

<p>CARNEGIE FORUM 305 WEST PINE STREET LODI, CALIFORNIA</p>	<p><b>AGENDA</b> <b>LODI</b> <b>PLANNING COMMISSION</b></p>	<p>REGULAR SESSION WEDNESDAY, DECEMBER 14, 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 – “May 11, 2011” & “September 14, 2011” & “October 12, 2011”
3. PUBLIC HEARINGS
  - a. Request for Planning Commission approval of a Use Permit to allow a Type-41 On-Sale Beer and Wine Alcoholic Beverage Control License at 601 West Lockeford Street. (Applicant: Jose J. Vazquez. File Number: 11-U-19)
  - b. Request for Planning Commission to make a Recommendation to the City Council to approve rezoning of properties located at 515 and 617 South Lower Sacramento Road from R-1, C-S and R-C-P to Planned Development (PD)-35. (Applicant, Kristmont West Shopping; File # 11-Z-01)

**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
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: (Continued on next page)

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 2<sup>nd</sup> 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, MAY 11, 2011**

1. CALL TO ORDER / ROLL CALL

The Regular Planning Commission meeting of May 11, 2011, was called to order by chair Hennecke at 7:00 p.m.

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

Absent: Planning Commissioners – Jones, Heinitz, and Olson

Also Present: Community Development Director Konradt Bartlam, City Attorney Stephen Schwabauer, 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.

“April 13, 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.

3. PUBLIC HEARINGS

- a) Notice thereof having been published according to law, an affidavit of which publication is on file in the Community Development Department, Chair Hennecke called for the public hearing to consider the request for a Use Permit to allow Type 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)

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

Hearing Opened to the Public

- Miriam Montesinos, applicant on behalf of Wal Mart, came forward to answer questions. Ms Montesinos stated that there have not been any protests filed with ABC to date.
- Chair Hennecke asked if this type of application was typical of other Wal Mart Stores. Ms. Montesinos stated that it is typical of other Wal Mart Stores.
- Troy Johnson, Store Manager in Lodi, came forward to answer questions. Mr. Johnson gave a brief statement regarding the ways that the Lodi Wal Mart Store has been a good neighbor to the City through various donations to local charity groups and fundraisers.

- Commissioner Kiser asked if local wines will be stocked. Mr. Johnson stated that they have already contacted Gallo and are also going to try to get more of the local area wines on the shelf.
- Pat Patrick, President of Lodi Chamber of Commerce, came forward to support this project.

Public Portion of Hearing Closed

MOTION / VOTE:

The Planning Commission, on motion of Commissioner Cummins, Kiser second, approved the request of the Planning Commission for a Use Permit to allow Type 21 off-Sale Alcoholic Beverage Control license at 2350 West Kettleman Lane subject to the conditions in the resolution. The motion carried by the following vote:

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

- 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 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) 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 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)

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

Hearing Opened to the Public

- Octavio Cruses, representative of the applicant, came forward to answer questions.
- Commissioner Kiser asked if the small bar that is already there is the bar that is proposed to stay. Mr. Cruses stated that is accurate.
- Barbara Flockhart, Elgin Avenue property owner, came forward to state that loud music has been a problem in the past from the stereo store that used to occupy a space in the building and would like to know if live music or any other type of noise producing issues will be occurring. Chair Hennecke stated that if the applicant wished to do live music they would be required to submit a separate application with the Planning Division, and deferred to Director Bartlam for further explanation. Director Bartlam stated that at this time there isn't an application in the process for live music, but there is the ability for the applicant to come back and apply for one. He added that if at any time there are any noise issues a complaint can be filed with both the Police Department and directly with the Planning Division, so that staff can follow-up on the complaint.

Public Portion of Hearing Closed

MOTION / VOTE:

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

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

- d) Notice thereof having been published according to law, an affidavit of which publication is on file in the Community Development Department, Chair Hennecke called for the public hearing to consider the request for 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)

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

Commissioner Kiser asked if this project is within three-hundred feet of the residences behind this building. Mr. Bereket stated that it is within three-hundred feet of the residences, but the item being heard tonight is for the Use Permit for the ABC License and the Live Entertainment will come back at a later date. The residences will be notified as part of the procedure for that application.

Hearing Opened to the Public

- Nichole Pendley, co-applicant, came forward to answer questions. Ms. Pendley stated that they would like to be able to open up at 11:00 am or noon instead of 4:00 pm.
- Sean Bocardo, co-applicant, came forward to answer questions and stated that this will give local wineries that do not already have tasting rooms a place to highlight their wines.

Public Portion of Hearing Closed

MOTION / VOTE:

The Planning Commission, on motion of Commissioner Kiser, Cummins second, approved the request of the Planning Commission for a Use Permit to allow Type 42 Alcoholic Beverage Control license (on-sale beer and wine – public premises) at 1110 West Kettleman Lane, Suites 9-10 subject to the conditions in the resolution. The motion carried by the following vote:

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

- e) Notice thereof having been published according to law, an affidavit of which publication is on file in the Community Development Department, Chair Hennecke called for the public hearing to consider the request for 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)

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

Commissioner Kirsten asked if there are currently two other churches in that development. The property owner started to answer from the audience, but was asked to wait until the public hearing was opened up to the public.

Hearing Opened to the Public

- Christine Santana, representative for the applicant and owner of the property, came forward to answer questions. Ms. Santana stated that there is currently one church operating on the property. Commissioner Kirsten stated that that answered his question.

Public Portion of Hearing Closed

MOTION / VOTE:

The Planning Commission, on motion of Commissioner Cummins, Kiser second, approved the request of the Planning Commission for a Use Permit to allow the establishment of a religious facility within an existing commercial building located at 651 North Cherokee Lane, Suite C subject to the conditions in the resolution. The motion carried by the following vote:

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

- f) Notice thereof having been published according to law, an affidavit of which publication is on file in the Community Development Department, Chair Hennecke called for the public hearing to consider the request for a Use Permit to allow storage and wholesale distribution of wine at 927 Industrial Way. (Applicant: Donald Parker; File Number: 11-U-13)

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

Hearing Opened to the Public

- Don Parker, applicant, came forward to answer questions.
- Chair Hennecke asked if a distribution company of this type is competitive, because the Commission has seen a few of these types of applications. Mr. Parker stated that it can be competitive, but not all of the distribution companies ship the same volumes or products.

Public Portion of Hearing Closed

MOTION / VOTE:

The Planning Commission, on motion of Commissioner Kiser, Cummins second, approved the request of the Planning Commission for a Use Permit to allow storage and wholesale distribution of wine at 927 Industrial Way subject to the conditions in the resolution. The motion carried by the following vote:

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

4. PLANNING MATTERS/FOLLOW-UP ITEMS

None

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.

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 item that was brought before the Committee earlier this evening.

9. ART IN PUBLIC PLACES

None

10. COMMENTS BY THE PUBLIC

None

11. COMMENTS BY STAFF AND COMMISSIONERS

Commissioner Kiser asked about the email that went out regarding the use of electronic devices. City Attorney Schwabauer stated that during a quasi hearing the applicant has due process rights to have the full attention of the board that is hearing the item. If an email, text, or phone call is received during a hearing the applicant could assume that it might be about their item and therefore are not getting their due process.

12. ADJOURNMENT

There being no further business to come before the Planning Commission, the meeting was adjourned at 7:45 p.m.

ATTEST:

Konradt Bartlam  
Planning Commission Secretary

**LODI PLANNING COMMISSION  
REGULAR COMMISSION MEETING  
CARNEGIE FORUM, 305 WEST PINE STREET  
WEDNESDAY, SEPTEMBER 14, 2011**

1. CALL TO ORDER / ROLL CALL

The Regular Planning Commission meeting of September 14, 2011, was called to order by Vice Chair Kirsten at 7:00 p.m.

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

Absent: Planning Commissioners – Jones, Kiser and Chair Olson

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

2. MINUTES

“May 11, 2011”

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

“July 13, 2011”

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, Vice Chair Kirsten called for the public hearing to consider the request for a Use Permit to allow Type 2, 14, and 19 and Alcoholic Beverage Control licenses at 27 East Locust Street. (Applicant: Olde Ice House Cellars LLC; File Number: 11-U-17)

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

Commissioner Heinitz stated that the item looks to parallel the existing wineries that have been approved for the downtown, is that correct? Mr. Bereket stated that it has the same aspects as previous applications and approvals.

Hearing Opened to the Public

- Dean Shibler, applicant, came forward to answer questions.
- Commissioner Heinitz asked if Mr. Shibler owned the property. Mr. Shibler stated that he, his wife, and Mr. and Mrs. Greg Lewis from the Dancing Fox are the owners of the property.
- Darrell Drummond, 114 S. Sacramento Street, came forward to support the project.

Public Portion of Hearing Closed

MOTION / VOTE:

The Planning Commission, on motion of Commissioner Hennecke, Heinitz second, approved the request of the Planning Commission for a Use Permit to allow Type 2, 14, and 19 and Alcoholic Beverage Control licenses at 27 East Locust Street subject to the conditions in the resolution. The motion carried by the following vote:

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

- b) Notice thereof having been published according to law, an affidavit of which publication is on file in the Community Development Department, Vice Chair Kirsten called for the public hearing to consider the request of the Planning Commission for a Recommendation to the City Council to Approve the 2010-2016 Housing Element and Adopt an Interim Ordinance

Director Bartlam gave a PowerPoint presentation based on the information presented in the staff report. Mr. Bartlam went through the background process that has brought the Housing Element before the Commission. The approval process with the State Housing and Community Development Department was very lengthy. The document is broken up into sections; 1 – Introduction, 2 – Housing Needs Assessment, 3 – Resource and Constraints, 4 – Housing Strategy, and A – Accomplishments. The housing needs are further broken into four income categories; Above Moderate, Moderate, Low, and Extremely Low. The Extremely Low category is the toughest need to meet without government subsidies. If the State requirements are not met they can withhold funds to help subsidize the possible project such as the Eden Housing Senior Housing Project which has already been approved by the City.

Commissioner Cummins asked how far away the Eden project is from starting. Director Bartlam stated that the project is a grant away.

Hearing Opened to the Public

- Anne Cerney, 900 West Vine Street, came forward to support the approval of the document. Ms. Cerney would like to know if there are any home buyers that are being funded through the FTHB Program. Mr. Bartlam stated that there is one family that has gone through the program and purchased a home with the funds. There are several applications sitting in the approval process. One of the problems that the applicants are running into is finding homes that meet the requirements of the program within the price range allowed. The City Council has recently adjusted the requirements of the program to allow the funds to be used for rehab purposes before the applicant moves into the home. Ms. Cerney asked if that was the reason for the goal for 2024 being 23 more. Mr. Bartlam stated that the goal is based on the funding that we have received. That is a goal that can be achieved if we can find the number of families that can qualify.
- Commissioner Hennecke added that there are so many hoops to jump through for the buyers that a lot of time these types of buyers lose the home to a buyer that does not have to jump through the same hoops. Mr. Bartlam added that staff noticed this as a problem and why the Council has chosen to loosen the requirements for the applicants opening up more options for them to choose from.
- Commission Heinitz added that the lenders are also putting ridiculous requirements on the applicants.

Public Portion of Hearing Closed

MOTION / VOTE:

The Planning Commission, on motion of Commissioner Cummins, Heinritz second, approved the request of the Planning Commission for a Recommendation to the City Council to Approve the 2010-2016 Housing Element and Adopt an Interim Ordinance subject to the conditions in the resolution. The motion carried by the following vote:

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

4. PLANNING MATTERS/FOLLOW-UP ITEMS

None

5. ANNOUNCEMENTS AND CORRESPONDENCE

Director Bartlam pointed out the letter from the Union Pacific Railroad regarding item 3a and commented on the ridiculousness for the letter and added that he has never seen the Railroad comment on any project.

6. ACTIONS OF THE CITY COUNCIL

Director Bartlam stated that a memo will be provided in the next packet, but if there are any questions regarding any Council items staff would be happy to answer them.

7. GENERAL PLAN UPDATE/DEVELOPMENT CODE UPDATE

Director Bartlam stated that the Housing Element is the last part of the General Plan update. The City Council at the last meeting approved a Request for Proposals to bring on a contract planner on an hourly basis for the specific purpose of updating the Development Code.

8. ACTIONS OF THE SITE PLAN AND ARCHITECTURAL REVIEW COMMITTEE

None

9. ART IN PUBLIC PLACES

Vice Chair Kirsten gave a brief report regarding the last meeting.

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 7:39 p.m.

ATTEST:

Konradt Bartlam  
Planning Commission Secretary

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

***DRAFT***

1. CALL TO ORDER / ROLL CALL

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

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

Absent: Planning Commissioners – Heinitz and Kirsten

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

2. MINUTES

“May 11, 2011”

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

“July 13, 2011”

MOTION / VOTE:

The Planning Commission, on motion of Commissioner Kiser, Jones second, approved the Minutes of July 13, 2011 as written. (Commissioners Cummins abstained because he was not in attendance of the subject meeting)

“September 14, 2011”

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, Vice Chair Kirsten called for the public hearing to consider the request for a Use Permit to allow Type 47 Alcoholic Beverage Control license at 10 West Oak Street. (Applicant: Ruben Darro Larrazolo Perez; File Number: 11-U-18)

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

Hearing Opened to the Public

- Ruben Larrazolo, applicant, came forward to answer questions.

Public Portion of Hearing Closed

MOTION / VOTE:

The Planning Commission, on motion of Commissioner Hennecke, Heinitz second, approved the request of the Planning Commission for a Use Permit to allow Type 2, 14, and 19 and Alcoholic Beverage Control licenses at 27 East Locust Street subject to the conditions in the resolution. The motion carried by the following vote:

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

4. PLANNING MATTERS/FOLLOW-UP ITEMS

- a. San Joaquin Council Of Governments Regional Smart Growth-Transit Oriented Development Plan Public Outreach Workshop

Director Bartlam introduced Sam Kaur with the San Joaquin Council of Governments (SJCOG). Ms. Kaur gave an introduction of the item and David Early, principal of DC&E & The Planning Center, to give a PowerPoint presentation based on the memo provided in the packet.

Mr. Early stated that In-fill Development is referencing the vacant or underutilized lots that fall within the existing community footprint and that Transit Orientated Development is in reference to the parcels that fall in and around the transit facilities. SJCOG isn't trying to dictate the way a parcel is developed, nor are they purposely omitting certain parcels. A model is being created to evaluate the benefits of a these sites. This will help evaluate if a particular type of development is right for a particular site and what if any impacts it would have if that same development were to be developed on a Green Field outside of the City limits. The thought behind this is that people that live further away from public transit will be driving further and more often to get to where they want to go. The model will be able to determine how much driving will be occurring for a particular type of development and that will give SJGOG an idea of how much greenhouse gases will or won't be produce by the development.

The project consists of seven components: Policy Review, Demographic and Market Analysis, Infill Site Inventory, a Scorecard which will help in the future to determine how a project may score for competitive funding purposes, Vehicle Miles Traveled and Greenhouse Gas Inventory, Regional Smart Growth/TOD Plan. Sixty-five million dollars has been set aside for Smart Growth Funds. Several methods were used to find the sites within the jurisdiction that are being underutilized. Location, minimum size of a half acre or larger, surrounded by existing development and no active development in the process for the parcels are items of consideration in determining if a site fell within the guidelines to be utilized for this program. One hundred fifty-five sites within the County were chosen with thirty-two of those are in Lodi. Fifty sites were chosen to participate in the test model with five of those in Lodi. Mr. Early pointed out the sites with the use of the maps on the PowerPoint slide being focused on in the Lodi area.

Hearing Opened to the Public

- Pete Wolfe came forward to ask what underutilized means, once the property is placed in this document with the tax base be changed with the County, will the property have to be voluntarily given up or will eminent domain play a part, who will own the property that is being developed. Mr. Early gave the technical definition of underutilized as the value of the improvement on the property is less than the value of the land itself, but clarified that the properties that were looked at for this project were primarily vacant land parcels. Taxes will not change until the property is developed. SJCOG doesn't have the legal authority to use eminent domain, so it will not be used as a part of this program. The owner of the property will remain the same. The idea is for the document to be used as a way for developers to identify underutilized property and

they then can contact the owner of that particular property and determine if they are interested in developing it. The later part will strictly be between the owner and developer. SJCOG will not be doing the development. Chair Olson stated that the survey style seems to parallel a Redevelopment Plan and asked Mr. Wolfe if he felt his questions were sufficiently answered. Mr. Wolfe acknowledged that they were.

- Kim Parigoris came forward to ask if the owners have been notified, if the parcels can be placed under the Brown Field Revitalization Act, will people be forced to move into these developments because in the COG Blue Print 2050 they show the reduction of rural residential units as a goal and there is a clause that states they will identify institutional barriers. Mr. Early stated that none of the owners have been approached due the fact that this is just a log of properties. The Brown Field Act is not being used within this project. The COG Blue Print 2050 clause deals with parcels that are designated rural residential. It does not have anything to do with the parcels that already have dwellings on them. The clause that states that they would like to decrease the institutional barriers such as loan practices is geared toward making it easier for those that would like to develop on the infill parcels not make it more difficult for those that do not. The blue print is not intended to make it harder for people to get loans, but easier for those that would like to participate in this program.
- Chair Olson asked Mr. Early if he received his information regarding the parcel site off of maps that are available to the public or online. Mr. Early confirmed that to be true.
- Ed Miller came forward to object to the program. He feels that there isn't enough transparency to the public, but will be a big hit to the public purse.
- Cherene Sandidge came forward on behalf of the Hertz Family who owns property along Sacramento Street they asked her to come and let COG know that the Hertz Family would like to be kept in the loop on future meetings regarding this project.
- Jane Loffler came forward to state that the verbiage used is disconcerting. She also asked if Lodi was a part of ICLEI. The audience advised her that the City is not a part of that program.
- Greg Goehring came forward to ask what the purpose is of this Blue Print. Why is SJCOG getting involved in identifying these sights? The Government shouldn't be concerned with how far the public wishes to drive to get to a destination. The rural areas offer lot sizes that the city lots can't offer. Chair Olson stated that having incentives for businesses to grow can't be a bad thing. Mr. Early stated that a developer has been sitting on the board to help produce this program and they have been appreciative of the idea of having a list available for them. Ms. Kaur stated that there will not be any type of development designated to any of the parcels. The use of the Blue Print is to help get funding for developers of these properties. The funds can only be used for transportation infrastructure. The City of Lodi received fifty percent of the funds available from the first call for projects under the Smart Growth funds for the Lodi Avenue improvements because of the plan that is already in place for that area.
- Joy Smart stated that the cover does not state anything about the document being a tool it says that it is the Transit Oriented Development Program. If you recondition these properties how do you propose to get people to rent or buy these properties? Ms. Kaur stated that SJCOG is going to be there to help provide funding for transit needs. Mr. Early added that one of the developments could be housing, but retail and industries types are also welcome.
- Jack Polenske came forward to ask how the funds are created. Ms. Kaur stated that the funds will come from the Federal and State Transportation Funds as well as the Measure K sales tax. Mr. Polenske stated that if the money stayed here in the first place the community could use it however they see fit, right? Mr. Bartlam stated that the voters voted to extend the Measure K funds by a half cent and that is where the money is coming from and it is set in the ordinance that was approved by voters. Mr. Bartlam stated that SJCOG is the body in charge of the program. It isn't a question of

whether we're looking to get the money back it is a matter of doing a project that the money was designated for based on the voter approved ordinance. Mr. Polenske stated that COG is trying to tell us what kind of development can be placed on these parcels then. Mr. Bartlam stated that there are guidelines that will have to be followed to compete for the funds, it was the voters in this County that set those guidelines not COG.

- Kathy Polenske came forward to ask if the Smart Growth Committee, the Advisory Committee, and the Stakeholders are all apart of this committee and if they are is there a way to get there information so she can contact them. She expressed her confusion over what the purpose of this meeting is. Ms. Kaur stated that the Smart Growth Working Committee/Advisory is formed of City Staff, Sierra Club, Downtown Alliance Groups, and Campaign for Common Ground. The Stakeholders Group is formed of several people from various industries such as Environmental, Business, and Development Industries. Ms. Kaur stated that the information is available on the SJCOG Website (SJCOG.org). Mr. Early stated that the purpose of this meeting is to inform and receive feedback from the public about the program.
- Angela Nicolini came forward to make a few comments. The City has the right and duty to provide services like planning for future growth. She likes that plans are being made to utilize vacant infill property. Identifying underutilized property is a service that is needed. She is in favor of the program.
- Mannuel Martin stated that he has a problem with property being labeled as underutilized because it leaves the door open for eminent domain. Stealing someone's land is never okay. Chair Olson stated that this is not about redevelopment. Mr. Martin feels that SJCOG is being disingenuous. He encouraged the Commission to do their research on the project and the entities involved.
- Chair Olson reminded everyone that the topic is Smart Growth and Transit Orientated Development.
- Chris Strong stated that the public sector only has taxes from the private sector to utilize as resources. Greenhouse Gases have been refuted and managing transit is geared around this program.
- Jane Loffler asked if the map is available for the public. Mr. Bartlam stated that staff will provide that on the Community Development web page.
- Commissioner Cummins thanked SJCOG staff and representatives for the presentation.
- Commissioner Hennecke asked if comments are expected by the Commissioners and if so maps that are easier to read would have been nice to have had in front of the Commissioners. Mr. Early stated that comments will be accepted through the middle of November. Hennecke added that the voters voted for the funds to be made available with these guidelines, but it will be up to us to say whether or not we want to use those funds and follow those guidelines.
- Chair Olson stated that there are probably some land owners that will be very happy to have some support. She asked staff if a survey like this is something that an Economic Development group that the County has would be engaged in to look at vacant properties to make them available. Mr. Bartlam stated that they would be more focused on job creation.

5. ANNOUNCEMENTS AND CORRESPONDENCE

None

6. ACTIONS OF THE CITY COUNCIL

Director Bartlam stated that a memo has been provided and staff would be happy to answer any questions.

7. GENERAL PLAN UPDATE/DEVELOPMENT CODE UPDATE

Director Bartlam stated that the Housing Element has been set for a public hearing at the Council Meeting next week.

8. ACTIONS OF THE SITE PLAN AND ARCHITECTURAL REVIEW COMMITTEE

Commissioner Kiser gave a brief report regarding the item presented at the last meeting.

9. ART IN PUBLIC PLACES

None

10. COMMENTS BY THE PUBLIC

Alex Aliferis came forward to comment on the lack of knowledge that the Commission had regarding the Smart Growth Item. He encouraged the Commission to do some research regarding items that are coming before them. Lodi is an empty city. Jobs are leaving California, developments are not a reality.

Ed Miller came forward to state that the folks that came and spoke have put in a lot of time doing their research. People are afraid of the strings that are attached to these types of government programs.

11. COMMENTS BY STAFF AND COMMISSIONERS

Commissioner Hennecke stated that the Commission does do their research. The presentation that was provided tonight was for information not only for you the public but for the Commission. Commissioner Kiser concurred.

12. ADJOURNMENT

There being no further business to come before the Planning Commission, the meeting was adjourned at 8:35 p.m.

ATTEST:

Konradt Bartlam  
Planning Commission Secretary

Use Permit for Type 41 ABC License @ 601 W. Lockeford St.  
Jose J. Vazquez/La Tarraza Restaurant

# Item 3a

**CITY OF LODI  
PLANNING COMMISSION  
Staff Report**

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**MEETING DATE:** December 14, 2011

**APPLICATION NO:** Use Permit: 11-U-19

**REQUEST:** Request for Planning Commission approval of a Use Permit to allow a Type-41 On-Sale Beer and Wine Alcoholic Beverage Control License at 601 West Lockeford Street. (Applicant: Jose J. Vazquez. File Number: 11-U-19)

**LOCATION:** 601 West Lockeford Street  
APN: 037-120-55  
Lodi, CA 95240

**APPLICANT:** Jose J. Vazquez  
413 West Turner Road  
Lodi, CA 95240-0530

**PROPERTY OWNER:** The same as above.

**RECOMMENDATION**

Staff recommends the Planning Commission approve the request of Jose J. Vazquez for a Use Permit to allow Type-41 On-Sale Alcoholic Beverage Control (ABC) license at 601 West Lockeford Street, subject to the conditions in the attached resolution.

**PROJECT/AREA DESCRIPTION**

**General Plan Designation:** MUC, Mixed Use Corridor  
**Zoning Designation:** C-1, Neighborhood Commercial.  
**Property Size:** 8,582 sq. ft. (Restaurant is approximately 1,500 sq. ft.)

The adjacent zoning and land use characteristics:

	<b>General Plan</b>	<b>Zone</b>	<b>Land Use</b>
<b>North</b>	MUC, Mixed Use Corridor	C-1, Neighborhood Comm.	Light commercial uses,
<b>South</b>	MUC, Mixed Use Corridor	C-1, Neighborhood Comm.	Light commercial uses
<b>West</b>	Low Density Residence	R-2, Low Density Residence	Residences
<b>East</b>	MUC, Mixed Use Corridor	C-2, General Commercial	Retail and commercial uses

**SUMMARY**

The applicant, Jose J. Vazquez, is requesting approval of a Use Permit to allow on-site consumption of beer and wine in conjunction with food service at a proposed restaurant called La Tarraza. In addition, the applicant is requesting that the Planning Commission make a finding that the sale of alcohol at the restaurant is a public convenience or necessity, in accordance with the requirements of the State Department of Alcoholic Beverage Control (ABC). The restaurant is to be located at 601 West Lockeford Street (Attachment A, Site Vicinity Map).

**BACKGROUND**

The project site previously contained a vacant single story building historically used for auto-related businesses. The applicant petitioned SPARC to review his plans to redevelop the site. Redevelopment of the site involved partial demolition, adding a partial second story, various site

improvements to provide on-site parking, and landscaping. At its regular meeting of August 12, 2009, the Site Plan and Architecture Review Committee (File # 09-SP-02) reviewed and approved the applicant's development plans to convert a vacant auto-repair building into a restaurant.

### **ANALYSIS**

According to the applicant, La Tarraza restaurant offers a lunch and dinner menu. The restaurant will open from the hours of 10:00 a.m. to 8:00 p.m. Mondays – Saturdays and from 11:00 a.m. to 8:00 p.m. on Sundays. The restaurant floor area measures approximately 1,500 sq. ft. in size and provides seating for approximately 32 guests. Parking is provided on site, which satisfies the parking requirements. The applicant requests a Use Permit approval to allow a Type 41 (Eating Place) ABC license, which authorizes the sale of beer and wine for consumption on the premise where sold. Type 41 prohibits the sale of distilled spirits and minors are allowed on the premise. In accordance with the State Department of Alcoholic Beverage Control (ABC) requirements, receipts from alcohol sale cannot be in excess of food sales receipts. ABC requires that restaurants with an alcohol license must operate and maintain the premise as a bona fide eating establishment.

The Municipal Code of the City of Lodi requires the approval of a Use Permit by the Planning Commission for retail businesses and restaurants which sell alcoholic beverages (LMC § 17.72.040). The City established the Use Permit requirement to gain local control over whether or not a license is appropriate for a particular location. The Department of Alcoholic Beverage Control primarily controls issuance based on concentration of licenses within a particular Census Tract. The project site belongs to Census Tract 42.04, which covers the area south of Lockeford Street, north of Lodi Avenue, east of Ham Lane and west of Union Pacific Rail Road Company (UPRR) rail-line. This census tract encompasses the Downtown District and is over-concentrated. According to ABC, Census Tract 42.04 contains twenty-six (26) existing ABC on-sale licenses with only three (3) on-sale licenses allowed based on the ABC criteria. Because Census Tract 42.04 includes the downtown district, there is an existing over concentration of ABC licenses. In order to authorize additional licenses in this census tract, the Planning Commission must make a finding of public convenience and/or necessity. While this is the highest concentration in Lodi, it would not be unexpected in a downtown location. Generally downtowns have a high concentration of eating and drinking establishments. Many of the licenses are in conjunction with eating establishments.

Staff has contacted the Lodi Police Department for comment on the proposed on-sale beer and wine application and they do not anticipate alcohol related problems with the restaurant. Staff sent copies of the application to various City departments for comments and review. The Fire, Building, Public Works, and Electric Utility Departments had no comments and had no objections to the request for an alcohol license. Because the applicant's request is for a Use Permit to allow sale of alcohol in conjunction with a full service restaurant, staff does not anticipate the alcohol sales portion of the business to create any problems. This operation would be similar to other restaurants within Lodi. In the past, the Planning Commission and the Planning staff have generally supported restaurants that wish to acquire an ABC on-sale beer and wine license because restaurants that serve beer and wine in conjunction with food sales have not created alcohol related problems. If problems or concerns related to the sale of alcoholic beverages occur in the future, staff and/or the Planning Commission may initiate a public hearing where the Commission would have the ability to amend conditions or revoke the Use Permit.

### **ENVIRONMENTAL ASSESSMENTS**

The project was found to be 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 Saturday, December 3, 2011. Forty-six (46) 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,

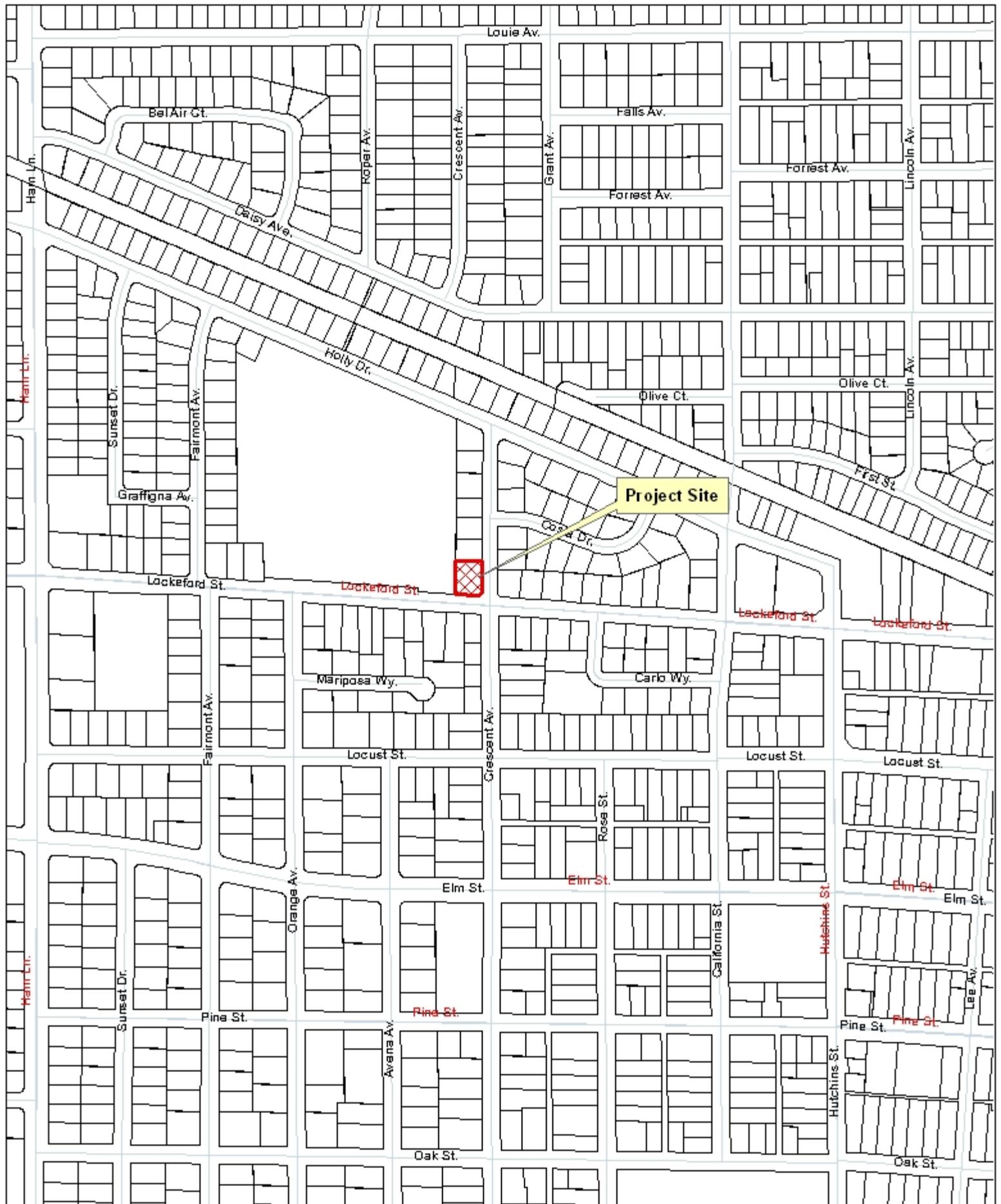
Concur,

Immanuel Bereket  
Associate Planner

Konrad Bartlam  
Community Development Director

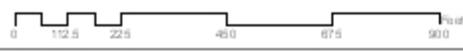
**ATTACHMENTS:**

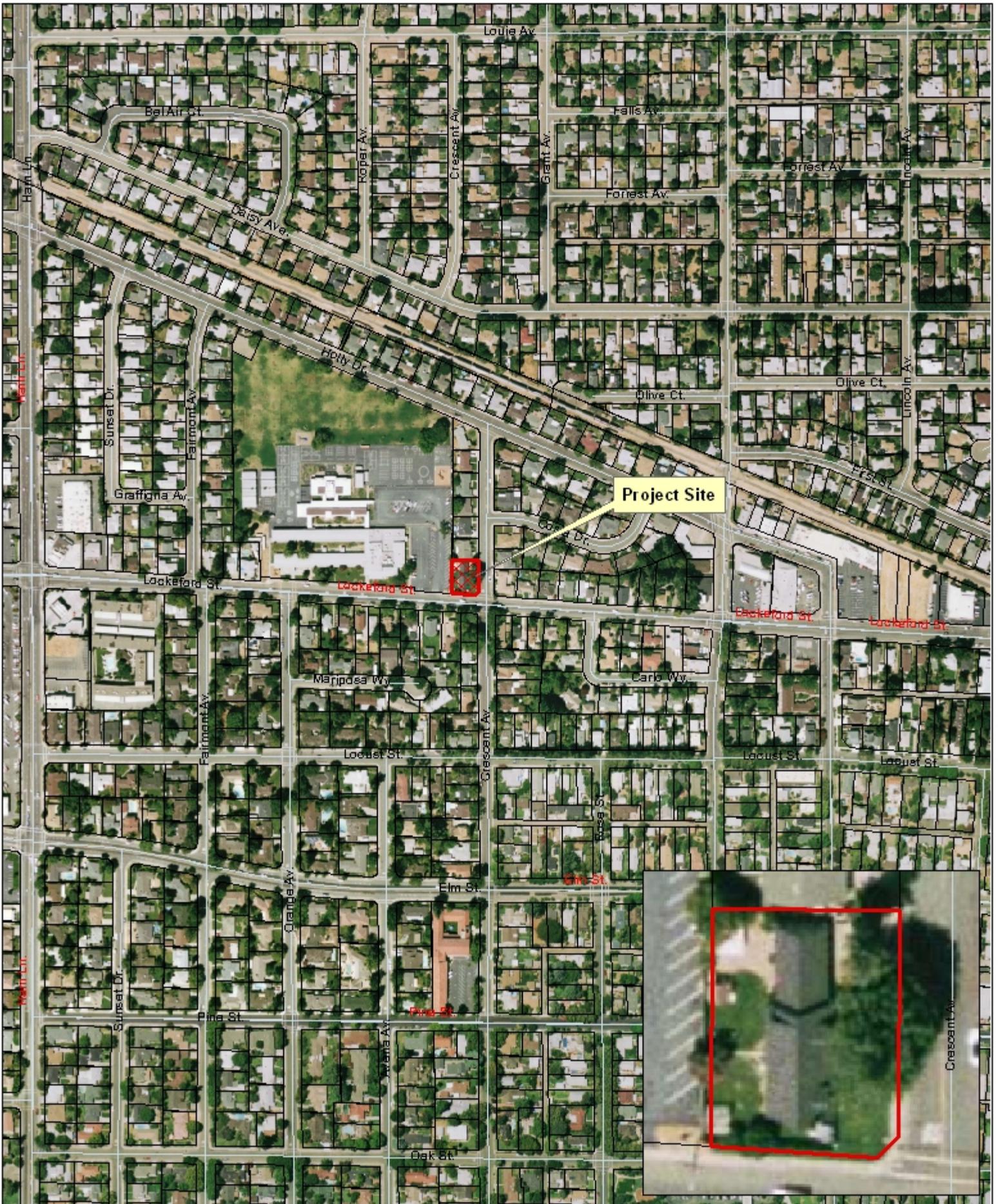
- A. Site Vicinity Map
- B. Site Aerial Map
- C. Site Plan and Floor Plan
- D. Menu
- E. Draft Resolution



**Vicinity Map**  
 La Tarraza Restaurant  
 601 West Lockeford Street  
 APN: 037-120-55  
 Lodi, CA 95240

 Project Site



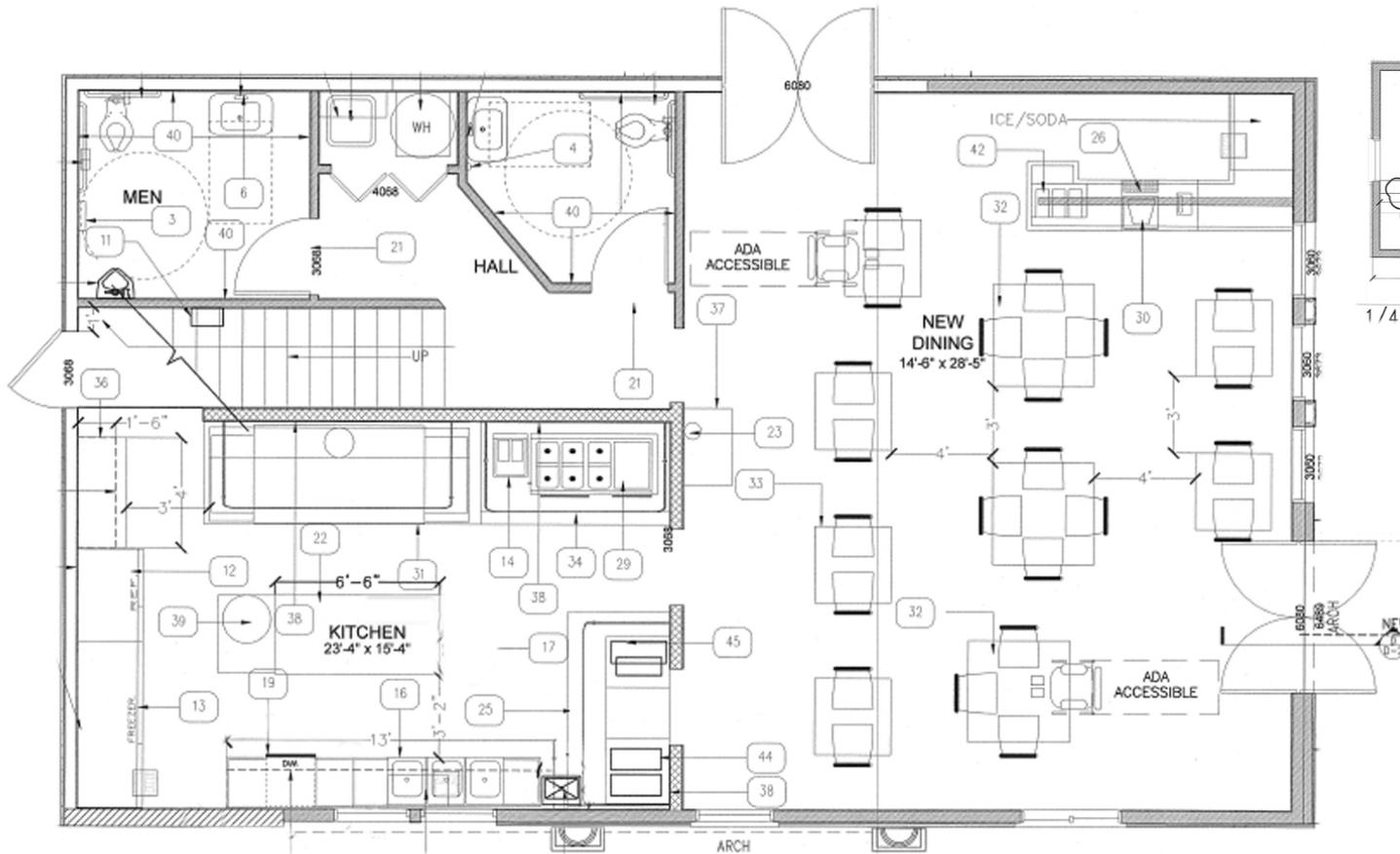


Project Site

**Aerial Map**  
La Tarraza Restaurant  
601 West Lockeford Street  
APN: 037-120-55  
Lodi, CA 95240

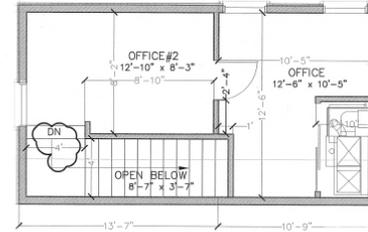
 Project Site





FLOOR PLAN  
1/4" = 1'

1449 sq ft  
1  
A3



MEZZANINE FLOOR PLAN  
1/4" = 1'

 <b>Sinbordes Design</b> CAD Residential Design & Blueprints 1000 Foothill Blvd., Suite 100 Los Angeles, CA 90028 TEL: 310-399-0200 FAX: 310-399-0202	OWNER: <b>LA TERRAZA RESTAURANT</b> 601 Lincoln St. Los Altos, CA. 95040.	DRAWN BY: <b>DE</b> CHECKED BY: <b>DE</b> IN CHARGE: <b>DE</b>	APPROVED BY: <b>DE</b> DATE: 12/17/09 REV. 5/15/10 REV.	SHEET TITLE: <b>NEW FIRST FLOOR / MEZZANINE PLAN</b>
	PROJECT NO. 1-227	SHEET 1 OF 41	PROJECT NO. 1-227	SHEET 1 OF 41

A3

***La Tarraza Restaurant***  
**601 West Lockeford Street**  
**Lodi, CA 95240**

**Lunch Specials**

AVAILABLE WEEKDAYS  
 MONDAY-FRIDAY 11 A.M. TO 2 P.M.

**Fajita Tacos**

Chicken or Beef served with Guacamole and Pico de Gallo...\$7.39

**No.2 Regular Dinner**

2 Cheese Enchiladas, Chili, 1 Puffy Beef Taco, Rice and Beans ...\$7.29

**No. 3 Quickie Plate**

2 Cheese Enchiladas, Chili, Rice and Beans \$6.09

**No. 10 Carne Guisada Plate**

Carne Guisada, Salad, Rice & Beans ...\$6.89

**Daily Lunch Specials**

11 A.M. TO 2 P.M. ON THE DAY LISTED

*Each daily special served with Beans & Frijoles – Rice and Beans*

**MONDAY**

**Pollo**  
 Chicken with Zucchini ...\$6.99

**TUESDAY**

**Costillas de**  
 Beef Ribs in Sauce ...\$6.99

**WEDNESDAY**

**Carne de Puerco con Calabacita**  
 Pork with Zucchini ...\$6.99

**THURSDAY**

**Pollo en Mole**  
 Chicken Mole ...\$6.99  
 (\*Allergy note: Mole contains peanut butter)

**FRIDAY**

**Asado de Puerco**  
 Pork Stew ...\$6.99

**Appetizers**

**Shrimp Campechana**

A delicious shrimp cocktail of Gulf shrimp served in our own blend of spicy chipotle sauce with diced tomatoes, onions, serrano peppers & cilantro, topped with avocado slices.  
 Reg. \$8.19 Special \$12.19

**Quesadillas**

Crisp Corn or Flour Tortilla with Asadero Cheese, Salsa, Sour Cream & Guacamole \$6.99

**Chicken Nachos (12) ...\$6.39**

**Bean and Cheese Nachos (12) ...\$7.09**

**Nachos Rancheros (12)**  
 Beef, Cheese, Guacamole, Onions and Tomatoes ...\$7.89

**Avocado, Bean and Cheese Nachos (12)**  
 \$7.69

**Chili con Queso & Chips ...\$6.49**

**Queso Flameado**

Melted Asadero Cheese with our special homemade Chorizo and Tortillas ...\$7.49

**Guacamole Molcajete**

Fresh Guacamole served in a Molcajete ...\$7.09

**Salads**

**Confetti Salad** Tossed fresh lettuce, tomatoes, and sliced avocados sprinkled with diced bell peppers, cucumbers and carrots...\$7.49  
 With cheese ...add \$1.29

**Taco Salad** Choice of Beef or Chicken Fajitas with fresh lettuce and tomatoes in a crispy taco shell ...\$8.19 With cheese ...Add \$1.29

**Shrimp Avocado Salad**

Shrimp on a bed of mixed lettuce with sliced avocados and diced bell peppers ...\$8.49

**Sliced Avocado Salad**

Avocado slices over a bed of mixed lettuce & tomatoes ...\$7.39

**Guacamole Salad**

Guacamole with a bed of mixed lettuce & tomatoes ...\$7.09

*Salad dressings: Thousand Islands, French, Ranch, Chipotle Ranch*

**Mexican Dinners**

**Don Pedro Special Plate**

Chile Relleno, Guacamole, Cheese Enchilada, Chili, Puffy Beef Taco, Rice and Beans ...\$11.29

**No.1 Special Dinner**

2 Cheese Enchiladas, Chili, 2 Puffy Beef Tacos, Rice, Beans, Salad, and Guacamole ...\$9.69

**No. 2 Regular Dinner (our most popular)**

2 Cheese Enchiladas, Chili, 1 Puffy Beef Taco, Rice and Beans ...\$8.49

**No. 3 Quickie Plate**

2 Cheese Enchiladas, Chili, Rice and Beans \$7.49

**No. 4 Chicken Flauta Plate**

3 Chicken Flautas topped with Guacamole, Side of Sour Cream, Rice and Beans ...\$8.49

**No. 5 Small Plate**

1 Cheese Enchilada, Chili, 1 Puffy Beef Taco and Rice ...\$7.49

**No. 6 Summer Special**

1 Chili con Queso Tostada, 1 Puffy Beef Taco, 1 Cheese Enchilada, Chili and Salad ...\$7.99

**No. 7 Tostadas Plate**

1 Chili con Queso Tostada, 1 Bean Chalupa, 1 Guacamole Tostada ...\$6.99

**No. 8 Chile Relleno Plate**

Poblano Pepper stuffed with seasoned ground pork and beef, topped with Tomato Sauce, and served with Salad, Rice and Beans ...\$9.59

**No. 9 Antojado's Plate**

1 Beef Chalupa, 1 Cheese Enchilada, Chili, 1 Puffy Beef Taco, 1 Tamal ...\$8.49 with Rice and Beans ... add \$2.09

**No. 10 Carne Guisada Plate**

Carne Guisada, Salad, Rice and Beans...\$8.59

**No. 11 Combination**

2 Cheese Enchiladas, Chili, 2 Puffy Beef Tacos ...\$8.49

**No. 12 Combination**

3 Cheese Enchiladas, Chili 3 Puffy Beef Tacos ...\$11.29

**Parilladas**

**1 Lb. Fajitas (Beef or Chicken) ...\$26.09**

**1 Lb. Combination Fajitas ...\$26.09**

**Parillada Norteña ...\$36.29**

A mix of Agujas, Pollo al Carbón, Costillas al Horno, Chorizo al Carbón (Country Sausage) and Queso Oaxaca. Ay Caramba! Serves Four!

All of the above are served with Guacamole, Pico de Gallo, Flour or Corn Tortillas and Borracho Beans

Add rice ...\$2.09

**Chalupas (2 in order)**

**Avocado and Chicken ...\$6.89**

**Bean and Cheese ...\$5.39**

**Avocado and Bean ...\$6.89**

**Chili con Queso ...\$5.39**

**Enchiladas (3 in order)**

**Chicken Mole Enchiladas ...\$7.29**

**Cheese topped with chili ...\$6.89**

**Chicken topped with chili ...\$6.89**

**Ground Beef topped with chili ...\$7.09**

**Green Chicken Enchiladas ...\$6.89**

**Tacos (3 in order)**

**Puffy • Crispy • Soft • Corn or Flour**

**Beef ...\$6.59**

**Chicken ...\$6.59**

**Guacamole ...\$6.59**

**Carne Guisada Tacos...\$6.39**

**Fajita Tacos (Beef or Chicken)...\$8.39**

Served with Borracho Beans

**Tacos Callejeros**

**Al Carbón (Beef) or Al Pastor (Pork)**

Served on corn tortillas with borracho beans...\$7.99

### **Cabrito Tacos Doraditos**

Served in lightly crisp corn tortillas with lettuce, tomatoes, avocado slices, borracho beans and jalapeños ...\$ 12.99

### **Caldos**

**Tortilla Soup** cup...\$3.89 bowl....\$5.99  
*With Chicken, Avocados and Tortilla Strips*  
**Caldo de Res (Beef)** Sm....\$4.99 Lg...\$6.59  
**Caldo de Pollo (Chicken)**  
Sm....\$4.99 Lg..\$6.59  
*Caldo served from 11 a.m. until it's gone!*  
**Menudo** Sm...\$4.99 Lg...\$6.59  
**Bowl of Chili** Sm...\$4.99. Lg...\$6.59

### **Tamales**

**5 Plain Tamales...**\$4.79  
**4 Tamales with Chili...**\$4.79

### **Steaks & Chicken**

**Choice T-Bone, 12 oz ...**\$16.99  
**Chicken Fried Steak**  
(Brown or Cream Gravy) ...\$10.59  
*Both of the above are served with  
Salad, Toast and French Fries*  
**Costillas al carbón**  
Two Charbroiled Beef Short Ribs served with  
Guacamole, Rice & a cup of Borracho Beans  
\$14.59  
**Carne Asada Plate**  
Salad, Rice, Borracho Beans, Guacamole  
\$12.59  
**Fajita Plate** Salad, Rice, Beans, Guacamole  
\$10.59  
**Steak a la Tampiqueña**  
8 oz. Ribeye served with Cheese Enchilada,  
Guacamole, Rice & Beans ...\$15.99  
**Steak Ranchero**  
Choice 12 oz T-Bone topped with salsa ranchera  
and served with Rice, Beans, Tortillas ...\$17.09  
**Steak a la Mexicana**  
Choice 12 oz. T-Bone, cut and sautéed in a spicy  
Salsa Mexicana served with Rice,  
Beans, Tortillas ...\$17.09

### **Chicken Monterey**

Charbroiled boneless, skinless breast of  
Chicken with sauteed onions, tomatoes, and  
Monterey Cheese, Rice and Beans ...\$12.99

### **Pollo a la Parrilla**

Pollo al carbón, with Rice and a cup of  
Borracho Beans ...\$11.59

### **Steve's Special**

Chicken Fajitas and Salad served with Corn  
Tortillas ...\$10.59

### **Alambre de Res**

Ribeye Kabob served with Rice & Borracho  
Beans ...\$12.99

### **Cabrito Asado**

Served with Salad, Guacamole, Rice, Beans & a  
Jalapeño ...**(Market Price)**

### **Seafood**

**Fried Catfish Filet & Shrimp (6) ...**\$10.49

**Fried Shrimp (12) ...**\$10.49

**Fried Catfish Filets (2) ...**\$9.99

*All of the above are served with Salad, French  
Fries, and Hushpuppies & Texas Toast, tartar  
sauce and our own blend of cocktail sauce.*

### **Mariscos a la Placha**

### **Grilled Seafood Platter**

Tilapia filet and 5 shrimp with our special  
Caribbean flavors. Served with Cilantro Lime  
Rice and Avocado Salad ...\$13.49

### **Tacos de Pescado**

3 Tilapia Tacos, served with Cilantro Lime  
Rice... \$ 9.59

### **On the Light Side**

### **Bistec a la Lumbre**

Fire Grilled 8 oz Ribeye with your choice of  
Seasoned Vegetables, Sliced Avocado Salad or  
Borracho Beans ...\$ 12.89

### **Pechuga de Pollo a la Lumbre**

Fire Grilled Chicken Breast with your choice of  
Seasoned Vegetables, Sliced Avocado Salad or  
Borracho Beans ...\$ 9.89

### **Alambre de Res con Vegetales Asados**

Ribeye Kabob with Fire Grilled Vegetables  
\$12.89

**Alambre de Camarón con Vegetales Asados**  
 Shrimp Kabobs marinated with our special seasoning with Fire Grilled Vegetables  
 \$13.89

Add a Second Side for \$2.89  
 Seasoned Vegetables, Sliced Avocado Salad or Borracho Beans

**Enchiladas Ligeras  
 Light Enchiladas**

**Green Chicken Enchiladas**  
 3 Enchiladas filled with Chicken then smothered with our tomatillo sauce, served with Sliced Avocado Salad ...\$8.99

**Entomatadas**  
 3 Enchiladas dipped in 100% extra virgin olive oil, filled with queso fresco then smothered with our delicious tomato sauce, served with a Sliced Avocado Salad ...\$ 8.99

**Enchiladas con Chile Colorado**  
 3 Enchiladas dipped in 100% extra virgin oil, then dipped in chile Colorado filled with queso fresco, served with Sliced Avocado Salad ...\$8.99

**Don Pedro Party Platter**

Combination of Cheese Quesadillas, Tamales and Flautas served with Sour Cream and Salsa. Serves 10-12 ...\$39.00  
 Add beef or chicken fajitas to 2 Quesadillas Add \$2.00

**Sides**

Rice ...\$2.09  
 Beans ...\$2.09  
 French Fries ...\$2.09  
 Borracho Beans ...\$4.69

**Desserts**

**Sopapillas** ...\$5.99  
**Homemade Flan**  
 Mexican Custard with Caramel ...\$4.59  
**Grandma Leticia's Homemade Flan Cake**  
 Yellow cake, custard & caramel, topped with pecans...\$4.59  
**Tres Leches Cake**  
 By the slice ...\$4.59

Any whole cake (Serves 12-15. Place order) ... \$28.00

**Arroz Con Leche**  
 Homemade Rice Pudding ...\$4.59

**Mexican Cookies and Empanadas**  
 1/2 dozen...\$2.99 1 dozen ...\$5.50  
 (24 hours notice for orders of more than 6 dozen)

**Drinks**

**Happy Hour prices Monday thru Friday  
 3:00 p.m. - 10 p.m. ...\$2.95**

Imported Beer ...\$3.70  
 Domestic Beer ...\$3.50

Ask your server for selection of over 20 different varieties.

	Regular.....	Large
Soft Drinks.....	\$1.79	\$2.19
<i>Coke, Diet Coke, Dr. Pepper, Sprite, Orange, Cima Red</i>		
Lemonade	\$1.79	\$2.19
Orange Juice	\$2.00	\$3.19
Milk	\$1.79	\$2.49
Hot Chocolate		\$1.89
Coffee (free refills)		\$1.89
Iced or Hot Tea (free refills)		\$2.19

**RESOLUTION NO. P.C. 11-**

**A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF LODI FOR THE APPROVAL OF THE REQUEST OF JOSE J. VAZQUEZ FOR A USE PERMIT TO ALLOW FOR AN ON-SALE BEER AND WINE ALCOHOLIC BEVERAGE CONTROL LICENSE AT 601 WEST LOCKEFORD STREET**

- WHEREAS,** the Planning Commission of the City of Lodi has heretofore held a duly noticed public hearing, as required by law, on the requested Use Permit, in accordance with the Lodi Municipal Code, Section 17.72.070; and
- WHEREAS,** the project proponent is Jose J. Vazquez, 413 W. Turner Rd., Lodi, CA 95240; and
- WHEREAS,** the project is located at 601 W. Lockeford St., Lodi, CA 95240 (APN: 037-120-55); and
- WHEREAS,** the property has a General Plan designation of Mixed Use Corridor and is zoned C-1, Neighborhood Commercial; and
- WHEREAS,** the requested Use Permit to allow the selling of beer and wine for on-site consumption within a restaurant is an enforcement action in accordance with the City of Lodi Zoning Ordinance; and
- WHEREAS,** Census Tract 42.04 in which the proposed restaurant is to be located is over-concentrated with licenses allowing on premise consumption of alcoholic beverages; and
- WHEREAS,** because Census Tract 42.04 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.
- 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-1 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 and residents.
3. The on-sale of beer, wine and distilled spirits, in accordance with a Type 41 Alcoholic Beverage Control License and with the conditions attached herein, would be consistent and in harmony with the Mixed Use Corridor General Plan Land Use Designation and C-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 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 for a restaurant 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 Department 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.

**NOW, THEREFORE, BE IT DETERMINED AND RESOLVED** by the Planning Commission of the City of Lodi that Use Permit Application No. 11-U-19 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 shall operate and abide by the requirements and conditions of the State of California Department of Alcoholic Beverage Control License Type 41. The Type 41 License shall be limited to on-site sale and consumption of beer and wine during the hours that the restaurant is open for business or as otherwise modified by the Community Development Director.
5. The City reserves the right to periodically review the area for potential problems. If problems (on-site or within the immediate area) including, but not limited to, public drunkenness, the illegal sale or use of narcotics, drugs or alcohol, disturbing the peace and disorderly conduct result from the proposed land use, the Use Permit may be subject to review and revocation by the City of Lodi after a public hearing and following the procedures outlined in the City of Lodi Municipal Code. Additional reviews may be prescribed by the Community Development Director, the Police Department and/or Planning Commission as needed during and after the first two years of probationary period. Further, starting from the effective date the business commences the sale of beer and wine, this Use Permit shall be subject to a one year, and two year review by Community Development Director. If the Director determines it necessary, the Director shall forward the review to the Planning Commission to review the business's operation for compliance with the conditions of the Use Permit, and in response to any complaints thereafter.

6. The Lodi Police Department may, at any time, request that the Planning Commission conduct a hearing on the Use Permit for the purpose of amending or adding new conditions to the Use Permit or to consider revocation of the Use Permit if the Use Permit becomes a serious policing problem.
7. The Use Permit shall require the Applicant/Operator and/or successors in interest and management to secure an ABC Type 41 license, On Sale Beer and Wine– Eating Place.
8. Prior to the issuance of a Type 41 ABC license, the Applicant/Operator and/or successors in interest and management shall complete Licensee Education on Alcohol and Drugs as provided by the State Department of Alcoholic Beverage Control.
9. 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.
10. No person who is in a state of intoxication shall be permitted within the restaurant nor shall an intoxicated patron already in the establishment 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.
11. The exterior of all the premises shall be maintained in a neat and clean manner, and maintained free of graffiti at all times.
12. 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.
13. 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.
14. No variance from any City of Lodi adopted code, policy or specification is granted or implied by this approval.

**Dated: December 14, 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 December 14, 2011 by the following vote:

**AYES:** Commissioners:

**NOES:** Commissioners:

**ABSENT:** Commissioners:

**ATTEST** \_\_\_\_\_  
**Secretary, Planning Commission**

Zoning Change @ 515 & 617 S. Lower Sacramento Rd.  
Kristmont West / Zinfandel Plaza, LLC

# Item 3b.

**CITY OF LODI  
PLANNING COMMISSION  
Staff Report**

**MEETING DATE:** December 14, 2011

**APPLICATION NO:** 11-Z-01

**REQUEST:** Request for Planning Commission to make a Recommendation to the City Council to approve rezoning of properties located at 515 and 617 South Lower Sacramento Road from R-1, C-S and R-C-P to Planned Development (PD)-35. (Applicant, Kristmont West Shopping; File # 11-Z-01)

**LOCATION:** 515 South Lower Sacramento Road  
APN: 027-400-09  
Lodi, CA 95242  
Lot Size: 9.3 acres

**PROPERTY OWNER:** Kristmont West  
7700 College Town Drive #111  
Sacramento, CA 95826

**LOCATION:** 617 South Lower Sacramento Road  
APN: 207-400-10  
Lodi, A 95242  
Lot Size: 1.01 acres

**PROPERTY OWNER:** Zinfandel Plaza, LLC  
7700 College Town Drive #101  
Sacramento, CA 95826

**APPLICANT:** The same as above.

**RECOMMENDATION**

Staff recommends the Planning Commission recommend to the City Council approval of the Rezone application, subject to conditions of approval outlined in the attached resolution.

**PROJECT AREA DESCRIPTION**

**General Plan Designation:** Commercial  
**Zoning Designation:** C-S: Commercial Shopping, R-1, Single Family Residence and R C-P, Residential, Commercial and Professional.  
**Property Size:** Approximately 10.4 acres

**The adjacent zoning and land use characteristics:**

	<b>General Plan</b>	<b>Zone</b>	<b>Land Use</b>
<b>North</b>	Commercial	PD-35: Planned Development 35	Variety of stores
<b>South</b>	Low Density Residential	PD-16: Planned Development 16	Temple Baptist Church
<b>East</b>	Low Density Residential	R-1 and R-2 Residences	Single Family Residences
<b>West</b>	High and Medium Density Residential	PD-42: Planned Development 42	Agricultural land

## **SUMMARY**

The application involves two properties that are together zoned R-1, R-C-P and C-S. The properties are located at 515 and 617 South Lower Sacramento Road, Assessor's Parcel Numbers: 027-400-09 and 207-400-10, respectively. The owner is petitioning to rezone these properties to Planned Development (PD)-35. PD-35 zoning district covers the area commonly known as Raley's Shopping Center, which is located immediately north of the project sites and is also owned by the same entity. Rezoning of the properties to PD-35 would create a uniform zoning designation and permit commercial development to occur. The City's General Plan designates the subject sites as Commercial. Staff recommends that the Commission recommend approval of the proposed rezoning as shown in Attachment "6" to the City Council based on the findings and subject to the conditions contained in the attached resolution. No development plans for the property are proposed at this time. The only action currently before the Commission is the proposal to rezone the properties.

## **BACKGROUND**

This rezoning application involves two parcels located near the corner of Lower Sacramento Road and Lodi Avenue. The property located at 617 South Lower Sacramento Road contains an old residential house converted to an office. The second parcel is located at 515 South Lower Sacramento Road and is a vacant parcel. Both parcels are owned by the same entity. The area was annexed into the City in 1966. The shopping center was developed sometime prior to that. Many additions to the center have been made since its first phase was completed, including the U.S.A gas station, the movie theater (since demolished), and the Farmers and Merchants bank branch.

In 2000, the property owner applied for a Zoning Amendment to change the zoning of the shopping center to Planned Development (PD). However, the two subject properties were excluded. The vacant parcel currently features three zoning designations divided equally. The northern 1/3 is zoned Shopping Center (C-S), the southern 1/3 is zoned Residential-Commercial-Professional (R-C-P), and the middle part is zoned Single Family Residence (R-1). The second parcel is zoned R-C-P and contains an office. Both parcels feature a General Plan Commercial land use designation. No development is proposed at this time.

## **ANALYSIS**

The application involves two properties that contain three different City zoning designations. These properties are located at 515 and 617 South Lower Sacramento Road. These zoning designations are R-1, Single Family Residence, R-C-P, Residential Commercial and Professional, and C-S, Shopping Center. The owner petitions to amend Planned Development (PD)-35 to include these two parcels. PD-35 covers the Raley's Shopping center, which is also owned by the applicant. PD-35 was established to allow commercial development. The City's General Plan designates both sites as commercial. Rezoning of these properties to PD-35 would be consistent with the General Plan land use policy. The request was prompted from a desire of the applicant to develop the vacant parcel for commercial uses. The R-1 zoning designation prohibits commercial uses. Thus, the applicant requests the zoning designations be changed to Planned Development 35.

The planned development district is designed to accommodate various types of development such as neighborhood commercial, shopping centers, grouped professional and administrative office area, commercial serve centers and other types of commercial and residential uses. The change in zoning designation to planned development would allow development of the parcels as specifically permitted in §17.33.040. The Planned Development District, as defined in the City's Zoning Ordinance, provides the flexibility for applicants to design their own development criteria. This includes setbacks, heights, lot coverage and other land use issues as defined in §§ 17.33 Planned Development District (P-D) of the City's Ordinances. At this time, no development is proposed. However, future development plans are subject to review and approval by Site Plan and Architecture Review Committee (SPARC) and possibly Planning Commission.

Per City Code, the Planning Commission must make the following findings in order to recommend approval of a proposed rezoning to the City Council:

- (1) The proposed zoning amendment is in general conformance with the General Plan

The proposed rezoning conforms to the General Plan in that it will still allow commercial development on the property consistent with the commercial development prescribed by the Land Use Chapter of the General Plan should the property owner decide to propose such development in the future. In the mean time, rezoning will remove any constraints imposed by the current zoning designations.

- (2) The public necessity, convenience, and general welfare require the adoption of the proposed rezoning.

At the present time, there is an inherent contradiction between the General Plan and the zoning designations. When the City adopted the current General Plan, it changed the land use designation to Commercial per the property owner's request. The presence of residential designation prohibits commercial development. As such, planning staff recommends that the properties be rezoned from R-1, R-C-P and C-S to Planned District (35). Approval of the requested rezoning will make the zoning consistent with the current General Plan and facilitate the development of the site today with a more viable land use or new land use plan.

The applicant will not be required to pay impact fees for the proposed rezoning because no development is proposed. When an application is submitted to develop the properties, the developer will be required to pay the applicable impact fees in effect at the time building permits are obtained. Staff finds the proposed request to amend the Zoning designation to Planned Development 35 is consistent with the General Plan. Staff further finds that the request is reasonable and provides for the existing and future needs of the residents of the area, and that it integrates well with the surrounding land uses. Therefore, staff recommends the Planning Commission find the proposed rezoning application exempt from the California Environmental Quality Act (CEQA) pursuant to Guideline 15183 and 15061(b)(3) which exempts projects that have no potential for having a significant impact on the environment; find the project consistent with the General Plan for the reasons enumerated in this staff report; find that the rezoning fulfills the applicable requirements set forth in §17.33 of the Lodi Municipal Code; and recommend to the City Council to adopt an ordinance to rezone the properties from R-1, R-C-P and C-S to Planned Development-35, based upon the findings and subject to the conditions of approval set forth in draft resolution.

#### **ENVIRONMENTAL ANALYSIS:**

The California Environmental Quality Act (Section 21000, et. seq. of the California Public Resources Code, hereafter CEQA) requires analysis of agency approvals of discretionary "projects." A "project," under CEQA, is defined as "the whole of an action, which has a potential for resulting in either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment." The proposed zoning change is a project under CEQA.

Staff has reviewed the project to determine the required level of review under CEQA. The proposed zoning change is exempt from CEQA under State CEQA Guidelines Section 15183 (Projects Consistent with a Community Plan, General Plan, or Zoning). CEQA mandates that projects which are consistent with the development density established by existing zoning, community plan, or general plan policies for which an EIR was certified shall not require additional environmental review. The proposed rezone is consistent with the Lodi's General Plan land use designation of Commercial. Further, the certified General Plan EIR analyzed the commercial development of this property and its potential impacts. Therefore, the project qualifies for the identified exemption. In addition, this proposed rezoning is exempt from the California Environmental Quality Act (CEQA) pursuant to Guideline 15061(b)(3) in that it is not a project which has the potential to have a significant impact on the environment because it will not change

the allowable commercial use of the property consistent with the current General Plan land use designation.

**PUBLIC HEARING NOTICE:**

Legal Notice for the Use Permit was published on December 3, 2011. A total of 32 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 Alternate Conditions
- Deny the Request
- Continue the Request

Respectfully Submitted,

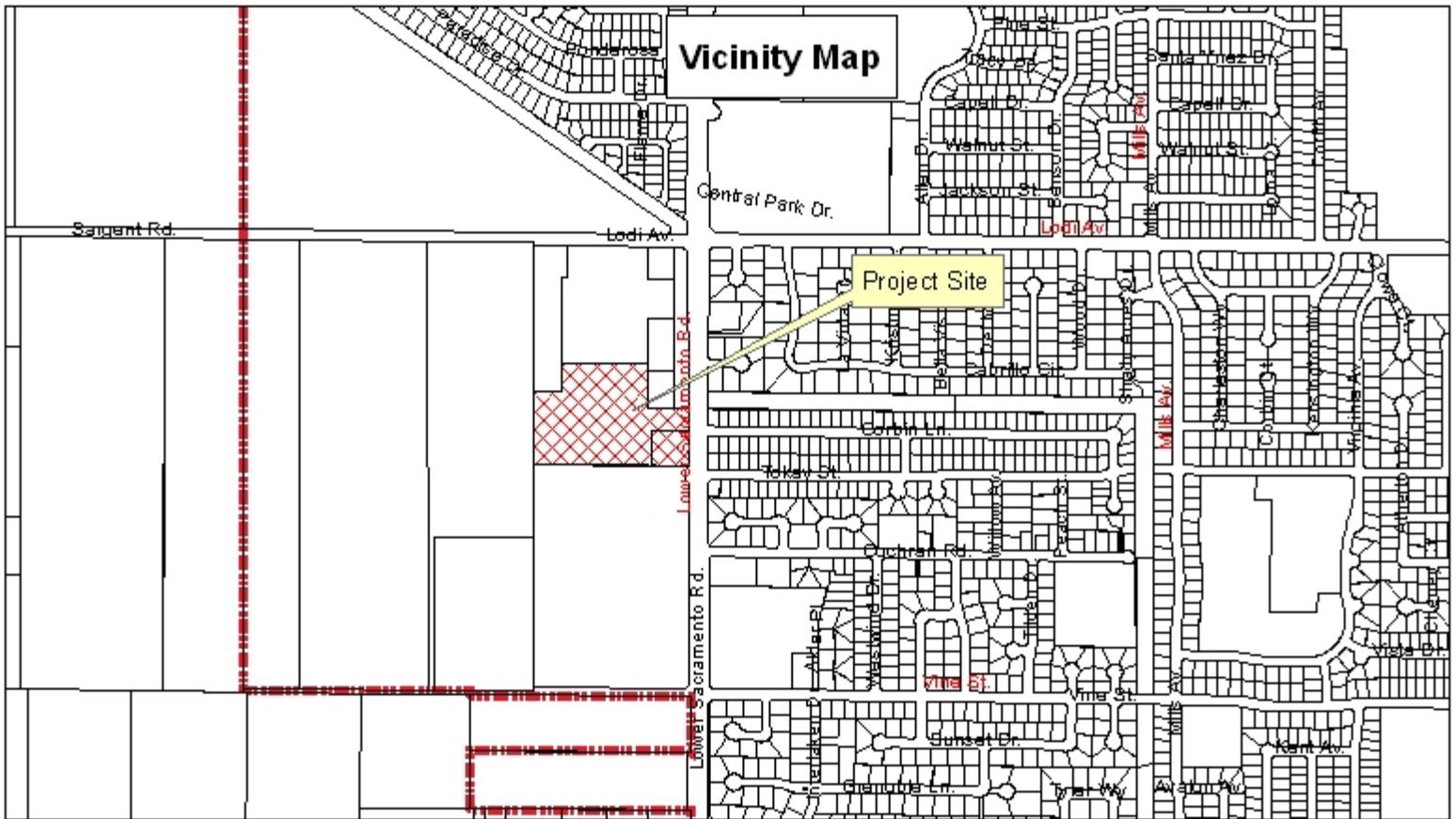
Concur,

Immanuel Bereket  
Associate Planner

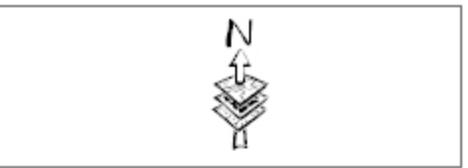
Konradt Bartlam  
Community Development Director

**ATTACHMENTS:**

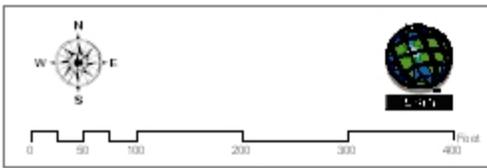
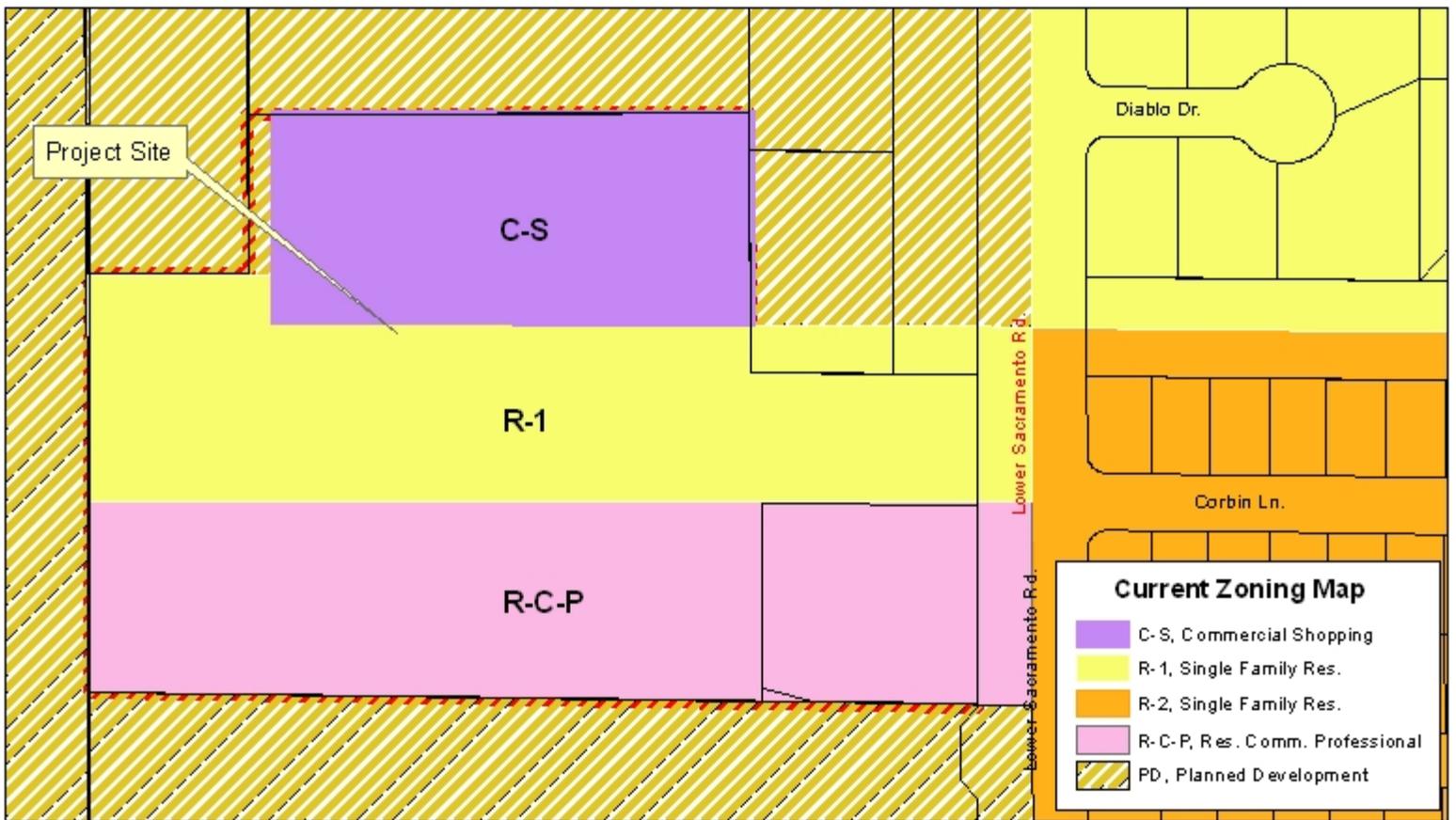
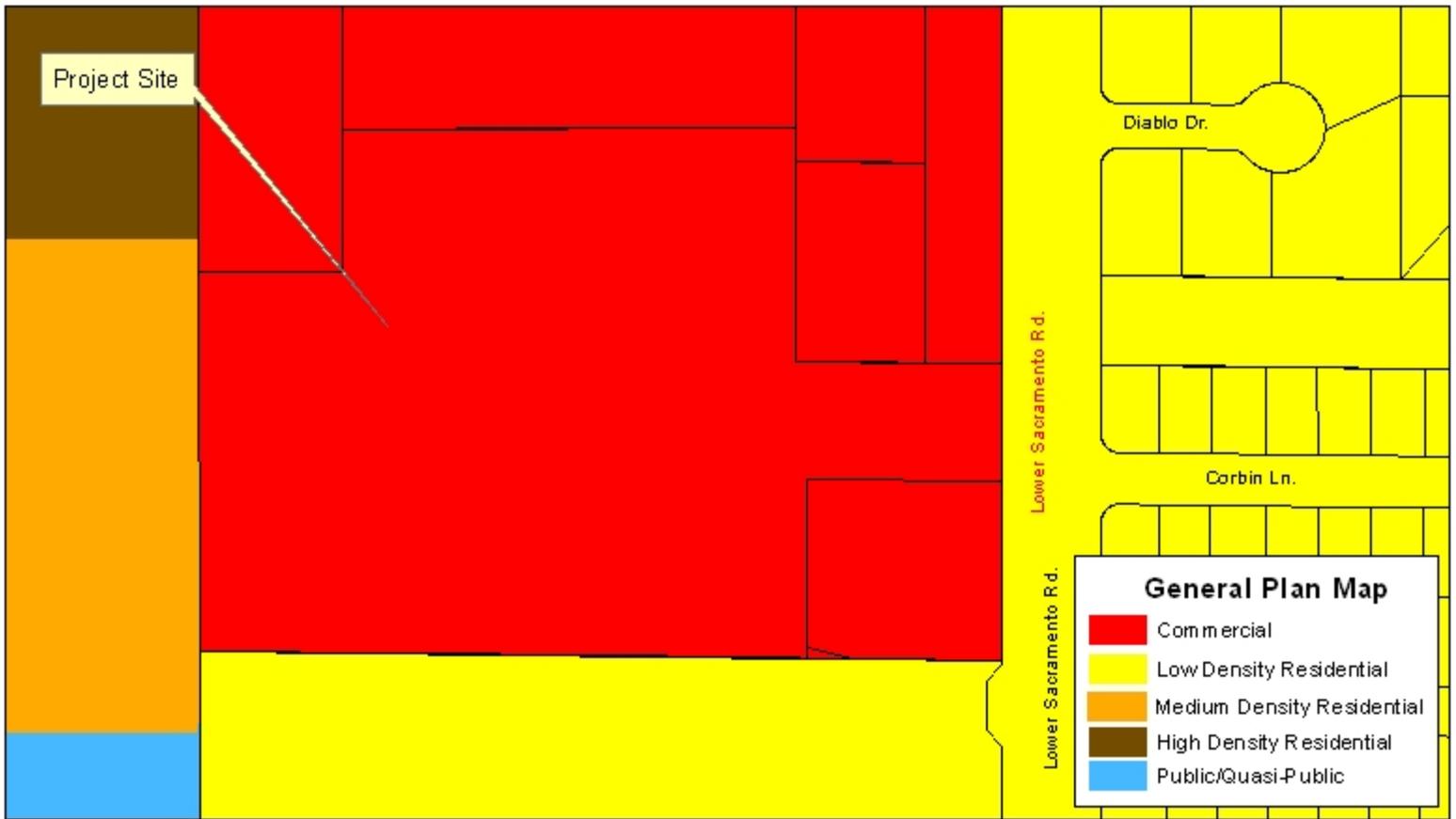
1. Aerial Map and Vicinity Location
2. Site Plan
3. Existing General Plan and Zoning Maps
4. Proposed Zoning Map
5. Draft Resolution



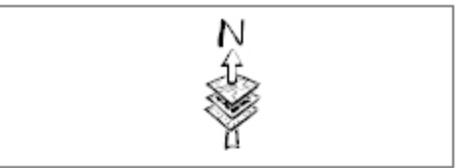
**515 and 617 S. Lower Sacramento Road  
Lodi, CA 95242**

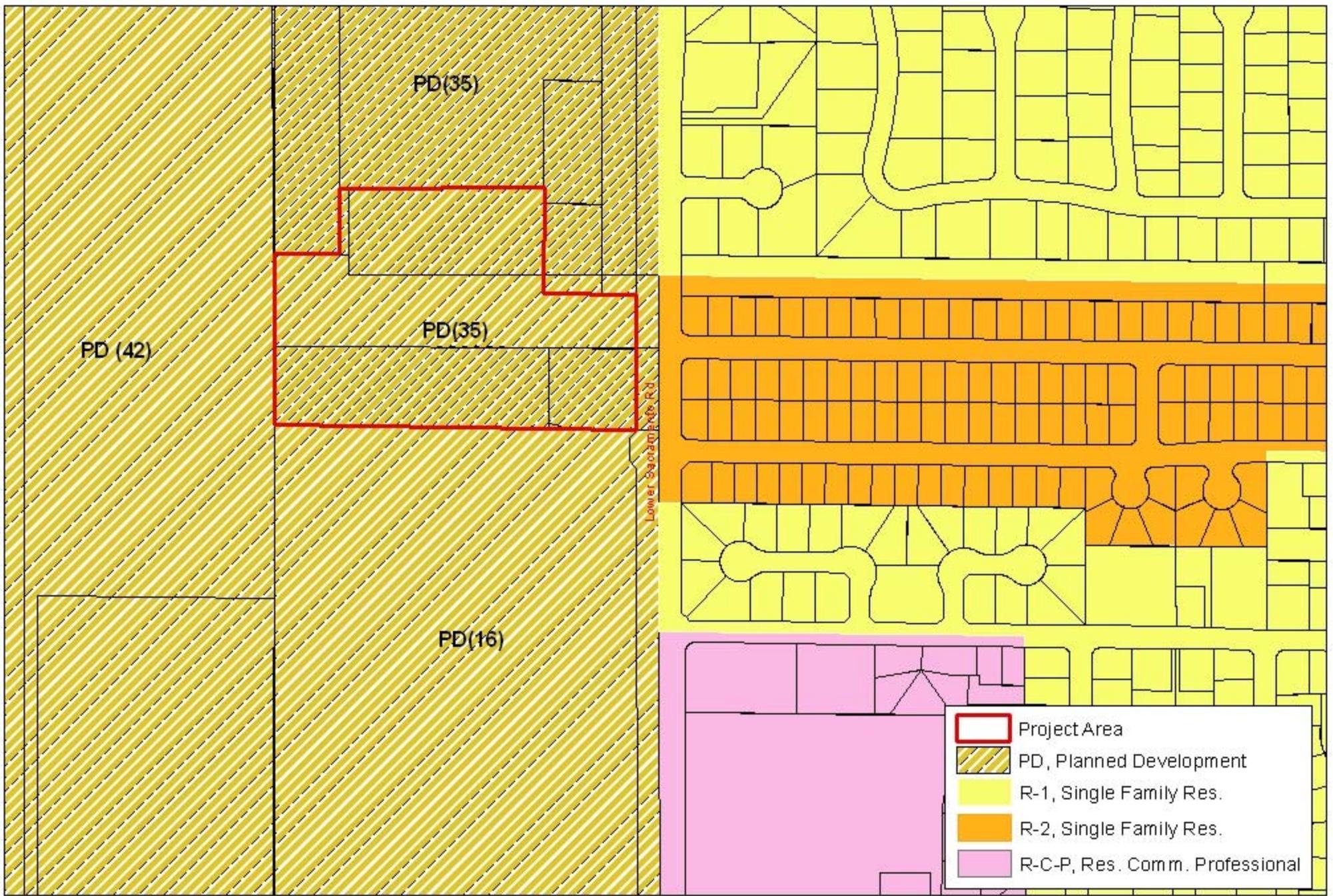






515 and 617 S. Lower Sacramento Road  
Lodi, CA 95242





## Proposed Zoning Change

515 and 617 S. Lower Sacramento Road  
Lodi, CA 95242



**P.C. RESOLUTION NO. 11-**

**A RESOLUTION OF THE CITY OF LODI PLANNING COMMISSION RECOMMENDING THE CITY COUNCIL ADOPT AN ORDINANCE REZONING 515 AND 617 SOUTH LOWER SACRAMENTO ROAD FROM R-1, SINGLE FAMILY RESIDENCE, R-C-P, RESIDENTIAL COMMERCIAL AND PROFESSIONAL, AND C-S, SHOPPING CENTER TO PLANNED DEVELOPMENT (PD)-35**

**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**, On November 3, 2011, the City of Lodi received an application from Tom Smith, on behalf of Kristmont West, (referred to as “applicant”), to rezone 515 and 617 South Lower Sacramento Road, Assessor’s Parcel Numbers: 027-400-09 and 027-400-10, respectively; and

**WHEREAS**, the subject property located at 515 South Lower Sacramento Road (APN:027-400-09) is owned by Kristmont West, 7700 College Town Drive #111, Sacramento, CA; and

**WHEREAS**, the subject property located at 617 S. Lower Sacramento Road (APN:027-400-10) is owned by Zinfandel Plaza, LLC, 7700 College Town Drive #101, Sacramento, CA; and

**WHEREAS**, the subject properties have a General Plan designation of Commercial; and

**WHEREAS**, the subject property located at 515 South Lower Sacramento Road (APN:027-400-09) is zoned R-1, C-S, and R-C-P; and

**WHEREAS**, the subject property located at 617 South Lower Sacramento Road (APN:027-400-10) is zoned R-C-P; and

**WHEREAS**, the requested rezoning is to change the zoning designations of 515 South Lower Sacramento Road (APN: 027-400-09) from R-1, C-S, and R-C-P to Planned Development 35; and

**WHEREAS**, the requested rezoning is to change the zoning designations of 617 South Lower Sacramento Road (APN: 027-400-10) from R-C-P to Planned Development 35; and

**WHEREAS**, the proposed zoning change is consistent with the General Plan and other applicable standards; and

**WHEREAS**, the proposed zoning change would allow commercial development to occur on the sites; and

**WHEREAS**, the Planning Commission of the City of Lodi conducted the public hearing at the time and place stated in the notice and afforded all persons interested in the matter of the rezoning, or in any matter or subject related thereto, an opportunity to appear before the Commission and be heard and to submit any testimony or evidence in favor of or against the approval of the application; 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, hereby, makes the following findings:

1. The project was found to be Categorically Exempt according to the California Environmental Quality Act, Guidelines Section 15183 (Projects Consistent with a Community Plan, General Plan, or Zoning). CEQA mandates that projects which are consistent with the development density established by existing zoning, community plan, or general plan policies for which an EIR was certified shall not require additional environmental review. The proposed rezone is consistent with the General Plan land use designation of Commercial. Further, the certified

General Plan EIR analyzed the commercial development of this property and its potential impacts. Therefore, the project qualifies for the identified exemption. In addition, this proposed rezoning is exempt from the California Environmental Quality Act (CEQA) pursuant to Guideline 15061(b)(3) in that it is not a project which has the potential to have a significant impact on the environment because it will not change the allowable commercial use of the property consistent with the current General Plan land use designation.

2. Implementation of the Rezoning will not result in significant physical change in the environment and in that the site is an infill project and will not alter the impervious surface.
3. The proposed Rezoning will not have impacts that are individually limited but cumulatively considerable because this is an infill project that is currently served by all public utilities and services.
4. The proposed rezoning is in complete conformance with the General Plan in that it will permit commercial development on the properties consistent with the type of use and range prescribed by the Land Use Chapter of the General Plan should the owner of the properties decide to propose such development in the future.
5. The public necessity, convenience, and general welfare require the adoption of the proposed rezoning in that leaving the properties zoned as R-1, R-C-P and C-S with associated restrictions prescribed by the Zoning Ordinance is illogical and places unnecessary governmental constraints. The underlying General Plan land use designation of the subject properties is Commercial, so rezoning the property to Planned Development 35 will make the zoning consistent with the current General Plan, remove governmental constraint and facilitate the development of the infill project site.
6. It is found that the required zoning change to Planned Development 35 (PD-35) Zoning District does not conflict with adopted plans or policies of the General Plan and will serve sound planning practice.
7. It is further found that the project parcel of the proposed Planned Development 35 (PD-35) Zoning District is physically suitable for commercial development.
8. Future development of the project sites will be required to adhere to all applicable standards adopted by the City, improvements mandated by the City of Lodi Public Works Department Standards and Specifications, Zoning Ordinance as well as all other applicable standards.
9. The design of the proposed project and type of improvements are not likely to cause serious public health problems in that all public improvements will be built per City standards and all private improvements will be built per the California Building Code.

**NOW, THEREFORE, BE IT DETERMINED, AND RESOLVED**, that the Lodi Planning Commission hereby recommends the City Council rezone properties located within the City of Lodi, specifically at 515 South Lower Sacramento Road (APN:027-400-09) and 617 S. Lower Sacramento Road (APN:027-400-10) to Planned Development 35 (PD-35), subject to the following development conditions and standards for the proposed PD-35 Zoning District:

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. An approval granted by the Planning Commission does not constitute a building permit or authorization to begin any construction. An appropriate permit issued by the Division of Building and Safety shall be obtained prior to construction, enlargement, relocation, conversion, or demolition of any building or structure within the City.
3. All applicable state statutes, and local ordinances, including all applicable Building and Fire Code requirements for hazardous materials shall apply to the project. In an event of a conflict, the strictest law or regulation shall apply.
4. No variance from any City of Lodi adopted code, policy or specification is granted or implied by this approval.

Public Works Department, Engineering:

The conditions listed below will be required at the time of development of the subject parcels:

5. Design and installation of all public utilities and street improvements necessary to serve the parcels in accordance with City Master Plans including the following "off-site" improvements:
  - a. Expansion of the private basin to serve the parcels;
  - b. Extension of all public utilities in Tokay Street;
6. Dedication of street right-of-way as required by the City of Lodi.
7. Dedication of public utility easements as required by the various utility companies and the City of Lodi.
8. Extension of Tokay Street and construction of full width improvements to the western property boundary.
9. Abandonment of one of the two driveway entrances on Lower Sacramento Road.
10. Payment of fees in conformance with the Public Works Fee and Service Charge Schedule. Fees to be paid shall be those in effect at the time of development.

**Dated: December 14, 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 December 14, 2011, by the following vote:

AYES:           Commissioners:  
NOES:           Commissioners:  
ABSENT:       Commissioners:

ATTEST: \_\_\_\_\_  
Secretary, Planning Commission