LODI CITY COUNCIL

Carnegie Forum
305 West Pine Street, Lodi

TM

AGENDA – REGULAR MEETING

Date: April 4, 2007
Time: Closed Session 5:30 p.m.
Regular Meeting 7:00 p.m.

For information regarding this Agenda please contact:
Randi Johl
City Clerk
Telephone: (209) 333-6702

NOTE: All staff reports or other written documentation relating to each item of business referred to on the agenda are on file in the Office of the City Clerk and are available for public inspection. If requested, the agenda shall be made available in appropriate alternative formats to persons with a disability, as required by Section 202 of the Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12132), and the federal rules and regulations adopted in implementation thereof. To make a request for disability-related modification or accommodation contact the City Clerk's Office as soon as possible and at least 24 hours prior to the meeting date.

C-1 Call to Order / Roll Call

C-2 Announcement of Closed Session

a) Review of Council Appointees – City Manager and City Attorney – pursuant to Government Code §54957

b) Threatened Litigation: Government Code §54956.9(b); One Case; Potential Suit by Norma Carson against City of Lodi Based on Personal Injury

c) Actual Litigation: Government Code §54956.9(a); Two Consolidated Cases; *Ana Perez v. Allen Aadland, City of Lodi, et al.* and *Allstate Insurance Company v. City of Lodi, Allen B. Aadland, Lodi Electric Utility, et al.*, San Joaquin County Superior Court Case No. CV 028324

d) Actual Litigation: Government Code §54956.9(a); One Case; *People of the State of California; and the City of Lodi, California v. M & P Investments, et al.*, United States District Court, Eastern District of California, Case No. CIV-S-00-2441 FCD JFM

e) Actual Litigation: Government Code §54956.9(a); One Case; *Hartford Accident and Indemnity Company, et al. v. City of Lodi, et al.*, Superior Court, County of San Francisco, Case No. 323658

f) Actual Litigation: Government Code §54956.9(a); One Case; *City of Lodi v. Michael C. Donovan, an individual; Envision Law Group, LLP, et al.*, San Francisco Superior Court, Case No. CGC-05-441976

C-3 Adjourn to Closed Session

NOTE: THE FOLLOWING ITEMS WILL COMMENCE NO SOONER THAN 7:00 P.M.

C-4 Return to Open Session / Disclosure of Action

A. Call to Order / Roll call

B. Invocation – Bill Sherrill, Lodi Police Chaplains

C. Pledge of Allegiance

D. Presentations

D-1 Awards

a) Presentation of the Library Volunteer of the Year Award (LIB)

D-2 Proclamations

a) Keep Lodi Beautiful Month (CD)

D-3 Presentations

a) Quarterly Update by the Greater Lodi Area Youth Commission (COM)

E. Consent Calendar (Reading; Comments by the Public; Council Action)

E-1 Receive Register of Claims in the Amount of $3,524,504.92 (FIN)

E-2 Approve Minutes (CLK)
a) March 20, 2007 (Shirtsleeve Session)
b) March 21, 2007 (Regular Meeting)
c) March 27, 2007 (Shirtsleeve Session)

E-3 Approve Specifications and Authorize Advertisement for Bids for Landscape Maintenance for the Lodi Consolidated Landscape Assessment District 2003-1, Fiscal Year 2007-08 (PW)

E-4 Approve Specifications and Authorize Advertisement for Bids for 3,000 Tons of Asphalt Materials for Fiscal Year 2007-08 (PW)

E-5 Approve Specifications and Authorize Advertisement for Request for Proposals for Various Photocopiers in Several City Departments (CM)

Res. E-6 Adopt Resolution Awarding the Contract to HDR, Inc., of Folsom, for Surface Water Treatment Facility Conceptual Design and Feasibility Evaluation for Water Supply and Transmission System ($400,000) and Authorizing the City Manager to Execute the Contract (PW)

Res. E-7 Adopt Resolution Authorizing the City Manager to Enter Reimbursement Agreements for Staff and Contract Costs Incurred in Processing Development Applications and Approved Developments (CA)

Res. E-8 Approve New Development Code Update Plan and Adopt a Resolution Authorizing the City Manager to Enter into a Contract with Jacobson & Wack in the Amount of up to $55,000 for Contract Services Related to the Completion of the Development Code Update (CD)

Res. E-9 Adopt Resolution Ratifying Memorandums of Understanding with the Lodi City Employees General Services and Maintenance and Operators Units (July 1, 2006 through June 30, 2008) (CM)

E-10 Receive Report Regarding Final Costs for the November 7, 2006, General Municipal Election (CLK)

E-11 Set Public Hearing for April 18, 2007, to Consider an Appeal to the Planning Commission's Approval of a Conditional Use Permit for Wine Country Casino and Restaurant Located at 1800 South Cherokee Lane (Wine Country Casino and Restaurant, applicant; Kenneth R. Owen, appellant) (CD)

F. Comments by the Public on Non-Agenda Items

THE TIME ALLOWED PER NON-AGENDA ITEM FOR COMMENTS MADE BY THE PUBLIC IS LIMITED TO FIVE MINUTES.

The City Council cannot deliberate or take any action on a non-agenda item unless there is factual evidence presented to the City Council indicating that the subject brought up by the public does fall into one of the exceptions under Government Code Section 54954.2 in that (a) there is an emergency situation, or (b) the need to take action on the item arose subsequent to the agenda's being posted.

Unless the City Council is presented with this factual evidence, the City Council will refer the matter for review and placement on a future City Council agenda.

G. Comments by the City Council Members on Non-Agenda Items

H. Comments by the City Manager on Non-Agenda Items

I. Public Hearings

Res. I-1 Public Hearing to Receive Public Input and to Consider Adoption of a Resolution to Act to Form the Community Facilities District No. 2007-1 (Public Services) and Set an Election Date for April 11, 2007 (PW)

Res. I-2 Public Hearing to Consider Resolution Adopting Engineer's Report, Confirming Assessments, Overruling Protests, and Declaring Assessment Ballot Results and Annexing Territory into the Lodi Consolidated Landscape Maintenance Assessment District 2003-1 and Forming Guild Avenue Industrial Zone 13 (PW)

I-3 Public Hearing to Consider Approval of the Following Items: (CD)

a) Approve the Following Negative Declarations:

Res. ➢ Negative Declaration 06-03 for the General Plan Amendment and Change in Zoning for the Gini Project (Expansion of Auto-Related Businesses)

Res. ➢ Negative Declaration 06-04 for the General Plan Amendment and Change in Zoning for the Lodi Memorial Hospital Project (New South Wing Addition and Other Related Facilities)

Res. b) Amend the General Plan Designation for 1333 and 1325 South Central Avenue from Eastside Residential to General Commercial (Gini Project) and for 1201, 1139, 1133, 1127, 1121, and 1115 West Cardinal Street from Low Density Residential to Office (Lodi Memorial Hospital Project)

Ord. (Introduce) c) Rezone 1333 and 1325 South Central Avenue from RE-1, Single Family Residential Eastside, to C-2, General Commercial

Ord. (Introduce) Res. d) Rezone 975, 999, and 1031 South Fairmont Avenue; 1200 West Vine Street; and 1201, 1139, 1133, 1127, 1121, and 1115 West Cardinal Street from RCP, Residential-Commercial-Professional Office, and R-2, Residence District, to PD, Planned Development, and Approve Development Plan

J. Communications

J-1 Claims Filed Against the City of Lodi – None

J-2 Appointments

a) Post for Expiring Terms and Vacancies on the Greater Lodi Area Youth Commission (Student Appointees), Library Board of Trustees, Planning Commission, and Lodi Arts Commission (CLK)

J-3 Miscellaneous – None

K. Regular Calendar

Res. K-1 Adopt Resolution Authorizing the City Manager to Execute a Memorandum of Understanding with San Joaquin County for Provision of Domestic Wastewater Treatment Services for County Service Area 31 (Flag City) (PW)

K-2 Review Groundwater Charge for City Wells Proposed by the North San Joaquin Water Conservation District and Direct Staff as Appropriate (PW)

Res. K-3 Adopt Resolution Approving Contract with Boom Boom Productions, of Hayfork, CA, for 2007 Fourth of July Fireworks Display and Approve Proposed Venue Location (PR)

Res. K-4 Adopt Resolution Certifying Negative Declaration and Authorizing the City Manager to Execute Contracts for Construction, Testing and Inspection, and Construction Administration for White Slough Water Pollution Control Facility Phase 3 Improvements Project ($17,543,774) and to Adjust Existing Appropriations (PW)

K-5 Consideration of Adjustments to the City Manager and City Attorney Employment Agreements (CM)

L. Ordinances

Ord. (Adopt) L-1 Ordinance No. 1793 entitled, "An Ordinance of the City Council of the City of Lodi Approving the Request of Tom Doucette, Frontier Community Builders, for Pre-Zoning to PD (Planned Development) on 151 Acres (Westside Project)" (CLK)

Ord. (Adopt) L-2 Ordinance No. 1794 entitled, "An Ordinance of the City Council of the City of Lodi Adopting a Development Agreement Pertaining to the Development of 151 Acres Located on the West Side of Lower Sacramento Road between the Woodbridge Irrigation District Canal and Vine Street (Westside Project) (Development Agreement GM-05-002)" (CLK)

M. Adjournment

Pursuant to Section 54954.2(a) of the Government Code of the State of California, this agenda was posted at least 72 hours in advance of the scheduled meeting at a public place freely accessible to the public 24 hours a day.

_____
Randi Johl
City Clerk

AGENDA ITEM **D-01a**

CITY OF LODI
COUNCIL COMMUNICATION

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AGENDA TITLE: Library Volunteer of the Year Award

MEETING DATE: April 4, 2007

PREPARED BY: Library Services Director

RECOMMENDED ACTION: None

BACKGROUND INFORMATION: Juan Villarreal, President of the Library Board of Trustees will present the Library Volunteer of the Year Award to Patricia Stump.

At their March 19, 2001 meeting, the Library Board of Trustees established the Bob Hildreth Library Volunteer of the Year Award to be awarded during National Library Week to the library volunteer who contributed significantly to the support of library services for the Lodi Public Library and the residents of Lodi.

The 2007 recipient of this service award is Patricia Stump. Ms. Stump has been an active member of the library's Adult Literacy Services since 2001. As a tutor in the program she has simultaneously taught over 6 adult learners to read and improve their command of English even helping one to earn her U.S. citizenship. Pat's students have difficulty coming to the library so Pat spends a day each week going to their homes for their tutoring sessions. As her nomination summed her up, "Pat is a conscientious and dedicated tutor, not only delivering well-planned lessons to her students, but consistently going above and beyond to be of assistance to her students."

FISCAL IMPACT: None

FUNDING AVAILABLE: None required

_____
Nancy C. Martinez
Library Services Director

NM/sb

APPROVED: _____
Blair King, City Manager

AGENDA ITEM **D-02a**

CITY OF LODI
COUNCIL COMMUNICATION

TM

AGENDA TITLE: Proclaim April "Keep Lodi Beautiful Month"

MEETING DATE: April 4, 2007

PREPARED BY: Community Improvement Manager

RECOMMENDED ACTION: That the Mayor present a proclamation declaring the month of April 2007 as "Keep Lodi Beautiful Month" in the City of Lodi.

BACKGROUND INFORMATION: The Mayor has been requested to present a proclamation declaring the month of April 2007 as "Keep Lodi Beautiful Month" in the City of Lodi. Community Improvement Manager Joseph Wood and representatives of Waste Management Inc., who have been coordinating this as one of the several activities for the annual Great American Clean Up campaign, will be present at the meeting to accept the proclamation.

Lodi is one of over 10,000 communities nationwide that participate in the Great American Clean Up campaign, which is coordinated nationally by Keep America Beautiful Inc., and at the state level by Keep California Beautiful Inc. Those organizations provide a loose outline for activities for each affiliate to follow and a multitude of support materials and equipment to further facilitate each city's effort. It is the individual affiliate's responsibility to plan one or more events throughout the community to focus on recycling, conservation, clean up and beautification efforts and other community improvement activities. A schedule of Lodi's Great American Clean Up activities is attached.

FISCAL IMPACT: None

FUNDING AVAILABLE: N/A

Joseph Wood
Community Improvement Manager

Concurred: Randy Hatch
Community Development Director

Attachments

APPROVED: _____
Blair King, City Manager

SCHEDULE OF KEEP LODI BEAUTIFUL EVENTS

Lodi City Wide Garage Sale – March 31 – April 1

The City Wide Garage Sale is an event for the community to advertise their garage sale for free in the Lodi News Sentinel. The City Wide Garage Sale will run Saturday and Sunday if the citizen chooses.

Free E/U-waste Event – April 7

The WM Lodi Transfer Station will be hosting an Electronic and Universal Waste collection event. This event will allow the Lodi community to drop off Electronic waste and U-waste for free. Here is a list of acceptable materials: Radios/Stereos, VCRs, Microwaves, Cell Phones, Telephones, Answering Machines, Batteries (not including car batteries), Televisions, Computer Monitors, Laptops, Computer Processing Units, Printers, Fluorescent Lamps, and Mercury Thermometers.

Dollar Diversion Day – April 14

Dollar Diversion Day is an updated, revamped version of Dollar Dump Day. Citizens of Lodi will be able to bring their "diversion" to the WM Transfer Station for just one dollar; the change is that WM is going to have drop off areas for recyclable goods. WM is planning on having a drop off for wood, metal, concrete, cardboard, and green waste. These changes will divert recyclable material from being dumped in the landfill.

Curbside Clean Up – April 17-21

Our curbside clean up will allow the Citizens of Lodi to place up to (6) 36 gallon bags or trash carts in front of their house for collection. WM will collect the trash on their regular service day.

Clean Your Files Week – April 23-27

WM will be collecting office paper at our Buy Back Center to be recycled. Bins for paper collection will be provided to the City of Lodi offices.

AGENDA ITEM D-3a

CITY OF LODI
COUNCIL COMMUNICATION

TM

AGENDA TITLE: Quarterly Update by the Greater Lodi Area Youth Commission

MEETING DATE: April 4th

PREPARED BY: Brad Vander Hamm LYC Liaison

RECOMMENDED ACTION: Receive quarterly update from Greater Lodi Area Youth Commission (LYC)

BACKGROUND INFORMATION: The LYC desires to stay more connected to the City Council and the Community by having current commissioners do quarterly reports on the activities of the Commission.

FISCAL IMPACT: None

FUNDING AVAILABLE: None

Jim Rodems
Community Center Director

Prepared by: Brad Vander Hamm, Liaison
Greater Lodi Area Youth Commission

APPROVED: _____
Blair King, City Manager

AGENDA ITEM E-01

CITY OF LODI
COUNCIL COMMUNICATION

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AGENDA TITLE: Receive Register of Claims Dated Mar 8 and Mar 15, 2007 in the Total Amount of $3,524,504.92

MEETING DATE: April 4, 2007

PREPARED BY: Financial Services Manager

RECOMMENDED ACTION: Receive the attached Register of Claims for $3,524,504.92.

BACKGROUND INFORMATION: Attached is the Register of Claims in the amount of $3,524,504.92 dated 3/8/2007 and 3/15/2007 which include PCE/TCE payments of $217,093.24. Also attached is Payroll in the amount of $1,119,646.15.

FISCAL IMPACT: n/a

FUNDING AVAILABLE: As per attached report.

_____
Ruby R. Paiste, Financial Services Manager

RRP/rp

Attachments

APPROVED: _____
Blair King, City Manager

Accounts Payable Page - 1
Council Report Date - 03/21/07

As of Thursday	Fund	Name	Amount
03/08/07	00100	General Fund	627,030.46
	00123	Info Systems Replacement Fund	13,490.60
	00160	Electric Utility Fund	13,980.81
	00164	Public Benefits Fund	1,316.78
	00170	Waste Water Utility Fund	23,630.72
	00172	Waste Water Capital Reserve	16,120.00
	00180	Water Utility Fund	7,375.92
	00181	Water Utility-Capital Outlay	103.20
	00210	Library Fund	10,283.66
	00231	Auto Theft Prosecution Fund	25,130.32
	00234	Local Law Enforce Block Grant	378.50
	00260	Internal Service/Equip Maint	42,035.49
	00270	Employee Benefits	413,301.66
	00300	General Liabilities	400,968.63
	00310	Worker's Comp Insurance	16,251.67
	00321	Gas Tax - 2105,2106,2107	30,651.39
	00329	TDA - Streets	1,606.80
	00340	Comm Dev Special Rev Fund	4,928.80
	00505	L&L Dist Z4-Almond North	3,287.50
	00507	L&L Dist Z6-The Villas	11,020.00
	01211	Capital Outlay/General Fund	9,984.10
	01217	IMF Parks & Rec Facilities	691.97
	01241	LTF-Pedestrian/Bike	2,865.00
	01250	Dial-a-Ride/Transportation	13,002.01
	01410	Expendable Trust	26,338.69
Sum			1,715,774.68
	00184	Water PCE-TCE Settlements	216,946.45
	00190	Central Plume	146.79
Sum			217,093.24
Total for Week			
Sum			1,932,867.92

Accounts Payable Page - 1
Council Report Date - 03/21/07

As of Thursday	Fund	Name	Amount
03/15/07	00100	General Fund	456,234.19
	00123	Info Systems Replacement Fund	4,823.99
	00160	Electric Utility Fund	27,740.56
	00164	Public Benefits Fund	3,258.33
	00170	Waste Water Utility Fund	112,775.90
	00173	IMF Wastewater Facilities	2,596.50
	00180	Water Utility Fund	37,009.01
	00181	Water Utility-Capital Outlay	80,032.64
	00182	IMF Water Facilities	67,593.72
	00210	Library Fund	3,597.89
	00260	Internal Service/Equip Maint	14,141.23
	00270	Employee Benefits	38,773.72
	00310	Worker's Comp Insurance	8,166.67
	00321	Gas Tax - 2105,2106,2107	4,329.52
	00325	Measure K Funds	442.00
	00329	TDA - Streets	2,343.25
	00340	Comm Dev Special Rev Fund	25,553.27
	00410	Bond Interest & Redemption	536,414.36
	00430	1996 Cop Redemption Fund	500.00
	00459	Hud 2003-06	19,080.89
	01211	Capital Outlay/General Fund	456.61
	01218	IMF General Facilities-Adm	351.75
	01250	Dial-a-Ride/Transportation	139,466.00
	01410	Expendable Trust	5,955.00
Sum			1,591,637.00

Total for Week
Sum 1,591,637.00

Council Report for Payroll Page - 1
Date - 03/21/07

Payroll	Pay Per Date	Co	Name	Gross Pay
Regular	03/11/07	00100	General Fund	758,297.78
		00160	Electric Utility Fund	129,576.34
		00164	Public Benefits Fund	5,023.40
		00170	Waste Water Utility Fund	68,679.68
		00180	Water Utility Fund	8,887.09
		00183	Water PCE-TCE	140.00
		00210	Library Fund	32,710.58
		00235	LPD-Public Safety AB 1913	5,566.37
		00260	Internal Service/Equip Maint	18,341.84
		00321	Gas Tax - 2105,2106,2107	53,766.37
		00340	Comm Dev Special Rev Fund	35,661.93
		01250	Dial-a-Ride/Transportation	2,994.77
Pay Period Total:				
Sum				1,119,646.15

AGENDA ITEM E-02

CITY OF LODI
COUNCIL COMMUNICATION

TM

AGENDA TITLE: Approve Minutes
a) March 20, 2007 (Shirtsleeve Session)
b) March 21, 2007 (Regular Meeting)
c) March 27, 2007 (Shirtsleeve Session)

MEETING DATE: April 4, 2007

PREPARED BY: City Clerk

RECOMMENDED ACTION: Approve the following minutes as prepared:
a) March 20, 2007 (Shirtsleeve Session)
b) March 21, 2007 (Regular Meeting)
c) March 27, 2007 (Shirtsleeve Session)

BACKGROUND INFORMATION: Attached are copies of the subject minutes, marked Exhibits A through C.

FISCAL IMPACT: None.

FUNDING AVAILABLE: None required.

_____
Randi Johl
City Clerk

RJ/JMP

Attachments

APPROVED: _____
Blair King, City Manager

council/councom/Minutes.doc

EXHIBIT A

CITY OF LODI
INFORMAL INFORMATIONAL MEETING
"SHIRTSLEEVE" SESSION
CARNEGIE FORUM, 305 WEST PINE STREET
TUESDAY, MARCH 20, 2007

An Informal Informational Meeting ("Shirtsleeve" Session) of the Lodi City Council was held Tuesday, March 20, 2007, commencing at 7:00 a.m.

A. ROLL CALL

Present: Council Members – Hansen, Katzakian, Mounce, and Mayor Johnson

Absent: Council Members – Hitchcock

Also Present: Deputy City Manager Krueger, City Attorney Schwabauer, and City Clerk Johl

B. TOPIC(S)

B-1 "Review and Discuss Status of Current Council-Appointed Boards and Commissions"

Mayor Johnson briefly introduced the subject matter of boards and commissions. Specific topics of discussion included the Animal Shelter Task Force, potential disbandment, specified terms, permanent commission status, the Greenbelt Task Force, and the Grape Bowl Ad Hoc Committee.

Mayor Pro Tempore Mounce stated she would not support disbandment, but would support making the shift to a permanent committee and changing the term limits.

Council Member Hansen stated he would not support disbandment, but would support making the shift to a permanent committee and changing the term limits. He also suggested the goals of the group be fine-tuned and provided some suggestions regarding the same.

Discussion ensued between Mayor Johnson, Mayor Pro Tempore Mounce, and Council Member Hansen regarding redefining the Task Force focus, volunteers, objectives, and involvement of People Assisting the Lodi Shelter (PALS) and Animal Friends and the goals and mission statement to be brought to Council by the Task Force.

Captain David Main stated if a permanent commission is created broader focus and goals would need to be set because the one task that the Task Force was originally created for is completed.

Discussion ensued between Mayor Johnson, Mayor Pro Tempore Mounce, and Council Member Hansen regarding staggered two and four year terms.

Council Member Hansen suggested one member from PALS and Animal Friends be appointed to the commission. David Main also suggested a veterinarian be appointed to the commission.

In response to Lodi Arts Commissioner Judy Bader, Council Member Hansen stated the City does not give grants to the Animal Shelter. Mayor Pro Tempore Mounce stated 501(c)(3) status may be necessary to receive grants.

In response to Mayor Johnson's inquiry regarding the Greenbelt Task Force, Mayor Pro Tempore Mounce stated she agreed with Mayor Johnson that the number of members should be scaled down to five or six with a representative from each group and the Task Force should sunset when the zoning is changed and/or a decision is made.

Community Development Director Randy Hatch stated last week he received a copy of the proposed zoning change from the Armstrong Road property owners, which was submitted to the County through their representative Steve Herum. Mr. Hatch stated the property owners do not want City participation at this point. He stated the Task Force will eventually sunset because the matter will become a part of the overall General Plan.

In response to Council Member Hansen, Mr. Hatch stated some members are frustrated with the process and others have similar feelings about being able to sunset the group.

Mayor Pro Tempore Mounce suggested a sunset of the group at the end of the six-month period ending May 2007. Council Member Hansen questioned whether the matter would be resolved by then. He also suggested having Council Member Hitchcock participate in the discussion.

Mayor Johnson suggested addressing the item in May 2007 when the matter is scheduled to come off hiatus.

In response to Mayor Johnson's inquiry regarding the Grape Bowl Ad Hoc Committee, Council Member Hansen stated that, if the Committee continues to exist past July, the terms and appointments should be specified.

In response to Mayor Johnson, Deputy City Manager Krueger provided a brief overview of the Lodi Tourism Business Improvement District Advisory Board, stating that there is an annual report requirement per the Streets and Highways Code.

In response to Mayor Pro Tempore Mounce, Mr. Krueger stated he did not believe there were set eligibility requirements for membership and believed it was tied to tourism. Mr. Krueger stated he will research with staff the potential of meeting the report requirement through staff and bring the matter back to Council.

In response to Council Member Hansen, Mayor Pro Tempore Mounce stated she serves as the Council representative to the Youth Commission. She also stated it was important to have a member of the Council on the Youth Commission to encourage and support the community's youth. Liaison Brad Vanderhamm agreed with Mayor Pro Tempore Mounce.

City Clerk Randi Johl provided a brief overview of the San Joaquin Emergency Food and Shelter Program Committee. Mr. Hatch suggested a member of the Council and/or staff serve as the representative to the Committee because it may be connected with Community Development Block Grant or other funding. Council Member Hansen suggested a staff liaison.

City Clerk Johl provided a brief overview of the Sister City Committee. Discussion ensued between Council Member Hansen, Mayor Pro Tempore Mounce, and City Clerk Johl regarding the Committee's ability to continue usage of public facilities for meetings and Stockton's handling of its Sister City Program. Council Member Hansen stated he could support eliminating the requirement of meeting attendance with the understanding that the City would still make itself available to the Committee for any events, visits, etc.

Arts Commissioner Judy Bader spoke in support of making the Arts Commission liaison position held by Deanie Bridewell into a full-time position instead of the part-time, 25-hour per week position it currently is.

Lodi Improvement Committee Member Eileen St. Yves spoke in support of receiving further direction from the Council and staff so that the Committee can legally provide beneficial service to the community. Mayor Pro Tempore Mounce suggested making information available to citizens, with the help of staff, so that citizens can help themselves. Council Member Hansen also suggested the use of a facilitator. Deputy City Manager Krueger stated staff will research the matter of utilizing a facilitator.

In response to Council Member Hansen, Senior Services Coordinator Ann Areida-Hintz stated the Senior Citizens Commission can provide annual and/or bi-annual reports to the Council at City Council meetings as requested.

C. COMMENTS BY THE PUBLIC ON NON-AGENDA ITEMS

None

D. ADJOURNMENT

No action was taken by the City Council. The meeting was adjourned at 8:01 a.m.

ATTEST:

Randi Johl
City Clerk

LODI CITY COUNCIL
REGULAR CITY COUNCIL MEETING
CARNEGIE FORUM, 305 WEST PINE STREET
WEDNESDAY, MARCH 21, 2007

C-1 CALL TO ORDER / ROLL CALL

The City Council Closed Session meeting of March 21, 2007, was called to order by Mayor Johnson at 5:30 p.m.

Present: Council Members – Hansen, Katzakian, Mounce, and Mayor Johnson

Absent: Council Members – Hitchcock

Also Present: City Manager King, City Attorney Schwabauer, Fire Chief Pretz, Public Works Director Prima, and City Clerk Johl

C-2 ANNOUNCEMENT OF CLOSED SESSION

a) Review of Council Appointees – City Manager and City Attorney – pursuant to Government Code §54957

b) Actual Litigation: Government Code §54956.9(a); One Case; *People of the State of California; and the City of Lodi, California v. M & P Investments, et al.*, United States District Court, Eastern District of California, Case No. CIV-S-00-2441 FCD JFM

c) Actual Litigation: Government Code §54956.9(a); One Case; *Hartford Accident and Indemnity Company, et al. v. City of Lodi, et al.,* Superior Court, County of San Francisco, Case No. 323658

d) Actual Litigation: Government Code §54956.9(a); one case; *County of San Joaquin v. City of Stockton et al.,* San Joaquin County Superior Court, Case No. CV029651

C-3 ADJOURN TO CLOSED SESSION

At 5:30 p.m., Mayor Johnson adjourned the meeting to a Closed Session to discuss the above matters.

The Closed Session adjourned at 6:55 p.m.

C-4 RETURN TO OPEN SESSION / DISCLOSURE OF ACTION

At 7:01 p.m., Mayor Johnson reconvened the City Council meeting, and City Attorney Schwabauer disclosed the following actions.

Item C-2 (a) was discussion only with direction to agendize for open session at the next regular City Council meeting.

Items C-2 (b) and C-2 (c) were not discussed, and Item C-2 (d) was discussion only.

A. CALL TO ORDER / ROLL CALL

The Regular City Council meeting of March 21, 2007, was called to order by Mayor Johnson at 7:01 p.m.

Present: Council Members – Hansen, Hitchcock, Katzakian, Mounce, and Mayor Johnson

Absent: Council Members – None

Also Present: City Manager King, City Attorney Schwabauer, and City Clerk Johl

B. INVOCATION

The invocation was given by Reverend David S. Hill, Grace Presbyterian Church.

C. PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was led by Mayor Johnson.

D. AWARDS / PROCLAMATIONS / PRESENTATIONS

D-1 Awards – None

D-2 (a) Mayor Johnson presented a proclamation to Richard Jones, Executive Director of the Lodi Boys and Girls Club, proclaiming the week of March 25 – 31, 2007, as "National Boys and Girls Club Week" in the City of Lodi.

D-2 (b) Mayor Johnson presented a proclamation to Nancy Martinez, Library Services Director, proclaiming the month of April 2007 as "One Book, One San Joaquin 2007" in the City of Lodi.

D-3 Presentations – None

E. CONSENT CALENDAR

In accordance with the report and recommendation of the City Manager, Council, on motion of Mayor Johnson, Mounce second, unanimously approved the following items hereinafter set forth **except those otherwise noted**:

E-1 Claims were approved in the amount of $6,248,896.22.

E-2 The minutes of March 6, 2007 (Shirtsleeve Session), March 6, 2007 (Special Meeting), March 7, 2007 (Regular Meeting), March 8, 2007 (Special Joint Meeting w/Library Board of Trustees), and March 13, 2007 (Shirtsleeve Session) were approved as written.

E-3 Adopted Resolution No. 2007-42 granting signature authority to certain City staff for investment of monies in the Local Agency Investment Fund.

E-4 Approved the plans and specifications and authorized advertisement for bids for Elm Street Overlay 2007, Lower Sacramento Road to Mills Avenue and Hutchins Street to Ham Lane.

E-5 "Accept Donation of Framed Vintage Aerial Photograph of Lodi from Dr. Floyd Zastrow and Frames & Fine Things" was ***removed from the Consent Calendar and discussed and acted upon following approval of the Consent Calendar***.

E-6 Adopted Resolution No. 2007-43 authorizing the purchase and installation of 14 mobile data computers from Data 911, of Alameda, in the amount of $87,956.11, and Emergency Vehicle Solutions, of Menlo Park, in the amount of $6,440.00, and appropriated funds in the amount of $94,397 in accordance with staff recommendation.

E-7 Adopted Resolution No. 2007-44 awarding the purchase of 20,000 feet of #1/0 15kV concentric-neutral, ethylene propylene rubber-insulated underground cable to the low bidder, The Okonite Company, of San Ramon, in the amount of $46,440.25.

E-8 Adopted Resolution No. 2007-45 awarding the contract for the Blakely Park "South" Pool Deck Improvements, 1050 South Stockton Street, to 100% Concrete, Inc., of Lathrop, in the amount of $71,420.

E-9 Accepted improvements under contract for Elm Street Paving Stone Replacement Project, School Street to Sacramento Street.

E-10 Adopted Resolution No. 2007-46 authorizing the City Manager to execute Task Order with Treadwell & Rollo for groundwater modeling work for Lodi Central Plume PCE remediation design and appropriated funds in the amount of $125,000.

E-11 Adopted Resolution No. 2007-47 ratifying the Memorandum of Understanding with Lodi City Mid-Management Association for Calendar Year 2007.

E-12 Set public hearing for April 4, 2007, to consider approval of the following items:

a) Approve Negative Declaration 06-03 for the General Plan amendment and change in zoning for the Gini Project (expansion of auto-related businesses) and approve Negative Declaration 06-04 for the General Plan amendment and change in zoning for the Lodi Memorial Hospital Project (new south wing addition and other related facilities);

b) Amend the General Plan designation for 1333 and 1325 South Central Avenue from Eastside Residential to General Commercial (Gini Project) and for 1201, 1139, 1133, 1127, 1121, and 1115 West Cardinal Street from Low Density Residential to Office (Lodi Memorial Hospital Project);

c) Rezone 1333 and 1325 South Central Avenue from RE-1, Single Family Residential Eastside, to C-2, General Commercial (Gini Project); and

d) Rezone 1201, 1139, 1133, 1127, 1121, and 1115 West Cardinal Street from Low Density Residential to Office and approve Development Plan (Lodi Memorial Hospital Project).

ACTION ON ITEM REMOVED FROM CONSENT CALENDAR

E-5 "Accept Donation of Framed Vintage Aerial Photograph of Lodi from Dr. Floyd Zastrow and Frames & Fine Things"

Mayor Pro Tempore Mounce pulled the item.

City Manager King provided an overview of the content of the photograph.

MOTION / VOTE:

The City Council, on motion of Mayor Pro Tempore Mounce, Hansen second, unanimously accepted the donation of a framed vintage aerial photograph of Lodi from Dr. Floyd Zastrow and Frames & Fine Things.

F. COMMENTS BY THE PUBLIC ON NON-AGENDA ITEMS

- Jaime Watts, representative of the Downtown Lodi Business Partnership, stated a certified accountant provided a report, introduced the new banner, and discussed volunteer membership. Mayor Pro Tempore Mounce thanked Ms. Watts for the report.

G. COMMENTS BY CITY COUNCIL MEMBERS ON NON-AGENDA ITEMS

- Council Member Hansen reported on his attendance at the San Joaquin Council of Government Executive Board meeting, the American Public Power Association conference, and the town hall meeting regarding Highway 12. Specific topics discussed included funding for nine projects, the competitive process for bond money, the lack of funding approval for the I-5 widening, $25 million award for I-205 auxiliary lanes, meeting with Congressman McNerney regarding security costs for the Central Valley project, climate control, and Assembly Bill 112 addressing Highway 12.

H. COMMENTS BY THE CITY MANAGER ON NON-AGENDA ITEMS

- City Manager King introduced new Community Center Director Jim Rodems.

I. PUBLIC HEARINGS

I-1 Notice thereof having been published according to law, an affidavit of which publication is on file in the office of the City Clerk, Mayor Johnson called for the public hearing to consider the following:

a) Certification of the Lodi Annexation Environmental Impact Report as adequate California Environmental Quality Act analysis for the Westside Project; and

b) Approval of the Westside Project, which includes annexation, pre-zoning, Development Agreement, and amendments to the Bicycle Transportation Master Plan and Westside Facilities Master Plan to incorporate 151 acres into the City of Lodi to allow construction of 745 dwelling units, 3 neighborhood/community parks, and a public elementary school at 351 East Sargent Road, 70 East Sargent Road, 212 East Sargent Road, and 402 East Sargent Road. *NOTE: This item is a quasi-judicial hearing and requires disclosure of ex parte communications as set forth in Resolution No. 2006-31.*

Council Member Hansen stated he is abstaining from the matter because of a conflict of interest with respect to the location of his property.

City Manager King briefly introduced the subject matter of the Westside Project.

Mayor Johnson, Mayor Pro Tempore Mounce, and Council Member Hitchcock disclosed that they have not had recent contact with the applicant apart from that which was previously disclosed several months ago.

Community Development Director Hatch provided a PowerPoint presentation (filed) regarding the proposed Westside Project. Specific topics of discussion included history of the project, Land Use Plan, requested approvals, subsequent discretionary approvals required at later date, pre-zoning, annexation, Development Agreement, project benefits for the City, amendment to Facilities Master Plan, Bicycle Master Plan amendment, recommended actions on the Environmental Impact Report (EIR), Planning Commission actions on project entitlements, staff recommendations, California Environmental Quality Act, significance criteria, EIR findings, certification of EIR, and EIR related questions and concerns regarding inconsistency with the Facilities Master Plan, agricultural mitigation, traffic and transportation, and water supply and demands.

In response to Council Member Hitchcock, Mr. Hatch stated the proposed project does meet the City's 2% growth management as illustrated on page 16 of the presentation.

In response to Mayor Pro Tempore Mounce, City Manager King stated that, with respect to the rehabilitation of eastside homes, the developer has an option of contributing a set amount or per home. He stated there may be an opportunity that money would be aggregated and leverage other funds to use to rehabilitate less desirable multifamily units.

In response to Mayor Johnson, City Manager King stated the requirements are similar to the Reynolds Ranch project and the only difference is there is an increase in the amount of money and decrease in the number of units, making the overall amount approximately the same.

Hearing Opened to the Public

- Tom Terpstra, representative from FCB Homes, spoke in support of the proposed Westside Project and generally discussed project benefits, the development agreement, and Local Agency Formation Commission (LAFCO) approval.

- Tom Doucette, president of FCB Homes, spoke in support of the proposed Westside Project and generally discussed working with various interest groups. He also stated they will be contributing toward improvements on the east side of town and aggregating funds may be the favorable approach. In response to Mayor Johnson, Mr. Doucette and Mr. Hatch stated they have not heard of any recent concerns from residents to the south of the proposed project.
- Mike Manna spoke of the adjustments farmers are making in light of the new rules and regulations and suggested homeowner notifications be provided for those moving adjacent to farming operations. In response to Mayor Johnson and Mayor Pro Tempore Mounce, Mr. Manna stated he does farm some nut crops, which cause a large amount of dust. He stated he has addressed complaints by using limited chemicals, farming at night, and providing notification regarding when they will be farming to surrounding property owners.
- Brian Jungeblut spoke in opposition to the project, based on his concerns regarding the lack of a buffer between the proposed project and the property upon which he farms nut crops.
- Brandon and Brian Jungeblut spoke in opposition to the project, stating that the presence of a buffer will help the farming operations and adjacent homeowners better deal with air pollution matters caused by the dust from the nut crops.
- Debbie Jungeblut spoke in opposition to the project, based on her concerns regarding the lack of a buffer and the method by which the proposed project is being handled.
- Kathleen O'Conner spoke in support of the proposed project and requested fencing for the adjoining property. In response to Mayor Johnson, Ms. O'Conner stated her family farms the back 25 acres on the west side of the adjoining property.
- Tom Terpstra stated the originally presented plans were conceptual and changes may occur as plans move from conception to inception. He stated the current plan provides better drainage and disclosures are in place for new homeowners. In response to Council Member Hitchcock, Mr. Terpstra stated further changes would require additional process through the Planning Commission and City Council. Council Member Hitchcock suggested looking at longer lot sizes for homes abutting the surrounding farm land.

In response to Mayor Johnson, Community Development Director Hatch and City Manager King stated disclosures are provided to homeowners when the home is purchased and recorded documentation, including ordinances, run with the land. City Attorney Schwabauer stated similar to earthquake disclosures, certain signatures acknowledging awareness are required, and where there is no signature, a certification is provided stating the homeowner was notified.

Public Portion of Hearing Closed

RECESS

At 8:59 p.m., Mayor Johnson called for a recess, and the City Council meeting reconvened at 9:10 p.m.

I. PUBLIC HEARINGS (Continued)

I-1 (Cont'd.) MOTION #1:

Council Member Hitchcock made a motion, Katzakian second, to adopt Resolution No. 2007-48 certifying the final Lodi Annexation EIR (EIR-05-01), adopting Findings and Statement of Overriding Considerations, and adopting the Mitigation Monitoring and Reporting Program for the Westside Annexation Project.

DISCUSSION:

Mayor Pro Tempore Mounce stated she could not support the motion without the buffer requirement.

VOTE:

The above motion carried by the following vote:

Ayes: Council Members – Hitchcock, Katzakian, and Mayor Johnson
Noes: Council Members – Mounce
Absent: Council Members – None
Abstain: Council Members – Hansen

MOTION #2 / VOTE:

The City Council, on motion of Council Member Hitchcock, Katzakian second, adopted the following resolutions:

- Resolution No. 2007-49 approving and forwarding to LAFCO for action the request of Tom Doucette, FCB, for an annexation of 151 acres of land into the corporate limits of the City of Lodi (Westside Project);
- Resolution No. 2007-50 approving the request of Tom Doucette, FCB, for an amendment to the Bicycle Transportation Master Plan to implement the Westside Project; and
- Resolution No. 2007-51 approving the request of Tom Doucette, FCB, for an amendment to the conceptual Land Use/Circulation Plan of the Westside Facilities Master Plan.

The motion carried by the following vote:

Ayes: Council Members – Hitchcock, Katzakian, and Mayor Johnson
Noes: Council Members – Mounce
Absent: Council Members – None
Abstain: Council Members – Hansen

MOTION #3 / VOTE:

The City Council, on motion of Council Member Hitchcock, Johnson second, introduced Ordinance No. 1793 approving the request of Tom Doucette, FCB, for pre-zoning to PD (Planned Development) on 151 acres (Westside Project). The motion carried by the following vote:

Ayes: Council Members – Hitchcock, Katzakian, and Mayor Johnson
Noes: Council Members – Mounce
Absent: Council Members – None
Abstain: Council Members – Hansen

MOTION #4 / VOTE:

The City Council, on motion of Council Member Hitchcock, Mounce second, introduced Ordinance No. 1794 adopting a Development Agreement pertaining to the development of 151 acres located on the west side of Lower Sacramento Road between the Woodbridge Irrigation District canal and Vine Street (Westside Project) (Development Agreement GM-05-002). The motion carried by the following vote:

Ayes: Council Members – Hitchcock, Katzakian, Mounce, and Mayor Johnson
Noes: Council Members – None
Absent: Council Members – None
Abstain: Council Members – Hansen

NOTE: Council Member Hansen returned to his seat at the dais.

I-2 Notice thereof having been published according to law, an affidavit of which publication is on file in the office of the City Clerk, Mayor Johnson called for the public hearing to consider resolution establishing area of benefit and reimbursable costs for Lower Sacramento Road (Kettleman Lane to Harney Lane) improvements. *NOTE: This item is a quasi-judicial hearing and requires disclosure of ex parte communications as set forth in Resolution No. 2006-31.*

City Engineer Wally Sandelin provided a brief overview of the proposed improvements involving the Lodi Shopping Center, Olive Drive Group, Peterson Group, and the Southwest Gateway Group. He also discussed the cost of the improvements and the revised resolution.

In response to Council Member Hitchcock's inquiry regarding the email received from a surrounding landowner, Mr. Sandelin and City Attorney Schwabauer stated the reimbursements will only affect the subject properties in the future if they subdivide and begin to use the services.

Hearing Opened to the Public

None

Public Portion of Hearing Closed

MOTION / VOTE:

The City Council, on motion of Mayor Pro Tempore Mounce, Johnson second, unanimously adopted Resolution No. 2007-52 establishing area of benefit and reimbursable costs for Lower Sacramento Road (Kettleman Lane to Harney Lane) improvements.

I-3 Notice thereof having been published according to law, an affidavit of which publication is on file in the office of the City Clerk, Mayor Johnson called for the public hearing to consider resolution approving new rates for solid waste collection.

Public Works Director Richard Prima provided a brief overview of the proposed rates for solid waste collection, reasonable rate increases over time, landfill costs operated by the County, fuel costs, and the franchise agreement.

In response to Mayor Pro Tempore Mounce, Mr. Prima stated he is not sure of the number of people utilizing the low-volume user program.

In response to Mayor Pro Tempore Mounce, Mr. Prima stated an interested citizen could participate in the program by using a 20-gallon can, calling the Finance Department at the City, and requesting the change.

In response to Mayor Johnson, Mr. Prima stated there is a mechanism in place to adjust rates, both up and down, in light of fluctuations in gas, fuel, and the index.

Discussion ensued between Council Member Hansen, Tom Sanchez of Central Valley Waste Management, and Mr. Prima regarding the competitiveness of the City's rate based on the comparison chart of rates in surrounding communities.

Hearing Opened to the Public

- Ann Cerney stated there is a difference between all urban and western urban indexes. Mr. Prima stated the City utilizes the Bay Area-Urban index because the western index includes areas of California.

Public Portion of Hearing Closed

MOTION / VOTE:

The City Council, on motion of Council Member Hitchcock, Mounce second, unanimously adopted Resolution No. 2007-53 approving new rates for solid waste collection.

J. COMMUNICATIONS

J-1 Claims Filed Against the City of Lodi – None

J-2 Appointments – None

J-3 Miscellaneous – None

K. REGULAR CALENDAR

K-1 "Receive Electric Utility, Wastewater, and Water 2nd Quarter Fiscal Year 2007 Financial Reports"

Electric Utility Director George Morrow provided a PowerPoint presentation (filed) regarding the subject matter. Specific topics of discussion included a second quarter summary, financial results, electric expenses by series, power supply, Northern California Power Agency general operating reserves, sales, open position, pilot reduction, pilot history, financials, rate comparison, discount programs, electric utility discount programs, projected discounts, and neighboring agency discount programs.

In response to Council Member Hansen, Mr. Morrow stated one reason to have reserves is to offset fluctuating conditions such as low snow packs, fuel costs, market values, and portfolios. Mr. Morrow affirmed that rates cannot be reduced automatically if there is some reserve because those funds are needed to ride out peaks and valleys.

Discussion ensued between Council Member Hansen and Mr. Morrow regarding the City's rates and usage among the different tiers as compared to Pacific Gas & Electric rates and tiers.

In response to Council Member Hitchcock, Mr. Morrow stated the industrial users received a 37% increase and still appear to be a bit under the cost of service because they originally started at such a low amount.

In response to Council Member Katzakian, Mr. Morrow stated there are only a few industrial users and the difference is a break of about a kilowatt.

In response to Council Member Hansen, Mr. Morrow stated the industrial rate is a bit below, while the residential rate is a bit more, and the goal is to keep rates competitive for new businesses.

In response to Council Member Katzakian, Mr. Morrow stated industrial users utilize approximately 33 1/3% of the entire system's power.

In response to Council Member Hitchcock, Mr. Morrow stated staff is reviewing options for the administration of the medical discount program and will bring back options for Council consideration.

In response to Mayor Pro Tempore Mounce, Mr. Morrow stated staff is reviewing as much structure and specificity as possible for administering the medical discount program and determining eligibility. City Manager King stated there is about a $1 million discount for approximately 2,500 customers and they are reviewing procedures for collecting payment.

In response to Mayor Pro Tempore Mounce, City Manager King stated information regarding the source of the 25% senior discount for Roseville will be brought back to Council.

Deputy City Manager Krueger provided an overview of the water and wastewater funds. Specific topics of discussion included a wastewater and water summary, financials for 2006, and operating expenses by series.

In response to Mayor Pro Tempore Mounce, Deputy City Manager Krueger stated they can review a pilot program for differing sewer and water rates for vacant properties. He stated there would be a need to adjust rates and currently they are still working on keeping the rates stabilized.

Discussion ensued between Council Member Hansen, City Manager King, and Mr. Prima regarding obtaining the permit for upgrades to the sewage treatment plant, regional board communications, permit timing and limitations, and solidity standards.

Discussion ensued between Council Member Hitchcock, City Manager King, and Mr. Prima regarding vacancy rates, comparing methods from other cities, meter installation, programming financial systems, tiered systems, base rate for infrastructure, standby charges, and Proposition 218.

MOTION / VOTE:

There was no Council action taken on this matter.

K-2 "Authorize Contingency Fee Contract with Folger Levin and Kahn, LLP for the Hartford Litigation"

City Attorney Schwabauer provided a brief overview of the proposed contract.

MOTION / VOTE:

The City Council, on motion of Mayor Pro Tempore Mounce, Hansen second, unanimously authorized the contingency fee contract with Folger Levin and Kahn, LLP for the Hartford litigation.

K-3 "Repeal Resolution 2007-40 and Adopt Resolution Approving the Revised Distribution of the 2007-08 Federal Allocation of Community Development Block Grant and HOME Program Funds and the Reallocation of Available Funds from Previous Program Years"

City Manager King provided a brief overview of the changes to the previous Community Development Block Grant allocation from the last regular Council meeting based on additional receipt of grants.

In response to Council Member Hansen, Mr. Wood stated the amount allocated to the Loel Center is the same; only the funding source has changed.

In response to Mayor Johnson, Mr. Wood stated they have received two applications in the first quarter for the down payment assistance program.

In response to Council Member Hitchcock, Mr. Wood stated the payment assistance and repayment amounts are based on affordable income limits and County standards. He stated the loans are reviewed every five years to determine repayment and deferment capacity. Mr. Wood stated the requested amount is $60,000 at 2% interest for repayment. He stated many of the loans are paid off during the five years or when the house is sold, so that the money goes back into the program.

Discussion ensued between Mayor Johnson, City Manager King, and Mr. Hatch regarding the amount of down payment assistance, the types of properties available, applicant profile for applicants, and income requirements.

MOTION / VOTE:

The City Council, on motion of Council Member Hitchcock, Mounce second, unanimously repealed Resolution 2007-40 and adopted Resolution No. 2007-54 approving the revised distribution of the 2007-08 Federal allocation of Community Development Block Grant and HOME Program funds and the reallocation of available funds from previous program years.

K-4 "Approve Expenses Incurred by Outside Counsel/Consultants Relative to the Environmental Abatement Program Litigation and Various Other Cases being Handled by Outside Counsel ($285,696.86)"

MOTION / VOTE:

The City Council, on motion of Council Member Hansen, Mounce second, unanimously approved expenses incurred by outside counsel/consultants relative to the Environmental Abatement Program litigation and various other cases being handled by outside counsel in the amount of $285,696.86, as detailed below:

Folger Levin & Kahn - Invoices Distribution

Matter No.	Invoice No.	Date	Description	Water Acct. Amount
8002	100362	1/31/2007	People v. M&P Investments	$ 37,327.42
				-700.00
8003	100361	1/31/2007	Hartford Insurance Coverage Litigation	$211,159.60
				-1,100.00
8008	100363	1/31/2007	City of Lodi v. Envision Law Group	$ 25,365.24
	14329	1/31/2007	PES Environmental-Keith O'Brien	$ 457.50
	14406	1/25/2007	PES Environmental-Keith O'Brien	$ 3,712.50
			Total	**$276,222.26**

Kronick Moskovitz Tiedemann & Girard - Invoices Distribution

Matter No.	Invoice No.	Date	Description	100351.7323
11233.026	231044	02/25/2007	Lodi First v. City of Lodi	$ 1,007.40
11233.027	231044	02/25/2007	Citizens for Open Government v. City of Lodi	$ 627.20
11233.029	231044	02/25/2007	AT&T v. City of Lodi	$ 4,034.10
11233.032	231044	02/25/2007	CFD Formation	$ 1,491.20
			Total	**$ 7,159.90**

MISCELLANEOUS

Invoice No.	Date	Description	Water Account Amount
20061059	2/22/2007	LegalLink, Inc.	$ 927.50
20061058	2/22/2007	LegalLink, Inc.	$ 385.00
57286	2/23/2007	Sarnoff Court Reporters	$ 183.45
325946	2/22/2007	Barkley Court Reporters	$ 818.75
		Total	**$ 2,314.70**

L. ORDINANCES

None

M. ADJOURNMENT

There being no further business to come before the City Council, the meeting was adjourned at 10:51 p.m.

ATTEST:

Randi Johl, City Clerk

EXHIBIT C

CITY OF LODI
INFORMAL INFORMATIONAL MEETING
"SHIRTSLEEVE" SESSION
CARNEGIE FORUM, 305 WEST PINE STREET
TUESDAY, MARCH 27, 2007

An Informal Informational Meeting ("Shirtsleeve" Session) of the Lodi City Council was held Tuesday, March 27, 2007, commencing at 7:02 a.m.

A. ROLL CALL

Present: Council Members – Hitchcock, Katzakian, Mounce, and Mayor Johnson

Absent: Council Members – Hansen

Also Present: City Manager King, City Attorney Schwabauer, and City Clerk Johl

B. TOPIC(S)

B-1 "Overview of Governmental Accounting Standards and Practices"

City Manager King briefly introduced the subject matter.

Deputy City Manager Krueger provided a PowerPoint presentation (filed) regarding governmental accounting. Specific topics of discussion included accounting overview, definition of accounting, vocabulary, accounting process-recording, accounting process-classifying, accounting processing-reporting, cash and accrual basis reconciliation, audit process, and miscellaneous accounting topics including cash pooling basics, budget basics, interfund transactions, and accounting software and hardware.

In response to Council Member Hitchcock, Mr. Krueger stated one of the definitions of accounting came from a textbook he prefers and that there are several definitions in various textbooks and across the Internet.

City Manager King commented on the budget cycles, auditor processes, qualified versus unqualified opinions, standards for accounting and public dissemination of information, and certificate for compliance with standards.

In response to Council Member Hitchcock, Mr. King stated the opinion reflects the truthfulness of reporting regardless of what the organization's financial standing is and the opinion does not speak to whether management decisions are good decisions.

In response to Mayor Pro Tempore Mounce, Mr. Krueger stated the auditor does see the accrual basis accounting. He stated the City's practices are consistent with those of other communities and governmental accounting standards require accrual basis accounting. Mr. Krueger also stated that typically budget and mid-year reviews are not audited, but the numbers contained in the mid-year review are the same as those previously audited.

In response to Mayor Pro Tempore Mounce, Mr. Krueger stated auditor opinions are typically unqualified. He stated auditors rarely provide qualifications or refuse to issue an opinion unless there is a situation where an agency has difficulty closing its books.

In response to Council Member Hitchcock, Mr. Krueger stated that agencies had to make some adjustments that may have accounted for some accounting differences when Governmental Accounting Standards Board (GASB) 34 was adopted. Mr. Krueger provided a brief overview of GASB 34 implementation. City Manager King stated there was a great debate at the time GASB 34 was adopted regarding what methodology will better inform the public.

In response to Mayor Johnson, Mr. Krueger stated there was a focus on information services in the recent audit because there is an integral relationship between accounting records and information services. Mr. Krueger stated that because review of every transaction is highly cumbersome, there is a statistical method, which includes an internal control that auditors use to review certain transactions and compliance with requirements set forth in the Sarbane-Oxley Act.

In response to Mayor Johnson, Mr. Krueger stated the tax collector receives and processes payments throughout the year and disburses to local agencies as required, but not necessarily twice a year when payments are due. City Manager King stated many communities have a dry period and one benefit of reserves is to have cash available for those time periods. Mr. Krueger provided an overview of the pooling and portfolio investment process that many agencies use to operate on a year-round basis.

In response to Council Member Hitchcock, Mr. Krueger stated examples of temporary accounts include property taxes, sales revenue, and in lieu fees from the Department of Motor Vehicles. He stated the funding is seen on an annual basis, closed at the end of the year, and the difference transfers into the ending fund balance.

Discussion ensued between Mayor Pro Tempore Mounce, City Manager King, and Deputy City Manager Krueger regarding consistency and governmental accounting practices, the ability to stay on either a cash or accrual basis for both the Comprehensive Annual Financial Report (CAFR) and budget, case study regarding electric power contracts, ability to show liabilities and assets accurately in the budget, and similar practices used in Roseville.

In response to Council Member Hitchcock, Mr. Krueger stated Electric Utility and Public Works are the main situations for which a cash basis for budget more accurately reflects the current financial condition.

In response to Council Member Hitchcock, Mr. Krueger stated that a portion of the budget does reflect total balances of the Certificates of Participation, which are also shown in the CAFR.

In response to Mayor Johnson, Mr. Krueger stated the first time he was able to trace the current practice of showing cash basis on the budget was 1994 and there is the inference of cash basis accounting prior to that.

In response to Mayor Johnson, Mr. Krueger stated it is not difficult to alternate between cash and accrual basis accounting. Mayor Johnson suggested staying the current practices and procedures.

Council Member Hitchcock stated cash basis accounting is helpful for the budget accurately reflecting the current picture and suggested staying with the same.

Mayor Pro Tempore Mounce stated a single methodology of either cash basis or accrual accounting is best to reflect the accuracy of the financial condition.

Mr. Krueger stated transparency is important and the budget document could use improvement. He stated they will remove a reference to “accrual to cash basis adjustment” as the numbers for the same are referenced more clearly elsewhere in the document.

In response to Council Member Hitchcock, Mr. Krueger stated there are a variety of classes available on GASB 34 and 45 offered by finance officers’ associations and the League of California Cities. City Manager King stated he believes presenting the budget on an accrual basis would not be reflecting an accurate picture of the current financial condition.

In response to Mayor Johnson, Mr. Krueger stated the million dollar amount references only the software and the hardware will be approximately an additional $100,000. He stated both the software and hardware will need to be replaced at the same time.

In response to Council Member Hitchcock, Mr. Krueger stated the green striped paper is no longer available due to printing costs, but the information is available at any given time both on the Internet and Intranet. He stated they can do a better job on the summaries, which is connected to the software.

Public Works Director Prima stated accrual basis accounting is not preferred from an operating standpoint.

C. COMMENTS BY THE PUBLIC ON NON-AGENDA ITEMS

None

D. ADJOURNMENT

No action was taken by the City Council. The meeting was adjourned at 8:31 a.m.

ATTEST:

Randi Johl
City Clerk

AGENDA ITEM **E-03**

CITY OF LODI
COUNCIL COMMUNICATION

TM

AGENDA TITLE: **Approve Specifications and Authorize Advertisement for Bids for Landscape Maintenance for the Lodi Consolidated Landscape Assessment District 2003-1, Fiscal Year 2007/08**

MEETING DATE: **April 4, 2007**

PREPARED BY: **Public Works Director**

RECOMMENDED ACTION: Approve specifications and authorize advertisement for bids for landscape maintenance for the Lodi Consolidated Landscape Maintenance Assessment District 2003-1 for fiscal year 2007/08.

BACKGROUND INFORMATION: This project provides for the contract landscape maintenance of the Lodi Consolidated Landscape Maintenance Assessment District 2003-1. This contract will cover Zones 1, 2, 5, 6, 8 and 11 at an estimated cost of $70,000 for 12 months. The maintenance work covered under this contract is limited to the landscape and irrigation improvements along the reverse frontage areas of the subdivisions in these zones. The specifications for the maintenance zones were based on weekly maintenance, which is a significantly higher level of service than other landscape areas in the City.

FISCAL IMPACT: The funds for this maintenance contract are provided by the property owner assessments in the Lodi Consolidated Landscape Maintenance Assessment District 2003-1 and does not come out of the General Fund.

FUNDING AVAILABLE: Not applicable.

_____
Richard C. Prima, Jr.
Public Works Director

Prepared by Curt Juran, Assistant Streets and Drainage Manager

RCP/GMB/CJ/dsg

cc: F. Wally Sandelin, City Engineer/Deputy Public Works Director
George M. Bradley, Streets and Drainage Manager

APPROVED: _____
Blair King, City Manager

AGENDA ITEM **E-04**

CITY OF LODI
COUNCIL COMMUNICATION

TM

AGENDA TITLE: **Approve Specifications and Authorize Advertisement for Bids for 3,000 Tons of Asphalt Materials for Fiscal Year 2007/08**

MEETING DATE: **April 4, 2007**

PREPARED BY: **Public Works Director**

RECOMMENDED ACTION: Approve specifications and authorize advertisement for bids for 3,000 tons of asphalt materials for fiscal year 2007/08.

BACKGROUND INFORMATION: The asphalt materials purchase is needed to carry out the annual street maintenance program that is guided by the Pavement Management System used by the Street Division and is consistent with past practices. The street maintenance program includes the thin overlay program and routine pavement repairs at an estimated cost of $180,000. This is a simple purchase of materials which has traditionally been bid on by the two asphalt suppliers in the area.

The amount of asphalt used by the Street Division has been reduced by 25%, from 4,000 tons to 3,000 tons, over the past four years due to budget reductions. The amount of asphalt requested for fiscal year 2007/08 is the same tonnage of asphalt approved for fiscal year 2006/07, but the estimated increase in cost of $24,000 over the last fiscal year is due to the escalating cost of asphalt. As the 2007/08 budget has not yet been finalized, should the full amount of funding needed not be made available, staff will reduce the amount of asphalt purchased to match the level of funding.

Trucking services will be dealt with on an informal bid basis, as the individual costs will be less than $5,000 per event. This has been the accepted past practice and will allow us to obtain services from multiple sources on an as-needed basis rather than relying on one provider for the entire season. The proposed operating budget has sufficient funds to cover these items.

FISCAL IMPACT: This budget expense will assist the Street Division in its continuing effort to maintain the City of Lodi's asphalt paving. The contract needs to be bid prior to the budget in order to have a contract in place for the summer maintenance season.

FUNDING AVAILABLE: Not applicable.

Richard C. Prima, Jr.
Public Works Director

Prepared by Curtis Juran, Assistant Streets and Drainage Manager
RCP/GMB/CJ/dsg
cc: George M. Bradley, Streets and Drainage Manager

APPROVED: _____
Blair King, City Manager

AGENDA ITEM **E-05**

CITY OF LODI
COUNCIL COMMUNICATION

TM

AGENDA TITLE: Approve Specifications and Authorize Advertisement for Request for Proposals for various photocopiers in several City departments

MEETING DATE: April 4, 2007

PREPARED BY: Deputy City Manager

RECOMMENDED ACTION: Approve specifications and authorize advertisement for Request for Proposals for various photocopiers in several City departments.

BACKGROUND INFORMATION: There are nine photocopiers at five locations in City departments including Public Works, Finance, Parks and Recreation, Hutchins Street Square, Human Resources, City Clerk and Fire Departments that need to replaced. These machines have various specifications (as contained in Exhibit C of the Request for Proposals) and are manufactured by several different companies. In addition they are being serviced by several different vendors. The machines identified for replacement require unusually frequent repairs and maintenance, which is a source of work interruptions, inconvenience to customers and inefficiencies.

Our objective is to obtain proposals that will meet the varying business needs of departments associated with the copy speed, expected service demands of the photocopy machines and to eliminate the problems identified above. In addition, we look to meet the overall needs of the City by accomplishing the following objectives with the business machines we are looking to acquire through this proposal process:

(a) Reduce overall cost of document production.

(b) Have access to state-of-the-art digital technology with copy/print/scan capabilities.

(c) Improve quality and reliability of hardware.

(d) Improve service and support for all locations.

FISCAL IMPACT: it is anticipated that the purchase or lease of business machines on a comprehensive basis will result in savings or a better level of service to the public

FUNDING: The budget for 2006-07 includes sufficient amounts to acquire the machines identified in the request for proposals.

_____
Kirk Evans, Budget Manager

_____
James R. Krueger, Deputy City Manger

Attachments: Request for Proposals

APPROVED: _____
Blair King, City Manager

CITY OF LODI

REQUEST FOR PROPOSAL (RFP)

COPIER EQUIPMENT PURCHASE AND MAINTENANCE SERVICES

City of Lodi

221 W. Pine Street
Lodi, CA 95240

THE CITY OF LODI RESERVES THE RIGHT TO REJECT
ANY OR ALL OFFERS OR PROPOSALS

COPIER EQUIPMENT PURCHASE AND MAINTENANCE SERVICES
REQUEST FOR PROPOSAL

TABLE OF CONTENTS

	PAGE
INTRODUCTION	3
1. General	3
2. Scope of this RFP	3
3. RFP Process	4
4. Product and Service Specifications	5
5. Service and Maintenance Provisions	6
6. General Contract Provisions	6
CURRENT BUSINESS ENVIRONMENT EXHIBITS	
Exhibit A - Business Environment Summary	8
Exhibit B – Equipment Locations/Current Inventory/Estimated Usage	9
Exhibit C - Installed Equipment Base/Replacement Minimums/Configuration and Volumes	10
REQUIRED ATTACHMENTS	
Attachment 1 – Supplier Information Form	13
Attachment 2 - Authenticity of Bid Proposal	14
Attachment 3 – Pricing Quotation	15
Attachment 4 – Implementation Strategy and Timeframes	16
Attachment 5 - Vendor Services Agreement	17

INTRODUCTION

1. GENERAL

1.1 Your company is invited to submit a proposal in response to the enclosed specifications for copier equipment and management services.

1.2 The City of Lodi is looking to replace copiers and maintenance service in approximately 5 locations.

1.3 The successful Vendor's bid and the terms and conditions stated in this RFP will be made part of the contract between the City of Lodi and the Vendor. This RFP outlines the specifications and requirements, but not necessarily all of the terms and conditions, the City of Lodi will incorporate into the final agreement between the City of Lodi and the successful Vendor.

1.4 The City of Lodi will evaluate all Vendors' proposals. Distribution of this RFP or receipt of any proposal will not constitute a commitment by the City of Lodi to any or all of the bid participants. At its sole discretion, the City of Lodi may negotiate a portion of the contracted products/services to more than one Vendor, reject all proposals, or further negotiate with Vendors if it is determined that the submitted proposals are not economically beneficial to the City of Lodi or for other business reasons. This is a Request for Proposal and not a binding offer to contract.

2. SCOPE OF THIS RFP

2.1 The purpose of this RFP process is to provide your company with the opportunity to describe how it can meet specific business requirements of the City of Lodi.

2.2 The City of Lodi is seeking a provider of multi-functional equipment to achieve the following goals:

(a) Reduce overall cost of document production.

(b) Have access to state of the art digital technology with copy/print/scan capabilities.

(c) Improve quality and reliability of hardware.

(d) Improve service and support for all locations.

2.3 A description of "service" specifications for the City of Lodi is outlined in Attachment 2, Product and Service Specifications.

3. RFP PROCESS

3.1 Proposals, Content and Format. Your proposal must include an introduction. You may determine the contents of the introduction. However, you must include a general statement of understanding along with a statement of the purpose and scope of your proposal. All proposals must conform to the instructions in this RFP. You are invited to submit additional information or materials that you believe will help the City of Lodi evaluate your proposal.

3.2 The following RFP Attachments must be included in your proposal:

Attachment 1 - Supplier Information Form (Describe your company in detail)
Attachment 2 - Authenticity of Bid Proposal
Attachment 3 - Price Quote
Attachment 4 - Implementation Strategy and Timeframes
Attachment 5 - Vendor Services Agreement

3.3 You must submit a total of two (2) copies of your proposal in a sealed envelope marked "RFP – Copier Equipment and Maintenance" addressed to:

Rebecca Areida, Management Analyst II
City of Lodi
Public Works Department
221 W. Pine Street
Lodi, CA 95240

3.4 **Proposals must be received prior to 4:00 p.m. on _____**. ANY PROPOSAL RECEIVED AFTER THAT TIME WILL NOT BE CONSIDERED. Electronic or faxed proposals will not be considered.

3.5 The City of Lodi may award the project to any Vendor at any time without previously notifying the other Vendors.

3.6 Vendors' Questions: Vendors will have the opportunity to ask questions regarding the RFP. Any questions should be directed to Rebecca Areida at rareida@lodi.gov.

Any material information that is provided as a result of a Vendor's inquiry that could provide an unfair advantage will be shared with all Vendors.

4. PRODUCT AND SERVICE SPECIFICATIONS

You may submit alternative contract terms if, in your opinion, they are more favorable to the City of Lodi.

4.1 Product Specifications: Use Exhibit C, Installed Equipment Base/Replacement Minimums/Configuration and Volumes, as a guideline for your company's proposal. All equipment must be new (unused) and the latest model and release.

4.2 Delivery, Installation and Training: You must include delivery, installation and training as well as network connectivity in pricing. All manufacturers' manuals for all machines must be provided to the City of Lodi.

4.3 Quality: All Vendors are expected to provide reliable and consistent goods and services of the highest quality in compliance with laws and common practices in the United States and with regard for the environment.

4.4 The City of Lodi reserves the right to eliminate any prospective vendor(s) that do not adhere to all the laws and regulations necessary for doing business with a public entity such as the City of Lodi.

4.5 Performance Standards: All products purchased and sold will conform to the specifications set forth in Exhibit C. Specifications may be amended from time to time upon mutual written agreement of both parties. All products will be in compliance with all applicable federal, state and local laws, ordinances and regulations.

4.6 Invoicing: Unless equipment is added or deleted, bid prices are to remain firm. Bid prices are to include the total cost of purchasing the equipment based on the proposed price quote. Purchase cost will also include any and all taxes, including sales and property taxes associated with the lease. Failure to include these costs in the bid will be cause for rejection of the bid.

5. SERVICE/MAINTENANCE PROVISIONS

5.1 Vendor will provide full service and maintenance coverage, including all consumables, with the exception of paper. Vendor will provide a blended service rate or per machine service rate for all equipment purchased.

5.2 Vendor will provide a minimum response time of two (2) to four (4) hours for service calls or maintenance requests, unless the call is logged in after 3:00 p.m. If logged in after 3:00 p.m., service or maintenance will be provided by 10:00 a.m. the following work day.

5.3 All responses to service calls will be made within four (4) hours by a qualified technician with proper repair equipment on-site. Technicians must be available from 8:00 a.m. through 5:00 p.m. Monday through Friday, with the exception of legal holidays.

5.4 There will be no additional charges or overtime for time spent repairing equipment before or after the City's normal operation hours (8 a.m. to 5 p.m.).

5.5 All parts and labor maintenance charges will be covered in full and included in the maintenance cost. No additional bills for extra charges will be submitted without prior written agreement between both parties.

5.6 All maintenance, including preventative maintenance, will be in accordance with the original equipment manufacturer's standards.

5.8 Delivery Guarantee: Equipment will be delivered on or before the date as agreed upon by the City of Lodi and Vendor.

6. GENERAL PROVISIONS

6.1 Contract: Vendor agrees to all terms as outlined in the City's Vendor Services Agreement (Attachment 5). Both parties MUST agree to any requests by Vendor for modification of terms in writing.

6.2 Alternative Contract Terms: You may submit alternative contract terms in your proposal if, in your opinion, they are more favorable to the City of Lodi. You must describe in sufficient detail how the alternatives may be advantageous to the City of Lodi.

EXHIBIT A

Business and Technology Environment Summary

The network configuration and equipment currently used by the City of Lodi to which the equipment will be connected is comprised of the following elements:

- Computers: Intel PCs
- System Software: Windows 2000/2003/XP
- Servers: Win2000/Windows 2003
- Ethernet: 10/100 baseT using CAT 5 wiring
- Network Protocol: TCP/IP

EXHIBIT B

Locations, Current Equipment Inventory and Estimated Monthly Usage

Unit 1

Public Works Department — 221 W. Pine Street,1st Floor, Lodi, CA 95240
Minolta EP5000CS
20,000 copies/month

Unit 2

Public Works Department — 12751 N. Thornton Road, Lodi, CA 95242
Minolta EP4000
2,300 copies/month

Units 3 & 4

Finance Department — 300 W. Pine Street, Lodi, CA 95240
Minolta EP5000CS (2)
20,000 copies/month per unit

Unit 5

Parks & Recreation Department — 125 N. Stockton Street, Lodi, CA 95240
Minolta Di250
25,000 copies/month

Unit 6

Hutchins Street Square — 125 S. Hutchins Street, Lodi, CA 95240
Minolta CF2001
10,000 copies/month

Unit 7

Human Resources — 221 W. Pine Street, 2nd Floor, Lodi, CA 95240
Minolta EP5000
20,000 copies/month

Unit 8

Administration — 221 W. Pine Street,2nd Floor, Lodi, CA 95240
Xerox DC480
28,500 copies/month

Unit 9

Fire Administration — 25 E. Pine Street, Lodi, CA 95240
Minolta 5000
10,000 copies/month

EXHIBIT C

Installed Equipment Base/Replacement Minimums/Configuration and Volumes

Proposal MUST include equipment that meets the minimums as outlined in the minimum requirement details below (options listed should be included as add-ons to the price quote on Attachment 3, with cost of each option listed) :

Minimum Requirements (Units 1 & 3-5)

- Speed of at least 50 PPM
- Auto Document Feeder
- Stapler
- Duplex
- Digital Print/Copy/Scan to E-Mail/Fax
- Paper drawer capacity of at least 2,500 sheets
- Letter, legal and ledger paper handling
- Finisher with ability to fold and hole punch, with at least 50-sheet stapling capacity
- Post inserter for ability to add pre-printed covers or insert pages post-process

Optional requirement:

- Full color printing w/minimum 35 PPM

Minimum Requirements (Unit 2)

- Speed of at least 25 PPM
- Auto Document Feeder
- Stapler
- Duplex
- Digital Print/Copy/Scan Ability
- Paper drawer capacity of at least 1,000 sheets

Minimum Requirements (Unit 6 & 7)

- Minimum speed (letter size):
  45 PPM(Black) & 35PPM(Color)
- Minimum monthly paper handling rating of 10,000 sheets
- Fiery Print Controller
- Color copy
- Color network printing (full bleed)
- Color network facsimile with Auto Fax Finishing, PC-Fax/PC-Internet Fax, Duplex Transmission & Reception
- Color network scanning with scan to e-mail/FTP server/desktop/network folder/USB memory
- USB printing and scanning
- Built-in hard drive
- Letter, legal, ledger & 12x18 paper handling

- Minimum total paper drawer capacity of 5,000 sheets
- Mixed size original copying/scanning
- Duplex Single Pass Feeder
- Stack-less duplex
- Sheet bypass
- 3-hole punch
- Stapler
- Sort & group with offset stacking
- Saddle stitch finisher w/V-Fold & paper pass

Minimum Requirements (Unit 8)

- Input speed up to 65ppm
- Stapling, hole punching, V-folding and saddle-stitch finishing option
- Upgradeable to print, fax and scan
- Letter, legal and ledger paper handling
- 75 sheet duplexing automatic document feeder
- Full duplex
- Auto paper select
- Auto tray switching
- Covers
- Job Build
- Inserts and tab copying
- Sample set and job storage
- Paper capacity of 4,800 sheets
- Multi-position stapling
- 3-hole punch (2-hole option)
- Maximum duty cycle of 250,000 pages per month
- Department ID Codes

Minimum Requirements (Unit 9)

- Speed of at least 50 PPM
- Digital Print/Copy/Scan to E-Mail
- Multi-position staple/finisher with 2 and 3 hold punching
- Fully automatic duplexing
- Paper capacity of at least 3000 sheets
- Print controller, network ready
- Hard drive for all copy, print and scan functions

ATTENTION VENDORS

Attachments 1-8 must be included with your proposal.

ATTACHMENT 1

Supplier Information Form
(This form must be included with your Proposal.)

VENDOR NAME _____

ADDRESS _____

CONTACT _____

TELEPHONE _____

STATEMENT OF VENDOR'S QUALIFICATIONS

1. Address of principal place of business:

2. Closest servicing location:

3. Number of local technicians:

4. Guaranteed minimum response time?

5. List five (5) current customers that are similar to the City of Lodi in type and volume of products and/or services purchased. Include contact names and numbers.

Company Name	Contact Name	Phone

6. Additional Information: Include any additional information that you think will be helpful in evaluating your proposal.

ATTACHMENT 2

Authenticity of Bid Proposal
(This form must be included with submission of your Proposal.)

By signature of its authorized representative below, Vendor agrees that the attached proposal is per the specifications set forth in the Copier Equipment and Management Services RFP dated , for the City of Lodi, and Vendor accepts the terms and conditions of this RFP.

By: _____

Typed name: _____

Title: _____

Date: _____

ATTACHMENT 3

Price Quote

Equipment

	Price	Price w/color option
Unit 1		
Unit 2		
Unit 3		
Unit 4		
Unit 5		
Unit 6		
Unit 7		
Unit 8		
Unit 9		

Maintenance

	Price per copy	Overage Charges	Other
Black & White			
Color			

Per copy rate for service must include all parts and labor and all consumables, with the exception of paper.

Maintenance will be bid at the approximate copies per month listed on Exhibit B. Price per copy cost for maintenance will cover all units. Any overages will be billed as agreed upon by City.

Proposals MUST include all new (unused) equipment and the latest model and release.

See **Exhibit A** for the City's Business and Technology requirements.

After reviewing the current monthly copy information revealed in **Exhibit B**, Vendor may submit recommendations for equipment and services that may be a better option for the City.

ATTACHMENT 4

Implementation Strategy and Timeframes
(This form must be included with your proposal.)

Please describe in detail:

ATTACHMENT 5

VENDOR SERVICES AGREEMENT

THIS AGREEMENT is made and entered into as of the ____ day of _____, 2007, by and between the CITY OF LODI (hereinafter "City") and _____ (hereinafter "Vendor").

RECITALS

This Agreement is entered into with reference to the following facts and circumstances:

A. That the City desires to engage Vendor to render certain professional services to the City;

B. That Vendor is qualified to provide such services to the City; and

C. That the City has elected to engage the services of Vendor upon the terms and conditions as hereinafter set forth.

TERMS AND CONDITIONS

1. **Services**

The services to be performed by Vendor under this Agreement shall include those services set forth in **Exhibit A**, which is by this reference incorporated herein and made a part hereof as though it were fully set forth herein.

Performance of the work specified in said Exhibit A is hereby made an obligation of Vendor under this Agreement, subject to any changes that may be made subsequently hereto upon the mutual written agreement of said Parties.

Where in conflict, the terms of this Agreement supersede and prevail over any terms set forth in Exhibit A.

2. **Term of Agreement**

Said services shall commence on execution and shall continue until terminated by ten (10) days written notice by either Party.

3. **Compensation**

Payment under this Agreement shall be as per Exhibit A.

4. **Effective Date of Agreement**

This Agreement becomes effective when endorsed by both Parties in the space provided below.

5. **Reliance of Professional Skill of Vendor**

Vendor represents that it has the necessary professional skills to perform the services required and the City shall rely on such skills of the Vendor to do and perform the work.

6. **Relationship of Parties**

It is understood that the relationship of Vendor to the City is that of an independent contractor, and all persons working for or under the direction of Vendor are its agents or employees and not agents or employees of the City.

7. **Non-Assignment**

This Agreement is not assignable either in whole or in part.

8. **Amendments**

This Agreement may be amended or modified only by written agreement signed by both Parties.

9. **Validity**

The invalidity, in whole or in part, of any provisions of this Agreement shall not void or affect the validity of any other provisions of this Agreement.

10. **Governing Law/Litigation**

This Agreement shall be governed by the laws of the State of California and any suit or action initiated by either Party shall be brought in the County of San Joaquin, California. In the event of litigation between the Parties hereto to enforce any provision of the Agreement, the unsuccessful Party will pay the reasonable expenses of litigation of the successful Party.

11. **Mediation**

Should any dispute arise out of this Agreement, the Parties shall meet in mediation and attempt to reach a resolution with the assistance of a mutually acceptable mediator. Neither Party shall be permitted to file legal action without first meeting in mediation and making a good faith attempt to reach a mediated resolution. The costs of the mediator, if any, shall be paid equally by the Parties. If a mediated settlement is reached, neither Party shall be deemed the prevailing party for purposes of the settlement and each Party shall bear its own legal costs.

12. **Entire Agreement**

This Agreement, including Exhibit A, comprises the entire Agreement.

13. **Indemnity**

Vendor shall defend, indemnify and hold the City and its officers and employees harmless from any and all claims and liabilities related to or as a result of Vendor's performance of this Agreement, to the extent they are caused by the Vendor’s negligent acts, or willful wrongful acts.

14. **Insurance Requirements**

Vendor shall maintain during the life of this Agreement insurance coverage in accordance with City of Lodi insurance specifications, which include an endorsement naming the City et. al., as additional insureds and a primary insurance endorsement.

15. **Notice**

All notices required by this Agreement shall be given to the City and Vendor in writing, by first class mail, postage prepaid, addressed as follows:

City: City of Lodi
Attention:
221 W. Pine Street
Lodi, CA 95240

Vendor: _____

_____

_____

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed on the date first written by their respective officers duly authorized in that behalf.

DATED: _____, 2007 CITY OF LODI

By:_____

APPROVED AS TO FORM:

DATED: _____, 2007 By:_____
City Attorney

DATED: _____, 2007 VENDOR:
_____
_____

By: _____

EXHIBIT A
SCOPE OF SERVICE

This form is to be used when you don't have a proposal letter from the Vendor to use. If you have a proposal (RFP and Bid) letter that you wish to use for Item A, simply type "Exhibit A" at the top of the proposal letter.

CITY OF LODI
COUNCIL COMMUNICATION

TM

AGENDA TITLE: **Adopt Resolution Awarding Contract to HDR, Inc., of Folsom, for Surface Water Treatment Facility Conceptual Design and Feasibility Evaluation for Water Supply and Transmission System ($400,000) and Authorizing the City Manager to Execute the Contract**

MEETING DATE: **April 4, 2007**

PREPARED BY: **Public Works Director**

RECOMMENDED ACTION: Adopt a resolution awarding a contract to HDR, Inc., of Folsom, for surface water treatment facility conceptual design and feasibility evaluation for water supply and transmission system and authorizing the City Manager to execute the contract.

BACKGROUND INFORMATION: At the December 20, 2006 City Council meeting, staff was directed to solicit proposals from the previously selected group of three water consulting firms. Two of these consulting firms joined forces, and, as a result, two proposals were submitted.

The following subject areas were required elements of the proposals:

1. Watershed Assessment - What user and uses in the Mokelumne River water shed could affect the quality of the water at Lodi thereby influencing the treatment needs?
2. Alternative Site Evaluations - A maximum of four sites will be considered and direction from the City Council will be sought early in the program.
3. Conceptual Design Criteria - Limiting the facility alternatives to conventional and membrane technology, what will be the facility design criteria required to meet State and Federal drinking water quality standards?
4. Capital and Annual Operating Cost Estimates - An important part of comparing the alternatives will be understanding the capital costs as well as the operation and maintenance costs including personnel.
5. Phased Capacity - What are the opportunities and constraints to phasing the capital construction?
6. Life Cycle Costs - Allows the comparison of alternatives that are capital intensive but operationally inexpensive to those that are capital light but operationally expensive.
7. Financing Alternatives - Provides an analysis of the interdependence of capital costs and phasing, operations and maintenance costs and the impact on the rates, and the revenue stream resulting from new development to determine the timing and feasibility of constructing a new water treatment facility.
8. Impacts of Incorporation into the Existing System - Determines the impact upon the City's existing water supply system and identifies required modifications to existing facilities, operations and personnel.
9. Environmental Considerations - Provides a screen check of potential environmental fatal flaws.

APPROVED: _____
Blair King, City Manager

The firm of HDR, Inc., of Folsom, California, teamed with West Yost & Associates and was selected by the Public Works Staff to perform the work described above. HDR's proposal was the most responsive and the firm has recent experience on similar projects of similar size. Although the recommendation was not based upon the cost proposal, the HDR cost proposal of $400,000 was the lower of the two received. The expected cost for this phase of the Water Project is estimated to be $600,000 including City staff costs and contingencies, thereby allowing the project appropriation to be reduced by $150,000 in the FY 06/07 Budget.

Funding for the project is provided by the Water Impact Fee fund, and during the course of this phase of the Water Project, a Water Capacity Impact Fee will be established. This impact fee would cover the costs for preliminary engineering, design engineering and construction of the facilities.

FISCAL IMPACT: Advance funding from the Water Impact Fee fund would be reimbursed by future fees paid by new development.

FUNDING AVAILABLE: Water Impact Fee fund

_____
Kirk Evans, Budget Manager

_____
Richard C. Prima, Jr.
Public Works Director

Prepared by F. Wally Sandelin, City Engineer/Deputy Public Works Director

RCP/FWS/pmf

RESOLUTION NO. _____

RESOLUTION OF THE LODI CITY COUNCIL AWARDING CONTRACT FOR SURFACE WATER TREATMENT FACILITY CONCEPTUAL DESIGN AND FEASIBILITY EVALUATION FOR WATER SUPPLY AND TRANSMISSION SYSTEM, AND FURTHER AUTHORIZING THE CITY MANAGER TO EXECUTE THE CONTRACT

==========

WHEREAS, at the December 20, 2006 City Council meeting, staff was directed to solicit proposals for Surface Water Treatment Facility Conceptual Design and Feasibility Evaluation for Water Supply and Transmission System from a previously selected group of three water consulting firms; and

WHEREAS, two of the consulting firms joined forces and as a result two proposals were submitted; and

WHEREAS, the following is a list of the subject areas that were required elements of the proposals:

1. Watershed Assessment - What user and uses in the Mokelumne River water shed could affect the quality of the water at Lodi thereby influencing the treatment needs?

2. Alternative Site Evaluations - A maximum of four sites will be considered and direction from the City Council will be sought early in the program.

3. Conceptual Design Criteria - Limiting the facility alternatives to conventional and membrane technology, what will be the facility design criteria required to meet State and Federal drinking water quality standards?

4. Capital and Annual Operating Cost Estimates - An important part of comparing the alternatives will be understanding the capital costs as well as the operation and maintenance costs including personnel.

5. Phased Capacity - What are the opportunities and constraints to phasing the capital construction?

6. Life Cycle Costs - Allows the comparison of alternatives that are capital intensive but operationally inexpensive to those that are capital light but operationally expensive.

7. Financing Alternatives - Provides an analysis of the interdependence of capital costs and phasing, operations and maintenance costs and the impact on the rates, and the revenue stream resulting from new development to determine the timing and feasibility of constructing a new water treatment facility.

8. Impacts of Incorporation into the Existing System - Determines the impact upon the City's existing water supply system and identifies required modifications to existing facilities, operations and personnel.

9. Environmental Considerations - Provides a screen check of potential environmental fatal flaws.

WHEREAS, the firm of HDR, Inc., of Folsom, California teamed with West Yost & Associates and is recommended by staff to perform the work described above at a cost of

$400,000. HDR's proposal was the most responsive and the firm has recent experience on similar projects of similar size.

NOW, THEREFORE, BE IT RESOLVED, that the contract for Surface Water Treatment Facility Conceptual Design and Feasibility Evaluation for Water Supply and Transmission System is hereby awarded to HDR, Inc., of Folsom in conjunction with West Yost & Associates in the amount of $400,000; and

WHEREAS, BE IT FURTHER RESOLVED, that the City Manager is hereby authorized and directed to execute the contract on behalf of the City of Lodi.

Dated: April 4, 2007
==========

I hereby certify that Resolution No. 2007-____ was passed and adopted by the City Council of the City of Lodi in a regular meeting held April 4, 2007, by the following vote:

AYES: COUNCIL MEMBERS –

NOES: COUNCIL MEMBERS –

ABSENT: COUNCIL MEMBERS –

ABSTAIN: COUNCIL MEMBERS –

RANDI JOHL
City Clerk

2007-____

CITY OF LODI
COUNCIL COMMUNICATION
TM

AGENDA TITLE: Adopt Resolution Authorizing the City Manager to Enter Reimbursement Agreements for Staff and Contract Costs Incurred in Processing Development Applications and Approved Developments

MEETING DATE: April 4, 2007 City Council Meeting

PREPARED BY: City Attorney's Office

RECOMMENDED ACTION: Adopt Resolution authorizing the City Manager to enter into Reimbursement Agreements with Developers seeking staff and contract resources to process development applications and developments.

BACKGROUND INFORMATION: Through Resolution 2006-78, a copy of which is attached to this staff report, Council established the policy that Developers should pay the full cost of in-house and outside engineering and planning services incurred in the processing of development applications and implementation of approved developments.

In furtherance of that policy staff has, for more intensive developments that require a commitment of time and expenses beyond that recovered through standard fees, brought forth Reimbursement Agreements for Council approval (reference Agreements with Frontiers Community Builders and San Joaquin Valley Land Company).

Staff anticipates the need for such reimbursement agreements on a more frequent basis as it captures more of the costs associated with processing applications. Accordingly, much as is the case with Improvement Agreements, staff recommends that Council authorize the City Manager to enter into a template form of reimbursement agreement with certain minimum terms and authorize the City Manager to set others within his or her discretion.

The basic terms would follow the same format as the Blue Shield and Westside Annexation Agreements: An agreement to reimburse for all in-house and outside staff costs, a deposit with an evergreen account to bill those costs against and an acknowledgement that the agreement grants no guarantees regarding project approval. The amount of the deposit and evergreen amount would be subject to the City Managers discretion based on the expected cost of the services.

Accordingly, staff requests that Council authorize the City Manager to enter into reimbursement agreements with the following minimum terms:

1.) Developer will reimburse City for all in-house staff time, contract services, purchased supplies and equipment necessary to perform the engineering, legal, environmental and planning services necessary for Developer's project.

2.) Developer shall deposit an amount to be determined by the City Manager equating to staff's estimate of the above costs prior to staff beginning work on Developer's project. In the event

APPROVED: _____
Blair King, City Manager

costs exceed the estimate, Developer will reimburse the City for the overage. The deposit will be required to be kept evergreen, meaning once the deposit falls below a set amount, the Developer must replenish the deposit. If the Developer fails to do so, City may cease work.

3.) Developer must acknowledge that the Agreement grants them no right or expectation for project approval and no right to control in-house or contract staff or demand that the project be processed on a particular time schedule.

4.) Developer must agree that it will not be entitled to damages for a delay in the schedule.

5.) Developer will agree to indemnify, defend and hold harmless the City of Lodi in any litigation arising out of or related to the project, including environmental claims, personal injury, inverse condemnation claims, and claims related to the Lodi Electric Utility taking over territory previously in the service area of another Electric Utility.

FISCAL IMPACT: None.

FUNDING AVAILABLE: Developer funded account.

Approved:

_____

Stephen Schwabauer, City Attorney

RESOLUTION NO. 2006-78

A RESOLUTION OF THE LODI CITY COUNCIL AMENDING PUBLIC WORKS DEPARTMENT ENGINEERING FEES FOR VARIOUS DEVELOPMENT SERVICES; AMENDING COMMUNITY IMPROVEMENT FEES FOR ADMINISTRATIVE PROCEDURES; AND AMENDING PLANNING FEES FOR PRE-DEVELOPMENT REVIEW AND HOURLY CHARGES

==========

WHEREAS, the Lodi Municipal Code requires the City Council, by Resolution, to set fees for various services provided by the City of Lodi to recover those costs associated with providing specific services and programs; and

Public Works:

WHEREAS, it is common practice for the Community Development Department to request review, comments, conditions, and approval by Public Works Department staff as part of its review process for various development services, such as the review of annexation applications, development plans, tentative parcel and subdivision maps, and site plan and architectural applications; and

WHEREAS, historically, the Public Works Department Engineering Division staff costs related to these activities were considered to be covered by the fees collected by the Community Development Department. With the adoption of the restructured Community Development Department fee schedule in May 2005 and the establishment of a Special Revenue Fund for Community Development Department services, this is no longer the case; and

WHEREAS, in an effort to recover Public Works Department staff costs related to these discretionary services and reduce the burden on the General Fund, staff is recommending the amendment of seven Engineering fees to be collected by the Public Works Department. They are: 1) Annexation, 2) Development Plan, 3) Tentative Subdivision Map, 4) Tentative Parcel Map/Non-Residential Condominium Conversion, 5) Site Plan and Architectural Review, 6) Building Permit – Commercial/Industrial, and 7) Building Permit – Residential; and

WHEREAS, in order to set fees appropriately, staff performed an analysis of personnel time and associated costs typically required to perform each task. Those costs include the cost of Public Works staff (salary plus benefits) plus the "fully loaded" costs for Citywide overhead (vehicle maintenance, building maintenance, telephone, etc.) and internal services (Finance, City Attorney, etc.). The proposed fees are shown on Exhibit A; and

WHEREAS, the fees represent the level of effort and associated costs for an average development project. The applicability of the standard fee shall be determined by the Public Works Director or his designee with projects exceeding an average level of staff work being charged on a time and cost basis. The proposed hourly rate by staff position is shown on Exhibit B. The hourly rate is also based on salary plus benefits and the "fully loaded" costs for City-wide overhead; and

WHEREAS, the fee schedule for existing Engineering fees, except plan check and inspection, includes a provision for an annual adjustment on July 1 based on the Consumer Price Index (Western Region, Urban, unadjusted) for the previous calendar year. Because the new Engineering fees are based upon actual time and cost, staff will continue to monitor all Engineering services and request Council to update them from time to time to reflect changes in salary, benefits and overhead costs; and

WHEREAS, it is recommended that the new fees take effect on June 15, 2006. It is further recommended that any applications subject to review by the Public Works Department that are submitted after the effective date shall be subject to the new fees; and

Community Development:

WHEREAS, on April 19, 2006, the City Council adopted an ordinance amending code enforcement procedures and establishing administrative citations and administrative enforcement hearings; and

WHEREAS, the ordinance establishes administrative citation fines but does not address all administrative fees. Such fees are established by resolution. Attached as Exhibit C is the proposed updated Community Improvement Fee Schedule to include new procedures established by the new code enforcement ordinance; and

WHEREAS, in May 2005, the City Council approved a new fee schedule for Planning fees that was based primarily on an average of Planning fees charged in surrounding cities. While this new fee schedule did increase Planning fees, it does not achieve full cost recovery, except for only in the simplest of circumstances; and

WHEREAS, staff recommends amending the fee schedule as shown in Exhibit D with the notation "plus hourly" to reflect actual staff time spent working on the request. Staff will collect the set fee for the Planning permit at time of application and then track staff time spent processing the permit. At conclusion of the permit processing (i.e., Planning Commission or City Council approval), staff will reconcile staff time spent processing the permit plus other required administrative charges (legal notice publishing costs, mail hearing notice costs, etc.) with the fee collected at application submittal. If not substantially equal, staff will then collect the balance due from the applicant as part of the issuance of the Planning permit; and

WHEREAS, staff proposes two new procedures with the fee being added to the Planning Fee Schedule (Exhibit D). One of these procedures is a Pre-development Review; the second new fee is for a non-residential condominium conversion; and

WHEREAS, since staff time would be tracked and charged to the project, it is necessary to adopt the staff hourly rate by position. The proposed hourly rate reflects total salary plus benefits and does include overhead for materials, vehicle use, building maintenance, and utilities. Exhibit E establishes these hourly rates for Community Improvement and Planning. These rates will need to be updated by Resolution from time to time to reflect changes in salary, benefits, and overhead costs.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Lodi does hereby implement the fee schedules attached hereto, marked Exhibit A, B, C, D, and E and made a part of this Resolution; and

BE IT FURTHER RESOLVED that the Engineering fees will also be subject to an annual adjustment on July 1 based on the Consumer Price Index (Western Region, Urban, unadjusted) for the previous calendar year; and

BE IT FURTHER RESOLVED that any applications subject to review by the Public Works or Community Development Departments that are submitted after the effective date of this Resolution shall be subject to the new fees; and

RESOLVED FURTHER that all resolutions or parts of resolutions in conflict herewith are repealed insofar as such conflict may exist; and

RESOLVED FURTHER that this resolution shall be in force and take effect on June 15, 2006.

Dated: May 3, 2006

==========

I hereby certify that Resolution No. 2006-78 was passed and adopted by the City Council of the City of Lodi in a regular meeting held May 3, 2006, by the following vote:

AYES: COUNCIL MEMBERS – Beckman, Hansen, Johnson, Mounce, and Mayor Hitchcock

NOES: COUNCIL MEMBERS – None

ABSENT: COUNCIL MEMBERS – None

ABSTAIN: COUNCIL MEMBERS – None

SUSAN J. BLACKSTON
City Clerk

Engineering Fee	Proposed Fee [1]
Annexation [2] [3]	$630
Development Plan [2] [3]	$1050 plus $15/lot over 5 lots
Tentative Subdivision Map [2] [3]	$1050 1-5 lots plus $15/lot over 5 lots
Tentative Parcel Map & Non-Residential Condominium Conversion	$840
Site Plan	$420
Building Permit - Commmercial/Industrial/Multi-Family	$600
Building Permit - Single-Family Residential	$110

(1) These fees shall be adjusted annually by the inflation rate based on the prior calendar year as determined by the Consumer Price Index (Western Region, Urban, unadjusted), The rate of inflation (or deflation) is applied to the fees to determine the fees for the subsequent year. Said fee adjustments, if any, will be made automatically effective July 1 of each year.

(2) Based on single-family residential developments having 75 lots or less. Single family residential projects having more than 75 lots will be charged on a time and cost basis.

(3) Commercial/industrial projects larger than 2 acres will be charged on a time and cost basis.

J:\DEV_SERV\Development Fees\Fee Update 2006_Ex B_C.xls

EXHIBIT A

EXHIBIT B

PUBLIC WORKS ENGINEERING HOURLY CHARGE[1]

• Public Works Director	$110/Hr
• City Engineer	$90/Hr
• Senior Civil Engineer	$80/Hr
• Senior Traffic Engineer	$80/Hr
• Associate Civil Engineer	$75/Hr
• Senior Engineering Technician	$60/Hr
• Assistant Engineer	TBD if filled
• Junior Engineer	TBD if filled
• Engineering Technician	TBD if filled

(1) These hourly rates are fully burdened, which includes salary, all benefits, and overhead.

EXHIBIT C

FEE SCHEDULE

City of Lodi Community Development Department – Community Improvement Division

	Current	Proposed
Initial Field Inspection Fee	0	$50
Initial Compliance Inspection	0	$50

Both of the aforementioned fees would be waived if voluntary compliance is obtained within given deadline.

Code Compliance Permit Fee	$100/hr	$100/hr
Reinspection Fee	n/a	$50
Initial Non-Compliance Fee	$100	$100
Subsequent Non-Compliance Fees	$300	$300
Initial Appeal Fee	$300	$100
Second Appeal Fee	n/a	$300

EXHIBIT D

FEE SCHEDULE

CITY OF LODI, COMMUNITY DEVELOPMENT DEPARTMENT, 221 W. PINE ST., LODI, CA 95240
PHONE: (209) 333-6711 FAX: (209) 333-6842

PLANNING:	FEE
ADMINISTRATIVE DEVIATION	$350 + HOURLY
ANNEXATION	$4,000 + HOURLY
APPEALS	$300
DEVELOPMENT PLAN REVIEW	$2,500 + HOURLY
ENVIRONMENTAL IMPACT REPORT	HOURLY
GENERAL PLAN AMENDMENT	$3,000 + HOURLY
HOME OCCUPATION	$100
LANDSCAPE REVIEW	$175 + HOURLY
LIVE ENTERTAINMENT PERMIT	$200
LOT LINE ADJUSTMENT	$650 + HOURLY
MITIGATION MONITORING	$HOURLY
NEGATIVE DECLARATION	$900 + HOURLY
TENTATIVE PARCEL MAP	$2,500 + HOURLY
NON-RESIDENTIAL CONDOMINIUM CONVERSIONS	$2,000 + HOURLY
PRELIMINARY ENVIRONMENTAL ASSESSMENT	$250 + HOURLY
REZONE	$2,000 + HOURLY
SITE PLAN AND ARCHITECTURAL REVIEW (SPARC)	$1,875 + HOURLY
TENTATIVE SUBDIVISION MAP	$4,600 + HOURLY
USE PERMIT	$2,000 + HOURLY
VARIANCE	$1,000 + HOURLY
PRE-DEVELOPMENT REVIEW	$250
DOCUMENT IMAGING	$50/APPLICATION
STAFF CONSULTATION (INCLUDING LETTERS)	HOURLY

THE APPLICATION FEES LISTED ABOVE ARE REFUNDABLE UNDER THE FOLLOWING CIRCUMSTANCES:

- WITHIN 30-DAYS OF APPLICATION – 75% REFUND.
- AFTER PROJECT ACCEPTANCE AND CIRCULATION FOR REVIEW – 50% REFUND.
- AFTER FORMULATION OF STAFF RECOMMENDATION TO PLANNING COMMISSION AND/OR CITY COUNCIL, OR 90-DAYS, WHICHEVER COMES FIRST – NO REFUND.

STAFF REQUESTS FOR INFORMATION, CORRECTIONS, OR AMENDMENTS MUST BE SUBMITTED WITHIN 30-DAYS. IF A PROJECT IS INACTIVE BEYOND 30-DAYS, THE APPLICATION WILL BE RETURNED AND A REFUND PROCESSED.

BUILDING: SEE "BUILDING FEES COLLECTED AT PERMIT ISSUANCE"

Effective 7/1/2005

EXHIBIT E

COMMUNITY DEVELOPMENT HOURLY CHARGE

COMMUNITY IMPROVEMENT

• Community Improvement Manager	$70/Hr
• Community Improvement Officers	$45/Hr
• Administrative Clerk	$30/Hr

PLANNING

• Community Development Director	$100/Hr
• Planning Manager	$80/Hr
• Senior Planner	$65/Hr
• Associate Planner	$55/Hr
• Assistant Planner	$50/Hr (if filled)
• Junior Planner	$45/Hr (if filled)
• Contract Planner	$80/Hr +/- (TBD)
• Administrative Secretary	$40/Hr

RESOLUTION NO. 2007-____

A RESOLUTION OF THE LODI CITY COUNCIL
AUTHORIZING THE CITY MANAGER TO ENTER
INTO REIMBURSEMENT AGREEMENTS ON
BEHALF OF THE CITY OF LODI

==========

WHEREAS, at their meeting held May 3, 2006, the Lodi City Council adopted Resolution No. 2006-78, establishing the policy that Developers should pay the full cost of in-house and outside engineering and planning services incurred in the processing of development applications and implementation of approved developments; and

WHEREAS, in furtherance of that policy staff has, for more intensive developments that require a commitment of time and expenses beyond that recovered through standard fees, brought forth Reimbursement Agreements for Council approval; and

WHEREAS, staff anticipates the need for such reimbursement agreements on a more frequent basis as it captures more of the costs associated with processing applications; and

WHEREAS, accordingly, much as is the case with Improvement Agreements, staff recommends that Council authorize the City Manager to enter into a template form of reimbursement agreement with certain minimum terms and authorize the City Manager to set others within his or her discretion; and

WHEREAS, the basic terms of an agreement would be to reimburse for all in-house and outside staff costs, a deposit with an evergreen account to bill those costs against and an acknowledgement that the agreement grants no guarantees regarding project approval. The amount of the deposit and evergreen amount would be subject to the City Managers discretion based on the expected cost of the services; and

WHEREAS, staff requests that Council authorize the City Manager to enter into reimbursement agreements with the following minimum terms:

1.) Developer will reimburse City for all in-house staff time, contract services and purchased supplies and equipment necessary to perform the engineering, legal, environmental and planning services necessary for Developer's project.

2.) Developer shall deposit an amount to be determined by the City Manager equating to staff's estimate of the above costs prior to staff beginning work on Developer's project. In the event costs exceed the estimate, Developer will reimburse the City for the overage. The deposit will be required to be kept evergreen, meaning once the deposit falls below a set amount, the Developer must replenish the deposit. If the Developer fails to do so, City may cease work.

3.) Developer must acknowledge that the Agreement grants them no right or expectation for project approval and no right to control in-house staff or demand that the project be processed on a particular time schedule.

4.) Developer must agree that it will not be entitled to damages for a delay in the schedule.

5.) Developer will agree to indemnify, defend and hold harmless the City of Lodi in any litigation arising out of or related to the project, including environmental claims, personal injury, inverse condemnation claims, and claims related to the Lodi Electric Utility taking over territory previously in the service area of another Electric Utility.

NOW, THEREFORE, BE IT RESOLVED that the Lodi City Council does hereby authorize the City Manager to enter into reimbursement agreements with the minimum terms as outlined above.

Dated: April 4, 2007

==========

I hereby certify that Resolution No. 2007-____ was passed and adopted by the City Council of the City of Lodi in a regular meeting held April 4, 2007, by the following vote:

AYES: COUNCIL MEMBERS –

NOES: COUNCIL MEMBERS –

ABSENT: COUNCIL MEMBERS –

ABSTAIN: COUNCIL MEMBERS –

RANDI JOHL
City Clerk

2007-____

AGENDA ITEM **E-08**

CITY OF LODI
COUNCIL COMMUNICATION

TM

AGENDA TITLE: Approve a new Development Code Update Plan and Adopt a resolution authorizing the City Manager to enter into contract with Jacobson & Wack in the amount of up to $55,000 for contract services related to the completion of the Development Code Update.

MEETING DATE: April 4, 2007

PREPARED BY: Randy Hatch, Community Development Director

RECOMMENDED ACTION: That the City Council approve a new Development Code Update Plan and adopt a resolution authorizing the City Manager to enter into contract with Jacobson & Wack in the amount up to $55,000 for contract services related to the completion of the Development Code Update.

BACKGROUND INFORMATION: In January of 1999, the City entered into a contract with the firm of Crawford, Multari & Clark, Associates for a major revision of the City's Zoning Ordinance. The contract was for the amount of $111,780.00 and was for the preparation of a new development code to replace the City's current Zoning Ordinance. In 2004, the City decided to cancel the contract with Crawford/Multari due to significant budgetary constraints and the departure of key departmental staff. When the contract was terminated, the consultants had only spent approximately 60% of the budget. The remaining 40% or $44,712 was reallocated back to the City's General Fund.

One of the basic issues that triggered the need for a new Development Code is the age of the existing Zoning Ordinance. The existing document was adopted in the mid-1950s and was the City's first comprehensive zoning ordinance. Because of the age of the document, some of the concepts and standards are out of date. Regulations related to development standards including setbacks, densities, lot coverage, etc. that worked 50-years ago do not relate as well to current development practices. Additionally, amendments have been made to various sections of the ordinance over the years to try to address specific planning and zoning issues as well as conform to changes in state law. These changes have created internal inconsistencies in the ordinance and have made it increasingly difficult for City staff and the public to utilize the current zoning ordinance. Lastly, the zoning ordinance has certain inconsistencies with the City's current General Plan, which was adopted in 1991, and this can create confusion in the interpretation of the standards for development.

The consultants began the process of preparing a new Development Code shortly after being awarded the contract. They worked with City staff and the Planning Commission to determine what the City wanted in a new Development Code, and what issues or problems the City had with the existing Zoning Ordinance. One of the early directions they received from the City was to prepare a document that would retain some semblance with the current zoning code and one that would not be a radical departure from the current zoning practices. The City was looking for a Development Code that was more evolutionary as opposed to revolutionary in nature. The City hoped to update and upgrade the ordinance while still retaining development concepts that have made Lodi a special place.

APPROVED: _____
Blair King, City Manager

Based on this direction, the consultants went through the existing zoning ordinance chapter by chapter and suggested changes or ways to improve the document. This included greatly expanding and updating the list of definitions; adding numerous tables and illustrations to help explain zoning and planning concepts; changing or adding regulatory standards to address current development issues faced by the City; and reorganizing the document to make it easier to comprehend and making it more user-friendly. Additionally, the document codifies procedural issues to help the public navigate the sometimes complex planning and zoning process.

City staff reviewed these suggestions and added their own comments and ideas. Following numerous reviews and rewrites, the consultants prepared a series of draft chapters of the document for review by the City. The individual chapters were brought before the Planning Commission for their input and suggestions over a period of a year or so. Based on the Planning Commission's discussions, their ideas and suggestions for changes were incorporated into the document. At this stage of the process, the City decided to temporarily halt the project and stop further work on the new Development Code accounting for approximately 60% of the entire project scope and approximately $67,068 of the entire project budget.

Recent discussions with both the City Council and the Planning Commission have resulted in indications that there may be a desire to once again move forward with the preparation and adoption of this new Development Code and to include specific areas of interest including; residential intensification, itinerant merchants and commission review of architecture and site plans.

ANALYSIS: Planning staff has received direction from both the City Council and the Planning Commission to move forward with the completion and adoption of the new Development Code. In order to proceed with the update, staff has contacted land use planning consultants Jacobson & Wack to complete the preparation of the unfinished Development Code. City staff requested that the consultants provide the City with a Request for Proposal (Exhibit A). The consultants will work closely with City staff throughout the process of document preparation, review and final adoption. Jacobson & Wack were the sub-consultants for Crawford, Multari & Clark, Associates who the City originally hired back in 1999 to conduct the major revision of the City's Zoning Ordinance. Because of their knowledge, familiarity and experience with the project that current staff doesn't possess, staff is confident that Jacobson & Wack is qualified to assist the City in delivering the background, institutional knowledge and a final adoptable version of the Development Code. Jacobson & Wack has proposed a budget of $49,480 for their work. Staff suggests an approximate 10% contingency be added to authorize up to $55,000 for Jacobson & Wack work.

FISCAL IMPACT: Up to $55,000 plus associated staff time and costs of publishing public hearing notices.

FUNDING AVAILABLE: Staff recommends that $55,000 for the Jacobson & Wack contract be appropriated from the General Fund to the Community Development Fund.

_____
Kirk Evans, Budget Manager

_____
Randy Hatch
Community Development Director

RH/kjc
Attachments

JACOBSON & WACK
LAND USE PLANNING CONSULTANTS

9530 Hageman Road, Suite "B" 205, Bakersfield, CA 93312 (661) 213-4100 (661) 213-4111 (FAX)
jwplans@lightspeed.net

February 27, 2007

Mr. Peter Pirnejad
Director, Planning Division
Lodi City Hall
221 West Pine Street
Lodi, CA 95240

Subject: Proposal for the completion of an unfinished Development Code

Dear Mr. Pirnejad:

Thank you for inviting me to submit a proposal to complete the City's first comprehensive Development Code. Based on our recent discussion, this proposal will address my proposed approach to complete the preparation of the unfinished Development Code, whose original program was initiated in October, 1998. As we discussed during our recent telephone conversation, some of the tasks that I have identified in the work plan could be partially or completely accomplished by City staff in order to keep the budget within the City's established spending limits.

The attached recommended work plan is based on my current understanding of the City's needs and my experience with other similar projects. I anticipate working very closely with City staff throughout the process of document preparation, review, and adoption. And, as always, I will be highly responsive to any evolving City objectives as they may develop over the course of the project.

I welcome the opportunity to work with the City of Lodi on this important project. Please do not hesitate to contact me at (661) 213-4100 if you require any additional information. I encourage you to contact my past clients (reference list available upon request) who can attest to my ability to deliver an excellent product that meets or even exceeds the City's needs.

Respectfully submitted,
Jacobson & Wack

Bruce Jacobson
Principal

WORK PLAN, BUDGET, AND SCHEDULE

Completion of the unfinished Development Code
February 27, 2007

1. **Document review.** Even though I was a major contributor to the entire draft Development Code, I will first thoroughly review all of the most recent drafts of the document last submitted to the City in February, 2006. While the footer on these documents (all eight articles) contains a date of 2/06, the actual material contained in the documents date back to as early as October, 1999 (Article 8) and May, 2000 (Articles 3 & 4). Consequently, my memory needs a great deal of refreshment.

   Budget: $2,720 (16 hours at $170 per hour)

2. **Meeting with City staff.** I will conduct one meeting with appropriate City staff members to:

   - Review the City's direction and expectations for the initiation of the original project back in October, 1998.
   - Review the City's direction and expectations for this project.
   - Discuss the issues associated with the existing Preliminary Draft of the Development Code, dated 2/06. This would include the identification of text materials in need of updating (e.g., Child Day Care Facilities, Second Dwelling Units, Subdivision Ordinance Provisions, Telecommunications Facilities, etc.) as well as any new materials that the City staff may want added to the draft Development Code (e.g., Affordable Housing – Density Bonus Provisions, Requests for Reasonable Accommodations under ADA and Title 24, etc.).
   - Tour the City to observe actual built conditions that should be "corrected/discouraged" or "incentavised/encouraged" in the new Development Code.
   - Review format and organization alternatives, if desired.

   A product of this meeting will be a detailed list of items that need special attention and additional work in the draft Development Code. If desired by the City, I will attend additional meetings on a time and materials basis ($1,500 per additional meeting).

   Budget: $2,000

3. **Revised Preliminary Draft Development Code.** Following the initial meeting with staff identified in Task 2, above, I will prepare a draft of all of the updated and new materials identified in Task 2, above, as in need of addition to the draft Development Code. I will then incorporate all of these materials into the appropriate locations within the Revised Preliminary Draft Development Code. A preliminary set of graphics and illustrations will be included, where needed. (Provide one electronic copy.)

   Budget: $20,400 (120 hours at $170 per hour)

4. **Screencheck Draft Development Code.** Following review and comment of the Revised Preliminary Draft Development Code by staff, I will prepare the Screencheck Draft Development Code to confirm that all of staff's suggested/requested refinements have been properly incorporated into the draft Development Code. (Provide one electronic copy.)

Budget: $6,800 (40 hours at $170 per hour)

5. **Public Review Draft Development Code.** Following review and comment of the Screencheck Draft Development Code by staff, I will prepare the Public Review Draft Development Code to confirm that all of staff's suggested/requested refinements have been properly incorporated into the draft Development Code for presentation to the Planning Commission for review and recommendation and City Council for review and adoption. (Provide one electronic copy.)

   Note: Consideration should be given for a public outreach program to share the Public Review Draft Development Code with the general public and industry stakeholders before initiation of the public hearings.

   Budget: $3,400 (20 hours at $170 per hour)

6. **Planning Commission hearings (2).** I will attend and participate in up to two public hearings with the Planning Commission to review the Public Review draft of the new Development Code. This task anticipates the preparation of a PowerPoint presentation to assist the Commission and public in better understanding the material being presented. During the hearings, I will provide support for Commission and public review, as determined appropriate by the City's project manager, by being available to answer questions about proposed revisions, to discuss possible alternative approaches, and to draft revised language in response to staff or Commission direction. If desired by the City, I will attend additional meetings on a time and materials basis.

   Budget: $3,000 (Flat rate of $1,500 per public hearing)

7. **City Council hearings (2).** I will attend and participate in up to two public hearings where the City Council considers the adoption of the new Development Code. I will be prepared to present the previously prepared (Planning Commission) PowerPoint presentation. During the hearings, I will provide support for Council and public review, as determined appropriate by the City's project manager, by being available to answer questions about proposed revisions, to discuss possible alternative approaches, and to draft revised language in response to staff or Council direction. If desired by the City, I will attend additional meetings on a time and materials basis.

   Budget: $3,000 (Flat rate of $1,500 per public hearing)

8. **Screencheck Final Development Code.** After adoption of the new Development Code and before its effective date, I will prepare a final version, incorporating all changes made by the City Council. I will provide a screencheck version so that City staff can verify that the document accurately incorporates all changes approved by the City Council during the adoption process. (Provide one electronic copy.)

   Budget: $5,440 (32 hours at $170 per hour)

9. **Final Development Code.** Following receipt of City staff's confirmation of the Screencheck Final Development Code, I will prepare the Final Development Code for delivery to the City for codification and publication. I will provide an electronic copy in Microsoft Word software and .PDF format. Graphics will be provided in an electronic format.

   Budget: $2,720 (16 hours at $170 per hour)

TOTAL BUDGET: **$49,480***

* Progress billings will be forwarded to the City on a monthly basis based on time and materials and upon my standard hourly rate of $170. Because of the uncertainty of the level of work required for the preparation of Task 3. (Revised Preliminary Draft Development Code), I shall notify the City when the earned fee amounts to approximately 80 percent of the above estimated total budget amount ($49,480) and shall further notify the City as to the status of the project and any potential need for a budget augmentation. The City will be responsible for the preparation of all required CEQA studies and documentation.

PROJECT SCHEDULE BY TASK

Tasks	To Be Submitted/Conducted
1. Document review.	Within 30 days of receipt of City•s ■Notice to Proceed•
2. Meeting with City staff	Within 30 days of receipt of City•s ■Notice to Proceed•
3. Revised Preliminary Draft Development Code	Within 60 days following completion of Task 2.
4. Screencheck Draft Development Code	Within 45 days following receipt of City staff's comments on the Revised Preliminary Draft Development Code. (Task 3)
5. Public Review Draft Development Code	Within 21 days following receipt of City staff's comments on the Screencheck Draft Development Code. (Task 4)
6. Planning Commission hearings	To be determined at a later date
7. City Council hearings	To be determined at a later date
8. Screencheck Final Development Code	Within 14 days following completion of Task 7.
9. Final Development Code	Within 14 days following completion of Task 8.

RESOLUTION NO. 2007-____

A RESOLUTION OF THE LODI CITY COUNCIL APPROVING NEW DEVELOPMENT CODE UPDATE PLAN, AND FURTHER AUTHORIZING THE CITY MANAGER TO EXECUTE CONTRACT WITH JACOBSEN & WACK FOR SERVICES RELATED TO THE COMPLETION OF THE DEVELOPMENT CODE UPDATE

==========

NOW, THEREFORE, BE IT RESOLVED that the Lodi City Council does hereby approve the new Development Code Update Plan; and

BE IT FURTHER RESOLVED that the City Manager is hereby authorized to execute a contract with Jacobsen & Wack for services related to the completion of the Development Code Update, in an amount not to exceed $55,000.

Dated: April 4, 2007

==========

I hereby certify that Resolution No. 2007-____ was passed and adopted by the City Council of the City of Lodi in a regular meeting held April 4, 2007, by the following vote:

AYES: COUNCIL MEMBERS –

NOES: COUNCIL MEMBERS –

ABSENT: COUNCIL MEMBERS –

ABSTAIN: COUNCIL MEMBERS –

RANDI JOHL
City Clerk

2007-____

AGENDA ITEM E-09

CITY OF LODI
COUNCIL COMMUNICATION

TM

AGENDA TITLE: Adopt Resolution ratifying Memorandums of Understanding with the Lodi City Employees General Services and Maintenance and Operators Units (July 1, 2006 through June 30, 2008)

MEETING DATE: April 4, 2007

PREPARED BY: Deputy City Manager

RECOMMENDED ACTION: Adopt a Resolution ratifying the attached Memorandums of Understanding (MOU) with the Association of Lodi City Employees (ALCE) General Services and Maintenance and Operators Units for the period from July 1, 2006 through June 30, 2008.

BACKGROUND INFORMATION: There are 175 positions in the ALCE. The current MOUs expired on June 30, 2006 and, following Council direction, management staff has negotiated new MOUs to cover the period from July 1, 2006 through June 30, 2008. The provisions of the new MOUs with ALCE are as follows:

- No Cost of Living Adjustment for the period July 1, 2006 through June 30, 2007
- Cost of Living increase of 3-5% for the period July 1, 2007 through June 30, 2008
- Continuation of terms and provisions of current MOU
- Agreement to meet and confer on benchmarks to be used for a salary survey to be conducted prior to July 1, 2008

FISCAL IMPACT: There is no impact for fiscal year 2006-2007 since both units are foregoing cost of living increases until fiscal year 2007-08. The July 1, 2007 cost of living increase will range in total from $320,000 (3%) to $533,000 (5%) including salaries and benefits for both bargaining units and for all funds.

_____
Kirk Evans, Budget Manager

_____
James R. Krueger, Deputy City Manager

Attachments: Revised General Services MOU
Revised Maintenance and Operators MOU

APPROVED: _____
Blair King, City Manager

RESOLUTION NO. 2007-____

A RESOLUTION OF THE LODI CITY COUNCIL RATIFYING MEMORANDUM OF UNDERSTANDING BETWEEN THE CITY OF LODI AND MAINTENANCE AND OPERATORS AND GENERAL SERVICES GROUPS

==========

NOW, THEREFORE, BE IT RESOLVED that the Lodi City Council does hereby ratify the Memorandum of Understanding with the Lodi City Employees General Services and the Maintenance and Operators Units, as shown on Exhibit A and B attached hereto; and

BE IT FURTHER RESOLVED that said Memorandum of Understanding shall be effective July 1, 2006 through June 30, 2008.

Dated: April 4, 2007

==========

I hereby certify that Resolution No. 2007-____ was passed and adopted by the City Council of the City of Lodi in a regular meeting held April 4, 2007, by the following vote:

AYES: COUNCIL MEMBERS –

NOES: COUNCIL MEMBERS –

ABSENT: COUNCIL MEMBERS –

ABSTAIN: COUNCIL MEMBERS –

RANDI JOHL
City Clerk

2007-____

EXHIBIT A

MEMORANDUM OF UNDERSTANDING
BETWEEN
CITY OF LODI
AND
ASSOCIATION OF LODI CITY EMPLOYEES
GENERAL SERVICES UNIT

July 1, 2006 – June 30, 2008

1.0 Effective July 1, 2006, and except as provided herein, the July 1, 2003 - June 30, 2006 Memorandum of Understanding ("MOU") between the Association of Lodi City Employees General Services Unit (ALCE) and the City of Lodi ("City") shall extend for two years to June 30, 2008, and it shall continue thereafter from year to year unless either party shall give notice in writing to the other party at least sixty (60) days prior to any such anniversary date of its desire to amend or terminate same.

1.1 Salary Adjustments – No Cost of Living Adjustment (COLA) will be provided to ALCE members during July 1, 2006 through June 30, 2007. Effective July 1, 2007 ALCE members shall receive a salary increase between 3-5% based on the CPI-W US city average index for the twelve (12) month period ending April 2007.

1.2 No Cost of Living Adjustment (COLA) will be provided to ALCE members during the period of July 1, 2006 through June 30, 2007, except as provided in the following: reclassifications, step increases, promotions. Should any other employee bargaining group or employee be granted an across the board salary increase in the first 12 months following the expiration of their current contract or immediately expired contract, then ALCE members shall receive the same increase effective the first full pay period following June 30, 2006. Executive Management employees who have an increase granted by contract shall receive the increase but will be expected to forgo any other increase in base pay for 12 months thereafter, (except if waived for mutual convenience, i.e. to effectuate a change in retirement contracts). Executive Management employees who have forgone a pay increase for at least 24 months will have met their mutual contribution commitment and an increase to such employees shall not trigger a like pay increase. Confidential Employees with similar job titles as ALCE employees will not receive pay increases any sooner than ALCE employees.

1.3 The City and ALCE agree to meet and confer on benchmarks and to form a task force comprised of three (3) members of ALCE and three (3) members of the City of Lodi for purposes of conducting a salary survey in 2007-2008.

1.4 The task force shall conduct a salary survey of the fifteen cities listed in section 1.5. Salaries will be based upon the salary in effect as of 1/1/2008. The City also agrees that the survey will be completed by 4/1/2008.

1.5 The fifteen cities to be surveyed are as follows:

Chico	Clovis	Davis	Fairfield	Merced	Manteca
Modesto	Redding	Roseville	Stockton	Tracy	Turlock
Vacaville	Visalia	Woodland			

1.6 If another bargaining unit is offered an enhanced retirement during the next round of bargaining (2007/2008), AFSCME has the option to accept this enhanced retirement or its equivalent.

AFSCME LOCAL 146 – LODI CHAPTER
ASSOC. OF LODI CITY EMPLOYEES
GENERAL SERVICES UNIT

Felix M. Huerta

Felix Mario Huerta, Jr., Business Agent
AFSCME Council 57 - Local 146

Date: 3/30/07

Gregory C. Ramirez, Administrative Secretary

Date: 3-29-2007

Gail Glissman

Gail Glissman, Customer Services Supervisor

Date: 3-30-07

Linda Hoover

Linda Hoover, Administrative Secretary

Date: 3/29/07

Chris Mitchell

Chris Mitchell, Senior Library Assistant

Date: 3/29/07

CITY OF LODI
A MUNICPAL CORPORATION

Blair King, City Manager

Date:

James Krueger, Deputy City Manager

Date:

EXHIBIT B

MEMORANDUM OF UNDERSTANDING
BETWEEN
CITY OF LODI
AND
ASSOCIATION OF LODI CITY EMPLOYEES
MAINTENANCE AND OPERATORS UNIT

July 1, 2006 – June 30, 2008

1.0 Effective July 1, 2006, and except as provided herein, the July 1, 2003 - June 30, 2006 Memorandum of Understanding ("MOU") between the Association of Lodi City Employees Maintenance and Operators Unit (ALCE) and the City of Lodi ("City") shall extend for two years to June 30, 2008, and it shall continue thereafter from year to year unless either party shall give notice in writing to the other party at least sixty (60) days prior to any such anniversary date of its desire to amend or terminate same.

1.1 Salary Adjustments – No Cost of Living Adjustment (COLA) will be provided to ALCE members during July 1, 2006 through June 30, 2007. Effective July 1, 2007 ALCE members shall receive a salary increase between 3-5% based on the CPI-W US city average index for the twelve (12) month period ending April 2007.

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1.3 The City and ALCE agree to meet and confer on benchmarks and to form a task force comprised of three (3) members of ALCE and three (3) members of the City of Lodi for purposes of conducting a salary survey in 2007-2008.

1.4 The task force shall conduct a salary survey of the fifteen cities listed in section 1.5. Salaries will be based upon the salary in effect as of 1/1/2008. The City also agrees that the survey will be completed by 4/1/2008.

1.5 The fifteen cities to be surveyed are as follows:

Chico	Clovis	Davis	Fairfield	Merced	Manteca
Modesto	Redding	Roseville	Stockton	Tracy	Turlock
Vacaville	Visalia	Woodland			

1.6 If another bargaining unit is offered an enhanced retirement during the next round of bargaining (2007/2008), AFSCME has the option to accept this enhanced retirement or its equivalent.

AFSCME LOCAL 146 – LODI CHAPTER
ASSOC. OF LODI CITY EMPLOYEES
MAINTENANCE & OPERATORS UNIT

Felix M. Huerta Jr.

Felix Mario Huerta, Jr., Business Agent
AFSCME Council 57 - Local 146

Date: 3/30/07

Mark Ruggiero, Facilities Maintenance Worker

Date: 3/30/07

Larry Moore, Welder/Mechanic

Date: 3/30/07

Frederick Ohlhauser, Heavy Equip. Mechanic

Date:

CITY OF LODI
A MUNICPAL CORPORATION

Blair King, City Manager

Date: _____

James Krueger, Deputy City Manager

Date: _____

AGENDA ITEM E-10

CITY OF LODI
COUNCIL COMMUNICATION

TM

AGENDA TITLE: Receive Report Regarding Final Costs for the November 7, 2006, General Municipal Election

MEETING DATE: April 4, 2007

PREPARED BY: City Clerk

RECOMMENDED ACTION: Receive report regarding final costs for the November 7, 2006, General Municipal Election.

BACKGROUND INFORMATION: On May 17, 2006, the City Council approved entering into a contract with the County of San Joaquin for the County Registrar of Voters to provide certain services for the November 7, 2006, General Municipal Election.

Preliminary estimates from the Registrar's Office projected the election costs at $110,000. The actual cost (for eight candidates, one write-in candidate, and three ballot measures) totaled $50,456.14, as detailed on the attached invoice marked Exhibit A.

NOTE: The cost for candidates' statements of qualifications in the amount of $2,729.52 was billed directly to the candidates.

FISCAL IMPACT: $110,000 was budgeted for the November 7, 2006, General Municipal Election, which resulted in a savings to the City of $59,543.

FUNDING AVAILABLE: $50,456.14 – Election Account (100102 7323)

_____
Kirk Evans, Budget Manager

_____
Randi Johl
City Clerk

RJ/jmp

Attachment

APPROVED: _____
Blair King, City Manager

council/councom/ElectionInvoice.doc

EXHIBIT A

SAN JOAQUIN COUNTY
REGISTRAR OF VOTERS

DEBORAH S. HENCH
REGISTRAR OF VOTERS
209/468-3194
dhench@sjcrov.org

AUSTIN G ERDMAN
ASST REGISTRAR OF VOTERS
209/468-2898
aerdman@sjcrov.org

212 NORTH SAN JOAQUIN STREET
PO BOX 810
STOCKTON, CALIFORNIA 95201
209/468-2885
FAX 209/468-2889
www.sjcrov.org
TTY 209/953-1070

REGISTRATION
209/468-2890
BUSINESS AND FINANCIAL DISCLOSURE
209/468-8942
CANDIDATE SERVICES
209/468-3191
PRECINCT OPERATIONS
209/468-2892

RECEIVED
2007 MAR 8 AM 11:03
CITY CLERK
CITY OF LODI

March 5, 2007

City of Lodi
Randi Johl
City Clerk
P.O. Box 3006
Lodi CA 95241-1910

Re: Invoice No. 3151

Dear Ms. Johl:

The cost for conducting the City of Lodi Municipal Election (Council Members, Measures "G", "H", "J"), consolidated with the General Election held on November 7, 2006 is **$50,456.14**.

Please remit this amount to:

Registrar of Voters
San Joaquin County
P.O. Box 810
Stockton, CA 95201

This invoice is now due and payable. The attached statement gives you the breakdown of the costs. If you have any questions regarding this billing, please call Austin Erdman, Assistant Registrar of Voters at (209) 468-2898.

Very truly yours,

Deborah S. Hench

DEBORAH S. HENCH
Registrar of Voters

DSH:ev
encls

ITEMIZED COST

INVOICE NO. 3151

AGENCY/DISTRICT: **CITY OF LODI**

TITLE OF ELECTION: Council Members, Measures "G", "H", "J"

DATE OF ELECTION: NOVEMBER 7, 2006

REGISTERED VOTERS: 27,726 NUMBER OF BALLOT TYPES: 49-50

COST PER REGISTERED VOTER: **$1.82**

DESCRIPTION	AMOUNT
SAMPLE BALLOT BOOKLETS	$ 10,249.20
OFFICIAL PAPER BALLOTS (MAIL BALLOT PRECINCTS)	$ 164.74
SPANISH TRANSLATION CHARGES	$ 1,698.40
MISCELLANEOUS CHARGES	$ 2,237.94
POLLING PLACE RENTAL	$ 526.13
POSTAGE	$ 1,705.02
PUBLICATIONS (ELECTION OFFICERS)	$ 498.71
TRANSPORTATION	$ 381.39
ELECTION OFFICERS PAYROLL	$ 7,099.81
ELECTION NIGHT WORKERS PAYROLL	$ 48.94
OFFICE SALARIES	$ 1,812.68
EXTRA HELP SALARIES	$ 7,853.70
FRINGE BENEFIT (FY 2006-07) 81.30%	$ 1,473.71
UTILITY & EQUIPMENT RATE (2006-07) 38.89%	$ 2,580.77
DUPLICATING SERVICES	$ 154.75

SECURITY SERVICES	$ 92.99
PRECINCT SUPPLIES	$ 2,676.12
MILEAGE (MOTOR POOL)	$ 236.39
CANDIDATE'S STATEMENT OF QUALIFICATION	$ 2,729.52
SHARED COST FOR USE OF THE ELECTRONIC VOTING SYSTEM	$ 6,235.23
TOTAL AMOUNT:	**$ 50,456.14**

AGENDA ITEM **E-11**

CITY OF LODI
COUNCIL COMMUNICATION

TM

AGENDA TITLE: Set a Public Hearing for April 18, 2007 in order to consider an appeal to the Planning Commission's approval of a Conditional Use Permit for Wine Country Casino and Restaurant located at 1800 South Cherokee Lane. (Wine Country Casino and Restaurant, applicant; Kenneth R. Owen, appellant)

MEETING DATE: April 4, 2007

PREPARED BY: Randy Hatch, Community Development Director

RECOMMENDED ACTION: Set a Public Hearing for April 18, 2007 in order to consider an appeal to the Planning Commission's approval of a Conditional Use Permit for Wine Country Casino and Restaurant located at 1800 South Cherokee Lane.

BACKGROUND INFORMATION: At their February 14, 2007 meeting the Planning Commission conducted a public hearing and conditionally approved the Use Permit request of Wine Country Casino and Restaurant for the proposed card room operation. An appeal was filed on March 1, 2007 to the approval of the Conditional Use Permit from Kenneth R. Owen, a representative from Christian Community Concerns. This appeal was timely filed and the City Council needs to conduct an appeal hearing.

FISCAL IMPACT: N/A

FUNDING: N/A

Randy Hatch
Community Development Director

Attachment: Appeal letter

RH/kjc

APPROVED: _____
Blair King, City Manager

City of Lodi
Community Development Department
P.O. Box 3006
221 W. Pine Street
Lodi, California 95241-1910

Application for Appeal
Before the Board of Appeals For the City of Lodi

STAFF USE ONLY

Appeal No.

Related Notices/Documents

Issued By:

RECEIVED 2007 MAR -1 AM 10:15 CITY CLERK CITY OF LODI

General Information Required

Appellant's Name: Kenneth R. Owen
Phone: 209-368-0990
Mailing Address: 10908 N. Micke Grove Rd., Lodi, CA 95240

Relation to Subject Property (Pertaining To Appeal)
☐ Owner ☐ Tenant ☐ Property Manager/Agent ☒ Other: concerned citizen

In the case of multiple appellants, each must fill out an Application for Appeal, but they can submit together under one fee.

Subject Address: 1800 S. Cherokee Lane, Lodi, CA 95240
Assessor's Parcel No.: Parcel# 06051

Subject Property Owner's Name: Leon Croce Trust, P O Box 555, Lodi, CA 95241
Phone:
Subject Property Owner's Mailing Address:

X CC ___ HR
X ~~CM~~ ___ ~~IS~~
X CA ___ LIB
X CD ___ PR
___ EUD ___ PD
___ FIN ___ PW
___ FD ___ COM

Appeal Information Required

Provide a statement of the specific order or action protested, together with any material facts claimed to support the contentions of the appellant, and any relief sought and reasons why it is claimed that the protested order or action should be reversed, modified, or otherwise set aside.

We are protesting the action taken by the Lodi Planning Commission concerning the "conditional use permit" for Wine Country Casino and Restaurant that was approved on February 14, 2007. Our primary concerns are as follows: The area for the proposed casino is mostly residential with a few businesses on Cherokee Lane. We do not feel this is a good location for this type of business. Secondly, Cherokee Lane is a major gateway for people coming from Hiway 99 south. This is the first business they will see when coming into Lodi. It is also a major corridor for residents who will be using it going to and from their homes.

In addition to concerns we have for the location, we also feel that a broader discussion about the whole issue of expanding gambling in Lodi should take place.

Please see attached pages for additional details:

Attach Additional Pages If Necessary

Initial Review of Appeal: There will be an initial Administrative Review of this appeal to determine whether this Department can resolve the issues under appeal. If the issues can be resolved through this Administrative Review, then the $300 Appeal Fee will be returned to the Appellant.
Staying Order Under Appeal: Except for Notices to Vacate, enforcement of any notice and order of the Building Official shall be stayed during the pendency of an appeal therefrom which is properly and timely filed.

I certify, under penalty of perjury, that I acknowledge the filing of this appeal and that the matters stated in this appeal are true and accurate.

Date: 3-1-07
Signature: [signature]
Print Name: KENNETH R. OWEN

Date/Time Received:
By:
Fee Paid:

Christian Community Concerns

Pertinent facts relating to the Wine Country Casino & Restaurant:

On May 17, 2006, the City Council conducted a hearing on a proposed amendment to the city ordinance to expand gambling in Lodi from 6 to 8 tables, and increasing the number of players from 7 to 10 at each table. The amendment would also allow the game Texas Hold 'em, and allow the card room to stay open two hours later on Saturday and Sunday till 4 a.m. Jack Morgan the owner of Axtion Jackson's, a local card room on Sacramento Street, approached the City Council about changing the existing ordinance.

At that time, Mr. Morgan did not have another location to move to, so the action was to just expand the City Ordinance to allow the expansion at that time. On June 7, 2006, the City Council did in fact vote to repeal and reenact chapter 5.12 'cardrooms,' in its entirety, "of ordinance no. 1779 entitled an ordinance of the City Council of the City of Lodi Amending Lodi Municipal Code Title 5."

Three Council Members were in favor, Hansen, Johnson, and Mounce, while Councilman Beckman voted no, and Mayor Hitchcock was absent, so it passed 3-1.

On February 14, 2007, the matter was taken up again by the Lodi Planning Commission to vote on a "Conditional Use Permit" for a particular location at 1800 S. Cherokee Lane, formerly known as Jazzy J's. After a two hour discussion, the Planning Commission voted 3-2 with two absent to approve the Conditional Use Permit, and clear the road for the card room which will be known as Wine Country Casino and Restaurant.

Christian Community Concerns which is a (501)c3 non-profit organization has been in existence in Lodi since 1985. We are basically involved with moral issues that have the potential of having great adverse effects on the citizens of Lodi and the surrounding community.
I am the Founder/Director of the organization.

CCC is opposed to both the expansion of gambling in Lodi, and the proposed location that has been chosen to house the card room for the following reasons.

- The area between Cherokee, Harney, Stockton, and Kettleman lane is mostly residential with a few businesses on Cherokee Lane. A card room is not a good mix for a high residential area such as this.

P.O. Box 367 • Lodi, 'hone/Fax (209) 368-0990

- Cherokee Lane is a major gateway for people coming from 99 south. This is the first business they will see when coming into Lodi. It is also a major corridor for residents who will be using it going to and from their homes.

THESE ARE OUR PRIMARY CONCERNS REGARDING THE LOCATION CHOSEN AS GROUND ZERO FOR THE EXPANSION OF GAMBLING IN LODI.

In addition to the reasons we feel this is the wrong location for a card room in Lodi, we also feel a broader discussion about the expansion of gambling in Lodi should take place.

- We believe that the City Council has only heard one side of the issue. I apologize for not being more vocal at the time the expansion ordinance was passed. We would like the opportunity to bring a community awareness to this ordinance and the effects of expanding gambling in Lodi.
- Up to this point, gambling has been very inconspicuous in Lodi. Those who want to gamble have had to go looking for a card room. If this expansion at the proposed location does in fact take place, it will be very conspicuous, and potentially could create many more habitual gamblers and create more societal problems for Lodi.
- The attorney for the Casino said that, "The City of Lodi will be partners with us in this venture, because the City will receive nine percent of the monthly revenue." Why would the City want to be in partners with this type of business? That truly is a moral issue.

Comments by the public on non-agenda items

THE TIME ALLOWED PER NON-AGENDA ITEM FOR COMMENTS MADE BY THE PUBLIC IS LIMITED TO FIVE MINUTES.

The City Council cannot deliberate or take any action on a non-agenda item unless there is factual evidence presented to the City Council indicating that the subject brought up by the public does fall into one of the exceptions under Government Code Section 54954.2 in that (a) there is an emergency situation, or (b) the need to take action on the item arose subsequent to the agenda's being posted.

Unless the City Council is presented with this factual evidence, the City Council will refer the matter for review and placement on a future City Council agenda.

Comments by the City Council Members on non-agenda items

CITY OF LODI
COUNCIL COMMUNICATION

TM

AGENDA TITLE: **Public Hearing to Receive Public Input and to Consider Adoption of Resolution to Act to Form the Community Facilities District No. 2007-1 (Public Services) and Set an Election Date for April 11, 2007**

MEETING DATE: **April 4, 2007**

PREPARED BY: **Public Works Director**

RECOMMENDED ACTION: Conduct a public hearing to receive public input and to consider adoption of a resolution establishing the City of Lodi Community Facilities District No. 2007-1 (Public Services) (CFD) and setting and election date for April 11, 2007.

BACKGROUND INFORMATION: At the February 21, 2007 Council meeting, action was taken to adopt Local Goals and Policies relating to CFD 2007-1 (Public Services) and to declare the City's intention to establish a CFD to fund Public Services. Since that time, property owners within the proposed CFD Boundary have signed and returned to the City Waiver and Consent forms, the purpose of which is to expedite the CFD formation process. Two property owners did not return the Waiver and Consent form as provided and, therefore, an Amended CFD Boundary Map excluding these two properties is provided as Exhibit 1. These properties will be required to annex to the CFD as a condition of future development. The Community Facilities District Report is provided as Exhibit 2.

The enclosed Resolution of Formation (Exhibit 3), if adopted by the City Council, will establish CFD 2007-1 and the Amended Boundary and an election for April 11, 2007. At the election, voters will be asked to vote on the levy of the special tax and the level of apportionment. Parties eligible to vote in this election are those landowners who owned property within the Proposed CFD Boundary on or before the public hearing being held tonight.

Exhibit A to the Resolution contains a description of the public services that would be financed by special taxes of the CFD if the tax measure is approved by the voters.

Exhibit B to the Resolution is a special tax formula entitled "Rate, Method of Apportionment, and Manner of Collection of Special Tax." The special tax provides for an annual tax of $600 for single family units and $175 for multi-family units. All special taxes are subject to an annual inflation adjustment. Certain properties, such as governmental property and undeveloped property, are not subject to the special tax program. The special taxes may not be prepaid. The special tax shall be levied in perpetuity.

Exhibit C to the Resolution is a form of the Official Ballot which, in anticipation of the April 11 election date, was previously mailed to eligible voters.

APPROVED: _____
Blair King, City Manager

Exhibit D to the Resolution describes the property which is being removed from the boundaries of the CFD. This property is being removed due to current landowners' unwillingness to agree to the Waiver and Consent to expedite the formation process. As mentioned, these properties will be annexed to the CFD at a later date.

FISCAL IMPACT: The public services and administration of the CFD shall be paid from the special taxes collected within the CFD. The developer has agreed through the development agreement to reimburse the City for all costs incurred during formation of the CFD.

FUNDING AVAILABLE: Not applicable.

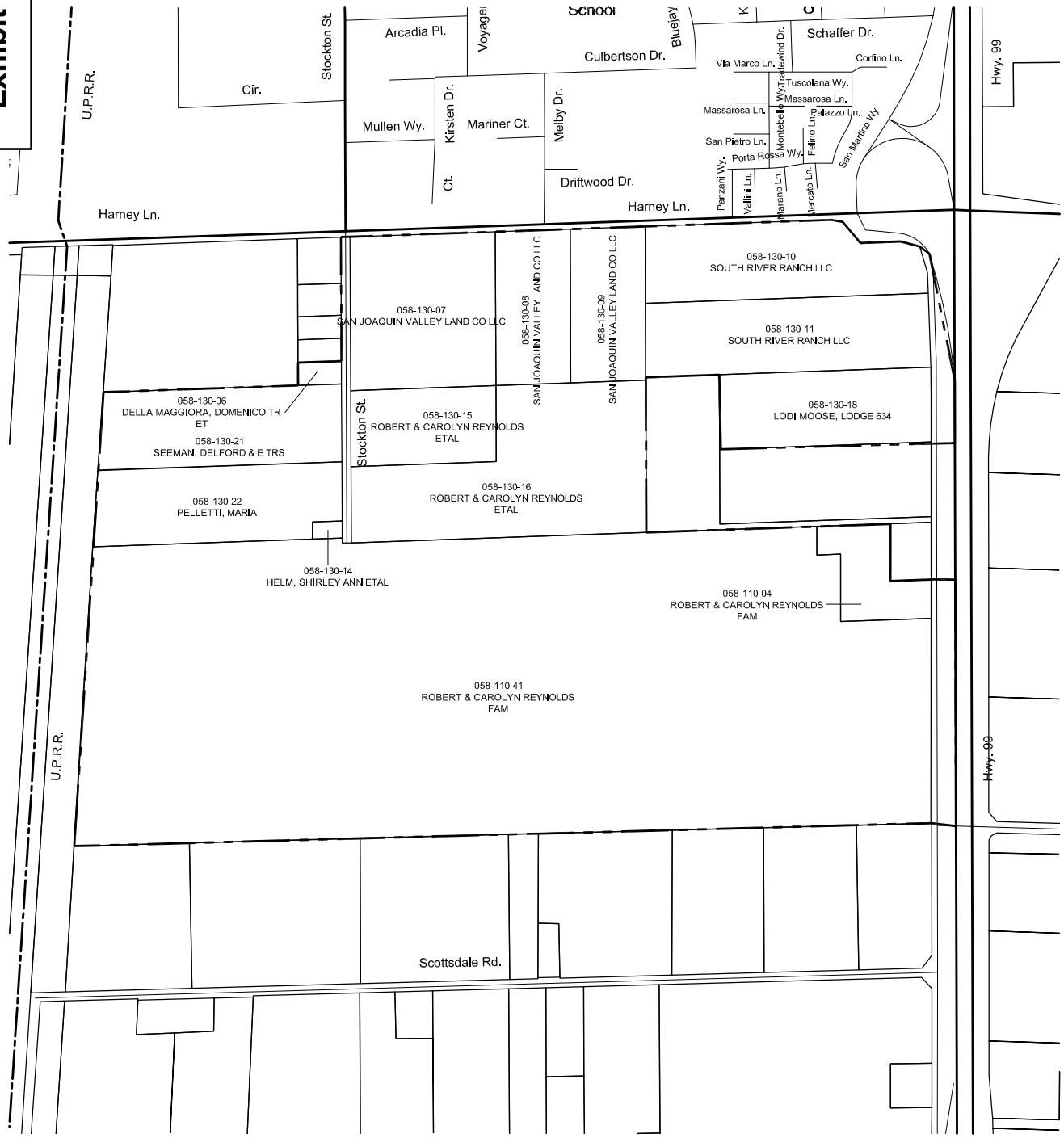
_____
Richard C. Prima, Jr.
Public Works Director

Prepared by F. Wally Sandelin, City Engineer/Deputy Public Works Director

RCP/FWS/pmf

Attachments

Exhibit 1



PROPOSED BOUNDARIES OF COMMUNITY FACILITIES DISTRICT NO. 2007-1 (PUBLIC SERVICES) CITY OF LODI COUNTY OF SAN JOAQUIN STATE OF CALIFORNIA

CLERK'S CERTIFICATE AND MAP FILING STATEMENT

FILED IN THE OFFICE OF THE CITY CLERK THIS _____ DAY OF _____ 2007.

_____
RANDI JOHL, CITY CLERK, CITY OF LODI, CALIFORNIA

I HEREBY CERTIFY THAT THE WITHIN MAP SHOWING PROPOSED BOUNDARIES OF COMMUNITY FACILITIES DISTRICT NO. 2007-1 (PUBLIC SERVICES), CITY OF LODI, COUNTY OF SAN JOAQUIN, STATE OF CALIFORNIA, WAS APPROVED BY THE CITY COUNCIL OF THE CITY OF LODI AT A REGULAR MEETING THEREOF, HELD ON THE _____ DAY OF _____ 2007, BY ITS RESOLUTION NO. 2007-_____.

_____
RANDI JOHL, CITY CLERK, CITY OF LODI, CALIFORNIA

COUNTY RECORDER'S FILING STATEMENT

FILED THIS _____ DAY OF _____ 2007, AT THE HOUR OF _____ O'CLOCK _____.M., IN BOOK _____ OF MAPS OF ASSESSMENT AND COMMUNITY FACILITIES DISTRICTS AT PAGE _____

IN THE OFFICE OF THE COUNTY RECORDER IN THE COUNTY OF SAN JOAQUIN, STATE OF CALIFORNIA.

_____
GARY W. FREEMAN COUNTY RECORDER OF THE COUNTY OF SAN JOAQUIN, CALIFORNIA

LEGEND

— – – — Proposed CFD Boundary

City of Lodi
PUBLIC WORKS DEPARTMENT

N.T.S.

07X001

Exhibit 2

CITY OF LODI
COMMUNITY FACILITIES DISTRICT NO. 2007-1
(PUBLIC SERVICES)

COMMUNITY FACILITIES DISTRICT REPORT

CONTENTS

Introduction

A. Description of Services

B. Proposed Boundaries of the Community Facilities District

C. Cost Estimates

Exhibit A – Description of Services Proposed to be Funded

Exhibit B – Cost Estimates

Exhibit C – Rate and Method of Apportionment of Special Tax

CITY OF LODI
COMMUNITY FACILITIES DISTRICT NO. 2007-1
(PUBLIC SERVICES)

INTRODUCTION. The City Council (the "Council") of the City of Lodi did, pursuant to the provisions of the Mello-Roos Community Facilities Act of 1982 (the "Act") on February 21, 2007, adopt a resolution entitled, "A Resolution of the Lodi City Council Adopting Local Goals and Policies and Declaring Its Intention to Establish Community Facilities District No. 2007-1 (Public Services) and to Levy a Special Tax therein." In the Resolution of Intention, the Council expressly ordered the preparation of a written Community Facilities District Report (the "Report") for the proposed Community Facilities District (the "CFD").

Pursuant to the Mello-Roos Community Facilities Act of 1982, the Report must generally contain the following:

1. A description of the services by type which will be required to adequately meet the needs of the CFD; and

2. An estimate of the fair and reasonable cost of the services, incidental expenses in connection therewith, and all other related costs as provided in Section 53345.3 of the Act.

For particulars, reference is made to the Resolution of Intention for the CFD, as previously approved and adopted by the Council.

NOW, THEREFORE, the following data is submitted pursuant to the direction of the Council:

A. DESCRIPTION OF SERVICES. A description of the services eligible to be funded by the CFD is provided in Exhibit "A" attached hereto and hereby made a part hereof.

B. PROPOSED BOUNDARIES OF THE COMMUNITY FACILITIES DISTRICT. The proposed boundaries of the CFD are those parcels on which special taxes may be levied to pay for the costs of services. The proposed boundaries of the CFD are described in the map of the CFD recorded in Book 5 on Page 156 of Maps of Assessment and Community Facilities Districts in the office of the County Recorder for the County of San Joaquin, a copy of which map is on file with the City Clerk. Additional property is expected to be annexed into the CFD in future years; an amended boundary map will be recorded after each annexation.

C. COST ESTIMATES. The cost estimates for funding the authorized services are set forth in Exhibit "B" attached hereto and hereby made a part hereof.

D. SPECIAL TAX FORMULA. The Rate and Method of Apportionment of Special Tax, which provides direction as to how the special taxes will be calculated and levied each fiscal year, is provided as "Exhibit "C" of this CFD Report.

EXHIBIT A

CITY OF LODI
COMMUNITY FACILITIES DISTRICT NO. 2007-1
(PUBLIC SERVICES)

DESCRIPTION OF SERVICES TO BE FUNDED BY THE DISTRICT

It is intended that the CFD will finance all or a portion of the costs of the following:

The authorized services include those set forth below in addition to the costs associated with forming the CFD and collecting and administering the special taxes. The special taxes may be levied to pay for any authorized services or to accumulate funds for that purpose.

The CFD's authorized services include the following:

1. Police protection services, including, but not limited to, criminal justice services. However, criminal justice services shall be limited to providing services for jails, detention facilities, and juvenile halls.

2. Fire protection and suppression services, and ambulance and paramedic services.

3. Maintenance of parks, parkways, and open space.

4. Flood and storm protection services, including, but not limited to, the operation and maintenance of storm drainage systems, and sandstorm protections systems.

5. Services with respect to removal or remedial action for the cleanup of any hazardous substance released or threatened to be released into the environment.

6. Miscellaneous costs related to any of the items described above including planning, engineering, legal, and administration.

EXHIBIT B

CITY OF LODI
COMMUNITY FACILITIES DISTRICT NO. 2007-1
(PUBLIC SERVICES)

SERVICES COST ESTIMATE

Subject to any land use changes or future annexations, the services cost estimate will not exceed the expected revenues from Single Family Property and Multi-Family Property (capitalized terms as defined in Exhibit C) within the proposed development commonly known as Reynolds Ranch. Actual revenues and service costs funded each Fiscal Year will depend on development that has taken place in Reynolds Ranch and within other properties that have annexed into the CFD. Based on current projections, revenues generated at buildout of Reynolds Ranch will be as follows:

Land Use	Units	Maximum Special Tax Fiscal Year 2007-08	Total Maximum Special Tax Fiscal Year 2007-08*
Single Family Unit	734	$600	$440,400
Multi Family Unit	350	$175	$61,250
Services Cost Estimate			**$501,650**

** Beginning July 1, 2008 and each July 1 thereafter, the Maximum Special Tax revenues will be increased by the greater of (i) the increase, if any, in the Local Consumer Price Index for the San Francisco-Oakland-San Jose Area for All Urban Consumers, or (ii) five percent (5%).*

If a land use change or future annexation causes the unit count to change, the services cost estimate shall adjust accordingly.

EXHIBIT C

CITY OF LODI
COMMUNITY FACILITIES DISTRICT NO. 2007-1
(PUBLIC SERVICES)

RATE AND METHOD OF APPORTIONMENT (RMA) OF SPECIAL TAX

A Special Tax applicable to each Assessor's Parcel in Community Facilities District (CFD) No. 2007-1 (Public Services) shall be levied and collected according to the tax liability determined by the City Council acting in its capacity as the legislative body of CFD No. 2007-1, through the application of the appropriate Special Tax rate, as described below. All of the property in the CFD, unless exempted by law or by the provisions of Section E below, shall be taxed for the purposes, to the extent, and in the manner herein provided, including property subsequently annexed to the CFD unless a separate RMA is adopted for the annexation area.

A. DEFINITIONS

The terms hereinafter set forth have the following meanings:

"Accessory Dwelling Unit" means a second residential unit of limited size (i.e., granny cottage, second unit) that shares a Parcel with a Single Family Unit.

"Administrative Expenses" means any or all of the following: the expenses of the City in carrying out its duties for the CFD, including, but not limited to, the levy and collection of the Special Tax, the fees and expenses of its counsel, charges levied by the County, and all other costs and expenses of the City in any way related to the establishment or administration of the CFD.

"Administrator" means the person(s) or firm designated by the City to administer the Special Taxes according to this RMA.

"Assessor's Parcel" or **"Parcel"** means a lot or parcel shown in an Assessor's Parcel Map with an assigned Assessor's Parcel number.

"Assessor's Parcel Map" means an official map of the County Assessor designating parcels by Assessor's Parcel number.

"Authorized Services" means the public services authorized to be funded by the CFD as set forth in the documents adopted by the City Council when the CFD was formed.

"CFD No. 2007-1" or **"CFD"** means the City of Lodi Community Facilities District No. 2007-1 (Public Services).

"City" means the City of Lodi.

"City Council" means the City Council of the City of Lodi.

"County" means the County of San Joaquin.

"Fiscal Year" means the period starting on July 1 and ending on the following June 30.

"Maximum Special Tax" means the maximum Special Taxes determined in accordance with Section C below that can be levied on Single Family Property and Multi-Family Property in any Fiscal Year.

"Multi-Family Property" means, in any Fiscal Year, all Parcels in the CFD for which final building permit inspections were conducted prior to January 1 of the preceding Fiscal Year, but not prior to January 1, 2007, for construction of Multi-Family Units.

"Multi-Family Unit" means an individual residential unit within a structure with three or more residential units that share a single Assessor's Parcel number, all of which are offered for rent to the general public and cannot be purchased by individual homebuyers. Residential units located above commercial establishments that are available exclusively for rent and cannot be purchased by individual owners shall also be characterized as Multi-Family Units for purposes of this RMA.

"RMA" means this Rate and Method of Apportionment.

"Single Family Property" means, in any Fiscal Year, all Parcels in the CFD for which final building permit inspections were conducted prior to January 1 of the preceding Fiscal Year, but not prior to January 1, 2007, for construction of Single Family Units.

"Single Family Unit" means an individual single family detached residential unit or an individual residential unit within a half-plex, duplex, triplex, fourplex, townhome, condominium, or other structure with attached residential units that are available for sale to individual buyers, whether or not such a unit is ultimately offered for rent by an individual buyer. For-sale residential units located above commercial establishments shall also be categorized as Single Family Units for purposes of this RMA.

"Special Tax" means any tax levied within the CFD to pay the Special Tax Requirement.

"Special Tax Requirement" means the amount of revenue needed in any Fiscal Year to pay for the following: (i) Authorized Services, (ii) Administrative Expenses, and (iii) amounts needed to cure any delinquencies in the payment of Special Taxes which have occurred or, based on delinquency rates in prior years, may be expected to occur in the Fiscal Year in which the tax will be collected.

"Taxable Property" means both Single Family Property and Multi-Family Property.

B. DATA FOR ANNUAL TAX LEVY

Each Fiscal Year, the Administrator shall identify the current Assessor's Parcel number for all Parcels of Taxable Property within the CFD. The Administrator shall also determine the number of Single Family and Multi-Family Units built or to be built on each Parcel of Taxable Property by referencing the building permit, condominium plan, apartment plan, site plan, or other development plan for the property.

In any Fiscal Year, if it is determined that (i) a parcel or subdivision map for a portion of property in the CFD was recorded after January 1 of the preceding Fiscal Year (or any other date after which the Assessor will not incorporate the newly-created Parcels into the then current tax roll), (ii) because of the date the parcel or subdivision map was recorded, the Assessor does not yet recognize the new Parcels created by the parcel or subdivision map, and (iii) one or more of the newly-created Parcels meets the definition of Taxable Property, the Administrator shall calculate the Special Tax for the property affected by recordation of the parcel or subdivision map by determining the Special Tax that applies separately to each Parcel of Taxable Property, then applying the sum of the individual Special Taxes to the original Parcel that was subdivided by recordation of the parcel or subdivision map.

C. MAXIMUM SPECIAL TAX

The Maximum Special Tax for all Parcels of Taxable Property within the CFD shall be $600 per Single Family Unit and $175 per Multi Family Unit for Fiscal Year 2007-08. Beginning July 1, 2008 and each July 1 thereafter, the Maximum Special Tax in effect in the prior Fiscal Year shall be increased by the greater of (i) the increase, if any, in the Local Consumer Price Index for the San Francisco-Oakland-San Jose Area for All Urban Consumers, or (ii) five percent (5%).

D. METHOD OF LEVY AND COLLECTION OF SPECIAL TAX

Each Fiscal Year, the Special Tax shall be levied proportionately on each Parcel of Taxable Property in the CFD up to 100% of the Maximum Special Tax determined pursuant to Section C above until the total amount levied is equal to the Special Tax Requirement for the Fiscal Year.

The Special Tax for the CFD shall be collected at the same time and in the same manner as ordinary ad valorem property taxes provided, however, that the City may (under the authority of Government Code Section 53340) collect Special Taxes at a different time or in a different manner if necessary to meet CFD No. 2007-1 financial obligations, and the Special Tax shall be equally subject to foreclosure if delinquent.

E. LIMITATIONS

Notwithstanding any other provision of this RMA, no Special Tax shall be levied on Parcels within the CFD that are not Single Family Property or Multi-Family Property. Furthermore, Accessory Dwelling Units shall not be counted in determining the Special Tax to be levied on the Parcels on which such units are located.

F. INTERPRETATION OF SPECIAL TAX FORMULA

The City reserves the right to make minor administrative and technical changes to this document that do not materially affect the rate and method of apportioning Special Taxes. In addition, the interpretation and application of any section of this document shall be left to the City's discretion. Interpretations may be made by the City by ordinance or resolution for purposes of clarifying any vagueness or ambiguity in this RMA.

Exhibit 3

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LODI ESTABLISHING COMMUNITY FACILITIES DISTRICT NO. 2007-1 (PUBLIC SERVICES), AND CALLING AN ELECTION FOR THE PURPOSE OF SUBMITTING THE LEVY OF THE SPECIAL TAX AND THE ESTABLISHMENT OF AN APPROPRIATIONS LIMIT TO THE QUALIFIED ELECTORS OF THE PROPOSED COMMUNITY FACILITIES DISTRICT

WHEREAS, the City Council, on February 21, 2007, adopted its Resolution No. 2007-33 (the "Resolution of Intention") (i) declaring its intention to establish Community Facilities District No. 2007-1 (Public Services) (the "CFD") pursuant to the Mello-Roos Community Facilities Act of 1982 (Chapter 2.5, Part 1, Division 2, Title 5 (commencing with Section 53311) of the California Government Code) (the "Act"), (ii) proposing to levy a special tax therein for the purpose of providing for the financing of certain services (the "Services") described in Exhibit A hereto, and (iii) calling a public hearing on the establishment of the CFD;

WHEREAS, before the time for the hearing, as directed in the Resolution of Intention, the City Engineer filed with the City Council the report required by California Government Code section 53321.5 (the "Community Facilities District Report");

WHEREAS, a notice of the hearing was duly published as required by the Act, as evidenced by the affidavit of publication on file with the City Clerk;

WHEREAS, pursuant to the Act and the Resolution of Intention, a noticed public hearing was convened by the Council on April 4, 2007, not earlier than the hour of 7:00 p.m. at the City Hall, 305 W. Pine Street, Lodi, California, relative to the establishment of the CFD;

WHEREAS, at the hearing, the testimony of all interested persons, including all taxpayers, property owners, and registered voters within the CFD, desiring to be heard on the establishment of the CFD, the extent thereof, the furnishing of specified types of services, the proposed special tax, the establishment of an appropriations limit for the CFD, or any other matters set forth in the Resolution of Intention was heard and a full and fair hearing was conducted thereon;

WHEREAS, written protests against the establishment of the CFD, the furnishing of specified type or types of services in the CFD as listed in the Community Facilities District Report, or the levying of the special tax have not been filed by six registered voters residing within the territory proposed to be included in the CFD or by the owners of one-half or more of the area of land in the territory proposed to be included in the CFD and not exempt from this special tax;

WHEREAS, on the basis of all of the foregoing, the City Council has determined at this time to establish the CFD and to submit to the qualified electors of the CFD the levy of the special tax therein (as such tax is more particularly described in Exhibit B hereto) and the establishment of an appropriations limit for the CFD;

WHEREAS, the San Joaquin County Registrar of Voters has certified that fewer than twelve persons were registered to vote within the territory of the CFD as of February 14, 2007, which date is within the 90-day period preceding the close of the hearing;

WHEREAS, the City Council has received a written instrument from each landowner in the CFD consenting to the shortening of election time requirements, waiving analysis and arguments, and waiving all notice requirements relating to the conduct of the election;

WHEREAS, the City Clerk has concurred in the election date set forth herein;

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Lodi, that:

1. **Recitals**. The foregoing recitals are true and correct.

2. **Community Facilities District Report**. The City Council hereby makes the Community Facilities District Report a part of the record of the hearing.

3. **No Majority Protest**. The proposed special tax to be levied in the CFD has not been precluded by majority protest pursuant to Section 53324 of the Act.

4. **Establishment of CFD**. As proposed in the Resolution of Intention, a community facilities district is hereby established pursuant to the Act, designated "Community Facilities District No. 2007-1 (Public Services)."

5. **Finding of Procedural Regularity**. The City Council finds and determines that all prior proceedings had and taken by the City Council with respect to the formation of the CFD are valid and in conformity with requirements of the Act.

6. **Boundaries of CFD**. The boundaries of the CFD shall be as set forth in the map entitled Map of Proposed Boundaries, Community Facilities District No. 2007-1 (Public Services) that was filed with the San Joaquin County Recorder on March 2, 2007, in Book 5 of Assessment Maps, at Page 156 less the property described in Exhibit D attached hereto. The City Council hereby directs City staff to prepare and file an amended map of the boundaries of the CFD to reflect the exclusion of such property with the County Recorder.

7. **Description of Services**. The Services to be financed by the CFD are set forth in Exhibit A hereto. The Services authorized to be financed by the CFD are in addition to those provided in the territory of the CFD and do not supplant Services already available within that territory.

8. **Special Tax**. As stated in the Resolution of Intention, except where funds are otherwise available, subject to the approval of the qualified electors of the CFD, a special tax sufficient to pay the costs of the Services (including incidental expenses as described in the Resolution of Intention), secured by recordation of a continuing lien against all nonexempt real property in the CFD, will be levied annually in the CFD. The rate, method of apportionment, and manner of collection of the special tax are specified in Exhibit B hereto.

9. **Apportionment of Tax**. The special tax as apportioned to each parcel is based on the cost of making the Services available to each parcel, or other reasonable basis, and is not based on or upon the ownership of real property.

10. **Tax Roll Preparation**. The office of the Finance Manager/Assistant City Treasurer, 300 W. Pine Street, Lodi, California 95240, telephone (209) 333-6700, is hereby designated as the office that will be responsible for annually preparing a current roll of special tax levy obligations by assessor's parcel number and that will be responsible for estimating future special tax levies pursuant to Government Code section 53340.2. The Finance Manager/Assistant City Treasurer may cause these functions to be performed by his or her deputies, assistants, or other designated agents.

11. **Appropriations Limit**. The City Council proposes that the appropriations limit, as defined by Article XIII B, Section 8(h), of the Constitution of the State of California, for the CFD be established in the amount of special taxes collected.

12. **Accountability Measures**. Pursuant to Section 50075.1 of the California Government Code, the City shall create a separate account into which tax proceeds will be deposited; and the Finance Manager/Assistant City Treasurer annually shall file a report with the City Council that will state (a) the amount of funds collected and expended and (b) the status of the Services financed in the CFD.

13. **Special Election; Voting Procedures**. The City Council hereby submits the questions of levying the special tax and the establishment of the annual appropriations limit for the CFD to the qualified electors within the CFD, in accordance with and subject to the Act. The special election shall be held on April 11, 2007, and shall be conducted as follows:

(a) Qualified Electors. The City Council hereby determines that the Services are necessary to meet increased demands placed upon the City as a result of development occurring within the boundaries of the CFD. Because fewer than twelve registered voters resided within the CFD on February 14, 2007 (a date within the 90 days preceding the close of the public hearing on the establishment of the CFD), the qualified electors shall be the landowners within the CFD, and each landowner who was the owner of record at the close of the hearing shall have one vote for each acre or portion of an acre of land that such landowner owns within the CFD.

(b) Consolidation of Elections; Combination of Propositions on Ballot. The elections on the questions of levying the special tax and establishing an appropriations limit for the CFD shall be consolidated, and the two propositions shall be combined into a single ballot proposition for submission to the voters, as authorized by Government Code Section 53353.5.

(c) Mail Ballot Election. Pursuant to Government Code section 53327.5, the election shall be conducted as a mail ballot election. The City Council hereby ratifies the City Clerk's delivery of a ballot to each landowner in the CFD. The City Council hereby ratifies the form of the ballot, which is attached hereto as Exhibit C.

(d) Return of Ballots. The City Clerk shall accept the ballots of the landowners up to 4:00 p.m. on April 11, 2007. The City Clerk shall have available ballots that may be marked at the City Clerk's office on the election day by voters. Once all qualified electors have voted, the City Clerk may close the election.

(e) Canvass of Election. The City Clerk shall commence the canvass of the returns of the special election as soon as the election is closed (i.e., 4:00 p.m. on April 11, 2007, or when all qualified electors have voted) at the City Clerk's office. At the conclusion of the canvass, the City Clerk shall declare the results of the election.

(f) Declaration of Results. The City Council shall declare the results of the special election following the completion of the canvass of the returns and shall cause to be inserted into its minutes a statement of the results of the special election as ascertained by the canvass of the returns.

14. Filing of Resolution and Map with City Clerk. The City Council hereby directs the City Clerk to file a copy of this resolution and the amended map of the boundaries of the CFD in her office.

15. Lien to Secure Special Tax. Upon a determination by the City Council that two-thirds of the votes cast upon the question of levying the special tax were in favor thereof, the City Clerk shall record the notice of special tax lien provided for in Section 3114.5 of the California Streets and Highways Code. Upon recordation of the notice of special tax lien, a continuing lien to secure each levy of the special tax shall attach to all nonexempt real property in the CFD, and this lien shall continue in force and effect until collection of the tax by the City Council ceases.

16. CEQA Exemption. The Council hereby determines that the formation of the proposed CFD is not a project pursuant to the California Environmental Quality Guidelines section 15378(b)(4), and authorizes the City Clerk to file a notice of exemption with the County Clerk to that effect.

PASSED AND ADOPTED by the City Council of the City of Lodi this 4th day of April, 2007.

_____
BOB JOHNSON, MAYOR of the
CITY OF LODI

ATTEST:

_____
RANDI JOHL, CITY CLERK

APPROVED AS TO FORM:

_____
D. STEPHEN SCHWABAUER,
CITY ATTORNEY

EXHIBIT A

CITY OF LODI
COMMUNITY FACILITIES DISTRICT NO. 2007-1
(PUBLIC SERVICES)

List of Authorized Services

(a) Police protection services, including, but not limited to, criminal justice services. However, criminal justice services shall be limited to providing services for jails, detention facilities, and juvenile halls.

(b) Fire protection and suppression services, and ambulance and paramedic services.

(c) Maintenance of parks, parkways, and open space.

(d) Flood and storm protection services, including, but not limited to, the operation and maintenance of storm drainage systems, and sandstorm protection systems.

(e) Services with respect to removal or remedial action for the cleanup of any hazardous substance released or threatened to be released into the environment.

EXHIBIT B

CITY OF LODI
COMMUNITY FACILITIES DISTRICT NO. 2007-1 (Public Services)
RATE AND METHOD OF APPORTIONMENT
AND MANNER OF COLLECTION OF SPECIAL TAX

A Special Tax applicable to each Assessor's Parcel in Community Facilities District No. 2007-1 (Public Services) shall be levied and collected according to the tax liability determined by the City Council acting in its capacity as the legislative body of CFD No. 2007-1, through the application of the appropriate Special Tax rate, as described below. All of the property in the CFD, unless exempted by law or by the provisions of Section E below, shall be taxed for the purposes, to the extent, and in the manner herein provided, including property subsequently annexed to the CFD unless a separate RMA is adopted for the annexation area.

A. DEFINITIONS

The terms hereinafter set forth have the following meanings:

"Accessory Dwelling Unit" means a second residential unit of limited size (i.e., granny cottage, second unit) that shares a Parcel with a Single Family Unit.

"Administrative Expenses" means any or all of the following: the expenses of the City in carrying out its duties for the CFD, including, but not limited to, the levy and collection of the Special Tax, the fees and expenses of its counsel, charges levied by the County, and all other costs and expenses of the City in any way related to the establishment or administration of the CFD.

"Administrator" means the person(s) or firm designated by the City to administer the Special Taxes according to this RMA.

"Assessor's Parcel" or **"Parcel"** means a lot or parcel shown in an Assessor's Parcel Map with an assigned Assessor's Parcel number.

"Assessor's Parcel Map" means an official map of the County Assessor designating parcels by Assessor's Parcel number.

"Authorized Services" means the public services authorized to be funded by the CFD as set forth in the documents adopted by the City Council when the CFD was formed.

"CFD No. 2007-1" or **"CFD"** means the City of Lodi Community Facilities District No. 2007-1 (Public Services).

"City" means the City of Lodi.

"City Council" means the City Council of the City of Lodi.

"County" means the County of San Joaquin.

"Fiscal Year" means the period starting on July 1 and ending on the following June 30.

"Maximum Special Tax" means the maximum Special Taxes determined in accordance with Section C below that can be levied on Single Family Property and Multi-Family Property in any Fiscal Year.

"Multi-Family Property" means, in any Fiscal Year, all Parcels in the CFD for which final building permit inspections were conducted prior to January 1 of the preceding Fiscal Year, but not prior to January 1, 2007, for construction of Multi-Family Units.

"Multi-Family Unit" means an individual residential unit within a structure with three or more residential units that share a single Assessor's Parcel number, all of which are offered for rent to the general public and cannot be purchased by individual homebuyers. Residential units located above commercial establishments that are available exclusively for rent and cannot be purchased by individual owners shall also be characterized as Multi-Family Units for purposes of this RMA.

"RMA" means this Rate and Method of Apportionment.

"Single Family Property" means, in any Fiscal Year, all Parcels in the CFD for which final building permit inspections were conducted prior to January 1 of the preceding Fiscal Year, but not prior to January 1, 2007, for construction of Single Family Units.

"Single Family Unit" means an individual single family detached residential unit or an individual residential unit within a half-plex, duplex, triplex, fourplex, townhome, condominium, or other structure with attached residential units that are available for sale to individual buyers, whether or not such a unit is ultimately offered for rent by an individual buyer. For-sale residential units located above commercial establishments shall also be categorized as Single Family Units for purposes of this RMA.

"Special Tax" means any tax levied within the CFD to pay the Special Tax Requirement.

"Special Tax Requirement" means the amount of revenue needed in any Fiscal Year to pay for the following: (i) Authorized Services, (ii) Administrative Expenses, and (iii) amounts needed to cure any delinquencies in the payment of Special Taxes which have occurred or, based on delinquency rates in prior years, may be expected to occur in the Fiscal Year in which the tax will be collected.

"Taxable Property" means both Single Family Property and Multi-Family Property.

B. DATA FOR ANNUAL TAX LEVY

Each Fiscal Year, the Administrator shall identify the current Assessor's Parcel number for all Parcels of Taxable Property within the CFD. The Administrator shall also determine the number of Single Family and Multi-Family Units built or to be built on each Parcel of Taxable Property

by referencing the building permit, condominium plan, apartment plan, site plan, or other development plan for the property.

In any Fiscal Year, if it is determined that (i) a parcel map for a portion of property in the CFD was recorded after January 1 of the preceding Fiscal Year (or any other date after which the Assessor will not incorporate the newly-created Parcels into the then current tax roll), (ii) because of the date the parcel map was recorded, the Assessor does not yet recognize the new Parcels created by the parcel map, and (iii) one or more of the newly-created Parcels meets the definition of Taxable Property, the Administrator shall calculate the Special Tax for the property affected by recordation of the parcel map by determining the Special Tax that applies separately to each Parcel of Taxable Property, then applying the sum of the individual Special Taxes to the original Parcel that was subdivided by recordation of the parcel map.

C. MAXIMUM SPECIAL TAX

The Maximum Special Tax for all Parcels of Taxable Property within the CFD shall be $600 per Single Family Unit and $175 per Multi Family Unit for Fiscal Year 2007-08. Beginning July 1, 2008 and each July 1 thereafter, the Maximum Special Tax in effect in the prior Fiscal Year shall be increased by the greater of (i) the increase, if any, in the Local Consumer Price Index for the San Francisco-Oakland-San Jose Area for All Urban Consumers, or (ii) five percent (5%).

D. METHOD OF LEVY AND COLLECTION OF SPECIAL TAX

Each Fiscal Year, the Special Tax shall be levied proportionately on each Parcel of Taxable Property in the CFD up to 100% of the Maximum Special Tax determined pursuant to Section C above until the total amount levied is equal to the Special Tax Requirement for the Fiscal Year.

The Special Tax for the CFD shall be collected at the same time and in the same manner as ordinary ad valorem property taxes provided, however, that the City may (under the authority of Government Code Section 53340) collect Special Taxes at a different time or in a different manner if necessary to meet CFD No. 2007-1 financial obligations, and the Special Tax shall be equally subject to foreclosure if delinquent.

E. LIMITATIONS

Notwithstanding any other provision of this RMA, no Special Tax shall be levied on Parcels within the CFD that are not Single Family Property or Multi-Family Property. Furthermore, Accessory Dwelling Units shall not be counted in determining the Special Tax to be levied on the Parcels on which such units are located.

F. INTERPRETATION OF SPECIAL TAX FORMULA

The City reserves the right to make minor administrative and technical changes to this document that do not materially affect the rate and method of apportioning Special Taxes. In addition, the interpretation and application of any section of this document shall be left to the City's discretion. Interpretations may be made by the City by ordinance or resolution for purposes of clarifying any vagueness or ambiguity in this RMA.

EXHIBIT C
OFFICIAL BALLOT

SPECIAL TAX ELECTION
CITY OF LODI
INCLUSION OF TERRITORY IN
COMMUNITY FACILITIES DISTRICT
NO. 2007-1 (PUBLIC SERVICES)
(April 11, 2007)

Number of votes entitled to cast: ____

INSTRUCTIONS TO VOTERS: To vote on the measure, mark an (X) in the voting square after the word "YES" or after the word "NO." All marks otherwise made are forbidden. All distinguishing marks are forbidden and make the ballot void.

If you wrongly mark, tear or deface this ballot, return it to the City Clerk, City of Lodi, 221 W. Pine Street, 2nd Floor, Lodi, California 95240, to obtain another.

MEASURE SUBMITTED TO QUALIFIED ELECTORS

Ballot Measure: Shall the City of Lodi be authorized to levy a special tax at the rates and apportioned as described in Exhibit C to the Resolution Declaring its Intention to Establish Community Facilities District No. 2007-1 (Public Services) adopted by the City Council on February 21, 2007 (the "Resolution"), which is incorporated herein by this reference, within the territory identified on the map entitled "Amended Map of Community Facilities District No. 2007-1 (Public Services), City of Lodi**,** County of San Joaquin," to finance certain services as set forth in Section 5 to the Resolution (including incidental expenses), and shall an appropriation limit be established for the CFD in the amount of special taxes collected?	YES NO

NOTE: This is a special landowner election. You must return this ballot to the City Clerk, City of Lodi, to her office at City Hall, 221 W. Pine Street, Lodi, California 95240, by 4:00 p.m. on April 11, 2007.

EXHIBIT D
EXCLUDED PROPERTY

APN	LANDOWNER	ACRES	TOTAL FOR LANDOWNER
058-130-17	BRIJ DEV SINGH BISLA AND SURRINDER KAUR BISLA	5.53	5.53
058-130-24	DIANE Y. TSUTSUMI, AN UNMARRIED WOMAN, AS TO UNDIVIDED 40% INTEREST; GARY T. TSUTSUMI, A MARRIED MAN AS HIS SOLE AND SEPARATE PROPERTY, AS TO AN UNDIVIDED 40% INTEREST; AND AGNES M. TSUTSUMI, TRUSTEE OF THE SURVIVOR'S TRUST (TRUST A) CREATED UNDER THE TSUTSUMI FAMILY 1990 TRUST AS TO AN UNDIVIDED 20% INTEREST; ALL TOGETHER AS TENANTS IN COMMON.	12.56	12.56
	Total	18.09	18.09

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LODI ESTABLISHING COMMUNITY FACILITIES DISTRICT NO. 2007-1(PUBLIC SERVICES), AND CALLING AN ELECTION FOR THE PURPOSE OF SUBMITTING THE LEVY OF THE SPECIAL TAX AND THE ESTABLISHMENT OF AN APPROPRIATIONS LIMIT TO THE QUALIFIED ELECTORS OF THE PROPOSED COMMUNITY FACILITIES DISTRICT

==========

WHEREAS, the City Council, on February 21, 2007, adopted its Resolution No. 2007-33 (the "Resolution of Intention") (i) declaring its intention to establish Community Facilities District No. 2007-1 (Public Services) (the "CFD") pursuant to the Mello-Roos Community Facilities Act of 1982 (Chapter 2.5, Part 1, Division 2, Title 5 (commencing with Section 53311) of the California Government Code) (the "Act"), (ii) proposing to levy a special tax therein for the purpose of providing for the financing of certain services (the "Services") described in Exhibit A hereto, and (iii) calling a public hearing on the establishment of the CFD; and

WHEREAS, before the time for the hearing, as directed in the Resolution of Intention, the City Engineer filed with the City Council the report required by California Government Code section 53321.5 (the "Community Facilities District Report"); and

WHEREAS, a notice of the hearing was duly published as required by the Act, as evidenced by the affidavit of publication on file with the City Clerk; and

WHEREAS, pursuant to the Act and the Resolution of Intention, a noticed public hearing was convened by the Council on April 4, 2007, not earlier than the hour of 7:00 p.m. at the City Hall, 305 W. Pine Street, Lodi, California, relative to the establishment of the CFD; and

WHEREAS, at the hearing, the testimony of all interested persons, including all taxpayers, property owners, and registered voters within the CFD, desiring to be heard on the establishment of the CFD, the extent thereof, the furnishing of specified types of services, the proposed special tax, the establishment of an appropriations limit for the CFD, or any other matters set forth in the Resolution of Intention was heard and a full and fair hearing was conducted thereon; and

WHEREAS, written protests against the establishment of the CFD, the furnishing of specified type or types of services in the CFD as listed in the Community Facilities District Report, or the levying of the special tax have not been filed by six registered voters residing within the territory proposed to be included in the CFD or by the owners of one-half or more of the area of land in the territory proposed to be included in the CFD and not exempt from this special tax; and

WHEREAS, on the basis of all of the foregoing, the City Council has determined at this time to establish the CFD and to submit to the qualified electors of the CFD the levy of the special tax therein (as such tax is more particularly described in Exhibit B hereto) and the establishment of an appropriations limit for the CFD; and

WHEREAS, the San Joaquin County Registrar of Voters has certified that fewer than twelve persons were registered to vote within the territory of the CFD as of February 14, 2007, which date is within the 90-day period preceding the close of the hearing; and

WHEREAS, the City Council has received a written instrument from each landowner in the CFD consenting to the shortening of election time requirements, waiving analysis and arguments, and waiving all notice requirements relating to the conduct of the election; and

WHEREAS, the City Clerk has concurred in the election date set forth herein.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Lodi, that:

1. Recitals. The foregoing recitals are true and correct.

2. Community Facilities District Report. The City Council hereby makes the Community Facilities District Report a part of the record of the hearing.

3. No Majority Protest. The proposed special tax to be levied in the CFD has not been precluded by majority protest pursuant to Section 53324 of the Act.

4. Establishment of CFD. As proposed in the Resolution of Intention, a community facilities district is hereby established pursuant to the Act, designated "Community Facilities District No. 2007-1 (Public Services)."

5. Finding of Procedural Regularity. The City Council finds and determines that all prior proceedings had and taken by the City Council with respect to the formation of the CFD are valid and in conformity with requirements of the Act.

6. Boundaries of CFD. The boundaries of the CFD shall be as set forth in the map entitled Map of Proposed Boundaries, Community Facilities District No. 2007-1 (Public Services) that was filed with the San Joaquin County Recorder on March 2, 2007, in Book 5 of Assessment Maps, at Page 156 less the property described in Exhibit D attached hereto. The City Council hereby directs City staff to prepare and file an amended map of the boundaries of the CFD to reflect the exclusion of such property with the County Recorder.

7. Description of Services. The Services to be financed by the CFD are set forth in Exhibit A hereto. The Services authorized to be financed by the CFD are in addition to those provided in the territory of the CFD and do not supplant Services already available within that territory.

8. Special Tax. As stated in the Resolution of Intention, except where funds are otherwise available, subject to the approval of the qualified electors of the CFD, a special tax sufficient to pay the costs of the Services (including incidental expenses as described in the Resolution of Intention), secured by recordation of a continuing lien against all nonexempt real property in the CFD, will be levied annually in the CFD. The rate, method of apportionment, and manner of collection of the special tax are specified in Exhibit B hereto.

9. Apportionment of Tax. The special tax as apportioned to each parcel is based on the cost of making the Services available to each parcel, or other reasonable basis, and is not based on or upon the ownership of real property.

10. Tax Roll Preparation. The office of the Finance Manager/Assistant City Treasurer, 300 W. Pine Street, Lodi, California 95240, telephone (209) 333-6700, is hereby designated as the office that will be responsible for annually preparing a current roll of special tax levy obligations by assessor's parcel number and that will be responsible for estimating future special tax levies pursuant to Government Code section 53340.2. The Finance Manager/Assistant City Treasurer may cause these functions to be performed by his or her deputies, assistants, or other designated agents.

11. Appropriations Limit. The City Council proposes that the appropriations limit, as defined by Article XIII B, Section 8(h), of the Constitution of the State of California, for the CFD be established in the amount of special taxes collected.

12. Accountability Measures. Pursuant to Section 50075.1 of the California Government Code, the City shall create a separate account into which tax proceeds will be deposited; and the Finance Manager/Assistant City Treasurer annually shall file a report with the City Council that will state (a) the amount of funds collected and expended and (b) the status of the Services financed in the CFD.

13. Special Election; Voting Procedures. The City Council hereby submits the questions of levying the special tax and the establishment of the annual appropriations limit for the CFD to the qualified electors within the CFD, in accordance with and subject to the Act. The special election shall be held on April 11, 2007, and shall be conducted as follows:

(a) Qualified Electors. The City Council hereby determines that the Services are necessary to meet increased demands placed upon the City as a result of development occurring within the boundaries of the CFD. Because fewer than twelve registered voters resided within the CFD on February 14, 2007 (a date within the 90 days preceding the close of the public hearing on the establishment of the CFD), the qualified electors shall be the landowners within the CFD, and each landowner who was the owner of record at the close of the hearing shall have one vote for each acre or portion of an acre of land that such landowner owns within the CFD.

(b) Consolidation of Elections; Combination of Propositions on Ballot. The elections on the questions of levying the special tax and establishing an appropriations limit for the CFD shall be consolidated, and the two propositions shall be combined into a single ballot proposition for submission to the voters, as authorized by Government Code Section 53353.5.

(c) Mail Ballot Election. Pursuant to Government Code section 53327.5, the election shall be conducted as a mail ballot election. The City Council hereby ratifies the City Clerk's delivery of a ballot to each landowner in the CFD. The City Council hereby ratifies the form of the ballot, which is attached hereto as Exhibit C.

(d) Return of Ballots. The City Clerk shall accept the ballots of the landowners up to 4:00 p.m. on April 11, 2007. The City Clerk shall have available ballots that may be marked at the City Clerk's office on the election day by voters. Once all qualified electors have voted, the City Clerk may close the election.

(e) Canvass of Election. The City Clerk shall commence the canvass of the returns of the special election as soon as the election is closed (i.e., 4:00 p.m. on April 11, 2007,

or when all qualified electors have voted) at the City Clerk's office. At the conclusion of the canvass, the City Clerk shall declare the results of the election.

(f) Declaration of Results. The City Council shall declare the results of the special election following the completion of the canvass of the returns and shall cause to be inserted into its minutes a statement of the results of the special election as ascertained by the canvass of the returns.

14. Filing of Resolution and Map with City Clerk. The City Council hereby directs the City Clerk to file a copy of this resolution and the amended map of the boundaries of the CFD in her office.

15. Lien to Secure Special Tax. Upon a determination by the City Council that two-thirds of the votes cast upon the question of levying the special tax were in favor thereof, the City Clerk shall record the notice of special tax lien provided for in Section 3114.5 of the California Streets and Highways Code. Upon recordation of the notice of special tax lien, a continuing lien to secure each levy of the special tax shall attach to all nonexempt real property in the CFD, and this lien shall continue in force and effect until collection of the tax by the City Council ceases.

16. CEQA Exemption. The Council hereby determines that the formation of the proposed CFD is not a project pursuant to the California Environmental Quality Guidelines section 15378(b)(4), and authorizes the City Clerk to file a notice of exemption with the County Clerk to that effect.

Dated: April 4, 2007
==========

I hereby certify that Resolution No. 2007-____ was passed and adopted by the City Council of the City of Lodi at a regular meeting held on April 4, 2007, by the following vote:

AYES: COUNCIL MEMBERS –

NOES: COUNCIL MEMBERS –

ABSENT: COUNCIL MEMBERS –

ABSTAIN: COUNCIL MEMBERS –

RANDI JOHL
City Clerk

2007-____

EXHIBIT A
CITY OF LODI
COMMUNITY FACILITIES DISTRICT NO. 2007-1
(PUBLIC SERVICES)
List of Authorized Services

(a) Police protection services, including, but not limited to, criminal justice services. However, criminal justice services shall be limited to providing services for jails, detention facilities, and juvenile halls.

(b) Fire protection and suppression services, and ambulance and paramedic services.

(c) Maintenance of parks, parkways, and open space.

(d) Flood and storm protection services, including, but not limited to, the operation and maintenance of storm drainage systems, and sandstorm protection systems.

(e) Services with respect to removal or remedial action for the cleanup of any hazardous substance released or threatened to be released into the environment.

EXHIBIT B

CITY OF LODI
COMMUNITY FACILITIES DISTRICT NO. 2007-1 (Public Services)
RATE AND METHOD OF APPORTIONMENT
AND MANNER OF COLLECTION OF SPECIAL TAX

A Special Tax applicable to each Assessor's Parcel in Community Facilities District No. 2007-1 (Public Services) shall be levied and collected according to the tax liability determined by the City Council acting in its capacity as the legislative body of CFD No. 2007-1, through the application of the appropriate Special Tax rate, as described below. All of the property in the CFD, unless exempted by law or by the provisions of Section E below, shall be taxed for the purposes, to the extent, and in the manner herein provided, including property subsequently annexed to the CFD unless a separate RMA is adopted for the annexation area.

A. DEFINITIONS

The terms hereinafter set forth have the following meanings:

"Accessory Dwelling Unit" means a second residential unit of limited size (i.e., granny cottage, second unit) that shares a Parcel with a Single Family Unit.

"Administrative Expenses" means any or all of the following: the expenses of the City in carrying out its duties for the CFD, including, but not limited to, the levy and collection of the Special Tax, the fees and expenses of its counsel, charges levied by the County, and all other costs and expenses of the City in any way related to the establishment or administration of the CFD.

"Administrator" means the person(s) or firm designated by the City to administer the Special Taxes according to this RMA.

"Assessor's Parcel" or **"Parcel"** means a lot or parcel shown in an Assessor's Parcel Map with an assigned Assessor's Parcel number.

"Assessor's Parcel Map" means an official map of the County Assessor designating parcels by Assessor's Parcel number.

"Authorized Services" means the public services authorized to be funded by the CFD as set forth in the documents adopted by the City Council when the CFD was formed.

"CFD No. 2007-1" or **"CFD"** means the City of Lodi Community Facilities District No. 2007-1 (Public Services).

"City" means the City of Lodi.

"City Council" means the City Council of the City of Lodi.

"County" means the County of San Joaquin.

"Fiscal Year" means the period starting on July 1 and ending on the following June 30.
"Maximum Special Tax" means the maximum Special Taxes determined in accordance with Section C below that can be levied on Single Family Property and Multi-Family Property in any Fiscal Year.

"Multi-Family Property" means, in any Fiscal Year, all Parcels in the CFD for which final building permit inspections were conducted prior to January 1 of the preceding Fiscal Year, but not prior to January 1, 2007, for construction of Multi-Family Units.

"Multi-Family Unit" means an individual residential unit within a structure with three or more residential units that share a single Assessor's Parcel number, all of which are offered for rent to the general public and cannot be purchased by individual homebuyers. Residential units located above commercial establishments that are available exclusively for rent and cannot be purchased by individual owners shall also be characterized as Multi-Family Units for purposes of this RMA.

"RMA" means this Rate and Method of Apportionment.

"Single Family Property" means, in any Fiscal Year, all Parcels in the CFD for which final building permit inspections were conducted prior to January 1 of the preceding Fiscal Year, but not prior to January 1, 2007, for construction of Single Family Units.

"Single Family Unit" means an individual single family detached residential unit or an individual residential unit within a half-plex, duplex, triplex, fourplex, townhome, condominium, or other structure with attached residential units that are available for sale to individual buyers, whether or not such a unit is ultimately offered for rent by an individual buyer. For-sale residential units located above commercial establishments shall also be categorized as Single Family Units for purposes of this RMA.

"Special Tax" means any tax levied within the CFD to pay the Special Tax Requirement.

"Special Tax Requirement" means the amount of revenue needed in any Fiscal Year to pay for the following: (i) Authorized Services, (ii) Administrative Expenses, and (iii) amounts needed to cure any delinquencies in the payment of Special Taxes which have occurred or, based on delinquency rates in prior years, may be expected to occur in the Fiscal Year in which the tax will be collected.

"Taxable Property" means both Single Family Property and Multi-Family Property.

B. DATA FOR ANNUAL TAX LEVY

Each Fiscal Year, the Administrator shall identify the current Assessor's Parcel number for all Parcels of Taxable Property within the CFD. The Administrator shall also determine the number of Single Family and Multi-Family Units built or to be built on each Parcel of Taxable Property by referencing the building permit, condominium plan, apartment plan, site plan, or other development plan for the property.

In any Fiscal Year, if it is determined that (i) a parcel map for a portion of property in the CFD was recorded after January 1 of the preceding Fiscal Year (or any other date after which the Assessor will not incorporate the newly-created Parcels into the then current tax roll), (ii) because of the date the parcel map was recorded, the Assessor does not yet recognize the new

Parcels created by the parcel map, and (iii) one or more of the newly-created Parcels meets the definition of Taxable Property, the Administrator shall calculate the Special Tax for the property affected by recordation of the parcel map by determining the Special Tax that applies separately to each Parcel of Taxable Property, then applying the sum of the individual Special Taxes to the original Parcel that was subdivided by recordation of the parcel map.

C. MAXIMUM SPECIAL TAX

The Maximum Special Tax for all Parcels of Taxable Property within the CFD shall be $600 per Single Family Unit and $175 per Multi Family Unit for Fiscal Year 2007-08. Beginning July 1, 2008 and each July 1 thereafter, the Maximum Special Tax in effect in the prior Fiscal Year shall be increased by the greater of (i) the increase, if any, in the Local Consumer Price Index for the San Francisco-Oakland-San Jose Area for All Urban Consumers, or (ii) five percent (5%).

D. METHOD OF LEVY AND COLLECTION OF SPECIAL TAX

Each Fiscal Year, the Special Tax shall be levied proportionately on each Parcel of Taxable Property in the CFD up to 100% of the Maximum Special Tax determined pursuant to Section C above until the total amount levied is equal to the Special Tax Requirement for the Fiscal Year.
The Special Tax for the CFD shall be collected at the same time and in the same manner as ordinary ad valorem property taxes provided, however, that the City may (under the authority of Government Code Section 53340) collect Special Taxes at a different time or in a different manner if necessary to meet CFD No. 2007-1 financial obligations, and the Special Tax shall be equally subject to foreclosure if delinquent.

E. LIMITATIONS

Notwithstanding any other provision of this RMA, no Special Tax shall be levied on Parcels within the CFD that are not Single Family Property or Multi-Family Property. Furthermore, Accessory Dwelling Units shall not be counted in determining the Special Tax to be levied on the Parcels on which such units are located.

F. INTERPRETATION OF SPECIAL TAX FORMULA

The City reserves the right to make minor administrative and technical changes to this document that do not materially affect the rate and method of apportioning Special Taxes. In addition, the interpretation and application of any section of this document shall be left to the City's discretion. Interpretations may be made by the City by ordinance or resolution for purposes of clarifying any vagueness or ambiguity in this RMA.

EXHIBIT C
OFFICIAL BALLOT
SPECIAL TAX ELECTION
CITY OF LODI
INCLUSION OF TERRITORY IN
COMMUNITY FACILITIES DISTRICT
NO. 2007-1 (PUBLIC SERVICES)
(April 11, 2007)

Number of votes entitled to cast: ____

INSTRUCTIONS TO VOTERS: To vote on the measure, mark an (X) in the voting square after the word "YES" or after the word "NO." All marks otherwise made are forbidden. All distinguishing marks are forbidden and make the ballot void.

If you wrongly mark, tear or deface this ballot, return it to the City Clerk, City of Lodi, 221 W. Pine Street, 2nd Floor, Lodi, California 95240, to obtain another.

MEASURE SUBMITTED TO QUALIFIED ELECTORS

Ballot Measure: Shall the City of Lodi be authorized to levy a special tax at the rates and apportioned as described in Exhibit C to the Resolution Declaring its Intention to Establish Community Facilities District No. 2007-1 (Public Services) adopted by the City Council on February 21, 2007 (the "Resolution"), which is incorporated herein by this reference, within the territory identified on the map entitled "Amended Map of Community Facilities District No. 2007-1 (Public Services), City of Lodi, County of San Joaquin," to finance certain services as set forth in Section 5 to the Resolution (including incidental expenses), and shall an appropriation limit be established for the CFD in the amount of special taxes collected?	YES ? NO ?

NOTE: This is a special landowner election. You must return this ballot to the City Clerk, City of Lodi, to her office at City Hall, 221 W. Pine Street, Lodi, California 95240, by 4:00 p.m. on April 11, 2007.

EXHIBIT D
EXCLUDED PROPERTY

APN	LANDOWNER	ACRES	TOTAL FOR LANDOWNER
058-130-17	BRIJ DEV SINGH BISLA AND SURRINDER KAUR BISLA	5.53	5.53
058-130-24	DIANE Y. TSUTSUMI, AN UNMARRIED WOMAN, AS TO UNDIVIDED 40% INTEREST; GARY T. TSUTSUMI, A MARRIED MAN AS HIS SOLE AND SEPARATE PROPERTY, AS TO AN UNDIVIDED 40% INTEREST; AND AGNES M. TSUTSUMI, TRUSTEE OF THE SURVIVOR'S TRUST (TRUST A) CREATED UNDER THE TSUTSUMI FAMILY 1990 TRUST AS TO AN UNDIVIDED 20% INTEREST; ALL TOGETHER AS TENANTS IN COMMON.	12.56	12.56
	Total	18.09	18.09

4/4/07

Please immediately confirm receipt of this fax by calling 333-6702

CITY OF LODI
P. O. BOX 3006
LODI, CALIFORNIA 95241-1910

ADVERTISING INSTRUCTIONS

SUBJECT: **NOTICE OF PUBLIC HEARING ON PROPOSED ESTABLISHMENT OF CITY OF LODI COMMUNITY FACILITIES DISTRICT NO. 2007-1 (PUBLIC SERVICES)**

PUBLISH DATE: **SATURDAY, FEBRUARY 24, 2007**

LEGAL AD

TEAR SHEETS WANTED: **One (1) please**

SEND AFFIDAVIT AND BILL TO:
RANDI JOHL, CITY CLERK
City of Lodi
P.O. Box 3006
Lodi, CA 95241-1910

DATED: THURSDAY, FEBRUARY 22, 2007

ORDERED BY: RANDI JOHL
CITY CLERK

Jennifer M Perrin

JENNIFER M. PERRIN, CMC
DEPUTY CITY CLERK

DANA R. CHAPMAN
ADMINISTRATIVE CLERK

Verify Appearance of this Legal in the Newspaper – Copy to File

Faxed to the Sentinel at 369-1084 at _____(time) on _____(date) _____(pages)
LNS _____ Phoned to confirm receipt of all pages at _____(time) ___JLT ___ DRC ___JMP (initials)

N:\Administration\CLERK\Forms\Advins2.doc

DECLARATION OF POSTING

NOTICE OF PUBLIC HEARING ON PROPOSED ESTABLISHMENT OF CITY OF LODI COMMUNITY FACILITIES DISTRICT NO. 2007-1 (PUBLIC SERVICES)

On Friday, February 23, 2007, in the City of Lodi, San Joaquin County, California, a Notice of Public Hearing on proposed establishment of City of Lodi Community Facilities District No. 2007-1 (Public Services) was posted at the following locations:

Lodi Public Library
Lodi City Clerk's Office
Lodi City Hall Lobby
Lodi Carnegie Forum

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

Executed on February 23, 2007, at Lodi, California.

ORDERED BY:

RANDI JOHL
CITY CLERK

JENNIFER M. PERRIN, CMC
DEPUTY CITY CLERK

DANA R. CHAPMAN
ADMINISTRATIVE CLERK

N:\Administration\CLERK\Forms\DECPOSTCA.DOC

DECLARATION OF MAILING

NOTICE OF PUBLIC HEARING ON PROPOSED ESTABLISHMENT OF CITY OF LODI COMMUNITY FACILITIES DISTRICT NO. 2007-1 (PUBLIC SERVICES)

On February 22, 2007, in the City of Lodi, San Joaquin County, California, I deposited in the United States mail, envelopes with first-class postage prepaid thereon, containing a Notice of Public Hearing on proposed establishment of City of Lodi Community Facilities District No. 2007-1 (Public Services), attached hereto Marked Exhibit A. The mailing list for said matter is attached hereto, marked Exhibit B.

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

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

Executed on February 22, 2007, at Lodi, California.

ORDERED BY:

RANDI JOHL
CITY CLERK, CITY OF LODI

JENNIFER M. PERRIN, CMC
DEPUTY CITY CLERK

DANA R. CHAPMAN
ADMINISTRATIVE CLERK

Forms/decmail.doc

CITY OF LODI

Carnegie Forum
305 West Pine Street, Lodi

NOTICE OF PUBLIC HEARING
Date: April 4, 2007
Time: 7:00 p.m.

For information regarding this notice please contact:
Randi Johl,
City Clerk
Telephone: (209) 333-6702

EXHIBIT A

NOTICE OF PUBLIC HEARING
ON PROPOSED ESTABLISHMENT OF CITY OF LODI
COMMUNITY FACILITIES DISTRICT NO. 2007-1 (PUBLIC SERVICES)

NOTICE IS HEREBY GIVEN that the City Council of the City of Lodi on February 21, 2007, adopted Resolution No. 2007-33, in which it declared its intention to establish a community facilities district and to levy a special tax to pay for certain services, all pursuant to the provisions of the Mello-Roos Community Facilities Act of 1982, Chapter 2.5, Part 1, Division 2, Title 5, of the California Government Code. The resolution describes the boundaries of the proposed district, the services proposed to be financed, and the rate, method of apportionment, and manner of collection of the proposed special tax. The City proposes to tax all interests in property that may be taxed under the Act. For further details, the resolution is available in the office of the City Clerk at City Hall, 221 W. Pine Street, 2nd Floor, Lodi, California.

NOTICE IS HEREBY FURTHER GIVEN that the City Council has fixed **Wednesday, April 4, 2007**, at the hour of 7:00 p.m., or as soon thereafter as the matter may be heard, at Carnegie Forum, 305 West Pine Street, Lodi, California, as the time and place when and where the City Council will hold a public hearing to consider the establishment of the district. At the hearing, the testimony of all interested persons, including all persons owning property in the area, or taxpayers for or against the establishment of the district, the extent of the district, the furnishing of the specified services, and the levy of the special tax will be heard.

If six registered voters residing within the proposed district or the owners of one-half or more of the area of land in the territory included in the district and not exempt from the special tax file written protests against the establishment of the district, and the protests are not withdrawn so as to reduce the value of the protests to less than a majority, the creation of the district and the tax levy shall not be considered for a period of one year from the date of the decision of the City Council after the hearing.

NOTICE IS HEREBY FURTHER GIVEN that if, at the conclusion of the public hearing, the City Council determines to establish the district, the City Council will order an election to be held by the landowners of the district by mailed ballot, with each landowner having one vote for each acre or portion of an acre of land that such landowner owns within the proposed district, on the question of levying the special tax.

BY ORDER OF THE LODI CITY COUNCIL: DATED: February 21, 2007

Randi Johl, City Clerk, City of Lodi

APPROVED AS TO FORM:

D. Stephen Schwabauer, City Attorney, City of Lodi

CFD

EXHIBIT B

APN	OWNER	ADDRESS	CITY/STATE/ZIP
05811004 05811041	ROBERT & CAROLYN REYNOLDS FAM	23290 N PEARL RD	ACAMPO CA 95220
05813006	DELLA MAGGIORA, DOMENICO TR ET	13323 N STOCKTON ST	LODI CA 95240
05813007 05813008 05813009	SAN JOAQUIN VALLEY LAND CO LLC	1420 S MILLS AVE STE K	LODI CA 95242
05813010 05813011	SOUTH RIVER RANCH LLC	PO BOX 673	VICTOR CA 95253
05813014	HELM, SHIRLEY ANN ETAL	13125 N STOCKTON ST	LODI CA 95240
05813015 05813016	ROBERT & CAROLYN REYNOLDS ETL	PO BOX 725	WOODBRIDGE CA 95258
05813017	BISLA, BRIJ D & S K	13137 N ST RT 99 W F	LODI CA 95240
05813018	LODI MOOSE, LODGE 634	13263 N HWY 99	LODI CA 95240
05813021	SEEMAN, DELFORD & E TRS	13275 N STOCKTON ST	LODI CA 95240
05813022	PELLETTI, MARIA VILMA TR	13167 N STOCKTON ST	LODI CA 95240
05813024	TSUTSUMI, AGNES M TR ETAL	3725 E ARMSTRONG RD	LODI CA 95240

CITY OF LODI
COUNCIL COMMUNICATION

TM

AGENDA TITLE: **Public Hearing to Consider Resolution Adopting Engineer's Report, Confirming Assessments, Overruling Protests and Declaring Assessment Ballot Results and Annexing Territory into the Lodi Consolidated Landscape Maintenance Assessment District 2003-1 and Forming Guild Avenue Industrial Zone 13**

MEETING DATE: **April 4, 2007**

PREPARED BY: **Public Works Director**

RECOMMENDED ACTION: Conduct a public hearing to consider a resolution for the following:

1. Adopting the Engineer's Report
2. Confirming assessments
3. Overruling protests and declaring assessment ballot results
4. Annexing territory into the Lodi Consolidated Landscape Maintenance Assessment District No. 2003-1 and forming Guild Avenue Industrial Zone 13

BACKGROUND INFORMATION: On February 21, 2007, the City Council adopted the following resolutions regarding the formation of Zone 13 of the Lodi Consolidated Landscape Maintenance Assessment District No. 2003-1.

1. Resolution of Preliminary Approval of the Engineer's Report Regarding the Proposed Annexation of Territory into the Lodi Consolidated Landscape Maintenance Assessment District No. 2003-1 and Levy and Collection of Assessments for Fiscal Year 2007/08

2. Resolution Declaring Intention to Annex Territory into Lodi Consolidated Landscape Maintenance Assessment District No. 2003-1 and to Provide for the Levy and Collection of Assessments in Such Annexation, Setting a Time and Place for Public Hearing Thereon and Ordering the Initiation of Assessment Ballot Procedures

3. Resolution Initiating Proceedings for the Annexation of Territory into the Lodi Consolidated Landscape Maintenance Assessment District No. 2003-1 and the Levy and Collection of Assessments for Certain Zones for Fiscal Year 2007/08

Ballots have been mailed to the existing property owners to comply with Proposition 218 requirements. The ballots will be tabulated and the results will be announced at the conclusion of the Public Hearing. In order for the assessment to be successful under Proposition 218 requirements, a majority of the landowners who vote (calculated in terms of dollars of assessment) must vote in favor of the proposals. If a majority vote is not received, the district will not be formed.

The developers of the industrial developments located at 350, 495 and 555 North Guild Avenue have elected to annex to the Lodi Consolidated Landscape Maintenance Assessment District No. 2003-1 for

---

APPROVED: _____
Blair King, City Manager

the purpose of maintaining and/or replacing certain public improvements to be installed in conjunction with or for the benefit of those projects. The Engineer's Report for the proposed annexation, prepared by NBS of Temecula and attached as Exhibit 1, presents a description of the project, defines the area, describes the improvements to be maintained and provides a cost estimate of the First Year Estimated Assessment and sets the Maximum Annual Assessment amount. The improvements to be maintained include the future traffic signal at Victor Road and Guild Avenue, frontage and median landscaping in Victor Road, and street sweeping of Victor Road and Guild Avenue.

The annexation area, Zone 13, is the first of multiple zone annexations that will occur within the defined Area of Benefit, Exhibit 2. Zone 13 receives approximately 16% of the benefit from the public improvements and will, therefore, provide 16% of the funding for the maintenance of those improvements. Until such time that the balance of the parcels within the Area of Benefit are annexed, the City will be responsible for the balance of the funding for maintenance.

The proposed Zone 13 contains eight (8) lots. Parcel 049-080-17 is expected to subdivide into six (6) lots. The proposed assessment roll for Zone 13 is set forth in Exhibit 1.

Zone 13 is the first proposed annexation of non-residential properties to the District. Staff anticipates that similar annexations of non-residential properties will be presented to the Council in the future to provide funding for the maintenance and replacement of those certain public improvements that meet the criteria set forth in the Landscaping and Lighting Act of 1972 that are installed with or for the benefit of non-residential developments.

Election ballots were distributed to the owners of record as of the date of ballot preparation. Voting is based upon acres and simple majority vote is required to form the district.

The First Year Assessment will be added to the tax roll for Fiscal Year 2007/08 and the first revenues from the district will be received in December 2007. The maximum annual assessment is subject to yearly cost adjustment based on the greater of either 5% or the percentage increase of the Local Consumer Price Index. Subsequent annual assessments will be based on contract bid prices and actual costs, plus the Engineer's Report schedule of replacement costs.

FISCAL IMPACT: The purpose of the District is to collect funds to offset the fiscal impact of the maintenance and replacement of certain public improvements benefiting to each development.

FUNDING AVAILABLE: All costs will be paid by applicant fees and reimbursement from funds collected through the assessment district.

Richard C. Prima, Jr.
Public Works Director

Prepared by Sharon A. Welch, Senior Civil Engineer
RCP/SAW/pmf
Attachments
cc: Sharon Welch, Senior Civil Engineer
NBS

City of Lodi

Lodi Consolidated Landscape Maintenance District No. 2003-1

ZONE 13 – GUILD AVENUE INDUSTRIAL

2007/08 Final Engineer's Report

April 4, 2007

Prepared by

N | B | S

Corporate Office
32605 Highway 79 South, Suite 100
Temecula, CA 92592
(800) 676-7516 phone
(951) 296-1998 fax

Regional Office
870 Market Street, Suite 901
San Francisco, CA 94102
(800) 434-8349 phone
(415) 391-8439 fax

CITY OF LODI
LODI CONSOLIDATED LANDSCAPE MAINTENANCE DISTRICT NO. 2003-1

221 W. Pine Street
Lodi, California 95240
Phone - (209) 333-6706
Fax - (209) 333-6807

CITY COUNCIL

Bob Johnson, Mayor

Joanne Mounce, Mayor Pro Tem

Larry D. Hansen, Council Member

Susan Hitchcock, Council Member

Phil Katzakian, Council Member

CITY STAFF

Blair King, City Manager

James Krueger, Deputy City Manager

Randi Johl, City Clerk

D. Stephen Schwabauer, City Attorney

Richard Prima, Public Works Director

Wally Sandelin, City Engineer

N | B | S

Greg Davidson, Client Services Director

Rick Clark, Project Manager

TABLE OF CONTENTS

1. ENGINEER'S LETTER 1-1

2. OVERVIEW 2-1

2.1 INTRODUCTION 2-1
2.2 EFFECT OF PROPOSITION 218 2-2

3. PLANS AND SPECIFICATIONS 3-1

3.1 DESCRIPTION OF FACILITIES FOR ZONE 13 3-1

4. METHOD OF APPORTIONMENT 4-1

4.1 METHOD OF APPORTIONMENT 4-1
4.2 LAND USE BENEFIT FACTORS 4-2

5. ESTIMATE OF COSTS 5-1

5.1 DESCRIPTION OF BUDGET ITEMS 5-1
5.2 DISTRICT BUDGET 5-2
5.3 LANDSCAPE RESERVE INFORMATION 5-3

6. ASSESSMENT DIAGRAMS 6-1

7. ASSESSMENT ROLL 7-1

1. ENGINEER'S LETTER

WHEREAS, on February 21, 2007, the City Council of the City of Lodi (the "City"), State of California, directed NBS Government Finance Group, DBA NBS ("NBS") to prepare and file a report presenting plans and specifications describing the general nature, location and extent of the improvements to be maintained, an estimate of the costs of the maintenance, operations and servicing of the improvements for the City of Lodi Consolidated Landscape Maintenance District No. 2003-1, Annexation No. 2 (or the "District") for Fiscal Year 2007/08. The report includes a diagram for the District, showing the area and properties proposed to be assessed, an assessment of the estimated costs of the maintenance, operations and servicing the improvements, and the net amount upon all assessable lots and/or parcels within the District in proportion to the special benefit received;

NOW THEREFORE, the following assessment is made to cover the portion of the estimated costs of maintenance, operation and servicing of said improvements to be paid by the assessable real property within the District in proportion to the special benefit received:

SUMMARY OF ASSESSMENT

Description	2007/08 Assessment	Maximum Assessment	As Confirmed by Council
Zone 13 – Guild Avenue Industrial	$5,313.44	$9,106.84	$5,313.44
Zone 13 Dwelling Unit Equivalent Factor ("dueF")	94.06	94.06	94.06
Assessment Rate Per dueF	**$ 56.49**	**$ 96.82**	**$ 56.49**

I, the undersigned, respectfully submit the enclosed Engineer's Report and, to the best of my knowledge, information and belief, the Engineer's Report, Assessments, and the Assessment Diagram herein have been prepared and computed in accordance with the order of the City Council of the City of Lodi.

_____

Wally Sandelin, P.E., Engineer of Work

Date:_____ _____

Seal

2. OVERVIEW

2.1 Introduction

The City of Lodi ("City") proposes to levy special benefit assessments for the Lodi Consolidated Landscape Maintenance District No. 2003-1 ("District") for Fiscal Year 2007/08. The City currently has consolidated twelve landscape maintenance districts into a single district, the "Lodi Consolidated Landscape Maintenance District No. 2003-1". In response to the provisions of the California Constitution Article XIIIC and XIIID (Proposition 218), in 2003 a separate Engineer's Report was prepared for each of the first two Zones (Zones 1 and 2) of the Lodi Consolidated Landscape Maintenance District. The City conducted property owner balloting proceedings for the assessments in Fiscal Year 2004/05. After approval of the assessment by the property owners, the City began to levy and collect special assessments on the County tax rolls to provide continued funding for the costs and expenses required for maintenance of the improvements within the District. In 2004 a separate Engineer's Report was prepared for each of the next five Zones (Zones 3 thru 7) of the Lodi Consolidated Landscape Maintenance District. The City conducted property owner balloting proceedings for Zones 3 and 4 for the assessments in Fiscal Year 2004/05 and the City conducted property owner balloting proceedings for Zones 5 through 7 for the assessments in Fiscal Year 2005/06. For Fiscal Year 2006/07, the City conducted property owner balloting proceedings for the annexation of Zones 8 through twelve into the District. For Fiscal Year 2007/08, the City is proposing the annexation of Zone 13 into the District. After approval of the assessment by the property owners, the City will levy and collect special assessments on the County tax rolls to provide continued funding for the costs and expenses required for maintenance of the improvements within the District. The District is levied pursuant to the Landscape and Lighting Act of 1972, Part 2 of Division 15 of the California Streets and Highways Code (the Act), and in compliance with the substantive and procedural requirements of the California Constitution Article XIIID.

This Engineer's Report ("Report") describes the proposed annexation (the "Annexation") of Zone 13 into the District and assessments to be levied against properties within the Annexation for Fiscal Year 2007/08. The assessments described herein are based on the estimated cost to operate service and maintain improvements that will provide a direct and special benefit to properties within the District. All improvements to be operated, serviced and maintained through annual assessments were or will be constructed and installed in connection with the development or for the benefit of these properties. The annual costs and assessments described herein include all estimated direct expenditures, incidental expenses, deficits, surpluses, revenues, and reserves associated with the maintenance and servicing of the improvements.

The word "parcel," for the purposes of this Report, refers to an individual property assigned its own Assessment Number by the County of San Joaquin Assessor's Office. The County of San Joaquin Auditor/Controller uses Assessment Numbers and specific Fund Numbers to identify properties assessed on the tax roll for special district benefit assessments.

2.2 Effect of Proposition 218

On November 5, 1996, California voters approved proposition 218 by a margin of 56.5% to 43.5%. The provisions of the Proposition, now California Articles XIIIC and XIIID, add substantive and procedural requirements to assessments, which affect the City of Lodi landscape maintenance assessments.

The proposed assessments for the City of Lodi Consolidated Landscape Maintenance District No. 2003-1, for Fiscal Year 2007/08 are not proposed to increase over the annual rate escalation factor of the annual San Francisco Bay Area C.P.I. or 5%, which ever is greater, which was approved by property owners following the assessment balloting procedures set forth in Section 4 SEC. 4 of the Proposition.

3. PLANS AND SPECIFICATIONS

During the installation period for each Zone within the Lodi Consolidated Landscape Maintenance District No. 2003-1, the installer of the improvements will maintain the new improvements until the following June 30, or such time as funds are available for maintenance, at which time the new areas shall be incorporated into the areas already being maintained by the District.

3.1 Description of Facilities for Zone 13

Zone 13 is comprised of 8 industrial parcels; the facilities within Zone 13 of the Lodi Consolidated Landscape Maintenance District No. 2003-1 that will be operated, serviced, maintained and improved are generally described as follows:

A. A traffic signal at the intersection of Highway 12 (Victor Road) and Guild Avenue.
B. A 15.0 foot irrigated, landscaped strip in a 16.0 foot median in Victor Road (Highway 12) south of the Zone 13 boundary, extending west from the current City limits for a distance of 700 feet.
C. A 28.5 foot irrigated landscape strip on the north side of Victor Road (Highway 12), extending westerly from the current City limits to 231 feet west of the Guild Avenue intersection centerline and having a total length of 1,485 feet.
D. Street sweeping along the north and south side of Victor Road (Highway 12) and along the median and curbing from 231 feet west of the Guild Avenue intersection centerline to the current City limits.

Zone 13 consists of 8 industrial parcels located on Guild Avenue, north of Lockeford Street. The benefit from facilities within Zone 13 for each lot has been determined based on an acreage basis. Zone 13 includes 95.28 Dwelling Unit Equivalents (DUE). Please refer to Section 4 of this Report for a more complete description.

4. METHOD OF APPORTIONMENT

4.1 Method of Apportionment

Pursuant to the 1972 Act the costs (assessments) of the District are apportioned by a formula or method that fairly distributes the net amount to be assessed among all parcels in proportion to benefits received from the improvements. The provisions of Article XIIIC and XIIID of the California Constitution (Proposition 218) require the agency to separate the general benefit from special benefit, whereas only special benefits may be assessed.

IMPROVEMENT BENEFIT FINDINGS

The annual assessments outlined in the Budget section of this Report are proposed to cover the estimated costs to provide all necessary service, operation, administration and maintenance within the District, by Zone. It has been determined that each assessable parcel within the District receives proportional special benefits from the improvements. The benefit from the improvements to be maintained through annual assessments from Zone 13 has been determined to be 16.09% of the total, based on the acreage and land use zoning of all parcels on Guild Avenue north of Victor Road (Highway 12) and two parcels having frontage on the south side of Victor Road east of Guild Avenue. The individual benefit for each parcel with Zone 13 has been determined based on acreage. The balance of the costs of operating, servicing and maintaining the improvements shall be borne by the City until such time as the remaining parcels on Guild Avenue, north and south of Victor Road (Highway 12) are developed or are otherwise required to annex into the District. All improvements to be maintained and funded through annual assessments were constructed and installed in connection with or for the benefit of the development of properties within the District, and each parcel's close and relatively similar proximity to the improvements makes each parcel's special benefit from the improvements similar and proportionate.

SPECIAL BENEFITS

The method of apportionment (method of assessment) is based on the premise that each of the assessed parcels within the District receives special benefit from the improvements maintained and financed by District assessments. Specifically, the assessments associated with each Zone are outlined in Section 3 of this Report.

DESCRIPTION OF THE METHOD OF APPORTIONMENT

The District provides operation, service and maintenance to all the specific local improvements and associated appurtenances located within the public right-of-ways in each of the various Zones throughout the District. The annual assessments are based on the historical and estimated cost to operate, to service and to maintain the improvements that provide a special benefit to properties within the District and Zones. The various improvements within each Zone are identified and budgeted separately, including all expenditures, deficits, surpluses, revenues, and reserves.

The assessments outlined in this section represent the proportionate special benefit to each property within the District and the basis of calculating each parcel's proportionate share of the annual costs associated with the District/Zone improvements. The costs associated with the maintenance and operation of special benefit improvements shall be collected through annual assessments from each parcel receiving such benefit. The funds collected shall be dispersed and used for only the services and operation provided to the District.

The basis of determining each parcel's special benefit utilizes a weighting formula commonly known as a Dwelling Unit Equivalent Factor (dueF). The developed single-family residential parcel is used as the base unit for calculation of assessments and is defined as one (1.00) dueF. All other property types are assigned a dueF that reflects their proportional special benefit from the improvements as compared to the single-family residential parcel (weighted comparison).

To determine the dueF for industrial parcels, a Benefit Unit Factor (BUF) is assigned to each property type. This BUF multiplied by the parcel's specific acreage determines the parcel's specific dueF. Industrial parcels have been assigned a BUF of 4.00 per acre. The following table provides a listing of the various land use types and the corresponding BUF used to calculate a parcel's dueF and proportionate benefit:

4.2 Land Use Benefit Factors

PROPERTY TYPE LAND USE	ASSIGNED BENEFIT UNIT FACTOR
Industrial	4.00 per Acre
Exempt	0.00
Other Uses	The dueF Will Be Established As Required

Exempt – Certain parcels, by reason of use, size, shape or state of development, may be assigned a zero dueF which will consequently result in a zero assessment for those parcels for that fiscal year. All parcels having such a zero dueF for the previous fiscal year shall annually be reconsidered to determine if the reason for assigning the zero dueF is still valid for the next fiscal year. Parcels which may be expected to have a zero dueF assigned are typically parcels which are all, or nearly all, publicly landscaped, parcels in public ownership, parcels owned by a public utility company and/or used for public utilities, public parks, public schools, and remainder parcels too small or narrow for reasonable residential or commercial use, unless actually in use.

Area Adjustments – Parcels which have an assessment determined by area and which have a portion of the parcel occupied by public or public utility uses separate from the entitled use and located in easements, prior to the multiplication by the dueF, shall have the area of the parcel adjusted to a usable area to reflect the loss or partial loss of the entitled use in those areas. This reduction shall not apply for normal peripheral and interior lot line public utility easements generally existing over the whole subdivision.

As noted previously, the District is divided into Zones. These Zones encompass specific developments where the properties receive a direct and special benefit from the operation, service and maintenance of those improvements. The basis of benefit and proportionate assessment for all properties within the District is established by each parcel's calculated dueF and their proportionate share of the improvement costs based on their proportionate dueF within the Zone. The method used to calculate the assessments for each Zone is as follows:

Total Balance to Levy / Total dueF = Levy per dueF (Levy Rate)

Parcel's dueF x Levy per dueF (Levy Rate) = Parcel Levy Amount

ASSESSMENT RANGE FORMULA

Any new or increase in assessments require certain noticing and meeting requirements by law. Prior to the passage of Proposition 218, legislative changes in the Brown Act defined the definition of "new or increased assessment" to exclude certain conditions. These conditions included "any assessment that does not exceed an assessment formula or range of assessments previously adopted by the agency or approved by the voters in the area where the assessment is imposed." This definition and conditions were later confirmed through SB919 (Proposition 218 implementing legislation).

The purpose of establishing an assessment range formula is to provide for reasonable increases and inflationary adjustments to annual assessments without requiring costly noticing and mailing procedures, which could add to the District costs and assessments.

Generally, if the proposed annual assessment (levy per unit or rate) for the current fiscal year is less than or equal to the "Maximum Assessment" (or "Adjusted Maximum Assessment"), then the proposed annual assessment is not considered an increased assessment. The Maximum Assessment is equal to the initial Assessment approved by property owners adjusted annually by the following criteria:

1. Beginning in the second fiscal year (Fiscal Year 2008/09) and each fiscal year thereafter, the Maximum Assessment will be recalculated annually.

2. The new adjusted Maximum Assessment for the year represents the prior year's Maximum Assessment adjusted by the greater of:

   (a) Five percent (5.0%); or,
   (b) The annual increase in the Consumer Price Index (CPI).

Each year the annual increase in the CPI shall be computed. The increase in CPI is the percentage difference between the CPI of December of any given year and the CPI for the previous December as provided and established by the Bureau of Labor Statistics (example: Fiscal Year 2005/06 CPI increase is 2.2% over December 2004). This percentage difference (annual difference) shall then establish the allowed increase based on CPI. The Consumer Price Index used shall be based on the CPI established by the Bureau of Labor Statistics for all urban consumers for the San Francisco-Oakland-San Jose Area. Should the Bureau of Labor Statistics revise such index or discontinue the preparation of such index, the City shall use the revised index or comparable system as approved by the City Council for determining fluctuations in the cost of living.

If CPI is less than five percent (5.0%), then the allowable adjustment to the Maximum Assessment is five percent. If CPI is greater than five percent (5.0%), then the allowable adjustment to the Maximum Assessment is based on CPI. The Maximum Assessment is adjusted annually and is calculated independent of the District's annual budget and proposed annual assessment. Any proposed annual assessment (rate per levy unit) less than or equal to this Maximum Assessment is not considered an increased assessment, even if the proposed assessment is greater than the assessment applied in the prior fiscal year.

The following table illustrates how the assessment range formula shall be applied. For example, if the percentage change in CPI is greater than five percent (5.0%), as in Example 1, then the percentage adjustment to the Maximum Assessment will be by CPI. If the percentage change in CPI is less than five percent (5.0%), as in Example 2, then the percentage adjustment to the Maximum Assessment will be five percent (5.0%).

Examples of Percentage Increases

Example	CPI Calculated Percentage Increase	Standard 5% Increase	Maximum % Increase Without Re-Balloting	Prior Years Maximum Rate Per dueF	Allowed Adjustment Per dueF	Allowed New Maximum Rate Per dueF
1	5.25%	5.00%	5.25%	$347.00	18.22	$365.22
2	2.20%	5.00%	5.00%	$347.00	17.35	$364.35

As previously illustrated, the Maximum Assessment will be recalculated and adjusted annually. However, the City Council may reduce or freeze the Maximum Assessment at any time by amending the Engineer's Annual Report.

Although the Maximum Assessment will normally increase each year, the actual District assessments may remain virtually unchanged. The Maximum Assessment adjustment is designed to establish a reasonable limit on District assessments. The Maximum Assessment calculated each year does not require or facilitate an increase to the annual assessment, nor does it restrict assessments to the adjusted maximum amount. If the budget and assessments for the fiscal year does not require an increase, or the increase is less than the adjusted Maximum Assessment, then the required budget and assessment may be applied without additional property owner balloting. If the budget and assessments calculated requires an increase greater than the adjusted Maximum Assessment then the assessment is considered an increased assessment. To impose an increased assessment the City Council must comply with the provisions of Proposition 218 (Article XIIID Section 4c of the California Constitution). Proposition 218 requires a Public Hearing and certain protest procedures including mailed notice of the Public Hearing and property owner protest balloting. Property owners, through the balloting process, must approve the proposed assessment increase. If the proposed assessment is approved, then a new Maximum Assessment is established for the District. If the proposed assessment is not approved, the City Council may not levy an assessment greater than the adjusted Maximum Assessment previously established for the District.

5. ESTIMATE OF COSTS

5.1 Description of Budget Items

The following items make up the Estimate of Costs used in determining the Annual Assessments of the District. The specific Zones within the District are shown in Section 3 of this Report. Definitions of maintenance items, words and phrases are shown below:

Fiscal Year – One year period of time beginning July 1st of a given year and ending June 30th of the following year.

Landscape Areas – The estimated cost of labor, material, supplies, water and electric energy necessary for maintaining and servicing the trees, shrubs, turf, ground cover, etc within the median and landscaped strip of the District.

Traffic Signals – The estimated costs to provide maintenance, repair and electric energy to the traffic signals and street lights within the District.

Street Sweeping – The estimated cost provide street sweeping services within the District.

Consultants – Costs associated with outside consultant fees in order to comply with Assessment Law and placement of assessments onto the San Joaquin County Tax Roll each year.

Publication – Costs associated with the publishing, posting and mailing of any required notices each year.

City Administration – Costs attributable to the City of Lodi related to District administration and management each year.

County Administration – Costs of the County of San Joaquin related to the placement of assessments on the tax roll each year.

Landscape Reserves/Contingencies – An amount of 50% of the maintenance costs may be included to build a Reserve and Contingency Fund. The Landscaping and Lighting Act of 1972, Part 2, Division 15 of the Streets and Highways Code of the State of California, commencing with Section 22500, allows the District assessments to "…include a reserve which shall not exceed the estimated costs of maintenance and servicing to December 10 of the fiscal year, or whenever the city expects to receive its apportionment of special assessments and tax collections from the county, whichever is later."

Total Dwelling Unit Equivalent Factor – Dwelling Unit Equivalent Factor (dueF) is a numeric value calculated for each parcel based on the parcel's land use. The dueF shown in the District/Zone budget represents the sum total of all parcel dueF's that receive benefit from the improvements. Refer to Section III for a more complete description of dueF's.

Estimated Assessment per DUE – This amount represents the rate being applied to each parcel's individual dueF. The Levy per Dwelling Unit Equivalent Factor is the result of dividing the Total Estimated Assessment, by the sum of the District dueF's, for the fiscal year. This amount is always rounded down to the nearest even penny for tax bill purposes.

5.2 District Budget

Zone 13 – Guild Avenue Industrial Budget

DESCRIPTION	MAXIMUM ASSESSMENT	2007/08 BUDGET
Operation Costs: (1)		
Landscape Areas		
Landscape Maintenance – Median	$2,500	$0
Landscape Maintenance – Strip	4,612	4,612
Repair/Replacement	12	8
Water	10	7
Electricity	7	5
Sub-Total Landscape Costs:	***$7,141***	***$4,632***
Traffic Signals		
Repair/Maintenance	$641	$0
Electricity – Signal	41	0
Electricity – Street Light	83	0
Sub-Total Traffic Signal Costs	***$ 765***	***$ 0***
Street Sweeping	$142	$0
Sub-Total Operations Costs	***$8,048***	***$4,632***
Administration Costs: (2)		
Consultants	$48	$48
Publication	7	7
City Administration Fee	101	101
County Administration Fee	10	10
Contingency	813	468
Sub-Total Administration Costs:	*$ 979*	*$ 634*
BUDGET TOTAL	**$9,027**	**$5,266**
Replacement Reserve (3		
Landscape	**$80**	**$48**
TOTAL ESTIMATED ASSESSMENT	**$9,107**	**$5,314**
TOTAL dueF	**94.06**	**94.06**
ESTIMATED ASSESSMENT PER DUE	**$ 97**	**$ 56**

(1) Includes landscape maintenance, repair, replacement, water, installation and electricity costs.
(2) Includes Consultants, City & County administration, publication costs and contingency.
(3) Includes landscape and irrigation equipment replacement costs.

5.3 Landscape Reserve Information

Zone 13 Landscape Reserve Information

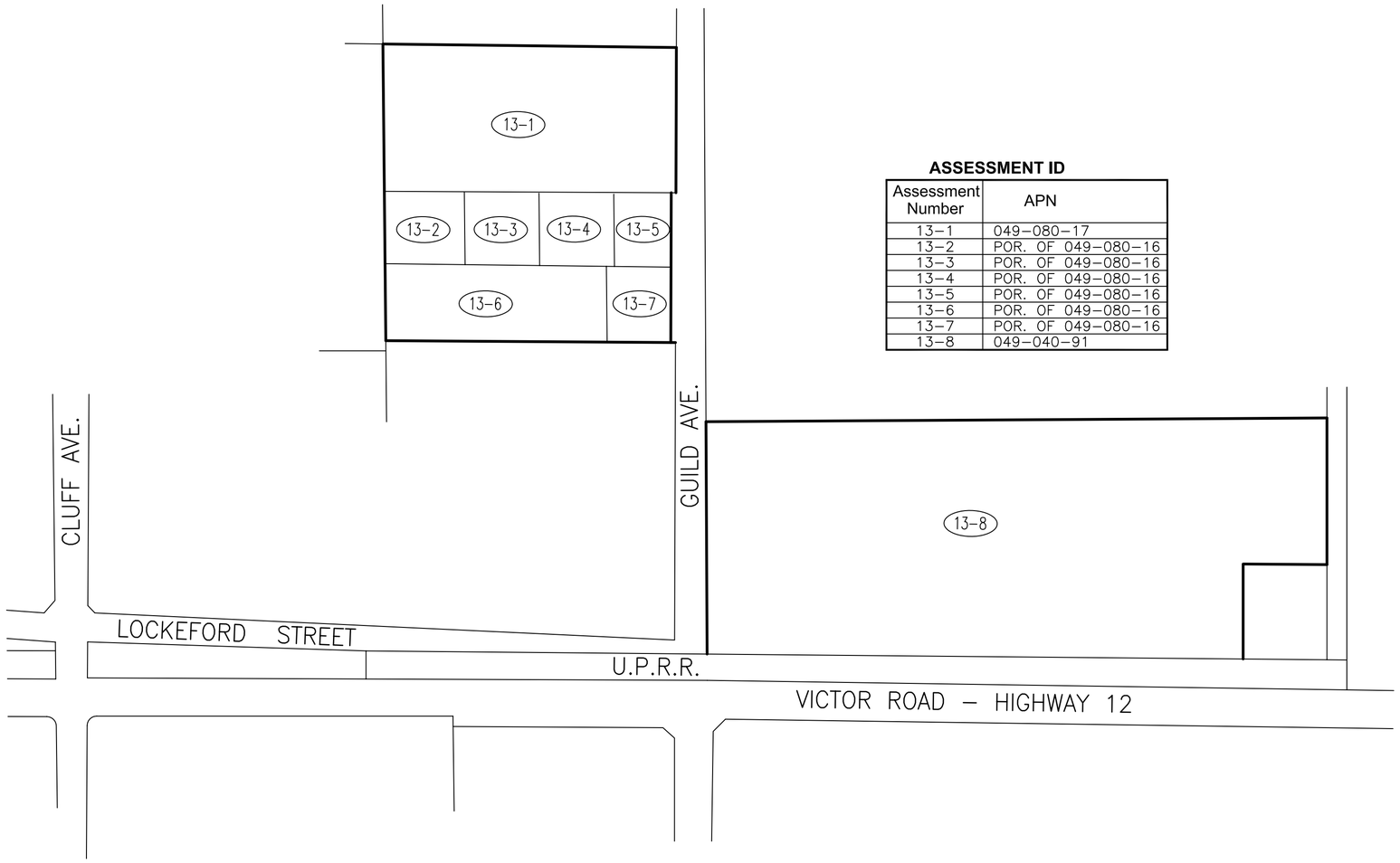
DESCRIPTION	AMOUNT
Landscape Reserve Beginning Balance – June 30, 2007	$0.00
Contribution to Landscape Reserves	300.00
LANDSCAPE RESERVE ENDING BALANCE – JUNE 30, 2008	**$ 300.00**

6. ASSESSMENT DIAGRAM

An Assessment Diagram for Zone 13 of the City of Lodi Consolidated Landscape Maintenance District No. 2003-1 has been submitted to the City Clerk in the format required under the provisions of the Act. Enclosed a copy of said submittal. The lines and dimensions shown on maps of the County Assessor of the County of San Joaquin for the current year are incorporated by reference herein and made part of this Report.

ASSESSMENT DIAGRAM
LODI CONSOLIDATED LANDSCAPE MAINTENANCE DISTRICT NO. 2003-1
ZONE 13 - GUILD AVENUE INDUSTRIAL

CITY OF LODI
SAN JOAQUIN
STATE OF CALIFORNIA



ASSESSMENT ID

Assessment Number	APN
13–1	049–080–17
13–2	POR. OF 049–080–16
13–3	POR. OF 049–080–16
13–4	POR. OF 049–080–16
13–5	POR. OF 049–080–16
13–6	POR. OF 049–080–16
13–7	POR. OF 049–080–16
13–8	049–040–91

FILED IN THE OFFICE OF THE CITY CLERK OF THE CITY OF LODI THIS _____ DAY OF _____, 200__.

_____
CITY CLERK
CITY OF LODI
SAN JOAQUIN COUNTY, CALIFORNIA

I HEREBY CERTIFY THAT THE WITHIN DIAGRAM SHOWING THE PROPOSED ANNEXATION INTO THE CITY OF LODI CONSOLIDATED LANDSCAPE MAINTENANCE DISTRICT NO. 2003–1, CITY OF LODI, COUNTY OF SAN JOAQUIN, STATE OF CALIFORNIA, WAS APPROVED BY THE CITY COUNCIL OF THE CITY OF LODI AT A REGULAR MEETING THEREOF HELD ON THE _____ DAY OF_____, 200__, BY IT'S RESOLUTION NO. _____.

_____
CITY CLERK
CITY OF LODI
SAN JOAQUIN COUNTY, CALIFORNIA

FILED THIS _____ DAY OF _____, 200__, AT THE HOUR OF _____ O'CLOCK ___.M., IN BOOK _____ AT PAGE _____ OF MAPS OF ASSESSMENT DISTRICTS IN THE OFFICE OF THE COUNTY RECORDER OF THE COUNTY OF SAN JOAQUIN, STATE OF CALIFORNIA.

_____
DEPUTY
COUNTY RECORDER
COUNTY OF SAN JOAQUIN

NOTE: FOR A DETAILED DESCRIPTION OF THE LINES AND DIMENSIONS OF EACH PARCEL WITHIN THE DISTRICT REFER TO THE COUNTY OF SAN JOAQUIN ASSESSOR'S MAPS.

LEGEND

ANNEXATION BOUNDARY
PARCEL LINES
13–6 ASSESSMENT NUMBER

GRAPHIC SCALE

200 100 0 200

SCALE: 1" = 200'

REGISTERED PROFESSIONAL ENGINEER
MICHAEL J. STEARNS
No. 26406
Exp. 3/31/08
CIVIL
STATE OF CALIFORNIA

N | B | S
32605 Highway 79 South, Suite 100
Temecula, CA 92592
Local Government Solutions

7. ASSESSMENT ROLL

The parcel listing of assessments is provided below. The description of each lot or parcel as part of the records of the County Assessor of the County of San Joaquin are, by reference, made part of this Report.

ASSESSMENT ROLL

ZONE	APN	Acreage	Type	AMT PER dueF	dueF	FY 2007/08 ASSESSMENT
13	049-040-091	13.820	Industrial	$56.49	55.28	$3,122.76
13	049-080-016	5.000	Industrial	$56.49	20.00	$1,129.80
13	Por. of 049-080-017	0.459	Industrial	$56.49	1.84	$103.94
13	Por. of 049-080-017	0.571	Industrial	$56.49	2.28	$128.80
13	Por. of 049-080-017	0.570	Industrial	$56.49	2.28	$128.80
13	Por. of 049-080-017	0.606	Industrial	$56.49	2.42	$136.70
13	Por. of 049-080-017	1.917	Industrial	$56.49	7.67	$433.28
13	Por. of 049-080-017	0.572	Industrial	$56.49	2.29	$129.36
	Sub-Total	**23.515**			**94.06**	**$5,313.44**
Future	049-040-92	0.832	Industrial	$56.49	3.33	0
Future	049-080-05	13.500	Industrial	$56.49	54.00	0
Future	049-080-07	4.490	Industrial	$56.49	17.96	0
Future	049-080-18	5.000	Industrial	$56.49	20.00	0
Future	049-080-19	5.000	Industrial	$56.49	20.00	0
Future	049-080-28	5.000	Industrial	$56.49	20.00	0
Future	049-080-74	2.590	Industrial	$56.49	10.36	0
Future	049-080-77	4.790	Industrial	$56.49	19.16	0
Future	049-080-81	5.190	Industrial	$56.49	20.76	0
Future	049-080-82	0.551	Industrial	$56.49	2.20	0
Future	049-080-83	38.530	Industrial	$56.49	154.12	0
Future	049-040-19	**10.000**	Industrial	$56.49	**40.00**	0
Future	049-040-47	**27.130**	Industrial	$56.49	**108.52**	0
	TOTAL:	**122.603**			**490.41**	**$ 0.00**

MAXIMUM ASSESSMENT ROLL

ZONE	APN	Acreage	Type	AMT PER dueF	dueF	FY 2007/08 MAX ASSESSMENT
13	049-040-091	13.820	Industrial	$96.82	55.28	$5,352.20
13	049-080-016	5.000	Industrial	$96.82	20.00	$1,936.40
13	Por. of 049-080-017	0.459	Industrial	$96.82	1.84	$178.14
13	Por. of 049-080-017	0.571	Industrial	$96.82	2.28	$220.74
13	Por. of 049-080-017	0.570	Industrial	$96.82	2.28	$220.74
13	Por. of 049-080-017	0.606	Industrial	$96.82	2.42	$234.30
13	Por. of 049-080-017	1.917	Industrial	$96.82	7.67	$742.60
13	Por. of 049-080-017	0.572	Industrial	$96.82	2.29	$221.72
	Sub-Total	**23.515**			**94.06**	**$9,106.84**
Future	049-040-92	0.832	Industrial	$96.82	3.33	0
Future	049-080-05	13.500	Industrial	$96.82	54.00	0
Future	049-080-07	4.490	Industrial	$96.82	17.96	0
Future	049-080-18	5.000	Industrial	$96.82	20.00	0
Future	049-080-19	5.000	Industrial	$96.82	20.00	0
Future	049-080-28	5.000	Industrial	$96.82	20.00	0
Future	049-080-74	2.590	Industrial	$96.82	10.36	0
Future	049-080-77	4.790	Industrial	$96.82	19.16	0
Future	049-080-81	5.190	Industrial	$96.82	20.76	0
Future	049-080-82	0.551	Industrial	$96.82	2.20	0
Future	049-080-83	38.530	Industrial	$96.82	154.12	0
Future	049-040-19	10.000	Industrial	$96.82	40.00	0
Future	049-040-47	27.130	Industrial	$96.82	108.52	0
	TOTAL:	**122.603**			**490.41**	**$0.00**

RESOLUTION NO. _____

RESOLUTION OF THE LODI CITY COUNCIL, COUNTY OF SAN JOAQUIN, DECLARING THE RESULTS OF THE ASSESSMENT BALLOT TABULATION, TO ANNEX TERRITORY INTO THE LODI CONSOLIDATED LANDSCAPE MAINTENANCE DISTRICT NO. 2003-1, ORDERING MAINTENANCE WORK THEREIN AND CONFIRMING THE REPORT, DIAGRAM AND ASSESSMENT AND PROVIDING FOR THE LEVY OF THE ANNUAL ASSESSMENT THEREIN

==========

WHEREAS, the City Council of the City of Lodi, has initiated proceedings for the annexation of territory and levy of annual assessments in a special maintenance district created pursuant to the terms of the "Landscaping and Lighting Act of 1972", being Division 15, Part 2 of the Streets and Highways Code of the State of California (the "1972 Act"), Article XIIID of the Constitution of the State of California ("Article XIIID") and the Proposition 218 Omnibus Implementation Act (Government Code Section 53750 and following) (the "Implementation Act") (the 1972 Act, Article XIIID and the Implementation Act may be referred to collectively herein as the "Assessment Law"), such special assessment district annexation known and designated as City of Lodi, "Lodi Consolidated Landscape Maintenance District No. 2003-1, (the "District"). The areas proposed to be annexed will become Zones within the District. Such Zones shall be known and designated as:

ZONE 13 – GUILD AVENUE INDUSTRIAL

WHEREAS, the City Council did order and subsequently receive a report prepared by NBS (the "Assessment Engineer") prepared in accordance with the Assessment Law (the "Engineer's Annexation and Annual Levy Report"); and

WHEREAS, the City Council has carefully examined and reviewed the Report as presented and is satisfied with the proposed annexation, each and all of the budgets items and documents as set forth therein, and is satisfied that the levy amounts have been spread in accordance with the special benefit received from the improvements, operation, maintenance and services to be performed within the District, as set forth in said Report; and,

WHEREAS, the City Council did set the time and place for a Public Hearing to consider the proposed District and the authorization to levy annual assessments therein and did order that notice of such Public Hearing accompanied by assessment ballots be given to the record owners of property within the proposed District in accordance with the provisions of the Assessment Law; and

WHEREAS, notice of such Public Hearing accompanied by assessment ballots were mailed to the record owners of property within the proposed District in accordance with the provisions of the Assessment Law; and

NOW, THEREFORE, BE IT RESOLVED AS FOLLOWS:

SECTION 1. RECITALS: The above recitals are all true and correct.

SECTION 2. PROCEDURES: This City Council hereby finds and determines that the procedures for the consideration of the levy of the assessments have been undertaken in accordance with the Assessment Law.

SECTION 3. ASSESSMENT BALLOT PROCEDURES: Assessment ballots were mailed as required by Assessment Law to the record owners of all properties within the District, which are proposed to be assessed. The assessment ballots that were completed and received by the City Clerk prior to the close of the Public Hearing have been tabulated in accordance with the procedures established by Assessment Law and this City Council, and the results of such tabulation have been submitted to this City Council.

This City Council hereby finds that the assessment ballots submitted in favor of the levy of assessments as weighted in accordance with Assessment Law exceed the

assessment ballots submitted in opposition to such levy also as weighted in accordance with Assessment Law. Therefore, no majority protest to the levy of assessments within the District has been found to exist.

SECTION 4. ANNEXATION OF TERRITORY: This City Council hereby orders the annexation of territory into the District.

SECTION 5. DETERMINATION AND CONFIRMATION: Based upon the Assessment Engineer's Report and the testimony and other evidence presented at the Public Hearing, the City Council hereby makes the following determinations regarding the assessments proposed to be imposed for Fiscal Year 2007/2008 and the maximum annual assessments proposed to be imposed to pay for the estimated costs of the maintenance of all of the improvements to ultimately be maintained upon the completion and acceptance of thereof:

a. The proportionate special benefit derived by each individual parcel assessed has been determined in relationship to the entirety of the cost of the operations and maintenance expenses.

b. The assessments do not exceed the reasonable cost of the proportional special benefit conferred on each parcel.

c. Only the special benefits have been assessed.

The assessments for the District contained in the Assessment Engineer's Report for Fiscal Year 2007/2008 are hereby confirmed and levied upon the respective lots or parcels in the District in the amounts as set forth in such Final Assessment Engineer's Report. Subsequent annual assessments in amounts not to exceed the maximum annual assessment of the estimated costs of the maintenance of all of the improvements to ultimately be maintained upon the completion and acceptance thereof as set forth in the Final Assessment Engineer's Report may be subsequently confirmed and levied without further assessment ballot proceedings pursuant to the Assessment Law. As of December of each fiscal year after the base year (Fiscal Year 2007/2008), the maximum amount of each assessment (the "Maximum Assessment") shall be increased by the greater of 5% or C.P.I. without further compliance with the assessment ballot procedures required under the Assessment Law.

SECTION 6. ASSESSMENT ENGINEER'S REPORT: The "Report" as presented, consists of the following:

A. Description of Improvements.
B. The Annual Budget (Costs and Expenses of Services, Operations and Maintenance)
C. The District Roll containing the Fiscal Year 2007/08 Levy for each Assessor Parcel within the District.

This City Council hereby finds the Engineer's Report to be satisfactory, approved and ordered to be filed in the Office of the City Clerk as a permanent record and to remain open to public inspection.

SECTION 7. ORDERING OF MAINTENANCE: The public interest and convenience requires and this legislative body does hereby order the maintenance work to be made and performed as said maintenance work is set forth in the Final Assessment Engineer's Report.

SECTION 8. FILING WITH CITY CLERK: The above-referenced diagram and assessment shall be filed in the Office of the City Clerk. Said diagram and assessment, and the certified copy thereof, shall be open for public inspection.

SECTION 9. FILING WITH THE COUNTY AUDITOR: The City Clerk is hereby ordered and directed to immediately file a certified copy of the diagram and assessment with the County Auditor. Said filing to be made no later than the 3rd Monday in August.

SECTION 10. ENTRY UPON THE ASSESSMENT ROLL: After the filing of the diagram and assessment, the County Auditor shall enter on the County assessment roll opposite each lot or parcel of land the amount assessed thereupon, as shown in the assessment.

SECTION 11. COLLECTION AND PAYMENT: The assessments shall be collected at the same time and in the same manner as County taxes are collected, and all laws providing for the collection and enforcement of County taxes shall apply to the collection and enforcement of the assessments.

SECTION 12. FISCAL YEAR 2007/2008: The assessments as above confirmed and levied for these proceedings will provide revenue to finance the maintenance of authorized improvements in the fiscal year commencing July 1, 2007 and ending June 30, 2008.

Dated: April 4, 2007
==========

I hereby certify that Resolution No. 2007-____ was passed and adopted by the City Council of the City of Lodi in a regular meeting held April 4, 2007, by the following vote:

AYES: COUNCIL MEMBERS –

NOES: COUNCIL MEMBERS –

ABSENT: COUNCIL MEMBERS –

ABSTAIN: COUNCIL MEMBERS –

RANDI JOHL
City Clerk

2007-____

4/4/07

Please immediately confirm receipt of this fax by calling 333-6702

CITY OF LODI
P. O. BOX 3006
LODI, CALIFORNIA 95241-1910

ADVERTISING INSTRUCTIONS

SUBJECT: **RESOLUTION/NOTICE OF PUBLIC HEARING DECLARING INTENTION TO ANNEX TERRITORY INTO THE LODI CONSOLIDATED LANDSCAPE MAINTENANCE DISTRICT NO. 2003-1 AND TO PROVIDE FOR THE LEVY AND COLLECTION OF ASSESSMENTS IN SUCH ANNEXATION, SETTING A TIME AND PLACE FOR A PUBLIC HEARING THEREON, AND ORDERING THE INITIATION OF ASSESSMENT BALLOT PROCEDURES**

PUBLISH DATE: **SATURDAY, FEBRUARY 24, 2007**

LEGAL AD

TEAR SHEETS WANTED: **One (1) please**

SEND AFFIDAVIT AND BILL TO:
RANDI JOHL, CITY CLERK
City of Lodi
P.O. Box 3006
Lodi, CA 95241-1910

DATED: THURSDAY, FEBRUARY 22, 2007

ORDERED BY:
RANDI JOHL
CITY CLERK

Jennifer M. Perrin

JENNIFER M. PERRIN, CMC
DEPUTY CITY CLERK

DANA R. CHAPMAN
ADMINISTRATIVE CLERK

Verify Appearance of this Legal in the Newspaper – Copy to File

Faxed to the Sentinel at 369-1084 at _____(time) on _____(date) _____(pages)
LNS _____ Phoned to confirm receipt of all pages at _____(time) ____JLT ____DRC____JMP (initials)

forms\advins.doc

DECLARATION OF POSTING

RESOLUTION/NOTICE OF PUBLIC HEARING DECLARING INTENTION TO ANNEX TERRITORY INTO THE LODI CONSOLIDATED LANDSCAPE MAINTENANCE DISTRICT NO. 2003-1 AND TO PROVIDE FOR THE LEVY AND COLLECTION OF ASSESSMENTS IN SUCH ANNEXATION, SETTING A TIME AND PLACE FOR A PUBLIC HEARING THEREON, AND ORDERING THE INITIATION OF ASSESSMENT BALLOT PROCEDURES

On Friday, February 23, 2007, in the City of Lodi, San Joaquin County, California, a Resolution/Notice of Public Hearing declaring intention to annex territory into the Lodi Consolidated Landscape Maintenance District No. 2003-1 and to provide for the levy and collection of assessments in such annexation, setting a time and place for a public hearing thereon, and ordering the initiation of assessment ballot procedures was posted at the following locations:

Lodi Public Library
Lodi City Clerk's Office
Lodi City Hall Lobby
Lodi Carnegie Forum

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

Executed on February 23, 2007, at Lodi, California.

ORDERED BY:

RANDI JOHL
CITY CLERK

JENNIFER M. PERRIN, CMC
DEPUTY CITY CLERK

DANA R. CHAPMAN
ADMINISTRATIVE CLERK

N:\Administration\CLERK\Forms\DECPOSTPW1.DOC

DECLARATION OF MAILING

RESOLUTION/NOTICE OF PUBLIC HEARING DECLARING INTENTION TO ANNEX TERRITORY INTO THE LODI CONSOLIDATED LANDSCAPE MAINTENANCE DISTRICT NO. 2003-1 AND TO PROVIDE FOR THE LEVY AND COLLECTION OF ASSESSMENTS IN SUCH ANNEXATION, SETTING A TIME AND PLACE FOR A PUBLIC HEARING THEREON, AND ORDERING THE INITIATION OF ASSESSMENT BALLOT PROCEDURES

On February 22, 2007, in the City of Lodi, San Joaquin County, California, I deposited in the United States mail, envelopes with first-class postage prepaid thereon, containing Resolution/Notice of Public Hearing declaring intention to annex territory into the Lodi Consolidated Landscape Maintenance District No. 2003-1 and to provide for the levy and collection of assessments in such annexation, setting a time and place for a public hearing thereon, and ordering the initiation of assessment ballot procedures, attached hereto Marked Exhibit A. The mailing list for said matter is attached hereto, marked Exhibit B.

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

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

Executed on February 22, 2007, at Lodi, California.

ORDERED BY:

RANDI JOHL
CITY CLERK, CITY OF LODI

JENNIFER M. PERRIN, CMC
DEPUTY CITY CLERK

DANA R. CHAPMAN
ADMINISTRATIVE CLERK

Forms/decmail.doc

EXHIBIT A

NOTICE OF PUBLIC HEARING

RESOLUTION NO. 2007-28

A RESOLUTION OF THE LODI CITY COUNCIL, COUNTY OF SAN JOAQUIN, DECLARING ITS INTENTION TO ANNEX TERRITORY INTO THE LODI CONSOLIDATED LANDSCAPE MAINTENANCE ASSESSMENT DISTRICT NO. 2003-1 AND TO PROVIDE FOR THE LEVY AND COLLECTION OF ASSESSMENTS IN SUCH ANNEXATION, SETTING A TIME AND PLACE FOR A PUBLIC HEARING THEREON, AND ORDERING THE INITIATION OF ASSESSMENT BALLOT PROCEDURES

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WHEREAS, the City Council of the City of Lodi, pursuant to the terms of the *Landscape and Lighting Act of 1972, Part 2, Division 15, of the California Streets and Highways Code (commencing with Section 22500) (the "1972 Act"), Article XIIID of the Constitution of the State of California ("Article XIIID"), and the Proposition 218 Omnibus Implementation Act (Government Code Section 53750 and following) (the "Implementation Act")* (the 1972 Act, Article XIIID, and the Implementation Act are referred to collectively as the "Assessment Law"), did by previous Resolution initiate proceedings to annex territory into a special assessment district and ordered the preparation of an Engineer's Report for the levy of assessments within such proposed annexation, such special assessment district annexation known and designated as "Lodi Consolidated Landscape Maintenance District No. 2003-1" (the "District"). The areas proposed to be annexed will become zones within the District. Such zone shall be known and designated as:

ZONE 13 – GUILD AVENUE INDUSTRIAL

WHEREAS, at this time, the City Council desires to declare its intention to annex such territory into the District and to provide for the levy of assessments for the next ensuing fiscal year to provide for the costs and expenses necessary to pay for the maintenance of the improvements (defined below) in such District; and

WHEREAS, there has been presented and preliminarily approved by this City Council the Engineer's Report, as required by the Assessment Law.

NOW, THEREFORE, BE IT RESOLVED AS FOLLOWS:

SECTION 1: Recitals: The above recitals are all true and correct.

SECTION 2: Declaration of Intention: The public interest and convenience requires, and it is the intention of the City Council, to order the annexation of the above described territory into the District and to levy and collect assessments to pay the annual costs and expenses for the maintenance and/or servicing of all of the improvements for the District. Such improvements and the maintenance and servicing of such improvements are generally described as:

The improvements include: landscaping, planting, shrubbery, trees, turf, irrigation systems, lighting systems, street lighting, traffic signals, street sweeping, hardscapes, and associated appurtenant facilities.

The maintenance of the improvements shall include the furnishing of services and materials for all necessary service, operations, administration, and maintenance required to keep the improvements in a healthy, vigorous, and satisfactory condition.

SECTION 3: Boundaries of District: The improvements are of special benefit to the properties within the boundaries of the District. The City Council previously declared the boundaries to encompass the area specially benefited by such improvements, and for particulars, reference is made to the assessment diagram as previously approved by the City Council, a copy of which is on file in the Office of the City Clerk and open for public inspection, and is designated by the name of this District.

SECTION 4: Report of Assessment Engineer: The Engineer's Report, as preliminarily approved by the City Council is on file with the City Clerk and open for public inspection. Reference is made to such Report for a full and detailed description of the Improvements to be maintained, the boundaries of the District and any zones therein, and the proposed assessments upon assessable lots and parcels of land within the District.

SECTION 5: Public Hearing: Notice is hereby given that a Public Hearing is hereby scheduled to be held at the **Carnegie Forum, 305 West Pine Street, Lodi, California, on Wednesday, April 4, 2007, at 7:00 p.m.**, or as soon thereafter as the matter may be heard.

All interested persons shall be afforded the opportunity to hear and be heard. The City Council shall consider all oral statements and all written communications made or filed by any interested persons. The City Council shall, at the conclusion of the Public Hearing, also determine whether assessment ballots submitted pursuant to the Assessment Law in opposition to the proposed assessments within the district exceed assessment ballots submitted in favor of such proposed assessments.

RIGHT TO SUBMIT ASSESSMENT BALLOT

Pursuant to the provisions of the Assessment Law, each record owner of property proposed to be assessed has the right to submit an assessment ballot in favor of or in opposition to the proposed assessment.

Assessment ballots will be mailed to the record owner of each parcel located within the District and subject to a proposed assessment. Each such owner may complete such assessment ballot and thereby indicate their support for or opposition to the proposed assessment. All such assessment ballots may be delivered by mail or personal delivery to the City Clerk at the following address at or before 5:00 p.m. on April 4, 2007:

City Clerk
City of Lodi
221 West Pine Street
Lodi, California 95240

After 5:00 p.m. on April 4, 2007, assessment ballots may be delivered to the City Clerk only at the location of the Public Hearing given above (305 West Pine Street, Lodi, California).

All assessment ballots must be received by the City Clerk prior to the time that the Public Hearing is closed. An assessment ballot which is delivered by mail with a postmark which is prior to the date and time of the Public Hearing but which is not received by the City Clerk until after the Public Hearing is closed will not be counted.

At the conclusion of the Public Hearing, the City Council shall cause the assessment ballots timely received to be tabulated. If a majority protest exists, the City Council shall not impose an assessment within the District. A majority protest exists if, upon the conclusion of the Public Hearing, assessment ballots submitted in opposition to the assessments within the District exceed the assessment ballots submitted in favor of such assessments. In tabulating the assessment ballots, the assessment ballots shall be weighted according to the proportional financial obligation of the affected property.

SECTION 6: Notice: The City Clerk is hereby directed to mail notice pursuant to the Assessment Law of the Public Hearing and assessment ballot proceedings and the adoption of the Resolution of Intention and of the filing of the Assessment Engineer's Report, together with the assessment ballot materials, to the record owners of all real property proposed to be assessed.

SECTION 7: Proceedings Inquiries: The following staff person is designated to respond to all inquiries for any and all information relating to the proposed District and these proceedings, including the assessment ballot procedure:

RICK CLARK
NBS
32605 HIGHWAY 79 S. #100
TEMECULA, CA 92592
TELEPHONE: 800-676-7516

Dated: February 21, 2007

==========

I hereby certify that Resolution No. 2007-28 was passed and adopted by the City Council of the City of Lodi in a regular meeting held February 21, 2007, by the following vote:

AYES: COUNCIL MEMBERS – Hansen, Hitchcock, Katzakian, Mounce, and Mayor Johnson

NOES: COUNCIL MEMBERS – None

ABSENT: COUNCIL MEMBERS – None

ABSTAIN: COUNCIL MEMBERS – None

RANDI JOHL
City Clerk

EXHIBIT B Landscape Dist.

APN	OWNER	MAILING ADDRESS
049-040-91	ARCHER DANIELS MIDLAND CORP	PO BOX 1470 DECATUR IL 62525
049-080-16	BATCH DELMAR & DORIS	11174 N DAVIS RD LODI CA 95242
049-080-17	CLARKSON CALIFORNIA PROP	405 W PINE ST LODI CA 95240
049-040-92	VIERRA VERNON & JENISE	151 W TADDEI RD ACAMPO CA 95220
049-080-05	ATWOOD EDWARD L TR ETAL	13179 MCDOLE ST SARATOGA CA 95070-4620
049-080-07	METTLER OLE & DOROTHY TR	17900 N CHERRY RD LODI CA 95240
049-080-19	MORELAND ROBERT & SANDRA	775 N GUILD AVE LODI CA 95240-0861
049-080-18	MORELAND ROBERT & SANDRA	17611 N GUILD AVE LODI CA 95240
049-080-28 049-080-83	PARINEHS EXCHANGE 2004 LLC	370 WOODCLIFF DR STE 300 FAIRPORT NY 14450
049-080-74 049-080-77 049-080-81 049-080-82	LODI STORAGE ASSOCIATES LP	4701 SISK RD STE 101 MODESTO CA 95356
049-040-19	OAK RIDGE WINERY LLC	33 E TOKAY ST LODI CA 95240
049-040-47	DART CONTAINER CORP	500 HOGSBACK RD MASON MI 48854

AGENDA ITEM **I-03**

CITY OF LODI
COUNCIL COMMUNICATION

TM

AGENDA TITLE:

1. Approve the following Negative Declarations:
   a. Negative Declaration 06-03 for the General Plan Amendment and change in Zoning for the Gini Project (expansion of auto-related businesses).
   b. Approve Negative Declaration 06-04 for the General Plan Amendment and change in Zoning for the Lodi Memorial Hospital Project (new south wing addition and other related facilities).
2. Amend the General Plan designation for 1333 and 1325 South Central Avenue from Eastside Residential to General Commercial (Gini Project) and for 1201, 1139, 1133, 1127, 1121, and 1115 W. Cardinal Street from Low Density Residential to Office (Lodi Memorial Hospital project).
3. Rezone 1333 and 1325 S. Central Ave. from RE-1, Single Family Residential Eastside to C-2, General Commercial.
4. Rezone 975, 999, 1031 South Fairmont; 1200 W. Vine Street; 1201, 1139, 1133, 1127, 1121, and 1115 W. Cardinal Street from (R-C-P) Residential-Commercial-Professional Office and (R-2) Residence District to (PD) Planned Development and approve Development Plan.

MEETING DATE: April 4, 2007

PREPARED BY: Community Development Director

RECOMMENDED ACTION:

1. Approve the following Negative Declarations:
   a. Negative Declaration 06-03 for the General Plan Amendment and change in Zoning for the Gini Project (expansion of auto-related businesses).
   b. Approve Negative Declaration 06-04 for the General Plan Amendment and change in Zoning for the Lodi Memorial Hospital Project (new south wing addition and other related facilities).
2. Amend the General Plan designation for 1333 and 1325 South Central Avenue from Eastside Residential to General Commercial (Gini Project) and for 1201, 1139, 1133, 1127, 1121, and 1115 W. Cardinal Street from Low Density Residential to Office (Lodi Memorial Hospital project).
3. Rezone 1333 and 1325 S. Central Ave. from RE-1, Single Family Residential Eastside to C-2, General Commercial.
4. Rezone 975, 999, 1031South Fairmont; 1200 W. Vine Street; 1201, 1139, 1133, 1127, 1121, and 1115 W. Cardinal Street from (R-C-P) Residential-Commercial-Professional Office and (R-2) Residence District to (PD) Planned Development and approve Development Plan.

APPROVED: _____

Blair King, City Manager

The Gini Project and the Lodi Memorial Hospital Expansion Project are two projects similar in nature but independent of each other. The similarity is that both these projects involve requests to change General Plan designations. State law allows only four General Plan Amendments a year, staff has combined these two requests into a single General Plan Amendment so as to use only one of our allowed amendments. There is no restriction in State law as to the number of separate changes (text or map) in a single General Plan Amendment.

One applicant, Mr. Kenneth J. Gini, is interested in expanding his auto service businesses onto property he owns adjacent to his current business. These adjacent properties (1325 and 1333 South Central Avenue) are currently used for residential use and have General Plan and Zoning designations for residential. In order for Mr. Gini's Project to proceed, the General Plan and Zoning designations need to be changed. Currently, Mr. Gini's properties located at 1325 and 1333 South Central Ave (APN: 047-270-11and 047-270-12, respectively) have a General Plan Designation Eastside Residential (ER) and Zoning designation of Single Family Residence, Eastside (RE-1). The change in zoning to C-2 will allow land uses in the subject properties similar to the uses currently existing along Kettleman Lane and as specifically permitted by the City's Zoning Ordinances.

Lodi Memorial Hospital, in response to state mandated legislation and growing need of the community, plan to expand their current facilities and healthcare services. Anticipated population growth indicated a need to expand the hospital from its current 107 beds to over 150 beds in the near future. At the same time, the State enacted a Hospital Seismic Safety legislation, which specified deadlines that impact the existing facilities, services and beds available to the community. In order to meet the community's anticipated need and to comply with the seismic legislation, the Lodi Memorial Hospital is proposing to execute a three phased expansion plan. The first phase will consist of an addition to the South Wing, construction of a Central Utility Plant and a surface parking lot. The second phase of the construction will be internal and external projects to support future community growth and seismic requirements. The last phase of the proposed project will include several additional major growth projects as mandated by the California Hospital Seismic Safety Act, which calls for all acute care functions to be in buildings of a higher seismic performance standard by 2030. When the project is completed, it will have met the future healthcare needs of the community and meet state mandated seismic standards.

BACKGROUND INFORMATION:

A. Gini Project

Mr. Gini applied for a General Plan Amendment to change the land use designation for 1325 and 1333 South Central Ave (APN: 047-270-11and 047-270-12, respectively) from Eastside Residential (ER) to General Commercial (GC) and Rezone from RE-1, Single Family Residence Eastside to C-2, Neighborhood Commercial. The change in General Plan designation and Rezone will allow land uses in the subject properties similar to the uses currently existing along Kettleman Lane. The applicant plans to merge these two properties with other properties that he owns that front Kettleman Lane and develop auto related businesses.

This request was first publicly heard by the Planning Commission on December 13, 2006. At that time, the applicant's request included a request for consideration to amend the General Plan and Zoning designations for 1323 South Central Avenue (APN: 047-270-10), which is owned by BVK Investment Co. This property is approximately 10 feet wide and has a depth of 130 ft, with a total area of 1,300 square feet. This particular property is currently being used as a driveway to access both commercially zoned properties that face Kettleman Lane and residential proprieties to the north. At that hearing, the Planning Commission expressed concerns about the proposed site plan, architectural design of future buildings on the site and how buildings constructed on the property line would affect residential use to the north. They asked the applicant to submit a site plan with elevations. Further, the Planning Commission directed staff to ascertain how a change in designation might affect 1323 South Central Avenue, a property owned by a third part that was included in the original request. The owner of this parcel had objected, via mail, to the inclusion of his property in the Re-Zoning request.

At the Planning Commission Meeting of February 14, 2007, the applicant submitted preliminary site plans and the architectural design of future buildings. The request for a General Plan Amendment and Rezone of 1323 South Central Avenue was dropped. After deliberation and public comment regarding the possible loss of two affordable residential units currently located at 1333 and 1325 South Central Avenue, the Planning Commission voted 5 to 0 (Commissioners Heinitz & White were absent) to recommend that the City Council amend the General Plan designation for 1333 and 1325 South Central Avenue from Eastside Residential (ER) to General Commercial (GC) and Rezone from RE-1, Single Family Residence Eastside to C-2, Neighborhood Commercial.

Negative Declaration

As part of this project and in order to fulfill the California Environmental Quality Act (CEQA), staff prepared an Initial Study to review and assess impacts. This project was found to have no impacts that could be found significant if not mitigated via normal conditions of development. Staff sent the proposed Negative Declaration to various agencies for review, and published, and posted our intent to issue a Negative Declaration for the required 30-day period, (from Tuesday October 17th through Wednesday November 11, 2006). Staff received comments from San Joaquin Valley Air Pollution Control District (SJVAPCD) that will be incorporated into the building permit process. In conclusion, staff finds that the proposed project meets requirements and is therefore exempt from further review under CEQA. Negative Declaration 06-03 adequately addresses potential environmental impacts that could occur as result of this project. No significant impacts are anticipated and no mitigation measures have been required.

B. Lodi Memorial Hospital

The second part of this request is by Lodi Memorial Hospital to amend the General Plan designation for a portion of the site (existing residential properties) from LDR, Low Density Residential to Office and Zoning designations for the hospital (R-C-P) and residential properties (R-2) they own to PD, Planned Development. As part of this project and in order to fulfill the California Environmental Quality Act (CEQA), staff prepared an Initial Study to review and assess impacts. This project was found to have no impacts that could be found significant if not mitigated via normal conditions of development. Staff sent the proposed Negative Declaration to various agencies for review and published, and posted our intent to issue a Negative Declaration for the required 30-day period, (from Tuesday January 2nd, 2007 through Friday February 9th, 2007). In conclusion, staff finds that the proposed project meets requirements and is therefore exempt from further review under CEQA. Negative Declaration 06-04 adequately addresses potential environmental impacts that could occur as a result of this project. No significant impacts are anticipated and no mitigation measures have been required. Staff received comments from San Joaquin Valley Air Pollution Control District (SJVAPCD) and California Transportation Department District 10 (Caltrans). The concerns of the San Joaquin Valley Air Pollution Control District (SJVAPCD) are addressed via normal requirements of development. Caltrans asked for more traffic information to determine impact to Kettleman Lane (State Route 12). When this additional traffic information was provided to Caltrans, it showed minimal impact to Kettleman Lane and Caltrans sent a letter withdrawing any concerns with the project.

At the Planning Commission Meeting of February 28, 2007, the Commission recommended to the City Council that it approve Negative Declaration 06-43 as adequate environmental documentation for the proposal.

General Plan Amendment

This project includes a request to amend the General Plan for a portion of the site (existing residential properties) from LDR, Low Density Residential to Office. The change in General Plan designation will enable the applicant to expand the current hospital facilities and services. Because of anticipated parking shortage in the short term as a result of the South Wing Addition, the Hospital proposes to remove residential buildings it owns and use the lots for surface parking. The use of residential lots for surface parking will aid traffic flow, vehicular access points, and include landscape modifications to facilitate the safe construction of the new facilities. At the Planning Commission Meeting of February 28, 2007, the Commission considered the request by Lodi Memorial Hospital to amend the General Plan designation. After public input concerning traffic and potential parking problems, the Planning Commission voted 5 to 0 (Commissioner White was absent and Commissioner Kiser had to recuse himself due to possible conflict of interest) to recommend that the City Council amend the General Plan

designation for 1201, 1139, 1133, 1127, 1121, and 1115 W. Cardinal Street from Low Density Residential to Office.

Rezone

The applicant, Lodi Memorial Hospital, requested to change Zoning designations for the hospital (R-C-P) and residential properties (R-2) they own to PD, Planned Development. The City of Lodi's Zoning Ordinances requires a minimum of ten acres in order to establish a Planned Zone District. In this case, the subject property measures 17.56 acres in area. The change in Zoning designation would allow the applicant to expand the current hospital facilities and services they offer. The change in zoning from Residential Professional Office (R-C-P) and Single Family Residential (R-2) to PD will allow the use of structures in the project area as specifically permitted in §§17.33.040 Permitted Uses of the City's Ordinances and the approval of the Development Plan will enable the applicant the flexibility to propose their own development criteria, which includes setbacks, heights, lot coverage and other land use issues as defined in §§ 17.33 Planned Development District (P-D) of the City's Ordinances.

The project will be constructed within the existing boundaries of the hospital property. There are eight residential parcels located on the south side of Cardinal Street that back up to the hospital property. The hospital has purchased six of these houses and proposed to incorporate these properties into the project and will utilize the land for additional parking and for a landscaped buffer along Cardinal Street. The two houses not owned by the Hospital are not part of any Rezone request or Development Plan. The proposed expansion is planned to be completed in three phases. The initial phase will consist of the construction of the new South Wing Addition, Central Utility Plant and surface parking lot.

The proposed four-story addition to the existing hospital building is intended to meet current seismic standards and the growing healthcare needs of the community. The existing hospital contains 147,347 square feet of building area and 107-beds in a three-story structure. The Phase One expansion will add a new south wing that will add 131,229 square feet of building area and accommodate 90 beds. Once completed, the hospital will have a total of 362,082 square feet and 157-beds. (The total number of beds reflects the removal of 28-beds in the existing west hospital wing due to seismic requirements and an additional 12 beds lost elsewhere due to the remodeling). The South Wing addition consists of a major 4 story addition. The first floor of this addition will provide for a new Emergency Department, Urgent Care Clinic and front entry to the entire Hospital. The Emergency Department provides for an ambulance entrance off South Fairmont consistent with the existing ambulance entry. The remaining three floors will consist of a 30 bed Medical/Surgical Nursing Care Unit. The project will also include the construction of a new 14,506 square-foot, two-story central plant adjacent to the hospital that will house the mechanical equipment, utilities and other support equipment for the hospital. The proposed Central Utility Plant will support the utility needs of the new South Wing Addition and future development of the campus in latter phases. The proposed Central Plant is a two-story 14,506 sq. ft. unmanned utility building scheduled for completion in November 2008. As part of the first phase of the project, the hospital will also expand their parking lot by removing six single-family residences and replacing them with parking and landscaping. The use of residential lots for surface parking will aid traffic flow, vehicular access points, and include landscape modifications to facilitate the safe construction of the new facilities. The major aspect of the parking related construction is the reconfiguration of the traffic flow pattern, which would relocate the main vehicular access to the Hospital from South Fairmont Avenue to Ham Lane.

The second phase of the construction will be internal and external projects to support future community growth and seismic requirements. The seismic upgrade will strengthen both structural and non-structural elements within the existing facilities. These upgrades are mandated by California law and must be completed within a specific time frame, some by 2013. The internal construction will constitute expansion of dietary support facilities and the pharmacy to support the growing patient needs. The last component of the second phase is construction of a Parking Structure.

The last phase of the proposed project will be executed by 2030 and will include several additional major growth projects as mandated by the California Hospital Seismic Safety Act, which calls for all acute care functions to be in buildings of a higher seismic performance standard by 2030. The projects proposed on the last phase are Hospital Expansion, Phase 2, which would relocate most other acute care areas still

contained in existing hospital space; construction of a Medical Office Building, which is expected to meet continuing community growth and to meet demands of more services moving to the outpatient setting; and construction of an Administrative Office Building, which is needed to increase the service capacity of the hospital. It is expected that the new Administrative Office Building will function as an addition to and/or replacement of current office space located in the Conrad Building. Finally, construction of a parking structure, which is expected to provide additional on-site parking as other buildings growth consumes surface parking.

The change in zoning from Residential Professional Office (R-C-P) and Single Family Residential (R-2) to PD, Planned Development provides the flexibility for applicants to design their own development criteria. This includes setbacks, heights, lot coverage and other land use issues. The proposed buildings in this Planned Development are very similar to existing structures on the site. The New Lodi Memorial South Wing Addition is a 4-story structure composed of 7 basic materials. They include fawn (brown) colored stucco, fawn (brown) cultured stone veneer, Lee-Ivory colored textured finish metal panels, sea-green colored smooth finish metal panels, sea green color corrugated metal panels, Champaign-gold colored smooth finish metal panels, and Solex green colored (subtle green tint) low-e glass with matching spandrel glass. The ground level will have fawn (brown) colored stucco walls with fawn colored stone veneer accent walls near key entrances and along the lower eight feet of the exterior wall. Also on the ground floor, the new main entry canopy will be clad in champaign-gold smooth finish metal panels. The second and third levels, the stair towers, and elevator towers will be clad in lee-ivory colored textured metal panels. The fourth level and roof parapet, will be clad in sea-green colored smooth finish metal panels. Lastly, sun-shades and other exterior metal elements, including a corrugated metal mechanical screen located on the roof, will also be painted sea-green to match the sea-green metal panels.

The New Lodi Memorial Central Plant Building is a 2-story structure composed of three basic materials. The materials are, fawn (brown) colored stucco, sea-green colored smooth finish metal panels, and sea green color corrugated metal panels/louvers. The lower level will have fawn (brown) colored stucco walls with metal doors painted to match the stucco. The ground level will also have a few metal elements including a cooling tower screen enclosure with corrugated metal panels over a metal supporting frame structure, and a metal exterior exit stair, both painted sea-green. The upper level of the building will be clad with sea-green colored smooth finish metal panels and metal louvers also painted sea-green. Lastly, a sea-green painted corrugate metal mechanical screen will be located on the roof.

The landscaping plan is consistent with the existing landscape. The landscape plan on the southern part of the campus along Cardinal Street is provided to further separate residences to the south from the Hospital. The 6-foot solid screening wall on Cardinal Street maintains a 20-foot setback. Further landscaping is provided throughout the campus to enhance its appearance.

Summary

Consider both projects together for potential actions.

1. Approve the following Negative Declarations:
    a. Negative Declaration 06-03 for the General Plan Amendment and change in Zoning for the Gini Project (expansion of auto-related businesses).
    b. Approve Negative Declaration 06-04 for the General Plan Amendment and change in Zoning for the Lodi Memorial Hospital Project (new south wing addition and other related facilities).
2. Amend the General Plan designation for 1333 and 1325 South Central Avenue from Eastside Residential to General Commercial (Gini Project) and for 1201, 1139, 1133, 1127, 1121, and 1115 W. Cardinal Street from Low Density Residential to Office (Lodi Memorial Hospital project).

    State law allows only four General Plan Amendments a year. Since these two projects are similar in nature and involve requests to change General Plan designations, staff has combined them into a single General Plan Amendment. There is no restriction in State law as to the number of separate changes (text or map) in a single General Plan Amendment,

3. Rezone 1333 and 1325 S. Central Ave. from RE-1, Single Family Residential Eastside to C-2, General Commercial.
4. Rezone 975, 999, 1031South Fairmont; 1200 W. Vine Street; 1201, 1139, 1133, 1127, 1121, and 1115 W. Cardinal Street from (R-C-P) Residential-Commercial-Professional Office and (R-2) Residence District to (PD) Planned Development and approve Development Plan.

FISCAL IMPACT: N/A

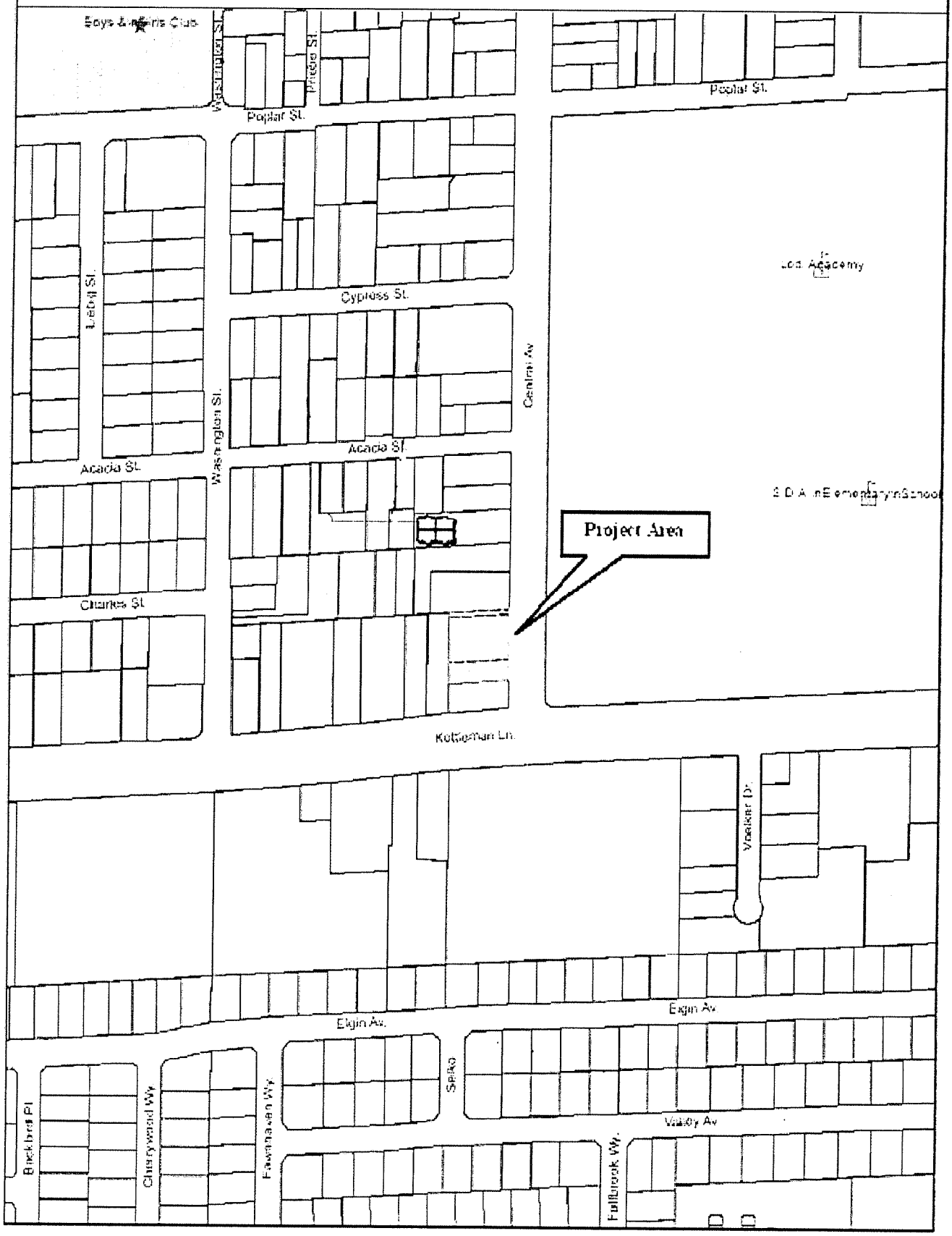
FUNDING: N/A

_____
Randy Hatch
Community Development Director

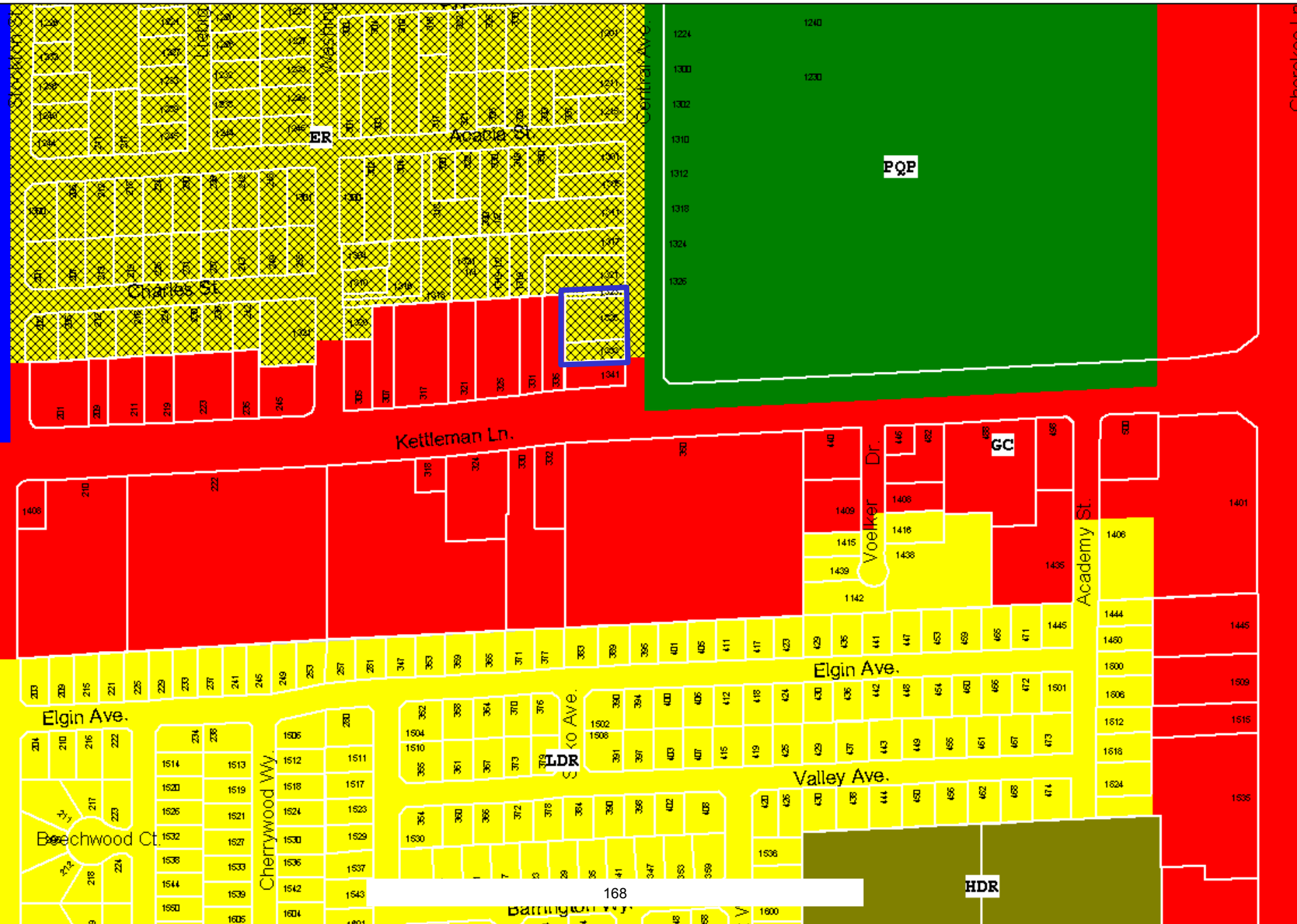
Attachments: Planning Commission Staff Reports
Draft Resolutions

GINI PROJECT

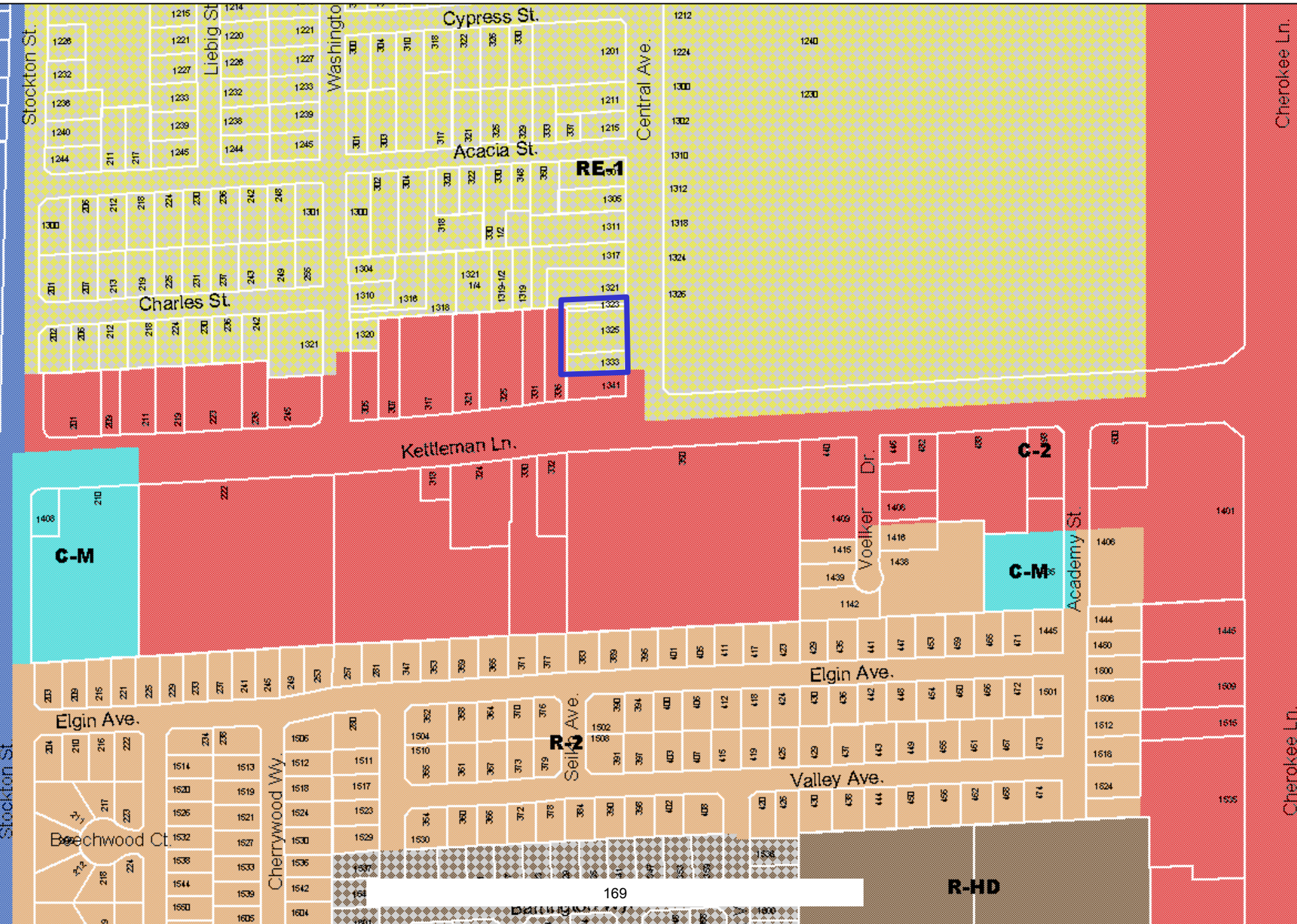
Location Map 1



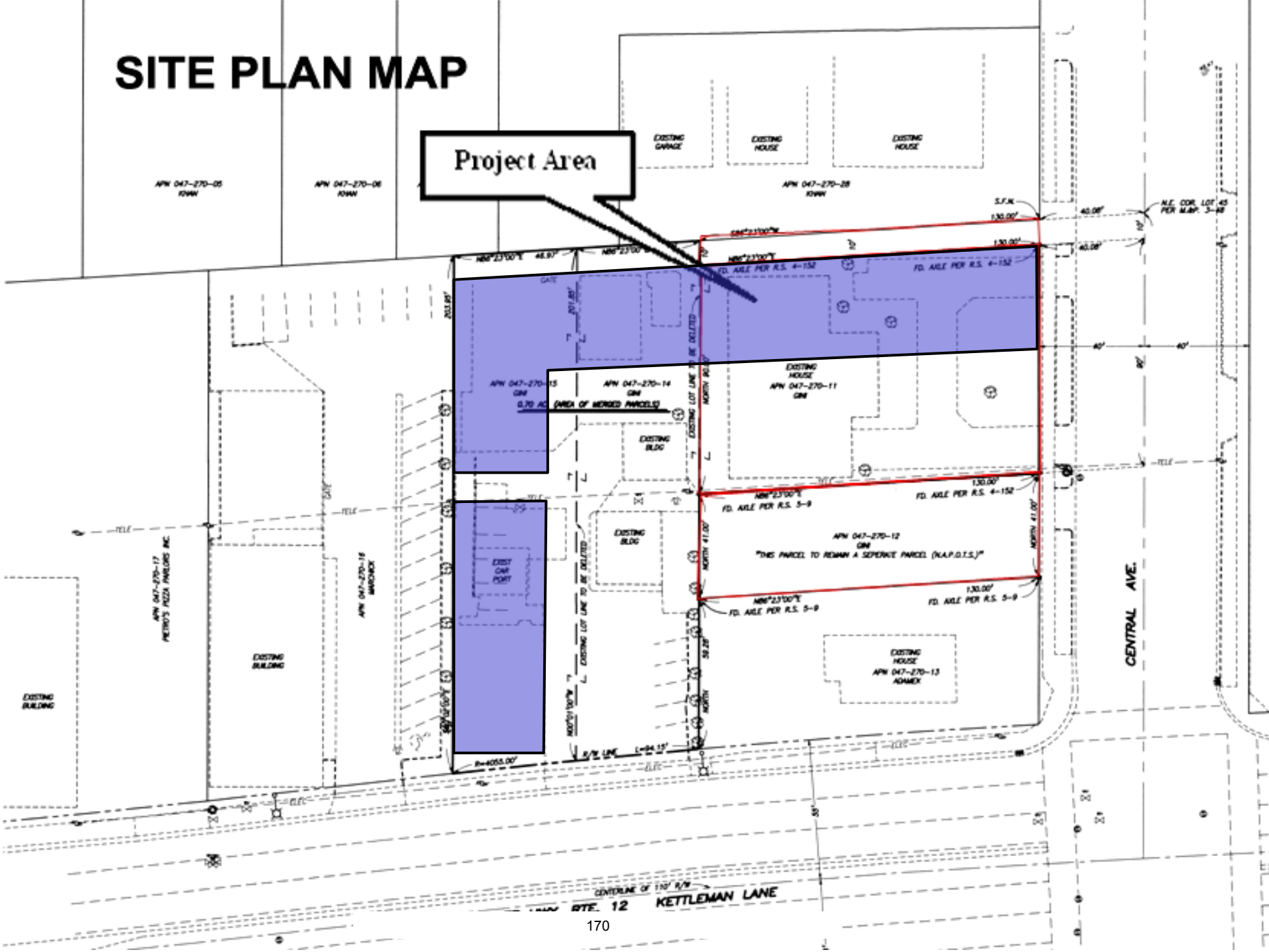
Existing General Plan Designations



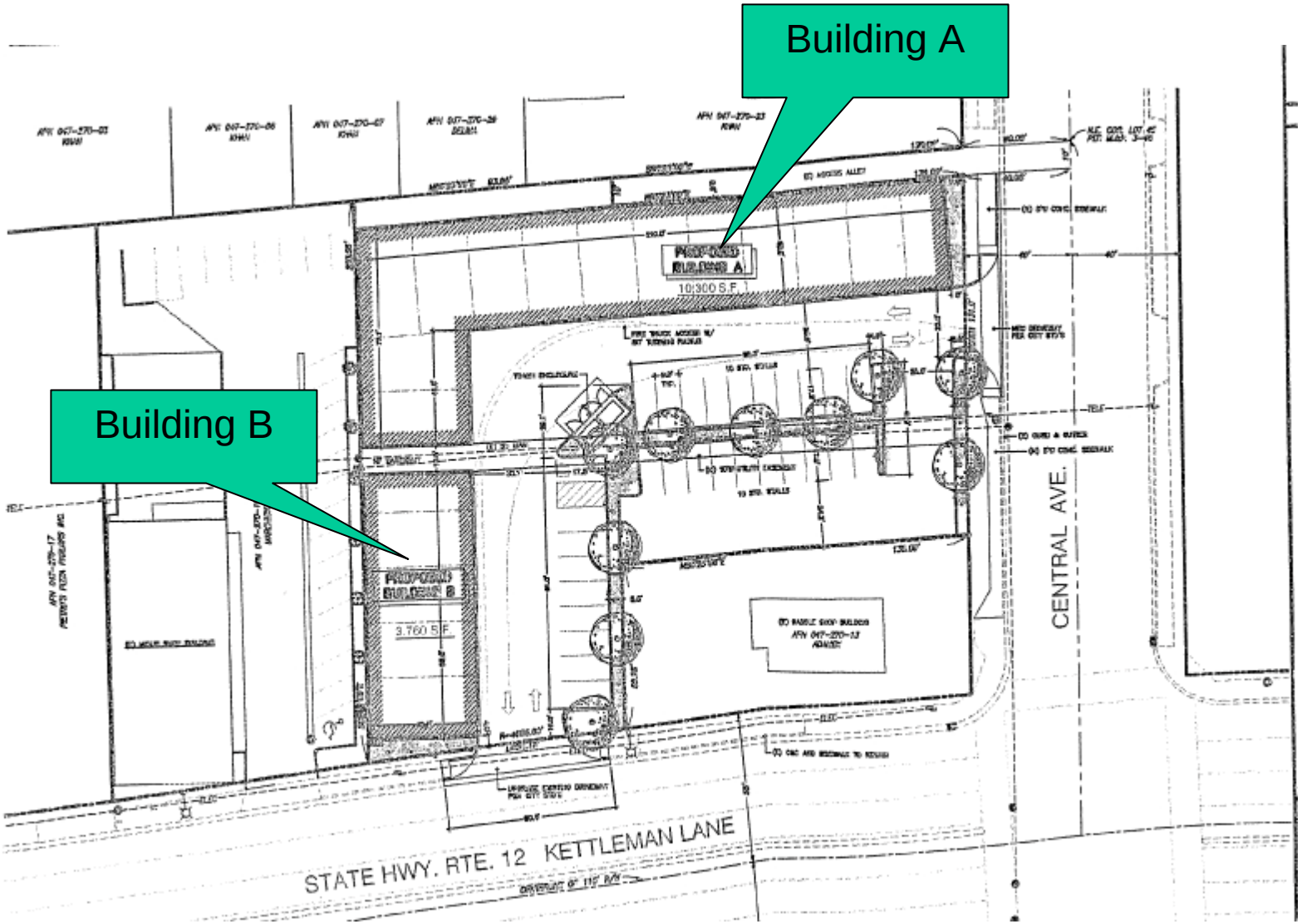
Existing Zoning Ordinance Designations



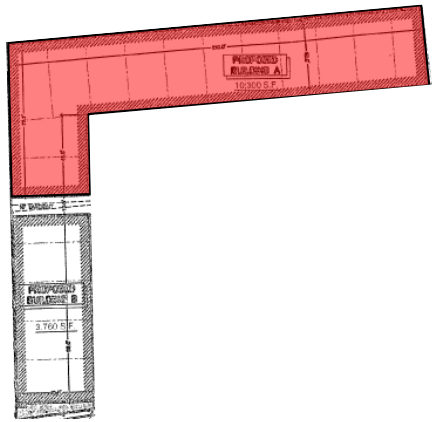
SITE PLAN MAP

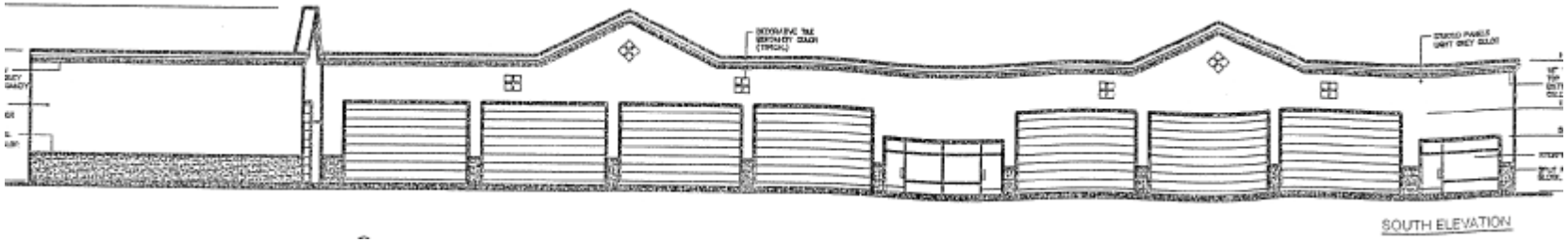


Site Plan

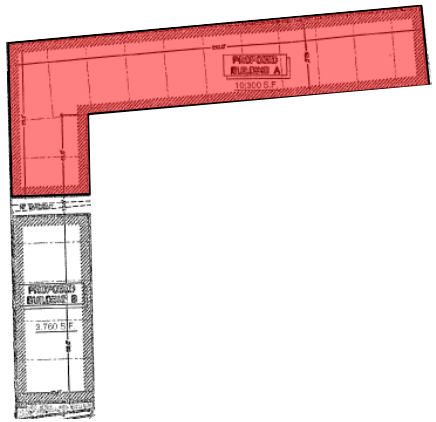

Building A
Building B
10,300 S.F.
3,760 S.F.
CENTRAL AVE.
STATE HWY. RTE. 12 KETTLEMAN LANE

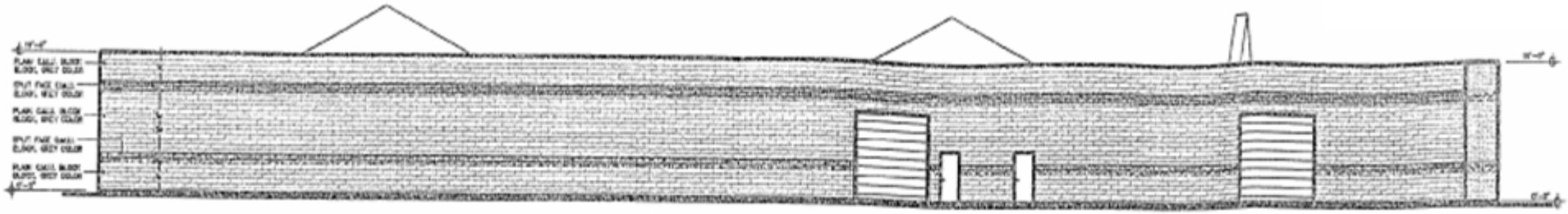
South Elevation Building A





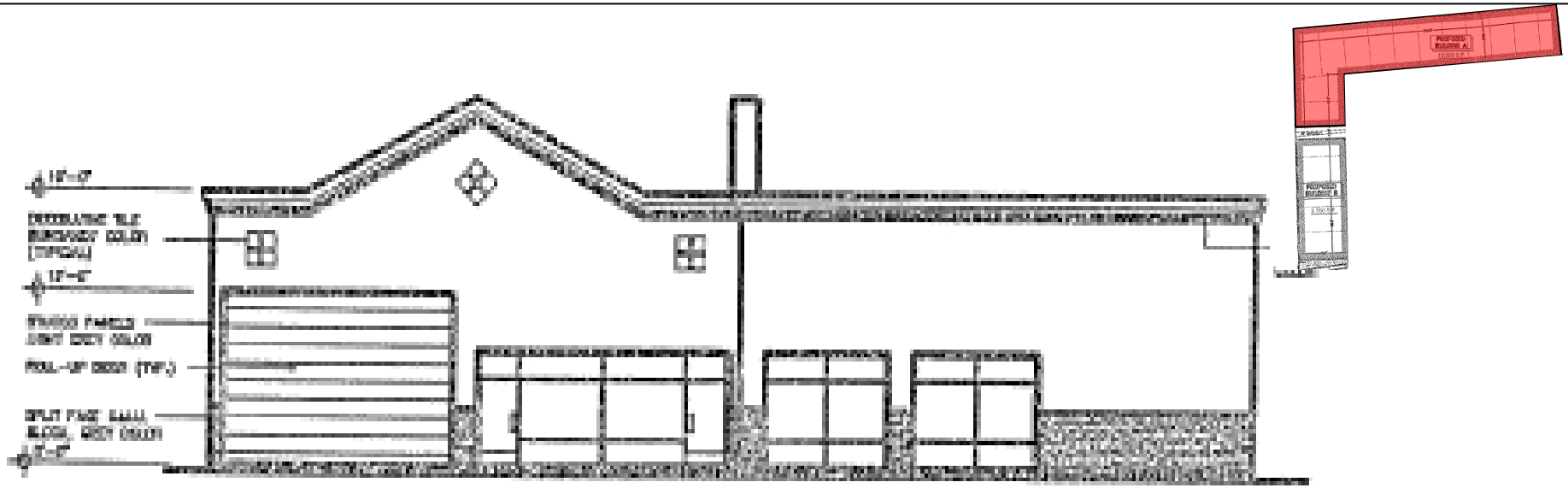
North Elevation Building A



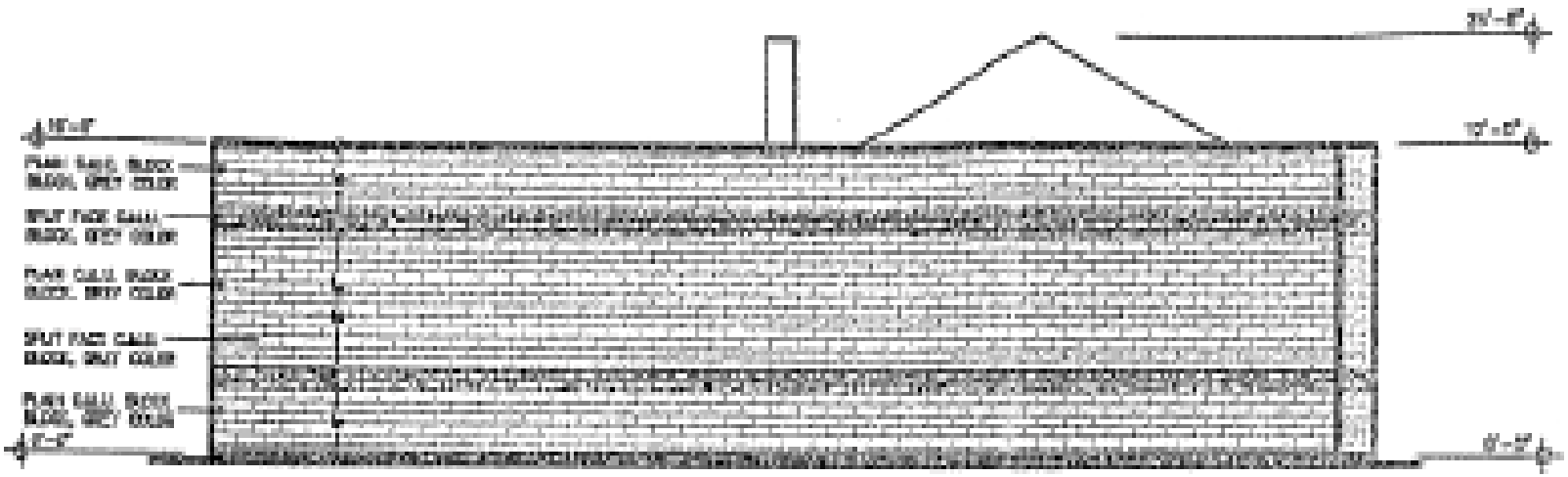


NORTH ELEVATION

East and West Elevations Building A

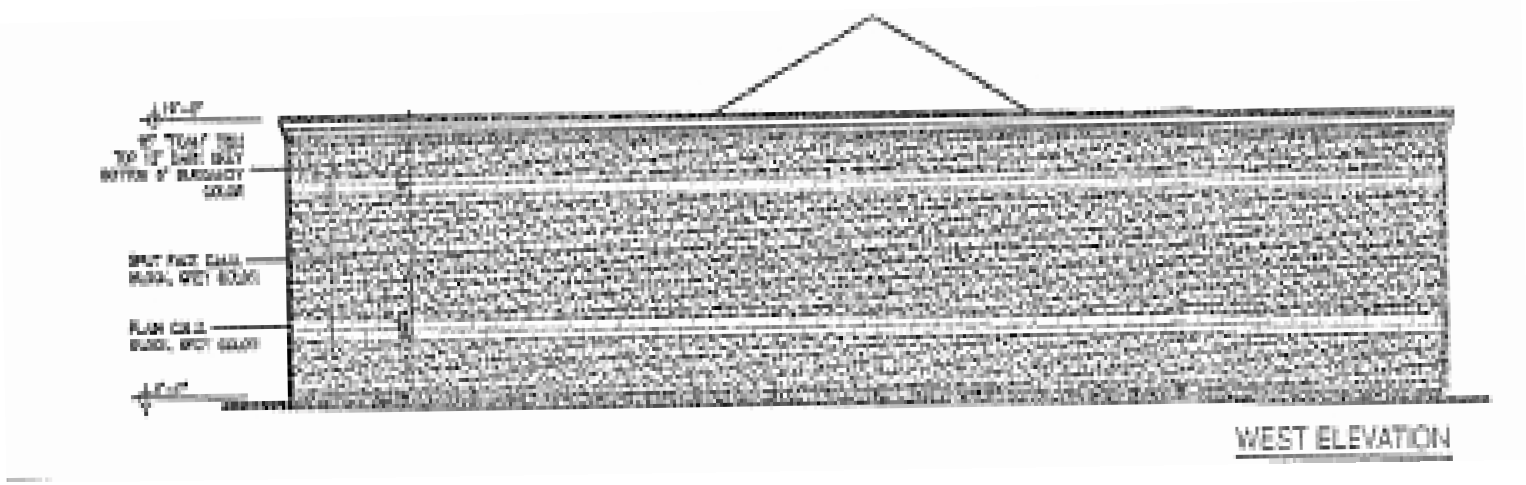


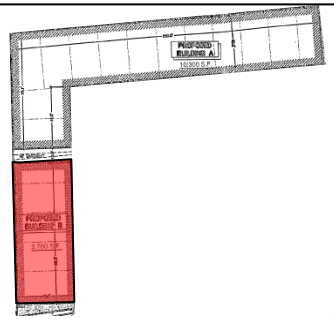
EAST ELEVATION

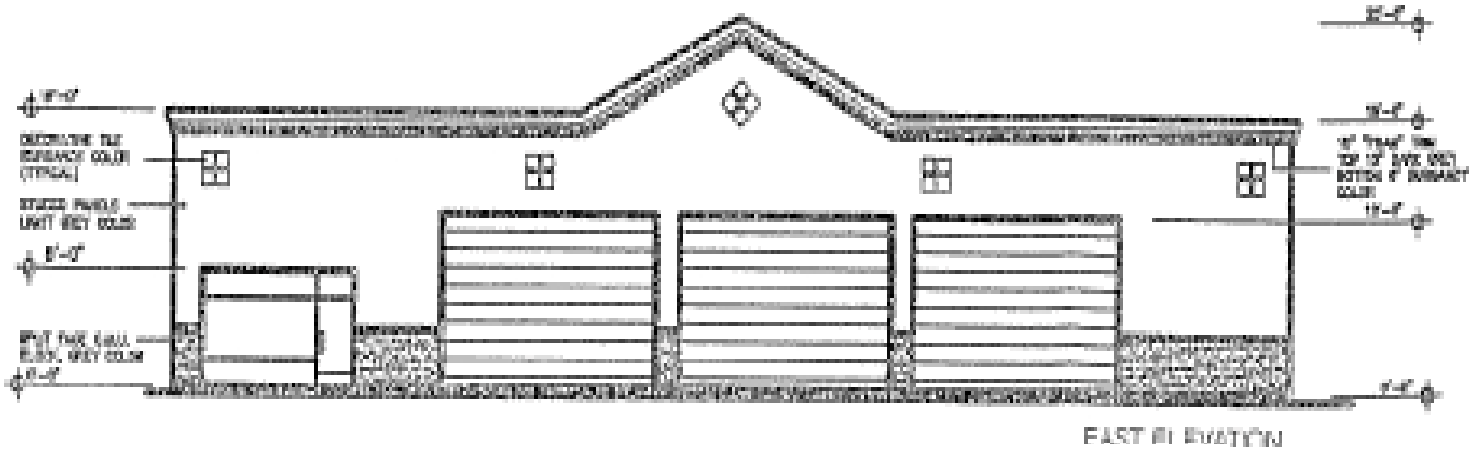


WEST ELEVATION

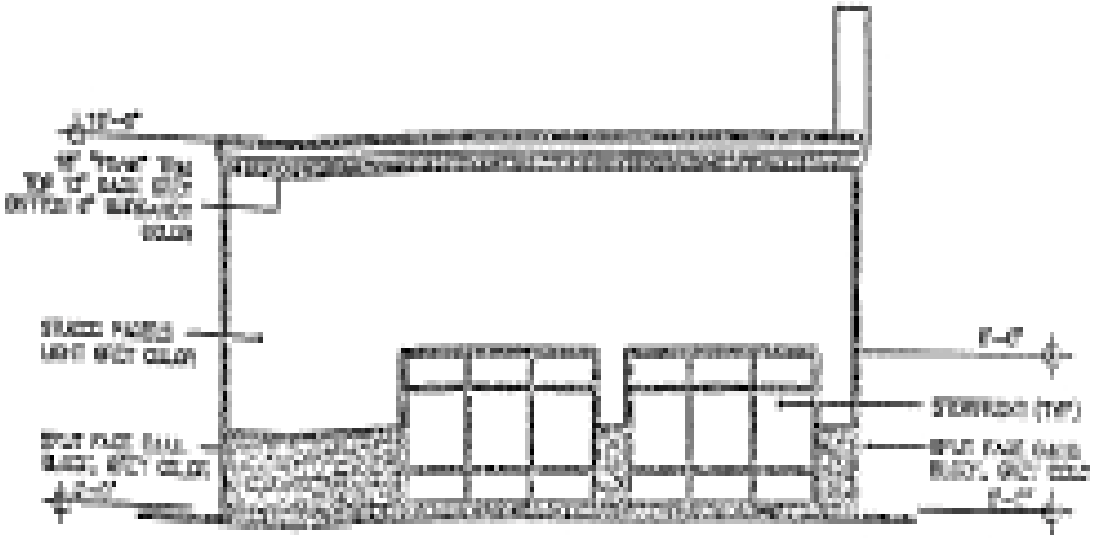
West and East Elevations Building B



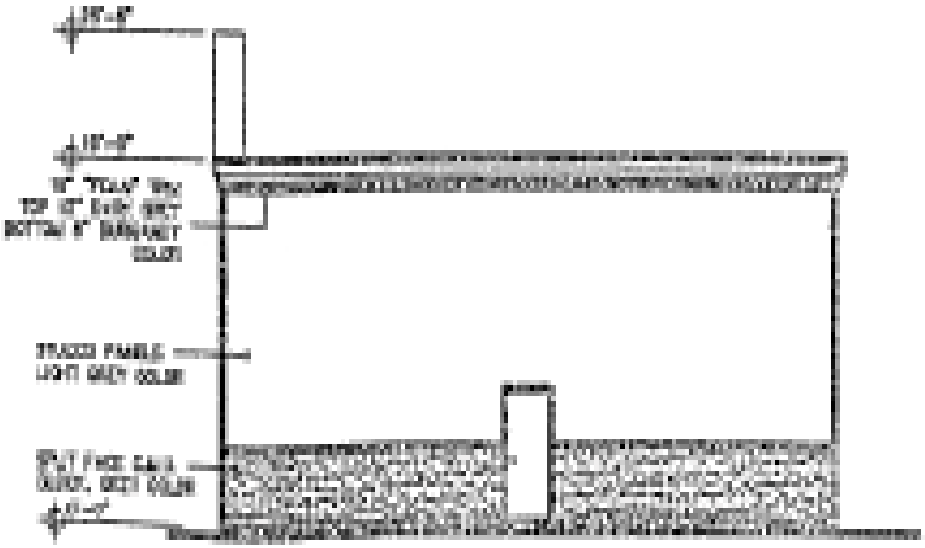




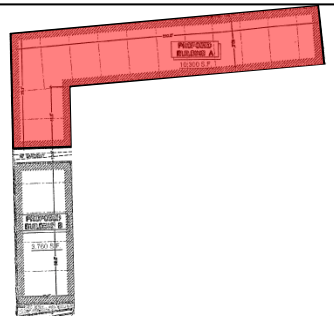
South and North Elevations Building B

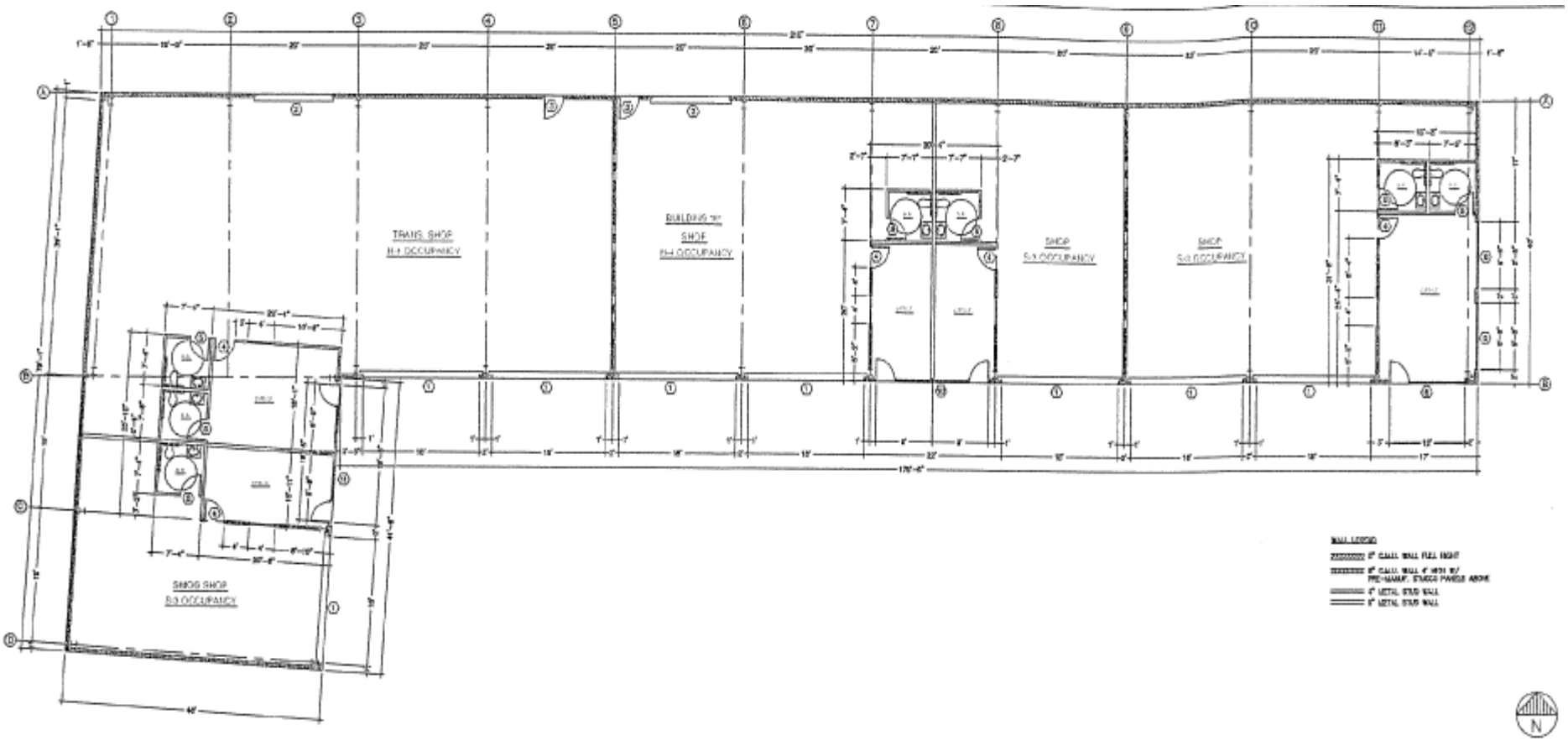


SOUTH ELEVATION

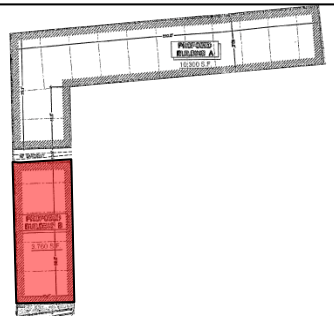


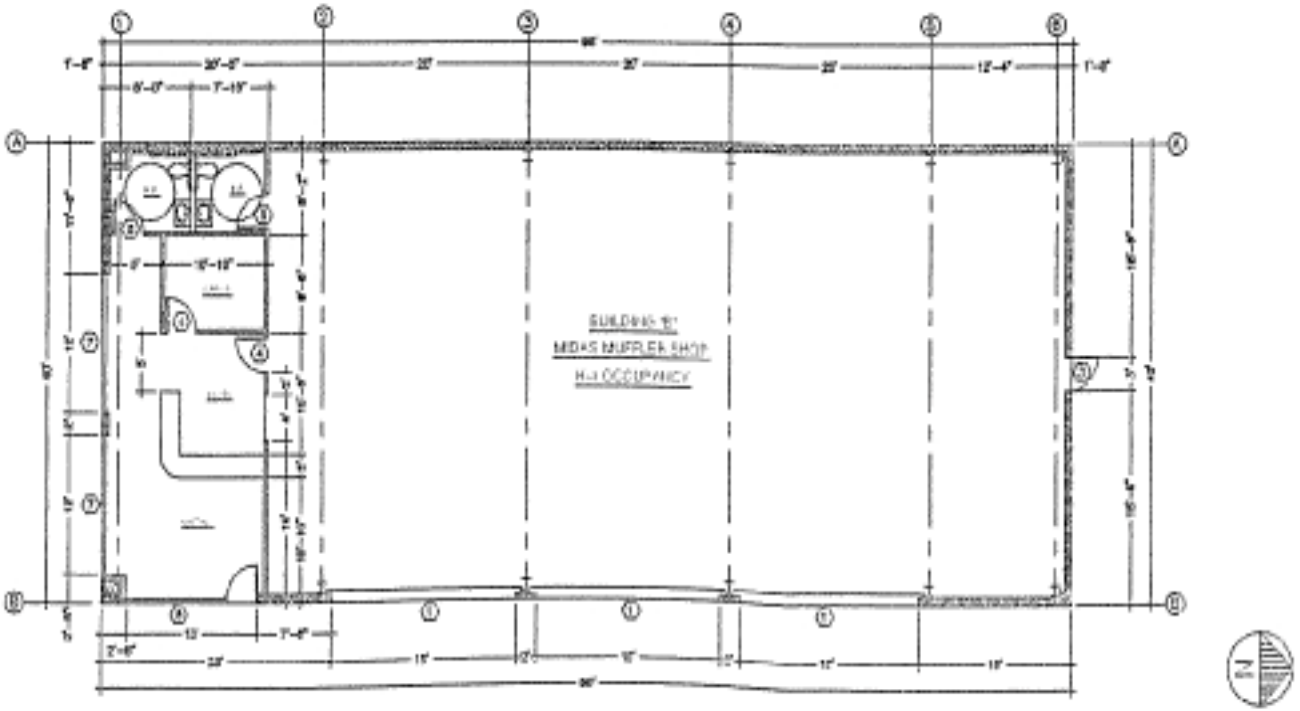
Building A Floor Plan





Building B Floor Plan





INITIAL STUDY/NEGATIVE DECLARATION
NO. 60-03

FOR

Kenneth Gini Rezoning and General Plan Amendment Request

Applicant: Mr. Kenneth J. Gini
1325 S. Central Ave.
Lodi, CA 95240

PREPARED BY:

CITY OF LODI
COMMUNITY DEVELOPMENT DEPARTMENT
P. O. BOX 3006
LODI, CA 95241

October 2006

RECEIVED
OCT 2 2006
COMMUNITY DEVELOPMENT DEPT.
CITY OF LODI

NOTICE OF INTENT TO ADOPT A NEGATIVE DECLARATION

Notice is herby given that The City of Lodi, Community Development Department, has completed an initial study and proposed negative declaration pursuant to the California Environmental Quality Act for the project described below.

The initial study prepared by the City was undertaken for the purpose of determining whether the project may have a significant effect on the environment. On the basis of the initial study, Community Development Department staff has concluded that the project will not have a significant effect on the environment, and therefore has prepared a proposed Negative Declaration. The initial study reflects the independent judgment of the City.

File Number: 06-03

Project Title: Kenneth Gini Rezoning and General Plan Amendment Request

Project Description: The project site is located in the City of Lodi, County of San Joaquin. The properties are located at 1323, 1325 and 1333 South Central Avenue. (APN 047-270-10), (APN 047-270-11) and (APN 047-10). The applicant is requesting a change in the General Plan (G.P.) and Zoning designation of the three properties from residential to commercial. The G.P. designation change requested is from ER, eastside residential to GC, general commercial. The zoning change requested is from RE-1, residential eastside single-family to C-2, general commercial. The applicant owns a total of 4 parcels adjacent at the corner of Central Ave. and Kettleman Lane. Two of the properties front on Kettleman lane and have a commercial zoning. One of these properties contains a single family house and one contains a small commercial building. The two subject properties that front on Central Ave. are zoned residential and contain a single-family residence and a duplex. The third property (1333 S. Central) included in this request is owned by another party and currently is used as a driveway serving several adjacent properties. Mr. Gini would like to have the 3 Central Ave. properties rezoned commercial so that he can incorporate them with his Kettleman Lane commercial properties to form a single larger commercial property. This will permit the property to be developed with a commercial building and allow sufficient room for parking and landscaping.

Copies of the Initial Study and the proposed Negative Declaration are on file and available for review at the following locations: 1) Lodi City Hall, Community Development Department located at 221 West Pine Street, Lodi, CA 95240; 2) Lodi Public Library, 201 West Locust Street, Lodi, CA 95240; and 3)City of Lodi website at www.lodi.gov. The City will receive comment on the Initial Study and proposed Negative declaration for a 30-day period, commencing on Tuesday, October 17th, 2006 through Wednesday, November 11, 2006. Any person wishing to comment on the Initial Study and proposed Negative Declaration must submit such comments in writing to the City of Lodi at the following address:

Randy Hatch, Director of Community Development
Community Development Department
City of Lodi
P. O. Box 3006
Lodi, CA 95241

The City will provide additional public notices when the public hearings have been scheduled to consider approval of the Negative Declaration.

Randy Hatch, Director of Community Development
October 17, 2006.

11/18/06

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File Number: 06-03

Project Title: Kenneth Gini Rezoning and General Plan Amendment Request

Project Description: The project site is located in the City of Lodi, County of San Joaquin. The properties are located at 1323, 1325 and 1333 South Central Avenue. (APN 047-270-10), (APN 047-270-11) and (APN 047-10). The applicant is requesting a change in the General Plan (G.P.) and Zoning designation of the three properties from residential to commercial. The G.P. designation change requested is from ER, eastside residential to GC, general commercial. The zoning change requested is from RE-1, residential eastside single-family to C-2, general commercial. The applicant owns a total of 4 parcels adjacent at the corner of Central Ave. and Kettleman Lane. Two of the properties front on Kettleman lane and have a commercial zoning. One of these properties contains a single family house and one contains a small commercial building. The two subject properties that front on Central Ave. are zoned residential and contain a single-family residence and a duplex. The third property (1333 S. Central) included in this request is owned by another party and currently is used as a driveway serving several adjacent properties. Mr. Gini would like to have the 3 Central Ave. properties rezoned commercial so that he can incorporate them with his Kettleman Lane commercial properties to form a single larger commercial property. This will permit the property to be developed with a commercial building and allow sufficient room for parking and landscaping.

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Lodi, CA 95241

The City will provide additional public notices when the public hearings have been scheduled to consider approval of the Negative Declaration.

Randy Hatch, Director of Community Development
October 17, 2006.

City of Lodi **Proposed Negative Declaration**

Prepared pursuant to City of Lodi Environmental Guidelines, §§ 1.7 (c), 5.5

File Number: 06-03

Project Title: Kenneth Gini Rezoning and General Plan Amendment Request

Project Description:
The applicant is requesting a change in the General Plan (G.P.) and Zoning designation of the three properties from residential to commercial. The G.P. designation change requested is from ER, eastside residential to GC, general commercial. The zoning change requested is from RE-1, residential eastside single-family to C-2, general commercial.

The applicant owns a total of 4 parcels adjacent at the corner of Central Ave. and Kettleman Lane. Two of the properties front on Kettleman lane and have a commercial zoning. One of these properties contains a single family house and one contains a small commercial building. The two subject properties that front on Central Ave. are zoned residential and contain a single-family residence and a duplex. The third property (1333 S. Central) included in this request is owned by another party and currently is used as a driveway serving several adjacent properties. Mr. Gini would like to have the 3 Central Ave. properties rezoned commercial so that he can incorporate them with his Kettleman Lane commercial properties to form a single larger commercial property. This will permit the property to be developed with a commercial building and allow sufficient room for parking and landscaping.

Project Location:
The subject properties are located in the City of Lodi, County of San Joaquin. The properties are located at 1323, 1325 and 1333 South Central Avenue. (APN 047-270-10), (APN 047-270-11) and (APN 047-10).

Name of Project Proponent/Applicant: Mr. Kenneth J. Gini

A copy of the Initial Study ("Environmental Information Form" and "Environment Checklist") documenting the reasons to support the adoption of a Negative Declaration is available at the City of Lodi Community Development Department.

Mitigation measures are ☐ are not ☒ included in the project to avoid potentially significant effects on the environment.

The public review on the proposed Negative Declaration will end at 5:00 p.m. on November 11, 2006.

The Planning Commission will hold a public hearing on the proposed negative declaration and the proposed project in December13, 2006.

October 17, 2006.

Randy Hatch
Director of Community Development

Date

INITIAL STUDY/NEGATIVE DECLARATION
NO. 60-03

FOR

Kenneth Gini Rezoning and General Plan Amendment Request

Applicant: Mr. Kenneth J. Gini
1325 S. Central Ave.
Lodi, CA 95240

PREPARED BY:

CITY OF LODI
COMMUNITY DEVELOPMENT DEPARTMENT
P. O. BOX 3006
LODI, CA 95241

October 2006

CERTIFICATE OF FEE EXEMPTION

This is to attest that the City of Lodi, acting as the lead agency, has determined that the request by Mr. Kenneth Gini to Rezone and General Plan Amendment involves no potential for adverse effect on wildlife, and is therefore exempt under Fish & Game Section 711.4(c).

PROJECT TITLE: Kenneth Gini Rezoning and General Plan Amendment Request

PROJECT PROPONENT: Mr. Kenneth J. Gini
1325 S. Central Ave.
Lodi, CA 95240

PROJECT DESCRIPTION: The project site is located in the City of Lodi, County of San Joaquin. The properties are located at 1323, 1325 and 1333 South Central Avenue. (APN 047-270-10), (APN 047-270-11) and (APN 047-10). The applicant is requesting a change in the General Plan (G.P.) and Zoning designation of the three properties from residential to commercial. The G.P. designation change requested is from ER, eastside residential to GC, general commercial. The zoning change requested is from RE-1, residential eastside single-family to C-2, general commercial. The applicant owns a total of 4 parcels adjacent at the corner of Central Ave. and Kettleman Lane. Two of the properties front on Kettleman lane and have a commercial zoning. One of these properties contains a single family house and one contains a small commercial building. The two subject properties that front on Central Ave. are zoned residential and contain a single-family residence and a duplex. The third property (1333 S. Central) included in this request is owned by another party and currently is used as a driveway serving several adjacent properties. Mr. Gini would like to have the 3 Central Ave. properties rezoned commercial so that he can incorporate them with his Kettleman Lane commercial properties to form a single larger commercial property. This will permit the property to be developed with a commercial building and allow sufficient room for parking and landscaping.

DECLARATION: The Community Development Department prepared an initial study to evaluate the potential for adverse environmental impacts. The initial study includes information rebutting the presumption of adverse effect on fish and wildlife or the habitat upon which the wildlife depends.

Based on this initial study, Negative Declaration 06-03 was prepared in compliance with the California Environmental Quality Act. Further, the City of Lodi Planning Commission and City council reviewed and approved the information as adequate environmental documentation for the project.

Randy Hatch
Director of Community Development

Table of Contents

SECTION **PAGE**
PROJECT DESCRIPTION.....1
LOCATION MAP.....3
SITE MAP.....4
DETERMINATION.....5
INITIAL STUDY ENVIRONMENTAL CHECKLIST FORM.....6

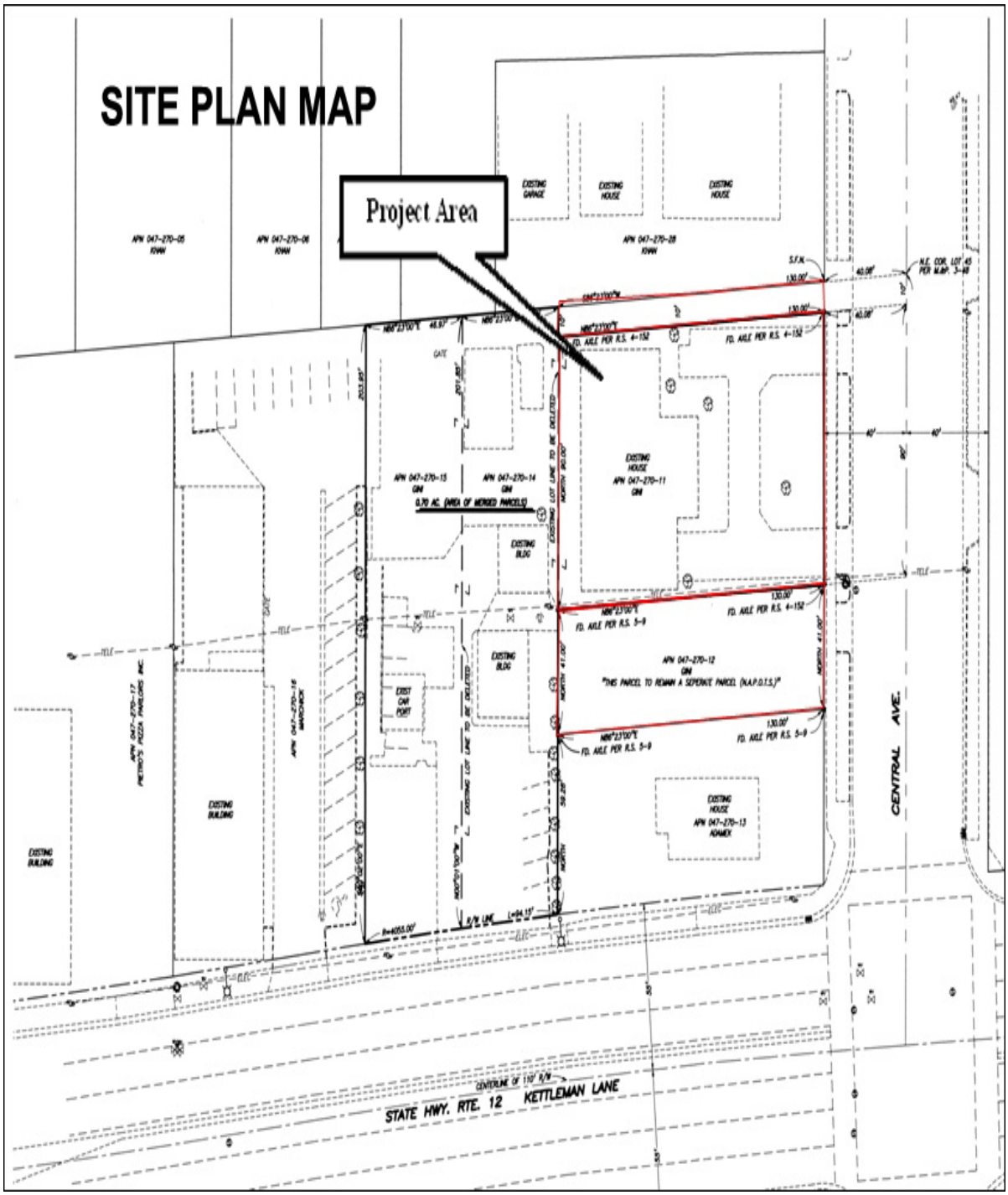
1.	**Project Title:**	**Kenneth Gini Rezoning and General Plan Amendment Request**
2.	**Lead Agency Name and Address:**	City of Lodi Department of Community Development 221 West Pine Street Lodi, CA 95240
3.	**Contact Person and Telephone Number:**	Mr. Peter Pirnejad, Planning Manager 209-333-6711
4.	**Project Location:**	The subject properties are located in the City of Lodi, County of San Joaquin. The properties are located at 1323, 1325 and 1333 South Central Avenue. (APN 047-270-10), (APN 047-270-11) and (APN 047-10). See location map.
5.	**Project Sponsor's Name and Address:**	Mr. Kenneth J. Gini 1325 S. Central Ave. Lodi, CA 95240
6.	**General Plan Designation and Zoning:**	The City of Lodi General Plan land use designation of the project site is ER, Eastside Residential. The zoning is RE-1, residential eastside-single family.
7.	**Description of Project:**	The applicant is requesting a change in the General Plan and Zoning designation of the three properties from residential to commercial. The G.P. designation change requested is from ER, eastside residential to GC, general commercial. The zoning change requested is from RE-1, residential eastside single-family to C-2, general commercial. The applicant owns a total of 4 parcels adjacent at the corner of Central Ave. and Kettleman Lane. Two of the properties front on Kettleman lane and have a commercial zoning. One of these properties contains a single family house and one contains a small commercial building. The two subject properties that front on Central Ave. are zoned residential and contain a single-family residence and a duplex. The third property (1333 S. Central) included in this request is owned by another party and currently is used as a driveway serving several adjacent properties. Mr. Gini would like to have the 3 Central Ave. properties rezoned commercial so that he can incorporate them with his Kettleman Lane commercial properties to form a single larger commercial property. This

will permit the property to be developed with a commercial building and allow sufficient room for parking and landscaping.

The following environmental topics are addressed in this IS:
A. Land Use, Agriculture and Planning Policy
B. Traffic and Circulation
C. Air Quality
D. Noise
E. Cultural and Paleontological Resources
F. Geology, Soils and Seismicity
G. Hydrology and Water Quality
H. Biological Resources
I. Hazards and Hazardous Materials
J. Utilities
K. Public Services
L. Visual Resources
M. Energy

Significant Impacts
Under CEQA, a significant impact on the environment is defined as: a substantial, or potentially substantial, adverse change in any of the physical conditions within the area affected by the project including land, air, water, minerals, flora, fauna, ambient noise and objects of historic or aesthetic significance. Implementation of the proposed project has no significantly adverse environmental impacts in the areas listed below.

Location Map 1.



SITE PLAN MAP 2.

Environmental Factors Potentially Affected:

The environmental factors checked below would be potentially affected by this project, involving at least one impact that is a "Potentially Significant Impact" as indicated by the checklist on the following pages.

- ❒ Aesthetics
- ❒ Biological Resources
- ❒ Hazards & Hazardous Materials
- ❒ Mineral Resources
- ❒ Public Services
- ❒ Utilities/Service Systems
- ❒ Agricultural Resources
- ❒ Cultural Resources
- ❒ Hydrology/Water Quality
- ❒ Noise
- ❒ Recreation
- ❒ Mandatory Findings of Significance
- ❒ Air Quality
- ❒ Geology/Soils
- ❒ Land Use/Planning
- ❒ Population/Housing
- ❒ Transportation/Traffic

Determination.

On the basis of this initial evaluation:

☒ I find that the proposed project COULD NOT have a significant effect on the environment, and a NEGATIVE DECLARATION will be prepared.

❒ I find that although the proposed project could have a significant effect on the environment, there will not be a significant effect in this case because revisions in the project have been made by or agreed to by the project proponent. A MITIGATED NEGATIVE DECLARATION will be prepared.

❒ I find that the proposed project MAY have a significant effect on the environment, and an ENVIRONMENTAL IMPACT REPORT is required.

❒ I find that the proposed project MAY have a "potentially significant impact" or "potentially significant unless mitigated" impact on the environment, but at least one effect 1) has been adequately analyzed in an earlier document pursuant to applicable legal standards, and 2) has been addressed by mitigation measures based on the earlier analysis as described on attached sheets. An ENVIRONMENTAL IMPACT REPORT is required, but it must analyze only the effects that remain to be addressed.

❒ I find that although the proposed project could have a significant effect on the environment, because all potentially significant effects (a) have been analyzed adequately in an earlier EIR or NEGATIVE DECLARATION pursuant to applicable standards, and (b) have been avoided or mitigated pursuant to that earlier EIR or NEGATIVE DECLARATION, including revisions or mitigation measures that are imposed upon the proposed project, nothing further is required.

Signature	Date
Printed Name	For

	Potentially Significant Impact	Potentially Significant Unless Mitigation Incorporated	Less Than Significant Impact	No Impact
I. AESTHETICS. Would the project:				
a) Have a substantial adverse effect on a scenic vista?	☐	☐	☐	☒
b) Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a State scenic highway?	☐	☐	☐	☒
c) Substantially degrade the existing visual character or quality of the site and its surroundings?	☐	☐	☒	☐
d) Create a new source of substantial light or glare which would adversely affect day or nighttime views in the area?	☐	☐	☒	☐

a) Have a substantial adverse effect on a scenic vista?

The proposed project would not have adverse impact on the scenic vista. The area is already developed with a variety of urban structures structures.

b) Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a State scenic highway?

The proposed project would not damage any scenic resources, as the proposed project is not located within the vicinity of a state scenic highway and the site is developed with minimal scenic value. There would be no impact.

c) Substantially degrade the existing visual character or quality of the site and its surroundings?

The proposed project would not have an adverse effect on the existing visual character or quality of the site and its surroundings. Future development will replace residential structures with commercial buildings. Any new project will be reviewed by the City's Site Plan and Architectural Review Committee (SPARC). SPARC will address issues such as the appearance of the buildings, landscaping, fencing etc. to assure that the project is aesthetically appropriate for the neighborhood.

d) Create a new source of substantial light or glare which would adversely affect day or nighttime views in the area?

The proposed project would have less than significant impact since lighting is subject to SPARC review and low level or shielded lightings for building and parking lot lighting will be required to assure that they will not shine on adjacent residential properties..

	Potentially Significant Impact	Potentially Significant Unless Mitigation Incorporated	Less Than Significant Impact	No Impact
II. AGRICULTURAL RESOURCES. In determining whether impacts to agricultural resources are significant environmental effects, lead agencies may refer to the California Agricultural Land Evaluation and Site Assessment Model (1997) prepared by the California Dept. of Conservation as an optional model to use in assessing impacts on agriculture and farmland. Would the project:				
a) Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to a non-agricultural use?	❒	❒	❒	☒
b) Conflict with existing zoning for agricultural use, or a Williamson Act contract?	❒	❒	❒	☒
c) Involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland to non-agricultural use?	❒	❒	❒	☒

a) Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to a non-agricultural use?

The current project site is not zoned for agricultural purposes and is currently developed with residential uses. The area is urbanized and not in agricultural use.

b) Conflict with existing zoning for agricultural use, or a Williamson Act contract?

The subject property is not zoned for agricultural use, nor is it under a Williamson Act contract. Therefore, no impact would occur as a result of the proposed project.

c) Involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland to non-agricultural use?

See checklist Items II a. and II b. above. The project site is not in agricultural land, nor is it located immediately adjacent to active agricultural land. Furthermore, the project site is surrounded by existing urban structures. Therefore, the proposed project would not involve changes that could result in the conversion of farmland to a non-agricultural use and no impact would result.

	Potentially Significant Impact	Potentially Significant Unless Mitigation Incorporated	Less Than Significant Impact	No Impact
III. AIR QUALITY. Where available, the significance criteria established by the applicable air quality management or air pollution control district may be relied upon to make the following determinations. Would the project:				
a) Conflict with or obstruct implementation of the applicable air quality plan?	❒	❒	☒	❒
b) Violate any air quality standard or contribute substantially to an existing or projected air quality violation?	❒	❒	☒	❒
c) Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is non-attainment under an applicable federal or State ambient air quality standard (including releasing emissions which exceed quantitative thresholds for ozone precursors)?	❒	❒	❒	☒
d) Expose sensitive receptors to substantial pollutant concentrations?	❒	❒	☒	❒
e) Create objectionable odors affecting a substantial number of people?	❒	❒	☒	❒

a) Conflict with or obstruct implementation of the applicable air quality plan?

The City of Lodi is within the jurisdiction of the San Joaquin Valley Air Pollution Control District (SJVAPCD), which regulates air quality in the San Joaquin Valley. The SJVAPCD has prepared and implements specific plans to meet the applicable laws, regulations and programs, including the 1991 Air Quality Attainment Plan (AQAP). In addition, the SJVAPCD has developed the *Guide for Assessing and Mitigating Air Quality Impacts (Guide)* to help lead agencies in the evaluating the significance of air quality impacts.

In formulating its compliance strategies, the SJVAPCD relies on planned land uses established by local general plans. When a project proposes to change planned uses assumed in an adopted plan by requesting a general plan amendment, the project may depart from the assumption used to formulate the plans of the SJVAPCD in such way that cumulative results of incremental change may hamper or prevent the SJVAPCD from achieving its goals. Land use patterns influence transportation needs, and motor vehicles are the primary source of air pollution. As stated in the *Guide*, projects proposed in jurisdictions with general plans that are consistent with the SJVAPCD's AQAP and projects that conform to those general plans would not create significant cumulative air quality impacts.

The rezoning request will change the zoning from residential to commercial. This will permit the properties to be developed with commercial uses. The three subject properties only total

18,300 square feet in size. Even when added to the applicant's two other properties, the total is less then an acre. Any commercial use of the property will be relatively small in size and will not generate a significant amount of air pollutants. Vehicular traffic entering or exiting the property would be the most likely source of additional air emissions. Based on a 10,000 square foot auto care facility, the property would generate less than 350 trips per day. This would be less than 1% of the existing traffic volume on Kettleman Lane. Therefore, the proposed project would not conflict with the applicable clean air plan. No impacts.

b) Violate any air quality standard or contribute substantially to an existing or projected air quality violation?

The City of Lodi is within the jurisdiction of the SJVAPCD, which regulates air quality in the San Joaquin Valley. The EPA designated the entire San Joaquin Valley as non-attainment for two pollutants: ozone and particle matter. More recently, on April 24, 2004, the EPA reclassified the San Joaquin Valley ozone non-attainment area from its previous severe status to "extreme" at the request of the San Joaquin Air Pollution Control District Board. On December 17, 2004, EPA took action to designate attainment and non-attainment areas under the more protective national air quality standards for fine particles or $PM_{2.5}$.

Levels of PM_{10} in the San Joaquin Valley currently exceed California Clean Air Act standards; therefore, the area is considered a non-attainment area for this pollutant relative to the State standards. PM_{10} levels monitored at the Stockton-Hazelton Street ambient air quality monitoring station, the closest monitoring station with PM_{10} data, exceeded the State's standard at three times per year in 2003 and 2004. The standard was exceeded ten times in 2002. No exceedances of the State or federal CO standards have been recorded at any of the region's monitoring stations in the last three years. The San Joaquin Valley is currently considered a maintenance area for State and federal CO standards.

The District adopted an Ozone Attainment Demonstration Plan (2004) and a PM_{10} Attainment Demonstration Plan (2003). In addition, to meet California Clean Air Act requirements, the District adopted the California Clean Air Act Triennial Progress Report and Plan Revision 1997-1999, adopted in 2001 to address the California ozone standard. A broad range of actions to improve air quality are set forth in the adopted plans to reduce CO, O_3 precursor emissions, and particulate matter. Generally, the State standards for these pollutants are more stringent than the national standards. Each district plan is to achieve a 5 percent annual reduction average 3 consecutive 3-year periods, in district-wide emissions of each nonattainment pollutant or its precursors. Exceedances of air quality standards occur primarily during meteorological conditions conducive to high pollution levels, such as cold, windless winter nights or hot, sunny summer afternoons.

The City will require the applicant to comply with dust and particulate reduction measures during construction or grading on the site. These standards (Regulation VIII, Fugitive PM10 Prohibitions) are rules adopted by the San Joaquin Valley Air Pollution Control District (District) and are designed to reduce air quality impacts during construction projects. They include various measures to reduce PM10 by utilizing best practices methods during the construction process. The City will require the applicant to adhere to these rules; therefore, less than significant impact.

c) Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is non-attainment under an applicable federal or State ambient air quality standard (including releasing emissions which exceed quantitative thresholds for ozone precursors)?

See discussion under Check List Item III.a. and III.b. above. For any project that does not individually have operational air quality impacts, the determination of a significant cumulative impact should be based on the evaluation of the project's consistency with the general plan and the general plan with regional air quality plan. Although the project will involve a General Plan change from residential to commercial, the project size is less than one acre and no significant air quality issues willresult.

d) Expose sensitive receptors to substantial pollutant concentrations?

The SJVAPCD defines sensitive receptors as facilities that house or attract children, the elderly, people with illnesses, or others who are especially sensitive to the effects of air pollutants. Hospitals, schools, convalescent facilities, and residential areas are examples of sensitive receptors. However, due to the small size of the proposed project and the estimated amount of daily vehicle trips, it qualifies for what is known as a Small Project Analysis Level. No quantification of ozone precursor emissions is needed for such projects.

e) Create objectionable odors affecting a substantial number of people?

The rezoning project will not produce objectionable odors as identified by SJVAPCD.

	Potentially Significant Impact	**Potentially Significant Unless Mitigation Incorporated**	**Less Than Significant Impact**	**No Impact**
IV. BIOLOGICAL RESOURCES. Would the project:				
a) Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service?	❒	❒	❒	☒
b) Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations or by the California Department of Fish and Game or U.S. Fish and Wildlife Service?	❒	❒	❒	☒

	Potentially Significant Impact	Potentially Significant Unless Mitigation Incorporated	Less Than Significant Impact	No Impact
c) Have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act (including, but not limited to, marsh, vernal pool, coastal, etc.) Through direct removal, filling, hydrological interruption, or other means?	❒	❒	❒	☒
d) Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites?	❒	❒	❒	☒
e) Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?	❒	❒	❒	☒
f) Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan or other approved local, regional, or State habitat conservation plan?	❒	❒	❒	☒

a) Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service?

The proposed project will not have adverse effect to the environment, nor will it affect any natural habitat. There are already structures built on the proposed site. Thus, rezoning it will not have an adverse environmental effect on any natural lands.

b) Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations or by the California Department of Fish and Game or U.S. Fish and Wildlife Service?

According to San Joaquin county Multi-Species habitat Conservation and Open Space Plan, the subject property does not contain any riparian habitat or other sensitive natural communities. No impact would result.

c) Have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act (including, but not limited to, marsh, vernal pool, coastal, etc.) Through direct removal, filling, hydrological interruption, or other means?

According to San Joaquin county Multi-Species habitat Conservation and Open Space Plan, the subject property does not contain any protected wetlands, vernal pools or waters regulated by Section 404 of the Clean Water Act. No impact would result.

d) Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites?

The subject properties are fully developed and surrounded by urbanized areas. Thus, no impact would occur.

e) Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?

The City of Lodi General Plan (Conservation Element) includes goals and policies intended to protect sensitive native vegetation and wildlife habitats. Goals E, Policy 2 in the General Plan Conservation element refers to the City of Lodi's regulation of "heritage tree" removal. The proposed project would not result in the removal of any heritage trees. Thus, no impact would result.

f) Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan or other approved local, regional, or State habitat conservation plan?

The SJCMSHCP was developed to minimize and mitigate impacts to plant and wildlife resulting from the loss of open space projected to occur in San Joaquin County between 2001 and 2051. The City of Lodi adopted the SJCMSHCP in 2001, and projects under the jurisdiction of the City can seek coverage under the plan. The proposed project would not conflict with the provisions adopted by the City since the structures are already in existence. Thus, no impact would result

	Potentially Significant Impact	**Potentially Significant Unless Mitigation Incorporated**	**Less Than Significant Impact**	**No Impact**
V. CULTURAL RESOURCES. Would the project:				
a) Cause a substantial adverse change in the significance of a historical resource as defined in '15064.5?	❒	❒	❒	☒
b) Cause a substantial adverse change in the significance of an archaeological resource pursuant to '15064.5?	❒	❒	❒	☒
c) Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature?	❒	❒	❒	☒
d) Disturb any human remains, including those interred outside of formal cemeteries?	❒	❒	❒	☒

a) Cause a substantial adverse change in the significance of a historical resource as defined in '15064.5?

This rezoning request does not posses significance necessary to be eligible for the California Register of Historical resources (CRHR) and the properties are currently developed with structures.

b) Cause a substantial adverse change in the significance of an archaeological resource pursuant to '15064.5?

As in check list above, this request for zoning will not change archaeological resources of the area. If during construction any archaeological objects are uncovered, work will be halted until a qualified expert can evaluate the objects and recommend mitigation measures.

c) Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature?

No paleontological resource were previously recorded or observed on the subject property. If during construction any paleontological resources are uncovered, work will be halted until a qualified expert can examine the site and recommend mitigation measures.

d) Disturb any human remains, including those interred outside of formal cemeteries?

No human remains, including those interred outside of formal cemeteries, were previously recorded or observed on the project site. If during construction, human remains are discovered, appropriate steps will be take to rebury the remains in an appropriate facility.

	Potentially Significant Impact	**Potentially Significant Unless Mitigation Incorporated**	**Less Than Significant Impact**	**No Impact**
VI. GEOLOGY AND SOILS. Would the project:				
a) Expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving:				
i) Rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault? Refer to Division of Mines and Geology Special Publication 42.	☐	☐	☐	☒
ii) Strong seismic ground shaking?	☐	☐	☒	☐

	Potentially Significant Impact	Potentially Significant Unless Mitigation Incorporated	Less Than Significant Impact	No Impact
iii) Seismic-related ground failure, including liquefaction?	❒	❒	☒	❒
iv) Landslides?	❒	❒	❒	☒
b) Result in substantial soil erosion or the loss of topsoil?	❒	❒	☒	❒
c) Be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction or collapse?	❒	❒	❒	☒
d) Be located on expansive soil, as defined in Table 18-1-B of the Uniform Building Code (1994), creating substantial risks to life or property?	❒	❒	❒	☒
e) Have soils incapable of adequately supporting the use of septic tanks or alternative waste water disposal systems where sewers are not available for the disposal of waste water?	❒	❒	❒	☒

a) Expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving: i) Rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault? Refer to Division of Mines and Geology Special Publication 42; ii)Strong seismic ground shaking; iii)Seismic-related ground failure, including liquefaction; iv)Landslides?

I. According to the City of Lodi's *General Plan*, no earthquake faults underlie the City of Lodi. However, according to geographical survey prepared by Klienfelder in January 20061, the nearest Seismic source Type A fault is mapped greater than 9.32 miles from the project site and the nearest Seismic Source Type B fault it mapped greater than 6.21 miles from the project site. Therefore, the potential for fault rupture at the sites is negligible, and no portions of the sites are located within an Alquist-Priolo Earthquake Fault Zone. The closest known active faults to the project sites is the Clayton-Marsh Creek-Greenville fault, located approximately 36 miles to the southwest. The closest fault considered potentially capable of surface fault rupture is Segment 7 of the Great Valley fault located about 26 miles to the southwest of the project site.

II. Ground shaking is a general term referring to all aspects of motion of the earth's surface resulting from an earthquake, and is normally the major cause of damage in seismic events. As with much of California, the City of Lodi is subject to earthquake damage. No faults are

1 . Geotechnical Services Report.

known to cross the GP area; however, ground shaking from an earthquake outside of the GP area may cause damage to structures.

III. Liquefaction is the temporary transformation of loose, saturated granular sediments from a solid state to a liquefied state as a result of seismic ground shaking. In the process the soil undergoes a temporary loss of strength, which commonly causes ground displacement or ground failure to occur. Since saturated soils are a necessary condition for liquefaction, soil layers in areas where the groundwater table is near the surface have higher liquefaction potential than those in which the water table is located at greater depths.

Based on the soil boring results, the project site would be suitable for implementation of the proposed project given its incorporation of specific project design and construction The potential for an earthquake with the capability of promoting liquefaction is a possibility during the design life of the project. However, since the subgrade soils encountered during soil boring are generally medium dense silts, sands and clays and groundwater is about 40 feet below the site grade, the potential for liquefaction is considered to be low.

IV. The subject property, as well as the area surrounding the project site, is relatively flat. Furthermore, the project site is surrounded predominately by existing urban development. Due to the developed nature and topographic features of the site and surrounding area, the potential for landslides is considered remote. No impact would result from the implementation of the proposed project.

b) Result in substantial soil erosion or the loss of topsoil?

The proposed project merely seeks rezoning so as to permit the premises to be used for general commercial purposes. However, there is a possibility that any future construction that would require grading, excavation and trenching could possibly result in less than significant top soil erosion.

c) Be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction or collapse?

Based on Checklist Item V a.III and VI a.IV, the project site is stable and suitable for the proposed project.

d) Be located on expansive soil, as defined in Table 18-1-B of the Uniform Building Code (1994), creating substantial risks to life or property?

Expansive clay-rich swell when wet and shrink when dry, which can cause substantial damage to foundations, concrete slabs and pavement sections. Since there is already existing structures on the premises, the subject properties do not contain expansive soils. Thus, there would not be an impact.

e) Have soils incapable of adequately supporting the use of septic tanks or alternative waste water disposal systems where sewers are not available for the disposal of waste water?

The proposed project would be served by the City of Lodi wastewater system. Therefore, there would be no related impact to septic tanks or alternative wastewater disposal systems.

	Potentially Significant Impact	Potentially Significant Unless Mitigation Incorporated	Less Than Significant Impact	No Impact
VII. HAZARDS AND HAZARDOUS MATERIALS. Would the project:				
a) Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials?	☐	☐	☒	☐
b) Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment?	☐	☐	☒	☐
c) Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?	☐	☐	☐	☒
d) Be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, would it create a significant hazard to the public or the environment?	☐	☐	☐	☒
e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project result in a safety hazard for people residing or working in the project area?	☐	☐	☐	☒
f) For a project located within the vicinity of a private airstrip, would the project result in a safety hazard for people residing or working in the project area?	☐	☐	☐	☒
g) Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan?	☐	☐	☐	☒

	Potentially Significant Impact	Potentially Significant Unless Mitigation Incorporated	Less Than Significant Impact	No Impact
h) Expose people or structures to a significant risk of loss, injury or death involving wildland fires, including where wildlands are adjacent to urbanized areas or where residences are intermixed with wildlands?	❒	❒	❒	☒

a) Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials?

The proposed rezoning project would not result in the routine use, transport or disposal of hazardous materials. City of Lodi's General Plan (EIR) identifies the San Joaquin county Office of Emergency Services the responsible party for clean up. Though the City of Lodi participates in the identification and cleanup of some of the City's hazards, and the City Fire Department's Hazardous Materials Emergency Plan outlines procedures for handling hazardous material spills, the project would not be used as a disposal center.
If, as a part of a future commercial business, hazardous waste is routinely generated, the business will be required to comply with all local and State requirements for the safe disposal of any hazardous waste.

b) Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment?

At present, it is not anticipated that the proposed project would use and/or contain hazardous materials that would create a significant hazard to the public or the environment through the release of hazardous materials. Any future use of the subject property will have to be consistent with the Uniform Building Code and is subject to zoning regulations. The City Fire Department and County agencies are trained to handle hazardous material incidents. Any hazardous material accident will be dealt with appropriately.

c) Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?

Though the subject property is located within one-quarter mile of an existing school, it is expected that future use would not emit hazardous emissions nor handle hazardous or acutely hazardous material. As stated in Check List VII c., above, future use will conform to local and State requirements for the use and storage of hazardous materials.

d) Be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, would it create a significant hazard to the public or the environment?

According to the State Department of Toxic Substances Control's *EnviroStor* database and the State Water Resources Control Board *GeoTracker* database, the subject property is not included on a list of hazardous materials sites. As a result the proposed project would not create a

significant hazard to the public or the environment. There would be no impact associated with the project.

e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project result in a safety hazard for people residing or working in the project area?

The project site is not located within an airport land use plan, nor within two miles of a public airport. Therefore, the project would not result in a safety hazardous for people residing or working in the project area. There would be no impact.

f) For a project located within the vicinity of a private airstrip, would the project result in a safety hazard for people residing or working in the project area?

The project site is not located within the vicinity of an active private airstrip. There would be no impact.

g) Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan?

The City of Lodi's Emergency Plan is based on San Joaquin County's Emergency Plan. The City and County Plans represent a comprehensive disaster preparedness program for the area. The proposed project would not impair implementation of, nor physically interfere with the City or County's adopted emergency response plan or emergency evacuation plan. No impact would result.

h) Expose people or structures to a significant risk of loss, injury or death involving wildland fires, including where wildlands are adjacent to urbanized areas or where residences are intermixed with wildlands?

The project is located in a developed urban area and is not located adjacent to natural areas that would be subject to wildland fires. Therefore, no impacts would occur as a result of the proposed project.

	Potentially Significant Impact	**Potentially Significant Unless Mitigation Incorporated**	**Less Than Significant Impact**	**No Impact**
VIII. HYDROLOGY AND WATER QUALITY. Would the project:				
a) Violate any water quality standards or waste discharge requirements?	❒	❒	❒	☒

	Potentially Significant Impact	Potentially Significant Unless Mitigation Incorporated	Less Than Significant Impact	No Impact
b) Substantially deplete groundwater supplies or interfere substantially with groundwater recharge such that there would be a net deficit in aquifer volume or a lowering of the local groundwater table level (e.g., the production rate of pre-existing nearby wells would drop to a level which would not support existing land uses or planned uses for which permits have been granted)?	☐	☐	☐	☒
c) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, in a manner which would result in substantial erosion or siltation on- or off-site?	☐	☐	☐	☒
d) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, or substantially increase the rate or amount of surface runoff in a manner which would result in flooding on- or off-site?	☐	☐	☐	☒
e) Create or contribute runoff water which would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff?	☐	☐	☐	☒
f) Otherwise substantially degrade water quality?	☐	☐	☐	☒
g) Place housing within a 100-year flood hazard area as mapped on a federal Flood Hazard Boundary or Flood Insurance Rate Map or other flood hazard delineation map?	☐	☐	☐	☒
h) Place within a 100-year flood hazard area structures which would impede or redirect flood flows?	☐	☐	☐	☒
i) Expose people or structures to a significant risk of loss, injury or death involving flooding, including flooding of as a result of the failure of a levee or dam?	☐	☐	☐	☒
j) Inundation by seiche, tsunami, or mudflow?	☐	☐	☐	☒

a) Violate any water quality standards or waste discharge requirements?

Currently, the City of Lodi draws fresh water from ground sources. Surface water is not currently used for human consumption in Lodi, but the City recently secured a long-term contract (40 years) for approximately 6,000 acre-feet of water per year from the Mokelumne River for municipal use. The City's water supply primarily comes from groundwater via 26

municipal wells. Information related to municipal water use and the Water Supply Assessment is located in Section IV.J, Utilities. Due to the nature and location of the proposed project, the impacts associated with water quality standards and discharge would not be significant.

b) *Substantially deplete groundwater supplies or interfere substantially with groundwater recharge such that there would be a net deficit in aquifer volume or a lowering of the local groundwater table level (e.g., the production rate of pre-existing nearby wells would drop to a level which would not support existing land uses or planned uses for which permits have been granted)?*

Based on the limited size of the project, water consumption will not be significantly different from existing uses.

c) *Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, in a manner which would result in substantial erosion or siltation on- or off-site?*

The subject properties are connected to the City storm drain system. All runoff will flow into the City's system. Depending on the nature of the future development, an onsite sand and oil trap maybe required to filter onsite runoff. There would be no impact.

d) *Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, or substantially increase the rate or amount of surface runoff in a manner which would result in flooding on- or off-site?*

The proposed project does not contain a stream or a river, nor is it located in proximity to a stream or river. The proposed project would not alter the existing drainage pattern of the area, nor would it substantially increase the rate or amount of surface runoff in a manner which would result in flooding on- or off-site. The existing storm drainage in the area is adequate to handle the runoff from the project. There would be no impact.

e) *Create or contribute runoff water which would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff?*

Due to the nature and size of the project, it will not create or contribute runoff water that will significantly impact the existing storm drain system. The existing system will have the capacity to accommodate development of the site. Thus, a less than significant impact would result.

f) *Otherwise substantially degrade water quality?*

The quality of surface water and groundwater in the vicinity of the project site is affected by past and current land uses at the site and within the watershed and the composition of geologic materials in the vicinity. Water quality in surface and groundwater bodies is regulated by the California Department of Water Resources (DWR) and the Central Valley Regional Water Quality Control Board (CVRWQCB), which are charged with maintaining water quality and reducing potential impacts to water quality within the region. In addition, as discussed in Checklist Item VIII.a., the project is limited in scope. Thus, it would result in no impact.

g) Place housing within a 100-year flood hazard area as mapped on a federal Flood Hazard Boundary or Flood Insurance Rate Map or other flood hazard delineation map?

According to the most recent FEMA mapping, the project site is not located within the 100-year flood hazard zone, and therefore, placement of housing or other structures in a flood hazard zone would not occur under the proposed project. In addition, due to the location of the proposed project, the impacts associated with seiches, tsunami, and extreme high tides or sea level change would be considered low. Thus, no impact would occur.

h) Place within a 100-year flood hazard area structures which would impede or redirect flood flows?

The project is not located with in a 100 year flood hazard zone.. No impact would result.

i) Expose people or structures to a significant risk of loss, injury or death involving flooding, including flooding of as a result of the failure of a levee or dam?

The project site is not located within the vicinity of a levee, dam, or a dam inundation area. As such, no impact would result.

j) Inundation by seiche, tsunami, or mudflow?

A seiche is the tide-like rise and drop of water in a closed body of water caused by earthquake-induced seismic shaking or strong winds. A tsunami is a series of large waves generated by a strong offshore earthquake or volcanic eruption. Given the substantial distance of the site from San Francisco Bay or the Pacific Ocean, seiche and tsunami waves would not be a threat to the site. The proposed project site is flat and does not have any steep slopes or hillsides that would be susceptible to mudflows or landslides. Therefore, no impact would occur.

	Potentially Significant Impact	Potentially Significant Unless Mitigation Incorporated	Less Than Significant Impact	No Impact
IX. LAND USE AND PLANNING. Would the project:				
a) Physically divide an established community?	❒	❒	❒	☒
b) Conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project (including, but not limited to the general plan, specific plan, local coastal program, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect?	❒	❒	☒	❒
c) Conflict with any applicable habitat conservation plan or natural community conservation plan?	❒	❒	❒	☒

a) Physically divide an established community?

The project is adjacent to existing commercial development and will be compatible with neighboring residential properties.

b) Conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project (including, but not limited to the general plan, specific plan, local coastal program, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect?

The proposed project requires a General Plan amendment. However, given the existing commercial uses in the area the proposed change is not unreasonable and would be consistent with adjacent uses.

c) Conflict with any applicable habitat conservation plan or natural community conservation plan?

The City of Lodi adopted the SJCMSHCP in 2001. The conservation plan was developed to minimize and mitigate impacts to plant and wildlife habitat resulting from the loss of open space. Since the proposed project is in urbanized area, it will not have an effect on the City of Lodi habitat conservation plan or natural community conservation plan. Thus, no impact will occur.

	Potentially Significant Impact	**Potentially Significant Unless Mitigation Incorporated**	**Less Than Significant Impact**	**No Impact**
X. MINERAL RESOURCES. Would the project:				
a) Result in the loss of availability of a known mineral resource that would be of value to the region and the residents of the State?	❒	❒	❒	☒
b) Result in the loss of availability of a locally-important mineral resource recovery site delineated on a local general plan, specific plan or other land use plan?	❒	❒	❒	☒

a) Result in the loss of availability of a known mineral resource that would be of value to the region and the residents of the State?

According to the City's *General Plan*, the subject property and surrounding area are not known to contain regionally and/or state valued mineral resources. Therefore, implementation of the proposed project would not result in an impact to mineral resources.

b) Result in the loss of availability of a locally-important mineral resource recovery site delineated on a local general plan, specific plan or other land use plan?

The subject property has not been historically used for mineral extraction. In addition, the City's *General Plan* does not identify the project site as a locally important mineral resource recovery site. There would be no impact.

	Potentially Significant Impact	Potentially Significant Unless Mitigation Incorporated	Less Than Significant Impact	No Impact
XI. NOISE. Would the project result in:				
a) Exposure of persons to or generation of noise levels in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies?	☐	☐	☐	☒
b) Exposure of persons to or generation of excessive ground borne vibration or ground borne noise levels?	☐	☐	☒	☐
c) A substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project?	☐	☐	☒	☐
d) A substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project?	☐	☐	☒	☐
e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project expose people residing or working in the project area to excessive noise levels?	☐	☐	☐	☒
f) For a project within the vicinity of a private airstrip, would the project expose people residing or working in the project area to excessive noise levels?	☐	☐	☐	☒

a) Exposure of persons to or generation of noise levels in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies?

It is not anticipated that the proposed project would include features that would result in the significant increase in noise levels. The City's *General Plan* Noise Element outlines many goals and policies regarding land use and associated noise standards. Although the proposed project could result in an incremental increase in noise, it would not exceed the 70 dB standard, nor would it be located near an identified sensitive receptor outlined in *General Plan*. In addition, the project will require compliance with the City of Lodi's noise regulations. When it is determined what type of commercial development will occur on the property, appropriate design measures will be incorporated into the project. This could include additional setbacks, solid screen fencing or reorientation of the buildings to face away from existing residences. The design measures would be implemented via the required Site Plan and Architectural Review of the project.

b) Exposure of persons to or generation of excessive ground borne vibration or ground borne noise levels?

Ground borne vibrations occur when a vibration source causes soil particles to move or vibrate. Sources of ground borne vibrations include natural events (earthquakes, volcanic eruptions, sea waves, landslides, etc.) and human created events (explosions, operation of heavy machinery and heavy trucks, etc.). The proposed project would not involve any operations that would generate excessive ground borne vibrations or ground borne noise levels. Additionally, the area is already exposed to traffic related ground borne vibration from passing trucks and vehicles.

c) A substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project?

The project could result in an increase in ambient noise levels in the vicinity of the project site when the property is developed with commercial uses. Currently the properties contain residences. Any commercial use will be required to comply with the City's Noise regulations. It is anticipated that the future use of the property will be commercial uses that will operate during daytime hours and be closed at night. During daytime hours, the area currently has a fairly high ambient noise level, primarily a result of passing vehicular traffic, particularly from Kettleman Lane. It is not anticipated that the proposed project will significantly add to the ambient noise level.

d) A substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project?

There will be a temporary increase in noise levels during the construction phase of the project. The noise will be temporary in nature and will probably be over in six months or less. Construction activities will be required to comply with the City's Noise Ordinance which limits hours of construction and levels of noise permitted. There would be no significant impact.

e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project expose people residing or working in the project area to excessive noise levels?

The project site is not located within an airport land use plan, or within two miles of a public airport or public use airport.

f) For a project within the vicinity of a private airstrip, would the project expose people residing or working in the project area to excessive noise levels?

There are no active private airstrips within the City of Lodi. Therefore, no impacts would occur as a result of the proposed project.

	Potentially Significant Impact	Potentially Significant Unless Mitigation Incorporated	Less Than Significant Impact	No Impact
XII. POPULATION AND HOUSING. Would the project:				
a) Induce substantial population growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of roads or other infrastructure)?	❒	❒	❒	☒
b) Displace substantial numbers of existing housing, necessitating the construction of replacement housing elsewhere?	❒	❒	☒	❒
c) Displace substantial numbers of people, necessitating the construction of replacement housing elsewhere?	❒	❒	☒	❒

a) Induce substantial population growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of roads or other infrastructure)?

The proposed project would not include the construction of residential units, nor require the extension of roads or other infrastructure that could directly or indirectly induce substantial population growth. No impact would result.

b) Displace substantial numbers of existing housing, necessitating the construction of replacement housing elsewhere?

The proposed project seeks to rezone two residential properties into commercial zones. If developed with commercial uses, the existing residences will be removed. The removal of two residential units will not significantly impact the City's housing stock.

c) Displace substantial numbers of people, necessitating the construction of replacement housing elsewhere?

Refer to discussion in XII b.

	Potentially Significant Impact	Potentially Significant Unless Mitigation Incorporated	Less Than Significant Impact	No Impact
XIII. PUBLIC SERVICES.				
a) Would the project result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for any of the public services:	❒	❒	☒	❒
b) Fire protection?	❒	❒	☒	❒
c) Police protection?	❒	❒	☒	❒
d) Schools?	❒	❒	❒	☒
e) Parks?	❒	❒	❒	☒
f) Other public facilities?	❒	❒	❒	☒

a) Would the project result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for any of the public services: Fire protection, police protection, schools, parks, other public facilities?

Due to the nature of the proposed project, future use of the site will not result in substantial adverse impacts relatively to governmental facilities.

b) Fire protection?

The City of Lodi Fire Department would provide fire service to the project site. The Fire Department has four fire stations located within the City. The City's fire protection and established service ratios are based on the full build-out of the City's *General Plan.* Given that the proposed project would be consistent with overall developed area within the *General Plan,* the project would not involve new or more impacts to fire protection services than those already projected by that document. Impacts would be less than significant.

c) Police protection?

The City of Lodi Police Department would provide law enforcement services to the project site. Given that the proposed project already is served by the City of Lodi Police department, it would not need or involve new police protection. There will be no impact.

d) Schools?

The proposed project would require no school services, nor would create the need for new or expanded facilities. No impact would result.

e) Parks?

The proposed project would not contribute to the demand on existing parks, nor require the dedication of additional parkland. No impact would result.

f) Schools?

The project is not residential and will not generate any school aged children.

	Potentially Significant Impact	Potentially Significant Unless Mitigation Incorporated	Less Than Significant Impact	No Impact
XIV. RECREATION.				
a) Would the project increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated?	❒	❒	❒	☒
b) Does the project include recreational facilities or require the construction or expansion of recreational facilities which might have an adverse physical effect on the environment?	❒	❒	❒	☒

a) Would the project increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated?

The proposed rezoning project would not create additional demand for existing neighborhood or regional parks or other recreational facilities. No impact would result.

b) Does the project include recreational facilities or require the construction or expansion of recreational facilities which might have an adverse physical effect on the environment?

The proposed project would not include the construction or expansion of recreational facilities, nor would it require the construction or expansion of recreational facilities. Therefore, no impact would occur.

	Potentially Significant Impact	Potentially Significant Unless Mitigation Incorporated	Less Than Significant Impact	No Impact
XV. TRANSPORTATION/TRAFFIC. Would the project:				
a) Cause an increase in traffic which is substantial in relation to the existing traffic load and capacity of the street system (i.e., result in a substantial increase in either the number of vehicle trips, the volume to capacity ratio on roads, or congestion at intersections)?	☐	☐	☒	☐
b) Exceed, either individually or cumulatively, a level of service standard established by the county congestion management agency or designated roads or highways?	☐	☐	☐	☒
c) Result in a change in air traffic patterns, including either an increase in traffic levels or a change in location that results in substantial safety risks?	☐	☐	☐	☒
d) Substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)?	☐	☐	☐	☒
e) Result in inadequate emergency access?	☐	☐	☐	☒
f) Result in inadequate parking capacity?	☐	☐	☐	☒
g) Conflict with adopted polices, plans, or programs supporting alternative transportation (e.g., bus turnouts, bicycle racks)?	☐	☐	☐	☒

a) Cause an increase in traffic which is substantial in relation to the existing traffic load and capacity of the street system (i.e., result in a substantial increase in either the number of vehicle trips, the volume to capacity ratio on roads, or congestion at intersections)?

The intersection of Central Ave. and Kettleman Lane is controlled by a traffic signal. The intersection operates at an acceptable level of service. The 300 to 400 additional trips that the project might generate will not significantly impact the intersection or adjacent streets. Therefore, impacts would be less than significant.

b) Exceed, either individually or cumulatively, a level of service standard established by the county congestion management agency or designated roads or highways?

San Joaquin County does not have a congestion management agency. Therefore, no county congestion management agency designated roads or highways would be affected by the proposed project. There would be no impact.

c) Result in a change in air traffic patterns, including either an increase in traffic levels or a change in location that results in substantial safety risks?

The proposed project would not have any impact on air traffic patterns since the project is not located near an airport. No related impacts would occur as a result of the proposed project.

d) Substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)?

The proposed project does not call for any design change of the existing features. No related impacts would occur as a result of the proposed project.

e) Result in inadequate emergency access?

The proposed project is already served by the City of Lodi Police and Fire Departments. Therefore, the proposed project would not result in any inadequate emergency access to the site. There would be no impact.

f) Result in inadequate parking capacity?

The City of Lodi regulates parking requirements. Any future use of the site would have to comply with City of Lodi parking requirements. No impact would result.

g) Conflict with adopted polices, plans, or programs supporting alternative transportation (e.g., bus turnouts, bicycle racks)?

The proposed project would not conflict with adopted policies, plans or programs supporting alternative transportation. No impact would result.

	Potentially Significant Impact	**Potentially Significant Unless Mitigation Incorporated**	**Less Than Significant Impact**	**No Impact**
XVI. UTILITIES AND SERVICE SYSTEMS. Would the project:				
a) Exceed wastewater treatment requirements of the applicable Regional Water Quality Control Board?	❒	❒	❒	☒

	Potentially Significant Impact	Potentially Significant Unless Mitigation Incorporated	Less Than Significant Impact	No Impact
b) Require or result in the construction of new water or wastewater treatment facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?	❒	❒	❒	☒
c) Require or result in the construction of new storm water drainage facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?	❒	❒	❒	☒
d) Have sufficient water supplies available to serve the project from existing entitlements and resources, or are new or expanded entitlements needed?	❒	❒	❒	☒
e) Result in a determination by the wastewater treatment provider which serves or may serve the project that it has adequate capacity to serve the project=s projected demand in addition to the provider=s existing commitments?	❒	❒	❒	☒
f) Be served by a landfill with sufficient permitted capacity to accommodate the project=s solid waste disposal needs?	❒	❒	❒	☒
g) Comply with federal, State, and local statutes and regulations related to solid waste?	❒	❒	❒	☒

a) Exceed wastewater treatment requirements of the applicable Regional Water Quality Control Board?

The anticipated sewage discharge from the proposed project would not exceed wastewater treatment capacity at the City's wastewater treatment plant nor exceed any requirements of the Central Valley Regional Water Quality Control Board. No impact would result.

b) Require or result in the construction of new water or wastewater treatment facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?

The project site is located in an urbanized area that contains existing water and wastewater infrastructure. The proposed project would not require the construction of new water or wastewater treatment facilities or the expansion of existing facilities. No impact would result. Please refer to Checklist Items XVI d. and XVI e. for further details.

c) *Require or result in the construction of new storm water drainage facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?*

The City of Lodi operates a variety of storm water facilities, including storm drain lines, pump stations, inlet catch basins and retention and detention facilities in the area surrounding the project site. The facilities are adequate to serve the subject site and any future development. Due to the size and nature of the project, there would be no impact.

d) *Have sufficient water supplies available to serve the project from existing entitlements and resources, or are new or expanded entitlements needed?*

The City of Lodi Water Utility supplies and distributes potable water, as well as recycled water to the City and to some areas outside the City's jurisdiction. According to the City's *Urban Water Management Plan* (UWMP), the City currently has a net surplus in water supply given the City's current water entitlements and current water demand. Due to the size and nature of the project, there would be no impact.

e) *Result in a determination by the wastewater treatment provider which serves or may serve the project that it has adequate capacity to serve the project's projected demand in addition to the provider's existing commitments?*

The City of Lodi Public Works Department provides wastewater treatment for the City of Lodi. Wastewater in the City of Lodi is treated at the White Slough Water Pollution Control Facility (WSWPCF). The facility has been expanded to a design capacity of 8.5 million gallons (mgd) per day. The proposed project would not increase, in any significant way, demand on wastewater treatment.

f) *Be served by a landfill with sufficient permitted capacity to accommodate the project's solid waste disposal needs?*

The proposed project would not require any new landfill capacity. No impact would occur.

g) *Comply with federal, State, and local statutes and regulations related to solid waste?*

The proposed project would comply with federal, state, and local statutes related to solid waste. No solid waste regulatory impacts would occur as a result of the project.

	Potentially Significant Impact	Potentially Significant Unless Mitigation Incorporated	Less Than Significant Impact	No Impact
XVII. MANDATORY FINDINGS OF SIGNIFICANCE.				
a) Does the project have the potential to degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, reduce the number or restrict the range of a rare or endangered plant or animal, or eliminate important examples of the major periods of California history or prehistory?	❒	❒	☒	❒
b) Does the project have impacts that are individually limited, but cumulatively considerable? ("Cumulatively considerable" means that the incremental effects of a project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects.)	❒	❒	☒	❒
c) Does the project have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly?	❒	❒	❒	☒

a) Does the project have the potential to degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, reduce the number or restrict the range of a rare or endangered plant or animal, or eliminate important examples of the major periods of California history or prehistory?

The proposed project would not have significant environmental effects that would cause direct or indirect adverse effects to human beings.

b) Does the project have impacts that are individually limited, but cumulatively considerable? ("Cumulatively considerable" means that the incremental effects of a project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects.)

The proposed project concerns changing the General Plan designation and rezoning three parcels into a commercial zone. Incremental impacts associated with the proposed project would not be cumulatively considerable. Impacts would be less than significant.

c) Does the project have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly?

The proposed project would not have significant environmental effects that would cause direct or indirect adverse effects to human beings.

LODI
PLANNING COMMISSION
Staff Report

MEETING DATE:	February 14, 2007
APPLICATION NO:	General Plan Amendment 06-GPA-01 and Rezoning 06-Z-01
REQUEST:	Recommend to the City Council the following actions: 1) Approve Negative Declaration 06-03 as adequate environmental documentation for the proposal; 2) Amend the General Plan designation for 1333, 1325, and 1323 South Central Avenue (APN: 047-270-12, 047-270-11, and 047-270-10) from Eastside Residential to General Commercial; and 3) Rezone these same three properties from RE-1, Single Family Residential Eastside to C-2, General Commercial. (Applicant, Kenneth J. Gini; File # 06-GPA-01 and 06-Z-01).
LOCATION:	1323, 1325 and 1333 South Central Avenue, at the northwest corner of the Central Avenue and Kettleman Lane intersection.
APPLICANT:	Kenneth J. Gini
PROPERTY OWNERS:	Kenneth J. Gini 335 E Kettleman Lane Lodi, CA 95240 (1333 and 1323 South Central Avenue, APN: 047-270-12 and APN: 047-270-11, respectively). B V K INVESTMENT CO 5405 N Pershing Ave. Suite C-1 Stockton, CA 95207 (1323 South Central Ave, APN: 047-270-10).

RECOMMENDATION

Staff recommends that the Planning Commission recommend to the City Council the following actions: 1) Approve Negative Declaration 06-03 as adequate environmental documentation for the proposal; 2) Amend the General Plan designation for 1333 and 1325 South Central Avenue (APN: 047-270-12 and 047-270-11) from Eastside Residential to General Commercial; 3) Rezone these same two properties from RE-1, Single Family Residential Eastside to C-2, General Commercial; and 4) Consider amending the General Plan and Zoning designation for 1323 South Central Avenue (047-270-10) to GC and C-2, respectively.

PROJECT/AREA DESCRIPTION

GENERAL PLAN:	Eastside Residential (ER), General Commercial (GC).
ZONING DESIGNATION:	Residential-Single Family, Eastside (RE-1).
PROPERTY SIZE:	Three parcels totaling 18,330 square feet

Adjacent zoning and land use are as follows:

North:	Residential Single Family Eastside (RE-1).
South:	Commercial (C-2). The area is mostly general commercial with Single Family Residential (R-2) further south.
West:	Lodi Academy and General Commercial (C-2) further west.
East:	General Commercial (C-2)

SUMMARY

This is a request for a General Plan Amendment and Rezone by Mr. Kenneth J. Gini for two properties he owns and a consideration to amend the General Plan and Zoning designation for a property owned by a third party, all located near the intersection of Central Avenue and Kettleman Lane. This request includes three separate items. First is a request by the applicant for a General Plan Amendment to change the land use designation of the subject parcels from Eastside Residential (ER) to General Commercial (GC). The subject properties are 1325 South Central Ave (047-270-11) and 1333 South Central Ave (047-270-12). Second is a request by the applicant for a Rezone that changes the zoning designation from Single Family Eastside to General Commercial (RE-1 to C-2). Finally, the third item is a request for consideration to amend the General Plan and Zoning designations for 1323 South Central Avenue (APN: 047-270-10), which is owned by BVK Investment Co.

This property is approximately 10 feet wide and has a depth of 130 ft, with a total area of 1,300 square feet. This particular property is currently being used as a driveway to access commercially zoned properties that face Kettleman Lane and residential proprieties to the north. Given its size and current use, it would be an acceptable planning practice to consider amending the General Plan and zoning designations from ER to GC and RE-1 to C-2, respectively. Change in the General Plan and Zoning designation for this property establishes a clear and consistent boundary between subject commercial uses and residential uses in the north. The change in zoning would not restrict its current use and would not affect its tax base. Further, the zoning change would enable the applicant to construct commercial buildings up to this property line and avoid the 5-foot setback that would otherwise be required to separate commercial uses from residentially zoned properties.

BACKGROUND

The project site is located at the norththwest corner of Central Avenue and Kettleman Lane. The neighborhood is fully developed with single family residences, residences converted to commerical uses, and conventional commerical uses. The project site is adjacent to commercial zoning to the east, west and south, and single-family eastside zoning to the north. The applicant requests to have his two Central Ave. properties rezoned to General Commercial so that he can incorporate them with his Kettleman Lane commercial properties to form a single larger commercial property. The request to add the adjoining BVK owned property to the General Plan Amendment and rezoning would make a clear boundary between commercial and residential uses.

The last time this application was heard by the Planning Commission, the Planning Commission requested the applicant to submit a site plan for its review, expressed concerns regarding changing a Zoning designation without consent of the owner, and aesthetics of any future development of the site.

ANALYSIS

The applicant requests a General Plan Amendment and rezoning for his two properties on Central Avenue. The change in zoning would allow him to merge his two Central Avenue properties with his two other properties that face Kettleman Lane, which would allow him to expand his existing commercial development. In order to make a clear boundary between different land use patterns, staff is suggesting that the Planning Commission consider a General Plan Amendment and Rezoning for an additional parcel at 1323 South Central Avenue, which is a total of 1,300 square foot in area. This parcel has a different owner. In response to staff's notification, the property owner, BVK Investment Co., has stated via fax that they oppose the inclusion of their property in this request to amend the General Plan and zoning designation.

Staff has learned from the applicant that BVK Investment Co. and the applicant have been unable to reach a financial agreement for the sale and purchase of this property. However, Staff supports the General Plan Amendment and Rezoning for 1323 South Central Avenue because it will make it consistent with the existing General Plan and Zoning designation to the west and the proposed changes to the south. Adding the property to the proposed commercial rezoning to the south will also create a consistent and straight east-west boundary between commercial and residential uses on the north side of Kettleman Lane. Staff understands that adjoining properties and businesses currently uses this property as a driveway to access properties zoned General Commercial that face Kettleman Lane, and residential properties to the north. Staff and Mr. Gini understands that without the change in zoning and General Plan designation of 1323 South Central Avenue the strict application of the City Zoning Code will require the applicant to develop his property with a 5-foot setback and a screening wall between his property and the driveway to the north.

The change in zoning to C-2 will allow land uses in the subject properties similar to the uses currently existing along Kettleman Lane and as specifically permitted by the City's Zoning Ordinances. Given the property at 1323 South Central Avenue is actually being used as a driveway and is not likely to change in use, staff believes that the proposed zone change will have no affect on the value or use of the property.

The last time this project was publicly heard by the Planning Commission, the Planning Commission directed staff to ascertain how a change in zone designation might affect 1323 South Central Avenue. The County Assessor's Office has indicated that the affects of any zone change will be negligible since the property is too small to build-on and its tax assessment will be based on the actual or potential use of the property, not the underlying zoning.

It is important to note that the Planning Commission was concerned about site plan, architectural design of future buildings on the site and how buildings constructed on the property line would affect residential use to the north. As Mr. Gini indicates in his site plan and in the accompanying letter (attached), the applicant requests to amend General Plan and Zoning designations for 1323 South Central Avenue so that he won't be required to provide a landscaped 5-foot buffer area. He contends that a 5-foot setback reduces his overall buildable area and would make it difficult to provide the required parking spaces and create acceptable and adequate traffic flow. In order to ease the Planning Commission's concerns regarding potential graffiti problems, the applicant proposes to install 2-3 outside lights on his building to illuminate the area and improve security. Further, he proposes the northern wall of the building would feature a design of smooth and split face block to give it a pattern along its length, which he contends will enhance its architectural features and deter possible graffiti problems in the future. However, staff is of the opinion that the proposed façade of buildings could be designed

better, the location of the refuse enclosure could potentially hamper traffic flow, the landscaping plan is inadequate and the overall parking layout could be designed to improve traffic flow.

Mr. Gini has provided a site and preliminary landscape plan elevation of the proposed building. Staff is of the opinion that design of the two buildings are attractive and will be an asset to the area. The body of the building will be stucco in light grey color accented by burgundy colored decorative tiles. A wall cornice detail in a dark grey color is provided. Split face cornice block is as a bare trip in the front elevations and as a solid buffer wall on the north (residential facing) elevation on the largest building. The roof has peaked elements to break-up the flat roof.

The site plan shows the main access (varying from 25' to 30.7' in width) along the building with parking in the center of the "L" shaped site. Modest landscaping with ground cover and trees is within the parking area. The parking stalls are 9' by 17.5' (using a 2' overhang into the planters). Given the size of the buildings and an auto service use, 29 parking spaces are required and 29 are provided. The trash enclosure is at the corner of the "L" in the parking area. Staff is of the opinion that the site is tight and developed at the maximum. The trash enclosure is awkwardly placed for pick-up and staff would expect there to be some difficulties in the servicing of the trash bins. Also, the parking spaces are tight 9'x17.5', requiring the use of overhand in the planters. Further, the site layout requires the building to be placed on the northern property line. This is why the applicant request a General Plan and Zoning change of the BVK property. There is simply not enough room in the layout for a 5' setback from the property line.

While the site plan and layout appear to meet the minimum setbacks if the General Plan change and Rezoning are granted, the Planning Commission needs to evaluate whether this General Plan change and Rezoning for the BVK property is appropriate. It could be a conclusion that the site is being over developed and that scaling back the intensity of the proposed development may be appropriate. Staff has provided resolutions for approval as proposed. Any change derived by the Commission would require different resolution be prepared.

ENVIRONMENTAL ASSESSMENTS:
The California Environmental Quality Act requires that projects be reviewed for their potential to create environmental impacts. The process requires that potential areas of impact be identified and a level of significance assessed. Staff prepared an Initial Study to review and assess impacts. Staff sent the proposed Negative Declaration to various agencies for review, published, and posted our intent to issue a Negative Declaration for the required 30-day period. This project was found to have no impacts that could be found significant if not mitigated via normal conditions of future development. In conclusion, Staff finds that the proposed project meets these requirements and is therefore exempt from further review under CEQA. A Negative Declaration, ND-06-03 adequately addresses potential environmental impacts that could occur as result of this project. No significant impacts are anticipated and no mitigation measures have been required.

PUBLIC HEARING NOTICE:
Legal Notice for the Use Permit was published on October 27, 2006. 51 public hearing notices were sent to all property owners of record within a 300-foot radius of the subject property as required by California State Law §65091 (a) 3. Based on the information provided to staff, it was determined that there are no Planning Commission members who reside within 500-foot radius of the project area.

ALTERNATIVE PLANNING COMMISSION ACTIONS:

- Approve the Request with Alternate Conditions
- Deny the Request
- Continue the Request

Respectfully Submitted,

Immanuel Bereket
Junior Planner

Concur,

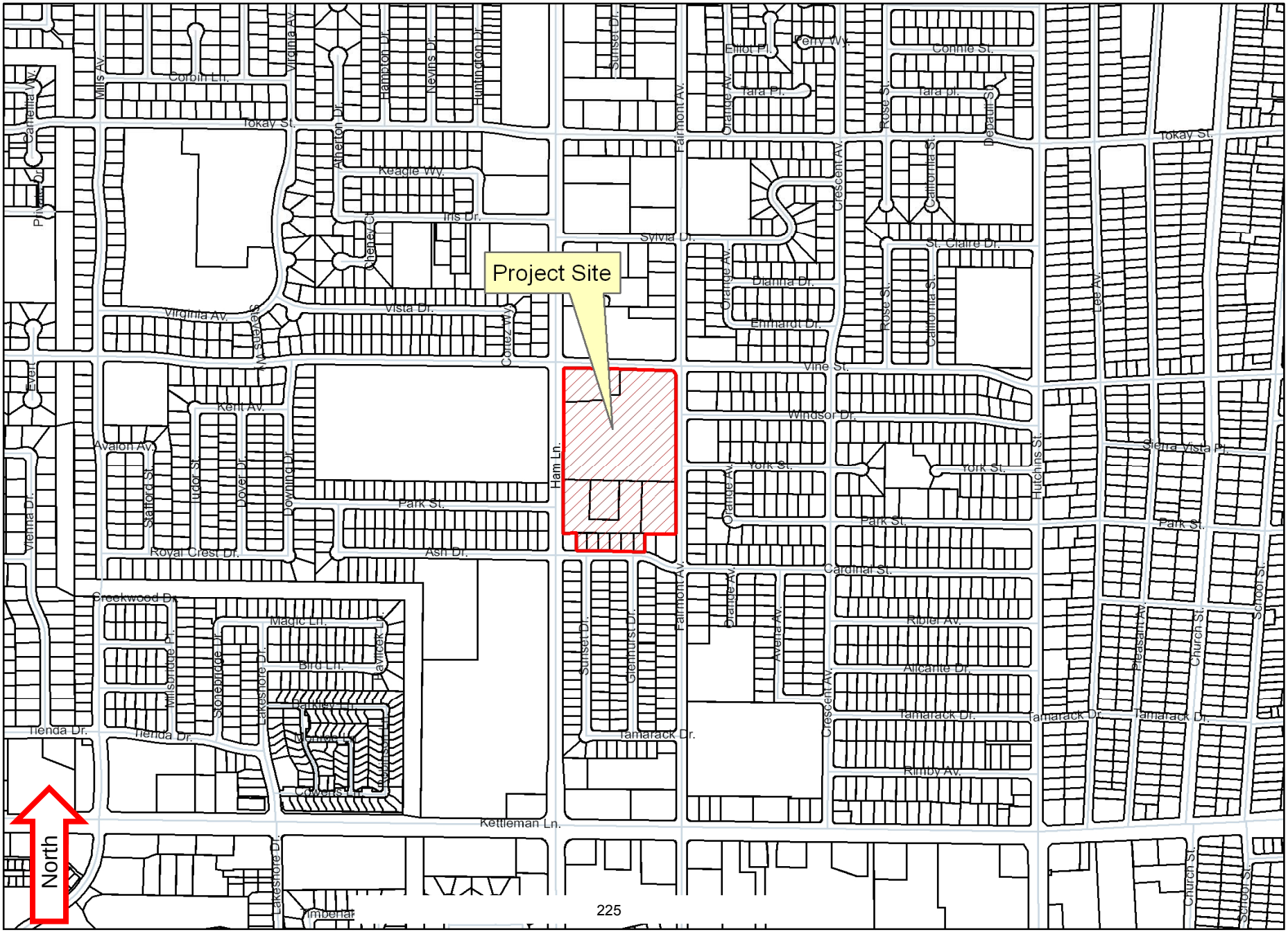
Randy Hatch
Community Development Director

ATTACHMENTS:

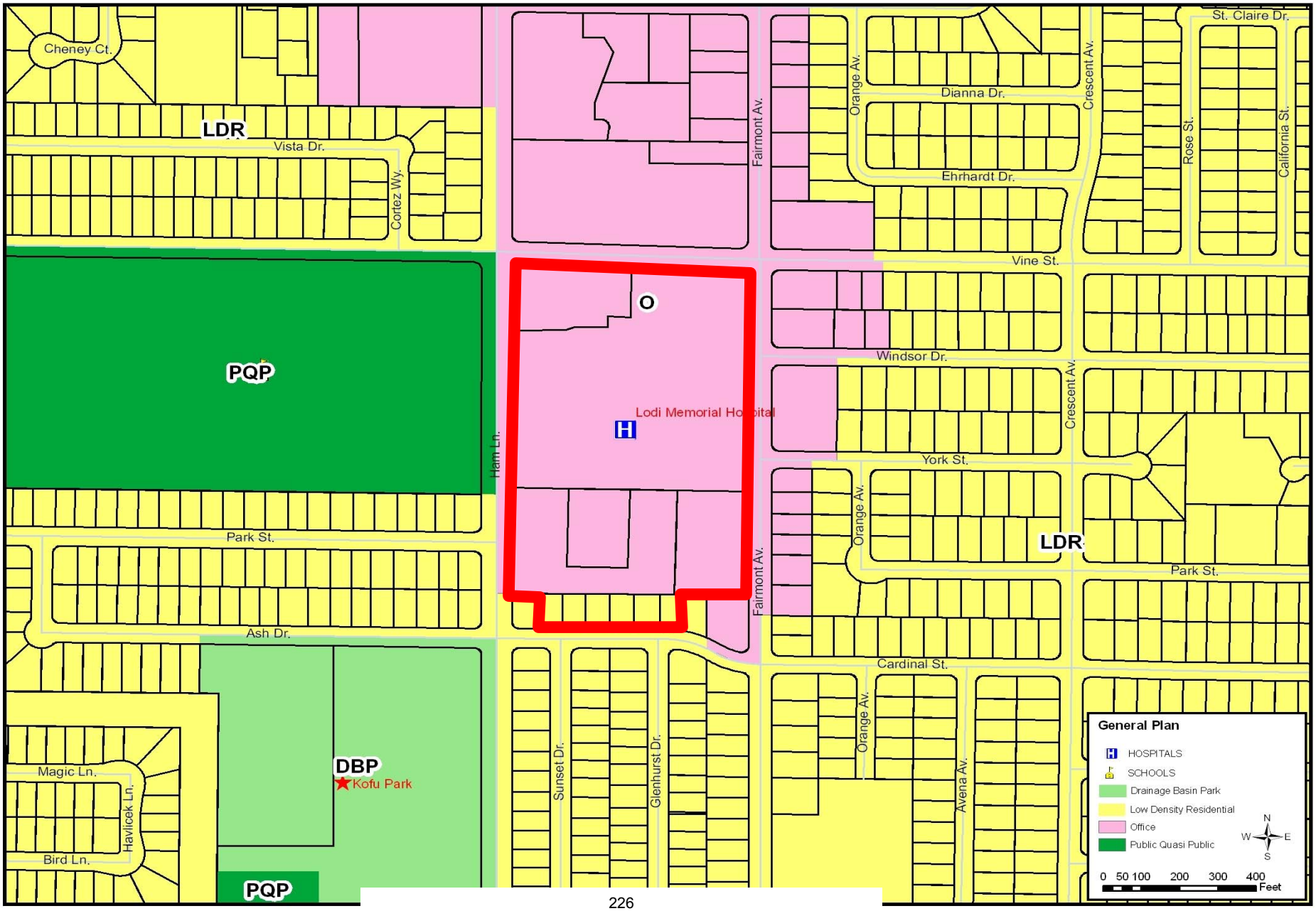
1. Vicinity Map
2. General Plan Map
3. Zoning Map
4. Site Plan, Elevation and Renderings
5. Comment Letters
6. Draft Resolutions

LODI MEMORIAL HOSPITAL PROJECT

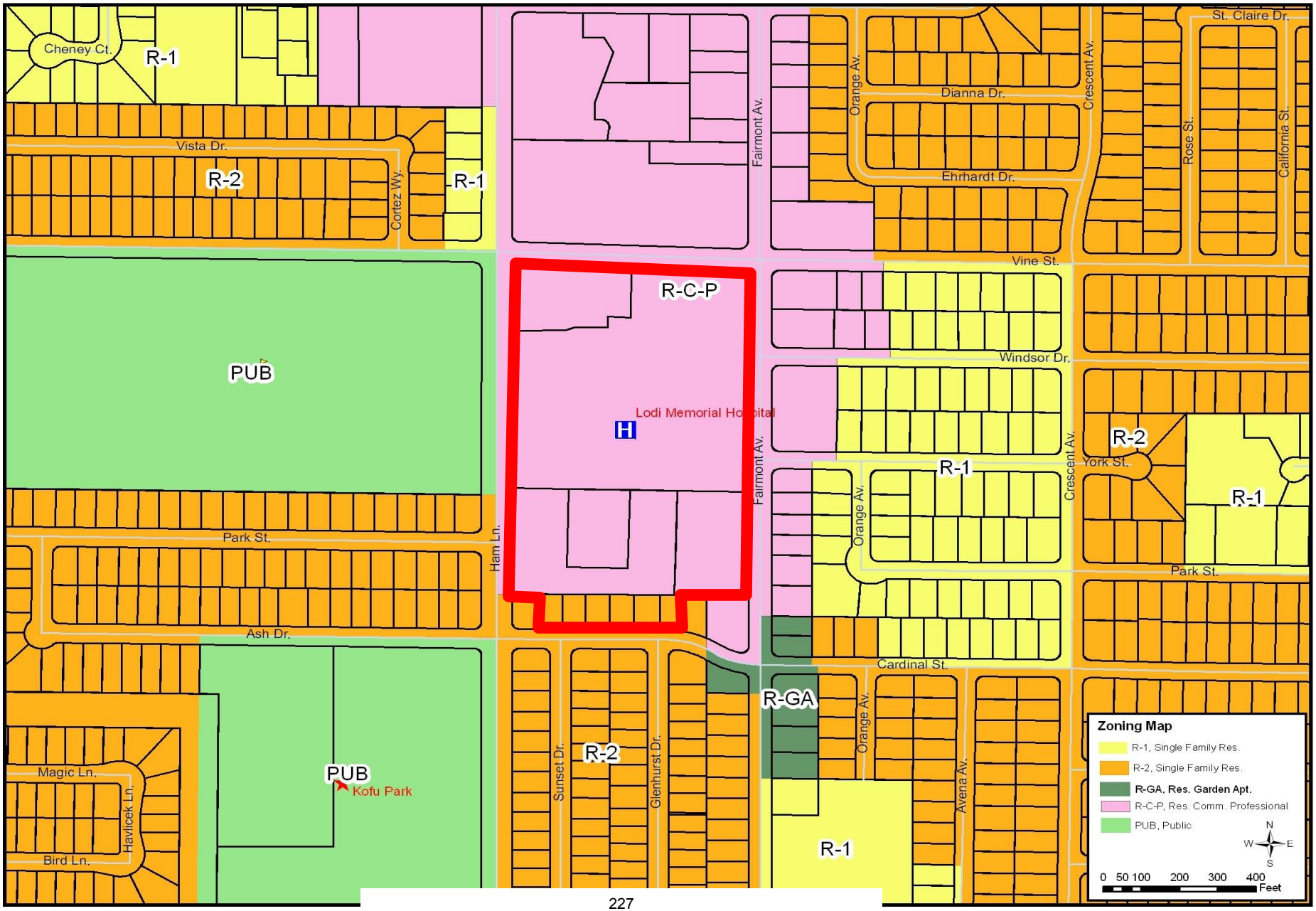
Vicinity Map



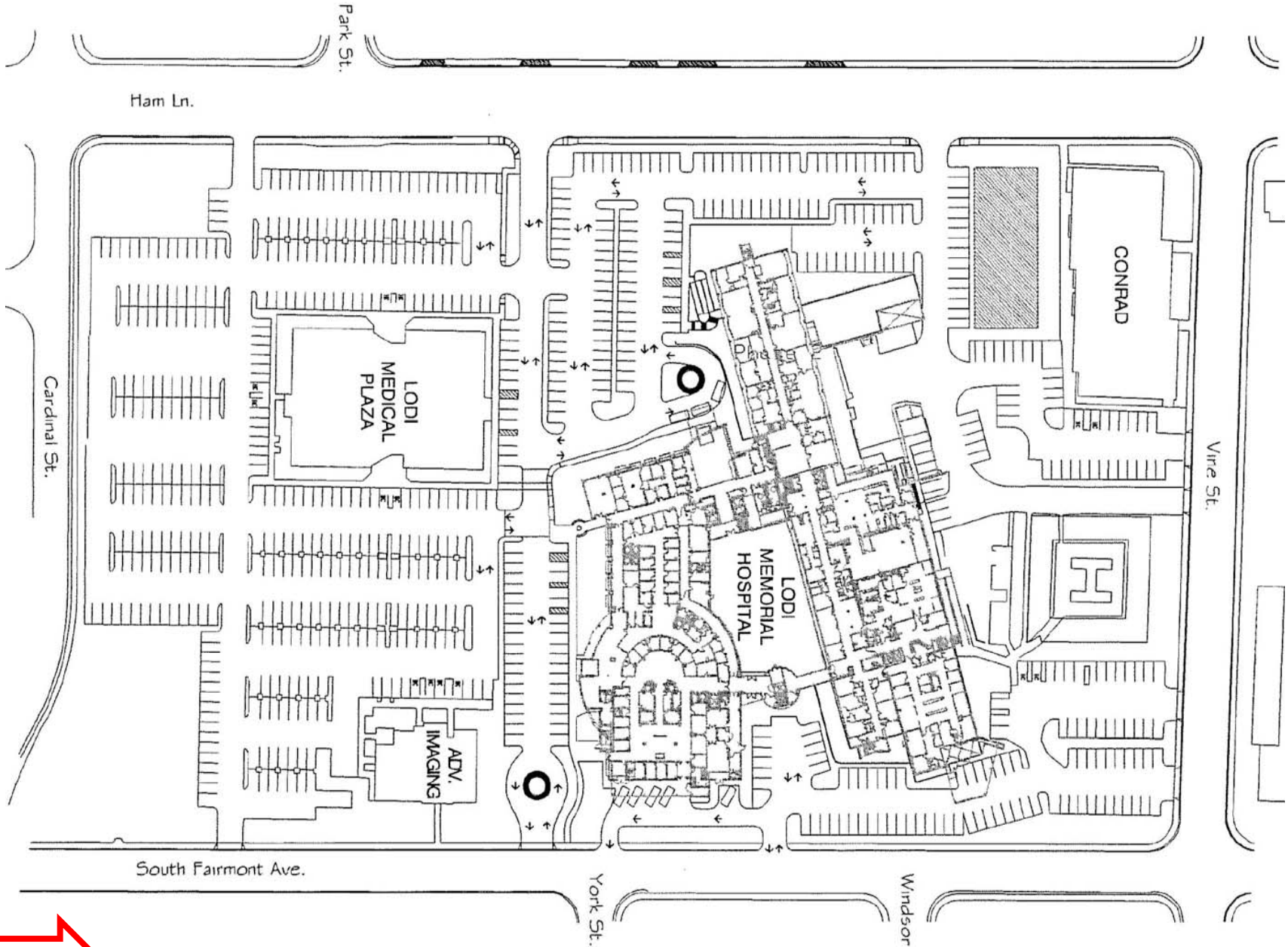
Existing General Plan Designations



Existing Zoning Designations



Proposed Site Plan

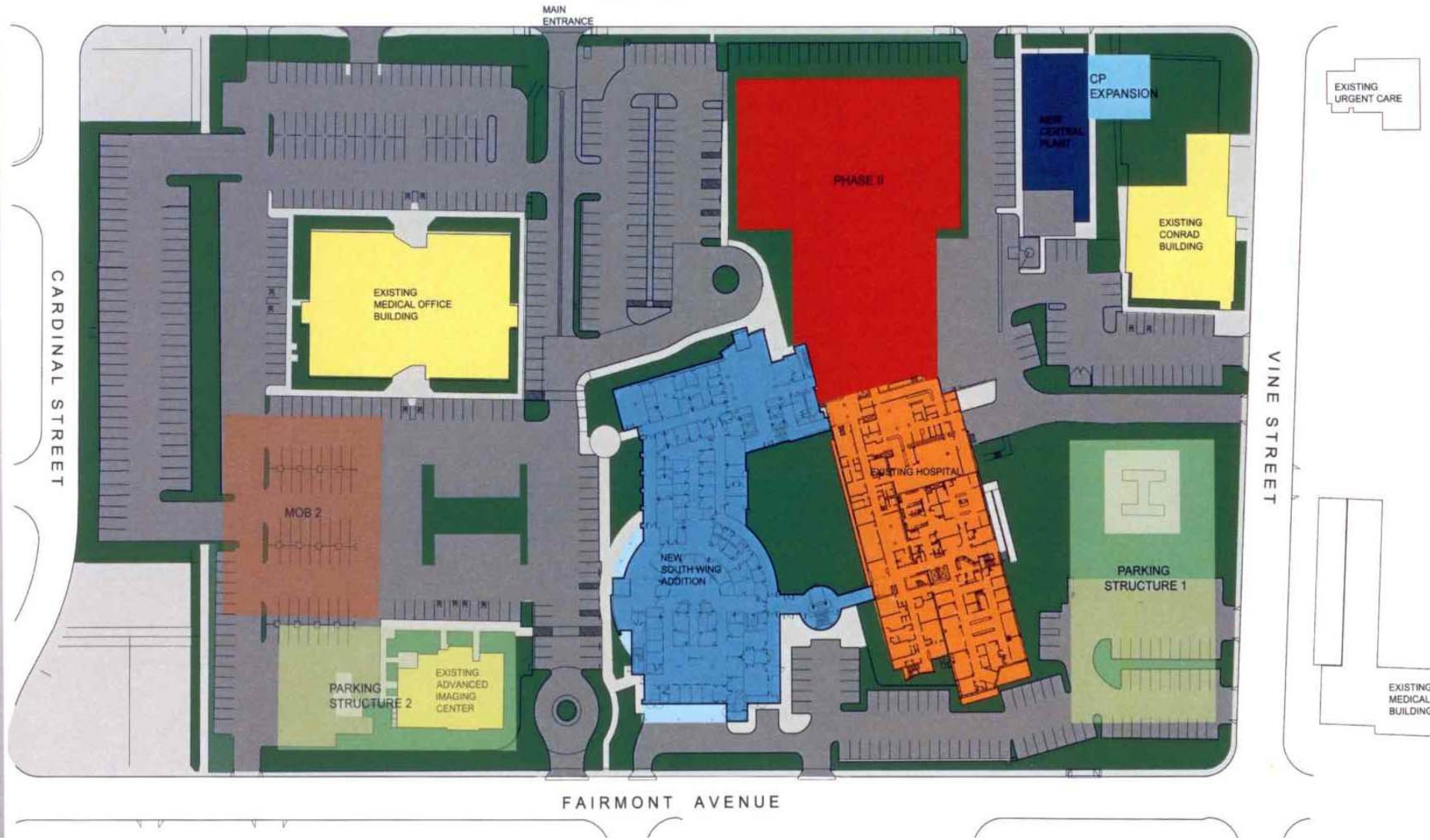


North

Projected Expansion by 2013

North

Projected Expansion by 2030

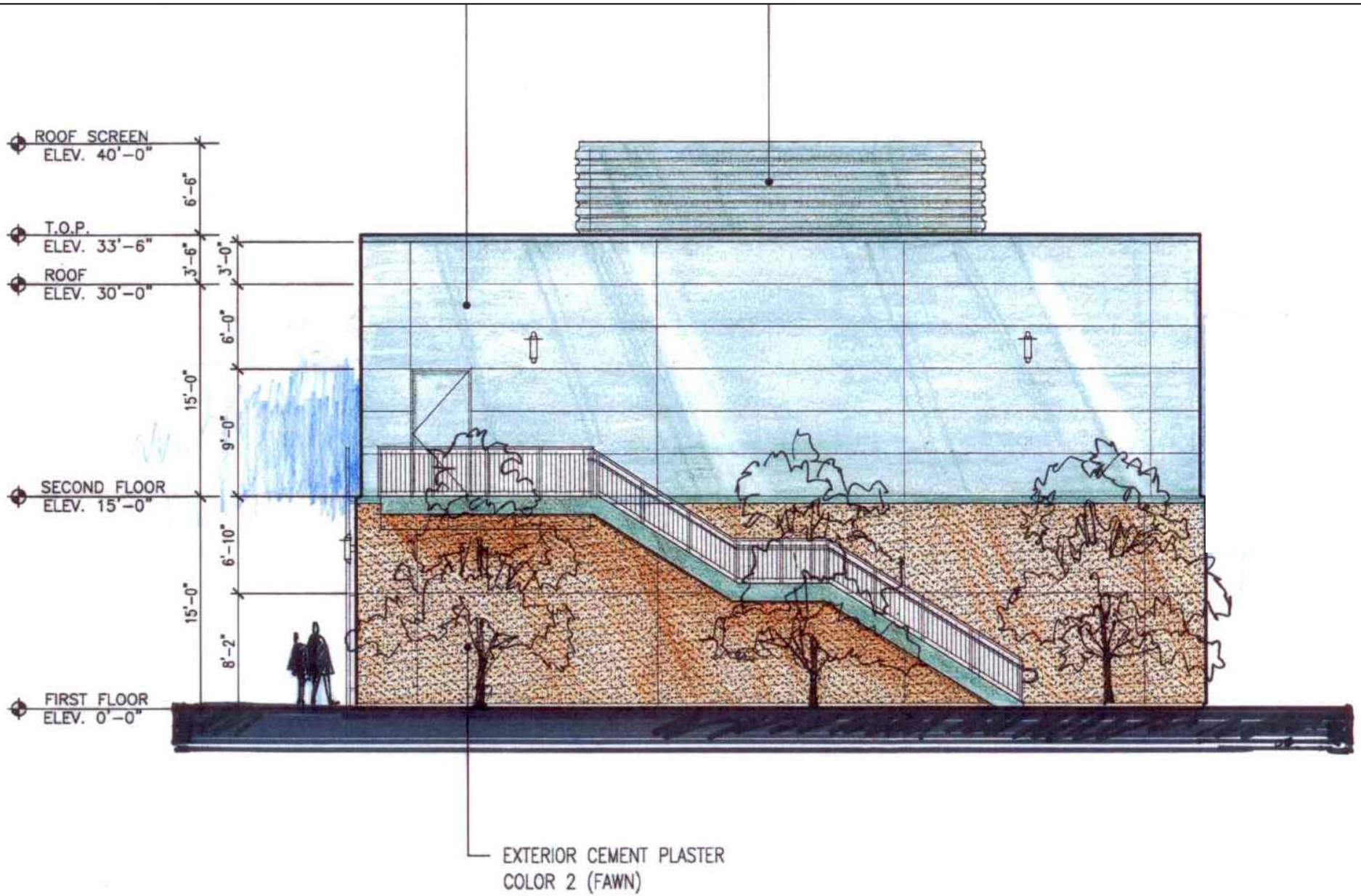


North

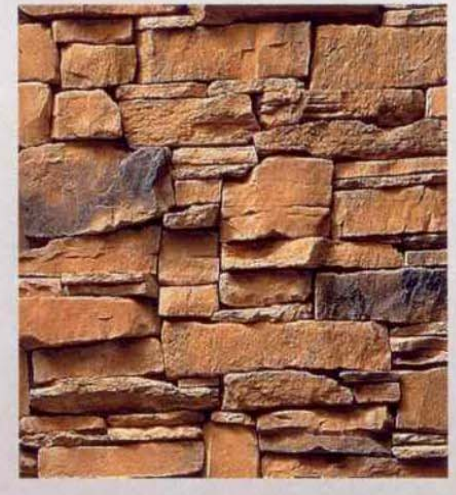
Building Elevation of the South Wing Addition

Building Elevation of the South Wing Addition

Central Plant Elevation

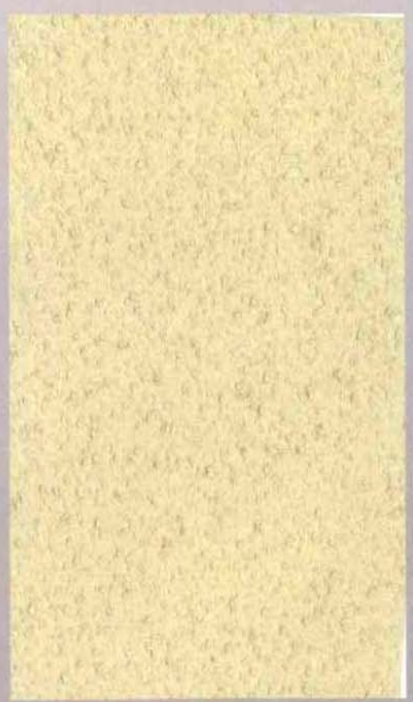


Exterior Finish Materials



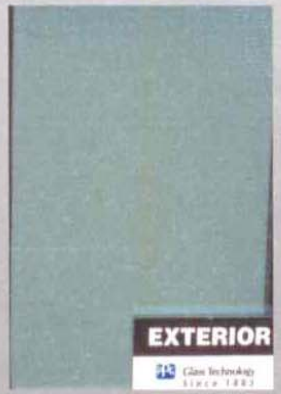
Cultured Stone
Fawn

Exterior Stucco
Saddle Brown



Metal Panel
Lee Ivory

Metal Panel
Sea Green



Glass
Light Green

ASSESSOR-RECORDER
2006 DEC 29 PM 12:59
SAN JOAQUIN COUNTY
RECEIVED
DEVELOPMENT DEPT
CITY OF LODI

INITIAL STUDY/NEGATIVE DECLARATION NO. 06-04

FOR

Lodi Memorial Hospital Addition

Applicant: Lodi Memorial Hospital
975 South Fairmont Avenue
Lodi, CA 95240

PREPARED BY:

CITY OF LODI
COMMUNITY DEVELOPMENT DEPARTMENT
P. O. BOX 3006
LODI, CA 95241

January 2, 2007

NOTICE OF INTENT TO ADOPT A MITIGATED NEGATIVE DECLARATION

Notice is herby given that The City of Lodi, Community Development Department, has completed an initial study and proposed negative declaration pursuant to the California Environmental Quality Act for the project described below.

The initial study prepared by the City was undertaken for the purpose of determining whether the project may have a significant effect on the environment. On the basis of the initial study, Community Development Department staff has concluded that the project will not have a significant effect on the environment, and therefore has prepared a proposed Negative Declaration. The initial study reflects the independent judgment of the City.

File Number: 06-04

Project Title: Lodi Memorial Hospital Addition

Project Description: The project site is located in the City of Lodi, County of San Joaquin. The subject property is located at 975 South Fairmont Avenue. The applicant, Lodi Memorial Hospital is proposing to build a new four-story addition to their existing hospital building. One of the main reasons for the expansion is the need to construct a modern hospital facility that will comply with current seismic standards. The existing hospital contains 147,347 square feet of building and 107-beds in a three-story structure. The Phase One expansion will add a new south wing that will add 131,229 square feet of building and contain 90 beds. Once completed, the hospital will have a total of 362,082 square feet and 157-beds. (The total number of beds reflects the removal of 28-beds in the existing west hospital wing due to seismic requirements and additional rooms lost elsewhere due to the remodeling.) The project will also include the construction of a new 14,506 square-foot, two-story central plant adjacent to the hospital that will house the mechanical equipment, utilities and other support facilities for the hospital. As part of the expansion the hospital will also expand their parking lot by removing six single-family residences and replacing them with parking and landscaping.

Copies of the Initial Study and the proposed Negative Declaration are on file and available for review at the following locations: 1) Lodi City Hall, Community Development Department located at 221 West Pine Street, Lodi, CA 95240; 2) Lodi Public Library, 201 West Locust Street, Lodi, CA 95240; and 3)City of Lodi website at www.lodi.gov. The City will receive comment on the Initial Study and proposed Negative declaration for a 30-day period, commencing on Tuesday January 2nd, 2007 through Monday, February 5, 2007. Any person wishing to comment on the Initial Study and proposed Negative Declaration must submit such comments in writing to the City of Lodi at the following address:

Randy Hatch, Director of Community Development
Community Development Department
City of Lodi
P. O. Box 3006
Lodi, CA 95241

The City will provide additional public notices when the public hearings have been scheduled to consider approval of the Negative Declaration.

For Randy Hatch, Director of Community Development
January 2, 2007.

City of Lodi **Proposed Mitigated Negative Declaration**

Prepared pursuant to City of Lodi Environmental Guidelines, §§ 1.7 (c), 5.5

File Number: 06-04

Project Title: **Lodi Memorial Hospital Addition**

Project Description:
The applicant, Lodi Memorial Hospital is proposing to build a new four-story addition to their existing hospital building. One of the main reasons for the expansion is the need to construct a modern hospital facility that will comply with current seismic standards. The existing hospital contains 147,347 square feet of building and 107-beds in a three-story structure. The Phase One expansion will add a new south wing that will add 131,229 square feet of building and contain 90 beds. Once completed, the hospital will have a total of 362,082 square feet and 157-beds. (The total number of beds reflects the removal of 28-beds in the existing west hospital wing due to seismic requirements and additional rooms lost elsewhere due to the remodeling.) The project will also include the construction of a new 14,506 square-foot, two-story central plant adjacent to the hospital that will house the mechanical equipment, utilities and other support facilities for the hospital. As part of the expansion the hospital will also expand their parking lot by removing six single-family residences and replacing them with parking and landscaping.

Currently the property contains an existing three-story 147,347 square foot, 107-bed hospital; a 48,000 square foot medical clinic; a 6,000 medical clinic and a 15,000 square foot office building. There is also associated employee and visitor parking scattered throughout the property, as well as a helicopter landing pad. The Lodi Memorial Hospital and their affiliated entities own a total of 17.56 acres at the project location, including six residential lots along Cardinal Street.

Project Location:
The subject property is located in the City of Lodi, County of San Joaquin. The properties located at 975 South Fairmont Avenue, Lodi, CA 95240.

Name of Project Proponent/Applicant: Lodi Memorial Hospital

A copy of the Initial Study ("Environmental Information Form" and "Environment Checklist") documenting the reasons to support the adoption of a Negative Declaration is available at the City of Lodi Community Development Department.

Mitigation measures are ☒ are not ☐included in the project to avoid potentially significant effects on the environment.

The public review on the proposed Negative Declaration will end at 5:00 p.m. on Monday, February 5, 2007.

The Planning Commission will hold a public hearing on the proposed negative declaration and the proposed project in February 14, 2006.

For Randy Hatch — January 2, 2007
Date Director of Community Development

1. Project Title: Lodi Memorial Hospital Addition

2. Lead Agency Name and Address:
City of Lodi Community Development Department
221 West Pine Street
P. O. Box 3006
Lodi, CA 95241

3. Contact Person and Phone Number:
David Morimoto, Senior Planner
Immanuel Bereket, Junior Planner
Phone: (209)333-6711

4. Project Location: Lodi, California.

Address	Assessor's parcel number
975 South Fairmont Avenue	031-070-40
1200 W. Vine Street	031-070-37
999 S. Fairmont Ave.	031-070-45
975 S. Fairmont Ave.	031-070-44
1031 S. Fairmont Ave.	031-070-46
1201 W. Cardinal St.	031-080-02
1139 W. Cardinal St.	031-080-03
1133 W. Cardinal St.	030-080-04
1127 W. Cardinal St.	031-080-05
1121 W. Cardinal St.	031-080-06
1115 W. Cardinal St.	031-080-07

5. Project Sponsor's Name and Address:
Lodi Memorial Hospital
975 South Fairmont Avenue
Lodi, CA 95240

6. General Plan designation
O, Office and LDR, Low Density Residential

7. Zoning:
R-CP, Residential-Commercial Professional and R-2, Single-family residential

8. Description of Project:
The applicant, Lodi Memorial Hospital is proposing to build a new four-story addition to their existing hospital building. One of the main reasons for the expansion is the need to construct a modern hospital facility that will comply with current seismic standards. The existing hospital contains 147,347 square feet of building area and 107-beds in a three-story structure. The Phase One expansion will add a new south wing that will add 131,229 square feet of building area and accommodate 90 beds. Once completed, the hospital will have a total of 362,082 square feet and 157-beds. (The total number of beds reflects the removal of 28-beds in the existing west hospital wing due to seismic requirements and additional beds lost elsewhere due to the remodeling). The project will also include the construction of a new 14,506 square-foot, two-story central plant adjacent to the hospital that will house the mechanical equipment, utilities and

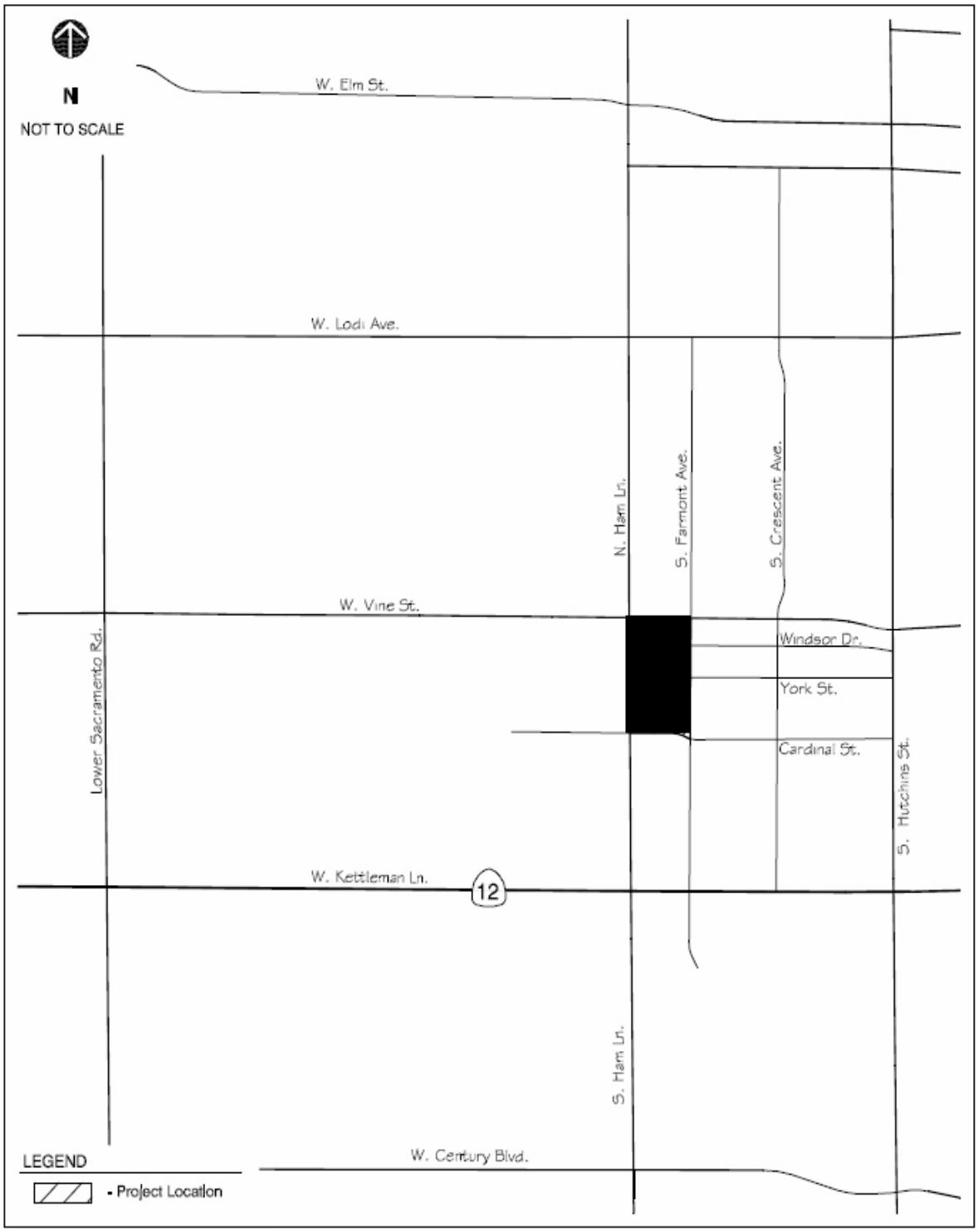
other support equipment for the hospital. As part of the project the hospital will also expand their parking lot by removing six single-family residences and replacing them with parking and landscaping.

Currently the property contains an existing three-story 147,347 square foot, 107-bed hospital; a 48,000 square foot medical clinic; a 6,000 square-foot medical clinic and a 15,000 square-foot office building. There is also associated employee and visitor parking scattered throughout the property, as well as a helicopter landing pad. The Lodi Memorial Hospital and their affiliated entities own a total of 17.56 acres at the project location, including six residential lots along Cardinal Street.

9. Surrounding Land Uses and Setting: Briefly describe the project's surroundings:
The proposed project is located in a transitional area with medical and business offices to the north and east and residential uses to the south and west. The area north of the hospital is zoned RCP, residential commercial professional and is developed primarily with health care related offices and facilities. Fairmont Ave., which borders the hospital property on the east, and Ham Lane which borders the hospital property on the west, are the primary medical office areas in the City. South of the Hospital property the area is zoned residential and is primarily developed with single-family houses. There is a large school, Lodi Middle School, located east of the hospital, across Ham Lane.

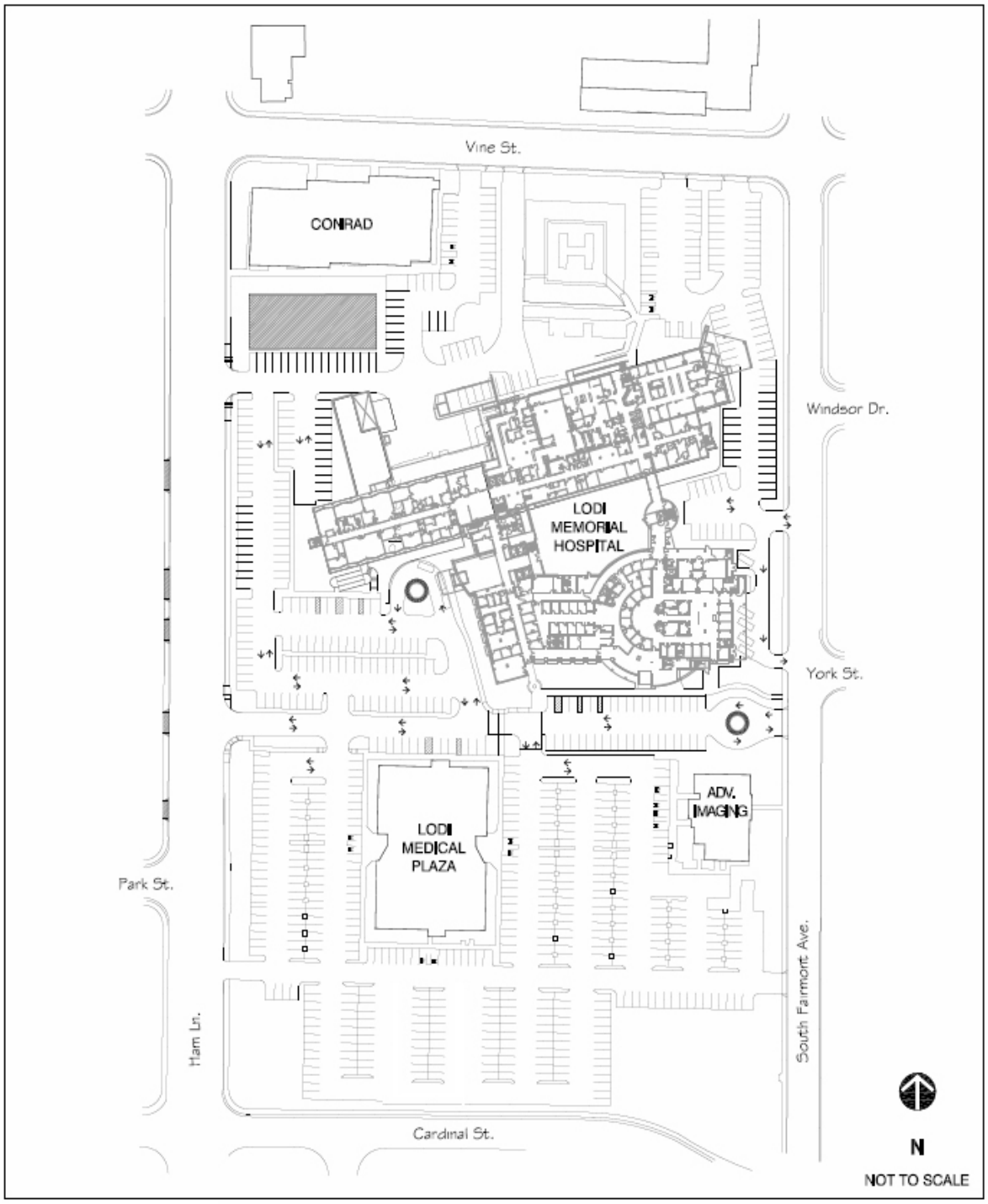
The project will be constructed with in the existing boundaries of the hospital property except for a small area on the south edge of the development. There are eight residential parcels located on the north side of Cardinal Street that backed up to the hospital property. The hospital has purchased six of these houses and proposes to incorporate these properties into the project and will utilize the land for additional parking and for a landscaped buffer along Cardinal Street.

10. Other agencies whose approval is required (e.g., permits, financing approval, or participation agreement.)
City of Lodi; California Office of Statewide Health Planning and Development; San Joaquin Air Quality Management District and the California Department of Health Services.



PROJECT LOCATION

FIGURE 1



SITE PLAN WITH SOUTH WING ADDITION

FIGURE 2

Environmental Factors Potentially Affected:

The environmental factors checked below would be potentially affected by this project, involving at least one impact that is a "Potentially Significant Impact" as indicated by the checklist on the following pages.

☒ Aesthetics	❒ Agricultural Resources	☒ Air Quality
❒ Biological Resources	❒ Cultural Resources	❒ Geology/Soils
☒ Hazards & Hazardous Materials	❒ Hydrology/Water Quality	❒ Land Use/Planning
❒ Mineral Resources	❒ Recreation	☒ Population/Housing
❒ Public Services	☒ Noise	☒ Transportation/Traffic
❒ Utilities/Service Systems		

Determination

On the basis of this initial evaluation:

❒ I find that the proposed project COULD NOT have a significant effect on the environment, and a NEGATIVE DECLARATION will be prepared.

☒ I find that although the proposed project could have a significant effect on the environment, there will not be a significant effect in this case because revisions in the project have been made by or agreed to by the project proponent. A MITIGATED NEGATIVE DECLARATION will be prepared.

❒ I find that the proposed project MAY have a significant effect on the environment, and an ENVIRONMENTAL IMPACT REPORT is required.

❒ I find that the proposed project MAY have a "potentially significant impact" or "potentially significant unless mitigated" impact on the environment, but at least one effect 1) has been adequately analyzed in an earlier document pursuant to applicable legal standards, and 2) has been addressed by mitigation measures based on the earlier analysis as described on attached sheets. An ENVIRONMENTAL IMPACT REPORT is required, but it must analyze only the effects that remain to be addressed.

❒ I find that although the proposed project could have a significant effect on the environment, because all potentially significant effects (a) have been analyzed adequately in an earlier EIR or NEGATIVE DECLARATION pursuant to applicable standards, and (b) have been avoided or mitigated pursuant to that earlier EIR or NEGATIVE DECLARATION, including revisions or mitigation measures that are imposed upon the proposed project, nothing further is required.

_____ _____
Signature Date

_____
Printed Name

.	Potentially Significant Impact	Potentially Significant Unless Mitigation Incorporated	Less Than Significant Impact	No Impact
I. AESTHETICS. Would the project:				
a) Have a substantial adverse effect on a scenic vista?	❒	❒	☒	❒
b) Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a State scenic highway?	❒	❒	❒	☒
c) Substantially degrade the existing visual character or quality of the site and its surroundings?	❒	❒	☒	❒
d) Create a new source of substantial light or glare which would adversely affect day or nighttime views in the area?	❒	❒	☒	❒

a) Have a substantial adverse effect on a scenic vista?

The area is fully developed with residential, commercial or institutional structures. There are no natural vistas beyond normal urban street views and urban landscaping. The project would temporarily change the appearance of the site during construction. There will be some disruption of the site as a result of grading; removal of existing landscaping and paved areas; storage of dirt and building materials; and other construction activities. The disruption of the site will only last as long as construction is taking place. Once completed, the site will be restored with new landscaping and parking areas.

The addition itself will replace an area currently used for parking and driveways with a four-story structure. While the structure will be clearly visible from surrounding properties, it would not affect any scenic vistas. The existing hospital wing is a three story structure and there is another two story office building existing on the site. The proposed addition is designed to compliment the existing hospital and to be an attractive addition to the community. While taller than other structures in the neighborhood, the new hospital wing will not detract from the scenic views of the neighborhood. There will be a less than significant impact.

b) Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a State scenic highway?

The project would not damage any scenic resources, and is not located within the vicinity of a state scenic highway. There would be less than significant impact.

c) Substantially degrade the existing visual character or quality of the site and its surroundings?

The project will involve the construction of a new four story hospital wing on the property. This will be an addition to an existing three story hospital building. While the addition will be clearly visible from the surrounding area, it is not anticipated that the addition will substantially degrade the visual character of the area. The building addition is designed to compliment the existing architecture of the hospital and to be visually attractive from the surrounding area. The project will be reviewed by the City's Site Plan and Architectural Review Committee (SPARC). The Committee will review the project for architectural integrity and to assure that the addition will blend in with the existing structures on the site. They will also review the site design, including landscaping, to make sure that the project will be aesthetically attractive and will blend in with the surrounding neighborhood as much as possible. There will be landscaping around the entire perimeter of the property, including tall trees to help screen the buildings. The parking areas will also be landscaped to improve the visual quality of the site and to provide additional shading.

The hospital is also proposing to construct a solid block wall parallel to Cardinal Street to screen the hospital property and the new parking lot expansion. There will also be a 20-foot wide landscaped buffer between the block wall and the Cardinal St. sidewalk. This will provide a visual buffer between the project site and Cardinal Street and the properties to the south. There measures will reduce the potential visual impacts of the project to a less than significant level. Therefore, there will be less than significant impact.

d) Create a new source of substantial light or glare which would adversely affect day or nighttime view in the area?

The proposed Lodi Memorial Hospital expansion will create additional lighting on the subject property. The building itself will have both internal and external lighting. Additionally, the parking and driveway areas will have lighting for visibility and safety reasons. It is anticipated that at night, most of the patient rooms will have their lights turned off or their blinds drawn so the building will not be fully lit up on a 24-hour basis. External building lights will probably remain on at night for safety reasons. Except for the new building, the overall lighting scheme will be similar to what is already at this site. The existing hospital building has both interior and exterior lighting. The existing parking lot and hospital grounds have lighting and there are existing street lights along all perimeter streets. The hours of operation for the hospital or the way they operate will not change significantly. As part of the SPARC review, the Committee will review exterior lighting on the project and make sure that lights are low level or shielded lighting to minimize light spilling onto adjacent properties.

The proposed buildings will be designed with non-reflective glass to reduce the possibility of additional glare on the surrounding area. The solid portions of the exterior wall will also be designed with a non-glare material like plaster or stone veneer and will be painted a color shade that will minimize reflective glare. These features plus the planting of trees and other landscaping will reduce the chance of added glare to a less than significant level. Therefore, there will be less than significant impact.

	Potentially Significant Impact	Potentially Significant Unless Mitigation Incorporated	Less Than Significant Impact	No Impact
II. AGRICULTURAL RESOURCES. In determining whether impacts to agricultural resources are significant environmental effects, lead agencies may refer to the California Agricultural Land Evaluation and Site Assessment Model (1997) prepared by the California Dept. of Conservation as an optional model to use in assessing impacts on agriculture and farmland. Would the project:				
a) Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to a non-agricultural use?	❒	❒	❒	☒
b) Conflict with existing zoning for agricultural use, or a Williamson Act contract?	❒	❒	❒	☒
c) Involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland to non-agricultural use?	❒	❒	❒	☒

The project site is designated by the City's General Plan and Zoning Code as RC-P and is not considered agricultural land, nor is it located immediately adjacent to active agricultural land. Furthermore, the project site is almost fully developed and is surrounded by existing urban development. The San Joaquin County Important Farmland Map of 2004 identifies the site and vicinity as urban and built-up land. Therefore, the proposed project would not involve changes that could result in the conversion of farmland to a non-agricultural use and no impact would result.

	Potentially Significant Impact	Potentially Significant Unless Mitigation Incorporated	Less Than Significant Impact	No Impact
III. AIR QUALITY. Where available, the significance criteria established by the applicable air quality management or air pollution control district may be relied upon to make the following determinations. Would the project:				
a) Conflict with or obstruct implementation of the applicable air quality plan?	❒	☒	❒	❒

	Potentially Significant Impact	Potentially Significant Unless Mitigation Incorporated	Less Than Significant Impact	No Impact
b) Violate any air quality standard or contribute substantially to an existing or projected air quality violation?	❒	☒	❒	❒
c) Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is non-attainment under an applicable federal or State ambient air quality standard (including releasing emissions which exceed quantitative thresholds for ozone precursors)?	❒	☒	❒	❒
d) Expose sensitive receptors to substantial pollutant concentrations?	❒	❒	☒	❒
e) Create objectionable odors affecting a substantial number of people?	❒	❒	❒	☒

a) Conflict with or obstruct implementation of the applicable air quality plan?

The proposed expansion to Lodi Memorial Hospital would be consistent with the City of Lodi General Plan and, as such, traffic volumes representing build-out of the project were used to develop projections in the Air Quality Attainment Plan (AQAP). Projects proposed in jurisdictions with general plans that are consistent with the San Joaquin Valley Air Pollution Control District (SJVAPCD) AQAP and projects that conform to those general plans would not create significant cumulative air quality impacts. Therefore, the proposed project would not conflict with the applicable clean air plan. Less than significant impacts would result.

b) Violate any air quality standard or contribute substantially to an existing or projected air quality violation?

The San Joaquin Valley is considered a non-attainment area for ozone and PM10 (fine particulate matter less than 10 microns in diameter). The Federal Clean Air Act (FCA) and the California Clean Air Act (CCA) require areas that are designated non-attainment to reduce emissions until air quality standards are met.

The project does not propose operational features that would emit substances that would violate local or regional air quality standards. The project would create temporary air quality emissions during construction of the project. The project will involve grading, demolition and trenching work, as well as the use of various construction vehicles and equipment. The SJVAPCD has established thresholds for construction (short-term) and operational (long-term) emissions for air pollutants including reactive organic gases (ROG) and nitrogen oxide compounds (NOx), which are known ozone precursors, and PM10.

The following control measures shall be included in construction contracts and shall be shown on plans submitted for a grading or building permit:

* All disturbed areas, including storage piles, which are not being actively utilized for construction purposes, shall be effectively stabilized of dust emissions using water, chemical stabilizer/suppressant, covered with a tarp or other suitable cover or vegetative ground cover.

* All on-site unpaved roads and off-site unpaved access roads shall be effectively stabilized of dust emissions using water or chemical stabilizer/suppressant.
* All land clearing, grubbing, scraping, excavation, land leveling, grading, cut and fill, and demolition activities shall be effectively controlled of fugitive dust emissions utilizing application of water or by presoaking.
* When materials are transported off-site, all material shall be covered, or effectively wetted to limit visible dust emissions, and at least six inches of freeboard space from the top of the container shall be maintained.
* All operations shall limit or expeditiously remove the accumulation of mud or dirt from adjacent public streets at the end of each workday. The use of dry rotary brushes is expressly prohibited except where preceded or accompanied by sufficient wetting to limit the visible dust emissions.
* Following the addition of materials to, or the removal of materials from, the surface of outdoor storage piles, said piles shall be effectively stabilized of fugitive dust emissions utilizing sufficient water or chemical stabilizer/suppressant.
* Within urban areas, track-out shall be immediately removed when it exceeds 50 or more feet from the site and at the end of each workday. Cleanup of carryout or track-out shall be accomplished by:
    - Manually sweeping and picking up;
    - Operating a rotary brush or broom accompanied or proceeded by sufficient wetting to limit Visual Dust Emission (VDE) to 20% opacity;
    - Operating a PM10-efficient street sweeper; and
    - Flushing with water, if curbs and gutters are not present and where the use of water will not result as a source of track-out material or result in adverse impacts on storm drain systems or violate National Pollutant Discharge Elimination System permit program.

c) Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is non-attainment under an applicable federal or State ambient air quality standard (including releasing emissions which exceed quantitative thresholds for ozone precursors)?

The entire APCD jurisdiction is considered a non-attainment area for ozone and PM10. The proposed expansion and anticipated vehicle trips will result in net increase of vehicle generated pollutants. Therefore, the project will exceed the thresholds for ozone PM10.

The proposed expansion of the hospital will increase traffic traveling to and from the site. The number of beds will increase by 47%, which will increase the number of employees, patients and visitors. Most of these people will travel by private vehicles or an ambulance. This increase in vehicular traffic will increase the amount of traffic related air pollutants generated by this project. Although the number of beds will increase by 47%, the projected number of vehicle trips is only projected to increase by 29%. This is because the hospital generates only a portion of the trips to the hospital grounds. More than half of the trips are generated by the medical office buildings on the property and these will not be expanded by this phase of the project.

On a regional basis the increase in traffic at this location will be somewhat off set by a possible reduction in vehicular trips between Lodi and Stockton, Sacramento or elsewhere. This is because the expansion of Lodi Memorial Hospital will provide additional beds and services to the Lodi area and the entire area served by the hospital. This increase in available services will mean that at least some potential patients or employees that currently travel to Stockton or Sacramento for medical services or employment may now be able to obtain their care or employment in Lodi. This will mean a shorter travel distance for patients, employees and visitors which could reduce the vehicle miles traveled on a regional basis and thus reduce the overall vehicle related emissions. While it is difficult to quantify the numbers, it seems reasonable to assume that if given the choice, most people in Lodi would choose to seek care in a Lodi facility if comparable services are available.

The following control measures shall be included in construction contracts and shall be shown on plans submitted for a grading or building permit:

- Provide pedestrian enhancing infrastructure that includes: sidewalks and pedestrian paths, direct pedestrian connections, street trees to shade sidewalks, pedestrian safety designs/infrastructure, street furniture and artwork, street lighting and or pedestrian signalization and signage.
- Provide bicycle enhancing infrastructure that includes: bikeways/paths connecting to a bikeway system, secure bicycle parking.
- Provide transit enhancing infrastructure that includes: transit shelters, benches, etc., street lighting, route signs and displays, and/or bus turnouts/bulbs.
- Provide park and ride lots.

The plans for each phase of the proposed project shall implement these measures to the extent feasible and appropriate. The implementation of an aggressive trip reduction program with the appropriate incentives for non-auto travel can reduce project impacts by approximately 10 to 15 percent. A reduction of this magnitude could reduce emissions; therefore, the project's regional air quality impacts would be potentially significant even with mitigation.

d) Expose sensitive receptors to substantial pollutant concentrations?

The SJVAPCD Guide defines sensitive receptors as facilities that house or attract children, the elderly, and people with illnesses, or others who are especially sensitive to the effects of air pollutants. Hospitals fall in this category. According to the SJVAPCD criteria, due to the small size of the proposed project and the estimated amount of daily vehicle trips, it qualifies for what is referred to as a Small Project Analysis Level. No quantification of ozone precursor emissions is needed for such projects. With regard to dust during grading and construction, the proposed project may expose sensitive receptors to pollutant concentrations; however, impacts would be less than significant.

e) Create objectionable odors affecting a substantial number of people?

The SJVAPCD has determined some types of facilities that have been known to produce odors in San Joaquin County. Examples include wastewater treatment facilities, asphalt batch plants, chemical manufacturing facilities and feed lots/dairies. Hospitals are not identified by the SJVAPCD as a use that produces objectionable odors. As such, the proposed would not produce objectionable odors. There would be no impact.

	Potentially Significant Impact	Potentially Significant Unless Mitigation Incorporated	Less Than Significant Impact	No Impact
IV. BIOLOGICAL RESOURCES. Would the project:				
a) Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service?	❒	❒	❒	☒
b) Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, and regulations or by the California Department of Fish and Game or U.S. Fish and Wildlife Service?	❒	❒	❒	☒
c) Have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act (including, but not limited to, marsh, vernal pool, coastal, etc.) Through direct removal, filling, hydrological interruption, or other means?	❒	❒	❒	☒
d) Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites?	❒	❒	❒	☒
e) Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?	❒	❒	❒	☒
f) Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan or other approved local, regional, or State habitat conservation plan?	❒	❒	❒	☒

a) Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service?

According to the Biological Resources Evaluation prepared for the proposed project, the subject property does not contain any riparian habitat or other sensitive natural communities. No impact would result.

b) Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, and regulations or by the California Department of Fish and Game or U.S. Fish and Wildlife Service?

No riparian habitat exists in the site. See Checklist IV.a.

c) Have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means?

No wetlands exist on the site. See Checklist IV.a.

d) Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites?

The project is an infill project and the site is urbanized area and mostly by residential uses. The subject property does not link two or more large regional open space areas, is not part of a regional wildlife movement corridor, and is not located near a river, stream or lake. Therefore, the proposed project would not interfere with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites. No impact would result.

e) Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?

The City of Lodi General Plan (Conservation Element) includes goals and policies intended to protect sensitive native vegetation and wildlife habitats. Goal E, Policy 2 in the General Plan Conservation Element refers to the City's regulation of "heritage tree" removal. The proposed project would result in the removal of a large Sycamore tree. However, Sycamore trees are not defined in the General Plan, and the City has not adopted a tree protection ordinance. Therefore, the proposed project would not conflict with any of the goals or policies outlined in the General Plan (including Conservation Element Goal E, Policy 2), or with any adopted ordinances protecting biological resources. There would be no impact.

f) Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan or other approved local, regional, or State habitat conservation plan?

The project is an infill development in urbanized area, not subject to the County wide Habitat Conservation Plan. Therefore, no impact would result.

	Potentially Significant Impact	Potentially Significant Unless Mitigation Incorporated	Less Than Significant Impact	No Impact
V. CULTURAL RESOURCES. Would the project:				
a) Cause a substantial adverse change in the significance of a historical resource as defined in 15064.5?	❒	❒	❒	☒
b) Cause a substantial adverse change in the significance of an archaeological resource pursuant to 15064.5?	❒	❒	❒	☒
c) Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature?	❒	❒	❒	☒
d) Disturb any human remains, including those interred outside of formal cemeteries?	❒	❒	❒	☒

a) Cause a substantial adverse change in the significance of a historical resource as defined in '15064.5?

The project is an infill development in urbanized area. No historical resources exist on the site. Therefore, no impact would result.

b) Cause a substantial adverse change in the significance of an archaeological resource pursuant to '15064.5?

No archaeological resources exist on the site. The project is an infill development in urbanized area. Therefore, no impact would result.

c) Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature?

No paleontological resource exist on the site. The project is an infill development in urbanized area. Therefore, no impact would result.

d) Disturb any human remains, including those interred outside of formal cemeteries?

No human remains exist on the site. The project is an infill development in urbanized area. Therefore, no impact would result.

	Potentially Significant Impact	Potentially Significant Unless Mitigation Incorporated	Less Than Significant Impact	No Impact
VI. GEOLOGY AND SOILS. Would the project:				
a) Expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving:				
i) Rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault? Refer to Division of Mines and Geology Special Publication 42.	❒	❒	❒	☒
ii) Strong seismic ground shaking?	❒	❒	☒	❒
iii) Seismic-related ground failure, including liquefaction?	❒	❒	❒	☒
iv) Landslides?	❒	❒	❒	☒
b) Result in substantial soil erosion or the loss of topsoil?	❒	❒	❒	☒
c) Be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction or collapse?	❒	❒	❒	☒
d) Be located on expansive soil, as defined in Table 18-1-B of the Uniform Building Code (1994), creating substantial risks to life or property?	❒	❒	❒	☒
e) Have soils incapable of adequately supporting the use of septic tanks or alternative waste water disposal systems where sewers are not available for the disposal of waste water?	❒	❒	❒	☒

a) Expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving:

i) Rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault? Refer to Division of Mines and Geology Special Publication 42;

According to the City's General Plan, no earthquake faults underlie the City of Lodi. Given that recognized faults neither cross the site nor are adjacent to it, the potential for fault rupture is considered remote and a less than significant impact would result from the project.

ii) Strong seismic ground shaking;

The proposed construction is being built to meet earthquake standards as required by the Hospital Earthquake Safety Act and State and local Building Codes.

iii) Seismic-related ground failure, including liquefaction;

Based on the soil boring results, the project site will be required to be suitable for implementation of the proposed project given its incorporation of specific project design and construction recommendations provided in the Geotechnical Services Report, as well as its adherence to the State and local Building Codes. These requirements would ensure that impacts would be less than significant.

iv) Landslides?

The subject property, as well as the area surrounding the project site, is relatively flat. Furthermore, the project site is surrounded predominately by existing urban development. Due to the developed nature and topographic features of the site and surrounding area, the potential for landslides is considered remote. No impact would result from the implementation of the proposed project.

b) Result in substantial soil erosion or the loss of topsoil?

The proposed construction is located in urbanized area. There will be no soil erosion or loss of topsoil. Thus, no impact would occur.

c) Be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction or collapse?

The proposed project site does not lie in a geologic unit or soil that is unstable. It is located in urbanized area. There will be no impact.

d) Be located on expansive soil, as defined in Table 18-1-B of the Uniform Building Code (1994), creating substantial risks to life or property?

Expansive clay-rich soils swell when wet and shrink when dry, which can cause substantial damage to foundations, concrete slabs and pavement sections. The project's Geotechnical Services Report determined that the project site does not contain expansive soils. There would be no impact.

e) Have soils incapable of adequately supporting the use of septic tanks or alternative waste water disposal systems where sewers are not available for the disposal of waste water?

The project proponents do not plan to add underground tanks. The proposed expansion will be fully served by municipal sewer and waste water systems. Therefore, No impact will occur due to the fact that the project site is in urbanized area.

	Potentially Significant Impact	Potentially Significant Unless Mitigation Incorporated	Less Than Significant Impact	No Impact
VII. HAZARDS AND HAZARDOUS MATERIALS. Would the project:				
a) Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials?	❒	❒	☒	❒
b) Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment?	❒	❒	☒	❒
c) Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?	❒	❒	☒	❒
d) Be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, would it create a significant hazard to the public or the environment?	❒	❒	❒	☒
e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project result in a safety hazard for people residing or working in the project area?	❒	❒	❒	☒
f) For a project located within the vicinity of a private airstrip, would the project result in a safety hazard for people residing or working in the project area?	❒	❒	❒	☒
g) Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan?	❒	❒	❒	☒
h) Expose people or structures to a significant risk of loss, injury or death involving wild land fires, including where wild lands are adjacent to urbanized areas or where residences are intermixed with wild lands?	❒	❒	❒	☒

a) Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials?

Potential impacts from the routine transport, use or disposal of hazardous materials such as fuels, solvents and gases during construction or operation of the proposed project are considered less than significant. This finding is due to the fact that the proposed project would involve very limited use of hazardous materials

and any such use would be regulated by existing federal and state requirements. However, due to the nature of the project, and its future use, there will be some transport of hazardous material common to hospitals.

The proposed addition to the Lodi Hospital will necessitate the routine use, transport or disposal of hazardous materials. A number of pharmaceuticals and chemicals used by the hospital may be classified as hazardous by Federal and State agencies. The hospital also utilizes x-ray and radiation equipment that generates hazardous byproducts. Finally, the waste generated by routine medical procedures, gloves, needles, bandages, etc. can be classified as bio-hazardous waste which requires special handling and disposal. All these materials must be used, stored and disposed of in compliance with all local, State and Federal regulations. They must also be transported to and from the site according to specific procedures. In order to eliminate any potential adverse impacts, the project proponent must use meet state and federal standards for use, disposal and transfer of hazardous waste. The hospital is licensed by the State of California and must conform to strict guideline for the handling, storage and disposal of hazardous material. They must maintain strict records and undergo periodic inspections to assure compliance.

Additionally, it should be noted that the hospital already operates as a full service facility and is currently meeting all applicable requirements for the handling of hazardous materials. The hospital addition will only expand their existing contracts to eliminate said wastes. Therefore, less than significant impact will occur.

b) Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment?

The potential for release of hazardous materials into the environment is negligible because the hospital follows strict protocols mandated by federal, state and local provisions. Therefore, it is not expected that an accident involving the release of hazardous materials into the environment would create a significant hazard to the public or the environment. There is the potential for an accidental release of fuel during construction equipment refueling, but the proposed project includes spill prevention measures and a resulting release of very small amounts of materials is not considered to have the potential to create a significant hazard to the public or the environment.

If during the construction activity, asbestos is encountered, the removal and disposal of such material shall be done by a qualified contractor and work shall be done in compliance with all State and Federal regulations. Therefore, less than significant impact will result.

c) Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?

Even though the project site is within one-quarter mile of an existing school, potential impacts from the routine transport, use or disposal of hazardous materials such as fuels, solvents and gases during construction or operation of the proposed project are considered less than significant. This finding is due to the fact that the proposed project would involve very limited use of hazardous materials and any such use would be regulated by existing federal and state requirements. The hospital is already in operation and does not emit any hazardous materials that will effect nearby schools. Therefore, there will be less than significant impact.

d) Be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, would it create a significant hazard to the public or the environment?

According to the State Department of Toxic Substances Control's EnviroSource database and the State Water Resources Control Board GeoTracker database, the project site is not included on a list of hazardous materials sites. The project is an infill development. As a result, the proposed project would not

create a significant hazard to the public or the environment. There would be no impact associated with the project.

e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project result in a safety hazard for people residing or working in the project area?

The project site is not located within an airport land use plan, or within two miles of a public airport. Therefore, the project would not result in a safety hazard for people residing or working in the project area. There would be no impact.

f) For a project located within the vicinity of a private airstrip, would the project result in a safety hazard for people residing or working in the project area?

The project site is not located within the vicinity of an active private airstrip. Therefore, the project would not result in a safety hazard for people residing or working in the project area. There would be no impact.

g) Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan?

The City of Lodi's Emergency Plan is based on San Joaquin County's Emergency Plan. The City and County Plans represent a comprehensive disaster preparedness program for the area. The proposed project would not impair implementation of, nor physically interfere with the City or County's adopted emergency response plan or emergency evacuation plan. No impact would result.

h) Expose people or structures to a significant risk of loss, injury or death involving wild land fires, including where wild lands are adjacent to urbanized areas or where residences are intermixed with wild lands?

The project site is located in a developed urban area and is not located adjacent to natural areas that would be subject to wild land fires. Therefore, no impacts would occur as a result of the proposed project.

	Potentially Significant Impact	Potentially Significant Unless Mitigation Incorporated	Less Than Significant Impact	No Impact
VIII. HYDROLOGY AND WATER QUALITY. Would the project:				
a) Violate any water quality standards or waste discharge requirements?	❒	❒	☒	❒
b) Substantially deplete groundwater supplies or interfere substantially with groundwater recharge such that there would be a net deficit in aquifer volume or a lowering of the local groundwater table level (e.g., the production rate of pre-existing nearby wells would drop to a level which would not support existing land uses or planned uses for which permits have been granted)?	❒	❒	❒	☒

	Potentially Significant Impact	Potentially Significant Unless Mitigation Incorporated	Less Than Significant Impact	No Impact
c) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, in a manner which would result in substantial erosion or siltation on- or off-site?	❒	❒	❒	☒
d) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, or substantially increase the rate or amount of surface runoff in a manner which would result in flooding on- or off-site?	❒	❒	❒	☒
e) Create or contribute runoff water which would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff?	❒	❒	❒	☒
f) Otherwise substantially degrade water quality?	❒	❒	❒	☒
g) Place housing within a 100-year flood hazard area as mapped on a federal Flood Hazard Boundary or Flood Insurance Rate Map or other flood hazard delineation map?	❒	❒	❒	☒
h) Place within a 100-year flood hazard area structures which would impede or redirect flood flows?	❒	❒	❒	☒
i) Expose people or structures to a significant risk of loss, injury or death involving flooding, including flooding of as a result of the failure of a levee or dam?	❒	❒	❒	☒
j) Inundation by seiche, tsunami, or mudflow?	❒	❒	❒	☒

a) Violate any water quality standards or waste discharge requirements?

Due to the nature of the project, the hospital uses and generates certain wastes products that may require special disposal. The hospital will need to comply with all State and Federal requirements for disposal into the sanitary waste system. They will also be required to complete a wastewater survey so that the City can determine what they are proposing to discharge into the City's sewer system. Based on the survey, the City will determine what can be put into the City's wastewater system to make sure that discharge does not compromise the City's treatment facility or the treated wastewater water discharged from the facility. There will be a less than significant impact.

b) Substantially deplete groundwater supplies or interfere substantially with groundwater recharge such that there would be a net deficit in aquifer volume or a lowering of the local groundwater table level (e.g., the production rate of pre-existing nearby wells would drop to a level which would not support existing land uses or planned uses for which permits have been granted)?

In and of itself, this project is negligible in its use of underground water. Most of the site is already covered by existing buildings or parking areas and the addition will not significantly increase the amount of impervious surface. The construction of additional hospital rooms will increase the amount of water used by the facility. However, The City has secured a source of surface water that will be used to supplement the City's well water supply. The City has two options; either treat the water and put it into the City's water system or use the water to recharge the City's underground aquifer. In either case, the additional water will improve the City's ability to provide water to its citizens with out further depleting the groundwater table. Beyond that, the City currently has sufficient water to serve the project. Therefore, the proposed project would not substantially deplete groundwater supplies, nor would it interfere with City's groundwater extraction. Therefore, there will be no impact.

c) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, in a manner which would result in substantial erosion or siltation on- or off-site?

The project site does not contain a stream or river, nor is it located in proximity to a stream or river. Implementation of proposed project would not alter the existing drainage pattern of the area, nor would not alter the course of a stream or river resulting in substantial erosion or siltation. There would be no impact.

d) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, or substantially increase the rate or amount of surface runoff in a manner which would result in flooding on- or off-site?

The project site does not contain a stream or river, nor is it located in proximity to a stream or river. Therefore, the proposed project would not alter the existing drainage pattern of the area, nor would it alter the course of a stream or river resulting in substantial increase in the rate or amount of surface runoff in a manner that would result in flooding. There would be no impact.

e) Create or contribute runoff water which would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff?

The proposed project will not significantly increase storm water runoff. The existing drainage system is designed to handle future development consistent with build-out of the City's General Plan; therefore, the existing storm drain system would have the capacity to accommodate the proposed project. Thus, there will occur no impact.

f) Otherwise substantially degrade water quality?

See discussion under Checklist Item VIII.a. No impact would result.

g) Place housing within a 100-year flood hazard area as mapped on a federal Flood Hazard Boundary or Flood Insurance Rate Map or other flood hazard delineation map?

The project site is not located within an area mapped by the Federal Emergency Management Agency (FEMA) Flood Insurance Rate Maps (FIRM) as a 100-year flood hazard area, nor does the project propose the construction of housing. Therefore, no impacts would occur as a result of the proposed project.

h) Place within a 100-year flood hazard area structures which would impede or redirect flood flows?

See Checklist Item VIII.g., above. No impact would result.

i) Expose people or structures to a significant risk of loss, injury or death involving flooding, including flooding of as a result of the failure of a levee or dam?

The entire City of Lodi is located within an inundation dam area. The levee system along the Mokelumne River is of sufficient height to protect the City from 100-year flood flow,; however, the majority of Central Valley would be inundated during 500-year flood event. Since this is an infill project, it would not expose people or structures to any risk of flooding that would not affect any other part of the City. As such, no impact would result.

j) Inundation by seiche, tsunami, or mudflow?

A seiche is the tide-like rise and drop of water in a closed body of water caused by earthquake-induced seismic shaking or strong winds. A tsunami is a series of large waves generated by a strong offshore earthquake or volcanic eruption. Given the substantial distance of the site from San Francisco Bay or the Pacific Ocean, tsunami waves would not be a threat to the site. There is no large land of water on or within the vicinity of the site, resulting in no seiche hazard. The proposed project site is flat and does not have any steep slopes or hillsides that would be susceptible to mudflows or landslides. Therefore, no impact would occur.

	Potentially Significant Impact	Potentially Significant Unless Mitigation Incorporated	Less Than Significant Impact	No Impact
IX. LAND USE AND PLANNING. Would the project:				
a) Physically divide an established community?	❒	❒	☒	❒
b) Conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project (including, but not limited to the general plan, specific plan, local coastal program, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect?	❒	❒	❒	☒
c) Conflict with any applicable habitat conservation plan or natural community conservation plan?	❒	❒	❒	☒

a) Physically divide an established community?

The proposed project would not physically divide an established community. It proposes to demolish 6 existing single-family dwellings and incorporate the land into the hospital campus for additional parking and landscaping. The houses back up to hospital grounds and incorporating them in the project will not affect pedestrian or vehicular circulation patterns in the neighborhood. There would be no impact associated with the project.

b) Conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project (including, but not limited to the general plan, specific plan, local coastal program, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect?

The proposed project would be consistent with the City's General Plan policies and Zoning Ordinance regulations, and would not conflict with any other land use plan, policy or regulation adopted for the purpose of avoiding or mitigating an environmental effect. No impact would result.

c) Conflict with any applicable habitat conservation plan or natural community conservation plan?

The City of Lodi adopted the San Joaquin County Multi-Species Habitat Conservation and Open Space Plan (SJCMSHCP) in 2001. The conservation plan was developed to mitigate impacts to plant and wildlife habitat resulting from the loss of open space. Pursuant to the SJCMSHCP, the proposed project would be subject to a Development Fee, which would pay for the preservation of lands used to mitigate the cumulative impacts related to new development, including but not limited to acquisition, enhancement, restoration, maintenance and/or operation of habitat/open space conservation lands. The payment of this fee would ensure the proposed project's compliance with the SJCMSHCP. No impact would result.

	Potentially Significant Impact	Potentially Significant Unless Mitigation Incorporated	Less Than Significant Impact	No Impact
X. MINERAL RESOURCES. Would the project:				
a) Result in the loss of availability of a known mineral resource that would be of value to the region and the residents of the State?	❒	❒	❒	☒
b) Result in the loss of availability of a locally-important mineral resource recovery site delineated on a local general plan, specific plan or other land use plan?	❒	❒	❒	☒

a) Result in the loss of availability of a known mineral resource that would be of value to the region and the residents of the State?

According to the City's General Plan, the subject property and surrounding area are not known to contain regionally and/or state valued mineral resources. Therefore, implementation of the proposed project would not result in an impact to mineral resources.

b) Result in the loss of availability of a locally-important mineral resource recovery site delineated on a local general plan, specific plan or other land use plan?

The subject property has not been historically used for mineral extraction. In addition, the City's General Plan does not identify the project site as a locally important mineral resource recovery site. There would be no impact.

	Potentially Significant Impact	Potentially Significant Unless Mitigation Incorporated	Less Than Significant Impact	No Impact
XI. NOISE. Would the project result in:				
a) Exposure of persons to or generation of noise levels in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies?	❒	❒	☒	❒
b) Exposure of persons to or generation of excessive ground borne vibration or ground borne noise levels?	❒	❒	❒	☒
c) A substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project?	❒	❒	☒	❒
d) A substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project?	❒	☒	❒	❒
e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project expose people residing or working in the project area to excessive noise levels?	❒	❒	❒	☒
f) For a project within the vicinity of a private airstrip, would the project expose people residing or working in the project area to excessive noise levels?	❒	❒	❒	☒

a) Exposure of persons to or generation of noise levels in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies?

The proposed project will be the expansion of an existing hospital. Because hospitals are designed to treat and care for people with health problems on a 24-hour basis, they are aware of the need for low levels of noise, particularly at night. All equipment installed as a part of this project will be designed to meet strict standards for noise attenuation. Most of the large equipment like generators and chillers will be installed in a new central plant building behind the Hospital. The plant will be a fully enclosed building that will be designed to limit the amount of noise that will escape the building.

Additionally, the hospital is buffered on all four sides by streets and non-residential uses, including offices, parking lots and schools. Noise levels in the completed project will not be any higher than levels produced by the existing hospital operation.

b) Exposure of persons to or generation of excessive ground borne vibration or ground borne noise levels?

Ground borne vibrations occur when a vibration source causes soil particles to move or vibrate. Sources of ground borne vibrations include natural events (earthquakes, volcanic eruptions, sea waves, landslides, etc.) and human created events (explosions, operation of heavy machinery and heavy trucks, etc.). The proposed project would not involve any permanent operations that would generate excessive ground borne vibrations or ground borne noise levels. There would no impact.

c) A substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project?

Refer to Checklist Item, XI.a. above. The project will not result in a significant increase in noise levels and, therefore, would not create a permanent increase in ambient noise levels in the vicinity of the project site. Impacts would be less than significant.

d) A substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project?

As stated in Checklist Item XI.a. and XI.c., the proposed project's operational features would not permanently generate or expose people to excessive amounts of noise or ground borne noise levels. However, short-term noise levels and ground borne vibrations created during the project's construction may create a temporary increase in noise levels to the neighboring properties. Construction noise will be temporary and will end once the project is completed. Most of the noise will be in the early phases of the project during site grading, demolition and framing of the exterior of the buildings. Construction related noise impacts may be significant without the implementation of mitigation measures. The proposed project's compliance with these mitigation measures would reduce potentially significant short-term noise impacts to a less than significant level.

The following conditions are part of a normal building permit process. The City intends to impose the conditions are part of the building process. As such, there will occur no further impact.

Conditions for obtaining a build permit will include, but are not limited to:

During Construction:

- Prior to the issuance of building and/or grading permits, the project sponsor shall demonstrate, to the satisfaction of the City of Lodi, that the project would comply with the following measures;
- The project's construction activities including grading, excavation and trenching shall be limited to between the hours of 7:00 a.m. and 7:00 p.m. weekdays and Saturdays. No construction activities shall be permitted on Sundays or holidays unless prior approval is given by the City of Lodi Community Development Department. In addition, construction hours, allowable workdays, and the telephone number of the job superintendent shall be clearly posted at all construction entrances.
- All construction equipment are properly muffled and maintained in proper working order.
- The use of low-pressure steam blows or temporary blowouts silencers should be used whenever possible.
- Construction traffic must be routed along arterial streets to the extent possible, not through residential or minor streets.
- The project will be required to comply with all requirements of the City's Noise Ordinance.

e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project expose people residing or working in the project area to excessive noise levels?

The project site is not located within an airport land use plan, or within two miles of a public airport or public use airport. No impact would result.

f) For a project within the vicinity of a private airstrip, would the project expose people residing or working in the project area to excessive noise levels?

The project site is not located within an airport land use plan, or within two miles of a public airport or public use airport. No impact would result.

	Potentially Significant Impact	Potentially Significant Unless Mitigation Incorporated	Less Than Significant Impact	No Impact
XII. POPULATION AND HOUSING. Would the project:				
a) Induce substantial population growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of roads or other infrastructure)?	❒	❒	❒	☒
b) Displace substantial numbers of existing housing, necessitating the construction of replacement housing elsewhere?	❒	❒	☒	❒
c) Displace substantial numbers of people, necessitating the construction of replacement housing elsewhere?	❒	❒	❒	☒

a) Induce substantial population growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of roads or other infrastructure)?

The proposed project would not include the construction of residential units, nor require the extension of roads or other infrastructure that could directly or indirectly induce substantial population growth. The project would create approximately ten new jobs. However, the creation of ten new jobs would not induce a substantial population growth. No impact would result.

b) Displace substantial numbers of existing housing, necessitating the construction of replacement housing elsewhere?

Implementation of the proposed project would result in the demolition of 6 vacant single-family residences. However, the proposed demolition would not necessitate the construction of replacement housing

elsewhere because the houses were purchased from the previous owners and the residents have voluntarily relocated in the Lodi area. Therefore, impacts would be less than significant.

c) Displace substantial numbers of people, necessitating the construction of replacement housing elsewhere?

See discussion under Checklist Item XII.b., above. Although the proposed project would result in the demolition of 6 vacant single-family residences, it would not displace a significant number of people. There is a sufficient stock of available replacement housing in the Lodi area and the previous residents have relocated to other housing. No significant impact would result.

	Potentially Significant Impact	Potentially Significant Unless Mitigation Incorporated	Less Than Significant Impact	No Impact
XIII. PUBLIC SERVICES.				
a) Would the project result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for any of the public services:				
A) Fire protection?	❒	❒	❒	☒
B) Police protection?	❒	❒	❒	☒
C) Schools?	❒	❒	❒	☒
D) Parks?	❒	❒	❒	☒
E) Other public facilities?	❒	❒	❒	☒

a) Would the project result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for any of the public services:

a) Fire protection?

The City of Lodi Fire Department would provide fire service to the project site. The Fire Department has four fire stations located within the City. The City's fire protection and established service ratios are based on the full build-out of the City's General Plan. Given that the proposed project is an infill development, the project would not involve new or more intensive impacts to fire protection services than those already projected by that document. No impact would occur.

b) Police protection?

The City of Lodi Police Department would provide law enforcement services to the project site. The project site is located in the Heritage Patrol District, which encompasses many of the older residential neighborhoods in the City, as well as large business and industrial districts. The City's police departments established service ratios are based on the full build-out of the City's General Plan. Given that the proposed project is an infill development, the project would not involve new or more intensive impacts to police protection services than those already projected by that document. No impact would occur.

c) Schools?

The proposed project would require no school services, nor would create the need for new or expanded facilities as no new residential units are proposed. No impact would result.

d) Parks

The proposed project would not contribute to the demand on existing parks, nor require the dedication of additional parkland as no new residential units are proposed. No impact would result.

e) Other public facilities?

Issues related to the provision of other public services have not been identified. Therefore, no impact would result.

	Potentially Significant Impact	Potentially Significant Unless Mitigation Incorporated	Less Than Significant Impact	No Impact
XIV. RECREATION.				
a) Would the project increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated?	❒	❒	❒	☒
b) Does the project include recreational facilities or require the construction or expansion of recreational facilities which might have an adverse physical effect on the environment?	❒	❒	❒	☒

a) Would the project increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated?

The proposed project would not create additional demand for existing neighborhood or regional parks or other recreational facilities as no new residential units are proposed. No impact would result.

b) Does the project include recreational facilities or require the construction or expansion of recreational facilities which might have an adverse physical effect on the environment?

The proposed project would not include the construction or expansion of recreational facilities, nor would it require the construction or expansion of recreational facilities. Therefore, no impact would occur.

	Potentially Significant Impact	Potentially Significant Unless Mitigation Incorporated	Less Than Significant Impact	No Impact
XV. TRANSPORTATION/TRAFFIC. Would the project:				
a) Cause an increase in traffic which is substantial in relation to the existing traffic load and capacity of the street system (i.e., result in a substantial increase in either the number of vehicle trips, the volume to capacity ratio on roads, or congestion at intersections)?	❒	❒	☒	❒
b) Exceed, either individually or cumulatively, a level of service standard established by the county congestion management agency or designated roads or highways?	❒	❒	☒	❒
c) Result in a change in air traffic patterns, including either an increase in traffic levels or a change in location that result in substantial safety risks?	❒	❒	❒	☒
d) Substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)?	❒	❒	❒	☒
e) Result in inadequate emergency access?	❒	❒	☒	❒
f) Result in inadequate parking capacity?	❒	❒	☒	❒
g) Conflict with adopted polices, plans, or programs supporting alternative transportation (e.g., bus turnouts, bicycle racks)?	❒	❒	❒	☒

a) Cause an increase in traffic which is substantial in relation to the existing traffic load and capacity of the street system (i.e., result in a substantial increase in either the number of vehicle trips, the volume to capacity ratio on roads, or congestion at intersections)?

Fehr & Peers Transportation Consultants prepared a technical memorandum (see attached), which evaluated existing and future traffic conditions and level of trip generations at all hospital driveways inbound and out bound traffic. The main hospital driveway on Ham Lane was recounted on Wednesday May 3 and Thursday May 4, 2006. The findings were:

Existing Hospital and School Driveways

Ham Lane borders the west side of the Lodi Memorial Hospital East campus with Vine Street to the north and Park Street to the South. A median lane is provided in Ham Lane along the project frontage of the hospital. The key driveways along Ham Lane are described below:

Main Hospital Driveway is aligned directly across Park Street. This driveway handles inbound and outbound traffic to the main hospital parking area.

Conrad building hospital driveway is located south of the Conrad building.
School bus loop driveway operates as a one-way loop with the inbound driveway to the north and outbound driveway to the south. No parking stalls are provided in this area.

Main school driveways provide access to the middle school parking lot. Angled parking stalls are provided in the lot and are primarily used by the school staff/faculty. A separate inbound and outbound driveway is provided and the driveways are located north of Park Street and the main hospital driveway. Level of service calculations were conducted to evaluate existing operations of the school exit driveway and at the hospital driveway on Ham Lane. The LOS calculations (see Attachment B) indicate that the outbound school driveway operates at an LOS F (>100 seconds/vehicles of delay) during all three peak hours. The hospital driveway on Ham Lane, opposite Park Street, operates at an LOS E during the AM peak hour, LOS F during the afternoon peak hour and LOS C during the PM peak hour. AM peak hours were 8:00 am to 9:00 am; midday peak hours constituted 12:00 p.m. to 1:00 p.m. and afternoon peak hours were 3 p.m., after school ends.

Ham Lane Driveway Observations
AM, afternoon, and PM peak period observations were conducted on Ham Lane to assess the current operations of the hospital and middle school. Based on observations conducted during the AM peak period, no excessive queues or delays were observed on Ham Lane. An observed queue of 1-3 vehicles in the median lane was noted for the northbound left-turn into the school. A max queue of 3 vehicles was observed for the southbound left turning movement (inbound to hospital) at the Park Street/Ham Lane intersection. Afternoon peak observations show that when school ends (3 pm) vehicles queue in the median lane to enter the school site. On average this queue is 5 vehicles long. This is sometimes caused by inadequate on-site storage of vehicles and drivers not wanting to pull forward so they can exit without circulating through the parking area. During the PM peak period no school traffic was observed and hospital traffic was generally lighter compared to the AM and afternoon peak periods.

Based on the above discussion, the proposed project would cause a less than significant increase in traffic, in relation to existing traffic load and capacity of the street system.

Implementation of the following suggested mitigation measure would further reduce traffic congestion to no impact level:
With the proposed alignment of the new main hospital driveway and the existing school driveways, conflicts would occur during morning drop off and afternoon pick-up times when the median lane would be used to access the school and hospital at the same time.

- To avoid these conflicts it is recommended that the two school driveways be consolidated into one driveway that would form the west leg of the Ham Lane/Main Hospital Driveway. This reconfigured school driveway would eliminate potential conflicts by providing ingress and egress at one driveway and provide a standard four leg intersection. Figure 4 presents the proposed configuration of the driveways.
- Construct a possible layout for the school site that would provide more on-site storage for pick-ups and drop-offs and reduce the potential queuing on Ham Lane. A separate left and right-turn outbound lane is recommended. The new layout is expected to reduce congestion at the school driveway and provide a safer pedestrian environment by reducing the number of conflict points. In addition, we recommend that the

school staff direct vehicles during pick-up and drop-off periods to reduce potential conflicts. To minimize off-site queuing, the primary pickup/ drop-off area should be designated as far to the west as possible.

- Pedestrian crosswalks across Ham Lane would likely be installed if a traffic signal is provided at the new Ham Lane/Main Hospital Driveway. Increased pedestrian crossings across Ham Lane would result and the potential for parents to use the hospital lot to pick-up or drop-off children. The new site plan for the hospital includes an additional driveway on Ham Lane, south of Park Street. With the new driveway and the reconfigured parking layout, traffic circulation patterns onsite could change substantially from the existing patterns. We recommend that the new Ham Lane/Main Hospital Driveway be monitored annually for a 5-year period after completion of the hospital expansion. This time period will allow for additional observations and verification of the projected volumes to determine the need for a traffic signal.

b) Exceed, either individually or cumulatively, a level of service standard established by the county congestion management agency or designated roads or highways?

Refer to Checklist XIV.a. The proposed project would have a less than significant impact on LOS.

c) Result in a change in air traffic patterns, including either an increase in traffic levels or a change in location that result in substantial safety risks?

The proposed project would not have any impact on air traffic patterns because the project site is not located near an airport. No related impacts would occur as a result of the proposed project.

d) Substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)?

The proposed project would not have any impact as a result of design features. Thus, no impact would occur.

e) Result in inadequate emergency access?

Design plans for the proposed project indicate two access points for emergency vehicles. Therefore, the proposed project would provide adequate emergency access to the site. There would be no significant impact.

f) Result in inadequate parking capacity?

According to Chapter 17.60 (Off-Street Parking) of the City of Lodi Municipal Code, hospitals are required to provide one parking space for each three beds. In order to fulfill parking lot requirements, as part of the project the hospital will also expand their parking lot by removing six single-family residences and replacing them with parking and landscaping. Therefore, the proposed project would not result in inadequate parking capacity. No significant impact would result.

g) Conflict with adopted polices, plans, or programs supporting alternative transportation (e.g., bus turnouts, bicycle racks)?

The proposed project would not conflict with adopted policies, plans or programs supporting alternative transportation. No impact would result.

	Potentially Significant Impact	Potentially Significant Unless Mitigation Incorporated	Less Than Significant Impact	No Impact
XVI. UTILITIES AND SERVICE SYSTEMS. Would the project:				
a) Exceed wastewater treatment requirements of the applicable Regional Water Quality Control Board?	❒	❒	☒	❒
b) Require or result in the construction of new water or wastewater treatment facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?	❒	❒	☒	❒
c) Require or result in the construction of new storm water drainage facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?	❒	❒	☒	❒
d) Have sufficient water supplies available to serve the project from existing entitlements and resources, or are new or expanded entitlements needed?	❒	❒	☒	❒
e) Result in a determination by the wastewater treatment provider which serves or may serve the project that it has adequate capacity to serve the project=s projected demand in addition to the provider=s existing commitments?	❒	❒	☒	❒
f) Be served by a landfill with sufficient permitted capacity to accommodate the project=s solid waste disposal needs?	❒	❒	☒	❒
g) Comply with federal, State, and local statutes and regulations related to solid waste?	❒	❒	❒	☒

a) Exceed wastewater treatment requirements of the applicable Regional Water Quality Control Board?

The proposed project would utilize the City's White slough wastewater Treatment Facility. The increased flow from the new hospital additions would be minor and not exceed wastewater treatment requirements of the Central Valley Regional Water Quality Control Board. There will be less than significant impact.

b) Require or result in the construction of new water or wastewater treatment facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?

The project site is located in an urbanized area that contains existing water and wastewater infrastructure. The proposed project would not require the construction of new water or wastewater treatment facilities or the expansion of existing facilities because there is adequate capacity to serve the proposed the new addition portion of the hospital. There will be less than significant impact.

c) Require or result in the construction of new storm water drainage facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?

The City of Lodi owns and maintains a variety of storm water facilities, including storm drain lines; pump stations, inlet catch basins, drainage ditches, and retention and detention facilities. City storm water is discharged to the Mokelumne River and the Woodbridge Irrigation Canal. The proposed project would connect to the existing storm water drainage system. The existing storm drain system has the capacity to accommodate the proposed project. Thus, the project would not require or result in the construction of new or expanded storm water drainage facilities and impacts would be less than significant.

d) Have sufficient water supplies available to serve the project from existing entitlements and resources, or are new or expanded entitlements needed?

The City of Lodi Water Utility supplies and distributes potable water, as well as recycled water to the City and to some areas outside the City's jurisdiction. According to the City's Urban Water Management Plan (UWMP), the City currently has a net surplus in water supply given the City's current water entitlements and current water demand. In addition, year 2030 projections show the City with a net surplus in water supply. The UWMP analyzed future growth within the City based on land use assumptions depicted in the City's General Plan. The proposed project would not deviate from those land use assumptions; therefore, sufficient water supplies would be available and impacts would be less than significant.

e) Result in a determination by the wastewater treatment provider which serves or may serve the project that it has adequate capacity to serve the project's projected demand in addition to the provider's existing commitments?

The City of Lodi Public Works Department provides wastewater treatment for the City of Lodi. Wastewater in the City of Lodi is treated at the White Slough Water Pollution Control Facility (WSWPCF). The facility has been expanded to a design capacity of 8.5 million gallons (mgd) per day. However, the facility has permits to operate at 7.0 mgd per day. The WSWPCF currently treats approximately 6.2 mgd per day, which means the facility has a net surplus capacity of 0.8 mgd per day ("permitted" capacity). The facility's design capacity could accommodate an additional 2.3 mgd per day. The proposed project would result in a small increase in demand on wastewater treatment. However, given WSWPCF's capacity to treat additional wastewater flow, impacts would be less than significant.

f) Be served by a landfill with sufficient permitted capacity to accommodate the project's solid waste disposal needs?

Solid waste management and disposal within the City of Lodi is provided by the Central Valley Waste Services. Solid waste is transported to a Transfer Station and Buy-Back Recycling Center. Waste is then deposited at the North County Landfill, which is owned and operated by San Joaquin County. The North County Landfill is a Class III facility that is permitted to accept 825 tons of solid waste per day. On average, the landfill receives 400 tons per day, and has a remaining lifetime capacity of approximately 6.0 million tons, which would equate to approximately 30 years.

The proposed project would generate an increase in the amount of solid waste. However, the North County Landfill has sufficient capacity to accommodate the proposed project's solid waste needs. Therefore, implementation of the proposed project would result in a less than significant impact.

g) Comply with federal, State, and local statutes and regulations related to solid waste?

Some of the waste generated by the hospital is medical waste that can not be disposed of in a conventional solid waste facility. This material must be collected, stored, transported and disposed of separately and taken to a disposal facility licensed to handle this class of waste. The hospital currently handles the same type of waste and complies with all regulatory requirements. The proposed project will comply with federal, state, and local statutes related to solid waste. No solid waste regulatory impacts will occur as a result of the project.

	Potentially Significant Impact	Potentially Significant Unless Mitigation Incorporated	Less Than Significant Impact	No Impact
XVII. MANDATORY FINDINGS OF SIGNIFICANCE.				
a) Does the project have the potential to degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, reduce the number or restrict the range of a rare or endangered plant or animal, or eliminate important examples of the major periods of California history or prehistory?	❒	❒	❒	☒
b) Does the project have impacts that are individually limited, but cumulatively considerable? ("Cumulatively considerable" means that the incremental effects of a project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects.)	❒	❒	☒	❒
c) Does the project have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly?	❒	❒	☒	❒

a) Does the project have the potential to degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, reduce the number or restrict the range of a rare or endangered plant or animal, or eliminate important examples of the major periods of California history or prehistory?

As documented in this Initial Study, the implementation of the proposed project would no significant impacts on biological and cultural resources since it is in-fill project. Implementation of the proposed project would not result in the loss of open space habitat (row and field crops) and associated wildlife; would not threaten a plant or animal community, would not reduce the number or restrict the range of a rare or endangered plant or animal, or eliminate important examples of the major periods of California history or prehistory. It is an in-fill project. Therefore, there will be no impact.

b) Does the project have impacts that are individually limited, but cumulatively considerable? ("Cumulatively considerable" means that the incremental effects of a project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects.)

The proposed project would construct a new hospital wing onto the existing Lodi Memorial Hospital on a 17.56-acre site. The project site is currently developed with a hospital, two medical office buildings and an Advanced Imaging Center, as well as related parking and landscaping. The site is located in an area that is fully developed with a variety of urban uses. Other than increasing the number of beds in the hospital, the project will not change the operational nature of the site. Therefore, incremental impacts associated with the proposed project would not be cumulatively considerable. Impacts would be less than significant.

c) Does the project have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly?

As discussed in this Initial Study, temporary air quality and noise impacts from construction would be less than significant with the implementation of recommended mitigation measures. Therefore, the proposed project would not have permanent significant environmental effects that would cause direct or indirect adverse effects to human beings.

Attachment

FEHR & PEERS
TRANSPORTATION CONSULTANTS

MEMORANDUM

Date: December 14, 2006

To: Paula Fernandez, City of Lodi
Wally Sandelin, City of Lodi

Copy To: Allen Taylor, HDR
Nancy Reich, Lodi Memorial Hospital
Tak Saito, Lodi Memorial Hospital

From: Norman Wong, Fehr & Peers
Alan Telford, Fehr & Peers

Subject: ***Trip Generation Analysis and Assessment of Ham Lane Driveway Configuration for the Proposed Lodi Memorial Hospital Expansion***

SJ05-771

This memorandum summarizes future trip generation estimates for the proposed Lodi Memorial hospital expansion. An assessment of potential conflicts between the future hospital driveways and the existing Lodi Middle School driveways on Ham Lane was conducted. The results are discussed below. Figure 1 presents the project location.

Hospital Trip Generation

Data Collection

Fehr & Peers retained Traffic Data Service, a traffic and parking count firm, to conduct 48-hour machine counts on Wednesday, April 26 and Thursday, April 27, 2006. These machine counts were conducted at all hospital driveways to measure inbound and outbound traffic. The main hospital driveway on Ham Lane was recounted on Wednesday, May 3 and Thursday, May 4, 2006 due to a malfunctioning machine count. The count data are contained in Appendix A.

On Thursday, April 27, 2006, turning movement and pedestrian counts were conducted at the Ham Lane/Vine St. and Ham Lane/Park St. intersections during the AM (7-9), afternoon (2-4), and PM (4-6) peak periods. The afternoon peak coincided with dismissal of the Lodi Middle School (3pm). Turning movement counts were also conducted at all four school driveways and at the Conrad building driveway during all three peak periods. Peak period observations were conducted during multiple visits in April 2006. The turning movement and pedestrian counts are illustrated on Figure 2.

Existing Trip Generation

The results of the 48-hour machine counts were used to determine the trip generation for the entire campus. As shown in Table 1, the existing hospital and medical office buildings generate approximately 520 AM peak-hour trips, 620 afternoon peak-hour trips, and 480 PM peak-hour trips.

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FEHR & PEERS
TRANSPORTATION CONSULTANTS

Jun 07, 2006 MJC
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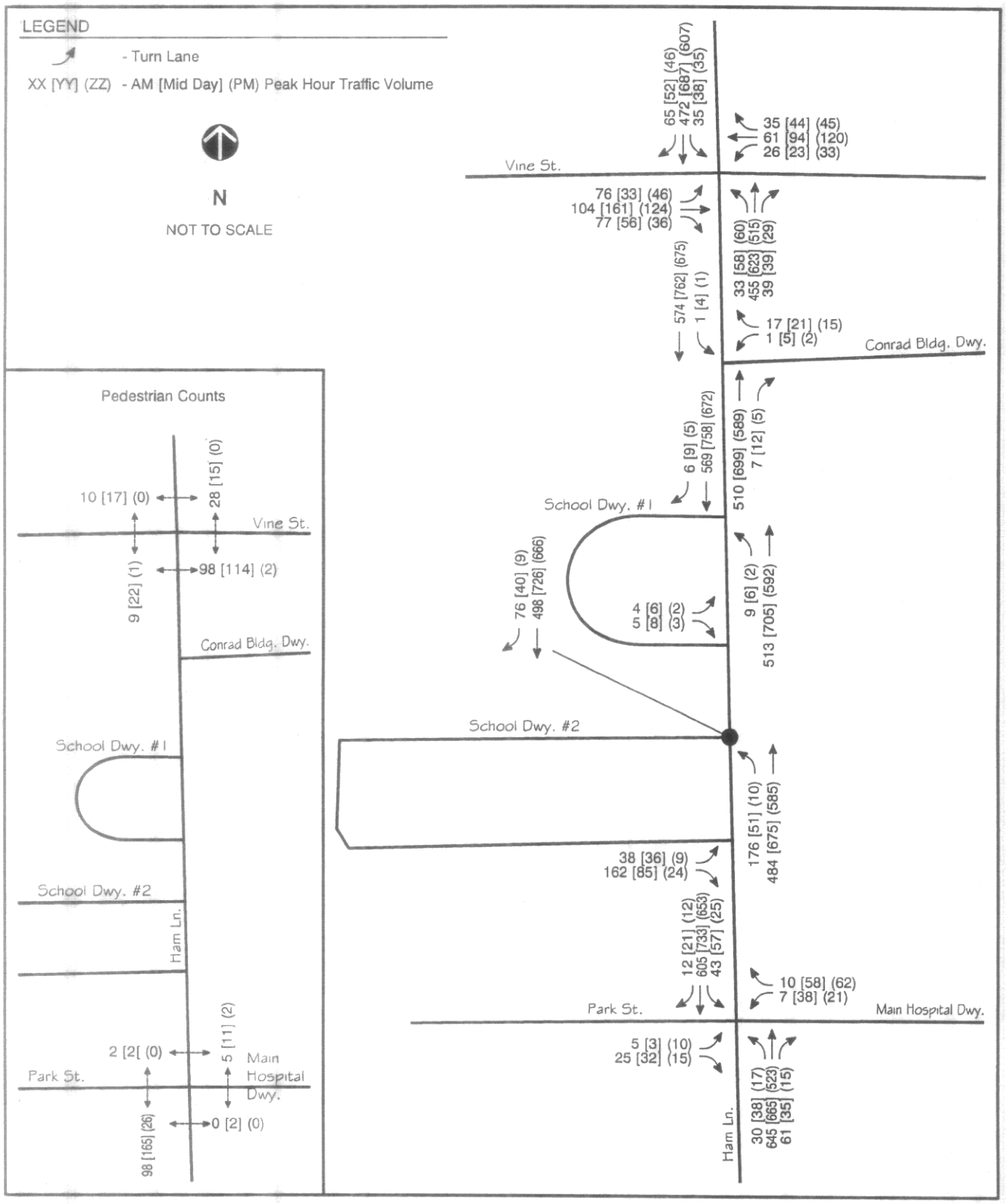
PROJECT LOCATION

FIGURE 1



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Nov 06, 2006 MJC
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PEAK HOUR TRAFFIC VOLUMES - EXISTING CONDITIONS

FIGURE 2

FEHR & PEERS
TRANSPORTATION CONSULTANTS

Table 1
Existing Lodi Hospital Campus Trip Generation

Peak Hours	IN	OUT	TOTAL
7:45 – 8:45 AM	345	176	521
2:30 – 3:30 PM	313	310	623
4:00 – 5:00 PM	181	299	480

Notes:
Average of machine counts conducted at all driveways on April 26 and 27, 2006

ITE Trip Generation Rates

Table 2 presents the trip generation rates for "Hospital" (ITE Land Use 610) and "Medical/Dental Office" (ITE Land Use 720) land uses from the Institute of Transportation Engineers (ITE) *Trip Generation*, 7th edition. These rates were applied to the existing campus size to determine the accuracy of the published rates compared to the count data.

As shown in Table 2, the use of ITE rates results in lower estimates for the campus (292 AM peak-hour trips and 396 peak-hour PM trips) when compared to the driveway counts. Thus, the ITE rates were calibrated to match the count data. The resulting rates are 2.02 trips per bed in the AM and 1.58 trips per bed in the PM for Hospital land use. The calibrated ITE rates for the Medical/Dental office land use are 4.42 trips per 1,000-s.f. (ksf) in the AM and 4.51 trips per ksf in the PM.

Table 2
ITE Trip Generation Rates and Estimates

Land Use (Units)	ITE Rate/Estimate		Calibrated Rate/Estimate	
	AM	PM	AM	PM
Rates				
Hospital (Bed)	1.13 trips/bed	1.30 trips/bed	2.02 trips/bed	1.58 trips/bed
Medical/Dental Office (ksf)	2.48 trips/ksf	3.72 trips/ksf	4.42 trips/ksf	4.51 trips/ksf
Estimates				
Hospital (107 beds)	121	139	216	169
Medical Office (69 ksf)	171	257	305	311
Total	***292***	***396***	***521***	***480***

Source:
Trip generation rates from Institute of Transportation Engineers' (ITE) *Trip Generation*, 7th Edition.
ksf = 1,000 s.f.

Future Trip Generation

The existing Lodi Memorial Hospital East campus currently provides 107 beds in two wings (28 beds in the 39,000-s.f. west wing and 79 beds in the 56,825-s.f. east wing) and a total of 69,000-s.f. of medical office space.

The proposed expansion would provide a total of 188 beds. For the purposes of this analysis, it was assumed that the vacated space in the west wing (10,000-s.f.) would be used as medical office space. This is a conservative assumption because some or all of this space may be used for storage or other uses that do not generate a significant number of trips. The total medical office space is 79,000 s.f. (69,000 s.f. existing and 10,000-s.f. in the west wing). The projected timeframe for the proposed expansion is Year 2011.

The calibrated ITE rates were applied to the size of the future campus. The future afternoon trips were estimated by applying the ratio of existing AM and PM trips to existing afternoon trips. As shown in Table 3, the expanded campus is expected to generate 209 AM, 237 afternoon trips, and 173 PM net new peak-hour trips.

Table 3

Trip Generation Estimates for Lodi Hospital Campus Expansion

Land Use (Units)	Size	AM Peak Hour				PM Peak Hour			
		Rates	In	Out	Total	Rates	In	Out	Total
Proposed Use									
Hospital (Bed)	188 beds	2.02	251	129	380	1.58	113	184	297
Medical Office (ksf)	79 ksf	4.42	231	119	350	4.51	135	221	356
Subtotal			**482**	**248**	**730**		**248**	**405**	**653**
Existing Use			(345)	(176)	(521)		(181)	(299)	(480)
Net New Trips			**137**	**72**	**209**		**67**	**106**	**173**

Ham Lane Driveway Assessment

Existing Hospital and School Driveways Configuration

Ham Lane borders the west side of the Lodi Memorial Hospital East campus with Vine Street to the north and Park Street to the South. A continuous left turn lane is provided in Ham Lane along the project frontage of the hospital. The key driveways along Ham Lane are described below:

Main Hospital Driveway is aligned directly across Park Street. This driveway handles inbound and outbound traffic to the main hospital parking area.

Conrad building hospital driveway is located south of the Conrad building.

School bus loop driveway operates as a one-way loop with the inbound driveway to the north and outbound driveway to the south. No parking stalls are provided in this area.

Main school driveways provide access to the middle school parking lot. Angled parking stalls are provided in the lot and are primarily used by the school staff/faculty. A separate inbound and outbound driveway is provided and the driveways are located north of Park Street and the main hospital driveway.

Level of service calculations were conducted to evaluate existing operations of the school exit driveway and at the hospital driveway on Ham Lane. The LOS calculations (see Appendix B) indicate that the outbound school driveway operates at an LOS F (>100 seconds/vehicles of delay) during all three peak hours. The hospital driveway on Ham Lane, opposite Park Street, operates at an LOS E during the AM peak hour, LOS F during the afternoon peak hour, and LOS C during the PM peak hour.

Existing Ham Lane Driveway Observations

AM, afternoon, and PM peak period observations were conducted on Ham Lane to assess the current operations of the hospital and middle school. Based on observations conducted during the AM peak period, no excessive queues or delays were observed on Ham Lane. An observed queue of 1-3 vehicles in the continuous left turn lane was noted for the northbound left-turn into the school. A max queue of 3 vehicles was observed for the southbound left turning movement (inbound to hospital) at the Park Street/Ham Lane intersection.

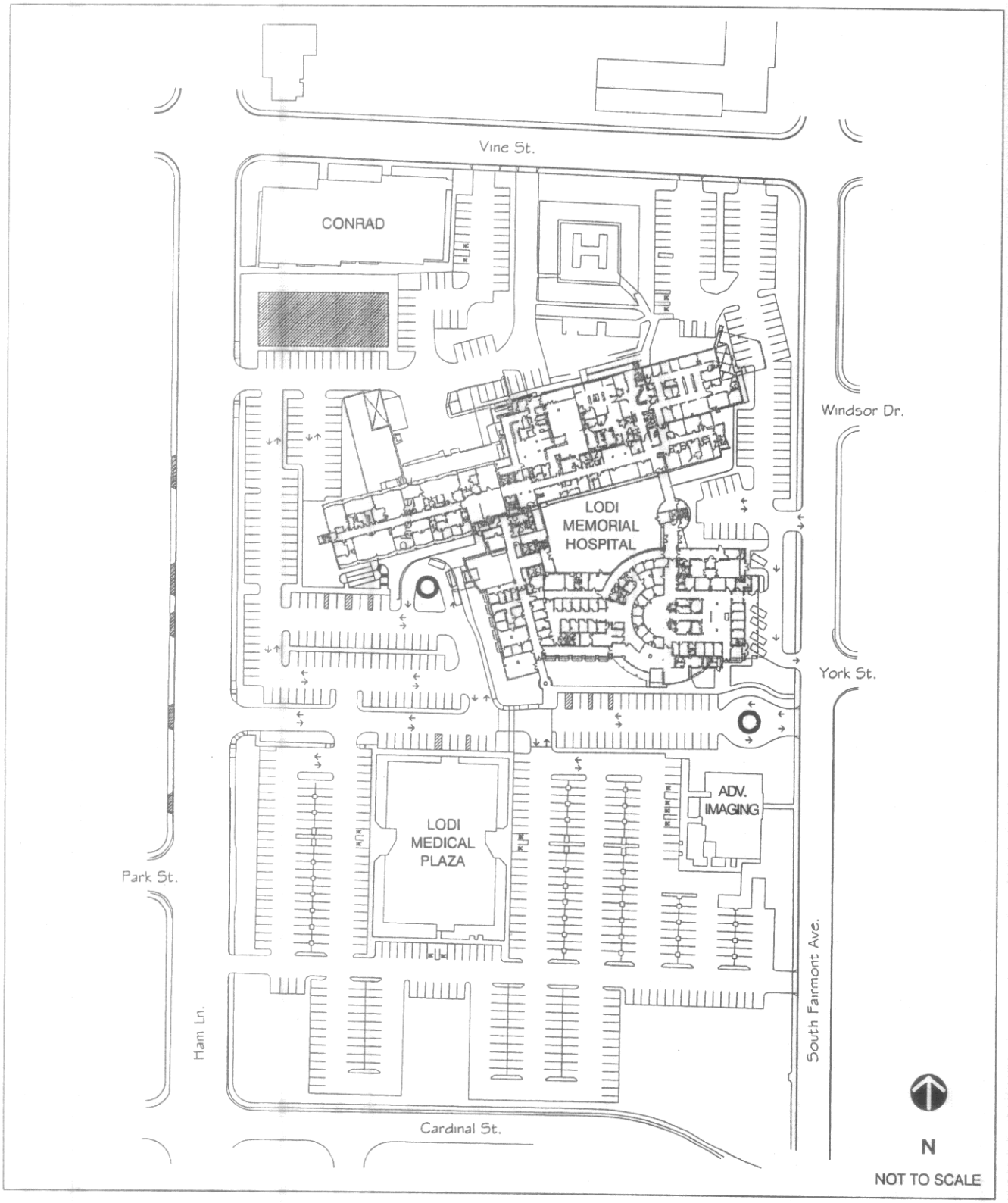
Afternoon peak observations show that when school ends (3 pm) vehicles queue in the continuous left turn lane to enter the school site. On average this queue is 5 vehicles long. This is sometimes caused by inadequate on-site storage of vehicles and drivers not wanting to pull forward so they can exit without circulating through the parking area. During the PM peak period no school traffic was observed and hospital traffic was generally lighter compared to the AM and afternoon peak periods.

Future Main Hospital Driveway on Ham Lane

Ham Lane Driveway Realignment

The main hospital driveway will be relocated north to align with the main school outbound driveway as shown in Figure 3. The Conrad building hospital driveway will be relocated south of its existing location. A third driveway on Ham Lane is proposed to be provided just south of Park Street. To assess potential impacts between the school and the hospital with the new driveway locations, intersection turning movement counts were conducted at all driveways on Ham Lane. Figure 2 illustrates peak-hour volumes at the existing school and hospital driveways on Ham Lane.

With the proposed alignment of the new main hospital driveway and the existing school driveways, conflicts would occur during morning drop off and afternoon pick-up times when the continuous left turn lane would be used to access the school and hospital at the same time. To avoid these conflicts it is recommended that the two school driveways be consolidated into one driveway that would form the west leg of the Ham Lane/Main Hospital Driveway. This reconfigured school driveway would eliminate potential conflicts by providing ingress and egress at one driveway and provide a standard four leg intersection. Figure 4 presents the proposed configuration of the driveways.



FEHR & PEERS
TRANSPORTATION CONSULTANTS

Dec 14, 2006 MJC
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SITE PLAN WITH SOUTH WING ADDITION

FIGURE 3

Figure 4 also presents a possible layout for the school site that would provide more on-site storage for pick-ups and drop-offs and reduce the potential queuing on Ham Lane. A separate left and right-turn outbound lane is recommended. The new layout is expected to reduce congestion at the school driveway and provide a safer pedestrian environment by reducing the number of conflict points. In addition, we recommend that the school staff direct vehicles during pick-up and drop-off periods to reduce potential conflicts. To minimize off-site queuing, the primary pick-up/drop-off area should be designated as far to the west as possible.

Future Ham Lane Driveway Volumes and Operations

The operations of the proposed main Hospital Driveway-Reconfigured School Driveway/Ham Lane intersection were assessed to determine the appropriate traffic control (i.e. stop or signal control). The project trip generation estimates, as shown in Table 3, were assigned to the reconfigured Ham Lane driveway based on the existing driveway assignment. The volumes on the Lodi Hospital driveway approach reflect the estimated traffic entering and exiting the site when expansion is completed under Year 2011 Conditions.

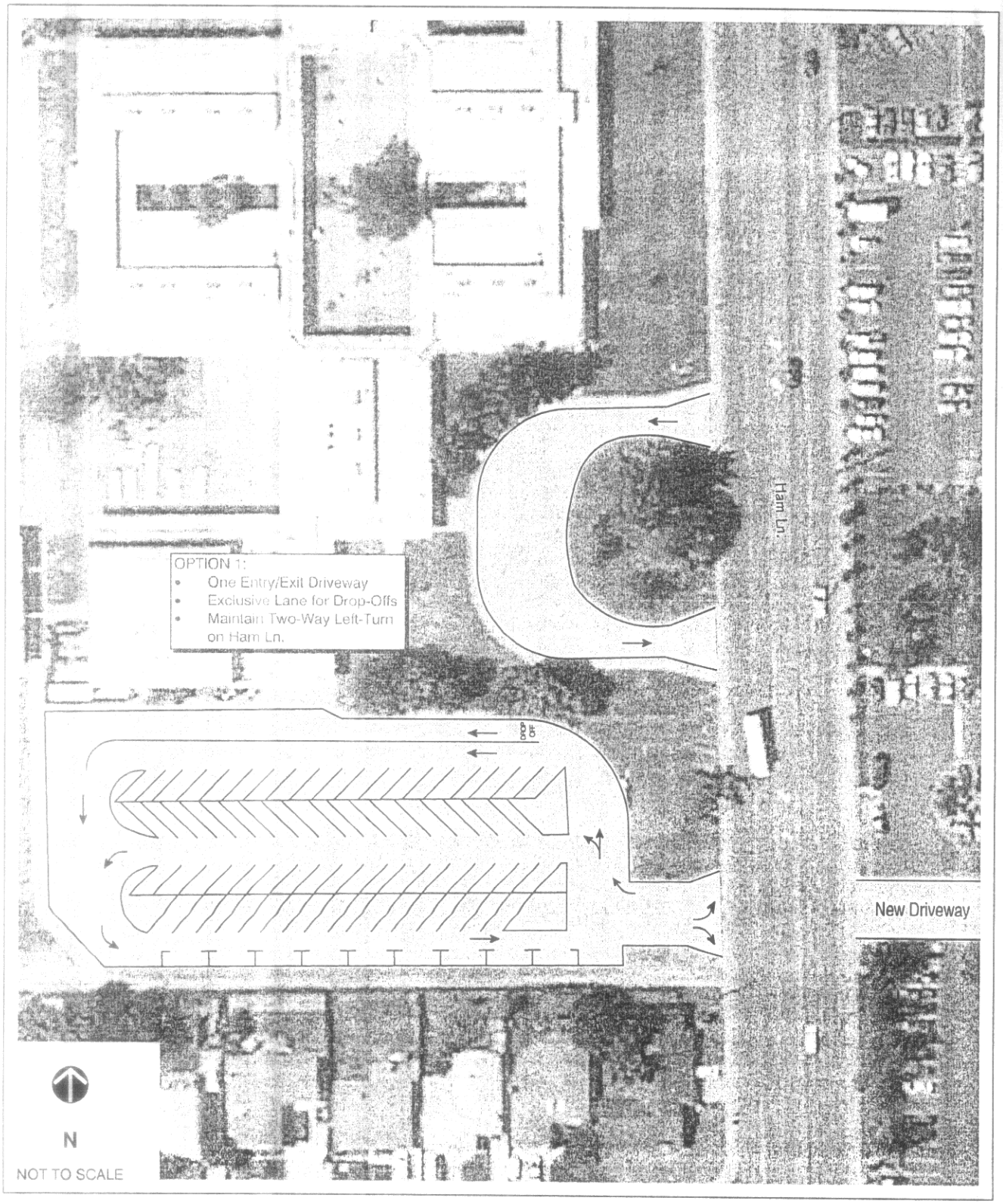
According to the *Lodi Annexation EIR* (LSA Associates, April 2006), future volumes on Ham Lane are estimated to increase by up to 230 vehicles in each direction on Ham Lane through Year 2030 Conditions with traffic from future projects. This future growth on Ham along with the future Lodi Hospital driveway volumes were added to the existing volumes to develop the future volumes as indicated on Figure 5.

The results of the future level of service calculations, assuming the driveway approaches (from the Hospital and school) remain as a side street stop control, is LOS F (>100 seconds/vehicles of delay) during the AM and afternoon peak hours. The level of service calculations are contained in Appendix C. During the PM peak hour the operations of this intersection were calculated to be LOS E (38.0 seconds/vehicle of delay) on the side street.

The peak-hour signal warrant from the Manual on Uniform Traffic Control Devices (MUTCD) was evaluated for the Ham Lane/Main Hospital Driveway intersection under future conditions to determine if a signal is warranted. The results of this analysis (see Appendix D) indicate that a signal is warranted during the AM and afternoon peak hour. However, the peak-hour warrant is not satisfied during the PM peak hour. If the school traffic was excluded from the signal warrant analysis, the peak-hour signal warrant is satisfied during the afternoon peak hour only.

It should be noted that the MUTCD provides seven other warrants that should be considered when determining the need for a traffic signal. The peak-hour signal warrant analysis should not serve as the only basis for deciding whether and when to install a signal. To reach such a decision, the full set of warrants should be investigated based on a thorough study of traffic and roadway conditions. The decision to install a signal should not be based solely upon the warrants, since the installation of signals can lead to certain types of collisions. The City of Lodi shall make the final determination on the need for a signal.

Pedestrian crosswalks across Ham Lane would likely be installed if a traffic signal is provided at the new Ham Lane/Main Hospital Driveway. Increased pedestrian crossings across Ham Lane would result and the potential for parents to use the hospital lot to pick-up or drop-off children could be increased.



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TRANSPORTATION CONSULTANTS

Dec 14, 2006 MJC
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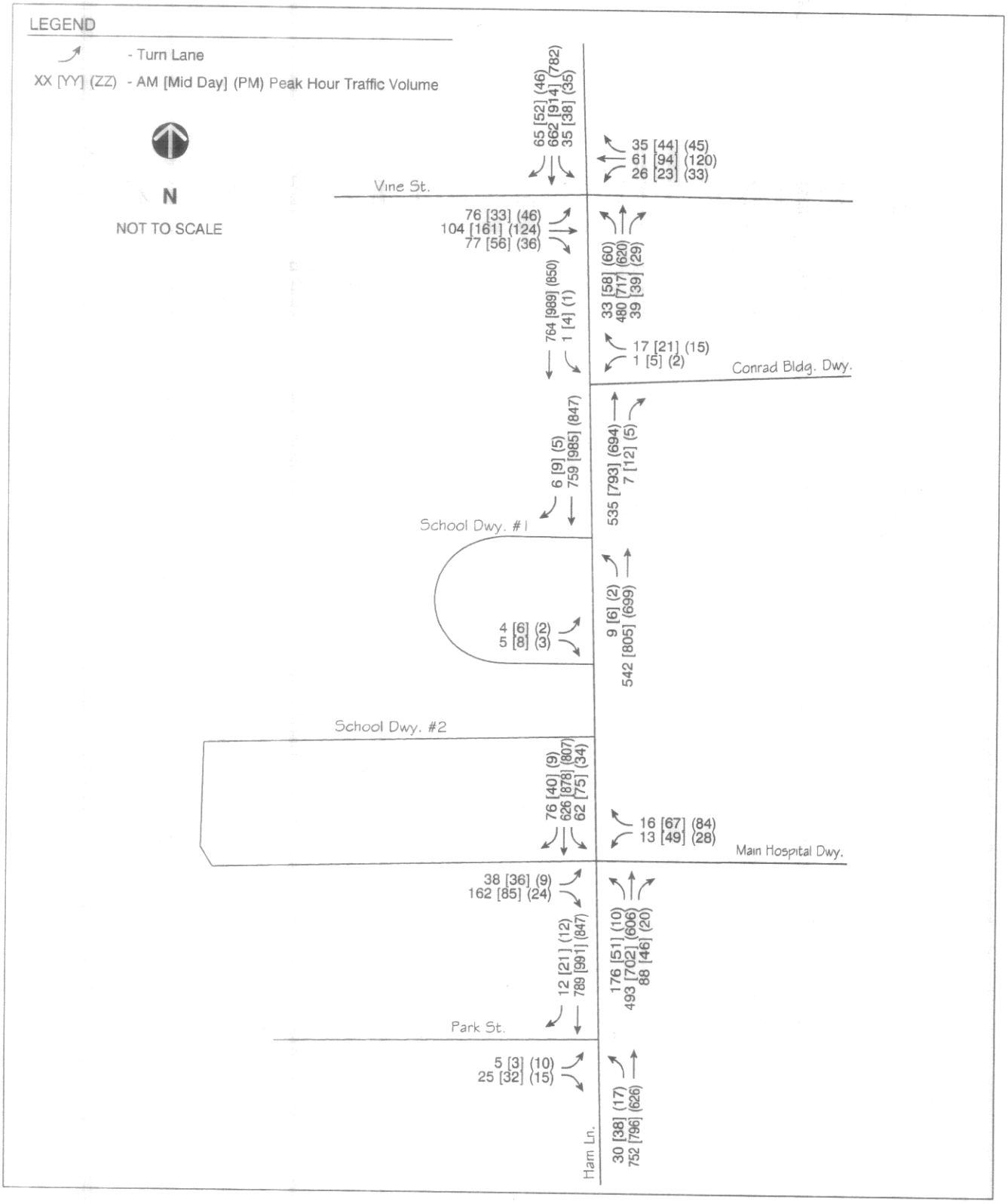
PROPOSED SCHOOL LAYOUT

FIGURE 4



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PEAK HOUR TRAFFIC VOLUMES - FUTURE CONDITIONS

FIGURE 5

The new site plan for the hospital includes an additional driveway on Ham Lane, south of Park Street. With the new driveway and the reconfigured parking layout, traffic circulation patterns on-site could change substantially from the existing patterns.

We recommend that the new Ham Lane/Main Hospital Driveway be monitored annually for a 5-year period after completion of the hospital expansion. This time period will allow for additional observations and verification of the projected volumes to determine the need for a traffic signal.

Conclusion

It is recommended that the Lodi School driveway to the parking lot be reconfigured to provide one inbound and outbound driveway and align with the main hospital driveway. The on-site circulation layout should be configured as shown on Figure 4 to improve on-site pick-up/drop-off operations for the school. It is also recommended that the Ham Lane/Main Hospital Driveway be monitored annually for 5 years after completion of the hospital expansion to determine if the projected volumes would materialize thus requiring the need for a traffic signal.

CITY OF LODI
PLANNING COMMISSION
Staff Report

MEETING DATE: February 28, 2007

APPLICATION NO: Use Permit: 07-U-02

REQUEST: Request for a Use Permit to convert six residential parcels located at 1201, 1139, 1133, 1127, 1121, 1115 Cardinal Street (APN: 031-080-02, 031-080-03, 031-080-04, 031-080-05, 031-080-06, 031-080-07, respectively), to parking and to be incorporated into the surface parking lot for Lodi Memorial Hospital. (Applicant: Lodi Memorial Hospital. File Number: 07-U-02).

LOCATION: 975 South Fairmont Street
Lodi, CA 95241
(APN: 031-070-40)

APPLICANT: Lodi Memorial Hospital

PROPERTY OWNER: Lodi Memorial Hospital
975 South Fairmont Avenue
Lodi, CA 95240

RECOMMENDATION
Staff recommends that the Planning Commission approve the request of Lodi Memorial Hospital for a Use Permit to allow the hospital to remove six single-family houses and replace them with an expanded hospital parking lot.

PROJECT/AREA DESCRIPTION

General Plan Designation: O –Office and LDR - Low Density Residential.

Zoning Designation: RCP, Residential-Commercial Professional and R-2, Single Family Residential.

PROPERTY SIZE: 17.56 acres

The adjacent zoning and land use are as follows:

North: R-C-P, Residential, Commercial and Professional.

South: R-C-P, Residential, Commercial and Professional.

West: PUB, Lodi Unified School District.

East: R-1 and R-2, Single Family Residential.

SUMMARY
The applicant, Lodi Memorial Hospital, is requesting a Use Permit to allow the removal of six single-family residences in order to expand their a parking lot, landscaping and a block wall. The six residential parcels are adjacent to the south side of the hospital's

existing parking lot. The hospital is planning to construct a major addition to the Lodi Memorial Hospital that would take-up some of their existing parking areas. In order for the hospital to maintain their required number of parking spaces, they must add additional parking somewhere else on the site. They have purchased the six residential parcels adjacent to their property with the intent of utilizing them to expand the parking area. The Hospital is requesting this Use Permit in conjunction with their application for a rezoning request to Planned Development, PD (File# 07-Z-01) and a Development Plan approval that will permit the hospital expansion. The proposed hospital expansion is planned to be completed in three phases. The initial phase will consist of the construction of the new South Wing Addition, Central Utility Plant and parking and site improvements. The proposed construction of the expanded parking lot will be part of the first phase of construction.

The expanded parking project will be constructed on hospital property. Over the past year or so, the hospital has purchased the six residential properties. They are proposing to sell and move the houses to other locations. Once the parcels are cleared, an existing wall that separates the properties from the existing hospital grounds will be removed and the land incorporated into the existing hospital parking layout. A new wall will be south of the new parking area, parallel to Cardinal Street. The 20-foot deep setback area between the wall and the Cardinal Street sidewalk will then be landscaped to provide a green buffer between the street and the hospital complex.

BACKGROUND

The proposed project area is located in a transitional area with medical and business offices to the north and east and residential uses to the south and west. The area north of the hospital is zoned RCP, residential commercial professional and is developed primarily with health care related offices and facilities. Fairmont Ave., which borders the hospital property on the east, and Ham Lane which borders the hospital property on the west, are the primary medical office areas in the City. South of the Hospital property the area is zoned residential and is primarily developed with single-family houses. There is a large school, Lodi Middle School, located west of the hospital, across Ham Lane. The Lodi Memorial Hospital and their affiliated entities own a total of 17.56 acres at the project location, including the six residential lots along Cardinal Street, which the hospital proposes to incorporate into their project and will utilize the land for additional parking and for a landscaped buffer along Cardinal Street.

The Hospital would like a separate Use Permit to demolish the 6 residential units and expand their surface parking because of time constraints. It is understood the Hospital would like to prepare the Campus for construction in order to ensure continuous operation of the Hospital. The process of obtaining the requested rezoning to Planned Development and approval of the Development Plan for the entire hospital addition requires City Council action. That action is by ordinance which requires 2 Council meetings and a 30 day waiting period to be finaled. The entire process would delay when the 6 residential units could be removed and the parking expanded.

ANALYSIS

The applicant, Lodi Memorial Hospital is proposing to build a new four-story addition to their existing hospital building. One of the main reasons for the expansion is the need to construct a modern hospital facility that will comply with current seismic standards. The existing hospital contains 147,347 square feet of building area and 107-beds in a three-

story structure. The Phase One expansion will add a new south wing that will add 131,229 square feet of building area and accommodate 90 beds. Once completed, the hospital will have a total of 362,082 square feet and 157-beds. (The total number of beds reflects the removal of 28-beds in the existing west hospital wing due to seismic requirements and additional beds lost elsewhere due to the remodeling). The project will also include the construction of a new 14,506 square-foot, two-story central plant adjacent to the hospital that will house the mechanical equipment, utilities and other support equipment for the hospital.

The proposed surface parking will be constructed within the existing boundaries of the hospital property except for a small area on the south edge of the development. There are eight residential parcels located on the north side of Cardinal Street that back up to the hospital property. The hospital has purchased six of these houses and proposes to incorporate these properties into the project and will utilize the land for additional parking and for a landscaped buffer along Cardinal Street. As part of this Use Permit, the hospital would like to cover all works related to traffic circulation including, but not limited to, a new Ham Lane entrance, new driveways on Fairmont Ave. and modifications to on-site traffic flow. Staff finds that issuance of a Use Permit for this particular project benefits the community since this project will ensure continuous operation of the Hospital.

The Use Permit will allow the Hospital to remove the 6 residential units on Cardinal Street, along with the existing screening wall and the residential landscaping. The Hospital proposes to incorporate those 6 lots into the hospital campus, replacing the houses with parking and landscaping. As part of the project, the Hospital will also build a new 6-foot high solid screening wall between the parking lot and Cardinal Street. The wall will be setback 20 feet from the Cardinal St. property line and the setback area will be landscaped to further screen the Hospital campus from the neighboring residences to the south.

The Hospital is requesting a separate Use Permit in advance of their request to amend the Zoning designation due to time constraints since it will take an additional 10-weeks after this Planning Commission hearing for the Rezone to take affect. The delay would significantly affect their construction schedule. Staff is aware that the Hospital wishes to start working on the surface parking and traffic flow during summer time when Lodi Middle School will be out for the summer. Granting of a separate Use Permit would allow for smoother construction of surface parking and would not interfere with the school schedule.

Staff supports this application for a Use Permit because it will provide parking spaces for the Hospital. Part of the Hospital expansion will remove existing parking spaces adjacent to the hospital. The conversion of these residential lots into new surface parking serves the interest of the Hospital, their patients and the neighbors by providing adequate replacement parking until the proposed parking structures are built sometime in the future. It serves the interests of the neighborhood by providing adequate parking on the Hospital grounds, reducing the necessity for patients or employees to park on the neighboring streets. For these reasons, staff supports this application for a Use Permit.

ENVIRONMENTAL ASSESSMENTS:

The project is found to be categorically exempt according to the California Environmental Quality Act, Article 19 §15332, Class 32. The project is exempted by CEQA as an "In-Fill Development Project". 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. The proposed development occurs within City limits on a project site of no more than five acres substantially surrounded by urban uses. The project site has no value as habitat for endangered, rare or threatened species. Approval of the project would not result in any significant effects relating to traffic, noise, air quality, or water quality. The site can be adequately served by all required utilities and public services. No significant impacts are anticipated and no mitigation measures have been required.

PUBLIC HEARING NOTICE:

Legal Notice for the Use Permit was published on February 28, 2007. A total of 90 notices were sent to all property owners of record within a 300-foot radius of the subject property. Based on the information provided to staff, it was determined that there is one Planning Commission member, Mr. Wendel Kiser, who resides within a 500-foot radius of the project area.

ALTERNATIVE PLANNING COMMISSION ACTIONS:

- Approve the Use Permit with Alternate Conditions
- Deny the Use Permit
- Continue the Request

Respectfully Submitted,

Immanuel Bereket
Junior Planner

Concur,

Randy Hatch
Community Development Director

ATTACHMENTS:

1. Vicinity Map
2. General Plan Map
3. Zoning Map
4. Site Plan
5. Draft Resolution

RESOLUTION NO. 2007-____

A RESOLUTION OF THE LODI CITY COUNCIL CERTIFYING NEGATIVE DECLARATION 06-03 AS ADEQUATE ENVIRONMENTAL DOCUMENTATION FOR THE **GINI PROJECT** GENERAL PLAN AMENDMENT AND REZONE

==========

WHEREAS, public hearings were held by the Planning Commission and City Council on December 13, 2006/February 14, 2007 and April 4, 2007 respectively, on the following described General Plan Amendment and Rezone:

a) General Plan Amendment to redesignate 1325 South Central Avenue (APN 047-270-11) and 1333 South Central Avenue (APN 047-270-12) from Eastside Residential (ER) to General Commercial (GC).

b) Rezone 1325 South Central Avenue (APN 047-270-11) and 1333 South Central Avenue (APN 047-270-12) from Single Family Eastside (RE-1) to General Commercial (C-2).

WHEREAS, it is the Planning Commission recommendation that City Council approve their finding that the Negative Declaration No. 06-03 is adequate environmental documentation; and

NOW, THEREFORE, BE IT RESOLVED, that the Lodi City Council has reviewed all documentation and hereby certifies the Negative Declaration No. 06-03 as adequate environmental documentation for the above-mentioned General Plan Amendment and Rezone.

Dated: April 4, 2007

==========

I hereby certify that Resolution No. 2007-____ was passed and adopted by the City Council of the City of Lodi in a regular meeting held April 4, 2007, by the following vote:

AYES: COUNCIL MEMBERS -

NOES: COUNCIL MEMBERS -

ABSENT: COUNCIL MEMBERS -

ABSTAIN: COUNCIL MEMBERS -

RANDI JOHL
City Clerk

2007-____

RESOLUTION NO. 2007-____

A RESOLUTION OF THE LODI CITY COUNCIL CERTIFYING NEGATIVE DECLARATION 06-04 AS ADEQUATE ENVIRONMENTAL DOCUMENTATION FOR THE **LODI MEMORIAL HOSPITAL PROJECT** GENERAL PLAN AMENDMENT AND REZONE

==========

WHEREAS, public hearings were held by the Planning Commission and City Council on February 28, 2007 and April 4, 2007 respectively, on the following described General Plan Amendment and Rezone:

a) General Plan Amendment to redesignate 1201, 1139, 1133, 1127, 1121, and 1115 W. Cardinal Street (APN 031-080-02, 031-080-03, 031-080-04, 031-080-05, 031-080-06, and 031-080-07) from Low Density Residential to Office.

b) Rezone 975, 999, 1031 South Fairmont Avenue (APN #031-070-44, 031-070-45, and 031-070-46); 1200 W. Vine Street (APN #031-070-37); 1201, 1139, 1133, 1127, 1121, and 1115 W. Cardinal Street ((APN 031-080-02, 031-080-03, 031-080-04, 031-080-05, 031-080-06, and 031-080-07), from (R-C-P) Residential-Commercial-Professional Office and (R-2) Residence District to (PD) Planned Development Zone.

WHEREAS, it is the Planning Commission recommendation that City Council approve their finding that the Negative Declaration No. 06-04 is adequate environmental documentation.

NOW, THEREFORE, BE IT RESOLVED, that the City Council has reviewed all documentation and hereby certifies the Negative Declaration No. 06-04 as adequate environmental documentation for the above-mentioned General Plan Amendment and Rezone.

Dated: April 4, 2007

==========

I hereby certify that Resolution No. 2007-____ was passed and adopted by the City Council of the City of Lodi in a regular meeting held April 4, 2007, by the following vote:

AYES: COUNCIL MEMBERS -

NOES: COUNCIL MEMBERS -

ABSENT: COUNCIL MEMBERS -

ABSTAIN: COUNCIL MEMBERS -

RANDI JOHL
City Clerk

2007-____

RESOLUTION NO. 2007-____

A RESOLUTION OF THE LODI CITY COUNCIL AMENDING THE LAND USE ELEMENT OF THE LODI GENERAL PLAN BY REDESIGNATING 1333 AND 1325 SOUTH CENTRAL AVENUE FROM EASTSIDE RESIDENTIAL TO GENERAL COMMERCIAL **(GINI PROJECT)**; AND REDESIGNATING 1201, 1139, 1133, 1127, 1121, AND 1115 WEST CARDINAL STREET FROM LOW DENSITY RESIDENTIAL TO OFFICE **(LODI MEMORIAL HOSPITAL PROJECT)**

==========

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of Lodi, that the Land Use Element of the Lodi General Plan is hereby amended by redesignating 1333 and 1325 South Central Avenue (APN #047-270-11 and 047-270-12) from Eastside Residential (ER) to General Commercial (GC), and further redesignating 1201, 1139, 1133, 1127, 1121, and 1115 W. Cardinal Street (APN #031-080-02, 031-080-03, 031-080-04, 031-080-05, 031-080-06, and 031-080-07) from Low Density Residential to Office, as shown on Exhibit "A" attached, which is on file in the office of the Lodi City Clerk; and

BE IT FURTHER RESOLVED that Negative Declarations #ND-06-03 and #ND-06-04 have been prepared in compliance with the California Environmental Quality Act of 1970, as amended, and the Guidelines provided thereunder. Further, the Planning Commission has reviewed and considered the information contained in said Negative Declarations with respect to the projects identified in its Resolution Nos. P.C. 06-55 through P.C. 06-57, and Nos. P.C. 07-03 through P.C. 07-07.

BE IT RESOLVED FURTHER, that the Lodi City Council has reviewed all documentation and hereby certifies the Negative Declarations as adequate environmental documentation for the above-referenced projects.

Dated: April 4, 2007

==========

I hereby certify that Resolution No. 2007-____ was passed and adopted by the Lodi City Council in a regular meeting held April 4, 2007 by the following vote:

AYES: COUNCIL MEMBERS –

NOES: COUNCIL MEMBERS –

ABSENT: COUNCIL MEMBERS –

ABSTAIN: COUNCIL MEMBERS –

RANDI JOHL
City Clerk

2007-____

ORDINANCE NO. ____

AN UNCODIFIED ORDINANCE OF THE LODI CITY COUNCIL AMENDING THE OFFICIAL DISTRICT MAP OF THE CITY OF LODI AND THEREBY REZONING 1325 AND 1333 SOUTH CENTRAL AVENUE (APN 047-270-11 AND 047-270-12) FROM SINGLE FAMILY RESIDENTIAL EASTSIDE (RE-1) TO GENERAL COMMERCIAL (C-2) **(GINI PROJECT)**

==========

WHEREAS, the Planning Commission adopted Resolution No. P.C. 06-57 approving the request of Kenneth J. Gini, Property Owner, on behalf of the Gini Project at its meeting of February 14, 2007; and

WHEREAS, a Negative Declaration (#ND-06-03) has been prepared in compliance with the California Environmental Quality Act of 1970, as amended, and the Guidelines provided hereunder. Further, the Planning Commission has reviewed and considered the information contained in said Negative Declaration with respect to the project identified in its Resolution No. P.C. 06-55, and recommended approval at its meeting of February 14, 2007; and

WHEREAS, the Planning Commission of the City of Lodi recommends approval of the request of Kenneth J. Gini on behalf of the Gini Project for a zone change (06-Z-01) from Single Family Residential Eastside (RE-1) to General Commercial (C-2) to the City Council of the City of Lodi.

NOW, THEREFORE, BE IT ORDAINED BY THE LODI CITY COUNCIL AS FOLLOWS:

Section 1. The Lodi City Council hereby approves the request of Kenneth J. Gini, 1325 S. Central Avenue, Lodi, CA 95240, on behalf of the Gini Project, for a zone change (06-Z-01) from Single Family Residential Eastside (RE-1) to General Commercial (C-2).

Section 2. The Official District Map of the City of Lodi adopted by Title 17 of the Lodi Municipal Code is hereby amended as follows:

1325 and 1333 South Central Avenue (APN #047-270-11 and #047-270-12) are hereby rezoned from Single Family Residential Eastside (RE-1) to General Commercial (C-2) (Gini Project), as shown on Exhibit "A" attached hereto.

Section 3. No Mandatory Duty of Care. This ordinance is not intended to and shall not be construed or given effect in a manner which imposes upon the City, or any officer or employee thereof, a mandatory duty of care towards persons or property within the City or outside of the City so as to provide a basis of civil liability for damages, except as otherwise imposed by law.

Section 4. Severability. If any provision of this ordinance or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the ordinance which can be given effect without the invalid provision or application. To this end, the provisions of this ordinance are severable. The City Council hereby declares that it would have adopted this ordinance irrespective of the invalidity of any particular portion thereof.

Section 5. The alterations, changes, and amendments of said Official District Map of the City of Lodi herein set forth have been approved by the City Planning Commission and by the City Council of this City after public hearings held in conformance with provisions of Title 17 of the Lodi Municipal Code and the laws of the State of California applicable thereto.

Section 6. All ordinances and parts of ordinances in conflict herewith are repealed insofar as such conflict may exist.

Section 7. This ordinance shall be published one time in the "Lodi News-Sentinel," a daily newspaper of general circulation printed and published in the City of Lodi and shall be in force and take effect thirty days from and after its passage and approval.

Approved this ____ day of _____, 2007.

_____
BOB JOHNSON
Mayor

Attest:

RANDI JOHL
City Clerk

State of California
County of San Joaquin, ss.

I, Randi Johl, City Clerk of the City of Lodi, do hereby certify that Ordinance No. ____ was introduced at a regular meeting of the City Council of the City of Lodi held April 4, 2007, and was thereafter passed, adopted and ordered to print at a regular meeting of said Council held _____, 2007, by the following vote:

AYES: COUNCIL MEMBERS –

NOES: COUNCIL MEMBERS –

ABSENT: COUNCIL MEMBERS –

ABSTAIN: COUNCIL MEMBERS –

I further certify that Ordinance No. ____ was approved and signed by the Mayor on the date of its passage and the same has been published pursuant to law.

RANDI JOHL
City Clerk

Approved as to Form:

D. STEPHEN SCHWABAUER
City Attorney

ORDINANCE NO. ____

AN UNCODIFIED ORDINANCE OF THE LODI CITY COUNCIL AMENDING THE OFFICIAL DISTRICT MAP OF THE CITY OF LODI AND THEREBY REZONING 975, 999, 1031 SOUTH FAIRMONT; 1200 W. VINE STREET; 1201, 1139, 1133, 1127, 1121, AND 1115 W. CARDINAL STREET FROM (R-C-P), RESIDENTIAL-COMMERCIAL-PROFESSIONAL OFFICE AND (R-2) RESIDENCE DISTRICT TO PD, PLANNED DEVELOPMENT, FOR THE **LODI MEMORIAL HOSPITAL PROJECT**

==========

WHEREAS, the Planning Commission adopted Resolution No. P.C. 07-07 approving the request of Lodi Memorial Hospital for the Planned Development Project at its meeting of February 28, 2007; and

WHEREAS, a Negative Declaration (ND-06-04) has been prepared in compliance with the California Environmental Quality Act of 1970, as amended, and the Guidelines provided hereunder. Further, the Planning Commission has reviewed and considered the information contained in said Negative Declaration with respect to the project identified in its Resolution No. P.C. 07-03, and recommended approval at its meeting of February 28, 2007; and

WHEREAS, the Planning Commission of the City of Lodi recommends approval of the request of Lodi Memorial Hospital for a zone change (07-Z-01) from R-2, Single Family residence and RCP, Residential Commercial Professional Office, to PD, Planned Development, (file 07-Z-01) to the City Council of the City of Lodi.

NOW, THEREFORE, BE IT ORDAINED BY THE LODI CITY COUNCIL AS FOLLOWS:

Section 1. The Lodi City Council hereby approves the Negative Declaration (ND-06-04) as identified in Planning Commission Resolution No. P.C. 07-03.

Section 2. The Lodi City Council hereby approves the request of Lodi Memorial Hospital for a zone change (07-Z-01) from R-2, Single Family Residence and RCP, Residential Commercial Professional Office, to PD, Planned Development.

Section 3. The Official District Map of the City of Lodi adopted by Title 17 of the Lodi Municipal Code is hereby amended as follows:

975, 999, 1031 South Fairmont Avenue (APN #031-070-44, 031-070-45, and 031-070-46); 1200 W. Vine Street (APN #031-070-37); 1201, 1139, 1133, 1127, 1121, and 1115 W. Cardinal Street ((APN 031-080-02, 031-080-03, 031-080-04, 031-080-05, 031-080-06, and 031-080-07), are hereby rezoned from (R-C-P) Residential-Commercial-Professional Office and (R-2) Residence District to (PD) Planned Development, as shown on Exhibit "A" attached hereto.

Section 4. No Mandatory Duty of Care. This ordinance is not intended to and shall not be construed or given effect in a manner which imposes upon the City, or any officer or employee thereof, a mandatory duty of care towards persons or property within the City or outside of the City so as to provide a basis of civil liability for damages, except as otherwise imposed by law.

Section 5. Severability. If any provision of this ordinance or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the ordinance which can be given effect without the invalid provision or application. To this end, the provisions of this ordinance are severable. The City Council hereby declares that it would have adopted this ordinance irrespective of the invalidity of any particular portion thereof.

Section 6. The alterations, changes, and amendments of said Official District Map of the City of Lodi herein set forth have been approved by the City Planning Commission and by the City Council of this City after public hearings held in conformance with provisions of Title 17 of the Lodi Municipal Code and the laws of the State of California applicable thereto.

Section 7. All ordinances and parts of ordinances in conflict herewith are repealed insofar as such conflict may exist.

Section 8. This ordinance shall be published one time in the "Lodi News-Sentinel," a daily newspaper of general circulation printed and published in the City of Lodi and shall be in force and take effect thirty days from and after its passage and approval.

Approved this____ day of ____, 2007.

_____
BOB JOHNSON
Mayor

Attest:

RANDI JOHL
City Clerk

State of California
County of San Joaquin, ss.

I, Randi Johl, City Clerk of the City of Lodi, do hereby certify that Ordinance No. ____ was introduced at a regular meeting of the City Council of the City of Lodi held April 4, 2007, and was thereafter passed, adopted and ordered to print at a regular meeting of said Council held _____, 2007, by the following vote:

AYES: COUNCIL MEMBERS –

NOES: COUNCIL MEMBERS –

ABSENT: COUNCIL MEMBERS –

ABSTAIN: COUNCIL MEMBERS –

I further certify that Ordinance No. ____ was approved and signed by the Mayor on the date of its passage and the same has been published pursuant to law.

RANDI JOHL
City Clerk

Approved as to Form:

D. STEPHEN SCHWABAUER
City Attorney

RESOLUTION NO. 2007-____

A RESOLUTION OF THE LODI CITY COUNCIL APPROVING LODI MEMORIAL HOSPITAL PROJECT DEVELOPMENT PLAN

==========

NOW, THEREFORE, BE IT RESOLVED that the Lodi City Council does hereby approve the Lodi Memorial Hospital Project Development Plan, on file in the office of the City Clerk.

Dated: April 4, 2007

==========

I hereby certify that Resolution No. 2007-____ was passed and adopted by the City Council of the City of Lodi in a regular meeting held April 4, 2007, by the following vote:

AYES: COUNCIL MEMBERS –

NOES: COUNCIL MEMBERS –

ABSENT: COUNCIL MEMBERS –

ABSTAIN: COUNCIL MEMBERS –

RANDI JOHL
City Clerk

2007-____

Please immediately confirm receipt of this fax by calling 333-6702

CITY OF LODI
P. O. BOX 3006
LODI, CALIFORNIA 95241-1910

ADVERTISING INSTRUCTIONS

SUBJECT: **PUBLIC HEARING TO CONSIDER APPROVAL OF THE GINI AND LODI MEMORIAL HOSPITAL PROJECTS**

PUBLISH DATE: **SATURDAY, MARCH 24, 2007**

LEGAL AD

TEAR SHEETS WANTED: **One (1) please**

SEND AFFIDAVIT AND BILL TO: RANDI JOHL, CITY CLERK
City of Lodi
P.O. Box 3006
Lodi, CA 95241-1910

DATED: THURSDAY, MARCH 22, 2007

ORDERED BY: RANDI JOHL
CITY CLERK

Jennifer M Perrin

JENNIFER M. PERRIN, CMC
DEPUTY CITY CLERK

DANA CHAPMAN
ADMINISTRATIVE CLERK

Verify Appearance of this Legal in the Newspaper – Copy to File

LNS Faxed to the Sentinel at 369-1084 at 3:30pm (time) on 3/22/07 (date) 2 (pages)
Phoned to confirm receipt of all pages at _____(time) ____JLT ____DRC ____JMP (initials)

forms\advins.doc

DECLARATION OF POSTING

NOTICE OF PUBLIC HEARING TO CONSIDER APPROVAL OF THE GINI AND LODI MEMORIAL HOSPITAL PROJECTS

On Friday, March 23, 2007, in the City of Lodi, San Joaquin County, California, a Notice of Public Hearing to consider approval of the Gini and Lodi Memorial Hospital Projects (attached and marked as Exhibit A) was posted at the following locations:

Lodi Public Library
Lodi City Clerk's Office
Lodi City Hall Lobby
Lodi Carnegie Forum

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

Executed on March 23, 2007, at Lodi, California.

ORDERED BY:

RANDI JOHL
CITY CLERK

JENNIFER M. PERRIN, CMC
DEPUTY CITY CLERK

DANA R. CHAPMAN
ADMINISTRATIVE CLERK

N:\Administration\CLERK\Forms\DECPOSTCD.DOC

DECLARATION OF MAILING

NOTICE OF PUBLIC HEARING TO CONSIDER APPROVAL OF THE GINI AND LODI MEMORIAL HOSPITAL PROJECTS

On March 23, 2007, in the City of Lodi, San Joaquin County, California, I deposited in the United States mail, envelopes with first-class postage prepaid thereon, containing a Notice of Public Hearing to consider approval of the Gini and Lodi Memorial Hospital Projects, attached hereto Marked Exhibit A. The mailing list for said matter is attached hereto, marked Exhibit B.

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

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

Executed on March 23, 2007, at Lodi, California.

ORDERED BY:

RANDI JOHL
CITY CLERK, CITY OF LODI

JENNIFER M. PERRIN, CMC
DEPUTY CITY CLERK

DANA R. CHAPMAN
ADMINISTRATIVE CLERK

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CITY OF LODI

Carnegie Forum
305 West Pine Street, Lodi

NOTICE OF PUBLIC HEARING
Date: April 4, 2007
Time: 7:00 p.m.

For information regarding this notice please contact:
Randi Johl
City Clerk
Telephone: (209) 333-6702

EXHIBIT A

NOTICE OF PUBLIC HEARING

NOTICE IS HEREBY GIVEN that on **Wednesday, April 4, 2007**, at the hour of 7:00 p.m., or as soon thereafter as the matter may be heard, the City Council will conduct a public hearing at the Carnegie Forum, 305 West Pine Street, Lodi, to consider approval of the following items:

a) Approve Negative Declaration 06-03 for the General Plan amendment and change in zoning for the Gini Project (expansion of auto-related businesses) and approve Negative Declaration 06-04 for the General Plan amendment and change in zoning for the Lodi Memorial Hospital Project (new south wing addition and other related facilities)

b) Amend the General Plan designation for 1333 and 1325 South Central Avenue from Eastside Residential to General Commercial (Gini Project) and for 1201, 1139, 1133, 1127, 1121, and 1115 West Cardinal Street from Low Density Residential to Office (Lodi Memorial Hospital Project)

c) Rezone 1333 and 1325 South Central Avenue from RE-1, Single Family Residential Eastside, to C-2, General Commercial (Gini Project)

d) Rezone 1201, 1139, 1133, 1127, 1121, and 1115 West Cardinal Street from Low Density Residential to Office and approve Development Plan (Lodi Memorial Hospital Project)

Information regarding this item may be obtained in the Community Development Department, 221 West Pine Street, Lodi, (209) 333-6711. All interested persons are invited to present their views and comments on this matter. Written statements may be filed with the City Clerk, City Hall, 221 West Pine Street, 2nd Floor, Lodi, 95240, at any time prior to the hearing scheduled herein, and oral statements may be made at said hearing.

If you challenge the subject matter in court, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice or in written correspondence delivered to the City Clerk, 221 West Pine Street, at or prior to the close of the public hearing.

By Order of the Lodi City Council:

Randi Johl
City Clerk

Dated: March 21, 2007

Approved as to form:

D. Stephen Schwabauer
City Attorney

EXHIBIT B

Lodi Memorial

APN	OWNER	ADDRESS	CITY	STATE	ZIP
03104002	LODI UNIFIED, SCHOOL DIST				00000
03106010	BURGOS, ALBERT E	1321 PARK ST	LODI	CA	95242
03106011	SCOGGINS, DANIEL B	1315 W PARK ST	LODI	CA	95240
03106012	BECERRA, ESAUL & MARIA	1309 W PARK ST	LODI	CA	95240
03106013	CROSS, GREGORY B & NANCY A	750 LOUIE AVE	LODI	CA	95240
03106014	SIEGLOCK, JACK A & BRENDA LEE	1702 TIMBERLAKE CIR	LODI	CA	95242
03106015	MUHLBEIER, TIMOTHY F & KATHRYN	4279 SCOTTSDALE RD	LODI	CA	95240
03106016	TAMURA, KAY YOSHIE	1308 PARK ST	LODI	CA	95240
03106017	WOODRUFF, TERRY R & CINDY A	9043 HILDRETH LN	STOCKTON	CA	95212
03106018	METTLER, KEITH H & J	1314 PARK ST	LODI	CA	95242
03106019	JAMES, BRIAN J & MELISSA A	1315 CARDINAL ST	LODI	CA	95242
03106020	LINN, THOMAS W	1320 W PARK ST	LODI	CA	95240
03106021	SHUMAN, STEVE M	1321 CARDINAL ST	LODI	CA	95242
03107037	LODI MEMORIAL HOSPITAL ASSN	PO BOX 3004	LODI	CA	95241
03107040	LODI MEMORIAL HOSPITAL ASSN	PO BOX 3004	LODI	CA	95241
03107044	LODI MEMORIAL HOSPITAL ASSN	6653 EMBARCADERO DR STE M	STOCKTON	CA	95219
03107045	LODI MEMORIAL HOSPITAL ASSN	6653 EMBARCADERO DR #M	STOCKTON	CA	95219
03107046	LODI MEMORIAL HOSPITAL ASSN	1121 W VINE ST #16	LODI	CA	95240
03108001	PERINE, BARBARA J	1122 S HAM LN	LODI	CA	95240
03108002	LODI MEMORIAL HOSPITAL	975 S FAIRMONT AVE	LODI	CA	95240
03108003	LODI MEMORIAL HOSPITAL ASSN IN	PO BOX 3004	LODI	CA	95241
03108004	LODI MEMORIAL HOSPITAL ASSN IN	975 S FAIRMONT AVE	LODI	CA	95240
03108005	LODI MEMORIAL HOSPITAL	975 S FAIRMONT AVE	LODI	CA	95240
03108006	LODI	PO BOX 3004	LODI	CA	95241

	MEMORIAL, HOSPITAL ASSN				
03108007	LODI MEMORIAL, HOSPITAL ASSN	CALL BOX 3004	LODI	CA	95241
03108008	BOHNET, ROSE B	1109 CARDINAL ST	LODI	CA	95240
03108009	LODI MEMORIAL HOSPITAL ASSN	CALL BOX 3004	LODI	CA	95241
03108010	THOMPSON, MELVIN & CAROL TR	3360 OFFERDAHL RD	CHEWELAH	WA	99109
03108011	KOYAMA, ASA & SHIGEKO	23090 N KENEFICK RD	ACAMPO	CA	95220
03108012	HANNAH, JEAN PAUL & SHELLI K	1126 GLENHURST DR	LODI	CA	95240
03108013	LOY, MILTON H & BETTY L TR	1127 S FAIRMONT AVE	LODI	CA	95240
03108014	PENA, MARIA A ETAL	1132 GLENHURST DR	LODI	CA	95240
03108040	COOK, LYLE & LA VERA	1127 GLENHURST DR	LODI	CA	95240
03108041	GAIL, JOHN R TR ETAL	1456 ARUNDEL CT	LODI	CA	95242
03108042	GEARHART, LOWELL D & LORRAINE	1121 GLENHURST DR	LODI	CA	95240
03108043	BRUHN, ERVIN M TR	1120 S SUNSET DR	LODI	CA	95240
03108044	TSUTAOKA, JANET K	1115 GLENHURST DR	LODI	CA	95240
03108045	PORTER, ROBERT J & DARLENE F	5900 STARBOARD DR	BYRON	CA	94514
03108046	GARCIA, MARGARITA	1210 CARDINAL ST	LODI	CA	95240
03108047	BRODEHL, ARLO H	815 WOODROW ST	LODI	CA	95240
03108048	BARRIGA, DANIEL & VICTORIA	1127 S SUNSET DR	LODI	CA	95240
03111001	PRIDMORE, ALOHA R TRUSTEE	1110 W PINE ST	LODI	CA	95240
03111002	PRIDMORE, ALOHA R TRUSTEE	1110 W PINE ST	LODI	CA	95240
03111009	GUENTHER, ROLAND E & LA VERA T	1000 CARDINAL ST	LODI	CA	95240
03112001	CANEPA, CAROL J TR	131 S ORANGE AVE	LODI	CA	95240
03112002	THORNESBERRY, CARLYNE J TR	1000 YORK ST	LODI	CA	95240
03112003	WILCOX, JANET	1007 S	LODI	CA	95240

	A TR	ORANGE AVE			
03112004	MOSO, JOHN A TR	1013 S ORANGE AVE	LODI	CA	95240
03112005	MERCURIO, PAT & DIANA TR	1019 S ORANGE AVE	LODI	CA	95240
03112007	BORGES, STEVEN & GWEN	1025 S ORANGE AVE	LODI	CA	95240
03112008	MCMILLEN, CHARLIE TRUSTEE	930 W PARK ST	LODI	CA	95240
03112024	FERVIA, JOHN JR & LORRAINE M T	22027 SW 107TH AVE	TUALATIN	OR	97062
03112025	KNOEFLER, LUCY C	1007 W CARDINAL ST	LODI	CA	95240
03112026	LINN, JOHN S & SHARON G	1011 CARDINAL ST	LODI	CA	95240
03112027	WEAVER, JOAN C	1031 W CARDINAL ST	LODI	CA	95240
03112032	CANEPA, CAROL J TR	131 S ORANGE AVE	LODI	CA	95240
03112033	CANEPA, CAROL J TR	131 S ORANGE AVE	LODI	CA	95240
03112034	CANEPA, CAROL J TR	131 S ORANGE AVE	LODI	CA	95240
03112054	NEAL, DAVID A & BETH A TR	455 W TURNER RD	LODI	CA	95242
03112055	SOROUR FAMILY LLC	1343 RIVERGATE DR	LODI	CA	95240
03112056	SOROUR FAMILY LLC	1343 RIVERGATE DR	LODI	CA	95240
03113004	900 S FAIRMONT, BUILDING PTP	900 S FAIRMONT AVE	LODI	CA	95240
03113005	ANGOCO, JOHNNY C & DEBORAH MAR	930 W VINE ST	LODI	CA	95240
03113020	O SHEA, TIMOTHY JOE	931 WINDSOR DR	LODI	CA	95240
03113023	KRAUSE, MARY A	1000 W WINDSOR DR	LODI	CA	95240
03113024	WELCH, JOHN ALBERT TR	930 WINDSOR DR	LODI	CA	95246
03113039	JORDAN, JOSEPH T & FLORENCE E	931 YORK ST	LODI	CA	95240
03113040	FAIRMONT HEALTH REALTY HOLDING	PO BOX 160488	ALTAMONTE SPRGS	FL	32716
03113041	WILLIAMS, GEORGE & BETTY TR ET	1607 SCARSBOROUGH DR	LODI	CA	95240
03113042	900 S FAIRMONT BUILDING PTP	900 S FAIRMONT AVE	LODI	CA	95240
03113043	MCKENZIE,	851 TILDEN	LODI	CA	95242

	THOMAS P & MARGARET	DR			
03113044	CAREY, NANCY J TR	2507 ALDER GLEN DR	LODI	CA	95242
03304011	FILLPPINI, DELMO R TR	833 S HAM LN	LODI	CA	95242
03304012	PUERTA, JULIO E	839 S HAM LN	LODI	CA	95242
03304013	MITCHELL, LEA TR	845 S HAM LN	LODI	CA	95242
03307123	KHAN, YOUSAF ETAL	838 CORTEZ WAY	LODI	CA	95242
03307124	SCANNAVINO, GARY & LEANNE TR E	5463 CHEROKEE RD	STOCKTON	CA	95215
03307125	TRIOLO, RUSSELL & HELEN G TR	1827 EDGEWOOD DR	LODI	CA	95240
03308021	HAYES INVESTMENTS	1217 W TOKAY ST SUITE #D	LODI	CA	95240
03308045	FORTIER, JANET M TR	120 S ORANGE AVE	LODI	CA	95240
03315042	SCHMIDT, DAGOBERT & MAGDALENE	825 S ORANGE AVE	LODI	CA	95240
03315044	WESTGATE, JAMES A & D M	628 WILLOW GLEN DR	LODI	CA	95240
03315049	ROSENAU, LELAND A & D ARLENE R	15625 N DAVIS RD	LODI	CA	95242
03315050	PANAGOPOULOS, JIM & DEBRA	1920 APRICOT WAY	BRENTWOOD	CA	94513
03331025	BRECKENRIDGE, C R & S TR ETAL	845 S FAIRMONT #1	LODI	CA	95240

Gini

APN	OWNER	ADDRESS	CITY	STATE	ZIP	SITUS ADDRESS
04726022	SCOTT, ANTONIA M	1301 S CENTRAL AVE	LODI	CA	95240	
04726023	GONZALEZ, MIGUEL & MARIA	1305 S CENTRAL AVE	LODI	CA	95240	
04726024	MCPHERSON, VIOLET R TR	350 ACACIA ST	LODI	CA	95240	
04726025	REICH, GLENN C & BETTE J TR	801 S CHURCH ST	LODI	CA	95240	Resident 348 ACACIA ST. Lodi, CA 95240
04726027	KADIR, ABDUL & C ETAL	318 ACACIA ST	LODI	CA	95240	
04726028	LOPEZ, RAMON & VERONICA	322 E ACACIA ST	LODI	CA	95240	
04726029	KOLB, LESLIE R & C M	303 ACACIA ST	LODI	CA	95240	Resident 320 ACACIA ST. Lodi, CA 95240
04726035	REICH, GLENN C & BETTE J TR	801 S CHURCH ST	LODI	CA	95240	
04727005	KHAN, YAQUB ETAL	224 ACACIA ST	LODI	CA	95240	Resident 1321 S. CENTRAL AVE. Lodi, CA 95240
04727006	KHAN, KAUSAR	1319 S CENTRAL AVE	LODI	CA	95240	
04727007	KHAN, QIAS	1319 S CENTRAL AVE	LODI	CA	95240	
04727010	B V K INVESTMENT CO	5405 N PERSHING AVE SUITE C-1	STOCKTON	CA	95207	Resident 1323 S. CENTRAL AVE. Lodi, CA 95240
04727011	GINI, KENNETH J TR ETAL	325 E KETTLEMAN LN	LODI	CA	95240	Resident 1325 S. CENTRAL AVE Lodi, CA 95240
04727012	GINI, KENNETH J TR ETAL	10899 E WOODBRIDGE RD	ACAMPO	CA	95220	Resident 1333 S. CENTRAL AVE. Lodi, CA 95240
04727013	ADAMEK, DON & JUDIE	80155 GALLATIN RD	BOZEMAN	MT	59715	Resident 1341 S. CENTRAL AVE. Lodi, CA 95240
04727014	GINI, KENNETH J & KARRIE M TR	10899 E WOODBRIDGE RD	ACAMPO	CA	95220	Resident 335 E. KETTLEMAN LN. Lodi, CA 95240
04727015	GINI, KENNETH J & KARRIE M TR	10899 E WOODBRIDGE RD	ACAMPO	CA	95220	Resident 331 E. KETTLEMAN LN. Lodi, CA 95240
04727016	MARCHICK, ALAN H & J TRS	3832 N MONITOR CIR	STOCKTON	CA	95219	Resident 325 E. KETTLEMAN LN. Lodi, CA 95240

04727017	PIETROS'S PIZZA PARLORS INC	317 E KETTLEMAN LN	LODI	CA	95240	Resident 321 E. KETTLEMAN LN. Lodi, CA 95240
04727018	PIETRO'S PIZZA PARLORS INC	317 E KETTLEMAN	LODI	CA	95240	
04727028	KHAN, AYUB & HUSSAN A TR	157 MULBERRY CIR	LODI	CA	95240	Resident 1321 S. CENTRAL AVE. Lodi, CA 95240
04727029	DELIMA, KEN & BEVERLY TR	1848 VIA HERMANA	SAN LORENZO	CA	94580	Resident 1317 S. CENTRAL AVE Lodi, CA 95240
04727032	GIBSON, MICHAEL	1316 S WASHINGTON ST	LODI	CA	95240	
04727033	MIRANDA, DAVID & AMY	416 EDEN ST	LODI	CA	95240	Resident 1318 S. WASHINGTON ST. Lodi, CA 95240
04728001	NO CAL CONF 7TH DAY ADVENTISTS	1230 S CENTRAL AVE	LODI	CA	95240	
06206007	MID CAL PROPERTIES LLC	3200 BAYSHORE RD UNIT 3	BENICIA	CA	94510	Resident 326 E. KETTLEMAN LN. Lodi, CA 95240
06206010	JOHN & VARENE TERESI FAMILY LP	PO BOX 819	LODI	CA	95241	Resident 350 E. KETTLEMAN LN. Lodi, CA 95240
06206052	TAYLOR, JOSEPH A & MERALYNNE T	1912 E METTLER RD	LODI	CA	95242	Resident 330 E. KETTLEMAN LN. Lodi, CA 95240
06206053	TAYLOR, JOSEPH A & MERALYNNE J	1912 E METTLER RD	LODI	CA	95242	Resident 332 E. KETTLEMAN LN. Lodi, CA 95240

AGENDA ITEM J-02a

CITY OF LODI
COUNCIL COMMUNICATION

TM

AGENDA TITLE: Post for Expiring Terms and Vacancies on the Greater Lodi Area Youth Commission (Student Appointees), Library Board of Trustees, Planning Commission, and Lodi Arts Commission

MEETING DATE: April 4, 2007

PREPARED BY: City Clerk

RECOMMENDED ACTION: Direct the City Clerk to post for the expiring terms and vacancies on the Greater Lodi Area Youth Commission (Student Appointees), Library Board of Trustees, Planning Commission, and Lodi Arts Commission.

BACKGROUND INFORMATION: Several terms are due to expire on various boards and commissions. In addition, a number of Student Appointees on the Greater Lodi Area Youth Commission are leaving for college and must resign their positions on the Commission. It is, therefore, recommended that the City Council direct the City Clerk to post for the expiring terms and vacancies below.

Greater Lodi Area Youth Commission (Student Appointees)

Larissa Boyer	Term to expire May 31, 2007
Corinne Casey	Term to expire May 31, 2007
Jordan McCroskey	Term to expire May 31, 2007
Jonathan Newman	Term to expire May 31, 2007
Holly Jacobus	Term to expire May 31, 2008
Sarah McConahey	Term to expire May 31, 2008
Whitney Sandelin	Term to expire May 31, 2008

Library Board of Trustees

Cynthia Neely	Term to expire June 30, 2007

Lodi Arts Commission

Laura Heinitz	Term to expire July 1, 2007
Margie Lawson	Term to expire July 1, 2007
Beverly Norcross	Term to expire July 1, 2007

Planning Commission

Randy Heinitz	Term to expire June 30, 2007
Gina Moran	Term to expire June 30, 2007

Government Code Section 54970 et seq. requires that the City Clerk post for vacancies to allow citizens interested in serving to submit an application. The City Council is requested to direct the City Clerk to make the necessary postings.

FISCAL IMPACT: None.

FUNDING AVAILABLE: None required.

RJ/JMP

Randi Johl, City Clerk

APPROVED: _____
Blair King, City Manager

council/councom/Posting1.doc

CITY OF LODI
COUNCIL COMMUNICATION

TM

AGENDA TITLE: **Adopt Resolution Authorizing City Manager to Execute Memorandum of Understanding (MOU) with San Joaquin County for Provision of Domestic Wastewater Treatment Services for County Service Area 31 (Flag City)**

MEETING DATE: **April 4, 2007**

PREPARED BY: **Public Works Director**

RECOMMENDED ACTION: Adopt a resolution authorizing the City Manager to execute the attached MOU with San Joaquin County for provision of domestic wastewater treatment services for County Service Area 31 (Flag City).

BACKGROUND INFORMATION: In 2006, the City Council authorized negotiations with San Joaquin County with regard to domestic wastewater service for County Service Area 31 (Flag City). This was in response to a formal request made in December 2005 from the Board of Supervisors requesting Lodi consider providing sewer service to Flag City. The County is faced with making a decision about sewer treatment plant upgrades to meet regulatory requirements. Connection to Lodi's facility is the preferred alternative of several that were studied.

In 2006, City staff stated a key reason to consider the County's request was to secure greater influence with regard to development in the Flag City area and to prevent the County from securing wastewater service from the City of Stockton or expand the CSA to achieve greater economy of scale. The City Attorney referenced the Dateline Builders v. Santa Rosa case where the City of San Rosa provided limited sewer service to avoid a proliferation of additional wastewater treatment facilities that facilitated development outside of the city limits. In addition to controlling development, staff felt it could propose an agreement that would not only be revenue neutral but would allow the City to realize additional income.

Our respective staffs have drafted the attached MOU, which has been approved by the Board of Supervisors. Major points are:

- The MOU facilitates the goals of the City and County in supporting compact land use and development, and discouraging "leap frog development" and "urban sprawl".
- The service area will be issued a City discharge permit with typical requirements, including our ability to make changes in the event of changes in State or Federal requirements. The only limitation is that the permit can be no stricter than the City's State permit.
- Annual volume is limited and potential increases are linked to tax-sharing agreements.
- Service charges would be at standard City wastewater service rates plus a 35% surcharge. (Note, the charges would be based on actual flow, biochemical oxygen demand (BOD) and suspended solids as currently done for high strength users, as measured at one point of service. The City would bill the County; we would not be billing individual customers.)
- Wastewater Impact Fees (Capacity fees) would be paid. (The amount is roughly $6 million, however, an engineering analysis may provide alternatives that could reduce the capacity impacts and associated costs.)
- An administrative fee of $250,000 is to be paid to the City upon execution of the agreement and City adoption of ordinance allowing the connection.

APPROVED: _____
Blair King, City Manager

- The County will build the necessary facilities to connect to the City's facilities. The agreement covers treatment only; collection system maintenance is not included.
- The service area is limited to the existing established service area unless the City agrees to the change which is linked to tax-sharing.
- The agreement provides for City review of new development.
- The County consents to adding Flag City in the Lodi Tourism Business Improvement District, however, the City will have to process the change.
- All costs of evaluating impacts to the City's facility, processing environmental review and associated staff costs are to be paid by the County.

The proposed MOU limits the County to 0.19 MGD (190,000) of the Wastewater Plant's 8.5 MGD capacity without a new tax sharing agreement. If the County exceeds the 0.19 MGD limit, then the County may negotiate a new tax sharing agreement for additional wastewater capacity up to a not-to-exceed limit of 0.21 MGD.

If the Council were to deny the agreement, we would assume that the County would proceed to make improvements to the existing Flag City Wastewater Treatment facility. However, these improvements would be costly. To mitigate the costs of wastewater treatment to the businesses at Flag City, the County could expand the boundaries of the CSA in order to achieve economies of scale and spread the cost over a larger base. The County could also approach the City of Stockton to secure wastewater treatment services.

The County studied several alternatives to meeting State discharge requirements and concluded that connecting to the City provides better long-term certainty and the economies of scale advantages of being part of a larger system.

Approval of this request would require an amendment to the Municipal Code, which currently prohibits domestic wastewater service outside the City limits. Staff would propose that the ordinance be amended to allow such service to public agencies only, and if this action is approved, an ordinance revision would be brought back to the Council at a later date.

FISCAL IMPACT: Depending on actual flow and strength, the surcharge revenue to the General Fund would be in the range of $50,000 to $100,000 per year. The capacity fee would be a significant cash infusion to the Wastewater Fund, which has a number of high-cost capital needs in the near future. One potential long-term concern is that Flag City's effluent is considerably higher in salts than the City's effluent. This is partly due to their source water (wells) and the nature of the businesses located in the District. The City's new discharge permit is likely to have a salinity limit. While it appears we will be able to meet that limit including Flag City, this could be problematic in the future. This potential impact is mitigated by our ability to amend their discharge permit to require a reduction in the salinity of their wastewater.

FUNDING AVAILABLE: Not applicable.

Richard C. Prima, Jr.
Public Works Director

RCP/pmf
Attachment
cc: Steve Schwabauer, City Attorney
Randy Hatch, Community Development Director
Tom Flinn, San Joaquin County Public Works Director
Charlie Swimley, Water Services Manager
Manuel Lopez, San Joaquin County Administrator

County Service Area No. 31 "Flag City"
Domestic Waste Connection Memorandum of Understanding

THIS Memorandum of Understanding ("MOU") is entered into this ____ day of _____, 2007, (the "Effective Date"), between THE COUNTY OF SAN JOAQUIN, a political subdivision of the State of California ("County"); COUNTY SERVICE AREA No. 31, a County Service Area established by the County of San Joaquin pursuant to the County Service Area Law of the State of California ("Flag City"); and the CITY OF LODI, a municipal corporation organized and existing under the laws of the State of California ("City"). Flag City, as a County Service Area, is merely an administrative unit of County and is referred to separately in the Agreement purely for administrative convenience.

RECITALS

This MOU is predicated upon the following findings:

A. Flag City is a County Service Area located at the intersection of Highway 12 and Interstate 5, in San Joaquin County, California, four (4) miles west of the corporate limits of the City of Lodi. Flag City currently operates a secondary wastewater collection system and treatment facility, however the treatment facility needs major upgrades to meet State discharge requirements.

B. The City, through its general plan is committed to encouraging agricultural uses in the area surrounding the City and discouraging urban uses. The City of Lodi's General Plan contains the following land use element goals:

a.. Policy LU-A.1 – The City shall seek to preserve Lodi's small-town and rural qualities.

b. Goal LU-B – To preserve agricultural land surrounding Lodi and to discourage premature development of agricultural land with nonagricultural uses, while providing for urban needs.

c. Policy LU-B.1 – The City shall encourage the preservation of agricultural land surrounding the City.

d. Policy LU-B.2 – The City should designate a continuous open space greenbelt around the urbanized area of Lodi to maintain and enhance the agricultural economy.

e. Policy LU-B.6 – The City shall encourage San Joaquin County to retain agricultural uses on lands adjacent to the City.

C. The City encourages compact development and discourages leapfrog development and urban sprawl within the Highway 12/Interstate 5 corridor, all of which would be inconsistent with the above general plan goals. The City's General Plan is committed to the above goals within its own boundaries as well, stating the following:

a. A-5 The City shall require specific development plans in areas of major new development.

b. E-2 The City shall promote downtown Lodi as the primary pedestrian-oriented, commercial area of Lodi.

c. E-4 The City shall ensure the new commercial development be designed to avoid the appearance of strip development.

d. E-7 In approving new commercial projects, the City shall seek to ensure that such projects reflect the City's concern for achieving and maintaining high quality development.

D. Providing wastewater treatment service to Flag City on the condition that service not be afforded to developments that conflict with the goals set forth herein furthers those goals by concentrating development in an existing County Service Area with set boundaries.

E. County acknowledges the goals set forth in the Lodi General Plan as set forth above and has similar provisions in its General Plan which encourage agricultural uses, compact land use and development, and discourage “leap frog development” and “urban sprawl.” Toward these ends, the County General Plan provides:

1. To make efficient use of land and promote a functional development pattern with varied and compatible land uses.

2. To minimize the effect on agricultural lands and other environmental resources while providing for orderly growth.

3. To create a visually attractive County.

4. To avoid the problems and costs imposed on local government by development that does not have adequate services.

5. Rural Communities Shall:

(a) be planned to have minimal growth, mainly infill development, with expansion discouraged;

(b) be planned to serve the immediate needs of the community’s residents or the surrounding agricultural community;

(c) have a minimum land area of 50 acres or have been identified on the General Plan 1995 map as a residential area.

6. Development shall be orderly and compact.

7. Development should occur on vacant lots within existing communities as “infill” before extending beyond the current developed areas of a community.

8. Freeway Service.

(1) Function: Provide for commercial uses oriented almost exclusively to serving the needs of the freeway traveler.

(2) Typical Uses: Travel-related businesses including gasoline service stations, food and beverage sales, eating and drinking establishments, and hotels and motels.

(3) Development and Locational Criteria: Freeway Service areas shall be:

(A) designated only adjacent to full freeway interchanges where development will be easily accessible and visible to the freeway traveler.

(B) limited in number to encourage clustering of uses at selected interchanges;

(C) limited in area in order to reduce impacts on surrounding land uses and control the physical and visual extent of these areas;

(D) developed so that buildings occupy no more than 60 percent of the lot and are no more than 3 stories in height; and

(E) designed in an attractive manner that creates a favorable impression of the County by considering the overall site design, landscaping, scale of development, signage, relationship to adjacent uses, circulation and parking, and architecture.

F. There is a need for upgraded sewer treatment facilities to service Flag City and the parties wish to cooperatively ensure that any development that occurs in Flag City is orderly, compact and in compliance with the goals of the City and County General Plans.

NOW THEREFORE, the parties to this MOU agree as follows:

1. Definitions. Unless otherwise defined in this MOU, all capitalized terms will have the definitions ascribed to them in Lodi Municipal Code Section 13.12.020.

a. The Term Highway 12/Flag City Corridor shall mean the area bounded by the White Slough Water Pollution Control Facility ("WSWPCF") on the west, the City of Lodi on the East, ½ mile north of Highway 12 on the north and ½ mile south of the trunk sewer line connecting the City of Lodi to the WSWPCF on the south.

b. Flag City Service Area shall mean all properties within the boundaries of County Service Area 31, as set forth in Exhibit A.

2. Terms of Connection. Any delivery of wastewater permitted pursuant to the MOU shall be subject to the following terms:

a. Permit: Flag City shall comply with the terms of a Discharge Permit to be issued by the City which will include but not be limited to limitations on maximum flow, BOD, ph, TDS and suspended solid concentrations and prohibitions on discharge of hazardous waste in conformance with the City's NPDES Permit. The terms of this Discharge Permit will be no more stringent than those required under the City's NPDES permit. However, City may change the terms of the discharge permit without notice if necessary to comply with State or Federal requirements.

b. Volume: The intent of this MOU is to provide sewer treatment services to the properties within the Flag City Service Area boundaries, as set forth in Exhibit A. Current volume of wastewater is 0.11 MGD (annual average). Estimated volume at build out of the Flag City Service Area is .19 MGD (annual average). Flag City shall not exceed .19 MGD annual average without negotiating a tax sharing agreement with the City of Lodi for all new development contributing to the increased flow. In all events, the volume of wastewater shall not exceed 0.21 MGD (annual average).

c. Rate/Surcharge: Flag City's charge for treatment will be as established by the City for its high strength customer users plus a 35% surcharge.

d. Capacity Charge: Flag City shall pay a one-time capacity charge based on the then-current rates for new city development at the time of connection. (These charges are adjusted annually). Additional capacity charges at the current City rates will apply for each increment of effluent over the amount initially paid. Capacity charge reductions or credits may be granted for steps taken by Flag City to minimize impacts to City's overall treatment plant capacity through pre-treatment, off-peak delivery, or other mutually agreed strategies.

e. Administrative Charge: County shall pay City $250,000 as a one time administrative charge upon the execution of this MOU and fulfillment of section 8 below.

f. Flag City will be solely responsible for all costs associated with installing a pipeline ("Collection Facilities") to connect to Lodi's Waste Water Treatment Plant.

g. City will bill for its services directly to Flag City and not to individual customers. Annual billing will commence with commencement of flow to the City's facility and will be billed in advance for a twelve (12) month period, based on estimated flow and strength. Subsequent annual billings will be based on actuals for the prior twelve (12) months. Flag City will pay all invoices within thirty days of the date of the invoice.

h. Neither County nor Flag City will knowingly allow any person or entity to discharge to its Collection Facilities whose property is outside the Flag City Service Area, without prior City approval, which City may withhold in its absolute discretion. In the event County or Flag City violate the terms of this paragraph, the responsible party shall have three months from receipt of written notice of the violation to cure the violation without penalty. Thereafter, Flag City shall pay a 100 percent surcharge on Flag City's then current daily rate until cured.

i. Working cooperatively with City staff, Flag City will develop an application for connection to its Collection Facilities and require that all future applicants submit responses to questions designed to elicit their facilities compliance with the goals contained in this MOU and the discharge permit issued by City to Flag City. Flag City will copy City with all applications so submitted within 5 business days of receipt.

j. County represents that it is its existing policy that areas in the Highway 12/Flag City Corridor will only be approved for development to the extent they are consistent with the County's goals and policies set forth in this MOU.

k. Business Improvement District: Pursuant to California Streets and Highways Code Section 36521.5, County hereby consents to the inclusion of County Service Area No. 31 in the Lodi Tourism Business Improvement District codified in Lodi Municipal Code Section 12.07 et seq. City shall be solely responsible for the implementation and collection of any such tax and/or fee associated with the inclusion of the District and County's consent is limited to allowing City to follow proper procedures for implementation and collection of such fee and or tax.

l. District Expansion: County agrees that it will not expand the boundaries of the Flag City Service Area in a manner that results in the need for additional City sewer capacity, without the express written consent of City, which City may withhold in its absolute discretion. County and City agree that a minimum condition for this approval will be entry of a tax sharing agreement for all property added to the service area

m. Design Guidelines: Working cooperatively with City staff, County will develop design guidelines for all new construction within County Service Area No. 31, for adoption through applicable land-use hearing processes.

3. Reimbursement. County shall reimburse the City for all costs incurred by the City in connection with the project. The City will provide County with an estimate of these costs in advance of connection. County shall deposit the estimate with the City within 30 days of receiving the estimate. City will bill all costs against the deposit. In the event the deposit is exceeded, County shall pay the difference to the City within 30 days of notice. Any excess will be refunded to County within 30 days.

4. Relationship of Parties.

a. It is understood that the relationship between the parties is an MOU relationship between public agencies and not an agency; and nothing herein shall be construed to the contrary.

b. The Parties agree that nothing contained herein or in any document executed in connection herewith shall be construed as making the parties joint venturers or partners.

c. This MOU is made and entered into for the sole protection and benefit of the parties and their successors and assigns. No other person, including but not limited to the residents (past, current, anticipated or future) of County Service Area No. 31, or developers or owners proposing projects within or outside the boundaries of County Service Area 31, shall have any right of action based upon any provision in this MOU. Moreover, this MOU creates no rights for any property owner to obtain sewer service directly from the City of Lodi.

5. Notices. All notices required or provided for under this MOU shall be in writing and delivered in person or sent by certified mail, postage prepaid, return receipt requested, to the principal offices of the City and Flag City and its representative and Flag City's successors and assigns. Notice shall be effective on the date it is delivered in person, or the date when the postal authorities indicate the mailing was delivered to the address of the receiving party indicated below:

Notice to City: City of Lodi
City Manager
221 W. Pine Street
Lodi, CA 95240

Notice to Flag City: CSA 31
Director of Public Works
P.O. Box 1810
Stockton, California 95201

Notice to County: San Joaquin County
County Administrator
Courthouse-222 E. Weber Ave.
Stockton, CA 95202

6. Indemnification, Defense and Hold Harmless.

a. County and Flag City agree to and shall indemnify, defend and hold the City, its council members, officers, agents, employees and representatives harmless from liability for damage or claims of damage,

for personal injury, including death, and claims for property damage which may arise from or relate to this MOU.

b. With respect to any action challenging the validity of this MOU or any environmental, financial or other documentation related to approval of this MOU, County and Flag City further agree to defend, indemnify, hold harmless, pay all damages, costs and fees, if any incurred to either the City or plaintiff (s) filing such an action should a court award plaintiff(s) damages, costs and fees, and to provide a defense for the City in any such action.

7. Environmental Documentation: County shall at its sole cost and expense, perform all environmental review required by the California Environmental Quality Act or other applicable environmental law or regulation.

8. Binding Effect of Agreement. The parties acknowledge that this MOU may be subject to environmental review and is subject to the Lodi City Council revising its wastewater ordinance to permit the discharge contemplated in this MOU. The terms of this MOU will therefore only take effect if any necessary environmental approvals are obtained and if the Lodi City Council makes the necessary ordinance revisions.

IN WITNESS WHEREOF this MOU has been executed by the parties on the day and year first above written.

CITY OF LODI, a municipal corporation

BLAIR KING

City Manager

ATTEST:

Randi Johl
City Clerk

APPROVED AS TO FORM:

D. STEPHEN SCHWABAUER
City Attorney

COUNTY OF SAN JOAQUIN, a political subdivision of the State of California

VICTOR MOW, Chairman
Of the Board of Supervisors

RECOMMENDED:

T. R. FLINN
Director of Public Works

APPROVED AS TO FORM:

LAWRENCE P. MEYERS
Deputy County Counsel

RESOLUTION NO. 2007-____

A RESOLUTION OF THE LODI CITY COUNCIL AUTHORIZING THE CITY MANAGER TO EXECUTE MEMORANDUM OF UNDERSTANDING WITH SAN JOAQUIN COUNTY FOR PROVISION OF DOMESTIC WASTEWATER TREATMENT SERVICES FOR COUNTY SERVICE AREA 31 (FLAG CITY)

==========

NOW, THEREFORE, BE IT RESOLVED that the Lodi City Council does hereby authorize the City Manager to execute Memorandum of Understanding with San Joaquin County for provision of Domestic Wastewater Treatment Services for County Services Area 31 (Flag City), on behalf of the City of Lodi, on file in the office of the City Clerk.

Dated: April 4, 2007

==========

I hereby certify that Resolution No. 2007-____ was passed and adopted by the City Council of the City of Lodi in a regular meeting held April 4, 2007, by the following vote:

AYES: COUNCIL MEMBERS –

NOES: COUNCIL MEMBERS –

ABSENT: COUNCIL MEMBERS –

ABSTAIN: COUNCIL MEMBERS –

RANDI JOHL
City Clerk

2007-____

AGENDA ITEM **K-02**

CITY OF LODI
COUNCIL COMMUNICATION

TM

AGENDA TITLE: **Review Groundwater Charge for City Wells Proposed by the North San Joaquin Water Conservation District and Direct Staff as Appropriate**

MEETING DATE: **April 4, 2007**

PREPARED BY: **Public Works Director**

RECOMMENDED ACTION: Receive a report on the groundwater charge proposed by the North San Joaquin Water Conservation District and direct staff on the Council's desired response as appropriate.

BACKGROUND INFORMATION: The North San Joaquin Water Conservation District (NSJWCD) is conducting a public hearing on a proposed groundwater charge on April 30, 2007 (Exhibit A). The proposed charge would be imposed on well owners, including the City of Lodi's wells within the District. The charge to the City would total about $200,000 per year.

The District is proposing to implement a number of projects to utilize "wet year" water for groundwater recharge and direct irrigation, thereby minimizing groundwater pumping. Of course, all these efforts are aimed are reducing the groundwater overdraft situation that exists throughout the Eastern San Joaquin Basin. Various engineering studies have documented the overdraft and project that it will continue to worsen and will accelerate in the area directly east of Lodi, which is the NSJWCD. Computer modeling of the basin shows that the groundwater gradient in the Lodi area will, over time, shift from a north-to-south orientation to a west-to-east orientation. This means that lower quality groundwater from the west will migrate toward Lodi. This is of long-term concern to the City. A copy of the District's Engineer's Report on the proposed charge is attached (Exhibit B).

While the City has taken major steps to reduce our reliance on groundwater pumping, we are far from eliminating it, and future lowering of groundwater elevations and the change in gradient will have an adverse economic affect on the City. The City's options on this matter are to actively support the charge, take no action, or file a protest at or before the scheduled hearing.

Staff supports the intent and need for the charge; we suggest the Council concur and request payment terms that reduce the cash flow impact to the already-stressed Water Fund. District staff has indicated the charge is not likely to be imposed this fiscal year. While the charge can be included in the Water Fund budget for FY07/08, we are concerned about our cash flow and have informally asked the District to consider some type of timed payment arrangement. We believe we will be able to work out a suitable arrangement should the Council provide that direction.

FISCAL IMPACT: A $200,000 annual charge represents approximately 2.4% of the Water Fund annual revenue. The recent discontinuance of the discount program offsets about 2/3 of this additional cost. The remaining cost will need to be absorbed within the Fund. Given other demands on the Fund, staff would suggest this cost be considered along with all other issues involving water at a later date.

FUNDING AVAILABLE: Not applicable.

Richard C. Prima, Jr.
Public Works Director

Attachments
cc: Steve Schwabauer, City Attorney
Ed Steffani, North San Joaquin Water Conservation District
Charlie Swimley, Water Services Manager;

APPROVED: _____
Blair King, City Manager

K:\WP\COUNCIL\07\NSJWCD Groundwater Charge.doc 3/30/2007

Exhibit A

DIRECTORS
John Ferreira
Thomas Hoffman
Joe Mehrten
Matthys Van Gaalen
Fred Weybret

NORTH SAN JOAQUIN WATER CONSERVATION DISTRICT

221 W. Pine St., Lodi, CA 95240

GENERAL MANAGER
Edward M. Steffani

LEGAL COUNSEL
Karna Harrigfeld

March 14, 2007

Richard Prima
City of Lodi

Dear Well Owner,

The North San Joaquin Water Conservation District proposes a charge for pumping groundwater. This is necessary to fund groundwater recharge and irrigation supply projects and to prevent the State from taking our water rights.

As you well know, our groundwater basin is severely overdrafted. We pump approximately 200,000 acre-feet more than is naturally replaced every year in the eastern San Joaquin County basin. A house in the City uses about 0.5 acre-feet per year while an acre of orchard uses 2.8 acre-feet per year. Not only is it necessary that more surface water be recharged and used in place of groundwater, it is mandatory that we show the State that we are serious about correcting the overdraft. If we don't convince the State of our good intentions, we will lose our right to take surface water from the Mokelumne River and will have our well pumping restricted.

The proposed agriculture charge would be the same as that imposed by our neighbor, Stockton East Water District (SEWD). The proposed rural residential rate of $21.40 would be less than SEWD's $32.50. Charges would be as follows:

$ 4.28 per acre-foot for agriculture
$ 21.40 per acre-foot for non agriculture

The estimated charge for your property is based upon the above rate and assumes the following:

- Irrigated pasture and golf courses, 4.0 acre-feet annually (AFA) for a charge of $17.12 per acre
- Orchard and row crop use of 2.8 (AFA) for a charge of $11.98 per acre
- Vineyard use of 1.5 (AFA) for a charge of $6.42 per acre
- Single family rural residential use of 1 (AFA) for a charge of $21.40

All other uses will be estimated, with the understanding that the District will revise the charges to reflect any actual use measured by the property owner, with a water meter or with PG&E electric meter reading.

The District has made these estimates using information provided by the County Assessor. Should you have any questions, please write the District Manager, P. O. Box 428, Clements, CA 95227.

Should these charges be imposed, the District would eliminate the current $50 per acre surface water charge. This will encourage people to use more surface water and less groundwater.

Some of you already have access to surface water. Planned improvements would make it available to more people.

The District's Board of Directors will consider adopting these charges at a public hearing scheduled for 5:00 P. M., Monday, April 30, 2007 in Crete Hall, Hutchins Street Square, 125 South Hutchins Street, Lodi, California.

Estimated charge

9300 AFA @ $21.40 = $199,020.

Exhibit B

ENGINEER'S REPORT
PROPOSED GROUNDWATER CHARGE
MARCH 2007

The following report has been prepared in accordance with Section 75561 of the Water Code.

Annual Overdraft

Overdraft of the Eastern San Joaquin County Groundwater Basin has been common knowledge since the early 1900's when falling levels made use of centrifugal pumps impossible unless pits were dug to keep the suction lift under twenty feet. Continuing decline of water levels led to the invention of the vertical turbine pump.

Dangerously low water levels in the Stockton area during the 1970's caused the electorate to vote overwhelming in favor of a Stockton East Water District Treatment Plant to treat surface water from New Hogan Reservoir.

The State formally recognized the problem in 1982 when it designated the Basin as being "critically overdrafted".

A number of studies have been completed over the years, with the first detailed report by Brown and Caldwell, consulting engineers, accepted in 1985. That study estimated the overdraft to be 269,000 acre-feet annually (AFA) for the 600,000 acre area of San Joaquin County lying easterly of the San Joaquin River.

More recent studies have estimated the overdraft to be anywhere from 130,000 to 200,000 AFA. No absolute number is possible, only estimates, at least at this point.

I will use 200,000 AFA as a reasonable estimate of the overdraft. This works out to be about 0.33 AFA for each of the approximate 600,000 acres within the Basin.

At any rate, the 200,000 AFA figure is reasonable for current development. We know that an overdraft of 200,000 AFA causes groundwater levels to fall about 1 foot per year. Some areas see a little more and others a little less. Please see the following table for wells within the District.

Ground Water Elevation Data

Location	Water Elevations Year/Elevation		Year/Elevation		Decline Feet/Year
Source- EBMUD Records					
e/o Clements Rd & n/o Kettleman	1962	17.7	2002	-21.2	1.0
East end of Kettleman	1962	27.2	2002	-25.6	1.3
Kettleman between Tully & Linn	1962	-1.6	2002	-35.8	0.9
Harney at Tully	1962	-3.6	2002	-38.4	0.9
Jack Tone s/o Harney Lane	1962	-10.0	2002	-38.7	0.7
Tully s/o Harney Lane	1962	-3.2	1988	-23.1	0.8
Tully at Live Oak	1962	-11.3	1988	-27.4	0.7
Linn at Sargent	1962	12.9	2002	-27.0	1
Brandt at Tully	1964	2.8	2002	-24.2	0.7
n/o Sargent, e/o Tully	1962	3.2	2002	-29.9	0.8
Kettleman at Linn	1962	5.2	2002	-34.6	1
Source- County Data					
Liberty Road at Mackville Road	1975	20.0	1998	-13.0	1.4
Liberty at Hwy 88	1975	60.0	1998	60.0	0
Clements at Hwy 88	1975	50.0	1998	3.0	2
Clements at Brandt Road	1975	9.0	1998	-22.0	1.3
Clements at Harney Lane	1975	-10.0	1998	-32.0	1
Source - EBMUD Records					
Liberty e/o Bruella	1962	0.6	1978	-40.1	2.5
Liberty e/o Bruella	1973	-19.0	2002	-35.7	0.6
Collier w/o Bruella	1966	-14.4	2002	-33.4	0.5
Collier w/o Mackville	1962	37.8	1999	-4.9	1.2
Collier w/o Hwy 88	1962	52.5	2002	2.9	1.3
Buena Vista Road	1962	73.6	2002	54.8	0.5
n/o Hwy 12 & e/o Hwy 99	1962	61.8	2002	33.3	0.7
Hwy 88 n/o Hwy 12	1962	47.0	2002	8.5	1

Ground Water Elevation Data

Location	Historical High** Year/Elevation		Water Elevation Latest Year/Elevation		Decline Feet/ Year
Soucre –County Data					
Collier & Eunice	1963	-8.0	2002	-18.6	0.3
Collier & Kennefick	1960	-4.8	2002	-34.5	0.7
Hwy 99 & Jahant	1960	-0.1	2002	-19.6	0.5
Peltier & Kennefick	1958	11.9	2002	-29.8	0.9
Acampo e/o Hwy 99	1958	16.5	2002	-10.6	0.6
Hwy 99 & Woodbridge	1958	24.5	2002	4.0	0.5
Locke w/o Hwy 88	1963	11.5	2002	-15.6	0.7
Brandt & Tully	1959	16.6	2002	-27.6	1
Hwy 12 & Locust Tree	1958	19.7	2002	-18.8	0.9

Ground Water Elevation Data

Source - County Data	Water Elevation Historical High** Year	Elevation	Latest Year	Elevation	Decline Feet/Year
Hwy 12 & Alpine	1958	21.4	2002	-18.6	0.9
Kettleman & Curry	1960	15.0	2002	-19.7	0.8
Kettleman & Hwy 99	1983	-2.6	2002	-24.3	1.1
Harney & Vintage	1965	-0.7	2002	-32.0	0.8
Harney & Hwy 88	1965	-2.4	2002	-31.0	0.8
Alpine & Handel	1980	-30.5	2002	-32.0	0.1
Armstrong & Lower Sacramento	1960	0.6	2002	-34.2	0.8
Jack Tone & Live Oak	1958	8.6	2002	-46.7	1.3
Ham and West Lane	1971	-1.2	2002	-21.9	0.7

** San Joaquin County and Stockton East Water District began monitoring levels in the 1950's.

Based upon the above assumption that the average overdraft is 0.33 AFA per acre, the 150,000 acre North San Joaquin Water Conservation District (District) has a current overdraft of 50,000 AFA. But only 100,000 acres of the District have been developed and now use 173,000 AFA of groundwater. Some 50,000 acres are dry pasture which are and will be developed.

Vineyards and houses are moving into the dry pasture area. A 200 acre vineyard is replacing dry pasture across from my 10 acres of irrigated pasture (formerly dry).

Assuming a new groundwater demand of 1.75 AF/acre, development of the 50,000 acres will increase the District overdraft to 137,500 AFA.

Accumulated Overdraft

The accumulated overdraft from the time man began pumping groundwater from the Basin probably approaches ten million acre-feet. It would be impractical to try to bring the Basin back to "natural pre-man" conditions. It is generally accepted that the empty, usable space (accumulated overdraft) is somewhere between two and three million acre-feet.

Again, assuming that the accumulated overdraft is spread uniformly throughout the Basin, the District's share is 500,000 to 750,000 acre-feet.

Groundwater Production for 2005-2006*

The following table develops groundwater use by type of development within the District.

Water Code Section 75507 defines water year as July 1st to June 30th.

Estimated Groundwater Use 2005-2006				
Use Code	Description	Quantity	AFA/Unit	Total AFA
0	Single Family Dwelling	100 each	0.5	50
51	Rural Residential	2428 each	1	2,428
52	Rural Residential, 2+ Residences	250 each	2	500
291	Nursery	716 Acres	4	2,864
352	Large Winery	10 each	4	40
353	Small Winery	6 each	2	12
-	Misc. Commercial	100 each	0.5	50
401	Irrigated Orchard	8,185 acres	2.8	22,918
420	Irrigated Vineyard	45,309 acres	1.5	67,964
450	Irrigated Row Crops	7,204 acres	2.8	20,171
460	Irrigated Pasture	11,070 acres	4	44,280
462	Horse Ranch	40 each	2	80
471	Dairy	27 each	5	135
480	Poultry Ranch	13 each	5	65
-	Ag. Residences	1,028 each	1	1,028
-	Golf Courses	592 acres	4	2,368
-	Cemeteries	83 acres	4	332
-	Lodi Schools*			27
-	City of Lodi	-	-	9,300
-	Lockeford Community SVC District	-	-	520
-	County Service Areas	-	-	232
-	Micke Grove park	62 acres	4	248
-	Micke Grove Golf Course	87 acres	4	348
	Subtotal			175,960
	Less Surface Water			-3000
	TOTAL			172,960
	*Not included in City or Service Areas			

I consider the 2005-2006 groundwater production to be fairly normal. Production increases during dry years and decreases when rainfall is high. It also increases slightly when surface water is not available to the District (drier years).

Estimated Overdraft for 2006-2007-and 2007-2008

As stated earlier, the accepted figure for current average annual overdraft is 50,000 AFA for the District. It is greater in dry years and less in wet years and will increase in the future.

By definition, we divide the historical hydrology into five equal classifications; wet, above normal, below normal, dry, and critically dry. This means that overdraft would be greater during roughly 40% of the time, and less during 40% of the time.

We believe that average natural recharge of the Basin is approximately 1 foot per year, from rainfall, irrigation percolation, and streams.

19-D

This means that approximately 600,000 AFA are naturally recharged during an average year. Remember that on an average, approximately 800,000 AFA are currently taken from the Basin, causing a 200,000 AFA overdraft. Remember also, that the average water level decline is about 1 foot per year.

Assuming 2006-2007 (with its very hot summer) and apparently dry winter is a "below normal year", we can say that the overdraft will be greater than average, and probably about 100,000 acre-feet.

And, assuming 2007-2008 will be normal, we estimate the overdraft will be 50,000 acre-feet.

Surface Water Needed for 2006-2007

As indicated above, 50,000 acre-feet of surface water would be required annually to offset an average overdraft of that amount, but surface water is not currently available every year.

The only realistic way to deal with an average overdraft of 50,000 AFA, is to use 100,000 acre-feet or more during wet years because none is available in dry years.

The District is currently fighting to keep its current, temporary right to 20,000 AFA of Mokelumne River water which is available almost 70% of the time. The District must not only increase its use from the current 3,000 AFA to 20,000 AFA, but must also acquire another 80,000 AFA for use during wet years, just to cope with the overdraft caused by existing development. Another 175,000 AFA would be required during wet years to replace groundwater used by possible, future development.

A Catastrophe in the Making

North San Joaquin Water Conservation District and all other agencies within Eastern San Joaquin County must take immediate action to correct the overdraft. If nothing is done, the State will proceed with "adjudication" of the Basin.

Adjudication means limiting groundwater pumping to natural recharge. It would result in all pumpers being restricted to approximately 75% of what they pump today. It would also eliminate any future development that would need more than 75% of the current groundwater use for a specific location.

Prepared by:

Edward M. Steffani
Registered Civil Engineer
R. C. E. 12852

19-E

CITY OF LODI
COUNCIL COMMUNICATION

TM

AGENDA TITLE: Adopt resolution approving contract with Boom Boom Productions, of Hayfork, CA, for 2007 Fourth of July fireworks display and approve proposed venue location

MEETING DATE: April 4, 2007

PREPARED BY: Parks and Recreation Director

RECOMMENDED ACTION: Adopt a resolution approving the contract with Boom Boom Productions of Hayfork, CA for the Fourth of July fireworks display and approve the proposed venue location.

BACKGROUND INFORMATION: On March 6, 2007, staff presented several Fourth of July site location options to Council for consideration. The sites identified were: (1) Lodi Lake Park, (2) Salas Park and (3) Lodi Grape Bowl. Following a brief discussion, two sites (Salas Park and Lodi Grape Bowl) were eliminated. The area traditionally used to launch shells on the west shore of Lodi Lake was also found to be unacceptable according to current fallout area standards and other public safety concerns, and was eliminated as well. Members of Council, however, expressed their desire to respect a long standing tradition of holding the event at the Lake, and asked staff to explore other Lodi Lake park locations from which to launch the fireworks display.

Members of staff, which included representatives from Police, Fire, Public Works and Parks & Recreation Departments, have thoroughly evaluated and compared three Lake launching site options: (1) Original (west shore) site, (2) North of lake location, and (3) Undeveloped 13 acre area west of the lake. With the exception of Site (1), which was previously discarded due to safety concerns and projected costs incurred, Options 2 & 3 both seemed to be suitable launching locations but each had its own set of pros and cons. Considering those (pros and cons) staff came to the conclusion that Option 3, undeveloped 13 acre site west of Lodi Lake, is the most workable solution to the fireworks clearance issue and offers numerous intrinsic advantages:

1. Allows good viewing while causing only a slight distance modification to the past launch site.
2. Impact and costs to the City would be the easiest to handle as this is primarily a fenced area.
3. The need for police/security personnel would require the lowest number at this site compared to other options.
4. Impact to the Streets Department should be reduced as street closures, pertaining to only the fireworks event, would not be required.
5. Closing and monitoring the river would not be necessary.
6. Offers the most workable option and accommodates the long-standing tradition of having fireworks at Lodi Lake.
7. Site should work for numerous years with possible reevaluation occurring upon development of the 13 acres.

For the reasons and advantages stated heretofore, staff strongly recommends Option 3 as the 2007 Fourth of July fireworks launching site.

In addition to the above, another use affecting a specific portion (north side) of Lodi Lake on the Fourth of July has been proposed and is currently being considered. Representatives of the Lodi Rotary Club and World of Wonders Science Museum ("WOW") have tendered a rental reservation for a major portion of the Lake's north side. The

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APPROVED: _____
Blair King, City Manager

area being considered would include the Rotary/RV, Parson's Point, and Ron Williamson Youth areas. Proponents of what is being referred to as a "Family Friendly" event are planning activities that would include a children's play area, sack races, pie eating contests, etc. – almost a throwback to the old Field and Fair Day era, but in much smaller scale and certainly not to the magnitude of past Ooh Ahh festivals. The inherent theme of the day's activities would focus on "reviving the sense of patriotism". The day may be concluded with a flag waving ceremony assisted by members of Century Assembly Church.

To accommodate this event, staff recommends gating a portion of the Lake's north side and securing it. Gating and security will both need to be provided by promoters of the event. Admission will be charged for public entry with the proceeds going to Lodi Rotary Club and WOW. Lodi Rotary has traditionally given money raised through fundraisers back to the community in the form of scholarships and community projects. WOW will use the proceeds to help fund its ongoing efforts to build a science museum for children, to be located in the downtown Lodi parking structure.

Anticipating that the aforementioned activities might attract relatively large crowds throughout the holiday day, staff strongly encourages Council to consider the following set of conditions. These conditions, however, do not come without costs to the City.

1. To assist the Lodi Police Department in dealing with possible crowd control issues and public safety concerns, temporary fencing should be installed. Linear footage fenced would be similar to that placed for past Ohh Ahh festivals.
2. Free admission to be charged at entry gate to Lodi Lake Park. This will allow the public to use the park as it's normally used on any other day or holiday. Those wishing to support the WOW/Rotary fundraising event will be charged at that gate. The Parks and Recreation Department will recover its costs from the swimming/beach areas and boat rentals.
3. Cadets, under the supervision of a uniformed officer, will be assigned to control gate entrances. Assigning an officer to supervise the Cadets at the gate should be less costly than the deployment of more officers needed to patrol an unfenced and uncontrolled event.
4. No bottles, cans or BBQs will be allowed in the park. Ice chests will be subject to search for bottles and cans. And, signs must be posted.
5. All persons will be checked with a weapon detection wand for weapons upon entry to the park. This is common practice today at most large events (e.g. Arco Arena) for all functions.
6. Additional Port-o-Pots and waste bins will have to be rented to accommodate the crowd.
7. Parks and Recreation staff will assist throughout the day and evening.

FISCAL IMPACT: Participating City departments would be absorbing event related costs from within their respective budgets with the exception of costs related to temporary fencing, port-o-pots and waste bins. These costs are still being determined at this writing.

FUNDING AVAILABLE: $18,048.00 (Cost of Fireworks Display) and those related to temporary fencing, port-o-pots and waste bins (TBD) charged to City's Special Events Account 100245.8099

_____
Kirk Evans, Budget Manager

_____
Tony C. Goehring
Parks and Recreation Director

TCG:tl

cc: City Attorney

RESOLUTION NO. 2007-____

A RESOLUTION OF THE LODI CITY COUNCIL APPROVING CONTRACT WITH BOOM BOOM PRODUCTIONS FOR 2007 FOURTH OF JULY FIREWORKS DISPLAY, AUTHORIZING THE CITY MANAGER TO EXECUTE A CONTRACT ON BEHALF OF THE CITY OF LODI, AND FURTHER APPROVING PROPOSED VENUE LOCATION

==========

NOW, THEREFORE, BE IT RESOLVED that the Lodi City Council does hereby approve contract with Boom Boom Productions for the 2007 Fourth of July Fireworks Display; and

BE IT FURTHER RESOLVED, that the City Council authorizes the City Manager to execute the contract on behalf of the City of Lodi; and

BE IT FURTHER RESOLVED, that the Lodi City Council hereby approves the proposed venue location.

Dated: April 4, 2007

==========

I hereby certify that Resolution No. 2007-____ was passed and adopted by the City Council of the City of Lodi in a regular meeting held April 4, 2007, by the following vote:

AYES: COUNCIL MEMBERS –

NOES: COUNCIL MEMBERS –

ABSENT: COUNCIL MEMBERS –

ABSTAIN: COUNCIL MEMBERS –

RANDI JOHL
City Clerk

2007-____

AGENDA ITEM **K-04**

CITY OF LODI
COUNCIL COMMUNICATION

TM

AGENDA TITLE: **Adopt Resolution Certifying Negative Declaration and Authorizing City Manager to Execute Contracts for Construction, Testing and Inspection, and Construction Administration for White Slough Water Pollution Control Facility Phase 3 Improvements Project ($17,543,774) and to Adjust Existing Appropriations**

MEETING DATE: **April 4, 2007**

PREPARED BY: **Public Works Director**

RECOMMENDED ACTION: Adopt a resolution certifying the negative declaration and authorizing the City Manager to execute the construction contract for the above project to Western Water Constructors, Inc., of Santa Rosa ($16,387,000); the testing and inspection contract to Krazan & Associates, of Modesto ($354,320); the environmental survey to LSA & Associates, of Rocklin ($2,000); and the construction administration services contract with West Yost & Associates ($800,454) and to adjust existing appropriations. The appropriation adjustments include closing completed engineering tasks and projects with no net increase in appropriations.

BACKGROUND INFORMATION: The City has made substantial progress on the State-mandated improvements at the White Slough Water Pollution Control Facility. Phase 1 – Interim Aeration Improvements and miscellaneous electrical and earthwork improvements was completed in 2003. Phase 2 – Year 2004 Improvements Project, which was completed in 2006, included the installation of tertiary filters, UV disinfection equipment, additional aeration improvements, emergency generator, and associated electrical and mechanical facilities.

The Phase 3 project includes the construction of an additional secondary clarifier, an additional digester, aeration basins, headworks modifications, minor administration building modifications, and associated electrical, mechanical, utility, site preparation and demolition work. The improvements to the secondary process are necessary to meet current and anticipated State of California regulatory requirements and improve treatment process reliability.

Negative Declaration

The California Environmental Quality Act (CEQA) requires that projects be reviewed for their potential to create environmental impacts. The process requires that potential areas of impact be identified and a level of significance assessed. Staff and our consultants prepared an Initial Study/Proposed Negative Declaration to review and assess potential impacts. The Initial Study/Proposed Negative Declaration was sent to various agencies for review, was published, and we posted our intent to issue a Negative Declaration for the required 30-day period, from January 30, 2007 through March 1, 2007. This project was found to have no significant impacts that could not be mitigated by making changes to, or placing conditions on, the project. The City did not receive any comments from any reviewing agencies concerning environmental impacts of this project.

APPROVED: _____
Blair King, City Manager

In conclusion, staff finds that the proposed project has complied with environmental requirements and is therefore exempt from further review under CEQA. Negative Declaration ND-06-01 adequately addresses potential environmental impacts that could occur as a result of this project. No significant impacts are anticipated that can not be mitigated by conditions placed on the project.

Contract Awards

Plans and specifications for this project were approved on January 17, 2007. A prequalification process was included to determine eligible bidders and ensure that bidding contractors have the necessary background to perform the work. The bid opening for the construction contract was March 15, 2007, and the following three bids were received.

Bidder	Location	Bid
Engineer's Estimate		$ 23,000,000
Western Water Constructors, Inc.	Santa Rosa	$ 16,387,000
C. W. Roen Construction	Danville	$ 17,472,000
Pacific Mechanical Corp.	Concord	$ 18,021,000

Staff recommends awarding the construction contract to Western Water Constructors, Inc. In addition to submitting the lowest bid, Western Water Constructors has provided satisfactory work on the White Slough Phase 1 and 2 projects.

Testing and Inspection services for Phase 1 and 2 were provided by Krazan & Associates. Krazan & Associates also provides an inspector who acts as the Building Inspector and has been approved by the Building Department to represent their interests. This is a Time and Materials contract.

Staff recommends LSA & Associates perform the environmental survey work. Three proposals were received for the Environmental Survey Work: LSA ($2,000), Krazan & Associates ($3,200) and SWCA Environmental Consultants ($3,310).

Staff recommends West Yost & Associates perform the construction administration services. As the Design Engineer for this project, West Yost is ideally suited to perform these duties. This is a Time and Materials contract with a not-to-exceed maximum.

The total project estimate for Phase 3 is $20,600,000 which includes: prepurchased equipment, construction administration services, Environmental Survey, construction contract, testing and inspection contract, construction contingencies and other project-associated expenses.

Appropriation Adjustments

This project, as well as other related projects for the White Slough treatment facility, was included in the current fiscal year budget, with essentially "place-holder" amounts. Other projects are ones carried over from previous years. Some of these carry-over projects are completed and the remaining funds should be made available for this project as shown below:

Project/Task	Balance (rounded)	Notes
Phase 1 Design	$144,000	Completed
Value Engineering	19,000	Completed
Capacity Fee Update	8,000	Completed
Standby Power Design	11,000	Completed
Phase 2 Improvements	1,301,000	Completed
Phase 3 Design	1,600,000	Completed
Land Acquisition	5,000,000	Project on hold/defer
Wetland	5,000,000	Project on hold/defer
Alternative Discharge Study	212,000	Completed
Bishop Cut Flow Monitoring	26,000	Completed
Total:	**$13,321,000**	

The Phase 3 Construction amount budgeted in the 2007 Budget is $16,000,000. Thus, the total appropriations for White Slough is just over $29 million. The total Phase 3 project, including all project elements, is $20.6 million as shown below:

Item	Amount
Construction	
Construction Contract (Western Water)	$16,387,000
Repair 48" Domestic Outfall Line	$80,000
Plan Check/Permit Fee Estimate	$135,000
Plan Printing Costs Estimate	$10,000
Project Management (City Staff)	$240,000
Copy/Shipping Expenses Estimate	$5,000
Environmental Inspection (LSA & Assoc.)	$2,000
Testing & Inspection (Krazan & Assoc.)	$354,320
Construction Total	**$17,213,320**
Equipment Purchase	
Office Furniture	$10,000
Admin Building Equipment	$10,000
Aeration System Upgrade PO (Parkson)	$609,029
Equipment Total	**$629,029**
Engineering Services	
WYA Additional Design Services	$65,000
WYA Contract Administration	$800,454
Engineering Total	**$865,454**
Project Total	$18,707,803
Project Contingency	$1,892,197
Phase 3 Project Total Budget	**$20,600,000**

Upon approval, staff will amend the appropriations accordingly. (See Fiscal Impact section below.)

Future Issues and Projects

In 2003, as the City commenced Phase 1 of the treatment upgrades to the White Slough Facility, cost estimates for the three proposed phases totaled nearly $52 million. In 2004, when a rate and financing study was conducted, total costs were estimated at $48 million, and rates and our financing plan were adjusted accordingly. Now, in 2007, the total of the three phases is estimated at approximately $44 million. While this is a very positive result of thoughtfully planning, designing and building the improvements, a number of future projects and uncertainties still need to be considered. They include:

Issue/Project	Potential Cost	Notes
Land Acquisition	Unknown	The need for additional land, both in terms of area and cost, is still uncertain. Given that the Facility currently (and for the near future) can meet discharge standards, and the future potential of utilizing recycled water on other lands, additional land may not be needed. Our land needs are dependent on land application of biosolids and industrial wastewater. While we believe our next State permit will contain more conditions on land application, we have not seen a draft permit and are currently studying alternatives to meet the conditions we believe will be placed. In addition, prices have risen on surrounding land which may make the cost of other alternatives more feasible.
Treatment Wetland	$5+ million	Much of the cost of the Phase 3 project includes aeration capacity to reduce nitrogen in the effluent, which was one of the purposes of the wetland. Other purposes – reducing temperature and metals – may not be necessary pending the results of site-specific receiving water studies which we believe will be allowed in our new permit.
Salinity	Unknown, but $$$	Our new permit will include a limit on salinity, but based on conversations with Regional Board staff, we will be able to meet this limit.
Storage Ponds	$3 to $6 million	Additional storage will likely be needed to provide operational flexibility to manage plant upsets and irrigation demands. Additional storage will certainly be needed if a recycled water distribution system is implemented. Studies on these needs are underway.
Trunk Sewer Rehabilitation	$7.5 million	Although the Phase 3 project includes some minor repairs on the pipeline between Lodi and the Facility, the entire length of the line is in need of rehabilitation in the next year.

Other regulatory issues/studies	$0.5+ million	In the next few years, the City will need to continue with groundwater monitoring and evaluation and the receiving water studies mentioned above. In addition, the San Joaquin Valley Air Pollution Control District is proposing new rules on land application of biosolids, animal manure and chicken litter which could affect our biosolids land application practices.

FISCAL IMPACT: As noted above, the rate increase adopted in 2004 assumed a three-phase project and included allowances for three COP financings, and two financings have been done. Approximately $13.3 million of proceeds from the second financing is still available for this project and an additional $1.5 million in wastewater impact fees is also available. Thus, the third financing, which will be needed to complete this project, will not have to be made immediately. Staff will be working with our financial advisor on the timing and amount of future financing(s), taking into account the above described issues and projects, as well as potentially refinancing the older 1991 Certificates of Participation if it makes financial sense.

FUNDING AVAILABLE:

_____
Kirk Evans, Budget Manager

_____
Richard C. Prima, Jr.
Public Works Director

Prepared by Gary Wiman, Construction Project Manager

cc: Charles Swimley, Water Services Manager
Del Kerlin, Wastewater Treatment Superintendent
Bruce West, West Yost and Associates
Tom Dunphy, LaMont Financial Services

RESOLUTION NO. 2007-____

A RESOLUTION OF THE LODI CITY COUNCIL CERTIFYING THE NEGATIVE DECLARATION AND AUTHORIZING CITY MANAGER TO EXECUTE CONTRACTS FOR CONSTRUCTION, TESTING AND INSPECTION, AND CONSTRUCTION ADMINISTRATION FOR WHITE SLOUGH WATER POLLUTION CONTROL FACILITY PHASE 3 IMPROVEMENTS PROJECT, AND TO FURTHER ADJUST EXISTING APPROPRIATIONS

==========

WHEREAS, the City has made substantial progress on the State-mandated improvements at the White Slough Water Pollution Control Facility. Phase 1–Interim Aeration Improvements and miscellaneous electrical and earthwork improvements were completed in 2003; and

WHEREAS, Phase 2 – Year 2004 Improvements Project, which was completed in 2006, included the installation of tertiary filters, UV disinfection equipment, additional aeration improvements, emergency generator, and associated electrical and mechanical facilities; and

WHEREAS, the Phase 3 project includes the construction of an additional secondary clarifier, an additional digester, aeration basins, headworks modifications, minor administration building modifications, and associated electrical, mechanical, utility, site preparation and demolition work. The improvements to the secondary process are necessary to meet current and anticipated State of California regulatory requirements and improve treatment process reliability.

WHEREAS, City staff and Consultants prepared an initial Study/Proposed Negative Declaration to review and assess potential impacts, which was reviewed by various agencies with no comments received, published and the City posted its intent to issue a Negative Declaration for the required 30-day period, from January 30, 2007 through March 1, 2007; and

WHEREAS, following the environmental review of the project, it was determined that there were no significant environmental impacts that could not be adequately mitigated and staff therefore recommends that the City Council certify the filing of a Negative Declaration as adequate environmental documentation for the White Slough Water Pollution Control Facility Phase 3 Improvements Project; and

WHEREAS, in answer to notice duly published in accordance with law and the order of this City Council, sealed bids were received and publicly opened on March 15, 2007, at 11:00 a.m., for the White Slough Water Pollution Control Facility Phase 3 Improvements Project, described in the specifications therefore approved by the City Council on January 17, 2007; and

WHEREAS, said bids have been compared, checked, and tabulated and a report thereof filed with the City Manager as follows:

Bidder	**Location**	**Bid**
Engineer's Estimate		**$23,000,000**
Western Water Constructors, Inc.	Santa Rosa	$16,387,000
C. W. Roen Construction	Danville	$17,472,000
Pacific Mechanical Corp.	Concord	$18,021,000

WHEREAS, staff recommends award of the contract for White Slough Water Pollution Control Facility Phase 3 Improvements Project to Western Water Constructors, Inc., of Santa Rosa, California, in the amount of $16,387,000; and

WHEREAS, staff recommends award of a time and materials contract for Testing and Inspection services to Krazan & Associates, who performed the work for Phase 1 and 2 of this project; and

WHEREAS, three proposals were received for the Environmental Survey Work as follows:

LSA	$2,000
Krazan & Associates	$3,200
SWCA Environmental Consultants	$3,310

WHEREAS, staff recommends award of the contract for the environmental Survey Work to LSA & Associates in the amount of $2,000; and

WHEREAS, staff recommends award of a time and materials contract with West Yost & Associates to perform the Construction Administration Services. As the Design Engineer for this project, West Yost is ideally suited to perform these duties; and

WHEREAS, staff recommends reallocating existing appropriations listed below to the White Slough Water Pollution Control Facility Phase 3 Improvements Project:

Project/Task	**Balance (rounded)**	**Notes**
Phase 1 Design	$144,000	Completed
Value Engineering	19,000	Completed
Capacity Fee Update	8,000	Completed
Standby Power Design	11,000	Completed
Phase 2 Improvements	1,301,000	Completed
Phase 3 Design	1,600,000	Completed (double budgeted)
Land Acquisition	5,000,000	Project on hold/defer
Wetland	5,000,000	Project on hold/defer
Alternative Discharge Study	212,000	Completed
Bishop Cut Flow Monitoring	26,000	Completed
Total:	**$13,321,000**	

WHEREAS, The total project estimate for Phase 3 is $20,600,000 which includes: prepurchased equipment, construction administration services, Environmental Survey, construction contract, testing and inspection contract, construction contingencies and other project-associated expenses.

NOW, THEREFORE, THE LODI CITY COUNCIL HEREBY FINDS AS FOLLOWS:

1) That the City Council has reviewed all documentation and hereby certifies the filing of a Negative Declaration as adequate environmental documentation for the White Slough Water Pollution Control Facility Phase 3 Improvements Project; and

2) That the City Council hereby awards the contract for White Slough Water Pollution Control Facility Phase 3 Improvements Project to Western Water Constructors, Inc., of Santa Rosa, California, in the amount of $16,387,000; and

3) That the City Council hereby awards a time and materials contract for Testing and Inspection services to Krazan & Associates; and

4) That the City Council hereby awards a contract for the environmental Survey Work to LSA & Associates in the amount of $2,000; and

5) That the City Council hereby awards a time and materials contract for the performance of Construction Administration Services to West Yost & Associates for this project; and

6) That the City Council hereby reallocates existing appropriations listed below to the White Slough Water Pollution Control Facility Phase 3 Improvements Project:

Project/Task	**Balance (rounded)**	**Notes**
Phase 1 Design	$144,000	Completed
Value Engineering	19,000	Completed
Capacity Fee Update	8,000	Completed
Standby Power Design	11,000	Completed
Phase 2 Improvements	1,301,000	Completed
Phase 3 Design	1,600,000	Completed (double budgeted)
Land Acquisition	5,000,000	Project on hold/defer
Wetland	5,000,000	Project on hold/defer
Alternative Discharge Study	212,000	Completed
Bishop Cut Flow Monitoring	26,000	Completed
Total:	**$13,321,000**	

Dated: April 4, 2007

==========

I hereby certify that Resolution No. 2007-____ was passed and adopted by the City Council of the City of Lodi in a regular meeting held April 4, 2007, by the following vote:

AYES: COUNCIL MEMBERS -

NOES: COUNCIL MEMBERS -

ABSENT: COUNCIL MEMBERS -

ABSTAIN: COUNCIL MEMBERS -

RANDI JOHL
City Clerk

2007-____

AGENDA ITEM K-05

CITY OF LODI
COUNCIL COMMUNICATION

TM

AGENDA TITLE: Consideration of Adjustments to City Manager and City Attorney Employment Agreements

MEETING DATE: April 4, 2007

PREPARED BY: Randi Johl, City Clerk

RECOMMENDED ACTION: Consider adjustments to City Manager and City Attorney employment agreements.

BACKGROUND INFORMATION: This matter was previously agendized and discussed in Closed Session pursuant to the Brown Act. At the request of the City Council, the item has been agendized for open session.

FISCAL IMPACT: Unknown

FUNDING AVAILABLE: General Fund

_____
Randi Johl
City Clerk

Attachments

APPROVED: _____
Blair King, City Manager

City Manager Nine City Survey Comparison

City		Monthly Salary	Notes
Fairfield, City of		$ 15,641	City vehicle, PERS not included in base but required to pay 3.5% toward PERS
Galt, City of		$ 11,600	City vehicle, PERS not included in base
Manteca, City of		$ 14,175	$350/mo car allowance, 8% PERS incl. in base
Modesto, City of		$ 15,185	$400 vehicle allowance, .4% PERS included in salary
Ripon, City of		$ 15,916	$300/mo. car allowance, no PERS incl. in base
Roseville, City of		$ 21,527	$750 vehicle allowance, PERS not incl. in base
Tracy, City of		$ 15,173	City vehicle or $400/mo. car allowance, PERS not included in base
Turlock, City of		$ 15,035	$400 vehicle allowance, no PERS incl. in base
Vacaville, City of		$ 14,461	No vehicle allowance, 7% PERS and 2% PARS included in base

City Manager (City of Lodi)		$ 11,665
High	**Surveyed**	$ 21,527
Low	**Surveyed**	$ 11,600
Mean	**Surveyed**	$ 15,412

SAN JOAQUIN COUNTY SURVEY CITIES

City Attorney

	Population		Monthly Salary		Notes
City of Galt	24,000		n/a		n/a
City of Lathrop	14,652		$ 11,424		$350/mo. car allowance, no PERS incl. in base
City of Manteca	63,703		n/a		n/a
City of Tracy	78,307		$ 15,056		City vehicle or $400/mo. car allowance, PERS not included in base
City of Stockton	260,000		$ 15,200		$450/mo. car allowance, no PERS incl. in base
City of Ripon	14,500		n/a		n/a
City of Lodi	62,000		$ 10,417		

High	**Surveyed**	$ 15,200
Low	**Surveyed**	$ 11,424
Mean	**Surveyed**	$ 13,893

Difference Mean vs. Lodi	$ 3,476
Difference as percent	33.37%

City Attorney

		Mo. Salary	Notes
Fairfield, City of		n/a	
Vacaville, City of		$ 14,149	No vehicle allowance, 7% PERS and 2% PARS included in salary
Tracy, City of		$ 15,056	City vehicle or $400/mo. car allowance, PERS not included in base
Roseville, City of		$ 17,655	$750 vehicle allowance, PERS not incl. in base
Manteca, City of		n/a	
Modesto, City of		$ 13,421	$400 vehicle allowance, .4% PERS included in salary
Turlock, City of		$ 12,078	$200 vehicle allowance, no PERS incl. in base
Galt, City of		n/a	
Ripon, City of		n/a	

City Attorney (City of Lodi)		$ 10,417
High	**Surveyed**	$ 17,655
Low	**Surveyed**	$ 12,078
Mean	**Surveyed**	$ 14,472

AGENDA ITEM L-01

CITY OF LODI
COUNCIL COMMUNICATION

TM

AGENDA TITLE: Ordinance No. 1793 Entitled, "An Ordinance of the City Council of the City of Lodi Approving the Request of Tom Doucette, Frontier Community Builders, for Pre-Zoning to PD (Planned Development) on 151 Acres (Westside Project)"

MEETING DATE: April 4, 2007

PREPARED BY: City Clerk

RECOMMENDED ACTION: Motion waiving reading in full and (following reading by title) adopting the attached Ordinance No. 1793.

BACKGROUND INFORMATION: Ordinance No. 1793 entitled, "An Ordinance of the City Council of the City of Lodi Approving the Request of Tom Doucette, Frontier Community Builders, for Pre-Zoning to PD (Planned Development) on 151 Acres (Westside Project)" was introduced at the regular City Council meeting of March 21, 2007.

ADOPTION: With the exception of urgency ordinances, no ordinance may be passed within five days of its introduction. Two readings are therefore required – one to introduce and a second to adopt the ordinance. Ordinances may only be passed at a regular meeting or at an adjourned regular meeting; except for urgency ordinances, ordinances may not be passed at a special meeting. Id. All ordinances must be read in full either at the time of introduction or at the time of passage, unless a regular motion waiving further reading is adopted by a majority of all council persons present. ***Cal. Gov't Code § 36934***.

Ordinances take effect 30 days after their final passage. ***Cal. Gov't Code § 36937***.

This ordinance has been approved as to form by the City Attorney.

FISCAL IMPACT: None.

FUNDING AVAILABLE: None required.

_____
Randi Johl
City Clerk

RJ/jmp

Attachment

APPROVED: _____
Blair King, City Manager

council/councom/Ordinance1.doc

ORDINANCE NO. 1793

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LODI
APPROVING THE REQUEST OF TOM DOUCETTE, FRONTIER
COMMUNITY BUILDERS, FOR PRE-ZONING
TO PD (PLANNED DEVELOPMENT) ON 151 ACRES
(WESTSIDE PROJECT)

==========

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LODI AS FOLLOWS:

SECTION 1. The properties subject to this pre-zoning include properties located within the Westside Project, totaling 151 acres and described as follows:

APN	Site Address	Property Owner
029-380-05	351 East Sargent Rd.	Georgia Perlegos Et al
027-040-01	70 East Sargent Rd.	Manna Trust
027-04-020	212 East Sargent Rd.	DHKS Development
027-04-030	402 East Sargent Rd.	Noble D. Fore Jr. II

SECTION 2. The applicant for the requested pre-zoning is Tom Doucette, Frontier Community Builders, 10100 Trinity Parkway, Suite 420, Stockton, CA 95219. The applicant represents property owners of the parcels within the Westside Project site, and these property owners have provided written consent to the applicant for this zone change.

SECTION 3: The requested pre-zoning consists of the following:

Reclassification of the afore-described properties from San Joaquin County AU-20 (Agriculture, Urban Reserve, Minimum 40 Acres) to City of Lodi Planned Development (PD) Zone.

SECTION 4: The pre-zone designation is described as follows:

Planned Development (PD) Zone
The planned development zone is designed to accommodate various types of development such as neighborhood and community shopping centers, grouped professional and administrative office areas, senior citizens' centers, multiple housing developments, commercial service centers, industrial parks, or any other use or combination of uses which can be made appropriately part of a planned development. In a PD zone, any and all uses are permitted, provided that such use or uses are shown on the development plan for the particular PD zone as approved by the City Council. Maximum height and bulk, and minimum setback, yard and parking and loading requirements shall be established for each PD zone by the development plan as approved by the City Council. These development parameters would be consistent with the General Plan designation for the sites.

SECTION 5: Based upon the evidence within the staff report and project file, the City Council of the City of Lodi makes the following findings:

1. The Environmental Impact Report (EIR) (EIR-05-01) was certified and Findings and Statement of Overriding Considerations for the project pursuant to California Environmental Quality Act (CEQA) were adopted by City Council Resolution No. 2007-48.

2. The required public hearing by the Planning Commission was duly advertised and held in a manner prescribed by law.

3. The required public hearing by the City Council was duly advertised and held in a manner prescribed by law.

4. The City must approve "pre-zone" zoning designations prior to requesting approval of the annexation of the lands into the City from the San Joaquin Local Agency Formation Commission.

5. The requested rezoning does not conflict with adopted plans or policies of the General Plan and will serve sound Planning practice.

6. The parcels of the proposed rezoning are physically suitable for the development of the proposed project.

7. The proposed design and improvement of the site is consistent with all applicable standards adopted by the City in that the project, as conditioned, will conform to adopted standards and improvements mandated by the City of Lodi Public Works Department Standards and Specifications and the Zoning Ordinance, as well as all other applicable standards.

8. The size, shape, and topography of the site are physically suitable for the proposed residential development.

9. The site is suitable for the density proposed by the project in that the site can be served by all public utilities and creates design solutions for storm water, traffic, and air quality issues.

10. The design of the proposed project and type of improvements are not likely to cause serious public health problems in that all public improvements will be built per City standards and all private improvements will be built per the Uniform Building Code.

11. Development of the proposed project shall be consistent with the Westside Land Use Plan ultimately approved by the City Council.

SECTION 6: All development conditions for this pre-zoning are included as Attachment A.

SECTION 7: All ordinances and parts of ordinances in conflict herewith will be repealed insofar as such conflict may exist upon the completion of the annexation of the subject properties into the City of Lodi.

SECTION 8: No Mandatory Duty of Care. This ordinance is not intended to and shall not be construed or given effect in a manner which imposes upon the City, or any officer or employee thereof, a mandatory duty of care towards persons or property within the City or outside of the City so as to provide a basis of civil liability for damages, except as otherwise imposed by law.

SECTION 9: Severability. If any provision of this ordinance or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the ordinance which shall be given effect without the invalid provision or application. To this end, the provisions of this ordinance are severable. The City Council hereby declares that it would have adopted this ordinance irrespective of the invalidity of any particular portion thereof.

SECTION 10: This ordinance shall be published one time in the Lodi News-Sentinel, a daily newspaper of general circulation printed and published in the City of Lodi, and shall take effect 30 days from and after its passage and approval.

Approved this 4th day of April, 2007

_____
BOB JOHNSON
Mayor

Attest:

RANDI JOHL
City Clerk

State of California
County of San Joaquin, ss.

I, Randi Johl, City Clerk of the City of Lodi, do herby certify that Ordinance No. 1793 was introduced at a regular meeting of the City Council of the City of Lodi held March 21, 2007, and was thereafter passed, adopted, and ordered to print at a regular meeting of said Council held April 4, 2007, by the following vote:

AYES: COUNCIL MEMBERS –

NOES: COUNCIL MEMBERS –

ABSENT: COUNCIL MEMBERS –

ABSTAIN: COUNCIL MEMBERS –

I further certify that Ordinance No. 1793 was approved and signed by the Mayor on the date of its passage and the same has been published pursuant to law.

_____
RANDI JOHL
City Clerk

Approved as to Form:

D. STEPHEN SCHWABAUER
City Attorney

EXHIBIT "A" TO ORDINANCE NO. 1793

The pre-zone of the entire 151 acres of the Westside Project to PD (Planned Development), which includes designations specific to housing, and public/quasi-public uses all as shown on the attached map (Exhibit B), are subject to the following development conditions:

1. This pre-zoning shall be of no force and effect unless and until the San Joaquin County Local Agency Formation Commission (LAFCO) has approved the annexation of the Westside Project area and all actions necessary to complete the annexation have occurred.

2. Prior to the issuance of any tentative subdivision maps, final development plans shall be subject to review and approval by the Planning Commission. The development plan shall include development standards for proposed residential units (i.e., building height, setbacks, lot coverage, and permitted accessory uses).

3. Prior to the approval of any tentative subdivision maps, final park plans shall be subject to review and approval by the Parks and Recreation Department.

4. Prior to the issuance of a building permit, the multi-family components of the project shall be subject to review and approval by the Site Plan and Architectural Review Committee.

5. Prior to the development of any portion of the Westside Project, the applicant/developer shall file for a tentative subdivision map. Review and approval of the tentative subdivision map is a discretionary action and additional conditions of approval may be placed on the project at that time.

6. The conditions of approval listed below are to be accomplished prior to deeming complete the first Tentative Subdivision Map, unless noted otherwise:

    A. Preparation of detailed master plans and supporting studies as listed below, including engineering calculations, for all phases of the development. The study area shall include all the area between Kettleman Lane, Lower Sacramento Road, and Woodbridge Irrigation District canal and shall be coordinated with the master plans for the Southwest Gateway Project south of Kettleman Lane.

        a. Water master plan, including the following:

            i. Surface water transmission and distribution facilities.

            ii. Identification of possible water well sites within the project area. Developer shall coordinate test well drilling for determination of actual well sites prior to mapping of adjacent lots.

        b. Recycled water master plan, including the following:

            i. Identification of areas to be irrigated.

            ii. Detailed summary of demand calculations. Include Southwest Gateway project demands in calculations.

            iii. Detailed summary of pipe sizing calculations.

            iv. Provisions for future westerly extension in Lodi Avenue and Vine Street.

            v. As an alternative to i) through iv) above, Developer may provide a one-time payment, not to exceed $50,000, to partially fund the Lodi Recycled Water Master Plan Study.

        c. Wastewater master plan.

d. Storm drainage master plan, including storm drainage basin dimensions and details. Retention basins shall be designed as passive bypass systems. Identify a single-facility designate to receive low flow and first flush flows.

e. Streets/circulation plan, including the following:

   i. Dimensions of street rights-of-way, including Kettleman Lane and Lower Sacramento Road, bike/pedestrian/open space corridor and utility corridors.

   ii. Traffic analysis of operations at critical intersections to determine if supplemental right-of-way is required.

   iii. Typical cross-section diagrams showing proposed utility locations and demonstrating that sufficient width has been provided to meet separation requirements between pipes.

   iv. Traffic round-about in Lodi Avenue.

   v. Traffic calming features at cross intersections, along long, straight streets and at other locations as required by the Public Works Director.

f. Transit study to identify new or modified routes to serve the area.

g. Topography for the entire study area to confirm validity of water, wastewater, and storm drain master plans.

h. Composite utility diagram to facilitate review of potential utility crossing conflicts.

Water, recycled water, wastewater, and storm drain master plans for the project have been submitted, and first check Public Works Department comments on the plans were issued on June 26, 2006. The plans require revision.

In addition, on July 21, 2006, City staff forwarded information to the developer's engineer regarding existing utility crossings, preferred utility alignments, existing easements, and design requirements to be used in establishing utility alignments for the project. The project improvements must respect the preferred alignments and existing easements. For example, new pipes along Westgate Drive south of the project site need to be on the west side of the street, which will require dedication of additional land to provide a utility corridor. The required master plans and supporting studies are necessary to confirm the design of the proposed development and will affect the number of growth management allocations that can ultimately be utilized. If the Developer agrees that the proposed project layout and number of growth management allocations approved may be subject to revision based on the results of the completed master plans and studies, the development or growth management plan and accompanying growth management allocations may be approved prior to completion and approval of the master plans and supporting studies. Completion and approval of the master plans and studies must then be accomplished prior to submittal of the first tentative map for the project.

B. Phasing analysis to be approved by the City prior to submittal of the first tentative map. The analysis shall include the following:

   a. Phase boundaries and number of units to be constructed with each phase.

   b. Permanent and interim/temporary facilities required to implement each phase based on the mitigation monitoring program and the above mentioned master plans.

   c. Master utility calculations for permanent and interim/temporary facilities to be constructed with each phase.

C. Preparation of a Traffic Mitigation Implementation and Financing Plan that details each of the physical improvements and the timing and geometric changes listed in Table IV.B-6 of the Environmental Impact Report (EIR) for both the Existing + Project and Cumulative scenarios (cumulative to address Impact TRANS-2 in the EIR), who will be responsible for implementing the improvement, how the improvement will be funded, including a reimbursement program where appropriate, and the schedule or trigger for initiating and completing construction prior to the intersection operation degrading to an unacceptable level.

D. Finance and Implementation Plan to identify funding for the required public improvements and interim/temporary improvements for each phase of the project. The Finance and Implementation Plan is dependent on the above mentioned master plans and phasing analysis and shall be approved by the City prior to submittal of the first tentative map.

7. All mitigation measures for the project, identified in the adopted Mitigation Monitoring and Reporting Program, are hereby incorporated into this recommendation of approval.

8. As part of Mitigation Measure LU-2 of the Lodi Annexations EIR (EIR-05-01) the developer has the option to comply with the San Joaquin County Agricultural Mitigation program or preserve 151 acres of agricultural land in perpetuity to mitigate significant impacts associated with conversion of the 151 acres of Prime Farmland within the Westside Project. If the developer proceeds with the mitigation to preserve land within an agricultural easement and the City of the Lodi becomes party to said easement, the developer shall pay the City a one-time administration fee of five thousand dollars. Said fee shall be paid prior to the approval of a quarter of the building permits within the Westside and Southwest Gateway projects (as per the timing of Mitigation Measure LU-2).

9. All applicable state statutes and local ordinances, including all applicable Building and Fire Code requirements for hazardous materials, shall apply to the project.

10. Prior to submittal of building permits, the applicant shall submit construction elevations, perspective elevations, precise landscape and irrigation plans, as well as building materials for the review and approval as part of a development plan application. Said plans shall indicate that all corner lots shall have architectural treatments on both street facing elevations.

11. Prior to submittal of building permits, the applicant shall submit a walls and fencing plan as part of a development plan application. Said plan shall show all proposed walls and fencing. Fencing visible to the public right of way shall be constructed of treated wood or alternative material to prevent premature deterioration. Furthermore, all fencing within the project site shall be designed with steel posts, or a functional equivalent, to prevent premature deterioration and collapse.

12. Within 90 days of the approval of this project, the applicant shall sign a notarized affidavit stating that "I(we), ____, the owner(s) or the owner's representative, have read, understand, and agree to the conditions approving Z-04-03." Immediately following this statement will appear a signature block for the owner or the owner's representative, which shall be signed. Signature blocks for the City Community Development Director and City Engineer shall also appear on this page. The affidavit shall be approved by the City prior to any improvement plan or final map submittal.

EXHIBIT B
WESTSIDE PROJECT LAND USE PLAN

AGENDA ITEM L-02

CITY OF LODI
COUNCIL COMMUNICATION

TM

AGENDA TITLE: Ordinance No. 1794 Entitled, "An Ordinance of the City Council of the City of Lodi Adopting a Development Agreement Pertaining to the Development of 151 Acres Located on the West Side of Lower Sacramento Road between the Woodbridge Irrigation District Canal and Vine Street (Westside Project) (Development Agreement GM-05-002)"

MEETING DATE: April 4, 2007

PREPARED BY: City Clerk

RECOMMENDED ACTION: Motion waiving reading in full and (following reading by title) adopting the attached Ordinance No. 1794.

BACKGROUND INFORMATION: Ordinance No. 1794 entitled, "An Ordinance of the City Council of the City of Lodi Adopting a Development Agreement Pertaining to the Development of 151 Acres Located on the West Side of Lower Sacramento Road between the Woodbridge Irrigation District Canal and Vine Street (Westside Project) (Development Agreement GM-05-002)" was introduced at the regular City Council meeting of March 21, 2007.

ADOPTION: With the exception of urgency ordinances, no ordinance may be passed within five days of its introduction. Two readings are therefore required – one to introduce and a second to adopt the ordinance. Ordinances may only be passed at a regular meeting or at an adjourned regular meeting; except for urgency ordinances, ordinances may not be passed at a special meeting. Id. All ordinances must be read in full either at the time of introduction or at the time of passage, unless a regular motion waiving further reading is adopted by a majority of all council persons present. ***Cal. Gov't Code § 36934***.

Ordinances take effect 30 days after their final passage. ***Cal. Gov't Code § 36937***.

This ordinance has been approved as to form by the City Attorney.

FISCAL IMPACT: None.

FUNDING AVAILABLE: None required.

_____
Randi Johl
City Clerk

RJ/jmp

Attachment

APPROVED: _____
Blair King, City Manager

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ORDINANCE NO. 1794

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LODI
ADOPTING A DEVELOPMENT AGREEMENT PERTAINING TO THE
DEVELOPMENT OF 151 ACRES LOCATED ON THE WEST SIDE OF
LOWER SACRAMENTO ROAD BETWEEN THE WOODBRIDGE IRRIGATION
DISTRICT CANAL AND VINE STREET (WESTSIDE PROJECT)
(DEVELOPMENT AGREEMENT GM-05-002)

==========

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LODI AS FOLLOWS:

SECTION 1. The properties subject to this Development Agreement include the following:

> 151 acres within the Westside Project area located on the west side of Lower Sacramento Road between the Woodbridge Irrigation District canal and Vine Street (Assessors Parcel Numbers 029-380-05, 027-040-01, 027-040-020, and 027-040-030).

SECTION 2. The applicant for the requested Development Agreement is as follows: Frontier Community Builders.

SECTION 3. The requested Development Agreement is summarized as follows:

Development Agreement GM-05-002 is an agreement between the City and the developer, in which the developer agrees to provide certain benefits to the City in exchange for a vested right to proceed with the development consistent with the development approvals. The term of the Development Agreement is 15 years. The vested right the developer obtains is the ability to proceed with the development as approved and to avoid the imposition of new regulations on subsequent discretionary approvals (i.e. vesting tentative maps) for the development.

SECTION 4 The City Council hereby finds that the proposed Development Agreement is consistent with the General Plan land use designation and the zoning for the proposed development.

SECTION 5. The City Council, by Resolution No. 2007-48, has certified the Lodi Annexations Environmental Impact Report (EIR) and adopted a Statement of Overriding Consideration for the proposed project.

SECTION 6. The City Council hereby adopts Ordinance No. 1794 approving the Development Agreement by and between the City of Lodi and Frontier Community Builders, attached herein as Exhibit A.

SECTION 7. No Mandatory Duty of Care. This ordinance is not intended to and shall not be construed or given effect in a manner which imposes upon the City, or any officer or employee thereof, a mandatory duty of care towards persons or property within the City or outside of the City so as to provide a basis of civil liability for damages, except as otherwise imposed by law.

SECTION 8. Severability. If any provision of this ordinance or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the ordinance which can be given effect without the invalid provision or application. To this end, the provisions of this ordinance are severable. The City Council hereby declares that it would have adopted this ordinance irrespective of the invalidity of any particular portion thereof.

SECTION 9. This Ordinance was introduced by the Lodi City Council on March 21, 2007, and adopted by the Lodi City Council on April 4, 2007. This Ordinance shall take affect 30 days from and after its adoption. The ordinance summary shall be published in the Lodi News Sentinel, a newspaper of general circulation published and circulated in the City of Lodi.

A certified copy of this ordinance is available for review in the in the City Clerk's office located at 221 West Pine Street.

Approved this 4th day of April, 2007

_____
BOB JOHNSON
Mayor

Attest:

RANDI JOHL
City Clerk

==========

State of California
County of San Joaquin, ss.

I, Randi Johl, City Clerk of the City of Lodi, do hereby certify that Ordinance No. 1794 was introduced at a regular meeting of the City Council of the City of Lodi held March 21, 2007, and was thereafter passed, adopted, and ordered to print at a regular meeting of said Council held April 4, 2007, by the following vote:

AYES: COUNCIL MEMBERS –

NOES; COUNCIL MEMBERS –

ABSENT: COUNCIL MEMBERS –

ABSTAIN: COUNCIL MEMBERS –

I further certify that Ordinance No. 1794 was approved and signed by the Mayor on the date of its passage and the same has been published pursuant to law.

_____
RANDI JOHL
City Clerk

Approved as to Form:

_____
D. STEPHEN SCHWABAUER
City Attorney

ATTACHMENT A

WESTSIDE PROJECT DEVELOMENT AGREEMENT

OFFICIAL BUSINESS
Document entitled to free recording
Government Code Section 6103

RECORDING REQUESTED BY
AND WHEN RECORDED MAIL TO:

City of Lodi
P.O. Box 3006
Lodi, CA 95241-1910

Attn: City Clerk

(SPACE ABOVE THIS LINE RESERVED FOR
RECORDER'S USE)

DRAFT DOCUMENT

DEVELOPMENT AGREEMENT

BY AND BETWEEN

THE CITY OF LODI

AND FRONTIER COMMUNITY BUILDERS, INC.

FOR FCB WESTSIDE PROJECT

TABLE OF CONTENTS

RECITALS 3
1. Authorization 3
2. Property 3
3. Project 3
4. Public Hearing 3
5. Environmental Review 3
6. Project Approvals 3
7. Need for Services and Facilities 4
8. Contribution to Costs of Facilities and Services 4
9. Development Agreement Resolution Compliance 5
10. Consistency with General and Specific Plan 5
11. Creation of Career-Oriented Employment Opportunities
AGREEMENT 5
1. Incorporation of Recitals 5
2. Description of Property 5
3. Interest of Landowner 5
4. Relationship of City and Landowner 5
5. Effective Date and Term ..... 5 Dele
5.1 Effective Date 6
5.2 Term 6
5.3 Automatic Termination Upon Completion and Sale of Residential Lot 6
6. Use of Property 6
6.1 Right to Develop 6
6.2 Permitted Uses 8
6.3 Moratorium, Quotas, Restrictions or Other Growth Limitations 8
6.4 Additional Conditions 11
6.5 Annexation
7. Applicable Rules, Regulations, Fees and Official Policies 17
7.1 Rules Regarding Permitted Uses 17
7.2 Rules Regarding Design and Construction ..... 18 Dele
7.3 Changes in State or Federal Law ..... 18 Dele
7.4 Uniform Codes Applicable ..... 18 Dele
8. Existing Fees, Subsequently Enacted Fees, Dedications, Assessments and Taxes 18
8.1 Processing Fees and Charges 18
8.2 Existing Fees, Exactions and Dedications 19
8.3 Subsequent Development Impact Fees, Exactions and Dedications Dele
9. Community Facilities District ..... 20 Dele
9.1 Inclusion in Community Facilities District ..... 20 Dele
9.2 Use of Community Facilities District Revenues ..... 21 Dele
9.3 Community Facilities District for Residential Property – Landowner Financing ..... 21 Dele
10. Processing of Subsequent Development Applications and Building Permits ..... 22 Dele
Dele
Amendment or Cancellation ..... 22 Dele
11.1 Modification Because of Conflict with State or Federal Laws ..... 22 Dele
11.2 Amendment by Mutual Consent ..... 22 Dele

11.3. Insubstantial Amendments 22
11.4. Amendment of Project Approvals 22
11.5. Cancellation by Mutual Consent 23
12. Term of Project Approvals 23
13. Annual Review 23
13.1. Review Date 23
13.2. Initiation of Review 23
13.3. Staff Reports 23
13.4. Costs 23
13.5. Non-compliance with Agreement; Hearing 23
13.6. Appeal of Determination 24
14. Default 24
14.1. Procedure Regarding Defaults 24
15. Estoppel Certificate 25
16. Mortgagee Protection; Certain Rights of Cure 25
16.1 Mortgagee Protection 25
16.2 Mortgagee Not Obligated 26
16.3. Notice of Default to Mortgagee and Extension of Right to Cure 26
17. Severability 26
18. Applicable Law 26
19. Attorneys' Fees and Costs in Legal Actions By Parties to the Agreement 27
20. Attorneys' Fees and Costs in Legal Actions By Third Parties to the Agreement and Continued Permit Processing 27
21. Transfers and Assignments 27
22. Agreement Runs with the Land 27
23. Bankruptcy 28
24. Indemnification 28
25. Insurance 28
25.1 Public Liability and Property Damage Insurance 28
25.2 Workers' Compensation Insurance 28
25.3 Evidence of Insurance 28
26. Excuse for Nonperformance 29
27. Third Party Beneficiaries 29
28. Notices 29
29. Form of Agreement; Recordation; Exhibits 29
30. Further Assurances 30
31. City Cooperation 30

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DEVELOPMENT AGREEMENT
FCB WESTSIDE PROJECT

This Development Agreement is entered into as of this ____ day of _____, 2007, by and between the CITY OF LODI, a municipal corporation ("City"), and, FRONTIER COMMUNITY BUILDERS, INC. ("Landowner"). City and Landowner are hereinafter collectively referred to as the "Parties" and singularly as "Party."

RECITALS

1. **Authorization**. To strengthen the public planning process, encourage private participation in comprehensive planning and reduce the economic risk of development, the Legislature of the State of California adopted Government Code Section 65864, et seq. (the "Development Agreement Statute"), which authorizes the City and any person having a legal or equitable interest in the real property to enter into a development agreement, establishing certain development rights in the Property which is the subject of the development project application.

2. **Property**. Landowner holds a legal or equitable interest in certain real property located in the City of Lodi, County of San Joaquin, more particularly described in Exhibit A-1 attached hereto (the "Property"). Landowner represents that all persons holding legal or equitable interests in the Property shall be bound by this Agreement.

3. **Project**. Landowner has obtained various approvals from the City (described in more detail in Recital 6 below) for a mixed use project known as FCB Westside (the "Project") to be located on the Property.

4. **Public Hearing**. On October 25, 2006, the Planning Commission of the City of Lodi, acting pursuant to Government Code Section 65867, held a hearing to consider this Agreement and the Planning Commission action has been reported to the City Council.

5. **Environmental Review**. On _____, 2007, the City Council certified as adequate and complete, the Lodi Annexation Environmental Impact Report ("EIR") for the Project. Mitigation measures were required in the EIR and are incorporated into the Project and into the terms and conditions of this Agreement, as reflected by the findings adopted by the City Council concurrently with this Agreement.

6. **Project Approvals**. The following land use approvals (together the "Project Approvals") have been granted for the Property, which entitlements are the subject of this Agreement:

6.1. The EIR. The Mitigation Measures in the EIR are incorporated into the Project and into the terms and conditions of this Agreement (City Resolution No. _____);

6.2. A General Plan Amendment (the "General Plan"), (attached hereto as Exhibit B) approved by the City on _____, 2007 (City Resolution No. _____);

6.3. The Zoning of the Property (attached hereto as Exhibit B-1) approved by the City on _____, 2007 (City Ordinance No. _____);

6.4. The Large Lot Tentative Subdivision Map for the Project (attached hereto as Exhibit C-1) to be subsequently considered by the City through a noticed public hearing process. (The parties agree that the large lot subdivision map included herein is for illustrative purposes only and shall not be effective until approved through a notice public hearing process by the City. If approved by the City, the Large Lot Subdivision Map shall thereafter be included within the Project Approvals listed herein);

6.5. Reserved;

6.6. The Development Plan and Infrastructure Plan for the Project (attached hereto as Exhibit D), approved by the City on _____, 2007 by City Resolution No. _____

6.7. The Growth Management Allocations, as required by Chapter 15.34 of the Lodi Municipal Code, as set forth in Exhibit E, approved by the City on _____, 2007 by Ordinance No. _____;

6.8. This Development Agreement, as adopted on _____, 2007 by City Ordinance No. _____ (the "Adopting Ordinance"); and,

6.9. The Annexation Approvals granted by San Joaquin County Local Agency Formation Commission as shown in Exhibit F attached hereto.

7. **Need for Services and Facilities**. Development of the Property will result in a need for municipal services and facilities, some of which will be provided by the City to such development subject to the performance of Landowner's obligations hereunder. With respect to water, pursuant to Government Code Section 65867.5, any tentative map approved for the Property will comply with the provisions of Government Code 66473.7.

8. **Contribution to Costs of Facilities and Services**. Landowner agrees to contribute to the costs of such public facilities and services as required herein to mitigate impacts on the community of the development of the Property, and City agrees to provide such public facilities and services as required herein to assure that Landowner may proceed with and complete development of the Property in accordance with the terms of this Agreement. City and Landowner recognize and agree that, but for Landowner's contributions set forth herein including contributions to mitigate the impacts arising as a result of development entitlements

granted pursuant to this Agreement, City would not and could not approve the development of the Property as provided by this Agreement and that, but for City's covenant to provide certain facilities and services for development of the Property, Landowner would not and could not commit to provide the mitigation as provided by this Agreement. City's vesting of the right to develop the Property as provided herein is in reliance upon and in consideration of Landowner's agreement to make contributions toward the cost of public improvements as herein provided to mitigate the impacts of development of the Property as development occurs.

9. **Development Agreement Resolution Compliance.**. City and Landowner have taken all actions mandated by, and fulfilled all requirements set forth in, the Development Agreement Resolution of the City of Lodi, as set forth in the City Council Resolution No. 2005-237 for the consideration and approval of the pre-annexation and development agreement.

10. **Consistency with General and Specific Plan**. Having duly examined and considered this Agreement and having held properly noticed public hearings hereon, the City found that this Agreement satisfies the Government Code §65867.5 requirement of general plan consistency.

NOW, THEREFORE, in consideration of the mutual promises, conditions and covenants hereinafter set forth, the Parties agree as follows:

AGREEMENT

1. **Incorporation of Recitals**. The Preamble, the Recitals and all defined terms set forth in both are hereby incorporated into this Agreement as if set forth herein in full.

2. **Description of Property**. The property, which is the subject of this Development Agreement, is described in Exhibit A-1 and depicted in Exhibit A-2 attached hereto ("Property").

3. **Interest of Landowner**. The Landowner has a legal or equitable interest in the Property. Landowner represents that all persons holding legal or equitable interests in the Property shall be bound by the Agreement.

4. **Relationship of City and Landowner**. It is understood that this Agreement is a contract that has been negotiated and voluntarily entered into by City and Landowner and that Landowner is not an agent of City. The City and Landowner hereby renounce the existence of any form of joint venture or partnership between them, and agree that nothing contained herein or in any document executed in connection herewith shall be construed as making the City and Landowner joint venturers or partners.

5. **Effective Date and Term**.

5.1. **Effective Date**. The effective date of this Agreement ("Effective Date") is _____, 2007, which is the effective date of City Ordinance No. _____ adopting this Agreement.

5.2. **Term**. Upon execution, the term of this Agreement shall commence on the Effective Date and extend for a period of fifteen (15)years , unless said term is terminated, modified or extended by circumstances set forth in this Agreement. Following the expiration of the term, this Agreement shall be deemed terminated and of no further force and effect. Said termination of the Agreement shall not affect any right or duty created by City approvals for the Property adopted prior to, concurrently with, or subsequent to the approval of this Agreement or the obligations of Sections 20, 24 or 25 of this Agreement. In the event that litigation is filed by a third party (defined to exclude City and Landowners or any assignees of Landowner) which seeks to invalidate this Agreement or the Project Approvals, the expiration date of this Agreement shall be extended for a period equal to the length of time from the time the summons and complaint and/or petition are served on the defendant(s) until the judgment entered by the court is final and not subject to appeal; provided, however, that the total amount of time for which the expiration date shall be extended as a result of such litigation shall not exceed four years.

5.3. **Automatic Termination Upon Completion and Sale of Residential Lot**. This Agreement shall automatically be terminated, without any further action by either party or need to record any additional document, with respect to any single-family residential lot within a parcel designated by the Project Approvals for residential use, upon completion of construction and issuance by the City of a final occupancy permit for a dwelling unit upon such residential lot and conveyance of such improved residential lot by Landowner to a bona-fide good-faith purchaser thereof. In connection with its issuance of a final inspection for such improved lot, City shall confirm that all improvements, which are required to serve the lot, as determined by City, have been accepted by City. Termination of this Agreement for any such residential lot as provided for in this Section shall not in any way be construed to terminate or modify any assessment district or Mello-Roos Community Facilities District lien affecting such lot at the time of termination.

6. **Use of Property**.

6.1. **Vested Right to Develop**. Landowner shall have the vested right to develop the Project in accordance with the terms and conditions of this Agreement, the Project Approvals, the City's existing policies, standards and ordinances (except as expressly modified by this Section 6.1 and Section 8.3) and any amendments to any of them as shall, from time to time, be approved pursuant to this Agreement. Landowner's vested right to develop the Property shall be subject to subsequent approvals; provided however, except as provided in Section 8.3, that any conditions, terms, restrictions and requirements for such subsequent approvals shall not prevent development of the Property for the uses, or reduce the density and intensity of development, or limit the rate or timing of development set forth in this Agreement, so long as Landowner is not in default under this Agreement. Notwithstanding the vested rights

granted herein, Landowner agrees that the following obligations, which are presently being developed, shall apply to development of the Property:

6.1.1 Payment of a development fee for a proportionate share of the design and construction cost of the Highway 99 interchange project at Harney Lane.

6.1.2 Payment of Agricultural Land Mitigation fee, as identified in Mitigation Measure LU-2, pursuant to the ordinance and/or resolution to be adopted by the City of Lodi.

6.1.3 Payment of Electric Capital Improvement Mitigation fee (see Section 6.4.10) pursuant to the ordinance and/or resolution to be adopted by the City of Lodi.

6.1.4 Payment of development fee for proportionate share of the costs of designing and constructing a water treatment system and/or percolation system for treatment of water acquired from Woodbridge Irrigation District (see Section 6.4.7) pursuant to the ordinance an/or resolution to be adopted by the City of Lodi.

With regards to the fees identified in Sections 6.1.1, 6.1.2, 6.1.3, and 6.1.4 and these fees only, Landowner hereby consents to their imposition as conditions of approval on any discretionary or ministerial land use entitlement subsequently granted by the City including but not limited to issuance of building permits. City agrees that the fees payable by the Landowner pursuant to Sections 6.1.1, 6.1.2, 6.1.3 and 6.1.4 shall be adopted in conformance with applicable law, and shall apply uniformly to all new development on properties within the City that are zoned consistent with the Project Approvals, or apply uniformly to all new development on properties that are similarly situated whether by geographic location or other distinguishing circumstances. Except for the fees identified in this Agreement including but not limited to the Project Approvals, Sections 6.1.1, 6.1.2, 6.1.3, 6.1.4 and 8.3, no other subsequently enacted development or capital fee shall be imposed as a condition of approval on any discretionary or ministerial decision. The Parties acknowledge and agree that the fees applicable to the development pursuant to the Project Approvals and this Agreement may be increased during the term of this Agreement provided that (1) such increases are limited to annual indexing (i.e. per the Engineering News Record index, or the CPI, or other index utilized by the City) and as provided in current fee ordinances and (2) the increased fees are adopted in conformance with applicable law, apply uniformly to all new development on properties within the City that are zoned consistent with the Project Approvals, or apply uniformly to all new development on properties that are similarly situated, whether by geographic location or other distinguishing circumstances. The initial adjustment shall be effective as of four years after the Effective Date of the Agreement and shall be calculated based on the difference in the applicable index from the numerical rate at the end of the month following the third year after the Effective Date and the numerical rate at the end of the month following the fourth year after the Effective Date. All subsequent increases shall be based on the annual change in the applicable index. Notwithstanding the preceding sentence, index adjustments to the fees set forth in Section 8.2,

subsections 2, 3 and 4 shall be effective annually as set forth in the relevant ordinances and resolutions. Moreover, Landowner will be subject to the indexing called for above even if Landowner has filed a complete application for a Vesting Tentative Map and will not vest against such indexing until payment of the fees as called for in this Agreement.

6.2. **Permitted Uses**. The permitted uses of the Property, the density and intensity of use, the maximum height and size of proposed buildings, provisions for reservation or dedication of land for public purposes, location and maintenance of on-site and off-site improvements, location of public utilities and other terms and conditions of development applicable to the Property, shall be those set forth in this Agreement, the Project Approvals and any amendments to this Agreement or the Project Approvals. City acknowledges that the Project Approvals provide for the land uses and approximate acreages for the Property as set forth in Exhibit B-1 and Exhibit B-2.

6.3. **Moratorium, Quotas, Restrictions or Other Growth Limitations**.

Landowner and City intend that, except as otherwise expressly provided in this Agreement, this Agreement shall vest the Project Approvals against subsequent City resolutions, ordinances and initiatives approved by the City Council or the electorate that directly or indirectly limit the rate, timing, or sequencing of development, or prevent or conflict with the permitted uses, density and intensity of uses or the right to receive public services as set forth in the Project Approvals; provided however Landowner shall be subject to rules, regulations or policies adopted as a result of changes in federal or state law (as provided in Section 7.3) which are or have been adopted on a uniformly applied, City-wide or area-wide basis, in which case City shall treat Landowner in a uniform, equitable and proportionate manner with all properties, public and private, which are impacted by the changes in federal or state law.

6.3.1 Allocations Under City Growth Management Program

a. Allocations Required Prior to Map Approval

Consistent with the City's Growth Management Program, which shall apply to the Project, except as otherwise provided herein, no tentative map for any portion of the Property shall be issued until such time as Landowner has obtained allocations for each residential unit within the area covered by such map, consistent with the Growth Management Ordinance (Ordinance 1521), codified as Section 15.34 of the City of Lodi Municipal Code.

b. Schedule of Allocation of Residential Units

The following schedule of residential unit allocations shall apply to the Project.

(i) Initial Allocation:

As of the Effective Date of this Agreement, the following number of residential units shall be initially allocated to the Project from the City's reserve of unused allocations ("Initial Allocation"):

215 Low Density Units

Except for the requirement set forth in Section 6.3.1(a) above the Initial Allocation has been determined to be exempt from and in compliance with the provisions of the Growth Management Ordinance and Resolutions 91-170 and 91-171 (timing and point system requirements).

(ii) Subsequent Annual Allocations:

As of the Effective Date of this Agreement, Landowner shall be entitled to apply for future annual allocations in three-year increments, and on a rolling basis. Provided that Landowner otherwise complies with the City's Growth Management Program, Landowner shall be entitled to annual allocations set forth in Exhibit E ("Annual Allocations"). If Landowner elects in any year to request fewer allocations than provided for in Exhibit E or if the term of any allocation granted expires before it is used as part of obtaining a subdivision map, Landowner shall be entitled to receive, upon submission of a complete growth management allocation application, additional allocations after the eighth year of this Agreement and through the term of this Agreement including any extension thereto granted pursuant to Section 5.2. The total number of growth management allocations granted hereunder shall be limited to the number of residential units approved as part of the Project Approvals excluding any senior housing residential units. The use of such allocations shall be restricted to the year for which such allocations were made, consistent with the Growth Management Ordinance. Notwithstanding the foregoing, Landowner may request additional allocations, over and above those set forth in Exhibit "E", and City may grant such allocations in its discretion, provided such additional allocations are consistent with the City's Growth Management Allocation Program, Resolutions 91-170 and 91-171, subject to such additional community benefits and/or exactions negotiated upon such a request.

Landowner is not required to apply for such allocations on an annual basis. Landowner may instead comply with all development plan and related requirements under the Growth Management Ordinance and Resolutions 91-170 and 91-171 every third year, at which time Landowner may apply for allocations for the next three-year period. After the expiration of the year for which an Annual Allocation was issued to Landowner, Landowner may submit a request and be issued by the City another Annual Allocation, such that Landowner may maintain, on a rolling basis, a number of allocations equal to three Annual Allocations. Except for allowing the Landowner this flexibility in terms of the number of years for which Landowner may apply, all requests for Annual Allocations must otherwise comply with the Growth Management Ordinance and Resolutions 91-170 and 91-171

The requirement that Landowner apply for Annual Allocations does not alter the vested rights of the Project, specifically as to the General Plan and zoning designation of the Project.

(c) Growth Management Ordinance in full force and effect:

Except where otherwise specifically stated herein, nothing in this section 6.3.1 is intended to modify in any way the City's Growth Management Program, including its exemptions under Section 15.34.040 (e.g., for senior citizen housing).

Section 6.3.2 Future Growth Control Ordinances/Policies, Etc.

(a) One of the specific purposes of this Agreement is to assure Developer that, during the term of this Agreement no growth-management ordinance, measure, policy, regulation or development moratorium of City adopted by the City Council or by vote of the electorate after the Effective Date of this Agreement will apply to the Property in such a manner so as to the reduce the density of development , modify the permissible uses, or modify the phasing of the development as set forth in the Project Approvals.

(b) Therefore, the parties hereto agree that, except as otherwise expressly provided in the Project Approvals, Sections 6.1, 6.3.1 or 6.4 or other provision of this Agreement which expressly authorize City to make such pertinent changes, no ordinance, policy, rule, regulation, decision or any other City action, or any initiative or referendum voted on by the public, which would be applicable to the Project and which would affect in any way the rate of development, construction and build out of the Project, or limit the Project's ability to receive any other City service shall be applicable to any portion of the Project during the term of this Agreement, whether such action is by ordinance, enactment, resolution, approval, policy, rule, regulation, decision or other action of City or by public initiative or referendum.

(c) City, through the exercise of either its police power or its taking power, whether by direct City action or initiative or referendum, shall not establish, enact or impose any additional conditions, dedications, fees or other exactions, policies, standards, laws or regulations, which directly relate to the development of the Project except as provided in Sections 6.1, 6.3.1, or 6.4 herein or other provision of this Agreement which expressly allows City to make such changes. Nothing herein prohibits the Project from being subject to a (i) City-Wide bond issue, (ii) City-Wide special or general tax, or (iii) special assessment for the construction or maintenance of a City-wide facility as may be voted on by the electorate or otherwise enacted; provided that such tax, assessment or measure is City-wide in nature, does not discriminate against the land within the Project and does not distinguish between developed and undeveloped parcels.

(d) This Agreement shall not be construed to limit the authority of City to charge processing fees for land use approvals, public facilities fees and building permits as they relate to plumbing, mechanical, electric or fire code permits, or other similar permits and entitlements which are in force and effect on a city-wide basis at the time those permits are applied for, except to the extent any such processing regulations would be inconsistent with this Agreement.

(e) Notwithstanding subdivision (b), the City may condition or deny a permit, approval, extension, or entitlement if it determines any of the following:

(1) A failure to do so would place the residents of the Project or the immediate community, or both, in a condition dangerous to their health or safety, or both.

(2) The condition or denial is required in order to comply with state or federal law (see Section 7.3).

6.4. Additional Conditions.

6.4.1. Timing of Dedications and Improvements of Parks

Landowner agrees to dedicate park land and complete construction of all the park improvements as described and set forth in the Project Approvals at its sole cost and expense. The lists of the parks and park improvements contemplated herein is set forth in Exhibit "I" and Exhibit "J". Landowner and City agree that the provision of land and the construction of all park facilities and installation of equipment within the Project boundaries will satisfy Landowner's Quimby Act obligations as set forth in Lodi Municipal Code Chapter. Therefore, Landowner shall not be obligated to pay any additional park fees and Landowner shall not be entitled to any credit for the value of the improvements constructed or equipment installed except as provided hereinbelow. The phasing of such improvements shall be in compliance with the Phasing Schedule included in Exhibit I.

With regards to the park improvements listed in Exhibit J, prior to approval by the City of the first tentative subdivision map, Landowner shall prepare plans and specifications for all park improvements included in the Project Approvals and submit those plans and specifications to the City for review and approval which approval will not be unreasonably withheld provided that the plans and specifications contain all park improvements listed in Exhibit J and satisfy all applicable conditions of approval included in the Project Approvals. The Landowner shall construct the parks in compliance with the approved plans and specifications. The City will inspect improvements during construction. If improvements are of poor quality and/or do not meet the requirements of approved plans and specifications, the City will notify the Landowner in writing and the Landowner, at its sole cost, shall correct any errors or deficiencies. The Landowner shall construct the parks to the satisfaction of the City, which shall be defined as compliance with the approved plans and specifications.

As part of the park improvements identified herein, Landowner is obligated to offer for dedication to the City for a period of six years, five acres of land located at West of Lower Sacramento Road, North of Vine Street and as depicted in the Westside Facilities Master Plan for park uses including a possible acquatic center. Upon acceptance of the dedication by the City, which must occur within six years after the offer of dedication is made, the City shall, for the remaining term of this Agreement and at the time of City approval of any development

project located in the area south of West Vine Street, north of Highway 12, and west of North Lower Saramento Road ("Adjacent Property"), impose a requirement that the developer of the Adjacent Parcel pay the the City an amount equal to the reasonable actual costs incurred for park land and related construction costs by Landowner for parks developed within the Project in excess of the minimum amount of park dedication required by the Lodi Muncipal Code and which the developer of the "Adjacent Parcel" uses to satisfy its park dedication requirements. The parties agree that they shall calculate the any potential credit payable by the developer of the Adjacent Property pursuant to this paragraph prior to approval fo the first tentative subdivision map for the Property. Upon receipt of the that payment, City shall either pay that amount to Landowner or credit that amount against any outstanding fee payable by Landowner.

6.4.2. Rehabilitation of Existing Residential Units

Landowner agrees that within ten years of the Effective Date of this Agreement, Landowner shall either rehabilitate or pay the costs (for a total value of $1,250,000) of rehabilitating up to a maximum of twenty-five (25) single-family or multi-family residential units within the area bounded by the Union Pacific railroad tracks, Cherokee Lane, Kettleman Lane and Lockford Street. To satisfy this obligation, Landowner may pay to rehabilitate residential units owned by others or may purchase, rehabilitate and sell or rent said residential units. The City shall have the right to approve the residential units selected for rehabilitation; said approval shall not be unreasonably withheld by the City.

The improvements required herein to facilitate rehabilitation of residential units may include landscaping, painting, roof repair, replacement of broken windows, sidewalk repairs, non-structural architectural improvements, and demolition and reconstruction of residential units. All work performed pursuant to this section shall be done pursuant to properly issued building permits as required by City of Lodi ordinances. As part of the annual review required pursuant to Section 13, Landowner shall report on work completed during the prior year towards meeting the obligations set forth in this paragraph.

In the event that Landowner has not satisfied this obligation within ten years from the Effective Date, Landowners shall pay the City fifty thousand dollars ($50,000) per residential unit for each of the twenty-five (25) units that have not been rehabilitated as set forth above. The funds paid shall be placed in a dedicated city fund to be used for housing rehabilitation grants or loans within the area specified hereinabove.

6.4.3. Payment for Promotion of Economic Development

Within ten (10) years of the Effective Date of this Agreement, Landowner shall pay the City Two Hundred Twenty-Six Thousand U.S. dollars ($226,000) for use by the City for economic development actions including job creation, promoting retail sales and/or wine industry tourism all as determined by the City. The purpose of this payment is to assist the City in its effort to maintain a balance between employment and housing demands.

6.4.4 **Payment of Utility Exit Fees** The Lodi Electric Utility is a city-owned and operated utility that provides electrical utility services for residential, commercial and industrial customers in Lodi. As the proposed project sites would be annexed to the City of Lodi, the Lodi Electric Utility would provide electrical utility services to the project site. To the extent that Landowner is assessed "exit fees," also known as "Cost Responsibility Surcharges," by Pacific Gas & Electric for its departing load, Landowner shall pay said fees when they are due. Landowner may, at its option and at its own cost, request a Cost Responsibility Surcharge Exemption from the California Energy Commission for any qualified departing load pursuant to Title 20 California Code of Regulations, Section 1395, et. seq. Forms for the exemption are available on-line at http://www.energy.ca.gov/exit_fees/documents/2004-02-13_PGE_EXEMP_APPL.PDF City makes no representation that Landowner is eligible for exemptions pursuant to these regulations. Landowner agrees to save, defend, indemnify and hold harmless City from any and all costs, judgments or awards owed to Pacific Gas & Electric arising out of or related to City's provision of electrical utility services to the project site.

6.4.5 **Maintenance of Specified Public Improvements** Landowner agrees to provide or pay for all park, median strip, and other landscaping maintenance and repairs for two years for lands dedicated by the Landowner to the City and accepted by the City. In the event that Landowner chooses to pay the City for the costs of maintenance and repair, the City shall provide an estimate of the annual costs and the Landowner shall pay the full amount within thirty calendar days after the City by U.S. Mail or email, transmits the estimate to the Landowner. If the amount paid to the City exceeds the actual amount incurred by the City plus reasonable staff costs to administer the contract, the City shall, within a reasonable period of time, refund the difference to the Landowner.

6.4.6 **Payment for Fire Department Facilities, Equipment and Apparatus**

In addition to any applicable development impact for fire services, within ten years of the Effective Date of this Agreement, Landowner shall pay Two Million Six Hundred Thousand U.S. dollars ($2,600,000) to the City for use to acquire additional facilities, equipment and apparatus for the Lodi Fire Department.

Landowner acknowledges that City will enter into contracts to acquire the facilities, equipment and apparatus. As consideration for City's agreement to authorize payment in installment payments, Landowner agrees to provide a letter of credit payable to the City, in a form reasonably acceptable to the City Attorney, in an amount sufficient to cover the amount due herein. City agrees that Landowner may substitute a letter of credit, in a form reasonably acceptable to the City Attorney, for a lesser amount upon payment of any portion of the amount due herein. Upon delivery of such replacement letter of credit and its approval as to form by the City Attorney, the City will release and convey to Landowner the prior letter of credit.

6.4.7 Reserved.

6.4.8 Water Treatment and/or Percolation Cost Landowner shall pay a fee based on the proportionate share of the costs of designing and constructing a water treatment system and/or percolation system for treatment of water acquired by the City from the Woodbridge Irrigation District. Landowner shall pay the fee as required under the fee program to be development by the City, but in no event later than when water service connection for each residential, office and commercial unit is provided.

6.4.9 Public Art on Property Within ten (10) years of the Effective Date of this Agreement, Landowner shall obtain City approval for and install public art on the Project. The value of the public art installed shall be equal to One Hundred Fifty Thousand U.S. dollars ($150,000) inclusive of design and installation costs, which together shall not exceed $10,000. The public art shall be installed in a place within the Project that is visible from the public right-of-way or from an area or areas that provides public access. Landowner shall provide maintenance of the public art. Landowner shall be eligible to apply for City matching grant for the public art up to a maximum amount of $40,000. The parties agree that any matching grant provided by the City shall be in addition to the $150,000 contribution provided by Landowner pursuant to the section and shall be subject to any and all conditions normally imposed as part of the issuance of a grant by the City.

6.4.10 Utility Line Extension City is preparing a policy pursuant to which property developed will pay the actual costs of capital improvements necessary to extend utility services to a development. Landowner acknowledges that such an extension is necessary to implement the Project Approvals on the Property. Landowner agrees to pay the City, pursuant to the policy to be adopted by the City, the costs of the capital improvements necessary to extend utility services to the Property.

6.4.11 Improvements to be Designed and Constructed by Landowner Within or Adjacent to the Project Boundaries

The Project Approvals require the installation of specified public and private improvements. Landowner shall, as specified in the Project Approvals, either design, engineer and construct the following improvements or pay the City the appropriate fee for the design, engineering and construction of said improvements. The obligations imposed on the Landowner herein shall be in addition to any other obligations set forth in this Agreement.

In the event that any of Developer's improvements encroach upon any city facilities, property or rights of way, developer shall indemnify City against any and all expenses, including legal fees, incurred by the City to secure replacement facilities, property or rights of way.

6.4.11.1 Surface Water Facilities

Transmission Main (Proportionate share of the total design, engineering and construction costs).
Storage Tank (Proportionate share of the total design, engineering and construction costs).

6.4.11.2 Water Supply Facilities

One new water well to cover proposed development within the Southwest Gateway and Westside development areas. The well will be installed in the Southwest Gateway area at the location identified in the Project Approvals or approved by the City Engineer. This condition may be satisfied by the installation of the well pursuant the requirement set forth in Section 6.4.7.2 of the FCB Southwest Gateway Develoment Agreement provided that adequate flow capacity is provided for the development authorized as part of the Westside and Southwest Gateway Project Approvals. The well shall be installed and operational on or before January 1, 2010 or earlier if otherwise required by the Water Master Plan.

6.4.11.3 Water Distribution Facilities

All water pipes and related infrastructure in all streets.
Any interim or temporary facilities as determined necessary by the Public Works Director.

6.4.11.4 Sewer Collection Facilities

All sewer pipes and related infrastructure in all streets.
Any interim or temporary facilities as determined necessary by the Public Works Director.

6.4.11.5 Recycled Water Facilities

All recycled water pipes and related infrastructure for irrigations systems located in or on streets, public and private school sites (to property boundary line only), places of assembly including but not limited to religious facilities (to property boundary line only), and high density residential sites.
Provide up to a maximum of $50,000 to partially fund the City of Lodi Recycled Water Master Plan Study

6.4.11.6 Storm Drainage Facilities

All stormwater pipes and related infrastructure in all streets and basins.
All stormwater detention basins, control structures, pumping facilities and appurtenant piping and controls.

Any interim or temporary facilities as determined necessary by the Public Works Director.

Developer will be entitled to apply for reimbursement under Lodi Municipal Code Chapter 16.40 for benefit received by undeveloped properties as a result of the construction of the improvements required by this paragraph. Without limiting in any manner, the City Council's future exercise of its legislative discretion in the public hearing called for by Chapter 16.40, the parties anticipate that the benefited properties will be those set forth in Exhibit J. The parties also expressly acknowledge the final determination of benefited properties shall be determined pursuant to process set forth in Chapter 16.40.

6.4.11.7 Streets and Roads

Design and construct all streets within the Project Boundary as set forth in the Project Approvals
Reconstruct Lodi Avenue west of Lower Sacramento Road to western project boundary.
Reconstruct Tokay Ave./Lower Sacramento Road intersection to accommodate wider street sections
Pay Fair Share Cost payments for traffic mitigation measures identified in the Lodi Annexation Environmental Impact Report that are not projects within the Streets & Roads Fee Program.

With regard to the requirement to construct streets and roads, for sections of such streets and roads that are not wholly within the project site, necessary to satisfy the obligations set forth in this Agreement and the Project Approvals, Landowner will use its best efforts to acquire all necessary real property interests including, but not limited to, (1) submitting formal offer letters to all persons or entities who own or lease said property, (2) diligently pursuing implementation of any purchase agreement, (3) paying all amounts required pursuant to the purchase agreement in a timely manner consistent with the terms of the purchase agreement and will then construct the streets or roads in compliance with the Project Approvals and any subsequent subdivisions maps. In the event Landowner is not able after its best efforts to acquire any necessary property, City and Landowner agree that City will consider all actions necessary to form an assessment district to provide the funds necessary for the City to acquire the necessary property, including through eminent domain as necessary, and Landowner agrees that upon the City complying with all requirements for consideration of formation of assessment district, Landowner shall, for all property within the proposed district that it owns or possesses the legal authority to vote on behalf of, vote in favor of formation of the assessment district. The parties agree that items to be included within the costs to be funded by the assessment district shall include, but not be limited to all costs, including attorneys fees necessary to acquire the necessary property interests, all design and engineering costs and all constructions costs.

Developer will be entitled to apply for reimbursement under Lodi Municipal Code Chapter 16.40 for benefit received by undeveloped properties as a result of the construction of the improvements required by this paragraph. Without limiting in any manner, the City Council's future exercise of its legislative discretion in the public hearing called for by Chapter 16.40, the

parties anticipate that the benefited properties will be those set forth in Exhibit K. The parties also expressly acknowledge the final determination of benefited properties shall be determined pursuant to process set forth in Chapter 16.40.

6.4.12 Hutchins Street Square Endowment Within ten (10) years of the Effective Date of this Agreement, Landowner shall pay the City Three Hundred Thousand U.S. Dollars ($300,000) as an endowment for the maintenance and operations of costs of Hutchins Street Square.

6.4.13 Agreement with Citizens for Open Government Landowner shall comply with the terms of the Agreement to Amend Westside Development Agreement dated December 4, 2006 by and between the City, Citizens for Open Government and Landowner, a copy of which is attached hereto as Exhibit L and incorporated herein by reference.

6.5 Annexation

The ability to proceed with development of the Property pursuant to the Project Approvals shall be contingent upon the annexation of the Property into the City. Pending such annexation, Landowner may, at its own risk, process tentative parcel maps and tentative subdivision maps and improvement or construction plans and City may conditionally approve such tentative maps and/or improvement plans in accordance with the Entitlements, provided City shall not approve any final parcel map or final subdivision map for recordation nor approve the issuance of any grading permit for grading any portion of the Property or building permit for any structure within the Property prior to the annexation of the Property to the City.

City shall use its best efforts and due diligence to initiate such annexation process, obtain the necessary approvals and consummate the annexation of the Property into the City, including entering into any annexation agreement that may be required in relation thereto, subject to the City's review and approval of the terms thereof. Landowner shall be responsible for the costs reasonably and directly incurred by the City to initiate, process and consummate such annexation, the payment of which shall be due in advance, based on the City's estimate of such cost, and thereafter as and when the City provides an invoice(s) for additional costs incurred by City therefore in excess of such estimate.

7. Applicable Rules, Regulations, Fees and Official Policies.

7.1. **Rules Regarding Permitted Uses** Except as provided in this Agreement, the City's ordinances, resolutions, rules, regulations and official policies governing the permitted uses of the Property, the density and intensity of use, the rate timing and sequencing of development, the maximum height and size of proposed buildings, and provisions for reservation and dedication of land shall be those in force on the Effective Date of this Agreement. Except as provided in Section 8.2, this Agreement does not vest Landowner's

rights to pay development impact fees, exactions and dedications, processing fees, inspection fees, plan checking fees or charges.

7.2. **Rules Regarding Design and Construction**. The Project has been designed as a Planned Development pursuant to Chapter 17.33 of the Lodi Municipal Code. Design, improvements and construction standards shall be as set forth in Project Approvals including the Development Plan, and shall be vested for the term of this Agreement. Unless otherwise provided within the Development Plan or expressly provided in this Agreement, all other ordinances, resolutions, rules, regulations and official policies governing design, improvement and construction standards and specifications applicable to the Project and to public improvements to be constructed by the Landowner shall be those in force and effect at the time the applicable permit approval is granted.

7.3. **Changes in State or Federal Law**. This Agreement shall not preclude the application to development of the Property of changes in City laws, regulations, plans or policies, the terms of which are specifically mandated and required by changes in State or Federal laws or regulations. These changes may include any increase in an existing fee or imposition of a new fee that are necessary for the City or Landowner to comply with changes in State or Federal laws or regulations, including but not limited to sewer, water and stormwater laws or regulations.

7.4. **Uniform Codes Applicable**. Unless otherwise expressly provided in this Agreement, the Project shall be constructed in accordance with the provisions of the Uniform Building, Mechanical, Plumbing, Electrical and Fire Codes, City standard construction specifications, and Title 24 of the California Code of Regulations, relating to Building Standards, in effect at the time of approval of the appropriate building, grading, encroachment or other construction permits for the Project. If no permits are required for infrastructure improvements, such improvements will be constructed in accordance with the provisions of the Uniform Building, Mechanical, Plumbing, Electrical and Fire Codes, City standard construction specifications, and Title 24 of the California Code of Regulations, relating to Building Standards, in effect at the start of construction of such infrastructure.

8. **Existing Fees, Newly Enacted Fees, Dedications, Assessments and Taxes**.

8.1. **Processing Fees and Charges**. Landowner shall pay those processing, inspection, and plan check fees and charges required by City under then current regulations for processing applications and requests for permits, approvals and other actions, and monitoring compliance with any permits issued or approvals granted or the performance of any conditions with respect thereto or any performance required of Landowner hereunder.

8.2. **Existing Fees, Exactions and Dedications**. Landowner shall be obligated to provide all dedications and exactions and pay all types of fees as required for the types of development authorized by the Project Approvals as of the Effective Date of this Agreement. With regards any fees applicable to residential development, the Parties agree that

the fees shall be payable at the earliest time authorized pursuant to the Government Code Section 66007 as it exists as of the Effective Date of this Agreement. The specific categories of fees payable are listed below. The dedication and exaction obligations and fee amounts payable shall be those obligations and fee amounts applicable (indexed as set forth hereinbelow) as of the date that the Landowner's application for the applicable vesting tentative map is deemed complete. For any development for which the Landowner has not submitted a vesting tentative map, the dedication and exaction obligations and fee amounts payable shall be those obligations and fee amounts applicable (indexed as set forth hereinbelow) as of the date the final discretionary approval for that development is granted by the City.

Standard City Development Impact Fees Payable by the Landowner include:

1. Development Impact Fees (Lodi Municipal Code Chapter 15.64)
2. San Joaquin County Regional Transportation Impact Fee (Lodi Municipal Code Chapter 15.65
3. County Facilities Fee (Lodi Municipal Code Chapter 15.66)
4. San Joaquin County Multi-Species Habitat Conservation and Open Space Development Fee (Lodi Municipal Code Chapter 15.68)

Any existing fees may be increased during the term of this Agreement provided that such increases are limited to annual indexing (i.e. per the Engineering News Record Index, or the CPI or other index utilized by the City) and as provided in current fee ordinances. The initial adjustment shall be effective as of four years after the Effective Date of the Agreement and shall be calculated based on the difference in the applicable index from the numerical rate at the end of the month following the third year after the Effective Date and the numerical rate at the end of the month following the fourth year after the Effective Date. All subsequent increases shall be based on the annual change in the applicable index. Notwithstanding the preceding sentence, index adjustments to the fees set forth in subsections 2, 3 and 4 of this section shall be effective annually as set forth in the relevant ordinances and resolutions. Moreover, Landowner will be subject to the indexing called for above even if Landowner has filed a complete application for a Vesting Tentative Map and will not vest against such indexing until payment of the fees as called for in this Agreement.

8.3. **New Development Impact Fees, Exactions and Dedications**. Landowner agrees to the pay the development fees identified in Section 6.1, including specifically subsections 6.1.1 through 6.1.4. of this Agreement. With regards any fees applicable to residential development, the Parties agree that the fees shall be payable at the earliest time authorized pursuant to the Government Code Section 66007 as it exists as of the Effective Date of this Agreement.

Except as expressly provided herein, Landowner shall not be obligated to pay or provide any development impact fees, connection or mitigation fees, or exactions adopted by City after the Effective Date of this Agreement. Notwithstanding this limitation, Landowner may at its sole

discretion elect to pay or provide any fee or exaction adopted after the Effective Date of this Agreement.

8.4. **Fee Reductions** To the extent that any fees payable pursuant to the requirements of Sections 8.1 are reduced after the operative date for determining the fee has occurred, the Landowner shall pay the reduced fee amount.

9 **Community Facilities District. Formation of a Community Facilities District for Public Improvements and Services.**

9.1. **Inclusion in a Community Facilities District.** Landowner agrees to cooperate in the formation of a Community Facilities District pursuant to Government Code Section 53311 et seq. to be formed by the City. The boundaries of the area of Community Facilities District shall be contiguous with the boundaries of the Property excluding the portion of land zoned for commercial or office development. Landowner agrees not to protest said district formation and agrees to vote in favor of levying a special tax on the Property in an amount not to exceed $600 per year per single family attached or detached residential dwelling unit and $175 per year for each attached multi-family rental unit as adjusted herein. The special tax shall be initiated for all residential dwelling units for which a building permit is issued, and shall commence to be levied beginning the subsequent fiscal year after the building permit is issued. Landowner acknowledges that the 2007-2008 special tax rate for the units in the Project will not exceed $600 per single family attached or detached dwelling unit and $175 per year for each attached multi-family rental unit and that the special tax shall increase each year by 2% in perpetuity. A vote by Landowner against the levying of the special tax or a vote to repeal or amend the special tax shall constitute an event of default under this Agreement.

9.2. **Use of Community Facilities District Revenues** Landowner and City agree that the improvements and services that may be provided with the special tax levied pursuant to Section 9.1 may be used for the following improvements and services:

a Police protection and criminal justice services;
b Fire protection, suppression, paramedic and ambulance services;
c Recreation and library program services;
d Operation and maintenance of museums and cultural facilities;
e Maintenance of park, parkways and open space areas dedicated to the City;
f. Flood and storm protection services;
g Improvement, rehabilitation or maintenance of any real or personal property that has been contaminated by hazardous substances;
h Purchase, construction, expansion, improvement, or rehabilitation or any real or tangible property with useful life of more than five years; and,
i Design, engineering, acquisition or construction of public facilities with a useful life of more that five years including:

1. Local park, recreation, parkway and open-space facilities,
2. Libraries,
3. Childcare facilities,
4. Water transmission and distribution facilities, natural gas, telephone, energy and cable television lines, and
5. Government facilities.

Landowner and City agree that Property does not presently receive any of these services from the City and that all of these services are new services.

9.3. **Community Facilities District for Residential Property - Financing**. In addition to the funding provided as part of the Community Facilities District identified in Section 9.1, City acknowledges that Landowner may desire to finance the acquisition or construction of a portion of the improvements described in Section 8.2 through the Community Facilities District. The costs associated with the items identified in Section 8.2 shall be in addition to the annual cost imposed to comply with Section 9.1. The following provisions shall apply to any to the extent that the Landowner desires to fund any of the improvements set forth in Section 8.2 through the Community Facilities District:

9.3.1 **Issuance of Bonds**. City and Landowner agree that, with the consent of Landowner, and to the extent permitted by law, City and Landowner shall use their best efforts to cause bonds to be issued in amounts sufficient to achieve the purposes of this Section.

9.3.2 **Payment Prior to Issuance of Bonds**. Nothing in this Agreement shall be construed to preclude the payment by an owner of any of the parcels to be included within the CFD of a cash amount equivalent to its proportionate share of costs for the improvements identified in Section 8.2, or any portion thereof, prior to the issuance of bonds.

9.3.3 **Private Financing**. Nothing in this Agreement shall be construed to limit Landowner's option to install the improvements through the use of private financing.

9.3.4 **Acquisition and Payment**. City agrees that it shall use its best efforts to allow and facilitate monthly acquisition of completed improvements or completed portions thereof, and monthly payment of appropriate amounts for such improvements to the person or entity constructing improvements or portions thereof, provided City shall only be obligated to use CFD bond or tax proceeds for such acquisitions.

10. **Processing of Subsequent Development Applications and Building Permits**. Subject to Landowner's compliance with the City's application requirements including, specifically, submission of required information and payment of appropriate fees, and assuming Landowner is not in default under the terms and conditions of this Agreement, the City shall process Landowner's subsequent development applications and building permit requests in an expeditious manner. In addition, City agrees that upon payment of any required City fees or costs, City will designate or retain, as necessary, appropriate personnel and consultants to process Landowner's development applications and building permit requests City approvals in an expeditious manner.

11. **Reserved**

11. **Amendment or Cancellation**.

11.1. **Modification Because of Conflict with State or Federal Laws**. In the event that State or Federal laws or regulations enacted after the Effective Date of this Agreement prevent or preclude compliance with one or more provisions of this Agreement or require changes in plans, maps or permits approved by the City, the parties shall meet and confer in good faith in a reasonable attempt to modify this Agreement to comply with such federal or State law or regulation. Any such amendment or suspension of the Agreement shall be approved by the City Council in accordance with the Municipal Code and this Agreement.

11.2. **Amendment by Mutual Consent**. This Agreement may be amended in writing from time to time by mutual consent of the parties hereto and in accordance with the procedures of State law and the Municipal Code.

11.3. **Insubstantial Amendments**. Notwithstanding the provisions of the preceding Section 11.2, any amendments to this Agreement which do not relate to (a) the term of the Agreement as provided in Section 5.2; (b) the permitted uses of the Property as provided in Sections 6.2 and 7.1; (c) provisions for reservation or dedication of land; (d) the location and maintenance of on-site and off-site improvements; (e) the density or intensity of use of the Project; (f) the maximum height or size of proposed buildings or (g) monetary contributions by Landowner as provided in this Agreement shall not, except to the extent otherwise required by law, require notice or public hearing before either the Planning Commission or the City Council before the parties may execute an amendment hereto.

11.4. **Amendment of Project Approvals**. Any amendment of Project Approvals relating to: (a) the permitted use of the Property; (b) provision for reservation or dedication of land; (c) the density or intensity of use of the Project; (d) the maximum height or size of proposed buildings; (e) monetary contributions by the Landowner; (f) the location and maintenance of on-site and off-site improvements; or (g) any other issue or subject not identified as an "insubstantial amendment" in Section 11.3 of this Agreement, shall require an amendment of this Agreement. Such amendment shall be limited to those provisions of this Agreement,

which are implicated by the amendment of the Project Approval. Any other amendment of the Project Approval(s) shall not require amendment of this Agreement unless the amendment of the Project Approval(s) relates specifically to some provision of this Agreement.

11.5. **Cancellation by Mutual Consent**. Except as otherwise permitted herein, this Agreement may be canceled in whole or in part only by the mutual consent of the parties or their successors in interest, in accordance with the provisions of the Municipal Code. Any fees paid pursuant to this Agreement prior to the date of cancellation shall be retained by City.

12. **Term of Project Approvals**. Pursuant to California Government Code Section 66452.6(a), the term of any parcel map or tentative subdivision map shall automatically be extended for the term of this Agreement.

13. **Annual Review**.

13.1. **Review Date**. The annual review date for this Agreement shall occur either within the same month each year as the month in which the Agreement is executed or the month immediately thereafter.

13.2. **Initiation of Review**. The City's Planning Director shall initiate the annual review by giving to Landowner written notice that the City intends to undertake such review. Within thirty (30) days of City's notice, Landowner shall provide evidence to the Planning Director to demonstrate good faith compliance with the Development Agreement. The burden of proof, by substantial evidence of compliance, is upon the Landowner. The City's failure to timely initiate the annual review is not deemed to be a waiver of the right to do so at a later date, accordingly. Landowner is not deemed to be in compliance with the Agreement by virtue of such failure to timely initiate review.

13.3. **Staff Reports**. City shall deposit in the mail to Landowner a copy of all staff reports, and related Exhibits, concerning contract performance at least three (3) days prior to any annual review.

13.4. **Costs**. Costs reasonably incurred by the City in connection with the annual review shall be paid by Landowner in accordance with the City's schedule of fees and billing rates in effect at the time of review.

13.5. **Non-compliance with Agreement; Hearing**. If the Planning Director determines, on the basis of substantial evidence, that Landowner has not complied in good faith with the terms and conditions of the Agreement during the period under review, the City Council, upon receipt of any report or recommendation from the Planning Commission, may initiate proceedings to modify or terminate the Agreement, at which time an administrative hearing shall be conducted, in accordance with the procedures of State law. As part of that final

determination, the City Council may impose conditions that it considers necessary and appropriate to protect the interest of the City.

13.6. **Appeal of Determination**. The decision of the City Council as to Landowner's compliance shall be final, and any Court action or proceeding to attack, review, set aside, void or annul any decision of the determination by the Council shall be commenced within thirty (30) days of the final decision by the City Council.

14. **Default**. Subject to any applicable extension of time, failure by any party to substantially perform any term or provision of this Agreement required to be performed by such party shall constitute a material event of default ("Event of Default"). For purposes of this Agreement, a party claiming another party is in default shall be referred to as the "Complaining Party," and the party alleged to be in default shall be referred to as the "Party in Default." A Complaining Party shall not exercise any of its remedies as the result of such Event of Default unless such Complaining Party first gives notice to the Party in Default as provided in Section 14.1.1, and the Party in Default fails to cure such Event of Default within the applicable cure period.

14.1. **Procedure Regarding Defaults**.

14.1.1. **Notice**. The Complaining Party shall give written notice of default to the Party in Default, specifying the default complained of by the Complaining Party. Delay in giving such notice shall not constitute a waiver of any default nor shall it change the time of default.

14.1.2. **Cure**. The Party in Default shall diligently endeavor to cure, correct or remedy the matter complained of, provided such cure, correction or remedy shall be completed within the applicable time period set forth herein after receipt of written notice (or such additional time as may be deemed by the Complaining Party to be reasonably necessary to correct the matter).

14.1.3. **Failure to Assert**. Any failures or delays by a Complaining Party in asserting any of its rights and remedies as to any default shall not operate as a waiver of any default or of any such rights or remedies. Delays by a Complaining Party in asserting any of its rights and remedies shall not deprive the Complaining Party of its right to institute and maintain any actions or proceedings, which it may deem necessary to protect, assert, or enforce any such rights or remedies.

14.1.4. **Notice of Default**. If an Event of Default occurs prior to exercising any remedies, the Complaining Party shall give the Party in Default written notice of such default. If the default is reasonably capable of being cured within thirty (30) days, the Party in Default shall have such period to effect a cure prior to exercise of remedies by the Complaining Party. If the nature of the alleged default is such that it cannot, practicably be cured within such thirty (30) day period, the cure shall be deemed to have occurred within such

thirty (30) day period if: (a) the cure shall be commenced at the earliest practicable date following receipt of the notice; (b) the cure is diligently prosecuted to completion at all times thereafter; (c) at the earliest practicable date (in no event later than thirty (30) days after the curing party's receipt of the notice), the curing party provides written notice to the other party that the cure cannot practicably be completed within such thirty (30) day period; and (d) the cure is completed at the earliest practicable date. In no event shall Complaining Party be precluded from exercising remedies if a default is not cured within ninety (90) days after the first notice of default is given.

14.1.5. **Legal Proceedings**. Subject to the foregoing, if the Party in Default fails to cure a default in accordance with the foregoing, the Complaining Party, at its option, may institute legal proceedings pursuant to this Agreement or, in the event of a material default, terminate this Agreement. Upon the occurrence of an Event of Default, the parties may pursue all other remedies at law or in equity, which are not otherwise provided for or prohibited by this Agreement, or in the City's regulations if any governing development agreements, expressly including the remedy of specific performance of this Agreement.

14.1.6. **Effect of Termination**. If this Agreement is terminated following any Event of Default of Landowner or for any other reason, such termination shall not affect the validity of any building or improvement within the Property which is completed as of the date of termination, provided that such building or improvement has been constructed pursuant to a building permit issued by the City. Furthermore, no termination of this Agreement shall prevent Landowner from completing and occupying any building or other improvement authorized pursuant to a valid building permit previously issued by the City that is under construction at the time of termination, provided that any such building or improvement is completed in accordance with said building permit in effect at the time of such termination.

15. **Estoppel Certificate**. Either Party may, at any time, and from time to time, request written notice from the other Party requesting such Party to certify in writing that, (a) this Agreement is in full force and effect and a binding obligation of the Parties; (b) this Agreement has not been amended or modified either orally or in writing, or if so amended, identifying the amendments; and (c) to the knowledge of the certifying Party the requesting Party is not in default in the performance of its obligations under this Agreement, or if in default, to describe therein the nature and amount of any such defaults. A Party receiving a request hereunder shall execute and return such certificate within thirty (30) days following the receipt thereof, or such longer period as may reasonably be agreed to by the Parties. City Manager of City shall be authorized to execute any certificate requested by Landowner. Should the party receiving the request not execute and return such certificate within the applicable period, this shall not be deemed to be a default.

16. **Mortgagee Protection; Certain Rights of Cure**.

16.1. **Mortgagee Protection**. This Agreement shall be superior and senior to any lien placed upon the Property, or any portion thereof after the date of recording this

Agreement, including the lien for any deed of trust or mortgage ("Mortgage"). Notwithstanding the foregoing, no breach hereof shall defeat, render invalid, diminish or impair the lien of any Mortgage made in good faith and for value, but all the terms and conditions contained in this Agreement shall be binding upon and effective against any person or entity, including any deed of trust beneficiary or mortgagee ("Mortgagee") who acquires title to the Property, or any portion thereof, by foreclosure, trustee's sale, deed in lieu of foreclosure, or otherwise.

16.2. **Mortgagee Not Obligated**. Notwithstanding the provisions of Section 17.1 above, no Mortgagee shall have any obligation or duty under this Agreement, before or after foreclosure or a deed in lieu of foreclosure, to construct or complete the construction of improvements, or to guarantee such construction of improvements, or to guarantee such construction or completion, or to pay, perform or provide any fee, dedication, improvements or other exaction or imposition; provided, however, that a Mortgagee shall not be entitled to devote the Property to any uses or to construct any improvements thereon, authorized by the Project Approvals or by this Agreement, unless Mortgagee agrees to and does construct or complete the construction of improvements, or guarantees such construction of improvements, or pays, performs or provides any fee, dedication, improvements or other exaction or imposition as required by the Project Approvals.

16.3. **Notice of Default to Mortgagee and Extension of Right to Cure**. If City receives notice from a Mortgagee requesting a copy of any notice of default given Landowner hereunder and specifying the address for service thereof, then City shall deliver to such Mortgagee, concurrently with service thereon to Landowner, any notice given to Landowner with respect to any claim by City that Landowner has committed an Event of Default. Each Mortgagee shall have the right during the same period available to Landowner to cure or remedy, or to commence to cure or remedy, the Event of Default claimed set forth in the City's notice. City, through its City Manager, may extend the cure period provided in Section 15.1.2 for not more than an additional sixty (60) days upon request of Landowner or a Mortgagee.

17. **Severability**. Except as set forth herein, if any term, covenant or condition of this Agreement or the application thereof to any person, entity or circumstance shall, to any extent, be invalid or unenforceable, the remainder of this Agreement, or the application of such term, covenant or condition to persons, entities or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby and each term, covenant or condition of this Agreement shall be valid and be enforced to the fullest extent permitted by law; provided, however, if any provision of this Agreement is determined to be invalid or unenforceable and the effect thereof is to deprive a Party hereto of an essential benefit of its bargain hereunder, then such Party so deprived shall have the option to terminate this entire Agreement from and after such determination.

18. **Applicable Law** This Agreement shall be construed and enforced in accordance with the laws of the State of California.

19. **Attorneys' Fees and Costs in Legal Actions By Parties to the Agreement**. Should any legal action be brought by either party for breach of this Agreement or to enforce any provisions herein, the prevailing party to such action shall be entitled to reasonable attorneys' fees, court costs, and such other costs as may be fixed by the Court.

20. **Attorneys' Fees and Costs in Legal Actions By Third Parties to the Agreement and Continued Permit Processing**. If any person or entity not a party to this Agreement initiates an action at law or in equity to challenge the validity of any provision of this Agreement or the Project Approvals, the parties shall cooperate and appear in defending such action. Landowner shall bear its own costs of defense as a real party in interest in any such action. Landowner shall reimburse City on an equal basis for all reasonable court costs and attorneys' fees expended by City in defense of any such action or other proceeding and shall pay any attorneys fees and costs that may be awarded to the third party or parties. The City agrees that in the event an action at law or in equity to challenge the validity of the Project Approvals is filed by a third party other than by a state or federal agency, the City will continue to process and approve permit applications that are consistent with and comply with the Project Approvals unless a court enjoins further processing of permit applications and issuance of permits.

21. **Transfers and Assignments**. From and after recordation of this Agreement against the Property, Landowner shall have the full right to assign this Agreement as to the Property or any portion thereof, in connection with any sale, transfer or conveyance thereof, and upon the express written assignment by Landowner and assumption by the assignee of such assignment in the form attached hereto as Exhibit G, and the conveyance of Landowner's interest in the Property related thereto, Landowner shall be released from any further liability or obligation hereunder related to the portion of the Property so conveyed and the assignee shall be deemed to be the "Landowner," with all rights and obligations related thereto, with respect to such conveyed property. Prior to recordation of this Agreement, any proposed assignment of this Agreement by Landowner shall be subject to the prior written consent of the City Manager on behalf of the City and the form of such assignment shall be subject to the approval of the City Attorney, neither of which shall be unreasonably withheld.

22. **Agreement Runs with the Land**. Except as otherwise provided for in Section 15 of this Agreement, all of the provisions, rights, terms, covenants, and obligations contained in this Agreement shall be binding upon the parties and their respective heirs, successors and assignees, representatives, lessees, and all other persons acquiring the Property, or any portion thereof, or any interest therein, whether by operation of law or in any manner whatsoever. All of the provisions of this Agreement shall be enforceable as equitable servitude and shall constitute covenants running with the land pursuant to applicable laws, including, but not limited to, Section 1468 of the Civil Code of the State of California. Each covenant to do, or refrain from doing, some act on the Property hereunder, or with respect to any owned property; (a) is for the benefit of such properties and is a burden upon such properties; (b) runs with such properties; and (c) is binding upon each party and each successive owner during its ownership of such

properties or any portion thereof, and shall be a benefit to and a burden upon each party and its property hereunder and each other person succeeding to an interest in such properties.

23. **Bankruptcy**. The obligations of this Agreement shall not be dischargeable in bankruptcy.

24. **Indemnification**. Landowner agrees to indemnify, defend and hold harmless City, and its elected and appointed councils, boards, commissions, officers, agents, employees, and representatives from any and all claims, costs (including legal fees and costs) and liability for (1) any personal injury or property damage which may arise directly or indirectly as a result of any actions or inactions by the Landowner, or any actions or inactions of Landowner's contractors, subcontractors, agents, or employees in connection with the construction, improvement, operation, or maintenance of the Property and the Project, provided that Landowner shall have no indemnification obligation with respect to the gross negligence or willful misconduct of City, its contractors, subcontractors, agents or employees or with respect to the maintenance, use or condition of any improvement after the time it has been dedicated to and accepted by the City or another public entity (except as provided in an improvement agreement or maintenance bond) and (2) any additional mitigation required, including but not limited to payment of any mitigation fees that may be imposed, as a result of a lawsuit filed by a third party challenging or seeking to invalidate the Project Approvals.

25. **Insurance**.

25.1. **Public Liability and Property Damage Insurance**. At all times that Landowner is constructing any improvements that will become public improvements, Landowner shall maintain in effect a policy of comprehensive general liability insurance with a per-occurrence combined single limit of not less than two million ($2,000,000) dollars and a deductible of not more than fifty thousand ($50,000) dollars per claim. The policy so maintained by Landowner shall name the City as an additional insured and shall include either a severability of interest clause or cross-liability endorsement.

25.2. **Workers' Compensation Insurance**. At all times that Landowner is constructing any improvements that will become public improvements, Landowner shall maintain Workers' Compensation insurance for all persons employed by Landowner for work at the Project site. Landowner shall require each contractor and subcontractor similarly to provide Workers' Compensation insurance for its respective employees. Landowner agrees to indemnify the City for any damage resulting from Landowner's failure to maintain any such insurance.

25.3. **Evidence of Insurance**. Prior to commencement of construction of any improvements which will become public improvements, Landowner shall furnish City satisfactory evidence of the insurance required in Sections 26.1 and 26.2 and evidence that the carrier is required to give the City at least fifteen (15) days prior written notice of the cancellation or reduction in coverage of a policy. The insurance shall extend to the City, its elective and

appointive boards, commissions, officers, agents, employees and representatives and to Landowner performing work on the Project.

26. **Excuse for Nonperformance**. Landowner and City shall be excused from performing any obligation or undertaking provided in this Agreement, except any obligation to pay any sum of money under the applicable provisions hereof, in the event and so long as the performance of any such obligation is prevented or delayed, retarded or hindered by act of God, fire, earthquake, flood, explosion, action of the elements, war, invasion, insurrection, riot, mob violence, sabotage, inability to procure or general shortage of labor, equipment, facilities, materials or supplies in the open market, failure of transportation, strikes, lockouts, condemnation, requisition, laws, orders of governmental, civil, military or naval authority, or any other cause, whether similar or dissimilar to the foregoing, not within the control of the Party claiming the extension of time to perform. The Party claiming such extension shall send written notice of the claimed extension to the other Party within thirty (30) days from the commencement of the cause entitling the Party to the extension.

27. **Third Party Beneficiaries**. This Agreement is made and entered into for the sole protection and benefit of the Landowner and, the City and their successors and assigns. No other person shall have any right of action based upon any provision in this Agreement.

28. **Notices**. All notices required by this Agreement, the enabling legislation, or the procedure adopted pursuant to Government Code Section 65865, shall be in writing and delivered in person or sent by certified mail, postage prepaid.

Notice required to be given to the City shall be addressed as follows:

CITY OF LODI
City Manager
P.O. Box 3006
Lodi, CA 95241-1910

Notice required to be given to the Landowner shall be addressed as follows:

FRONTIER COMMUNITY BUILDERS, INC.

_____

_____

Either party may change the address stated herein by giving notice in writing to the other party, and thereafter notices shall be addressed and transmitted to the new address.

29. **Form of Agreement; Recordation; Exhibits**. Except when this Agreement is automatically terminated due to the expiration of the Term of the Agreement or the provisions of

Section 5.3 (Automatic Termination Upon Completion and Sale of Residential Lot), the City shall cause this Agreement, any amendment hereto and any other termination of any parts or provisions hereof, to be recorded, at Landowner's expense, with the county Recorder within ten (10) days of the effective date thereof. Any amendment or termination of this Agreement to be recorded that affects less than all of the Property shall describe the portion thereof that is the subject of such amendment or termination. This Agreement is executed in three duplicate originals, each of which is deemed to be an original. This Agreement consists of ___ pages and ___ Exhibits, which constitute the entire understanding and agreement of the parties.

30. **Further Assurances**. The Parties agree to execute such additional instruments and to undertake such actions as may be necessary to effectuate the intent of this Agreement.

31. **City Cooperation**. The City agrees to cooperate with Landowner in securing all permits which may be required by City. In the event State or Federal laws or regulations enacted after the Effective Date, or action of any governmental jurisdiction, prevent delay or preclude compliance with one or more provisions of this Agreement, or require changes in plans, maps or permits approved by City, the parties agree that the provisions of this Agreement shall be modified, extended, or suspended as may be necessary to comply with such State and Federal laws or regulations or the regulations of other governmental jurisdictions. Each party agrees to extend to the other its prompt and reasonable cooperation in so modifying this Agreement or approved plans.

IN WITNESS WHEREOF, the City of Lodi, a municipal corporation, has authorized the execution of this Agreement in duplicate by its Mayor and attested to by its City Clerk under the authority of Ordinance No. _____, adopted by the City Council of the City of Lodi on the _____ day of _____, 2007, and Landowner has caused this Agreement to be executed.

"CITY"

CITY OF LODI,
a municipal corporation

By _____

Name: Blair King

Its: City Manager

"LANDOWNER"

FRONTIER COMMUNITY BUILDERS, INC.

By: _____

Name:

Its:

ATTEST

_____

City Clerk

859464-6

Draft Version 4 3/9/2007

APPROVED AS TO FORM:

_____

D. Stephen Schwabauer
City Attorney

859464-6
Draft Version 4 3/9/2007

EXHIBIT LIST

Exhibit A-1:	Legal Description of the Property
Exhibit A-2:	Diagram of the Property
Exhibit B:	General Plan Land Use Map
Exhibit B-1:	Zoning Map for Project Site
Exhibit C:	Reserved
Exhibit D:	Development Plan and Infrastructure Map for the Property
Exhibit E:	Growth Management Allocations
Exhibit F:	Annexation Approvals
Exhibit G:	Form of Assignment
Exhibit H:	Reserved
Exhibit I:	Park Improvements
Exhibit J:	Required Park Amenities
Exhibit K	Benefited Properties
Exhibit L	Agreement to Amend Westside Development Agreement

EXHIBIT A-1

LEGAL DESCRIPTION OF THE PROPERTY

The land referred to herein is situated in the State of California, County of San Joaquin, City of Lodi, and is described as follows:

EXHIBIT A-2

DIAGRAM OF THE PROPERTY

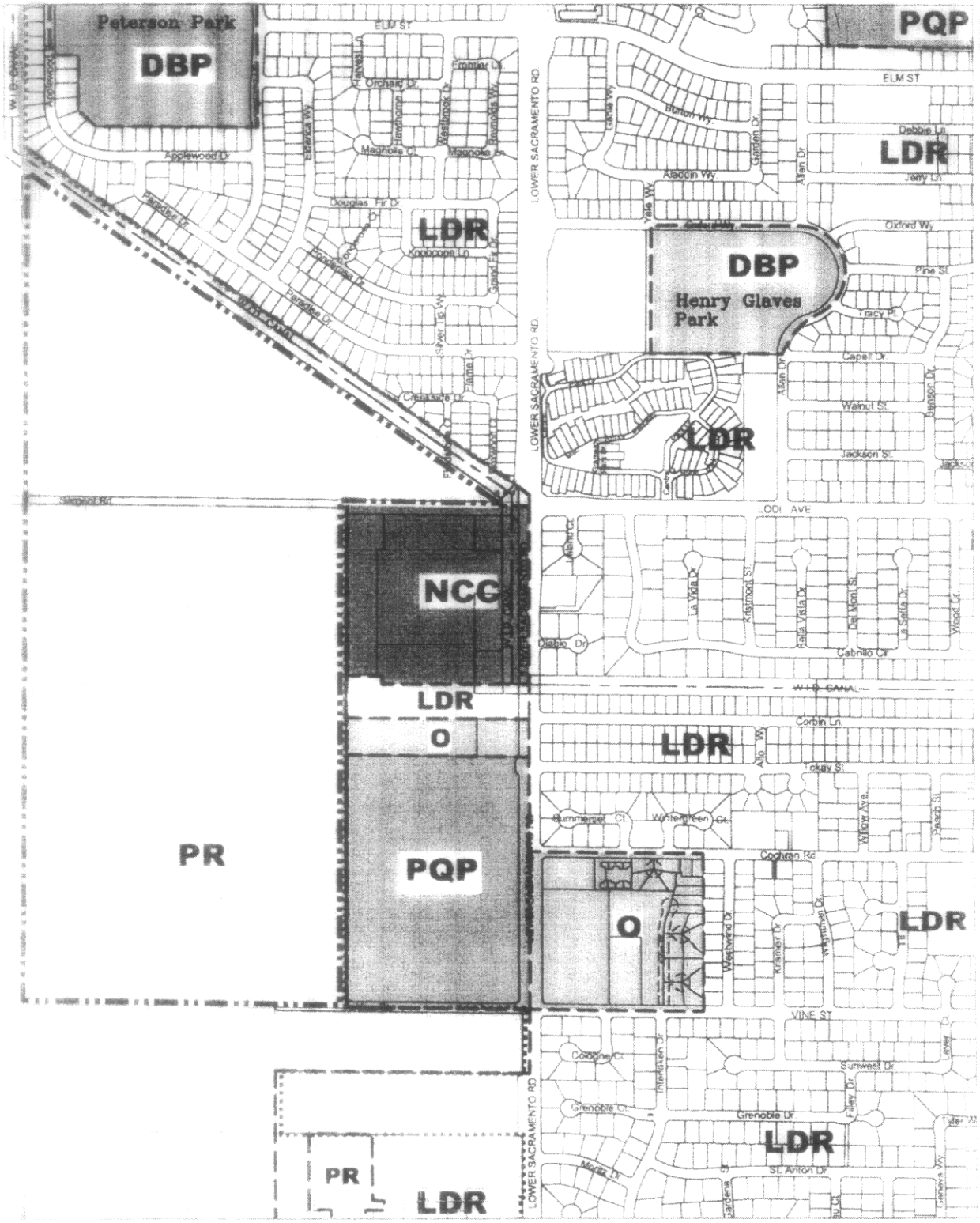

FIGURE IV.A-1

Lodi Annexation EIR

General Plan Designations

LDR — LOW DENSITY RESIDENTIAL
MDR — MEDIUM DENSITY RESIDENTIAL
HDR — HIGH DENSITY RESIDENTIAL
PR — PLANNED RESIDENTIAL
NCC — NEIGHBORHOOD/COMMUNITY COMMERCIAL
GC — GENERAL COMMERCIAL
DC — DOWNTOWN COMMERCIAL
O — OFFICE
PQP — PUBLIC/QUASI PUBLIC
DBP — DETENTION BASINS AND PARKS
A — AGRICULTURE
PRS — PLANNED RESIDENTIAL RESERVE

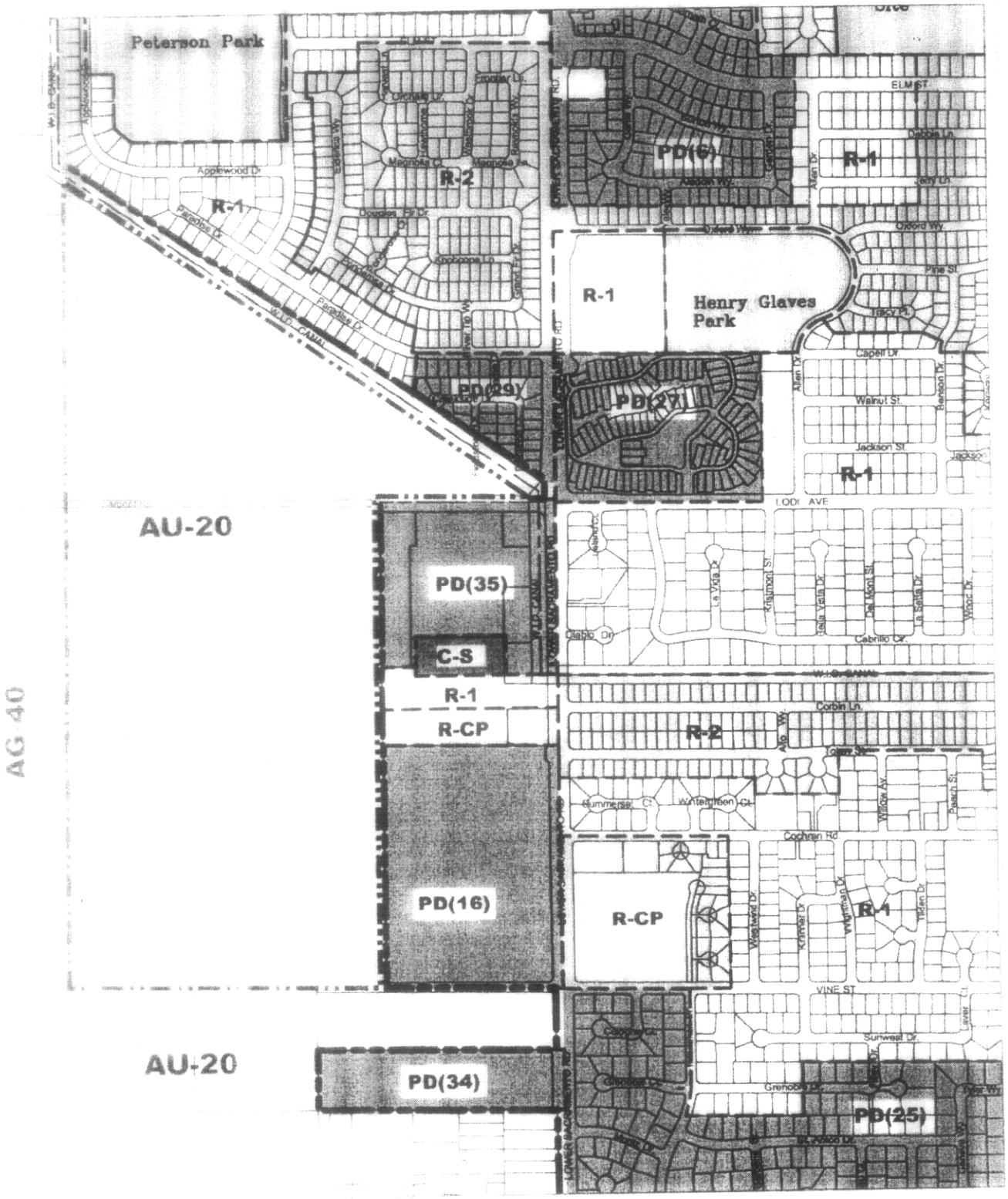

FIGURE IV.A 5

Lodi Annexation EIR

Zoning Designations

EXHIBIT C

Reserved

EXHIBIT D

DEVELOPMENT PLAN AND INFRASTRACTURE MAP FOR THE PROPERTY

EXHIBIT E

WESTSIDE PROJECT
GROWTH MANAGEMENT ALLOCATION TABLE

Applicable Date	Allocation
Effective Date of Development Agreement	215 Low Density Units (Reserve)
Within the Calendar Year One Year after the Effective Date	70 Medium Density Units
Within the Calendar Year Two Years after Effective Date	180 High Density Units 40 Low Density Units
Within the Calendar Year Three Years after Effective Date	40 Low Density Units
Within the Calendar Year Four Years after Effective Date	40 Low Density Units
Within the Calendar Year Five Years after Effective Date	40 Low Density Units
Within the Calendar Year Six Years after Effective Date	40 Low Density Units
Within the Calendar Year Seven Years after Effective Date	40 Low Density Units
Within the Calendar Year Eight Years after Effective Date	40 Low Density Units

EXHIBIT F

ANNEXATION APPROVALS

EXHIBIT G

FORM OF ASSIGNMENT

OFFICIAL BUSINESS
Document entitled to free recording
Government Code Section 6103

RECORDING REQUESTED BY
AND WHEN RECORDED MAIL TO:

City of Lodi
P.O. Box 3006
Lodi, CA 95241-1910
Attn: City Clerk

(SPACE ABOVE THIS LINE RESERVED FOR RECORDER'S USE)

ASSIGNMENT AND ASSUMPTION AGREEMENT RELATIVE TO FRONTIER COMMUNITY BUILDERS WESTSIDE DEVELOPMENT AGREEMENT

THIS ASSIGNMENT AND ASSUMPTION AGREEMENT (hereinafter, the "Agreement") is entered into this _____ day of _____, 200_ ____, by and between Frontier Community Builders, a _____ corporation (hereinafter "Developer"), and _____, a _____ _____ (hereinafter "Assignee").

RECITALS

1. On _____, 2007, the City of Lodi and Developer entered into that certain agreement entitled "Development Agreement By and Between The City of Lodi and Frontier Community Builders, Inc. related to the development known as Frontier Community Builders Westside Project (hereinafter the "Development Agreement"). Pursuant to the Development Agreement, Developer agreed to develop certain property more particularly described in the Development Agreement (hereinafter, the "Subject Property"), subject to certain conditions and obligations as set forth in the Development Agreement. The Development Agreement was recorded against the Subject Property in the Official Records of San Joaquin County on _____, 2007, as Instrument No. ___ _____.

2. Developer intends to convey a portion of the Subject Property to Assignee, commonly referred to as Parcel _____, and more particularly identified and described in Exhibit A-1 and Exhibit A-2, attached hereto and incorporated herein by this reference (hereinafter the "Assigned Parcel").

3. Developer desires to assign and Assignee desires to assume all of Developer's right, title, interest, burdens and obligations under the Development Agreement with respect to and as related to the Assigned Parcel.

ASSIGNMENT AND ASSUMPTION

NOW, THEREFORE, Developer and Assignee hereby agree as follows:

1. Developer hereby assigns, effective as of Developer's conveyance of the Assigned Parcel to Assignee, all of the rights, title, interest, burdens and obligations of Developer under the Development Agreement with respect to the Assigned Parcel. Developer retains all the rights, title, interest, burdens and obligations under the Development Agreement with respect to all other property within the Subject Property owned by Developer.

2. Assignee hereby assumes all of the rights, title, interest, burdens and obligations of Developer under the Development Agreement with respect to the Assigned Parcel, and agrees to observe and fully perform all of the duties and obligations of Developer under the Development Agreement with respect to the Assigned Parcel. The parties intend hereby that, upon the execution of this Agreement and conveyance of the Assigned Parcel to Assignee, Assignee shall become substituted for Developer as the "Developer" under the Development Agreement with respect to the Assigned Parcel.

3. All of the covenants, terms and conditions set forth herein shall be binding upon and shall inure to the benefit of the parties hereto and their respective heirs, successors and assigns.

4. The Notice Address described in Section 28 of the Development Agreement for the Developer with respect to the Assigned Parcel shall be:

_____

_____

_____

_____

IN WITNESS HEREOF, the parties hereto have executed this Agreement as of the day and year first above written. This Agreement may be signed in identical counterparts.

DEVELOPER:

_____

a _____

By: _____
Print Name:
Title: Division President

ASSIGNEE:

_____,

a _____

By: _____
Print Name: _____
Title: _____

859464-6
Draft Version 4 3/9/2007

EXHIBIT H

RESERVED

EXHIBIT I
PARK IMPROVEMENTS

Basin/Park Area Summary

Westside Annexation

Location	Basin (1), acres	Park Net (2),acres	Park Gross, acres	Total, acres
A	2.9	1.6	1.6	4.5
B		2.1	2.1	2.1
C	8.2	5.4	6.1	14.3

Southwest Gateway Annexation

Location	Basin (1), acres	Park Net (2),acres	Park Gross, acres	Total, acres	
D	5.9	1.5	1.5	7.4	(3)
E	6.7	2.4	2.4	9.1	(4)
F	4.8	1.5	1.5	6.3	
G		2.2	2.2	2.2	
H		2	2	2	
Open Space on Century Blvd.		0	0	0	(5)

(1) Westside Annexation area basin calculations not approved. The basin area numbers are subject to change.

(2) Net area measured from street right of way. Area requirements are exclusive of bike and ped routes.

(3) Park to be located at the southwest end of designated area.

(4) Park to be located at the south end of designated area.

(5) Two slivers of open space are shown on Century Blvd. Neither area provides sufficient space for park facilities.

EXHIBIT J

REQUIRED PARK AMENITIES

		Bike Rack	Pool	Water Play	Tennis	Basketball	Bocce	Horseshoes	Playground	Picnic Table	Picnic Shelter (Rental) BBQ	Passive Area	Fields	Off Street Parking	Trees	Turf	Irrigation Booster Pump	Restroom	Drinking Fountain	Furniture	Light	Bike/ Ped	Signs
A	Basin												X										
	Park	X							X	X	X				X	X	X		X	X	X		X
B	Park	X				X	X	X	X	X	X				X	X	X		X	X	X	X	X
	Basin			X									X		X	X	X						
C	Park	X					X	X	X	X	X				X	X	X	X	X	X	X	X	X
	Basin												X										
D	Park	X				X		X	X	X	X				X	X	X		X	X	X		X
	Basin											X	X		X	X	X						
	Park	X		X		X	X	X	X	X	X				X	X	X	X	X	X	X	X	X
	Basin												X		X	X	X						
	Park	X							X	X	X				X	X	X		X	X	X		X
	Park	X							X	X	X				X	X	X		X	X	X		X
	Park	X							X	X	X				X	X	X		X	X	X		X
	2nd Phase																						

859464-6
Draft Version 4 3/9/2007

EXHIBIT K

BENEFITED PROPERTIES

EXHIBIT I

AGREEMENT TO AMEND WESTSIDE DEVELOPMENT AGREEMENT

859464-6
Draft Version 4 3/9/2007

AGREEMENT TO AMEND
WESTSIDE
DEVELOPMENT AGREEMENT
AND REFRAIN FROM CHALLENGING LAND USE PROJECT

THIS AGREEMENT is made this 4th day of December, 2007 by and between the City of Lodi (City), a California General Law city, represented by the City Manager and City Attorney with the limited authority as described in Section 1.A; Citizens for Open Government, an unincorporated association (Citizens); and Frontiers Community Builders (Developer) a dba of Frontier Land Companies, a California Corporation. The Parties agree as follows:

1. Recitals.

A. The Parties to the Agreement.

The City of Lodi ("City") is a General Law city governed by a five-member city council. For all purposes herein and during all times during the negotiation of this Agreement the City Manager and City Attorney have represented the City. However in this Agreement and at all times during the negotiation of the Agreement the City Manager and/or City Attorney have lacked the capacity or legal authority to bind the City of Lodi and/or the City Council. The parties understand that throughout the negotiation and in executing this Agreement the City Manager and City Attorney can only recommend to the City Council that it take certain actions. All authority and discretion remains with the City Council over whether the City Council will approve or disapprove of this Agreement. The City Council is scheduled to hear the Project at a duly noticed public hearing scheduled after February 1, 2007.

Citizens is an unincorporated association that has commented on the development proposed by Developer. The "Project" referred to herein is as defined in the Development Agreement for the "FCB Westside Project" with all Project Approvals described therein. Citizens desire to have certain mitigation measures and clarifications added to the Development Agreement negotiated between City and Developer that in the opinion of Citizens will further the interest of the City and the interest of the public. If these amendments are added to the draft Development Agreement in the form of this Agreement, which shall be an exhibit to the Development Agreements, then Citizens will support the Project, will not make negative comments about the Project's EIR or the Project at any City Council or other public hearings, and will not subsequently challenge the certification of the EIR or the Project Approvals, directly or indirectly. Ann Cerney shall be the sole spokesperson for Citizens and make these statements at the City Council hearing.

Developer, a private entity, is the applicant for the Development Agreements and Project Approvals described therein. The term "Developer" includes all related entities of Developer and their successors in interest.

B. The parties agree that the Development Agreements contain commitments for major infrastructure and amenities that will result in public benefits for the City.

C. Although Citizens are not fully satisfied with all aspects of the Project and EIR, it has balanced the benefits of the Project, including the changes to the draft Development Agreements as set forth in this Agreement, against the adverse effects of the Projects and has concluded that the Projects, separately or combined, are substantially more beneficial to the City than detrimental.

2. **Modification of Development Agreement**

The parties agree that the draft Development Agreement for the Project, scheduled to be considered by the City Council at the public hearing after January 1, 2007, is to be hereby amended by and through this Agreement, which shall be attached to the Development Agreement as Exhibit "___".

A. **Mitigation For Agricultural Conversion Impacts of Project**

(1) Developer shall obtain permanent easements to be held by the City or other qualified entity (e.g., Central Valley Farmland Trust) limiting the use of San Joaquin County real property to agricultural uses and related activities as are permitted from time to time under the agricultural zoning laws of the County ("Agricultural Conservation Easements"). In providing mitigation for impacts to agricultural land, Developer shall adhere to the terms of the final adopted San Joaquin County Agricultural Mitigation Ordinance, now under consideration by the San Joaquin County Board of Supervisors. (See November 14, 2006 draft Ordinance.)

(2) At a minimum, and notwithstanding the terms of the final, adopted County Ordinance, the Agricultural Conservation Easements shall be recorded on a 1:1 acre (conserved:developed) ratio against an aggregate total of up to 152 acres, more or less, contained within FCB Westside Project, involving one or more parcels of land - though not necessarily contiguous - with each mitigation acre located within San Joaquin County and zoned for agricultural uses ("Protected Properties"). If mitigation lands are located in the Primary Zone of the San Joaquin Delta that lies within the County, the mitigation ratio shall be on a 2:1 acre (conserved:developed) basis. However, if prior to the Developer's compliance with this agricultural mitigation requirement, the San Joaquin Board of Supervisors excludes land within certain areas of the County (e.g., the Primary Zone of the Delta) from being used for agricultural mitigation purposes, the parties agree that those lands would be excluded from being used for mitigation purposes under this Agreement.

(3) At a minimum, and notwithstanding the terms of the final, adopted County Ordinance, the Agricultural Conservation Easements may only apply to Protected Properties that are not encumbered by (a) any other perpetual open space conservation easement or

deed restriction or (b) any other perpetual agriculture mitigation easement or deed restriction. The cost of obtaining the Agricultural Conservation Easements shall rest with the Developer. The Protected Properties must be subject to permanent restrictions on use to ensure the availability of agricultural production capacity by limiting non-agricultural development that is inconsistent with agriculture uses and related activities. In accordance with the County's November 14, 2006, draft Mitigation Ordinance section 9-1080.3, subdivision (e)(1), the Developer shall pay an administrative fee to cover the costs of administering, monitoring and enforcing the farmland conservation easement in an amount to be determined by the qualified entity that will hold the conservation easement. If the City holds the Agricultural Conservation Easements, the City will monitor the Protected Properties subject to the easements biannually through its Planning Commission to ensure compliance with the requirements of this provision. If the City is selected to hold the Agricultural Conservation Easements, Developer will pay City $5,000 to compensate the City for monitoring cost/contingencies in connection with the Agricultural Conservation Easements for the Westside Project.

(4) The Agricultural Conservation Easements shall be recorded in the applicable ratio(s) against a minimum of each acre to be developed (or more) within any phased Final Subdivision Map of the Project prior to the date the first residential building permit is issued to Developer for any such phase thereof.

(5) City shall notify Citizens of which site(s) are selected to meet the requirements of this provision 30 days prior to the recordation of any Agricultural Conservation Easements pursuant to this Agreement. If both Citizens and the City agree, the mitigation ratio applicable to mitigation lands outside of the Delta Primary Zone may be reduced if the Developer proposes to obtain conservation easements that, in the judgment of both Citizens and the City, have a greater mitigation value than lands that could otherwise be used as mitigation for agricultural impacts of the Projects under this provision.

B. <u>Home Building, Energy and Conservation Features within the Project</u>

1) Developer shall become a California Green Builder prior to the construction of the homes within the Projects. The California Green Builder program requires that all homes are at least 15% more energy efficient that currently mandated by Title 24 in California and meet guidelines for energy efficiency set but the US Environmental Protection Agency. The homes within the Projects may contain a variety of energy efficient features and alternative energy features such as high efficient insulation, high performance windows, high efficient heating and cooling equipment, cool roofing, radiant barriers, awnings, overhangs day lighting and qualified lighting.

2) Developer's status as a California Green Builder requires Developer to implement water conservation features that saves 20,000 gallons per home per year. Developer shall provide front yard landscaping using weather based irrigation controllers and drip irrigation and may utilize other water conservation features such as high efficiency fixtures and efficient plumbing technologies, products and materials. Developer also agrees to use weather based irrigation controllers in front yards, parks and common areas.

3) Developer shall make available solar power features and electrical car charging stations or outlets that homeowners within the Projects may elect to purchase as part of that homeowner's option package.

4) Developer agrees that at least 50% of the construction site waste shall be recycled or otherwise diverted from landfill disposal.

5) Developer shall use only EPA approved natural gas fireplaces, fireplace inserts, woodstoves or pellet stoves when such fireplaces are installed. Developer will comply with all federal, state and local laws and regulations pertaining to the installation of wood burning fireplaces.

6) Developer will encourage landscape maintenance companies to use electric-powered equipment.

7) Shade trees will be planted where appropriate throughout the Project and located to shade paved areas and to protect dwellings from energy consuming environmental conditions.

8) Developer agrees to comply with the California Green Builder program that applies to high density residential units. Currently a pilot program exists that is substantially similar to the low density program, with the exception of the 20,000 gallon per home per year in water conservation.

C. New Urbanism neighborhood design.

Developer believes that the Project's current land use plans promote the principles of New Urbanism that include neighborhoods that are walk-able, interconnected, that include pedestrian friendly streetscapes; bicycle friendly design elements; well integrated, highly visible, and publicly accessible open spaces. Developer is also committed to designing the specific components of the Projects to include housing and structural forms that are visually interesting, well modulated, constructed of high quality materials, proportionate to their surroundings, and a range of housing types, sizes and affordability.

D. Pedestrian Transit and Bicycle Infrastructure: Developer agrees to implement the following measures:

1) Provide pedestrian enhancing infrastructure that includes: sidewalks and pedestrian paths, direct pedestrian connections, street trees to shade sidewalks, pedestrian safety designs/infrastructure, street lighting and/or pedestrian signalization and signage, and

2) Provide bicycle-enhancing infrastructure that includes: bikeways/paths connecting to a bikeway system as well as secure bike parking.

E. Lodi Eastside: The Project's requirement for investment in Lodi's eastside community as set forth in the FCB Westside Development Agreement is hereby amended to require that any units which are selected by the Developer to be rehabilitated or replaced and which are currently at affordable rents for persons or families of low income shall remain affordable for persons of low income.

F. Water Supply: Additional entitlements for urban development within the Project area (i.e., subdivision maps, parcel maps, building permits, etc.) shall not be granted for any dwellings within the Project area after total water use exceeds the projected safe groundwater yield of the Project area until additional water sources (e.g., W.I.D. groundwater recharge or water treatment or otherwise) are available. According to the Westside-Southwest Gateway Project Water Supply Assessment (July 2006) ("WSA"), a total of approximately 257 acre feet per year will be available for the Westside Project upon its annexation while the total projected water demand will likely be in excess of that amount before full build-out occurs. The purpose of this provision, then, is to ensure that water use by the Project does not exceed the projected increase in safe groundwater yield attributable to annexation of the Project area into the City until additional water sources (e.g., W.I.D. groundwater recharge or water treatment or otherwise) are available. (See WSA, Figure 5-4.)

G. Agricultural Conflicts: Developer shall strive to phase development in a manner that will reduce land use conflicts with lands currently in agricultural use to the west of the Project. To the extent feasible, Developer will generally develop the Project in an east to west direction.

H. Challenges:

1) No Challenge by Citizens/Cerney: This Agreement will not become effective in the event that Citizens and/or Ann Cerney: (1) file any legal action challenging the City's certification of the EIR; (2) file any legal action challenging the City's approval of the Project's land use approvals, including the amendments to the West Side Facilities Master Plan; (3) file any legal action challenging the San Joaquin Local Agency Formation Commission's compliance with CEQA; (4) file any legal action challenging the San Joaquin Local Agency Formation Commission's approval of the annexation of the territory to the City of Lodi; (5) qualify a referendum petition to require an election concerning one or more of the Project's legislative approvals, or (6) violate the terms or the spirit of this Agreement in any other manner.

2) Challenge by Third Party:

a. The amendment to the Development Agreement called for in this Agreement will become partially ineffective as set forth below in the event that any other party: (1) files any legal action challenging the City's certification of the EIR; (2) files any legal action challenging the City's approval of the Project's land use approvals; (3) files any legal action challenging the San Joaquin Local Agency Formation Commission's compliance with CEQA; (4) files a legal action challenging the San Joaquin Local Agency Formation Commission's approval of the annexation of the territory to the City of Lodi; or, (5) qualifies a

referendum petition to require an election concerning one or more of the Project's legislative approvals.

b. If an event triggers a partial invalidity as called for above, the ratio of number of acres to be mitigated per Section 2.A. will be reduced by 50% and reimbursement of a portion of the fees paid to Citizens under the Southwest Gateway Development Agreement dated November 15, 2006 (see Paragraph 3C. therein) shall be due from Citizens to Developer (within 60 days of its written notice to Citizens) in the amount of $7,600. . Moreover, Citizens' statute of limitations to file an action challenging the City's certification of the EIR and/or land use approvals will be tolled for thirty (30) days from the limitations period established by CEQA. City and Developer grant a second conditional and limited tolling of the statute of limitations to file an action challenging City's certification of the EIR. This conditional and limited tolling will only arise upon a legal challenge by a third party to LAFCO's determination on the EIR and/or annexation and Citizens' time to file an action shall extend for only thirty (30) days after the third party files its action.

c. In the event that dismissals with prejudice are filed with any applicable Court before answers are filed in the third party litigation then Citizens will dismiss any subsequent actions and the terms of this Agreement shall be fully restored.

3. <u>Miscellaneous.</u>

A. Ann Cerney, as the sole representative of Citizens, shall appear at all appropriate City Council hearings and express support for the approval of this Agreement, and non-opposition to the City Council's approval of the Project and certification of the EIR.

B. Citizens represents and warrants that Ann Cerney has authority to execute this Agreement on behalf of Citizens and is authorized to speak on behalf of the organization at all Lodi City Council and other public meetings.

C. Developer has previously agreed to conditionally pay $40,000 to Citizens as reimbursement to Citizens for attorney fees expended in the negotiation and executing of an amendment to the Southwest Gateway Development Agreement along the same lines as set forth above; therefore, the parties further agree that Developer owes <u>no additional amounts</u> to reimburse members of the Citizens for any time and effort expensed in the process of amending the Westside Development Agreement.

D. If the public benefits included in this Agreement are not adopted by the City Council, Citizens' support for approval of this Agreement and non-opposition to the City Council's approval of the Projects and certification of the EIR will be withdrawn and its previously stated objections will be renewed. City and Developer agree not to assert an exhaustion of administrative remedies defense as to those issues specifically raised and exhausted at hearings regarding the Project if litigation ensues and this agreement becomes null and void, or partially invalid, under this Agreement.

4. <u>Independent Effect; Effective Date of Agreement.</u>

This Agreement shall be immediately effective and binding upon Citizens and Developer, but subject to termination by condition subsequent should the Lodi City Council not ratify this Agreement at the time of its public hearing on the FCB Westlake Project scheduled after February 1, 2007. The remainder of this Agreement shall only become effective upon the City Council approval of the amendment to the draft Development Agreement that are described in Section 2. Notwithstanding any other provision herein to the contrary, because of the nature of the mitigation measures set forth herein (e.g., ratio of 1:1 acres for agriculture mitigation), the parties agree that this Agreement shall be effective as stand-alone resolutions of their disputes as to this Project.

5. Agreement Not to Sue or Circulate a Referendum Petition.

If the amendment to the Development Agreement called for in this Agreement are adopted by the City Council, Citizens agrees that neither it nor its individual members shall sue the City or the San Joaquin Local Agency Formation Commission over the sufficiency of the EIR or the land use/annexation decisions by these public agencies. Further neither Citizens nor its members shall encourage or give assistance to any others to challenge the Developer's Project either administratively or judicially. Moreover, neither Citizens, nor its members, will encourage, indirectly assist or actually circulate a petition to place a referendum on the ballot to force an election about the Project's legislative approvals.

6. Counterparts.

This agreement may be executed in counterparts.

Tom Doucette

Frontier Land Companies
By: Tom Doucette, President

City of Lodi
By: Blair King, City Manager

Citizens for Open Government
By: Ann Cerney