

<p>CARNEGIE FORUM 305 WEST PINE STREET LODI, CALIFORNIA</p>	<p>AGENDA LODI PLANNING COMMISSION</p>	<p>REGULAR SESSION WEDNESDAY, APRIL 11, 2012 @ 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 – “March 14, 2012”
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 located at 123 West Elm Street (applicant: Tina Chavarria. File Number (12-U-05)

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. DEVELOPMENT CODE UPDATE
8. ACTIONS OF THE SITE PLAN AND ARCHITECTURAL REVIEW COMMITTEE
9. ART IN PUBLIC PLACES
10. COMMENTS BY THE PUBLIC (NON-AGENDA ITEMS)
11. COMMENTS BY THE PLANNING COMMISSIONERS & STAFF (NON-AGENDA ITEMS)
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, MARCH 14, 2012**

1. CALL TO ORDER / ROLL CALL

The Regular Planning Commission meeting of March 14, 2012, was called to order by Chair Olson at 7:00 p.m.

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

Absent: Planning Commissioners – Jones 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

“February 8, 2012”

MOTION / VOTE:

The Planning Commission, on motion of Commissioner Cummins, Kiser second, approved the Minutes of February 8, 2012 as written.

Chair Olson stated that item 3a at the request of the applicant will be postponed to a future 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 Olson called for the public hearing to consider the request 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)
- b) Notice thereof having been published according to law, an affidavit of which publication is on file in the Community Development Department, Chair Olson called for the public hearing to consider the request for a Use Permit to establish a retail landscape supply business and a collection center for wood and yard waste for an off-site processing at 1101 East Lodi Avenue. (Applicant: Eric Horton, on behalf of Green Man Materials: File Number: 11-U-20)

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

Hearing Opened to the Public

- Eric Horton, applicant, came forward to answer questions. Mr. Horton thanked staff for their assistance during this process. He gave a brief history of his participation in this type of business.
- Commissioner Heinitz asked if this is going to be an ancillary business to the one in Stockton. Mr. Horton stated that this location will mimic the business in Stockton except for the processing will take place off site. Commissioner Heinitz expressed his concern regarding the excessive amount of parking and asked if it was going to be too overwhelming for this type of business. He stated that after visiting the Stockton location he felt that the Lodi location would have excess parking and does not want to see outside storage of unauthorized merchandise. Mr. Horton stated that he believes that the parking will be perfect. The Stockton location could benefit from more parking.

- Jack Fiori, Lodi resident and local business owner, came forward to support the project.
- Martin Thorpe, Lodi resident and local business owner, came forward to support the project.

Public Portion of Hearing Closed

MOTION / VOTE:

The Planning Commission, on motion of Commissioner Heinitz, Kiser second, approved the request of the Planning Commission for a Use Permit to establish a retail landscape supply business and a collection center for wood and yard waste for an off-site processing at 1101 East Lodi Avenue subject to the conditions in the resolution. The motion carried by the following vote:

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

- c) Notice thereof having been published according to law, an affidavit of which publication is on file in the Community Development Department, Chair Olson called for the public hearing to consider the request for a Use Permit to operate a fitness center known as Anytime Fitness, in an approximately 4,050 sq. ft. building located at 210 North Ham Lane. (Applicants: Stone Bros. Management Inc.; File Number: 12-U-02)

Commissioner Heinitz recused himself from this item. The applicant is the landlord of the property where his business is located.

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

Chair Olson stated her concern with the parking and the sharing of the parking with the Starbucks store. Director Bartlam stated that the parking has been considered and the peak hours do not coincide. He also added that the employees can be encouraged to park across the street in the Lakewood Mall parking lot.

Hearing Opened to the Public

- Jay Allen, applicant, came forward to answer questions. Mr. Allen stated that the peak time uses for the fitness center and Starbucks will be opposite of each other with Starbucks in the morning and the fitness center in the evening. He pointed out that there was information provided as part of the staff report regarding the study that was done showing how parking will not have a negative effect on the property because of this use.
- Claire Lima, resident on Elm Street, came forward to express her concerns over the 24 hour availability and the lack of parking. Ms Lima has taken the time to drive by the site at all times of the day and there have been very few times when the parking lot has not been full or close to full. The lot already has a problem with the cars backing up on to Ham Lane when trying to get into Starbucks.
- Randall Heinitz, Lodi resident and business owner in the Lakewood Mall, came forward to support the project. The only deficiency is the cueing of the cars that are trying to park or go through the drive through at Starbucks during the morning hours.

Public Portion of Hearing Closed

- Commissioner Cummins spoke in support of the project.
- Commissioner Hennecke spoke in support of the project.

MOTION / VOTE:

The Planning Commission, on motion of Commissioner Cummins, Kiser second, approved the request of the Planning Commission for a Use Permit to operate a fitness center known as Anytime Fitness, in an approximately 4,050 sq. ft. building located at 210 North Ham Lane subject to the conditions in the resolution. The motion carried by the following vote:

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

Commissioner Heinitz rejoined the Commission.

- d) Notice thereof having been published according to law, an affidavit of which publication is on file in the Community Development Department, Chair Olson called for the public hearing to consider the request for a Use Permit to allow a Type 2 (Winery) Alcoholic Beverage Control license at 14 South School Street. (Applicant: Alan Freeman; File Number: 12-U-03)

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

Hearing Opened to the Public

- Alan Freeman, applicant, came forward to answer questions.
- Commissioner Heinitz gave a brief history regarding the space that Mr. Freeman is moving into and wished him good luck.
- Commissioner Hennecke asked about the leasing plan. Mr. Freeman stated that they will be leasing space to local wineries that do not currently have space downtown.
- Chair Olson asked if there are prospective tenants. Mr. Freeman stated that they are in discussion with a few.

Public Portion of Hearing Closed

- Chair Olson asked if this covers all other licenses. Director Bartlam stated that this covers the wine tasting, but not any other types of ABC licenses.
- Commissioner Heinitz asked if this is similar to other types of wine tasting rooms that are currently downtown. Director Bartlam stated that it is the same type of business as Benson Ferry.

MOTION / VOTE:

The Planning Commission, on motion of Commissioner Kiser, Heinitz second, approved the request of the Planning Commission for a Use Permit to allow a Type 2 (Winery) Alcoholic Beverage Control license at 14 South School Street subject to the conditions in the resolution. The motion carried by the following vote:

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

4. PLANNING MATTERS/FOLLOW-UP ITEMS

None

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. DEVELOPMENT CODE UPDATE

Director Bartlam stated that staff is meeting with the consultant on a bi-weekly basis and may have some draft documents ready to bring to the Commission some time in June.

8. ACTIONS OF THE SITE PLAN AND ARCHITECTURAL REVIEW COMMITTEE

None

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 7:40 p.m.

ATTEST:

Konradt Bartlam
Planning Commission Secretary

Item 3a

**CITY OF LODI
PLANNING COMMISSION
Staff Report**

MEETING DATE: April 11, 2012

APPLICATION NO: Use Permit: 12-U-05

REQUEST: Request for Planning Commission approval of a Use Permit to allow a Type-41 On-Sale Beer and Wine Alcoholic Beverage Control License located at 123 West Elm Street (applicant: Tina Chavarria, File Number: 12-U-05)

LOCATION: 123 West Elm Street
APN: 043-024-15
Lodi, CA 95240

APPLICANT: Tina Chavarria
845 South School Street
Lodi, CA 95240

PROPERTY OWNER: Lodi City Center 12 LLC
2800 West March Lane, Suite 360
Stockton, CA 95219

RECOMMENDATION

Staff recommends the Planning Commission approve the request of Tina Chavarria for a Use Permit to allow Type-41 On-Sale Beer and Wine Alcoholic Beverage Control (ABC) license at 123 West Elm Street, subject to conditions in the attached resolution.

PROJECT/AREA DESCRIPTION

General Plan Designation: Downtown Mixed Use
Zoning Designation: C-2, General Commercial
Property Size: Restaurant is approximately 1,780 sq. ft.

The adjacent zoning and land use characteristics:

	General Plan	Zone	Land Use
North	Downtown Mixed Use	C-2, General Commercial	Movie theater
South	Downtown Mixed Use	C-2, General Commercial	Bank and AT&T uses
East	Downtown Mixed Use	C-2, General Commercial	Various retail and restaurant uses
West	Downtown Mixed Use	C-2, General Commercial	Movie theater

SUMMARY

The applicant, Tina Chavarria, is requesting approval of a Use Permit to allow on-site consumption of beer and wine in conjunction with food service at a restaurant called Twisted Fork located at 123 West Elm Street. 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 located in the Downtown Business District, which permits the sale of alcohol for on- and off-site consumption with approval of a Use Permit.

BACKGROUND

Twisted Fork Restaurant has been open for business since March 21, 2012. Prior to Twisted Fork, a number of restaurants, under different ownership, occupied the site. The most recent use was a restaurant called Teriyaki Time, which has been closed since 2009. Available City records indicate there are no outstanding code violations.

ANALYSIS

According to the applicant, Twisted Fork restaurant offers lunch and dinner menu. The restaurant is open from the hours of 11:00 a.m. to 9:00 p.m. Tuesday – Sunday and closed on Mondays. The restaurant measures approximately 1,780 square feet in size and provides seating for approximately 35-40 guests. Because the restaurant is within the Downtown Parking District, it is not required to provide onsite parking. Parking is provided at the parking structure or on nearby streets. 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 or off 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 sale 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 area is located on 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. According to ABC, Census Tract 42.04 contains thirty (30) existing ABC on- and off-sale licenses with only three (3) on- and three (3) off-sale sale licenses allowed based on the ABC criteria. Because the project area is within 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 downtown districts have a high concentration of eating and drinking establishments. Many of the licenses are in conjunction with eating establishments. The City's Downtown Guidelines specifically call out drinking and eating establishments as the type of businesses that are encouraged in the Downtown area. The proposed addition of ABC license is consistent with the City's vision of making Lodi tourist destination point. The applicant's request is to sell alcohol in conjunction with operation of a bona fide eating establishment. This is consistent with the Commission's past actions. In the past, the Planning Commission and the Planning staff have generally supported restaurants that wish to acquire an ABC on-sale license, because typically, restaurants that serve alcohol in conjunction with food sales do not create alcohol related problems. The Community Development Department has determined that the applicant's request for a Use Permit can meet the criteria for the finding of public convenience.

Staff sent copies of the application to various City departments for comment 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 on-sale beer, wine and distilled spirits application and they do not anticipate alcohol related problems. The Lodi Police Department recommends approval subject to the conditions outlined in the attached resolution. 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. The Planning Commission and the Planning staff have generally supported restaurants that wish to acquire an ABC license. 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 ASSESSMENT

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 in the Lodi News Sentinel on March 31, 2012. Thirty-six (36) 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,

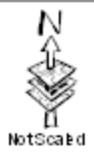
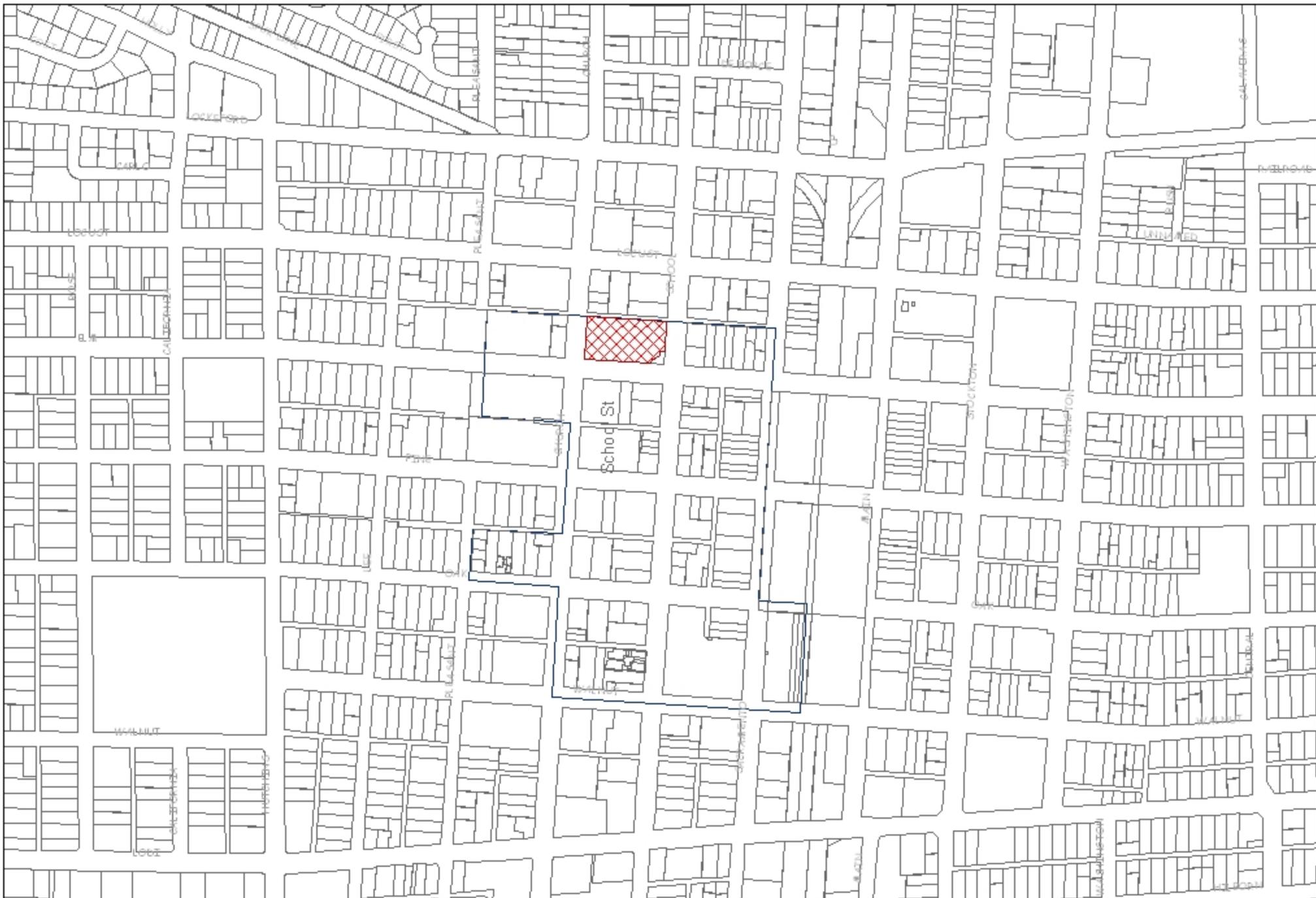
Concur,

Immanuel Bereket
Associate Planner

Konradt Bartlam
Community Development Director

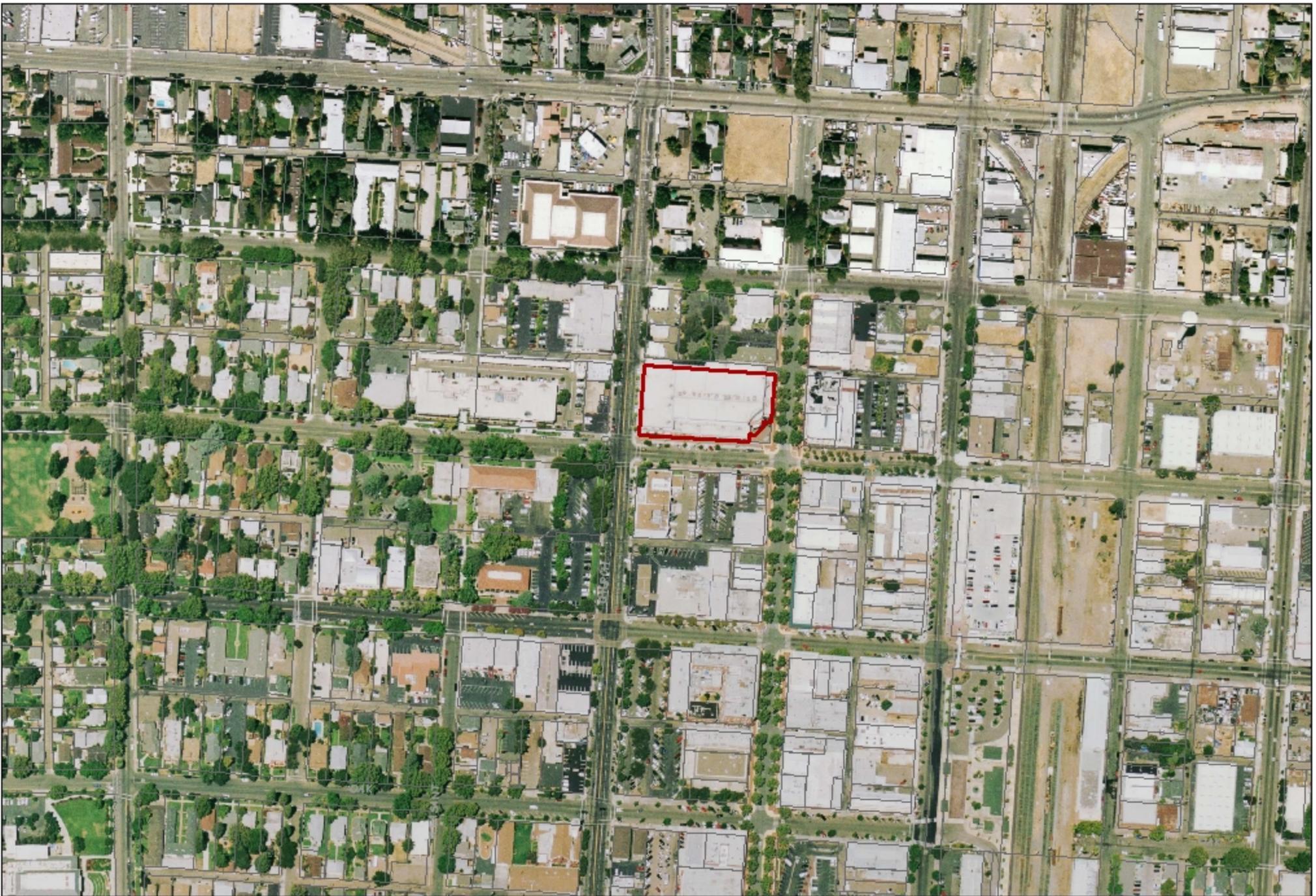
ATTACHMENTS:

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



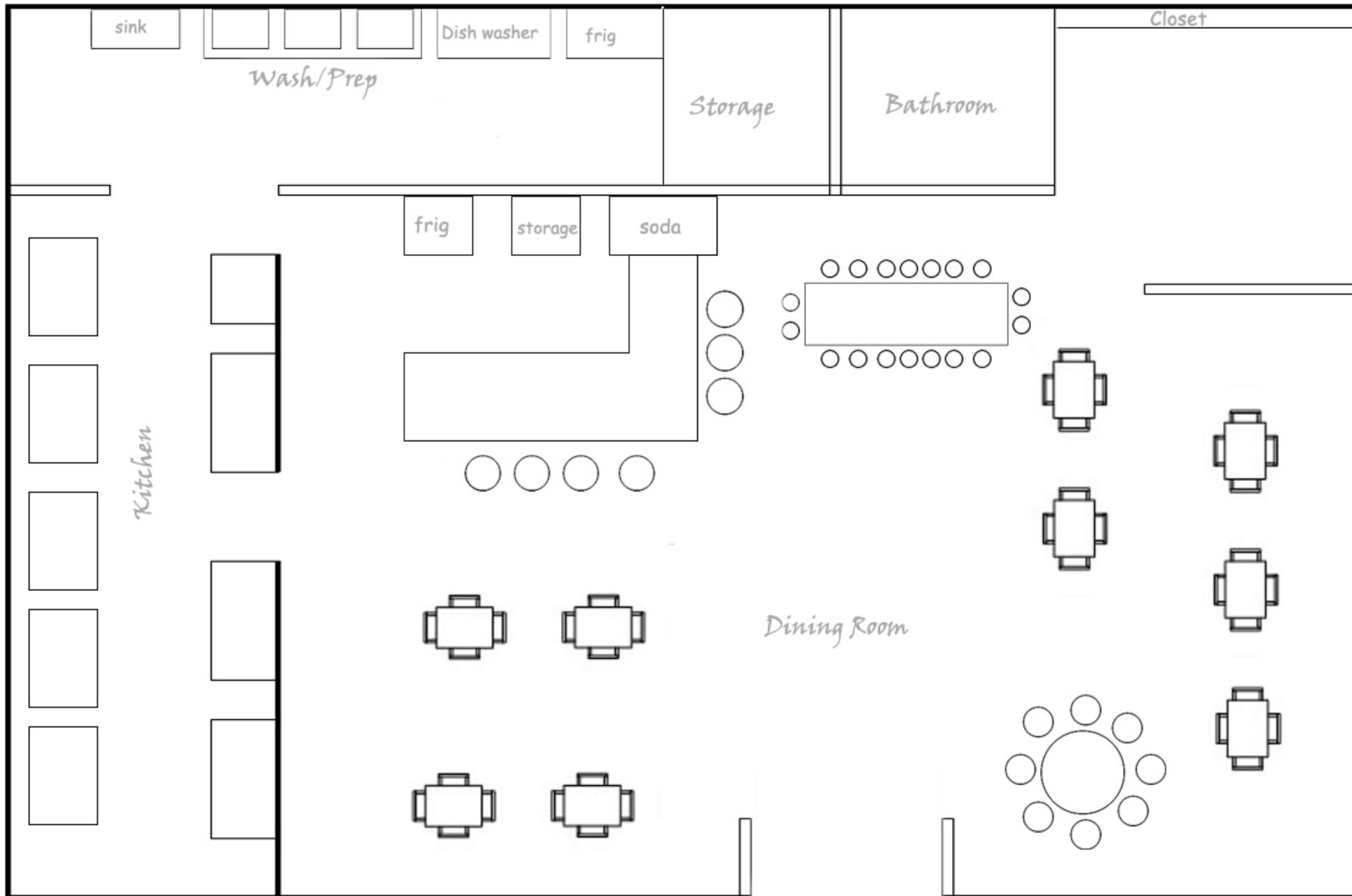
Vicinity Map
123 West Elm Street
APN: 043-024-15
Lodi, CA 95240

-  Twisted Fork
-  Downtown Parking District



Aerial Map
123 West Elm Street
APN: 043-024-15
Lodi, CA 95240

 Twisted Fork



Twisted Fork
 123 West Elm Street
 Lodi, CA 95240

RESOLUTION NO. P.C. 12 -

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF LODI FOR THE APPROVAL OF THE REQUEST OF TINA CHAVARRIA FOR A USE PERMIT TO ALLOW TYPE-41 ON-SALE BEER AND WINE ALCOHOLIC BEVERAGE CONTROL (ABC) LICENSE AT 123 WEST ELM STREET

- WHEREAS,** the Planning Commission of the City of Lodi has heretofore held a duly noticed public hearing, as required by law, on the requested Use Permit, in accordance with the Lodi Municipal Code, Section 17.72.070; and
- WHEREAS,** the project proponent is Tina Chavarria, on behalf of Twisted Fork, 845 South School Street, Lodi, CA 95240; and
- WHEREAS,** the project is located at 123 West Elm Street, Lodi, CA 95240 (APN: 043-024-15); and
- WHEREAS,** the property has a General Plan designation of Downtown Mixed Use and is zoned C-2, General 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 of 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-2 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.
3. The on-sale of beer and wine, in accordance with a Type 41 Alcoholic Beverage Control License and with the conditions attached herein, would be consistent and in harmony with the Downtown Mixed Use General Plan Land Use Designation and C-2 Zoning District.
4. The proposed use is consistent with the General Plan because commercial uses such as the one proposed are permitted in accordance with Land Use Policy subject to a discretionary review.
5. The proposed use would not have 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 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. 12-U-05 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, 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.

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, 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.
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: April 11, 2012

I certify that Resolution No. 12- was passed and adopted by the Planning Commission of the City of Lodi at a regular meeting held on April 11, 2012 by the following vote:

AYES: Commissioners:

NOES: Commissioners:

ABSENT: Commissioners:

ATTEST _____
Secretary, Planning Commission