

<p>CARNEGIE FORUM 305 WEST PINE STREET LODI, CALIFORNIA</p>	<p><b>AGENDA</b> <b>LODI</b> <b>PLANNING COMMISSION</b></p>	<p>REGULAR SESSION WEDNESDAY, MAY 27, 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 – “March 25, 2009”, “April 8, 2009” & “April 22, 2009”
3. PUBLIC HEARINGS
  - a. Request to amend a previously approved Use Permit 07-U-01 to increase the number of tables, expand the hours of operation and increase the number of legal cardroom games at 1800 S. Cherokee Lane. (Applicant: Chris Ray, on behalf of Wine Country Cardroom & Restaurant. File Number: 07-U-01.)

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

4. PLANNING MATTERS/FOLLOW-UP ITEMS
  - a. Construction of Alternative to Measure K Railroad Grade Separation Project.
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 2<sup>nd</sup> Floor, 221 West Pine Street, Lodi, California 95240 – Phone: (209) 333-6702.

**LODI PLANNING COMMISSION  
REGULAR COMMISSION MEETING  
CARNEGIE FORUM, 305 WEST PINE STREET  
WEDNESDAY, MARCH 25, 2009**

1. CALL TO ORDER / ROLL CALL

The Regular Planning Commission meeting of March 25, 2009, was called to order by Chair Kiser at 7:00 p.m.

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

Absent: Planning Commissioners – Mattheis

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

2. MINUTES

January 28, 2009 & February 11, 2009 (City Council Special Joint Meeting Minutes)

MOTION / VOTE:

The Planning Commission, on motion of Commissioner Kirsten, Hennecke second, unanimously approved the Minutes 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 the request for a Use Permit to allow a Type-41 On-Sale Beer and Wine Alcoholic Beverage Control License at located at 550 South Cherokee Lane Suite C. (Applicant: Cindy Chan. File Number: 09-U-01).

Assistant Planner Bereket gave a brief PowerPoint presentation based on the staff report.

Commissioner Kirsten disclosed that he met with the applicant regarding the project.

Hearing Opened to the Public

- Cindy Chan, applicant, came forward to answer questions.
- Commissioner Heinitz asked if Ms. Chan has gone through the ABC training or if any of her staff has gone through the training. Ms. Chan stated Ms. Chan stated that they had not been through the required training. Mr. Bartlam stated that it is part of the conditions in the resolution and staff will be available to explain everything to her.
- Commissioner Kirsten asked if Ms. Chan has received any objections to her proposed project and how long she has been in business at this location. Ms. Chan stated that the restaurant has been open one month.
- Chair Kiser asked for clarification on how long the business has been open. Ms. Chan stated that the business has been open for one month.

Public Portion of Hearing Closed

MOTION / VOTE:

The Planning Commission, on motion of Commissioner Kirsten, Cummins second, approved the request of the Planning Commission for a Use Permit to allow a Type-41 On-Sale Beer and Wine Alcoholic Beverage Control License at located at 550 South Cherokee Lane Suite C subject to the conditions in the resolution. The motion carried by the following vote

Continued

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

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 the request for a Use Permit to allow a Type 48 On-Sale General ABC license at 39 South Sacramento Street. (Applicant: Maureen Williams. File Number: 8-U-14) – **Withdrawn by Applicant**

4. PLANNING MATTERS/FOLLOW-UP ITEMS

None

5. ANNOUNCEMENTS AND CORRESPONDENCE

Director Bartlam reminded the Commission about the 700 Forms, Statement of Economic Interest. The next meeting will be held at Hutchins Street Square and will begin at 6:00 pm.

6. ACTIONS OF THE CITY COUNCIL

Director Bartlam stated that he is available to answer questions regarding any of the items outlined on the summary memo.

7. GENERAL PLAN UPDATE/DEVELOPMENT CODE UPDATE

Director Bartlam stated that the update is moving forward and the preferred plan is set and is being used for the environmental document. Some time in May staff should have some draft policies for the Commissions review.

Chair Kiser asked about the LEED building portion of the document. Mr. Bartlam stated that the policies will be coming in chapter order and when the conservation chapter is brought forward that will be a good time to discuss LEED issues.

8. ACTIONS OF THE SITE PLAN AND ARCHITECTURAL REVIEW COMMITTEE

None

9. ART IN PUBLIC PLACES

Commissioner Kirsten gave a brief report regarding the March 25, 2009 meeting.

10. COMMENTS BY THE PUBLIC

None

11. COMMENTS BY STAFF AND COMMISSIONERS

Commissioner Heinitz asked about the California League of Cities Planners Institute. Director Bartlam stated that he would get the information for the Commission.

12. ADJOURNMENT

There being no further business to come before the Planning Commission, the meeting was adjourned at 7:20 p.m.

ATTEST:

Konradt Bartlam  
Community Development Director

**LODI PLANNING COMMISSION  
SPECIAL COMMISSION MEETING  
HUTCHINS STREET SQUARE  
CHARLENE POWERS LANGE THEATRE  
125 S. HUTCHINS ST.  
LODI, CALIFORNIA  
WEDNESDAY, APRIL 8, 2009**

1. CALL TO ORDER / ROLL CALL

The Special Planning Commission meeting of April 8, 2009, was called to order by Chair Kiser at 6:05 p.m.

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

Absent: Planning Commissioners – Mattheis

Also Present: Community Development Director Konradt Bartlam, Deputy City Attorney Janice Magdich, Senior Planner David Morimoto, Assistant Planner Immanuel Bereket, Outside Council for the City of Lodi Jonathon Hobbs, and Administrative Secretary Kari Chadwick

Chair Kiser made a brief statement regarding the rules of conduct for the meeting.

2. 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 the request of Browman Development Company and Wal-Mart Real Estate Business Trust to approve Use Permit U-02-12 to allow the construction of a commercial center in a C-S, Commercial Shopping District, and allow the sale of alcoholic beverages at the Wal-Mart Supercenter; and approve Vesting Tentative Map 03-P-001 to create 12 parcels for the project; and site plan and architectural approval of a new retail building to be constructed at 1600 Westgate Drive. In addition, the Planning Commission will consider adopting the findings and statements of overriding considerations pursuant to the California Environmental Quality Act.

Director Bartlam gave a PowerPoint presentation based on the staff report. There are three actions being presented to the Commission this evening specifically; Vested Tentative Map, Use Permit, and Site Plan and Architectural Review Committee (SPARC). Staff feels that based on the action made by the City Council to certify the EIR the Planning Commission should make the findings presented in the resolution.

Vice Chair Cummins asked if the Commission was looking at any part of the EIR. Director Bartlam stated there is a set of findings and a statement of overriding considerations that is part of the resolution for those impacts that were unable to be mitigated, Cumulative Air Quality and Agricultural Resources. The statement basically says that the benefits of the project outweigh the impacts.

Commissioner Olson asked if the Commission can separate the resolution into the different areas. Director Bartlam stated that it has been presented as one action, but the Commission is welcome to parcel it out.

Hearing Opened to the Public

- Darryl Browman, Applicant, came forward to state his agreement with the conditions placed in the resolution. Mr. Browman thanked staff for all the time and effort put into this project. One of the benefits of having a project go for this long is the amount of public input it receives. There have been a lot of features added to the project to try to minimize the scale of the building. Mr. Browman added that the concerns that the Commission expressed at the meeting back in October regarding the energy consumption/efficiency of the project

*Continued*

have now been added as conditions in the resolution. He then listed the items that will reduce the carbon footprint of the project and the Wal-Mart building itself.

- Brett Jolley, opponent to the project on behalf of Lodi First, came forward to oppose the project. The letters and studies that have been submitted by the applicant are just paper. The statement of overriding considerations must be made per CEQA guidelines if the Commission wants to approve any part of the project. The findings can be found on page 34, Exhibit A of the draft resolution. There are six findings; 1) tax generation, 2) employment creation, 3) municipal infrastructure development, 4) plan implementation, 5) high quality design, and 6) energy saving features. Mr. Jolley stated that the latter four relate only to the project and do not necessarily confer any additional benefit to the City. He added that there are several reports that have been submitted that have contradicting information regarding tax generation. Mr. Jolley stated a few reasons for not approving the project focusing on the various reports showing the tax revenue figures and additional job figures inconsistencies. He would like to have a fiscal impact report done by the City of Lodi.
- Commissioner Kirsten asked about the quote regarding the tax increase. Mr. Jolley stated that in his opinion the various reports do not account for lost revenue from other businesses closing. Kirsten asked if requiring an independent analysis is typical in this situation. Mr. Jolley stated that yes it is. Many cities have recently adopted Big Box Ordinances that require a fiscal impact report to be prepared that would address the impacts made by that store opening. Kirsten asked about the expected increase in job figures and should those be measured as part of the entire project build out. Mr. Jolley stated that it would be relevant for the analysis. Kirsten asked if it was likely that if the Super Wal-Mart project did not get built a shopping center would still be built in this location generating the jobs stated in the reports even without the Wal-Mart. Mr. Jolley stated that that is correct.
- Don Mooney, opponent of the project on behalf of Citizens for Open Government, came forward to address the statement in the resolution on page three that states that the Commission is exercising its own independent judgment. The Commission has already stated that they do not agree with the environmental portion of the project and the statement of overriding consideration that must be made tonight is directly related to that document. Mr. Mooney encourages the Commission to take a long look at the uncertainty of the current economic situation and ask questions of staff regarding the recommendations. He is also concerned about the alternative analysis portion of the staff report where staff states that there is little discretion in regards to what can be approved. He argues that a No Project alternative could be adopted.
- Commissioner Kirsten asked about the No Project option. Mr. Mooney stated that the No Project option is generally used as a baseline to determine the environmental impacts. If the Commission does not agree with the findings the No Project option is a viable alternative for adoption.
- Alexis Pelosi, Attorney with Sheppard Mullin Richter and Hampton representative for the applicant, came forward to rebut comments made. The reports that have been submitted to the Commission have been done by experts. They do offer substantial evidence to make the CEQA findings and to adopt the overriding considerations. There was a fiscal impact analysis done by Bay Area Economics (BAE) as part of this project and based on comments received at the October 2008 meeting regarding the EIR, Wal-Mart had a CB Richard Ellis Report done. The report goes over the net tax gain or net tax revenue for this project as well as the job gain.
- Chair Kiser asked why there are so many conflicting figures that have been presented at past meetings regarding the revenue generation figures. Ms. Pelosi stated that the BAE analysis used a larger sales figure (55 million) to estimate the net tax revenues and ADE used a lower figure (36.2 million) to do their estimates. Chair Kiser asked if the sales figures for Wal-Mart are up or down from the 2007 figures. Ms. Pelosi stated that if you follow the news reports Wal-Mart has continued to do very well during these economic times.

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- Commissioner Kirsten commented on the fact that he would have liked to have had the information submitted by Ms. Pelosi for the meeting tonight a little sooner. It is difficult to process the valuable information presented on such short notice. Ms. Pelosi apologized to the Commission for not being able to get the information to them sooner.
- Darryl Browman stated that there has been a substantial amount of evidence presented to the Planning Commission that supports a positive project for the area. This project will turn the four corners area into what it was intended to be. A successful retail intersection. Mr. Browman stated that every time he has built one of these developments it has brought a prosperous project. He used the store in Riverbank as an example.
- Commissioner Heinritz asked about the dynamics of the four corners once this project is built and the current building sits empty and the food 4 less and Safeway stores are effective in a negative manner. Mr. Browman stated that he is looking forward to the challenge and is committed to making it work. Over the time spanned by this project there have been several potential tenants for the current space, but because of the time span and the lack of being able to give a tenant a move-in date the tenants were lost.
- Commissioner Olson stated that this project is different than the project in Riverbank. Mr. Browman stated that the only comparison that he meant to make was that when a retail store of this magnitude is placed at this corner it will create a synergy and draw from a much larger consumer base.
- Commissioner Kirsten asked about the time line for the project. Mr. Browman stated that the demand for the spaces was based on the market 7 years ago, but there shouldn't be much of a delay even in the current market. 7-9 months first phase, ground work and Super Wal-Mart, and the rest of the phases should go up in 4-6 months in three to four different phases, but understand that this project still needs to go back to court and probably another year or two before anything is put on the site.
- Commissioner Heinritz asked if there are any solid commitments for any of the spaces at this time. Browman stated that there are 4 or 5 solid tenants and if this project had not been delayed to this extreme they would all be filled. Commissioner Heinritz expressed concern over the new spaces being filled prior to the current space being re-tenanted. Mr. Browman stated that the junior anchors in the project will not get filled until the old building is re-tenanted.
- Chair Kiser asked Mr. Browman if he was comfortable with the part of the conditions that states that prior to the issuance of a building permit for the anchor project 50% of the existing Wal-Mart will need to have been leased. Mr. Browman stated absolutely. Chair Kiser then asked what will make tenants lease from Browman Development before leasing across the street in the currently empty retail sites. Mr. Browman stated that the sites on the Geweke property are only about 12,000 square feet and this project site will be attracting the retailers that are interested in 25,000 to 120,000 square foot space range.
- Brett Jolley came forward to offer a rebuttal to the opponent's comments. Mr. Jolley stated his disagreement with the statement by Ms. Pelosi regarding the Commission having enough substantial evidence to support the project. He also stated that BAE may be biased in their analysis since they have gone on record, when asked, that they have done at least eight Wal-Mart Supercenter economic analysis' and thinks that staff should do an independent analysis of their own. Mr. Jolley added that the synergy that this project will create could hurt the rest of the City.
- Commissioner Hennecke asked about the numbers showing positive jobs and revenues for the project. Mr. Jolley stated that they are positive for this project. Commissioner Hennecke then asked if the Commission is supposed to still vote against the project even though there will be positive tax revenues and job increases, at what point is the increase not enough. Mr. Jolley stated that he didn't know if there was a specific amount that needed to be reached, but the Commission should have all the credible information made available to them so you can make that decision.

Chair Kiser called for a brief recess.

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- Chris Podesto came forward to comment against the project. Mr. Podesto stated that he is here tonight to speak not only as the Director of Marketing for Food-4-Less and Rancho San Miguel but as a City of Lodi resident. He is very concerned with the effect that the project will have on the Food-4-Less store. The effect on the local businesses of the Super Wal-Mart Store in combination with the economy is going to be worse than the EIR indicated.
- Commissioner Heinitz asked if Mr. Podesto owned the building the food-4-less currently occupies. Mr. Podesto stated they lease the space from Mr. Browman. There are 7 or 8 years left on the lease. Commissioner Heinitz asked what will happen in 7 or 8 years when this project is built and business is lacking for the Food-4-Less. Mr. Podesto stated that the EIR indicates they lose 40% of their business and if that happens they will not renew the lease.
- Commissioner Kirsten asked how many employees currently work at the Food-4-Less. Mr. Podesto stated that there are approximately 140. Commissioner Kirsten asked what the estimated sales tax revenue is currently. Mr. Podesto stated that the sales tax figures are based on a high percentage of grocery as well as some taxable grocery, but he didn't have the number with him. He could provide the Commission with that information if they wish. Commissioner Kirsten asked if the Rancho San Miguel store would be impacted by this proposed Supercenter. Mr. Podesto stated that based on the demographics of the customer base for Wal-Mart stores there is no question that the store will be affected. He added that with the Supercenter there won't be a huge jump in tax revenues because the additional component is for groceries. Kirsten asked for clarification as to the main impact of the project being jobs. Mr. Podesto stated that was correct. It would be a redistribution of jobs.
- Vice Chair Cummins asked how old the Rancho San Miguel store is. Mr. Podesto stated 5 years. Vice Chair Cummins asked if the opening of the store drop the revenue at Food 4 Less. Mr. Podesto stated that yes it did.
- Chair Kiser stated that the San Miguel store gave the east side a grocery store which it was lacking. The two stores pull from both the east and west side isn't that correct. Mr. Podesto stated that the Food 4 Less store is a price-impact store similar to Wal-Mart. The Rancho San Miguel store acts more like a neighborhood ethnic store but it doesn't have the draw like the Food 4 Less or Wal-Mart.
- Commissioner Olson stated her appreciation to Mr. Podesto for all that Food-4-Less does for the community. Is the issue behind opposing the project because it is an outsider company coming in and usurping a local? Mr. Podesto stated that that is not the reason. There is a blight condition that already exists on the east side and by bringing one more draw to the west side it will only perpetuate that situation.
- Commissioner Hennecke asked about the Reynolds Ranch project being on the east side. Mr. Podesto stated that yes that project is on the east side. The difference is that Lodi doesn't already have a Costco and as a citizen and consumer he believes it's a good idea to bring one to Lodi. The problem as Mr. Podesto sees it is that Lodi already has a Wal-Mart and placing a fifth grocery store on this corner is not good planning. Hennecke asked if a Costco tries to move into the Reynolds Ranch Center would that pose the same problem for Food 4 Less as the Supercenter. Podesto stated that it would not and reiterated that Lodi does not have a Costco, but does have a Wal-Mart. He would not oppose a Costco at all.
- Rodger Oster, Lodi resident, came forward to support the project and complain about the discussion being about the EIR and not the project items. He stated that he feels that Food 4 less will probably be hurt by this, but there is no way to know just how much until the store is built. Mr. Oster stated his belief that Mr. Browman will be able to fill the empty store once the new one is built, unlike all the new buildings going up around town that are sitting empty.
- Leo Duncan, Lodi resident, came forward to support the project. He objected to the length of time this process has taken for this project.

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- Ann Cerney, Lodi resident and representative for Citizens for Open Government, came forward to oppose the project. She stated her agreement with the statement made regard the lack of information that has been made available to the Commission so that they could make an informed decision.
- Mark Anaforian, Lodi resident, came forward to oppose the project. Mr. Anaforian stated some unemployment figures during the period from when the La Quinta Supercenter opened in 2004 through 2007. The same argument was made regarding the loss of jobs back when the current store went in and Longs Drugs ended up losing 30 percent in sales the first year. That number did eventually rise again, but it was still a loss of about 18 percent. This in turn caused layoffs and good paying jobs with benefits were lost. Mr. Anaforian also stated that according to the Lodi News Sentinel there were 507 Police calls for Wal-Mart with only 123 for Target and 198 for K-Mart. He pointed out the additional store space is going to be used for groceries and most groceries are non-taxable.
- Commissioner Kirsten asked where Mr. Anaforian got his figures regarding the number of police calls at the existing Wal-Mart site. Mr. Anaforian stated that he got the figures from Police Captain David Main and the unemployment figures for La Quinta came from their website.
- Brad Clark, Lodi resident, came forward to oppose the project. Mr. Clark is concerned with the possible job losses to the community that another grocery store will create. He also stated that as people lose jobs and income is lost in the household people will stop spending what money they are bringing in on all the extras. Lodi needs new retailers to come to town not the same retailers enlarging and adversely affecting the other current retailers in the area. When the Wal-Mart closed in Stockton so the Supercenter could move in across the street the owners of the old building tried to re-tenant the space and did, but then that business closed and now it's been split into two separate retail spaces. When you drive by the parking lot there is anywhere from 10 to 15 cars in it and it holds 1500.
- Commissioner Kirsten asked what business Mr. Clark is in. Mr. Clark stated that he is associated with Food 4 Less, Rancho San Miguel. Kirsten asked if he felt that his business would be directly affected by the Supercenter. Mr. Clark stated absolutely.
- Commissioner Hennecke asked if Mr. Clark expects the Commission to regulate commerce and free trade as it relates to grocery stores coming into the City. Mr. Clark stated that is not what he expects, but putting three grocery stores on one corner, two of which are price-impact, isn't good planning. Hennecke then asked which grocery store was the last one to move in on that corner. Mr. Clark stated that it was Safeway. Hennecke asked if he protested when they moved in. Clark stated no. Safeway takes care of their employees with good benefits and good pay. Hennecke then asked if the Commission was supposed to enforce work policies along with commerce. Mr. Clark stated no. Hennecke asked if job loss could be caused by other external forces such as the economy. Clark stated not to the extent of this project.
- Stan Finberg, Owner and Manager of Cherokee Plaza shopping center in Lodi, came forward to oppose the project. Mr. Finberg has been trying to keep his tenants, but it isn't easy. He wants to know why there hasn't been more talk about beautifying the east side. All the focus is on this one intersection. Commissioner Kirsten asked how the proposed Costco would affect the business in the Cherokee plaza. Mr. Finberg stated that once you get a one stop shop people stop shopping at the little stores. He mentioned that the Consumer Digest did a study of stores and Wal-Mart was at the bottom of the list with Raley's at the top.
- Cheryl Nitschke, Lodi resident, came forward to support the project. She wants to know why this project is being picked on. Ms. Nitschke stated that she found that Food 4 Less sold their canned goods cheaper than Wal-Mart, so Wal-Mart isn't always cheaper and people will figure that out.

*Continued*

- Sean Reilly, Lodi resident, came forward to support the project. He would like to see the Supercenter built, so that he can keep his tax dollars in Lodi. Wal-Mart sells more than just groceries, so people will only go there when they need to buy a variety of items. Food 4 Less should be more concerned with a Costco moving in and taking their business away, not Wal-Mart.

Public Portion of Hearing Closed

- Commissioner Kirsten disclosed that he spoke with Chris Podesto, Steve Herum, Brett Jolley, and Darryl Browman regarding this project.
- Chair Kiser disclosed that he spoke with Darryl Browman and Steve Herum regarding this project.
- Vice Chair Cummins disclosed that he spoke with Darryl Browman regarding this project.
- Commissioner Hennecke disclosed that he spoke with Darryl Browman and Chris Podesto regarding this project.
- Commissioner Olson disclosed that she spoke with Steve Herum regarding this project.
- Commissioner Kirsten asked if the Commission has the authority to vote for a no project scenario. Mr. Bartlam stated that that is not an option for the Commission tonight, but denying the project has the same affect. Kirsten asked if the Commission could ask for more information. Mr. Bartlam stated that the Commission can ask for more information if you believe it will help you to make a decision. Kirsten stated that he has heard a range in tax revenue to be \$130,000 to \$1.3 million and having a study that narrows those numbers down would help him to make a more informed decision. Jonathan Hobbs added that the project must be acted on by April 30, 2009 based on CEQA guidelines. Bartlam stated the possible sequence of events if the Commission decided to ask for more economic analysis.
- Commissioner Hennecke asked who hired BAE. Mr. Bartlam stated that the City hired BAE.
- Chair Kiser asked who hired CB Richard Ellis. Mr. Bartlam stated that Wal-Mart hired them. Kiser stated that the CB Richard Ellis' report had conflicting numbers in it and that raises questions. Mr. Bartlam stated that every economic report that has been submitted to the City to date for this project has had a different set of numbers and if you were to instruct staff to get another report done it too would have a whole new set of numbers.
- Discussion among the Commission took place. Mr. Bartlam stated that the data is there for the potential jobs and revenue, what is disputed is the potential losses. The information regarding those losses will change and be different every time an analysis is done.
- Vice Chair Cummins asked if the Commission can take the items individually or in one lump sum. Mr. Bartlam stated that is at the Commission discretion.

The Public portion of the hearing was re-opened to the public at Mr. Browman's request

- Mr. Browman asked whether it is yes or no for a decision to be made tonight.
- Commissioner Kirsten asked if the applicant(s) would appeal a decision by the Commission asking for more information. Mr. Browman stated they would.
- Brett Jolley came forward to respond to the comments made. Mr. Jolley argued that the 50-day time period does not apply in this case. There are several components to certifying an EIR. One is the adoption of the mitigation measures which the Commission is being asked to do tonight.

The Pubic Hearing is Re-Closed

Mr. Bartlam addressed the comments made regarding the ability of staff to do an economic analysis for this project by simply stating that with a five minute break he could pull this information out of the documentation that has been provided. He also added that he would not suggest that staff could or would make the assumption that would be necessary to get the net effect. Mr. Hobbs stated that according to CEQA the City Council has certified the EIR. The mitigation measures are a separate item and not a part of the EIR certification. Mr. Bartlam added that in the worst case scenario the Commission does not act on the project in the allotted 50 days, the Tentative Map would then be approved by inaction. The other parts of the project

*Continued*

(Use Permit and SPARC) have 180 days to be acted upon and if the Commission asks for another analysis to be done that time period would probably elapse.

Commissioner Hennecke asked for a ten minute break to allow Mr. Bartlam to pull out some figures. The other Commissioners stated that they did not need the extra figures to make a decision.

MOTION / VOTE:

The Planning Commission, on motion of Vice Chair Cummins, Hennecke second, to approve the request of Browman Development Company and Wal-Mart Real Estate Business Trust to approve Use Permit U-02-12 to allow the construction of a commercial center in a C-S, Commercial Shopping District, and allow the sale of alcoholic beverages at the Wal-Mart Supercenter; and approve Vesting Tentative Map 03-P-001 to create 12 parcels for the project; and site plan and architectural approval of a new retail building to be constructed at 1600 Westgate Drive. In addition, the Planning Commission will consider adopting the findings and statements of overriding considerations pursuant to the California Environmental Quality Act.

- Ayes: Commissioners – Cummins, Hennecke, and Olson
- Noes: Commissioners – Heinitz, Kirsten, and Chair Kiser
- Absent: Commissioners – Mattheis

Mr. Bartlam stated that a tie vote is a denial of the project. Commissioner Kirsten asked if that concluded the matter. Chair Kiser stated that it did and a denial is issued. Mr. Bartlam stated that is correct.

3. COMMENTS BY THE PUBLIC

None

4. COMMENTS BY STAFF AND COMMISSIONERS

None

5. ADJOURNMENT

There being no further business to come before the Planning Commission, the meeting was adjourned at 9:00 p.m.

ATTEST:

Konradt Bartlam  
Planning Commission Secretary

**LODI PLANNING COMMISSION  
REGULAR COMMISSION MEETING  
CARNEGIE FORUM, 305 WEST PINE STREET  
WEDNESDAY, APRIL 22, 2009**

1. CALL TO ORDER / ROLL CALL

The Regular Planning Commission meeting of April 22, 2009, was called to order by Chair Kiser at 7:13 p.m.

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

Absent: Planning Commissioners – Cummins, Heinitz, Hennecke

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

2. MINUTES

“March 25, 2009”

MOTION / VOTE:

There was not a quorum of Commissioners from the subject meeting in attendance to present a motion for this item. It will be carried over to the next available meeting.

3. PUBLIC HEARINGS

- a) Notice thereof having been published according to law, an affidavit of which publication is on file in the Community Development Department, Chair Kiser called for the public hearing to consider the request for a Use Permit to allow conversion of five existing triplexes into residential condominiums; and Tentative Parcel Map to divide five triplexes into residential condominiums at 802-826 N. Mills Ave.

Assistant Planner Immanuel Bereket gave a brief PowerPoint presentation based on the staff report. In the Tentative Parcel Map resolution there have been some typo errors corrected, but the intent of the conditions have not changed.

Hearing Opened to the Public

- Robin Regla, applicant, came forward to answer questions.
- Commissioner Mattheis asked how many lots would be created. Mr. Regla stated there would be 15.
- Steve Pechin, Engineer for the project, came forward to answer questions.
- Commissioner Olson asked if there was code enforcement issues with the property prior to Mr. Regla purchasing it. Mr. Regla stated that there were upgrades necessary when he purchased them. Olson stated that the property looks very nice compared to what she remembers it looking like. Commissioner Kirsten mentioned that when he drove by the property it looks to have been cleaned up and is being very well maintained.
- Ann Cerney, Lodi resident, came forward with concerns regarding the affordability of the project. Ms. Cerney would like to have seen more documentation regarding how the CEQA guidelines were followed in determining the affordability status of the

*Continued*

property once it is converted from multi-family rental property to single-family ownership in the staff report. She didn't feel the project was a bad idea; she just wanted more information to help her make the determination.

- Commissioner Kirsten stated that after a visit to the property he noticed that there were five units that were empty. Ms. Cerney responded by stating that she would like to have had that information made available prior to the meeting. She has also added that she has seen property owners allow property to deteriorate so that they can then do a project like this, not that she felt that that is what happened in this case, but this information should be provided up front. Kirsten stated that he did not believe that that was the case here either.
- Commissioner Olson stated that she is definitely in sync with Ms. Cerney on affordable housing and good rental property, but feels that Mr. Regla is on the right track with this project. Ms. Cerney agreed regarding the project just not the process.

Public Portion of Hearing Closed

MOTION / VOTE:

The Planning Commission, on motion of Commissioner Kirsten, Olson second, approved the request of the Planning Commission for a Use Permit to allow conversion of five existing triplexes into residential condominiums; and Tentative Parcel Map to divide five triplexes into residential condominiums at 802 – 826 N. Mills Ave. subject to the conditions in the resolution. The motion carried by the following vote:

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

4. PLANNING MATTERS/FOLLOW-UP ITEMS

Director Bartlam stated that the City has received four (4) appeals for the decision of the Planning Commission on the Wal-Mart Project and those appeals will be heard by the City Council at a special meeting on May 13<sup>th</sup> at Hutchins Street Square.

5. ANNOUNCEMENTS AND CORRESPONDENCE

None

6. ACTIONS OF THE CITY COUNCIL

None other than noted above and in the summary report in the Commission's packet.

7. GENERAL PLAN UPDATE/DEVELOPMENT CODE UPDATE

Director Bartlam stated that the draft policies will be filtering to the Commission in the next month or so. A draft EIR should be ready some time this summer.

8. ACTIONS OF THE SITE PLAN AND ARCHITECTURAL REVIEW COMMITTEE

None

9. ART IN PUBLIC PLACES

Commissioner Kirsten gave a brief report of the last meeting.

10. COMMENTS BY THE PUBLIC

*Continued*

None

11. COMMENTS BY STAFF AND COMMISSIONERS

None

12. ADJOURNMENT

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

ATTEST:

Konradt Bartlam  
Community Development Director

Item 3a.

**CITY OF LODI  
PLANNING COMMISSION  
Staff Report**

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**MEETING DATE:** May 27, 2009

**APPLICATION NO:** Use Permit: 07-U-01

**REQUEST:** Request to amend a previously approved Use Permit 07-U-01 to increase the number of tables, expand the hours of operation and increase the number of legal cardroom games at 1800 S. Cherokee Lane. (Applicant: Chris Ray, on behalf of Wine Country Cardroom & Restaurant. File Number: 07-U-01).

**LOCATION:** 1800 S. Cherokee Lane  
APN: 062-060-51

**APPLICANT:** Wine Country Cardroom & Restaurant, DBA.  
1800 S. Cherokee Lane  
Lodi, CA 95240

**PROPERTY OWNER:** Leon A. Croce Trust  
P.O. Box: 555  
Lodi, CA 95241

**RECOMMENDATION**

Staff recommends that Planning Commission approve the request of Chris Ray, on behalf of Wine Country Cardroom and Restaurant, to amend a previously approved Use Permit, subject to the conditions in the attached resolution.

**PROJECT/AREA DESCRIPTION**

**General Plan Designation:** GC, General Commercial  
**Zoning Designation:** C-2, General Commercial  
**Property Size:** 48,352 square feet. (Approx. 6,000 sq. ft. existing building floor area)

The adjacent General Plan, zoning and existing land use are as follows:

**North:** C-2, general commercial. Area to the north is a car dealership and trucking company storage yard.

**South:** C-2, general commercial. Area to the south is a vacant commercial lot currently being used for parking.

**East:** C-2, general commercial. Area to the east is State Route 99.

**West:** C-2, general commercial. Areas to the west are residential and a variety of retail commercial establishment.

**SUMMARY**

The applicant's request would amend the Use Permit previously approved by the Planning Commission and upheld, upon appeal, by the City Council. The previously approved Use Permit allowed operation of a card room with eight tables and a full service restaurant and bar. The proposed amendment to the approved Use Permit would increase the number of tables, expand

the hours of operation and increase the number of legal cardroom games. The proposed expansion, if approved, would conform to all applicable City of Lodi rules and regulations.

## **BACKGROUND**

On February 14, 2007, the Axtion Jaxson Card room, formerly located at 29 North Sacramento Street, appeared before the Planning Commission requesting to transfer their business to the old Gary's Uptown Restaurant and Lounge facility located at 1800 S. Cherokee Lane. At the Planning Commission hearing, the applicants explained that they needed a larger facility to include a full service restaurant and bar to compliment the card room. The applicants also proposed to change the name from Axtion Jaxson to Lodi Country Casino and Restaurant. After conducting a public hearing, the Planning Commission conditionally approved the Use Permit request for the proposed card room operation with a 3-2 vote (Attachment 5).

On March 1, 2007, the City Clerk's office received an appeal from Kenneth R. Owen regarding the Planning Commission approval of a Use Permit for Wine Country Casino and Restaurant. The appeal was filed in accordance with Lodi Municipal Code Section 17.72.110 by Mr. Owen and his organization, Christian Community Concern. The City Council conducted a public hearing to consider the appeal of the Planning Commission's approval of the Use Permit on April 18, 2007. At that meeting, the City Council denied the appeal of Kenneth Owen and upheld the Planning Commission's decision of February 14, 2007 to allow the operation of the proposed card room. However, the City Council limited the hours of operation from 10:00 am to 2:00 am Monday through Sunday and prohibited the use of the word 'casino' in all signage (Attachment 6).

In January 2009, the City Council directed the City Attorney's office to draft a revised card room ordinance that would expand the types of games that could be played, increase the number of players per table, increase the number of card room tables in Lodi, and expand the hours of operation for card rooms. The revised ordinance was subject to state Department of Justice approval. The amendments to the cardroom ordinance were reviewed and approved by the California Attorney General's Office. At their hearing of April 1, 2009, the City Council repealed and reenacted Lodi Municipal Code Title 5, Permits and Regulations, Chapter 5.12 Cardrooms, increasing the number of legal cardroom games to add all games approved by the California Attorney General's Bureau of Gambling Control, expanding cardroom operations hours from 16 hours a day (10 a.m. - 2 a.m.) to 20 hours a day (8 a.m. - 4 a.m.) and increasing the number of tables from 8 to 11 (Attachment 7). The Police Department indicated that they have no history of complaints or enforcement issues as the cardroom is currently operated and recommended their approval (Attachment 8).

## **ANALYSIS**

The applicant, Wine Country Cardroom and Restaurant, has operated a card room at 1800 South Cherokee Lane since March of 2007. The business includes a full service restaurant and bar to compliment the card room. The building itself comprises of two areas. The card room is located on the north side of the building and the restaurant, along with the bar, is located on the southern half of the building (Attachment 9). The card room is separated from the restaurant and bar by a sliding wall that remains closed at all times during cardroom operation. In addition, 42" high wall was installed around the card tables to provide additional separation of the card room from the restaurant and bar. Further, the applicants have installed a double glass door for the main entrance to the card room on the north side of the building. Customers are greeted and screened by security personnel upon entering the card room. As part of their attempt to expand the number of games played, the applicant's have removed the said 42" high wall around the card tables to increase room occupancy capacity. Removal of 42" partitioning wall does not require a building permit.

As previously mentioned, the City Council repealed and reenacted Lodi Municipal Code Title 5, Permits and Regulations, § 5.12 Cardrooms at their meeting of April 1, 2009. The Lodi Municipal Code increases the number of cardroom games to include all games approved by the California Attorney General's Bureau of Gambling Control; expands cardroom operable hours from 16 hours a day (10 a.m. - 2 a.m.) to 20 hours a day (8 a.m. – 4 a.m.); and increasing the number of tables from 8 to 11 (See Attachment 7). The applicant is proposing to expand the hours operation, increase the number of games played and the number of tables as permitted by Lodi Municipal Code Title 5, Permits and Regulations, § 5.12 Cardrooms. In addition, the bar will stop selling alcoholic beverages at 2:00 a.m. to comply with State and local statues. In accordance with Section 17.39.025 of the Lodi Municipal Code, a card room business is permitted in the C-2 General Commercial district by securing a Use Permit from the Planning Commission.

Staff has contacted the Lodi Police Department for their comments regarding the proposed application. The Police Department has no concerns and recommends their approval. Similarly, the Public Works, Electrical and Utility, and the Fire Department also recommend their approval subject to the attached resolution. Staff has also contacted the Division of Gambling Control for any issues or concerns regarding the proposed application. The Division of Gambling Control requires the applicant to provide them a copy of the approved Use Permit from the City. With respect to the existing ABC license, the proposed application does not concern the alcohol license and, therefore, is not an issue as the proposed application doesn't include modifying the existing ABC Use Permit. However, it is important to note that the existing bar is a stand alone bar that serves the restaurant and the cardroom. Therefore, receipts from food sales do not need to be in excess of sale of alcoholic beverages. The sale of alcoholic beverages, however, must stop on or before 2 a.m. as required by local and state regulations.

The amendment to the Use Permit read as follows (~~changes in strikethrough~~):

1. Not more than ~~eight~~ eleven tables shall be permitted in the card room and not more than ten players shall be permitted at any one card table (Attachment 4, condition No. 3)
2. Limit the hours of operation from ~~4:00~~ 8:00 a.m. to ~~2:00~~ 4:00 a.m., Monday through Sunday (Attachment 5, condition # 2).
3. There shall be posted in the card room in letters plainly visible from all parts thereof, signs stating that "~~no game except lowball, draw poker, without variations as defined by Hoyle, pinochle, pangini, rummy, Texas Hold 'Em, and contract or auction as bridge as these games are defined~~". "no game except those games that are approved and defined by the California Department of Justice, Division of Gaming Control, shall be played in the card room". These signs shall also contain such other information relating to the regulations contained in Section 5.12.140 of the Lodi Municipal Code as the chief of police may require. (Attachment 4, condition No. 7).

Staff has determined additional conditions are necessary for this request to amend the Use Permit. The proposed additional conditions of approval are:

1. The project proponent shall provide an additional 60 onsite parking spaces. The said parking spaces shall be on an improved parking lot that meets the City's Development Standards. The said parking spaces shall be provided within 120 calendar days, commencing from effective date of this amended use permit.

With respect to parking spaces, the Lodi Municipal Code § 17.060.100 governs this topic. However, the Lodi Municipal Code is silent regarding to number of spaces required for cardrooms. In order to calculate needed parking spaces for a cardroom, staff contacted a

number of jurisdictions regarding parking requirements for cardrooms. The requirements varied from 1 space for every chair (player) to one space for every three chairs (players). Based on current demand for parking, staff feels one space per cardroom player is a reasonable requirement.

<b>Required Parking Space Distribution</b>		
<b>Types of Uses</b>	<b>Calculations</b>	<b>Numbers of required</b>
Cardroom	1 space per each player and employee	112
Restaurant and Bar	1 space per four seats	20
Employees (restaurant and bar)	1 space per employee/shift	6
Total Parking spaces required	-	138
Total Parking spaced provided	-	144

As proposed, the expanded cardroom would have 98 players, 11 dealers, 2 supervisors (1 supervisor per 5 tables) and one security staff. Thus, the applicants should be required to provide one parking space for every employee and player in the cardroom, which amounts to 112 spaces. Pursuant to L.M.C §17.060.100, applicants are also required to provide 1 space for every four seats in the restaurant (the restaurant has 78 seats). Staff has also asked that the applicants provide one space for every two employees who work in the bar and restaurant, but the applicants have provided 1 space for every employee as well. Currently, the cardroom and restaurant facility has 84 parking spaces on the premise. However, the applicants have purchased the vacant parcel located immediately to the south of the cardroom. This parcel measures 51,342 sq. ft. (1.18 acres) in area. The applicants are in the process of improving this vacant parcel to meet the increased parking space requirements and to meet the City's development standards (See Attachment 11).

The cardroom has operated without any problem since it has been open to business. The applicant has met and exceeded every condition imposed by the Planning Commission and City Council. The Police Department and Lodi Improvement Committee have both indicated that they have no history of complaints or enforcement issues as the cardroom is currently operated. Based upon the review of the proposal and the proposed amendments to the Use Permit, staff supports the request for the modifications to the card room operations and the operation of the restaurant with a bar. As the history of this use had demonstrated, the proposed amendment is compatible with the surrounding land uses in the vicinity of the project site.

**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." The project was also found to be categorically exempt according to the California Environmental Quality Act, Article 19 15332 Class 32 (a) (b) (c) (d) and (e). The project is classified as in-fill development meeting the conditions described therein. Further, the project was found to be categorically exempt according to the California Environmental Quality Act, Article 19 15311 Class 11 (b). No significant impacts are anticipated and no mitigation measures have been required.

**PUBLIC HEARING NOTICE:**

Legal Notice for the Use Permit was published on May 13, 2009 and 27 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. Staff also posted a copy of the public hearing notice at the project site.

**ALTERNATIVE PLANNING COMMISSION ACTIONS:**

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

Respectfully Submitted,

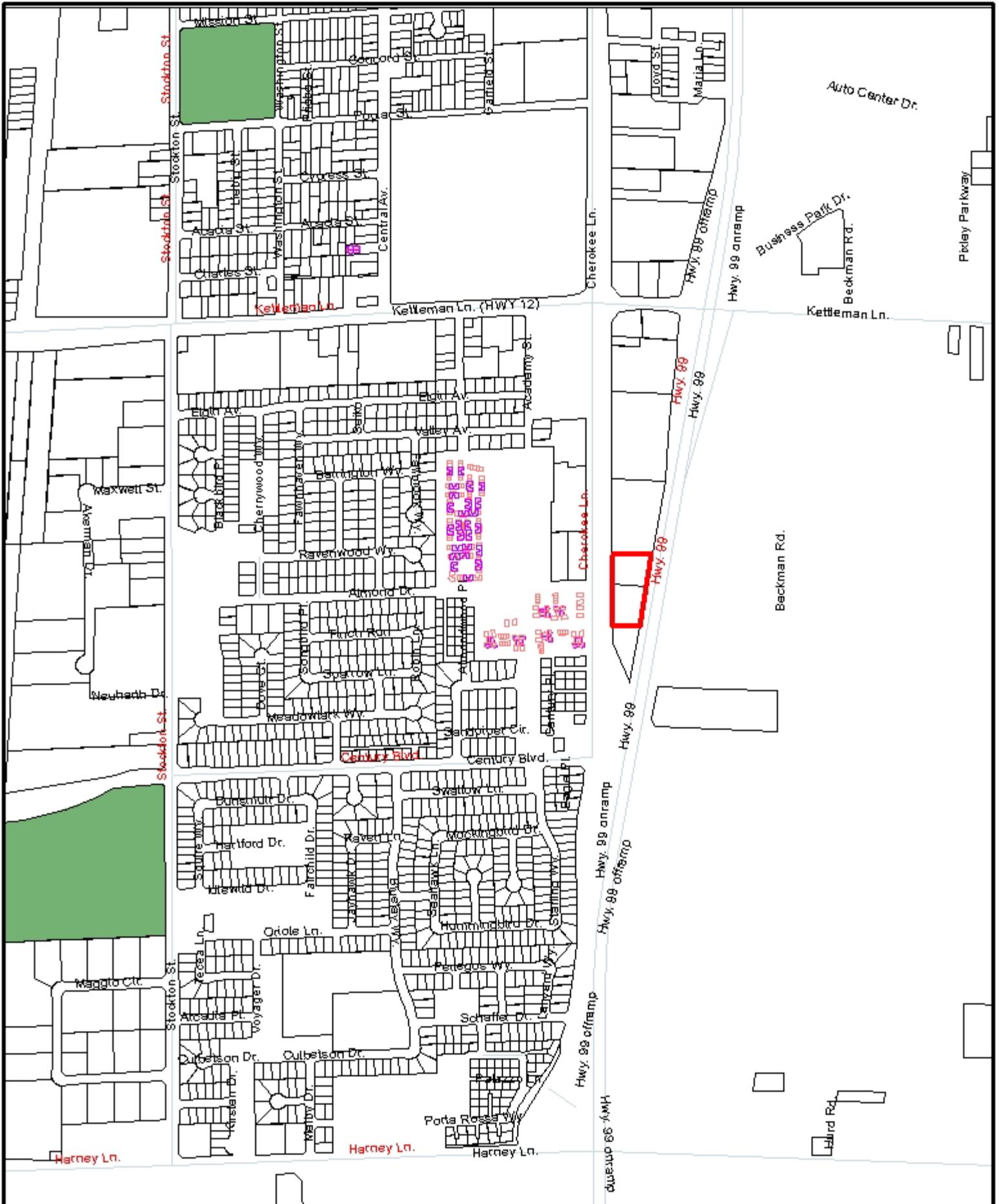
Concur,

Immanuel Bereket  
Assistant Planner

Konradt Bartlam  
Community Development Director

**ATTACHMENTS:**

1. Vicinity Map
2. Aerial Photograph
3. Site Plan
4. Planning Commission Resolution 07-02
5. City Council Resolution No. 2007-71
6. City of Lodi Municipal Code Title 5
7. Police Department Approval
8. Landscape and Parking Layout
9. Existing Floor Plan
10. Proposed Cardroom Floor Plan
11. Conceptual Parking Lot Development Plan
12. Draft Resolution

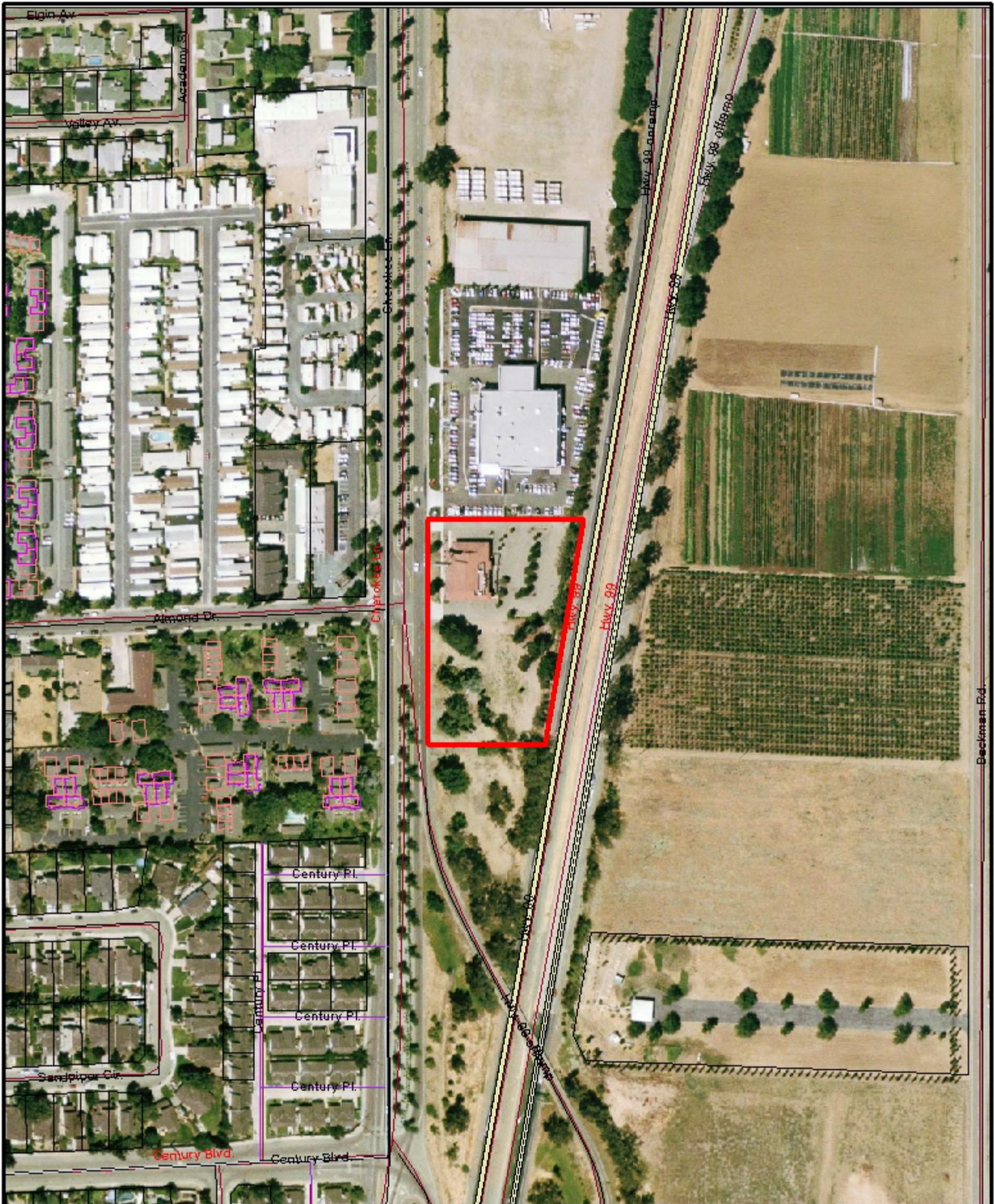


Not Scaled

**Wine Country Cardroom & Restaurant**  
 1800 S. Cherokee Lane  
 Lodi, CA 95240

**Legend**

Project Area



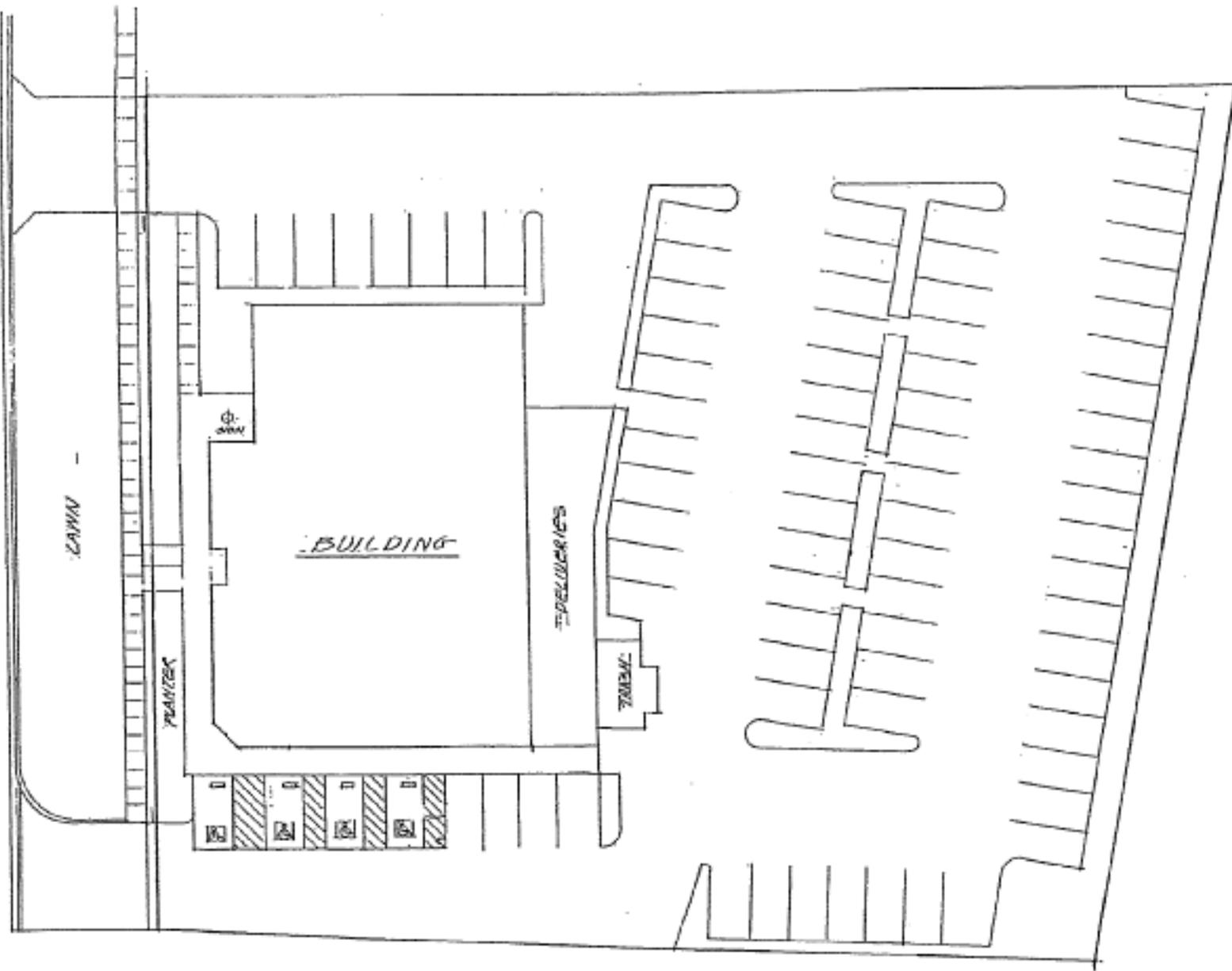
Not Scaled

**Wine Country Cardroom & Restaurant**  
1800 S. Cherokee Lane  
Lodi, CA 95240

**Legend**

 Project Area

Cherokee Lane



State Route 99

Site Plan



**RESOLUTION NO. P.C. 07- 02**

**A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF LODI APPROVING THE REQUEST OF WINE COUNTRY CASINO & RESTAURANT FOR A USE PERMIT TO ALLOW THE OPERATION OF A PROPOSED CARD ROOM AT 1800 S. CHEROKEE LN.**

- 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 Wine Country Casino & Restaurant, P.O. BOX: 560, Lodi, CA 95241 and
- WHEREAS**, the property owner is Leon A. Croce Trust, 2156 P.O. BOX: 555, Lodi, CA 95241
- WHEREAS**, the property is zoned C-2, General Commercial which allows a card room business with approval of a Use Permit; and
- WHEREAS**, the property is located at 1800 S. Cherokee Lane; and
- WHEREAS**, all legal prerequisites to the adoption of this Resolution have occurred; and
- WHEREAS**, the proposed Use Permit is consistent with all zoning and General Plan standards.

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 and with the site's Commercial General Plan Diagram designation.
2. The proposed use is in compliance with the City's Municipal Code requirements and the Use Permit has been reviewed in accordance with Chapter 5.12 of the Lodi Municipal Code.
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. 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." The project was also found to be categorically exempt according to the California Environmental Quality Act, Article 19 15332 Class 32 (a) (b) (c) (d) and (e). The project is classified as in-fill development meeting the conditions described therein. No significant impacts are anticipated and no mitigation measures have been required.

**NOW, THEREFORE, BE IT DETERMINED AND RESOLVED** by the Planning Commission of the City of Lodi that the Use Permit 07-U-01 is hereby approved, subject to the following conditions:

Community Development Department, Planning:

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 applicant shall secure all required Building, Fire Department, Electric Utility and Public Works Department permits and approvals, and pay all applicable fees.
3. The applicant shall comply with applicable Federal, State, and County regulations and adopted standards. The applicant shall also comply with Chapter 5.12, Cardrooms, of the Lodi Municipal Code.
4. Not more than eleven tables shall be permitted in the card room and not more than ten players shall be permitted at any one card table.
5. No person under the age of twenty-one shall be permitted at the card room area, nor shall any person under the age of twenty-one be permitted to participate in any game played thereat.
6. Card rooms may be operated seven days a week and shall not open until the hour of eight a.m. Card rooms shall close at four a.m. Such schedule of hours shall be clearly posted at the card room in order to provide adequate notice of its hours of operation.
7. All card rooms shall be open to police inspection during all hours of operation
8. There shall be signs posted in the card room in letters plainly visible from all parts thereof, stating that “no game except those games that are approved and defined by the California Department of Justice, Division of Gaming Control, shall be played in the card room”. These signs shall also contain such other information relating to the regulations contained in Section 5.12.140 of the Lodi Municipal Code as the chief of police may require.
9. No person who is in a state of intoxication shall be permitted in any card room.
10. Prior to initiation of the card room facility, a video surveillance system with continuous recording capability, and approved by the Police Department, shall be in place. The video surveillance system shall cover the exterior of the premises, including the parking lot and entrance to the card room. It shall also cover any counting room, cage, safes, gaming tables, and any other location on the premises that the Police Department deems necessary.
11. For 1 to 100 patrons, a minimum of one Police Department-approved, State-licensed, uniformed security officer shall be provided during the hours of operation.
12. The sliding wall separating the card room from the restaurant and bar shall remain closed at all times during card room operation.
13. Upon the discretion of the Chief of Police or a representative thereof, additional security guards may be required.
14. All signs shall be subject to approval by the Community Development Department.
15. Structures, landscaping, signs and other improvements, including exterior paint, shall be maintained in a manner so as not to be blighted or deteriorated.
16. Prior to opening to the public, the applicant shall submit a detailed landscape and irrigation plan to be reviewed and approved by the Community Development Director.
17. The operator of the card room shall police the area surrounding the building to prevent patrons from congregating/loitering outside the premises and to prevent parking and noise problems.
18. The project proponent shall provide an additional 60 onsite parking spaces. The said parking spaces shall be in an improved parking lot that meets the City’s Development Standards. The said parking spaces shall be provided within 120 calendar days, commencing from effective date of this amended use permit.

Fire Department:

1. The City inspection notice of corrections dated 12/29/06 shall have all items corrected prior to opening to the public and receiving a Certificate of Occupancy.
2. Building Permit for Tenant Improvement (B19045) shall be approved and all items inspected prior to opening to the public.

Dated: May 27, 2009

I hereby certify that Resolution 07-02 was passed and adopted by the Planning Commission of the City of Lodi at a regular meeting held on May 27, 2009, by the following vote:

AYES: Commissioners:

NOES: Commissioners:

ABSENT: Commissioners:

ABSTAIN: Commissioners:

ATTEST:

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Planning Commission Secretary

RESOLUTION NO. 2007-71

A RESOLUTION OF THE LODI CITY COUNCIL DENYING  
THE APPEAL FROM KENNETH R. OWEN REGARDING THE  
PLANNING COMMISSION'S APPROVAL OF A CONDITIONAL  
USE PERMIT FOR WINE COUNTRY CASINO AND RESTAURANT  
LOCATED AT 1800 SOUTH CHEROKEE LANE

=====

WHEREAS, notice thereof having been published according to law, an affidavit of which is on file in the office of the City Clerk, a public hearing was held April 18, 2007, by the Lodi City Council to consider the appeal of Kenneth R. Owen regarding the Planning Commission's approval of a Conditional Use Permit for Wine Country Casino and Restaurant located at 1800 South Cherokee Lane.

NOW, THEREFORE, BE IT RESOLVED that the Lodi City Council does deny the appeal from Kenneth R. Owen, thereby upholding the decision of the Planning Commission to approve a Conditional Use Permit for Wine Country Casino and Restaurant located at 1800 South Cherokee Lane; and

BE IT FURTHER RESOLVED that the Lodi City Council does further direct the following two conditions be incorporated into the Conditional Use Permit: 1) limit the hours of operation to 10:00 a.m. to 2:00 a.m., Monday through Sunday; and 2) prohibit the use of the word "casino" in all signage.

Dated: April 18, 2007

=====

I hereby certify that Resolution No. 2007-71 was passed and adopted by the City Council of the City of Lodi in a regular meeting held April 18, 2007, by the following vote:

AYES: COUNCIL MEMBERS – Hansen, Katzakian, Mounce, and  
Mayor Johnson

NOES: COUNCIL MEMBERS – Hitchcock

ABSENT: COUNCIL MEMBERS – None

ABSTAIN: COUNCIL MEMBERS – None



RANDI JOHL  
City Clerk

ORDINANCE NO. 1821

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF  
LODI AMENDING LODI MUNICIPAL CODE TITLE 5 – PERMITS  
AND REGULATIONS – BY REPEALING AND REENACTING  
CHAPTER 5.12, “CARDROOMS,” IN ITS ENTIRETY

---

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LODI AS FOLLOWS:

Section 1. Lodi Municipal Code Title 5 – Permits and Regulations – is hereby amended by repealing and reenacting Chapter 5.12, “Cardrooms,” in its entirety and shall read as follows:

Chapter 5.12  
Cardrooms

Sections:

- 5.12.010 Definitions.
- 5.12.015 No Vested Right.
- 5.12.020 Compliance with State Law.
- 5.12.030 License—Required.
- 5.12.040 License—Application.
- 5.12.050 License—Denial Grounds.
- 5.12.060 License—Appeal from Denial.
- 5.12.070 Work Permit—Required.
- 5.12.080 Work Permit—Denial Grounds.
- 5.12.090 Work Permit—Appeal from Denial.
- 5.12.100 Work Permit—Fee—Term—Identification Measures.
- 5.12.110 Work Permit—Renewal.
- 5.12.120 Work Permit—Failure to Renew.
- 5.12.130 Suspension or Revocation—Procedure.
- 5.12.140 Rules and Regulations.
- 5.12.150 State—Prohibited Games.
- 5.12.160 Business License Required.
- 5.12.170 Gross Revenue Permit Fees.

**5.12.010 Definitions.**

For the purpose of this chapter:

A. “Cardroom” means any space, room, or enclosure, furnished or equipped with a table used or intended to be used as a card table for the playing of cards and similar games, and the use of which is available to the public, or any portion of the public.

B. “Cardroom employee” means any natural person employed in the operation of a gambling enterprise, including, without limitation, dealers, floor personnel, security employees, countroom personnel, age personnel, collection personnel, surveillance personnel, data-processing personnel, appropriate maintenance personnel, waiters and waitresses, and secretaries, or any other natural person whose employment duties require or authorize access to restricted gambling establishment areas.

C. “Gross Revenue” means and includes seat rental fees, membership fees, table revenues, rental fees and charges, and any and all other gaming revenues derived from activities conducted on or within the card room premises.

D. "Financial Interest" means any direct or indirect financial interest in the management, operation, ownership, profits, or revenue (gross or net) of a card room. A direct financial interest means a monetary investment in a card room. An indirect financial interest means owning one percent (1%) or more of any entity, i.e., any business, corporation, joint venture partnership, or trust that in turn has a direct financial interest in a card room.

**5.12.015. No Vested Right.**

This article does not create any vested or other property right of any kind in any permittee, pointholder, key management employee, or other person. The city reserves the right to, at any time, amend, modify, or repeal the provisions of this article and to otherwise regulate or prohibit any privilege exercised hereunder. This reservation includes but is not limited to the right of the city to amend, from time to time, a permit issued pursuant to the terms of this article by resolution of the City Council.

**5.12.020 Compliance with state law.**

Any person or persons wishing to apply for any license or permit authorized in this chapter must comply with not only this chapter, but with Sections 330 through 337 of the California Penal Code. In each case where a license is issued, it shall be nontransferable.

It is the stated purpose of this article to regulate card rooms in the City of Lodi concurrently with the State of California, and to impose local controls and regulations upon card rooms as codified in the "Gambling Control Act" as codified in Division 8, Chapter 5 of the California Business and Professions Code (commencing with Section 19800). All such references to the Gambling Control Act are to Division 8, Chapter 5 of the California Business and Professions Code, as may be amended.

**5.12.030 License—Required.**

It is unlawful for any person to engage in or carry on, or to maintain or conduct, or cause to be engaged in, carried on, maintained, or conducted, any card room in the city without first having secured a license to do so, or without complying with each regulation contained in this chapter pertaining to such cardroom.

**5.12.040 License—Application.**

A. Any applicant for a cardroom license shall submit his application to the chief of police, which application shall be under oath, and shall include, among other things, the true names and addresses of all persons financially interested in the business. The term "persons financially interested" includes all persons who share in the profits of the business, on the basis of gross or net revenue. The past criminal record, if any of the applicant and of all persons financially interested in the business shall be shown on such application. The application shall also be accompanied by fingerprints of the applicant and of persons financially interested in the business.

B. The applicant shall pay a fee to the finance department of the city to defray the cost of investigation in an amount as may be fixed and established from time to time by resolution of the city council.

**5.12.050 License—Denial grounds.**

The chief of police shall deny any applicant for a cardroom license, a license to operate such room if:

A. The applicant has previously been convicted of a felony including a conviction by a federal court or a court in another state for a crime that would be a felony if committed in California; or

B. The applicant has previously been convicted of a misdemeanor involving dishonesty, gambling, or moral turpitude within the ten-year period immediately preceding the submission of the application, unless the applicant has been granted relief pursuant to Section 1203.4, 1203.4a, or 1203.45 of the Penal Code.

C. The applicant fails to clearly establish eligibility and qualification under this Chapter and under Business and Professions Code Section 19800 et seq.

D. The applicant fails to provide information, documentation, and assurances required by this Chapter, or failure to reveal any fact material to qualification, or supplying false information.

E. Association of the applicant with criminal profiteering activity or organized crime as defined by Section 186.2 of the Penal Code.

#### **5.12.060 License—Appeal from denial.**

The action of the chief of police in denying such a license shall be subject to an appeal to the city council. Notice of such appeal shall be filed with the city clerk within ten days after the denial of the license. Upon failure to file such notice within the ten-day period, the action of the chief of police in denying such license shall be final and conclusive.

#### **5.12.070 Work permit—Required.**

A. Each cardroom employee must obtain and possess a valid work permit issued by the chief of police. Applications for such work permits shall be submitted under oath and contain the past criminal record, if any, of the applicant and such information as may be necessary to determine whether the applicant is a proper person to be employed in a cardroom. Fingerprints of the applicant shall accompany the application. A work permit shall be issued only to persons 21 years of age or older.

B. Any application for a work permit shall be subject to objection by the state division. If the division objects to the issuance of a work permit, it shall be denied. Such a denial may be reviewed in accordance with the Gambling Control Act (Business and Professions Code Section 19801 et seq.).

#### **5.12.080 Work permit—Denial grounds.**

The chief of police shall deny any applicant for a cardroom license, a license to operate such room if:

A. The applicant has previously been convicted of a felony including a conviction by a federal court or a court in another state for a crime that would be a felony if committed in California; or

B. The applicant has previously been convicted of a misdemeanor involving dishonesty, gambling, or moral turpitude within the ten-year period immediately preceding the submission of the application, unless the applicant has been granted relief pursuant to Section 1203.4, 1203.4a, or 1203.45 of the Penal Code.

C. The applicant fails to clearly establish eligibility and qualification under this Chapter and under Business and Professions Code Section 19800 et seq.

D. The applicant fails to provide information, documentation, and assurances required by this Chapter, or failure to reveal any fact material to qualification, or supplying false information.

E. Association of the applicant with criminal profiteering activity or organized crime as defined by Section 186.2 of the Penal Code.

**5.12.090 Work permit—Appeal from denial.**

The action of the chief of police in denying such work permit shall be subject to an appeal to the city manager. Notice of such appeal shall be filed with the city clerk within ten days after the denial of the work permit. Upon failure to file such notice within the ten-day period, the action of the chief of police in denying such work permit shall be final and conclusive.

**5.12.100 Work permit—Fee—Term—Identification measures.**

A. Each application for a work permit shall be accompanied by an application fee, to be paid to the finance department, in an amount as may be fixed and established from time to time by resolution of the city council. The fee shall not be returned in the event that such work permit is refused, revoked, or suspended as provided in this chapter.

B. The work permit shall be valid even though the holder of the permit may change his place of employment within the city. Upon approval of a work permit, the work permit shall be valid, unless suspended or revoked, for a period of one year from date of issuance.

C. In order that the chief of police may investigate the applicant's qualifications and fitness to receive a cardroom employee work permit, every applicant shall be photographed and fingerprinted.

**5.12.110 Work permit—Renewal.**

Any person who holds a valid cardroom employee work permit may obtain a new permit for the succeeding year by applying for the new permit during the month preceding the expiration date of the current permit. Cost for the new permit, which shall include the cost of a new identification card, shall be paid to the finance department, and shall be an amount as fixed and established from time to time by resolution of the city council.

**5.12.120 Work permit—Failure to renew.**

If the holder of a cardroom employee work permit fails to renew the permit, his permit shall cease to be valid and he must make application for a new permit, if desired, as provided in this chapter.

**5.12.130 Suspension or revocation—Procedure.**

A. The chief of police has the right for cause to revoke or suspend any cardroom license or card room work permit issued under this chapter and to take possession of such permits.

B. Any of the grounds upon which the chief of police is required to refuse to issue an initial cardroom license or cardroom work permit also constitutes grounds for such revocation or suspension. In addition, the failure of a holder of a cardroom license or cardroom work permit to comply with the provisions set forth in this chapter also constitutes grounds for revocation or suspension of such license or work permit.

C. Suspension or revocation of a cardroom work permit shall be made only after a hearing granted to the holder of such permit before the chief of police, after five days notice to the permit holder, setting forth the grounds of the complaint against him and stating the time and place where such hearing will be held. The action of the chief of police in this

respect is subject to an appeal to the city manager. Notice of such appeal shall be filed with the city clerk within ten days after the revocation or suspension. Upon failure to file such notice within the ten-day period, the action of the chief of police in revoking or suspending the license or work permit shall be final and conclusive.

#### **5.12.140 Rules and regulations.**

It is unlawful to operate a cardroom in violation of any of the following regulations and rules:

- A. Not more than one cardroom shall be located at any one address.
  - B. Only those card games approved by and as defined by the California Department of Justice, Division of Gaming Control, shall be played in any cardroom.
  - C. Not more than eleven tables shall be permitted in any cardroom. No more than eleven tables shall be permitted to operate within the city.
  - D. Not more than ten players shall be permitted at any one cardtable.
  - E. Cardrooms shall be located on the ground floor, and so arranged that cardtables and the players at the tables shall be plainly visible from the front door opening when the door is opened. No wall, partition, screen or similar structure between the front door opening on the street and any cardtable located in the cardroom shall be permitted if it interferes with the visibility.
- No gambling establishment may be located in any zone which has not been specifically approved for such a business. Additionally, none may be located near any of the unsuitable areas, as specified in Business and Professions Code Section 19852 (a) (3).
- F. No person under the age of 21 shall be permitted at any cardtable, nor shall any person under the age of 21 be permitted to participate in any game played thereat.
  - G. Cardrooms may be operated seven days a week and shall not open until the hour of eight a.m. Cardrooms shall close no later than four a.m. A cardroom shall adopt a schedule of hours of operation before it shall be allowed to operate. Such schedule of hours shall be clearly posted at the cardroom in order to provide adequate notice of its hours of operation.
  - H. All cardrooms shall be open to police inspection during all hours of operation.
  - I. Only table stakes shall be permitted.
  - J. The cashing of bank checks for players shall not be permitted in any cardroom.
  - K. Each cardtable shall have assigned to it a person whose duty shall be to supervise the game to see to it that it is played strictly in accordance with the terms of this chapter, and with the provisions of the Penal Code of the state. This person may have more than one table under his supervision. He shall not, however, participate in the game.
  - L. There shall be posted in every cardroom in letters plainly visible from all parts thereof, signs stating that only games approved by and as defined by the California Department of Justice, Division of Gaming Control, shall be played in the cardroom. These signs shall also contain such other information relating to the regulations contained in this chapter as the chief of police may require.
  - M. No person who is in a state of intoxication shall be permitted in any cardroom.
  - N. The sale, purchase, transfer, assignment, or pledge of any property, or of any document evidencing title to the same, is prohibited in any cardroom.

O. The operator or his employees shall not extend credit to a player, nor shall he accept IOU's or other notes, loan money to any person on any ring, watch, or other article of personal property for the purpose of securing tokens, chips, or other representatives of money as an ante.

P. No shills shall engage in card games. This prohibition shall not apply to house players, provided they wear a badge in a conspicuous place, which badge identifies them as employees of the licensee.

Q. Patron Security and Safety. Each cardroom license shall be responsible and liable for its patrons' safety and security in and around the cardroom establishment. Before it shall be allowed to operate, each cardroom shall adopt a plan, to be approved by the city, to provide for the safety and security of its patrons.

#### **5.12.150 State—prohibited games.**

The city council declares that it is not the intention of this chapter to permit the licensing of any cardroom for the playing of any game prohibited by the laws of the state, including but not limited to those games enumerated in Section 330 of the Penal Code of the state, which section includes banking and percentage games.

#### **5.12.160 Business license required.**

Operators of cardrooms shall be required to obtain a business license pursuant to Chapter 5.04 of this code.

#### **5.12.170 Gross revenue permit fees.**

(a) In addition to the permit fees previously prescribed each permittee permitted pursuant to the provisions of this article shall pay to the city a monthly fee equal to 9% of the gross revenue of the permittee received from the cardroom operation. Such payment shall be made to the city not later than 15 days after the end of each month during which such gross revenues on which it was computed were received by the permittee.

(b) Each permittee shall file with the Finance Department before the 15<sup>th</sup> day following the end of each month a statement, under oath, showing the true and correct amount of gross revenue derived from the card game business permitted by the permit issued to the permittee for the preceding month. Such statement shall be accompanied by the payment of the correct amount of permit fee due and owing in accordance with the provisions of Subsection (a) of this section, and such sums correctly reflecting the monthly fees payable for the preceding month shall be accepted by the city, subject, however, to the right of the city to audit the matters reported in the statement to determine the accuracy of the figures contained therein and whether or not the correct amount payable to the city has been paid. A signed declaration shall be attached to the statement or included therein, which shall be in substantially the same form:

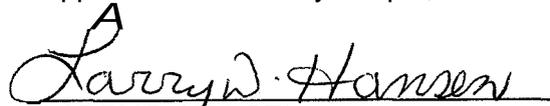
"I hereby declare under penalty of perjury that the foregoing is true and correct.

Section 2. No Mandatory Duty of Care. This ordinance is not intended to and shall not be construed or given effect in a manner which imposes upon the City, or any officer or employee thereof, a mandatory duty of care towards persons or property within the City or outside of the City so as to provide a basis of civil liability for damages, except as otherwise imposed by law.

Section 3. All ordinances and parts of ordinances in conflict herewith are repealed insofar as such conflict may exist.

Section 4. This ordinance shall be published one time in the "Lodi News Sentinel," a daily newspaper of general circulation printed and published in the City of Lodi, and shall be in force and take effect 30 days from and after its passage and approval.

Approved this 15<sup>th</sup> day of April, 2009.

  
LARRY D. HANSEN  
Mayor

Attest:



RANDI JOHL  
City-Clerk  
State of California  
County of San Joaquin, ss.

I, Randi Johl, City Clerk of the City of Lodi, do hereby certify that Ordinance No. 1821 was introduced at a regular meeting of the City Council of the City of Lodi held April 1, 2009, and was thereafter passed, adopted, and ordered to print at a regular meeting of said Council held April 15, 2009, by the following vote:

AYES: COUNCIL MEMBERS – Johnson, Katzakian, and Mayor Hansen

NOES: COUNCIL MEMBERS – Hitchcock

ABSENT: COUNCIL MEMBERS – Mounce

ABSTAIN: COUNCIL MEMBERS – None

I further certify that Ordinance No. 1821 was approved and signed by the Mayor of the date of its passage and the same has been published pursuant to law.

  
RANDI JOHL  
City Clerk

Approved as to Form:

  
D. STEPHEN SCHWABAUER  
City Attorney

## Immanuel Bereket

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**From:** Gary Benincasa  
**Sent:** Thursday, April 02, 2009 1:54 PM  
**To:** Immanuel Bereket  
**Cc:** Steve Price; Steve Carillo  
**Subject:** Lodi Cardroom

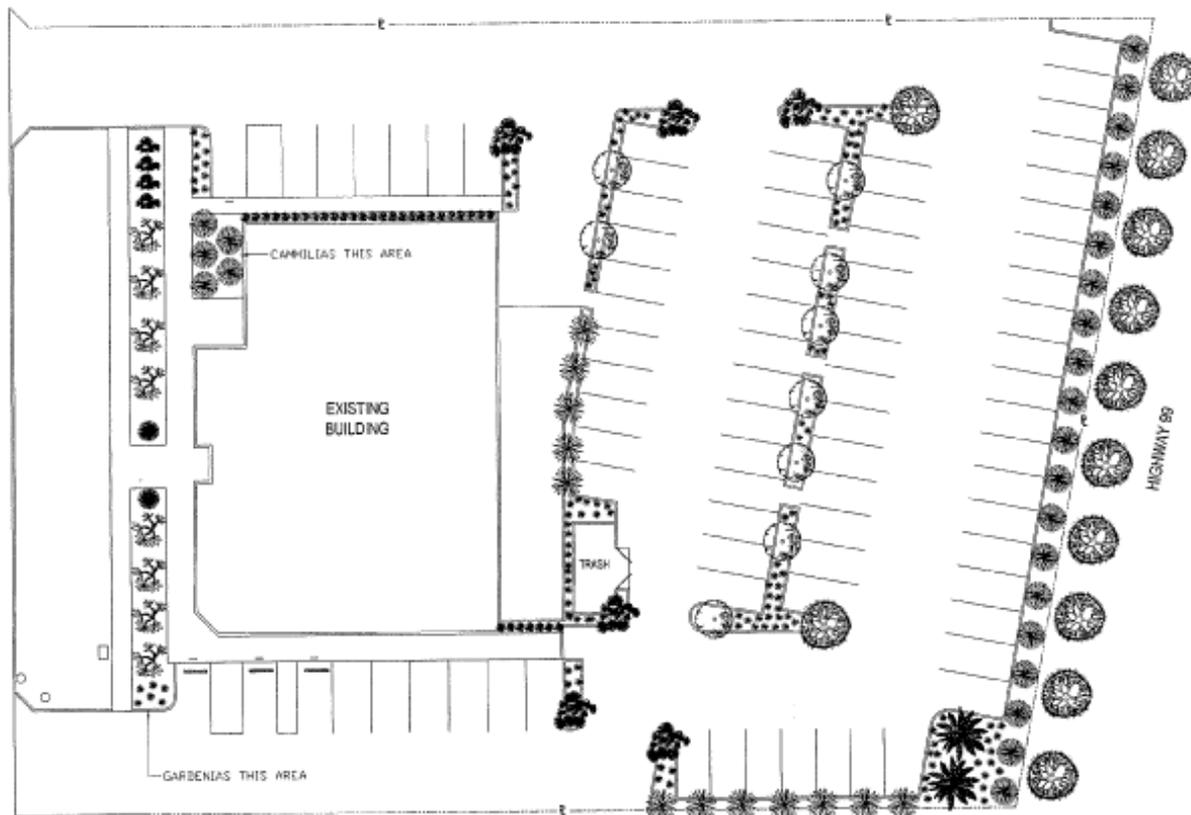
Manny,

We do not have any concerns related to the proposed changes.

Gary

Captain Gary Benincasa  
215 W. Elm St.  
Lodi, CA 95240  
(209) 333-6726  
gbenincasa@pd.lodi.gov

CHEROKEE LANE



**LANDSCAPE CALCULATIONS:**

TOTAL LOT AREA:	53,261 SQ. FT.
TOTAL BUILDING AREA:	7,519 SQ. FT.
TOTAL PARKING AREA:	46,260 SQ. FT.
TOTAL LANDSCAPE AREA:	9,258 SQ. FT.
	8,208 / 42205 = 20%

**PLANTING NOTES**

- ALL NEW PLANTING IS TO BE COMPLETED IN ACCORDANCE WITH THE LANDSCAPE PLAN AND SPECIFICATIONS. PLANTING SHALL BE COMPLETED WITHIN THE SPECIFIED TIME FRAME AND SHALL BE SUBJECT TO THE APPROVAL OF THE LOCAL HEALTH DEPARTMENT AND THE LOCAL FIRE DEPARTMENT. ALL PLANTING SHALL BE SUBJECT TO THE APPROVAL OF THE LOCAL HEALTH DEPARTMENT AND THE LOCAL FIRE DEPARTMENT. ALL PLANTING SHALL BE SUBJECT TO THE APPROVAL OF THE LOCAL HEALTH DEPARTMENT AND THE LOCAL FIRE DEPARTMENT.
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**LEGEND**

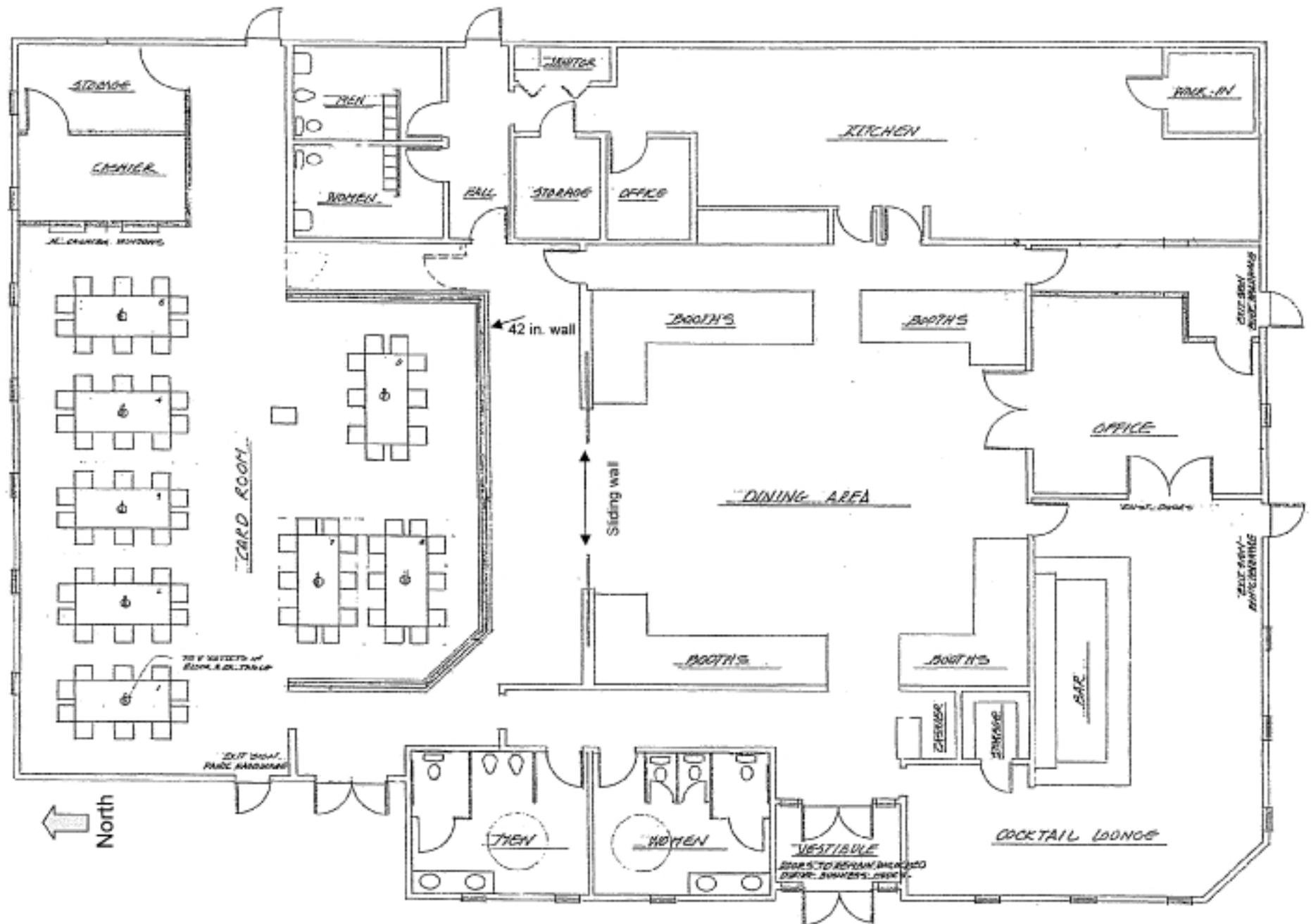
- |  |   |  |
|--|---|--|
|  = EUCALYPTUS TREE    |  = DATE PALM             |  = DWARF WHEELERS   |
|  = FRASERI PHOTINIA   |  = CRAPE MYRTLE          |  = LILY OF THE NILE |
|  = PRIVET             |  = ASSORTED GROUND COVER |  = MUGO PINE        |
|  = BRADFORD PEAR TREE |  = HEAVENLY BAMBOO       |  |

**PLANT LIST**

Item	Qty	Quantity
Eucalyptus	Planting - Full Growth	10
Date Palm	Planting - Full Growth	2
Bradford Pear	Planting - Full Growth	2
Crape Myrtle	Planting - Full Growth	4
Shrub		
Privet	3 gal	25
Dwarf Wheelers	3 gal	1
Lily of the Nile	3 gal	4
Mugo Pine	Planting - Full Growth	2
Heavenly Bamboo	Planting - Full Growth	20
Assorted Ground Cover	1 gal	150
Privet	Planting - Full Growth	12

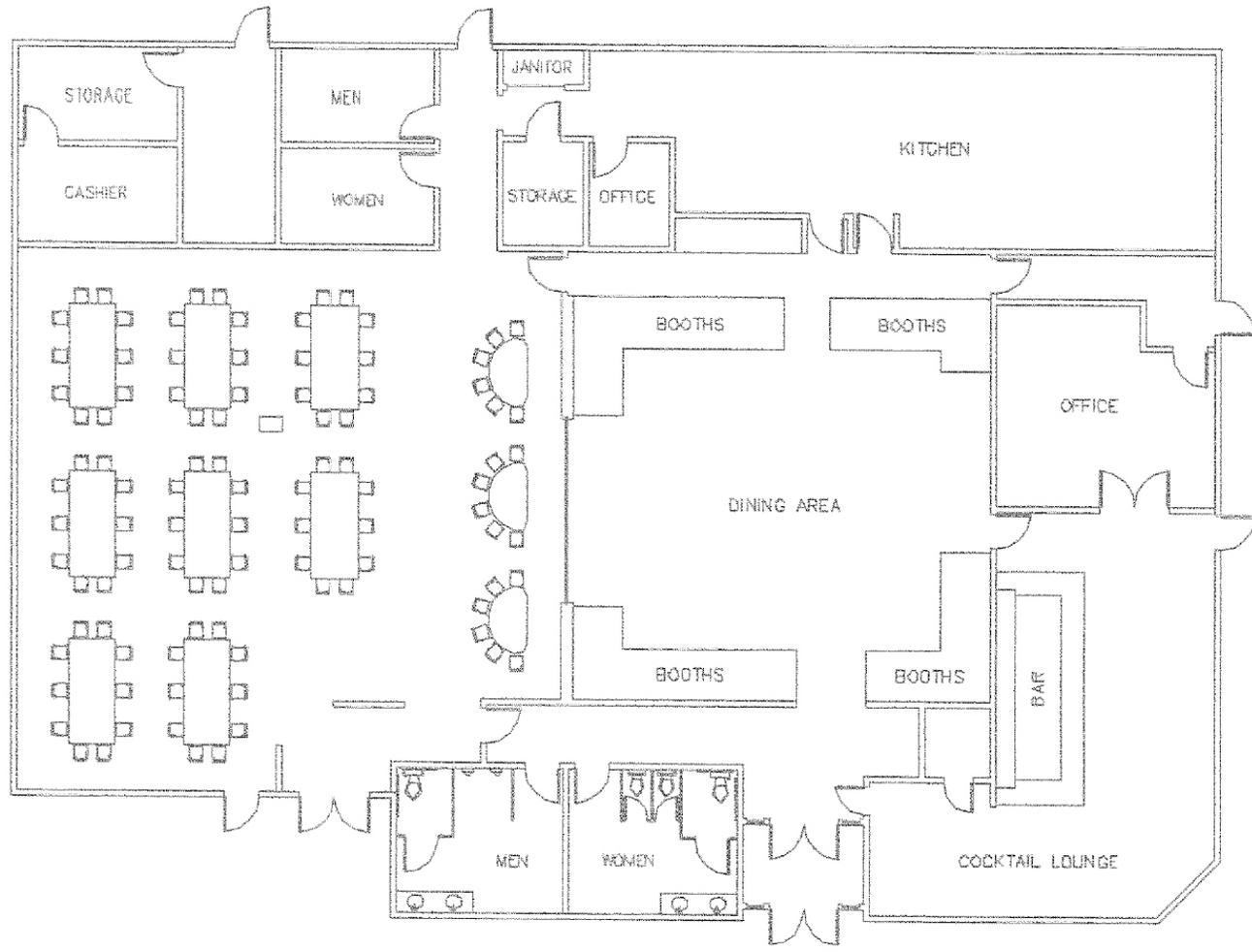


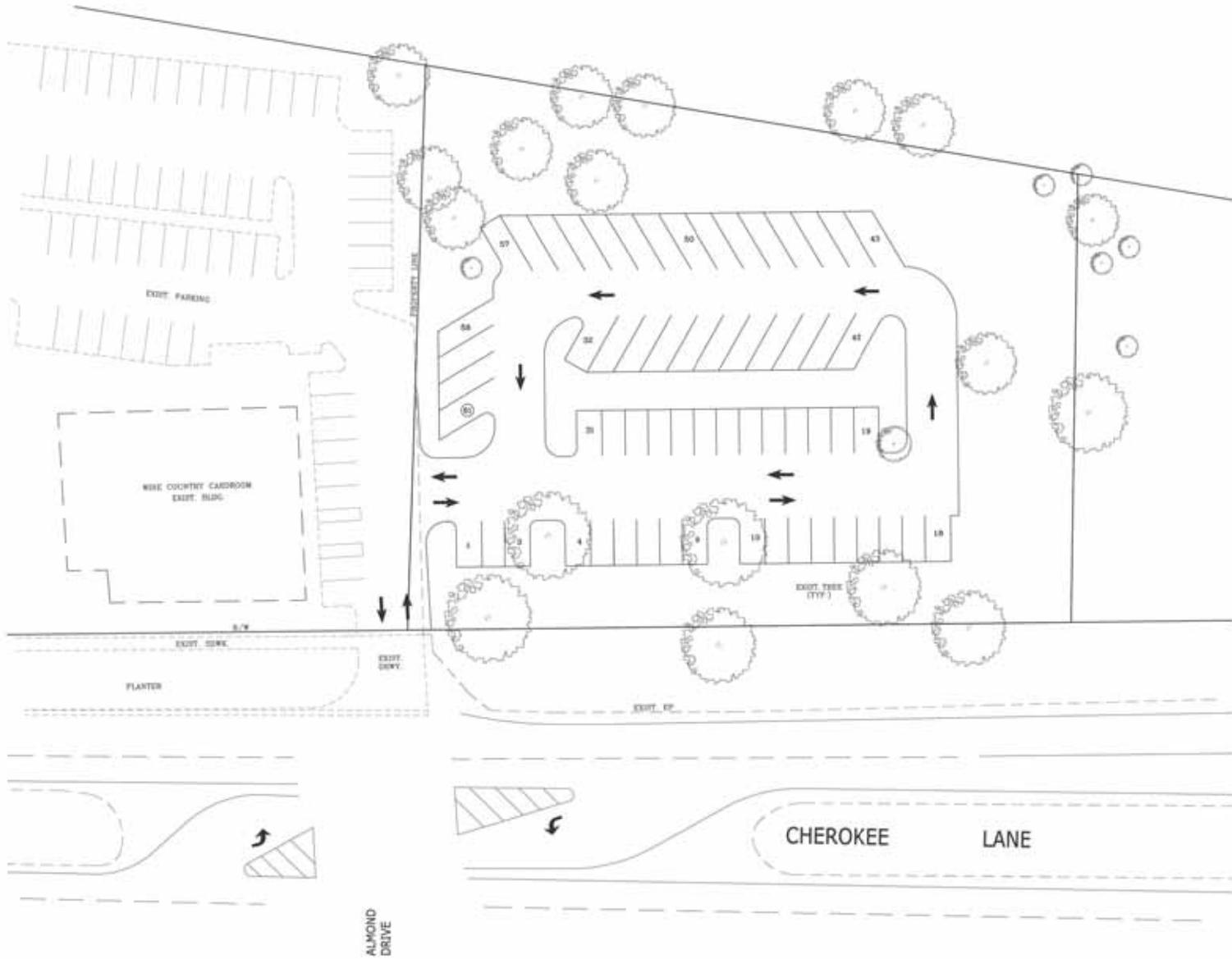
# Existing Floor Plan



CARD ROOM MODIFICATION: ADDITION OF 3 "CALIFORNIA STYLE TABLE GAMES"

Proposed Floor Plan





NO.	REVISIONS	DATE	BY	DRAWN	SEP	DESIGN	SEP	SCALE: 1"=20'



PREPARED IN THE OFFICE OF:  
**BAUMBACH & PIAZZA, INC.**  
 CIVIL, ARCHITECTURE & PLANNING  
 www.baumpiazzainc.com  
 201 368 9118  
 DESIGNED UNDER THE SUPERVISION OF:  
 NCE

**CONCEPTUAL PLAN**  
 WINE COUNTRY CARDROOM PARKING EXPANSION

SHEET 1 OF 1  
 JOB NO. 09020  
 FILE NO.

C:\projects\09020\09020.dwg (Concept) - 09 Aug 09 10:18 - 09020 - 09020

Item 4a.



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

**To:** Planning Commission  
**From:** Community Development Director  
**Date:** May 27, 2009  
**Subject:** Construction of Alternative to Measure K Railroad Grade Separation Project

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**BACKGROUND**

This item for the Planning Commission's consideration relates to the potential railroad grade crossings at Lodi Avenue and Harney Lane.

As part of the original Measure K Strategic Plan, \$30 million dollars was programmed for railroad crossing safety projects throughout the County. The 1992 plan identified 14 railroad grade separation projects. These projects were prioritized based on criteria developed by the Council of Governments (COG) at that time. Grade separation projects that have been completed using Measure K funds include Hammer Lane and March Lane in Stockton. The only Lodi project identified is Lodi Avenue.

In 1997, the City Council of the City of Lodi directed staff to communicate with the Council of Governments regarding the Lodi Avenue project. At that time it was decided to not pursue the grade separation project due to impacts related to the downtown area and the relative high cost of the project. The COG approved moving the funds to the Central City Rail Safety Project that resulted in the removal of the Kentucky House Branch and the Lodi Avenue rail lines.

Recently, the Council of Governments has requested that the City reaffirm its position relative to Lodi Avenue. Apparently, other grade separation projects in the County are not moving forward as planned so there is a potential to accelerate the construction of a project in Lodi. City staff has asked that the COG staff review the criteria against the Harney Lane crossing in the alternative to Lodi Avenue. The two grade separations score evenly and as such the COG staff would entertain a request by the City of Lodi to substitute the funds for Harney Lane.

City staff have reviewed the issues surrounding the City Council decision in 1997 and feel the same reasons apply today. That said, those issues do not exist at Harney Lane. Importantly, the right-of-way needed to construct the

undercrossing at Harney Lane has been reserved on the north side of the street. Right-of-way will be necessary on the south side, but it is currently in farming activity, so the impact would be negligible.

**RECOMMENDATION**

Staff recommends that the Planning Commission consider the information provided and forward a recommendation to the City Council supporting the replacement of Measure K funding for the Harney Lane grade separation project.

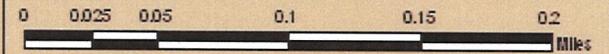
Respectfully Submitted,

Konradt Bartlam  
Community Development Director

Attachments:



# Proposed Lodi Avenue Underpass

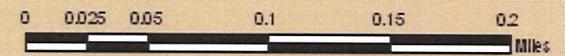


Albers Projection  
 Central Meridian: -96  
 True Scale Parallel: 20  
 True Scale Perpendicular: 60  
 Latitude of Origin: 40





# Proposed Harney Lane Underpass



Albers Projection  
Central Meridian: -96  
1st GM Parallel: 20  
2nd GM Parallel: 60  
Latitude of Origin: 40





# CITY OF LODI

## COUNCIL COMMUNICATION

AGENDA TITLE: Lodi/Southern Pacific Railroad Underpass

MEETING DATE: April 2, 1997

PREPARED BY: Public Works Director

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RECOMMENDED ACTION: That the City Council direct staff on how to respond to the San Joaquin County Council of Government's (COG's) policy regarding the Measure K Railroad Crossing Safety Program.

BACKGROUND INFORMATION: One year ago, COG adopted a policy (Exhibit A) that calls for project sponsors of six Measure K funded rail crossing safety projects to take one of two positions: confirm the projects by adopting a financing plan or propose alternative projects. Failure to take action would likely result in projects being dropped from the Measure K program. While the policy called for a December 1, 1997 response deadline, it has been extended to spring 1997 to give project sponsors additional time to respond. The City of Lodi is a project sponsor for an underpass at Lodi Avenue and the Southern Pacific Railroad (SPRR) tracks.

### Measure K Background

The Measure K program was approved by the voters in November 1990. It funded a variety of transportation projects from a new half cent sales tax. One of the program categories was \$30 million for railroad crossing safety improvements. These improvements consisted of grade separations which would eliminate the at-grade conflict between vehicles and trains by building an overpass or underpass. Although not actually part of the Measure, a list of candidate projects was approved by COG. The list included fourteen locations, one of which was the SPRR/Lodi Avenue crossing, the only location north of the Stockton area.

However, the funding "pot" for these projects was insufficient to cover all these projects and COG developed a funding plan and ranking scheme to provide nearly \$4 million to each of the top eight ranked projects. The ranking scheme included vehicle and train volumes and speeds and delay factors. The Lodi project ranked in the top eight projects. Two of the projects (on Hammer Lane in Stockton) are now under construction. The status of the remaining six projects and the other unfunded projects is shown in Exhibit B. (Note that one location was added after the list was originally ranked.)

Lodi staff worked with Biggs Cardosa Associates, Inc., who were already working on another Measure K project that involved a rail crossing, to prepare background information on the project. The graphics, preliminary cost estimate and construction plans presented later in this report are the result of that work. Environmental review, public hearings and many project details and approvals will need to be accomplished if the project is to go forward.

APPROVED: \_\_\_\_\_

H. Dixon Flynn -- City Manager

Given the long lead time to develop a grade separation project, the COG and other project sponsors need to take positive steps to proceed on whichever projects are to be completed.

### Lodi Avenue/SPRR Issues

Positive factors in pursuing the Lodi Avenue/SPRR underpass include the following:

- Public safety - While train/vehicle accidents have been rare in Lodi, they have occurred and Lodi Avenue was the site of a fatal accident in the 1970's.
- Emergency vehicle access - The closest alternate crossings with grade separations are Turner Road and Kettleman Lane, each one mile away from Lodi Avenue. The adjacent at-grade crossings are close enough that they are usually blocked by rail traffic at the same time as the Lodi Avenue crossing. A grade separation will improve emergency vehicle access in each direction.
- Public convenience - The same alternate crossing choices for emergency vehicles also apply to the general public. Vehicle delays will increase as train frequency increases due to new passenger service and the SP/UP merger.

Negative factors in pursuing the Lodi Avenue/SPRR underpass include the following:

- Street closures and impact to adjacent businesses - As shown in the map in Exhibit C and the accompanying two pages of text, School and Stockton streets would remain open and unaffected. Five to seven businesses would have to be acquired. Some excess property could be resold for reuse after the project. Sacramento and Main streets and the north-south alley west of Sacramento Street would be closed to Lodi Avenue. These closures may have some adverse affect on other businesses in the area.
- Construction disruption - Lodi Avenue at the SP tracks would have to be closed for six months during construction. A possible construction and detour sequence (via Walnut Street) is shown in Exhibit D (two pages). As mentioned, other alternatives, probably more costly, could be designed to minimize Lodi Avenue construction closure.

Other issues include:

- Pedestrian access - While vehicle access to Lodi Avenue at Sacramento and Main streets would be closed, pedestrian access across the tracks could be maintained. This would be done by building a two-level underpass in which the sidewalk is elevated well above the roadway. It would connect to Sacramento and Main streets. With the exception of the ability to cross Lodi Avenue at these locations, pedestrian access along Lodi Avenue would be the same as now and much safer at the tracks.
- Cost - The total project cost is in the \$8 to \$9 million range. This estimate is lower than the earlier Measure K estimate of \$11.3 million. Major variables include the business and right-of-way costs, the value of "resold" land and the need to relocate the CCT tracks. The \$4 million Measure K allocation is obviously insufficient. Up to \$5 million might be available from the State grade separation program; however, more preparatory engineering and environmental work would need to be done to prepare an application. This program is very competitive and funding may not be available for many years.
- Impact on the Central City Revitalization - Potential adverse impact to businesses on the southeast quadrant of the Downtown include loss of Lodi Avenue frontage and Sacramento Street access. These are somewhat balanced by the improvement to Lodi Avenue, improved access to the east side and the architectural design of the underpass structure.

## Alternatives

As provided in the COG policy, alternate projects are possible, including:

- A grade separation at another location - Likely alternate locations are Lockeford Street and Harney Lane. (A new crossing, such as Century Boulevard, would not be eligible for State or Measure K funds.) Lockeford Street would have nearly all the same issues as Lodi Avenue and similar costs. It would do less well in competition for funding but is reasonably close enough to Lodi Avenue to provide most of the benefits. Harney Lane would be less expensive; the total cost would be in the \$5 to \$6 million range. Given its location in the growth area of the City, Street Development Impact Mitigation Fee funding might be a possibility.
- At-grade improvements - This could include widening to allow vehicles that must stop at the tracks to pull over and not block traffic, a median to prevent vehicles from cutting around the crossing gates, improved crossing surface and improved gates. Obviously this would be much less expensive and an argument might be made that such improvements could be done at a number of Downtown crossings to be "equivalent" to the grade separation project.

Any alternatives will need to be approved by the COG Board after review by COG's Citizen, Management/Finance and Technical advisory committees.

## Public Meeting

A public meeting is scheduled for Thursday, March 27, at 7 p.m. in the Library's Community Room to present the above information and obtain public comments. The results of that meeting will be presented at the Council meeting.

FUNDING: None needed at this time.



Jack L. Ronsko  
Public Works Director

Prepared by Richard C. Prima, Jr., City Engineer

JLR/RCP/lm

Attachments

cc: Lodi Downtown Business Association  
Chamber of Commerce  
East Side Improvement Committee

MEASURE K RAILROAD CROSSING SAFETY PROGRAM  
REALLOCATION POLICIES

The following policies apply to:

March Lane\UPRR	(Stockton)	Lathrop Road\SPRR	(Lathrop)
March Lane\SPRR	(Stockton)	Center St.\SPRR	(Manteca)
Lodi Ave.\SPRR	(Lodi)	Lathrop Road\UPRR	(Lathrop)

The Hammer Lane\UPRR and Hammer Lane\SPRR projects are fully funded and will begin construction this year.

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I. Sponsors shall submit Project Support Documentation or a Project Alternative by December 1, 1996.

A. Project Support Documentation shall consist of:

1. Financing Action Plan. A plan explaining how the sponsor intends to finance the local match displayed in the 1996 Strategic Plan and the actions needed to eliminate funding shortfalls.
2. A city council resolution reiterating local support for the existing project and approval of the strategies in the Financing Action Plan.

B. Project Alternative. A sponsor may provide an alternative to their project for COG Board consideration, including:

1. A proposal to reallocate project funds to another grade separation project within the same jurisdiction with Project Support Documentation; or
2. A proposal to "exchange" Railroad Crossing Safety funds with another jurisdiction for funds from another category (for example, congestion relief); or
3. A Financing Action Plan and City Council Resolution for a downscoped project funded with the same Measure K contribution on a percent basis. (For example, Measure K will fund 35% of Lodi's grade crossing project; Lodi could downscope their project to an at-grade safety project, with a 35% Measure K contribution).

II. Reallocation Fund. A "Reallocation Fund" will be created, including money from:

- A. Funds from unsupported projects.
- B. Funds that will not be used for downscoped projects.
- C. Funds remaining after the completion of a project.
- D. Funds left over from trades.
- E. Funds not needed do to receipt of grants, etc.

III. Reallocation Fund Priorities. Will be determined after project sponsors have responded to the new policy requirements.

Changes in project priorities will take into consideration the merger of the Southern Pacific Railroad and Union Pacific Railroad and other relevant issues.

March 1997  
Tech., Cit.

STAFF REPORT

SUBJECT: Measure K Railroad Crossing Safety Project Update

RECOMMENDATION: For Discussion/Action

DISCUSSION:

COG staff would like to discuss how we can help deliver projects in the Measure K Railroad Crossing Safety Program that have fallen behind their delivery schedules due to have funding shortfalls or lost community support and what should be done with the allocation to projects that are undeliverable.

**Background.** The Measure K Strategic Plan provides an allocation to eight Railroad Crossing Safety Projects (overpasses or underpasses). None of the projects have been delivered to date, but two projects, the Hammer Lane UPRR and SPRR undercrossings in Stockton, will be constructed this summer. There are 7 unfunded "shelf" projects in the Strategic Plan (they are listed on the attached page).

**Policies.** To help sort out deliverable from undeliverable projects, the COG Board adopted policies in March 1996 requiring the sponsors of the six remaining funded projects to prepare a financing action plan and demonstrate community support for their project or propose an alternative project. The projects were called out because they hadn't made sufficient progress towards meeting their Strategic Plan delivery schedules. Many of the projects appeared stalled due to concerns over large funding shortfalls or an erosion of community support. The due date for compliance was set by the Board at December 1, 1996.

**Deliverable\Undeliverable Projects.** The projects listed below have met the Board requirements:

SPONSOR

PROJECT

Lathrop

Lathrop Road\Southern Pacific Railroad  
(Construct 5 lane overpass, \$6.7 million)

Lathrop Lathrop Road\Union Pacific Railroad  
(Construct 4 lane overpass, \$7.1 million)

Stockton March Lane\Union Pacific Railroad  
(Six lane underpass, expandable to eight, \$11.4 million)

Stockton March Lane\Southern Pacific Railroad  
(Six or eight lane underpass, \$11.4 million)

Two project sponsors have not yet met the policy requirements.

Lodi Lodi Avenue\Southern Pacific Railroad Crossing (Construct 4 lane underpass, \$11.4 million)

The City of Lodi will be conducting a public meeting at the end of March to determine community support. Based on the outcome of the meeting, the item will be brought before the Lodi City Council for discussion or action. Their staff has requested an extra month to comply with the policies.

Manteca Center Street\Southern Pacific Railroad  
(Construct 4 lane overpass, \$5.0 million)

Staff at the City of Manteca has indicated they cannot deliver the project due to a funding shortfall, listed in the Strategic Plan at \$1.7 million. Last year, the project was removed from the City's Capital Improvement Program. The project has a \$3.974 million Measure K allocation.

**How Should We Proceed?** What can we do to help improve the delivery of these projects and how should we proceed with regards to the allocation for an undeliverable project(s)? Should we, for instance:

- o Seek out at-grade safety projects for funding?
- o Increase the funding allocation to funded projects?
- o Reallocate funds to an unfunded project(s)?
- o Do something else?

COG Staff would like to hear your thoughts on this subject.

FISCAL IMPACT None at this time. May eventually result in COG Board reallocation of Measure K Railroad Crossing Safety funds.

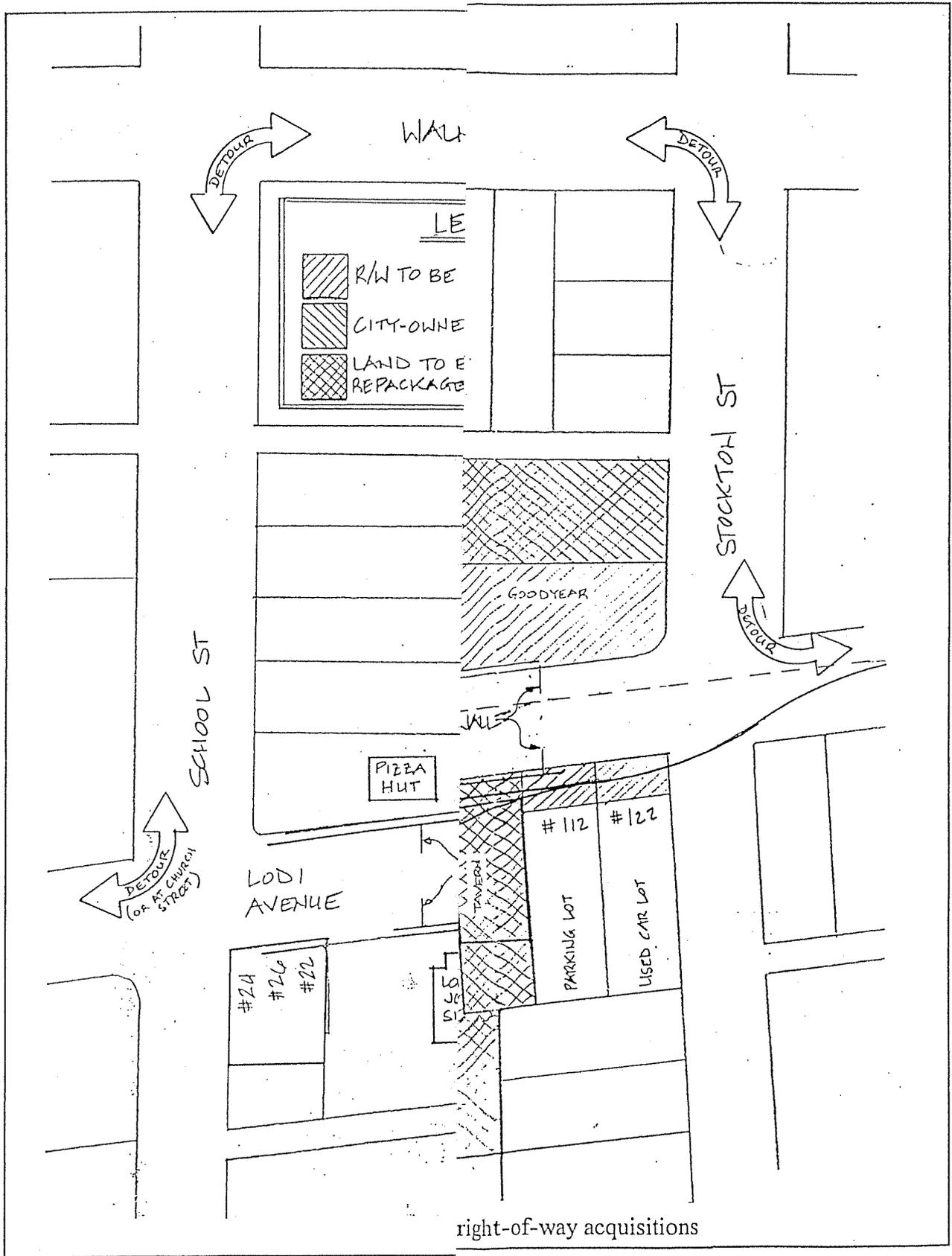
Prepared by: Steve VanDenburgh (m:\meask\rrxing\policies.sta)

UNFUNDED "SHELF" PROJECTS  
MEASURE K RAILROAD CROSSING SAFETY PROGRAM

Strategic Plan Priority	Project (Cost)	Sponsor
#9	Tracy Blvd.\SPRR (\$19 mil.)	Tracy
#10	Lower Sac.\UPRR (\$15.9 mil)	County
#11	Jack Tone Rd.\SPRR (\$21.2)* <i>*(Combined w\Interchange Project)</i>	Ripon
#12	Airport Way\SPRR (\$5.3 million)	Manteca
#13	French Camp Rd.\UPRR (\$6.4 mil.)	County
#14	Eleventh St.\SPRR (\$12.7 mil)	Tracy
Unranked	West Lane\SPRR (\$8.5 mil)	County

EXHIBIT C

Lodi Avenue UP  
Value Engineering



## ***RIGHT-OF-WAY REQUIREMENTS***

Figure 6 on the next page shows the current parcels and their usage for the area that will be affected by construction. Appendix B contains photographs of the area. The location from which the pictures were taken is also shown on Figure 6.

Figure 7 shows the proposed right-of-way acquisition requirements. A description on a parcel-by-parcel basis is detailed below:

- The businesses at the southeast corner of School Street and Lodi Avenue (Rydel Vacuum, Book Garden and The Comic Grapevine), will not be significantly affected.
- The Pizza Hut restaurant at the northeast corner of School Street and Lodi Avenue will not be significantly affected.
- The Long John Silver restaurant will be somewhat affected, but it is not anticipated that the business will have to be acquired. The vehicular entrance to the restaurant will have to be reconstructed to match the proposed grade for Lodi Avenue and to provide for drive-thru exit. The current drive-thru exit will have to be closed. The traffic patterns within the parking lot will have to be reworked.
- The tune-up shop next to Pizza Hut, on the north side of Lodi Avenue, will have to be acquired. The parcel could then be repackaged to have vehicular access only from the Sacramento Street cul-de-sac and resold. Pedestrian access from Lodi Avenue will be preserved.
- Danigers Furniture, which is located at #4 and #8 Lodi Avenue, will have to be acquired. The parcels could then be repackaged and resold as a single parcel with vehicular access from Sacramento Street only. Pedestrian access from Lodi Avenue will be preserved.
- The used car lot on the north side of Lodi Avenue, between Sacramento Street and the SPTCo. right-of-way will have to be acquired, repackaged to have vehicular access from Sacramento Street only, and resold. Pedestrian access from Lodi Avenue will be preserved. A portion of the parcel will be lost to the cul-de-sac and to the 2:1 slope from the depressed Lodi Avenue sidewalk.
- The structure at #2 Lodi Avenue will have to be condemned. This lot already belongs to the City of Lodi. It may be repackaged and sold as a parcel with vehicular access from Sacramento Street. Pedestrian access from Lodi Avenue will be preserved. A portion of the parcel will be lost to the cul-de-sac and to the 2:1 slope from the depressed Lodi Avenue sidewalk.

- The carpet store on the north side of Lodi Avenue, between Main Street and the SPTCo. right-of-way, will have to be acquired. The parcel could then be repackaged to have vehicular access from Main Street only and resold. Pedestrian access from Lodi Avenue will be preserved. A portion of the parcel will be lost to the cul-de-sac and to the 2:1 slope from the depressed Lodi Avenue sidewalk.
- The car wash on the south side of Lodi Avenue will be affected, but it was assumed that the business will not have to be acquired. The vehicular entrance will have to be moved to Main Street. A portion of the parcel next to Lodi Avenue will have to be acquired to accommodate the 2:1 slope to the sidewalk. If the CCTC line is to remain operational, it will have to be moved, requiring a more extensive easement.
- The empty lot on the south side, at #102 Lodi Avenue, will have to be purchased, repackaged and resold as a parcel with vehicular access from Main Street, and with pedestrian access from Lodi Avenue. An easement will be required for the proposed location of the CCTC spur line.
- The tavern on the south side of Lodi Avenue (#104) will have to be purchased. The parcel could then be repackaged to be part of the parcel at #102 Lodi Avenue and resold.
- If the CCTC line is to remain operational, the front 30 feet of the parking lot and the used car lot at the southwest corner of Lodi Avenue and Stockton Street (#112 and #122 Lodi Avenue) will have to be acquired to provide for the new location of the CCTC spur lines.
- We propose to purchase the Goodyear store at the northwest corner of Lodi Avenue and Stockton Street (#125 Lodi Avenue), subdivide it into two parcels and sell the parcel furthest from the corner. See below for the other parcel.
- The largest business to be affected by this construction is the Robinson's Feed company, at #101 Lodi Avenue. Instead of acquiring it, it may be more cost effective to purchase the Goodyear store (see above), and give half the parcel to the Robinson's Feed company as indemnification for the loss of vehicular access from Lodi Avenue to their present parcel. The Robinson's Feed company could then use this parcel to gain access to both Stockton Street and Lodi Avenue.
- The truck scale on Main Street, next to the Robinson's Feed company, will have to be relocated.

**CONSTRUCTION STAGING**

Biggs Cardosa Associates recommends that Lodi Avenue be closed during construction to keep down the project cost. Traffic can be detoured from Lodi Avenue to Walnut Avenue by way of Stockton Street and either School or Church Street. The at-grade crossing of the SPTCo. at Walnut Avenue, which has been closed, can be reopened during construction.

The construction would probably proceed along the following steps:

1. The required right-of-way will be purchased.
2. A temporary at-grade crossing of SPTCo. will be constructed at Walnut Avenue.
3. Lodi Avenue traffic will be detoured to Walnut Avenue.
4. Lodi Avenue will be closed between School Street and Stockton Street, with the exception of local access to the Pizza Hut restaurant, the businesses at the southeast corner of School Street and Lodi Avenue (#22, #24 and #26 Lodi Avenue), the Long John Silver restaurant (the vehicular entrance will need to be modified sometime during construction), and the Robinson's Feed company (access through the Goodyear store parcel and/or Main Street).
5. The SPTCo. secondary line will be closed. The SPTCo. main line will be rerouted.
6. Assuming that the two CCTC spur line will need to remain operational after the construction, they will be rerouted to their final configuration. A short-term closure of these tracks may be required.
7. The Underpass structure will be constructed, essentially at grade.
8. The SPTCo. main line will be routed back to its original location, on the structure. The SPTCo. secondary line will be reconstructed on the structure.
9. The rail detour (shoofly) will be removed.
10. The roadway on Lodi Avenue will be excavated to its final configuration. The retaining walls will be constructed.
11. Lodi Avenue will be reconstructed. A pump station will be constructed to drain the depressed roadway section.

12. Lodi Avenue traffic will be moved back to Lodi Avenue. The at-grade crossing at Walnut Avenue will be closed again. The possibility of keeping an at-grade pedestrian crossing of the railroad tracks at Walnut Avenue should be investigated.
13. The roadway work will be finalized, including the construction of the four cul-de-sacs.
14. The excess properties will be repackaged and sold.

In the above scenario, Lodi Avenue will probably have to be closed for about 6 months between School and Stockton Streets. However, we feel that the proposed detour by way of Walnut Avenue would provide an acceptable route during construction and not significantly impact Lodi Avenue thru traffic. Other construction staging sequences may be feasible, and a full PSR would be able to identify various construction sequences and their impacts, for example:

- Lodi Avenue could be detoured around the construction area to a temporary roadway built on the newly acquired parcels.
- The abutments and the center bent could be constructed at existing grade, without the need to reroute Lodi Avenue. Then, Lodi Avenue could be closed for two to three months during which precast or steel girders could be quickly erected on the abutments and bent to complete the structure. The roadway section could then be excavated. Finally, traffic would be allowed back on Lodi Avenue.

# April 2, 1997 Minutes

*Continued April 2, 1997*

15. Catherine Mellor, 1008 Laurel Avenue, Lodi, reminded the public that the ramp would be next to a cemetery which should be a quiet place. It has already experienced a lot of vandalism, and another boat ramp would just add to that.  
FILE NO. CC-6, CC-27(c) AND CC-40

7. RECESS

Mayor Pennino called for a ten-minute recess and the City Council meeting reconvened at approximately 8:24 p.m.

8. PUBLIC HEARINGS

None.

9. COMMUNICATIONS (CITY CLERK)

- a) The City Council, on motion of Council Member Mann, Warner second, unanimously directed the City Clerk to post for the following vacancy:

**Information Technology Committee**

John Forberg  
FILE NO. CC-2(a)

- b) The City Council, on motion of Council Member Warner, Mann second, unanimously made the following appointments:

**Greater Lodi Area Youth Commission**

*student appointee:*

Bobby Whitmire                      term to expire June 30, 1998

*adult advisor:*

Sherrie Handel                      term to expire June 30, 1998  
FILE NO. CC-2(t)

- c) The City Council, on motion of Council Member Warner, Mann second, made the following appointment:

**San Joaquin County Solid Waste Management Task Force**

Council Member Keith Land  
FILE NO. CC-2(a)

10. REGULAR CALENDAR

- a) Following discussion regarding the Lodi/Southern Pacific Railroad (SPRR) underpass, the City Council, on motion of Mayor Pennino, Sieglock second, unanimously directed staff, with the assistance of the San Joaquin County Council of Governments (COG), to create a list of alternative projects to the Lodi Avenue underpass and return to the City Council.

## April 2, 1997 Minutes

*Continued April 2, 1997*

Speaking on the matter were the following persons:

1. Andrew Chesley, Deputy Executive Director for the San Joaquin County Council of Governments (COG), indicated he was one of the parties responsible for drafting the measure and ballot. One of the key factors was geographical equity. At the time Lodi did not have a tremendous amount of traffic problems, and there was a concern that projects be included for Lodi for balance. Therefore, the grade separation project was an important part of the plan. There are alternatives to look at other than grade separations, and the COG Board is sensitive to that; however, it would make sure that the other committed projects are funded first before looking at other options. There are other cities facing this type of problem, and the Board has high consideration in this regard;
2. Mike Lapenta, 1718 Edgewood Drive, Lodi, expressed his opinion that it would be the death of the downtown area by putting the underpass on Lodi Avenue. One alternative would be Lockeford Street, because it would cause less havoc. We are spending a lot of money downtown for this revitalization, and this would be a deterrent to what we are trying to accomplish;
3. Barbara McWilliams, 208 South School Street, Lodi, was previously opposed to the Lodi Avenue underpass and still is, even more so now with the downtown revitalization project. Downtown is the heart of Lodi. We need to keep the roads and the Multimodal station accesses open. The underpass would take away from the ambiance of the area. Look for alternative sources that could help in safety and in making the crossings better. At this point, she is not sure about using Lockeford Street;
4. Dave Rice, 10 North School Street, Lodi, echoed the comments; however, he does not feel that Lockeford Street is an option. That would just block the area at the other end. In September, 1992 Council deferred action on this item and said we would never see this issue again;
5. Richard Blackston, 518 Ribier, Lodi, agreed that the underpass would not be a viable solution for the downtown. Lockeford Street is also not a viable solution. The alternatives presented by staff are worth looking into. In his dealings with COG, he feels that if we came up with a feasible solution that would work for Lodi, COG would be supportive; and
6. Tony Segale, President, Lodi Downtown Business Association (LDBA), also expressed his opposition to an underpass on Lodi Avenue. It would not be fair to block businesses into a cul-de-sac due to the underpass after they have been assessed and are paying for the downtown revitalization. Use the money to take the tracks out of Lodi Avenue or towards the Multimodal station.  
FILE NO. CC-6, CC-7(h) AND CC-45(f)

### 11. ORDINANCES

- a) Ordinance No. 1643 entitled, "An Ordinance of the City Council of the City of Lodi Amending Chapter 3.20 of the Lodi Municipal Code by Adding Thereto Section 3.20.130 Relating to Vehicle Purchases and Disposition Exemption" having been introduced at a regular meeting of the Lodi City Council held March 19, 1997 was brought up for passage on motion of Council Member Mann, Warner second. Second reading of the ordinance was omitted after reading by title, and the ordinance was then adopted and ordered to print by the following vote:



# CITY OF LODI

# COUNCIL COMMUNICATION

AGENDA TITLE: Lodi Central City Railroad Safety Improvement Project (Alternative to Lodi Avenue Grade Separation)

MEETING DATE: June 4, 1997

PREPARED BY: Public Works Director

RECOMMENDED ACTION: That the City Council authorize staff to proceed with planning the Lodi Central City Railroad Safety Improvement Project.

BACKGROUND INFORMATION: The San Joaquin County Transportation Sales Tax, Measure K, includes a category for railroad safety improvements which presently consists of grade separations. Lodi's only project in this category was Lodi Avenue at the Southern Pacific tracks in Downtown. At its April 2, 1997 meeting, the Council determined not to proceed with this project due to its impacts on Downtown and high cost. (Less than half of the project cost would be covered by the \$3.9 million Measure K allocation.) Staff was directed to work on finding another project that would retain this funding for Lodi. If no alternative is found, the funds will be used elsewhere in the County.

Staff has prepared a comprehensive project which we feel meets the spirit of the Measure K ordinance and will be looked upon in favor by the majority of Lodi residents. The core of the project is the removal of the Central California Traction Company tracks in Lodi Avenue and Main Street and replacement of that rail service on the Southern Pacific Kentucky House Branch which runs parallel to Lockeford Street. Details of the project, a preliminary budget and a project map are attached.

To implement the project, we need to:

- submit the project to the San Joaquin County Council of Governments and obtain their approval, which will entail amendments to the Measure K expenditure and strategic plans
- negotiate project details and cost sharing with the railroads
- perform environmental review
- determine project phasing
- do preliminary design work

FUNDING: None needed at this time.



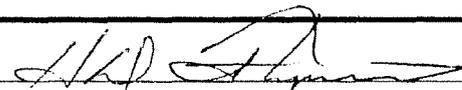
Jack L. Ronsko  
Public Works Director

Prepared by Richard C. Prima, Jr., City Engineer  
JLR/RCP/lm  
Attachments

cc: Senator Patrick Johnston  
San Joaquin Council of Governments  
SJCOG Citizen's Advisory Committee Lodi Representative  
Union Pacific Railroad  
Central California Traction Company  
Caltrans, Planning Division

Chamber of Commerce  
Lodi Downtown Business Association  
Pacific Coast Producers, Attn: Jim Schweickardt  
Sweetener Products, Attn: Joe Tack  
Arkay Industries, Inc., Attn: Eric Kuhnash  
Economic Development Coordinator

APPROVED: \_\_\_\_\_



H. Dixon Flynn -- City Manager

## **Lodi Central City Railroad Safety Improvement Project**

**Project Objective:** To improve vehicle, bicycle and pedestrian safety and convenience where these travel modes interact with railroad tracks while maintaining railroad service to existing and future businesses.

**Project Description:** The project consists of the removal of Central California Traction Company tracks presently located within streets, improving those streets, providing rail service along the unused Union Pacific (formerly Southern Pacific) Kentucky House Branch, and making various improvements to the Branch and adjacent streets (see project map).

**Project Specifics:** The project will:

- remove a mile of railroad tracks that presently run parallel with traffic within Lodi Avenue and Main Street;
- eliminate fifteen locations where railroad tracks cross travel lanes at a skewed angle or street intersections;
- repave the streets and install lighting, drainage, curb, gutter and sidewalk where the tracks are removed;
- install rubberized rail crossing surfaces at fifteen street crossings;
- install a protected pedestrian crossing of the Kentucky House Branch between Calaveras Street and Central Avenue;
- install frontage improvements - fencing, curb, gutter, sidewalk and lighting along unimproved railroad frontage; and,
- improve Lockeford Street along the Kentucky House Branch.

**Project Budget:** \$6,115,000

**Project Funding:** Measure K  
City of Lodi  
Union Pacific Railroad

## Lodi Central City Railroad Safety Improvement Project

### Preliminary Budget Summary

Lodi Avenue/Main Street	\$	1,283,000
Kentucky House Branch incl. Frontage	\$	1,573,000
Rail Crossing Surfaces at Streets	\$	1,092,000
Lockeford Street	\$	2,167,000
Total:	\$	6,115,000

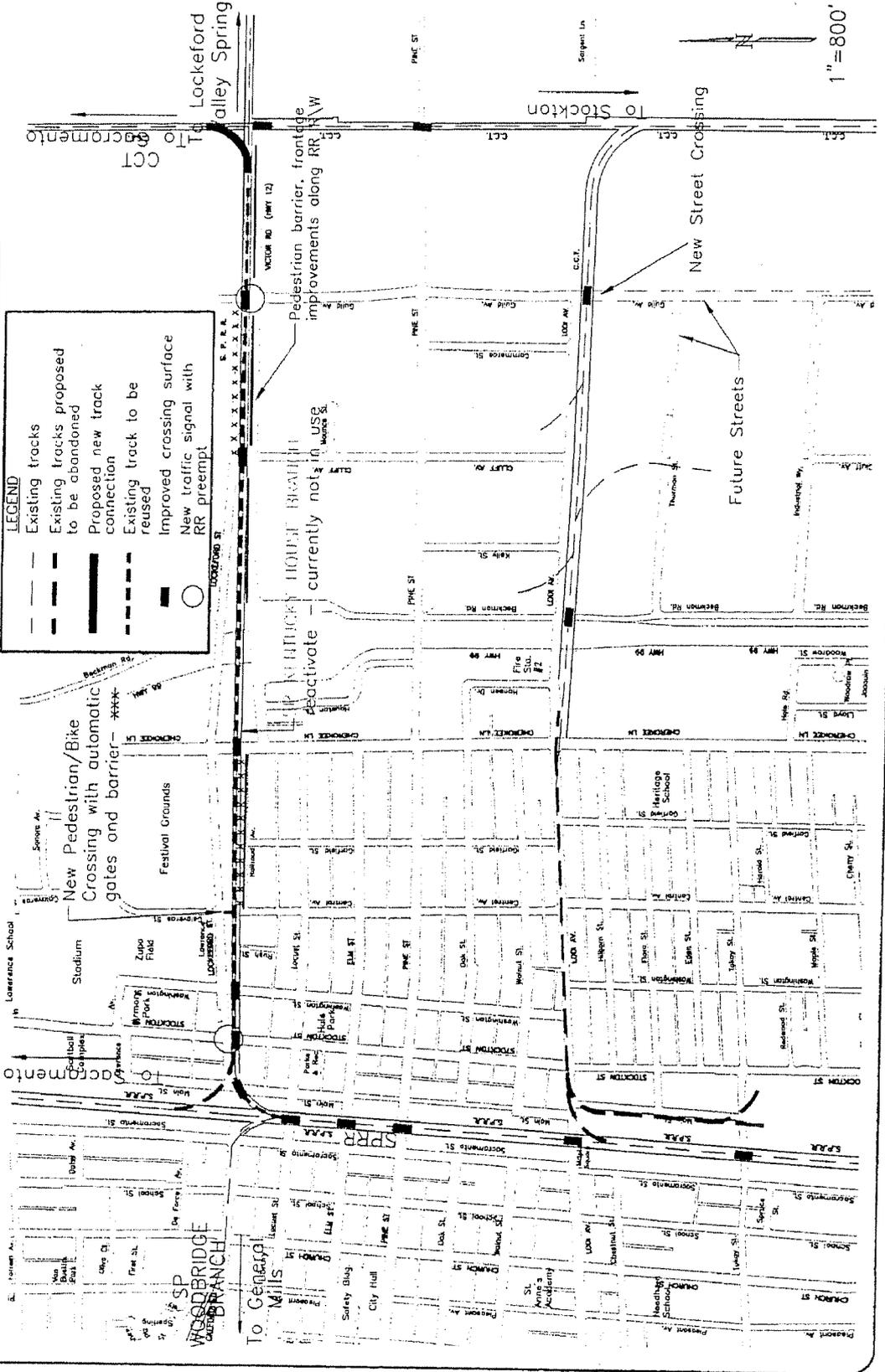
### Project Funding

Measure K	\$	3,970,000	Rail and Street Work
Union Pacific Railroad	\$	438,000	Track Connection
City of Lodi	\$	1,707,000	Balance of Project

# LODI CENTRAL CITY RAILROAD SAFETY IMPROVEMENT PROJECT

**LEGEND**

-  Existing tracks
-  Existing tracks proposed to be abandoned
-  Proposed new track connection
-  Existing track to be reused
-  Improved crossing surface
-  New traffic signal with RR preempt



CITY COUNCIL

PHILLIP A. PENNINO, Mayor  
JACK A. SIEGLOCK  
Mayor Pro Tempore  
KEITH LAND  
STEPHEN J. MANN  
DAVID P. WARNER

# CITY OF LODI

CITY HALL, 221 WEST PINE STREET  
P.O. BOX 3006  
LODI, CALIFORNIA 95241-1910  
(209) 333-6706  
FAX (209) 333-6710

H. DIXON FLYNN  
City Manager  
JENNIFER M. PERRIN  
City Clerk  
RANDALL A. HAYS  
City Attorney

May 30, 1997

MAILING LIST ATTACHED

SUBJECT: Lodi Central City Railroad Safety Improvement Project  
(Alternative to Lodi Avenue Grade Separation)

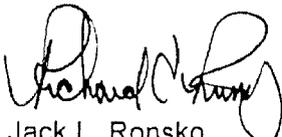
Enclosed is a copy of background information on an item on the City Council agenda of Wednesday, June 4, 1997, at 7 p.m. The meeting will be held in the City Council Chamber, Carnegie Forum, 305 West Pine Street.

This item is on the regular calendar for Council discussion. You are welcome to attend.

If you wish to write to the City Council, please address your letter to City Council, City of Lodi, P. O. Box 3006, Lodi, California, 95241-1910. Be sure to allow time for the mail. Or, you may hand-deliver the letter to the City Clerk at 221 West Pine Street.

If you wish to address the Council at the Council meeting, be sure to fill out a speaker's card (available at the Carnegie Forum immediately prior to the start of the meeting) and give it to the City Clerk. If you have any questions about communicating with the Council, please contact Jennifer Perrin, City Clerk, at (209) 333-6702.

If you have any questions about the item itself, please call Richard Prima, City Engineer, at (209) 333-6706.



Jack L. Ronsko  
Public Works Director

JLR/lm

Enclosure

cc: City Clerk ✓

SENATOR PATRICK JOHNSTON  
31 E CHANNEL STE D  
STOCKTON CA 95202

SAN JOAQUIN COUNTY  
COUNCIL OF GOVERNMENTS  
6 S EL DORADO ST STE 400  
STOCKTON CA 95202

MR RICHARD BLACKSTON  
SJCOG CITIZEN'S ADVISORY  
COMMITTEE LODI REP  
c/o 518 RIBIER AVE  
LODI CA 95240

MR MIKE ONGERTH  
UNION PACIFIC RAILROAD  
1416 DODGE ST  
OMAHA NB 68179

CENTRAL CALIF TRACTION CO  
1645 CHEROKEE RD  
STOCKTON CA 95205

CALTRANS  
PLANNING DIVISION  
P O BOX 2048  
STOCKTON CA 95201

CHAMBER OF COMMERCE  
P O BOX 386  
LODI CA 95241

MR MIKE LAPENTA PRES  
LODI DOWNTOWN BUSINESS ASSN  
12 N SCHOOL ST  
LODI CA 95240

MR JIM SCHWEICKARDT  
PACIFIC COAST PRODUCERS  
631 N CLUFF AVE  
LODI CA 95242

MR JOE TACK  
SWEETENER PRODUCTS  
P O BOX 2757  
LODI CA 95241

MR ERIC KUHNASH  
ARKAY INDUSTRIES INC  
228 BYERS RD STE 2000  
MIAMISBURG OH 45342

Council Member Warner indicated that he doesn't know if the City should be in a baby-sitting program. He stated his concern for dollars that had been spent on the Boys and Girls Club. Council Member Warner stated that this is a day care program and he doesn't feel that it is a recreation program. He stated that he feels that it is an excellent program; however, he doesn't think that he should be obligated to subsidize day care and finally indicated his preference for Option 3.

Council Member Land indicated that he feels that it is his responsibility to support youth programs and feels that this program is a great program. He feels that we must maintain and build this program and that it is programs like this that make Lodi a special place to live. Council Member Land indicated that consideration should be given to put it back under the directions of the Parks and Recreation Department. He stated that if there is a problem with staff, it's the Council's fault, because it gives direction to staff. He stated that he never mentioned that he wanted to cancel the program, if anything, it should be expanded.

Mayor Pro Tempore Sieglock feels that the Boy's and Girl's Club is a great program and stated that he felt some of its successes were pointed out this evening. He agrees that younger kids should not be mixed with older children. He stated that he feels this program is a bargain and a terrific benefit.

Mayor Pennino stated that he would like to see the City out of this program and that he feels that the churches in the area should be doing this. The Mayor indicated that he had met with several Pastors in the community and they are interested. He indicated that they should receive 100% funding and believes that there would be a waiting list.

City Manager Dixon Flynn stated that this evenings comments have not gone unnoticed and that he feels that the program should be adequate and meet the needs of the children. He further stated that he is concerned about the waiting list and feels that the City needs to do what it can to meet those needs.

Council Member Mann asked that the City Manager look into the reasons for a waiting list and stated that he doesn't feel that there should be a waiting list. Council Member Mann stated that he feels that the program should be expanded to meet the needs.

FILE NO. CC-40

**Recess:**

Mayor Pennino declared a 10 minute recess, and the City Council reconvened at approximately 9:25 p.m.

b) The City Council, following review of the matter, on motion of Council Member Mann, Warner-second, authorized staff to proceed with planning the Lodi Central City Railroad Safety Improvement Project.

City Engineer Richard Prima introduced the matter advising the City Council that the San Joaquin County Transportation Sales Tax Measure K, includes a category for railroad safety improvements which consists of grade separations. Lodi's only project in this category was Lodi Avenue at the Southern Pacific tracks in Downtown. At its April 2, 1997 meeting, The City Council determined not to proceed with this project due to its impacts on downtown and high cost. (Less than half of the project cost would be covered by the \$3.9 million Measure K allocation.) Staff was directed to work on finding another project that would retain this funding for Lodi. If no alternative is found, the funds will be used elsewhere in the County.

Staff has prepared a comprehensive project which they feel meets the spirit of the Measure K ordinance and will be looked upon in favor by the majority of Lodi residents. The core of the project is the removal of The Central California Traction Company tracks in Lodi Avenue and Main Street and replacement of that rail service on the Southern Pacific Kentucky House Branch which runs parallel to Lockeford Street. To implement the project, the City needs to do the following:

## June 4, 1997 Minutes

1. submit the project to the San Joaquin County Council of Governments and obtain their approval, which will entail amendments to the Measure K expenditure and strategic plans
2. negotiate project details and cost sharing with the railroads
3. perform environmental review
4. determine project phasing
5. do preliminary design work

Mr. Prima then presented the following additional information regarding the matter:

**Project Objective:** To improve vehicle, bicycle and pedestrian safety and convenience where these travel modes interact with railroad tracks while maintaining railroad service to existing and future businesses.

**Project Description:** The project consists of the removal of Central California Traction Company tracks presently located within streets, improving those streets, providing rail service along the unused Union Pacific (formerly Southern Pacific) Kentucky House Branch, and making various improvements to the Branch and adjacent streets.

**Project Specifics:** The project will:

1. remove a mile of railroad tracks that presently run parallel with traffic within Lodi Avenue and Main Street
2. eliminate fifteen locations where railroad tracks cross travel lanes at a skewed angle or street intersections
3. repave the streets and install lighting, drainage, curb, gutter, and sidewalk where the tracks are removed
4. install rubberized rail crossing surfaces at fifteen street crossings
5. install a protected pedestrian crossing of the Kentucky House Branch between Calaveras Street and Central Avenue
6. install frontage improvements - fencing, curb, gutter, sidewalk and lighting along unimproved railroad frontage; and
7. improve Lockeford Street along the Kentucky House Branch.

**Project Budget:** \$6,115,000

**Project Funding:** Measure K  
City of Lodi  
Union Pacific Railroad

Various diagrams and a Preliminary Budget Summary were presented by the Mr. Prima for Council's perusal.

Discussion followed with questions being directed to Mr. Prima

## June 4, 1997 Minutes

Mr. Richard Blackson, San Joaquin County Council of Governments (COG) Citizens Advisory Committee addressed the City Council indicating that he supported the proposal.

Mrs. Tracy Jenkins, 730 Calaveras Street, Lodi addressed the City Council stating the area of Stockton Street and Lockeford Street is very dangerous.

Several Council Members indicated that the staff did an outstanding job in formulating this proposed project and asked how the City would come up with the match. Mr. Prima indicated that the City has about three years to come up with the dollars and suggested several scenarios.

Council Member Mann asked if there was a time frame that this must be done, and Mr. Prima indicated that the City would have some latitude.

Mayor Pennino recommended that the money be used as soon as possible as he would like to see these funds tied up.

FILE NO. CC-7 (n)

### 10. ORDINANCES

- a) Ordinance No. 1648 entitled, "An Ordinance of the Lodi City Council Amending Lodi Municipal Code Title 17 - Zoning, Chapter 17.57, Thereby Adding Sections 17.57.170, 17.57.180 and 17.57.190 Relating to General Regulations and Exceptions" having been introduced at a regular meeting of the Lodi City Council held May 21, 1997 was brought up for passage on motion of Council Member Mann, Warner second. Second reading of the ordinance was omitted after reading by title, and the ordinance was then adopted and ordered to print by the following vote:

Ayes: Council Members - Land, Mann, Sieglock, Warner, and Pennino (Mayor)

Noes: Council Members - None

Absent: Council Members - None

Prior to adopting Ordinance No. 1648, Tracy Jenkins, 730 Calaveras Street, Lodi addressed the Council stating that she feels this ordinance violates their constitutional rights and that its implementation would affect them seriously financially. She stated that they would need to purchase another vehicle. Further, Mrs. Jenkins stated that one reason they opted to purchase their home was so that they could park their big rig there. She indicated that she understands that there had been 12 complaints regarding situations of this kind in the last year and that she doesn't feel that number should merit the passage of this ordinance. She stated that she doesn't feel this is an appearance issue.

Mayor Pro Tempore Sieglock asked Mrs. Jenkins if she uses the rig to go to the grocery store, and she responded that it is just used for commercial purposes.

Council Member Mann stated his concern about the Jenkins family suffering a financial loss. He stated that he feels that the adoption of the ordinance is the right thing to do and that the vast majority would vote to enforce it. He further stated that most people don't like that type of vehicle parked in their neighborhoods. Council Member Mann stated that he has been assured that if the ordinance is passed that it will be enforced on a complaint basis only and that he hoped this would remedy the situation. Further, he suggested that the Jenkins contact their neighbors to try to work it out.

Community Development Director Konrad Bartlam stated that he has spoken with Mrs. Jenkins and will try to work with her to resolve the matter.

Following an inquiry by Mayor Pro Tempore Sieglock, Mr. Bartlam indicated that at the last City Council meeting when the ordinance was introduced, he was given direction by the Council not to implement the ordinance for one year.

FILE NO. CC-53 (a)

# Item 6a.



## MEMORANDUM, City of Lodi, Community Development Department

**To:** City of Lodi Planning Commissioners  
**From:** Rad Bartlam, Community Development Director  
**Date:** Planning Commission Meeting of 5/27/09  
**Subject:** Past meetings of the City Council and other meetings pertinent to the Planning Commission

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

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

Date	Meeting	Title
May 6, 2009	REGULAR	Set Public Hearing for May 20, 2009 to Extend Interim Ordinance No. 1822, an Uncodified Urgency Interim Ordinance to Establish a Moratorium on the Establishment and Operation of Medical Marijuana Dispensaries.
May 13, 2009	SPECIAL	Conduct Public Hearing to consider appeals filed by Wal-Mart Stores, Inc., Browman Development Company, Lodi First, and PAQ, Inc. regarding the decision of the Planning Commission to deny Use Permit (U-02-12) concerning a Use Permit for the construction of a commercial center in a C-S, Commercial Shopping District, and the sale of alcoholic beverages at the proposed Wal-Mart Supercenter; Vesting Tentative Parcel Map (03-P-001) concerning the creation of 12 parcels for the project; and Site Plan and Architectural Review (08-SP-08) concerning site plan and architectural review of a proposed Wal-Mart Supercenter at the proposed Lodi Shopping Center located at 2640 West Kettleman Lane (collectively "the Project"); and further consider approval of the Project and consider adopting findings and statements of overriding considerations pursuant to the California Environmental Quality Act.
May 20, 2009	REGULAR	Hold Public Hearing to Consider Adopting Urgency Ordinance to Extend Interim Ordinance No. 1822, which established a Moratorium on the Establishment and Operation of Medical Marijuana Dispensaries. Receive and Review the Draft Fiscal Year 2009/2010 Financial Plan and Budget