

**CITY OF LOMPOC
PLANNING COMMISSION STAFF REPORT**



MEETING DATE: MAY 13, 2009
TO: MEMBERS OF THE PLANNING COMMISSION
FROM: KEITH C. NEUBERT, PRINCIPAL PLANNER
RE: DR 09-04 – REQUEST FOR INTERPRETATION

AGENDA ITEM NO. 1

A request by J.R. Barto of J.R. Barto Heating/Air Conditioning/Sheet Metal, Inc., the property owner, for a Planning Commission determination that a dance studio is an allowable use with a Conditional Use Permit in the *Industrial (I)* Zoning District in accordance with *Section 17.064.040.A* of the Zoning Ordinance. The applicant proposes to lease a portion of the building at 311 North F Street (Assessor Parcel Number: 85-022-02) to a dance studio; however, the proposed use is not a permitted use in this District. This action is exempt from the provisions of the California Environmental Quality Act (CEQA).

SCOPE OF REVIEW:

The Planning Commission is being asked to consider:

- If a dance studio should be found to be an allowable use with a Conditional Use Permit in the *Industrial (I)* Zoning District.

The Planning Commission has the authority to allow a use not specifically listed as permitted or conditionally permitted in the *Industrial (I)* zone subject to a finding that the proposed use falls “*within the intent and purpose of the zoning district that will not be more obnoxious or detrimental to the public welfare, and which is of a comparable nature and of the same class as those identified in Section 17.064.060*” subject to obtaining a Conditional Use Permit (Zoning Ordinance *Section 17.064.040.A*).

RECOMMENDATION:

It is recommended that the Planning Commission:

- 1) Adopt Resolution No. 648 (09) providing an interpretation that a dance studio is not consistent with uses allowed in the *Industrial (I)* Zoning District, based upon the Findings of Fact in the Resolution; or
- 2) Provide alternative direction to staff and the applicant.

REQUEST:

Staff was approached by the business owner of a dance studio who inquired if the use would be allowed in the *Industrial (I)* Zoning District. Staff stated that this would not be a compatible use in the *Industrial (I)* Zoning District due to possible land use conflicts. The business owner currently operates in the *Old Town Commercial (OTC)* Zoning District and was advised that the business could operate in several commercial zones throughout the City, but not in the *Industrial (I)* Zoning District.

Mr. Barto subsequently submitted a written request (Attachment No. 2) that the Planning Commission determine if a dance studio is an allowable use with a Conditional Use Permit in the *Industrial (I)* Zoning District. The applicant is requesting that a specific property at 311 North F Street be considered as an acceptable site for a dance studio. Since the request is solely for interpretation, additional information (floor plan, hours of operation, proposed parking, etc.) was not provided. Should the Commission determine that a dance studio is an allowable use with a Conditional Use Permit in the *Industrial (I)* Zoning District, the applicant would return with a request, including additional information and plans. Environmental review would be performed at that time.

An interpretation by the Planning Commission that a dance studio may be allowed with a Conditional Use Permit would apply to the *Industrial (I)* zone Citywide, therefore site location should not be considered in this interpretation.

DISCUSSION:

Zoning Ordinance –

Zoning Ordinance *Section 17.064.010.A Purpose of the Industrial (I) zone states: “This zone is intended to provide for light industrial, manufacturing, and limited accessory uses. The intent is to encourage sound industrial development in appropriate areas and to provide development standards to protect adjacent commercial districts.”*

Zoning Ordinance *Section 17.064.030 states: “General classes of use for the Industrial (I) Zoning District include:*

- *Manufacturing;*
- *Processing;*
- *Wholesale, Warehousing, and Storage;*
- *Utilities; and*
- *Commercial Services.*

Zoning Ordinance *Section 17.064.040.A states: “The uses that the Planning Commission finds to fall within the intent and purpose of the zoning district that will not be more obnoxious or detrimental to the public welfare, and which is of a comparable nature and of the same class as those identified in Section 17.064.060 shall be allowed with a conditional use permit.”*

The proposed dance studio use does not fall within the allowed uses, nor is it a use that is similar to any of the uses listed in the *Industrial (I)* Zoning District. A dance studio could be located in several zones throughout the City including the *Planned Commercial Development (PCD)*, *Central Business District (C-2)*, *Old Town Commercial (OTC)*, or *Mixed Use (MU)* zones.

There are many varied industrial uses allowed by right in the *Industrial (I)* zone. These uses would not require Planning Commission or City Council review prior to operation. Industrial uses produce potential noise, emissions, hazardous materials, and transportation/circulation impacts that would prove unsuitable and unsafe for a dance studio serving children and youth.

Environmental Incompatibility –

A dance studio would not be environmentally compatible with many potential industrial uses. The safety of children and youth attending a dance studio is of primary concern. Heavy machine shops and auto repair shops are permitted industrial uses that cause potential noise and hazardous emissions. Equipment and idling vehicles under repair could produce noise and fumes that are unsafe for children and youth. Trucks and forklifts carrying equipment and supplies are often associated with permitted industrial uses, including lumber yards, recycle scrap yards, and contractor storage yards. Many trucks are high profile vehicles and drivers would not expect to have young children in an industrial area. Safety related hazardous material exposure may also impact a dance studio as industrial operations may use and/or store hazardous materials. Permitted uses that may use and store hazardous materials include auto repair shops, drug and pharmaceutical manufacturing and chemical laboratories.

Due to potential noise, air quality, hazardous materials, and transportation/circulation impacts, an industrial area is unsuitable and unsafe for a dance studio serving children and youth.

NOTICING:

On May 1, 2009:

- 1) Notice of the Public Hearing was published in the Lompoc Record;
- 2) Notices were mailed to property owners within 300 feet by US mail; and
- 3) The project site was posted by City staff.

APPEAL RIGHTS:

Any person has the right to appeal the Planning Commission action to the City Council within ten days of the action. Contact a Planning Division staff member for the required appeal form; the fee is \$257.80.

ATTACHMENTS:

1. [Draft Resolution No. 648 \(09\)](#)
2. [Letter from J.R. Barto Requesting Interpretation, dated April 1, 2009](#)

Staff Report has been reviewed and approved for submission to the Planning Commission			
Arleen T. Pelster, AICP Community Development Director	Date	Lucille T. Breese, AICP Planning Manager	Date

RESOLUTION NO. 648 (09)

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF LOMPOC PROVIDING AN INTERPRETATION REGARDING A DANCE STUDIO USE IN THE *INDUSTRIAL (I)* ZONING DISTRICT (DR 09-04)

WHEREAS, a request was submitted by J.R. Barto of J.R. Barto Heating/Air Conditioning/Sheet Metal, Inc., the property owner, for a Planning Commission determination that a dance studio is an allowable use with a Conditional Use Permit in the *Industrial (I)* Zoning District in accordance with *Section 17.064.040.A* of the Zoning Ordinance; and

WHEREAS, the request was considered by the Planning Commission at a duly-noticed public meeting on May 13, 2009; and

WHEREAS, at the meeting of May 13, 2009, _____, was present and answered Planning Commissioners' questions and addressed their concerns; and

WHEREAS, at the meeting of May 13, 2009, _____ spoke in favor of, and _____ spoke in opposition to, the project; and

WHEREAS, this project is statutorily exempt pursuant to Section 15270, Projects which are Disapproved, of the California Environmental Quality Act (CEQA).

NOW, THEREFORE, THE PLANNING COMMISSION OF THE CITY OF LOMPOC RESOLVES AS FOLLOWS:

SECTION 1: After hearing testimony, considering the evidence presented, and due deliberation of the matters presented, the Planning Commission finds that a dance studio use: 1) does not fall within the intent and purpose of the *Industrial (I)* Zoning District, and 2) is not consistent with the uses listed as permitted in the *Industrial (I)* Zoning District, therefore, dance studios are not permitted in the *Industrial (I)* Zoning District.

The foregoing Resolution, on motion by Commissioner _____, seconded by Commissioner _____, was adopted at the regular Planning Commission meeting of May 13, 2009 by the following vote:

AYES:

NOES:

Arleen T. Pelster, AICP, Secretary

Jack Rodenhi, Chair

J.R. Barto Heating/Air Conditioning/Sheet Metal, Inc.
300 North "G" Street
Lompoc, California 93436
(805) 736-5160 Fax: (805) 737-0450

April 1, 2009

RECEIVED

To: City of Lompoc
Planning Division

APR 01 2009

CITY OF LOMPOC
PLANNING DIVISION

Subject: 311 North "F" St

I would like to formally request an interpretation or variance of the existing zoning law in regard to 311 North "F" Street.

The property is currently zoned industrial. I have a potential tenant that would like to operate a Dance Studio at the location.

This is a very non intrusive business, with minimum parking requirements.

There is a retail tile store at 317 North "F" Street and in the past a Dance studio operated at 318 North "G" Street adjacent to my property.

I would like to take whatever steps necessary to obtain a conditional use permit for this business.

I hope the Planning Commission can recall the condition of this entire property before I purchased and improved it. At considerable time and expense to me, I think you can agree this property is no longer an eye sore.

A dance studio is consistent with this area; I know personally the property owners adjacent to this property would welcome a dance studio. It would be a quiet, clean business that would not cause a problem for anyone.

I hope the city will work with me to allow the dance studio to operate at this location.

How about a little cooperation?

Sincerely,



J.R. Barto

Supplemental Information
May 13, 2009
Planning Commission Agenda Item #1
DR 09-04 – Request for Interpretation

CA State Government Code Section 65906. Variances

Variances from the terms of the zoning ordinances shall be granted only when, because of special circumstances applicable to the property, including size, shape, topography, location or surroundings, the strict application of the zoning ordinance deprives such property of privileges enjoyed by other property in the vicinity and under identical zoning classification. Any variance granted shall be subject to such conditions as will assure that the adjustment thereby authorized shall not constitute a grant of special privileges inconsistent with the limitations upon other properties in the vicinity and zone in which such property is situated. A variance shall not be granted for a parcel of property which authorizes a use or activity which is not otherwise expressly authorized by the zone regulation governing the parcel of property. The provisions of this section shall not apply to conditional use permits. (Amended by Stats. 1974, Ch. 607.)

Lompoc City Zoning Ordinance Section 17.120.050.B
Action by Planning Commission

Before it may grant a variance, the following qualifications must be shown relative to the property or properties involved in the application for such variance and the Planning Commission's resolution of approval in connection with any such application shall contain a written finding of fact showing all of the following:

1. There are exceptional or extraordinary circumstances or conditions applicable to the property involved which do not apply generally to other property in the same vicinity and zone and which produce practical difficulties or unnecessary hardships through the adhering to the strict letter of the law.
2. Such variance is necessary for the preservation and enjoyment of a substantial property right of the applicant, which right is possessed by other property owners in the same vicinity and zone.