

**LODI PLANNING COMMISSION
REGULAR COMMISSION MEETING
CARNEGIE FORUM, 305 WEST PINE STREET
WEDNESDAY, NOVEMBER 10, 2010**

1. CALL TO ORDER / ROLL CALL

The Regular Planning Commission meeting of November 10, 2010, was called to order by Chair Hennecke at 7:00 p.m.

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

Absent: Planning Commissioners – Cummins and Jones

Also Present: Community Development Director Konradt Bartlam, Deputy City Attorney Janice Magdich, Associate Planner Immanuel Bereket, and Administrative Secretary Kari Chadwick

2. MINUTES

“October 27, 2010”

The October 27, 2010 minutes will be brought back to the next meeting because a quorum of Commissioners are not available to vote at this time.

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 Hennecke called for the public hearing to consider the request for a Use Permit to allow a Type-47 On-Sale General Alcoholic Beverage Control License at 2310 Tienda Drive. (Applicant: Chipotle Mexican Grill, Inc. File Number: 10-U-13)

Associate Planner Bereket gave a brief PowerPoint presentation based on the staff report. Staff recommends approval of the project.

Commissioner Heinitz asked why the restaurant isn't going to serve alcohol outside. Director Bartlam recommended that the question be directed toward the applicant. Heinitz asked if there is an extra charge for outside service. Bartlam stated that there is not nor is it prohibited.

Hearing Opened to the Public

- Tina Phanthaamat, representative of Chipotle, came forward to answer questions.
- Commissioner Heinitz asked if Ms. Phanthaamat was the owner or going to be the manager of this location. Ms. Phanthaamat stated that the manager has not been determined. Heinitz asked if the owners were present. Ms. Phanthaamat stated no. Heinitz asked why more individuals were not present. Ms. Phanthaamat stated that she didn't know why more representatives weren't present tonight. The application was submitted by Adriana out of the Omaha office and she sent out an email asking the area representative to attend, but he is in a meeting in San Francisco, so they asked her to come. She is familiar with the area since she was the manager of the Stockton location prior to going to Modesto. Heinitz asked if the owner of the franchise is local. Ms. Phanthaamat stated that Chipotle is corporately owned not a franchise and opening in Lodi is highly anticipated. Heinitz expressed his disappointment in the company for not being able to find someone other than just a manager from Modesto to represent them.

Continued

- Commissioner Kirsten asked what the anticipated opening date is. Ms. Phanthaamat stated that the anticipated date is in April 2011.
- Chair Hennecke asked if alcohol is served in the outside area in Modesto. Ms. Phanthaamat stated that it is not.
- Commissioner Kiser asked who the owners are. Ms. Phanthaamat stated that the CEO is Steve Else and he is out of Denver Colorado. The regional office is in Natomas California. Kiser asked if the owners didn't think it was important enough to be able to make it to the meeting tonight. Ms. Phanthaamat stated that that is not the case. She added that when the request to attend went out the area manager, Scott Tenner, was already scheduled to attend a meeting in San Francisco, so they asked her to attend.
- Commissioner Heinitz stated his displeasure over the fact that someone in authority could not make it to the meeting. Ms. Phanthaamat stated she spoke with Adriana and her boss to prepare for the meeting tonight and they felt she was empowered enough to answer any questions the Commission might have.

Public Portion of Hearing Closed

- Commissioner Kirsten stated that he understands some of the points that his fellow Commissioners have made, but feels that the Commission can get beyond those issues. Chipotle is a well known entity and he does not believe that there will be any issues with the management that is chosen.
- Commissioner Heinitz stated that he can not support the project without someone of authority here to answer questions. This is not a given. He would like to see the item tabled until someone else can be present.
- Vice Chair Olson stated that she can appreciate the fact that Commissioner Heinitz may have questions that he would like to have answered, but she hasn't heard a question that Ms. Phanthaamat can't answer. Based on the information provided she doesn't feel that not having someone here from corporate should be a deal breaker. Olson is comfortable with the representative that has been sent here tonight and if there is a question that should be asked that Commissioners don't feel that she can answer she would like to hear it. She does not think that the item should be on hold because someone from Denver isn't present. Commissioner Heinitz stated that he doesn't expect someone from Denver, but the district manager is in Sacramento. Olson would like to know what question Ms. Phanthaamat can not answer. Heinitz stated that she is not the manager of this store. Olson stated that she stated that they don't know the management of this store yet.
- Commissioner Kiser stated that he has the same concerns as Commissioner Heinitz and would like to see the manager or someone of ownership here to answer questions. Any time an item like this has come before the Commission a manager or owner has come and represented the project. It is matter of respect. If Ms. Phanthaamat was going to be the manager of this location he would not have a problem with the representation. He supports the project.
- Chair Hennecke stated that having Ms. Phanthaamat here to represent the company was a business decision made by Chipotle.
- Commissioner Heinitz stated that he is not voting for or against the project, he would like to see it tabled. There have been past examples of why we should not vote on this item tonight.
- Commissioner Kirsten stated that with a company like Chipotle the management could change hands a number of times, so having the current management here tonight isn't a point to get stuck on. He has a high level of confidence that whomever they choose to manage the local location will be spot on.
- Vice Chair Olson restated her support for the project.

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- Commissioner Heinitz stated that he doesn't want to vote no, but would like to see the item tabled until someone from corporate can attend the meeting. He believes it is a slap in the face.

MOTION / VOTE:

The Planning Commission, on motion of Commissioner Kirsten, Olson second, approved the request of the Planning Commission for a Use Permit to allow a Type-47 On-Sale General Alcoholic Beverage Control License at 2310 Tienda Drive subject to the conditions in the attached resolution. The motion carried by the following vote:

Ayes: Commissioners – Kirsten, Olson, and Chair Hennecke

Noes: Commissioners – Heinitz and Kiser

Absent: Commissioners – Cummins and Jones

- b) Notice thereof having been published according to law, an affidavit of which publication is on file in the Community Development Department, Chair Hennecke called for the public hearing to consider the request for a Use Permit to allow a Type-47 On-Sale General Alcoholic Beverage Control License at 400 East Kettleman Lane. (Applicant: Petra Flores Pena. File Number: 10-U-14)

Associate Planner Bereket gave a brief PowerPoint presentation based on the staff report. Staff recommends approval of the project.

Commissioner Kiser asked if there was an over abundance of licenses in the area. Mr. Bereket stated there isn't.

Hearing Opened to the Public

- The applicant, Petra Flores Pena and her son Marco Chavez, came forward to answer questions.
- Doug Brown, Principal at Lodi Academy, came forward to state his concerns over the safety of his students. He, other staff members, and students frequent the restaurant for lunch and after school hours. Staff members live on site and their children play in the yards.
- Chair Hennecke asked for clarification if the concern is that the students will be less safe with hard alcohol being served. Mr. Brown stated that that is correct.
- Commissioner Kirsten asked staff if there are any studies that show that a jump in the type of license causes more accidents. Director Bartlam stated that not when it is associated with a restaurant. Commissioner Kirsten asked Mr. Brown if he has any statistic associated with this type of jump in licenses. Mr. Brown stated that he has not done any research on the subject, but his concern is for the safety of the students crossing Kettleman Lane. Kirsten asked for clarification on the location of the school. Mr. Brown stated that the school is on the northeast corner of Kettleman and Central. Staff highlighted the area on the overhead map. The students frequent the area during lunch and after school. Kirsten asked if there have been any specific incidents' that can be traced back to the restaurants current beer and wine license. Mr. Brown stated that there are none.
- Commissioner Heinitz asked for staff to point out where Pietro's is located in relation to the school. Staff did so. He asked Mr. Brown if his students frequented Pietro's for lunch. Mr. Brown stated that he was not sure, but there isn't a major intersection that the students must cross to get to that location. Heinitz pointed out that they have to cross Central Avenue. Mr. Brown stated that when exiting Pietro's patron must turn right which is away from the school.

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- Vice Chair Olson asked Mr. Brown what time the school lunch and release hours are. Mr. Brown stated that lunch is between 12 and 1pm. The release time is 2:30pm unless the student is in after school programs. Olson stated that she doesn't feel that the timing is conducive for alcohol consumption. The fact that Mr. Brown has come forward to express his concerns she feels that the applicants will continue to be good neighbors and keep an eye on the safety of the students and other patrons.
- Carl Rosich, Board Chairman at Lodi Academy, came forward to state his opposition to this application. Alcohol is a controlled substance and he would be opposed to the idea even if this was not a religious school. He asked for clarification on whether or not there is an ordinance limiting the service of hard alcohol within so-many feet of a school. Director Bartlam stated that is an ABC restriction and as Mr. Brown stated it does not pertain to a restaurant.

Public Portion of Hearing Closed

MOTION / VOTE:

The Planning Commission, on motion of Commissioner Heinitz, Kiser, second, approved the request of the Planning Commission for a Use Permit to allow a Type-47 On-Sale General Alcoholic Beverage Control License at 400 East Kettleman Lane subject to the conditions in the attached resolution. The motion carried by the following vote:

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

Noes: Commissioners – None

Absent: Commissioners – Cummins and Jones

4. PLANNING MATTERS/FOLLOW-UP ITEMS

None

5. ANNOUNCEMENTS AND CORRESPONDENCE

Director Bartlam reminded the Commission that with the upcoming Holidays the Commission will not be meeting on the second scheduled meeting date in November or December and should know by the end of next week if there will be a meeting on the first scheduled meeting date in December.

6. ACTIONS OF THE CITY COUNCIL

Director Bartlam stated that there is a memo in the packet and staff is available to answer any questions.

7. GENERAL PLAN UPDATE/DEVELOPMENT CODE UPDATE

Staff has been working on the Housing Element. The State Housing and Community Development Department had a couple of comments and staff is working to answer them. The City has received part of the multi-city application for Sustainable Cities Grant funds that will be used on a couple of projects one of which is going to be the Development Code and the other is the Climate Action Plan.

8. ACTIONS OF THE SITE PLAN AND ARCHITECTURAL REVIEW COMMITTEE

None

9. ART IN PUBLIC PLACES

None

Continued

10. COMMENTS BY THE PUBLIC

None

11. COMMENTS BY STAFF AND COMMISSIONERS

Vice Chair Olson asked about AB 1234 ethics training. Deputy City Attorney Magdich stated that the training is currently schedule for December 13, 2010 at 6:00pm here in Carnegie Forum.

12. ADJOURNMENT

There being no further business to come before the Planning Commission, the meeting was adjourned at 7:45 p.m.

ATTEST:

Konradt Bartlam
Planning Commission Secretary