

LODI PLANNING COMMISSION

Teleconference Meeting

Streaming Link: <https://www.facebook.com/CityofLodi/>

AGENDA – Regular Meeting

Date: MAY 13, 2020

Time: Regular Session @ 7:00 PM

SPECIAL TELECONFERENCE NOTICE

Pursuant to Executive Order N-29-20:

The Brown Act, Government Code Section 54953, contains special requirements that apply when members of a legislative body participate in a public meeting by telephone. Certain of these requirements have been suspended by Paragraph 3 of Executive Order N-29-20, executed by the Governor of California on March 17, 2020 to mitigate the spread of the coronavirus known as COVID-19. In particular, the Executive Order suspends that provision of the Brown Act that requires noticing, posting of agendas, and public access to each location where a member will be participating telephonically, as well as provisions that require physical presence of members of the legislative body or the public for purposes of a quorum or to hold a meeting. Executive Order N-29-20 allows an agency to conduct a teleconference meeting that provides members of the public telephonic or other electronic participation in place of making a physical location for the public to observe the meeting and provide public comment, consistent with other provisions of the Brown Act.

The following members of the City of Lodi Planning Commission are listed to permit them to appear telephonically at the Planning Commission Meeting on May 13, 2020: Commissioners William Cummins (Chair), Crystal Hicks (Vice Chair), Lisa Craig, Tiffany Gomes, Julieann Martin, Debbie Olson, and Mitchell Slater.

Public Comment:

As always, members of the public can send written comments to the Planning Commission prior to the meeting by emailing pccomments@lodi.gov. These emails will be provided to the members of the Planning Commission and will become part of the official record of the meeting.

Members of the public who wish to verbally address the Planning Commission during the meeting should email those comments to pccomments@lodi.gov. Comments must be received before the Chair announces that the time for public comment is closed. Staff will read three minutes of each email into the public record. **IMPORTANT:** identify the Agenda Item Number or description in the subject line of your email. Example: Public Comment for Agenda Item Number 4a Grocery Outlet.

Pursuant to the Americans with Disabilities Act (ADA) and Executive Order N-29-20, if you need special assistance to provide public comment in this meeting, please contact the Office of the Community Development Department at (209) 333-6711 or pccomments@lodi.gov at least 48 hours prior to the meeting in order for the City to make reasonable alternative arrangements for you to communicate your comments. If you need special assistance in this meeting for purposes other than providing public comment, please contact the Office of the Community Development Department at (209) 333-6711 or pccomments@lodi.gov at least 48 hours prior to the meeting to enable the City to make reasonable arrangements to ensure accessibility to this meeting (28 CFR 35.160 (b) (1)).

Viewing:

Members of the public may view and listen to the meeting at: <https://www.facebook.com/CityofLodi/>

For information regarding this agenda please contact:
Kari Chadwick @ (209) 333-6711
Community Development Secretary

1. ROLL CALL
2. MINUTES – None
3. COMMENTS BY THE PUBLIC (NON-AGENDA ITEMS)

If you wish to address the Commission, please refer to the Special Teleconference Notice at the beginning of this agenda. Individuals are limited to one appearance during this section.

4. PUBLIC HEARINGS

- a. Request for Planning Commission approval of an amended Use Permit to allow the off-site sale of beer, wine, and distilled spirits at the Grocery Outlet store, 520 S Cherokee Lane (Applicant: Grocery Outlet; File 2020-018 U; CEQA Determination: Exempt per Section 15061(b)(3))

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

5. PLANNING MATTERS/FOLLOW-UP ITEMS
6. ANNOUNCEMENTS AND CORRESPONDENCE
7. ACTIONS OF THE CITY COUNCIL
8. ACTIONS OF THE SITE PLAN AND ARCHITECTURAL REVIEW COMMITTEE
9. ACTIONS OF THE LODI ARTS COMMISSION
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.



CITY OF LODI
PLANNING COMMISSION
Staff Report

MEETING DATE: May 13, 2019

APPLICATION NO: Use Permit: 2020 – 019 U

REQUEST: Request for Planning Commission approval of an amended Use Permit to allow allow the off-site sale of beer, wine, and distilled spirits at the Grocery Outlet store 520 S Cherokee Lane; File 2020-019 U; CEQA Determination: Exempt per Section 15061(b)(3))

LOCATION: 520 S. Cherokee Lane
APN 047-450-17

APPLICANTS: Grocery Outlet
5650 Hollis Street
Emeryville, CA 94608

PROPERTY OWNER Pac Lodi TIC
680 W Shaw #202
Fresno, CA 93704

RECOMMENDATION

Staff recommends the Planning Commission approve the request of Grocery Outlet to modify the existing Use Permit to allow for the off-site sale of beer, wine, and distilled spirits (adding distilled spirits) subject to conditions of approval. Staff also recommends that the Planning Commission make a finding of public convenience and necessity, to allow the applicant to process their liquor license application with the State of California.

Note: To avoid future confusion, staff recommends that the Planning Commission’s action include the following:

- 1) Rescinding existing Conditional Use Permit 17-06; and
- 2) Adopting Conditional Use Permit 2020-019

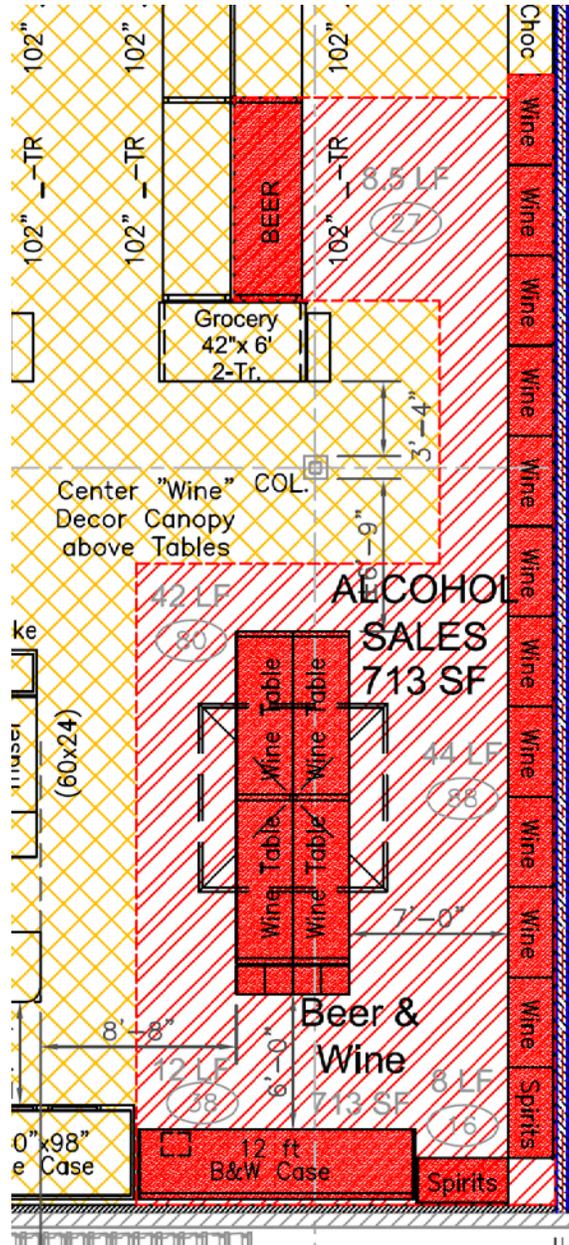
This is consistent with the Commission’s recent action to amend the existing conditional use permit at the El Pazzifico restaurant and replace it with a new, amended conditional use permit.

PROPOSED PROJECT

The applicant, Grocery Outlet, is proposing to add the sale of distilled spirits at their existing store at 520 S Cherokee Lane, Suite 102. Beer and wine are currently sold at this location, which is a supermarket offering a full range of groceries, food, and household items. The sale of beer and wine is taking place pursuant to a conditional use permit approved by the City in 2017.

The applicant proposes to add distilled spirits to the existing area in the store in which alcohol is sold, shown in Figure 1, below. This area is near the front of the store and the cash register area.

Figure 2: Alcohol Sales Area Detail



Distilled spirits would be displayed on shelves and would be accessible by customers (not locked).

Grocery Outlet

Grocery Outlet was founded in 1946 and currently operates more than 300 stores, primarily in California, Oregon, and Washington state. The company has one Lodi location; other nearby locations include Stockton, Manteca, and Elk Grove.

According to the applicant's representative, about half of all Grocery Outlet stores sell beer/wine/spirits. About half (including the Lodi location) sell beer and wine only.

The company is transitioning its beer/wine locations to beer/wine/spirits as Type 21 beer/wine/spirits licenses from the State of California become available. Grocery Outlet was awarded the opportunity to apply for a Type 21 (beer/wine/spirits) license by the State of California in a 2019 lottery; that license can be approved by the State only if the City amends the existing conditional use permit to allow the sale of distilled spirits.

PROJECT SETTING

The following sections describe the site and its setting:

- General Plan and Zoning
- Existing Land Uses
- Existing Liquor Licenses in the Vicinity

General Plan and Zoning

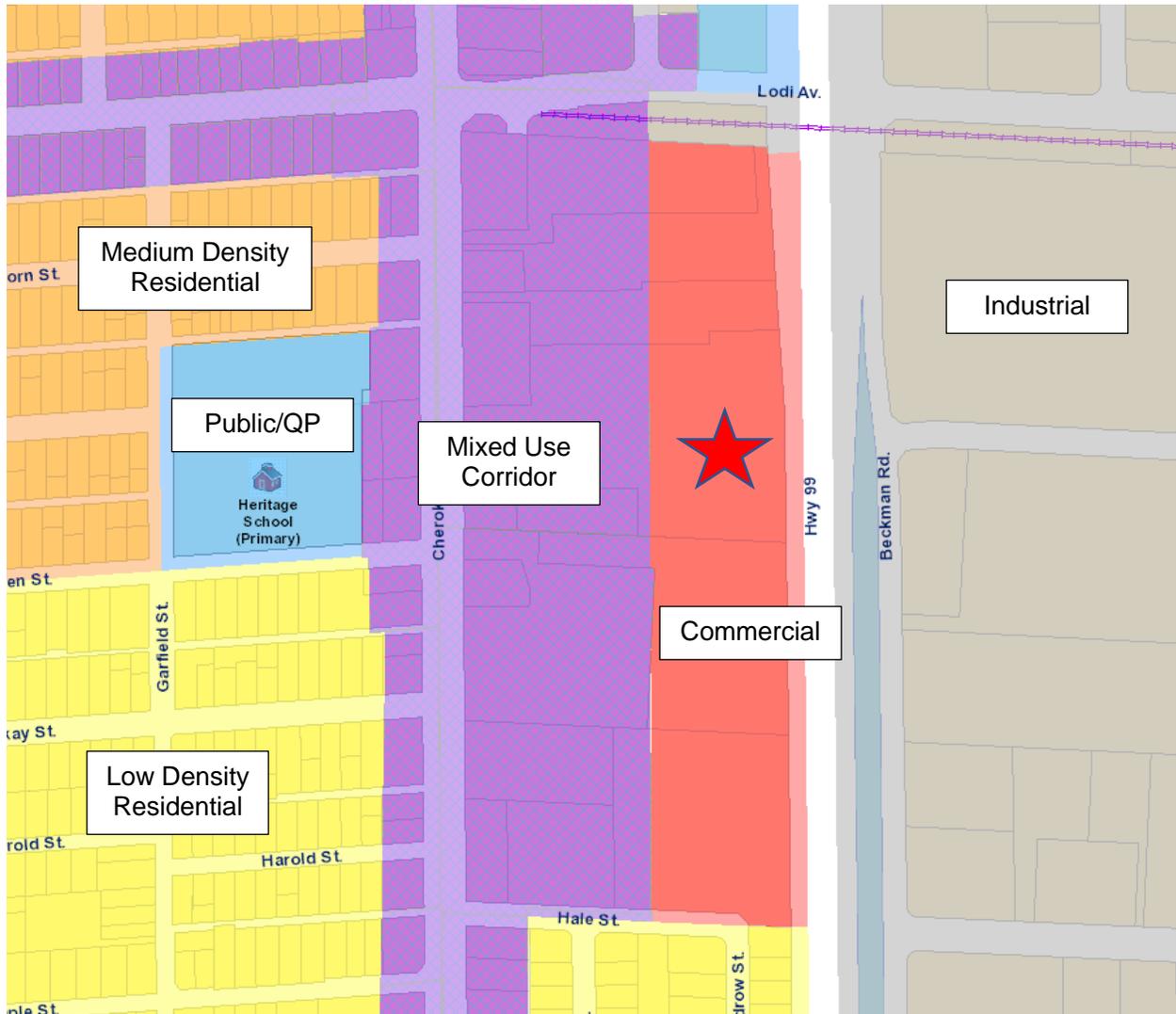
The site is designated Commercial on the General Plan Land Use Map and is zoned for GC (General Commercial) uses on the Zoning Map.

General Plan Designation: Commercial
Zoning Designation: GC General Commercial
Property Size: 23,409 sq. ft. store on a 5.98-acre parcel

	ADJACENT ZONING DESIGNATIONS AND LAND USES		
	GENERAL PLAN	ZONING CLASSIFICATION	EXISTING LAND USE
North	Commercial, Mixed Use Corridor, Industrial, Public	GC, MCO, M, PQP	Retail, Light Industrial
South	Commercial, Mixed Use Corridor, Low Density Residential	GC, MCO, RLD	Retail/Services, Residential
East	NA	NA	99 Freeway
West	Mixed Use Corridor, Residential, Public	PQP, RLD, RMD	Residential, Elementary School, Retail/Services

The General Plan designations for the site and surrounding areas are shown below.

Figure 3: General Plan Land Use Map



Zoning designations for the project site and surrounding areas are shown below.

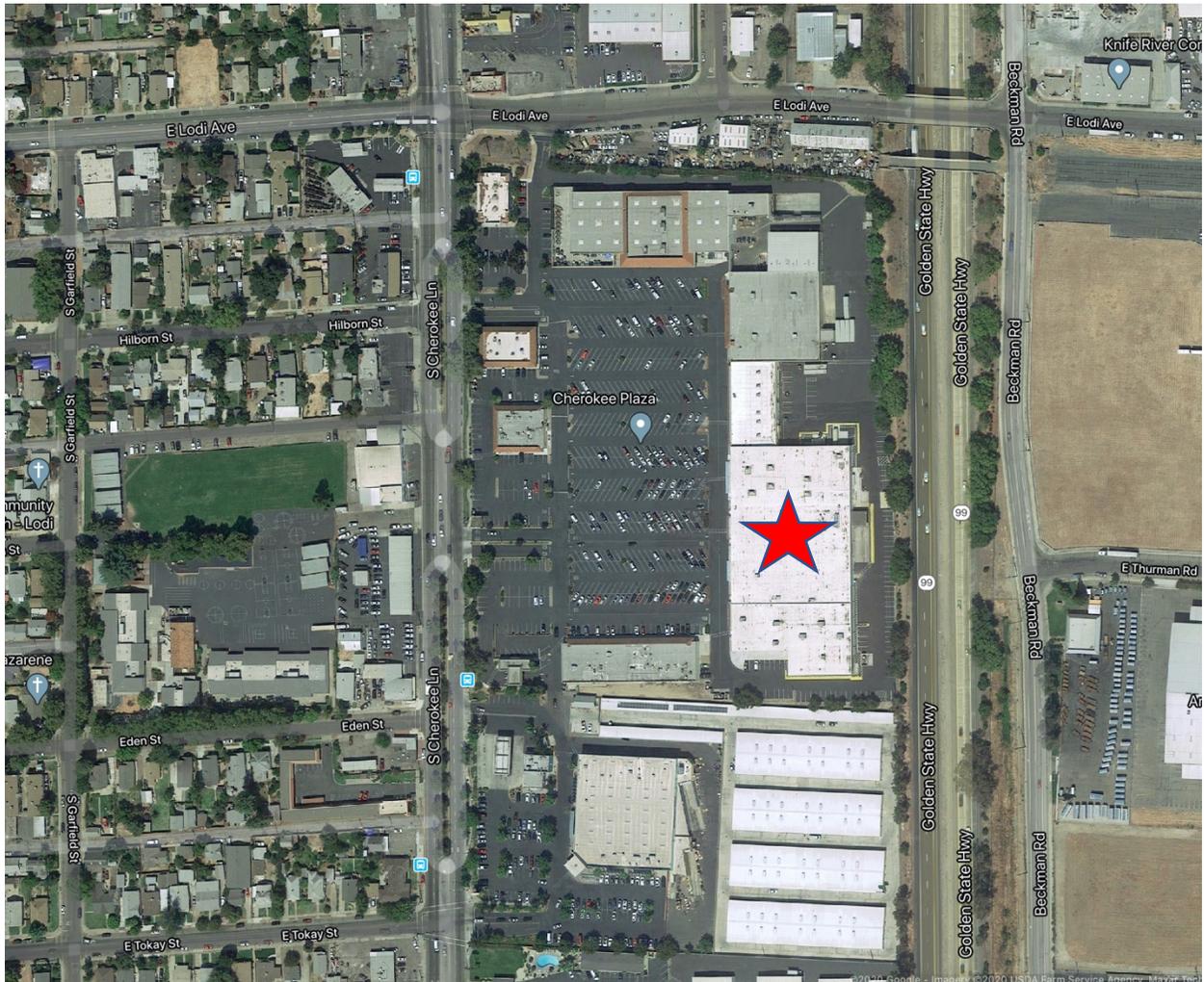
Figure 4: Zoning Map



Existing Land Uses

Existing land uses in the vicinity of the site include most of the land use types in Lodi, ranging from commercial retail and services to light industrial to low- and medium-density residential and public uses (including the nearby Heritage Elementary School). An aerial photo showing existing vicinity land uses is shown below.

Figure 5: Aerial Photo of Site and Vicinity

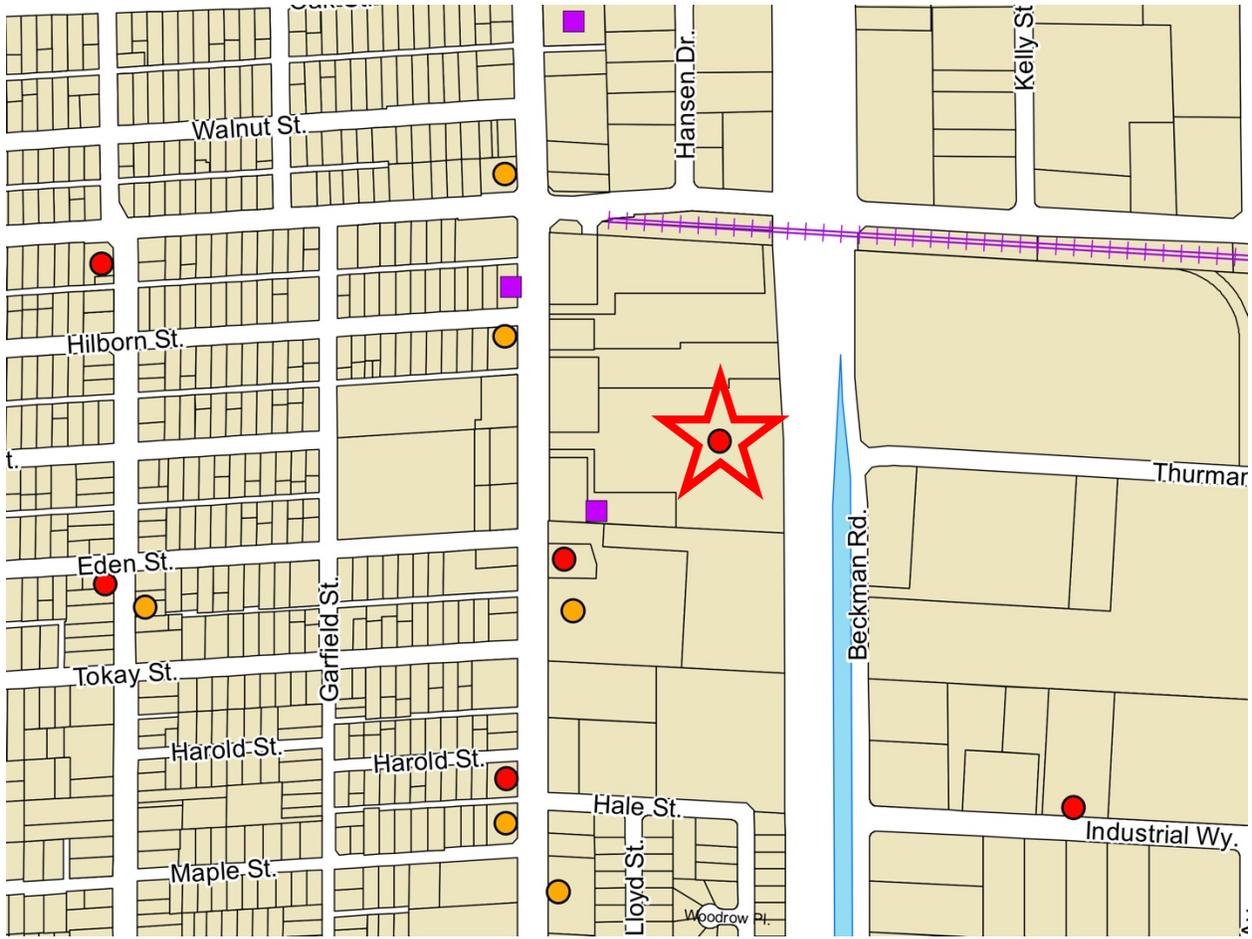


Existing Liquor Sales in the Vicinity

The map below shows existing locations in the vicinity of the Grocery Outlet at which alcohol can be purchased either for consumption at the point of sale (square symbols) or at off-site locations (round symbols).

The State of California ABC has determined that the number of alcohol licenses in Lodi exceeds the per-capita number that ABC feels is appropriate, and requires that the City determine that the public's "convenience and necessity" would be served by any new license.

Figure 6: Existing Vicinity Liquor Licenses



Legend

- 20 Off-Sale Beer & Wine
- 21 Off-Sale General
- 41 On-Sale Beer & Wine Eating Place
- 42 On-Sale Beer & Wine Public Premises (21+ years or older)
- 47 On-Sale General Eating Place
- 48 On-Sale General Public Premises (21+ years or older)

“Off-Sale General” includes the sale of beer, wine, and distilled spirits for consumption off-site.

**City of Lodi
Liquor Licenses**



As shown in Figure 6, there are several existing locations near the Grocery Outlet which are licensed to sell beer, wine, and distilled spirits. These include:

- Food Mart Liquor, 225 S Cherokee Lane
- Cherokee Mini Mart, 400 block of S Cherokee Lane
- Rancho San Miguel Market, 620 S Cherokee Lane
- Star Market Liquor, 741 S Cherokee Lane
- Plaza Liquor, 800 S Cherokee Lane

Of these, only one (Rancho San Miguel Market) is a full-service grocery store. All of the other nearby "Type 21" beer/wine/spirits locations are liquor stores or "mini marts."

EXISTING CONDITIONAL USE PERMIT

In 2017, the Planning Commission approved a conditional use permit at this location to allow the sale of beer and wine for off-site consumption (a "Type 20" State of California liquor license). Grocery Outlet, the current applicant, was taking over a vacant space that had previously been occupied by a K-Mart store. At the time, the Planning Commission imposed a variety of conditions (listed in their entirety in Resolution No. PC 17-06, attached to this staff report) related to the sale of alcoholic beverages.

The existing liquor display inside the Grocery Outlet store is shown below.

The conditions of approval in the 2017 CUP imposed a one-year probationary, which included reviews of the operation by Planning and the Police Department during the first year of operations. Staff is not aware that any problems were observed during the probationary period.

Staff is not aware of any ongoing issues with alcohol sales at the Grocery Outlet location.

Figure 7: Existing Alcohol Display



ANALYSIS

Per the Lodi Zoning Code, the sale of alcohol in the GC zoning district requires a Conditional Use Permit. The City established the Use Permit (CUP) requirement to gain local control over whether or not a license is appropriate for a particular location and place conditions upon the use.

Obtaining a CUP allows an applicant to process an application with the State of California Department of Alcoholic Beverage Control (ABC), but does not of itself allow the sale of alcohol. ABC controls license issuance, based on a variety of factors including the concentration of licenses within a particular Census Tract.

As noted earlier, the existing 2017 conditional use permit allows the sale of beer and wine at the Cherokee Lane location.

The applicant's request involves the approval of a public convenience and necessity (PCN) and Use Permit. In order to allow an additional ABC license, the Planning Commission must make a finding of necessity; and if determined necessary, then consider the appropriateness of conditions of approval for the Use Permit.

Review of Sale of Beer/Wine/Distilled Spirits

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, and staff's recommendations, 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 GC (General Commercial) zoning district allows sale of alcohol for off-site consumption with a Conditional Use Permit. The GC zoning district is applied to areas appropriate for a range of community serving commercial, regional retail, and service land uses. The proposal is consistent with this intent.
2. *The proposed use is consistent with the General Plan and any applicable specific plan.* **Comment:** The General Plan land use designation for this area is General Commercial, which per the Lodi General Plan "... provides sites for retail uses, including citywide shopping centers with off-street parking, neighborhood shopping with clusters of street-front stores, and hotels." The sale of alcoholic beverages as part of a grocery store's operations is consistent with this classification. The project is not within a Specific Plan or Planned Development, which would have additional rules on the sale of alcohol different from the property's zoning and General Plan designations.
3. *The location, size, design and operating characteristics of the use or development is compatible with and shall not adversely affect or be materially detrimental to the health, safety, or welfare of persons residing or working in the area, or be detrimental or injurious to public or private property or improvements.* **Comment:** The proposed sale of alcohol at a grocery store is compatible with existing and future land uses in the immediate vicinity of the project area. The sale of alcohol in the business is consistent with other similar retail commercial uses in the vicinity.
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. The proposed sale of alcohol, as conditioned, will not have an adverse effect upon the use, enjoyment or valuation of property 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.* **Comment:** The project was found to be from review under the California Environmental Quality Act, §15061 (b) (3). 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.

Conditions of Approval

Staff recommends generally continuing the conditions of approval imposed on the sale of alcohol at this location with the original 2017 conditional use permit. The following changes to the existing conditions of approval are suggested:

- Conditions which applied at the time to the construction of improvements inside the store, which have been completed.

- The one-year “probationary period” imposed on the first year of operations at the store.
- Staff recommends adding a condition that distilled spirits be sold in containers of at least 375 ml (a “one pint” bottle).
- Adding the applicant’s interior floor plan to clearly show the area in which alcohol can be displayed.
- Limiting the display of spirits to no more than two, four-foot-wide shelving sections.

Based on the successful completion of the initial one-year reviews and the operator’s good history of operations at the Lodi location, staff does not recommend imposing a new probationary period or any other new conditions of approval.

Public Convenience and Necessity

Based on staff’s analysis, a finding public need and necessity can be made. Grocery Outlet is a full-service grocer, where customers would typically expect to find a full range of beverage choices, including distilled spirits. Offering these beverages at this location would facilitate one-stop shopping and reduce the need to purchase spirits at other nearby stores, and would offer the opportunity to purchase these beverages with their groceries. As noted earlier, only one other supermarket is located nearby at which distilled spirits can be purchased.

ENVIRONMENTAL ASSESSMENT

The project is Categorically Exempt according to the California Environmental Quality Act, Article 19 §15061 (b) (3). This is the “common sense” exemption, which applies to projects as follows:

“The activity is covered by the common sense exemption that CEQA applies only to projects which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA.”
[CEQA 15061(b)(3)]

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, May 2, 2020. Seventeen (17) 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 15061(b)(3) and that the Commission should: 1) rescind Use Permit 17-06 and 2) approve Use Permit 2020-018, for the sale of beer, wine, and distilled spirits subject to the findings and conditions of approval contained in the draft Resolution.”

ALTERNATIVE PLANNING COMMISSION ACTIONS:

If the Commission wishes, it may:

- Approve the request as recommended by staff
- Approved the request with modified or additional conditions of approval
- Deny the request
- Continue the request to a future date and direct staff and/or the applicant to provide additional information or to make changes in the proposed project

Respectfully Submitted,

Concur,

Eric Norris
Consultant Planner

John R. Della Monica Jr.
Community Development Director

ATTACHMENTS:

- A. Lodi Planning Commission Resolution 17-06
- B. Applicant's Proposal
- C. Draft Resolution
- D. Proposed Conditions of Approval

RESOLUTION NO. P.C. 17-06
A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF LODI APPROVING THE
REQUEST OF GROCERY OUTLET FOR A TYPE 20 BEER AND WINE LICENSE AT
520 SOUTH CHEROKEE LANE.

- WHEREAS**, the Planning Commission of the City of Lodi has heretofore held a duly noticed public hearing, as required by law, on the requested Use Permit, in accordance with the Lodi Municipal Code, Section 17.74; and
- WHEREAS**, the project proponents are Grocery Outlet, 5650 Hollis St., Emeryville, Ca. 94608; and
- WHEREAS**, the project parcel is owned by PAC Lodi TIC, c/o Joseph Pickett, 680 West Shaw #202, Fresno, CA 93704 ; and
- WHEREAS**, the project is located at 520 South Cherokee Lane, Lodi, CA (APN 047-450-17); and
- WHEREAS**, the property has a General Plan designation of Commercial and is zoned General Commercial; 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**, because Census Tract 44.04 has an over-concentration of alcohol licenses, the Planning Commission must make a finding of necessity and/or public convenience in order to permit the issuance of an additional Alcohol Beverage Control license in this tract; and
- WHEREAS**, the City of Lodi has taken all legal prerequisites to the adoption of this Resolution have occurred.
- 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 General Commercial Zoning District, to allow off-site sell alcohol in accordance with Development Code Section 17.20.030. 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 General Commercial, 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 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.
5. 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 12:00 am - midnight reducing the probability of late night homelessness loitering in the neighborhood
6. 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.
7. The Planning Commission finds that the grocery store is a Public Necessity and or Public Convenience and approves the use permit in order to permit the issuance of an additional Alcohol Beverage Control license in this tract.

NOW, THEREFORE, BE IT DETERMINED AND RESOLVED by the Planning Commission of the City of Lodi that Use Permit Application No. 2017-11 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 building occupancy. 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 sold additional alcoholic beverages. It is the responsibility of the business owner/operator to ensure no patron in state of intoxication is sold additional alcoholic beverages.
9. The business shall have interior security video cameras operating during all hours that the business is open. The videotapes of the security video cameras shall be maintained for a minimum period of 30 days, and the videotapes must be made immediately available for any law enforcement officer who is making the request as a result of official law enforcement business. The video cameras must be positioned in a way to capture the facial features of anyone entering the business and include cameras that capture all money handling areas. If the Chief of Police determines that there is a necessity to have additional security cameras installed, the owner of the business must comply with the request within 7 calendar days. The Chief of Police can also require that the business change the position of the video cameras if it is determined that the position of the cameras do not meet security needs. The owner of the business must comply with the request within 7 calendar days. The said security video camera shall be installed and approved prior to business opening.
10. Prior to commencement of the use, the applicant shall prepare and submit a practical program for controlling litter, spills, and stains resulting from the use on the site to the Community Development Department for review and approval. The program shall include a detailed time frame for the policing and cleanup of the public sidewalk and right-of-way in front of the subject property. 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 20 Licenses. The off-site sale of beer and wine shall occur only during the hours of 7:00 am to 12:00am. Any change of hours shall require notification to Planning Staff.
15. Beer, wine coolers and/or malt beverages shall be sold in original factory packaging. The City does not want to see alcohol sales that are not consistent with the original intended sales packaging. It is understood that most craft beer selections come in single bottle packaging
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.

Building General Comments:

(Building Permit Submittal)

17. Any alterations to the existing building will require a building permit. All plan submittals shall be based on the City of Lodi Building Regulations and currently adopted 2016 California Building code. Please review our policy handouts for specific submittal procedures.
18. Occupant load calculations shall be provided for the entire suite and individual rooms in the suite based on square footage divided by the appropriate occupant load factor from 2016 CBC, Table 1004.1.2.
19. If the occupant load for the Suite any rooms of the Suite 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. 2016 CBC, Section 1007.1.1
 - b) Exit doors shall swing in the direction of egress travel. 2016 CBC, Section 1010.1.2.1
 - c) The exit doors and exit access doors shall be equipped with panic hardware. 2016 CBC, Section 1010.1.10
 - 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. 2016 CBC, Sections 1008.1 thru 1008.3.5
 - e) Show locations of required illuminated exit signs. 2016 CBC, Section 1013
 - 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." 2016 CBC, Section 1013.4
20. Site Plan to show all building entrances and ground level exits shall be connected on an accessible route to other buildings on the site, public transportation stops, accessible parking and passenger loading zones and to public streets and sidewalks. 2016 CBC, Sections 11B-206.4.1, 11B-404, 11B-Division 4
 21. 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 2016 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 2016 CBC, Sections 11B-247.1 & 11B-705.1.2.5.
 22. Amend plans to specify the occupancies of each portion of the Suite. A two hour fire separation (1 hour in sprinklered building) maybe required between occupancies as per 2016 CBC, Section 508.4 and Table 508.4. Plans to provide listing information for the existing fire barriers. Or provide complete and adequate construction details and listing information for retrofit of existing walls to provide the required fire rated barriers, so as to completely separate the adjacent occupancies. 2016 CBC, Sections 508.4, 707, & 711
 23. Plumbing fixtures shall be provided for the type of occupancy and in the minimum number specified by 2016 CPC, Table 422.1. Plumbing occupant load shall be calculated using the plumbing occupant load factor specified by 2016 CPC Table A for each area use. The required number of plumbing fixtures (water closets, urinals, lavatories and drinking fountains) shall be provided, as specified for A-3 occupancies by 2016 CPC, Table 422.1.
 24. If the building occupant load exceeds 500 a manual fire alarm system is required. New Fire alarms or alterations to an existing Fire alarm shall be submitted under a separate permit and cover to the Building Department by a C-10 licensed fire alarm contractor. 2016 CFC, Section 907.2.7
 25. Alterations to the Fire Sprinkler system shall be submitted under a separate permit and cover to the Building Department by a C-16 licensed contractor.
 26. Storage racks greater than 6' in height are required to be submitted under separate permit and cover. Storage racks greater than 8' in height shall be provided with structural calculations. Storage 12' or greater in height must be reviewed as high piled storage." City of Lodi Policy and Procedure B-[08]-[09]
 27. The California Building Code (Title 24 Section 11B-202) requires that existing buildings, when alterations are made, shall be verified for compliance with disabled access requirements. These requirements shall apply only to the specific area of alteration and shall include an accessible entrance, an accessible route to the altered area, at least one accessible restroom for each sex, telephones and drinking fountains (if existing), and when possible additional items such as parking, storage and alarms.

If the construction costs of the alterations to the building are less than the current valuation threshold of \$146,303.00 and if the cost of the above listed accessibility upgrades are disproportionate (exceeds 20% of the project without the upgrades), then the required accessibility upgrades may be provided to the extent that is proportionate (20% of the valuation) as per 2016

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.

- 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.

I certify that Resolution No. 17-06 was passed and adopted by the Planning Commission of the City of Lodi at a regular meeting held on April 12, 2017 by the following vote:

AYES:	Commissioners:	Gomes, Kirst, Kirsten, Olsen, Slater and Chair Hennecke
NOES:	Commissioners:	None
ABSENT:	Commissioners:	Cummins

ATTEST



Secretary, Planning Commission



**Project Description for Conditional Use Permit Modification and
Justification for Public Convenience or Necessity
520 S Cherokee Ln
Lodi, CA**

Grocery Outlet Background

Grocery Outlet opened its Lodi store in November 2017 with a type 20 off-sale beer and wine license. In the 2019 lottery conducted by the Department of Alcoholic Beverage Control, Grocery Outlet was awarded a type 21 general license which allows the off-sale of beer, wine and distilled spirits. Grocery Outlet requests a modification to the Conditional Use Permit (Resolution No. P.C. 17-06) to allow the sale of spirits in addition to the beer and wine.

Grocery Outlet offers fantastic bargains and deals on a variety of products including grocery, frozen foods, deli items, vitamins, health and beauty items, housewares, gift items and much, much more. Brand names for less is the name of the game and smart shoppers get incredible savings over regular store prices every day when they shop Grocery Outlet. Grocery Outlet gets products by searching the nation's major manufacturers for amazing one-time buys resulting from excess production, packaging/design changes, and special promotions. Grocery Outlet's assortment of product changes frequently because of the nature of the one-time buys.

Grocery Outlet owns over 260 stores in California with off sale (type 20 and 21) alcohol licenses. Operators and their employees are careful to make sure the store is always clean, neat and free from debris. Grocery Outlet has had no significant issues raised by the local law enforcement agency with respect to alcoholic products or public disturbances. Grocery Outlet has a history of service to the California community and will continue to operate in a conscientious and thoughtful way with sensitivity to any possible detriment to adjacent residents and businesses. Grocery Outlet is fully aware of the unique responsibilities of operating a store associated with alcoholic beverage sales.

The Lodi store's operating hours are from 8:00AM to 9:00PM seven days a week.

Findings for Determination of Public Convenience or Necessity

Grocery Outlet stores are “destination stores” offering a full complement of name-brand items at bargain prices. The sale of beer, wine and spirits is an ancillary but integral part of the total grocery store business. Customers desire the convenience of being able to purchase alcoholic beverages together with the full assortment of Grocery Outlet’s unique, value priced items. This convenience is imperative to Grocery Outlet’s ability to serve and attract customers.

1. The sale of alcoholic beverages is an acceptable and customary convenience to the local residents. The proposed availability of beer, wine and distilled spirits together with everyday products such as fruits, vegetables, milk, juice, eggs, bread, cereal, coffee, soup and pasta as well as consumer products such as pet food, toothpaste, detergent and paper towels allows customers to have readily available products in one location where they would otherwise be obliged to travel to several locations to purchase these items.
2. The sale of alcoholic beverages in conjunction with an existing grocery store is compatible with current and future land uses in the nearby vicinity. The store is located on a major thoroughfare and is easily accessible to the residents and visitors of the City of Lodi. The footprint of the building will remain unchanged as will the square footage of the area devoted inside the store to the display and sale of alcoholic beverages. The Grocery Outlet store offers a convenient alternative for grocery items, including beer, wine and spirits, that is consistent with good community development practices and standards.
3. Grocery stores are a vital part of every community and a well-stocked store with a variety of grocery items and alcoholic beverages fills this need within the City of Lodi.

RESOLUTION NO. P.C. 20-__

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF LODI APPROVING THE SALE OF BEER, WINE AND SPIRITS AT 520 SOUTH CHEROKEE LANE, SUITE 102 AND RESCINDING CONDITIONAL USE PERMIT 17-06

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 proponent is Grocery Outlet 5650 Hollis Street, Emeryville, CA 94608; and

WHEREAS, the project parcel is owned by Pac Lodi TIC, 680 W Shaw Street, Fresno, CA 93704; and

WHEREAS, the project is located at 520 S Cherokee Lane, Suite 102 (APN: 047-450-17); and

WHEREAS, the property has a General Plan designation of Commercial and is zoned GC (General Commercial); and

WHEREAS, because Lodi has an over-concentration of On-sale licenses, the Planning Commission must make a finding of public convenience and necessity in order to permit the issuance of an additional Alcohol Beverage Control license in this tract; and

WHEREAS, based upon the facts and analysis presented in the staff report, and public testimony received and subject to the conditions of approval listed below, the Planning Commission finds that expanding the allowed alcoholic beverages which can be sold at this location to include distilled spirits 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

WHEREAS, an existing conditional use permit #17-06 exists at this location which allows the sale of beer and wine only and which would no longer be needed with the approval of this Use Permit; and

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

1. The GC (General Commercial) zoning district allows sale of alcohol for off-site consumption with a Conditional Use Permit. The GC zoning district is applied to areas appropriate for a range of community serving commercial, regional retail, and service land uses. The proposal is consistent with this intent. The proposed use is consistent with the General Plan because commercial uses such as the one proposed are permitted in accordance with Land Use Policy subject to a discretionary review.
2. The General Plan land use designation for this area is General Commercial, which per the Lodi General Plan "... provides sites for retail uses, including citywide shopping centers with off-street parking, neighborhood shopping with clusters of street-front stores, and hotels." The sale of alcoholic beverages as part of a grocery store's operations is consistent with this classification. The project is not within a Specific Plan or Planned Development.
3. The proposed sale of alcohol at a grocery store is compatible with existing and future land uses in the immediate vicinity of the project area. The sale of alcohol in the business is consistent with other similar retail commercial uses in the vicinity.

4. 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. The proposed sale of alcohol, as conditioned, will not have an adverse effect on the use, enjoyment or valuation of property in the neighborhood.
5. The proposed sale of alcohol would not be detrimental to the general welfare of persons residing and working in the immediate vicinity, the neighborhood or the community at large because the sale of alcohol with a restaurant operation is not associated with detrimental impacts to the community.
6. The project is exempt from review under the California Environmental Quality Act, §15061 (b) (3), which exempts projects where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment.

NOW, THEREFORE, BE IT DETERMINED AND RESOLVED by the Planning Commission of the City of Lodi that:

1. Use Permit #17-06 is hereby rescinded.
2. Use Permit Application No. 2020-018 is hereby approved, subject to the attached conditions of approval and the attached site plan, which are hereby incorporated in this resolution by reference.

I certify that Resolution No. 20-___ was passed and adopted by the Planning Commission of the City of Lodi at a regular meeting held on May 13, 2020 by the following vote:

AYES: Commissioners:

NOES: Commissioners:

ABSENT: Commissioners:

ATTEST _____

Secretary, Planning Commission

Conditions of Approval	Timing/ Implementation	Enforcement/ Monitoring	Verification (Date and Signature)
<p>2. The applicant, to the fullest extent permitted by law, shall indemnify, defend, and hold harmless the City, and its elected and appointed officials, directors, officers, employees, agents, departments, agencies, volunteers and instrumentalities thereof, from any and all claims, damages, losses, expenses (including reasonable attorney’s fees and costs), demands, law suits, writs of mandamus, and other actions and proceedings (whether legal, equitable, declaratory, administrative or adjudicatory in nature), and alternative dispute resolutions procedures (including but not limited to arbitrations, mediations, and other such procedures) (collectively "Actions"), brought against the City, and/or any of its officials, directors, officers, employees, agents, departments, volunteers, agencies, and instrumentalities thereof, that challenge, attack, or seek to modify, set aside, void, or annul any action of, or any permit or approval issued by, the City and/or any of its officials, directors officers, employees, agents, volunteers, departments, agencies, and instrumentalities thereof (including actions approved by the voters of the City), for or concerning the Project, whether such Actions are brought under CEQA, the Planning and Zoning Law, the Subdivisions Map Act, Code of Civil Procedure Section 1085 or 1094.5, or any other state, federal, or local statute, law, ordinance, rule, regulation, or any decision of a court of competent jurisdiction. It is expressly agreed that the City shall have the right to approve, which approval will not be unreasonably withheld, the legal counsel providing the City's defense and that applicant shall reimburse City for any costs and expenses directly and necessarily incurred by the City in the course of the defense. City may, at its election, conduct the defense, or obtain independent legal counsel in defense of any claim related to this indemnification, applicant shall pay all of the costs related thereto, including without limitation reasonable attorney fees and costs. City shall promptly notify the applicant of any Action brought and City shall cooperate with applicant in the defense of the Action. The defense and indemnification obligations required herein are undertaken in addition to, and shall not in any way be limited by any additional insurance obligations.</p>	<p>Ongoing</p>	<p>Community Development Department, Planning Division</p>	

	Conditions of Approval	Timing/ Implementation	Enforcement/ Monitoring	Verification (Date and Signature)
3.	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.	Ongoing	Community Development Department, Planning Division; Police Department	
4.	Alcohol display shall be limited to the area shown in the applicant's submittal, attached to these conditions of approval.	Ongoing	Community Development Department, Planning Division; Police Department	
5.	Display of distilled spirits shall be limited to two, four-foot-wide shelving units.	Ongoing	Community Development Department, Planning Division; Police Department	
6.	The operator shall ensure that the sale of alcohol does not result in conflicts pertaining to parking, noise, traffic, loitering, public safety or other impacts.	Ongoing	Community Development Department, Planning Division; Police Department	
7.	The operator shall ensure 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, including: 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.	Ongoing	Community Development Department, Planning Division; Police Department	

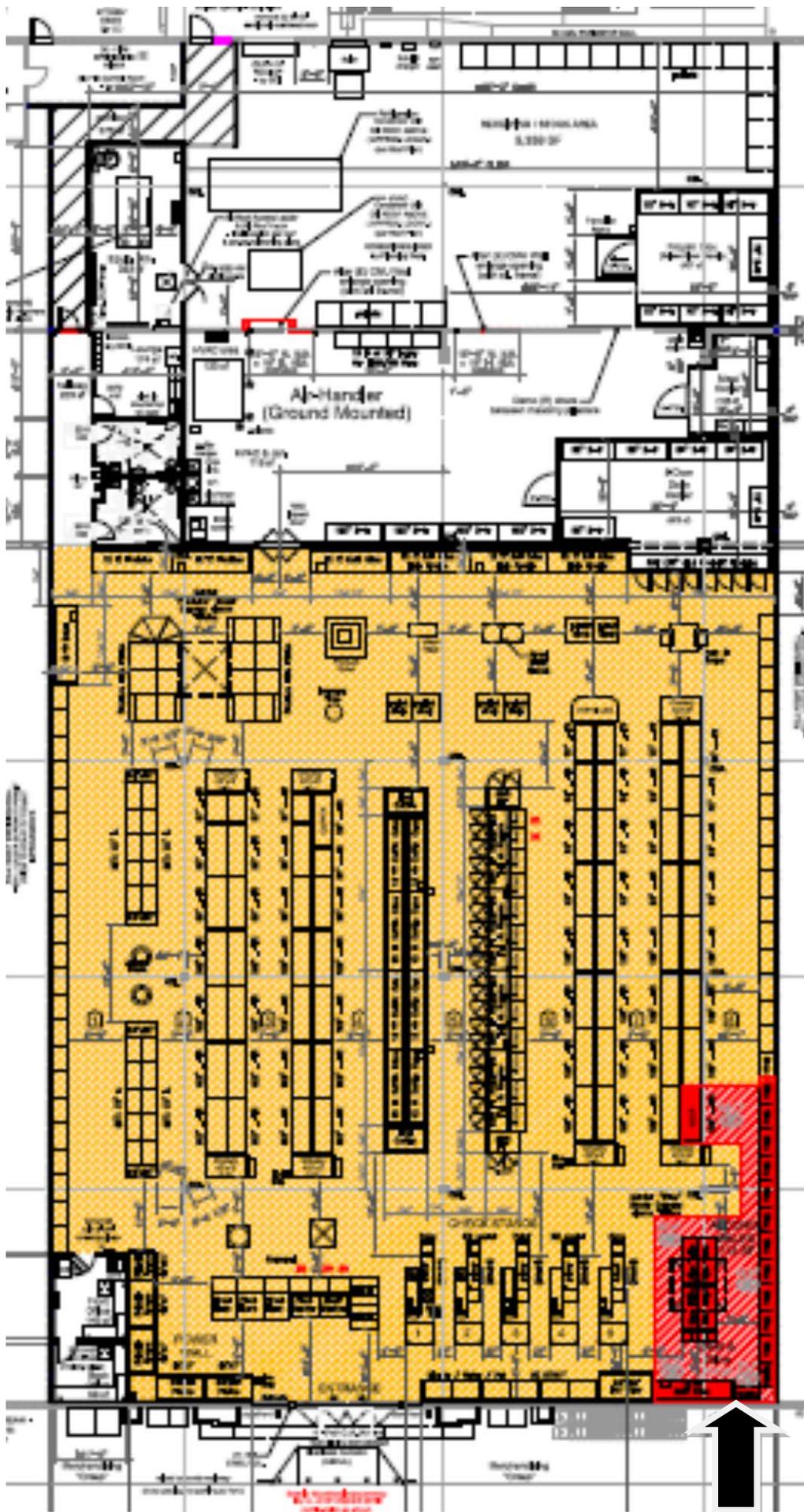
8.	<p>All owners, managers and employees selling alcoholic beverages shall undergo and successfully complete a certified training program in responsible methods and skills for selling alcoholic beverages. The certified program must meet the standards of the California Coordinating Council on Responsible Beverage Service or other certifying/licensing body, which the State may designate. 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.</p>	Ongoing	Community Development Department, Planning Division; Police Department	
9.	<p>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.</p>	Ongoing	Community Development Department, Planning Division; Police Department	
10.	<p>The off-site sale of alcohol shall occur only during the hours of 8:00 am to 9:00 pm.</p>	Ongoing	Community Development Department, Planning Division; Police Department	
11.	<p>Beer, wine coolers and/or malt beverages shall be sold in original factory packaging.</p>	Ongoing	Community Development Department, Planning Division; Police Department	
12.	<p>Wine shall be sold in bottles or containers no smaller than 750ml, with two exceptions: 1) dessert wines may be 375ml or larger, 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.</p>	Ongoing	Community Development Department, Planning Division; Police Department	

13.	Distilled spirits shall be sold in containers no smaller than 375ml.	Ongoing	Community Development Department, Planning Division; Police Department	
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Attachments:

- A) Interior floor plan showing the location and layout of alcoholic beverage sales

DRAFT



Grocery Outlet Floor Plan with the Alcohol located in red section