

<p>CARNEGIE FORUM 305 WEST PINE STREET LODI, CALIFORNIA</p>	<p>AGENDA LODI PLANNING COMMISSION</p>	<p>REGULAR SESSION WEDNESDAY, NOVEMBER 11, 2015 @ 7:00 PM</p>
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For information regarding this agenda please contact:

Kari Chadwick @ (209) 333-6711
Community Development Secretary

NOTE: All staff reports or other written documentation relating to each item of business referred to on the agenda are on file in the Office of the Community Development Department, located at 221 W. Pine Street, Lodi, and are available for public inspection. If requested, the agenda shall be made available in appropriate alternative formats to persons with a disability, as required by Section 202 of the Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12132), and the federal rules and regulations adopted in implementation thereof. To make a request for disability-related modification or accommodation contact the Community Development Department as soon as possible and at least 24 hours prior to the meeting date.

1. ROLL CALL

2. MINUTES – “October 28, 2015”

3. PUBLIC HEARINGS

- a. Continued from October 28, 2015: Request for Planning Commission approval of a Use Permit to allow a Type-42 license for a wine and craft beer tasting room for Brix and Wort at 14A S School Street. (Applicant: Jeffrey Daniel; File 2015-34 U; CEQA Determination: Exempt per Section 15321)
- b. Continued from October 28, 2015: Request for Planning Commission approval of a Use Permit to allow a personal fitness training studio within an existing industrial building located at 1125 E. Pine Street. (Applicant: Jeff Hunt; File 2015-33 U; CEQA Determination: Categorical Exemption Pursuant to CEQA Guidelines Section 15332 In-Fill Development Projects)
- c. Request for Planning Commission approval of a commercial Tentative Parcel Map to divide one parcel into three lots at 515 South Lower Sacramento Road. (Applicant: Kristmont West, LLC; File 2015-30 P; CEQA Determination: Categorical Exemption Pursuant to CEQA Guidelines Section 15315) – **Item pulled by the Applicant**
- d. Request for Planning Commission approval of a Tentative Parcel Map to divide one parcel into five lots at 809 S. School Street. (Applicant: Tokay Development, Inc.; File 2015-32 P; CEQA Determination: Categorical Exemption Pursuant to CEQA Guidelines Section 15315)
- e. Request for Planning Commission approval of a Use Permit to allow a Type-47 On-Sale Beer, Wine and Spirits for Fe-nix at 117 West Elm Street. (Applicant: Raised Well Venture, LLC; File 2015-36 U; CEQA Determination: Exempt per Section 15321)
- f. Request Planning Commission approval of a Use Permit to allow a Type-21 Off-Site Beer, Wine and Spirits sales at a convenience store at 225 South Cherokee Lane. (Applicant: Mr. Ahmad Alruosan; File 2015-37 U; CEQA Determination: Exempt per Section 15321)
- g. Request for Planning Commission approval of a Use Permit to allow a Type-47 On-Sale Beer, Wine and Spirits for Friend’s Indian Restaurant at 1040 West Kettleman Lane. (Applicant: Alka Grewal; File 2015-38 U; CEQA Determination: Exempt per Section 15321)

NOTE: The above items are quasi-judicial hearings and require disclosure of ex parte communications as set forth in Resolution No. 2006-31

4. PLANNING MATTERS/FOLLOW-UP ITEMS

- a. Review 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. ADJOURNMENT

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

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

Right to Appeal:

If you disagree with the decision of the commission, you have a right of appeal. Only persons who participated in the review process by submitting written or oral testimony, or by attending the public hearing, may appeal.

Pursuant to Lodi Municipal Code Section 17.72.110, actions of the Planning Commission may be appealed to the City Council by filing, within ten (10) business days, a written appeal with the City Clerk and payment of \$300.00 appeal fee. The appeal shall be processed in accordance with Chapter 17.88, Appeals, of the Lodi Municipal Code. Contact: City Clerk, City Hall 2nd Floor, 221 West Pine Street, Lodi, California 95240 – Phone: (209) 333-6702.

**LODI PLANNING COMMISSION
REGULAR COMMISSION MEETING
CARNEGIE FORUM, 305 WEST PINE STREET
WEDNESDAY, OCTOBER 28, 2015**

1. CALL TO ORDER / ROLL CALL

The Regular Planning Commission meeting of October 28, 2015 was called to order by Chair Heinitz at 7:00 p.m.

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

Absent: Planning Commissioners – Kirsten, Kiser and Slater

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

2. MINUTES

“September 23, 2015”

MOTION / VOTE:

The Planning Commission, on motion of Commissioner Cummins, Hennecke second, approved the minutes of September 23, 2015 as written.

3. PUBLIC HEARINGS

Senior Planner Craig Hoffman stated that staff would like to continue item 3c to the November 11, 2015 Planning Commission meeting due to the lack of a quorum of Commissioner in attendance of this meeting that can vote on the item.

- a) Notice thereof having been published according to law, an affidavit of which publication is on file in the Community Development Department, Chair Heinitz called for the public hearing to consider the request of the Planning Commission for a Tentative Parcel Map to divide one parcel into two lots at 529 Daisy Ave. (Applicant: Roy Collins; File 2015-31 P; CEQA Determination: Categorical Exemption Pursuant to CEQA Guidelines Section 15315)

Senior Planner Craig Hoffman gave a brief PowerPoint presentation based on the staff report. Staff is recommending approval of the project as conditioned. Mr. Hoffman stated that staff did receive a letter that has been provided to the Commission tonight expressing concerns with the project.

Chair Heinitz asked for clarification regarding the flag lot not being a shared access easement. Mr. Hoffman stated that the flag portion of the split will belong entirely to the second lot. Mr. Heinitz asked if 11 feet will be enough of an access for the Fire Department. Mr. Hoffman stated that new single family dwellings now

Commissioner Cummins asked if there will be a separation

Hearing Opened to the Public

- Joe Murphy, Dillon and Murphy Engineer representing the applicant, came forward to answer questions. Mr. Murphy stated that Mr. Collins spoke with the Fire Department
- Commissioner Olson asked for clarification that there will only be one additional residence and that the owner will be occupying the current residence. Mr. Murphy stated that there will only be one single family dwelling unit built on the second lot.

Public Portion of Hearing Closed

MOTION / VOTE:

The Planning Commission, on motion of Commissioner , second, finds that the approval of the project is exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15315, and approves the Tentative Parcel Map to divide one parcel into two lots at 529 Daisy Ave subject to conditions of approval contained in the draft resolution provided. The motion carried by the following vote:

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

- b) Notice thereof having been published according to law, an affidavit of which publication is on file in the Community Development Department, Chair Heinitz called for the public hearing to consider the request of the Planning Commission for approval of a Use Permit to allow a personal fitness training studio within an existing industrial building located at 1125 E. Pine Street. (Applicant: Jeff Hunt; File 2015-33 U; CEQA Determination: Categorical Exemption Pursuant to CEQA Guidelines Section 15332 In-Fill Development Projects)

Senior Planner Craig Hoffman stated that the applicant is not present and there seems to be a few people in the audience that would like to speak about the item. Staff would recommend that the Commission continue the item to a date certain to give the people present the chance to express their view to the applicant directly.

MOTION / VOTE:

The Planning Commission, on motion of Commissioner Olson, Cummins second, continued the public hearing for the Use Permit to allow a personal fitness training studio within an existing industrial building located at 1125 E. Pine Street to November 11, 2015 Planning Commission meeting. The motion carried by the following vote:

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

- c) Notice thereof having been published according to law, an affidavit of which publication is on file in the Community Development Department, Chair Heinitz called for the public hearing to consider the request of the Planning Commission for approval of a Use Permit to allow a Type-42 license for a wine and craft beer tasting room for Brix and Wort at 14 S School Street. (Applicant: Jeffrey Daniel; File 2015-34 U; CEQA Determination: Exempt per Section 15321)

Senior Planner Craig Hoffman continued the item at the being of the meeting.

- d) Notice thereof having been published according to law, an affidavit of which publication is on file in the Community Development Department, Chair Heinitz called for the public hearing to consider the request of the Planning Commission to recommend the draft 2015-2023 Housing Element be forwarded to the City Council for approval to be submitted to Housing and Community Development for review and certification (Applicant: City of Lodi; File 2015-35GP;

CEQA Determination: Section 15183 – Previous Environmental Review, 2010 General Plan EIR (SCH#2009022075)

Senior Planner Craig Hoffman introduced Jennifer Gastelum, representative with Michael Baker International formerly PMC, to present the item. Ms. Gastelum gave a brief PowerPoint presentation based on the staff report and Draft Housing Element. Staff is recommending that the Planning Commission recommend that the City Council approve the draft Housing Element and submit it to the State Housing and Community Development Department for review and certification.

Chair Heinitz asked if there should be more in the Housing Element regarding the landscaping and water issues. Mr. Hoffman stated that those items are all contained in the development code.

Commissioner Cummins asked how many section 8 housing units are located in the City. Mr. Hoffman stated that he could try and find that number for the Commission. Mr. Heinitz stated that it may be difficult to find a number for that information because there isn't a data base that landowners have to report too. Ms. Gastelum stated that on page 2-25 there is an inventory of the publicly assisted housing. Mr. Wood added that the Housing Authority can provide a list of what they have, but the number does flexuate.

Commissioner Olson asked if there are covenants on these units. Ms. Gastelum stated that the moneys that are used for this type of housing is typically Federal funds, so there are covenants on them for 45 to 55 years.

Commissioner Cummins asked if it is possible for a developer to building these required units and still make a profit on the development. Mr. Heinitz stated that it isn't possible. Mr. Hoffman stated that it is the City's obligation to provide enough land to allow these units to be built.

Vice Chair Hennecke asked for clarification regarding the number of units and the odds of them getting built. He feels this is a market driven item, but does not see this being feasible for the low income residence to be able to purchase even at the low end of the spectrum. Mr. Hoffman stated that it is not the City's obligation to ensure that the units get built. This will allow for the opportunity for someone to build them. Mr. Wood stated that the units do not mean owner occupied, they also include rentals and assisted housing.

Hearing Opened to the Public

- None

Public Portion of Hearing Closed

MOTION / VOTE:

The Planning Commission, on motion of Commissioner Heinitz, Cummins second, finds that the project is exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15321, and approves a Use Permit to allow a Type-42 license for a wine and craft beer tasting room for Brix and Wort at 14 S School Street subject to conditions of approval contained in the draft resolution provided. The motion carried by the following vote:

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

4. PLANNING MATTERS/FOLLOW-UP ITEMS

a) Blend Use Permit Three Month Review (2015-10U).

- Mr. Hoffman stated that due to the lack of calls staff did not feel it was necessary to bring this item back as a full blown public hearing. It has been provided as an informational/discussion item. Staff and the applicant are available to answer questions.
- Chair Heinitz asked why the Police calls are not provided on the handout. Mr. Hoffman stated that he provided the list to show the number of licenses that are being maintained in the downtown, but with so many Commissioners absent he felt it would be prudent to discuss the calls at a later meeting.

5. ANNOUNCEMENTS AND CORRESPONDENCE

None

6. ACTIONS OF THE CITY COUNCIL

Senior Planner Hoffman stated that the new Habitat Fees will be going to the City Council on November 4, 2015 for adoption.

7. ACTIONS OF THE SITE PLAN AND ARCHITECTURAL REVIEW COMMITTEE

None

8. ART IN PUBLIC PLACES

None

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

None

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

Commissioner Olson asked if there will be seven items for the November 11th meeting now that the two items from tonight have been continued. Mr. Hoffman stated that is correct.

11. ADJOURNMENT

There being no further business to come before the Planning Commission, the meeting was adjourned at 7:41 p.m.

ATTEST:

Kari Chadwick
Planning Commission Secretary

Item 3a



**CITY OF LODI
PLANNING COMMISSION
Staff Report**

MEETING DATE: November 11, 2015

APPLICATION NO: Use Permit: 2015-34 U

REQUEST: Request for Planning Commission approval of a Use Permit to allow a Type-42 license for a wine and craft beer tasting room for Brix and Wort at 14A S School Street. (Applicant: Jeffrey Daniel; File 2015-34 U; CEQA Determination: Exempt per Section 15321)

LOCATION: 14A S. School Street
APN 043-036-19

APPLICANTS: Jeffrey Daniel
Carrie Gooding
2080 Henderson Way
Lodi, CA 95242

PROPERTY OWNER Dobbins Properties, LLC
Matt Dobbins
Po Box 1566
Woodbridge, CA 95258

RECOMMENDATION

Staff recommends the Planning Commission approve the request of Jeffrey Daniel (Brix and Wort) for a Use Permit to allow the sale of beer and wine, Alcoholic Beverage Control (ABC) Type 42 license, for a wine and craft beer tasting room, 14A S School Street, subject to conditions in the attached resolution.

PROJECT/AREA DESCRIPTION

General Plan Designation: Downtown Mixed Use
Zoning Designation: Downtown Mixed Use
Property Size: 1,400 sq. ft. tenant space

The adjacent zoning and land use characteristics:

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

SUMMARY

The applicants, Jeffrey Daniel and Carrie Gooding are requesting a use permit to operate a wine tasting room on School Street in the downtown area with outside patio area.

Typically a wine tasting room operates under a Type 2 winegrower license and beer can be added with a type 42 license.

The applicants are proposing a Type 42 license (beer and wine) to operate as an independent wine and craft beer tasting room. A specific winery is not tied to the operation. The applicants are working with area wineries that do not have a downtown tasting room to offer increased commercial visibility and are looking to be a part of the downtown wine tasting room experience.

The tenant space is 1,400 sq. ft. in size and approximately 600 sq. ft. will be dedicated to retail sales. The wine and craft beer tasting room will include a fenced patio on School Street

The tasting room will be open the following hours:

Wednesday – Thursday: 11:00 am to 9:00 pm

Friday and Saturday: 11:00 am to 11:00 pm

Sunday and Monday: 11:00 pm to 6:00 pm.

The proposed hours of operation are similar to other wine tasting rooms in Lodi.

Four to eight nights a month, entertainment will be hosted, with amplified music to end by 10:00 pm. Entertainment will include music, games, winemaker and brewer events and special releases, informative food and beverage classes, Holiday celebrations, catered meals and other similar events.

There will be no on-site food preparation beyond hors d'oeuvres from a microwave or toaster oven. The applicant anticipates outside catering for special events.

The wine tasting room use is consistent with the City's vision of making Lodi a wine tasting tourist destination point. The wine tasting rooms are a large part of this vision, for they not only compliment other downtown businesses such as restaurants and boutiques, but add to the character of the City by promoting local wineries and viticulture. The addition of craft beer tasting in addition to wine tasting is a new spin on downtown tasting rooms.

The Cellar Door added craft beer tasting in early 2014.

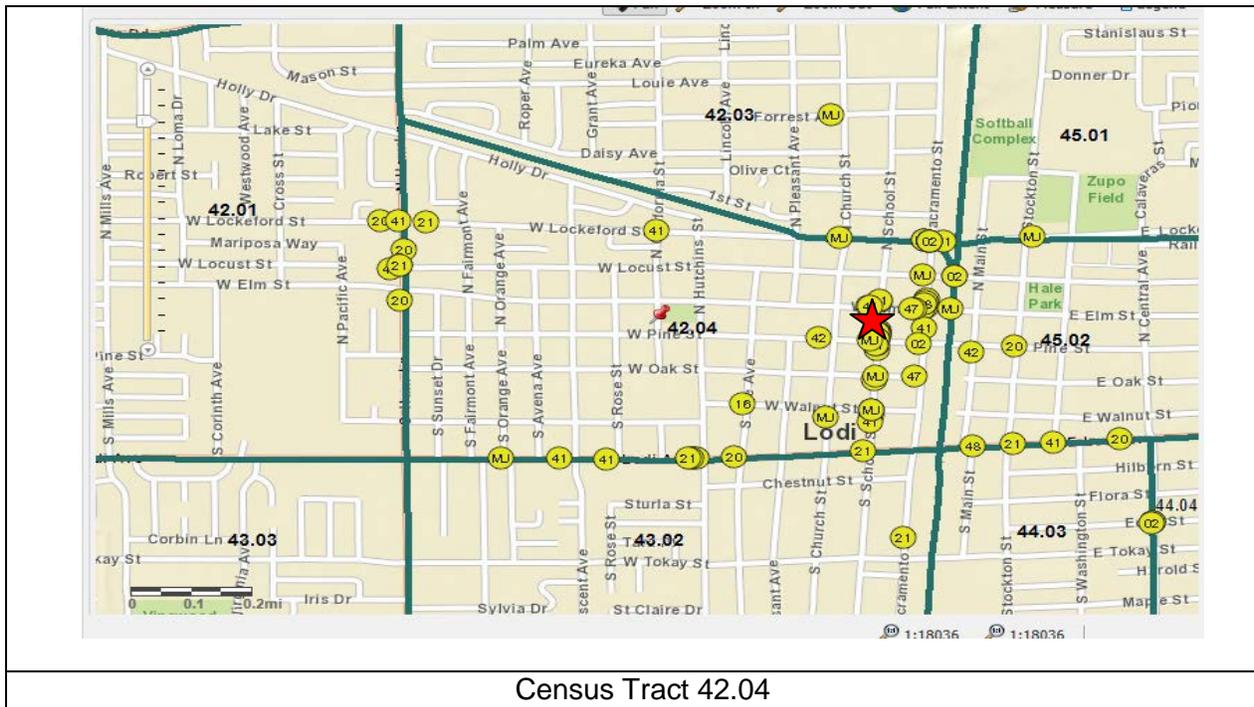
This type 42 license request has been conditioned as a wine and craft beer tasting room. If someone in the future wanted to convert the license to a wine and beer bar, the use permit would need to be modified.

This Use Permit is to allow the sale of bottles and cases of wine and craft beer, a wine and craft beer tasting operation, use of the wine and craft beer tasting space for various events such as dinners catered by outside vendors, private mixers, wine and craft beer tasting and parties for organizations and businesses who want to rent space, and to host feature wine and craft beer tasting events that may include educational components.

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 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.

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



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 Type 42 alcohol license for a wine and craft beer tasting room within the downtown area. 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 downtown. The proposal is consistent with this intent and making Lodi a wine tasting tourist destination point.
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 allows onsite beverage consumption. The proposed wine and craft beer tasting room is the type of business allowed by the General Plan. The on-site consumption of wine and beer in conjunction with a tasting room operation, in accordance with a Type 42 Alcoholic Beverage Control License and with the conditions attached herein, would be consistent and in harmony with the Downtown Mixed Use. The tasting room use is a common way for wine and craft beer

manufacturers to expand and improve their business activities 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 wine and craft beer tasting room is compatible with existing and future land uses in the immediate vicinity of the project area. The Downtown Business District envisions wine tasting rooms, retail services, restaurants and the like as the type of business encouraged to operate in the Downtown area. In addition, the primary function of the facility is wine tasting room and retail services. No aspect of the proposed uses have been identified that would create new detrimental impacts.
4. *The location, size, design, and operating characteristics of the proposed use would be compatible with the existing and future land uses in the vicinity.* **Comment:** The proposed use complies with all requirements as set forth for the issuance of this Use Permit, in that the site is adequate in size, shape and topography for the proposed use, consisting of an existing building. Second, 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 tasting room operation are customary for these types of businesses.
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. The Community Development Department is of the opinion that the proposed project is consistent with the surrounding land uses and zoning; and with the City’s policy to encourage the wine production and wine tasting industry. The intended nature of this operation does not promote excessive onsite consumption of alcohol and, therefore, staff does not expect any problems with the proposed establishment. The proposed use is consistent with the City’s vision of making Lodi a wine tasting tourist destination. We, therefore, are recommending that the Use Permit be approved, subject to the attached resolution.

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, October 28, 2015. Thirty (30) 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 motions are 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 approve the Use Permit to allow Alcoholic Beverage Control (ABC) Type 42 license at 14A S. School Street for Brix and Wort subject to the findings and conditions of approval contained in the draft Resolution."

ALTERNATIVE PLANNING COMMISSION ACTIONS:

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

Respectfully Submitted,

Concur,

Craig Hoffman
Senior Planner

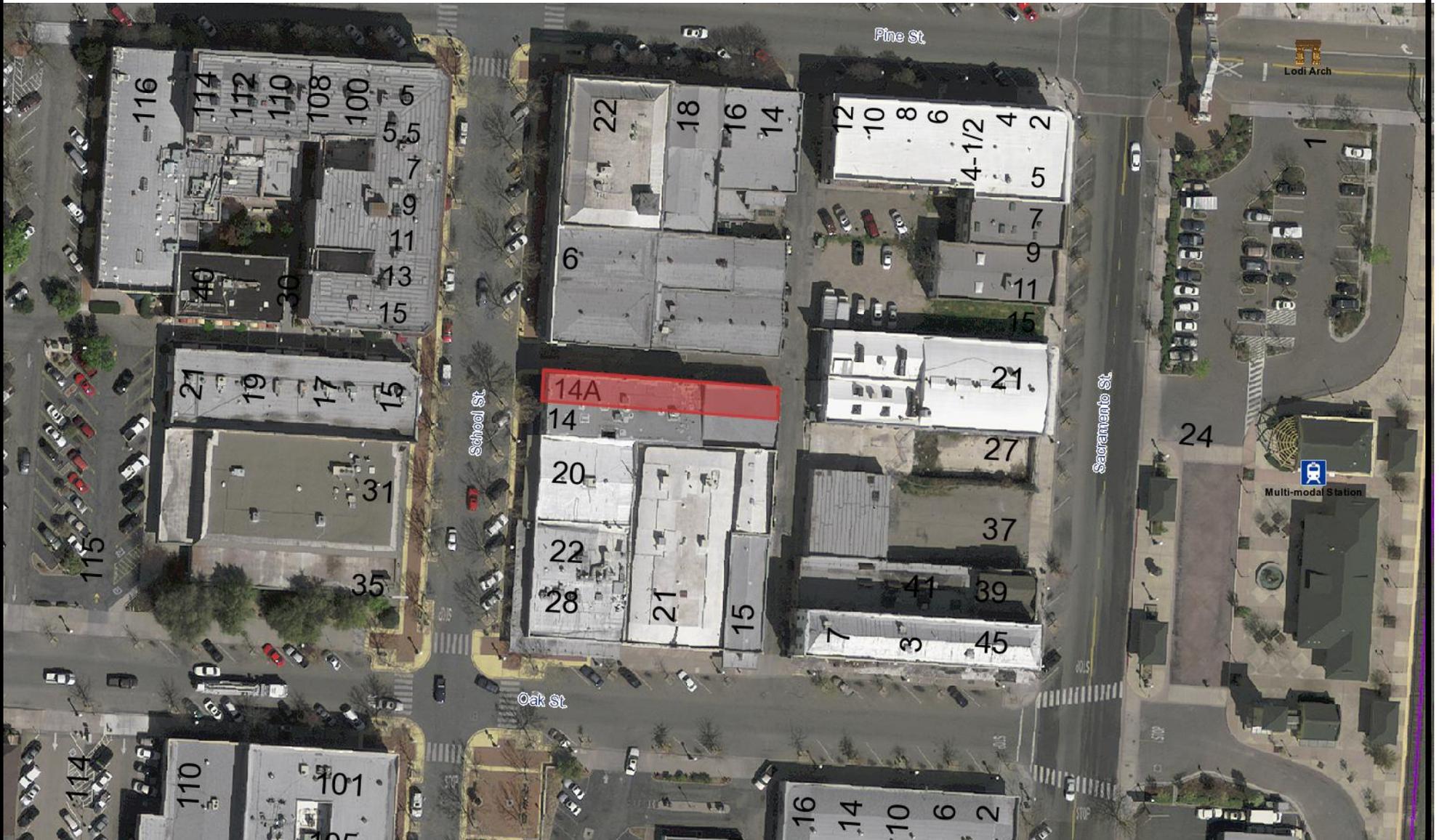
Stephen Schwabauer
Community Development Director

ATTACHMENTS:

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

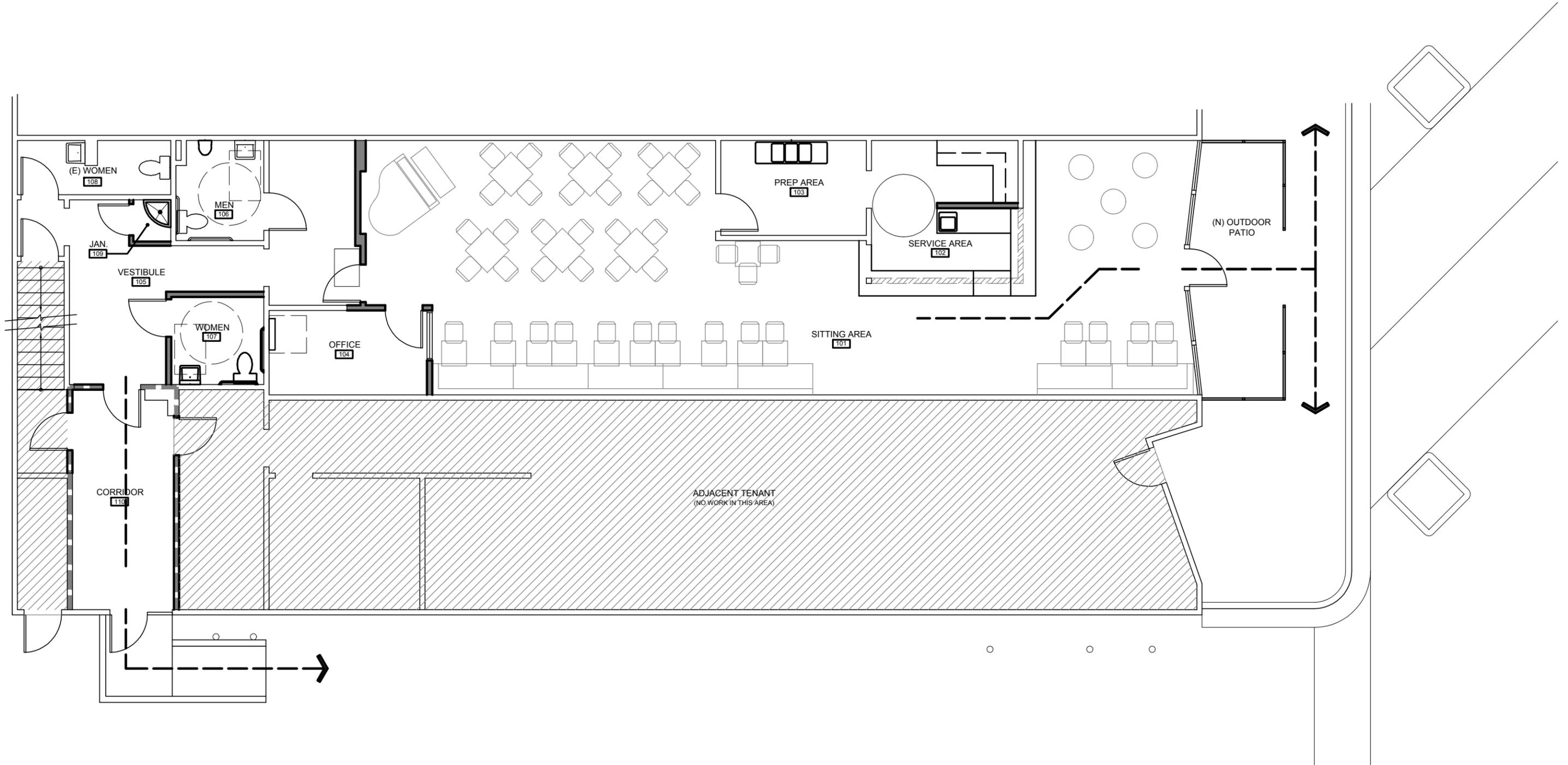
VICINITY MAP

North



South

14A South School Street



FLOOR PLAN

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

Brix and Wort Business Plan

Jeff Daniel

07-23-2015

Summary

The applicants, Brix and Wort Tasting Room are requesting a use permit to operate a wine and brew tasting room on School Street in the downtown area.

Brix and Wort is a concept derived from the perception of popularity of adults coming together in a place that offers both of the most popular beverages today, wine and brew. Brix and Wort Tasting Room will be partnering with The Watering Hole as a second, more upscale downtown location. Brix and Wort Tasting Room will expand off of the current ABC42 license held by The Watering Hole.

Tenant space is 1400 sq. ft. and approximately 600 sq. ft. will be dedicated to retail sales. The tasting room will include a fenced patio on School Street.

The Tasting room will be open the following hours:

Wednesday and Thursday: 11:00 am to 9:00 pm

Friday and Saturday: 11:00 am to 11:00 pm

Sunday and Monday: 11:00 am to 6:00 pm

The proposed hours of operation are similar to other tasting rooms in Lodi.

Four to eight nights a month entertainment will be hosted with amplified music to end by 10:00 pm. Entertainment will include music, games, winemaker and brewer events, food pairings and Holiday celebrations. All foodstuffs served will be pre-packaged hors d'oeuvres or catered by outside vendors.

RESOLUTION NO. P.C. 15-XX

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF LODI APPROVING THE REQUEST OF JEFFREY DANIEL, FOR A USE PERMIT FOR TYPE-42 ABC LICENSE AT 14A SOUTH SCHOOL 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 Jeffrey Daniel and Carrie Gooding, 2080 Henderson Way, Lodi, CA; and
- WHEREAS**, the project parcel is owned by Dobbins Properties, LLC, Matt Dobbins, Po Box 1566, Woodbridge, CA 95258; and
- WHEREAS**, the project is located at 14A South School Street, Lodi, CA 95240 (APN: 043-036-19); and
- WHEREAS**, the property has a General Plan designation of Downtown Mixed Use and is zoned Downtown Mixed Use (DMU); and
- WHEREAS**, Census Tract 42.04 in which the proposed wine and craft beer tasting room is to be located is over concentrated of licenses allowing on premise consumption of alcoholic beverages; 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 Type 42 alcohol license for a wine and craft beer tasting room within the downtown area. 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 downtown. The proposal is consistent with this intent and making Lodi a wine tasting tourist destination point.

3. : The General Plan land use designation for this area is Downtown Mixed Use, which allows onsite beverage consumption. The proposed wine and craft beer tasting room is the type of business allowed by the General Plan. The on-site consumption of wine and beer in conjunction with a tasting room operation, in accordance with a Type 42 Alcoholic Beverage Control License and with the conditions attached herein, would be consistent and in harmony with the Downtown Mixed Use. The tasting room use is a common way for wine and craft beer manufacturers to expand and improve their business activities and is therefore, consistent, with the General Plan.
4. The proposed sale of alcohol in conjunction with a wine and craft beer tasting room is compatible with existing and future land uses in the immediate vicinity of the project area. The Downtown Business District envisions wine tasting rooms, retail services, restaurants and the like as the type of business encouraged to operate in the Downtown area. In addition, the primary function of the facility is wine tasting room and retail services. No aspect of the proposed uses have been identified that would create new detrimental impacts.
5. The proposed use complies with all requirements as set forth for the issuance of this Use Permit, in that the site is adequate in size, shape and topography for the proposed use, consisting of an existing building.
6. Restaurants/bars, tasting rooms and other commercial uses with sale of alcohol operate in this area.
7. 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.
8. The characteristics of the proposed sale of alcohol in a tasting room operation are customary for these types of businesses.
9. 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.
10. Restaurants / bars, tasting rooms and other commercial uses that offer entertainment and areas for people to gather operate in this area.
11. The proposed use would not have a substantial adverse economic effect on nearby uses because operation of a wine tasting room in accordance with applicable laws and under the conditions of this Use Permit is anticipated to be an economic benefit to the community.
12. The availability of public facilities and utilities is adequate to serve the proposed use, in that Brix and Wort will be located within a building where public facilities and services are currently provided, including sewer, water, electricity, phone, etc.
13. The proposed use can be compatible with the surrounding use and neighborhood if the business is conducted properly and if the Applicant/Operator works with neighboring businesses and residents to resolve any problems that may occur.
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 wine tasting room 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. 2015-34 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 property as well as the adjacent public right-of-way (25 feet north and south of the subject property, and down the alley) not just 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.
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. The applicants are proposing a Type 42 license (beer and wine) to operate as an independent wine and craft beer tasting room. This Type 42 license is not intended for a bar use.

14. The tasting room will be open the following hours:

- Wednesday – Thursday: 11:00 am to 9:00 pm
- Friday and Saturday: 11:00 am to 11:00 pm
- Sunday and Monday: 11:00 pm to 6:00 pm.

The proposed hours of operation are similar to other wine tasting rooms in Lodi. There may be occasional special events that deviate from these proposed hours of operation.

15. 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.

16. That applicants shall be allowed to use the wine and craft beer tasting space for various events such as wine and craft beer dinners catered by outside vendors, private mixers, wine and craft beer tasting and parties for organizations and businesses who want to rent space, and to host feature wine and craft beer tasting events that may include educational components.

17. 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.

18. 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.

19. 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.

20. 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.

21. 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.

Building General Comments:

22. 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.

23. Plans shall provide occupant load calculations for the space, as per 2013 CBC, Section 1004.

Occupant load for areas without fixed seats is based on square footage divided by the appropriate occupant load factor from 2013 CBC, Table 1004.1.2

Office areas: 100 gross sqft/person

Stock, Storage, Shipping: 300sqft/person

Dining and Lounge (Assembly) Area: Table & Chairs 15sqft/person, Chairs 7sqft/person, Standing areas 5sqft/person

Kitchen/Staff/Serving areas 200sqft/person

24. If the calculated occupant load exceeds 49, the following requirements will need to be addressed:
- a. The occupancy classification for this space will change to an A-2. It shall be demonstrated that the A-2 occupancy is allowed in the building based on construction type, square footage and 2013 CBC, Table 503
 - b. Plans shall show that the building qualifies for non-separated occupancies under 2013 CBC, Section 508.3.3 or show fire rated occupancy separation walls as specified by 2013 CBC, Table 508.4.
 - c. Two exits shall be required. Exit doors shall be equipped with panic hardware and show swing in the direction of egress travel. 2013 CBC, Sections 1008.1.2, 1008.1.10
 - d. Exit doors shall be separated by minimum of 1/2 the diagonal distance of the area served in non-sprinklered buildings or minimum of 1/3 the diagonal distance of the area served in sprinklered buildings. 2013 CBC, Section 1015.2.1
 - e. Egress shall not pass through kitchens, storage rooms, closets or spaces used for similar purposes. 2013 CBC, Section 1014.2 (4)
 - f. Emergency egress illumination, with back-up power supply, shall be provided for all area discharge elements and the exterior landings. 2013 CBC, Section 1006
 - g. Illuminated exit signs shall be provided. 2013 CBC, Section 1011
 - h. Occupant load sign shall be provide at or near the main entrance. 2013 CBC, Section 1004.3
 - i. The rear door is now a required exit and is required to provide an accessible path of travel to the public way (alley, sidewalk or street). 2013 CBC, Sections 1027.5, 11B-206.4, 11B-206.4.1
25. Apply for required operational permits at the Lodi Fire Department. Approval of required operational permits required prior to building permit issuance. 2013 CFC, Section 105.6
26. Scullery/dishwashing sinks and/or dishwashing machines shall be connected directly to the drainage system and a floor drain shall be provided adjacent to such fixtures and the fixture shall be connected on the sewer side of the floor drain trap. 2013 CPC, Section 704.3
27. Unless the building meets one of the exceptions of 2013 CPC, Section 422.2 (allowing a unisex restroom), separate toilet facilities shall be provided for each sex. Plumbing occupant load shall be calculated using the plumbing occupant load factor specified by 2013 CPC Table A for each area use. The required number of plumbing fixtures (water closets, urinals, lavatories) shall be provided, as specified for A-2 occupancies by 2013 CPC, Table 422.1.
28. Plans to specify and show all sales, service and information counters are a maximum of 34" high or specify and show a minimum 36" wide counter area that is not more than 34" aff. . 2013 CBC, Sections 11B-227, 11B-904.4
29. If food or drink is consumed at the counters or bars, plans shall specify and show a minimum 60" long counter area with a height not to exceed 34" with knee clearances at least 27" high x 19" deep. 2013 CBC, Section 11B-226.3
30. An automatic sprinkler system will be required in an A-2 occupancy if the occupant load exceeds 99 or if the fire area is 5,000 square feet or more. 2013 CFC, Section 903.2.1.2

31. 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.

32. 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.

33. 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.

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

I certify that Resolution No. 15-XX was passed and adopted by the Planning Commission of the City of Lodi at a regular meeting held on November 11, 2015 by the following vote:

AYES: Commissioners:

NOES: Commissioners:

ABSENT: Commissioners:

ATTEST _____
Secretary, Planning Commission

Item 3b



**CITY OF LODI
PLANNING COMMISSION
Staff Report**

MEETING DATE: November 11, 2015
APPLICATION NO: Use Permit: 2015-33 U
REQUEST: Request for Planning Commission approval of a Use Permit to allow a personal fitness training studio within an existing industrial building located at 1125 E. Pine Street. (Applicant: Jeff Hunt; File 2015-33 U; CEQA Determination: Categorical Exemption Pursuant to CEQA Guidelines Section 15332 In-Fill Development Projects)
LOCATION: 1125 East Pine Street
Lodi, CA 95240
APN: 049-050-60
APPLICANT: Boneyard Cross Fit
Mr. Jeff Hunt
1300 Midvale Rd
Lodi, CA 95240
PROPERTY OWNER: Nick Meyers
77 Riverwood Dr
Woodbridge, CA 95258

RECOMMENDATION

Staff recommends that the Planning Commission approve the Use Permit to allow a personal fitness training studio within an existing industrial building located at 1125 East Pine Street, subject to the conditions outlined in the attached resolution.

PROJECT/AREA DESCRIPTION

General Plan Designation: Industrial
Zoning Designation: Industrial
Property Size: 0.29 acres – 12,589 with a 4,298 sq ft building

The adjacent zoning and land use are as follows:

ADJACENT ZONING DESIGNATIONS AND LAND USES			
	GENERAL PLAN	ZONE	LAND USE
North	Industrial	Industrial	Industrial uses
South	Industrial	Industrial	Gas station
East	Industrial	Industrial	residence
West	Industrial	Industrial	Industrial warehouse

ANALYSIS

The applicant applied for Planning Commission approval of a personal fitness training studio at 1125 East Pine Street. The Studio provides individual and group training sessions.

The business is comprised of 2 owner/operators. The business is designed for individual and class programs designed for approximately 12 individuals.

Hours of operation are: Monday to Friday – 5:00 am to 10:00 am and 4:00 pm to 8:00 pm, Saturdays and Sundays from 9:00 am to 10:00 am. Peak hours of operation have routinely been 5:00 am, 4:00 pm, 6:00 pm and 7:00 pm.

The interior of the space is primarily open consisting of a reception area and exercise area. There are 2 restrooms.

There are approximately nine (9) parking spaces provided, including two (1) handicap spaces. The applicant has shared parking agreements with adjacent properties and uses on-street parking on Pine Street.

The proposed fitness studio operates within an industrial area that does not generate a great deal of peak traffic and parking. Any overflow parking can be accommodated on the street or adjacent properties.

A Use Permit allows the comprehensive review of sensitive uses and ensures the proper integration of these uses into the community. These uses may only be suitable in specific locations, and only if such land uses are designed or constructed in a manner on a site that is consistent with zoning regulations and with the required findings for a Use Permit outlined in §17.40.040(F) of the City of Lodi Development Code. A Use Permit review allows the opportunity to address any specific issues related to the proposal and to prevent or mitigate any adverse impacts to the surrounding area.

Land Use Compatibility: The property is zoned Industrial on the City of Lodi Zoning Map, and is designated Industrial on the General Plan Land Use Map. Surrounding land uses include a combination of industrial type land uses, and various service type uses. A personal fitness studio/facilities in the industrial zoning district requires discretionary review and approval of a Use Permit per Lodi Development Code § 17.24.030.

Parking: There are approximately 9 existing parking stalls. The applicant has parking agreements with adjacent properties and there is ample on-street parking that is never used. The peak business hours for the fitness studio are off-hours for the surrounding industrial uses.

The proposed use has been reviewed and analyzed to ensure that traffic impacts and parking deficiencies will not arise.

Noise: All fitness activities will occur within the building envelope; therefore, staff does not anticipate any adverse noise impacts upon the surrounding area. If the facility becomes a concern regarding noise, a condition has been added to allow for review of the permit by the Community Development Department or, if needed, returned to the Planning Commission for additional conditions or even revocation of the permit.

Signage: No signage is proposed as part of this application; however, any signage would be required to conform to sign standards established by the Lodi Municipal Code Section 17.34, and would require plan submittal for review and approval by Community Development Department prior to installation.

The discretionary Use Permit procedure enables Planning and other city staff to impose conditions designed to avoid, minimize or mitigate potentially adverse effects of a certain use upon the community or other properties in the vicinity. Staff believes that the Planning Commission can make the required findings, in accordance with Lodi Development Code § 17.40.040(F), 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 proposed project site is within an existing 4,298-square-foot building located within an Industrial zoning district, which permits personal fitness studios subject to Use Permit approval, including any specific condition required for the proposed use in the district in which it would be located. The use conforms to the parking requirement for a fitness studio.
2. *The proposed use is consistent with the General Plan and any applicable specific plan.* **Comment:** The General Plan land use designation for the project site is Industrial, which permits the proposed use. The facility center is naturally restricted by size and space allocation within the building in a manner that limits occupancy, and will be subject to operational conditions that govern day to day operational aspects necessary to ensure that parking and traffic impacts do not interfere with the primary daytime land uses in the area. The conditions for the restriction of the conditional use are consistent with the General Plan, will not effect neighborhood compatibility; and will not cause the operation of the conditional use to be detrimental to the welfare of persons or properties working, residing, or otherwise existing in the adjacent neighborhood areas.
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 use is within a 4,298 square feet vacant building. There are no changes to the site and the proposed use is consistent with the Zoning Code and the General Plan policies. As such, the subject site is adequate in size and shape to accommodate the proposed use within an industrial area. Further, the project will not have a negative effect on the public health, safety, or welfare; or be materially injurious to persons, properties or improvements in the vicinity.
4. *The location, size, design, and operating characteristics of the proposed use is compatible with the existing and future land uses in the vicinity.* **Comment:** The proposed use complies with all requirements as set forth for the issuance of this Use Permit, in that the site is adequate in size, shape and topography for the proposed use, consisting of an existing building. Second, the site is located in an industrial area that is accessible from public streets. Existing street networks are adequate in size and shape to accommodate the quantity and quality of traffic generated by the proposed use without any significant impacts to the street system. 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.
5. *The proposed project is in compliance with the California Environmental Quality Act (CEQA) and the Lodi Environmental Review Guidelines.* **Comment:** The project is found to be categorically exempt from CEQA review under 14 CCR §15332. Class 32 consists of projects characterized as in-fill development meeting the following conditions: (a) the project is consistent with the applicable general plan designation and all applicable general plan policies as well as with the applicable zoning designation and regulations, (b) the proposed development occurs within city limits on a project site of no more than five (5) acres substantially surrounded by urban uses, (c) the project site has no value as habitat for endangered, rare or threatened species, (d) approval of the proposed project would not result in any significant effects relating to traffic, noise, air quality, or water quality, and (e) the site of the proposed project can be adequately served by all required utilities and public services.

Staff believes the Commission can make the required findings to approve the Use Permit as proposed. The use of a fitness training studio is appropriate for the proposed location in that it would occupy an existing vacant industrial building. A fitness facility is a use that generally promotes and encourages healthy living within the community. In staff's opinion, the proposed use

would not produce any adverse impacts on the adjacent properties in terms of noise, parking, litter, disorderly behavior, or other objectionable influences. The permit is conditioned to mitigate typical concerns related to fitness centers and other similar establishments. If, in the future, concerns arise, and the Director/Police Department determines it necessary, the Use Permit can be subject to review by the Planning Commission to consider the business's operation for compliance with the conditions of the Use Permit. The City further reserves the right to periodically review the area for potential problems

ENVIRONMENTAL ASSESSMENT

The project is categorically exempt from CEQA review under 14 CCR §15332. Class 32 consists of projects characterized as in-fill development meeting the following conditions: (a) the project is consistent with the applicable general plan designation and all applicable general plan policies as well as with the applicable zoning designation and regulations, (b) the proposed development occurs within city limits on a project site of no more than five (5) acres substantially surrounded by urban uses, (c) the project site has no value as habitat for endangered, rare or threatened species, (d) approval of the proposed project would not result in any significant effects relating to traffic, noise, air quality, or water quality, and (e) the site of the proposed project can be adequately served by all required utilities and public services.

PUBLIC HEARING NOTICE:

Legal Notice for the Use Permit was published in the Lodi News Sentinel on Saturday, October 17, 2015. Nineteen (19) public hearing notices were sent to all property owners of record within a 300-foot radius of the project site as required by California State Law §65091 (a) 3. Public notice also was mailed to interested parties who had expressed their interest in the project.

RECOMMENDED MOTION

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 15032 and approve the Use Permit for Jeff Hunt / Boneyard Cross Fit to operate within the Industrial zone subject to the findings and conditions of approval contained in the draft Resolution."

ALTERNATIVE PLANNING COMMISSION ACTIONS:

- Approve with modified conditions.
- Deny the Use Permit Amendment, providing reasons the required findings could not be met.
- Continue the request.

Respectfully Submitted,

Concur,

Craig Hoffman
Senior Planner

Stephen Schwabauer
Community Development Director

ATTACHMENTS

- A. Vicinity / Aerial Map
- B. Floor Plan
- C. Applicant's Letter
- D. Draft Resolution

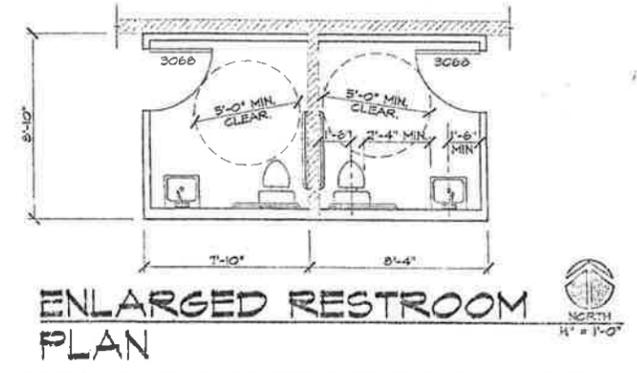
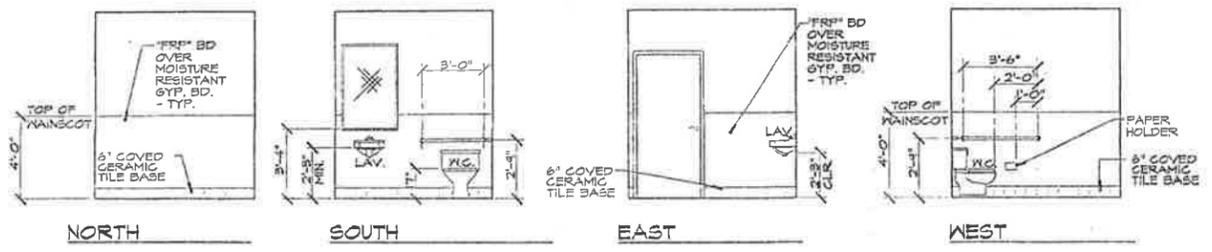
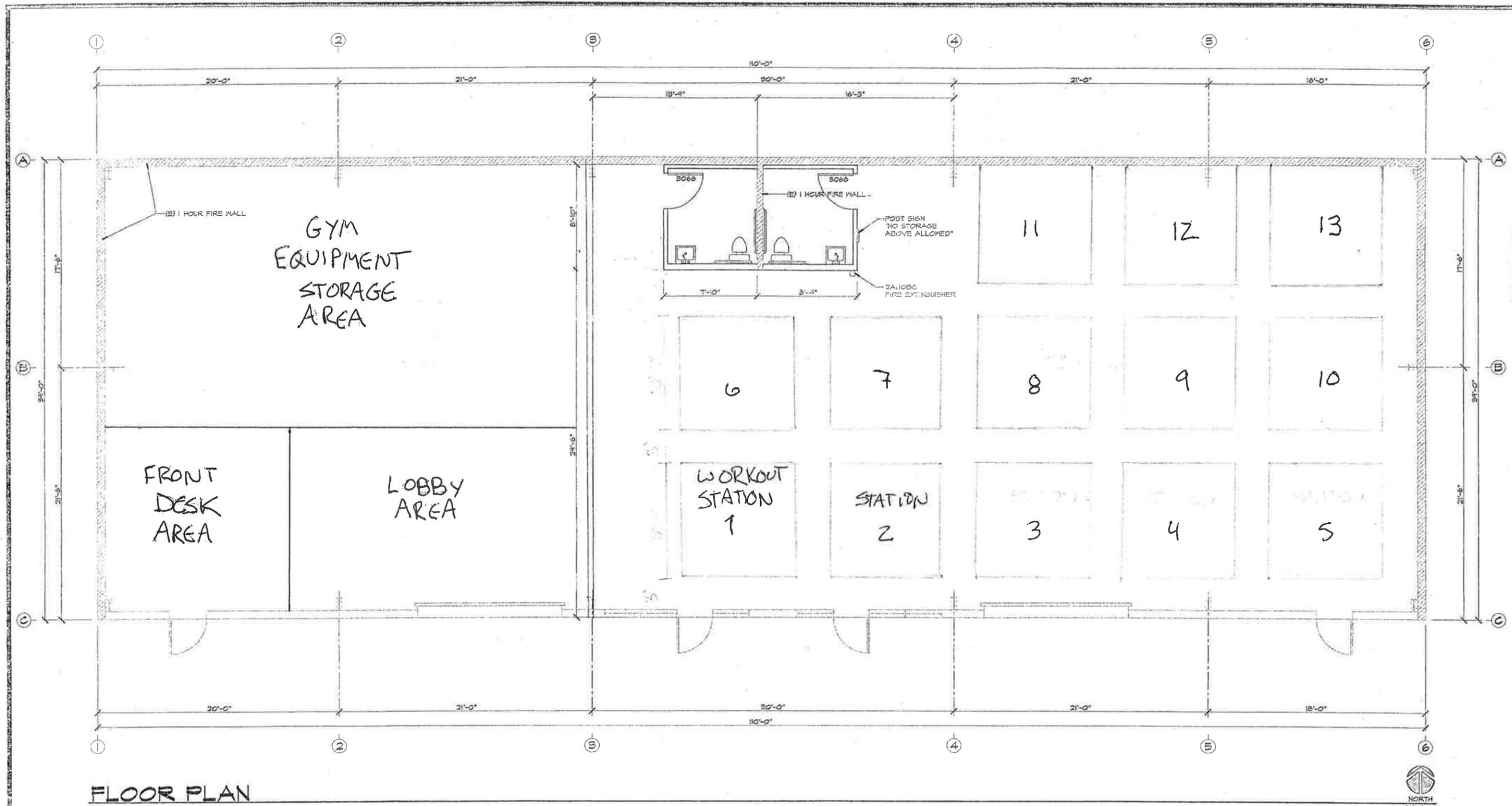
VICINITY / AERIAL MAP

North



South

1125 E. Pine Street



We are requesting approval for a use permit at 1125 E. Pine St. The building is 4,298 square feet. At this time we do not have any classified employees. We have two(2) Owner Operators. Our facility provides individual and group training sessions with class programs designed for no more than twelve(12) people. The peak hours of operation over the past three(3) years has consistently been 5:00am, 4:00pm, 6:00pm and 7:00pm. The main area of use is an open floor plan for class training and two(2) restrooms. Our hours of operation are Monday thru Friday 5:00am to 10:00am and 4:00pm to 8:00pm. Saturday and Sunday 9:00am to 10:00am. The building currently has eight(8) regular parking stalls, one(1) handicapped stall and easy access to street parking.

As our business grows we would like to request approval to move our business to 1125 E. Pine Street. A building that is larger than our current building, and also brings us into Lodi. This building will give us the opportunity to keep our business growing. This building also is fantastic for the type of training we do... CrossFit, olympic lifting, power lifting, gymnastics and sports specific training.

Thank you,

Jeff Hunt (231) 499.8879
Owner of Boneyard CrossFit

RESOLUTION NO. P.C. 15-XX

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF LODI APPROVING A USE PERMIT (2015-33 U) TO ALLOW A PERSONAL FITNESS STUDIO AND TRAINING FACILITY WITHIN AN EXISTING INDUSTRIAL BUILDING LOCATED AT 1125 EAST 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 Development Code, Section 17.40; and

WHEREAS, the project site is located at 1125 East Pine Street, Lodi, CA 95240 (APN: 049-050-60); and

WHEREAS, project proponent is Boneyard Cross Fit, Mr. Jeff Hunt, 1300 Midvale Rd, Lodi, CA 95240; and

WHEREAS, the project property owner is Nick Meyers, 77 Riverwood Dr., Woodbridge, CA; and

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

WHEREAS, the requested Use Permit to allow the expansion of a personal fitness studio and training facility within an existing industrial building located at 1125 East Pine Street; and

WHEREAS, pursuant to City of Lodi Zoning Ordinance § 17.42.020, this resolution becomes effective ten (10) business days from its adoption in the absence of the filing of an appeal; and

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

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

1. The project is found to be categorically exempt from CEQA review under 14 CCR §15332. Class 32 consists of projects characterized as in-fill development meeting the following conditions: (a) the project is consistent with the applicable general plan designation and all applicable general plan policies as well as with the applicable zoning designation and regulations, (b) the proposed development occurs within city limits on a project site of no more than five (5) acres substantially surrounded by urban uses, (c) the project site has no value as habitat for endangered, rare or threatened species, (d) approval of the proposed project would not result in any significant effects relating to traffic, noise, air quality, or water quality, and (e) the site of the proposed project can be adequately served by all required utilities and public services.
2. The proposed project site is within an existing 4,298 square-foot building located within an Industrial zoning district, which permits personal fitness studio subject to Use Permit approval, including any specific condition required for the proposed use in the district in which it would be located.
3. The General Plan land use designation for the project site is Industrial, which permits the proposed use. The facility center is naturally restricted by size and space allocation within building in a manner that limits occupancy, and will be subject to operational conditions that govern day to day operational aspects necessary to ensure that parking and traffic impacts do not interfere with the primary daytime land uses in the area. The conditions for the restriction of the conditional use are consistent with the General Plan, will not effect neighborhood compatibility; and will not cause the operation of the conditional use to be detrimental to the welfare of persons or properties working, residing, or otherwise existing in the adjacent neighborhood areas.
4. The proposed use is within a 4,298 square foot building. There are no changes to the site and the proposed use is consistent with the Zoning Code and the General Plan policies. As such, the subject site is adequate in size and shape to accommodate the proposed use within an industrial area. Further, the project will not have a negative effect on the public health, safety, or welfare; or be materially injurious to persons, properties or improvements in the vicinity.

5. The harmony in scale, bulk, coverage and density of the proposed project is consistent with and compatible to the existing and proposed land uses around the subject site, in that the proposed health club facility will be located within an existing building, with no additions or expansions to the approved exterior thereby maintaining the approved scale, bulk, coverage and density of the building with no impacts upon the surrounding neighborhood.
6. The availability of public facilities and utilities is adequate to serve the proposed use, in that the proposed health club facility will be located within an existing building where public facilities and services are provided, including sewer, water, electricity, phone, etc.
7. The subject site will have adequate pedestrian and vehicular circulation and parking available, in that there is an adequate vehicle access point. Pedestrian movements are facilitated by paved and continuous path of travel that connects to the public sidewalk and the sidewalk accesses adjacent properties.

NOW, THEREFORE, BE IT DETERMINED AND RESOLVED by the Planning Commission of the City of Lodi that Use Permit Application No. 2015-33 U is hereby approved, subject to the following conditions:

1. The property owner and/or developer and/or successors in interest and management shall, at their sole expense, defend, indemnify and hold harmless the City of Lodi, its agents, officers, directors and employees, from and against all claims, actions, damages, losses, or expenses of every type and description, including but not limited to payment of attorneys' fees and costs, by reason of, or arising out of, this development approval. The obligation to defend, indemnify and hold harmless shall include, but is not limited to, any action to arbitrate, attack, review, set aside, void or annul this development approval on any grounds whatsoever. The City of Lodi shall promptly notify the developer of any such claim, action, or proceeding and shall cooperate fully in the defense.
2. The property owner and/or developer and/or successors in interest and management shall operate the project in strict compliance with the approvals granted herein, City standards, laws, and ordinances, and in compliance with all State and Federal laws, regulations, and standards. In the event of a conflict between City laws and standards and a State or Federal law, regulation, or standard, the stricter or higher standard shall control.
3. The Lodi Police Department, the Planning Commission and/or City Staff may, at any time, request that the Planning Commission conduct a hearing on the Use Permit for the purpose of amending or adding new conditions to the Use Permit or to consider revocation of the Use Permit if the Use Permit becomes a serious policing problem.
4. Music and business related noise shall be maintained at a level that does not disturb neighboring tenants during all hours the fitness studio is open. No sound may emanate from the building, uses, or other operations which cause a disturbance or nuisance, or violate City noise standards.
5. The Use Permit shall be vested within six (6) months from the effective date of approval. A building permit for the tenant improvements allowed under this Use Permit shall have been obtained within twelve (12) months from the effective date of the Use Permit or the Use Permit shall expire; provided however that the Use Permit may be extended pursuant to the Lodi Municipal Code.
6. The applicant shall adhere to the operations plan approved by the Planning Commission. Any proposed changes to the operation that would intensify the use shall be subject to review by the Planning Commission.
7. On-site signage shall be allowed in accordance with the standards of the Lodi Municipal Code, and shall be submitted to the Community Development Department prior to installation for review and permitting.
8. The premises shall be kept clean and the operator of the establishment shall insure that no trash or litter originating from the site is deposited outside the tenant space, onto neighboring properties, or onto the public right-of-way. The exterior of all the premises shall be maintained in a neat and clean manner, and maintained free of graffiti at all times. Graffiti shall be removed within twenty-four hours after issuance of a notice of order.

9. The applicant/project proponent and/or developer and/or successors in interest and management shall obtain Operational Permit issued by the Lodi Fire Department, and meet all the conditions outlined in therein. The Fire Department may be contact at the Lodi Fire Department, 25 East Pine Street, Lodi, CA 95240-2127. Phone Number (209) 333-6739.
10. The Use Permit approval is for the entire building at 1125 E. Pine Street.
11. The activities allowed by the use permit cover fitness studio activities and health related activities that would be consist with that use.

Building - General Comments:

12. The change of use/occupancy of the adjoining suites to A-3 occupancy shall require a Tenant Improvement 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.
13. Assembly areas require an operational permit. Apply for required operational permits at the Lodi Fire Department. Approval of required operational permits required prior to building permit issuance. 2013 CFC, Section 105.6
14. Occupant load calculations shall be provided for the entire building and individual rooms in the building based on square footage divided by the appropriate occupant load factor from 2013 CBC, Table 1004.1.2. The occupant load factor for exercise rooms is 50 square feet gross floor area/person and shall include items such as restrooms, locker rooms, hallways, closets, etc.
15. If the occupant load of the building or any area of the building exceeds 49, the plans shall show:
 - a) A minimum of two (2) exits that are separated by a minimum of 1/2 (1/3 in sprinklered buildings) of the diagonal distance of the area served. 2013 CBC, Section 1015.2.1
 - b) Exit doors shall swing in the direction of egress travel. 2013 CBC, Section 1008.1.2
 - c) The exit doors and exit access doors shall be equipped with panic hardware. 2013 CBC, Section 1008.1.10
 - d) A means of illuminating the egress path of travel in case of power failure, including path to the egress doors and the exterior landings. The emergency power system shall provide backup power for the duration of at least 90 minutes and shall illuminate the path of travel at the rate of an average of 1 foot candle at floor level. 2013 CBC, Sections 1006.1 thru 1006.3.1
 - e) Show locations of required illuminated exit signs. 2013 CBC, Section 1011
 - f) Provide complete and adequate details and locations of the required tactile exit signs at the following locations:
 1. Each grade-level exterior exit door shall be identified by a tactile exit sign with the word, "EXIT."
 2. Each exit access door from an interior room or area that is required to have a visual exit sign, shall be identified by a tactile exit sign with the words, "EXIT ROUTE." 2013 CBC, Section 1011.4
16. Provide an active or passive space heating system capable of maintaining a minimum indoor temperature of 68 degrees F at a point 3 foot above the finished floor. 2013 CBC, Section 1204.1
17. Plumbing fixtures shall be provided for the type of occupancy and in the minimum number specified by 2013 CPC, Table 422.1. Plumbing occupant load shall be calculated using the plumbing occupant load factor specified by 2013 CPC Table A for each area use. The required number of plumbing fixtures (water closets, urinals, lavatories and drinking fountains) shall be provided, as specified for A-3 occupancies by 2013 CPC, Table 422.1. Additional plumbing fixtures may be required.
18. 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 \$146,303.00 and if the cost of the above listed accessibility upgrades are disproportionate (exceeds 20% of the project without the upgrades), then the required accessibility upgrades may be provided to the extent that is proportionate (20% of the valuation) as per 2013 CBC, Section 11B-202.4, Exception 8. In choosing which accessible elements to provide, priority should be given to those elements that will provide the greatest access.

19. In the event the use hereby permitted under this permit is: (a) found to be in violation of the terms and conditions of this permit; (b) found to have been obtained by fraud or perjured testimony; or (c) found to be detrimental to the public health, safety or general welfare, or a public nuisance; this may initiate a revocation procedures in accordance with the City of Lodi Municipal Code.
20. A copy of the approved Resolution shall be incorporated into the plans prior to the submittal for plan check. Failure to meet any conditions of approval for this development shall constitute a violation of the Use Permit.
21. 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.
22. No variance from any City of Lodi adopted code, policy or specification is granted or implied by the approval of this resolution.

Dated: November 11, 2015

I certify that Resolution No. 15-XX was passed and adopted by the Planning Commission of the City of Lodi at a regular meeting held on Wednesday, November 11, 2015 by the following vote:

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

ATTEST: _____
Secretary, Planning Commission

Item 3c

Subject: 2015-30 P - Kristmont Tentative Parcel Map

From: Steve Schwabauer
Sent: Thursday, November 05, 2015 5:35 AM

We will pull it from Wednesday's agenda. Nothing further is required on your part. Just let us know when you are prepared to proceed.

Steve

Stephen Schwabauer
Lodi City Manager
221 West Pine Street
Lodi, California 95240
(209) 333-6701
sschwabauer@lodi.gov

On Nov 4, 2015 9:32 PM, Tiffany Wilson <T.Wilson@rsc-engr.com> wrote:
Steve,

I have not been able to get a hold of Denise. We have a number of issues with the conditions proposed on the project. My client just received notice that the hearing is set for November 11, 2015. We will need to request a continuance until we can resolve our issues. Please let me know if this email will suffice or if I need to provide a written notice requesting a continuance. Thanks.

Tiffany Ann Wilson, AICP



RSC Engineering, Inc.
2250 Douglas Blvd., Ste. 150
Roseville, CA 95661
Ph. (916) 788-2884
Fax (916) 788-4408
www.rsc-engr.com

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Item 3d



**CITY OF LODI
PLANNING COMMISSION
Staff Report**

MEETING DATE: November 11, 2015

APPLICATION NO: Subdivision Map: 2015-32 P

REQUEST: Request for Planning Commission approval of a Tentative Parcel Map to divide one parcel into five lots at 809 S. School Street. (Applicant: Tokay Development, Inc.; File 2015-32 P; CEQA Determination: Categorical Exemption Pursuant to CEQA Guidelines Section 15315)

LOCATION: 809 S. School Street
APN 045-070-38
Lodi, CA 95240

APPLICANT: Tokay Development, Inc.
Ms. Crystal Kirst
PO Box 1259
Woodbridge, CA 95258

PROPERTY OWNER: Tokay Development, Inc.
Ms. Crystal Kirst
PO Box 1259
Woodbridge, CA 95258

RECOMMENDATION

Staff recommends the Planning Commission approve the request of Tokay Development, Inc. for a Tentative Subdivision Map to subdivide one parcel into four lots with a remainder parcel, subject to the conditions outlined in the draft resolution.

PROJECT/AREA DESCRIPTION

General Plan Designation: Low Density Residential
Zoning Designation: Low Density Residential
Property Size: 0.68 acre (29,625 sq. ft.)

The adjacent zoning and land use are as follows:

ADJACENT ZONING DESIGNATIONS AND LAND USES			
	GENERAL PLAN	ZONING CLASSIFICATION	EXISTING LAND USE
North	Low Density Residential	Low Density Residential	Residence
South	Low Density Residential	Low Density Residential	Residence
East	Low Density Residential	Low Density Residential	Residence
West	Low Density Residential	Low Density Residential	Residence

BACKGROUND:

The subject property is located north of Vine Street on the west side of School Street. This is an old parcel within Lodi and its surrounding properties have subdivided over the past 60 years.

The property location map is included as Attachment A, and the Tentative Parcel Map is included as Attachment B.

There are currently two residences on the property with a garage and several out buildings.

The applicant is proposing to subdivide the .68 acre (29,625 sq ft) parcel into 4 residential lots with a remainder parcel for the main house (Parcel 3). The current parcel size would allow for 5 parcels to be created

The net result of this project would be 3 additional residences in Lodi.

The applicants propose to demolish all the secondary structures and refurbish the main house and construct a new garage.

Parcels 1, 2, 4 and 5 would see new construction. All five parcels exceed the minimum lot size for Low Density Residential lots.

ANALYSIS:

The properties are currently zoned Low Density Residence (LDR) and designated Low Density Residential (1-8 units per acre) in the General Plan. As proposed, the lots will exceed minimum lot size and width and comply with land use density standards.

General Plan Conformance:

The subject property is currently designated Low Density Residential (1-8 dwelling units per acre) by the Land Use Map of the General Plan. The following General Plan Land Use and Community Design and Livability (CDL) goals and policies are applicable to the proposed subdivision:

- **Land Use Policy 3:** Do not allow development at less than the minimum density prescribed by each residential land use category.
- **Land Use Policy 22:** promote infill development that maintains the scale and character of established neighbors.
- **CDL Policy 2:** Ensure that Zoning and Subdivision ordinances include measures that guide infill development to be compatible with the scale, character and identity of adjacent development.

All of the surrounding parcels are currently designated Low Density Residential (1-8 units per acre). The average density that will be created as a result of the proposed subdivision is approximately 5 to 6 units per acre, which is consistent with this Low Density Residential density prescribed by the City's General Plan. Therefore, the proposed subdivision would result in new lot sizes that are consistent with the density prescribed by the General Plan. The attached Tentative Map illustrates the final parcel configuration that would result from the proposed project.

Zoning Compliance:

The following tables depict how each lot will comply with the standard Low Density Residence lot requirements:

PARCEL 1			
Standard	Required	Proposed	Compliance
Lot Area	5,000 sq. ft	5,761 sq. ft.	Yes, Exceeds
Lot Width	50 ft	64 ft.	Yes, Exceeds

PARCEL 2			
Standard	Required	Proposed	Compliance
Lot Area	5,000 sq. ft	6,530 sq. ft.	Yes, Exceeds
Lot Width	50 ft	79 ft.	Yes, Exceeds

PARCEL 3 – DESIGNATED REMAINDER			
Standard	Required	Proposed	Compliance
Lot Area	5,000 sq. ft	5,248 sq. ft.	Yes, Exceeds
Lot Width	50 ft	50 ft.	Yes, Exceeds

PARCEL 4			
Standard	Required	Proposed	Compliance
Lot Area	5,000 sq. ft	6,764 sq. ft.	Yes, Exceeds
Lot Width	50 ft	78 ft.	Yes, Exceeds

PARCEL 5			
Standard	Required	Proposed	Compliance
Lot Area	5,000 sq. ft	5,624 sq. ft.	Yes, Exceeds
Lot Width	50 ft	66 ft.	Yes, Exceeds

The Zoning Code implements the goals and policies of the General Plan. The subject property is zoned Low Density Residence (LDR). As can be seen from the tables above, the proposed tentative subdivision map meets or exceeds the minimum lot area, lot width, and street frontage standards. The applicant has not prepared construction plans at this time, but any future development on the parcels will be subject to building permit review by City staff to ensure compliance with all applicable zoning standards and all other applicable provisions of the Municipal Code.

The design standards within the zoning code requires frontage onto public streets and design of developments need to match the scale of the neighborhood.

Site Circulation: The project has been designed with two driveways off School Street. Parcels 1,2 and the Remainder will be served by one driveway, and Parcel 4 and 5 will be served by a second driveway.

The City of Lodi encourages infill development to take advantage of existing infrastructure and reduce sprawl into adjacent agricultural lands. The General Plan policies require efficiency of land development and directs staff to ensure that developments utilize land to the best density to reduce the need for the conversation of agricultural land surrounding the city.

Comment Letters: (Attachment C)

Staff has received several letters from adjacent neighbors concerned with the amount of parcels proposed and the type of housing that could be constructed. The Tokay Development Company has a long history of development and construction of quality projects in Lodi. Staff directed the applicant to developing 5 parcels. That is consistent with the General Plan and zoning. The applicants intend to build single family residences that are consistent with the neighborhood. An example of a previous project is at the corner of California Street and Daisy Ave. This is an infill project that is consistent with the policies of the General Plan and Zoning Code.

Findings:

Pursuant to Lodi Development Code Section 17.52.070, in order to approve the proposed tentative parcel map, the proposed subdivision must be found consistent with the general plan, zoning ordinance, and the Subdivision Map Act (State law). Based on the analysis above, staff finds that the proposed tentative map is in conformance with the General Plan, zoning ordinance, and the Subdivision Map Act. However, if any of the following findings can be made, the tentative map shall be denied.

- 1. The proposed subdivision including design and improvements is not consistent with the General Plan or any applicable Specific Plan. **Comment:*** The site contains a General Plan designation of low density residential reserved primarily for single-family residences and compatible uses. The maximum density allowed in the very low General Plan designation is eight (8) dwelling units per net acre. The proposed parcel split creates a density of roughly 5 to 6 units per acre. The proposed map is consistent with the General Plan in that creation of five (5) lots for single-family homes are allowed within the maximum density (8) permitted onsite in the very low density, land use designation of the General Plan.
- 2. The site is not physically suitable for the type or proposed density of development. **Comment:*** No unusual topographic features are present onsite that would prohibit development of proposed parcels. The site is generally flat, with no regulated sensitive areas or other limiting topographic features. The site consists of a single residential lot and associated structures. The subdivision will create lots with adequate land area to support a detached single-family dwelling with standard setbacks and ample useable private yard space.
- 3. The design of the subdivision or the proposed improvements are likely to cause substantial environmental damage or injure fish or wildlife or their habitat. **Comment:*** The project site is not located in a sensitive environment but rather in a previously disturbed area surrounded by other residential land uses. The scope of the project would only add one new parcel to the area, making it of such minor nature so as not to have a significant adverse impact on the environment.
- 4. The design of the subdivision or type of improvements is likely to cause serious public health or safety problems. **Comment:*** Frontage improvements along Howard Street are required for the development of the parcels and public access and utilities for each lot are available. The lots being created will comply with all applicable single-family sanitary sewer service and stormwater runoff treatment requirements, as well as other similar environmental and life safety regulations and standards.
- 5. The design of the subdivision or the type of improvements will conflict with easements, acquired by the public at large for access through or use of, property within the proposed subdivision. This finding may not be made if the Commission finds that alternate easements for access or use will be provided, and that they will be substantially equivalent to ones previously acquired by the public. This finding shall apply only to easements of record, or to*

easements established by judgment of a court of competent jurisdiction, and no authority is hereby granted to the review authority to determine that the public at large has acquired easements of access through or use of property within the proposed subdivision. **Comment:** There are no public easements that currently encumber the properties to be subdivided, and all modifications made to the existing public improvements fronting the five parcels during development of the properties will be required to be reconstructed to current City standards.

6. *The discharge of wastewater from the proposed subdivision into the community wastewater system would result in violation of existing requirements prescribed by the California Regional Water Quality Control Board.* **Comment:** There are no public easements that currently encumber the properties to be subdivided, and all modifications made to the existing public improvements fronting the five parcels during development of the properties will be required to be reconstructed to current City standards.
7. *Information available to the City indicates adverse soil or geological conditions and the subdivider has failed to provide sufficient information to the satisfaction of the Public Works Director or the Commission that the conditions can be corrected in the plan for the development.* **Comment:** No information has been found to indicate the project site is considered contaminated, or may contain contaminant particles.
8. *The proposed subdivision is not consistent with all applicable provisions of this Title, any other applicable provision of the Municipal Code, and the Subdivision Map Act.* **Comment:** The procedural requirements of the Map Act are being followed and the parcels will comply with the applicable engineering and zoning standards pertaining to grading, drainage, utility connections, lot size and density.

The tentative subdivision map has been reviewed by the Public Works and Electrical Utility Departments and they recommended approval subject to the conditions outlined in the attached resolution. Staff has found that the proposed Tentative Subdivision Map, subject to the conditions in the attached resolution, meet the requirements of the Zoning Ordinance and is consistent with the General Plan. Based on the information provided in the analysis above, staff recommends approval of the Tentative Subdivision Map subject to the findings and conditions of approval contained in the staff report.

ENVIRONMENTAL ASSESSMENTS:

The project is exempt from CEQA review pursuant to § 15315 (Class 15, Minor Land Divisions) of the CEQA Guidelines. Class 15 exempts the division of land into four or fewer parcels when the division is in conformance with the General Plan and Zoning Code, no variances or exceptions are required, all services and access to the proposed parcels to local standards are available, the parcel was not involved in a division of a larger parcel within the previous 2 years, and the parcel does not have an average slope greater than 20 percent. The Applicant's proposed tentative parcel map complies with all applicable residential development standards established in the General Plan and Zoning Code. No variances are required for the proposed subdivision. Access to all public facilities and infrastructure will be provided for each resultant parcel. The subject property is relatively flat and has not been involved in a subdivision within the last 2 years. Based on staff's review of the project, no special circumstances exist that would create a reasonable possibility that the proposed tentative parcel map will have a significant effect on the environment.

PUBLIC HEARING NOTICE:

Legal Notice for the Use Permit was published in the Lodi News Sentinel on Saturday, October 31, 2015. Sixty-five (65) 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 had expressed their interest of the project.

RECOMMENDED MOTIONS:

Should the Planning Commission agree with staff's recommendation, the following motions are 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 15315 and approve the request of Tokay Development for a Tentative Subdivision Map to subdivide one parcel into four lots and a designated remainder, subject to the conditions outlined in the draft resolution."

ALTERNATIVE PLANNING COMMISSION ACTIONS:

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

Respectfully Submitted,

Concur,

Craig Hoffman
Senior Planner

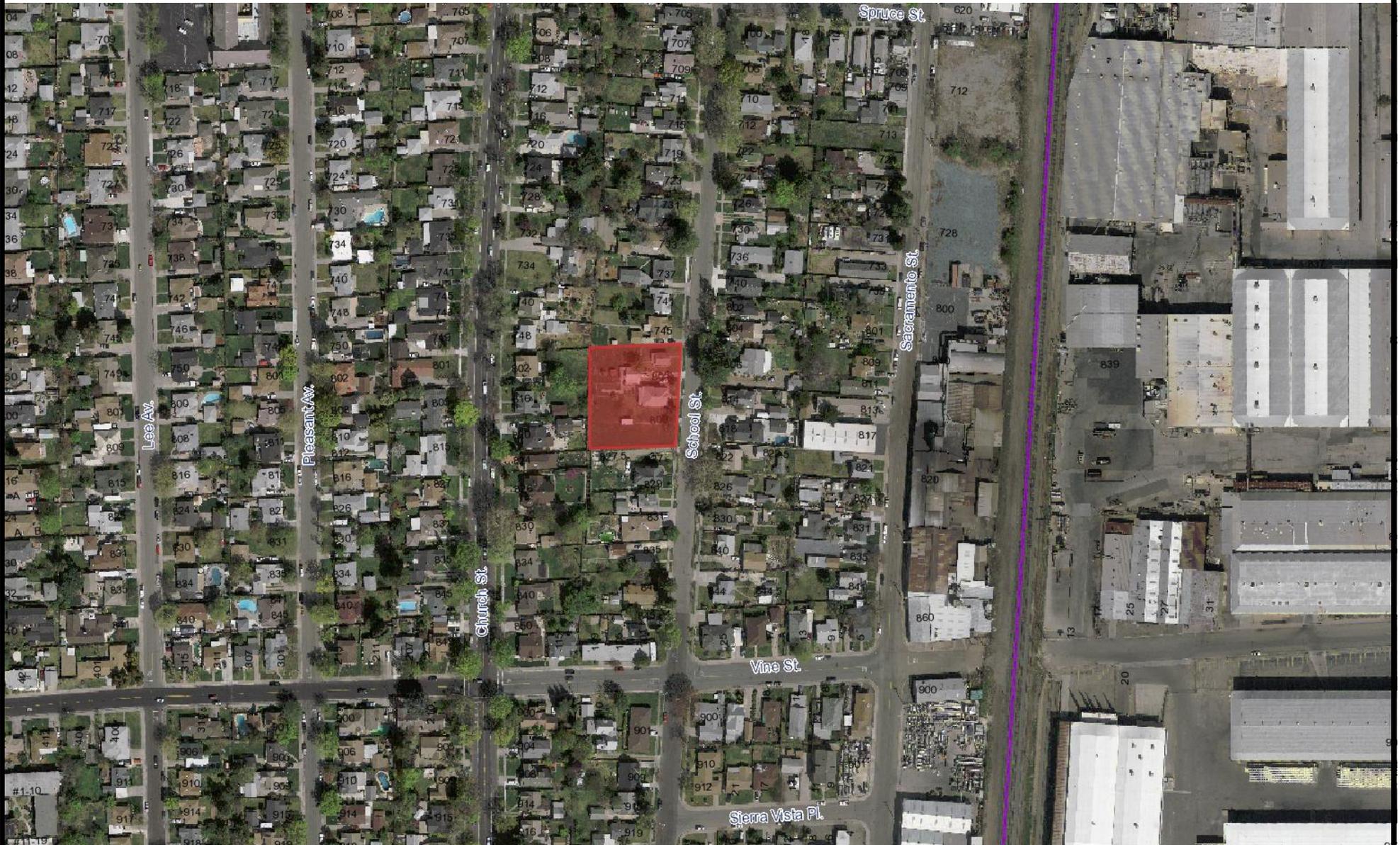
Stephen Schwabauer
Community Development Director

ATTACHMENTS:

- A. Vicinity / Aerial Map
- B. Tentative Map
- C. Letters of Concern
- D. Draft Resolution

VICINITY MAP

North



South

809 South School Street

**TENTATIVE MAP
 PARCEL MAP**

A PORTION OF Parcel 4, BLOCK 7, "HUTCHINS
 ADDITION TO LODI", IN THE NORTHWEST QUARTER
 OF SECTION 12, T.3 N., R.6 E., M.D.B.& M.,
 City of Lodi, San Joaquin County, California
 August, 2015 Scale: 1"=20'

OWNER: JEFFREY KIRST
 P.O. BOX 1259
 WOODBRIDGE, CALIFORNIA 95240
 (209) 334-4994

MAP PREPARED BY:
 BAUMBACH AND PIAZZA, INC.
 323 WEST ELM STREET
 LODI, CALIFORNIA
 (209) 368-6618

PROJECT DESCRIPTION:
 CREATE FOUR PARCELS AND A DESIGNATED REMAINDER
 FROM THE EXISTING PARCEL, AS SHOWN.

UTILITIES AND FACILITIES:
 WATER-CITY OF LODI; SEWAGE-CITY OF LODI; STORM
 DRAINAGE-CITY OF LODI; ELECTRICITY-CITY OF LODI;
 GAS-PC&E; TELEPHONE-SBC

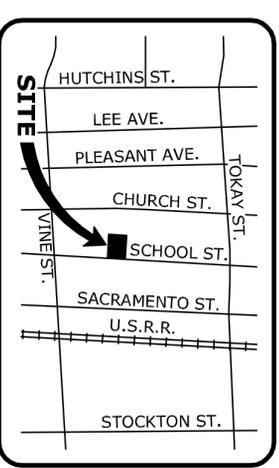
FLOOD INFORMATION:
 NOT SUBJECT TO 100 YEAR FLOOD.

ASSESSOR PARCEL NUMBER:
 045-070-38

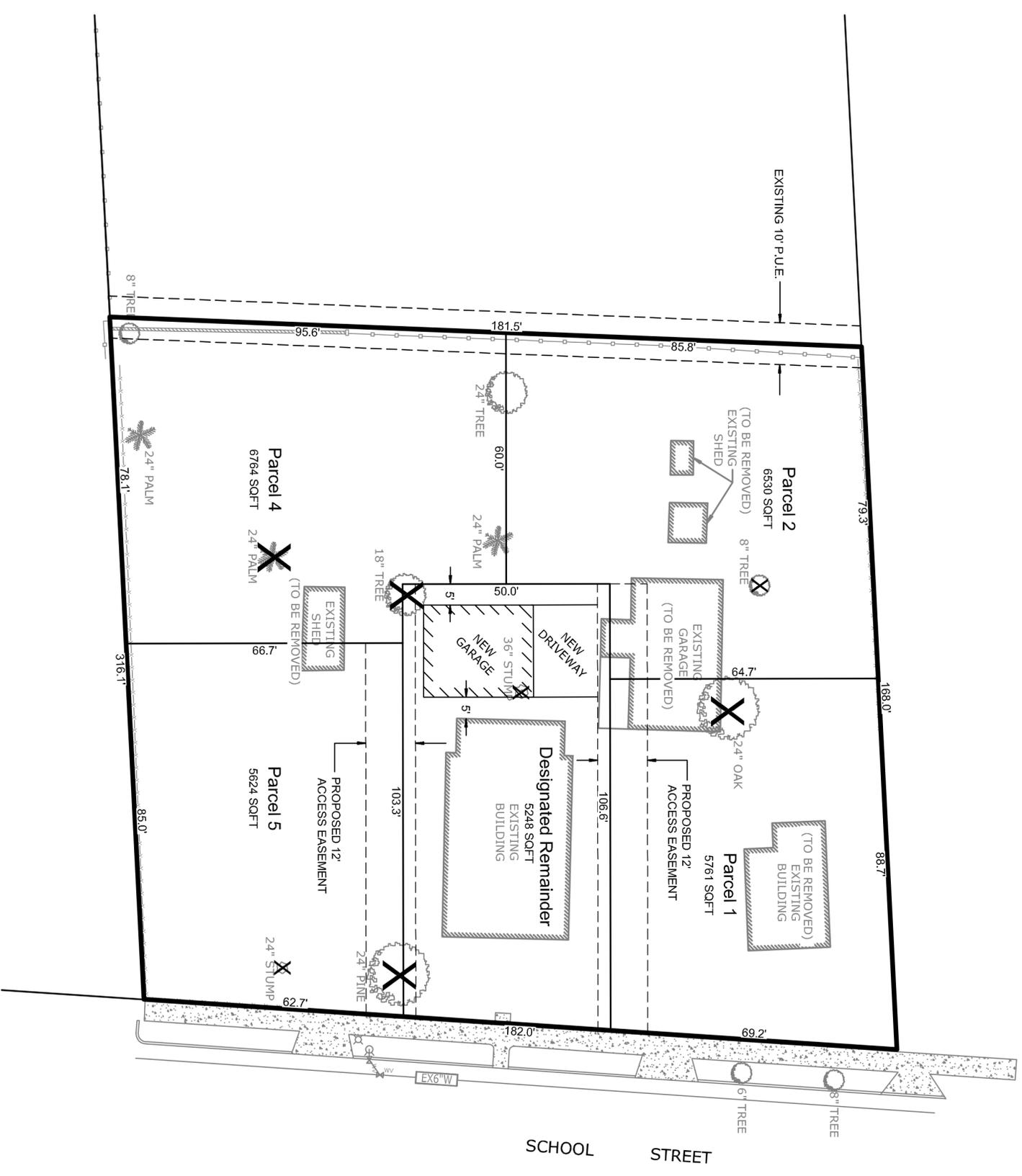
SITUS ADDRESS:
 809 S. SCHOOL STREET
 LODI, CALIFORNIA 95240

ZONING:
 RLD

GENERAL PLAN DESIGNATION:
 LOW DENSITY RESIDENTIAL



VICINITY MAP
 NO SCALE



CAUTION!!
 DO NOT SCALE THIS
 DRAWING IF BAR DOES
 NOT MEASURE 1 INCH.

Barbara Brown

RECEIVED
NOV 02 2015
CITY CLERK



804 S. School St Lodi Ca. 95240
(209)368-8796
barbarabrown804@sbcglobal.net

11/2/2015

Dear Mayor and City Council,

I am responding to your planning of new development at 809 S. School St.

I am unable to attend the meeting but I am very concerned about the type of homes to be built.

We have lived here for 42 years we have a nice quiet neighborhood. We would hate to see Duplexes or apartments and to hear it been divided into 5 parcels which means probably 5 houses. By bring than many into a small area I can see maybe 3 or 4 nice homes for individual family's but I would hope you would see we need individual homes . We want to keep our neighborhood a nice quite peaceful place where you can walk at night, visit your neighbors. We have potlucks and activities with our friends and neighbors. By building small rentals where people come and go, we would hope this would not be the case.

Thank you for your time.

Warm regards,
Barbara Brown



NOV 04 2015

COMMUNITY DEVELOPMENT DEPT
CITY OF LODI

11-1-15

to the
Planning Commission of City of Lodi

This letter is in regards to the property at 809 S. School St. to divide it into five lots. We live across the street at 808 S. School St.

We are opposed to dividing into five lots. We feel the impact of traffic and quality of life would be impacted by five new homes.

We are not opposed to a smaller division possible three lots.

Carl Oberman
Cory Natia

To whom it may concern;

Nov. 2, 15

My husband and I have been searching for the perfect little home^{for a year} where we can have our lg. family, small grandchildren and soon to be great grandchildren come and enjoy the beautiful backyard. Where I would feel they would be safe to play.

We fell in love with this house at 745 S. School St. But, we were concerned about what was to be with the property next door at 809 S. School St.

We found out who the buyers were so I called them at Tokay Development, what their plans were with this property made a difference or if we were going to purchase this perfect home. The woman on the phone told me that Tokay Development has been a long standing family business for many decades. She assured me that they have no intentions other than rebuilding the lg. home and tearing down the smaller home to have 2 homes and 2 homes only to resell and they would be built to keep the esthetics and integrity of the neighborhood. I was very happy so we purchased this home we loved.

Now it is disheartening to know that it was a lie.

in Lodi

Now we find out that they are going to divide this property into 5 parcels and build 5 homes.

We DO NOT want to live next door to a bunch of rentals. In our experience they only bring a lot of trouble and bad elements. (Long story)

Now, our properties are only divided by a short chain link fence (Already their plans disturb our privacy for our small grand children). If the other owners of Tokey Development want to continue with this horrible plan. We want from them in writing that prior to dividing and building, they build a wall 6ft or higher from the rear of the property to the front between our properties at least $\frac{1}{2}$ way down our driveway.

We don't have lots of money, we are just hard working people that struggle like most and do not want our property value to drop because of someone with more money than the average, wants more. Please help us to enjoy our investment. We put every penny we had and worked for into our modest home and we love it here. We also are not the only ones on our street that feel this way.

Sincerely, Blane and Patricia Famer

RESOLUTION NO. P.C. 15-XX

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF LODI APPROVING THE REQUEST OF TOKAY DEVELOPMENT FOR A TENTATIVE PARCEL MAP TO SUBDIVIDE ONE PARCEL INTO FOUR PARCELS AND A REMAINDER PARCEL AT 809 S. SCHOOL 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 Parcel Map, in accordance with the Lodi Development Code, Section 17.74 (Public Hearings); and

WHEREAS, the property is located at 809 S. School Street, Lodi, CA 95240, APN 045-070-38; and

WHEREAS, the project proponent is Tokay Development, Inc., Ms. Crystal Kirst, PO Box 1259, Woodbridge, CA 95258; and

WHEREAS, the property owner is Tokay Development, Inc., Ms. Crystal Kirst, PO Box 1259, Woodbridge, CA 95258; and

WHEREAS, the property is zoned Low Density Residential; and

WHEREAS, the property has a General Plan land use designation of LDR, Low Density Residential; 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 is exempt from CEQA review pursuant to § 15315 (Class 15, Minor Land Divisions) of the CEQA Guidelines. Class 15 exempts the division of land into four or fewer parcels when the division is in conformance with the General Plan and Zoning Code, no variances or exceptions are required, all services and access to the proposed parcels to local standards are available, the parcel was not involved in a division of a larger parcel within the previous 2 years, and the parcel does not have an average slope greater than 20 percent. The Applicant's proposed tentative parcel map complies with all applicable residential development standards established in the General Plan and Zoning Code. No variances are required for the proposed subdivision. Access to all public facilities and infrastructure will be provided for each resultant parcel. The subject property is relatively flat and has not been involved in a subdivision within the last 2 years. Based on staff's review of the project, no special circumstances exist that would create a reasonable possibility that the proposed tentative parcel map will have a significant effect on the environment.
2. The site contains a General Plan designation of low density residential reserved primarily for single-family residences and compatible uses. The maximum density allowed in the very low General Plan designation is eight (8) dwelling units per net acre. The proposed parcel split creates a density of roughly 5 to 6 units per acre. The proposed map is consistent with the General Plan in that creation of five (5) lots for single-family homes are allowed within the maximum density (8) permitted onsite in the very low density, land use designation of the General Plan.
3. No unusual topographic features are present onsite that would prohibit development of proposed parcels. The site is generally flat, with no regulated sensitive areas or other limiting topographic features. The site consists of a single residential lot and associated structures. The subdivision will create lots with adequate land area to support a detached single-family dwelling with standard setbacks and ample useable private yard space.

4. Frontage improvements along Howard Street are required for the development of the parcels and public access and utilities for each lot are available. The lots being created will comply with all applicable single-family sanitary sewer service and stormwater runoff treatment requirements, as well as other similar environmental and life safety regulations and standards.
5. There are no public easements that currently encumber the properties to be subdivided, and all modifications made to the existing public improvements fronting the five parcels during development of the properties will be required to be reconstructed to current City standards.
6. The discharge of wastewater from the proposed subdivision into the community wastewater system will not result in violation of existing requirements prescribed by the California Regional Water Quality Control Board. Public improvements for the five parcels will be required to be reconstructed to current City standards.
7. No information has been found to indicate the project site is considered contaminated, or may contain contaminant particles.
8. The procedural requirements of the Map Act are being followed and the parcels will comply with the applicable engineering and zoning standards pertaining to grading, drainage, utility connections, lot size and density.
9. The project is an in-fill project that creates 3 new residential units. The project does not require Growth Allocation Units.

NOW, THEREFORE, BE IT DETERMINED AND RESOLVED by the Planning Commission of the City of Lodi that Parcel Map Application No. 2015-32 P is hereby approved, subject to the following conditions:

1. The applicant/owner and/or successors in interest and management shall defend, indemnify, and hold the City of Lodi, its agents, officers, and employees harmless of any claim, action, or proceeding (including legal costs and attorney's fees) to attack, set aside, void, or annul this Use Permit, so long as the City promptly notifies the applicant of any claim, action, or proceedings, and the City cooperates fully in defense of the action or proceedings. The City may elect, in its sole discretion, to participate in the defense of said claim, action, or proceeding.
2. The Tentative Parcel Map shall expire within 24 months of Planning Commission approval or a time extension must be granted by the Planning Commission.
3. The Final Map shall be in substantial conformance to the approved Tentative Parcel Map, as conditioned, and that any future development shall be consistent with applicable sections of the Municipal Code.
4. Any buildings constructed on the new parcels shall be subject to setback, lot coverage, off street parking, and all other City of Lodi Municipal Code requirements.
5. The applicant shall meet all requirements of the adopted edition of the California Building, Fire and City of Lodi Municipal Codes in effect at the time of building permit application.
6. All development shall comply with the City of Lodi Stormwater Run-off requirements, including the quantitative treatment standards. Conformance with the stormwater runoff control requirements must be demonstrated prior to issuance of building permit.
7. 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.

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

Building Department

9. Demolition Permits required for the removal of existing structures.
10. A Building permit is required for the construction of the new garage.
11. 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.

Public Works Department:

The following conditions of approval are required for the subject project per City codes and standards, all to be accomplished prior to, or concurrent with, final map filing unless noted otherwise:

12. Number parcels 1 – 4 and the designated remainder.
13. The existing public utility easement along the westerly property line does not overly an existing wastewater main. Developer shall dedicate a new public utility easement at west property line to include the existing wastewater main location. In exchange for this dedication, the City will install up to four (4) water service laterals for a fee of \$300.00 each; and up to five (5) $\frac{3}{4}$ " water meters; and relocate the fire hydrant N1879 to south property line along School Street if required.
14. Remove existing driveways and replace with two driveways conforming to City of Lodi Standard Plan 114 Commercial-Type Gutter and Driveway. An encroachment permit to be obtained from the Public Works Department is required for this work. Removal of street trees, if necessary to accommodate the installation of the driveway, will require City Manager and Public Works Department approval prior to issuance of an encroachment permit.
15. Dedication of two, 12-foot access easements. One each for Parcels 2 and 4 (as designated on tentative map). A private agreement(s) for access, use and maintenance of shared, private facilities is required for all parcels affected.
16. Construction activities and mobilization shall not take place before 7:30 am and shall not extend past 10:00 p.m. in accordance with the City's noise ordinance.
17. If any grade differential between new development and adjacent existing parcels exceeds 6 inches, a perimeter retaining wall may be required.
18. Provide separate water and wastewater services for each parcel. Submit a layout showing any existing on-site water and wastewater facilities.
 - a) Any existing, shared services between parcels shall be capped and abandoned.
 - b) Provide new water and sewer services for each new parcel per City Standards. The water and sewer services installation can be provided by City crews at the owner's expense or by an approved private contractor.
 - c) The new wastewater services shall be served from the existing wastewater main in the easement along the west property line.

- d) If the existing structures on Parcels 1 or designated remainder are to remain, the structures shall be replumbed to the new water and wastewater services by the owner's contractor at the owner's expense. This work requires a plumbing permit from the City of Lodi Building Division. If existing structures are to be demolished, the demolition shall be performed in accordance with all State and Local regulations.
19. Provide a private utility easement for any water and wastewater laterals that cross adjacent parcels.
 20. Dedication of public utility easements as required by the various utility companies and the City of Lodi.
 21. Abandonment/removal of wells, septic systems and underground tanks in conformance with applicable City and County requirements and codes.
 22. In order to assist the City of Lodi in providing an adequate water supply, the Owner/Developer on behalf of itself, its successors and assigns, shall enter into an agreement with the City that the City of Lodi be appointed as its agent for the exercise of any and all overlying water rights appurtenant to the parcels within the limits of the parcel map, and that the City may charge fees for the delivery of such water in accordance with City rate policies. In addition, the agreement shall assign all appropriative or prescriptive rights to the City. The agreement will establish conditions and covenants running with the land for all parcels within the limits of the parcel map and provide deed provisions to be included in each conveyance.
 23. All project design and construction shall be in compliance with the Americans with Disabilities Act (ADA). City of Lodi Standard Plans are in the process of being revised and it should not be assumed that current standard plans are fully ADA compliant. Project compliance with ADA standards is the developer's responsibility.
 24. Submit final map per City and County requirements including the following:
 - a) Preliminary title report.
 - b) Standard note regarding requirements to be met at subsequent date.
 25. Payment of the following:
 - a) Filing and processing fees and charges for services performed by City forces per the Public Works Fee and Service Charge Schedule including construction and post construction storm drain inspection fees.
 - b) Development Impact Mitigation Fees per the Public Works Fee and Service Charge Schedule at the time of building permit issuance for 3 parcels: (infill parcel fees include: Water, Wastewater, Parks, Art in Public Places and Electric Fee only).
 - c) City installation of wastewater service at the time of building permit issuance: \$2,582.71 per parcel.
 - d) Regional Transportation Impact Fee (RTIF) at the time of building permit issuance: \$3,141.34 for Parcels 2, 4 and 5 (per tentative map).

The above fees are subject to periodic adjustment as provided by the implementing ordinance/resolution. The fee charged will be that in effect at the time of collection.
 26. Project fencing shall be constructed with metal posts or pressure treated wood posts to ensure long term quality construction.

27. The access agreement shall identify shared maintenance and no parking within the easement.

Dated: November 11, 2015

I certify that Resolution No. 15-XX was passed and adopted by the Planning Commission of the City of Lodi at a regular meeting held on November 11, 2015 by the following vote:

AYES: Commissioners:

NOES: Commissioners:

ABSENT: Commissioners:

ATTEST _____
Secretary, Planning Commission

DRAFT

Item 3e



**CITY OF LODI
PLANNING COMMISSION
Staff Report**

MEETING DATE: November 11, 2015

APPLICATION NO: Use Permit: 2015-36 U

REQUEST: Request for Planning Commission approval of a Use Permit to allow a Type-47 On-Sale Beer, Wine and Spirits for Fe-nix at 117 West Elm Street. (Applicant: Raised Well Venture, LLC; File 2015-36 U; CEQA Determination: Exempt per Section 15321)

LOCATION: 117 West Elm Street
Lodi, CA 95240
APN: 043-024-15

APPLICANT: Raised Well Venture, LLC
Richard Hyman
3815 Stiles Place
Stockton, CA 95240

PROPERTY OWNER: Lodi City Center 12 LLC
2800 W. March Lane Suite, 360
Stockton, CA 95219

RECOMMENDATION

Staff recommends the Planning Commission approve the request of Richard Hyman for a Use Permit to allow the sale of beer, wine and spirits Alcoholic Beverage Control (ABC) Type 47 license (eating place) at 117 West Elm 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 2,000 sq. ft.

The adjacent zoning and land use characteristics:

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

BACKGROUND

The project site is the former Scooter's restaurant in the Lodi Stadium 12 movie complex. Scooters previously held a Type 41 Beer and Wine license in the tenant space. 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 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. The establishment will offer theater patrons another option for food service prior to or after viewing a movie.
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 Categorically Exempt according to the California Environmental Quality Act, §15321, Class 21 (a) (2). The project is classified as an "Enforcement action by regulatory agencies" because it is the "adoption of an administrative decision for the use or enforcing the general rule, standard, or objective." 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 Categorically Exempt according to the California Environmental Quality Act, Article 19 §15321, Class 21 (a) (2). The project is classified as an “Enforcement action by regulatory agencies” because it is the “adoption of an administrative decision or order enforcing or revoking the lease, permit, license, certificate, or entitlement for use or enforcing the general rule, standard, or objective.” No significant environmental impacts are anticipated and no mitigation measures are required.

PUBLIC HEARING NOTICE:

Legal Notice for the Use Permit was published in the Lodi News Sentinel on Saturday, October 31 2015. Thirty (30) 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 Permit to allow the sale of beer and wine Alcoholic Beverage Control (ABC) Type 47 license at 117 West Elm Street subject to the findings and conditions of approval contained in the draft Resolution.”

ALTERNATIVE PLANNING COMMISSION ACTIONS:

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

Respectfully Submitted,

Concur,

Craig Hoffman
Senior Planner

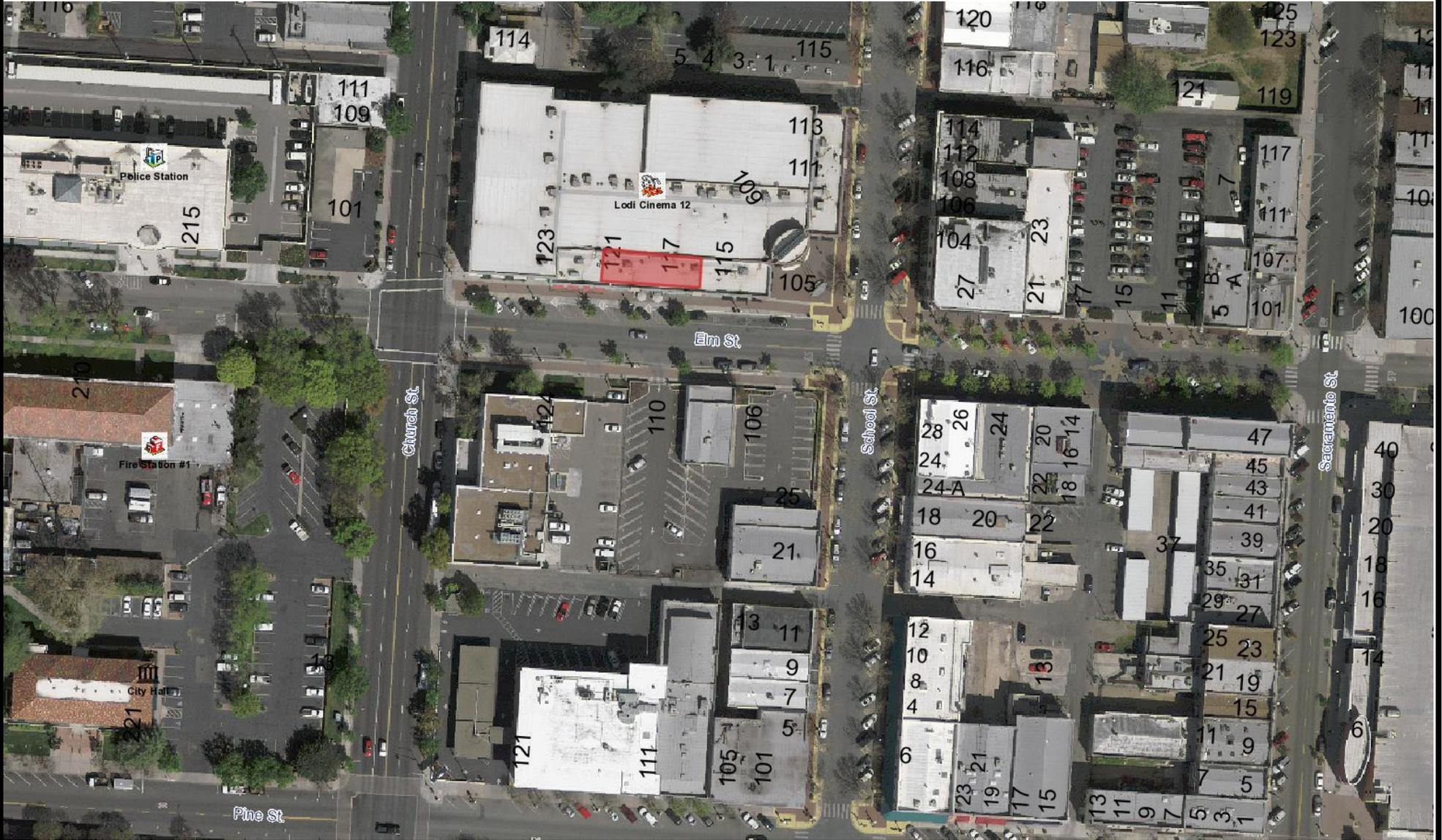
Stephen Schwabauer
Community Development Director

ATTACHMENTS:

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

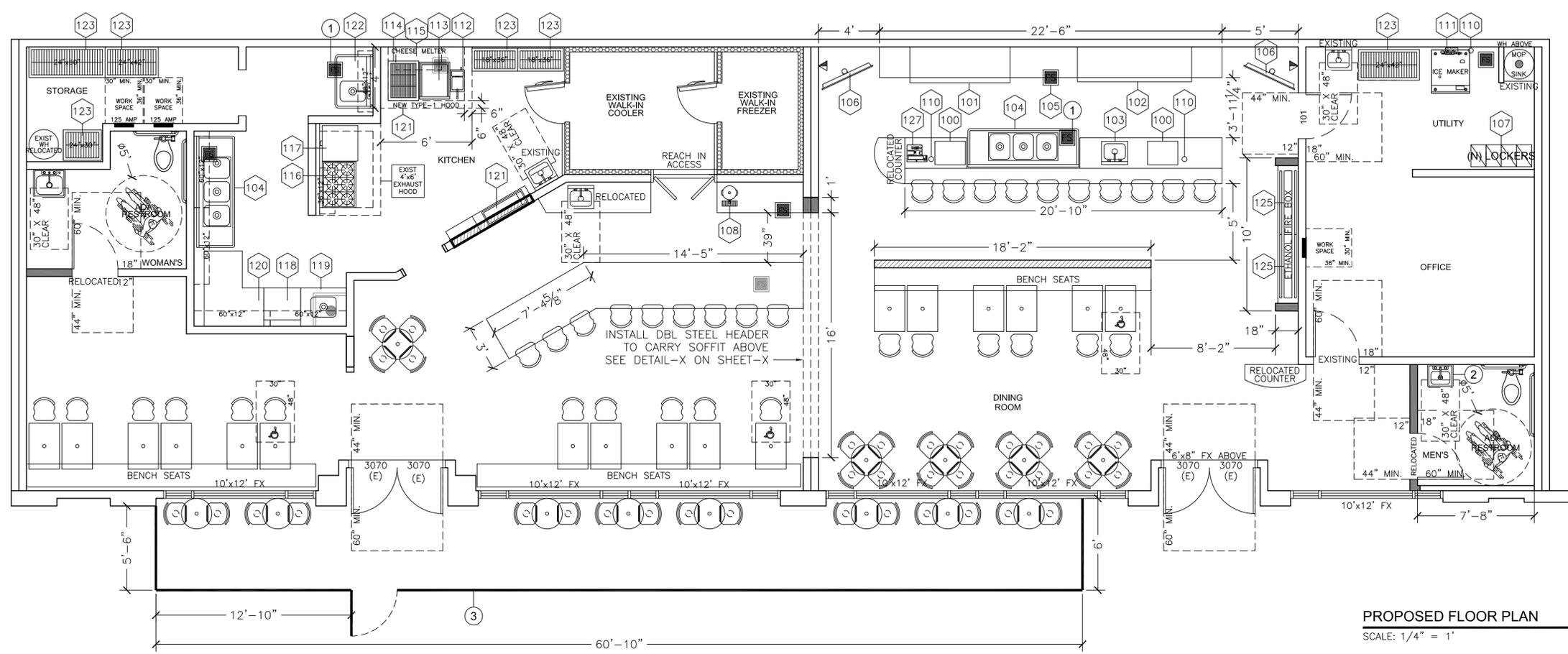
VICINITY MAP

North



South

117 West Elm Street



PROPOSED FLOOR PLAN
SCALE: 1/4" = 1'

KITCHEN EQUIPMENT SCHEDULE

TAG	DESCRIPTION	MANUFACTURER	MODEL NO.	QUANTITY	SUPPLIED BY	INSTALLED BY	PLUMBING			ELECTRICAL			REMARKS
							HOT WATER (in.)	COLD WATER (in.)	WASTE	VOLT/PH	AMPS	HP	
100	UNDER COUNTER ICE BIN	REGENCY		2	OWNER/GC	CONTRACTOR				115/1			
101	UNDER COUNTER COOLER	TRUE	TUC-72	1	OWNER/GC	CONTRACTOR				115/1	10.5		
102	DIRECT DRAW BEER COOLER	TURBO AIR	TBD-4SB	1	OWNER/GC	CONTRACTOR				115/1			
103	HAND SINK	POLAR WARE	K1154C	2	OWNER/GC	OWNER/GC							
104	3-COMP SINK	ADVANCE TABCO	FE-3-1620-18RLX	2	OWNER/GC	OWNER/GC							
105	NEW FLOOR SINK			1	OWNER/GC	OWNER/GC							
106	TV	T.B.D.	T.B.D.	2	OWNER/GC	OWNER/GC							CEILING MOUNTED
107	LOCKER	WIN-HOLT	WL-55	4	OWNER/GC	CONTRACTOR							
108	ICE TEA, COFFEE DISPENSER	BUNN-O-MATIC	TDO-5	1	OWNER/GC	OWNER/GC							
109	CO2 DRUM	BY PURVEYOR		1	OWNER/GC	OWNER/GC							
110	ICE MAKER FILTER SYSTEM	EVERPURE	EV9324-01	3	OWNER/GC	OWNER/GC							
111	ICE MAKER	ICE-O-MATIC	ICEU220HA	1	OWNER/GC	OWNER/GC							
112	FRYER	NEMCO	6701	1	OWNER/GC	OWNER/GC							COUNTER TOP
113	GRIDDLE	STAR MAX	636MD	1	OWNER/GC	OWNER/GC							COUNTER TOP
114	CHAR BROILER	ULTRA-MAX	8136RCB	1	OWNER/GC	OWNER/GC							COUNTER TOP
115	CHEESE MELTER	SOUTHBEND	P36-CM	1	OWNER/GC	OWNER/GC							
116	RANGE (6-BURNER)	SOUTHBEND	336D	1	OWNER/GC	OWNER/GC							
117	CONVECTION OVEN	BLOGGOTT	ZEPHAIRE G PLUS	1	OWNER/GC	OWNER/GC							
118	DISH MACHINE	HOBART	425LT11	1	OWNER/GC	OWNER/GC				120/1	12.0		LOW TEMPERATURE
119	DIRTY DISH TABLE W/ SINK	REGENCY	600DDT36	1	OWNER/GC	OWNER/GC							
120	CLEAN DISH TABLE	TABCO	109DTC6048	1	OWNER/GC	OWNER/GC							
121	TYPE-1 HOOD	CAPTIVE AIR		1	OWNER/GC	OWNER/GC							4'x6' TYPE-1 HOOD
122	PREP SINK	EAGLE GROUP	412-16-1-24L	1	OWNER/GC	OWNER/GC							
123	WIRE SHELVING	ROYAL INDUSTRIES	SIZE SHOWN ON PLAN	6	OWNER/GC	OWNER/GC							
124	WALL SHELVES	AERO	SIZE SHOWN ON PLAN	6	OWNER/GC	OWNER/GC							
125	ETHANOL FIRE BURNER	MODA FLAME	EPB4047	2	OWNER/GC	OWNER/GC							
126	OVERHEAD FOOD WARMER	APW WYOTT	FD-24H	1	OWNER/GC	OWNER/GC							
127	CASH REGISTER			1	OWNER/GC	OWNER/GC							

CLASS 1 FIRE SPREAD RATING

AREA	SPECIFICATIONS
KITCHEN:	-SANITARY TILE PLUS TILE COVE -6" BASE BOARD AROUND PERIMETER -FRP SANITARY BOARD WITH MOLDING SANITARY, SMOOTH, WASHABLE LIGHT COLORED AND 70% REFLECTANCE MIN. FIRE RATING - CLASS A FIRE RATED PER ASTM E-84 CLASS A(I) FLAME SPREAD OF 25 OR LESS SMOKE DEVELOPMENT OF 450 OR LESS T-BAR CEILING TO BE WASHABLE, REFLECTIVE, AND MEET THE HEALTH AND COUNTY CODES.
DINING AREAS/	TILE
BATHROOMS:	TILE FLOOR + HALF WALL SANITARY, SMOOTH, WASHABLE LIGHT COLORED AND 70% REFLECTANCE MIN.
ELECT./STORAGE	-VINYL BASE BOARD
WALLS:	5/8" TYP "X" GYPSUM BOARD 1 HOUR FIRE RATED TYPICAL TAPE, TEXTURED, SANDED AND PAINTED W/ SEMI GLOSS OR GLOSS
A. TOILET ROOM FLOOR FINISH MATERIALS SHALL HAVE A SMOOTH, HARD, NON-ABSORBENT SURFACE. THE INTERSECTIONS OF SUCH FLOORS WITH WALLS SHALL HAVE A SMOOTH, HARD, NON-ABSORBENT VERTICAL BASE THAT EXTENDS UPWARD ONTO THE THE WALLS AT LEAST 4 INCHES. B. WALLS AND PARTITIONS WITHIN 2 FT. OF URINALS AND WATER CLOSETS SHALL HAVE A SMOOTH, HARD, NON-ABSORBENT SURFACE, TO A HEIGHT OF 4 FT. ABOVE THE FLOOR, AND EXCEPT FOR STRUCTURAL ELEMENTS, THE MATERIALS USED IN SUCH WALLS SHALL BE OF A TYPE THAT IS NOT ADVERSELY AFFECTED BY MOISTURE. 2013 CBC 1210.2	

FRAMING LEGEND

- ⊠ = EXIST. 4x4 POST ⊠ = EXIST. 6x6 POST
- ▬ = EXISTING 2x STUDS @ 16" O.C.
- ▬ = PROP 2x METAL STUDS
- ▬ = PROP 2x METAL STUDS

CONSTRUCTION KEYNOTES

- 1 - RELOCATED FLOOR SINK
 - 2 - RELOCATED LAV
 - 3 - PROPOSED OUT DOOR SEATING ENCLOSED WITH ALUMINUM AND GLASS RAIL. SEE GLASS RAIL AND SWING GATE DETAILS ON SHEET-A11 - A15
- NOTE: SWING GATE SHALL BE FULLY EQUIPPED WITH PANIC HARDWARE AND IS NOT TO BE LOCKED DURING BUSINESS HOURS.

INTERIOR / EXTERIOR:

CONTRACTOR SHALL CHECK AND VERIFY SIZE AND LOCATION OF DUCT OPENINGS AND PLUMBING RUNS WITH MECHANICAL CONTRACTOR BEFORE FRAMING WALLS, FLOORS, ETC.

EXTEND ALL STUDS AND WALL MATERIALS 6" MIN. ABOVE T-BAR.

WHERE OCCURS, CONTRACTOR SHALL PATCH ANY EXISTING WALLS AND/OR CEILINGS AS NEEDED TO REFURBISH THE LEASE SPACE AND REPAIR ALL DAMAGES CAUSED BY CONTRACTOR.

ALL GLASS SHALL COMPLY WITH THE REQUIREMENTS OF CHAPTER 24 OF THE CBC.

GENERAL ELECTRICAL:
EMERGENCY LIGHTING SHALL BE 2 SEPARATE SOURCES OF POWER AND SHALL COMPLY WITH THE 2013 CBC & CEC.

WHEN PLYWOOD BACKBOARDS ARE REQUIRED IN TELEPHONE AND ELECTRICAL EQUIPMENT ROOMS, THEY SHALL BE PAINTED TO MATCH ADJACENT WALL.

THE CENTER OF SWITCHES SHALL BE NO MORE THAN 48 INCHES ABOVE THE FLOOR, VERIFY AND MATCH EXISTING.

CENTERLINE OF 15, 20, AND 30 AMP RECEPTACLES SHALL NOT BE LESS THAN 18 INCHES CENTERED ABOVE FLOOR. FLOOR OUTLETS ARE ACCEPTABLE NEXT TO SLIDING PANELS / WALLS AND OTHER SPECIAL CONVENIENT LOCATIONS.

TITLE 24-ENERGY COMPLIANCE:
ENVELOPES COMPLIANCE AND STATEMENT OF DESIGN COMPLIANCE: THE CALIFORNIA ENERGY CONSERVATION STANDARDS FOR NONRESIDENTIAL BUILDING SHALL BE REVIEWED AND COMPLIED WITH DURING THE CONSTRUCTION AND TENANT IMPROVEMENT WORK SCOPE OF THIS PROJECT.

JOB SITE
WHERE EXISTING TENANTS / BUSINESSES ARE ADJACENT TO THE JOB SITE / TENANT, THE CONTRACTOR SHALL MINIMIZE CONSTRUCTION NOISE- EXTREME NOISE CONSTRUCTION SHALL OCCUR AT NON-TYPICAL BUSINESS HOURS. CONTRACTOR SHOULD NOTIFY BUILDING REPRESENTATIVES OF SPECIAL CIRCUMSTANCES IN ADVANCE PRIOR TO WORK.

THE CONTRACTOR AT HIS OWN EXPENSE, SHALL KEEP THE PROJECT AND SURROUNDING AREA FREE FROM DUST AND DEBRIS. THE WORK SHALL BE IN CONFORMANCE WITH THE AIR AND WATER POLLUTION CONTROL STANDARDS AND REGULATIONS OF THE STATE DEPARTMENT OF HEALTH.

CONSTRUCTION DEBRIS AND WASTES SHALL BE DEPOSITED AT AN APPROPRIATE SITE. THE CONTRACTOR SHALL INFORM THE BUILDING REPRESENTATIVE OF THE LOCATION OF DISPOSAL SITES.

CONTRACTOR SHALL BE RESPONSIBLE FOR THE GENERAL CLEANING OF THE JOB AFTER ITS COMPLETION, WHERE APPLICABLE. CLEANING SHALL INCLUDE, BUT NOT BE LIMITED TO, THE EXTERIOR AND THE INTERIOR OF THE BUILDING, THE PATH OF TRAVEL TO THE JOB SITE, PARKING LOTS, ELEVATORS, LOBBIES, AND CORRIDOR CARPETS.

THE CONTRACTOR SHALL PROVIDE PEDESTRIAN PROTECTION IN ACCORDANCE WITH UBC CHAPTER 33, WHERE REQUIRED.

IF TRENCHES OR EXCAVATIONS ARE 5' OR MORE IN DEPTH A SAFETY TRENCH PLAN IS TO BE SUBMITTED.

STREAMLINE DIGITAL DESIGN
Or visit us at: www.streamlinedigitaldesign.com
Phone / Fax: (209) 951-4827
Email: beam@streamlinedigitaldesign.com

JURISDICTION
BUILDING DEPARTMENT
NAME: CITY OF LODI
ADDRESS: 221 W. PINE ST. LODI, CA 95240
PHONE: 209-333-6711

OWNER
BUILDING OWNER
NAME: ATLAS PROPERTIES
ADDRESS: 2800 W. MARCH LN. SUITE 360 STOCKTON, CA 95219
PHONE: 209-476-1927

TENANT
NAME: RAISED WELL VENTURES LLC
ADDRESS: 3815 STILES PLACE STOCKTON, CA 95204
PHONE: 209-751-7447

CONTRACTOR
LIC. #
NAME: LINER CONSTRUCTION JOE PHILLIPS
ADDRESS: 10940 TRINITY PARKWAY STOCKTON, CA 95219
PHONE: 209-471-0500

PROPOSED FLOOR PLAN
CONSTRUCTION SITE
SITE ADDRESS: 119 W. ELM ST. LODI, CA 95240
SITE APN: 143-024-15

DRAWING INFORMATION
REVISION DATE: 9-11-15
DRAWN BY: LDP
FILE NAME: 15-0902-ELM-ST
DRAWING SCALE: 1/4" = 1'

fē·nix

Maple glazed **pork belly**-roasted yam, sweet onion marmalade, cracklin'

Cavatelle-chanterelle, caviar, corn, lobster, butter sauce

Duck confit-savory pain perdu, dried cherry salsa, crispy shallot

Three iterations of **Deviled Egg**-Castleveltrano tapenade, aioli, Gribiche

Eggplant "hummus"-Pickled vegetables, garlic lemon and Lodi olive oil

Onion ash and smoked paprika cured salmon-latke, dill, caper and red onion jam

"Everything" day boat **scallop**-matzo bri, shallot butter, micro herb salad

Crisp **chicken thigh**-confit garlic, glazed carrot, tarragon sauce

Mussels in chipotle broth- Crispy shallot. Grilled baguette

"**Chef Snax**"-caramelized onion, maple drizzle

Gazpacho of **Rock shrimp**-tomato, celery root, garlic, cucumber water, oil

House **papardelle**-parmesan, garlic, perfect egg

Roasted **marrow**-persillade, arugula salad, toast, pickled mustard seed

Gnocchi- roasted red onion and garlic, broccoli rabe, parmesan

Medallion of **Filet Mignon**- Castello bleu, double garlic mashers, red wine glaze

Pan roasted Maine **day boat scallops**- short rib, celery root, caramelized onion demi

Poussin-Faro, root veg, sage beurre blanc

Open faced **Beef Wellington**-Tenderloin, duxelles, foie torchon, brioche, demi

Alaskan halibut- lentils, bacon, leek, preserved lemon butter

Hamachi Carpaccio-pink grapefruit, pickled Chioggia beet, cilantro, preserved lemon,

Passmore Ranch **sturgeon**-roasted cipolline, morels, ramp butter, melted leeks

Halibut-pumpnickel, celery – root puree, brunoise, and leaves

RESOLUTION NO. P.C. 15-XX

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF LODI APPROVING THE REQUEST OF RAISED WELL VENTURE, LLC FOR A USE PERMIT FOR A TYPE 41 ABC LICENSE TO ALLOW SALE OF BEER, WINE AND SPIRITS AT 117 WEST ELM 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 Raised Well Venture, LLC, Richard Hyman, 3815 Stiles Place, Stockton, CA 95240; and
- WHEREAS**, the project parcel is owned by Lodi City Center 12 LLC, 2800 W. March Lane Suite, 360, Stockton, CA 95219; and
- WHEREAS**, the project is located at 117 West Elm Street, Lodi, CA 95240, APN: 043-024-15; and
- WHEREAS**, the property has a General Plan designation of Downtown Mixed Use and is zoned Downtown Mixed Use (DMU); and
- WHEREAS**, Census Tract 42.04 in which the proposed restaurant/bar is to be located is over concentrated of licenses allowing on premise consumption of alcoholic beverages; 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. The establishment will offer theater patrons another option for food service prior to or after viewing a movie.
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. 2015-36 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. 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.
17. 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.
18. 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.

19. 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.
20. 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.
21. 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.
22. 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.
23. No variance from any City of Lodi adopted code, policy or specification is granted or implied by this approval.

I certify that Resolution No. 15-XX was passed and adopted by the Planning Commission of the City of Lodi at a regular meeting held on November 11, 2015 by the following vote:

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

ATTEST _____

Secretary, Planning Commission

Item 3f



**CITY OF LODI
PLANNING COMMISSION
Staff Report**

MEETING DATE: November 11, 2015

APPLICATION NO: Use Permit Amendment: 2015-37 U

REQUEST: Request for Planning Commission approval of a Use Permit to allow a Type-21 Off-Site Beer, Wine and Spirits sales at a convenience store at 225 South Cherokee Lane. (Applicant: Mr. Ahmad Alruosan; File 2015-37 U; CEQA Determination: Exempt per Section 15321)

LOCATION: 225 South Cherokee Lane
APN 043-140-58

APPLICANT: El Vino Food Mart
c/o Mr. Ahmad Alruosan
225 South Cherokee Lane
Lodi, CA 95240

PROPERTY OWNER: Mr. Ahmad Alruosan
225 South Cherokee Lane
Lodi, CA 95240

RECOMMENDATION

Staff recommends that the Planning Commission approve the Use Permit request of Mr. Ahmad Alruosan to convert the existing Type 20 Beer and Wine license to a Type 21 Beer, Wine and Spirits license at 225 South Cherokee Lane, subject to the conditions in the attached resolution.

PROJECT/AREA DESCRIPTION

General Plan Designation: Mixed Use Corridor
Zoning Designation: MCO – Mixed Use Corridor
Property Size: 0.32 acres – 13,798 sq. ft.

The adjacent zoning and land use characteristics:

	ADJACENT ZONING DESIGNATIONS AND LAND USES		
	GENERAL PLAN	ZONING CLASSIFICATION	EXISTING LAND USE
North	Mixed Use Corridor	MCO – Mixed Use Corridor	Commercial – Alibi bar
North West	Medium Density Residential	RMD – Medium Density Residential	Single Family Residence
South	Mixed Use Corridor	MCO – Mixed Use Corridor	Commercial – A-1 Tires
East	Mixed Use Corridor	MCO – Mixed Use Corridor	Commercial - Wienerschnitzel
West	Mixed Use Corridor	MCO – Mixed Use Corridor	Single Family Residence

BACKGROUND

The project site has been a gas station / car oriented property since the late 1930's. In 1938 Richfield Oil Company constructed a gas / service station on site with two gas tanks and one oil tank. This site has undergone many upgrades and service station configurations. In the mid 1970's, the site became an Arco Service Station and a convenience mini mart was added. In 2002, the gas island canopy, pumps and fuel tanks were pulled. Since then, the site has continued to operate as a retail space / convenience store / mini mart.

In 2010, the City approved an alcohol license for the site that permits the sale of beer and wine (Type 20). The current convenience store hours of operation are from 7:00 a.m. to 12:00 a.m. (mid-night).

REQUEST

The proposal is to convert the existing Type 20 Beer and Wine license to a Type 21 Beer, Wine and Spirits license. The convenience store hours will remain 7:00 a.m. to 12:00 a.m. (mid-night). All alcohol sales would stop at 12:00 midnight.

Since the Type 20 license was issued in 2010, there have been no complaints or police service calls.

The small percentage of the floor area committed to the Type 21 license would be secondary to the predominate use as a convenience store. Appropriate conditions of approval have been crafted to control the sales of alcohol and provide for the periodic review to ensure the use does not become a local nuisance to the neighborhood from increased homelessness, vagrancy or increased crime to the business.

ANALYSIS

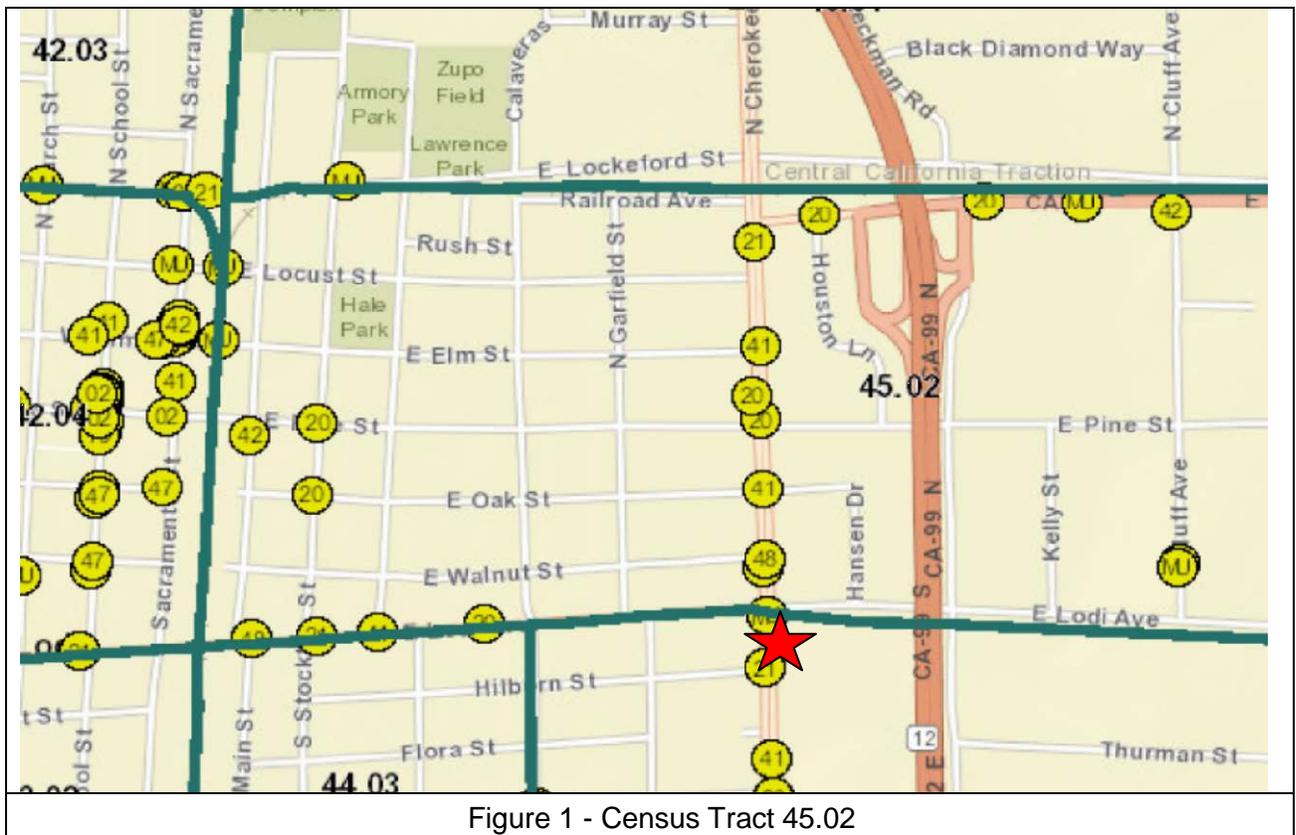


Figure 1 - Census Tract 45.02

The project site is within Census Tract 45.02, which covers the area as shown in Figure 1. The area is not over-concentrated as defined by ABC for licenses. Other ABC licenses in this census tract include grocery store and gas station sales of alcohol for off-site consumption.

The discretionary Use Permit procedure enables the Planning Commission to impose conditions designed to avoid, minimize or mitigate potentially adverse effects of a certain use upon the community or other properties in the vicinity. Staff believes the Planning Commission can make the required findings to approve the requested Use Permit. The required findings are supported 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. **Evidence:*** The requested permit would allow an existing convenience store, within the Mixed Use Corridor Zoning District, to off-site sell alcohol in accordance with Development Code Section 17.22.030. Conditions of Approval have been prepared that will provide appropriate rules for the alcohol sales and the needed review of the operation to ensure the sales do not become a neighborhood problem.
2. *The proposed use is consistent with the General Plan and any applicable specific plan. **Evidence:*** The General Plan land use designation and Zoning for this area is Mixed Use Corridor, which provides for sale of alcohol. The proposed sale of beer, wine and spirits is allowed in conjunction with a convenience store operation. The sale of alcoholic beverages as part of a convenience store is an acceptable and customary convenience to the local residence. The project is not within a Specific Plan or Planned Development, which would have additional rules on the sale of alcohol different from the properties base Zoning.
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. **Evidence:*** The proposed sale of alcohol in conjunction with the convenience store operation is compatible with existing and future land uses in the immediate vicinity of the project area. The sale of alcohol in the store is consistent with other similar retail commercial uses in the census tract. The sales of alcohol will not increase the existing floor area of the building and therefore the current on-site parking will be adequate to support the store.
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. **Evidence:*** 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. The proposed sale of alcohol in a convenience store is customary for these types of businesses. Lastly, it is found that the sale of alcoholic beverages as part of a convenience store is a convenience to the local residences that does not typically create alcohol related problems. The store hours will be a limiting feature in the control of alcohol sales, in that the store will be closed by 12PM reducing the probability of late night homelessness loitering in the neighborhood
5. *The proposed project has been reviewed in compliance with the California Environmental Quality Act (CEQA) and the Lodi Environmental Review Guidelines. **Evidence:*** 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 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.

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. Staff believes the Commission can make the required findings to approve the Use Permit Amendment as proposed. The existing property use does not have any complaints over the use and operations. In staff's opinion, the proposed modification would not produce any adverse impacts on the adjacent properties in terms of noise, parking, litter, disorderly behavior, or other objectionable influences. The permit is conditioned to mitigate typical concerns related to noise and nuisance related to late night activities. If, in the future, concerns arise, and the Director/Police Department determines it necessary, the Use Permit can be subject to review by the Planning Commission to consider the business's operation for compliance with the conditions of the Use Permit.

ENVIRONMENTAL ASSESSMENT:

The project was found to be Categorically Exempt according to the California Environmental Quality Act, Article 19 §15321, Class 21 (a) (2). The project is classified as an "Enforcement action by regulatory agencies" because it is the "adoption of an administrative decision or order enforcing or revoking the lease, permit, license, certificate, or entitlement for use or enforcing the general rule, standard, or objective." No significant environmental impacts are anticipated and no mitigation measures are required.

PUBLIC HEARING NOTICE:

Legal Notice for the Use Permit was published in the Lodi News Sentinel on Saturday, October 31 2015. Forty-one (41) 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 Type 21 license at 225 South Cherokee Lane, subject to the findings and conditions of approval contained in the draft Resolution."

ALTERNATIVE PLANNING COMMISSION ACTIONS:

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

Respectfully Submitted,

Concur,

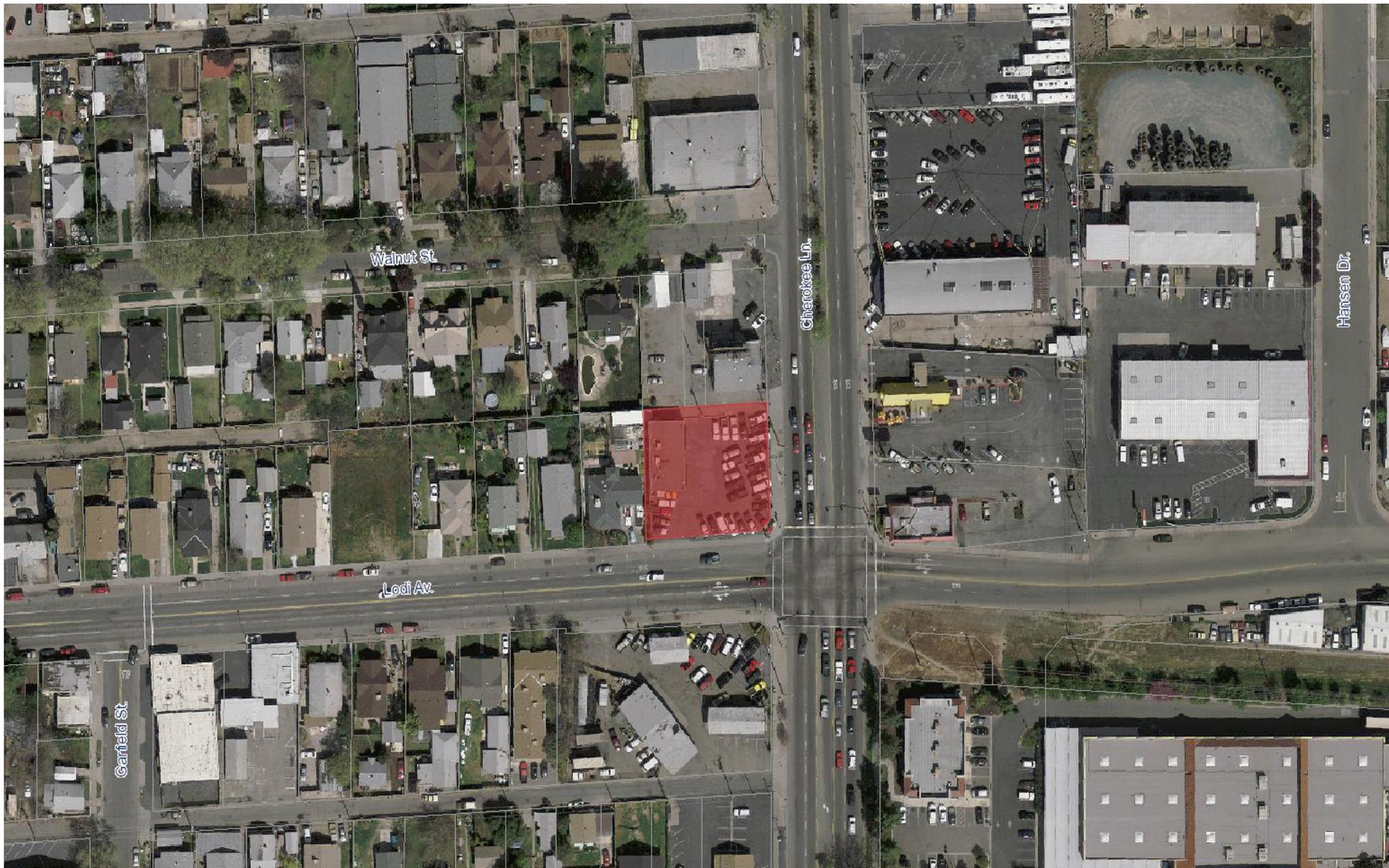
Craig Hoffman
Senior Planner

Stephen Schwabauer
Community Development Director

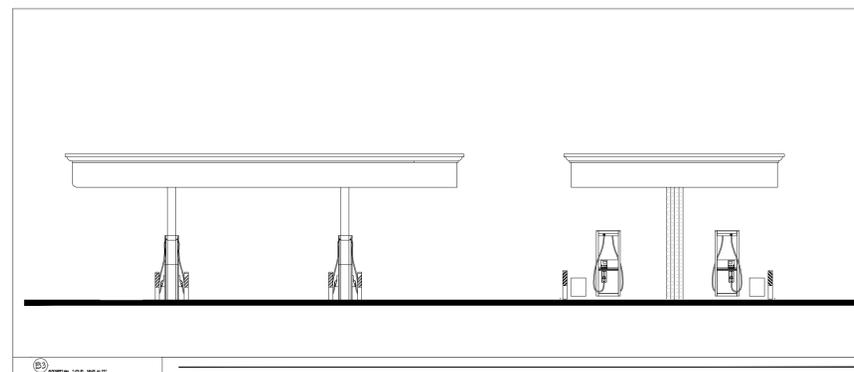
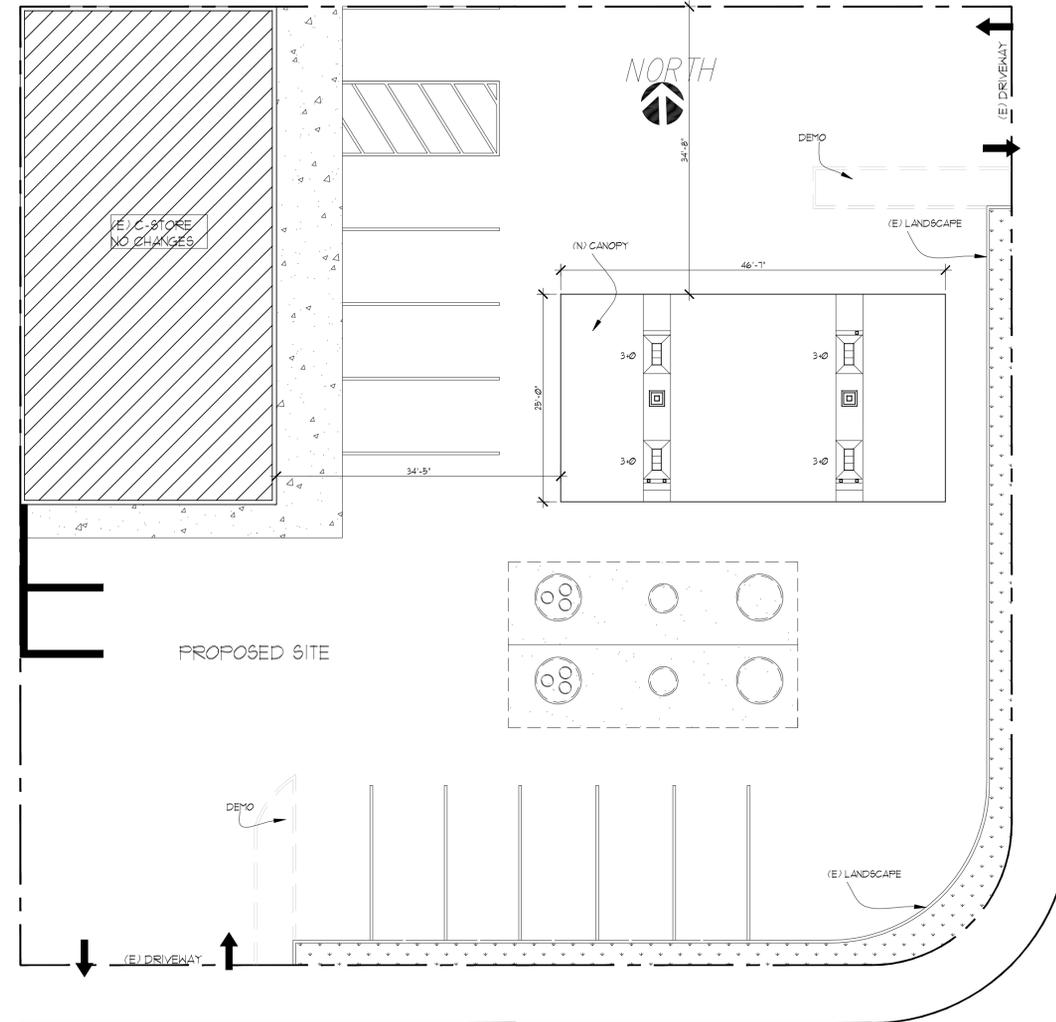
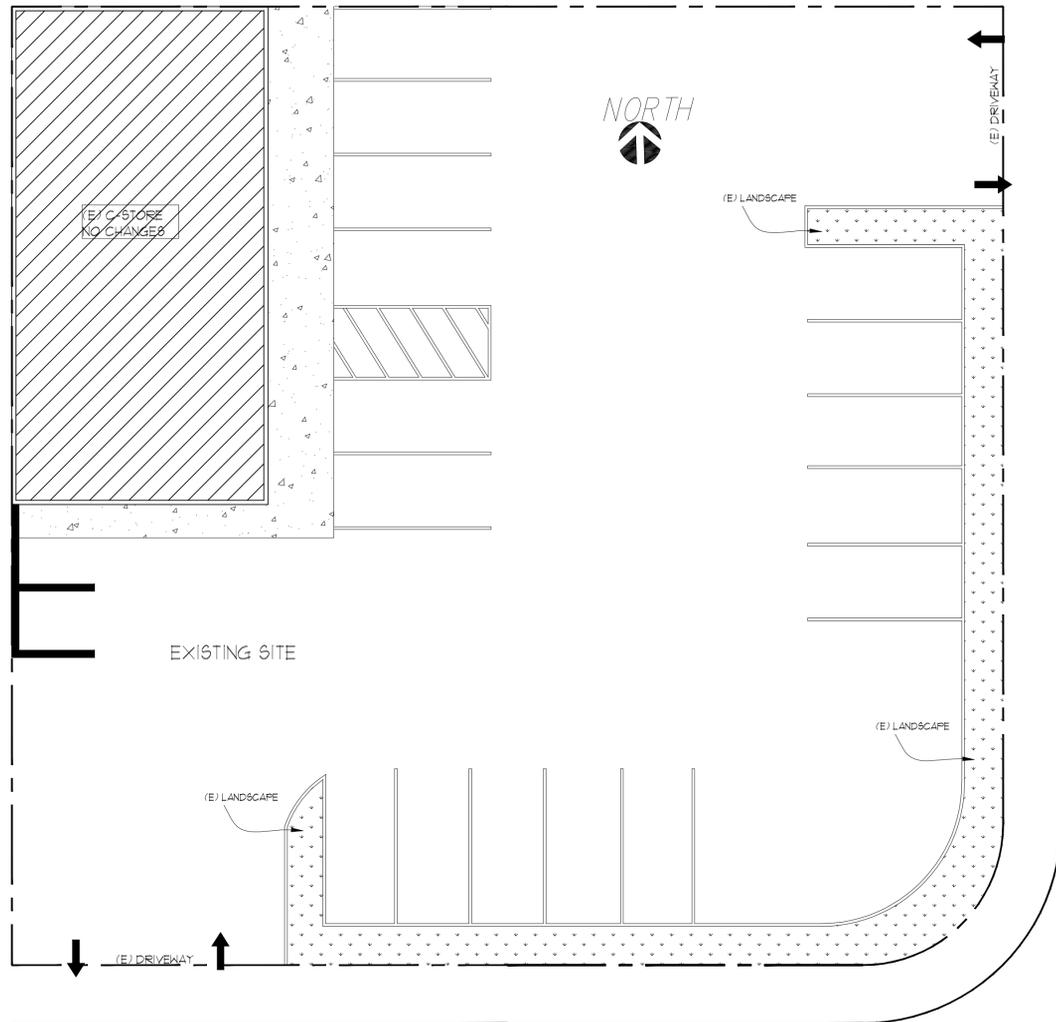
ATTACHMENTS:

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

VICINITY MAP



225 South Cherokee Lane



REVISIONS:

1.
2.
3.

EBB Design-MVP PETROLEUM
Design and Drafting
 Sacramento, CA
 PHONE 916-877-1133 email:ebbzant1@yahoo.com

NEW CANOPY / DISPENSERS
 225 E. CHEROKEE LN
 LODI, CA

DATE: 6/20/14
 DRAWN: E.B.
 SCALE: 1/8" = 1'-0"
 SHEET: 1

RESOLUTION NO. P.C. 15-XX

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF LODI APPROVING THE REQUEST OF AHMAD ALRUOSAN TO CONVERT THE EXISTING TYPE 20 BEER AND WINE LICENSE TO A TYPE 21 BEER, WINE AND SPIRITS LICENSE AT 225 SOUTH CHEROKEE LANE

- 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 El Vino Food Mart, c/o Mr. Ahmad Alruosan, 225 South Cherokee Lane, Lodi, CA 95240; and
- WHEREAS**, the project parcel is owned by Mr. Ahmad Alruosan, 225 South Cherokee Lane, Lodi, CA 95240 ; and
- WHEREAS**, the project is located at 225 South Cherokee Lane, Lodi, CA (APN 043-140-58); and
- WHEREAS**, the property has a General Plan designation of Mixed Use Corridor and is zoned Mixed Use Corridor (MCO); and
- WHEREAS**, the requested Use Permit is to allow for off-site beer, wine and spirits sales (Type 21 license) for the proposed convenience store; and
- WHEREAS**, Census Tract 44.03 in which the proposed is located is not over-concentrated as defined by ABC for licenses; and
- WHEREAS**, the City of Lodi has taken all legal prerequisites to the adoption of this Resolution have occurred.
- WHEREAS**, a gas station requires the approval of a Use Permit by the Planning Commission; 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, §15321, Class 21 (a) (2). The project is classified as an “Enforcement action by regulatory agencies” because it is the “adoption of an administrative decision or order enforcing or revoking the lease, permit, license, certificate, or entitlement for use or enforcing the general rule, standard, or objective.” No significant environmental impacts are anticipated and no mitigation measures are required.
2. The requested permit would allow an existing convenience store, within the Mixed Use Corridor Zoning District, to off-site sell alcohol in accordance with Development Code Section 17.22.030. Conditions of Approval have been prepared that will provide appropriate rules for the alcohol sales and the needed review of the operation to ensure the sales do not become a neighborhood problem.
3. The General Plan land use designation and Zoning for this area is Mixed Use Corridor, which provides for sale of alcohol. The proposed sale of beer, wine and spirits is allowed in conjunction

with a convenience store operation. The sale of alcoholic beverages as part of a convenience store is an acceptable and customary convenience to the local residence. The project is not within a Specific Plan or Planned Development, which would have additional rules on the sale of alcohol different from the properties base Zoning.

4. The proposed sale of alcohol in conjunction with the convenience store operation is compatible with existing and future land uses in the immediate vicinity of the project area. The sale of alcohol in the store is consistent with other similar retail commercial uses in the census tract. The sales of alcohol will not increase the existing floor area of the building and therefore the current on-site parking will be adequate to support the store.
5. 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.
6. The proposed sale of alcohol in a convenience store is customary for these types of businesses. Lastly, it is found that the sale of alcoholic beverages as part of a convenience store is a convenience to the local residences that does not typically create alcohol related problems.
7. The store hours will be a limiting feature in the control of alcohol sales, in that the store will be closed by 12PM reducing the probability of late night homelessness loitering in the neighborhood

NOW, THEREFORE, BE IT DETERMINED AND RESOLVED by the Planning Commission of the City of Lodi that Use Permit Application No. 2015-37 U is hereby approved, subject to the following conditions:

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 three –month, 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. The Applicant/Operator shall operate and abide by the requirements and conditions of the State of California Department of Alcoholic Beverage Control for a Type 21 Licenses. The off-site sale of beer, wine and spirits shall occur only during the hours of 7:00 am to 12:00pm. Any change of hours shall require an amendment to the Use Permit, as prescribed within the Zoning Code.
15. Beer, wine coolers and/or malt beverages shall be sold in original factory packaging of a six-pack or greater, except wine or malt based coolers shall be sold in the original factory assembled four-pack or greater.
16. The sale of wine shall be in bottles or containers no smaller than 750ml, with two exceptions: 1.) dessert wines shall be no smaller than 375ml, and 2.) wine containers smaller than 750ml may only be sold in manufacturers pre-packaged multi-unit packs that are no smaller than a four-pack.
17. 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.
18. No variance from any City of Lodi adopted code, policy or specification is granted or implied by this approval.

I certify that Resolution No. 15-XX was passed and adopted by the Planning Commission of the City of Lodi at a regular meeting held on November 11, 2015 by the following vote:

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

ATTEST _____
Secretary, Planning Commission

Item 3g



**CITY OF LODI
PLANNING COMMISSION
Staff Report**

MEETING DATE: November 11, 2015

APPLICATION NO: Use Permit Amendment: 2015-38 U

REQUEST: Request for Planning Commission approval of a Use Permit to allow a Type-47 On-Sale Beer, Wine and Spirits for Friends Indian Restaurant at 1040 West Kettleman Lane. (Applicant: Alka Grewal; File 2015-38 U; CEQA Determination: Exempt per Section 15321)

LOCATION: 1040 West Kettleman Lane
Lodi, CA 95240
APN: 060-040-19

APPLICANT: Mr. Alka Grewal
1040 West Kettleman Lane
Lodi, CA 95240

PROPERTY OWNER: Al Shammass & Doumit PTP
25 Cadillac Drive #134
Sacramento, CA 95825

RECOMMENDATION

Staff recommends the Planning Commission approve the request of Mr. Alka Grewal for a Use Permit to allow the sale of beer, wine and spirits Alcoholic Beverage Control (ABC) Type 47 license (eating place) at 1040 West Kettleman Lane, subject to conditions in the attached resolution.

PROJECT/AREA DESCRIPTION

General Plan Designation: Mixed Use Corridor
Zoning Designation: PD-15 (Commercial)
Property Size: Restaurant measures 2,200 sq. ft.

The adjacent zoning and land use characteristics:

	ADJACENT ZONING DESIGNATIONS AND LAND USES		
	GENERAL PLAN	ZONING CLASSIFICATION	EXISTING LAND USE
North	Mixed Use Corridor	Mixed Use Corridor	Residences and commercial
South	Low Density Residential	PD(16)	Single Family Residences
East	Mixed Use Corridor	PD(16)	Commercial
West	Mixed Use Corridor	PD(16)	Commercial

BACKGROUND

The Vineyard Shopping Center offers a wide range of commercial businesses. This tenant space has been a pizza and now Indian food restaurant in the past 10 years. The Indian restaurant has been in

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 an existing restaurant in an existing building located within the Mixed Use Corridor (MCO) Zoning District, which allows sale of alcohol for on-site consumption in accordance with Development Code Section 17.22.030. The intent of the MCO zoning district is to provide for a range of commercial/office/residential uses, emphasizing high quality development, and provide a wide range of services for the surrounding residential uses. 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 Mixed Use Commercial, 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 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 Categorically Exempt according to the California Environmental Quality Act, §15321, Class 21 (a) (2). The project is classified as an "Enforcement action by regulatory agencies" because it is the "adoption of an administrative decision for the use or enforcing the general rule, standard, or objective." 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 Categorically Exempt according to the California Environmental Quality Act, Article 19 §15321, Class 21 (a) (2). The project is classified as an “Enforcement action by regulatory agencies” because it is the “adoption of an administrative decision or order enforcing or revoking the lease, permit, license, certificate, or entitlement for use or enforcing the general rule, standard, or objective.” No significant environmental impacts are anticipated and no mitigation measures are required.

PUBLIC HEARING NOTICE:

Legal Notice for the Use Permit was published in the Lodi News Sentinel on Saturday, November 11 2015. Forty-one (41) 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 Permit to allow the sale of beer, wine and spirits Alcoholic Beverage Control (ABC) Type 47 license at 1040 West Kettleman Lane (Friends Indian Restaurant) subject to the findings and conditions of approval contained in the draft Resolution.”

ALTERNATIVE PLANNING COMMISSION ACTIONS:

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

Respectfully Submitted,

Concur,

Craig Hoffman
Senior Planner

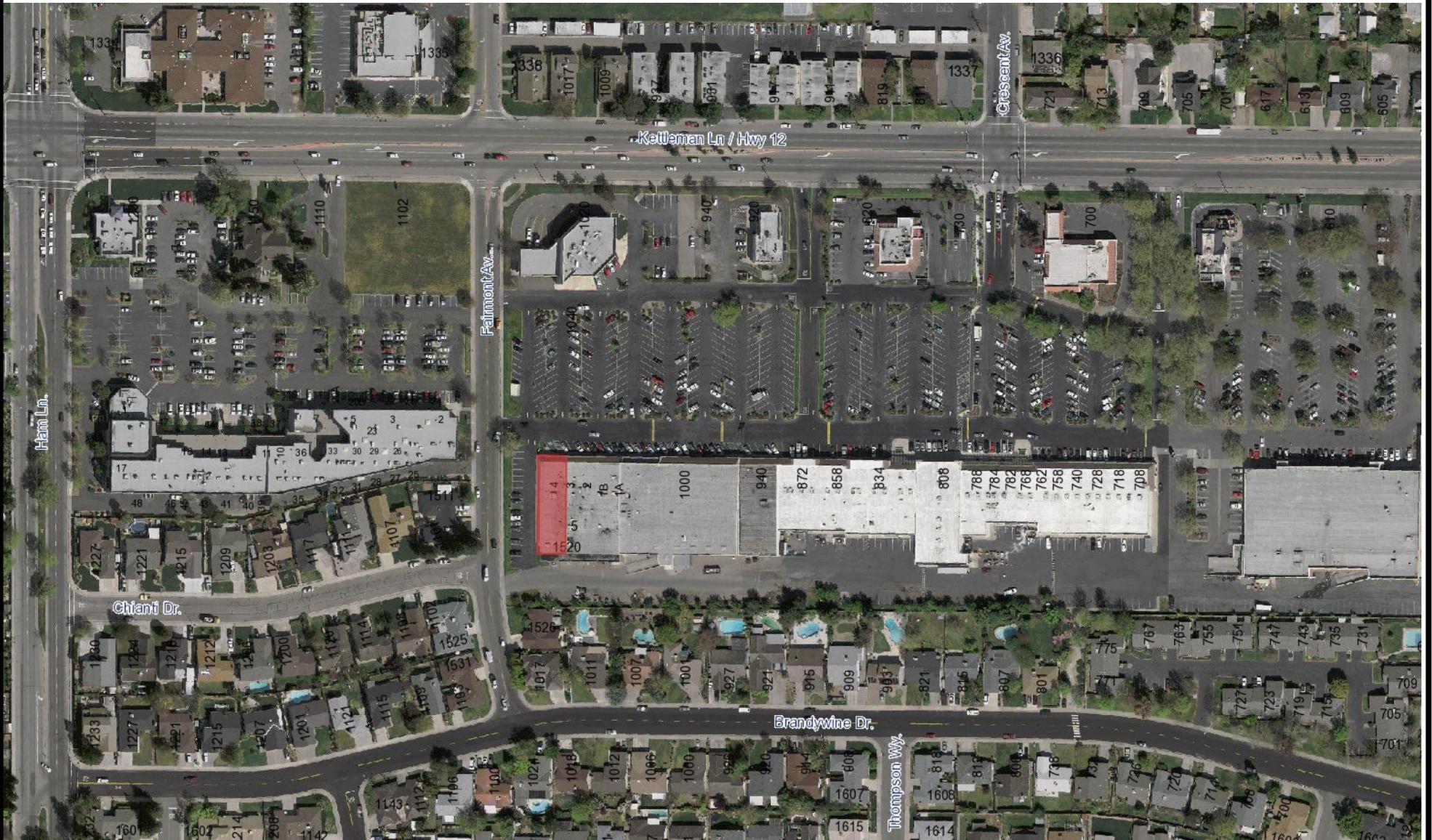
Stephen Schwabauer
Community Development Director

ATTACHMENTS:

- A. Vicinity / Aerial Map
- B. Draft Resolution

VICINITY MAP

North



South

1040 West Kettleman Lane

RESOLUTION NO. P.C. 15-XX

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF LODI APPROVING THE REQUEST OF ALKA GREWAL FOR A USE PERMIT FOR A TYPE 47 ABC LICENSE TO ALLOW ON-SALE BEER, WINE AND SPIRITS FOR FRIENDS INDIAN RESTAURANT AT 1040 WEST KETTLEMAN LANE

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 Mr. Alka Grewal, 1040 West Kettleman Lane, Lodi, CA 95240; and

WHEREAS, the project parcel is owned by Al Shammam & Doumit PTP, 25 Cadillac Drive #134, Sacramento, CA 95825; and

WHEREAS, the project is located at 1040 West Kettleman Lane, Lodi, CA 95240, APN: 060-040-19; and

WHEREAS, the property has a General Plan designation of Mixed Use Corridor and is zoned PD(16) - Commercial; and

WHEREAS, a Type 47 ABC license is common with restaurants as a part of the overall business; 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 an existing restaurant in an existing building located within the Mixed Use Corridor (MCO) Zoning District, which allows sale of alcohol for on-site consumption in accordance with Development Code Section 17.22.030. The intent of the MCO zoning district is to provide for a range of commercial/office/residential uses, emphasizing high quality development, and provide a wide range of services for the surrounding residential uses. The proposal is consistent with this intent.
3. The General Plan land use designation for this area is Mixed Use Commercial, 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.
4. 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 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. 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.

NOW, THEREFORE, BE IT DETERMINED AND RESOLVED by the Planning Commission of the City of Lodi that Use Permit Application No. 2015-38 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 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 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.

10. 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.
11. The typical business hours are Monday to Sunday 11:00 am to 10:00 pm. 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.
12. 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.
13. 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.
14. 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.
15. No variance from any City of Lodi adopted code, policy or specification is granted or implied by this approval.

I certify that Resolution No. 15-XX was passed and adopted by the Planning Commission of the City of Lodi at a regular meeting held on November 11, 2015 by the following vote:

AYES: Commissioners:

NOES: Commissioners:

ABSENT: Commissioners:

ATTEST _____
Secretary, Planning Commission