

<p>CARNEGIE FORUM 305 WEST PINE STREET LODI, CALIFORNIA</p>	<p>AGENDA LODI PLANNING COMMISSION</p>	<p>REGULAR SESSION WEDNESDAY, JANUARY 28, 2009 @ 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 – “December 18, 2008”
3. PUBLIC HEARINGS
 - a. Continued from September 10, 2008 - Request for a Use Permit to allow conversion of four existing duplexes into residential condominiums; and
Request for a Tentative Parcel Map to divide four duplexes into eight residential condominiums. (Applicant: Baumbach and Piazza, Inc. on behalf of Fred Baker. File # 08-U-10 and 08-P-01, respectively).
 - b. Request for a Variance to reduce the side yard setback from the required 5-feet to 2-feet 9-inches for an existing detached bonus room. (Applicant: Matt Dobbins; File #: 08-A-01)
 - c. Request for Planning Commission approval of a Use Permit to allow a Type 2 (Winery) Alcoholic Beverage Control License at 770 North Guild Avenue. (Applicant: Robert Mondavi Winery, Inc.; File Number: 08-U-17)
 - d. Request for Planning Commission approval of a Use Permit to allow a Type 48 on-sale General ABC license at 114 North Sacramento Street. (Applicant: Darrell Drummond. File Number: 08-U-15)

NOTE: All 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
 - a. Summary Memo Attached
7. GENERAL PLAN UPDATE/DEVELOPMENT CODE UPDATE

8. ACTIONS OF THE SITE PLAN AND ARCHITECTURAL REVIEW COMMITTEE
9. ART IN PUBLIC PLACES
10. COMMENTS BY THE PUBLIC
11. COMMENTS BY THE PLANNING COMMISSIONERS & STAFF
12. ADJOURNMENT

Pursuant to Section 54954.2(a) of the Government Code of the State of California, this agenda was posted at least 72 hours in advance of the scheduled meeting at a public place freely accessible to the public 24 hours a day.

****NOTICE:** Pursuant to Government Code §54954.3(a), public comments may be directed to the legislative body concerning any item contained on the agenda for this meeting before (in the case of a Closed Session item) or during consideration of the item.

Right of Appeal:

If you disagree with the decision of the commission, you have a right of appeal. Only persons who participated in the review process by submitting written or oral testimony, or by attending the public hearing, may appeal.

Pursuant to Lodi Municipal Code Section 17.72.110, actions of the Planning Commission may be appealed to the City Council by filing, within ten (10) business days, a written appeal with the City Clerk and payment of \$300.00 appeal fee. The appeal shall be processed in accordance with Chapter 17.88, Appeals, of the Lodi Municipal Code. Contact: City Clerk, City Hall 2nd Floor, 221 West Pine Street, Lodi, California 95240 – Phone: (209) 333-6702.

**LODI PLANNING COMMISSION
REGULAR COMMISSION MEETING
CARNEGIE FORUM, 305 WEST PINE STREET
WEDNESDAY, DECEMBER 18, 2008**

1. CALL TO ORDER / ROLL CALL

The Regular Planning Commission meeting of December 18, 2008, was called to order by Chair Kiser at 7:00 p.m.

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

Absent: Planning Commissioners – Heinitz

Also Present: Interim Community Development Director Konradt Bartlam, Assistant Planner Immanuel Bereket, Deputy City Attorney Janice Magdich, Consultant Rajeev Bhatia, and Administrative Secretary Kari Chadwick

2. MINUTES

“November 12, 2008”

MOTION / VOTE:

The Planning Commission, on motion of Commissioner Kirsten, Cummins second, approved the Minutes of November 12, 2008 as written.

3. PUBLIC HEARINGS

- a) Notice thereof having been published according to law, an affidavit of which publication is on file in the Community Development Department, Chair Kiser called for the public hearing to consider request for Certification of the proposed Negative Declaration as an adequate environmental documentation for the proposed Tentative Parcel Map; and

Request for approval of a Tentative Parcel Map to divide Two Parcels into Seven Lots at 1235 E. Kettleman Lane and 1150 Beckman Road. (Applicant: Geweke Construction & Development, File #'s: 08-ND-03 & 08-P-06).

Assistant Planner Immanuel Bereket gave a brief PowerPoint presentation based on the staff report. Mr. Bereket went through the amendments in the resolution for this project as shown on the Blue Sheeted version presented to the Commission.

Hearing Opened to the Public

- John Farris, Geweke Construction, came forward to answer questions.

Public Portion of Hearing Closed

- Commissioner Kirsten stated his support of the project.
- Chair Kiser stated his support for the project.

MOTION / VOTE:

The Planning Commission, on motion of Commissioner Olson, Kirsten second, approved the request for Certification of the proposed Negative Declaration as adequate environmental documentation for the proposed Tentative Parcel Map subject to the conditions in the Resolution. The motion carried by the following vote:

Continued

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

MOTION / VOTE:

The Planning Commission, on motion of Commissioner Hennecke, Olson second, approved the request for approval of a Tentative Parcel Map to divide Two Parcels into Seven Lots at 1235 E. Kettleman Lane and 1150 Beckman Road subject to the conditions in the Resolution. The motion carried by the following vote:

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

- b) Notice thereof having been published according to law, an affidavit of which publication is on file in the Community Development Department, Chair Kiser called for the public hearing to consider and recommend to the City Council the Draft Preferred Plan Alternative and report for the General Plan Update.

Interim Director Konradt Bartlam gave a brief presentation based on the staff report, which included a summary of the changes made to the plan based on comments made at the last meeting. Staff is recommending that the Planning Commission recommend to the City Council approval of the Draft Preferred Plan that is being presented tonight. The Plan puts emphasis on infill growth with the Mixed Use Corridor areas. It is important for the plan to be in line with the City’s policies. The City is split into three priority areas for the Growth Management Process; area one being worth the most points and area three being worth the least. This was done to control the way the City should grow and it has worked very well. Staff will be recommending that this policy stay in place with the area west of Lower Sacramento Road being a priority area one, the area south of Harney Lane being priority area two and the area west of the existing city boundary be priority area three. Since the last meeting the Lodi Unified School District has fine tuned their needs for school areas which are reflected in this new plan.

Commissioner Hennecke asked about the Urban Reserve area on the east side of the City being part of the 2% growth calculation. Mr. Bartlam stated that it is not part of that 2% because it is intended to be used as Industrial reserve, not residential. Hennecke asked why it is necessary to designate reserve areas at all. Mr. Bartlam stated that there are several reasons for the designation. One of which is to avoid a costly revision to the General Plan at a later date and another is to meet State requirements for housing for this area which is the purpose of the west reserve area. The State frowns on the City’s Growth Management Program because of the limited growth potential it provides.

Commissioner Mattheis asked about the deletion or shifting of the high density area that was in the western growth area. Mr. Bartlam stated that when the school site was moved further south it made sense to add a basin/park area adjacent to it shrinking the very large park area at the north end of the area. Mattheis asked about the shrinking of the Mixed Use area in the southern part of the plan. Mr. Bartlam stated that staff went back and took a closer look at the scale of the area and found that this ten acre area is sufficient. Staff feels that it is still enough to create an anchor for the neighborhood. Mr. Bhatia added that the mixed use areas will be encouraging high density residential. Mattheis stated his preference for the position of the Mixed Use Center in the southern area and wanted to know why it wasn’t placed in a more central location to be in a position to accommodate the Urban Reserve to the west. Mr. Bartlam stated that the positioning of the designation on Mills Avenue made the most sense and when the School District moved the school site the designation was moved to the opposite side of Mills to accommodate the change. Mattheis asked about the High Density area near the Downtown. Mr. Bartlam stated that that area has remained the same from the previous plan, but is intended to reflect what is currently there and provide some flexibility for re-use.

Commissioner Mattheis disclosed that he met with representatives from Capital Avenue Development regarding the plans for the Delta College site.

Continued

Commissioner Mattheis asked about the Delta College site and shouldn't there be some discussion on what the Land Uses will be if it is going to be included in some of the alternatives late on. Mr. Bartlam stated that there are a couple of different options that can be taken regarding this site. One is to include it and the detailed Land Uses in the Plan and another is to include the area in the plan as an Urban Reserve area. Commissioner Mattheis stated that he would like to have some discussion on the alternatives so that the Commission can give their input and some direction. Mattheis asked about the infill areas and new uses and what is included in those areas. Mr. Bartlam stated that the policies for these areas will be development along with the environmental document. The Mixed Use Centers and the Downtown Mixed Use are intended to give broad policy and then through the Development Code be able to drill down and give a more refined definition of the best uses (i.e. having High Density or Office use directly adjacent to a Retail Center).

Commissioner Olson asked about the process behind the Growth Management process. Mr. Bartlam stated that the Growth Management Program was implemented in 1991. The residential projects that apply for growth management get scored on a variety of levels. The projects that fall in the priority area one or two will get higher points than a project that is in priority area three. Infrastructure and School proximity are also considered in the scoring process. Olson asked if development or impact fees play a part in what is developed. Mr. Bartlam stated that development fees are not a part of the current process. The entire area including the Urban Reserve will need to be a part of the Master Planned for infrastructure purposes.

Chair Kiser asked about an underpass on Century Blvd. Mr. Bartlam stated that the current General Plan does have an underpass on Century as part of the plan. He is also aware that in recent history the City has been thinking of selling their right-of-way adjacent to the rail line. Kiser stated that when the City brought that before the Commission it was the Commissions recommendation not to sell the property. He feels that this is an ideal location for an underpass and would like to see it kept in the new General Plan. Mr. Bartlam stated that it is an appropriate recommendation for the Commission to make.

Commissioner Hennecke asked as follow-up from the last meeting about the Woodbridge area being in the Sphere of Influence. Mr. Bartlam stated that the area has been in the Sphere since before the current General Plan, but the City has no intention of annexing the area.

Chair Kiser called for a brief recess (8:12pm)

Chair Kiser called the meeting back to order (8:19pm)

Hearing Opened to the Public

- Pat Stocker, property owner along Hogan Lane, came forward to comment. Mr. Stocker stated that the Planned Residential Reserve (PRR) designation should be considered as a viable designation for the southern edge of the City. He would like to see a growth management process put in place for the way the retail grows as well. He is concerned that the area on the south east corner of Hwy 99 and Harney Lane will get developed before other areas that have been approved are fully developed. He expressed his concerns for the park area that follows the Woodbridge Irrigation Canal and just how well that has been thought out and how much input the property owners adjacent to it have been given.
- Pat Patrick, CEO Chamber of Commerce, came forward to comment. Mr. Patrick stated that there are three areas of concern; first, the statement by city staff within the plan regarding the wine industry being a focus of growth, the industrial area should be just as much of a focus; and second, the urban growth area to the west should be turned into Urban Reserve because the City has several areas currently on the map in the red hash marks which represents approximately 2500 homes that have already been approved and have no set date for ground breaking; third, the plan seems to be over saturated with retail/commercial areas and he believes in what Mr. Stocker stated regarding some phasing process being implemented for this use also.
- Commissioner Mattheis asked how far out should the area of interest go to the west. Mr. Patrick stated that ideally all the way to I-5, but looking at an area of interest that goes to the RR tracks should be considered.

Continued

- Commissioner Kirsten asked about the Chamber's vision for growth in 20, 30, or 40 years. Mr. Patrick stated that infill should be made a priority if the priority is to have a focus on the Wine Industry. Kirsten stated that based on Mr. Patrick's comments the Chamber doesn't want to see the City grow to the west or south. Mr. Patrick stated that if market forces are driving the building then he can see the necessity, but he doesn't believe that it will happen in this plans time. Kirsten stated that if it isn't planned for and the market starts to drive it then what. Mr. Patrick stated that he is a believer in market forces, but this just seems like a lot.
- Jim Migliori, commercial developer for the area in the SE corner of Hwy 99 and Harney Lane, came forward to express his dislike of the phasing idea for commercial. Commissioner Kirsten asked what is the down side of phasing commercial areas. Mr. Migliori stated that the market drives the building and placement of the centers. The proximity to Hwy 99 makes the area a desirable area for tenants and with the highway overpass improvements scheduled to be made it just makes sense to do the improvements on both sides of the highway at the same time.
- Mike Carouba came forward make comments. Mr. Carouba pointed out the letter sent in by Mr. Costa which was blue sheeted for the Commission. He stated that the meeting that Mr. Bartlam had with interested property owners that had concerns with the Mixed Use Centers must have worked because those people are not in attendance tonight. He would like to see the PRR Designation on the southern edge from the current General Plan kept in place with the new Plan. He would like to see the growth area on the western edge changed to Urban Reserve. He is concerned with the narrow strip of commercial property on the south west corner of Vine Street and Lower Sacramento Road. He would like to see some of the commercial growth areas placed in a Commercial Reserve Designation.

Public Portion of Hearing Closed

- Commissioner Kirsten asked about the Commercial designation on Vine and Lower Sac. Mr. Bartlam stated that the request came from the property owner. It is on a signalized intersection and warrants the designation.
- Commissioner Hennecke asked about the Open Space designation along the Irrigation Canal regarding discussion with property owners along the area. Mr. Bartlam stated that during the stakeholder meetings the Woodbridge Irrigation District stated that they would be open to more discussion on the idea. Hennecke stated that he would like to see all canal areas in the city limits have that designation or none of them. Hennecke asked if the City has ever used it's entire 2% residential growth allocations. Mr. Bartlam stated that if you were to look back you may find one or two years where the City met it's 2% allocation limit. He also reminded the Commission that the residential growth areas designated on the plan only represent 1.5% residential growth including the pipeline project as identified.
- Vice Chair Cummins asked about the Mixed Use Designation definition that Mr. Costa refers to in his email letter. Mr. Bartlam stated that Mr. Costa was a part of the meeting he held and he is correct with his statement. Cummins asked if there is a standard number of years for a General Plan to span (Stockton has chosen 25). Mr. Bartlam stated that it is historically a 20 year horizon. Cummins asked about the Delta College site and what would be the process in the future if it isn't included in this plan. Mr. Bartlam stated that there has to be some sort of linkage to allow for infrastructure. The question will be what that linkage will look like. If during this next year, the College Board changes its mind about the site, it could be included in the Final Plan.
- Commissioner Mattheis stated that he is not sure the plan is ready to be approved tonight. He prefers to leave the urban growth and Urban Reserve areas to the west in the plan. He does not feel there needs to be a phasing process placed on the Commercial/Retail areas; the market should take care of the need for growth there. The PRR should not be included to the south because that along with the Urban Reserve area would put the City over it's 2% potential growth per year for a 20 year plan. A Greenbelt Designation is the direction that we need to be looking in if the City is truly interested in protecting the buffer areas

around the City. The Century Blvd. underpass is a viable solution for traffic in that area and warrants more discussion. When the Alternatives for the Environmental Impact Report (EIR) come forward for discussion, Commissioner Mattheis would like to see a more detailed discussion regarding the Delta College site and how it will work in the future plans for the City.

Mr. Bartlam requested a brief recess.

Chair Kiser called for a brief recess (9:10pm)

Chair Kiser called the meeting back to order (9:13pm)

- Chair Kiser stated that he appreciates all the work that has gone into the plan. He would like to see the Delta College site incorporated somehow. The Century Blvd underpass should be left open for discussion.
- Commissioner Hennecke stated his appreciation for the changes in plan and does not see the Delta site as something to hold the plan up for. He believes that if the City Policies call for a 2% growth the General Plan should take that into consideration even if that goal is not met.
- Mr. Bartlam stated that Staff will bring the Alternatives for the EIR that Staff is looking at back to the Commission at a future date for further discussion.
- Commissioner Kirsten asked where the communication stands with the Delta Board. Mr. Bartlam stated that the City Manager has been in discussions with Dr. Rodriguez. Dr. Rodriguez does not want to assume what the new board will want to do and with the main supporter of the project resigning from the board it is a wait and see situation. City Staff has been in support of a possible College site and if we can assist that process by being flexible with our plan it may help.
- Chair Kiser asked what action should be taken at this point.
- Mr. Bartlam stated that based on the Commissions comments he would suggest passing this document on to the Council with the Commissions recommendation.
- Commissioner Mattheis asked about the Alternatives being a part of that recommendation before forwarding it on to the City Council. Mr. Bartlam stated that staff is suggesting that the Delta site and the PRR designation to the south be studied as alternatives in the Environmental Document. The alternatives can't be studied until the Preferred Plan is in place.

MOTION / VOTE:

The Planning Commission, on motion of Commissioner Mattheis, Hennecke second, approved the request to consider and recommend to the City Council the Draft Preferred Plan Alternative and report for the General Plan Update. The motion carried by the following vote:

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

4. PLANNING MATTERS/FOLLOW-UP ITEMS

None

5. ANNOUNCEMENTS AND CORRESPONDENCE

Mr. Bartlam stated that the Lodi Shopping Center Item will be back before the Commission on January 14, 2009 and the hearing will be held in the Theatre at Hutchins Street Square.

Commissioner Cummins stated that he will not be able to attend the meeting and with Commissioner Mattheis needing to recuse himself Chair Kiser asked if any of the other Commissioners would be

Continued

unable to make the meeting for quorum purposes. The other Commissioners stated that they would be able to attend.

6. ACTIONS OF THE CITY COUNCIL

Summary Memo Attached

7. GENERAL PLAN UPDATE/DEVELOPMENT CODE UPDATE

Mr. Bartlam stated that he recommended to the City Manager that the Development Code should follow the General Plan.

8. ACTIONS OF THE SITE PLAN AND ARCHITECTURAL REVIEW COMMITTEE

None

9. ART IN PUBLIC PLACES

Commissioner Kirsten stated that he would give an update at the next meeting.

10. COMMENTS BY THE PUBLIC

None

11. COMMENTS BY STAFF AND COMMISSIONERS

None

12. ADJOURNMENT

There being no further business to come before the Planning Commission, the meeting was adjourned at 9:28p.m.

ATTEST:

Konradt Bartlam
Interim Community Development Director

Use Permit and TPM for conversion of existing duplexes into Residential Condos

Item 3a.

**LODI
PLANNING COMMISSION
Staff Report**

MEETING DATE: January 28, 2009

APPLICATION NO: Tentative Parcel Map 08-P-01

REQUEST: Continued from September 10, 2008 - Request for a Use Permit to allow conversion of four existing duplexes into residential condominiums; and Request for a Tentative Parcel Map to divide four duplexes into eight residential condominiums. (Applicant: Baumbach and Piazza, Inc. on behalf of Fred Baker. File # 08-U-10 and 08-P-01, respectively).

LOCATION: 1272 Vienna Drive (APN: 027-390-01)
1273 Vienna Drive (APN: 027-390-02)
1248 Salzburg Lane (APN: 027-390-03)
1251 Salzburg Lane (APN: 027-390-04)

APPLICANT: Baumbach and Piazza, Inc., 323 W. Elm Street, Lodi CA, on behalf of Mr. Fred Baker.

PROPERTY OWNER: Brittney, LLC.
P. O BOX 1510
Lodi, CA 95241-1510

RECOMMENDATION

Staff recommends that the Planning Commission approve the request of Baumbach and Piazza, Inc., on behalf of Mr. Fred Baker, for a Use Permit to allow conversion of existing duplexes into residential condominiums and for a Tentative Parcel Map to divide four duplexes into eight residential condominiums, subject to the conditions in the attached resolution.

PROJECT/AREA DESCRIPTION

General Plan Designation: LDR, Low Density Residential.
Zoning Designation: R-2, Single Family Residences.
Property Size: Approximately 48,707 sq. ft.

The adjacent zoning and land use are as follows:

North: R-2, Single Family Residence.
South: R-C-P, Residential-Commercial-Office District.
West: R-2, Single Family Residence.
East: R-2, Single Family Residence.

SUMMARY

The project proponent is requesting a Use Permit to allow the conversion of duplexes into condominiums and a Tentative Parcel Map to create residential condominiums. A Conditional Use

Permit is required in order to convert an existing multi-family residence into condominiums. The Use Permit process allows the City to evaluate the impact of such conversions on the rental housing market, to assure that the units meet minimum housing standards, and provide for procedures for the notification of existing tenants who may need to relocate.

Approval of a tentative subdivision map would allow for the creation of individual residential units. The proposed Tentative Parcel Map would not result in any substantial physical changes to the parcels or the buildings. The condominium conversion process would enable the project proponent to sell each of the unit individually. Staff believes the proposed condominium conversion is appropriate for the neighborhood and that the application meets the requirements for a condominium conversion.

BACKGROUND

The applicant's request was first heard by the Planning Commission on September 10, 2008. The applicant's original application requested to convert two duplexes into four residential condominiums. At that hearing, the Planning Commission asked the applicant if the properties (duplexes) he owned along the same street would be converted into condominium in the future. The applicant indicated that such plans were not inconceivable in the near future. The commission asked the applicant to include the two duplexes along Tienda Drive that he intended to convert into condominiums and that all four duplexes be under a single Homeowner's Association. The item was continued to date to be determined.

The project area is bounded by Tienda Drive to the south, Vienna Drive to the east, Salzburg Lane to the west and single-family residential properties to the north. The project area has a General Plan designation of LDR, Low Density Residential and a zoning designation of R-2, Single Family Residential. The R-2 zone allows two-family dwellings on corner lots provided that such lots measure at least six thousand square feet in area. In this case, the applicant's request is to convert two duplexes into residential condominiums. These two parcels are located at 1273 Vienna Drive and 1248 Salzburg Lane. These parcels are corner lots and measure 11,856 sq. ft. and 12,070 sq. ft., respectively. The subject properties were recently developed with duplexes. The most recent use of the subject properties were as residential rental units. The project proponent indicates the condominiums will not be for sale and that he intends to lease the units. No changes to the structures, infrastructure, or the common areas are proposed.

ANALYSIS

Tentative Parcel Map

The State Subdivision Map Act requires that a tentative parcel map is approved in order to create residential condominiums. The proposed project includes the subdivision of two residential complexes on two separate parcels for condominium purposes. Minor subdivision approval is required for the creation of four or fewer parcels or for the creation of four or fewer condominium units on one parcel. The proposed Tentative Parcel Map will not alter the existing parcel lines. It would, however, create two legal residential units per parcel. The common areas on the map will be maintained by the Homeowner's Association. The properties are subject to the Covenants, Conditions and Restrictions (CC&R's) that govern the Association. These CC&R's, in addition to any additional CC&Rs or Home Owner's Regulations, will be recorded with the Final Map. The Applicant will be required to file a Condominium Plan with the Department of Real Estate. The City of Lodi Public Works Department requires a Final Map be submitted for review and approval to ensure compliance with all Tentative Map conditions.

The Tentative Parcel Map has been reviewed by the Public Works Department and has been found to comply with the provisions of the State Subdivision Map Act and the City's Municipal Code. The Public Works approval has been incorporated into the attached resolutions. The applicant has submitted Covenants, Conditions and Restrictions (CC&Rs). The CC&Rs provide appropriate easement rights for

access and facilities serving each parcel, maintenance responsibilities, use of shared facilities, apportionment and payment of costs, insurance, architectural and construction controls, damage and destruction and management of shared private facilities, and other applicable conditions that may arise in the future. Staff also notes that the proposed residential condominium conversion is consistent with the City of Lodi General Plan and Zoning Ordinance. The floor plan configuration, the lot coverage and design of the building will not be affected.

Use Permit

Per the City's Subdivision Ordinance for condominium conversions, the applicant also submitted a Use Permit application to permit the creation of residential condominiums. The City of Lodi established Lodi Municipal Code §15.32.010 to create criteria for conversion to reduce the impact of such conversions on residents in rental housing who may be required to relocate during or after the conversion of duplexes to condominiums. For this reason, the City requires that no residential conversion be permitted unless and until a conditional use permit has been applied for and issued pursuant to and in accordance with the provisions of Lodi Municipal Code and the State Subdivision Map Act.

With respect to conversions and tenant protections a number of other statutes govern these topics. The statutes include California Housing Law, the State Subdivision Map Act, Government-Health and Safety Codes, and the City's local planning laws. These laws establish the rights and responsibilities of landlords and tenants in most types of rental situations. The City's Zoning Ordinance has provisions to protect rental housing, rental housing tenants, proper notification requirements, first right to purchase, etc. In the past, the City has allowed similar types of conversions.

Lodi Municipal Code §15.32.180 requires the Applicant to submit evidence that tenants have been notified and have acknowledged the Applicant's Intent to File a request for conversion at least 60 days prior to the initial filing of the application for the Use Permit or Parcel Map. The Applicant provided staff with proof that the Intent to file an application was hand delivered to the tenant, or left at or near the door. The Intent to file an application was initiated on May 8, 2008. The Applicant has satisfied the 60 days noticing requirement. The said Lodi Municipal Code also requires that the applicant submit a physical elements report detailing the structural condition of all elements of the property. Given the buildings are relatively new, staff felt this project did not warrant a physical elements report.

The proposed conversion is consistent with the General Plan and Housing Element. The conversion of the apartments to condominiums will help to promote ownership opportunities in the City of Lodi for various economic segments of the population. The request to subdivide the buildings into two legal units does not change the previous use of the property. The floor plan configuration, the lot coverage and design of the building will not be affected. The creation of the individual units will allow the owner flexibility. In conclusion, staff believes that the proposed Tentative Parcel Map and the Use Permit request, subject to the conditions in the attached resolution, meet the requirements of the Zoning Ordinance and is consistent with good planning practice and will be compatible with the neighborhood.

ENVIRONMENTAL ASSESSMENTS:

The project is found to be Categorical Exempt according to the California Environmental Quality Act, Article 19, Guidelines §15315, Class 15, "Minor Land Divisions." This exemption is for a project that consists of the division of property in urbanized areas zoned for residential, commercial, or industrial use into four or fewer parcels when the division is in conformance with the General Plan and zoning, 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. This proposal meets all these conditions and, therefore, qualifies for the Categorical Exemption.

PUBLIC HEARING NOTICE:

Legal Notice for the Parcel Map and Use Permit was published on January 14, 2009. 60 public hearing notices were sent to all property owners of record within a 300-foot radius of the subject property as required by Government Code §65091 (a) 3.

ALTERNATIVE PLANNING COMMISSION ACTIONS:

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

Respectfully Submitted,

Concur,

Immanuel Bereket
Assistant Planner

Konradt Bartlam
Interim Community Development Director

ATTACHMENTS:

1. Vicinity Map
2. Aerial Map
3. Tentative Parcel Map
4. Draft Resolutions

Aerial Map



RESOLUTION NO. P.C. 09-

**A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF LODI APPROVING THE REQUEST OF BAUMBACH AND PIAZZA, INC., ON BEHALF OF FRED BAKER, FOR A TENTATIVE PARCEL MAP TO ALLOW THE CREATION OF INDIVIDUAL RESIDENTIAL UNITS AT 1273 VIENNA DRIVE AND 1248 SALZBURG LANE.
(FILE # 08-P-01 AND 08-U-10)**

WHEREAS, the Planning Commission of the City of Lodi has held a duly noticed public hearing, as required by law, on the requested Tentative Parcel Map pursuant to the Lodi Municipal Code Chapter 16.08 and the Subdivision Map Act; and

WHEREAS, the properties are located at 1272 and 1273 Vienna Drive (APN: 027-390-02 and 027-390-02, respectively) and 1248 and 1251 Salzburg Lane (APN: 027-390-03 and 027-390-04, respectively); and

WHEREAS, the project proponent is Baumbach and Piazza, Inc., on behalf of Mr. Fred Baker, 323 West Elm Street., Lodi, CA, 95240; and

WHEREAS, the properties are zoned R-2, Single Family Residence and carry a General Plan Designation of LDR, Low Density Residence; and

WHEREAS, the properties are owned by Mr. Fred Baker, P. O. Box 1510, Lodi, CA 95241; and

WHEREAS, all legal prerequisites to the approval of this request have occurred; and

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

1. The project is found to be Categorically Exempt according to the California Environmental Quality Act, Article 19, Guidelines §15315, Class 15, "Minor land division." No significant impacts are anticipated and no mitigation measures have been required.
2. The proposed Tentative Parcel Map is consistent with the City's General Plan and Zoning Ordinance and is conditioned to conform to the standards and improvements mandated by the City of Lodi's Public Works Department Standards and Specifications.
3. The establishment, maintenance and operation of the use, building, or structure applied for will not under the circumstances of this particular case be detrimental to the health, safety, peace, morals, comfort, or general welfare of persons residing or working in the neighborhood of such proposed use or be detrimental or injurious to property and improvements in the neighborhood or to the general welfare of the City.
4. The size, shape and topography of the site are physically suitable for the proposed conversion in that the site is generally flat with no unusual or extraordinary topographic features.
5. 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.
6. The proposed Tentative Parcel Map can be served by all public utilities.
7. The Tentative Parcel Map complies with the requirements of Chapter 16.08 of the Lodi Municipal Code regulating Tentative Maps.
8. Each tenant was sent, via certified mail, a written notification of the intention to convert the property wherein they reside into a condominium project.
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 Tentative Parcel Map 08-P-01 is hereby approved, subject to the following conditions:

Community Development Department, Planning:

1. The project proponent owner will defend, indemnify, and hold the City, its agents, officers, and employees harmless of any claim, action, or proceeding to attack, set aside, void, or annul this Parcel Map, so long as the City promptly notifies the developer of any claim, action, or proceedings, and the City cooperates fully in defense of the action or proceedings.
2. The Tentative Parcel Map shall expire within 24 months of Planning Commission approval or a time extension must be granted by the Planning Commission. Failure to file a Final Map within these time limits shall nullify the previous approval or conditional approval of the Parcel Map.
3. A preliminary subdivision guarantee shall be submitted to the Community Development Department for review in conjunction with the processing of the final map.
4. Prior to recording the tract map, the project proponent shall submit a map drawn in substantial conformance with the approved tentative map and in compliance with all conditions set forth herein. The map shall be submitted for review and approval by the City in accordance with the Subdivision Map Act and the City's Subdivision Ordinance.
5. All existing and proposed utility, pipeline, open space, or other easements shall be shown on the final/parcel map. If there are building or other restrictions related to the easements, they shall be noted on the final/parcel map. The applicant shall show all access restrictions on the final/parcel map.
6. The project proponent shall form a Home Owners Association and record CC&Rs prior to or concurrently with the Final Map. CC&Rs shall include, but not be limited to: the conveyance of units; the assignment of parking and storage areas; and an agreement for common area maintenance, together with an estimate of any initial assessment fees anticipated for such maintenance, and an indication of appropriate responsibilities for the maintenance of all utility lines and services for each unit. The CCR's shall be approved as to form by the Community Development Director and recorded in the office of the County Recorder.
7. 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.
8. Any building improvements, additions, or exterior remodeling shall be subject to setback, lot coverage, parking and all other zoning code requirements as required by the Lodi Municipal Code.
9. To the extent feasible, the architecture and façade change in the future shall be consistent with the architecture and color pattern of the surrounding neighborhood and shall be reviewed by staff as part of the building permit.

Community Development Department, Building:

10. Prior to filing for Final Map, the project proponent shall submit complete plans showing a sound rated and 1 hour rated fire wall, extending from foundation to the roof sheathing
11. A building permit is required for any plumbing work and the appropriate submittal documents prepared by a registered engineer or licensed architect shall be submitted to the Community Development Department for complete review and approval.

Public Works Department, Engineering:

The following conditions of approval are required for the subject project per City codes and standards, all to be accomplished prior to, or concurrent with, final parcel map filing unless noted otherwise:

12. The project proponent shall form a Home Owner's Association to address the responsibility of the maintenance of shared services and facilities.
13. The Home Owner's Association required above shall be responsible for payment of monthly water and wastewater service charges for the condominium units.

14. The project proponent shall 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. Parcel map guarantee.
15. The applicant shall make a payment for filing and processing fees and charges for services performed by City forces per the Public Works Fee and Service Charge Schedule.
16. In order to assist the City of Lodi in providing an adequate water supply, the Owner/Developer on behalf of itself, its successors and assigns, shall enter into an agreement with the City that the City of Lodi be appointed as its agent for the exercise of any and all overlying water rights appurtenant to the proposed project, and that the City may charge fees for the delivery of such water in accordance with City rate policies. In addition, the agreement will establish conditions and covenants running with the land for all lots in the subdivision and provide deed provisions to be included in each conveyance.

Electric Utilities Department:

17. The project proponent shall prepare easement documents and shall provide a copy to the Electric Engineering Division of the Lodi Electric Utility Department.
18. A P.U.E. is required for all on-site existing and/or future primary facilities. The applicant shall contact the Electric Utility Department for required P.U.E. locations and Electric Service requirements.
19. The project proponent shall pay for Electric Utility Department charges in accordance with the Electric Department's Rules and Regulations.

Dated: January 28, 2009

I hereby certify that Resolution No. 09- was passed and adopted by the Planning Commission of the City of Lodi at a regular meeting held on January 28, 2009., by the following vote:

Ayes: Commissioners –
Noes: Commissioners –
Abstain: Commissioners –

ATTEST: _____
Secretary, Planning Commission

RESOLUTION NO. P.C. 09-

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF LODI APPROVING THE REQUEST OF BAUMBACH AND PIAZZA, INC., ON BEHALF OF FRED BAKER, FOR A USE PERMIT TO ALLOW THE CONVERSION OF FOUR DUPLEXES INTO EIGHT RESIDENTIAL CONDOMINIUM UNITS.

WHEREAS, the Planning Commission of the City of Lodi has held a duly noticed public hearing, as required by law, on the requested Tentative Parcel Map pursuant to the Lodi Municipal Code Chapter 16.08 and the Subdivision Map Act; and

WHEREAS, the properties are located at 1272 and 1273 Vienna Drive (APN: 027-390-02 and 027-390-02, respectively) and 1248 and 1251 Salzburg Lane (APN: 027-390-03 and 027-390-04, respectively); and

WHEREAS, the project proponent is Baumbach and Piazza, Inc., on behalf of Mr. Fred Baker, 323 West Elm Street., Lodi, CA, 95240; and

WHEREAS, the properties are zoned R-2, Single Family Residence and carry a General Plan Designation of LDR, Low Density Residence; and

WHEREAS, the properties are owned by Mr. Fred Baker, P. O. Box 1510, Lodi, CA 95241; and

WHEREAS, all legal prerequisites to the approval of this request have occurred; and

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

1. The project is found to be Categorically Exempt according to the California Environmental Quality Act, Article 19, Guidelines §15315, Class 15, "Minor land division." No significant impacts are anticipated and no mitigation measures have been required.
2. The applicant is requesting approval of a conditional Use Permit to allow the conversion of two existing duplexes into condominium units.
3. The granting of the Conditional Use Permit to allow the conversion of two duplexes into four condominium units and will not adversely affect the Lodi General Plan, since the proposed use does not conflict with the site's land use designation of LDR, Low Density Residential.
4. The Use Permit complies with the requirements of Chapter 15 of the Lodi Municipal Code regulating Housing Conversions.
5. That the site for the proposed Use Permit is adequate in size and is so shaped as to accommodate said use, as well as, all yards, spaces, walls, fences, parking, landscaping, and any other features necessary to adjust said use with the land and uses in the neighborhood and make it compatible thereto.
6. The proposed use is expected to be compatible with the surrounding neighborhood.
7. The size, shape and topography of the site is physically suitable for the proposed residential development in that the site is generally flat with no unusual or extraordinary topographic features.
8. No variance from the Lodi Municipal Code is approved by this action.

NOW, THEREFORE, BE IT DETERMINED AND RESOLVED by the Planning Commission of the City of Lodi that Use Permit 08-U-10 is hereby approved, subject to the following conditions:

1. The project proponent owner will defend, indemnify, and hold the City, its agents, officers, and employees harmless of any claim, action, or proceeding to attack, set aside, void, or annul this Parcel Map, so long as the City promptly notifies the developer of any claim, action, or proceedings, and the City cooperates fully in defense of the action or proceedings.

2. The Conditional Use Permit shall not be effective for any purpose until the owner of the property involved (or his duly authorized representative) has filed at the office of the Community Development Department their affidavit stating they are aware of, and agrees to all conditions of this Conditional Use Permit as set forth below. Additionally, no permits shall be issued until the owner of the property involved (or a duly authorized representative) pays all costs associated with the processing of this application pursuant to City policies.
3. The costs and expenses of any enforcement activities, including, but not limited to attorney's fees, caused by the applicant's violation of any condition imposed by this approval or any provision of the City of Lodi Municipal Code shall be paid by the applicant.
4. This Conditional Use Permit shall comply with Tentative Parcel Map reviewed and approved by the Planning Commission as part of this project.
5. This Conditional Use Permit shall comply with the development standards of R-2, Single Family Residence Zone and all applicable provisions of the City of Lodi Municipal Code.
6. Any proposed change to the approved tentative parcel map shall be reviewed by the Planning, Public Works and Fire Departments, and a written authorization of the Community Development Director shall be obtained prior to implementation.
7. A declaration of Covenants, Conditions, and Restrictions (CC&R's) shall be prepared by the developer/property owner and submitted to the Community Development Director and the City Attorney. The CC&R's shall be signed and acknowledged by all parties having any record title interest in the property to be developed, and shall make the City a party thereto, and shall be enforceable by the City. The CC&R's shall be reviewed and approved by the City and recorded prior to the recordation of the final tract map. Written proof of recordation with the San Joaquin County Recorder/Registrars Office shall be provided to the Community Development Department.
8. All common areas shall be owned, operated and maintained by the Homeowners' Association.
9. Prior to Map recordation, the applicant shall draft a Prospective Homebuyer's Awareness Package (PHAP), and submit it to the Community Development Department for review and approval. The said package shall include:
 - A. A standardized cover sheet as approved by the Community Development Department.
 - B. Zoning and General Plan information.
 - C. School information.
 - D. Special assessment district information.
 - E. A copy of the Covenants, Conditions and Restrictions (CC & R's) applicable to the tract.
 - F. Any additional information deemed necessary by the Planning Department or the Planning Commission for the full disclosure of pertinent information.

Dated: January 28, 2009.

I hereby certify that Resolution No. 09- was passed and adopted by the Planning Commission of the City of Lodi at a regular meeting held on January 28, 2009., by the following vote:

Ayes: Commissioners –
Noes: Commissioners –
Abstain: Commissioners –

ATTEST: _____
Secretary, Planning Commission

Variance to reduce side yard setback 5' to 2'9"

Item 3b.

**LODI
PLANNING COMMISSION
Staff Report**

MEETING DATE: January 28, 2009

APPLICATION NO: Variance 08-A-01

REQUEST: Request for a Variance to reduce the side yard setback from the required 5-feet to 2-feet 9-inches for an existing detached bonus room. (Applicant: Matt Dobbins; File #: 08-A-01)

LOCATION: 1021 South Church Street (APN: 045-160-26)

APPLICANT: Matt Dobbins.
1260 Stonebridge Drive
Lodi, CA 95240

PROPERTY OWNER: The same as above.

RECOMMENDATION

Staff recommends that the Planning Commission approve the request of Matt Dobbins for a Variance to reduce side yard setback for a detached bonus room from the required 5-feet to 2-feet 9 inches, subject to the conditions in the attached resolution.

PROJECT/AREA DESCRIPTION

General Plan Designation: LDR, Low Density Residential.

Zoning Designation: R-2, Single Family Residence.

Property Size: 7,315 square feet

The adjacent zoning and land use are as follows:

North: R-2, Single Family Residence.

South: R-2, Single Family Residence.

West: R-2, Single Family Residence.

East: R-2, Single Family Residence.

SUMMARY

The project proponent, Mr. Matt Dobbins, is requesting a Variance to allow him to maintain an existing structure with a reduced side yard setback. The original residential garage was converted into a habitable room a number of years ago without a building permit. At the time the garage and the dwelling unit were originally built in 1955, the City of Lodi Municipal Code did not require a 5-foot side yard setback for garages and other detached accessory buildings. Habitable living space however, is required to maintain a 5-foot side yard setback. If granted, the Variance would allow the habitable room to remain with a reduced side yard setback of 2-feet 9-inches..

BACKGROUND

The subject property currently contains a single-family residence, a detached garage that has been converted to a habitable room and a two-car carport. The main residence maintains 5'6" setback while the converted garage maintains a 2 feet and 9 inches side yard setback. The applicant purchased the home in a foreclosure sale and afterward it was determined that a previous owner converted the garage into a bonus room without obtaining proper building permits. The converted garage is located toward the rear of the property. City records indicate that a building permit for the original house and garage were issued in 1955. At that time the City of Lodi zoning ordinance did not require a 5-foot side yard setback for detached accessory garage buildings. Residences or other habitable buildings are, however, required to maintain a 5-foot side yard setback. Since the garage was converted to habitable space, the side yard setback has become an issue.

ANALYSIS

The subject residence and its detached garage date back to 1955. Available City records indicate these structures were constructed as part of the AJ Larson's Beweley subdivision. More specifically, the subject parcel and the parcel immediately to the south were recorded and developed at the same time in 1955. The garage was built with less than 3-foot side yard setback, which was permitted at the time. The properties immediately to the north and south of the subject parcel also have garages with similar set backs to the property line. The current zoning ordinance took affect after building permits for this parcel had been issued and construction commenced.

The applicant is requesting a Variance to allow the garage that has been converted into a bonus/habitable room to remain with the existing set back of 2-feet 9-inches. The garage in question was first constructed as a two-car garage in 1955 and permitted to encroach into the required 5-foot side yard setback. At some point in the past, the garage was converted into living space without a permit. Further, City records indicate that owners of the property applied for and were granted a building permit to construct a two-car carport in 1971. It is unclear whether the conversion of the garage into a dwelling unit preceded the building permit for the carport or visa versa. What is clear, however, is that the conversion of the garage into a dwelling unit was completed without City review or approval.

As prescribed by the Zoning Ordinance §17.72, approval of any Variance request requires that the City of Lodi Planning Commission must make specific findings. The special circumstances must show that the strict application of the Zoning Ordinance would deprive the property of privileges enjoyed by other property owners in the vicinity. Staff believes the applicant's Variance request meets all the required Variance findings consistent with those found in Section 17.72.030 of the Municipal Code. They include the following:

1. Granting this Variance request will prevent "unnecessary hardship and injustice." The applicant's hardship, as evidenced, is peculiar to the property and not created by any act of the current owner. The City of Lodi permitted the construction of the garage in 1955 and issued a building permit for a construction of a two-car carport in 1971. It is staff's position that the current owner had neither involvement construction of the structure nor its illegal conversion into a bonus/habitable room. Residents convert garages into habitable spaces throughout the City. It is staff's position that there will be a limited impact, visual or otherwise, to neighboring properties as a result of allowing the structure to continue be used as it has been for the last 30 years. There will be no difference.
2. The second condition requires the Planning Commission find that the requested Variance is necessary for the preservation and enjoyment of property rights possessed by other property in the vicinity, and would not constitute a grant of special privilege. It is a common practice in the City of Lodi for residents to convert their garages into additional room[s] while providing carports to meet the required covered parking spaces. The applicant's request is consistent with this

common practice in that he requests to legally convert an existing garage into a bonus room since the two-car carport on the property meets City regulations. Denial of the applicant's request for a Variance, in this context, would amount to denial of rights possessed by other property in the vicinity area.

3. The "strict application of the regulation" would impose unnecessary hardships and restrict the applicant's ability to convert a garage into a bonus/additional room. Given that the garage was legally permitted by the City, it would be unfair to retroactively apply City regulations. The granting of the requested Variance would not substantially alter the character of the neighborhood since, in particular, this garage has been used as a bonus room for the last 30 years.
4. The fourth condition required that the Planning Commission find that granting of the requested Variance would not be materially detrimental to the public health, moral, safety, or welfare and would not impose hardship, impair an adequate supply of light and air to the adjacent property. Staff believes that the existing encroachment has not been detrimental to the adjacent properties. The garage was converted illegally by previous owners and has been used a bonus room. The conversion has not been a source of complaint from adjacent properties.

Staff believes that a Variance request is eligible for consideration and approval. Granting of the requested Variance would allow the applicant to retain the converted residential space as it currently exist. The setback in question and the modifications are similar to other residential units in the immediate area. Therefore, the approval of the variance will allow the applicant to enjoy a privilege that other property owners have in the surrounding vicinity.

ENVIRONMENTAL ASSESSMENTS:

The project is categorically exempt from environmental review pursuant to the California Environmental Quality Act (CEQA), Section 15305 (a). This exemption applies to minor lot line adjustments, side yard, and setback variances not resulting in the creation of any new parcel.

PUBLIC HEARING NOTICE:

Legal Notice for the Variance was published on January 14, 2009. 52 public hearing notices were sent to all property owners of record within a 300-foot radius of the subject property as required by Government Code §65091 (a) 3.

ALTERNATIVE PLANNING COMMISSION ACTIONS:

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

Respectfully Submitted,

Concur,

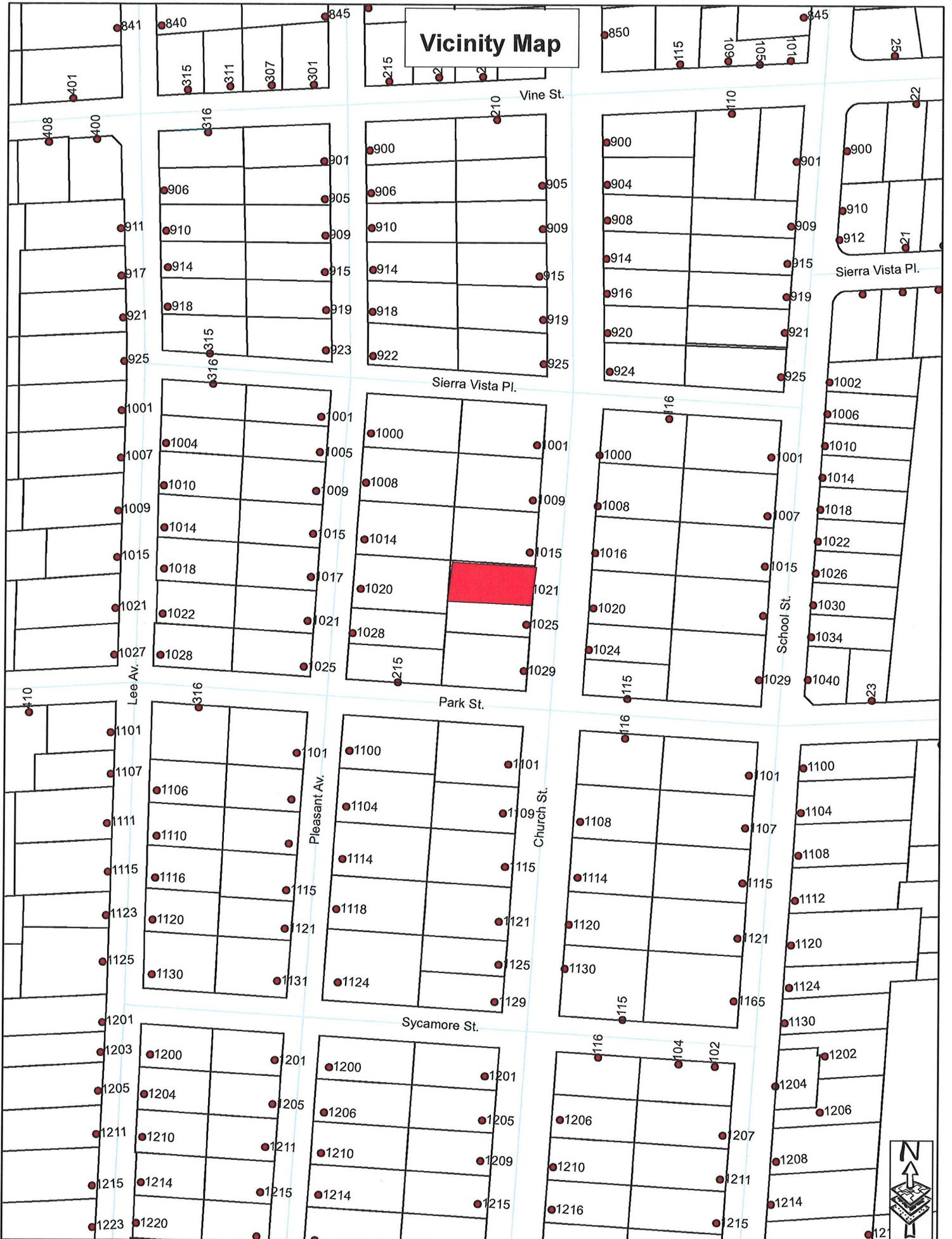
Immanuel Bereket
Assistant Planner

Konradt Bartlam
Interim Community Development Director

ATTACHMENTS:

1. Vicinity Map
2. Aerial Map
3. Applicant's Letter
4. Plot Plan
5. Building Permit Records
6. Draft Resolution

Vicinity Map





Pleasant Ave

S Pleasant Ave

S Pleasant Ave

Park St

Park St

S Church St

S Church St



DOBBINS PROPERTIES LLC

RECEIVED

DEC 09 2008

COMMUNITY DEVELOPMENT DEPT
CITY OF LODI

December 4, 2008

David Morimoto
City of Lodi Community Development
221 W. Pine Street
Lodi, CA 95241

Re: Variance Request – 1021 S. Church St.

Dear Mr. Morimoto

The purpose of this letter is to request a variance to the side yard setback on the north side of my property located at 1021 S. Church Street in Lodi. I purchased this property on July 25th, 2008 from U.S. Bank Corporation who had previously foreclosed on the property which consists of a +/- 1,400 sf residence along with a 440 sf garage conversion and two-car carport. My due diligence prior to purchasing the property caused me to believe that all improvements had been properly permitted. However, shortly after close of escrow I was notified by the City of Lodi that the conversion of the garage had in fact been completed without permits, and further, that a code enforcement case existed with the Community Improvement Division of the City of Lodi Police Department. It then became apparent to me that U.S. Bank Corp. had full knowledge of this defect and willfully failed to disclose it to me as they were legally required to. So far my attempts at contacting U.S. Bank for recourse have been fruitless.

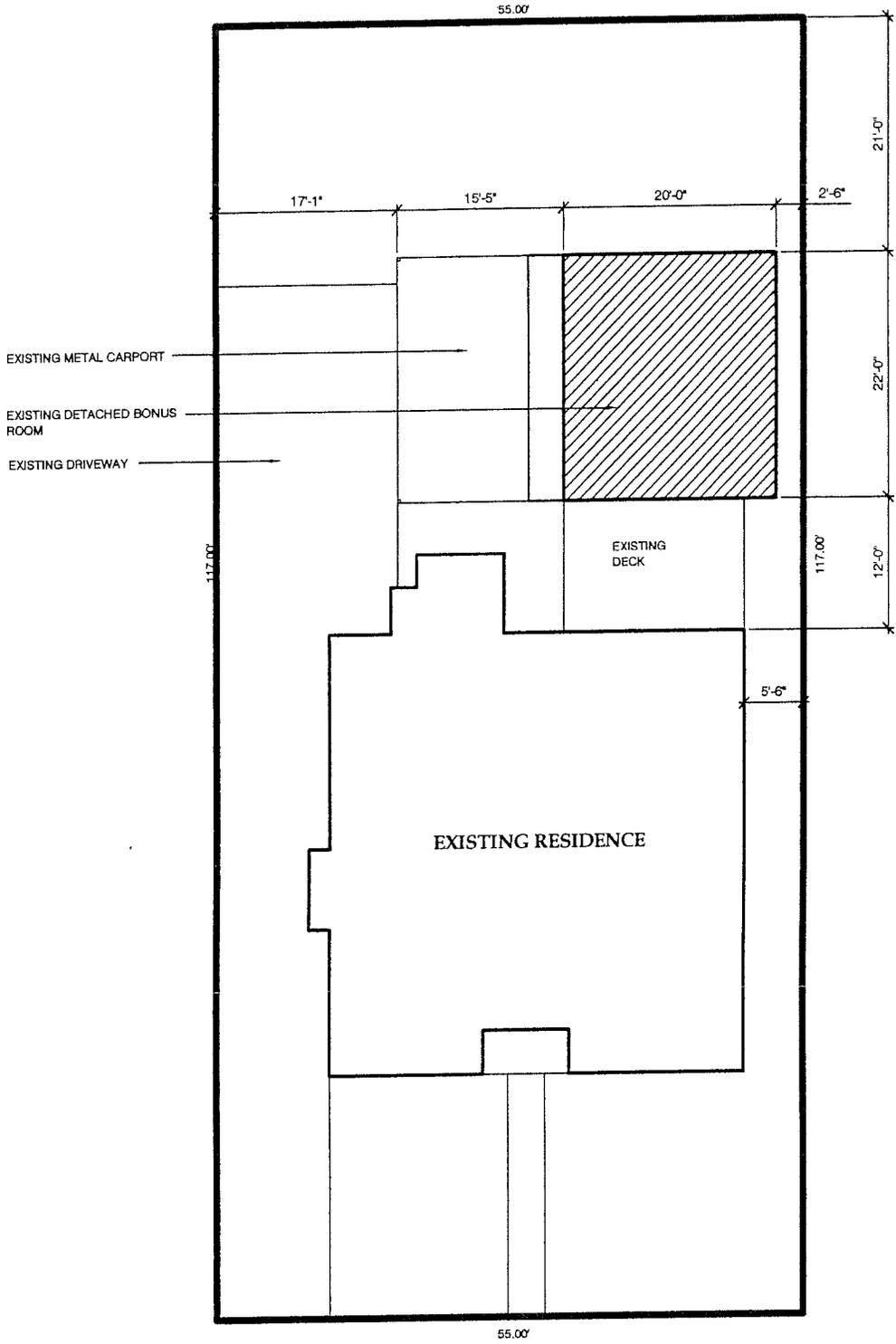
Since that time I have been working diligently with the City of Lodi Building Department and have recently submitted an application for a building permit for the garage conversion. However, at the time of submittal City Staff pointed out that the northern wall of the converted garage is 2' 6" from the property line which does not meet current setback requirements. My research has determined that the garage was legally built in 1955 with permit #7476 issued by the City of Lodi indicating that at the time of its construction this setback met City requirements. Additionally, permit #5485 was then issued in 1971 for the construction of the existing carport which was likely built in conjunction with the conversion of the garage to supplement the loss of covered parking. I can only assume that City Staff was aware of the conversion at that time yet opted to issue the permit for the carport but that is not clearly reflected in the City's files. Copies of both permits are attached for your reference.

I recognize the importance of setbacks and would not consider making this request in the case of new construction. However, since the improvement in question was legally built and its footprint has not been changed, I respectfully request that a variance be issued to allow the property's existing setbacks to be compliant with the City of Lodi's requirements. I appreciate your consideration and look forward to working with City Staff and the Planning Commission on this request.

Regards,



Matt Dobbins

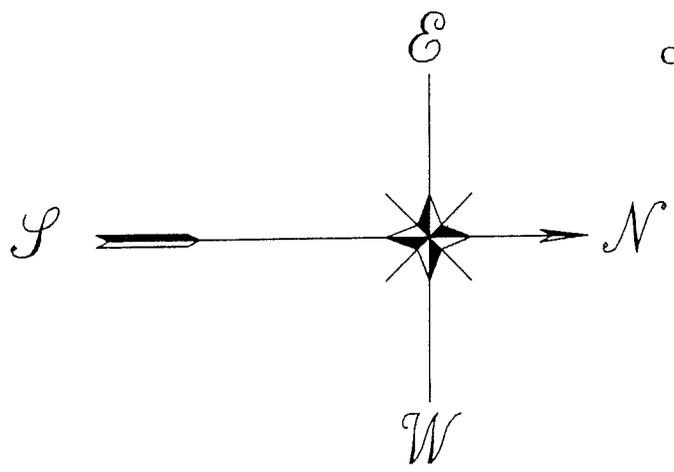


CHURCH STREET

PLOT PLAN

LEGAL DESCRIPTION

1021 CHURCH
 APN # 045-160-26
 CITY OF LODI, CALIFORNIA



CITY OF LODI

Phone 8-0641

Keszler Jacob

BUILDING ADDRESS 1 S Church St, Permit No. 7476, Date 8/8/55, Building Value \$3000, Occupancy Group I-J, Type of Construction V, Fire Zone 3, Building Zone R-2, Work relocate dwell from 801 Cherokee, Plans Checked W D Norum, Contractor Adam Pressler (owner), Contractor Schopp P Co, Contractor Sweeney Electric, or Engineer

by apply for permission to perform the above described work which is based upon certain plans, all of which referred to and made a part hereof. The work is subject to all provisions of state laws and of local laws, regulations and restrictions relating to any erection, construction, remodeling, repair, and/or moving of buildings; and applicant will hold and save the City of Lodi harmless from any damage incidental to any activities connected with this work.

Signature Jacob Keszler By, Address, Owner's Phone

is hereby granted to do the above described work at the following location: Block 2 Subdivision Bowley Acres Issued by M. Stewart

CITY OF LODI

Phone 8-0641

Keszler Jacob

BUILDING ADDRESS 1 S Church St, Permit No. 7476, Date 8/8/55, Building Value \$3000, Occupancy Group I-J, Type of Construction V, Fire Zone 3, Building Zone R-2, Work relocate dwell from 801 Cherokee, Plans Checked W D Norum, Contractor Adam Pressler (owner), Contractor Schopp P Co, Contractor Sweeney Electric, or Engineer

by apply for permission to perform the above described work which is based upon certain plans, all of which referred to and made a part hereof. The work is subject to all provisions of state laws and of local laws, regulations and restrictions relating to any erection, construction, remodeling, repair, and/or moving of buildings; and applicant will hold and save the City of Lodi harmless from any damage incidental to any activities connected with this work.

Signature Jacob Keszler By, Address, Owner's Phone

is hereby granted to do the above described work at the following location: Block 2 Subdivision Bowley Acres Issued by M. Stewart

21 S. Church St.
BUILDING ADDRESS

CITY OF LODI

Weygum, Adolf
OWNER

Permit - - \$ 5.00
Elect. - - \$
Plumb. - - \$
Mechanical \$
- - - - \$
Sewer - - \$
AL - - - \$ 5.00

Permit No 5485 A
Building Value \$ 400.00
Type of Construction R
Type of Work Carport
No. Bedrooms

Date July 26, 1971
Occupancy Group I J
Fire Zone ? Bldg. Zone R-2

rs: Bldg. Plumb. Elect. Mech.

by apply for permission to perform the above described work which is based upon certain plans, all of which y referred to and made a part hereof. The work is subject to all provisions of state laws and of local s, regulations and restrictions relating to any erection, construction, remodeling, repair, and/or moving of and applicant will hold and save the City of Lodi harmless from any damage incidental to any activities tion with this work.

Signature *Adolf Weygum* By
Address Owner's Phone

n is hereby granted to do the above described work at the following location:
Description *Part of Lot 4, Block 2, Bowley Acres* Issued by *[Signature]*

BUILDING PERMIT

CITY OF LODI
BUILDING DEPARTMENT
368-0641

BUILDING DEPARTMENT FOR FOLLOWING INSPECTIONS:

	Inspector	Date
on, House (Before Concrete)		
on, Garage (Before Concrete)		
g (Through Floor)		
(Before Lath)		
g (Before Lath)		
l (Before Lath)		
Sheet Rock, Nailing		
liance		
efore Occupancy)	<i>N.W.K.</i>	<i>11/23/71</i>
	Building Address	

Work subject to removal if inspections are not called for at the proper time

RESOLUTION NO. P.C. 09 -

**A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF LODI
APPROVING THE REQUEST OF MATT DOBBINS FOR A VARIANCE TO REDUCE
THE SIDEYARD SETBACK FOR A BONUS ROOM AT 1021 SOUTH CHURCH
STREET.**

WHEREAS, the Planning Commission of the City of Lodi has heretofore held a duly noticed public hearing, as required by law, on the requested Variance in accordance with the Government Code; and

WHEREAS, the property is located at 1021 South Church Street (APN: 045-160-26 and 047-270-12) respectively; and

WHEREAS, the project proponent is Mr. Matt Dobbins, 1260 Stonebridge Drive, Lodi, CA 95242; and.

WHEREAS, the property owner is Mr. Matt Dobbins, 1260 Stonebridge Drive, Lodi, CA 95242; and.

WHEREAS, the property has a General Plan land use designation of LDR, Low Density Residence and a zoning designation of R-2, Single Family Residence; and

WHEREAS, all legal prerequisites to the approval of this request have occurred; and

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

1. The proposed use will be consistent with all applicable goals, policies and standards of the City's adopted General Plan Policy Document.
2. The proposed use will be consistent with the Zoning designation if the setback variance is granted. .
3. The proposed use will not be detrimental to the health, safety or general welfare of persons residing or working in the neighborhood or be detrimental or injurious to the health, safety, peace or general welfare of the City.
4. A variance maybe granted because of special circumstances applicable to the property, including size, shape, topography, location or surroundings, the strict application of the zoning ordinance deprives such property of privileges enjoyed by other property in the vicinity and under identical zoning classification. The applicant contends that he had no involvement in the conversion of the garage into a habitable/bonus room and that it would impose an undue hardship on him to covert it back to a garage. He contends that there is already a two-car covered carport as required by City of Lodi Municipal Code. Granting the variance will not alter the existing size or use of the building and will not change the visual or land use impact on the surrounding neighborhood.
5. The properties immediately to the south and north are all developed as residences and have detached accessory buildings with similar setbacks. The applicant's request to retain the bonus room with the current setback is consistent with what is already there.
6. The variance will not constitute a grant of special privileges inconsistent with the limitations upon other properties in the vicinity and zone in which such property is situated.

7. The granting of such Variance does not, under the circumstances and conditions applied in the particular case, adversely affect the health or safety of persons, is not materially detrimental to the public welfare, nor injurious to nearby property or improvements.

NOW, THEREFORE, BE IT DETERMINED AND RESOLVED by the Planning Commission of the City of Lodi that Variance 08-A-01 is hereby approved, subject to the following conditions:

1. The developer will defend, indemnify, and hold the City, its agents, officers, and employees harmless of any claim, action, or proceeding to attack, set aside, void, or annul this Variance, so long as the City promptly notifies the developer of any claim, action, or proceedings, and the City cooperates fully in defense or the action or proceedings.
2. The Variance does not authorize a use which is not otherwise authorized in the zoning district where the property is located.
3. Approval of this Variance does not constitute the creation of a second dwelling unit and the structure is classified as a bonus room to the main dwelling.
4. All fees and charges due to the City of Lodi shall be paid prior to issuance of the building permit.
5. A building permit shall be required for conversion of the garage into a habitable space and the appropriate submittal documents prepared by a registered engineer or licensed architect shall be submitted to the Community Development Department for complete review and approval.
6. The north side of the structure has less than 5 feet of fire separation distance from the property line as required by 2007 CBC, Table 602, therefore Building Permit Submittals shall address the following:
 - a) Exterior walls in Group R-3 occupancies located less than 5 feet from a property line are required to have a 1 hour fire-resistance rating per 2007 CBC Table 602
 - b) Exterior walls located 5 feet or less from a property line shall be rated for exposure to fire from both sides per 2007 CBC Section 704.5.
 - c) Openings are not permitted in walls that are 3 feet or less from the property line per 2007 CBC Table 704.8.
 - d) Eaves may not project beyond a wall located less than 3' from the property line per 2007 CBC Section 704.2.
 - e) Each unique fire rated wall assembly must include an item number as referenced in 2007 CBC Table 720.1(2), and/or provide complete listing information with number included and show a copy of the detailed drawings & specifications on the plans.
7. All plan submittals shall be based on the City of Lodi Building Regulations and currently adopted 2007 California Building code. Please review our policy handouts for specific submittal procedures.

Dated: January 28, 2009

I hereby certify that Resolution No. 09- was passed and adopted by the Planning Commission of the City of Lodi at a regular meeting held on January 28, 2009, by the following vote:

AYES: Commissioners:

NOES: Commissioners:

ABSENT: Commissioners:

ABSTAIN: Commissioners:

ATTEST: _____
Secretary, Planning Commission

Use Permit for a Type 2 (Winery) ABC License - 770 N. Guild Ave.

Item 3c.

**CITY OF LODI
PLANNING COMMISSION
Staff Report**

MEETING DATE: January 28, 2009

APPLICATION NO: Use Permit: 08-U-17

REQUEST: Request for Planning Commission approval of a Use Permit to allow a Type 2 (Winery) Alcoholic Beverage Control License at 770 North Guild Avenue. (Applicant: Robert Mondavi Winery, Inc.; File Number: 08-U-17)

LOCATION: 770 North Guild Avenue. Lodi, CA. (APN: 049-340-34)

APPLICANTS: Robert Mondavi Winery, Inc.
235 North Bloomfield Road
Canandaigua, NY 14424

PROPERTY OWNER: Parinehs Exchange 2004 LLC
370 Woodcliff Dr. STE 300
Fairport, NY, 14450

RECOMMENDATION:

Staff recommends the Planning Commission approve the request of Robert Mondavi Winery, Inc., for a Use Permit to allow retail sales of wines to their employees at 770 North Guild Avenue, subject to the conditions in the attached resolution.

PROJECT/AREA DESCRIPTION

General Plan Designation: LI, Light Industrial.

Zoning Designation: M-1-Light Industrial .

Property Size: The property measures approximately 38.53 acres in area. The warehouse is approximately 580,497 sq. ft.

The adjacent zoning and land use are as follows:

North: M-2, Heavy Industrial.

South: M-2, Heavy Industrial.

East: County of San Joaquin. AU Zone, (Agriculture-Urban Reserve)

West: M-1, Light Industrial.

SUMMARY

The project proponent, Robert Mondavi Winery, Inc., is requesting a Use Permit to allow sale of wine to their employees out of their warehouse located on 770 North Guild Avenue. The warehouse located at this address is used for storing and distribution of domestic and international wine brands. The requested Use Permit is to allow the applicant to sell wine stored at this warehouse to its employees. Orders will be accepted, paid for and picked up at the warehouse and no retail sale of wine to the general public will take place. Wine distribution and retail sale of wine is a permitted use in M-1 (Light Industrial) zoning district.

BACKGROUND

The warehouse was constructed in 2000 and has since been used as for wholesale storage and distribution of domestic and international wine brands. No wine is processed, manufactured, consumed or sold at this address. The applicant is in possession of all the required ABC licenses

for the current operation. Approval of this Use Permit will not allow on-site consumption, but permits sale of wine related items such as gift items like decanters, stemware, and cork screws to employees. There will be no sales to the general public. The proposed use does not conflict with the M-1 zoning district.

ANALYSIS

The project proponent, Robert Mondavi Winery, Inc., is requesting a Use Permit to allow them on-sale retail of wine and winery products to their employees at their warehouse. The applicant would like to obtain licenses from the Department of Alcoholic Beverage Control (ABC) to enable it to make retail sales of wines being stored at the warehouse to its employees. The applicant already holds the appropriate ABC licenses for storing and distribution of wine at the warehouse.

The warehouse is located in an industrial district of the City at 770 North Guild Avenue.. The proposed retail sale of wine will take place within the warehouse and will not be open to the public. Approval of this Use Permit will only permit the sale of bottles and cases of wine and related items. No on-site consumption of alcohol is being proposed as part of this Use Permit request. The M-1 zone district is designated for a variety of general commercial uses, including wine distribution and off-site sales. The proposed retail sales is consistent with the types of uses permitted in the M-1 (Light Industrial) district.

The Lodi Municipal Code requires a Conditional Use Permit for the sale of alcohol. The provision covering alcohol sales is found in Section 17.72.040 of the Zoning Code and applies to off-sale as well as on-sale alcohol outlets. The City established the Use Permit requirement to gain local control over whether or not an ABC 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 State Department of Alcoholic Beverage Control does not restrict the number of on-sale beer and wine licenses as is the case for off sale licenses. The approval of this Use Permit application will not require a finding of public convenience or necessity as defined by the ABC for the issuance of the permit.

The ABC Use Permit request has been reviewed by various City Departments including the Lodi Police Department. Each department recommends approval subject to the conditions in the attached resolution. The Community Development Department is of the opinion that the proposed project is consistent with the surrounding land uses and zoning regulations. The intended nature of this operation does not promote onsite consumption of alcohol and, therefore, staff does not expect any problems with this type of establishment.

ENVIRONMENTAL ASSESSMENTS:

The project was found to be Categorically Exempt according to the California Environmental Quality Act, Article 19 §1532, Class 21 (a) (2). The project is classified as an “Enforcement action by regulatory agencies” because it is the “adoption of an administrative decision or order enforcing ...the lease, permit, license, certificate, or entitlement for use or enforcing the general rule, standard, or objective.” No significant impacts are anticipated and no mitigation measures have been required.

PUBLIC HEARING NOTICE:

Legal Notice for the Parcel Map was published on January 14, 2009. 19 public hearing notices were sent to all property owners of record within a 300-foot radius of the subject property as required by Government Code §65091 (a) 3.

ALTERNATIVE PLANNING COMMISSION ACTIONS:

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

Respectfully Submitted,

Concur,

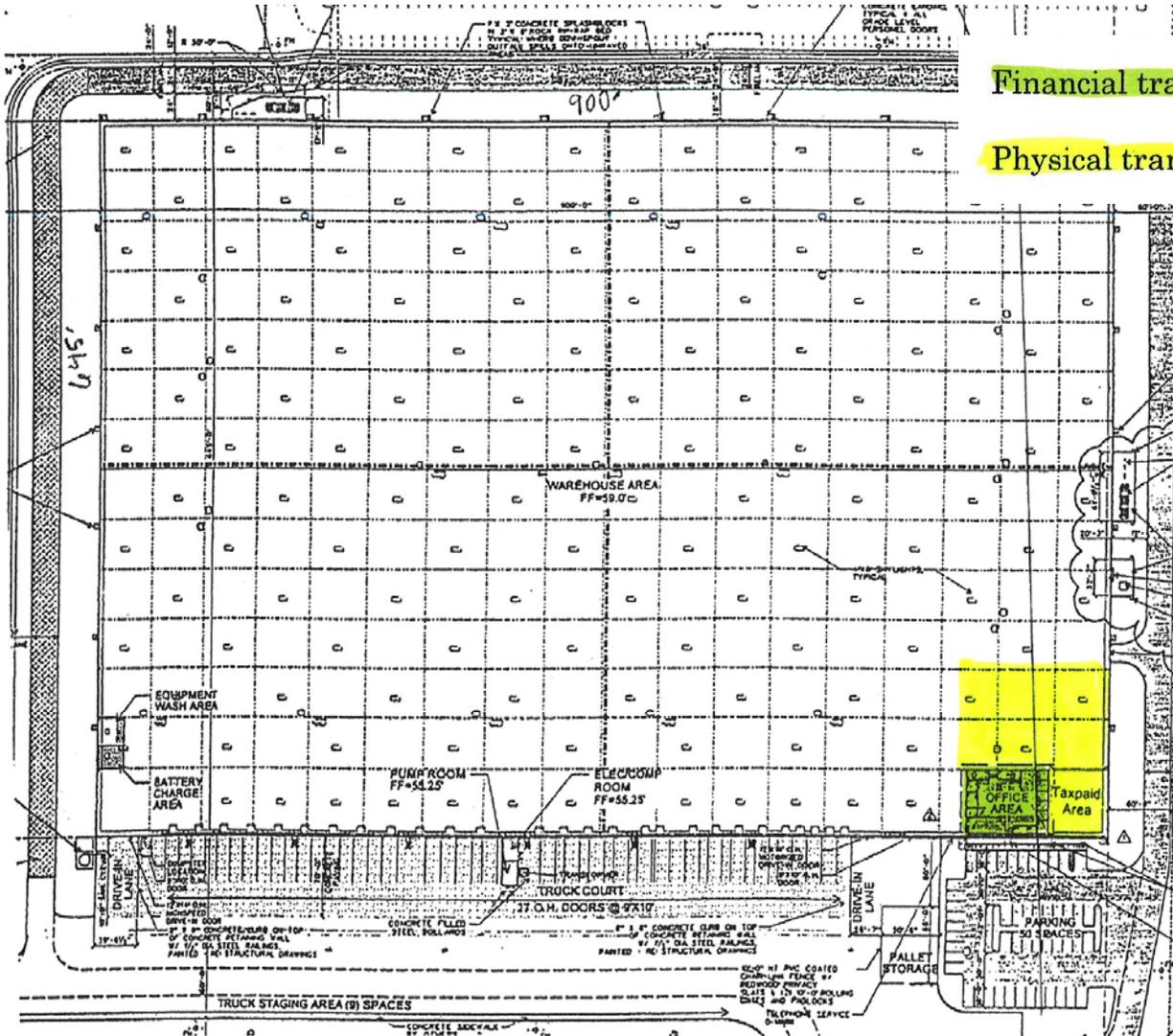
Immanuel Bereket
Assistant Planner

Konradt Bartlam
Interim Community Development Director

ATTACHMENTS:

1. Vicinity Map
2. Floor Plan
3. Applicant's Letter
4. Draft Resolution

Floor Plan



Financial transactions will occur here

Physical transfer of the wine will occur here

HOLLAND & KNIGHT LLP

50 California Street
Suite 2800
San Francisco, California 94111-4726

415-743-6900
415-743-6910 Fax
www.hklaw.com

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Mexico City
Rio de Janeiro
São Paulo
Tel Aviv**
Tokyo

**Representative Office

DAISY C. ROSAIA
925-743-0448

December 11, 2008

Via Federal Express

City of Lodi
Community Development Department
221 W. Pine Street
Lodi, California 95241
Attn: Mr. Manny Breket

RECEIVED

DEC 12 2008

COMMUNITY DEVELOPMENT DEPT
CITY OF LODI

Re: *R.M.E., Inc. d.b.a. Robert Mondavi Winery - Woodbridge
770 N. Guild Avenue, Lodi, CA 95240*

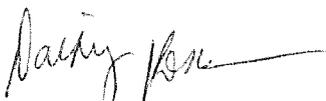
Dear Mr. Breket:

Our client, R.M.E., Inc. d.b.a. Robert Mondavi Winery – Woodbridge would like to obtain a type 17/20 license from the California Department of Alcoholic Beverage Control to enable it to sell wine to its employees. We have been advised by you that a Conditional Use Permit is required for this type of activity at the above location. Accordingly, enclosed is a Uniform Application together with a diagram of the warehouse. Also enclosed is a check in the amount of \$2,450.00 for the required fee.

Please be advised that the current business at the warehouse is domestic and international distribution of wine for Constellation Brands, Inc. and its subsidiaries. The proposed business is selling wine stored at the warehouse to employees of Constellation Brands, Inc. and its subsidiaries. Orders will be accepted, paid for, and picked up at a designated location (see diagram). There are fifty-nine (59) employees at the warehouse. Seventeen (17) employees are Lodi residents. All employees that will handle wine sales will be at least 21 years old. Two employees, Rhonda Camara and Patrick Farragher, are available for ABC training.

Please call me at (925) 743-0448 with any questions or comments. Thank you.

Sincerely,



Daisy C. Rosaia
Legal Assistant

RESOLUTION NO. P.C. 09-

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF LODI APPROVING THE REQUEST OF ROBERT MONDAVI WINERY, INC FOR A USE PERMIT TO ALLOW OFF-SALE OF WINE TO THEIR EMPLOYEES AT 770 NORTH GUILD AVENUE.

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

WHEREAS, the project proponent is Robert Mondavi Winery Inc., 235 North Bloomfield Road, Canandaigua, NY 14424 ; and

WHEREAS, the property owner is Parinehs Exchange 2004 LLC 370 Woodcliff Dr. STE 300 Fairport, NY, 14450; and

WHEREAS, the project is located at 770 N. Guild Avenue, Lodi, CA (APN: 049-340-34); and

WHEREAS, the property has a General Plan designation of LI, Light Industrial and is zoned M-1, Light Industrial; and

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

WHEREAS, Census Tract 46.00 in which the project is located permits the proposed use; and

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

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

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

1. The project is categorically exempt according to the California Environmental Quality Act, §15321, Class 21 (a) (2) (Enforcement Action by Regulatory Agency). The permit is being granted under adoption of an administrative decision or order enforcing the ABC license and enforcing Section 17.72.070 of the Zoning Ordinance and no significant impacts are anticipated and no mitigation measures have been required.
2. The project is consistent with the City of Lodi General Plan and Zoning ordinance.
3. The project will be consistent with the surrounding land uses.
4. No land use problems or issues are anticipated as a result of this project.
5. The granting of the Use Permit is consistent with the City's General Plan and Zoning Ordinance.

NOW, THEREFORE, BE IT DETERMINED AND RESOLVED by the Planning Commission of the City of Lodi that Use Permit Application No. 08-U-17 is hereby approved, subject to the following conditions:

1. The project proponent will defend, indemnify, and hold the City, its agents, officers, and employees harmless of any claim, action, or proceeding to attack, set aside, void, or annul this Use Permit, so long as the City promptly notifies the developer of any claim, action, or proceedings, and the City cooperates fully in defense of the action or proceedings.
2. The project proponent 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 drunkenness, drinking in public, harassment of passerby, assaults, batteries, acts of vandalism, loitering, excessive littering, illegal parking, excessive loud noises (especially in the late night or early morning hours), traffic violations or traffic safety based upon last drink statistics, curfew violations, lewd conduct, or police detention and arrests.

3. The Lodi Police Department may at any time, request that the Planning Commission conduct a hearing on the Conditional 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 business becomes a serious policing problem.
4. The project proponent shall operate and abide by the requirements and conditions of the State of California Department of Alcoholic Beverage Control License Type 17.
5. Prior to the issuance of a Type-17 license, the project proponent and on-site store manager shall complete Licensee Education on Alcohol and Drugs as provided by the State Department of Alcoholic Beverage Control.
6. The conditions of the Use Permit are subject to review by staff and the Planning Commission for compliance.
7. No sale of wine to the general public is permitted by this Use Permit.
8. The sale of wine shall be conducted inside of the existing building and there shall no exterior signs or advertising indicating that wine sales are being conducted.
9. The sale of alcoholic beverage from this site shall be conducted in a manner that will not adversely impact neighboring properties or businesses.
10. The operation of the business shall comply with all applicable requirements of the Municipal Code.
11. No variance from any City of Lodi adopted code, policy or specification is granted or implied by the approval of this resolution.

Dated: January 28, 2009

I hereby certify that Resolution No. 08-__ was passed and adopted by the Planning Commission of the City of Lodi at a regular meeting held on January 28, 2009 by the following vote:

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

ATTEST: _____
Secretary, Planning Commission

Use Permit for a Type 48 on-sale ABC License - 114 N. Sacramento St.

Item 3d.

**CITY OF LODI
PLANNING COMMISSION
Staff Report**

MEETING DATE: January 28, 2009

APPLICATION NO: Use Permit: 08-U-15

REQUEST: Request for Planning Commission approval of a Use Permit to allow a Type 48 on-sale General ABC license at 114 North Sacramento Street. (Applicant: Darrell Drummond. File Number: 08-U-15)

LOCATION: 114 North Sacramento Street
APN: 043-028-06

APPLICANT: Darrell Drummond
114 North Sacramento Street
Lodi, CA 95240

PROPERTY OWNER: AVID Structures LLC
404 West Pine Street #6
Lodi, CA 95240

RECOMMENDATION

Staff recommends that the Planning Commission conditionally approve the request of Darrell Drummond for a Use Permit to allow a Type-48 on-sale General ABC license at 114 North Sacramento Street, subject to the conditions in the attached resolution.

PROJECT/AREA DESCRIPTION

PROJECT/AREA DESCRIPTION

General Plan Designation: DC, Downtown Commercial

Zoning Designation: C-M, Commercial-Light Industrial

Property Size: 3,750 square feet.

The adjacent zoning and land use are as follows:

North: C-M, commercial-light industrial. The uses north of the project site are a mixture of retail commercial, offices and service businesses that are part of the downtown commercial area. The downtown area generally extends north to Lockeford Street. There are also scattered bars and restaurants that serve alcohol in the downtown area.

South: C-M, commercial-light industrial. There are a variety of commercial uses to the south, including retail stores, offices, eating establishments and a residential hotel. This area is included in the downtown area that extends south to Lodi Ave.

East: M-1, light industrial. East of the project site is the UP railroad line, several vacant lots and Main Street, an older mixed use commercial area.

West: C-M, commercial-light industrial. Across Sacramento Street are mostly old two story buildings.

SUMMARY

Darrell Drummond is requesting approval for a Use Permit that will permit him to apply for an State of California Alcohol Beverage Control (ABC) liquor license for on-site sale of beer, wine and distilled spirits at a proposed bar/dance club. The proposed bar is located at 119 North Sacramento Street and proposed hours of operations are from 7:00 am to 2:00 am daily. The applicant also has applied for a live entertainment permit including live bands and dancing in a night club setting. The live entertainment request will be reviewed administratively by the Police Department and Community Development Director.

BACKGROUND

The applicant is requesting to open a bar/dance club at 119 North Sacramento Street. This location has been previously used as another bar/dance club which has since closed. A bar/club is a permitted use at this location. The applicant has submitted floor plan that identifies the location of the kitchen, bar, and dance floor. The applicant is not proposing interior renovations or alterations. The previous establishment called Mojo's also featured a bar with dancing. The applicant would like to use the existing building to open a new bar/club.

ANALYSIS

As previously noted, the applicant is proposing to locate a bar/club in an existing space at 114 North Sacramento Street. The applicant would like to secure an ABC License Type 48 On-sale General Bar-Nightclub. Section 17.72.040 of the Lodi Municipal Code requires a Use Permit for new On-Sale liquor licenses. The City established the Use Permit requirement to maintain local control over whether or not the sale of alcohol is appropriate for a particular location. The State Department of Alcoholic Beverage Control primarily controls issuance of new liquor licenses based on existing concentration of licenses within a particular census tract. Census Tract 42.04 covers the area south of Holly Drive, west of the Sacramento Street, north of Lodi Avenue, and east of Ham Lane. Because this census tract includes most of the downtown area where there are many restaurants and bars, there is an existing over-concentration of ABC on-site general sales licenses based on the population within the census tract.

The subject census tract is allowed four (4) Type-48 On-Sale General Bar-Nightclub Licenses; however the area currently has seven on-sale general ABC licenses. Because this census tract is over-concentrated, the Planning Commission must make a finding of public necessity or convenience in order to approve an additional general on-sale license for this census tract. This finding must be made in addition to the determination that the proposed land use is appropriate for the location and consistent with the General Plan and Zoning standards for the property.

While there is a over concentration of Type 48 liquor licenses in this census tract, it would not be unexpected in the downtown district. Generally downtowns have a higher concentration of eating and drinking establishments than the rest of the city. The Lodi's Downtown Guidelines specifically call out drinking and eating establishments as the type of businesses that are encouraged. The Downtown area is designed to function, in part, as an entertainment center to attract people and activity to the downtown, particularly at night and on weekends. The presence of people, particularly pedestrians, creates vitality on the streets and helps to create an overall sense of safety in the evening hours. This operation would be similar to other bars within the Downtown District. The Community Development Department has determined that Mr. Drummond's application for a Use Permit can meet the criteria for the finding of public convenience.

The applicant has applied for a live entertainment permit. The live entertainment permit will be reviewed by the Police Department and the Community Development Director. Live entertainment hours, if approved, will be limited to Thursday, Friday and Saturday evenings between the hours of 8:00 p.m. and 2 a.m. and will be limited to the interior of the building. Further, the applicant will be required to provide a minimum of three security staff present during every live entertainment event and one additional security staff for every 25 patrons. All persons responsible for security for the business will be required to have training as State-licensed security personnel.

The applicant has proposed hours of operation from 7:00 a.m. to 2:00 p.m. daily. Staff contacted the following bars within the Downtown District to compare their business hours:

Name Bars	Hours
Stooges of Lodi	3:00 p.m. – 1:00 a.m. Monday – Saturday Sundays – Closed.
Garry’s Lounge	11:00 a.m. – 1:00 a.m. Monday – Thursday 11:00 a.m. – 2:00 a.m. Friday – Saturday Sundays – Closed.
Ollie’s Tavern	11:00 a.m. – 11:00 p.m. Monday –Thursday 11:00 a.m. – 1:00 p.m. Friday – Saturday Sundays – Closed.

The applicant’s proposed hours of operation for the bar/nightclub will be inconsistent with other bars found in downtown Lodi. Staff recommends that the hours of operation be limited from 11:00 a.m. to 2:00 a.m. daily. Based on other comparable bars within the downtown area, these recommended hours of operation are reasonable and consistent with other similar establishments. Staff feels that the proposed hours are acceptable and would give the applicant’s business opportunity to thrive. Further, if problems arise, City staff and/or the Planning Commission may initiate a public hearing where the Commission would have the ability to amend Use Permit conditions or, as a last resort, revoke the Use Permit.

Staff has contacted the Lodi Police Department for comment on the proposed Use Permit application. Although they have indicated that they had some problems that required police action with the previous Mojo’s business at this same location, they felt that this was largely a problem with the way the previous business was managed. The Police Department is willing to work with the current applicant and will suggest ways in which the business can be operated in a manner that will limit law enforcement problems. In the absence of negative recommendation from the Police Department, staff recommends that the Planning Commission approve the applicant’s request, subject to the attached resolution.

ENVIRONMENTAL ASSESSMENTS:

The project was found to be categorically exempt according to the California Environmental Quality Act, Article 19 15321 Class 21 (a) (2). The project is classified as an “Enforcement Action by Regulatory Agencies” because it is the “adoption of an administrative decision or order enforcing...the lease, permit, license, certificate, or entitlement for use or enforcing the general rule, standard, or objective.” No significant impacts are anticipated and no mitigation measures have been required.

PUBLIC HEARING NOTICE:

Legal Notice for the Use Permit was published on January 14, 2009 and 37 public hearing notices were sent to all property owners of record within a 300-foot radius of the subject property as required by California State Law §65091 (a) 3.

ALTERNATIVE PLANNING COMMISSION ACTIONS:

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

Respectfully Submitted,

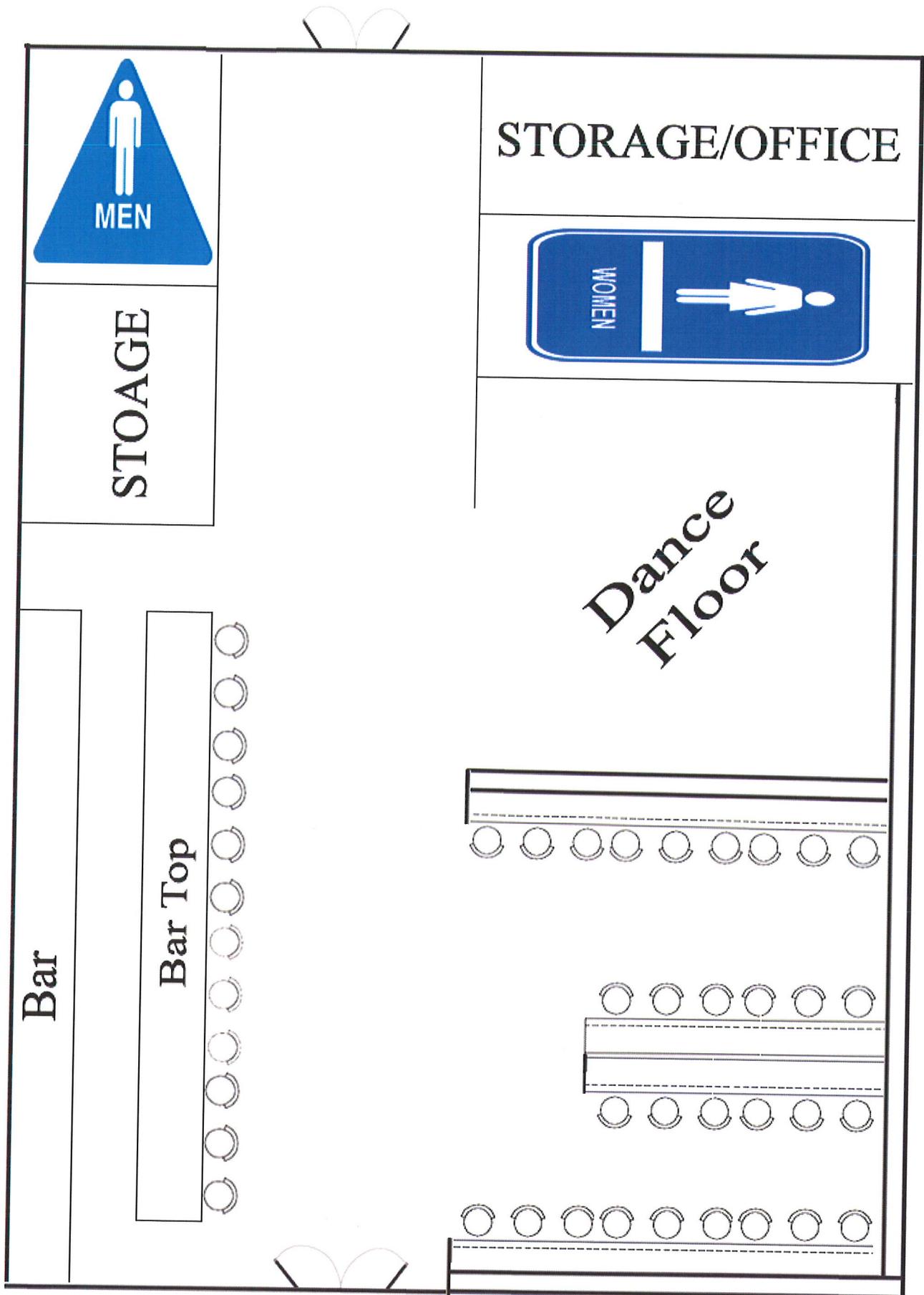
Concur,

Immanuel Bereket
Assistant Planner

Konradt Bartlam
Interim Community Development Director

ATTACHMENTS:

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



114 North Sacramento Street

42

RESOLUTION NO. P.C. 09-

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF LODI FOR THE APPROVAL OF THE REQUEST OF DARREL DRUMMOND FOR A USE PERMIT TO ALLOW FOR AN ON-SALE BEER, WINE AND DISTILLED SPIRITS ALCOHOLIC BEVERAGE CONTROL LICENSE AT 114 NORTH SACRAMENTO STREET

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

WHEREAS, the project proponent is Darrell Drummond, 114 North Sacramento Street, Lodi; and

WHEREAS, the property has a General Plan designation of Downtown Commercial and is zoned C-M, Commercial-Light Industrial; and

WHEREAS, the property is located at 114 North Sacramento Street, Lodi, CA (APN 043-028-06) and:

WHEREAS, the requested use permit to allow the selling of beer, wine and distilled spirits for on-site consumption within a bar/nightclub is an enforcement action in accordance with the City of Lodi Zoning Ordinance; and

WHEREAS, Census Tract 42.04 in which the bar/nightclub is located currently has an over concentration of licenses allowing on premise consumption of alcoholic beverages; and

WHEREAS, because Census Tract 42.04 has an over concentration of on-sale general alcohol licenses, the planning Commission must make a finding of necessity or public convenience in order to permit the issuance of an additional Alcohol Beverage Control license in this tract; and

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

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

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

1. The project was found to be categorically exempt according to the California Environmental Quality Act, Article 19 15321 Class 21 (a) (2). The project is classified as an "Enforcement Action by Regulatory Agencies" because it is the "adoption of an administrative decision or order enforcing...the lease, permit, license, certificate, or entitlement for use or enforcing the general rule, standard, or objective." No significant impacts are anticipated and no mitigation measures have been required.
2. The sale of alcoholic beverages for on-premise consumption as part of a bar/nightclub is a permitted use in the Downtown commercial zone.
3. The sale of alcoholic beverages for on-premise consumption is a normal part of business operations and provides a convenience for customers of the business.
4. The sale and consumption of alcohol can sometimes result in customer behavior problems that can require police intervention.
5. Steps can be taken by the applicant to reduce the number of incidents resulting from the over-consumption of alcohol including the proper training and monitoring of employees serving alcohol; the careful screening of IDs of customers to avoid sales to under-aged individuals; limiting the number of drinks sold to individual customers to avoid over-consumption; providing properly trained on-site security to monitor customer behavior both in and outside of the establishment; and working with the Lodi Police Dept. to resolve any problems that may arise.

6. The proposed use can be compatible with the surrounding use and neighborhood if the business is conducted properly and if the applicant works with neighboring businesses and residents to resolve any problems that may occur.
7. The sale of alcoholic beverages at this location can meet the intent of the Downtown Guidelines 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. 08-U-15 is hereby approved, subject to the following conditions:

1. The developer will defend, indemnify, and hold the City, its agents, officers, and employees harmless of any claim, action, or proceeding to attack, set aside, void, or annul this Use Permit, so long as the City promptly notifies the developer of any claim, action, or proceedings, and the City cooperates fully in defense of the action or proceedings.
2. The applicant shall insure that the serving of alcohol does not cause any condition that will cause or result in repeated activities that are harmful to the health, peace or safety of persons residing or working in the surrounding area. This includes, but is not limited to: disturbances of the peace, illegal drug activity, public intoxication, drinking in public, harassment of people passing by, assaults, batteries, acts of vandalism, loitering, excessive littering, illegal parking, excessive loud noises, traffic violations or traffic safety based upon last drink statistics, curfew violations, lewd conduct, or police detention and arrests.
3. The applicant shall operate and abide by the requirements and conditions of the State of California Department of Alcoholic Beverage Control License Type 48. The Type 48 License shall be limited to on-site sale and consumption of beer, wine and liquor during the hours that the bar is open for business, 11:00 a.m. to 2:00 am daily or as otherwise modified by the Community Development Director. The on-site sale and consumption of beer, wine and distilled spirits shall occur only during the said hours.
4. Starting from the date the bar/nightclub begins operation, this Use Permit shall be subject to a, six-month, one year, and two year review by Community Development Director. If the Director determines it necessary, the Director shall forward the review to the Planning Commission to review the bar's operation for compliance with the conditions of the Use Permit, and in response to any complaints thereafter. 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 operation.
5. The Lodi Police Department may, at any time, request that the Planning Commission conduct a hearing on the Use Permit for the purpose of amending or adding new conditions to the Use Permit or to consider revocation of the Use Permit if the Use Permit becomes a serious policing problem.
6. The Use Permit shall require the applicant to secure an ABC Type 48 license, On Sale General – Bar-Nightclub.
7. Prior to the issuance of a Type 48 ABC license, the applicant shall complete Licensee Education on Alcohol and Drugs as provided by the State Department of Alcoholic Beverage Control.
8. Any changes to the interior layout of the business operation shall be subject to review and approval by the Planning Department and will require appropriate City permits.
10. No person who is in a state of intoxication shall be permitted within the bar/nightclub nor shall an intoxicated patron already in the bar be served additional alcoholic beverages. It is the responsibility of the business owner/operator to ensure no patron in state of intoxication is allowed into the building.

11. The operator of the bar 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.
12. 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. Exterior doors of the establishment shall remain closed with the exception of ingress and egress during periods of live entertainment and dancing.
13. No exterior amplified music shall be permitted as part of this Use Permit approval.
14. The exterior of all the premises shall be maintained in a neat and clean manner, and maintained free of graffiti at all times.
15. The operation of the business shall comply with all applicable requirements of the Municipal Code.
16. No variance from any City of Lodi adopted code, policy or specification is granted or implied by this approval.

Dated: January 28, 2009

I certify that Resolution No. 09- was passed and adopted by the Planning Commission of the City of Lodi at a regular meeting held on January 28, 2009 by the following vote:

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

ATTEST: _____
Secretary, Planning Commission

Item 6a.



MEMORANDUM, City of Lodi, Community Development Department

To: City of Lodi Planning Commissioners
From: Rad Bartlam, Interim Community Development Director
Date: Planning Commission Meeting of 1/28/09
Subject: Past meetings of the City Council and other meetings pertinent to the Planning Commission

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

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

Date	Meeting	Title
December 17, 2008	REGULAR	Prospective Sale of Real Property located at 217 East Lockeford Street, Lodi, California (APN #041-220-02); the Negotiating Parties are City of Lodi and R. Wayne Craig, Agent for Buyers Eagles Lodge of Lodi; Government Code §54956.8
		Set Public Hearing for January 7, 2009, to Solicit Feedback on Potential Uses of Neighborhood Stabilization Program Funds Being Made Available by the California Department of Housing and Community Development (CD)
		Conduct Public Meeting to Allow Public Testimony Regarding the Resolution of Intention to Expand the Lodi Tourism Business Improvement District to Include Flag City Hotels within the Business Improvement District (CA)
January 7, 2009	REGULAR	Set a Public Hearing for February 11, 2009, for a joint session with the Planning Commission to receive a report and recommendation on the Preferred General Plan Alternative (CD)
		Public Hearing to Solicit Feedback on Potential Uses of Neighborhood Stabilization Program Funds Being Made Available by the California Department of Housing and Community Development (CD)
		Provide Direction Regarding Requested Ordinance Change Increasing the Number of Legal Cardroom Games, Expanding Cardroom Hours, and Increasing the Number of Tables (CA)
January 13, 2009	Shirtsleeve – Special	Threatened Litigation: Government Code §54956.9(b); One Case; Potential Suit by Citizens for Open Government against City of Lodi
January 21, 2009	REGULAR	Public Hearing to Allow Public Testimony Regarding the Resolution of Intention to Expand the Lodi Tourism Business Improvement District (LTBID) to Include Flag City Hotels within the Business Improvement District and Consider Introducing Ordinance Expanding the LTBID (CA)
		Adopt Resolution Authorizing Purchase Agreement for City-Owned Property at 217 East Lockeford Street (CM)

January 21, 2009 - Continued	Adopt Resolution Approving Consultant Services Contract with Konradt Bartlam to Serve as Community Development Director (CM)
	Review and Endorse Economic Development/Owner Participation Policies and Conceptual Three-Year Program Budget for the Lodi Community Improvement Project (CM) NOTE: Joint action of the Lodi City Council and Redevelopment Agency