

CITY COUNCIL AGENDA: NOVEMBER 18, 2014

PUBLIC HEARING

SUBJECT: REQUEST FOR A CONDITIONAL USE PERMIT (PRC 2014-019-C) TO ALLOW FOR THE SALE OF ALCOHOL UNDER A TYPE 41 BEER AND WINE LICENSE IN CONJUNCTION WITH A RESTAURANT FOR APPLEBEE'S LOCATED AT 892 W. HENDERSON AVENUE

SOURCE: COMMUNITY DEVELOPMENT DEPARTMENT- PLANNING DIVISION

COMMENT: The applicant is requesting approval of a Conditional Use Permit (PRC 2014-019-C) to allow for the sale of alcohol under a Type 41 Beer and Wine license in conjunction with a restaurant for Applebee's located at 892 W. Henderson Avenue, within the former Blockbuster Video tenant space.

BACKGROUND: On October 15, 2014, the applicant submitted an application to the Project Review Committee (PRC) to consider a Conditional Use Permit to allow for the sale of alcohol under a Type 41 Beer and Wine license in conjunction with a restaurant for Applebee's located within the former Blockbuster Video tenant space in the Porterville Town Center. During the PRC meeting, the Police Department indicated that the location of Applebee's has sufficient exterior lighting to illuminate the parking lot and the entire site during business hours and maintaining this security lighting shall be a condition of approval. The Project Review Committee also acknowledged that the proposed location of the project and the conditions under which it will be operated or maintained will not be detrimental to the public health, safety, or welfare to properties or improvements in the vicinity.

The California Department of Alcoholic Beverage Control (ABC) allows for a specific number of licenses per census tract, based on population. Whenever the ratio of on-sale licenses to population in a census tract exceeds the average ratio for the county, an "undue concentration" of licenses is determined to exist. The subject site is located within Census Tract 37.00; this tract contains 14 licenses for alcohol sales; seven (7) on-sale, six (6) off-sale and one (1) club licenses (Eagles Lodge). In Census Tract 37.00, four (4) on-sale and five (5) off-sale licenses are allowed without being deemed over-concentrated. Approval of this on-sale licenses would be the 8th on-sale licenses, five (5) above the allowable as determined by ABC. Due to the over concentration of on-sale licenses, a Letter of Public Convenience or Necessity will be required.

ANALYSIS: It is not anticipated that this use would have a negative impact on the surrounding properties. Conditions of approval are in place to protect the public's safety and interest. As a condition of approval, due to the close proximity of Trinity Lutheran Church and La Mision De Jesus, located at the northeast and southeast corner respectively of Henderson Avenue and Indiana Street (approximately 545

DD



Appropriated/Funded N/A

CM



Item No. 10

and 550 feet from property line to property line) alcohol advertising visible from the outside of the proposed building shall not be allowed. The applicant is conditioned to operate the establishment in such a manner as to preserve the public safety, health and welfare, to prevent the use from becoming a nuisance and to operate the business in compliance with all laws, ordinances and regulations regarding the sale of alcohol. Furthermore, at all times the facility shall be operated and maintained to comply with State Laws, the City of Porterville Development Ordinance, adopted Building Codes and all other applicable laws and ordinances.

The subject site is consistent with the General Plan Land Use Designation for Commercial Mix-Use (CMX). The CMX designation is intended to provide for commercial, service, office and residential uses that meet local and regional demand. The proposed restaurant with alcohol sales would suit the purpose of the General Plan Land Use Designation. The restaurant is a permitted use in the CMX land use designation, and alcohol sales may be permitted in that land use with the requested Conditional Use Permit.

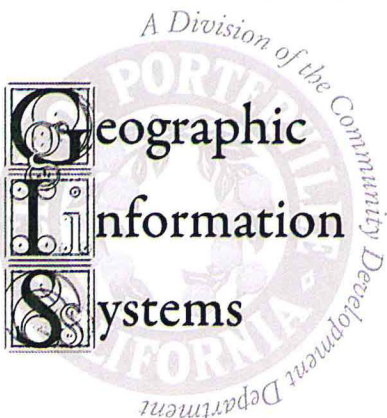
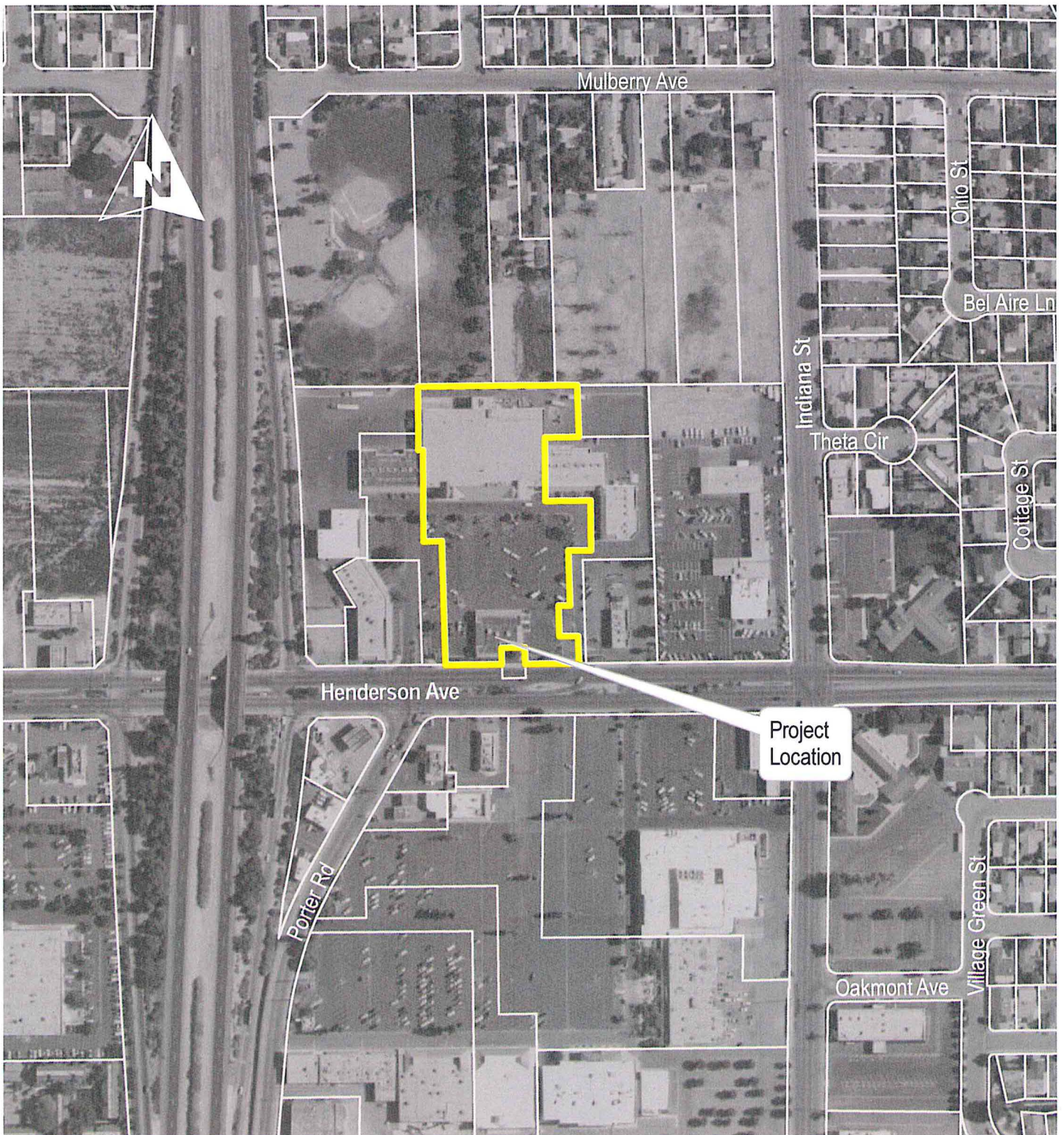
ENVIRONMENTAL REVIEW: On November 5, 2014, the Environmental Coordinator made a preliminary determination that the project is exempt from the California Environmental Quality Act pursuant to Section 15061(b), (3) of the California Code of Regulation (CEQA Guidelines), under the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment.

RECOMMENDATION: That the City Council:

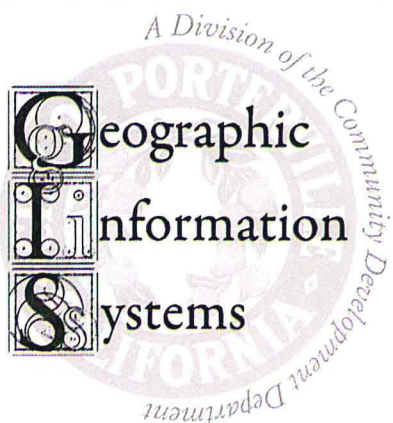
1. Adopt the draft resolution approving Conditional Use Permit (PRC 2014-019-C) subject to conditions of approval; and
2. Authorize the mayor to sign the Letter of Public Convenience or Necessity.

ATTACHMENTS:

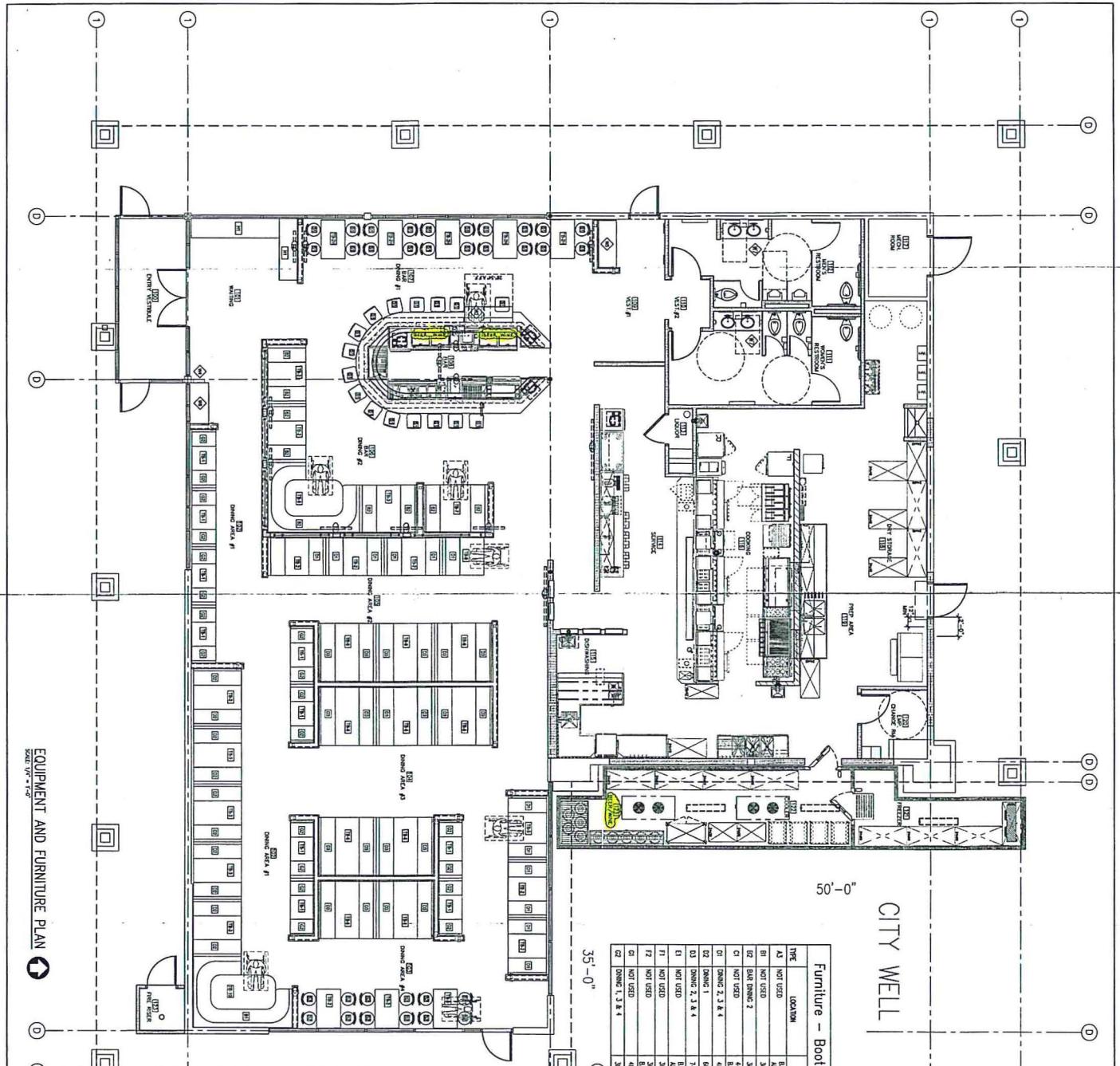
1. Locator Map
2. General Plan Land Use Designation
3. Floor Plan
4. Existing licenses in Census Tract 37.00
5. Draft Resolution
6. Letter of Public Convenience or Necessity



PRC 2014-019
 Applebees @ 892 W Henderson
 Project Locator Map
 1" = 300 ft
**ATTACHMENT
 ITEM NO. 1**



PRC 2014-019
Applebees @ 892 W Henderson
General Plan Land Use Map
1" = 300 ft.



EQUIPMENT AND FURNITURE PLAN
SCALE: 1/8" = 1'-0"

CITY WELL

Furniture - Booth Schedule

TYPE	LOCATION	DESCRIPTION	QTY	UNIT	QTY	UNIT	QTY	UNIT
1	BOOTH	BOOTH SEATING WITH UPHOLSTERED SEAT	1	1	3	3	11	11
2	BOOTH	BOOTH SEATING WITH UPHOLSTERED SEAT	1	1	3	3	12	12
3	BOOTH	BOOTH SEATING WITH UPHOLSTERED SEAT	1	1	3	3	13	13
4	BOOTH	BOOTH SEATING WITH UPHOLSTERED SEAT	1	1	3	3	14	14
5	BOOTH	BOOTH SEATING WITH UPHOLSTERED SEAT	1	1	3	3	15	15
6	BOOTH	BOOTH SEATING WITH UPHOLSTERED SEAT	1	1	3	3	16	16
7	BOOTH	BOOTH SEATING WITH UPHOLSTERED SEAT	1	1	3	3	17	17
8	BOOTH	BOOTH SEATING WITH UPHOLSTERED SEAT	1	1	3	3	18	18
9	BOOTH	BOOTH SEATING WITH UPHOLSTERED SEAT	1	1	3	3	19	19
10	BOOTH	BOOTH SEATING WITH UPHOLSTERED SEAT	1	1	3	3	20	20

Material Legend

1. STAIN TO MATCH R-1
2. LAMINATE - ARTIST'S CHOICE
3. LAMINATE - ARTIST'S CHOICE
4. LAMINATE - ARTIST'S CHOICE
5. LAMINATE - ARTIST'S CHOICE
6. LAMINATE - ARTIST'S CHOICE
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16. LAMINATE - ARTIST'S CHOICE
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19. LAMINATE - ARTIST'S CHOICE
20. LAMINATE - ARTIST'S CHOICE

Furniture - Chair Schedule

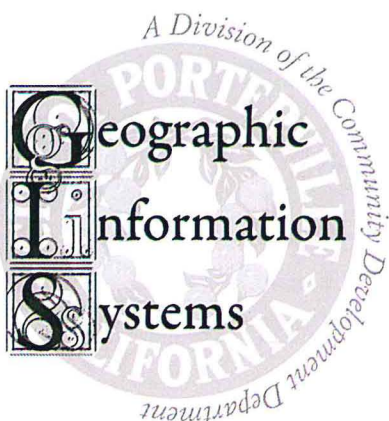
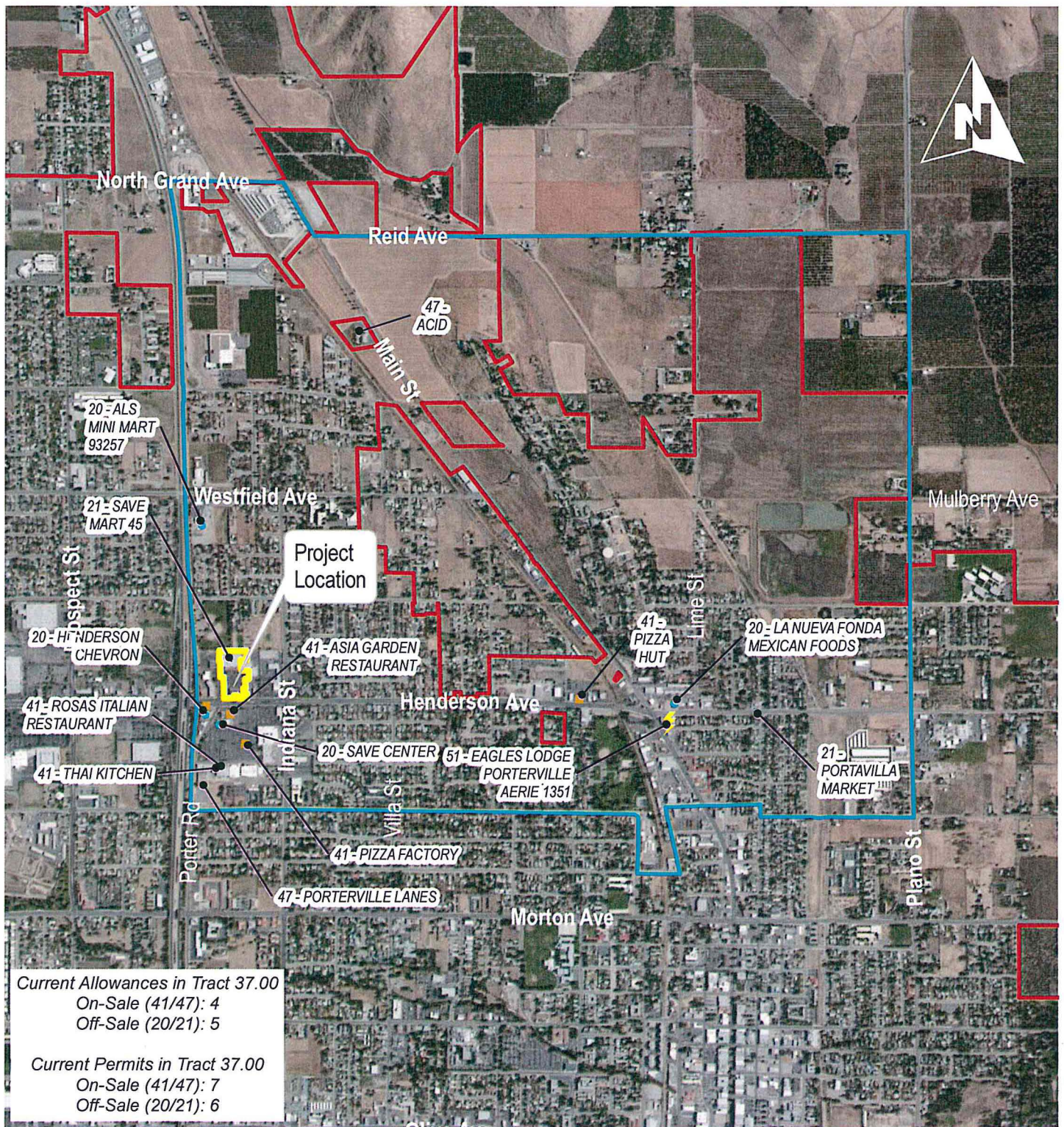
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Television Legend

TYPE	LOCATION	DESCRIPTION	QTY	UNIT	QTY	UNIT	QTY	UNIT
1	BOOTH	BOOTH SEATING WITH UPHOLSTERED SEAT	1	1	3	3	11	11
2	BOOTH	BOOTH SEATING WITH UPHOLSTERED SEAT	1	1	3	3	12	12
3	BOOTH	BOOTH SEATING WITH UPHOLSTERED SEAT	1	1	3	3	13	13
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Furniture - Table Schedule

TYPE	LOCATION	DESCRIPTION	QTY	UNIT	QTY	UNIT	QTY	UNIT
1	BOOTH	BOOTH SEATING WITH UPHOLSTERED SEAT	1	1	3	3	11	11
2	BOOTH	BOOTH SEATING WITH UPHOLSTERED SEAT	1	1	3	3	12	12
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PRC 2014-019
Applebees @ 892 W Henderson
Tract 37.00 ABC License Map

1" = 300 ft

ATTACHMENT
ITEM NO. 4



**California Department of Alcoholic Beverage Control
For the County of TULARE - (Retail Licenses)
and Census Tract = 37**

Report as of 11/6/2014

	License Number	Status	License Type	Orig. Iss. Date	Expir Date	Primary Owner and Premises Addr.	Business Name	Mailing Address	Geo Code
1)	195250	ACTIVE	21	1/21/1987	6/30/2015	SAVE MART SUPERMARKETS 900 W HENDERSON AVE PORTERVILLE, CA 93257-1704 Census Tract: 0037.00	SAVE MART 45	PO BOX 4278, ATTN: DEBRA KEELER MODESTO, CA 95352-4278	5404
2)	275575	ACTIVE	47	9/4/1992	5/31/2015	TRAMP, RODNEY R 952 W GRAND AVE PORTERVILLE, CA 93257 Census Tract: 0037.00			5404
3)	281609	ACTIVE	41	5/21/1993	9/30/2015	LEE, SHU KWAN 895 W HENDERSON AVE PORTERVILLE, CA 93257 Census Tract: 0037.00	ASIA GARDEN RESTAURANT		5404
4)	367020	ACTIVE	20	12/12/2000	3/31/2015	MENCHACA, JUAN C 96 W HENDERSON AVE PORTERVILLE, CA 93257 Census Tract: 0037.00	LA NUEVA FONDA MEXICAN FOODS		5404
5)	430188	ACTIVE	20	4/5/2006	3/31/2015	SANDHU, BALBIR SINGH 770 N PORTER RD PORTERVILLE,	SAVE CENTER		5404

						CA 93257 Census Tract: 0037.00			
6)	<u>437934</u>	ACTIVE	41	3/30/2006	2/28/2015	PANYATHONG, SUPHANH 951 W HENDERSON AVE PORTERVILLE, CA 93257 Census Tract: 0037.00	THAI KITCHEN		5404
7)	<u>454777</u>	ACTIVE	41	7/25/2007	6/30/2015	GAMMON, SCOTT EVAN 897 W HENDERSON AVE PORTERVILLE, CA 93257-6912 Census Tract: 0037.00	PIZZA FACTORY		5404
8)	<u>522505</u>	ACTIVE	20	7/30/2012 10:57:47 AM	6/30/2015	SALEH, TAHA ALI 957 W HENDERSON AVE PORTERVILLE, CA 93257-1761 Census Tract: 0037.00	HENDERSON CHEVRON		5404
9)	<u>523544</u>	ACTIVE	20	9/20/2012 10:57:37 AM	8/31/2015	NARWAL, SARBJIT KAUR 943 W WESTFIELD AVE PORTERVILLE, CA 93257-1255 Census Tract: 0037.00	ALS MINI MART 93257		5404
10)	<u>530514</u>	ACTIVE	21	7/16/2013 2:05:34 PM	6/30/2015	AL RAIFI LLC 34 E HENDERSON AVE PORTERVILLE, CA 93257-1764 Census Tract: 0037.00	PORTAVILLA MARKET		5404
11)	<u>531372</u>	ACTIVE	41	8/26/2013 10:36:07 AM	7/31/2015	GELT HOLDINGS INC 276 W HENDERSON AVE PORTERVILLE,	PIZZA HUT	220 PORTER DR, STE 100 SAN RAMON, CA 94583-9206	5404

						CA 93257 Census Tract: 0037.00			
12)	<u>531502</u>	ACTIVE	47	6/27/2013 4:07:34 PM	5/31/2015	TULE RIVER INDIAN TRIBE OF CALIFORNIA 615 N MAIN ST PORTERVILLE, CA 93257-2316 Census Tract: 0037.00	OAK PIT	PO BOX 589 PORTERVILLE, CA 93258-0589	5404
13)	<u>531842</u>	ACTIVE	47	5/31/2013 9:11:03 AM	4/30/2015	ALMANSUR, ILYAS 1531 N MAIN ST PORTERVILLE, CA 93257-9541 Census Tract: 0037.00	ACID	PO BOX 666 DUCOR, CA 93218-0666	5400
14)	<u>538547</u>	ACTIVE	41	5/14/2014 10:59:53 AM	2/28/2015	CORRIGAN, JASON EDWARD 949 W HENDERSON AVE PORTERVILLE, CA 93257 Census Tract: 0037.00	ROSAS ITALIAN RESTAURANT		5404
15)	<u>9228</u>	ACTIVE	51	6/5/1959	8/31/2015	EAGLES LODGE PORTERVILLE AERIE 1351 97 W HENDERSON AVE PORTERVILLE, CA 93257 Census Tract: 0037.00	EAGLES LODGE PORTERVILLE AERIE 1351	PO BOX 989 PORTERVILLE, CA 93258	5404

--- End of Report ---

For a definition of codes, view our [glossary](#).

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PORTERVILLE
CONTAINING FINDINGS AND CONDITIONS IN SUPPORT OF CONDITIONAL USE
PERMIT (PRC 2014-019-C) TO ALLOW FOR THE SALE OF ALCOHOL UNDER A TYPE
41 BEER AND WINE LICENSE IN CONJUNCTION WITH A RESTAURANT FOR
APPLEBEE'S LOCATED AT 892 W. HENDERSON AVENUE

WHEREAS: On November 5, 2014, the Environmental Coordinator made a preliminary determination that the project is exempt from the California Environmental Quality Act pursuant to Section 15061(b), (3) of the California Code of Regulation (CEQA Guidelines); and

WHEREAS: The City Council of the City of Porterville, at its regular scheduled meeting of November 18, 2014, conducted a public hearing to consider Conditional Use Permit (PRC 2014-019-C) to allow for the sale of alcohol under a Type 41 Beer and Wine License in conjunction with a restaurant for Applebee's located at 892 W. Henderson Avenue; and

WHEREAS: The City Council of the City of Porterville authorized the mayor to sign the Letter of Public Convenience or Necessity because of the regional nature of the shopping center within which the restaurant is located; and

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

WHEREAS: The City Council made the following findings:

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

The CMX designation is intended to provide for commercial, service, office and residential uses that meet local and regional demand. The proposed restaurant with alcohol sales would suit the purpose of the land use designation. The restaurant is a permitted use in the CMX land use, and alcohol sales may be permitted with a Conditional Use Permit.

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

Conditions of approval are included herein to ensure adequate development standards are met. The project is located within an existing building in a regional shopping center that has been well maintained since its original development. Further, all land owners within the city of Porterville are held to performance standards identified in Chapter 306 of the Development Ordinance. Specifically, Section 306.03 of the Ordinance states, "Land or buildings shall not be used or occupied in a manner creating any dangerous, injurious, or noxious fire,

**ATTACHMENT
ITEM NO. |**

explosive, or other hazard; noise, vibration, smoke, dust, odor, or form of air pollution; heat, cold, dampness, electrical or other disturbance; glare, refuse, or wastes; or other substances, conditions, or elements which would substantially adversely affect the surrounding area.”

3. This project is Categorically Exempt pursuant to CEQA Guidelines §15061(b), (3) - General Rule: the approval of the alcohol sales creates no physical change to the environment.
4. The California Department of Alcoholic Beverage Control (ABC) allows for a specific number of licenses per census tract, based on population. Whenever the ratio of on-sale licenses to population in a census tract exceeds the average ratio for the county, an “undue concentration” of licenses is determined to exist. The subject site is located within Census Tract 37.00; this tract contains 14 licenses for alcohol sales; seven (7) on-sale, six (6) off-sale and one (1) club licenses (Eagles Lodge). In Census Tract 37.00, four (4) on-sale and five (5) off-sale licenses are allowed without being deemed over-concentrated. Approval of this on-sale licenses would be the 8th on-sale licenses, five (5) above the allowable as determined by ABC. Due to the over concentration of on-sale licenses, a Letter of Public Convenience or Necessity will be required.

NOW, THEREFORE, BE IT RESOLVED: That the City Council of the City of Porterville does hereby approve Conditional Use Permit (PRC 2014-019-C) subject to the following conditions:

1. The developer/applicant shall keep the beer and wine in a secure place with access only available to the employees, shown herein as the walk-in refrigeration and separate bar area in Exhibit “A.” Any future changes in operation which substantially alter the condition or nature of the subject business will require approval by the City Council if such modification involves expansion, relocation, or change in accessibility to the conditioned uses.
2. The facility shall be operated and maintained to comply with applicable State and Federal laws, and the City of Porterville Development Ordinance at all times.
3. The applicant shall maintain the security lighting on the exterior of the building and in the parking lot in a manner to allow reasonable surveillance of the area to the satisfaction of the Police Department and Zoning Administrator.
4. The applicant shall operate the establishment in such a manner as to preserve the public safety, health and welfare, to prevent the use from becoming a nuisance and operate the business in compliance with all laws, ordinances and regulations regarding the sale of alcohol. In the event that this or any other condition of approval is violated, the City Council may modify or revoke the conditional use permit as provided in Section 601.10 of the Porterville Development Ordinance.

5. The elements of the conditional use permit approving on-site alcohol sales will be subject to modification or revocation if the State of California imposes sanctions on the on-sale license.
6. The entire site shall be permanently maintained free of accumulated dirt and litter and in an otherwise neat and attractive manner.
7. No alcohol advertising shall be displayed and/or viewed from the outside of the proposed building.
8. The consumption of alcoholic beverages shall be prohibited off-site or outside of the building.
9. Upon approval of the conditional use permit, any future violations of regulations of the codes relating to the sales or consumption of alcohol, and/or excessive service calls by the Police Department resulting from the sales of alcohol will result in revocation of the Conditional Use Permit.
10. Unless an extension of time is granted by the City Council, the conditional use permit shall expire two (2) years after the date of approval if the on-sale Type 41 Alcohol License for General Bona Fide Eating Place is not active or actively pursued. The alcohol license permits sale of beer and wine in conjunction with the serving of meals.
11. The hours of operation during which alcoholic beverages may be sold and served under the on-sale license shall be limited to only during business hours.
12. That a Letter of Public Convenience or Necessity shall be required.

PASSED, APPROVED AND ADOPTED this 18st day of November, 2014.

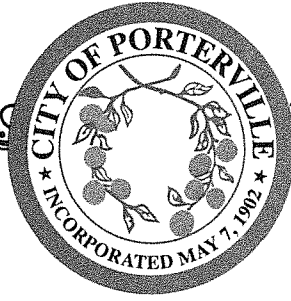
Milt Stowe, Mayor

ATTEST:

John D. Lollis, City Clerk

By

Patrice Hildreth, Chief Deputy City Clerk



**Community Development
Department**

November 19, 2014

California Department of Alcoholic Beverage Control
Fresno District Office
3640 East Ashlan Ave
Fresno, CA 93726
ATTN: Christine Weldon

RE: Applebee's – 892 W. Henderson Avenue, Porterville, CA

Dear Ms. Weldon:

The City Council of the City of Porterville has elected to approve submittal of this letter regarding the public convenience or necessity to be served through issuance of an on-sale Type 41 (beer and wine) license for Applebee's located at 892 W. Henderson Avenue. The shopping center within which the proposed restaurant will be located is a regional center, and has significant economic draw beyond the boundaries of the census tract.

Approval of this letter was based on the following:

1. Per Section 23958.4 of the "Business and Professions Code," the subject site is located within Census Tract 37.00 which allows four (4) on-sale licenses. At the present time seven (7) on-sale licenses currently exist in this tract. Due to the over concentrated of on-sale licenses a Letter of Public Convenience or Necessity was required.
2. On November 18, 2014, the City Council conditionally approved Conditional Use Permit (PRC 2014-019-C), review attached resolution, to allow the on-sale of beer and wine located at 892 W. Henderson Avenue. As a condition of approval, a Letter of Public Convenience or Necessity was required to be approved by the City Council.
3. In consideration of the above, the City Council determined that public convenience or necessity would be served by the issuance of an on-sale beer and wine license.

**ATTACHMENT
ITEM NO. 6**

Further issuance of an on-sale license allowing beer and wine sales represents a viable economic asset to the community which will contribute tax revenues to the local economy. The subject site is consistent with the General Plan Land Use Designation for Commercial Mixed-Use (CMX). The CMX designation is intended to provide for commercial, service, office and residential uses that meet local and regional demand. The proposed restaurant with alcohol sales would suit the purpose of the General Plan Land Use Designation. The restaurant is a permitted use in the CMX land use designation, and alcohol sales may be permitted in that land use with the requested Conditional Use Permit.

For these reasons, the City Council of the City of Porterville supports issuance of an on-sale beer and wine license for Applebee's located in the Porterville Town Center at 892 W. Henderson Avenue.

Sincerely,

Milt Stowe, Mayor

Attachment: Resolution