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| <p>CARNEGIE FORUM 305 WEST PINE STREET LODI, CALIFORNIA</p> | <p>AGENDA LODI PLANNING COMMISSION</p> | <p>REGULAR SESSION WEDNESDAY, MAY 11, 2011 @ 7:00 PM</p> |
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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” & “April 13, 2011”
3. PUBLIC HEARINGS
 - a. Request for Planning Commission approval of a Use Permit to allow Type 21 off-Sale Alcoholic Beverage Control license at 2350 West Kettleman Lane. (Applicant: Miriam Montesinos, on behalf of Wal-Mart Stores, Inc. File Number: 11-U-09)
 - b. Request for Planning Commission approval of a Use Permit to allow outdoor seating/standing and drinking area at California Street Pub (formerly Barking Dog bar) in conjunction with their existing Type-48 On-Sale General ABC license at 302 North California Street (Applicant: Christian Cole, ob behalf of Thirsty Inc., dba California Street Pub. File Number: 11-U-06.) – **Postponed to a future meeting.**
 - c. Request for Planning Commission approval of an amendment to an existing Use Permit to allow expansion of an existing restaurant that serves beer, wine and distilled spirits at 400 East Kettleman Lane, Suites 5-8. (Applicant: Petra Flores Pena. File Number: 10-U-14)
 - d. Request for Planning Commission approval of a Use Permit to allow Type 42 Alcoholic Beverage Control license (on-sale beer and wine – public premises) at 1110 West Kettleman Lane, Suites 9-10. (Applicant: Sean Bocardo and Nichole Pendley. File Number: 11-U-10)
 - e. Request for Planning Commission approval of a Use Permit to allow the establishment of a religious facility within an existing commercial building located at 651 North Cherokee Lane, Suite C. (Applicant: Pastor Willie McGill Sr., on behalf of Miracle Temple Church. File Number: 11-U-11)
 - f. Request for Planning Commission approval of a Use Permit to allow storage and wholesale distribution of wine at 927 Industrial Way. (Applicant: Donald Parker; File Number: 11-U-13)

NOTE: The above item is a quasi-judicial hearing and requires 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
 - a. Council Summary Memo
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, APRIL 13, 2011**

1. CALL TO ORDER / ROLL CALL

The Regular Planning Commission meeting of April 13, 2011, was called to order by Chair Hennecke at 7:00 p.m.

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

Absent: Planning Commissioners – Kiser

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

2. MINUTES

“January 12, 2011”

MOTION / VOTE:

No Motion made because there was not a quorum of Commissioners in attendance to make the motion. Item continued to the next meeting “May 11, 2011”

MOTION / VOTE:

The Planning Commission, on motion of Commissioner Kirsten, Cummins second, approved the Minutes of March 9, 2011 as written. (Commissioner Jones 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 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)

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

Hearing Opened to the Public

- Rod Cockrum, applicant, came forward to answer questions.
- Commissioner Cummins asked when the restaurant will be opening. Mr. Cockrum stated that the date has moved around a couple of times, but he is hoping to open in a week and half.
- Commissioner Jones asked about the menu. Mr. Cockrum stated primarily Wings and Strips, but they will also have Fries, Corn on the Cob, and a very unique Coleslaw.

Public Portion of Hearing Closed

- Commissioner Heinitz asked staff if the sale of food needs to out weigh the alcohol sales. Associate Planner stated that the food sales do need to be more than alcohol sales. Heinitz asked what happens if it doesn't work out that way. Director Bartlam stated that the item could be brought back to the Commission because it will not meet ABC's conditions as well as the Planning Commission conditions. Heinitz asked if the applicant will have the opportunity to upgrade the type of license if this occurs. Director Bartlam stated that with Planning Commission approval that would be an option.

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 a Type-41 On-Sale Beer and Wine Alcoholic Beverage Control License at 1379 South Lower Sacramento Road, Suite 501 subject to the conditions in the resolution. The motion carried by the following vote:

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

- 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 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)

Commissioner Kirsten recused himself because he has property interest with a 500 foot radius of this project and left the dais.

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

Hearing Opened to the Public

- Ryan Sherman, applicant, came forward to answer questions. Mr. Sherman stated that along with the Use Permit they are proposing to upgrade the façade with wood paneling and stucco.
- Chair Hennecke asked if other wineries would be sharing the space. Mr. Sherman stated that Fields Family will be the only winery in this space.
- Commissioner Henitz asked if the tavern next door, Ollie's, is going to be participating in the outdoor seating shown on the proposed plan. Mr. Sherman stated that the elevation shows the outdoor seat to be contiguous across the entire building frontage and if a divider needs to be put up to divide the two spaces that can be done. He added that if Ollie's wants to include outdoor space in there license they would be responsible for getting that approval.
- Justin O'Byrne, partner of Ollie's, came forward to answer questions.
- Commissioner Heinitz asked if Ollie's would like to have out door seating. Mr. O'Byrne stated that it is the intention of the owners to try to bring the idea before the Commission in the future. They are trying to attract a more well rounded and educated drinking clientele to that area of Lodi. Commissioner Heinitz expressed is concern that if the tables and chair are available that Ollie's patrons may just try to move out to that area before the proper permission have been granted. Mr. O'Byrne stated that that will

not happen; they truly are trying to clean up the area and even try to discourage their patrons from standing out in front to smoke.

Public Portion of Hearing Closed

MOTION / VOTE:

The Planning Commission, on motion of Commissioner Heinitz, Cummins second, approved the request of the Planning Commission for 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 subject to the conditions in the resolution. The motion carried by the following vote:

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

Commissioner Kirsten rejoined the Commission.

- c) 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 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)

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

Chair Hennecke asked if there have been any issues with waste and fruit flies with the other wineries that crush downtown. Director Bartlam stated that there have not been any issues.

Hearing Opened to the Public

- Jeff Werter, applicant, came forward to answer questions.

Public Portion of Hearing Closed

MOTION / VOTE:

The Planning Commission, on motion of Kirsten, Jones second, approved the request of the Planning Commission for a Use Permit to allow a Type-2 Winegrower Alcoholic Beverage Control License located at 21 East Elm Street subject to the conditions in the resolution. The motion carried by the following vote:

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

4. PLANNING MATTERS/FOLLOW-UP ITEMS

None

5. ANNOUNCEMENTS AND CORRESPONDENCE

Continued

Director Bartlam stated that the Draft Housing Element was going to be brought to this meeting even without the final comments from the State, but because of a conference call scheduled for next week the decision was made to postpone it one more time.

6. ACTIONS OF THE CITY COUNCIL

Director Bartlam stated that the City Council has recently approved the Fireworks Ordinance.

7. GENERAL PLAN UPDATE/DEVELOPMENT CODE UPDATE

None

8. ACTIONS OF THE SITE PLAN AND ARCHITECTURAL REVIEW COMMITTEE

None

9. ART IN PUBLIC PLACES

Commissioner Kirsten gave a brief report regarding the Bronzes being installed today and encouraged everyone to go out and take a look. The Taco Truck Cook-off has found a home in the Smart and Final parking lot and is scheduled for June 4th.

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 7:26 p.m.

ATTEST:

Konradt Bartlam
Planning Commission Secretary

Item 3a

**CITY OF LODI
PLANNING COMMISSION
Staff Report**

MEETING DATE: May 11, 2011

APPLICATION NO: Use Permit: 11-U-09

REQUEST: Request for Planning Commission approval of a Use Permit to allow Type 21 off-Sale Alcoholic Beverage Control license at 2350 West Kettleman Lane. (Applicant: Miriam Montesinos, on behalf of Wal-Mart Stores, Inc. File Number: 11-U-09).

LOCATION: 2350 West Kettleman Lane
APN: 058-140-35
Lodi, CA 95242

APPLICANT: Miriam Montesinos, on behalf of Wal-Mart Stores, Inc.
4 Embarcadero Center. 17th Floor
San Francisco, CA 94111

PROPERTY OWNER: BDC Lodi Anchor LP
1556 Parkside Drive
Walnut Creek, CA 94596-3556

RECOMMENDATION

Staff recommends the Planning Commission approve the request of Miriam Montesinos, on behalf of Wal-Mart Stores, Inc., for a Use Permit to allow Type 21 Off-Sale General Alcoholic Beverage Control (ABC) license at 2350 West Kettleman Lane, subject to the conditions in the attached resolution.

PROJECT AREA DESCRIPTION

General Plan Designation: Commercial
Zoning Designation: C-S: Commercial Shopping
Property Size: 12.45 acres.

The adjacent zoning and land use characteristics:

| | General Plan | Zone | Land Use |
|--------------|-------------------------------------|----------------------------------|------------------------|
| North | Commercial | C-S: Commercial Shopping | Variety of stores |
| South | Medium Density Residential | R-MD: Residential Medium Density | Vacant land |
| East | Low Density Residential | PD-24: Planned Development 24 | Residences |
| West | Commercial/Medium Density Residence | C-S: Commercial Shopping | Vacant land/Residences |

SUMMARY

The applicant, Miriam Montesinos, on behalf of Wal-Mart Stores, Inc., requests approval of a Use Permit to allow Type 21 Off-Sale General Alcoholic Beverage Control (ABC) licenses in an existing Wal-Mart store located at 2350 West Kettleman Lane. The sale of alcohol is intended to be secondary to the operation of the retail and garden center. The display of alcohol is proposed to be contained to shelving. Surrounding uses consist of commercial shops, vacant land to the south and west and residences to the east. Sale of alcohol for on and off site consumption is permitted at the project site with a Use Permit. As a convenience to its

customers, the applicant is requesting an ABC Type 21 (Off-Sale General) license. Wal-Mart is also requesting that the Planning Commission make a finding of Public Convenience or Necessity

BACKGROUND

City records indicate Wal-Mart has been in business at its current location since August of 1992. Wal-Mart is requesting a Use Permit which would allow for the sale of beer, wine and distilled spirits for the purpose of off-site consumption. This site is located within commercial Center, near the corner of Lower Sacramento Road and Kettleman Lane. Wal-Mart currently is open from 6:00 AM to midnight. The sale of alcohol is proposed to be conducted within display shelving only and would be located near the center of store, away from its entrance/exit.

ANALYSIS

As noted, the applicants are requesting a Use Permit to allow Type 21 Off-Sale General Alcoholic Beverage Control license at an existing Wal-Mart located at 2350 West Kettleman Lane. Type 21 Off-Sale ABC license authorizes the sale of beer, wine and distilled spirits for consumption off the premises where sold. Minors are allowed on the premises. The project site is within the Commercial Shopping (C-S) zoning district. The C-S zoning district permits the sale of alcohol for on and off-site consumption with the granting of a Use Permit by the Planning Commission, pursuant to §17.72.040 of the Lodi Municipal Code, which 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 Department of Alcoholic Beverage Control (ABC) primarily controls issuance based on concentration of licenses within a particular Census Tract. Census tracts are defined as small geographical areas established by local committees and approved by the Census Bureau, which contain a population segment with relatively uniform economic and social characteristics and clearly identifiable boundaries.

The subject hotel belongs to Census Tract 43.05. Census Tract 43.05 covers the area south of Kettleman Lane, north of Harney Lane, west of Mills Avenue and east of Lower Sacramento Road. According to ABC, Census Tract 43.05 contains four (4) active off-sale licenses with only three (3) off-sale licenses allowed based on the ABC criteria. The Planning Commission needs to make a finding of public necessity and convenience in order to approve an additional ABC license within this census tract. Wal-Mart requests that the Planning Commission make a finding of Public Convenience or Necessity.

In the past, Planning staff generally supported establishments that wish to acquire an ABC off-sale license if it is determined the business would not create alcohol related problems. Staff is of the opinion approval of the applicant's request would not create additional policing problems. Strong consideration was given to the manner in which the business has been operated, the manner in which it conducts its security, and that it has not created a nuisance to the community or a burden on police services in its previous nineteen years of operation. This is mostly due to the fact that Wal-Mart polices the parking lot and utilizes security cameras positioned at strategic locations within the store and in the parking. Sale of alcohol is not expected to change their security arrangements. Further, these alcohol display areas will be located near the center of store, away from its entrance/exit. Further, Wal-Mart's cash registers employ technology designed to help cashiers confirm a customer's age as part of every alcohol sales transaction.

Staff sent copies of the application to various City departments for review. Their comments and requirements have been incorporated into the attached resolution. Staff has contacted the Lodi Police Department for their requirement for approval of the proposed Use Permit application and they do not anticipate alcohol related problems. The Lodi Police Department recommends

approval subject to the conditions outlined in the attached resolution. The Police Department does not anticipate alcohol related problems due to the manner Wal-Mart trains its staff and its security arrangements.

In reviewing the proposal, staff feels the sale of alcoholic beverages at the retail store of this size is considered an accessory use to the sale of non-alcoholic retail products, and is a service typically expected by the public. In addition, the proposal is not anticipated to have adverse impacts on neighboring land uses within the area since a retail store use is compatible with the mixed commercial uses within the area. It is anticipated that with appropriate controls and conditions in place that the business and sale of alcohol will not become an issue. The sale of alcohol will be contained within the existing building and no construction is being proposed in conjunction with this Use Permit request. The sale and service of alcohol is intended to be secondary to the retail business. Staff recommends conditions of approval that will allow the City to reconsider the Use Permit if there is a significant increase in police or other public services provided to the site following the effective date of this Use Permit. Therefore, staff recommends approval the Use Permit subject to the conditions outlined in 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." 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 30, 2011. Sixty (60) 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 at the time of this staff report was prepared.

ALTERNATIVE PLANNING COMMISSION ACTIONS:

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

Respectfully Submitted,

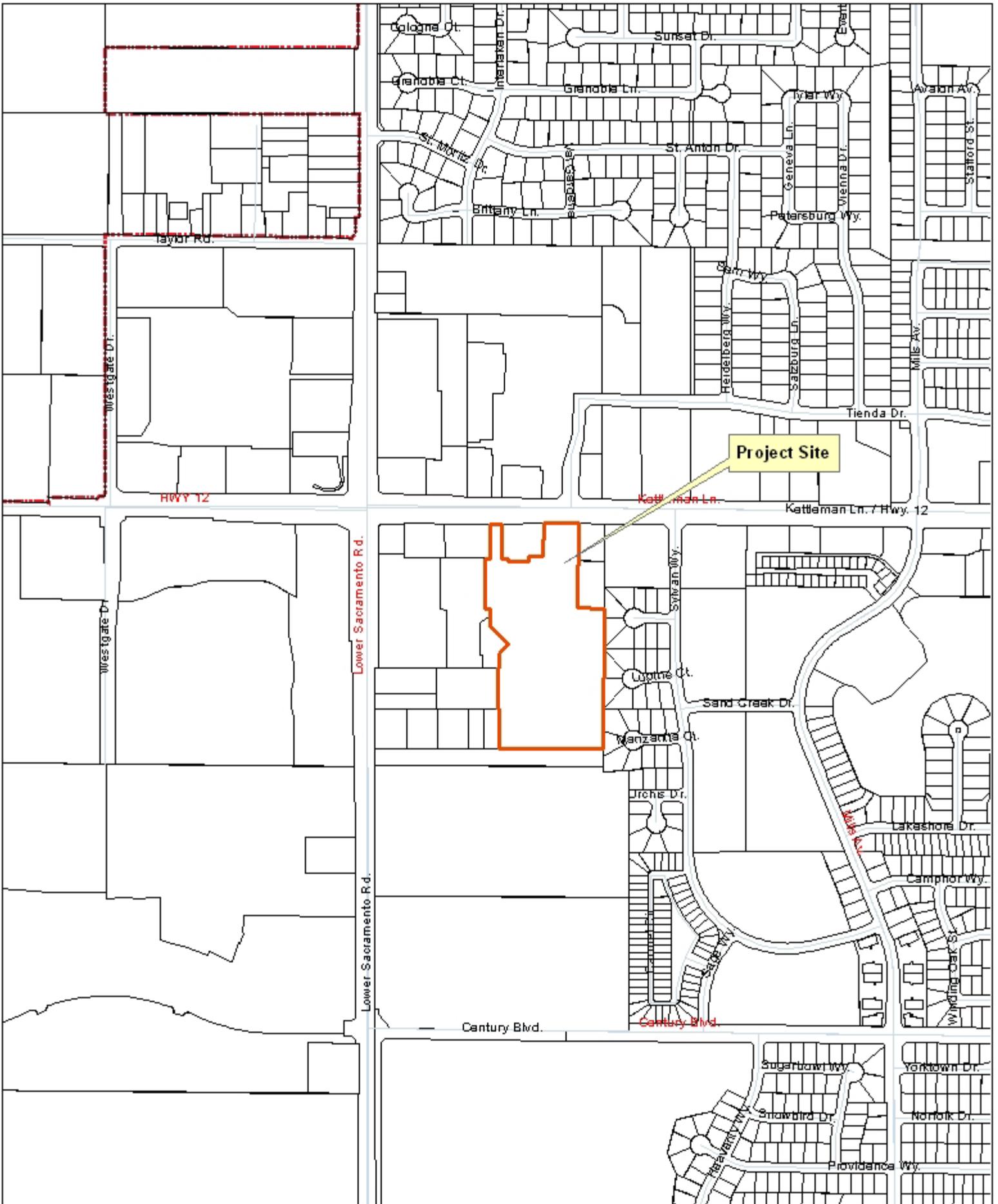
Concur,

Immanuel Bereket
Assistant Planner

Konradt Bartlam
Community Development Director

ATTACHMENTS:

1. Vicinity Map
2. Site Plan
3. Floor Plan
4. Statement of Justification
5. Active ABC Licenses
6. Draft Resolution



Project Site

Vicinity Map

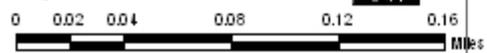
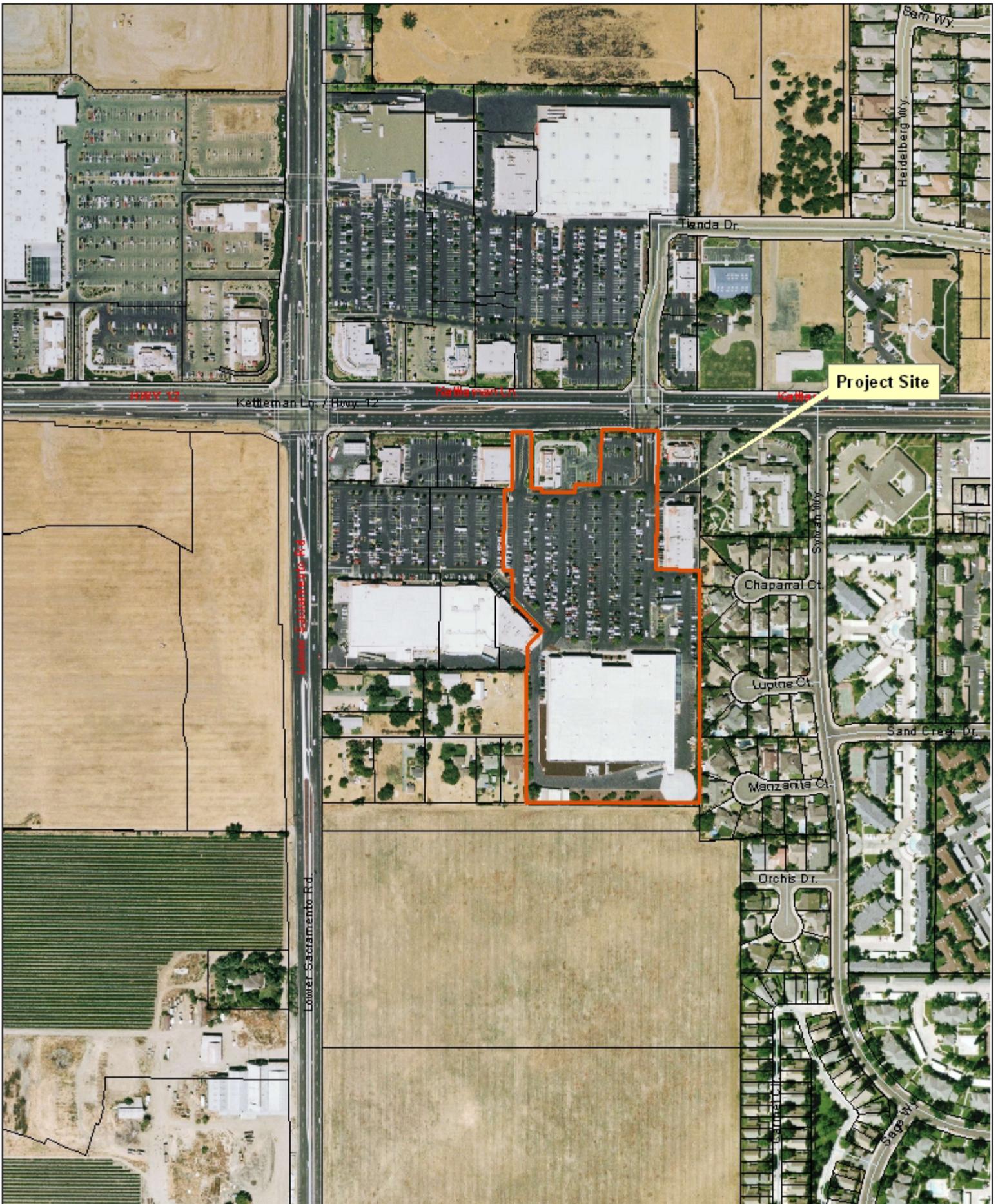
2350 West Kettleman Lane
 APN: 058-140-35
 Lodi, CA 95242

Legend

 Project Site



0 0.03 0.06 0.12 0.18 0.24 Miles

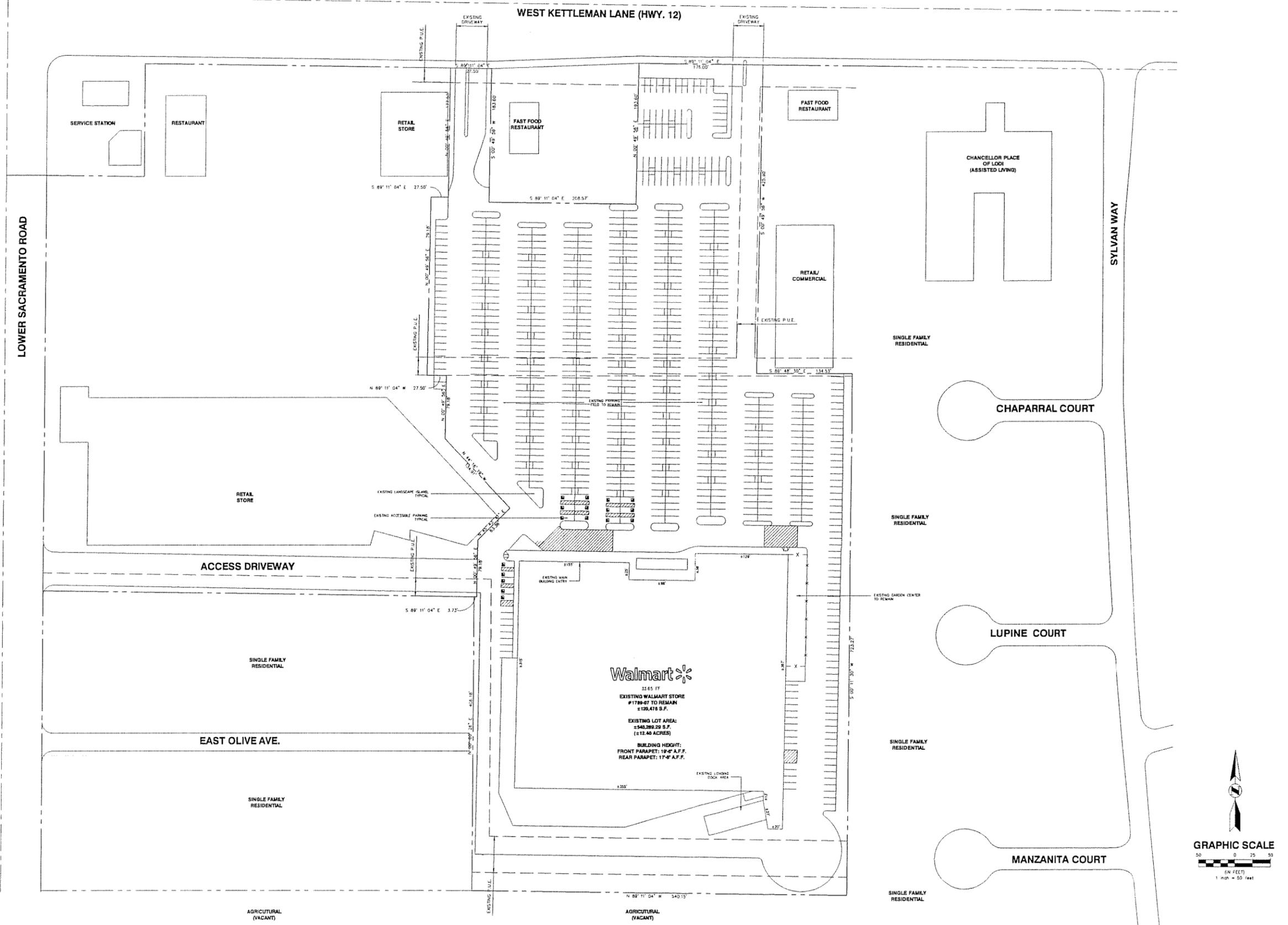


Vicinity Map

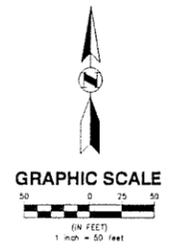
2350 West Kettleman Lane
 APN: 058-140-35
 Lodi, CA 95242

Legend

 Project Site



Walmart*
 2355 FT
 EXISTING WALMART STORE
 #1789-07 TO REMAIN
 ±120,478 S.F.
 EXISTING LOT AREA:
 ±540,289.29 S.F.
 (±12.40 ACRES)
 BUILDING HEIGHT:
 FRONT PARAPET: 19'-0" A.F.F.
 REAR PARAPET: 17'-0" A.F.F.



UNAUTHORIZED CHANGES AND USES: The engineer preparing these plans will not be responsible for, or liable for, unauthorized changes to or uses of these plans. All changes to the plans must be in writing and must be approved by the preparer of these plans.

Construction contractor agrees that in accordance with generally accepted construction practices, construction contractor will be required to assume sole and complete responsibility for job site conditions during the course of construction of this project, including safety of all persons and property, that this requirement shall be made to apply continuously and not limited to normal working hours, and construction contractor further agrees to defend, indemnify and hold design professional harmless from any and all liability, real or alleged, in connection with the performance of work on this project, excepting liability arising from sole negligence of design professional.

Engineers Note to Contractor:
 The existence and location of any underground utilities, pipes, and/or structures shown on these plans were obtained by a search of available records. To the best of our knowledge, there are no existing utilities except as shown on these plans. The contractor shall ascertain the true vertical and horizontal location and size of those to be used of any underground utilities and shall be responsible for any damage to any public or private utilities, shown or not shown hereon.

IMPORTANT NOTICE
 Section 4216/4217 of the Government Code requires a Dig Alert Identification Number to be issued before a Permit to Excavate will be valid. For your Dig Alert ID Number Call UNDERGROUND SERVICE ALERT 1-800-227-2500 For Underground Locating 2 Working Days before You Dig.

11700 Folsom Center Drive
 Folsom, California, CA 95742
 (916) 937-2444 FAX (916) 937-2600
TAIT
 Inc. 1984
 State of California
 Professional Engineer
 License No. 44567

STIPULATION FOR REUSE:
 No person shall use, copy, or reproduce these plans or any part thereof for any purpose other than that intended by the engineer without the written consent of the engineer. The engineer shall not be held responsible for any errors or omissions in these plans or any part thereof.

Walmart*
 2355 W. KETTLEMAN LN
 LODI, CALIFORNIA 95242
 STORE NO.: 1789-07
 JOB NUMBER: 00000 PHOTO: 00000

ISSUE BLOCK

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CHECKED BY: SJ
 DRAWN BY: OO
 FILE NAME: AM1213PR
 DOCUMENT DATE: 02/18/11

SITE PLAN
 SHEET: **C1**



17th Floor | Four Embarcadero Center | San Francisco, CA 94111-4109
415-434-9100 office | 415-434-3947 fax | www.sheppardmullin.com

Writer's Direct Line: 415-774-2980
mmontesinos@sheppardmullin.com

April 22, 2011

Our File Number: 15CM-130451

VIA E-MAIL

Rad Bartlam
Community Development Director
City of Lodi
221 W. Pine Street
Lodi, CA 95240

Re: Request for Use Permit for Type 21 License at Walmart Store Located at 2350 W. Kettleman Lane

Dear Mr. Bartlam:

On March 9, 2011, we submitted a letter on behalf of our client, Wal-Mart Stores, Inc., to request a use permit for a Type 21 license for the existing store located at 2350 W. Kettleman Lane in Lodi, California. That letter inadvertently stated that the existing store currently has a Type 20 license, which is not the case. We are therefore submitting a revised statement of justification in support of the use permit and a public convenience or necessity determination that reflects the current store does not sell beer or wine.

As noted in the revised statement of justification, the amount of alcohol sales at the store will still be ancillary to general merchandise sales. Alcohol will be displayed on shelves, as shown in the previously submitted floor plan, and Wal-Mart will continue to implement security measures at the store to ensure the safe sale of alcohol, including use of security cameras and training the employees.

We continue to believe that with the proposed security and educational measures in place, Wal-Mart will successfully sell alcohol without problems.

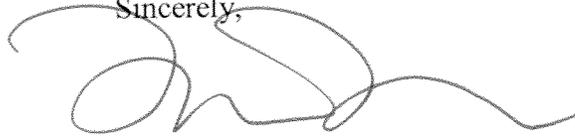
If you have any questions regarding this request, please do not hesitate to contact me at (415) 774-2980.

SHEPPARD MULLIN RICHTER & HAMPTON LLP

April 22, 2011

Page 2

Sincerely,

A handwritten signature in black ink, appearing to read 'Miriam Montesinos', with a long, sweeping horizontal line extending to the right.

Miriam Montesinos

for SHEPPARD, MULLIN, RICHTER & HAMPTON LLP

W02-WEST:5MIM2\403483350.1

Enclosure.

WAL-MART
2350 W. Kettleman Lane, Lodi, CA

**REVISED STATEMENT OF JUSTIFICATION IN SUPPORT OF
USE PERMIT APPLICATION AND FINDING OF PUBLIC CONVENIENCE OR
NECESSITY**

The following information supports the approval of a use permit for a Type 21 license at the Wal-Mart store at 2350 W. Kettleman Lane.

In addition, the below supports a finding of public convenience or necessity for a Type 21 license at the store. Section 23958.4 of the California Business and Professions Code provides for the issuance of a Type 21 license at the store “if the local governing body of the area in which the applicant premises are located, or its designated subordinate officer of body, determines within 90 days of notification of a completed application that public convenience or necessity would be served by the issuance. The 90-day period shall commence upon receipt by the local governing body of (a) notification by the department of an application for licensure, or (b) a completed application according to local requirements, if any, whichever is later.”

- i. **The approval of a license to sell beer, wine and distilled spirits as an ancillary use to the operation of a general merchandise store is proper in relation to adjacent uses.**

The sale of beer, wine and distilled spirits at the Wal-Mart will be ancillary to the sale of general merchandise, and will enable Wal-Mart to serve the City (both the neighborhood surrounding the site and the community) as a full-service retailer.

The Wal-Mart is located within a commercial zoning district, and is near other commercial uses. Therefore, the off-sale of alcohol at the Wal-Mart store is compatible with the uses in the surrounding area.

- ii. **The sale of beer, wine and distilled spirits at the project will be a public convenience.**

By combining the sale of beer, wine and distilled spirits with the inventory of general merchandise, Wal-Mart intends to provide a “one-stop” store. “One-stop” shopping results in increased efficiency for shoppers, and is consistent with the size and location of the store.

Because the location is convenient to motorists but not too close to the nearest adjacent residences, the request to permit the sale of alcohol will increase convenience to shoppers, but not at the expense of interfering with existing residential neighborhoods.

iii. **The proposed project will not be detrimental to the character of development in the immediate neighborhood.**

Wal-Mart's request to sell beer, wine and distilled spirits for off-site consumption will not jeopardize, endanger, or otherwise constitute a menace to the public health, safety or general welfare.

As a full-service retailer, Wal-Mart will offer a small inventory of alcohol in addition to its extensive inventory of general merchandise. Because the types of uses immediately surrounding the Wal-Mart are commercial in nature, the off-sale of beer, wine and distilled spirits will not conflict with the adjacent land uses.

In addition, Wal-Mart undertakes numerous measures to ensure the safe sale of alcohol.

For example, Wal-Mart will display the alcohol away from the entrance to discourage theft from people grabbing alcohol and running out the nearest door.

Also, Wal-Mart stores utilize security cameras positioned at strategic locations in the store. Wal-Mart will secure the alcohol display by repositioning one or more security cameras at a location where the Risk Management employees can monitor the alcohol display area.

Further, the parking lot is designed with public safety in mind. For example, the parking lot is well lit (however, the light is directed onto the parking lot using shields which eliminate "spill over" light on adjacent properties) and employees frequent the parking lot to "round up" stray shopping carts.

Moreover, Wal-Mart implements an alcohol sales training program called Techniques of Alcohol Management ("TAM"), which is required training for all cashiers and managers. The training program focuses on recognizing and preventing any sales of alcohol that may be detrimental to the public welfare (*i.e.*, the sale of alcohol to minors, and intoxicated persons). Wal-Mart's TAM has been certified by the California Coordinated Council of Beverage Service (the group authorized by the ABC to certify training programs for the sale of alcohol).

Finally, Wal-Mart's cash registers employ a state of the art technology designed to help cashier confirm a customer's age as part of every alcohol sales transaction. In addition, Wal-Mart positions security cameras above the cash registers to monitor sales transactions. The cameras allow Wal-Mart to confirm whether cashier input the required driver's license information when prompted to do so by the cash register.

iv. **The approval of the sale of alcohol at the Wal-Mart store will not have a detrimental affect on nearby residentially zoned properties.**

The off-sale of beer, wine and distilled spirits as an ancillary use to the sale of general merchandise within the Wal-Mart store will not detrimentally affect nearby residentially zoned properties. The display area for alcohol is only a small percentage of the merchandise sold in the store.

Because the inventory of alcoholic beverages will be such a small percentage of the merchandise sold in the store, it is unlikely customers will shop at Wal-Mart to purchase alcohol only. However, Wal-Mart customers will find the purchase of alcohol, along with other general merchandise, a convenience.

It is unlikely that customers will use the parking lot to consume alcohol on site because the parking lot is well lit and monitored by Wal-Mart employees.

v. **Additional Information**

- The sale of alcohol will be in strict conformance with California law.
- Wal-Mart typically sells cups, glasses or other similar containers (which might be used for the consumption of beer or wine on the premises). However, the plastic cups are sold in packages, and the glasses and plastic cups are sold in a different area within the store.
- Wal-Mart does not advertise alcohol on the outside of the building.



California Department of Alcoholic Beverage
Control
For the County of SAN JOAQUIN - (Off-Sale
Licenses)
and Census Tract = 43.05

Report as of 4/11/2011

| | License Number | Status | License Type | Orig. Iss. Date | Expir Date | Primary Owner and Premises Addr. | Business Name | Mailing Address | Geo Code |
|----|------------------------|--------|--------------|-----------------|------------|--|--------------------|---|----------|
| 1) | 322844 | ACTIVE | 21 | 9/30/1996 | 8/31/2011 | PAQ INC 2430 W KETTLEMAN LN LODI, CA 95242 Census Tract: 0043.05 | FOOD 4 LESS | 8014 LOWER SACRAMENTO RD, STE 1 STOCKTON, CA 95210 | 3902 |
| 2) | 446829 | ACTIVE | 20 | 1/5/2007 | 12/31/2011 | RVINO INC 2322 OLSON DR LODI, CA 95242-4798 Census Tract: 0043.05 | RVINO INC | | 3902 |
| 3) | 453616 | ACTIVE | 20 | 10/31/2007 | 9/30/2011 | TESORO WEST COAST COMPANY LLC 2448 W KETTLEMAN LN LODI, CA 95242-4123 Census Tract: 0043.05 | USA GASOLINE 68153 | 5230 LAS VIRGENES RD, STE 200 CALABASAS, CA 91302 | 3902 |
| 4) | 469086 | ACTIVE | 20 | 9/19/2008 | 8/31/2011 | PANTHEON CELLARS LLC 1618 TIMBERLAKE CIR LODI, CA 95242-4277 Census Tract: 0043.05 | PANTHEON CELLARS | 2715 W KETTLEMAN LN, STE 203-101 LODI, CA 95242 | 3902 |

--- End of Report ---

RESOLUTION NO. P.C. 11-

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF LODI FOR THE APPROVAL OF THE REQUEST OF MIRIAM MONTESINOS, ON BEHALF OF WAL-MART STORES, INC. FOR A USE PERMIT TO ALLOW A TYPE 21 OFF-SALE ALCOHOLIC BEVERAGE CONTROL LICENSE AT 2350 WEST KETTLEMAN LANE

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 site is located at 2350 West Kettleman Lane., Lodi, CA 95241 (APN: 058-140-35) and

WHEREAS, the project proponent is Miriam Montesinos, on behalf of Wal-Mart Stores, Inc., 4 Embarcadero Center, 17th Floor., San Francisco, CA 94111; and

WHEREAS, the project property owner is BDC Lodi Anchor LP, 1556 Parkside Drive, Walnut Creek, CA 94596-3556; and

WHEREAS, the property has a General Plan designation of Commercial and is zoned C-S, Commercial Shopping; and

WHEREAS, the requested Use Permit to allow the selling of beer, wine and distilled spirits for off-site consumption at the existing Wal-Mart store located at 2350 West Kettleman Lane is an enforcement action in accordance with the City of Lodi Zoning Ordinance; and

WHEREAS, Census Tract 43.05 in which the business is located currently is over-concentrated with ABC licenses allowing the sale of beer, wine and distilled spirits for consumption off the license premises where sold; and

WHEREAS, the Planning Commission makes a finding of public convenience and need for the request of Miriam Montesinos, on behalf of Wal-Mart Stores, Inc for a Use Permit to allow 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; and

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 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.
2. The proposed use complies with all requirements as set forth for the issuance of this Use Permit, in that the site is adequate in size, shape and topography for the proposed use, consisting of an existing building. Second, the site has sufficient access to streets, adequate in width and pavement type to carry the quantity and quality of traffic generated by the proposed use, which is not expected to significantly increase due to the project. Third, the proposed use is deemed to be part of the General Plan and the Zoning Ordinance, as off-sales alcoholic beverage sales are permitted in the C-S (Commercial Shopping) Zone with Use Permit approval. Fourth, the proposed use, as conditioned, will not have an adverse effect upon the use, enjoyment or valuation of property in the neighborhood in that a similar off-sales use had previously compatibly existed nearby. Lastly, the proposed use will not have an adverse effect on the public health, safety, and general welfare in that security measures and the limited size of the use will limit any potential adverse effects to neighboring properties.

3. The off-sale of beer, wine and distilled spirits, in accordance with a Type 21 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 the sale of alcohol in a major retail center is an ancillary use and operation of a retail center 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 off-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 and/or developer and/or successors in interest and management 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 and/or developer and/or successors in interest and management work with neighboring businesses and residents to resolve any problems that may occur.
10. The sale of alcoholic beverages at this location can meet the intent of the commercial 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-09 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 Use Permit 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 Use Permit 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 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.
3. 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, wine and distilled spirits, 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.

4. 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.
5. The property owner and/or developer and/or successors in interest and management shall be prohibited from externally advertising or promoting beer & wine and/or distilled spirits, including but not limited to, window and wall signage.
6. No sales of alcoholic beverages shall occur between the hours of 2:00 a.m. and 6:00 a.m.
7. No single-serving containers shall be sold separately. All single-serving beer and wine containers shall be sold as part of a pack or carton.
8. Paper or plastic cups shall not be sold in quantities less than their usual customary packaging.
9. The Use Permit shall require the property owner and/or developer and/or successors in interest and management to secure an Alcoholic Beverage Control license Type 21 Off-Sale General (Package Store).
10. Prior to the issuance of a Type 21 ABC license, the property owner 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.
11. Any changes to the interior layout of the business operation shall be subject to review and approval by the Community Development Department and shall require appropriate City permits.
12. No person who is in a state of intoxication shall be permitted within the business nor shall an intoxicated patron be sold additional alcoholic beverages. It is the responsibility of the business the property owner and/or developer and/or successors in interest and management to ensure no patron in state of intoxication is allowed into the building.
13. The property owner and/or developer and/or successors in interest and management of the business 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.
14. The property owner and/or developer 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.
15. The property owner and/or developer and/or successors in interest and management shall ensure noise emanating from the property shall be within the limitations prescribed by the City's Noise Ordinance and shall not create a nuisance to surrounding residential neighborhoods, and/or commercial establishments.

16. The exterior of all the premises shall be maintained in a neat and clean manner, and maintained free of graffiti at all times.
17. 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, wine and distilled spirits 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.
18. 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.
19. No variance from any City of Lodi adopted code, policy or specification is granted or implied by this approval.

Dated: May 11, 2011

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 May 11, 2011 by the following vote:

AYES: Commissioners:

NOES: Commissioners:

ABSENT: Commissioners:

ATTEST _____
Secretary, Planning Commission

Use Permit to add outdoor seating to an existing Type 48 ABC license
@302 N. California St.

This item has been continued to a future meeting

Item 3b.

Item 3c.

**CITY OF LODI
PLANNING COMMISSION
Staff Report**

MEETING DATE: May 11, 2011

APPLICATION NO: Use Permit: 10-U-14

REQUEST: Request for Planning Commission approval of an amendment to an existing Use Permit to allow expansion of an existing restaurant that serves beer, wine and distilled spirits at 400 East Kettleman Lane, Suites 5-8. (Applicant: Petra Flores Pena. File Number: 10-U-14)

LOCATION: 400 East Kettleman Lane, Suites 5-8.
APN: 062-060-10
Lodi, CA 95240

APPLICANT: Petra Flores Pena
On behalf of Casa Flores Mexican Restaurant
400 East Kettleman Lane
Lodi, CA 95240

PROPERTY OWNER: John and Varene Teresi Family LP
P. O. Box 819
Lodi, CA 95241

RECOMMENDATION

Staff recommends that the Planning Commission approve the request of Petra Flores Pena to amend an existing Use Permit at 400 East Kettleman Lane, subject to the conditions in the attached resolution.

PROJECT/AREA DESCRIPTION

General Plan Designation: Commercial
Zoning Designation: C-2, General Commercial.
Property Size: 4.38 acres. (Restaurant is approximately 3,200 sq. ft.)

The adjacent zoning and land use characteristics:

| | General Plan | Zone | Land Use |
|--------------|-----------------------|--|-----------------------------------|
| North | Commercial | C-2, General Commercial RE-1, Single Family Residence | commercial and institutional uses |
| South | Low Density Residence | R-2, Single Family Residence | Retail and commercial uses |
| East | Commercial | C-2, General Commercial | Retail and commercial uses |
| West | Commercial | C-2, General Commercial | Retail and commercial uses |

SUMMARY

The project is proposed within an existing restaurant that currently serves beer, wine and distilled spirits. The applicant wishes to expand the restaurant to include one more suite and install a sit-down bar within the existing restaurant. The sit-down bar is intended to be an accessory use to a restaurant. The restaurant has been functioning without generating any law enforcement issues. Staff believes expansion of the restaurant and the addition of the sit-down bar will not result in any public health and safety issues. The project, as

proposed and with the recommended conditions of approval, would be consistent with the applicable standards, ordinances and policies.

BACKGROUND

Casa Flores Mexican Restaurant is currently serving the City of Lodi. Casa Flores Mexican Restaurant has been in business since 1996 and has operated without any problems. The project site is located East Kettleman Lane near various businesses. On November 10, 2010, the Planning Commission held a public hearing to consider a request by the applicant for a Use Permit to allow a Type 47 (On-Sale General) Alcoholic Beverage Control (ABC) license at the restaurant. At that meeting, the Commission heard a presentation based on the staff report for these items; asked questions of staff, the applicant, and the general public; heard public testimony in support and in opposition to these items; closed the public hearing, and based on the record as whole voted to approve the applicant's request for a Use Permit.

The applicant now seeks to expand the business to include two more suites and to install a site-down bar. The applicant has submitted Tenant Improvement permits to install a bar area and to expand the business. Casa Flores Mexican Restaurant is within a C-2 zoning district, which permits the sale of alcohol. Approval of this Use Permit does not entitle the restaurant live entertainment.

ANALYSIS

According to the applicant, Casa Flores Mexican Restaurant offers lunch and dinner menu. The restaurant is open from the hours of 10:00 a.m. to 10:00 p.m. daily. The restaurant is approximately 3,200 square feet in size and provides seating for approximately 80 guests. Parking is provided on site, which satisfies the parking requirement for eating establishment of this size. 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 applicant currently holds a Type 47 ABC license, which authorizes the sale of beer, wine and distilled spirits for consumption on or off the premise where sold. The license itself is not the subject of this request to amend an existing Use Permit. The amendment relates to expansion of the business to include one additional suite formerly occupied by variety of office uses. The expansion would allow the applicant to create a banquet room.

Although the applicant would like to install a new bar area that will total less than 10 percent of the total restaurant floor area, this new bar area is considered an accessory use as it does not exceed 50 percent of the restaurant floor area. It would, therefore, be permitted by right and only require approval of a building permit through the City's Building & Safety Division. An Accessory use is commonly defined as a use customarily incidental, related and clearly subordinate, to a primary use on the same establishment (i.e. less than fifty percent of the floor area of the primary use, etc.) which does not alter the primary use nor serve other than the establishment where the primary use is located. However, because the new suite has never been used as a location where alcohol was served, the applicant is required to obtain a Use Permit to serve alcohol in the new area. According to the applicant's project description, the new expansion would allow her to create a banquet room.

Staff is of the opinion proposed expansion of the restaurant should be approved as it does not negatively affect the adjacent properties. The applicant is still required to ensure the receipts from the sale of alcoholic beverages less than receipts from the sale of food. The proposed addition does not change the fact the primary operation of the business is a bone fide restaurant. A Use Permit enables the application of conditions to minimize potential negative impacts to the health, safety and general welfare on the community, residents, and surrounding properties. In its' analysis of the existing Use Permit, staff worked with the Police Department to compose

operational conditions based upon the individual business plan and community's safety and welfare needs. Proposed operational conditions include the following:

- Sales of alcoholic beverages shall be permitted only during the hours the restaurant is open for business.
- Any changes to the interior layout of the business operation shall be subject to review and approval by the Planning Department and shall require appropriate City permits.

Standard conditions also apply to the Type 47 ABC license, namely:

- The quarterly gross sales of alcoholic beverages shall not exceed the gross sales of food during the same period. The licensee shall at all times maintain records which reflect separately the gross sale of food and the gross sale of alcoholic beverages of the licensed business. These records shall be kept on less frequently than on a quarterly basis and shall be made available to the Police Chief or his designee upon demand.

In staff's analysis, the proposed expansion, as amended and conditioned herein, would be compatible with the existing uses within the area and not contribute to an undue concentration of the alcohol beverage establishments, as its an existing license. The amended conditions of this Use Permit have operational restrictions that would minimize potential for police service calls and potential impacts to adjacent uses. The City's Police Department had preliminarily reviewed this request to amend the existing Use Permit as well as the activities related to similar uses in the immediate vicinity and indicated that there was no reason to deny the addition of the on-site sales/consumption of alcohol as long as the owner abides by all applicable ABC regulations pertaining to sales and consumption on their premises.

Because this is an existing ABC license, and because the request relates to expansion of a business to sell alcohol in conjunction with a bone fide restaurant operation, staff does not anticipate any issues related to the alcohol license. Approval of this amendment request would not change the fact that the restaurant currently holds a ABC license and is entitled to sell alcohol in conjunction with a restaurant operation as long as it abides by applicable Federal, State and local laws. Furthermore, approval of this amendment does not affect issues related to over-concentration. This approval of the request to amend the Use Permit would allow the restaurant to serve alcohol to the proposed expansion restaurant floor area, which is entirely within the building envelop. The Planning Commission and the Planning staff have generally supported, wine and distilled spirits 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 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 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 April 30, 2011. Eight-one (81) 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. Menu
5. Police Department Approval
6. Draft Resolution



0 0.0375 0.075 0.15 0.225 0.3 Miles

Vicinity Map

400 East Kettleman Lane
 APN: 062-060-10
 Lodi, CA 95240

Legend



Project Site



Kettleman Lane



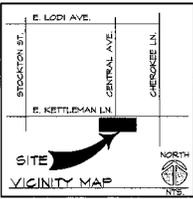
0 0.0050.01 0.02 0.03 0.04 Miles

Aerial Map

400 East Kettleman Lane
APN: 062-060-10
Lodi, CA 95240

Legend

 Project Site



PROPOSED TENANT IMPROVEMENT FOR: CASA FLORES

400 E. KETTLEMAN LN. #5
LODI, CA

RECEIVED
MAR 29 2011
SUNSHINE SEWER-CALANT DEPT
CITY OF LODI

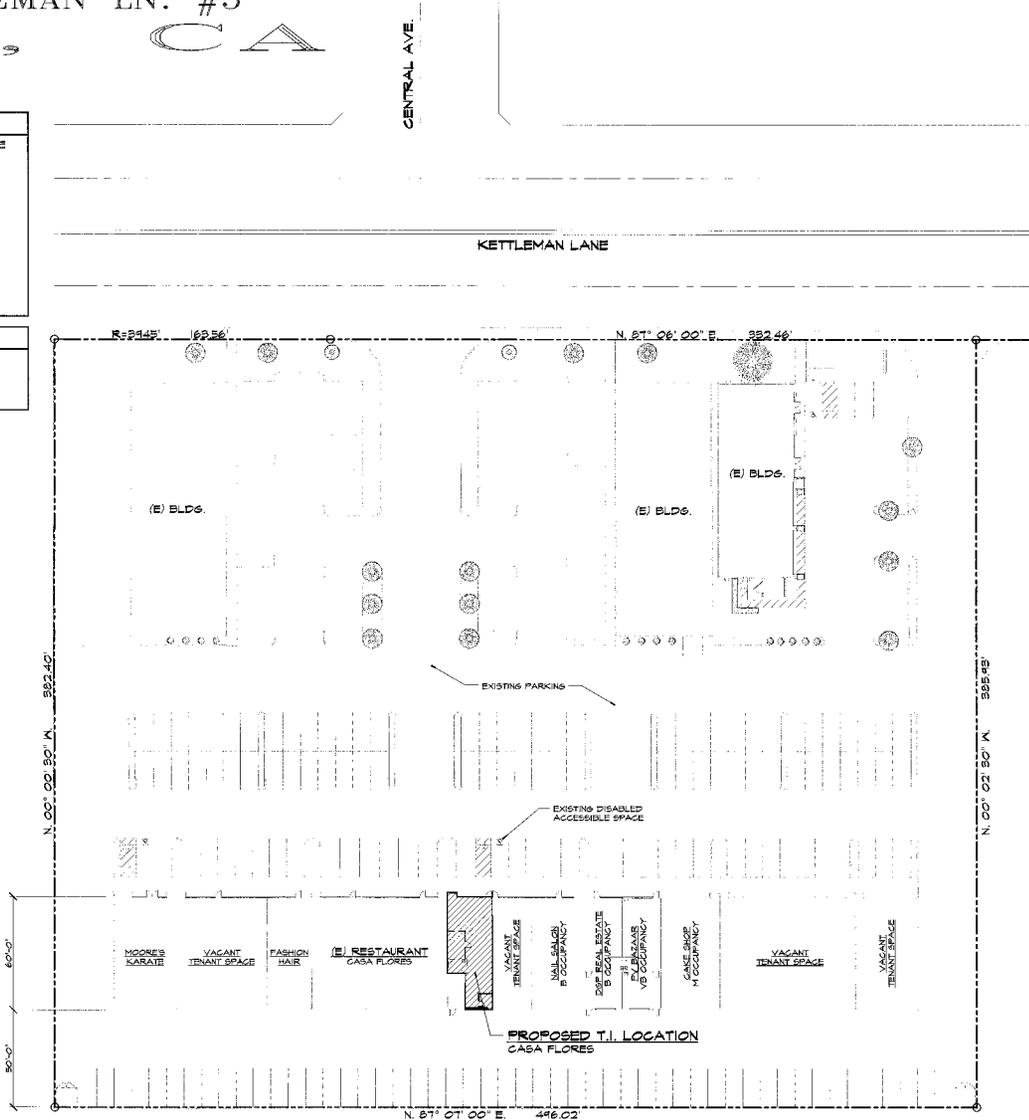
| PROJECT DATA: | |
|---------------------|---|
| PROJECT OWNER | KETTLEMAN STATION 400 E. KETTLEMAN LN. LODI, CA. |
| PROJECT LOCATION | 400 E. KETTLEMAN LN. 'CASA FLORES' SUITE #5 LODI, CA. |
| PROJECT DESCRIPTION | TENANT IMPROVEMENT |
| APN | 062-06-010 |
| OCCUPANCY | AS |
| CONSTRUCTION TYPE | VB |
| FIRE SPRINKLERS | YES |
| AREAS: | |
| CASA FLORES: | |
| (E) AREA | 2,410 S.F. |
| TENANT IMPROVEMENT | 1200 S.F. |
| TOTAL AREA | 4,110 S.F. |
| UTILITIES: | |
| WATER | CITY OF LODI |
| SEWER | CITY OF LODI |
| STORM DRAIN | CITY OF LODI |

| CODE COMPLIANCE | |
|---|--|
| ALL WORK PERFORMED SHALL BE IN ACCORDANCE TO THE LATEST EDITION OF APPLICABLE CODES, INCLUDING BUT NOT LIMITED TO: | |
| <ul style="list-style-type: none"> • 2010 CALIFORNIA BUILDING CODE (CBC) • 2010 CALIFORNIA RESIDENTIAL CODE (CRC) • 2010 CALIFORNIA ELECTRICAL CODE (CEC) • 2010 CALIFORNIA GREEN BUILDING CODE (CGBC) • 2010 CALIFORNIA MECHANICAL CODE (CMC) • 2010 CALIFORNIA PLUMBING CODE (CPC) • 2010 CALIFORNIA ENERGY CODE • 2010 CALIFORNIA FIRE CODE • 2010 CALIFORNIA HISTORICAL BUILDING CODE • 2010 CALIFORNIA EXISTING BUILDING CODE • 2010 CALIFORNIA REFERENCED STANDARDS CODE | |

| SHEET INDEX: | |
|--------------|-------------------------------|
| CS | COVER SHEET, SITE PLAN |
| AI | PROPOSED FLOOR PLAN, SECTIONS |
| DA | DISABLED ACCESS STANDARDS |

| SCOPE OF WORK: | |
|----------------|---|
| 1. | PROVIDE NEW 6'-0" OPENING IN EXISTING WALL. |
| 2. | CONSTRUCT NEW OFFICE IN REAR OF TENANT SPACE. |
| 3. | DEMOLISH EXISTING PAINT MIXING ROOM. |
| 4. | REPLACE EXISTING SUSPENDED CEILING TILES. EXISTING GRID TO REMAIN. |
| 5. | ADJUST EXISTING LIGHTING AT NEW OFFICE AND PAINT MIXING ROOM. NO NEW LIGHTING PROPOSED. |
| 6. | ADJUST EXISTING FIRE SPRINKLER HEADS AT NEW OFFICE AND PAINT MIXING ROOM. SEPARATE PERMIT REQUIRED. |
| 7. | ADJUST EXISTING AIR CONDITIONING REGISTERS AT NEW OFFICE AND PAINT MIXING ROOM. NO NEW AIR CONDITIONING PROPOSED. |
| 8. | VERIFY EXISTING TENANT SEPARATION WALL IS A FIRE RATED WALL (PREVIOUS TENANT HAS AN "H" OCCUPANCY), OR INSTALL NEW 3/4" TYPE "X" GYPSUM WALL BOARD. |

| NOTE: | |
|-------|---|
| 1. | IF FIRE SPRINKLERS NEED TO BE MOVED OR MODIFIED, PROVIDE PLANS AND ENGINEERING USER SEPARATE COVER FOR REVIEW AND APPROVAL. SEPARATE PERMIT REQUIRED. |



SITE PLAN



| | |
|----------|----|
| REVISION | BY |
| | |
| | |
| | |

MIKE SMITH
ENGINEERING, INC.
4 NORTH MAIN STREET
LODI, CALIFORNIA 95240
PHONE (209) 384-2532

TITLE:
COVER SHEET
SITE PLAN

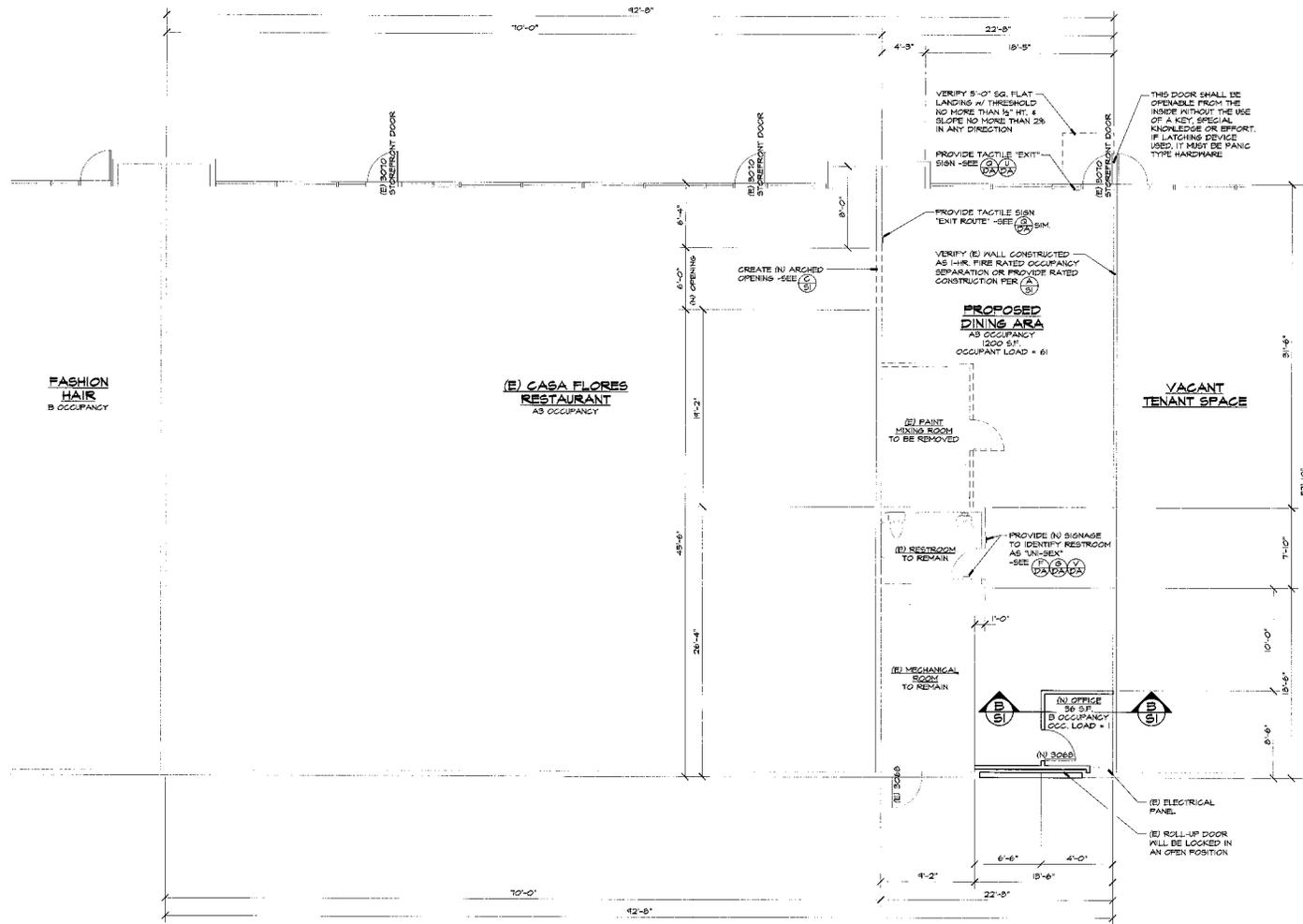
PROJECT:
PROPOSED CASA FLORES
TENANT IMPROVEMENT FOR
KETTLEMAN STATION
PROJECT LOCATION:
400 E. KETTLEMAN LN.
LODI, CA



| | |
|----------|----------|
| SCALE | AS NOTED |
| DATE | 9/21/11 |
| DESIGNER | CS |
| CHECKED | CS |
| DATE | 9/21/11 |

1 of 3 04875

Bill-0428



PROPOSED FLOOR PLAN



| REVISION | BY |
|----------|----|
| | |
| | |
| | |

MIKE SMITH ENGINEERING, INC.
4 NORTH MAIN STREET
LODI, CALIFORNIA 95240
PHONE (209) 334-5332

TITLE:
PROPOSED FLOOR PLAN

PROJECT:
PROPOSED CASA FLORES
TENANT IMPROVEMENT FOR
KETTLEMAN STATION
PROJECT LOCATION:
400 E KETTLEMAN LN.
LODI, CA



PLANNED BY
DLS
CHECKED BY
MS
DATE
3/23/11
SCALE
AS NOTED
JOB NO.
11053
SHEET

A1

2 of 4 SHEETS

SEAFOOD

Served with Rice, Beans, Guacamole,
And Sour Cream

| | |
|--|---------|
| CAMARONES A LA DIABLA Shrimp served with chopped onions, tomatoes, and our special spicy sauce | \$12.00 |
| CAMARONES AL MOJO DE AJO Shrimp served with chopped onions, tomatoes, garlic, our special sauce | \$12.00 |
| CAMARONES RANCHEROS Shrimp served with onions, tomatoes, and bell peppers in our special tomatoes sauce | \$12.00 |
| SHRIMP COCKTAIL Our shrimp cocktail includes chopped onions, tomatoes, fresh cilantro, sliced avocados, fresh lemon, and our special cocktail sauce. Served with salted crackers | \$10.50 |

| | |
|-----------------------|--------|
| SHRIMP TOSTADA | |
| Lunch | \$5.75 |
| Dinner | \$8.50 |
| A la carte | \$3.95 |

Listed in other parts of the menu:

**FISH TACOS • SHRIMP GREEN ENCHILADA
• SHRIMP FAJITAS • FISH FAJITAS**

SIDE ORDERS

| | |
|---------------------|--------|
| GUACAMOLE | \$1.25 |
| CHIPS & SALSA TO GO | \$4.00 |
| SIDE SALAD | \$2.50 |
| SOUR CREAM | \$1.00 |
| BEANS • RICE | |
| Per scoop | \$1.50 |

KID'S MENU

For our guest 11 years and under.
Served with a small kid's drink of your choice.

| | |
|--|--------|
| CK O'S & FRIES | \$4.95 |
| HAMBURGER & FRIES | \$4.95 |
| CHEESEBURGER & FRIES | \$4.95 |
| CORNDOG BITES & FRIES | \$4.95 |
| No. 80 Shredded chicken with gravy served with rice, beans, and lettuce | \$4.95 |
| No. 50 Rice & beans garnished with lettuce | \$3.50 |

DESSERTS

HOMEMADE FLAN • CHEESECAKE \$3.50

DRINKS

No refills to go

SOFT DRINKS

Coke • Diet Coke • Sprite • Root Beer • Mr. Pibb • Lemonade •
Fanta Orange • Iced Tea • Raspberry Iced Tea \$1.95

Coffee • Hot Tea \$1.95

Horchata • Hot Chocolate
1 refill only \$2.25

Pepsi • Diet Pepsi 24 oz Bottle \$2.25

Milk • Orange Juice • Apple Juice
(14 oz) No Refills \$2.25

BEER

MEXICAN BEER

Corona • Bohemia • Dos Equis XX Amber & Lager •
Negra Modelo • Modelo Especial • Pacifico • Tecate \$3.25

AMERICAN BEER

Budweiser • Bud Light • Coors Light
Coors • MGD • Miller Lite • O'Doul's \$2.95

WINES

GALLO TWIN VALLEY WINES

White Zinfandel
Chardonnay
Merlot

Glass \$3.00 • Bottle \$10.00

ADVENTUROUS WINES

Bottle only

Kendall-Jackson Chardonnay • Jessie's Gove Winery Earth Zin & Fire
\$25.00

WINE MARGARITAS

Lime • Glass \$3.50

DRAFT BEER

BUD LIGHT

16 oz glass \$3.00 • 32 oz pitcher \$5.50
64 oz pitcher \$10.00

XX • BLUE MOON

16 oz glass \$3.50 • 32 oz pitcher \$6.75
64 oz pitcher \$13.00



Bienvenidos a

CASA FLORES

MEXICAN RESTAURANT



400 E. Kettleman Ln.
Lodi, CA 95240
(209) 365-0559

100 % Cholesterol Free Chips
 "We cook with Corn Oil for all our deep frying"

APPETIZERS

NACHOS

Corn chips with melted Monterey jack cheese on top, jalapeños, guacamole, sour cream, beans, tomatoes, and your choice of:
 Chicken or Beef \$7.75
 Carne Asada \$8.25

SPECIALTY DIPS

Guacamole Dip \$4.99
 Gravy & Cheese \$1.25
 Beans w/gravy & cheese \$2.25

ADELAS

Two flour tortillas with melted cheese and tomatoes. Served with sour cream and guacamole. \$5.25

BREAKFAST

MACHACA & EGGS

Three scrambled eggs, sautéed onions, tomatoes, bell peppers, yellow chiles, rice, beans, and your choice of chicken or shredded beef \$7.75

CHORIZO, EGGS & POTATOES

Served with rice, beans, sour cream, and flour or corn tortillas. \$7.75

HUEVOS RANCHEROS

Two over easy eggs served on top of a corn tortilla with steak ranchero, rice, and beans. \$7.75

SOUPS & SALADS

MENUDO

Served on Saturdays and Sundays \$7.75

TACO SALAD

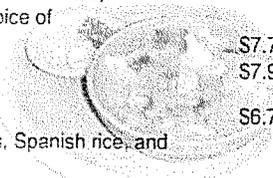
Served in a flour tortilla shell with refried beans on the bottom. Tossed lettuce, tomatoes, carrots, cucumbers, and cheese on top. Served with sour cream, guacamole, and rice on the side.
 Chicken \$7.75
 Shrimp \$7.95

CHICKEN OR SHRIMP SALAD

Served with lettuce, tomatoes, carrots, cucumbers, lemon, and slices of avocado. Your choice of:
 Dressing \$7.75
 Shrimp \$7.95

CHICKEN SOUP

Served with steamed mixed vegetables, Spanish rice, and shredded chicken \$6.75



LUNCH SPECIALS • DINNER PLATES

Served with rice, beans, garnished with lettuce and tomatoes.

Combine ANY two items for Dinner Plates

TACO • ENCHILADA • TOSTADA • QUESADILLA • BURRITO • TAMALES • ASADA TACO

Lunch (One Item) \$4.95 • Dinner (Two Items) \$7.75
 • A la carte Item \$3.00

FLAUTAS • CHIMICHANGA • FISH TACO • SOPE • SHRIMP GREEN ENCHILADA

Lunch (One Item) \$5.75 • Dinner (Two Items) \$8.50
 • A la carte Item \$3.95

CHILE RELLENO • GREEN ENCHILADA

Lunch (One Item) \$5.50 • Dinner (Two Items) \$8.25
 • A la carte Item \$3.25

Add \$0.50 to lunch specials after 3:30 pm

NO. 1 MOSTLY BEEF

1 Beef Taco, 1 Beef Enchilada, 1 Chile Relleno, Chile Colorado, Chile Verde \$10.95

NO. 2

1 Taco, 1 Enchilada. Your choice of chicken, beef, or pork \$7.75

NO. 3 MOSTLY CHICKEN

1 Chicken Taco, 1 Chicken Enchilada, 1 Chile Relleno, Chile Colorado, Chile Verde \$10.95

NO. 4

1 Beef Quesadilla, 1 Chile Relleno, 1 Beef Taco, Chile Verde \$10.95

NO. 5

1 Beef Taco, 1 Cheese Enchilada, Steak Ranchero \$9.25

NO. 6

1 Beef Enchilada, 1 Beef Quesadilla, Steak Ranchero \$9.25

NO. 7 Beef Taco, Cheese Enchilada \$7.75

NO. 8 Chicken Taco, Beef Enchilada \$7.75

NO. 9 Beef Tostada, Beef Enchilada \$7.75

NO. 10 Chile Relleno, Tamale \$8.25

NO. 11 Chicken Enchilada, Beef Taco \$7.75

NO. 12 Beef Enchilada, Beef Quesadilla \$7.75

NO. 13 Guacamole Tostada, Tamale \$7.75

NO. 14 Cheese Enchilada, Pork Burrito \$7.75

NO. 15 Beef Enchilada, Chile Relleno \$8.25

NO. 16 Beef Taco, Tamale \$7.75

NO. 17 Beef Enchilada, Pork Burrito \$7.75

NO. 18 Chile Relleno, Beef Tostada \$8.25

NO. 19 Beef Enchilada, Tamale \$7.75

NO. 20 Beef Taco, Chile Relleno \$8.25

NO. 21 Beef Enchilada, Beef Burrito \$7.75

NO. 22 Beef Quesadilla, Chile Relleno \$8.25

NO. 23 Cheese Enchilada, Chile Relleno \$8.25

NO. 24 Beef Burrito, Beef Taco \$7.75

NO. 25 Guacamole Tostada, Beef Quesadilla \$7.75

Tortillas available upon request.

SIZZLIN' FAJITAS

Served on a sizzlin' hot plate with sautéed bell peppers, onions, tomatoes, and yellow chiles. Served with rice, refried beans, sour cream, and guacamole.

CHICKEN OR STEAK FAJITAS

Marinated meat with our house salsa and sautéed Vegetables \$12.00
 Add shrimp \$2.50

SHRIMP OR FISH FAJITAS

Marinated shrimp with our house salsa and sautéed vegetables \$13.50



CASA FLORES SPECIALTIES

Served with rice and beans.

Tortillas available upon request.

CHILE VERDE

Chunks of tender pork sautéed in our famous tomatillo green salsa \$9.50

CHILE COLORADO

Chunks of tender beef topped with our delicious red sauce \$9.50

STEAK RANCHERO

Beef slices cooked with bell peppers, onions, yellow chiles, and our own special sauce \$9.50

BREADED CHICKEN OR BEEF

Served with fries, sour cream, and guacamole \$13.00

ESPECIALES

Diced steak mixed with bell peppers, onions, yellow chiles, tomatoes, bacon, and cheese \$9.50

CARNE ASADA

Grilled steak topped with sautéed onions, tomatoes, bell peppers, and yellow chiles. Served with sour cream and guacamole \$12.00
 Add shrimp \$2.00

SUPER BURRITOS

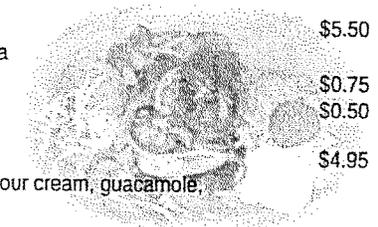
Served with rice, beans, and cheese inside with your choice of meat:
 Beef (Chile Colorado) • Pork (Chile Verde) • Chicken \$4.95

CARNE ASADA

with onions, cilantro, and salsa \$5.50
 Add guacamole \$0.75
 Add sour cream \$0.50

VEGETARIAN BURRITO

Refried beans, rice, cheese, sour cream, guacamole, lettuce, and tomatoes \$4.95



Immanuel Bereket

From: JP Badel
Sent: Monday, April 11, 2011 1:35 PM
To: Immanuel Bereket
Subject: Casa Flores

Manny

Lt. Price reviewed the use permit application for Casa Flores and he has no concerns or issues.

JP

Captain J.P. Badel
Operations & Support Services Commander
Lodi Police Department
215 W. Elm St.
Lodi, California 95240
Office: 209-333-5501
www.lodi.gov/police

RESOLUTION NO. P.C. 10-30

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF LODI FOR THE APPROVAL OF THE REQUEST OF PETRA FLORES, ON BEHALF OF CASA FLORES MEXICAN RESTAURANT, FOR A USE PERMIT TO ALLOW FOR AN ON-SALE BEER, WINE AND DISTILLED SPIRITS ALCOHOLIC BEVERAGE CONTROL LICENSE AT 400 EAST KETTLEMAN LANE, SUITES 5-8

- 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 Petra Flores Pena, On behalf of Casa Flores Mexican Restaurant, 400 East Kettleman Lane, Lodi, CA 95240; and
- WHEREAS,** the project is located at 400 E. Kettleman Ln, Lodi, CA 95241 (APN: 062-060-10); and
- WHEREAS,** the property has a General Plan designation of Commercial and is zoned C-2, General Commercial; and
- WHEREAS,** the requested Use Permit to allow the selling of beer, wine distilled spirits for on-site consumption within a restaurant is an enforcement action in accordance with the City of Lodi Zoning Ordinance; and
- WHEREAS,** Census Tract 44.02 in which the proposed restaurant is to be located is not over concentrated of licenses allowing on premise consumption of alcoholic beverages; and
- WHEREAS,** because Census Tract 44.02 has no over concentration of On-sale beer, wine and distilled spirits alcohol licenses, the Planning Commission does not need to make a finding of necessity and/or public 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 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.
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, 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-sale of beer, wine and distilled spirits, in accordance with a Type 47 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-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 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-2 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. 10-U-14 is hereby approved, subject to the following conditions:

1. The applicant/Operator and/or successors in interest and management shall defend, indemnify, and hold the City, its agents, officers, and employees harmless of any claim, action, or proceeding to attack, set aside, void, or annul this Use Permit, so long as the City promptly notifies the developer of any claim, action, or proceedings, and the City cooperates fully in defense of the action or proceedings.
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 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 Applicant/Operator and/or successors in interest and management shall not serve alcohol in the proposed patio area and anywhere outside of the proposed building envelop.
5. The Applicant/Operator shall operate and abide by the requirements and conditions of the State of California Department of Alcoholic Beverage Control License Type 47. The Type 47 License shall be limited to on-site sale and consumption of beer, wine and distilled spirits during the hours that the restaurant is open for business or as otherwise modified by the Community Development Director.
6. 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, wine and distilled spirits, 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.

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. The Use Permit shall require the Applicant/Operator and/or successors in interest and management to secure an ABC Type 47 license, On Sale Beer, Wine and Distilled Spirits – Eating Place.
9. Prior to the issuance of a Type 47 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.
10. The sale of alcohol shall occur only at tables when served with meals. Installations of a separate bar and/or counter for the consumption of alcohol shall be subject to City review and approval.
11. Any changes to the interior layout of the business operation shall be subject to review and approval by the Planning Department and shall require appropriate City permits.
12. The quarterly gross sales of alcoholic beverages shall not exceed the gross sales of food during the same period. The licensee shall at all times maintain records which reflect separately the gross sale of food and the gross sales of alcoholic beverages of the licensed business. These records shall be kept no less frequently than on a quarterly basis and shall be made available to the Police Chief or his designee, upon demand.
13. No person who is in a state of intoxication shall be permitted within the restaurant nor shall an intoxicated patron already in the bar 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.
14. 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.
15. 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.
16. The operator/applicant and/or successors in interest and management shall ensure noise emanating from the property shall be within the limitations prescribed by the City's Noise Ordinance and shall not create a nuisance to surrounding residential neighborhoods, and/or commercial establishments.
17. The exterior of all the premises shall be maintained in a neat and clean manner, and maintained free of graffiti at all times.
18. 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.
19. 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.

20. No variance from any City of Lodi adopted code, policy or specification is granted or implied by this approval.

Dated: May 11, 2011

I certify that Resolution No. 10-30 was passed and adopted by the Planning Commission of the City of Lodi at a regular meeting held on May 11, 2011 by the following vote:

AYES: Commissioners:

NOES: Commissioners:

ABSENT: Commissioners:

ATTEST _____
Secretary, Planning Commission

Item 3d.

**CITY OF LODI
PLANNING COMMISSION
Staff Report**

MEETING DATE: May 11, 2011

APPLICATION NO: 11-U-10

REQUEST: Request for Planning Commission approval of a Use Permit to allow Type 42 Alcoholic Beverage Control license (on-sale beer and wine – public premises) at 1110 West Kettleman Lane, Suites 9-10. (Applicant: Sean Bocardo and Nichole Pendley. File Number: 11-U-10).

LOCATION: 1110 West Kettleman Lane, Suites 9-10
APN: 060-037-06
Lodi, CA 95242

APPLICANT: Sean Bocardo and Nichole Pendley
1961 Carmel Circle
Lodi, CA 95242

PROPERTY OWNER: Lodi Ranch Center LLC
201 Wilshire Blvd, Suite A28
Santa Monica, CA 90401

RECOMMENDATION

Staff recommends the Planning Commission approve the request of Sean Bocardo and Nichole Pendley for a Use Permit to allow Type-42 Alcoholic Beverage Control license at license at 1110 West Kettleman Lane Suites 9-10, subject to the conditions in the attached resolution.

PROJECT/AREA DESCRIPTION

General Plan Designation: MUC, Mixed Use Corridor.
Zoning Designation: PD -15, Planned Development 15.
Property Size: 3.54 acres. (Project is approximately 3,500-square-feet).

The adjacent zoning and land use characteristics:

| | General Plan | Zone | Land Use |
|-------|--|---|---------------------------------|
| North | Mixed Use Corridor. | R-C-P: Residential, Commercial Professional | Professional uses |
| South | Low Density Residential | PD-15: Planned Development 15 | Residences |
| East | Mixed Use Corridor. | PD-15: Planned Development 15 | Commercial uses |
| West | Mixed Use Corridor/Low Density Residence | PD-15: Planned Development 15 | Commercial and residential uses |

SUMMARY

The applicants, Sean Bocardo and Nichole Pendley, request approval of a Use Permit to allow a Type-42 On-Sale beer and wine in conjunction with a piano lounge to be located at 1110 West Kettleman Lane, Suites 9-10. The project area contains a variety of commercial businesses such as offices, a gym, restaurants and various retail stores. The census tract for the project area is currently over-concentrated with alcoholic

beverage licenses. Sale of alcohol for on and off site consumption is permitted at the project site with a Use Permit.

BACKGROUND

The applicants seek permission to open a piano lounge that will serve beer and wine for on-site consumption. The property owners are in the process of submitting plans for a Tenant Improvement permit to allow the proposed business. The tenant spaces were previously used as an office and a beauty salon at different times. The subject tenant spaces have been vacant since 2008. The surrounding land uses consist primarily of residential and professional uses to the north, commercial and professional uses to the east, residential uses to the south, and commercial and residential uses to the west.

ANALYSIS

According to the applicant's project description, Cabaret Sauvignon a lounge that would serve beer and wine for on-site consumption. The piano lounge will allow local artists to display, present and market their art works and perform at this location. According to the applicant, proposed performances would constitute poetry reading, piano recitals, live music, comedy acts, theater acts and art shows. The proposed live entertainment would occur in conjunction with the sale of beer and wine for on site consumption. The proposed business's tenant space measures approximately 3,500 square feet in size. On site parking is provided in the plaza which satisfies the parking requirement. In accordance with the State Department of Alcoholic Beverage Control (ABC) requirements, the establishment is not required to serve food.

As stated above, the applicant requests a Use Permit approval to allow a Type-42 on-sale beer and wine ABC license. Type-42 ABC license is typically issued to bars and taverns and authorizes the sale of beer and wine for consumption on or off the premises where sold. No distilled spirits are allowed on the premises. Minors are not allowed. The project site is within the Planned Development 15 (PD-15) zoning district, which permits the sale of alcohol for on and off-site consumption with the granting of a Use Permit by the Planning Commission, pursuant to §17.72.040 of the Lodi Municipal Code, which 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 Department of Alcoholic Beverage Control (ABC) primarily controls issuance based on concentration of licenses within a particular Census Tract. Census tracts are defined as small geographical areas established by local committees and approved by the Census Bureau, which contain a population segment with relatively uniform economic and social characteristics and clearly identifiable boundaries.

Site Layout: The project site is within a shopping (commercial) center, which contains a single two story building situated along the southern perimeter. The shopping center is bounded by Ham Lane on the west, by Fairmont Street on the east, by single-family residences on the south and by Kettleman Lane on the north. The building stands approximately 75 feet away from the northern (Kettleman Lane) property line. The shopping center contains a variety of businesses, including eating establishments and offices. One of the restaurants, Casa Mexicana, petitioned the Commission for Live Entertainment permit on limited hours and was approved in 2006. The restaurant has not been a source of any policing problems.

Floor Plan: The existing floor plan consists of two suites with open tenant spaces and bathrooms. One of the suites was previously used by a beauty salon and the other was most recently used as an office. The proposed floor plan consists of a stage, dance floor, removable chairs, bar areas, storage rooms, office and other ancillary rooms. Primary features of the proposed floor plan are dancing floor, music lounge areas and bars.

Parking/Circulation: The site provides on-site parking. Egress/Ingress points are provided from all adjoining public streets. Parking requirements for neighborhood commercial centers are based on a flat rate for all uses in the center, and not by describing each use in the center individually, unless the center has a high concentration of uses with similar peak hours of operation. The center provides sufficient parking spaces for all its tenants.

Commercial Entertainment: As proposed, the establishment would be open daily from 4:00 p.m. to 2:00 a.m. Live Entertainment hours would occur from 7:00 p.m. to 10:00 p.m. Sunday through Thursday, and 7:00 p.m. to midnight Friday and Saturday nights. Live Entertainment would consist of a disc jockey, bands, single musicians and singers, juke box, amplified music, karaoke, open microphone night, dancing and comedy acts.

Comments and Concerns:

Although staff is supportive of the project, staff recommends operational conditions to eliminate or mitigate adverse impacts the use may have on adjacent properties. Staff proposes that entertainment days and hours should be limited to Friday-Saturday from 7:00 p.m. to 11:45 p.m. and no live entertainment should occur from Sunday-Thursday, except in recognized holidays and private functions where noise levels fully comply with the Noise Ordinance. These hours would be consistent with Casa Mexicana Restaurant live entertainment hours established per Planning Commission Resolution No. 06-21, which was passed January 25, 2006 on a vote of 6-0 with one absent. Casa Mexicana Restaurant is located in the same complex as the proposed project.

Staff recognizes the project has the potential to change ambient noise levels above the City's noise threshold. Due to the potential change in sound levels associated with the project, staff recommends physical measures to mitigate potential adverse noise levels. Staff recommends the applicant should undertake building modifications to ensure nearby residents and businesses are not unduly affected by noise emanating from the club. To minimize overall sound levels and to meet conformance with the Noise Ordinance, conditions of approval mandate the applicant to install noise mitigation measures where the ambient dBA levels do not exceed the allowable 5 dBA ambient levels. The operator of the business will be required to increase the mass to the building's envelop to provide greater frequency sound attenuation and/or retrofit with additional building materials to provide satisfactory noise attenuation. As an added measure to ensure that noise levels generated from the establishment comply with the Noise Ordinance, final sound measurements must be taken and submitted to Planning staff prior to issuance of certificate of occupancy (Condition No 11). If the final measurements indicate that additional noise attenuation is needed, and if final sound measurements do not conform to the Noise Ordinance, the applicant/operator shall provide added measures to comply with the Noise Ordinance.

The applicant's project was referred to the Police, Fire and Building Departments for review and recommendation. The key issues related to approval of bars, lounges and taverns involve the appropriateness of the location and whether or not such

establishments can operate without detriment to nearby residential uses and general welfare of the surrounding area. As stated above, the site is located within a PD zoning district and abuts residences to the south (see attachment 2). The subject property has historically operated as an office but has been vacant for some time. Bars are a permitted use in the P-D zoning district. However, there are no establishments that are primarily bars/lounges in nature within this shopping commercial center.

Staff feels the proposed use could be compatible with the surrounding area if properly operated and fully complies with conditions of approval attached herein. Staff proposes that live entertainment hours should be limited to Friday through Saturday evenings, from the hours of 7 p.m. until 11:45 p.m. and should be limited to the dancing area illustrated in the proposed floor plan. Staff also suggests that a minimum of four (4) Professional security staff must be present during the hours entertainment occurs. All persons responsible for security for the business must have training as State-licensed security personnel and their credentials must be subject o the Lodi Police Department review and approval. Further, staff suggests that physical mitigation measures (i.e., double doors, insulations, etc) to prevent noise leakage from the premise. These measures should be installed as part of the tenant improvement permit required for the project. Finally, staff recommends conditions related to installation of security cameras and improvement to the existing parking lot lighting. Staff notes some of the existing parking lot light fixtures do not work. Exterior lighting fixtures are needed to illuminate the parking. Lighting fixtures should be sufficient enough so that all exterior building elevations and the common parking lot are readily visible from adjacent streets.

The Police Department has reviewed the application and recommends approval with the conditions outlined in the attached resolution. The Police Department feels the conditions outlined in the attached resolution, specifically conditions related to security personnel and security cameras, address issues related to unruly patrons and possible disruption of the peace. The Building and Safety Division have noted that the change in use would necessitate tenant improvements to allow the proposed use at this site. The Building and Safety Division's comments have been incorporated in to the attached draft resolution.

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. Census Tract 43.06 covers the area south of Kettleman Lane, west of Sacramento Street, north of Harney Lane, and east of Ham Lane. According to ABC, Census Tract 43.06 contains ten (10) existing on-sale licenses with eight (8) On-sale licenses allowed based on the ABC criteria. Because the area is over concentration, the Planning Commission must make a make a finding of public necessity or convenience in order to approve an additional ABC license.

When the Planned Development was originally adopted, it was intended to provide retail shops, restaurants, and service that met the commercial needs of the community. Currently, the shopping center contains three restaurants with alcohol license (Yen Ching, Casa Mexicana and Artist Café). In staff's opinion, the approval of this proposed establishment will not be detrimental to the rest of the shopping center and will be compatible with the surrounding neighborhoods. The conditions placed on the Use Permit will further ensure the protection of general public health and well-being. Staff has placed conditions that allow the Planning Commission, city staff, and Police Department

to review this Use Permit any time in the future to amend and add conditions or void this Use Permit should the project proponent fail to adhere to the conditions of approval as stipulated in the attached draft resolution. Therefore, staff recommends approval of the Use Permit subject to the conditions outlined in 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." 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 30, 2011. Sixty-six (66) 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,

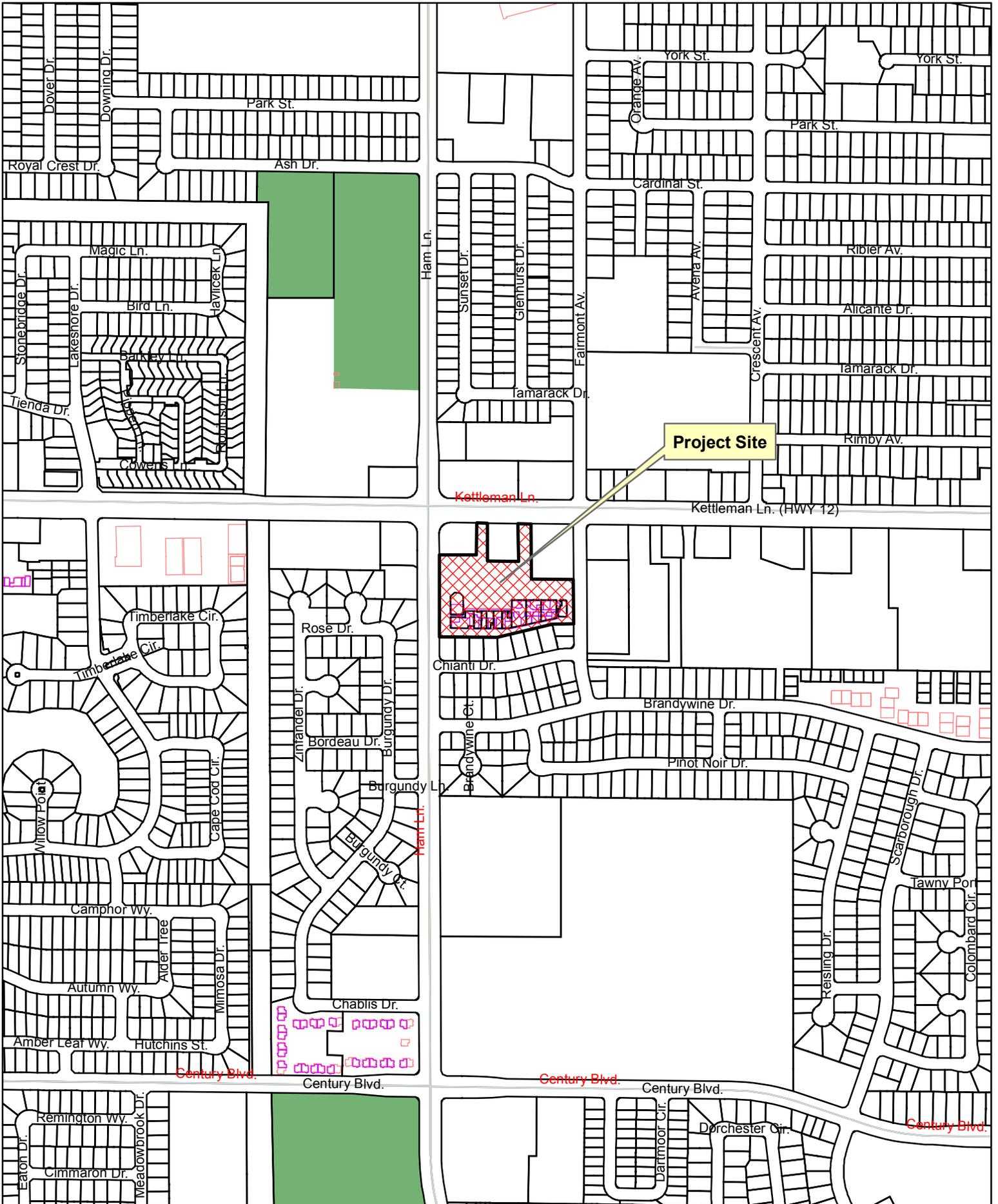
Concur,

Immanuel Bereket
Assistant Planner

Konradt Bartlam
Community Development Director

ATTACHMENTS:

1. Vicinity Map
2. Aerial Map
3. Site Plan
4. Floor Plan
5. Applicant's Project Description
6. Draft Resolution



Project Site

Kettleman Ln.

Kettleman Ln. (HWY 12)

Chianti Dr.

Brandywine Dr.

Pinot Noir Dr.

Rose Dr.

Bordeau Dr.

Burgundy Ln.

Chablis Dr.

Century Blvd.

Century Blvd.

Century Blvd.

Century Blvd.

Century Blvd.

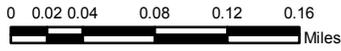
Vicinity Map

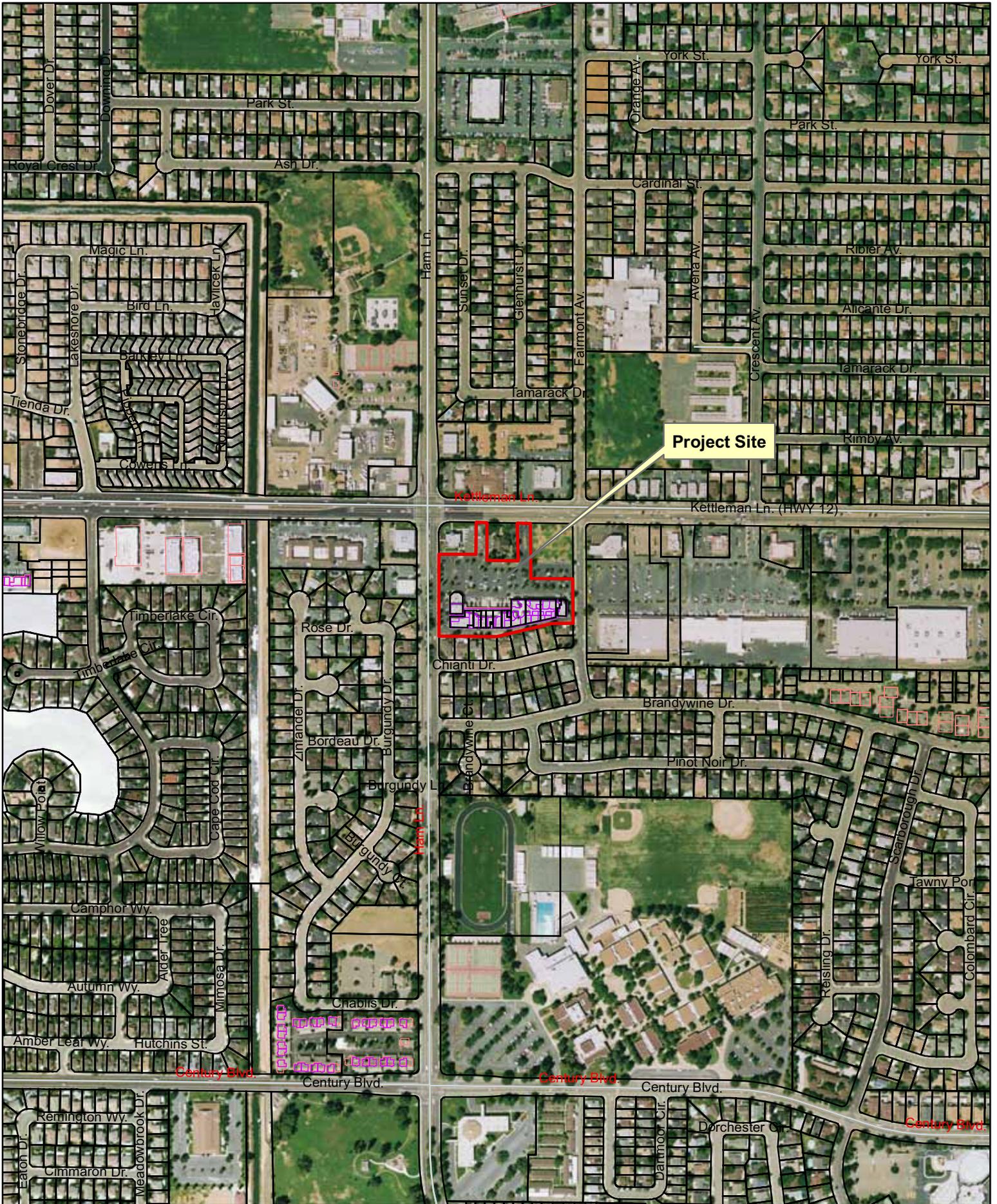
1110 West Kettleman Lane
Lodi, CA 95240

Legend



1110 West Kettleman Lane





Project Site

Kettleman Ln.

Kettleman Ln. (HWY 12)

Chianti Dr.

Brandywine Dr.

Pinot Noir Dr.

Rose Dr.

Burgundy Dr.

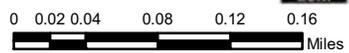
Bordeau Dr.

Burgundy Dr.

Burgundy Dr.

Chablis Dr.

Century Blvd.



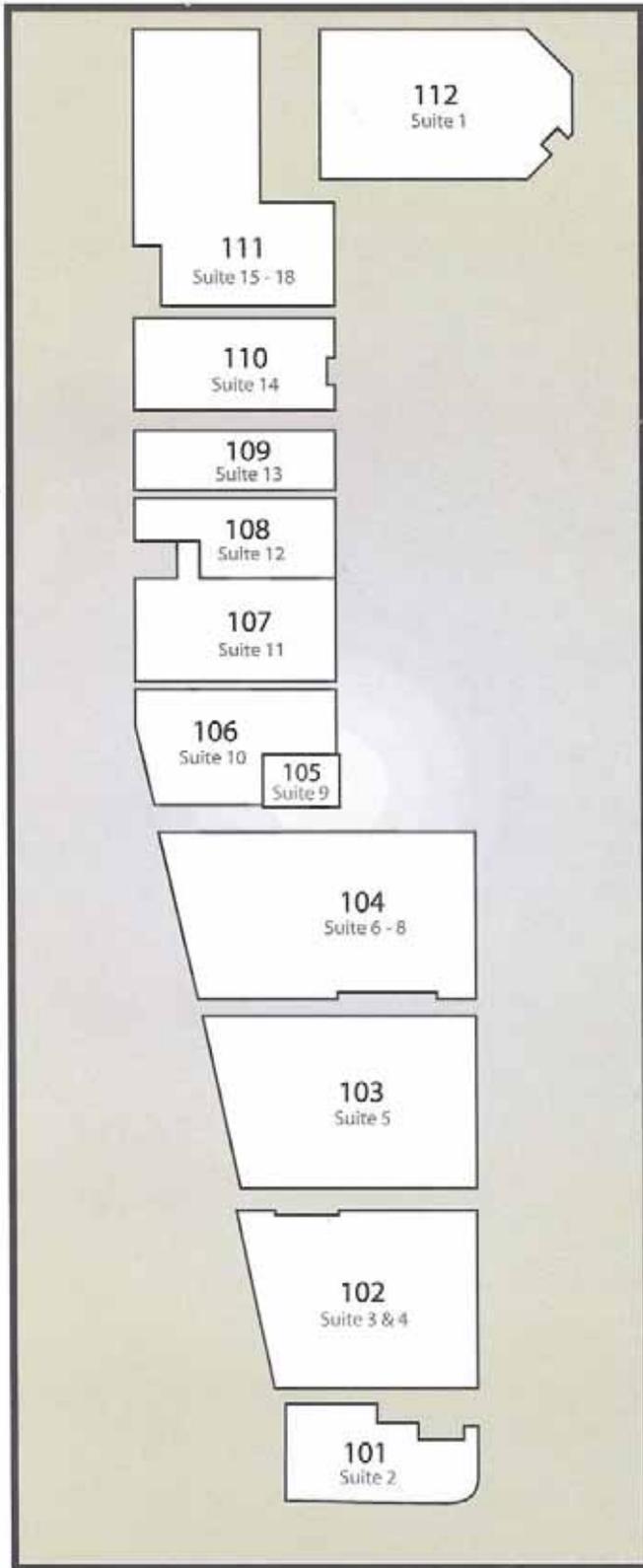
Vicinity Map

1110 West Kettleman Lane
Lodi, CA 95240

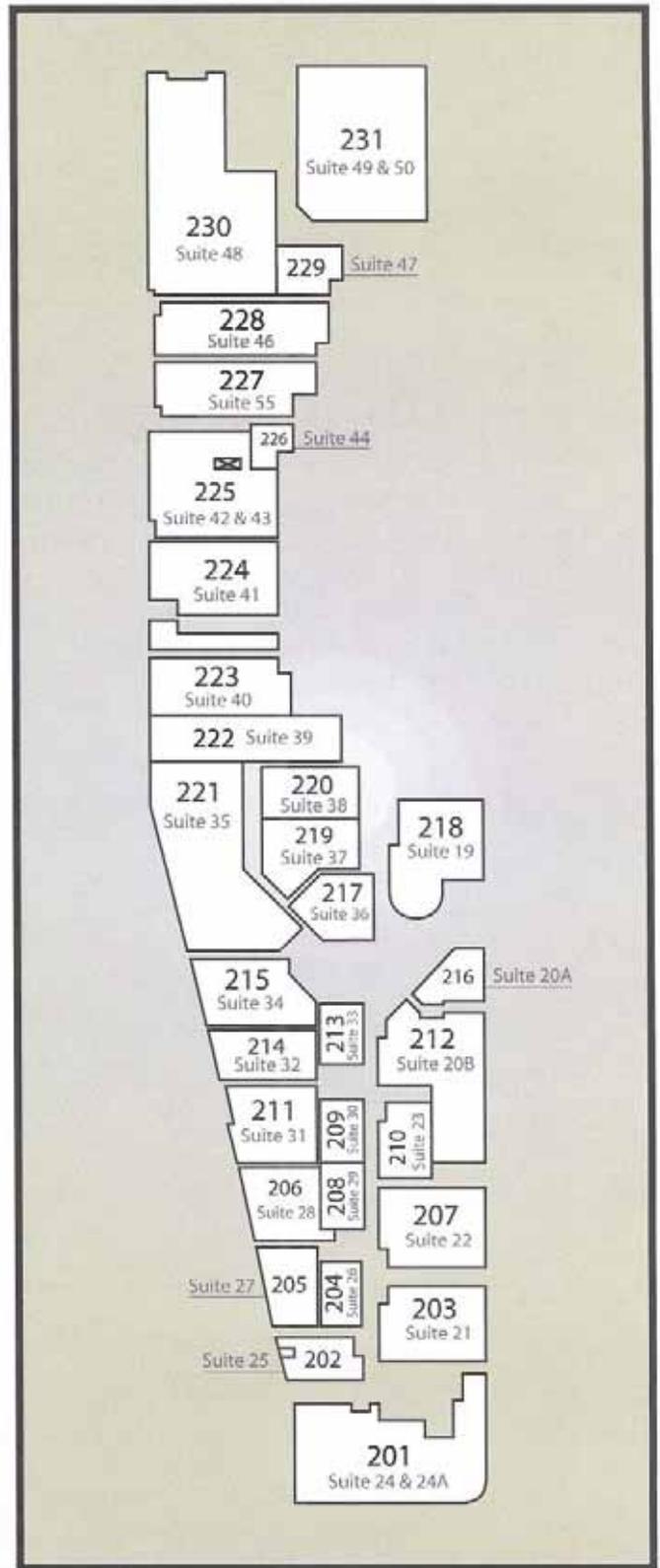
Legend

1110 West Kettleman Lane

First Floor

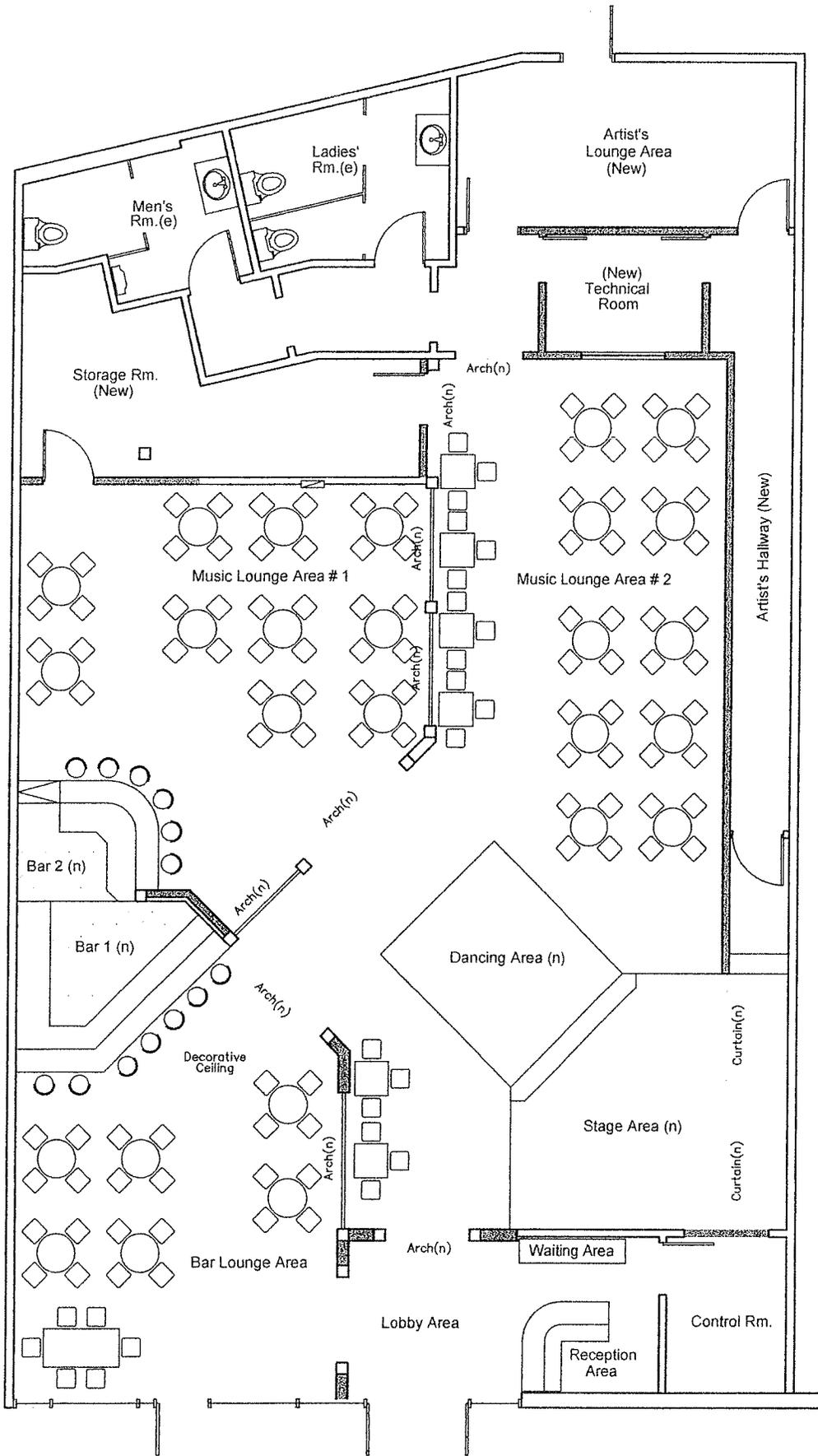


Second Floor



Bella Terra Plaza

Site Plan



FLOOR PLAN

The Cabaret Sauvignon - Wine & Piano Lounge

Summary of Business Plan

Cabaret Sauvignon offers a "Las Vegas Lounge" feel while maintaining a community oriented environment. Providing an entertaining, relaxed venue for patrons to enjoy the performing arts.

At the same time keeping it intimate and community oriented, by offering a showcase of local wines and local talent, at reasonable prices.

Our clients are of two different types, patrons who enjoy the performing arts, but dislike having to travel great distances to enjoy a "Night Out", and folks who just like to relax with a glass of wine in a social atmosphere.

Cabaret Sauvignon offers a venue for both, by allocating a few hours each week to "Live Entertainment", i.e.: Comedy Showcases, live music, and small theatrical performances.

At the same time helping local artists hone their skills in such areas as writing, acting & directing with the "24 Hour Theatre Project". Or providing a venue for the newest musicians, where they can debut their newest material to a small crowd.

The remainder of the week is designated to a "relaxed social environment" with soft music and friendly customer service.

California has always been known for its love of wine and the performing arts. Cabaret Sauvignon has found a way to combine two of California's biggest resources, and brought it to the Central Valley.

Our market research has shown that 4 out of 5 adults over the age of 35 would prefer a location, close to home, where they can plan an inexpensive evening of relaxed entertainment in a social setting.

Not only does it provide these experiences, but also gives back to the community and to *Not-for-Profit* organizations, such as V-Day, with its yearly presentations of the "*Vagina Monologues*".

RESOLUTION NO. P.C. 11-

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF LODI FOR APPROVAL OF A USE PERMIT TO ALLOW TYPE 42 ALCOHOLIC BEVERAGE CONTROL LICENSE (ON-SALE BEER AND WINE – PUBLIC PREMISES) AT 1110 WEST KETTLEMAN LANE, SUITES 9-10

- 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 Sean Bocardo and Nichole Pendley, 1961 Carmel Circle, Lodi, CA 95242; and
- WHEREAS,** the property has a General Plan designation of Mixed Use Corridor and is zoned PD-15, Planned Development 15; and
- WHEREAS,** the project area is located at 1110 West Kettleman Lane, Suites 9-10 Lodi, CA 95240 (APN 060-370-01); and
- WHEREAS,** the property owner is Lodi Ranch Center LLC, 201 Wilshire Blvd, Suite A28, Santa Monica California 90401; and
- WHEREAS,** the requested Use Permit to allow the selling of beer and wine for on-site consumption at an establishment more appropriately described as a lounge or tavern is an enforcement action in accordance with the City of Lodi Zoning Ordinance; and
- WHEREAS,** Census Tract 43.06 in which the proposed business is located currently has an over concentration of licenses allowing on premise consumption of alcoholic beverages; and
- WHEREAS,** because Census Tract 43.06 has an over concentration of On-sale beer and wine alcohol licenses, the Planning Commission must make a finding of necessity and/or public 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; and
- 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 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.
2. The sale of alcoholic beverages for on-premise consumption as part of a bar/tavern is a permitted use in the Planned Development 15 (PD -15) zoning District. The site is suitable and adequate for the proposed use because establishment of a bar/tavern 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 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.
4. The proposed use would not have a substantial adverse economic effect on nearby uses because operation of a bar/tavern in accordance with applicable laws and under the conditions of this Use Permit is anticipated to be an economic benefit to the community.
5. 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.

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 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.
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. 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.
10. The sale of alcoholic beverages at this location can meet the intent of the General Commercial 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-10 is hereby approved, subject to the following conditions:

1. The project proponent/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 Use Permit 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 project proponent/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 project proponent/property owner 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 42. The Type 42 License shall be limited to on-site sale and consumption of beer and wine during the hours that the establishment is open for business or as otherwise modified by the Community Development Director.
4. Starting from the effective date the business commences the sale of beer and wine, this Use Permit shall be subject to a six-month, one-year, and two-year review by Community Development Director and/or the Police Department. If the Director/Police Department determines it necessary, the Use Permit shall subject to review by the Planning Commission to consider the business's operation for compliance with the conditions of the Use Permit, and in response to any complaints thereafter. Further, 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.

5. The Applicant/Operator 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. This use shall also conform to all State Retail Operating Standards, Section 25612.5 of the Business and Professions Code and local Performance Standards, Section 15210, where applicable including any future changes in the above regulations. The intent of these standards is to reduce nuisance, litter, loitering, and crime associated with alcohol outlets. The City Conditions of Approval shall be forwarded to the Department of Alcoholic Beverage Control.
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. Adequate exterior lighting shall be provided to illuminate the facility and the parking lot during hours of darkness. In particular, exterior lighting fixtures shall be provided to illuminate the parking lot. Lighting fixtures should be sufficient enough so that all exterior building elevations and the common parking lot are readily visible from adjacent streets. The said lighting fixtures shall be subject to issuance of a building permit, implemented prior to opening of the business and installed to the satisfaction of the Lodi Police Department and Community Development Department.

Note: Exterior lighting of the parking area shall be kept at an intensity of between one and two foot-candles so as to provide adequate lighting for patrons while not disturbing surrounding residential or commercial uses.

8. The Applicant/Operator and/or successors in interest and management shall install interior security video cameras operating during all hours that the business is open. The videotapes of the security video cameras shall be maintained for a minimum period of 30 days, and the videotapes must be made immediately available for any law enforcement officer who is making the request as a result of official law enforcement business. The video cameras must be positioned in a way to capture the facial features of anyone entering the business and include cameras that capture all money handling areas. If the Chief of Police, designee, assignee, or representative thereof, determines that there is a necessity to have additional security cameras installed, the owner of the business must comply with the request within 7 calendar days. The Chief of Police can also require that the business change the position of the video cameras if it is determined that the position of the cameras do not meet security needs. The Applicant/Operator and/or successors in interest and management must comply with the request within 7 calendar days. The said security video camera shall be installed and approved prior to business opening.
9. Any changes to the interior layout of the business operation shall be subject to review and approval by the Community Development Department and shall require appropriate City permits. The applicant must also submit a request with the Fire Department to review and possibly recalculate the maximum room occupancy.
10. Live Entertainment hours shall be limited to Friday and Saturday evening between the hours of 7:00 p.m. and 11:45 p.m. and shall be limited to the interior of the building. Recognized holidays, special events, and private functions may be permitted subject to applicable City rules and regulations.
11. The applicant shall submit to the Planning Department final sound measurements of the bar/nightclub prior to approval of the Final Certification of Occupancy. If final sound

measurements do not conform to the Noise Ordinance, the applicant/operator shall provide added measures to comply with the Noise Ordinance. Failure to comply with this requirement shall void and annul this Use Permit.

12. A minimum of four (4) Professional security staff shall be present during the hours entertainment occurs and one additional security guard for every 25 patrons. All persons responsible for security for the business shall have training as State-licensed security personnel.
13. Security staff shall be stationed at the entry to the bar, in the area surrounding the premise and in the inside of the business itself. Security staff and their training program shall be subject to the review and approval of the Chief of Police.
14. The Applicant/Operator and/or successors in interest and management 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 does not violate the City's Noise Ordinance Section 9.24.020 and Section 9.24.030.
15. The Applicant/Operator and/or successors in interest and management shall ensure noise emanating from the business is contained within the limitations prescribed by the City's Noise Ordinance and shall not create a nuisance to surrounding residential neighborhoods, and/or commercial establishments. Exterior doors of the establishment shall remain closed with the exception of ingress and egress during periods of live entertainment and dancing.
16. No exterior amplified music shall be permitted as part of this Use Permit approval.
17. The exterior of all the premises shall be maintained in a neat and clean manner, and maintained free of graffiti at all times. Graffiti shall be removed within twenty-four hours after issuance of a notice of order.
18. No person under the age of twenty-one (21) years shall be allowed in the premise at all times.
19. Alcoholic beverages shall be sold onsite only between the hours of 11:00 AM and 1:30 AM. Alcohol sales shall commence via an open bar.
20. The Applicant/Operator and/or successors in interest and management shall obtain an Alcoholic Beverage Control license Type-42, On Sale Beer and Wine – Public Premise.
21. Prior to the issuance of a Type 42 ABC license, the Applicant/Operator shall complete Licensee Education on Alcohol and Drugs as provided by the State Department of Alcoholic Beverage Control.
22. No person who is in a state of intoxication shall be permitted within the bar/tavern nor shall an intoxicated patron already in the bar 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.
23. 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.
24. Approval of this Use Permit shall be subject to revocation procedures contained in Section 17.72 of the Lodi Municipal Code 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.
25. 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.
26. No variance from any City of Lodi adopted code, policy or specification is granted or implied by this approval.

Community Development Department, Building and Safety Division:

27. Complete and adequate Tenant Improvement plans shall be required for the change of occupancy to an A-2 occupancy. 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.
28. Fire rated occupancy separation walls and horizontal assemblies may be required between the A-2 occupancy and the adjoining occupancies as specified by 2010 CBC, Section 508.4 and Table 508.4.
29. The tenant space appears to be an A-2 Occupancy with an occupant load of 100 or more. An automatic fire sprinkler system will be required per 2010 CBC, Section 903.2.1.2.
30. 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. In addition, the occupant load shall be posted at the entrance, illuminated exit signs and an emergency power system for illumination for path of egress is required. 2010 CBC, Sections 1004.3, 1006.3, 1011.1.
31. The Artist's Hallway appears to create a corridor. Corridors shall comply with the applicable provisions of 2010 CBC, Section 1018.
32. The California Building Code (Title 24 Section 1134B) requires that existing buildings, when alterations are made, shall be verified for compliance with disabled access requirements. These requirements shall apply only to the specific area of alteration and shall include an accessible entrance, an accessible route to the altered area, at least one accessible restroom for each sex, telephones and drinking fountains (if existing), and when possible additional items such as parking, storage and alarms.
NOTE: If the construction costs of the alterations to the building are less than the current valuation threshold of \$119,958.65 and if the cost of the above listed accessibility upgrades are disproportionate (exceeds 20% of the project without the upgrades), then the required accessibility upgrades may be provided to the extent that is proportionate (20% of the valuation) as per 2010 CBC, Section 1134B.2.1, Exception 1. In choosing which accessible elements to provide, priority should be given to those elements that will provide the greatest access. Please also see 2010 CBC, Sections 3411.4.1, 3411.6, 3411.7, and 3411.8.
33. The Floor Plan shows new bar areas. 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).
34. Stages shall comply with the applicable provisions of 2010 CBC, Section 410. Stages shall be made accessible to persons with disabilities per 2010 CBC, Sections 1104B.3.10 and 1104B.3.11.
35. Provide the number of plumbing fixtures (water closets, urinals, lavatories, drinking fountains, etc.) as required by 2010 CPC, Section 412 & Table 4-1 and Table A.
36. An operational permit shall be required from the Lodi Fire Department for the operation of the place of assembly. 2010 CFC, Section 105.6.34.
37. Payment of the following fee prior to building permit issuance, unless noted otherwise, shall apply to the project:
 - a. Filing and processing fees and charges for services performed by the City forces per the Public Works Fee and Service Change Schedule.
 - b. Wastewater Capacity Impact Fee as the time of occupancy.
 - c. Development Impact Mitigation Fees at the time of occupancy.

Dated: May 11, 2011

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 May 11, 2011 by the following vote:

AYES: Commissioners:

NOES: Commissioners:

ABSENT: Commissioners:

ATTEST: _____
Secretary, Planning Commission

Item 3e

**CITY OF LODI
PLANNING COMMISSION
Staff Report**

MEETING DATE: May 11, 2011

APPLICATION NO: Use Permit: 11-U-11

REQUEST: Request for Planning Commission approval of a Use Permit to allow the establishment of a religious facility within an existing commercial building located at 651 North Cherokee Lane, Suite C. (Applicant: Pastor Willie McGill Sr., on behalf of Miracle Temple Church. File Number: 11-U-11)

LOCATION: 651 North Cherokee Lane, Suite C
APN: 041-274-51
Lodi, CA 95240

APPLICANT: Pastor Willie McGill Sr., on behalf of Miracle Temple Church.
5265 Agapanthus Ct.
Stockton, CA 95212

PROPERTY OWNER: Kay Tayler Investments II, LLC
5466 Ridgeview Circle
Stockton, CA 95219

RECOMMENDATION

Staff recommends the Planning Commission approve the request of Pastor Willie McGill Sr., on behalf of Miracle Temple Church, for a Use Permit to allow church functions at 651 North Cherokee Lane, Suite C, subject to the conditions in the attached resolution.

PROJECT AREA DESCRIPTION

General Plan Designation: Commercial

Zoning Designation: C-1: Neighborhood Commercial (western portion of the parcel); C-2: General Commercial (western portion)

Property Size: 2.56 acres.

The adjacent zoning and land use characteristics:

North: C-2, General Commercial; Across Pioneer Drive to the north is an apartment complex.

South: C-2, General Commercial; Adjacent to the south is the El Rancho Motel.

East: C-2, General Commercial; Across Cherokee Lane to the east is the Hwy. 99 freeway interchange.

West: R-2, Residential Single-Family; Adjacent to the west are the rear yards of the homes fronting Sonora Avenue and the side yard of a home fronting Pioneer Drive.

SUMMARY

The proposal is for a Use Permit to operate a church in an existing commercial building located at 651 North Cherokee Lane, Suite C. The total tenant space area is approximately 4,500-square-feet. The applicant proposes Sunday worship services between the hours of 11:00 a.m. and 1:00 p.m. (with approximately 20 to 300 people in attendance), Tuesday prayer meetings from 6:00 p.m. to 8:30 p.m. (approximately 20-30 people in attendance), Wednesday bible studies from 7:00 p.m. onward (approximately 20-30 people in attendance), and Sunday School programs/ youth study groups from 6:00 a.m. to 9:30 a.m. until worship begins at 11:00

a.m. (approximately 20-30 people in attendance). The church shares the overall site and parking lot with other tenants contained within two buildings on the site.

BACKGROUND

The surrounding neighborhood consists of residential uses and businesses; including single-family homes to the west, apartments to the north, and a hotel and restaurant to the south. The project site itself is shared with other uses including a separate building at the west end of the site that is occupied by other commercial uses. Miracle Temple Church would occupy a tenant space formerly occupied by a Blue Shield satellite office.

ANALYSIS

The applicant, Mr. Willie McGill Sr., on behalf of Miracle Temple Church, would like to establish a church at a vacant building located at 651 North Cherokee Lane, at the northern most end of Cherokee Lane in a commercial building originally constructed in 1983. The western half of the property is zoned C-1, Neighborhood Commercial and the eastern half is C-2, General Commercial. The zoning of the property is split in an attempt to buffer the single-family homes to the west with a more restrictive zoning. The existing uses within the complex are compatible with the zoning and the neighboring uses, which include apartments to the north, single-family homes to the west, a hotel restaurant and bar to the south, and on and off ramps for HWY 99 and Cherokee Lane to the east.

According to Executive Pastor, Willie McGill Sr. the size of the congregation, including adults and children, is approximately 30. The Sanctuary has seating for about 40 persons. He stated the church currently shares a building space with another church in the city of Stockton and would like to have their own facility. He further stated that the church offers Sunday worship services between the hours of 11:00 a.m. and 1:00 p.m. (with approximately 20 to 300 people in attendance), Tuesday prayer meetings from 6:00 p.m. to 8:30 p.m. (approximately 20-30 people in attendance), Wednesday bible studies from 7:00 p.m. until 8:00 p.m. (approximately 20-30 people in attendance), and Sunday School programs/ youth study groups from to 9:30 a.m. until worship begins at 11:00 a.m. (approximately 20-30 people in attendance).

As stated earlier, the church shares the property with another building that contains approximately 24,800 square-feet of floor area. This floor area combined with seating for 30 persons in the church has a parking requirement of 105 parking stalls. This number is calculated by using the ratio of one parking space for each 500 square feet of commercial floor area and one space for each four seats within the church. The project site has 148 parking stalls in a large parking lot in front of the buildings as well as parking behind the church Building "b"; thereby the site exceeds the required off site parking. In addition, the church is primarily active on Sunday when most businesses are not open, which further reduces parking conflicts between the church and the other businesses in the center.

The Use Permit process allows the Commission to evaluate each project individually and assure compatibility with existing uses. The requested Use Permit seeks to establish a religious facility. In staff's opinion, a religious assembly use would not be detrimental to the health, safety, and general welfare of the city, in that the use would not engage in any activities that could be injurious to the city as a whole, or those assembling onsite, as long as city regulations are met, including those, in particular, related to construction of the building and the surrounding site. The applicant has submitted, and approved, a tenant improvement permit to enable the proposed use.

The proposed Church use has been reviewed and analyzed by staff to ensure that religious assembly would not adversely impact the existing neighborhood and the surrounding uses. The religious assembly use will provide an overall balance of land uses in close proximity to

the residential and commercial areas, and to foster a sense of community. The existing tenant space has been un-used and vacant for sometime. The proposed use would be an ideal tenant for the vacant space because the limited hours of operation would not conflict with the adjoining commercial uses within the area and would help provide some additional foot traffic to an underutilized property. Therefore, staff can support the use of a Church within an existing commercial building, based on limited impacts to adjoining uses.

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.” 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 30, 2011. Fifty-five (55) 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 at the time of this staff report was prepared.

ALTERNATIVE PLANNING COMMISSION ACTIONS:

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

Respectfully Submitted,

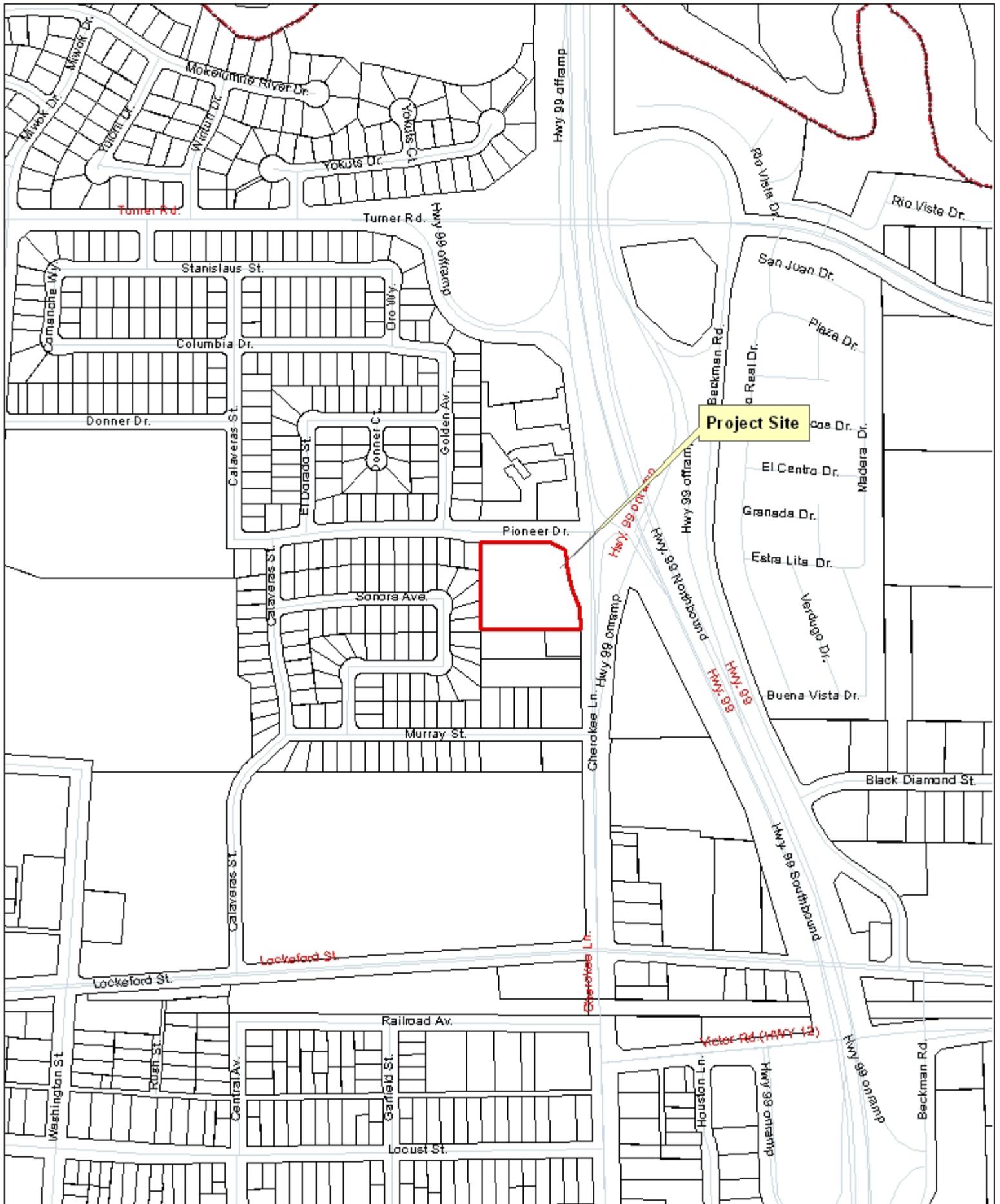
Concur,

Immanuel Bereket
Assistant Planner

Konrad Bartlam
Community Development Director

ATTACHMENTS:

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



Vicinity Map
 Miracle Temple Church
 651 North Cherokee Lane, Suite C
 APN: 041-274-51
 Lodi, CA 95240

Legend

 Project Site



Project Site

Golden Av.

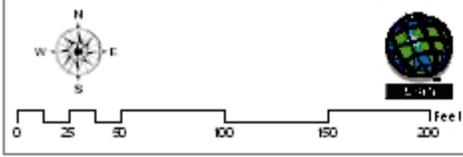
Pioneer Dr.

Sonora Ave.

Cherokee Ln.

Hwy 89 onramp

Hwy 89 onramp

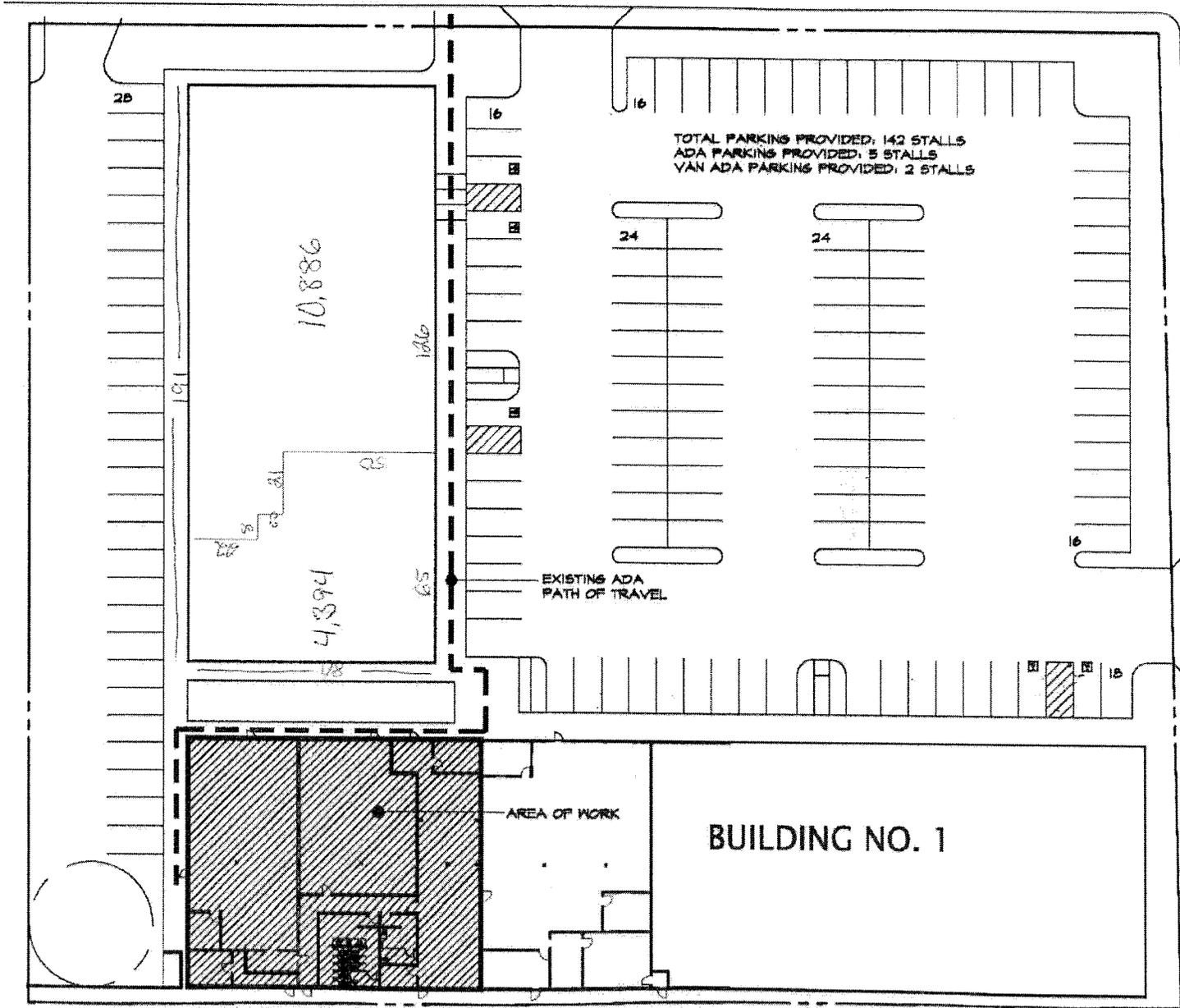


Aerial Map
Miracle Temple Church
651 North Cherokee Lane, Suite C
APN: 041-274-51
Lodi, CA 95240

Legend

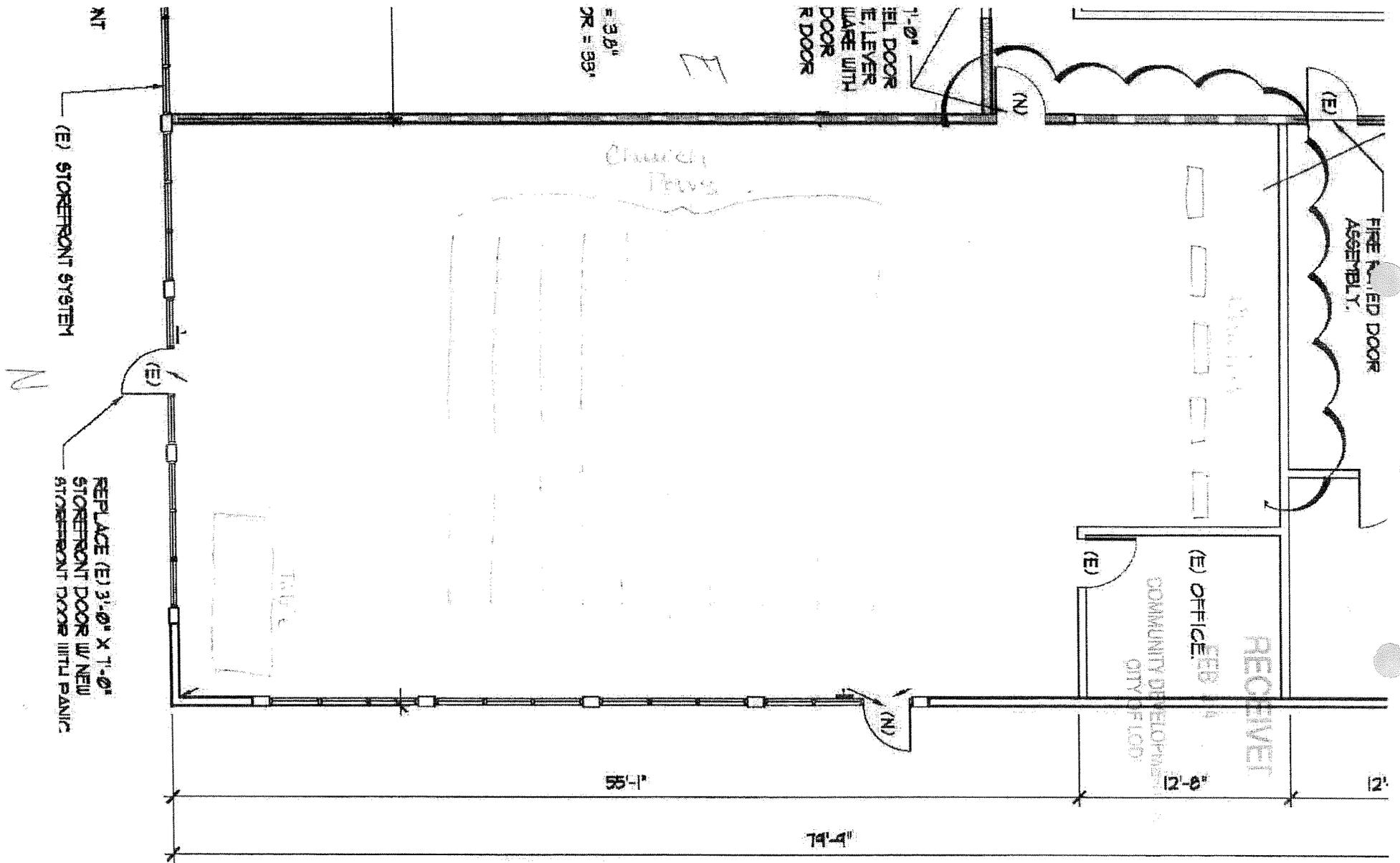
 Project Site

PIONEER DRIVE



N. CHEROKEE LN

651 N. Cherokee Lane, Codi, CA Ste. J
 Miracle Temple Worship Center



BIF-0185

RESOLUTION NO. P.C. 11-

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF LODI APPROVING A USE PERMIT REQUEST TO ALLOW THE ESTABLISHMENT OF A RELIGIOUS FACILITY WITHIN AN EXISTING COMMERCIAL BUILDING LOCATED AT 651 NORTH CHEROKEE LANE, SUITE C.

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 Government Code and Lodi Municipal Code Chapter 17.84, Amendments; and

WHEREAS, an application was filed by Mr. Willie McGill Sr., on behalf of Miracle Temple Church, 5265 Agapanthus Ct., Stockton, CA 95212; and

WHEREAS, the project site is located at 651 North Cherokee Lane, Suite C., Lodi, CA 95240; and

WHEREAS, the project site is owned by Kay Tayler Investment II LLC., 5466 Ridgeview Circle., Stockton, CA 95219-7190; and

WHEREAS, the property has a General Plan designation of Commercial and is zoned C-1, Neighborhood Commercial and C-2: General Commercial; and

WHEREAS, the requested Use Permit to allow the establishment of a religious facility within an existing commercial building located at 651 North Cherokee Lane, Suite C.; and

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

NOW, THEREFORE, BE IT FOUND that the Planning Commission of the City of Lodi incorporates the staff report and attachments, project file, testimony presented at the time of the hearing, and written comments, on this matter, and make the following findings:

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 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.
2. That the proposed location of the religious facility is in accord with the objectives of the Zoning Ordinance. As per the City of Lodi Municipal Code, Religious/Church facilities are permitted within Neighborhood Commercial District with an approval of a Use Permit. The proposed Church would utilize an existing commercial building and meets the required parking stalls per the City's regulations.
3. That the proposed location of the conditional use and the conditions under which it would be operated or maintained will be consistent with the General Plan; the religious facility will not be detrimental to the public health, safety or welfare of persons residing or working in or adjacent to the neighborhood of such use; and will not be detrimental to properties or improvements in the vicinity or to the general welfare of the City. Staff has analyzed the impact of the Church's hours-of-operation with the adjacent neighboring commercial uses, and found that the Church's limited hours-of-operation would not conflict with the primary hours of the adjacent commercial uses within the area, because the primary operation of the Church would be conducted during the hours most of the businesses are closed.
4. That the proposed conditional use will comply with the provisions of the Zoning Ordinance and General Commercial District in which the property is located, including any specific condition required for the proposed conditional use in the district in which it would be located.

NOW, THEREFORE, BE IT DETERMINED, AND RESOLVED, that the Lodi Planning Commission hereby approves Use Permit Application No. 11-U-11, 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. This Use Permit approves only the religious assembly facility and associated tenant improvements as shown on the plans and exhibits presented to the Planning Commission for review and approval. No deviation from these approved plans and exhibits shall occur without Planning Division approval. Substantial deviations shall require a revision to the Conditional Use Permit or a new Conditional Use Permit.
3. 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.
4. This Conditional Use Permit may be reviewed and reconsidered by the Planning Commission at any time for the purpose of imposing new conditions to mitigate a nuisance or to revoke the permit to abate a nuisance.
5. Any sign(s) shall require a building permit from the Community Development Department. Said sign(s) shall be in full compliance with the City of Lodi Sign Ordinance and any applicable master sign program for the subject site.
6. In the event the use hereby permitted under this permit is: (a) found to be in violation of the terms and conditions of this permit; (b) found to have been obtained by fraud or perjured testimony; or (c) found to be detrimental to the public health, safety or general welfare, or a public nuisance; this permit shall be subject to the revocation procedures in accordance with the City of Lodi Municipal Code.
7. The applicant/operator and/or successors in interest and management shall maintain the project site free of litter, graffiti or any other undesirable materials. Any graffiti shall be removed within seventy-two (72) hours.
8. Noise levels shall not exceed sixty-five (65) dBA, as measured from the outside wall of the proposed tenant space. 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.
9. No other uses, including daycare or full time school, shall be permitted with the church operation without City review and approval.
10. 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.
11. No variance from any City of Lodi adopted code, policy or specification is granted or implied by this approval.

Dated: May 11, 2011

I hereby certify that Resolution No. 11- was passed and adopted by the Planning Commission of the City of Lodi at a regular meeting held on May 11, 2011, by the following vote:

AYES: Commissioners:

NOES: Commissioners:

ABSENT: Commissioners:

ATTEST: _____
Secretary, Planning Commission

Item 3f

**CITY OF LODI
PLANNING COMMISSION
Staff Report**

MEETING DATE: May 11, 2011

APPLICATION NO: Use Permit: 11-U-13

REQUEST: Request for Planning Commission approval of a Use Permit to allow storage and wholesale distribution of wine at 927 Industrial Way. (Applicant: Donald Parker; File Number: 11-U-13)

LOCATION: 927 Industrial Way
APN: 049-160-16
Lodi, CA 95240

APPLICANT: Donald Parker
411 Sparrow Lane
Lodi, CA 95240

PROPERTY OWNER: Sheffields Properties LLC
765 Market Street #26F
San Francisco, CA 94103

RECOMMENDATION

Staff recommends that the Planning Commission approve the request of Donald Parker for a Use Permit to allow Type-14 Alcoholic Beverage Control (ABC) licenses at 927 Industrial Way, subject to the conditions in the attached resolution.

PROJECT AREA DESCRIPTION

General Plan Designation: Industrial
Zoning Designation: M1, Light Industrial
Property Size: 2.2 acres.

The adjacent zoning and land use characteristics:

| | General Plan | Zone | Land Use |
|--------------|---------------------|-----------------------|--------------------------|
| North | Industrial | M-2, Heavy Industrial | Warehouse/industrial use |
| South | Industrial | M1, Light Industrial | Warehouse/industrial use |
| East | Industrial | M1, Light Industrial | Warehouse/industrial use |
| West | Industrial | M1, Light Industrial | Warehouse/industrial use |

SUMMARY

The applicant, Mr. Donald Parker, is requesting approval of a Use Permit to allow Type-14 Alcoholic Beverage Control (ABC) licenses at an existing warehouse located at the 927 Industrial Way, within Light Industrial (M-1) zoning district. The applicant intends to store and ship wine out of this location. The City requires a Use Permit for the sale of alcoholic beverages.

BACKGROUND

Available City records indicate the warehouse was built in 1998 and was occupied by various industrial uses. The structure contains office suites and warehousing areas. The design and

construction of the building permits the proposed use. There are no outstanding code violations as of the preparation of this staff report.

ANALYSIS

The applicant is requesting approval of a Use Permit to allow a wine storage and distribution center in an existing vacant industrial building located at 927 Industrial Way. As proposed, the wine distribution center would occupy the entire existing building, which measures approximately 19,000-square-foot. The project site is zoned Light Industrial (M-1), which permits storage and distribution of alcoholic beverages for on and off-site consumption with the granting of a Use Permit by the Planning Commission pursuant to §17.72.040 of the Lodi Municipal Code. The proposed business would require a Type-14 (Warehouse) Alcoholic Beverage Control license, which permits the wholesale distribution of wine to retailers such as qualified liquor stores, grocery stores, restaurants, etc. There will be no crushing or wine tasting activities occurring at this site with this Use Permit.

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. The project site belongs in Census Tract 44.01, which covers the area south of Lodi Avenue, north of Kettleman Lane, west of Central California Tract (C.C.T) lines, and east of the U.P.R.R. lines. According to the State Department of Alcoholic Beverage Control guidelines, the project area is not over concentrated and the Planning Commission or City staff does not need to make a finding of public need or convenience in order to approve an additional Winery license. Therefore, approval of this Use Permit would not require a determination that public convenience or necessity would be served by the issuance of this permit.

Staff sent copies of the application to various City departments for comments and review. Their comments and requirements have been incorporated into the attached resolution. Staff has contacted the Lodi Police Department for their requirement for approval of the proposed Use Permit application and they do not anticipate alcohol related problems. The Lodi Police Department recommends approval subject to the conditions outlined in the attached resolution.

The proposed use is consistent with the City's efforts to promote and grow the wine industry. The wine industry is a large part of this vision and adds a character of the City by promoting local wineries and viticulture. All of the wine making operations will take place elsewhere. There will be no onsite consumption. The only operation that will take place outside is the loading/unloading of products for shipment, which should be minimal and of no significant effect to the surrounding area. It is staff's opinion the proposed location for the winery is appropriate. The Planning Commission and Planning staff have generally supported these types of businesses in the past because wineries and wine tasting rooms do not generally create 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. 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 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 April 30, 2011. Seventeen (17) 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,

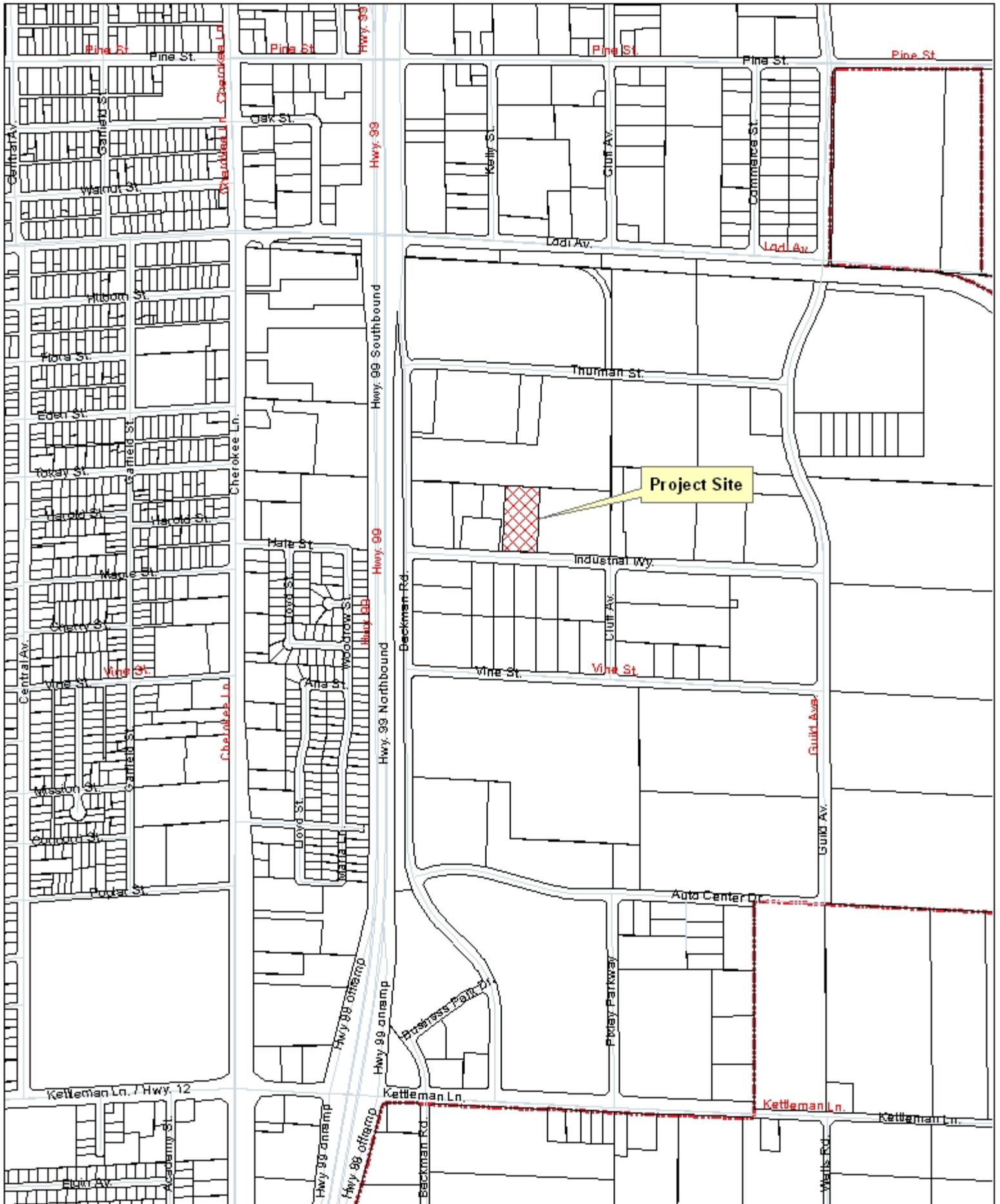
Concur,

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

927 Industrial Way
 APN: 049-160-16
 Lodi, CA 95240

Legend

 Project Site



Project Site



Aerial Map
927 Industrial Way
APN: 049-160-16
Lodi, CA 95240

 Project Site



**OTTOLINI
&
ASSOCIATES**
ARCHITECTS

3035 PROSPECT PARK DRIVE,
SUITE 100
RANCHO CORDOVA, CA 95670
916 852-8313 phone
916 852-8941 fax

PROJECT TITLE

VITALINK
927 INDUSTRIAL WAY
LODI CA

CONSULTANT

SHEET TITLE

**EXISTING
SITE PLAN**

ISSUE/REVISIONS

| No. | Date | Issue | Drawn/Check |
|-----|--------|--------------|-------------|
| 1 | 5/2/08 | ISSUE REVIEW | SKY/SL |
| 2 | | | |
| 3 | | | |
| 4 | | | |
| 5 | | | |
| 6 | | | |
| 7 | | | |
| 8 | | | |
| 9 | | | |
| 10 | | | |

THE CONSULTOR SHALL CHECK ALL DIMENSIONS & THE JOB AND SHALL BE RESPONSIBLE FOR ALL DISCREPANCIES BETWEEN DIMENSIONS OF THE EXISTING WORK AND THOSE SHOWN IN THE DOCUMENTS OR ARCHITECT'S APPROVED SHOP DRAWINGS. THE CONSULTOR SHALL ALSO BE SOLELY RESPONSIBLE FOR ALL QUANTITIES OF MATERIAL OR EQUIPMENT CALLED FOR TO PROPERLY COMPLETE THE WORK.

PROJECT NUMBER

00427.0002

SHEET NUMBER

G-101



LODI VINES
927 INDUSTRIAL WAY
LODI CA 95240
WILL OCCUPY THE ENTIRE BUILDING

1 SITE PLAN
SCALE: 1" = 25'-0"





LODI VINES
 927 INDUSTRIAL WAY
 LODI CA 95240
 WILL OCCUPY THE ENTIRE BUILDING

1 FLOOR PLAN
 SCALE: 1/8" = 1'-0"



OTTOLINI
 &
 ASSOCIATES
 ARCHITECTS

1035 PROSPECT PARK DRIVE,
 SUITE 100
 RANCHO CORDOVA, CA 95670
 916 852-8313 phone
 916 852-8941 fax

PROJECT TITLE

VITALINK
 927 INDUSTRIAL WAY
 LODI CA

CONSULTANT

SHEET TITLE

AS-BUILT
 FLOOR PLAN

ISSUE/REVISIONS

| No. | Date | Issue | Drawn/Check |
|-----|--------|--------------|-------------|
| 1 | 5/2/08 | ISSUE REVIEW | SKY/SL |
| 2 | | | |
| 3 | | | |
| 4 | | | |
| 5 | | | |
| 6 | | | |
| 7 | | | |
| 8 | | | |
| 9 | | | |
| 10 | | | |

THE CONSULTANT SHALL CHECK ALL DIMENSIONS & THE JOB AND SHALL BE RESPONSIBLE FOR ALL DIMENSIONS. IT IS THE RESPONSIBILITY OF THE ARCHITECT, ENGINEER AND PROFESSIONAL DESIGNER TO VERIFY ALL DIMENSIONS, APPROVE AND VERIFY DIMENSIONS. THE CONSULTANT SHALL BE SOLELY RESPONSIBLE FOR ALL QUANTITIES OF MATERIALS OR EQUIPMENT CALLED FOR TO PROPERLY COMPLETE THE WORK.

PROJECT NUMBER

000027.0002

SHEET NUMBER

A-101

RESOLUTION NO. P.C. 11-

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF LODI APPROVING THE REQUEST OF DONALD PARKER FOR A USE PERMIT TO ALLOW STORAGE AND WHOLESALE DISTRIBUTION OF WINE AT 927 INDUSTRIAL WAY

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 Donald H. Parker, on behalf of Lodi Vines, 411 Sparrow Lane, Lodi, CA 95240; and

WHEREAS, the project is located at 927 Industrial Way, Lodi CA 95240; and

WHEREAS, the project property owners are Sheffields Properties LLC, 765 Market Street #26F., San Francisco, CA 94103

WHEREAS, the project parcel has a General Plan designation of L-I, Light Industrial and is zoned M-1, Light Industrial; and

WHEREAS, the requested Use Permit to allow storage and wholesale distribution of wine and is an enforcement action in accordance with the City of Lodi Zoning Ordinance; and

WHEREAS, Census Tract 44.01 in which the proposed storage and whole sale distribution business is located currently has no over concentration of ABC licenses allowing on- and off- premise consumption of alcoholic beverages; 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 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.
2. The proposed use complies with all requirements as set forth for the issuance of this Use Permit, in that the site is adequate in size, shape and topography for the proposed use, consisting of an existing building. The site has sufficient access to streets, adequate in width and pavement type to carry the quantity and quality of traffic generated by the proposed use, which is not expected to significantly increase due to the project. The proposed use is deemed to be part of the General Plan and the Zoning Ordinance, as off-sale alcoholic beverage sales are permitted in the M-1 (Light Industrial) Zone with Use Permit approval. The proposed use, as conditioned, will not have an adverse effect upon the use, enjoyment or valuation of property in the neighborhood in that a similar off-sale use had previously compatibly existed nearby. Lastly, the proposed use will not have an adverse effect on the public health, safety, and general welfare in that security measures and the limited size of the use will limit any potential adverse effects to neighboring properties.
3. The off-sale wine, in accordance with a Type-14 Alcoholic Beverage Control License and with the conditions attached herein, would be consistent and in harmony with the Industrial General Plan Land Use Designation and M-1 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 the storage and wholesale distribution of wine 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 proposed use can be compatible with the surrounding use and neighborhood if the business is conducted properly and if the applicant/operator and/or developer and/or successors in interest and management work with neighboring businesses and residents to resolve any problems that may occur.
7. The proposed use is consistent with the City's efforts to promote the wine industry.
8. The storage and wholesale distribution of wine adds to the character of the City by promoting local wineries and viticulture.
9. No land use problems or issues are anticipated as a result of this project.

NOW, THEREFORE, BE IT DETERMINED AND RESOLVED by the Planning Commission of the City of Lodi that Use Permit Application No. 11-U-13 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 Use Permit 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 Use Permit 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 selling 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 and abide by the requirements and conditions of the State of California Department of Alcoholic Beverage Control License Type 14. The Type 14 License shall be limited to off-sale wine during the hours that the proposed establishment is open for business.
4. 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.

5. 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.
6. The Use Permit shall require the project proponent and/or developer and/or successors in interest and management to secure an Alcoholic Beverage Control License Type14 (Warehouse).
7. Prior to the issuance of a Type-14 ABC license, the project proponent 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.
8. Any changes to the interior layout of the business operation shall be subject to review and approval by the Community Development Department and shall require appropriate City permits.
9. The property owner and/or developer and/or successors in interest and management of the business 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.
10. The property owner and/or developer 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.
11. The property owner and/or developer and/or successors in interest and management shall ensure noise emanating from the property shall be within the limitations prescribed by the City's Noise Ordinance and shall not create a nuisance to surrounding residential neighborhoods, and/or commercial establishments.
12. The exterior of all the premises shall be maintained in a neat and clean manner, and maintained free of graffiti at all times.
13. 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 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.
14. 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.
15. No variance from any City of Lodi adopted code, policy or specification is granted or implied by this approval.
16. All delivery truck cueing shall take place off of the public right-of-way.

17. All temporary and permanent signage proposed in connection with the proposed business shall be reviewed and approved by the Community Development Department.
18. The project requires Operational Permit from the Lodi Fire Department, Fire Prevention Bureau. The Fire Department could be reached via phone at (209)333-6739 or via US mail at 25 East Pine Street, Lodi, CA 95240.

Dated: May 11, 2011

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 May 11, 2011 by the following vote:

AYES: Commissioners:

NOES: Commissioners:

ABSENT: Commissioners:

ATTEST: _____
Secretary, Planning Commission

Item 6a.



MEMORANDUM, City of Lodi, Community Development Department

To: City of Lodi Planning Commissioners
From: Rad Bartlam, Community Development Director
Date: Planning Commission Meeting of 05/11/2011
Subject: Past meetings of the City Council and other meetings pertinent to the Planning Commission

In an effort to inform the Planning Commissioners of past meetings of the Council and other pertinent items staff has prepared the following list of titles.

If you have any questions, please feel free to contact the Planning Department or visit the City of Lodi website at: <http://www.lodi.gov/city-council/AgendaPage.html> to view Staff Reports and Minutes from the corresponding meeting date.

| Date | Meeting | Title |
|----------------|-------------|--|
| April 19, 2011 | Shirtsleeve | Development Impact Mitigation Fee Program Update (PW) |
| April 20, 2011 | Regular | Public Hearing to Consider the Following Items: (CD) a) Certification of the South Hutchins Annexation Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program as Adequate Environmental Documentation for the Proposed South Hutchins Annexation Project; b) Approve the South Hutchins Annexation Project, which Includes an Annexation and Pre-Zoning; c) Direct Staff to Prepare and Submit an Annexation Application to San Joaquin Local Agency Formation Commission |
| May 3, 2011 | Shirtsleeve | Receive Presentation Regarding Fiscal Year 2011/12 Budget (CM) |
| May 4, 2011 | Regular | Post for Expiring Terms on the Library Board of Trustees, Lodi Arts Commission, and Planning Commission (CLK) |