



Planning Commission Agenda

Meeting of July 20, 2015
Council Chambers, Civic Center
1243 National City Boulevard
National City, CA 91950

Welcome to the Planning Commission meeting. The National City Planning Commission conducts its meeting in the interest of community benefit. Your participation is helpful. These proceedings are video recorded.

Roll Call

Pledge of Allegiance by Commissioner Baca

Approval of Minutes

1. Approval of minutes from the Meeting of June 1, 2015

Approval of Agenda

2. Approval of Agenda for the Meeting on July 20, 2015.

ORAL COMMUNICATIONS (3 MINUTE TIME LIMIT).

NOTE: Under State law, items requiring Commission action must be brought back on a subsequent agenda unless they are of a demonstrated emergency or urgent nature.



The Planning Commission requests that all cellphones, pagers, and/or smart devices be turned off during the meeting.

Upon request, this agenda can be made available in appropriate alternative formats to persons with a disability in compliance with the Americans with Disabilities Act. Please contact the Planning Department at (619) 336-4310 to request a disability-related modification or accommodation. Notification 24 hours prior to the meeting will enable the City to make reasonable arrangements to ensure accessibility to this meeting.

PRESENTATIONS

PUBLIC HEARINGS

3. Zone Variance to allow a parking space in the front yard setback for a single-family home located at 1926 "E" Avenue (Case File No: 2015-05 Z)
4. Resolution 2015-12 taking action on a Zone Variance to allow a parking space in the front yard setback for a single-family home located at 1926 "E" Avenue (Case File No: 2015-05 Z)
5. Conditional Use Permit for the expansion of the existing area approved for beer and wine sales at Royal Mandarin Restaurant located at 1132 East Plaza Blvd., Suite 205-208 (Case File No.: 2015-09 CUP)
6. Resolution 2015-13 taking action on a Conditional Use Permit for the expansion of the existing area approved for beer and wine sales at Royal Mandarin Restaurant located at 1132 East Plaza Blvd., Suite 205-208 (Case File No.: 2015-09 CUP)
7. Tentative Parcel Map for the subdivision of one lot into two at 1305 East 17th Street (Case File No.: 2015-12 LS)
8. Resolution 2015-14 taking action on a Tentative Parcel Map for the subdivision of one lot into two at 1305 East 17th Street (Case File No.: 2015-12 LS)

OTHER BUSINESS

9. Appeal of a Code Enforcement Violation for a property located at 105 East 8th Street. (Case File No. 2015-14 APPEAL)
10. Resolution 2015-15 taking action on an Appeal of a Code Enforcement Violation for a property located at 105 East 8th Street. (Case File No. 2015-14 APPEAL)

STAFF REPORTS

Deputy City Attorney

Executive Director

Principal Planners

Commissioners

Chairperson

ADJOURNMENT

Adjournment to next regularly scheduled meeting on August 3, 2015



Planning Commission Minutes

Meeting of June 1, 2015
Planning Commission Meeting
City Council Chambers, Civic Center
1243 National City Boulevard
National City, CA 91950

These minutes have been abbreviated. Video recordings of the full proceedings are on file and available to the public.

Agenda Items

The meeting was called to order by Chair Bush at 6:01 p.m.

Roll Call

Commissioners Present: Alvarado, Baca, Bush, Flores, Garcia, Yamane. Absent: DelaPaz.

Staff Also Present: Jennifer Knight, Deputy City Attorney; Brad Raulston, Executive Director; Martin Reeder, Principal Planner; Raymond Pe, Principal Planner; Mike Dalla, City Clerk; Mike Fellows, Planning Technician.

Pledge of Allegiance Presented by Commissioner Yamane

Approval of Minutes

1. Approval of Minutes of the Meeting held on May 4, 2015.

Motion by Baca, 2nd by Alvarado to approve the Minutes for the Regular Meeting held on May 4, 2015.

Motion carried by the following vote:

Ayes: Alvarado, Baca, Bush, Flores, Garcia, Yamane

Absent: DelaPaz

Approval of Agenda

2. Approval of Agenda for the Meeting on June 1, 2015.

Motion by Flores, 2nd by Yamane to approve the Agenda for the meeting of June 1, 2015.

Motion carried by the following vote:

Ayes: Alvarado, Baca, Bush, DelaPaz, Flores, Garcia, Yamane

ORAL COMMUNICATION

None

PRESENTATIONS

Note: Commissioner DelaPaz arrived at 6:04 p.m.

PUBLIC HEARINGS

3. Zone Variance for a reduced rear yard setback related to a residential addition at 1624 South Lanoitan Avenue. (Case File No. 2015-11 Z).

Commissioners asked if there were any changes from the previous request (no), easements, and public notice.

Motion by Garcia, 2nd by Alvarado to close the public hearing.

Motion carried by the following vote:

Ayes: Alvarado, Baca, Bush, DelaPaz, Flores, Garcia, Yamane

4. Resolution 2015-08 taking action on a Zone Variance for a reduced rear yard setback related to a residential addition at 1624 South Lanoitan Avenue. (Case File No. 2015-11 Z)

Commissioner DelaPaz stated that she would like to see the applicant present.

Motion by Garcia, 2nd by Alvarado to approve Resolution 2015-08 taking action on a Zone Variance for a reduced rear yard setback related to a residential addition at 1624 South Lanoitan Avenue. (Case File No. 2015-11 Z)

Motion carried by the following vote:

Ayes: Alvarado, Baca, Bush, DelaPaz, Flores, Garcia, Yamane

5. Conditional Use Permit for a Boarding House to be located at 313 South Kenton Street. (Case File No. 2015-03 CUP).

Commissioners asked questions regarding Code definitions (transitional/supportive housing), building permits, neighborhood impacts, noticing, state requirements, parking, proposed activities, and conditions of approval.

Speakers: Vo Chau Trung, applicant – spoke in support, provided project details.
Jose Perez, architect – spoke in support. Answered Commissioner questions.
Julian Verdugo – spoke in opposition (parking, safety).
Isabelle Aguilera – spoke in opposition (parking, safety, traffic, commercial use).
Martha Renteria – spoke in opposition (noise, parking, safety, commercial use).
Sally Lopez – spoke in opposition (property values, noise, parking, public notice).

Note: Commissioner DelaPaz left the Council Chambers at 7:15 p.m. and did not return.

Norma Correa – spoke in opposition (noise, parking, traffic, emergency vehicles).
Ms. Martinez – spoke in opposition (noise, construction, same issues as others).
Marialisa Diaz – spoke in opposition (parking, public notice, commercial use).

Motion by Garcia, 2nd by Alvarado to close the public hearing.

Motion carried by the following vote:
Ayes: Alvarado, Baca, Bush, Flores, Garcia, Yamane
Absent: DelaPaz

6. Resolution 2015-09 taking action on a Conditional Use Permit for a Boarding House to be located at 313 South Kenton Street. (Case File No. 2015-03 CUP).

Motion by Yamane, 2nd by Alvarado to approve Resolution 2015-09 taking action on a Conditional Use Permit for a Boarding House to be located at 313 South Kenton Street. (Case File No. 2015-03 CUP)

Motion carried by the following vote:
Ayes: Alvarado, Baca, Flores, Garcia, Yamane
Nays: Bush
Absent: DelaPaz

Note: Chair Bush called for a five-minute recess. Meeting was reconvened at 7:38 p.m.

7. Conditional Use Permit for a drive-through fast food restaurant to be located at 401 Mile of Cars Way. (Case File No. 2015-01 CUP)

Commissioners asked questions regarding drive-through aisle turning radius, health impacts/proximity to WITOD project, applicant name, consideration of other uses (residential), conditions of approval, jobs/sales taxes, healthy food options, walkability affected by drive-through, and traffic impacts.

Speakers: Carolina Martinez – Environmental Health Coalition – requested continuance. Concerns over noticing, traffic, and safety impacts.
John Drachman, Greenlaw Partners – spoke in support.

Motion by Baca, 2nd by Yamane to close the public hearing.

Motion carried by the following vote:

Ayes: Alvarado, Baca, Flores, Garcia, Yamane

Nays: Bush

Absent: DelaPaz

8. Resolution 2015-10 taking action on a Conditional Use Permit for a drive-through fast food restaurant to be located at 401 Mile of Cars Way. (Case File No. 2015-01 CUP)

Motion by Baca, 2nd by Yamane to approve Resolution 2015-10 taking action on a Conditional Use Permit for a drive-through fast food restaurant to be located at 401 Mile of Cars Way. (Case File No. 2015-01 CUP)

Motion carried by the following vote:

Ayes: Alvarado, Baca, Flores, Yamane

Nays: Bush, Garcia

Absent: DelaPaz

9. Conditional Use Permit for San Diego County Administrative Offices and Support Services to be located at 401 Mile of Cars Way. (Case File No. 2015-10 CUP)

Commissioners asked questions regarding handicap parking spaces, conditions of approval, length of lease, business operations, existing facilities, transit options, and parking requirements.

Speakers: John Drachman, Greenlaw Partners – spoke in support.
Barbara Jiminez, County of San Diego – spoke in support.
Ellen Schmieding, County of San Diego – spoke in support

Motion by Yamane, 2nd by Alvarado to close the public hearing.

Motion carried by the following vote:

Ayes: Alvarado, Baca, Bush, Flores, Garcia, Yamane

Absent: DelaPaz

10. Resolution 2015-11 taking action on a Conditional Use Permit for San Diego County Administrative Offices and Support Services to be located at 401 Mile of Cars Way. (Case File No. 2015-10 CUP)

Motion by Yamane, 2nd by Alvarado to approve Resolution 2015-11 taking action on a Conditional Use Permit for San Diego County Administrative Offices and Support Services to be located at 401 Mile of Cars Way. (Case File No. 2015-10 CUP)

Motion carried by the following vote:

Ayes: Alvarado, Baca, Bush, Flores, Garcia, Yamane

Absent: DelaPaz

OTHER BUSINESS

11. Discussion regarding Planning Commission summer recess.

Motion by Yamane, 2nd by Baca to dispense with the regular meeting of June 15, 2015.

Motion carried by the following vote:

Ayes: Alvarado, Baca, Bush, Flores, Garcia, Yamane

Absent: DelaPaz

STAFF REPORTS

Deputy City Attorney – No report.

Executive Director – Budget workshop. Thanks to City Clerk Michael Dalla and Planning Technician Michael Fellows for staffing meeting.

Principal Planner – No report.

Commissioners:

Garcia –CRP award (SDAPA).

Yamane – 117th Anniversary of Philippine Independence event.

Flores – No report.

Bush – Formation of Health Commission.

Baca: No report.

Alvarado: Thanks to City Clerk and Planning Tech.

Adjournment at 8:57 p.m. to next meeting scheduled for July 20, 2015 at 6:00 pm.

CHAIRPERSON



CITY OF NATIONAL CITY - PLANNING DEPARTMENT
1243 NATIONAL CITY BLVD., NATIONAL CITY, CA 91950

PLANNING COMMISSION STAFF REPORT

Title: PUBLIC HEARING - ZONE VARIANCE TO ALLOW A PARKING SPACE IN THE FRONT YARD SETBACK FOR A SINGLE-FAMILY HOME LOCATED AT 1926 "E" AVENUE.

Case File No.: 2015-05 Z

Location: West side of "E" Avenue north of 20th Street

Assessor's Parcel No.: 560-251-09

Staff Report By: Martin Reeder, AICP – Principal Planner

Applicant: Victor Castillo

Owner: Erick Diaz

Zoning Designation: Very High Density Multi-Unit Residential (RM-3)

Adjacent Land Use/Zoning:

- North:** Single/multi-unit residential use / RM-3
- East:** Single/multi-unit residential use across E Ave. / RM-3
- South:** Single/multi-unit residential use across 20th St. / RS-2 (Small Lot Residential)
- West:** Single and multi-unit residential use / RM-3

Environmental Review: Not a project per CEQA

Staff Recommendation: Approve

BACKGROUND

Site Characteristics

The 2,490 square-foot lot is located on the west side of "E" Avenue, north of East 20th Street in the RM-3 (Very High Density Multi-Unit Residential) zone. The property is roughly 33 feet wide and 77 feet deep. The property is developed with a 916 square-foot three bedroom house, which spans the entire lot. The existing house is built at or close to the side setbacks – five feet on the south and less on the north. The home has a front setback of almost 17 feet. There is no covered or other parking on site.

The front of the lot is currently used to store a vehicle, including a temporary vehicle cover. Vehicles have to jump the curb in order to access the property and the access gate swings outward over the sidewalk (public right-of-way). All these things are prohibited by the Municipal Code.

Proposed Use

Since the property has no parking on site, the applicant is requesting to be able to park in their front yard. There is no possibility of vehicular access to the rear of the site and street parking is at a premium at this location, although there is no available permit parking district in this area. Parking in the front yard would necessitate a driveway and curb cut to be installed.

Analysis

The Land Use Code (LUC) prohibits parking in a street setback – the front yard setback in this case. The required front yard setback in the RM-3 zone is 10 feet. The subject property has almost 17 feet between the house and the property line; therefore, there is only 7 feet for a parking space where 18 feet is required (the minimum dimensions for a standard parking space are 9 feet by 18 feet).

The property has a rough dimension of 33 by 77 feet and a size of approximately 2,500 square feet. The minimum lot width required by the Subdivision Ordinance is 50 feet and the minimum lot size required by the Land Use Code is 5,000 square feet. Therefore, the property is restricted due to its size. Almost all other lots on this street in the same block exceed the minimum lot size. The next smallest lot is 5,000 square feet in size. Another contributing factor is the location of the existing house, which spans almost the entirety of the lot. The reduced north side setback was approved through a building permit many years ago. The south side setback is approximately five feet, the minimum required in the RM-3 zone.

Three specific findings must be made in order to approve a Zone Variance request. The first is that the lot is affected by special circumstances, including size, shape, or

topography, that deprive the lot of the ability to develop per the LUC as others in the area have. In this case the property is less than half the minimum lot size required in the zone, which restricts the normal buildable area afforded standard-shaped lots. Given the location of the existing house, there is no room to locate a parking area – covered or otherwise – on the lot without encroaching into the required front yard setback.

The second finding is that granting of the Variance does not constitute a grant of special privileges inconsistent with the limitations upon other properties in the vicinity and zone in which such property is situated. In this case there are multiple properties in the same neighborhood in the same zone which have parking areas in the front of lot. Being that this is a multiple-family residential zone, several developments have parking areas directly adjacent to the sidewalk.

The third finding is that the Variance does not authorize a use that is not otherwise allowed in the zone. In this case a single-family home is required to have at least two parking spaces per the Land Use Code, where there are none. Parking in and of itself is required and allowed in all zones throughout the City.

Conditions of Approval

Comments were received from the Engineering Department related to drainage, visibility, and permitting for a new driveway. The comments are included as Conditions of Approval. A condition is also included that requires the removal of temporary structures (vehicle cover/awning), which are not permitted by the Land Use Code.

Approval of this Zone Variance would not result in any construction other than a driveway apron and fencing, items that would either not require a permit (fencing) or would normally be allowed anyway (driveway apron). As such, this proposal is not considered a project under the California Environmental Quality Act (CEQA). Furthermore, approval of the Variance would ensure that existing violations of the Municipal Code (curb jumping, right-of-way encroachment) are abated.

Summary

Because of special circumstances applicable to the property, including the small size of the lot, there is no room to install a parking space on the property without encroaching into the required front yard setback. In addition, allowing parking on site and in the front yard will alleviate on-street parking issues. Granting of the Variance would not be a privilege inconsistent with other properties in the area as there are multiple lots in this block with front yard parking. The proposal is consistent with all required findings of approval and would be consistent with all other regulations.

OPTIONS

1. Approve 2015-05 Z subject to the conditions listed below, based on attached findings; or
2. Deny 2015-05 Z based on findings to be determined by the Planning Commission; or
3. Continue the item to a specific date in order to obtain additional information.

ATTACHMENTS

1. Recommended Findings for Approval
2. Recommended Conditions
3. Location Map
4. Public Hearing Notice (Sent to 45 property owners)
5. Site Photos
6. Applicant's Plans (Exhibit A, case file no. 2015-05 CUP, dated 3/19/2015)



MARTIN REEDER, AICP
Principal Planner

RECOMMENDED FINDINGS FOR APPROVAL

2015-05 Z, 1926 "E" Avenue

1. Because of special circumstances applicable to the property, including size, shape, or topography, the strict application of Title 18 of the Municipal Code (Zoning) deprives such property of privileges enjoyed by other properties in the vicinity and under the identical zone classification, since the property is less than half the minimum lot size required in the zone, which restricts the normal buildable area afforded standard-shaped lots, and given the location of the existing house, there is no room to locate a parking area – covered or otherwise – on the lot without encroaching into the required front yard setback.
2. The requested Variance is subject to such conditions which will assure that the adjustment authorized will not constitute a grant of special privileges inconsistent with the limitations upon other properties in the vicinity and zone in which such property is situated, since there are multiple properties in the same neighborhood in the same zone which have parking areas in the front of lot, and since conditions ensure that appropriate permits will be submitted for construction of the driveway to meet City standards.
3. The Variance does not authorize a use or activity which is not otherwise expressly authorized by the zoning regulations governing the parcel of property, since a single-family home is required to have at least two parking spaces per the Land Use Code, where there are none, and that parking in and of itself is required and allowed in all zones throughout the City.

RECOMMENDED CONDITIONS OF APPROVAL

2015-05 Z, 1926 "E" Avenue

General

1. This Zone Variance authorizes a parking space to be located in the front yard setback of single-family residential located at 1926 "E" Avenue. Plans submitted for approvals shall show the location of the parking space in substantial conformance with Exhibit A, Case File No. 2015-05 CUP, dated 3/19/2015.
2. Within four (4) days of approval, pursuant to Fish and Game Code 711.4 and the California Code of Regulations, Title 14, Section 753.5, the applicant shall pay all necessary environmental filing fees for the San Diego County Clerk. **Checks shall be made payable to the County Clerk** and submitted to the National City Planning Department.
3. This permit shall become null and void if not exercised within one year after adoption of the Resolution of approval unless extended according to procedures specified in Section 18.12.040 of the Municipal Code.
4. Before this Zone Variance shall become effective, the applicant and the property owner both shall sign and have notarized an Acceptance Form, provided by the Planning Department, acknowledging and accepting all conditions imposed upon the approval of this permit. **Failure to return the signed and notarized Acceptance Form within 30 days of its receipt shall automatically terminate the Zone Variance.** The applicant shall also submit evidence to the satisfaction of the Planning Department that a Notice of Restriction on Real Property is recorded with the County Recorder. The applicant shall pay necessary recording fees to the County. The Notice of Restriction shall provide information that conditions imposed by approval of the Zone Variance are binding on all present or future interest holders or estate holders of the property. The Notice of Restriction shall be approved as to form by the City Attorney and signed by the Executive Director prior to recordation.

Engineering

5. If the existing driveway is reconstructed, drainage shall be directed away from the foundation of the existing structure.
6. The maximum height of fences and walls within the front yard setback is four feet. The height of existing fencing or walls that exceed this dimension shall be reduced to four feet less for visibility and pedestrian safety purposes.
7. The existing gate used for vehicular access swings out across the sidewalk, which is prohibited. The gate shall be reconfigured or reconstructed so that it does not swing into the public right-of-way.
8. A driveway permit shall be obtained from the National City Engineering Division. The cost is \$297.
9. A plan review and inspection fee of \$500 shall be posted with the National City Engineering Division.

10. All vehicular access to the property shall utilize a City-approved driveway apron and driveway. Driving a vehicle over the curb to access the property is a violation of National City Municipal Code Section 7.18.130, violation of which may result in citations or other legal remedies.

Planning

11. Temporary vehicle covers or other similar structures are not permitted. Any existing structures of this kind shall be removed immediately.

1926 E AVE



Disclaimer: Map and parcel data are believed to be accurate, but accuracy is not guaranteed. This is not a legal document and should not be substituted for a title search, appraisal, survey or zoning verification.

1 inch = 57 feet
7/8/2015



CITY OF NATIONAL CITY - PLANNING DEPARTMENT
1243 NATIONAL CITY BLVD., NATIONAL CITY, CA 91950

NOTICE OF PUBLIC HEARING

ZONE VARIANCE TO ALLOW A PARKING SPACE IN THE FRONT YARD SETBACK
FOR A SINGLE-FAMILY HOME LOCATED AT 1926 "E" AVENUE.

CASE FILE NO.: 2015-05 Z

APN: 560-251-09


The National City Planning Commission will hold a public hearing after the hour of 6:00 p.m. **Monday, July 20, 2015**, in the City Council Chambers, Civic Center, 1243 National City Boulevard, National City, California, on the proposed request. (Applicant: Victor Castillo)

The applicant is requesting to be able to park in their front yard, which would necessitate a driveway and curb cut to be installed. There is no possibility of vehicular access to the rear of the site.

Information is available for review at the City's Planning Division, Civic Center. Members of the public are invited to comment. Written comments should be received by the Planning Department on or before 12:00 p.m., **July 20, 2015**, who can be contacted at 619-336-4310 or planning@nationalcityca.gov

If you challenge the nature of the proposed action 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.

NATIONAL CITY PLANNING


BRAD RAULSTON
Executive Director

2015-05 Z – 1926 "E" Ave. – Site Photos



Front of existing house looking west



Fencing along east property line looking southwest

JOB NAME: CONDITIONAL USE PERMIT FOR
Mt. ERIC DIAZ
1926 E. AVENUE
NATIONAL CITY, CA 91950

DATE: _____
DRAWN BY: _____
JOB NO: _____

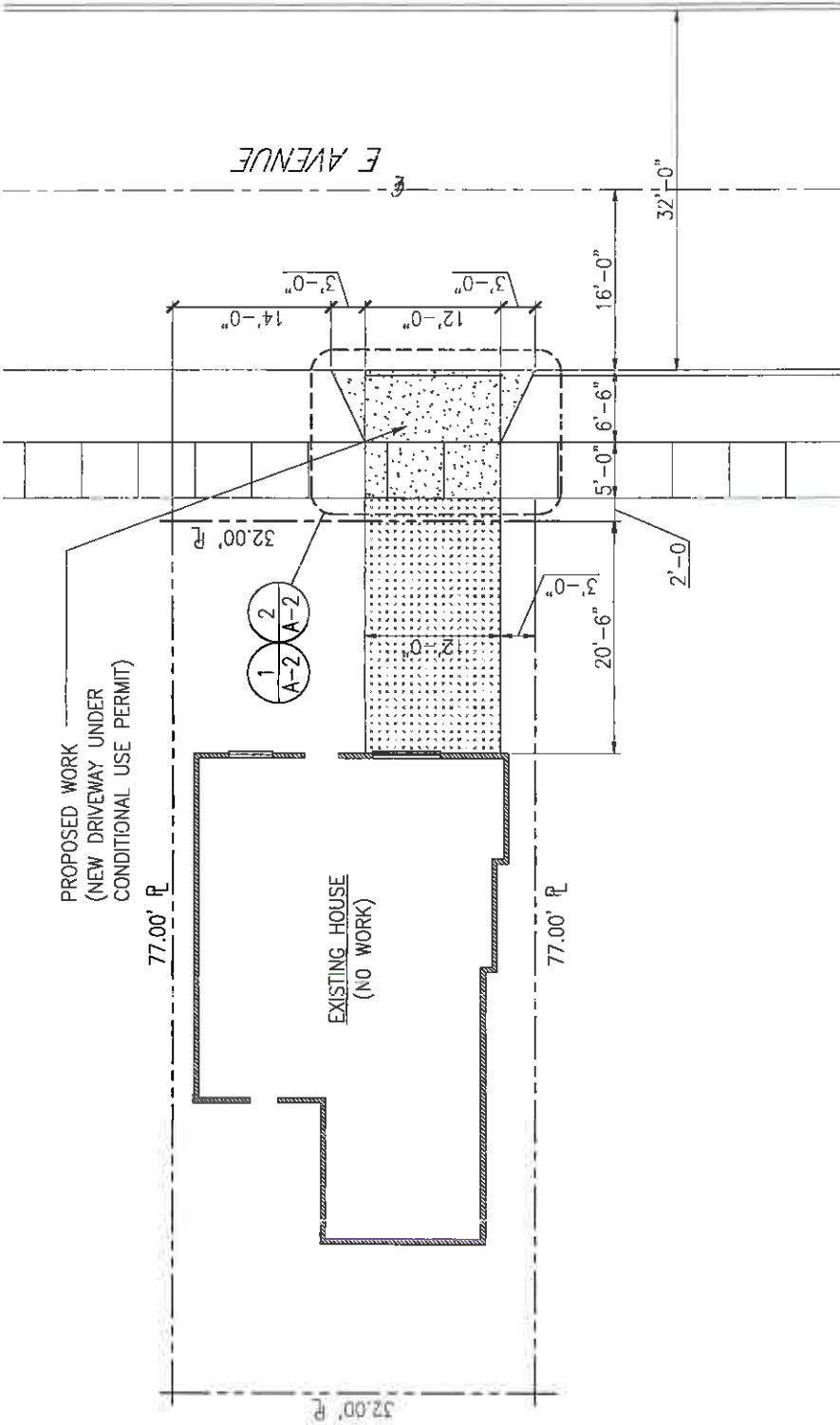
A-1

REVISIONS
DATE NOTE



SITE PLAN

SCALE: 1" = 10'-0"



RESOLUTION 2015-12

A RESOLUTION OF THE PLANNING COMMISSION
OF THE CITY OF NATIONAL CITY, CALIFORNIA,
APPROVING A ZONE VARIANCE TO ALLOW A PARKING SPACE
IN THE FRONT YARD SETBACK FOR A SINGLE-FAMILY HOME
LOCATED AT 1926 "E" AVENUE.
APPLICANT: VICTOR CASTILLO
CASE FILE NO. 2015-05 Z

WHEREAS, the Planning Commission of the City of National City considered a Zone Variance to allow a parking space in the front yard setback for a single-family home located at 1926 "E" Avenue at a duly advertised public hearing held on July 20, 2015, at which time oral and documentary evidence was presented; and,

WHEREAS, at said public hearings the Planning Commission considered the staff report contained in Case File No. 2015-05 Z, which is maintained by the City and incorporated herein by reference along with evidence and testimony at said hearing; and,

WHEREAS, this action is taken pursuant to all applicable procedures required by State law and City law; and,

WHEREAS, the action recited herein is found to be essential for the preservation of public health, safety, and general welfare.

NOW, THEREFORE, BE IT RESOLVED by the Planning Commission of the City of National City, California, that the testimony and evidence presented to the Planning Commission at the public hearing held on July 20, 2015, support the following findings:

1. Because of special circumstances applicable to the property, including size, shape, or topography, the strict application of Title 18 of the Municipal Code (Zoning) deprives such property of privileges enjoyed by other properties in the vicinity and under the identical zone classification, since the property is less than half the minimum lot size required in the zone, which restricts the normal buildable area afforded standard-shaped lots, and given the location of the existing house, there is no room to locate a parking area – covered or otherwise – on the lot without encroaching into the required front yard setback.
2. The requested Variance is subject to such conditions which will assure that the adjustment authorized will not constitute a grant of special privileges inconsistent with the limitations upon other properties in the vicinity and zone in which such property is situated, since there are multiple properties in the same neighborhood in the same zone which have parking areas in the front of lot, and since conditions

ensure that appropriate permits will be submitted for construction of the driveway to meet City standards.

3. The Variance does not authorize a use or activity which is not otherwise expressly authorized by the zoning regulations governing the parcel of property, since a single-family home is required to have at least two parking spaces per the Land Use Code, where there are none, and that parking in and of itself is required and allowed in all zones throughout the City.

BE IT FURTHER RESOLVED that the application for Zone Variance is approved subject to the following conditions:

General

1. This Zone Variance authorizes a parking space to be located in the front yard setback of single-family residential located at 1926 "E" Avenue. Plans submitted for approvals shall show the location of the parking space in substantial conformance with Exhibit A, Case File No. 2015-05 CUP, dated 3/19/2015.
2. Within four (4) days of approval, pursuant to Fish and Game Code 711.4 and the California Code of Regulations, Title 14, Section 753.5, the applicant shall pay all necessary environmental filing fees for the San Diego County Clerk. **Checks shall be made payable to the County Clerk** and submitted to the National City Planning Department.
3. This permit shall become null and void if not exercised within one year after adoption of the Resolution of approval unless extended according to procedures specified in Section 18.12.040 of the Municipal Code.
4. Before this Zone Variance shall become effective, the applicant and the property owner both shall sign and have notarized an Acceptance Form, provided by the Planning Department, acknowledging and accepting all conditions imposed upon the approval of this permit. **Failure to return the signed and notarized Acceptance Form within 30 days of its receipt shall automatically terminate the Zone Variance.** The applicant shall also submit evidence to the satisfaction of the Planning Department that a Notice of Restriction on Real Property is recorded with the County Recorder. The applicant shall pay necessary recording fees to the County. The Notice of Restriction shall provide information that conditions imposed by approval of the Zone Variance are binding on all present or future interest holders or estate holders of the property. The Notice of Restriction shall be approved as to form by the City Attorney and signed by the Executive Director prior to recordation.

Engineering

5. If the existing driveway is reconstructed, drainage shall be directed away from the foundation of the existing structure.
6. The maximum height of fences and walls within the front yard setback is four feet. The height of existing fencing or walls that exceed this dimension shall be reduced to four feet less for visibility and pedestrian safety purposes.
7. The existing gate used for vehicular access swings out across the sidewalk, which is prohibited. The gate shall be reconfigured or reconstructed so that it does not swing into the public right-of-way.

8. A driveway permit shall be obtained from the National City Engineering Division. The cost is \$297.
9. A plan review and inspection fee of \$500 shall be posted with the National City Engineering Division.
10. All vehicular access to the property shall utilize a City-approved driveway apron and driveway. Driving a vehicle over the curb to access the property is a violation of National City Municipal Code Section 7.18.130, violation of which may result in citations or other legal remedies.

Planning

11. Temporary vehicle covers or other similar structures are not permitted. Any existing structures of this kind shall be removed immediately.

BE IT FURTHER RESOLVED that copies of this Resolution be transmitted forthwith to the applicant and to the City Council.

BE IT FINALLY RESOLVED that this Resolution shall become effective and final on the day following the City Council meeting where the Planning Commission resolution is set for review, unless an appeal in writing is filed with the City Clerk prior to 5:00 p.m. on the day of that City Council meeting. The City Council may, at that meeting, appeal the decision of the Planning Commission and set the matter for public hearing.

CERTIFICATION:

This certifies that the Resolution was adopted by the Planning Commission at their meeting of July 20, 2015, by the following vote:

AYES:

NAYS:

ABSENT:

ABSTAIN:

CHAIRPERSON



CITY OF NATIONAL CITY - PLANNING DEPARTMENT
1243 NATIONAL CITY BLVD., NATIONAL CITY, CA 91950

PLANNING COMMISSION STAFF REPORT

Title: CONDITIONAL USE PERMIT FOR THE EXPANSION OF THE EXISTING AREA APPROVED FOR BEER AND WINE SALES AT ROYAL MANDARIN RESTAURANT LOCATED AT 1132 EAST PLAZA BLVD., SUITE 205-208.

Case File No.: 2015-09 CUP

Location: South side of Plaza Blvd and "N" Ave in South Bay Plaza

Assessor's Parcel No.: 556-590-58

Staff report by: Martin Reeder – Principal Planner

Applicant: Mario Woo

Property owner: South Bay Plaza LLC

**Combined General Plan/
Zoning designation:** MXD-2 (Major Mixed-Use District)

Adjacent land use/zoning:

North: Commercial across Plaza Blvd. / MXD-2

East: Commercial (Bay Plaza) across "L" Avenue / MXD-2

South: Residential / RS-2

West: Commercial (South Bay Plaza) / MXD-2

Environmental review: Categorically Exempt pursuant to Class 1, Section 15301 (Existing Facilities)

Staff Recommendation: Approve subject to Conditions of Approval

BACKGROUND

Site Characteristics

The project location is Royal Mandarin Restaurant at 1132 E. Plaza Blvd., in the Major Mixed-Use District (MXD-2) zone. The existing restaurant is approximately 2,200 square feet in size and is located within the South Bay Plaza shopping center. The area is mostly adjacent to other commercial uses including to the north across Plaza, and within South Bay Plaza Shopping Center to the east and west. Single-family residential uses are located to the south in the Single-Family Residential (RS-2) zone, atop a large embankment.

History

Royal Mandarin Restaurant was established in 1984, at which time the restaurant received an alcohol license for on-sale beer and wine from the California Department of Alcoholic Beverage Control (ABC), which was approved by the City through a Conditional Use Permit (CUP-1984-11).

Proposed Use

The applicant is proposing to expand the restaurant into an adjacent suite, adding 2,300 square feet of floor area. The applicant wishes to modify the existing CUP to allow beer and wine sales in the new addition. No change to the existing sales hours is proposed. The restaurant is open from 9:00 a.m. to 10:00 p.m. daily. No live entertainment exists or is proposed.

Analysis

Section 18.30.050 of the National City Land Use Code allows for on-site alcohol sales with an approved Conditional Use Permit (CUP). The expansion of the restaurant triggers the need for a CUP for alcohol sales in the additional area.

Community Meeting

Pursuant to Section 18.30.050 (C), a community meeting was held Wednesday, July 8, 2015 at 5:30 pm at the subject restaurant. A sign-in sheet, minutes, and meeting advertisement are attached. According to the sign-in sheet, two people were in attendance at the meeting, both of which are representatives of the Institute for Public Strategies. The applicants made a presentation related to the remodel of the restaurant. No objections were noted by the attendees of the community meeting.

Alcohol Sales Concentration/Location

Per ABC, there are currently eleven other on-sale permits issued in this census tract (117) besides Royal Mandarin Restaurant. These permits are:

Name	Address	License Type*
Trophy Lounge	999 National City Blvd.	48
Golden Chopsticks	1430 E. Plaza Blvd.	41
Thomas H. Crosby VFW	1401 Highland Ave.	52
Chuck E Cheese	1143 Highland Ave	41

Karina's	1705 Highland Ave.	41
Panda Palace	1105 E. Plaza Blvd.	41
Ginza Sushi	925 E. Plaza Blvd.	41
Lai Thai	1430 E. Plaza Blvd.	41
American Legion Post 255	35 E. 18 th St.	52
Wingstop	932 Highland Ave	41
Café La Maze	1441 Highland Ave.	47

- * Type 41 - On-Sale Beer and Wine for Bona Fide Public Eating Place
- Type 47 - On-Sale General for Bona Fide Public Eating Place
- Type 48 - On-Sale General for Public Premises
- Type 52 - Veterans' Club

Of the eleven other licenses, eight are restaurants. Two of the remaining licenses are private licenses (VFW and American Foreign Legion), and the last a bar. The subject use is consistent with other on-sale businesses, all of which are consistent with the MXD-2 zone. Golden Chopsticks underwent a similar enlargement in 2013, which also involved modifying an existing CUP for alcohol sales.

Census tract 117 includes the area of the City between East 8th and 18th Street, and between National City Blvd. and Palm Avenue. The attached census tract map shows the location of the subject tract. ABC recommends a total of seven on-sale alcohol permits be issued in this census tract, where twelve exist.

Chapter 18.030.050 (D) requires a 660-foot distance from sensitive uses such as schools. However, restaurants with greater than 30% of their area devoted to seating (as applies in this case) are exempt from these distance requirements. There are no schools or churches within 660 ft. The nearest school is Central School, an elementary school located over 1,000 feet away.

Police Department comments

Crime statistics provided by the Police Department (PD) indicate that the reporting area (Beat 21) had a 2014 crime rate of 416.2%, above the 120% considered to be a high crime area.

Consistent with recent policy, PD provided a Risk Assessment report on the property. The assessment assigns points based on the type of business, license concentration, and calls for service (among others) and ranks the business according to potential risk (low, medium, or high). In this case, Royal Mandarin received 11 points, which would indicate a low risk. The Risk Assessment is attached.

Institute for Public Strategies (IPS) comments

IPS did not have concerns related to the expansion of the existing business, although the license over-concentration in the census tract was mentioned. No sensitive areas or uses were noted. IPS recommended that existing Conditions of Approval are maintained and that staff and management attend Responsible Beverage Sales and Service training. Both are included as new Conditions of Approval.

Conditions of Approval

Standard Conditions of Approval have been included with this permit, as well as conditions specific to on-sale alcohol sales per Council policy (alcohol incidental to food, hours of operation, RBSS training, etc.). Engineering and Fire Department comments have also been included as conditions. In addition, all previous conditions of approval stated in City Council Resolution 14,442 would still be in effect.

Traffic

The expansion is into an existing commercial space, which was already analyzed for traffic impacts when it was constructed. In addition, because the sale of alcohol would be accessory to the sale of food, no measurable increase in traffic is expected. Plaza Blvd. in this location has a level of service (LOS) of B on a scale of A to F. The arterial street has a capacity of 40,000 average daily trips (ADT). The current ADT is 17,300; therefore, it is not expected that alcohol sales would result in an increase in ADT such that the LOS would be affected. 2030 numbers, as stated in the General Plan, continue to show an LOS of B, with an ADT amount of 20,300. Furthermore, there is no stated trip generation rate for adding alcohol sales as an accessory use to a restaurant.

CEQA

The project is not considered a project under CEQA (California Environmental Quality Act); no new development is proposed and the proposed use is identical to other commercial uses, which are permitted by right in the mixed-use zones. Given that there is no calculable increase in traffic and no other impacts are anticipated, staff is of the opinion that the project would not result in any physical changes to the environment.

Summary

Royal Mandarin Restaurant has been in business at this location and serving beer and wine as an accessory use since 1984. No concerns have been noted regarding business operations or associated crime in that timeframe. Although the census tract in which the restaurant is located is over-concentrated with regard to on-sale alcohol licenses, no additional licenses are being added, solely a modification to the existing ABC license.

OPTIONS

1. Approve 2015-09 CUP subject to the conditions listed below, based on attached findings; or
2. Deny 2015-09 CUP based on findings to be determined by the Planning Commission; or
3. Continue the item in order to obtain additional information.

ATTACHMENTS

1. Recommended Findings for Approval
2. Recommended Conditions
3. Location Map
4. Census Tract Map and Police Beat Map
5. Community Meeting Information (Advertisement, sign-in sheet, and minutes)
6. Public Hearing Notice (Sent to 308 property owners and occupants)
7. Notice of Exemption
8. Site Photos
9. City Council Resolution 14,442
10. Applicant's Plans (Exhibit A, case file no. 2015-09 CUP, dated 4/23/2015)

A handwritten signature in blue ink, appearing to read "Martin Reeder", with a long horizontal flourish extending to the right.

MARTIN REEDER, AICP
Principal Planner

RECOMMENDED FINDINGS FOR APPROVAL

2015-09 CUP, 1132 E. Plaza Blvd.

1. That the proposed use is allowable within the applicable zoning district pursuant to a Conditional Use Permit and complies with all other applicable provisions of the Land Use Code, since alcohol sales for on-site consumption are a conditionally-allowed use in the Major Mixed-Use District Zone.
2. That the proposed use is consistent with the General Plan and any applicable specific plans, since alcohol sales are permitted, subject to a Conditional Use Permit, by the Land Use Code, which is consistent with the General Plan; and since alcohol sales for on-site consumption are a conditionally-allowed use in the Major Mixed-Use District Zone.
3. That the design, location, size, and operating characteristics of the proposed activity would be compatible with the existing and future land uses in the vicinity, since the proposed use is an accessory use to a proposed restaurant use in an existing commercial area and the sale of beer and wine is not expected to appreciably increase traffic on National City Blvd. based on the current capacity and traffic numbers.
4. That the site is physically suitable for the type, density, and intensity of use being proposed, including access, utilities, and the absence of physical constraints, since the proposed use is an existing accessory use to the restaurant use in an existing commercial area, and the 2,300 square-foot expansion of alcohol sales into an existing commercial suite is not expected to increase the demand for parking on the property.
5. Granting the permit would not constitute a nuisance or be injurious or detrimental to the public interest, health, safety, convenience, or welfare, or materially injurious to persons, property, or improvements in the vicinity and zone in which the property is located, since the proposed use will be compatible with other nearby businesses; and since the proposed use will be subject to conditions that limit the sale of alcohol and restrict the hours that it will be available.
6. That the proposed project has been reviewed in compliance with the California Environmental Quality Act, since staff has already determined that the proposed use is not a project per the Act.
7. That the proposed use is deemed essential and desirable to the public convenience and welfare, since it will contribute to the continued viability of a restaurant, an established and allowed use in the Major Mixed-Use District Zone.
8. That based on findings 1 through 7 above, public convenience and necessity will be served by a proposed use of the property for the retail sales of alcoholic beverages pursuant to law.

RECOMMENDED CONDITIONS OF APPROVAL

2015-09 CUP, 1132 E. Plaza Blvd.

General

1. This Conditional Use Permit authorizes the 2,300 square-foot expansion of an existing restaurant, with beer and wine sales, located at 1132 East Plaza Boulevard. Unless specifically modified by this resolution or subsequent Codes, all previous Conditions of Approval as stated in City Council Resolution 14,442 are still in effect. Plans submitted for permits associated with this project shall conform with Exhibit A, case file no. 2015-09 CUP, dated 4/23/2015.
2. Within four (4) days of approval, pursuant to Fish and Game Code 711.4 and the California Code of Regulations, Title 14, Section 753.5, the applicant shall pay all necessary environmental filing fees for the San Diego County Clerk. Checks shall be made payable to the County Clerk and submitted to the National City Planning Department.
3. This permit shall become null and void if not exercised within one year after adoption of the Resolution of approval unless extended according to procedures specified in the Municipal Code.
4. This permit shall expire if the use authorized by this resolution is discontinued for a period of 12 months or longer. This permit may also be revoked, pursuant to provisions of the Land Use Code, if discontinued for any lesser period of time.
5. This Conditional Use Permit may be revoked if the operator is found to be in violation of Conditions of Approval.
6. Before this Conditional Use Permit shall become effective, the applicant and the property owner both shall sign and have notarized an Acceptance Form, provided by the Planning Department, acknowledging and accepting all conditions imposed upon the approval of this permit. Failure to return the signed and notarized Acceptance Form within 30 days of its receipt shall automatically terminate the Conditional Use Permit. The applicant shall also submit evidence to the satisfaction of the Executive Director that a Notice of Restriction on Real Property is recorded with the County Recorder. The applicant shall pay necessary recording fees to the County. The Notice of Restriction shall provide information that conditions imposed by approval of the Conditional Use Permit are binding on all present or future interest holders or estate holders of the property. The Notice of Restriction shall be approved as to form by the City Attorney and signed by the Executive Director prior to recordation.

Building

7. Plans submitted for tenant improvements must comply with the 2013 edition of the California Building, Electrical, Green, Plumbing, and Mechanical Codes.

Engineering

8. Plans submitted for tenant improvements shall show the location of existing and proposed grease traps.
9. Plans submitted for tenant improvements shall show the number of existing and proposed seats.

10. Additional sewer fees may be required for any additional seating being created by the tenant improvements.

Fire

11. Plans submitted for improvements must comply with the 2013 editions of the California Fire Code (CFC) and National Fire Protection Association (NFPA), and the current edition of the California Code of Regulations.

12. Occupancy for the additional area in which the expansion will be taking place shall be an A-2 occupancy, as determined by the California Fire Code.

13. A fire alarm and fire sprinkler system will be required for this facility.

14. The fire suppression cooking hood system shall be monitored by fire alarm per California Fire Code.

15. Identification signs shall be posted for all utilities such as electricity, natural gas, fire sprinkler system, fire alarm control room, etc. Contact the National City Fire Department for direction and a copy of requirements.

Planning

16. The sale of alcoholic beverages shall be limited to between the hours of 9:00 a.m. and 10:00 p.m. seven days a week.

17. All sellers and servers of alcohol shall receive Responsible Beverage Service and Sales (RBSS) training, including all owners, and managers. The RBSS training must be certified by the Department of Alcoholic Beverage Control (ABC). Proof of completion of an approved RBSS program must be provided prior to issuance of a city business license. As part of the RBSS training, the permittee shall make available a domestic violence training session as provided by the Institute of Public Strategies.

18. The sale of alcohol shall not exceed the sale of food. With the annual renewal of the City business license, the business proprietor shall submit a statement clearly indicating total alcoholic beverage sales and total food sales. Said statement shall be subject to audit and verification by employees of the City, who are authorized to examine, audit and inspect such books and records of the license, as may be necessary in their judgment to verify that the sale of alcohol does not exceed the sale of food. All information obtained by an investigation of records shall remain confidential.

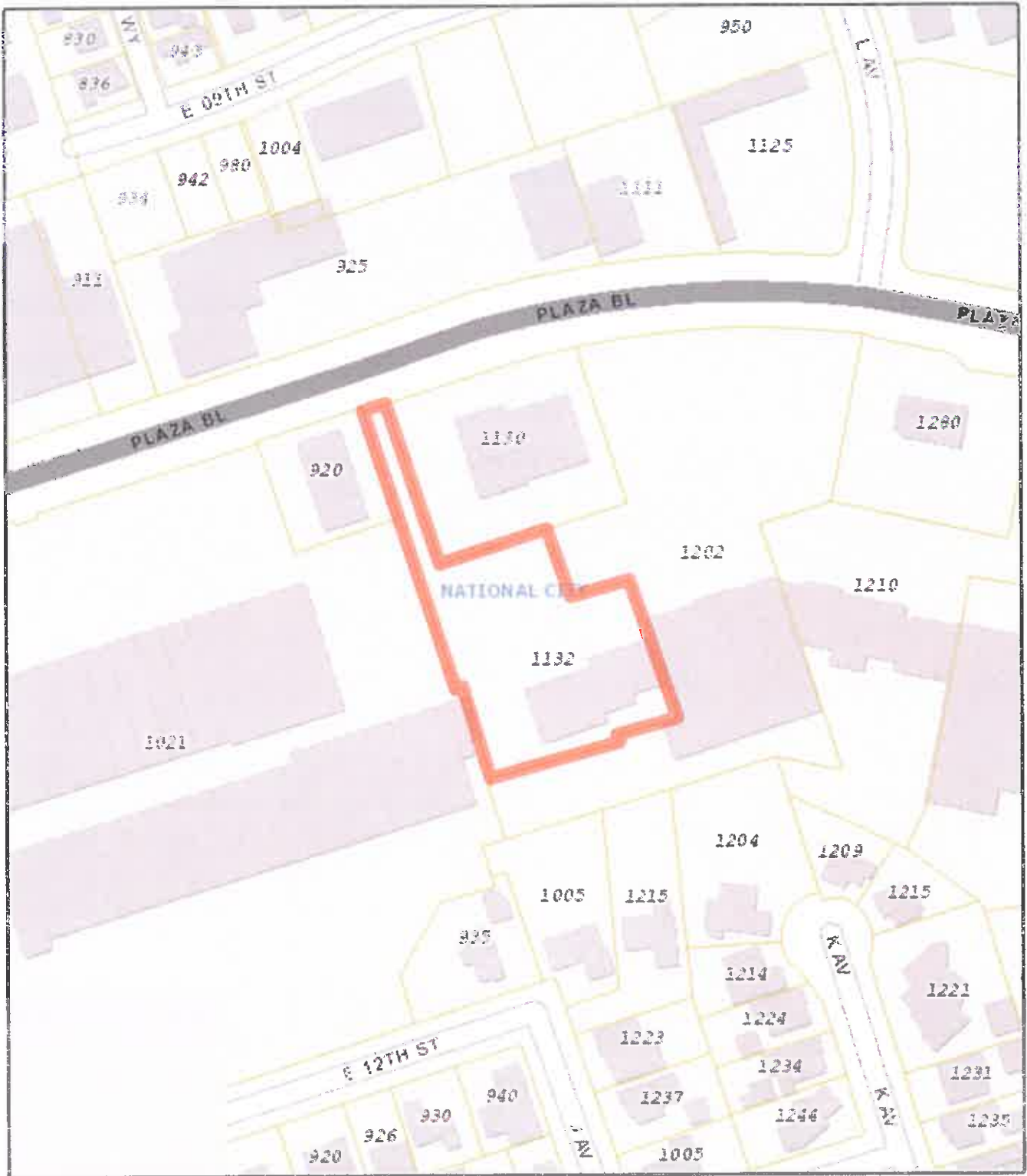
19. Alcohol shall be available only in conjunction with the purchase of food.

20. Exterior advertising and signs of all types, promoting or indicating the availability of alcoholic beverages, including advertising/signs directed to the exterior from within, are prohibited. Interior displays of alcoholic beverages and signs, which are clearly visible to the exterior, shall constitute a violation of this condition.

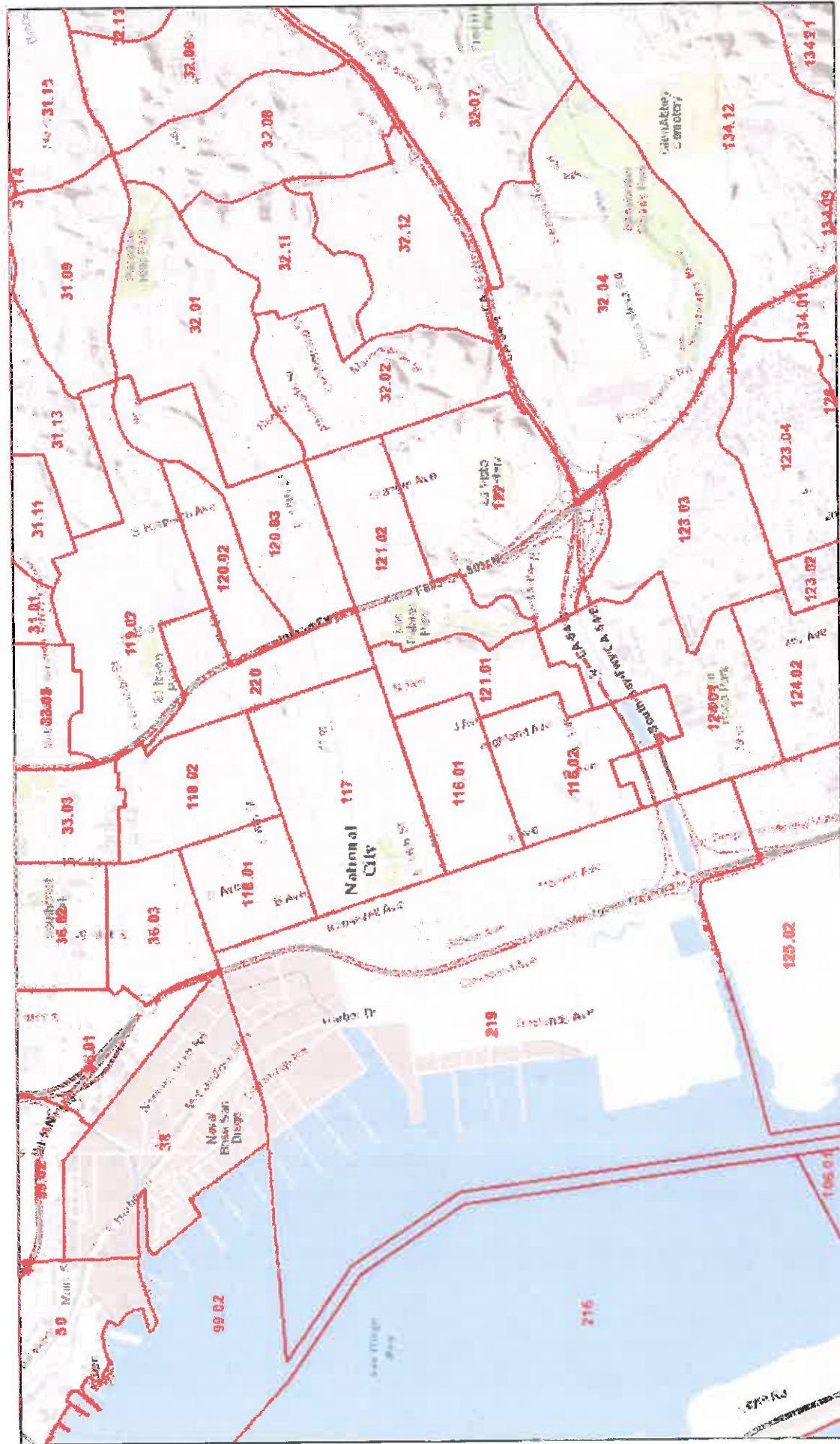
Police

21. Permittee shall comply with all regulatory provisions of the Business and Professions Code that pertain to the sale, display and marketing or merchandising of alcoholic beverages.

1132 PLAZA BLVD



Disclaimer: Map and parcel data are believed to be accurate, but accuracy is not guaranteed. This is not a legal document and should not be substituted for a title search, appraisal, survey or zoning verification. 1 inch = 160 feet 6/29/2015



1:45,467
 0 0.375 0.75 1 1.5 mi
 0 0.5 1 2 km

August 25, 2014

□ Census Tracts 2010

Sources: Esri, HERE, DeLorme, TomTom, Intermap, Increment P Corp., GEBCO, USGS, FAO, NPS, NRCAN, GeoBase, IGN, Kadaster NL, Ordnance Survey, Esri Japan, METI, Esri China (Hong Kong), Swisstopo, MapmyIndia, © OpenStreetMap contributors, and the GIS User Community



City of National City Beat 21

Source: Microsoft Mappoint
NCPD CAU, 4/18/07



Royal Mandarin

1132 E. Plaza Blvd.#205
National City, CA 91950

Telephone: (619) 477-4151

Dear Our Neighbors

To better serving for our customers, the Royal Mandarin Restaurant will be remodel and expand our facility that includes Kitchen and Dining area (expansion to our next suite). The new expansion will have fully ADA accessible restrooms for Men and Women, new Drink Service Bar Counter and expand seating area. Beside our full authentic delicious Chinese food menu, we also serve beer and wine to our customers.

For complying to National city requirement of CUP (Condition Use Permit) we are sending you this letter to notify our neighbors for purpose of re instate our beer and wine license.

We will hold a community meeting on **Wednesday July 8 of 2015** from **5:30 pm – 6:30 pm**

During this time, you can ask any questions regarding to our remodeling and expansion, expect project completion, or operation of our restaurant...etc. or you can express any your concerns may have.

This meeting will be held at:
1132 E. Plaza Blvd.#205
National City, CA 91950



You can contact us at (619) 477-4151 for any questions regarding to this meeting

Best Regards

Mario Woo (Owner)

Meeting of July 8, 2015
5:30 – 6:30 PM
CUP Community Meeting

Meeting Location:
1132 E. Plaza Blvd. #205
National City, CA 91950

Employees Present:
Mario Woo (Owner)
Andy Woo (Manager)

Community Members Present:
Jovita Juarez
Richard Pruuss

Questions Asked:

- Reason for meeting – allow community members to ask questions regarding remodel/ expansion relating to beer and wine for customers
- Approximate remodel completion date – Hoping for the end of August 2015

Topics Discussed:

- Controlling binge drinking and serving minors – restaurant has never had an issue violating the above and will continue to serve with the highest integrity inside this family restaurant
- Not many residential communities in the vicinity, but rather commercial buildings
- Good business reputation relating to beer and wine license
- Fast paced, high volume restaurant and business model
- The two individuals who attended the meeting stated that they were there to see if there were any other community members who would show up and listen to what they had to say
- Besides the two who wanted to hear others input, no other new arrivals
- Restaurant will not have a full service bar
- The family restaurant environment keeps the alcohol levels to a tolerable level
- Community members excited for the expansion and eager to witness the completed project

Objections:

- None

Meeting adjourned at 5:55 PM

Sign In Sheet 7/8/2015

	Name	Phone
1	Richard Peress	609-476-9100 x 127
2	Jovita Juarez	(619) 227-4588
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CITY OF NATIONAL CITY - PLANNING DEPARTMENT
1243 NATIONAL CITY BLVD., NATIONAL CITY, CA 91950

NOTICE OF PUBLIC HEARING

CONDITIONAL USE PERMIT FOR THE EXPANSION OF THE
EXISTING AREA APPROVED FOR BEER AND WINE SALES
AT ROYAL MANDARIN RESTAURANT LOCATED
AT 1132 EAST PLAZA BLVD., SUITE 205-208
CASE FILE NO.: 2015-09 CUP
APN: 556-590-58

The National City Planning Commission will hold a public hearing after the hour of 6:00 p.m. **Monday, July 20, 2015**, in the City Council Chambers, Civic Center, 1243 National City Boulevard, National City, California, on the proposed request. (Applicant: Mario Woo)

The applicant is proposing to expand the restaurant into an adjacent suite, adding 2,300 square feet. The applicant wishes to expand the existing alcohol sales into the additional area.

Information is available for review at the City's Planning Department, Civic Center. Members of the public are invited to comment. Written comments should be received by the Planning Department on or before 12:00 p.m., **July 20, 2015**, who can be contacted at 619-336-4310 or planning@nationalcityca.gov

If you challenge the nature of the proposed action 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.

NATIONAL CITY PLANNING DEPARTMENTS

For BRAD RAULSTON
Executive Director



CITY OF NATIONAL CITY - PLANNING DEPARTMENT
1243 NATIONAL CITY BLVD., NATIONAL CITY, CA 91950

NOTICE OF EXEMPTION

TO: County Clerk
County of San Diego
P.O. Box 1750
1600 Pacific Highway, Room 260
San Diego, CA 92112

Project Title: 2015-09 CUP

Project Location: 1422 East Plaza Blvd. Suite 205-208, National City, CA 91950

Contact Person: Martin Reeder

Telephone Number: (619) 336-4313

Description of Nature, Purpose and Beneficiaries of Project:

Conditional Use Permit application for a 2,300 square-foot internal expansion of an existing alcohol-licensed restaurant in an existing commercial center.

Applicant:

Mario Woo
1001 "L" Avenue
National City, CA 91950

Telephone Number:

(619) 339-7572

Exempt Status:

Categorical Exemption. Class 1 Section 15301 (Existing Facilities)

Reasons why project is exempt:

The project will result in no changes to the physical environment, since the proposal involves the expansion of an existing restaurant into actively leased commercial space. The restaurant with accessory alcohol sales is an approved use in the respective mixed-use zone. No external construction or additional approvals are involved.

Date:

MARTIN REEDER, AICP
Principal Planner

2015-09 CUP – Royal Mandarin – Site Photos



Existing restaurant looking south



Proposed expansion area to west of existing restaurant

OCT 5 1984

RESOLUTION APPROVING CONDITIONAL USE PERMIT
TO ALLOW THE SALE OF ALCOHOLIC BEVERAGES AS
AN INCIDENTAL USE (Type 41 Liquor License)
IN CONJUNCTION WITH A BONA FIDE PUBLIC EATING
PLACE AT 1132 EAST PLAZA BOULEVARD
(CUP No. 1984-11)

NATIONAL CITY, CALIF.

The City Council of the City of National City does hereby find, determine, order and resolve as follows:

1) Upon recommendation of the Planning Commission that the owner of a bona fide eating place at the 1132 East Plaza Boulevard, be granted a Conditional Use Permit upon the conditions hereinafter stated.

2) That the City Council has received the recommendation of the Planning Commission, and after full and complete consideration of said recommendation hereby grants the bona fide eating place at 1132 East Plaza Boulevard a Conditional Use Permit subject to the following terms and conditions:

1. Alcoholic beverage sales shall be incidental to food service.
2. There shall be no bar or counter over which the on-sale alcoholic beverages shall be served to the public.
3. All live entertainment and dancing shall be prohibited.
4. There shall be no sale of alcoholic beverages after midnight.

PASSED and ADOPTED this 2nd day of October, 1984.



MAYOR

ATTEST:



CITY CLERK

Passed and adopted by the Council of the City of National City, California,
on ..October 2, 1984..... by the following vote, to-wit:

Ayes: Councilmen ..Cooper, Dalla, Van Deventer, Waters.....

Nays: Councilmen ..None.....

Absent: Councilmen ..None.....

Abstain: Councilmen ..Morgan.....

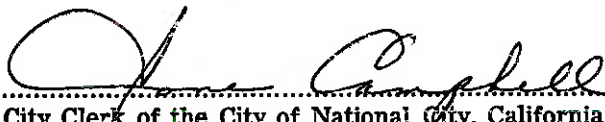
AUTHENTICATED BY: KILE MORGAN
Mayor of the City of National City, California

IONE CAMPBELL
City Clerk of the City of National City, California

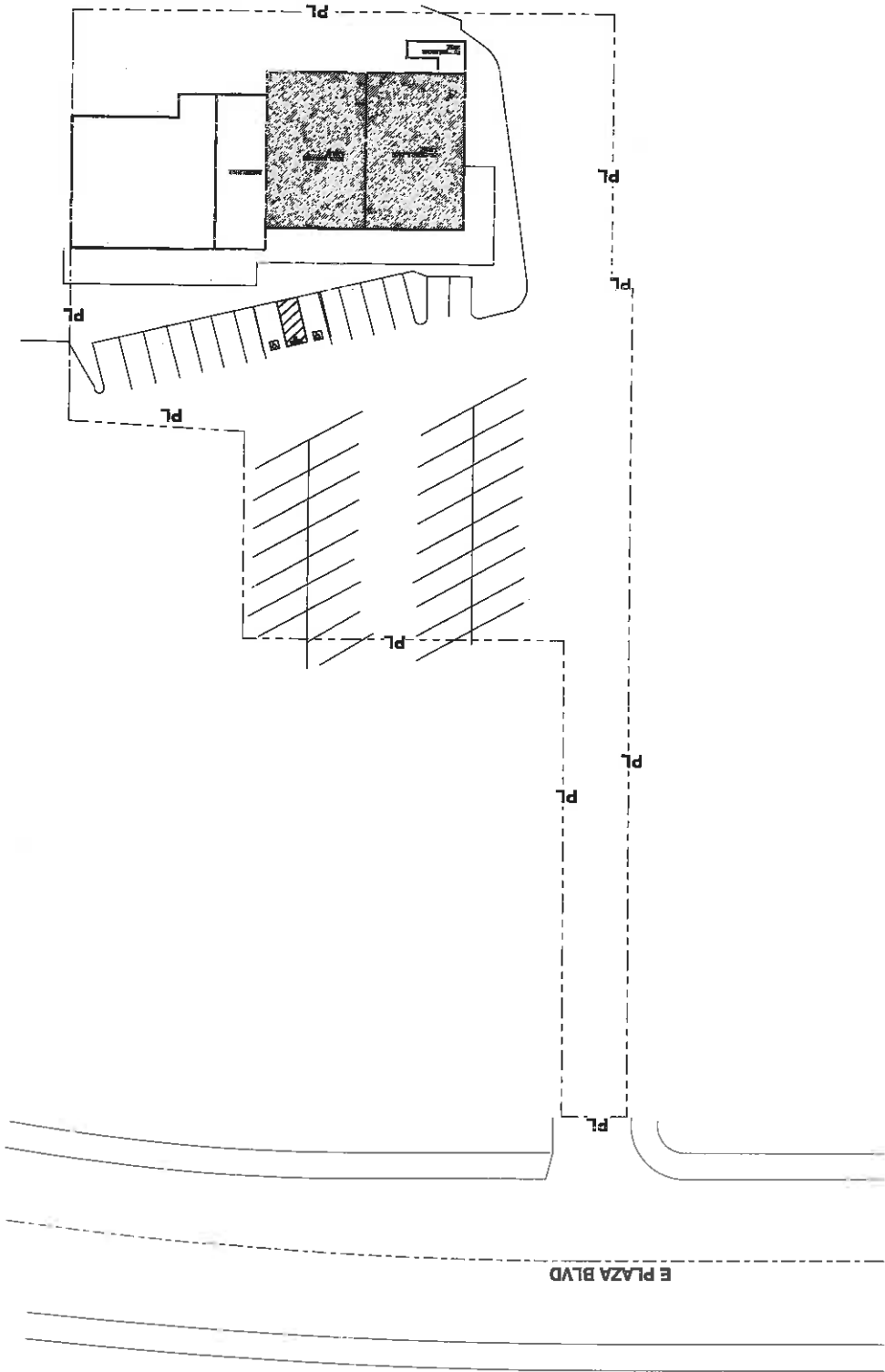
(Seal) By:
Deputy

I HEREBY CERTIFY that the above and foregoing is a full, true and cor-
rect copy of RESOLUTION NO. ..14,442.... of the City of National City,
Calif., passed and adopted by the Council of said City on ..October 2, 1984

.....

(Seal) 
City Clerk of the City of National City, California

By:
Deputy



HIGHLAND AVE

PLAZA BLVD

"L" AVE



SITE PLAN
N.T.S.

ASCD
 4.670 SF
 4.670 SF
 TOTAL 4.670/1000 = 0.778 = 1

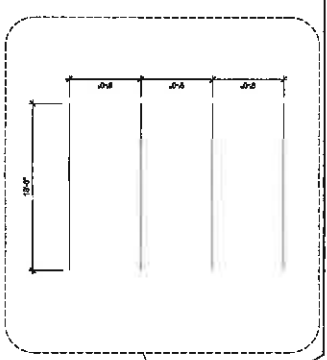
I, the undersigned, responsible for the "Final Improvement project," I have prepared the site plan and all other drawings and specifications for the project in accordance with the requirements of the relevant Florida Statutes, including, but not limited to, Chapter 125, Florida Statutes, and all other applicable laws and regulations.

Signature: _____ Date: _____

I am the design engineer responsible for this "Final Improvement project." I have inspected the site plan and all other drawings and specifications and certify that they conform to the requirements of the relevant Florida Statutes, including, but not limited to, Chapter 125, Florida Statutes, and all other applicable laws and regulations.

Signature: _____ Date: _____

If the Building Inspector determines non-compliance with any current accessibility requirements, the undersigned shall be responsible for providing the necessary information to the Building Department for further review. Plans must clearly show all existing non-compliance conditions affected by the proposed final site plan. Non-compliance conditions shall be noted and proposed modifications of this nature noted to meet current accessibility provisions.



ENLARGED SITE PLAN
N.T.S.

EXISTING TRASH ENCLOSURE
 INTERIOR SURFACE SHALL BE PAINTED AND SEALED TO BE WASHABLE (PAINTED)
 EXISTING CONC. AND TRASH ENCLOSURE INTERIOR SURFACE SHALL BE PAINTED AND SEALED TO BE WASHABLE (PAINTED)
 EXISTING CONC. BLOCK WALL INTERCEPTION

TRASH ENCLOSURE NOTE
 INTERIOR WALL SURFACES OF TRASH ENCLOSURE SHALL BE COVERED WITH EXT-FIBER PLASTER TO A SMOOTH FINISH. PLASTER SHALL BE PAINTED AND SEALED SO THAT ALL INTERIOR WALLS ARE WASHABLE.

RESOLUTION NO. 2015-13

A RESOLUTION OF THE PLANNING COMMISSION OF
THE CITY OF NATIONAL CITY, CALIFORNIA, APPROVING A
CONDITIONAL USE PERMIT FOR THE EXPANSION OF THE
EXISTING AREA APPROVED FOR BEER AND WINE SALES
AT ROYAL MANDARIN RESTAURANT LOCATED AT
1132 EAST PLAZA BLVD., SUITE 205-208.
CASE FILE NO. 2015-09 CUP
APN: 556-590-58

WHEREAS, the Planning Commission of the City of National City considered a Conditional Use Permit for the expansion of the existing area approved for beer and wine at Royal Mandarin Restaurant located at 1132 East Plaza Blvd., suite 205-208 at a duly advertised public hearing held on July 20, 2015, at which time oral and documentary evidence was presented; and,

WHEREAS, at said public hearings the Planning Commission considered the staff report contained in Case File No. 2015-09 CUP maintained by the City and incorporated herein by reference along with evidence and testimony at said hearing; and,

WHEREAS, this action is taken pursuant to all applicable procedures required by State law and City law; and,

WHEREAS, the action recited herein is found to be essential for the preservation of public health, safety, and general welfare.

NOW, THEREFORE, BE IT RESOLVED by the Planning Commission of the City of National City, California, that the testimony and evidence presented to the Planning Commission at the public hearing held on July 20, 2015, support the following findings:

1. That the proposed use is allowable within the applicable zoning district pursuant to a Conditional Use Permit and complies with all other applicable provisions of the Land Use Code, since alcohol sales for on-site consumption are a conditionally-allowed use in the Major Mixed-Use District Zone.
2. That the proposed use is consistent with the General Plan and any applicable specific plans, since alcohol sales are permitted, subject to a Conditional Use Permit, by the Land Use Code, which is consistent with the General Plan; and since alcohol sales for on-site consumption are a conditionally-allowed use in the Major Mixed-Use District Zone.
3. That the design, location, size, and operating characteristics of the proposed activity would be compatible with the existing and future land uses in the vicinity,

since the proposed use is an accessory use to a proposed restaurant use in an existing commercial area and the sale of beer and wine is not expected to appreciably increase traffic on National City Blvd. based on the current capacity and traffic numbers.

4. That the site is physically suitable for the type, density, and intensity of use being proposed, including access, utilities, and the absence of physical constraints, since the proposed use is an existing accessory use to the restaurant use in an existing commercial area, and the 2,300 square-foot expansion of alcohol sales into an existing commercial suite is not expected to increase the demand for parking on the property.
5. Granting the permit would not constitute a nuisance or be injurious or detrimental to the public interest, health, safety, convenience, or welfare, or materially injurious to persons, property, or improvements in the vicinity and zone in which the property is located, since the proposed use will be compatible with other nearby businesses; and since the proposed use will be subject to conditions that limit the sale of alcohol and restrict the hours that it will be available.
6. That the proposed project has been reviewed in compliance with the California Environmental Quality Act, since staff has already determined that the proposed use is not a project per the Act.
7. That the proposed use is deemed essential and desirable to the public convenience and welfare, since it will contribute to the continued viability of a restaurant, an established and allowed use in the Major Mixed-Use District Zone.
8. That based on findings 1 through 7 above, public convenience and necessity will be served by a proposed use of the property for the retail sales of alcoholic beverages pursuant to law.

BE IT FURTHER RESOLVED that the application for Conditional Use Permit is approved subject to the following conditions:

General

1. This Conditional Use Permit authorizes the 2,300 square-foot expansion of an existing restaurant, with beer and wine sales, located at 1132 East Plaza Boulevard. Unless specifically modified by this resolution or subsequent Codes, all previous Conditions of Approval as stated in City Council Resolution 14,442 are still in effect. Plans submitted for permits associated with this project shall conform with Exhibit A, case file no. 2015-09 CUP, dated 4/23/2015.
2. Within four (4) days of approval, pursuant to Fish and Game Code 711.4 and the California Code of Regulations, Title 14, Section 753.5, the applicant shall pay all necessary environmental filing fees for the San Diego County Clerk. Checks shall be made payable to the County Clerk and submitted to the National City Planning Department.
3. This permit shall become null and void if not exercised within one year after adoption of the Resolution of approval unless extended according to procedures specified in the Municipal Code.

4. This permit shall expire if the use authorized by this resolution is discontinued for a period of 12 months or longer. This permit may also be revoked, pursuant to provisions of the Land Use Code, if discontinued for any lesser period of time.
5. This Conditional Use Permit may be revoked if the operator is found to be in violation of Conditions of Approval.
6. Before this Conditional Use Permit shall become effective, the applicant and the property owner both shall sign and have notarized an Acceptance Form, provided by the Planning Department, acknowledging and accepting all conditions imposed upon the approval of this permit. Failure to return the signed and notarized Acceptance Form within 30 days of its receipt shall automatically terminate the Conditional Use Permit. The applicant shall also submit evidence to the satisfaction of the Executive Director that a Notice of Restriction on Real Property is recorded with the County Recorder. The applicant shall pay necessary recording fees to the County. The Notice of Restriction shall provide information that conditions imposed by approval of the Conditional Use Permit are binding on all present or future interest holders or estate holders of the property. The Notice of Restriction shall be approved as to form by the City Attorney and signed by the Executive Director prior to recordation.

Building

7. Plans submitted for tenant improvements must comply with the 2013 edition of the California Building, Electrical, Green, Plumbing, and Mechanical Codes.

Engineering

8. Plans submitted for tenant improvements shall show the location of existing and proposed grease traps.
9. Plans submitted for tenant improvements shall show the number of existing and proposed seats.
10. Additional sewer fees may be required for any additional seating being created by the tenant improvements.

Fire

11. Plans submitted for improvements must comply with the 2013 editions of the California Fire Code (CFC) and National Fire Protection Association (NFPA), and the current edition of the California Code of Regulations.
12. Occupancy for the additional area in which the expansion will be taking place shall be an A-2 occupancy, as determined by the California Fire Code.
13. A fire alarm and fire sprinkler system will be required for this facility.
14. The fire suppression cooking hood system shall be monitored by fire alarm per California Fire Code.
15. Identification signs shall be posted for all utilities such as electricity, natural gas, fire sprinkler system, fire alarm control room, etc. Contact the National City Fire Department for direction and a copy of requirements.

Planning

16. The sale of alcoholic beverages shall be limited to between the hours of 9:00 a.m. and 10:00 p.m. seven days a week.

17. All sellers and servers of alcohol shall receive Responsible Beverage Service and Sales (RBSS) training, including all owners, and managers. The RBSS training must be certified by the Department of Alcoholic Beverage Control (ABC). Proof of completion of an approved RBSS program must be provided prior to issuance of a city business license. As part of the RBSS training, the permittee shall make available a domestic violence training session as provided by the Institute of Public Strategies.
18. The sale of alcohol shall not exceed the sale of food. With the annual renewal of the City business license, the business proprietor shall submit a statement clearly indicating total alcoholic beverage sales and total food sales. Said statement shall be subject to audit and verification by employees of the City, who are authorized to examine, audit and inspect such books and records of the license, as may be necessary in their judgment to verify that the sale of alcohol does not exceed the sale of food. All information obtained by an investigation of records shall remain confidential.
19. Alcohol shall be available only in conjunction with the purchase of food.
20. Exterior advertising and signs of all types, promoting or indicating the availability of alcoholic beverages, including advertising/signs directed to the exterior from within, are prohibited. Interior displays of alcoholic beverages and signs, which are clearly visible to the exterior, shall constitute a violation of this condition.

Police

Permittee shall comply with all regulatory provisions of the Business and Professions Code that pertain to the sale, display and marketing or merchandising of alcoholic beverages.

BE IT FURTHER RESOLVED that copies of this Resolution be transmitted forthwith to the applicant and to the City Council.

BE IT FINALLY RESOLVED that this Resolution shall become effective and final on the day following the City Council meeting where the Planning Commission resolution is set for review, unless an appeal in writing is filed with the City Clerk prior to 5:00 p.m. on the day of that City Council meeting. The City Council may, at that meeting, appeal the decision of the Planning Commission and set the matter for public hearing.

CERTIFICATION:

This certifies that the Resolution was adopted by the Planning Commission at their meeting of July 20, 2015, by the following vote:

AYES:

NAYS:

ABSENT:

ABSTAIN:

CHAIRPERSON



CITY OF NATIONAL CITY - PLANNING DEPARTMENT
1243 NATIONAL CITY BLVD., NATIONAL CITY, CA 91950

PLANNING COMMISSION STAFF REPORT

Title: PUBLIC HEARING - TENTATIVE PARCEL MAP FOR THE SUBDIVISION OF ONE LOT INTO TWO AT 1305 EAST 17TH STREET.

Case File No.: 2015-12 LS

Location: North side of 17th Street, west of "N" Avenue.

Assessor's Parcel Nos.: 561-090-05

Staff report by: Martin Reeder, AICP

Applicant: BDS Engineering

Zoning designation: Small Lot Residential (RS-2)

Parcel size: 11,641 square feet

Adjacent zoning:

- North:** Multi-family residential across alley / RS-2
- East:** Single-family homes / RS-2
- South:** Single-family homes across East 17th Street / RS-2
- West:** Single-family homes / RS-2

Environmental review: Categorical Exemption – Section 15315 (Minor Land Divisions)

Staff recommendation: Approve

BACKGROUND

Site characteristics

The approximately quarter-acre property is located on the north side of East 17th Street in the RS-2 Zone west of "N" Avenue. The property interrupts the continuity of "M" Avenue, which runs from 16th Street south to the property and north from the alley between 17th and 18th Streets north to the property. The lot is approximately 86 feet wide and 135 feet deep, and slopes upward 10 feet from the northeast to the southwest. There is no natural habitat or body of water present on-site, which is surrounded by urban development.

There is an existing 864 square-foot single family residence on the south side of the property, which faces 17th Street. The site is accessible from "M" Avenue (north and south of the property), East 17th Street, and an alley, which is on the north side of the property. A 12-foot wide drainage easement is located along the east property boundary.

Proposed use

The applicant is proposing to subdivide the existing 11,640 (+/-) square-foot lot into two lots. The existing home would remain and would be on a 6,640 (+/-) square-foot lot (Parcel 1). The northern 5,000 square feet would become Parcel 2. The existing home is proposed to be expanded and a one-car garage constructed. This work is not part of this request. A 10-foot access and utility easement is shown along the eastern property boundary of proposed Parcel 1.

Subdivision of the property into two lots is proposed as follows:

Parcel 1 will have 86 feet of frontage on East 17th Street. It will be approximately 79 feet deep and would have a net size of 5,000 square feet. All required setbacks would be maintained for the existing residence.

Parcel 2 would have approximately 86 feet of frontage on the alleyway north of the property. The alley runs east to west from "N" Avenue to "M" Avenue, which ends at the property. With required setbacks provided, approximately 1,681 square feet is available for development of a new residence.

Analysis

General Plan

This project contributes to infill development, which is encouraged by General Plan, as well as provides an additional home ownership opportunity. If the future home is constructed, the resulting density of 7.5 units per acre would also be consistent with the General Plan density for the Low-Medium Density Residential land use designation (RS-1 and RS-2), which specifies a maximum density of 9.0 units per acre.

Subdivision Ordinance

The proposed subdivision is consistent with the Subdivision Ordinance as it creates a development pattern that is consistent with nearby properties. All properties east of "M" Avenue on this block are regular in shape (square or rectangular). The proposed lot pattern in this case will be the same, with the exception of a 13-foot by 10-foot notch on the east side. This configuration is necessary to provide the required setbacks for Parcel 1 and minimum lot size for Parcel 2.

Land Use Code

The Land Use Code establishes a maximum density of 8.7 units per acre in the RS-2 Zone. The density of properties in the same block as the proposed site and on same side of the street is approximately 8.5 units per acre, consistent with Land Use Code requirements. The proposed future density of the property would be 7.5 units per acre, which is consistent with the maximum density of 8.7 units per acre.

No grading is proposed as no construction on Parcel 2 is planned at this time. In the event that Parcel 2 is developed, grading would be minimal due to the lot not having a lot of topography on the north side. The lot slopes less than five feet east to west where the buildable area is located; therefore, minor cut and fill would be able to provide a level building pad in the future.

Department Comments

Comments were received from the Building, Engineering, and Fire Departments, as well as Sweetwater Authority. The comments have been included as Conditions of Approval. The Building Department is requiring compliance with codes related to construction of future housing; the Engineering Department provided comments related to future grading and construction, easements, and Final Map requirements; the Fire Department is requiring compliance with codes related to fire protection and access for future housing; Sweetwater Authority provided comments related to the adequacy of existing infrastructure and easements. Any future construction on the property would require adequate water infrastructure that can provide necessary fire flow. As no construction is currently proposed, any comments related to construction and utilities would be addressed at the time of future building permit submittal.

Summary

The subject property is a large lot, which is more than twice the minimum lot size required in the RS-2 zone. As such, it is suitable for subdividing. The placement of the existing home allows the opportunity for subdivision with all necessary setbacks being provided. The project as proposed provides a regular lot configuration and meets minimum lot size and frontage requirements. The proposal would result in a uniform development that would be consistent with area development. If approved, the proposed subdivision will result in an additional home ownership opportunity, and will meet all Land Use Code requirements, consistent with the General Plan. Conditions of Approval will ensure that the property is

appropriately developed and will meet all requirements of the Land Use Code and pertinent construction codes at time of future construction.

OPTIONS

1. Approve 2015-12 LS subject to the conditions listed below, based on attached findings/ findings to be determined by the Planning Commission; or
2. Deny 2015-12 LS based findings to be determined by the Planning Commission; or
3. Continue the item in order to obtain additional information.

ATTACHMENTS

1. Recommended Findings for Approval
2. Recommended Conditions
3. Location Map
4. Notice of Exemption
5. Public Hearing Notice (Sent to 48 property owners)
6. Site photos
7. Applicant's Plans (Exhibit A, case file no. 2015-12 LS, dated 5/14/2015)



MARTIN REEDER, AICP
Principal Planner

RECOMMENDED FINDINGS FOR APPROVAL
OF THE TENTATIVE PARCEL MAP
Case File No. 2015-12 LS – 1305 East 17th Street

1. The proposed map is consistent with the National City General Plan and applicable specific plans, since the proposed single-family subdivision, at a density of 7.5 units per acre, is consistent with the Low-Medium Density Residential land use designation, which specifies a maximum density of 9.0 units per acre the uses, and since there are no specific plans applicable to the site.
1. The site is physically suitable for the proposed type of development, since an additional single-family home can be located on a level building pad on the site with a minor amount of grading.
2. The site is physically suitable for the proposed density of development, since both resultant lots can accommodate a single family residence with suitable yard areas.
3. The design of the subdivision or the proposed improvements are not likely to cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat, since no natural habitat nor bodies of water are present on-site, and since the site is surrounded by urban development.
4. The design of the subdivision and the proposed/required improvements are not likely to cause serious public health problems, since all necessary public services will be provided.
5. The design of the subdivision and the proposed/required improvements will not conflict with easements, acquired by the public at large, for access through or use of the property within the proposed subdivision, since existing easements will be maintained and not be encroached upon.
6. The discharge of sewerage waste from the subdivision into the City of National City sewer system will not result in violation of existing requirements prescribed by the California Regional Quality Control Board pursuant to Division 7 (commencing with Section 13000) of the Water Code, as specified by Government Code Section 66474.6.
7. The subdivision has been considered by the Planning Commission with regard to its effect on the housing needs of the region, and these needs are balanced by the public service needs of the residents and available fiscal and environmental resources.
8. The design of the subdivision provides, to the extent feasible, for future passive and natural heating and cooling opportunities in the subdivision, based on consideration of local climate, topography, property configuration and other design and improvement requirements without requiring reduction in allowable density or lot coverage.

RECOMMENDED CONDITIONS OF APPROVAL
Case File No. 2015-12 LS – 1305 East 17th Street

General

1. This *Tentative Parcel Map* authorizes the creation of two new parcels from one existing parcel. Except as required by Conditions of Approval, all plans submitted for permits associated with the project shall conform with Exhibit A, case file no. 2015-12 LS, dated 5/14/2015. No construction or demolition is approved as part of this approval.
2. Before this *Tentative Parcel Map* shall become effective, the applicant and/or property owner shall sign and have notarized an Acceptance Form, provided by the Planning Department, acknowledging and accepting all conditions imposed upon the approval of this permit. Failure to return the signed and notarized Acceptance Form within 30 days of its receipt shall automatically terminate the *Tentative Parcel Map*. The applicant shall also submit evidence to the satisfaction of the Executive Director that a Notice of Restriction on Real Property is recorded with the County Recorder. The applicant shall pay necessary recording fees to the County. The Notice of Restriction shall provide information that conditions imposed by approval of the *Tentative Parcel Map* are binding on all present or future interest holders or estate holders of the property. The Notice of Restriction shall be approved as to form by the City Attorney and signed by the Executive Director prior to recordation.
3. Approval of the tentative map expires two (2) years after adoption of the resolution of approval at 6:00 p.m. unless prior to that date a request for a time extension not exceeding three (3) years has been filed as provided by National City Municipal Code §17.04.070.

Building

4. Plans submitted for improvements must comply with the 2013 edition of the California Building, Electrical, Plumbing, and Mechanical.

Engineering

5. The Priority Project Applicability checklist for the National Pollutant Discharge Elimination System (NPDES) is required to be completed and submitted to the Engineering Department. The checklist will be required when a project site is submitted for review of the City Departments. The checklist is available at the Engineering Department. If it is determined that the project is subject to the "Priority Project Permanent Storm Water BMP Requirements" and the City of National City Storm Water Best Management Practices of the Jurisdictional Urban Runoff Management Program (JURMP) approved Standard Urban Storm Water Mitigation Plan (SUSMP) documentation will be required prior to issuance of an applicable engineering permit. The SUSMP shall be prepared by a Registered Civil Engineer.
6. The Best Management Practices (BMPs) for the maintenance of the proposed construction shall be undertaken in accordance with the National Pollutant Discharge Elimination System (NPDES) regulations which may require a Storm Water Pollution Prevention Plan (SWPPP) for the project. An approved SWPPP will be required prior to issuing of a construction permit.

7. All surface run-off shall be treated with an approved Standard Urban Runoff Mitigation Plan (SUSMP) Best Management Practice (BMP) for all Priority SUSMP projects. No runoff will be permitted to flow over the sidewalk. Adjacent properties shall be protected from surface run-off resulting from this development.
8. A grading and drainage plan shall be submitted showing all of the proposed and existing on-site and off-site improvements. The plan shall be prepared in accordance with the City's standard requirements by a Registered Civil Engineer. All necessary measures for prevention of storm water pollution and hazardous material run-off to the public storm drain system from the proposed parking lot or development shall be implemented with the design of the grading. This shall include the provision of such devices as storm drain interceptors, clarifiers, or filters. Best Management Practices for the maintenance of the parking lot, including sampling, monitoring, and cleaning of private catch basins and storm drains, shall be undertaken in accordance with the National Pollution Discharge Elimination System (NPDES) regulations. A private storm water treatment maintenance agreement shall be signed and recorded. A checklist for preparation of the grading plan/drainage plan is available at the Engineering Department.
9. A sewer permit will be required. The method of sewage collection and disposal shall be shown on the grading/drainage plan. Any new sewer lateral in the City right-of-way shall be 6 inch in size with a clean out. A sewer stamp "S" shall be provided on the curb to mark the location of the lateral.
10. A soils engineering report shall be submitted for the Engineering Department's review, after Planning Commission approval. The report shall address the stability of all of the existing and proposed slopes on the property. It shall also address the adequacy of the building pads, the criteria for any new retaining wall design, the maximum allowable soil bearing pressure and the required pavement structural sections for the proposed streets, the parking areas, and the driveways. As a minimum, the parking lot pavement sections shall be 2 inch A.C. over 4 inch Class II aggregate base. The street pavement sections shall be in accordance with National City modified Standard Drawing G-34. All soils report findings and recommendations shall be part of the Engineering Department requirements.
11. An existing 12 foot wide drainage easement reserved to the City of National City exists along the easterly side of the property and no building encroachment will be allowed within the easement. The easement shall be shown on the plans.
12. The existing street improvements along the property frontage(s) shall be kept free from weed growth by the use of special weed killers, or other approved methods.
13. A permit shall be obtained from the Engineering Department for all improvement work within the public right-of-way, and any grading construction on private property.
14. A title report shall be submitted to the Engineering Department, after the Planning Commission approval, for review of all existing easements and the ownership at the property.

15. The final parcel map shall meet all of the requirements of the Subdivision Map Act, and the City of National City Municipal Codes including certification, acknowledgement, complete boundary information and monumentation.
16. The developer shall submit to the Fire Department a letter from Sweetwater Authority stating existing fire flow. If determined by the Fire Department that additional improvements are needed, the developer shall enter into an agreement for the water improvements with the Sweetwater Authority prior to obtaining the final map approval.
17. Separate water and sewer laterals shall be provided to each lot/parcel.
18. The creation of an easement for ingress and egress to and from parcel/lot 2 across parcel from 17TH Street will be required. The easement shall be created on the final map.
19. The final map shall be recorded prior to issuance of any building permit.
20. All new property line survey monuments shall be set on private property, unless otherwise approved.
21. The parcel map/final map shall use the California Coordinate System for its "Basis of Bearings" and express all measured and calculated bearings in terms of the system. The angle of grid divergence from a true meridian, and the north point shall appear on the map. Two measured ties from the boundary of the property to existing horizontal control stations shall be shown.

Fire

22. Plans submitted for improvements must comply with the 2013 editions of the California Fire Code (CFC) and National Fire Protection Association (NFPA), and the current edition of the California Code of Regulations.
23. All contractors shall possess a National City business license prior to Fire Department plan submittal. A copy of the business license will be required at time of plan submittal. Fire submittals, shall be submitted to the National City Fire Department directly. Permit and fees shall apply.
24. Should any plan corrections be required, contractor must correct the plan and re-submit to the Fire Department for approval once again prior to installation.
25. Residential fire sprinklers shall be required in all new one-and two-family dwellings and townhouse construction statewide per 2010 California Building Standards Codes published July 1, 2010, with an effective date of January 1, 2011.
26. Fire apparatus access roads shall comply with the requirements of this section (Section 5 CFC 2013) and shall extend to within 150 feet of **all** portions of the facility and **all** portions of the exterior walls of the first story of the building as measured by an **approved** route around the exterior of the building. Dead-end fire apparatus access roads in excess of 150 feet in length shall be provided with an approved area for turning around fire apparatus.

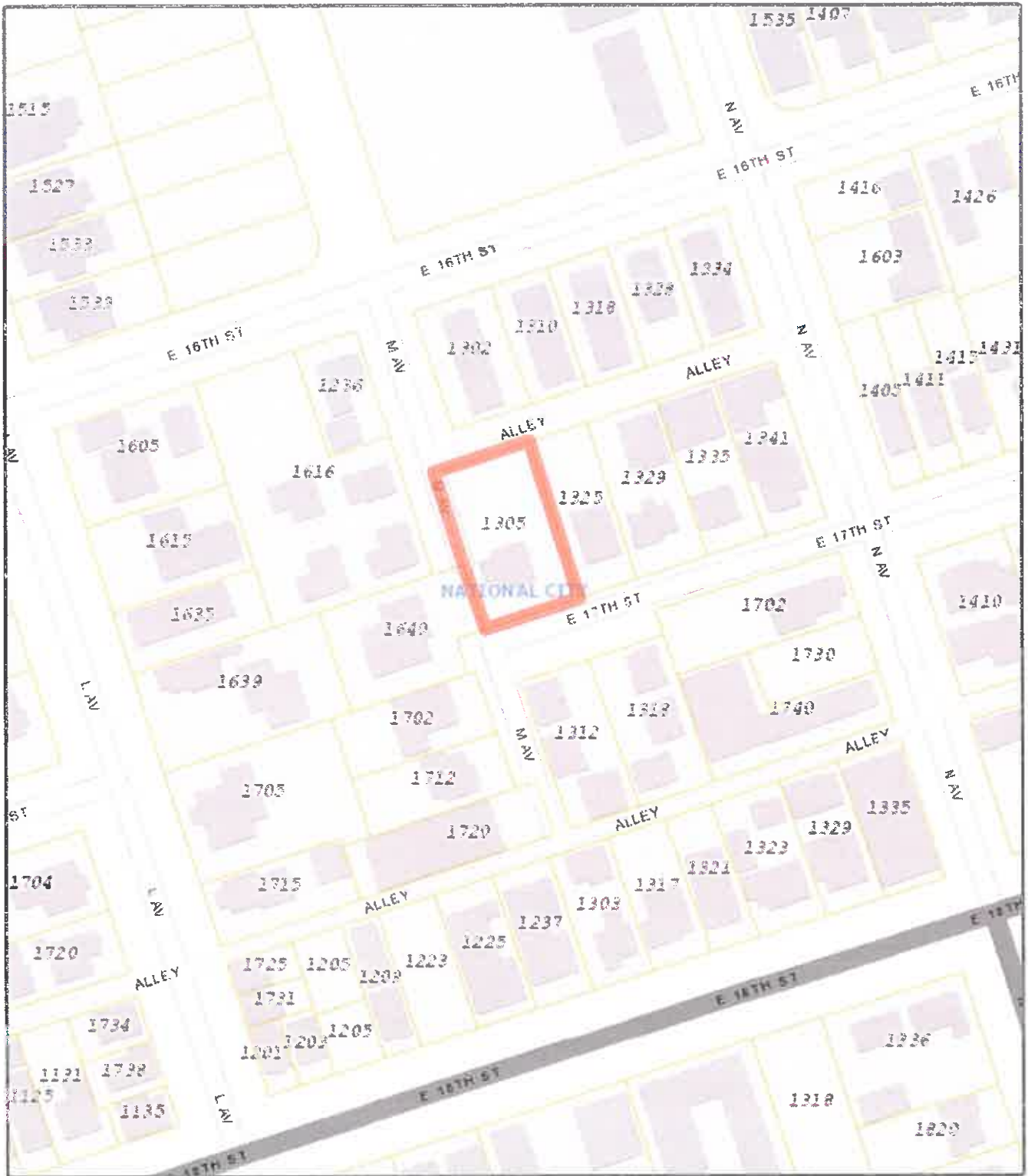
27. The grade of the fire apparatus access road shall be within the limits established by the fire code official based on the fire department's apparatus (15% Grade).
28. Where required by the fire code official approved signs or other approved notices or markings that include the words NO PARKING – FIRE LANE shall be provided for fire apparatus access roads to identify such roads or prohibit the obstruction thereof. The means by which fire lanes are designed shall be maintained in a clean and legible condition at all times and be replaced or repaired when necessary to provide adequate visibility.
29. The required width of emergency fire apparatus access roads shall not be obstructed in any manner, including parking of vehicles. All access roads shall be no less than 20 feet wide, no less than 14 feet high and shall have an all weathered road with the ability to support 75 thousand pounds or greater. Where a fire hydrant is located on a fire apparatus road, the minimum road width shall be 26 feet. All turns available for fire access and travel, shall maintain a minimum of a 28 foot radius All Fire Department access roads shall be painted and signed to prevent parking in these required designated emergency areas.
30. If entrance/exit gates are used, gates shall be equipped with Knox Box and Emergency Strobes so as to provide emergency vehicle access and egress. A Knox Key Switch shall be required in conjunction with strobe for emergency access, and shall be placed at front of property. Please contact the National City Fire Department for exact field location.

Sweetwater Authority

31. Plans submitted for construction shall show water mains surrounding the subject parcel plotted correctly. Contact Sweetwater Authority for details.
32. Plans submitted for construction shall show a future water meter location to serve the proposed parcel. Please note that water facilities cannot be located within three (3) feet of the edge of driveway aprons and a separation of ten (10) feet is required between sewer and water laterals. If the water meter is to be placed within public right-of-way on 17th Street, the Owner is required to provide the Authority with a written request for a Remote Water Service prior to Parcel Map recordation for approval by the Authority's Governing Board. The Authority fee for such a request is \$650.
33. This property is most likely encumbered by an Authority blanket easement. The Authority recommends that the Owner quitclaim the easement prior to Parcel Map recordation. By quitclaiming the easement, both parcel titles will be free of the easement blanket encumbrance, and the Letter of Omission requirements will be eliminated. Quitclaims require approval of the Authority's Governing Board. The Authority fee for such a request is \$700. If the Owner does not choose to quitclaim the blanket easement, the Owner must submit a written request to the Authority for a Letter of Omissions.

34. The parcel is located in a section of the Authority's service area that is served by 4-inch water mains with no fire hydrants. The Authority may not be able to provide fire flow as required by the National City Fire Department (Fire Department). Contact the Fire Department and obtain options to provide adequate fire protection for the proposed single-family residence.

1305 E. 17TH ST



Disclaimer: Map and parcel data are believed to be accurate, but accuracy is not guaranteed. This is not a legal document and should not be substituted for a title search, appraisal, survey or zoning verification.

1 inch = 124 feet
7/1/2015



NOTICE OF EXEMPTION

TO: County Clerk
County of San Diego
P.O. Box 1750
1600 Pacific Highway, Room 260
San Diego, CA 92112

Project Title: 2015-12 LS

Project Location: 1305 East 17th Street, National City, CA 91950

Contact Person: Martin Reeder

Telephone Number: (619) 336-4313

Description of Nature, Purpose and Beneficiaries of Project:

Tentative Parcel Map to subdivide an existing 11,640 square-foot lot into two lots. There is an existing single-family home that will remain. No construction is proposed as part of this project.

Applicant:

BDS Engineering
c/o: Thomas Jones
6859 Federal Blvd.
Lemon Grove, CA 91945

Telephone Number:

(619) 582-4992

Exempt Status:

Categorical Exemption – Section 15315 (Minor Land Divisions)

Reasons why project is exempt:

It can be seen with certainty that the project will not have a significant effect on the environment. The project is a minor land division within the city limits of National City, an urbanized area. The 11,640 square-foot property has been disturbed previously and has no value as habitat. The division fulfills the General Plan's intent for this land use designation with regard to residential density and infill of vacant or underutilized properties.

Date:

MARTIN REEDER, AICP
Principal Planner



CITY OF NATIONAL CITY - PLANNING DEPARTMENT
1243 NATIONAL CITY BLVD., NATIONAL CITY, CA 91950

NOTICE OF PUBLIC HEARING

TENTATIVE PARCEL MAP FOR THE SUBDIVISION OF
ONE LOT INTO TWO AT 1305 EAST 17TH STREET.
CASE FILE NO.: 2015-12 LS
APN: 561-090-05

The National City Planning Commission will hold a public hearing after the hour of 6:00 p.m. **Monday, July 20, 2015**, in the City Council Chambers, Civic Center, 1243 National City Boulevard, National City, California, on the proposed request. (Applicant: BDS Engineering)

The property is a 11,640 square-foot lot located on the north side of East 17th Street west of "N" Avenue. The applicant proposes to subdivide the existing lot into two parcels. The existing home would remain. Access to the proposed new lot will be from "M" Avenue. No construction is proposed at this time.

Plans are available for review at the City's Planning Department, Civic Center. Members of the public are invited to comment. Written comments should be received by the Planning Department on or before 12:00 p.m., **July 20, 2015**, who can be contacted at 619-336-4310 or planning@nationalcityca.gov

If you challenge the nature of the proposed action 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.

NATIONAL CITY PLANNING DEPARTMENT

FOR BRAD RAULSTON
Executive Director

Site Photographs

1305 E. 17TH STREET
NATIONAL CITY, CA 91950

February 2015

BDS Job No. 14-28



Google Earth image looking down on the site.

Site Photographs

1305 E. 17TH STREET
NATIONAL CITY, CA 91950

February 2015

BDS Job No. 14-28



#1 – Looking northeasterly from 17th St.



#2 – Looking northwesterly from 17th St.



#3 – Looking southwesterly along 17th St.



#4 – Looking northeasterly along 17th St.

Site Photographs

1305 E. 17TH STREET
NATIONAL CITY, CA 91950

August 2014

BDS Job No. 14-28



#5 – Looking southerly from the alley.



#6 – Looking southwesterly from the alley.



#7 – Looking southwesterly from the alley.



#8 – Looking southwesterly parallel with the alley.

Site Photographs

1305 E. 17TH STREET
NATIONAL CITY, CA 91950

February 2015

BDS Job No. 14-28



#9 – Looking northeasterly parallel with the alley.



#10 – Looking southeasterly at 'M' Ave. from 16th St.



#11 – Looking southeasterly at 'M' Ave. from 16th St.



#12 – Looking southeasterly at 'M' Ave. from 16th St.

Site Photographs

1305 E. 17TH STREET
NATIONAL CITY, CA 91950

February 2015

BDS Job No. 14-28



#13 – Looking southwesterly at the northeasterly corner of the site from the alley, with 'M' Ave. in the background.

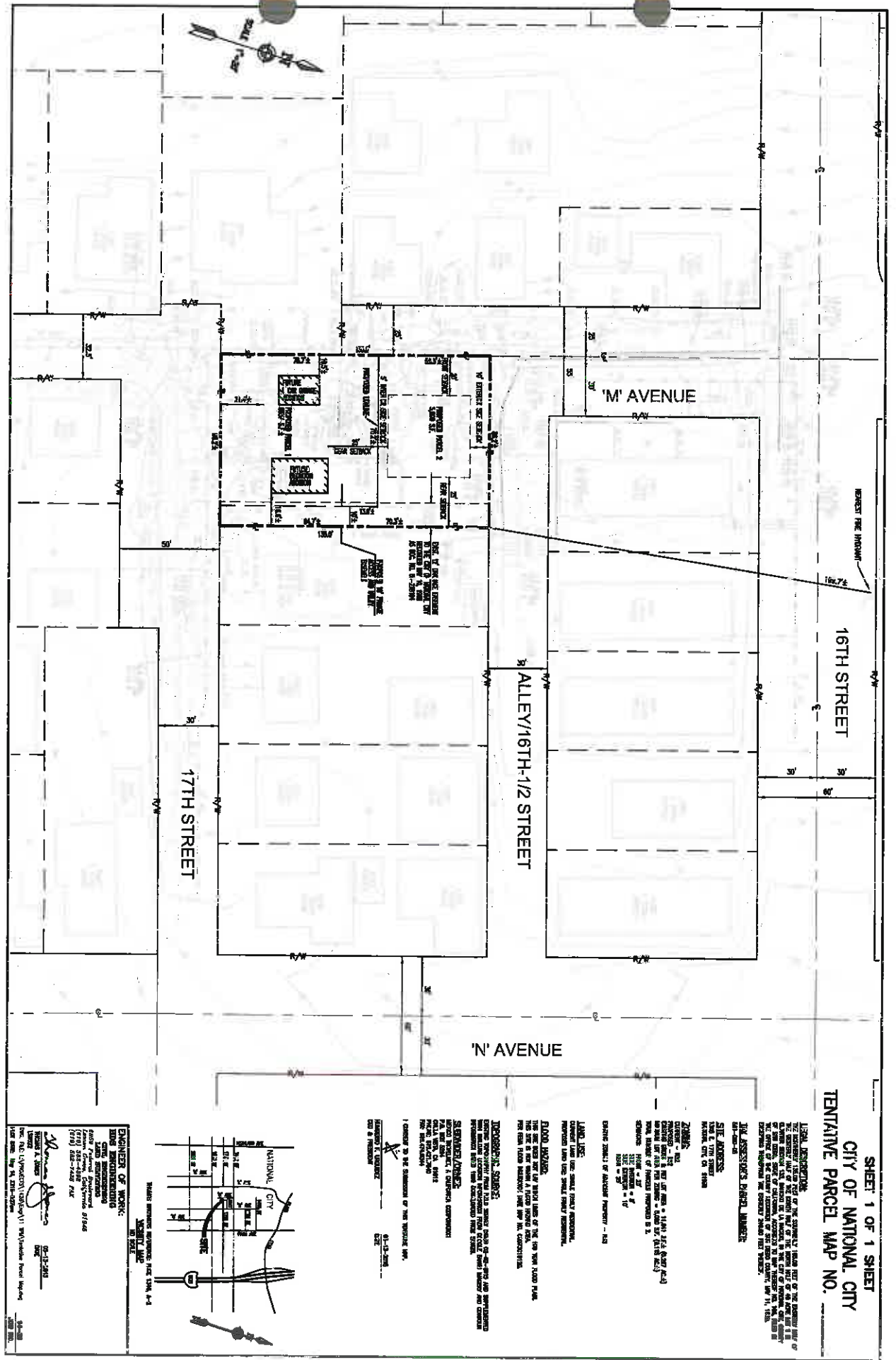


#14 – Looking southwesterly at the northeasterly corner of the site from the alley, with 'M' Ave. in the background.



#15 – Looking northwesterly at 'M' Ave. from the alley.

EXHIBIT: A
CASE FILE NO.: 2015-12-25
DATE: 5/14/15



SHEET: 1 OF 1 SHEET
CITY OF NATIONAL CITY
TENTATIVE PARCEL MAP NO. _____

LISEL, ABBOTT & ASSOCIATES, INC.
 ENGINEERS, ARCHITECTS, PLANNERS
 10000 EAST 15TH AVENUE, SUITE 100
 DENVER, COLORADO 80232
 (303) 751-1100
 WWW.LISEL.COM

THE ASSessor'S OFFICE, SAN DIEGO
 150 W. WASHINGTON STREET
 SAN DIEGO, CA 92102
 (619) 441-2200

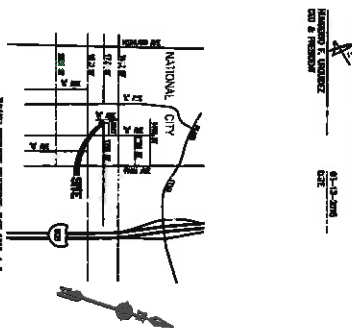
LAND LINES:
 CONVEYED LAND (SEE SMALL PRINT RESOLUTION)
 UNCONVEYED LAND (SEE SMALL PRINT RESOLUTION)

FLOOD HAZARD:
 THIS MAP HAS NOT BE REVIEWED FOR FLOOD HAZARD PLANS.
 THE USER SHOULD CONSULT WITH THE LOCAL FLOOD PLANNING
 AGENCY FOR FLOOD HAZARD INFORMATION.

TERRAIN/PROPERTY SURVEY:
 THIS MAP IS BASED ON THE SURVEY OF THE PROPERTY AND
 THE SURVEY OF THE TERRAIN. THE SURVEY OF THE TERRAIN
 WAS CONDUCTED BY THE ENGINEER AND ARCHITECT
 AND IS SUBJECT TO THE USUAL LIMITATIONS OF SUCH SURVEYING.

SURVEY/ANALYSIS:
 THIS MAP IS BASED ON THE SURVEY OF THE PROPERTY AND
 THE SURVEY OF THE TERRAIN. THE SURVEY OF THE TERRAIN
 WAS CONDUCTED BY THE ENGINEER AND ARCHITECT
 AND IS SUBJECT TO THE USUAL LIMITATIONS OF SUCH SURVEYING.

CONSENT TO THE SUBMISSION OF THIS TENTATIVE PARCEL MAP:
 I, **WALTER A. GONZALEZ**, ENGINEER AND ARCHITECT,
 DO HEREBY CONSENT TO THE SUBMISSION OF THIS TENTATIVE PARCEL MAP.



ENGINEER OF RECORD:
WALTER A. GONZALEZ
 LICENSE NO. 10000
 REGISTERED PROFESSIONAL ENGINEER AND ARCHITECT
 10000 EAST 15TH AVENUE, SUITE 100
 DENVER, COLORADO 80232
 (303) 751-1100
 WWW.LISEL.COM

RESOLUTION 2015-14

**A RESOLUTION OF THE PLANNING COMMISSION
OF THE CITY OF NATIONAL CITY, CALIFORNIA,
APPROVING A TENTATIVE PARCEL MAP FOR THE SUBDIVISION
OF ONE LOT INTO TWO AT 1305 EAST 17TH STREET.
APPLICANT: BDS ENGINEERING
CASE FILE NO. 2015-12 LS**

WHEREAS, application was made for approval of a Tentative Parcel Map for the subdivision of one lot into two at 1305 East 17th Street on property generally described as:

Parcel "A" in the City of National City, County of San Diego, State of California, as shown on a parcel map file at page 1809 of parcel maps in the office of the County Recorder of said County and that portion of parcel "B" according to parcel map no. 1809 filed in the office of the County Recorder of San Diego County, California as file No. 73-222163 dated August 9, 1973.

WHEREAS, the Planning Commission of the City of National City considered a Tentative Parcel Map for the subdivision of one lot into two at 1305 East 17th Street at a duly advertised public hearing held on July 20, 2015, at which time oral and documentary evidence was presented; and,

WHEREAS, at said public hearings the Planning Commission considered the staff report contained in Case File No. 2015-12 LS, which is maintained by the City and incorporated herein by reference along with evidence and testimony at said hearing; and,

WHEREAS, this action is taken pursuant to all applicable procedures required by State law and City law; and,

WHEREAS, the Planning Commission has analyzed the project pursuant to the California Environmental Quality Act (CEQA), and determined that the activity in question is exempt from CEQA under 14 Cal. Code Regs. Section 15315 (Minor Land Divisions); and

WHEREAS, the action recited herein is found to be essential for the preservation of public health, safety, and general welfare.

NOW, THEREFORE, BE IT RESOLVED by the Planning Commission of the City of National City, California, that the testimony and evidence presented to the Planning Commission at public hearing held on July 20, 2015, support the following findings:

FINDINGS FOR APPROVAL OF THE TENTATIVE PARCEL MAP

1. The proposed map is consistent with the National City General Plan and applicable specific plans, since the proposed single-family subdivision, at a density of 7.5 units per acre, is consistent with the Low-Medium Density Residential land-

use designation, which specifies a maximum density of 9.0 units per acre the uses, and since there are no specific plans applicable to the site.

1. The site is physically suitable for the proposed type of development, since an additional single-family home can be located on a level building pad on the site with a minor amount of grading.
2. The site is physically suitable for the proposed density of development, since both resultant lots can accommodate a single family residence with suitable yard areas.
3. The design of the subdivision or the proposed improvements are not likely to cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat, since no natural habitat nor bodies of water are present on-site, and since the site is surrounded by urban development.
4. The design of the subdivision and the proposed/required improvements are not likely to cause serious public health problems, since all necessary public services will be provided.
5. The design of the subdivision and the proposed/required improvements will not conflict with easements, acquired by the public at large, for access through or use of the property within the proposed subdivision, since existing easements will be maintained and not be encroached upon.
6. The discharge of sewerage waste from the subdivision into the City of National City sewer system will not result in violation of existing requirements prescribed by the California Regional Quality Control Board pursuant to Division 7 (commencing with Section 13000) of the Water Code, as specified by Government Code Section 66474.6.
7. The subdivision has been considered by the Planning Commission with regard to its effect on the housing needs of the region, and these needs are balanced by the public service needs of the residents and available fiscal and environmental resources.
8. The design of the subdivision provides, to the extent feasible, for future passive and natural heating and cooling opportunities in the subdivision, based on consideration of local climate, topography, property configuration and other design and improvement requirements without requiring reduction in allowable density or lot coverage.

BE IT FURTHER RESOLVED that the application for the Tentative Parcel Map is approved subject to the following conditions:

General

1. This *Tentative Parcel Map* authorizes the creation of two new parcels from one existing parcel. Except as required by Conditions of Approval, all plans submitted for permits associated with the project shall conform with Exhibit A, case file no. 2015-12

LS, dated 5/14/2015. No construction or demolition is approved as part of this approval.

2. Before this *Tentative Parcel Map* shall become effective, the applicant and/or property owner shall sign and have notarized an Acceptance Form, provided by the Planning Department, acknowledging and accepting all conditions imposed upon the approval of this permit. Failure to return the signed and notarized Acceptance Form within 30 days of its receipt shall automatically terminate the *Tentative Parcel Map*. The applicant shall also submit evidence to the satisfaction of the Executive Director that a Notice of Restriction on Real Property is recorded with the County Recorder. The applicant shall pay necessary recording fees to the County. The Notice of Restriction shall provide information that conditions imposed by approval of the *Tentative Parcel Map* are binding on all present or future interest holders or estate holders of the property. The Notice of Restriction shall be approved as to form by the City Attorney and signed by the Executive Director prior to recordation.
3. Approval of the tentative map expires two (2) years after adoption of the resolution of approval at 6:00 p.m. unless prior to that date a request for a time extension not exceeding three (3) years has been filed as provided by National City Municipal Code §17.04.070.

Building

4. Plans submitted for improvements must comply with the 2013 edition of the California Building, Electrical, Plumbing, and Mechanical.

Engineering

5. The Priority Project Applicability checklist for the National Pollutant Discharge Elimination System (NPDES) is required to be completed and submitted to the Engineering Department. The checklist will be required when a project site is submitted for review of the City Departments. The checklist is available at the Engineering Department. If it is determined that the project is subject to the "Priority Project Permanent Storm Water BMP Requirements" and the City of National City Storm Water Best Management Practices of the Jurisdictional Urban Runoff Management Program (JURMP) approved Standard Urban Storm Water Mitigation Plan (SUSMP) documentation will be required prior to issuance of an applicable engineering permit. The SUSMP shall be prepared by a Registered Civil Engineer.
6. The Best Management Practices (BMPs) for the maintenance of the proposed construction shall be undertaken in accordance with the National Pollutant Discharge Elimination System (NPDES) regulations which may require a Storm Water Pollution Prevention Plan (SWPPP) for the project. An approved SWPPP will be required prior to issuing of a construction permit.
7. All surface run-off shall be treated with an approved Standard Urban Runoff Mitigation Plan (SUSMP) Best Management Practice (BMP) for all Priority SUSMP projects. No runoff will be permitted to flow over the sidewalk. Adjacent properties shall be protected from surface run-off resulting from this development.
8. A grading and drainage plan shall be submitted showing all of the proposed and existing on-site and off-site improvements. The plan shall be prepared in

accordance with the City's standard requirements by a Registered Civil Engineer. All necessary measures for prevention of storm water pollution and hazardous material run-off to the public storm drain system from the proposed parking lot or development shall be implemented with the design of the grading. This shall include the provision of such devices as storm drain interceptors, clarifiers, or filters. Best Management Practices for the maintenance of the parking lot, including sampling, monitoring, and cleaning of private catch basins and storm drains, shall be undertaken in accordance with the National Pollution Discharge Elimination System (NPDES) regulations. A private storm water treatment maintenance agreement shall be signed and recorded. A checklist for preparation of the grading plan/drainage plan is available at the Engineering Department.

9. A sewer permit will be required. The method of sewage collection and disposal shall be shown on the grading/drainage plan. Any new sewer lateral in the City right-of-way shall be 6 inch in size with a clean out. A sewer stamp "S" shall be provided on the curb to mark the location of the lateral.
10. A soils engineering report shall be submitted for the Engineering Department's review, after Planning Commission approval. The report shall address the stability of all of the existing and proposed slopes on the property. It shall also address the adequacy of the building pads, the criteria for any new retaining wall design, the maximum allowable soil bearing pressure and the required pavement structural sections for the proposed streets, the parking areas, and the driveways. As a minimum, the parking lot pavement sections shall be 2 inch A.C. over 4 inch Class II aggregate base. The street pavement sections shall be in accordance with National City modified Standard Drawing G-34. All soils report findings and recommendations shall be part of the Engineering Department requirements.
11. An existing 12 foot wide drainage easement reserved to the City of National City exists along the easterly side of the property and no building encroachment will be allowed within the easement. The easement shall be shown on the plans.
12. The existing street improvements along the property frontage(s) shall be kept free from weed growth by the use of special weed killers, or other approved methods.
13. A permit shall be obtained from the Engineering Department for all improvement work within the public right-of-way, and any grading construction on private property.
14. A title report shall be submitted to the Engineering Department, after the Planning Commission approval, for review of all existing easements and the ownership at the property.
15. The final parcel map shall meet all of the requirements of the Subdivision Map Act, and the City of National City Municipal Codes including certification, acknowledgement, complete boundary information and monumentation.
16. The developer shall submit to the Fire Department a letter from Sweetwater Authority stating existing fire flow. If determined by the Fire Department that additional improvements are needed, the developer shall enter into an agreement for the water improvements with the Sweetwater Authority prior to obtaining the final map approval.

17. Separate water and sewer laterals shall be provided to each lot/parcel.
18. The creation of an easement for ingress and egress to and from parcel/lot 2 across parcel from 17TH Street will be required. The easement shall be created on the final map.
19. The final map shall be recorded prior to issuance of any building permit.
20. All new property line survey monuments shall be set on private property, unless otherwise approved.
21. The parcel map/final map shall use the California Coordinate System for its "Basis of Bearings" and express all measured and calculated bearings in terms of the system. The angle of grid divergence from a true meridian, and the north point shall appear on the map. Two measured ties from the boundary of the property to existing horizontal control stations shall be shown.

Fire

22. Plans submitted for improvements must comply with the 2013 editions of the California Fire Code (CFC) and National Fire Protection Association (NFPA), and the current edition of the California Code of Regulations.
23. All contractors shall possess a National City business license prior to Fire Department plan submittal. A copy of the business license will be required at time of plan submittal. Fire submittals, shall be submitted to the National City Fire Department directly. Permit and fees shall apply.
24. Should any plan corrections be required, contractor must correct the plan and re-submit to the Fire Department for approval once again prior to installation.
25. Residential fire sprinklers shall be required in all new one-and two-family dwellings and townhouse construction statewide per 2010 California Building Standards Codes published July 1, 2010, with an effective date of January 1, 2011.
26. Fire apparatus access roads shall comply with the requirements of this section (Section 5 CFC 2013) and shall extend to within 150 feet of all portions of the facility and all portions of the exterior walls of the first story of the building as measured by an approved route around the exterior of the building. Dead-end fire apparatus access roads in excess of 150 feet in length shall be provided with an approved area for turning around fire apparatus.
27. The grade of the fire apparatus access road shall be within the limits established by the fire code official based on the fire department's apparatus (15% Grade).
28. Where required by the fire code official approved signs or other approved notices or markings that include the words NO PARKING – FIRE LANE shall be provided for fire apparatus access roads to identify such roads or prohibit the obstruction thereof. The means by which fire lanes are designed shall be maintained in a clean and legible condition at all times and be replaced or repaired when necessary to provide adequate visibility.
29. The required width of emergency fire apparatus access roads shall not be obstructed in any manner, including parking of vehicles. All access roads shall be no

less than 20 feet wide, no less than 14 feet high and shall have an all weathered road with the ability to support 75 thousand pounds or greater. Where a fire hydrant is located on a fire apparatus road, the minimum road width shall be 26 feet. All turns available for fire access and travel, shall maintain a minimum of a 28 foot radius All Fire Department access roads shall be painted and signed to prevent parking in these required designated emergency areas.

30. If entrance/exit gates are used, gates shall be equipped with Knox Box and Emergency Strobes so as to provide emergency vehicle access and egress. A Knox Key Switch shall be required in conjunction with strobe for emergency access, and shall be placed at front of property. Please contact the National City Fire Department for exact field location.

Sweetwater Authority

31. Plans submitted for construction shall show water mains surrounding the subject parcel plotted correctly. Contact Sweetwater Authority for details.
32. Plans submitted for construction shall show a future water meter location to serve the proposed parcel. Please note that water facilities cannot be located within three (3) feet of the edge of driveway aprons and a separation of ten (10) feet is required between sewer and water laterals. If the water meter is to be placed within public right-of-way on 17th Street, the Owner is required to provide the Authority with a written request for a Remote Water Service prior to Parcel Map recordation for approval by the Authority's Governing Board. The Authority fee for such a request is \$650.
33. This property is most likely encumbered by an Authority blanket easement. The Authority recommends that the Owner quitclaim the easement prior to Parcel Map recordation. By quitclaiming the easement, both parcel titles will be free of the easement blanket encumbrance, and the Letter of Omission requirements will be eliminated. Quitclaims require approval of the Authority's Governing Board. The Authority fee for such a request is \$700. If the Owner does not choose to quitclaim the blanket easement, the Owner must submit a written request to the Authority for a Letter of Omissions.
34. The parcel is located in a section of the Authority's service area that is served by 4-inch water mains with no fire hydrants. The Authority may not be able to provide fire flow as required by the National City Fire Department (Fire Department). Contact the Fire Department and obtain options to provide adequate fire protection for the proposed single-family residence.

BE IT FURTHER RESOLVED that copies of this Resolution be transmitted forthwith to the applicant.

BE IT FURTHER RESOLVED that this resolution shall become effective and final upon adoption, unless appealed pursuant to Section 17.04.050 of the Subdivision Ordinance of the City of National City

CERTIFICATION:

This certifies that the Resolution was adopted by the Planning Commission at their meeting of July 20, 2015, by the following vote:

AYES:

NAYS:

ABSENT:

ABSTAIN:

CHAIRPERSON



CITY OF NATIONAL CITY - PLANNING DEPARTMENT
1243 NATIONAL CITY BLVD., NATIONAL CITY, CA 91950

PLANNING COMMISSION STAFF REPORT

Title: APPEAL OF A CODE ENFORCEMENT VIOLATION
FOR A PROPERTY LOCATED AT 105 EAST 8TH
STREET.

Case File No.: 2015-14 APPEAL

Location: Southwest corner of East 8th Street and A Avenue

Assessor's Parcel No.: 556-332-20

Staff report by: Martin Reeder, AICP – Principal Planner

Applicant: Benny Adler

Property owner: Adler Howard Trust

Zoning designation: Downtown Specific Plan - Development Zone 9

Adjacent land use/zoning:

North: Commercial / DSP-8

East: Commercial / DSP-9

South: Commercial across East 8th Street / DSP-9

West: Commercial across "A" Avenue / DSP-4

Environmental review: Not a project under CEQA

Staff recommendation: Deny the appeal

BACKGROUND

Site Characteristics

The project site is a 6,548 square-foot lot on the southwest corner of East 8th Street and "A" Avenue in Downtown Specific Plan - Development Zone 9. The lot is developed with a 6,000 square-foot single-story building that houses McDini's restaurant/bar. The lot directly to the north on "A" Avenue functions as the parking lot for McDini's and has 24 parking spaces. The applicant has stated that the current owner took over management of McDini's in July of 2008. McDini's operates under a Type 47 alcohol license (On-Sale General Eating Place).

History

A Conditional Use Permit (CUP-1986-10) was approved in October of 1986 that extended alcohol sales hours until 2 a.m. and allowed for live entertainment three days a week (Thursday through Saturday) until midnight.

Another Conditional Use Permit (CUP) was partially approved in 2009 (2009-10 CUP). As part of this permit, the applicant requested to extend the live entertainment hours allowed at that time, and to allow for a dance floor and stage to be constructed. The request also included the conversion of a storage area in to seating area, which had been converted without permits. The expansion/conversion also included an exception for less than required parking. The Planning Commission approved the requested expansion and parking exception but denied the extension of live entertainment hours. The required paperwork that the applicant needed to file in order to make the partial approval official was never processed; therefore, the permit expired one year later as it was not exercised; because the permit was not exercised, CUP-1986-10 became the default CUP for live entertainment at this time.

After this time period, the City pursued nuisance abatement against McDini's due to ongoing code enforcement issues and the high volume of calls for service from the Police Department. On December 17, 2010, a stipulated judgment was entered into between the City and McDini's, which allowed McDini's to continue operating provided that live entertainment was no longer conducted and that all outstanding code enforcement and building issues were resolved. The applicant began working to satisfy all requirements of the Building and Fire Departments, and a new CUP was ultimately applied for.

In 2010, a stipulated judgment was entered into between the City and McDini's, which allowed McDini's to continue operating, provided that live entertainment was no longer conducted and that all outstanding code enforcement and building issues were resolved. The applicant, in an effort to modify the stipulated judgment, proposed various conditions to address underlying concerns. These proposals resulted in additional conditions that were added to the CUP, and also to the Stipulated Judgment. The most recent CUP, approved in 2012 (2010-33 CUP) allowed live entertainment at McDini's Thursday through Sunday from 6 p.m. to 2 a.m. The approval Resolution (City Council Resolution 2012-49) included the Conditions of Approval as stated in the modified Stipulated Judgment. The 2010-33 CUP became the default CUP for live entertainment

at this time. The required paperwork needed to make the approval official was processed and live entertainment commenced; therefore, 2010-33 CUP became the default CUP for live entertainment at this time. The previous CUP (CUP-1986-10) was superseded by approval of 2010-33 CUP and was no longer in effect. The stipulated judgment was amended to allow for live entertainment activities to commence.

In June of 2013, the Planning Commission voted to revoke 2010-33 CUP based on seven violations contained in five separate Conditions of Approval, including incidents of a violent nature, increased calls for service, security requirements, noise, and permitted attire. At this point, no live entertainment was approved for the business, outside of what is otherwise permitted by the Land Use Code:

18.30.050 - Sale of alcoholic beverages and live entertainment.

G. Live Entertainment

1. Live entertainment shall be limited to a single entertainer performing musical work (piano bars, etc.) except as provided below.
2. Additional entertainers, dancing, audience participation, karaoke, or other live entertainment may be authorized by a conditional use permit in zones where live entertainment is permitted.

To summarize, McDini's does not have any Conditional Use Permit for live entertainment. CUP-1986-10 no longer exists as it was replaced by 2010-33 CUP, which was revoked. In addition, 2009-10 CUP died as it was never perfected. Therefore, without an operational CUP, McDini's may not conduct any live entertainment activities except as permitted by 18.30.050. Furthermore, there is a court order in effect that prohibits any live entertainment under any circumstances.

Analysis

There is one violation of the Land Use Code, as stated above, which is based on the fact that live entertainment is not permitted without an approved CUP. The role of the Planning Commission is to hear the appeal and determine whether a violation exists. At the time of the appeal, after all evidence is received and heard, the Planning Commission shall determine the issue by either granting the appeal or denying the appeal. The decision of the Planning Commission may be appealed to the City Council per Chapter 18.12.060.

If the Planning Commission determines, after considering the appeal, that the alleged offense constitutes a violation, the Planning Commission shall deny the appeal, prosecution of that offense may thereafter proceed, and the appeal fee shall be retained by the city. In denying an appeal, the Planning Commission may grant the violator a reasonable period of time to correct the violation prior to the commencement of prosecution.

If the Planning Commission determines, after considering the appeal, that the alleged offense does not constitute a violation, no further enforcement action will be taken, and the appeal fee shall be returned to the alleged violator within three working days after the Planning Commission's decision.

Violation

The owners and operators of McDini's were issued a Notice of Violation on May 28, 2015, informing them that they were in violation of the National City Municipal Code and a Court Order dated September 12, 2013 (see attached), and were ordered to cease and desist any and all live entertainment activities.

City staff had been made aware of several advertised events occurring at McDini's located at 105 East 8th Street in National City. The specific events included, but were not limited to, the following:

- Bar 105 Saturdays (Facebook – April 22, 2014) – Live Music Videos
- SDSU Party – Lingerie Edition (Flyer – March 20, 2015) – McDini's Event Center
- Biker Crew Nights (Instagram – March 15, 2015)
- SDSU Little Black Dress Party (Flyer – May 16, 2015) – McDini's Event Center'

(advertisements of said events are attached for you review)

In addition, on May 16, 2015 police officers lawfully inspected McDini's as authorized by Business and Professions Code, §25755(c). On this occasion, Officers observed patrons dancing within McDini's and the sale of alcoholic beverages but no food. Dancing is also an activity which requires a Conditional Use Permit. In the absence of a Conditional Use Permit, dancing is not permitted. (See National City Municipal Code section 18.30.050 below) Further, McDini's holds a California ABC type 47 license – On Sale-General for Bona Fide Public Eating Place. This means alcohol sales must be incidental to food sales. Body cameras worn by police officers during the May 16th inspection referenced above showed that the kitchen was closed and that no food was being served. Such actions do not comply with the type of license issued to McDini's.

McDini's violations are based on the following section of the National City Municipal Code (NCMC):

18.30.050 - Sale of alcoholic beverages and live entertainment.

G. Live Entertainment

1. Live entertainment shall be limited to a single entertainer performing musical work (piano bars, etc.) except as provided below.
2. Additional entertainers, dancing, audience participation, karaoke, or other live entertainment may be authorized by a

conditional use permit in zones where live entertainment is permitted.

3. Live entertainment specified in subsection (2) of this section may be permitted by a resolution of approval for a conditional use permit for the sale of alcohol in zones where live entertainment is permitted.

As stated in Chapter 18.30.050, live entertainment requires a Conditional Use Permit (CUP), and that in the absence of a CUP, live entertainment is not permitted. Although a CUP (2010-33 CUP) was approved for live entertainment in 2012, this CUP was revoked and is no longer valid or binding on the property.

The reference to the facility as an "Event Center" advertises the fact that entertainment is taking place at the venue, which is violation of NCMC 18.30.050. Furthermore, the levying of an admission charge also pertains to entertainment venues, which is also in violation of NCMC 18.30.050.

Appeal

On June 2, 2015 the applicant filed a timely notice of appeal of the enforcement action. Title 7.32.100 (Appeals) of the Municipal Code sets forth the appeal process and requires that the Planning Commission hear the appeal request. The Commission must determine whether or not the alleged offense constitutes a violation. If they do consider it a violation, the Commission shall deny the appeal and prosecution of the offense continues. If the Commission finds that the alleged offense is not a violation, no further enforcement action will be taken. The decision of the Commission is final and conclusive, although all Planning Commission decisions may be appealed to the City Council as described in Title 18.12.060.

Summary

Live entertainment is not permitted except in conformance with NCMC 18.30.050. The fact that McDini's has been hosting live entertainment event is in violation of the Municipal Code. McDini's is also in violation of the Court Order prohibiting all live entertainment at McDini's by allowing dancing within its facility. Dancing as indicated above is defined as a form of live entertainment. (NCMC 10.78.020(E)(2).) All live entertainment is strictly prohibited by the Court Order. Staff is recommending denial of the appeal.

OPTIONS

1. Find that the alleged offense(s) constitutes a violation and deny the appeal.
2. Find that the alleged offense(s) does not constitute a violation and grant the appeal.

ATTACHMENTS

1. Recommended Findings for Denial of the Appeal
2. Advertisement of live entertainment events
3. May 28, 2015 Notice of Violation
4. Court Order dated September 12, 2013
5. Applicant's letter of appeal



MARTIN REEDER, AICP
Principal Planner

RECOMMENDED FINDINGS FOR DENIAL

1. That based on the fact that the National City Police Department lawfully inspected McDini's, as authorized by Business and Professions Code §25755(c), on May 16, 2015 and that on said occasion Officers observed patrons dancing within McDini's; the owner and/or operator of McDini's is in violation of NCMC 18.30.050.
2. That based on the fact that McDini's has advertised at least four separate live entertainment events between April 22, 2014 and May 16, 2015 at McDini's Bar (McDini's, Bar 105, McDini's Event Center), 105 E. 8th Street, National City, as detailed in this staff report, the owner and/or operator of McDini's is in violation of NCMC 18.30.050.
3. That based on the fact that the National City Police Department lawfully inspected McDini's, as authorized by Business and Professions Code §25755(c), on May 16, 2015 and that on said occasion Officers observed the sale of alcoholic beverages – but no food – being that body cameras worn by police officers during the May 16th inspection referenced above showed that the kitchen was closed and that no food was being served; the owner and/or operator of McDini's is in violation of its California ABC type 47 license – On Sale-General for Bona Fide Public Eating Place, which means alcohol sales must be incidental to food sales.
4. That the reference to the facility as an “Event Center” advertises the fact that entertainment is taking place at the venue, which is violation of NCMC 18.30.050.



BAR 105



BAR 105

Timeline ▾

Recent ▾

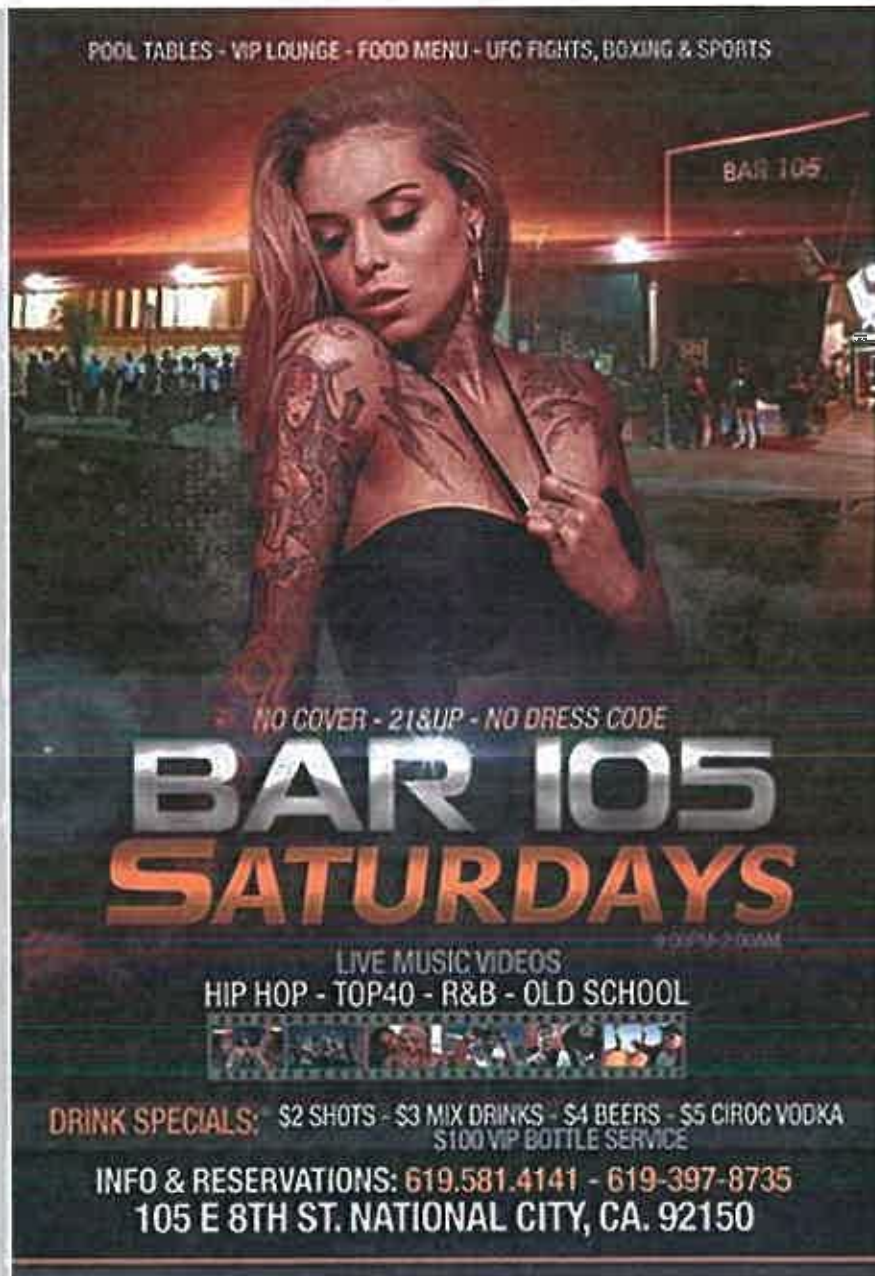


BAR 105

April 22 🌐

• All New [21+] #BAR105 SATURDAYS •
 #Free Entry All Night • 21&Up • No Dress Code.
 \$2 #Shots • \$3 #Drinks • \$4 #Beers • \$5 #Ciroc
 Address: 105 E 8th St. National City, Ca. 92150

POOL TABLES - VIP LOUNGE - FOOD MENU - UFC FIGHTS, BOXING & SPORTS




NO COVER - 21&UP - NO DRESS CODE

BAR 105

SATURDAYS

LIVE MUSIC VIDEOS
 HIP HOP - TOP40 - R&B - OLD SCHOOL



DRINK SPECIALS: \$2 SHOTS - \$3 MIX DRINKS - \$4 BEERS - \$5 CIROC VODKA
 \$100 VIP BOTTLE SERVICE

INFO & RESERVATIONS: 619.581.4141 - 619-397-8735
 105 E 8TH ST. NATIONAL CITY, CA. 92150

Like • Comment • Share

Kathy Calderon likes this.

Jeanette Wink Ledezma Yeah read it Donna 21 and up



mcdinis_nationalcity2

2w



28 likes

mcdinis_nationalcity2 Atten: I'm looking for Biker Crews to take over your own night over at @McDinis_NationalCity We are offering you 100% of door profits w/ no Bar Guarantee. If interested text 619 581-4141 #McDinis

Like Comment

18+/21+

MAY 16TH

\$100

DRINK SERVICE



SDSU

BLACK DRESS

PARTY

Sincerely
YOURZ


FIRST 100
LADIES
IN FREE

TEXT

FOR GUEST LIST

105 E 8TH AVE NATIONAL CITY, CA. 91950

18+/21+ FRIDAY MARCH 20TH 2015 \$100 BOTTLE SERVICE



SDSU
Party
LINGERIE EDITION

PRESENTED BY
STANLEY VOLPE
ENTERTAINMENT

TEXT 619 581-4141 FOR GUEST LIST

MC DINIS EVENT CENTER | 105E. 8TH ST. NATIONAL CITY, CA 91950

18+/21+ FRIDAY MARCH 20TH 2015 \$100 BOTTLE SERVICE



SDSU
Party
LINGERIE EDITION

CALLING OUT ALL COLLEGES
SDSU, UCSD,
MESA, CUYAMACCA,
SOUTHWEST CITY,
GROSSMONT
ALL ARE WELCOME

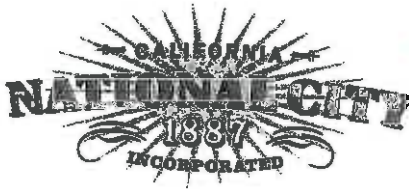
ΑΣΤ ΑΣΚ

PRESENTED BY
STANLEY VOLPE
ENTERTAINMENT

HALF OFF BEFORE 10:30 W/ LINGERIE
COLLEGE ID / MILITARY ID
\$5 OFF W/ FLYER

TEXT 619 581-4141 FOR GUEST LIST

MC DINIS EVENT CENTER | 105 E. 8TH ST. NATIONAL CITY, CA 91950



CITY OF NATIONAL CITY - PLANNING DEPARTMENT
1243 NATIONAL CITY BLVD., NATIONAL CITY, CA 91950

May 28, 2015

McDini's Restaurant Corporation
P.O. Box 2885
National City, CA 91951

Howard Adler Trust
5465 Hewlett Drive
San Diego, CA 92114

McDini's
105 East 8th Street
National City, CA 91950

NOTICE OF VIOLATION

Dear Mr. Adler, the Howard Adler Trust, and McDini's Restaurant Corporation,

This is a NOTICE that you are in violation of the National City Municipal Code and the Court Order dated September 12, 2013. (Court Order Attached hereto as Exhibit 1) You are hereby ordered to cease and desist any and all live entertainment activities as specified below. Pursuant to Section 7.32.030 (D) of the National City Municipal Code, this Notice is being directed to the person(s) believed to be responsible for this activity.

City staff has been made aware of several advertised events occurring at McDini's located at 105 East 8th Street in National City. The specific events include, but are not limited to, the following:

- Bar 105 Saturdays (Facebook – April 22, 2014) – Live Music Videos
- SDSU Party – Lingerie Edition (Flyer – March 20, 2015) – McDini's Event Center
- Biker Crew Nights (Instagram – March 15, 2015)
- SDSU Little Black Dress Party (Flyer – May 16, 2015) – McDini's Event Center

In addition, on May 16, 2015 police officers lawfully inspected McDini's as authorized by Business and Professions Code, §25755(c). On this occasion, Officers observed patrons dancing within McDini's and the sale of alcoholic beverages but no food. Dancing is an activity which requires a Conditional Use Permit. In the absence of a Conditional Use Permit, dancing is not permitted. (See National City Municipal Code section 18.30.050 below) Further, McDini's holds a California ABC type 47 license – On Sale-General for Bona Fide Public Eating Place. This means alcohol sales must be incidental to food sales. Body cameras worn by police officers during the May 16th inspection referenced above showed that the kitchen was closed and that no food was being served. Such actions do not comply with the type of license issued to McDini's.

McDini's violations are based on the following section of the National City Municipal Code (NCMC):

18.30.050 - Sale of alcoholic beverages and live entertainment.

G. Live Entertainment

1. Live entertainment shall be limited to a single entertainer performing musical work (piano bars, etc.) except as provided below.
2. Additional entertainers, dancing, audience participation, karaoke, or other live entertainment may be authorized by a conditional use permit in zones where live entertainment is permitted.
3. Live entertainment specified in subsection (2) of this section may be permitted by a resolution of approval for a conditional use permit for the sale of alcohol in zones where live entertainment is permitted.

As stated in Chapter 18.30.050, live entertainment requires a Conditional Use Permit (CUP), and that in the absence of a CUP, live entertainment is not permitted. Although a CUP (2010-33 CUP) was approved for live entertainment in 2012, this CUP was revoked and is no longer valid or binding on your property.

The reference to the facility as an "Event Center" advertises the fact that entertainment is taking place at the venue, which is violation of NCMC 18.30.050. Furthermore, the levying of an admission charge also pertains to entertainment venues, which is also in violation of NCMC 18.30.050.

"Live entertainment" is defined by National City Municipal Code Chapter 10.78.020 as the following:

- E. "Entertainment" or "live entertainment" means any single event or series of events open to the public and conducted for guests or patrons, including but not limited to:
1. Presentations by single or multiple performers, such as singers, musicians, hypnotists, pantomimes, comedians, musical song or dance acts, plays, concerts, any type of contest, sporting events, exhibitions, carnival, rodeo or circus acts, demonstrations of talent, shows, reviews, or any other activity which may be attended by members of the public;
 2. Dancing to live or recorded music;

3. The presentation of recorded music played on electronic sound equipment which is operated by an agent or contractor of the establishment, commonly known as "DJ" or "disc jockey."

"Admission Charge" is defined by National City Municipal Code Chapter 10.78.020 as the following:

- B. "Admission charge" means any fee or charge for the right or privilege to enter any place of entertainment including a minimum service charge, event charge, cover charge, charge for the use of seats and tables, or any other similar charge. It also includes the purchase or presentation of a ticket or token directly or indirectly required as a condition for entrance. It does not include tips, gratuities, voluntary donations or suggested donations for employees or any person providing entertainment.

Your failure to comply with this Notice within the time specified will either result in citations being issued on a daily basis until the violation is corrected, and/or the matter being referred to the City Attorney for Prosecution. Violations of the National City Municipal Code are infractions and misdemeanors. An infraction is punishable by: (1) A fine not exceeding one hundred dollars for the first violation; (2) A fine not exceeding two hundred dollars for a second violation of the same section of law within one year; (3) A fine not exceeding five hundred dollars for each additional violation of the same section of law within one year. Misdemeanors are punishable by up to one year in jail and fines to \$1000.

A notice of violation may be recorded in the real property records of the County of San Diego if compliance with the order has not been achieved.

Under Municipal Code Section 7.32.100, you have the right to appeal this enforcement action by filing a written appeal with a filing fee (\$405.30) within 72 hours (three working days) of receipt of this notice, in the office of the Neighborhood Services Manager, 1243 National City Boulevard, National City, CA 91950. Any appeal letter without this filing fee will not be considered. A timely appeal will stay prosecution until the Planning Commission has acted upon the appeal. Your failure to appeal or request a hearing within the times prescribed constitutes a waiver of the right to a hearing and renders the Notice of Compliance a Final Order.

Nevertheless, please be advised that McDini's is also in violation of the Court Order prohibiting all live entertainment at McDini's by allowing dancing within its facility. Dancing as indicated above is defined as a form of live entertainment. (NCMC 10.78.020(E)(2).) All live entertainment is strictly prohibited by the Court Order. McDini's is legally bound by the court order and must operate in accordance therewith. Pursuant to prior court rulings, the City may apply ex parte to enforce the stipulated judgment and court order prohibiting live entertainment and may also seek all remedies plead and available in the Superior Court case with Judge Nevitt and otherwise available under the law including the immediate closure of McDini's. You are hereby advised

that, regardless of your appeal rights under the City's Municipal Code, if any further violations occur at McDini's, including dancing, the City will immediately file an ex parte application to seek all remedies available including the closure of McDini's, based upon the language of the court order and McDini's violations of that order.

The enclosed notice has been mailed to you by certified mail and first-class mail. Please be advised that receipt constitutes service of notice.

If you have any questions regarding the information contained in this letter, please contact Principal Planner Martin Reeder at (619) 336-4313.

Sincerely,

A handwritten signature in black ink, appearing to read "Martin Reeder". The signature is fluid and cursive, written over a light blue horizontal line.

MARTIN REEDER, AICP
Principal Planner

c/c: City Attorney
City Manager
Police Chief

1 CLAUDIA GACITUA SILVA (SBN 167868)
2 City Attorney
3 CITY OF NATIONAL CITY
4 1243 National City Boulevard
5 National City, CA 91950-4301
6 Telephone: (619) 336-4220
7 Fax: (619) 336-4327

8 Attorney for Plaintiff

**EXEMPT FROM FILING FEES
PURSUANT TO GOVERNMENT
CODE SECTION 6103**

F I L E D
Clerk of the Superior Court

SEP 12 2013

SEP 11 '13 AM 11:30

By: A. ANZALONE, Deputy

9 SUPERIOR COURT OF THE STATE OF CALIFORNIA
10 FOR THE COUNTY OF SAN DIEGO, CENTRAL DIVISION

11 People of the State of California, ex rel.
12 City of National City

13 Plaintiff,

14 vs.

15 Ben Adler, Charleton Adler, McDini's, Inc.,
16 Adler Howard Trust, and DOES 1-10,
17 inclusive,

18 Defendants.

CASE NO.: 37-2010-0092488-CU-MC-CTL

**[PROPOSED] ORDER AFTER EX PARTE
HEARING TO REINSTATE
PROHIBITION OF LIVE
ENTERTAINMENT**

Date: September 12, 2013

Time: 8:30 a.m.

Dept.: 52

Judge: Honorable William R. Nevitt, Jr.

Complaint filed: May 20, 2010

19
20 Plaintiff, City of National City's Application to Reinstate Prohibition of Live
21 Entertainment for Failure to Comply with Conditions of Approval as to the premises located at
22 105 East 8th Street, National City, California 91950, came before the above-entitled court on
23 September 12, 2013. Present in court were Plaintiff City of National City, by and through its
24 counsel Claudia Gacitua Silva, City Attorney, and Defendants Ben Adler, Charleton Adler,
25 McDini's Inc., and Adler Howard Trust, by and through their attorney Larry Frankel.

26 Having read and considered Plaintiff's Ex Parte Application, Plaintiff's Request for
27 Judicial Notice, and after a hearing on the matter on September 12, 2013, the Court orders as
28 follows:

1
ORDER AFTER OF EX PARTE TO REINSTATE PROHIBITION OF LIVE ENTERTAINMENT

COPY

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Plaintiff City of National City's Application to Reinstate the Prohibition of Live Entertainment is granted. The prohibition of live entertainment at 105 East 8th Street, National City, California 91950 is reinstated immediately. All live entertainment is prohibited at this location.

This Order is issued in furtherance of, and to enforce, the Stipulated Judgment entered on December 17, 2010 and the Amendment to the Stipulated Judgment entered March 27, 2012.

IT IS SO ORDERED.

DATED: SEP 12 2013

WILLIAM R. NEVITT, JR.

Honorable William R. Nevitt, Jr.

June 02, 2015

City of National City
Neighborhood Services Dept
1243 National City Blvd
National City, CA 91950

Re: Notice of Violation

To whom It May Concern:

Persuant to the alledged Notice of Violation letter dated May 28, 2015 sent to McDini's Restaurant Corporation, Adler Trust and "McDini's", we are formally appealing the aforementioned violation(s). Attached, as required by Municipal Code 7.32.100 is check #1908 in the amount of \$405.30 (Four Hundred , five dollars and thirty cents). Please schedule an appeal hearing. We are reserving the right to file for a claim of refund for fee's paid in this action.

Thank you for your cooperation in this matter. If you have any questions or concerns, please call myself at (619) 739-1166 or the law offices of our counsel, Mr Donald Beury, Esq at (619) 708-6724

Sincerely;


Benny Adler
McDini's Restaurant Corp
P.O.Box 2885
National City, CA 91951-2885

cc: law offices of Donald Beury

RECEIVED
CITY CLERK
2015 JUN 2 PM 5 55
CITY OF NATIONAL CITY

RESOLUTION NO. 2015-15

**A RESOLUTION OF THE PLANNING COMMISSION OF
THE CITY OF NATIONAL CITY, CALIFORNIA,
DENYING AN APPEAL OF A CODE ENFORCEMENT VIOLATION
FOR A PROPERTY LOCATED AT 105 EAST 8TH STREET.
CASE FILE NO. 2015-14 APPEAL
APN: 556-332-20**

WHEREAS, the Planning Commission of the City of National City considered an appeal of a Code Enforcement Violation for a property located at 105 East 8th Street, at the Planning Commission meeting held on July 20, 2015, at which time oral and documentary evidence was presented; and,

WHEREAS, at said meeting the Planning Commission considered evidence and testimony presented by Planning Department staff, the appellant, and the public, including, but not limited to, the staff report and appellant's written appeal contained in Case File No. 2015-14 APPEAL maintained by the City and incorporated herein by reference; and,

WHEREAS, live entertainment is not permitted without an approved Conditional Use Permit, per Municipal Code section 18.30.050; and

WHEREAS, the business operating at 105 East 8th Street under names including, but not limited to, McDini's; McDini's Event Center; Bar 105 has advertised at least four separate live entertainment events between April 22, 2014 and May 16, 2015 at the subject address; and

WHEREAS, this action is taken pursuant to all applicable procedures required by State law and City law; and,

WHEREAS, the action recited herein is found to be essential for the preservation of public health, safety, and general welfare.

NOW, THEREFORE, BE IT RESOLVED by the Planning Commission of the City of National City, California, that the Commission determines, after having considered the appeal, that the alleged offenses constitute a violation of the National City Municipal Code.

BE IT FURTHER RESOLVED by the Planning Commission of the City of National City, California, that, after hearing and considering all evidence and testimony presented at the Planning Commission meeting on June 15, 2015, the Planning Commission determines that there is sufficient evidence to support, and the Planning Commission therefore makes, the following findings:

1. That based on the fact that McDini's has advertised at least four separate live entertainment events between April 22, 2014 and May 16, 2015 at McDini's Bar (McDini's, Bar 105, McDini's Event Center), 105 E. 8th Street, National City, as detailed in this staff report, the owner and/or operator of McDini's is in violation of NCMC 18.30.050.
2. That based on the fact that the National City Police Department lawfully inspected McDini's, as authorized by Business and Professions Code §25755(c), on May 16, 2015 and that on said occasion Officers observed patrons dancing within McDini's; the owner and/or operator of McDini's is in violation of NCMC 18.30.050.
3. That based on the fact that the National City Police Department lawfully inspected McDini's, as authorized by Business and Professions Code §25755(c), on May 16, 2015 and that on said occasion Officers observed the sale of alcoholic beverages – but no food – being that body cameras worn by police officers during the May 16th inspection referenced above showed that the kitchen was closed and that no food was being served; the owner and/or operator of McDini's is in violation of its California ABC type 47 license – On Sale-General for Bona Fide Public Eating Place, which means alcohol sales must be incidental to food sales.
4. That the reference to the facility as an “Event Center” advertises the fact that entertainment is taking place at the venue, which is violation of NCMC 18.30.050.
5. That the levying of an admission charge also pertains to entertainment venues, which is also in violation of NCMC 18.30.050.

BE IT FURTHER RESOLVED that the Planning Commission hereby denies the appeal.

BE IT FURTHER RESOLVED that copies of this Resolution be transmitted forthwith to the applicant.

BE IT FINALLY RESOLVED that this Resolution shall become effective and final thirty (30) days following the date that the Planning Commission resolution is adopted, unless, within that thirty (30) day period of time, the appellant or other interested party files a written notice of appeal with the Planning Department requesting an appeal before the City Council in accordance with Municipal Code section 18.12.060(C). The time within which judicial review of a final decision of the Planning Commission or City Council may be sought is governed by the provisions of Code of Civil Procedure section 1094.6. However, available administrative remedies must be exhausted before judicial review of a final decision may be sought.

CERTIFICATION:

This certifies that the Resolution was adopted by the Planning Commission at their meeting of July 20, 2015, by the following vote:

AYES:

NAYS:

ABSENT:

ABSTAIN:

CHAIRPERSON