



CITY OF LODI

COUNCIL COMMUNICATION

AGENDA TITLE: Consider Appeal from Terry Knutson on behalf of Cottage Bakery Regarding Required Fire Sprinklers for Building Located at 203 South School Street.

MEETING DATE: June 7, 1995

PREPARED BY: Fire Chief and Community Development Director

RECOMMENDED ACTION: That the City Council consider the appeal of Terry Knutson on behalf of Cottage Bakery of the Uniform Fire Code requirement that fire sprinklers be installed in connection with their application for a building permit to remodel an existing bakery to include a dining area at 203 South School Street

BACKGROUND INFORMATION: On April 8, 1990 the Lodi City Council adopted the 1988 Uniform Fire Code with the local sprinkler ordinance as adopted by San Joaquin County. This ordinance requires that sprinklers be installed in any new construction exceeding 6,000 square feet and any remodel exceeding 6,000 square feet and over \$100,000 or 6,000 square feet and creating a change in the occupancy classification to a more hazardous classification.

On May 9, 1990 Fire Department officials met with the building industry community to address concerns they had on this sprinkler ordinance and the ordinance was modified to allow for a 2-hour fire wall with no penetrations to reduce areas to less than 6,000 square feet within a building in lieu of installing sprinklers.

Contractors and developers have been complying with these sprinkler code requirements on new construction projects and several remodel projects to date, including the remodel of City Hall, the remodel and the City's Electric Utility Department, and the remodel and change of occupancy classification of the Fitness Center on Lockeford Street.

In June of 1990 Terry Knutson applied for a permit to remodel the Cottage Bakery to include a small dining area of less than 50 occupants. On their plan review comments the Lodi City Fire Department noted that the concrete block walls had been cut open, joining the bakery with the old Parretts store creating one building in violation of the required property separation walls. In November 1990 this situation was remedied by the granting of a lot line adjustment combining the lots and the building into one parcel. The four exterior walls are now comprised of the Cottage Bakery wall on the north and the Parretts store wall on the south and the combined walls on the east and west for a total square footage of over 10,000 square feet. At this juncture, a sprinkler system was still not required as the improvements were less than \$100,000 and being less than 50 occupancy load for the eating area, it did not change

APPROVED: _____

THOMAS A. PETERSON
City Manager



recycled paper

occupancy classification from a B-2 to an A-3. This permit was never issued and Mr. Knutson did not pursue the remodel at that time.

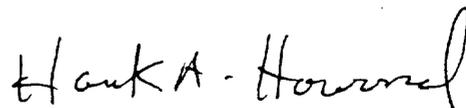
Mr. Knutson has again applied for a building permit to remodel his bakery to include a small dining area. He has indicated an investment of \$500,000 and a change of occupancy classification from a B-2 to an A-3, which is a higher life hazard occupancy in a building which is over 6,000 square feet. The Fire Department has requested that a sprinkler system be installed as part of this remodel project as required in the adopted sprinkler ordinance, Lodi City Code 15.20.220, Sections 3 and 4.

The Uniform Fire Code allows the Fire Chief to approve alternate materials or methods, providing such materials meet the intent of the code, and provided that the spirit of the code shall be complied with, public safety secured and substantial justice done. No alternate method of providing sprinkler protection has been offered at this time. However, sprinkler systems do have a proven record of saving lives and property unmatched by any other method or materials.

The Fire Chief recommends that the appeal be denied as it does not comply with the requirements of City Ordinance 15.20.220.

The Council may, if it so wishes, at a future date consider amending the local ordinance following public hearings on the matter. The Fire Service very strongly favors the installation of fire sprinklers as the best and proven method of saving lives and protecting property.

FUNDING: None required.



Hank A. Howard
Fire Chief



James B. Schroeder
Community Development Director

HAH/JBS/ck

15.20.180

shall install a Hazardous Material Management Plan Box in accordance with this section.

(Ord. 1572 § 2 (part), 1993).

**15.20.190 Section 10.501(d) added—
Fire extinguishers.**

Section 10.501(d) of the Uniform Fire Code, 1991 Edition adopted by Section 15.20.010 is added to read as follows:

All buildings and premises, except R3 occupancies, shall have installed and properly mounted in approved location a minimum of one fire extinguisher having a minimum rating of Type 2A:10BC or a pressurized water extinguisher having a minimum rating of Type 2A, or of a quantity, type and location as determined by the Fire Chief.

All portable fire extinguishers shall be serviced once a year.

(Ord. 1572 § 2 (part), 1993).

**15.20.200 Section 10.507(c)3
deleted—Automatic fire
extinguishing systems.**

Section 10.507(c)3 of the Uniform Fire Code, 1991 Edition adopted by Section 15.20.010 is deleted. (Ord. 1572 § 2 (part), 1993).

**15.20.210 Section 10.507(d)
deleted—Automatic fire
extinguishing systems.**

Section 10.507(d) of the Uniform Fire Code, 1991 Edition adopted by Section 15.20.010 is deleted. (Ord. 1572 § 2 (part), 1993).

**15.20.220 Section 10.507(i) added—
Automatic fire
extinguishing systems.**

Section 10.507(i) of the Uniform Fire Code, 1991 Edition adopted by Section 15.20.010 is added to read as follows:

In addition to the requirements specified in Sections 10.507(a) through 10.507(h), automatic sprinkler systems shall be installed and maintained in an operable condition in the following locations and in the following buildings hereafter constructed, remodeled or changed in occupancy regardless of the installation of area separation walls:

- (1) Every building hereafter constructed in which the total floor area is 6,000 square feet or more.
- (2) Every building hereafter constructed of three or more stories as defined in the Uniform Building Code.
- (3) Every building hereafter remodeled when the cost accumulative cost of remodeling exceeds \$100,000.00 and the total floor area is 6000 square feet or more.

Remodeling is considered to occur when the first alteration of any wall, ceiling, floor or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. The cost accumulation shall be calculated from the date of the first sprinkler ordinance.

The \$100,000.00 valuation shall be based on Building Valuation Data published by the International Conference of Building Officials.

- (4) Every building hereafter changed in occupancy classification and the total floor area is 6,000 square feet or more. The character of the occupancy of existing buildings may be changed subject to the approval of the Fire Chief, and the building may be occupied for the purposes in other groups without conforming to the requirements of this paragraph for those groups, provided the new or proposed use is less hazardous, based on life and fire risk, than the existing use.
- (5) This section shall not preclude or alter the intent of the Uniform Building Code, Section 508. Fire resistive substitution.

Buildings constructed for speculation purposes or buildings constructed without knowledge of occupancy classification shall have a sprinkler system installed to meet the design criteria of Ordinary Hazard Group 2 as identified in the NFPA 1991 standards.

Exceptions: Buildings divided into areas not greater than 6,000 square feet by area separations walls of not less than 2-hour fire-resistive construction provided that:

- a. Walls are constructed without openings and without penetrations for ducts.

- b. No avenues exist that would allow fire, heat or smoke spread between divided areas.
- c. The location of the fire wall is clearly marked and identified on the exterior of the building in a manner approved by the Fire Chief.
- d. The fire wall is identified in the interior of the building in a manner approved by the Fire Chief.
- c. An 8 1/2-inch by 11-inch site plan is submitted indicating the location of the fire wall in the building.

The use of this exception may be denied or revoked by the Fire Chief for due cause.

For the purposes of applying this section, each portion of a building separated by one or more area separation walls shall not be considered a separated building. (Ord. 1572 § 2 (part), 1993).

15.20.230 Sections 11.201 through 11.202 deleted—Article 11, Division II.

Section 11.201 through Section 11.202 of the Uniform Fire Code, 1991 Edition adopted by Section 15.20.010 are deleted. (Ord. 1572 § 2 (part), 1993).

15.20.240 Section 11.203 amended—Outdoor fires prohibited.

Section 11.203 of the Uniform Fire Code, 1991 Edition adopted by Section 15.20.010 is added to read as follows:

OAK STREET

EXISTING PARKING LOT

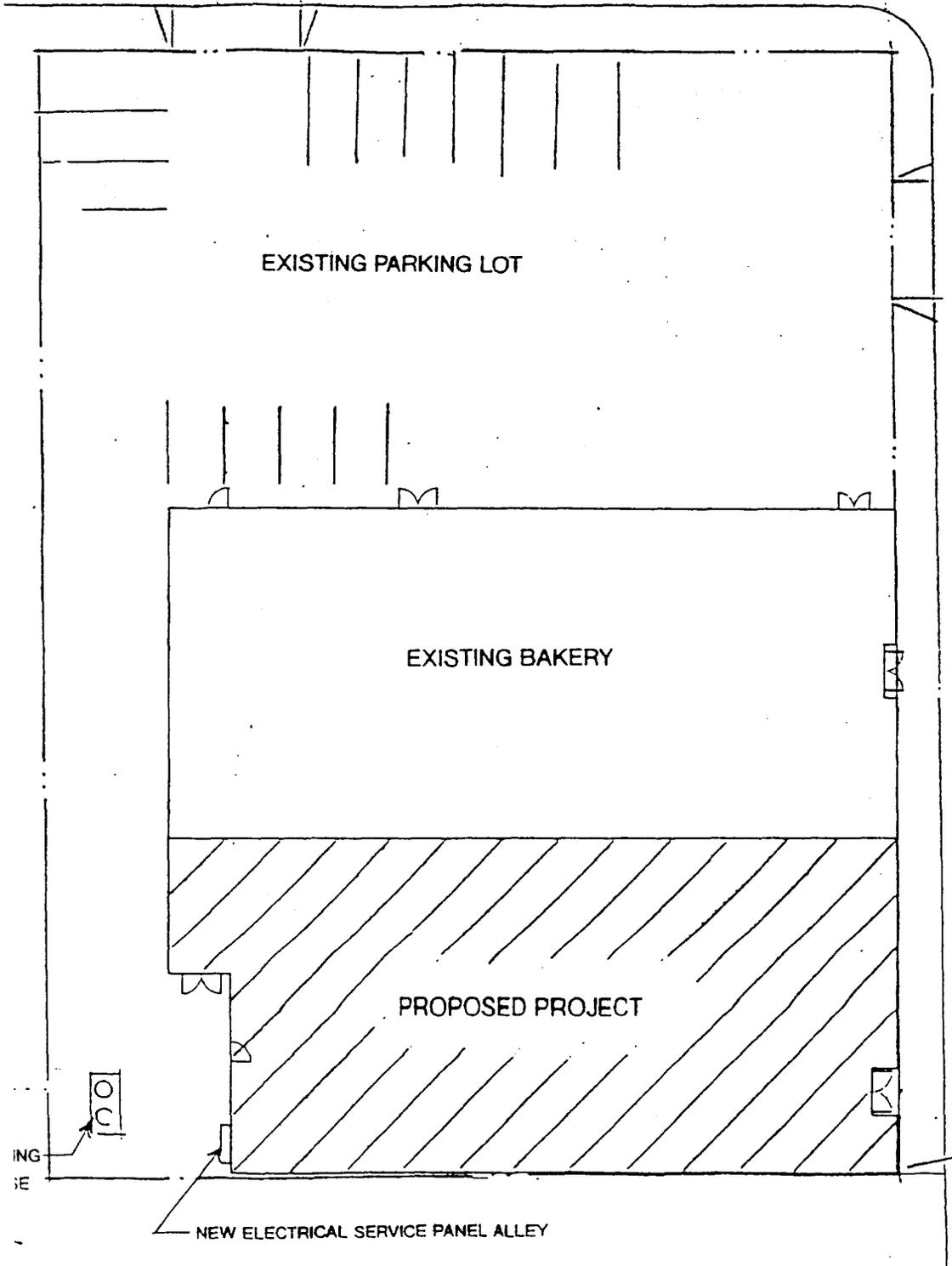
EXISTING BAKERY

PROPOSED PROJECT

SCHOOL STREET

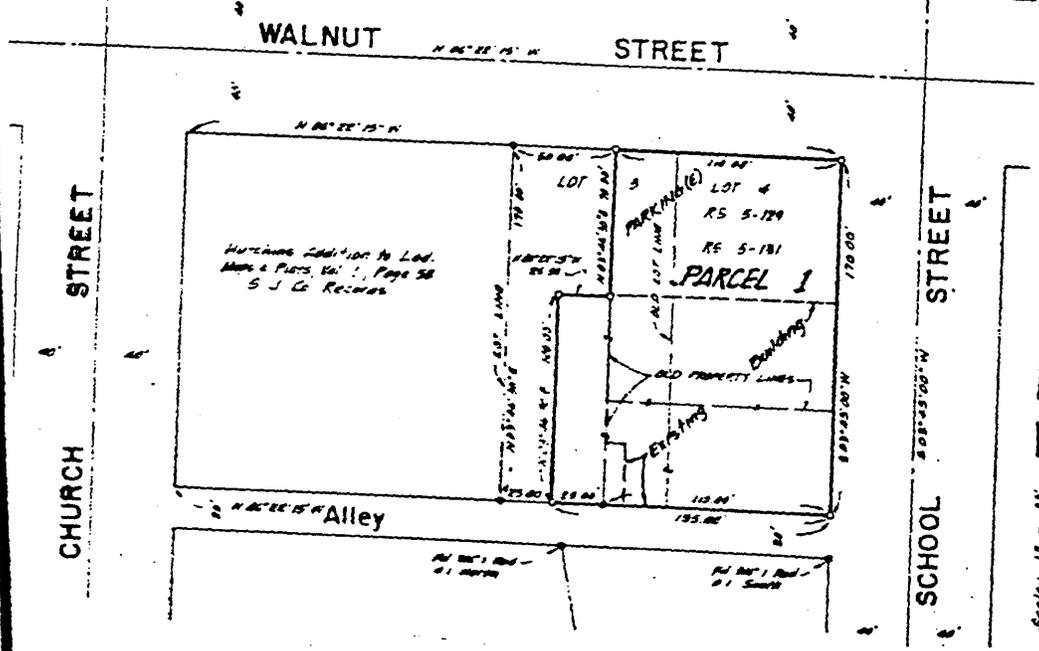
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NEW ELECTRICAL SERVICE PANEL ALLEY

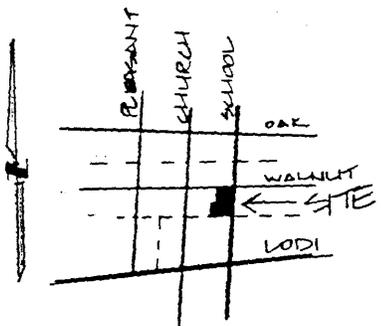


TENTATIVE PARCEL MAP

TO COMBINE THREE PARCELS INTO ONE PARCEL



Scale: 1" = 40'



VICINITY MAP

Terry Knutson
 (Cottage Bakery)
 Create 1 Lot From 3
 203 & 213 S. School St.
 90 R 019 11/12/90

CITY COUNCIL

JOHN R. (Randy) SNIDER, Mayor
DAVID M. HINCHMAN
Mayor Pro Tempore
EVELYN M. OLSON
JAMES W. PINKERTON, Jr.
FRED M. REID

CITY OF LODI

CITY HALL, 221 WEST PINE STREET
CALL BOX 3006
LODI, CALIFORNIA 95241-1910
(209) 334-5634
TELECOPIER : (209) 333-6795

THOMAS A. PETERSON
City Manager
ALICE M. REIMCHE
City Clerk
BOB McNATT
City Attorney

November 13, 1990

Mr. Terry Piazza
Baumbach and Piazza
Consulting Engineers
323 West Elm Street
Lodi, CA 95240

Dear Terry:

RE: Tentative Parcel Map 90 R 019
Create 1 Lot from 3 Lots
203 and 213 South School Street

At its meeting of Monday, November 12, 1990 the Lodi City Planning Commission conditionally approved your request on behalf of Terry Knutson (i.e. Cottage Bakery) for a Tentative Parcel Map to create one lot from three lots at 203 and 213 South School Street in an area zoned C-2, General Commercial.

The Planning Commission's approval is subject to the following conditions:

1. Payment of fees shown below and any additional fees in effect at time of Final Map filing or issuance of building permit:

Water Service Abandonment
Sewer Service Abandonment

2. that a Record of Survey map is required with three blue-line copies submitted; and
3. that a new legal description prepared by a Registered Civil Engineer or Land Surveyor be provided.

Sincerely,


JAMES B. SCHROEDER
Community Development Director

cc: Terry Knutson
Larry Wenell



CITY OF LODI

Carnegie Forum
305 West Pine Street, Lodi

NOTICE OF PUBLIC HEARING

Date: June 7, 1995

Time: 7:00 p.m.

For information regarding this notice please contact:

Jennifer M. Perrin

City Clerk

Telephone: (209) 333-6702

NOTICE OF PUBLIC HEARING

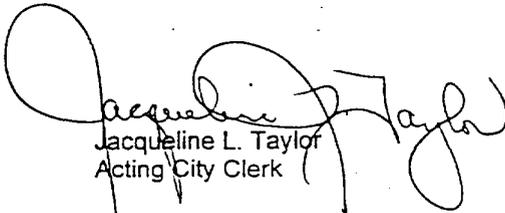
NOTICE IS HEREBY GIVEN that on **Wednesday, June 7, 1995** at the hour of 7:00 p.m., or as soon thereafter as the matter may be heard, the City Council will conduct a Public Hearing to consider the following matter:

- a) appeal from Terry Knutson, on behalf of Cottage Bakery, Inc., regarding required fire sprinklers for buildings located at 203 South School Street

Information regarding this item may be obtained in the office of the Community Development Director at 221 West Pine Street, Lodi, California. All interested persons are invited to present their views and comments on this matter. Written statements may be filed with the City Clerk at any time prior to the hearing scheduled herein, and oral statements may be made at said hearing.

If you challenge the subject matter in court, you may be limited to raising only those issues you or someone else raised at the Public Hearing described in this notice or in written correspondence delivered to the City Clerk, 221 West Pine Street, at or prior to the Public Hearing.

By Order of the Lodi City Council:



Jacqueline L. Taylor
Acting City Clerk

Dated: May 18, 1995

Approved as to form:



Bobby W. McNatt
City Attorney

Cottage Bakery, Inc.
P.O. Box 1720 / 40 E. Neuharth Drive
Lodi, California 95241-1720
(209)333-8044 FAX: (209)333-7428

RECEIVED
APR 29 3:50

*** * * FAX MEMO * * ***

TO: Ms. Jackie Taylor

DATE: 4/25/95

FROM: TERRY KNUTSON

RE: Construction Application #8670

Dear Ms. Taylor,

I am requesting the opportunity to appeal to the City Council the requirements being placed on my business in regards to fire sprinklers for my buildings located at 203 S. School St. at the earliest possible date.

On July 25, 1994 I submitted drawings and in writing requested from the City Building Dept. all issues and fees in regards to my proposed Cafe' addition to my School St. bakery (copies of the request and their response a mere ten weeks and three phone calls later enclosed). Based on their response and our analysis of all our costs it was determined we needed as many seats as we could comfortably fit into the seating area to justify a capital investment of \$500,000 into this project. We developed our concept on that basis, submitted our drawings for approval, ordered equipment and hired people to execute this plan.

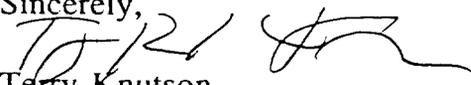
Four weeks into plan check the Fire Marshall says due to the fact this project exceeds 50 seats (which was indicated on the plan presented in July) it moves the building into another code occupancy class therefore the City is now requiring me to put sprinklers not only this building but the bakery building also. Why was I not informed of this major cost when I specifically inquired in July? This will require an additional investment of up to \$30,000 and will hold up this project by 1-2 months, which will cost an additional \$20,000.

I, with Larry Wenell, met with the Fire Marshall in regard to this issue on April 5 to discuss his position. In that meeting he agreed this requirement is not an issue of protecting lives but is a local Ordinance that has been adopted to save the city response resources IF we ever had a fire and in reality no one was there to take immediate action. He told us he would review the plans in regard to our position and give us an answer the following week. We received that answer when I called 5/24 to inquire when the permits would be ready, He is requiring that both buildings be sprinkled.

The code occupancy is ironic that we could have hundreds of people into the space as a retail store and 50 seated in the cafe and meet the code, but only 51 seated in the cafe exceeds the code. We have been required at great expense to provide automatic, heat sensitive double nozzle fire supression devices on every cooking device with automatic shutdowns for both gas and electrical feeds (this cost \$27,000 for these two buildings and is already in place or included in our current plans and budgets), plus fire extinguishers located directly in all cooking areas and located through out all working and seating areas, we have an abundance of exits from these buildings equipped with panic releases in case an emergency exit is necessary and all this is in a non smoking environment. If we have more than 50 people sit down in this Cafe we are required to spend \$30,000 in addition to the \$30,000 we already have spent on fire equipment not to protect them but to protect my property. I believe this requirement which is new and now being phased in is a violation of the agreement I moved forward on, is unnecessary, a financial hardship, not cost effective and burdensome to me as a taxpayer and citizen. I am requesting this Council grant a Waiver of this provision based on the facts and good common sense.

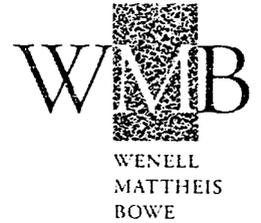
We planned to invest a half of million MORE dollars in this property in this declining area due to the fact we own this property and feel this is the only way we can utilize our property and have any hope of getting a return on our investments. It is our intention to build one of the finest Cafe's in Northern California to complement our Bakery operation. While this has been our plan for many years it has been necessary for us to adjust the concept and increase our investment to make this a destination more than capture impluse sales from local traffic to have any hope of success due to the continued declining traffic patterns and values in this area. Our plan is consistant with what this Council says it wants to see in this area and it is being done without any cost to the City. To increase the costs 10% and hinder us with additional delays is counterproductive and is not in my best interest or yours.

Sincerely,


Terry Knutson

29 N. Allen Dr.

Lodi, Ca. 95242



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LARRY H. WENELL
PRESIDENT

June 8, 1995

To: Tom Peterson, City Manager
Steve Mann, Mayor
Ray Davenport, Council Member
Phil Pennino, Council Member
Jack Sieglock, Council Member
Dave Warner, Council Member

ARCHITECTURE

PLANNING

From: Larry Wenell, President
Wenell Mattheis Bowe Architects

INTERIORS

Gentlemen:

I was frustrated last night with the Fire Chief's response to the City Council discussion regarding Cottage Bakery Cafe. In an apparent attempt to deflect attention from the real issue - plan checking - he chose to slanderously attack the credibility of our firm. He strongly insinuated that we, as the architects, had misrepresented the issue of sprinkler requirements to the Owner.

Larry Wenell

Tim Mattheis

Thomas Bowe,

Architects

In fact, the opposite is true. When we began the project we brought up the issue of sprinkler requirements to our client, Terry Knutson. He informed us that he had the City Building Department do a preliminary review, in writing, of all code related issues regarding his project. This review indicated that fire sprinklers would not be required. Because of this Building Department interpretation, we submitted the drawings for permitting without fire sprinklers.

222

W. Lockeford St.

Suite # 9

Lodi, California

95240

When fire sprinklers were indicated to be required during the plan check process, a meeting was set up with the Fire Marshall, Terry Knutson and myself, which was held on April 5, 1995. We discussed the issue of the sprinkler ordinance, the history of the project, design alternatives in lieu of sprinklers and requested a final decision. A few weeks later Bob Gorbet responded to that meeting with the position that sprinklers would be required with no other design alternatives accepted.

209 / 369-8258

FAX:

209 / 368-5098

Tom Peterson, City Manager, et al.
June 8, 1995
Page 2

At that point we resubmitted the plans indicating the sprinkler requirement so that the permit could be obtained; however, Terry Knutson did so under protest and filed for an appeal before the City Council.

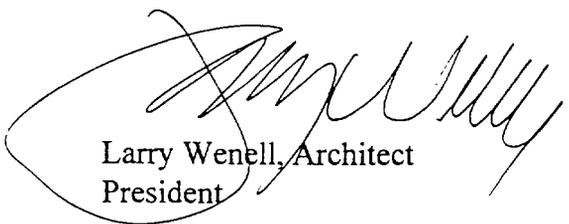
The Fire Chief is now suggesting we meet again to discuss design alternatives - which points to the issue of the decision making process. How many levels of interpretation does one have to go through to get the final answer?

We would urge the Council to take appropriate action on the continuing problem of conflicting life safety code interpretation between the Building Department and the Fire Marshall's office. We addressed this problem several years ago when I sat on the committee formed to address this and other related permitting issues. In our opinion this problem will never really be resolved until the Fire Marshall plan checking function is physically incorporated into the Building Department, as has been done in many other jurisdictions. Another option might be to cross train a plan checker to check both building code and fire code issues. Then and only then will we have true "one-stop" permitting and code interpretation processes in place that will eliminate these frustrating circumstances.

Thank you for this opportunity to clarify these issues. Please do not hesitate to call us if you wish to discuss this matter in more depth.

Sincerely,

WENELL MATTHEIS BOWE



Larry Wenell, Architect
President



M E M O R A N D U M F R O M T H E
O F F I C E O F T H E C I T Y
A T T O R N E Y

DATE: June 5, 1995

TO: The Honorable Mayor and Members of the City Council

FROM: John M. Luebberke, Deputy City Attorney

RE: Appeal of Terry Knutson on Behalf of Cottage Bakery, Inc., Regarding Required Fire Sprinklers for Building Located at 203 South School Street.

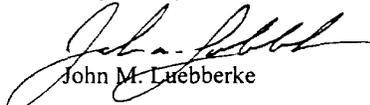
Mr. Knutson is remodeling the Cottage Bakery building at 203 South School Street to include a cafe in addition to the current bakery operation. The project entails the removal of a large portion of a fire wall in order to join two previously separate buildings. [The fire wall is no longer required as the buildings now rest on one lot] The resulting building will be in excess of 10,000 square feet. The cost of the entire project is purported to be approximately \$500,000. In addition the current proposed remodel would entail a change of occupancy classification due to the inclusion of seating for more than 50 persons.

There are two adequate and independent code sections upon which a decision whether or not to require fire sprinkler installation on this proposed project should be based:

1. The proposed project changes the occupancy classification of the building to one more hazardous, based on life and fire risk, than the existing use [LMC § 15.20.220 (3)];
2. The proposed remodel project expands the building to over 6000 square feet and the expected cost of the project is in excess of \$100,000.00 [LMC § 15.20.220(4)].

The language and requirements of the code are clear. The proposed project changes the occupancy classification of the building to one more hazardous, based on life and fire risk, than the existing use. Thus, LMC § 15.20.220 (3) applies. Also, the proposed project will cost in excess of \$100,000.00 to complete and increase the building to over 6,000 square feet by eliminating an existing fire wall, triggering LMC § 15.20.220 (4). Unless the project is changed to bring it outside the scope of the abovementioned sections automatic fire sprinklers must be installed and maintained in operable condition on these premises.

Respectfully submitted,


John M. Luebberke
Deputy City Attorney

cc: Community Development Director
Fire Chief