

<p>CARNEGIE FORUM 305 WEST PINE STREET LODI, CALIFORNIA</p>	<p><b>AGENDA</b> <b>LODI</b> <b>PLANNING COMMISSION</b></p>	<p>REGULAR SESSION WEDNESDAY, JULY 27, 2016 @ 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 – None
3. PUBLIC HEARINGS
  - a. Request for Planning Commission approval of a Use Permit to allow a Type-41 On-Sale Beer and Wine for Blaze Pizza at Lodi Shopping Center – Pad 9 Building, 1537 South Lower Sacramento Road, Suite 130. (Applicant: DAMM Fine Pizza LLC.; File 2016-18 U; CEQA Determination: Exempt per Section 15321)
  - b. Request Planning Commission approval of a Use Permit to allow a Type-47 On-Sale Beer, Wine and Spirits for Alicia’s Restaurant at 114 West Pine Street. (Applicant: Alicia Valadez; File 2016-19 U; CEQA Determination: Exempt per Section 15321)

**NOTE:** The above item is a quasi-judicial hearing and requires disclosure of ex parte communications as set forth in Resolution No. 2006-31

4. PLANNING MATTERS/FOLLOW-UP ITEMS
  - a. Update of Downtown Police Service Calls
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. REORGANIZATION
  - a. Planning Commission Chair & Vice Chair
  - b. Planning Commission Representatives to: SPARC and Art In Public Places

12. ADJOURNMENT

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

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

**Right 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 2<sup>nd</sup> Floor, 221 West Pine Street, Lodi, California 95240 – Phone: (209) 333-6702.

Item 3a



**CITY OF LODI  
PLANNING COMMISSION  
Staff Report**

**MEETING DATE:** July 27, 2016

**APPLICATION NO:** Use Permit: 2016-18 U

**REQUEST:** Request for Planning Commission approval of a Use Permit to allow a Type-41 On-Sale Beer and Wine for Blaze Pizza at Lodi Shopping Center – Pad 9 Building, 1537 South Lower Sacramento Road, Suite 130. (Applicant: DAMM Fine Pizza LLC.; File 2016-18 U; CEQA Determination: Exempt per Section 15321)

**LOCATION:** Lodi Shopping Center - Sunwest Village Shopping Center  
1537 South Lower Sacramento Road, Suite 130  
Lodi, CA 95242  
APN: 058-030-27

**APPLICANT:** Blaze Fast Fire'd Pizza  
DAMM Dine Pizza LLC  
340 North Westlake Blvd., Suite 260  
Westlake Village, CA 91362

**PROPERTY OWNER:** BDC III LP (Browman Development Company, Inc.)  
c/o James Stephens  
1556 Parkside Drive  
Walnut Creek CA 94596

**RECOMMENDATION**

Staff recommends the Planning Commission approve the request of Blaze Fast Fire'd Pizza Restaurant for a Use Permit to allow the sale of beer and wine Alcoholic Beverage Control (ABC) Type 41 license (eating place), at Lodi Shopping Center, southwest corner of W. Kettleman Lane and Lower Sacramento Road subject to conditions in the attached resolution.

**PROJECT/AREA DESCRIPTION**

**General Plan Designation:** Commercial  
**Zoning Designation:** Community Commercial  
**Property Size:** 16.23 acres

The adjacent zoning and land use characteristics:

	ADJACENT ZONING DESIGNATIONS AND LAND USES		
	GENERAL PLAN	ZONING CLASSIFICATION	EXISTING LAND USE
<b>North</b>	Commercial	Community Commercial	Lowe's shopping Center
<b>South</b>	Low Density Residential	PD (41)	Vacant – farm land
<b>East</b>	Commercial	Community Commercial	Existing Wal-Mart Shopping Center
<b>West</b>	Open Space / Public	Open Space / Public	Vacant – farm land

## **BACKGROUND**

The Planning Commission approved the Use Permit and Architectural Review request of Browman Development Company for drive-through and Pad Buildings at the Sunwest Village Shopping Center (Lodi Shopping Center) in October of 2014. This approval set the design of the pad buildings and approved drive thru features.

Blaze Fast Fire'd Pizza will be located within the southern portion of pad building 9 and is requesting a Use Permit for an ABC Type 41 license to serve beer and wine. (Attachment A and B). Buffalo Wild Wings is located in the same pad building.

The proposed restaurant space is 2,586 sq ft. with no outside space.

Proposed hours of operation are Monday through Sunday from 10:00 am to 12:00 pm.

Tenant space occupancy is 69 customers with seating for 69 customers.

The restaurant will employ 40 to 50 people with 7 to 10 per shift.

The ABC Type 41 license allows for the sale of beer and wine in a Restaurant. The license requires food sales to be 50 percent of the business. The restaurant will prepare and sell food during all hours of operation. Attachment C includes the menu.

The applicant has identified that ABC training is a major part of operations and will include State and any City programs.

The project is located in the Community Commercial zoning district, which allows on site sale of alcohol. The request involves the approval of a public convenience and necessity (PCN) and Use Permit in an area that is over-concentrated with alcohol licenses. In order to allow an additional ABC license, the Planning Commission must make a finding of necessity; and if determined necessary, then consider the appropriateness of conditions of approval for the Use Permit for the new use. The majority of the ABC licenses in this census tract are in the City of Stockton

## **ANALYSIS**

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

The project site is within Census Tract 41.06, which covers the area south of Mokelumne River, east of Lower Sacramento Road and Davis Road, north of Eight Mile Road and west of Interstate 5.

The area is over-concentrated as defined by ABC for licenses. Planning staff is of the opinion that a public need and necessity is warranted in this case because the primary function of the establishment is a restaurant and does not involve off-site retail or wholesale distribution of alcohol. In the past, the Planning Commission and City staff has supported restaurants that wish to acquire ABC licenses because, typically, restaurants that serve alcohol in conjunction with food sales do not create alcohol related problems. The ABC Type 41 license requires the restaurant to operate as a bone fide eating establishment.



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 restaurant in a new building located within the Community Commercial Zoning District, which allows sale of alcohol for on-site consumption in accordance with Development Code Section 17.22.030. The intent of the Community Commercial zoning district is to provide for a range of uses, emphasizing high quality development, and to encourage a wide range of commercial 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 Community Commercial zoning district, which provides for sale of alcohol. The proposed sale of beer and wine in conjunction with a restaurant operation is the type of business allowed by the General Plan. The sale of alcoholic beverages as part of a restaurant is required by the State Department of Alcoholic Beverage Control to be secondary to food sales. Sale of alcohol in conjunction with a restaurant is a common way to increase sales and is therefore, consistent, with the General Plan.
3. *The location, size, design and operating characteristics of the use or development is compatible with and shall not adversely affect or be materially detrimental to the health, safety, or welfare of persons residing or working in the area, or be detrimental or injurious to public or private property or improvements.* **Comment:** The proposed sale of alcohol in conjunction with a restaurant operation is compatible with existing and future land uses in the immediate vicinity of the project area. The sale of alcohol in a restaurant is consistent with other commercial uses, such as the one proposed, in accordance with Land Use Policy

subject to a discretionary review. The sale of alcoholic beverages for on-premise consumption is a normal part of business operations for a restaurant and provides a convenience for customers of the business. The proposed use is surrounded by other complementary uses that cater to the local and tourist trade.

4. *The location, size, design, and operating characteristics of the proposed use would be compatible with the existing and future land uses in the vicinity.* **Comment:** The proposed use complies with all requirements as set forth for the issuance of this Use Permit, in that the site is adequate in size, shape and topography for the proposed use, consisting of an existing building. Second, restaurants and other commercial uses operate in this area. Third, the proposed use, as conditioned, will not have an adverse effect upon the use, enjoyment or valuation of property in the neighborhood because the proposed use will be located within a new commercial building within a shopping center. Fourth, the characteristics of the proposed sale of alcohol in a restaurant operation are customary for these types of businesses. In accordance with ABC requirements, receipts from alcohol sales shall not be in excess of food sales receipts. Lastly, it is found that the sale of alcoholic beverages as part of a restaurant is a convenience that does not typically create alcohol related problems.
5. *The proposed project has been reviewed in compliance with the California Environmental Quality Act (CEQA) and the Lodi Environmental Review Guidelines.* **Comment:** The project 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, July 16, 2016. Six (6) 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 the sale of beer and wine Alcoholic Beverage Control (ABC) Type 41 license for Blaze Pizza at Lodi Shopping Center – Pad 9 Building, southwest corner of W. Kettleman Lane and Lower Sacramento Road subject to the findings and conditions of approval contained in the draft Resolution.”

**ALTERNATIVE PLANNING COMMISSION ACTIONS:**

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

Respectfully Submitted,

Concur,

Craig Hoffman  
City Planner

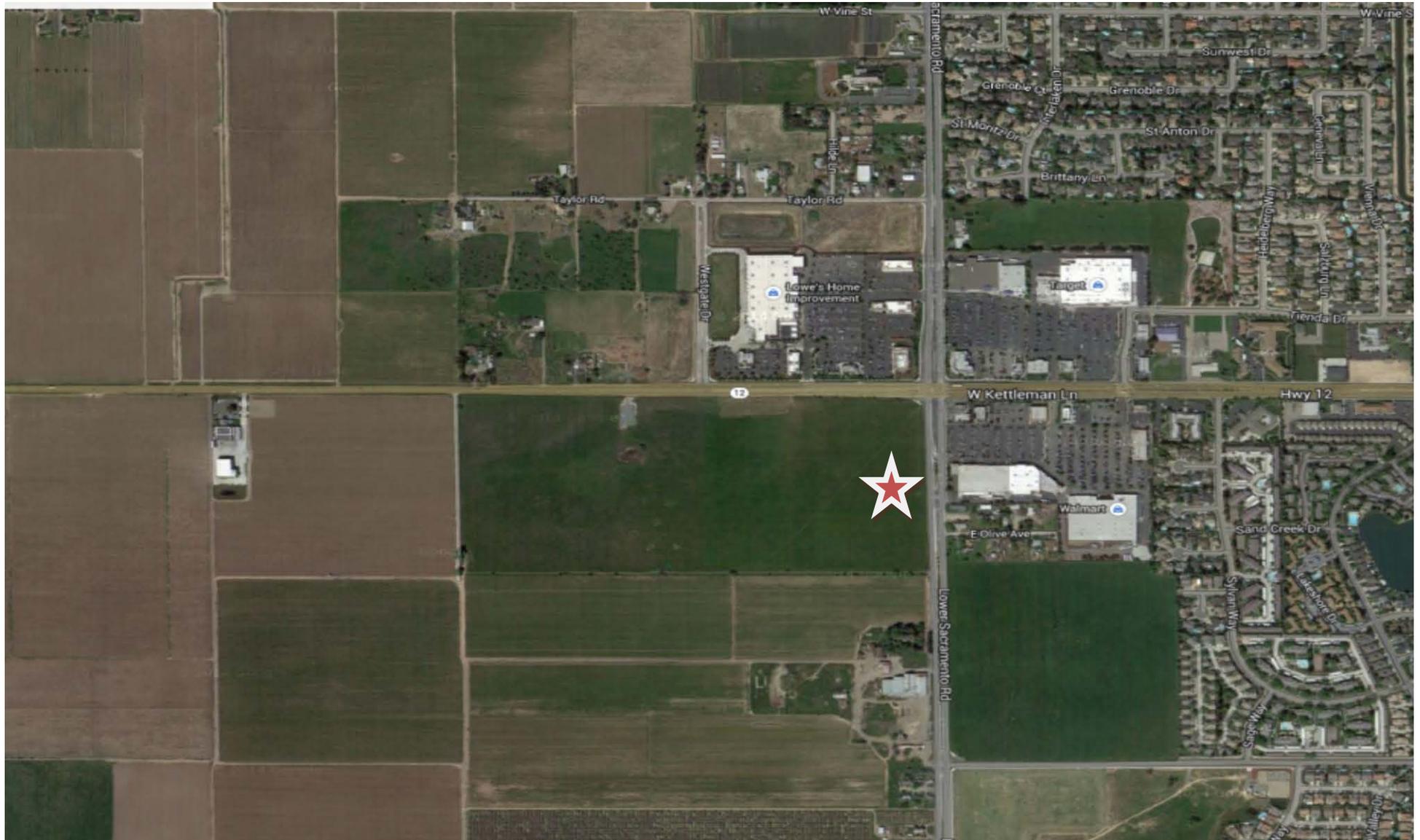
Stephen Schwabauer  
Community Development Director

**ATTACHMENTS:**

- A. Vicinity / Aerial Map
- B. Site Plans and Floor Plan
- C. Menu
- D. Draft Resolution

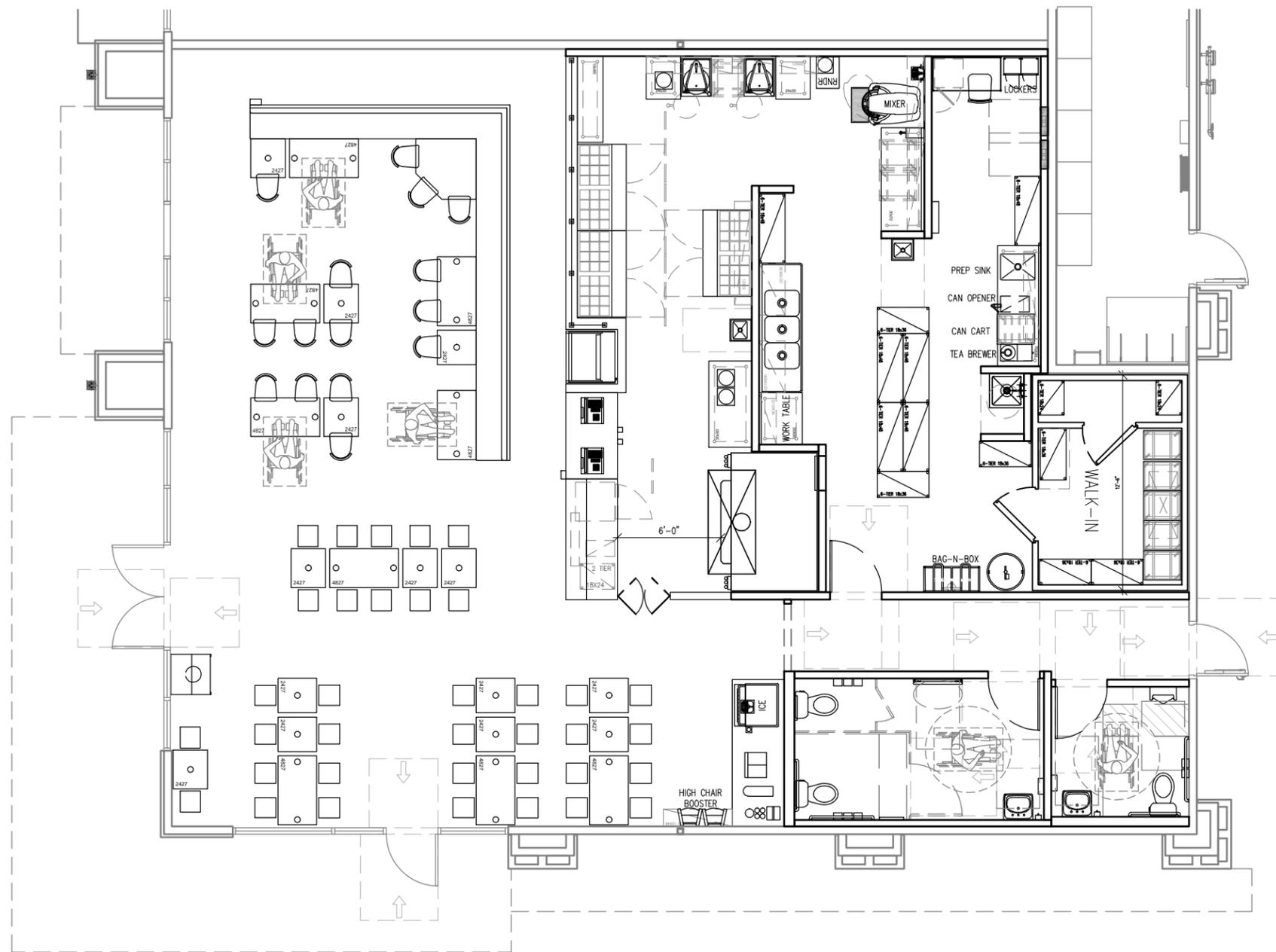
# VICINITY MAP

North



South

**Lodi Shopping Center – Kettleman and Lower Sacramento Road**



BACK OF HOUSE: +/-885 SF (INCLUDES SERVICE LINE)  
 FRONT OF HOUSE: +/-1,480 SF  
 TOTAL SQUARE FOOTAGE: 2,365 SF (NET)

SEATING:  
 69 INTERIOR  
 0 PATIO  
 TOTAL SEATING: 69

PROJ. NO.  
15-0557  
 DATE:  
10/07/15  
 SHEET #  
**005**

SCHEMATIC  
2,586 S.F. (GSF)



LODI, CA

OWNER / TENANT:

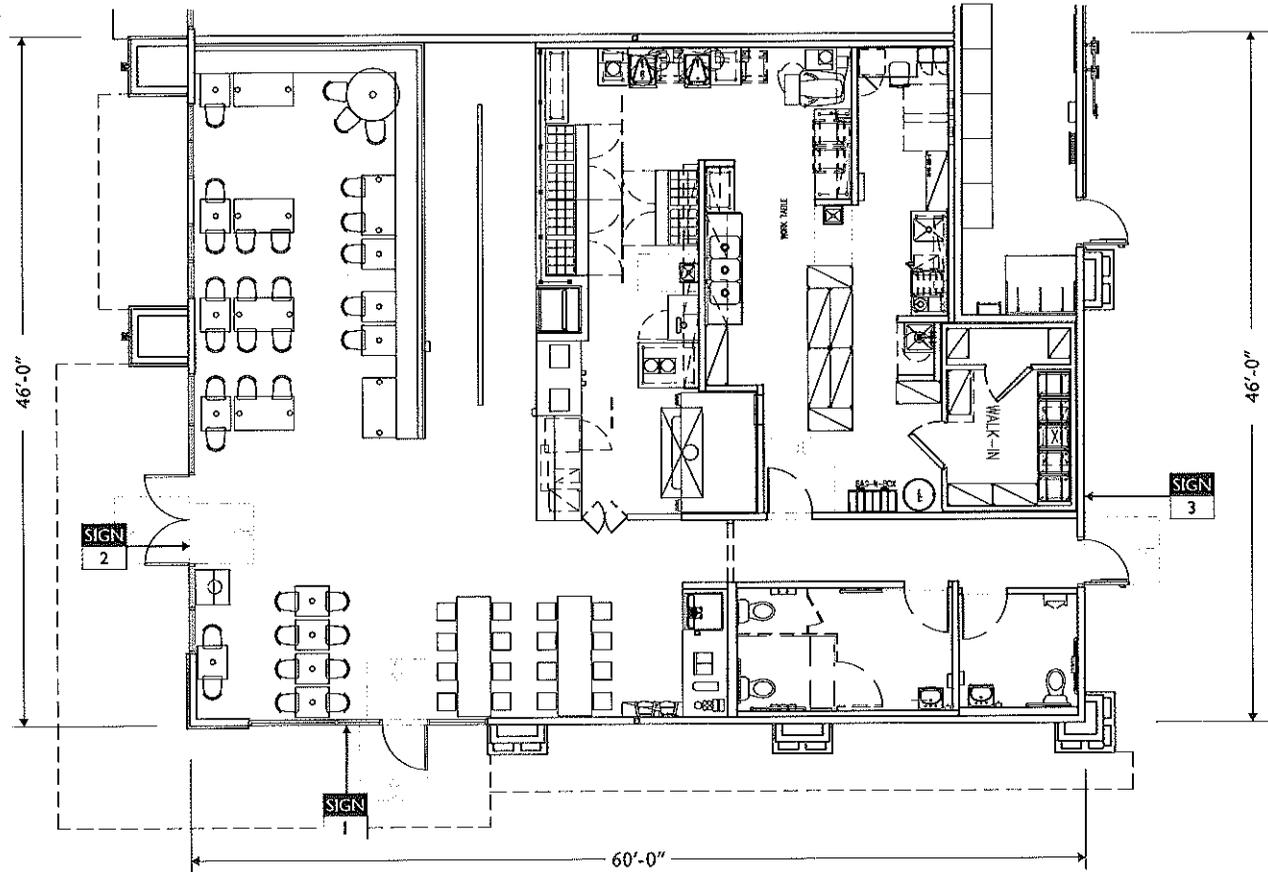
SCALE:  
1/8" = 1'-0"

THIS SCHEMATIC WAS PRODUCED FROM EXISTING BASE SHELL INFORMATION PROVIDED TO LINGLE DESIGN GROUP, INC. BY OTHERS. LINGLE DESIGN GROUP, INC. DID NOT PERFORM A SITE SURVEY OF THE EXISTING CONDITIONS AND DOES NOT WARRANT THE ACCURACY OF THE EXISTING BASE SHELL SPACE.



158 WEST MAIN ST,  
LENA, IL 61048

PH: 815-369-9155  
 FAX: 815-369-4495  
 WWW.LINGLEDISIGN.COM



Floor Plan (Scale 1/8"=1')

<b>VISIBLEGRAPHICS</b>  9736 Eton Avenue Chatsworth, CA 91311 T 818.787.0477 E-Fax 818.477.5123 www.visiblegraphics.com		Project Name: <b>Blaze Pizza - Lodi, CA</b>	Date: <u>03-04-2016</u> Sign Type: <u>As Noted</u> Scale: <u>As Noted</u> Sr Acct Mngr: <u>Dave Mahn</u> Coordinator: <u>Janina Zamorano</u> Designer: <u>Lucas Cleric</u>	<b>BLAZE PIZZA</b> <small>FAST-FIRE'D</small>	<b>CLIENT APPROVAL</b> Visible Graphics does NOT provide primary electrical to sign location - responsibility of others Client Signature _____ Date _____ <b>COPY - COLORS - SIZES</b>	<b>LANDLORD APPROVAL</b> Landlord Signature _____ Date _____	This design is the exclusive property of Visible Graphics and cannot be reproduced in whole or part, without prior written approval. Job Number _____	Sheet: <b>2</b>
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# EXHIBIT A SITE PLAN

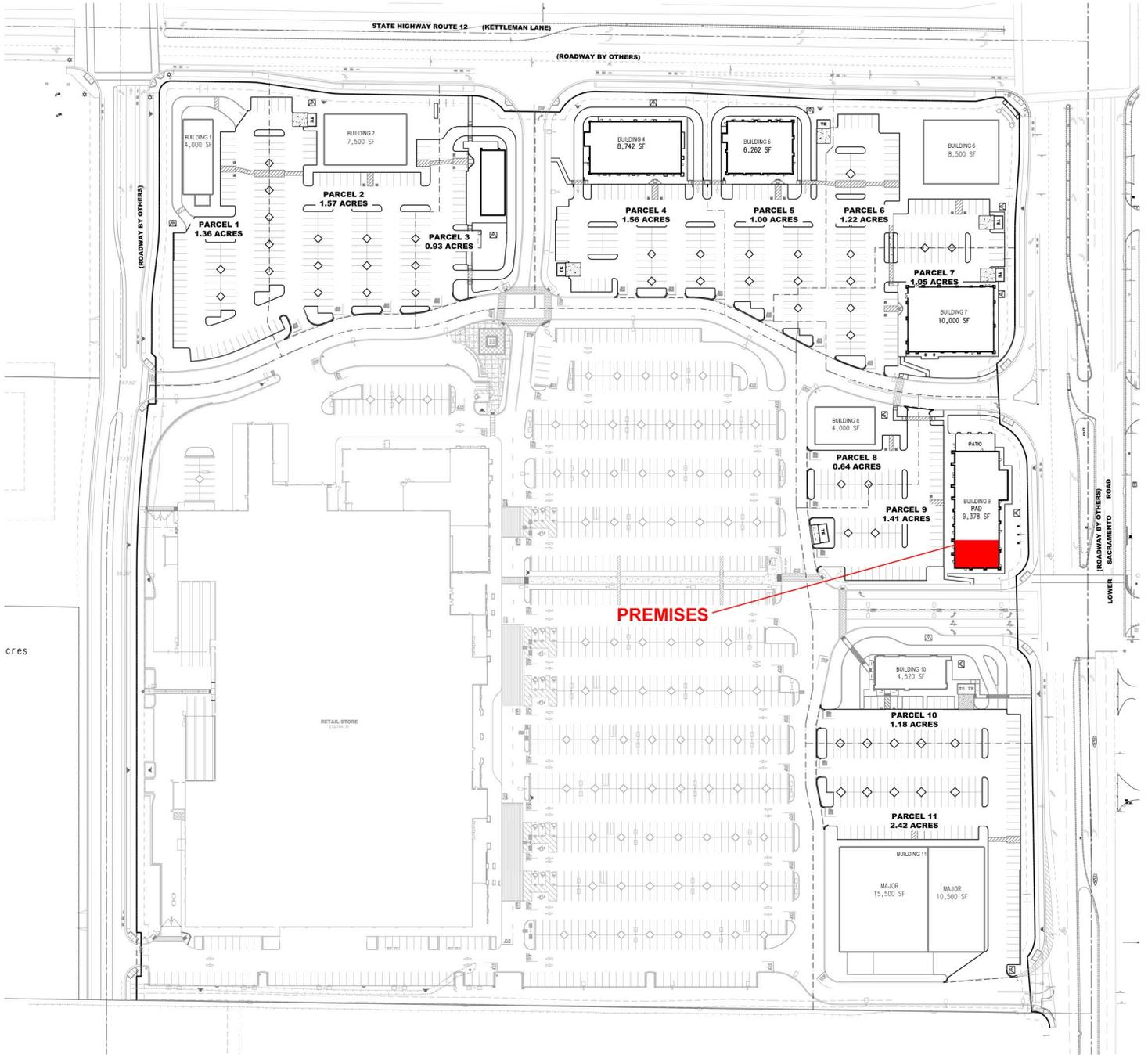
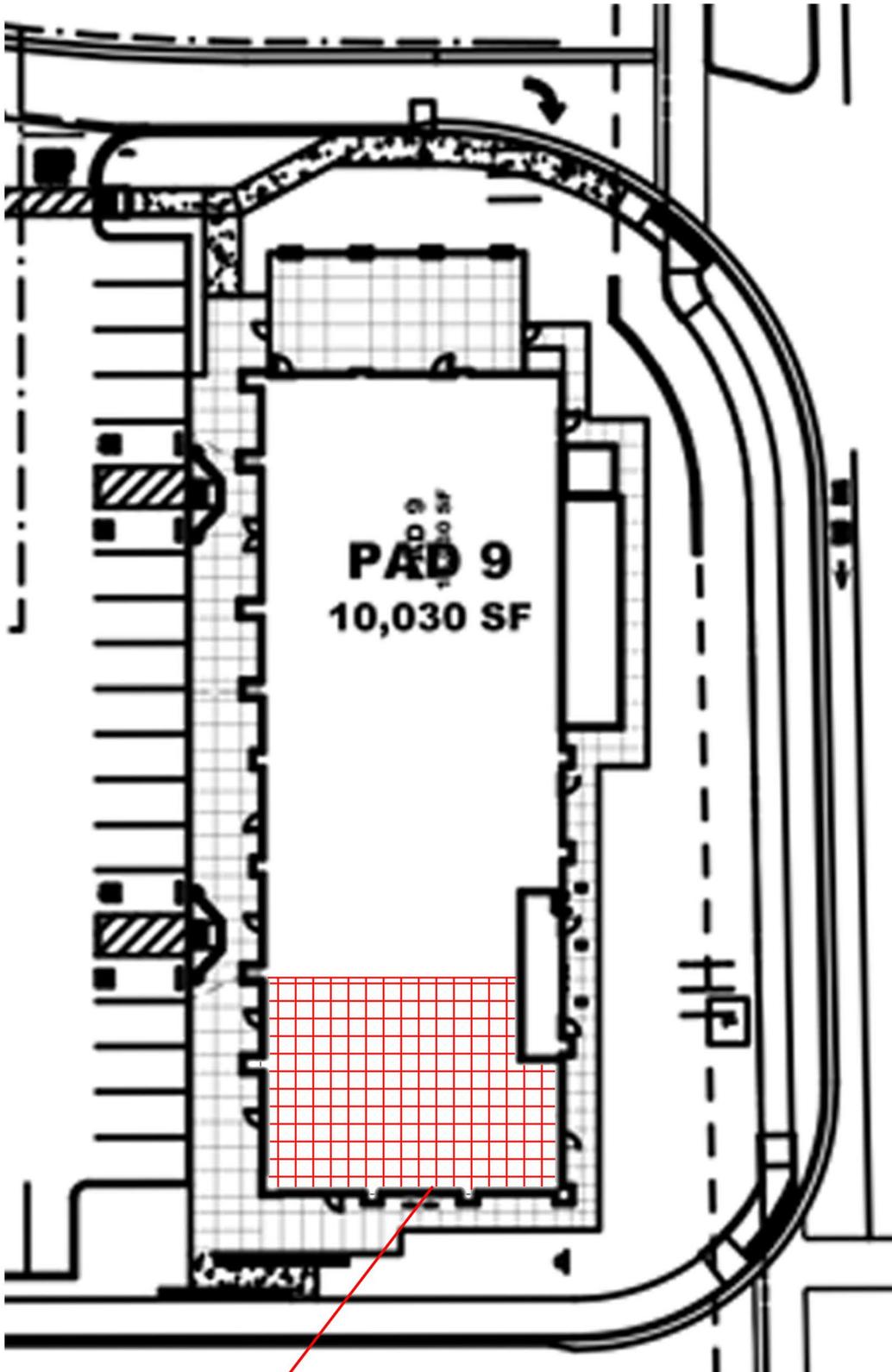


EXHIBIT A-1  
FLOOR PLAN



PREMISES

# BLAZE PIZZA

## BUILD YOUR OWN PIZZA

original dough 380 cal • high-rise (thicker) +190 cal • gluten-free dough 310 cal

### CHOOSE ANY TOPPINGS

- SAUCES** classic red sauce 30 cal • spicy red sauce 30 cal  
white cream sauce 60 cal • garlic pesto sauce 45 cal
- CHEESES** feta 90 cal • goat 100 cal • gorgonzola 110 cal • ovalini  
mozzarella 150 cal • parmesan 50 cal • ricotta 80 cal  
shredded mozzarella 180 cal • vegan cheese 230 cal
- MEATS** applewood bacon 120 cal • grilled chicken 90 cal  
italian meatballs 170 cal • italian sausage 210 cal  
pepperoni 170 cal • salame 200 cal  
smoked ham 70 cal • turkey meatballs 80 cal
- VEGGIES** artichokes 15 cal • banana peppers 0 cal  
black olives 40 cal • cherry tomatoes 5 cal  
chopped garlic 5 cal • fresh basil 0 cal • green bell  
peppers 5 cal • jalapeños 0 cal • kalamata olives  
60 cal • mushrooms 10 cal • oregano 0 cal  
pineapple 25 cal • red onions 10 cal • red peppers 5 cal  
roasted garlic 45 cal • sautéed onions 30 cal  
spinach 5 cal • zucchini 15 cal
- FINISHES** arugula 0 cal • bbq sauce 40 cal • pesto 100 cal  
olive oil 60 cal • ranch 150 cal
- Toppings may vary by season and location.

## 1 TOP PIZZA

sauce, cheese &  
1 topping 470+ cal

## SIMPLE PIE

mozzarella, parmesan,  
red sauce 660 cal

## SIGNATURE PIZZAS

- RED VINE** ovalini mozzarella, cherry tomatoes, parmesan,  
basil, red sauce, olive oil drizzle 690 cal
- BBQ CHKN** chicken, mozzarella, red onion, banana  
peppers, gorgonzola, bbq sauce drizzle 830 cal
- ART LOVER** artichokes, mozzarella, ricotta, garlic, red  
sauce dollops 710 cal
- MEAT EATER** pepperoni, meatballs, red onion, mozzarella,  
red sauce 950 cal
- GREEN STRIPE** pesto drizzle over chicken, red peppers,  
garlic, mozzarella, arugula 770 cal
- VEG OUT** zucchini, mushrooms, red onion, mozzarella,  
gorgonzola, red sauce dollops 760 cal
- LINK IN** sausage, red peppers, sautéed onions,  
mozzarella, red sauce 850 cal
- WHITE TOP** white cream sauce, mozzarella, bacon, garlic,  
oregano, arugula 760 cal

## SALADS

- TOMATO, BASIL & OVALINI** 250 cal  
**CLASSIC CAESAR** 400 cal  
**ROASTED VEGGIE & GORGONZOLA** 480 cal  
**BEEF & GOAT CHEESE** 510 cal  
**CHICKEN CAESAR** entrée 480 cal  
**ANTIPASTO** entrée 660 cal

Salads may vary by season and location

## DRINKS

- SODA, TEA, LEMONADE** 0–290 cal  
**BOTTLED DRINKS** 0–200 cal  
**BEER, WINE** 100–220 cal subject to availability

## DESSERT

- S'MORE PIE** 220 cal

## THE STORY. OUR PROFILE. THE 411. YOU GET THE IDEA.

OK, we're going to keep this quick, because exceptional quality at crazy fast speed is what we're all about. Fresh, house-made dough. Prepared from scratch daily. 24-hour fermentation period. Signature light-as-air, crisp crust. Healthful, artisanal ingredients. Inventive to classic. You decide. Blazing hot oven + dedicated pizzasmith + 180 seconds = fast-fire'd perfection. Sound good? Enjoy the rest of your day.

## ORDER ONLINE

[blazepizza.com](http://blazepizza.com)

(available at most locations)



@blazepizza



/blazepizza



@blazepizza



blazepizza.com

We use packaging that is recyclable, compostable and/or made from post consumer reclaimed materials whenever practical.

Additional nutrition information available upon request. 2,000 calories a day is used for general nutrition advice, but calorie needs vary. Chart your own course.

**RESOLUTION NO. P.C. 16-XX**

**A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF LODI APPROVING THE REQUEST OF BLAZE FAST FIRE'D PIZZA, DAMM DINE PIZZA LLC FOR A USE PERMIT FOR A TYPE 41 ABC LICENSE TO ALLOW THE SALE OF BEER AND WINE AT LODI SHOPPING CENTER, SOUTHWEST CORNER OF W. KETTLEMAN LANE AND LOWER SACRAMENTO ROAD**

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

**WHEREAS**, the project proponents are Blaze Fast Fire'd Pizza, DAMM Dine Pizza LLC, 340 North Westlake Blvd., Suite 260, Westlake Village, CA 91362; and

**WHEREAS**, the project parcel is owned by BDC III LP (Browman Development Company, Inc., 1556 Parkside Drive, Walnut Creek CA 94596; and

**WHEREAS**, the project is located at Lodi Shopping Center - Sunwest Village Shopping Center, southwest corner of W. Kettleman Lane and Lower Sacramento Road, Lodi, CA 95240, APN: 058-030-27; and

**WHEREAS**, the property has a General Plan designation of Commercial and is zoned Community Commercial; and

**WHEREAS**, Census Tract 41.06 in which the proposed restaurant is to be located is over concentrated of licenses allowing on premise consumption of alcoholic beverages; and

**WHEREAS**, because Census Tract 41.06 has an over-concentration of On-sale beer and wine alcohol licenses, the Planning Commission must make a finding of necessity and/or public convenience in order to permit the issuance of an additional Alcohol Beverage Control license in this tract; and

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

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

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

1. The project was found to be Categorically Exempt according to the California Environmental Quality Act Section 15321, Class 21. The project is classified as an "Enforcement action by regulatory agencies" because it is the "adoption of an administrative decision or order enforcing or revoking the lease, permit, license, certificate, or entitlement for use or enforcing the general rule, standard, or objective." No significant environmental impacts are anticipated and no mitigation measures are required.
2. The proposal involves a new restaurant in an existing building located within the Community Commercial Zoning District, which allows sale of alcohol for on-site consumption in accordance with Development Code Section 17.22.030.

3. The intent of the Community Commercial zoning district is to provide for a range of uses, emphasizing high quality development, and to encourage a wide range of commercial uses that serve the public. The proposal is consistent with this intent.
4. The General Plan land use designation for this area is Community Commercial zoning district, which provides for sale of alcohol. The proposed sale of beer and wine in conjunction with a restaurant operation is the type of business allowed by the General Plan.
5. The sale of alcoholic beverages as part of a restaurant is required by the State Department of Alcoholic Beverage Control to be secondary to food sales. Sale of alcohol in conjunction with a restaurant is a common way to increase sales and is therefore, consistent, with the General Plan.
6. The proposed sale of alcohol in conjunction with a restaurant operation is compatible with existing and future land uses in the immediate vicinity of the project area. The sale of alcohol in a restaurant is consistent with other commercial uses, such as the one proposed, in accordance with Land Use Policy subject to a discretionary review.
7. The sale of alcoholic beverages for on-premise consumption is a normal part of business operations for a restaurant and provides a convenience for customers of the business. The proposed use is surrounded by other complementary uses that cater to the local and tourist trade.
8. 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 and restaurants and other commercial uses operate in this area.
9. 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.
10. The characteristics of the proposed sale of alcohol in a restaurant operation are customary for these types of businesses. In accordance with ABC requirements, receipts from alcohol sales shall not be in excess of food sales receipts.
11. It is found that the sale of alcoholic beverages as part of a restaurant is a convenience that does not typically create alcohol related problems.
12. The proposed use would not have a substantial adverse economic effect on nearby uses because operation of a restaurant in accordance with applicable laws and under the conditions of this Use Permit is anticipated to be an economic benefit to the community.
13. Steps will be taken by the Applicant/Operator to reduce the number of incidents resulting from the over-consumption of alcohol including the proper training and monitoring of employees serving alcohol; the careful screening of IDs of customers to avoid sales to under-aged individuals; limiting the number of drinks sold to individual customers to avoid over-consumption; providing properly trained on-site security to monitor customer behavior both in and outside of the establishment; and working with the Lodi Police Dept. to resolve any problems that may arise.
14. The proposed use would not be detrimental to the general welfare of persons residing and working in the immediate vicinity, the neighborhood or the community at large because the sale of alcohol with a restaurant operation is not associated with detrimental impacts to the community.

**NOW, THEREFORE, BE IT DETERMINED AND RESOLVED** by the Planning Commission of the City of Lodi that Use Permit Application No. 2016-18 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 the sale of beer, wine and distilled spirits, this Use Permit shall be subject to a six-month and one-year review by Community Development Department and/or the Police Department. If the Community Development Department/Police Department determines it necessary, the Use Permit shall be subject to review by the Planning Commission to consider the business's operation for compliance with the conditions of the Use Permit, and in response to any legitimate complaints thereafter. Further, the City reserves the right to periodically review the area for potential problems. If problems (on-site or within the immediate area) including, but not limited to, public drunkenness, the illegal sale or use of narcotics, drugs or alcohol, disturbing the peace and disorderly conduct result from the proposed land use, the Use Permit may be subject to review and revocation by the City of Lodi after a public hearing and following the procedures outlined in the City of Lodi Municipal Code. Additional reviews may be prescribed by the Community Development Department, the Police Department and/or Planning Commission as needed during and after the one year probationary period.
4. If operation of this use results in conflicts pertaining to parking, noise, traffic, loitering, public safety or other impacts, at the discretion of the Community Development Department, this conditional use permit may be referred to the Planning Commission for subsequent review at a public hearing. If necessary, the Commission may modify or add conditions of approval to mitigate such impacts, or may revoke said conditional use permit bound upon applicable findings.
5. The City Council, Lodi Police Department, the Planning Commission and City staff may, at any time, request that the Planning Commission conduct a hearing on this Use Permit for the purpose of amending or adding new conditions to the Use Permit or to consider revocation of the Use Permit if the Use Permit becomes a serious policing problem.
6. The Applicant/Operator and/or successors in interest and management shall insure that the sale of alcohol does not cause any condition that will cause or result in repeated activities that are harmful to the health, peace or safety of persons residing or working in the surrounding area. This includes, but is not limited to: disturbances of the peace, illegal drug activity, public intoxication, drinking in public, harassment of people passing by, assaults,

batteries, acts of vandalism, loitering, excessive littering, illegal parking, excessive loud noises, traffic violations or traffic safety based upon last drink statistics, curfew violations, lewd conduct, or police detention and arrests.

7. All owners, managers and employees selling alcoholic beverages shall undergo and successfully complete a certified training program in responsible methods and skills for selling alcoholic beverages. The certified program must meet the standards of the California Coordinating Council on Responsible Beverage Service or other certifying/licensing body, which the State may designate. The establishment shall comply with the requirements of this section within 30 calendar days of effective date of this Use Permit. Records of each owner's, manager's and employee's successful completion of the required certified training program shall be maintained on the premises and shall be presented upon request by a representative of the City of Lodi. The business owner shall be responsible for on-going training to accommodate changes in personnel.
8. No person who exhibits recognized signs of over-intoxication shall be permitted within the business nor shall an intoxicated patron be sold additional alcoholic beverages. It is the responsibility of the business owner/operator to ensure no patron who exhibits recognized signs of over-intoxication is allowed into the premise.
9. Prior to commencement of the use, the applicant shall prepare and submit a practical program for controlling litter, spills, and stains resulting from the use on the site to the Community Development Department for review and approval. The program shall include a detailed time frame for the policing and cleanup of the area in front of the subject tenant space. Failure to comply with that program shall be considered a violation of the Use Permit and shall be subject to administrative remedy in accordance with Chapter 17.72 and Chapter 17.88 of the City of Lodi Municipal Code.
10. 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.
11. 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.
12. 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.
13. 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.
14. The applicant shall obtain Operational Permits from the Lodi Fire Department, Fire Prevention Bureau. The Operational Permits shall be obtained prior to commencement of sale of alcohol. The Fire Department may be contacted at (209) 333-6739.

Community Development - Building - General Comments:

16. Any changes to the existing building, which are regulated by the current codes, shall require a building permit. All plan submittals shall be based on the City of Lodi Building Regulations and currently adopted 2013 California Building code. Please review our policy handouts for specific submittal procedures.
17. 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.
18. The applicant shall obtain all required permits and licenses from the California Department of Alcoholic Beverage Control and the San Joaquin County Health Department prior to commencement of the use and maintain said permits at all times while the use is operating. Copies of all permits and licenses shall be submitted to the Community Development Department prior to commencement of the use.
19. Any fees due the City of Lodi for processing this Project shall be paid to the City within thirty (30) calendar days of final action by the approval authority. Failure to pay such outstanding fees within the time specified shall invalidate any approval or conditional approval granted. No permits, site work, or other actions authorized by this action shall be processed by the City, nor permitted, authorized or commenced until all outstanding fees are paid to the City.
20. No variance from any City of Lodi adopted code, policy or specification is granted or implied by this approval.

I certify that Resolution No. 16-XX was passed and adopted by the Planning Commission of the City of Lodi at a regular meeting held on July 27, 2016 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:** July 27, 2016

**APPLICATION NO:** Use Permit: 2016-19 U

**REQUEST:** Request for Planning Commission approval of a Use Permit to allow a Type-47 On-Sale Beer, Wine and Spirits for Alicia’s Restaurant at 114 West Pine Street. (Applicant: Alicia Valadez; File 2016-19 U; CEQA Determination: Exempt per Section 15321)

**LOCATION:** 114 West Pine Street  
Lodi, CA 95240  
APN: 043-034-04

**APPLICANT:** Alicia’s Restaurant  
Alicia Valadez  
6707 Woodhaven Place  
Riverbank, CA 95367

**PROPERTY OWNER:** Lodi Hotel Investors  
1006 4<sup>th</sup> Street #701  
Sacramento, CA 95814

**RECOMMENDATION**

Staff recommends the Planning Commission approve the request of Alicia Valadez for a Use Permit to allow the sale of beer, wine and spirits Alcoholic Beverage Control (ABC) Type 47 license (eating place) at 114 West Pine Street, subject to conditions in the attached resolution.

**PROJECT/AREA DESCRIPTION**

**General Plan Designation:** Downtown Mixed Use  
**Zoning Designation:** Downtown Mixed Use  
**Property Size:** Restaurant measures 3,000 sq. ft.

The adjacent zoning and land use characteristics:

	ADJACENT ZONING DESIGNATIONS AND LAND USES		
	GENERAL PLAN	ZONING CLASSIFICATION	EXISTING LAND USE
<b>North</b>	Downtown Mixed Use	Downtown Mixed Use	Retail/Services
<b>South</b>	Downtown Mixed Use	Downtown Mixed Use	Retail/Services
<b>East</b>	Downtown Mixed Use	Downtown Mixed Use	Retail/Services
<b>West</b>	Downtown Mixed Use	Downtown Mixed Use	Retail/Services

**BACKGROUND**

The project site is the former Topwater restaurant in the Lodi Hotel building complex. Topwater previously held a Type 47 Beer and Wine license in the tenant space. The original Type 47 ABC license / Use Permit was granted in 2007 to La Fuente. That Use Permit lapsed because of the prolonged vacancy. The applicant is proposing a new restaurant with a Type 47 ABC license for Beer, Wine and Spirits.

The applicant provided a floor plan and menu for the business. (Attachment B and C.)

The restaurant lease space is 3,000 sq ft.

The applicant intends to operate the restaurant as follows:

- Monday – Sunday – 11:00 am to 10:00 pm
- Occupancy of the restaurant is 70 persons.
- Total number of seats is customer seats is 70.
- Employees per shift is 3 to 6.

The business space does include an outdoor patio and two banquet rooms for private parties.

This is a tenant space that has been vacant for a year and a half. It is great to see a restaurant business back in this space.

Staff has conditioned the project for live music and outside dining and drinking.

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

## ANALYSIS

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



The project site is within Census Tract 42.04, which covers the area north of Lodi Avenue, west of the U.P.R.R., south of Lockeford Street and east of Ham Lane. The area is over-concentrated as defined

by ABC for licenses. Planning staff is of the opinion that a public need and necessity is warranted in this case because the primary function of the establishment is a restaurant and does not involve off-site retail or wholesale distribution of alcohol. In the past, the Planning Commission and City staff has supported restaurants that wish to acquire ABC licenses because, typically, restaurants that serve alcohol in conjunction with food sales do not create alcohol related problems. The ABC Type 47 license requires the restaurant to operate as a bone fide eating establishment.

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 restaurant in an existing building located within the Downtown Mixed Use (DMU) Zoning District, which allows sale of alcohol for on-site consumption in accordance with Development Code Section 17.22.030. The intent of the DMU zoning district is to provide for a range of uses, emphasizing high quality development, and to encourage revitalization of existing buildings. 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 Downtown Mixed Use, which provides for sale of alcohol. The proposed sale of beer, wine and spirits in conjunction with a restaurant operation is the type of business allowed by the General Plan. The sale of alcoholic beverages as part of a restaurant is required by the State Department of Alcoholic Beverage Control to be secondary to food sales. Sale of alcohol in conjunction with a restaurant is a common way to increase sales and is therefore, consistent, with the General Plan.
3. *The location, size, design and operating characteristics of the use or development is compatible with and shall not adversely affect or be materially detrimental to the health, safety, or welfare of persons residing or working in the area, or be detrimental or injurious to public or private property or improvements. **Comment:*** The proposed sale of alcohol in conjunction with a restaurant operation is compatible with existing and future land uses in the immediate vicinity of the project area. The sale of alcohol in a restaurant is consistent with other commercial uses, such as the one proposed, in accordance with Land Use Policy subject to a discretionary review. The sale of alcoholic beverages for on-premise consumption is a normal part of business operations for a restaurant and provides a convenience for customers of the business. The proposed use is located in the heart of the downtown area and is surrounded by other complementary uses that cater to the local and tourist trade.
4. *The location, size, design, and operating characteristics of the proposed use would be compatible with the existing and future land uses in the vicinity. **Comment:*** The proposed use complies with all requirements as set forth for the issuance of this Use Permit, in that the site is adequate in size, shape and topography for the proposed use, consisting of an existing building. Second, restaurants/bars, tasting rooms and other commercial uses with sale of alcohol operate in this area. Third, the proposed use, as conditioned, will not have an adverse effect upon the use, enjoyment or valuation of property in the neighborhood because the proposed use will be located within an existing building with no additions to the footprint of the building. Fourth, the characteristics of the proposed sale of alcohol in a restaurant/bar operation are customary for these types of businesses. In accordance with ABC requirements, receipts from alcohol sales shall not be in excess of food sales receipts. Lastly, it is found that the sale of alcoholic beverages as part of a restaurant is a convenience that does not typically create alcohol related problems.
5. *The proposed project has been reviewed in compliance with the California Environmental Quality Act (CEQA) and the Lodi Environmental Review Guidelines. **Comment:*** The project 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, July 16, 2016. Forty-five (45) 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 to allow the sale of beer, wine and spirits Alcoholic Beverage Control (ABC) Type 47 license at 114 West Pine 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  
City Planner

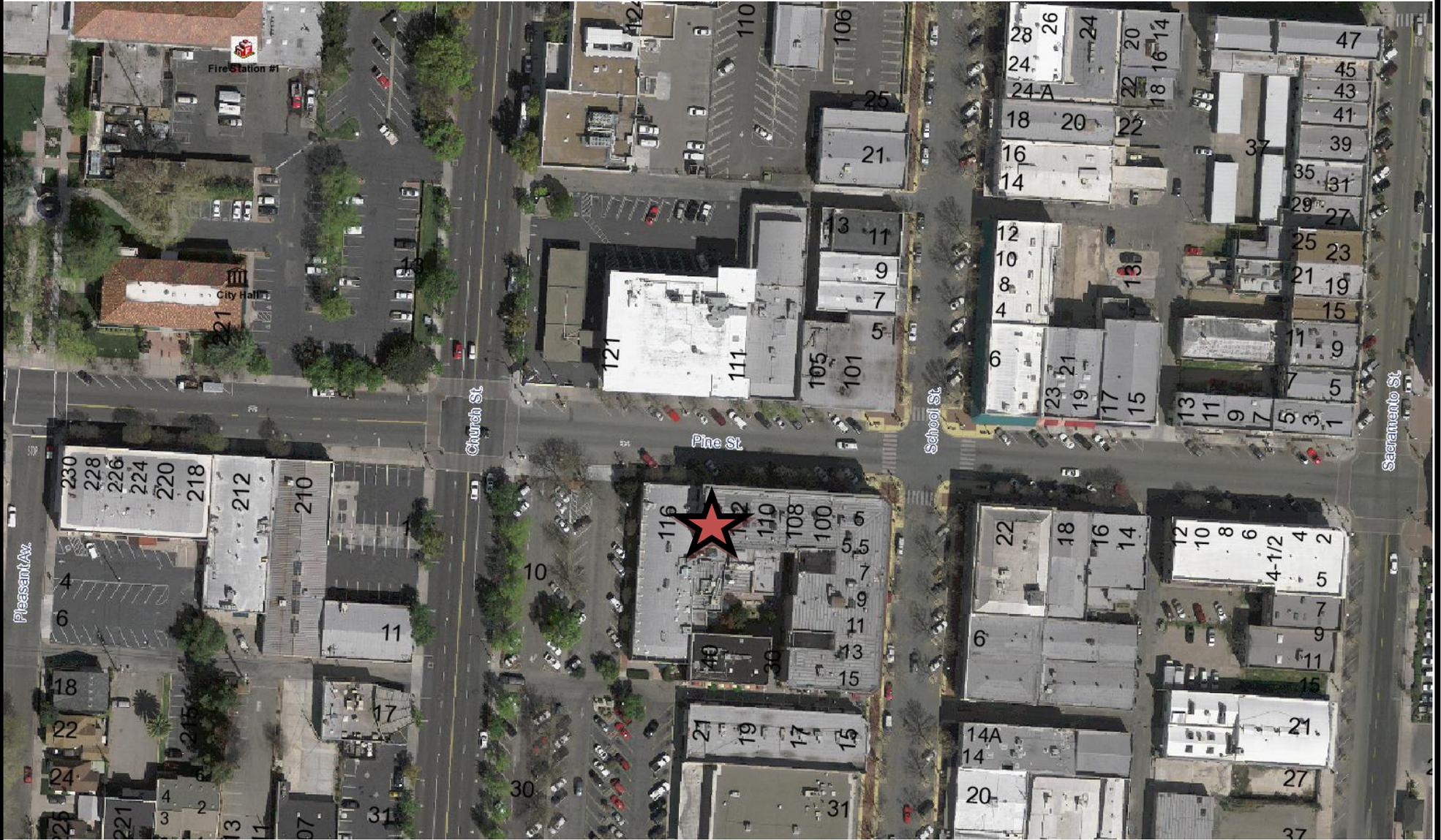
Stephen Schwabauer  
Community Development Director

**ATTACHMENTS:**

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

# VICINITY MAP

North



South

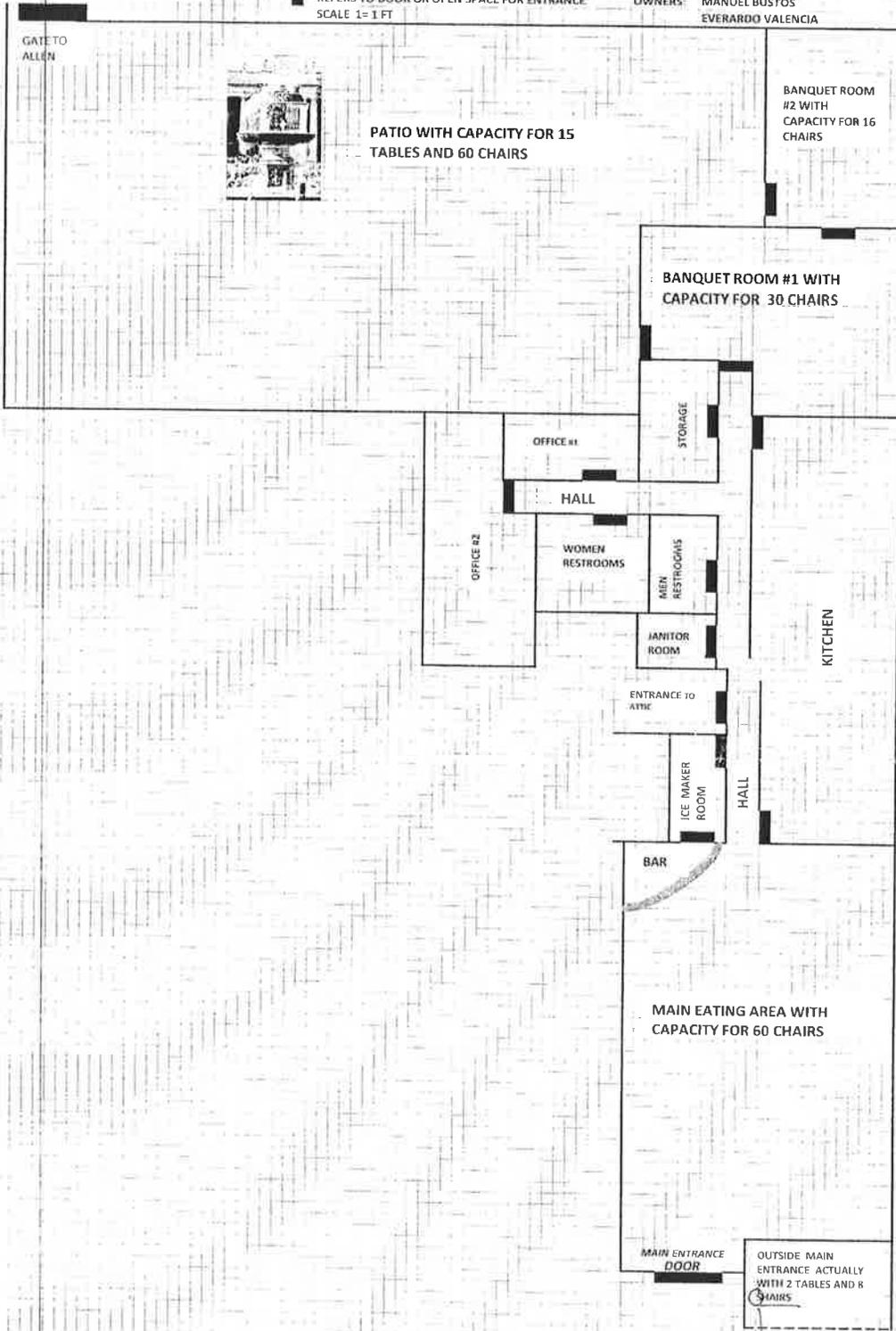
## 114 West Pine Street

# RESTAURANT 114 W. PINE LODI CA 95240

REFERS TO DOOR OR OPEN SPACE FOR ENTRANCE  
SCALE 1" = 1' FT

OWNERS: MANUEL BUSTOS  
EVERARDO VALENCIA

LODI HOTEL



W. PINE ST

*chairs*

COMMUNITY DEVELOPMENT DEPT  
CITY OF LODI

RECEIVED

GUACAMOLE...AVOCADO, CILANTRO, TOMATO, ONION, JALAPENO, LIME JUICE.....	8.99
MADE FRESH AT YOUR TABLE	
STUFFED JALAPENOS....GRILLED JALAPENOS WRAPPED IN BACON AND STUFFED WITH CHEESE....	7.99
4 JALAPENOS PER ORDER	
SAMPLER...CHICKEN QUESADILLA, CHICKEN TAQUITOS, BEAN SOPE, GUACAMOLE, SOUR CREAM.....	14.99
QUESADILLA.....cheese only (smaller version of the regular quesadilla).....	6.99
NACHOS GRANDE... CORN CHIPS, BEANS, CHEESE, SOUR CREAM, GUACAMOLE, PICO DE GALLO....	7.99
WITH CARNE ASADA, CHICKEN, PORK.....	10.99
WITH SHRIMP.....	12.99
BURRITO...choice of meat; beef, chicken,pork, rice, beans, salsa.....	8.99
WITH GUACAMOLE, SOUR CREAM, SALSA, CHEESE.....	9.99
TACO SALAD...taco salad bowl with beans and rice, choice of meat; beef, chicken, pork.....	12.99
TOPPED WITH LETTUCE, SOUR CREAM, CHEESE, GUACAMOLE, PICO DE GALLO	
TORTAS....bolillo bread, choice of meat; beef, chicken, pork.....	10.99
WITH SOUR CREAM, AVOCADO, PICO DE GALLO, CHEESE, LETTUCE	
TOSTADA DE CEVICHE.....	6.99
COCKTEL DE CAMARON..onion, avocado, cucumber,cilantro, lime, tomato, ketchup.....	9.99
All plates served with rice and beans	
(2) ENCHILADA PLATE....choice of meat; beef, chicken or pork.....	12.99
WITH CHEESE ONLY.....	11.99
WITH SHRIMP.....	13.99
(2) TACO PLATE..... soft or crunchy, choice of meat; beef, chicken or pork.....	12.99
SOFT TACOS SERVED WITH CILANTRO, ONION, SALSA	
CRUNCHY TACOS SERVED WITH LETTUCE, TOMATO, SALSA, CHEESE	
(3) TAQUITO PLATE.....	12.99
choice of meat; beef, chicken, pork topped with lettuce, sour cream, guacamole, tomato, cheese, salsa	
(2) TOSTADA PLATE.....	12.99
layered with beans, choice of meat; beef, chicken, pork topped with lettuce, sour cream, guacamole, pico de gallo, cheese	
CHILE RELLENO PLATE.....	11.99
(2) SOPE PLATE.choice of meat; beef, chicken, pork, with beans topped with lettuce, salsa, cheese..	12.99
CHIMICHANGA.....deep fried burrito choice of meat; beef, chicken, pork, rice and beans.....	9.99
topped with lettuce, sour cream, guacamole, pico de gallo, cheese	

QUESADILLA.....choice of meat; beef, chicken, pork, and pico de gallo.....	11.99
with side of sour cream and guacamole	
CHEESE ONLY.....	8.99
VEGETARIAN....with grilled onions, bell peppers, pico de gallo.....	9.99
SERVED WITH GUACAMOLE, SOUR CREAM, AND LETTUCE	
MILANESA PLATE.beef or chicken; served with side of lettuce, guacamole, sour cream, pico de gallo..	13.99
CHILE COLORADO...beef chunks served with side of lettuce, guacamole, sour cream, pico de gallo...	13.99
CHILE VERDE...pork chunks served with side of lettuce, guacamole, sour cream, pico de gallo.....	13.99
CARNITAS.....	13.99
POLLO ASADO....1/2 roasted chicken served with lettuce, guacamole, sour cream, pico de gallo.....	14.99
CAMARONES EMPANIZADOS..(6) breaded shrimp served with guacamole, sour cream, pico de gallo..	13.99
CAMARONES AL MOJO DE AJO..sauteed shrimp in a garlic sauce.....	15.00
CAMARONES A LA DIABLA.....shrimp in a spicy sauce.....	15.00
CAMARONES RANCHEROS.....shrimp sauteed with bell peppers, onions, tomatos.....	15.00
FAJITAS....choice of meat; beef, chicken, pork, served on a bed of onions and bell pepers.....	14.99
TWO MEATS.....	15.99
THREE MEATS.....	16.99
SHRIMP.....	15.99
VEGETARIAN.....	12.99
CARNE ASADA.....	13.99
MENUDO (AVAILABLE SATURDAY AND SUNDAY).....	12.99
KIDS MENU: (FOR CHILDREN UNDER 10 YRS OLD)	

ITEMS INCLUDE FOUNTAIN DRINK, RICE AND BEANS OR FRENCH FRIES

TACO	
BURRITO (BEAN AND CHEESE)	
(2)TAQUITOS	5.99
ENCHILADA	
CHEESE QUESADILLA	
NUGGETS	

COMBO PLATES:

choose from taco, sope, enchilada, tostada, quesadilla, burrito, chile relleno

2 ITEMS.....	12.99
3 ITEMS.....	15.99
SHRIMP ITEMS (2 ITEMS) .....	14.99
(3 ITEMS).....	17.99

LUNCH MENU: FROM 11:00-2:00

2 ITEMS.....	11.99
3 ITEMS.....	14.99
SHRIMP ITEMS (2 ITEMS).....	13.99
(3 ITEMS).....	16.99

**\*\*INCLUDES CHOICE OF SOFT DRINK\*\***

**RESOLUTION NO. P.C. 16-XX**

**A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF LODI APPROVING THE REQUEST OF ALICIA VALADEZ FOR A USE PERMIT FOR A TYPE 47 ABC LICENSE TO ALLOW SALE OF BEER, WINE AND SPIRITS AT 114 WEST PINE STREET**

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

**WHEREAS**, the project proponents are Alicia's Restaurant, Alicia Valadez, 6707 Woodhaven Place, Riverbank, CA 95367; and

**WHEREAS**, the project parcel is owned by Lodi Hotel Investors, 1006 4<sup>th</sup> Street #701, Sacramento, CA 95814; and

**WHEREAS**, the project is located at 114 West Pine Street, Lodi, CA 95240, APN: 043-034-04; and

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

**WHEREAS**, because Census Tract 42.04 has an over-concentration of On-sale beer and wine alcohol licenses, the Planning Commission must make a finding of necessity and/or public convenience in order to permit the issuance of an additional Alcohol Beverage Control license in this tract; and

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

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

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

1. The project was found to be Categorically Exempt according to the California Environmental Quality Act Section 15321, Class 21. The project is classified as an "Enforcement action by regulatory agencies" because it is the "adoption of an administrative decision or order enforcing or revoking the lease, permit, license, certificate, or entitlement for use or enforcing the general rule, standard, or objective." No significant environmental impacts are anticipated and no mitigation measures are required.
2. The proposal involves a new restaurant in an existing building located within the Downtown Mixed Use (DMU) Zoning District, which allows sale of alcohol for on-site consumption in accordance with Development Code Section 17.22.030.
3. The intent of the DMU zoning district is to provide for a range of uses, emphasizing high quality development, and to encourage revitalization of existing buildings. The proposal is consistent with this intent.
4. The General Plan land use designation for this area is Downtown Mixed Use, which provides for sale of alcohol. The proposed sale of beer, wine and spirits in conjunction with a restaurant operation is the type of business allowed by the General Plan. The sale of alcoholic beverages as part of a restaurant is required by the State Department of Alcoholic

Beverage Control to be secondary to food sales. Sale of alcohol in conjunction with a restaurant is a common way to increase sales and is therefore, consistent, with the General Plan.

5. The proposed sale of alcohol in conjunction with a restaurant operation is compatible with existing and future land uses in the immediate vicinity of the project area. The sale of alcohol in a restaurant is consistent with other commercial uses, such as the one proposed, in accordance with Land Use Policy subject to a discretionary review.
6. The sale of alcoholic beverages for on-premise consumption is a normal part of business operations for a restaurant and provides a convenience for customers of the business. The proposed use is located in the heart of the downtown area and is surrounded by other complementary uses that cater to the local and tourist trade.
7. 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.
8. Restaurants/bars, tasting rooms and other commercial uses with sale of alcohol operate in this area.
9. 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.
10. The characteristics of the proposed sale of alcohol in a restaurant/bar operation are customary for these types of businesses. In accordance with ABC requirements, receipts from alcohol sales shall not be in excess of food sales receipts.
11. The sale of alcoholic beverages as part of a restaurant is a convenience that does not typically create alcohol related problems.

**NOW, THEREFORE, BE IT DETERMINED AND RESOLVED** by the Planning Commission of the City of Lodi that Use Permit Application No. 2016-19 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, this Use Permit shall be subject to a six-month and one-year review by Community Development Department and/or the Police

Department. If the Community Development Department/Police Department determines it necessary, the Use Permit shall be subject to review by the Planning Commission to consider the business's operation for compliance with the conditions of the Use Permit, and in response to any legitimate complaints thereafter. Further, the City reserves the right to periodically review the area for potential problems. If problems (on-site or within the immediate area) including, but not limited to, public drunkenness, the illegal sale or use of narcotics, drugs or alcohol, disturbing the peace and disorderly conduct result from the proposed land use, the Use Permit may be subject to review and revocation by the City of Lodi after a public hearing and following the procedures outlined in the City of Lodi Municipal Code. Additional reviews may be prescribed by the Community Development Department, the Police Department and/or Planning Commission as needed during and after the one year probationary period.

4. If operation of this use results in conflicts pertaining to parking, noise, traffic, loitering, public safety or other impacts, at the discretion of the Community Development Department, this conditional use permit may be referred to the Planning Commission for subsequent review at a public hearing. If necessary, the Commission may modify or add conditions of approval to mitigate such impacts, or may revoke said conditional use permit bound upon applicable findings.
5. The City Council, Lodi Police Department, the Planning Commission and City staff may, at any time, request that the Planning Commission conduct a hearing on this Use Permit for the purpose of amending or adding new conditions to the Use Permit or to consider revocation of the Use Permit if the Use Permit becomes a serious policing problem.
6. The Applicant/Operator and/or successors in interest and management shall insure that the sale of alcohol does not cause any condition that will cause or result in repeated activities that are harmful to the health, peace or safety of persons residing or working in the surrounding area. This includes, but is not limited to: disturbances of the peace, illegal drug activity, public intoxication, drinking in public, harassment of people passing by, assaults, batteries, acts of vandalism, loitering, excessive littering, illegal parking, excessive loud noises, traffic violations or traffic safety based upon last drink statistics, curfew violations, lewd conduct, or police detention and arrests.
7. All owners, managers and employees selling alcoholic beverages shall undergo and successfully complete a certified training program in responsible methods and skills for selling alcoholic beverages. The certified program must meet the standards of the California Coordinating Council on Responsible Beverage Service or other certifying/licensing body, which the State may designate. The establishment shall comply with the requirements of this section within 30 calendar days of effective date of this Use Permit. Records of each owner's, manager's and employee's successful completion of the required certified training program shall be maintained on the premises and shall be presented upon request by a representative of the City of Lodi. The business owner shall be responsible for on-going training to accommodate changes in personnel.
8. No person who is in a state of intoxication shall be permitted within the business nor shall an intoxicated patron be sold additional alcoholic beverages. It is the responsibility of the business owner/operator to ensure no patron in state of intoxication is allowed into the premise.
9. The business shall have interior security video cameras operating during all hours that the business is open. The videotapes of the security video cameras shall be maintained for a minimum period of 30 days, and the videotapes must be made immediately available for any law enforcement officer who is making the request as a result of official law enforcement business. The video cameras must be positioned in a way to capture the facial features of

anyone entering the business and include cameras that capture all money handling areas. If the Chief of Police determines that there is a necessity to have additional security cameras installed, the owner of the business must comply with the request within 7 calendar days. The Chief of Police can also require that the business change the position of the video cameras if it is determined that the position of the cameras do not meet security needs. The owner of the business must comply with the request within 7 calendar days. The said security video camera shall be installed and approved prior to business opening.

10. Prior to commencement of the use, the applicant shall prepare and submit a practical program for controlling litter, spills, and stains resulting from the use on the site to the Community Development Department for review and approval. The program shall include a detailed time frame for the policing and cleanup of the public sidewalk and right-of-way in front of the subject. Failure to comply with that program shall be considered a violation of the Use Permit and shall be subject to administrative remedy in accordance with Chapter 17.72 and Chapter 17.88 of the City of Lodi Municipal Code.
11. The subject property and its immediate surrounding shall be maintained neat and clean at all times. The subject property and its immediate surrounding shall be maintained free from debris and graffiti at all times. The property owner shall remove any debris or graffiti within 24-hours upon notification by the City. Litter on the site and any litter scattered on nearby property, streets, and sidewalks shall be removed daily. If necessary, the applicant shall steam clean the project site and its immediate surrounding premises as often as needed.
12. In the event of graffiti or other extraneous markings occurring, the applicant/operator and/or successors in interest and management shall remove or cover said markings, drawings, or signage within 24 hours of such occurrence, weather permitting. Paint utilized in covering such markings shall be of a color that matches, as closely as possible, the color of the adjacent surfaces.
13. Any change in operational characteristics, expansion in area or other modification to the approved plans shall require an amendment to this Use Permit or the processing of a new Use Permit.
14. All music, including live bands, video and disc jockeys, and karaoke, shall be conducted indoors at all times. Doors shall remain closed during all performances or while music is being played.
15. Typical outside noise levels is approximately 65 to 70 dBA. Live music outside the building should mimic the existing conditions within a few decibels variation.
16. Any music on the outdoor patio should be limited to afternoon hours and end by 8:30 pm. Further limitations could be created by the Hotel Lodi residents.
17. 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.
18. The patio area shown on the public sidewalk must receive a downtown encroachment permit from the Public Works Department for the proposed outdoor seating and serving of alcohol as per the Downtown Development and Standards Guidelines.
19. In the event that the City of Lodi requires all Alcohol Use Permit holders to help fund private security in the downtown area, this business establishment will fund a proportional share.
20. The applicant shall obtain Operational Permits from the Lodi Fire Department, Fire Prevention Bureau. The Operational Permits shall be obtained prior to commencement of

restaurant operation. The Fire Department may be contacted at 25 East Pine Street, Lodi, CA 95240-2127. Phone Number (209) 333-6739.

21. Any changes to the existing building, which are regulated by the current codes, shall require a building permit. All plan submittals shall be based on the City of Lodi Building Regulations and currently adopted 2013 California Building code. Please review our policy handouts for specific submittal procedures.
22. The applicant shall obtain all required permits and licenses from the California Department of Alcoholic Beverage Control and the San Joaquin County Health Department prior to commencement of the use and maintain said permits at all times while the use is operating. Copies of all permits and licenses shall be submitted to the Community Development Department prior to commencement of the use.
23. 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.
24. No variance from any City of Lodi adopted code, policy or specification is granted or implied by this approval.

I certify that Resolution No. 16-XX was passed and adopted by the Planning Commission of the City of Lodi at a regular meeting held on July 27, 2016 by the following vote:

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

**ATTEST** \_\_\_\_\_

**Secretary, Planning Commission**