

## Planning Commission Staff Report

April 26, 2017  
Item 5.a.

- SUBJECT:** P17-0036
- APPLICANT:** Eric Wall, Bottle Taps LLC
- PROPERTY OWNER:** CP IV Vintage LLC
- PURPOSE:** Application for a Conditional Use Permit (CUP) to operate a restaurant which sells alcohol after 11:00 p.m.
- LOCATION:** 3020 Bernal Avenue, Suites 150 and 160
- GENERAL PLAN:** Retail/Highway/Service Commercial, Business and Professional Offices
- ZONING:** PUD-C (Planned Unit Development - Commercial)
- EXHIBITS:**
- A. [Draft Conditions of Approval](#)
  - B. [Narrative, Sample Menu, Site Plan, and Floor Plan dated "Received August 7, 2014"](#)
  - C. [Ordinance 2075 \(PUD-87\), dated August 20, 2013, and PUD-87-2M, dated March 1, 2017, for the Vintage shopping center](#)
  - D. [Location and Notification Map](#)

### STAFF RECOMMENDATION

Staff recommends that the Planning Commission approve Conditional Use Permit (CUP) application P17-0036 by making the findings within this report, subject to the draft conditions of approval listed in Exhibit A.

### EXECUTIVE SUMMARY

The applicant, Bottle Taps LLC, requests CUP approval to operate a restaurant which sells alcohol until 12:00 a.m. on Fridays and Saturdays in the new Vintage Shopping Center located at 3020 Bernal Avenue, Suites 150 and 160. Restaurants serving alcohol are permitted uses if they close by 11:00 p.m. every day. Hours beyond 11:00 p.m. require Planning Commission review and approval of a CUP. As proposed, staff believes this use is consistent with the intent of the PUD and will be compatible with the surrounding uses. The applicant is asking for extended hours only two nights a week, consistent with other recent Planning Commission approvals for similar uses, such as McKay's Tap House and Beer Garden. Conditions of approval have been identified which will ensure that the safety and general welfare of the surrounding area, and the City in general, is maintained.

## BACKGROUND

### Vintage Shopping Center

On August 20, 2013, the City Council adopted Ordinance 2075 for PUD-87 (Exhibit C) for Planned Unit Development (PUD) development plan approval to construct 345 apartment units, an approximately 38,781-square-foot retail center consisting of four buildings, and related site improvements on an approximately 16-acre site located at 3150 Bernal Avenue as shown below in Figure 1. Ordinance 2075, included in Exhibit C, addresses the design, construction, and operation of the entire development, including permitted and conditionally permitted land uses.

**Figure 1: PUD Site Plan**



Ordinance 2075 generally followed the permitted and conditionally permitted uses in the C-N (Neighborhood Commercial) District. The Pleasanton Municipal Code (PMC) states that restaurants which sell alcoholic beverages any time after 11:00 p.m. and before 6:00 a.m. shall be classified as a bar and within the C-N District bars are not permitted.

### PUD-87-02M, PUD Minor Modification

On March 1, 2017, the Zoning Administrator approved a Minor Modification (Exhibit C) of the Vintage PUD Development permitting restaurants which sell alcohol after 11:00 p.m. and before 6:00 a.m. as conditionally permitted uses requiring Planning Commission review with an application for a Conditional Use Permit.

Staff supported the proposed PUD Minor Modification to extend the allowable hours of restaurants that serve alcohol because of its relatively low impact on adjacent development and the requirement that future businesses go through the CUP process. During the public notice period of the minor modification, staff received no comments or concerns.

The applicant will be submitting a staff-level Outdoor Dining application to review final design and specifications for future outdoor furniture, umbrellas, barrier, and lighting. That application will be reviewed by staff and the Planning Commission will be notified of staff's action on a future Zoning Administrator Action Report.

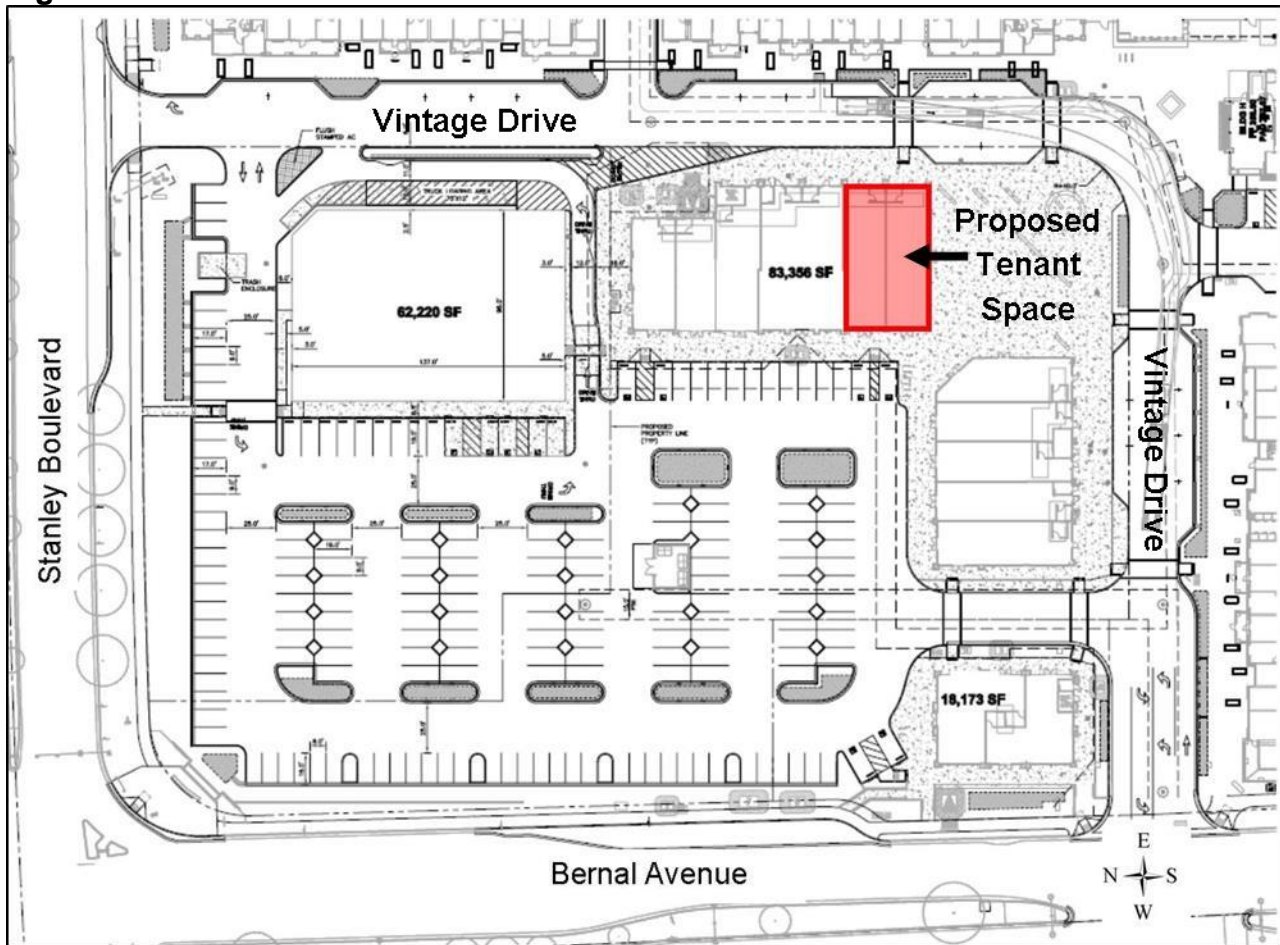
### SITE AND AREA DESCRIPTION

The subject property is located southeast of the intersection of Stanley Boulevard and Bernal Avenue. The site comprises approximately 16 acres; the zoning designation for the residential portion of the site (11.5 acres) is PUD-HDR and the remaining 4.5 acres are zoned PUD-C. Figure 2 is the vicinity map showing the location of the center and Figure 3 is a site plan of the commercial center showing the proposed restaurant in the Vintage shopping center.

**Figure 2: Vicinity Map**



**Figure 3: Commercial Site Plan**



The PUD Development Plan for the Vintage shopping center allowed approximately 36,000 square feet of building area on approximately 4.5 acres. Approved tenants so far include Starbucks and CVS.

Public street access to the Vintage shopping center is provided by one driveway entrance from Bernal Avenue and one driveway entrance from Stanley Boulevard. All tenant suites are accessed from their respective parking areas. The commercial center is bordered on the south and east by the new Vintage Apartment development. The overall site is bounded by Pleasanton Self Storage across Stanley Boulevard to the north; McDonald's restaurant, ARCO service station and convenience market, Bernal Retail Center, and Quality Auto Craft/Performance Auto Repair across Bernal Avenue to the west; Congregation Beth Emek across Nevada Court to the south; and a PG&E substation directly to the east.

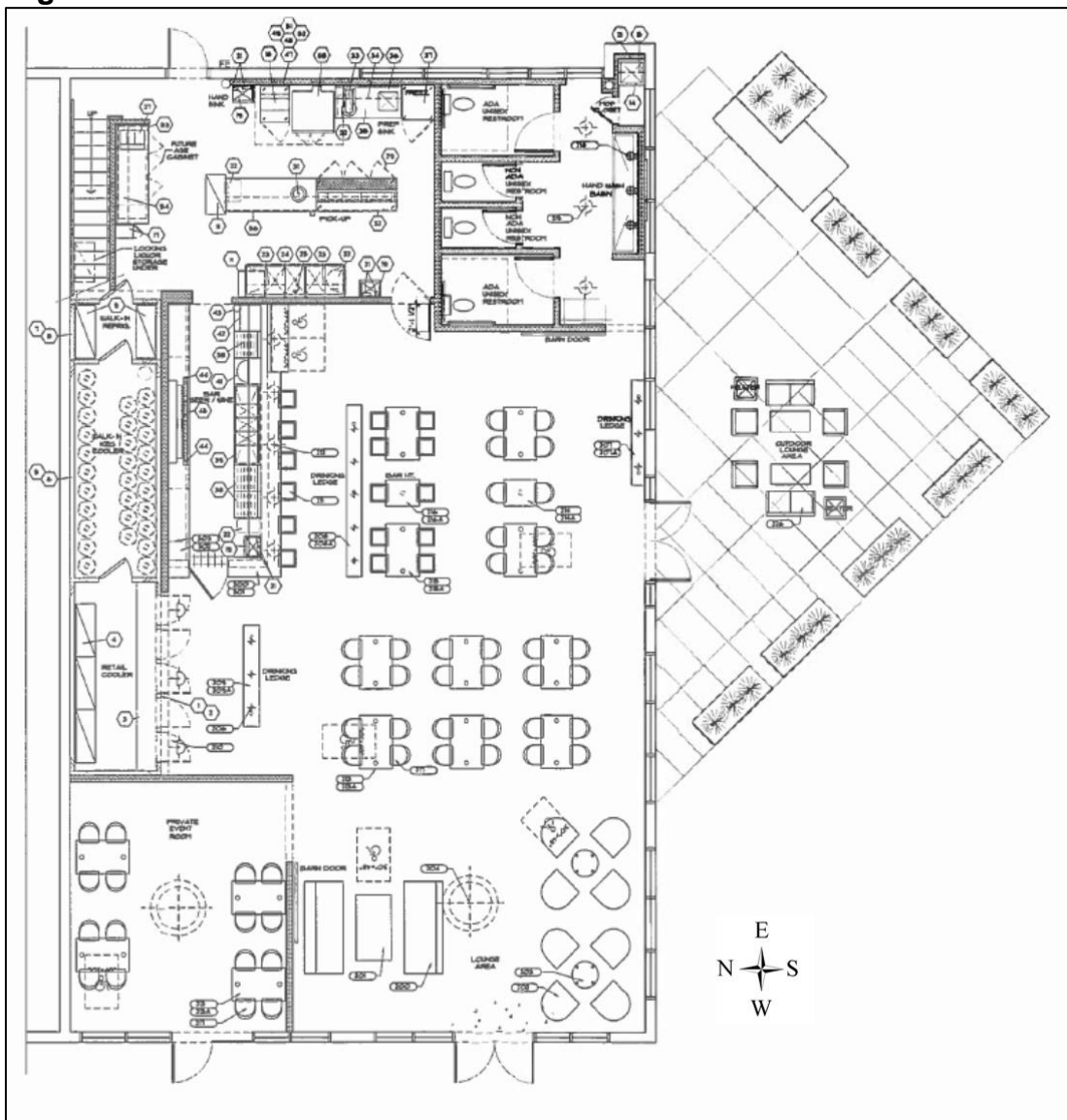
### **PROPOSED PROJECT**

Conditional uses are those uses which, by their nature, require special consideration so that they may be located properly with respect to the objectives of the Municipal Code and their effects on surrounding properties. In order to achieve these purposes, the Planning Commission is empowered to approve, conditionally approve, or deny applications for use permits.

## PROJECT DESCRIPTION

The applicant is proposing to occupy two tenant spaces totaling 3,310 square-feet to operate a restaurant specializing in craft beers with incidental retail sales of craft beer in bottles and cans for off-site consumption as well as an outdoor patio (Figure 4). The proposed hours of operation for the outdoor patio area are Sunday through Thursday from 11:00 a.m. to 9:00 p.m., and Friday and Saturday from 11:00 a.m. to 10:00 p.m. The proposed hours of operation for the indoor areas are Sunday through Wednesday from 11:00 a.m. to 10:00 p.m., Thursday from 11:00 a.m. to 11:00 p.m., and Friday and Saturday from 11:00 a.m. to 12:00 a.m. (midnight). The interior will include informal lounge-type seating, a variety of table seating, a bar with stool seating, a cooler for beer retail sales, and food preparation area. The 630-square-foot patio will be located within a common courtyard area that was purposefully designed for outdoor seating in the PUD plans. The interior will seat approximately 75 patrons while the exterior seating has not been finalized, but is anticipated to allow approximately 28 persons. The restaurant menu (a sample is included in Exhibit B) will feature small plates. Please see the attached site plan, floor plan, and narrative (Exhibit B) for additional information about the proposed use.

**Figure 4: Floor Plan**



## **ANALYSIS**

### Land Use

The proposed use is located in a commercially zoned area containing mixed land uses, including newly developed retail and residential uses. The project was designed as a mixed use development with the anticipation that commercial uses, if not designed or operated appropriately, may generate adverse effects on residents related to parking, hours of operation, noise, or similar issues. The Planning Commission and City Council looked carefully at the design, shared space, and specific uses for the development and tried to achieve a balance between maintaining the quality of life for residents and the objective of having a variety of neighborhood-serving businesses and activities which draw apartment tenants as well as the community to the center during the day and night. The proposed restaurant will provide a lively food establishment that is within walking distance of the adjacent apartment complex. In addition, the restaurant will also provide incidental retail sales of craft beer in bottles and cans for off-site consumption. The applicant has indicated that he does not anticipate the off-site sales to exceed 10% of the total sales of the business, which staff considers an ancillary use to the restaurant and not a liquor store.

### Noise

Patrons' voices and amplified music would be the main noise sources at the subject site. The applicant is proposing low-level recorded music on the patio and interior during business hours at a level that is not intended to interfere with general conversation. In addition, lightly amplified live music would be played within the interior of the restaurant until 10:00 p.m. on Friday and Saturday nights and on occasional weeknights at a level also not intended to interfere with general conversation. Musicians will set up in the lounge area just inside the front door to the right or left depending on the number of musicians, and the furniture will be moved to accommodate them. No dance floor is proposed. All exterior doors will be closed during performances, except when patrons and staff are entering and exiting, and live music will not be amplified onto the outdoor patio. During the summer and fall months, the applicant would like the ability to consider outside performances during the day within the exterior plaza as well. Staff has included conditions of approval that allows the applicant to submit requests to extend the hours beyond those approved for single day special events or holidays such as New Year's Eve as well as submit all requests for outdoor live music in writing to be reviewed and approved by the Director of Community Development.

The overall development was designed to include an outdoor dining area generally consistent with the proposed layout and a shared commercial/residential gathering space next to the proposed tenant space. The outdoor dining area with seating and decorative lighting was approved with the original entitlement PUD plans that were reviewed and approved by the Planning Commission and City Council and thought to be a community amenity for the mixed use development as shown in Figure 5. Approval of the final outdoor dining layout and materials including furniture and railings will be reviewed and approved separately through an Outdoor Dining application. The original PUD conditions of approval also included disclosure requirements for all future tenants within the apartment development regarding potential noise sources from the adjacent commercial development. The proposed use would be subject to conditions of approval such as keeping windows and doors closed when not being used for ingress/egress. In addition, as conditioned, the proposed use would need to comply with the City's noise regulations. Therefore, staff believes that noise from the restaurant, including incidental live musical performances, would not significantly impact sensitive residential uses located near the subject site.

**Figure 5: Outdoor Plaza**



### Parking

There are 183 on-site parking spaces that are shared amongst the tenants in the Vintage shopping center. In addition to the shared commercial parking, there are also 20 public limited-time parking stalls along Vintage Drive. Based on the division of the total square footage of interior space in the shopping center by the number of parking spaces, the two subject tenant spaces would be “allotted” 16 parking spaces; however, there is no assigned parking in this development. For restaurants, bars, and brewpubs, the Pleasanton Municipal Code (PMC) requires one space for every three seats or 200 square feet of gross floor area, whichever is greater. The PMC does not require parking for outdoor dining areas. Based on the PMC, the proposed use would require approximately 25 parking stalls, 9 parking spaces beyond those “allocated” to the tenant spaces based on floor area. The Vintage shopping center will consist of businesses with various hours of operation and peak business hours, but the precise composition of business is not yet known, as the tenant mix is still being finalized.

The restaurant is anticipated to have evening peak hours which start around 5:00 p.m. on weekdays and later on the weekends. At that time, non-restaurants with peak operating hours clustered around the conventional workday (e.g., 8:00 a.m-5:00 p.m.) would be winding down in activity level. Starbucks, the only existing tenant within the center, experiences peak activity levels during the morning, with lower activity levels at night. The CVS tenant within the center may be open 24 hours but will provide a drive-thru lane for the pharmacy to help reduce parking demand for the store. Other potential uses such as hair or beauty salons may stay open later

but typically have low traffic volumes during evening hours. Therefore, the proposed restaurant would not compromise the existing parking supply of the shopping center.

The Vintage shopping center is a mixed-use development designed to reduce motor vehicle trips by allowing its residents to walk to the commercial center, thus reducing parking demand. Staff believes that there is adequate parking within the center to meet the variable parking demand of the proposed use. Should parking-related problems occur, staff has included a condition of approval which allows the Director of Community Development to refer the CUP back to the Planning Commission for possible mitigation measures.

**PROJECT ALTERNATIVES**

The site permits restaurants serving alcohol to be open no later than 11:00 p.m. and conditionally allows restaurants serving alcohol to be open later than 11:00 p.m. with approval of a CUP by the Planning Commission. The applicant seeks to operate a restaurant with alcohol service until 12:00 a.m. (midnight) on Fridays and Saturdays. Staff believes this use is consistent with the intent of the PUD. There are other similar restaurants with alcohol service within shopping centers that are currently operating without problems. However, the Planning Commission could consider denying the CUP. Under this scenario, the vacant tenant space within the shopping center would remain vacant until another commercial/retail tenant is found to occupy the space.

This alternative would preclude the property owner from filling a large corner tenant space that was designed for a restaurant within the shopping center, and would require the owner to search for another commercial/retail use without any guarantees of finding an occupant in the near term. The proposed use conforms to the requirements and intent of the PUD and staff does not anticipate that the proposed use would adversely affect the surrounding uses or area. Therefore, staff believes the proposed use is appropriate for the site.

**PROS AND CONS**

<b>Pros</b>	<b>Cons</b>
Project would increase vitality in the Vintage shopping center and eliminate a vacancy within the center	Because the project involves the sale of alcohol and outdoor dining, it has slightly greater potential to generate nuisance complaints compared to other restaurant/retailers.
Project would increase sales tax revenue for the City	
Project is consistent with zoning regulations	

**FINDINGS**

Following are staff’s recommended findings if the Planning Commission decides to approve the CUP for the project:

- A. That the proposed location of the conditional use is in accordance with the objectives of the zoning ordinance and the purpose of the district in which the site is located.**



Objectives of the Zoning Ordinance include: fostering a harmonious, convenient, workable relationship among land uses; protecting existing land uses from inharmonious influences and harmful intrusions; and ensuring that public and private lands ultimately are used for the purposes which are most appropriate and beneficial to the City as a whole. As conditioned, staff feels the proposed restaurant would be consistent with these objectives.

The proposed use would be within the Vintage shopping center, which is zoned PUD-C (Planned Unit Development – Commercial) District and permits a variety of retail, personal service, and restaurant uses, but requires CUP approval for restaurants with alcohol service past 11:00 p.m. Staff believes that operating a restaurant with limited late-night hours in this shopping center would be in accordance with the purposes and intent of the PUD in that it provides a specialty restaurant that offers commodities and services to the community. The proposed conditions of approval for the project provide the City the ability to ensure that the proposed use would operate in a way that is compatible with surrounding uses and in accordance with the City's Zoning Ordinance. Staff believes the proposal is consistent with the objectives of the Zoning Ordinance and the PUD, and therefore, this finding can be made.

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

With the recommended conditions, staff finds that the proposal will not have a detrimental impact to the public health, safety, or welfare, or be materially injurious to the properties or improvements in the vicinity. In particular, conditions require adherence to hours of operation to mitigate for possible impacts to adjacent uses and/or properties. The restaurant is required to adhere to the City's Noise Ordinance, which was designed to protect the peace, health, safety, and welfare of the citizens of the City. Furthermore, if a conflict arises with the operation of the business, a condition of approval allows the Director of Community Development to determine if the proposal needs to return to the Planning Commission for further consideration or additional mitigation measures. Therefore, staff believes that this finding can be made.

**C. That the proposed conditional use will comply with each of the applicable provisions of the zoning ordinance.**

Staff finds that, as conditioned, the proposed use will comply with all provisions and requirements of the City's Zoning Ordinance. As with any CUP, this CUP may be revoked if the conditions are not met. Therefore, the proposed use will comply with the provisions of the Zoning Ordinance. Staff believes this finding can be made with the proposed conditions of approval.

**PUBLIC NOTICE**

Notice of this application was sent to surrounding property owners and tenants within a 1,000-foot radius of the site. Staff has provided the location and noticing maps as Exhibit D for reference. At the time this report was published, staff has received no comments.

## **ENVIRONMENTAL ASSESSMENT**

This project is categorically exempt (Section 15301, Existing Facilities, Class 1) from the requirements of the California Environmental Quality Act (CEQA). Therefore, no environmental document accompanies this report.

## **SUMMARY/CONCLUSION**

Staff believes that the required CUP findings for the project can be met if the project is approved as conditioned. Conditions of approval have been included which will ensure that the safety and general welfare of the surrounding area is maintained. Staff is of the opinion that the proposed restaurant would provide a service to the community and that the proposed location, within an existing mixed-use development, is appropriate.

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### **Reviewed/Approved By:**

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Gerry Beaudin, Community Development Director z