



CITY OF LODI

COUNCIL COMMUNICATION

AGENDA TITLE: Continue Public Hearing until January 15, 2003 to consider the appeal from Neumiller & Beardslee, on behalf of Legends Unlimited, regarding the Planning Commission's decision to revoke Use Permit No. 99-02 for Legends Unlimited

MEETING DATE: December 18, 2002

PREPARED BY: Community Development Director

RECOMMENDED ACTION: That the City Council continue the Public Hearing until January 15, 2003 to consider the appeal from Neumiller & Beardslee, on behalf of Legends Unlimited, regarding the Planning Commission's decision to revoke Use Permit No. 99-02 for Legends Unlimited.

BACKGROUND INFORMATION: As the City Council may recall, this item was continued from your meeting on October 16, 2002. At that time, a letter was submitted on behalf of Legends by their Attorney Anthony Vignolo. Since that time a new entity has been working toward the acquisition of the business with the intent of opening a new restaurant at this location. Legends has been closed during this time period. At the time of the preparation of this memorandum, the transfer of the Alcoholic Beverage Control License had not been completed. I have been told that the completion is near and therefore would recommend one further continuance to January 15, 2003.

Once the license is transferred, the appeal will be withdrawn as it no longer applies to the new owner.

FUNDING: None required

Konradt Bartlam
Community Development Director

KB/lw

Attachments

APPROVED:

H. Dixon Flynn -- City Manager



RECEIVED 11094/28243

DEC 12 2002

COMMUNITY DEVELOPMENT DEPT
CITY OF LODI

ERIC J. NIMS

509 WEST WEBER AVENUE
FIFTH FLOOR
STOCKTON, CA 95203

POST OFFICE BOX 20
STOCKTON, CA 95201-3020

(209) 948-8200
(209) 948-4910 FAX

FROM MODESTO:
(209) 577-8200
(209) 577-4910 FAX

December 11, 2002

Konradt Bartlam
Community Development Director
221 West Pine Street
Post Office Box 3006
Lodi, California 95241-1910

Re: Legends Unlimited, Inc.

Dear Mr. Bartlam:

Thank you for your cooperation in addressing our client, Legends Unlimited, Inc.'s issues concerning its December 18, 2002 scheduled appeal before the City of Lodi's Planning Commission. This letter is to confirm your offer, in light of the pending close of escrow of Legends' personal property (including its liquor license), to recommend that the Planning Commission continue Legend's appeal of the decision to revoke its use permit from December 18, 2002 to January 15, 2003.

Should you have any questions regarding this matter, please call me.

Very truly yours,

ERIC J. NIMS
Attorney at Law

EJN:ilz

OCT. -08' 02 (TUE) 15:27

NEUMILLER & BEARDSLEE

TEL: 209 948 4910

P. 002

**NEUMILLER & BEARDSLEE**
A PROFESSIONAL CORPORATION • ATTORNEYS & COUNSELORS

ESTABLISHED 1903

11094-28243

*Anthony L. Vignolo*509 WEST WEBER AVENUE
FIFTH FLOOR
STOCKTON, CA 95203POST OFFICE BOX 20
STOCKTON, CA 95201-3020(209) 948-8200
(209) 948-4910 FAXFROM MODESTO:
(209) 577-8200
(209) 577-4910 FAX

October 8, 2002

Via U.S. Mail and FaxLisa Wagner
Community Development Dept.
City of Lodi
P.O. Box 3006
Lodi, CA 95241-1910Re: Legends Unlimited, Inc./Appeal Hearing for Revocation of Use Permit

Dear Ms. Wagner:

Pursuant to our telephone conversation of October 7, 2002, this is to confirm that, on behalf of my client, Legends Unlimited, Inc., I will be requesting that the Lodi City Council grant a continuance of the appeal hearing, currently scheduled for October 16, 2002, for the above-referenced matter.

As we discussed, the close of escrow for the sale of the business can only occur, pursuant to the requirements of the Department of Alcoholic Beverage Control, on or after the date on which the liquor license is transferred to the buyer. Thus, in light of the 30 - 60 day time period necessary to effectuate a transfer of liquor license, I will specifically be requesting that the hearing regarding the above-referenced matter be set for the City Council's meeting of December 18, 2002. Pursuant to the agreement executed with the new buyer, Legends will not be operating after October 11, 2002.

I will also formally make the foregoing continuance request to the City Council by written letter. As I will be on vacation during the week of October 14, 2002, another attorney from this office will be appearing at the hearing on October 16, 2002 to address any questions that the City Council may have regarding the continuance request.

OCT. -08' 02 (TUE) 15:28

NEUMILLER & BEARDSLEE

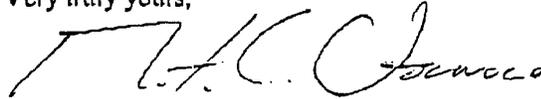
TEL: 209 948 4910

P. 003

Lisa Wagner
October 8, 2002
Page 2

If you have any questions, please do not hesitate to contact me.

Very truly yours,



ANTHONY L. VIGNOLO
Attorney-at-Law

ALV:cln

CITY COUNCIL

PHILLIP A. PENNINO, Mayor
SUSAN HITCHCOCK,
Mayor Pro Tempore
EMILY HOWARD
KEITH LAND
ALAN S. NAKANISHI

CITY OF LODI

CITY HALL, 221 WEST PINE STREET
P.O. BOX 3006
LODI, CALIFORNIA 95241-1910
(209) 333-6702
FAX (209) 333-6807
cityclrk@lodi.gov

H. DIXON FLYNN
City Manager
SUSAN J. BLACKSTON
City Clerk
RANDALL A. HAYS
City Attorney

October 17, 2002

MAILED CERTIFIED MAIL #7002 0860 0004 0501 4771
AND REGULAR U.S. POSTAL DELIVERY

Anthony L. Vignolo, Attorney at Law
Neumiller & Beardslee
P.O. Box 20
Stockton, CA. 95201-3020

**RE: CONTINUED PUBLIC HEARING – DECEMBER 18, 2002
TO CONSIDER APPEAL REGARDING USE PERMIT 99-02 REVOCATION,
LEGENDS UNLIMITED, INC.**

This letter is to notify you that the public hearing on October 16, 2002 was opened and continued to **Wednesday, December 18, 2002, at 7:00 p.m.**, or as soon thereafter as the matter can be heard, at the Carnegie Forum, 305 W. Pine Street, Lodi.

The hearing is being held to consider your appeal on behalf of Legends Unlimited, Inc. and owner Jacqueline Brown, of the Planning Commission's decision on July 10, 2002 to revoke Use Permit No. 99-22.

If you challenge the proposed action 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 Council at, or prior to, the public hearing. *Note: Written correspondence for the City Council may be mailed in c/o the City Clerk's Office, P.O. Box 3006, Lodi, CA 95241-1910, or delivered to the City Clerk at 221 West Pine Street, Lodi, California.*

Should you have any questions, please contact Community Improvement Director Rad Bartlam in the Community Development Department at (209) 333-6823.

Sincerely,



Susan J. Blackston
City Clerk

SJB/JLT

cc: Jacqueline Brown, Legends Unlimited
Community Development Director



DECLARATION OF MAILING
LETTER TO APPELLANT

CONTINUED PUBLIC HEARING TO DECEMBER 18, 2002 TO CONSIDER APPEAL
REGARDING USE PERMIT 99-02 REVOCATION, LEGENDS UNLIMITED

On October 17, 2002, in the City of Lodi, San Joaquin County, California, I deposited in the United States mail, envelopes with first-class postage prepaid thereon, and additionally, United States certified mail envelopes with first-class postage prepaid thereon and indication of return receipt requested, containing a letter of notification, a copy of which is attached hereto, marked Exhibit "A"; said envelopes were addressed as is more particularly shown on Exhibit "B" attached hereto.

There is a regular daily communication by mail between the City of Lodi, California, and the places to which said envelopes were addressed.

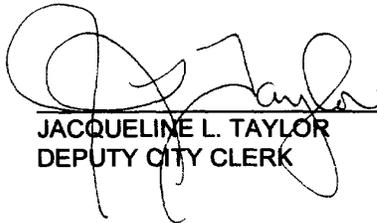
I declare under penalty of perjury that the foregoing is true and correct.

Executed on October 17, 2002, at Lodi, California.

ORDERED BY:

SUSAN BLACKSTON
CITY CLERK, CITY OF LODI

ORDERED BY:



JACQUELINE L. TAYLOR
DEPUTY CITY CLERK

JENNIFER M. PERRIN
DEPUTY CITY CLERK

PATRICIA OCHOA
ADMINISTRATIVE CLERK

MAILING LIST

APPEAL OF PLANNING COMMISSION DECISION, LEGENDS UNLIMITED

Anthony L. Vignolo, Attorney at Law
Neumiller & Beardslee
P.O. Box 20
Stockton, CA 95201-3020

Jacqueline Brown
c/o Legends Unlimited, Inc.
27 West Elm Street
Lodi, CA 95240



CITY OF LODI
Carnegie Forum
305 West Pine Street, Lodi

NOTICE OF CONTINUED PUBLIC HEARING

Date: December 18, 2002

Time: 7:00 p.m.

For information regarding this notice please contact:

Susan J. Blackston

City Clerk

Telephone: (209) 333-6702

NOTICE OF CONTINUED PUBLIC HEARING

NOTICE IS HEREBY GIVEN that the October 16, 2002 public hearing of the City Council of the City of Lodi to consider public comments / testimony regarding an appeal from Neumiller & Beardslee, on behalf of Legends Unlimited, regarding the Planning Commission's decision to revoke Use Permit No.99-02 for Legends Unlimited, has been **continued to Wednesday, December 18, 2002**, at the hour of 7:00 p.m., or as soon thereafter as the matter may be heard in the Lodi City Council Chambers, Carnegie Forum, 305 W. Pine Street, Lodi, California.

Posted October 17, 2002

SUSAN J. BLACKSTON
CITY CLERK
of the City of Lodi

DECLARATION OF POSTING
NOTICE OF CONTINUED PUBLIC HEARING
OF THE CITY COUNCIL OF THE CITY OF LODI

I, Susan J. Blackston, hereby certify that on October 17, 2002 I posted "NOTICE OF CONTINUED PUBLIC HEARING OF THE CITY COUNCIL OF THE CITY OF LODI TO CONSIDER CONTINUED PUBLIC HEARING TO DECEMBER 18, 2002 TO CONSIDER APPEAL REGARDING USE PERMIT 99-02 REVOCATION, LEGENDS UNLIMITED", near the Council Chamber door; that said Notice remained posted until after the hour set for said hearing, as shown on said Notice.

A copy of said "NOTICE OF CONTINUED PUBLIC HEARING" as posted near the Council Chamber door, is shown on the attached and is made a part of this Certificate of Posting.

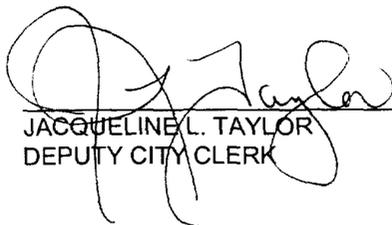
Dated: October 17, 2002
 (Date Posted - Must be within 24 hours)

ORDERED BY:

SUSAN J. BLACKSTON
CITY CLERK OF THE CITY OF LODI

ORDERED BY:

PATRICIA OCHOA
ADMINISTRATIVE CLERK



JACQUELINE L. TAYLOR
DEPUTY CITY CLERK

JENNIFER M. PERRIN
DEPUTY CITY CLERK



CITY OF LODI
Carnegie Forum
305 West Pine Street, Lodi

NOTICE OF CONTINUED PUBLIC HEARING

Date: January 15, 2003

Time: 7:00 p.m.

For information regarding this notice please contact:

Susan J. Blackston

City Clerk

Telephone: (209) 333-6702

NOTICE OF CONTINUED PUBLIC HEARING

NOTICE IS HEREBY GIVEN that the December 18, 2002 public hearing of the City Council of the City of Lodi to consider the appeal from Neumiller & Beardslee, on behalf of Legends Unlimited, regarding the Planning Commission's decision to revoke Use Permit No. 99-02 for Legends Unlimited was opened and **continued to Wednesday, January 15, 2003**, at the hour of 7:00 p.m., or as soon thereafter as the matter may be heard, in the Lodi Council Chambers, Carnegie Forum, 305 West Pine Street, Lodi, California.

Information regarding this item may be obtained in the office of the Community Development Director, 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:

Susan J. Blackston
City Clerk

Dated: December 19, 2002

Approved as to form:

Randall A. Hays
City Attorney



CITY OF LODI
Carnegie Forum
305 West Pine Street, Lodi

NOTICE OF CONTINUED PUBLIC HEARING

Date: January 15, 2003

Time: 7:00 p.m.

For information regarding this notice please contact:

Susan J. Blackston

City Clerk

Telephone: (209) 333-6702

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Posted December 19, 2002

SUSAN J. BLACKSTON
CITY CLERK
of the City of Lodi

CITY COUNCIL

SUSAN HITCHCOCK, Mayor
EMILY HOWARD
Mayor Pro Tempore
JOHN BECKMAN
LARRY D. HANSEN
KEITH LAND

CITY OF LODI

CITY HALL, 221 WEST PINE STREET
P.O. BOX 3006
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cityclrk@lodi.gov

H. DIXON FLYNN
City Manager
SUSAN J. BLACKSTON
City Clerk
RANDALL A. HAYS
City Attorney

December 19, 2002

MAILED CERTIFIED MAIL #7000 1670 0008 4483 0732
AND REGULAR U.S. POSTAL DELIVERY

Anthony L. Vignolo, Attorney at Law
Neumiller & Beardslee
P.O. Box 20
Stockton, CA. 95201-3020

**RE: CONTINUED PUBLIC HEARING – JANUARY 15, 2003
TO CONSIDER APPEAL REGARDING USE PERMIT 99-02 REVOCATION,
LEGENDS UNLIMITED, INC.**

This letter is to notify you that the public hearing on December 18, 2002 was opened and continued to **Wednesday, January 15, 2003, at 7:00 p.m.**, or as soon thereafter as the matter can be heard, at the Carnegie Forum, 305 W. Pine Street, Lodi.

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Should you have any questions, please contact Community Improvement Director Rad Bartlam in the Community Development Department at (209) 333-6823.

Sincerely,



Susan J. Blackston
City Clerk

SJB/JLT

cc: Jacqueline Brown, Legends Unlimited
Community Development Director



DECLARATION OF MAILING
LETTER TO APPELLANT

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REGARDING USE PERMIT 99-02 REVOCATION, LEGENDS UNLIMITED

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

Executed on December 19, 2002, at Lodi, California.

ORDERED BY:

SUSAN BLACKSTON
CITY CLERK, CITY OF LODI

ORDERED BY:

JACQUELINE L. TAYLOR
DEPUTY CITY CLERK

JENNIFER M. PERRIN
DEPUTY CITY CLERK



PATRICIA OCHOA
ADMINISTRATIVE CLERK

MAILING LIST

APPEAL OF PLANNING COMMISSION DECISION, LEGENDS UNLIMITED

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P.O. Box 20
Stockton, CA 95201-3020

Jacqueline Brown
c/o Legends Unlimited, Inc.
27 West Elm Street
Lodi, CA 95240

DECLARATION OF POSTING
NOTICE OF CONTINUED PUBLIC HEARING
OF THE CITY COUNCIL OF THE CITY OF LODI

I, Susan J. Blackston, hereby certify that on December 19, 2002 I posted "NOTICE OF CONTINUED PUBLIC HEARING OF THE CITY COUNCIL OF THE CITY OF LODI TO CONSIDER CONTINUED PUBLIC HEARING TO JANUARY 15, 2003 TO CONSIDER APPEAL REGARDING USE PERMIT 99-02 REVOCATION, LEGENDS UNLIMITED", near the Council Chamber door; that said Notice remained posted until after the hour set for said hearing, as shown on said Notice.

A copy of said "NOTICE OF CONTINUED PUBLIC HEARING" as posted near the Council Chamber door, is shown on the attached and is made a part of this Certificate of Posting.

Dated: December 19, 2002
(Date Posted - Must be within 24 hours)

ORDERED BY:

SUSAN J. BLACKSTON
CITY CLERK OF THE CITY OF LODI

ORDERED BY:



PATRICIA OCHOA
ADMINISTRATIVE CLERK

JACQUELINE L. TAYLOR
DEPUTY CITY CLERK

JENNIFER M. PERRIN
DEPUTY CITY CLERK