

**CITY OF LOMPOC  
PLANNING COMMISSION STAFF REPORT**



**DATE:** August 12, 2015  
**TO:** Members of the Planning Commission  
**FROM:** Lucille T. Breese, AICP, Planning Manager  
Megan Lowery, Contract Planner  
**RE:** Conditional Use Permit – CUP 15-03

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**AGENDA ITEM NO. 1**

Continued from May 13, 2015 Planning Commission meeting, a request by Steve Arrowood, of Montemar Winery, applicant, for Planning Commission review and consideration of a Conditional Use Permit to allow outdoor expansion and interior remodel of the existing winery, located at 1501 East Chestnut Court, Suites B and E, in the *Industrial (I)* Zoning District (Assessor Parcel Number: 099-520-001). This action is exempt from the California Environmental Quality Act (CEQA).

**Scope of Review:**

The Planning Commission is being asked to consider:

- If the proposed project meets the property development standards for the *Industrial (I)* zone;
- If the proposed project, with a Conditional Use Permit, is compatible with surrounding uses, and appropriate for the site;
- If the required Findings of Fact can be made; and
- If the Conditions of Approval are appropriate for the project.

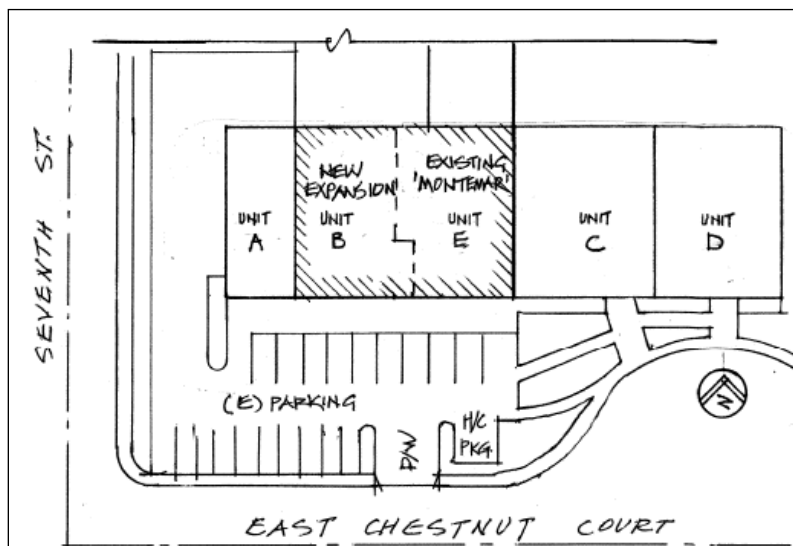
The Planning Commission has the authority to approve, conditionally approve, modify, or deny a Conditional Use Permit (Lompoc City Code Section 17.124.060).

**PLANNING COMMISSION ACTION:**

- 1) Adopt Resolution No. 809 (15) approving CUP 15-03, based upon the Findings of Fact in the Resolution, and subject to the attached draft Conditions of Approval; or
- 2) Provide alternate direction.

## **BACKGROUND:**

The project proposed under Conditional Use Permit application CUP 15-03 included two parts, 1) the expansion into “Suite B” to accommodate new winery production facilities, and, 2) the expansion of wine tasting and winery activities into the rear yards of both Suites B and E.



At the May 13, 2015 meeting, the Planning Commission approved the winery production expansion into Suite B, but continued the discussion of proposed uses for the rear yards of Suites B and E. This staff report addresses the second part of the proposal, the expanded outdoor winery uses.

## **Prior Permit Approval:**

A “wine tasting room at 1501 East Chestnut Court, Suite E” was approved under Minor Use Permit MUP 12-05, on January 9, 2013. Following this land use approval, the applicant applied for a building permit (B2013-0057) which approved the wine tasting room, shown as occupying the front of Suite E, with a maximum occupancy of 19 people. The rear yard of Suite E was not included in the building permit approval or occupancy calculations. The permit was finalized on December 10, 2013.

Since the prior permit approvals, two land use issues have arisen, 1) use of the rear yard area and, 2) broadening of uses beyond the permitted “wine tasting room.”

There are two underlying facts to keep in mind when considering this proposal:

- Wine tasting as defined by the ABC is defined and discussed on page 5 of this staff report. The City does not currently have a definition for wine tasting but the Planning Commission reviewed definitions in 2012 and it was generally agreed wineries would be addressed in the Zoning Ordinance update. Wine tasting has generally been viewed as small samplings from a winery where tasting is the focus of the activity.

- The underlying zoning is *Industrial (I)*. Wine tasting inside the building is accessory to the wine production and wine storage uses. The exterior game area, tasting, and music for this facility would not be consistent with the industrial zoning.

### *An Industrial Zone in Transition*

The City acknowledges that the development of wineries and wine tasting rooms in the industrial pockets of the City has brought about new income and welcomed tourism into the City. However, like any other type of land use transition, this change needs to be codified in the Zoning Ordinance and General Plan.

Community support of a land use is not the same as zoning consistency. As an example, even if an entire community agreed that a flat, agricultural property is “a perfect building site” for a half-dozen houses that would undoubtedly create beneficial results for the City, the underlying agricultural zoning would still be technically inconsistent with the residential use. The Planning Commission can make an exception to zoning requirements, in certain instances, and approve a Conditional Use Permit which is a mechanism that uses Conditions of Approval to address the inconsistencies and ensure compatibility. However, should the intent be to allow additional residences in the same area, approving multiple Conditional Use Permits is a piecemeal approach; and is costly for applicants. If the area is intended to transition from agriculture to residential, the land use should be changed to allow the new residential use. Additionally, continually approving Conditional Use Permits in that area would set a precedent to allow residences in all agricultural areas—not just the area in question—even where it isn’t intended.

It is critical that a city designate areas to be consistent with their intended land use. This is especially true of areas transitioning from one type of use to another, where development of the new intended uses creates zoning inconsistencies. The process to do this is to amend the Zoning Map and General Plan Land Use Map to either change the designations entirely, or provide an “overlay” that allows the new uses within designated areas.

The “wine ghetto” is an area in transition. When looked at individually, wine tasting rooms can be accommodated within the existing buildings, but the fact remains that the underlying zoning and land use designations remain as *Industrial (I)*. This creates inconsistencies that have to be dealt with in each approval—resulting in limits to or prohibitions of exterior modifications, outdoor use, food sales, events, entertainment, etc. A “Wine Overlay” would codify the winery uses in the Zoning Code and General Plan. This would allow the City to dedicate the “wine ghetto” area to wine production and wine tasting functions. Furthermore, accessory uses, such as food trucks, entertainment, and exterior improvements could also be permitted as part of the overlay.

However, until a “Wine Overlay” is approved, the City must view the “intended land uses” in this area as those that are consistent with the *Industrial* designation:

*I—Industrial Zoning District. 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.*

### **Rear Yard Area:**

As previously mentioned, the approved building permit identified the wine tasting room area as the area occupying the front of Suite E. This square footage was the basis for the maximum occupancy of 19 people. The rear yard of Suite E was not included in the building permit approval or occupancy calculations.

This is important because inclusion of the rear yard area would have increased the square footage calculations upon which occupancy and Building/Fire Code requirements were based. Increased occupancy loads affect the public life safety requirements imposed on a structure, such as fire exits, signage and fire extinguishers. Increased occupancies can also impact the Building Code requirements for utility services, including restrooms.

According to the applicant, “the backyard was completed during the project and reviewed by the City inspectors and building official during the construction phase.” The applicant also contends that “the backyard space at the Montemar tasting room (Suite E) has been operating as part of the tasting room with tasting taking place outside since we opened.” It is clear the applicant assumed that use of the backyard space was allowed; however, in review of the Building permit file, the wine tasting room is explicitly shown as inside the front area of Suite E only. As such, the expansion of uses into the rear yard of Suite E, and now also Suite B, are outside of the scope of the existing permits, and therefore require subsequent approval. The subject Conditional Use Permit, CUP 15-03, is intended to legitimize the rear yard use in Suite E, and consider additional expansion into the rear yard of Suite B.

### **Permit Requirements for Rear Yard Use**

Wine tasting within the rear yard may be permitted by the Planning Commission under the approval of a Conditional Use Permit. However, allowing this use would set a precedent in the industrial zone district. It has been recommended to the applicant, and vintners in the area, that the more appropriate way to allow the additional activities they would like to see in the ghetto, would be through the use of a Wine Overlay specific to this area to avoid land use conflicts with permitted industrial uses.

The expansion into the rear yards would create an intensification of use, with a potential to create noise, lighting and other nuisances for adjoining properties. Conditions of Approval are included in Attachment 1 to address these factors. With the Conditions of Approval, the project would meet all zoning and land use requirements, and would be consistent with the General Plan.

In addition to the Planning/Land Use Conditions, the project would also have to comply with other departmental conditions, namely Building and Fire. The project will require an additional follow-up Building permit. During the Building permit review process, the occupancy load will be recalculated and Building and Fire Code requirements will need to be met. These requirements are outside of the Planning Commission purview, as they are established by the Uniform Building Code.

It should be noted that preliminary discussions regarding occupancy calculations, fire exits, restroom facilities and similar code requirements were intended to be informational only. As with all projects, the City provides preliminary Building and Fire Departmental review as part of the Development Review Board (DRB) meeting for applicants. The intent of the preliminary review is to provide early feedback to applicants regarding Code requirements, and identify potential Code compliance issues.

### **Broadening of Uses:**

As mentioned above, MUP 12-05 permitted a “wine tasting room.” Wine tasting is defined by the Department of Alcoholic Beverage Control as follows:

*“Winetasting is a presentation of samples of one or more wines, representing one or more wineries or industry labels, to a group of consumers for the purpose of acquainting the tasters within the characteristics of the wine or wines tasted. Licensees may engage in winetasting activities only as set forth in statute and this rule. In addition to furnishing wines as provided herein, licensees may supply small amount of bread, crackers, cheeses or nuts to clear the taste buds of the participants between successive samples of wine during a winetasting.”<sup>1</sup>*

This definition is consistent with the type of wine tasting room permitted with Minor Use Permits in the City. The scope of such wine tasting rooms are fairly limited, usually involving a serving area, a few tables or seating areas, and a small merchandise area enclosed within existing buildings. The Montemar Winery was this type of permit.

Expansion beyond an indoor area and the standard wine tasting activities, as described by the ABC above, goes beyond the scope of a Minor Use Permit.

### **Permit Requirements for Broader Winery Uses**

Additional winery uses may be permitted by the Planning Commission under the approval of a Conditional Use Permit. However, as with the expansion into the rear yard, appropriate Conditions of Approval would need to be applied to the project to ensure the associated impacts are addressed.

The type of Conditions of Approval applied would vary depending on the scope of the proposed uses. Since it appears the applicant is interested in the more than just wine tasting uses, staff has prepared a table outlining criteria for the range of uses in three

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<sup>1</sup> Article 9, Section 53 of the Business Regulations of the Dept. of ABC, Title 4, Division, 1

classes:

- 1) The traditional wine tasting/sales within the existing building with the exterior space being use for storage.
- 2) A more expanded wine tasting/sales CUP allowing a total of four (4) winery events per year and a maximum of six (6) special events per year, regardless of occupancy limits.
- 3) An event venue, allowing regular events of varying sizes in combination with wine tasting and sales.

Table 1, on Page 8 below, summarizes a range of uses and permit mechanisms to allow the proposed uses.

Again, it should be noted that allowing intense outdoor public use would set a precedent in all industrial areas and could cause land use conflicts with permitted uses. The suggested Wine Overlay would look at the specific area and consider Conditions of Approval that address potential conflicts. If the wine industry does not fund the Wine Overlay project, it will be considered by the City during the upcoming Zoning Ordinance update.

#### *Wine Tasting*

Should the proposed uses be limited to wine tasting and a handful of winery-related events only such as wine pickup and releases, the Conditions of Approval would involve standard conditions such as business hours, and outdoor storage limitations.

#### *Wine Tasting + Limited Special Events*

Should the proposed uses be expanded to also include special events (that are not winery-related) on the property, the associated impacts of the special events would need to be addressed. However, in this particular case the applicant does not have the specifics of the various special events intended to occur. Absent this information, the Conditions of Approval would need to be sufficient to govern the maximum use, or “worst case scenario.” Such conditions would likely be problematic and more restrictive than necessary.

To allow flexibility for the applicant in planning future events, and allow the City to apply event-specific Conditions of Approval, it is recommended that the Conditional Use Permit set the parameters of the type and number of special events, and then require a separate event-specific Temporary Use Permit (TUP) prior to each event.

#### *Regular Events (Event Venue)*

Should the primary use of the property be a venue for public or private events, then different Conditions of Approval would need to address the associated impacts of regular events. Factors such as traffic, parking, sanitary services, lighting, and noise

would need to be addressed. Additionally, it is anticipated that Building and Fire Code requirements would also need to address the larger number of occupants and public life safety elements impacted by the scope.

*Occupancy Limits and “True Event Count”*

The rationale for limiting the number of events in option 2 (above) is to ensure that the events remain as an accessory use to the wine tasting. The Planning Commission needs to consider the “true event count,” in other words the occurrence of any and all events at the property, to ascertain the appropriate conditions of approval for the project. For this reason a set number of events, regardless of occupancy limits, should be established. The recommended four (4) winery and six (6) special events were identified as reasonable limits in comparison to other wineries. Should the cap of 6 special events not apply to events under the occupancy limits, the “true event count” would be unlimited. For example, the winery could hold a special event every weekend (52 events/year) under the occupancy limits, in addition to the allowed winery and special events that exceed the occupancy limits. Sixty-two (62) events in a year would reasonably shift the primary land use from wine tasting, to event venue.

**Table 1 – Land Uses and Permit Mechanisms**

	Wine Tasting/Sales	Wine Tasting/Sales + Special Events	Regular Events (Event Venue)
<b>Planning Permit</b>	Minor Use Permit	Conditional Use Permit  + Temporary Use Permit per event	Conditional Use Permit
<b>Wine Sales</b>	Permitted	Permitted	Permitted
<b>Wine Tasting</b>	Permitted	Permitted	Permitted
<b>Food Services</b>	Palate cleansers <sup>1</sup> and pre-packaged foods	Palate cleansers and pre-packaged foods  + food prepared onsite and/or catered foods allowed under the specific event permit	Permitted
<b>Special Events</b>	None	4 winery events per year  + non-winery events allowed with specific event permit (maximum 6/yr)	Permitted
<b>Amplified Music</b>	None	None  + allowed with the specific event permit	Permitted
<b>Parking</b>	1 space per 350 sq. ft.	1 space per 350 sq. ft.  + temporary parking provided under specific event permit	1 space for each 5 permanently located seats or 1 space for each 35 sq. ft. of gross floor area in the assembly room or rooms
<b>Exterior Lighting</b>	None	None except as permitted under specific event permit	Permitted
<b>Typical Hours of Operation</b>	11am-6pm Thursday-Sunday	11am-6pm Thursday-Sunday  + special events 12pm-10pm (maximum 6/yr)	6am-10pm Monday-Sunday
<b>Typical Fire/Building Code Considerations</b>	Non-habitable space	Habitable space Higher maximum occupancy Life safety requirements Restrooms Cooking facilities	Habitable space Higher maximum occupancy Life safety requirements Restrooms Cooking facilities

<sup>1</sup> Palette cleansers = a small amount of bread, crackers, cheeses or nuts to clear the taste buds of the participants between successive samples of wine



### Applicant Proposal and Staff Response:

The applicant submitted a letter on June 19, 2015 outlining clarifications and requested changes to the items discussed at the May 13, 2015 meeting. The discussion below summarizes the applicant's requests. Staff has also provided responses to address the planning requirements pertaining to each request. The full text of the submission is included as Attachment 2.

#### Proposed Uses

##### *Hours*

- *Wine tasting and wine events would be allowed 11-9pm Thursday through Saturday, and 11am-7pm Monday through Wednesday*

##### *Wine Events*

- *Wine events would be defined as "winery sponsored events with the goal of selling wine"*
- *Wine events within the approved occupancy levels would be unlimited*
- *Wine events exceeding the approved occupancy levels would be limited to 6/year*

##### *Special Events*

- *Special events within the approved occupancy levels would be unlimited*
- *Special events exceeding the approved occupancy levels would be limited to 6/year, and would require approval of a Temporary Use Permit*
- *Charity events—defined as events where Montemar is donating its goods and/or services to a local charity in support of their fundraising goals and generating more customers—would qualify as a special event*
- *Wine club member events—defined as events where wine club members are holding a private event at Montemar—would qualify as a special event*

##### *Amplified Music*

- *Indoor and outdoor amplified music shall be limited to the hours of 2pm-9pm Thursday through Sunday and shall not exceed 85 dB at the property edges*

As discussed on Page 7 of this staff report, staff recommends limiting events to a set number per year, regardless of occupancy limit.

The applicant's June 19, 2015 submittal also addresses two areas of contention, 1) "revised occupancy coding," and 2) the conditions of approval.

### Revised Occupancy Coding

As previously discussed on Page 5 of this staff report, occupancy load will be recalculated during the Building permit review process; occupancy calculations are outside of the Planning Commission purview, as they are established by the Uniform Building Code. Previous discussions with the applicant regarding occupancy calculations, fire exits, restroom facilities and similar code requirements were intended to be informational only to provide early feedback to applicants regarding Code requirements, and identify potential Code compliance issues.

### Conditions of Approval

The applicant cites eight (8) planning conditions of approval for which adjustments are requested, and six (6) additional conditions to which the applicant contends do not apply.

- 1) *P16. The approval granted by the Planning Commission is valid for one year from date of approval and will expire on May 13, 2016. A one-year extension may be granted by the Community Development Director if the applicant so requests prior to the expiration date.*

- Request to specify the "architectural approval" is what is subject to expiration, by adding the word "architectural."

Change incorporated. Condition was renumbered in Reso. 805(19) to P15.

- 2) *P19. No outside displays shall be placed in front of the building, including furniture, temporary or permanent signs not authorized by a sign permit, umbrellas, or similar functional or purely decorative display items.*

- Request to revise to allow temporary displays, signs, umbrellas or decorative items.

Remains unchanged. The underlying zoning and land use designation remains industrial; outdoor items are not consistent with industrial setting. Condition was renumbered in Reso. 805(19) to P18.

- 3) *P20. The trellis may be installed to frame the perimeter of the doorway, only if identical trellis' are installed to frame the other entrance doors on the building. Details and materials shall be submitted to the Planning Division for review prior to installation.*

- Request to allow the single proposed trellis as drawn.

Remains unchanged. The underlying zoning and land use designation remains

industrial; individualized décor is not consistent with industrial setting. Condition was renumbered in Reso. 805(19) to P19.

- 4) *P23. The hours of operation for wine tasting and wine events shall be between 12–5 pm Thursday through Monday, during the winter, and 11 am–5 pm on Thursdays, Sundays, and Mondays, and 11 am–8 pm Fridays and Saturdays, during the spring, summer and fall.*

- Requested revision to the hours of operation to 11am-9pm Thursday through Sunday, and 11am-7pm on Monday through Wednesday.

Change incorporated. Condition was renumbered in Reso. 805(19) to P22.

- 5) *P26. Winery events (wine pick-up parties and/or wine release parties) shall be limited to four (4) events per year.*

- Request to only limit events that exceed the approved occupancy levels; the number of events within the occupancy limits would be unlimited.

Limit of four (4) winery events a year, regardless of occupancy limit, remains. See discussion on Page 7 of this staff report. Condition was reworded and renumbered in Reso. 805(19) to P25.

- 6) *P27. No special events (non-winery events) are permitted as part of this approval. Special events including but not limited to fundraisers, charity events or private parties or receptions require a Temporary Use Permit approved by the Planning Division. Special events shall be limited to six (6) events per year.*

- Request to only limit events that exceed the approved occupancy levels; the number of events within the occupancy limits would be unlimited.

Limit of six (6) special events a year, regardless of occupancy limit, remains. See discussion on Page 7 of this staff report. Condition was reworded and renumbered in Reso. 805(19) to P26.

- 7) *P30. No outside seating shall be permitted in the front of the building, including tables, chairs, or umbrellas, or similar functional or purely decorative display items.*

- Request to revise to only “no outdoor seating.”

Remains unchanged. The underlying zoning and land use designation remains industrial; outdoor seating and décor are not consistent with industrial setting. Condition was renumbered in Reso. 805(19) to P28.

- 8) *P31. No indoor or outdoor amplified music shall be permitted. Unamplified acoustic music is permitted indoors and/or outdoors, and shall comply with the City’s noise regulations.*

- Request to revise to read as follows, “Indoor and outdoor amplified music shall be limited to between the hours of 2pm-9pm Thursday through Sunday. The dB level shall not exceed 85 dB at the property edge.”

Remains unchanged. The City has adopted a Noise Ordinance (Chapter 8.08) to “prohibit unnecessary, excessive, or annoying noises from all sources subject to its police power.” Given the unpermitted intensification of use on the property, and the proposed intensification of use as part of this project, staff recommends prohibiting the use of amplified music to ensure compliance with the Noise Ordinance and the City’s adopted Noise Element. Condition was renumbered in Reso. 805(19) to P29.

- 9) *F4. Ensure proper licensing of fire protection system engineers and California State Fire Marshal licensed installers for design specific systems. Additionally, a City of Lompoc business license may be required of any installers. Verify with the City Clerk any concerns for the local business license of project employees.*

- *Applicant suggests this condition does not apply*

Remains unchanged. Fire Code requirements are determined by the Fire Department during the building permit process. Conditions such as this are intended as guidance for potential compliance requirements.

- 10) *WW4. A grease interceptor/trap shall be installed in community buildings where commercial appliances will be used.*

- *Applicant suggests this condition does not apply*

Remains unchanged. Waste water requirements are determined by the Waste Water Division during the building permit process. Conditions such as this are intended as guidance for potential compliance requirements.

- 11) *WW5. All food service establishments shall demonstrate compliance with Federal, State, and City requirements and sized according to the California Plumbing Code. In instances where multiple food service establishments are proposed, each food service establishment shall have its own grease trap/interceptor. A diagram of the grease trap(s)/interceptor(s) shall be included in the Grading plans and contain location, size, and type.*

- *Applicant suggests this condition does not apply*

Remains unchanged. Waste water requirements are determined by the Waste Water Division during the building permit process. Conditions such as this are intended as guidance for potential compliance requirements.

12) *WW10. Provide an undercounter grease interceptor/trap in the kitchen/break room.*

➤ *Applicant suggests this condition does not apply*

Remains unchanged. Waste water requirements are determined by the Waste Water Division during the building permit process. Conditions such as this are intended as guidance for potential compliance requirements.

13) *WW11. Floor drain in storage area shall be screened in accordance with the City of Lompoc requirements.*

➤ *Applicant suggests this condition does not apply*

Remains unchanged. Waste water requirements are determined by the Waste Water Division during the building permit process. Conditions such as this are intended as guidance for potential compliance requirements.

14) *S5. The addition of 5,000 or more square feet of new or replaced impervious area, including awning, structures, patio or asphalt, etc. shall trigger applicable storm water requirements for five (5) percent or less Effective Impervious Area.*

➤ *Applicant suggests this condition does not apply*

Remains unchanged. Stormwater requirements are assessed by the Environmental Coordinator during the building permit process. Conditions such as this are intended as guidance for potential compliance requirements. Condition was renumbered in Reso. 805(19) to S4.

### **Staff Review:**

No formal Development Review Board (DRB) meeting was held for this CUP, however the application was circulated and Building Division and Fire Department submitted conditions of approval. Both the Building Division and Fire Department have continued to express concerns about the project's ability to meet occupancy and life safety requirements. However, compliance with the Building and Fire Codes will be addressed during the Building permit review process. As stated previously, these requirements are outside of the Planning Commission purview, as they are established by the Uniform Building Code.

At this time, staff is recommending approval of CUP 15-03 allowing an expanded wine tasting/sales facility with limited winery and special events, subject to the attached Conditions of Approval (COA). As conditioned, the proposed use would be consistent with the Zoning Ordinance.

Should the applicant and/or the Planning Commission wish to permit the facility as an event venue, rather than a winery with limited events, zoning consistency and Conditions of Approval specific to that use will need to be addressed.

Project specific conditions are included when staff can determine what they should be from the conceptual plans provided for Planning Commission review. A complete plan check occurs after construction plans have been submitted to the Building Division for building permits. Please note that not all COAs included with the Planning Commission Resolution for the project may be applicable. If the applicant has questions and/or concerns regarding specific conditions, he/she should contact the department/division that is recommending the condition. DRB members do not attend the Commission meeting and Planning staff cannot answer specific questions regarding conditions recommended by other departments/divisions.

### **ENVIRONMENTAL DETERMINATION:**

The proposed project, as conditioned, is Categorically Exempt, pursuant to Section 21084 of the California Environmental Quality Act (CEQA) and Section 15301, Existing Facilities, of the CEQA Guidelines. A Notice of Exemption will be filed, pursuant to CEQA requirements, following the Commission action.

### **NOTICING:**

On July 31, 2015:

- 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;
- 3) Notices were placed on the City website; and
- 4) 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 (10) calendar 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. 809 \(15\) and Conditions of Approval](#)
- 2) [Applicant Submittal, received June 19, 2015](#)
- 3) Project Site/Floor Plan  
(PC only with staff report, documents available for review in Planning Division)

<b>Staff Report has been reviewed and approved for submission to the Planning Commission</b>			
<b>Teresa Gallavan</b>	<b>Date</b>	<b>Lucille T. Breese, AICP</b>	<b>Date</b>
<b>Economic Development Director / Assistant City Manager</b>		<b>Planning Manager</b>	

**RESOLUTION NO. 809 (15)**

**A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF LOMPOC APPROVING A CONDITIONAL USE PERMIT FOR A WINETASTING ROOM EXPANSION LOCATED AT 1501 EAST CHESTNUT COURT, SUITES B & E (Planning Division File No. CUP 15-03)**

**WHEREAS**, a request was received from Steve Arrowood, applicant, for consideration of a Conditional Use Permit for a winery and wine tasting room expansion, located at 1501 East Chestnut Court, Suites B & E (Assessor Parcel Number: 099-520-001);

**WHEREAS**, the matter was considered by the Planning Commission at a duly-noticed public meeting on May 13, 2015;

**WHEREAS**, at the meeting of May 13, 2015, Steve Arrowood, the applicant, was present and answered Planning Commissioners' questions and addressed their concerns;

**WHEREAS**, at the meeting of May 13, 2015, Grant Gideon, Steve Pepe, Peter Work, Dennis Avila, Jack Armena, Jacob Cole spoke in favor of the project; and

**WHEREAS**, at the meeting of May 13, 2015, the Planning Commission split the request and adopted Resolution No. 799 (15) approving the wine production in Suite B subject to conditions of approval, and continued discussion on the expanded wine tasting uses proposed for Suites B & E to allow additional information to be presented prior to a decision being made; and

**WHEREAS**, the matter was considered by the Planning Commission at a duly-noticed public meeting on August 12, 2015;

**WHEREAS**, at the meeting of August 12, 2015, staff was present and answered Planning Commissioners' questions and addressed their concerns;

**WHEREAS**, at the meeting of August 12, 2015, \_\_\_\_\_ spoke \_\_\_\_\_ of the project; and

**WHEREAS**, the proposed project, as conditioned, is Categorically Exempt, pursuant to Public Resources Code Section 21084 of the California Environmental Quality Act (CEQA) and Section 15301, Existing Facilities, of the CEQA Guidelines.

**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 the expansion of Montemar wine tasting requested in Suites B & E, as conditioned, meets the requirements of the Lompoc City Code and is



consistent with the applicable policies and development standards, therefore it can be found that:

- A. The proposed use, as conditioned, is consistent with the applicable policies and development standards set forth in Lompoc City Code Section 17.064.
- B. The conditions stated in the decision are deemed necessary to protect the public health, safety, and welfare.
- C. The site of the proposed use relates to streets and highways adequate in width and pavement to carry the quantity and kind of traffic generated by the proposed use.
- D. The proposed use will have no adverse effect upon the abutting and surrounding property from the permitted use thereof.

**SECTION 2:** Based upon the foregoing, CUP 15-03 allowing expansion of wine tasting uses in Suites B & E is approved as proposed on August 12, 2015, subject to the conditions attached as Exhibit A which are incorporated by reference as if fully set forth herein.

The foregoing Resolution No. 809 (15) was approved, on motion by Commissioner \_\_\_\_\_, and seconded by Commissioner \_\_\_\_\_, at the August 12, 2015 Planning Commission meeting by the following vote:

**AYES:**

**NOES:**

\_\_\_\_\_  
Lucille T. Breese, AICP, Secretary

\_\_\_\_\_  
Ron Fink, Chair

Attachment: [Exhibit A – Conditions of Approval](#)

**CONDITIONS OF APPROVAL  
CUP 15-03 – MONTEMAR WINE TASTING EXPANSION  
1501 EAST CHESTNUT COURT, SUITES B & E – APN: 099-520-001 &**

The following Conditions of Approval apply to Suite B on the proposed project and plans, for CUP 15-03, received by the Planning Division and stamped on April 7, 2015, and reviewed by the Planning Commission on May 13, 2015.

**I. PLANNING**

**Planning – General Conditions**

- P1. All applicable provisions of the Lompoc City Code are made a part of these conditions of approval in their entirety, as if fully contained herein.
- P2. In conformity with Sections 17.140.010, 17.152.010, and 17.152.020 of the Lompoc City Zoning Ordinance, the violation of any condition listed herein shall constitute a nuisance and a violation of the Lompoc City Zoning Ordinance and the Lompoc City Code. In conformity with Sections 1.24.010 and 1.24.060 of the Lompoc City Code, a violation of the Lompoc City Code and the Lompoc City Zoning Ordinance is a misdemeanor and shall be punishable as provided by law. In addition to criminal penalties, the City may seek injunctive relief. The applicant agrees to pay for all attorney's fees and costs, including, but not limited to, staff time incurred by the City in obtaining injunctive relief against the applicant as a result of a failure of the applicant to fully perform and adhere to all of the Conditions of Approval.
- P3. The applicant is advised that certain fees and charges will be collected by the City prior to issuance of building permits and/or prior to issuance of certificates of occupancy.
- P4. These conditions of approval shall be noted on the construction drawings filed for any building permits, including the Planning Commission resolution number and the applicant's signed affidavit agreeing to comply with the conditions.
- P5. All revisions made by the Planning Commission and specified in the planning conditions of approval shall be shown on a revised site plan, which shall be reviewed by the Planning Division prior to submittal of construction drawings.
- P6. Minor changes to the site plan or architectural elevations shall be reviewed by the Planning Manager and approved if acceptable. Major changes to the site plan, architectural elevations, or landscape plans shall be reviewed by the Planning Commission and approved if acceptable.
- P7. Prior to the installation of any signage or sign related construction the applicant shall obtain all appropriate permits.
- P8. Owner agrees to and shall indemnify, defend, protect, and hold harmless City, its officers, employees, agents and representatives, from and against any and all claims, losses, proceedings, damages, causes of action, liabilities, costs and expenses, including reasonable attorney's fees, arising from or in connection with, or caused by (i) any act, omission or negligence of Owner, or their respective contractors, licensees,

invitees, agents, sublessees, servants or employees, wherever on or adjacent to the Property the same may occur; (ii) any use of the Property, or any accident, injury, death or damage to any person or property occurring in, or on or about the Property, or any part thereof, or from the conduct of Owner's business or from any activity, work or thing done, permitted or suffered by Owner or its sublessees, contractors, employees, or invitees, in or about the Property, other than to the extent arising as a result of City's sole active negligence or to the extent of any willful misconduct of the City; and (iii) any default in the performance of any obligations of Owner's part to be performed under the terms of this Agreement, or arising from any negligence of Owner, or any such claim or any action or proceeding brought thereon; and in case any action or proceedings be brought against the City, its officers, employees, agents and representatives, by reason of any such claim, Owner, upon notice from City, shall defend the same at its expense by counsel reasonably satisfactory to City.

Owner further agrees to and shall indemnify, defend, protect, and hold harmless the City, its officers, employees, agents and representatives, from and against any and all actions brought by any third party to challenge the Project or its approval by the City, including environmental determinations. Such indemnification shall include any costs and expenses incurred by Agency and City in such action(s), including reasonable attorney's fees.

#### **Planning – Conditional Use Permit Conditions**

- P9. The right to use an occupancy permit shall be contingent upon the fulfillment of any general and special conditions imposed by the conditional use permit procedure.
- P10. All of the special conditions shall constitute restrictions running with the land and shall be binding upon the owner of the land, his successors or assigns and a covenant to the effect may be required.
- P11. The applicant shall consent to all of the conditions in writing.
- P12. The resolution granting the application, together with all consent forms and a description of the property shall be recorded by the Recorder of the County of Santa Barbara prior to issuance of a certificate of occupancy.
- P13. This Conditional Use Permit may be reviewed and reconsidered by the Planning Commission at any time for the purpose of imposing new conditions to mitigate a nuisance or to revoke the permit to abate a nuisance.
- P14. The use permit granted is conditioned upon the rights or privileges acquired thereby being utilized within one year after the effective date of approval, and should the rights or privileges authorized hereby fail to be executed or utilized within said year, or when a building permit has not been issued within said year, or when some form of work is involved which has not actually commenced within said year, or if so commenced, is null and void; unless such permit has not been utilized or such construction work started or completed within such one year period by reason of delays caused by the City in approving plans, in which event the Community Development Director shall grant and record a commensurate extension. The Planning Commission may, at its discretion, and with the consent or upon request of the permittee, for any cause, grant a reasonable extension of time in addition to the one (1) year period hereinabove

provided. Such a request for extension shall have been filed with the Secretary of the Planning Commission fifteen (15) days prior to the expiration of the one (1) year.

- P15. The architectural approval granted by the Planning Commission is valid for one year from date of approval and will expire on August 12, 2016. A one-year extension may be granted by the Community Development Director if the applicant so requests prior to the expiration date.

#### **Planning – Architectural Conditions**

- P16. If new mechanical, ventilation, and/or utility equipment is proposed, it shall be architecturally screened to prevent visibility from public view and shall be designed and placed to harmonize with the major structures on the site and with the neighborhood.
- P17. No outside vending machines, except fully enclosed newspaper racks, shall be allowed on-site.
- P18. No outside displays shall be placed in front of the building, including furniture, temporary or permanent signs not authorized by a sign permit, umbrellas, or similar functional or purely decorative display items.
- P19. The trellis may be installed to frame the perimeter of the doorway, only if identical trellis' are installed to frame the other entrance doors on the building. Details and materials shall be submitted to the Planning Division for review prior to installation.

#### **Planning – Project Specific Conditions**

- P20. The applicant shall contact the County of Santa Barbara Health Department and the State of California Alcoholic Beverage Control for appropriate permits.
- P21. The kitchen shall not be used for preparation of food products for public consumption. No on-site food preparation for public consumption or private winery event is permitted.
- P22. The hours of operation for wine tasting and wine events shall be between 11am-9pm Thursday through Sunday, and 11am-7pm on Monday through Wednesday.
- P23. Any outdoor storage areas shall be screened from view. No material shall be stored above the height of a fence, or within ten (10) feet of the fence.
- P24. Permits shall be obtained from the Building Division for any interior / exterior work. The work shall be finished prior to occupancy of the building.
- P25. Four (4) winery events--events that relate to the primary wine tasting use of the site, including wine release/pick-up events—are permitted as part of this approval. Winery events exceeding the permitted number require a Temporary Use permit approved by the Planning Division.
- P26. Six (6) special events—events that do not relate to the primary wine tasting use of the site, including but not limited to fundraisers, charity events or private parties or receptions—are allowed on the site with the approval of a Temporary Use Permit approved by the Planning Division. At the beginning of each calendar year, the

applicant shall provide a schedule to the Planning Division listing the six (6) planned events for that year.

- P27. Outdoor storage shall not exceed 50% of the outdoor area. No material shall be stored to a height greater than the height of the required wall or fence, if it is within ten feet of the required wall or fence.
- P28. No outside seating shall be permitted in the front of the building, including tables, chairs, or umbrellas, or similar functional or purely decorative display items.
- P29. No indoor or outdoor amplified music shall be permitted. Unamplified acoustic music is permitted indoors and/or outdoors, and shall comply with the City's noise regulations.
- P30. If new exterior lighting is proposed, two copies of the lighting plan shall be submitted to the Building Division with the building plans. The lighting plan shall be reviewed and approved by the Engineering and Planning Divisions prior to issuance of any permits for the project. The plan shall incorporate the following:
  - a. Details for external light fixtures both on and off the building(s), all lighting within private streets (including conduit and wiring), external illuminated signage, and any light fixtures at ground level. All lighting shall be shielded to prevent glare and minimize light intrusion to adjacent properties.

## **II. FIRE**

### **Fire – General Conditions**

- F1. Compliance shall be required to meet in accordance with the most restrictive of the following: 2013 California Fire Code (CFC) as amended by the City of Lompoc, the 2013 California Building Code (CBC), and the Lompoc City Code.
- F2. All fire extinguishers required to have an 'A' rating shall be sized 2A10BC. Location, number and types shall be in accordance the California Code of Regulations Title 19.
- F3. A final fire inspection is required and shall be scheduled with the Lompoc Fire Department (805) 875-8063 prior to the issuance of the Certificate of Occupancy.
- F4. City of Lompoc business license certificate may be required of project contractors. Verify with the City Clerk any concerns for the local business license of project employees.
- F5. Square footage and occupancy types are to be verified and approved by the Building and Fire Departments.
- F6. No work shall commence without approved plans and a building permit issued. All electrical, plumbing, interior walls, and other project specific work requires a licensed professional to submit plans for all tenant improvement projects in commercial buildings.
- F7. A "wet" signature and contractor's license number and stamp are required on all copies of plans submitted.

### **Fire – Project Specific Conditions**

- F8. Illuminated exit signage and emergency egress lighting is required in the rear patio area as it is an “A2”. 2013 CFC Section 1011.
- F9. Emergency exit doors shall provide correct direction of swing and properly rated exit hardware. 2013 CFC Section 1008.
- F10. An operational permit is required to use a building or portion thereof used as an assembly. 2013 CFC Section 105.
- F11. An accessible path of travel complying with code requirements shall be shown on the permit submittal documents. 2013 CBC 11B.
- F12. The exterior rear yard space is for employee use only including storage and wine production. Any change of use requires a plan submittal to the City of Lompoc and approval from Building and Life Safety Division before the change of use is permitted.

III. **POLICE** -- No general or project specific conditions

IV. **ENGINEERING** -- No general or project specific conditions

V. **ELECTRIC**

#### **Electric – General Conditions**

- EL1. The Developer shall sign a Line Extension Agreement and pay all costs for the City to furnish and install electric power lines/equipment to and within the proposed development. These costs will include all labor, labor overhead, material, material handling charges and equipment/vehicle rentals necessary for the City to extend the City’s electrical distribution system to serve the project. The total estimated cost, as mentioned in the Line Extension Agreement, must be paid prior to the City issuance of building permits.
- EL2. The Developer shall provide a single line diagram showing voltage, phase, load requirements and size of planned switchboard. Three-phase electric services up to 200 Amps shall have 7-jaw meter sockets. Three-phase electric services above 200 Amps shall have 13-jaw meter sockets and provisions for a test switch and current transformers. The main switchboard shall conform to Electric Utility Service Equipment Requirements approved by the City of Lompoc. The developer shall pay the meter installation fee prior to the issuance of the building permit.
- EL3. Electric meters and main disconnect switches shall be located on the exterior of the building or in an enclosure opening only to the exterior of the building. Meter enclosures shall be accessible at all times to electric division personnel. If the enclosure is to be locked, the lock shall be keyed to Schlage Lock No. C38587.

- EL4. The Developer shall provide all necessary trenching and backfilling to Electric specifications. This will include trenching for primary cable, secondary cable, street light wiring and associated vaults and boxes. The Developer shall provide transformer pads as required. The project shall be at final grade prior to trenching for installation of underground electric facilities.
- EL5. The Developer shall furnish and install the service wire and conduit from the service panel to the transformer or secondary box. Upon approval of the building inspector, the City will make the final connections to the transformer and energize the service.
- EL6. For three-phase electrical service over 200 Amps, the Developer shall run a telephone service wire to the meter location for remote meter readings.
- EL7. Provide and install one 2-inch conduit, from the pull box in the street easement to the building, in same trench with the electrical service conduit.

**Electric – No project specific conditions**

**VI. SOLID WASTE – No general or project specific conditions**

**VII. WATER – No general or project specific conditions**

**VIII. WASTEWATER**

**Wastewater – General Conditions**

- WW1. All new sewer main and lateral installations will be of Polyvinyl Chloride Plastic (PVC) SDR35 sewer pipe, including all pipe fittings and miscellaneous appurtenances. No glue joints are permissible.
- WW2. All PVC SDR35 sewer piping shall be furnished in the following lengths:
  - Piping from 8” to 12” in diameter – 20’ maximum length
  - Piping from 15” to 60” in diameter – 12.5’ maximum length
- WW3. In existing paved streets or alleys trench backfill, from one-foot above sewer pipe to subgrade, shall be one-sack cement slurry. Slurry cement backfill shall conform to the provisions of Subsection 19-3.062, “Slurry Cement Backfill”, of the Caltrans Standard Specifications.
- WW4. A grease interceptor/trap shall be installed in community buildings where commercial appliances will be used.
- WW5. All food service establishments shall demonstrate compliance with Federal, State, and City requirements and sized according to the California Plumbing Code. In instances where multiple food service establishments are proposed, each food service establishment shall have its own grease trap/interceptor. **A diagram of the grease trap(s)/interceptor(s) shall be included in the Grading plans and contain location, size, and type.**

- WW6. All Users proposing to dispose of industrial waste into the City's sanitary sewer shall apply and obtain a wastewater discharge permit prior to connection and/or discharging into the City's sanitary sewer.
- WW7. All water softeners shall indicate type (i.e., self-regenerating, tank exchange) and location on either, the Architectural Plans for softeners indoors or the Grading Plans for softener outdoors. All water softeners shall comply with Federal, State, and City requirements. The discharge of self-regenerating water softeners is prohibited from entering the City's sanitary sewer.
- WW8. All floor grating perforations shall be ½ inch or less in width or diameter.
- WW9. All wastewater improvements shall comply with Federal, State and City requirements for the protection of the City's Wastewater System.

#### **Wastewater – Project Specific Conditions**

- WW9. Submit Baseline Monitoring Report.
- WW10. Provide an undercounter grease interceptor/trap in the kitchen/break room.
- WW11. Floor drain in storage area shall be screened in accordance with the City of Lompoc requirements.
- WW12. If floor drains are to be installed within the covered outdoor storage area, design of surrounding surfaces shall ensure that stormwater does not enter the floor drain.

### **IX. AVIATION/TRANSPORTATION – No General or Project Specific Conditions**

### **X. BUILDING**

#### **Building – General Conditions**

- B1. The Project shall comply with the requirements of the most recently adopted California Code of Regulations Title 24 and City of Lompoc regulations.
- B2. Plans shall be submitted by a California licensed architect and/or engineer when required by the California Architect's Practice Act and by CBC [A]107.3.4.
- B3. Dimensioned building setbacks and property lines, easements, street centerlines, and dimensions between buildings or other structures, along with all significant site features, shall be shown and identified on plot plans.
- B4. All property lines and easements shall be shown and identified on the plot plan. A written statement by the Applicant that such lines and easements are shown is required.



- B5. The Title/Cover /first sheet of the plans shall include:
- a. Code Analysis addressing all work
  - b. Complete Scope of Work to be performed
  - c. Occupancy group(s)
  - d. Description of use(s)
  - e. Type of construction
  - f. Height of the structure(s) and number of stories
  - g. Floor area of structure(s), existing and new, broken down by Use or Occupancy Type, with Totals.
- B6. See City submittal requirements for other information that may be required in the Construction Documents, including but not limited to: Soils Engineer's Plan Review Letter, Energy Compliance Statements, CALGreen (CGBSC) code compliance forms, CWM Plan (Construction Waste Management Plan), listing of Special Inspections required, Deferred Submittals.
- B7. Provide accurate square footage calculations on the plans that clarify and differentiate between existing area to remain as is, demolished or disassembled area, altered or rehabilitated area, and new additional area.
- B8. State of California accessibility requirements shall be incorporated within the design of the site and structures.
- B9. The Project shall show compliance with the Energy codes, CALGreen codes, and current City and State water conservation regulations. See also SB 407 for requirements for non-compliant plumbing fixture replacement schedules regardless of construction.
- B10. Contractor shall minimize the use of street parking by construction workers and equipment during construction. Temporary toilet and handwash facilities for construction are required. Trash and debris shall be contained on-site.

#### **Building – Project Specific Conditions**

- B11. Provide on the first sheet a complete Code Analysis explaining in detail the design features and uses/occupancies.
- B12. The Occupancy Types and square footage calculations for each are not correct as provided based on previous discussions and current use. Please reassign, recalculate and clearly show all occupancy types and uses of all rooms and areas, and calculations for both exiting and required plumbing fixtures, including male/female and service sink.
- B13. An accessible path of travel complying with code requirements shall be shown on the permit submittal documents, with all equipment and fixtures indicated on the plans. Check all door swings and clearances at doors with the requirements of CBC 11B.
- B14. Energy compliance statements are required for new lighting, power, HVAC, etc.

## **XI. GRADING**

### **Grading – Project Specific Conditions**

GR1. Maintain emergency access at back of Unit B.

## **XII. STORM WATER**

### **Storm Water – Project Specific Conditions**

- S1. Interior and exterior drains shall drain to the sanitary sewer.
- S2. No wash water shall be discharged from the winery site into the storm drain system.
- S3. Roll-offs placed on public right-of-way must follow the City requirements below and roll-offs placed on private property shall be maintained so they do not create nuisance odors or discharge into City storm drains.
- S4. The addition of 5,000 or more square feet of new or replaced impervious area, including awning, structures, patio or asphalt, etc. shall trigger applicable storm water requirements for five (5) percent or less Effective Impervious Area (EIA). See <http://www1.cityoflompoc.com/departments/comdev/StormWater/Hydromodification.pdf> for detailed requirements.

### **Storm Water – Additional Advisories**

#### Roll-Off Containers In City Right-Of-Way Must:

- Be properly registered with the City of Lompoc's Solid Waste Division.
- Must have a properly installed impervious liner to prohibit drippings from the container.
- Must be equipped with a properly fitting cover.
- Must have identification showing winery name and 24/7 contact phone.
- Pomace must be placed in roll-offs, and roll-off covers re-placed. No winery waste is to be deposited in streets or alleys.
- If there is an accidental spill, it must be immediately cleaned up.
- Roll-offs must be collected weekly or more often eliminating odor & bacteria.
- Roll-offs not in compliance will be subject to removal.

#### Storm Drains

- The City's storm drain includes the street, curb, gutter, inlets and channels.
- Storm drains lead directly to natural waters (creek, river, ocean and groundwater).

- The sanitary sewer is the drain in the sink, toilet, or sometimes a floor drain, that is connected directly to the City’s Wastewater Reclamation Plant.
- Know where your facility’s drains discharge – storm drain or sanitary sewer!
- Direct discharge of untreated winery wastewater to natural waters is strictly prohibited by the State Water Resources Control Board.
- Wine grapes, parts and juice, operating wash water are pollutants. These pollutants create odor, and contribute to nutrient runoff to natural waters and nitrates in groundwater. These pollutants kill fish and aquatic life by depleting oxygen in natural surface water and ground water. Impacts are widespread and can affect ocean fisheries hundreds of miles away.

Winery Wastewater

- Discharge of any material into the storm drain is prohibited by City Ordinance, and State and Federal Law.
- This includes pollutants from winery wash water, grape juice, grape **parts** or any other materials.
- Sites with existing drainage systems leading to the street gutter are not exempt.
- All equipment, containers and palettes must be washed in areas where the wash water drains to a sanitary sewer connection, or is captured and discharged to the sanitary sewer.

I, Steve Arrowood, the applicant, do hereby declare under penalty of perjury that I accept all conditions imposed by the Planning Commission in their approval of the winery and tasting room. As the applicant, I agree to comply with these conditions and all other applicable laws and regulations at all times.

\_\_\_\_\_

Name

\_\_\_\_\_

Date

## **Response to the Planning Committee direction on the conditions of approval for CUP 15-03 Montemar winery and tasting room expansion**

Cooperative de Garagistes LLC and its Montemar brand are submitting this response as part of its expansion at 1501 E Chestnut Ct Suites B and E. Project POC is Steve Arrowood 310.365.6236

### **Background**

Montemar submitted MUP 12-02 in Dec of 12 and received approval in Jan of 13. The approved building permit was received and the project was completed and signed off before we opened. The backyard tasting space was requested in the MUP, discussed at length with the city and approved in the MUP. The backyard was completed during the project and reviewed by the city inspectors and building official during the construction phase. When we received final signoff everything including the backyard was finished and we opened in August of 13 with the backyard tasting space in place. All the planning and building staff involved in the original permit are no longer with the city so the memory of what was approved has been lost. In Dec of 14 the city notified us that they believed we were operating the backyard without a permit and they also believed we were going to exceed our occupancy during a charity event planned that evening for the Lompoc theater project. We met with the Fire Chief that day and worked out a temporary plan in case we did exceed occupancy (which we did not) I then met with the city building and planning officials to discuss their concerns. They were highly surprised when I presented an approved permit with the backyard clearly included but because the property exits were not specified they chose to believe that the backyard was

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never permitted vs the city overlooking something and not sp  
the proper fire exits from the yard. I stated that I would be happy  
retrofit new exits and new hardware on exiting exits to meet a fire  
safety needs. It seemed like we had a path forward with me adding the  
retrofit of the exits to my new winery permit. The city required a CUP,  
which is more time consuming than would be the normal permit  
process for a new winery and the winery project was held up for a  
couple of months due to the added paperwork, reviews and planning  
calendar.

Once I submitted the CUP, the city added a whole new set of  
restrictions as well as requiring occupancy levels that are not applicable  
to a wine tasting site. Discussing definitions of bars, nightclubs etc as  
part of the written documentation and discussion when reviewing a  
wine tasting venue shows lack of understanding for a city surrounded  
by hundreds of tasting rooms. Montemar is not a unique tasting room  
within SB County, perhaps within Lompoc it is slightly different given  
the outside space. The last building official refused to accept anything  
lower than A2 for the backyard which resulted in calculating 190 people  
just in the back yard. This is 10x more than we have on a busy day and  
4X more than anyone would ever want to have in the backyard. Since  
this building official is now gone we are resubmitting the occupancy to  
the original mercantile which is in line with wine tasting activities. This  
would result in a total occupancy of 121 (Exiting). All this was discussed  
at length during the planning committee meeting with the committee  
agreeing that the restrictions of concern were not in the best interest of  
the city, Montemar or the local wine industry as a whole. None of the  
restrictions were driven by complaints; in fact the city has not had any  
wine ghetto complaints. Montemar provided letters during the

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planning meeting from the adjacent neighbors and the lan. are in full support of Montemar's project and noted zero noise parking issues. These businesses would be the ones most impacted there were noise or parking issues. Additionally the city is in the process of fixing the outdated zoning in the wine ghetto after approving many tasting rooms in a business park formally home to many industrial tenants. A planning firm is already under contract to get the zoning in line with current use.

Here are the items discussed at the meeting and what Montemar heard as direction from the planning committee:

- Revised occupancy coding for the backyard from assembly (A2) to mercantile (M) based on its current and future use.
- 8 specific issues in the COA that Montemar believes need to be adjusted with the new proposed wording for each
- A few conditions of approval are questioned as to whether they apply this this project.

### **Revised occupancy coding**

- As discussed above, Montemar was forced to code the outdoor tasting area as A2 in order to move forward as the winery part of the project was being held up. We missed one PC meeting due to this issue. This A2 occupancy coding resulted in a total occupancy of 221 (Exiting). This is a level of occupancy that would never be used and drives unreasonable plumbing requirements. Mercantile is the appropriate as it is the most common in wine tasting and no other wine tasting business has A2 that anyone could find. The benefits of coding the outdoor tasting area as Mercantile are many and as follows:

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- Total occupancy would only be 121 persons vs 221
- Fire exits and all fire safety items remain the same for either occupancy type
- Bathrooms drop from 3 accessible to 2
  - Project provides from 2 accessible and an addition regular bathroom
  - This is more than enough for our business

***8 specific COAs that we request adjustments to***

***P16. The approval granted by the Planning Commission is valid for one year from date of approval and will expire May 13, 2016. A one-year extension may be granted by the Community Development Director if the applicant so requests prior to the expiration date.***

Suggested change – add architectural before the 1<sup>st</sup> approval.

Meaning the architectural approval is only valid for one year. Extension is available this is in case Montemar does not build and get final approval on the project. If we build the approval cannot be rescinded.

***P19. No outside displays shall be placed in front of the building, including furniture, temporary or permanent signs not authorized by a sign permit, umbrellas, or similar functional or purely decorative display items.***

Suggested change - No **permanent** outside displays shall be placed in front of the building, including furniture, ~~temporary or permanent signs~~

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not authorized by a sign permit, umbrellas, or similar functional or purely decorative display items.

***P20. The trellis may be installed to frame the perimeter of the doorway, only if identical trellises are installed to frame the other entrance doors on the building. Details and materials shall be submitted to the Planning Division for review prior to installation.***

Suggested change - The trellis may be installed to frame the perimeter of the doorway as drawn

Rationale – many buildings in upscale developments allow tenants to personalize their storefront. Requiring the whole building to do it is not allowing it as all tenants can't agree on one style and will not want to pay for something they do not want and do not want others to pay to put something in front of their space. As written the answer is no trellis and does not support a local business improving their building and enhancing Lompoc.

***P23. The hours of operation for wine tasting and wine events shall be between 12-5pm Thursday thru Monday, during the winter and 11am-5pm on Thursdays, Sundays and Mondays, and 11am-8pm Fridays and Saturdays during the spring, summer and fall.***

Suggested change - The hours of operation for wine tasting and wine events shall be between 11-9pm Thursday thru Sunday and 11am-7pm on Monday thru Wednesday.

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***P26. Winery events (wine pick-up parties and/or wine release parties) shall be limited to four (4) events per year***

Suggested change – Winery events (wine pick up, wine release etc) are defined as winery sponsored events with the goal of selling wine. Any winery events exceeding the approved occupancy levels would be limited to 6 per year

***P27. No special events (non-winery events) are permitted as part of this approval. Special events including but not limited to fundraisers, charity events or private parties or receptions require a Temporary Use Permit approved by the Planning Division. Special events shall be limited to six (6) events per year.***

Suggested change – Special events can be defined into the following categories for fuller understanding.

Charity events – Events where Montemar is donating its goods and/or services to a local charity in support of their fund raising goals and generating more customers. Any charity event exceeding the approved occupancy levels would require a Temporary Use Permit approved by the Planning Division

Wine club member events – Events where wine club members are holding a private event at Montemar. Any wine club member event exceeding the approved occupancy levels would require a Temporary Use Permit approved by the Planning Division

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Other special events – Individual or business wants to hold an event at Montemar. Any other special event exceeding the approved occupancy levels would require a Temporary Use Permit approved by the Planning Division

Special events requiring a Temporary Use Permit shall be limited to six (6) events per year.

For understanding on how special events are currently handled in Santa Barbara County here is their definition. Winery special event as defined in the current Santa Barbara County ordinance ***“ An event of less than 1 day and occurring on a winery premises attended by 80 or more people, including concerts with or without amplified sound, such as weddings, and advertised events, fundraising events, winemaker dinners open to the general public, etc.*”**

***Winery special events do not include wine industry wide events (e.g., Vintner’s Festival, Harvest Festival) including associated events held at individual wineries, the normal patronage of a tasting room, and private gatherings of the owner or employees where the general public does not attend.”***

The SBC definition and constraint at 80 people have to cover all wineries in the county where there is wide variation on occupancy levels and associated exiting and plumbing capabilities. Once Montemar’s tasting room is completed and approved it will have a specific occupancy level with the associated exiting and plumbing capabilities. Also it is important to note that the planning official stated that there were no TUPs for wineries in the recent past.

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***P30. No outside seating shall be permitted in the front of the building, including tables, chairs or umbrellas or similar functional or purely decorative display items.***

Suggested change – No outside seating shall be permitted in the front of the building

Rationale - Balance is repetitive with P19

***P31. No indoor or outdoor amplified music shall be permitted. Unamplified acoustic music is permitted indoors and/or outdoors, and shall comply with the City's noise regulations.***

Suggested change – Indoor and outdoor amplified music shall be limited to between the hours of 2PM – 9PM Thursday thru Sunday. The dB level shall not exceed 85 dB at the property edges.

Note 85 dB at the property edge becomes 70dB on 7<sup>th</sup> street (the nearest homes). The ambient noise on 7<sup>th</sup> street is 70 dB or more. There have been no complaints to date and my adjacent neighbors support the music that we have had on most Saturdays for over 1 year.

***F4. Ensure proper licensing of fire protection system engineers and California State Fire Marshall licensed installers for design specific systems. Additionally, a City of Lompoc business license may be required of any installers. Verify with the City Clerk any concerns for the local business license of project employees.***

Suggested change – how does this apply

***WW4. A grease interceptor/trap shall be installed in the community buildings where commercial appliances will be used.***

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Planning Division

Suggested change – N/A

**WW5. All food service establishments shall demonstrate compliance with Federal, State, and City requirements and sized according to the California Plumbing Code. In instances where multiple food service establishments are proposed, each food service establishment shall have its own grease trap/interceptor. A diagram of the grease trap(s)/interceptor(s) shall be included in the Grading plans and contain location, size and type.**

Suggested change – N/A

**WW10 - Provide an undercounter grease interceptor/trap in the kitchen/break room**

Suggested change – N/A

**WW11 - Floor drain in storage area shall be screened in accordance with the City of Lompoc requirements**

Suggested change – N/A

**S5. - The addition of 5,000 or more square feet of new or replaced impervious area, including awning, structures, patio or asphalt, etc. shall trigger applicable storm water requirements for five (5) percent or less Effective Impervious Area (EIA). See website for detailed requirements.**

Suggested change – N/A

RECEIVED

JUN 19 2015


Planning Division

**CITY OF LOMPOC  
PLANNING COMMISSION STAFF REPORT**



**MEETING DATE:** August 12, 2015

**TO:** Members of the Planning Commission

**FROM:**  Lucille T. Breese, AICP  
Planning Manager

**RE:** CUP 15-03 – Montemar Winery  
SUPPLEMENTAL INFORMATION

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Agenda Item No. 1

*Food Services*

To provide additional clarification on the limitations pertaining to food services onsite, staff recommends revising Condition P21 as follows:

P21. Wine tasting shall remain the primary use of the property. The provision of palette cleansers (such as a small amount of bread, crackers, cheese or nuts) or pre-packaged food from outside food vendors, for wine tasting visitors is permitted. However, the kitchen shall not be used for preparation of food products for public consumption. No on-site food preparation for public consumption or private winery event is permitted. Food services by caterers are allowed during wine events and special events, but must utilize self-contained cooking equipment (no outdoor grills) and food waste disposal systems, to ensure that the kitchen facilities on the premise are not used during such events.

*Gaming Areas*

The project plans currently identify 5,260 sq. ft. of outdoor area for “wine tasting and sales.” However, almost two thirds of that outdoor area is proposed to be used for outdoor games—with seven identified game areas. This amount of outdoor gaming area is unprecedented, and is consistent with event venues, rather than wine tasting. Therefore staff recommends a new condition of approval, to ensure consistency with the primary wine tasting use.

P31. Outdoor areas shall be used for seating areas associated with wine tasting and sales only. Seating arrangements and occupancy shall be reviewed by the Building and Fire Departments to ensure compliance with Building and Fire Codes.

**CITY OF LOMPOC  
PLANNING COMMISSION STAFF REPORT**



**MEETING DATE:** August 12, 2015  
**TO:** Members of the Planning Commission  
**FROM:** Lucille T. Breese, AICP  
Planning Manager  
**RE:** CUP 12-04 – CrossFit Gym  
SUPPLEMENTAL INFORMATION No 2

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Agenda Item No. 2

The City has received the following e-mail correspondence:

Aug 12, 2015	from Victor Gallegos
Aug 12, 2015	from Jeremy Ball
Aug 12, 2015	from Beverly Imano
Aug 12, 2015	from Neil Imano.

## Breese, Lucille

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**From:** VICTOR GALLEGOS [victor@eqwinerie.com]  
**Sent:** Wednesday, August 12, 2015 2:14 PM  
**To:** Breese, Lucille  
**Subject:** CUP 12-04 Public Comment

Dear Ms. Breese and Lompoc Planning Commission,

This letter is in support of CrossFit Ohana. I am a member and patron of this business and regularly attend the early morning class hours under discussion. While the current discussions focusing on neighbor complaints and possible 'violations' by CrossFit Ohana are fascinating, in my opinion they also miss the point entirely.

In 2012, the Lompoc Planning Commission granted a CUP to CrossFit Ohana in a commercial/industrial development located in an Industrial Zone. An immediately adjacent residential development (DR 04-35) had also been approved by the Planning Commission in 2009. Following receipt of their CUP, CrossFit Ohana built a successful business, based entirely on their ability to conduct classes consistent with the model used by CrossFit gyms (aka 'boxes') located throughout the world. The class times offered and the workout practices employed are integral to the success of the CrossFit business model in general and to the success of CrossFit Ohana in particular.

I would suggest that CrossFit Ohana will suffer irreparable damage to their business if the Lompoc Planning Commission requires modifications to the Conditions of Approval for their Conditional Use Permit (12-04). It seems obvious that the Lompoc Planning Commission was negligent in its duty to require adequate setbacks between two projects with such drastically different zoning, and to seek additional mitigations to the potential and reasonably anticipated impacts of approved industrial activities located immediately adjacent to residential units.

The Lompoc Planning Commission should begin the hearings on Wednesday evening by acknowledging that the current problem is one of their own making. Secondly, the Commission should offer financial compensation to CrossFit Ohana for the irreparable damage to their business if the CUP is modified, or pay all costs related to the relocation of CrossFit Ohana's business.

Regardless of the outcome in this specific case, there will no doubt be future complaints from nearby residents regarding impacts from the other commercial/industrial activities conducted by tenants adjacent to CrossFit Ohana.

Sincerely,

Victor Gallegos  
805-252-3225

Dear Members of the Lompoc Planning Commission,

First off, thank you for taking this letter into consideration, I'm very sorry to not be available in person tonight to add my thoughts.

My wife and I have been active members of Crossfit Ohana since July 2012 and it's become a very important part of our everyday lifestyle. We have a wide demographic of members and only a few whom you'd consider "beefcakes" who throw hundreds of pounds of weight around. The majority of the members are *women*. The majority of those individuals who attend the early morning classes and evening classes are moms, teachers, military personnel and hospital employees all of whom have a very limited schedule. Choosing to modify the CUP by changing the hours would effect every single one of those very busy people and possibly prevent them from attending all together. In addition, this adds an enormous burden and strain for our owners, Darren and Caitlin Savella. On top of the stress and harassment that they've already receive, they've also had to shut down their business numerous times to attend these meetings.

These meetings have become all too familiar. A few facts to remember: The noise study, which was ironically conducted during the busiest time at our gym, concluded that we were within the city noise ordinance — so no noise ordinance has ever been broken. We have never been cited despite the police being called numerous times. Darren and Caitlin Savella have made significant investments in improving our equipment so as to mitigate the sound. But that being said, Crossfit is loud, which is why they chose an industrial zone. Industrial zones are allowed to make noise.

I don't doubt that there are vibrations felt within the house. But if those vibrations are felt in the house, then guess what, it was built too close to an industrial zone. If we move, then what? A machine shop goes in, or a tire shop, or a winery who works 24 hrs a day 3 months out of the year? So what's next, do you tear down the industrial building? Do you tear down the house?

You said at the last meeting that "This is nobody's fault." If that's the case, why are you modifying *our* CUP and why do the members of Crossfit Ohana have to be the ones that pay for this unfortunate development problem? As Lompoc residents, we feel for the owners of this house that continues to complain. It is severely unfortunate that through either a loophole or lack of proper planning that this house was allowed to be built. The placement of the house behind the industrial space is likely to be the continued recipient of whatever vibrations any industrial business would create should they take over this space. We strongly urge the commission to not make Crossfit Ohana into a scapegoat. Asking a business to change their hours, especially in an industrial zone, is no different than asking a resident not be home during certain hours of the day.

Thank you for your consideration.

Sincerely,

Jeremy Ball

805-260-0415

[jeremy@bottlebranding.com](mailto:jeremy@bottlebranding.com)



## Breese, Lucille

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**From:** bemail.bi@gmail.com  
**Sent:** Wednesday, August 12, 2015 4:08 PM  
**To:** Breese, Lucille  
**Subject:** Planning Commission Agenda Item 2 for August 12, 2015

Dear Manager Breese,

I would like to respectfully request that the Planning Commission consider the impact that limiting operating hours of the CrossFit Gym would have on this business. Members who participate in classes outside of normal business hours (early morning, later evening) attend at those hours because they work during the day; these are the only times that these Lompoc citizens can attend the Gym classes. Eliminating them would severely cripple the ability of the Gym owners to provide the services that their business offers.

The business owners specifically located in an industrial zoned area so that they would not be a nuisance to business or residential neighbors. The one property owner who is complaining purchased the property with full disclosure that a gym was located adjacent to the home and that the operating hours included early morning and later evening classes. The city funded, independent noise-study proved that the gym does not produce sound in excess of the zoning requirements.

This family business provides a venue where individuals of all ages become healthier and where they are encouraged to actively participate in community activities outside of the Gym itself. The Gym owners consistently encourage and sponsor participation of members in charity organizations that benefit our city. They have created a social network within the membership that allows participants to assist each other in their journey toward fitness and in other areas of their social and business lives. This is a good business that contributes to Lompoc's economic and civic community. We want it to continue in our valley- please do not cripple it because of one complainer who should have known better.

Sincerely,  
Beverly Imano  
588-4763



This email has been checked for viruses by Avast antivirus software.  
[www.avast.com](http://www.avast.com)

Letter of opposition to the possible modifications to Conditions of Approval for Conditional Use Permit (CUP 12-04) Issued February 13, 2012, for operation of a Crossfit Gym located at 1251 West Laurel Avenue (Crossfit Ohana).

Dear Planning Commission,

On the agenda for August 12, 2015, under Agenda Item 2, it states that the commission to review possible modifications to Conditions of Approval for Conditional Use Permit (CUP 12-04). Under topic "Current Status – Next Steps" it states that that the commission is considering limiting the hours of operation for Crossfit Ohana. Specifically early morning hours.

Eliminating these hours would be hurtful to the business, and would exclude current clients from services provided during those eliminated hours. For many people early morning is the only time they have to commit to structured exercise regiment.

You also state that the reason to reduce hours is Municipal Code Section Chapter 8.08 – Noise, which refers to construction not day to day operation. So in my opinion not considered in this manner.

I have been to several of the meetings concerning the noise level of the business. We all know that the business meets all noise requirements, even though the plaintiff says your independent study was invalid.

There are rumors that vibration may be considered in the decision on whether the COA's would be modified. I was unable to locate a "vibration" ordinance. So with no limits set, this variable should not be considered in the decision.

To me this is cut and dry. Crossfit Ohana has not violated the noise code, and has never been cited for any offense. Please let Crossfit Ohana proceed with the bathroom construction, and operate the business as needed to be a successful business in Lompoc.

Respectfully Submitted,

Neil Imano

1341 W Loquat Ave Lompoc

805-588-4764

**CITY OF LOMPOC  
PLANNING COMMISSION STAFF REPORT**



**MEETING DATE:** August 12, 2015  
**TO:** Members of the Planning Commission  
**FROM:** Lucille T. Breese, AICP  
Planning Manager  
**RE:** CUP 12-04 – CrossFit Gym  
SUPPLEMENTAL INFORMATION

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**Agenda Item No. 2**

The City has received the following e-mail correspondence:

Aug 11, 2015	from Joshua Keller
Aug 11, 2015	from Eric R. Small
Aug 11, 2015	from Timothy G. McIntyre
Aug 12, 2015	from Carmen Vargas
Aug 12, 2015	from Christa King
Aug 12, 2015	from Megan N. Bowker, Esq.

## Breese, Lucille

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**From:** Josh Keller [joshkeller77@gmail.com]  
**Sent:** Tuesday, August 11, 2015 1:10 PM  
**To:** Breese, Lucille  
**Subject:** Crossfit Ohana

Hello all,

I am writing in support of Ohana, and requesting that you do not remove the CUP. I have attended the gym since they opened, and can only make the 8pm class due to family and work and know that this is one of the times that might be affected if the CUP was revoked or changed so that classes weren't held at the beginning or the end of the day.

It was my understanding when I attended the last meeting that the individual who filed the complaint understood that there might be noise when he purchased the property, but didn't think it would be an issue...meaning that he knew about it and purchased the home anyways. Additionally, after the sound testing that the city did discreetly (on one of the more busy weeks we've ever had), it seems that the sound produced by the gym are well within the limits that were set for the location.

Please don't take away or limit such a great and supportive local business on grounds of a person who knew before purchasing the property and is complaining anyways.

Thank you for your time and consideration.

Joshua Keller  
805-588-8487

## Breese, Lucille

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**From:** Eric Small [ericsmall12@yahoo.com]  
**Sent:** Tuesday, August 11, 2015 4:47 PM  
**To:** Breese, Lucille  
**Subject:** Crossfit Ohana CUP Hearing

Dear Planning Commissioners,

I respectfully ask that you side with Crossfit Ohana and their proprietors, Darren Savella and Caitlin Boyle, at this Wednesday's planning meeting.

Since 2012, Crossfit Ohana has gone out of their way to meet the requirements brought upon them by the planning commission and the city. The fact of the matter is that at no time has the business even received as much as a citation for sound control. Visits by the police have yielded nothing. A week long sound analysis at taxpayer expense has yielded nothing. They are an exceptional member of our community conducting business the way it should be done. There are obviously zoning issues to discuss on Wednesday (such as why a home was allowed to be built 10 feet from an industrial complex), but I am writing to you today to voice a different concern. One you may not have thought about thus far.

Crossfit Ohana is home to a large portion of our military personnel and their families, myself included. The Air Force, and the military as a whole, widely regard functional fitness (to train as we would fight) as imperative to maintaining an elite fighting force. That's what Crossfit Ohana does. They have gone out of their way to not only provide discounts to our men and women in uniform, but to also hold class times that can be attended by those with a high operational tempo. It is those classes that will likely be taken away should you choose to alter the CUP. Early morning and late evening classes are largely the only ones available to those of us in the military. Unfortunately, you aren't voting to decide whether someone has to attend a class a little bit later, or a little bit earlier than normal. Your vote will likely decide whether or not our local military force has access to the type of fitness that we need.

In conclusion, it's easy to empathize with a resident who says his quality of life is being degraded. I do. I think all of us do. I know for certain that it not what anybody wants. But the simple fact is that for any society to function properly the needs of the few must give way to the needs of the many. Take a look in the audience this Wednesday and it won't be hard to see which is which. Thank you for your time and consideration in this matter.

V/R,

ERIC R. SMALL

## Breese, Lucille

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**From:** MCINTYRE, TIMOTHY G GS-11 USAF AFSPC 30 MDSS/SGSM [timothy.mcintyre.1@us.af.mil]  
**Sent:** Tuesday, August 11, 2015 3:55 PM  
**To:** Breese, Lucille  
**Cc:** timmcintyre1961@gmail.com  
**Subject:** Cross Fit Ohana

I would like to go on the record as supporting Cross fit Ohana in its on-going CUP with the city of Lompoc.

As far back as Sept 2014, I personally worked with Mr. Darren Savella in attempting to meet the restrooms requirements.

The city provided what I believed to be vague requirements that appeared to be unreasonable. That issue was later resolved and I worked with Mr. Savella to meet the city and planning commissions requirement. To-date architecture drawings have been submitted and approved by the city, and during a planning commission meeting Mr. Savella was granted an extension to complete the work.

Only after Mr. Savella had left the meeting was it brought up by a Planning Commission member to address possibly limiting Ohana's hours under the CUP based on a new complaint by a homeowner.

The noise complaint issue I thought had been resolved, as both Ohana and the city had a noise test conducted with the permissible level being under the max.

I would think that issue should be put to rest.

I believe Mr. Savella has in good faith attempted to work with both the city and the planning commission not to mention the developer in this matter.

At some point Mr. Savella lively hood should be considered as this is how he makes his living.

I believe the real issue here is that a developer was allowed to build next to an industrial area and CODE was not followed, Mr. Savella should not be expected to have his lively hood compromised nor have to continue to jump through hoops time and time again.

V/R Timothy G. McIntyre

## Breese, Lucille

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**From:** Carmen Vargas [cmvargas545@gmail.com]  
**Sent:** Wednesday, August 12, 2015 10:42 AM  
**To:** Breese, Lucille  
**Subject:** Crossfit

To whom it May Concern: I have been a member of Crossfit Ohana for the past year, attending the 5 am class, this is the only time that I am able to attend due to work schedule. It would deeply impact my lifestyle change if this time was eliminated. Since joining Crossfit Ohana I have had great results with not only my health but mentally as well. Several of my family members attend and we have all had great results, please reconsider your decisions on taking away some of the sessions currently available. At Crossfit Ohana it is not only a place to work out, but a place you know you have a family and friends.

Sincerely

Carmen Vargas

Sent from my iPhone

## Breese, Lucille

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**From:** Christa King [christaking@hotmail.com]  
**Sent:** Wednesday, August 12, 2015 4:41 AM  
**To:** Breese, Lucille  
**Subject:** Crossfit Ohana CUP - Conditions of Approval  
**Attachments:** image1.PNG; ATT00001.txt; image2.PNG; ATT00002.txt; image3.PNG; ATT00003.txt

Dear Commissioners,

I have written before and I have attended almost all of these meetings regarding Crossfit Ohana. The fact that you closed your own inquiry against the gym and are now revisiting it again with no new findings is a little peculiar to say the least, and it is wrong. At previous meetings I've witnessed openly aggressive negative bias from two commissioners regarding our gym that have no personal connection to the issue but spoke with such vehemence as if a heinous crime had been committed against them, which again is very peculiar for the positions you all hold and keep.

I would call upon each of you to set aside that bias tonight and be nothing but open minded and unbiased or to recuse yourself from voting if you're unable to do so.

I may not be able to make the meeting this time but wanted to be heard.

It's my understanding that you might be voting to put conditions of approval on the CUP tonight and if any of those proposed conditions are to amend class times then I strongly ask that you do not do so.

Lompoc is a town full of commuters leaving us not many options of class times or workout times around the long days. Many people are only able to attend before work, which is extra early if you commute, or after work which for someone like me is extra late. Since Crossfit Ohana opened I have only been able to attend the 8pm class. 8pm is even hard for me most of the time and I've often joked about needing an 8:30pm or 9pm class to make it in time but in all actuality I wasn't really joking due to the nature of my schedule. Losing that later class option of 8pm would be a great hardship for me and I would be forced to workout in Santa Barbara and feed their economy instead of Lompoc's. To be realistic, people who work out don't usually do it during "normal" work hours 9-5, since most people are at work during those times and if you have kids, that just adds another layer of complication regarding times/hours to work with. This is also why all gyms operate early in the morning to late at night, to accommodate their members' schedules so they can actually work out and stay healthy. It's the nature of the business and any restriction of those hours is a huge detriment to this business and a huge blow to it's members, not to mention would be extremely unfair since there are no restrictions of hours placed on any other gyms or even the other Crossfit gym in town, all of which operate near residences. To take this kind of action would be a great discrimination by singling out this business, which I don't see how that could be legal if it's discrimination. I respectfully request that you do not put any conditions on our gym's CUP and since no violations have occurred and since you have investigated and found no wrong doings by the gym, I ask that you finally put a stop to this and let us move on, complete the bathroom additions, and allow us members to have peace of mind knowing our second home and "family" aren't going anywhere. This Crossfit gym offers us much more than a place to work out, it offers is a safe place to do so, it offers us community and support that you can't find somewhere else. It is a gym full of great people and great community members and we haven't done anything to deserve any punishment or continued or future harassment.

I've attached pictures of other gyms in town and their hours of operations to support my letter.

Thank you for your time and consideration and I hope you do the right thing tonight.

Respectfully,



Christa King  
Crossfit Ohana Member since April 2012

Walnut Pier

## **CLUB HOURS**

Monday-Thursday 4:30AM - 9:00PM

Friday 4:30AM - 8:00PM

Saturday 8:00AM - 3:00PM

Sunday 9:00AM - 3:00PM

## **CONTACT US**

803 East Walnut Ave.

Lompoc, CA 93436

[info@pierfitness.com](mailto:info@pierfitness.com)

Tel: 805.736.3493

**SUBSCRIBE FOR UPDATES**

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# POKETOWN

# CROSSFIT

## CLASS TIMES:

M: 5AM, 9:30AM, 5PM, 6:30PM, 8PM

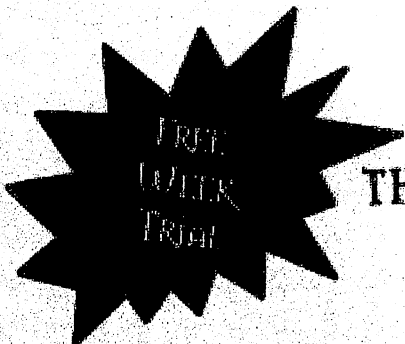
TW: 5AM, 9:30AM, 5PM, 6:30PM, 8PM

TH: 5AM, 9:30AM, 5PM, 6:30PM (BELLE'S), 8PM

F: 5AM, 9:30AM, 5PM, 6:30PM

SAT: 10AM, 12PM (COMPETITORS CLASS)

SUN: 9AM



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CONTACT US!

738 NORTH H STREET.  
LOMPOC, CA. 93436

POKETOWNCF@GMAIL.COM

POKETOWN CROSSFIT

@POKETOWNCROSSFIT





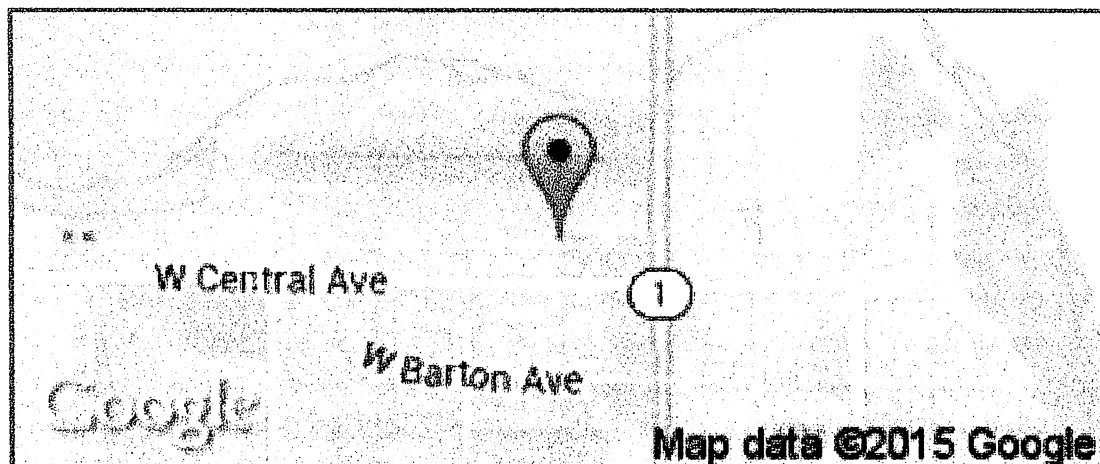
# IN-SHAPE: LOMPOC

501 WEST CENTRAL AVENUE  
LOMPOC, CA 93436  
(805) 735-2600

## CLUB HOURS

MONDAY - FRIDAY 4 AM - 11 PM  
SATURDAY & SUNDAY 6 AM - 8 PM

## MAP & DIRECTIONS





**Megan N. Bowker, Esq.**  
*Attorney at Law*  
3668 Jupiter Avenue, Lompoc, CA 93436  
(805) 260-5851 • [megannbowker@gmail.com](mailto:megannbowker@gmail.com)

August 12, 2015

Lucille T. Breese, AICP  
Planning Manager  
City of Lompoc  
[l\\_breese@ci.lompoc.ca.us](mailto:l_breese@ci.lompoc.ca.us)

Re: CrossFit Ohana CUP 12-04

Dear Ms. Breese:

I have been engaged to represent Darren Savella and Caitlin Boyle, owners of CrossFit Ohana, regarding the potential modification or revocation of their CUP 12-04.

I am writing in response to the letter received by you on April 7, 2015 from Bradley Hollister on behalf of his client, Richard Drago. Mr. Drago has requested that you revoke CUP 12-04 or otherwise impose conditions upon the CUP to minimize “noises” and “vibrations” allegedly caused by CrossFit Ohana’s use of their property, located at 1251 West Laurel Avenue, Lompoc, CA 93436.

Once a licensee has acquired a conditional use permit, a municipality’s power to revoke the conditional use is limited. (*see Bauer v. City of San Diego* (1999) 75 Cal.App.4<sup>th</sup> 1281, 1294-1295.) Mr. Savella and Ms. Boyle have incurred substantial expense and have acted in reliance on the CUP. Therefore, they have acquired a vested property right in the permit and are entitled to the protections of due process before the CUP may be revoked. Since the CUP was approved, Mr. Savella and Ms. Boyle have invested over \$65,000.00 into their business. A significant amount of the \$65,000.00 has been invested in equipment to mitigate noise levels as a courtesy, which includes hi-temp bumper plates, lifting platforms and jerk blocks; an expense that was unnecessary since CrossFit Ohana operates in an industrial zone and they have not violated Lompoc Municipal Code section 8.08.020 *General Noise Regulation*.

“In revoking a permit lawfully granted, due process requires that it act only upon notice to the permittee, upon a hearing, and upon evidence substantially supporting a finding of revocation.” (*Korean American Legal Advocacy Foundation v. City of Los Angeles*, 1994, 23 Cal. App. 4th at pp. 391-392; quoted in *Bauer v. City of San Diego supra*, 75 Cal.App.4<sup>th</sup> 1281, 1294-1295.) The City of Lompoc does not have evidence substantially supporting a finding for revocation of CUP 12-04.

Mr. Savella and Ms. Boyle’s continued operation of CrossFit Ohana is a fundamental vested right. They have the right to continue operating an established business in which they have made a substantial investment and that complies the CUP and the Lompoc Municipal Code. “In deciding whether a right is "fundamental" and "vested," the issue in each case is whether the " 'affected right is deemed to be of sufficient significance to preclude its extinction or abridgment by a body lacking *judicial* power." (*Goat Hill Tavern v. City of Costa Mesa* (1992) 6 Cal. App. 4th at p. 1526.) Interference with the right to continue an established business is far more serious than the interference a property owner experiences when denied a conditional use permit; this right is sufficiently personal, vested and important to preclude its extinction by a nonjudicial body. (*Id.* at p. 1529.) Similarly, in *Malibu Mountains Recreation, Inc. v. County of Los Angeles* (1998) 67 Cal. App. 4th 359 at p. 368, the appellate court concluded that the grant of a CUP with subsequent reliance by the permittee creates a fundamental vested right that subjects a revocation to judicial review under the independent judgment test.

Mr. Drago alleges the following:

1. The Noise and Vibration Caused by the Use is Substantial and Violates the Lompoc Municipal Code.
2. The May 7, Exterior Noise Level Analysis by Dudek is Not Credible.
3. The Use is Not Typically Found Near Residential Units and is Not the Best Use of the Industrial Buildings Located So Close to Residential Units.
4. The Applicants Failure to Meet the Conditions Required by the Planning Commission is a Good Indication That He Will Not Voluntary Strive to Minimize Noise and Vibration.
5. Our Client has an Actionable Claim For Nuisance Against the Applicant and Would be Entitled to an Injunction, Because the Social Utility of the Use is Outweighed by the Gravity of Harm Inflicted Upon the Residential Neighborhood.

## **I.**

### **The Noise Caused by the Use is Not Substantial and Does Not Violate the Lompoc Municipal Code.**

The noise allegedly caused by CrossFit Ohana is not substantial because an independent noise analysis concluded that the level of noise surrounding the location of CrossFit Ohana is significantly lower than the CNEL limits. Moreover, in order to determine

whether CrossFit Ohana had violated Lompoc Municipal Code, the City of Lompoc had an independent noise level analysis performed for exterior noise at CrossFit Ohana over a seven day period from April 21 to April 28, 2014 by Dudek. The calculated noise level within the yard area of the closest residential property to CrossFit Ohana over the one-week measurement period did not exceed 56 dB(A) CNEL. The City of Lompoc Noise Element (City of Lompoc General Plan, 1997) adopted noise limit for a warehouse, the type of structure CrossFit Ohana operates in, in a commercial or industrial zone is 65 CNEL for interior and 75 for exterior. 56 dB(A) is significantly lower than the adopted noise limits for both the interior and the exterior.

The noise study was conducted unbeknownst to Mr. Savella and Ms. Boyle and during the busiest time of year for CrossFit Ohana, The CrossFit Open. Furthermore, Mr. Savella and Ms. Boyle have never been cited for a Lompoc Municipal Code Violation at CrossFit Ohana.

It is true that CrossFit involves a number of lifts wherein athletes lift dumbbells, kettle bells, and barbells several feet in the air – sometimes overhead – and drop them to the ground. Also, CrossFit exercises are conducted in motivational groups where the athletes cheer and yes, sometimes grunt and listen to music. However, CrossFit Ohana operates in an area that is zoned industrial and according to Lompoc Municipal Code section 17.064.060 *Allowable Land Use and Permit Requirements*, there are a number of allowable industrial land uses for CrossFit Ohana’s location that would far exceed the noise produced by any CrossFit gym or grunting athlete. Land uses for a lumber yard, machine shop, welding shop, concrete batch plants, machinery and equipment rental, and bottling plants are a few of the many allowable land uses under Lompoc Municipal Code section 17.064.060 *Allowable Land Use and Permit Requirements* for CrossFit Ohana’s location; they all have the potential to emanate “substantial noise” and they do not require a CUP to operate at CrossFit Ohana’s location. Even if CrossFit Ohana were to relocate, would the city unlawfully restrict the business operations of a tenant that can lawfully operate under Lompoc Municipal Code’s Allowable Land Use?

Mr. Drago has also included in his letter, under Exhibit A, several articles detailing complaints against CrossFit gyms brought by their neighbors. These articles are irrelevant. The majority, if not all of these gyms, do not operate in an industrial zone.

Furthermore, the fact that CrossFit Ohana operates in an industrial zone fifteen feet from Mr. Drago’s living room does not justify the City of Lompoc revoking CrossFit Ohana’s vested property rights. The developer of Mr. Drago’s property knew the property was adjacent to an industrial zone and often complained of the “noise”. The developer should have disclosed this information to Mr. Drago when he sold the property to him. Even if the developer didn’t disclose the proximity of the industrial area and the “noise” to Mr. Drago, Mr. Drago should have been put on notice that the property he purchased included an industrial wall on the property line, subjecting the property to industrial “noise”. Any reasonable buyer should have questioned an industrial wall on the residential property line and questioned the property’s compliance with zoning laws.

The single-family residential unit Mr. Drago resides in should have never received zoning approval from the City of Lompoc. The Lompoc Municipal Code 17.064.050 *Property Development Standards* require that a rear of an industrial building that is adjacent to a residential zone shall have a landscaped yard of ten feet. Also, when an industrial building is adjacent to a residential zone, a solid six-foot wall shall be erected. Mr. Drago's residential property violates Lompoc Municipal Code. Had the property been approved with the required set backs per Lompoc Municipal Code 17.064.050 *Property Development Standards*, any "noise" that Mr. Drago may be experiencing from the adjacent industrial zone may have been mitigated. Nonetheless, Mr. Drago's poor choice to purchase a home that does not comply with Lompoc Municipal Code and has an industrial wall on the property line, does not constitute grounds for revocation or modification of CrossFit Ohana's CUP. Especially since CrossFit Ohana has not been cited for any violation of the Lompoc Municipal Code and has not violated the terms of the CUP.

As far as Mr. Drago's allegations of "vibrations", vibrations are not included in Lompoc Municipal Code 8.08.020 *General Noise Regulation*. CrossFit Ohana cannot be in violation of a regulation that does not exist.

Mr. Drago cites Lompoc Municipal Code 8.08.020 *General Noise Regulation*.

"Notwithstanding any other provision of this Chapter, in addition thereto, it shall be unlawful for any person to willfully make or continue, or cause to be made or continued, any loud, unnecessary, or unusual noise which causes discomfort or annoyance to any reasonable person of normal sensitivity residing in the area. The standards which shall be considered in determining whether a violation of the provisions of this Section exists shall include, but not be limited to the following:"

- A. The intensity of the noise;
- B. Whether the nature of the noise is usual or unusual;
- C. Whether the origin of the noise is artificial or from a natural phenomenon;
- D. The intensity of the background noise, if any;
- E. The proximity of the noise to residential sleeping facilities;
- F. The nature and zoning of the area within which the noise emanates;
- G. The time that the noise occurs;
- H. The duration of the noise;
- I. Whether the noise is recurrent, intermittent, or constant; and
- J. Whether the noise is produced by a commercial or noncommercial activity.

(Prior code § 2123)

Mr. Drago alleges that CrossFit Ohana's use of their property is unlawful and violates Lompoc Municipal Code 8.08.020 *General Noise Regulation*.



- A. The intensity of the noise;  
*Dudek conducted an independent noise analysis per the request of the City of Lompoc. The noise analysis concluded that the “noise” surrounding CrossFit Ohana did not exceed The City of Lompoc Noise Element (City of Lompoc General Plan, 1997).*
- B. Whether the nature of the noise is usual or unusual;  
*The “inherent loud music”, grunting, and motivation cheering are not highly unusual, especially for an area that is zoned for industrial use.*
- C. Whether the origin of the noise is artificial or from a natural phenomenon;  
*The sound of weights hitting the ground, music, grunting, motivational cheering are artificial, but they are nor more excessive than the artificial noise coming from a machine shop or a winery during harvest season, both which are businesses that operate in the same warehouse as CrossFit Ohana.*
- D. The intensity of the background noise if any;  
*There is plenty of background noise in the area of CrossFit Ohana. The area that CrossFit Ohana is located in also includes a machine shop, which is next door to CrossFit Ohana, two Wineries and a ready mix concrete business, Valley Rock; all businesses operating in an industrial zone, which produce varying degrees of background “noise”.*
- E. The proximity of the noise to residential sleeping facilities;  
*The “noise” Mr. Drago alleges may or may not come from CrossFit Ohana. Mr. Drago purchased the home knowing that the developer complained of “noise” from the adjacent industrial area and it is apparent that the wall of the adjacent industrial property is on Mr. Drago’s property line without a set back or buffering wall.*
- F. The nature and zoning of the area within which the noise emanates;  
*It is possible that the noise Mr. Drago experiences is coming from the adjacent industrial zone. However, the fact that Mr. Drago’s property borders an industrial zoned property without the setbacks required under Lompoc Municipal Code 17.064.050 Property Development Standards does not give rise to a violation by CrossFit Ohana of Lompoc Municipal Code 8.08.020 General Noise Regulation. Especially since Mr. Drago’s noise complaints against CrossFit Ohana are unsubstantiated.*
- G. The density of the inhabitation of the area within which the noise emanates;  
*The area consists of both industrial and R-2 zoning.*
- H. The time that noise occurs;  
*CrossFit Ohana’s hours of operation are approximately 5am to 930pm and at no time have they exceeded the noise limits as indicated in The City of Lompoc Noise Element (City of Lompoc General Plan, 1997) during operation hours.*
- I. The duration of the noise;  
*CrossFit Ohana operates between 5am and 930pm. There is no evidence to suggest that noise constantly emanates from CrossFit Ohana. Also, the noise around CrossFit Ohana does not exceed the noise limits as indicated in The City of Lompoc Noise Element (City of Lompoc General Plan, 1997).*

- J. Whether the noise is recurrent, intermittent, or constant; and  
*The “noise” Mr. Drago is experiencing may be intermittent; however, “noise” from any industrial zone is mostly intermittent.*
- K. Whether the noise is produced by a commercial or noncommercial activity.  
(Prior code § 2123).  
*CrossFit Ohana lawfully operates under a CUP in an industrial zoned area where industrial sounds are expected and tolerated.*

## II.

### The May 7, 2014 Exterior Noise Level Analysis by Dudek is Credible.

Mr. Savella and Ms. Boyle did not know the Noise Analysis was being conducted. CrossFit Ohana did not strive to minimize noise during the analysis. In fact, the week the analysis was conducted was the busiest week of the year for CrossFit Ohana. During the week of the analysis, CrossFit Ohana athletes and a significant amount of CrossFit athletes from gyms across the country were utilizing the Ohana gym to compete in the CrossFit Open. Classes and workouts were continuous throughout the day and consisted not only of the majority of Ohana members, but a significant amount of athletes from across the country. If CrossFit Ohana complied with the noise limits as indicated in The City of Lompoc Noise Element (City of Lompoc General Plan, 1997) during the CrossFit Open when the noise analysis was conducted, there is not doubt they comply at all times.

According to page 5 of the Dudek Noise Analysis, the sound level meter was positioned at a height of 5 feet above the ground at a distance of 7 feet from the concrete boundary wall at the property line, not from the retaining wall as stated in the April 7, 2015 letter from Mr. Hollister. “The measurement distance represents the closest point where free field conditions exist for a sound level measurement.”

Dudek has been a registered business with the State of California since September 1, 1983 and was hired independently by the City of Lompoc. There is no evidence to suggest that the analysis conducted by Dudek is an unfair representation of the “noise” experienced by Mr. Drago.

Moreover, the vibration analysis submitted by Mr. Drago is prejudicial because the analysis was contracted and paid for by Mr. Drago. Also, vibrations are not addressed in the Lompoc Municipal Code 8.08.020 General Noise Regulation. Therefore, CrossFit Ohana cannot be in violation of a regulation that does not exist.

### III.

#### **It is Irrelevant that CrossFit Ohana's Use is Not Typically Found Near Residential Units and it is Not Up to Mr. Drago to Determine the Best Use of an Industrial Zoned Building.**

It is irrelevant that CrossFit Ohana's use is not typically found near residential units. Each CrossFit gym is subject to their local municipality codes. CrossFit Ohana operates in an industrial zoned building. The developer of Mr. Drago's home chose to develop the property adjacent to an industrial zone and without the required set backs. Furthermore, Mr. Drago chose to purchase a home next to an industrial zone, a home that has an industrial building's wall on the property line (Exhibit A).

If Mr. Drago is concerned about his property value, he should have considered that when he chose to purchase a home that violates the Lompoc Municipal Code 17.064.050 *Property Development Standards* and is adjacent to an industrial zone. An individual can't knowingly purchase a home adjacent to an industrial zone and expect the occupants of the industrial zone to accommodate him.

Furthermore, the City of Lompoc cannot act in an arbitrary or capricious manner and discriminate against CrossFit Ohana by revoking or modifying Ohana's cup simply because CrossFit Ohana is a CrossFit gym as Mr. Drago suggests. "A public agency may not engage in conduct based upon personal, group or political animus without implicating constitutional concerns." (*Maintain Our Desert Environment v. Town of Apple Valley* (2004) 124 Cal.App.4<sup>th</sup> 430, 446-447; *see also Galland v. City of Clovis* (2001) 24 Cal.4<sup>th</sup> 1003, 1034-1036; ["a city does not have carte blanche to exclude a retail merchant that it, or some of its residents, do not like"]; *see also Roman Cath. etc. Corp. v. City of Piedmont* (1955) 45 Cal.2d 325, 330-334 [zoning scheme that discriminates between otherwise identical public and private schools is arbitrary and unconstitutional].) "Nor may the purposes of CEQA be subverted so that it acts as an instrument of oppression or delays social or economic development or advancement." (*Maintain our Desert* (Supra) 124 Cal.App.4<sup>th</sup> 430, 446-447; *see also* Cal. Code Regs., tit. 14, § 15003, subd. (j).)

### IV.

#### **CrossFit Ohana Has Not Failed to Meet the Conditions Required by the Planning Commission and is Currently Working With the Planning Commission Regarding the Second Toilet Facility.**

Under CrossFit Ohana's CUP 12-04, they are required to provide two gender specific toilet facilities. CrossFit Ohana currently has one toilet facility and the building permit for the second toilet facility was approved on April 8, 2015. CrossFit Ohana has one hundred and eighty days from the date they pick up the permit to complete the second toilet facility. Since CrossFit Ohana's CUP has been subject to possible modification or

revocation, which will significantly interfere with the right to continue their established business, they will not pick up the permit initiating the one-hundred and eighty day time period until after the August 12, 2015 Planning Commission Hearing on CrossFit Ohana's CUP. Also, it is my understanding that the Planning Commission informed Mr. Savella that they did not have a problem with delaying the building permit until after the August 12, 2015 hearing.

Finally, the Planning Commission cannot revoke the CUP simply to "stem future problems caused by the Use" as Mr. Drago suggests. "In revoking a permit lawfully granted, due process requires that it act only upon notice to the permittee, upon a hearing, and upon evidence substantially supporting a finding of revocation." (*Korean American Legal Advocacy Foundation v. City of Los Angeles*, 1994, 23 Cal. App. 4th at pp. 391-392 quoted in *Bauer v. City of San Diego supra*, 75 Cal.App.4th 1281, 1294-1295.) As stated above, there is no evidence substantially supporting a finding of revocation in this case.

## V.

### **Mr. Drago Does Not Have an Actionable Claim for Nuisance Against CrossFit Ohana.**

Mr. Drago does not have an actionable claim for nuisance against CrossFit Ohana and even if he did, that is not an issue the Planning Commission can decide. Mr. Drago alleges that he "cannot move because he will never find a homeowner impervious to the noise and vibration caused by the Use that is willing to buy his home." Mr. Rasmussen, the developer, complained of the same issues and he was able to sell the home to Mr. Drago.

Revocation of the CUP could have the effect of putting CrossFit Ohana out of business and is a very harsh remedy, which requires the strictest adherence to the principles of due process. (*Bauer v. City of San Diego* (1999) 75 Cal.App.4th 1281, 1294-1295.) In order to justify the revocation of CUP 12-04, which significantly interferes with Mr. Savella's and Ms. Boyle's constitutional right to carry on the lawful business, it must be clear the public interests require such interference and that the means employed are reasonably necessary to accomplish the purpose and are not unduly oppressive on Mr. Savella and Ms. Boyle. (*Ibid.*) Public interest does not require the Planning Commission to revoke a vested right in a CUP, substantially oppressing Mr. Savella and Ms. Boyles lawful business, especially since they operate in compliance with the law and the CUP.

Furthermore, Mr. Drago also states that CrossFit Ohana should be required to take measures to reduce noise and vibration to levels palatable for a residential area. CrossFit Ohana operates in an industrial zone and they are only subject to the noise limits as required for industrial zones as provided in The City of Lompoc Noise Element (City of Lompoc General Plan, 1997). Mr. Savella and Ms. Boyle have invested over \$65,000 into CrossFit Ohana to accommodate business operations at their current location. Requiring them to take additional measure to reduce noise in the industrial area,

including installation of a concrete floating floor on coiled spring or even wire rope isolators with a thicker floccated slab and air gap is a required expense that is extremely harsh and unduly oppressive because they operate in an industrial area have never been in violation of the City of Lompoc Noise Element (City of Lompoc General Plan, 1997).

Mr. Drago further requests that the Planning Commission revoke CUP 12-04 or otherwise impose conditions. Imposing conditions that restrict CrossFit Ohana's morning and evening operating hours is also extremely harsh and unduly oppressive and will significantly interfere with their constitutional right to carry on a lawful business. Classes held at CrossFit Ohana between the hours of 5am and 730pm and the class held between 8pm and 9pm, consist of over 25% of CrossFit Ohana's monthly business review. Modifying the CUP to restrict hours of operation during these class times would put CrossFit Ohana completely out of business. Thus, it would be an extremely harsh remedy.

In conclusion, the Planning Commission does not have enough substantial evidence to lawfully revoke or modify CrossFit Ohana's Cup 12-04. Mr. Drago has done nothing but continually harass Mr. Savella and Ms. Boyle for carrying on a lawful business in an industrial zone. Mr. Savella and Ms. Boyle are not at fault for Mr. Drago's poor investment decision, they are not the proper parties for his complaint, and the Planning Commission is not the proper venue for his complaint.

Mr. Savella and Ms. Boyle respectfully request that they continue to operate under CUP 12-04 as is. Upon conclusion of the August 12, 2015 hearing and assurance that they no longer face possible revocation or modification of CUP 12-04, Mr. Savella and Ms. Boyle will pick up the building permit for the second toilet facility and complete construction within the required time frame.

Thank you for your time.

Respectfully,

*Megan N. Bowker*

Megan N. Bowker, Esq.

Attachments 1  
(Exhibit A)



EXHIBIT A

## Some applicable definitions from the existing Santa Barbara County ordinance

### Winery Special Event Section 35.42.280 -4

The definition of a “Winery Special Event,” in Santa Barbara County’s existing winery ordinance: An event of less than one day and occurring on a winery premises attended by 80 or more people, including concerts with or without amplified sound, such as weddings, and advertised events, fundraising events, winemaker dinners open to the general public, etc. Winery special events do not include wine industry-wide events (e.g., Vintner’s Festival, Harvest Festival), including associated events held at individual wineries, the normal patronage of a tasting room, and private gatherings of the owner or employees where the general public does not attend.

#### Key takeaways

- Size – 80 or over – SBC used this level as their trigger and many spaces are not as large as mine
- Not including industry wide events like Wine and Fire or harvest festivals
- Events where the general public do not attend

**Amplified Music** - a review of applicable ordinances and recent SBC applications reveals that amplified music is normally controlled based on the location and potential impact. The controlling mechanism is hours of allowed music and decibel levels

#### Key takeaways

- Control based on location and potential impact
- Control based on previous problems
- Control hours and dB levels

Remember the SBC ordinances are balancing lots of neighbor complaints with winery needs. In the Lompoc wine ghetto the wineries are segregated from neighborhoods and the nearest homes on 7<sup>th</sup> street have never had any issues – per the city. Given the lack of issues and the positive impact that tasting rooms have on the local community prohibiting amplified music and any special events including charity events seems excessive.

Here is a suggestion to get the control that is reasonable and allow a reasonable level of activity.

### **No winery special events without a TUP with a very specific definition of what Lompoc considers a special event**

**Winery Special Event** definition for this CUP: An event of less than one day and occurring at the winery/tasting room premises attended by 100 people or the **Final Occupancy Level** whichever is smaller. Including concerts with or without amplified sound, weddings, and advertised events, fundraising events, winemaker dinners open to the general public, etc. Winery special events do not include wine industry-wide events (e.g., Vintner’s Festival, Harvest Festival), including associated events held at individual wineries, the normal patronage of a tasting room, and private gatherings of the owner, employees or **Wine Club members** where the general public does not attend.

8/12/15 handout  
from ARROWOOD

	<u>Original MUP</u>	<u>SBC Ordinance</u>	<u>Orig Planning Comm</u>	<u>Montemar May 2015 compromise</u>	<u>Revised Planning Comm</u>	<u>Montemar Aug 2015 compromise</u>
Winery Events	No limit	Events under 80 not included	4 per year, no definition on size	4 per year defined as exceeding approved occupancy level	No change	4 per year defined as exceeding 100 people or no greater than approved occupancy level
Special Events	No limit	Events under 80 not included	All required TUP limit to 6 per year, no definition on size, etc.	6 per year defined as TUP exceeding approved occupancy levels	No change	6 per year with TUP defined as exceeding 100 people or no greater than approved occupancy level
Outdoor Displays	Not mentioned	N/A	None	No outdoor front seating	No change	No outdoor front seating, displays only during open/business hours
Amplified music	Not mentioned	Controlled by hours and DB levels	None	limited hours to 2-9pm on Thurs-Sun, DB levels not to exceed 85 at property line	No change	Limit to 2x per week, only between hours of 2-9pm on Thurs-Sun, not to exceed 75 DB levels at property line