

<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, FEBRUARY 13, 2013 @ 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 – “September 12, 2012” & “January 9, 2013”
3. PUBLIC HEARINGS
  - a. Request for Planning Commission approval of a Use Permit to allow a Type 2 (Winery) and Type 42 (On-Sale Beer and wine) Alcoholic Beverage Control license at 25 North School Street. (Applicants: Michael and Debra Green; File Number: 12-U-21)
  - b. Request for Planning Commission approval of a Use Permit to allow an on-sale beer and wine license within an existing building in Downtown Business District located at 14 S. School Street, Suite B. (Applicant: Jamie Watts; File Number: 13-U-02)
  - c. Request for a Tentative Parcel Map to divide one parcel into four lots at 2540 Legacy Way. (Applicant: Foster Advantage, Inc. File No. 12-P-01)
  - d. Request for Planning Commission review for consistency with the General Plan related to proposed abandonment of a portion of an existing Access Easement on private property located at 2223 West Kettleman Lane

**NOTE:** The above item is a quasi-judicial hearing and requires disclosure of ex parte communications as set forth in Resolution No. 2006-31

4. PLANNING MATTERS/FOLLOW-UP ITEMS
5. ANNOUNCEMENTS AND CORRESPONDENCE
6. ACTIONS OF THE CITY COUNCIL
  - a. Council Summary Memo
7. ACTIONS OF THE SITE PLAN AND ARCHITECTURAL REVIEW COMMITTEE
8. ART IN PUBLIC PLACES
9. COMMENTS BY THE PUBLIC (NON-AGENDA ITEMS)
10. COMMENTS BY THE PLANNING COMMISSIONERS & STAFF (NON-AGENDA ITEMS)
11. 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.

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, SEPTEMBER 12, 2012**

1. CALL TO ORDER / ROLL CALL

The Regular Planning Commission meeting of September 12, 2012, was called to order by Vice Chair Kirsten at 7:10 p.m.

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

Absent: Planning Commissioners – Heinitz, Jones, and Chair Olson

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

2. MINUTES

“August 8, 2012”

MOTION / VOTE:

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

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 Planning Commission approval of an amendment to an existing Use Permit to allow a Type-47 On-Sale General Alcoholic Beverage Control License at 10 West Oak Street. (Applicant: Ruben Larrazolo. File Number: 11-U-18a)

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

Vice Chair Kirsten stated that he has property interest within the required radius to recuse himself from this item, but it would leave the Commission without a quorum. Director Bartlam stated that Vice Chair Kirsten can stay due to the rule of necessity.

Hearing Opened to the Public

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

Public Portion of Hearing Closed

MOTION / VOTE:

The Planning Commission, on motion of Commissioner Kiser, Hennecke second, approved the request for an amendment to an existing Use Permit to allow a Type-47 On-Sale General Alcoholic Beverage Control License at 10 West Oak Street subject to the conditions in the resolution. The motion carried by the following vote:

Ayes: Commissioners – Cummins, Hennecke, Kiser, and Vice Chair Kirsten  
Noes: Commissioners – None  
Absent: Commissioners - Heinitz, Jones, 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 approval of a Use Permit to allow Lodi Christian School to operate a preschool through eighth grade private school and the site plan and architecture review (SPARC) to construct a 32,000 square-foot office/classroom building on the grounds of Temple Baptist Church located at 801 South Lower Sacramento Road. (Applicant: Steve Opp, on behalf of Temple Baptist Church. File Numbers: 12-U-12 and 12-SP-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

- Steve Opp, applicant, came forward to answer questions. Mr. Opp stated his appreciation for the opportunity to bring this project before the Planning Commission. He introduced a few key supporters Doug Davis with WMB Architects, Mike Harnack with Roland Construction, Ron Hiddle with Lodi Christian School.
- Commissioner Hennecke asked if the additional student population would create any additional traffic impact. Director Bartlam stated that during the review process other City departments have the opportunity to place conditions on the project. Public Works reviewed the traffic portion and did not feel there would be any issues.
- Commissioner Cummins stated his appreciation for the project and wished them well.

Public Portion of Hearing Closed

MOTION / VOTE:

The Planning Commission, on motion of Commissioner Cummins, Kiser second, approved the request for a Use Permit to allow Lodi Christian School to operate a preschool through eighth grade private school and the site plan and architecture review (SPARC) to construct a 32,000 square-foot office/classroom building on the grounds of Temple Baptist Church located at 801 South Lower Sacramento Road subject to the conditions in the resolution. The motion carried by the following vote:

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

- c) 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 approval of a Use Permit to establish a wine production facility at 1001 and 1101 East Lodi Avenue. (Applicant: Anthony Scotto, on behalf of Scotto Family Cellars: File Number: 12-U-13)

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

Commissioner Kiser stated that he would like to make sure that the waste is removed from the property in a timely manner and would like to know how the grapes are being brought to the site. Associate Planner Bereket stated that the applicant would be the better person to address those questions.

Hearing Opened to the Public

- Mike Hakem, representative for the applicant, came forward to answer questions. Mr. Hakem introduced the owner, Anthony Scotto, and the engineer on the project, Steve Pechin. In response to Commissioner Kiser’s concerns Mr. Hakem stated that there will be two half-ton trucks delivering the grapes with no cueing taking place in any public right-of-way and the applicant understands the concerns for the waste removal and will live up to the conditions.
- Commissioner Hennecke asked how long the Scotto Family has been in business. Anthony Scotto, applicant, came forward to address the question. He stated that the Family has been in the wine business for five generations and they have been in their current location since 2007.

Public Portion of Hearing Closed

MOTION / VOTE:

The Planning Commission, on motion of Commissioner Kiser, Cummins second, approved the request for a Use Permit to establish a wine production facility at 1001 and 1101 East Lodi Avenue subject to the conditions in the resolution. The motion carried by the following vote:

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

4. PLANNING MATTERS/FOLLOW-UP ITEMS

None

5. ANNOUNCEMENTS AND CORRESPONDENCE

Director Bartlam wished Deputy City Attorney Janice Magdich a Happy Birthday.

6. ACTIONS OF THE CITY COUNCIL

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

Commissioner Cummins asked how the community is informed of the First Time Home Buyer program. Mr. Bartlam stated that there are a variety of ways. There is information available on our website and several of the lending agencies in town are aware of the program and can refer customers for assistance if needed. Staff has also met several times with the Lodi Realtors Association

7. DEVELOPMENT CODE UPDATE

- a. Staff presentation on the Draft Development Code Section 3, Landscape, Parking, Sign, and Specific Land Uses Standards.

Director Bartlam gave a PowerPoint presentation based on the staff report.

Commissioner Cummins asked if roof mounted signs will be prohibited with this new ordinance. Director Bartlam stated that our ordinance already prohibits them, so there will be no change to that part of the code.

Vice Chair Kirsten asked if like the Billboard signs other non-conforming signs are grandfathered-in. Director Bartlam stated that would be correct. Kirsten asked about surface painted signs being prohibited. Bartlam stated that they would not be prohibited.

Opened for Public Comment

- None

Closed to Public Comment

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 meeting that occurred today. Kirsten asked about the skate park closure since one of the art projects was supposed to be at the Kofu Park location. Director Bartlam stated that there are several users that are just not taking care of the facility. There have been several events of vandalism, littering and reports of alcohol and drug use.

10. COMMENTS BY THE PUBLIC

None

11. COMMENTS BY STAFF AND COMMISSIONERS

Commissioner Hennecke asked about the Brown Act item that the State ruled on a few weeks ago. Deputy City Attorney Magdich stated that the Council is going to continue to follow the mandates even though the State has made it clear that there will not be any repercussions if it does not. Director Bartlam stated that the State can not mandate something that they are not willing to reimburse jurisdictions for.

12. REORGANIZATION

a. Planning Commission Chair & Vice Chair

MOTION / VOTE:

The Planning Commission, on motion of Commissioner Kiser, Hennecke second, approved the nomination of Commissioner Kirsten for the 2012/13 Planning Commission Chair position. There being no other nominations the motion carried by the following vote:

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

MOTION / VOTE:

The Planning Commission, on motion of Vice Chair Kirsten, Hennecke second, approved the nomination of Commissioner Jones for the 2012/13 Planning Commission Vice Chair position. There being no other nominations the motion carried by the following vote:

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

b. Planning Commission Representatives to: SPARC & Art In Public Places

MOTION / VOTE:

The Planning Commission, on motion of Vice Chair Kirsten, Cummins second, approved the nomination of Commissioner Kiser for the 2012/13 Planning Commission representative for the Site Plan and Architectural Review Committee position. There being no other nominations the motion carried by the following vote:

Ayes: Commissioners – Cummins, Hennecke, Kiser, and Vice Chair Kirsten

Noes: Commissioners – None  
Absent: Commissioners – Heinitz, Jones, and Chair Olson

**MOTION / VOTE:**

The Planning Commission, on motion of Commissioner Cummins, Kiser second, approved the nomination of Commissioner Kirsten for the 2012/13 Planning Commission representative for the Art In Public Places Committee position. There being no other nominations the motion carried by the following vote:

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

13. ADJOURNMENT

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

ATTEST:

Konradt Bartlam  
Planning Commission Secretary

**LODI PLANNING COMMISSION  
REGULAR COMMISSION MEETING  
CARNEGIE FORUM, 305 WEST PINE STREET  
WEDNESDAY, JANUARY 9, 2013**

1. CALL TO ORDER / ROLL CALL

The Regular Planning Commission meeting of January 9, 2013 was called to order by Chair Kirsten at 7:00 p.m.

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

Absent: Planning Commissioners – Cummins and Hennecke

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

2. MINUTES

“September 12, 2012”

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.

“December 12, 2012”

MOTION / VOTE:

The Planning Commission, on motion of Commissioner Kiser, Jones second, approved the Minutes of December 12, 2012 as written.

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 Kirsten called for the public hearing to consider the request for Planning Commission approval of a Use Permit to allow a Type 2 (Winery) Alcoholic Beverage Control license at 1370 East Turner Road. (Applicants: Michael McCay, on behalf of McCay Cellars; File Number: 12-U-20)

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

Vice Chair Jones disclosed that he spoke with the applicant regarding the project.

Hearing Opened to the Public

- Michael McCay, applicant, came forward to answer questions.
- Frank Alegre, Lodi resident and local business owner, came forward to remind everyone that the area has a lot of dust due to the types of businesses that surround this project. He would like to put it on the record that the applicant has been warned. Chair Kirsten asked staff how Mr. Alegre gets his concerned on the record. Director Bartlam stated that he just did.
- Mike Hass, tenant in the same space, came forward to express his concerns that the grape husks from the previous winery, Vino Con Brio, plugged the sewer line. Chair Kirsten stated that this application does not include production, so that should not be a problem

with this project and will have to come back before the Planning Commission if the applicant wishes to change it.

- Commissioner Kiser asked if there was a standard condition for wineries regarding hauling away the debris. Director Bartlam stated that is the case, but because Vino Con Brio is long out of business the City can not go back to them. The property owner should be notified, so that he can take care of the issue.

#### Public Portion of Hearing Closed

#### MOTION / VOTE:

The Planning Commission, on motion of Commissioner Kiser, Jones second, approved the request for a Use Permit to allow a Type 2 (Winery) Alcoholic Beverage Control license at 1370 East Turner Road subject to the conditions in the resolution. The motion carried by the following vote:

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

- b) Notice thereof having been published according to law, an affidavit of which publication is on file in the Community Development Department, Chair Kirsten called for the public hearing to consider the request of the Planning Commission for approval of a Tentative Parcel Map to divide one parcel in to two lots at 903 West Turner Road. (Applicant: Foster Advantage, Inc. File No. 12-P-02)

Chair Kirsten stated that Item 3b has been postponed to a future Planning Commission date.

- c) Notice thereof having been published according to law, an affidavit of which publication is on file in the Community Development Department, Chair Kirsten called for the public hearing to consider the request of the Planning Commission for approval of a Use Permit to operate a fitness facility in an existing building located at 1320 West Lockeford Street. (Applicants: Sandra Homan, on behalf of In-Shape Health Clubs, Inc.; File Number: 12-U-19)

Commissioner Heinitz recused himself because he is a tenant in the same shopping center.

Chair Kirsten disclosed that he had a phone conversation with Wade Cellars with Stone Brothers, and Mel Young with Apple Market Central Mart, regarding the project.

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

#### Hearing Opened to the Public

- Jay Allen, representative for Stone Brothers property owner, came forward to answer questions. Mr. Allen stated that his father-in-law, Max Stone, along with a partner, Yamada Family, built the original shopping center. The Yamada Family owned and operated of the Sell Rite Store and when the second generation didn't want to step up and take over the business the store shut down. Another grocery store, Landucci's Market, went into the space and that store went out of business. After that store Apple Market went into the space and now they are struggling to stay open and have decided to close. There have been many efforts made to get another grocery store back into the space. The first time In-Shape Fitness organization approached the owner they told them that they were not interested in putting a fitness center into the space. After a second look at the options the space being filled with a fitness center looked better than an empty commercial space.

- Commissioner Olson asked what happens when a space like this remains vacant. Mr. Allen stated that there will be a down grade in use if the space stays vacant for a long period of time. Placing In-shape in this space is not a down grade in use, but rather a change in use. Olson asked if this use is compatible to the other uses in the shopping center. Allen stated that there shouldn't be any detriment to the other tenants. There have not been any negative comments from the other tenants to this point.
- George Petrulakis, Attorney for the folks that are concerned with the project, came forward to object to the project. Mr. Petrulakis has concerns with the findings that there will not be an impact to the surrounding area. The California Environmental Quality Act (CEQA) Article 19, 15321, that is being used for this application doesn't necessary apply. Staff seems to use this Article as a catch-all for all types of applications. There is a change of use, grocery store to 24 hour fitness center, for the space and an Initial Study and a Negative Declaration should have been done to ensure compatibility with the local environment which is primarily residential. There are a lot of concerns that could have been addressed within an Initial Study. Chair Kirsten asked staff to expand on the exemption that was used. Director Bartlam stated that staff is very satisfied with the exemption used. CEQA allows for a litany of categorical exemptions for these types of items. Staff used the exemptions outlined in Class 21, which should give you some sense of how many there are. These are used when the items that are brought before you are much to do about nothing. The infill categorical exemption could have been used as well; staff chose not to use it. This property is less than five acres and fits in the infill category.
- Randal Heinitz, tenant in the center, came forward to support the project. The uses in the surrounding area are primarily Commercial Uses, not residential. Mr. Heinitz would rather see a Fitness Center in the space then to see it sit empty. All of the tenants that have spoken to him about the change have all expressed positive comments and are excited about the new tenant.
- Paul Rothbard, CEO of In-Shape Health Clubs, came forward to answer questions. Members and non-members have been asking In-Shape to open a center in Lodi for many years. He is extremely confident that this will bring a positive customer flow to the entire center. Commissioner Kiser asked how many employees will be employed. Mr. Rothbard stated that the facility should employ up to 50 employees. 10 to 15 full time and the rest part time. Commissioner Olson asked how many memberships are estimated for this facility. Mr. Rothbard stated that there are 3000 memberships estimated. Chair Kirsten asked during peak hours how many members will be using the facility. Mr. Rothbard stated about 100 to 125 during peak hours of 5 pm to 7 pm on a Monday, Tuesday, and Wednesday Night. Kirsten asked if the parking will be sufficient. Mr. Rothbard stated that the company has more to loose by underestimating available parking, so parking has been taken into consideration and deemed sufficient.

Public Portion of Hearing Closed

MOTION / VOTE:

The Planning Commission, on motion of Commissioner Kiser, Jones second, approved the request for a Use Permit to operate a fitness facility in an existing building located at 1320 West Lockeford Street subject to the conditions in the resolution. The motion carried by the following vote:

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

Commissioner Heinitz rejoined the Commission.

4. PLANNING MATTERS/FOLLOW-UP ITEMS

None

5. ANNOUNCEMENTS AND CORRESPONDENCE

None

6. ACTIONS OF THE CITY COUNCIL

None

7. ACTIONS OF THE SITE PLAN AND ARCHITECTURAL REVIEW COMMITTEE

None

8. ART IN PUBLIC PLACES

None

9. COMMENTS BY THE PUBLIC (NON-AGENDA ITEMS)

None

10. COMMENTS BY STAFF AND COMMISSIONERS (NON-AGENDA ITEMS)

Director Bartlam wished the Commissioners a Happy New Year on behalf of Staff.

11. ADJOURNMENT

There being no further business to come before the Planning Commission, the meeting was adjourned at 7:53 p.m.

ATTEST:

Konradt Bartlam  
Planning Commission Secretary

**CITY OF LODI  
PLANNING COMMISSION  
Staff Report**

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**MEETING DATE:** February 13, 2013

**APPLICATION NO:** Use Permit: 12-U-21

**REQUEST:** Request for Planning Commission approval of a Use Permit to allow a Type 2 (Winery) and Type 42 (On-Sale Beer and wine) Alcoholic Beverage Control license at 25 North School Street. (Applicants: Michael and Debra Green; File Number: 12-U-21).

**LOCATION:** 25 North School Street  
APN: 043-033-13  
Lodi, CA 95240

**APPLICANT:** Michael and Debra Green  
6535 East Peltier Road  
Acampo, CA 95220

**PROPERTY OWNER:** Farmers and Merchants Bank  
121 West Pine Street  
Lodi, CA 95240

**RECOMMENDATION**

Staff recommends the Planning Commission approve the applicants' request for a Use Permit to allow a Type 2 (Winery) and Type 42 (One sale Beer and Wine) Alcoholic Beverage Control license at 25 North School Street, subject to the conditions outlined in the attached resolution.

**PROJECT/AREA DESCRIPTION**

**General Plan Designation:** DMU, Downtown Mixed Use  
**Zoning Designation:** C-2, General Commercial (Downtown Business District)  
**Property Size:** Tenant space is approximately 588 sq. ft.

	ADJACENT ZONING DESIGNATIONS AND LAND USES		
	GENERAL PLAN	ZONING CLASSIFICATION	EXISTING LAND USE
<b>North</b>	Downtown Mixed use	C-2, General Commercial	Mixture of retail/commercial
<b>South</b>	Downtown Mixed use	C-2, General Commercial	Mixture of retail/commercial
<b>East</b>	Downtown Mixed use	C-2, General Commercial	Mixture of retail/commercial
<b>West</b>	Downtown Mixed use	C-2, General Commercial	Mixture of retail/commercial

**SUMMARY**

The applicants, Michael and Debra Green, are seeking a Use Permit approval to operate a wine retail and wine tasting room at 25 North School Street. The facility will be located within an existing commercial tenant space in the Downtown Business District. No exterior changes to the building are proposed. As part of the review, the Planning Commission will need make a determination as to whether the sale of alcohol at this location serves a public convenience or necessity, in accordance with the requirements of the State Department of Alcoholic Beverage Control (ABC) because the subject site is located in an area of undue concentration, as defined by Business and Professions Code 23958. The proposed use is consistent with the City's vision of making Lodi a wine tasting tourist destination. The applicant is not requesting signage at this time. Any future signage will be reviewed at staff level to ensure conformance with the approved sign program for the Downtown Business District. No wine production is proposed.

## **BACKGROUND**

Visit Lodi! Conference & Visitors Bureau occupies the building. The applicants will rent a small section of the office space and convert it to wine tasting and retail shop. The entire building, including the basement measures approximately 5,300 sq. ft. Currently, there are no outstanding City or Building Code violations. The project site is bordered by a variety of businesses on all sides. The project site is within the Downtown Parking District and, therefore, no onsite parking is required.

## **ANALYSIS**

The applicants, Michael and Debra Green, request approval of a Use Permit to open a wine tasting room in an existing building located at 25 North School Street. The applicants intend to use this location to showcase their own wine products and sell wine related gift items such as decanters, stemware, cork screws and the like. A Type 2 license is required by the State Department of Alcohol Beverage Control (ABC) for the operation of a wine retail and wine tasting. The applicants also plan to hold beer tasting events as a normal part of business in the future. This portion of the business would require the applicant to secure a Type 42 On-Sale Beer and Wine license. Type 42 license authorizes the sale of beer and wine for consumption on or off the premises where sold. Food service is not required. The proposed hours of operations are Tuesday through Sunday from 12:00 p.m. to 7:00 p.m. The proposed hours of operation are similar to other wine tasting rooms in Lodi.

The project site is located in a C-2 (General Commercial) Zoning District. The C-2 zoning district is designated for a variety of general commercial uses, including wineries, restaurants, bars, retail businesses and the like. The proposed winery is consistent with the types of uses one would expect to find in a Downtown Business District. In the future, the applicant would like to serve wine on the sidewalk, similar to the Cellar Door and Benson Ferry Wine Tasting rooms. No crushing or making activities will occur at this location. The proposed business will be located within the City's downtown and will support and compliment other downtown businesses.

Section 17.72.040 of the Lodi Municipal Code requires a Use Permit for new On-Sale and Off-Sale alcohol licenses as well as changes in license type. The City established the Use Permit requirement to gain local control over whether or not a license is appropriate for a particular location. The State Department of Alcoholic Beverage Control primarily controls issuance of permits based on concentration of licenses within a particular Census Tract. Census Tract 42.04 covers the area south of Holly Drive, west of Sacramento Street, north of Lodi Avenue, and east of Ham Lane. The Downtown Business District is located within this census tract. Because this area is within the Downtown Business District, there is an existing over concentration of ABC licenses (31 on-sale and 4 off-sale) within this Census Tract. 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.

In the past, the Planning Commission and Planning staff have generally supported wine tasting rooms that wish to acquire an ABC on-sale license, because typically, wineries, wine production facilities and wine tasting rooms do not create alcohol related problems. All of the existing similar businesses (wine tasting rooms) have not created any policing problems. The proposed business is similar to other wine tasting rooms and the proposed business is anticipated to operate in similar manner. 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. The Commission should review the application to ensure that sale of alcohol will not adversely affect surrounding residents, businesses, and institutions and to ensure that any such use operates in a manner compatible with existing and future adjacent uses.

As part of the recommendation of approval, staff, working with the Police Department, has recommended operational conditions based upon the individual business plan to ensure the establishment will be compatible with the surroundings. The Police Department has reviewed and recommended operational conditions, which are incorporated into the draft resolution. The Public Works Department has reviewed the application and recommends approval. They note that if the applicants want to expand to include outdoor seating area, they advise outdoor patio adjacent to the sidewalk would require an encroachment permit. Their requirements have been incorporated into the attached draft resolution. The Community Development Department is of the opinion that the proposed project is consistent with the surrounding land uses and zoning; and with the City's policy to encourage wine production and wine tasting industry. The intended nature of this operation does not promote excessive onsite consumption of alcohol and, therefore, staff does not expect any problems with the proposed establishment. Since no onsite crushing is being proposed as part of this Use Permit, there will be no wine waste to be concerned about. The proposed use is consistent with the City's vision of making Lodi a wine tasting tourist destination. We, therefore, are recommending that the Use Permit be approved, subject to the attached resolution.

### **ENVIRONMENTAL ASSESSMENTS**

The project was found to be exempt from environmental review under Section 15301(a), Existing Facilities of the CEQA Guidelines, which exempts the leasing, licensing, or minor alteration of existing public or private facilities, involving negligible or no expansion of use. Only minor modifications would be made to the interior of the existing the structure. The project is in an area where all public services and facilities are available to allow for maximum development permissible under the General Plan, and the area in which the project is located is not environmentally sensitive. The project was also found to be categorically exempt according to the California Environmental Quality Act, Article 19 15332 Class 32 (a) (b) (c) (d) and (e). The project is classified as in-fill development meeting the conditions described therein. No significant impacts are anticipated and no mitigation measures have been required. No significant impacts are anticipated and no mitigation measures have been required.

### **PUBLIC HEARING NOTICE:**

Legal Notice for the Use Permit was published on Saturday, February 2, 2013. Thirty-six (36) public hearing notices were sent to all property owners of record within a 300-foot radius of the project site as required by California State Law §65091 (a) 3. Public notice also was mailed to interested parties who had expressed their interest of the project.

### **ALTERNATIVE PLANNING COMMISSION ACTIONS:**

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

Respectfully Submitted,

Concur,

Immanuel Bereket  
Associate Planner

Konradt Bartlam  
Community Development Director

### **ATTACHMENTS**

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



# Vicinity Map



**Legend**

Project Area

**Map Scale**  
1:2,116

**Notes**



NAD\_1983\_StatePlane\_California\_III\_FIPS\_0403\_Feet  
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**THIS MAP IS NOT TO BE USED FOR NAVIGATION**

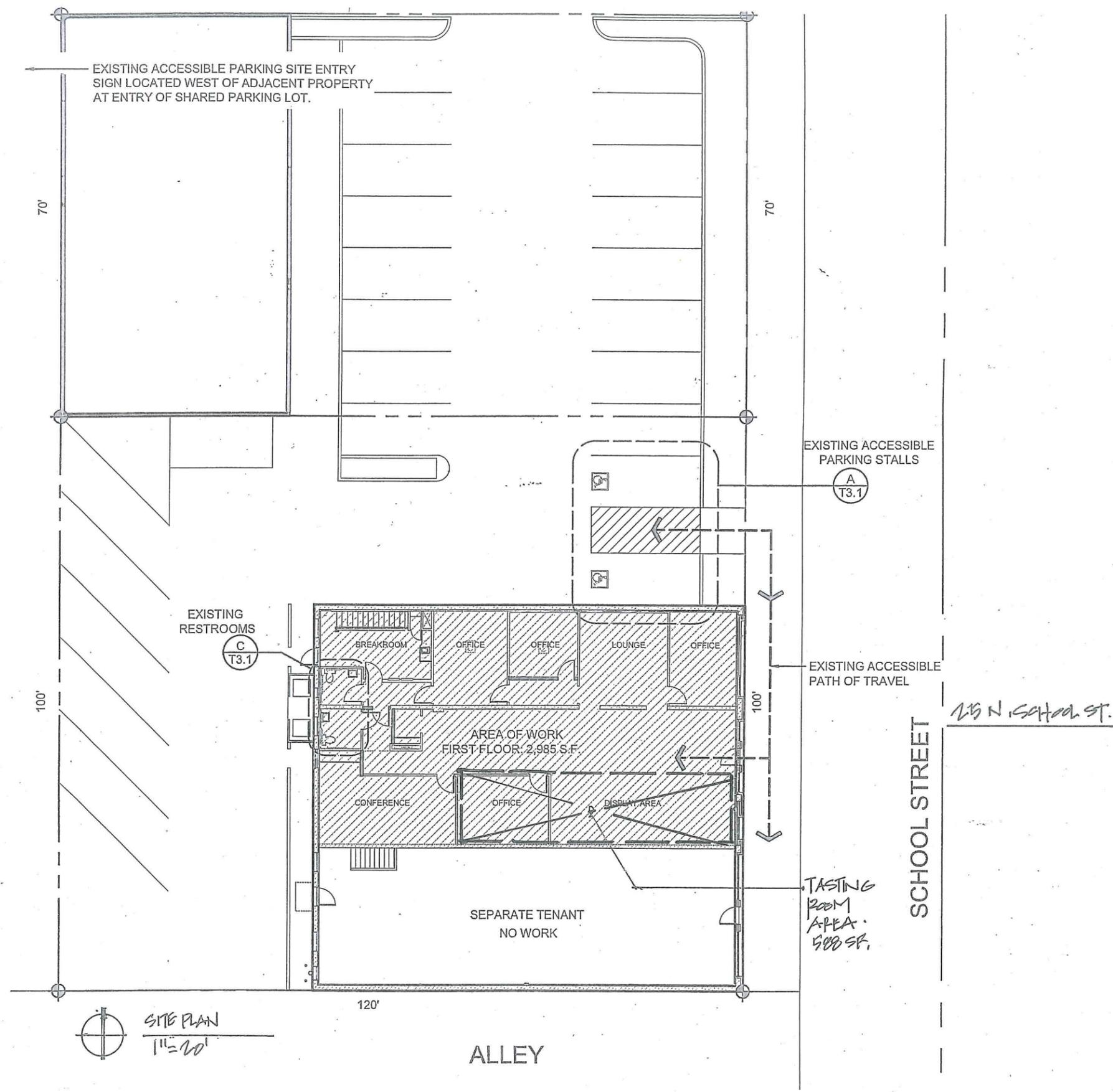
# Aerial Map



38°08'03"N 121°16'45"W | 70m  
200ft



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ONE WAY WINERY TASTING ROOM

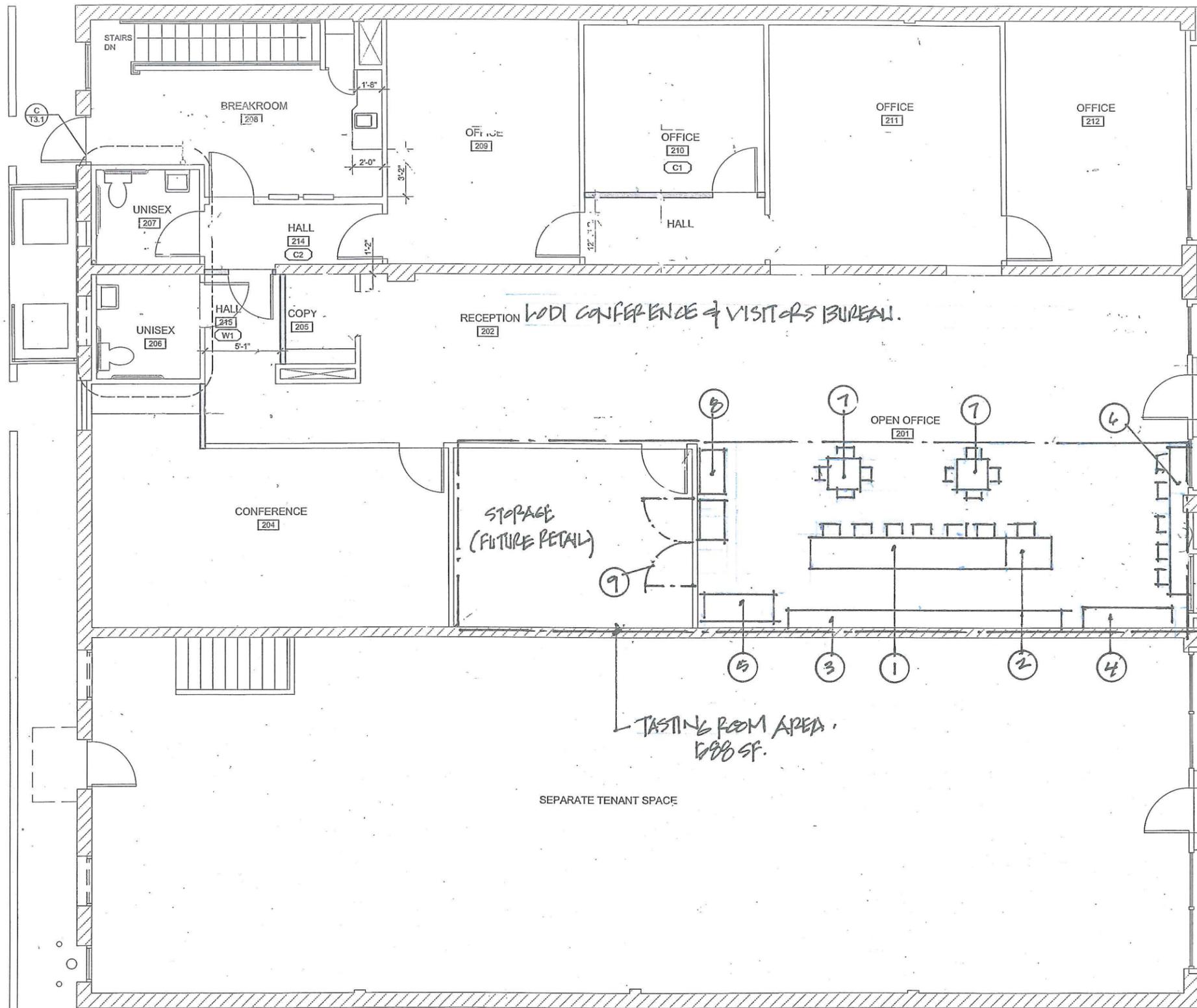
12-149

12-20-12



WMB ARCHITECTS

1 OF 2



- ① TASTING COUNTER / CABINET - 13'
- ② ACCESSIBLE COUNTER 3'
- ③ WINE DISPLAY SHELVING - 18'
- ④ RETAIL SHELVING - 6'
- ⑤ WINE REFRIGERATOR
- ⑥ COUNTER SEATING 10'
- ⑦ 24" x 24" HIGH TABLE & STOOLS
- ⑧ RETAIL FURNITURE DISPLAY - (2)
- ⑨ FUTURE DOORS.


**FLOOR PLAN**  
 1/8" = 1'-0"

ONEWAY WINERY TASTING ROOM.

12.14.12 12.20.12

2 of 2

**RESOLUTION NO. P.C. 13-**

**A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF LODI APPROVING THE REQUEST OF MICHAEL AND DEBRA GREEN FOR A USE PERMIT TO ALLOW A TYPE 2 (WINERY) AND TYPE 42 (ON-SALE BEER AND WINE) AND WINE ALCOHOLIC BEVERAGE CONTROL LICENSE AT 25 NORTH SCHOOL STREET**

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

**WHEREAS**, the project proponent are Michael and Debra Green, 6535 East Peltier Road, Acampo, CA 95220; and

**WHEREAS**, the project is located at 25 North School Street, Lodi, CA 95240 (APN: 043-033-13); and

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

**WHEREAS**, the project parcel is owned by Farmers and Merchants Bank, 121 West Pine Street Lodi, CA 95240; and

**WHEREAS**, the requested Use Permit to allow Type 2 on-site wine tasting and retail sales, and Type 42 On-Sale Beer and Wine, which would authorize the sale and onsite consumption of beer and wine at the existing vacant building located at 25 North School Street, and the request is an enforcement action in accordance with the City of Lodi Zoning Ordinance; and

**WHEREAS**, Census Tract 42.04 in which the business is located currently is over-concentrated with ABC licenses allowing the sale of beer and wine for consumption on- and off-the license premises where sold; and

**WHEREAS**, because Census Tract 42.04 has an over-concentration of On-sale beer and wine alcohol licenses, the Planning Commission makes a finding of necessity and/or public convenience in order to permit the issuance of an additional Alcohol Beverage Control license in this tract; and

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

**WHEREAS**, pursuant to City of Lodi Zoning Ordinance § 17.72.110, this resolution becomes effective ten (10) business days from its adoption in the absence of the filing of an appeal; and

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

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

1. The project was found to be exempt from environmental review under Section 15301(a), Existing Facilities of the CEQA Guidelines, which exempts the leasing, licensing, or minor alteration of existing public or private facilities, involving negligible or no expansion of use. Only minor modifications would be made to the interior of the existing the structure. The project is in an area where all public services and facilities are available to allow for maximum development permissible under the General Plan, and the area in which the project is located is not environmentally sensitive. The project was also found to be categorically exempt according to the California Environmental Quality Act, Article 19 15332 Class 32 (a) (b) (c) (d) and (e). The project is classified as in-fill development meeting the conditions described therein. No significant impacts are anticipated and no mitigation measures have been required. No significant impacts are anticipated and no mitigation measures have been required.

2. The proposed use complies with all requirements as set forth for the issuance of this Use Permit, in that the site is adequate in size, shape and topography for the proposed use, consisting of an existing building. Second, the site has sufficient access to streets, adequate in width and pavement type to carry the quantity and quality of traffic generated by the proposed use, which is not expected to significantly increase due to the project. Third, the proposed use is deemed to be part of the General Plan and the Zoning Ordinance, as on- and off-sales alcoholic beverage sales are permitted in the C-2 (General Commercial) Zone with Use Permit approval. Fourth, the proposed use, as conditioned, will not have an adverse effect upon the use, enjoyment or valuation of property in the neighborhood in that a similar off-sales use had previously compatibly existed nearby. Lastly, the proposed use will not have an adverse effect on the public health, safety, and general welfare in that security measures and the limited size of the use will limit any potential adverse effects to neighboring properties.
3. The off-sale of beer, wine and distilled spirits, in accordance with a Type 2 Alcoholic Beverage Control License, on-sale of beer and wine in accordance with a Type 42 Alcoholic Beverage Control license, and with the conditions attached herein, would be consistent and in harmony with the Commercial General Plan Land Use Designation and C-2 zoning District.
4. The proposed use is consistent with the General Plan because commercial uses such as the one proposed are permitted in accordance with Land Use Policy subject to a discretionary review.
5. The sale and consumption of alcohol can sometimes result in customer behavior problems that can require police intervention.
6. Steps can be taken by the Applicant/Operator to reduce the number of incidents resulting from the over-consumption of alcohol including the proper training and monitoring of employees serving alcohol; the careful screening of IDs of customers to avoid sales to under-aged individuals; limiting the number of drinks sold to individual customers to avoid over-consumption; providing properly trained staff to monitor customer behavior both in and outside of the establishment; and working with the Lodi Police Department to resolve any problems that may arise.
7. 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.
8. The proposed use would not be detrimental to the general welfare of persons residing and working in the immediate vicinity, the neighborhood or the community at large because the sale of alcohol with a wine tasting operation is not typically associated with detrimental impacts to the community.
9. The proposed use is consistent with the City's vision of making Lodi a wine tasting tourist destination point.
10. The wine tasting room will add to the character of the City by promoting local wineries and viticulture.

**NOW, THEREFORE, BE IT DETERMINED AND RESOLVED** by the Planning Commission of the City of Lodi that Use Permit Application No. 12-U-21 is hereby approved, subject to the following conditions:

1. The property owner and/or developer and/or successors in interest and management shall, at their sole expense, defend, indemnify and hold harmless the City of Lodi, its agents, officers, directors and employees, from and against all claims, actions, damages, losses, or expenses of every type and description, including but not limited to payment of attorneys' fees and costs, by reason of, or arising out of, this development approval. The obligation to defend, indemnify and hold harmless shall include, but is not limited to, any action to arbitrate, attack, review, set aside, void or annul this development approval on any grounds whatsoever. The City of Lodi shall promptly notify the developer of any such claim, action, or proceeding and shall cooperate fully in the defense.
2. The property owner and/or developer and/or successors in interest and management shall insure that the serving of alcohol does not cause any condition that will cause or result in repeated activities that are harmful to the health, peace or safety of persons residing or working in the surrounding area. This includes, but is not limited to: disturbances of the peace, illegal drug

activity, public intoxication, drinking in public, harassment of people passing by, assaults, batteries, acts of vandalism, loitering, excessive littering, illegal parking, excessive loud noises, traffic violations or traffic safety based upon last drink statistics, curfew violations, lewd conduct, or police detention and arrests.

3. The property owner and/or developer and/or successors in interest and management shall operate the project in strict compliance with the approvals granted herein, City standards, laws, and ordinances, and in compliance with all State and Federal laws, regulations, and standards. In the event of a conflict between City laws and standards and a State or Federal law, regulation, or standard, the stricter or higher standard shall control.
4. The Lodi Police Department may, at any time, request that the Planning Commission conduct a hearing on the Use Permit for the purpose of amending or adding new conditions to the Use Permit or to consider revocation of the Use Permit if the Use Permit becomes a serious policing problem.
5. The City reserves the right to periodically review the area for potential problems. If problems (on-site or within the immediate area) including, but not limited to, public drunkenness, the illegal sale or use of narcotics, drugs or alcohol, disturbing the peace and disorderly conduct result from the proposed land use, the Use Permit may be subject to review and revocation by the City of Lodi after a public hearing and following the procedures outlined in the City of Lodi Municipal Code. Additional reviews may be prescribed by the Community Development Director, the Police Department and/or Planning Commission as needed during and after the first two years of probationary period. Further, starting from the effective date the business commences the sale of wine, this Use Permit shall be subject to a one year, and two year review by the Community Development Director. If the Director determines it necessary, the Director shall forward the review to the Planning Commission to review the business's operation for compliance with the conditions of the Use Permit, and in response to any complaints thereafter.
6. The Use Permit shall be vested within six (6) months from the effective date of approval. A building permit for the tenant improvements allowed under this Use Permit shall have been obtained within six (6) months from the effective date of the Use Permit or the Use Permit shall expire; provided however that the Use Permit may be extended pursuant to the Lodi Municipal Code.
7. The project proponent/applicant/operator and/or developer and/or successors in interest and management shall operate and abide by the requirements and conditions of the State of California Department of Alcoholic Beverage Control Licenses Type 2 and Type 42.
8. Prior to the issuance of a Type-2 and Type 42 licenses, the project proponent/applicant/operator and/or developer and/or successors in interest and management shall complete Licensee Education on Alcohol and Drugs as provided by the State Department of Alcoholic Beverage Control.
9. That applicants shall be allowed to use the wine tasting space for various events such as wine dinners catered by outside vendors, private mixers, wine tasting and parties for organizations and businesses who want to rent space, and to host feature wine tasting events that may include educational components.
10. All temporary and permanent signage proposed in connection with the wine making and wine tasting operation shall be reviewed and approved by the Community Development Department.
11. The wine tasting operation shall be conducted in a manner that will not adversely impact neighboring properties or businesses.
12. No wine crushing and/or making operations shall occur at this site.
13. The subject site shall be maintained in a sanitary, litter-free, graffiti-free, and respectable appearance. Any damage or vandalism sustained to the property shall be repaired within a maximum of fourteen (14) days.

14. The project proponent/applicant/operator and/or developer and/or successors in interest and management shall obtain a Downtown Encroachment Permit from the Public Works Department for the proposed outdoor seating.
15. Due to change of use and/or occupancy of the building, the applicant shall submit complete and adequate Tenant Improvement plans to the Building Division for review and approval. The said plans shall be based on the City of Lodi Building Regulations and currently adopted 2010 California Building Code.
16. The applicant/project proponent and/or developer and/or successors in interest and management shall obtain annual Operational Permit issued by the Lodi Fire Department, and meet all the conditions outlined in therein. The Fire Department may be contact at the Lodi Fire Department, 25 East Pine Street, Lodi, CA 95240-2127. Phone Number (209) 333-6739.
17. Approval of this Use Permit shall be subject to revocation procedures contained in Section 17.72 LMC in the event any of the terms of this approval are violated or if the sale of beer, wine and distilled spirits is conducted or carried out in a manner so as to adversely affect the health, welfare or safety of persons residing or working in the neighborhood.
18. Any fees due the City of Lodi for processing this Project shall be paid to the City within thirty (30) calendar days of final action by the approval authority. Failure to pay such outstanding fees within the time specified shall invalidate any approval or conditional approval granted. No permits, site work, or other actions authorized by this action shall be processed by the City, nor permitted, authorized or commenced until all outstanding fees are paid to the City.
19. All project design and construction shall be in full compliance with the Americans with Disabilities Act (ADA). Project compliance with ADA standards is the developer's responsibility.
20. No variance from any City of Lodi adopted code, policy or specification is granted or implied by the approval of this resolution.

**Dated: February 13, 2013**

I certify that Resolution No. 13- was passed and adopted by the Planning Commission of the City of Lodi at a regular meeting held on February 13, 2013 by the following vote:

**AYES:** Commissioners:

**NOES:** Commissioners:

**ABSENT:** Commissioners:

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

**CITY OF LODI  
PLANNING COMMISSION  
Staff Report**

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**MEETING DATE:** February 13, 2013

**APPLICATION NO:** Use Permit: 13-U-02

**REQUEST:** Request for Planning Commission approval of a Use Permit to allow an on-sale beer and wine license within an existing building in Downtown Business District located at 14 S. School Street, Suite B. (Applicant: Jamie Watts; File Number: 13-U-02).

**LOCATION:** 14 South School Street, Suite B.  
APN: 043-036-19  
Lodi, CA 95240

**APPLICANT:** Jamie Watts  
P. O. Box 2554  
Lodi, CA 95241

**PROPERTY OWNER:** Dobbins Properties LLC  
2524 Canal Drive  
Lodi, CA 95242-9178

**RECOMMENDATION**

Staff recommends that the Planning Commission approve Ms. Watt’s request for a Use Permit to allow a beer and wine alcohol sales within an existing building in Downtown Business District located at 14 South School Street, Suite B, Suite B.subject to the conditions outlined in the attached resolution.

**PROJECT/AREA DESCRIPTION**

**General Plan Designation:** DMU, Downtown Mixed Use  
**Zoning Designation:** C-2, General Commercial (Downtown Business District)  
**Property Size:** Tenant space is approximately 1,859 sq. ft.

The adjacent zoning and land use are as follows:

	<b>General Plan</b>	<b>Zone</b>	<b>Land Use</b>
<b>North</b>	Downtown Mixed use	C-2, General Commercial	Mixture of retail/commercial
<b>South</b>	Downtown Mixed use	C-2, General Commercial	Mixture of retail/commercial
<b>East</b>	Downtown Mixed use	C-2, General Commercial	Mixture of retail/commercial
<b>West</b>	Downtown Mixed use	C-2, General Commercial	Mixture of retail/commercial

**SUMMARY**

The applicant requests approval of a Use Permit to occupy a vacant suite totaling 1,859-square-feet for a restaurant type establishment where coffee, deserts, beer, wine and food prepared by other restaurants would be sold. If approved, the applicant would have to obtain a Type 42 On-Sale General (beer and wine) Alcoholic Beverage Control (ABC) License. The project site is within the Downtown Business District. The Downtown Business District has an over-concentration of ABC licenses. In order to approve an additional license, the Planning Commission must make a find of public need and necessity. Staff recommends the Commission approve the requested Use Permit application.

## **BACKGROUND**

Available City records indicate that the building has been used for various retail type uses since its construction. The most recent use was a wine tasting room. The Planning Commission issued a Use Permit (Resolution No. P.C. #12-05) on March 14, 2012 for a wine tasting room at this location. The wine tasting room was operated under a name "Wine ot" for a period of almost seven (7) months before it was closed on December of 2012. The approved Use Permit authorized sale of wine for on- or off-site consumption. A Use Permit runs with the land and continues to be valid, regardless of transfer of ownership, so long as there is no gap in operation exceeding six (6) months. However, a new Use Permit is required if an upgrade in ABC license type is requested, as is the case on this application.

## **ANALYSIS**

The applicant, Ms. Jaime Watts, submitted an application to request Planning Commission approval for Type 42 ABC license as required by the State Department of Alcoholic Beverage Control for on-site sale and consumption of beer and wine for bona fide public eating place at 14 South School Street, Suite B. The applicant has requested to serve beer and wine to complement the live entertainment services planned for the establishment and a restaurant operation. In addition, the establishment intends to offer coffee, appetizers and desserts catered from Lodi restaurants. The proposed hours of operation are from Sunday to Wednesday from 6:00 a.m. to 9:00 p.m. and Thursday through Saturday from 6:00 a.m. to midnight. There is an existing outdoor seating area, and it will be used in conjunction the proposed establishment.

Site/Floor Layout: The site contains a single structure with two tenant spaces. An retail business occupies one of the tenant spaces and the proposed establishment would occupy the southerly tenant space. The applicant proposes to install ADA compliant bathrooms, kitchen/prep area, movable and fixed seatings, and interior remodel to accommodate the proposed establishment.

Commercial Entertainment: The applicant requests a Live Entertainment permit. The Live Entertainment permit will be reviewed by the Police Department and the Community Development Director per §17.53 of the Lodi Municipal Code. Live Entertainment hours would occur from 9:00 p.m. to midnight from Thursday through Saturday nights. Live Entertainment would consist of a disc jockey, bands, single musicians and singers, juke box, amplified music, karaoke, open microphone night, dancing and comedy acts. The area will have a moderate sound system, two microphones, television and a projector. The sound system will be restricted to the inner area. The venue will also be available for private parties, functions and gatherings. During private functions and events, participants may use the microphone, make presentations, sing or have karaoke performances. This concept is similar to the wine tasting rooms and bars throughout the downtown area.

Noise: The building in which the proposed business bar would be located is surrounded by commercial and retail establishments. The closest residence is located approximately 100 feet away, at the corner of Pine and School Streets, at the former Lodi Hotel. The majority of activities are proposed to take place within the building. Staff has included a condition of approval prohibiting the use of televisions and any type of amplified device outside of the building envelop. Based on the proposed operation and conditions of approval, staff does not anticipate any adverse noise impacts upon the surrounding area. If noise becomes a source of policing problems, the draft resolution includes a condition to allow for review of the permit by the Community Development Department or, if needed, return to the Planning Commission for additional conditions or even revocation of the permit.

Parking: The project site is located within the Downtown Parking District. Parking is provided on adjacent streets and public parking lots. Staff does not anticipate parking issues to arise due to the fact the proposed business would generate parking demands later in the evening, after the majority of other businesses in the vicinity have closed. Staff believes that there will be sufficient parking for the proposed use with no impacts upon the parking availability for other tenants. If parking becomes a concern in the future, a condition has been added to allow for review of the permit by the Community Development Department or, if needed, return to the Planning Commission for additional conditions or even revocation of the permit.

Signage: No sign is proposed as part of this application; however, signage would need to be consistent with the Downtown Design Guideline, and would be submitted to the Community Development Department for review and permitting prior to installation.

Comments and Concerns:

Conditionally permitted uses are those which, by their nature, require special consideration so that they may be located properly with respect to the objectives of the Municipal Code and with respect to their effects on surrounding uses and properties. One of the primary concerns in reviewing a conditional use permit application is the effect of the proposed use on surrounding properties. As mentioned above, the project site is located within a C-2 (General Commercial) zoning district and is also within the Downtown Business District. The Business District is designated for a variety of general commercial uses, including retail, food and drinking services, etc. The proposed establishment is consistent with the types of uses one would expect to find in a General Commercial zoning district. The proposal is consistent with the General Plan in that eating and drinking establishments and private party/banquet facilities which provide opportunities for cultural and private celebrations such as wedding receptions, wakes, and corporate parties are permitted on land designated as Downtown Mixed Use in the Land Use Element of the General Plan.

Section 17.72.040 of the Lodi Municipal Code requires a Use Permit for new Off-Sale and On-Sale alcohol licenses as well as changes in license type. The City established the Use Permit requirement to gain local control over whether or not a license is appropriate for a particular location. The State Department of Alcoholic Beverage Control primarily controls issuance based on concentration of licenses within a particular Census Tract. The project 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. This census tract encompasses the Downtown District and is over-concentrated. According to ABC, Census Tract 42.04 contains thirty (30) existing ABC on-sale licenses with only three (3) on-sale licenses allowed based on the ABC criteria. 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. The City's Downtown Guidelines specifically call out drinking and eating establishments as the type of businesses that are encouraged in the Downtown area. 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.

The applicant's project was referred to the Police, Fire and Building Departments for review and recommendation. The key issues related to approval of bars, lounges and taverns involve the appropriateness of the location and whether or not such establishments can operate without detriment to nearby residential uses and general welfare of the surrounding area. Each department had conditionally recommended approval. Their requirements for approval have been incorporated into the attached draft resolution.

Staff feels the proposed use could be compatible with the surrounding area if properly operated and fully complies with conditions of approval attached herein. Additionally, the applicant will be required to take reasonable steps to discourage and correct objectionable conditions that constitute a nuisance, should they occur, to areas surrounding the bar and adjacent properties. It should be noted that the applicant has been very willing to work with staff and the Police Department making requested changes to create a secure establishment for their patrons and the community as a whole. Staff recommends the Planning Commission approve the Use Permit request subject to the conditions outlined in the attached draft resolution. Conditions have been added to mitigate typical concerns related to bars and other similar establishments. Approval of this Use Permit is essentially probationary. The Use Permit is subject to a six month, one year, and two year review by Community Development Director and/or the Police Department. If the Director/Police Department determines it necessary, the Use Permit is subject to review by the Planning Commission to consider the business's operation for compliance with the conditions of the Use Permit, and in response to any complaints thereafter. The City further reserves the right to periodically review the area for potential problems. If the operator is unable to abide by the conditions of approval, or prevent objectionable conditions from occurring, the Police Department or the Planning Commission will have the authority to modify, suspend, or revoke this Use Permit approval.

**ENVIRONMENTAL ASSESSMENTS**

The project was found to be exempt from environmental review under Section 15301(a), Existing Facilities of the CEQA Guidelines, which exempts the leasing, licensing, or minor alteration of existing public or private facilities, involving negligible or no expansion of use. Only minor modifications would be made to the interior of the existing the structure. The project is in an area where all public services and facilities are available to allow for maximum development permissible under the General Plan, and the area in which the project is located is not environmentally sensitive. The project was also found to be categorically exempt according to the California Environmental Quality Act, Article 19 15332 Class 32 (a) (b) (c) (d) and (e). The project is classified as in-fill development meeting the conditions described therein. No significant impacts are anticipated and no mitigation measures have been required. No significant impacts are anticipated and no mitigation measures have been required.

**PUBLIC HEARING NOTICE:**

Legal Notice for the Use Permit was published on Saturday, February 2, 2103. Thirty-nine (39) public hearing notices were sent to all property owners of record within a 300-foot radius of the project site as required by California State Law §65091 (a) 3. Public notice also was mailed to interested parties who had expressed their interest of the project.

**ALTERNATIVE PLANNING COMMISSION ACTIONS:**

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

Respectfully Submitted,

Concur,

Immanuel Bereket  
Associate Planner

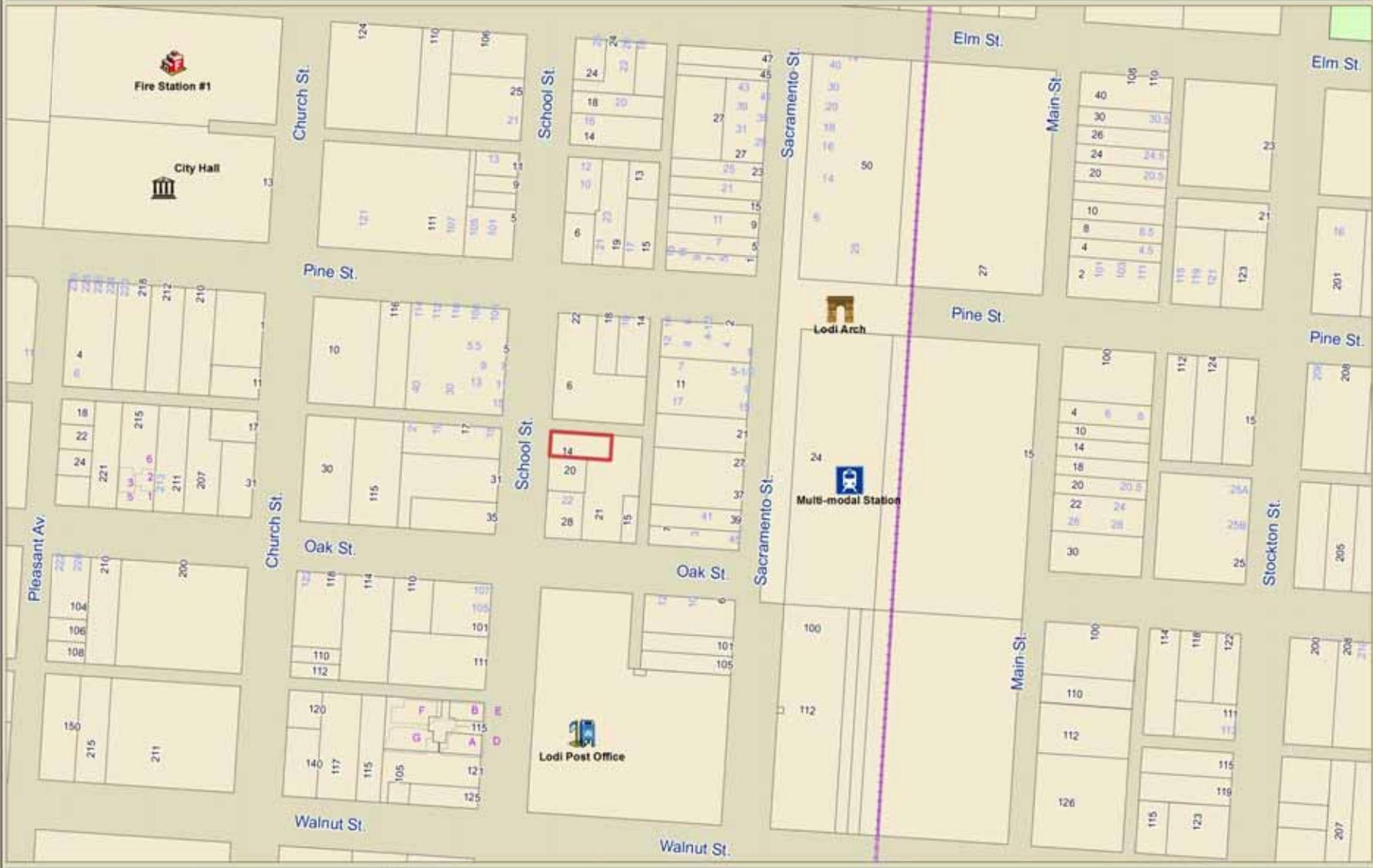
Konradt Bartlam  
Community Development Director

**ATTACHMENTS**

- A. Vicinity Map
- B. Aerial Map
- C. Plot Plan
- B. Proposed Floor Plan
- C. Draft Resolution



# Vicinity Map



**Legend**

Project Area

**Map Scale**  
1:1,863




NAD\_1983\_StatePlane\_California\_III\_FIPS\_0403\_Feet  
© City of Lodi Geographic Information Systems

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**THIS MAP IS NOT TO BE USED FOR NAVIGATION**

**Notes**

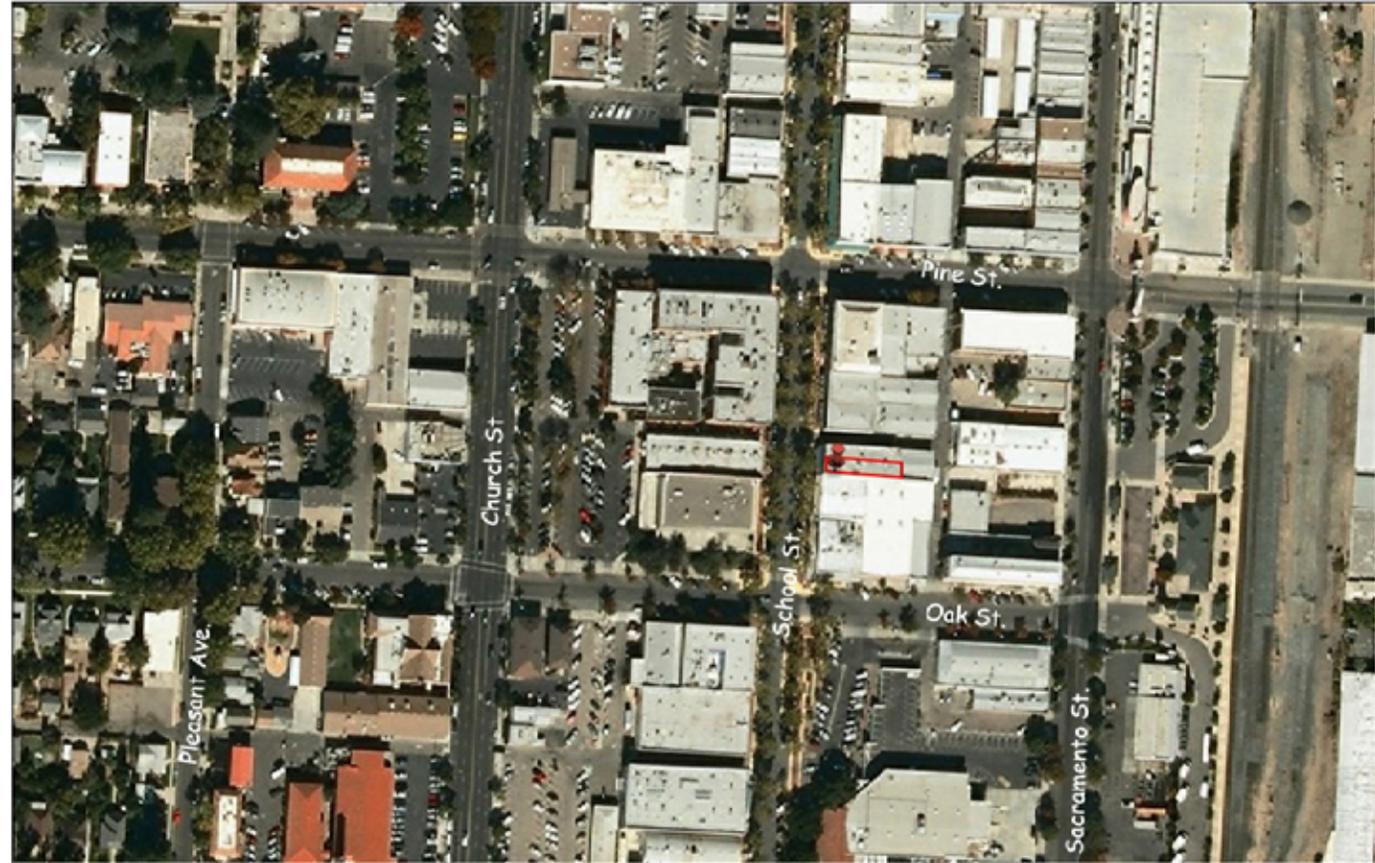


Street View



Project Aerial Map

Aerial Map

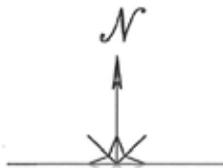
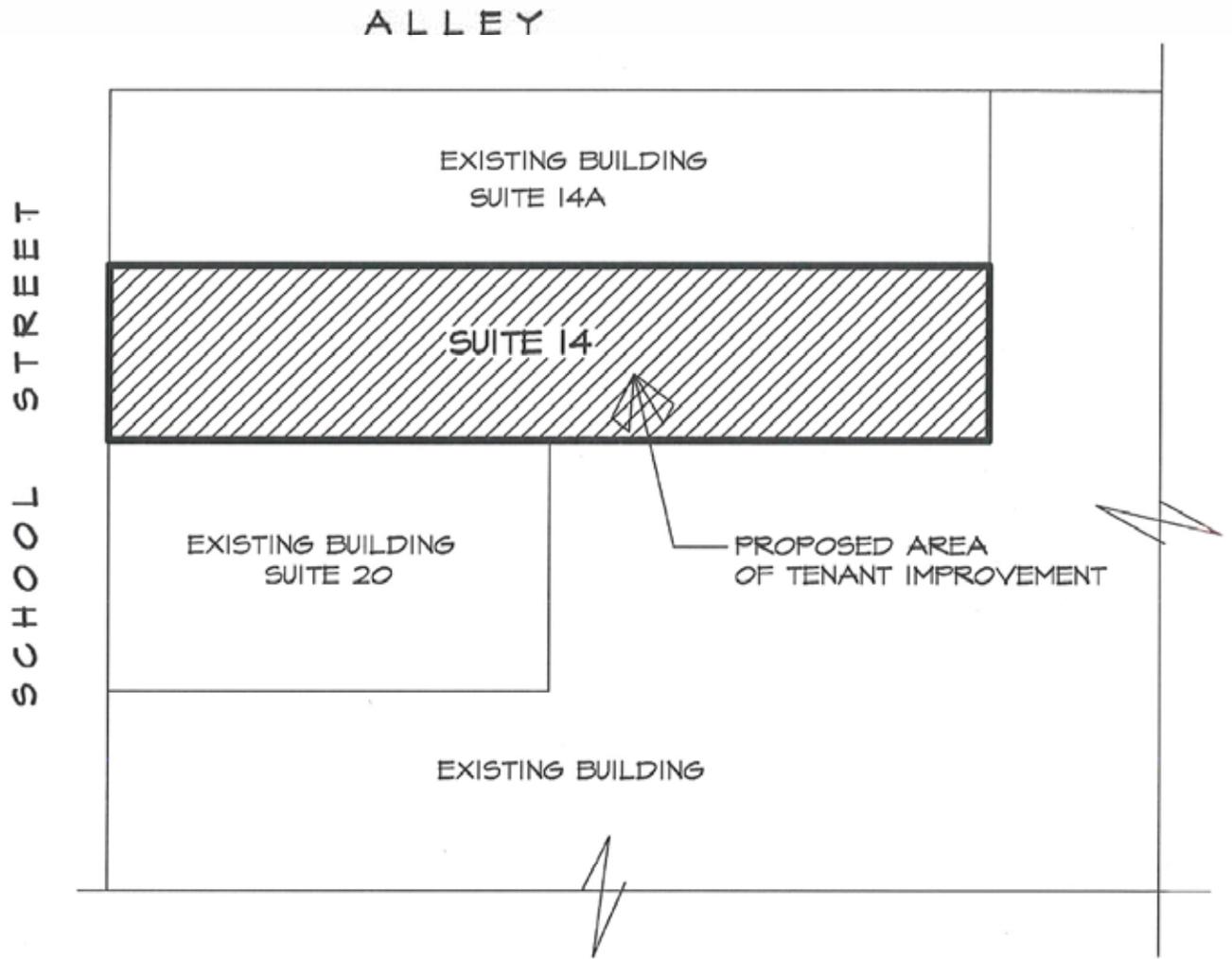


Not Scaled

14 South School Street  
APN: 043-036-19  
Lodi, CA 95240

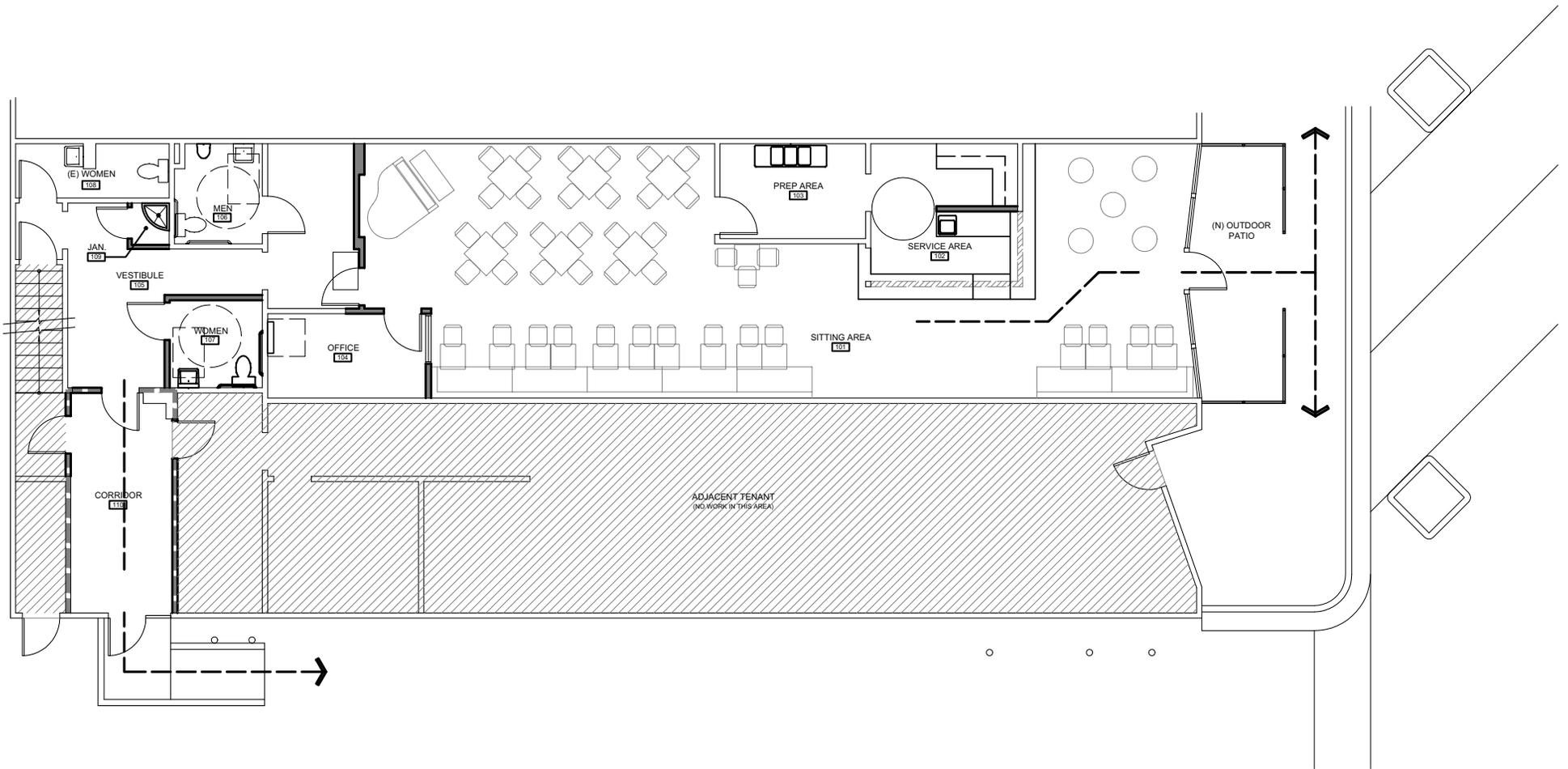


Project Site



# PLOT PLAN

SCALE: ——— 1" = 20'-0"



# FLOOR PLAN

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

**RESOLUTION NO. P.C. 13-**

**A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF LODI APPROVING THE REQUEST OF JAIME WATTS FOR A USE PERMIT TO ALLOW SALE OF BEER AND WINE AT 14 SOUTH SCHOOL TREET**

**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 proponents are Jaime Watts, P. O. Box 2554, Lodi, CA 95241; and

**WHEREAS**, the project parcel is owned by Dobbins Properties LLC, 2524 Canal Drive, Lodi, CA 95242-9178; and

**WHEREAS**, the project is located at 14 South School Street, Lodi, CA 95240 (APN: 043-036-19); and

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

**WHEREAS**, the requested Use Permit to allow on-site consumption of beer and wine is an enforcement action in accordance with the City of Lodi Zoning Ordinance; and

**WHEREAS**, Census Tract 42.04 in which the proposed establishment 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, wine and distilled spirits alcohol licenses, the Planning Commission makes a finding of necessity and/or public convenience in order to permit the issuance of an additional Alcohol Beverage Control license in this tract; and

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

**WHEREAS**, based upon the facts and analysis presented in the staff report, and public testimony received and subject to the conditions of approval listed below, the Planning Commission finds that the establishment, maintenance or operation for the requested use or building applied for, will not, under the circumstances of this particular case, be detrimental to the health, safety, morals, comfort, convenience and general welfare of the persons residing or working in the neighborhood of such proposed use, or be injurious or detrimental to property and improvements in the neighborhood or to the general welfare of the City; and

**WHEREAS**, pursuant to City of Lodi Zoning Ordinance § 17.72.110, this resolution becomes effective ten (10) business days from its adoption in the absence of the filing of an appeal; and

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

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

1. The project was found to be exempt from environmental review under Section 15301(a), Existing Facilities of the CEQA Guidelines, which exempts the leasing, licensing, or minor alteration of existing public or private facilities, involving negligible or no

expansion of use. Only minor modifications would be made to the interior of the existing the structure. The project is in an area where all public services and facilities are available to allow for maximum development permissible under the General Plan, and the area in which the project is located is not environmentally sensitive. The project was also found to be categorically exempt according to the California Environmental Quality Act, Article 19 15332 Class 32 (a) (b) (c) (d) and (e). The project is classified as in-fill development meeting the conditions described therein. No significant impacts are anticipated and no mitigation measures have been required. No significant impacts are anticipated and no mitigation measures have been required.

2. The sale of alcoholic beverages for on-premise consumption is a permitted use in the C-2 Zoning District. The site is suitable and adequate for the proposed.
3. The on-site consumption of beer and wine, in accordance with the recruitments of the State Department of Alcohol Beverage Control 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 the proposed business, 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 harmony in scale, bulk, coverage and density of the proposed project is consistent with and compatible to the existing built-in environment and land uses around the subject site, in that the proposed establishment will be located primarily within an existing building, thereby maintaining the approved scale, bulk, coverage and density of the building.
7. The availability of public facilities and utilities is adequate to serve the proposed use, in that the proposed establishment will be located within a building where public facilities and services are currently provided, including sewer, water, electricity, phone, etc.
8. The sale and consumption of alcohol can sometimes result in customer behavior problems that can require police intervention.
9. 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.
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. 13-U-02 is hereby approved, subject to the following conditions:

1. The applicant/project proponent and/or property owner and/or developer and/or successors in interest and management shall, at their sole expense, defend, indemnify and hold harmless the City of Lodi, its agents, officers, directors and employees, from and against all claims, actions, damages, losses, or expenses of every type and description, including but not limited to payment of attorneys' fees and costs, by reason of, or arising out of, this Use Permit approval. The obligation to defend, indemnify and hold harmless shall include, but is not limited to, any action to arbitrate, attack, review, set aside, void or annul this Use Permit approval on any grounds whatsoever. The City of Lodi shall promptly notify the developer of any such claim, action, or proceeding and shall cooperate fully in the defense.
2. The applicant/project proponent and/or property owner and/or developer and/or successors in interest and management shall operate the project in strict compliance with the approvals granted herein, City standards, laws, and ordinances, and in compliance with all State and Federal laws, regulations, and standards. In the event of a conflict between City laws and standards and a State or Federal law, regulation, or standard, the stricter or higher standard shall control. Material violation of any of those laws in connection with the use may be cause for revocation of this Use Permit.
3. The Use Permit shall be vested within six (6) months from the effective date of approval. A building permit for the tenant improvements allowed under this Use Permit shall have been obtained within six (6) months from the effective date of the Use Permit or the Use Permit shall expire; provided however that the Use Permit may be extended pursuant to the Lodi Municipal Code.
4. Starting from the effective date the business commences the sale of beer, wine and distilled spirits, this Use Permit shall be subject to a six-month, one-year, and two-year review by Community Development Director and/or the Police Department. If the Director/Police Department determines it necessary, the Use Permit shall be subject to review by the Planning Commission to consider the business's operation for compliance with the conditions of the Use Permit, and in response to any complaints thereafter. Further, the City reserves the right to periodically review the area for potential problems. If problems (on-site or within the immediate area) including, but not limited to, public drunkenness, the illegal sale or use of narcotics, drugs or alcohol, disturbing the peace and disorderly conduct result from the proposed land use, the Use Permit may be subject to review and revocation by the City of Lodi after a public hearing and following the procedures outlined in the City of Lodi Municipal Code. Additional reviews may be prescribed by the Community Development Director, the Police Department and/or Planning Commission as needed during and after the first two years of probationary period.
5. If operation of this use results in conflicts pertaining to parking, noise, traffic, loitering, public safety or other impacts, at the discretion of the Community Development Director, this conditional use permit may be referred to the Planning Commission for subsequent review at a public hearing. If necessary, the Commission may modify or add conditions of approval to mitigate such impacts, or may revoke said conditional use permit bound upon applicable findings.
6. The City Council, Lodi Police Department, the Planning Commission and City staff may, at any time, request that the Planning Commission conduct a hearing on this 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 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.
8. The business shall have interior security video cameras operating during all hours that the business is open. The videotapes of the security video cameras shall be maintained for a minimum period of 30 days, and the videotapes must be made immediately available for any law enforcement officer who is making the request as a result of official law enforcement business. The video cameras must be positioned in a way to capture the facial features of anyone entering the business and include cameras that capture all money handling areas. If the Chief of Police determines that there is a necessity to have additional security cameras installed, the owner of the business must comply with the request within 7 calendar days. The Chief of Police can also require that the business change the position of the video cameras if it is determined that the position of the cameras do not meet security needs. The owner of the business must comply with the request within 7 calendar days. The said security video camera shall be installed and approved prior to business opening.
9. All owners, managers and employees selling alcoholic beverages shall undergo and successfully complete a certified training program in responsible methods and skills for selling alcoholic beverages. The certified program must meet the standards of the California Coordinating Council on Responsible Beverage Service or other certifying/licensing body, which the State may designate. The establishment shall comply with the requirements of this section within 30 calendar days of effective date of this Use Permit. Records of each owner's, manager's and employee's successful completion of the required certified training program shall be maintained on the premises and shall be presented upon request by a representative of the City of Lodi. The business owner shall be responsible for on-going training to accommodate changes in personnel.
10. Prior to the effective date of this Use Permit, a security plan which includes a management training plan, employee and security resource placement, crowd control and security measures, and provisions for overflow customers shall be submitted to the Community Development Department for review, and shall be approved by the Community Development Director and the Police Chief, or a designee thereof.
11. No person who is in a state of intoxication shall be permitted within the business nor shall an intoxicated patron be sold additional alcoholic beverages. It is the responsibility of the business owner/operator to ensure no patron in state of intoxication is allowed into the premise.
12. The licensee(s) or an employee of the licensee(s) shall be present at the patio area at all times that alcoholic beverages are being served or consumed, to ensure that Alcoholic Beverage Control Act, State statute, County, or City Ordinances are not violated upon this portion of the licensed premises. In addition, a security staff shall be stationed at the entry to the patio area at all times that the patio whenever alcohol beverages are being served or consumed in the patio area. Security staff and their

training program shall be subject to the review and approval of the Chief of Police or designee(s) thereof.

13. Prior to commencement of the use, the applicant shall prepare and submit a practical program for controlling litter, spills, and stains resulting from the use on the site to the Community Development Department for review and approval. The program shall include a detailed time frame for the policing and cleanup of the public sidewalk and right-of-way in front of the subject property as well as the adjacent public right-of-way (25 feet north and south of the subject property, and 25 feet down west down the alley) not just in front of the subject tenant space. Failure to comply with that program shall be considered a violation of the Use Permit and shall be subject to administrative remedy in accordance with Chapter 17.72 and Chapter 17.88 of the City of Lodi Municipal Code.
14. Installation of sign(s) shall require a building permit from the Community Development Department. Said sign(s) shall be in full compliance with the City of Lodi Sign Ordinance and any applicable master sign program for the subject site.
15. Window signage shall not exceed twenty-five percent (25%) of the glass area, or separate window pane, upon which the sign is located. All new signage is subject to review and approval by the Planning Division prior to installation.
16. The subject property and its immediate surrounding shall be maintained neat and clean at all times. The subject property and its immediate surrounding shall be maintained free from debris and graffiti at all times. The property owner shall remove any debris or graffiti within 24-hours upon notification by the City. Litter on the site and any litter scattered on nearby property, streets, and sidewalks shall be removed daily. If necessary, the applicant shall steam clean the project site and its immediate surrounding premises as often as needed.
17. In the event of graffiti or other extraneous markings occurring, the applicant/operator and/or successors in interest and management shall remove or cover said markings, drawings, or signage within 24 hours of such occurrence, weather permitting. Paint utilized in covering such markings shall be of a color that matches, as closely as possible, the color of the adjacent surfaces.
18. All music and dancing-related activities, including live bands, video and disc jockeys, and karaoke, shall be conducted indoors at all times. Doors shall remain closed during all performances or while music is being played.
19. The applicant/project proponent and/or property owner and/or developer and/or successors in interest and management shall be responsible for the control of noise generated by the subject facility including, but not limited to, noise generated by patrons and employees. All noise generated by the proposed use shall comply with the provisions of Chapter 9.24 and other applicable noise control requirements.
20. The applicant shall obtain Operational Permits from the Lodi Fire Department, Fire Prevention Bureau. The Operational Permits shall be obtained prior to commencement of sale of alcohol. The Fire Department may be contacted at 25 East Pine Street, Lodi, CA 95240-2127. Phone Number (209) 333-6739.
21. The applicant shall obtain a tenant improvement permit prior to occupancy. All plan submittals shall be based on the City of Lodi Building Regulations and currently adopted 2010 California Building Code. Please review our policy handouts for specific submittal procedures. The Building and Safety Division may be contacted at 221 West Pine Street, Lodi, CA 95240-2127. Phone number (209)333-6714.

22. The applicant shall obtain all required permits and licenses from the California Department of Alcoholic Beverage Control and the San Joaquin County Health Department prior to commencement of the use and maintain said permits at all times while the use is operating. Copies of all permits and licenses shall be submitted to the Community Development Department prior to commencement of the use.
23. 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.
24. No variance from any City of Lodi adopted code, policy or specification is granted or implied by this approval.

**Dated: February 13, 2013**

I certify that Resolution No. 13- was passed and adopted by the Planning Commission of the City of Lodi at a regular meeting held on February 13, 2013 by the following vote:

**AYES:** Commissioners:

**NOES:** Commissioners:

**ABSENT:** Commissioners:

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

**CITY OF LODI  
PLANNING COMMISSION  
Staff Report**

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**MEETING DATE:** February 13, 2013

**APPLICATION NO:** Parcel Map: 12-P-01

**REQUEST:** Request for a Tentative Parcel Map to divide one parcel into four lots at 2540 Legacy Way. (Applicant: Foster Advantage, Inc. File No. 12-P-01).

**LOCATION:** 2540 Legacy Way  
(APN: 058-230-14)  
Lodi, CA 95242

**APPLICANT:** Cindy Foster/Foster Advantage Inc.  
8953 Creekstone Circle  
Roseville, CA 95747

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

**RECOMMENDATION**

Staff recommends the Planning Commission approve the request of Cindy Foster for a Tentative Parcel Map to subdivide one parcel to four lots, subject to the conditions outlined in the draft resolution.

**PROJECT/AREA DESCRIPTION**

**General Plan Designation:** Low Density Residence  
**Zoning Designation:** R-2: Single Family Residence  
**Property Size:** .64 acre (28,000 sq. ft.)

The adjacent zoning and land use are as follows:

	GENERAL PLAN	ZONE	LAND USE
<b>North</b>	Low Density Residence	R-2: Single Family Residence	Residence
<b>South</b>	Low Density Residence	R-2: Single Family Residence	Residence
<b>East</b>	Low Density Residence	R-2: Single Family Residence	Residence
<b>West</b>	Low Density Residence	R-2: Single Family Residence	Residence

**SUMMARY**

The application involves is a request for a Tentative Map to allow minor subdivision of a parcel into four single family lots located at 2540 Legacy Way. The applicant is proposing to subdivide .64-acre vacant residential zoned parcel into four lots. The project site maintains an R-2 Zoning District and has a General Plan Designation of Low Density Residential. Each proposed parcel would meet the minimum lot size and street width for an R-2 Zoning District. Once approved by the Planning Commission, the Tentative Parcel Map expires twenty-four (24) months from the effective date of approval unless the applicant requests a time extension prior to the expiration.

**BACKGROUND**

The subject parcel was annexed into the City on November of 2002 as part of the Lackyard Reorganization. In August 2002, an application was submitted by a former owner for a Tentative Parcel Map (04-P-006), proposing to subdivide the property into four parcels. One of the parcels is the subject of this minor subdivision application.

## **ANALYSIS**

The application involves a minor subdivision of a .64-acre parcel into four lots. The site is fully developed with curb, gutter, sidewalk and utility service stubs. All four parcels will measure approximately 7,000 sq. ft. each. This meets the Municipal Code requirement where lots in R-2 Zoning District must measure a minimum of 5,000 sq. ft. In addition, each lots will have a street width of 50-ft, which also satisfies the zoning requirements for the R-2 District. The Applicant is requesting this subdivision of the project site in order to facilitate the sale of the properties to potential buyers. Attachment C below illustrates the final parcel configuration that would result from the Applicant's proposed tentative parcel map if approved. The proposed parcel map is consistent with both the City's General Plan and Zoning Code standards for low density residential development.

The tentative parcel map has been reviewed by the Public Works and Electrical Utility Department and they recommended approval subject to the conditions outlined in the attached resolution. The Public Works Department has indicated that private easement deeds will be required. The Fire Department has determined that the proposed driveway will be adequate to provide emergency access to each parcel. The Building and Community Improvement Divisions have no comments regard this project. Staff has found that the proposed Tentative Parcel Map, subject to the conditions in the attached resolution, meets the requirements of the Zoning Ordinance and is consistent with the General Plan.

Staff believes that the proposed residential Tentative Parcel Map is a reasonable request that is consistent with the property's Zoning and General Plan land use designation. The proposed Tentative Parcel Map only allows for the division of land and does not authorize any improvements to the land. The project is a Tentative Parcel Map to subdivide approximately .62 acres of parcel into four lots. Staff finds that the proposed Tentative Parcel Map, including conditions in the attached resolution, creates new parcels that meet the requirements of the Zoning Ordinance and are consistent with the General Plan. Since the proposed map conforms to the existing development, and the applicant has no plans to further develop or improve the site at the moment, Staff believes the proposed parcels are of adequate size for development.

## **ENVIRONMENTAL ASSESSMENTS**

The project is exempt from CEQA review pursuant to § 15315 (Class 15, Minor Land Divisions) of the CEQA Guidelines. Class 15 exempts the division of land into four or fewer parcels when the division is in conformance with the General Plan and Zoning Code, no variances or exceptions are required, all services and access to the proposed parcels to local standards are available, the parcel was not involved in a division of a larger parcel within the previous 2 years, and the parcel does not have an average slope greater than 20 percent. The Applicant's proposed tentative parcel map complies with all applicable residential development standards established in the General Plan and Zoning Code. No variances are required for the proposed subdivision. Access to all public facilities and infrastructure will be provided for each resultant parcel. The subject property is relatively flat and has not been involved in a subdivision within the last 2 years. Based on staff's review of the project, no special circumstances exist that would create a reasonable possibility that the proposed tentative parcel map will have a significant effect on the environment.

## **PUBLIC HEARING NOTICE:**

Legal Notice for the Parcel Map was published on Saturday, February 2, 2103. Seventy-one (71) public hearing notices were sent to all property owners of record within a 300-foot radius of the project site as required by California State Law §65091 (a) 3. Public notice also was mailed to interested parties who had expressed their interest of the project.

**ALTERNATIVE PLANNING COMMISSION ACTIONS:**

- Approve with additional/different conditions
- Deny the request
- Continue the request

Respectfully Submitted,

Concur,

Immanuel Bereket  
Associate Planner

Konradt Bartlam  
Community Development Director

**ATTACHMENTS:**

- A.** Vicinity Map
- B.** Aerial Map
- C.** Tentative Map
- D.** Draft Resolution



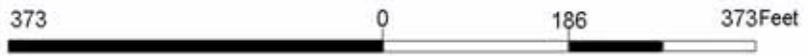
# Vicinity Map



**Legend**

- Project Site
- City Limits

1:2,236



NAD\_1983\_StatePlane\_California\_III\_FIPS\_0403\_Feet  
© City of Lodi Geographic Information Systems

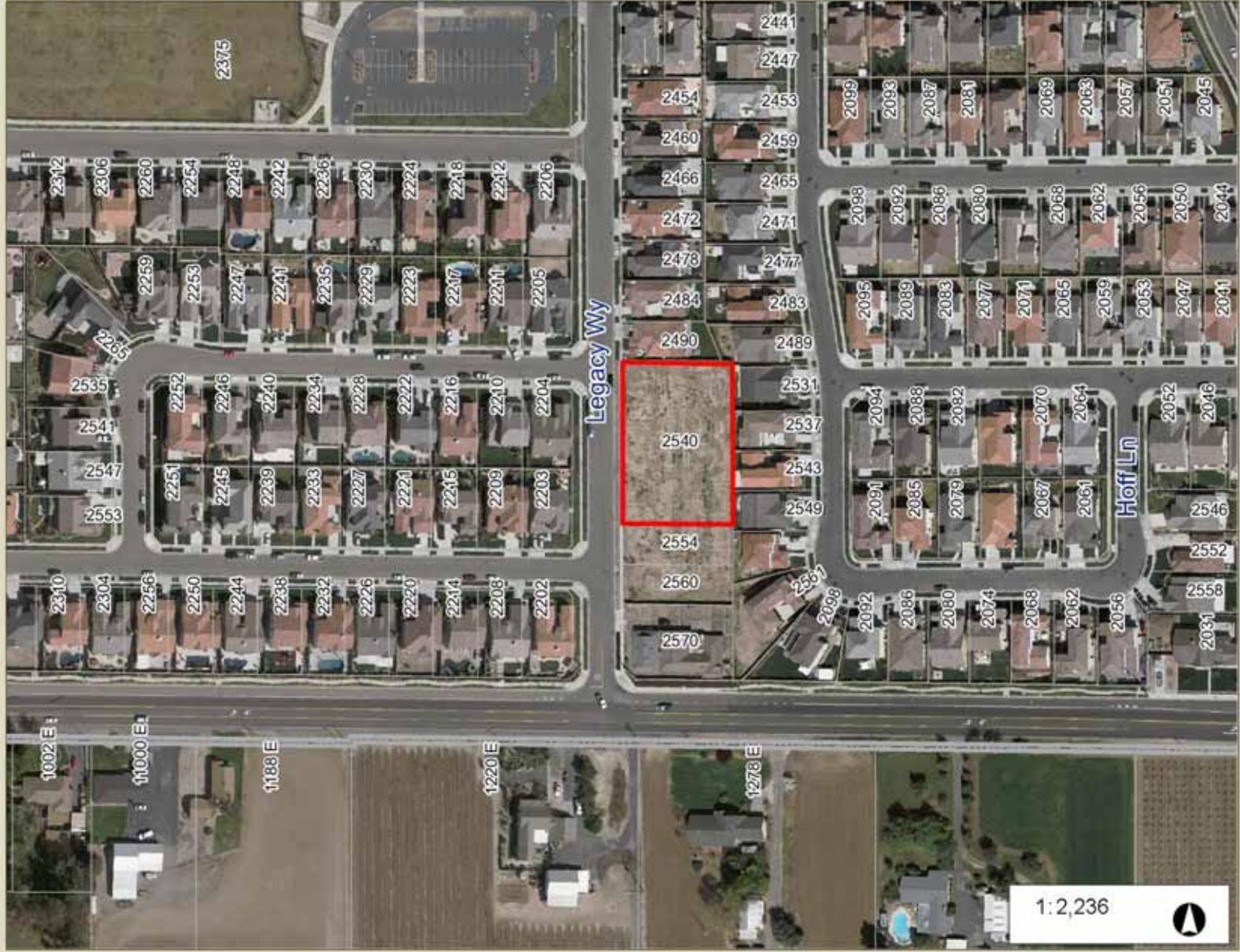
This map is a user generated static output from an Internet mapping site and is for reference only. Data layers that appear on this map may or may not be accurate, current, or otherwise reliable.

THIS MAP IS NOT TO BE USED FOR NAVIGATION

**Notes**  
For Reference Only.

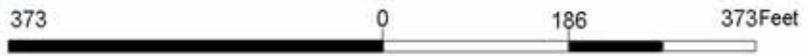


# Aerial Map



- Legend**
- Project Site
  - City Limits

1:2,236



NAD\_1983\_StatePlane\_California\_III\_FIPS\_0403\_Feet  
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**THIS MAP IS NOT TO BE USED FOR NAVIGATION**

**Notes**  
For Reference Only.

# TENTATIVE MAP

NOVEMBER, 2012

## OWNER

FOSTER ADVANTAGE, INC.  
8853 CREEKSTONE CIRCLE  
ROSEVILLE, CALIFORNIA 95747  
(209) 481-3825

## ENGINEER

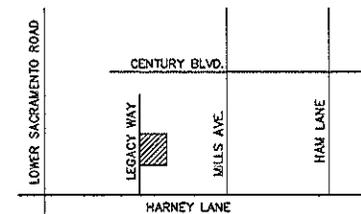
DILLON & MURPHY  
P.O. BOX 2180  
847 N. CLUFF AVENUE, SUITE A2  
LODI, CA 93241  
(209) 334-6613

## NOTES

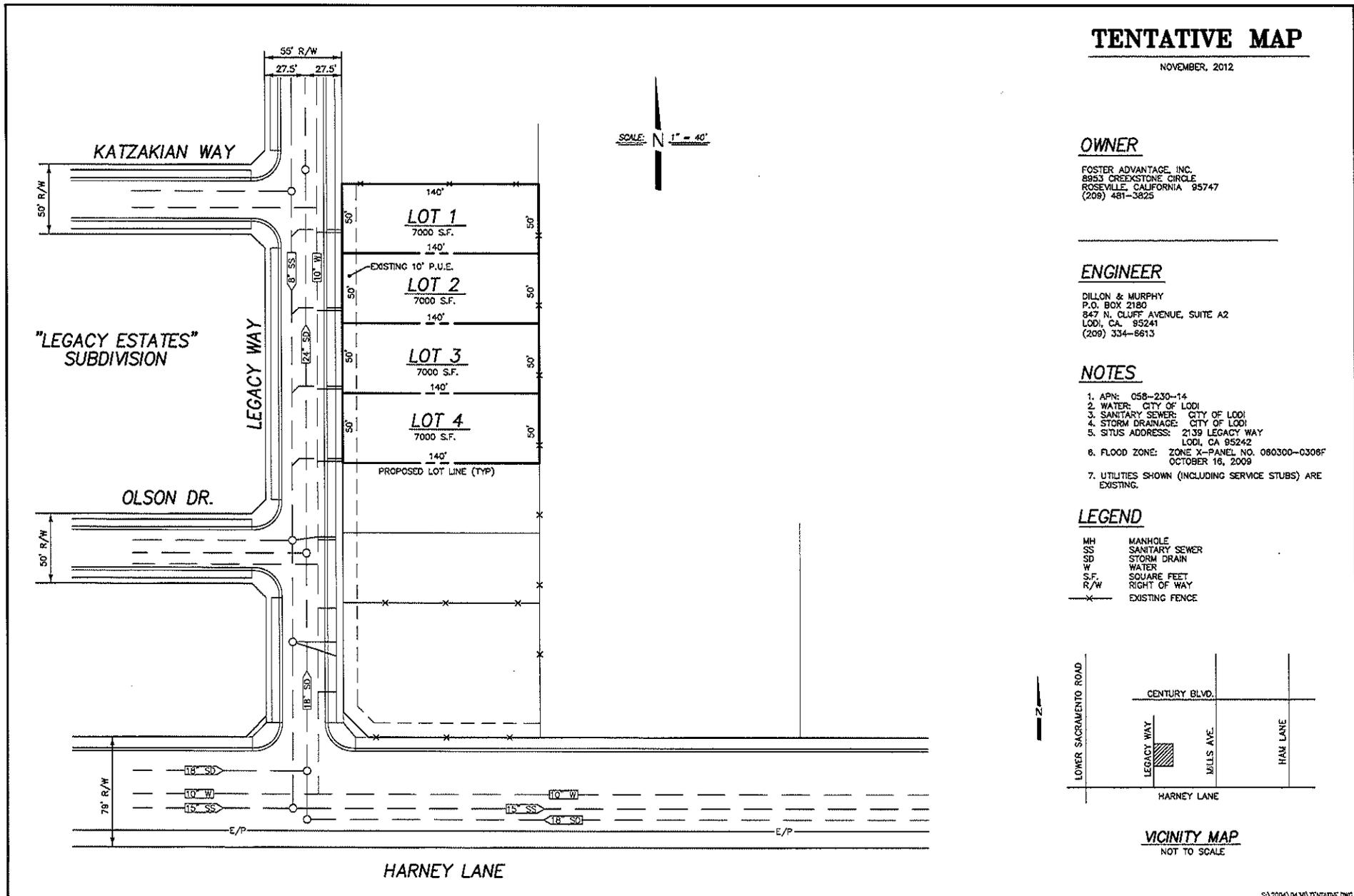
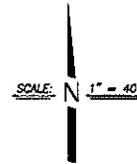
1. APN: 058-230-14
2. WATER: CITY OF LODI
3. SANITARY SEWER: CITY OF LODI
4. STORM DRAINAGE: CITY OF LODI
5. SITUS ADDRESS: 2139 LEGACY WAY  
LODI, CA 95242
6. FLOOD ZONE: ZONE X-PANEL NO. 080300-0308F  
OCTOBER 16, 2009
7. UTILITIES SHOWN (INCLUDING SERVICE STUBS) ARE EXISTING.

## LEGEND

MH	MANHOLE
SS	SANITARY SEWER
SD	STORM DRAIN
W	WATER
S.F.	SQUARE FEET
R/W	RIGHT OF WAY
X	EXISTING FENCE



**VICINITY MAP**  
NOT TO SCALE



**RESOLUTION NO. P.C. 13-**

**A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF LODI APPROVING THE REQUEST OF FOSTER ADVANTAGE INC., FOR A TENTATIVE PARCEL MAP TO DIVIDE ONE PARCEL IN TO FOUR LOTS AT 2540 LEGACY WAY**

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

**WHEREAS**, the property is located at 2540 Legacy Way (APN: 058-230-14); and

**WHEREAS**, the project proponent is Cindy Foster, on behalf of Foster Advantage, Inc., 8953 Creekstone Circle, Roseville, CA 95747; and

**WHEREAS**, Foster Advantage, Inc., 8953 Creekstone Circle, Roseville, CA 95747; and

**WHEREAS**, the property is zoned R-2, Single-Family Residence; and

**WHEREAS**, the property has a General Plan land use designation of LDR, Low Density Residential; and

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

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

1. The project is exempt from CEQA review pursuant to § 15315 (Class 15, Minor Land Divisions) of the CEQA Guidelines. Class 15 exempts the division of land into four or fewer parcels when the division is in conformance with the General Plan and Zoning Code, no variances or exceptions are required, all services and access to the proposed parcels to local standards are available, the parcel was not involved in a division of a larger parcel within the previous 2 years, and the parcel does not have an average slope greater than 20 percent. The Applicant's proposed tentative parcel map complies with all applicable residential development standards established in the General Plan and Zoning Code. No variances are required for the proposed subdivision. Access to all public facilities and infrastructure will be provided for each resultant parcel. The subject property is relatively flat and has not been involved in a subdivision within the last 2 years. Based on staff's review of the project, no special circumstances exist that would create a reasonable possibility that the proposed tentative parcel map will have a significant effect on the environment.
2. The procedural requirements of the Map Act have been strictly followed and the tentative parcel map complies with all applicable engineering and zoning standards pertaining to grading, drainage, utility connections, lot size and density.
3. The density and lot sizes that will be created as a result of the proposed subdivision are consistent with the density range of 0.1-7 units per acre prescribed by the Land Use Chapter of the General Plan, and there is no applicable specific plan governing the site.
4. The site is physically suitable for the type or proposed density of development. The proposed subdivision will create four new lots with adequate land area to support a detached single-family dwelling with standard setbacks and ample useable private yard space.
5. The project site is not located in a sensitive environment or in close proximity to the habitat of any sensitive wildlife species, but rather in a fully developed urban area surrounded by other residential and institutional land uses. The scope of the project will only add one single-family dwelling to the area, making it of such minor nature so as not to have a significant adverse impact the environment.
6. The lots being created will comply with all applicable single-family sanitary sewer service and stormwater runoff treatment requirements, as well as other similar environmental and life safety regulations and standards.
7. The proposed Tentative Parcel Map can be served by all public utilities.

8. The proposed Tentative Parcel Map does not conflict with easements, acquired by the public at large, for access through or use of property within the proposed map.
9. The Tentative Parcel Map complies with the requirements of Chapter 16.08 of the Lodi Municipal Code regulating Tentative Maps.
10. None of the mandatory findings for tentative map denial within the State Subdivision Map Act, § 66474 apply to this proposal.

**NOW, THEREFORE, BE IT DETERMINED AND RESOLVED** by the Planning Commission of the City of Lodi that Use Permit Application No. 12-P-01 is hereby approved, subject to the following conditions:

1. The applicant/owner and/or successors in interest and management shall defend, indemnify, and hold the City of Lodi, its agents, officers, and employees harmless of any claim, action, or proceeding (including legal costs and attorney's fees) to attack, set aside, void, or annul this Use Permit, so long as the City promptly notifies the applicant of any claim, action, or proceedings, and the City cooperates fully in defense of the action or proceedings. The City may elect, in its sole discretion, to participate in the defense of said claim, action, or proceeding.
2. The Tentative Parcel Map shall expire within 24 months of Planning Commission approval or a time extension must be granted by the Planning Commission.
3. The Final Map shall be in substantial conformance to the approved Tentative Parcel Map, as conditioned, and that any future development shall be consistent with applicable sections of the Municipal Code.
4. Any buildings constructed on the new parcels shall be subject to setback, lot coverage, off street parking, and all other City of Lodi Municipal Code requirements.
5. The applicant shall meet all requirements of the currently adopted edition of the California Building, Fire and City of Lodi Municipal Codes in effect at the time of building permit application.
6. 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.
7. No variance from any City of Lodi adopted code, policy or specification is granted or implied by this approval.

Public Works Department

8. Dedication of public utility easements as required by the various utility companies and the City of Lodi.
9. In order to assist the City of Lodi in providing an adequate water supply, the Owner/Developer on behalf of itself, its successors and assigns, shall enter into an agreement with the City that the City of Lodi be appointed as its agent for the exercise of any and all overlying water rights appurtenant to the proposed parcels, and that the City may charge fees for the delivery of such water in accordance with City rate policies. In addition, the agreement shall assign all appropriative or prescriptive rights to the City. The agreement will establish conditions and covenants running with the land for all lots in the subdivision and provide deed provisions to be included in each conveyance.
10. Submit final map per City and County requirements including the following:
  - a) Preliminary title report.
  - b) Standard note regarding requirements to be met at subsequent date.
11. All development plans and construction activities shall comply with the City of Lodi Stormwater Development Standards. Conformance with the stormwater runoff control requirements must be demonstrated prior to issuance of building permit.

12. Payment of the following prior to final parcel map filing unless indicated otherwise:
- a) Filing and processing fees and charges for services performed by City forces per the Public Works Fee and Service Charge Schedule.
  - b) Development Impact Mitigation Fees per the Public Works Fee and Service Charge Schedule at the time of building permit final.

**Dated: February 13, 2013**

I certify that Resolution No. 12-19 was passed and adopted by the Planning Commission of the City of Lodi at a regular meeting held on February 13, 2013 by the following vote:

**AYES:** Commissioners:

**NOES:** Commissioners:

**ABSENT:** Commissioners:

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

**CITY OF LODI  
PLANNING COMMISSION  
Staff Report**

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**MEETING DATE:** February 13, 2013

**APPLICATION NO:** Abandonment 13-0001

**REQUEST:** Request for Planning Commission review for consistency with the General Plan related to proposed abandonment of a portion of an existing Access Easement on private property located at 2223 West Kettleman Lane

**APPLICANT:** Pastor Scott Hubbard, on behalf of Lodi First Nazarene Church  
P. O. Box 1495  
Lodi, CA 95241

**OWNER:** Lodi First Nazarene Church  
1806 West Kettleman Lane, Suite H  
Lodi, CA 95242

**PROJECT ADDRESS:** 2223 West Kettleman Lane  
Lodi, CA 95241

**SUMMARY**

Pastor Scott Hubbard, on behalf of Lodi First Nazarene Church, has requested that the City abandon an existing Access Easement on their property located at 2223 West Kettleman Lane. The easement is 25-ft in width and was deeded to the City in 1971 as possible road way from Kettleman Lane to the north. With the development of the properties to the north and Tienda Drive, this easement is no longer necessary. Abandonment of the easement may facilitate development of the underused parcel and will not negatively affect traffic circulation.

**RECOMMENDATION**

Staff recommends that the Planning Commission adopt the attached resolution finding that the abandonment of an easement located at 2223 West Kettleman Lane, as described below, is consistent with the General Plan and does not conflict with policies and goals of the General Plan.

**REGULATORY SETTINGS**

This item is being brought to the Planning Commission for review and comment as required by the City Code and the State Streets and Highway Code. Street vacation petitions must first be reviewed by the Planning Commission before they are brought to the City Council for consideration. The City Council is required by State Statute and City ordinance to review abandonment of an easement or vacation of any street or public right-of-way only after the location, character, extent and effect have been considered by the Planning Commission with reference to the General Plan goals and policies. The City Council must hold a public hearing after Planning Commission referral.

**BACKGROUND**

In 1971, the subject easement was granted to the City of Lodi by a deed recorded in Book 21 of Surveys, at Page 26, of Official Records of San Joaquin County. The initial grant was for a public road from Kettleman Lane to north; however, the properties to the north have developed with public streets, which have since rendered the subject easement unnecessary.

**ANALYSIS**

The proposed abandonment would eliminate public ingress and egress located along the western boundary of the subject property. The reason the applicant's request for abandonment of the right-of-way easement is that (a) is it no longer necessary with the development of Tienda Drive and (b) to

facilitate development of the property. Staff has determined through its review that there are no planned facilities within the easement, and the easement is no longer necessary. Staff did not find any goal or policies in the General Plan that directly or indirectly speak to the proposal and the proposal does not appear to be in conflict with any goal or policy. The right-of-way easement is not necessary and does not serve public purposes. Staff concurs with the applicant's request for abandonment.

Action on this item will be in the form of a recommendation to the City Council. The Planning Commission's recommendation will be submitted to the Council in the form of a resolution. A draft resolution finding that the proposed abandonment is consistent with the General Plan is attached for the Commission's consideration. Following Planning Commission review of the proposal for General Plan consistency, the City Council will hold a public hearing. Prior to the City Council hearing, the City will mail a notice of proposed abandonment to all utility agencies and affected jurisdictions. The Council will consider the Planning Commission's recommendation, comment from utility agencies and other jurisdictions and public comment prior to taking final action on the request.

**ENVIRONMENTAL ASSESSMENTS:**

This project is exempt from environmental review under State CEQA Guidelines Section 15305 Class 5, which applies to minor alterations in land use limitations with an average slope of less than 20%, which do not result in any changes in land use or density and the project is also exempt under CEQA Section 15061(b)(3), the general rule that CEQA does not apply to projects where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment. The project was also found to be categorically exempt according to the California Environmental Quality Act, Article 19 15332 Class 32 (a) (b) (c) (d) and (e). The project is classified as in-fill development meeting the conditions described therein. No significant impacts are anticipated and no mitigation measures have been required. No significant impacts are anticipated and no mitigation measures have been required.

**PUBLIC HEARING NOTICE:**

Legal Notice for the subject request was advertised on Saturday, February 2, 2013. Seventeen (17) public hearing notices were sent to all property owners of record within a 300-foot radius of the subject property as required by Government Code §65091 (a) (3).

**ALTERNATIVE PLANNING COMMISSION ACTIONS:**

- Approve this request with Alternate Conditions
- Deny the request
- Continue the Request

Respectfully Submitted,

Concur,

Immanuel Bereket  
Associate Planner

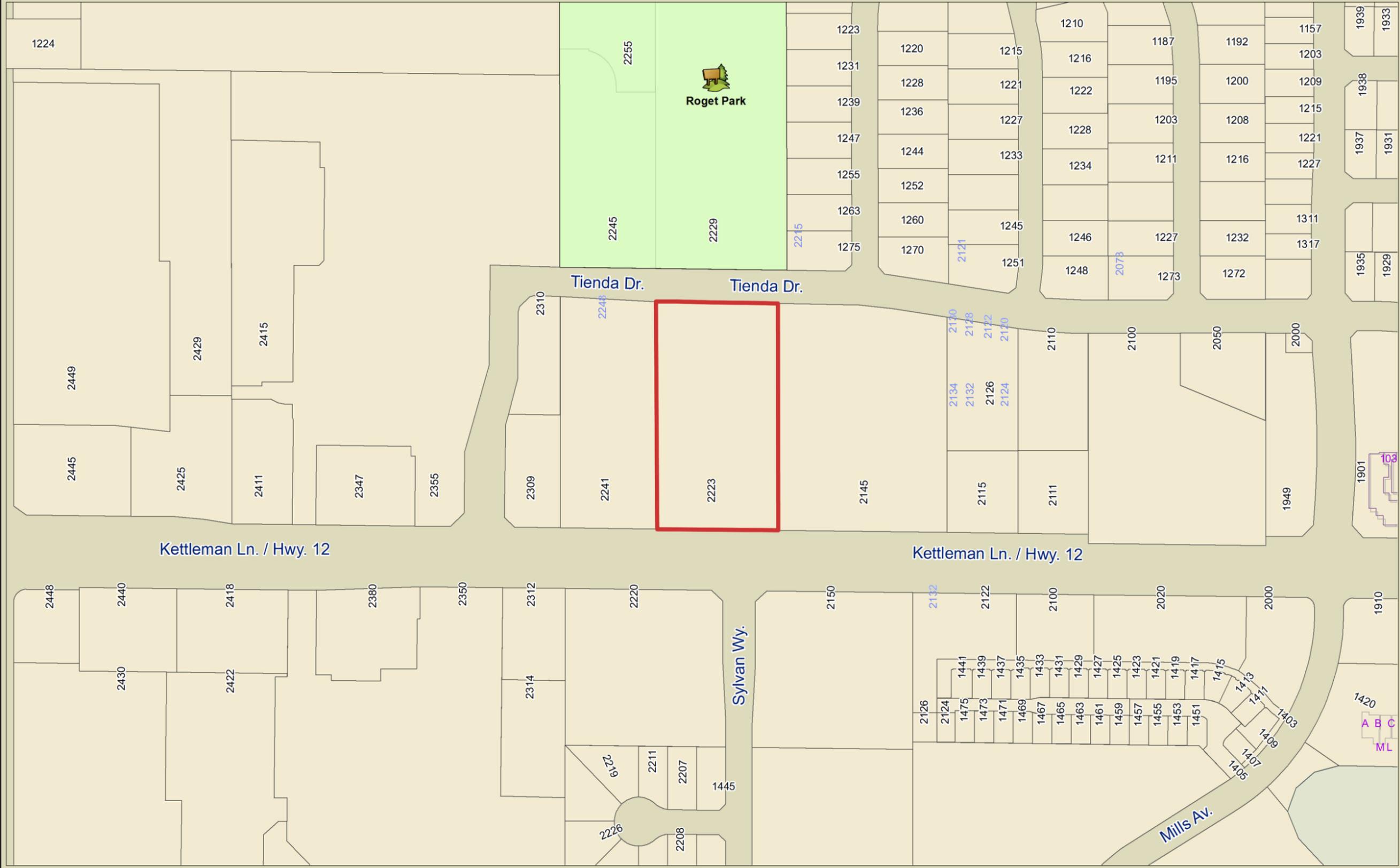
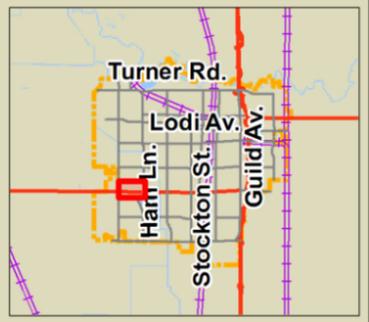
Konradt Bartlam  
Community Development Director

**ATTACHMENTS:**

1. Vicinity Map
2. Aerial Map
3. Legal Description & Parcel Map
4. Draft Resolution



# Vicinity Map



**Legend**  
Project Area



NAD\_1983\_StatePlane\_California\_III\_FIPS\_0403\_Feet  
© City of Lodi Geographic Information Systems

This map is a user generated static output from an Internet mapping site and is for reference only. Data layers that appear on this map may or may not be accurate, current, or otherwise reliable.  
**THIS MAP IS NOT TO BE USED FOR NAVIGATION**

**Map Scale**  
1:2,400

**Notes**

# Aerial Map



**EXHIBIT "A"**  
**LEGAL DESCRIPTION FOR**  
**ROADWAY RIGHT-OF-WAY ABANDONMENT**

All of that real property being the "25' Right of Way" in the southern "2.98 Ac." parcel as shown on the "Map of Survey" filed in Book 21 of Surveys at Page 26, San Joaquin County Records, lying in Section 10, Township 3 North, Range 6 East, Mount Diablo Meridian, City of Lodi, County of San Joaquin, State of California, more particularly described as follows:

The West 25 feet of the West 251.00 feet of the East 1260.00 feet of the South one-half of the Southeast one-quarter of said Section 10.

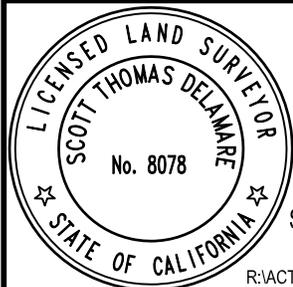
EXCEPTING THEREFROM the North 780.96 feet of said West 251.00 feet.

ALSO EXCEPTING THEREFROM the real property known as public road Tienda Drive, as described in the Street Easement Deed recorded September 11, 1998 as Instrument Number 98107561.

ALSO EXCEPTING THEREFROM the real property known as public road Kettleman Lane (State Highway Route 12) as described in the Street Easement Deed recorded September 11, 1998 as Instrument Number 98107561 in regard to the North 19 feet of said Kettleman Lane, and as shown on said "Map of Survey" in regard to the South 25 feet of the North 44 feet of said Kettleman Lane.

A plat attached hereto is hereby made a part of this Legal Description.

**END OF DESCRIPTION**



**JDF ENGINEERING, INC.**

**CIVIL ENGINEERING AND SURVEYING**  
 3421 TULLY ROAD · SUITE J · MODESTO, CA 95350  
 TELEPHONE (209) 529-7450 · FAX (209) 529-0457

SIGNED: *Scott Thomas De la Mare* February 01, 2013  
**SCOTT THOMAS DELAMARE LS 8078** DATE

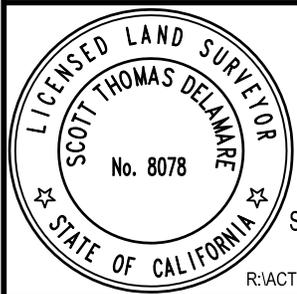
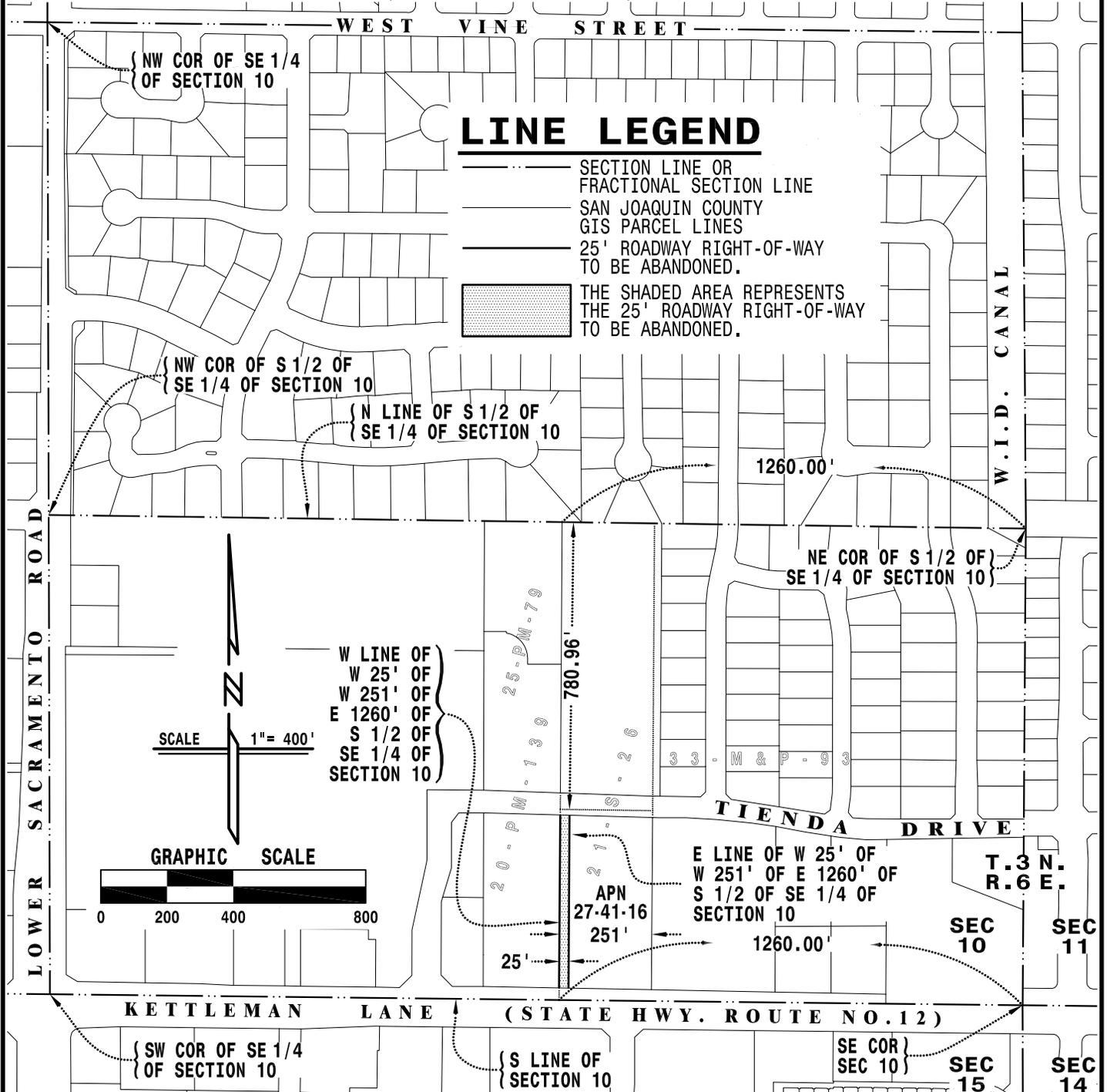
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PAGE	<b>1</b>	OF	<b>2</b>
JOB	1301		
AUTHOR	STD		
CK. BY	AJD		
SCALE	N/A		
DATE	Feb, 2013		

# EXHIBIT "A"

## PLAT TO ACCOMPANY LEGAL DESCRIPTION FOR ROADWAY RIGHT-OF-WAY ABANDONMENT

LYING IN THE SOUTH HALF OF THE SOUTHEAST QUARTER OF SECTION 10, T.3 N., R.6 E., M.D.B.M.  
CITY OF LODI, COUNTY OF SAN JOAQUIN, STATE OF CALIFORNIA



**DF ENGINEERING, INC.**  
**CIVIL ENGINEERING AND SURVEYING**  
 3421 TULLY ROAD · SUITE J · MODESTO, CA 95350  
 TELEPHONE (209) 529-7450 · FAX (209) 529-0457

SIGNED: *Scott Thomas Delamare* February 01, 2013  
**SCOTT THOMAS DELAMARE LS 8078** DATE

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PAGE	<b>2</b>	OF 2
JOB	1301	
AUTHOR	STD	
CK. BY	AJD	
SCALE	1" = 400'	
DATE	Feb, 2013	

**RESOLUTION NO. P.C. 13-**

**A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF LODI THAT DETERMINES THAT THE POSSIBLE ABANDONMENT OF A RIGHT-OF-WAY EASEMENT LOCATED AT 2223 WEST KETTLEMAN LANE WILL BE IN CONFORMITY WITH THE CITY'S GENERAL PLAN GOALS AND POLICIES**

**WHEREAS**, the Planning Commission of the City of Lodi has heretofore held a duly noticed public hearing, as required by law, on the requested determination, in accordance with the California Government Code Section 65402.(a); and

**WHEREAS**, the project proponent is Pastor Scott Hubbard, on behalf of Lodi First Nazarene Church, P. O. Box 1495, Lodi, CA 95241; and

**WHEREAS**, the property owner Lodi First Nazarene Church, 1806 West Kettleman Lane, Suite H, Lodi, CA 95242; and

**WHEREAS**, the requested abandonment of an easement is located on a property, within the City of Lodi, located at 2223 West Kettleman Lane, Lodi CA 95242; and

**WHEREAS**, the future use of the property will be consistent with the development standards of the adopted General Plan and will be subject to Zoning regulations; and

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

Based upon the evidence in the staff report and project file, the Planning Commission of the City of Lodi makes the following findings:

1. This project is exempt from environmental review under State CEQA Guidelines Section 15305 Class 5, which applies to minor alterations in land use limitations with an average slope of less than 20%, which do not result in any changes in land use or density and the project is also exempt under CEQA Section 15061(b)(3), the general rule that CEQA does not apply to projects where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment. The project was also found to be categorically exempt according to the California Environmental Quality Act, Article 19 15332 Class 32 (a) (b) (c) (d) and (e). The project is classified as in-fill development meeting the conditions described therein. No significant impacts are anticipated and no mitigation measures have been required. No significant impacts are anticipated and no mitigation measures have been required.
2. The possible abandonment of a right-of-way easement on the subject property will be consistent with all applicable goals, policies and standards of the City's adopted General Plan Policy Document.
3. The proposed abandonment of a right-of-way easement will not be detrimental to the health, safety or general welfare of persons residing or working in the neighborhood or be detrimental or injurious to the health, safety, peace or general welfare of the City.

4. The subject right-of-way easement is no longer needed for a municipal purpose; may facilitate development of the parcel; provide opportunity for infill development; and return land to the tax roll.

**NOW, THEREFORE, BE IT DETERMINED AND RESOLVED** by the Planning Commission of the City of Lodi that the proposed possible abandonment of a right-of-way easement has been determined to be in conformity with the City's adopted General Plan, and hereby is referred to the City Council for adoption.

**Dated: February 13, 2013**

I certify that Resolution No. 13- was passed and adopted by the Planning Commission of the City of Lodi at a regular meeting held on February 13, 2013 by the following vote:

**AYES:** Commissioners:

**NOES:** Commissioners:

**ABSENT:** Commissioners:

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

# Item 6a.



**MEMORANDUM, City of Lodi, Community Development Department**

**To:** City of Lodi Planning Commissioners  
**From:** Rad Bartlam, Community Development Director  
**Date:** Planning Commission Meeting of 02/13/13  
**Subject:** Past meetings of the City Council and other meetings pertinent to the Planning Commission

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

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

Date	Meeting	Title
February 6, 2013	Regular	Public Hearing to Consider the Certification of the Final Negative Declaration, Adoption of the Lodi Land Use Development Code, and Draft Zoning Map