

<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, JANUARY 8, 2014 @ 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 – “November 13, 2013”
3. PUBLIC HEARINGS
  - a. Request for a Tentative Parcel Map to divide one parcel into two lots at 1255 South Beckman Road. (Applicant: Carlos Hidalgo, on behalf of Fifth Wave LLC; File 13-P-03; CEQA Determination: Categorical Exemption Pursuant to CEQA Guidelines Section 15315 (Class 15, Minor Land Divisions))
  - b. Request for a Tentative Parcel Map to divide two parcels into three lots at 500 and 506 Daisy Avenue. (Applicant: Jeffrey Kirst; File 13-P-04; CEQA Determination: Categorical Exemption Pursuant to CEQA Guidelines Section 15315 (Class 15, Minor Land Divisions))
  - c. Request for Planning Commission approval of a Use Permit to allow a Type-47 On-Sale Beer, Wine and Distilled Spirits in conjunction with a restaurant operation at 910 South Cherokee Lane. (Applicant: Alberto Ortiz; File Number: 13-U-08)

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

4. PLANNING MATTERS/FOLLOW-UP ITEMS
5. ANNOUNCEMENTS AND CORRESPONDENCE
6. ACTIONS OF THE CITY COUNCIL
7. 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.

Right to Appeal: (see pg 2 for details)

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, NOVEMBER 13, 2013**

1. CALL TO ORDER / ROLL CALL

The Regular Planning Commission meeting of November 13, 2013 was called to order by Vice Chair Kiser at 7:00 p.m.

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

Absent: Planning Commissioners – Chair Jones

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

2. MINUTES

“October 9, 2013”

MOTION / VOTE:

The Planning Commission, on motion of Commissioner Kirsten, Heinitz second, approved the minutes of October 9, 2013 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 Kiser called for the public hearing to consider the request of the Planning Commission for approval of a Use Permit to operate a fitness center known as Twin Arbor Express in an approximately 6,000 sq. ft. building located at 369 South Lower Sacramento Road, Suite B. (Applicants: Lodi Athletic Clubs; File Number: 13-U-16; CEQA Determination: Categorical Exemption Pursuant to CEQA Guidelines Section 15332 In-Fill Development Projects)

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

Commissioner Heinitz asked if there would be sufficient enough parking if all the tenant spaces were filled. Associate Planner Bereket stated that there will be enough parking. Heinitz asked if there has been any discussion with Raley’s to see if there employees could park closer to the store rather in front of this location because this could become a problem in the future.

Hearing Opened to the Public

- Larry Gilzean, Twin Arbor’s representative, came forward to answer questions. He stated that the company is pleased to be adding a fourth site to Lodi.
- Commissioner Olson asked what the capacity will be for this site. Mr. Gilzean stated that the occupancy is set at 79, but they only expect to have 40 to 50 people at any given time.

Public Portion of Hearing Closed

MOTION / VOTE:

The Planning Commission, on motion of Kirsten, Slater second, approved the request to continue the Use Permit to operate a fitness center known as Twin Arbor Express in an approximately 6,000 sq. ft. building located at 369 South Lower Sacramento Road, Suite B subject to the conditions in the resolution. The motion carried by the following vote:

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

- b) Notice thereof having been published according to law, an affidavit of which publication is on file in the Community Development Department, Vice Chair Kiser called for the public hearing to consider the request of the Planning Commission for approval of a Use Permit to allow a Type-41 On-Sale Beer and Wine Alcoholic Beverage Control License at 315 South Cherokee. (Applicant: Darlene Victorino Machado; File Number: 13-U-17; CEQA Determination: Categorical Exemption Pursuant to CEQA Guidelines Section 15332 In-Fill Development Projects)

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

Hearing Opened to the Public

- Darlene Machado, applicant, came forward to answer questions.
- Commissioner Slater asked why the establishment is now asking for the sale of alcohol. Ms Machado stated that she has had many requests by customers and she has her catering license and can rent out the restaurant in the evenings for private parties. She would like to be able to offer customers what they are asking for.
- Vice Chair Kiser asked if staff would be trained through ABC. Ms. Machado stated that she would have the staff members trained.

Public Portion of Hearing Closed

MOTION / VOTE:

The Planning Commission, on motion of Commissioner Heinitz, Olson second, approved the request to continue the Use Permit to allow a Type-41 On-Sale Beer and Wine Alcoholic Beverage Control License at 315 South Cherokee subject to the conditions in the resolution. The motion carried by the following vote:

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

- c) Notice thereof having been published according to law, an affidavit of which publication is on file in the Community Development Department, Vice Chair Kiser called for the public hearing to consider the request of the Planning Commission Approval of a Tentative Parcel Map to divide one parcel into three lots at 2311 Cochran Road. (Applicant: Baumbach and Piazza, Inc., on behalf of Shirley A. Meath; File 13-P-02; CEQA Determination: Categorical Exemption Pursuant to CEQA Guidelines Section 15315 (Class 15, Minor Land Divisions))

Associate Planner Bereket gave a brief PowerPoint presentation based on the staff report. Bereket pointed out a letter received from a property owner adjacent to the project. Staff recommends approval of the project as conditioned.

Commissioner Kirsten asked if the Commission could condition the project with a condition that only a single family dwelling be placed on the site. Director Bartlam stated that the Commission could place a condition on the parcel map, but that would be an unusual condition. The lot is 14,000 square feet and ample bit enough to accommodate a single-story dwelling.

Hearing Opened to the Public

- Steve Pechin, representative for the applicant, came forward to answer questions.
- Commissioner Kirsten asked what the height of the dwelling will be on the back lot. Mr. Pechin stated that he does not know what the intention is for the dwelling is at this time.
- Commissioner Slater asked about the flag lot access. He expressed his concerned over the congestion of having a narrow access. Mr. Pechin stated that there are several examples in the neighborhood where this plan works. Director Bartlam pointed out several examples on the aerial map of flag lots that are in and around this location. Commissioner Heinritz added that he personally has had several flag lot development success stories. The pole part of the lot belongs to the property owner unless there is a private easement to share the access.

Public Portion of Hearing Closed

MOTION / VOTE:

The Planning Commission, on motion of Commissioner Olson, Heinritz second, approved the request for a Tentative Parcel Map to divide one parcel into three lots at 2311 Cochran Road subject to the conditions in the resolution. The motion carried by the following vote:

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

4. PLANNING MATTERS/FOLLOW-UP ITEMS

None

5. ANNOUNCEMENTS AND CORRESPONDENCE

None

6. ACTIONS OF THE CITY COUNCIL

Director Bartlam stated that a memo has been provided, and staff is available to answer any questions that the Commission may have.

7. ACTIONS OF THE SITE PLAN AND ARCHITECTURAL REVIEW COMMITTEE

Commissioner Kiser gave a brief report on the items heard at the meeting earlier this evening.

4. ART IN PUBLIC PLACES

Commissioner Kirsten reported that the City Council did approve the funding for the bronze statues for downtown.

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

None

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

Commissioner Heinitz asked about new businesses taking over existing business locations that have had a Use Permit in the past do they need a new Use Permit. Bartlam stated that the Use Permit runs with the land.

Commissioner Olson asked about people renting out their homes or trade homes and the collection of TOT. Bartlam stated that the issue with the collection of the TOT, Transient Occupancy Tax, is figuring out how to regulate the reporting of how often they rotate out of the residence.

Director Bartlam stated that Commissioner Jones's father passed away last week and staff extends their condolence to him and his family.

10. ADJOURNMENT

There being no further business to come before the Planning Commission, the meeting was adjourned at 7:35 p.m.

ATTEST:

Konradt Bartlam  
Planning Commission Secretary

Item 3a

**CITY OF LODI  
PLANNING COMMISSION  
Staff Report**

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**MEETING DATE:** January 8, 2014

**APPLICATION NO:** Parcel Map: 13-P-03

**REQUEST:** Request for a Tentative Parcel Map to divide one parcel into two lots at 1255 South Beckman Road. (Applicant: Carlos Hidalgo, on behalf of Fifth Wave LLC; File 13-P-03; CEQA Determination: Categorical Exemption Pursuant to CEQA Guidelines Section 15315 (Class 15, Minor Land Divisions))

**LOCATION:** 1255 South Beckman Road  
(APN: 049-310-53)  
Lodi, CA 95242

**APPLICANT:** Carlos Hidalgo, on behalf of Fifth Wave LLC  
7847 Prospect Court  
Granite Bay, CA 95746

**PROPERTY OWNER:** Fifth Wave LLC  
7847 Prospect Court  
Granite Bay, CA 95746

**RECOMMENDATION**

Staff recommends the Planning Commission approve the request of Carlos Hidalgo, on behalf of Fifth Wave LLC, for a Tentative Parcel Map to subdivide one parcel into two (2) lots, subject to the conditions outlined in the draft resolution.

**PROJECT/AREA DESCRIPTION**

**General Plan Designation:** Commercial

**Zoning Designation:** GC, General Commercial

**Property Size:** 6.78 acre (295,337 sq. ft.)

The adjacent zoning and land use are as follows:

<b>ADJACENT ZONING DESIGNATIONS AND LAND USES</b>			
	<b>GENERAL PLAN</b>	<b>ZONING CLASSIFICATION</b>	<b>EXISTING LAND USE</b>
<b>North</b>	Commercial	GC, General Commercial	Commercial uses
<b>South</b>	Commercial	GC, General Commercial	Commercial uses
<b>East</b>	Commercial	GC, General Commercial	Commercial uses
<b>West</b>	Roadway	Roadway	State Highway 99

**EXECUTIVE SUMMARY:**

The applicant is proposing to subdivide a 6.78-acre parcel located at 1255 South Beckman Road into two (2) lots. The site currently exists as a single developed parcel with minimal slope differential that was previously used by Kia Motors dealership. Surrounding land uses include Industrial (M) type land uses intermingled with general commercial retail and visitor serving hotels. The new parcel would allow future commercial development. The site has a General Plan land use designation of Commercial and a corresponding zoning designation of General Commercial (GC) on the City's official zoning map.

**BACKGROUND**

The project site was previously used for a car dealership. It contains an auto dealership, repair garage, and offices. Construction was completed on February of 2001. The building was vacant for nearly three years before it was purchased earlier this year by the applicant. There are no pending Code violations.

**ANALYSIS**

The applicant is proposing to subdivide a 6.78-acre (±295,337 square foot) parcel into two (2) lots. The first lot (Parcel 1) will contain the existing building, customer parking and car display for the dealership. This parcel would measure approximately 5.54-acres. The second lot (Parcel 2) will consist of parking lot and would be located on the southwest corner of the parcel. It will abut Beckman Road and would measure approximately 1.25-acres. This parcel will be developed with commercial use in the future.

**General Plan Conformance:**

The subject property is currently designated Commercial by the Land Use Map of the General Plan. The following General Plan Land Use goals and policies are applicable to the proposed subdivision:

- **Land Use Goal 1:** Create a balanced and sustainable land use pattern that provides for a diversity of uses and satisfies existing and future needs.
- **Land Use Goal 3:** Promote revitalization of key commercial spines of the community.
- **Land Use Goal 7:** Strengthen the City’s economic base and provide employment opportunities for residents to achieve a more balanced jobs/housing ratio.
- **Land Use Policy 22:** promote infill development that maintains the scale and character of established neighbors.
- **CDL Policy 2:** Ensure that Zoning and Subdivision ordinances include measures that guide infill development to be compatible with the scale, character and identity of adjacent development.

The project site is surrounded by commercial development and uses. As proposed, Parcels 1 would contain the existing building and significant parking and car display area so that the property will continue to be used for an auto dealership. Parcel two will be developed with commercial uses, which will create employment opportunities. In staff’s opinion, the proposed commercial parcel map is consistent with the General Plan goals and policies in that it addresses the following key factors: the need for site infrastructure and access, the need for revenue generating land uses, the need to increase employment opportunities for residents and the desire to create a balanced development between residential and commercial uses.

**Zoning Compliance:**

This project is located within the General Commercial (GC) zoning district. and as conceptually proposed will provide a subdivision of land that is consistent with the pattern of development envisioned within the GC zoning district. The application does not include a proposal for development of the new parcel at this time. Future development on the proposed lot would require a Development Plan and appropriate CEQA document be processed to the Planning Commission and SPARC, if necessary, for formal review and approval. The following tables depict how each lot will comply with the standard GC zoning district lot requirements:

PARCEL 1			
Standard	Required	Proposed	Compliance
Lot Area	8,000 sq. ft	+241,322 ft	Yes, Exceeds
Lot Width	75 ft	255 ft* 199 ft**	Yes, Exceeds
Depth	100 ft	215 ft	Yes, Exceeds

\* Along Beckman Road \*\* Along Business Park Drive

PARCEL 2			
Standard	Required	Proposed	Compliance
Lot Area	8,000 sq. ft	+254,450 ft	Yes, Exceeds
Lot Width	75 ft	158 ft	Yes, Exceeds
Depth	100 ft	140 ft	Yes, Exceeds

The applicant has not prepared plans for development of Parcel 2 3 at this time, but any future development on that lot will be subject to building permit review by City staff to ensure compliance with all applicable zoning standards and all other applicable provisions of the Municipal Code.

*Site Circulation:* Vehicular access to all parcels will be provided from Beckman Road. There will be no shared driveway.

Pursuant to Lodi Development Code Section 17.52.070, in order to approve the proposed tentative parcel map, the proposed subdivision must be found consistent with the general plan, zoning ordinance, and the Subdivision Map Act (State law). Based on the analysis above, staff finds that the proposed tentative map is in conformance with the General Plan, zoning ordinance, and the Subdivision Map Act. However, if any of the following findings can be made, the tentative map shall be denied. Staff was not able to make any of the following findings and recommends approval of the Tentative Map:

1. *The proposed subdivision including design and improvements is not consistent with the General Plan or any applicable Specific Plan. **NOTE:** The density that will be created as a result of the proposed subdivision is consistent with the General Plan density range provided for commercial uses. In addition, there is no applicable specific plan governing the site.*
2. *The site is not physically suitable for the type or proposed density of development. **Note:** The subdivision will create one new lot with adequate land area to support a free standing commercial use with standard setbacks and ample useable onsite parking spaces.*
3. *The design of the subdivision or the proposed improvements are likely to cause substantial environmental damage or injure fish or wildlife or their habitat. **Note:** The project site is not located in a sensitive environment but rather in a fully developed urban area surrounded by other commercial and urban land uses. The scope of the project would only add one new commercial use to the area, making it of such minor nature so as not to have a significant adverse impact on the environment.*
4. *The design of the subdivision or type of improvements is likely to cause serious public health or safety problems. **Note:** The lot being created will comply with all applicable commercial and industrial sanitary sewer service and stormwater runoff treatment requirements, as well as other similar environmental and life safety regulations and standards.*
5. *The design of the subdivision or the type of improvements will conflict with easements, acquired by the public at large for access through or use of, property within the proposed subdivision. This finding may not be made if the Commission finds that alternate easements for access or use will be provided, and that they will be substantially equivalent to ones previously acquired by the public. This finding shall apply only to easements of record, or to easements established by judgment of a court of competent jurisdiction, and no authority is hereby granted to the review authority to determine that the public at large has acquired easements of access through or use of property within the proposed subdivision. **Note:** There are no public easements that currently encumber the property to be subdivided, and all modifications made to the existing public improvements fronting the parcels during development of the property will be required to be reconstructed to current City standards.*
6. *The discharge of wastewater from the proposed subdivision into the community wastewater system would result in violation of existing requirements prescribed by the California Regional Water Quality Control Board. **Note:** Future development of the parcel will be subject to review and approval by the City and affected local and regional agencies. Full compliance with applicable water quality regulations would be required prior to issuance of a building permit. In addition, the design of the sewer lines in the project area and treatment capacity at the City's sewage treatment plant have adequate conveyance and capacity to accommodate the existing development on the parcels proposed by the Tentative Map.*
7. *Information available to the City indicates adverse soil or geological conditions and the subdivider has failed to provide sufficient information to the satisfaction of the Public Works Director or the Commission that the conditions can be corrected in the plan for the development. **Note:** No information has been found to indicate the project site is considered contaminated, or may contain contaminant particles.*

8. *The proposed subdivision is not consistent with all applicable provisions of this Title, any other applicable provision of the Municipal Code, and the Subdivision Map Act. Note:* The procedural requirements of the Map Act are being followed and both parcels will comply with the applicable engineering and zoning standards pertaining to grading, drainage, utility connections, lot size and density.

The tentative parcel map has been reviewed by the Public Works and Electrical Utility Departments and they recommended approval subject to the conditions outlined in the attached resolution. 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. Staff finds that the proposed Tentative Parcel Map consistent with the General Plan.

#### **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, November 30, 2103. Seventeen (17) 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:**

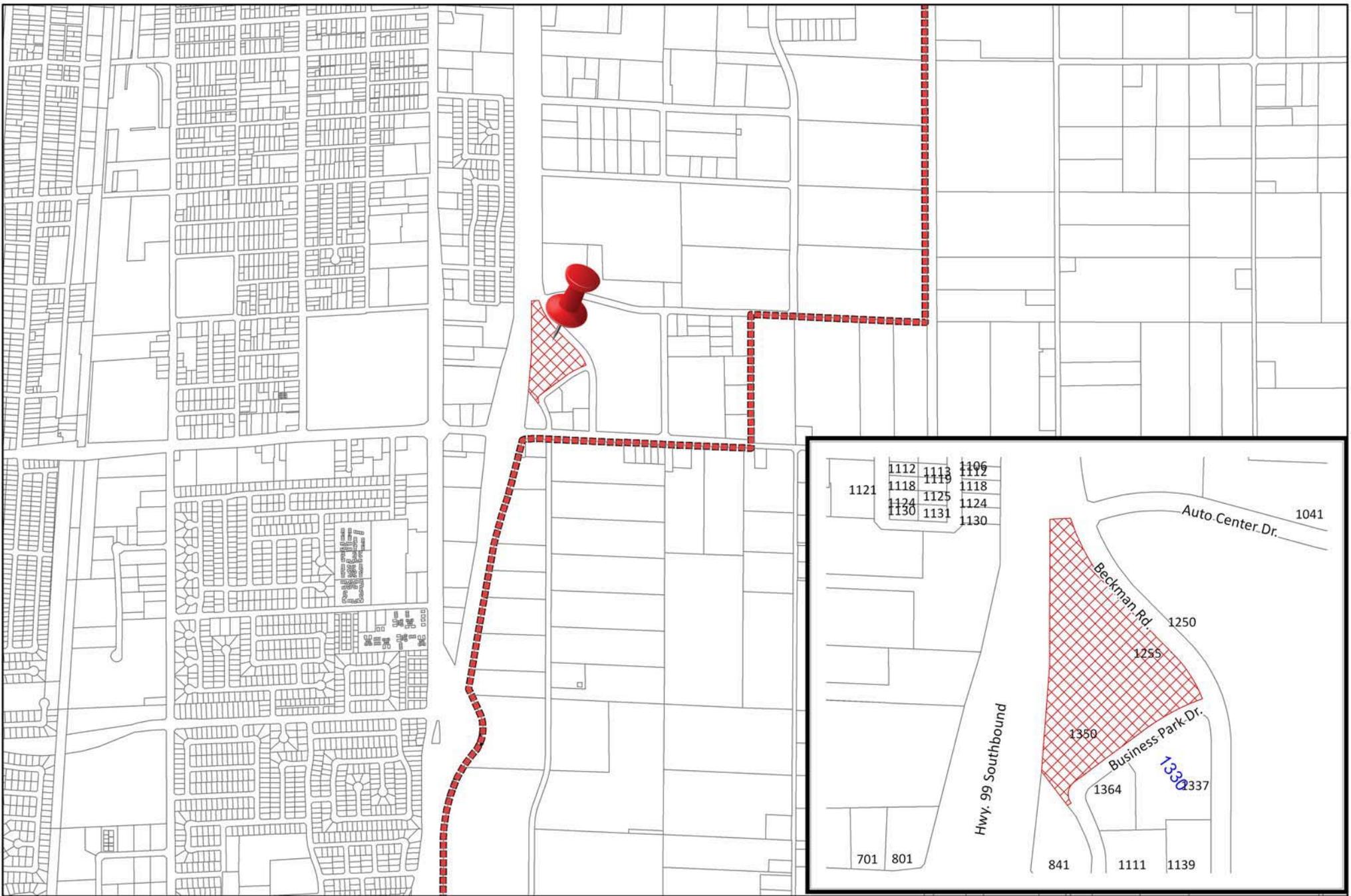
- Approve with additional/different conditions
- Deny the request
- Continue the request

Respectfully Submitted,

Konradt Bartlam  
Community Development Director

#### **ATTACHMENTS:**

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

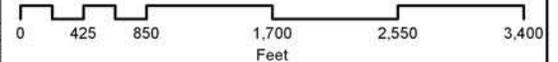


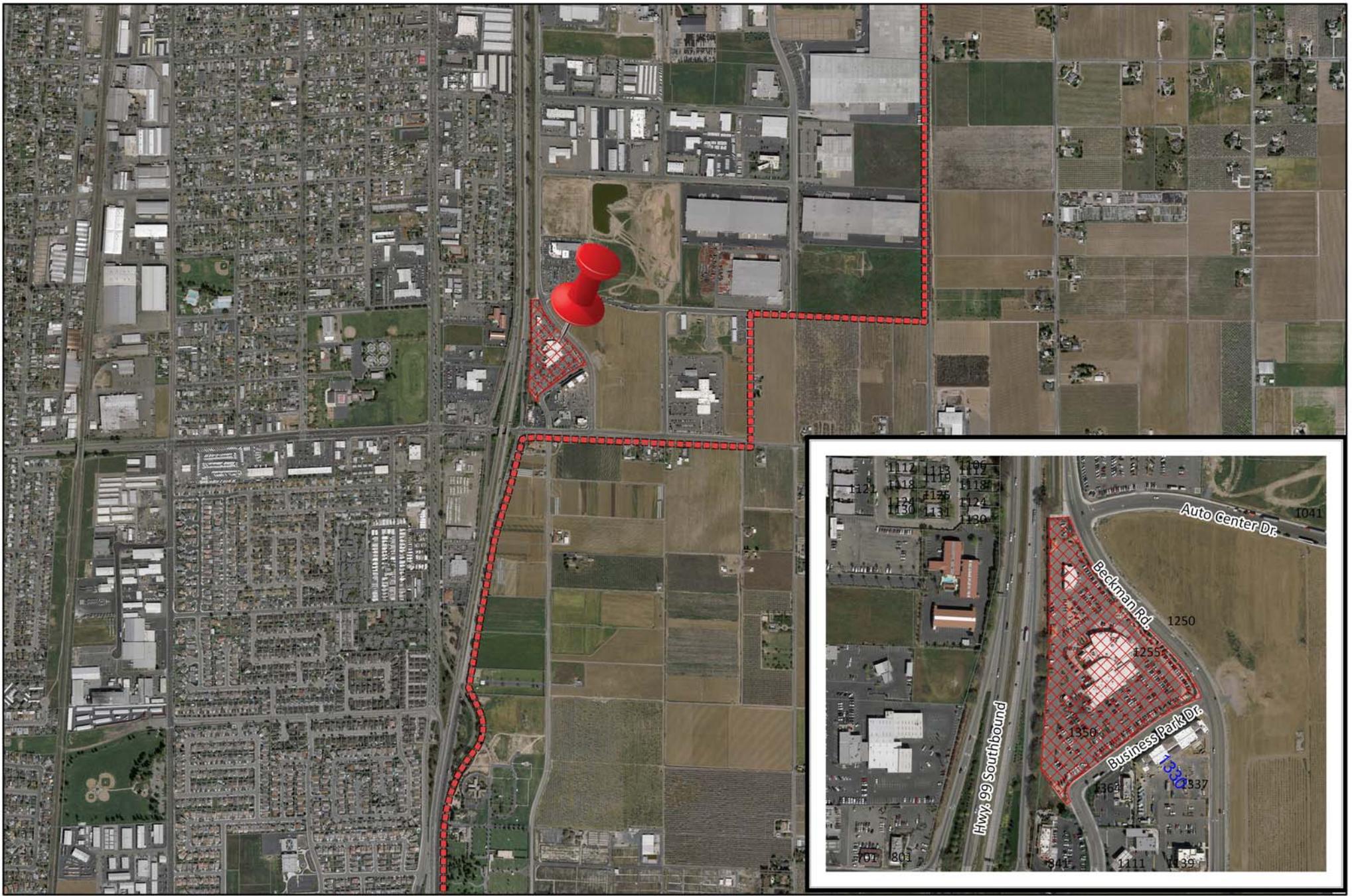
### Legend



1255 North Beckman Road

## Vicinity Map



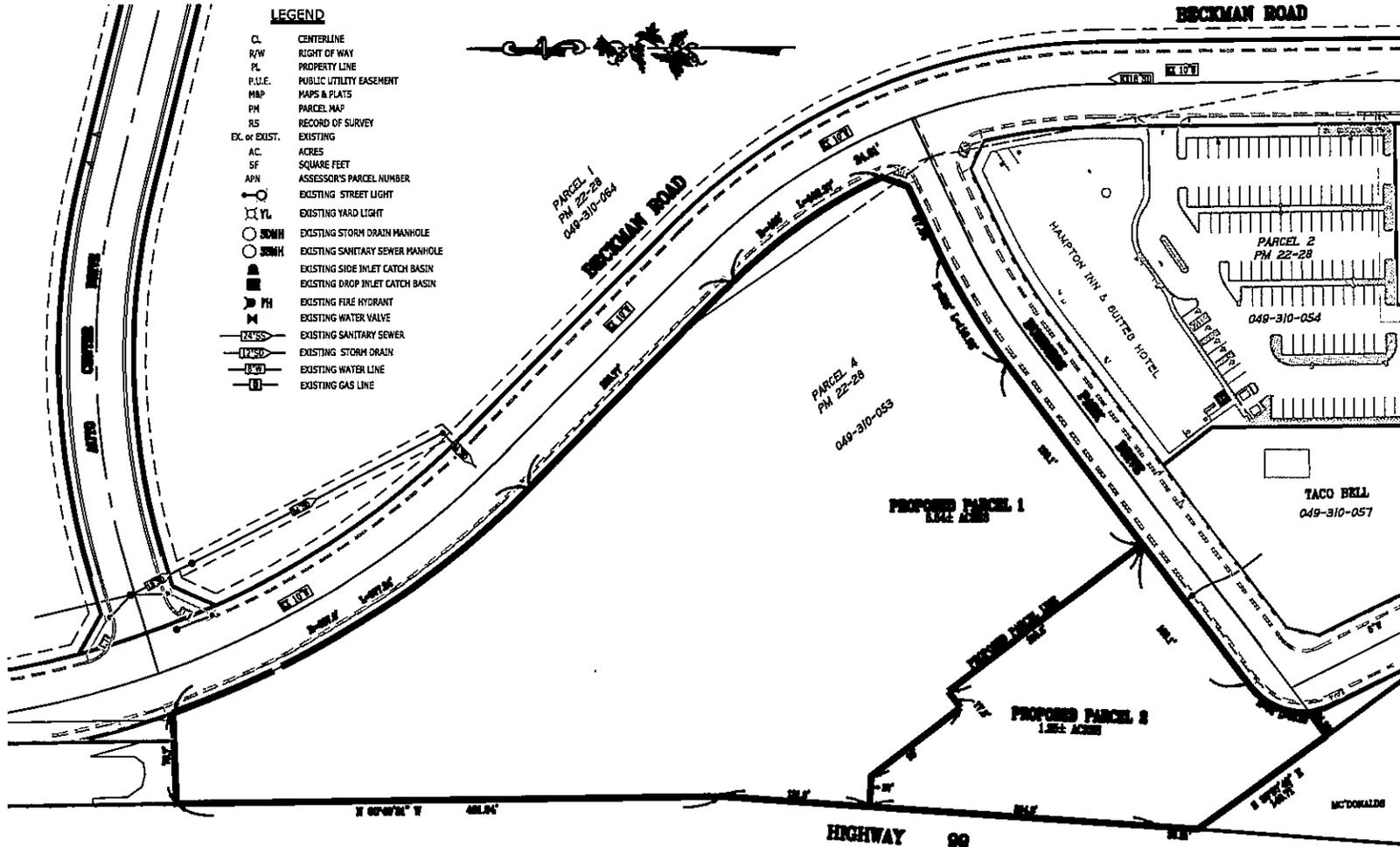


**Legend**

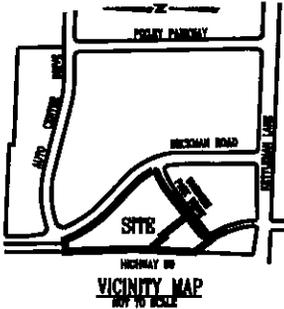
 1255 North Beckman Road

**Aerial Map**





- LEGEND**
- C. CENTERLINE
  - R/W RIGHT OF WAY
  - PL PROPERTY LINE
  - P.U.E. PUBLIC UTILITY EASEMENT
  - M&P MAPS & PLATS
  - PM PARCEL MAP
  - RS RECORD OF SURVEY
  - EX or EXIST. EXISTING
  - AC ACRES
  - SF SQUARE FEET
  - APN ASSESSOR'S PARCEL NUMBER
  - ⊙ EXISTING STREET LIGHT
  - ⊙ EXISTING YARD LIGHT
  - ⊙ EXISTING STORM DRAIN MANHOLE
  - ⊙ EXISTING SANITARY SEWER MANHOLE
  - ⊙ EXISTING SIDE INLET CATCH BASIN
  - ⊙ EXISTING DROP INLET CATCH BASIN
  - ⊙ EXISTING FIRE HYDRANT
  - ⊙ EXISTING WATER VALVE
  - EXISTING SANITARY SEWER
  - EXISTING STORM DRAIN
  - EXISTING WATER LINE
  - EXISTING GAS LINE



ASSESSOR PARCEL NUMBER:  
APN: 049-310-053

SITUS ADDRESS:  
1251 & 1255 BECKMAN ROAD  
LODI, CA 95240

CURRENT ZONING:  
COMMERCIAL

CURRENT GENERAL PLAN DESIGNATION:  
COMMERCIAL

FLOOD INFORMATION:  
NOT SUBJECT TO 100 YEAR FLOOD.

UTILITIES AND FACILITIES:  
WATER - CITY OF LODI  
SEWAGE - CITY OF LODI  
STORM DRAINAGE - CITY OF LODI  
ELECTRICITY - CITY OF LODI  
GAS - PG&E  
TELEPHONE - ATT

OWNER:  
FIFTH WAVE LLC  
CARLOS HIDALGO, MANAGING MEMBER  
7847 PROSPECT COURT  
GRANETE BAY CA 95745  
(916) 275-2275

APPLICANT:  
FIFTH WAVE LLC  
CARLOS HIDALGO, MANAGING MEMBER  
7847 PROSPECT COURT  
GRANETE BAY CA 95746  
(916) 275-2275

MAP PREPARED BY:  
BAUMBACH AND PIAZZA, INC.  
323 WEST ELM STREET  
LODI, CALIFORNIA 95240  
(209) 368-6618

**TENTATIVE PARCEL MAP**

A resubdivision of Parcel 4 as shown on that Parcel Map filed for record in Book 22 of Parcel Maps at Page 28, San Joaquin County Records, being of a portion of the southwest quarter of SEC.7, T.3 N., R.7 E., M.D.B. & M. City of Lodi, San Joaquin County, California

SEPTEMBER, 2013 SCALE 1" = 60'

I AM THE OWNER OF RECORD AND CONSENT TO THE FILING OF THIS TENTATIVE MAP.

FIFTH WAVE LLC  
CARLOS HIDALGO, MANAGING MEMBER

DATE \_\_\_\_\_

SHEET 1 OF 1  
JOB NO. 15024  
DATE

**TENTATIVE PARCEL MAP**

DATE: 11/16/13  
PROJECT: 15024 - Beckman Road  
DRAWN BY: SBP  
CHECKED BY: SBP  
APPROVED BY: \_\_\_\_\_  
DATE: \_\_\_\_\_

BAUMBACH & PIAZZA, INC.  
323 WEST ELM STREET  
LODI, CALIFORNIA 95240  
STEPHEN L. PIERCE



**RESOLUTION NO. P.C. 14-**

**A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF LODI APPROVING THE REQUEST OF THE REQUEST OF CARLOS HIDALGO, ON BEHALF OF FIFTH WAVE LLC, FOR A TENTATIVE PARCEL MAP TO SUBDIVIDE ONE PARCEL INTO TWO (2) LOTS 1255 SOUTH BECKMAN ROAD,**

**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 Development Code, Section 17.74 (Public Hearings); and

**WHEREAS**, the property is located at 1255 South Beckman Road (APN: 049-310-53); and

**WHEREAS**, the project proponent is Carlos Hidalgo, on behalf of Fifth Wave LLC, 7847 Prospect Court, Granite Bay, CA 95746; and

**WHEREAS**, the property owner is Fifth Wave LLC, 7847 Prospect Court, Granite Bay, CA 95746; and

**WHEREAS**, the property is zoned General Commercial (GC); and

**WHEREAS**, the property has a General Plan land use designation of Commercial; 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 site is physically suitable for the type or proposed density of development. The proposed subdivision will create one new lot with adequate land area to support a commercial development with adequate space for onsite parking as well as a building.
4. 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 commercial and residential uses.
5. The lot being created will comply with all applicable commercial and industrial sanitary sewer service and stormwater runoff treatment requirements, as well as other similar environmental and life safety regulations and standards.
6. The proposed Tentative Parcel Map can be served by all public utilities.
7. 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.

8. The Tentative Parcel Map complies with the requirements of Chapter 17.52 of the Lodi Development Code regulating Tentative Maps.
9. 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 Parcel Map Application No. 13-P-03 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 parcel 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 adopted edition of the California Building, Fire and City of Lodi Municipal Codes in effect at the time of building permit application.
6. Final plans for the development of Parcels 2 and, and any modifications to the existing development of Parcel 1, shall be submitted to the City for review and approval to ensure compliance with relevant codes, policies and other requirements of the Lodi Municipal Code.
7. All development shall comply with the City of Lodi Stormwater Run-off requirements, including the quantitative treatment standards. Conformance with the stormwater runoff control requirements must be demonstrated prior to issuance of building permit.
8. 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.
9. No variance from any City of Lodi adopted code, policy or specification is granted or implied by this approval.

Public Works Department:

10. A shared maintenance agreement for the storm drainage between the two parcels must be recorded and submitted to the Public Works Department.
11. Dedication of public utility easements as required by the various utility companies and the City of Lodi.
12. Payment of the following in effect at the time of collection:
  - a. Filing and processing fees and charges for services performed by City forces per the Public Works Fee and Service Charge Schedule.
13. All project design and construction shall be in compliance with the Americans with Disabilities Act (ADA). City of Lodi Standard Plans are in the process of being revised and it should not be assumed that current standard plans are fully ADA compliant. Project compliance with ADA standards is the developer's responsibility.

14. Submit final parcel map per City and County requirements including the following:
- a. Preliminary title report.
  - b. Standard note regarding requirements to be met at subsequent date.
  - c. Include items conditioned above.

**Dated: January 8, 2014**

I certify that Resolution No. 14- was passed and adopted by the Planning Commission of the City of Lodi at a regular meeting held on January 8, 2014 by the following vote:

**AYES:** Commissioners:

**NOES:** Commissioners:

**ABSENT:** Commissioners:

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

Item 3b.

**CITY OF LODI  
PLANNING COMMISSION  
Staff Report**

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**MEETING DATE:** January 8, 2013

**APPLICATION NO:** Parcel Map: 13-P-04

**REQUEST:** Request for a Tentative Parcel Map to divide two parcels into three lots at 500 and 506 Daisy Avenue. (Applicant: Jeffrey Kirst; File 13-P-04; CEQA Determination: Categorical Exemption Pursuant to CEQA Guidelines Section 15315 (Class 15, Minor Land Divisions))

**LOCATION:** 500 Daisy Avenue  
(APN: 039-350-07)  
Lodi, CA 95242

506 Daisy Avenue  
(APN: 039-350-05)  
Lodi, CA 95242

**APPLICANT:** Jeffrey Kirst  
P. O. Box 1259  
Woodbridge, CA 95258

**PROPERTY OWNER:** Tokay Development, Inc.  
P. O. Box 1259  
Woodbridge, CA 95258

**RECOMMENDATION**

Staff recommends the Planning Commission approve the request of Jeffrey Kirst for a Tentative Parcel Map to subdivide two parcels into three lots, subject to the conditions outlined in the draft resolution.

**PROJECT/AREA DESCRIPTION**

**General Plan Designation:** Low Density Residence  
**Zoning Designation:** Low Density Residence  
**Property Size:** 0.39 acre (17,034 sq. ft.)

The adjacent zoning and land use are as follows:

<b>ADJACENT ZONING DESIGNATIONS AND LAND USES</b>			
	<b>GENERAL PLAN</b>	<b>ZONING CLASSIFICATION</b>	<b>EXISTING LAND USE</b>
<b>North</b>	Low Density Residence	Low Density Residence	Residence
<b>South</b>	Low Density Residence	Low Density Residence	Residence
<b>East</b>	Low Density Residence	Low Density Residence	Residence
<b>West</b>	Low Density Residence	Low Density Residence	Residence

**EXECUTIVE SUMMARY:**

The applicant is proposing to subdivide two parcels into three (3) lots. The existing lots are located at 500 and 506 Daisy Avenue. The tentative parcel map proposes to create three low density residences. Construction plans for the new houses have not been submitted at this time, but will be subject to approval by all relevant City departments through the building permit review process. The properties are currently zoned Low Density Residence (LDR) and designated Low Density Residential (1-8 units per acre) in the General Plan. As proposed, all three lots will exceed minimum lot size and width. For these reasons, staff recommends the Planning Commission approve Tentative Parcel Map subject to the findings and conditions contained in the draft resolution.

**BACKGROUND**

The subject parcels are located on the southwest corner of California Street and Daisy Avenue. 500 Daisy Avenue is a vacant parcel and while the second parcel contains only a small shed. There are no pending Code violations.

**ANALYSIS**

The applicant is proposing to subdivide two parcels into three (3) lots. The first lot (Parcel 1) will face Daisy Avenue and would measure approximately 6,000 sq. ft. The existing shed would be contained in this parcel. The second lot (Parcel 2) will be a corner parcel measuring ±5,942 square feet. The last lot (Parcel 3) will consist of a standard rectangular-shaped parcel with full frontage along California Street measuring ±5,091 square feet. Each parcel will have its own egress/ingress points.

**General Plan Conformance:**

The subject property is currently designated Low Density Residential (1-8 dwelling units per acre) by the Land Use Map of the General Plan. The following General Plan Land Use and Community Design and Livability (CDL) goals and policies are applicable to the proposed subdivision:

- **Land Use Policy 3:** Do not allow development at less than the minimum density prescribed by each residential land use category.
- **Land Use Policy 22:** promote infill development that maintains the scale and character of established neighbors.
- **CDL Policy 2:** Ensure that Zoning and Subdivision ordinances include measures that guide infill development to be compatible with the scale, character and identity of adjacent development.

All of the surrounding parcels are currently designated Low Density Residential (1-8 units per acre). The average density that will be created as a result of the proposed subdivision is 3.12 units per acre, which is consistent with this Low Density Residential density prescribed by the City’s General Plan. Therefore, the proposed subdivision would result in new lot sizes that are consistent with the density prescribed by the General Plan. The attached Tentative Map illustrates the final parcel configuration that would result from the proposed project.

**Zoning Compliance:**

The following tables depict how each lot will comply with the standard Low Density Residence lot requirements:

PARCEL 1			
Standard	Required	Proposed	Compliance
Lot Area	5,000 sq. ft	6,000 ft	Yes, Exceeds
Lot Width	50 ft	50 ft	Yes

PARCEL 2			
Standard	Required	Proposed	Compliance
Lot Area	5,000 sq. ft	5,942 ft	Yes, Exceeds
Lot Width	50 ft	65 ft	Yes, Exceeds

PARCEL 3			
Standard	Required	Proposed	Compliance
Lot Area	5,000 sq. ft	5,091 ft	Yes
Lot Width	50 ft	55 ft	Yes, Exceeds

The Zoning Code implements the goals and policies of the General Plan. The subject property is zoned Low Density Residence (LDR). As can be seen from the tables above, the proposed tentative parcel map meets or exceeds the minimum lot area, lot width, and street frontage standards. The applicant has not prepared construction plans at this time, but any future development on the parcels will be subject to building permit review by City staff to ensure compliance with all applicable zoning standards, flag lot standards, and all other applicable provisions of the Municipal Code.

*Site Circulation:* All three parcels will abut public road. Vehicular access to all parcels will be provided from either California Street or Daisy Avenue. There will be no shared driveway. The application is conditioned to install sidewalk, curb, gutter, driveways and other offsite improvements.

Pursuant to Lodi Development Code Section 17.52.070, in order to approve the proposed tentative parcel map, the proposed subdivision must be found consistent with the general plan, zoning ordinance, and the Subdivision Map Act (State law). Based on the analysis above, staff finds that the proposed tentative map is in conformance with the General Plan, zoning ordinance, and the Subdivision Map Act. However, if any of the following findings can be made, the tentative map shall be denied. Staff was not able to make any of the following findings and recommends approval of the Tentative Map:

- 1. The proposed subdivision including design and improvements is not consistent with the General Plan or any applicable Specific Plan. NOTE:* The site contains a General Plan designation of very low density residential reserved primarily for single-family residences and compatible uses. The maximum density allowed in the very low General Plan designation is eight (8) dwelling units per net acre. The site consists of approximately 0.39 net acres, which results in a maximum density of 3.12 onsite ( $3 \times 0.39 = 3.12$ ). The proposed map is consistent with the General Plan in that creation of three (3) lots for single-family homes are allowed within the maximum density (8) permitted onsite in the very low density, land use designation of the General Plan.
- 2. The site is not physically suitable for the type or proposed density of development. Note:* No unusual topographic features are present onsite that would prohibit development of proposed parcels. The site is generally flat, with no regulated sensitive areas or other limiting topographic features. The site consists mainly of disturbed, grassy vegetation. The subdivision will create two new lots both with adequate land area to support a detached single-family dwelling with standard setbacks and ample useable private yard space.
- 3. The design of the subdivision or the proposed improvements are likely to cause substantial environmental damage or injure fish or wildlife or their habitat. Note:* The project site is not located in a sensitive environment but rather in a previously disturbed area surrounded by other residential land uses. The scope of the project would only add one new parcel to the area, making it of such minor nature so as not to have a significant adverse impact on the environment.
- 4. The design of the subdivision or type of improvements is likely to cause serious public health or safety problems. Note:* Frontage improvements along California Street and Daisy Avenue are required for the development of the parcels. Access and utilities for each lot are available on Daisy Avenue and California Street, public streets. 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.
- 5. The design of the subdivision or the type of improvements will conflict with easements, acquired by the public at large for access through or use of, property within the proposed subdivision. This finding may not be made if the Commission finds that alternate easements for access or use will be provided, and that they will be substantially equivalent to ones previously acquired by the public. This finding shall apply only to easements of record, or to easements established by judgment of a court of competent jurisdiction, and no authority is hereby granted to the review authority to determine that the public at large has acquired easements of access through or use of property within the proposed subdivision. Note:* There are no public easements that currently encumber the properties to be subdivided, and all modifications made to the existing public improvements fronting the two parcels during development of the properties will be required to be reconstructed to current City standards.
- 6. The discharge of wastewater from the proposed subdivision into the community wastewater system would result in violation of existing requirements prescribed by the California Regional Water Quality Control Board. Note:* Future development of the parcels will be subject to review and approval by the City and affected local and regional agencies. Full compliance with applicable water quality regulations would be required prior to issuance of a building permit.
- 7. Information available to the City indicates adverse soil or geological conditions and the subdivider has failed to provide sufficient information to the satisfaction of the Public Works Director or the Commission that the conditions can be corrected in the plan for the development. Note:* No information has been found to indicate the project site is considered contaminated, or may contain contaminant particles.

8. *The proposed subdivision is not consistent with all applicable provisions of this Title, any other applicable provision of the Municipal Code, and the Subdivision Map Act. Note:* The procedural requirements of the Map Act are being followed and both parcels will comply with the applicable engineering and zoning standards pertaining to grading, drainage, utility connections, lot size and density.

The tentative parcel map has been reviewed by the Public Works and Electrical Utility Departments 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 driveways 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, meet the requirements of the Zoning Ordinance and is consistent with the General Plan. Based on the information provided in the analysis above, staff recommends approval of the Tentative Parcel Map subject to the findings and conditions of approval contained in the staff report.

#### **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, November 30, 2103. Sixty-eight (68) 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,

Konradt Bartlam  
Cummunity Development Director

#### **ATTACHMENTS:**

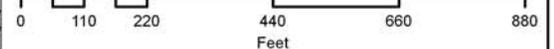
- A. Vicinity Map
- B. Aerial Map
- C. Tentative Map
- D. Draft Resolution

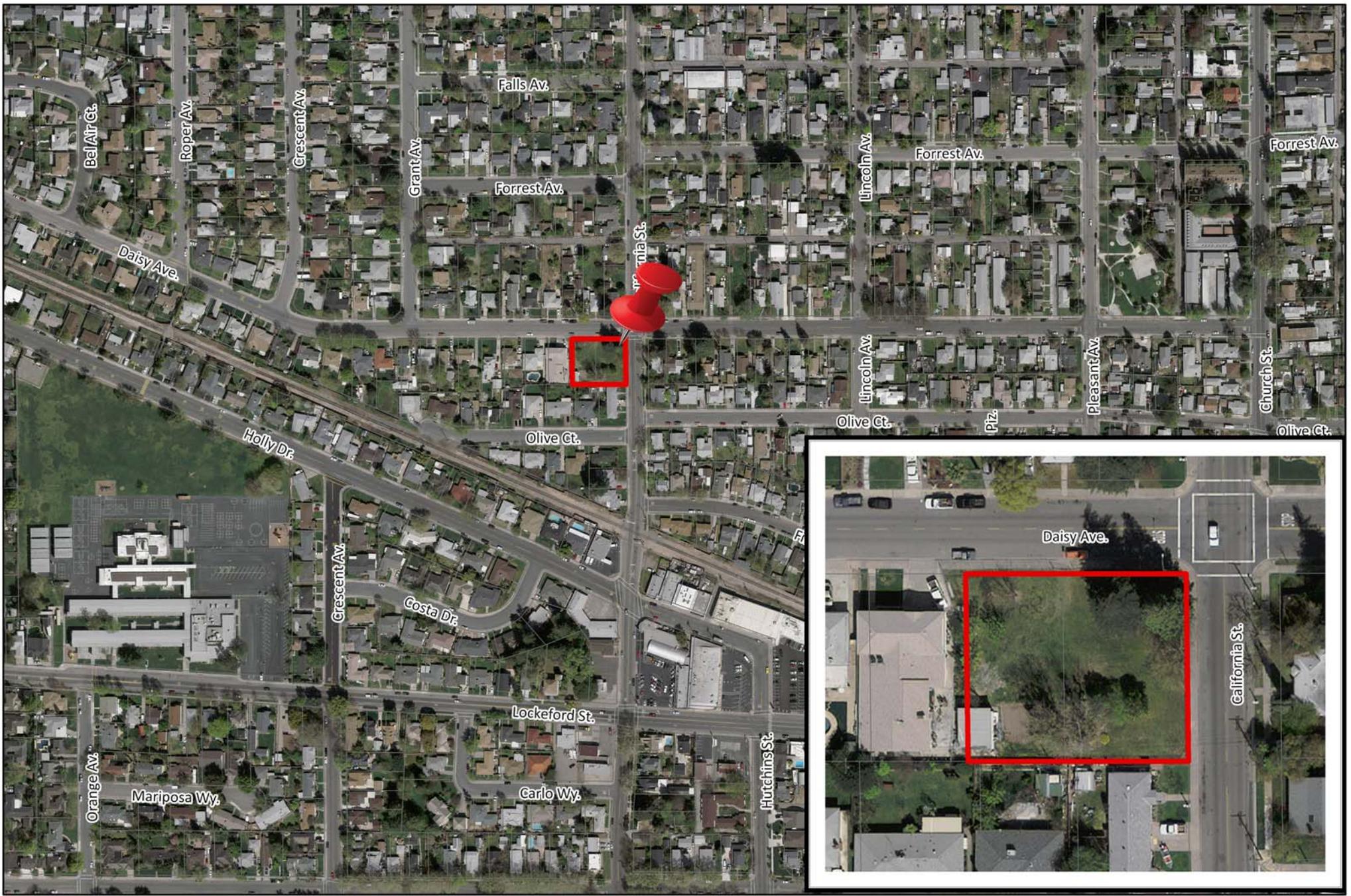


### Legend

 Project Location

# Vicinity Map

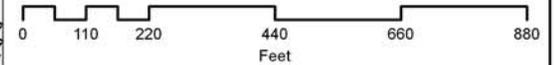




**Legend**

 Project Location

# Aerial Map



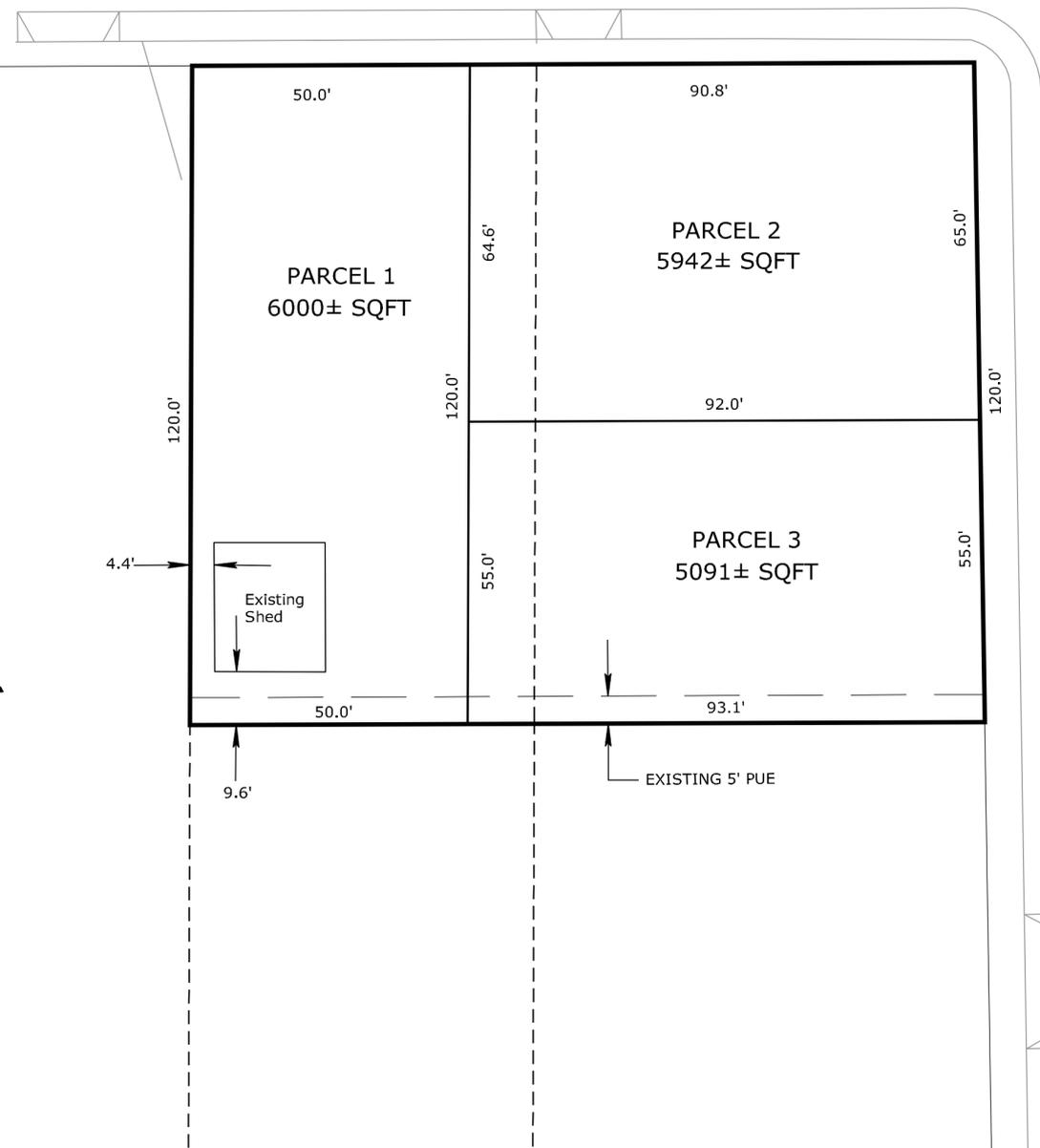


**BAUMBACH & PIAZZA, INC.**  
 CIVIL ENGINEERS • SURVEYORS  
 www.bpengineers.net

323 W. Elm St.  
 Lodi, CA 95240  
 209.368.6618

**TENTATIVE PARCEL MAP**  
 LOT 3 AND LOT 4 OF TRACT NO. 334,  
 "PRESZLER TRACT",  
 City of Lodi, San Joaquin County, California  
 October, 2013 Scale: 1"=40'  
 Sheet 1 of 1

DAISY AVENUE



**OWNER:**  
 JEFFREY KIRST  
 P.O. BOX 1259  
 WOODBRIDGE, CALIFORNIA 95258  
 (209) 334-4994

**MAP PREPARED BY:**  
 BAUMBACH AND PIAZZA, INC.  
 323 WEST ELM STREET  
 LODI, CALIFORNIA  
 (209) 368-6618

**PROJECT DESCRIPTION:**  
 CREATE THREE PARCELS FROM THE EXISTING TWO LOTS,  
 AS SHOWN.

**UTILITIES AND FACILITIES:**  
 WATER-CITY OF LODI; SEWAGE-CITY OF LODI; STORM  
 DRAINAGE-CITY OF LODI; ELECTRICITY-CITY OF LODI;  
 GAS-PG&E; TELEPHONE-SBC

**FLOOD INFORMATION:**  
 NOT SUBJECT TO 100 YEAR FLOOD.

**ASSESSOR PARCEL NUMBER:**  
 039-350-05 & 039-350-07

**SITUS ADDRESS:**  
 500 & 506 DAISY AVENUE

**ZONING:**  
 LDR

**GENERAL PLAN DESIGNATION:**  
 LDR

CALIFORNIA STREET

**CAUTION!!**



DO NOT SCALE THIS  
 DRAWING IF BAR DOES  
 NOT MEASURE 1 INCH.

**RESOLUTION NO. P.C. 14-****A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF LODI APPROVING THE REQUEST OF JEFFREY KIRST FOR A TENTATIVE PARCEL MAP TO SUBDIVIDE TWO PARCELS INTO THREE LOTS**

**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 Development Code, Section 17.74 (Public Hearings); and

**WHEREAS**, the properties are located at 500 and 506 Daisy Avenue (APN: 039-350-07 and 039-350-05, respectively); and

**WHEREAS**, the project proponent is Jeffrey Kirst, P. O. Box 1259, Woodbridge, CA 95258; and

**WHEREAS**, the property owner is Tokay Development, Inc., P. O. Box 1259, Woodbridge, CA 95258; and

**WHEREAS**, the property is zoned Low Density Residential; 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 1-8 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 two single-family dwellings to the area, making it of such minor nature so as not to have a significant adverse impact on 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 17.52 of the Lodi Development 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 Parcel Map Application No. 13-P-04 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 adopted edition of the California Building, Fire and City of Lodi Municipal Codes in effect at the time of building permit application.
6. Final plans for the development of Parcels 2 and three, and any modifications to the existing development of Parcel 1, shall be submitted to the City for review and approval to ensure compliance with relevant codes, policies and other requirements of the Lodi Municipal Code.
7. All development shall comply with the City of Lodi Stormwater Run-off requirements, including the quantitative treatment standards. Conformance with the stormwater runoff control requirements must be demonstrated prior to issuance of building permit.
8. 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.
9. No variance from any City of Lodi adopted code, policy or specification is granted or implied by this approval.

Public Works Department:

The Public Works Department has the following comments about the project that the Planning Commission may wish to consider:

10. Parcel 2 shall remove and replace the existing driveway with a new driveway conforming to City standards. New driveways for Parcel 1, 2 and 3 shall be installed per City of Lodi Standard Plan 112.
11. Remove and replace broken or offset sidewalk per City of Lodi Standard Plan 117.

12. Provide water and wastewater services for Parcels 1, 2 and 3. The water and wastewater service installations can be provided by City crews at the owner's expense or by an approved private contractor possessing the appropriate licenses.
13. Identify the dashed lines that extend past Parcels 1 and 3.
14. Project design and construction shall be in compliance with the City of Lodi Stormwater Development Standards.
15. Dedication of public utility easements as required by the various utility companies and the City of Lodi.
16. Obtain the following permits:
  - a. Encroachment permit issued by the Public Works Department for all work within the public right-of-way for the installation of roadway, curb, gutter and sidewalk.
17. Payment of the following:
  - 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 issuance for Parcels 1, 2 and 3: \$3,319.00 per parcel, fee includes Water, Wastewater, Streets and Parks and Recreation Fees.
  - c. If the applicant chooses to have the City install the wastewater service, the fee would be due at the time of building permit issuance: \$2,582.71 per parcel.
  - d. If the applicant chooses to have the City install the water service, the fee would be due at the time of building permit issuance: \$5,254.00 for a complete ¾-inch meter service per parcel.
  - e. Regional Transportation Impact Fee (RTIF) at the time of building permit issuance: \$3,000.82 per parcel.
18. All project design and construction shall be in compliance with the Americans with Disabilities Act (ADA). City of Lodi Standard Plans are in the process of being revised and it should not be assumed that current standard plans are fully ADA compliant. Project compliance with ADA standards is the developer's responsibility.
19. Submit final parcel map per City and County requirements including the following:
  - a. Preliminary title report.
  - b. Standard note regarding requirements to be met at subsequent date.
  - c. Include items conditioned above.

**Dated: January 8, 2014**

I certify that Resolution No. 14- was passed and adopted by the Planning Commission of the City of Lodi at a regular meeting held on January 8, 2014 by the following vote:

**AYES:** Commissioners:

**NOES:** Commissioners:

**ABSENT:** Commissioners:

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

Item 3c.

**CITY OF LODI  
PLANNING COMMISSION  
Staff Report**

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**MEETING DATE:** January 8, 2014

**APPLICATION NO:** Use Permit: 13-U-08

**REQUEST:** Request for Planning Commission approval of a Use Permit to allow a Type-47 On-Sale Beer, Wine and Distilled Spirits in conjunction with a restaurant operation at 910 South Cherokee Lane. (Applicant: Alberto Ortiz; File Number: 13-U-08)

**LOCATION:** 910 South Cherokee Lane  
APN: 047-420-09  
Lodi, CA 95240

**APPLICANT:** Alberto Ortiz  
2424 Douglas Road  
Stockton, CA 95207

**PROPERTY OWNER:** Alberto Ortiz  
2424 Douglas Road  
Stockton, CA 95207

**RECOMMENDATION**

Staff recommends the Planning Commission approve the request of Alberto Ortiz, on behalf of Blue Cebra Restaurant for a Use Permit to allow Type-47 On-Sale Beer, Wine and Distilled Spirits Alcoholic Beverage Control (ABC) license at 910 South Cherokee Lane, subject to conditions in the attached resolution.

**PROJECT/AREA DESCRIPTION**

**General Plan Designation:** Mixed Use Corridor  
**Zoning Designation:** Mixed Use Corridor  
**Property Size:** 33,000 sq. ft. (Restaurant measures 2,800 sq. ft.)

The adjacent zoning and land use characteristics:

	ADJACENT ZONING DESIGNATIONS AND LAND USES		
	GENERAL PLAN	ZONING CLASSIFICATION	EXISTING LAND USE
<b>North</b>	Mixed Use Corridor	Mixed Use Corridor	Retail Services
<b>South</b>	Mixed Use Corridor	Mixed Use Corridor	Retail Services
<b>East</b>	Low Density Residential	Low Density Residence	Residences
<b>West</b>	Mixed Use Corridor	Mixed Use Corridor	Retail Services

**SUMMARY**

The proposal is to allow a new full service restaurant "Blue Cebra Restaurant" to serve beer, wine and distilled spirits (liquor). The restaurant consists of a 2,800 square-foot dining room with 12 tables and 41 chairs (approximate). The project is located at 910 South Cherokee Lane, which was previously occupied by Porfi's and La Luna Restaurants. The project is located in the Mixed Use Corridor zoning district, which allows on and off sale of alcohol. The request involves a potentially controversial use (sale of liquor) on a street historically considered to be a high crime area/corridor (Cherokee Lane) for sale of alcoholic beverages and an area that is over-concentrated with alcohol

licenses. In order to allow additional ABC license, the Planning Commission must make a finding of public convenience and necessity in order to allow additional ABC license.

## **BACKGROUND**

Available City records indicate the project site has been used as a restaurant under different names, ownerships and management groups. The most recent restaurant (La Luna) closed July of 2011. The lot contains a one-story restaurant with onsite parking. To the east are detached single family residences. To the west of the property along Cherokee Lane are motel and commercial uses. To the north and south are commercial uses. Currently, there are no outstanding City or Building Code violations.

## **ANALYSIS**

According to the applicant, the proposed bone fide restaurant will offer lunch and dinner menu. The proposed hours of operations will be from 11:30 a.m. —10:00 p.m., daily. The restaurant is 2,800 square-feet in size, will have approximately 6 employees, and seating for approximately 50 people (see floor plan). The applicant requests a Use Permit approval to allow a Type 47 (Eating Place) ABC license, which authorizes the sale of beer, wine and distilled spirits for consumption on or off the premise where sold. In accordance with the State Department of Alcoholic Beverage Control (ABC) requirements, receipts from alcohol sale cannot be in excess of food sale receipts. ABC requires that restaurants with an alcohol license must operate and maintain the premise as a bona fide eating establishment. ABC also allows off-sale as part of an on-sale restaurant license.

Per Land Use Code Section 17.22.030, onsite consumption of alcohol beverages is permitted in the Mixed Use Corridor (MCO) zoning designation subject to an approved use permit by the Planning Commission. The City established the Use Permit requirement to gain local control over whether or not a license is appropriate for a particular location. The State Department of Alcoholic Beverage Control primarily controls issuance based on concentration of licenses within a particular Census Tract.

The project site belongs in Census Tract 44.03, which covers the area north of Kettleman Lane, east of the UPRR line, south of Lodi Avenue and west of the CCT line. The area is over-concentrated as defined by ABC for licenses. Planning staff is of the opinion a public need and necessity/convenience is warranted in this case because the primary function of the establishment is a bone fide restaurant and does not involve retail or wholesale distribution of alcohol. In the past, the Planning Commission and City staff have generally supported restaurants that wish to acquire ABC licenses because, typically, restaurants that serve alcohol in conjunction with food sales do not create alcohol related problems and is a way to increase sales. In addition, ABC requires that food sales must exceed alcohol sales, which would ensure the restaurant operates as a bone fide eating establishment.

The discretionary Use Permit procedure enables the Planning and city staff to impose conditions designed to avoid, minimize or mitigate potentially adverse effects of a certain use upon the community or other properties in the vicinity. Staff proposes operational conditions prohibiting live entertainment and noise control mitigation measures. Staff believes that the Planning Commission can make the required findings to approve the requested Use Permit. The required findings are as follows:

1. *The proposed use is allowed with a Use Permit within the applicable zoning district and complies with all applicable provisions of this Development Code.* **Comment:** The proposal involves a new restaurant in an existing restaurant building located within the Mixed Use Corridor (MCO) Zoning District, which allows sale of alcohol for on and off site consumption in accordance with Development Code Section 17.22.030. The intent of the MCO zoning district is to provide for a range of uses, emphasizing high quality development, and to encourage

revitalization of existing buildings. The proposal is consistent with this intent. The proposed use permit reuses a restaurant building that has been vacant since 2011.

2. *The proposed use is consistent with the General Plan and any applicable specific plan.* **Comment:** The General Plan land use designation for this area is Mixed Use Corridor, which provides for sale of alcohol. The proposed sale of beer, wine and distilled spirits in conjunction with a restaurant operation is the type of business allowed by the General Plan. The sale of alcoholic beverages as part of a restaurant is required by the State Department of Alcoholic Beverage Control to be secondary to food sales. Sale of beer and wine in conjunction with a restaurant is a common way to increase sales and is therefore, consistent, with the General Plan.
3. *The location, size, design and operating characteristics of the use or development is compatible with and shall not adversely affect or be materially detrimental to the health, safety, or welfare of persons residing or working in the area, or be detrimental or injurious to public or private property or improvements.* **Comment:** The proposed sale of beer and wine in conjunction with a restaurant operation is compatible with existing and future land uses in the immediate vicinity of the project area. The sale of beer and wine in a restaurant is consistent with the General Plan because commercial uses such as the one proposed are permitted to sell alcohol in accordance with Land Use Policy subject to a discretionary review. The sale of alcoholic beverages for on-premise consumption is a normal part of business operations for a restaurant and provides a convenience for customers of the business.
4. *The location, size, design, and operating characteristics of the proposed use would be compatible with the existing and future land uses in the vicinity.* **Comment:** 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, restaurants with sale of alcohol license have operated at this location and did not create. Third, the proposed use, as conditioned, will not have an adverse effect upon the use, enjoyment or valuation of property in the neighborhood because the proposed use will be located within an existing building with no additions to the footprint of the building. Fourth, the characteristics of the proposed sale of alcohol in a restaurant operation are secondary to the sale of food. In accordance with ABC requirements, receipts from alcohol sales shall not be in excess of food sales receipts. Lastly, it is found that the sale of alcoholic beverages as part of a restaurant is a convenience that does not typically create alcohol related problems.
5. *The proposed project has been reviewed in compliance with the California Environmental Quality Act (CEQA) and the Lodi Environmental Review Guidelines.* **Comment:** The project is found to be categorically exempt from CEQA review under 14 CCR §15332. Class 32 consists of projects characterized as in-fill development meeting the following conditions: (a) the project is consistent with the applicable general plan designation and all applicable general plan policies as well as with the applicable zoning designation and regulations, (b) the proposed development occurs within city limits on a project site of no more than five (5) acres substantially surrounded by urban uses, (c) the project site has no value as habitat for endangered, rare or threatened species, (d) approval of the proposed project would not result in any significant effects relating to traffic, noise, air quality, or water quality, and (e) the site of the proposed project can be adequately served by all required utilities and public services.

This review process for a Use Permit is intended to ensure that a restaurant located on a corridor historically deemed to be high in crime not be operated as a bar and result in nuisances sometimes associated with such establishments. The applicant's original application was for a Type 48 Alcohol Beverage Control license, which is issued to bars, taverns and night clubs. The Police Department and Planning staff met with the applicant to express concerns related to the presence of a bone fide bar close to residential uses and within an area generally known to be problematic. The applicants were advised that City staff would not support such an establishment

and would only permit a restaurant operation at this location. The applicants have since revised their application for a bone fide restaurant.

Staff sent a copy of the application to various City departments for comment and review. Their comments and requirements have been incorporated into the attached resolution. Staff has contacted the Lodi Police Department for their requirement for approval of the proposed on-sale beer, wine and distilled spirits (liquor) application. The general practice of the Lodi Police Department and Planning Division with sale of alcoholic beverages at restaurants is to not distinguish between alcoholic beverage types; that is beer and wine only versus liquor. However, heightened conditions of approval are proposed to ensure that the restaurant is not operated similar to a bar or without adequate oversight. To this end, staff is recommending that no live entertainment be approved at this site for at least a period of six months to review how the owners conduct the business and that the establishment shall operate as a bone fide restaurant in compliance with all applicable ABC and City regulations for restaurants. This operation would be similar to other restaurants that operated at this location in the past. The Planning Commission and the Planning staff have generally supported restaurants that wish to acquire an ABC license. If problems or concerns related to the sale of alcoholic beverages occur in the future, staff and/or the Planning Commission may initiate a public hearing where the Commission would have the ability to amend conditions or revoke the Use Permit.

**ENVIRONMENTAL ASSESSMENT:**

The project is found to be categorically exempt from CEQA review under 14 CCR §15332. Class 32 consists of projects characterized as in-fill development.

**PUBLIC HEARING NOTICE:**

Legal Notice for the Use Permit was published in the Lodi News Sentinel on Saturday, November 30, 2013. Forty-three (43) public hearing notices were sent to all property owners of record within a 300-foot radius of the subject property as required by California State Law §65091 (a) 3.

**ALTERNATIVE PLANNING COMMISSION ACTIONS:**

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

Respectfully Submitted,

Konradt Bartlam  
Community Development Director

**ATTACHMENTS:**

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

# VICINITY MAP



Not Scaled



# AERIAL MAP



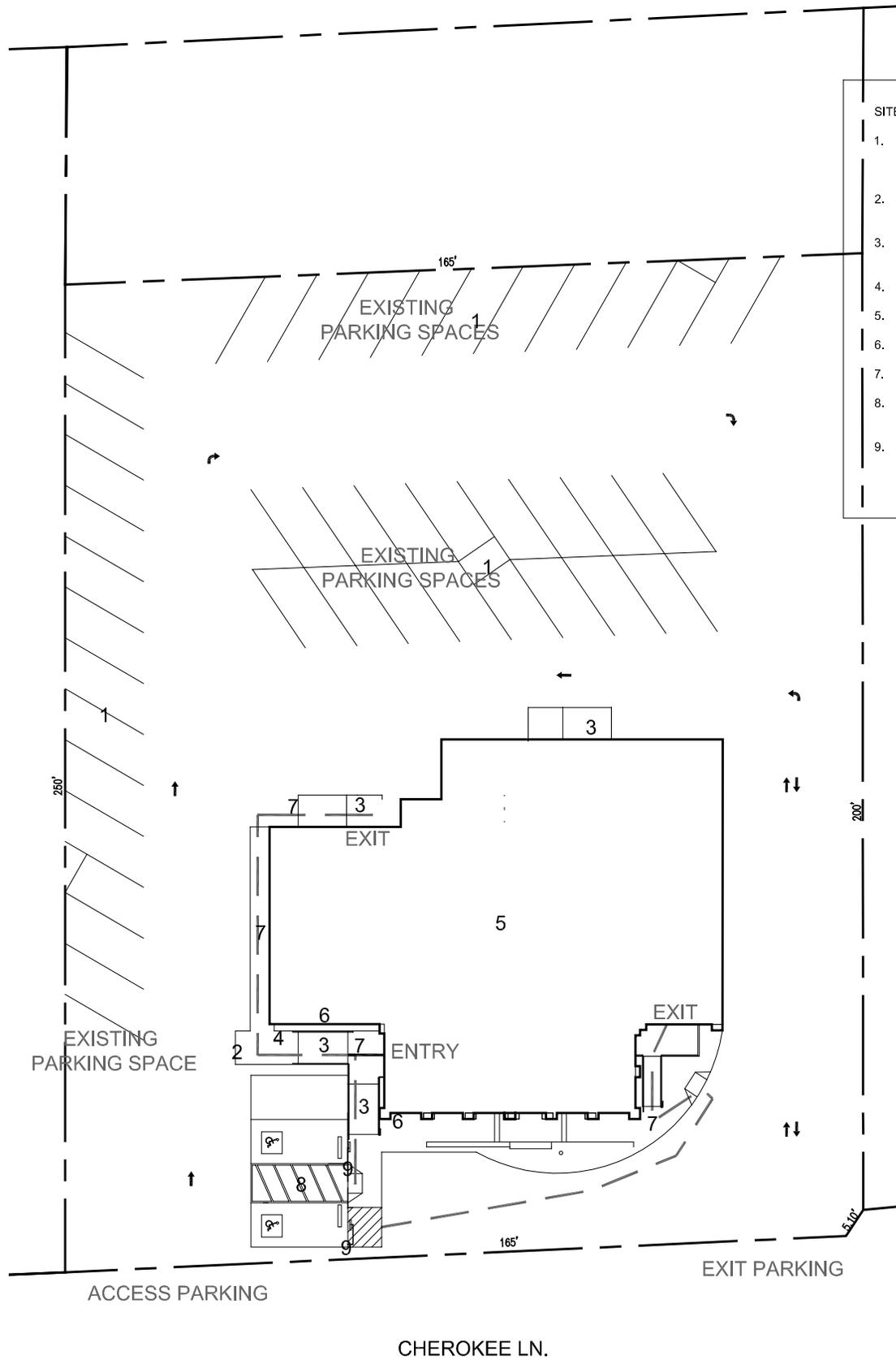
Not Scaled

Sources: Esri, DeLorme, NAVTEQ, TomTom, Intermap, increment P Corp., GEBCO, USGS, FAO, NPS, NRCAN, GeoBase, IGN, Kadaster NL, Ordnance Survey, Esri Japan, METI, Esri China (Hong Kong), swisstopo, and the GIS User Community



SITE PLAN NOTES

1. EXISTING PARKING LOT WITH AC PAVING THROUGHOUT - RE-STRIPE SPACES
2. EXISTING CONCRETE STEPS
3. NEW ADA ACCESSIBLE CONCRETE RAMP & HANDRAILS - REFER TO FLOOR PLAN
4. EXISTING PLANTER
5. EXISTING RESTAURANT BUILDING
6. EXISTING ELEVATED SIGN
7. ADA ACCESSIBLE PATH OF TRAVEL
8. RE-STRIPE ADA PARKING SPACES IN ACCORDANCE WITH REGULATIONS
9. PROVIDE & INSTALL ADA SIGN WITH INTERNATIONAL SYMBOL & VAN ACCESSIBLE SIGN ON STEEL PIPE



**SITE PLAN PLAN**

BLUE CEBRA RESTAURATN-BAR  
 910 CHEROKEE Ln  
 LODI, CA. 95240

SCALE 1" = 32'



**Antojitos/ Appetizers**

Bean dip. Beans topped with gravy & melted cheese.....	2.95
Two chimichangas.....	5.25
Jalapno peppers.....	5.95
Guacamole.....	5.25
Deep fried zucchini.....	5.95
Muchos nachos.....	6.95
Quesadilla.....	3.50
Nachos.....	5.95
Potato skins.....	6.95

BLUE CEBRA RESTAURANT BAR

*To Go Menu*

910 S. Cherokee Ln. Lodi

### Desayuno Breakfast

Served with choice of bacon, French fries, ham, rice and beans.

**Huevos con chorizo** two eggs scrambled with Mexican chorizo. 7.50

**Huevos Rancheros** served on a corn tortilla simmered in ranchero sauce topped w/chees. 7.50

**Huevos a la Mexicana** two eggs scrambled w/ onions, tomatoes, green peppers and jalapeno peppers. 7.50

**Chilaquiles** tortilla chips simmered in salsa verde or roja topped w/ egg, chicken, or steak, sour cream, onions, and cilantro. 8.95

**Breakfast Burrito**, eggs, sausage, cheese, green peppers, onions, and tomato all rolled in a flour tortilla. 5.95

### Lunch

<b>Lunch salad</b> .....	4.25
<b>Taco salad</b> .....	7.95
<b>Chicken salad</b> .....	7.95
<b>Steak salad</b> .....	8.95

### Combination

#1 Beef taco & beef enchilada .....	7.95
#2 Chicken taco & chicken enchilada .....	7.95
#3 Chile Relleno & beef taco or beef Enchilada .....	7.95
#4 Chile Relleno & chicken taco or Chicken enchilada .....	7.95
#5 Chile Relleno taco & enchilada All chicken or beef .....	11.50
#6 Chile relleno, taco, enchilada, all ck or Bf, choice of chile Colorado or chile Verde .....	13.50

### Poca Hambre

Served with rice & beans

<b>Chose one:</b> enchilada, taco, burrito, tostada, or Chile relleno .....	6.25
<b>Quesadilla</b> , Chicken, chile Colorado, or chile Verde .....	7.75
<b>Chalupa</b> , Corn dough patty fried & topped With beans, chicken, or beef, gravy, Lettuce, cheese, & guacamole .....	7.75

### Especiales

<b>Steak a la chicana</b> , chunks of steak cooked & Simmered in a chicana sauce .....	11.50
<b>Steak Ranchero</b> , N.Y. steak in a ranchero Sauce cooker with bell peppers & onions .....	13.95
<b>Half &amp; half</b> , Chile Colorado & chile verde .....	11.50
<b>Carne Asada</b> .....	11.95
<b>Flautas mexicanas</b> , Ck, or bf served w/ guacamole, & sour cream .....	8.95

### De la Casa

Served with rice & beans

<b>Two Tostadas</b> , Beef, chicken, or guacamole, topped with lettuce, cheese, tomato, & taco sauce .....	9.50
<b>Fiesta tostada</b> , Flour tortilla filled with beans, chicken or beef, sour cream, tossed lettuce, guacamole, tomato .....	9.50
<b>Chimichangas</b> , Two fried burritos served with guacamole & sour cream, ck. Or, bf .....	9.75
<b>Two burritos</b> , Ck, chile Colorado, chile verde or beans & cheese .....	9.50
<b>Burrito Grande</b> , Big burrito filled with rice, beans, ck, bf, or pork, covered with gravy &	

olives, sour cream & guacamole .....

**Machaca**, Two eggs scrambled with shredded beef, bell peppers, onions, tomato .....

### Platillos Mexicanos

Served with rice & beans

<b>Chile Colorado</b> , Tender pieces of beef in a thick red sauce .....	11.50
<b>Chile verde</b> , Tender pork pieces in a mild green sauce .....	11.50
<b>Two chalupas</b> .....	9.75
Chile relleno, Green pepper filled with cheese and fried in a egg batter .....	9.50
<b>Tamales</b> , Two home made ck, pork, or cheese tamales topped with gravy .....	9.50
<b>Two enchiladas</b> , ck, bf, or cheese .....	9.25
<b>Two tacos</b> , Ck, or bf .....	9.25
<b>Two quesadillas</b> , Ck, Chile Colorado, Chile Verde .....	10.50
<b>Milanesa</b> , Breaded beef or chicken steak fried and served with guacamole & pico de gallo .....	11.95

**Camarones Rancheos**, Shrimp simmered in our ranchero sauce .....

**Camarones al mojo** de ajo, shrimp simmered in wine, butter, & garlic .....

**Shrimp enchilada**, Flour tortilla filled with bay shrimp, cheese & onions .....

### Fajitas

Served with rice, beans, guacamole, sour cream, & pico de gallo

Chicken or steak .....	12.95
Mixed chicken or steak .....	14.95
Shrimp .....	13.50

**RESOLUTION NO. P.C. 14-**

**A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF LODI APPROVING THE REQUEST OF ALBERTO ORTIZ FOR A USE PERMIT TO ALLOW A TYPE-47 ON-SALE BEER, WINE AND DISTILLED SPIRITS IN CONJUNCTION WITH A RESTAURANT OPERATION AT 910 SOUTH CHEROKEE LANE**

**WHEREAS**, the Planning Commission of the City of Lodi has heretofore held a duly noticed public hearing, as required by law, on the requested Use Permit, in accordance with the Lodi Municipal Code, Section 17.74; and

**WHEREAS**, the project proponent is Alberto Ortiz 2424 Douglas Road Stockton, CA 95207; and

**WHEREAS**, the project is located at 910 South Cherokee Lane, Lodi, CA 95240 (APN: 047-420-09); and

**WHEREAS**, the project proponent is Alberto Ortiz 2424 Douglas Road Stockton, CA 95207; and

**WHEREAS**, the property has a General Plan designation of Mixed Use Corridor and is zoned Mixed Use Corridor; and

**WHEREAS**, Census Tract 44.03 in which the restaurant is located is over concentrated with licenses allowing on premise consumption of alcoholic beverages; and

**WHEREAS**, because Census Tract 44.03 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**, 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 found to be categorically exempt from CEQA review under 14 CCR §15332. Class 32 consists of projects characterized as in-fill development meeting the following conditions: (a) the project is consistent with the applicable general plan designation and all applicable general plan policies as well as with the applicable zoning designation and regulations, (b) the proposed development occurs within city limits on a project site of no more than five (5) acres substantially surrounded by urban uses, (c) the project site has no value as habitat for endangered, rare or threatened species, (d) approval of the proposed project would not result in any significant effects relating to traffic, noise, air quality, or water quality, and (e) the site of the proposed project can be adequately served by all required utilities and public services. No significant environmental impacts are anticipated and no mitigation measures have been required.
2. The sale of alcoholic beverages for on-premise consumption as part of a restaurant is a permitted use in the Mixed Use Corridor (MCO) Zoning District. The site is suitable and adequate for the proposed use because the reestablishment of a restaurant on this site would not create negative impacts on business or residential uses in the vicinity.
3. The on-sale of beer, wine and distilled spirits, in accordance with a Type 47 Alcoholic Beverage Control License and with the conditions attached herein, would be consistent and in harmony with the Mixed Use Corridor General Plan Land Use Designation and MCO Zoning District.
4. The proposed use is consistent with the General Plan because commercial uses such as the one proposed are permitted in accordance with Land Use Policy subject to a discretionary review.
5. The proposed use would not have a substantial adverse economic effect on nearby uses because operation of a restaurant in accordance with applicable laws and under the conditions of this Use Permit is anticipated to be an economic benefit to the community.

6. The sale of alcoholic beverages for on-premise consumption is a normal part of business operations for a restaurant and provides a convenience for customers of the business.
7. The sale and consumption of alcohol can sometimes result in customer behavior problems that can require police intervention.
8. Steps can be taken by the Applicant/Operator to reduce the number of incidents resulting from the over-consumption of alcohol including the proper training and monitoring of employees serving alcohol; the careful screening of IDs of customers to avoid sales to under-aged individuals; limiting the number of drinks sold to individual customers to avoid over-consumption; providing properly trained on-site security to monitor customer behavior both in and outside of the establishment; and working with the Lodi Police Department to resolve any problems that may arise.
9. The proposed use can be compatible with the surrounding use and neighborhood if the business is conducted properly and if the Applicant/Operator works with neighboring businesses and residents to resolve any problems that may occur.
10. The proposed use would not be detrimental to the general welfare of persons residing and working in the immediate vicinity, the neighborhood or the community at large because the sale of alcohol with a restaurant operation is not associated with detrimental impacts to the community.
11. The sale of alcoholic beverages at this location can meet the intent of the MCO 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-08 is hereby approved, subject to the following conditions:

1. The property owner and/or developer and/or successors in interest and management shall, at their sole expense, defend, indemnify and hold harmless the City of Lodi, its agents, officers, directors and employees, from and against all claims, actions, damages, losses, or expenses of every type and description, including but not limited to payment of attorneys' fees and costs, by reason of, or arising out of, this development approval. The obligation to defend, indemnify and hold harmless shall include, but is not limited to, any action to arbitrate, attack, review, set aside, void or annul this development approval on any grounds whatsoever. The City of Lodi shall promptly notify the developer of any such claim, action, or proceeding and shall cooperate fully in the defense.
2. The 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.
3. 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.
4. The Applicant/Operator and/or successors in interest and management shall operate the project in strict compliance with the approvals granted herein, City standards, laws, and ordinances, and in compliance with all State and Federal laws, regulations, and standards. In the event of a conflict between City laws and standards and a State or Federal law, regulation, or standard, the stricter or higher standard shall control.
5. The Applicant/Operator shall operate and abide by the requirements and conditions of the State of California Department of Alcoholic Beverage Control License Type 47. The Type 47 License

shall be limited to on-site sale and consumption of beer, wine and distilled spirits during the hours that the restaurant is open for business.

6. The City reserves the right to periodically review the area for potential problems. If problems (on-site or within the immediate area) including, but not limited to, public drunkenness, the illegal sale or use of narcotics, drugs or alcohol, disturbing the peace and disorderly conduct result from the proposed land use, the Use Permit may be subject to review and revocation by the City of Lodi after a public hearing and following the procedures outlined in the City of Lodi Municipal Code. Additional reviews may be prescribed by the Community Development Director, the Police Department and/or Planning Commission as needed during and after the first two years of probationary period. Further, starting from the effective date the business commences the sale of beer, wine and distilled spirits, this Use Permit shall be subject to a one year, and two year review by Community Development Director. If the Director determines it necessary, he/she shall forward the review to the Planning Commission to review the business's operation for compliance with the conditions of the Use Permit, and in response to any complaints thereafter.
7. The Lodi Police Department may, at any time, request that the Planning Commission conduct a hearing on the Use Permit for the purpose of amending or adding new conditions to the Use Permit or to consider revocation of the Use Permit if the Use Permit becomes a serious policing problem.
8. The sale and consumption of alcohol shall not be permitted anywhere outside of the building envelop under any circumstances. It is the responsibility of the Applicant/Operator and/or successors in interest and management to ensure no sale or consumption of alcohol occurs outside of the building envelop.
9. Any changes to the interior layout of the business operation shall be subject to review and approval by the Planning Department and shall require appropriate City permits.
10. The monthly gross sales of alcoholic beverages shall not exceed the gross sales of food during the same period. The licensee shall at all times maintain records which reflect separately the gross sale of food and the gross sales of alcoholic beverages of the licensed business. These records shall be kept no less frequently than on a monthly basis and shall be made available to the Police Chief or his designee, upon demand.
11. There shall be no live entertainment, including but not limited to disc jockey, karaoke, topless entertainment, male or female performers or fashion shows. "Entertainment" shall mean all forms and types of entertaining patrons, whether such entertainment is provided by means of live performances or audio and/or video presentations, whether remote or prerecorded; provided, however, that "entertainment" shall not be deemed to include the use of any regularly broadcast television or radio programs, or coin-operated music machine.
12. No person who is in a state of intoxication shall be permitted within the restaurant nor shall an intoxicated patron already in the restaurant be served additional alcoholic beverages. It is the responsibility of the business owner/operator to ensure no patron in state of intoxication is allowed into the building.
13. The Applicant/Operator and/or successors in interest and management of the restaurant shall police the area surrounding the business to prevent patrons from congregating/loitering outside the premises and to prevent excessive noise or other objectionable behavior. Noise levels shall be monitored to insure that noise shall not violate the City's Noise Ordinance Section 9.24.020 and Section 9.24.030.
14. The Use Permit shall require the Applicant/Operator and/or successors in interest and management to secure an ABC Type 47 license, On Sale Beer, Wine and Distilled Spirits (Eating Place).
15. Prior to the issuance of a Type 47 ABC license, the Applicant/Operator and/or successors in interest and management and employees shall complete Licensee Education on Alcohol and Drugs as provided by the State Department of Alcoholic Beverage Control. The owner or designee shall be responsible for ensuring that all employees receive the said training. Evidence

of such training and the training records of all employees shall be maintained on-site during business hours, and made available for inspection upon request.

- 16. The exterior of all the premises shall be maintained in a neat and clean manner, and maintained free of graffiti at all times.
- 17. The operator/applicant and/or successors in interest and management shall comply with all the Municipal Codes relating to loitering, open container laws and other nuisance-related issues.
- 18. The operator/applicant and/or successors in interest and management shall ensure noise emanating from the property shall be within the limitations prescribed by the City's Noise Ordinance and shall not create a nuisance to surrounding residential neighborhoods, and/or commercial establishments.
- 19. The applicant/project proponent and/or developer and/or successors in interest and management shall obtain Operational Permit issued by the Lodi Fire Department, and meet all the conditions outlined therein. The Fire Department may be contacted at the Lodi Fire Department, 25 East Pine Street, Lodi, CA 95240-2127. Phone Number (209) 333-6739.
- 20. In the event the use hereby permitted under this permit is: (a) found to be in violation of the terms and conditions of this permit; (b) found to have been obtained by fraud or perjured testimony; or (c) found to be detrimental to the public health, safety or general welfare, or a public nuisance; this may initiate a revocation procedures in accordance with the City of Lodi Municipal Code.
- 21. 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.
- 22. No variance from any City of Lodi adopted code, policy or specification is granted or implied by this approval.

**Dated: January 8, 2014**

I certify that Resolution No. 14- was passed and adopted by the Planning Commission of the City of Lodi at a regular meeting held on January 8, 2014 by the following vote:

**AYES:** Commissioners:

**NOES:** Commissioners:

**ABSENT:** Commissioners:

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