

PLANNING COMMISSION

REGULAR MEETING AGENDA

Wednesday, May 11, 2022, 7:00 P.M.

Tracy City Hall, 333 Civic Center Plaza, Tracy

Web Site: www.cityoftracy.org

THIS MEETING WILL BE OPEN TO THE PUBLIC FOR IN-PERSON AND REMOTE PARTICIPATION PURSUANT TO GOVERNMENT CODE SECTION 54953(e).

IN ACCORDANCE WITH THE CALIFORNIA DEPARTMENT OF PUBLIC HEALTH GUIDELINES, UNIVERSAL MASKING INDOORS IS RECOMMENDED FOR ALL PERSONS REGARDLESS OF VACCINATION STATUS.

MEMBERS OF THE PUBLIC MAY PARTICIPATE REMOTELY IN THE MEETING VIA THE FOLLOWING METHOD:

As always, the public may view the Planning Commission meetings live on the City of Tracy's website at CityofTracy.org or on Comcast Channel 26/AT&T U-verse Channel 99. To view from the City's website, open the "Government" menu at the top of the City's homepage and select "Planning Commission", then select "[Planning Commission Meeting Videos](#)" under the "Boards and Commissions" section.

If you only wish to watch the meeting and do not wish to address the Council, the City requests that you stream the meeting through the City's website or watch on Channel 26.

Remote Public Comment:

During the upcoming Planning Commission meeting public comment will be accepted via the options listed below. If you would like to comment remotely, please follow the protocols below:

- *Comments via:*
 - **Online by visiting** <https://cityoftracyevents.webex.com> and using the following
 - **Event Number:** 2559 789 9589 and **Event Password:** Planning
 - ***If you would like to participate in the public comment anonymously***, you may submit your comment in WebEx by typing "Anonymous" when prompted to provide a First and Last Name and inserting Anonymous@example.com when prompted to provide an email address.
 - Join by phone by dialing +1-408-418-9388, enter 25597899589#75266464# Press *3 to raise the hand icon to speak on an item.

- *Protocols for commenting via WebEx:*
 - *If you wish to comment on the "New Business" or "Items from the Audience" portions of the agenda:*
 - *Listen for the Chair to open that portion of the agenda for discussion, then raise your hand to speak by clicking on the Hand icon on the Participants panel to the right of your screen.*
 - *If you no longer wish to comment, you may lower your hand by clicking on the Hand icon again.*
 - *Comments for the "New Business" or "Items from the Audience" portions of the agenda will be accepted until the public comment for that item is closed.*

Comments received on Webex outside of the comment periods outlined above will not be included in the record.

Americans With Disabilities Act - The City of Tracy complies with the Americans with Disabilities Act and makes all reasonable accommodations for the disabled to participate in Council meetings. Persons requiring assistance or auxiliary aids should call City Hall (209/831-6105) 24 hours prior to the meeting.

Addressing the Council on Items on the Agenda - The Brown Act provides that every regular Council meeting shall provide an opportunity for the public to address the Council on any item within its jurisdiction before or during the Council's consideration of the item, provided no action shall be taken on any item not on the agenda. To facilitate the orderly process of public comment and to assist the Council to conduct its business as efficiently as possible, members of the public wishing to address the Council are requested to, but not required to, hand a speaker card, which includes the speaker's name or other identifying designation and address to the City Clerk prior to the agenda item being called. Generally, once the City Council begins its consideration of an item, no more speaker cards will be accepted. An individual's failure to present a speaker card or state their name shall not preclude the individual from addressing the Council. Each citizen will be allowed a maximum of five minutes for input or testimony. In the event there are 15 or more individuals wishing to speak regarding any agenda item including the "Items from the Audience/Public Comment" portion of the agenda and regular items, the maximum amount of time allowed per speaker will be three minutes. When speaking under a specific agenda item, each speaker should avoid repetition of the remarks of the prior speakers. To promote time efficiency and an orderly meeting, the Presiding Officer may request that a spokesperson be designated to represent similar views. A designated spokesperson shall have 10 minutes to speak. At the Presiding Officer's discretion, additional time may be granted. The City Clerk shall be the timekeeper.

Addressing the Council on Items not on the Agenda – The Brown Act prohibits discussion or action on items not on the posted agenda. The City Council's Meeting Protocols and Rules of Procedure provide that in the interest of allowing Council to have adequate time to address the agenda items of business, "Items from the Audience/Public Comment" following the Consent Calendar will be limited to 15-minutes maximum period. "Items from the Audience/Public Comment" listed near the end of the agenda will not have a maximum time limit. A five-minute maximum time limit per speaker will apply to all individuals speaking during "Items from the Audience/Public Comment". For non-agendized items, Council Members may briefly respond to statements made or questions posed by individuals during public comment; ask questions for clarification; direct the individual to the appropriate staff member; or request that the matter be placed on a future agenda or that staff provide additional information to Council. When members of the public address the Council, they should be as specific as possible about their concerns. If several members of the public comment on the same issue an effort should be made to avoid repetition of views already expressed.

Notice - A 90 day limit is set by law for filing challenges in the Superior Court to certain City administrative decisions and orders when those decisions or orders require: (1) a hearing by law, (2) the receipt of evidence, and (3) the exercise of discretion. The 90 day limit begins on the date the decision is final (Code of Civil Procedure Section 1094.6). Further, if you challenge a City Council action in court, you may be limited, by California law, including but not limited to Government Code Section 65009, to raising only those issues you or someone else raised during the public hearing, or raised in written correspondence delivered to the City Council prior to or at the public hearing.

Full copies of the agenda are available on the City's website: www.cityoftracy.org.

MEETING AGENDA

CALL TO ORDER

PLEDGE OF ALLEGIANCE

ROLL CALL

MINUTES – 04/13/22 REGULAR MEETING

DIRECTOR'S REPORT REGARDING THIS AGENDA

ITEMS FROM THE AUDIENCE - *In accordance with Council Meeting Protocols and Rules of Procedure, adopted by Resolution No. 2019-240, a five-minute maximum time limit per speaker will apply to all individuals speaking during "Items from the Audience/Public Comment". For non-agendized items, Planning Commissioners may briefly respond to statements made or questions posed by individuals during public comment; ask questions for clarification; direct the individual to the appropriate staff member; or request that the matter be placed on a future agenda or that staff provide additional information to the Planning Commission.*

1. NEW BUSINESS
 - A. PUBLIC HEARING TO CONSIDER REVOCATION OF A CONDITIONAL USE PERMIT (CUP 14-0003) GRANTED TO LEIA'S NIGHTCLUB TO OPERATE AN EATING AND DRINKING ESTABLISHMENT THAT SERVES ALCOHOL AND PROVIDES ENTERTAINMENT AFTER 11:00 P.M. AT 2706 PAVILION PARKWAY.
2. ITEMS FROM THE AUDIENCE
3. DIRECTOR'S REPORT
4. ITEMS FROM THE COMMISSION
5. ADJOURNMENT

Posted: May 5, 2022

Any materials distributed to the majority of the Planning Commission regarding any item on this agenda will be made available for public inspection via the City of Tracy website at www.cityoftracy.org.

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**MINUTES
TRACY CITY PLANNING COMMISSION
REGULAR MEETING
APRIL 13, 2022, 7:00 P.M.
CITY OF TRACY COUNCIL CHAMBERS
333 CIVIC CENTER PLAZA**

Due to the COVID-19 emergency, the regular meeting was conducted pursuant to the provisions of the Governor's Executive Order N-29-20, which suspends certain requirements of the Ralph M. Brown Act. Residents participated remotely via email, and WebEx during the meeting.

CALL TO ORDER

Chair Hudson called the meeting to order at 7:00 p.m.

PLEDGE OF ALLEGIANCE

Chair Hudson led the pledge of allegiance.

ROLL CALL

Roll Call found Commissioner Atwal, Commissioner Augustus, Commissioner Boakye-Boateng, Commissioner Orcutt, and Chair Hudson present. Also present were: Scott Claar, Senior Planner; Victoria Lombardo, Senior Planner; Kimberly Matlock, Associate Planner; Kenneth Lipich, Assistant Planner; Nancy Ashjian, Assistant City Attorney; Al Gali, Associate Engineer; Majeed Mohamed, Assistant Engineer; Gina Peace, Executive Assistant; and Kellie Jones, Administrative Assistant.

MINUTES

Chair Hudson introduced the Regular Meeting Minutes from the March 9, 2022 meeting.

ACTION: It was moved by Commissioner Orcutt and seconded by Commissioner Atwal to approve the March 9, 2022 Planning Commission Regular meeting minutes. A voice vote found all in favor. Passed and so ordered; 3-0-0-2. Commissioner Augustus, Commissioner Boakye-Boateng abstained, as they were not members of the Commission on March 9, 2022.

DIRECTOR'S REPORT REGARDING THIS AGENDA

Scott Claar welcomed the two new commissioners.

ITEMS FROM THE AUDIENCE

None.

1. NEW BUSINESS

- A. PUBLIC HEARING CONSIDER APPROVING A DEVELOPMENT REVIEW PERMIT TO ALLOW A CAR WASH FACILITY LOCATED AT 150 W. GRANT LINE ROAD, ASSESSOR'S PARCEL NUMBER 233-210-23. APPLICANT IS API**

ARCHITECTURE PLUS AND OWNER IS WHEEL AD LLC. APPLICATION NUMBER IS D21-0009.

Kimberly Matlock, Associate Planner, and Jatinder Randhawa, Applicant, presented the staff report.

Staff addressed questions from the Commission.

Chair Hudson opened the Public Hearing at 7:58 p.m.

Marisol Arvizu, Travis Reil, Marianna Aguirre, Lizette Garcia, and Filotea Ardina addressed the Commission in opposition of the Project.

The Recording Secretary announced that three e-mails were received, from Kim Rodrigues, Elizabeth Cano, Cebrina Chagoya, and one voicemail from Cary Heard, all in opposition of the Project.

Chair Hudson closed the Public Hearing at 8:11 p.m.

ACTION: It was moved by Commissioner Atwal and seconded by Commissioner Orcutt that the Planning Commission approve a development review permit for a car wash facility, with the amendment that the applicant plant tall growing trees (such as an Italian Cypress Tree) in the Southeast corner, Application Number D21-0009, based on the findings contained in the Planning Commission Resolution dated April 13, 2022.

A roll call vote found Commissioner Atwal, Commissioner Boakye-Boateng, Commissioner Orcutt, and Chair Hudson in favor. Commissioner Augustus, opposed. Passed and so ordered; 4-1-0-0.

B. PUBLIC HEARING TO CONSIDER A CONDITIONAL USE PERMIT FOR A CANNABIS STOREFRONT RETAILER (DISPENSARY) AT 2179 W. GRANT LINE ROAD (ASSESSOR'S PARCEL NUMBERS 214-560-02 & 214-560-03) - APPLICANT IS DOCTOR'S CHOICE MODESTO, LLC AND THE PROPERTY OWNER IS KM REALTY, LLC - APPLICATION NUMBER CUP21-0008.

Kimberly Matlock, Associate Planner, and Victoria Lombardo, Senior Planner, presented the staff report.

Shan Bal, representing the applicant, addressed the Commission.

Nancy Ashjian, Assistant City Attorney, answered questions from Commission.

Staff addressed questions from the Commission.

Chair Hudson opened the Public Hearing at 8:39 p.m.

Recording Secretary announced one e-mail was received, from Vaquero Farms, in opposition of the Project.

Chair Hudson closed the Public Hearing at 8:40 p.m.

ACTION: It was moved by Commissioner Atwal and seconded by Commissioner Orcutt that the Planning Commission approve a conditional use permit for a cannabis storefront retailer (dispensary) at 2179 W. Grant Line Road, based on the findings contained in the Planning Commission Resolution dated April 13, 2022.

A roll call vote found all in favor. Passed and so ordered; 5-0-0-0.

C. PUBLIC HEARING TO CONSIDER APPROVING A CONDITIONAL USE PERMIT TO ALLOW AN EATING AND/OR DRINKING ESTABLISHMENT TO SERVE ALCOHOL AND PROVIDE ENTERTAINMENT AFTER 11:00 P.M. AT 117 W. 11TH ST. APPLICANT IS LORI FOUNTAIN AND PROPERTY OWNER IS RONALD E. BERGER TRUST. APPLICATION NUMBER CUP21-0002.

Kenneth Lipich, Assistant Planner, presented the staff report.

Lori Fountain, Applicant, addressed the Commission.

Staff addressed questions from the Commission.

Chair Hudson opened the Public Hearing at 8:52 p.m., but seeing as no one wished to speak, the Public Hearing was closed.

ACTION: It was moved by Commissioner Atwal and seconded by Commissioner Orcutt that the Planning Commission approve a conditional use permit to allow an eating and/or drinking establishment with alcohol and entertainment after 11:00 p.m. at 117 W. 11th St., Application Number CUP21-0002, based on the findings and subject to the conditions contained in the Planning Commission Resolution dated April 13, 2022.

A roll call vote found all in favor. Passed and so ordered; 5-0-0-0.

DEVIATION:

DIRECTOR'S REPORT REGARDING THIS AGENDA (cont.)

Chair Hudson pointed out the need for election of a Vice Chair. Commissioner Orcutt volunteered for the position of Vice Chair. Commissioner Atwal seconded Commissioner Orcutt's nomination.

ACTION: It was moved by Commissioner Orcutt and seconded by Commissioner Atwal that Commissioner Orcutt be elected Vice Chair of the Commission.

A voice vote found all in favor. Passed and so ordered; 5-0-0-0.

2. ITEMS FROM THE AUDIENCE

None

3. DIRECTOR'S REPORT

None

4. ITEMS FROM THE COMMISSION

Commissioner Orcutt welcomed the new Commissioners and encouraged them to partake in any and all training opportunities.

Commissioner Atwal asked for clarification on asking the staff questions after the public hearing has ended.

Scott Claar clarified the Planning Commission Hearing process.

Chair Hudson also clarified the hearing process as well as addressed the reasoning behind having a Commission discussion after the hearing has been closed.

Commissioner Boakye-Boateng thanked the Commission and staff for their detailed presentations. He also noted the need for public awareness of zoning laws and what the laws could potentially bring to the area.

Commissioner Orcutt brought up the need to 'think outside of the box' when faced with issues and staff should offer applicants suggestions to benefit the project.

5. ADJOURNMENT

ACTION: It was moved by Commissioner Orcutt and seconded by Commissioner Atwal to adjourn.

A voice vote found all in favor. Passed and so ordered; 5-0-0.

Time: 9:04 p.m.

CHAIR

STAFF LIAISON



From:
Sent: Saturday, April 9, 2022 1:21 PM
To: Public Comment <publiccomment@cityoftracy.org>
Subject: Carwash

Hi, I'm from 21st st and just wanted to say that I don't think they should do it. Even though we're not super close to where it may be built, I've lived in similar conditions before and it really sucked. But I've noticed other spaces in the city of Tracy that aren't even being occupied, I think you should reconsider a different space. Thank you for listening:)

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Rich text editor toolbar with options: AaBbCcDc, AaBbCcDc (highlighted), AaBbCc, AaBbCc, AaB, AaBbCcD, AaBbCcD, AaBbCcD. Below these are style options: Normal, No Spac..., Heading 1, Heading 2, Title, Subtitle, Subtle Em..., Emphasis.

April 7, 2022



To whom it may concern:

RE: D21-0009 Tracy Car wash

I am writing this letter with major concern of a proposal for a car wash to be installed at 150 W. Grant Line Road.

It is a TERRIBLE idea to put a car wash in our back yards!!! First of all, our part of town is already a shit hole! Our streets are full of huge gaps and cracks that never get repaired, we have homeless living across the street at the park on Grant Line. We get NOTHING of any substance on our side of town.

Give us a decent regular grocery store instead of damn car wash!!

We do not want the noise in our back yards or anything else to make our side of town worse! We already have the least amount of profit in our old homes, we don't need anything else to bring down the worth of our hokes. Find somewhere else to build a car wash away from our neighborhood.

I VOTE NO ON the Car Wash proposal at 150 W Grant Line Road.

Regards,

[Redacted Signature]

Homeowner on W 23rd Street
Tracy, CA

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From: >

Sent: Wednesday, April 13, 2022 12:32 PM

To: Public Comment <publiccomment@cityoftracy.org>

Subject: D21-0009: Tracy Car Wash located at 150 w grant line rd

I received a letter today regarding the development of Tracy Car wash on 150w grant line road as a resident in the local area I vote NO for the reasons of more traffic and accidents on a already busy road ,ongoing noise that can disturb local residents nearby, contributing to the homeless encampment I already have to deal with on a daily basis as I live a couple blocks away from it. this car wash will become a hang out spot at night and near local residents and families.

Once again I vote No

Thank you

Holly Dr, Tracy, CA 95376

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Vaquero Farms Inc.



City of Tracy

Planning Commission

Re: CUP21-0008: Proposed Cannabis Dispensary at 2179 W Grant Line Road

To whom it may concern,

As a longtime property owner of 2175 W. Grantline Road, the adjoining property to the applicant for the Cannabis Dispensary at 2179 W. Grantline Road, we have a variety of concerns regarding the application and potential impact of this decision on Vaquero Farm's property. This proposed location is part of a condominium association, so business decisions of one owner has impacts on the other including items like insurance, tenant acceptability, and potential marketability of the property. Below is a breakdown of the impacts:

Insurance: (Property Insurance covers both 2175 & 2179 under same policy)

- a. Current Policy would be void because dispensary is federally illegal
- b. New Policy Quotes –(to be fair we obtained quotes, and this is the summary of what we got back)
 - i. Premium -for the policy in which we split 50/50 would increase by double, this puts an unfair burden on our tenant and Vaquero Farms Inc
 - ii. Exceptions –the policies covering these types of operations have numerous exceptions to coverage such as Mold or Fungus, Fire & Smoke limitation, assault & battery. These exceptions add a tremendous amount of risk and once again places an unfair burden on Vaquero Farms Inc.

Marketability:

Our current tenant is a federally chartered bank that has been at this location since the building's development. We feel that this could impact our ability to maintain them as a tenant as they cannot even do business with a dispensary as it is federally illegal and that could adversely impact their reputation. The implications of that could lead to a non-renewal of our



Vaquero Farms Inc.

Lease, putting Vaquero Farms Inc at significant risk of losing a tenant. Then to find a new tenant the market would be limited to businesses that would be okay with being associated with this type of the operation.

Another significant concern is the impact to area security as security guards hired by the dispensary location are hired to protect the interest of the dispensary, not the neighboring businesses and its customers.

Vaquero Farms, Inc. strongly feels that this type of operation should only be in a stand-alone building that does not have the type of direct implications to neighboring owners as this permit would. We respectfully request that the application CUP 21-0008 : Proposed Cannabis Dispensary at 2179 W. Grant Line Road for Doctor's Choice Modesto, LLC be denied.

Sincerely,

Vaquero Farms Inc

AGENDA ITEM 1.A.

REQUEST

PUBLIC HEARING TO CONSIDER REVOCATION OF A CONDITIONAL USE PERMIT (CUP 14-0003) GRANTED TO LEIA’S NIGHTCLUB TO OPERATE AN EATING AND DRINKING ESTABLISHMENT THAT SERVES ALCOHOL AND PROVIDES ENTERTAINMENT AFTER 11:00 P.M. AT 2706 PAVILION PARKWAY

DISCUSSION

Background

Certain specified conditional uses are allowed throughout the City upon the granting of a use permit. Tracy Municipal Code (TMC) Section 10.08.4250 provides that because of the “potentially incompatible characteristics, conditional uses require special consideration so that they may be located properly with respect to their effects on surrounding properties.” The TMC further provides that the Planning Commission “is empowered to grant and to deny applications for use permits and to impose reasonable conditions upon the granting of use permits, subject to appeal review by the Council.”

On December 18, 2012, the City amended the Tracy Municipal Code, the I-205 Corridor Specific Plan, and other specific plans throughout the City to address eating and drinking establishments with entertainment. With these amendments, a Conditional Use Permit (CUP) is required for eating and drinking establishments that serve alcohol and provide entertainment after 11:00 p.m. Entertainment uses are defined as live music, dancing, karaoke, comedy shows, modeling, or live performances.

On May 14, 2014, the Planning Commission approved a Conditional Use Permit (CUP14-0003) to allow an eating and drinking establishment to serve alcohol and provide entertainment after 11:00 p.m. at 2706 Pavilion Parkway. The property is located within the I-205 Corridor Specific Plan area and designated General Commercial. The Conditional Use Permit was approved based on the findings and subject to the conditions set forth in Resolution 2014-0014 (Attachment A – Planning Commission Resolution 2014-0014). The business operating under this CUP is known as Leia’s Nightclub (formerly The Grant Bar).

Police Department Calls for Service History

Calls for service related to disturbances at Leia’s Nightclub (Attachment B - Police Department Crime Statistics) are as follows:

2018

<i>INCIDENT NO.</i>	<i>DESCRIPTION OF INCIDENT</i>
18-4039 Assault	Victim suffered a fractured jaw and nose after a physical altercation at the bar.
8TR37746 Assault	Patron suffered a dislocated shoulder resulting from bouncers using excessive force.
18-7731 Assault	Victim was hit on the face with a sharp object and suffered a deep laceration, requiring 140 stitches.

2019

<i>INCIDENT NO.</i>	<i>DESCRIPTION OF INCIDENT</i>
19-4778 Driving Under the Influence	Patron observed leaving the bar driving a vehicle and arrested for DUI, BAC .20%
19-5508 Assault	Patron was struck during a physical altercation, fell and hit head on cement.
19-9409 Assault	Patron claimed bouncer pushed him to the ground causing an abrasion.
9TR4572 Assault	Patron claimed dislocated shoulder after bar fight with other patrons.
9TR57854 Public Intoxication	Intoxicated female outside in front of the bar fell, hitting her head on the cement.

2020*

<i>INCIDENT NO.</i>	<i>DESCRIPTION OF INCIDENT</i>
20-3277 Homicide	Victim was observed stabbing patrons after a physical altercation at the bar. He was pursued into a nearby hotel by another patron and beaten to unconsciousness. Victim was taken to the hospital and later succumbed to his injuries.

*The pandemic placed restrictions on bar establishments and most of the bars were closed in 2020. The brief time Leia's Bar was open a total of 8 calls for service were reported.

2021

<i>INCIDENT NO.</i>	<i>DESCRIPTION OF INCIDENT</i>
21-1420 Assault	Victim reports being assaulted outside the bar
21-1557 Driving Under the Influence	Female entered the parking lot of the bar in a vehicle, nearly colliding with another vehicle and pedestrians. Female stated she was at the bar earlier and returned to pick up a friend. Arrested for DUI, blood draw.
21-4303 Assault	Patron states he was assaulted by security and possibly suffered a fractured knee.
21-4035 Domestic Violence	In the parking lot of the bar, a male hit and kicked a female causing visible injuries.
21-08290075, 21-10010193 Underage Drinking	Bar serving alcohol to persons under the age of 21.

21-01635 Assault with a Deadly Weapon	After a fight broke out at the bar one of the bouncers “stomped” on a patron’s head that was fighting. The bouncer also fired a gun toward a patron and was later arrested.
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2022

<i>INCIDENT NO.</i>	<i>DESCRIPTION OF INCIDENT</i>
22-00686 Shots Fired	Video footage shows security guard working at the bar discharged his firearm while trying to disperse an unruly crowd. Surveillance video of the incident shows the owner present during this incident. The owner is seen running back into the bar once he observed the fight and returned wearing a makeshift bulletproof vest
22-00775, 22-0777, 22-00779 Shots Fired	Unruly and disgruntled patron asked to leave the bar discharged a firearm in front of Leia’s bar and then later went on to do the same at Rusty’s Bar and Ralphs Bar on the same night.
22-01325 Public Intoxication	Patron arrested for public intoxication following a disturbance at the bar.

It should be noted that Incident 22-00686 was not reported to the Tracy Police Department at the time of occurrence. There have also been several confirmed reports of assaults that were never reported to the Tracy Police Department. Additionally, during routine security checks of Leia’s bar, Police Officers have been made aware that the business regularly serves alcohol to underage customers. This information came directly from the underaged customers that were served alcohol who stated they are served liquor on a regular basis.

Police staff met with the owner of Leia’s Bar, DJ Miller on April 8, 2021. During the meeting, Police staff outlined the last three years of calls for service by the Tracy Police Department, Tracy Code Enforcement Unit, the State of California Department of Alcohol and Beverage Control, and the State of California Employment Development Department. Mr. Miller was questioned about the security guard documentation and identifying information required to be on file. Mr. Miller stated his security guards are paid “under the table”; therefore, no information was on file.

In discussing the increased calls for service, Mr. Miller explained that Leia’s relaxed its dress code, resulting in an influx of out-of-town customers who were not its usual clientele. After observing the impacts of the dress code change, Mr. Miller stated he returned to the dress code that was in place prior to COVID, and that said dress code was being rigorously enforced. The owner further stated the new dress code policy would be posted on their webpage as part of the change implementation; however, when staff checked the webpage, the information was not updated on their website as stated. Mr. Miller further committed to having a greater presence at the bar on the weekends. At the conclusion of the meeting, Police staff informed Mr. Miller that their Conditional

Use Permit was in jeopardy of revocation based on the amount and types of calls for service. Following this meeting, Police began two officer nightly patrols of the bar and parking lot and checks of security staff to ensure they were properly credentialed in the event they were armed.

On April 15, 2021, at approximately 2245 hours, Code Enforcement and Tracy Police Officers conducted a security/compliance check of the business and spoke to the manager on duty. Upon their arrival, they immediately noticed the absence of security. When asked, the manager stated the bartender on duty was also Leia's security guard. When asked if the bartender/security person was certified as a guard, he stated that they have between 6 and 7 security officers and none of them were certified. Code Enforcement issued a violation notice for violation of section 10.08.4380 of the Tracy Municipal Code (Violation of Conditional Use Permit – Code Enforcement Case CD21-0744).

Grounds for Revocation of CUP14-0003

A Conditional Use Permit allows a city or county to consider special uses which may be essential or desirable to a particular community, but which are not allowed as a matter of right within a zoning district, through a public hearing process. A conditional use permit can provide flexibility within a zoning ordinance. Another traditional purpose of the conditional use permit is to enable a municipality to control certain uses which could have detrimental effects on the community.

Pursuant to TMC Section 10.08.4380, upon a violation of any applicable provisions of TMC Chapter 10.08 or upon failure to comply with any condition upon which a CUP was granted, a CUP shall be suspended automatically. This provision further provides that the Planning Commission must consider the suspension within 30 days of the Notice of Suspension.

A Notice of Suspension of Conditional Use Permit (CUP14-0003) was issued to the operator of Leia's Nightclub on April 28, 2022. As an accommodation to the business owner, the City deferred the suspension until and upon action by the Planning Commission following consideration of this matter (Attachment D – Notice of Suspension of Conditional Use Permit).

If the Planning Commission is "not satisfied that the regulation, general provision, condition, or conditions are being complied with, the Commission may revoke the use permit or take such action as may be necessary to ensure compliance with the regulation, general provisions, condition, or conditions" pursuant to TMC Section 10.08.4380.

Based on staff's investigation and history of criminal activity, the grounds for suspension of Leia's Nightclub at 2706 Pavilion Parkway, CUP14-0003, are based on violations of the following conditions:

C.1 Security Guards.

- C.1.1 Security guards shall be provided at all times at a rate of two guards plus one additional guard for every 50 patrons.
- C.1.2 Security guards shall carry proof of valid registration through the California Department of Consumer Affairs, Bureau of Security and Investigative Services (BSIS) in the form of a Security Guard Card.
- C.1.3 Security shall not be provided by persons performing dual roles, such as bartending, bussing, waiting, hosting, or other roles other than security.
- C.1.4 Minors. No person under 21 years of age shall be permitted in the establishment after 11:00 p.m.

Furthermore, City staff finds that that the use and the conditions under which it operates is detrimental to the public health, safety, or welfare or materially injurious to, or inharmonious with, properties or improvements in the vicinity.

ENVIRONMENTAL REVIEW

The revocation of a CUP is exempt from the requirements of the California Environmental Quality Act (CEQA) under CEQA Guidelines Section 15321, Enforcement Actions by Regulatory Agencies.

RECOMMENDATION

Staff recommends that the Planning Commission revoke CUP14-0003 for Leia's Nightclub located at 2706 Pavilion Parkway based on violations of the conditions of approval as cited herein and determine that the conditions under which Leia's operates is detrimental to the public health, safety, or welfare or materially injurious to, or inharmonious with, properties or improvements in the vicinity, as set forth in the proposed Planning Commission Resolution prepared by staff, dated May 11, 2022 (Attachment D).

Prepared by: Ana Contreras, Code Enforcement Manager
Alex Neicu, Tracy Police Captain

Reviewed by: Scott Claar, Senior Planner

Approved by: William Dean, Interim Development Services Director

ATTACHMENTS

- A - Planning Commission Staff Report Dated May 14, 2022 and Resolution 2014-0014
- B - Police Department Crime Statistics
- C - Notice of Suspension of Conditional Use Permit
- D - Proposed Planning Commission Resolution Prepared by Staff

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May 14, 2014

AGENDA ITEM 2 A

REQUEST

PUBLIC HEARING TO CONSIDER A CONDITIONAL USE PERMIT APPLICATION FOR AN EATING AND DRINKING ESTABLISHMENT WITH ENTERTAINMENT AT 2706 PAVILION PARKWAY – APPLICANT IS DENNIS MILLER AND PROPERTY OWNER IS LNBT ENTERPRISES, LLC. APPLICATION NUMBER CUP14-0003

DISCUSSION

Background and Project Description

On December 4, 2012, the City amended the I-205 Corridor Specific Plan (Resolution 2012-254) and various commercial areas throughout the city to conditionally permit eating and/or drinking establishments with entertainment. This effort was initiated in response to growing interest for eating and drinking establishments with entertainment, where entertainment uses are defined as live music, dancing, karaoke, comedy shows, modeling, or live performances.

The project applicant proposes to establish and operate an eating and drinking establishment with entertainment at 2706 Pavilion Parkway (Attachment A). This site is located within the I-205 Corridor Specific Plan area and designated General Commercial. Before the restaurant may serve alcohol and provide entertainment after 11:00 p.m. at this location, the applicant must receive Planning Commission approval of a Conditional Use Permit.

Project Description and Land Use Analysis

According to the applicant, the restaurant will be open daily from 10am to 2am and includes sit-down seating, lounge seating, billiards and video games, and a bar. Minors will be dismissed from the premises after 11pm, and alcohol sales will terminate by 1:30 am. Proposed forms of entertainment include live music, disc jockeys, dancing, and comedy shows. As conditioned, registered security personnel will be onsite at all times and are prohibited from consuming alcohol while on the premises.

The subject site is located within the City's prominent commercial corridor and contains two multi-tenant buildings. The subject building is vacant and the other building currently houses a dentist and a nail salon. Uses that could occupy these buildings in the future include retail, consumer services, personal services, eating and drinking establishments with or without entertainment, and offices, similar to the existing uses in the vicinity. Approximately 500 feet to the south is a hotel. Staff and the applicant have individually reached out to the hotel and received no concerns or opposition of the project.

Because the restaurant is on a multi-tenant site and will neighbor other businesses, staff proposes Conditions of Approval B.1 through B.3 to limit entertainment activities indoors and prohibit exterior amplification of sound or projection of video. While outdoor eating and drinking is not proposed, staff does not suggest restricting or prohibiting outdoor eating and drinking, which is generally permitted for eating and drinking establishments.

The proposed eating and drinking establishment with entertainment, as conditioned, would operate in a complementary manner with surrounding uses and will not impose undesirable impacts on the nearby properties.

Parking

The I-205 Corridor Specific Plan requires eating and drinking uses to be provided with 1 parking space per 250 square feet of gross floor area. The site was developed with 122 parking spaces to serve the 30,181 square feet of building area on site, providing an excess of 1 parking space over the minimum requirement. The use does not create the need for additional parking.

Environmental Document

The project is categorically exempt from CEQA pursuant to Guidelines Section 15301, which pertains to existing facilities where the project does not involve expansion of an existing development. No further environmental assessment is required.

RECOMMENDATION

Staff recommends that the Planning Commission approve the Conditional Use Permit application for an eating and drinking establishment with entertainment at 2706 Pavilion Parkway, subject to the conditions as stated in the Planning Commission Resolution dated May 14, 2014 (Attachment C).

MOTION

Move that the Planning Commission approve the Conditional Use Permit application for an eating and drinking establishment with entertainment at 2706 Pavilion Parkway, subject to the conditions as stated in the Planning Commission Resolution dated May 14, 2014.

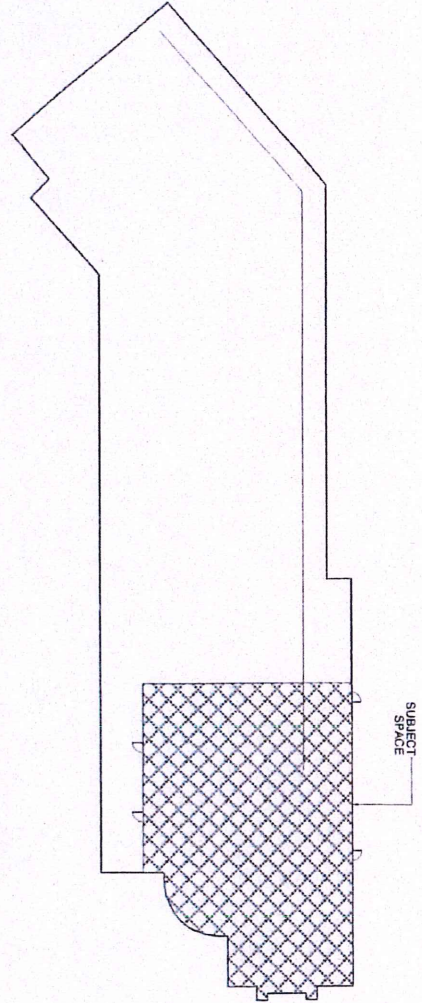
Prepared by: Kimberly Matlock, Assistant Planner

Approved by: Bill Dean, Assistant Development Services Department Director

ATTACHMENTS

Attachment A: Vicinity Map, Site and Floor Plan

Attachment B: Planning Commission Resolution



SITE PLAN
SCALE: 1" = 20'-0"



VICINITY MAP
SCALE: 1" = 20'-0"

ADDRESS: 2708 PAVILLION PARKWAY, TRACY, CA
 THE PROJECT IS COVERED UNDER THE
 FOLLOWING CODES:
 2018 CALIFORNIA BUILDING CODE
 2018 CALIFORNIA MECHANICAL CODE
 2018 CALIFORNIA ELECTRICAL CODE
 2018 CALIFORNIA FIRE CODE
 2018 CALIFORNIA PLUMBING CODE
 2018 CALIFORNIA PUEBLLIC CODE
 ZONING:
 OCCUPANT: OAD 288
 CONSTRUCTION: V B
 INDEX:
 A.1 SITE PLAN & COVER PAGE
 A.2 SEVERAL PAGES
 A.3 LIGHTING PLAN
 A.4 MECHANICAL PLAN
 A.5 ELECTRICAL PLAN
 A.6 PLUMBING PLAN
 A.7 FIRE SAFETY PLAN
 A.8 HATCHING PLAN
 A.9 REFLECTED CEILING PLAN
 A.10 REFLECTED CEILING DETAIL
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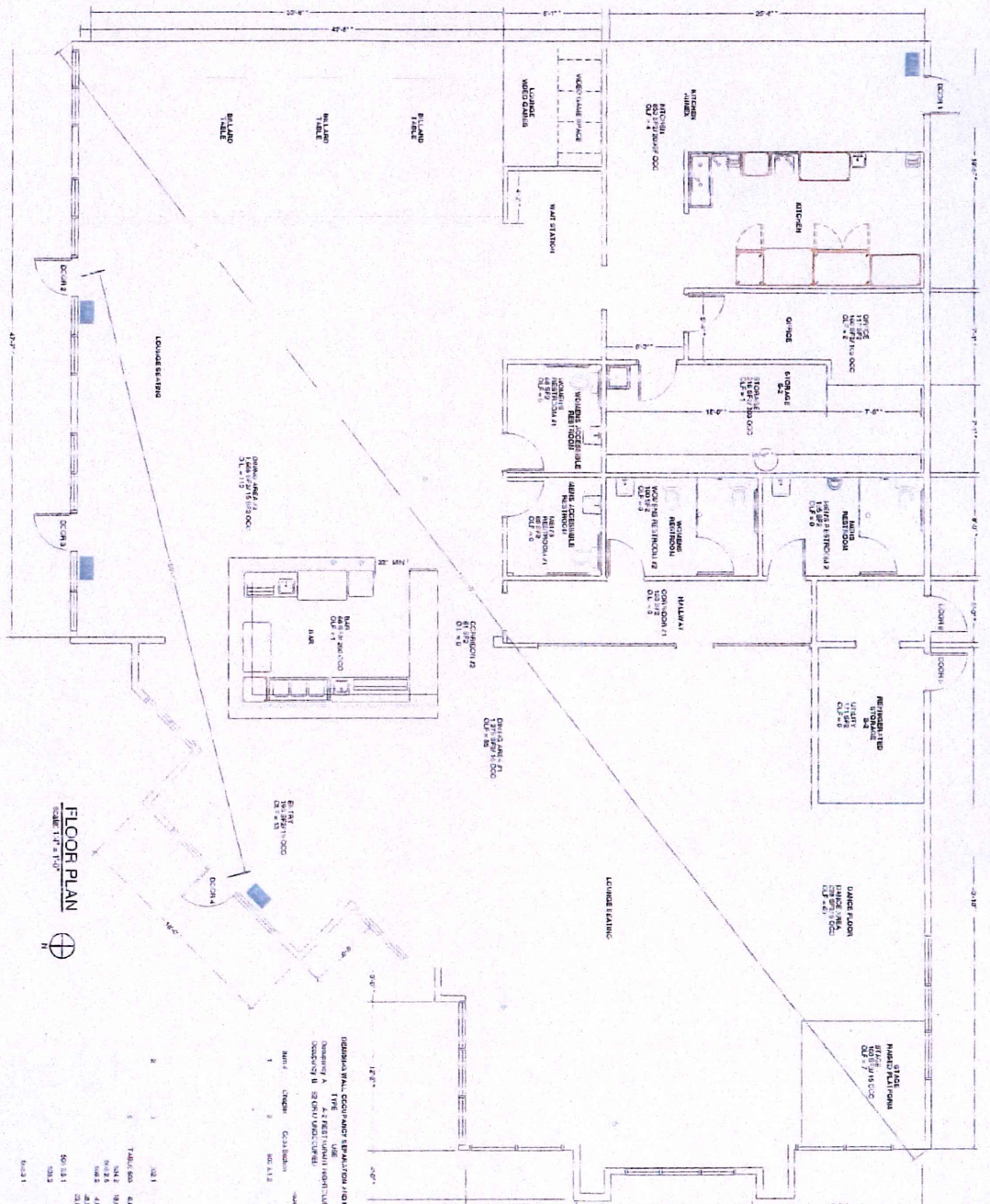
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REVISION	
APPROVED	
DATE	

SITE PLAN & INFORMATION PAGE

GRANT BAR & LOUNGE
 2708 PAVILLION PARKWAY
 TRACY, CA



DALE A. COSE
 design @le 24 energy
 PO Box 226
 TRACY, CA 95376
 (209) 844-8422 OFFICE (209) 844-4799 FAX
 11 E 4TH ST
 TRACY, CA



FLOOR PLAN
SCALE: 1/4" = 1'-0"

NO.	DESCRIPTION	QTY	UNIT	AMOUNT	TOTAL
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 CITY OF TRACY
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FLOOR PLAN

GRANT BAR & LOUNGE
 2708 PAVILLION PARKWAY
 TRACY, CA

DALE A. COSE
 design title 24 energy
 PO Box 326
 TRACY, CA 95376
 (209) 434-9422 FAX: (209) 834-4274 FAX

City of Tracy
Conditions of Approval
Eating and/or drinking establishment with entertainment
(The Grant Bar & Lounge)
Application Number CUP14-0003
May 14, 2014

A. General Provisions and Definitions.

A.1. General. These Conditions of Approval apply to:

The Project: An eating and/or drinking establishment with entertainment (Application Number CUP14-0003)

The Property: 2706 Pavilion Parkway, Assessor's Parcel Number 212-290-47

A.2. Definitions.

- a. "Applicant" means any person, or other legal entity, defined as a "Developer."
- b. "City Engineer" means the City Engineer of the City of Tracy, or any other duly licensed Engineer designated by the City Manager, or the Development Services Director, or the City Engineer to perform the duties set forth herein.
- c. "City Regulations" means all written laws, rules, and policies established by the City, including those set forth in the City of Tracy General Plan, the Tracy Municipal Code, ordinances, resolutions, policies, procedures, and the City's Design Documents (including the Standard Plans, Standard Specifications, Design Standards, and relevant Public Facility Master Plans).
- d. "Development Services Director" means the Development Services Department Director of the City of Tracy, or any other person designated by the City Manager or the Development Services Director to perform the duties set forth herein.
- e. "Conditions of Approval" shall mean the conditions of approval applicable to the Project at the Property, Application Number CUP14-0003. The Conditions of Approval shall specifically include all Development Services Department conditions set forth herein.
- f. "Developer" means any person, or other legal entity, who applies to the City to divide or cause to be divided real property within the Project boundaries, or who applies to the City to develop or improve any portion of the real property within the Project boundaries. The term "Developer" shall include all successors in interest.

A.3. Compliance with submitted plans. Except as otherwise modified herein, the project shall be constructed in substantial compliance with the site and floor plans received by the Development Services Department on March 28, 2014.

A.4. Payment of applicable fees. The applicant shall pay all applicable fees for the project, including, but not limited to, building permit fees, plan check fees, or any other City or other agency fees or deposits that may be applicable to the project.

- A.5. Compliance with laws. The Developer shall comply with all laws (federal, state, and local) related to the development of real property within the Project, including, but not limited to:
- the Planning and Zoning Law (Government Code sections 65000, et seq.)
 - the California Environmental Quality Act (Public Resources Code sections 21000, et seq., "CEQA"), and
 - the Guidelines for California Environmental Quality Act (California Administrative Code, title 14, sections 1500, et seq., "CEQA Guidelines").
- A.6. Compliance with regulations. Unless specifically modified by these Conditions of Approval, the Developer shall comply with all City regulations, including, but not limited to, the Tracy Municipal Code (TMC), Standard Plans, and Design Goals and Standards, and State regulations, including, but not limited to, the California Building Code and the California Fire Code.
- A.7. Protest of fees, dedications, reservations, or other exactions. Pursuant to Government Code section 66020, including section 66020(d)(1), the City HEREBY NOTIFIES the Developer that the 90-day approval period (in which the Developer may protest the imposition of any fees, dedications, reservations, or other exactions imposed on this Project by these Conditions of Approval) has begun on the date of the conditional approval of this Project. If the Developer fails to file a protest within this 90-day period, complying with all of the requirements of Government Code section 66020, the Developer will be legally barred from later challenging any such fees, dedications, reservations or other exactions.

B. Development Services Department Planning Division Conditions

Contact: Kimberly Matlock (209) 831-6430 kimberly.matlock@ci.tracy.ca.us

- B.1. Entertainment indoors. The entertainment activities shall be conducted wholly within the building unless an outdoor activity is specifically approved through a Temporary Use Permit or an amendment to the Conditional Use Permit is granted by the Planning Commission.
- B.2. Amplification of sound. There shall be no exterior amplification of sound, noise, or music, unless an outdoor activity is specifically approved through a Temporary Use Permit or an amendment to the Conditional Use Permit granted by the Planning Commission. All audio projections shall comply with Noise Control requirements contained in Article 9 Section 4.12 of the Tracy Municipal Code.
- B.3. Visual projections. There shall be no exterior visual projections, including, but not limited to, televisions and screens, unless an outdoor activity is specifically approved through a Temporary Use Permit or an amendment to this Conditional Use Permit granted by the Planning Commission.
- B.4. Unassigned parking. The parking area shall remain open for common use and there shall be no designated parking areas for specific uses.

B.5. The site, including around the building, throughout the parking area and all landscaped areas, shall be kept free and clear of trash, litter, and debris at all times. All food waste, refuse, and recyclable materials shall be in the appropriate disposal enclosures.

B.6. Signs.

B.6.1. The applicant shall obtain sign and building permits for signs requiring sign and building permits.

B.6.2. Temporary signs, including banners, flags, pennants, balloons, and similar devices, shall comply with the Tracy Municipal Code standards for temporary signs.

C. Police Department Conditions

Contact: Officer Brian Wilmshurst (209) 831-6682 brian.wilmshurst@tracypd.com

C.1. Licensing requirements. The project shall abide by all licensing requirements of the State of California Department of Alcoholic Beverage Control (ABC).

C.2. Security guards.

C.2.1. Security guards shall be provided ^{after 10pm and/or whenever entertainment is occurring} at all times at a rate of two guards plus one additional guard for every 50 patrons.

C.2.2. Security guards shall carry proof of valid registration through the California Department of Consumer Affairs, Bureau of Security and Investigative Services (BSIS) in the form of a Security Guard Card.

C.2.3. Security guards shall not consume any alcohol while on the premises.

C.2.4. Security shall not be provided by persons performing dual roles, such as bartending, bussing, waiting, hosting, or other roles other than security.

C.3. Minors. No person under 21 years of age shall be permitted in the establishment after 11:00 p.m.

C.4. Hours of operation. The establishment shall close by 2:00 a.m. each morning.

RESOLUTION 2014 – 0014 _____

PLANNING COMMISSION APPROVAL OF A CONDITIONAL USE PERMIT APPLICATION FOR AN EATING AND DRINKING ESTABLISHMENT WITH ENTERTAINMENT AT 2706 PAVILION PARKWAY – APPLICANT IS DENNIS MILLER AND PROPERTY OWNER IS LNBT ENTERPRISES, LLC. APPLICATION NUMBER CUP14-0003

WHEREAS, Dennis Miller submitted an application for a Conditional Use Permit to allow an eating and drinking establishment with entertainment at 2706 Pavilion Parkway on March 28, 2014, and

WHEREAS, The subject property is located within the General Commercial (GC) land use designation in the I-205 Corridor Specific Plan, within eating and drinking establishments with entertainment are conditionally permitted, and

WHEREAS, In accordance with Section 10.08.4250 of the Tracy Municipal Code, the Planning Commission is empowered to grant or to deny applications for Conditional Use Permits and to impose reasonable conditions upon the granting of use permits, and

WHEREAS, The proposed eating and drinking establishments with entertainment is compatible with surrounding retail businesses and adjacent hotel, and

WHEREAS, The project is categorically exempt from the California Environmental Quality Act requirements under Guidelines Section 15301 pertaining to existing facilities, and

WHEREAS, The Planning Commission held a public meeting to review and consider the Conditional Use Permit application on May 14, 2014;

NOW, THEREFORE BE IT RESOLVED, that the Planning Commission does hereby approve a Conditional Use Permit to allow an eating and drinking establishment with entertainment at 2706 Pavilion Parkway, Application Number CUP14-0003, based on the following findings and subject to the conditions as stated in Exhibit "1" attached and made part hereof:

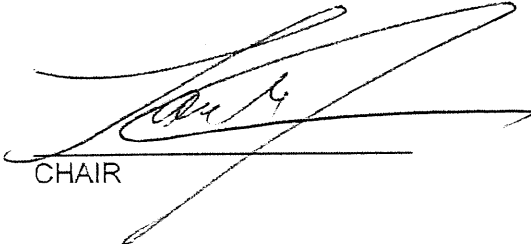
1. There are circumstances or conditions applicable to the land, structure, or use that make the granting of a use permit necessary for the preservation and enjoyment of a substantial property right because the proposed use is not permitted unless the Planning Commission grants approval of a Conditional Use Permit.
2. The proposed location of the conditional use is in accordance with the objectives of the purposes of the zone in which the site is located because an eating and drinking establishment with entertainment, as conditioned, will be compatible with adjacent and nearby hotel, restaurant, and retail uses and is allowed in the General Commercial land use designation in the I-205 Corridor Specific Plan Area if the Planning Commission approves a Conditional Use Permit.
3. The proposed location of the use and the conditions under which it would be operated or maintained will not be detrimental to the public health, safety, or welfare or materially injurious to, or inharmonious with, properties or improvements in the vicinity because the proposed eating and drinking establishment with entertainment will comply with the City of

Tracy General Plan, I-205 Corridor Specific Plan, and requirements of the Tracy Municipal Code. The establishment will comply with all applicable Alcoholic Beverage Control requirements, and on-site security will be provided during all hours of operation. All entertainment uses will be wholly indoors, and visual and audio projection will not be permitted to the exterior of the building to minimize the undesirable noise and light impacts to neighboring businesses.

4. The proposed use will comply with each of the applicable provisions of Chapter 10.08 of the Tracy Municipal Code, because subject to approval by the Planning Commission for a Conditional Use Permit, the proposed project will be required to comply with all applicable provisions including, but not limited to, the Tracy Municipal Code, the I-205 Corridor Specific Plan, the City of Tracy Standard Plans, the California Building Code, and the California Fire Code.

The foregoing Resolution 2014 - 0014 was adopted by the Planning Commission on the 14th day of May 2014, by the following vote:

AYES: COMMISSION MEMBERS MITRACOS, ORCUTT, RANSOM, SANGHA, VARGAS
NOES: COMMISSION MEMBERS
ABSENT: COMMISSION MEMBERS
ABSTAIN: COMMISSION MEMBERS


CHAIR

ATTEST:

STAFF LIAISON

City of Tracy
Conditions of Approval
Eating and/or drinking establishment with entertainment
(The Grant Bar & Lounge)
Application Number CUP14-0003
May 14, 2014

A. General Provisions and Definitions.

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The Property: 2706 Pavilion Parkway, Assessor's Parcel Number 212-290-47

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Contact: Officer Brian Wilmshurst (209) 831-6682 brian.wilmshurst@tracypd.com

C.1. Licensing requirements. The project shall abide by all licensing requirements of the State of California Department of Alcoholic Beverage Control (ABC).

C.2. Security guards.

C.2.1. Security guards shall be provided after 10:00 p.m. and/or whenever entertainment is occurring at a rate of two guards plus one additional guard for every 50 patrons.

C.2.2. Security guards shall carry proof of valid registration through the California Department of Consumer Affairs, Bureau of Security and Investigative Services (BSIS) in the form of a Security Guard Card.

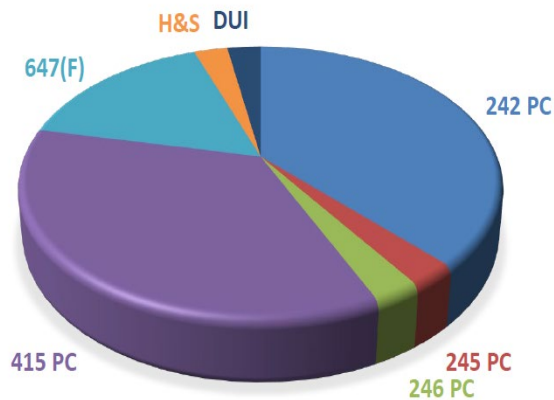
C.2.3. Security guards shall not consume any alcohol while on the premises.

C.2.4. Security shall not be provided by persons performing dual roles, such as bartending, bussing, waiting, hosting, or other roles other than security.

C.3. Minors. No person under 21 years of age shall be permitted in the establishment after 11:00 p.m.

C.4. Hours of operation. The establishment shall close by 2:00 a.m. each morning.

LEIA'S BAR CFS 2018



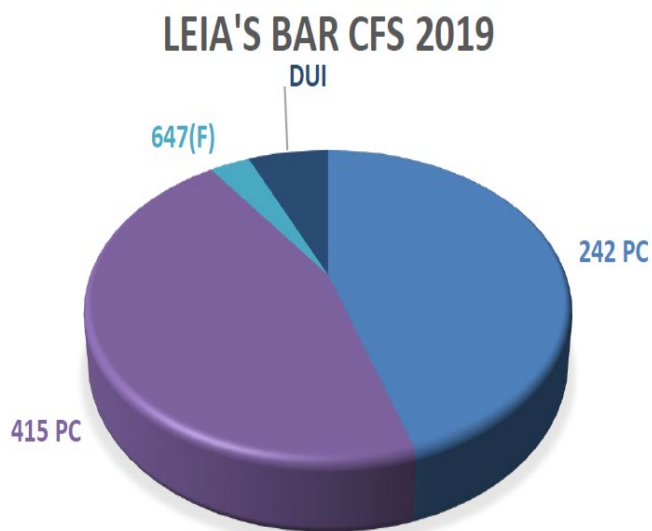
2018 CFS	
Type	Count
242 PC	14
245 PC	1
246 PC	1
415 PC	13
647(F)	6
H&S	1
DUI	1
OTHER	20
1059	38
TOTAL	95

The pie chart above illustrates 30 out of the 63 calls for service at Leia's Bar, or 48%, involve assaults, disturbances, alcohol/drug, and or weapon offenses. Note security checks are subtracted from the total count. There were 309 security checks for 2021 at Leia's Bar.

Significant Incidents

INCIDENT NO.	DESCRIPTION OF INCIDENT
18-4039 Assault	Victim suffered a fractured jaw and nose after a physical altercation the bar.
8TR37746 Assault	Patron suffered a dislocated shoulder resulting from bouncers using excessive force.
18-7731 Assault	Victim was hit on the face with a sharp object and suffered a deep laceration, requiring 140 stitches.

Conditional Use Permit Review
 Leia's Bar 2706 Pavilion Parkway
 Calls for Service/Case Review



2019 CFS	
Type	Count
242 PC	14
245 PC	0
246 PC	0
415 PC	14
647(F)	1
H&S	0
DUI	2
OTHER	25
1059	2
TOTAL	58

SIGNIFICANT INCIDENTS

<i>Incident</i>	<i>Description of Incident</i>
19-4778 DUI	Patron observed leaving the bar in vehicle 1051, arrested for DUI BAC .20%
19-5508 Assault	Patron was struck during a physical altercation, fell and hit head on cement.
19-9409 Assault	Patron claimed bouncer pushed him to the ground causing an abrasion.
9TR4572 Assault	Patron claimed dislocated shoulder after bar fight with other patrons.
9TR57854 Public Intoxication	Intoxicated female outside in front of the bar fell, hitting her head on the cement.

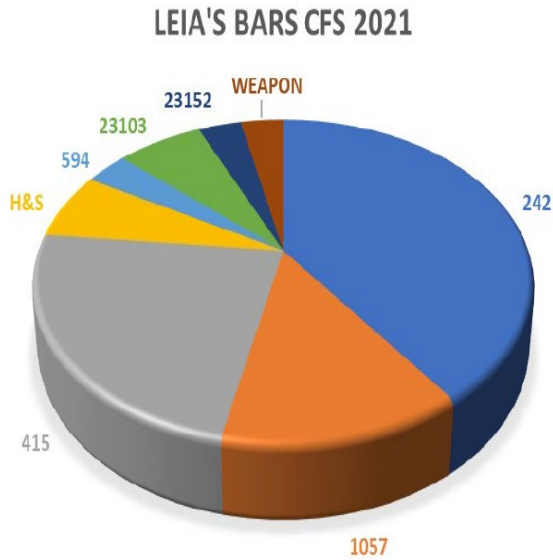
Conditional Use Permit Review
Leia's Bar 2706 Pavilion Parkway
Calls for Service/Case Review

The pandemic placed restrictions on bar establishments and most of the bars were closed in 2020. The brief time Leia's Bar was open a total of 8 calls for service were reported.

Significant Incident 2020

Incident	Description of Incident
20-3277 Homicide	Victim was observed stabbing patrons after a physical altercation at the bar. He was pursued into a nearby hotel by another patron and beaten to unconsciousness. Victim was taken to the hospital and later succumbed to his injuries.

Conditional Use Permit Review
Leia's Bar 2706 Pavilion Parkway
Calls for Service/Case Review



2021 CFS	
Type	Count
242	12
1057	4
415	7
H&S	2
594	1
23103	2
23152	1
WEAPON	1
OTHER	33
TOTAL	63
* 1059= 309 for 2021	

The pie chart above illustrates 30 out of the 63 calls for service at Leia's Bar, or 48%, involve assaults, disturbances, alcohol/drug, and or weapon offenses. Note security checks are subtracted from the total count. There were 309 security checks for 2021 at Leia's Bar.

INCIDENT NO.	DESCRIPTION OF INCIDENT
21-1420 Assault	Victim reports being assaulted outside the bar
21-1557 Driving Under the Influence	Female entered the parking lot of the bar in a vehicle, nearly colliding with another vehicle and pedestrians. Female stated she was at the bar earlier and returned to pick up a friend. Arrested for DUI, blood draw.
21-4303 Assault	Patron states he was assaulted by security and possible suffered a fractured knee.
21-4035 Domestic Violence	In the parking lot of the bar, a male hit and kicked a female causing visible injuries.
2108290075, 2110010193 Underage Drinking	Bar serving alcohol to persons under the age of 21.
21-01635 Assault with a Deadly Weapon	After a fight broke out at the bar one of the bouncers "stomped" on a patron's head that was fighting. The bouncer also fired a gun toward a patron and was later arrested.

Conditional Use Permit Review
 Leia's Bar 2706 Pavilion Parkway
 Calls for Service/Case Review

JAN-FEB 14, 2022 CFS	
Type	Count
242	1
1057	2
211	1
415	1
OTHER	14
TOTAL	19
* 1059= 22 for 2022	

The above chart shows calls for the months of January thru February 14, 2022 for Leia's bar. Note: security checks are not included in the total.

Significant Incidents

Incident	Description of Incident
22-00686 Shots Fired	Video footage shows security guard working at the bar discharged his firearm while trying to disperse and unruly crowd.
22-00775, 22-00777, 22-00779 Shots Fired	Unruly and disgruntled patron asked to leave the bar discharged a firearm in front of Leia's bar and then later went on to do the same at Rusty's and Ralphs Bar on the same night.
22-01325 Public Intoxication	A patron was arrested for public intoxication following a disturbance at Leia's Bar

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TRACY POLICE DEPARTMENT

CODE ENFORCEMENT DIVISION
333 CIVIC CENTER PLAZA, FIRST FLOOR, TRACY, CA 95376
DIRECT LINE (209) 831.6401 FAX (209) 831.6439

CERTIFICATE OF SERVICE

The undersigned declares as follows:

On the 28th day of April, 2022, I served the following document:

Notice of Suspension of Conditional Use Permit
2706 Pavilion Parkway, Unit 101
Dated April 28, 2022

to the following party or parties named and to the addresses listed below regarding
Conditional Use Permit 14-0003:

Tammy Ramirez
@ Tracy City Hall
Conference Room 120
333 Civic Center Plaza
Tracy, CA 95376

Said service was performed in the following manner:

- BY MAIL:** I caused true and correct copies of the above documents to be placed and sealed in an envelope addressed to the parties named above and, following ordinary business practices, deposited said envelopes for collection and mailing by the City's mailroom staff, located in Tracy City Hall, 333 Civic Center Plaza, Tracy, California 95376, with prepaid postage from the United States Postal Service. In the ordinary course of business, correspondence placed for collection at City Hall on a particular day is deposited with the United States Postal Service that same day.
- BY PERSONAL SERVICE:** I personally delivered true and correct copies of the above documents to the parties named above, at the addresses listed above, or at the address indicated hereafter.
- BY POSTING:** I caused true and correct copies of the above documents to be posted in a conspicuous place at the listed address and or addresses indicated hereafter.

I declare under penalty of perjury under the laws of the State of California
that the foregoing is true and correct.

Executed this 28th day of April, 2022, in Tracy, California, 95376.

A handwritten signature in cursive script that reads 'Ana Contreras'.

ANA CONTRERAS
Community Preservation Manager
Tracy Police Department



TRACY POLICE DEPARTMENT

CODE ENFORCEMENT DIVISION
333 CIVIC CENTER PLAZA, FIRST FLOOR, TRACY, CA 95376
DIRECT LINE (209) 831.6401 FAX (209) 831.6439

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2706 Pavilion Parkway, Unit 101
Dated April 28, 2022

to the following party or parties named and to the addresses listed below regarding
Conditional Use Permit 14-0003:

Tammy Ramirez
c/o Leia's Restaurant and Nightclub
2706 Pavilion Parkway, Unit 101
Tracy, CA 95376

Said service was performed in the following manner:

- BY MAIL:** I caused true and correct copies of the above documents to be placed and sealed in an envelope addressed to the parties named above and, following ordinary business practices, deposited said envelopes for collection and mailing by the City's mailroom staff, located in Tracy City Hall, 333 Civic Center Plaza, Tracy, California 95376, with prepaid postage from the United States Postal Service. In the ordinary course of business, correspondence placed for collection at City Hall on a particular day is deposited with the United States Postal Service that same day.
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that the foregoing is true and correct.

Executed this 29th day of April, 2022, in Tracy, California, 95376.

ANA CONTRERAS
Community Preservation Manager
Tracy Police Department



TRACY POLICE DEPARTMENT

April 28, 2022

Tammy Ramirez
c/o Leia's Restaurant and Nightclub
2706 Pavilion Parkway, Unit 101
Tracy, CA 95376

Dear Ms. Ramirez:

SUBJECT: NOTICE OF SUSPENSION OF CONDITIONAL USE PERMIT
2706 PAVILION PARKWAY, UNIT 101, TRACY, CA 95376

This letter serves as a Notice of Suspension of Conditional Use Permit (CUP 14-0003) to operate an eating and/or drinking establishment with entertainment after 11:00 p.m. at 2706 Pavilion Parkway, #101, Tracy, California (hereinafter, "Leia's Restaurant and Nightclub").

The City of Tracy Building Official, in conjunction with the Planning Division, issues this Notice pursuant to Tracy Municipal Code (TMC) section 10.08.4380 which authorizes the automatic suspension of a CUP upon a violation of any applicable provision of TMC Chapter 10.08 or upon failure to comply with any condition upon which a CUP was granted. This provision further provides that the Planning Commission must consider the suspension within 30 days. As an accommodation to you, the City is deferring the suspension until and upon action by the Planning Commission following their consideration of this matter on May 11, 2022.

Grounds for Suspension of CUP 14-0003

The Planning Commission approved CUP 14-0003 subject to the conditions contained in Exhibit "1" of Resolution 2014-0004, enclosed herein as Attachment A.

Based on staff's investigation, the grounds for suspension of Leia's Nightclub at 2706 Pavilion Parkway, Unit 101, CUP14-0003, are based on violations of the following conditions:

C.1 Security Guards.

- C.1.1 Security guards shall be provided at all times at a rate of two guards plus one additional guard for every 50 patrons.
- C.1.2 Security guards shall carry proof of valid registration through the California Department of Consumer Affairs, Bureau of Security and Investigative Services (BSIS) in the form of a Security Guard Card.
- C.1.3 Security shall not be provided by persons performing dual roles, such as bartending, bussing, waiting, hosting, or other roles other than security.
- C.1.4 Minors. No person under 21 years of age shall be permitted in the establishment after 11:00 p.m.

From 2018 through 2022, the Tracy Police Department received 18 calls for service for illegal activities originating from your establishment. One of these reports resulted in a Police investigation that confirmed an unreported shooting took place at Leia's Nightclub on or about January 15, 2022.

Notice of Suspension of Conditional Use Permit
2706 Pavilion Parkway, Tracy
April 28, 2022
Page 2

The applicant's current operations and failure to report the shooting incident to law enforcement indicate the owners are not operating the establishment in substantial compliance with the application submitted for the conditional use permit. As such, City staff finds that that the use and the conditions under which it operates is detrimental to the public health, safety, or welfare or materially injurious to, or inharmonious with, properties or improvements in the vicinity. The applicant's noncompliance with the aforementioned conditions and failure on behalf of the owners/management to report the shooting are the basis for this Notice of Suspension.

Planning Commission Hearing

This matter is scheduled to be heard by the Tracy Planning Commission at 7:00 p.m. on Wednesday, May 11, 2022, in the City Hall Council Chambers, 333 Civic Center Plaza, Tracy. The hearing will be your opportunity to present any evidence demonstrating your compliance with the conditions and the situation identified above. City staff will also present evidence supporting its findings regarding the recommendation for revocation of the use permit.

If the Planning Commission is "not satisfied that the regulation, general provision, condition, or conditions are being complied with, the Commission may revoke the use permit or take such action as may be necessary to ensure compliance with the regulation, general provisions, condition, or conditions" pursuant to TMC § 10.08.4380. If you disagree with the Planning Commission's decision regarding this matter, you may appeal their decision to the City Council by submitting a request for an appeal within fifteen (15) days of the Planning Commission's decision as prescribed in TMC § 10.08.4330.

If you have any questions regarding this matter, please contact Ana Contreras, Community Preservation Manager at (209) 831-6416.



Kevin Jorgensen
Chief Building Official

Attachments

Cc: Michael Rogers, City Manager
Sekou Millington, Chief of Police
Alex Neicu, Police Captain
Octavio Lopez, Police Lieutenant
William Dean, Acting Development Services Director
Scott Claar, Acting Planning Manager
LMNT Investments, 9999 Bellaire Boulevard, Suite 1116, Houston TX 77036
Jing Piao, 2136 Stanford Avenue, Mountain View, CA 94040
Song Fangming, 2136 Stanford Avenue, Mountain View, CA 94040



TRACY POLICE DEPARTMENT

CODE ENFORCEMENT DIVISION
333 CIVIC CENTER PLAZA, FIRST FLOOR, TRACY, CA 95376
DIRECT LINE (209) 831.6401 FAX (209) 831.6439

CERTIFICATE OF SERVICE

The undersigned declares as follows:

On the 29th day of April, 2022, I served the following document:

Notice of Suspension of Conditional Use Permit
2706 Pavilion Parkway, Unit 101
Dated April 28, 2022

to the following party or parties named and to the addresses listed below regarding
Conditional Use Permit 14-0003:

Dennis Jay Miller
162 Lauriana Lane
Tracy, CA 95376

Said service was performed in the following manner:

- BY MAIL:** I caused true and correct copies of the above documents to be placed and sealed in an envelope addressed to the parties named above and, following ordinary business practices, deposited said envelopes for collection and mailing by the City's mailroom staff, located in Tracy City Hall, 333 Civic Center Plaza, Tracy, California 95376, with prepaid postage from the United States Postal Service. In the ordinary course of business, correspondence placed for collection at City Hall on a particular day is deposited with the United States Postal Service that same day.
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- BY POSTING:** I caused true and correct copies of the above documents to be posted in a conspicuous place at the listed address and or addresses indicated hereafter.

I declare under penalty of perjury under the laws of the State of California
that the foregoing is true and correct.

Executed this 29th day of April, 2022, in Tracy, California, 95376.

A handwritten signature in black ink, appearing to read "Ana Contreras", written over a horizontal line.

ANA CONTRERAS
Community Preservation Manager
Tracy Police Department



TRACY POLICE DEPARTMENT

CODE ENFORCEMENT DIVISION
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ANA CONTRERAS
Community Preservation Manager
Tracy Police Department



TRACY POLICE DEPARTMENT

April 28, 2022

Dennis Jay Miller
162 Lauriana Lane
Tracy, CA 95376

Dear Mr. Miller:

SUBJECT: NOTICE OF SUSPENSION OF CONDITIONAL USE PERMIT
2706 PAVILION PARKWAY, UNIT 101, TRACY, CA 95376

This letter serves as a Notice of Suspension of Conditional Use Permit (CUP 14-0003) to operate an eating and/or drinking establishment with entertainment after 11:00 p.m. at 2706 Pavilion Parkway, #101, Tracy, California (hereinafter, "Leia's Restaurant and Nightclub").

The City of Tracy Building Official, in conjunction with the Planning Division, issues this Notice pursuant to Tracy Municipal Code (TMC) section 10.08.4380 which authorizes the automatic suspension of a CUP upon a violation of any applicable provision of TMC Chapter 10.08 or upon failure to comply with any condition upon which a CUP was granted. This provision further provides that the Planning Commission must consider the suspension within 30 days. As an accommodation to you, the City is deferring the suspension until and upon action by the Planning Commission following their consideration of this matter on May 11, 2022.

Grounds for Suspension of CUP 14-0003

The Planning Commission approved CUP 14-0003 subject to the conditions contained in Exhibit "1" of Resolution 2014-0004, enclosed herein as Attachment A.

Based on staff's investigation, the grounds for suspension of Leia's Nightclub at 2706 Pavilion Parkway, Unit 101, CUP14-0003, are based on violations of the following conditions:

C.1 Security Guards.

- C.1.1 Security guards shall be provided at all times at a rate of two guards plus one additional guard for every 50 patrons.
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Notice of Suspension of Conditional Use Permit
2706 Pavilion Parkway, Tracy
April 28, 2022
Page 2

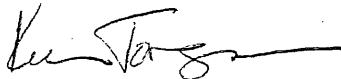
The applicant's current operations and failure to report the shooting incident to law enforcement indicate the owners are not operating the establishment in substantial compliance with the application submitted for the conditional use permit. As such, City staff finds that that the use and the conditions under which it operates is detrimental to the public health, safety, or welfare or materially injurious to, or inharmonious with, properties or improvements in the vicinity. The applicant's noncompliance with the aforementioned conditions and failure on behalf of the owners/management to report the shooting are the basis for this Notice of Suspension.

Planning Commission Hearing

This matter is scheduled to be heard by the Tracy Planning Commission at 7:00 p.m. on Wednesday, May 11, 2022, in the City Hall Council Chambers, 333 Civic Center Plaza, Tracy. The hearing will be your opportunity to present any evidence demonstrating your compliance with the conditions and the situation identified above. City staff will also present evidence supporting its findings regarding the recommendation for revocation of the use permit.

If the Planning Commission is "not satisfied that the regulation, general provision, condition, or conditions are being complied with, the Commission may revoke the use permit or take such action as may be necessary to ensure compliance with the regulation, general provisions, condition, or conditions" pursuant to TMC § 10.08.4380. If you disagree with the Planning Commission's decision regarding this matter, you may appeal their decision to the City Council by submitting a request for an appeal within fifteen (15) days of the Planning Commission's decision as prescribed in TMC § 10.08.4330.

If you have any questions regarding this matter, please contact Ana Contreras, Community Preservation Manager at (209) 831-6416.



Kevin Jorgensen
Chief Building Official

Attachments

Cc: Michael Rogers, City Manager
Sekou Millington, Chief of Police
Alex Neicu, Police Captain
Octavio Lopez, Police Lieutenant
William Dean, Acting Development Services Director
Scott Claar, Acting Planning Manager
LMNT Investments, 9999 Bellaire Boulevard, Suite 1116, Houston TX 77036
Jing Piao, 2136 Stanford Avenue, Mountain View, CA 94040
Song Fangming, 2136 Stanford Avenue, Mountain View, CA 94040

RESOLUTION 2022-_____

**PLANNING COMMISSION RESOLUTION REVOKING A
CONDITIONAL USE PERMIT (CUP14-0003)
TO OPERATE AN EATING AND DRINKING ESTABLISHMENT
THAT SERVES ALCOHOL AND PROVIDES ENTERTAINMENT
AFTER 11:00 P.M. AT 2706 PAVILION PARKWAY, UNIT 101**

WHEREAS, In all zoning districts throughout the City, specified conditional uses are allowed only upon the granting of a Conditional Use Permit. Tracy Municipal Code (TMC) Section 10.08.4250 provides that because of the “potentially incompatible characteristics, conditional uses require special consideration so that they may be located properly with respect to their effects on surrounding properties.” The TMC further provides that the Planning Commission “is empowered to grant and to deny applications for use permits and to impose reasonable conditions upon the granting of use permits, subject to appeal review by the Council”, and

WHEREAS, On December 18, 2012, the City Council amended the Tracy Municipal Code, the I-205 Corridor Specific Plan, and other specific plans throughout the City to address eating and/or drinking establishments with entertainment. With these amendments, a Conditional Use Permit is required for eating and/or drinking establishments that serve alcohol and provide entertainment after 11:00 p.m. Entertainment uses are defined as live music, dancing, karaoke, comedy shows, modeling, or live performances, and

WHEREAS, On May 14, 2014, the Planning Commission approved a Conditional Use Permit (CUP14-0003) to allow an eating and/or drinking establishment to serve alcohol and provide entertainment after 11:00 p.m. at 2706 Pavilion Parkway Unit 101, and

WHEREAS, TMC Section 10.08.4380 authorizes the automatic suspension of a Conditional Use Permit (CUP) upon a violation of any applicable provision of TMC Chapter 10.08 or upon failure to comply with any condition upon which a CUP was granted. This provision further provides that the Planning Commission must consider the suspension within 30 days of the Notice of Suspension, and

WHEREAS, If the Planning Commission is “not satisfied that the regulation, general provision, condition, or conditions are being complied with, the Commission may revoke the use permit or take such action as may be necessary to ensure compliance with the regulation, general provisions, condition, or conditions” pursuant to TMC section 10.08.4380, and

WHEREAS, A Notice of Suspension of Conditional Use Permit (14-0003) was issued to the owners/operators of Leia’s Restaurant and Nightclub on April 28, 2022, and

WHEREAS, On May 11, 2022, the Planning Commission held a public hearing to review and consider the revocation of Conditional Use Permit (CUP14-0003);

NOW, THEREFORE BE IT RESOLVED, that the Planning Commission does hereby revoke the Conditional Use Permit (CUP14-003) to operate an eating and/or drinking establishment that serves alcohol and provides entertainment after 11:00 p.m. at 2706 Pavilion Parkway, Unit 101, based on the following findings:

1. Failure to comply with CUP (14-0003), Condition C.1, Security Requirements, and

- 2. Shooting incidents requiring law enforcement involvement, including an unreported shooting that was investigated and confirmed by the Tracy Police Department to have occurred on or about January 15, 2022, in which case the business owner failed to contact law enforcement to report the incident deem the use and the conditions under which it operates is detrimental to the public health, safety, or welfare or materially injurious to, or inharmonious with, properties or improvements in the vicinity.

The foregoing Resolution 2022-_____ was adopted by the Planning Commission on the 11th day of May 2022, by the following vote:

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

CHAIR

ATTEST:

STAFF LIAISON