

**SPECIAL MEETING AGENDA
CITY OF SELMA
PLANNING COMMISSION**

**November 12, 2019
6:00 PM**

City of Selma Council Chambers
1710 Tucker Street
Selma, CA 93662

Call to order at **6:00 p.m.**

Flag salute led by Commissioner Coury

Roll Call: Commissioners Niswander, Coury, Fedor, Garcia, Gonzalez, Sekhon, Singh

***Potential Conflicts of Interest:** Any Commissioner who has a potential conflict of interest may now identify the item and recuse themselves from discussing and voting on the matter.*

ORAL COMMUNICATIONS

NOTICE(S) TO THE PUBLIC: At this time, any member of the public may address the Commission regarding any item over which the Commission has jurisdiction. No action or discussion will be taken on any item not on the agenda. Issues raised will be referred to the Chairperson for review. Members of the public shall limit their remarks to three (3) minutes.

CONSENT CALENDAR

All items listed under consent calendar are considered routine. The complete consent calendar will be enacted by one motion by Roll-Call Vote. For purposes of discussion any Commission Member may have an item removed from the consent calendar and made part of the regular agenda. The Commission can then approve the remainder of the consent calendar.

1. Consideration and necessary action on the minutes of the October 28, 2019 meeting.

PUBLIC HEARINGS

2. Consideration and Necessary Action on Alternative Resolutions Recommending Either Repeal or Amendment of Selma Municipal Code Section 11-8-10 (D), to Provide for Discretionary Modification or Adjustment of Density Requirements for Retail Outlets Selling Packaged Alcoholic Beverages in Neighborhood Commercial Zone (C-1)

ORAL COMMUNICATIONS

NOTICE(S) TO THE PUBLIC: *At this time, any member of the public may address the Commission regarding any item over which the Commission has jurisdiction. No action or discussion will be taken on any item not on the agenda. Issues raised will be referred to the Chairperson for review. Members of the public shall limit their remarks to three (3) minutes.*

ADJOURNMENT

- *Any writings or documents provided to a majority of the Selma Planning Commission regarding any item on this agenda will be made available for public inspection in the City Clerk's office located at 1710 Tucker Street during normal business hours.*
- *In compliance with the ADA, if you need special assistance to participate in any City meeting (including assisted listening devices), please contact the City Clerk's Office (559) 891-2200. Notification of at least 48 hours prior to the meeting will assist staff in assuring that reasonable arrangements can be made to provide accessibility to the meeting.*

**DRAFT
CITY OF SELMA
MINUTES OF PLANNING COMMISSION MEETING
October 28, 2019**

Chairman Niswander called the meeting of the Selma Planning Commission to order at 6:00 p.m. in the Council Chambers. Commission members answering roll call were Fedor, Garcia, Gonzales, Singh, Sekhon, and Chairman Niswander. Commissioner Coury was not present.

Also present were City Attorney Mike Slater, Planner Kira Noguera and Building/Planning Technician Sabino Cayetano.

The agenda for this meeting was duly posted in a location visible at all times by the general public seventy-two hours prior to this meeting.

Chairman Niswander asks if any Commissioner has any conflict of interest and to identify the item and to excuse him or herself.

Chairman Niswander noted that Commissioner Coury has arrived at 6:03pm.

Chairman Niswander describes the nomination and elective for Planning Commission Vice Chairman.

Commissioner Fedor nominates Commissioner Garcia for Vice Chairman.

Commissioner Gonzales seconds the nomination for Commissioner Garcia.

Chairman Niswander asks all in favor say Aye. All voted in favor of Commissioner Garcia for Vice Chairman.

Chairman Niswander describes the revised minutes for September 23, 2019 minutes. He feels the minutes are in order.

Commissioner Garcia makes the motion to approve the September 23, 2019 minutes.

Commissioner Fedor seconds the motion to approve the minutes for September 23, 2019.

Chairman Niswander ask for roll call vote to approve minutes for September 23, 2019

Technician Sabino takes roll call vote to approve the minutes for September 23, 2019. Commissioners as follows voted yes. Commissioners, Coury, Fedor, Garcia, Gonzales, Singh, Sekhon and Chairman Niswander.

PUBLIC HEARINGS

GENERAL PLAN AMENDMENT NO. 2019-0020 - Staff recommends that the Planning Commission approve a change in the High Density Residential designation from allowing 13.0 to 19.0 Units Per Gross Acre to allowing 13.0 to 20.0 Units Per Gross Acre; and in the Mixed-Use designation from allowing 5.0 to 19.0 Units Per Gross Acre to allowing 10.0 to 20.0 Units Per Gross Acre.

ZONE CODE AMENDMENT NO. 2019-0021 - Staff recommends that the Planning Commission approve establishing an R-4 Zone District, which would allow 20.0 Residential Units Per Gross Acre, in addition to commercial uses within a multi-family residential development.

ADDENDUM TO CITY OF SELMA GENERAL PLAN UPDATE 2035 EIR - Staff recommends that the Planning Commission approve an EIR Addendum evaluating the potential environmental impacts of the proposed Modified Project based on items 1 and 2 above. This Addendum has been prepared in accordance with the relevant provisions of CEQA and Section 15164 of the State CEQA Guidelines.

Chairman Niswander describes agenda item to the Planning Commission.

Eric Vonberg with Rincon Consulting gave a presentation on the agenda item.

Chairman Niswander asks if the properties to be rezoned will be a random choosing of the Planning Department.

Eric Vonberg responds that this item is just to create the R-4 district in order to be consistent with the General Plan.

Chairman Niswander asks if the commissioners have any questions.

Commissioner Sekhon asks what the percentage of land in the City will be zoned as R-4.

Eric Vonberg responds that the city already has designated areas for high density for the agenda item.

Commissioner Garcia asks if staff has already identified a property owner and where is the location.

Eric Vonberg says I'd rather focus on the agenda item and not the location because the rezone location is not on the agenda this evening. Consultant Vonberg confirms it is within city limits and is already General Plan designated for High Density Residential and would be rezoned to R-4.

Planner Kira Noguera says any rezone would come to the Planning Commission for approval or denial of the agenda item.

Chairman Niswander asks if the Planning Commission is being asked to adopt the agenda item for 8.5 acres of R-4 land.

Eric Vonberg describes we are only creating the R-4 district per agenda item, and the acreage would not be restricted, and we are not considering rezoning any land to R-4 at this hearing.

Chairman Niswander responds at the last meeting an applicant tried to do a project that did not fit the neighborhood and it has the Planning Commission on edge. Stressing the concerns about the high density.

Eric Vonberg responds that we gave discretion to the city manager to graduate in the second story as an example.

Commissioner Garcia does not want the city to become an apartment city.

Eric Vonberg describes the agenda item only applies to areas zoned for R-4 density.

Commissioner Singh asks do we have a traffic study for the designated area.

Eric Vonberg responds that a traffic study would have to be done individually per submittal.

Commissioner Singh says we would need new traffic studies and expresses concerns with traffic.

Eric Vonberg describes agenda item as only adding one unit per acre (from 19-20).

Commissioner Coury asks if there is a way we can get a list of the high density parcels and their locations.

Eric Vonberg responds we don't have it now.

Commissioner Fedor asks if the R-4 does not exist.

Eric Vonberg explains the agenda item is to create R-4.

Commissioner Fedor asks what happens if we don't create the R-4 agenda item.

Eric Vonberg responds if we don't create it the city of Selma's Housing Element would not be in compliance with state laws.

Commissioner Fedor responds it's a money thing, if we do this we get state funding.

Eric Vonberg responds that is correct.

Commissioner Fedor responds how much funding we are looking at.

Planner Kira Noguera responds with we are looking at \$160,000 for this month. But that could change for the grant in the future.

Commissioner Fedor asks what that money would go towards.

Planner Kira Noguera responds that would go towards any encouraging housing in the city. It would have to be in the code before asking a developer to make changes. The funding goes towards changing the code.

Commissioner Garcia responds we could provide high density premium apartments in the city.

Planner Kira Noguera responds with it's strictly for the number of units.

Chairman Niswander asks if there are any further questions of staff.

Commissioner Singh asks if there is going to be a limit on the square footage.

Eric Vonberg describes the agenda item.

Planner Kira Noguera describes the agenda item requirements.

Chairman Niswander asks if there are any further questions of staff.

Commissioner Fedor asks if anything in the high density automatically becomes R-4.

Eric Vonberg responds with it will be now available.

Commissioner Fedor asks would it be available if not in the high density designation.

Eric Vonberg responds only if your property is designated for high density.

Commissioner Garcia responds it follows our general plan.

Eric Vonberg responds with yes, it does follow our general plan.

Planner Kira Noguera responds they could apply general plan amendment and a re-zone. And it would go to the Planning Commission and to the City Council.

Commissioner Fedor asks if we have more money to the city and rewriting of the codes, is there more money.

Eric Vonberg responds that there is more money out there for housing.

Commissioner Fedor asks can it be used for infrastructure.

Eric Vonberg responds that is correct.

Planner Kira Noguera describes that there is a lot of funding out there tied to having a compliant housing element.

Chairman Niswander asks does the Commission have questions for staff. Seeing none, he asks Lawyer Mike Slater if they have to approve each item or can they combine them.

Lawyer Mike Slater responds that the Commission can combine and approve as one agenda item.

Chairman Niswander recommends that the Planning Commission approve the agenda item.

Chairman Niswander asks if anyone wants to speak in favor of the agenda items. Does anyone want to speak in opposition. Seeing none, he describes agenda item number four.

Eric Vonberg describes the agenda item number four.

Chairman Niswander ask if there are any questions of staff. Before closing the public portion. Does anyone in the audience want to speak in favor in the agenda item. Does anyone want to speak in opposition of the agenda item. Seeing none, he closes public portion and brings it back to the Planning Commission for a vote.

Chairman Niswander asks the commission if they are ready to make a motion. The commissioners discuss the agenda times.

Commissioner Garcia makes the first motion to approve the agenda items.

Commissioner Sekhon seconds the motion for approval for the agenda items.

AYES: Fedor, Coury, Gonzalez, Singh, Garcia, Sekhon & Niswander
NOES:
ABSTAIN:
ABSENT:

ORAL COMMUNICATIONS

Planner Kira Noguera wanted to verify the special meeting for November 12, 2019 and special meeting for December 16, 2019.

ADJOURNMENT: There being no further business, the meeting was adjourned at 6:36 p.m.

Respectfully submitted,

Sabino Cayetano
Building Planning Technician

Glenn Niswander, Chairman
of the Planning Commission

Kira Noguera
Secretary of the Planning Commission

**SELMA PLANNING COMMISSION
STAFF REPORT**

PLANNING COMMISSION MEETING DATE:

November 12, 2019

TO: Selma City Planning Commission

FROM: Neal E. Costanzo, City Attorney

ITEM NO:

SUBJECT: Agenda Item No. 2 - Amendment or Repeal of Subdivision (D) of Selma Municipal Code (SMC) Section 11-8-10 Relating to Retail Sales of Packaged Alcoholic Beverages.

SUMMARY AND

PURPOSE:

The purpose of the agenda item is to conduct a public hearing to consider whether to repeal or amend SMC 11-8-10 to allow for discretionary exemptions from the density requirements of retail facilities that sell packaged alcoholic beverages that do not qualify for the exemption given to establishments that are equal to or greater than 15,000 square feet in total area and having 10% or less of the total area devoted to the display or storage of packaged alcoholic beverages.

**PLANNING COMMISSION ROLE
IN AMENDMENT TO ZONING REGULATIONS:**

Section 11-8-10, Subdivision (D) of the Selma Municipal Code (SMC) sets regulations applicable to commercial establishments in the C-1 Neighborhood Commercial, C-R Regional Commercial, C-2 Central Commercial, and C-3 Commercial Service Zones of the City. Any amendment to any zoning provision included in the SMC must be first submitted to this Planning Commission which must make a recommendation to the City Council on the proposed amendment of such ordinances. (SMC 11-21-4).

BACKGROUND INFORMATION:

The effect of all city zoning is to concentrate particular types of uses of real property in designated areas of a city. The standard business model of any gas station/convenience store is to include in the variety of items sold packaged alcoholic beverages, typically beer and wine. The Ordinance as to which amendment or repeal is being proposed applies only to retail businesses of less than 15,000 square feet and having 10% or more of the total area devoted to the display

or storage of packaged alcoholic beverages. In addition to numerous requirements relating to how such businesses must be conducted, all of which are designed to deter the public consumption of alcoholic beverages and associated adverse impacts of such activities, the section contains the following requirement at Subdivision (D):

“(D) Density: The following criteria shall be used to determine the density of facilities under this section in the City:

1. All facilities shall be minimum of three hundred feet (300’) from any public park and any public or private school.
2. All facilities shall be a minimum of five hundred feet (500’) from any existing non-exempt facility which conducts retail sales of packaged alcoholic beverages”

The Ordinance was adopted in 1994. As more property within the C-1, C-2, C-3 and C-R Zones are developed, the occurrence of proposed new locations where packaged alcoholic beverages may be sold located within 500 feet of an existing non-exempt facility that sells alcoholic beverages has naturally increased over time. The same is true with respect to the location of such new facilities in relation to a school or park since newly developed facilities tend to be on the outskirts of the C-1, C-2, C-3 and C-R Zones which are naturally closer to schools or parks. While the prohibition does eliminate concentration of facilities that sell packaged alcoholic beverages and, therefore, inferentially reduces the occurrence of public consumption of packaged alcoholic beverages, no studies or evaluations have been made which establish this as fact. The prohibition is not subject to any exception or qualification and cannot be overridden by either the Planning Commission or City Council, even though good reasons for doing so may exist in a given case. Consequently, it is possible to attack the density requirement of Subdivision (D) as an arbitrary classification that is not based upon any substantial evidence. New facilities wishing to engage in incidental sales of alcoholic beverages in connection with the operation of retail stores, primarily gas station/convenience stores that are not allowed to sell this product are placed at a competitive disadvantage by virtue of being located within 500 feet of an existing non-exempt facility that does sell such products.

RECOMMENDATION:

Staff is proposing changes to Subdivision (D) of 11-8-10 which either eliminate this requirement entirely by repealing the subdivision; or, more appropriately by amending the subdivision to allow for discretionary exceptions, modifications or exemptions from the density requirement based on specific considerations relating to the achievement of what appears to be the desired intent of this subdivision to limit or deter public consumption of alcoholic beverages. Two proposed ordinances are provided, one of which repeals the subdivision entirely and a second, the preferred change to the ordinance which allows for the Planning Commission in connection with issuance of a CUP which is required for all such facilities to assess the desirability of allowing a particular facility that sells alcoholic beverages at retail

to be located within 300 feet of a City park or school or within 500 feet of an existing non-exempt use which also sells packaged alcoholic beverages according generally to standards applicable to the granting of the Conditional Use Permit and considerations bearing upon the potential adverse impacts of overconcentration of facilities selling this product and the likely impact of allowing the facility on City parks and schools, specifically, the consumption of packaged alcoholic beverages at these locations. The options before the Planning Commission are to recommend either the repeal of this subdivision, its amendment to allow for discretionary exemptions, modifications or adjustments of the density requirement, or to take no action on the proposed ordinance amendment.

Kira Noguera, Planning Consultant

Date

Neal E. Costanzo

Date

ATTACHMENTS:

1. Ordinance Repealing Subdivision (D) of 11-8-10.
2. Ordinance Amending Section 11-8-10 (D).
3. Two Resolutions recommending one of the two proposed changes to this subdivision of the Ordinance.

ORDINANCE NO. 2019 – ___

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SELMA,
CALIFORNIA, REPEALING SUBDIVISION D OF SECTION 11-8-10
(PACKAGED ALCOHOL BEVERAGE SALES) OF THE CITY OF SELMA
MUNICIPAL CODE RELATING TO RETAIL FACILITIES SELLING
PACKAGE ALCOHOLIC BEVERAGES HAVING LESS THAN 15,000
SQUARE FEET IN AREA WHERE DISPLAY AND STORAGE AREAS
FOR ALCOHOLIC BEVERAGE CONSTITUTE 10% OR MORE OF THE
FLOOR SPACE OF THE ESTABLISHMENT**

WHEREAS, the Selma Municipal Code Title 11 (Zoning) Chapter 8 (C-1 Neighborhood Commercial) Section 10 (11-8-10) (Packaged Alcoholic Beverage Sales) is limited in its application to retail facilities that are less than 15,000 square feet in area and where the display and storage areas for alcoholic beverages constitute 10% or less of the floor area of the establishment; and

WHEREAS, businesses selling at retail packaged alcoholic beverages falling below the square footage or above display and storage areas devoted to alcoholic beverages specified in subdivision A of 11-8-10 are subject to numerous requirements contained in that section designed to alleviate adverse impacts arising from the retail sale of packaged alcoholic beverage products, including, but not limited to, the consumption of alcoholic beverages in public places and/or on the premises of the facility selling packaged alcoholic beverages at retail and all such facilities are permitted only with a Conditional Use Permit, and are required to observe specific development standards relating to store security, visibility of the cashier area, parking areas, and prohibiting visual obstruction of windows; requiring specific parking lot lighting, signs prohibiting loitering and/or possession of opened alcoholic beverages on the premises and in adjacent public areas and prohibiting specific entertainment or gaming amenities such as video games, pool tables or similar electronic or mechanical devices; and

WHEREAS, Subdivision D of Section 11-8-10 includes a density requirement which reads as follows:

(D) Density: The following criteria shall be used to determine the density of facilities under this section in the City:

1. All facilities shall be minimum of three hundred feet (300 feet) from any public park and any public or private school.

2. All facilities shall be a minimum of five hundred feet (500 feet) from any existing non-exempt facility which conducts retail sales of packaged alcoholic beverages"; and

WHEREAS, existing uses are exempt from the density requirement unless expanded, modified or the use is discontinued for a period of three months or longer or there is a change in the character or mode of the use; and

WHEREAS, the density provisions of Subdivision (D) of Section 11-8-10 effectively prohibit, without exception or qualification the establishment of any business less than 15,000 square feet in area and having more than 10% of the display or storage area devoted to packaged alcoholic beverages and/or sales in most available locations within the City because of the natural tendency or requirements of City Zoning which necessarily provide for the concentration of various commercial activities in the affected zone because all such commercial activities are prohibited in residential zones and are limited to the various commercial zones of the City; and

WHEREAS, the setting of the density limitations is not supported by any scientific, statistical or other study and set limits on that are arguably arbitrary and not in conformity with law as it relates to the allowance of commercial operations within a zone which can have the unintended effect of prohibiting commercial enterprises which sell alcohol in packaged containers when those sales are incidental to and not the primary purpose of the facility, placing newly established commercial enterprises in this zone cannot sell packaged alcoholic beverages at retail at a competitive disadvantage to existing facilities that are located within 500 feet of the proposed facility and the subdivision provides for no exception, discretionary or otherwise, allowing an evaluation in connection with the issuance of a CUP required for all such facilities of whether or not the facility creates or contributes to the consumption of packaged alcoholic beverages at or in the vicinity of a public park, public or private school, or other public places; and

WHEREAS, the City Council desires to amend Subdivision (D) of Section 11-8-10 so as to allow for discretionary exceptions or qualifications to the density requirements in connection with the consideration of a CUP for such facilities, which is required of such facilities.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SELMA DOES ORDAIN AS FOLLOWS:

SECTION 1. Incorporation of Recitals. The facts set forth in the foregoing recitals are true and correct and incorporated herein by reference.

SECTION 2. Repeal of Municipal Code Provision. Subdivision D of Section 11-8-10 of the Selma Municipal Code is hereby repealed and Subdivision (E) of that Section is re-lettered to Subdivision (D).

Section 3. Effect of Amendment. This amendment to Subdivision (D) of Section 11-8-10 of the Selma Municipal Code shall not affect any other subdivision, word or phrase used in Section 11-8-10 of the Selma Municipal Code and is intended

to repeal and only repeal Subdivision (D) of that section and the remaining parts and subdivision of that section shall remain in full force and effect.

Section 4. Severability. If any section, subsection, sentence, clause, phrase, or portion of this ordinance is for any reason held to be invalid or unenforceable by a court of competent jurisdiction, the remaining portions of this Ordinance shall nonetheless remain in full force and effect. The Council of the City of Selma hereby declares that it would have adopted each section, subsection, sentence, clause, phrase, or portion of this Ordinance, irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases, or portions of this Ordinance be declared invalid or unenforceable.

Section 5. Effective Date. This Ordinance shall take effect immediately upon its adoption.

Section 6. Publication. The City Clerk shall certify to the passage and adoption of this Ordinance and shall cause a summary of this ordinance to be published and posted as required by law.

PASSED, APPROVED AND ADOPTED this ____ day of ____, 2019, by the following vote:

AYES: COUNCIL MEMBER:
NOES: COUNCIL MEMBER:
ABSENT: COUNCIL MEMBER:
ABSTAIN: COUNCIL MEMBER:

Scott Robertson, Mayor

ATTEST:

Reyna Rivera, City Clerk

ORDINANCE NO. 2019 – ___

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SELMA,
CALIFORNIA, AMENDING SUBDIVISION D OF SECTION 11-8-10
(PACKAGED ALCOHOLIC BEVERAGE SALES) OF THE CITY OF
SELMA MUNICIPAL CODE ALLOWING FOR DISCRETIONARY
ADJUSTMENT OR ELIMINATION OF DENSITY REQUIREMENTS FOR
RETAIL FACILITIES SELLING PACKAGED ALCOHOLIC BEVERAGES
HAVING LESS THAN 15,000 SQUARE FEET IN AREA WHERE
DISPLAY AND STORAGE AREA FOR ALCOHOLIC BEVERAGES
CONSTITUTE MORE THAN 10% OF THE FLOOR SPACE OF THE
ESTABLISHMENT**

WHEREAS, the Selma Municipal Code Title 11 (Zoning) Chapter 8 (C-1 Neighborhood Commercial) Section 10 (11-8-10) (Packaged Alcoholic Beverage Sales) is limited in its application to retail facilities that are less than 15,000 square feet in area and where the display and storage areas for alcoholic beverages constitute 10% or less of the floor area of the establishment; and

WHEREAS, businesses selling at retail packaged alcoholic beverages falling below the square footage or above display and storage areas devoted to alcoholic beverages specified in subdivision A of 11-8-10 are subject to numerous requirements contained in that section designed to alleviate adverse impacts arising from the retail sale of packaged alcoholic beverage products, including, but not limited to, the consumption of alcoholic beverages in public places and/or on the premises of the facility selling packaged alcoholic beverages at retail and all such facilities are permitted only with a Conditional Use Permit, and are required to observe specific development standards relating to store security, visibility of the cashier area, parking areas, and prohibiting visual obstruction of windows; requiring specific parking lot lighting, signs prohibiting loitering and/or possession of opened alcoholic beverages on the premises and in adjacent public areas and prohibiting specific entertainment or gaming amenities such as video games, pool tables or similar electronic or mechanical devices; and

WHEREAS, Subdivision D of Section 11-8-10 includes a density requirement which reads as follows:

(D) Density: The following criteria shall be used to determine the density of facilities under this section in the City:

1. All facilities shall be minimum of three hundred feet (300') from any public park and any public or private school.

2. All facilities shall be a minimum of five hundred feet (500') from any existing non-exempt facility which conducts retail sales of packaged alcoholic beverages"; and

WHEREAS, existing uses are exempt from the density requirement unless expanded, modified or the use is discontinued for a period of three months or longer or there is a change in the character or mode of the use; and

WHEREAS, the density provisions of Subdivision (D) of Section 11-8-10 effectively prohibit, without exception or qualification the establishment of any business less than 15,000 square feet in area and having not more than 10% of the display or storage area devoted to packaged alcoholic beverages and/or sales in most available locations within the C-1 Neighborhood Commercial Zone because of the natural tendency or requirements of City Zoning which necessarily provide for the concentration of various commercial activities in the affected zone because all such commercial activities are prohibited in residential zones and are limited to the various commercial zones of the City; and

WHEREAS, the setting of the density limitations is not supported by any scientific, statistical or other study and sets limits on the allowance of commercial operations within the C-1 Zone which can have the unintended effect of prohibiting commercial enterprises which sell alcohol in packaged containers when those sales are incidental to and not the primary purpose of the facility, placing newly established commercial enterprises in this zone that cannot sell packaged alcoholic beverages at retail at a competitive disadvantage to existing facilities that are located within 500 feet of the proposed facility and the subdivision provides for no exception, discretionary or otherwise, allowing an evaluation in connection with the issuance of a CUP required for all such facilities of whether or not the facility creates or contributes to the consumption of packaged alcoholic beverages at or in the vicinity of a public park, public or private school, or other public places; and

WHEREAS, the City Council desires to amend Subdivision (D) of Section 11-8-10 so as to allow for discretionary exceptions or qualifications to the density requirements in connection with the consideration of a Conditional Use Permit (CUP) for such facilities, which is required of such facilities.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SELMA DOES ORDAIN AS FOLLOWS:

SECTION 1. Incorporation of Recitals. The facts set forth in the foregoing recitals are true and correct and incorporated herein by reference.

SECTION 2. Amendment of Municipal Code. The City of Selma Municipal Code Title 11, Chapter 8, Section 10 (11-8-10), Subdivision D is hereby amended to read in its entirety as follows:

“(D) Density: The following criteria shall be used to determine the density of facilities under this section in the City:

1. All facilities shall be minimum of three hundred feet (300 feet) from any public park and any public or private school.

2. All facilities shall be a minimum of five hundred feet (500 feet) in numbers from any existing non-exempt facility which conducts retail sales of packaged alcoholic beverages.

3. Notwithstanding the foregoing, the Planning Commission and/or City Council may, in connection with issuance of a Conditional Use Permit under Subdivision (B) of this section, or on an appeal from an action taken by the Planning Commission to the City Council on such Conditional Use Permit, adjust, alter, modify or completely eliminate the density requirements of this subdivision if, in assessing the adverse effect on property within a 300 foot radius of a facility subject to the requirements of this subdivision, it determines either that the modification, alteration or elimination of the density requirements will not result in an adverse effect on property within a 300 foot radius of the permitted use and conditions are established by the Conditional Use Permit so issued limiting the display and/or storage areas of packaged alcoholic beverages to 10% or less of the total area of such facility and/or any other conditions found necessary based upon the quality and character of the proposed facility or upon a finding and determination that the allowance of retail sales of packaged alcoholic beverages from such facilities promotes the public convenience or necessity. In making that determination, the Planning Commission or City Council, as the case may be, shall take into account the following

(a) The total square footage of the facility and the percentage of that area that will be devoted to display or storage of alcoholic beverages.

(b) The extent to which the proposed facility is less than the minimum prescribed 300 feet from a public park and/or any public or private school and the susceptibility of the park, or school to open consumption of packaged alcoholic beverages on the premises.

(c) The overall concentration of retail facilities selling packaged alcoholic beverages within the Zone.

(d) The nature, square footage and percentage of the square footage of the non-exempt facilities located within 500 feet of the proposed facility selling packaged alcoholic beverages and the extent to which, in the view of the Planning Commission or City Council, adherence to the density requirements of this section will place the proposed facility at a competitive disadvantage to the existing non-exempt facility located within 500 feet of the proposed new facility.”

SECTION 3. Effect of Amendment. This amendment to Subdivision (D) of Section 11-8-10 of the Selma Municipal Code shall not affect any other subdivision, word or phrase used in Section 11-8-10 of the Selma Municipal Code

and is intended to amend and only amend Subdivision (D) of that section and the remaining parts and subdivisions of that section shall remain in full force and effect.

Section 4. Severability. If any section, subsection, sentence, clause, phrase, or portion of this ordinance is for any reason held to be invalid or unenforceable by a court of competent jurisdiction, the remaining portions of this Ordinance shall nonetheless remain in full force and effect. The Council of the City of Selma hereby declares that it would have adopted each section, subsection, sentence, clause, phrase, or portion of this Ordinance, irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases, or portions of this Ordinance be declared invalid or unenforceable.

Section 5. Effective Date. This Ordinance shall take effect thirty days after the date of its adoption.

Section 6. Publication. The City Clerk shall certify to the passage and adoption of this Ordinance and shall cause a summary of this ordinance to be published and posted as required by law.

PASSED, APPROVED AND ADOPTED this ___ day of ____, 2019, by the following vote:

AYES: COUNCIL MEMBER:
NOES: COUNCIL MEMBER:
ABSENT: COUNCIL MEMBER:
ABSTAIN: COUNCIL MEMBER:

Scott Robertson, Mayor

ATTEST:

Reyna Rivera, City Clerk

RESOLUTION NO. 2019 – ____

**A RESOLUTION OF THE PLANNING COMMISSION OF THE
CITY OF SELMA, CALIFORNIA, RECOMMENDING APPROVAL OF
ORDINANCE REPEALING SELMA MUNICIPAL CODE 11-8-10 (D)**

WHEREAS, pursuant to Chapter 24 of Title 11 of the Selma Municipal Code (SMC) the Planning Commission is to recommend any amendment or repeal of any provision of any zoning ordinance included in the SMC; and

WHEREAS, on November 12, 2019, the Planning Commission conducted a duly noticed public hearing to consider amendment or repeal of Subdivision (D) of SMC 11-8-10; and

WHEREAS, the Planning Commission heard and considered the report of staff, the proposed ordinance, amending and repealing Section 11-8-10 (D) of the SMC and has heard and considered the public testimony provided at the public hearing.

NOW, THEREFORE, BE IT RESOLVED, as follows:

1. The forgoing recitals are true and correct and are incorporated by this reference.
2. The Planning Commission recommends adoption of the attached the proposed Ordinance Repealing 11-8-10 Subdivision (D) of the Selma Municipal Code.

PASSED, APPROVED AND ADOPTED by the Planning Commission of the City of Selma at a special meeting held on November 12, 2019 by the following vote:

AYES:	COMMISSION MEMBERS:
NOES:	COMMISSION MEMBERS:
ABSTAIN:	COMMISSION MEMBERS:
ABSENT:	COMMISSION MEMBERS:

Glen Niswander, Chairman

ATTEST:

Sabino Cayetano, Clerk

RESOLUTION NO. 2019 – ____

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF SELMA, CALIFORNIA, RECOMMENDING APPROVAL OF ORDINANCE AMENDING SELMA MUNICIPAL CODE 11-8-10 (D)

WHEREAS, pursuant to Chapter 24 of Title 11 of the Selma Municipal Code (SMC) the Planning Commission is to recommend any amendment or repeal of any provision of any zoning ordinance included in the SMC; and

WHEREAS, on November 12, 2019, the Planning Commission conducted a duly noticed public hearing to consider amendment or repeal of Subdivision (D) of SMC 11-8-10; and

WHEREAS, the Planning Commission heard and considered the report of staff, the proposed ordinances amending and repealing Section 11-8-10 (D) of the SMC and has heard and considered the public testimony provided at the public hearing.

NOW, THEREFORE, BE IT RESOLVED, as follows:

1. The forgoing recitals are true and correct and are incorporated by this reference.
2. The Planning Commission recommends adoption of the attached Ordinance Amending 11-8-10 Subdivision (D) of the Selma Municipal Code.

PASSED, APPROVED AND ADOPTED by the Planning Commission of the City of Selma at a special meeting held on November 12, 2019 by the following vote:

AYES:	COMMISSION MEMBERS:
NOES:	COMMISSION MEMBERS:
ABSTAIN:	COMMISSION MEMBERS:
ABSENT:	COMMISSION MEMBERS:

Glen Niswander, Chairman

ATTEST:

Sabino Cayetano, Clerk