

March 7, 2012

APPROVED BY

FROM: MARK SCOTT, Interim Director
Development Services Division



 DEPARTMENT DIRECTOR <i>m. Scott</i>

THROUGH: MIKE SANCHEZ, Planning Manager
Development Services Division



SUBJECT: **APPEAL OF CONDITIONAL USE PERMIT C-10-231 FOR EXPANSION AT
YOSEMITE RANCH RESTAURANT, NORTHEAST CORNER OF EAST
CHAMPLAIN DRIVE AND EAST SHEPHERD AVENUE**

RECOMMENDATION

The proposed project has been examined with respect to its consistency with goals and policies of the 2025 Fresno General Plan and the Woodward Park Community Plan, its compatibility with surrounding existing or proposed uses, and its avoidance or mitigation of potentially significant adverse environmental impacts. These factors have been evaluated as described below and by the accompanying environmental assessment. Upon consideration of this evaluation, it has been concluded the restaurant expansion proposed in Conditional Use Permit Application No. C-10-231 is appropriate for the project site. Therefore, staff recommends that the Planning Commission:

1. ADOPT the environmental finding of a Categorical Exemption pursuant to Classes 15301, 15303, 15304 of the California Environmental Quality Act Guidelines; and
2. DENY the appeal and UPHOLD the action of the Development and Resource Management Department Interim Director approving Conditional Use Permit Application No. C-10-231 subject to the following:
 - a. Development shall take place in accordance with one of the Design Options selected by the Planning Commission;
 - b. Development shall take place in accordance with the Conditions of Approval dated March 7, 2012.
 - c. Development shall take place in accordance with Exhibits A dated October 12, 2011 and Exhibits E, and O dated July 7, 2011; as revised to conform with the selected Design Option;
3. RECOMMEND to City Council that a city policy be developed to guide future proposed shared uses of Open Space.

EXECUTIVE SUMMARY

Conditional Use Permit Application No. C-10-231 was filed by Amber Adams of Quad Knopf on behalf of Yosemite Ranch Investors, LLC and pertains to an expansion of an existing restaurant located in the 11.08 acre Via Montaña Shopping Center and a portion of the Sugar Pine Trail on the northeast corner of East Champlain Drive and East Shepherd Avenue. The City of Fresno owns the Sugar Pine Trail,

and as a property owner is a co-applicant. The applicant requests authorization to expand the existing 7,320 square foot Yosemite Ranch Restaurant by approximately 2,408 square feet. The expansion is proposed to be courtyard style on the south side of the building with a full service restaurant/bar area and seating for approximately 80 people. The addition is proposed to be constructed primarily within the 60-foot wide Sugar Pine Trail corridor, encroaching into the northern half of the trail corridor by approximately 30 feet, leaving approximately 12 feet clear between its southernmost wall and the paved bicycle/pedestrian trail. The co-applicant, Yosemite Ranch Investors, LLC, has a State of California Alcoholic Beverage Control Type 47 license (*sale of beer, wine, and distilled spirits for consumption on the licensed premises*) which was approved through Conditional Use Permit No. C-05-232 when the restaurant was established. Conditional Use Permit C-10-231 is required to establish the alcohol use to occur within the proposed expansion. The property is zoned C-1/UGM/cz (*Neighborhood Shopping Center/Urban Growth Management/conditions of zoning*) and is located within the Woodward Park Community Plan and the 2025 Fresno General Plan areas.

A separate licensing agreement is currently being prepared by the Public Works Department for the proposed use of the Sugar Pine Trail. This agreement, which requires approval by the City Council, is anticipated to define the exact terms under which the expansion could be placed in the City's property along the Sugar Pine Trail corridor subject to development standards. Requirements are proposed to include lease payments, trail maintenance, and the posting of a bond to remove all improvements upon request by the City if the City ever determines the trail is needed for the construction of a transportation improvement such as light rail.

Because of the unique nature of this proposal, staff has developed design options for consideration by the Planning Commission as part of the recommendation. These options offer variations on the amount of encroachment into the Sugar Pine Trail corridor and the openness of the structure.

Finally, staff believes that a city-wide policy governing these types of projects would be helpful to evaluate such proposals in the future and requests that such a recommendation be made to the City Council.

PROJECT INFORMATION

PROJECT Conditional Use Permit Application No. C-10-231 requests authorization to expand the Yosemite Ranch Restaurant by approximately 2,408 square feet, to be constructed primarily within the 60-foot wide Sugar Pine Trail corridor. The co-applicant has a State of California Alcoholic Beverage Control Type 47 license (*sale of beer, wine, and distilled spirits for consumption on the licensed premises*).

APPLICANT Amber Adams, Quad Knopf on behalf of Yosemite Ranch Investors, LLC and the City of Fresno

LOCATION	1520 E. Champlain Drive on the northeast corner of E. Champlain Drive and East Shepherd Avenue and adjacent portion of the Sugar Pine Trail, Assessor's Parcel Numbers 567-030-69 and 567-010-04T (Council District 6, Councilmember Brand)
SITE SIZE	Via Montaña Shopping Center: 11.08 acres Adjacent Section of Sugar Pine Trail: 3.36 acres Size of Existing Restaurant: 7,320 square feet Size of Proposed Courtyard Addition: 2,408 square feet Portion of Proposed Addition in trail corridor: ±1,775 sf
LAND USE	1520 E Champlain: Neighborhood Commercial Sugar Pine Trail: Open Space
ZONING	1520 E. Champlain Drive: C-1/UGM/cz (<i>Neighborhood Shopping Center /Urban Growth Management/ conditions of zoning</i>) Sugar Pine Trail: C-1/UGM/cz (<i>Neighborhood Shopping Center/ Urban Growth Management/ conditions of zoning</i>)
PLAN DESIGNATION AND CONSISTENCY	Pursuant to FMC Section 12-403-B-2-b (2), the C-1 (Neighborhood Shopping Center) zone district can be found consistent with the Open Space planned land use if the subject site is restricted to uses permitted by a consistent zone district. Zone District O (Open Space) is a consistent zone district and permits commercial uses under the regulations of City Recreational Agencies (FMC Section 12-204.4-B). Therefore the planned land use and the zone district can be found to be consistent.
ENVIRONMENTAL FINDING	Finding of a Categorical Exemption pursuant to CEQA Guidelines Sections 15301, 15303 and 15304.
PLAN COMMITTEE RECOMMENDATION	The District 6 Plan Implementation Committee approved the proposal on January 31, 2011 by a vote of 5-0 with 3 members absent.
STAFF RECOMMENDATION	Deny the appeal and uphold the Director's approval of Conditional Use Permit Amendment C-10-231 with adoption of related environmental assessment and conditions of approval.

BORDERING PROPERTY INFORMATION

	Planned Land Use	Existing Zoning	Existing Land Use
North	Medium high density residential Office commercial	C-P <i>(Administrative and Professional Office District)</i> R-2 <i>(Low Density Multiple Family Residential District)</i>	vacant
South	Medium Low density Residential	R-1 <i>(Single Family Residential District)</i>	Single Family Residential Dwellings <i>(Brentwood)</i>
East	Medium low and medium high density residential	R-2 <i>(Low Density Multiple Family Residential District)</i>	Multiple Family Dwellings <i>(Dominian Courtyard Luxury Apartments)</i>
West	Medium high density residential	R-3 <i>(Medium Density Multiple Family Residential District)</i>	Multiple Family Dwellings <i>(Le Provence Apartments)</i>

ENVIRONMENTAL FINDING

The project was determined to be exempt from the California Environmental Quality Act (CEQA) under Sections 15301, 15303, and 15304 of the CEQA Guidelines as this project involves expansion of an existing facility of less than 2,500 square feet in floor space, as well as minor alteration in vegetation and landscaping. None of the exceptions to Categorical Exemptions set forth in the CEQA Guidelines, section 15300.2 apply to this project. Therefore, no further environmental assessment is required (see Exhibit E, Environmental Assessment).

BACKGROUND

Project Description

Conditional Use Permit Application No. C-10-231 was filed by Amber Adams of Quad Knopf on behalf of Yosemite Ranch Investors, LLC and pertains to an expansion of an existing restaurant located in the 11.08 acre Via Montaña Shopping Center and a portion of the Sugar Pine Trail on the northeast corner

of East Champlain Drive and East Shepherd Avenue. The City of Fresno owns the Sugar Pine Trail, and as a property owner is a co-applicant. The applicant requests authorization to expand the existing 7,320 square foot Yosemite Ranch Restaurant by approximately 2,408 square feet. The expansion is proposed to be courtyard style on the south side of the building with a full service restaurant/bar area and seating for approximately 80 people. The addition is proposed to be constructed primarily within the 60-foot wide Sugar Pine Trail corridor, encroaching into the northern half of the trail corridor by approximately 30 feet, leaving approximately 12 feet clear between its southernmost wall and the paved bicycle/pedestrian trail. The applicant has a State of California Alcoholic Beverage Control Type 47 license (*sale of beer, wine, and distilled spirits for consumption on the licensed premises*), which was approved through Conditional Use Permit No. C-05-232 when the restaurant was established. Conditional Use Permit C-10-231 is required to establish the alcohol use within the proposed expansion. The property is zoned C-1/UGM/cz (*Neighborhood Shopping Center/Urban Growth Management/conditions of zoning*) and is located within the Woodward Park Community Plan and the 2025 Fresno General Plan areas.

A separate licensing agreement is currently being prepared by the Public Works Department for the proposed use of the Sugar Pine Trail. This agreement, which requires approval by the City Council, is anticipated to define the terms under which the expansion could be placed in the City's property along the Sugar Pine Trail corridor subject to development standards. Requirements are proposed to include lease payments, trail maintenance, and the posting of a bond to remove all improvements upon request by the City if the City ever determines the trail is needed for the construction of a transportation improvement such as light rail.

Surrounding Uses

The proposed project is part of the Via Montana Shopping Center, an 11-acre neighborhood commercial shopping center and the Sugar Pine Trail, adjacent to the south property line of the center. Across Shepherd Avenue to the south is a single family residential neighborhood, and across Champlain to the west lies a multiple family residential neighborhood. To the north lies approximately 10 acres of vacant land planned for office and multiple family development.

The Sugar Pine Trail is a 60-foot wide abandoned railroad right-of-way that was purchased 1997 by the City of Fresno in partnership with the City of Clovis and the Council of Governments in order to establish a multi-purpose bike and pedestrian trail. The trail is currently maintained by the City of Fresno.

LAND USE ANALYSIS

2025 Fresno General Plan

The proposed project is consistent with the intent of Activity Centers as described in the General Plan. The 2025 Fresno General Plan designates the intersection of Champlain and Shepherd as a conceptually designated Activity Center (see Exhibit F). Activity Centers are described in the Urban Form Element of the 2025 Fresno General Plan as areas appropriate for more intensive concentrations of urban uses. According to this section, Activity Centers include a mix of land uses and gathering points where residents may interact, work and obtain goods and services in the same place and where

emphasis is to be placed on pedestrian activities and linkages. The intersection of Champlain and Shepherd is depicted as an Activity Center because it includes higher density housing, over 200,000 square feet of retail space, and over 100,000 square feet of office uses all in close proximity to one another. In addition to being served by two 4-lane arterial streets, it is also served by bicycle and pedestrian infrastructure. Therefore staff believes that this location is appropriate for the proposed project because it facilitates community interaction and creates a gathering point around an established non-vehicular transportation facility consistent with the objectives and policies of the 2025 Fresno General Plan. Similar projects of this type would typically not be recommended for approval by staff if those projects were located outside an Activity Center area as designated by the 2025 Fresno General Plan.

Relevant Policies:

- Urban Form Components Map (Exhibit F)

Land Use/Activity Centers:

- C-4 Objective: Adhere to a multiple community center concept of urban design for the Fresno metropolitan area as conceptually shown on Exhibit 6 (Exhibit F).
- C-4-a Policy: Strategically locate areas appropriate for more intensive concentrations or urban uses.
- C-4-b Policy: Activity Centers should include commercial areas, employment centers, schools, higher-density residential development, churches, parks, and other gathering points where residents may interact, work and obtain goods and services in the same place.
- C-4-c Policy: Place emphasis on pedestrian activities and linkages, and provide for priority transit routes and facilities to serve the Activity Centers.
- C-4-d: Activity Centers should provide for mixed uses and shared parking facilities, including multi-story and underground parking facilities.

Transportation/Trails (Public Facilities Element)

- E-15 Objective: Establish a network of pedestrian, bicycle, and ...equestrian trails to ...link residential areas with Activity Centers such as parks and recreational facilities, educational institutions, employment centers, cultural sites, and other focal points in order to enhance the community's recreational and alternative transportation opportunities and to provide visual and physical amenities.

The proposed project is consistent with 2025 General Plan policies related to Site and Building Design:

Relevant Plan Policy:

Image/Site and Building Design, GP

- C-20-b Policy: The siting and orientation of buildings shall respond to the pedestrian and vehicular nature of the street. Buildings on streets of high pedestrian use should face on and be directly accessible from the sidewalk, with minimal interruption by driveways or parking areas...

The proposed project is consistent with trail policies related to safety and amenities. The project would increase trail safety by creating more “eyes on the trail,” as it is designed to provide natural surveillance by patrons. In addition, it will provide the amenities of enhanced landscaping in the area directly around the proposed project, an interpretive display about the significance of the Sugar Pine Railroad and additional bicycle parking. Finally, the expansion includes a bicycle/pedestrian entrance from the trail to facilitate the non-vehicular connection between the trail and the restaurant.

Relevant plan policies:

Transportation/Trails (Public Facilities Element)

- E-15-l Policy: Establish trail routes which promote usage by providing a safe and aesthetically pleasing environment and which avoid incompatible uses wherever possible. Particular consideration shall be given to compatibility of trail alignments which are not parallel to or readily visible from adjacent public streets [note implied emphasis on the importance of safety through natural surveillance.]
- E-15-c Policy: Provide for needed facilities along trails such as staging areas, lighting, benches bathrooms, and drinking fountains, where appropriate.
- E-15-s Policy: Where appropriate, make available recreational activities adjacent to trail corridors, including environmental amenities and historic locations, and interpret those resources to the public.

The project is consistent with trail policies related to development and maintenance of trails. 2025 Fresno General plan policies related to open space and trails establish the use of public/private partnerships to maintain and enhance public space. In exchange for the use of 1,775± square feet of the Sugar Pine Trail corridor for the proposed project, the applicant is proposing to maintain approximately ½ mile segment of the trail corridor (see Exhibit G) as may be approved by the City Council and memorialized in a subsequent agreement with the City. In addition, enhancements such as an interpretive display, additional bike racks and enhanced landscaping are project conditions.

Relevant plan policies:

Transportation/Trails (Public Facilities Element)

- E-17 Objective: Pursue a variety of funding sources to maximize implementation and development of the city’s trail system.

- E-17-d Policy: Continue to seek individual and private sector support for development and maintenance of trails.

Open Space/Recreation Element

- F-3-f Policy: Shade, water, comfort facilities and art should be prominent design elements of current and future recreation facilities.
 - Public parks should include and promote points of attraction, which may include artwork exhibit areas, and kiosks, representing diversified interests and themes;
 - Promote the design of outdoor environments that attract people for activities through the creative use of landscape features, street furniture, signage and lighting;
 - Maintain standards under which the sale of food in parks may be allowed, including appropriate sites and guidelines for concessionaire food service.
- F-4-f: The direct cost of “non-basic” services that fall into one or more of the categories listed shall be supported from user fees, grants, in-kind services, volunteers, and other non-general fund resources.
- F-5-f: The city should coordinate with private interests such as commercial, industrial, and residential real estate developers to meet community needs while minimizing the cost of providing park and recreation facilities.
- F-6 Objective: The city will identify innovative approaches to programs, facilities, financing and management of the parks and recreation system.
- F-6-a Policy: Actively seek individual, private and corporate support for basic park maintenance and recreational services.
- F-6-d: Study opportunities for reorganization of current operations and assess opportunities to increase resources either through cost reduction or revenue production.

Woodward Park Community Plan

The Woodward Park Community Plan Open Space Element calls for the continued expansion of the Woodward Regional Park, the preservation of the San Joaquin Riverbottom, the development of neighborhood parks and the implementation of a system of hiking and jogging trails, bike paths and equestrian trails. Specific Policies related to trails and open space are noted below.

Figure 2-1, Woodward Park Community Planning Area Open Space Resource Map designates Shepherd Avenue as a Bike Path / Multi-Purpose Pedestrian Trail.

Policy 2-1.5: In urban areas where space is unavailable for a park site, the City shall pursue the development of public jogging trails/bike paths to be developed adjacent to public streets and to be a

minimum width of 15 feet (measured from the adjacent curb face) of which eight feet must be paved with asphaltic concrete. Said development to be the responsibility of the underlying property owner.

Policy 3-4.8 Designate Shepherd Avenue as a scenic boulevard to be developed with a 30-foot landscaped setback to be measured from the property line.

Goal 3-6: Provide a continuous and easily accessible bikeway system within the Woodward Park Community Plan area.

Goal 3-7: Maintain bicycle facilities so that they are safe and secure.

City Policies and Standards

The project is consistent with most of the criteria of the City's Outdoor Dining Policy. This policy, adopted in August of 2007 by the Fresno City Council, authorizes outdoor dining in the public right-of-way.

The Project is consistent with City's Multipurpose Trail Standard. The proposed expansion would occupy areas of the Sugar Pine trail corridor that are currently landscaped, however the City of Fresno Multipurpose Trail standard of 26 feet width would be maintained with the proposal. The cross section includes a twelve foot (12') bike/pedestrian path, two-foot (2') shoulders on either side of the path, and a ten-foot (10') landscape strip on the non-street side of the trail (see Exhibit H).

Relevant standard:

- City of Fresno Public Works Standard P-59 shows a cross section for a trail along a major street as 26 feet in width (see Attachment H).

DIRECTOR'S ACTION ON CONDITIONAL USE PERMIT

The Development and Resource Management Department Interim Director took action on Conditional Use Permit No. C-10-231 on September 9, 2011. In accordance with Government Code Section 65091 (Planning and Zoning Law) and the Special Permit Procedure of the Fresno Municipal Code, a notice of granting of the conditional use permit application was mailed to surrounding property owners with 500 feet of the subject property. Two appeals were received during the 15-day appeal period: one from Evan Shipp on September 19, 2011 and one from Robert Merrill on behalf of the Woodward Park Homeowners' Association on September 26, 2011. These appeals are attached in Exhibit I.

APPEALS

The primary objections contained in the appeals are that the restaurant expansion encroaches into the Sugar Pine Trail corridor and sets a precedent for further use of the trail corridor in a similar manner.

Staff met with Mr. Merrill, Ms. Heisdorf and Mr. Correll of the Woodward Park Homeowner's Association on September 25, 2011 to discuss their concerns. Staff then met with the applicant Mr.

Fansler, his consultant Amber Adams (Branch Manager of Quad Knopf), Mark Keppler (Measure C Steering Committee, Founder of Coalition for Community Trails) and John Wright (prior Director of the Clovis Planning Department) on October 25th to further discuss the issues at the project location. Mr. Keppler and Mr. Wright were sought out as trail advocates who were specifically involved in the creation of the Sugar Pine Trail. Further meetings were held between staff, the applicant, and the trail advocates on February 23, and 28th, 2012. As a result of the discussions, the design options were developed, and additional conditions were recommended to ensure that the design of the proposed expansion is compatible with the trail (see revised conditions of approval in Exhibit J).

Specific concerns expressed in the appeal letters are discussed below:

1. Approval of an encroachment into the trail right-of-way sets a poor precedent for other properties adjacent to the trail;

The subject project is located on the northeast corner of Champlain and Shepherd, which is within an Activity Center as designated in Exhibit 6 of the 2025 Fresno General Plan.

As a preliminary matter, precedent is not legally a consideration or a required finding under the Fresno Municipal Code for approval or denial of a CUP. Even assuming for the sake of argument the project would set a precedent, staff based its approval of the proposed project on the fact that the location was within an Activity Center. The only other portion of the 3.5 mile long Fresno segment of the Sugar Pine Trail within an Activity Center is at the western terminus of the trail, between Audubon and Blackstone Avenues. The total lineal footage of the trail that is within in Activity Center is approximately 3,940 feet or 20% of the entire 3.5 mile length of the trail. If staff's recommendation of approval of such use of the trail is limited only to portions of the trail within Activity Centers, then a maximum of 20% of the trail could be used in this manner.

Furthermore, the project contemplates a licensing agreement subject to City Council review and approval that proposes to set out the precise conditions under which such use of the trail would be allowed, including the public benefits that must be provided in exchange for use of the corridor for private economic benefit.

2. Encroachment would inhibit clean transportation and recreation and therefore add to air quality issues;

The proposed courtyard addition into the trail corridor would not obstruct the existing 10-foot paved bicycle/pedestrian path or inhibit other types of clean transportation. The standard Multipurpose Trail width of 26 feet is maintained with the project. The proposed addition is currently located twelve (12) feet from the northern edge of the bicycle /pedestrian path and conditions of approval require that the footprint be meandered around existing trees or pushed to the north an additional ten (10) feet. Should the Sugar Pine Trail right-of-way ever be needed for installation of a public transportation system such as light rail, it is anticipated that the licensing agreement subject to City Council approval would require the applicant to relinquish the space, dismantle the improvements, and return the trail corridor to its current condition.

3. Funding for trail was tied to non-vehicular and clean transportation and recreation;

All specifics related to trail funding restrictions are contractual issues and are anticipated to be addressed by an agreement subject to City Council review and approval as to a policy direction. On the other hand, whether to approve a CUP is strictly a land use issue – not a contractual one. Here the criteria for approving a CUP is set by the Fresno Municipal Code, and these mandatory requirements must be applied to this land use matter.

4. The trail already has some design issues in the vicinity (road cuts and lack of limit lines);

The proposed project does not propose any additional trail crossings or change/ obscure the limit lines. Pedestrian and bike traffic will be able to use the designated pathways currently in existence.

5. Expansion could occur in parking lot on north side of building;

The availability of potential alternative project locations is not a criteria established by the Fresno Municipal Code for approval of a CUP.

6. If restaurant goes out of business, income to city is not reliable.

If guaranteed income were the criteria for approval of an entitlement, then arguably no CUP would ever be approved as any business could potentially go out of business. Instead, approval of a CUP is strictly a land use issue that must be based on the criteria required by the Fresno Municipal Code. Whether to take the risk of renting or licensing use of the property is a policy matter, subject to subsequent review and potential approval by the City Council.

CONDITIONS OF APPROVAL

The original conditions of approval (issued on September 9, 2011 but set aside by the appeals) included standard conditions as well as a project specific condition requiring the approval of an agreement between the applicant and the City of Fresno for use of the trail (see Exhibit J for proposed Conditions of Approval). In response to the appeal, options for design modifications are presented here for Planning Commission consideration. The options include four variations which would either reduce the footprint of the restaurant expansion within the trail corridor, make the building envelope more open, or both:

1. OPTION A: APPLICANT'S PROPOSAL (BASELINE):

Total SF of Encroachment into trail corridor: 1,775 SF
Lineal Encroachment into trail corridor: 30 feet
Distance from northern edge of asphalt bike path: 11.5 feet
Enclosure Type: Solid 12 foot walls on 4 sides with large windows and open/trellised roof

2. OPTION B: REDUCED ENCROACHMENT

Total SF of Encroachment into trail corridor: 1,775 SF
Lineal Encroachment into trail corridor: 20 feet
Distance from northern edge of asphalt bike path: 21.5 feet
Enclosure Type: Solid 12 foot walls on 4 sides with large windows and open/trellised roof

3. OPTION C: LIGHTER BUILDING STRUCTURE

Total SF of Encroachment into trail corridor: 1,775 SF
Lineal Encroachment into trail corridor: 30 feet
Distance from northern edge of asphalt bike path: 11.5 feet
Enclosure Type: Maximum 42-inch high barrier consisting of berm, wood, stucco, stone or hedge (or combination thereof) and trellis type upper structure

4. OPTION D: COMBO: REDUCED ENCROACHMENT AND LIGHTER BUILDING STRUCTURE

Total SF of Encroachment into trail corridor: 1,775 SF
Lineal Encroachment into trail corridor: 20 feet
Distance from northern edge of asphalt bike path: 21.5 feet
Enclosure Type: Maximum 42-inch high barrier consisting of berm, wood, stucco, stone or hedge (or combination thereof) and trellis type upper structure

For all options, conditions require that the following amenities be added to the trail:

1. Interpretive display about the Sugar Pine Railroad;
2. Replacement of all trees removed with mature specimens (approximately 12 trees are proposed for removal under the applicant's proposal);
3. Creation of a rest stop for trail users which would include bike parking, outdoor seating, a drinking fountain, etc.

It should be noted that since the approval of the terms of any agreement by the City Council is purely a policy issue, setting the exact terms of the agreement through the conditions of approval on an entitlement is outside the authority of anyone except the City Council. The conditions were instead modified to clarify that approval of the CUP does not approve or authorize either co-applicant to utilize or trespass on the property of the other. As such, if this CUP were approved, co-applicant Yosemite Ranch Investors, LLC, would still not be authorized to build or use the City's property located on the Sugar Pine Trail unless independently authorized by the City Council.

PUBLIC NOTICE AND COMMENT

Property owners within 500 feet of the Via Montana shopping center were mailed a notice of granting on September 9 when the project was approved by the Interim Director. The property owners within 500 feet of the affected properties, plus any interested parties who requested to be added to the mailing list, were mailed the notice for the March 7, 2012 planning commission public hearing on February 24, 2012 (noticing map attached as Exhibit D).

The District 6 Plan Implementation Committee reviewed and approved the project on January 31, 2011 by a 5-0-3 vote. The Dominion Homeowner's Association was also consulted in February, 2011.

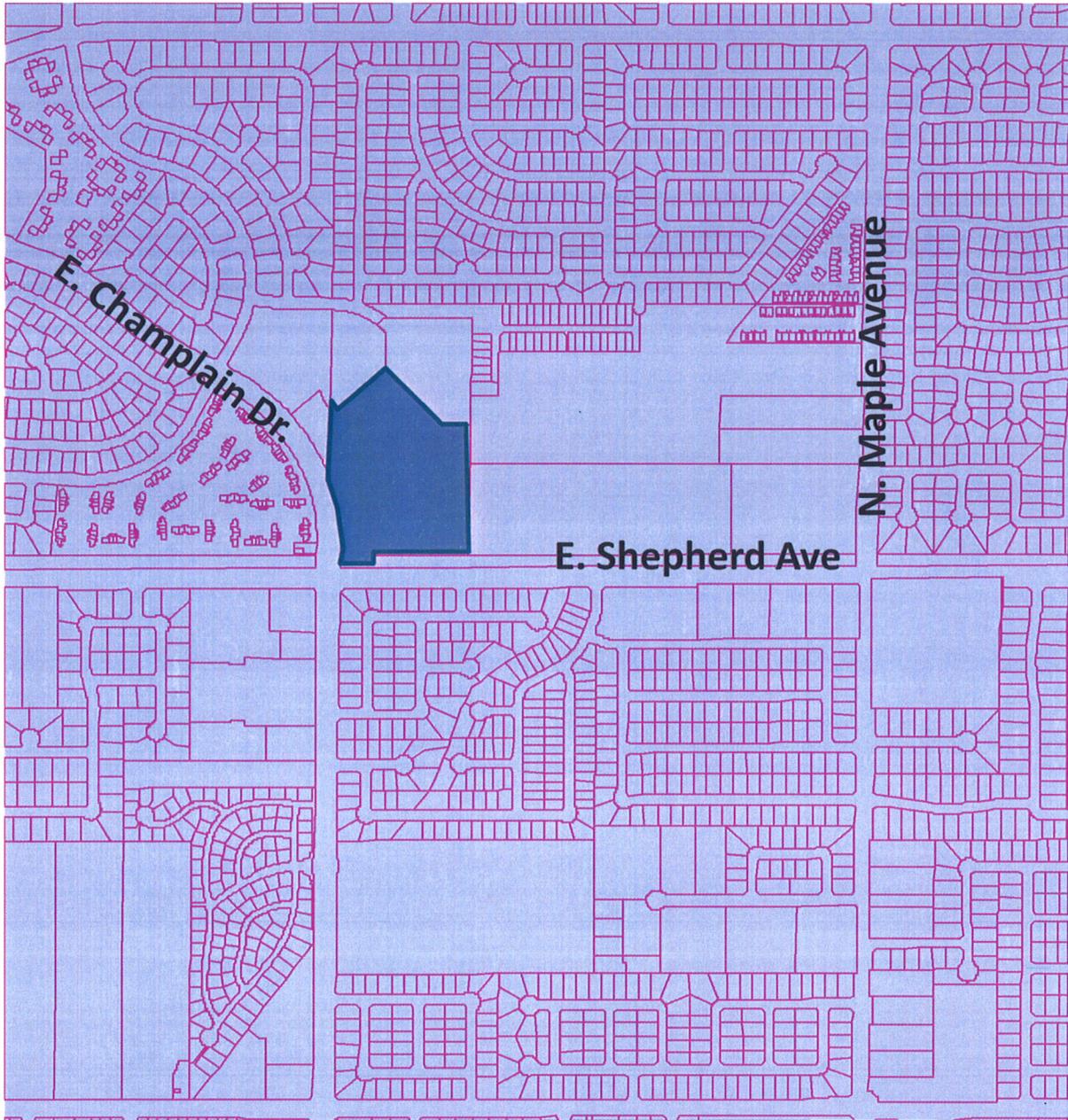
CONDITIONAL USE PERMIT FINDINGS

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>	
<i>Finding a:</i>	Conditional Use Permit Application No. C-10-231 complies with all of the provisions in the zoning ordinance related to yards, spaces, walls and fences, parking, loading, recycling areas, landscaping and other required features. Setback along Shepherd was averaged and still meets overall setback requirements; landscaping requirements addressed in Public Works memo dated January 4, 2011; parking requirements met pursuant to FMC Section 12-306-I-2.1-b and Variance V-01-017.
<i>b. The site for the proposed use relates to streets and highways adequate in width and pavement type to carry the quantity and kind of traffic generated by the proposed use; and,</i>	
<i>Finding b:</i>	A traffic study was not required for the request; traffic-related impacts were considered less than significant as the project was estimated to generate 286 average daily trips and 26 peak hour trips (threshold for Traffic Impact Study requirement is 100 peak hour trips). The adjacent roadways are both 4 lane divided arterials that function within their capacity today and are estimated to function at Level of Service D in the year 2025 (general plan buildout), which is consistent with the circulation element of the general plan.
<i>c. The proposed use will not be detrimental to the public welfare or injurious to property or improvements in the area in which the property is located. The third finding shall not apply to uses which are subject to the provision of Section 12-306-N-30 of this Code.</i>	
<i>Finding c:</i>	Approval of Conditional Use Permit Application No. C-10-231 would not be detrimental to those properties in the vicinity or detrimental to public welfare, with conditions of approval imposed. All plan policies and standards required by the Fresno Municipal Code have been applied to the proposed project as applicable to ensure compatibility with those surrounding land uses and to prevent any detriment to public welfare. Conditions of approval require compliance with all applicable local, state and federal regulations, as well as specific design changes to ensure compatibility with the trail. Conditions also include a licensing agreement which stipulates the public benefits to be provided in exchange for private use of space. These include lease payments, maintenance of the trail, and the posting of a bond for removal of all improvements, among other provisions.

Exhibits:

- A. Vicinity Map
- B. Aerial Photograph, 2008
- C. Planned Land Use Map
- D. Noticing Map
- E. Environmental Assessment
- F. Exhibit 6 of General Plan
- G. Multipurpose Trail Standard
- H. Trail Maintenance Limits
- I. Appeal Letters
- J. Conditions of Approval
- K. Site Plan/Elevations
- L. Operational Statement

Exhibit A
Vicinity Map



Subject Property



Not To Scale

VICINITY MAP

Conditional Use Permit No.
C-10-231

PROPERTY ADDRESS

**1520 East Champlain Drive
and
Sugar Pine Trail**

DEVELOPMENT AND RESOURCE MANAGEMENT DEPARTMENT

APN: 567-030-69, 567-010-04T
Zone District:
C-1 (*Neighborhood Commercial District*)
By: S. Pagoulatos, March 2, 2012

Exhibit B
Aerial Photographs, 2008



Via Montana Shopping Center

Project Location

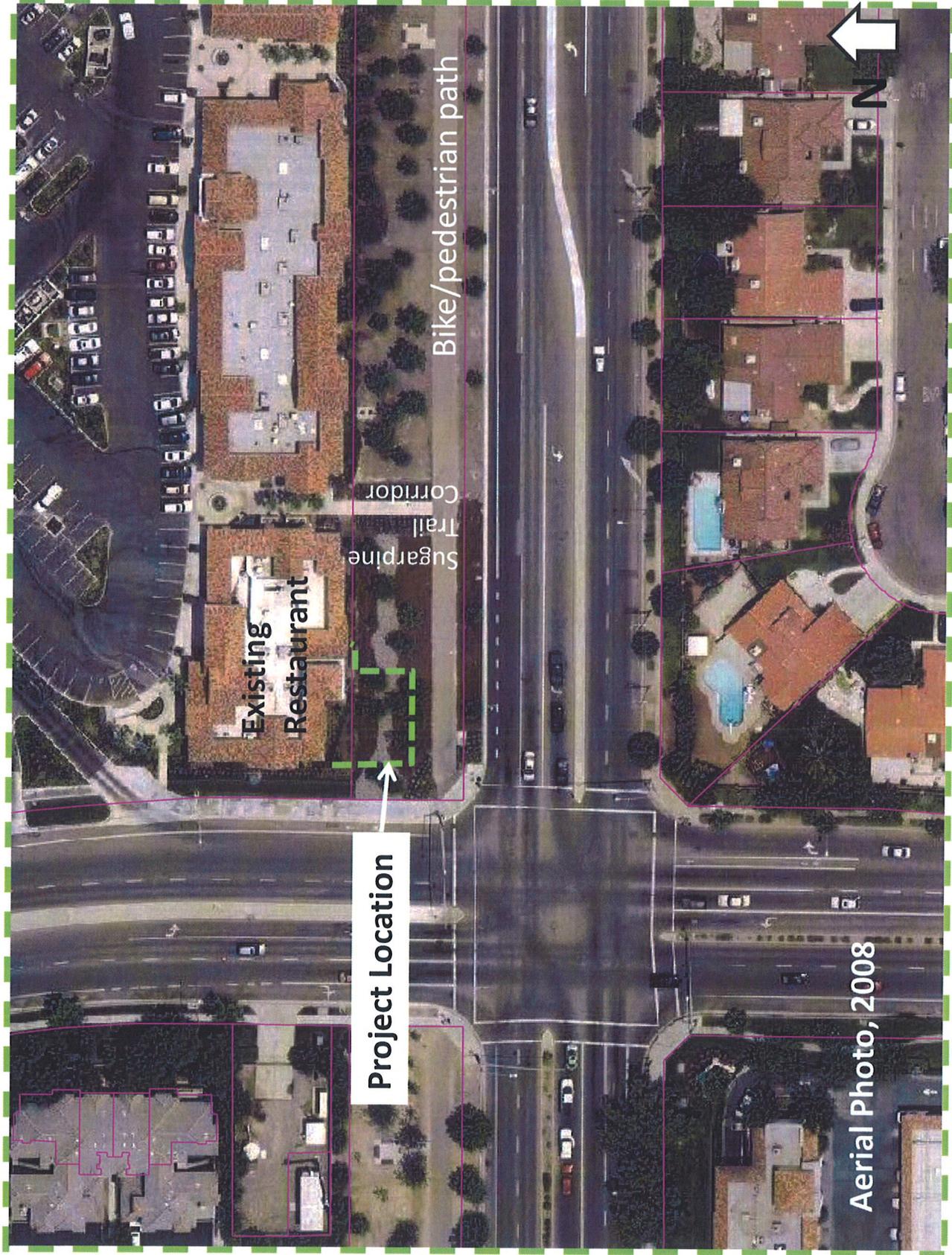


E. Shepherd Avenue

E. Champlain Drive

Sugarpine Trail

Aerial Photo, 2008



Existing Restaurant

Sugarline Trail Corridor

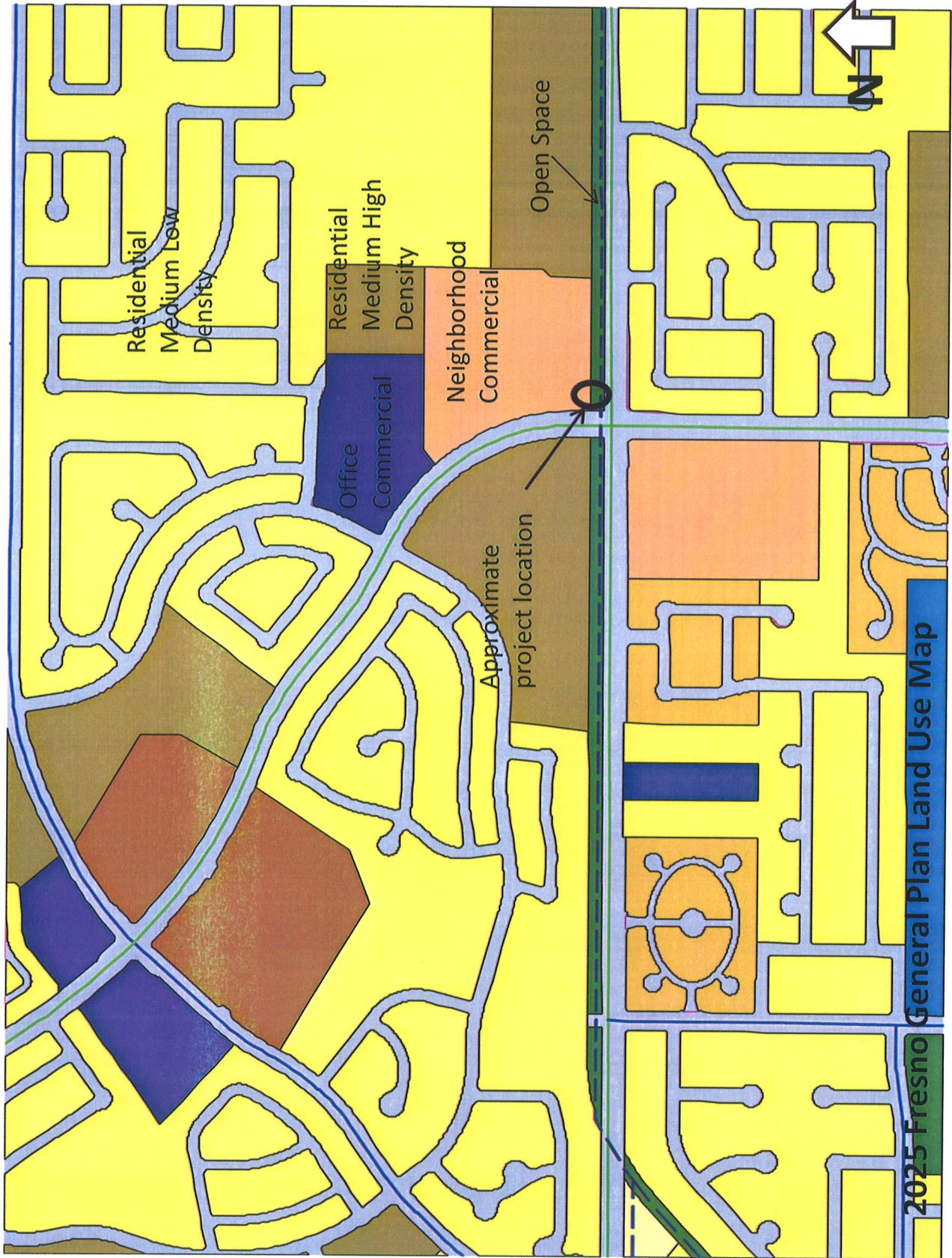
Bike/pedestrian path

Project Location

Aerial Photo, 2008



Exhibit C
Planned Land Use Map



Residential
Medium Low
Density

Residential
Medium High
Density

Office
Commercial

Neighborhood
Commercial

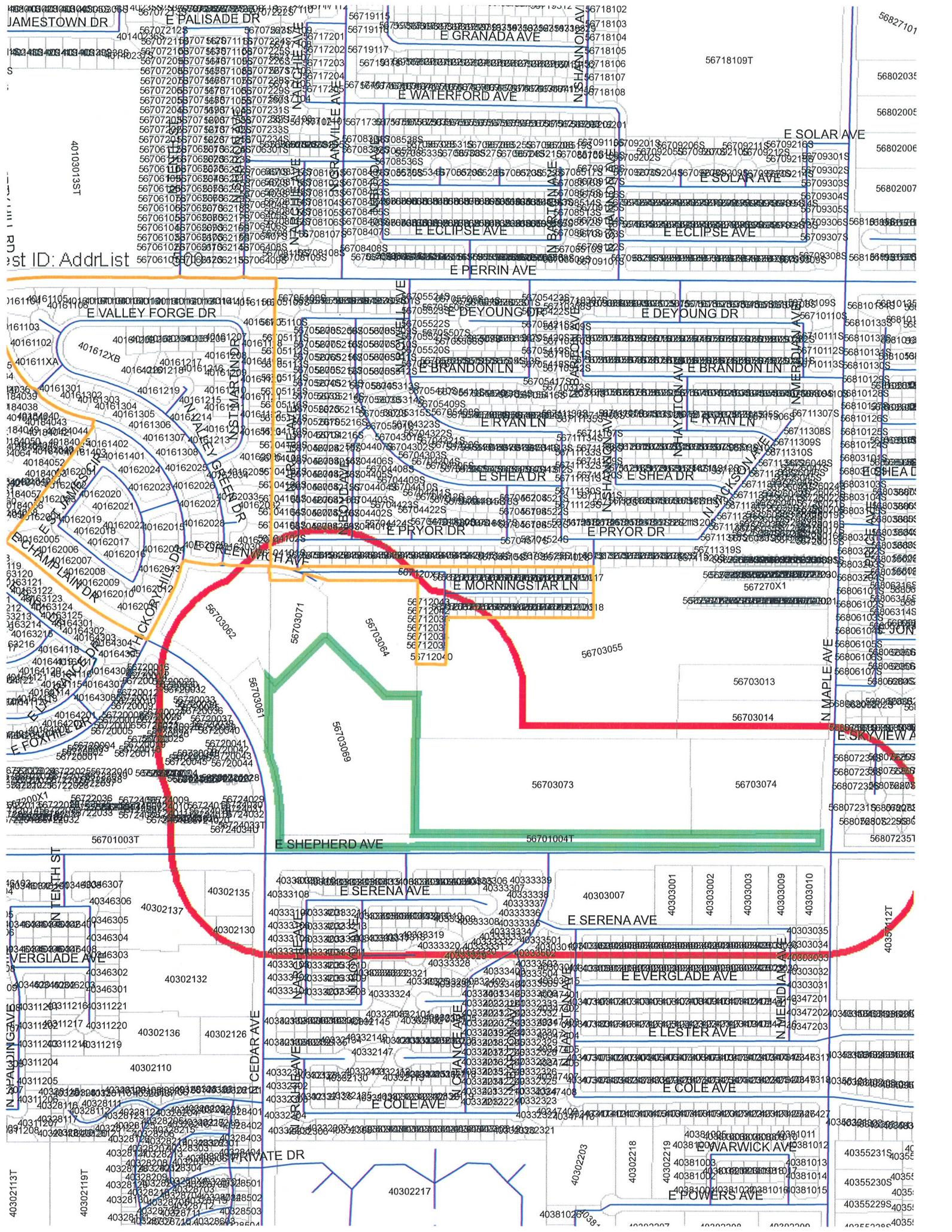
Open Space

Approximate
project location



2025 Fresno General Plan Land Use Map

Exhibit D
Noticing Map



st ID: AddrList

4030211T

56827101

5680203E

5680200E

5680200E

5680200E

5681030E

Exhibit E
Environmental Assessment

**CITY OF FRESNO
CATEGORICAL EXEMPTION
ENVIRONMENTAL ASSESSMENT NO. C-10-231**

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: City of Fresno and
Amber Adams, Branch Manager
Quad Knopf, on behalf of Yosemite Ranch Investors, LLC
6052 North Fresno Street
Fresno, CA 93710

PROJECT LOCATION: **Yosemite Ranch Restaurant and adjacent portion of Sugar
Pine Trail
1520 E. Champlain Drive
Fresno, CA 93720
(APN: 567-030-69, 567-010-04T)**

PROJECT DESCRIPTION: Conditional Use Permit Application No. C-10-231 was filed by Amber Adams of Quad Knopf on behalf of Yosemite Ranch Investors, LLC and pertains to an expansion of an existing restaurant located in the 11.08 acre Via Montaña Shopping Center and a portion of the Sugar Pine Trail on the northeast corner of East Champlain Drive and East Shepherd Avenue. The applicant requests authorization to expand the existing 7,320 square foot Yosemite Ranch Restaurant by approximately 2,408 square feet. The expansion is proposed to be courtyard style on the south side of the building with a full service restaurant/bar area and seating for approximately 80 people. The addition is proposed to be constructed primarily within the 60-foot wide Sugar Pine Trail corridor, encroaching into the northern half of the trail by approximately 30 feet, leaving approximately 12 feet clear between its southernmost wall and the paved bicycle/pedestrian trail. The applicant has a State of California Alcoholic Beverage Control Type 47 license (*sale of beer, wine, and distilled spirits for consumption on the licensed premises*) which was approved through Conditional Use Permit No. C-05-232 when the restaurant was established. Conditional Use Permit C-10-231 is required to allow the alcohol use to occur within the proposed expansion. The property is zoned C-1/UGM/cz (*Neighborhood Shopping Center/Urban Growth Management/conditions of zoning*) and is located within the Woodward Park Community Plan and the 2025 Fresno General Plan areas.

The project includes a licensing agreement for the proposed use of the Sugar Pine Trail. This agreement, which requires approval by the City Council, stipulates the terms under which the expansion could be placed in the Sugar Pine Trail corridor. Requirements include lease payments, trail maintenance, and the posting of a bond to remove all improvements upon request by the City (should the trail be needed for the construction of a transportation

This project is exempt under Sections 15301/Class 1, 15303/Class 3, 15304/Class 4 and 15305/Class 5 of the California Environmental Quality Act (CEQA) Guidelines.

EXPLANATION: Section 15301, Class 1 exempts the permitting, leasing, licensing and minor alteration of existing public or private structures, facilities, or topographical features involving negligible or no expansion of use beyond that existing at the time of the lead agency's determination. Such projects would include additions to structures not exceeding 50% of the floor area of structures before the addition, or 2,500 square feet, whichever is less.

The proposed project, a 2,408 square foot addition to an existing 7,320 square foot restaurant, meets the size requirement noted above or less than 2,500 square feet or 50% of the floor area before the addition (3,660 square feet in this case), whichever is less. In addition, the expansion of the Department of Alcoholic Beverage Control License (ABC License) is covered by this exemption, as is the required licensing agreement for use of a portion of the Sugarpine Trail corridor.

Section 15303/Class 3 exempts the construction and location of limited numbers of new, small facilities or structures from further environmental review subject to certain criteria. Specifically, in urbanized areas, 4 buildings of up 2,500 square feet in floor area on sites zoned for such use if not involving the use of significant amounts of hazardous substances where all necessary public services and facilities are available and the surrounding area is not environmentally sensitive are allowed under the exemption. The project proposes a 2,408 square foot expansion of an existing restaurant in a fully urbanized area in which all public services and facilities are available (as evidenced by comment memoranda in project file from local urban service providers). The area is not environmentally sensitive according to any adopted policy or plan. A portion of the expansion is proposed to encroach into the Sugar Pine Trail corridor and add an interactive component. Some non-native landscaping will be removed and replaced in kind.

Section 15304/Class 4 exempts minor public or private alterations in the condition of land, water and/or vegetation which do not involve removal of healthy, mature, scenic trees, including new gardening or landscaping (including replacement of conventional landscaping with drought tolerant landscaping); minor temporary use of land having negligible or no permanent effects on the environment, including carnivals, sales of Christmas trees, etc; minor trenching and backfilling where the surface is restored.

The proposed project is an expansion of a restaurant into a portion of the Sugarpine Trail corridor. While approximately twelve (12) 11-year old non-native trees will be removed, they are not designated as "scenic" by any city ordinance or policy, and will be transplanted on the same site or replaced with similar-sized specimens as called for in the conditions of approval. Secondly, the proposed addition is considered "temporary" in the licensing agreement required in the conditions of approval, as the agreement requires the owner to remove all improvements if required by the City of Fresno and to bond for such removal.

None of the exceptions to Categorical Exemptions set forth in the CEQA Guidelines, section 15300.2 apply to this project.

Date: October 31, 2011

Prepared By: Sophia Pagoulatos, Supervising Planner

Submitted By:



City of Fresno
Development and Resource Management Department
(559) 621-8062

Exhibit F
Exhibit 6
2025 Fresno General Plan

EXHIBIT 6

2025 Fresno General Plan Urban Form Components Map (For Future Study)



LEGEND

- 2025 Fresno General Plan Urban Boundary and Sphere of Influence Addition
- Fresno City Sphere of Influence and 1983 Joint Planning Resolution Urban Boundary (as of February 2002)
- Fresno City Limits (as of February 2002)
- Centre City
- Adopted Freeway 41 Mid & High Rise Corridor
- Potential Activity Centers
- Potential Linear Intensity Corridors

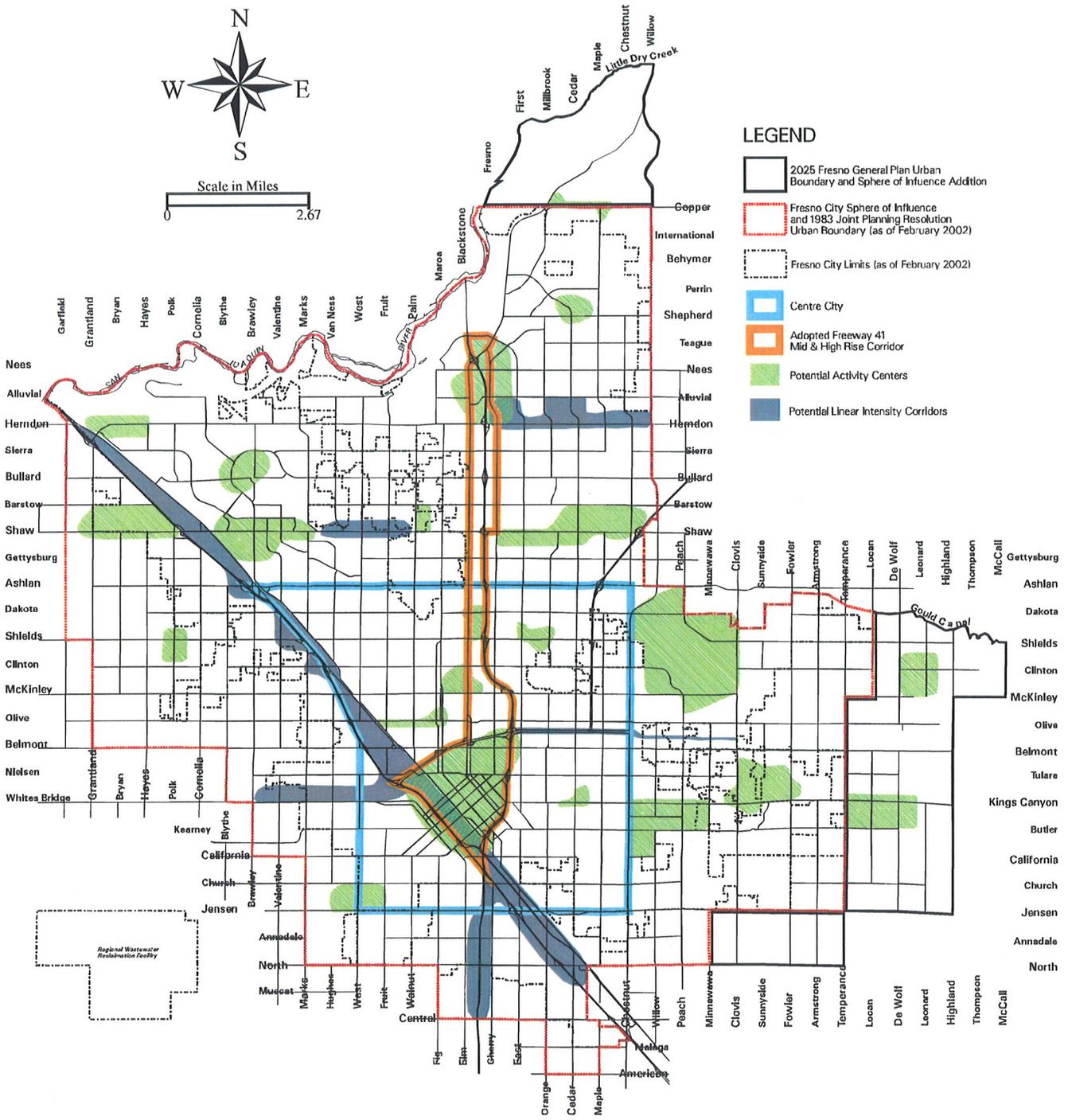
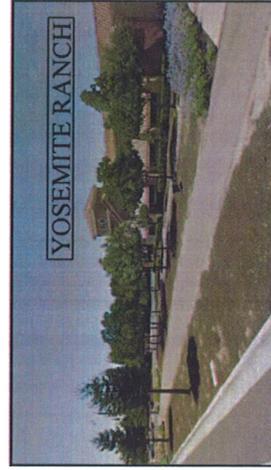
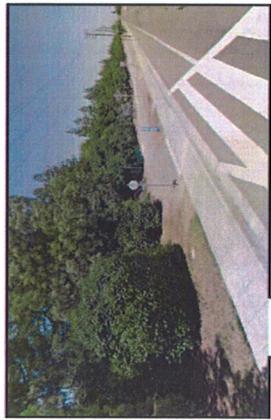


Exhibit G
Trail Maintenance Limits

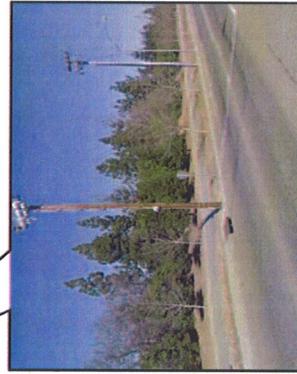
YOSEMITE RANCH TRAIL MAINTENANCE LIMITS



LIMITS OF TRAIL MAINTENANCE



LIMITS OF TRAIL MAINTENANCE



NOT TO SCALE

PREPARED BY:



Quad Knopf

6051 N. Fresno Street, #200
 Fresno, CA 93710
 Tel: (559) 449-2400
 Fax: (559) 435-2905
 www.quadknopf.com

Exhibit H
Multipurpose Trail Standard

R=154' MIN based on 25mph

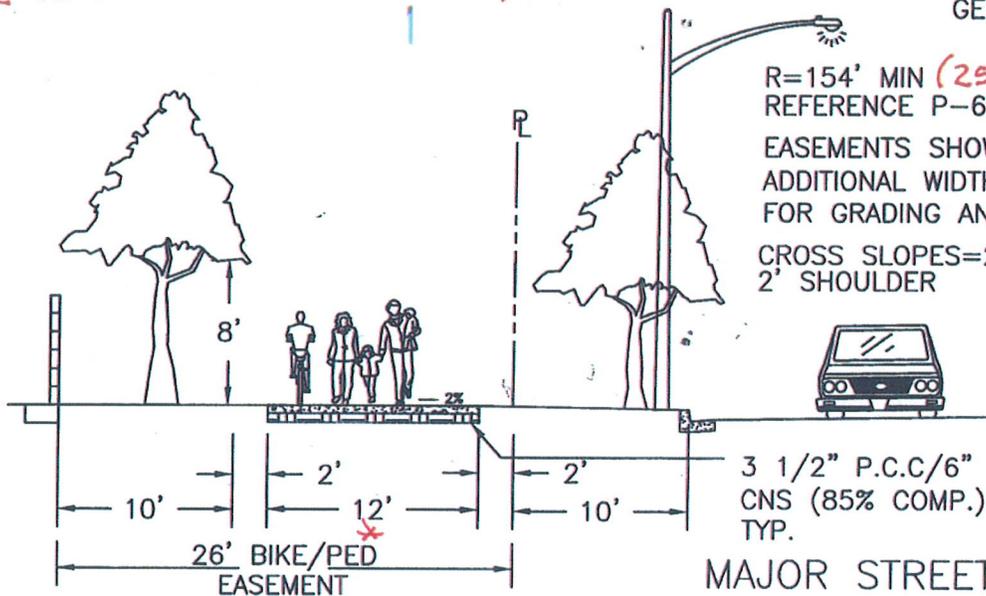
GENERAL NOTES:

R=154' MIN (25mph)
REFERENCE P-60

EASEMENTS SHOWN ARE MINIMUMS.
ADDITIONAL WIDTHS MAY BE NEEDED
FOR GRADING AND DRAINAGE PURPOSES.

CROSS SLOPES=2% FOR TRAIL AND
2' SHOULDER

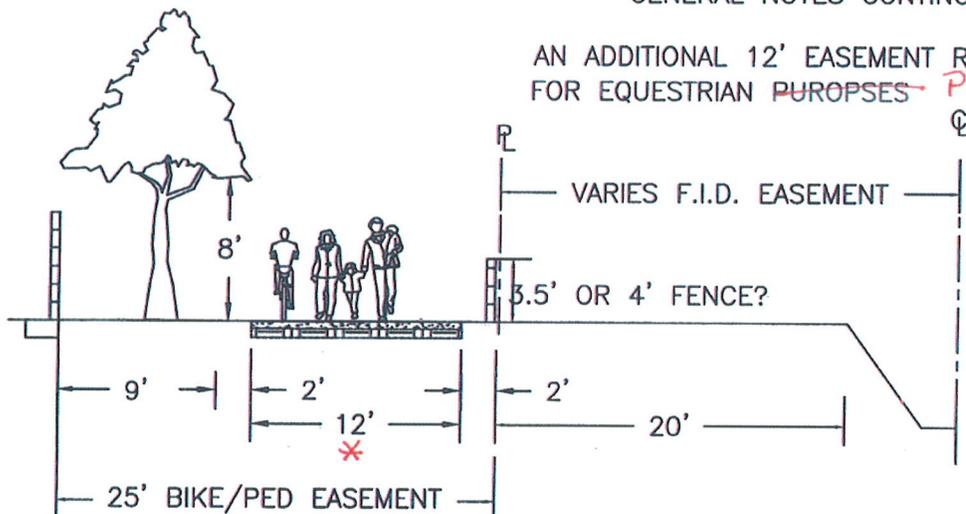
4' FENCE REQ'D
ON EXPRESSWAY
REF P-74 + P-75



MAJOR STREET TRAIL

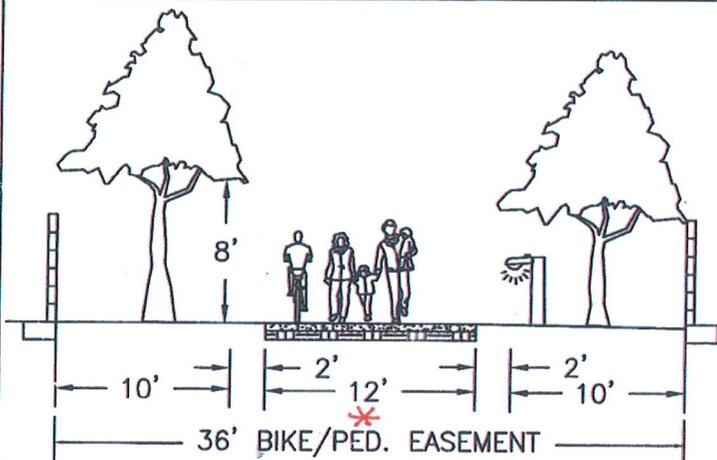
GENERAL NOTES CONTINUED:

AN ADDITIONAL 12' EASEMENT REQUIRED
FOR EQUESTRIAN PURPOSES - PURPOSES

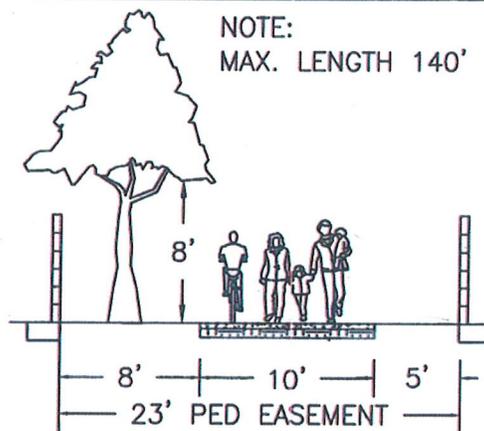


CANAL-SIDE TRAIL

NOTE:
MAX. LENGTH 140'



OFF-STREET TRAIL



CONNECTOR TRAIL

TRAIL DETAILS DRAFT

REF. & REV.
P-60

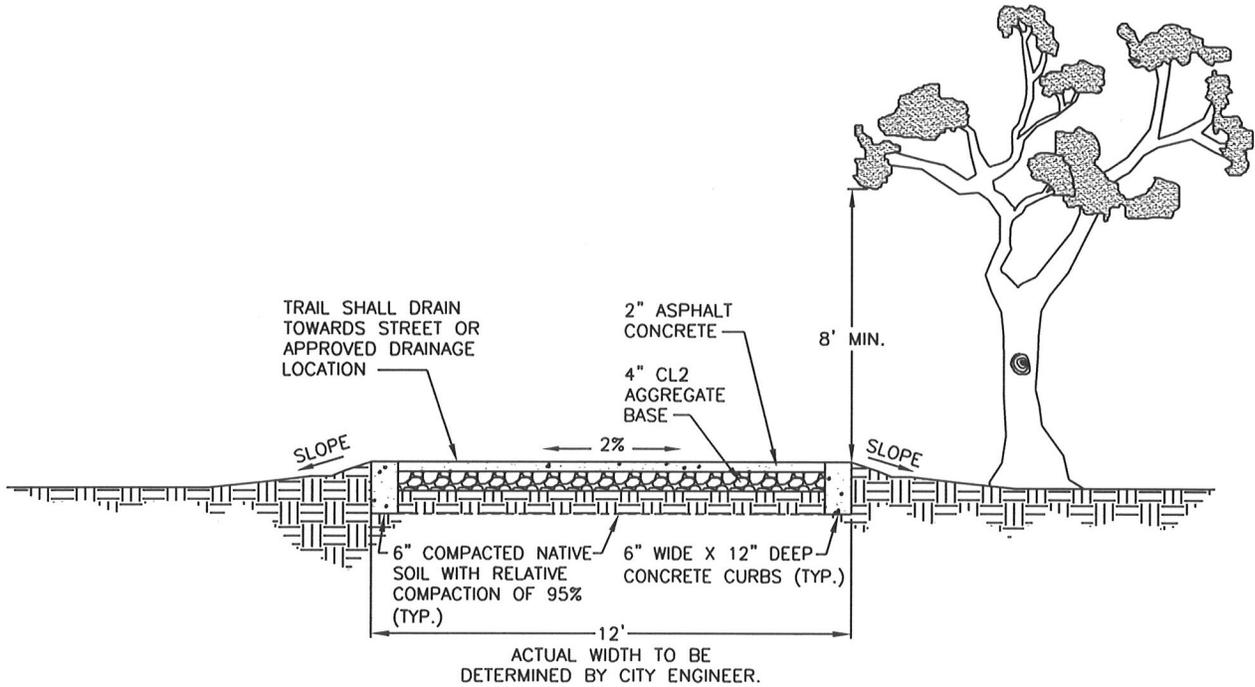
CITY OF FRESNO

P-59

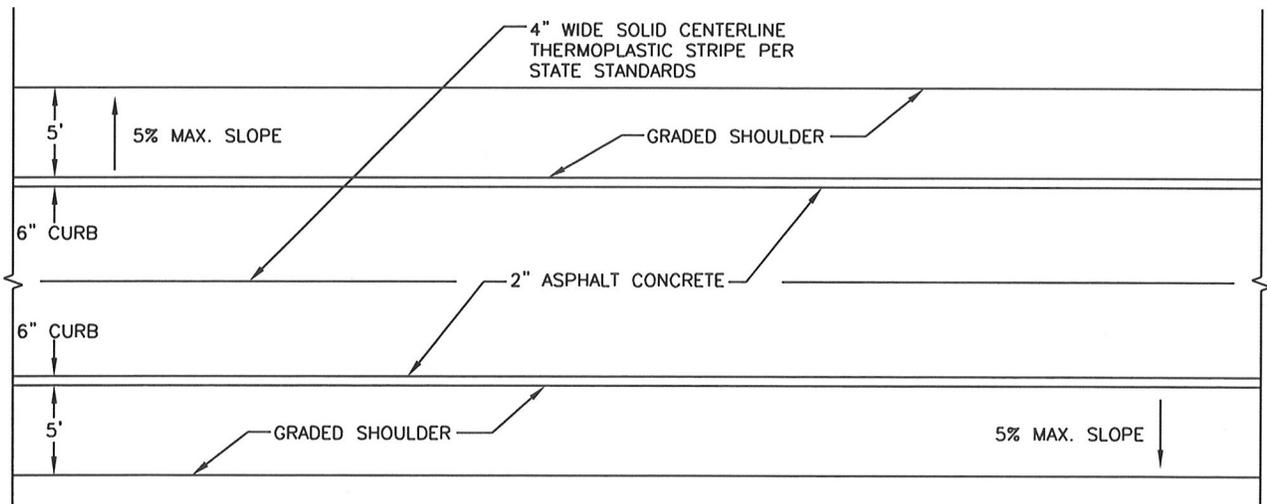
*? DISCREPANCY ASPHALT SHOWS 12
CONCRETE 10-12

NOTES:

1. THIS STANDARD SHALL BE USED ONLY UPON APPROVAL BY CITY ENGINEER.
2. THIS STANDARD SHALL NOT BE USED IN AREAS OF INUNDATION.
3. CITY ENGINEER MAY PERMIT A CURVILINEAR DESIGN. PRECISE DATA SHALL BE PROVIDED TO STAKE THE ALIGNMENT AND SET APPROPRIATE GRADES.



ELEVATION VIEW



PLAN VIEW

Exhibit I
Appeal Letters

September 19, 2011

Sophia Pagoulatos
Development and Resource Management Department
2600 Fresno Street, Room 3076
Fresno, CA 93721

**Subject: APPEAL OF SPECIAL PERMIT CONDITIONAL USE PERMIT
APPLICATION NO. C-10-231**

Dear Ms. Pagoulatos:

This letter is an appeal of the subject special use permit granting encroachment on the Sugar Pine Trail by Yosemite Ranch. I have interest in this project as a Sugar Pine trail user.

I am very concerned about the Yosemite Ranch encroachment on the Sugar Pine Trail. This sets up a poor precedent for other neighbors on the trail. Yosemite Ranch should not be allowed to block the trail or use any part of the trail. To do this violates the public trust as the funding for the trail came from traffic and air quality mitigation REMOVE grants. This encroachment would inhibit clean transportation and recreation and therefore add to air quality issues that are endemic to the Fresno area. In addition, should the encroachment be allowed, Yosemite Ranch should be required to pay mitigation fees.

I am an avid bicyclist, runner, and skater and this public right away is a gem for Fresno. On any day there are hundreds to thousands of trail users and the trail should be maintained as a corridor for non-vehicular and clean transportation and recreation. In addition, the trail hosts many citizen athletic events that bring revenue into the local economy. Currently, the trail has problems in the vicinity due to road cuts and the lack of limit lines. Let's not create more problems by adding this encroachment.

Sincerely,



Evan M. Shipp



WOODWARD PARK HOMEOWNERS ASSOCIATION, Inc.

Vince Correll, President 439-8404 Robert Merrill, Vice president 434-8046 Joan Heisdorf, Secretary & Treasurer 559-478-9214

September 26, 2011

Sophia Pagoulatos
Development and Resource Management Department
2600 Fresno Street, Room 3076
Fresno, CA 93721



Subject: Appeal of Conditional Use Permit Application No. C-10-231

(Encroachment onto Sugar Pine Trail right of way at NE corner East Shepherd Ave. and East Champlain Drive by Yosemite Ranch)

The Yosemite Ranch Restaurant proposes taking 32.3 feet of the 60 foot wide right of way from the Sugar Pine Trail to construct an enclosed patio type dining facility. If approved by the Fresno City Council, this would be a private **TAKING** of public land via a lease agreement with the City of Fresno. This enclosed patio dining facility would change the ambiance of the Sugar Pine Trail. Once the trail's integrity is broken, other businesses could cite this as a precedent and request similar invasion into the right of way for the trail.

The City of Fresno under its new administration, is promoting a policy of encouraging sidewalk cafes in the downtown area. But the northeast corner of Champlain and Shepherd is NOT an urban area. There are other suburban shopping centers with outdoor cafes (see photos Exhibit A and B), but these outdoor cafes extend into the parking lot part of those locations, NOT into the park like setting of the Sugar Pine Trail built by the City and augmented by volunteer efforts.

There is no logical reason that the owner of Yosemite Ranch could not build his patio dining facility into the parking lot on the North side of his business. Exhibit C illustrates a current view of that area, and Exhibit D is a map diagram for alternative locations where a sidewalk style café could be constructed. In fact, it could enhance that area with trees and the more open character typical of sidewalk cafes which tend not to have permanent walls with window openings. Additionally, there is plenty of space on the North side of the Yosemite Ranch building for the construction of an outdoor eating area to include part of a parking lot that is never filled to capacity. Examples of successful sidewalk cafes adjacent to a parking lot can be seen in the Fig Garden Center with the Patio Café, and La Boulangerie (Exhibits A and B).

Furthermore, it is my recollection that some of the features of the Sugar Pine Trail were built with Measure C funds, and numerous volunteer efforts. Also, as a pedestrian and bike trail it aligns with the City of Fresno's efforts to reduce Greenhouse gasses via land-use planning as required by SB375.

Finally, restaurants often go bankrupt and such space is empty for a period of time. Thus any guarantee of income to the City is unreliable over the long term. Similar problems arise with any maintenance agreement for a part of the Sugar Pine Trail, just as have past verbal agreements for driveways cut across the trail. Building within the confines of the privately owned shopping center is a far better solution.

As a frequent user of the Sugar Pine Trail for air quality, healthy exercise, and visual ambiance, I am opposed to this conditional use permit, and any encroachments into the right of way of the Trail.

Sincerely,

Robert D. Merrill
for Woodward Park Homeowners Association

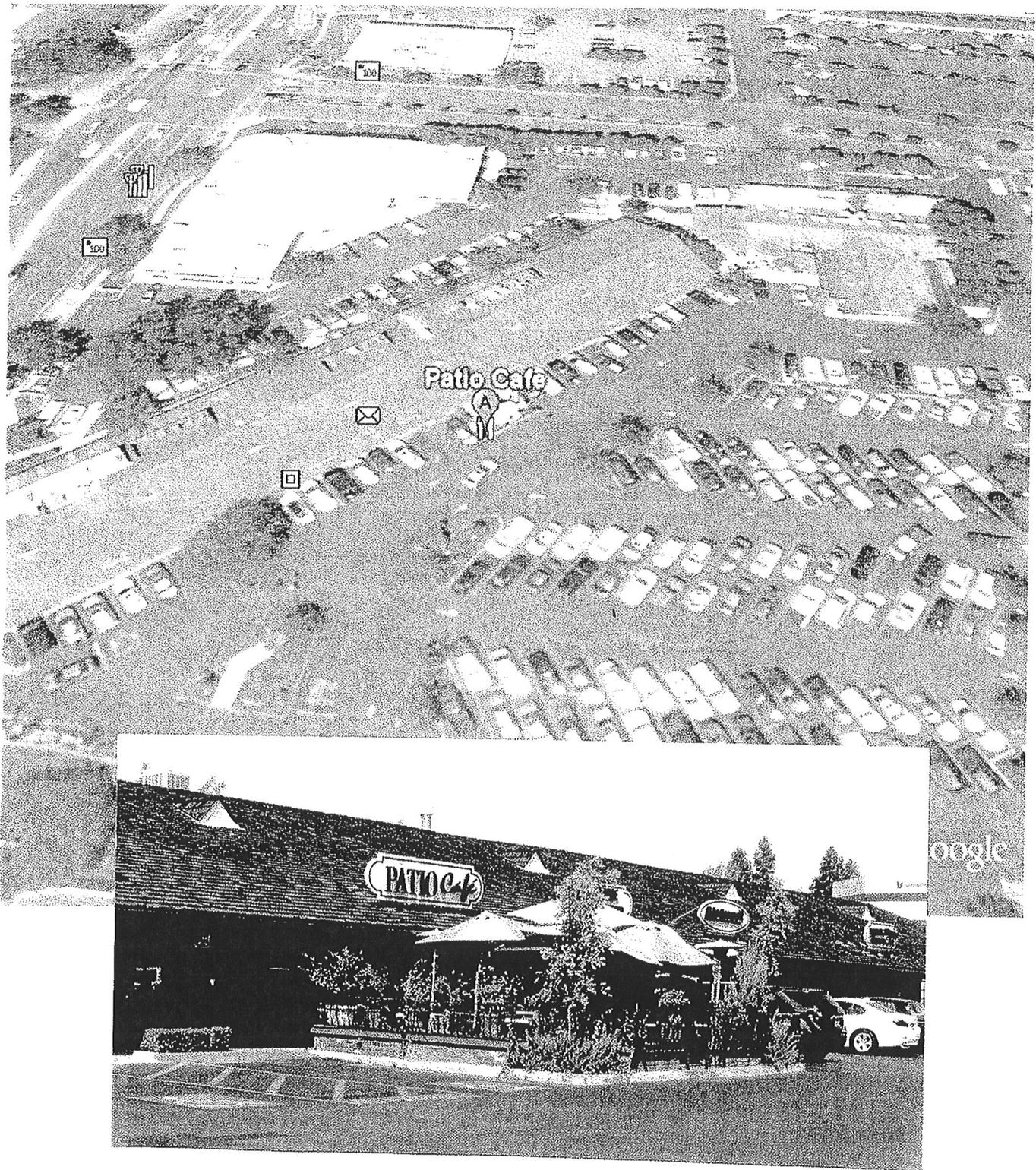


Exhibit A Patto Café at Fig Garden Village.

Top Photo: Vertical view illustrates sidewalk café extension into parking lot.

Lower photo: Ground level also illustrates how plants and umbrellas create an attractive ambiance.

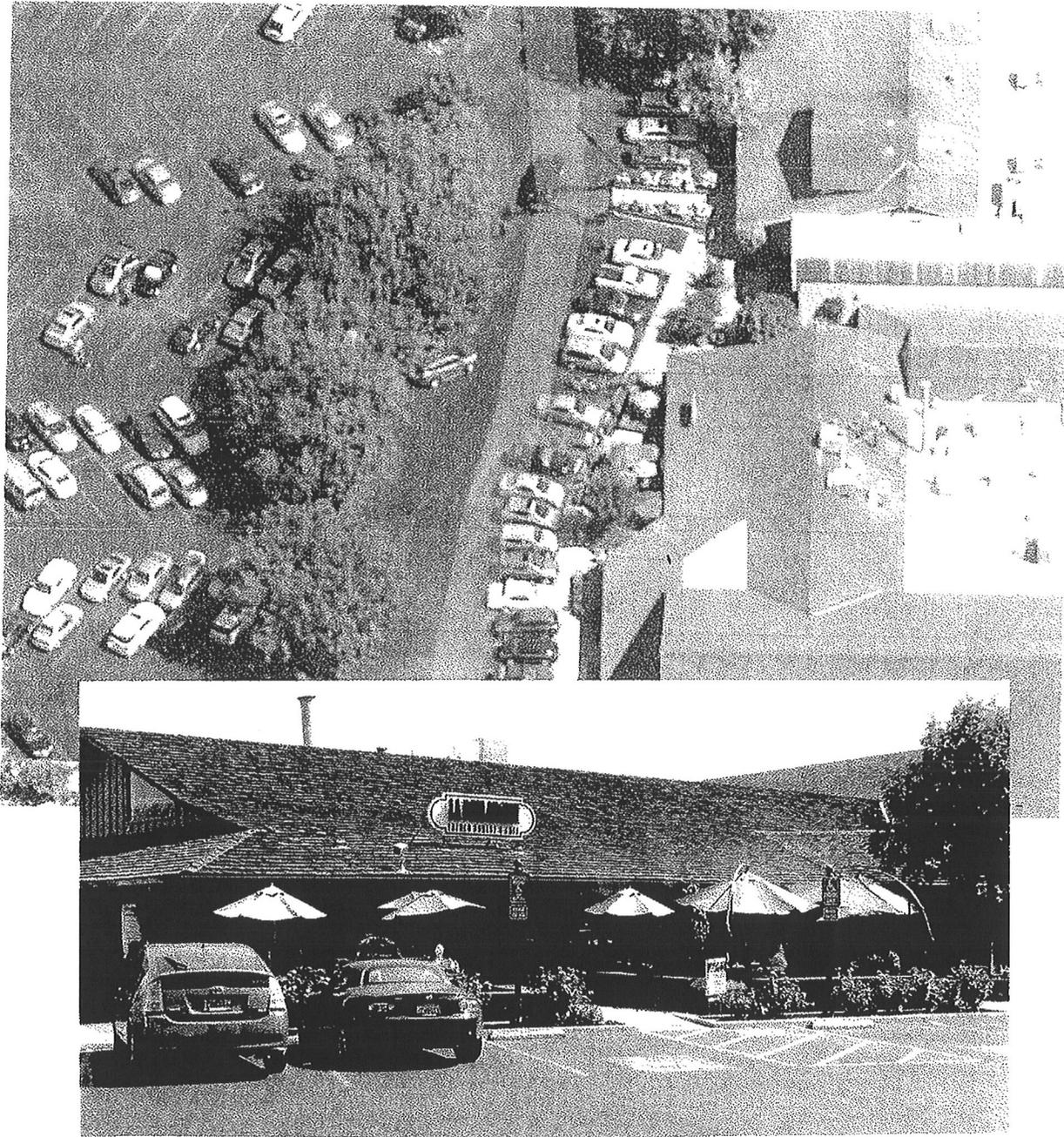


Exhibit B La Boulangerie sidewalk café at Fig Garden Village.

Top photo: Vertical view illustrates how umbrellas and plants add to the
ambiance of the setting in spite of adjacent parking lot.

Lower photo: Ground level photo illustrates the ambiance of this sidewalk
café at edge of parking lot.

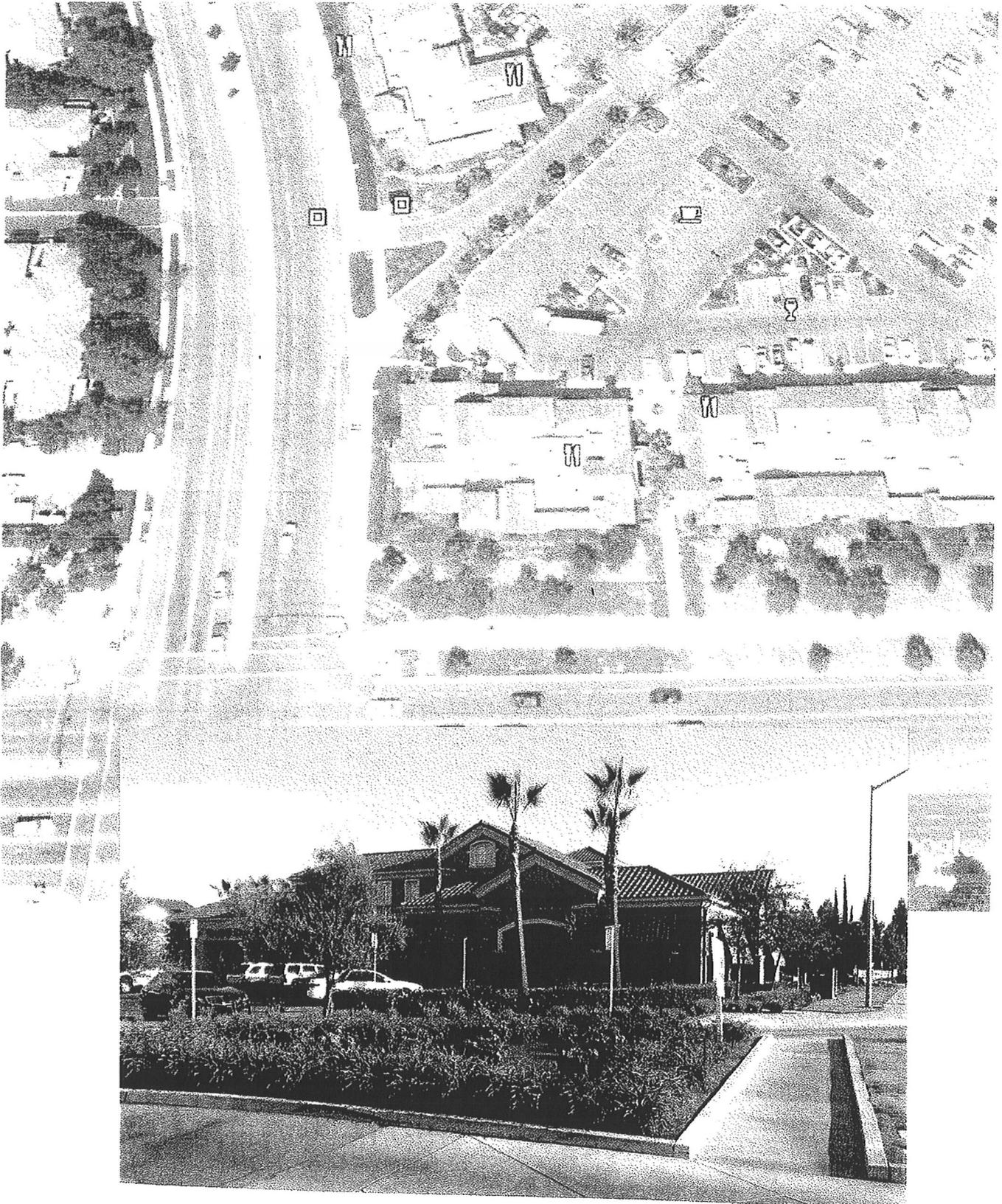


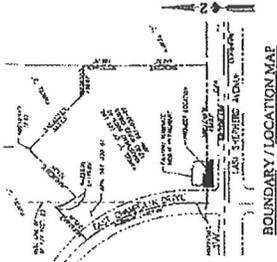
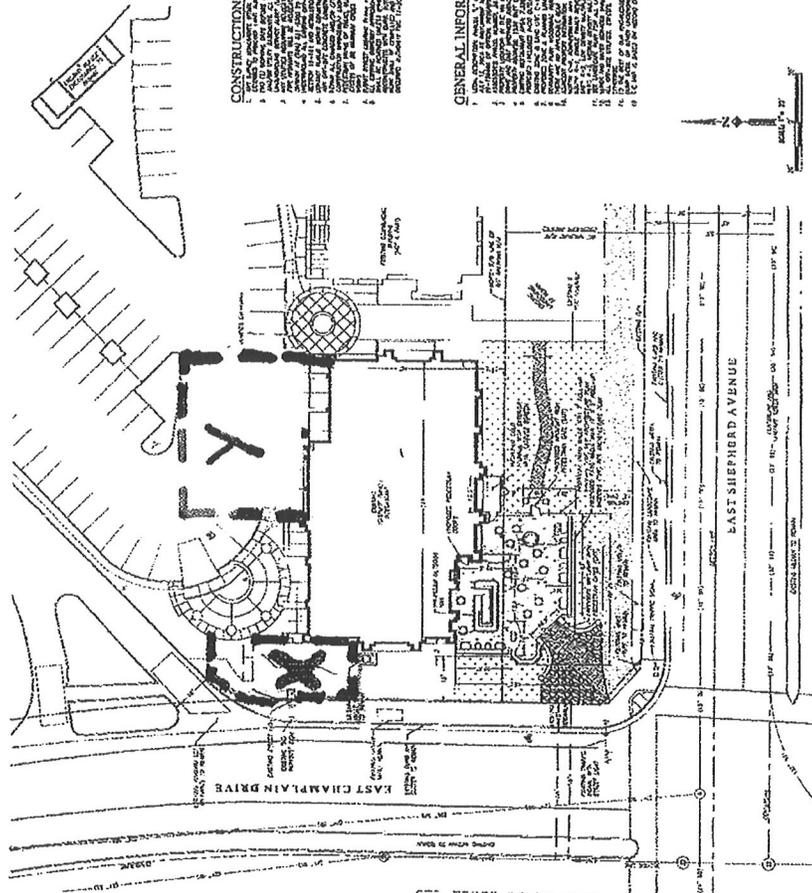
Exhibit C Top photo: Vertical photo of Yosemite Ranch Restaurant and adjacent parking lot. Lower photo: Ground level photo of current parking lot at Yosemite Ranch Restaurant where a sidewalk type dining area could be constructed.

YOSEMITE RANCH / SUGAR PINE TRAIL PATIO OUTLOOK

OWNER:
M. L. LONCALI
2400 1/2 ST
SANTA ANA, CA 92705

APPLICANT:
M. L. LONCALI
2400 1/2 ST
SANTA ANA, CA 92705
(714) 744-1127

DESIGN CONSULTANT:
TRAC, INC. (TRUCK CENTER)
10000 W. 15TH AVE. #200
DENVER, CO 80202
QUAD/KROPP
10000 W. 15TH AVE. #200
DENVER, CO 80202



CONSTRUCTION NOTES:

1. ALL CONSTRUCTION SHALL BE IN ACCORDANCE WITH THE CITY OF DENVER, COLORADO, AND THE STATE OF COLORADO.
2. ALL CONSTRUCTION SHALL BE IN ACCORDANCE WITH THE CITY OF DENVER, COLORADO, AND THE STATE OF COLORADO.
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10. ALL CONSTRUCTION SHALL BE IN ACCORDANCE WITH THE CITY OF DENVER, COLORADO, AND THE STATE OF COLORADO.

GENERAL INFORMATION:

1. THIS SITE PLAN IS A PRELIMINARY DESIGN AND IS SUBJECT TO THE CITY OF DENVER, COLORADO, AND THE STATE OF COLORADO.
2. ALL CONSTRUCTION SHALL BE IN ACCORDANCE WITH THE CITY OF DENVER, COLORADO, AND THE STATE OF COLORADO.
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10. ALL CONSTRUCTION SHALL BE IN ACCORDANCE WITH THE CITY OF DENVER, COLORADO, AND THE STATE OF COLORADO.

DATE: 1/1/11

CONDITIONAL USE PERMIT - SITE PLAN

PROJECT NO.	090219
PROJECT NAME	YOSEMITE RANCH / SUGAR PINE TRAIL PATIO OUTLOOK
ADDRESS	76011
PREPARED BY	

Exhibit D Map diagram of proposed patio dining facility encroachment onto Sugar Pine Trail. Heavy dashed line indicates alternative locations for sidewalk café style dining facility adjacent to parking lot, as indicated by locations X or Y. Location Y has sufficient space to accommodate the same space as proposed expansion into Sugar Pine Trail. (See Exhibit D2.) Modeling such a facility after the examples in Exhibits A and B would be preferable to TAKING away from the public space on the Sugar Pine Trail.

Exhibit J
Conditions of Approval

**CITY OF FRESNO
DEVELOPMENT AND RESOURCE MANAGEMENT DEPARTMENT**

**CONDITIONS OF APPROVAL
MARCH 7, 2012**

**CONDITIONAL USE PERMIT APPLICATION NO. C-10-231
1520 EAST CHAMPLAIN DRIVE AND SUGAR PINE TRAIL**

Note: new conditions added as a result of the appeal process or for clarification are underlined and italicized.

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.

A. Project Specific Conditions

1. Approval of this project is not effective until the licensing agreement known as the "Sugar Pine Railroad Trail Agreement between the applicant/property owner and the City of Fresno" [or other instrument as deemed necessary], is approved by the Fresno City Council.
2. *If necessary, modify project footprint and enclosure consistent with Planning Commission design recommendations. Please note that if either Option C or D is recommended, a noise study will be required.*
3. *Add trail amenities in the area of the proposed expansion to make the place an inviting rest stop for trail users. Outdoor furniture such as seating, lighting, a drinking fountain, and picnic tables are recommended.*
4. *Bicycle parking facilities shall be provided with a minimum capacity to park ten bicycles.*

5. Pursuant to Fresno General Plan Trail policy E-15-s, an interpretive display shall be placed in a public location that is visually and physically accessible to users of the Sugar Pine Trail, providing contextual information on the Sugar Pine Trail. The display can be a part of the exterior architecture of the proposed addition or it can be a stand-alone feature located at a distance not greater than twelve (12) feet from the paved trail. Such display shall be dedicated to the City of Fresno.
6. Any mature trees affected by the proposed restaurant addition must be relocated in the immediate vicinity or replaced in kind with mature specimens. Relocated or replaced trees must be planted within the Sugar Pine Trail corridor at a distance no greater than fifty feet (50') from the proposed addition.

B. General Conditions

1. Development shall take place in accordance with the O (*Open Space*) zone district as defined in Section 12-204 of the Fresno Municipal Code (FMC);
2. Development shall comply with Sections 12-326 and 12-327 of the FMC related to restaurants, taverns and night clubs;
3. Development and operation shall comply with the City of Fresno Noise Ordinance, FMC Sections 10-10 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.
4. Exercise of the special permit shall comply with Exhibits A (Site Plan) dated October 12, 2011 and E (Elevations) and O (Operational Statement) dated July 7, 2011 as modified by Planning Commission and with all redline corrections made;
5. This special permit is granted, and the conditions imposed, based upon the attached Exhibit O (Operational Statement) dated July 7, 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.
6. Development shall comply with all existing special permits on the property, including C-05-232, governing the establishment of a restaurant serving alcohol;
7. 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.

8. *A parking management plan is required to ensure efficient parking operations.*
9. Exercise of the special permit shall take place in accordance with all city, county, state and federal laws and regulations, including ABC licensing requirements.
10. Development and operations shall comply with the Fresno Police Department conditions dated January 4, 2011 and amendment dated September 8, 2011.
11. Development shall comply with all requirements of the Building and Safety Division prior to issuance of building permits, including fire-resistance rating requirements for exterior walls and openings based on fire separation distance.
12. Development shall comply with the Public Works Department-Traffic and Engineering Services Division memorandum dated January 5, 2011.
13. Development shall comply with the Public Works Department-Median Island Maintenance Division memorandum dated January 4, 2011. Final landscaping and irrigation plans shall be submitted prior to issuance of building permits and all required landscaping and irrigation installed prior to occupancy.
14. Development shall comply with the County of Fresno Department of Public Health memorandum dated December 23, 2010.
15. The restaurant expansion area within the Sugar Pine Trail corridor shall be limited to 1,775 square feet.
16. The restaurant expansion's exterior walkways will be clear of any obstructions at all times. The expansion shall be in compliance with the American Disabilities Act.
17. Development shall comply with Labor Code 6404.5 (AB 13/3037) "California Smokefree Workplace".
18. The following shall be the hours of operation:
 - a. Restaurant: 4:00 pm to 2:00 am 7 days per week, with alcohol service ceasing at 12:30 am 7 days per week.
 - b. The owner, proprietor or applicant shall be responsible to conspicuously post the hours of operation for each phase type (i.e. restaurant, 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 each facility shall be posted in compliance with City codes.
19. The exercise of rights granted by this special permit must be commenced by March 7, 2016, (four years from the date of approval). There is no extension



DATE: January 5, 2011

TO: Sophia Pagoulatos, Supervising Planner
Planning and Development Department, Planning Division

FROM: Mario Rocha, Senior Engineering Technician
Public Works Department, Traffic and Engineering Services Division

SUBJECT: Conditions of Approval for **C-10-231 ABCUP**

APN: 567-030-69

ADDRESS: 1520 East Champlain Drive

SITE PLAN REQUIREMENTS: This site plan is incomplete. Please provide the following information prior to Building Permits:

A. Other Important Information:

1. **CUP/SPR:** Identify previous entitlement numbers

PUBLIC IMPROVEMENT REQUIREMENTS

The following requirements are based on city records and the accuracy of the existing and proposed on-site and off-site conditions depicted on the exhibits submitted. Requirements not addressed due to omission or misrepresentation of information, on which this review process is dependent, will be imposed whenever such conditions are disclosed.

Questions relative to dedications, street improvements or off-street parking geometrics may be directed to Mario Rocha at (559) 621-8684 / Mario.Rocha@fresno.gov , Public Works Department, Traffic and Engineering Services Division.

When preparing Street Plans and/or Traffic Control Plans for projects in the City of Fresno contact Traffic and Engineering Services, at (559)621-8807 in advance to make sure that sidewalks or an approved accessible path remain open during construction.

Survey Monuments and Parcel Configuration

All survey monuments within the area of construction shall be preserved or reset by a person licensed to practice Land Surveying in the State of California.

Street Dedications and Encroachment Permits

Identify all street furniture, e.g.: public utility poles and boxes, guy wires, signs, fire hydrants, bus stop benches, mail boxes, news stands, trash receptacles, tree wells, etc. within the public right of way. Also, identify the required 4' minimum path of travel along the public sidewalk directly in front of property, as required by the California Administration Code (Title 24). **A pedestrian easement may be required if Title 24 requirements cannot be met.**

Specific Mitigation Requirements:

For the use of the area within the Sugar Pine Trail the Owner shall:

- (a) Enter into a lease agreement with the City of Fresno and provide a legal description for the area of use. Contact **Craig Hansen 559-621-8696**.
- (b) Enter into a maintenance and indemnification agreement with the City of Fresno Contact **Gary Witzel 559-621-8725**.
- (c) Submit landscape, irrigation and drainage plans for approval to Public Works Department, Traffic and Engineering Services Division.

Note: Provide verification of items (a) and (b) to the Public Works Department, Traffic Planning section **prior** to the issuance of building permits.

The construction of any overhead, surface or sub-surface structures and appurtenances in the public rights-of-way is prohibited unless an encroachment permit is approved by the City of Fresno Public Works Department, Traffic and Engineering Services Division (559) 621-8693. Encroachment permits must be approved **prior** to issuance of building permits.

Street Improvements

All improvements shall be constructed in accordance with the Standard Specifications and Standard Drawings of the City of Fresno, Public Works Department. The performance of any work within the public street rights-of-way (including pedestrian and utility easements) requires a STREET WORK PERMIT **prior** to commencement of work. Contact the City of Fresno Public Works Department, Traffic and Engineering Services Division at (559) 621-8650 for detailed information. All required street improvements must be completed and accepted by the city **prior** to occupancy.

Repair all damaged and/or off grade off-site concrete improvements as determined by the City of Fresno Public Works Department, Construction Management Division, (559) 621-5600. Pedestrian paths of travel must also meet current ADA regulations. All existing sidewalks in excess of 2% maximum cross slope must be brought into compliance **prior** to acceptance by Public Works.

Champlain Drive: Arterial

- 1. Modify or replace the existing ramp to meet current Public Works Standards, as determined by the Construction Management engineer **PRIOR** to occupancy. "Detectable Warning Devices" are required, if not existing. Reference Public Works Standards **P-28** to **P-32**.

Traffic Impact Study

This development will generate a total of **0** a.m. / **26** p.m. peak hour trips and generate a count of **286** Average Daily Trips (A.D.T.), based upon the following:

Land Use	Seats	Average Daily Trips (ADT)	AM Pk Hour	PM Pk Hour
Restaurant Patio Addition	100	286	0	26

A Traffic Impact Study is not required.

Traffic Signal Mitigation Impact (TSMI) Fee:

This project shall pay its TSMI Fee **at the time of building permit** based on the trip generation rate(s) as set forth in the latest edition of the ITE Generation Manual.

This TSMI fee is credited against signal installation and Intelligent Transportation System (ITS) improvements (constructed at their ultimate location) anticipated to build out the 2025 General Plan circulation element and included in the Nexus Study for the TSMI fee. Project specific impacts that are not consistent with the 2025 General Plan, Public Works P69 standards, and/or already incorporated into the TSMI fees infrastructure costs are not reimbursable unless the City Engineer and City Traffic Engineer include the new traffic signal and/or ITS infrastructure in the next update and the applicant agrees to pay the new calculated TSMI fee that includes the new infrastructure. Failure to pay this fee or construct improvements that are credited/reimbursable with this fee will result in a significant unmitigated impact as this fee is applied to all projects within the City Sphere of Influence. If the applicant is conditioned with improvements that are credited/reimbursable with this fee they should work with the Department of Public Works and identify with a Professional Engineers estimate the costs associated with the improvements prior to paying the TSMI fee at time of building permit.

Fresno Major Street Impact (FMSI) Fees:

This entitlement is in the **New Growth Area**; therefore pay all applicable growth area fees and City-wide regional street impact fees.

Regional Transportation Mitigation Fee (RTMF):

Pay all applicable **RTMF** fees to the Joint Powers Agency located at 2035 Tulare Street, Suite 201, Fresno, CA 93721; (559) 233-4148 ext. 200; www.fresnocog.org. Provide proof of payment or exemption **prior** to issuance of building permits.

State of California Department of Transportation (Caltrans) Fees:

Applicant shall pay fair share contribution as determined by the State of California Department of Transportation (Caltrans) to be collected by the City of Fresno Public Works Department Traffic Engineering, (559) 621-8820, **prior** to a Building Permit.



County of Fresno

Department of Public Health

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

December 23, 2010

FA0278335
LU0015878
PE 2602

Sophia Pagoulatos
City of Fresno
Development Department
2600 Fresno Street
Fresno, CA 93721

Dear Ms. Pagoulatos:

PROJECT NUMBER: C-10-231

Conditional Use Permit Application No. C-10-231-ABCUP was filed by Amber Adams of Quad Knopf, on behalf of Yosemite Ranch Investors, and pertains to 11.08 acres of property located on the northeast corner of East Champlain Drive and East Shepherd Avenue. The applicant requests authorization to expand the Yosemite Ranch Restaurant by approximately 3,274 square feet for an outdoor patio. The patio is proposed to be courtyard style located on the south side of the building with a full service bar area and seating for approximately 80 people. The addition is proposed to be constructed primarily within the 60-foot wide Sugar Pine Trail right-of-way. The applicant has a State of California Alcoholic Beverage Control Type 47 license (*sale of beer, wine, and distilled spirits for consumption on the licensed premises*). The property is zoned C-1/UGM/cz (*Neighborhood Shopping Center/Urban Growth Management/conditions of zoning*).

APN: 567-030-09 ZONING: C-1/UGM/cz ADDRESS: 1520 East Champlain Drive

Recommended Conditions of Approval:

- Prior to issuance of building permits, 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) 445-3334 for more information.
- Prior to operation, the applicant shall apply for revision of their operating permit to allow the operation of the additional bar from the Fresno County Department of Public Health, Environmental Health Division. A permit, once issued, is nontransferable. Contact the Consumer Food Protection Program at (559) 445-3392 for more information.

Sophia Pagoulatos
C-10-231 ABCUP
December 23, 2010
Page 2 of 2

- The use of outdoor sound amplification equipment during special events has the potential to expose nearby sensitive receptors to elevated noise levels. Consideration should be given to your City's municipal code.

REVIEWED BY:

Janet Gardner

Digitally signed by Janet Gardner
DN: cn=Janet Gardner, ou=Environmental Health
Division, ou=Fresno County Public Health
Department, email=jjgardner@co.fresno.ca.us, c=US
Date: 2010.12.23 07:50:25 -08'00'

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

Environmental Health Specialist

(559) 445-3271

jjg

cc: Baruti/Casagrande/Tolzmann, Environmental Health Division
Olga Granado, Environmental Health Division

C-10-231 Yosemite Ranch

DEPARTMENT OF PUBLIC WORKS

TO: **Sophia Pagoulatos, Planning Manager**
Planning Division

FROM: **Hilary Kimber, Parks Supervisor II (559-621-1345)**
Public Works, Median Island Maintenance

DATE: January 4, 2011

SUBJECT: SITE PLAN REVIEW NO. C-10-231 ABCUP

The Department of Public Works offers the following comments regarding 1520 East Champlain Drive (APN: 567-030-69) located on the northeast corner of East Champlain Drive and East Shepherd Avenue for an extension to the existing Yosemite Ranch Investors:

GENERAL REQUIREMENTS

1. The Public Works Department requires one street tree for every 60 lineal feet of street frontage. This project does not encompass more than 50% of the location space; therefore, street trees are not required.
2. Part of the conceptual landscape design indicates existing and possibly additional landscaping that might impact the existing landscaping within the City right-of-way along the trail on E. Shepherd Ave. All modifications to the existing landscaping and irrigation will need to be approved by the City of Fresno, Public Works, Median Island Maintenance Division prior to installation.



POLICE

DEPARTMENT
MARIPOSA MALL
P.O. BOX 1271
FRESNO, CA 93715-1271

JERRY DYER
CHIEF OF POLICE

Fresno Police Department Facsimile Transmittal



Date: 3/14/11

Please Deliver to:

Name: Israel Trejo

Location: Planning + Dev.

Fax Number: (559) 498-1012 / 498-1026

Number of Pages: 0
(including this one)

From: Officer Janette Olson

Department: Northeast P.O.P.

Phone: (559) 621-6435

Fax: (559) 436-6245

Comments: re: Yosemite Ranch CUP # 10-231

The information contained in this facsimile message is Fresno Police Department privileged and confidential information intended only for the individual or entity named above. If the reader of this message is not the intended recipient, or the employee or agent responsible to deliver it to the intended recipient, you are hereby notified that any distribution or copying of this communication is strictly prohibited. If you have received this communication in error, please notify us by telephone and return the original message to us at the above address via the Postal Service. Thank you.



POLICE DEPARTMENT
Northeast Problem Oriented Policing
1450 E. Teague
Fresno, California 93720
(559) 621-6400 Fax:(559) 436-6245



Jerry Dyer
Chief of Police

RESTAURANT ABCUP CONDITIONS

January 4, 2011

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

Attn. Sophia Pagoulatos, Planning Development

Re: SPECIAL PERMIT NO. C-10-231/ABCUP
Yosemite Ranch
1520 E. Champlain Dr.
Fresno, CA 93720
A.P.N. 567-030-69

Dear Ms. Pagoulatos,

The City of Fresno has requested that the Fresno Police Department review the application of the property development at 1520 E. Champlain Dr. The property has been zoned C-1/UGM for commercial development. The Fresno Police Department's primary concern with the application is the propensity of the premises to generate calls for police service.

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 CUP allows for the retail sale of alcoholic beverages for on-site consumption in conjunction with the operation of a Restaurant, as defined by Fresno Municipal Code, section 12-105-R-5, pursuant to the requirements of FMC, sections 12-304 and 12-326. We understand that along with this CUP application, the applicant currently has a Type 47 license which allows for the sale of beer, wine and distilled spirits for consumption on the licensed premises. We understand from the Operational Statement that the applicant intends to operate this establishment between the hours of 4:00 p.m. and 1:30 a.m., 7 days a week (Sun-Sat). No alcohol is served after 1:00 a.m.

We request the following conditions be included as Conditions of Approval for Conditional Use Permit Application No. C-10-231. 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 CUP No. C-10-231 the Fresno Police Department shall oppose the approval of this Conditional Use Permit, and shall appeal such approval to the Planning Commission. As such, we request that you provide Detective J. Olson #1097 with notice of the Director's decision regarding this 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 date certain 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 each required LEAD Program Certificate evidencing completion of said course.

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.

5. Security Plan.

Prior to the approval of this Conditional Use Permit, the establishment shall prepare and submit to the District Commander a security plan for approval. Approval of the security plan by the District Commander or his/her designee shall not be unreasonably denied. The contents of the Security Plan shall be incorporated as conditions of approval of CUP 10-122. 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, 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 state licensed uniformed security and/ or to recommend suspension or revocation proceedings.

6. 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.

7. **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."

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

The owner and/or proprietor and /or applicant shall be responsible to conspicuously post the hours of operation for each phase type (i.e., restaurant, nightclub) 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.

9. **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 shall send a letter to the Fresno Police Department, signed and dated by the applicant, every 180 days that authorizes FPD peace officers to enter the applicant's real property and/or establishment to enforce against the aforementioned activities at the business. The owners and employees are responsible for abating those activities when they occur during business hours.

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

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

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

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

10. **Patio Area:**

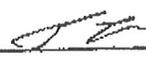
Any patio must have been approved by the City of Fresno before it can be used for any purpose. Prior to the service or consumption of food or drink, a patio must have been approved for such purposes by the City of Fresno. If the patio will be used for the service or consumption of alcohol, the patio must have been properly licensed for that purpose by the Department of Alcoholic Beverage Control, prior to that use. The listed provisions apply to an approved patio area only:

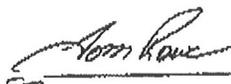
- A. The boundaries of the patio will be clearly defined and designated by physical barriers to separate it from the sidewalk and any adjacent property which is not under the exclusive control of the licensee. The boundaries of the patio and physical barriers as defined on the ABC-257, shall not be changed without first receiving prior approval from the City of Fresno, and ABC.
- B. Patrons shall enter and exit the patio from inside the premises only, not through any exterior gate(s) located on the patio.
- C. The patio shall close no later than 1:30 a.m Sunday-Saturday.
- D. The licensee(s) or an employee of the licensee(s), shall be present on the patio at all times that alcoholic beverages are being served and/or consumed.
- E. The only entertainment allowed on the patio shall be recorded music. There shall be no amplified music from a disc jockey, karaokee, or any type of live entertainment allowed on the patio at anytime.
- F. Entertainment provided on the patio shall not be audible beyond the area under the control of the licensee(s) as defined on the ABC-257.

11. 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 acknowledgment shall be maintained by the establishment and made available to the Fresno Police Department upon reasonable request 10. 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


Date: 3-9-11
Janette Olson
NE District POP Officer


Date: 3-9-11
Eric Hodge
NE District-Det/POP Sergeant


Date: 3/14/11
Al Maroney
NE District Commander Captain



POLICE DEPARTMENT
Northeast Problem Oriented Policing
1450 E. Teague
Fresno, California 93720
(559) 621-6400 Fax:(559) 436-6245



Jerry Dyer
Chief of Police

RESTAURANT ABCUP CONDITIONS AMENDMENT

September 8, 2011

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

Attn. Sophia Pagoulatos, Planning Development

Re: SPECIAL PERMIT NO. C-10-231/ABCUP
Yosemite Ranch
1520 E. Champlain Dr.
Fresno, CA 93720
A.P.N. 567-030-69

Dear Ms. Pagoulatos,

This is an amendment to the ABCUP that was issued to Yosemite Ranch on January 4, 2011. The following conditions apply to the hours of alcohol sales/service. We request the following conditions be included as Conditions of Approval for Conditional Use Permit Application No. C-10-231. 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 CUP No. C-10-231, the Fresno Police Department shall oppose the approval of this Conditional Use Permit, and shall appeal such approval to the Planning Commission. As such, we request that you provide Detective Janette Olson with notice of the Director's decision regarding this Conditional Use Permit as well as a complete copy of the conditions of approval, should the Director approve the Conditional Use Permit.

Exhibit K
Site Plan, Elevations

Exhibit L
Operational Statement

PROJECT DESCRIPTION AND OPERATIONS STATEMENT

YOSEMITE RANCH PATIO EXPANSION



July 2011



APPL. NO. <u>C-10-231</u>	EXHIBIT <u>0</u>	DATE <u>7/7/11</u>
PROJ. ENG. _____	DATE _____	
TRAFFIC ENG. _____	DATE _____	
COND. APPROVED BY _____	DATE _____	
CITY OF FRESNO DEVELOPMENT DEPARTMENT		

**YOSEMITE RANCH
PATIO EXPANSION**

**PROJECT DESCRIPTION AND OPERATIONS
STATEMENT**

Yosemite Ranch Steakhouse
Dave Fansler
1520 E. Champlain Drive
Fresno, California 93720
(559) 434-4403



Quad Knopf

6051 N. Fresno Street, Suite 200
Fresno, California 93710
(559) 449-2400

Revised July 2011

YOSEMITE RANCH STEAKHOUSE PATIO EXPANSION

The Yosemite Ranch Steakhouse is a full-service restaurant and bar serving high quality food and drinks. It has been a very successful establishment in northeast Fresno since its opening in July of 2006. Yosemite Ranch is owned and operated by Dave Fansler, a long-time restaurateur who has owned a number of restaurants in the Fresno area. Due to Fresno's great year-round weather, Mr. Fansler desires to provide an outdoor setting for eating and drinking. The addition of the outdoor setting affirms Mr. Fansler's investment in design for the neighborhood.

PROJECT GOAL

To construct and operate an outdoor courtyard style patio/bar area for the existing Yosemite Ranch Steakhouse, along with enhanced landscaping and improvements to the Sugar Pine Trail.



PROJECT DESCRIPTION

SITE LOCATION/EXISTING FACILITIES

APN: 567-03-069
Address: 1520 E Champlain Drive
Zoning: C-1 Neighborhood
Shopping Center
Property Owner: Via Montana LLC,
PO Box 2460, Saratoga, CA 95070

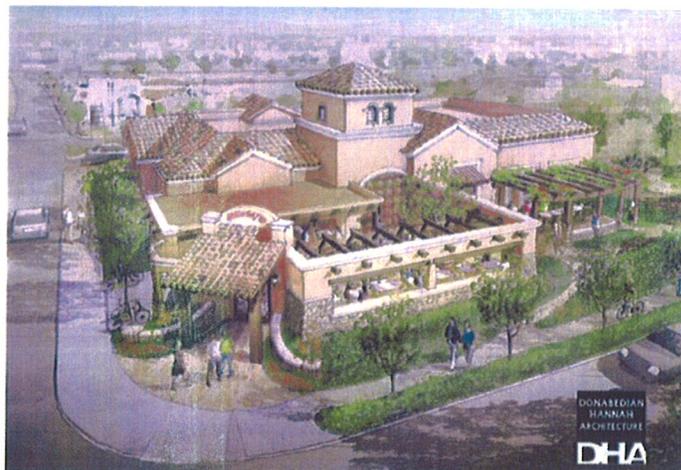


The Yosemite Ranch Steakhouse is located within the Via Montana Shopping Center located on the northeast corner of Shepherd Avenue and Champlain Drive. The facility is currently 7,320 sq. ft. that includes the kitchen, dining area, and a full service bar. The customer entrance is on the north side of building. A fully finished trash enclosure is immediately adjacent to the restaurant on the east side of the building. A sidewalk extends from the finished exterior wall on the east side of the building connecting the shopping center parking lot to the Sugar Pine Trail.

The Sugar Pine Trail is a well-used Class 1 bicycle and pedestrian trail that runs alongside Shepherd Avenue in an abandoned railroad right-of-way that has been acquired by the City of Fresno. The fully landscaped right-of-way passes between Shepherd Avenue and the Yosemite Ranch Steakhouse. Mr. Fansler is proposing to construct the new patio area in the Sugar Pine right-of-way in the landscaped area located south of the restaurant and north of the bike trail.

PROPOSED EXPANSION

Yosemite Ranch proposes to build a courtyard style patio on the south side of the building. It will have a full service bar and seating for approximately 80 people. It will serve the same high quality food and drinks as inside the restaurant. The patio will be used for general dining, banquets, and special occasions. The patio area will be surrounded by a courtyard perimeter wall with open air roll-up windows at the top of the wall that can be opened or closed depending on the weather and the time of day. There will be some overhead umbrellas, but no roof. The perimeter walls will be finished in a theme complimentary to the existing architectural style.

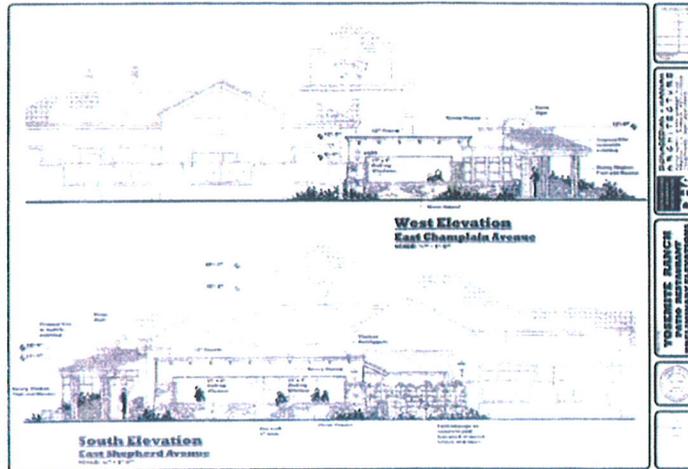




ACCESS

The design approach for the new patio areas will integrate the existing restaurants architectural qualities to ensure design compatibility. The main patio area will have access from the restaurant building. There will also be outdoor access from the sidewalk that connects the Sugar Pine Trail to the shopping center parking lot. This access point will incorporate all ADA standards to maintain a clear path.

Appropriate materials for the fencing and walls will be used to comply with ABC regulations. An additional emergency exit will provide pedestrian access to Champlain Drive.



PATIO FEATURES

- Tables and chairs will adorn the new patio areas.
- Removable umbrellas will be used for additional shade when needed.
- Space heaters or lanterns may be used during inclement weather. The operation of the heaters will be in compliance with applicable building and fire codes.
- Exterior perimeter will include open-air roll up windows to provide optimum transparency between the trail and the patio.
- Potted and planted trees and landscaping will provide a natural shade canopy and enhance the stamped concrete patio surface which shall be designed to accommodate ADA standards.
- Trash and storage areas will remain in the currently functional enclosed area on the east side of the restaurant. These areas are not located in the patio areas or adjacent to the public right-of-way.



PARKING

The number of parking spaces currently provided meets current City standards for provision of off-site parking. The new patio areas should be considered alternative seating. When the weather is nice it will be virtually impossible to fill the inside of the restaurant because the patio will be the preferred seating area. The patio area will be closed during cold and/or wet weather. In addition, there are a number of businesses in the Via Montana shopping center that are closed in the evenings, which will free up more parking during the evening restaurants hours of operation. The shopping center, which is fully built out and occupied has significant available parking for current use and proposed patio expansion. Additionally, the design of the patio will encourage some patrons to utilize the Sugar Pine Trail to reach the site. Because of these factors, no additional parking spaces are being proposed.

SIGNAGE

Minimal pedestrian level signage will be placed at the back entrance to identify the restaurant and the patio area's purpose and shall comply with the City's sign ordinance. The signage will be consistent with existing architectural building design. It will be designed to welcome pedestrians that walk up from the path. There will be no additional large-scale outdoor advertising signage visible from the public streets beyond this minimally proposed signage.

LIGHTING

There will be lighting added in the patio areas, as well as landscape lighting that will enhance the overall setting. All new lighting will be shielded to direct light downward and onto the site. No lighting will be directed out onto adjacent streets.

OPERATIONS STATEMENT

HOURS OF OPERATION

The restaurant is open daily and currently opens at 4:00pm each day and closes between 12:00am and 1:30am. The outdoor patio areas will have the same opening hours as the restaurant, but will close between 12:00am and 2:00am. The patio area will be made available for private events and will operate the same hours as the patio.



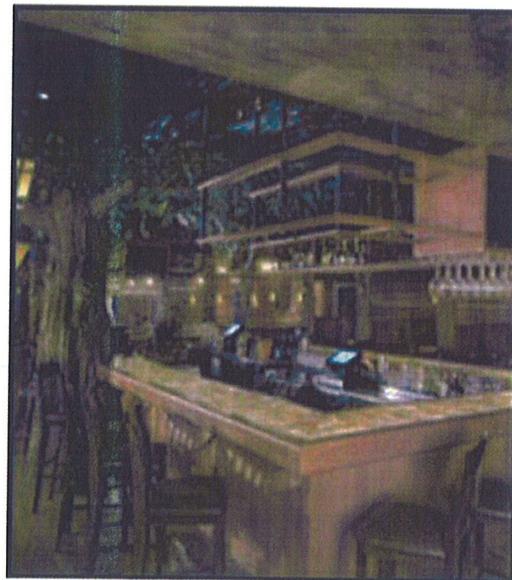
FOOD SERVICE

The menu consists of high quality steaks, seafood, roasts, and salads with an emphasis on premium service. The food to liquor sales mix is approximately 70%-30%. There is a separate entrance and waiting area for take-out only customers. There are currently approximately 80 employees.



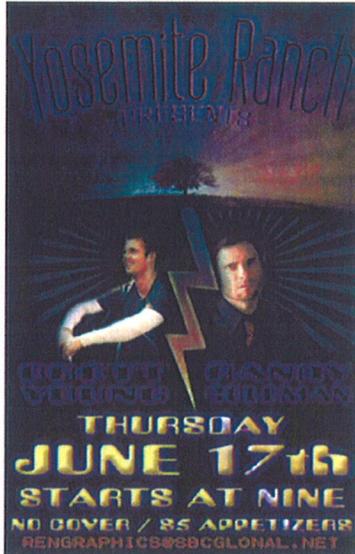
ALCOHOL SALES

Alcohol is sold only until 1:00am and the premises will be closed and locked at 2:00am. The restaurant has a Type 47 license from State Alcoholic Beverage Control, which will be modified for use of the patio. Sales, services, and transporting of alcoholic beverages between the existing restaurant and the patio areas will be restricted to serving staff and will only be served to patrons seated in these areas. All State requirements related to the design and operation of alcohol sales in outdoor restaurant areas will be met.



ENTERTAINMENT

Yosemite Ranch currently has live entertainment on Thursday nights, typically starting at 9:00pm. These events will continue to occur inside the restaurant. The restaurant does not have a dancing area. Televisions will be placed in the bar area of the outdoor patio.



SECURITY

Yosemite Ranch has established a reputation for a casual yet sophisticated atmosphere that does not encourage unmanageable conduct.

Trained security is added on busier late nights to maintain control of the premises and parking lot, as well as to check identification. Two outside security guards, two hosts, and a manager are used to monitor the customers. This type of security will also be used for the patio area. Yosemite Ranch has always maintained a strict policy which is, customers that must be removed from the premises for unruly behavior are permanently no longer welcome or admitted to the restaurant.

USE OF SUGAR PINE TRAIL RIGHT-OF-WAY

The patio area is proposed to be constructed primarily within the 60-foot wide Sugar Pine branch line right-of-way. The distance from the building to the asphalt bike path is currently about 42 feet. No modification to the bike trail is proposed or needed. The area between the bike path and restaurant is currently landscaped with trees, cobblestones and shredded tree trimmings which were constructed by and continue to be maintained by Yosemite Ranch at no cost to the City. A long term lease agreement has been negotiated with the City for use of the improved right-of-way area consistent with the existing top-quality level of effort plus provides the City with ½ mile of additional trail maintenance for the duration of the lease agreement.

As part of the patio improvements, Yosemite Ranch will re-landscape the area to a greater intensity than currently exists. The improvements will include a modification to existing drainage, new trees and shrubs, and a walkway from the patio area to the existing sidewalk on the east side of the restaurant. There will also be a sidewalk from the patio area to the sidewalk on Champlain Drive, which will be used only for emergency exiting. Additional Trail amenities such as benches, drinking fountain, and/or bicycle racks, may be considered by the applicant upon discussion and agreement with the applicant and the City.

