



## REPORT TO THE PLANNING COMMISSION

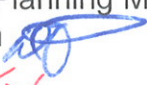
AGENDA ITEM NO. VIII-B

COMMISSION MEETING 11/18/15

November 18, 2015

  
DEPARTMENT DIRECTOR

FROM: MIKE SANCHEZ, Assistant Director  
Development Services Division 

THROUGH: BONIQUE EMERSON, AICP, Planning Manager  
Development Services Division 

BY: STEPHEN COX, Planner   
Development Services Division

### SUBJECT:

Consideration of Conditional Use Permit Application No. C-15-124 filed by Sol Development Associates, LLC. on behalf of Stacy Gould, pertaining to a 3,165 square-foot tenant space within the 0.57 acre North Pointe Shopping Center located on the southwest corner of the intersection of West Herndon and North Palm Avenue. The applicant requests authorization to establish a State of California Alcoholic Beverage Control Alcohol License Type 42 (*Bar, Tavern – sale of beer and wine for consumption on or off the premises where sold; minors not allowed to enter and remain*) for Pinot's Palette Paint & Sip. The property is zoned C-2/EA/cz (Community Shopping Center/Expressway Area Overlay/with conditions of zoning).

1. **APPROVE** Environmental Assessment No. C-15-124, a determination that the proposed project is exempt from CEQA through a Class 1 Categorical Exemption per Section 15301 of the CEQA Guidelines.
2. **APPROVE** Conditional Use Permit Application No. C-15-124 which proposes to establish a State of California Alcoholic Beverage License type 42 (Bar, Tavern – for sale of beer and wine for consumption on and off the premises where sold; minors not allowed to enter and remain) for Pinot's Palette Paint & Sip.

### EXECUTIVE SUMMARY

Conditional Use Permit Application No. C-15-124 was filed by Bill Robinson of Sol Development Associates, on behalf of Stacy Gould, and pertains to a 3,165 square-foot tenant space within the 0.57 acre North Pointe Shopping Center located on the southwest corner of the intersection of West Herndon and North Palm Avenue. The applicant requests authorization to establish a State of California Alcoholic Beverage Control Alcohol License Type 42 (*Bar, Tavern – sale of beer and wine for consumption on or off the premises where sold; minors not allowed to enter and remain*) for Pinot's Palette Paint & Sip.

The subject property is currently zoned under the C-2/EA/cz (*Community Shopping Center/Expressway Area Overlay/with conditions of zoning*) zone district classification. The subject property is located within the boundaries of the Fresno General Plan and Bullard

Community Plan, which designate the subject property for Community Commercial Planned Land Uses. The existing C-2 zone district is consistent with the Community Commercial Planned Land Use designation.

## PROJECT INFORMATION

|                                     |                                                                                                                                                                                                                                                                                                                                                                                                                                   |
|-------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| PROJECT                             | Conditional Use Permit Application No. C-15-124 proposes to establish a State of California Alcoholic Beverage Control alcohol license Type 42 (Bar, Tavern – sale of beer and wine for consumption on or off the premises where sold; minors not allowed to enter and remain) for Pinot's Palette Paint & Sip.                                                                                                                   |
| APPLICANT                           | Bill Robinson of Sol Development Associates, on behalf of Stacy Gould                                                                                                                                                                                                                                                                                                                                                             |
| LOCATION                            | 6763 North Palm Avenue, Fresno, Fresno County<br><br>This business will operate in a 3,165 square foot tenant space with a 350 square foot adjacent private patio in an existing +/- 24,850 square foot building located in the 10 acre North Pointe Center at the southwest corner of the intersection of West Herndon Avenue and North Palm Avenue. (APN: 407-672-43)<br><br><b>(Council District 2, Councilmember Brandau)</b> |
| SITE SIZE                           | Approximately 10.00 net acres                                                                                                                                                                                                                                                                                                                                                                                                     |
| PLANNED LAND USE                    | Community Commercial                                                                                                                                                                                                                                                                                                                                                                                                              |
| ZONING                              | C-2/EA/CZ ( <i>Community Shopping Center District</i> )                                                                                                                                                                                                                                                                                                                                                                           |
| PLAN DESIGNATION<br>AND CONSISTENCY | C-2 zone district is consistent with the General Plan Land Use of Community Commercial.                                                                                                                                                                                                                                                                                                                                           |
| ENVIRONMENTAL<br>FINDING            | This project is categorically exempt under Class 1/Section 15301 of the State of California Environmental Quality Act (CEQA) Guidelines.                                                                                                                                                                                                                                                                                          |
| PLAN COMMITTEE<br>RECOMMENDATION    | At the September 21, 2015 meeting the District 2 Plan Implementation Committee voted to approve the project on a 5-0 vote.                                                                                                                                                                                                                                                                                                        |

STAFF RECOMMENDATION Approve Conditional Use Permit Application No. C-15-124 subject to the Conditions of Approval dated November 18, 2015.

#### BORDERING PROPERTY INFORMATION

|       | Planned Land Use               | Existing Zoning                                         | Existing Land Use         |
|-------|--------------------------------|---------------------------------------------------------|---------------------------|
| North | Light Industrial               | <b>C-M</b><br><i>Commercial and Light Manufacturing</i> | Retail Automobile Sales   |
| East  | Community Commercial           | <b>C-2</b><br><i>Community Shopping Center</i>          | Shopping Center           |
| South | Medium Low Density Residential | <b>R-1</b><br><i>Residential/Medium Low Density</i>     | Single Family Residential |
| West  | Medium Low Density Residential | <b>R-1</b><br><i>Residential/Medium Low Density</i>     | Single Family Residential |

#### ENVIRONMENTAL FINDING

Development and Resource Management staff have performed an evaluation of the proposed project and have determined that it falls within the Categorical Exemptions set forth in Section 15301 Class 1 of the California Environmental Quality Act Guidelines, which exempt certain projects (1) such as operation or minor alteration of existing public or private structures involving negligible or no expansion of use beyond that existing at the time of the lead agency's determination. No negative impacts on air, water, noise or traffic were identified in the environmental review of this project prepared by the City of Fresno Development and Resource Management Department.

Therefore, the following findings can be made: (1) There is not a reasonable possibility that the proposed project will have a project-specific, significant effect on the environment due to unusual circumstances; (2) No substantial changes with respect to the circumstances under which the project is being undertaken that are related to the project have occurred since community-level environmental review was certified or adopted; (3) No new information has become available regarding the circumstances under which the project is being undertaken that is related to the project, that was not known, and could not have been known, at the time that community-level environmental review was certified or adopted; and, (4) None of the exceptions to Categorical Exemptions set forth in the CEQA Guidelines Section 15300.2 apply to this project.

## **Project Description**

Conditional Use Permit Application No. C-15-124 proposes to establish a State of California Alcoholic Beverage License type 42 (Bar, Tavern – for sale of beer and wine for consumption on and off the premises where sold; minors not allowed to enter and remain) for Pinot's Palette Paint & Sip.

Pinot's Palette is a nationally franchised company with over 120 locations in over 30 states offering entertaining art demonstrations to a wide variety of clientele in groups of varying sizes. The purpose of the business is to provide a no-experience-necessary creative social experience in 2 to 3 hour painting events while over 21 year old clientele enjoy alcoholic beverages, beer, soft drinks, bottled water and snacks. Liquor service will be limited to beer and wine products served individually by the glass to clientele by the proprietor and trained staff via a central serving station. No table service will be provided and no sit-down bar area for clientele will be included in the floor plan space layout. The purchase of beverages is separate from the fee charged for painting sessions.

This location of Pinot's Palette will operate in a 3,165 square-foot tenant space with a 350 square-foot adjacent private patio in an existing approximately 24,850 square-foot building located in the existing approximately 10 acre North Pointe Shopping Center.

The new business may be open 7 days a week between 10 am until 10 pm depending upon the booking and scheduling of painting events. The primary operating hours for events at Pinot's Palette will be on Wednesday through Saturday evenings between 6 and 10 pm with events of 2 or 3 hour duration between 7 and 10 pm. Private party events may be booked by groups, companies and organizations for special occasions including office, holiday, retirement, birthday, and anniversary parties and social gatherings. All events will end at 10 pm every evening.

## **The District 2 Plan Implementation Committee**

The District 2 Plan Implementation Committee met on September 21, 2015 to discuss the project. At that meeting, in response to a question from Chair Rodriguez, Mr. Robinson indicated that alcohol would not be served, sold or consumed within the outdoor patio area.

The District 2 Plan Implementation Committee voted to approve the project by a vote of 5-0.

## **Neighborhood Meeting**

As required by Section 12-326 (for the C-2 zone district) of the FMC a neighborhood meeting was held on September 21, 2015. As required, notice was given to all property owners within 100 feet of the boundary of the North Pointe Center. Only one person appeared at that meeting and that person had no comment on the project. No letters were received.

This project will not create significant additional parking or traffic impacts other than those for which the site has already been evaluated and approved. No substantial noise impacts are expected to occur as a result of the proposed use

The project does not propose any significant interior or exterior changes and is compatible with the existing shopping center in which it is to be located. This site was previously used as a restaurant, with a type 47 On-sale General Eating Place liquor license, pursuant to Conditional Use Permit No. C-97-239.

## **LAND USE PLANS AND POLICIES**

### **Fresno General Plan and Bullard Community Plan**

The subject property is located within the boundaries of the Bullard Area Plan and the Fresno General Plan. Applicable development standards and policies are listed in the Project Comments from Planning (Property Development Standards Checklist) and as follows:

#### **Fresno General Plan Goals**

Fresno General Plan Goal No. 1 provides that the City of Fresno should increase opportunity, economic development, business and job creation. Use urban form, land use, and Development Code policies to streamline permit approval, promote local educational excellence and workforce relevance, significantly increase business development and expansion, retain and attract talented people, create jobs and sustained economic growth, strategically locate employment lands and facilities, and avoid over-saturation of a single type of housing, retail or employment.

Fresno General Plan Goal No. 7 establishes that the City of Fresno shall provide for a diversity of districts, neighborhoods, housing types (including affordable housing), residential densities, job opportunities, recreation, open space, and educational venues that appeal to a broad range of people throughout the city.

The proposed project furthers the above-stated goals of the General Plan. The project will increase economic opportunity and development, as well as business and job creation.

The project will also help to provide a diversity of recreational and educational venues (art) that will appeal to a broad range of people throughout the City and provide a value to all ages and income levels in a safe space for public interaction.

This proposed use will also fill a long-term vacancy in an existing shopping center which is in close proximity to residential neighborhoods and will prioritize private investment in established neighborhoods.

All of the above factors contribute to the creation and maintenance of a healthy and diverse community, and improve the quality of life in established neighborhoods.

#### **Conditional Use Permit Findings**

Based upon analysis of the conditional use permit application and subject to the applicant's compliance with all of the conditions of approval noted, staff concludes that the following required findings of Section 12-405-A-2 of the Fresno Municipal Code (FMC) can be made.

**FINDINGS PER FRESNO MUNICIPAL CODE SECTION 12-405-A-2.**

*a. All applicable provisions of this Code are complied with and the site of the proposed use is adequate in size and shape to accommodate said use, and accommodate all yards, spaces, walls and fences, parking, loading, recycling areas, landscaping, and other required features; and,*

**Finding a:** The subject site is approximately 0.57 net acres in size. Given that the subject site has been proposed for a State of California Alcoholic Beverage License type 42 (Bar, Tavern – for sale of beer and wine for consumption on and off the premises where sold; minors not allowed to enter and remain) for Pinot's Palette Paint & Sip in a manner which complies with all applicable development standards utilizing the allowances of the Fresno Municipal Code, it may be determined that there is adequate space to meet all requirements as established in the Special Permit conditions of approval dated November 18, 2015 including spaces, walls and fences, parking, landscaping and other required features.

*b. The site for the proposed use relates to streets and highways adequate in width and pavement type to carry the quantity and kind of traffic generated by the proposed use; and,*

**Finding b:** Staff from the Public Works Department, Transportation and Engineering Services Division has estimated that the proposed development will not generate additional peak hour vehicle trips in excess of those already studied and approved for this location, all of which can be accommodated by the existing streets.

*c. The proposed use will not be detrimental to the public welfare or injurious to property or improvements in the area in which the property is located. The third finding shall not apply to uses which are subject to the provision of Section 12-306-N-30 of this Code.*

**Finding c:** The staff of the Development and Resource Management Department has determined that the proposed use will not be detrimental to the public welfare or be injurious to property or improvements in the area in which the property is located if developed in accordance with the various conditions/requirements established through application review and conditional use permit application review processes.

**Conclusion**

The appropriateness of the proposed project has been examined with respect to its consistency with goals and policies of the Fresno General Plan and the Bullard Community Plan; its compatibility with surrounding existing or proposed uses; and its avoidance or mitigation of potentially significant adverse environmental impacts. These factors have been evaluated as described above and by the accompanying environmental assessment. Upon consideration of

this evaluation, it can be concluded that Conditional Use Permit Application No. C-15-124 is appropriate for the project site.

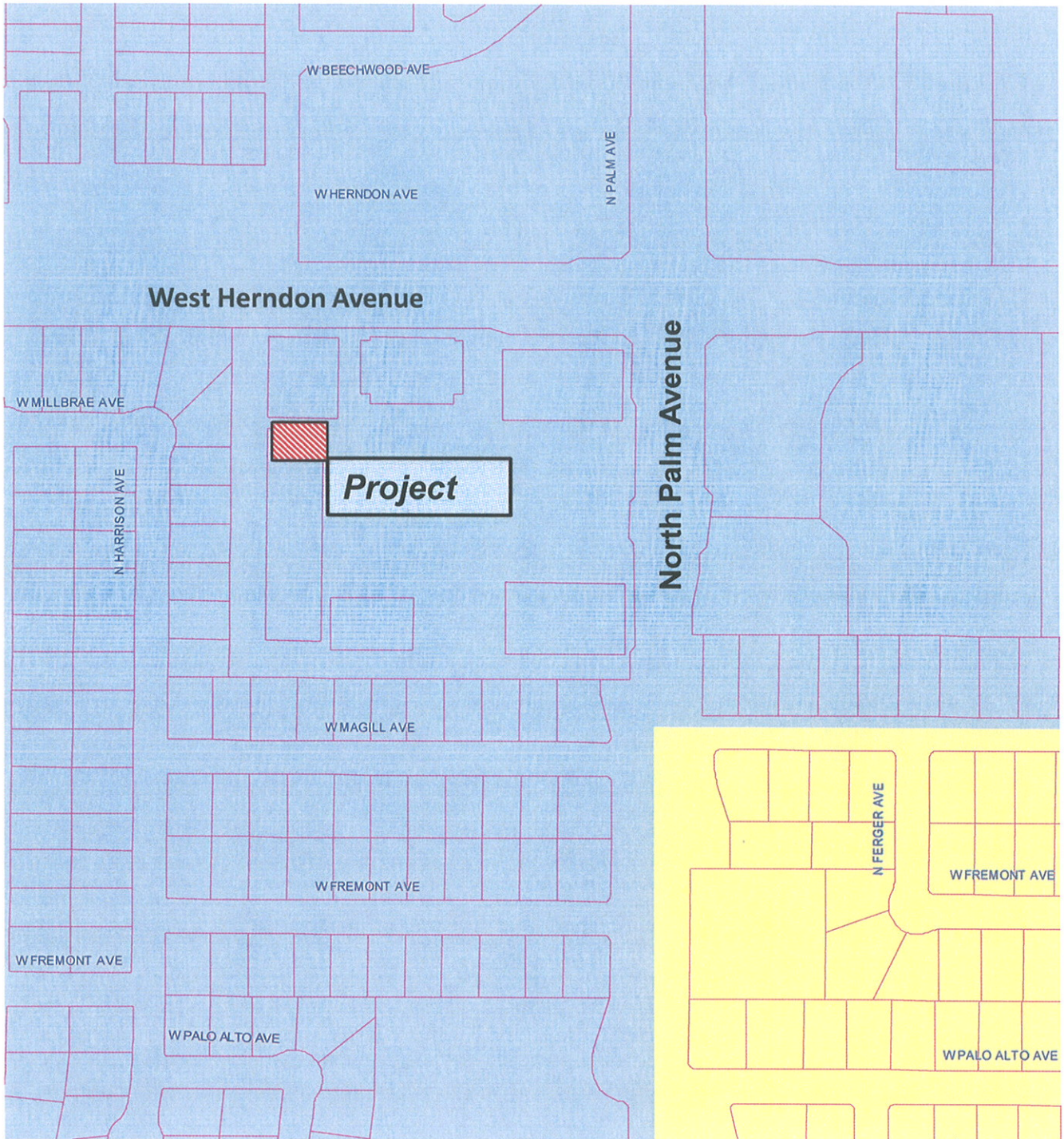
Action by the Planning Commission is final unless appealed to City Council in accordance with Section 12-406-I of the Fresno Municipal Code.

- Attachments:
- |             |                                                                                                |
|-------------|------------------------------------------------------------------------------------------------|
| Exhibit "A" | Vicinity Map                                                                                   |
| Exhibit "B" | Aerial Photograph                                                                              |
| Exhibit "C" | Public Hearing Notice Mailing List Vicinity Map                                                |
| Exhibit "D" | Zone District Map                                                                              |
| Exhibit "E" | Conditions of Approval for Conditional Use Permit Application C-15-124 dated November 18, 2015 |
| Exhibit "F" | Site Plan and Site Details                                                                     |
| Exhibit "G" | Environmental Assessment No. C-15-124                                                          |

## EXHIBIT "A"

### Vicinity Map

# Vicinity Map



North

EXHIBIT "B"

Aerial Photograph

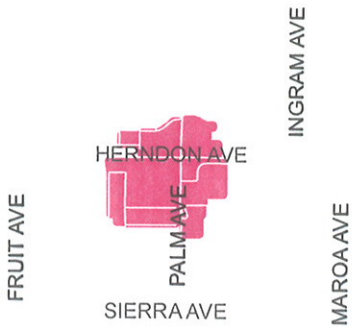
# Aerial



North

Exhibit "C"

Public Hearing Notice Mailing List Vicinity Map



Address List Map, c:\gisdm\automap\adrlst.mxd, Thu Nov 12 09:11:12 2015

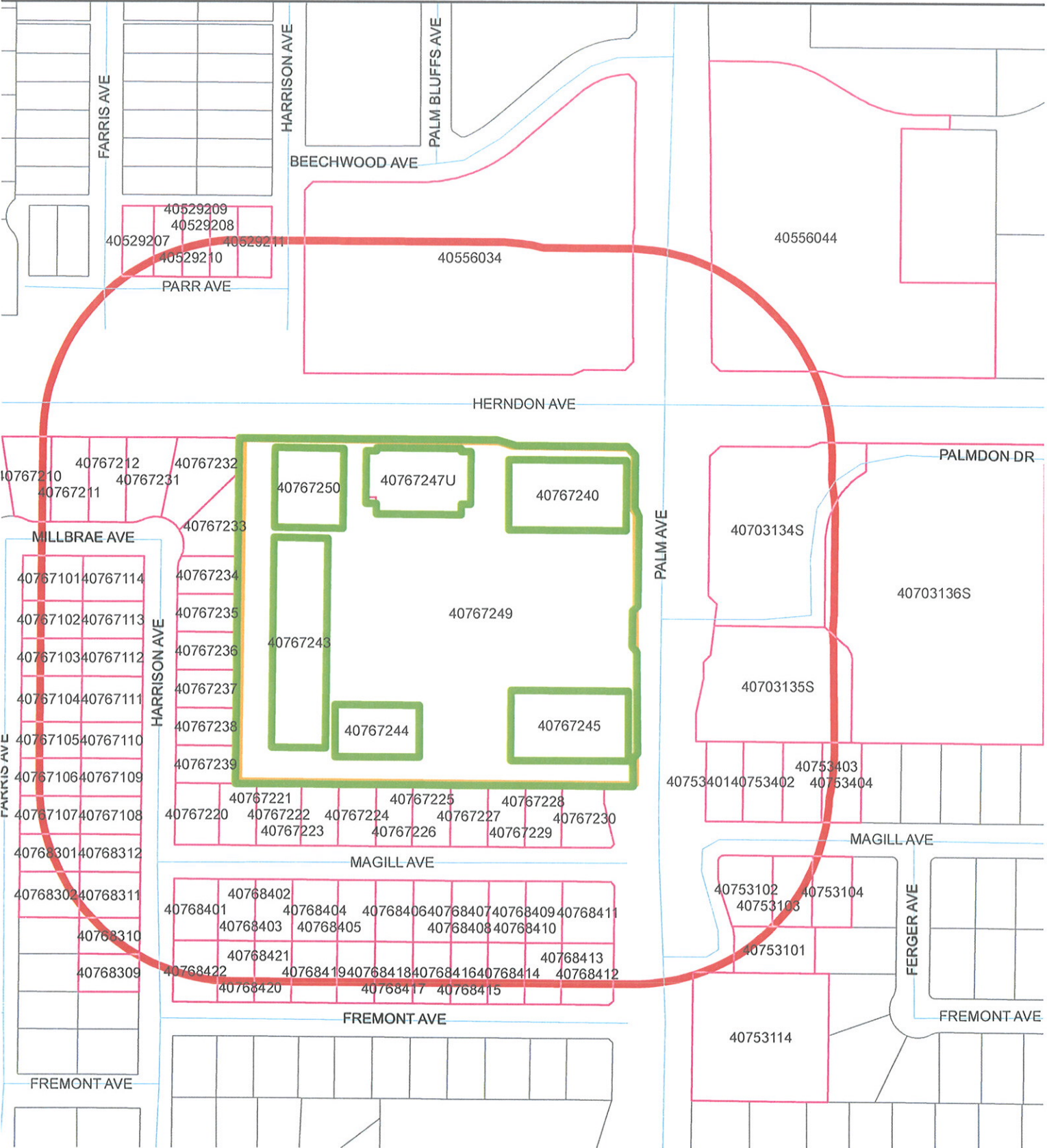
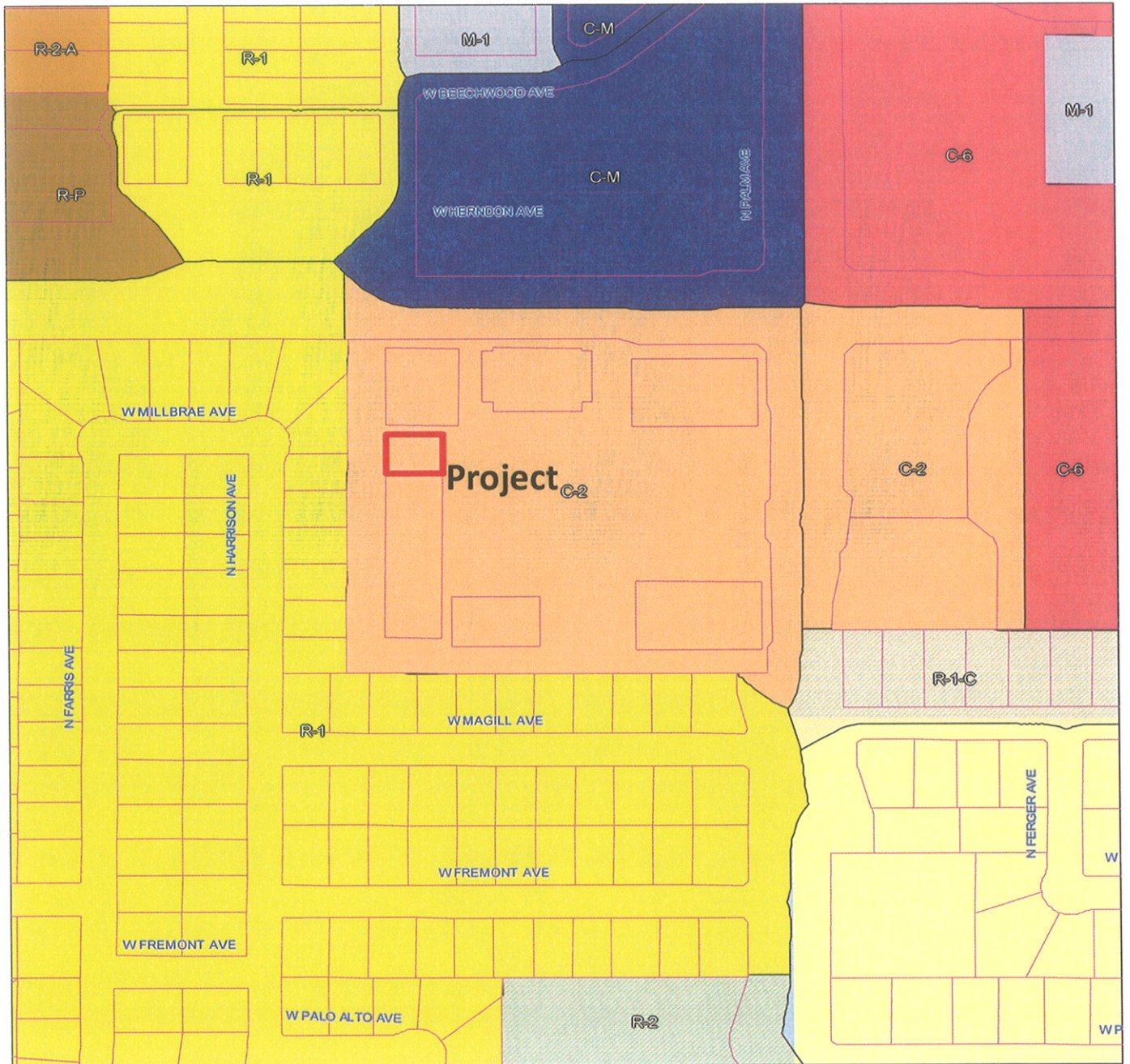


Exhibit “D”

**Zone District Map**

# Zoning Map



North

Exhibit "E"

Conditions of Approval for Conditional Use  
Permit Application C-15-124 dated November 18,  
2015



## DEVELOPMENT AND RESOURCE MANAGEMENT

2600 Fresno Street • Third Floor  
Fresno, California 93721-3604  
(559) 621-8277 FAX (559) 498-1026

Jennifer K. Clark, Director

November 18, 2015

Please reply to:  
Stephen Cox  
(559) 621-8056

Bill Robinson  
906 N Street, Suite 100  
Fresno, CA 93721

Dear Mr Robinson:

SUBJECT: **CONDITIONAL USE PERMIT APPLICATION NO. C-15-124 FOR  
PROPERTY LOCATED AT 6763 NORTH PALM AVENUE  
(APN: 407-672-43)**

The Development and Resource Management Department approved the above application on **November 10, 2015**, subject to the conditions of approval listed below. Conditional Use Permit Application No. C-15-124 has been reviewed under the provisions of the Zoning Ordinance. This approval authorizes the issuance of a State of California Alcoholic Beverage Control alcohol license Type 42 (*Bar, Tavern – sale of beer and wine for consumption on or off the premises where sold; minors not allowed to enter and remain*) for Pinot's Palette Paint & Sip.

The property is zoned C-2/EA/cz (*Community Shopping Center/Expressway Area Overlay/conditions of zoning*). **This project is exempt under Section 15301/Class 1 of the California Environmental Quality Act (CEQA) Guidelines. No further environmental assessment will be needed at this time.** No other request at the subject location was included or approved with this application. No other changes to any previously approved entitlements for the overall site are allowed as a result of this approval.

### CONDITIONS OF APPROVAL

#### PART A – ITEMS TO BE COMPLETED

The following items are required prior to issuance of building permits or occupancy:

|                                    |                                                                                                                     |
|------------------------------------|---------------------------------------------------------------------------------------------------------------------|
| Planner to check<br>when completed |                                                                                                                     |
| <input type="checkbox"/>           | 1. Development shall take place in accordance with Exhibits A (site plan) and F (floor plan) dated August 21, 2015. |

#### PART B – OTHER REQUIREMENTS

1) Planning/Zoning/Environmental Compliance Requirements

- a. Development shall take place in accordance with the policies of the Fresno General Plan and the Bullard Community Plan.
- b. Development shall take place in accordance with the C-2/EA/cz (*Community Shopping Center/Expressway Area Overlay/conditions of zoning*).
- c. This special permit is granted, and the conditions imposed, based upon the attached Operational Statement (Exhibit "O") dated August 21, 2015. The Operational Statement is material to the issuance of this special permit. Unless the conditions of approval specifically require operation inconsistent with the Operational Statement, a new or revised special permit is required if the operation of this establishment changes or becomes inconsistent with the Operational Statement. Failure to operate in accordance with the conditions and requirements imposed may result in revocation of the special permit or any other enforcement remedy available under the law.
- d. No signage (except directional) is approved with this application. Any outdoor advertising (i.e. signs promoting use) requires sign permit approval.

2) City and Other Services

- a. Development shall take place in accordance with the attached memoranda and letters from City of Fresno Departments and partner agencies, including the Fresno Police Department dated September 3, 2015, and the County of Fresno, Department of Public Health dated October 4, 2015, and the City of Fresno Council District 2 Implementation Committee dated September 1, 2015, and the City of Fresno Fire Department dated September 11, 2015, and the Fresno Unified School District, dated September 4, 2015.

3) Miscellaneous Requirements

- a. Approval of this special permit shall be considered null and void in the event of failure by the applicant and/or the authorized representative, architect, engineer, or designer to disclose and delineate all facts and information relating to the subject property and the proposed development including, but not limited to, the following:
  - i. All existing and proposed improvements including but not limited to buildings and structures, signs and their uses, trees, walls, driveways, outdoor storage, and open land use areas on the subject property and all of the preceding which are located on adjoining property and may encroach on the subject property;
  - ii. All public and private easements, rights-of-way and any actual or potential prescriptive easements or uses of the subject property; and,

- iii. Existing and proposed grade differentials between the subject property and adjoining property zoned or planned for residential use.
- b. Approval of this special permit shall be considered null and void in the event of failure by the applicant and/or the authorized representative, architect, engineer, or designer to disclose and delineate all facts and information relating to the subject property and the proposed development. The Development and Resource Management Department shall not assume responsibility for any deletions or omissions resulting from the special permit review process or for additions or alterations to construction plans not specifically submitted and reviewed and approved pursuant to this special permit or subsequent amendments or revisions.

## APPEALS

Discretionary conditions of approval may be appealed. All code requirements, however, are mandatory and may only be modified by variance, provided the findings pursuant to Section 12-405 can be made.

In the event you wish to appeal the Planning Commission's, you may do so in accordance with the provisions of Section 12-406.j of the FMC as follows:

- COUNCIL REVIEW FOLLOWING COMMISSION DECISION. Within fifteen (15) days of the decision of the Planning Commission, either the Councilmember of the district in which the project is located or the Mayor may, on his or her own initiative, or upon receiving a petition from any interested party, file a letter with the Director to set a hearing in front of Council to consider the Planning Commission decision. When a letter from a Councilmember or Mayor is timely filed with the Director, the decision of the Commission shall be set aside, and a public hearing upon the matter shall be set before the Council pursuant to Section 12-401-B and noticed pursuant to Subsection 12-401-C-2 (mailing) and held pursuant to Section 12-401-D.

## BACKCHECK PROCESS

Please Note: To complete the back-check process for building permits relative to planning and zoning issues, submit one copy of this corrected, final site plan to Stephen Cox in the Development Services Division for final review and approval before applying for building permits.

It may be necessary to resubmit these "corrected exhibits" a second time if not all the conditions have been complied with or are not shown on the exhibits. Once the "corrected exhibits" are approved by the Development Services Division, please place these exhibits in the plan check set and contact the Development Services Division, along with Traffic Planning, to set up an appointment to signoff and stamp these exhibits. Please bring one additional copy of the site plan exhibit(s) to this

**appointment so that the Development Services Division has a final signed-off copy of the site plan.**

Copies of the final approved site plan, elevations, landscaping, and irrigation plans stamped by the Development Services Division must be submitted for unstamped copies of the same in each of the sets of construction plans submitted for plan check prior to the issuance of building permits.

## **EXPIRATION**

The exercise of rights granted by this special permit must be commenced by November 18, 2019, (four years from the date of approval). There is no extension.

Should you need further assistance or have any questions, please call me at (559) 621-8023 or via e-mail at [Stephen.Cox@fresno.gov](mailto:Stephen.Cox@fresno.gov)

Sincerely,



Stephen Cox  
Planner II

DEVELOPMENT SERVICES DIVISION

Enclosures: Exhibits A, F and O dated August 21, 2015  
Comments from Partner Agencies and Departments

c: Job Address File: 6763 North Palm Avenue



Mariposa Mall  
P.O. Box 1271  
Fresno, CA 93715-1271

Police Department

Jerry P. Dyer  
Chief of Police



September 3, 2015

City of Fresno, Development Department  
Director of Planning & Development  
Special Permit, Conditional Use Permit  
2600 Fresno Street  
Fresno, California, 93721-3604

Attn. Stephen Cox, Planning Division  
Joann Zuniga, Planning Division

Re: SPECIAL PERMIT NO. ABCUP C-15-124  
Pinot's Palette Paint & Sip  
6763 N. Palm Ave  
Fresno, CA 93704  
A.P.N. 407-672-43

**TAVERN ABCUP CONDITIONS**

Dear Mr. Cox

Pursuant to your Department's request, the Fresno Police Department has reviewed the special permit application for property located at 6763 N. Palm Ave. The property has been zoned C-2/EA/cz (Community Shopping Center/Expressway Area Overlay/conditions of zoning). The Fresno Police Department's primary concern with the application is the propensity of the operations on the premises to generate calls for police service, and therefore, be detrimental to the public welfare.

We understand from the Operational Statement that the applicant intends to operate this tavern between the hours of:

|                |                                              |
|----------------|----------------------------------------------|
| Event hours    | Wednesday – Saturday, 6:00 p.m. – 10:00 p.m. |
| Business hours | 7 days a week, 10:00 a.m. – 10:00 p.m.       |

The Fresno Police Department's primary concern with the application is the propensity of the premises to generate calls for police service which indicates potential activities on the premises that are detrimental to the public welfare or injurious to property or improvements.

As you know, to approve any Conditional Use Permit, the City must make the following findings:

1. All applicable provisions of the Fresno Municipal Code are complied with and the site of the proposed use is adequate in size and shape to accommodate the use, and all yards, spaces, walls and fences, parking, loading, recycling areas, landscaping, and other required features; and,
2. The site for the proposed use relates to streets and highways adequate in width and pavement type to carry the quantity and kind of traffic generated by the proposed use; and,
3. The proposed use will not be detrimental to the public welfare or injurious to property or improvements in the area in which the property is located. This third finding shall not apply to uses which are subject to the provisions of Section 12-306-N-39 of the Fresno Municipal Code (Regulating Adult Businesses).

The conditions are established to ensure public safety, and to minimize any impact to the surrounding area. If approved, this Conditional Use Permit would allow for a **Type 42 ABC license** (*Bar/Tavern, sale of beer and wine for consumption on or off the premises where sold*). We request the following conditions be included as Conditions of Approval for Conditional Use Permit Application No. **C-15-124**. These conditions will help to insure maintain an environment that is least likely to generate criminal activity, public complaints and police calls for service.

The Fresno Police Department is not in opposition of this Conditional Use Permit, providing the applicant agrees to the listed conditions. If the following conditions are not included as conditions of approval of CUP No., **C-15-124** the Fresno Police Department shall oppose the approval of this Conditional Use Permit, and shall appeal such approval to the Planning Commission. As such, we request that you provide Detective Dawnielle Serrano#1051 with notice of the Director's decision regarding this Conditional Use Permit as well as a complete copy of the conditions of approval, if the Director approves the Conditional Use Permit.

**Requested Conditions of Approval:**

1. **Fresno Municipal Codes**

The applicant shall comply with all applicable provisions of the Fresno Municipal Codes ("FMC"), including but not limited to:

FMC 9-502 (Amusement Devices - Permit Required)  
FMC 9-1803 (Hours of Operation of Billiard Hall)

FMC 9-1804 (Restriction on Attendance of Minors in Billiard Rooms)  
FMC 9-1805 (Minors allowed: Family Billiard Rooms)  
FMC 9-1905 (Public Dancing - Permit Required)  
FMC 10-105 (Noise Ordinance)  
FMC 10-708 (Unlawful Nuisances - High Calls for Police Service)  
FMC 12-224 (C-M Zone, Adult Theater activities not permitted, see 12-105-T-1.1 for definition of Adult Theater, and 12-306-N-30 for additional limitations on Adult Business activities.)

A current version of the Fresno Municipal Code may be viewed at the City of Fresno's website: [www.Fresno.gov](http://www.Fresno.gov). The link to the FMC is located on the Home Page of that website.

## 2. State and Federal Law

The applicant shall comply with all applicable state and federal law, rules and regulations, including but not limited to the following California Business and Professions Code sections and ABC rules:

BP 24046 (Required to Post ABC License on Premises)  
BP 25612.5 (Loitering, Open Alcoholic Beverage Containers, Consuming Alcoholic Beverages on Premises, Exterior Lighting, Litter Removal, Graffiti Removal, Signs and Barriers in Windows and Doors, Public Phones Blocked From Incoming Calls, Areas to Display Harmful Matter, Required Copies of Operating Standards Available for Public Viewing)  
BP 25631 (No sale of alcoholic beverages between 2:00 a.m. and 6:00 a.m.)  
BP 25665 (Minors Remaining in Public Premises)  
ABC Act Rule 106 (No Buy One Get One Free Drinks)  
ABC Act Rule 107 (No One Under 21 Allowed Signs Posted)  
ABC Act Rule 139 (Interior Lighting Required for Identification of Patrons)

## 3. Video Camera

Prior to exercising any privileges granted by CUP No. C-15-124 the applicant must install a fully functional color digital video camera system ("System") that meets the following requirements:

3.1 The System must continuously record, store, be capable of playing back images and be fully functional at all times, including during any hours the business is closed. The System must be maintained in a secured location inside of the business.

3.2 The System shall have the correct date and time stamped onto the image at all times.

3.3 The camera storage capacity should be for at least two weeks (fourteen calendar days). Such cameras must be capable of producing a retrievable and identifiable image than can be made a permanent record and that can be enlarged through projection or other means.

3.4 Digital video recorder must be capable of storing at least fourteen days of real-time activities.

3.5 The System shall be capable of producing a CD or digital playback feature and may be provided to an authorized representative of the Fresno Police Department within 24 hours of the initial request relating to a **criminal investigation only**.

3.6 The interior of the business must have at least one camera placed to focus on each cash register transaction to include the clerk as well as the customer waiting area.

3.7 There shall be two (2) exterior cameras placed so as to record activities in the primary customer parking areas of their business. These cameras should be of sufficient quality to be able to identify persons and or vehicles utilizing the business parking lot.

3.8 All interior cameras shall record in color.

3.9 All exterior cameras shall record in color and have automatic low light switching capabilities to black and white. Exterior cameras should be in weatherproof enclosures and located in a manner that will prevent or reduce the possibility of vandalism.

It is recommended, but not required, that the owner/operator provide the IP address(s) to the Fresno Police Department Communications Center for any system that is browser-based or viewable from a remote site. The Fresno Police Department may perform periodic inspections of the System to ensure compliance with these specifications. An inoperable System may be good cause for seeking revocation of this Conditional Use Permit.

#### 4. ABC Education

Any and all employees hired to sell alcoholic beverages shall provide evidence that they have either:

- 4.1 Completed training from the State of California Department of Alcoholic Beverage Control--Fresno District Office-administered "Leadership and Education in Alcohol and Drugs" (LEAD) Program as confirmed by receipt of an ABC-issued certificate of completion; or,
- 4.2 Completed equivalent training acceptable to the ABC-- Fresno District Office to ensure proper distribution of beer, wine, distilled spirits, tobacco, and inhalants to adults of legal age.

If any prospective employee designated to sell alcoholic beverages, tobacco or inhalants does not currently have such training then:

- 4.3 The ABC-licensed proprietors shall have confirmed with the Development Department within 15 days of the final approval of the CUP or within 15 days of the opening to the public of a new store, whichever is later, that a date certain has been scheduled with the local ABC Office for said prospective employees to take the LEAD Program course; and
- 4.4 Within 30 days of taking said course the employee(s) or responsible employer shall deliver to the Planning Department each required LEAD Program Certificate evidencing completion of said course.

5. Contests or Promotions

At least two weeks prior to the event, the establishment shall notify the District Commander, or his/her designee of any promotional or special events. In addition, the establishment shall obtain written approval that the current Security Plan is adequate to address security issues that may arise from the event or promotion or approval of a new Security Plan that will be in place for the promotional or special event.

6. Security Plan.

Prior to the approval of this Conditional Use Permit, the establishment shall prepare and submit to the District Commander a security plan for approval. Approval of the security plan by the District Commander or his/her designee shall not be unreasonably denied. The contents of the Security Plan shall be incorporated as conditions of approval of CUP C-15-124. The establishment shall be responsible to have the District Commander or his/her designee re-approve the security plan annually running from the anniversary date of the final approval of the CUP. The establishment is responsible for providing both the District Commander and the Planning and Development Department a copy of the approved security plan.

All establishments Security Plan shall:

- Identify the establishment's designated contact person for all safety and security management and shall provide the telephone numbers where the contact person may be reached 24 hours a day, seven days a week.
- Confirm that a manager will be on duty during business hours and will be responsible for monitoring and controlling the behavior of patrons.
- Identify all managers of the establishment and their contact telephone numbers.
- Confirm that all bartenders and other employees shall be trained to recognize the symptoms of an obviously intoxicated patron, to refuse serving alcoholic

beverages to obviously intoxicated patrons, and to report emergencies to the manager on duty and to law enforcement.

- Confirm that first aid supplies and operational fire extinguishers are located in the kitchen (if applicable), service areas and the manager's office.
- Confirm that the burglar and fire alarm is monitored by a security company 24 hours a day, seven days a week.
- Identify an adequate number of acceptable interior security personnel and exterior security personnel who will monitor and control the behavior of customers inside and outside the building, the parking lot and any adjacent property under the establishment's control. The security personnel may be employees of the establishment or licensed security personnel retained from a security firm.
- Confirm that the security personnel shall regularly monitor the parking lot and any adjacent property under the establishment's control to ensure the areas are (a) free of people loitering or causing a disturbance and (b) are cleared of patrons and their vehicles one-half hour after closing.

The establishment shall correct any safety or security problem or security plan violation as soon as possible after receiving written notice of such problem from the Fresno Police Department. After the initial security plan is approved and implemented, it is the responsibility of the owner or owner's representative to contact the Fresno Police Department to inquire about police calls for service or public safety problems at the location. Contact may be made in person, by telephone or by electronic mail. Review of police calls for services may be conducted at any time by the Fresno Police Department.

The applicant will maintain a copy of the current Security Plan and *shall* present the Security Plan immediately upon request by a peace officer.

If it is determined that police calls for service become "Frequent" (see definition below) the Fresno Police Department may initiate proceedings to amend these conditions to require additional state licensed uniformed security and/ or to recommend suspension or revocation proceedings.

- The total number of state licensed uniformed security guards shall be based upon the maximum permitted occupancy as established by the Fresno Fire Department, and determined as follows:

0-100 guests: No state licensed uniformed security required. Onsite manager and employees will be responsible for monitoring and controlling the behavior of patrons.

101-200 guests: A minimum of one (1) state licensed uniformed security guard.

201-300 guests: A minimum of two (2) state licensed uniformed security guards.

301-400 guests: A minimum of three (3) state licensed uniformed security guards.

If the maximum permitted occupancy exceeds 400 guests, one additional state licensed uniformed security guard shall be required for each additional one-hundred guests.

The Maximum Permitted Occupancy for the entire premises, including any patios, shall be included on the Security Plan maintained at the business, to be made available immediately upon request of a Fresno Police Officer.

All on-duty licensed security guards shall comply with the uniform requirements set forth in California Business & Professions code section 7582.26.

7. Consumption of Alcoholic Beverages and Loitering.

- 7.1 The establishment shall not allow alcoholic beverages to be consumed outside the building premises or any other adjacent property under its control. No alcoholic beverage will be consumed on any property adjacent to the premises (i.e., parking lot and sidewalks). If the alcoholic beverages are consumed on the exterior portion of adjacent property not owned or controlled by the applicant, the applicant shall immediately report such consumption to the Fresno Police Department.
- 7.2 The establishment shall not allow any loitering on building premises or any adjacent property under its ownership or control.
- 7.3 The establishment shall not allow any gambling on building premises or any adjacent property under its control.

8. Property Responsibility

"Frequent" responses by the Fresno Police Department arising out of or relating to the operation or management of the real property owned or controlled by the permittee causing any combination of the following: animal disturbances; violent criminal acts; illegal consumption of intoxicants in public view; gaming activities; and juvenile disturbances, or any of the other activities set forth in the Fresno Municipal Code section 10-708(g) may result in an FPD recommendation to the Director of Planning and Development to commence proceedings to revoke the Conditional Use Permit for

violation of the Management of Real Property Ordinance. In addition to recommending the commencement of revocation proceedings, the FPD may pursue any of the other remedies set forth in FMC, section 10-710, including assessing fines against the proprietor for the violations of the Management of Real Property Ordinance.

“Frequent” means response by the Fresno Police Department is occurring more than 1.5 times the average number of such responses (3 calls for every 2) for property of a similar size and character within the same policing district.

9. **Revocation of Conditional Use Permit**

The City is permitted to revoke a Conditional Use Permit for “good cause” pursuant to the procedures set forth in FMC, sections 12-326-H and 12-405-E. Applicant is strongly encouraged to review these FMC sections to understand the circumstances that constitute “good cause.”

10. **Posting hours of operation and address**

The owner and/or proprietor and /or applicant shall be responsible to conspicuously post the hours of operation near the entrance of the establishment. It shall be 8.5x11 inches in size. This posting shall be made available to City officials upon request.

11. **Posting Property**

The applicant shall post the property with the appropriate Fresno Municipal Code signs advising that consumption of alcoholic beverages, gambling, trespassing or loitering will be in violation of municipal ordinances. The applicant must send a letter to the Fresno Police Department, signed and dated by the applicant, every 180 days that authorizes FPD peace officers to enter the applicant’s real property and/or establishment to enforce against the aforementioned activities at the business. The owners and employees are responsible for abating those activities when they occur during business hours.

The establishment shall not allow alcoholic beverages to be consumed outside the building premises or any other adjacent property under its control. No alcoholic beverage will be consumed on any property adjacent to the premises (i.e., parking lot and sidewalks). If the alcoholic beverages are consumed on property not owned or controlled by the applicant, the applicant shall immediately report such consumption to the Fresno Police Department.

The establishment shall not allow any loitering on building premises or any adjacent property under its ownership or control.

The establishment shall not allow any gambling on building premises or any adjacent property under its control.

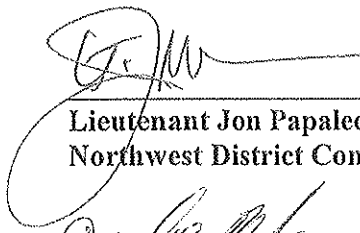
There shall be no amusement devices or Billiard tables maintained upon the premises without the proper permits issued through the City of Fresno Business Tax Division.

12. Patio Area

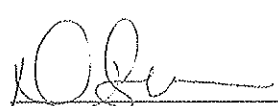
The applicant shall follow all requirements regarding outdoor dining as set forth in Fresno Municipal Code, Article 22 – Outdoor Dining.

13. The establishment shall ensure that all employees involved, either directly or indirectly, in the sale of alcoholic beverages are aware of and comply with these conditions. The establishment shall have each employee sign a written acknowledgment that he/she has reviewed and understood each of these conditions. The written acknowledgement shall be maintained by the establishment and made available to the Fresno Police Department upon reasonable request.

FRESNO POLICE DEPARTMENT

 Date: 9/3/15  
Lieutenant Jon Papaleo  
Northwest District Commander

 Date: 9-3-15  
Sergeant Carl McKnight  
Northwest District Supervisor

 Date: 9-3-15  
Detective Dawnielle Serrano  
Northwest District POP

## APPLICATION FOR ALCOHOLIC BEVERAGE LICENSE(S)

ABC 211 (6/99)

TO: Department of Alcoholic Beverage Control  
3640 EAST ASHLAN AVE  
FRESNO, CA 93726  
(559) 225-6334

File Number: 562155  
Receipt Number: 2319876  
Geographical Code: 1005  
Copies Mailed Date: September 24, 2015  
Issued Date: Issuance

DISTRICT SERVING LOCATION: FRESNO

First Owner: VALLEY PAINT & SIP INC  
Name of Business: PINOTS PALETTE  
Location of Business: 6763 N PALM AVE  
FRESNO, CA 93704

RECEIVED

SEP 29 2015

County: FRESNO  
Is Premise inside city limits? Yes  
Mailing Address: 401 CLOVIS AVE  
(If different from STE 202  
premises address) CLOVIS, CA 93612

DEPARTMENT OF PUBLIC HEALTH,  
ENVIRONMENTAL HEALTH DIVISION  
Census Tract 0045.03

Type of license(s): 42

Transferor's license/name:

Dropping Partner: Yes No Y

| License Type              | Transaction Type     | Fee Type | Master | Dup | Date     | Fee      |
|---------------------------|----------------------|----------|--------|-----|----------|----------|
| 42 - On-Sale Beer And Win | ANNUAL FEE           | NA       | Y      | 0   | 09/24/15 | \$261.00 |
| 42 - On-Sale Beer And Win | ORIGINAL FEES        | NA       | Y      | 0   | 09/24/15 | \$300.00 |
| NA                        | FEDERAL FINGERPRINTS | NA       | N      | 2   | 09/24/15 | \$48.00  |
| NA                        | STATE FINGERPRINTS   | NA       | N      | 2   | 09/24/15 | \$78.00  |
| Total                     |                      |          |        |     |          | \$687.00 |

Have you ever been convicted of a felony? No

Have you ever violated any provisions of the Alcoholic Beverage Control Act, or regulations of the  
Department pertaining to the Act? No

Explain any "Yes" answer to the above questions on an attachment which shall be deemed part of this application.

Applicant agrees (a) that any manager employed in an on-sale licensed premises will have all the qualifications of a licensee, and (b) that he will not violate or cause or permit to be violated any of the provisions of the Alcoholic Beverage Control Act.

STATE OF CALIFORNIA County of FRESNO

Date: September 24, 2015

Under penalty of perjury, each person whose signature appears below, certifies and says: (1) He is an applicant, or one of the applicants, or an executive officer of the applicant corporation, named in the foregoing application, duly authorized to make this application on its behalf; (2) that he has read the foregoing and knows the contents thereof and that each of the above statements therein made are true; (3) that no person other than the applicant or applicants has any direct or indirect interest in the applicant or applicant's business to be conducted under the license(s) for which this application is made; (4) that the transfer application or proposed transfer is not made to satisfy the payment of a loan or to fulfill an agreement entered into more than ninety (90) days preceding the day on which the transfer application is filed with the Department or to gain or establish a preference to or for any creditor or transferor or to defraud or injure any creditor of transferor; (5) that the transfer application may be withdrawn by either the applicant or the licensee with no resulting liability to the Department

Effective July 1, 2012, Revenue and Taxation Code Section 7057, authorizes the State Board of Equalization and the Franchise Tax Board to share taxpayer information with Department of Alcoholic Beverage Control. The Department may suspend, revoke, and refuse to issue a license if the licensee's name appears in the 500 largest tax delinquencies list. (Business and Professions Code Section 494.5.)

Applicant Name(s)

Applicant Signature(s)

See 211 Signature Page

VALLEY PAINT &amp; SIP INC

FRESNO COUNTY DEPARTMENT OF PUBLIC HEALTH  
ENVIRONMENTAL HEALTH DIVISION

P.O. Box 11867  
Fresno, CA 93775  
Telephone (559) 600-3357  
[www.fcdph.org](http://www.fcdph.org)

**CONSTRUCTION REQUIREMENTS FOR RETAIL FOOD ESTABLISHMENTS**

BEFORE CONSTRUCTING, ENLARGING, REMODELING OR CONVERTING ANY BUILDING FOR USE AS A RETAIL FOOD ESTABLISHMENT, AT LEAST TWO SETS OF COMPLETE PLANS MUST BE SUBMITTED TO THIS DEPARTMENT FOR REVIEW AND APPROVAL. PLANS MUST ALSO BE SUBMITTED TO THE LOCAL BUILDING DEPARTMENT.

Plans should be drawn to scale, e.g. 1/4"=1', and must include:

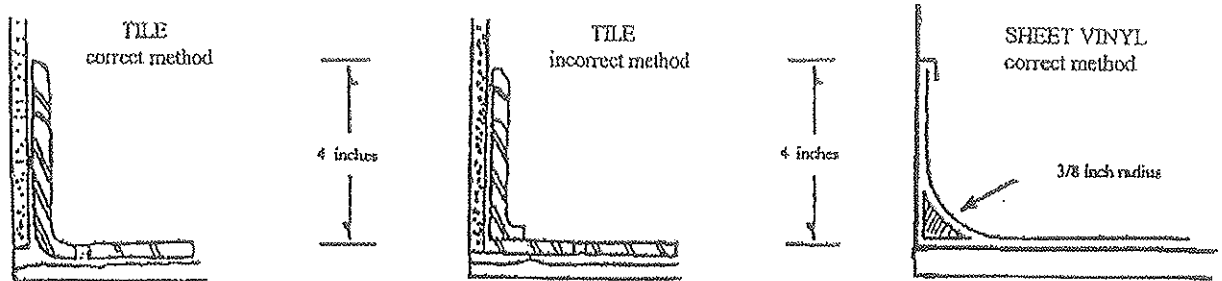
1. Plot plan.
2. Complete floor plan.
  - a. Equipment schedule indicating manufacturer and model.
  - b. Plumbing: hot and cold water, waste, type of fixtures, size and rating of water heater (BTU or KW).
  - c. Lighting.
3. Exhaust ventilation plans.
  - a. For ventilation hoods include hood and duct sizes; exhaust air (CFM); number, size and rating (CFM or FPM) of filters; make-up air (CFM).
4. Finish schedules for floors, walls and ceilings indicating the type of material, surface finish, color and type of base at the floor-wall juncture.
5. Complete listing of menu items to be prepared in facility.

PLANS THAT ARE INCOMPLETE AND PLANS REQUIRING A MULTITUDE OF CHANGES WILL BE RETURNED FOR REVISION BEFORE APPROVAL. AFTER THE PLANS HAVE BEEN APPROVED, ONE SET WILL BE RETAINED BY THIS DEPARTMENT UNTIL CONSTRUCTION HAS BEEN COMPLETED. THE OTHER SET(S) WILL BE RETURNED TO THE PERSON SUBMITTING THE PLANS. THE APPROVED PLANS MUST BE KEPT ON THE JOB SITE UNTIL THE FINAL INSPECTION HAS BEEN MADE. ANY REVISIONS MUST BE RESUBMITTED FOR APPROVAL.

ALL CONSTRUCTION AND EQUIPMENT INSTALLATIONS ARE SUBJECT TO ON-SITE INSPECTIONS. PLEASE CALL (559) 660-3357 IF YOU HAVE ANY QUESTIONS DURING THE COURSE OF CONSTRUCTION OR NEED TO ARRANGE FOR AN INSPECTION. A FINAL INSPECTION IS REQUIRED PRIOR TO BEGINNING OPERATION. PLEASE CALL AT LEAST THREE WORKING DAYS IN ADVANCE TO ARRANGE FOR THE INSPECTION.

## FOOD ESTABLISHMENT REQUIREMENTS

**FLOORS:** The floor surfaces in all areas in which food or beverage is prepared, packaged, or stored, where utensils are washed, where garbage is stored, where janitorial facilities are located, in toilet and handwashing areas, and in employee change and storage areas must be of such construction and material as to be smooth, nonabsorbent and easily cleaned. The floor surfaces in these areas must extend up the wall at least four inches (Building departments may require 5 inch covered bases in restrooms) and be covered at the juncture of the floor and wall with a 3/8 inch minimum radius coving, except in areas where food is stored only in unopened bottles, cans, cartons, sacks or other original shipping containers. Top set base does not meet this requirement.



Floor drains are required in floors that are cleaned by flushing with water and in areas where pressure spray methods are used for cleaning equipment. In areas where floor drains are installed, the floors must be sloped 1:50 to the floor drains.

**WALLS:** The walls of all rooms, except for bars, dining areas and rooms where food is stored in unopened containers, must have a smooth, washable, nonabsorbent surface. The walls of food preparation areas, utensil washing areas, employee restrooms, and walk-in refrigerators and freezers must also be light-colored. Smooth plaster, drywall with sealed and taped joints, masonry walls with flush mortar joints, plastic laminated panels and fiberglass reinforced polyester panels (FRP) are acceptable wall materials. Plaster, drywall and masonry walls must be sealed with high gloss enamel, epoxy or other approved material.

Walls adjacent to bar sinks, food preparation sinks, utensil washing facilities and janitorial facilities should be constructed of moisture-resistant material such as water-resistant drywall, or be finished with moisture-proof panels such as FRP.

**CEILINGS:** The ceilings of all rooms, except for bars, dining areas and rooms where food is stored in unopened containers, must have a smooth, washable, nonabsorbent surface. The ceilings of food preparation areas, utensil washing areas, employee restrooms, and walk-in refrigerators and freezers must also be light-colored. Acoustical plaster is not acceptable. Acoustical tile will be accepted if it complies with the above requirements.

**LIGHTING:** Food preparation and utensil washing areas must be provided with at least 20 footcandles of light, measured 30 inches above the floor, with the exception of alcoholic beverage preparation areas and at bar sinks, where only 10 footcandles are required.

Food and utensil storage rooms, refrigerated storage, restrooms and dressing rooms must be provided with at least 10 footcandles of light. Light fixtures in food preparation, food storage and utensil washing areas must be of shatterproof construction or protected with shatterproof shields.

**VENTILATION:** Adequate ventilation must be provided throughout the establishment to remove gases, odors, steam, heat, grease, vapors and smoke, and to provide a reasonable condition of comfort for all employees.

Mechanical exhaust ventilation equipment is required at or above high temperature dishwashing machines and cooking equipment such as ranges, griddles, ovens, deep fat fryers, rotisseries and barbeques. A Type I hood is required above grease and smoke producing equipment such as deep fat fryers, ranges, griddles and barbeques. A Type II hood is required above high temperature dishwashing machines, pizza ovens and similar equipment which do not produce grease or smoke. All hoods must comply with the requirements of the Uniform Mechanical Code. Hoods are not required for steam tables, microwave ovens or small countertop convention ovens used for baking cookies or similar products.

Restrooms must be vented to the outside air by means of an openable screened window, an air shaft, or light-switch activated exhaust fan, consistent with the requirements of local building codes.

**VERMIN EXCLUSION:** Openable windows must be screened with 16 mesh screening. Food service pass-through windows should be limited to a maximum size of 216 square inches.

Exterior doors must be self-closing. Openings at the base and sides of all exterior doors must not exceed 1/4 inch. An air curtain with a door activated switch should be installed at each delivery door in food establishments that prepare food. Large cargo-type doors must not open directly into a food preparation area.

All exterior wall vents must be properly screened with 1/4 inch hardware cloth screening. All openings where pipes enter the structure must be tightly sealed. Spaces inside walls and other voids in the structure should be treated with boric acid powder or silica gel to prevent cockroach harborage.

**OUTSIDE REFUSE AREA:** The floor and walls where garbage bins, garbage cans and grease barrels are located must be smooth, impervious and easy to clean. All waste containers must be cleanable, leak proof and covered with close-fitting lids.

**JANITORIAL FACILITIES:** Janitorial facilities must be sufficiently separated from food preparation, food storage, utensil washing and utensil storage areas to prevent contamination of foods and utensils. A room, area or cabinet must be provided for the storage of cleaning equipment and supplies.

All food establishments must have either a one-compartment, nonporous janitorial sink, or a slab, basin or floor constructed of concrete or equivalent material which is curbed and

sloped to a drain. Such facilities must be provided with hot and cold water through a mixing type faucet which is protected by a backflow prevention device.

**EMPLOYEE CHANGE AREA:** A room, enclosure or designated area, separated from toilets, food storage, food preparation areas and utensil washing areas, must be provided where employees may change clothes and store personal effects. Lockers are acceptable in lieu of a change room in establishments with fewer than five employees on duty at any one time.

**RESTROOMS:** All food establishments must be equipped with toilet and handwashing facilities for use by employees. Establishments located in shopping centers or similar premises where restrooms are readily available for use by employees within 300 feet are exempt from this requirement.

Public restrooms are required in all food establishments with more than 20,000 square feet of floor space. Additionally, the Uniform Plumbing Code requires public restrooms in food establishments where facilities are provided for the consumption of food or beverages on the premises; this requirement is enforced by the local building department. Public restrooms must be situated so that patrons do not pass through food preparation, food storage or utensil washing areas.

All restrooms must be equipped with self-closing doors. A toilet tissue dispenser must be provided at each toilet. Handwashing facilities are required within or adjacent to toilet rooms and must be equipped with hot and cold water through a mixing type faucet. Soap and single-use towels or hot air blowers must be provided in dispensers at handwashing facilities.

**KITCHEN HANDWASHING FACILITIES:** A handwashing sink is required within or adjacent to each kitchen and must be equipped with hot and cold water through a mixing type faucet. Soap and single use towels must be provided in dispensers. Utensil and food preparation sinks may not be used to satisfy this requirement.

**FOOD AND UTENSIL STORAGE:** Adequate space must be provided for the storage of food, utensils and food packaging materials. Shelves must be of smooth, cleanable construction; smooth metal, plastic or smooth sealed wood are acceptable materials. Shelves installed on a wall must have at least a one inch open space between the back edge of the shelf and the wall surface or be sealed to the wall with non-hardening silicone sealant. All shelves must be at least six inches above the floor. Shelves located below a counter or work surface should be set back at least two inches from the drip line of the surface above.

An adequate amount of refrigerated storage space must be provided within each food establishment. Each refrigerator must maintain a temperature of 41°F or below and contain an accurate thermometer.

**FOOD PROTECTION:** Salad bars and buffets must be protected by sneeze guards. The guards must be designed to intercept a direct line between the customer's mouth zone (54-60 inches from the floor) and the food being displayed. Facilities must be provided for maintaining potentially hazardous foods at or below 41°F, or at or above 135°F, while being displayed for customer self-service.

Displays of bulk dry foods, e.g. granola or candy, are exempt from the sneeze guard requirement if foods are dispensed from mechanical dispensers or containers with tight-fitting, securely attached lids. A utensil with a handle must be provided for each self-service container.

**UTENSIL WASHING FACILITIES:** All food establishments which prepare food or beverages or use multiservice utensils must have at least a three-compartment metal sink with two integral metal drainboards. The sink compartments and drainboards must be large enough to accommodate the largest utensil or piece of equipment to be cleaned in the sink. All liquid waste must be drained through an air gap to a floor sink unless the building department requires a direct connection.

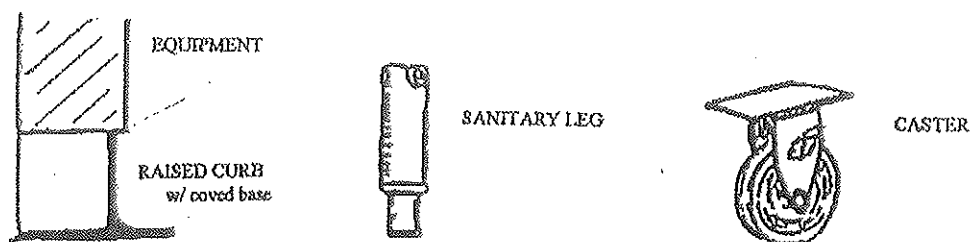
All dishwashing machines must have two integral metal drainboards which are sloped and drained to approved waste receptors. Except for undercounter machines, one drainboard must be attached at the point of entry for soiled items and one at the point of exit for cleaned and sanitized items. Where an undercounter machine is used, there must be one drainboard for soiled items and one for cleaned and sanitized items adjacent to the machine. Sink drainboards may be used to satisfy this requirement.

**FOOD PREPARATION SINKS:** A separate sink with an integral metal drainboard which is sloped and drained to an approved waste receptor is required for food preparation activities such as washing vegetables. All liquid waste must be drained through an air gap to a floor sink.

**DIPPER WELLS:** Dipper wells with running water are required at ice cream and other frozen dessert scooping operations. All liquid waste must be drained through an air gap to a floor sink.

**EQUIPMENT AND EQUIPMENT INSTALLATION:** All equipment including dishwashing machines, utensil sinks and food preparation sinks must meet or be equivalent to National Sanitation Foundation (NSF) standards.

All floor mounted equipment must be either on casters, light enough to be easily moved by one person, installed on six inch or longer round metal legs, or be sealed to a four inch or higher raised curb. If on a curb, the equipment should overhang the base at least two inches, but not more than the height of the curb. Gaps and spaces between the equipment base and the top of the island must be sealed with silicone sealant. All equipment on counters, tables and shelves must be either easily moved, sealed to the surface, or installed on four inch or longer round metal legs.



All stationary equipment must be sealed to the walls or be moved away from the walls at least six inches for every four linear feet of equipment length. Equipment must be spaced at least six inches apart from each other or be sealed together.

Possible sources of contamination such as mop sinks, hand sinks, and soiled utensil drainboards must be at least 12 inches from open food or clean utensil drainboards. A stainless steel or plexi-glass partition can be installed to prevent contamination.

**WATER SUPPLY:** An adequate, potable supply of hot and cold water must be provided to all sinks. General purpose hot water must be at least 120°F. Handwashing sinks shall provide warm water at a minimum of 100°F.

**FLOOR SINKS:** Wet steam tables, ice machines and bins, refrigerators, steam kettles, dipper wells, food preparation sinks, three-compartment utensil sinks, and similar types of equipment must drain to floor sinks. Refrigeration equipment with evaporators are exempt from this requirement. Floor sinks must be located so that they are readily accessible for inspection, cleaning and repair. Waste lines must not cross any aisle, traffic area or door opening.

**CONDUITS:** All plumbing, electrical and gas lines should be installed within walls if possible. If not installed in walls, all lines should be at least 2 inch away from the walls or ceiling and six inches off the floor. Where conduit or pipe lines enter a wall, ceiling or floor, the opening around the line must be tightly sealed. Conduits and pipe lines must not be installed across any aisle, traffic area or door opening. Clusters of conduit or pipe lines should be encased in a sealed enclosure.

**OPEN-AIR BARBECUE FACILITIES:** Open-air barbecue facilities are allowed if operated on the same premises as, and by a currently permitted food establishment. The facility must be located in an area reasonably protected from dust. All utensils and equipment must be nontoxic and easily cleaned and no foods other than those cooked on the barbecue may be prepared or stored out of doors. The facility must be equipped with an impervious, easily cleaned floor surface that extends a minimum of five feet from the barbecue on all open sides. Approved toilet and handwashing facilities must be available within 200 feet.



**COUNCIL DISTRICT 2 PLAN IMPLEMENTATION COMMITTEE**  
**September 21, 2015**

*Project Review Record*

**PROJECT INFORMATION**

Conditional Use Permit Application No. C-15-124-ABCUP was filed by Bill Robinson of Sol Development Associates, on behalf of Stacy Gould, and pertains to 3,165 square-foot tenant space within the 0.57 acre North Pointe Shopping Center located on the southwest corner of West Herndon and North Palm Avenues. The applicant requests authorization to establish a State of California Alcoholic Beverage Control alcohol license Type 42 (Bar, Tavern – sale of beer and wine for consumption on or off the premises where sold; minors not allowed to enter and remain) for Pinot's Palette Paint & Sip. The property is zoned C-2/EA/cz (Community Shopping Center/Expressway Area Overlay/conditions of zoning).

**COMMITTEE RECOMMENDATIONS**

|                         | Rodriguez | Hendry | Scott | Singh | Benevedes | Feath |
|-------------------------|-----------|--------|-------|-------|-----------|-------|
| Approve                 | X         | X      | X     |       | X         | X     |
| Approve<br>w/Conditions |           |        |       |       |           |       |
| Deny                    |           |        |       |       |           |       |
| No Action               |           |        |       |       |           |       |
| Abstain                 |           |        |       |       |           |       |
| Absent                  |           |        |       | X     |           |       |

**COMMITTEE COMMENTS / CONDITIONS**

Chair Rodriguez asked Mr. Robinson to explain the proposed project and he further indicated that alcohol will not be served, sold or consumed within the outdoor patio area.

B. Scott moved to approve the project, seconded by L. Feath.

The motion was approved unanimously

Staff Liaison:

*R. Kaedourian*

Date:

*9/21/15*



FIRE DEPARTMENT

DATE: SEPTEMBER 11, 2015

TO: STEPHEN COX, Planner II  
Development and Resource Management Department

FROM: LAURIE SAWHILL, Senior Fire Prevention Inspector  
Fire Department, Community Risk Reduction Unit

A handwritten signature in black ink, appearing to be "LS" or similar, located to the right of the "FROM:" line.

SUBJECT: C-15-124 ABCUP, 6763 N PALM

**PROJECT DESCRIPTION AND LOCATION:**

**Conditional Use Permit Application No. C-15-124-ABCUP** was filed by Bill Robinson of Sol Development Associates, on behalf of Stacy Gould, and pertains to 3,165 square-foot tenant space within the 0.57 acre North Pointe Shopping Center located on the southwest corner of West Herndon and North Palm Avenues. The applicant requests authorization to establish a State of California Alcoholic Beverage Control alcohol license Type 42 (*Bar, Tavern – sale of beer and wine for consumption on or off the premises where sold; minors not allowed to enter and remain*) for Pinot's Palette Paint & Sip. The property is zoned C-2/EA/cz (*Community Shopping Center/Expressway Area Overlay/conditions of zoning*).

The Fire Department's conditions of approval include the following:

A "Change of Occupancy" is required from the current B/M to an A2.

This project was reviewed by the fire department only for requirements related to water supply, fire hydrants, and fire apparatus access to the buildings on site. Review for compliance with fire and life safety requirements for the building interior and its intended use are reviewed by both the Fire Department and the Building and Safety Section of DARM when a submittal for building plan review is made as required by the California Building Code by the architect or engineer of record for the building.



*Preparing Career Ready Graduates*

September 3, 2015

Stephen Cox  
Development and Resource Management  
City of Fresno  
2600 Fresno Street, Third Floor  
Fresno, CA 93721-3604

SUBJECT: **CONDITIONAL USE PERMIT NO. C-15-124-ABCUP**  
**6763 N. PALM AVE.**

Dear Mr. Cox,

In response to the City's request for comments on the pending Conditional Use Permit (C.U.P.) referenced above, Fresno Unified School District (FUSD) has the following comments and concerns.

The proposed 'Pinot's Palette Paint & Sip' establishment to be located within 3,165 square-feet of existing tenant space at 6763 North Palm Avenue is requesting authorization to establish a State of California Alcoholic Beverage Control Type 42 (*Bar, Tavern – sale of beer and wine for consumption on or off the premises where sold; minors not allowed to enter and remain*) alcohol license. It is located within approximately 2,125 feet from Kratt Elementary School.

As per the State of California's Alcohol Beverage Control Act, an alcohol license can be refused by the State if the location is "within at least 600 feet from schools." The District has concerns regarding potentially dangerous interaction between our students and the proposed operation. FUSD's response on this project is subject to the Alcohol Beverage Control Act and the Fresno Police Department's review and support of the project with regard to the concentration and use of alcohol-related business in close proximity to school sites.

The Fresno Unified School District levies a commercial/industrial development fee of \$0.54 per square foot. However since no new square footage will be constructed, no development fee would be charged.

If you have any questions or require additional information regarding our comments and concerns, please contact our office at (559) 457-3066.

Sincerely,

Alex Belanger, Assistant Superintendent  
Facilities Management and Planning

DWL

AB:hl

c: Carol Badawi, Principal, Kratt Elementary School

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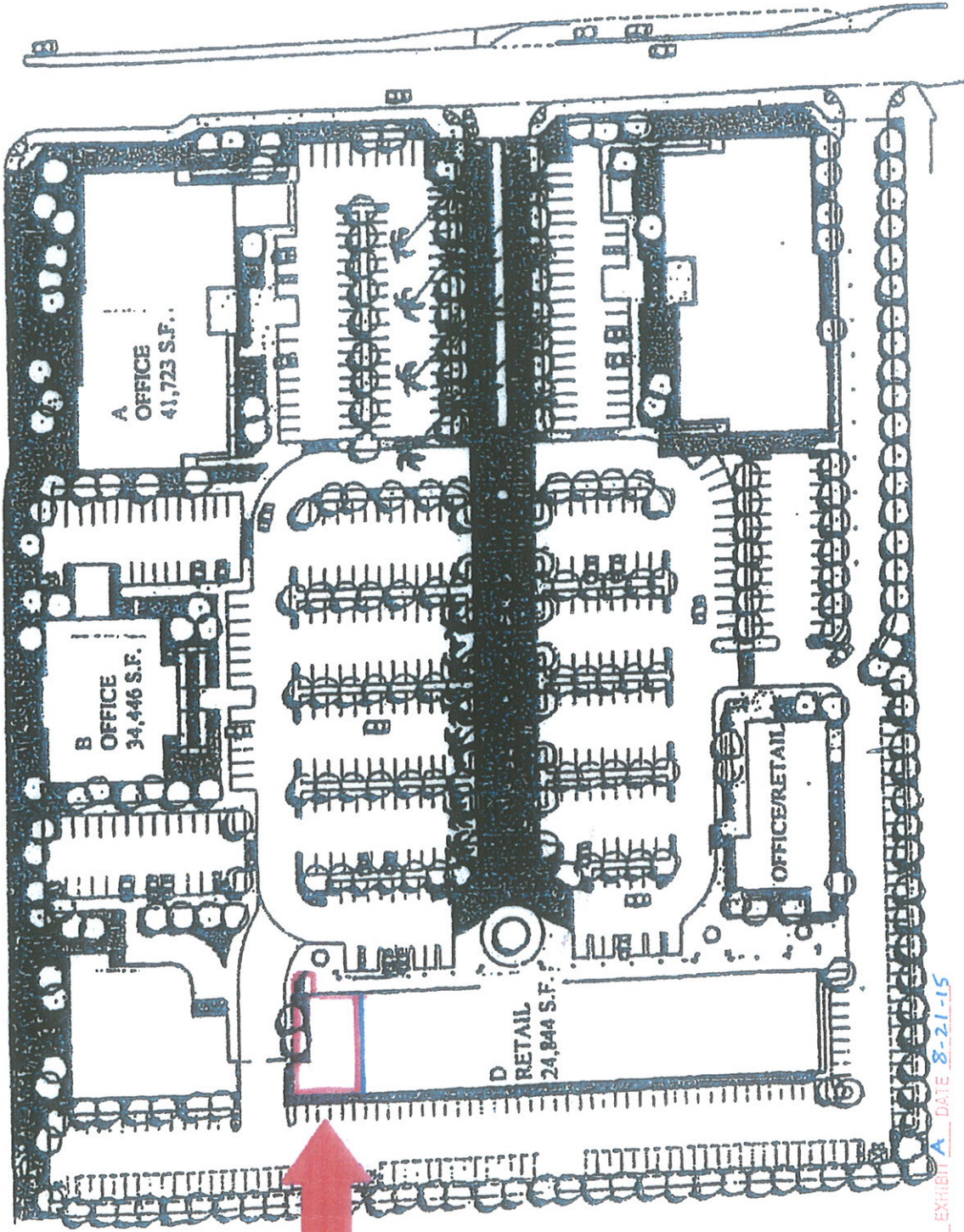
## EXHIBIT "F"

### **Site Plan, Site Details and Operations Statement**

WEST HERNDON AVE



NORTH PALM AVE



NORTH PONTE CENTER

APPL. NO. C-15-124 EXHIBIT A DATE 8-21-15

PROJ. ENG. \_\_\_\_\_ DATE \_\_\_\_\_  
TRAFFIC ENG. \_\_\_\_\_ DATE \_\_\_\_\_  
COND. APPROVED BY \_\_\_\_\_ DATE \_\_\_\_\_  
CITY OF FRESNO PLANNING & DEVELOPMENT DEPT



## OPERATIONS STATEMENT and PROJECT DESCRIPTION

The entitlement application for this project is an ABCUP, Alcohol Beverage Conditional Use Permit, Type 42 – On Sale Beer & Wine – Public Premises for the **Pinot's Palette**, a unique business in the new "Paint & Sip" entertainment industry. Pinot's Palette is a nationally franchised company with over 120 locations in over 30 states offering entertaining art demonstrations to a wide variety of clientele in groups of varying sizes. The purpose of the business is to provide a no-experience-necessary creative social experience in 2 to 3 hour painting events while over 21 year old clientele enjoy alcoholic beverages, beer, soft drinks, bottled water and snacks. Please see the attached business description and photos from the national corporation.

This location of **Pinot's Palette** will operate in a 3,165 sf tenant space with a 350 sf adjacent private patio in an existing +/- 24,850 sf building located in the +/- 10 acre North Pointe Center which includes several C-2/EA/CZ Community Commercial Shopping District zoned parcels. The space that is the subject of this application is located in the northern most tenant space in the building on the west side of the Center. The Center has existing single story retail commercial type buildings and two story office buildings currently containing office, service and shop spaces in a range of sizes. The property has been functioning as a shopping/office center since the early 1990s.

The subject tenant space was previously occupied by Zena's Island Day Spa and has been vacant for several years. At one time the tenant space was occupied by Brix Eateries which had a Type 47 On-Sale General Eating Place liquor license, C-97-239.

The new business may be open 7 days a week between 10 am until 10 pm depending upon the booking and scheduling of painting events. **The primary operating hours for events at Pinot's Palette will be on Wednesday through Saturday evenings between 6 and 10 pm with events of 2 or 3 hour duration between 7 and 10 pm.** Private party events may be booked by groups, companies and organizations for special occasions including office, holiday, retirement, birthday, and anniversary parties and social gatherings. ALL EVENTS WILL END AT 10 PM EVERY EVENING.

Liquor service will be limited to beer and wine products served individually by the glass to clientele by the proprietor and trained staff via a central serving station. No table service will be provided and no sit-down bar area for clientele will be included in the floor plan space layout. The purchase of beverages is separate from the fee charged for painting sessions.

Existing tenant improvements will be removed and a completely new floor plan layout will be installed; see proposed floor plan. The 3,165 sf single-level tenant space will be improved to include a +/- 1,500 sf main art studio with a small raised demonstration platform, a +/- 550 sf private party room, buffet area, entrance lobby with reception desk, point-of-sale beverage service area with refrigerators, ice maker, sink and dishwasher, 2 restrooms and 2 storage rooms. Groups will be up to the capacity of 64 in the main art studio and/or up to the capacity of 20 in the private party room. Please see the attached photos of typical facility interiors.

The tenant space has water and sewer service provided by connection to the City of Fresno public utility systems and solid waste is removed from enclosures at the rear of the building by a City of Fresno commercial solid waste contractor.

The occupancy and operations of the North Pointe Center have not shown to have a significant adverse effect(s) upon the environment including unusual odor, lighting, noise, traffic, soot, gas emissions, dust or vibration to any degree which might be obnoxious or offensive to persons working, conducting business or living in this area. Impacts from the operation of **Pinot's Palette** upon the surrounding area are anticipated to be negligible. This Center's use has been well established for several decades and it is expected to continue to contribute to the diversity of shopping, entertainment and employment opportunities in the surrounding area and help fulfill the stated goals of the 2035 General Plan.

**EXHIBIT "G"**

**Environmental Assessment No. C-15-124**

**CITY OF FRESNO  
CATEGORICAL EXEMPTION  
ENVIRONMENTAL ASSESSMENT NO. C-15-124**

THE PROJECT DESCRIBED HEREIN IS DETERMINED TO BE CATEGORICALLY  
EXEMPT FROM THE PREPARATION OF ENVIRONMENTAL DOCUMENTS  
PURSUANT TO ARTICLE 19 OF THE STATE CEQA GUIDELINES.

**APPLICANT:** Sol Development Associates, LLC  
906 N Street, Suite 100  
Fresno, CA 93721

**PROJECT LOCATION:** Southwest corner of the intersection of West Herndon and North Palm  
Avenues.  
(APN: 407-672-43)

**PROJECT DESCRIPTION:** Conditional Use Permit Application No. C-15-124 requests authorization to establish a State of California Alcoholic Beverage Control alcohol license Type 42 (Bar, Tavern – sale of beer and wine for consumption on or off the premises where sold; minors not allowed to enter and remain) within a vacant 3,165 square-foot tenant space within the existing North Pointe Shopping Center for Pinot's Palette Paint and Sip.

**This project is exempt under Section 15301 (Class 1/Existing Facilities) of the California Environmental Quality Act (CEQA) Guidelines.**

**EXPLANATION:**

Section 15301 (Class 1/Existing Facilities) of the CEQA Guidelines exempts from the provisions of CEQA, projects consisting of the operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing public or private structures, facilities, mechanical equipment, or topographical features, involving negligible or no expansion of use beyond that existing at the time of the lead agency's determination.

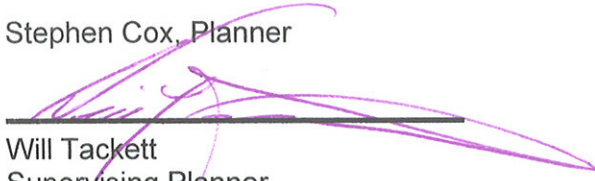
The proposed use will occur within a vacant tenant space within an existing building in an existing shopping center, which was previously utilized for a restaurant use with a State of California Alcoholic Beverage Control alcohol license Type 47 (On-Sale General Eating Place). Therefore, the proposed project will involve minor alterations to existing facilities in order to facilitate a use which does not represent an expansion or intensification beyond that which previously existed.

No adverse environmental impacts will occur as a result of the proposed project; and, none of the exceptions to Categorical Exemptions set forth in the CEQA Guidelines, Section 15300.2 apply to this project.

Date: November 18, 2015

Prepared By: Stephen Cox, Planner

Submitted by:

  
\_\_\_\_\_  
Will Tackett  
Supervising Planner  
City of Fresno  
Development & Resource Management  
Department  
(559) 621-8277