

CITY COUNCIL AGENDA: MARCH 3, 2015

PUBLIC HEARING

SUBJECT: REQUEST FOR A CONDITIONAL USE PERMIT (PRC 2014-033-C) TO ALLOW FOR THE SALE OF ALCOHOL UNDER A TYPE 41 ON-SALE BEER AND WINE LICENSE FOR BONA-FIDE PUBLIC EATING PLACE FOR LOS PORTALES LOCATED AT 377 E. ORANGE AVENUE

SOURCE: COMMUNITY DEVELOPMENT DEPARTMENT- PLANNING DIVISION

COMMENT: On October 27, 2014, the applicant submitted an application to the Project Review Committee (PRC) to consider a Conditional Use Permit to allow for the sale of beer and wine under a Type 41 On-Sale Beer & Wine license for Bona-Fide Public Eating Place for Los Portales located at 377 E. Orange Avenue.

During the PRC meeting, the Planning Division indicated that the associated parking lot located immediately north of the restaurant lacked sufficient lighting to adequately light the parking lot for the safety of their patrons. It was noted that as a condition of approval the applicant shall be required to install sufficient exterior security lighting to illuminate the parking lot during night-time business hours to meet the satisfaction of the Porterville Police Department and Section 306.07 (b) (Lighting and Glare) of the Porterville Development Ordinance.

The California Department of Alcoholic Beverage Control (ABC) allows for a specific number of licenses per census tract, based on population. Whenever the ratio of on-sale licenses to population in a census tract exceeds the average ratio for the county, an "undue concentration" of licenses is determined to exist. The subject site is located within Census Tract 41.01; this tract contains sixteen licenses for alcohol sales: five on-sale and eleven off-sale. In Census Tract 41.01, seven on-sale and nine off-sale are allowed without being deemed over-concentrated. Approval of this on-sale license would be the sixth on-sale license. Due to the under-concentration of on-sale licenses, a Letter of Public Convenience or Necessity will not be required.

ANALYSIS: It is not anticipated that this use would have a negative impact on the surrounding properties. Conditions of approval are in place to protect the public's safety and interest. Due to the close proximity of Santa Fe Elementary School (276 feet from property line to property line), alcohol advertisement visible from the outside of the proposed building shall not be allowed. The maintenance of existing lighting and the installation of additional security lighting on the exterior of the building and in the associated parking lot shall be sufficient to allow reasonable surveillance of the parking area to the satisfaction of the Porterville Police Department. The maintenance of the existing fencing shall be kept in good condition at all times to prevent entry from the alley way and residential use.

DD 93 Appropriated/Funded N/A CM 1 Item No. 11

The applicant is conditioned to operate the establishment in such a manner as to preserve the public safety, health and welfare, to prevent the use from becoming a nuisance and to operate the business in compliance with all laws, ordinances and regulations regarding the sale of alcohol. Furthermore, at all times the facility shall be operated and maintained to comply with State Laws, the City of Porterville Development Ordinance, adopted Building Codes and all other applicable laws and ordinances.

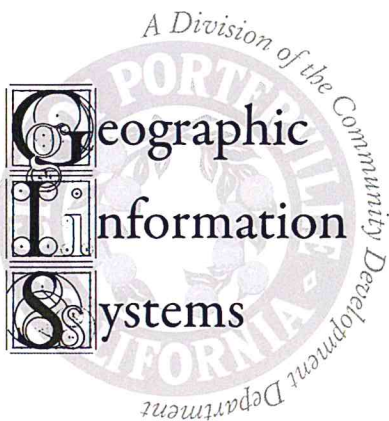
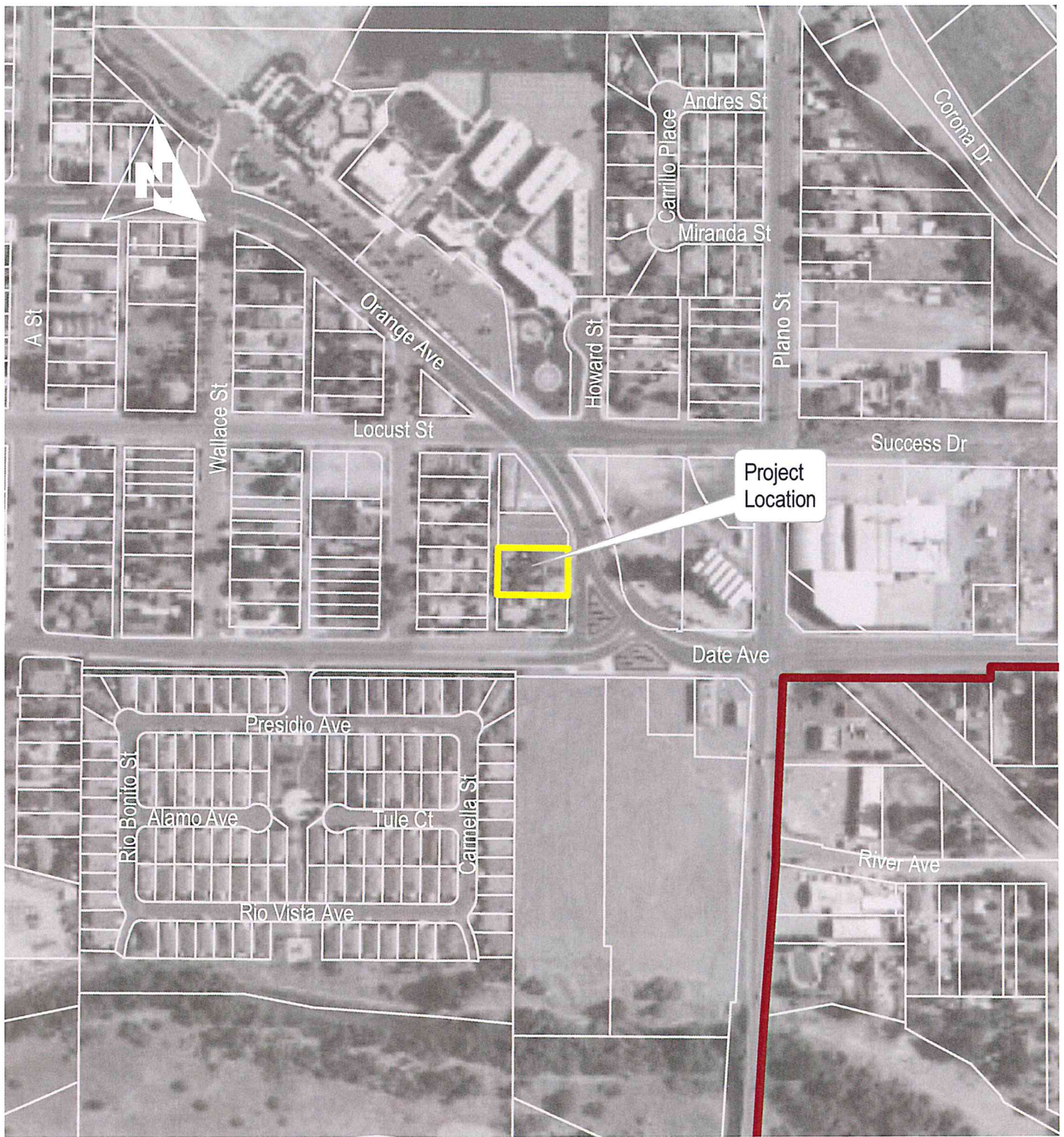
The subject site is consistent with the General Plan Land Use Designation and Zoning Standards for Retail Centers (CR). The CR designation is intended to provide for retail and service uses that meet local and regional demand. The proposed restaurant with alcohol sales would suit the purpose of the zone designation. The restaurant is a permitted use in the CR Zone, and alcohol sales may be permitted in that zone with the requested Conditional Use Permit.

ENVIRONMENTAL REVIEW: On February 17, 2015, the Environmental Coordinator made a preliminary determination that the project is exempt from the California Environmental Quality Act pursuant to Section 15061(b), (3) of the California Code of Regulation (CEQA Guidelines), under the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment.

RECOMMENDATION: That the City Council adopt the draft resolution approving Conditional Use Permit (PRC 2014-033-C) subject to conditions of approval.

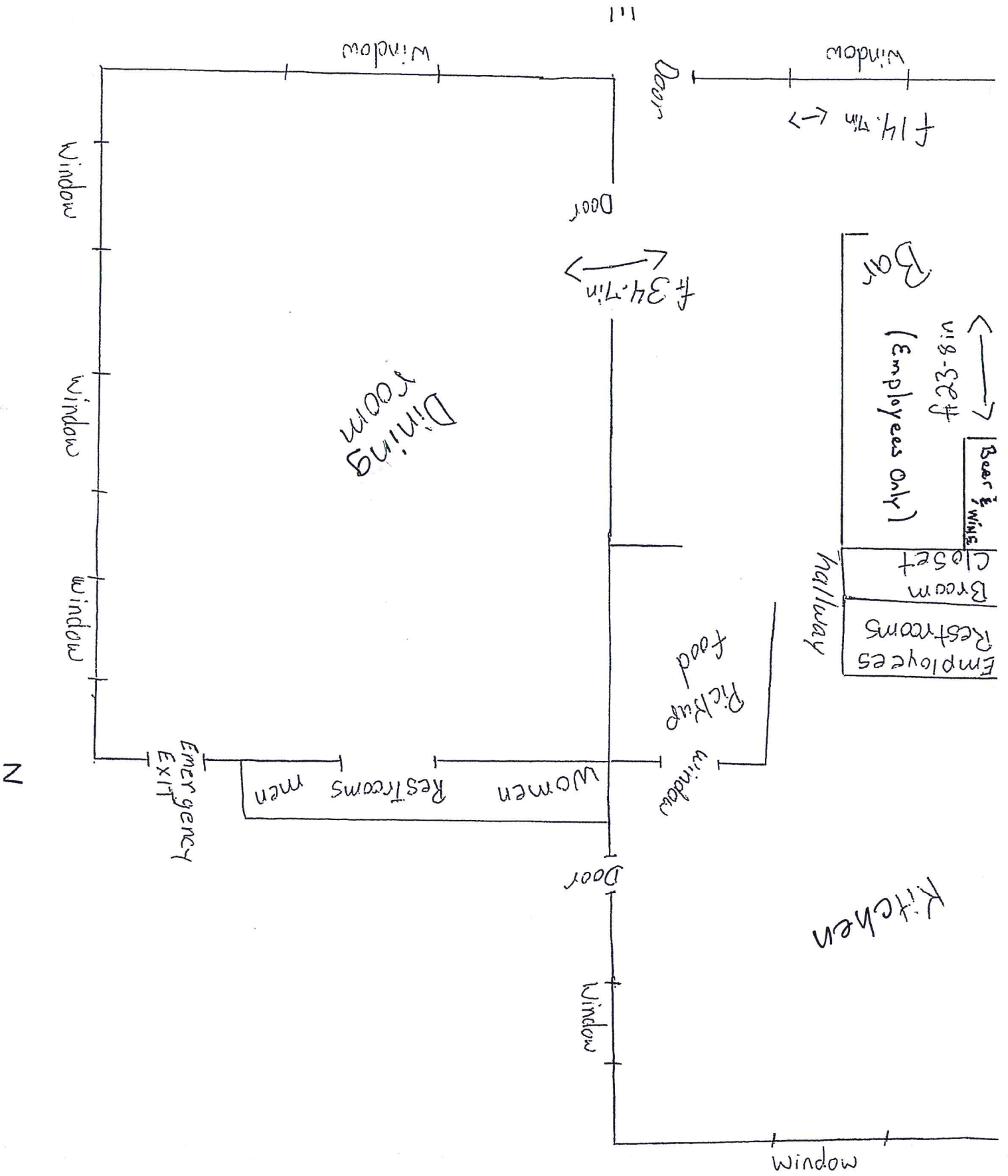
ATTACHMENTS:

1. Locator Map
2. Floor Plan
3. Existing licenses in Census Tract 41.01
4. Draft Resolution

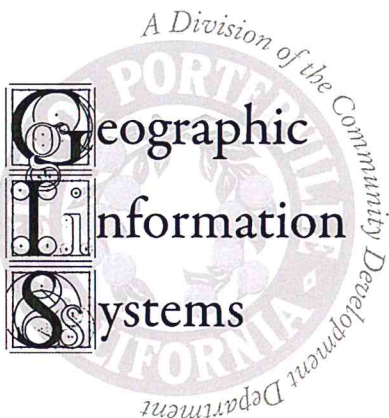


PRC 2014-033
 Los Portales CUP
 @ 377 E Orange Ave
 Project Vicinity Map
 1" = 300 ft.

ATTACHMENT
 ITEM NO. |



ATTACHMENT
ITEM NO. 2



PRC 2014-033
 Los Portales CUP
 @ 377 E Orange Ave
 Tract 41.01 ABC License Map
 1" = 1,400 ft

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PORTERVILLE
CONTAINING FINDINGS AND CONDITIONS IN SUPPORT OF THE CONDITIONAL USE
PERMIT (PRC 2014-033-C) TO ALLOW FOR A TYPE 41 ON-SALE BEER AND WINE
LICENSE FOR A BONA-FIDE PUBLIC EATING PLACE FOR LOS PORTALES
LOCATED AT 377 E. ORANGE AVENUE

WHEREAS: On February 17, 2015, the Environmental Coordinator made a preliminary determination that the project is exempt from the California Environmental Quality Act pursuant to Section 15061(b), (3) of the California Code of Regulation (CEQA Guidelines); and

WHEREAS: The City Council of the City of Porterville, at its regularly scheduled meeting of March 3, 2015, conducted a public hearing to consider Conditional Use Permit (PRC 2014-033-C) to allow for a Type 41 On-Sale Beer and Wine license for a Bona-Fide Public Eating Place for Los Portales located at 377 E. Orange Avenue; and

WHEREAS: The City Council of the City of Porterville received testimony from all interested parties related to said Conditional Use Permit; and

WHEREAS: The City Council made the following findings:

1. That the proposed project will advance the goals and objectives of, and is consistent with, the policies of the General Plan and any other applicable plan that the City has adopted.

The CR (Retail Centers) designation is intended to provide for retail and service uses that meet local and regional demand. The proposed restaurant with alcohol sales would suit the purpose of the zone designation. The restaurant is a permitted use in the CR Zone, and alcohol sales may be permitted in that zone with a Conditional Use Permit.

2. That the proposed location of the project and the conditions under which it will be operated or maintained will not be detrimental to the public health, safety, welfare, or materially injurious to properties or improvements in the vicinity.

Conditions of approval are included herein to ensure adequate development standards are met. The project is located within an existing building that has been well maintained since its original development. Further, all landowners within the city of Porterville are held to performance standards identified in Chapter 306 of the Development Ordinance. Specifically, Section 306.03 (General Standards) of the Ordinance states: "Land or buildings shall not be used or occupied in a manner creating any dangerous, injurious, or noxious fire, explosive, or other hazard; noise, vibration, smoke, dust, odor, or form of air pollution; heat, cold, dampness, electrical or other disturbance; glare, refuse, or wastes; or other substances,

conditions, or elements which would substantially adversely affect the surrounding area.”

3. This project is Categorical Exempt pursuant to CEQA Guidelines §15061(b), (3) - General Rule: the approval of alcohol sales in a bona-fide eating establishment would have no physical effect on the environment.
4. The California Department of Alcoholic Beverage Control (ABC) allows for a specific number of licenses per census tract, based on population. Whenever the ratio of on-sale licenses to population in a census tract exceeds the average ratio for the county, an “undue concentration” of licenses is determined to exist. The subject site is located within Census Tract 41.01. This tract contains sixteen licenses for alcohol sales: five on-sale and eleven off-sale. In Census Tract 41.01, five on-sale and seven off-sale are allowed without being deemed over-concentrated. Approval of this on-sale license would be the sixth on-sale license. Due to the under concentration of on-sale licenses, a Letter of Public Convenience or Necessity will be not required.

NOW, THEREFORE, BE IT RESOLVED: That the City Council of the City of Porterville does hereby approve Conditional Use Permit (PRC 2014-033-C) subject to the following conditions:

1. The applicant shall operate the establishment in such a manner as to preserve the public safety, health and welfare, to prevent the use from becoming a nuisance and operate the business in compliance with all laws, ordinances and regulations regarding the sale of alcohol. In the event that this or any other condition of approval is violated, the City Council may modify or revoke the conditional use permit as provided in Section 601.10 (Revocation of Approvals) of the Porterville Development Ordinance.
2. The applicant shall install and maintain the security lighting on the exterior of the building and in the parking lot in a manner to allow reasonable surveillance of the area to the satisfaction of the Porterville Police Department and Section 306.07 (b) (Lighting and Glare) of the Porterville Development Ordinance.
3. The elements of the conditional use permit approving on-site alcohol sales will be subject to modification or revocation if the State of California imposes sanctions on the on-sale license.
4. The entire site shall be permanently maintained free of accumulated dirt and litter and in an otherwise neat and attractive manner.
5. No alcohol advertising shall be displayed and/or viewed from the outside of the building.
6. Upon approval of the conditional use permit, any future violations of regulations of

the codes relating to the sales or consumption of alcohol, and/or excessive service calls by the Police Department resulting from the sales of alcohol could result in revocation of the Conditional Use Permit.

7. Unless an extension of time is granted by the City Council, the conditional use permit shall expire two (2) years after the date of approval of the on-sale Type 41 Beer and Wine Alcohol License for a Bona-Fide Eating Place if it is not active or actively pursued. The alcohol license permits sale of beer and wine in conjunction with the serving of meals.
8. The applicant shall keep beer and wine in a secure place with access only available to the employees, shown herein as the bar in Exhibit A. Any future changes in operation which substantially alter the condition or nature of the subject business will require approval by the City Council if such modification involves expansion, relocation, or change in accessibility to the conditioned uses.
9. The facility shall be operated and maintained to comply with applicable State and Federal laws, and the City of Porterville Development Ordinance at all times.

PASSED, APPROVED AND ADOPTED this 3rd day of March, 2015.

Milt Stowe, Mayor

ATTEST:

John D. Lollis, City Clerk

By

Patrice Hildreth, Chief Deputy City Clerk

