



REPORT TO THE PLANNING COMMISSION

AGENDA ITEM NO. VIII-B COMMISSION MEETING 06-20-12
APPROVED BY
<i>R. H. Campbell</i> DEPARTMENT DIRECTOR <i>M. Scott</i>

June 20, 2012

FROM: MIKE SANCHEZ, Planning Manager
Development Services Division *[Signature]*

THROUGH: SOPHIA PAGOULATOS, Supervising Planner
Development Services Division

BY: JACK VAN PATTEN, AICP, Planner II *[Signature]*
Development Services Division

SUBJECT: CONSIDERATION OF CONDITIONAL USE PERMIT APPLICATION NO. C-12-003 AND ENVIRONMENTAL FINDING FOR ENVIRONMENTAL ASSESSMENT NO. C-12-003 FOR A TAVERN AND NIGHTCLUB AT LIN'S FUSION, 5155 NORTH BLACKSTONE AVENUE (APN: 417-261-28)

RECOMMENDATION

Staff recommends that the Planning Commission take the following actions:

1. APPROVE the finding of a Categorical Exemption for Environmental Assessment No. C-12-003 issued May 9, 2012.
2. APPROVE Conditional Use Permit Application No. C-12-003 to establish "Lin's Fusion," a restaurant serving alcohol, tavern, and (future) nightclub with dancing. The alcohol use involves an upgrade from a State of California Alcoholic Beverage Control Type 41 license (*On-sale beer and wine, eating place*) to a Type 47 (*On-sale general, eating place*), subject to the following conditions:
 - a. Development shall comply with Exhibits A-1, A-2, E-1, E-2, E-3, and F dated May 9, 2012.
 - b. Development shall comply with the operational statement for the project dated May 9, 2012.
 - c. Development shall comply with the Conditions of Approval dated June 20, 2012.

EXECUTIVE SUMMARY

The applicant, Jin Lin, filed Conditional Use Permit Application No. C-12-003 requesting authorization for a restaurant serving alcohol and tavern (an upgrade from a State of California Alcoholic Beverage Control Type 41 license [*On-sale beer and wine eating place*] to a Type 47 [On-sale general eating place]) and a future night club.

The project is located on the west side of North Blackstone Avenue between East Shaw and East San Jose Avenues. The site is zoned C-6, *General Heavy Commercial District*

The project is being processed under the provisions of Fresno Municipal Code Section 12-326, which requires that this project be scheduled for review by the Granting Authority: the Fresno City Planning Commission.

Staff recommends that the Planning Commission approve Conditional Use Permit Application No. C-12-003, subject to the conditions of approval noted above. The conditional use permit is appropriate for the site and all findings required by Fresno Municipal Code (FMC) Section 12-405-A-2 can be made. In addition, granting of the requested special permit would not result in a significant impact under the California Environmental Quality Act (CEQA).

PROJECT INFORMATION

PROJECT	Conditional Use Permit Application No. C-12-003 requests authorization for a restaurant serving alcohol and a tavern (an upgrade from a State of California Alcoholic Beverage Control [ABC] Type 41 license [<i>On-sale beer and wine eating place</i>] to a Type 47 [<i>On-sale general eating place</i>]) and (future) night club.		
APPLICANT	Jin Lin		
LOCATION	5155 North Blackstone Avenue, located on the west side of North Blackstone Avenue between East Shaw and East San Jose Avenue (APN: 417-261-28) (Council District 2, Councilmember Borgeas)		
SITE SIZE	0.47 acre site with a ± 7,430 square foot Restaurant–Tavern–Nightclub with a 1,395 square foot outdoor enclosed patio		
LAND USE	Existing	-	Restaurant serving alcohol
ZONING	Existing	-	Restaurant serving alcohol–Tavern–(future) night club
PLAN DESIGNATION AND CONSISTENCY	Conditional Use Permit Application No. C-12-003 is proposed in accordance with the <i>general heavy commercial</i> land use identified in the Bullard Community Plan and the 2025 Fresno General Plan.		
ENVIRONMENTAL FINDING	Categorical Exemption, dated May 9, 2012		
PLAN COMMITTEE RECOMMENDATION	The District 2 Plan Implementation Committee reviewed this application on June 11, 2012. The members present approved it.		
STAFF RECOMMENDATION	Approve Conditional Use Permit Application No. C-12-003		

BORDERING PROPERTY INFORMATION

	Planned Land Use	Existing Zoning	Existing Land Use
North	General Heavy Commercial	<i>C-6, General Heavy Commercial</i>	General Heavy Commercial
South	General Heavy Commercial	<i>C-6, General Heavy Commercial</i>	General Heavy Commercial
East	General Heavy Commercial	<i>C-6, General Heavy Commercial</i>	General Heavy Commercial

West	General Heavy Commercial	C-6, <i>General Heavy Commercial</i>	General Heavy Commercial
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ENVIRONMENTAL FINDING

Conditional Use Permit Application No. C-12-003 requests authorization for a restaurant serving alcohol and a tavern (an upgrade from a State of California Alcoholic Beverage Control Type 41 license [*On-sale beer and wine eating place*] to a Type 47 [On-sale general eating place]) and (future) night club. This project is not expected to have an adverse impact on the environment and is categorically exempt pursuant to the CEQA, Sections 15301/Class 1 and 15332/Class 32.

BACKGROUND / ANALYSIS

The applicant, Jin Lin, filed Conditional Use Permit Application No. C-12-003 requesting authorization for a restaurant serving alcohol and a tavern (an upgrade from a State of California Alcoholic Beverage Control Type 41 license [*On-sale beer and wine eating place*] to a Type 47 [On-sale general eating place]) and (future) night club.

The project is located on the west side of North Blackstone Avenue between East Shaw and East San Jose Avenue. The site is zoned C-6, *General Heavy Commercial District*. A 7,430 ± square foot restaurant serving beer and wine exists at this location (China Buffet). According to the exhibits submitted with the application, the only physical change to the exterior of the building is the addition of a cover for the 1,395 square feet of outdoor dining patio area. There is, also, an interior remodel in progress.

The project is being processed under the provisions of FMC Section 12-326, governing restaurants, taverns, and nightclubs. Pursuant to FMC Section 12-326, the future nightclub proposed within the C-6 zone district is required to be considered by the Fresno City Planning Commission, which is the Granting Authority. Therefore, staff has scheduled this matter for consideration by the Planning Commission and noticed the surrounding property owners of this hearing.

Based on the applicant’s operational statement, the restaurant shall operate daily between the hours of 8 a.m. and 10 p.m.; the tavern shall operate daily between the hours of 10 p.m. and 2 a.m.; the future nightclub shall operate during selected weekends (Friday and Saturday nights between the hours of 10 p.m. and 2 a.m.). Appetizer food will be served from opening until closing.

A nightclub, as defined by FMC Section 12-326, is required to close no later than 2:00 a.m. The applicant is requesting that the business be approved as a “nightclub”, by FMC Section 12-326, in order to allow dancing and a closing time of 2:00 a.m.

A nightclub is defined as a facility that provides a dance floor and live or recorded music for customer dancing, and may, or may not, provide entertainment, such as live performances of the arts (music, comedy, readings, dance, plays, etc.). A nightclub differs from either a restaurant or tavern in that dancing by the customer is permitted. The serving of food or alcoholic beverages is optional.

Although the air-line distance to residential uses is about 400 feet, the actual pedestrian or motor vehicle travel distance—the only route (from the residential uses to the west) to the project that does not involve trespass—is more than a quarter mile (1550 feet ± by public street). There are no schools, churches, daycare uses, or other ‘sensitive’ uses nearby.

The appropriateness of the proposed project has been examined with respect to its consistency with the goals and policies of the 2025 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. Conditional Use Permit Application No. C-12-003 shall comply with all applicable codes, including parking, landscaping, walls, etc.

DISTRICT 2 PLAN IMPLEMENTATION COMMITTEE

The District 2 Plan Implementation Committee reviewed the subject application at their meeting on June 11, 2012. Although there was no quorum, the members present recommended approval of C-12-003.

NOTICE OF PLANNING COMMISSION MEETING

The Development and Resource Management Department mailed notices of this Planning Commission hearing to all surrounding property owners within 500 feet of the project site, pursuant to Section 12-326-G-2 of the FMC. No comments or correspondence has been received to date.

CONDITIONS OF APPROVAL

Standard conditions of approval for restaurants, taverns, and nightclubs have been developed to ensure uniform application of requirements on a citywide basis. Those conditions are included and shall be applied to Conditional Use Permit Application No. C-12-003. These conditions address a myriad of issues related to the operation of alcohol-related uses, including employee education, security, video surveillance, and enforcement procedures. The applicant must show compliance with all conditions prior to commencing the new nightclub operations.

FINDINGS

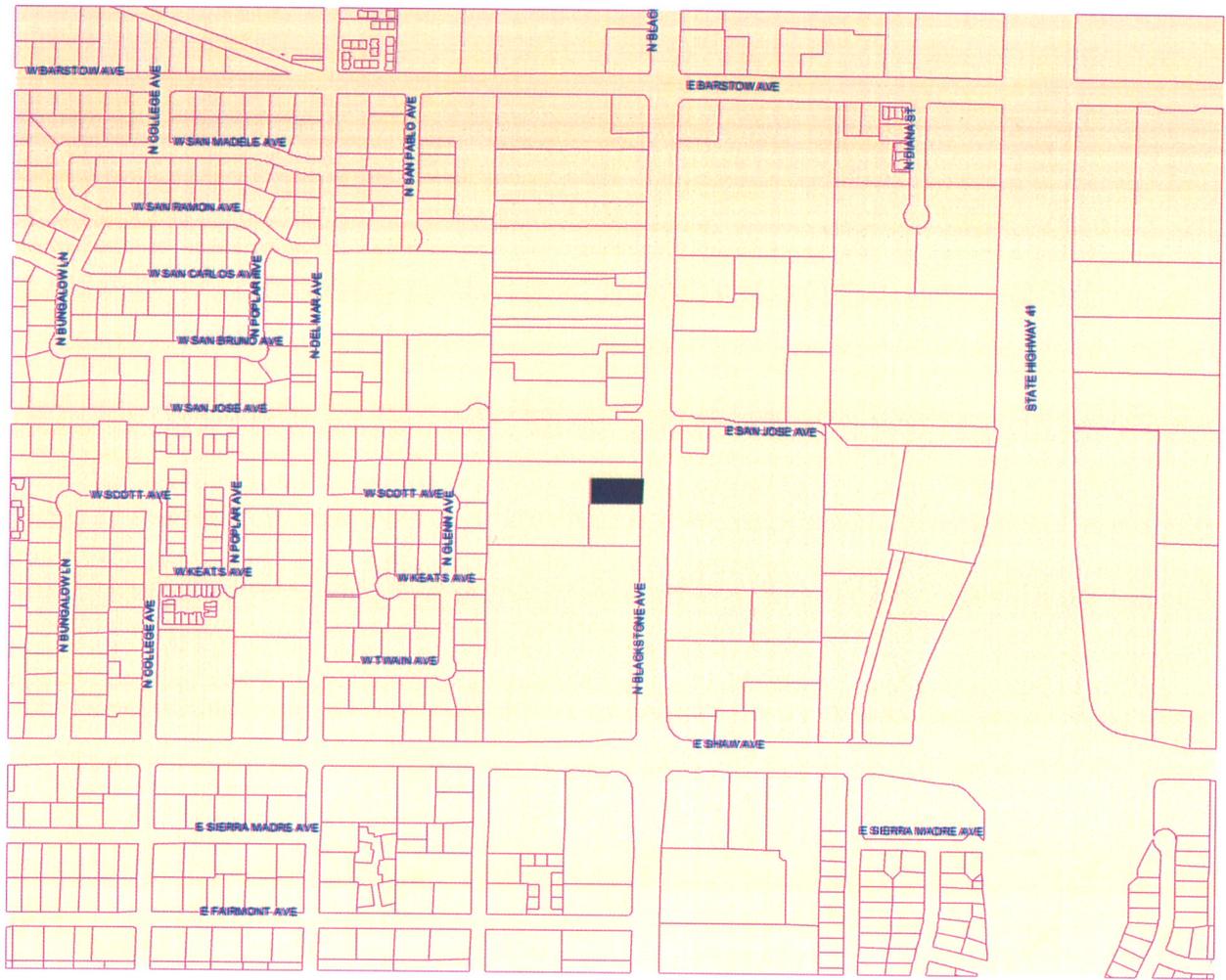
No special permit may be issued unless it is found that the privilege exercised under the permit, conforms to the findings of 12-405-A-2 of the FMC. Based upon analysis of the conditional use permit application, staff concludes that all of the required findings can be made for Conditional Use Permit Application No. C-12-003.

Findings per Fresno Municipal Code Section 12-405-A-2	
<i>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,</i>	
Finding a:	Conditional Use Permit Application No. C-12-003 shall comply with all applicable codes, including parking, landscaping, walls, etc., as there is no new development proposed with this project (other than a new [replacement] patio cover, which covers the existing outdoor dining.

<p>b. <i>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,</i></p>	
<p>Finding b:</p>	<p>Adjacent streets were assessed during the initial development of the subject site to ensure that the development would have less than significant impacts on traffic and the surrounding community.</p>
<p>c. <i>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 the FMC.</i></p>	
<p>Finding c:</p>	<p>The proposed restaurant (serving alcohol) and future nightclub shall not have a negative impact on either the subject site, or neighboring properties given that there are no residential uses in the immediate properties abutting the nightclub. Furthermore, the subject site was intended to function with commercial uses, such as the proposed restaurant (serving alcohol)–tavern–(future) nightclub. In addition, the applicant shall be required to comply with the operational statement submitted for the project and the conditions of approval required by the Police Department, that shall stipulate certain requirements that must be met by the applicant. These conditions are intended to help protect the public health, safety and welfare of patrons and neighbors, alike.</p> <p>Approval of the special permit would be in accordance with applicable provisions of the Fresno Municipal Code, including the determination that all findings have been made relative to the issuance of a conditional use permit for the proposed project.</p>

- Attachments:
- Vicinity Map
 - 2008 Aerial Photograph of site
 - Noticing Map (500 foot radius)
 - Exhibit A-1, Site Plan, dated May 9, 2012
 - Exhibit A-2 Site Plan, dated May 9, 2012
 - Exhibit A-3 Site Plan, dated May 9, 2012
 - Exhibit E-1 Site Plan, dated May 9, 2012
 - Exhibit E-2 Site Plan, dated May 9, 2012
 - Exhibit E-3, Site Plan, dated May 9, 2012
 - Exhibit F, Floor Plan, dated May 9, 2012
 - Operational Statement dated May 9, 2012
 - Conditions of Approval dated June 20, 2012
 - Environmental Assessment No. C-12-003 dated May 9, 2012
 - City of Fresno Fire Department memo dated January 20, 2012
 - City of Fresno Police Department Northwest Area Commander memo dated January 19, 2012
 - County of Fresno Environmental Health memo dated January 20, 2012
 - Fresno Unified School District memo dated January 12, 2012

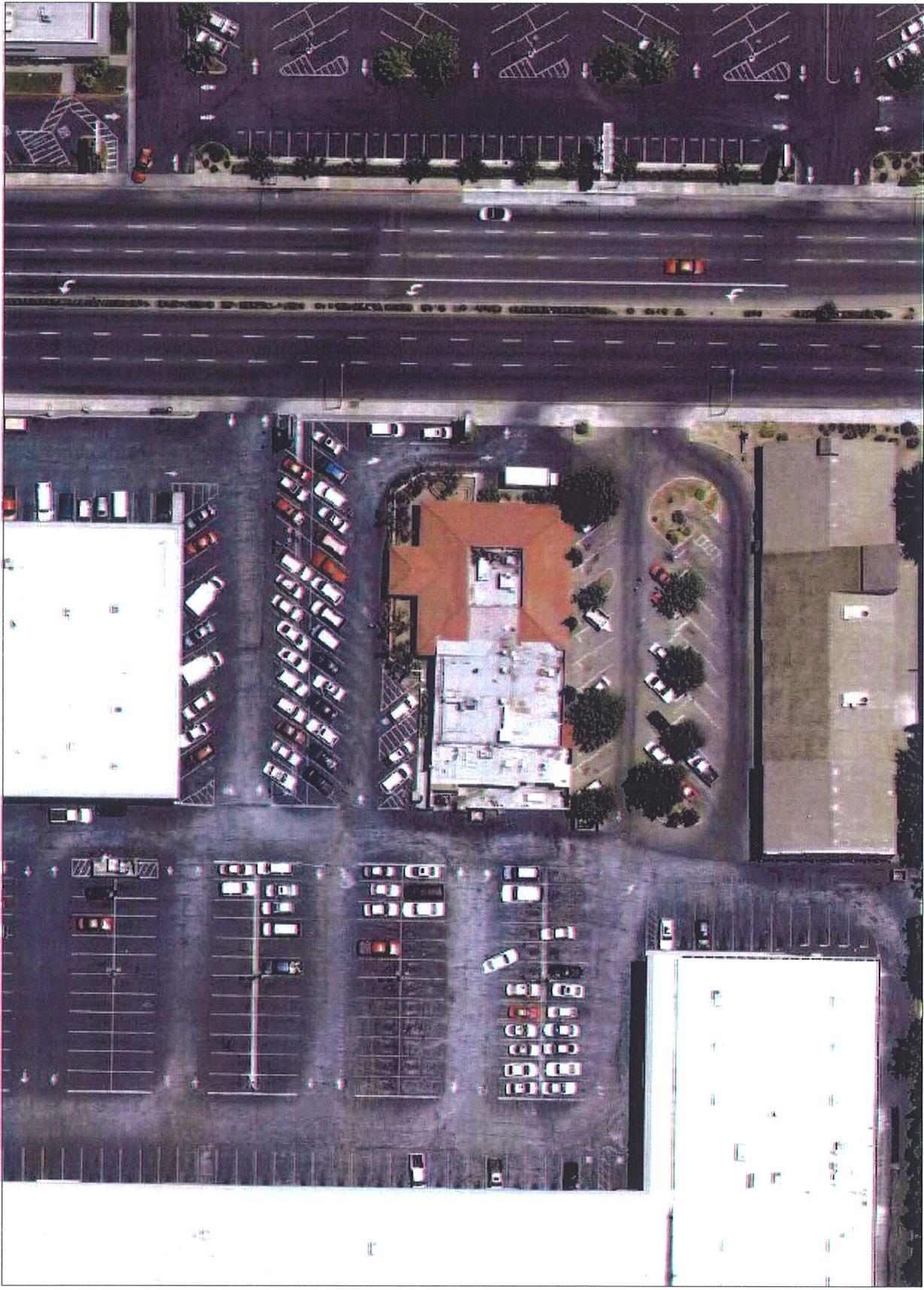
Vicinity Map



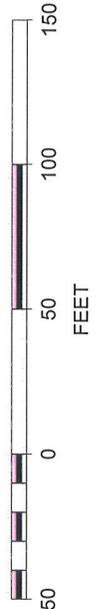
C-12-003

5155 North Blackstone Avenue

City of Fresno



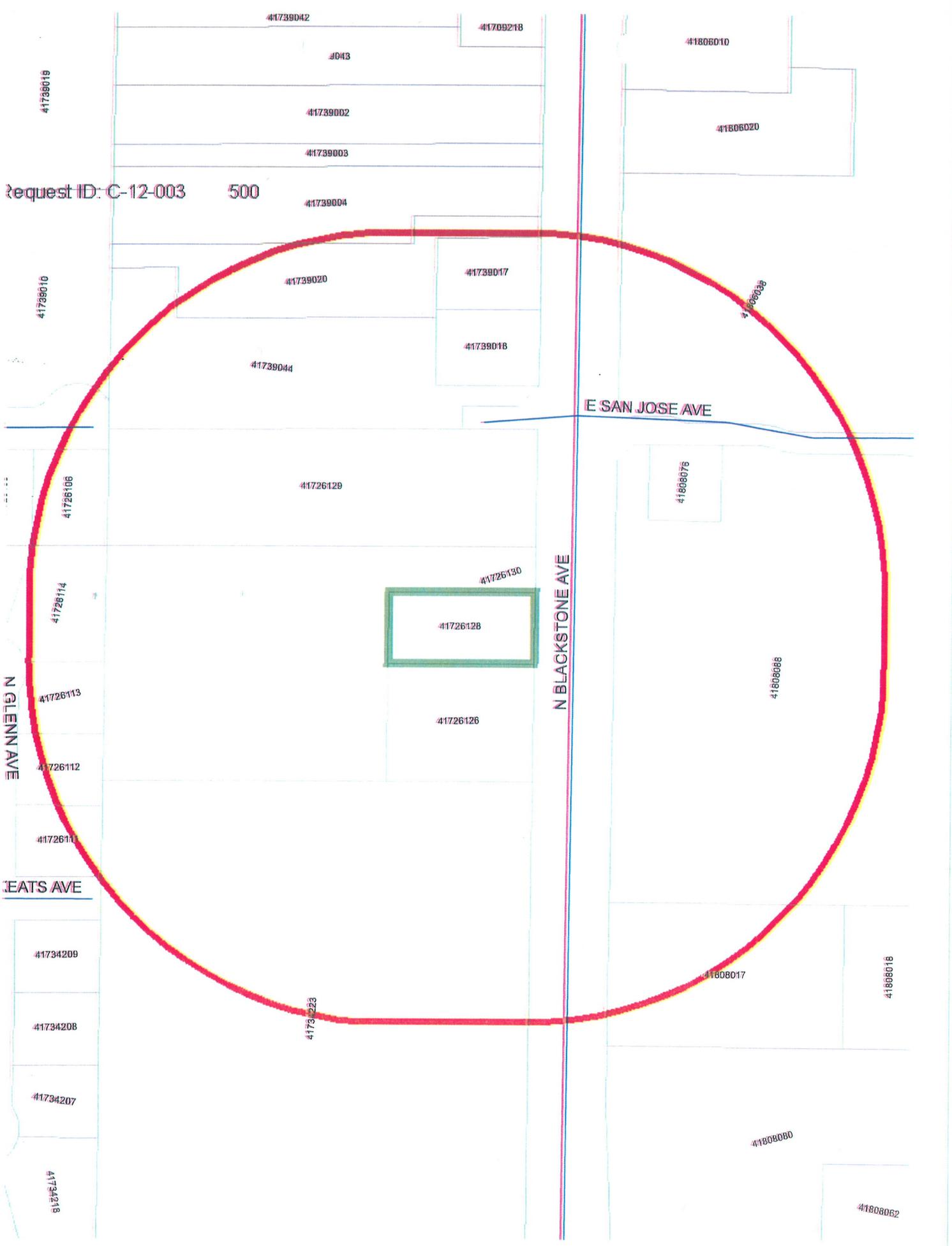
SCALE 1 : 792



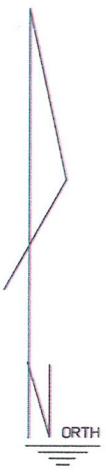
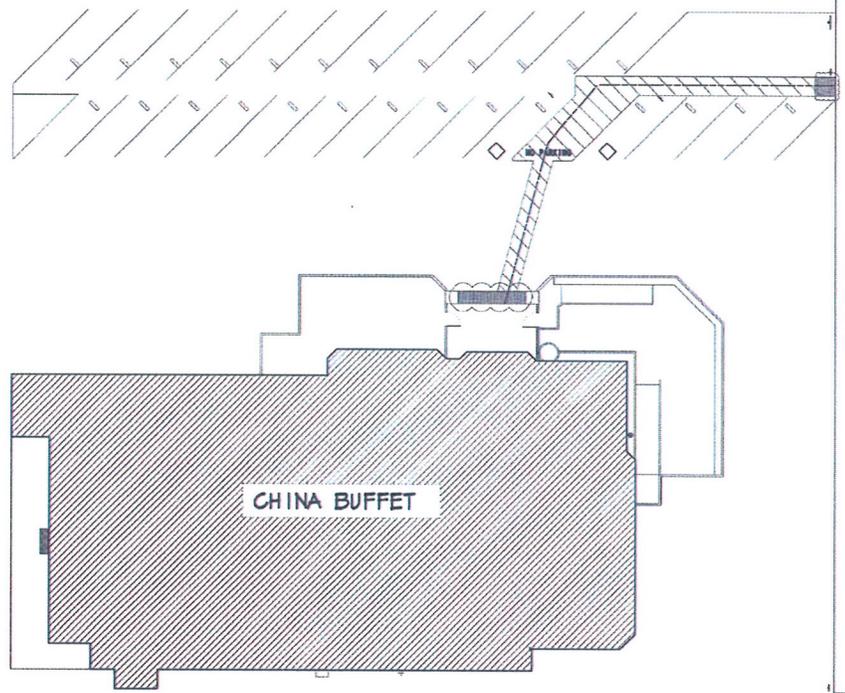
Aerials

- City Limits
- Fresno County

Request ID: C-12-003 500



APPL. NO. C12-005 EXHIBIT A.1 DATE 5.9.12
PROJ. ENG. _____ DATE _____
TRAFFIC ENG. _____ DATE _____
COND. APPROVED BY _____ DATE _____
CITY OF FRESNO PLANNING & DEVELOPMENT DEPT

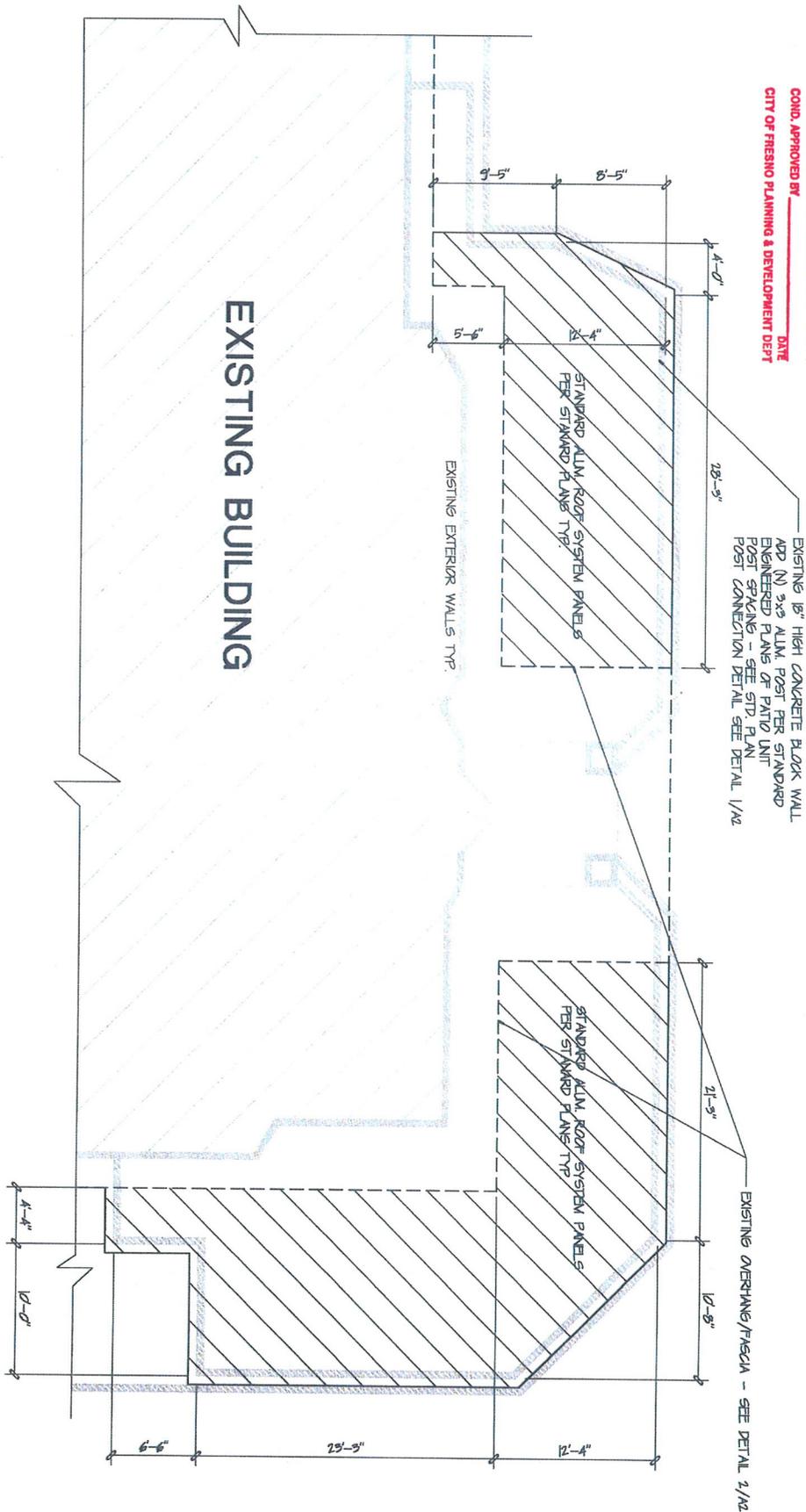


SITE PLAN / ELEVATIONS

PUBLIC SIDEWALK

CHEN & ASSOCIATES

APPL. NO. C-12,003 SHEET A.2 DATE 5.9.12
 PROJ. ENG. _____ DATE _____
 TRAFFIC ENG. _____ DATE _____
 COND. APPROVED BY _____ DATE _____
 CITY OF FRESNO PLANNING & DEVELOPMENT DEPT



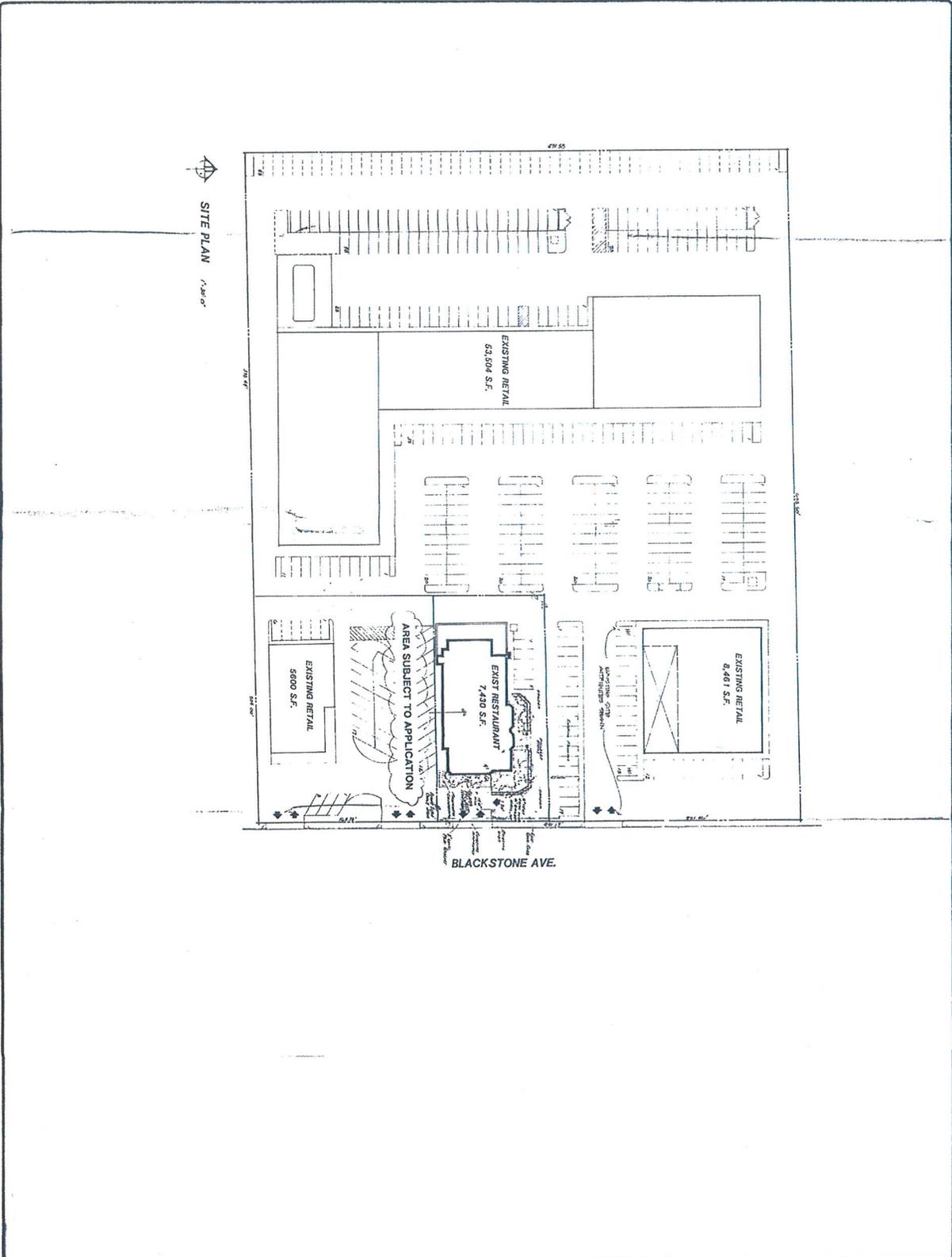
EXISTING BUILDING

FLOOR PLAN



SCALE: 1/8" = 1'-0"

project ELITE PATIO COVER THE CHINA BUFFET 5155 N. BLACKSTONE FRESNO, CA		EARL BIER III DRAFTING & DESIGN 4325 W. SHAW AVE. #103 FRESNO, CA 93722 PH# 277-3500	
DATE PRINTS ISSUED FOR DATE REVISION	DATE REVISION	SHEET NUMBER 1 OF 4	TOTAL NUMBER OF SHEETS



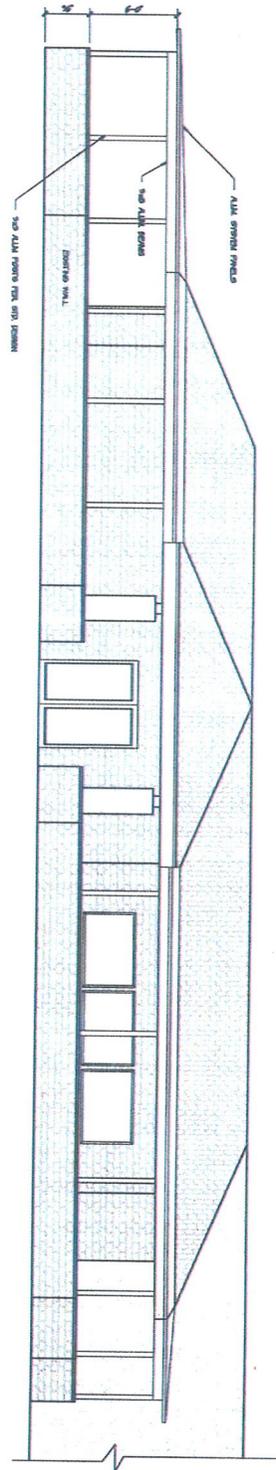


 SITE PLAN 1/8"

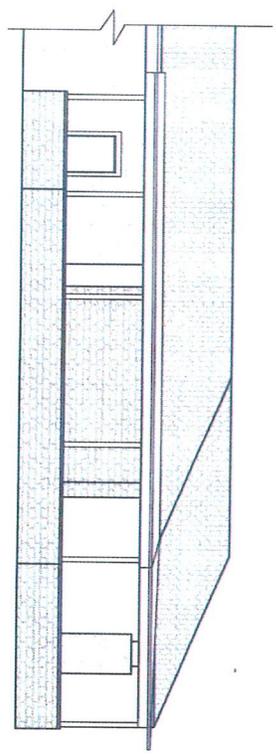
BLACKSTONE AVE.

APPL. NO. C-32.003 EXHIBIT A-3 DATE 5.9.12
 PROJ. ENG. _____ DATE _____
 TRAFFIC ENG. _____ DATE _____
 COND. APPROVED BY _____ DATE _____
 CITY OF FRESNO PLANNING & DEVELOPMENT DEPT

APPL. NO. C-18-003 EXHIBIT E-2 DATE 5.9.12
 PROJ. ENG. _____ DATE _____
 TRAFFIC ENG. _____ DATE _____
 COND. APPROVED BY _____ DATE _____
 CITY OF FRESNO PLANNING & DEVELOPMENT DEPT



NORTH ELEVATION



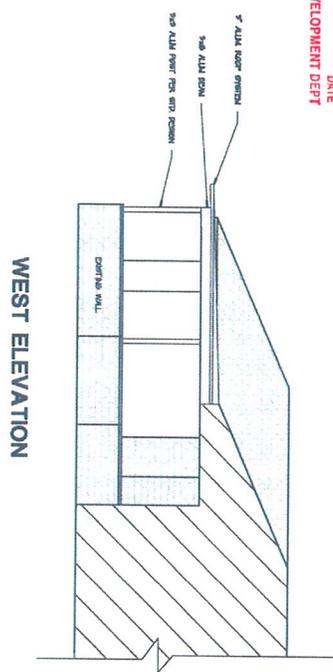
EAST ELEVATION



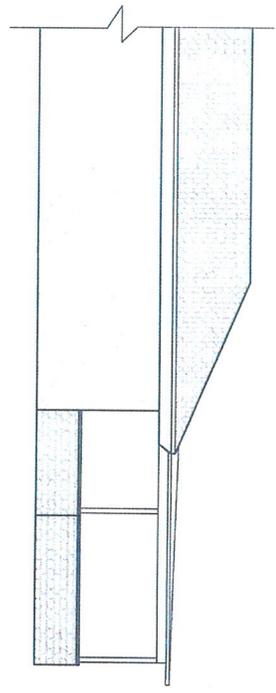
PROJECT NUMBER SHEET NUMBER 3 OF 4	project ELITE PATIO COVER THE CHINA BUFFET 5155 N. BLACKSTONE FRESNO, CA	EARL BIER III DRAFTING & DESIGN 4325 W. SHAW AVE. #103 FRESNO, CA 93722 PH 277-3500
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DATE	PRINTS ISSUED FOR	DATE	REVISION

APPL. NO. C-12-003 EXHIBIT E-3 DATE 5.9.12
 PROJ. ENG. _____ DATE _____
 TRAFFIC ENG. _____ DATE _____
 COND. APPROVED BY _____ DATE _____
 CITY OF FRESNO PLANNING & DEVELOPMENT DEPT



WEST ELEVATION

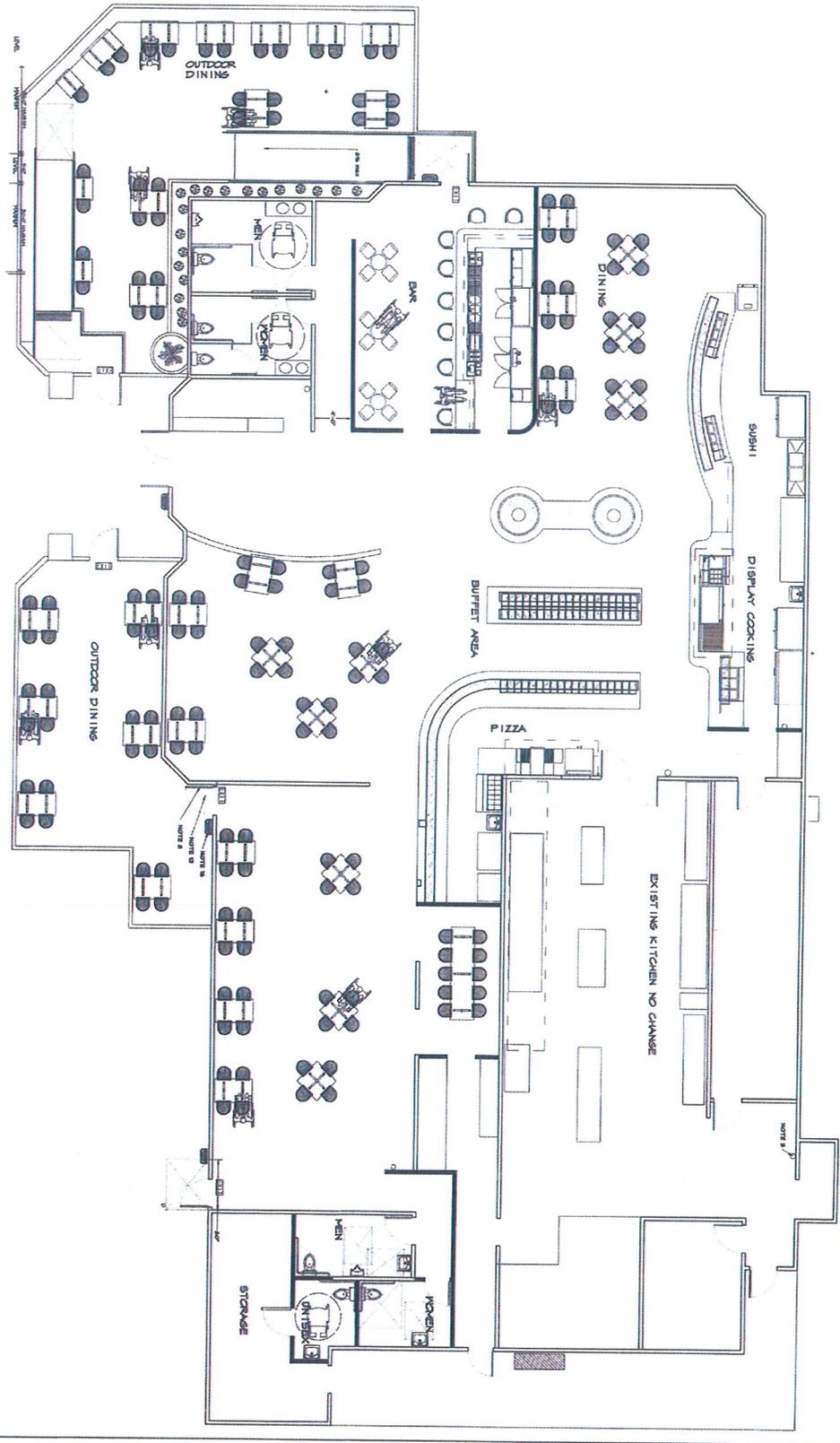


SOUTH ELEVATION



DATE PRINTS ISSUED FOR DATE REVISION (A) (A) (A) (A)	project ELITE PATIO COVER THE CHINA BUFFET 5155 N. BLACKSTONE FRESNO, CA		EARL BIER III DRAFTING & DESIGN 4325 W. SHAW AVE. #103 FRESNO, CA 93722 PH 277-3500
	TOTAL NUMBER: SHEET NUMBER: 4 OF 4		

PROPOSED FLOOR PLAN



KELLY BRAY
 ARCHITECTURAL FIRM
 402 NORTH FIRST STREET, SUITE 200
 FRESNO, CALIFORNIA 93703
 TEL: 559.241.1111
 FAX: 559.241.1112
 WWW.KELLYBRAY.COM

CHINA BUFFET
 FRESNO, CA.

DATE: 5/9/12
 SHEET NO. **TWO**

APPL. NO. C-32-003 EXHIBIT F DATE 5.9.12
 PROJ. ENG. _____ DATE _____
 TRAFFIC ENG. _____ DATE _____
 COND. APPROVED BY _____ DATE _____
 CITY OF FRESNO PLANNING & DEVELOPMENT DEPT

Pearl B-Star
DBA: Lin's Fusion
5155 N. Blackstone Ave
Fresno, Ca. 93710

RECEIVED

MAY 9 2011

Planning Division
Planning & Development Dept
CITY OF FRESNO

Operational Statement

We are an existing full service and family style restaurant and want to upgrade our Type 41 (On-sale Beer & Wine Eating Place) to a Type 47 (On-sale general Eating Place) that offers banquet facilities.

-Hours of operation: Sunday 8:00 a.m. -10:00 p.m. functioning as a restaurant; 10:00 p.m. – 2:00 a.m. functioning as a tavern. Monday - Saturday 8:00 a.m. - 10:00 p.m. functioning as a restaurant. 10:00 p.m. -2:00 a.m. functioning as a tavern.

Approximately 35-45 employees will be working for us as servers, bartenders, bussers and host/ess. These employees will be serving the beer, wine and distilled spirits.

We want to have the option to function as a nightclub that offers live entertainment such as piano, guitar, singing, live bands and DJ's on selected weekends in the future. If customers want to dance, we want to make that option available to them.

We also offer patio dining.

There is an agreement filed with Fresno County of Records regarding reciprocal access+ parking on the site.

I Jin Hai Lin have already attended a LEAD training class in respect to our application for an ABC license.

Thank You for your Support

CITY OF FRESNO
DEVELOPMENT AND RESOURCE MANAGEMENT DEPARTMENT

CONDITIONS OF APPROVAL

JUNE 20, 2012

CONDITIONAL USE PERMIT AMENDMENT

APPLICATION NO. C-12-003

5155 NORTH BLACKSTONE AVENUE

NOTICE TO PROJECT APPLICANT

In accordance with the provisions of Government Code Section 66020(d)(1), the imposition of fees, dedication, reservations or exactions for this project are subject to protest by the project applicant at the time of approval or conditional approval of the development or within 90 days after the date of imposition of fees, dedications, reservation, or exactions imposed on the development project.

This notice does not apply to those fees, dedications, reservations, or exactions which were previously imposed and duly noticed; or, where no notice was previously required under the provisions of Government Code Section 66020(d)(1) in effect before January 1, 1997.

This project may be subject to a variety of discretionary conditions of approval. These include conditions based on adopted City plans and policies, those determined through site plan review and environmental assessment essential to mitigate adverse effects on the environment including the health, safety, and welfare of the community, and recommended conditions for development that are not essential to health, safety, and welfare, but would on the whole enhance the project and its relationship to the neighborhood and environment.

Discretionary conditions of approval may be appealed. All discretionary conditions of approval will ultimately be deemed mandatory unless appealed in writing to the Planning and Development Department Director within 15 days. All code requirements, however, are mandatory and may only be modified by variance, provided the findings pursuant to Fresno Municipal Code (FMC) Section 12-405.A can be made.

PART A - PROJECT INFORMATION

Assessor's Parcel Number:	417-261-28
Job Address:	5155 North Blackstone Avenue
Street Location:	located on the west side of North Blackstone Avenue between East Shaw and East San Jose Avenue
Existing Zoning:	C-6, <i>General Heavy Commercial District</i>
Planned Land Use:	<i>General Heavy Commercial</i>
Plan Areas:	Bullard Community Plan
Project Description:	Conditional Use Permit Application No. C-12-003 has been filed by Jin Lin, on behalf of Jin Lin and Chang Fei Lin requesting authorization for a restaurant, tavern, and night club.

PART B - GENERAL CONDITIONS AND REQUIREMENTS

1. Development shall take place in accordance with the C-6, *General Heavy Commercial District*, as defined in Section 12-222 of the Fresno Municipal Code.
2. Development shall take place in accordance with the Standards Specifications and Standard Drawings of the City of Fresno Public Works Department. **Corrections shall include all those listed in this document and those listed in the correction list provided by the plan check process.**
3. Development shall take place in accordance with all city, county, state, and federal laws and regulations.
4. Development shall comply with Sections 12-326 and 12-327 of the FMC related to restaurants, taverns and night clubs.

5. Development and operation shall comply with the City of Fresno Noise Ordinance, FMC Sections 10-101 through 111. Noise levels for commercial properties shall not exceed 60 decibels from 10 p.m. to 7 a.m. or 65 decibels from 10 p.m. to 7 a.m. measured at the nearest subject property line.
6. This special permit is granted, and the conditions imposed, based upon the Operational Statement dated as received on May 9, 2011. The Operation Statement is material to the issuance of this special permit. Unless the conditions of approval specifically require operation inconsistent with the Operation Statement, a new or revised special permit is required if the operation of this establishment changes or becomes inconsistent with the Operation 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.
7. Development shall comply with all existing special permits on the property governing the establishment of a restaurant serving alcohol (C-08-066) to the extent they are not superseded by this conditional use permit C-12-003.
8. No signage (except directional) is approved with this application. Any outdoor advertising (i.e. signs promoting use) require sign permit approval. Contact Edward Paz in the Development and Resource Management Department at 621-8061 for more information.

PART C – PROJECT SPECIFIC REQUIREMENTS

1. The following shall be the hours of operation:
 - a. **Restaurant:** Dailey: 8:00 a.m. to 10:00 p.m.;
 - Tavern:** Dailey: 10:00 p.m. to 2:00 a.m.;
 - Nightclub** (future): Selected Friday and Saturday nights: 10:00 p.m. to 2:00 a.m.
- b. The owner, proprietor or applicant shall be responsible to conspicuously post the hours of operation for each phase type (i.e. restaurant, tavern, or nightclub) near the entrance of the establishment. It shall be 8.5 x 11 inches in size, to be provided by the City. This posting shall be made

available to City officials upon request. Additionally, the address of the facility shall be posted in compliance with City codes.

2. Development shall comply with the requirements of the attached City of Fresno Fire Department memo dated January 20, 2012. Please contact Richard Fultz, Senior Fire Prevention Inspector at (559) 621-8088 for further information.

Note: This project was reviewed by the fire department only for requirements related to water supply, fire hydrants, and fire apparatus access to the building(s) 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.

3. Development shall comply with the requirements of the attached City of Fresno Police Department Northwest Area Commander memo dated January 19, 2012. Please contact Sergeant Len Gleim, at (559) 621-7200 for further information.
4. Development shall comply with the requirements of the attached County of Fresno Environmental Health memo dated January 20, 2012. Please contact Janet Gardner, Environmental Health Specialist at (559) 445-3271 for further information.
5. Development shall comply with the requirements of the attached Fresno Unified School District memo dated January 12, 2012. Please contact Deana Clayton at (559) 457-3066 for further information.
6. The exercise of rights granted by this special permit must be commenced by the date four years from the date of the City of Fresno Planning Commission approval (June 20, 2012). **There is no extension.**

CITY OF FRESNO
CATEGORICAL EXEMPTION

ENVIRONMENTAL ASSESSMENT NO. C-12-003

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: Jin Lin
5155 North Blackstone Avenue
Fresno, CA 93710

PROJECT LOCATION: 5155 North Blackstone Avenue, located on the west side of North Blackstone Avenue between East Shaw and East San Jose Avenue (APN: 417-261-28)
(Council District 2, Councilmember Borgeas)

PROJECT DESCRIPTION: Conditional Use Permit Application No. C-12-003 has been filed by Jin Lin, on behalf of Jin Lin and Chang Fei Lin requesting authorization for an ABC License up-grade from a Type 41 to a Type 47 ABC License, as well as for a restaurant, tavern, and (future) night club.

This project is exempt under Section 15301/Class 1 and Section 15332/Class 32 of the State of California CEQA Guidelines.

EXPLANATION:

Class 1 consists 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.

Up-grade from a Type 41 Alcohol Beverage Control (ABC) license to a Type 47 ABC license, as well as interior remodeling for a restaurant and (future) night club.

Class 32 consists of projects characterized as in-fill development meeting the conditions described in this section. (a) The project is consistent with the applicable general plan designation and all applicable general plan policies as well as with applicable zoning designation and regulations. (b) The proposed development occurs within city limits on a project

site of no more than five acres substantially surrounded by urban uses. (c) The project site has no value, as habitat for endangered, rare or threatened species. (d) Approval of the project would not result in any significant effects relating to traffic, noise, air quality, or water quality. (e) The site can be adequately served by all required utilities and public services.

By current standards, this subject site and surrounding neighborhoods are identified as "in-fill" within an urban setting.

The proposed restaurant, tavern, and (future) night club occupies an existing building.

The above described project is consistent with the 2025 Fresno General Plan and the Bullard Community Plan without negatively impacting the characteristics of the area, and complies with all conditions described in Section 15301/Class 1, Section 15332/Class 32 of California CEQA Guidelines. No adverse environmental impacts will occur as a result of the proposed project.

Finally, there is no substantial evidence in the record that any of the exceptions to these Categorical Exemptions, set forth in CEQA Guidelines section 15300.2, apply to this project

Date: May 9, 2012

Prepared By: Jack Van Patten, AICP
Planner

Submitted By:


Sophia Pagoulatos
Supervising Planner
City of Fresno

Development and Resource
Management Department
(559) 621-8277

City of



FIRE DEPARTMENT

Date: January 20, 2012

To: JACK VAN PATTEN, Planner II
Planning and Development Department

From: DARLA SCOTT, Senior Fire Prevention Inspector
Fire Department, Fire Prevention and Investigations Bureau

A handwritten signature in blue ink, appearing to be "D. Scott", written over the name Darla Scott in the "From:" field.

Subject: C-12-003 was filed by Jin Lin of Lin's Fusion Restaurant and pertains to 0.47 acre of property located on the west side of North Blackstone Avenue between West Shaw and West San Jose Avenues (former China Buffet). The applicant requests authorization to upgrade the State of California Alcoholic Beverage Control license from a Type 41 to a Type 47 (restaurant – sale of beer, wine, and distilled spirits for consumption on the licensed premises), authorization to provide food and alcoholic service in two outdoor patios, extend the hours of operation from 10a.m. to 2a.m. daily, and in the future establish a nightclub at the restaurant.

Other

This project was reviewed by the fire department only for requirements related to water supply, fire hydrants, and fire apparatus access to the building(s) 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.

No site plan requirements.



RESTAURANT ABCUP CONDITIONS

January 19, 2012

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

Attn: Jack Van Patton, Planning Division

Re: CONDITIONAL USE PERMIT APPLICATION NO. C-12-003 ABCUP
Applicant: Jin Lin (Pearl B-Star)
dba: 'Lin's Fusion'
Address: 5155 N. Blackstone Ave.
Fresno, Ca.
A.P.N. 417-261-28

Dear Mr. Van Patton,

The City of Fresno has requested that the Fresno Police Department review an application for a Conditional Use Permit to operate a restaurant, at **5155 N. Blackstone Ave.** The property has been zoned **C-6** which permits the operation of a restaurant pursuant to the requirements of FMC, section 12-326. We understand that along with this application, the applicant has also applied for a change from a **Type 41** license to a **Type 47** license which, if approved by Department of Alcoholic Beverage Control, will allow for the sale of beer, wine and distilled spirits for consumption on the premises where sold.

We understand from the Operational Statement that the applicant intends to operate this restaurant seven (7) days a week between the hours of 10:00 a.m. to 2:00 a.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, including, 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 for the surrounding area. This ABCUP allows for **the operation of a restaurant with a type 47 Ca. Dept. of Alcohol Beverage Control license.** We request the following conditions be included as Conditions of Approval for the updated Conditional Use Permit Application No. **C-12-003.** These conditions will maintain an environment that is least likely to generate public complaints and calls for service.

The Fresno Police Department is not in opposition of this Conditional Use Permit, provided the applicant agrees to the listed conditions. If the following conditions are not included as conditions of approval of the updated CUP No. **C-12-003**, the Fresno Police Department shall oppose the approval of this Conditional Use Permit, as well as all other requested city permits, and shall appeal such approval to the Planning Commission. As such, we request that you provide Fresno Police Department Detective **Todd Fraizer #127** with notice of the Director's decision regarding this updated Conditional Use Permit as well as a complete copy of the conditions of approval, should the Director approve 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 Billiard Hall)
- FMC 9-1804 (Restriction on Attendance of Minors in Billiard Rooms)
- FMC 9-1805 (Minors allowed: Family Billiard Rooms)
- FMC 10-105 (Noise Ordinance)
- FMC 10-708 (Unlawful Nuisances - High Calls for Police Service)
- FMC 12-306-N-30 Limitations on Adult Business Activities. Applicant shall also verify with the Planning Division that Adult Business Activities are permitted in the zone district where the applicant seeks to operate

his/her business.

A current version of the Fresno Municipal Code may be viewed at the City of Fresno's website: 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, federal, and local law, including but not limited to the following California Business and Professions Code sections and the California Department of Alcoholic Beverage Control 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 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. **ABC Education:**

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

- (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,
- (2) Completed equivalent training acceptable to the ABC-- Fresno District Office to ensure proper distribution of beer, wine, distilled spirits, to adults of legal age.

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

- (1) The ABC-licensed proprietors shall have confirmed with the Development Department within 15 days of the final approval of the CUP, that a certain date has been scheduled with the local ABC Office for the prospective employees to take the LEAD Program course; and
- (2) Within 30 days of taking the course the employee(s) or responsible employer shall deliver a copy of each required LEAD Program Certificate evidencing completion of said course to the Fresno Police Department.

4. **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, prior to the event taking place.

5. **Happy Hours:**

The Police Department reserves the right to restrict *Happy Hours* where alcoholic beverages are advertised at discounted prices which are less than the standard prices.

7. **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 the updated CUP C-12-003. 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 may receive from the Fresno Police Department a form of a security plan that the establishment may refer to in preparing its security plan.

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.

8. Video Surveillance Camera System:

Prior to exercising any privileges granted by this CUP (No. C-12-003), the applicant must install a fully functional, color digital video recording (DVR) surveillance camera system that meets or exceeds the following requirements:

- (1) The DVR 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 secure location inside of the business.
- (2) The DVR system shall have the correct date and time stamped onto the image at all times.
- (3) The DVR memory storage capacity shall be for at least fourteen (14) calendar days. This DVR system must be capable of producing a retrievable and

The establishment will control its total occupancy to comply with the Fresno Fire Department's requirements, as the same may be adjusted for circumstances from time to time, and will keep an accurate count of patrons at all times.

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.

The establishment will not allow illegal drugs to be sold, ingested, injected or inhaled in the building premises or on any adjacent property under control of the premises.

10. 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."

11. 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, to be provided for by the City. This posting shall be made available to City officials upon request. Additionally, the address of each facility shall be posted in compliance with all City codes.

12. Posting Property:

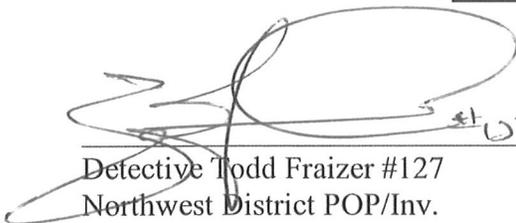
The applicant shall post the property with the appropriate Fresno Municipal Code signs advising that consumption of alcoholic beverages, gambling, trespassing or loitering will be in violation of municipal ordinances. The applicant must send a letter to the Fresno Police Department, signed and dated 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.

13. Billiard Tables/Amusement Devices:

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.

14. **The establishment shall ensure that all employees 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

 #07 Date: 1/19/12
Detective Todd Fraizer #127
Northwest District POP/Inv.

UNAVAILABLE Date: _____
Sergeant Len Gleim #S20
Supervisor
Northwest District Investigations/POP

 Date: 1/19/12
Captain Michael Reid
Commander
Northwest District



County of Fresno

Department of Public Health

Edward L. Moreno, M.D., M.P.H., Director-Health Officer

January 20, 2012

FA0003420

LU0016269

PE 2602

Jack Van Patten
City of Fresno
Development Department
2600 Fresno Street
Fresno, CA 93721

Dear Mr. Van Patten:

PROJECT NUMBER: C-12-003

Conditional Use Permit Application No. C-12-003 was filed by Jin Lin of Lin's Fusion Restaurant and pertains to 0.47 acre of property located on the west side of North Blackstone Avenue between West Shaw and West San Jose Avenues (former China Buffet). The applicant requests authorization to upgrade the State of California Alcoholic Beverage Control license from a Type 41 to Type 47 (*restaurant - sale of beer, wine, and distilled spirits for consumption on the licensed premises*), authorization to provide food and alcoholic service in two outdoor patios, extend the hours of operation from 10 a.m. to 2 a.m. daily, and in the future establish a nightclub at the restaurant. The property is zoned C-6 (*Heavy Commercial*).

APN: 417-261-28

ZONING: C-6

ADDRESS: 5155 North Blackstone Avenue

Recommended Conditions of Approval:

- Should the facility undergo a remodel to accommodate the change in ABC License, then the applicant shall submit complete food facility plans and specifications to the Fresno County Department of Public Health, Environmental Health Division, for review and approval. Contact the Consumer Food Protection Program at (559) 600-4058 for more information.
- The applicant shall contact the California Alcoholic Beverage Control Department at (559) 225-6334 for information relative to applying for and obtaining a license to sell alcoholic beverages.

REVIEWED BY:

Janet Gardner

Digitally signed by Janet Gardner
DN: cn=Janet Gardner, o=Environmental Health
Division, ou=Fresno County Public Health Department,
email=jjgardner@co.fresno.ca.us, c=US
Date: 2012.01.20 10:31:28 -0800

R.E.H.S., M.P.H.

Environmental Health Specialist

(559) 600-3271

jg

cc: Baruti/Casagrande/Tolzmann, Environmental Health Division

C-12-003 ABC upgrade

DEPARTMENT OF PUBLIC WORKS

TO: Meenakshi Singh, Planner III
Planning Division

FROM: Hilary Kimber, Parks Supervisor II (559.621.8794)

DATE: May 15, 2007

SUBJECT: SITE PLAN REVIEW APPLICATION NO. S-07-074

The Department of Public Works offers the following comments regarding plans for the property located at 2762 S. Elm Avenue:

GENERAL REQUIREMENTS

1. The Fresno Municipal Code requires street trees to be planted at minimum rate of 60-foot intervals along the street frontage. Construct a 4' x 6' tree wells within the 12' commercial pattern along the Elm Avenue frontage. The property owner shall provide and maintain all landscaping and irrigation and is responsible for making sure all applicable permits are pulled prior to any work being done. Inspection fees for working in the City of Fresno right-of-ways will be collected at the time of permit issuance prior to construction. Construction shall be in accordance to all local ordinances, Planning & Development requirements and City of Fresno Standard Specifications as applicable.
2. Submit Landscape Plans with Street Plans to Public Works Engineering Services for review.
3. Add site plan notes.
4. Choose an approved Street Tree from the list provided.



Fresno Unified School District

Preparing Career Ready Graduates



Facilities Management & Planning

BOARD OF EDUCATION

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SUPERINTENDENT

Michael E. Hanson

January 12, 2012

Jack Van Patten
Development and Resource Management
City of Fresno
2600 Fresno Street, Third Floor
Fresno, CA 93721-3604

**SUBJECT: CONDITIONAL USE PERMIT NO. C-12-003-ABCUP
5155 N. BLACKSTONE AVE.**

Dear Mr Van Patten,

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 owner of the former 'China Buffet' restaurant proposes conversion of the existing space to 'Lin's Fusion' restaurant. The applicant is requesting authorization to upgrade the State of California Alcoholic Beverage Control license from a Type 41 to Type 47 (*restaurant – sale of beer, wine, and distilled spirits for consumption on the licensed premises*). It is located within approximately 2,590 feet from Baird Middle 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.

Any new commercial/industrial development which occurs, may ultimately affect the District by generating employees. The children of those employees living in the District will need to be housed in District schools.

The Fresno Unified School District levies a commercial/industrial development fee of \$0.47 per square foot. If no new square footage is constructed, no development fee will be charged. Any new development on the property will be subject to the development fee prior to issuance of a building permit.

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

Sincerely,

Lisa LeBlanc, Executive Director
Facilities Management and Planning

LL:hh

c: Janetta McGensy, Principal, Baird Middle School

- identifiable image that can be made a permanent record and that can be enlarged through projection or other means.
- (4) The DVR system shall be capable of producing a CD or other acceptable digital playback feature and shall be provided to an authorized representative of the Fresno Police Department within 24 hours of the initial request relating to a criminal investigation.
 - (5) The interior of the business must have at least one camera to focus on each cash register transaction to include the clerk as well as a sufficient number of cameras to cover the entire interior of the business. There should also be at least one camera focused on each entrance and the camera view/angle should clearly show an image of the color coded height tape installed on the inside of the door jamb. These cameras shall also be in a position to be capable of capturing the faces of all persons entering the business.
 - (6) There shall be at least one (1) exterior camera placed along the perimeter of the business so as to record activities of patrons waiting to enter the business.
 - (7) All cameras shall record in color.
 - (8) All exterior cameras shall 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.
 - (9) The DVR system shall be checked on a daily basis to ensure it is operating as intended in accordance with this CUP.
 - (10) There shall be an employee who has been trained in the use and down-loading capabilities of this DVR on duty at all times during open business hours. This is to ensure that if a member of Law Enforcement needs to view the images from this DVR, the images can be viewed without delay.

It is recommended, but not required, that the owner/operator provide the IP address 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.

9. Property Responsibility:

Frequent responses by the FPD 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 the commencement of CUP revocation proceedings pursuant to FMC, section 12-326-H and 12-405-E. 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” is defined by FMC, section 12-326-H-1-a.