



AGENDA
NEWMAN PLANNING COMMISSION
REGULAR MEETING OF JULY 18, 2019
CITY COUNCIL CHAMBERS, 7:00 P.M., 938 FRESNO STREET

1. Call To Order.
2. Pledge Of Allegiance.
3. Roll Call.
4. Approval Of The Agenda.
5. Approval Of Minutes From The March 15, 2018 Meeting.
6. Items From The Public.
7. New Business
 - a. Public Hearing
 - Conditional Use Permit No. 2019-01**
 - Applicant:** Dan Gray
 - Description:** Operate A Cocktail Lounge In The "C-1" Retail Commercial District.
 - Location:** The Subject Property Is Located At 1022 Main Street (Southwest Corner Of Main And Merced Streets); More Specifically Described As Assessor's Parcel Number 128-009-042.
8. Items From Commissioners.
9. Items From Director And Staff.
10. Adjournment.



MINUTES
NEWMAN PLANNING COMMISSION
REGULAR MEETING OF MARCH 15, 2018
CITY COUNCIL CHAMBERS, 7:00 P.M., 938 FRESNO STREET

1. **Call To Order** - 7:00 P.M.

2. **Pledge Of Allegiance.**

3. **Roll Call PRESENT:** Thompson, Dudley, Harmon And Allan.
ABSENT: Coleman.

4. **Approval Of The Agenda.**

ACTION: On A Motion By Dudley Seconded By Thompson, The Agenda Was Approved By The Following Roll Call Vote: AYES: Thompson, Dudley, Harmon, And Chairperson Allan, NOES: None; ABSENT: Coleman; NOT PARTICIPATING: None.

5. **Approval Of Minutes From The November 16, 2017 Meeting.**

ACTION: On A Motion By Thompson Seconded By Harmon, The Minutes From The November 16, 2017 Meeting Were Approved By The Following Roll Call Vote: AYES: Thompson, Dudley, Harmon, And Allan; NOES: None; ABSENT: Coleman; NOT PARTICIPATING: None.

6. **Items From The Public** - None.

7. **New Business**

a. **Public Hearing**

Vesting Tentative Tract Map No. 2018-01

Applicant: Doug Stephens

Description: Vesting tentative subdivision map to subdivide a 1.8-acre parcel into eight (8) residential lots ranging in size from 6,261 to 9,745 square feet.

Location: The subject property is located north/northwest of the terminus of Real Avenue, more specifically described as Assessor's Parcel Number 026-049-032. Assessor's Parcel Number 128-060-023.

City Planner Ocasio Presented And Reviewed Vesting Tentative Tract Map No. 2018-01.

Commissioner Harmon Inquired About The Original Plan And Specifically What Fencing Material Had Been Required.

City Planner Ocasio Noted That The Original Plan Called For Wood Fencing And Noted That Would Remain The Same With The Updated Plan.

Commissioner Thompson Inquired About Flooding Issues And Asked For Examples Of Low Impact Development.

City Planner Ocasio Explained That Low Impact Development Features Would Include The Ability To Temporarily Hold Storm Water And Increased Water Absorption. Ocasio Indicated That, Per FEMA, Flood Mitigation Could Be Achieved By Raising Foundation Elevations.

Commissioner Thompson Asked For The Definition Of Passive Solar Energy Conservation Improvements.

City Planner Ocasio Clarified That Passive Solar Energy Conservation Improvements Were Design Elements That Allow For The Utilization Of Sunlight For Lighting, Solar Energy As Well As Utilizing Overhangs And Landscaping To Mitigate The Heating Effects Of The Sun.

Chairperson Allan Opened The Public Hearing At 7:20 P.M.

Jeff Ennis, 668 Real Ave, Stated That He Was Concerned That About The Possibility Of Real Ave Becoming A Through Street.

City Planner Ocasio Pointed Out That The City Has No Plan To Make Real Avenue A Through Street But Rather A Cul-De-Sac. Ocasio Noted That The Northwest Masterplan Has Designated The Land North And West Of Said Cul-De-Sac As Professional Office And Commercial (Respectively) And That She Did Not Foresee Real Avenue Ever Becoming A Through Street.

Jeff Ennis, 668 Real Ave, Asked If Any Additional Traffic Mitigation Measures Would Be Included Due To The Impact Of The Proposed Development.

City Planner Ocasio Explained That The Proposed Subdivision Would Not Trigger Additional Traffic Mitigation Measures But Noted That If He Had Concerns About Traffic Controls That He Could Contact The City's Public Works And Police Departments.

Jeff Ennis, 668 Real Ave, Stated That The Water Main Along Real Avenue Continually Leaks And Said That It Need To Be Addressed.

City Planner Ocasio Noted That The Water Line Had Been Assessed And Deemed Sufficient By The City's Public Works Department And City Engineer. Ocasio Suggested That If Mr. Ennis Had Concerns About The Water Line That He Should Meet With The City's Public Works Department.

Manuel Avelar, 668 Lee Ave, Asked If The Proposed New Homes Would Be Higher Than The Existing Surrounding Homes And If So, How That Would Impact Flooding Concerns.

City Planner Ocasio Noted That The Surrounding Homes Should Have Similar Elevations To The Proposed Homes And, Per FEMA Guidelines, They Cannot Cause Harm To The Surrounding Properties.

Manuel Avelar, 668 Lee Ave, Asked If The Proposed Development Would Include Two-Story Homes.

City Planner Ocasio Indicated That The Commission Could Condition The Project To Only Allow One-Story Homes But Mentioned That It Was Not A Current Staff Recommendation.

Dennis Hatfield, 548 Real Court, Asked That The Commission Limit The Proposed Development To Only One-Story Homes Noting That If They Need To Add Additional Fill Even One Story Homes Might Be Elevated Higher Than The Surrounding Homes. Hatfield Noted That He Was Concerned About Increased Traffic And Noted That There Was A Rare Black Fox Living In The Area. Hatfield Requested That The North Manner Sign Be Refurbished.

Commissioner Harmon Asked If The Surrounding Homes Also Had Fill To Elevate Their Foundations.

City Planner Ocasio Responded Yes But Noted That The Elevations May Vary.

Jan Hatfield, 548 Real Court, Asked That The Proposed Subdivision Be Limited To One-Story Homes And Noted That All The Surrounding Homes Were Semi-Custom One Story Homes. Hatfield Indicated That She Felt The Proposed Homes Would Not Be The Same Quality As The Original Homes.

There Being No Further Public Comment, Chairperson Allan Closed The Public Hearing At 7:37 P.M.

Commissioner Thompson Stated That She Was In Favor Of Limiting The Subdivision To One-Story Homes.

City Planner Ocasio Noted That The Subdivision Would Also Be Subject To Review By The Architectural Review Committee.

Commissioner Harmon Asked If An Environmental Impact Report Had Been Prepared For This Project Wildlife Issues.

City Planner Ocasio Responded That Because The Project Is Less Than Five Acres, It Is Exempt And Noted That The General Plan Also Analyzed The Proposed Area.

Commissioner Harmon Inquired How The Wildlife Question Would Be Addressed.

City Planner Ocasio Noted That The Commission Could Add Conditions Regarding Protected Species.

ACTION: On A Motion By Thompson Seconded By Dudley And The Planning Commission Approved Vesting Tentative Tract Map No. 2018-01 With The Added Condition That Only Single-Story Homes Would Be Allowed Within The Subdivision By The Following Roll Call Vote: AYES: Thompson, Dudley, Harmon, And Allan; NOES: None; ABSENT: Coleman; NOT PARTICIPATING: None.

b. Public Hearing

Zone Change No. 2018-01

Applicant: Laura Dompe

Description: Rezone an R-2 (Duplex Residential) 7,498 square foot parcel to R-1 (Single Family Residential).

Location: The subject property is located at 1319 Pointer Way, approximately 50 feet west of Green Teal Way; more specifically described as APN 049-050-051.

City Planner Ocasio Presented And Reviewed Zone Change No. 2018-01.

Commissioner Thompson Asked If The Two Properties Were Already Separated By A Fence.

City Planner Ocasio Noted That Yes, A Fence Already Separates The Properties.

Commissioner Harmon Asked If The Merced Street Address Would Remain Zoned R-2.

City Planner Ocasio Replied Yes, The Merced Street Address Would Remain Zoned R-2.

Chairperson Allan Opened The Public Hearing At 7:50 P.M.

Doug Lucas, 507 Hills Ferry Road, Noted That The Newly Constructed Home On The Property In Question Was Built To Match The Existing Neighborhood. Lucas Stated That He Agreed That The Property Should Be Rezoned To R-1 And Pointed Out That The Lot Had Already Been Split From The Other R-2 Property. He Noted That Rezoning The Property To R-1 Would Ensure That The Property Remained A Single Family Residential Home.

There Being No Further Public Comment, Chairperson Allan Closed The Public Hearing At 7:58 P.M.

ACTION: On A Motion By Thompson Seconded By Harmon, The Planning Commission Approved Zone Change No. 2018-01 By The Following Roll Call Vote: AYES: Thompson, Dudley, Harmon, And Allan; NOES: None; ABSENT: Coleman; NOT PARTICIPATING: None.

8. Items From Commissioners.

Commissioner Thompson Noted That She Had Reviewed The Crows Landing Air Base Environmental Impact Report And Pointed Out That The Proposed Mitigation For Four Acres Of Wetlands Was To Move The Wetlands. Thompson Expressed Concern About Moving The Wetlands And Noted That The Change To The Base's Flight Plan Would Cause Planes To Fly Over Newman.

Commissioner Allan Welcomed Commissioner Harmon And Asked For An Update Regarding The Proposed Taco Bell.

9. Items From Director And Staff.

City Planner Ocasio Explained That The Issue With Taco Bell Revolved Around A Property Rights Matter That May Make The Proposed Location Unfeasible. Ocasio Welcomed Commissioner Harmon. She Noted That A Draft Annexation Policy Had Been Sent To Property Owners In The Northwest Masterplan Area And Indicated That She Was Working On The LAFCO Application For Said Annexation.

10. Adjournment.

ACTION: On A Motion By Dudley Seconded By Thompson And Unanimously Carried, The Meeting Was Adjourned At 8:12 P.M.

**CITY OF NEWMAN
COMMUNITY DEVELOPMENT DEPARTMENT
STAFF REPORT**

PLANNING COMMISSION MEETING DATE: July 18, 2019

AGENDA ITEM: 7.a.

UP #19-01	Operate a cocktail lounge in a C-1 District
APN: 128-009-042	Applicant: Daniel Gray
CEQA: Exempt	Owner: Manish Thakker

REQUEST:

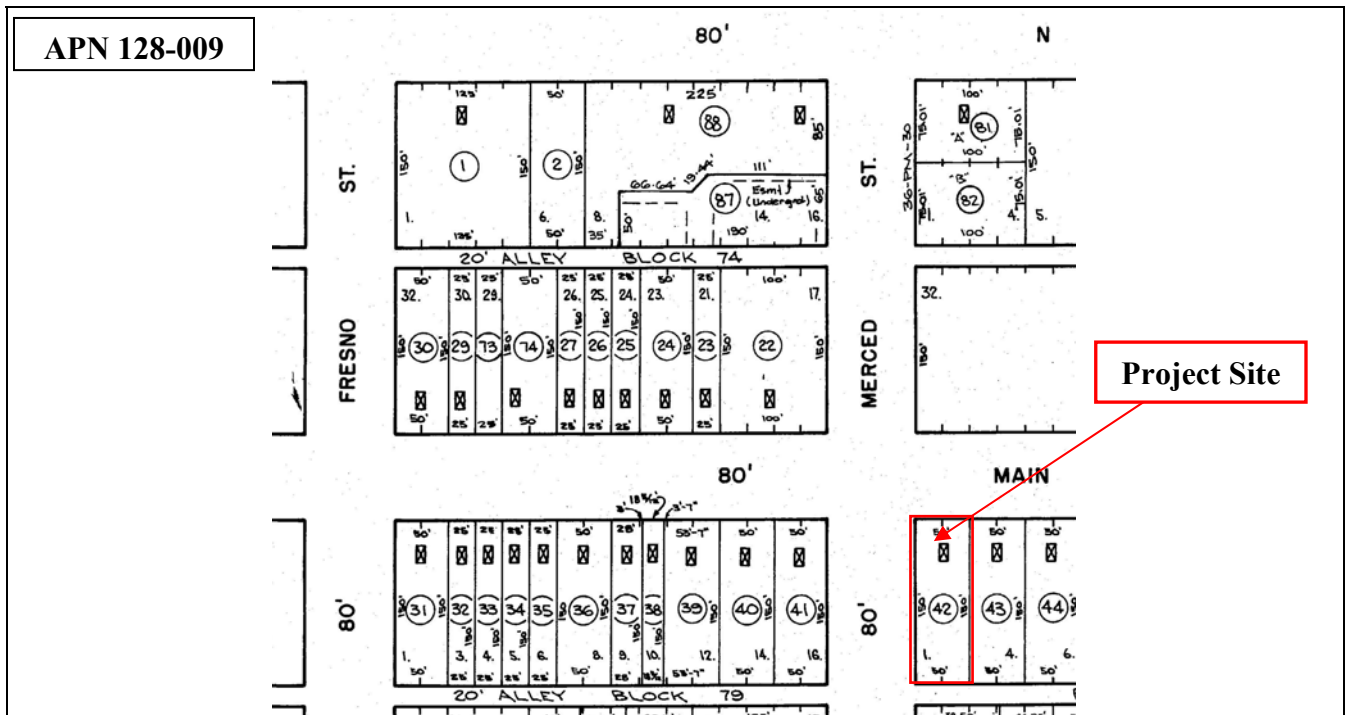
Allow the operation of a cocktail lounge in the “C-1” Retail Commercial District.

LOCATION:

The subject property is located at 1501 Main Street, southwest corner of Main Street and Merced Street.

ENVIRONMENTAL ASSESSMENT:

Pursuant to the California Environmental Quality Act (CEQA) and the City of Newman Environmental Quality Guidelines, it has been determined that this project is categorically exempt from the provisions of CEQA.



LAND USE:

<u>Property</u>	<u>Land Use</u>	<u>Zone</u>	<u>General Plan</u>
Subject site	Commercial	C-1	DC
North	Commercial	C-1	DC
South	Multifamily	C-1	DC
East	Commercial	C-1/C-2	DC
West	Commercial	C-1/R-3	CR

CR = Central Residential

C-1 = Retail Business

R-3 = Multiple Residential

DC = Downtown Commercial

C-2 = General Service Commercial

SIZE OF PROPERTY: 7,500 square feet (parcel)

ACCESS: Main Entrance is the corner of Main and Merced Streets

ORDINANCES:

NMC 5.01.070: General Zoning Definitions

NMC 5.06: C-1 Retail Business District

NMC 5.25.020: Conditional use permits

PROJECT DESCRIPTION:

The applicant is proposing to utilize the former Model Cleaners site as a cocktail lounge. The building has been vacant for nearly a decade. The applicant is proposing to operate seven days a week from noon to 1:30am. However, the hours will be flexible and may close early on days when business is slow. Operations will include the mixing and serving of alcoholic drinks and a commercial kitchen serving a limited menu. The applicant is proposing an outdoor patio at the back of the building. No other changes are being proposed to the exterior of the building other than upgrades to the windows and doors.

BACKGROUND:

The project site is located on the southwest corner of Main Street and Merced Street. The building in the former location of Model Cleaners. The building has been vacant since 2012 and is undergoing a remodel to accommodate the business. This application is late arriving to the Planning Commission as staff misinterpreted the applicant's intention and originally classified the proposed use as a restaurant, which is permitted by right. Upon discovering the error, the applicant has submitted an application for a use permit.

ANALYSIS:

Land Use: The subject site is zoned C-1 (Retail Commercial District), as are the properties to the west, north and south. The properties to the immediate east is C-2 and the northeast properties are C-1. The subject site and surrounding properties are designated as Downtown Commercial by the General Plan. The zoning code identifies the proposed use as a permitted use with a Conditional Use permit. Per municipal code requirements, the applicants have applied for said use permit.

The applicant is an experienced operator of restaurants and cocktail lounges.

Use Permit

NMC §5.25.020.A. states that “the purpose of requiring a conditional use permit is to ensure the proper integration of uses which, because of their special nature, may be suitable only in certain locations and to provide that such uses are arranged or operated in a particular manner...[and] allows a particular use or activity not allowed as a matter of right within a zoning district” Bars, taverns, nightclubs, and cocktail lounges are categorized as a conditional use in the C-1 district and must be approved through the use permit process. The Planning Commission may deny any use permit application that is “...found to be objectionable or incompatible with the character of the City and its environs due to noise, dust, odors, traffic, lack of off-street parking, or other undesirable characteristics.” The proposed use will be completely contained within the building and out of view from the general public. No objectionable noise, dust, odors or lack of off-street parking is anticipated.

Findings: The Planning Commission may approve, or conditionally approve, a use permit application only if the following findings can be made:

1. The proposed conditional use permit is substantially consistent with the General Plan and this title.

Pro: The General Plan identifies the project site as Downtown Commercial, this designation “provides for retail and service uses, restaurants, professional and administrative offices...and similar and compatible uses.” (GP LU-18) Given that the zoning code identifies bars, taverns, nightclubs, and cocktail lounges as compatible uses (with an approved use permit); it can also be identified as a compatible use per the General Plan.

Con: The General Plan does not directly identify the proposed use for the Downtown Commercial designation.

2. The proposed use will not constitute a nuisance or be detrimental to the public health, safety, and general welfare, and will be in the best interest of public convenience and necessity.

Pro: Given that the proposed use will be required to operate under stringent State and Local regulations, approval will not create a nuisance. In addition, the applicant plans to increase employment opportunities within the City, thus providing at least four (4) jobs to local residents. Staff does not anticipate any more of a detrimental effect to public health, safety and general welfare than any other bar would in the City.

Con: The proposed use may cause increased traffic in the surrounding area, causing accelerated wear on the public right-of-way. In addition, the proposed use may increase public safety calls regarding alcohol-related issues and incidents.

3. The site is adequate in size and shape to accommodate the proposed use, building(s) and all related activities.

Pro: Given that the proposed site is an existing building in the Downtown District and that the the applicant has stated that the building is adequate for their business needs and that they will follow building occupancy standards as required by the fire marshal.

Con: The proposed use may cause increased clientele at the project site, thus potentially exceeding occupancy standards.

4. The site relates to streets and highways in such a manner that the type and quantity of traffic generated by the subject use will not have an adverse impact on the surrounding area.

Pro: The applicant is proposing to use the front entrance on Main Street. It is estimated that the proposed use may create up to eight (8) employee and 150 consumer vehicular trips per operating day, these figures may vary depending on the day of the week. The current level of service (LOS) for Main Street is "A", with an approximate daily volume of 1,100 vehicles (GP EIR 4.13-7). The addition of 158 vehicles will not adversely affect the LOS for Main Street. In addition, the increased traffic will occur at times when ample parking is available.

Con: Given the parcel's location and orientation on Main Street, the proposed use may cause increased traffic on Main and surrounding Streets.

5. The proposed use will be compatible with the surrounding neighborhood.

Pro: Given that both the zoning and General Plan identify the subject property and adjacent properties as commercial in nature and that zoning provides for both restaurants and lounges (with approval of a Use Permit) the proposed should not cause any detrimental effects on the surrounding neighborhood.

Con: Given that the majority of business will occur at later hours, the proposed use may cause additional noise and traffic, negatively affecting the surrounding neighborhood at those times.

Public Comment

Public Notices were mailed out to surrounding property owners within a 300' radius and published in the West Side Index on Wednesday July 3rd. As of this date (July 9th), no comments have been received.

CONCLUSION:

The proposed project is a permitted conditional use within the zoning district. A conditional use is defined as a "use which is listed as a conditional use in any given district... [which] may be required to meet certain requirements as a condition precedent to the granting of [said] use permit" (NMC §5.01.070.) NMC §5.25.020 states that "The Planning Commission shall be responsible for determining the merits of a conditional use permit application." With approval of a use permit, the proposed use will be consistent with the General Plan and Zoning Code.

While the proposed cocktail lounge use is new at the project site, it is consistent with previous operations within the downtown district, including one that is with 100 yards of the site. Furthermore, the proposed use will increase employment opportunities within the City and offer an amenity that is currently lacking in the community. Based on the supporting findings and the applicant's experience operating similar establishments, staff recommends the approval

of the Conditional Use Permit application. Per the Municipal Code, staff has provided the Commission findings supporting both approval and denial.

CONDITIONS OF APPROVAL:

Should the Planning Commission grant the applicant's request for a Conditional Use Permit, staff has recommended the following conditions of approval:

Community Development

1. The applicant shall maintain a "Type 48" license from ABC.
2. The use permit location (1501 Main Street) shall be kept clean and free of garbage, cigarette butts and any other debris.
 - a) Adjacent frontage right-of-way, including sidewalk, curb, landscaping and street shall also be kept clean and free of garbage, cigarette butts and any other debris.
3. There shall be no music, either live or prerecorded, permitted outside the building or on the patio.
4. City staff may review the use permit at any time to determine if the applicant may be exempt from any of the conditions five (5) through fourteen (14). Should there be any change in ownership, management, or any violations of conditions listed, or at the discretion of the Chief of Police all conditions including five (5) through fourteen (14) must be followed.

Public Safety

Security

5. A California State Licensed/Certified Security Company or Guard shall provide security for the business. The company shall be licensed to do business in the City of Newman.
6. All security guards shall be licensed, as provisioned by California State Statute.
7. All Security guard applicants must be able to meet the application requirements by the Department of Consumer Affairs for a guard card/license.
8. Upon receipt of guard card, a copy of the guard card must be furnished to the Newman Police Department.
9. All security guards currently employed and new hires shall have 60 days to come into compliance with the guard card requirements through the State.
10. There shall be at least one (1) security officer stationed at the entrance of the business during hours of operation. This officer shall keep count of the patrons entering and leaving the business by use of two mechanical counting devices, one for those entering and one for those patrons exiting and made available for inspection by the police department upon demand.
11. There shall be at least (1) uniformed security guard on duty to patrol the outside of the premises including, but not limited to, the back alley and adjacent property and parking lot during hours of operation on Fridays and Saturdays. The guard is not to be counted as a bouncer or doormen or the minimum ratio of security personnel. All security guards shall be licensed as provisioned by California State Statute at hire referenced in Condition #1 of conditions of dance permit.
12. Additional security may be required as outlined in Section 26, Special Events.

Permit Requirements:

13. If the facility is leased, subletted, or rented, the organization or individual must apply for a Daily Dance Permit application 15 days in advance of the event providing proof of security, and a copy of the lease agreement for use of the facility.
14. If the applicant/establishment is owned as a corporation or partnership, it shall provide to Newman Police Department a full disclosure of all partners, and /or officers, including their addresses or phone numbers, must be reported to the Newman Police Department within three (3) business days of any changes.
15. These conditions shall be posted along with the dance hall establishment permit in public view and available to law enforcement for inspection upon request.
16. There shall be no topless dancing, nude dancing and/or male, female revues permitted on the premises at anytime.
17. Newman Police Department is not responsible or required to send reminder notices regarding the renewal of a dance permit. The permit holder is responsible to file a dance permit application within 15 days of the expiration date. If the permit expires, the dance permit is no longer valid and enforcement or administrative fines may be levied.
18. As a condition of the dance permit issued to the permittee, the Newman Police Department must have on file at all times, evidence of liability insurance naming the City of Newman as an additional insured. Minimum liability amounts must be one million dollars (\$1,000,000).
19. A dance permit shall not be issued or renewed if the business license fees, filings and/or taxes are not current or paid in full.
20. Newman Police Department may change or revise conditions of this dance permit with 48-hour written notice.

Uniforms

21. All private security guards and security staff/bouncers must be in light colored (white, yellow, tan or light gray) shirts and outer layering with the following on the back of the shirts or outer layer, in black or dark blue lettering: 'SECURITY'. Only black or blue lettering is permitted and no smaller than 4 inches in height. Lettering must be monogrammed, embroidered or silk-screened. The front of the shirts shall also display the name of the security company and/or the bar name and 'SECURITY' in smaller, visible print. Dark colored pants are acceptable.

Safety Provisions

22. Occupancy for the premises shall be posted above the main entrance, visible to the public, and also posted above every bar(s) location within the establishment.
23. At no time shall the occupancy exceed the rated number posted for occupancy. If it is determined that the premise is over their posted occupancy, the Police Department shall have the authority to restrict further entrance of patrons until the facility has abated their occupancy issue.
24. Entertainment provided by the licensee shall not be audible beyond the entertainment venue under the control of the licensee.
25. The licensee is responsible for the orderly disbursement of all patrons upon closing and within thirty (30) minutes prior to the establishments' closing time.
26. Security staff will remain on the premises until all patrons have left the vicinity of the premises and surrounding neighborhoods when the business closes, discourage any loitering in the parking areas to business during and at the close of the business.

27. At all times, during the hours of operation, the business shall remain open and accessible to law enforcement and the fire department.
28. Closing conditions are as follows:
29. All sales of alcohol must cease at 1:30 A.M.
30. Consumption of alcohol must stop by 2:00 A.M. and drinks are to be collected and disposed of.
31. No new patrons shall be allowed into the bar after 1:30 A.M.
32. Patrons requesting taxi service or alternative transportation will be given reasonable assistance by the bar management/security staff.

ABC Requirements

33. Licensee shall adhere to all conditions of their ABC license issued to the premises.
34. No alcoholic beverages shall be consumed on any property adjacent to the licensed premises under control of the licensee.
35. On duty employees for the business shall not consume alcoholic beverages or be under the influence of an alcoholic beverage on the premises during hours of operation.
36. Those areas adjacent to the business shall be maintained litter free. All litter shall be removed within three (3) hours of closing time.

Special Events

37. Any valid dance establishment permit holder that holds a special event shall notify the Newman Police Department by electronic e-mail notification to the Police Chief at npd@cityofnewman.com no less than twenty-four (24) calendar days in advance of the special event.
 - a) A “special event” is defined as any live performance, concert, live music event, live entertainment or any person or persons including DJ’s providing musical entertainment with live or recorded music.
 - b) The Newman Police Department shall review the written notification of the special event and determine, based upon past experience and/or research whether it is reasonably likely that the special event may draw a large attendance, evoke increased violence, noise, public drunkenness, drug-trafficking and other illegal activity.
 - c) The Newman Police Department will notify the permit holder of its determination 15 calendar days before the event, provided the Newman Police Department receives timely notice of the special event. If the Newman Police Department determines that the special event is reasonably likely to draw a large attendance, evoke increased violence, noise, public drunkenness, drug trafficking or other illegal activities, the Newman Police Department will require the dance establishment to increase its security requirements. The additional security required for any special event is an express condition of the dance permit and is in addition to all other security requirements of the dance establishment permit.
 - d) Additionally, the holder of the establishment’s dance permit will be responsible for costs of additional police officers, community service officers and other staffing as determined by the Newman Police Department, based upon past experience and/or research which is required to maintain the tranquility, good order, and well being of the downtown area and the community at large, prior to, during and after the dance establishment’s special event. The Newman Police Department will invoice the dance establishment permit holder for the cost of additional police officers, or other staffing within fifteen (15) days of the special event. The dance establishment

permit holder shall pay said invoice within fifteen (15) days of the date on the invoice.

- e) Any promotional advertising for any special event must be submitted 24 days in advance of the special event, to the attention of the Police Chief. Promotional advertising is all draft radio advertising, posters, handbills and any printed media advertising of a special event as defined in section 28(a) of these dance permit conditions.
- f) The dance establishment permit holder and/or establishment manager must notify all neighboring businesses within 150 feet, at least 24 days in advance of the special event.

Fines, Suspension and Revocation

- 38. The licensee agrees to pay for police services provided by the City of Newman for costs of police services, as determined by the Chief of Police, and are a result of public disorder, arising from patrons of the establishment.
- 39. Any violations of these conditions, local ordinances or state laws, may result in administrative fines, or the immediate suspension and/or revocation of this Use Permit per Newman Municipal Code.

Standard Conditions

- 40. All plans shall be consistent with the site plan, reflecting amendments as approved.
- 41. Any proposed modifications of a significant and/or permanent nature to the approved site plan or elevations, involving building exteriors or square footage, fence/walls, or major landscaping modifications, may require approval of a new use permit application.
- 42. It shall be the responsibility of the applicants to convey copies of the conditions of approval to all contractors and sub-contractors.
- 43. All contractors performing work relative to this project shall obtain City of Newman Business Licenses, prior to start of work on the project. All work performed on the project shall comply with the requirements of the State Business and Professions Code.

ATTACHMENTS:

- 1. Resolution 2019-xx approving Use Permit 2019-01 allowing the operation of a cocktail lounge at 1501 Main Street

PLANNING COMMISSION RESOLUTION No. 2019-01

**A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF NEWMAN
APPROVING USE PERMIT #2019-01**

PROJECT NAME: Use Permit 2019-01

PROPOSAL DESCRIPTION: Use Permit to allow the operation of a cocktail lounge at 1501 Main Street.

PROJECT APPLICANT: Daniel Gray

WHEREAS, the City Planning Commission having reviewed the proposal and having reviewed any written or verbal comments received prior to the public hearing, including the recommendations of City Staff and having heard oral comments received during the Planning Commission public hearing, does hereby find and declare that the proposal will not have a significant effect on the environment and adopts by resolution approval of Use Permit 2019-01 based on the following findings and conditions of approval:

FINDINGS FOR APPROVAL:

1. Given that the General Plan identifies the project site as Downtown Commercial, this designation “provides for retail and service uses, restaurants, professional and administrative offices...and similar and compatible uses.” (GP LU-18) and that the zoning code identifies bars, taverns, nightclubs, and cocktail lounges as compatible uses (with an approved use permit, the proposed use is consistent with the General Plan and this Title.
2. Given that the proposed use will be required to operate under stringent State and Local regulations, approval will not create a nuisance. In addition, the applicant plans to increase employment opportunities within the City, thus providing at least four (4) jobs to local residents. Staff does not anticipate any more of a detrimental effect to public health, safety and general welfare than any other bar would in the City.
3. Given that the proposed site is an existing building in the Downtown District and that the the applicant has stated that the building is adequate for their business needs and that they will follow building occupancy standards as required by the fire marshal, the site is adequate in size and shape to accommodate the proposed use.
4. Given The applicant is proposing to use the front entrance on Main Street. It is estimated that the proposed use may create up to eight (8) employee and 150 consumer vehicular trips per operating day, these figures may vary depending on the day of the week. The current level of service (LOS) for Main Street is “A”, with an approximate daily volume of 1,100 vehicles (GP EIR 4.13-7). The addition of 158 vehicles will not adversely affect the LOS for Main Street. In addition, the increased traffic will occur at times when ample parking is available.
5. Given that both the zoning and General Plan identify the subject property and adjacent properties as commercial in nature and that zoning provides for both restaurants and lounges (with approval of a Use Permit)e the proposed should not cause any detrimental effects on the surrounding neighborhood.

CONDITIONS OF APPROVAL

Community Development

1. The applicant shall maintain a “Type 48” license from ABC.
2. The use permit location (1501 Main Street) shall be kept clean and free of garbage, cigarette butts and any other debris.
 - a) Adjacent frontage right-of-way, including sidewalk, curb, landscaping and street shall also be kept clean and free of garbage, cigarette butts and any other debris.

3. There shall be no music, either live or prerecorded, permitted outside the building or on the patio.
4. City staff may review the use permit at any time to determine if the applicant may be exempt from any of the conditions five (5) through fourteen (14). Should there be any change in ownership, management, or any violations of conditions listed, or at the discretion of the Chief of Police all conditions including five (5) through fourteen (14) must be followed.

Public Safety

Security

5. A California State Licensed/Certified Security Company or Guard shall provide security for the business. The company shall be licensed to do business in the City of Newman.
6. All security guards shall be licensed, as provisioned by California State Statute.
7. All Security guard applicants must be able to meet the application requirements by the Department of Consumer Affairs for a guard card/license.
8. Upon receipt of guard card, a copy of the guard card must be furnished to the Newman Police Department.
9. All security guards currently employed and new hires shall have 60 days to come into compliance with the guard card requirements through the State.
10. There shall be at least one (1) security officer stationed at the entrance of the business during hours of operation. This officer shall keep count of the patrons entering and leaving the business by use of two mechanical counting devices, one for those entering and one for those patrons exiting and made available for inspection by the police department upon demand.
11. There shall be at least (1) uniformed security guard on duty to patrol the outside of the premises including, but not limited to, the back alley and adjacent property and parking lot during hours of operation on Fridays and Saturdays. The guard is not to be counted as a bouncer or doorman or the minimum ratio of security personnel. All security guards shall be licensed as provisioned by California State Statute at hire referenced in Condition #1 of conditions of dance permit.
12. Additional security may be required as outlined in Section 37, Special Events.

Permit Requirements:

13. If the facility is leased, subletted, or rented, the organization or individual must apply for a Daily Dance Permit application 15 days in advance of the event providing proof of security, and a copy of the lease agreement for use of the facility.
14. If the applicant/establishment is owned as a corporation or partnership, it shall provide to Newman Police Department a full disclosure of all partners, and /or officers, including their addresses or phone numbers, must be reported to the Newman Police Department within three (3) business days of any changes.
15. These conditions shall be posted along with the dance hall establishment permit in public view and available to law enforcement for inspection upon request.
16. There shall be no topless dancing, nude dancing and/or male, female revues permitted on the premises at anytime.
17. Newman Police Department is not responsible or required to send reminder notices regarding the renewal of a dance permit. The permit holder is responsible to file a dance permit application within 15 days of the expiration date. If the permit expires, the dance permit is no longer valid and enforcement or administrative fines may be levied.
18. As a condition of the dance permit issued to the permittee, the Newman Police Department must have on file at all times, evidence of liability insurance naming the City of Newman as an additional insured. Minimum liability amounts must be one million dollars (\$1,000,000).
19. A dance permit shall not be issued or renewed if the business license fees, filings and/or taxes are not current or paid in full.
20. Newman Police Department may change or revise conditions of this dance permit with 48-hour written notice.

Uniforms

21. All private security guards and security staff/bouncers must be in light colored (white, yellow, tan or light gray) shirts and outer layering with the following on the back of the shirts or outer

layer, in black or dark blue lettering: 'SECURITY'. Only black or blue lettering is permitted and no smaller than 4 inches in height. Lettering must be monogrammed, embroidered or silk-screened. The front of the shirts shall also display the name of the security company and/or the bar name and 'SECURITY' in smaller, visible print. Dark colored pants are acceptable.

Safety Provisions

22. Occupancy for the premises shall be posted above the main entrance, visible to the public, and also posted above every bar(s) location within the establishment.
23. At no time shall the occupancy exceed the rated number posted for occupancy. If it is determined that the premise is over their posted occupancy, the Police Department shall have the authority to restrict further entrance of patrons until the facility has abated their occupancy issue.
24. Entertainment provided by the licensee shall not be audible beyond the entertainment venue under the control of the licensee.
25. The licensee is responsible for the orderly disbursement of all patrons upon closing and within thirty (30) minutes prior to the establishments' closing time.
26. Security staff will remain on the premises until all patrons have left the vicinity of the premises and surrounding neighborhoods when the business closes, discourage any loitering in the parking areas to business during and at the close of the business.
27. At all times, during the hours of operation, the business shall remain open and accessible to law enforcement and the fire department.
28. Closing conditions are as follows:
29. All sales of alcohol must cease at 1:30 A.M.
30. Consumption of alcohol must stop by 2:00 A.M. and drinks are to be collected and disposed of.
31. No new patrons shall be allowed into the bar after 1:30 A.M.
32. Patrons requesting taxi service or alternative transportation will be given reasonable assistance by the bar management/security staff.

ABC Requirements

33. Licensee shall adhere to all conditions of their ABC license issued to the premises.
34. No alcoholic beverages shall be consumed on any property adjacent to the licensed premises under control of the licensee.
35. On duty employees for the business shall not consume alcoholic beverages or be under the influence of an alcoholic beverage on the premises during hours of operation.
36. Those areas adjacent to the business shall be maintained litter free. All litter shall be removed within three (3) hours of closing time.

Special Events

37. Any valid dance establishment permit holder that holds a special event shall notify the Newman Police Department by electronic e-mail notification to the Police Chief at npd@cityofnewman.com no less than twenty-four (24) calendar days in advance of the special event.
 - a) A "special event" is defined as any live performance, concert, live music event, live entertainment or any person or persons including DJ's providing musical entertainment with live or recorded music.
 - b) The Newman Police Department shall review the written notification of the special event and determine, based upon past experience and/or research whether it is reasonably likely that the special event may draw a large attendance, evoke increased violence, noise, public drunkenness, drug-trafficking and other illegal activity.
 - c) The Newman Police Department will notify the permit holder of its determination 15 calendar days before the event, provided the Newman Police Department receives timely notice of the special event. If the Newman Police Department determines that the special event is reasonably likely to draw a large attendance, evoke increased violence, noise, public drunkenness, drug trafficking or other illegal activities, the Newman Police Department will require the dance establishment to increase its security requirements. The

additional security required for any special event is an express condition of the dance permit and is in addition to all other security requirements of the dance establishment permit.

- d) Additionally, the holder of the establishment's dance permit will be responsible for costs of additional police officers, community service officers and other staffing as determined by the Newman Police Department, based upon past experience and/or research which is required to maintain the tranquility, good order, and well being of the downtown area and the community at large, prior to, during and after the dance establishment's special event. The Newman Police Department will invoice the dance establishment permit holder for the cost of additional police officers, or other staffing within fifteen (15) days of the special event. The dance establishment permit holder shall pay said invoice within fifteen (15) days of the date on the invoice.
- e) Any promotional advertising for any special event must be submitted 24 days in advance of the special event, to the attention of the Police Chief. Promotional advertising is all draft radio advertising, posters, handbills and any printed media advertising of a special event as defined in section 28(a) of these dance permit conditions.
- f) The dance establishment permit holder and/or establishment manager must notify all neighboring businesses within 150 feet, at least 24 days in advance of the special event.

Fines, Suspension and Revocation

- 38. The licensee agrees to pay for police services provided by the City of Newman for costs of police services, as determined by the Chief of Police, and are a result of public disorder, arising from patrons of the establishment.
- 39. Any violations of these conditions, local ordinances or state laws, may result in administrative fines, or the immediate suspension and/or revocation of this Use Permit per Newman Municipal Code.

Standard Conditions

- 40. All plans shall be consistent with the site plan, reflecting amendments as approved.
- 41. Any proposed modifications of a significant and/or permanent nature to the approved site plan or elevations, involving building exteriors or square footage, fence/walls, or major landscaping modifications, may require approval of a new use permit application.
- 42. It shall be the responsibility of the applicants to convey copies of the conditions of approval to all contractors and sub-contractors.
- 43. All contractors performing work relative to this project shall obtain City of Newman Business Licenses, prior to start of work on the project. All work performed on the project shall comply with the requirements of the State Business and Professions Code.

The foregoing resolution was introduced at a regular meeting of the Planning Commission of the City of Newman held on the 18th day of July, 2019, by Commissioner _____, who moved its adoption, which motion was duly seconded by Commissioner _____, and the Resolution adopted by the following vote:

AYES:
NOES:
ABSENT:

APPROVED:

Planning Commission Chairperson

ATTEST:

Planning Commission Secretary