

CITY COUNCIL AGENDA: NOVEMBER 4, 2014

PUBLIC HEARING

SUBJECT: CONDITIONAL USE PERMIT (PRC 2014-024-C) FOR SALE OF ALCOHOL UNDER A TYPE 41 BEER AND WINE LICENSE IN CONJUNCTION WITH A RESTAURANT FOR ME-N-ED'S PIZZERIA LOCATED AT 1331 W. HENDERSON AVENUE, SUITE #101

SOURCE: COMMUNITY DEVELOPMENT DEPARTMENT- PLANNING DIVISION

COMMENT: The applicant is requesting approval of a Conditional Use Permit (PRC 2014-024-C) to allow for the sale of beer and wine with a Type 41 alcohol license in conjunction with a restaurant for Me-N-Ed's Pizzeria at 1331 W. Henderson Avenue, #101, currently under construction in the Porterville Marketplace Shopping Center.

BACKGROUND: On September 17, 2014, the applicant submitted an application to the Project Review Committee (PRC) to consider a Conditional Use Permit to allow for the sale of alcohol under a Type 41 Beer and Wine license in conjunction with a restaurant for Me-N-Ed's Pizzeria located in a building that is currently under construction at the Porterville Marketplace Shopping Center. During the PRC meeting, the Police Department indicated that the location and recently approved plans for Me-N-Ed's Pizzeria has sufficient exterior lighting to illuminate the parking lot and the entire site during business hours. The Project Review Committee also acknowledged that the proposed location of the project and the conditions under which it will be operated or maintained will not be detrimental to the public health, safety, or welfare to properties or improvements in the vicinity.

The Department of Alcoholic Beverage Control (ABC) allows for a specific number of licenses per census tract, based on population. Whenever the ratio of on-sale licenses to population in a census tract exceeds the average ratio for the county, an "undue concentration" of licenses is determined to exist. The subject site is located within Census Tract 36.02, which allows a maximum of seven (7) off-sale and five (5) on-sale licenses without being deemed over-concentrated. According to the ABC, four (4) on-sale licenses currently exist in this tract. However, on October 7, 2014, the City Council approved a Conditional Use Permit (PRC 2014-009-C) to allow for the on-sale of beer and wine for Tony's Pizza Parlor located at 1304 W. Olive Avenue which is within the same census tract as Me-N-Ed's Pizzeria. ABC has indicated that both applicants, Me-N-Ed's and Tony's Pizza Parlor, have started the application process, but ABC has yet to issue either on-sale Type 41 license. With the approval of the fifth on-sale license for Tony's Pizza Parlor in Census Tract 36.02, approval of Me-N-Ed's request for an on-sale license would deem Census Tract 36.02 over concentrated and a Letter of Public Convenience or Necessity will be required.

DD

13

Appropriated/Funded N/A

CM

f

Item No. 13

ANALYSIS: It is not anticipated that this use would have a negative impact on the surrounding properties. Conditions of approval are in place to protect the public's safety and interest. Due to the close proximity of Monache High School (140 feet from property line to property line), alcohol advertisement visible from the outside of the proposed building shall not be allowed. The applicant is conditioned to operate the establishment in such a manner as to preserve the public safety, health and welfare, to prevent the use from becoming a nuisance and to operate the business in compliance with all laws, ordinances and regulations regarding the sale of alcohol. Furthermore, at all times the facility shall be operated and maintained to comply with State Laws, the City of Porterville Development Ordinance, adopted Building Codes and all other applicable laws and ordinances.

The subject site is consistent with the General Plan Land Use Designation and Zoning Standards for Retail Centers (CR). The CR designation is intended to provide for retail and service uses that meet local and regional demand. The proposed restaurant with alcohol sales would suit the purpose of the zone designation. The restaurant is a permitted use in the CR Zone, and alcohol sales may be permitted in that zone with the requested Conditional Use Permit.

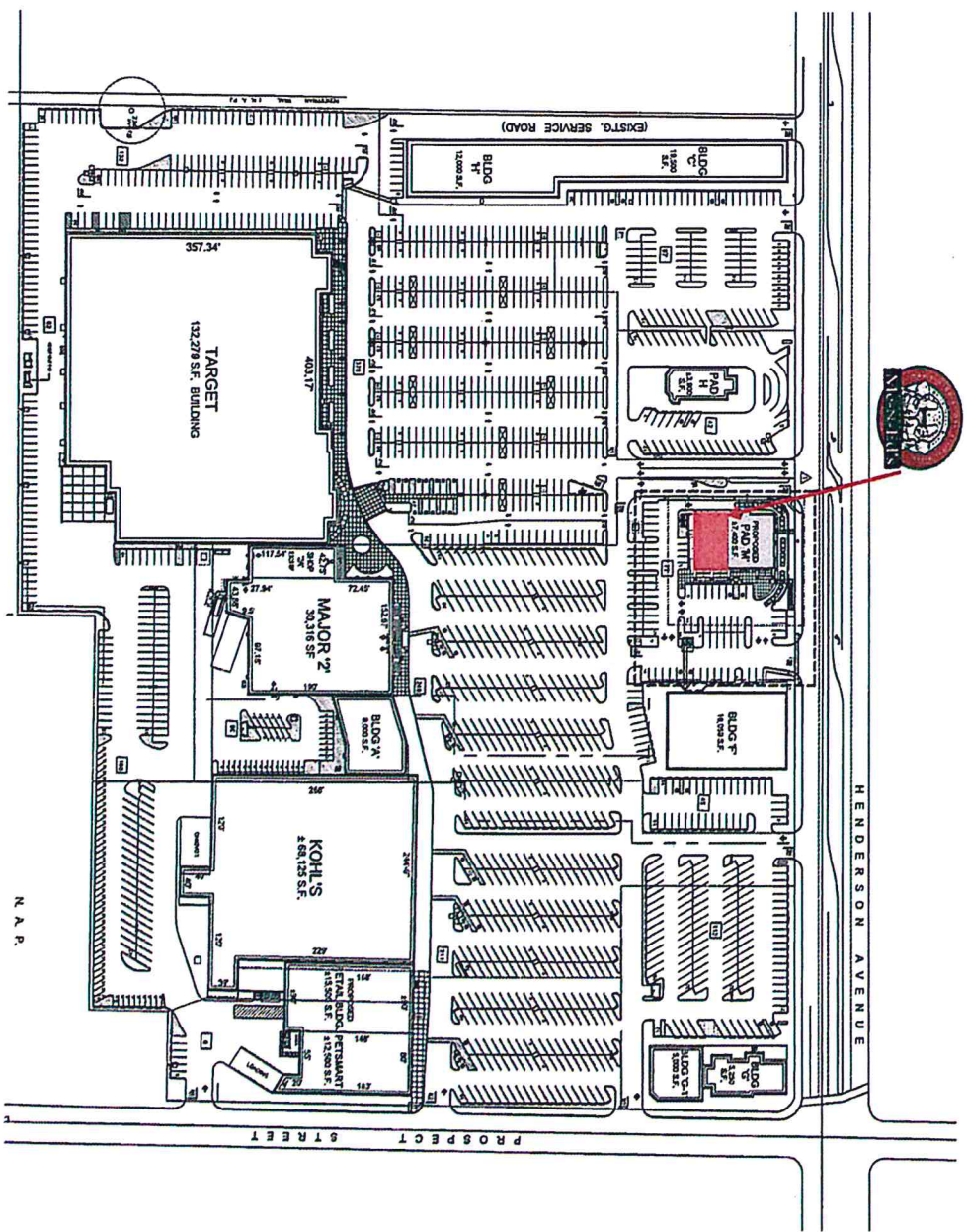
ENVIRONMENTAL REVIEW: On October 21, 2014, the Environmental Coordinator made a preliminary determination that the project is exempt from the California Environmental Quality Act pursuant to Section 15061(b), (3) of the California Code of Regulation (CEQA Guidelines), under the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment.

RECOMMENDATION: That the City Council:

1. Adopt the draft resolution approving Conditional Use Permit (PRC 2014-024-C) subject to conditions of approval; and
2. Authorize the mayor to sign the Letter of Public Convenience or Necessity.

ATTACHMENTS:

1. Locator Map
2. 300' Radius Map of noticed parties
3. Floor Plan
4. Existing licenses in Census Tract 36.02
5. Draft Resolution
6. Letter of Public Convenience or Necessity



FOR REFERENCE ONLY

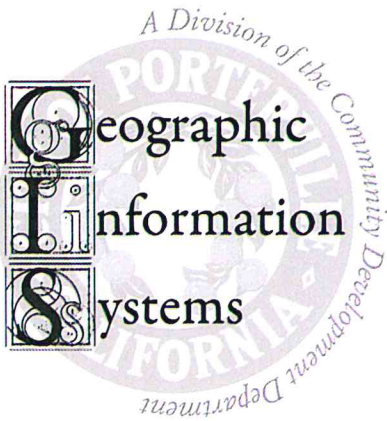
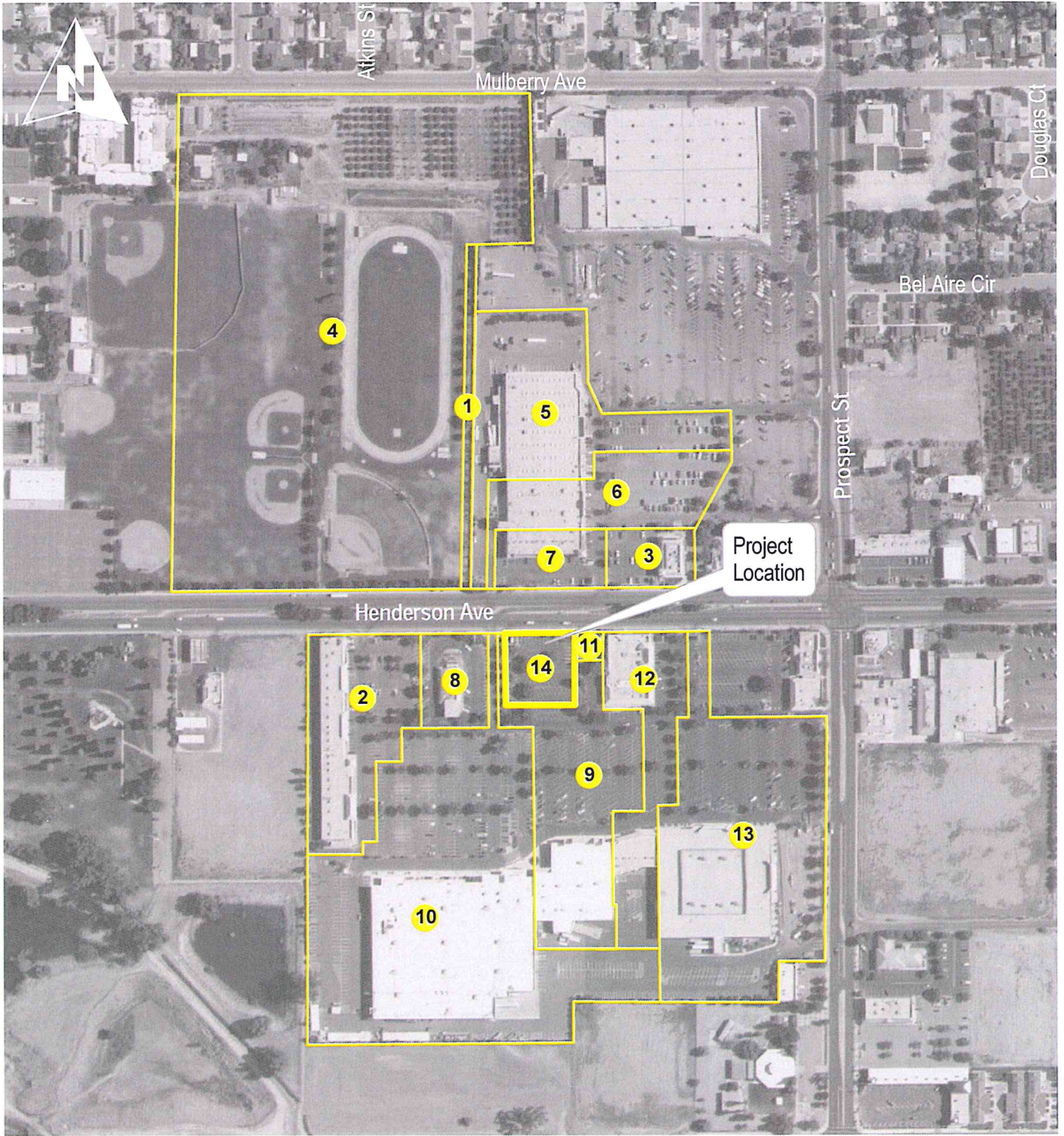
OVERALL SITE PLAN

SCALE: 1" = 40'-0"

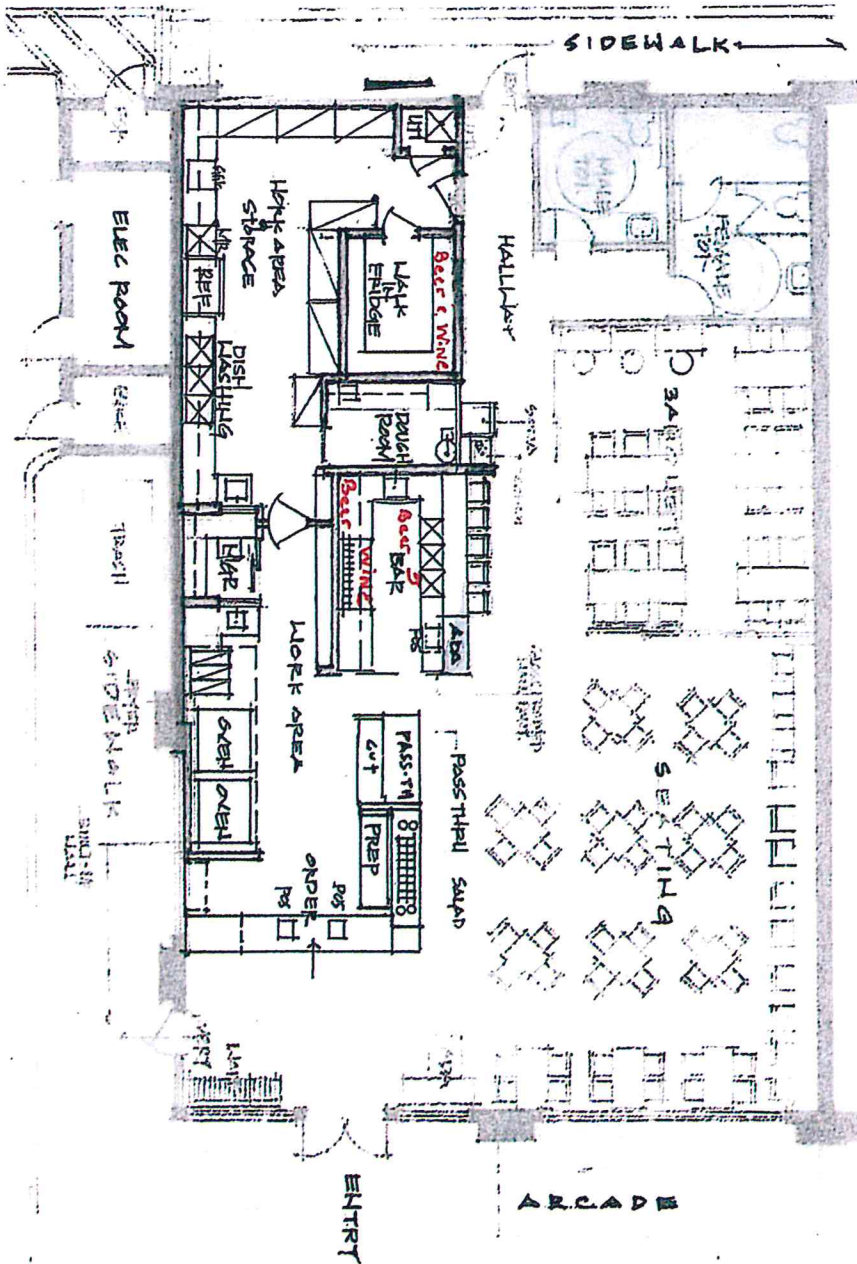


<p>McKenty Malak Architects 25 Hedge Alley Suite 205 Porterville, California 93257-3448 TEL: 559.382.2022 FAX: 559.382.2897</p>	<p>PROJECT: PROSPECT-HENDERSON PARTNERS, L.P. CO-OWNER: PAYNTER REALTY INVESTMENTS, INC. 17071 Brian Blvd., Suite 204 Turlock, CA 95270 TEL: 714.731.8822 FAX: 714.731.8803</p>	<p>BUILDING PAD M PORTERVILLE MARKETPLACE 1331 W. HENDERSON AVE. PORTERVILLE, CA</p>	<p>ISSUES / REVISIONS</p> <table border="1"> <thead> <tr> <th>No.</th> <th>DATE</th> <th>DESCRIPTION</th> </tr> </thead> <tbody> <tr> <td>01</td> <td>04-11-14</td> <td>PRELIMINARY</td> </tr> <tr> <td>02</td> <td>04-11-14</td> <td>REVISED PER COMMENTS</td> </tr> <tr> <td>03</td> <td>04-11-14</td> <td>REVISED PER COMMENTS</td> </tr> <tr> <td>04</td> <td>04-11-14</td> <td>REVISED PER COMMENTS</td> </tr> <tr> <td>05</td> <td>04-11-14</td> <td>REVISED PER COMMENTS</td> </tr> <tr> <td>06</td> <td>04-11-14</td> <td>REVISED PER COMMENTS</td> </tr> <tr> <td>07</td> <td>04-11-14</td> <td>REVISED PER COMMENTS</td> </tr> <tr> <td>08</td> <td>04-11-14</td> <td>REVISED PER COMMENTS</td> </tr> <tr> <td>09</td> <td>04-11-14</td> <td>REVISED PER COMMENTS</td> </tr> <tr> <td>10</td> <td>04-11-14</td> <td>REVISED PER COMMENTS</td> </tr> <tr> <td>11</td> <td>04-11-14</td> <td>REVISED PER COMMENTS</td> </tr> <tr> <td>12</td> <td>04-11-14</td> <td>REVISED PER COMMENTS</td> </tr> <tr> <td>13</td> <td>04-11-14</td> <td>REVISED PER COMMENTS</td> </tr> <tr> <td>14</td> <td>04-11-14</td> <td>REVISED PER COMMENTS</td> </tr> <tr> <td>15</td> <td>04-11-14</td> <td>REVISED PER COMMENTS</td> </tr> <tr> <td>16</td> <td>04-11-14</td> <td>REVISED PER COMMENTS</td> </tr> <tr> <td>17</td> <td>04-11-14</td> <td>REVISED PER COMMENTS</td> </tr> <tr> <td>18</td> <td>04-11-14</td> <td>REVISED PER COMMENTS</td> </tr> <tr> <td>19</td> <td>04-11-14</td> <td>REVISED PER COMMENTS</td> </tr> <tr> <td>20</td> <td>04-11-14</td> <td>REVISED PER COMMENTS</td> </tr> </tbody> </table>	No.	DATE	DESCRIPTION	01	04-11-14	PRELIMINARY	02	04-11-14	REVISED PER COMMENTS	03	04-11-14	REVISED PER COMMENTS	04	04-11-14	REVISED PER COMMENTS	05	04-11-14	REVISED PER COMMENTS	06	04-11-14	REVISED PER COMMENTS	07	04-11-14	REVISED PER COMMENTS	08	04-11-14	REVISED PER COMMENTS	09	04-11-14	REVISED PER COMMENTS	10	04-11-14	REVISED PER COMMENTS	11	04-11-14	REVISED PER COMMENTS	12	04-11-14	REVISED PER COMMENTS	13	04-11-14	REVISED PER COMMENTS	14	04-11-14	REVISED PER COMMENTS	15	04-11-14	REVISED PER COMMENTS	16	04-11-14	REVISED PER COMMENTS	17	04-11-14	REVISED PER COMMENTS	18	04-11-14	REVISED PER COMMENTS	19	04-11-14	REVISED PER COMMENTS	20	04-11-14	REVISED PER COMMENTS	<p>JOB NUMBER: 13221RMA DRAWN BY: N.G. CHECKED BY: R.H. DATE: 04-11-14 SHEET DESCRIPTION: OVERALL SITE PLAN</p>	<p>SHEET NUMBER: A010</p>
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ATTACHMENT
 ITEM NO. 1



PRC 2014-024
Tenant Improvement for Me-N-Eds Pizza
and Alcohol CUP
300' Radius Map
1" = 300 ft. **ATTACHMENT
ITEM NO. 2**

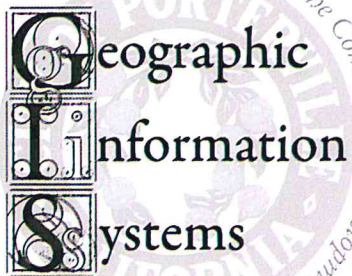
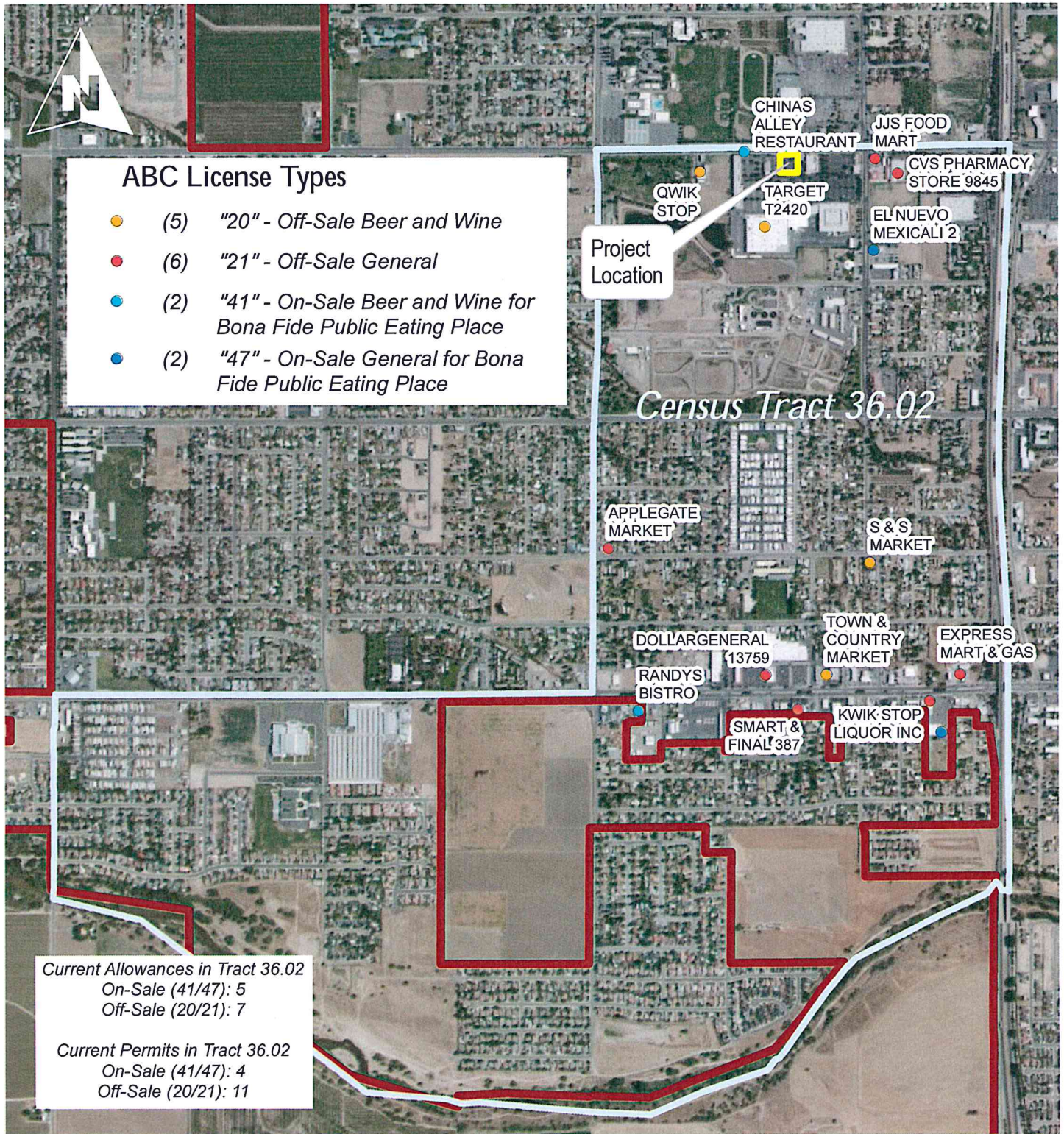


CONCEPT FLOOR PLAN LAYOUT - SCHEME 'M'
(7/17/14)

CONCEPT DESIGN +
DOCUMENTATION
PACKAGE
PORTERVILLE
August 20, 2014



ATTACHMENT
ITEM NO. 3



PRC 2014-024
 Tenant Improvement for Me-N-Eds Pizza
 and Alcohol CUP
 ABC Permit Map
 1" = 1,350 ft. ATTACHMENT
 ITEM NO. 4



**California Department of Alcoholic Beverage Control
For the County of TULARE - (Retail Licenses)
and Census Tract = 36.02**

Report as of 10/26/2014

	License Number	Status	License Type	Orig. Iss. Date	Expir Date	Primary Owner and Premises Addr.	Business Name	Mailing Address	Geo Code
1)	33724	ACTIVE	21	12/1/1977	4/30/2015	SIERRA MINIT MARTS INC 30 N NEWCOMB ST PORTERVILLE, CA 93257 Census Tract: 0036.02	SIERRA MINIT MART	101 W MORTON AVE PORTERVILLE, CA 93257	5404
2)	375331	ACTIVE	41	5/21/2001	4/30/2015	GONZALEZ, CAROL S 1377 W HENDERSON AVE PORTERVILLE, CA 93257 Census Tract: 0036.02	CHINAS ALLEY RESTAURANT	PO BOX 955 LINDSAY, CA 93247-0955	5404
3)	383489	ACTIVE	47	2/5/2002	7/31/2015	LOZA, CAYETANO 640 N PROSPECT ST PORTERVILLE, CA 93257 Census Tract: 0036.02	EL NUEVO MEXICALI 2		5404
4)	424361	ACTIVE	21	4/25/2005	2/28/2015	KWIK STOP LIQUOR INC 1101 W OLIVE AVE PORTERVILLE, CA 93257 Census Tract: 0036.02	KWIK STOP LIQUOR INC		5404
5)	428883	ACTIVE	20	1/25/2006	12/31/2014	TARGET CORPORATION 1363 W HENDERSON AVE PORTERVILLE, CA 93257	TARGET T2420	33 S 6TH ST, CC- 1028 ATTN: ERIN HOSFIELD MINNEAPOLIS, MN 55402	5404

						Census Tract: 0036.02			
6)	433294	ACTIVE	47	12/29/2005	11/30/2014	FARIAS, GRACIELA 1091 W OLIVE AVE PORTERVILLE, CA 93257 Census Tract: 0036.02			5404
7)	441474	ACTIVE	21	12/19/2006	11/30/2014	JOUDI, ADEL 1060 W OLIVE AVE PORTERVILLE, CA 93257-3030 Census Tract: 0036.02	EXPRESS MART & GAS		5404
8)	456371	ACTIVE	21	5/20/2008	6/30/2015	SMART & FINAL STORES LLC 1289 W OLIVE AVE PORTERVILLE, CA 93257-3031 Census Tract: 0036.02	SMART & FINAL 387	600 CITADEL DR LOS ANGELES, CA 90040-1562	5404
9)	477629	ACTIVE	21	6/22/2009	5/31/2015	GARFIELD BEACH CVS LLC 1155 W HENDERSON AVE PORTERVILLE, CA 93257-1452 Census Tract: 0036.02	CVS PHARMACY STORE 9845	1 CVS DR, MAIL DROP 23062A WOONSOCKET, RI 02895-6146	5404
10)	50030	ACTIVE	20	1/1/1994	10/31/2014	T & C FOODS INC 1310 W OLIVE AVE PORTERVILLE, CA 93257 Census Tract: 0036.02	TOWN & COUNTRY MARKET		5404
11)	501919	ACTIVE	20	10/27/2010 11:00:33 AM	9/30/2015	ALI, ABDO AHMED 1181 W PUTNAM AVE PORTERVILLE, CA 93257-3049 Census Tract: 0036.02	S & S MARKET	633 OAKMONT AVE PORTERVILLE, CA 93257-2048	5404

12)	509068	ACTIVE	20	3/23/2011 8:42:00 AM	9/30/2015	DAKHIL, MOUNIB MIKHAIL 1187 W HENDERSON AVE PORTERVILLE, CA 93257-1452 Census Tract: 0036.02	JJS FOOD MART		5404
13)	524094	ACTIVE	21	9/11/2012 1:00:16 PM	8/31/2015	DOLGEN CALIFORNIA LLC 1316 W OLIVE AVE PORTERVILLE, CA 93257-3034 Census Tract: 0036.02	DOLLAR GENERAL 13759	100 MISSION RIDGE, DOLGEN MIDWEST LLC, DIRECTOR OF TAX - BW DEPT GOODLETTSVILLE, TN 37072-2171	5404
14)	528964	ACTIVE	41	2/22/2013 4:06:51 PM	1/31/2015	WKBD ENTERPRISES INC. 1549 W OLIVE AVE PORTERVILLE, CA 93257-2946 Census Tract: 0036.02	RANDYS BISTRO	15591 BIRCH ST PORTERVILLE, CA 93257	5400
15)	541547	ACTIVE	20	4/4/2014 10:34:04 AM	3/31/2015	CHEERS & SPIRITS, INC. 1445 W HENDERSON AVE PORTERVILLE, CA 93257-1458 Census Tract: 0036.02	QWIK STOP		5404
16)	541801	ACTIVE	21	5/12/2014 1:28:05 PM	4/30/2015	KAEIB, SAID 212 N NEWCOMB ST PORTERVILLE, CA 93257-2820 Census Tract: 0036.02	APPLEGATE MARKET		5400

--- End of Report ---

For a definition of codes, view our [glossary](#).

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PORTERVILLE CONTAINING FINDINGS AND CONDITIONS IN SUPPORT OF CONDITIONAL USE PERMIT (PRC 2014-024-C) TO ALLOW FOR THE SALE OF BEER AND WINE WITH A TYPE 41 ALCOHOL LICENSE IN CONJUNCTION WITH A RESTAURANT FOR ME-N-ED'S PIZZERIA LOCATED AT 1331 W. HENDERSON AVENUE, SUITE #101

WHEREAS: On October 21, 2014, the Environmental Coordinator made a preliminary determination that the project is exempt from the California Environmental Quality Act pursuant to Section 15061(b), (3) of the California Code of Regulation (CEQA Guidelines); and

WHEREAS: The City Council of the City of Porterville, at its regular scheduled meeting of November 4, 2014, conducted a public hearing to consider Conditional Use Permit (PRC 2014-024-C), to allow for the sale of alcohol under a Type 41 Beer and Wine License in conjunction with a restaurant for Me-N-Ed's Pizzeria located at 1331 W. Henderson Avenue, Suite #101; and

WHEREAS: The City Council of the City of Porterville authorized the mayor to sign the Letter of Public Convenience or Necessity because of the regional nature of the shopping center within which the restaurant is located; and

WHEREAS: The City Council of the City of Porterville received testimony from all interested parties related to said Conditional Use Permit; and

WHEREAS: The City Council made the following findings:

1. That the proposed project will advance the goals and objectives of and is consistent with the policies of the General Plan and any other applicable plan that the City has adopted.

The CR designation is intended to provide for retail and service uses that meet local and regional demand. The proposed restaurant with alcohol sales would suit the purpose of the zone designation. The restaurant is a permitted use in the CR Zone, and alcohol sales may be permitted in that zone with a Conditional Use Permit.

2. That the proposed location of the project and the conditions under which it will be operated or maintained will not be detrimental to the public health, safety, welfare, or materially injurious to properties or improvements in the vicinity.

Conditions of approval are included herein to ensure adequate development standards are met. The project is located within an existing building in a regional shopping center that has been well maintained since its original development. Further, all land owners within the city of Porterville are held to performance standards identified in Chapter 306 of the Development Ordinance. Specifically, Section 306.03 of the Ordinance states, "Land or buildings shall not be used or

occupied in a manner creating any dangerous, injurious, or noxious fire, explosive, or other hazard; noise, vibration, smoke, dust, odor, or form of air pollution; heat, cold, dampness, electrical or other disturbance; glare, refuse, or wastes; or other substances, conditions, or elements which would substantially adversely affect the surrounding area.”

3. This project is Categorical Exempt pursuant to CEQA Guidelines §15061(b), (3) - General Rule: the approval of the alcohol sales has no physical change to the environment.
4. The Department of Alcoholic Beverage Control (ABC) allows for a specific number of licenses per census tract, based on population. Whenever the ratio of on-sale licenses to population in a census tract exceeds the average ratio for the county, an “undue concentration” of licenses is determined to exist. The subject site is located within Census Tract 36.02, which allows a maximum of seven (7) off-sale and five (5) on-sale licenses without being deemed over-concentrated. According to the ABC, four (4) on-sale licenses currently exist in this tract. However, on October 7, 2014, City Council approved a Conditional Use Permit (PRC 2014-009-C) to allow for the on-sale of beer and wine for Tony’s Pizza Parlor located at 1304 W. Olive Avenue. With the approval of the fifth (5th) on-sale license for Tony’s Pizza Parlor in Census Tract 36.02, approval of Me-N-Ed’s request will deem Census Tract 36.02 over concentrated and a Letter of Public Convenience or Necessity was required.

NOW, THEREFORE, BE IT RESOLVED: That the City Council of the City of Porterville does hereby approve Conditional Use Permit (PRC 2014-024-C) subject to the following conditions:

1. The developer/applicant shall keep the beer and wine in a secure place with access only available to the employees, shown herein as the walk-in fridge and separate bar area in Exhibit “A.” Any future changes in operation which substantially alter the condition or nature of the subject business will require approval by the City Council if such modification involves expansion, relocation, or change in accessibility to the conditioned uses.
2. The facility shall be operated and maintained to comply with applicable State and Federal laws, and the City of Porterville Development Ordinance at all times.
3. The applicant shall maintain the security lighting on the exterior of the building and in the parking lot in a manner to allow reasonable surveillance of the area to the satisfaction of the Police Department and Zoning Administrator.
4. The applicant shall operate the establishment in such a manner as to preserve the public safety, health and welfare, to prevent the use from becoming a nuisance and operate the business in compliance with all laws, ordinances and regulations regarding the sale of alcohol. In the event that this or any other condition of

approval is violated, the City Council may modify or revoke the conditional use permit as provided in Section 601.10 of the Porterville Development Ordinance.

5. The elements of the conditional use permit approving on-site alcohol sales will be subject to modification or revocation if the State of California imposes sanctions on the on-sale license.
6. The entire site shall be permanently maintained free of accumulated dirt and litter and in an otherwise neat and attractive manner.
7. No alcohol advertising shall be displayed and/or viewed from the outside of the proposed building.
8. The consumption of alcoholic beverages shall be prohibited off-site or outside of the building.
9. Upon approval of the conditional use permit, any future violations of regulations of the codes relating to the sales or consumption of alcohol, and/or excessive service calls by the Police Department resulting from the sales of alcohol will result in revocation of the Conditional Use Permit.
10. Unless an extension of time is granted by the City Council, the conditional use permit shall expire two (2) years after the date of approval if the on-sale Type 41 Alcohol License for General Bona Fide Eating Place is not active or actively pursued. The alcohol license permits sale of beer and wine in conjunction with the serving of meals.
11. The hours of operation during which alcoholic beverages may be sold and served under the on-sale license shall be limited to only during business hours.
12. That a Letter of Public Convenience or Necessity shall be required.

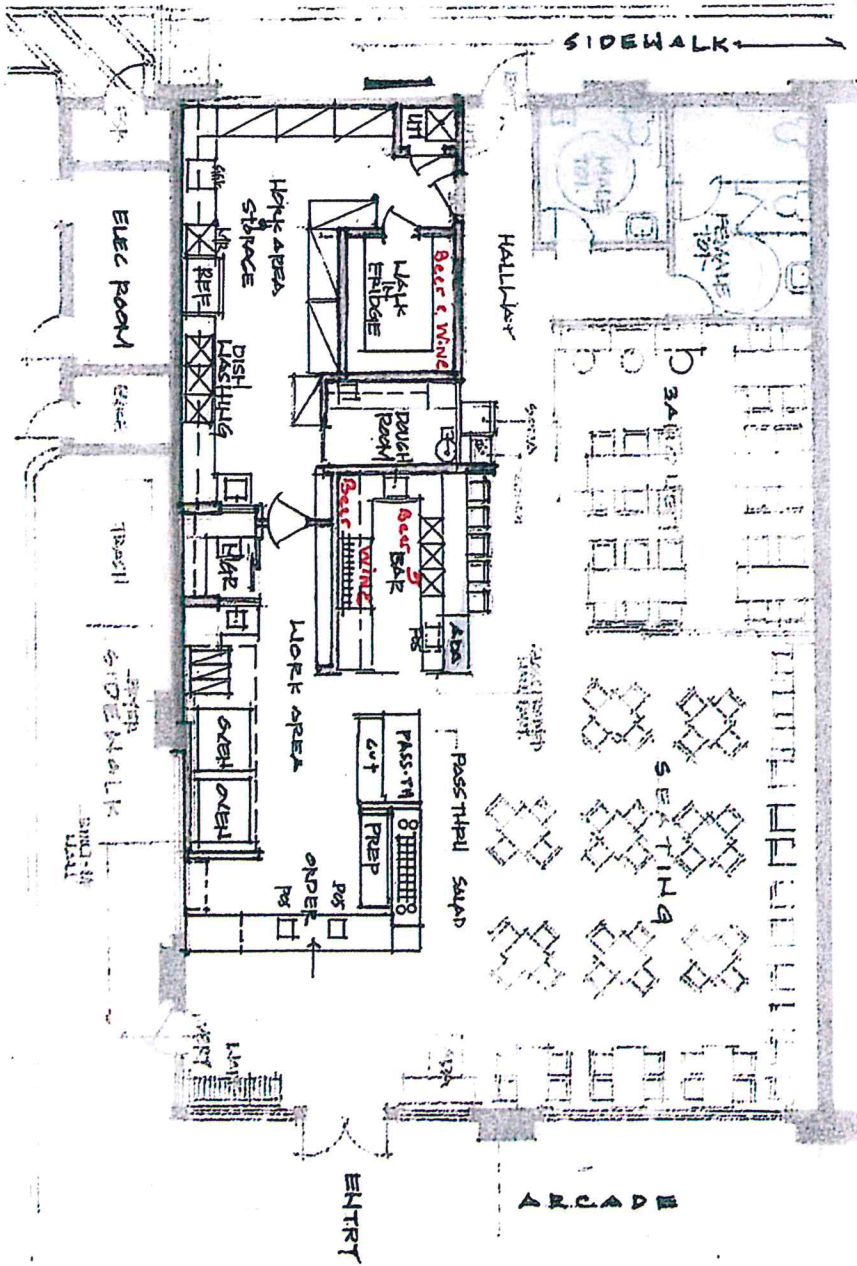
PASSED, APPROVED AND ADOPTED this 4th day of November, 2014.

Milt Stowe, Mayor

ATTEST:

John D. Lollis, City Clerk

By _____
Patrice Hildreth, Chief Deputy City Clerk



CONCEPT FLOOR PLAN LAYOUT - SCHEME W.
(7/17/14)

CONCEPT DESIGN +
DOCUMENTATION
FRANCHISE
PORTERVILLE
August 20, 2014





**Community Development
Department**

November 5, 2014

California Department of Alcoholic Beverage Control
Fresno District Office
3640 East Ashlan Ave
Fresno, CA 93726
ATTN: Christine Weldon

RE: Me-N-Ed's Pizzeria – 1331 W. Henderson Avenue, #101

Dear Ms. Weldon:

The City Council of the City of Porterville has elected to approve submittal of this letter regarding the public convenience or necessity to be served through issuance of an on-sale Type 41 (beer and wine) license for Me-N-Ed's Pizzeria located at 1331 W. Henderson Avenue, #101. The shopping center within which the proposed restaurant will be located is a regional center, and has significant economic draw beyond the boundaries of the census tract.

Approval of this letter was based on the following:

1. Per Section 23958.4 of the "Business and Professions Code," the subject site is located within Census Tract 36.02 which allows five (5) on-sale licenses. At the present time four (4) on-sale licenses currently exist in this tract. However, on October 7, 2014, City Council approved a Conditional Use Permit (PRC 2014-009-C) to allow for the on-sale of beer and wine license for Tony's Pizza Parlor located at 1304 W. Olive Avenue. With the approval of the fifth (5th) on-sale license for Tony's Pizza Parlor in Census Tract 36.02, approval of Me-N-Ed's Type 41 beer and wine license deemed Census Tract 36.02 over concentrated and a Letter of Public Convenience or Necessity was required.
2. On November 4, 2014, the City Council conditionally approved Conditional Use Permit (PRC 2014-024-C), review attached resolution, to allow the on-sale of beer and wine located at 1331 W. Henderson Avenue, #101. As a condition of approval, a Letter of Public Convenience or Necessity was required to be approved by the City Council.
3. In consideration of the above, the City Council determined that public convenience or necessity would be served by the issuance of an on-sale beer and wine license.

Further issuance of an on-sale license allowing beer and wine sales represents a viable economic asset to the community which will contribute tax revenues to the local economy. The subject site

**ATTACHMENT
ITEM NO. 6**

Me-N-Ed's Pizzeria
November 5, 2014

is consistent with the General Plan Land Use Designation and Zoning Standards for Retail Centers (CR). The CR designation is intended to provide for retail and service uses that meet local and regional demand. The proposed restaurant with alcohol sales would suit the purpose of the zone designation. The restaurant is a permitted use in the CR Zone, and alcohol sales may be permitted in that zone with the requested Conditional Use Permit.

For these reasons, the City Council of the City of Porterville supports issuance of an on-sale beer and wine license for Me-N-Ed's Pizzeria located in the Porterville Marketplace Shopping Center at 1331 W. Henderson Avenue, #101.

Sincerely,

Milt Stowe, Mayor