

**LODI PLANNING COMMISSION
REGULAR COMMISSION MEETING
CARNEGIE FORUM, 305 WEST PINE STREET
WEDNESDAY, JANUARY 28, 2009**

1. CALL TO ORDER / ROLL CALL

The Regular Planning Commission meeting of January 28, 2009, was called to order by Chair Kiser at 7:00 p.m.

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

Absent: Planning Commissioners –

Also Present: Interim Community Development Director Konradt Bartlam, Deputy City Attorney Janice Magdich, Senior Planner David Morimoto, Assistant Planner Immanuel Bereket, and Administrative Secretary Kari Chadwick

2. MINUTES

“December 18, 2008”

MOTION / VOTE:

The Planning Commission, on motion of Commissioner Olson, Kirsten second, approved the Minutes of December 18, 2008 as written. (Commissioner Heinitz abstained because he was not in attendance at the subject meeting)

3. PUBLIC HEARINGS

- a) Notice thereof having been published according to law, an affidavit of which publication is on file in the Community Development Department, Chair Kiser called for the public hearing to consider the request continued from September 10, 2008 for a Use Permit to allow conversion of four existing duplexes into residential condominiums; and

The request for a Tentative Parcel Map to divide four duplexes into eight residential condominiums. (Applicant: Baumbach and Piazza, Inc. on behalf of Fred Baker. File # 08-U-10 and 08-P-01, respectively).

Senior Planner David Morimoto gave a brief PowerPoint presentation based on the staff report.

Hearing Opened to the Public

- Steve Pechin, Baumbach & Piazza, came forward to answer any questions.
- Commissioner Heinitz asked if the duplexes were built with a party wall between the two units. Mr. Pechin stated that he believes they were built with a party wall.
- Fred Baker, applicant, came forward to state that within the CC&R's the look of the duplexes can be maintained.
- John Giannoni Jr. came forward to object to the project. Mr. Giannoni stated that the duplexes should never have been built in that area. He stated that when the maps were drawn and the environmental documents prepared there was no mention of duplexes for any of the lots in the development. Mr. Giannoni would like to see the duplexes converted back into single family residences not into condominiums.

Public Portion of Hearing Closed

- Commissioner Hennecke asked staff to clarify Mr. Giannoni's statements regarding the CC&R's. Mr. Bartlam stated that CC&R's are not governed by the City. Corner lots are viable lots for duplexes according to the zoning ordinance.

MOTION / VOTE:

The Planning Commission, on motion of Commissioner Kirsten, Olson second, approved the request for a Tentative Parcel Map to allow conversion of four existing duplexes into individual residential condominium units subject to the conditions in the resolution. The motion carried by the following vote:

Ayes: Commissioners – Cummins, Heinitz, Kirsten, Olson, Mattheis, and Chair Kiser
Noes: Commissioners – Hennecke

MOTION / VOTE:

The Planning Commission, on motion of Commissioner Mattheis, Heinitz second, approved the request for a Use Permit to allow conversion of four existing duplexes into residential condominiums subject to the conditions in the resolution. The motion carried by the following vote:

Ayes: Commissioners – Cummins, Heinitz, Kirsten, Olson, Mattheis, and Chair Kiser
Noes: Commissioners – Hennecke

- b) Notice thereof having been published according to law, an affidavit of which publication is on file in the Community Development Department, Chair Kiser called for the public hearing to consider the request for a Variance to reduce the side yard setback from the required 5-feet to 2-feet 9-inches for an existing detached bonus room located at 1021 S. Church Street. (Applicant: Matt Dobbins; File #: 08-A-01)

Assistant Planner Immanuel Bereket gave a brief PowerPoint presentation based on the staff report.

Commissioner Heinitz asked if this was going to be used as a second unit. Mr. Bereket stated that it was not going to be used as a second dwelling unit. Chair Kiser added that the property is fixed up to be an in-law quarters. Mr. Bartlam stated that one of the requirements of the variance is that the kitchen be removed.

Hearing Opened to the Public

- Matt Dobbins, applicant, came forward to answer questions.
- Commissioner Heinitz asked how much Mr. Dobbins has spent to go through this process. Mr. Dobbins stated about ten thousand dollars. Mr. Dobbins stated his appreciation to staff for all of their assistance.

Chair Kiser disclosed that he spoke with Mr. Dobbins regarding this project.

Commissioner Hennecke disclosed that he spoke with Mr. Dobbins regarding this project.

Public Portion of Hearing Closed

- Commissioner Heinitz stated that with all of the foreclosures on the market this will be happening more often. He would like to see the process more applicant friendly. Mr. Bartlam stated that he understands what Commissioner Heinitz is saying, and believes that Mr. Dobbins did his due diligence in checking the property out before buying it. It just happened that while Mr. Dobbins was making his offer for the property the code enforcement action was being processed.

MOTION / VOTE:

The Planning Commission, on motion of Commissioner Kirsten, Heinitz second, approved the request for a Variance to reduce the side yard setback from the required 5-feet to 2-feet 6-

Continued

inches for an existing detached bonus room located at 1021 S. Church Street subject to the conditions in the resolution. The motion carried by the following vote:

Ayes: Commissioners – Cummins, Heinitz, Hennecke, Kirsten, Olson, Mattheis, and
Chair Kiser

Noes: Commissioners – None

Commissioner Olson stated that she concurred with Commissioner Heinitz and would like to see a friendlier process for people trying to purchase these types of homes. Mr. Bartlam stated that there is an Administrative Deviation process in place that allows the set back to go down to three feet, but because this application was two feet, six inches it had to go through the Variance process.

Commissioner Kirsten asked what the cost would have been to the applicant had he gone through the Administrative Deviation process. Mr. Bartlam stated that the filing fee would have been about two thousand dollars. He also added that he believes, but can not confirm, that the ten thousand dollars that Mr. Dobbins alluded to also includes various other fees such as building permits fees, and those fees will not change with the Administrative Deviation process.

Commissioner Hennecke stated that there are quite a few of these properties out there some with more code enforcement issues than others, and with so many bank owned there won't be the disclosure of those issues to potential buyers. He doesn't feel there is a way to streamline this process and suggests that people do there homework.

Chair Kiser asked why the banks don't have to disclose code enforcement issues. Commissioner Heinitz stated that they are exempt.

- c) Notice thereof having been published according to law, an affidavit of which publication is on file in the Community Development Department, Chair Kiser called for the public hearing to consider the request for a Use Permit to allow a Type 2 (Winery) Alcoholic Beverage Control License at 770 North Guild Avenue. (Applicant: Robert Mondavi Winery, Inc.; File Number: 08-U-17)

David Morimoto stated that staff has been informed from ABC that the type of license for this application is a type 17 not a type 2. Mr. Morimoto gave a brief PowerPoint presentation based on the staff report.

Hearing Opened to the Public

- Rick Anderson, Manager at the Mondavi facility, came forward to answer questions. Mr. Anderson stated that at this time this distribution center handles many wines from all over the world. Currently the employees have to travel to the individual wineries if they wish to purchase any to the wine that is handled on site. Mr. Anderson stated that by approving this application the employees will be able to purchase the wines that circulate through the facility and generate sales revenue for the City of Lodi.

Public Portion of Hearing Closed

MOTION / VOTE:

The Planning Commission, on motion of Commissioner Olson, Hennecke second, approved the request for a Use Permit to allow a Type 17 Alcoholic Beverage Control License at 770 North Guild Avenue subject to the conditions in the resolution. The motion carried by the following vote:

Ayes: Commissioners – Cummins, Heinitz, Hennecke, Kirsten, Olson, Mattheis, and
Chair Kiser

Noes: Commissioners – None

- d) Notice thereof having been published according to law, an affidavit of which publication is on file in the Community Development Department, Chair Kiser called for the public hearing to consider the request of a Use Permit to allow a Type 48 on-sale General ABC license at 114 North Sacramento Street. (Applicant: Darrell Drummond. File Number: 08-U-15)

Immanuel Bereket gave a brief PowerPoint presentation based on the staff report.

Chair Kiser asked about the days and hours of operation and how that affects the days and hours of operation for the other establishments referenced in the staff report. Will they be coming back to alter their permit? Mr. Bartlam stated that the three establishments that are referenced in the staff report pre-date the City's Use Permit requirements and can alter their hours without coming to the Planning Commission.

Commissioner Kirsten disclosed that he spoke with the applicant regarding this project.

Hearing Opened to the Public

- Darrell Drummond, applicant, came forward to answer questions. Mr. Drummond stated that he has been in constant communications with City Staff.
- Commissioner Hennecke asked why Mr. Drummond is applying for the Use Permit if he isn't going to be using or applying for the ABC License. Mr. Drummond stated that he understood from City Staff that he needed to get the Use Permit.
- Commissioner Heinitz asked staff if the Use Permit and the ABC license could be in separate names. Mr. Bartlam stated that it can be, but it isn't how it has typically been done. The Use Permit runs with the land so having Mr. Drummond holding that permit will give him more incentive to maintain responsible tenants.
- Commissioner Mattheis asked if the language in the Resolution should be altered to reflect that it is the applicant or tenant that will need to meet the requirements of ABC? Mr. Bartlam stated that it would be his preference to have it read operator if the Commission chooses to go forward with the application.
- Mr. Drummond stated that he is in favor of holding the Use Permit because it will give him more control over the tenant and will allow him to work more closely with the Police Department to maintain good tenants.
- Pat Patrick, Chamber of Commerce Representative, came forward in support of the project.

Public Portion of Hearing Closed

- Commissioner Kirsten stated that he spoke with the Police Department and the Police feel that Mr. Drummond will be a diligent landlord.
- Vice Chair Cummins stated that he also spoke with the Police Department and got the same answer as Commissioner Kirsten.

MOTION / VOTE:

The Planning Commission, on motion of Commissioner Kirsten, Cummins second, approved the request for a Use Permit to allow a Type 48 on-sale General ABC license at 114 North Sacramento Street subject to the conditions in the resolution. The motion carried by the following vote:

Ayes: Commissioners – Cummins, Heinitz, Hennecke, Kirsten, Olson, Mattheis, and
Chair Kiser

Noes: Commissioners – None

Continued

Chair Kiser called for a short break (8:07)
Chair Kiser called the meeting back to order (8:13)

4. PLANNING MATTERS/FOLLOW-UP ITEMS

None

5. ANNOUNCEMENTS AND CORRESPONDENCE

Mr. Bartlam stated that at the next City Council meeting the Council will be taking action concerning the letter received by the Lawyer representing the Citizens for Open Government regarding the City Council meeting held on December 10, 2008 for the Lodi Shopping Center REIR Certification.

6. ACTIONS OF THE CITY COUNCIL

Mr. Bartlam stated that the City Council and the Planning Commission will be holding a joint meeting on February 11, 2009 regarding the General Plan Preferred Alternative.

7. GENERAL PLAN UPDATE/DEVELOPMENT CODE UPDATE

None

8. ACTIONS OF THE SITE PLAN AND ARCHITECTURAL REVIEW COMMITTEE

None

9. ART IN PUBLIC PLACES

Commissioner Kirsten gave a brief report on the latest meeting.

10. COMMENTS BY THE PUBLIC

None

11. COMMENTS BY STAFF AND COMMISSIONERS

None

12. ADJOURNMENT

There being no further business to come before the Planning Commission, the meeting was adjourned at 8:16 p.m.

ATTEST:

Konradt Bartlam
Community Development Director