

<p>CARNEGIE FORUM 305 WEST PINE STREET LODI, CALIFORNIA</p>	<p>AGENDA LODI PLANNING COMMISSION</p>	<p>REGULAR SESSION WEDNESDAY, APRIL 13, 2011 @ 7:00 PM</p>
---	---	--

For information regarding this agenda please contact:

Kari Chadwick @ (209) 333-6711
Community Development Secretary

***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 Community Development Department, located at 221 W. Pine Street, Lodi, 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 Community Development Department as soon as possible and at least 24 hours prior to the meeting date.*

1. ROLL CALL
2. MINUTES – “January 12, 2011” & “March 9, 2011”
3. PUBLIC HEARINGS
 - a. Request for Planning Commission approval of a Use Permit to allow a Type-41 On-Sale Beer and Wine Alcoholic Beverage Control License at 1379 South Lower Sacramento Road, Suite 501. (Applicant: Rod Cockrum, on behalf of 4 U SMC, Inc. File Number: 11-U-05)
 - b. Request for Planning Commission approval of a Use Permit to allow a Type 2 (Winery) Alcoholic Beverage Control License and approval of façade improvements to an existing building located at 20 North School Street. (Applicant: Ryan Sherman, on behalf of Fields Family Vineyards and Winery; File Number: 11-U-07 & 11-SP-03)
 - c. Request for Planning Commission approval of a Use Permit to allow a Type-2 Winegrower Alcoholic Beverage Control License located at 21 East Elm Street. (Applicant: Jeff Werter, on behalf of Toasted Toad Cellars. File Number: 11-U-08)
 - d. Request for Planning Commission to make a Recommendation to the City Council to Approve of the 2010-2016 Housing Element *This item is continued to a future meeting*

NOTE: The above items are quasi-judicial hearings and require disclosure of ex parte communications as set forth in Resolution No. 2006-31

4. PLANNING MATTERS/FOLLOW-UP ITEMS
5. ANNOUNCEMENTS AND CORRESPONDENCE
6. ACTIONS OF THE CITY COUNCIL
7. GENERAL PLAN UPDATE/DEVELOPMENT CODE UPDATE
8. ACTIONS OF THE SITE PLAN AND ARCHITECTURAL REVIEW COMMITTEE
9. ART IN PUBLIC PLACES
10. COMMENTS BY THE PUBLIC

11. COMMENTS BY THE PLANNING COMMISSIONERS & STAFF

12. 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.

***NOTICE: Pursuant to Government Code §54954.3(a), public comments may be directed to the legislative body concerning any item contained on the agenda for this meeting before (in the case of a Closed Session item) or during consideration of the item.*

Right of Appeal:

If you disagree with the decision of the commission, you have a right of appeal. Only persons who participated in the review process by submitting written or oral testimony, or by attending the public hearing, may appeal.

Pursuant to Lodi Municipal Code Section 17.72.110, actions of the Planning Commission may be appealed to the City Council by filing, within ten (10) business days, a written appeal with the City Clerk and payment of \$300.00 appeal fee. The appeal shall be processed in accordance with Chapter 17.88, Appeals, of the Lodi Municipal Code. Contact: City Clerk, City Hall 2nd Floor, 221 West Pine Street, Lodi, California 95240 – Phone: (209) 333-6702.

**LODI PLANNING COMMISSION
REGULAR COMMISSION MEETING
CARNEGIE FORUM, 305 WEST PINE STREET
WEDNESDAY, JANUARY 12, 2011**

1. CALL TO ORDER / ROLL CALL

The Regular Planning Commission meeting of January 12, 2011, was called to order by Chair Hennecke at 7:00 p.m.

Present: Planning Commissioners – Jones, Kiser, Olson and Chair Hennecke

Absent: Planning Commissioners – Cummins, Heinitz, and Kirsten

Also Present: Community Development Director Konradt Bartlam, Deputy City Attorney Janice Magdich, Associate Planner Immanuel Bereket, and Administrative Secretary Kari Chadwick

2. MINUTES

“December 8, 2010”

No Motion made because there was not a quorum of Commissioners in attendance to make the motion. Item continued to the next meeting.

3. PUBLIC HEARINGS

- a) Notice thereof having been published according to law, an affidavit of which publication is on file in the Community Development Department, Chair Hennecke called for the public hearing to consider the request of a Use Permit to allow wholesale distribution of alcoholic beverages at 847 Cluff Ave., Suite B-3. (Applicant: Alejandro Guerrero Hernandez Jr.; File Number: 10-U-17)

Associate Planner Bereket gave a brief PowerPoint presentation based on the staff report. Staff recommends approval of the project.

Hearing Opened to the Public

- Alejandro Guerrero Hernandez Jr., applicant, came forward to answer questions.
- Commissioner Kiser asked if only tequila and beer were going to be sold. Mr. Hernandez stated that they will be distributing alcohol and other miscellaneous related items.

Public Portion of Hearing Closed

MOTION / VOTE:

The Planning Commission, on motion of Vice Chair Olson, Jones second, approved the request of the Planning Commission for a Use Permit to allow wholesale distribution of alcoholic beverages at 847 Cluff Avenue, Suite B-3 subject to the conditions in the resolution. The motion carried by the following vote:

Ayes: Commissioners – Jones, Kiser, Olson and Chair Hennecke
Noes: Commissioners – None
Absent: Commissioners – Cummins, Heinitz, and Kirsten

4. PLANNING MATTERS/FOLLOW-UP ITEMS

Director Bartlam stated that staff is looking to start a Budget Strategy Committee that will consist of City Staff, a representative from each of various Boards and Commissions, Union representatives,

Continued

and Lodi citizens. It is scheduled to start in February and will be the first and third Tuesdays of each month and should last through April of this year.

Vice Chair Olson stated that she is interested and asked for what type of outcome is expected. Director Bartlam stated that the process is more for public education regarding what the City can and can not do with certain funds. There will also be discussions and feedback regarding City services.

Commissioner Jones also expressed a desire to take part, but would be a hit and miss with attendance and asked if there can be more than one representative. Director Bartlam stated that there will be one formal representative from this board, but there will be representatives for the public at large and he could fit that category.

Commissioner Olson was unanimously agreed upon to be the Planning Commission Representative.

5. ANNOUNCEMENTS AND CORRESPONDENCE

None

6. ACTIONS OF THE CITY COUNCIL

Director Bartlam stated that there is a memo in the packet and staff is available to answer any questions.

Commissioner Jones asked about the Marijuana issue. Director Bartlam stated that direction has been given to the City Attorney to put together an ordinance not allowing dispensaries in the City limits.

7. GENERAL PLAN UPDATE/DEVELOPMENT CODE UPDATE

None

8. ACTIONS OF THE SITE PLAN AND ARCHITECTURAL REVIEW COMMITTEE

Commissioner Kiser gave a brief report regarding the meeting held earlier this evening and passed around the information form the SPARC packet.

9. ART IN PUBLIC PLACES

None

10. COMMENTS BY THE PUBLIC

None

11. COMMENTS BY STAFF AND COMMISSIONERS

None

12. ADJOURNMENT

There being no further business to come before the Planning Commission, the meeting was adjourned at 7:13 p.m.

ATTEST:

Konradt Bartlam
Planning Commission Secretary

**LODI PLANNING COMMISSION
REGULAR COMMISSION MEETING
CARNEGIE FORUM, 305 WEST PINE STREET
WEDNESDAY, MARCH 9, 2011**

1. CALL TO ORDER / ROLL CALL

The Regular Planning Commission meeting of March 9, 2011, was called to order by Chair Hennecke at 7:02 p.m.

Present: Planning Commissioners – Cummins, Heinitz, Kirsten, Kiser, Olson, and Chair Hennecke

Absent: Planning Commissioners – Jones

Also Present: Community Development Director Konradt Bartlam, City Attorney Stephen Schwabauer, Public Works Director Wally Sandelin, Associate Planner Immanuel Bereket, and Administrative Secretary Kari Chadwick

2. MINUTES

“January 12, 2011”

No Motion made because there was not a quorum of Commissioners in attendance to make the motion. Item continued to the next meeting.

“February 9, 2011”

MOTION / VOTE:

The Planning Commission, on motion of Commissioner Kiser, Heinitz second, approved the Minutes of February 9, 2011 as written. (Commissioner Hennecke abstained because he was not in attendance of the subject meeting)

3. PUBLIC HEARINGS

- a) Notice thereof having been published according to law, an affidavit of which publication is on file in the Community Development Department, Chair Hennecke called for the public hearing to consider the request for a Use Permit to allow Type 20 and Type 70 Alcoholic Beverage Control licenses at 1337 East Kettleman Lane.

Commissioner Heinitz recused himself because of a professional relationship with the applicant.

Associate Planner Bereket gave a brief PowerPoint presentation based on the staff report. Staff recommends approval of the project.

Hearing Opened to the Public

Public Portion of Hearing Closed

MOTION / VOTE:

The Planning Commission, on motion of Commissioner Kirsten, Cummins second, approved the request of the Planning Commission for a Use Permit to allow Type 20 and Type 70 Alcoholic Beverage Control licenses at 1337 East Kettleman Lane subject to the conditions in the resolution. The motion carried by the following vote:

Ayes: Commissioners – Cummins, Kirsten, Kiser, Olson, and Chair Hennecke
Noes: Commissioners – None
Abstain: Commissioners – None
Absent: Commissioners – Jones and Heinitz

Commissioner Heinitz rejoined the Commission.

- b) Notice thereof having been published according to law, an affidavit of which publication is on file in the Community Development Department, Chair Hennecke called for the public hearing to consider the request for a Use Permit to allow Type 2, 9, 14, 17 and 20 Alcoholic Beverage Control licenses at 9 West Locust Street, Suite A.

Associate Planner Bereket gave a brief PowerPoint presentation based on the staff report. Staff recommends approval of the project.

Commissioner Heinitz asked if this space was already a wine tasting room. Mr. Bereket stated that it was not.

Hearing Opened to the Public

- Jeff Hanson, applicant, came forward to answer questions.
- Commission Heinitz asked which space this project was going to occupy. Mr. Hanson stated that it is the old Eilers Medical Supply.

Public Portion of Hearing Closed

- Commissioner Heinitz asked if everything including the wine tasting room is being approved tonight. Director Bartlam stated that the applicant is requesting the full complement of their wine business except production, hence the number of licenses. The project is going to be a phased in project.
- Commissioner Kiser asked about parking. Director Bartlam stated that the project is within the downtown parking district and there are about four to six stalls adjacent to the alley.

MOTION / VOTE:

The Planning Commission, on motion of Commissioner Kiser, Cummins second, approved the request of the Planning Commission for a Use Permit to allow Type 2, 9, 14, 17 and 20 Alcoholic Beverage Control licenses at 9 West Locust Street, Suite A subject to the conditions in the resolution. The motion carried by the following vote:

Ayes:	Commissioners –	Cummins, Heinitz, Kirsten, Kiser, Olson, and Chair Hennecke
Noes:	Commissioners –	None
Abstain:	Commissioners –	None
Absent:	Commissioners –	Jones

Chair Hennecke recused himself because his office is within a 300 foot radius of the project. Vice Chair Olson chaired the item.

- c) Notice thereof having been published according to law, an affidavit of which publication is on file in the Community Development Department, Vice Chair Olson called for the public hearing to consider the request for a Use Permit to allow a Type-41 On-Sale Beer and Wine Alcoholic Beverage Control License at 2401 West Turner Road; Suite 222.

Associate Planner Bereket gave a brief PowerPoint presentation based on the staff report. Staff recommends approval of the project.

Hearing Opened to the Public

- Masayuki Hattori, applicant, came forward to answer questions.
- Commissioner Heinitz welcomed Mr. Hattori and wished his business well.

Public Portion of Hearing Closed

MOTION / VOTE:

The Planning Commission, on motion of Commissioner Cummins, Kiser second, approved the request of the Planning Commission for a Use Permit to allow a Type-41 On-Sale Beer and Wine Alcoholic Beverage Control License at 2401 West Turner Road; Suite 222 subject to the conditions in the resolution. The motion carried by the following vote:

Ayes:	Commissioners –	Cummins, Heinitz, Kirsten, Kiser, and Olson
Noes:	Commissioners –	None
Abstain:	Commissioners –	None
Absent:	Commissioners –	Jones and Hennecke

Chair Hennecke rejoined the Commission.

Chair Hennecke stated that the following items 3d, 3e, and 3f will be presented as one item. Director Bartlam stated that a presentation will be made on all three items and then the Commission can make a motion on the items separately.

- d) Notice thereof having been published according to law, an affidavit of which publication is on file in the Community Development Department, Chair Hennecke called for the public hearing to consider the request to Make Recommendation to The City Council to Certify The Proposed Mitigated Negative Declaration 10-MND-03 as adequate Environmental Documentation for The Proposed Project.

- e) Notice thereof having been published according to law, an affidavit of which publication is on file in the Community Development Department, Chair Hennecke called for the public hearing to consider the request to make a recommendation to the City Council to annex 30-acres of land south of the City limits for Commercial Development purposes; and request to Prezone associated with the annexation.

- f) Notice thereof having been published according to law, an affidavit of which publication is on file in the Community Development Department, Chair Hennecke called for the public hearing to consider the request for a Vesting Tentative Map to divide one parcel into nine commercial lots; and Site Plan and Architecture Review of the proposed Phase I of the proposed development.

Associate Planner Bereket gave a PowerPoint presentation based on the staff reports for items 3d, e, and f. Mr. Bereket pointed out the changes provided on blue sheets to the original documents that are a part of the packet; additions are underlined and deletions are crossed out. Staff recommends approval of the project.

Commissioner Heinitz asked if this project had been brought before the Commission before. Director Bartlam stated that it was not, but the Commission may have received a request to weigh-in on the environmental document that had been started in 2007 along with the earlier application.

Vice Chair Olson asked if this property was already entitled because it was a part of the General Plan EIR. Director Bartlam stated that it is not. The General Plan provides policies for moving forward with this and future projects. Commissioner Olson requested that staff explain in more detail how the traffic mitigation issues are being addressed. Director Bartlam with the assistance of the aerial PowerPoint slide explained how this area over that last five years or so has seen significant environmental review. There was a traffic study done with the recently adopted General Plan. Prior to that, the Reynolds Ranch Project, the Southwest Gateway and Westside

Projects, and the stand-a-lone document for the Harney Lane Specific Plan all addressed the traffic for this area.

Chair Hennecke asked what the process of rezoning entailed. Director Bartlam stated that the property can only be rezoned until LAFCO has approved the project for annexation.

Commissioner Kiser asked about the widening timeline for Harney Lane. Director Sandelin stated that as for the widening of Harney Lane itself studies have shown that the most important designing capacity happens at the intersections. At the Harney Lane/West Lane intersection there will be two or three lanes in each direction on each side of the intersection that will handle not only the traffic from this project but for the Reynolds Ranch as well. Commissioner Kiser asked about the Union Pacific Rail Road underpass. Director Sandelin stated that the proposed design contract will be going to the City Council later this year for the preparation of design and environmental documents for this project. The project is already on the Public Utility Commission list for funding and is currently number thirty-two which is relatively high. Council's approach to that project is to have the plans done early in anticipation of funding. The decision to make it an underpass or overpass has not yet been determined. The overpass is less costly, but the underpass is visually more pleasing. Commissioner Kiser asked about the Stockton Street intersection. Director Sandelin stated that the Stockton Street intersection will remain.

Hearing Opened to the Public

- Mike Carouba, applicant, came forward to answer questions. Mr. Carouba stated that Mr. Steve Herum was also here to answer questions should the Commission have any for him. He stated the history of the property from the time that he has been involved with it. Mr. Carouba added that this intersection will be a very dynamic intersection for Lodi. He also feels this development will be a very convenient placement for the citizens of Lodi.
- Vice Chair Olson asked if the specific user is for the first phase of the project could be disclosed. Mr. Carouba stated that in the first go-round with this application it was a medical user and Mr. Carouba and his group are trying very hard to get that type of user back.
- Commissioner Kiser asked why this project should be approved when there are so many vacant commercial spaces already in Lodi including the shopping center directly across the street. Mr. Carouba stated that the only SPARC approval is for the office space. Retail tends to follow rooftops and the economy is not yet ready for that.
- Commissioner Heinitz asked when the ground breaking would take place. Mr. Carouba stated that he would like to see it happen in about twelve to eighteen months. Commissioner Heinitz asked if there was a user under contract yet. Mr. Carouba stated that there is not.

Public Portion of Hearing Closed

- Commissioner Cummins asked staff if the items should be taken separately or all at once. Director Bartlam stated that they should be taken separately.
- Commissioner Heinitz stated his concern for the viability of Lodi being able to maintain another project of this nature.
- Commissioner Cummins stated that the vacancies around town tend to be in older establishments that are a little run-down. This project will definitely be a much more attractive space for potential business to be drawn to Lodi. Commissioner Heinitz stated that if Mr. Carouba develops and builds attracting the upper end clients which could make the area across the street more attractive to other individuals, this is where the catch twenty-two comes into effect making it difficult to make this decision.
- Commissioner Kiser stated that there are very attractive buildings sitting vacant on the corner of Lower Sacramento Road and Kettleman Lane. He is afraid that the economy is not able to support this project.

- Chair Hennecke stated that this project is out a year, year and a half and Mr. Carouba is taking the gamble that the economy will be turning around and supports the project.
- Commissioner Kirsten stated that he believes the Mitigated Negative Declaration meets the standards that it is required to meet and supports the project.
- Commissioner Cummins stated that the General Plan has this area zoned as Commercial and it will never be farmland again. With Costco about to open and the Reynolds Ranch Shopping Center being built out this is a great opportunity for this area and is in favor of the project.

MOTION / VOTE:

The Planning Commission, on motion of Commissioner Kirsten, Cummins second, approved the request of the Planning Commission to Make Recommendation to The City Council to Certify The Proposed Mitigated Negative Declaration 10-MND-03 as adequate Environmental Documentation for The Proposed Project subject to the conditions in the resolution. The motion carried by the following vote:

Ayes: Commissioners – Cummins, Heinitz, Kirsten, Olson, and Chair Hennecke
 Noes: Commissioners – Kiser
 Abstain: Commissioners – None
 Absent: Commissioners – Jones

Commissioner Cummins asked for clarification that the prezone is just a prelude to LAFCO’s decision. Director Bartlam confirmed.

MOTION / VOTE:

The Planning Commission, on motion of Commissioner Heinitz, Cummins second, approved the request of the Planning Commission to make a recommendation to the City Council to annex 30-acres of land south of the City limits for Commercial Development purposes; and request to Prezone associated with the annexation subject to the conditions in the resolution. The motion carried by the following vote:

Ayes: Commissioners – Cummins, Heinitz, Kirsten, Olson, and Chair Hennecke
 Noes: Commissioners – Kiser
 Abstain: Commissioners – None
 Absent: Commissioners – Jones

MOTION / VOTE:

The Planning Commission, on motion of Vice Chair Olson, Kirsten second, approved the request of the Planning Commission for a Vesting Tentative Map to divide one parcel into nine commercial lots; and Site Plan and Architecture Review of the proposed Phase I of the proposed development subject to the conditions in the resolution. The motion carried by the following vote:

Ayes: Commissioners – Cummins, Heinitz, Kirsten, Olson, and Chair Hennecke
 Noes: Commissioners – Kiser
 Abstain: Commissioners – None
 Absent: Commissioners – Jones

4. PLANNING MATTERS/FOLLOW-UP ITEMS

None

5. ANNOUNCEMENTS AND CORRESPONDENCE

Director Bartlam reminded the Commission that the Budget Strategy Meetings have been taking place the first and third Tuesday’s of each month and Vice Chair Olson is the Planning Commission representative, but would like to extend the invite to the rest of the Commission if they wish to attend.

6. ACTIONS OF THE CITY COUNCIL

Director Bartlam stated that there is a memo in the packet and staff is available to answer any questions.

7. GENERAL PLAN UPDATE/DEVELOPMENT CODE UPDATE

Director Bartlam stated that staff is still waiting for the final comments from the State on the Housing Element. The development code is moving forward now that the mechanics of the funding process has been completed. Staff anticipates having some effort in four to six weeks to help re-invigorate the Development Code update.

8. ACTIONS OF THE SITE PLAN AND ARCHITECTURAL REVIEW COMMITTEE

Commissioner Kiser gave a brief report regarding the meeting held earlier this evening and passed around the information from the SPARC packet.

9. ART IN PUBLIC PLACES

Commissioner Kirsten gave a brief report regarding the meeting that was held last week.

10. COMMENTS BY THE PUBLIC

None

11. COMMENTS BY STAFF AND COMMISSIONERS

None

12. ADJOURNMENT

There being no further business to come before the Planning Commission, the meeting was adjourned at 7:57 p.m.

ATTEST:

Konradt Bartlam
Planning Commission Secretary

Item 3a

**CITY OF LODI
PLANNING COMMISSION
Staff Report**

MEETING DATE: April 13, 2011

APPLICATION NO: Use Permit: 11-U-05

REQUEST: Request for Planning Commission approval of a Use Permit to allow a Type-41 On-Sale Beer and Wine Alcoholic Beverage Control License at 1379 South Lower Sacramento Road, Suite 501. (Applicant: Rod Cockrum, on behalf of 4 U SMC, Inc. File Number: 11-U-05).

LOCATION: 1379 South Lower Sacramento Road, Suite 501
APN: 027-420-13
Lodi, CA 95242

APPLICANT: Rod Cockrum, on behalf of 4 U SMC, Inc.
1230 Edgewood Drive
Lodi, CA 95240

PROPERTY OWNER: Geweke VIII LP
P. O. Box 1420
Lodi, CA 95241

RECOMMENDATION

Staff recommends that the Planning Commission approve the requested Use Permit to allow a Type-41 On-Sale Beer and Wine alcohol beverage license at 1379 South Lower Sacramento Road, Suite 501, subject to the conditions outlined in the attached resolution.

PROJECT/AREA DESCRIPTION

General Plan Designation: Commercial
Zoning Designation: C-S, Shopping Commercial.
Property Size: 2 acres. (Restaurant is approximately 3,000 sq. ft.)

The adjacent zoning and land use characteristics:

	General Plan	Zone	Land Use
North	Low Density Residence	R-2, Single Family Residence	Vacant commercial bldg.
South	Commercial	C-S, Shopping Commercial.	Retail and commercial uses
East	<i>Commercial</i>	C-S, Shopping Commercial.	Retail and commercial uses
West	Commercial	C-S, Shopping Commercial.	Retail and commercial uses

SUMMARY

The applicant, Mr. Rod Cockrum, on behalf of 4 U SMC, Inc, requests approval of a Use Permit to allow on-site sale and consumption of beer and wine in conjunction with operation of a new restaurant. Mr. Cockrum is proposing to open a sit-in restaurant at a currently vacant site located at 1379 South Lower Sacramento Road, Suite 501. The applicant is applying for a license through the California Department of Alcoholic Beverage Control (ABC) to allow beer and wine to be served for on-site consumption. The restaurant would be located within the Vintners Square Shopping Center, which is within the C-S zoning district. Restaurant use is a permitted use in the C-S (Shopping- Commercial) zoning district. The proposed sale of alcohol is an ancillary use to the primary restaurant business. Approval of this Use Permit does not entitle the restaurant to

live entertainment or to be solely used as a bar, but only allows beer and wine to be served in conjunction with a bona fide restaurant operation.

BACKGROUND

The project site was previously occupied by Pick Up Stix Chinese Restaurant, which vacated the premises in Fall of 2007 and the project site has been vacant since. As far as City records show, there are no pending Building and Zoning Code violations associated with the project site.

ANALYSIS

According to the applicant's project description, Mr. Rod Cockrum would like to open a casual dining restaurant. The restaurant proposes to operate from the hours of 11:00 a.m. to 9:00 p.m. from Sunday -Thursday and from 11:00 a.m. to midnight Friday – Saturday. The restaurant is approximately 3,000 square feet in size and provides seating for approximately 45-50 guests. Parking is provided on site, which satisfies the parking requirement for eating establishment of this size. There will be outdoor seating facing west to the parking lot/shopping center. The hours of operation for the outdoor dining area will be the same as the interior of the establishment. The applicants request a Use Permit approval to allow a Type 41 (Eating Place) ABC license, which authorizes the sale of beer and wine for consumption on or off the premise where sold. Type 41 prohibits the sale of distilled sprits and minors are allowed on the premise. In accordance with the State Department of Alcoholic Beverage Control (ABC) requirements, receipts from alcohol sale shall not be in excess of food sales receipts. ABC requires that restaurants with alcohol license must operate and maintain the premise as a bona fide eating establishment.

The applicants request a Use Permit approval to allow a Type 41 On-Sale Beer and Wine (Eating Place) ABC license, which authorizes the sale of beer and wine for consumption on or off the premise where sold. In accordance with the State Department of Alcoholic Beverage Control (ABC) requirements, receipts from alcohol sale shall not be in excess of food sales receipts. ABC requires that restaurants with alcohol license must operate and maintain the premise as a bona fide eating establishment. The Municipal Code of the City of Lodi requires the approval of a Use Permit by the Planning Commission for retail businesses and restaurants which sell alcoholic beverages (LMC § 17.72.040). The City established the Use Permit requirement to gain local control over whether or not a license is appropriate for a particular location. The Department of Alcoholic Beverage Control primarily controls issuance based on concentration of licenses within a particular Census Tract.

The project site belongs to Census Tract 43.03, which covers the area south of Lodi Avenue, west of Lower Sacramento Road, north of Kettleman Lane, and east of Ham Lane. According to ABC, Census Tract 43.03 contains two (2) existing on-sale licenses with five (5) on-sale licenses allowed based on the ABC criteria. The Planning Commission does not need to make a finding of public necessity and/or convenience in order to approve an additional on-sale license. However, the Commission should review application to ensure that sale of alcohol will not adversely affect surrounding residents, businesses, and institutions and to ensure that any such use operates in a manner compatible with existing and future adjacent uses. In the past, the Planning Commission and the Planning staff have generally supported restaurants that wish to acquire an ABC on-sale license, because typically, restaurants that serve alcohol in conjunction with food sales do not create alcohol related problems.

Staff has contacted the Lodi Police Department for comment on the proposed application and they do not anticipate alcohol related problems with the restaurant. Staff sent copies of the application to various City departments for comments and review. The Fire, Building, Public Works, Electric Utility Departments had no comments and had no objections to the request for an alcohol license. Because the applicant's request is for a Use Permit to allow sale of alcohol in conjunction with a full service restaurant, staff does not anticipate the alcohol sales portion of the

business to create any problems. This operation would be similar to other restaurants within Lodi that offer alcohol as part of their business operation. The Planning Commission and the Planning staff have generally supported restaurants that wish to acquire an ABC on-sale beer and wine license because restaurants that serve beer and wine in conjunction with food sales have not created alcohol related problems. If problems or concerns related to the sale of alcoholic beverages occur in the future, staff and/or the Planning Commission may initiate a public hearing where the Commission would have the ability to amend conditions or revoke the Use Permit.

ENVIRONMENTAL ASSESSMENTS

The project was found to be Categorical Exempt according to the California Environmental Quality Act, Article 19 §15321, Class 21 (a) (2). The project is classified as an “Enforcement action by regulatory agencies” because it is the “adoption of an administrative decision or order enforcing or revoking the lease, permit, license, certificate, or entitlement for use or enforcing the general rule, standard, or objective.” No significant environmental impacts are anticipated and no mitigation measures have been required.

PUBLIC HEARING NOTICE:

Legal Notice for the Use Permit was published on March 30, 2011. Ten (10) 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. No protest letter has been received.

ALTERNATIVE PLANNING COMMISSION ACTIONS:

- Approve the request with attached or alternate conditions
- Deny the request
- Continue the request

Respectfully Submitted,

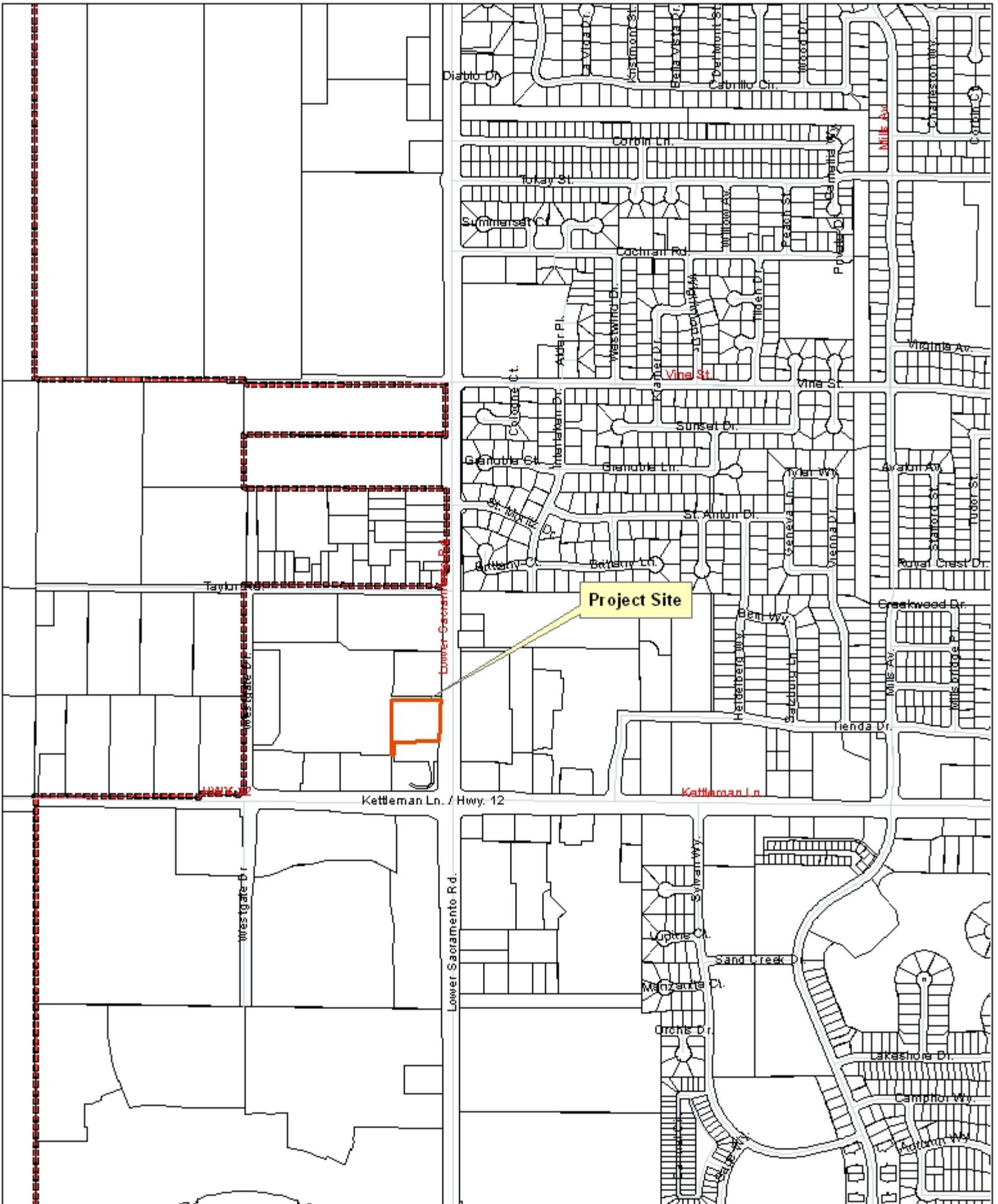
Concur,

Immanuel Bereket
Associate Planner

Konrad Bartlam
Community Development Director

ATTACHMENTS:

1. Vicinity Map
2. Aerial Photo
3. Site Plan and Floor Plan
4. Menu
5. Draft Resolution



Project Site

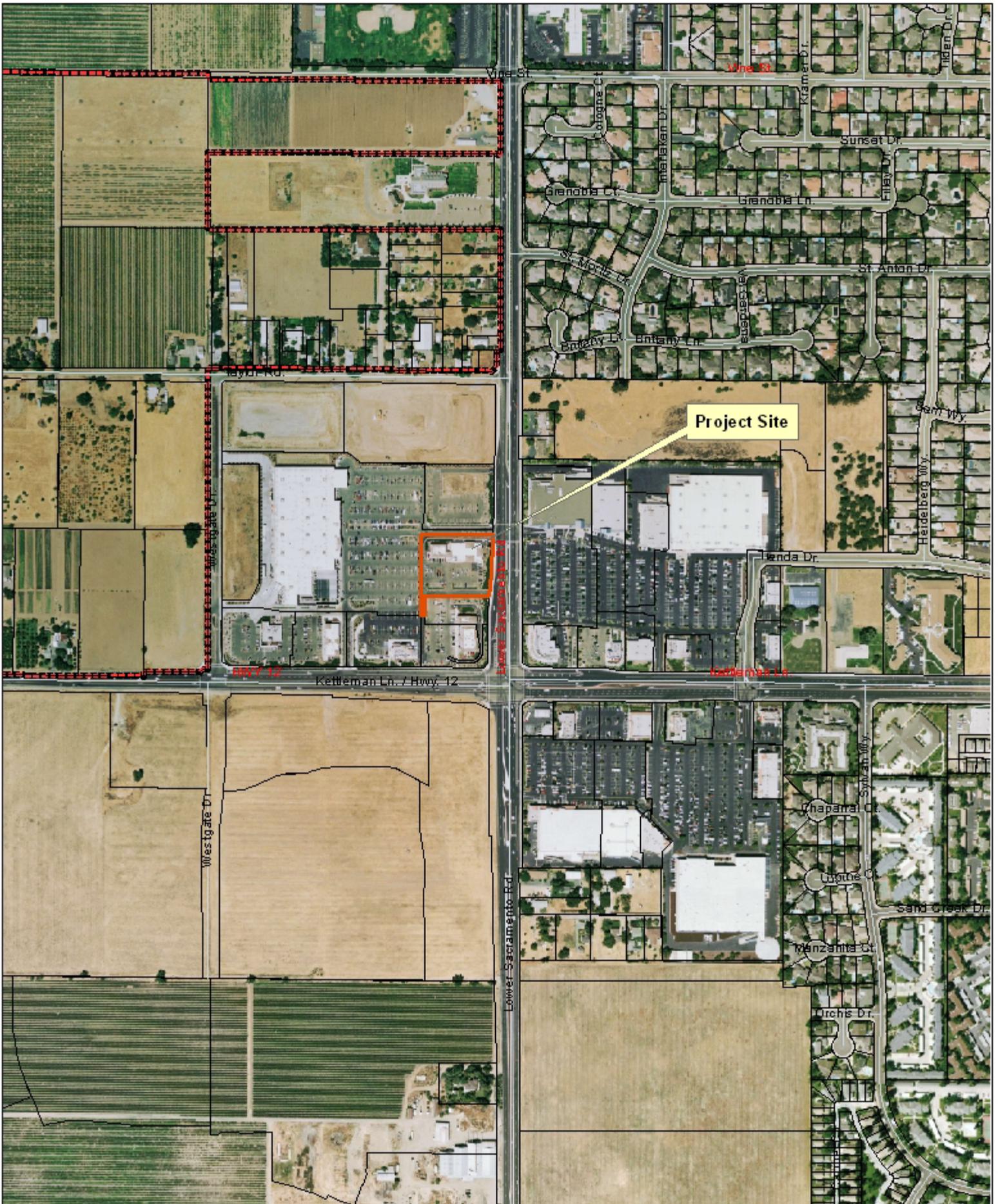
Vicinity Map

1379 South Lower Sacramento Road, Suite 501
 APN: 027-420-13
 Lodi, CA 95242

-  Project Site
-  City Limits



0 0.035 0.07 0.14 0.21 0.28 Miles



Project Site

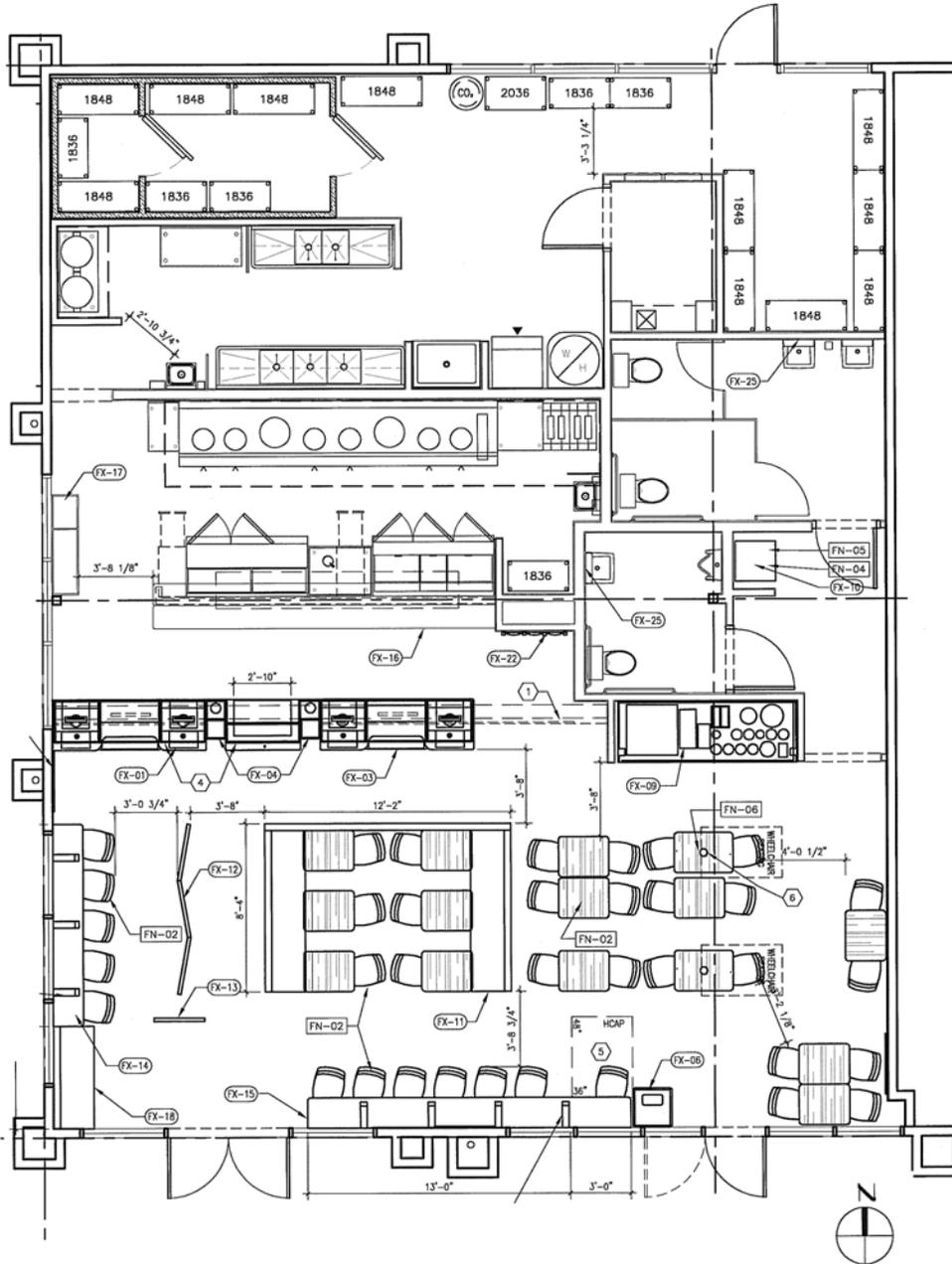
Vicinity Map

1379 South Lower Sacramento Road, Suite 501
 APN: 027-420-13
 Lodi, CA 95242

-  Project Site
-  City Limits



0 0.025 0.05 0.1 0.15 0.2 Miles



Floor Plan

Wings

Describe the items in this category or what is included with these dishes. In this first category, you may want to list appetizers if your restaurant offers them.

10 Fresh Fried Wings

20

With up to 3 flavors

35

With up to 4 flavors

50

With up to 5 flavors

100

With choice of flavors

Wing n Strip Deals

Comes with your choice of 2 sides.

4 Wings

Choice of 1 flavor & 1 dipping sauce

9 Wings

Choice of 2 flavors & 2 dipping sauces

3 Strips

A brief description of the dish.

5 Strips

A brief description of the dish.

Strips

Describe the items in this category or what is included with these dishes.

3 piece

A brief description of the dish.

7 piece

A brief description of the dish.

16 piece

A brief description of the dish.

25 piece

A brief description of the dish.

34 piece

A brief description of the dish.

Stripwich

A brief description of the dish.

Party Packs

Describe the items in this category or what is included with these dishes.

Family (serves 5 or less)

25 Wings or Strips and up to 2 sides

Game Night (serves 10 or less)

50 Wings or Strips and up to 3 sides

Big Party (serves 15 or less)

75 Wings or Strips and up to 4 sides

The Tailgate (serves 20 or less)

100 Wings or Strips and up to 6 sides

Block Party (serves 40 or less)

200 Wings or Strips and up to 10 sides

Super Sides

Describe the items in this category or what is included with these dishes. In this category, you may want to list your main course items.

Hand Made Fries

Sweet Potato Fries

Phoenix Corn on the Cob

Fresh Made Coleslaw

Stripwrap

Dips

Hot Cheddar Sauce

Chili

Drinks

Describe the items in this category. In this category, you may want to list the beverages

Item 0.00

A brief description of the dish.

Item 0.00

Item 0.00

A brief description of the dish.

RESOLUTION NO. P.C. 11-

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF LODI FOR THE APPROVAL OF THE REQUEST OF ROD COCKRUM, ON BEHALF OF 4 U SMC, INC. FOR A USE PERMIT TO ALLOW A TYPE-41 ON-SALE BEER AND WINE ALCOHOLIC BEVERAGE CONTROL LICENSE AT 1379 SOUTH LOWER SACRAMENTO ROAD, SUITE 501

- WHEREAS,** the Planning Commission of the City of Lodi has heretofore held a duly noticed public hearing, as required by law, on the requested Use Permit, in accordance with the Lodi Municipal Code, Section 17.72.070; and
- WHEREAS,** the project proponent is Rod Cockrum, on behalf of 4 U SMC, Inc., 1230 Edgewood Drive, Lodi CA 95240; and
- WHEREAS,** the project area is located at 1379 South Lower Sacramento Road, Suite 501, Lodi, CA 95242 (APN 027-420-13); and
- WHEREAS,** the property has a General Plan designation of Commercial and is zoned C-S, Shopping Commercial; and
- WHEREAS,** the requested Use Permit to allow the selling of beer and wine for on-site consumption within a restaurant is an enforcement action in accordance with the City of Lodi Zoning Ordinance; and
- WHEREAS,** Census Tract 44.04 in which the restaurant is located currently has no over concentration of licenses allowing on premise consumption of alcoholic beverages, but additional new licenses would create over-concentration; and
- WHEREAS,** because this Use Permit would cause over-concentration of On-Sale of beer and wine in Census Tract 44.01, the Planning Commission must make a finding of public necessity and/or convenience in order to permit the issuance of an additional Alcohol Beverage Control license in this tract; and
- WHEREAS,** the State Department of Alcoholic Beverage Control has training available that clearly communicates State law concerning the sale of alcoholic beverages.
- WHEREAS,** all legal prerequisites to the adoption of this Resolution have occurred; and

Based upon the evidence within the staff report and project file the Planning Commission finds:

1. The project was found to be categorically exempt according to the California Environmental Quality Act, Article 19 15321 Class 21 (a) (2). The project is classified as an “Enforcement Action by Regulatory Agencies” because it is the “adoption of an administrative decision or order enforcing...the lease, permit, license, certificate, or entitlement for use or enforcing the general rule, standard, or objective.” The project was also found to be categorically exempt according to the California Environmental Quality Act, Article 19 15332 Class 32 (a) (b) (c) (d) and (e). The project is classified as in-fill development meeting the conditions described therein. No significant impacts are anticipated and no mitigation measures have been required. No significant impacts are anticipated and no mitigation measures have been required.
2. The sale of alcoholic beverages for on-premise consumption as part of a restaurant is a permitted use in the C-S zoning District. The site is suitable and adequate for the proposed use because establishment of a restaurant on this site would not create negative impacts on businesses in the vicinity, and the applicant proposes to perform a tenant improvement in order to meet building code requirements.
3. The on-sale of beer and wine, in accordance with a Type 41 Alcoholic Beverage Control License and with the conditions attached herein, would be consistent and in harmony with the Commercial General Plan Land Use Designation and C-S zoning District.

4. The proposed use is consistent with the General Plan because commercial uses such as the one proposed are permitted in accordance with Land Use Policy subject to a discretionary review.
5. The proposed use would not have a substantial adverse economic effect on nearby uses because operation of a restaurant in accordance with applicable laws and under the conditions of this Use Permit is anticipated to be an economic benefit to the community.
6. The sale of alcoholic beverages for on-premise consumption is a normal part of business operations and provides a convenience for customers of the business.
7. The sale and consumption of alcohol can sometimes result in customer behavior problems that can require police intervention.
8. Steps can be taken by the Applicant/Operator to reduce the number of incidents resulting from the over-consumption of alcohol including the proper training and monitoring of employees serving alcohol; the careful screening of IDs of customers to avoid sales to under-aged individuals; limiting the number of drinks sold to individual customers to avoid over-consumption; providing properly trained on-site security to monitor customer behavior both in and outside of the establishment; and working with the Lodi Police Dept. to resolve any problems that may arise.
9. The proposed use can be compatible with the surrounding use and neighborhood if the business is conducted properly and if the Applicant/Operator works with neighboring businesses and residents to resolve any problems that may occur.
10. The proposed use would not be detrimental to the general welfare of persons residing and working in the immediate vicinity, the neighborhood or the community at large because the sale of alcohol with a restaurant operation is not associated with detrimental impacts to the community.
11. The sale of alcoholic beverages at this location can meet the intent of the C-S zoning district and can provide a public convenience or necessity for customers of the business.

NOW, THEREFORE, BE IT DETERMINED AND RESOLVED by the Planning Commission of the City of Lodi that Use Permit Application No. 11-U-05 is hereby approved, subject to the following conditions:

1. The project proponent and/or developer and/or successors in interest and management shall, at their sole expense, defend, indemnify and hold harmless the City of Lodi, its agents, officers, directors and employees, from and against all claims, actions, damages, losses, or expenses of every type and description, including but not limited to payment of attorneys' fees and costs, by reason of, or arising out of, this development approval. The obligation to defend, indemnify and hold harmless shall include, but is not limited to, any action to arbitrate, attack, review, set aside, void or annul this development approval on any grounds whatsoever. The City of Lodi shall promptly notify the developer of any such claim, action, or proceeding and shall cooperate fully in the defense.
2. The Applicant/Operator and/or successors in interest and management shall insure that the sale of alcohol does not cause any condition that will cause or result in repeated activities that are harmful to the health, peace or safety of persons residing or working in the surrounding area. This includes, but is not limited to: disturbances of the peace, illegal drug activity, public intoxication, drinking in public, harassment of people passing by, assaults, batteries, acts of vandalism, loitering, excessive littering, illegal parking, excessive loud noises, traffic violations or traffic safety based upon last drink statistics, curfew violations, lewd conduct, or police detention and arrests.
3. The Applicant/Operator and/or successors in interest and management shall operate the restaurant in strict compliance with the approvals granted herein, City standards, laws, and ordinances, and in compliance with all State and Federal laws, regulations, and standards.

In the event of a conflict between City laws and standards and a State or Federal law, regulation, or standard, the stricter or higher standard shall control.

4. The Applicant/Operator shall operate and abide by the requirements and conditions of the State of California Department of Alcoholic Beverage Control License Type 41. The Type 41 License shall be limited to on-site sale and consumption of beer and wine during the hours that the restaurant is open for business or as otherwise modified by the Community Development Director.
5. The City reserves the right to periodically review the area for potential problems. If problems (on-site or within the immediate area) including, but not limited to, public drunkenness, the illegal sale or use of narcotics, drugs or alcohol, disturbing the peace and disorderly conduct result from the proposed land use, the Use Permit may be subject to review and revocation by the City of Lodi after a public hearing and following the procedures outlined in the City of Lodi Municipal Code. Additional reviews may be prescribed by the Community Development Director, the Police Department and/or Planning Commission as needed during and after the first two years of probationary period. Further, starting from the effective date the business commences the sale of beer and wine, this Use Permit shall be subject to a one year, and two year review by Community Development Director. If the Director determines it necessary, the Director shall forward the review to the Planning Commission to review the business's operation for compliance with the conditions of the Use Permit, and in response to any complaints thereafter.
6. The Lodi Police Department may, at any time, request that the Planning Commission conduct a hearing on the Use Permit for the purpose of amending or adding new conditions to the Use Permit or to consider revocation of the Use Permit if the Use Permit becomes a serious policing problem.
7. The Use Permit shall require the Applicant/Operator and/or successors in interest and management to secure an ABC Type 41 license, On Sale Beer and Wine – Eating Place.
8. Prior to the issuance of a Type 41 ABC license, the Applicant/Operator and/or successors in interest and management shall complete Licensee Education on Alcohol and Drugs as provided by the State Department of Alcoholic Beverage Control.
9. The sale of alcohol shall occur only at tables when served with meals. A separate bar and/or counter for the consumption of alcohol shall be prohibited.
10. Any changes to the interior layout of the business operation shall be subject to review and approval by the Planning Department and will require appropriate City permits.
11. No person who is in a state of intoxication shall be permitted within the restaurant nor shall an intoxicated patron already in the restaurant be served additional alcoholic beverages. It is the responsibility of the business owner/operator to ensure no patron in state of intoxication is allowed into the building.
12. The Applicant/Operator and/or successors in interest and management of the restaurant shall police the area surrounding the business to prevent patrons from congregating/loitering outside the premises and to prevent excessive noise or other objectionable behavior. Noise levels shall be monitored to insure that noise shall not violate the City's Noise Ordinance Section 9.24.020 and Section 9.24.030.
13. The operator/applicant and/or successors in interest and management shall comply with all the Municipal Codes relating to loitering, open container laws and other nuisance-related issues.
14. The exterior of all the premises shall be maintained in a neat and clean manner, and maintained free of graffiti at all times.

15. Approval of this Use Permit shall be subject to revocation procedures contained in Section 17.72 LMC in the event any of the terms of this approval are violated or if the sale of beer and wine is conducted or carried out in a manner so as to adversely affect the health, welfare or safety of persons residing or working in the neighborhood.
16. Any fees due the City of Lodi for processing this Project shall be paid to the City within thirty (30) calendar days of final action by the approval authority. Failure to pay such outstanding fees within the time specified shall invalidate any approval or conditional approval granted. No permits, site work, or other actions authorized by this action shall be processed by the City, nor permitted, authorized or commenced until all outstanding fees are paid to the City.
17. No variance from any City of Lodi adopted code, policy or specification is granted or implied by this approval.

Dated: April 13, 2010

I certify that Resolution No. 11- was passed and adopted by the Planning Commission of the City of Lodi at a regular meeting held on April 13, 2010 by the following vote:

AYES: Commissioners:

NOES: Commissioners:

ABSENT: Commissioners:

ABSTAIN: Commissioners:

ATTEST _____
Secretary, Planning Commission

Item 3b.

**CITY OF LODI
PLANNING COMMISSION
Staff Report**

MEETING DATE: April 13, 2010

APPLICATION NOS: Use Permit: 10-U-02
SPARC: 11-SP-03

REQUEST: Request for Planning Commission approval of a Use Permit to allow a Type 2 (Winery) Alcoholic Beverage Control License and approval of façade improvements to an existing building located at 20 North School Street. (Applicant: Ryan Sherman, on behalf of Fields Family Vineyards and Winery; File Number: 11-U-07).

LOCATION: 20 North School Street
(APN: 043-035-30)
Lodi, CA 95240

APPLICANT: Ryan Sherman
3803 East Woodbridge Road
Acampo, CA 95220

PROPERTY OWNER: Sean and Ashlee Guthrie
10613 Cornerstone Circle
Stockton, CA 95209-4205

RECOMMENDATION

Staff recommends that the Planning Commission approve Mr. Sherman’s request for a Use Permit to allow a Type 2 (Winery) Alcoholic Beverage Control License to operate a wine tasting room and approval to install façade improvement at 20 North School Street, subject to the conditions outlined in the attached resolution.

PROJECT/AREA DESCRIPTION

General Plan Designation: DMU, Downtown Mixed Use

Zoning Designation: C-2, General Commercial (Downtown Business District)

Property Size: Tenant space is approximately 1,500 sq. ft. The wine tasting room and the retail area measures approximately 950 sq. ft. The remaining balance is used for storage/office and will not be accessible to the public.

The adjacent zoning and land use are as follows:

	General Plan	Zone	Land Use
North	Downtown Mixed use	C-2, General Commercial	Mixture of retail/commercial
South	Downtown Mixed use	C-2, General Commercial	Mixture of retail/commercial
East	Downtown Mixed use	C-M, , Commercial-Light Industrial	Mixture of retail/commercial
West	Downtown Mixed use	C-2, General Commercial	Mixture of retail/commercial

SUMMARY

The applicant, Ryan Sherman, on behalf of Fields Family Vineyards and Winery, requests approval of a Use Permit to open a small wine tasting room and retail sales in an existing building located at 21 North School Street. The applicant intends to use this location to promote the sale of his own wines by the bottle or case through wine tasting and display. The applicant also intends to sell wine related gift items such as decanters, stemware, cork screws and the like. Wearable logo items will also be made available for purchase. The applicant has also submitted plans to reface existing fascia of the building repainting the existing wall and retouching windows and doors in black anodized finishes. The applicant would like to have outdoor seating for the wine tasting room, similar to the Cellar Door located directly across the street. The project area is in the downtown commercial center district, which features mixed use commercial and retail businesses. The proposed use is consistent with the City's vision of making Lodi a wine tasting tourist destination. Staff has notified all property owners within 300 feet of the site for this public hearing and has not received any opposition.

BACKGROUND

The proposed wine tasting room, if approved, would occupy a portion (900 sq. ft.) of the 1,500 sq. ft. building located at 20 North School Street, Lodi. Available City records indicate that the building has been used for various uses since its construction. The most recent use was a second hand store. Currently, there are no outstanding City or Building Code violations. The project site is bordered by a variety of businesses on all sides. The project site is within the Downtown Parking District and, therefore, no onsite parking is required. The applicant applied for building permit to allow Tenant Improvement and his application is pending.

ANALYSIS

Use Permit: The applicant requests approval of a Use Permit to allow the sale of bottles and cases of wine, and a wine tasting operation, use of the wine tasting space for various events such as wine dinners catered by outside vendors, private mixers, wine tasting and parties for organizations and businesses who want to rent space, and to host feature wine tasting events that may include educational components. A Type 2 license is required by the State Department of Alcohol Beverage Control (ABC) for the operation of a winery and wine tasting. No food would be prepared at the project site. The proposed hours of operations are Monday-Wednesday by appointment, Thursday noon-6:00 p.m., Friday-Saturday 11:00 a.m.-7:00 p.m., and Sunday noon-5:00 p.m. The proposed hours of operation are similar to other wine tasting rooms in Lodi.

The project is located in a General Commercial (C-2) zoning district and the building offers space for the type of business the applicants propose. The winery will be located within the City's downtown and will support and compliment other downtown businesses. The C-2 zoning district is designated for a variety of general commercial uses, including wineries. The proposed winery is consistent with the types of uses one would expect to find in a General Commercial zoning district. In the future, the applicant would like to serve wine on the sidewalk, similar to the Cellar Door and Benson Ferry Wine Tasting rooms. The applicant intends to use this location to promote the sale of his products he currently produces in the county. No crushing or making activities will occur at this location.

Section 17.72.040 of the Lodi Municipal Code requires a Use Permit for new Off-Sale and On-Sale alcohol licenses as well as changes in license type. The City established the Use Permit requirement to gain local control over whether or not a license is appropriate for a particular location. The State Department of Alcoholic Beverage Control primarily controls issuance based on concentration of licenses within a particular Census Tract. Census Tract 42.04 covers the area south of Holly Drive, west of Sacramento Street, north of Lodi Avenue, and east of Ham Lane. Because this area is within the downtown area, there is an existing over concentration of ABC licenses (29 on-sale and 4 off-sale) within this Census Tract. However, wineries, wine

production facilities and associated wine tasting rooms and retail sales of wine are exempt from ABC regulations related to over-concentration and the need to obtain public necessity and convenience from the Planning Commission. However, the Commission should review the application to ensure that sale of alcohol will not adversely affect surrounding residents, businesses, and institutions and to ensure that any such use operates in a manner compatible with existing and future adjacent uses. In the past, the Planning Commission and the Planning staff have generally supported wineries and wine manufacturing operations that wish to acquire an ABC on-sale license because, typically, they do not create alcohol related problems.

SPARC: The applicant proposes to rebuild the existing fascia by repainting the existing walls, canopy, parapet and windows and door. The façade improvements would be installed at the project site and the adjacent tenant space to the north, currently occupied by a bar named Ollie's Tavern. The proposed work is minor in scope and would create a substantial improvement to the façade of the structure and create architectural interest to create a significantly enhanced street presence. The proposed exterior improvements, including outdoor seating, do not alter pedestrian circulation, remove landscaping, or tamper with accessible ramps and other amenities. No signage has been proposed as part of this façade improvement. All future signage would have to follow the Downtown Design Guidelines, which provide a balanced approach to achieve overall consistency in downtown area without sacrificing individuality for tenants to identify their businesses. The sign guidelines provide clear parameters as to the signs dimensions, location and type of lighting permitted. The storefront design guidelines emphasize the use of quality materials and design to make the stores and the overall center a success.

Considered together, the proposed improvements are intended to integrate better with the Downtown Design Guidelines, creating a significantly enhanced street presence. Staff believes the proposed building facade improvements maintain an appropriate building scale, mass, and proportion and are compatible with the architectural style and characteristics of the existing building and the surrounding neighborhood. The proposed improvements do not include the use of extreme colors—the applicant proposes to use tan paint for the walls and a dark color for the doors, window and canopy features. The colors will be compatible with the architectural style and characteristics of the existing building and the surrounding neighborhood.

The Community Development Department is of the opinion that the proposed project is consistent with the surrounding land uses and zoning; and with the City's policy to encourage the wine production and wine tasting industry. The intended nature of this operation does not promote excessive onsite consumption of alcohol and, therefore, staff does not expect any problems with this type of establishment. Since no crushing is being proposed as part of this Use Permit, there will be wine waste to be concerned about. The proposed use is consistent with the City's vision of making Lodi a wine tasting tourist destination. The wine tasting rooms are a large part of this vision for they not only compliment other downtown businesses such as restaurants and boutiques, but add to the character of the City by promoting local wineries and viticulture. Staff has contacted various City departments for review and approval. We, therefore, are recommending that the Use Permit be approved, subject to the attached resolution.

ENVIRONMENTAL ASSESSMENTS

The project was found to be categorically exempt according to the California Environmental Quality Act, Article 19 15321 Class 21 (a) (2). The project is classified as an "Enforcement Action by Regulatory Agencies" because it is the "adoption of an administrative decision or order enforcing...the lease, permit, license, certificate, or entitlement for use or enforcing the general rule, standard, or objective." The project was also found to be categorically exempt according to the California Environmental Quality Act, Article 19 15332 Class 32 (a) (b) (c) (d) and (e). The project is classified as in-fill development meeting the conditions described therein.

No significant impacts are anticipated and no mitigation measures have been required. No significant impacts are anticipated and no mitigation measures have been required.

PUBLIC HEARING NOTICE:

Legal Notice for the Use Permit was published on April 2, 2011. 40 public hearing notices were sent to all property owners of record within a 300-foot radius of the project site as required by California State Law §65091 (a) 3. Public notice also was mailed to interested parties who had expressed their interest of the project.

ALTERNATIVE PLANNING COMMISSION ACTIONS:

- Approve with additional/different conditions
- Deny the Use Permit and SPARC request
- Continue the request

Respectfully Submitted,

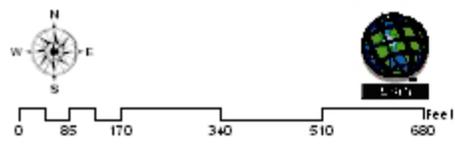
Concur,

Immanuel Bereket
Associate Planner

Konradt Bartlam
Community Development Director

ATTACHMENTS

- A. Vicinity Map
- B. Aerial Map
- B. Floor Plan
- C. Existing and Proposed Elevations
- D. Draft Resolution



Vicinity Map
 Fields Family Vineyards and Winery
 20 North School Street
 Lodi, CA 95240

Legend
 Project Site

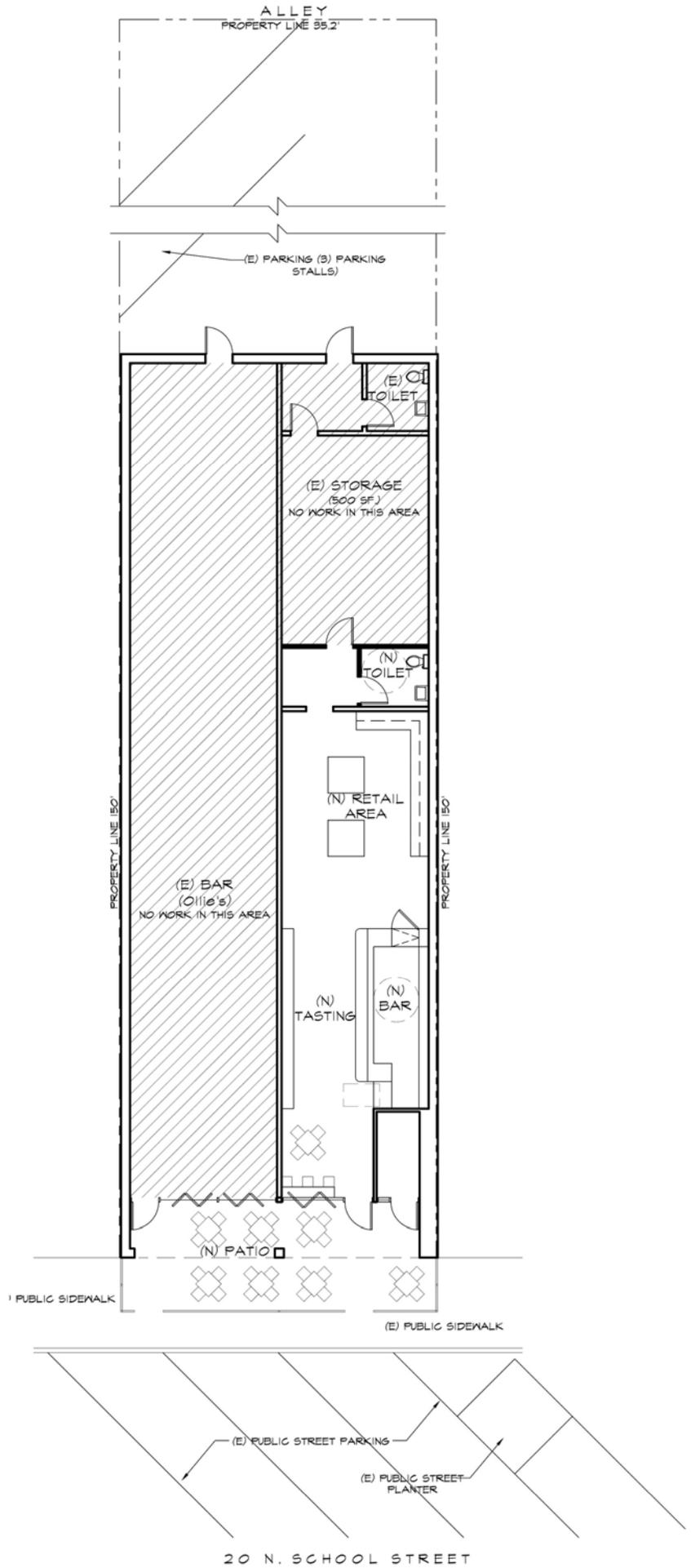


0 25 50 100 150 200 feet

Aerial Map
Fields Family Vineyards and Winery
20 North School Street
Lodi, CA 95240

Legend

 Project Site



SITE/FLOOR PLAN

SCALE: 1/8" = 1'-0"
 REFERENCE NORTH

Existing Elevations



**Fields Family Vineyards and Winery
20 North School Street
Lodi, CA 95240**



COLOR FRONT EXTERIOR ELEVATION

SCALE: 1/4" = 1'-0"



EXISTING REAR ELEVATION

(NO WORK)

SCALE: N.T.S.

RESOLUTION NO. P.C. 11

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF LODI APPROVING THE REQUEST OF RYAN SHERMAN, ON BEHALF OF FIELDS FAMILY VINEYARDS AND WINERY, FOR A USE PERMIT TO ALLOW A TYPE-2 WINEGROWER ALCOHOLIC BEVERAGE CONTROL LICENSE AND APPROVAL OF FAÇADE IMPROVEMENTS TO AN EXISTING BUILDING LOCATED AT 20 NORTH SCHOOL STREET

WHEREAS, the Planning Commission of the City of Lodi has heretofore held a duly noticed public hearing, as required by law, on the requested Use Permit, in accordance with the Lodi Municipal Code, Section 17.72.070; and

WHEREAS, the project proponent is Ryan Sherman, on behalf of Fields Family Vineyards and Winery, 3803 East Woodbridge Road, Acampo, CA 95220; and

WHEREAS, the project is located at 20 North School Street, Lodi, CA 95240 (APN: 043-082-03); and

WHEREAS, the property has a General Plan designation of Downtown Mixed Use and is zoned C-2, General Commercial and is within the Downtown Business District as well as the Downtown Parking District; and

WHEREAS, the project parcel is owned by Sean and Ashlee Guthrie, 10613 Cornerstone Circle, Stockton, CA 95209-4205; and

WHEREAS, the requested Use Permit to allow on-site wine tasting and retail sales thereof is an enforcement action in accordance with the City of Lodi Zoning Ordinance; and

WHEREAS, the State Department of Alcoholic Beverage Control has training available that clearly communicates State law concerning the sale of alcoholic beverages.

WHEREAS, all legal prerequisites to the adoption of this Resolution have occurred; and

Based upon the evidence within the staff report and project file the Planning Commission finds:

1. The project was found to be categorically exempt according to the California Environmental Quality Act, Article 19 15321 Class 21 (a) (2). The project is classified as an “Enforcement Action by Regulatory Agencies” because it is the “adoption of an administrative decision or order enforcing...the lease, permit, license, certificate, or entitlement for use or enforcing the general rule, standard, or objective.” The project was also found to be categorically exempt according to the California Environmental Quality Act, Article 19 15332 Class 32 (a) (b) (c) (d) and (e). The project is classified as in-fill development meeting the conditions described therein. No significant impacts are anticipated and no mitigation measures have been required. No significant impacts are anticipated and no mitigation measures have been required.
2. The sale of alcoholic beverages for on-premise consumption as part of a wine tasting room and wine production operations is a permitted use in the C-2 zoning District. The site is suitable and adequate for the proposed use because establishment of a winery on this site would not create negative impacts on businesses, residents and instructional uses in the vicinity, and the applicant proposes to perform a tenant improvement in order to meet building code requirements.
3. The on-site consumption of wine in conjunction with a wine tasting room operation, in accordance with a Type 2 Alcoholic Beverage Control License and with the conditions attached herein, would be consistent and in harmony with the Downtown Mixed Use General Plan Land Use Designation and C-2 zoning District.
4. The proposed use is consistent with the General Plan because commercial uses such as the one proposed are permitted in accordance with Land Use Policy subject to a discretionary review.
5. The proposed use would not have an adverse economic effect on nearby uses because operation of a wine production operation in accordance with applicable laws and under the conditions of this Use Permit is anticipated to be an economic benefit to the community.

6. The sale and consumption of alcohol can sometimes result in customer behavior problems that can require police intervention.
7. Steps can be taken by the Applicant/Operator to reduce the number of incidents resulting from the over-consumption of alcohol including the proper training and monitoring of employees serving alcohol; the careful screening of IDs of customers to avoid sales to under-aged individuals; limiting the number of drinks sold to individual customers to avoid over-consumption; providing properly trained staff to monitor customer behavior both in and outside of the establishment; and working with the Lodi Police Department to resolve any problems that may arise.
8. The proposed use can be compatible with the surrounding use and neighborhood if the business is conducted properly and if the Applicant/Operator works with neighboring businesses and residents to resolve any problems that may occur.
9. The proposed use would not be detrimental to the general welfare of persons residing and working in the immediate vicinity, the neighborhood or the community at large because the sale of alcohol with a wine tasting operation is not typically associated with detrimental impacts to the community.
10. The proposed use is consistent with the City's vision of making Lodi a wine tasting tourist destination point.
11. The wine tasting room will add to the character of the City by promoting local wineries and viticulture.

NOW, THEREFORE, BE IT DETERMINED AND RESOLVED by the Planning Commission of the City of Lodi that Use Permit Application No. 11-U-07 and SPARC Application No. 11-SP-03 are hereby approved, subject to the following conditions:

1. The property owner and/or developer and/or successors in interest and management shall, at their sole expense, defend, indemnify and hold harmless the City of Lodi, its agents, officers, directors and employees, from and against all claims, actions, damages, losses, or expenses of every type and description, including but not limited to payment of attorneys' fees and costs, by reason of, or arising out of, this development approval. The obligation to defend, indemnify and hold harmless shall include, but is not limited to, any action to arbitrate, attack, review, set aside, void or annul this development approval on any grounds whatsoever. The City of Lodi shall promptly notify the developer of any such claim, action, or proceeding and shall cooperate fully in the defense.
2. The property owner and/or developer and/or successors in interest and management shall insure that the serving of alcohol does not cause any condition that will cause or result in repeated activities that are harmful to the health, peace or safety of persons residing or working in the surrounding area. This includes, but is not limited to: disturbances of the peace, illegal drug activity, public intoxication, drinking in public, harassment of people passing by, assaults, batteries, acts of vandalism, loitering, excessive littering, illegal parking, excessive loud noises, traffic violations or traffic safety based upon last drink statistics, curfew violations, lewd conduct, or police detention and arrests.
3. The property owner and/or developer and/or successors in interest and management shall operate the project in strict compliance with the approvals granted herein, City standards, laws, and ordinances, and in compliance with all State and Federal laws, regulations, and standards. In the event of a conflict between City laws and standards and a State or Federal law, regulation, or standard, the stricter or higher standard shall control.
4. The project proponent/applicant/operator and/or developer and/or successors in interest and management shall operate and abide by the requirements and conditions of the State of California Department of Alcoholic Beverage Control License Type 2. The Type 2 License shall be limited to on-site sale and wine tasting during the hours that the business is open for operation, Tuesday – Saturday from 12:00 pm to 9 pm, Sundays 12:00 pm to 5:00 pm and closed on Mondays or as otherwise modified by the Community Development Director. The on-site sale and consumption of wine shall occur only during the said hours.
5. The City reserves the right to periodically review the area for potential problems. If problems (on-site or within the immediate area) including, but not limited to, public drunkenness, the illegal sale or use of narcotics, drugs or alcohol, disturbing the peace and disorderly conduct result from the proposed

land use, the Use Permit may be subject to review and revocation by the City of Lodi after a public hearing and following the procedures outlined in the City of Lodi Municipal Code. Additional reviews may be prescribed by the Community Development Director, the Police Department and/or Planning Commission as needed during and after the first two years of probationary period. Further, starting from the effective date the business commences the sale of wine, this Use Permit shall be subject to a one year, and two year review by the Community Development Director. If the Director determines it necessary, the Director shall forward the review to the Planning Commission to review the business's operation for compliance with the conditions of the Use Permit, and in response to any complaints thereafter.

6. Prior to the issuance of a Type-2 license, the project proponent/applicant/operator and/or developer and/or successors in interest and management shall complete Licensee Education on Alcohol and Drugs as provided by the State Department of Alcoholic Beverage Control.
7. The Lodi Police Department may, at any time, request that the Planning Commission conduct a hearing on the Use Permit for the purpose of amending or adding new conditions to the Use Permit or to consider revocation of said Use Permit if it becomes a serious policing problem.
8. That applicants shall be allowed to use the wine tasting space for various events such as wine dinners catered by outside vendors, private mixers, wine tasting and parties for organizations and businesses who want to rent space, and to host feature wine tasting events that may include educational components.
9. All temporary and permanent signage proposed in connection with the wine making and wine tasting operation shall be reviewed and approved by the Community Development Department.
10. No variance from any City of Lodi adopted code, policy or specification is granted or implied by the approval of this resolution.
11. The wine tasting operation shall be conducted in a manner that will not adversely impact neighboring properties or businesses.
12. No wine crushing and/or making operations shall occur at this site.
13. The applicant shall submit complete and adequate Tenant Improvement plans to the Building Division for review and approval. The said plans shall be based on the City of Lodi Building Regulations and currently adopted 2010 California Building Code.
14. Final exterior materials and colors shall be consistent with what is shown on the SPARC plans and be approved by the Community Development Director prior to issuance of building permit.
15. The subject site shall be maintained in a sanitary, litter-free, graffiti-free, and respectable appearance. Any damage or vandalism sustained to the property shall be repaired within a maximum of fourteen (14) days.
16. Any fees due the City of Lodi for processing this Project shall be paid to the City within thirty (30) calendar days of final action by the approval authority. Failure to pay such outstanding fees within the time specified shall invalidate any approval or conditional approval granted. No permits, site work, or other actions authorized by this action shall be processed by the City, nor permitted, authorized or commenced until all outstanding fees are paid to the City.

Community Development Department, Building Division:

17. Tenant Improvement plan required for partial change of use and proposed construction. All plan submittals shall be based on the City of Lodi Building Regulations and currently adopted 2010 California Building code. Please review our policy handouts for specific submittal procedures.
18. Based on the calculated occupant load for each area of the Tenant Space, the required number of exits, separation of exits, exiting widths and travel distance shall be provided. 2010 CBC, Sections 1004, 1005, 1014, 1015, 1016, 1020, 1021

- 19. As this appears to be a B/M occupancy with a total square footage of 1500 sqft or less, a single accommodation unisex restroom facility is allowed as per 2010 CPC, Section 412.3, Exception 3.
- 20. The Site Plan/Floor Plan shows a new single accommodation restroom. The new restroom will be required to be accessible as per 2010 CBC, Section 1115B.1.1
- 21. The Site Plan/Floor Plan shows a new bar. Where food or drink is served at counters exceeding 34" in height for consumption by customers standing or seated at the counter, a portion of the main counter, which is minimum 60" in length, 28"-34" in height, with knee clearances of minimum 27" height, and 19" deep shall be provided. 2010 CBC Sections 1122B, 1104B.5(4)
- 22. The front elevation appears to show a new fence in the front of the building. Paths of travel and exit width shall be maintained from the exit doors and the public way. 2010 CBC, Section 1003.
- 23. The rear elevation appears to show a fence enclosing the rear door. Paths of travel and exit width shall be maintained from the exit doors and the public way. 2010 CBC, Section 1003.

Public Works Department:

- 24. The project proponent/applicant/operator and/or developer and/or successors in interest and management shall obtain a Downtown Encroachment Permit from the Public Works Department for the proposed outdoor seating.
- 25. All project design and construction shall be in full compliance with the Americans with Disabilities Act (ADA). Project compliance with ADA standards is the developer's responsibility.
- 26. Payment of the following prior to building permit issuance unless noted otherwise:
 - a. Filing and processing fees and charges for services performed by City forces per the Public Works Fee and Service Charge Schedule.
 - b. Wastewater Capacity Impact Fee at the time of occupancy.

Dated: April 13, 2010

I certify that Resolution No. 11- was passed and adopted by the Planning Commission of the City of Lodi at a regular meeting held on April 13, 2010 by the following vote:

AYES: Commissioners:

NOES: Commissioners:

ABSENT: Commissioners:

ABSTAIN: Commissioners:

ATTEST _____
Secretary, Planning Commission

Item 3c.

**CITY OF LODI
PLANNING COMMISSION
Staff Report**

MEETING DATE: April 13, 2011

APPLICATION NO: Use Permit: 11-U-08

REQUEST: Request for Planning Commission approval of a Use Permit to allow a Type-2 Winegrower Alcoholic Beverage Control License at located at 21 East Elm Street. (Applicant: Jeff Werter, on behalf of Toasted Toad Cellars. File Number: 11-U-08)

LOCATION: 21 East Elm Street
APN: 043-082-03
Lodi, CA 95240

APPLICANT: Jeff Werter, on behalf of Toasted Toad Cellars
4942 Cache Peak Drive
Antioch, CA 94531

PROPERTY OWNER: Ann H. Peden
12272 Jerri Drive
Glen Ellen, CA 95442

RECOMMENDATION

Staff recommends that the Planning Commission approve the request of Jeff Werter, on behalf of Toasted Toad Cellars, for a Use Permit to allow a winemaking facility, to include the winery and a wine tasting room, at 21 Elm Street, subject to the conditions outlined in the attached resolution.

PROJECT/AREA DESCRIPTION

General Plan Designation: Downtown Mixed use
Zoning Designation: M-1, Light Industrial
Property Size: Approximately 5,200 sq. ft.

The adjacent zoning and land use characteristics:

	General Plan	Zone	Land Use
North	Downtown Mixed use	C-M, Commercial-Light Industrial	City owned property
South	Downtown Mixed use	C-M, , Commercial-Light Industrial	Vacant land
East	Downtown Mixed use	C-M, , Commercial-Light Industrial	Auto shop
West	Downtown Mixed use	C-M, , Commercial-Light Industrial	Railroad line (U.P.R.R)

SUMMARY

The applicant, Mr. Jeff Werter, on behalf of Toasted Toad Cellars, requests approval of a Use Permit to allow winemaking, wine retail sale and wine tasting in a vacant building located at 21 East Elm Street. The applicant currently conducts their wine making activities at Estate Crush, which is located at 2 West Lockeford Street. Estate Crush provides wine crushing and services to other wineries. The applicant would like to move out of Estate Crush and conduct their own production operation at 21 East Elm Street. As part of their

wine production operation, the applicant would also like to open a small tasting room and sell wine by the bottle or case. The owner is applying for a license through the California Department of Alcoholic Beverage Control (ABC) to allow the proposed business. Approval of this Use Permit does not entitle the applicant live entertainment privileges. Staff has notified all property owners within 300 feet of the site for this public hearing and has not received any opposition.

BACKGROUND

Toasted Toad Cellars currently crush their wine at Estate Crush, which provides wine production services to boutique wineries and individuals who do not have their own crushing facility. Available City records indicate that the most recent use of the vacant building was for automotive related business. As proposed, Grapes would be delivered to the site in 1/2 ton vessels using pick-ups and small flatbed trucks. The property will be remodeled to accommodate the proposed use. The use meets off-street parking requirements. The area surrounding the site is all zoned C-M, commercial-light industrial and is developed with a variety of commercial and light industrial uses.

ANALYSIS

The applicant requests approval of a Use Permit to allow winemaking, wine tasting and a small retail wine sales operation at 21 East Elm Street. The applicant currently doesn't own his own wine production facility and has his wine production operations conducted within an existing winemaker in town. The subject property and all the surrounding properties are zoned C-M, commercial-light industrial. These zones permit a variety of industrial uses, including wineries. All the winemaking operation will be enclosed in the existing vacant building. Inside of the building will be steel storage tanks, areas for barrels, wine tasting room and a small office. The production area will include a climate controlled barrel room and case storage area. The grape crushing will involve bringing the grapes into the winery by 1/2 ton vessels using pick-ups and small flatbed trucks. Given the limited capacity of the winery, the number of trucks should be limited. According to the project description provided by the applicant, the winery will only produce around 1,200 cases of wine annually. The wine tasting operation will be Tuesday – Sunday from 11:00 pm to 6:00 pm, Sundays 12:00 pm to 5:00 pm and closed on Mondays. Wine operation hours would be limited to 8:00 am to 6:00 pm. typically limited to during harvest season. The proposed hours are similar to other wine tasting rooms the Planning Commission has approved in the past.

According to the Lodi Municipal Code Section 17.60.100, the required parking for storage/warehouse uses require one space for every 750 sq. ft; and office/retail uses require one space for every 250 sq. ft. Based on Lodi Municipal Code parking space calculation ratio, the existing warehouse would require 4 stalls and office use would require 7 stalls. The project site is credited with 29 spaces based on the previous use (auto repair). The proposed use, which is expected to employ 4 people once entirely completed, is less intensive use in that wine crushing operation does not typically generate significant parking demands. Given that the majority of the building constitutes warehouse (barrel room and crushing area), staff does not anticipate the total parking demand to exceed the total parking credited to this project site (29). Further, since the subject property is within 1 block of the Downtown Parking District and is within a walking distance from the downtown parking garage, staff is of the opinion there will not be significant parking related problems.

The Municipal Code of the City of Lodi requires the approval of a Use Permit by the Planning Commission for retail businesses and restaurants which sell alcoholic beverages (LMC § 17.72.040). The City established the Use Permit requirement to gain local control

over whether or not a license is appropriate for a particular location. The Department of Alcoholic Beverage Control primarily controls issuance based on concentration of licenses within a particular Census Tract. The project site belongs to Census Tract 45. Census Tract 45 covers the area south of Mokelumne River, west of Guild Avenue, north of Lodi Avenue and east of Union Pacific Rail Road (U.P.R.R) Line. According to ABC, Census Tract 45 contains ten (10) existing on-sale licenses with eight (8) on-sale licenses allowed based on the ABC criteria. However, wineries, wine production facilities and associated wine tasting rooms and retail sales of wine are exempt from ABC regulations related to over-concentration and the need to obtain public necessity and convenience from the Planning Commission. However, the Commission should review the application to ensure that sale of alcohol will not adversely affect surrounding residents, businesses, and institutions and to ensure that any such use operates in a manner compatible with existing and future adjacent uses. In the past, the Planning Commission and the Planning staff have generally supported wineries and wine manufacturing operations that wish to acquire an ABC on-sale license because, typically, they do not create alcohol related problems.

Staff has contacted the Lodi Police Department for comment on the proposed Use Permit application. Other departments have also reviewed the application and their requirements have been incorporated into the attached draft resolution. The proposed use is consistent with the City's vision of making Lodi a wine tasting tourist destination point. The wine tasting rooms are a large part of this vision for they not only compliment other downtown businesses such as restaurants and boutiques, but add to the character of the City by promoting local wineries and viticulture. All of the winery operations will take place within the building space. The only operation that will take place outside is the unloading of the merchandise from the trucks where they will be transported into the building. This unloading should be minimal and of no significant effect to the downtown. It is staff's opinion that the proposed location for the winery is appropriate. The area is industrial in nature and the winery is an industrial use. The wine tasting aspect of the operation will be limited so there should not be any adverse effects from the consumption of wine. Generally people tasting wine do not consume enough to create a problem and the winery is responsible for monitoring their customers and determining the appropriate limits on consumption. Conditions of approval require removal of skins, seeds and general wine waste to be removed off-site within 12 hours. The applicant's request is no different than other wine making operations the Planning Commission has approved in the past. We, therefore, are recommending that the Use Permit be approved, subject to the attached resolution.

ENVIRONMENTAL ASSESSMENTS

The project was found to be categorically exempt according to the California Environmental Quality Act, Article 19 15321 Class 21 (a) (2). The project is classified as an "Enforcement Action by Regulatory Agencies" because it is the "adoption of an administrative decision or order enforcing...the lease, permit, license, certificate, or entitlement for use or enforcing the general rule, standard, or objective." The project was also found to be categorically exempt according to the California Environmental Quality Act, Article 19 15332 Class 32 (a) (b) (c) (d) and (e). The project is classified as in-fill development meeting the conditions described therein. No significant impacts are anticipated and no mitigation measures have been required. No significant impacts are anticipated and no mitigation measures have been required.

PUBLIC HEARING NOTICE:

Legal Notice for the Use Permit was published on April 2, 2011. 26 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.

ALTERNATIVE PLANNING COMMISSION ACTIONS:

- Approve the request with attached or alternate conditions
- Deny the request
- Continue the request

Respectfully Submitted,

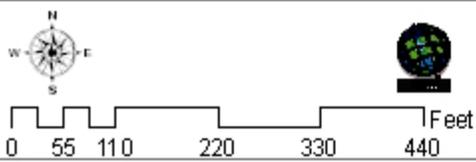
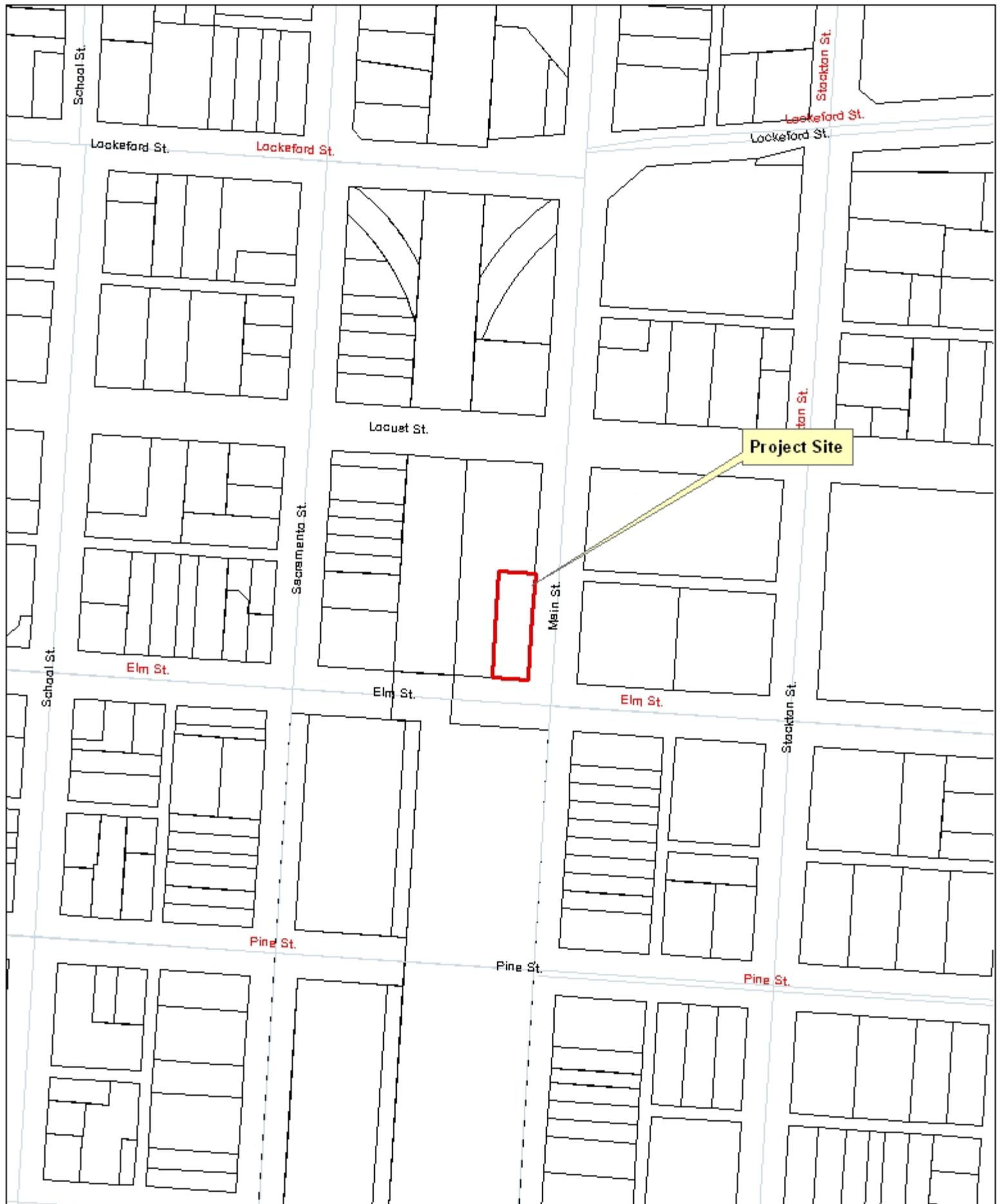
Concur,

Immanuel Bereket
Associate Planner

Konradt Bartlam
Community Development Director

ATTACHMENTS:

1. Vicinity Map
2. Aerial Photo
3. Site Plan and Floor Plan
4. Draft Resolution



Vicinity Map
 Toasted Toad Cellars
 21 East Elm Street
 Lodi, CA 95240

Legend

 Project Site

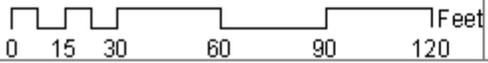


Project Site

Main St

Elm St

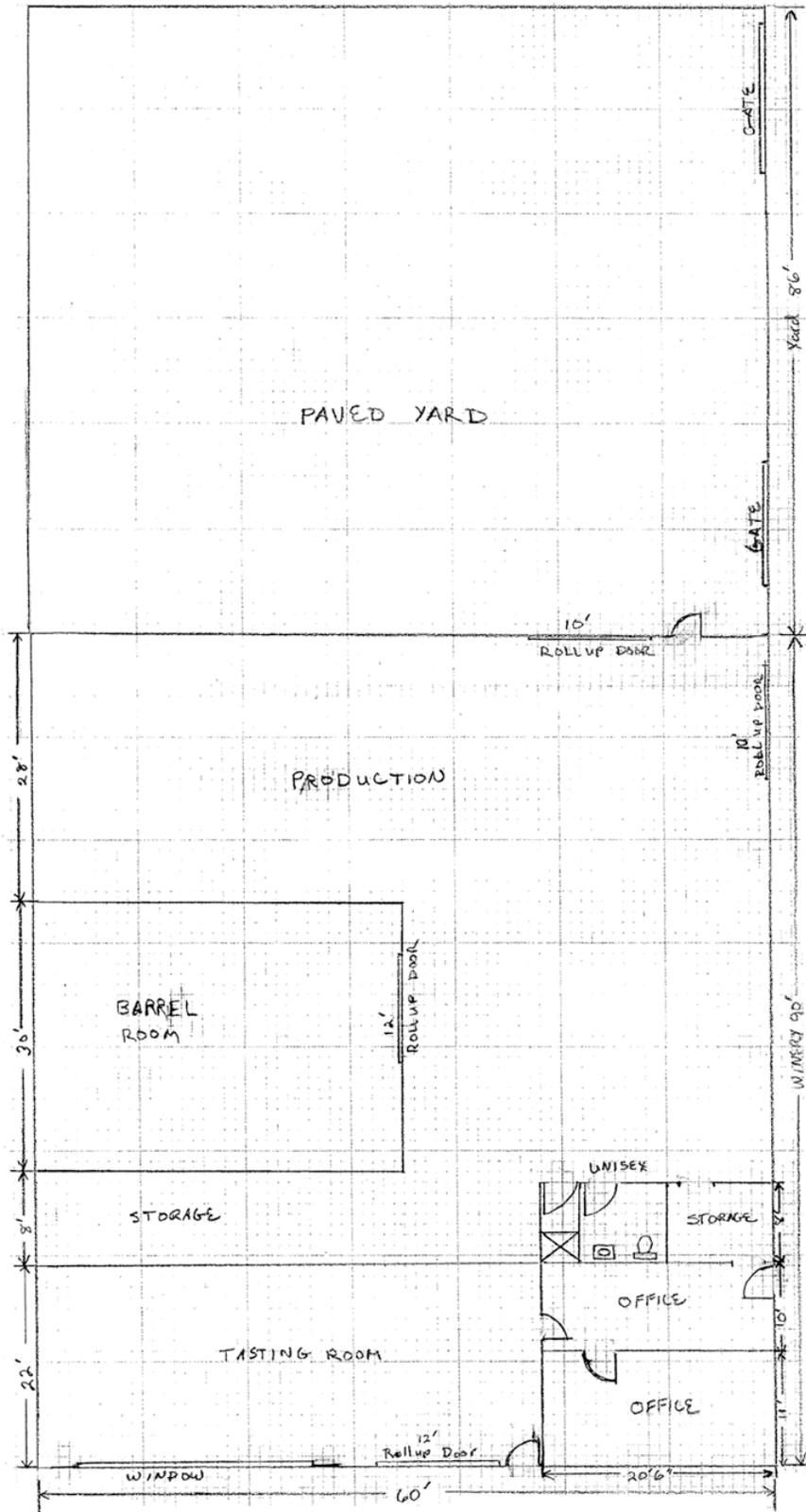
Elm St



Vicinity Map
Toasted Toad Cellars
21 East Elm Street
Lodi, CA 95240

Legend

 Project Site



Main Street

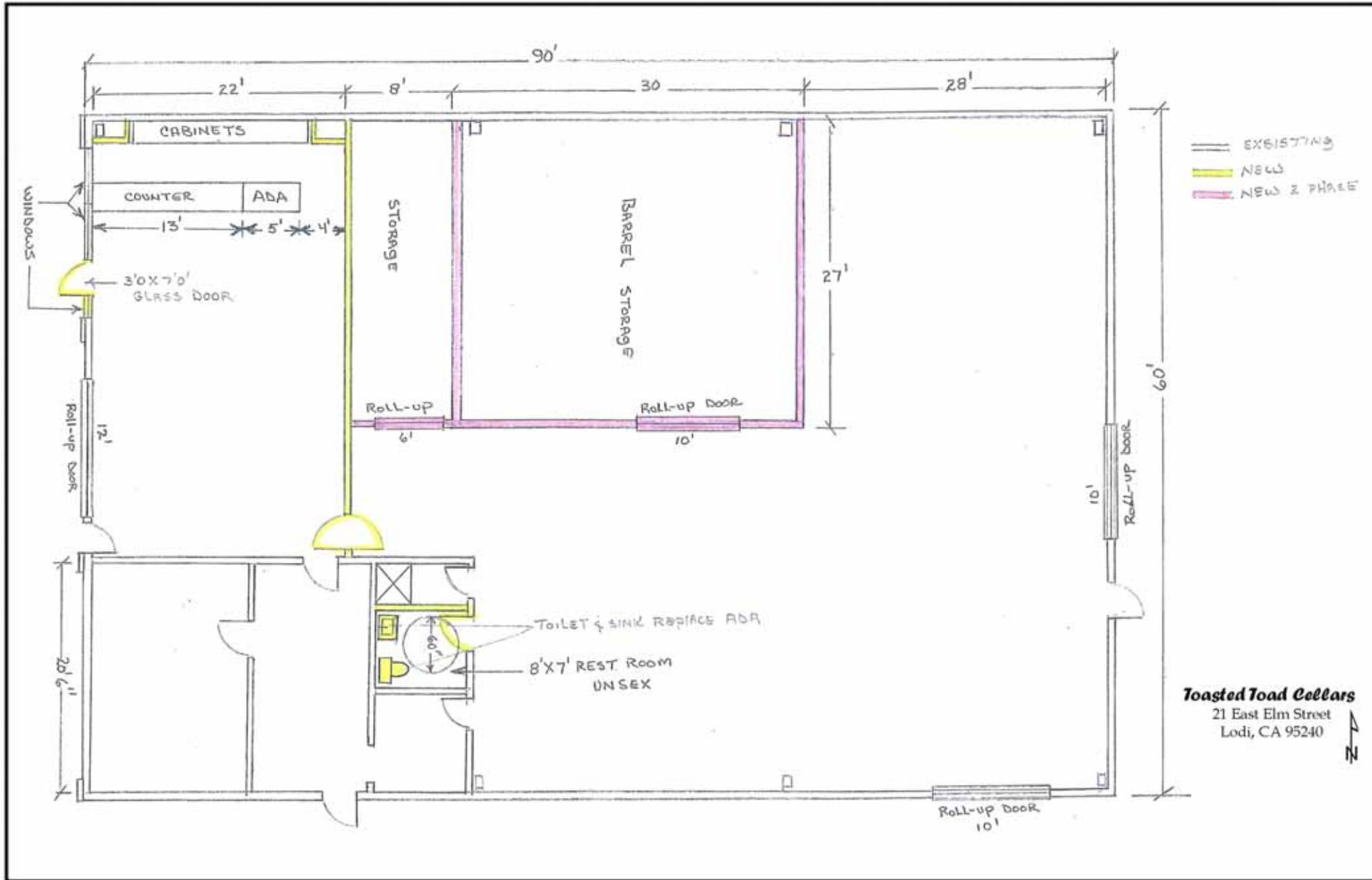
Elm Street

Toasted Toad Cellars

21 East Elm Street

Lodi, CA 95240





RESOLUTION NO. P.C. 11

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF LODI APPROVING THE REQUEST OF JEFF WERTER, ON BEHALF OF TOASTED TOAD CELLARS, FOR A USE PERMIT TO ALLOW A TYPE-2 WINEGROWER ALCOHOLIC BEVERAGE CONTROL LICENSE LOCATED AT 21 EAST ELM STREET

WHEREAS, the Planning Commission of the City of Lodi has heretofore held a duly noticed public hearing, as required by law, on the requested Use Permit, in accordance with the Lodi Municipal Code, Section 17.72.070; and

WHEREAS, the project proponent is Jeff Werter, on behalf of Toasted Toad Cellars, 4942 Cache Peak Drive, Antioch; and

WHEREAS, the project is located at 21 East Elm Street, Lodi, CA 95240 (APN: 043-082-03); and

WHEREAS, the property has a General Plan designation of Downtown Mixed Use and is zoned C-M, Commercial Light Industrial; and

WHEREAS, the project parcel is owned by Ann H. Peden, 12272 Jerri Drive, Glen Ellen, CA 95442; and

WHEREAS, the requested Use Permit to allow wine crushing, on-site wine tasting and retail sales thereof is an enforcement action in accordance with the City of Lodi Zoning Ordinance; and

WHEREAS, the State Department of Alcoholic Beverage Control has training available that clearly communicates State law concerning the sale of alcoholic beverages.

WHEREAS, all legal prerequisites to the adoption of this Resolution have occurred; and

Based upon the evidence within the staff report and project file the Planning Commission finds:

1. The project was found to be categorically exempt according to the California Environmental Quality Act, Article 19 15321 Class 21 (a) (2). The project is classified as an "Enforcement Action by Regulatory Agencies" because it is the "adoption of an administrative decision or order enforcing...the lease, permit, license, certificate, or entitlement for use or enforcing the general rule, standard, or objective." The project was also found to be categorically exempt according to the California Environmental Quality Act, Article 19 15332 Class 32 (a) (b) (c) (d) and (e). The project is classified as in-fill development meeting the conditions described therein. No significant impacts are anticipated and no mitigation measures have been required. No significant impacts are anticipated and no mitigation measures have been required.
2. The sale of alcoholic beverages for on-premise consumption as part of a wine tasting room and wine production operations is a permitted use in the C-M zoning District. The site is suitable and adequate for the proposed use because establishment of a winery on this site would not create negative impacts on businesses, residents and instructional uses in the vicinity, and the applicant proposes to perform a tenant improvement in order to meet building code requirements.
3. The on-site consumption of wine in conjunction with a wine tasting room operation, in accordance with a Type 2 Alcoholic Beverage Control License and with the conditions attached herein, would be consistent and in harmony with the Downtown Mixed Use General Plan Land Use Designation and C-M zoning District.
4. The proposed use is consistent with the General Plan because commercial uses such as the one proposed are permitted in accordance with Land Use Policy subject to a discretionary review.

5. The proposed use would not have an adverse economic effect on nearby uses because operation of a wine production operation in accordance with applicable laws and under the conditions of this Use Permit is anticipated to be an economic benefit to the community.
6. The sale and consumption of alcohol can sometimes result in customer behavior problems that can require police intervention.
7. Steps can be taken by the Applicant/Operator to reduce the number of incidents resulting from the over-consumption of alcohol including the proper training and monitoring of employees serving alcohol; the careful screening of IDs of customers to avoid sales to under-aged individuals; limiting the number of drinks sold to individual customers to avoid over-consumption; providing properly trained staff to monitor customer behavior both in and outside of the establishment; and working with the Lodi Police Dept. to resolve any problems that may arise.
8. The proposed use can be compatible with the surrounding use and neighborhood if the business is conducted properly and if the Applicant/Operator works with neighboring businesses and residents to resolve any problems that may occur.
9. The proposed use would not be detrimental to the general welfare of persons residing and working in the immediate vicinity, the neighborhood or the community at large because the sale of alcohol with a wine tasting operation is not associated with detrimental impacts to the community.
10. The proposed use is consistent with the City's vision of making Lodi a wine tasting tourist destination point.
11. The wine tasting room will add to the character of the City by promoting local wineries and viticulture.

NOW, THEREFORE, BE IT DETERMINED AND RESOLVED by the Planning Commission of the City of Lodi that Use Permit Application No. 11-U-08 is hereby approved, subject to the following conditions:

1. The property owner and/or developer and/or successors in interest and management shall, at their sole expense, defend, indemnify and hold harmless the City of Lodi, its agents, officers, directors and employees, from and against all claims, actions, damages, losses, or expenses of every type and description, including but not limited to payment of attorneys' fees and costs, by reason of, or arising out of, this development approval. The obligation to defend, indemnify and hold harmless shall include, but is not limited to, any action to arbitrate, attack, review, set aside, void or annul this development approval on any grounds whatsoever. The City of Lodi shall promptly notify the developer of any such claim, action, or proceeding and shall cooperate fully in the defense.
2. The property owner and/or developer and/or successors in interest and management shall insure that the serving of alcohol does not cause any condition that will cause or result in repeated activities that are harmful to the health, peace or safety of persons residing or working in the surrounding area. This includes, but is not limited to: disturbances of the peace, illegal drug activity, public intoxication, drinking in public, harassment of people passing by, assaults, batteries, acts of vandalism, loitering, excessive littering, illegal parking, excessive loud noises, traffic violations or traffic safety based upon last drink statistics, curfew violations, lewd conduct, or police detention and arrests.
3. The property owner and/or developer and/or successors in interest and management shall operate the project in strict compliance with the approvals granted herein, City standards, laws, and ordinances, and in compliance with all State and Federal laws, regulations, and standards. In the event of a conflict between City laws and standards and a State or Federal law, regulation, or standard, the stricter or higher standard shall control.

4. The project proponent/applicant/operator and/or developer and/or successors in interest and management shall operate and abide by the requirements and conditions of the State of California Department of Alcoholic Beverage Control License Type 2. The Type 2 License shall be limited to on-site sale and wine tasting operation during the hours that the business is open for business, Tuesday – Saturday from 12:00 pm to 9 pm, Sundays 12:00 pm to 5:00 pm and closed on Mondays or as otherwise modified by the Community Development Director. The on-site sale and consumption of wine shall occur only during the said hours.
5. The City reserves the right to periodically review the area for potential problems. If problems (on-site or within the immediate area) including, but not limited to, public drunkenness, the illegal sale or use of narcotics, drugs or alcohol, disturbing the peace and disorderly conduct result from the proposed land use, the Use Permit may be subject to review and revocation by the City of Lodi after a public hearing and following the procedures outlined in the City of Lodi Municipal Code. Additional reviews may be prescribed by the Community Development Director, the Police Department and/or Planning Commission as needed during and after the first two years of probationary period. Further, starting from the effective date the business commences the sale of wine, this Use Permit shall be subject to a one year, and two year review by Community Development Director. If the Director determines it necessary, the Director shall forward the review to the Planning Commission to review the business's operation for compliance with the conditions of the Use Permit, and in response to any complaints thereafter.
6. Prior to the issuance of a Type-2 license, the project proponent/applicant/operator and/or developer and/or successors in interest and management shall complete Licensee Education on Alcohol and Drugs as provided by the State Department of Alcoholic Beverage Control.
7. The Lodi Police Department may, at any time, request that the Planning Commission conduct a hearing on the Use Permit for the purpose of amending or adding new conditions to the Use Permit or to consider revocation of the Use Permit if the Use Permit becomes a serious policing problem.
8. That applicants shall be allowed to use the wine tasting space for various events such as wine dinners catered by outside vendors, private mixers, wine tasting and parties for organizations and businesses who want to rent space, and to host feature wine tasting events that may include educational components.
9. All temporary and permanent signage proposed in connection with the wine making and wine tasting operation shall be reviewed and approved by the Community Development Department.
10. No variance from any City of Lodi adopted code, policy or specification is granted or implied by the approval of this resolution.
11. The wine tasting operation shall be conducted in a manner that will not adversely impact neighboring properties or businesses.
12. All winery waste shall not be stored outside and shall be properly disposed of within 12 hours of crush activity.
13. All delivery truck cueing shall take place off of the public right-of-way.
14. The applicant shall submit complete and adequate Tenant Improvement plans to the Building Division for review and approval. The said plans shall be based on the City of Lodi Building Regulations and currently adopted 2010 California Building Code.
15. Any fees due the City of Lodi for processing this Project shall be paid to the City within thirty (30) calendar days of final action by the approval authority. Failure to pay such outstanding fees within the time specified shall invalidate any approval or conditional approval granted. No

permits, site work, or other actions authorized by this action shall be processed by the City, nor permitted, authorized or commenced until all outstanding fees are paid to the City.

Community Development Department, Building Division:

16. Tenant Improvement plan required for change of occupancy from B/S-2 to B/A-2/F-1. All plan submittals shall be based on the City of Lodi Building Regulations and currently adopted 2010 California Building code. Please review our policy handouts for specific submittal procedures.
17. Due to change of occupancy of the building, the building shall have 1) at least one accessible entrance, 2) an accessible route from the entrance to the primary function area, 3) accessibility signage, 4) accessible parking, if parking is provided, 5) an accessible passenger loading zone, if loading zones are provided, 6) an accessible route connecting accessible parking and accessible loading zones to the accessible entrance. 2010 CBC, Section 3411.4.2.
18. Based on the calculated occupant load for each area of the Tenant Space, the required number of exits, separation of exits, exiting widths and travel distance shall be provided. 2010 CBC, Sections 1004, 1005, 1014, 1015, 1016, 1020, 1021.
19. It appears that the occupant load for the wine tasting area will exceed 49, and will be classified as an A-2 occupancy. The area will be required to have two (2) exits that are separated by at least 1/2 of the diagonal distance of the area served. The door leading to the wine crushing area will not qualify as an exit from the wine tasting area. Both doors must swing in the direction of egress travel, be equipped with panic hardware and provide a path of travel to the public way. 2010 CBC, Sections 1015.1, 1015.2, 1008.1.10, 1008.1.2, 1014. In addition, the occupant load shall be posted at the entrance, illuminated exit signs and an emergency power system (battery back up) for illumination for path of egress is required. 2010 CBC, Sections 1004.3, 1006.3, 1011.1.
20. All new exit doors are required to be accessible and provide a path to the public way. 2010 CBC, Sections 1133B.1.1.1.1, 1127B.1.
21. If the building is not equipped with an automatic fire sprinkler system, a 1 hour rated fire barrier is required to separate the wine tasting area (A-2) and production areas (F-2). Also, minimum 3/4 hour rated doors at openings through the fire barrier are required. 2007 CBC, Sections 508.4.4, 707.6, 715.4 and Tables 508.4.4, 715.4.
22. Provide separate toilet facilities for each sex and number of plumbing fixtures as required by 2010 CPC, Section 412 & Table 4-1 and Table A.
23. Restrooms will be required to be accessible as per 2010 CBC, Section 1115B.1.1.
24. Provide an active or passive space heating system capable of maintaining a minimum indoor temperature of 68 degrees F at a point 3 foot above the finished floor in the wine tasting area. 2010 CBC, Section 1204.1.
25. The plan appears to show a new bar or counter. Where food or drink is served at counters exceeding 34" in height for consumption by customers standing or seated at the counter, a portion of the main counter, which is minimum 60" in length, 28"-34" in height, with knee clearances of minimum 27" height, and 19" deep shall be provided. 2010 CBC Sections 1122B, 1104B.5(4)

Public Works Department:

26. An Improvement Deferral Agreement will be required for the future improvements along Main Street. Attached is an exhibit with the items and quantities required for the Improvement Deferral Agreement.
27. All project design and construction shall be in compliance with the Americans with Disabilities Act (ADA). Project compliance with ADA standards is the developer's responsibility.

28. Payment of the following prior to building permit issuance unless noted otherwise:
- a. Filing and processing fees and charges for services performed by City forces per the Public Works Fee and Service Charge Schedule.
 - b. Wastewater Capacity Impact Fee at the time of occupancy.
 - c. County Facilities Fees at the time of building permit issuance.
 - d. Regional Transportation Impact Fee (RTIF) at the time of building permit issuance.
 - e. Improvement Deferral Agreement.
29. Additional comments and conditions will be provided in conjunction with the approval of a building permit for this project.

Dated: April 13, 2010

I certify that Resolution No. 11- was passed and adopted by the Planning Commission of the City of Lodi at a regular meeting held on April 13, 2010 by the following vote:

AYES: Commissioners:

NOES: Commissioners:

ABSENT: Commissioners:

ABSTAIN: Commissioners:

ATTEST _____
Secretary, Planning Commission

This Item Has Been Continued to a Future Meeting

Item 3d.