentation that was given to the City Council. This presentation focused on the philosophy and not just the numbers. He would like to see the leaders and citizens of Lodi thinking outside of the box.

5. 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.

6. ANNOUNCEMENTS AND CORRESPONDENCE

None

7. ACTIONS OF THE CITY COUNCIL

Senior Planner Hoffman stated that a memo has not been provided, but staff is available to answer any questions.

8. ACTIONS OF THE SITE PLAN AND ARCHITECTURAL REVIEW COMMITTEE

None

9. ART IN PUBLIC PLACES

Commissioner Kirsten gave a brief report regarding upcoming items.

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

None

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

Commissioner Kirsten asked about the El Pollo Loco item on the looking ahead. Mr. Hoffman stated that when the KFC moves to the Lodi Shopping Center site they will vacate their current site on Kettleman Lane and El Pollo Loco will be moving into that space.

Commissioner Hennecke asked if Lodi is participating in the RFP for Delta College sites. Ms. Magdich stated that the Mayor is active in that item.

Commissioner Kirsten asked about the Papa Pavalos item. Mr. Hoffman stated that the property sale has closed and the family is looking into the financing. Chair Kiser added that the financing has been taken care of.

City Attorney Magdich stated that the City has hired a new Deputy City Attorney, John Fukasawa.

12. ADJOURNMENT

There being no further business to come before the Planning Commission, the meeting was adjourned at 9:57 p.m.

ATTEST:

Kari Chadwick
Planning Commission Secretary

Item 3a



**CITY OF LODI
PLANNING COMMISSION
Staff Report**

MEETING DATE: April 8, 2015

APPLICATION NO: Use Permit: 2015-05 U

REQUEST: Request for Planning Commission approval of a Use Permit to allow an auto dismantler business in the industrial zone at 722 E Lodi Ave. (Applicant: Noe Montero; File 2015-05 U; CEQA Determination: Exempt per Section 15301)

LOCATION: 722 East Lodi Ave, west of Highway 99
Lodi, CA 95240
APN: 047-450-13

APPLICANT: Noe Montero
Azteca Auto Dismantle
2059 E 9th Street
Stockton, CA 95206

PROPERTY OWNER: Demetrios Zarefakis
10051 E Highway 12
Lodi, CA 95240

RECOMMENDATION

Staff recommends the Planning Commission approve the request of Noe Montero for a Use Permit to allow an auto dismantler business in the industrial zone at 722 E Lodi Ave. subject to conditions in the attached resolution.

PROJECT/AREA DESCRIPTION

General Plan Designation: Industrial
Zoning Designation: Industrial
Property Size: 0.41 acres

The adjacent zoning and land use characteristics:

	ADJACENT ZONING DESIGNATIONS AND LAND USES		
	GENERAL PLAN	ZONING CLASSIFICATION	EXISTING LAND USE
North	Public Quasi Public	Public Quasi Public	Fire Station
South	Commercial	General Commercial	Tractor Supply store
East	Industrial	Industrial	Highway 99
West	Mixed Use Corridor	Mixed Use Corridor	Auto Repair

BACKGROUND

This is an existing building that has been historically used for industrial uses / automotive repair. The applicant is looking to do auto dismantling and per the zoning code, that requires a use permit. The building space is 2,700 sq. ft. and there has been car storage in the back.

Applicant anticipates 5 to 10 cars dismantled at a time. Applicant will purchase cars, dismantle and sell the individual parts. Remaining car body and parts will be taken to a junk yard for disposal.

The site is not a junk yard and storage of discarded parts is not allowed.

This is a small operation that could grow. Use is limited by the building size and space. All dismantling is proposed inside of building. No storage is proposed on the outside open lot that is not paved.

Hours of operation are Monday to Saturday, 8:00 am to 5:00 pm.

All fluids will be stored and recycled, or disposed of in an approved manner by San Joaquin County Environmental Health. Any business generating hazardous wastes are required to prepare a Hazardous Material Business Plan with the County.

Auto dismantling has taken place previously in this location and was in violation of zoning. This is an opportunity to condition the project and clean up any past violations.

The draft resolution is included as Attachment C. Staff has specifically conditioned as follows:

11. All dismantling activities will take place within the building.
12. All automotive storage will take place on paved surfaces. Un-paved surfaces will not be used for storage.
13. Any storage will be screened from off-site view. This includes fencing with slats, landscaping or solid fencing.
14. The auto dismantling business will be clean and orderly. This is not a junk yard and storage of discarded cars and parts are not permitted.
15. Dismantled parts will be stored in storage racks or areas that do not create clutter or a safety hazard.
16. All liquids and hazardous materials will be stored and recycled consistent with the requirements of San Joaquin County Environmental Health.

ANALYSIS

Per Land Use Code Section 17.24.030, auto dismantling is permitted in the Industrial zoning designation, subject to a use permit. 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 a new auto dismantling business located within an existing building in the Industrial Zoning District, in accordance with Development Code Section 17.24.030. The intent of the Industrial zoning district is to provide for a range of uses, emphasizing industrial manufacturing, processing and wholesaling, and to encourage a wide range of uses that serve the public. The proposal is consistent with this intent.
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 auto dismantling business is the type of business allowed by the General Plan. Auto related repair businesses within the Industrial area reduce impacts and potential conflicts with residential properties.

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 auto dismantling business is compatible with existing and future land uses because this subject property is located within the Industrial Zoning District. The surrounding uses are primarily industrial uses. In addition, the proposed use will not detrimentally affect residential buildings, churches, schools, hospitals, public playgrounds, and other similar uses, and does not directly abut residentially zoned properties, parks, or schools. No aspects of the proposed use has been identified that would create new detrimental impacts. The surrounding uses include auto repair and do not include sensitive receptors.
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 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 auto dismantling are consistent with various auto repair 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 conditionally 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 was found to be Categorical Exempt according to the California Environmental Quality Act, §15301, Class 1 consists of the operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing public or private structures, facilities, mechanical equipment, or topographical features, involving negligible or no expansion of use beyond that existing at the time of the lead agency's determination. 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. Conditions of approval are proposed to ensure the restaurant is not operated in a negative manner or without adequate oversight. If problems or concerns related to the operation of a dismantling business 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 was found to be Categorical Exempt according to the California Environmental Quality Act, §15301, Class 1 consists of the operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing public or private structures, facilities, mechanical

equipment, or topographical features, involving negligible or no expansion of use beyond that existing at the time of the lead agency's determination. 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, March 28, 2015. Fifteen (15) 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 15301, and adopt a Resolution approving the Use Permit Use to allow an auto dismantler business in the industrial zone at 722 E Lodi Ave. 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. Draft Resolution

VICINITY MAP

North



South

722 East Lodi Ave

RESOLUTION NO. P.C. 15-XX

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF LODI APPROVING THE REQUEST OF NOE MONTERO FOR A USE PERMIT TO ALLOW AN AUTO DISMANTLER BUSINESS IN THE INDUSTRIAL ZONE AT 722 E LODI AVE.

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 Noe Montero, Azteca Auto Dismantle, 2059 E 9th Street, Stockton, CA 95206; and

WHEREAS, the project parcel is owned by Demetriios Zarefakis, 10051 E Highway 12, Lodi, CA 95240 ; and

WHEREAS, the project is located at 722 East Lodi Ave, west of Highway 99, Lodi, CA 95240 APN: 047-450-13; and

WHEREAS, the property has a General Plan designation of Industrial and is zoned Industrial; 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 Categorical Exempt according to the California Environmental Quality Act, §15301, Class 1 consists of the operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing public or private structures, facilities, mechanical equipment, or topographical features, involving negligible or no expansion of use beyond that existing at the time of the lead agency's determination. No significant environmental impacts are anticipated and no mitigation measures are required.
2. The proposal involves a new auto dismantling business located within an existing building in the Industrial Zoning District, in accordance with Development Code Section 17.24.030. The intent of the Industrial zoning district is to provide for a range of uses, emphasizing industrial manufacturing, processing and wholesaling, and to encourage a wide range of uses that serve the public. The proposal is consistent with this intent.
3. The General Plan land use designation for this area is Industrial, which provides for manufacturing, warehousing, general service, storage and distribution activities. The proposed auto dismantling business is the type of business allowed by the General Plan. Auto related repair businesses within the Industrial area reduce impacts and potential conflicts with residential properties.
4. The proposed auto dismantling business is compatible with existing and future land uses because this subject property is located within the Industrial Zoning District. The surrounding uses are primarily industrial uses. In addition, the proposed use will not detrimentally affect residential buildings, churches, schools, hospitals, public

playgrounds, and other similar uses, and does not directly abut residentially zoned properties, parks, or schools. No aspects of the proposed use has been identified that would create new detrimental impacts. The surrounding uses include auto repair and do not include sensitive receptors.

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. 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.
7. 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.
8. The characteristics of the proposed auto dismantling are consistent with various auto repair uses located within the vicinity of the project site and throughout the Industrial Zoning District.
9. 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 conditionally 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.
10. 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.
11. The proposed use would not have a substantial adverse economic effect on nearby uses because operation of an auto dismantler in accordance with applicable laws and under the conditions of this Use Permit is anticipated to be an economic benefit to the community by generating sales tax.

NOW, THEREFORE, BE IT DETERMINED AND RESOLVED by the Planning Commission of the City of Lodi that Use Permit Application No. 2015-05 U 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 operations, 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. 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 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.
7. 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.
8. 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.
9. 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.
10. The applicant shall obtain Operational Permits from the Lodi Fire Department, Fire Prevention Bureau. The Operational Permits shall be obtained prior to commencement of dismantling operations. The Fire Department may be contacted at 25 East Pine Street, Lodi,

CA 95240-2127. Phone Number (209) 333-6739. Typically a fire operational permit for a repair garage would need a map of their inside layout showing aisles, hazardous materials locations, and general set-up.

11. All dismantling activities will take place within the building.
12. All automotive storage will take place on paved surfaces. Un-paved surfaces will not be used for storage.
13. Any storage will be screened from off-site view. This includes fencing with slats, landscaping or solid fencing.
14. The auto dismantling business will be clean and orderly. This is not a junk yard and storage of discarded cars and parts are not permitted.
15. Dismantled parts will be stored in storage racks or areas that do not create clutter or a safety hazard.
16. All liquids and hazardous materials will be stored and recycled consistent with the requirements of San Joaquin County Environmental Health.

Community Development - Building - General Comments:

17. Tenant Improvement plan required for change of use for the building. 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.
18. 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]
19. In auto dismantling, vehicle fluids are often drained, including but not limited to gasoline, oil, brake fluid, transmission fluid and power steering fluid. Plans shall clearly specify and show quantities of all fluids stored, method of storage and all safety measures required. The storage of the hazardous materials shall meet all of the safety requirements specified by the 2013 CFC, Chapters 50 & 57 including but not limited to control areas, spill containment and secondary containment of hazardous liquids as may be required by the quantity of liquid stored.
20. 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.

Public Works

The Public Works Department has the following requirements concerning the approval of a Use Permit for auto dismantling for the proposed Aztec Auto Dismantling to be located 722 East Lodi Avenue.

21. Sand/oil trap required as per City of Lodi Standard Plan 205.
22. All project design and construction shall be in compliance with the Americans with Disabilities Act (ADA). Project compliance with ADA standards is the developer's responsibility.
23. Payment of the following prior to building permit issuance unless noted otherwise:
 - a. Filing and processing fees and charges for services performed by City forces per the Public Works Fee and Service Charge Schedule.
 - b. Wastewater Capacity Impact Fee at the time of occupancy.
 - c. Regional Transportation Impact Fee (RTIF) at the time of building permit issuance.
24. Additional comments and conditions will be provided in conjunction with the approval of a building permit for this project.

The above fees are subject to periodic adjustment as provided by the implementing ordinance/resolution. The fee charged will be that in effect at the time of collection indicated above

San Joaquin County Environmental Health

25. The San Joaquin County Environmental Health Department is the Certified Unified Program Agency (CUPA) responsible to ensure that business owner/operators who use, store, or treat hazardous materials as identified below, are reporting completely to the California Environmental Reporting System (CERS) which can be found at cers.calepa.ca.gov/:
 - Any amount of hazardous waste (e.g., used oil, waste antifreeze, waste solvent, waste gasoline, many waste paints/tints, some sandblast wastes, etc.)—Hazardous Waste Program.
 - Every business that generates hazardous waste is required to obtain either a Federal EPA ID Number (415) 495-8895 or a California ID Number (800) 618-6942.
 - Reportable quantities of hazardous materials (reportable quantities are 55 gallons or more of liquids, 500 pounds for solids, or 200 cubic feet for compressed gases, with some exceptions) – Hazardous Materials Business Plan Program
 - Threshold quantities of regulated substances found in California Code of Regulations, Title 19, Section 2770.5 – California Accidental Release Prevention (CalARP) Program
 - Any amount of hazardous material stored in an Underground Storage Tank – Underground Storage Tank Program
 - Onsite treatment of hazardous waste – Hazardous Waste Treatment Tiered Permitting Program
 - Storage of at least 1,320 gallons of petroleum aboveground – Aboveground Petroleum Storage Program

For more information on how these CUPA programs are implemented in San Joaquin County, please contact the Environmental Health Department at (209) 468-3427 and ask to speak with your CUPA inspector.”

- 26. Any fees due the City of Lodi for processing this Project shall be paid to the City within thirty (30) calendar days of final action by the approval authority. Failure to pay such outstanding fees within the time specified shall invalidate any approval or conditional approval granted. No permits, site work, or other actions authorized by this action shall be processed by the City, nor permitted, authorized or commenced until all outstanding fees are paid to the City.
- 27. No variance from any City of Lodi adopted code, policy or specification is granted or implied by this approval.

I certify that Resolution No. 15-XX was passed and adopted by the Planning Commission of the City of Lodi at a regular meeting held on April 8, 2015 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: April 8, 2015

APPLICATION NO: Use Permit: 2015-06 U

REQUEST: Request for Planning Commission approval of a Use Permit to allow a wine production facility, Type 2 ABC license, at 270 Commerce Street. (Applicant: Calwd, Inc., on behalf of Jeremy Wine Co. DBA.; File 2015-06 U; CEQA Determination: Exempt per Section 15321)

LOCATION: 270 Commerce Street
Lodi, CA 95240
APN: 049-190-17

APPLICANT: Calwd, Inc., on behalf of Jeremy Wine Co. DBA
6 West Pine Street
Lodi, CA 95240

PROPERTY OWNER: Robert J Bennett
7945 Eagle View Lane
Granite Bay, CA 95746

RECOMMENDATION

Staff recommends the Planning Commission approve the request of Calwd, Inc., on behalf of Jeremy Wine Co. DBA for a Use Permit to allow a wine production facility, Type 2 ABC license, at 270 Commerce Street subject to conditions in the attached resolution.

PROJECT AREA DESCRIPTION

General Plan Designation: Industrial
Zoning Designation: Industrial
Property Size: 0.31-acres (13,500 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	Industrial	Industrial	Warehouse/industrial use
East	Industrial	Industrial	Warehouse/industrial use
West	Industrial	Industrial	Warehouse/industrial use

BACKGROUND

The applicant's proposal is to utilize a vacant industrial space located at 270 Commerce Street into a wine production facility consisting of the crushing of grapes, fermenting wine and the aging of wine in barrels. 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 daily delivery during a week-long harvest period. At any given time there may be 600 barrels of fermenting wine and between 1500 cases of finished wine being stored on the site. The site will also contain a small office for administrative uses. The facility will be in use up to 7 days a week primarily for office use. During the harvest, the facility will operate 7 days a week. According to the applicant, facility tours and tastings will be conducted by appointment only and will be limited to small groups of 5 - 15 people. A small retail wine sales area will also be established inside the building where tasting groups may purchase wine for off-site consumption.

The property provides six (6) onsite parking spaces. There are no full time employees, except for the owner. There will be a maximum of 2-4 part-time employees during bottling operations and during such times, tastings will not occur. Since most of the businesses in the complex are closed on weekends, there is substantially more vacant parking on Saturdays and Sundays when most tasting appointments are proposed to occur. Therefore, available on-site parking is sufficient to meet the needs of employees and appointed guests.

ANALYSIS

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. Wineries, wine production facilities and associated wine tasting rooms and wholesale 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.

The Commission should review the application to ensure that sale of alcohol will not adversely affect surrounding residents, businesses, and institutions and to ensure that any such use operates in a manner compatible with existing and future adjacent uses. In the past, the Planning Commission and the Planning staff have generally supported wineries and wine manufacturing operations that wish to acquire an ABC on-sale license because, typically, they do not create alcohol related problems.

existing and future land uses because this subject property is located within the Industrial Zoning District. The surrounding uses are primarily industrial uses. 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, parks, or schools. No aspects 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, 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.

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. Conditions of approval are proposed to ensure the restaurant is not operated in a negative manner or without adequate oversight. 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 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, March 28, 2015. Nineteen (19) 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 15321, and adopt a Resolution approving the Use Permit Use to allow a wine production facility, Type 2 ABC license, at 270 Commerce 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

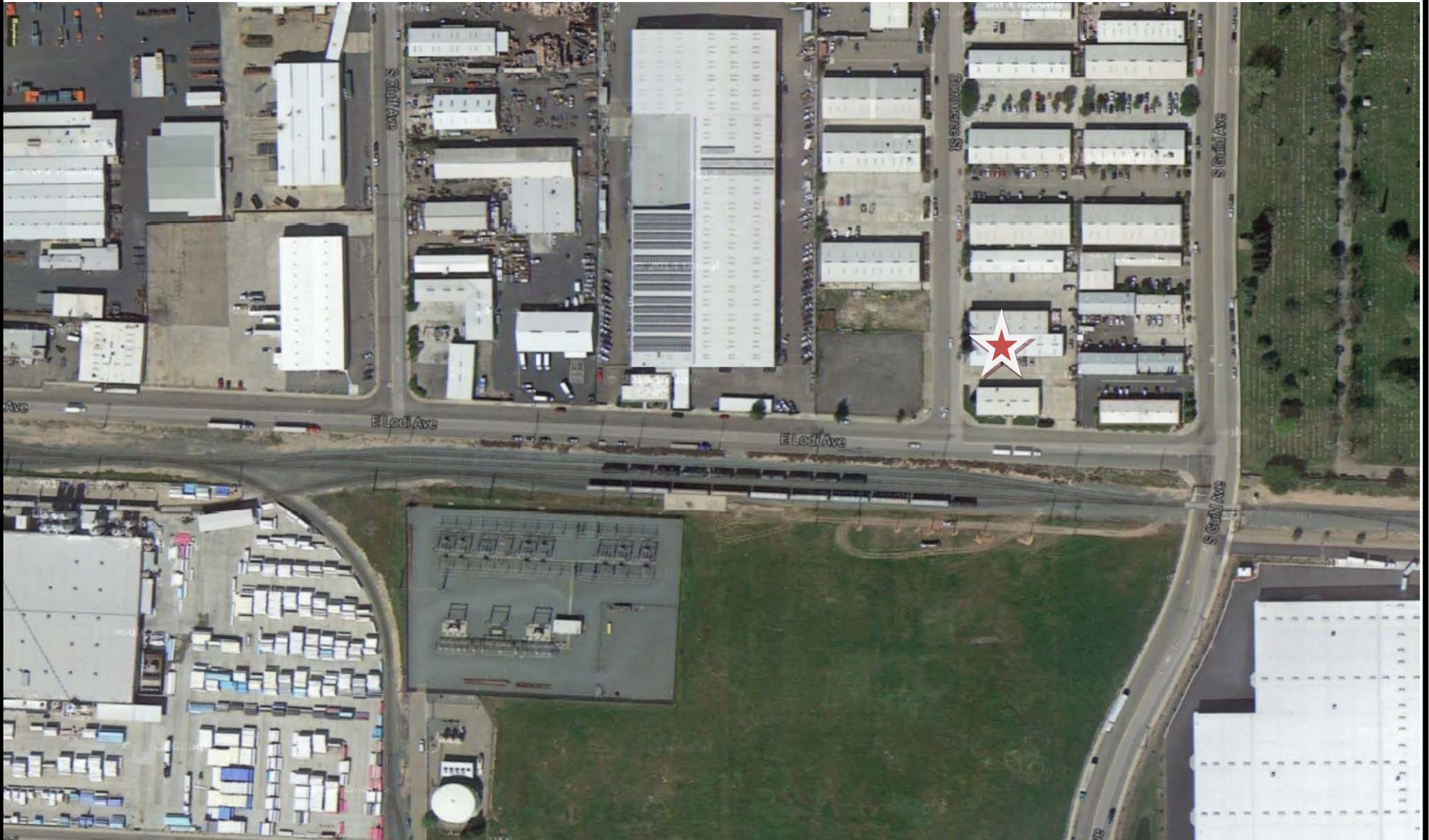
Stephen Schwabauer
Community Development Director

ATTACHMENTS:

- A. Vicinity / Aerial Map
- B. Floor Plan
- C. Draft Resolution

VICINITY MAP

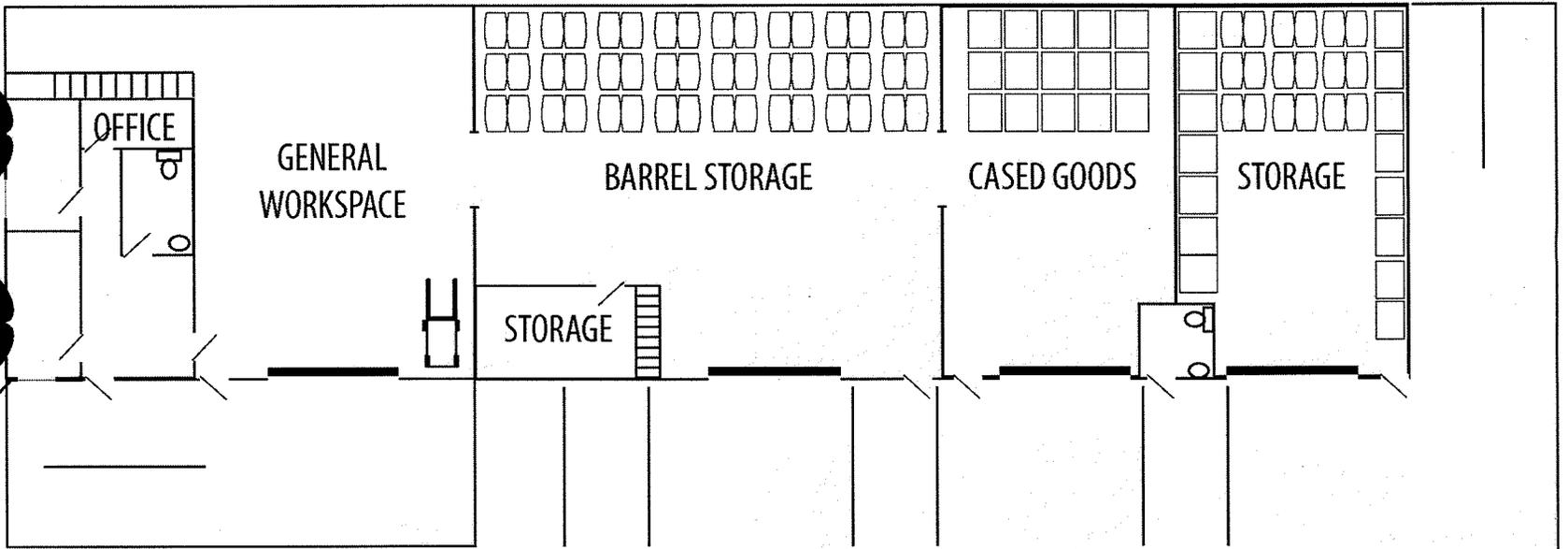
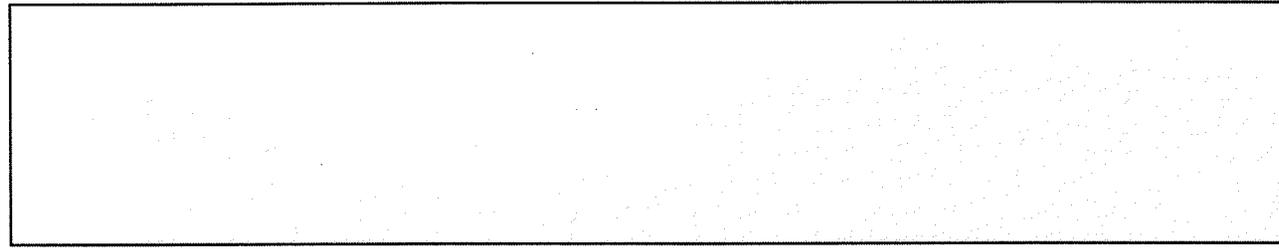
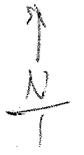
North



South

270 Commerce Street

COMMERCE STREET



RESOLUTION NO. P.C. 15-XX

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF LODI APPROVING THE REQUEST OF CALWD, INC., ON BEHALF OF JEREMY WINE CO. DBA A USE PERMIT TO ESTABLISH A WINE PRODUCTION FACILITY (ABC TYPE 2) AT 270 COMMERCE 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 270 Commerce Street, Lodi, CA 95240 (APN: 049-190-17); and

WHEREAS, the project proponent is Calwd, Inc., on behalf of Jeremy Wine Co. DBA 6 West Pine Street, Lodi, CA 95240; and

WHEREAS, the project property owners are Robert J Bennett, 7945 Eagle View Lane, Granite Bay, CA 95746; and

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

WHEREAS, the requested Use Permit to establish a wine manufacturing facility (ABC Type 2) at 270 Commerce Street ; 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 §15321; 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 was found to be Categorically 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.” 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. No significant environmental impacts are anticipated and no mitigation measures are required. For the reasons discussed above, no significant environmental effects would occur as the result of the proposed project.
2. 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.
3. The Zoning designation for this property is Industrial, which permits beverage production and on-site consumption subject to a Use Permit per Lodi Municipal. The proposed wine manufacturing establishment with limited on-site consumption (wine tasting) is permitted is the type of business permitted in the Industrial Zoning District per Lodi Municipal Code Section 17.24.030.
4. The proposed wine production facility with an associated retail and onsite wine tasting establishment is compatible with existing and future land uses because this subject property is

located within the Industrial Zoning District. The surrounding uses are primarily industrial uses. 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, parks, or schools. No aspects 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. 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. 2015-06 U is hereby approved, subject to the following conditions:

1. The property owner and/or developer and/or successors in interest and management shall, at their sole expense, defend, indemnify and hold harmless the City of Lodi, its agents, officers, directors and employees, from and against all claims, actions, damages, losses, or expenses of every type and description, including but not limited to payment of attorneys' fees and costs, by reason of, or arising out of, this development approval. The obligation to defend, indemnify and hold harmless shall include, but is not limited to, any action to arbitrate, attack, review, set aside, void or annul this development approval on any grounds whatsoever. The City of Lodi shall promptly notify the developer of any such claim, action, or proceeding and shall cooperate fully in the defense.
2. The property owner and/or developer and/or successors in interest and management shall operate the project in strict compliance with the approvals granted herein, City standards, laws, and ordinances, and in compliance with all State and Federal laws, regulations, and standards. In the event of a conflict between City laws and standards and a State or Federal law, regulation, or standard, the stricter or higher standard shall control.

3. The property owner and/or developer and/or successors in interest and management shall insure that the sale of alcohol does not cause any condition that will cause or result in repeated activities that are harmful to the health, peace or safety of persons residing or working in the surrounding area. This includes, but is not limited to: disturbances of the peace, illegal drug activity, public intoxication, drinking in public, harassment of people passing by, assaults, batteries, acts of vandalism, loitering, excessive littering, illegal parking, excessive loud noises, traffic violations or traffic safety based upon last drink statistics, curfew violations, lewd conduct, or police detention and arrests.
4. If any of the following conditions fail to occur, or if they are, by their terms, to be implemented and maintained over time, if any of such conditions fail to be so implemented and maintained according to their terms, the City shall have the right to revoke or modify all approvals herein granted; deny or further condition issuance of all future building permits; deny, revoke, or further condition all certificates of occupancy issued under the authority of approvals herein granted; record a notice of violation on the property title; institute and prosecute litigation to compel their compliance with said conditions or seek damages for their violation. No vested rights are gained by Developer or a successor in interest by the City's approval of this Use Permit (13-U-04).
5. The Use Permit shall be vested within six (6) months from the effective date of approval. A building permit for the tenant improvements allowed under this Use Permit shall have been obtained within six (6) months from the effective date of the Use Permit or the Use Permit shall expire; provided however that the Use Permit may be extended pursuant to the Lodi Municipal Code.
6. The Use Permit shall not become effective until ten (10) business days after approval, providing that the action is not appealed 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 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.
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. If the winery has special events for promotions or seasonal tastings, live music shall be required to meet the City noise ordinance. This includes outdoor or indoor bands and events.

Building - General Comments:

22. Tenant Improvement plans required for change of occupancy/use. 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.
23. 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]
24. The plans show the office and other rooms without windows or doors opening to the exterior. Natural ventilation of the areas is required through windows, doors, louvers or other openings to the outdoors. Or provide mechanical ventilation of the areas at the ventilation rate specified for the occupancy by the 2013 CPC, Table 4-1. 2013 CBC, Section 1203.4,
25. Provide an active or passive space heating system capable of maintaining a minimum indoor temperature of 68 degrees F at a point 3 foot above the finished floor of occupiable areas (office/mercantile/wine tasting area). 2013 CBC, Section 1204.1

26. Fire rated separation may be required between different occupancies in the building as per 2013 CBC, Section 508.4 and Table 508.4
27. Plans shall provide occupancy load calculations for each area of the building based on square footage and the applicable occupant load factor from Table 1004.1.2. 2013 CBC, Section 1004.1.2
28. If the occupant load of the building or 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
29. Unless the building meets one of the exceptions of 2013 CPC, Section 422.2 (allowing a unisex restroom), separate toilet facilities shall be provided for each sex. 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) shall be provided, as specified by 2013 CPC, Table 422.1.
30. 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.
31. If the construction costs of the alterations to the building are less than the current valuation threshold of \$146,303.00 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.
32. 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.
33. 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.

- 34. 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.
- 35. 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.
- 36. No variance from any City of Lodi adopted code, policy or specification is granted or implied by this approval.

Dated: April 8, 2015

I certify that Resolution No. 15-XX was passed and adopted by the Planning Commission of the City of Lodi at a regular meeting held on April 8, 2015 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: April 8, 2015
APPLICATION NO: Zoning Code: 2015-09 Z
REQUEST: Request for Planning Commission to review previous and existing zoning code in regard to chickens in the residential zoning districts and make recommendation to the City Council. (Applicant: City of Lodi; File 2015-09 Z; CEQA Determination: Exempt per Section 15321)
LOCATION: Residential Districts City-Wide
APPLICANT: City of Lodi
221 West Pine Street.
Lodi, CA 95240

RECOMMENDATION

Staff recommends that the Planning Commission adopt the attached resolution recommending the City Council modify the existing zoning code to allow chicken hens, pigeons, rabbits, guinea pigs or similar animals not exceeding 3 in number on any one lot may be kept in any residential district purely for home consumption and not for commercial purposes, subject to the provisions of other laws or ordinances.

BACKGROUND / ANALYSIS

The previous zoning code (17.57.030) allowed for: *“chicken hens, pigeons, rabbits, guinea pigs or similar animals not exceeding 3 in number on any one lot may be kept in any residential district purely for home consumption and not for commercial purposes, subject to the provisions of other laws or ordinances.”*

When the new zoning code was adopted in March 2013, this section was not included. Staff is of the opinion that this was an oversight. No specific discussion was had during public hearings to remove it. Complaints and nuisances did not drive the removal and omission.

The movement for more urban gardening and raising of food sources has become more popular. The previous zoning ordinance recognizes Lodi’s strong agricultural ties. Staff recommends that the current zoning code be modified to include the previous language in regard to chicken hens and similar animals.

ENVIRONMENTAL ASSESSMENTS:

The project was found to be Categorically 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 this item was published in the Lodi News Sentinel on Saturday, March 28, 2015.

RECOMMENDED MOTIONS

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

“I move that the Planning Commission adopt the attached resolution recommending the City Council amend the Zoning Code to allow chicken hens and other similar animals be allowed within the residential districts.”

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:

1. Draft Resolution

RESOLUTION NO. P.C. 15-XX**A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF LODI
RECOMMENDING THE CITY COUNCIL AMEND THE ZONING CODE TO ALLOW CHICKEN
HENS AND OTHER SIMILAR ANIMALS BE ALLOWED WITHIN THE RESIDENTIAL
DISTRICTS.**

- WHEREAS,** the Planning Commission of the City of Lodi has heretofore held a duly noticed public hearing, as required by law, on the requested determination, in accordance with the California Government Code Section 65402.(a); and
- WHEREAS,** the project proponent is City of Lodi, 221 West Pine Street, Lodi, CA 95240; and
- WHEREAS,** the previous zoning code (17.57.030) allowed for: “chicken hens, pigeons, rabbits, guinea pigs or similar animals not exceeding 3 in number on any one lot may be kept in any residential district purely for home consumption and not for commercial purposes, subject to the provisions of other laws or ordinances; and
- WHEREAS,** when the new zoning code was adopted in March 2013, this section was not included. Staff is of the opinion that this was an oversight. No specific discussion was had during public hearings to remove it. Complaints and nuisances did not drive the removal and omission.
- WHEREAS,** the use of small animals for home consumption and not for commercial purposes, subject to the provisions of other laws or ordinances, will be consistent with the development standards of the adopted General Plan and will be subject to Zoning regulations; and
- WHEREAS,** all legal prerequisites to the adoption of this Resolution have occurred; and

Based upon the evidence in the staff report and project file, the Planning Commission of the City of Lodi makes the following findings:

1. The project was found to be Categorically 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.
2. The use of a limited number of small animals for home consumption and not for commercial purposes, subject to the provisions of other laws or ordinances, will be consistent with the development standards of the adopted General Plan and will be subject to Zoning regulations.
3. The use of a limited number of small animals for home consumption and not for commercial purposes, subject to the provisions of other laws or ordinances will not be detrimental to the health, safety or general welfare of persons residing or working in the City or be detrimental or injurious to the health, safety, peace or general welfare of the City.

NOW, THEREFORE, BE IT DETERMINED AND RESOLVED by the Planning Commission of the City of Lodi that the following proposed language be recommended for approval and adoption by the City Council and included in section 17.20.030 of the zoning code as follows:

“chicken hens, pigeons, rabbits, guinea pigs or similar animals not exceeding 3 in number on any one lot may be kept in any residential district purely for home consumption and not for commercial purposes, subject to the provisions of other laws or ordinances.”

Dated: April 8, 2015

I certify that Resolution No. 15-XX was passed and adopted by the Planning Commission of the City of Lodi at a regular meeting held on April 8, 2015 by the following vote:

AYES: Commissioners:

NOES: Commissioners:

ABSENT: Commissioners:

ATTEST _____
Secretary, Planning Commission