

AGENDA
City of Riverbank Developmental Services Department
Planning Commission Meeting
Tuesday, September 17, 2013 – 6:00 p.m.
6707 3rd Street, Riverbank, California 95367

CALL TO ORDER:

Chair: Stewart

ROLL CALL:

Chair: Stewart
Vice Chair: Hughes
Commissioners: Villapudua
Degele

CONFLICT OF INTEREST

Declaration by Staff or members of the Planning Commission who would have a direct Conflict of Interest on any scheduled agenda item.

BUSINESS FROM THE FLOOR (No action to be taken)

At this time members of the public may comment on any item not appearing on the agenda. It is recommended to keep your comments between 3 to 5 minutes. Under State Law, matters presented under this item cannot be discussed or acted upon by the Planning Commission at this time. For items appearing on the agenda, the public will be invited to make comments at the time the item comes up for Commission consideration. At all times, please use the microphone.

1. CONSENT CALENDAR

Consent Items are items on this agenda designated by an Asterisk (*) next to the item number, requiring a Planning Commission Public Hearing but which, following an initial evaluation by Staff, have been found to be consistent with existing City of Riverbank policy and General Plan and are, therefore, recommended for "routine" approval. Prior to actual Planning Commission consideration, the Chairperson will open the Public Hearing and ask if anyone present wishes to discuss any of the items. If you want a particular agenda item removed for the "Consent" please speak up and advise the Chairperson. That item will then be withdrawn from the "Consent" and reviewed. The remaining "Consent" items, for which there are no voice objections, will be handled by a single action of the Commission.

Item 1.A: Posting of the Agenda. The Agenda for the September 17, 2013 Planning Commission Meeting was posted on the City Chamber bulletin board and the City Hall North & South bulletin board on September 12, 2013.

Item 1.B: Approval of the Agenda. This provides an opportunity for the Planning Commission or Staff to recommend that an item be placed on the agenda for discussion or to adjust the proposed agenda to allow an item to be taken out of order.

Item 1.C: Approval of the Minutes. The Minutes of the August 20, 2013, Planning Commission Meetings having been read by the individual Commissioners and stands approved as submitted. Commissioner's: Villapudua to abstain due to absence.

Recommendation: Approval of Consent Calendar items by roll call vote.

Any writings or documents provided to a majority of the Planning Commission regarding any item on this agenda will be made available for public inspection at the Developmental Services Department Counter at City Hall South located at 6617 3rd Street, Riverbank during normal business hours.

2. PUBLIC HEARINGS

Continued Item 2.1: CUP 01-2013 – Galaxy Theatres, LLC – Request to sale and serve beer and wine (Class 41 License). Originally approved was CUP 02-2008 restricted to VIP areas only as this new CUP they are requesting to sale and expand consumption of beer and wine to all theatres. Location: 2525 Patterson Rd., APN: 075-008-029, within C-2 General Commercial Zoning District. This item was continued from Planning Commission meeting of July 16 and August 20, 2013.

Recommendation: Approval by roll call vote

3. NEW BUSINESS

4. COMMISSION ITEMS

5. COUNTY REFERRAL/CORRESPONDENCE/INFORMATION

6. UP-COMING MEETING AGENDA ITEMS

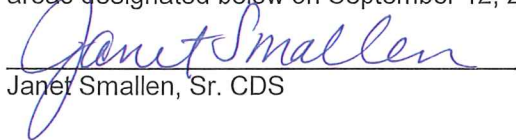
Item 6.1: Architecture Site Plan and Landscape Review for a Medical Office Building.

Item 6.2: Local Redevelopment Authority (LRA) Specific Plan and Final EIR.

Item 6.3: Downtown Specific Plan (FEIR has been previously certified).

7. ADJOURNMENT

I, Janet Smallen, Sr. Community Development Specialist for the City of Riverbank, certify that I caused to be posted copies of the Riverbank Planning Commission Agenda for the Meeting on September 17, 2013 in the areas designated below on September 12, 2013.


Janet Smallen, Sr. CDS

Riverbank City Hall North, 6707 3rd Street
Riverbank City Hall South, 6617 3rd Street

Any writings or documents provided to a majority of the Planning Commission regarding any item on this agenda will be made available for public inspection at the Development al Services Department Counter at City Hall South located at 6617 3rd Street, Riverbank during normal business hours.

AGENDA ITEM NO. 1.A
DATE & TIME OF POSTING

Date: September 12, 2013 Time: 2:00 p.m.

Verified by: 
Janet Smullen, Sr. CDS

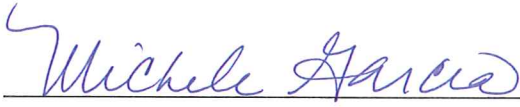
NOTICE REGARDING AMERICANS WITH DISABILITIES ACT: In compliance with the Americans with Disabilities Act, if you need special assistance to participate in this meeting, please contact the Building & Safety Director (209) 869-7101. Notification 48-hours before the meeting will enable the City to make reasonable arrangements to ensure accessibility to this meeting [28 CFR 35.102-35.104 ADA Title II].

NOTICE REGARDING NON-ENGLISH SPEAKERS: Pursuant to California Constitution Article III, Section IV, establishing English as the official language for the State of California, and in accordance with California Code of Civil Procedures Section 185, which requires proceedings before any State Court to be in English, notice is hereby given that all proceedings before the City of Riverbank City Council shall be in English and anyone wishing to address the Council is required to have a translator present who will take an oath to make an accurate translation from any language not English into the English language.

GENERAL INFORMATION: The Riverbank Planning commission meets on the third Tuesday of each month at 6:00 p.m.

COMMISSION AGENDAS: Copies of the Planning Commission agendas are available for public review at the Developmental Services Department Office, 6617 Third Street on the Friday prior to the meeting or at the time of the scheduled meeting.

QUESTIONS: Contact the Developmental Services Department at (209) 863-7128.

WITNESSED BY: 

Any writings or documents provided to a majority of the Planning Commission regarding any item on this agenda will be made available for public inspection at the Developmental Services Department Counter at City Hall South located at 6617 3 rd Street, Riverbank during normal business hours.
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MINUTES
City Of Riverbank Planning Commission
Tuesday August 20, 2013 Meeting

CALL TO ORDER/ROLL CALL:

Present: Chair Stewart, Vice Chair Hughes, Commissioner Degele

Absent: Commissioner Villapudua

CONFLICT OF INTEREST: None.

BUSINESS FROM THE FLOOR: This is the opportunity of the audience to raise issues which are not on the agenda. Although no action may be taken tonight, the Planning Commission may direct staff to report on the issue(s) raised at a later Planning Commission Meeting.

1. CONSENT CALENDAR: Approval of matters listed under the Consent Calendar is considered routine. There will be no discussion of items listed under the Consent Calendar unless a member of the Planning Commission or the public requests that it be removed from the Consent Calendar for separate discussion and consideration.

The following Consent Items were approved as follows:

Consent Agenda Item No. 1.A

Posting of the August 20, 2013, Planning Commission Meeting a motion was made by Vice Chair Hughes and seconded by Commissioner Degele was approved as submitted.

Consent Agenda Item No. 1.B

The Agenda for the August 20, 2013, Planning Commission Meeting a motion was made by Vice Chair Hughes and seconded by Commissioner Degele was approved as submitted.

Consent Agenda Item No. 1.C

The Minutes of the July 16, 2013, Planning Commission Meeting was approved by Vice Chair Hughes and seconded by Commissioner Degele, as presented.

2. PUBLIC HEARING ITEMS

Item 2.1: CONTINUANCE - CUP 01-2013 – Galaxy Theatres, LLC – Request to sale and serve beer and wine (Class 41 License). Originally approved was CUP 02-2008 restricted to VIP areas only as this new CUP they are requesting to sale and expand consumption of beer and wine to all theatres. Location: 2525 Patterson Rd., APN: 075-008-029, within C-2 General Commercial Zoning District.

- Richard Holmer on behalf of the applicant asked if the item could be continued until September 17, 2013 Planning Commission meeting.

ACTION: By motion (Degele / Hughes) 3-0 approved.

3. NEW BUSINESS

Item 3.1: Workshop – Local Redevelopment Authority (LRA) Specific Plan and Final EIR.

- Power Point presentation given by Bruce Brubaker and Melissa Erikson from the Planning Center on behalf of the LRA.
- Planning Commission asked questions pertaining to the presentation.

ACTION: NONE.

4. COMMISSION ITEMS

Item 4.1: Commissioner Degele asked what the status is with the removal of Commissioner Melendez.

- Staff advised Commissioners that it had gone before City Council and the recruitment process will begin shortly.

5. COUNTY REFERRAL/CORRESPONDENCE/INFORMATION

None.

6. UP-COMING MEETING AGENDA ITEMS

Item 6.1: Continued Item 2.1 CUP 01-2013 – Galaxy Theatres, LLC – Request to sale and serve beer and wine (Class 41 License).

7. PRESENTATIONS

None.

8. ADJOURNMENT

There being no further business, Chair Stewart adjourned the meeting.

ATTEST:

APPROVED:

John B. Anderson
Recording Secretary

Joan Stewart, Chair
Planning Commissioner

**CITY OF RIVERBANK
PLANNING COMMISSION
STAFF REPORT
Agenda Item No. 2.1**

September 17, 2013

APPLICATION: Conditional Use Permit No. 01-2013 – Galaxy Cinemas Riverbank, LLC – Request to sale alcoholic beverages (beer and wine) for on the premises consumption (Class 41 License). Within the C-2, General Commercial Zoning District (PD-42) located at 2525 Patterson Road, APN 075-008-029.

PROPERTY OWNER: Galaxy Cinemas Riverbank, LLC

**APPLICANT
REPRESENTATIVE:** Rich Holmer

LOCATION: 2525 Patterson Road, APN: 075-0008-029.

GENERAL PLAN: Mixed Use

ZONING: C-2, General Commercial (PD-42)

**ENVIRONMENTAL
DETERMINATION:** The proposed project will not have a significant effect on the environment and is categorically exempt under Article 19 Section 15332 (a-d).

PROJECT PLANNER: John B. Anderson, Consultant Planning Director

RECOMMENDATION: Conditionally approve the sale of alcoholic beverages (beer and wine) for on premise consumption within the C-2 Zoning District (PD-42)

ACRONYMS: CEQA – California Environmental Quality Act

I. EXECUTIVE SUMMARY:

The Applicant, Galaxy Theaters, LLC is seeking a Conditional Use Permit to allow sale of alcoholic beverages (beer and wine) for consumption on the premises (Class 41 License). Sections 153.360-153.374 of the City of Riverbanks Municipal Code require a Conditional Use Permit for Retail Sales of Alcohol Beverages. With proper conditions addressing the conduct of sale of alcoholic beverages and property maintenance, the use is not expected to impact neighboring commercial and residential uses.

II. ENVIRONMENTAL DETERMINATION:

The project will have minimal impact upon the environment and meets all applicable criteria to qualify as categorically exempt from further review under CEQA. This CEQA exemption: The project meets the criteria of Article 19 Categorical Exemptions 15332 (a-d) In-Fill Development Projects. The project is consistent with the applicable general plan designation and all applicable general plan policies as well as with applicable zoning designation and regulations.

III. ANALYSIS:

On September 16, 2008, the City's Planning Commission approved Conditional Use Permit (CUP) No. 02-2008 to allow for the Applicant to conduct on-site sale of alcohol (Beer and Wine) at the same location being considered under this application. The intent of the 2008 application was to sell beer and wine in a controlled area of the theater as part of its VIP Theatre Program and Special Events. However, the operator chose not to implement the use approved under CUP 02-2008, and the CUP has since expired in accordance with Section 153.216(E)(3) of the City's Municipal Code.

The current Application was circulated to various City Departments and Agencies for review and comment. Comments were received from the City's Police Department, Finance Department Development Services Department, Stanislaus Consolidated Fire Protection District, and Gilton Solid Waste Management, Inc. (Attachment 1). The Police Department expressed concerns with the sales of alcohol in an area where persons under 21 are present, underage drinking enforcement, and alcohol consumption in an emergency situation (i.e. fire, etc.). The Applicant provided a response to the Police Department concerns, which is included as Attachment 2 of this Staff Report. The Police Department is currently reviewing the applicants response to concerns raised.

IV. PUBLIC NOTICE:

The Planning Commission hearing notice was published in the Riverbank News on July 3, 2013 and posted at City Hall North and South on July 3, 2013. In addition, the Applicant posted a Notice of Development Permit Application at 2525 Patterson Road on June 25, 2013 and notices were distributed to residents and business within 300-feet of the Project site in accordance with City standard practices. At the time of writing this Staff Report (July 9, 2013), the City has not received any public comment. Written comments received by the City shall be supplied to the Commission at the day of the meeting and read into the public record.

V. ADDITIONAL RESEARCH PER REQUEST OF PLANNING COMMISSION MEETING OF JULY 16, 2013:

At the request of the Planning Commission staff has taken the time to survey other Cities in the State of California to determine the level of interest in similar theatres around the State. We have surveyed over 20 Cities and have the results to share with the Commission as Attachment 5 to this Staff Report. Most of the Cities surveyed in the Central Valley have not

been approached by their theater operators to sell beer and wine. Other areas of the state we surveyed including Anaheim, New Port Beach, El Segundo and Healdsburg are allowing the sale of beer and wine only in defined VIP service areas. We are told that several of theater operators have modified their operation permits to allow the sale of beer and wine in VIP areas, rather than in specific theaters which are only open to patrons 21 years of age and older.

The trend in California appears to be towards VIP areas and not to allow the sale and consumption of beer and wine in the entire theater facility.

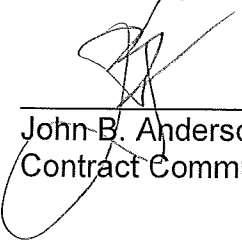
VI. RECOMMENDATION:

- A. Find that the project is Categorically Exempt under Article 19 Section 15332 (a-d) of the CEQA Guidelines, and approve the Conditional Use Permit pursuant to findings and conditions contained in the attached Resolution.

OR if the Planning Commission Prefers

- B. Based upon Public Testimony recommend denial of CUP01-2013.

Respectfully Submitted By:



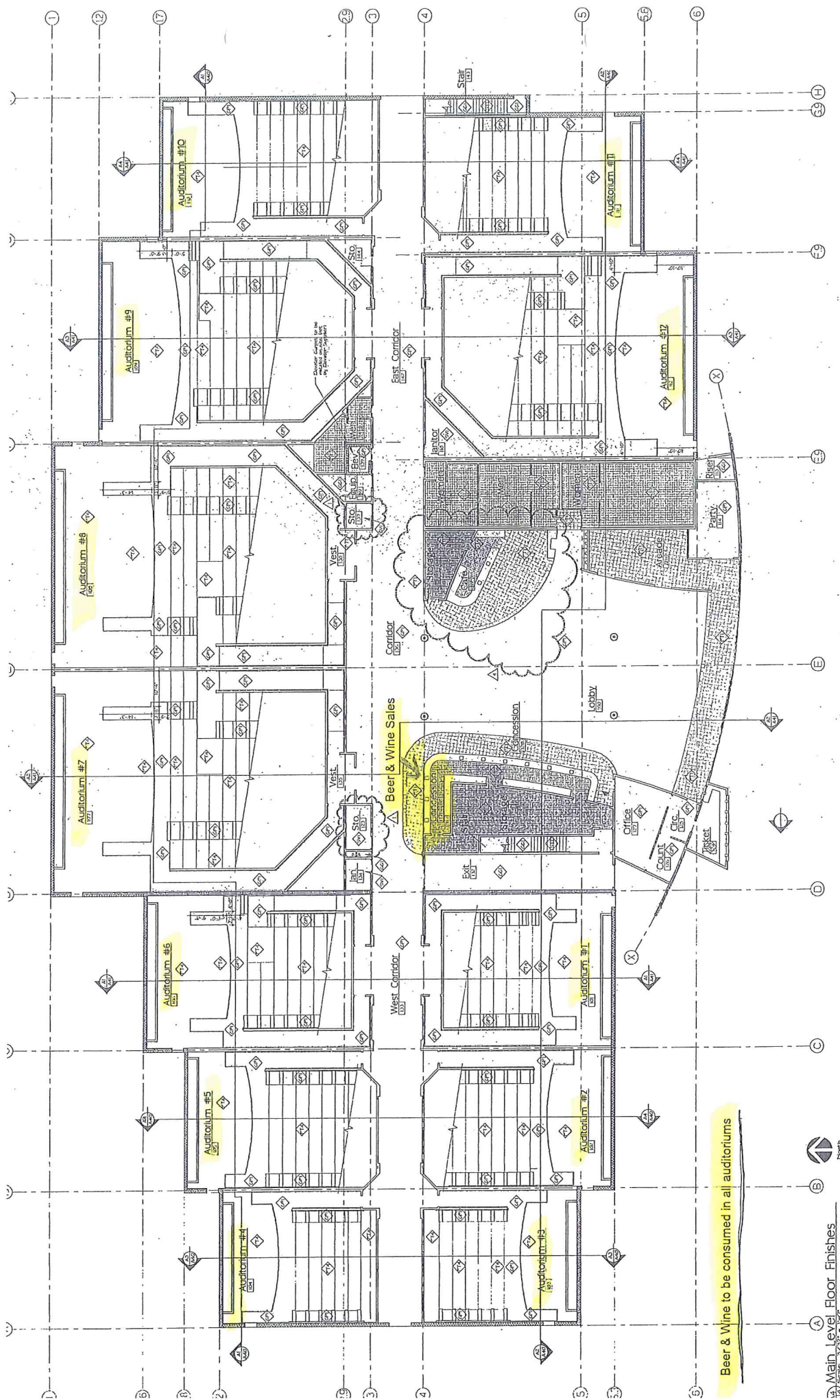
John B. Anderson
Contract Community Development Director

Attachments:

1. Site Plan & Floor Plan
2. Public Agency Comments
3. Letter from Applicant, dated July 3, 2013
4. Draft PC Resolution 2013-006
5. Summary of ABC License Research for Theatres
6. Letters of Correspondence



Galaxy Theatre -
2525 Patterson Rd.



Beer & Wine to be consumed in all auditoriums



Main Level Floor Finishes
Scale 1/8" = 1'-0"

CONSULTATION RESPONSE FORM
RETURN FORM OR SEND DETAILED LETTER

Date: June 17, 2013

Your **review and written comments** on the below referenced project applications is **requested**. Your comments must be received by the due date in order that the City of Riverbank Development Services Department may meet its statutory time line for this phase of the project review. Return of the responsible form is requested for our files.

ENVIRONMENTAL ASSESSMENT:

Attached is the Applicants Environmental Information Form. If your agency has specific environmental issues to be addressed and/or conditions they wish to be considered by the City of Riverbank, please attach your comments and forward to our office. Please identify the person commenting and/or requesting conditions to be imposed in order that the City may make contact if clarification is necessary.

Additional comments may be made on this form or on a separate sheet/cover and returned to our office. Thank you!

APPLICATION/DESC/LOCATION: CUP 01-2013 – Galaxy Theatres, LLC: Request to add the sale of beer and wine to its customers at the Galaxy 12 movie Theatre. On sale Beer and Wine for Bona Fide Public Eating Place (Class 41 License). Location: 2525 Patterson Rd., APN: 075-008-029.

ATTACHED REFERENCE MATERIAL

APPLICATION, , SITE PLAN, FLOOR PLAN

DATE RESPONSE REQUESTED BY: June 28, 2013

Over →

Agency: Riverbank Police Services

Person Reviewing Project: Interim Chief E. Kiely

Date: 06/21/13

COMMENTS:

I have reviewed the attached application, researched calls for service at Galaxy (2525 Patterson Rd., Riverbank), contacted Stockton ABC, contacted Atascadero Police Dept., contacted Galaxy Theater in Atascadero, researched online, and considered my experience and training in order to determine the following:

Riverbank Galaxy proposes to serve alcohol adjacent to the general concession and proposes that beer and wine be consumed in all auditoriums (and amongst the general population) via a Class 41 License. Stockton ABC confirmed that they have not issued any such permit in the past under these circumstances in the entire 6 county area they are responsible for. In the last 12 months, RPS Deputies have responded to 95 calls for service at Galaxy Theater and/or its parking lot. Galaxy Theater is within 600 feet of a school. Although Atascadero PD has had relatively no police activity generated by alcohol sales at their Galaxy, both the PD and the theater itself confirmed that their situation is different, as alcohol sales are limited to and controlled by the use of a V.I.P. area which prohibits anyone under 21 from entering. This provides for an effective means of control/enforcement.

If alcohol is purchased and consumed in the theater where all age groups are in attendance, it would make the passing off of alcohol to minors very easy and underage drinking enforcement almost impossible, due to the loud and darkened crowd environment of a movie theater. In addition, whether it be an emergency evacuation for fire, etc. or numerous patrons attempting to leave a darkened parking (on foot and in vehicles) en masse, alcohol ingestion is likely to complicate matters and elevate the risk to public safety due to slowed reflexes and impaired judgment.

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ATTACHED REFERENCE MATERIAL

APPLICATION, , SITE PLAN, FLOOR PLAN

DATE RESPONSE REQUESTED BY: June 28, 2013

Agency: City of Riverbank Finance Department

Person Reviewing Project: Marisela Hernandez, Director of Finance

Date: 06/27/13

COMMENTS:

Alcohol sales typically are not taxable. Potential increase in sales tax from increase in customers to the Riverbank area.

CONSULTATION RESPONSE FORM
RETURN FORM OR SEND DETAILED LETTER

Date: June 17, 2013

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ATTACHED REFERENCE MATERIAL

APPLICATION, , SITE PLAN, FLOOR PLAN

DATE RESPONSE REQUESTED BY: June 28, 2013

Agency: Kranislus Consolidated Fire
Protection District
Person Reviewing Project: S. Koelmans

Date: 0.24-13

COMMENTS:

N/A

CONSULTATION RESPONSE FORM

June 17, 2013

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ATTACHED REFERENCE MATERIAL

APPLICATION, , SITE PLAN, FLOOR PLAN

DATE RESPONSE REQUESTED BY: June 28, 2013

Agency: City of Riverbank

Person Reviewing Project: Michael Riddell Rep. Development Serv. Div.

Date: 6/17/13

COMMENTS:

CONSULTATION RESPONSE FORM
RETURN FORM OR SEND DETAILED LETTER

Date: June 17, 2013

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ATTACHED REFERENCE MATERIAL

APPLICATION, , SITE PLAN, FLOOR PLAN

DATE RESPONSE REQUESTED BY: June 28, 2013

Agency: Gilten Solid Waste Management, Inc.

Person Reviewing Project: Dennis Shuler

Date: 6/29/13

COMMENTS:

No Comments





July 3, 2013

Janet Smallen
Sr. Community Development Specialist
City of Riverbank, Planning Division
6707 Third Street
Riverbank, CA 95367

15060 Ventura Blvd.
Suite 350
Sherman Oaks
California 91403
Tel (818) 986-9000
Fax (818) 784-0106

RE: Galaxy Theatres – CUP 01-2013 Request to sell and serve beer and wine. Class 41 License

Dear Ms. Smallen:

I am writing in response to the inquiries made by Interim Chief E. Kiely in his Review dated 6/21/13. We appreciated his diligent review and are happy to address these. Our response is based on 1) our experience providing beer and wine service in five (5) of our theatres over the past five (5) years; 2) data supplied by the National Association of Theatre Owners, CA/NV (NATO CA/NV); and 3) the California Department of Alcoholic Beverage Control, Sacramento, CA review and approval of Class 41 Licensing for Theatres. The inquiries made are not uncommon and easily answered as a result of Galaxy Theatres' established company policy and practices already in place which adhere to existing government regulation. I believe the information listed below will allay whatever concerns may exist.

Before responding please allow me to share with you that our submittal is in response to our patrons' growing interest in increasing their movie entertainment experience by having an option to enjoy a glass of wine or bottle of beer while watching their movie. Similar to what they now enjoy when going out to a local restaurant, a baseball game, sporting event or concert, this desire reflects the growing American interest in enjoying more of one's free time or entertainment experiences. Several other major movie companies like AMC, Regal, Cinemark, Rave, Arc Light, already provide this service amenity to their patrons in California and other states.

RESPONSE TO INQUIRIES

Inquiry: *"If alcohol is purchased and consumed in a theater where all age groups are in attendance, it would make the passing of alcohol to minors easy and underage drinking enforcement almost impossible, due to the loud and darkened crowd environment of a movie theatre".*

Response: There are two separate implied concerns in this inquiry. One is the controlling of how a beverage is purchased and the other being the way we control its consumption.

Purchasing:

- 1) Must show valid I.D. (regardless of age).
- 2) Purchaser can only buy for themselves. If also ordering for a companion, the companion must be present and show valid I.D.
- 3) All sales are at a separate dedicated station.
- 4) We do not take orders or serve in auditoriums.
- 5) We reserve the right to refuse service to anyone.

Control of Consumption:

- 1) Beer & Wine is served in different glasses than non-alcoholic beverages. These are easily identifiable.
- 2) Auditorium Monitoring – A trained theatre usher inspects all auditorium audiences every 30-40 minutes.
- 3) Auditorium Lighting. One of the most common misconceptions is moviegoers believe they're sitting in a dark room. The reality is: When you face the screen the room appears dark except for the very bright picture on the screen. But, if you stand towards the front and look back at the audience, the room is well lit (by the light coming from the screen). An usher can easily see everything going on in an auditorium when a movie is playing. (Example, turn off the lights in your den and leave only your TV monitor on. Then see how much of your furniture is visible as you look back from your TV Monitor. You'll be amazed.) **NOTE: the visibility under this condition was experienced and approved by Chief Deputy Director Timothy Gorush, ABC, Sacramento, CA 2013.** (Source: NATO CA/NV).
- 4) Pricing controls consumption. At theatre prices, one can find cheaper places to go for drinking.

Inquiry: *"Galaxy is within 600 feet of a school."*

Response: Cool Hand Luke's is closer and serves beer wine, and has a full bar with another restaurant across Patterson Ave. that also serves wine and beer. While the school's side property line maybe as close as two football fields away, there is a seven foot high concrete block wall separating the theatre that runs the length of the side property line, with the entrance to the school being on a separate street, much further away. With all due respect, we do not understand the implied supposition of a grammar school (in closer proximity to two existing restaurants with full alcohol service) and a family style theatre that serves only beer and wine further away.

Inquiry: *"Exit evacuation in a darkened room may complicate matters due to alcoholic ingestion..."*

Response:

- 1) Lighting - The Theatre and all auditoriums are equipped with an automatic emergency lighting system which activates in any emergency. The building is well lit and complies with all City and State emergency regulations.
- 2) Consumption – unlike restaurants and bars, moviegoers purchase a beverage (and concessions) before sitting down for a movie. Since Galaxy does not take customer orders or deliver to auditoriums, patrons would have to get up, leave the movie, purchase another beverage, and then return if they want more. They do not typically do this for a second beverage or concession. Coupled with this and the fact that moviegoers are in an auditorium only 2 to 2.5 hours, we do not see alcoholic abuse or over indulgence.

FURTHER INFORMATION

- 1) We are applying for a Class 41 License (Beer and Wine only) versus a Class 42 License (Full Bar).
- 2) The City has previously approved wine and beer service in the theatre (2008).
- 3) We have applied for an expanded Class 41 License for our Atascadero Theatre.
- 4) Currently in California, there are approximately fifteen (15) movie theatres serving alcohol. Theatres companies include AMC, Regal, Cinemark, Rave, Arc Light, Regency, and Galaxy Theatres.
- 5) In Stanislaus County, the State Theatre and Gallo Center for the Performing Arts serves beer, wine, and alcoholic beverages.
- 6) A CUP can be revoked by the City (as well as the ABC) if Galaxy Theatres was in violation of beer and wine sales regulations.

We appreciate the opportunity to share our experience and update you on the both the regulatory environment and practical aspects of providing a beer and wine service amenity in response to today's moviegoer. I am happy to assist with any additional questions the City Planning Commission may have.

Sincerely,



Frank Rimkus, CEO
Galaxy Theatres, LLC

**City of Riverbank
Planning Commission
Resolution No. 2013-006**

A Resolution of the Planning Commission Approving a Conditional Use Permit for the Sale of Alcoholic Beverages for On Premises Consumption (Type 41 License), Within the General Commercial (C-2) Zoning District (PD-42) located at 2525 Patterson Road, APN 075-008-029

Whereas, the Development Services Department of the City of Riverbank has heretofore held a duly noticed public hearing on July 16, August 20 and September 19, 2013, as required by law, on the requested Use Permit, in accordance with the Riverbank Municipal Code Section 153.360-153.374; and

Whereas, the proposed retailing of alcoholic beverages is located within the Galaxy Theater located at 2525 Patterson Road, APN: 075-008-029; and

Whereas, the property has a General Plan Land Use Element Designation of Mixed Use; and

Whereas, General Commercial (C-2) designation explicitly allows for development of retail uses along major roadways on the periphery of existing neighborhoods; and

Whereas, permitted uses in the (C-2) District shall be subject to all provisions of the City's zoning code; and

Whereas, Section 153.361 of the zoning code requires a use permit for the sale of alcoholic beverages; and

Whereas, the project is Categorically Exempt under Article 19 Section 15332 (a-d) of the CEQA Guidelines; and

Whereas, compliance with the conditions of this use permit is expected to mitigate impacts created by the retail sale of alcoholic beverages and will further the public convenience by providing the sale of alcoholic beverages within the existing Galaxy Theatre located at 2525 Patterson Road; and

Therefore, Be It Resolved by the Planning Commission of the City of Riverbank hereby approves the use permit to allow the retail sale of alcoholic beverages (beer and wine) within the Galaxy Theatre, located at 2525 Patterson Road.

1. This use permit shall be enacted in accordance with the time limit prescribed in Section 153.216(E)(3) of the City's Municipal Code.

2. The operator shall operate and abide under all conditions of the State of California Alcoholic Beverage Control license Type 41, on-site sale of beer and wine.
3. The applicant shall insure that the sale of beer and wine does not cause any condition that will result in repeated activities that are harmful to the health, peace or safety of persons residing or working in the surrounding area. This includes, but is not limited to: disturbances of the peace, illegal drug activity, public drunkenness, drinking in public, harassment of passersby, assaults, batteries, acts of vandalism, loitering, excessive littering, illegal parking, excessive loud noises (especially in the late night or early morning hours), traffic violations, lewd conduct, or police detention and arrests.
4. This use permit is subject to a periodic review to monitor potential problems and for possible corrective action of the Department.
5. The Applicant shall be prohibited from externally advertising or promoting specific or individual beer and wine, including, but not limited to, window and exterior wall signage.
6. The retailing of alcoholic beverages shall not sell alcoholic beverages to underage minors pursuant to state and federal laws. The offering of sale of such will result in the automatic review and possible suspension of this use permit.
7. The retail sale of alcoholic beverages shall not adversely affect the peace, or safety within and adjacent to the Galaxy Theater Complex. If it is determined that retailing of such products are interfering with the normal operation of the center or quiet enjoyment of neighboring properties, the use permit may be reviewed for possible suspension of the license. It is expected that the retail establish will not result in repeated nuisance activities within the premises or in close proximity of the premises, including but not limited to disturbance of the peace, illegal drug activity, harassment of passersby, acts of vandalism, excessive littering, loitering, graffiti, illegal parking, curfew violations, or police detentions and arrests.
8. The retail establishment shall be assessed an additional \$250 annually during the routine annual business license renewal process to offset DUI police enforcement activities.

Passed and adopted by the Planning Commission of the City of Riverbank at a regular meeting held on the 17th day of September 2013, by the following vote:

AYES:

NAYS:

ABSENT:

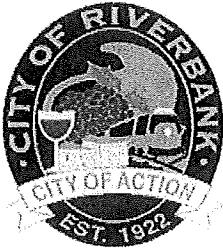
ABSTAIN:

Attest:

**John B. Anderson, Secretary
Consultant Planning Director**

Approved:

Joan Stewart, Chairperson



City of Riverbank Community Development Department

Planning Division ≈ Building Division ≈ Code Enforcement Division

6707 Third Street, Riverbank, CA 95367 Office (209) 863-7128 FAX (209) 869-7126

MEMORANDUM

DATE: 9/12/13

TO: John B. Anderson
Janet Smallen

FROM: David J. Niskanen

SUBJECT: City of Riverbank
Galaxy Theater ABC License Research

Summary:

The purpose of this memorandum is to provide research on cities in which have received, processed, or approved/disapproved ABC license to sell alcohol at theaters as well as some of the issues that they may have come across with said license. I will provide my findings on various cities in California with some comments.

Cities I've Contacted / Findings:

1. **Sacramento** – Got an email from Kimberly Kaufmann-Brisby – The city has not received any applications for movie theater alcohol sales. 8/16. kkbrisby@cityofsacramento.org
2. **Manteca** – Used a web-based messaging system and got a response back – The city has not received any applications for movie theater alcohol sales. 8/15.
3. **Lodi** – Got an email from Immanuel Bereket - the city has not received any applications for movie theater alcohol sales. 8/16. ibereket@lodi.gov
4. **Turlock** – Left message for Rose Dillo and emailed Planning@Turlock.ca.us - waiting on response back. 8/16 Got a response back from Sgt Stephen Webb – says there is only one theater in Turlock and they have not filed for any alcohol licence. 8/24.
5. **Fresno** – Emailed AMEdwards@co.fresno.ca.us - waiting on response back. 8/22
6. **Elk Grove** – Emailed c2gpl@elkgrovecity.org (Planning Department) – waiting on response back. 8/22 Got a response back from Sandy Kyles – the City has not received any applications for movie theater alcohol sales. I also received an email

from David Feinberg from Elk Grove PD saying that the city has never received a request from a movie theater to sell alcohol. 8/23. Phone: 916-478-2265

7. **Roseville** – Emailed Planningdept@roseville.ca.us - waiting on response back. 8/22 Got a response back from Derek Ogden – Have not received any applications for movie theater alcohol sales. 8/22 Phone: 916-774-5276
8. **Merced** – Emailed planningweb@cityofmerced.org - waiting on response back. 8/22. Got a response back – the city has not received any applications for selling alcohol in movie theaters. 8/23. Phone: 209-385-6858
9. **Healdsburg** – Raven Film Center was designated as a 21 and over Movie Theater. No underage persons were allowed in at all. I emailed planning@ci.healdsburg.ca.us for more information on the process as well as any issues that came up during the process. Got a response back from Jeff Fisher – the alcohol service at Raven was allowed via a use permit in 2007 and was a contentious issue. The main complaint from the community was not allowing kids to see the movies there, since it's the only movie theater in town. The theater is going through the process of amending their use permit and ABC license to allow all ages and alcohol service.

Summary:

August 07 – Conditional Use Permit to allow RFC to sell beer/wine in “bar” area and consumption in one of two theaters. The ABC Required that the RFC cordon off a small section of the facility, away from the lobby/eating area, where beer and wine would be sold. Patrons could then purchase beer or wine from this “bar” and consume beverages inside one of the two theaters of their choice. The initial ABC license was Type 42 (On-sale Beer & Wine – Public Premises). It is important to note that the original business model was to restrict the entire theater to patrons 21 and over.

August 08 – Although the use permit and the ABC license were secured, the RFC could not complete the tenant improvements and commence operation before the one-year time span allotted by the conditions of the use permit expired. RFC applied for an amendment to the use permit requesting that the time allotted for commencement of operation be increased from one to two years after the date of the initial Planning Commission approval (Aug, 2007). RFC also decided that it would be in their best interest to open up two theaters to patrons of all ages after receiving numerous inquiries from residents that were disappointed that children would not be permitted to watch movies at the RFC. They operated under these circumstances for a few years but the business model was not working as they had hoped. The problem was that the restricted areas for alcohol became confusing to patrons and they received further complaints about children not being able to watch movies in all four theaters. To do this, they had to run the complex under two licenses.

The business model was the following: A Type 42 license that allows the RFC to sell beer/wine in a cordoned off “bar” area and allow 21 and over patrons to consume alcohol in one of two theaters. A Type 41 license allowed the RFC to

open up the two other theaters to all ages with alcohol sales only in the lobby/eating area. Alcohol was prohibited to taken out of the lobby/eating area. The two small theaters remained 21-and-over under jurisdiction of the Type 42 license, and alcohol sales were permitted in the cordoned off section as described above.

August 13 - RFC went to the Planning Commission August 27, 2013 for a Conditional Use Permit to allow an amendment to a previously approved use permit.

The modification of the type 41 license would result in the following:

- The license would encompass the entire facility
- Allow alcohol consumption in all four theaters
- Rescind age restrictions in all four theaters
- Require food service to be maintained as the primary use

According to the PC minutes of August 27, 2013, the consensus of the Commission was that consumption of alcoholic beverages in all four theaters could be supported; however, they could not support direct sales in seated areas and commented that sale and service of alcohol beverages should be confined to concession area.

The motion to approve the CUP amendment to sell alcohol and allow underage patrons in all four theaters was approved 6 – 1 with an additional Condition of Approval:

No sales or service of alcohol beverages shall be permitted in the seated area of any of the theaters; sales and service activities are restricted to the concession area in the lobby.

The complex now operates under a Type 41 license that allows all ages in the four theaters and alcohol sales only in lobby/concession area.

Phone: 707-431-3348 – Jeff Fisher

10. **San Francisco** – Email sent to Chris.Espiritu@sfgov.org - waiting on response back. 8/22 Phone: 415-558-6377
11. **Los Angeles** – Email sent to planning@lacity.org - waiting on a response back. 8/22 LA includes theaters in Hollywood and Sherman Oaks.
12. **San Diego** – Email sent to planning@sandiego.gov - waiting on a response back. 8/22. Another email sent asking for information regarding ABC license applications for the movie theater ARCLIGHT in San Diego and La Jolla. Waiting on a response back whether or not they had any issues receiving/processing the permit. 9/11. Phone: 619-235-5200

13. **Bakersfield** – Email sent to Dev.Pln@Bakersfieldcity.us - waiting on response back. 8/22 Phone: 661-326-3733

14. **Fremont** – Email sent to planinfo@fremont.gov - waiting on response back. 8/22 Got a response back from James Willis – Have not received any applications for movie theater alcohol sales 8/22. Phone: 510-494-4440

15. **El Segundo** – Planning Department Number: 310-524-2380 ARCLIGHT Theater (14 screens) has a bar type concept where patrons' can drink. Emailed through the automated system on their website to acquire more information. 9/11.

Talked to Maria Baldenegro (Assistant Planner) 9/12. She said that the ARCLIGHT serves alcohol a cordoned off area and the theater operates under a Type 47 License.

There is a 1,485 square foot indoor/outdoor café/restaurant where patrons may order drinks and food. This café serves appetizers, pizza, and salads. Beer, wine and cocktails are the options for alcohol consumption.

In addition to the Café, a 305 square foot bar/lounge area is located inside where patrons may order alcohol and are allowed to consume in the adjacent theater (no. 7) designated 21 and over.

Talked to a representative from the theater (310-607-9630). The café area acts like a restaurant in that all ages are allowed in for dining and alcohol consumption for persons 21 and older. The bar/lounge area is opened when theater no. 7 is designated 21 and older, which does not happen all the time.

16. **Pasadena** – Two theaters: IPIC Theater (6 screens) and ARCLIGHT Theater (14 screens) sell alcohol. Emailed through the automated system on their website to acquire more information. 9/11 Pasadena Planning Department: 626-744-4009. Tried calling to no avail 9/11 4:40pm. Left message with Matsuye Shepard, Planner that worked on IPIC's CUP (CUP #5212). 9/12 - 9:30AM.

17. **Newport Beach** – Port Theater (1 screen). Email sent to Ben, Assistant Planner. Bzdeba@newportbeachca.gov for more information. 9/11. Got an email back from Makana Nova, mnova@newportbeachca.gov; Alcohol service is limited in the upper floor mezzanine area in which only 21 and over patrons are allowed. The theater also has the option of limiting entire screenings to persons over the age of 21 in order to serve alcohol throughout the theater but they have not done so. In addition to the ABC license, the City required an operator's license, issued through the Police Department. This is intended to provide the city with another regulatory tool to use in case any issues arise.

Island Cinemas Theater (7 screenings) located within Fashion Island also serves alcohol. They operate under a slightly different model where specific screenings are 21 and over where alcohol is served and under their minor use permit; alcohol is served directly to the seats within the screenings.

Makana's Number is 949-644-3249

18. **Anaheim** – Talked to Ted White in Planning. 714-675-5139. 9/11 4:30pm. The theater (Ultra Luxe Cinema) is located in a large commercial development and one of the CUP's for this development was for the facilities to be able to sell beer and wine. This made the process easier for the theater to obtain an ABC license. He also said that out of the 14 screens, only 5 or 6 are allowed for alcohol consumption and the theater is going through the process of amending the CUP to go from a Type 42 license to a Type 41 license that would encompass the entire theater. Interestingly, he said the theater was working with ABC to add language for this type of license, meaning: a "theater" type license.
19. **Napa** – Century Theater (12 screens). Main Line: 707-257-9530. Left message on the main line answering machine – waiting on a call back. 9/12.
20. **Laguna Niguel** – Cineopolis Theater (7 screens). From what Makana (Newport Beach Assistant Planner) has said, they chose not to restrict certain areas to 21 and over. I emailed commdev@cityoflagunaniguel.org for more information. Waiting on response back. 949-362-4360. Left message with Danny Martinez in Planning for more information, waiting on a response back – 9/12 11:00AM.

Common ABC License Types and Their Basic Privileges

Type 41 License: On Sale Beer & Wine – Eating Place – (Restaurant) Authorizes the sale of beer and wine for consumption on or off the premises where sold. Distilled spirits may not be on the premises (except brandy, rum or liqueurs for use solely for cooking purposes). Must operate and maintain the licensed premises as a bona fide eating-place. Must maintain suitable kitchen facilities, and must make actual and substantial sales of meal for consumption on the premises. Minors are allowed on the premises.

Type 42 License: On Sale Beer and Wine – Public Premises – (Bar, Tavern) Authorizes the sale of beer and wine for consumption on or off the premises where sold. No distilled spirits may be on the premises. Minors are not allowed to enter and remain (see Section 25663.5 for exception, musicians). Food service is not required.

Type 47 License: On Sale General – Eating Place – (Restaurant) Authorizes the sale of beer, wine and distilled spirits for consumption on the licenses premises. Authorizes the sale of beer and wine for consumption off the licenses premises. Must operate and maintain the licensed premises as a bona fide eating-place. Must maintain suitable kitchen facilities, and must make actual and substantial sales of meals for consumption on the premises. Minors are allowed on the premises.

RECEIVED

AUG 19 2013

BY: _____
CITY OF RIVERBANK

**Fred E. Wood
3401 SIERRA STREET
RIVERBANK, CA 95367
(209)996-4783**

August 16, 2013

**City of Riverbank
Planning Commission
3767 Third Street
Riverbank, CA 95367**

Attn: Chairperson Stewart

Re: Galaxy Theater Request to sell Alcohol (Conditional Use Permit #01-2013)

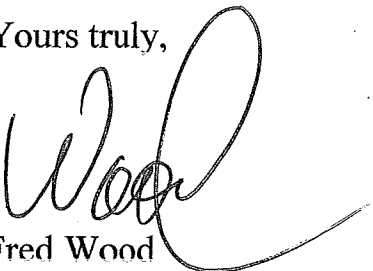
Dear Chairperson Stewart and Planning Commissioners:

As a teacher at Adelante High School and as a Pastor in Riverbank, I have significant concerns regarding Galaxy Cinemas request to sell alcohol.

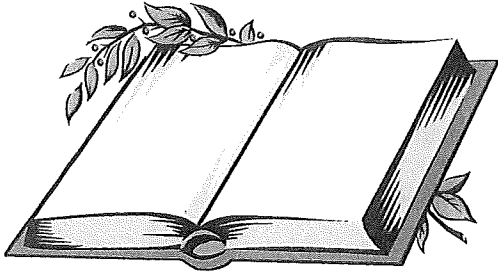
With a theater being a place for large numbers of youth, the ability for underage youth to obtain alcohol would increase and the chances of violence at the theater would escalate also. I think Riverbank should attempt to maintain a more family friendly atmosphere at the Galaxy Theaters.

Thank you for your consideration in this matter. I will be reviewing your decisions and I trust that wise decisions for our youth will prevail.

Yours truly,



Fred Wood
Pastor-Riverbank Holiness Church
Teacher-Adelante High School (RUSD)



REVEREND CHARLES E.. NEAL

**City of Riverbank
Planning Commission
3767 Third Street
Riverbank, California 95367**

Subject: Conditional Use Permit # 01-2013 Galaxy Cinemas

Dear Chairperson Stewart and Planning Commissioners,

Your Agenda Item # 2.1 is something I strongly oppose. I could go into great detail about the problems alcohol has caused young children and families throughout this country, even in our city we have great problems with drugs and alcohol.

I would not have to bring a lot of stats to you, because most families have been touched by alcohol and what effect it has on marriages, families, and the young children that will become our future leaders.

The Galaxy Theaters is the only entertainment venue we have for young children in Riverbank. It is a place that families can go and have wholesome entertainment. We should not have alcohol in a place where so many under age young people go.

Children learn from adults. If they are exposed to adults using alcohol, they will assume that consuming alcohol is the right thing to do. We should set a better example for our young people.

There are some adults that will not go where they serve alcohol. In my opinion if adults cannot watch a two hour movie without alcohol then they have a problem.

Look at where the Galaxy Theater is located. The property line joins the Rio Altura Charter School, children from K- 8th grades. Also just beyond your 300 feet distance is the Christ The King Church.

I would ask you why you would want to approve this application?
How does it best serve the Citizens of Riverbank that you serve?
There are enough adult places in Riverbank for people who desire to consume alcohol for them to do so in an adult setting.

In my opinion and I hope you will agree with me. We should not have alcohol in a place where our children and grandchildren go to watch a movie.

Adult beverages belong in adult settings.

In God's Service,

A handwritten signature in black ink, appearing to read 'Rev. Charles E. Neal', written in a cursive style.

Reverend Charles E. Neal

September 10, 2013

Riverbank Planning Commission
City of Riverbank
6707 3rd Street
Riverbank, CA 95367

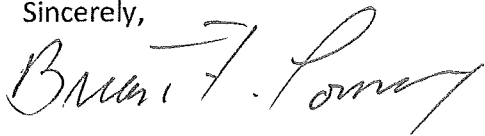
Dear Planning Commission Members:

I am writing to support the Galaxy Theater's application for a restaurant license to expand their food and beverage menu and which will permit them to serve beer and wine to patrons 21 and over.

My family and I have owned a home and lived in Riverbank for 25 years. The opening of the Galaxy Theater has been a real positive addition to our community. The theater has participated in many community activities and supported many local groups and charities. Through the years we have attended many fund raising events hosted at the Galaxy Theater.

Movie theater economics are in a state of flux. Old business models are being updated. The Galaxy Theater's confidence in Riverbank and the surrounding area to make the capital investment to provide an upscale facility in our community will prove advantageous to the region's citizens and merchants. Deluxe theaters, which do more than serve candy, popcorn, and soda, have opened and thrived in many metropolitan areas. The more Riverbank and its businesses become a destination, the better off the businesses in Riverbank will be. I believe the Galaxy Theater in Riverbank has been a good and responsible neighbor, and I expect they will continue to be.

Sincerely,

A handwritten signature in cursive script, reading "Brian F. Lomax". The signature is written in dark ink and is positioned below the word "Sincerely,".

Brian Lomax
Riverbank, CA

Riverbank Planning Commission
City of Riverbank
6707 3rd. Street
Riverbank, CA 95367

Dear Chairman Stewart and Members of the Planning Commission:

I am writing this letter in support of Galaxy Theatre's application for a restaurant license which will allow them to expand their food and beverage menu and enable them to offer beer and wine to their guests 21 and over.

It is my understanding this license is an important step in green-lighting Galaxy Theatres' planned \$3 million remodeling project for the Galaxy Riverbank.

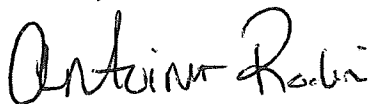
Galaxy Theatres anticipates an increase of over 100,000 additional patrons coming into Riverbank annually. As a local businessperson this is good news. It will:

1. Increase sales tax dollars for Riverbank and Stanislaus County.
2. Directly benefit local businesses because of increased customer traffic into the City and to the Galaxy Riverbank Theatre.
3. Increased marketing exposure for local businesses advertising on Galaxy Theatres' On-The-Wall Pre-show.

Galaxy Theatres' is a first class operator of our Riverbank Theatre. With their experience and proven track record of providing this premier level of food and beverage customer service in their other theatres, I know it will be successful and benefit many of the our local businesses and merchants.

I appreciate their confidence in our community and their financial commitment to further build the economic viability of Riverbank and enhance its quality of life.

Best Wishes,

A handwritten signature in cursive script that reads "Antoinette Rodin". The signature is written in dark ink and is positioned below the "Best Wishes," text.

Antoinette Rodin
Rodin Farms

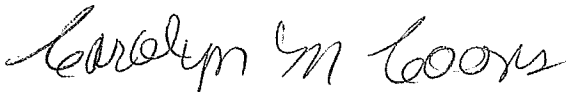
Riverbank Planning Commission
C/O City of Riverbank
6707 3rd St.
Riverbank, Ca. 95367

Dear Planning Commission Members:

I support Galaxy Theatres application for a restaurant license which permits the serving of wine and beer to adults 21 and over.

I am certain that Galaxy Theatre will retain it's wholesome family atmosphere, better serve the community, and enhance their ability to compete with other entertainment enterprises.

Best Regards,

A handwritten signature in cursive script that reads "Carolyn M Coons".

Carolyn Coons
7024 Firethorn Dr.
Riverbank, Ca. 95367

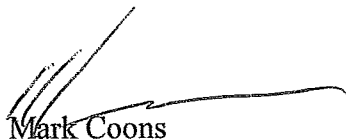
Riverbank Planning Commission
C/O City of Riverbank
6707 3rd St.
Riverbank, Ca. 95367

Dear Planning Commission Members:

I support Galaxy Theatres application for a restaurant license which permits the serving of wine and beer to adults 21 and over.

I believe these added amenities will help Galaxy Theatre's remain competitive with other entertainment venues such as pizza parlors, restaurants, performing art centers, and even amusement parks (for example Disney's California Adventure).

Best Regards,

A handwritten signature in black ink, appearing to read 'Mark Coons', with a long horizontal flourish extending to the right.

Mark Coons
Former Riverbank School Board Member
209-765-9304

Riverbank Planning Commission
6707 3rd St.
Riverbank, Ca. 95367

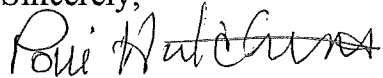
Dear Member's of the Riverbank Planning Commission:

Our family has owned a home in Riverbank for 16 years, and in our opinion one of the best things to happen to Riverbank was for Galaxy Theatre to locate a 12 screen theatre here.

We understand that Galaxy Theatre has applied for a restaurant license with ABC, which includes the serving of beer and wine, and plans to enlarge their food choices, and remodel their seating. Our family fully supports this venture and urges the Planning Commission to approve the necessary permits to allow this to happen.

Thank you for consideration of our request.

Sincerely,



Doug and Polli Hutchins
209-481-2241

Riverbank Planning Commission
6707 3rd St. Riverbank
Riverbank, Ca. 95367

Dear Riverbank Planning Commissioners:

We have live here since 2003 and are impressed with the exterior and interior appearance of the Galaxy Theatre and the courtesous staff.

We understand that Galaxy has applied for a permit to serve beer and wine as the first phase of a Theatre make over. We support their request and ask you to do the same.

Sincerely Yours,



Rob and Barbara Wiebell

209-239-6878

August 27, 2013

Riverbank Planning Commission
C/O City of Riverbank
6707 3rd St.
Riverbank, Ca,
95367

Dear Members of the Planning Commission:

There is little doubt that Galaxy Theatre is the anchor store for Highway 108 corridor and other business locations in the City. Customers from Oakdale, Hughson, Waterford, Escalon, Modesto, and beyond drive to Riverbank to see a movie. The proposed renovation will attract an additional 100,000 customers in the first year. When these people visit Riverbank they will also most likely visit other businesses too.

I ask the Planning Commission to approve the necessary permits, one of which is a restaurant permit, that allows the Theatre to serve beer and wine to those 21 years and older. I have had a glass of wine at the State Theatre and see no difference except a greater number of food choices will be offered.

Thank You,


Suzanne Lewis
209-485-6150



CITY OF HENDERSON
240 Water Street
P.O. Box 95050
Henderson, NV 89009

August 27, 2013

Rita Carr
General Manager
Galaxy Theatres Green Valley
4500 E. Sunset Road, Suite 10
Henderson, NV 89014

SUBJECT: Letter of Support

Galaxy Theatres Green Valley opened in March 2013 in an area of Henderson that had experienced an increasing number of business vacancies. As a result of the unique theatre experience offered by Galaxy Theatres, there has been renewed vitality in this shopping center and general location.

Galaxy Theatres Green Valley is operating in full compliance with the requirements of its business license. Although the concept of this luxury theatre experience includes beer and wine service, this has not resulted in undesirable activities in the neighborhood or an increase in calls for service from our police department. Many of our residents and employees have visited this theatre and have commented about the wonderful experience.

To date, Galaxy Theatres has been a successful business partner in the community, helping drive interest in a struggling location. The city of Henderson appreciates having Galaxy Theatres in our community, providing our residents with a premier recreational opportunity.

Sincerely,

Jacob L. Snow
City Manager



POLICE DEPARTMENT

August 14, 2013

Galaxy Uptown 10
4649 Point Fosdick Dr NW
Gig Harbor WA 98335

To Whom it May Concern,

I am writing on behalf of Galaxy Theatres and specifically Galaxy Uptown 10 in Gig Harbor. Galaxy Uptown 10 has been an important part of our community for six years now. During this last six years the Gig Harbor Police Department and Galaxy Theaters have developed a collaborative relationship focused on working together to ensure our community continues to be a great place to work, recreate and raise a family.

When Galaxy first arrived in town with the proposal to sell beer and wine at one of their theaters, there were some who had concerns. The reality is this-- the sale of alcohol at the Galaxy Theater has not created any additional alcohol related incidents or accidents in our community. Much of the credit goes to the Galaxy management and staff who are well-trained, responsible and conscientious about serving alcohol to the public.

If you would like additional information or have specific questions please call me direct at 253 853 2420.

Sincerely,

Mike Davis
Chief of Police