

**LODI PLANNING COMMISSION
REGULAR COMMISSION MEETING
CARNEGIE FORUM, 305 WEST PINE STREET
WEDNESDAY, JANUARY 13, 2016**

1. CALL TO ORDER / ROLL CALL

The Regular Planning Commission meeting of January 13, 2016 was called to order by Chair Heinitz at 7:00 p.m.

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

Absent: Planning Commissioners – Hennecke

Also Present: Senior Planner Craig Hoffman, Deputy City Attorney John Fukasawa and Administrative Secretary Kari Chadwick

2. MINUTES

“November 11, 2015”

MOTION / VOTE:

The Planning Commission, on motion of Commissioner Kirsten, Kiser second, approved the minutes of November 11, 2015 as written.

3. PUBLIC HEARINGS

- a) Notice thereof having been published according to law, an affidavit of which publication is on file in the Community Development Department, Chair Heinitz called for the public hearing to consider the request of the Planning Commission for approval of a Use Permit to allow a charter school in an existing tenant space at 1110 Kettleman Lane. (Applicant: Bella Terra Plaza, LLC; File 2015-40 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 with the amended language provided to you on the Blue Sheet. He added that there is a letter provided on Blue Sheet that was received after the packet was produced.

Commissioner Kiser stated that he has been to the site and there are a number of problems with the roof leaking and structural issues with the second floor. A report was done by Mike Smith Engineering regarding the structural issues, but to his knowledge none of the items of concern have been taken care of to date. He wanted to mention it because of his concern for the students and possible mold problems due to the leaking. He is also concerned about the proximity of establishments that serve alcohol. Mr. Hoffman stated that he will defer to the applicant to address those concerns. He added that this project is classified as a learning center and does not have to adhere to the same requirements as a traditional school in regards to ABC regulations.

Commissioner Slater stated that mold can cause a number of health problems. He also added that he would like to hear from the applicant regarding the proximity of alcohol establishments.

Chair Heinitz stated that he also has a problem with a school going in near so many establishments serving alcohol.

Commissioner Olson stated that she would have had concerns regarding the proximity of alcohol if the students were being dropped off and left there all day, but that isn't the case with this type of learning center. She doesn't feel that this is the type of school that will promote loitering.

Hearing Opened to the Public

- Dr. Marcy Grill, Vice Principal for Rio Valley Charter School, came forward to answer questions. She gave a brief description of the style of school and the reason behind the move to this location. She added that they are looking to partner with Impact Sports, gymnastics business in the same area, for some of the student's physical exercise needs. Dr. Grill added that she worked at a different charter school at this location years ago. The school has been at their current location for four years and there have not been any complaints.
- Commissioner Kirsten asked if while walking around the location had Dr. Grill encountered any problems with leaky roofs or mold issues. Dr. Grill stated that she has not encountered these problems, but she acknowledged that she is an academic administrator not a contractor. If there are any issues with mold she would be adamant in having the property management fix them to avoid any health problems for the students and staff of the school.
- Commissioner Kiser stated that he has talked with the owner of the gymnastic establishment and he is very unhappy with response he has gotten from the management for the plaza. Commissioner Slater agreed with Commissioner Kiser and encouraged Dr. Grill to take a second look. Dr. Grill stated that she will look into the situation further.
- Chair Heinritz asked if the school has looked into the proximity to the service of alcohol. Dr. Grill stated that they have gotten all the necessary approvals.
- Commissioner Slater asked if the staff will be trained to look for alcohol abuse. Dr. Grill stated that staff does the regular training to look for signs of substance use and would not release a child to any parent that is showing signs of use. She added that all parents have to sign their student in and out at the reception desk.
- Rocky Bianchi, resident directly behind this location, came forward to express his concerns for the project. He has lived at this location since before Bella Terra Plaza was built and attended the meetings for the original approval. Mr. Bianchi stated that there have been many changes to the center and not all of them have been positive; for instance, the windows at the back of the plaza were supposed to be obscured glass with only the top portion of the windows able to open for ventilation, now there are clear glass windows and windows that completely open similar to a sliding glass door. He expressed a concern over the access to the alley way. The possible loitering of the students and parking may be an issue. The maintenance of the building has deteriorated over the years. He does not want to see any of the cars parking around the corner in the neighborhood. Mr. Kiser echoed some of Mr. Bianchi's concerns by stating that there are maintenance issues as well as some possible structural issues with the upstairs area. He added that he went by the location before this meeting to look at the parking and the lot was full. Mr. Kiser stated that he has spoken with the Building Office, Dennis Canright, regarding his concerns, but could not give any detail information regarding that discussion.
- Commissioner Olson asked for clarification from Mr. Bianchi regarding whether or not he objects to the school, since it sounds like his concerns were mainly focused on the condition of the center. Mr. Bianchi stated that he does have concerns with the parking and possible loitering that the school may cause. Ms. Olson asked if there is a problem with the gymnastic establish and the number of students they have. Mr. Bianchi stated that he does not have any concerns with that business. He stated that business is a contained situation. The kids are dropped off and picked up as soon as the classes are over or the parents stay at the location while the class is being conducted. Ms. Olson stated that is exactly what this type of school will be as well. The parents will drop off the student by checking them in at the reception desk, then come back and pick them up at that same location. Mr. Bianchi stated that because of the type of school there are concerns with the quality of student that will be attending. He added that these types of

schools are geared toward trouble students. Ms. Olson stated her appreciation for the comments, but disagreed with the sentiment.

- Commissioner Cummins stated his agreement with Ms. Olson statement. He added that just because a parent chooses to send their child to an alternate learning facility does not mean that they are a troubled student.
- Commissioner Slater clarified that the yellow mats that are being installed in the rear area of the building are called truncated domes and they are installed for ADA path of travel. He is concerned with that area being a designated path of travel for the sight. He stated that he agrees with Commissioner Olson in that this type of school should not be an indication of trouble students. He added that he has concerns with the facility not the school.
- Commissioner Kirsten stated that staff has stated that the additional traffic at this location will not be an issue, so he is not sure if this should be a concern of the Commission. He added that the proximity of establishments that serve alcohol isn't necessarily a perfect fit, but the likelihood of this school having an alcohol related incident is remote. He is concerned about what he has heard here tonight regarding the condition of the facility. He is hoping that since this school will be an income generating business for them that they will be motivated to take some action to rectify the issues. Mr. Kirstin asked if the Commission could put conditions on the project mandating the property owner to bring it up to code and pass a mold test. Mr. Hoffman stated that the Commission cannot put those types of conditions in the resolution because it would put the Commission in between the tenant and the landowner, and that is not the role of the Commission. It will put the Commission in an awkward place. The Commission can put conditions in the resolution that would put back some of the original conditions that may have been undone by recent construction such as the windows at the rear of the building. Mr. Hoffman added that there are exits to the rear of the building because of the assembly use and with that there needs to be an unobstructed path of travel to the public right-of-way for any emergency exit doors. It is not intended to be a primary access point. He also added that there have not been any calls regarding disturbance for this school at its current location just down the street on Kettleman Lane. There is always a condition in the resolution that will allow the Use Permit to be brought back to the Commission if there are any issues with the project violating any of the conditions.
- James Burke, resident directly behind the facility, came forward to express his concerns for the project. He has had issues with kids smoking in the alley as well as the general maintenance of the facility. He added that they are already working in the space. He does not have a concern with the charter school, but more with the lack of facility maintenance and the affect it will have on the students.
- Commissioner Kiser asked staff to confirm if work has already begun without the permit being issued. Mr. Hoffman stated that there may be some demolition work being started.
- Carrie Hutmacher, resident directly behind the facility, came forward to express her concerns for the project. There have been fights, drug sales, young girls being picked up and she has had to call the police many times. This is not a safe development for kids. She and her grandkids tried to use the elevator and ran into a couple being intimate. Ms. Hutmacher added that all of her grandkids have gone to charter schools and she would not want them to attend a school at this site. This is not the right environment for children. Commissioner Kirstin asked if Ms. Hutmacher is familiar with the currently location of the school. Ms. Hutmacher stated that she is familiar with that location. Mr. Kirstin asked if the conditions at the current location are different than this one. Ms. Hutmacher stated that the current location is much better. The opportunity for people loitering around the school at the current location doesn't exist there like it does at this location. Mr. Kirstin asked if it could be possible that this use going into this space could clean up some of the concerns that the residence have with the clientele that may be causing some of the issues. Ms. Hutmacher stated that the conditions have really gone

down pretty far at this location and she does not see that being possible. She added that maybe if they had security walking around the facility that might help.

Public Portion of Hearing Closed

MOTION / VOTE:

The Planning Commission, on motion of Commissioner Cummins, Kirsten second, finds that the project is exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15303, and denies the Use Permit to allow the Rio Valley Charter School in an existing tenant space at 1110 Kettleman Lane subject to the findings and conditions of approval contained in the draft resolution as amended on the Blue Sheet provided. The motion carried by the following vote:

Ayes: Commissioners – Cummins, Kirsten and Olson
Noes: Commissioners – Kiser, Slater and Chair Heinitz
Absent: Commissioners - Hennecke

The item was not approved or denied with a 3 to 3 undecided vote.

- b) Notice thereof having been published according to law, an affidavit of which publication is on file in the Community Development Department, Chair Heinitz called for the public hearing to consider the request of the Planning Commission for approval of a Use Permit to allow a Type-20 Off-Site Beer and Wine sales at the Buy 4 Less grocery store at 401 West Lockeford Street. (Applicant: Mr. Steven Fetzer; File 2015-41 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.

Commissioner Slater asked given the issues with the Barking Dog if there were any calls from the neighborhood. Mr. Hoffman stated that there have not been any calls probably because of the difference in the type of businesses. There will not be anyone outside this business at the late hours like with the bar.

Hearing Opened to the Public

- Steven Fetzer, applicant, came forward to answer questions. He added that this is in response to customer requests.
- Chair Heinitz stated his appreciation for the store and the convenience of its location to his office.
- Commissioner Slater asked if there will be any special training to spot customers that are inebriated. Mr. Fetzer stated that all of the staff will be going through the training.
- Commissioner Kirsten stated his appreciation for the store. He echoed Mr. Hoffman's statement that this is not at all like the Barking Dog.

Public Portion of Hearing Closed

MOTION / VOTE:

The Planning Commission, on motion of Commissioner Kiser, Heinitz second, finds that the project is exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15321, and approves a Use Permit to allow a Type-20 Off-Site Beer and Wine sales at the Buy 4 Less grocery store at 401 West Lockeford Street subject to the findings and conditions of approval contained in the draft resolution provided. The motion carried by the following vote:

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

Commissioner Kirsten recused himself from item 3c because he owns property interest within the sphere of influence of the project.

- c) Notice thereof having been published according to law, an affidavit of which publication is on file in the Community Development Department, Chair Heinitz called for the public hearing to consider the request of the Planning Commission for approval of a Use Permit to allow a live entertainment and outside dining for Maguire's on Elm at 27 W. Elm Street. (Applicant: Gary Arnold; File 2015-42 U; CEQA Determination: Exempt per Section 15321)

Chair Heinitz asked Mr. Hoffman to explain the reason why this application is not going through an entirely new Use Permit application process. Mr. Hoffman stated that the Use Permit was established years ago with the establishment of Legends. The Live Entertainment and possible outdoor seating are the factors that are not a part of the original approval.

Senior Planner Craig Hoffman gave a brief PowerPoint presentation based on the staff report. Staff is recommending approval of the project as conditioned with the additional conditions provided on the blue sheet. Mr. Hoffman stated that staff did receive a letter expressing concerns regarding the project. The letter has been provided on blue sheet.

Chair Heinitz stated for clarification that this is the site that Legends occupied and it wouldn't be fair to punish this applicant for past mistakes.

Commissioner Slater asked how the outdoor seating will work in that area. Mr. Hoffman stated that there is plenty of room on Elm Street side. It will be similar to all of the outdoor spaces in the downtown area.

Commissioner Kiser asked about the music being amplified to the outside. Mr. Hoffman stated that they will not be allowed to put speakers outside.

Commissioner Olson is concerned that the noise from amplified music and the residents may not be conducive. Mr. Hoffman stated that the noise may be a hurdle that Mr. Arnold has to work to get over or the project will be right back here.

Hearing Opened to the Public

- Gary Arnold, applicant, came forward to answer questions. Mr. Arnold stated that McGuire's will be a family orientated establishment. He stated that McGuire's will be a positive influence to the downtown.
- Chair Heinitz asked about a designated smoking area in the outside seating. Mr. Arnold stated that smoking will always be an issue. Mr. Heinitz suggested that a couple of the cigarette disposal containers with the long necks be put out side near where people are encouraged to do their smoking. Mr. Arnold would like to see the smoking area moved to the west side of the business to try and keep it away from the entrance. McGuire's staff will be cleaning up outside every night.
- Commissioner Slater expressed his concern over the absence of the menu. Mr. Arnold stated that there will be a full service menu. They will carry everything from Shepard's Pie to hamburgers with all of the amenities. There will also be a salad bar for the lunch crowd.
- Commissioner Kiser stated for clarification that there will be security. Mr. Arnold stated that he will have security on the nights with live music as well as if there is ever a downtown group security started McGuire's will participate.
- Commissioner Slater asked about the alcohol training for staff. Mr. Arnold stated that all of the bar tenders will be certified, the security staff will have licensed guard cards, intoxicated patrons will not be allowed to enter the establishment and if someone is

found to be intoxicated inside they will no longer be given drinks and a ride will be called to take them home.

- Annette Beile, property owner, came forward to support the project. She is excited about the new business coming into the space.
- Russ Galagos, local resident, came forward to support the project. He has been working with Mr. Arnold to get this project headed in the right direction.

Public Portion of Hearing Closed

- Commissioner Olson encouraged Mr. Arnold to use local musicians.

MOTION / VOTE:

The Planning Commission, on motion of Commissioner Kiser, Olson second, finds that the approval of the project is exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15321, and approves a Use Permit to allow a live entertainment and outside dining for Maguire's on Elm at 27 W. Elm Street subject to the findings and conditions of approval contained in the draft resolution as amended on the provided Blue Sheet. The motion carried by the following vote:

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

4. PLANNING MATTERS/FOLLOW-UP ITEMS

a) Review of Downtown Police Service Calls

- Mr. Hoffman introduced Captain Griffin to address any questions or concerns the Commission may have.
- Captain Griffin stated that there has been an improvement in the types of calls that are made in the downtown. He does not believe that the calls will ever be mitigated to a zero call zone. The bars are being proactive when calling the Police out for assistance. He feels very positive with the direction that the activity is headed.
- Chair Heinitz stated that he has talked with several police officers that are seeing a shift of calls for service moving from Sacramento Street to School Street. Captain Griffin stated that he has not seen that based on the calls. Mr. Heinitz stated that he has had to report to his store several times because of the drunks falling against his doors or windows and setting off the alarm.
- Commissioner Kirsten asked for clarification on the number of officers that are designated to the downtown. Captain Griffin stated that there are no officers that are designated to just the downtown. There are officers that have taken it upon themselves to be there especially as the evening gets later. Mr. Kirsten stated that there is a new downtown alliance that is being formed and there may be a possibility that some pressure may be placed on the City Council to restore the designated officers.
- Captain Griffin stated his appreciation of the bar owners and their cooperation with fighting this issue.
- Commissioner Kirsten asked if there is a difference in the clientele from the bars to the wine tasting facility. Captain Griffin stated that would be his opinion based on what he saw when he was working the streets.

- Jerry Wolfe, local bar owner, came forward to express his disappointment over the fact that no one will really see what is going on and he is tired of fighting it. He went so far as to change the format of his establishment and couldn't keep going with it and had to change back even though the money was better. Putting up with that type of crowd was not worth the money for him or his staff.
- Commissioner Olson asked if music should be a concern. Mr. Wolfe stated that music isn't the issue; it is the type of music.
- Commissioner Kirsten commended Mr. Wolfe for taking the higher road.

b) Review of Downtown Vision and Concerns with some Direction and Comments to City Council

- Mr. Hoffman stated that there was a request to find out what is happening in other cities and their destination downtown areas. He stated that a list has been provided and staff can try to answer questions, but Lodi's downtown is different just based on the number of bars that are not wine bars. The actual number of ABC license in the downtown has decreased by a couple of licenses since 2014.
- Chair Heinritz stated that he is concerned that the downtown is losing retail. The balance of retail, bar, entertainment is lopsided.
- Commissioner Kirsten stated that there is a difference between bars, saloons and wineries. He acknowledged that isn't an answer to Chair Heinritz's concerns about losing retail. We need to address the problem of trouble makers not put a stop to new innovative businesses alcohol related or not. He does not want to see the Commission put rules in place that stop something that would be a benefit to the downtown. Lodi just won an internal award for being a wine region. Mr. Kirstin does not want to see restrictions put in place that will allow what is currently in place but not allow a business to come into the region that might give some of the undesirable businesses a bit of competition and possibly allow attrition to weed out the bad apples.
- Commissioner Slater stated his agreement with Commissioner Kirsten. He would like to see a bit more enforcement put down on the establishments that are conducting the illegal operations. Captain Griffin stated that he will put the ABC Grant into play as much as he can to help with this enforcement.
- Commissioner Kirsten stated that he is not going to sit back and allow these establishments that operate under a different rule. Captain Griffin stated that there is a special code given to calls for the downtown, so they can be pulled and sent to ABC more efficiently.
- Chair Heinritz asked why officers won't stop the patrons from smoking right outside the doors of these establishments. Officer Griffin stated that they should not be allowing it. Mr. Heinritz stated that they stated that they don't want to harass them.
- Commissioner Kirstin stated that he is getting cranky about a lot these establishments that believe they are above the law. Mr. Hoffman stated that he will put a call in to Mr. Fuentes and see what can be done to help facilitate a correction.

5. ANNOUNCEMENTS AND CORRESPONDENCE

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

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 Slater stated that he will be interviewing with LAFCo Board and has been told that he can serve on both, but wanted to let everyone know that he would gladly give up that one to keep his seat on the Commission. He also added that he will not be at the March 9th meeting.

11. ADJOURNMENT

There being no further business to come before the Planning Commission, the meeting was adjourned at 9:04 p.m.

ATTEST:


Kari Chadwick
Planning Commission Secretary