



City of  
**Los Banos**  
At the Crossroads of California

[www.losbanos.org](http://www.losbanos.org)

**NOTICE AND CALL OF A SPECIAL MEETING  
OF THE LOS BANOS PLANNING COMMISSION**

CITY HALL COUNCIL CHAMBERS  
520 J Street  
Los Banos, California

**MONDAY, DECEMBER 2, 2019 – 6:00 P.M.**

Please take notice that Chairperson John Cates hereby calls a Special Meeting of the Los Banos Planning Commission Pursuant to California Government Code Section 54956.

John Cates, Chairperson

Date

**PLANNING COMMISSION SPECIAL MEETING AGENDA**

CITY HALL COUNCIL CHAMBERS  
520 J Street  
Los Banos, California

**MONDAY, DECEMBER 2, 2019 – 6:00 P.M.**

*If you require special assistance to attend or participate in this meeting, please call the Planning Secretary @ (209) 827-7000 ext. 2431 at least 48 hours prior to the meeting.*

*The City of Los Banos complies with the Americans with Disabilities Act (ADA) of 1990.*

*Si requiere asistencia especial para atender o participar en esta junta por favor llame a la oficina de la Secretaria del Departamento de Planificación al (209) 827-7000 ext. 2431 a lo menos de 48 horas previas de la junta.*

*La Cuidad de Los Banos cumple con la Acta de Americanos con Deshabilidad (ADA) de 1990.*

Any writings or documents provided to a majority of the Planning Commission regarding any item on this agenda will be made available for public inspection at the meeting and in the Planning Department's office located at City Hall, 520 J Street, Los Banos, California during normal business hours. In addition, such writings and documents may be posted on the City's website at [www.losbanos.org](http://www.losbanos.org).

\* \* \* \* \*

Cualquier escritura o los documentos proporcionaron a una mayoría del Departamento de Planificación con respecto a cualquier artículo en este orden del día será hecho disponible para la inspección pública en la reunión y en la oficina del Secretario del Departamento de Planificación del City Hall, 520 J Street, Los Banos, California durante horas de oficina normales. Además, tales escrituras y los documentos pueden ser anunciados en el website de la Ciudad en [www.losbanos.org](http://www.losbanos.org).

1. CALL TO ORDER **6:00 PM**

2. PLEDGE OF ALLEGIANCE

3. ROLL CALL: (Planning Commission Members)

Cates \_\_, Dees \_\_, Higby \_\_, Toscano \_\_, Uhley \_\_

4. APPROVAL OF AGENDA

*Recommendation: Approve the agenda as submitted.*

5. PUBLIC FORUM: Members of the public may address the Commission on any item of public interest that is within the jurisdiction of the Commission, including agenda and non-agenda items. No action will be taken on non-agenda items. Speakers are limited to a five (5) minute presentation.

6. PUBLIC HEARINGS: If You Challenge the Proposed Action as Described herein in Court, You May Be Limited to Raising Only Those Issues You or Someone Else Raised at the Public Hearing Described herein, or in Written Correspondence, Delivered to the City at, or Prior to, the Public Hearing.

A. Public Hearing – To Consider a Conditional Use Permit and Categorical Exemption from the California Environmental Quality Act Pursuant to Section 15301, Existing Facilities to Allow the Use of a Type 41 Alcohol License for the On-Sale of Beer and Wine in Conjunction with a Bona-Fide Eating Establishment for a Proposed Restaurant to be Located at 1041 E. Pacheco Boulevard, More Specifically Identified as Assessor's Parcel Number 026-182-003.

1) Planning Commission Resolution No. 2019-23 – Finding the Proposed Project To Be Categorically Exempt from the California Environmental Quality Act Pursuant to Section 15301, Existing Facilities, and Recommending Approval of Conditional Use Permit #2019-04 to the Los Banos City Council to Allow for the Sale of Alcohol Under a Type 41 On-Sale Beer and Wine License at 1041 E. Pacheco Boulevard, More Specifically Identified as APN: 026-182-003.

*Recommendation: Receive staff report, open the public hearing, receive public comment, close the public hearing, and adopt the resolution as submitted.*

- B. Public Hearing – To Consider a Conditional Use Permit and Categorical Exemption from the California Environmental Quality Act Pursuant to Section 15301, Existing Facilities to Allow the Use of a Type 41 Alcohol License for the On-Sale of Beer and Wine in Conjunction with a Bona-Fide Eating Establishment for a Proposed Restaurant to be Located at 2260 E. Pacheco Boulevard, Suites A & B, More Specifically Identified as Assessor's Parcel Number 428-160-027.

- 1) Planning Commission Resolution No. 2019-24 – Finding the Proposed Project to be Categorically Exempt from the California Environmental Quality Act Pursuant to Section 15301, Existing Facilities, and Recommending Approval of Allow for the Sale of Alcohol Under a Type 41 On-Sale Beer and Wine License at 2260 E. Pacheco Boulevard, Suites A & B, More Specifically Identified as APN: 428-160-027.

*Recommendation: Receive staff report, open the public hearing, receive public comment, close the public hearing, and adopt the resolution as submitted.*

7. DESIGN REVIEW STUDY SESSION – DEVELOPMENT OF 77 MEDIUM-DENSITY RESIDENTIAL (R-2) LOTS WITHIN THE SHAUNESSY VILLAGE SUBDIVISION LOCATED EAST OF MERCEY SPRINGS ROAD AND NORTH OF SCRIPPS DRIVE FOR STONEFIELD HOME, INC.

*Recommendation: Receive staff analysis and provide initial feedback to the applicant.*

8. COMMUNITY & ECONOMIC DEVELOPMENT DEPARTMENT REPORT
9. ADJOURNMENT

### **APPEAL RIGHTS AND FILING PROCEDURES**

Any person dissatisfied with an act or determination of the Planning Commission may appeal such act or determination to the Planning Commission by filing written notice with the Planning Commission Secretary not later than five (5) business days (excluding holidays) after the day on which the act or determination was made. An appeal must state the act or determination which is being appealed, the identity of the applicant and his/her interest in the matter, and set forth in concise statement(s) the reasons which render the Commission's decision unjustified or inappropriate. (Los Banos Municipal Code Section 9-3.2326)

Concerning an action taken by the Planning Commission related to Chapter 2 Articles 1 through 17 of the Los Banos Municipal Code "Subdivisions", if a subdivider or other affected property owner is dissatisfied with any action of the Commission with respect to a tentative map or the nature and extent of improvements recommended or required he/she may within fifteen (15) days after such action appeal to the Planning Commission Secretary for a public hearing on the matter. An appeal must state the action being appealed, identify the agenda item by agency number or project title, and set forth in concise statement(s) the reasons for the appeal. (Los Banos Municipal Code Sections 9-2.807)

Appeals must be in writing and include the appellant's name and address and original signature. A filing fee of \$150.00 must accompany the notice of appeal.





City of  
**Los Banos**  
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**PLANNING COMMISSION STAFF REPORT**

**TO: CHAIRMAN CATES AND COMMISSIONERS**

**FROM: RUDY LUQUIN, ASSOCIATE PLANNER** 

**DATE: DECEMBER 2, 2019**

**SUBJECT: REQUEST FOR CONDITIONAL USE PERMIT #2019-04 TO ALLOW FOR THE SALE OF ALCOHOL UNDER A TYPE 41 ON-SALE BEER AND WINE LICENSE FOR A BONA-FIDE PUBLIC EATING PLACE FOR A PROPOSED RESTAURANT TO BE LOCATED AT 1041 E. PACHECO BOULEVARD: 026-182-003**

**RECOMMENDATION:**

Staff recommends that the Planning Commission adopt Resolution No. 2019-23 finding the proposed project to be categorically exempt from the California Environmental Quality Act pursuant to Section 15301, Existing Facilities and recommending approval of Conditional Use Permit #2019-04 to the Los Banos City Council to allow for the sale of alcohol under a Type 41 on-sale beer and wine license for a proposed restaurant to be located at 1041 East Pacheco Boulevard, APN: 026-182-003.

**PROJECT BACKGROUND/DESCRIPTION:**

The applicant, Bertha Carrillo, has requested a Conditional Use Permit to allow the sale of beer and wine for on-site consumption contingent upon a Type 41 alcohol license in conjunction with a bona fide public eating place (casual restaurant) to be located at 1041 East Pacheco Boulevard. The site was occupied previously by Taqueria 152, which also held a Type 41 beer and wine license. The ABC license use has been discontinued for over a year (July 3, 2018, cancelled) in which the Conditional Use Permit becomes null and void, and a new Conditional Use Permit must be granted to reactivate the ability for the use of a Type 41 ABC License.

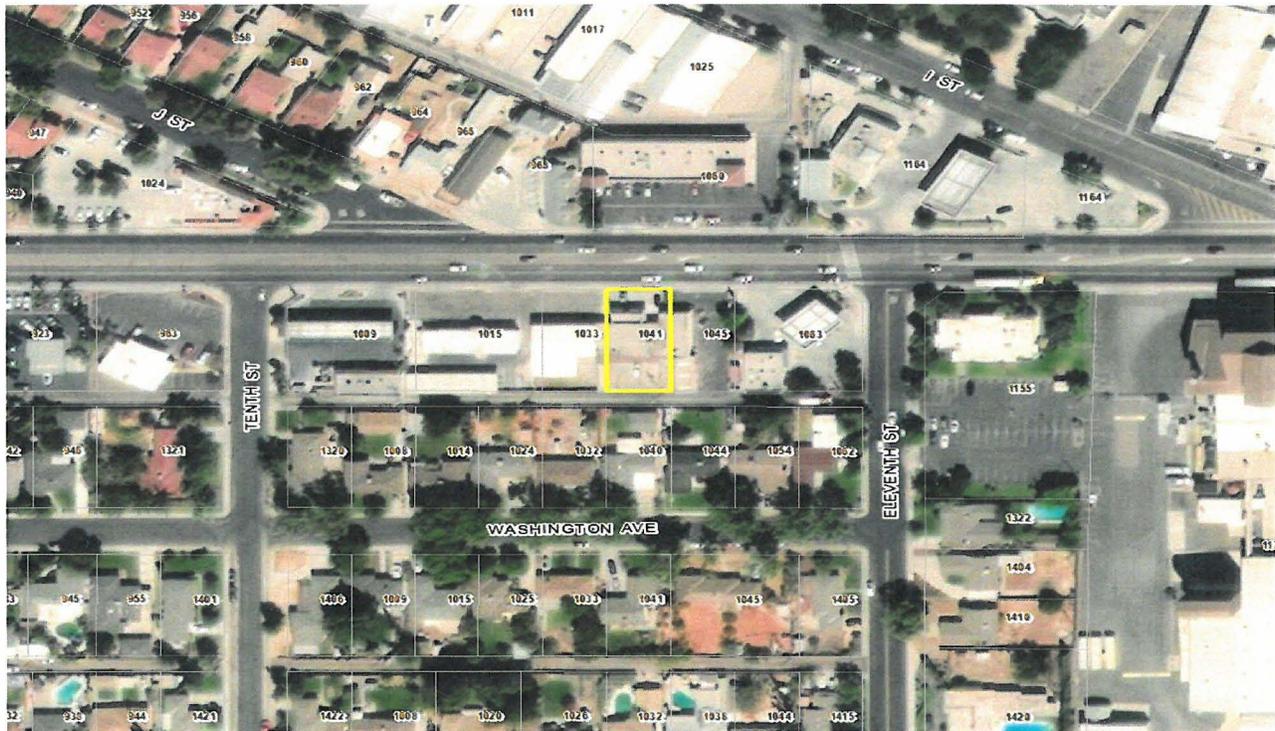
The proposed restaurant/ eating establishment will conduct business seven (7) days a week, Monday through Sunday from 7:00 a.m. until 8:00 p.m. The on-site beer and wine consumption will cease when the restaurant closes at 8:00 p.m.

The property is located within the Highway Commercial Zoning District. The intended eating establishment/ restaurant use, is an allowed use and is consistent with the Los

Banos Municipal Code Title 9 Chapter 3 Article 13 Highway Commercial Zoning District (H-C).

**LOCATION AND ACCESS:**

The project site is located at 1041 East Pacheco Blvd, Assessor's Parcel Number: 026-182-003. The project site is located within the Highway Commercial Zoning District (H-C) and consists of various commercial uses. The project site will be able to be accessed from Pacheco Boulevard.



**LAND USE:**

Property	Land Use	Zone	General Plan
Project site	Commercial	H-C	C
North	Commercial	H-C	C
South	Low Density Residential	R-1	LDR
East	Commercial	H-C	C
West	Commercial	H-C	C

H-C =Highway Commercial  
 R-1=Low Density Residential

C=Commercial  
 LDR=Low Density Residential

**ENVIRONMENTAL ASSESSMENT:**

Pursuant to the California Environmental Quality Act (CEQA) and the City of Los Banos Environmental Quality Guidelines, it has been determined that this project is found to be categorically exempt from the provisions of CEQA – Article 19, Section 15301 Existing Facilities. The applicant's request for the on-sale of beer and wine for a bona fide public eating place involves the permitting and licensing of a proposed structure to be located

at 1041 East Pacheco Boulevard, APN 026-182-003.

## **USE PERMIT ANALYSIS**

### ***Code Requirements***

Pursuant to the Los Banos Municipal Code Section 9-3.2326 (b), a Conditional Use Permit is required for any establishment dispensing for sale or other consideration alcoholic beverages, including beer and wine, for on-sale or off-sale. The Planning Commission is the recommending body and the City Council is the decision making body for Conditional Use Permits regarding the on-sale and off-sale of alcoholic beverages pursuant to Los Banos Municipal Code Section 9-3.2314 (c). A Conditional Use Permit may be granted if the proposed use is conforming to the following criteria:

#### **General Use Permit Criteria:**

1. That the proposed use and project is consistent with the City of Los Banos General Plan, and Los Banos Municipal Code;
2. That the proposed use or project will not be a nuisance or detrimental to the public health, safety, morals, comfort, and general welfare of the persons residing or working in the neighborhood of such proposed use;
3. That the proposed use is compatible with the adjacent uses, the properties, and neighborhoods and will not be detrimental or injurious to property and improvement in the neighborhood or to the general welfare of the City.

#### **Specific On-Sale and Off-Sale Alcoholic Beverages Criteria:**

1. That the proposal will not contribute to undue proliferation of such uses in an area where additional ones would be undesirable with consideration given to the area's function and character, problems of crime and loitering, and traffic problems and capacity;
2. That the proposal will not adversely affect adjacent or nearby churches, temples, or synagogues; public, parochial, or private elementary, junior high, or high schools; public parks or recreation centers; or public or parochial playgrounds;
3. That the proposal will not interfere with the movement of people along an important pedestrian street; and
4. That where the proposed use is in close proximity to residential uses, and especially to bedroom windows, the use will be limited in hours of operation, or designed operated so as to avoid the disruption of residents' sleep between the hours of 10:00 P.M. and 7:00 A.M.

Staff has evaluated the proposal pursuant to the above criteria set forth in the Municipal Code and offers the following observations:

1. The primary use will be a casual family eating establishment/ restaurant (dine-in).
2. The surrounding area, adjacent uses, and function are primarily Commercial uses. A restaurant providing for the on-sale and serving of beer and wine in this location is consistent with the commercial uses of the Highway Commercial Zoning District.

3. Staff is unaware of any significant problems related to crime and loitering, in the surrounding area which would be exacerbated by the on-sale of beer and wine at this location.
4. The approval of the on-sale of beer and wine will not contribute to the undue proliferation of alcohol sales in the area where that use would be undesirable taking into account the characteristics of the area. The entitlement will include conditions of approval which will regulate the operational characteristics of allowing the serving of beer and wine and are intended to preserve the public health, safety, or welfare of persons and property in the vicinity including crime prevention and loitering.
5. The proposed use is not located within the immediate vicinity to any churches, temples, or synagogues; public, parochial, or private elementary, junior high, or high schools; public parks or recreation centers; or public or parochial playgrounds.
6. The project is located on Pacheco Boulevard which is primarily occupied by commercial uses. Conditions of approval will regulate loitering and operational characteristics to insure that the proposal will not interfere with the movement of people along the public right-of-way.
7. There are residential units located to the south of the project site. The applicant will serve beer and wine for on-site consumption Monday through Sunday from 7:00 a.m. until 8:00 p.m., when the restaurant closes. It is not anticipated that the proposed use would have a negative impact on the surrounding area. The applicant will be 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 Los Banos Municipal Code, adopted Building Codes and all other applicable laws and ordinances pertaining to the proposed use.

All sales and consumption of alcohol will be conducted inside the premises and in conjunction with the serving of food. In addition, the project will be subject to conditions which will mitigate any adverse effects on the surrounding neighborhood and are intended to preserve the public health, safety, and welfare of persons and property in the vicinity. The restaurant will also be subject to the Los Banos Municipal Code Noise Ordinance.

### ***Alcoholic Beverage Control***

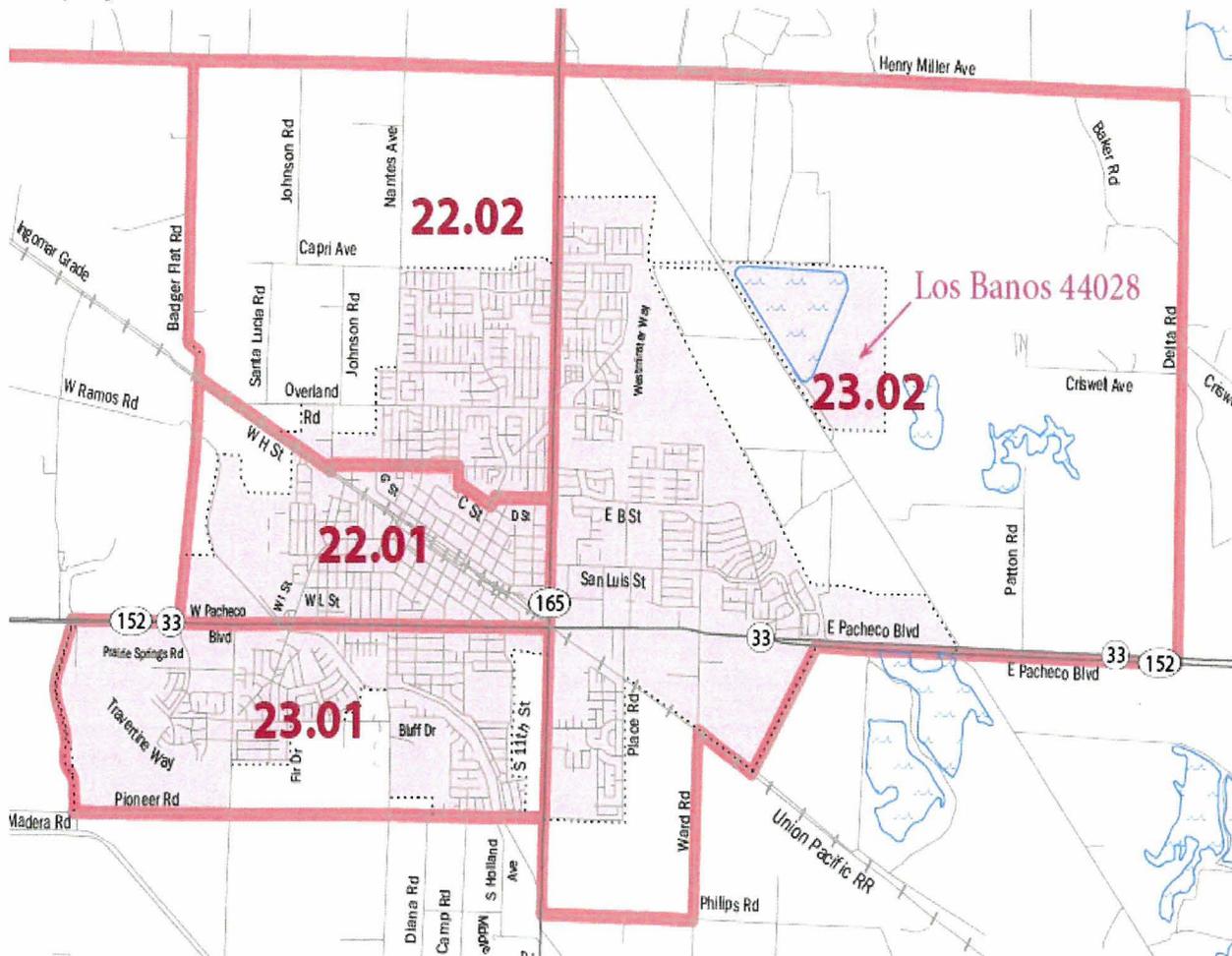
The California Department of Alcoholic Beverage Control (ABC) is the issuing authority for a Type 41 alcohol license. ABC has the authority pursuant to Section 23801 of the California Business and Professions Code to exercise certain conditions under the license, the personal qualifications of the licensee, the conduct of the business or the condition of the premises, which will protect the public welfare and morals, including, but not limited to, the following:

- a) Restrictions as to hours of sale
- b) Display of signs
- c) Employment of designated persons
- d) Types and strengths of alcoholic beverages to be served where such types or strengths are otherwise limited by law
- e) The portion of the privileges to be exercised under the license
- f) The personal conduct of the licensee

ABC may also refuse to issue a license to any person who has violated the Alcoholic Beverage Control Act, has a disqualifying criminal record, or is otherwise disqualified.

**Census Tract**

The project site is located in census tract 23.01.



As of the date of this report, there are twelve (12) on-sale licenses currently active in this specific census tract. The nearest active on-sale alcohol license to the project site within the same census tract is Taqueria El Rodeo located at about a block east of the project site, approximately 1,200 feet away. Approval of this on-sale license would make the thirteenth (13) on-sale license.

License Type	Business Name	Address
41	China Garden	829 W. Pacheco Blvd.
41	Mountain Mike’s Pizza	509 Pacheco Blvd.
41	Hot City BBQ & Bistro	1313 S. Sixth St.
41	Eddie Famous Cafe	401 W. Pacheco Blvd.
41	Pizza Hut	419 Pacheco Blvd.
41	Black Bear Diner	955 W. Pacheco Blvd.
41	Taqueria El Rodeo	1313 E. Pacheco Blvd., Ste D
41	Sugoi Sushi	1254 E. Pacheco Blvd.
41	China No. 1 Buffet	1313 E. Pacheco Blvd., Ste E
40	Aqua Entertainment Center	923 W. Pacheco Blvd., Ste B
41	Courthouse Diner	245 W. Pacheco Blvd, STE A&B
41	Blaze Fast Fire’d Pizza	1335 W. Pacheco Blvd.,Ste B

Type 41 license = On-sale Beer and Wine for Bona Fide Public Eating Place  
Type 40 license = On-sale Beer

**PUBLIC COMMENT:**

A public hearing notice was published in the Los Banos Enterprise and notices were provided to adjacent property owners within a 300 foot radius of the subject property on Friday, November 22, 2019. As of the date of this staff report, no comments have been received.

**APPLICABLE ORDINANCES/GUIDELINES:**

Los Banos General Plan – ED-G-7, LU-G-10

Los Banos Municipal Code – Section 9-3.2322

ABC Act, California Business and Professions Code

**RECOMMENDATION:**

Staff recommends that the Planning Commission adopt Resolution No. 2019-23 finding the proposed project to be categorically exempt from the California Environmental Quality Act pursuant to Section 15301 Existing Facilities and recommending approval of Conditional Use Permit #2019-04 to the Los Banos City Council to allow for the sale of alcohol under a Type 41 on-sale beer and wine license at proposed restaurant to be located at 1041 East Pacheco Boulevard, APN: 026-182-003.

**ATTACHMENTS:**

- Resolution 2019-23
  - Exhibit A CEQA Findings
  - Exhibit B Project Findings

- Exhibit C      Conditions of Approval
2. Floor Plan
  3. Site Photos
  4. Public Hearing Notice – November 22, 2019



## RESOLUTION NO. 2019-23

**A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF LOS BANOS FINDING THE PROPOSED PROJECT TO BE CATEGORICALLY EXEMPT FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT PURSUANT TO SECTION 15301, EXISTING FACILITIES AND RECOMMENDING APPROVAL OF CONDITIONAL USE PERMIT #2019-04 TO THE LOS BANOS CITY COUNCIL TO ALLOW FOR THE SALE OF ALCOHOL UNDER A TYPE 41 ON-SALE BEER AND WINE LICENSE AT 1041 EAST PACHECO BOULEVARD, APN: 026-182-003.**

WHEREAS, the applicant, Bertha Carrillo, has requested that the City of Los Banos consider a Conditional Use Permit to allow the use of a Type 41 alcohol license for the on-sale of beer and wine in conjunction with a bona-fide public eating place to be located at 1041 East Pacheco Boulevard, Assessor's Parcel Number: 026-182-003; and

WHEREAS, a public hearing notice was published in the Los Banos Enterprise on Friday, November 22, 2019, and notices were mailed to property owners within a 300 foot radius of the project site as required by the Los Banos Municipal Code and California Government Code Section 65091; and

WHEREAS, the Los Banos Planning Commission has held a duly noticed public hearing on Monday, December 2, 2019, reviewed said Conditional Use Permit request and staff report, has studied the compatibility of the applicant's request with adjacent land uses and has considered this request in conformance with the Conditional Use Permit criteria established in Section 9-3.2322 of the Los Banos Municipal Code; and

WHEREAS, pursuant to the California Environmental Quality Act (CEQA) and the City of Los Banos Environmental Quality Guidelines, Conditional Use Permit #2019-04 for Bertha Carrillo was determined to be categorically exempt from the provisions of CEQA per Article 19, Section 15301 Existing Facilities as the project site has not been developed; and

WHEREAS, the request/proposed use satisfies the criteria of the Los Banos Municipal Code.

BASED UPON THE EVIDENCE PRESENTED AT THE PUBLIC HEARING, the Planning Commission of the City of Los Banos hereby makes the appropriate findings set forth in Exhibit A (California Environmental Quality Act (CEQA) Findings), and Exhibit B (Findings for Approval), attached hereto and incorporated herein by this reference.

NOW, THEREFORE, BE IT RESOLVED that the Planning Commission of the City of Los Banos does hereby affirm the determination that the project is categorically exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15301 Existing Facilities and recommends the approval of Conditional Use Permit #2019-04 to the Los Banos City Council to allow the on-sale of beer and wine in conjunction with a bona-fide public eating place, Type 41, located at 1041 East Pacheco Boulevard, APN: 026-182-003, subject to the Conditions of Approval set forth in Exhibit C, attached hereto and incorporated herein by this reference.

The foregoing resolution was introduced at a special meeting of the Planning Commission of the City of Los Banos held on the 2<sup>nd</sup> day of December 2019, by Planning Commissioner \_\_\_\_\_ who moved its adoption, which motion was duly seconded by Planning Commissioner \_\_\_\_\_, and the Resolution adopted by the following vote:

AYES:

NOES:

ABSENT:

APPROVED:

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John Cates, Planning Commission Chairman

ATTEST:

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Sandra Benetti, Planning Commission Secretary

## EXHIBIT A

### **CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) FINDINGS FOR CONDITIONAL USE PERMIT #2019-04 – BERTHA CARRILLO**

Pursuant to the requirements of California Public Resources Code Section 21000 et seq. (“CEQA”) and Title 14, California Code of Regulations Section 15000 et seq. (the “CEQA Guidelines”), the City as Lead Agency under CEQA adopts the following findings required by CEQA, along with the facts and evidence upon which each finding is based.

The City of Los Banos Planning Commission hereby finds as follows:

1. Pursuant to CEQA, the CEQA Guidelines, and the City of Los Banos Environmental Quality Guidelines, Conditional Use Permit #2019-04 was evaluated and determined to be categorically exempt per Article 19, Section 15301 Existing Facilities as the request for the on-sale of beer and wine involves the permitting and licensing of a proposed commercial structure to be located at 1041 East Pacheco Blvd, APN 026-182-003.
2. Conditional Use Permit #2019-04 was adequately noticed on Friday, November 22, 2019, for consideration at a special public meeting on Monday, December 2, 2019.
3. No further environmental documentation is required as the Conditional Use Permit was contemplated and adequately analyzed in the initial review.
4. Prior to considering the proposed Project, the Planning Commission considered the Categorical Exemption.



## EXHIBIT B

### FINDINGS FOR APPROVAL FOR CONDITIONAL USE PERMIT #2019-04 – BERTHA CARRILLO

The City of Los Banos Planning Commission hereby finds as follows:

1. General Findings:

- a. The project is consistent with the City of Los Banos General Plan.

The existing General Plan land use designation for the project site is Commercial, which allows large-scale commercial developments that serve both residents, visitors, and the surrounding region. Examples of this land use include: shopping centers, large format retail, auto sales and travel-related services such as hotels, gas stations, and restaurants. These uses typically require excellent access to freeway interchange.

The following specific General Plan Goals, Objectives, and Policies are applicable to the proposed project:

**ECONOMIC DEVELOPMENT POLICY ED-G-7:**

Seek and promote particular businesses or economic opportunities that provide needed local goods, services, employment, or those that enhance the City's physical and social well-being.

**LAND USE POLICY LU-G-10:**

Foster viable, pedestrian-oriented neighborhood centers and strong, visually attractive regional commercial centers with a mix of tenants to serve both local and regional needs.

Evidence/Analysis: Bertha Carrillo will have the ability to provide a wider range of service for customers and allows the restaurant to compete with similar type businesses. The proposed use would create a commercial use that is compatible with and complementary of existing commercial uses to the project site. In addition, the project would also be consistent with the General Plan land use policies as set forth above.

- b. The zoning designation for the project site is Highway Commercial (H-C). The purpose of the Highway Commercial Zoning District is to provide a district for the sale of goods and services which meet the needs of a broad trade area.

Evidence/Analysis: The proposed use complies with the Los Banos Municipal Code Title 9, Chapter 3, Article 13, Highway Commercial Zoning District, as the use will be consistent with the surrounding area, adjacent uses, and function are primarily commercial in nature. A restaurant providing for the on-sale and serving of beer and wine is permitted in this zone.

2. That the proposed use or project will not be a nuisance or detrimental to the public health, safety, morals, comfort, and general welfare of the persons residing or working in the neighborhood of such proposed use.

Evidence/Analysis: The on-sale of beer and wine will be conducted in accordance with ABC regulations and therefore, will not be a nuisance or detrimental to the neighborhood in which the store is located. The project contains conditions of approval which regulate the operational characteristics of allowing the serving of alcohol and are intended to preserve the public health, safety, or welfare of persons and property in the vicinity.

3. That the proposed use is compatible with the adjacent uses, properties, and neighborhoods and will not be detrimental or injurious to property and improvements in the neighborhood or to the general welfare of the City.

Evidence/Analysis: The proposed use will be conducted within a commercial structure located at 1041 East Pacheco Boulevard. The project site is zoned Highway Commercial, which includes uses that serve alcohol. It is not anticipated that the proposed use would have a negative impact on the surrounding area. The applicant will be 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 Los Banos Municipal Code, adopted Building Codes and all other applicable laws and ordinances pertaining to the proposed use.

## 2. Specific Findings

1. That the proposal will not contribute to undue proliferation of such uses in an area where additional ones would be undesirable with consideration

given to the area's function and character, problems of crime and loitering, and traffic problems and capacity.

Evidence/Analysis: The primary use in conjunction with the serving of beer and wine will be a restaurant. As reflected in the staff report, the number of on-sale licenses in the Census Tract is currently twelve (12). The project site will function primarily as commercial in nature, and is entirely consistent with a restaurant and the on-sale and serving of beer and wine. The proposed on-sale of beer and wine is complementary to the proposed restaurant use that is compatible with and complementary of existing commercial uses in the area. The project would include conditions of approval which regulate the operational characteristics of allowing the serving of alcohol and are intended to preserve the public health, safety, or welfare of persons and property in the vicinity including crime prevention and loitering. Staff is unaware of any significant problems in the area related to crime and loitering, which would be negatively affected by the on-sale of beer and wine at this location.

2. That the proposal will not adversely affect adjacent or nearby churches, temples, or synagogues; public, parochial, or private elementary, junior high, or high schools; public parks or recreation centers; or public or parochial playgrounds.

Evidence/Analysis: Conditions of Approval have been incorporated into the project which regulate the operational characteristics of allowing the serving of alcohol and are intended to preserve the public health, safety, or welfare of persons and property in the vicinity. The project is not located within the immediate proximity of any sensitive uses.

3. That the proposal will not interfere with the movement of people along an important pedestrian street.

Evidence/Analysis: Alcohol will not be allowed to be consumed beyond the premises of the restaurant at any time and it is not anticipated that persons will congregate on sidewalks or streets as a result of the proposed use. Signage will also be provided on the property and building which prohibit loitering. It is not anticipated that the on-sale of beer and wine at this location will adversely affect any important pedestrian right of ways.

4. That where the proposed use is in close proximity to residential uses, and especially to bedroom windows, the use will be limited in hours of operation, or designed operated so as to avoid the disruption of residents' sleep between the hours of 10:00 p.m. and 7:00 a.m.

Evidence/Analysis: There are single family residential units located to the south and east of the project site. The applicant will serve beer and wine for on-site consumption Monday through Sunday from 7:00 a.m. until 8:00 p.m., when the restaurant closes. It is not anticipated that the proposed use would have a negative impact on the surrounding area. The applicant will be 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 Los Banos Municipal Code, adopted Building Codes and all other applicable laws and ordinances pertaining to the proposed use.

## EXHIBIT C

### CONDITIONS OF APPROVAL FOR CONDITIONAL USE PERMIT #2019-04 – BERTHA CARRILLO

1. The following conditions of approval shall apply to and be applicable to the applicant, property owner, and/or operator. Reference to applicant, property owner, and/or operator shall be interpreted to include all.
2. Conditional Use Permit 2019-04 is for Bertha Carrillo, for a proposed restaurant to be located at 1041 East Pacheco Boulevard, Assessor's Parcel Number: 026-182-003 and the requested use shall automatically and without notice expire after one (1) year from date of approval by the Los Banos City Council unless commenced. The City for cause may revoke this Conditional Use Permit. Any expansion, intensification, or significant change to the primary use and the uses approved under this Conditional Use Permit shall be permitted only upon modification of this Conditional Use Permit or approval of a separate Conditional Use Permit application. The Conditional Use Permit shall automatically and without notice expire one year after discontinuance of the primary use and/or the uses approved under the Conditional Use Permit.
3. The applicant/operator shall comply with all other requirements, laws and policies of other governmental agencies in the conduct and operation of said business.
4. The applicant/operator shall obtain and maintain an active Type 41 "on-sale of beer and wine for a bona-fide public eating place" license as defined by the Department of Alcoholic Beverage Control and shall provide a copy of said license upon issuance by the California Department of Alcoholic Beverage Control to the city of Los Banos Community and Economic Development Department prior to the sale of alcohol on the premises.
5. A copy of these Conditions of Approval and the California Department of Alcoholic Beverage Control license are required to be kept on the premises and presented to any law enforcement officer or authorized City official upon request.
6. The applicant/operator shall be responsible for maintaining the exterior of the premises free of litter and trash at all times including the parking lot areas in front of the premises. No storage of equipment, supplies, or merchandise of any kind shall be allowed in the front or rear exterior of the building. All deliveries shall be made from the rear of the building.

7. The Planning Commission reserves the right to review and/or revoke this permit should the applicant not adhere to the Conditions of Approval. The City may amend or impose new conditions to mitigate adverse effects in the neighborhood resulting from the use of alcohol on the premises.
8. The applicant/operator agrees to indemnify, hold harmless, and defend the City of Los Banos, its officers, agents and employees from any and all liability or claims that may be brought against the City of Los Banos arising out of its approval of this permit, or the environmental determination rendered in connection with the permit approval, or arising out of the operation of the use or uses allowed under the permit, save and except that caused solely by the City's active negligence.
9. The exterior of the premises, including parking lot areas (front and rear), shall be sufficiently illuminated, to the satisfaction of the Police Chief, during all hours of darkness when the premises are open for business in a manner so that persons accessing those areas at night are identifiable by law enforcement personnel.
10. The premises shall be operated primarily as a restaurant/ eating establishment as described in the application prepared by the applicant and filed with the Community and Economic Development Department. Any substantial or significant changes in use or operation of the premises from the Operational Statement may cause a review, amendment or revocation of the Conditional Use Permit. The applicant shall notify the Community and Economic Development Department of any substantial or significant changes in use or operation of the premises from the Operational Statement. The onsite consumption and sale of beer and wine shall be ancillary to the primary use as a restaurant/ eating establishment.
11. The use of the premises of the subject site shall be consistent with the Conditions of Approval and shall not be operated in a manner that deviates from the approved Conditional Use Permit filed application and operational statement, which shall constitute a violation and may result in the revocation or modification of the permit upon written notice to the owner of the subject site.
12. Authorization of a Conditional Use Permit granted pursuant to the provisions of Section 9-3.2322 of the Los Banos Municipal Code continue to be valid upon change of ownership of the site or structure which was the subject of the Conditional Use Permit application provided the use shall be subject to all provisions of the Municipal Code and all conditions placed on approval of the Conditional Use Permit are continually met. The applicant shall immediately notify the Community and Economic Development Department of any changes in ownership.

13. This Conditional Use Permit shall be subject to revocation by the Community and Economic Development Director or the Planning Commission upon a finding that:
  - a. Conditions of approval have not been fulfilled;
  - b. A significant change or intensification of the approved use;
  - c. The use has resulted in a nuisance or detriment to the public health, safety, morals, comfort, and general welfare of the persons residing or working in the neighborhood or is detrimental or injurious to property and improvements in the neighborhood or to the general welfare of the City.
14. Consumption of alcohol shall only be allowed on the premises of the restaurant. If the applicant would like to pursue outside patio consumption of alcohol, where permissible, shall only be permitted with a barrier between the public right-of-way and restaurant patrons to be approved by the Community and Economic Development Director.
15. No loud amplification of music or voice shall be allowed outside.
16. The applicant/operator shall have monitoring cameras in the exterior and interior of the restaurant at all times to the satisfaction and approval of the Police Chief. The applicant shall always maintain the surveillance equipment in working order and keep the video recordings for 30 days to be made available to law enforcement upon request.
17. The premises shall be operated in accordance with the Los Banos Municipal Code Noise Ordinance.
18. The applicant shall acknowledge and execute receipt of a copy of the foregoing Conditions of Approval.
19. The applicant/operator shall provide signs prohibiting loitering on the property and/or building subject to the approval of the Community and Economic Development Director.
20. **This approval is conditioned upon and shall be effective upon payment in full of all outstanding invoices pursuant to the Cost Recovery Contract.**

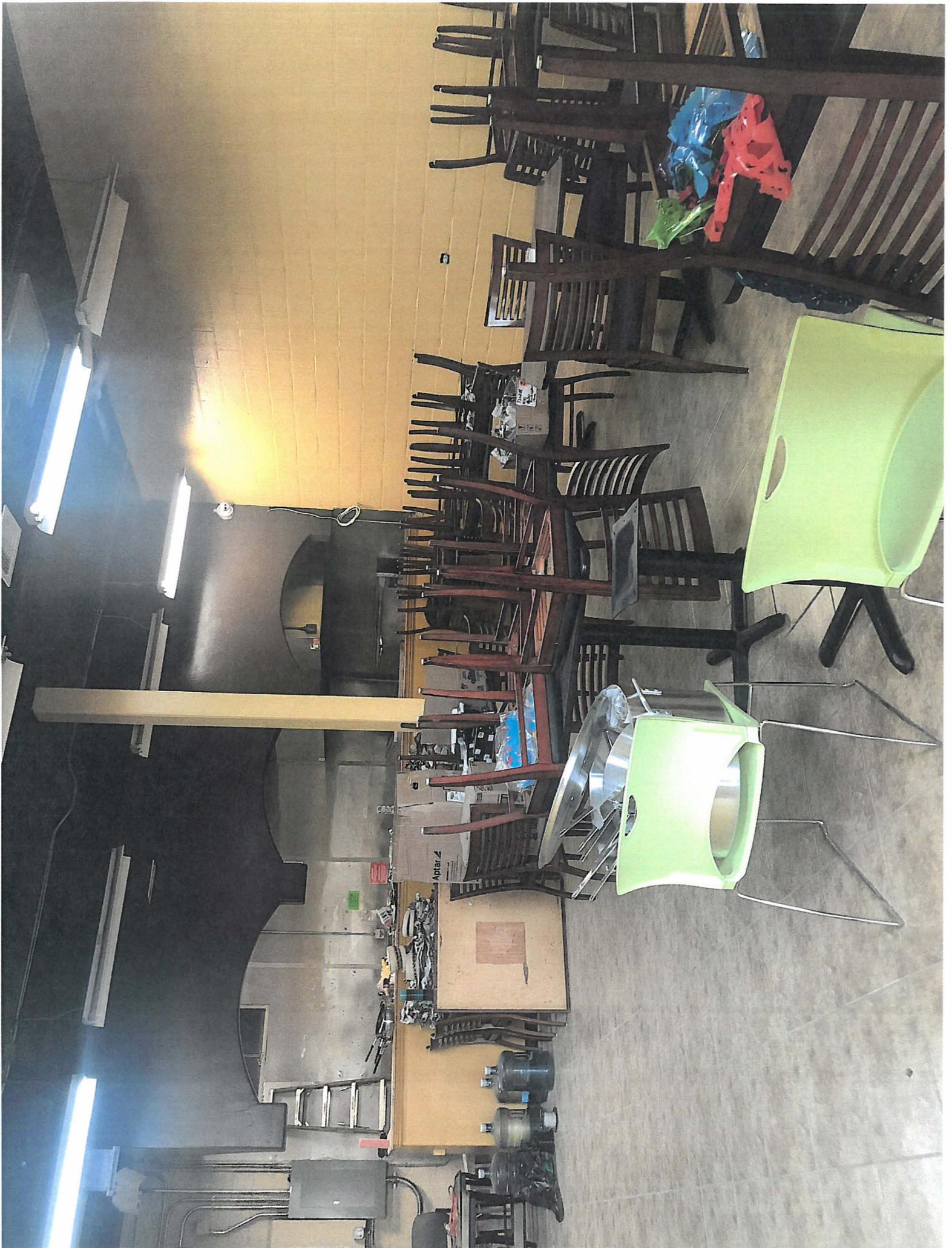






EXIT









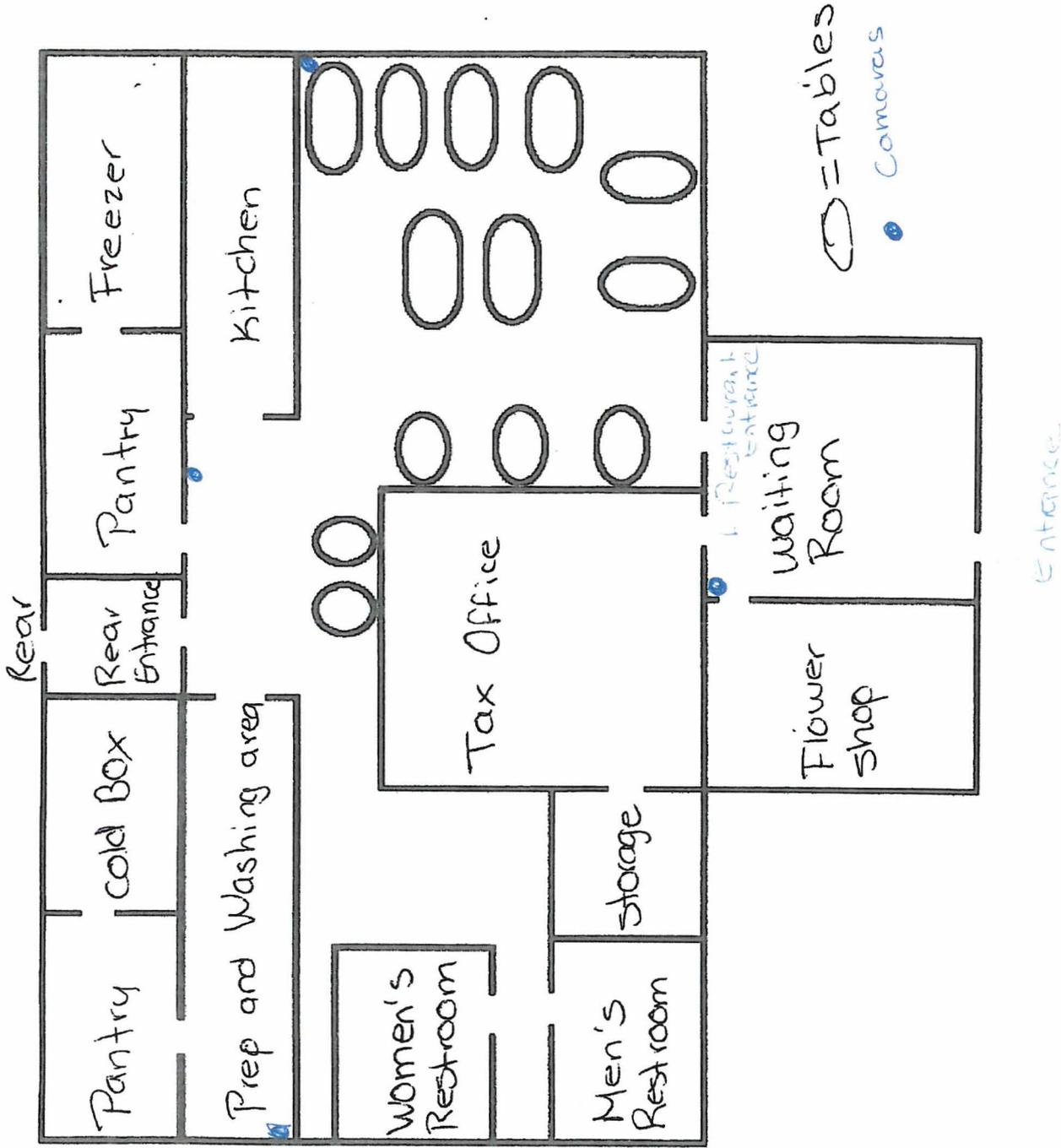
















City of  
**Los Banos**  
At the Crossroads of California

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**COMMUNITY AND ECONOMIC DEVELOPMENT DEPARTMENT**

Date: November 22, 2019

Regarding: Notice of Public Hearing

Proposal: Conditional Use Permit #2019-04 – Type 41 Alcohol License

NOTICE IS HEREBY GIVEN THAT a Public Hearing will be held by the Los Banos Planning Commission to consider a Conditional Use Permit and Categorical Exemption from the California Environmental Quality Act pursuant to Section 15301, Existing Facilities to allow the use of a Type 41 Alcohol License for the on-sale of beer and wine in conjunction with a bona-fide eating establishment. The requested Conditional Use Permit is for a proposed restaurant to be located at 1041 E. Pacheco Boulevard, more specifically identified as Assessor's Parcel Number 026-182-003.

A PUBLIC HEARING on this matter will be held at a special meeting of the Los Banos Planning Commission on Monday, December 2, 2019, at 6:00 p.m. in the Council Chambers of Los Banos City Hall located at 520 J Street. Questions regarding the above-referenced item may be directed to Rudy Luquin, Associate Planner, at City Hall or at (209) 827-2432.

All persons are invited to be present at the public hearing. Written and oral testimony is invited. Notice is hereby further given that if you challenge the above described Project in court, you may be limited to raising only those issues you or someone else raised at the public hearing described in this Notice, or in written correspondence delivered to the Planning Commission at, or prior to, the public hearing.

Additional information may be obtained from Community & Economic Development Department at 520 J Street, Los Banos, California. In compliance with the Americans with Disabilities Act, if you need special assistance to participate in this meeting, please contact the Office of the City Clerk at (209) 827-7000. Notification at least 72 hours prior to the public hearing will enable the City to make reasonable arrangements to allow participation at this hearing

THE CITY OF LOS BANOS

Rudy Luquin  
Associate Planner





City of  
**Los Banos**  
*At the Crossroads of California*

**PLANNING COMMISSION STAFF REPORT**

**TO: CHAIRMAN CATES AND COMMISSIONERS**

**FROM: RUDY LUQUIN, ASSOCIATE PLANNER** 

**DATE: DECEMBER 2, 2019**

**SUBJECT: REQUEST FOR CONDITIONAL USE PERMIT #2019-06 TO ALLOW FOR THE SALE OF ALCOHOL UNDER A TYPE 41 ON-SALE BEER AND WINE LICENSE FOR A BONA-FIDE PUBLIC EATING PLACE FOR MOUNTAIN MIKE'S PIZZA LOCATED AT 2260 E. PACHECO BOULEVARD, SUITES A AND B: 428-160-027**

**RECOMMENDATION:**

Staff recommends that the Planning Commission adopt Resolution No. 2019-24 finding the proposed project to be categorically exempt from the California Environmental Quality Act pursuant to Section 15301, Existing Facilities and recommending approval of Conditional Use Permit #2019-06 to the Los Banos City Council to allow for the sale of alcohol under a Type 41 on-sale beer and wine license for Mountain Mike's Pizza located at 2260 East Pacheco Boulevard, Suites A and B, APN: 0428-160-027.

**PROJECT BACKGROUND/DESCRIPTION:**

The applicant, Tariq Abedi, dba Mountain Mike's Pizza, has requested a Conditional Use Permit to allow the sale of beer and wine for on-site consumption contingent upon a Type 41 beer and wine alcohol license in conjunction with a bona fide public eating place (casual restaurant) to be located at 2260 East Pacheco Boulevard, Suites A and B. The site was occupied previously by Village Liquor, which held a Type 21 ABC license for off sale of general alcohol. Being that the requested Type 41 on-sale ABC license is a modification in use; the applicant must obtain a Conditional Use Permit for the on-site sale and consumption of beer and wine.

The proposed restaurant/ eating establishment will conduct business seven (7) days a week, Sunday through Thursday from 10:00 a.m. until 10:00 p.m., and on Fridays and Saturdays from 10:00 a.m. until 11:00 p.m. The on-site sale of beer and wine will cease when the restaurant closes. This will be the second Mountain Mike's Pizza restaurant located in Los Banos. The existing Mountain Mike's Pizza located at 503 West Pacheco

Boulevard, is in good standing and to staffs knowledge there has been no incidents that have provoked the good standing of the present ABC license at the location.

The property is located within the Highway Commercial Zoning District. The intended eating establishment/ restaurant use, is an allowed use and is consistent with the Los Banos Municipal Code Title 9 Chapter 3 Article 13 Highway Commercial Zoning District (H-C).

**LOCATION AND ACCESS:**

The project site is located at 2260 East Pacheco Blvd, Suites A and B, Assessor's Parcel Number: 428-160-027. The project site is located within the Highway Commercial Zoning District (H-C) and consists of various commercial uses. The project site will be able to be accessed from Pacheco Boulevard.



**LAND USE:**

Property	Land Use	Zone	General Plan
Project site	Commercial	H-C	C
North	Low Density Residential	R-1	LDR
South	Commercial	H-C	C
East	Commercial	H-C	C
West	Commercial	H-C	C

H-C =Highway Commercial  
 R-1=Low Density Residential

C=Commercial  
 LDR=Low Density Residential

**ENVIRONMENTAL ASSESSMENT:**

Pursuant to the California Environmental Quality Act (CEQA) and the City of Los Banos

Environmental Quality Guidelines, it has been determined that this project is found to be categorically exempt from the provisions of CEQA – Article 19, Section 15301 Existing Facilities. The applicant's request for the on-sale of beer and wine for a bona fide public eating place involves the permitting and licensing of a proposed structure to be located at 2260 East Pacheco Boulevard, Suites A and B, APN 428-160-027.

## **USE PERMIT ANALYSIS**

### ***Code Requirements***

Pursuant to the Los Banos Municipal Code Section 9-3.2326 (b), a Conditional Use Permit is required for any establishment dispensing for sale or other consideration alcoholic beverages, including beer and wine, for on-sale or off-sale. The Planning Commission is the recommending body and the City Council is the decision making body for Conditional Use Permits regarding the on-sale and off-sale of alcoholic beverages pursuant to Los Banos Municipal Code Section 9-3.2314 (c). A Conditional Use Permit may be granted if the proposed use is conforming to the following criteria:

#### **General Use Permit Criteria:**

1. That the proposed use and project is consistent with the City of Los Banos General Plan, and Los Banos Municipal Code;
2. That the proposed use or project will not be a nuisance or detrimental to the public health, safety, morals, comfort, and general welfare of the persons residing or working in the neighborhood of such proposed use;
3. That the proposed use is compatible with the adjacent uses, the properties, and neighborhoods and will not be detrimental or injurious to property and improvement in the neighborhood or to the general welfare of the City.

#### **Specific On-Sale and Off-Sale Alcoholic Beverages Criteria:**

1. That the proposal will not contribute to undue proliferation of such uses in an area where additional ones would be undesirable with consideration given to the area's function and character, problems of crime and loitering, and traffic problems and capacity;
2. That the proposal will not adversely affect adjacent or nearby churches, temples, or synagogues; public, parochial, or private elementary, junior high, or high schools; public parks or recreation centers; or public or parochial playgrounds;
3. That the proposal will not interfere with the movement of people along an important pedestrian street; and
4. That where the proposed use is in close proximity to residential uses, and especially to bedroom windows, the use will be limited in hours of operation, or designed operated so as to avoid the disruption of residents' sleep between the hours of 10:00 P.M. and 7:00 A.M.

Staff has evaluated the proposal pursuant to the above criteria set forth in the Municipal Code and offers the following observations:

1. The primary use will be a casual family eating establishment/ restaurant (dine-in).

2. The surrounding area, adjacent uses, and function are primarily Commercial uses. A restaurant providing for the on-sale and serving of beer and wine in this location is consistent with the commercial uses of the Highway Commercial Zoning District.
3. Staff is unaware of any significant problems related to crime and loitering, in the surrounding area which would be exacerbated by the on-sale of beer and wine at this location.
4. The approval of the on-sale of beer and wine will not contribute to the undue proliferation of alcohol sales in the area where that use would be undesirable taking into account the characteristics of the area. The entitlement will include conditions of approval which will regulate the operational characteristics of allowing the serving of beer and wine and are intended to preserve the public health, safety, or welfare of persons and property in the vicinity including crime prevention and loitering.
5. The proposed use is not located within the immediate vicinity to any churches, temples, or synagogues; public, parochial, or private elementary, junior high, or high schools; public parks or recreation centers; or public or parochial playgrounds.
6. The project is located on Pacheco Boulevard which is primarily occupied by commercial uses. Conditions of approval will regulate loitering and operational characteristics to insure that the proposal will not interfere with the movement of people along the public right-of-way.
7. There are residential units located to the north of the project site. The applicant will serve beer and wine for on-site consumption Sunday through Thursday from 10:00 a.m. until 10:00 p.m. and will be open on Friday and Saturday from 10:00 a.m. until 11:00 p.m., when the restaurant closes. It is not anticipated that the proposed use would have a negative impact on the surrounding area. The applicant will be 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 Los Banos Municipal Code, adopted Building Codes and all other applicable laws and ordinances pertaining to the proposed use.

All sales and consumption of alcohol will be conducted inside the premises and in conjunction with the serving of food. In addition, the project will be subject to conditions which will mitigate any adverse effects on the surrounding neighborhood and are intended to preserve the public health, safety, and welfare of persons and property in the vicinity. The restaurant will also be subject to the Los Banos Municipal Code Noise Ordinance.

### ***Alcoholic Beverage Control***

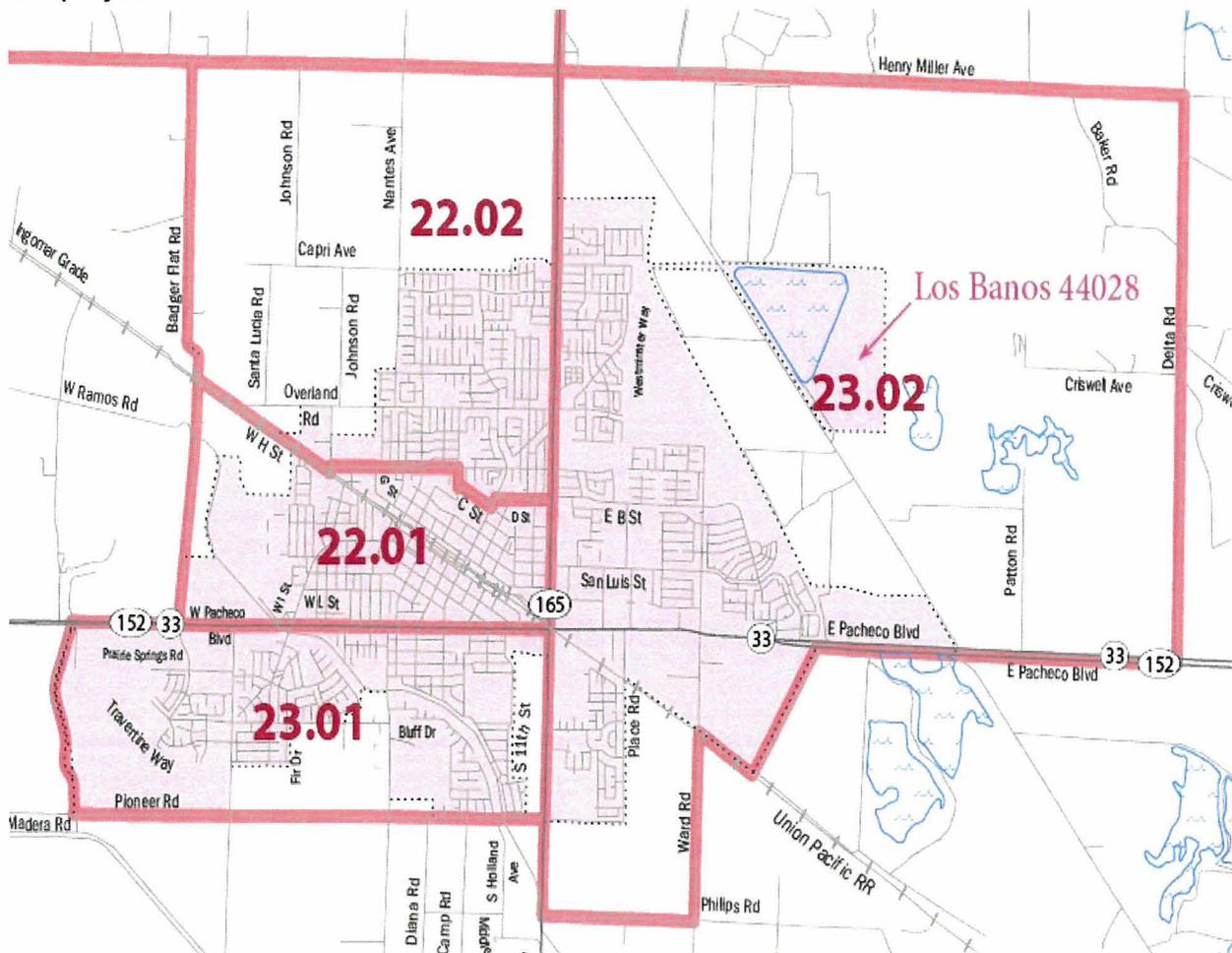
The California Department of Alcoholic Beverage Control (ABC) is the issuing authority for a Type 41 alcohol license. ABC has the authority pursuant to Section 23801 of the California Business and Professions Code to exercise certain conditions under the license, the personal qualifications of the licensee, the conduct of the business or the condition of the premises, which will protect the public welfare and morals, including, but not limited to, the following:

- a) Restrictions as to hours of sale
- b) Display of signs
- c) Employment of designated persons
- d) Types and strengths of alcoholic beverages to be served where such types or strengths are otherwise limited by law
- e) The portion of the privileges to be exercised under the license
- f) The personal conduct of the licensee

ABC may also refuse to issue a license to any person who has violated the Alcoholic Beverage Control Act, has a disqualifying criminal record, or is otherwise disqualified.

**Census Tract**

The project site is located in census tract 23.02.



As of the date of this report, there are seven (7) on-sale licenses currently active in this specific census tract. The nearest active on-sale alcohol license to the project site within the same census tract is El Michoacano Restaurant located within the same shopping center of the project site, approximately 800 feet away. Approval of this on-sale license would make the eighth (8) on-sale license within the census tract.

License Type	Business Name	Address
47	Chilli's Grill and Bar	1905 E. Pacheco Blvd.
47	Espana's Southwest Bar & Grill	1460 E. Pacheco Blvd.
41	Pizza Factory (Rico's Pizza)	2160 E. Pacheco Blvd., Ste K
41	El Michoacano Restaurant	2160 E. Pacheco Blvd., Ste A
41	Wing Stop	1989 E. Pacheco Blvd., Unit K
47	El Campesinos Restaurantt & Bar	1639 E. Pacheco Blvd.
41	Round Table Pizza	1462 S. Mercey Springs Rd.

Type 41 license = On-sale Beer and Wine for Bona Fide Public Eating Place

Type 47 license = On-sale General for Bona Fide Public Eating Place

**PUBLIC COMMENT:**

A public hearing notice was published in the Los Banos Enterprise and notices were provided to adjacent property owners within a 300 foot radius of the subject property on Friday, November 22, 2019. As of the date of this staff report, no comments have been received.

**APPLICABLE ORDINANCES/GUIDELINES:**

Los Banos General Plan – ED-G-7, LU-G-10

Los Banos Municipal Code – Section 9-3.2322

ABC Act, California Business and Professions Code

**RECOMMENDATION:**

Staff recommends that the Planning Commission adopt Resolution No. 2019-24 finding the proposed project to be categorically exempt from the California Environmental Quality Act pursuant to Section 15301 Existing Facilities and recommending approval of Conditional Use Permit #2019-06 to the Los Banos City Council to allow for the sale of alcohol under a Type 41 on-sale beer and wine license at proposed restaurant to be located at 2260 East Pacheco Boulevard, Suites A and B, APN: 0428-160-027.

**ATTACHMENTS:**

1. Resolution 2019-24  
Exhibit A CEQA Findings

- Exhibit B     Project Findings
- Exhibit C     Conditions of Approval
- 2. Floor Plan
- 3. Site Photos
- 4. Public Hearing Notice – November 22, 2019



## RESOLUTION NO. 2019-24

**A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF LOS BANOS FINDING THE PROPOSED PROJECT TO BE CATEGORICALLY EXEMPT FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT PURSUANT TO SECTION 15301, EXISTING FACILITIES AND RECOMMENDING APPROVAL OF CONDITIONAL USE PERMIT #2019-06 TO THE LOS BANOS CITY COUNCIL TO ALLOW FOR THE SALE OF ALCOHOL UNDER A TYPE 41 ON-SALE BEER AND WINE LICENSE AT 2260 EAST PACHECO BOULEVARD, SUITES A AND B, APN: 428-160-027.**

WHEREAS, the applicant, Tariq Abedi, dba Mountain Mike's Pizza, has requested that the City of Los Banos consider a Conditional Use Permit to allow the use of a Type 41 alcohol license for the on-sale of beer and wine in conjunction with a bona-fide public eating place to be located at 2260 East Pacheco Boulevard, Suites A and B, Assessor's Parcel Number: 428-160-027; and

WHEREAS, a public hearing notice was published in the Los Banos Enterprise on Friday, November 22, 2019, and notices were mailed to property owners within a 300 foot radius of the project site as required by the Los Banos Municipal Code and California Government Code Section 65091; and

WHEREAS, the Los Banos Planning Commission has held a duly noticed public hearing on Monday, December 2, 2019, reviewed said Conditional Use Permit request and staff report, has studied the compatibility of the applicant's request with adjacent land uses and has considered this request in conformance with the Conditional Use Permit criteria established in Section 9-3.2322 of the Los Banos Municipal Code; and

WHEREAS, pursuant to the California Environmental Quality Act (CEQA) and the City of Los Banos Environmental Quality Guidelines, Conditional Use Permit #2019-04 for Bertha Carrillo was determined to be categorically exempt from the provisions of CEQA per Article 19, Section 15301 Existing Facilities as the project site has not been developed; and

WHEREAS, the request/proposed use satisfies the criteria of the Los Banos Municipal Code.

BASED UPON THE EVIDENCE PRESENTED AT THE PUBLIC HEARING, the Planning Commission of the City of Los Banos hereby makes the appropriate findings set forth in Exhibit A (California Environmental Quality Act (CEQA) Findings), and Exhibit B (Findings for Approval), attached hereto and incorporated herein by this reference.

NOW, THEREFORE, BE IT RESOLVED that the Planning Commission of the City of Los Banos does hereby affirm the determination that the project is categorically exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15301 Existing Facilities and recommends the approval of Conditional Use Permit #2019-06 to the Los Banos City Council to allow the on-sale of beer and wine in conjunction with a bona-fide public eating place, Type 41, located at 2260 East Pacheco Boulevard, Suites A and B, APN: 428-160-027, subject to the Conditions of Approval set forth in Exhibit C, attached hereto and incorporated herein by this reference.

The foregoing resolution was introduced at a special meeting of the Planning Commission of the City of Los Banos held on the 2<sup>nd</sup> day of December 2019, by Planning Commissioner \_\_\_\_\_ who moved its adoption, which motion was duly seconded by Planning Commissioner \_\_\_\_\_, and the Resolution adopted by the following vote:

AYES:

NOES:

ABSENT:

APPROVED:

\_\_\_\_\_  
John Cates, Planning Commission Chairman

ATTEST:

\_\_\_\_\_  
Sandra Benetti, Planning Commission Secretary

## EXHIBIT A

### **CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) FINDINGS FOR CONDITIONAL USE PERMIT #2019-06 – TARIQ ABEDI (MOUNTAIN MIKE’S PIZZA)**

Pursuant to the requirements of California Public Resources Code Section 21000 et seq. (“CEQA”) and Title 14, California Code of Regulations Section 15000 et seq. (the “CEQA Guidelines”), the City as Lead Agency under CEQA adopts the following findings required by CEQA, along with the facts and evidence upon which each finding is based.

The City of Los Banos Planning Commission hereby finds as follows:

1. Pursuant to CEQA, the CEQA Guidelines, and the City of Los Banos Environmental Quality Guidelines, Conditional Use Permit #2019-06 was evaluated and determined to be categorically exempt per Article 19, Section 15301 Existing Facilities as the request for the on-sale of beer and wine involves the permitting and licensing of a proposed commercial structure to be located at 2260 East Pacheco Blvd, Suites A and B, APN 428-160-027.
2. Conditional Use Permit #2019-06 was adequately noticed on Friday, November 22, 2019, for consideration at a special public meeting on Monday, December 2, 2019.
3. No further environmental documentation is required as the Conditional Use Permit was contemplated and adequately analyzed in the initial review.
4. Prior to considering the proposed Project, the Planning Commission considered the Categorical Exemption.



## EXHIBIT B

### FINDINGS FOR APPROVAL FOR CONDITIONAL USE PERMIT #2019-06 – TARIQ ABEDI (MOUNTAIN MIKE'S PIZZA)

The City of Los Banos Planning Commission hereby finds as follows:

#### 1. General Findings:

- a. The project is consistent with the City of Los Banos General Plan.

The existing General Plan land use designation for the project site is Commercial, which allows large-scale commercial developments that serve both residents, visitors, and the surrounding region. Examples of this land use include: shopping centers, large format retail, auto sales and travel-related services such as hotels, gas stations, and restaurants. These uses typically require excellent access to freeway interchange.

The following specific General Plan Goals, Objectives, and Policies are applicable to the proposed project:

#### **ECONOMIC DEVELOPMENT POLICY ED-G-7:**

Seek and promote particular businesses or economic opportunities that provide needed local goods, services, employment, or those that enhance the City's physical and social well-being.

#### **LAND USE POLICY LU-G-10:**

Foster viable, pedestrian-oriented neighborhood centers and strong, visually attractive regional commercial centers with a mix of tenants to serve both local and regional needs.

Evidence/Analysis: Tariq Abedi, dba Mountain Mike's Pizza, will have the ability to provide a wider range of service for customers and allows the restaurant to compete with similar type businesses. The proposed use would create a commercial use that is compatible with and complementary of existing commercial uses to the project site. In addition, the project would also be consistent with the General Plan land use policies as set forth above.

- b. The zoning designation for the project site is Highway Commercial (H-C). The purpose of the Highway Commercial Zoning District is to provide a district for the sale of goods and services which meet the needs of a broad trade area.

Evidence/Analysis: The proposed use complies with the Los Banos Municipal Code Title 9, Chapter 3, Article 13, Highway Commercial Zoning District, as the use will be consistent with the surrounding area, adjacent uses, and function are primarily commercial in nature. A restaurant providing for the on-sale and serving of beer and wine is permitted in this zone.

2. That the proposed use or project will not be a nuisance or detrimental to the public health, safety, morals, comfort, and general welfare of the persons residing or working in the neighborhood of such proposed use.

Evidence/Analysis: The on-sale of beer and wine will be conducted in accordance with ABC regulations and therefore, will not be a nuisance or detrimental to the neighborhood in which the store is located. The project contains conditions of approval which regulate the operational characteristics of allowing the serving of alcohol and are intended to preserve the public health, safety, or welfare of persons and property in the vicinity.

3. That the proposed use is compatible with the adjacent uses, properties, and neighborhoods and will not be detrimental or injurious to property and improvements in the neighborhood or to the general welfare of the City.

Evidence/Analysis: The proposed use will be conducted in the within a proposed commercial structure to be located at 2260 East Pacheco Boulevard, Suites A and B. The project site is zoned Highway Commercial, which includes uses that serve alcohol. It is not anticipated that the proposed use would have a negative impact on the surrounding area. The applicant will be 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 Los Banos Municipal Code, adopted Building Codes and all other applicable laws and ordinances pertaining to the proposed use.

## 2. Specific Findings

1. That the proposal will not contribute to undue proliferation of such uses in an area where additional ones would be undesirable with consideration

given to the area's function and character, problems of crime and loitering, and traffic problems and capacity.

Evidence/Analysis: The primary use in conjunction with the serving of beer and wine will be a restaurant. As reflected in the staff report, the number of on-sale licenses in the Census Tract is currently seven (7). The project site will function primarily as commercial in nature, and is entirely consistent with a restaurant and the on-sale and serving of beer and wine. The proposed on-sale of beer and wine is complementary to the proposed restaurant use that is compatible with and complementary of existing commercial uses in the area. The project would include conditions of approval which regulate the operational characteristics of allowing the serving of alcohol and are intended to preserve the public health, safety, or welfare of persons and property in the vicinity including crime prevention and loitering. Staff is unaware of any significant problems in the area related to crime and loitering, which would be negatively affected by the on-sale of beer and wine at this location.

2. That the proposal will not adversely affect adjacent or nearby churches, temples, or synagogues; public, parochial, or private elementary, junior high, or high schools; public parks or recreation centers; or public or parochial playgrounds.

Evidence/Analysis: Conditions of Approval have been incorporated into the project which regulate the operational characteristics of allowing the serving of alcohol and are intended to preserve the public health, safety, or welfare of persons and property in the vicinity. The project is not located within the immediate proximity of any sensitive uses.

3. That the proposal will not interfere with the movement of people along an important pedestrian street.

Evidence/Analysis: Alcohol will not be allowed to be consumed beyond the premises of the restaurant at any time and it is not anticipated that persons will congregate on sidewalks or streets as a result of the proposed use. Signage will also be provided on the property and building which prohibit loitering. It is not anticipated that the on-sale of beer and wine at this location will adversely affect any important pedestrian right of ways.

4. That where the proposed use is in close proximity to residential uses, and especially to bedroom windows, the use will be limited in hours of operation, or designed operated so as to avoid the disruption of residents' sleep between the hours of 10:00 p.m. and 7:00 a.m.

Evidence/Analysis: There are single family residential units located to the north of the project site. The applicant will serve beer and wine for on-site consumption Sunday through Thursday from 10:00 a.m. until 10:00 p.m., and on Friday and Saturday from 10:00 a.m. until 11:00 p.m., when the restaurant closes. It is not anticipated that the proposed use would have a negative impact on the surrounding area. The applicant will be 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 Los Banos Municipal Code, adopted Building Codes and all other applicable laws and ordinances pertaining to the proposed use.

## EXHIBIT C

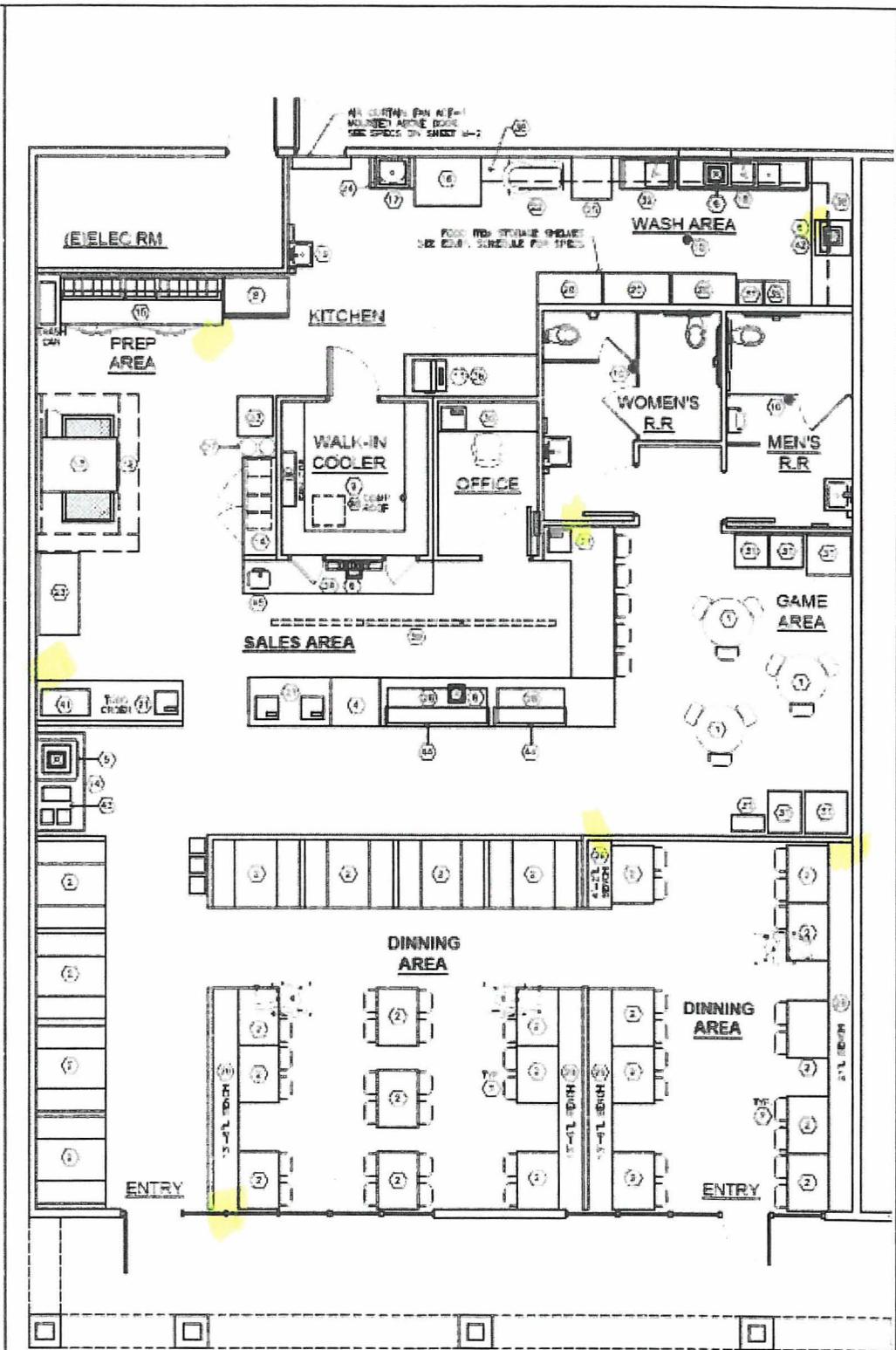
### CONDITIONS OF APPROVAL FOR CONDITIONAL USE PERMIT #2019-06 – TARIQ ABEDI (MOUNTAIN MIKE'S PIZZA)

1. The following conditions of approval shall apply to and be applicable to the applicant, property owner, and/or operator. Reference to applicant, property owner, and/or operator shall be interpreted to include all.
2. Conditional Use Permit 2019-06 is for Tariq Abedi, dba Mountain Mike's Pizza, located at 2260 East Pacheco Boulevard, Suites A and B, Assessor's Parcel Number: 428-160-027 and the requested use shall automatically and without notice expire after one (1) year from date of approval by the Los Banos City Council unless commenced. The City for cause may revoke this Conditional Use Permit. Any expansion, intensification, or significant change to the primary use and the uses approved under this Conditional Use Permit shall be permitted only upon modification of this Conditional Use Permit or approval of a separate Conditional Use Permit application. The Conditional Use Permit shall automatically and without notice expire one year after discontinuance of the primary use and/or the uses approved under the Conditional Use Permit.
3. The applicant/operator shall comply with all other requirements, laws and policies of other governmental agencies in the conduct and operation of said business.
4. The applicant/operator shall obtain and maintain an active Type 41 "on-sale of beer and wine for a bona-fide public eating place" license as defined by the Department of Alcoholic Beverage Control and shall provide a copy of said license upon issuance by the California Department of Alcoholic Beverage Control to the city of Los Banos Community and Economic Development Department prior to the sale of alcohol on the premises.
5. A copy of these Conditions of Approval and the California Department of Alcoholic Beverage Control license are required to be kept on the premises and presented to any law enforcement officer or authorized City official upon request.
6. The applicant/operator shall be responsible for maintaining the exterior of the premises free of litter and trash at all times including the parking lot areas in front of the premises. No storage of equipment, supplies, or merchandise of any kind shall be allowed in the front or rear exterior of the building. All deliveries shall be made from the rear of the building.

7. The Planning Commission reserves the right to review and/or revoke this permit should the applicant not adhere to the Conditions of Approval. The City may amend or impose new conditions to mitigate adverse effects in the neighborhood resulting from the use of alcohol on the premises.
8. The applicant/operator agrees to indemnify, hold harmless, and defend the City of Los Banos, its officers, agents and employees from any and all liability or claims that may be brought against the City of Los Banos arising out of its approval of this permit, or the environmental determination rendered in connection with the permit approval, or arising out of the operation of the use or uses allowed under the permit, save and except that caused solely by the City's active negligence.
9. The exterior of the premises, including parking lot areas (front and rear), shall be sufficiently illuminated, to the satisfaction of the Police Chief, during all hours of darkness when the premises are open for business in a manner so that persons accessing those areas at night are identifiable by law enforcement personnel.
10. The premises shall be operated primarily as a restaurant/ eating establishment as described in the application prepared by the applicant and filed with the Community and Economic Development Department. Any substantial or significant changes in use or operation of the premises from the Operational Statement may cause a review, amendment or revocation of the Conditional Use Permit. The applicant shall notify the Community and Economic Development Department of any substantial or significant changes in use or operation of the premises from the Operational Statement. The onsite consumption and sale of beer and wine shall be ancillary to the primary use as a restaurant/ eating establishment.
11. The use of the premises of the subject site shall be consistent with the Conditions of Approval and shall not be operated in a manner that deviates from the approved Conditional Use Permit filed application and operational statement, which shall constitute a violation and may result in the revocation or modification of the permit upon written notice to the owner of the subject site.
12. Authorization of a Conditional Use Permit granted pursuant to the provisions of Section 9-3.2322 of the Los Banos Municipal Code continue to be valid upon change of ownership of the site or structure which was the subject of the Conditional Use Permit application provided the use shall be subject to all provisions of the Municipal Code and all conditions placed on approval of the Conditional Use Permit are continually met. The applicant shall immediately notify the Community and Economic Development Department of any changes in ownership.

13. This Conditional Use Permit shall be subject to revocation by the Community and Economic Development Director or the Planning Commission upon a finding that:
  - a. Conditions of approval have not been fulfilled;
  - b. A significant change or intensification of the approved use;
  - c. The use has resulted in a nuisance or detriment to the public health, safety, morals, comfort, and general welfare of the persons residing or working in the neighborhood or is detrimental or injurious to property and improvements in the neighborhood or to the general welfare of the City.
14. Consumption of alcohol shall only be allowed on the premises of the restaurant. If the applicant would like to pursue outside patio consumption of alcohol, where permissible, shall only be permitted with a barrier between the public right-of-way and restaurant patrons to be approved by the Community and Economic Development Director.
15. No loud amplification of music or voice shall be allowed outside.
16. The applicant/operator shall have monitoring cameras in the exterior and interior of the restaurant at all times to the satisfaction and approval of the Police Chief. The applicant shall always maintain the surveillance equipment in working order and keep the video recordings for 30 days to be made available to law enforcement upon request.
17. The premises shall be operated in accordance with the Los Banos Municipal Code Noise Ordinance.
18. The applicant shall acknowledge and execute receipt of a copy of the foregoing Conditions of Approval.
19. The applicant/operator shall provide signs prohibiting loitering on the property and/or building subject to the approval of the Community and Economic Development Director.
20. **This approval is conditioned upon and shall be effective upon payment in full of all outstanding invoices pursuant to the Cost Recovery Contract.**





R.F.E.  
 1- PHOTOGRAPHS SHALL HAVE 3/4" FLOOR HEIGHT FOR PROTECTIVE BARRIERS  
 2- INTERIOR APPOINTMENT SHALL BE NOT APPLIED TO COMPLY WITH HEALTH DEPARTMENT REQUIREMENTS



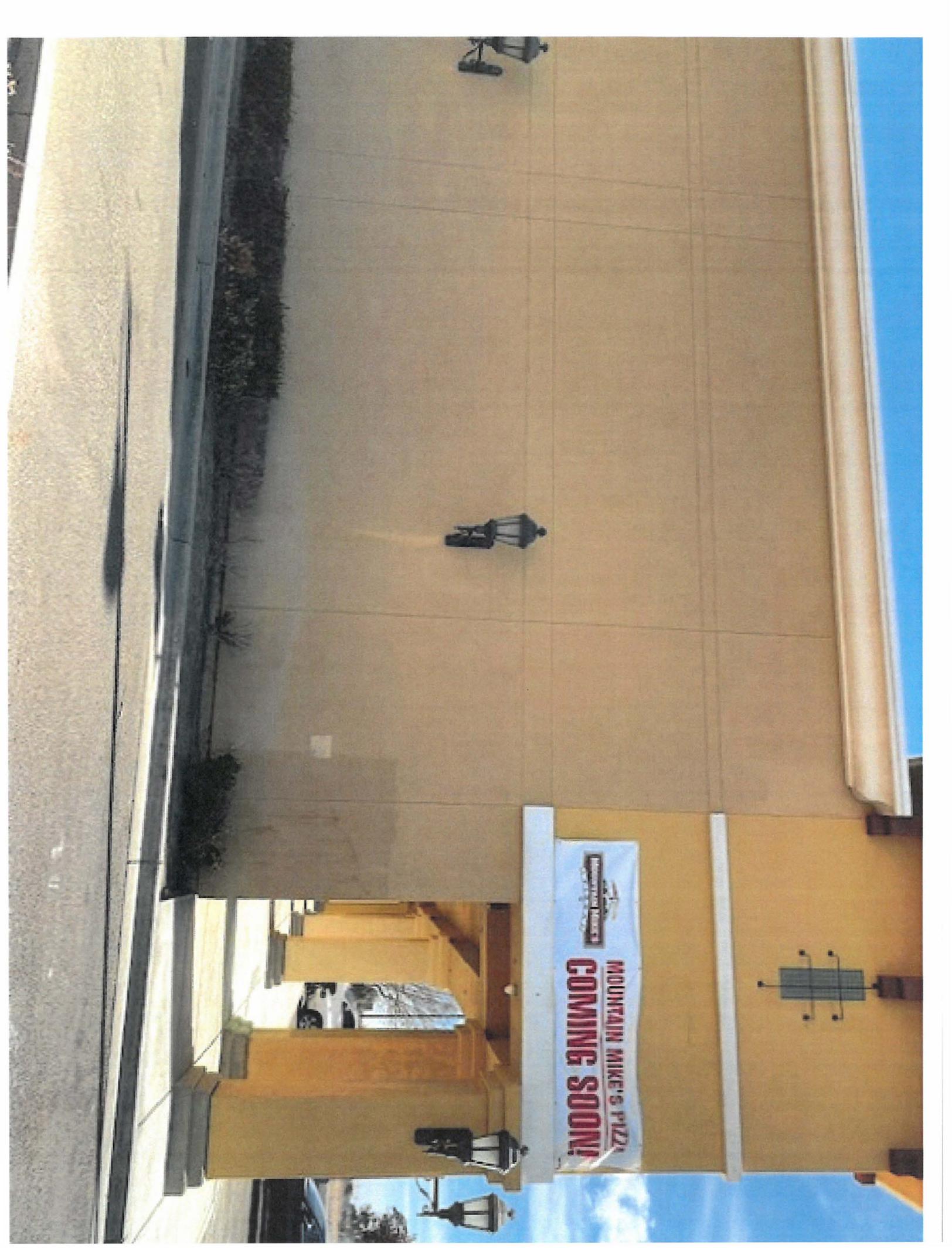
EQUIPMENT FLOOR PLAN

SCALE  
 1/4" = 1'-0"  
 A

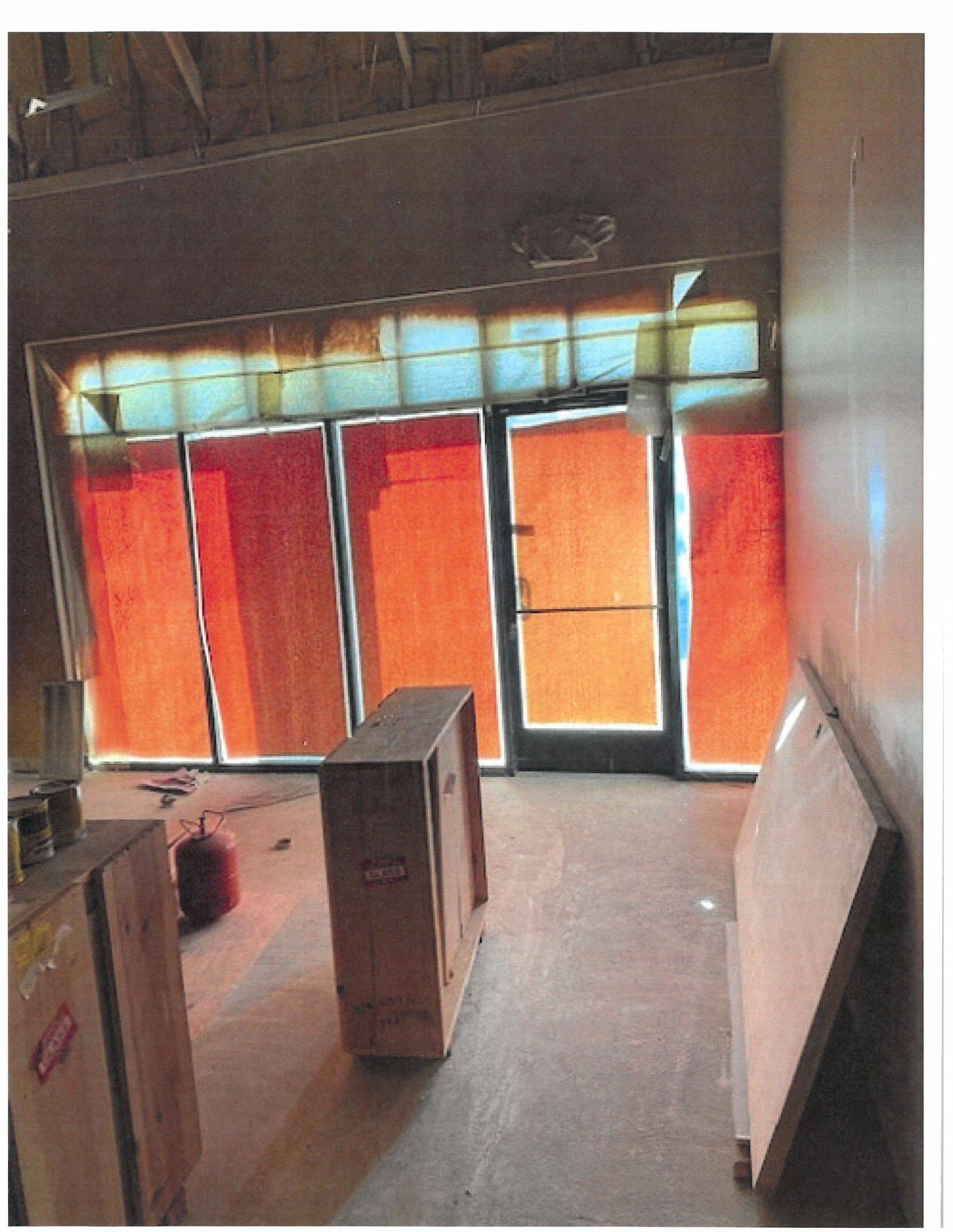
- CAMERAS





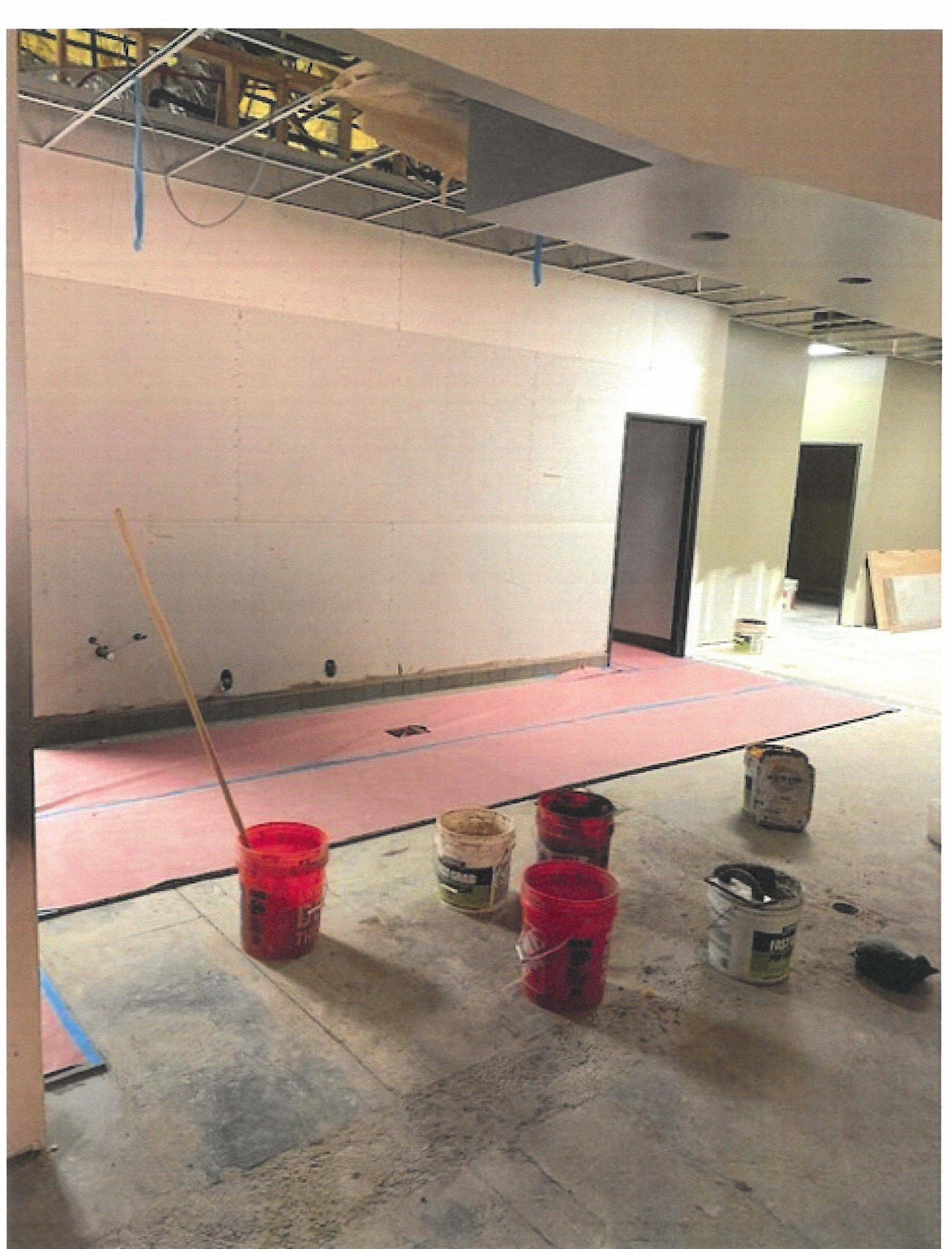


  
**MOUNTAIN MIKE'S PIZZA**  
**COMING SOON!**











City of  
**Los Banos**  
*At the Crossroads of California*

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**COMMUNITY AND ECONOMIC DEVELOPMENT DEPARTMENT**

Date: November 22, 2019

Regarding: Notice of Public Hearing

Proposal: Conditional Use Permit #2019-06 – Type 41 Alcohol License

NOTICE IS HEREBY GIVEN THAT a Public Hearing will be held by the Los Banos Planning Commission to consider a Conditional Use Permit and Categorical Exemption from the California Environmental Quality Act pursuant to Section 15301, Existing Facilities to allow the use of a Type 41 Alcohol License for the on-sale of beer and wine in conjunction with a bona-fide eating establishment. The requested Conditional Use Permit is for a proposed restaurant to be located at 2260 E. Pacheco Boulevard, Suites A & B, more specifically identified as Assessor's Parcel Number 428-160-027.

A PUBLIC HEARING on this matter will be held at a special meeting of the Los Banos Planning Commission on Monday, December 2, 2019, at 6:00 p.m. in the Council Chambers of Los Banos City Hall located at 520 J Street. Questions regarding the above-referenced item may be directed to Rudy Luquin, Associate Planner, at City Hall or at (209) 827-2432.

All persons are invited to be present at the public hearing. Written and oral testimony is invited. Notice is hereby further given that if you challenge the above described Project in court, you may be limited to raising only those issues you or someone else raised at the public hearing described in this Notice, or in written correspondence delivered to the Planning Commission at, or prior to, the public hearing.

Additional information may be obtained from Community & Economic Development Department at 520 J Street, Los Banos, California. In compliance with the Americans with Disabilities Act, if you need special assistance to participate in this meeting, please contact the Office of the City Clerk at (209) 827-7000. Notification at least 72 hours prior to the public hearing will enable the City to make reasonable arrangements to allow participation at this hearing

THE CITY OF LOS BANOS

Rudy Luquin  
Associate Planner



**DESIGN REVIEW STUDY SESSION**

**TO: Chairman Cates and Planning Commissioners**

**FROM: Rudy Luquin, Associate Planner** 

**DATE: December 2, 2019**

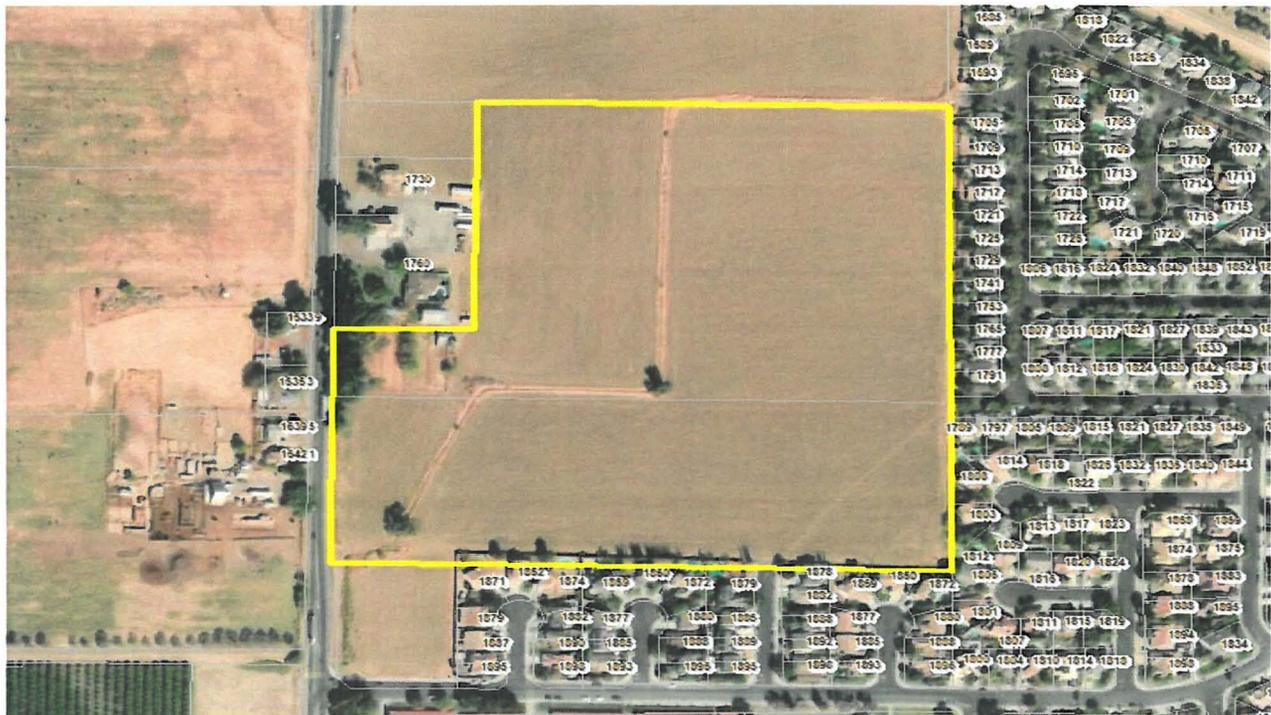
**SUBJECT: Project Study Session Review – Stonefield Homes: Shaunessey Village**

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**Project Description**

The applicant, Stonefield Home, is preparing to develop the 77 Medium Density Residential (R-2) lots in the approved Vesting Tentative Tract Map #2018-03 Shaunessey Village consisting of 151 lots, located east of Mercey Springs Road and north of Scripps Drive. Shaunessey Village was approved by the Planning Commission at a regularly scheduled meeting on Wednesday, October 24, 2018.

The project site has existing residential uses to the east, south and west.



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In consistency with approved and adopted Planning Commission Resolution #2018-29, Condition No. 122, "Development of the project is subject to approval by the Design Review Committee prior to issuance of any building permits."

The proposed architecture for the project is reflective of traditional Craftsman style with Spanish architectural accents complemented with architecturally selected earth tone color palettes. The exterior elevations will vary with stucco finishes, stone veneer base accents, and vertical wood siding accents. Each plan consists of three separate exterior themes. The applicant is proposing to use durable and fire resistant IKO composite shingle roofs. The proposal in regards to the elevation styles will be compatible and complementary to the existing surrounding residential structures which will give the two different projects a sense of cohesion.

It should be noted that the Planning Commission commented on the narrow streets of the subdivision and requested the applicant address concerns for off-street parking during the Design Review process. The proposed designs consist of two (2) car garages and standard driveways for off-street parking. For further clarification, these proposed models will be built out on Medium Density Residential (R-2) lots which will range from a minimum of 4,000 square feet to 5,999 square feet. The designated Medium Density Residential (R-2) lots have been highlighted on the Shaunessey Village Subdivision Map which is attached for reference.

**Recommendation**

Staff is recommending that the Planning Commission evaluate the proposed projects architectural considerations, landscaping, site improvements and exterior lighting elements as described above and provide initial commentary to the applicant regarding the proposed design. No formal action will be taken at this juncture.

**Attachments:**

- Elevations
- Shaunessey Map (R-2 Lots Highlighted)

# Shaunessy Village



# Shaunessy Village Included Features



## **INTERIOR FEATURES:**

-Abundant energy efficient dual pane low E windows with white vinyl frames allow for more natural light and ventilation while keeping out the sun's heat and harmful ultra violet ray.

-Raised six panel interior doors with brushed nickel hardware.

-Custom 3 1/4-inch baseboards and casings add a finished touch.

-17 x 17 Esmer ceramic tile flooring in kitchen and entryway

-12'x 16'Armstrong vinyl flooring in bathrooms and laundry room.

-Living room and master bedroom pre-wired for cable television.

-Bathrooms feature cultured marble countertops with integrated sink and fiberglass showers and tubs.

-Moen fixtures and accessories in the bathrooms and kitchen.

-Interior laundry room with electric hook ups.

-Fire suppression system throughout plan along with combination smoke and carbon monoxide detectors.

-Two car garage with sectional roll up raised panel doors and sheet rock interior walls.

-9 ft ceilings.

## **EXTERIOR FEATURES:**

-Beautifully themed exteriors with architecturally selected color palettes with varied stucco finishes.

-Durable and fire resistant IKO composite shingle roof.

-Painted and curved fascia rain and roof gutters

-Front yard landscaping with automatic drip irrigation system.

-Raised six panel fiberglass front doors.

-Weatherproof exterior outlets.

## **BEAUTIFUL CHEF INSPIRED KITCHEN:**

-Gourmet kitchen with abundant European hinged cabinets of plenty of countertop space.

-Granite counters with full radius bull nose edges and 6-inch backsplash.

-Double compartment stainless steel kitchen sink with disposal.

-Pre-plumbed for refrigerator icemaker connection.

-Energy efficient GE appliances including freestanding gas range and oven built in microwave and multicycle dishwasher.

## **INNOVATIVE AND EFFICIENT AMENITIES AND DESIGNS**

-Low VOC paint that provides improved air quality better for your home and the environment.

-Tankless water heater.

-Highly efficient central heating and air-conditioning system.

-Designer selected energy efficient chrome lighting and plumbing fixtures in bedrooms and baths Honeywell programmable digital thermostat.



All plans depicted with optional S-Tile  
Roof, Stone Veneer, and Garage  
Coach Lights 1380 A



All plans depicted with optional S-Tile Roof, Stone Veneer, and Garage Coach Lights 1380 B



All plans depicted with optional S-Tile  
Roof, Stone Veneer, and Garage  
Coach Lights 1380 C



All plans depicted with optional S-Tile Roof, Stone Veneer, and Garage Coach Lights 1386 A



All plans depicted with optional S-Tile  
Roof, Stone Veneer, and Garage  
Coach Lights 1386 B



All plans depicted with optional S-Tile  
Roof, Stone Veneer, and Garage  
Coach Lights 1386 C



All plans depicted with optional S-Tile  
Roof, Stone Veneer, and Garage  
Coach Lights 1435 A



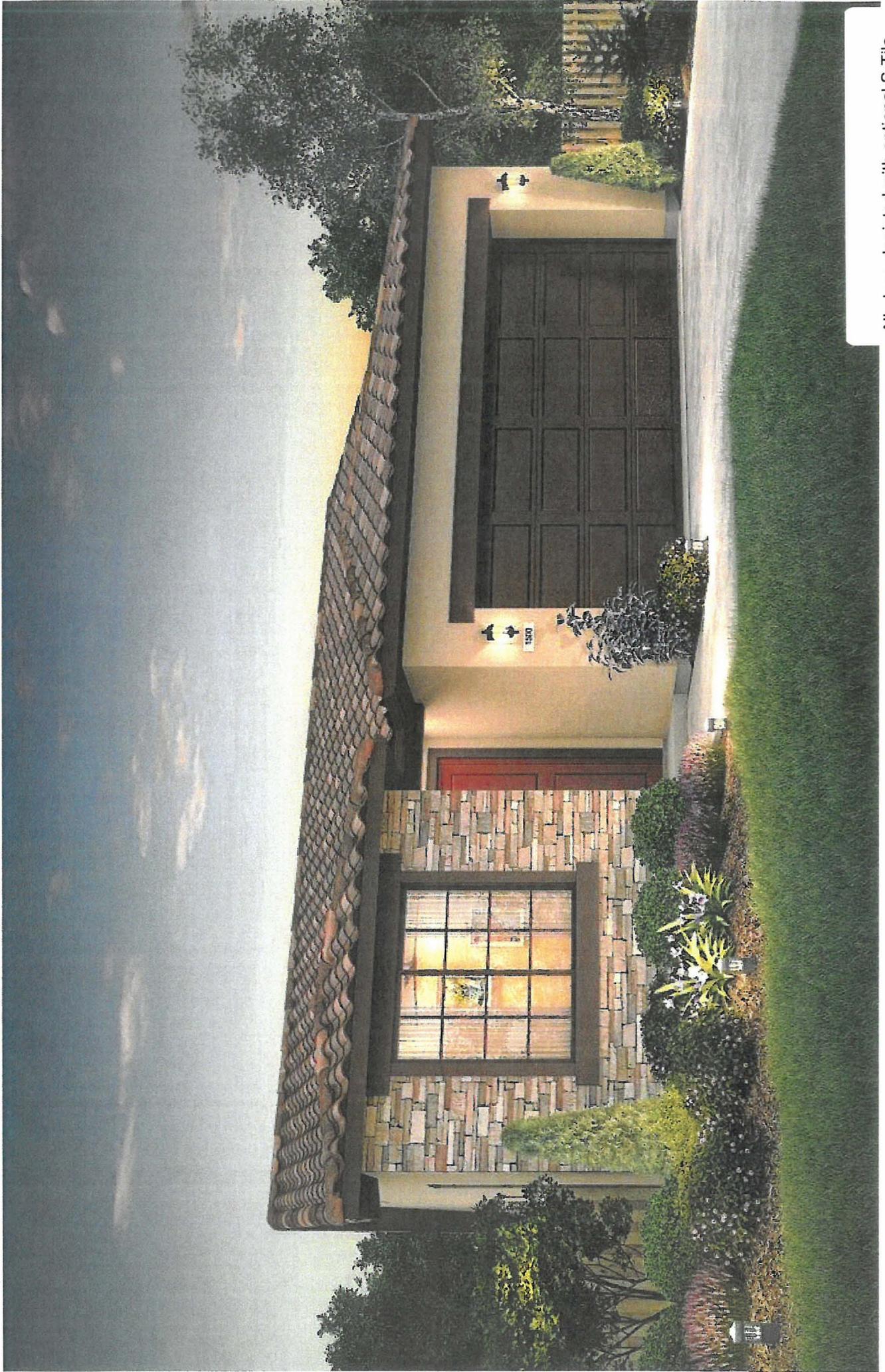
All plans depicted with optional S-Tile  
Roof, Stone Veneer, and Garage  
Coach Lights 1435 B



All plans depicted with optional S-Tile  
Roof, Stone Veneer, and Garage  
Coach Lights 1435 C



All plans depicted with optional S-Tile Roof, Stone Veneer, and Garage Coach Lights 1500 A



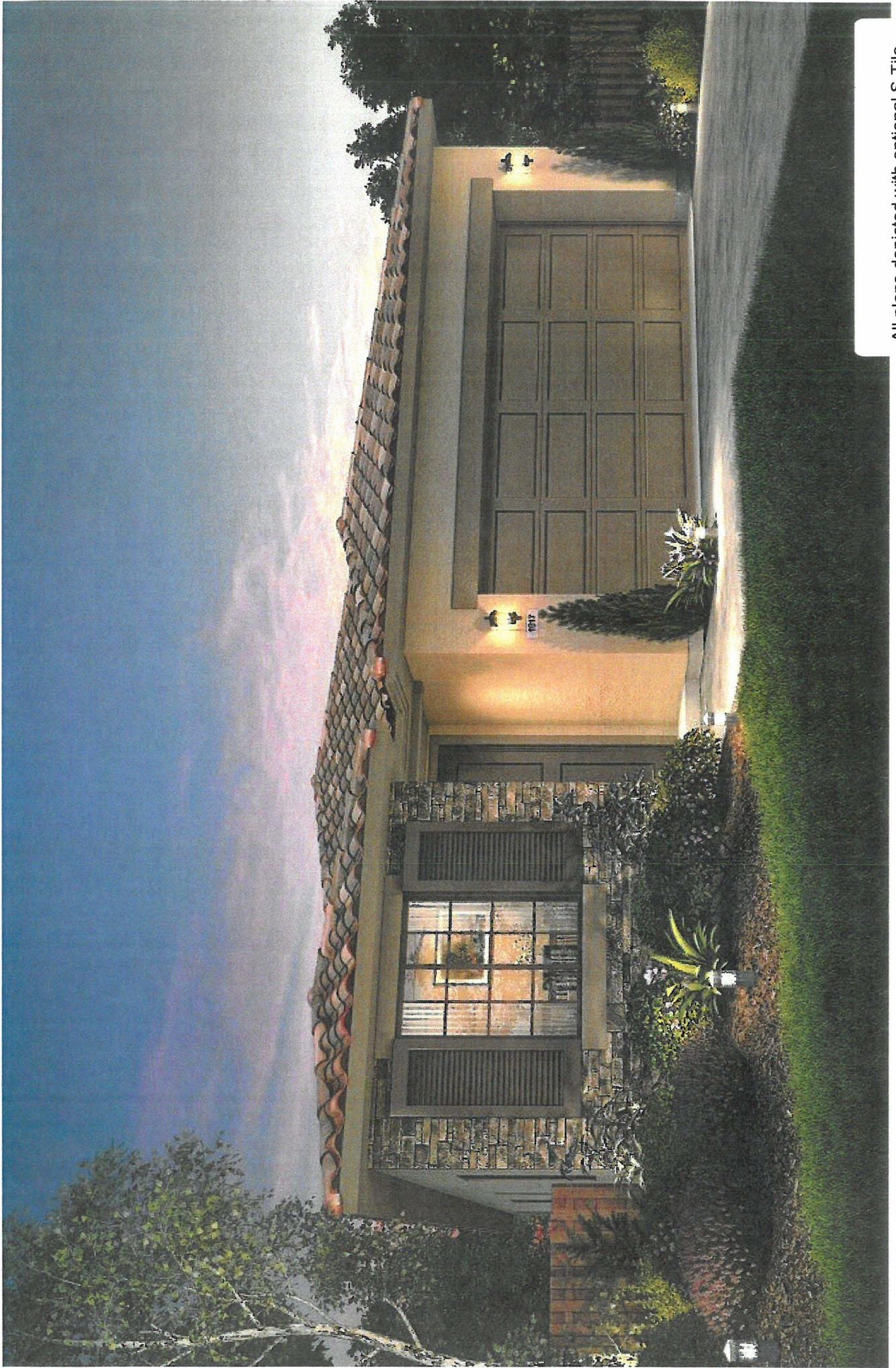
All plans depicted with optional S-Tile Roof, Stone Veneer, and Garage Coach Lights 1500 B



All plans depicted with optional S-Tile  
Roof, Stone Veneer, and Garage  
Coach Lights 1500 C



All plans depicted with optional S-Tile  
Roof, Stone Veneer, and Garage  
Coach Lights 1617 A



All plans depicted with optional S-Tile  
Roof, Stone Veneer, and Garage  
Coach Lights 1617 B



All plans depicted with optional S-Tile  
Roof, Stone Veneer, and Garage  
Coach Lights 1617 C



All plans depicted with optional S-Tile  
Roof, Stone Veneer, and Garage  
Coach Lights 1620 A



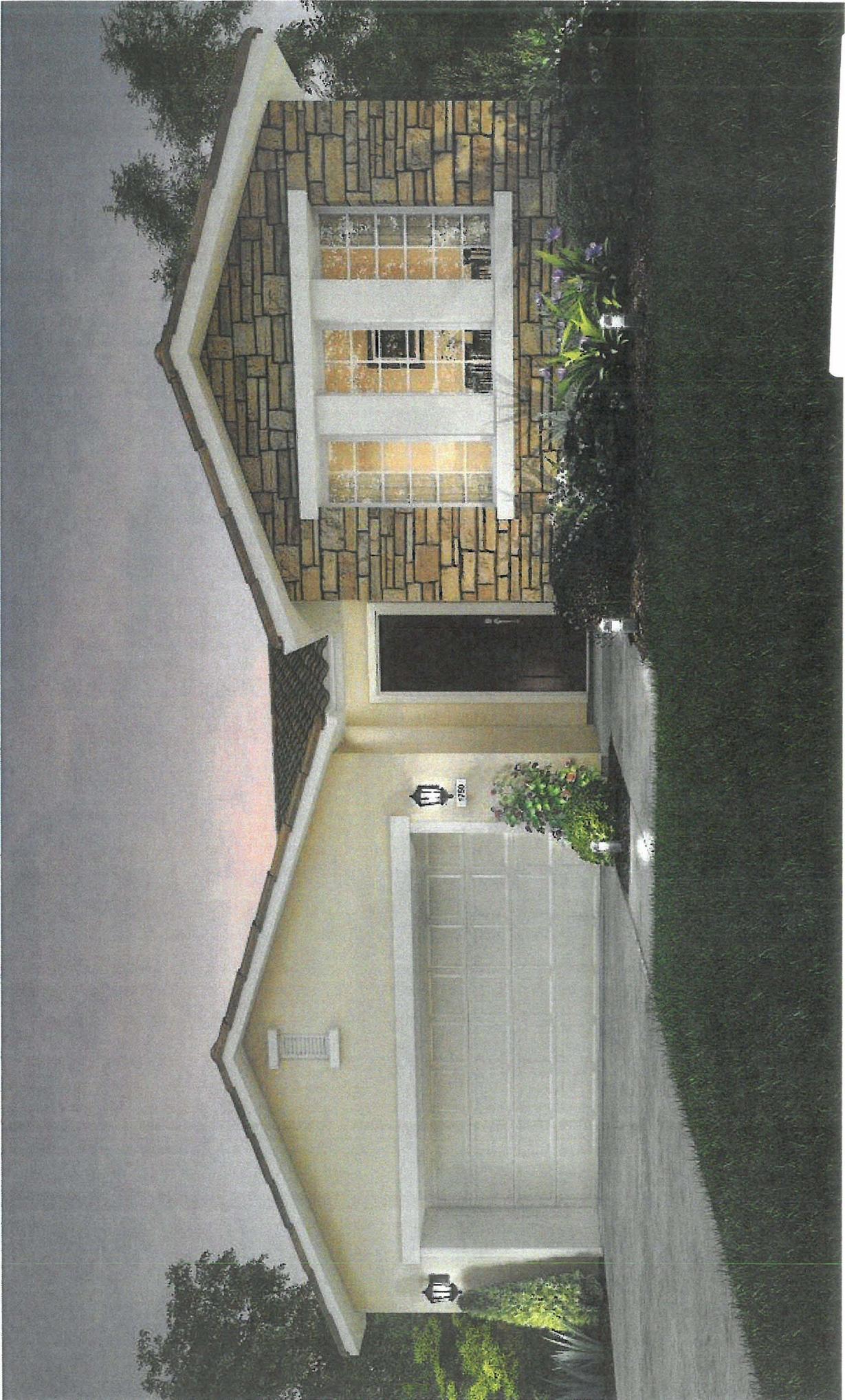
All plans depicted with optional S-Tile  
Roof, Stone Veneer, and Garage  
Coach Lights 1620 B



All plans depicted with optional S-Tile  
Roof, Stone Veneer, and Garage  
Coach Lights 1620 C



All plans depicted with optional S-Tile  
Roof, Stone Veneer, and Garage  
Coach Lights 1750 A



All plans depicted with optional S-Tile  
Roof, Stone Veneer, and Garage  
Coach Lights 1750 B



All plans depicted with optional S-Tile  
Roof, Stone Veneer, and Garage  
Coach Lights 1750 C





**LEGEND**

	EXISTING	PROPOSED
BOUNDARY LINE	---	---
CENTERLINE	---	---
RIGHT-OF-WAY	---	---
PARCEL LINE	---	---
CURB, GUTTER AND SIDEWALK	---	---
EDGE OF PAVEMENT	---	---
MASONRY WALL	N/A	---
OVER HEAD ELECTRICAL	---	N/A
ELECTRICAL (PUBLIC)	---	---
GAS LINE	---	N/A
DIRECTION OF FLOW	---	---
CONTOURS	---	---
FENCE (CHAINLINK OR WYCK)	---	---
SIGN	---	---
SERVICE POLE	---	N/A



NO.	REVISIONS	DATE	DESCRIPTION

**DIMENSION PLAN**  
**TENTATIVE SUBDIVISION MAP**  
**SHAUNESSY VILLAGE SUBDIVISION**  
**LOS ANGELES, CALIFORNIA**



JOB NO. 21-2118
DATE: 07/17/2019
CALIF. LICENSE NO. 51318
PROJECT NO. 21-2118
DRAWING: P101
SCALE: AS SHOWN
DATE: 07/17/2019
BY: [Signature]
CHECKED: [Signature]
SHEET NUMBER

**TM2.1**

