

| | | |
|---|---|--|
| <p>CARNEGIE FORUM 305 WEST PINE STREET LODI, CALIFORNIA</p> | <p>AGENDA LODI PLANNING COMMISSION</p> | <p>REGULAR SESSION WEDNESDAY, JANUARY 13, 2016 @ 7:00 PM</p> |
|---|---|--|

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 – “November 11, 2015”

3. PUBLIC HEARINGS

- a. Request for Planning Commission approval of a Use Permit to allow a charter school in an existing tenant space at 1110 Kettleman Lane. (Applicant: Bella Terra Plaza, LLC; File 2015-40 U; CEQA Determination: Exempt per Section 15303)
- b. Request for Planning Commission approval of a Use Permit to allow a Type-20 Off-Site Beer and Wine sales at the Buy 4 Less grocery store at 401 West Lockeford Street. (Applicant: Mr. Steven Fetzer; File 2015-41 U; CEQA Determination: Exempt per Section 15321)
- c. Request for Planning Commission approval of a Use Permit to allow a live entertainment and outside dining for Maguire’s on Elm at 27 W. Elm Street. (Applicant: Gary Arnold; File 2015-42 U; CEQA Determination: Exempt per Section 15321)

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

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.

November 11, 2015 Minutes

Minutes were not ready at the time
of packet preparation

They will be made available prior to
the start of the meeting

Item 3a



**CITY OF LODI
PLANNING COMMISSION
Staff Report**

MEETING DATE: January 13, 2016

APPLICATION NO: Use Permit: 2015-40 U

REQUEST: Request for Planning Commission approval of a Use Permit to allow a charter school in an existing tenant space at 1110 Kettleman Lane. (Applicant: Bella Terra Plaza, LLC; File 2015-40 U; CEQA Determination: Exempt per Section 15303)

LOCATION: 1110 W. Kettleman Lane
APN 060-370-01

APPLICANT: Bella Terra Plaza, LLC
c/o Mr. Luis Bolinao
201 Wilshire Blvd, Suite A28
Santa Monica, CA 90401

PROPERTY OWNER: Bella Terra Plaza, LLC
c/o Mr. Luis Bolinao
201 Wilshire Blvd, Suite A28
Santa Monica, CA 90401

RECOMMENDATION

Staff recommends that the Planning Commission approve the Use Permit request of Bella Terra Plaza, LLC to allow a charter school into an existing tenant space at 1110 W. Kettleman, subject to the conditions in the attached resolution.

PROJECT/AREA DESCRIPTION

General Plan Designation: Mixed Use Corridor
Zoning Designation: PD (15) Planned Development
Property Size: 3.54 acres

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 | offices |
| South | Low Density Residential | PD(15) Low Density Residential | Single family residences |
| East | Mixed Use Corridor | PD(15) Commercial | commercial businesses |
| West | Mixed Use Corridor | PD(15) Commercial | commercial businesses |

REQUEST

Bella Terra Plaza, LLC is requesting a Use Permit for existing Suites 9, 10 and 11 totaling 7,000 sq ft.

The tenant space previous contained a health club and karate studio.

Rio Valley Charter School is a public charter school authorized by the Lodi Unified School District. The Charter School offers an alternative to traditional schooling and utilizes independent home schooling. Students do most of their schooling at home, coming to the site only for scheduled one-on-one meetings with credentialed teachers, as well as tutoring and small group workshops.

- Rio Valley serves students in grades K through 12.
- Rio Valley will serve a total of approximately 300 students, but no more than 30 to 40 students would be at the facility at one time.
- Students will only come to the learning center during pre-scheduled appointment times.
- The school's operational hours will be Mondays – Thursdays, opening at 9:00 am and closing by 3:30 pm, and Fridays from 9:00 am – 12:00 pm.
- The school would need approximately 45 to 50 parking spaces at peak demand.

The Rio Valley Charter School currently operates at 1530 W. Kettleman Lane and has for the past three and a half years. The current charter school is comprised of 2 tenant spaces that are separated by a mortgage company.

The Charter school is looking to consolidate the use into one space for efficiency. The Bella Terra plaza also offers retail spaces that can complement the school use including restaurants and a health club for physical education activities.

ANALYSIS

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 existing Terra Bella Plaza is zoned PD (15), the underlying designation is general commercial. A school is allowed subject to a use permit in this zone. The project has been conditioned to be consistent with the zoning code and the use will not be detrimental to the welfare of persons or properties working, residing, or otherwise existing in the adjacent neighborhood areas.
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 Mixed Use Corridor, which permits the proposed use. The conditions for the restriction of the conditional use are consistent with the General Plan, will not affect 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:** There are no proposed 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 a commercial area with all the required off-street parking provided on the subject site. 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 existing use complies with all requirements as set forth for the issuance of a 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 a commercial 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 facility and no expansion is proposed.

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 §15303. Class 3 consists of construction and location of limited numbers of new, small facilities or structures; installation of small new equipment and facilities in small structures; and the conversion of existing small structures from one use to another where only minor modifications are made in the exterior of the structure and is consistent with the applicable general plan designation and all applicable general plan policies as well as with the applicable zoning designation and regulations and would not result in any significant effects relating to traffic, noise, air quality, or water quality, and 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. 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 traffic and parking associated with a school. 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 is found to be categorically exempt from CEQA review under 14 CCR §15303. Class 3 consists of construction and location of limited numbers of new, small facilities or structures; installation of small new equipment and facilities in small structures; and the conversion of existing small structures from one use to another where only minor modifications are made in the exterior of the structure and is consistent with the applicable general plan designation and all applicable general plan policies as well as with the applicable zoning designation and regulations and would not result in any significant effects relating to traffic, noise, air quality, or water quality,

and 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, January 2, 2016. Sixty-two (62) 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 15303, and adopt a Resolution approving the Use Permit to allow the Rio Valley Charter School in an existing tenant space at 1110 W. Kettleman 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

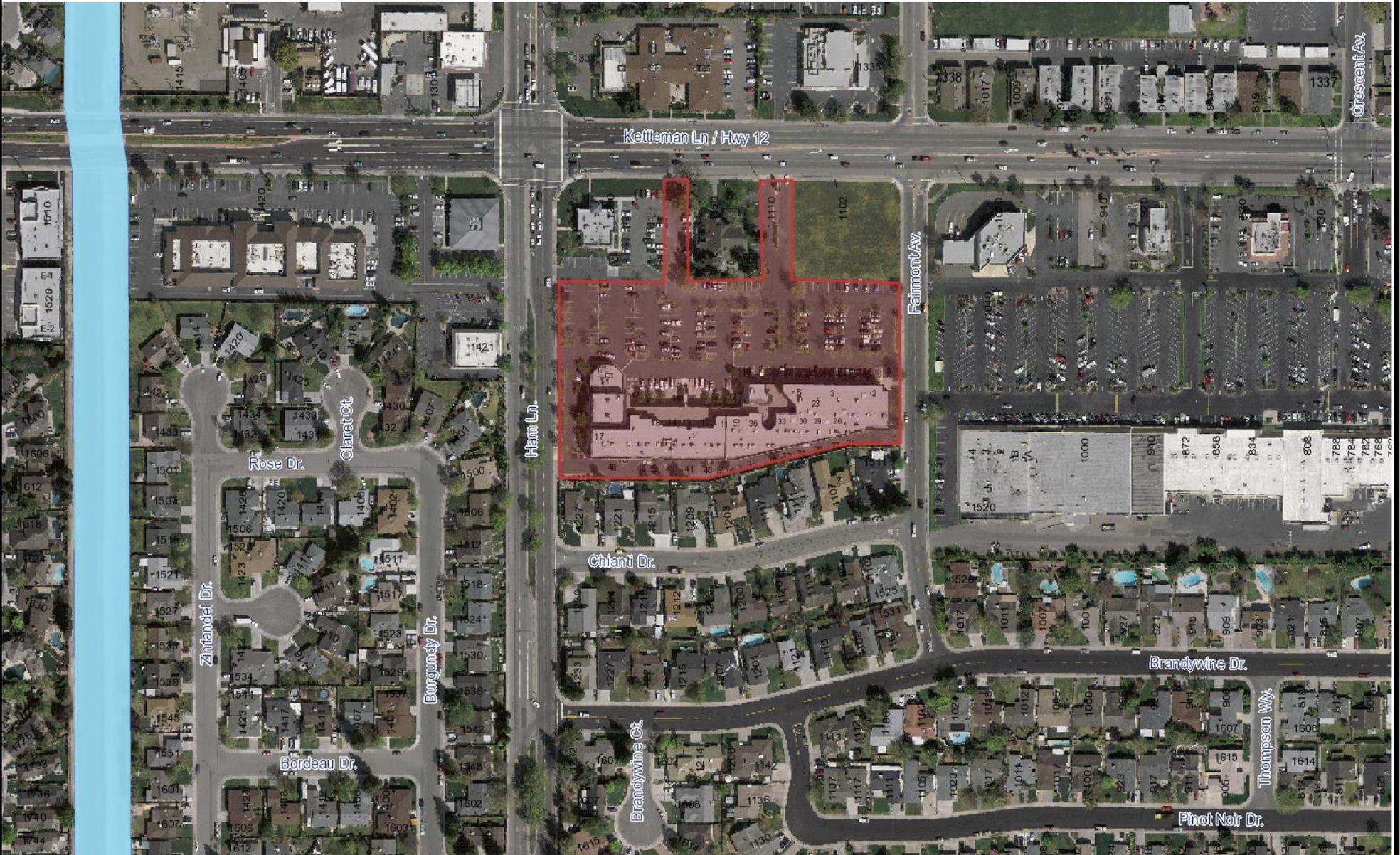
Stephen Schwabauer
Community Development Director

ATTACHMENTS:

- A. Vicinity / Aerial Map
- B. Floor plans
- C. Draft Resolution

VICINITY MAP

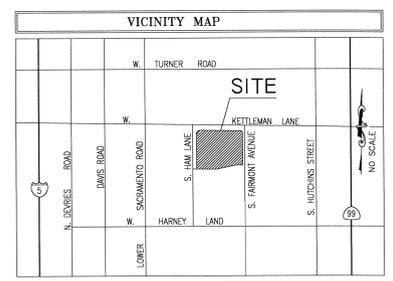
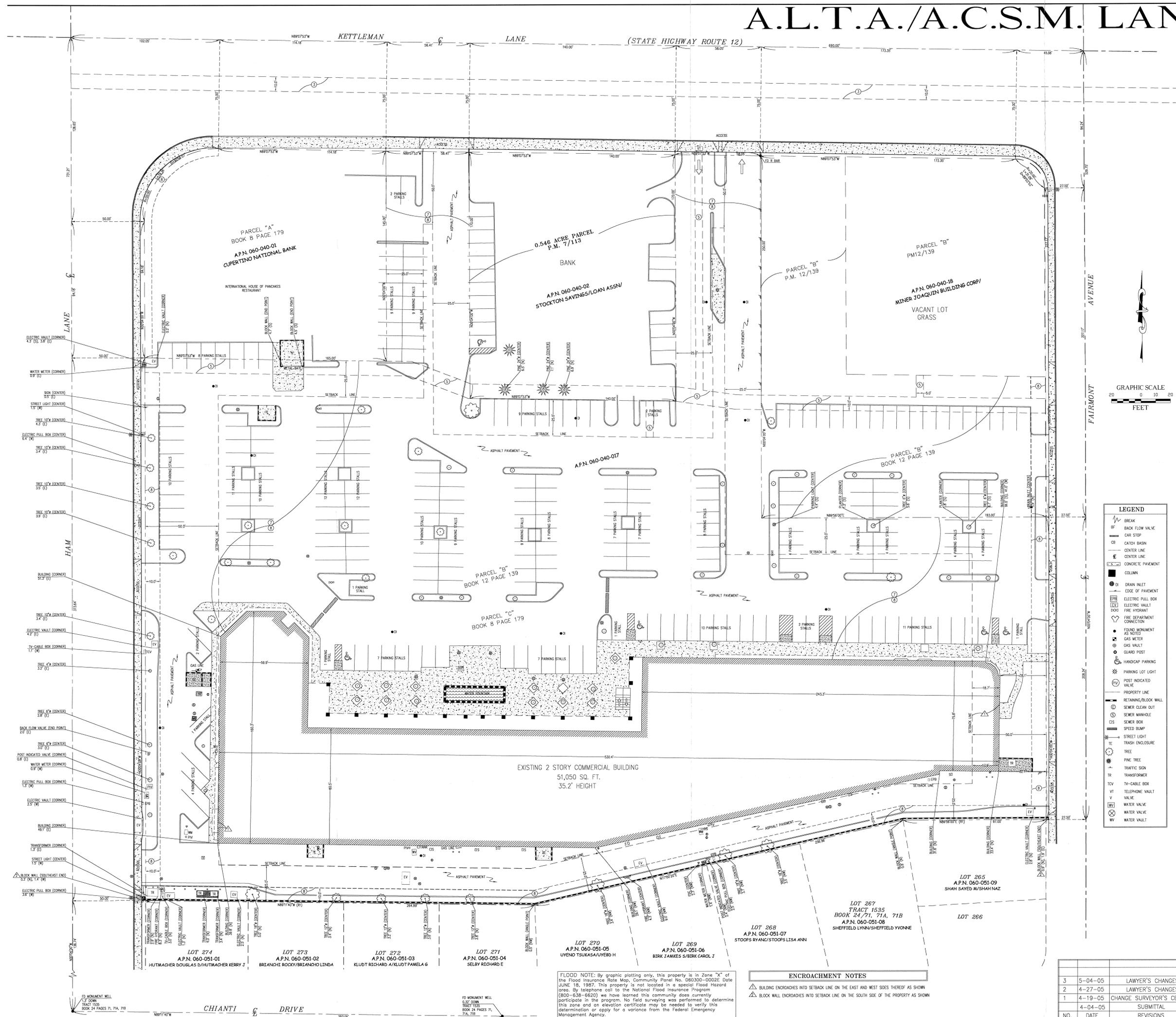
North



South

1110 Kettleman Lane

A.L.T.A./A.C.S.M. LAND TITLE SURVEY



LEGAL DESCRIPTION

THAT CERTAIN REAL PROPERTY SITUATED IN THE STATE OF CALIFORNIA, COUNTY OF SAN JOAQUIN, CITY OF Lodi, DESCRIBED AS FOLLOWS:

BEING A PORTION OF THE NORTHEAST QUARTER OF SECTION 14, TOWNSHIP 3 NORTH, RANGE 6 EAST, MOUNT DIABLO BASE AND MERIDIAN, ACCORDING TO THE OFFICIAL MAP THEREOF, DESCRIBED AS FOLLOWS:

PARCEL "B", AS SHOWN UPON PARCEL MAP, FILED FOR RECORD FEBRUARY 28, 1984 IN BOOK 12 OF PARCEL MAPS, PAGE 139, SAN JOAQUIN COUNTY RECORDS.

TOGETHER WITH A NON-EXCLUSIVE RIGHT TO USE THE COMMON AREAS OVER THAT CERTAIN 0.546 ACRE PARCEL, SHOWN ON THAT PARCEL MAP RECORDED IN BOOK 7 OF PARCEL MAPS, PAGE 113, SAN JOAQUIN COUNTY RECORDS, AND OVER PARCELS "A" AND "B", RECORDED IN BOOK 8 OF PARCEL MAPS, PAGE 179, SAN JOAQUIN COUNTY RECORDS, AS SET FORTH BY A RECIPROCAL ACCESS AGREEMENT, RECORDED JANUARY 28, 1982 AS INSTRUMENT NO. 8204011, SAN JOAQUIN COUNTY RECORDS.

NOTES CORRESPONDING TO SCHEDULE B ITEMS

BASED UPON TITLE REPORT NO. 224744/TM, DATED APRIL 8, 2005 AND PREPARED BY FIRST AMERICAN TITLE COMPANY OF STOCKTON.

- AN EASEMENT FOR UNDERGROUND STORM DRAIN AND INCIDENTAL PURPOSES, RECORDED JANUARY 31, 1951 IN BOOK 1298 OFFICIAL RECORDS (PLOTTED HEREON)
- AN EASEMENT TO CONSTRUCT, MAINTAIN, PLACE, OPERATE, INSPECT, REPLACE, REMOVE UNDERGROUND COMMUNICATION FACILITIES AND INCIDENTAL PURPOSES RECORDED OCTOBER 7, 1980 AS INSTRUMENT NO. 80067459 OFFICIAL RECORDS (PLOTTED HEREON)
- RECIPROCAL ACCESS EASEMENT RECORDED JANUARY 28, 1982 AS INSTRUMENT NO. 8204011 AND MODIFY GRANT OF NON-EXCLUSIVE EASEMENT IN UNDERGROUND ACCESS AGREEMENT RECORDED NOVEMBER 28, 1983 AS INSTRUMENT NO. 83085177 OFFICIAL RECORDS (BLANKET IN NATURE)
- A NON-EXCLUSIVE EASEMENT AND RECIPROCAL ACCESS AGREEMENT FOR EXISTING AND FUTURE DRIVEWAYS, PEDESTRIAN WALKWAYS, SIDEWALKS, SERVICE CORRIDORS, THROUGHWAY, LOADING AREAS, PARKING AREAS AND INCIDENTAL PURPOSES, RECORDED AUGUST 13, 1982 AS INSTRUMENT NO. 82045687 OFFICIAL RECORDS (COMMON AREA IN PARCEL "C" OF PARCEL MAP RECORDED IN BOOK 8 PAGE 179)
- AN EASEMENT FOR PUBLIC UTILITIES AND INCIDENTAL PURPOSES AS SHOWN ON PARCEL MAP RECORDED IN BOOK 12 OF PARCEL MAPS, PAGE 139 (PLOTTED HEREON)

SITE INFORMATION

SITE ADDRESS: 1110 W. KETTLEMAN LANE
LODI, CA. 95240

GROSS AREA: 6,958 AC.
303,077 SQ. FT.

NET AREA: 4,776 AC.
208,615 SQ. FT.

TOTAL GROUND FLOOR: 51,050 SQ. FT.
PARKING: 222 PARKING STALLS
4 HANDICAP PARKING STALLS
224 TOTAL PARKING STALLS

ASSESSORS PARCEL NO. 060-040-017

ZONING RESTRICTIONS

NOTE: INDICATED ZONING INFORMATION ARE FROM THE COUNTY OF SAN JOAQUIN ZONING ORDINANCES IN EFFECT AS OF THE DATE OF THIS SURVEY.

ZONE: PD-15 (PLANNED DEVELOPMENT DISTRICT)
CS STANDARDS (COMMERCIAL SHOPPING DISTRICT)

MINIMUM SETBACKS: BUILDINGS IN THE C-S DISTRICT SHALL NOT BE LOCATED CLOSER THAN FIFTY FEET TO ANY STREET PROPERTY LINE AND NOT CLOSER THAN TWENTY-FIVE FEET TO ANY INTERIOR PROPERTY LINE.

HEIGHT RESTRICTIONS: TWO STORIES OR THIRTY-FIVE FEET

BASIS OF BEARINGS

THE BEARINGS SHOWN HEREON ARE BASED UPON THE CENTER LINE OF CHANTI DRIVE BEING N 89° 11' 40" W, PER TRACT NO. 1535 FILED IN BOOK 24, PAGES 71, 71A AND 71B, IN THE OFFICE OF THE COUNTY RECORDER OF SAN JOAQUIN COUNTY, STATE OF CALIFORNIA

SURVEYOR'S CERTIFICATE

TO: BECKMAN RANCH NORTH, L.L.C., A DELAWARE LIMITED LIABILITY COMPANY AND ITS SUCCESSORS AND ASSIGNS; WELLS FARGO BANK, NATIONAL ASSOCIATION; AND FIRST AMERICAN TITLE COMPANY OF STOCKTON.

I HEREBY CERTIFY THAT:

- THIS SURVEY WAS PREPARED BY ME OR UNDER MY SUPERVISION IN ACCORDANCE WITH THE "MINIMUM STANDARD DETAIL REQUIREMENTS FOR ALTA/ACSM LAND TITLE SURVEYS," JOINTLY ESTABLISHED AND ADOPTED BY ALTA, ACSM AND NSPS IN 1999 AND INCLUDES ITEMS 2 THROUGH 4, 6 THROUGH 11 AND 13 THROUGH 16 OF TABLE A THEREOF, PURSUANT TO THE ACCURACY STANDARDS AS ADOPTED BY ALTA, NSPS AND ACSM AND IN EFFECT ON THE DATE OF THIS CERTIFICATION, UNLESS FURTHER CERTIFIED THAT THE SURVEY MEASUREMENTS WERE MADE IN ACCORDANCE WITH THE "MINIMUM ANGLE, DISTANCE AND CLOSURE REQUIREMENTS FOR SURVEY MEASUREMENTS WHICH CONTROL LAND BOUNDARIES FOR ALTA/ACSM LAND TITLE SURVEYS"
- THIS SURVEY WHICH WAS ESTABLISHED BY A TRANSIT-TAPE (INSTRUMENT) FIELD SURVEY ACTUALLY MADE ON THE GROUND PURSUANT TO THE RECORD DESCRIPTION IS TRUE, CORRECT AND ACCURATE AS TO THE BOUNDARIES AND AREAS OF THE SUBJECT PROPERTY AND THE LOCATION AND NUMBER OF PARKING SPACES, SIZE, LOCATION AND TYPE OF BUILDINGS AND IMPROVEMENTS THEREON, AND AS TO THE OTHER MATTERS SHOWN HEREON, IT SHOWS THE LOCATION OF ALL IMPROVEMENTS, RIGHTS-OF-WAY, EASEMENTS AND ANY OTHER MATTERS AFFECTING THE SUBJECT PROPERTY
- THERE ARE NO PARTY WALLS OR ENCROACHMENTS ON ADJOINING PREMISES, STREETS OR ALLEYS BY ANY BUILDINGS, STRUCTURES, OR OTHER IMPROVEMENTS LOCATED ON THE PROPERTY AND THERE ARE NO ENCROACHMENTS OF THE PROPERTY BY BUILDINGS, STRUCTURES OR OTHER IMPROVEMENTS SITUATED ON ADJOINING PROPERTY, EXCEPT AS SHOWN ON THE SURVEY AND SET FORTH AS A FIELD NOTE; AND
- ADEQUATE INGRESS TO AND EGRESS FROM THE SUBJECT PROPERTY IS PROVIDED BY FAIRMONT AVENUE, HAM LANE AND KETTLEMAN LANE (STATE HIGHWAY ROUTE 12), THE SAME BEING PAVED, DEDICATED PUBLIC RIGHTS-OF-WAY MAINTAINED BY MUNICIPAL AUTHORITY.
- THE SUBJECT PROPERTY DOES NOT SERVE ANY ADJOINING PROPERTY FOR DRAINAGE, INGRESS AND EGRESS AND OTHER PURPOSE EXCEPT AS SHOWN ON THE SURVEY AND SET FORTH AS A FIELD NOTE; AND
- ALL REQUIRED BUILDING SETBACK LINES ON THE SUBJECT PROPERTY ARE LOCATED AS SHOWN HEREON
- THE UNDERSIGNED HAS RECEIVED AND EXAMINED A COPY OF TITLE INSURANCE COMMITMENT NO. 224744/TM, ISSUED BY FIRST AMERICAN TITLE COMPANY OF STOCKTON, AND OF EACH INSTRUMENT LISTED THEREIN; THE LOCATION OF EACH SUCH EASEMENT, RIGHT-OF-WAY, SERVITUDE AND OTHER MATTER AFFECTING TITLE, TO THE EXTENT IT CAN BE LOCATED, HAS BEEN SHOWN ON THE SURVEY WITH APPROPRIATE RECORDING REFERENCE; AND ALL MATTERS THAT CANNOT BE LOCATED HAVE BEEN LISTED HEREON AS A FIELD NOTE.
- I HAVE CONSULTED THE U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT, FEDERAL INSURANCE ADMINISTRATION FLOOD HAZARD BOUNDARY MAP, COMMUNITY NUMBER 060300, SHEET NUMBER 00222 REVISED JUNE 18, 1978 AND FOUND THAT THE SUBJECT PROPERTY IS NOT LOCATED IN A SPECIAL FLOOD HAZARD AREA ACCORDING TO THE MAP.
- THE ENGINEER EXPRESSLY UNDERSTANDS AND AGREES THAT (A) THIS CERTIFICATE IS MADE TO INDUCE WELLS FARGO BANK, NATIONAL ASSOCIATION TO EXTEND CREDIT SECURED BY A DEED OF TRUST LIEN COVERING THE PROPERTY AND TO INDUCE FIRST AMERICAN TITLE COMPANY OF STOCKTON TO ISSUE A POLICY OF TITLE INSURANCE INSURING THE VALIDITY AND PRIORITY OF SUCH DEED OF TRUST LIEN (B) BOTH LENDER AND TITLE COMPANY ARE ENTITLED TO RELY UPON THIS PLAN OF SURVEY AS BEING TRUE AND ACCURATE IN ALL RESPECTS AND UPON THIS CERTIFICATE AS BEING TRUE AND ACCURATE; AND (C) THE CONSIDERATION PAID TO THE ENGINEER FOR THE PREPARATION AND CERTIFICATION OF SUCH SURVEY HAS BEEN PAID, IN PART FOR THE BENEFIT OF LENDER AND TITLE COMPANY AND IN ANTICIPATION OF THEIR RELIANCE HEREON.



ENCROACHMENT NOTES

- BUILDING ENCLOSES INTO SETBACK LINE ON THE EAST AND WEST SIDES THEREOF AS SHOWN
- BLOCK WALL ENCLOSES INTO SETBACK LINE ON THE SOUTH SIDE OF THE PROPERTY AS SHOWN

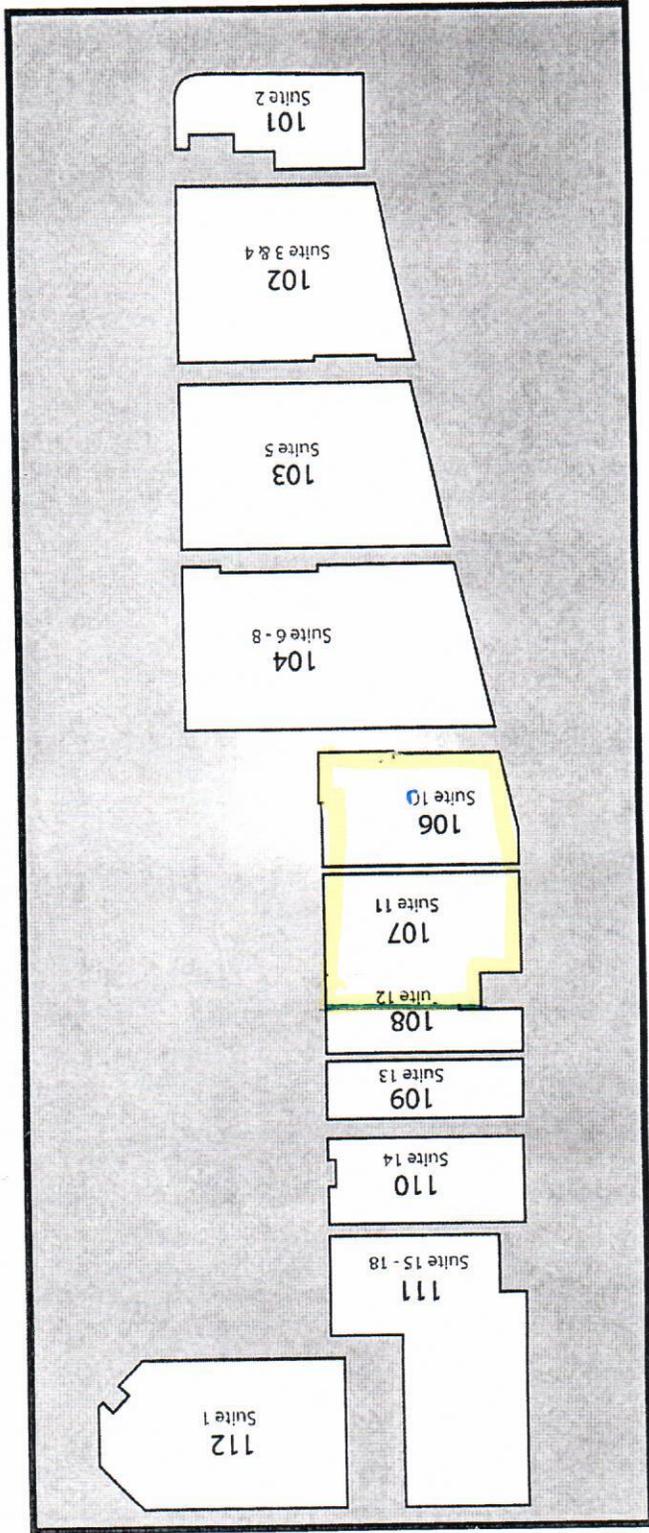
ALLWEST
530 Howard Street, Suite 300
San Francisco, Ca. 94105
(415) 391-2510

| NO. | DATE | REVISIONS | BY |
|-----|---------|-------------------------------|----|
| 3 | 5-04-05 | LAWYER'S CHANGES | HP |
| 2 | 4-27-05 | LAWYER'S CHANGES | HP |
| 1 | 4-19-05 | CHANGE SURVEYOR'S CERTIFICATE | HP |
| | 4-04-05 | SUBMITTAL | HP |

DATE: APRIL 04, 2005 JOB NO. 25059.90

FLOOD NOTE: By graphic plotting only, this property is in Zone "X" of the Flood Insurance Rate Map, Community Panel No. 080300-0002E Date JUNE 18, 1987. This property is not located in a special Flood Hazard area. By telephone call to the National Flood Insurance Program (800-638-6620) we have learned this community does currently participate in the program. No field surveying was performed to determine this zone and an elevation certificate may be needed to verify this determination or apply for a variance from the Federal Emergency Management Agency.





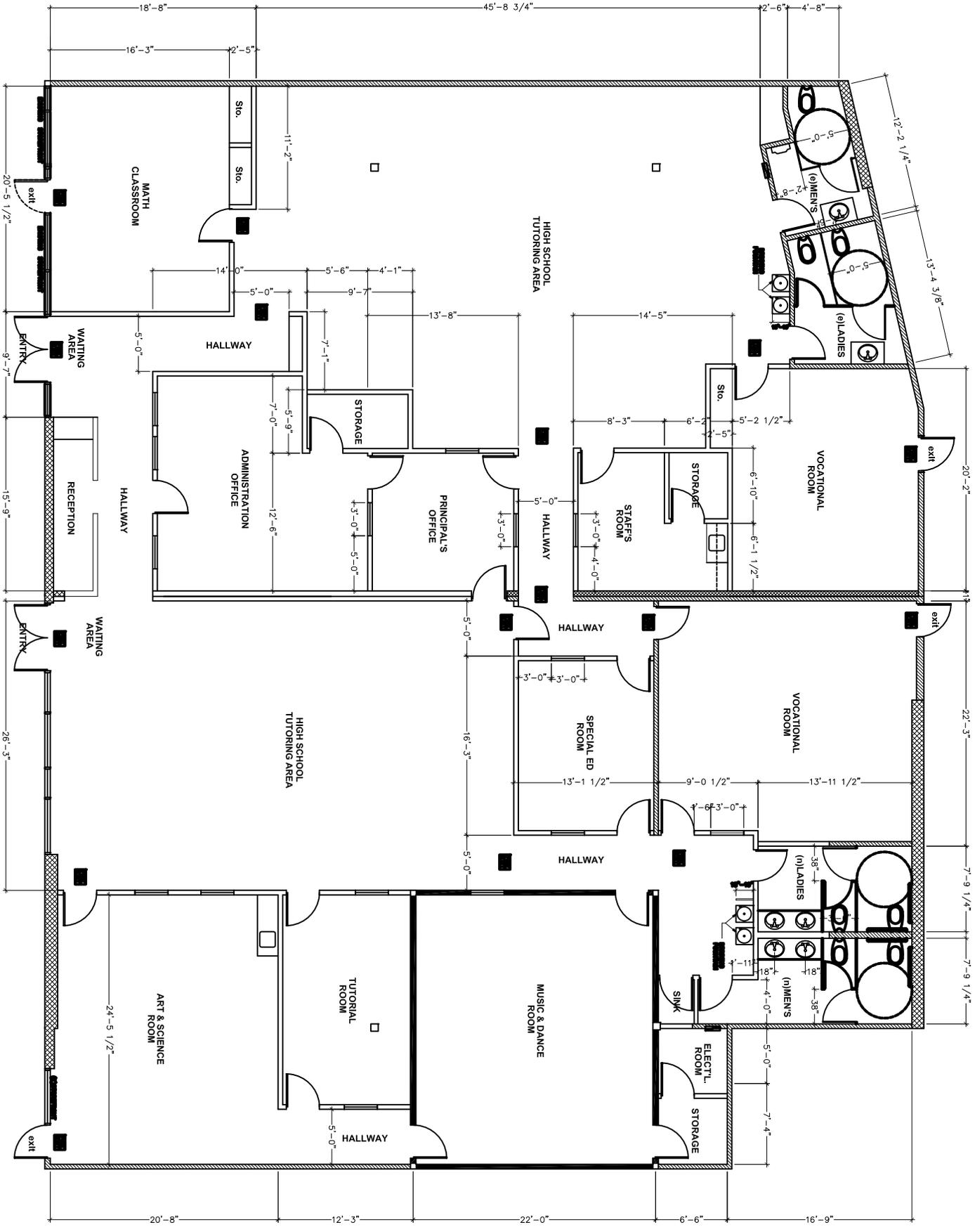
First Floor

Bella Terra Plaza

Site Plan

RIO VALLEY CHARTER LEARNING CENTER

1110 West Kettleman Lane, Units 9,10 & 11 Bella Terra Paza, Lodi CA



FLOOR PLAN

RESOLUTION NO. P.C. 16-XX

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF LODI APPROVING THE REQUEST OF BELLA TERRA PLAZA, LLC FOR A USE PERMIT TO ALLOW THE RIO VALLEY CHARTER SCHOOL IN AN EXISTING TENANT SPACE AT 1110 W. 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 Bella Terra Plaza, LLC, c/o Mr. Luis Bolinao, 201 Wilshire Blvd, Suite A28 Santa Monica, CA 90401; and

WHEREAS, the project parcel is owned by Bella Terra Plaza, LLC, c/o Mr. Luis Bolinao, 201 Wilshire Blvd, Suite A28 Santa Monica, CA 90401; and

WHEREAS, the project is located at 1110 W. Kettleman Lane, Lodi, CA 95240 (APN: 060-370-01); and

WHEREAS, the property has a General Plan designation of Mixed Use Corridor and is zoned Planned Development (15); and

WHEREAS, a charter school requires the approval of a Use Permit by the Planning Commission; and; 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 is found to be categorically exempt from CEQA review under 14 CCR §15303. Class 3 consists of construction and location of limited numbers of new, small facilities or structures; installation of small new equipment and facilities in small structures; and the conversion of existing small structures from one use to another where only minor modifications are made in the exterior of the structure and is consistent with the applicable general plan designation and all applicable general plan policies as well as with the applicable zoning designation and regulations and would not result in any significant effects relating to traffic, noise, air quality, or water quality, and the site of the proposed project can be adequately served by all required utilities and public services.
2. The existing Westgate Shopping Center is zoned PD (15), the underlying designation is general commercial. A school is allowed subject to a use permit in this zone. The project has been conditioned to be consistent with the zoning code and the use will not be detrimental to the welfare of persons or properties working, residing, or otherwise existing in the adjacent neighborhood areas.
3. The General Plan land use designation for the project site is Mixed Use Corridor, which permits the proposed use. The conditions for the restriction of the conditional use are

consistent with the General Plan, will not affect 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. There are no proposed 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 a commercial area with all the required off-street parking provided on the subject site. 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 existing use complies with all requirements as set forth for the issuance of a Use Permit, in that the site is adequate in size, shape and topography for the proposed use, consisting of an existing building.
6. The site is located in a commercial 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.
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 facility and no expansion is proposed.
8. 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.
9. The proposed use would not have a substantial adverse economic effect on nearby uses because operation of a restaurant/bar in accordance with applicable laws and under the conditions of this Use Permit is anticipated to be an economic benefit to the community.
10. 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.

NOW, THEREFORE, BE IT DETERMINED AND RESOLVED by the Planning Commission of the City of Lodi that Use Permit Application No. 2015-40 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. 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.
4. 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.
5. 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.
6. 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.
7. 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.
8. The applicant shall obtain Operational Permits from the Lodi Fire Department, Fire Prevention Bureau. The Operational Permits shall be obtained prior to commencement of sale of alcohol. The Fire Department may be contacted at 25 East Pine Street, Lodi, CA 95240-2127. Phone Number (209) 333-6739.
9. 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.
10. No variance from any City of Lodi adopted code, policy or specification is granted or implied by this approval.
11. Rio Valley Charter School shall operate as described below. Substantial changes shall require subsequent review by the Planning Commission:
 - Rio Valley serves students in grades K through 12.
 - Rio Valley Learning Center will serve a total of approximately 300 students, typically 30 to 40 students would be at the facility at one time.
 - Students will come to the learning center during pre-scheduled appointment times and as needed to accomplish their studies.

- The school's typical operational hours will be Mondays – Thursdays, opening at 9:00 am and closing by 3:30 pm, and Fridays from 9:00 am – 12:00 pm.
- Any special events or activities outside of regularly scheduled hours should not impact Bella Terra Plaza operations.

Building and Safety

12. 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.
13. The occupancy classification for portions of the existing building will change from an M/B to an E. Verify that this educational occupancy is allowed in the building. Plans to specify and show that in each story, the building area shall be such that the sum of the ratios of the actual building area of each separated occupancy, divided by the allowable building area of each separated occupancy shall not exceed 1. 2013 CBC, Section 508.4.2
14. Plans to specify the occupancies of the adjoining suites. A two hour fire separation (1 hour in sprinklered building) is required between the E occupancy and any B, M or S occupancies to either side and/or above this suite as per 2013 CBC, Section 508.4 and Table 508.4. Plans to provide listing information for the existing horizontal and vertical fire barriers. Or provide complete and adequate construction details and listing information for retrofit of existing walls and floor/ceiling assembly to provide the required fire rated barriers, so as to completely separate the adjacent occupancies. 2013 CBC, Sections 508.4, 707, & 711
15. 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 the occupancies by 2013 CPC, Table 422.1.
16. All buildings housing a Group E occupancy shall front directly on a public street or an exit discharge (sidewalk) not less than 20' in width to a public street. The exit discharge shall be unobstructed and maintained only as access to the public street. At least one required exit shall be on the public street or exit discharge. The exit discharge is to be accessible. 2013 CBC, Section 442.1.1
17. Any new doors or newly required entrance or exit doors are required to be accessible. The 2013 CBC, Section 11B-206.4.1 requires all entrances and ground-floor exit doors to building and facilities shall be accessible to persons with disabilities and shall be connected by an accessible route to the public way. Plans to specify and show the accessible path of travel from any new door(s) to the public way or to an area of safe dispersal in compliance with 2013 CBC, Section 1027.5, Exception.
18. Plans to specify walkways and sidewalks along accessible routes of travel (1) are continuously accessible, (2) have maximum 1/2" changes in elevation, (3) are minimum 48" in width, (4) have a maximum 2% cross slope, and (5) where necessary to change elevation at a slope exceeding 5% (i.e., 1:20) shall have ramps complying with 2013 CBC, Section 11B-405 or 11B-406 as appropriate. Where a walk crosses or adjoins a vehicular way, and the walking surfaces are not separated by curbs, railings or other elements between the pedestrian areas and vehicular areas shall be defined by a continuous detectable warning which is 36" wide, complying with 2013 CBC, Sections 11B-247.1.2.5 & 11B-705.1.2.5.
19. If the calculated occupant load for 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, the corridor 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
20. It appears that the building is equipped with fire sprinklers. Any alteration to the existing Fire Sprinkler system shall be submitted under a separate permit and cover to the Building Department by a C-16 licensed contractor.
21. A manual and automatic fire alarm system is required in group E occupancies with an occupant load of 50 or more persons or contains more than 1 classroom or 1 or more rooms used for day care. New Fire Alarm System or any alterations to the existing Fire Alarm System shall be submitted under a separate permit and cover to the Building Department by a C-10 licensed fire alarm contractor. 2013 CFC, Section 907.2.3
22. The plans show three new doors openings cut into CMU wall located between Suites #10 and #11. Building Permit #14,418A, for the original building identifies the wall as a 2 hour fire rated area separation wall required for increased allowable area. Plans to specify and show the door openings shall not exceed 25% of the wall area and minimum 1 1/2 hour fire rated doors will be installed. 2013 CBC, Sections 706.4, 706.8, 716.5 & Tables 706.4, 716.5
23. 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.

I certify that Resolution No. 16-XX was passed and adopted by the Planning Commission of the City of Lodi at a regular meeting held on January 13, 2016 by the following vote:

AYES: Commissioners:

NOES: Commissioners:

ABSENT: Commissioners:

ATTEST _____
Secretary, Planning Commission

Item 3b



**CITY OF LODI
PLANNING COMMISSION
Staff Report**

MEETING DATE: January 13, 2016

APPLICATION NO: Use Permit: 2015-41 U

REQUEST: Request for Planning Commission approval of a Use Permit to allow a Type-20 Off-Site Beer and Wine sales at the Buy 4 Less grocery store at 401 West Lockeford Street. (Applicant: Mr. Steven Fetzer; File 2015-41 U; CEQA Determination: Exempt per Section 15321)

LOCATION: 401 West Lockeford Street
APN 037-260-34

APPLICANT: Buy 4 Less
Mr. Steven Fetzer
1106 E Turner Road
Lodi, CA 95240

PROPERTY OWNER: EGR Investments, LLC
Mr. Steven Fetzer
1106 E Turner Road
Lodi, CA 95240

RECOMMENDATION

Staff recommends that the Planning Commission approve the Use Permit request of Mr. Steven Fetzer to for a Type 20 Beer and Wine license at Buy 4 Less grocery store at 401 West Lockeford Street, 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 | Medium Density Residential | Medium Density Residential | Single family residences |
| South | Mixed Use Corridor | MCO – Mixed Use Corridor | Single family residences |
| East | Mixed Use Corridor | MCO – Mixed Use Corridor | Lodi Vet Hospital |
| West | Mixed Use Corridor | MCO – Mixed Use Corridor | Vacant field |

BACKGROUND / REQUEST

The project site has been a grocery store since March 1992. The applicant is requesting a Type 20 ABC license to add beer and wine to the grocery store.

There are no active violations on the property and no complaints or police service calls.

The applicant is responding to customer's requests to provide additional products at the grocery store. The applicant has secured a license with ABC and now needs a Use Permit from the City.

The grocery store is open:

- Monday – Friday from 8:00 am to 9:00 pm
- Saturday from 8:00 am to 8:00 pm
- Sunday from 9:00 am to 6:00 pm

The small percentage of the floor area committed to the Type 20 license would be secondary to the predominate use as a grocery 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

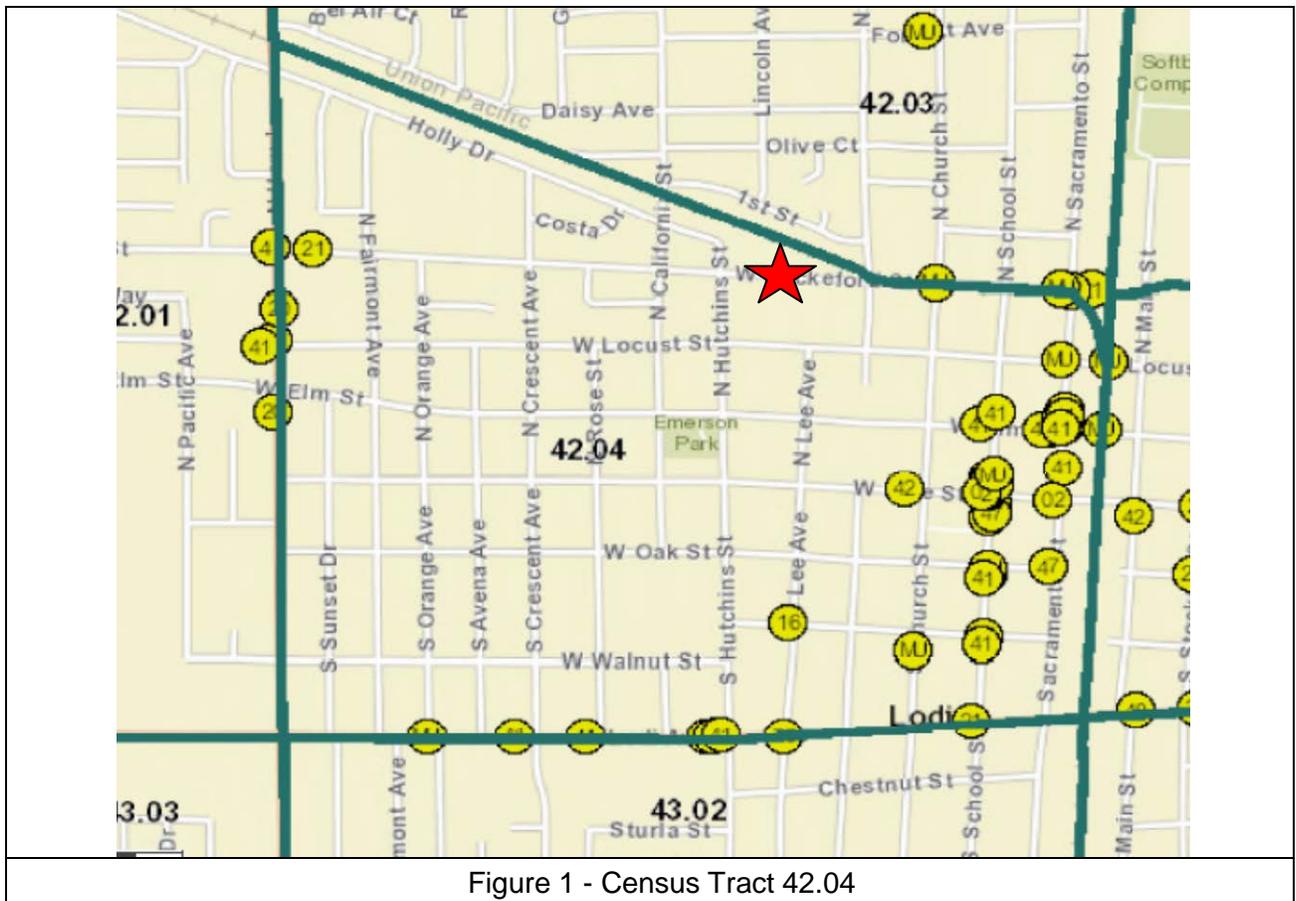


Figure 1 - Census Tract 42.04

The project site is within Census Tract 42.04, 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. There are a larger amount of bars and restaurants in the downtown Lodi area.

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 grocery 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 and wine is allowed in conjunction with a grocery store operation. The sale of alcoholic beverages as part of a grocery 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 grocery 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 grocery store is customary for these types of businesses. Lastly, it is found that the sale of alcoholic beverages as part of a grocery 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 9:00 PM 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 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, January 2 2016. Fifty-seven (57) 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 and wine Alcoholic Beverage Control Type 20 license at 401 West Lockeford 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

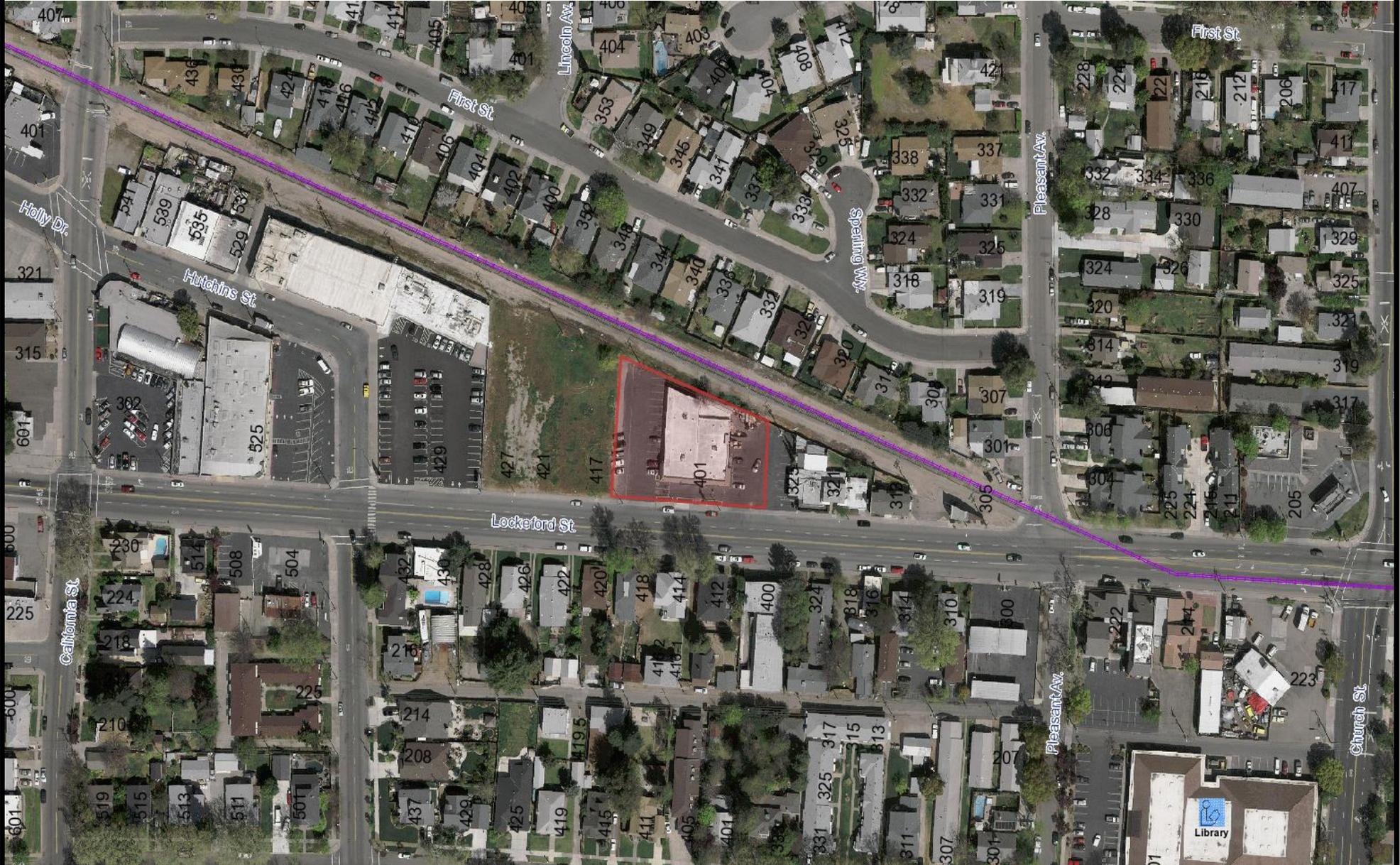
Stephen Schwabauer
Community Development Director

ATTACHMENTS:

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

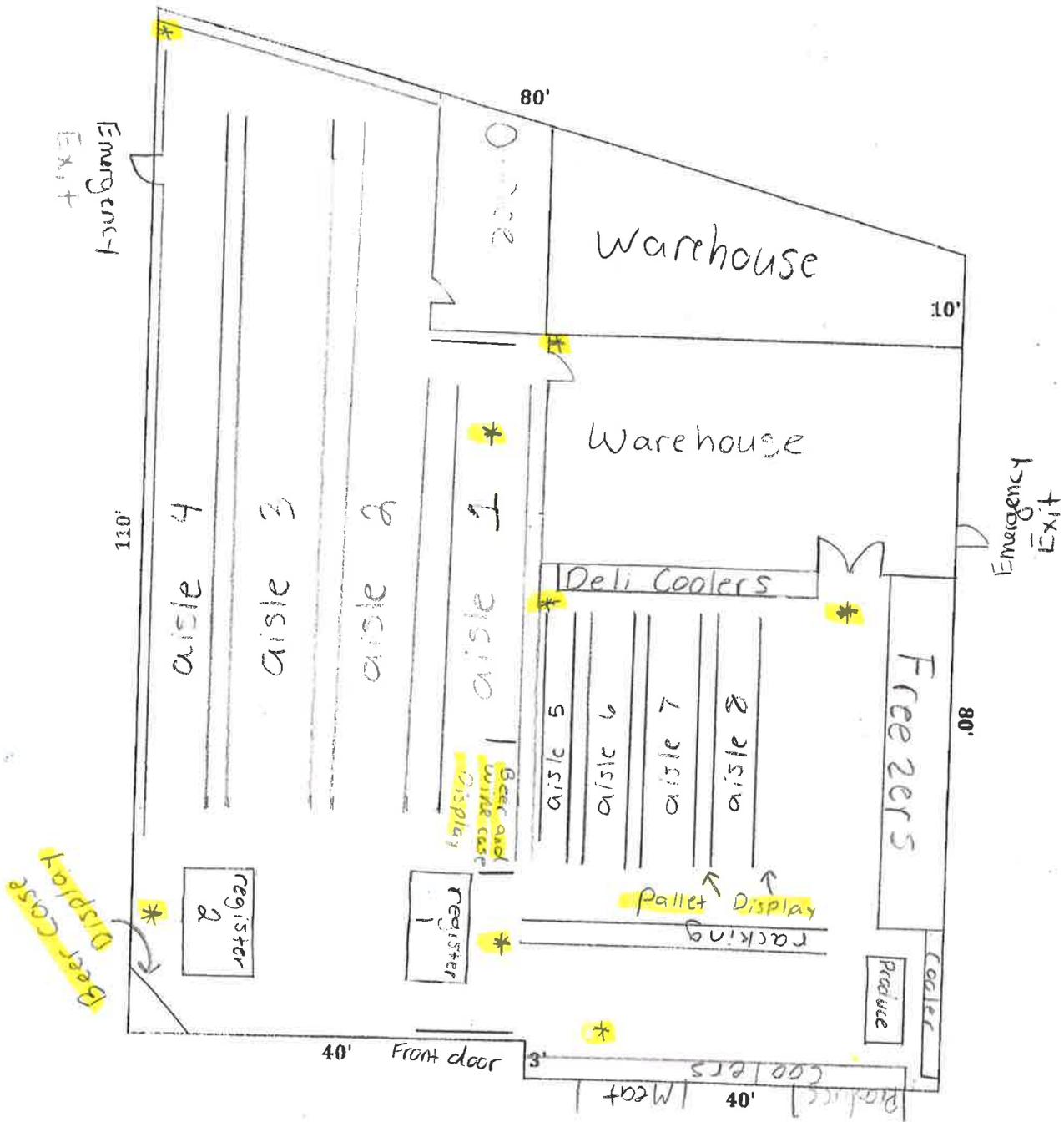
VICINITY MAP

North



South

401 West Lockeford Street



BUILDING SKETCH

* Camera's

RESOLUTION NO. P.C. 16-XX

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF LODI APPROVING THE REQUEST OF STEVEN FETZER TO FOR A TYPE 20 BEER AND WINE LICENSE AT BUY 4 LESS GROCERY STORE AT 401 WEST LOCKEFORD 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 Buy 4 Less, Mr. Steven Fetzer, 1106 E Turner Road, Lodi CA 95240; and
- WHEREAS**, the project parcel is owned by EGR Investments, LLC, Mr. Steven Fetzer, 1106 E Turner Road, Lodi CA 95240; and
- WHEREAS**, the project is located at 401 West Lockeford Street, Lodi, CA (APN 037-260-34); 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 and wine sales (Type 20 license) for the proposed convenience store; and
- WHEREAS**, Census Tract 42.04 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 grocery 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 and wine is allowed in conjunction with a grocery store operation. The sale of alcoholic beverages as part of a grocery 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 grocery 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 grocery 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 9:00 PM 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. 2015-41 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 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.
- 18. 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.
- 19. No variance from any City of Lodi adopted code, policy or specification is granted or implied by this approval.

I certify that Resolution No. 16-XX was passed and adopted by the Planning Commission of the City of Lodi at a regular meeting held on January 13, 2016 by the following vote:

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

ATTEST _____
Secretary, Planning Commission

Item 3c



CITY OF LODI
PLANNING COMMISSION
 Staff Report

MEETING DATE: January 13, 2016

APPLICATION NO: Use Permit: 2015-42 U

REQUEST: Request for Planning Commission approval of a Use Permit to allow a live entertainment and outside dining for Maguire's on Elm at 27 W. Elm Street. (Applicant: Gary Arnold; File 2015-42 U; CEQA Determination: Exempt per Section 15321)

LOCATION: 27 West Elm Street
 APN 043-026-14

APPLICANTS: Gary Arnold
 339 Louie Ave
 Lodi, CA 95240

PROPERTY OWNER Bruce and Annette Viel
 PO Box 753
 Lockeford, CA 95237

RECOMMENDATION

Staff recommends the Planning Commission approve the request of Gary Arnold for a Use Permit to allow live entertainment-lounge use, at a new restaurant, 27 West Elm Street, subject to conditions in the attached resolution. The applicants are looking to have live music following the restaurant dinner service.

PROJECT/AREA DESCRIPTION

General Plan Designation: Downtown Mixed Use
Zoning Designation: Downtown Mixed Use
Property Size: 6,400 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 | Lodi Stadium 12 |

SUMMARY

The property has a Type 47 ABC license that dates back to 1996 with Legends Island Grill and Nightclub. The business has been a restaurant / bar / live entertainment establishment for the

past 20 years. Movie City opened at this location in 2003, Lodi Feed and Fuel about 2006 and Take 27 in 2013.

The current establishment has a valid Type 47 ABC license for a restaurant use. This Type 47 license requires food to be served while the business is open and food sales to be 50 percent of the overall receipt.

The applicant requests approval of a Use Permit to allow live music and entertainment at the restaurant and outside dining.

The applicant is proposing to continue the restaurant use and is looking to add live music / entertainment to attract and retain patrons.

The proposed hours of operation are 7 days a week from 11:00 am to 12:00 pm and 11:00 am to 1:30 pm on Friday and Saturday night. Live music would end by midnight.

The restaurant has an occupancy of approximately 160 persons. There are 60 fixed seats and a total of 160 seats.

Total number of employees per shift would be 5 to 10 depending on the type of meal and demand.

The applicant has provided a description of proposed activities as Attachment B.

The applicant is looking to have a soup and salad bar for lunch customers to capture a lunch crowd and late night meals for patrons of the movie theater.

Music would be consistent with what the Cellar Door and some of the other wine tasting rooms are playing. The applicant would like to have live entertainment including karaoke, live rock bands, acoustic instruments, and comedy nights.

ANALYSIS

The City has spent a great deal of resources on the downtown area and part of that revitalization is the intersection of Elm and School Streets. This is the site of the Lodi Stadium 12 Theater and heart of the downtown family entertainment area.

The City will not approve or support business activities that are detrimental to families coming downtown. Staff is protective of this corner and is not looking to approve an adult oriented business on this corner. The applicant is not proposing and staff would not support a nightclub use.

Staff has conditioned the project that live music must end by 11:00 pm for the first six months with a review by the Planning Commission to extend the hours for live music. The 11:00 pm time limit would be consistent with most of the wine bars downtown.

Staff is supportive of outside dining and recommends approval of outside seating. Staff has conditioned that while outside seating is available, the area be monitored by service staff and that outdoor dining takes place. City staff wants to make sure that outside areas are monitored and no unsupervised drinking takes place in the patio area. Staff does not want the outside area to become an outside bar and drinking area.

Staff has reviewed the proposal and conditioned the use permit to ensure compliance with the previous Type 47 ABC license, consistency with the General Plan Noise Element and ensure and potential conflicts and nuisances are mitigated for.

Per Land Use Code Section 17.22.030, a night club, bar or cardroom / live music is permitted in the Downtown Mixed Use (DMU) zoning designation, subject to a use permit. 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 the addition of live music to a proposed new restaurant in an existing restaurant space within the downtown area. The Downtown Mixed Use (DMU) Zoning District identifies numerous uses intended to bring people to the downtown area. The intent of the DMU zoning district is to provide for a wide range of uses, emphasizing high quality development, and to encourage revitalization of downtown. The proposal is consistent with this intent and making Lodi a tourist destination point. The after-hours lounge activity would allow a use in the downtown area to capture an after hours crowd.
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 commercial, retail, office and restaurant uses. The proposed live music activity added to a restaurant business is the type of business allowed by the General Plan. The proposed use will expand the services to the Blend restaurant patrons 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 live music use associated with a restaurant is compatible with existing and future land uses in the immediate vicinity of the project area. The Downtown Business District envisions bars, wine tasting rooms, retail services, restaurants and the like as the type of business encouraged to operate in the Downtown area. No aspect of the proposed use has 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 that offer entertainment and areas for people to gather 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 restaurant and live music use will offer an additional entertainment use in the downtown area and is consistent with the intent of businesses in the downtown area.
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 businesses in the

downtown area. The intended nature of this lounge is consistent with the effort to retain customers and patrons in the downtown area and, therefore, staff does not expect any problems with the proposed establishment. The proposed use is consistent with the City's vision of making downtown Lodi a 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, January 2, 2016. Thirty-six (36) 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 live entertainment / lounge activity at 115 S. School 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. Applicant description
- C. Draft Resolution

VICINITY MAP



27 West Elm Street

McGuire's on Elm St. Irish Pub
27 West Elm Street Lodi, Ca.

McGuire's On Elm St. will hold a 47-ABC liquor license. McGuire's will be a full service family restaurant, Irish Pub, and entertainment venue. Outside seating will be offered.

McGuire's proposed hours of operation will be 11am. till midnight, weekdays, and 11am. till 1:30 am. Friday and Saturdays. Live music will end at midnight. Hours may be reduced/adjusted for seasonal time periods and/or special events. A full menu will be available for most of the operating hours. A "late nite" menu will be offered from 9pm. till last call. We will advertise at Stadium Theater to encourage movie buffs to visit McGuire's. Offsite catering will be available.

Entertainment and promotions will Include; open mic, comedy night, "bald guys" eat free, karaoke, and live music. Various fundraisers will be held regularly. McGuire's plans to host a charity car show and chili cook off. (with city approval). We plan on having many special event fundraisers. McGuire's will donate back to non-profit groups proceeds from their event. It is key to be "family friendly." The majority of the daytime business will be families, movie goers, diners, tourists, and shoppers. McGuire's hopes to partner with other Downtown business to develop special events. We will also join the Chamber of Commerce and the Downtown Business Owner's Assn.

With McGuire's fabulous location we plan on being a destination and soon a landmark to Downtown Lodi. I realize the importance of being "family friendly." Our entertainment will be focused on creating a wholesome atmosphere so that all visitors to Downtown will feel welcome.

With my more than 30 years of coaching youth sports and volunteering in non-profit groups locally, McGuire's has a built-in client base enthusiastically awaiting our grand opening. I have also worked in the entertainment industry as owner of Awesome Entertainment Mobile DJ. I am the former owner of Gary's Uptown Restaurant (now Lodi Card Club).

McGuire's will be a huge success because we will offer a great product that appeals to a majority of people and fulfill an unmet consumer need. No other venue in the Downtown area combines all these options... Reasonably priced meals - full service Irish pub - live entertainment and dancing!!!

RESOLUTION NO. P.C. 16-XX

**A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF LODI
APPROVING THE REQUEST OF GARY ARNOLD FOR A USE PERMIT FOR LIVE
ENTERTAINMENT AND OUTSIDE DINNING AT 24 W 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 Gary Arnold, 339 Louie Avenue Lodi, CA 95240; and
- WHEREAS**, the project parcel is owned by Bruce and Annette Viel, PO Box 753, Lockeford, CA 95237; and
- WHEREAS**, the project is located at 27 West Elm Street, Lodi, CA 95240 (APN: 043-026-07); and
- WHEREAS**, the property has a General Plan designation of Downtown Mixed Use and is zoned Downtown Mixed Use (DMU); 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 the addition of live music to a proposed restaurant in an existing restaurant space within the downtown area. The Downtown Mixed Use (DMU) Zoning District identifies numerous uses intended to bring people to the downtown area. The intent of the DMU zoning district is to provide for a wide range of uses, emphasizing high quality development, and to encourage revitalization of downtown. The proposal is consistent with this intent and making Lodi a tourist destination point. The live music activity would allow a use in the downtown area to capture an after-hours crowd.
3. The General Plan land use designation for this area is Downtown Mixed Use, which allows commercial, retail, office and restaurant uses. The proposed live music activity added to a restaurant business is the type of business allowed by the General Plan. The proposed live music use will expand the services to the McGuire's on Elm restaurant patrons and is therefore, consistent, with the General Plan.
4. The proposed live music use associated with a restaurant is compatible with existing and future land uses in the immediate vicinity of the project area. The Downtown Business District envisions bars, wine tasting rooms, retail services, restaurants and the like as the

type of business encouraged to operate in the Downtown area. No aspect of the proposed use has 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 that offer entertainment and areas for people to gather 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 restaurant and lounge use will offer an additional entertainment use in the downtown area and is consistent with the intent of businesses in the downtown area.
9. The proposed use would not have a substantial adverse economic effect on nearby uses because operation of a restaurant / live music in accordance with applicable laws and under the conditions of this Use Permit is anticipated to be an economic benefit to the community.
10. The availability of public facilities and utilities is adequate to serve the proposed use, in that Blend will be located within a building where public facilities and services are currently provided, including sewer, water, electricity, phone, etc.
11. 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.
12. The proposed use would not be detrimental to the general welfare of persons residing and working in the immediate vicinity, the neighborhood or the community at large because the sale of alcohol with a restaurant 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. 2015-42 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 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. 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.
8. 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.

9. No alcoholic beverages shall be consumed on any property adjacent to the licensed premises under the control of ABC license issued to McGuire's on Elm Street Irish Pub.
10. A minimum of two (2) Professional security staff shall be present during the hours entertainment occurs and one additional security guard for every 25 patrons. All persons responsible for security for the business shall have training as State-licensed security personnel. Security staff shall be stationed at the entry to the bar, in the area surrounding the premise and in the inside of the business itself. Security staff and their training program shall be subject to the review and approval of the Chief of Police.
11. Prior to the effective date of this Use Permit, a security plan which includes a management training plan, employee and security resource placement, crowd control and security measures, and provisions for overflow customers shall be submitted to the Community Development Department for review, and shall be approved by the Community Development Department and the Police Chief, or a designee thereof.
12. 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.
13. 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 25 feet down west 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.
14. 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.
15. 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.

16. 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.
17. The Type 47 ABC license requires that food sales be a substantial activity of the business. Staff reserves the ability to monitor food sales as a portion of the business and audit inventory books. A Type 47 license required food to be available during all hours of operation.
18. All music and dancing-related activities, 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.
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. 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.
21. Live music / entertainment shall end by 11:00 pm. After 6 months of activity without nuisance calls, the hours may be extended to 12:00 with Planning Commission review.
22. 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.
23. If drinking takes place on the enclosed sidewalk area, regular food service shall take place and be monitored by staff. No unattended activities are allowed on the outside areas. This area is for outside dining, not an outside drinking / bar area.
24. This approval is for a restaurant with live entertainment. This approval is not intended for a night club or any activity that is in conflict with a family-oriented entertainment area.
25. The applicant shall obtain Operational Permits from the Lodi Fire Department, Fire Prevention Bureau. The Operational Permits shall be obtained prior to commencement of sale of alcohol. The Fire Department may be contacted at 25 East Pine Street, Lodi, CA 95240-2127. Phone Number (209) 333-6739.
26. The applicant shall obtain a tenant improvement permit prior to occupancy. 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. The Building and Safety Division may be contacted at 221 West Pine Street, Lodi, CA 95240-2127. Phone number (209)333-6714.
27. 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.
28. 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.

- 29. No variance from any City of Lodi adopted code, policy or specification is granted or implied by this approval.
- 30. 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

I certify that Resolution No. 16-XX was passed and adopted by the Planning Commission of the City of Lodi at a regular meeting held on January 13, 2016 by the following vote:

AYES: Commissioners:

NOES: Commissioners:

ABSENT: Commissioners:

ATTEST _____
Secretary, Planning Commission