

<p>CARNEGIE FORUM 305 WEST PINE STREET LODI, CALIFORNIA</p>	<p>AGENDA LODI PLANNING COMMISSION</p>	<p>REGULAR SESSION WEDNESDAY, APRIL 14, 2010 @ 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 24, 2010”
3. PUBLIC HEARINGS
 - a. Request for Planning Commission approval of a variance to increase the size of a second dwelling unit from 400 square feet to 672 square feet. (Applicant: Hazoor Shah; File #: 10-A-01).
 - b. Request for Planning Commission approval of a Use Permit to allow a Type 48 On-Sale General ABC license at 651 North Cherokee Lane, Suite E. (Applicant: Noe Juarez Luna. File Number: 10-U-01)

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

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

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

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

Right of Appeal:

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

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

**LODI PLANNING COMMISSION
REGULAR COMMISSION MEETING
CARNEGIE FORUM, 305 WEST PINE STREET
WEDNESDAY, MARCH 24, 2010**

DRAFT

1. CALL TO ORDER / ROLL CALL

The Regular Planning Commission meeting of March 24, 2010, was called to order by Chair Cummins at 7:00 p.m.

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

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

“February 10, 2010”

MOTION / VOTE:

The Planning Commission, on motion of Commissioner Heinitz, Kiser second, approved the Minutes of February 10, 2010 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 Cummins called for the public hearing to consider the request for approval of a SPARC application concerning the Reynolds Ranch Shopping Center. (Applicant: Jennifer Krauter, RMB Architects on behalf of San Joaquin Valley Land Co., LLC. File No. 10-SP-02)

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

Commissioner Olson asked if the Morse/Skinner Ranch is on a historical registry or if the owners have a State Historic Preservation Office (SHPO) Letter. Director Bartlam stated that it is on a federal registry.

Commissioner Kiser asked if the timeline for the Harney lane improvements is still going to be on schedule with the opening of the center. Director Bartlam stated that the off site improvements for Harney Lane are included in condition number 53.

Hearing Opened to the Public

- Dale Gillespie, applicant, came forward to answer questions. Mr. Gillespie asked to revise condition number 38 of the resolution which pertains to the Habitat Fees. He would like to create a schedule for the Community Development Director showing the fees for the roads and detention basin distributed evenly amongst all of the permits for the project.
- Commissioner Heinitz asked when the first planning for this project started. Gillespie stated that the planning of this project started in late 2005 early 2006.
- Kiser asked for clarification regarding the fees being distributed. Mr. Gillespie stated that for all of the public spaces he would like to have a schedule dividing those spaces evenly amongst all of the permits within the project area.
- Hennecke asked if there was a fee schedule already presented. Mr. Bartlam stated that the fee schedule that is referenced in the condition is the San Joaquin COG schedule. The fee

schedule that Mr. Gillespie is referring to is something he is going to be presenting. Mr. Bartlam stated that he will read into the record the proposed language at the appropriate time. Hennecke asked if this will impact the construction of the basin or other public spaces. Mr. Bartlam stated that the basin and pumping station were constructed at the time of the Blue Shield project. Mr. Gillespie added that it isn't the intention to have any of the fees frozen, just distributed evenly.

- Kiser asked if this is similar to what Manteca is proposing to help spur the economy. Mr. Bartlam stated that this is not similar. This is meant to be more of a fair share proposal for the entire project.
- Chair Cummins asked if there is a groundbreaking date set. Mr. Gillespie stated that possibly in July of this year.

Public Portion of Hearing Closed

- Commissioner Kiser stated his appreciation of the architecture of the project and recommends approval.
- Commissioner Kirsten stated that there are legitimate concerns regarding the traffic, but doesn't feel that there is anyone that would like to stand in the way of the project. He also feels that the traffic issues will get worked out in the end.
- Commissioner Hennecke asked to hear the revised verbiage for condition number 38. Mr. Bartlam stated that:
 - The project shall incorporate all mitigation measures as specified in the adopted Final Environmental Impact Report for Reynolds Ranch Project (State Clearinghouse Number 2006012113). Specifically, Mitigation Measure 3.2.2 subjects the Reynolds Ranch development to participate in the San Joaquin County Multi-Species Habitat Conservation and Open Space Plan (SJMHCPC). This includes payment of Open Space Conversion fees in accordance with the fee schedule in-effect at the time of construction commences. Prior to issuance of the first building permit for the Reynolds Ranch development, the applicant shall pay, in accordance SJMHCP fee schedule, for the construction and completion of the on site detention basin (9.93 acres), Reynolds Ranch Parkway (11.98 acres), pump station (.20 acre) and easement A (5.24 acres) the applicant shall pay in accordance with the San Joaquin Multi-Species Habitat Plan fee schedule the fees based upon the gross acreage of the overall Reynolds Ranch Project as described and include all public use acreage as outlined in a per acre schedule to be prepared with the developer which will be subject to the approval of the Community Development Director prior to the next building permit issuance within the project by the applicant or any other subsequent property owner.

MOTION / VOTE:

The Planning Commission, on motion of Kiser, Heinitz second, approved the request of the Planning Commission for a SPARC application concerning the Reynolds Ranch Shopping Center subject to the conditions in the Resolution. The motioned carried by the following vote:

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

4. PLANNING MATTERS/FOLLOW-UP ITEMS

None

5. ANNOUNCEMENTS AND CORRESPONDENCE

None

6. ACTIONS OF THE CITY COUNCIL

Director Bartlam referenced the memo in the packet and stated that staff is available for questions. Mr. Bartlam added that the appeal that was filed on the Costco approval is set to go to the City Council on May 5th.

7. GENERAL PLAN UPDATE/DEVELOPMENT CODE UPDATE

Director Bartlam stated that the General Plan is scheduled for adoption on the April 7th City Council meeting. Within the next thirty days a draft Housing Element should be ready for the Commission's review.

8. ACTIONS OF THE SITE PLAN AND ARCHITECTURAL REVIEW COMMITTEE

None

9. ART IN PUBLIC PLACES

Commissioner Kirsten stated that the Committee met today and the donation of the "Right to Spring" sculpture may have hit a snag. The owner has decided to place some conditions on the donation that would place penalties on the project if it wasn't in place where they wanted it placed by a certain date. The owner also mentioned that the item is still for sale, so if the City doesn't act in time the donation could just go away.

10. COMMENTS BY THE PUBLIC

None

11. COMMENTS BY STAFF AND COMMISSIONERS

Director Bartlam stated that the 700 Forms are due by April 1st in the City Clerk's office.

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
Planning Commission Secretary

*Variance for Second Dwelling - 400 to 672 sf
@ 1321 S. Washington St.*

Item 3a

**CITY OF LODI
PLANNING COMMISSION
Staff Report**

MEETING DATE: April 14, 2010

APPLICATION NO: 10-A-01

REQUEST: Request for Planning Commission approval of a variance to increase the size of a second dwelling unit from 400 square feet to 672 square feet. (Applicant: Hazoor Shah; File #: 10-A-01).

LOCATION: 1321 South Washington Street. Lodi, CA.
(APN: 047-270-35)

APPLICANT: Hazoor Shah
1321 South Washington Street
Lodi, CA 95240

PROPERTY OWNER: Hazoor Shah
1321 South Washington Street
Lodi, CA 95240

RECOMMENDATION

Staff recommends that the Planning Commission approve the request of Mr. Hazoor Shah for a variance to allow a second residential unit that exceeds the maximum size limit by 272 square feet, subject to the condition outlined in the attached resolution.

PROJECT/AREA DESCRIPTION

General Plan Designation: Low Density Residential.

Zoning Designation: RE-1, Residential Single-Family, Eastside.

Property Size: 10,890 square feet (.25 acres).

The adjacent zoning and land use are as follows:

	General Plan	Zone	Existing Conditions/Uses
North	ER- Eastside Residential	RE-1, Single Family Residence, Eastside.	Mostly detached single family residences.
South	NCC, Community commercial and O –Office	C-2, General Commercial	Neighborhood commercial center (beauty salon, offices etc.)
East	ER- Eastside Residential	RE-1, Single Family Residence, Eastside and C-2, General Commer	Mixture of multi-family and single family residential units.
West	ER- Eastside Residential	RE-1, Single Family Residence, Eastside and C-2, General Commer	Mixture of residences and commercial uses.

SUMMARY

The applicant, Mr. Hazoor Shah, is requesting a Variance to allow a second dwelling unit that exceeds the maximum size limit for second dwelling units. The applicant has a single-family residence located at 1321 South Washington Street, at the corner of Washington Street and Charles Street. The original residential garage was converted into a habitable room a number of years ago without a building permit. The applicant purchased the property through a foreclosure procedure and learnt the second

dwelling unit was constructed without a permit. The applicant requests approval of variance to allow the second dwelling unit. The second dwelling unit measures approximately 672 square feet in size. This will exceed the 400 square foot size limit for residential second units prescribed by the Lodi Municipal Code.

BACKGROUND

The applicant's parcel is 10,890 square feet in size and contains a single-family residence with a detached garage. The subject property is surrounded by residences to the north, west and east and by general commercial parcels to the south. The property is a corner lot. Available City records indicate the main dwelling unit and the garage were first constructed in 1952. The garage is accessed from Washington Street and the main house faces north to Charles Street. There is a two-car carport in front of the garage that was legally constructed in 1963. The applicant purchased the home in a foreclosure procedure sale and afterward it was determined that a previous owner converted the garage into a second dwelling unit without obtaining proper building permits. The garage adheres to all setback requirements.

The City's zoning ordinance has maintained a provision for second dwelling units in residential zones for many years. As of July 1st of 2003, the State of California, in an effort to increase the number of affordable housing units, mandated that City's could no longer require discretionary review (use permits) of second dwelling units. The request is for the additional living area, and not for the second dwelling unit.

- A) Height and Area.
 - 1) A lot proposed for a second unit must be a minimum of six thousand square feet in size.
 - 2) All setback, height and lot coverage requirements of the zone must be met.
- B) Design Standards.
 - 1) The second unit must be made architecturally compatible with the existing residence.
 - 2) The second unit shall have a separate exterior entrance.
 - 3) No new entrances will be permitted on the front of the existing residence.
 - 4) The floor area of the second unit cannot exceed four hundred square feet.
- C) Parking. One legal off-street parking space must be provided for the new unit. The parking space must be in addition to the parking required for the main residence and must meet all setback requirements.
- D) General Standards. In all cases, the city shall determine that the proposed unit is compatible with the design of the surrounding residences and does not adversely affect public facilities or the neighborhood.

Staff finds that the proposed second dwelling unit meets each of the requirements listed above other than C, 4.

The City is in the process of updating its Development Code, which includes a provision for 640 square foot second dwelling units in residential zones. Staff chose the size of 640 square feet for two reasons. The first is relative to the combined parking requirement for the main house and second dwelling. The City requires the main house to have 2 covered parking stalls, and the second unit to have one stall (covered or not). The dimension of three covered parking stalls is 30-feet by 20-feet or 600 square feet. An incentive for building a garage for all three cars is to allow development directly above. The additional 40 square feet is simply to allow for slight variations in design, such as an interior stair well. The second reason is that 400 square feet is on the small side of the spectrum for a dwelling. Back in the 80's when the State's original mandates to allow second dwellings were adopted, many communities set the size limitations low enough to discourage second units or require public review for approval. With the new State mandates for affordable housing and the preservation of agricultural land, many communities are re-evaluating second dwellings and are choosing sizes that encourage their development. Many communities have allowances for second dwelling units as large as 1,200 square feet.

ANALYSIS

The applicant, Mr. Hazoor Shah, is requesting a Variance to allow a second dwelling unit that exceeds the maximum size limit for second dwelling units. The garage was converted into a second dwelling unit without City review and approval. The main house and the garage were first constructed in 1952. At some point in the past, the garage was converted into living space without a permit. Further, City records indicate that owners of the property applied for and were granted a building permit to construct a two-car carport in 1963. It is unclear whether the conversion of the garage into a dwelling unit preceded the building permit for the carport or visa versa. What is clear, however, is that the conversion of the garage into a dwelling unit was completed without City review or approval. A Variance is required to approve the second dwelling unit as currently constituted.

The Zoning Ordinance states that “In specific cases where it is exceptionally difficult, if not impossible, to comply with the exact provisions of this title, the planning commission has the power to allow such adjustments from the provisions contained in this title as will prevent unnecessary hardships or injustice, and at the same time most nearly accomplish the general purpose and intent of this title.” The Zoning Ordinance requires that “in granting any adjustment, the planning commission shall find that such adjustment will relieve an unnecessary hardship or practical difficulty that would otherwise be caused by the application of the strict letter of this chapter and that such adjustment will not be contrary to the public welfare.” As prescribed by the Zoning Ordinance §17.72, approval of any Variance request requires that the City of Lodi Planning Commission must make specific findings. The special circumstances must show that the strict application of the Zoning Ordinance would deprive the property of privileges enjoyed by other property owners in the vicinity. Staff believes the applicant’s Variance request meets all the required Variance findings consistent with those found in Section 17.72.030 of the Municipal Code. They include the following:

1. Granting this Variance request will prevent “unnecessary hardship and injustice.” The applicant’s hardship, as evidenced, is peculiar to the property and not created by any act of the current owner. The original garage measures approximately 544 square feet in area. Either the entire garage needs to be converted into a second dwelling unit or none of it due to building code issues relating to separation of uses. Further, the current owner had neither involvement in construction of the garage nor its illegal conversion into a second dwelling unit. It would be unjust not to permit the second dwelling unit since the City has approved similar requests in the past. It is staff’s position that there will be a limited impact, visual or otherwise, to neighboring properties as a result of allowing the structure to continue be used as it has been for the last 30 years. There will be no difference.
2. The second condition requires the Planning Commission find that the requested Variance is necessary for the preservation and enjoyment of property rights possessed by other property in the vicinity, and would not constitute a grant of special privilege. It is a common practice in the City of Lodi for residents to convert their garages into additional room[s] while providing carports to meet the required covered parking spaces. The applicant’s request is consistent with this common practice in that he requests to legally convert an existing garage into a second dwelling unit since the two-car carport on the property meets City regulations. Denial of the applicant’s request for a Variance, in this context, would amount to denial of rights possessed by other property in the vicinity area.
3. The “strict application of the regulation” would impose unnecessary hardships and restrict the applicant’s ability to convert a garage into a second dwelling unit. Given that the size of garage was legally permitted by the City, it would be unfair to retroactively apply City regulations. The granting of the requested Variance would not substantially alter the character of the neighborhood since, in particular, this garage has been used as a second dwelling unit for quite some time.
4. The fourth condition requires that the Planning Commission find that granting of the requested Variance would not be materially detrimental to the public health, moral, safety, or welfare and

would not impose hardship, impair an adequate supply of light and air to the adjacent property. Staff believes that the existing garage as currently constituted has not been detrimental to the adjacent properties. The garage was converted illegally by previous owners and has been used as a bonus room. The conversion has not been a source of complaint from adjacent properties.

Given the surrounding land uses, and the pending Development Code allowing for exactly what is being requested, staff finds reason for approval of this Variance. As stated in the back ground section of this staff report, the surrounding uses consist of a diverse mix of land uses either adjacent to or within sight of the property. The addition of 272 square feet of floor area to an otherwise allowable second dwelling unit will not add to this mix of uses. We find that since the applicant has made a choice to provide additional onsite paved parking space to meet the requirements of the Code, approval of the Variance request is logical since it would be permitted under the pending Development Code. Therefore, the approval of the variance will allow the applicant to enjoy a privilege that other property owners have in the surrounding vicinity.

ENVIRONMENTAL ASSESSMENTS

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

PUBLIC HEARING NOTICE:

Legal Notice for the Variance was published on April 2, 2009. 44 public hearing notices were sent to all property owners of record within a 300-foot radius of the subject property as required by Government Code §65091 (a) 3.

ALTERNATIVE PLANNING COMMISSION ACTIONS:

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

Respectfully Submitted,

Concur,

Immanuel Bereket
Assistant Planner

Konradt Bartlam
Community Development Director

ATTACHMENTS:

1. Vicinity Map
2. Site Picture
3. Plot Plan/Floor Plan
4. Draft Resolution

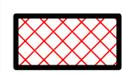


0 0.025 0.05 0.1 0.15 0.2 Miles

Vicinity Map

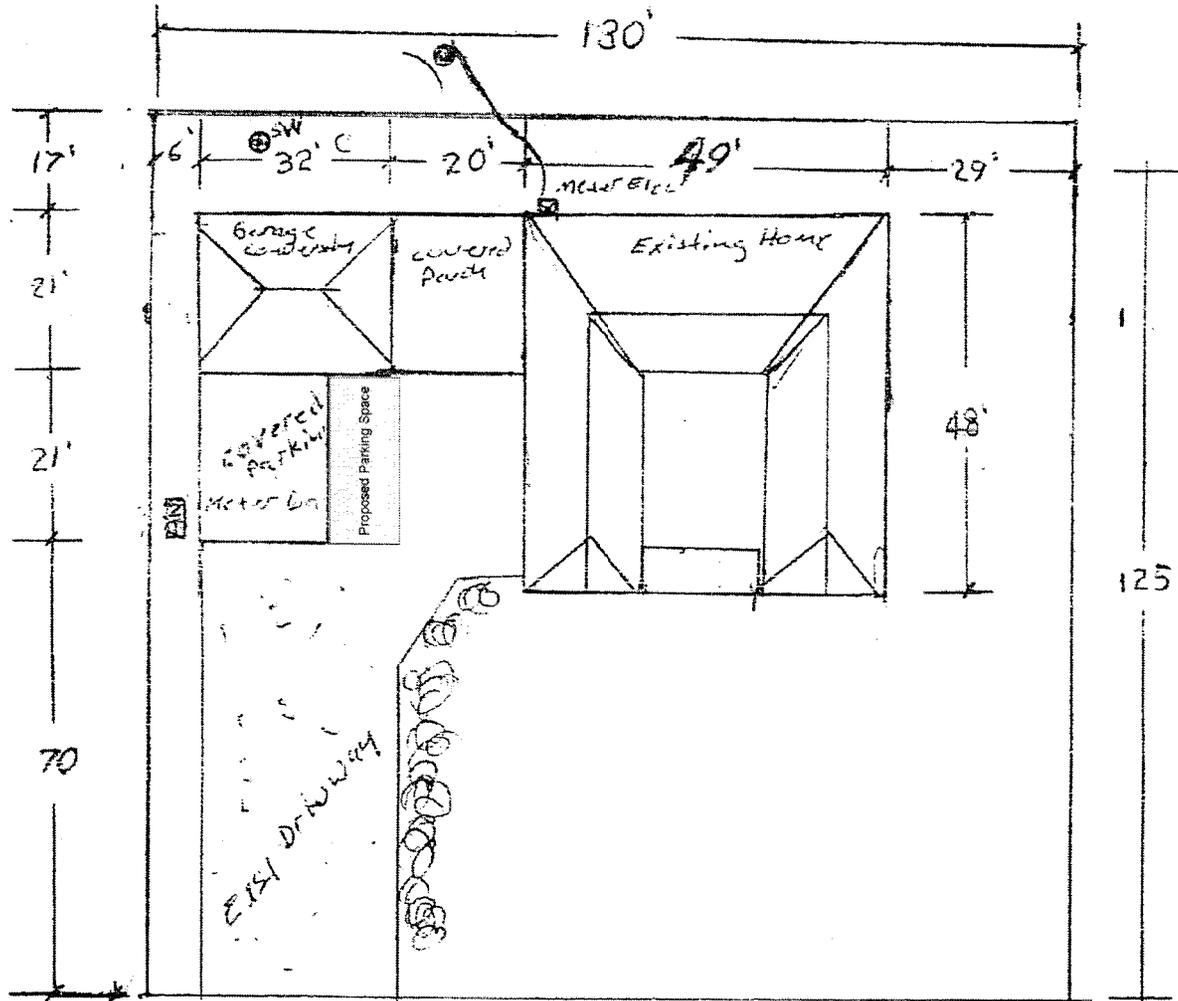
1321 South Washington Street
Lodi, CA 95240

Legend



1321 South Washington Street





Plot Plan

APN: 047-270-35

Lot Size: 10,890 sq. ft. (.25 acre)

Covered Ground: 3,992 sq. ft.

Second Dwelling/Garage Conversion 672 sq. ft.

1321 S. Washington Street
Lodi, CA 95240

Drawn By: G.M.C.C.

Date: 1-7-10

RESOLUTION NO. P.C. 10-

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF LODI APPROVING THE REQUEST OF HAZOOR SHAH FOR A VARIANCE TO INCREASE THE ALLOWABLE MAXIMUM SIZE OF A SECOND DWELLING UNIT FROM 400 SQUARE FEET TO 544 SQUARE FEET AT 1321 SOUTH WASHINGTON STREET.

WHEREAS, the Planning Commission of the City of Lodi has heretofore held a duly noticed public hearing, as required by law, on the requested Use Permit in accordance with the Government Code and Lodi Municipal Code Chapter 17.84, Amendments; and

WHEREAS, the project proponent is Mr. Hazoor Shah, 1321 South Washington Street., Lodi, CA; and

WHEREAS, the project site is located at 1321 South Washington Street., Lodi, CA 95240 (APN: 047-270-35); and

WHEREAS, the project site is zoned RE-1, Residential Single-Family (Eastside); and

WHEREAS, the project site has a General Plan designation of ER, Eastside Residential; and

WHEREAS, second dwelling units are a permitted use within the Residential Single Family zones of Lodi; and

WHEREAS, the requested second dwelling unit is consistent with the City's Zoning Ordinance and General Plan in all aspects other than its size; and

WHEREAS, the project was reviewed in conformance with the California Environmental Quality Act; and

WHEREAS, the Community Development Department studied and recommended approval of the request; and

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

NOW, THEREFORE, BE IT FOUND, DETERMINED AND RESOLVED by the Planning Commission of the City of Lodi as follows:

1. The project was found to be categorically exempt according to the California Environmental Quality Act, Article 19 15321 Class 21 (a) (2). The project is classified as an "Enforcement Action by Regulatory Agencies" because it is the "adoption of an administrative decision or order enforcing...the lease, permit, license, certificate, or entitlement for use or enforcing the general rule, standard, or objective." No significant impacts are anticipated and no mitigation measures have been required.
2. The proposed second residential unit is being constructed within the walls of an existing structure, thereby not adding any new buildings to the property except for a new attached carport;
3. The applicant has made an attempt to reduce the size of the second residential unit by converting a portion of the existing structure into a single car garage, thereby reducing the size of the living space to 544 square feet;

4. A variance maybe granted if the City finds that because of special circumstances applicable to the property, including size, shape, topography, location or surroundings, the strict application of the zoning ordinance deprives such property of privileges enjoyed by other property in the vicinity and under identical zoning classification. The proposed second residential unit will be constructed within an existing structure. The structure has been on the property for many years and is similar to many detached buildings located in the neighborhood. The applicant would like to convert the building to a second residential unit and a one car garage which is permitted by the City's zoning ordinance. Granting the variance will not increase the size of the building and slight increase in the size of the residence will not have visual or land use impact on the surrounding neighborhood.
5. The variance will not constitute a grant of special privileges inconsistent with the limitations upon other properties in the vicinity and zone in which such property is situated. .Approval of the requested variance will not effect the existing land use pattern in the neighborhood where there are many small alley lots and lots that contain a second unit adjacent to the alley;
6. The variance is not detrimental to the public welfare and will provide an affordable housing unit that will be built to current building standards;

NOW, THEREFORE, BE IT DETERMINED AND RESOLVED by the Planning Commission of the City of Lodi that Variance Application Number: 10-A-01 is hereby approved, subject to the following conditions:

1. The applicant 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 approval, 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 submit appropriate plans to the Community Development Department for plan check and building permit.
3. The applicant shall comply with all requirements of Public Works Department, Fire Department and all applicable utility agencies.

Dated: April 14, 2010

I hereby certify that Planning Commission Resolution Number 10- was approved and adopted by the Planning Commission of the City of Lodi at a regular meeting held on April 14, 2010 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST: _____
Community Development Director

Item 3b.

**CITY OF LODI
PLANNING COMMISSION
Staff Report**

MEETING DATE: April 14, 2010
APPLICATION NO: Use Permit: 10-U-01
REQUEST: Request for Planning Commission approval of a Use Permit to allow a Type 48 On-Sale General ABC license at 651 North Cherokee Lane, suite E. (Applicant: Noe Juarez Luna. File Number: 10-U-01.)
LOCATION: 651 North Cherokee Lane, Suite E., Lodi, CA. (APN: 041-274-51)
PROPERTY OWNER: Kay Tayler Investment II LLC., 5466 Ridgeview Circle., Stockton, CA 95219-7190
APPLICANT: Noe Juarez Luna., 1127 South Mills., Lodi, CA 95242.

RECOMMENDATION

Staff recommends the Planning Commission deny without prejudice the requested Use Permit based on findings in the attached resolution.

PROJECT/AREA DESCRIPTION

General Plan Designation: GC, General Commercial
Zoning Designation: C-2, General Commercial
Property Size: 2.56 Acres. The tenant space measures approximately 3,600 sq. ft.

The adjacent zoning and land use are as follows:

North: C-2, General Commercial. The existing uses north of the project site are a mixture of retail commercial, offices and service businesses.
South: C-2, General Commercial. There are a variety of commercial uses to the south, types of businesses found on Cherokee Lane.
East: State Highway 99 and a 24 recreational facility.
West: R-2, Single Family Residences. The area immediately west of the project site consists of single family residences. There is only approximately 75 ft of buffer zone between the commercial district (the project site) and the residences to the west.

Project Description

The owners of La Luna restaurant, currently located at 910 South Cherokee Lane, would like to move the restaurant to a neighborhood commercial center located at 651 North Cherokee Lane, Suite E and reopen the business as a billiard/pool hall featuring live music and dancing. The change in the nature of the business from a bone fide restaurant to the proposed use necessitates change in ABC license type. The restaurant currently owns a Type-47 On-Sale General (Restaurant) Alcoholic Beverage Control license. The applicant's proposed use requires a Type 48 On-Sale General-Public Premise – (bar, nightclub) license. Type 48 ABC license is typically issued to nightclubs. Both ABC licenses permit the sale of beer, wine and distilled spirits. The proposed hours of operation of the establishment will be are from noon to 1:30 a.m. Monday-Saturday and from noon to 10:30 p.m. on Sundays.

In addition, the proposed establishment will have music, dancing and guest performers. Commercial amusements activities are required to obtain a Use Permit per Chapter 17.73 of the Municipal Code. Bars/dance clubs and places where primary receipt sales are from sale of alcohol and dancing have been interpreted to fall into this category. As proposed, music and dancing would occur on Thursday, Friday and Saturday evenings commencing at 9:00 pm until closing time.

Staff contacted the State Department of Alcoholic Beverage Control to verify the hours of operation and types of uses being proposed. According to ABC staff, the planned operation stated in their application is a tavern and live entertainment. Since the State Department of Alcoholic Beverage Control typically issue a Type 48 Alcoholic Beverage Control license to bars and nightclubs that offer commercial entertainment, staff has treated the applicant's project as a bar/nightclub.

SUMMARY

The applicant, Mr. Noe Juarez Luna, is requesting a Use Permit approval to allow a Type 48 On-Sale General Public Premises (Bar, Night Club) license in conjunction with billiard hall/pool hall and live entertainment/dancing in the C-2, General Commercial zoning district. The applicant currently holds Type 47 On-Sale General Eating Place (Restaurant) license, which authorizes the sale of beer, wine and distilled spirits for consumption on the licenses premises. The proposed project site currently has an over-concentration of Alcoholic Beverage Control licenses. Findings of public necessity and/or convenience are required in order to approve additional license within the project census tract. The live entertainment portion of the request would consist of a band, single performers, a disc jockey (DJ), karaoke, and an associated dancing area. The applicant was previously granted a Use Permit by the Planning Commission to conduct live entertainment on Friday and Saturday nights at their current location.

BACKGROUND

The applicant, Mr. Noe Juarez Luna, owns and operates La Luna Restaurant located at 910 South Cherokee Lane. The restaurant obtained Type 47 On-Sale General license some 24 years ago, prior to implementation of the City's Use Permit requirements. In the summer of 2008, the applicant requested a Use Permit to allow live entertainment at the restaurant on limited basis. At their regular hearing of August 27, 2008, the Planning Commission approved the Use Permit request to allow live entertainment.

Staff met with the applicant on at least three occasions (February 4 and 24, 2010 and March 16, 2010) to clarify issues relating to the proposed project. The applicant also met with the Police Department on February 24, 2010. The majority of issues were resolved during the February 24, 2010, meeting regarding the project description and the City's requirements for establishments that wish to offer live entertainment as the main service. It was made clear to the applicant during the February 24, 2010 meeting that the change in the nature of the business requires changing his Type 47 ABC license to Type 48 (bar/night club) ABC license and, as such, the project site isn't suitable for a bar/nightclub offering live entertainment. During the meeting of March 16, 2010, the applicant provided hours of operation and the types of entertainment likely to be featured. Staff again made it clear that the Police Department has expressed concerns relating to noise and City staff also pointed out the proposed use violates the Live Entertainment Ordinance due to proximity of the residences to the project site (LMC 17.73). The applicant was made aware the project site is not acceptable for a bar/tavern or a pool/billiard hall with live entertainment. It was made clear to the applicant staff intended to recommend denial of the application.

The project site is zoned commercial and contains a variety of businesses, including eating establishments and offices. A church formerly occupied one of the tenant spaces but has since vacated the premise. The project suite was previously used by Blue Shield as a satellite office and is currently is vacant. The zoning designation allows the proposed used subject to a Use Permit review and approval by the Planning Commission.

ANALYSIS

Site Layout: The subject site is within a neighborhood commercial center located at 651 North Cherokee Lane, Suite E. The shopping center consists of two buildings situated along the south and west perimeter. The shopping center is bounded by Pioneer Drive on the north, by Cherokee Lane on the east, by commercial parcels on the south and by single-family residences on west. Standard parking stalls and a drive isle separate the residences from the commercial buildings. The project tenant space is located at the west end of the southern building, the closest point to the single family residences (see Attachment C).The building stands less than 75 feet away from the adjoining residential properties. No modifications to the site are proposed with this application. The neighborhood commercial center currently contains eating establishments, a church and several vacant suites. There is no active live entertainment permit within the neighborhood commercial center.

Floor Plan: The existing floor plan consists of bathrooms, a kitchen (break room) and open tenant space. It was previously used as a satellite office by Blue Shield. The proposed floor plan consists of a stage, dance floor, removable chairs, a bar, storage rooms, office and billiard/pool tables. Primary features of the proposed floor plan is a bar, audio/stage area and dance floor.

Parking/Circulation: The site contains two parking lots. The main parking lot contains 117 spaces. There is a smaller parking lot located west of the buildings (adjacent to the single family residences) and it contains 30 spaces. The main parking lot is accessible from Pioneer Drive and Cherokee Lane and the secondary parking spaces are accessible from Pioneer Drive. Parking requirements for neighborhood commercial centers are based on a flat rate for all uses in the center, and not by describing each use in the center individually, unless the center has a high concentration of uses with similar peak hours of operation.

Commercial Entertainment: The establishment, called La Luna, will be a full bar with entertainment on Thursday, Friday, and Saturday nights from 9:45 p.m. until 1:30 a.m. For entertainment there will be a "DJ", open microphone night, comedians, single musicians and singers, juke box, amplified music, live entertainment, karaoke, patron dancing, and pool/billiard tables. The proposed uses appear to indicate that the intent of the business is to function primarily as a bar/nightclub. In accordance with the requirements of the State Department of Alcoholic Beverage Control, the applicant will not allow patrons under 21 years of age in the establishment.

Project Review and Comments:

The applicant's project was referred to the Police, Fire and Building Departments for review and recommendation. The key issues related to approval of a billiard/pool halls, bars, taverns, and nightclubs involve the appropriateness of the location and whether or not such establishments can operate without detriment to nearby residential uses and general welfare of the surrounding area. As stated above, the site is located within a C-2 (General Commercial) zoning district and abuts residences to the west (see attachment B). The subject property has historically operated as an office but has been vacant for some time. Bars are a permitted use in the C-2 zoning district. However, there are no bars or other establishments within this neighborhood commercial center that provide live entertainment services due to site incompatibility. The nearest residences are located less than 75 ft from the project site.

The City's Police Department has reviewed this request as well as activities related to similar uses in the immediate vicinity. The Police Department currently receives numerous noise and public disturbance complaints from neighboring residents as a result of activity occurring at the El Rancho Sports Lounge, located at 621 North Cherokee Lane (see attachment E). In addition to the noise produced by the music, neighboring residents have also complained of noise caused by patrons.

The Police Department believes that noise and/or public disturbance complaints would increase with approval of the proposed project.

Although bars, billiard/pool halls and live entertainment establishments are conditionally permitted in a C-2 zoned property, Lodi Police Department believes, and staffs concurs, that the proposed project would result in an intensification of existing problems and continue to negatively impact the adjoining residential properties. Entertainment establishments that are not properly operated can create an environment with the potential for excessive noise generation and disorderly conduct by patrons, particularly at closing times, with resultant adverse public safety impacts on the surrounding businesses and residential communities. This has occurred with other similar establishment near the project site in the past. The City has experienced a number of serious problems related to patron conduct and lack of effective management at various bars with live entertainment venues throughout the City. Other problems experienced include public drunkenness, vandalism of cars and businesses, public urination and other illegal and disruptive activities. The applicants have indicated there will be no separate private security company hired for purposes of policing the project as they anticipate overseeing security arrangements themselves. Staff feels this would be inadequate and could contribute to unruly behavior by their patrons and could create additional problems for the Police Department. The Police Department have had to spend an inordinate amount of time responding to calls from the El Rancho Sports Bar to prevent and control major disturbances, which has affected other areas of the City by depleting the availability of police resources.

Staff recommends the Planning Commission deny the Use Permit request as the existing and proposed conditions do not mitigate all the concerns of incompatibility between the residential and commercial uses. As shown in the site plan, the project site is within less than 75 ft of adjoining single family residential properties whereas the LMC Sec. 17.73.020(E) requires a minimum of three hundred feet buffer zone between residential properties and nightclubs. Staff believes the project site is too close to residences, creating an incompatible mix of land uses. Staff anticipates noise from the proposed billiard hall/pool hall, tavern, nightclub to adversely impact nearby residences. According to Section 17.72.070 of the Zoning Ordinance, Use Permit may be approved if the Planning Commission can make the following finding:

In granting any use permit, the Planning Commission shall find that the establishment, maintenance or conducting of the use will not, under the circumstances of the particular case, be detrimental to the health, morals, comfort or welfare of persons residing or working in the neighborhood of the proposed use, or to property or improvements in the neighborhood, or will not be contrary to the general public welfare (LMC 17.72.080).

In staff's opinion, the finding necessary to approve the Use Permit request cannot be made as proposed. In the past, the City has approved commercial entertainment establishments that offer live performances by musicians, comedians and other similar acts. Staff finds that the Downtown is a favorable location for clubs and entertainment venues. Locations like Downtown have fewer residents that could be adversely impacted by late night activities; those that chose to live downtown are typically cognizant of the fact that these types of uses congregate around the downtown core; there is adequate parking in parking lots and on the street, particularly late at night; a late night business in the downtown is less likely to impact surrounding businesses since most are closed at night; and a restaurant/nightclub/bar can compliment the other restaurants and bars in the downtown, creating a dining and entertainment center for Lodi. Staff has suggested to the applicant to consider another location for the project, but the applicant has indicated the project site is the area of their interest.

Section 17.72.040 of the Lodi Municipal Code requires a Use Permit for new Off-Sale and On-Sale alcohol licenses as well as changes in license type. The City established the Use Permit requirement to gain local control over whether or not a license is appropriate for a particular location. The State

Department of Alcoholic Beverage Control primarily controls issuance based on concentration of licenses within a particular Census Tract. Census Tract 45 covers the area south of the Mokelumne River, north of Lodi Avenue, east of the Union Pacific Rail Road (U.P.R.R), and west of Guild Avenue. According to ABC, Census Tract 45 contains 14 existing ABC licenses with 7 on-sale licenses allowed based on the ABC criteria. The commercial complex where the proposed project is located currently has 1 Type-41 ABC licenses (Pizza World and Taqueria Casa Mexicana both hold on-sale beer and wine licenses). Because this census tract is over-concentrated, the Planning Commission must make a finding of public necessity or convenience in order to approve an additional ABC license. Staff feels there is no justification to make a finding of public necessity or convenience due to possible alcohol related problems this establishment could create to the area in general and nearby residences in particular. This particular census tract has abundance of On and Off sale general ABC licenses. Denial of this transfer request would not unnecessarily create inconvenience to the public.

The Fire Department notes the assembly type uses, such as banquet halls, night clubs, taverns and bars, require installation of hood above all cooking appliances, automatic sprinkler system throughout the tenant space, and installation of fire alarm system that meets the California Fire Code. The Fire Department also notes that maximum room occupancy would need to be recalculated due to change in use from office to an assembly and a fire control room must be provided. The applicant was informed of the City's requirements at the meeting of March 16, 2010.

Staff is recommending denial for the proposed project because findings necessary to approve the proposed project cannot be made. Although staff recognizes the need for a thriving business to expand, the proposed project is incompatible with the abutting residential neighborhood. As the Police Department noted, there is a history of incompatibility between an existing bar near the project site and the adjoining residences. Staff believes that the proposed project would have a negative impact to the site and the surrounding residential neighborhood. The neighborhood commercial center currently contains two eating establishments, a church and offices. Approval of the proposed use would lead to increased calls for services to the Police Department, create problems for the tenants of the neighborhood shopping center, and cause problems to the surrounding residences. In order to grant a Use Permit, the Planning Commission is given an opportunity to require conditions, and/or to approve or deny such proposals. In approving a Use Permit, the Planning Commission must make a finding that the proposed project will not, under the circumstances of the particular case, be detrimental to the health, safety, peace, morals, comfort, and general welfare of persons residing or working in the neighborhood and that such proposed project will not be detrimental or injurious to property and improvements in the neighborhood or to the general welfare of the City. Staff is of the opinion such findings cannot be made in this case. As a result of the Police Department's concerns, coupled with the land use incompatibility, staff is requesting that the Planning Commission deny the proposed project in its entirety. The applicant has been advised on numerous occasions the project site is incompatible with the proposed project and staff recommends denial of the project as submitted.

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 or revoking the lease, permit, license, certificate, or entitlement for use or enforcing the general rule, standard, or objective." No significant environmental impacts are anticipated and no mitigation measures have been required.

PUBLIC HEARING NOTICE:

Legal Notice for the Use Permit was published on March 31, 2010. 54 public hearing notices were sent to all property owners of record within a 300-foot radius of the project site as required by

California State Law §65091 (a) 3. Public notice also was mailed to interested parties who had expressed their interest of the project. No protest letter has been received.

ALTERNATIVE PLANNING COMMISSION ACTIONS:

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

Respectfully Submitted,

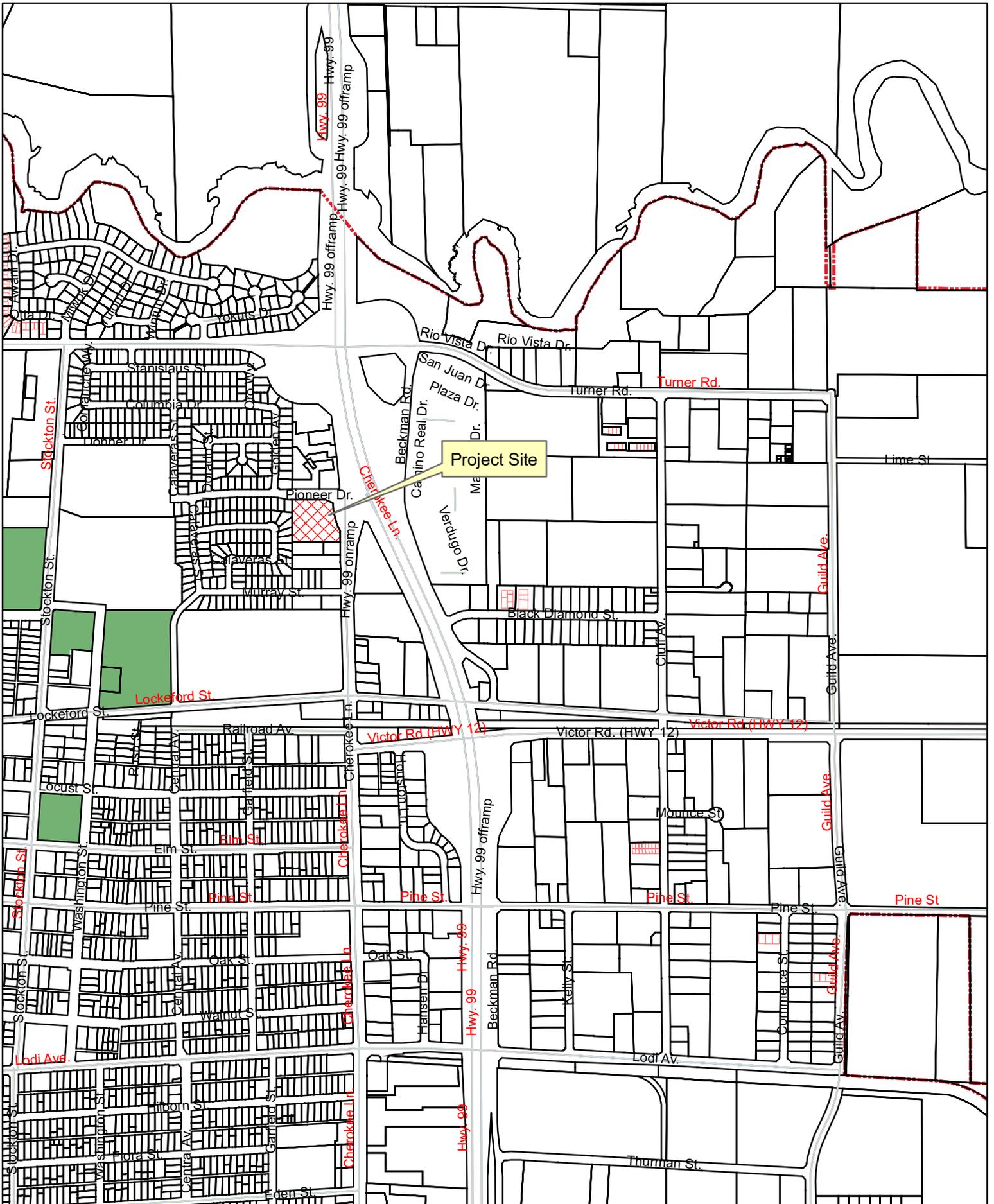
Concur,

Immanuel Bereket
Assistant Planner

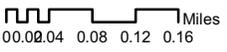
Konradt Bartlam
Community Development Director

ATTACHMENTS

- A. Vicinity Map
- B. Aerial Photo
- C. Site Plan
- D. Floor Plan
- E. Police Department Comment
- F. Resolution



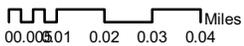
Project Site



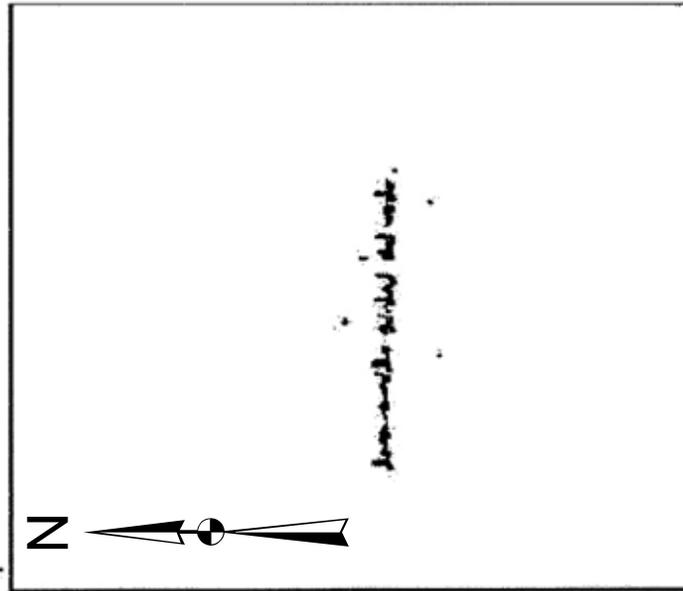
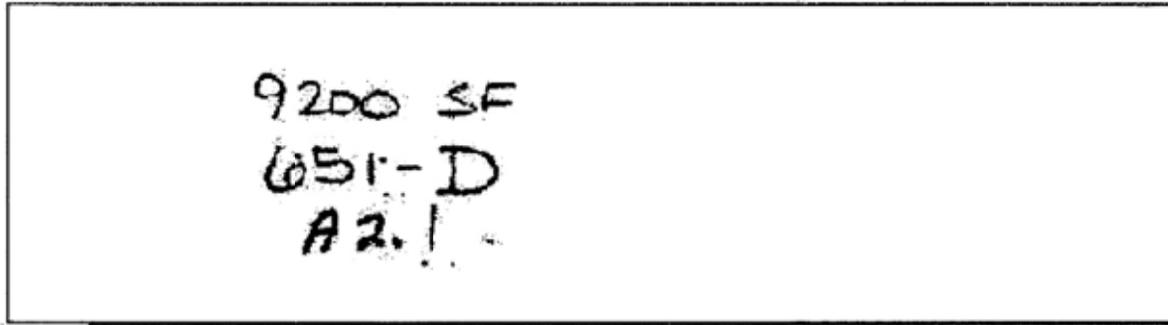
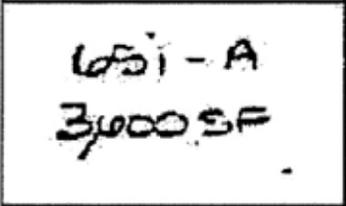
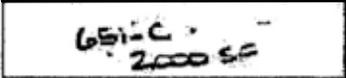
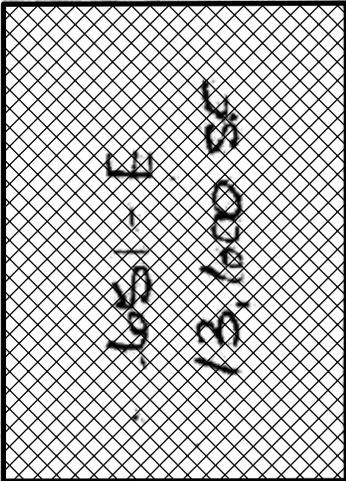
Vicinity Map
 651 North Cherokee Lane. Building A, STE E
 Lodi, CA 95240



Project Site



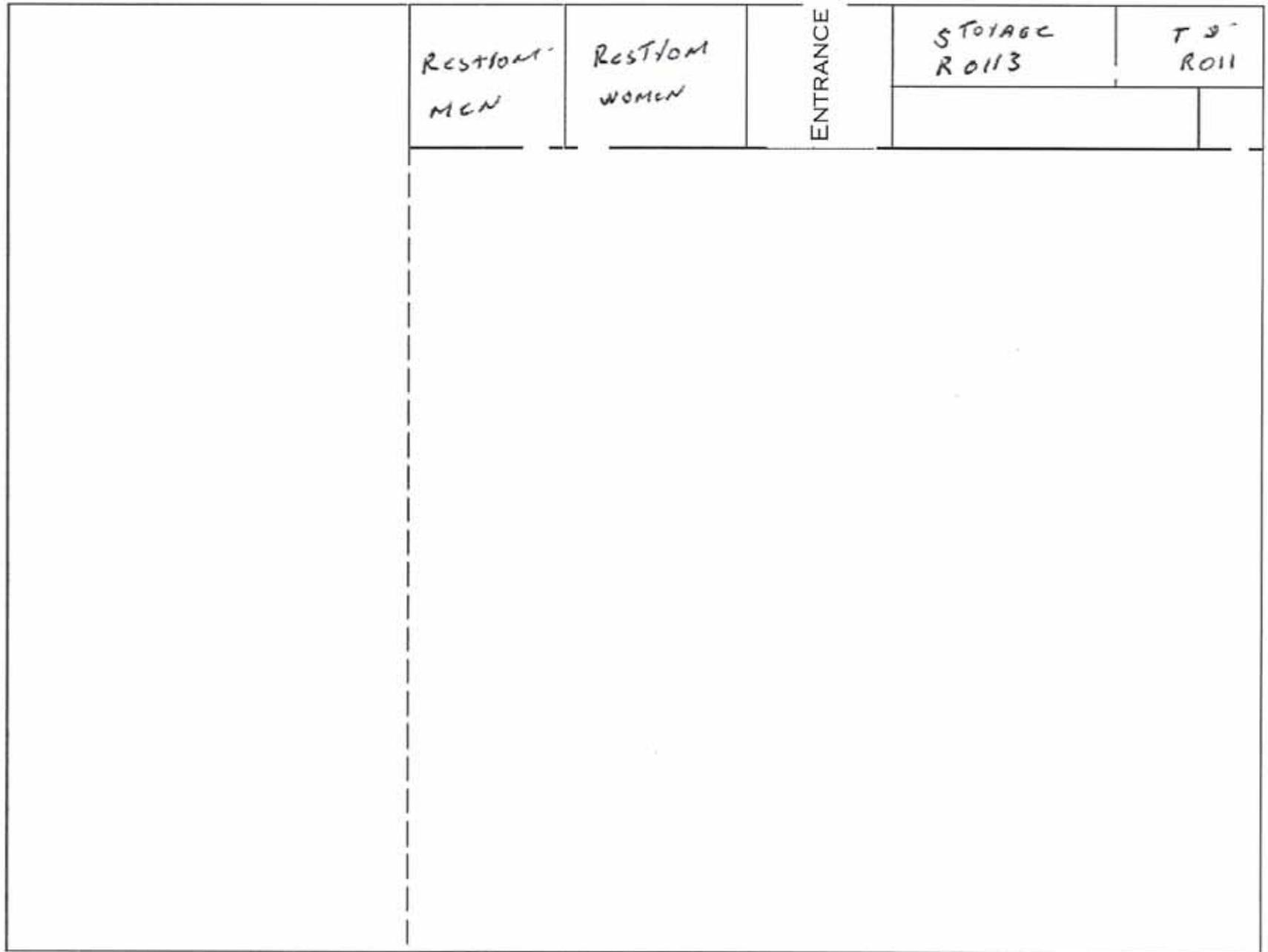
Aerial Map
651 North Cherokee Lane. Building A, STE E
Lodi, CA 95240



PIQUEUR DRIVE

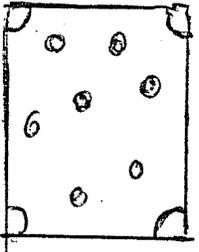
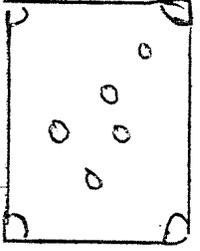


651 N. CHEROKEE, LODI



EXISTING FLOOR PLAN
651 NORTH CHEROKEE LANE. BUILDING A, STE E

Pool tables



cleaning Room

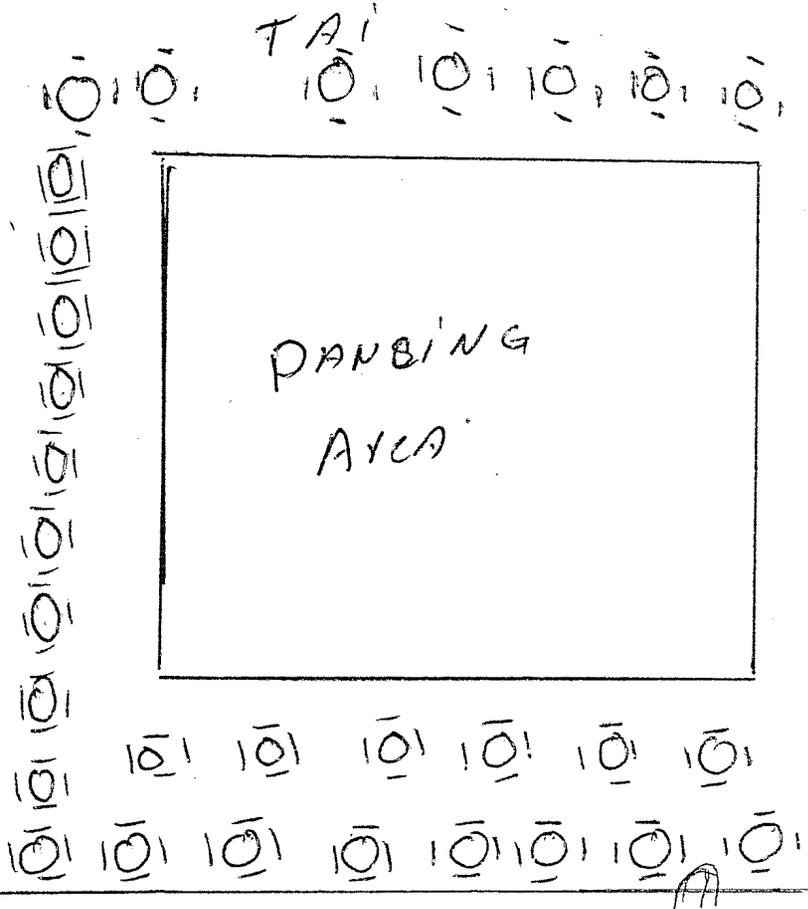
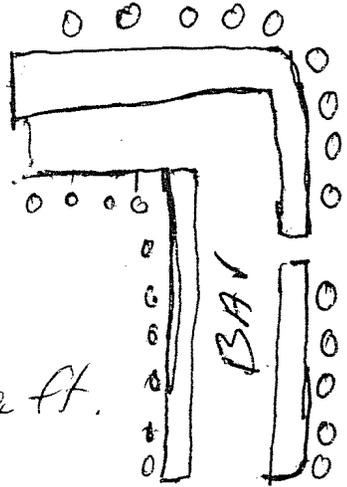
MENS RESTROOM

WOMENS RESTROOMS

STORAGE ROOM

Break Room
~~Break Room~~

La Luna Bar
Occ. group: A-2
Type of const.: VN
Sprinklers - No
Floor area - 4800 sq ft.
Occ. load: 140



AUDIO AREA

OFFICE

Immanuel Bereket

From: Gary Benincasa
Sent: Wednesday, February 24, 2010 4:26 PM
To: Immanuel Bereket
Cc: David Main; JP Badel; Steve Price
Subject: RE: RE: 651 North Cherokee Ln

Manny,

We are opposing the issuance of this use permit for a couple of reasons. The site is adjacent to a residential area, specifically single family homes on Sonora. I would anticipate continuous noise related complaints from those residents. In addition, the site is adjacent with another bar, the El Rancho. We receive regular calls for service for disturbances at the El Rancho and opine that disturbances could increase due to the close proximity of the two establishments.

Gary

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

From: Immanuel Bereket
Sent: Tuesday, February 23, 2010 09:46 AM
To: Gary Benincasa
Subject: RE: 651 North Cherokee Ln

Gary,

Attached is the site plan the City has on record. It appears as if the applicant cleaned up the site plan and submitted as part of their application. I made remarks on the site plan (attached) to clarify some issues.

Further, I have extracted LMC regarding live entertainment. This site doesn't qualify for approval as it is not at least three hundred feet away from a residential zone. I hope this helps.

Manny

17.73.020 Permitted live entertainment applications.

Requests for live entertainment permits shall be reviewed by the community development director subject to the following conditions:

- A. Music/performance may take place outdoors with an approved site plan.
- B. Any amplification of entertainment outdoors is limited to the hours of eight a.m. to nine p.m.
- C. The entertainment shall be clearly incidental to the primary use of the property (i.e., no stage or dance floor may exist).
- D. No nuisance is created by reason of noise increased traffic or other similar causes.
- E. The property shall be a minimum three hundred feet from a residential zone.**

Event List with Report Numbers

Report #	Date	Time	Nature	Location	Prime Unit	Disp.	Close Time
	07/05/2009	02:30	DISTURBING THE	910 S CHEROKEE LN	1A2	EVE	07/05/2009 02:39:16
	09/27/2009	22:23	SUSPICIOUS	910 S CHEROKEE LN	1A2	EVE	09/27/2009 22:50:03
	10/18/2009	01:54	SUS CIRC IN PROG	910 S CHEROKEE LN	1A4	EVE	10/18/2009 02:02:42
09010101	11/18/2009	10:47	SUSPICIOUS	910 S CHEROKEE LN	2A4	REPT	11/18/2009 11:25:48
	01/24/2010	21:14	MISC SERVICES	910 S CHEROKEE LN	1A3	EVE	01/24/2010 21:31:09
	02/26/2010	22:03	TRAFFIC STOP	910 S CHEROKEE LN	1A5	TSOP	02/26/2010 22:06:51

Total Number of Events Listed: 6



Involvement: LA LUNA

SysId: 4705322 Race: Sex: DOB: / /

Status	Type	Relationship	Description	Date	Agency Jv	Case Id/ Book Id	
1	LW	INVOLVED OTHER	09011176, ROBBERY WITH KNIFE	12/31/2009	LPD	09011176	*LW128185*
2	LW	INVOLVED OTHER	09009121, PUBLIC INTOXICATION	10/13/2009	LPD	09009121	*LW126119*
3	LW	INVOLVED OTHER	09003381, ASSAULT- 245 PC	04/26/2009	LPD	09003381	*LW121405*
4	LW	INVOLVED OTHER	08005240, AUTO THEFT & ATTEMPT	06/06/2008	LPD	08005240	*LW112081*

RESOLUTION NO. P.C. 10-

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF LODI DENYING THE REQUEST OF THE NOE JUAREZ LUNA FOR USE PERMIT TO ALLOW ON-SALE BEER, WINE AND DISTILLED SPIRITS ALCOHOLIC BEVERAGE CONTROL LICENSE AND LIVE ENTERTAINMENT PERMIT AT 651 NORTH CHEROKEE LANE.

WHEREAS, the Planning Commission of the City of Lodi has heretofore held a duly noticed public hearing, as required by law, on the requested Use Permit in accordance with the Government Code and Lodi Municipal Code Chapter 17.84, Amendments; and

WHEREAS, an application was filed by Noe Juarez Luna 1127 South Mills., Lodi, CA 95242; and

WHEREAS, the project site is located at 651 North Cherokee Lane, Suite E., Lodi, CA 95240; and

WHEREAS, the project site is owned by Kay Tayler Investment II LLC., 5466 Ridgeview Circle., Stockton, CA 95219-7190; and

WHEREAS, the property has a General Plan designation of GC, General Commercial and is zoned C-2, General Commercial; and

WHEREAS, the requested Use Permit to allow live entertainment in conjunction with the operation of a restaurant with a Type 48 On-sale General License and sale of alcohol is an enforcement action in accordance with the City of Lodi Zoning Ordinance; and

WHEREAS, Census Tract 45 in which the project site is located currently has over-concentrated of licenses allowing the sale of beer, wine and distilled spirits for consumption where sold; and

WHEREAS, because Census Tract 45 has an over concentration of off-sale wine, beer and distilled spirits licenses, the Planning Commission must make a finding of necessity and/or public convenience in order to permit the issuance of an additional off-sale Alcohol Beverage Control license in this tract; and

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

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

NOW, THEREFORE, BE IT FOUND that the Planning Commission of the City of Lodi incorporates the staff report and attachments, project file, testimony presented at the time of the hearing, and written comments, on this matter, and make the following findings:

1. The project was found to be Categorically Exempt according to the California Environmental Quality Act, Article 19 §15321, Class 21 (a) (2). The project is classified as an "Enforcement action by regulatory agencies" because it is the "adoption of an administrative decision or order enforcing or revoking the lease, permit, license, certificate, or entitlement for use or enforcing the general rule, standard, or objective." No significant environmental impacts are anticipated and no mitigation measures have been required.
2. Although the proposed Use Permit request is consistent with the City's General Plan and Zoning Ordinance, it will not facilitate orderly distribution of Alcoholic Beverage Control licenses within the City, in that there is a high concentration of existing Alcoholic Beverage Control on census tract 45 and there are similar bar type establishments in the immediate vicinity of the project area, and therefore, a new use offering the same services is not appropriate as it would further over-concentrate the subject census tract.
3. The proposed use is not consistent with the objectives of the Zoning Ordinance and the purposes of the district in which the use is located. Although a pool hall/billiard hall bar/nightclub is a permitted use in the General Commercial (C-2) zone, City of Lodi Municipal Code Section 17.73.020 (E) of the Zoning Ordinance requires a minimum of three hundred feet of buffer zone between residential and these types of establishments. This requirements is in effect to ensure any proposed project, including existing projects, must be compatible with surrounding land uses, including the protection of the quiet enjoyment of existing residential development, and reducing the level of adverse impacts on existing homeowners associations, or private property. City staff and the Lodi Police Department

have received complaints regarding the noise impacts of emanating from a bar similar to the proposed project located within proximity of the project site, outdoor loitering, and incompatible hours of operation that negatively impact the privacy and enjoyment of the residential neighborhood west of the applicant's tenant space. As proposed, the project will be detrimental to the health, morals, comfort and welfare of persons residing or working in the neighborhood of the proposed use, and to property or improvements in the neighborhood, and will be contrary to the general public welfare, and in violation of Lodi Municipal Code Section 17.72.080 of the Zoning Ordinance.

4. The proposed project is not compatible with the surrounding area, which is comprised of residential neighborhoods to the west, a church contained within the same neighborhood commercial center and the tenants of the commercial center. The residents located west of the applicant's tenant space are negatively affected by excessively disruptive noise occurring in a similar establishment located within the project vicinity (El Rancho Sports Bar) and loitering associated with the El Rancho Sports Bar. The proposed project would intensify these impacts.
5. The proposed use will be detrimental to the public health and safety, or welfare. The proposed live entertainment would be more than just an ancillary use, attracting more patrons to the bar and on-site loitering and noise impacts at late hours, and likely requiring more public safety service to try to maintain the required compatibility between the proposed project and the residential neighborhood to the west.
6. The proposed use will not comply with each of the applicable provisions of the Zoning Ordinance. The Lodi Municipal Code requires compatibility with existing and proposed surrounding land uses. The proposed nightclub use with live entertainment is not compatible with the adjacent residential neighborhood to the west, in that the proposed hours of live entertainment will negatively impact the privacy and quiet enjoyment of nearby residents.
7. The proposed use is not consistent with the goals, objectives, and policies of the General Plan. Policy 7 of the General Plan Noise Element defines residences are noise-sensitive land uses. The City's General Plan Policy 8 mandates the City deny projects classified as normally unacceptable projects and incompatible with adjacent land uses. A similar use next door, without live entertainment services, has proven to be incompatible with the adjacent residential neighborhood to the west regarding excessively loud noise, on-site loitering, and hours of operation. The proposed use of the tenant space as a nightclub will negatively intensify these impacts to the surrounding neighboring.
8. The sale of alcoholic beverages for on- and off-premise consumption as part of a hotel is a permitted use in the General Commercial (C-2) zoning district. The sale and consumption of alcohol can sometimes result in customer behavior problems that can require police intervention.

NOW, THEREFORE, BE IT DETERMINED, AND RESOLVED, that the Lodi Planning Commission hereby denies Use Permit Application No. 10-U-01.

Dated: April 14, 2010

I hereby certify that Resolution No. 10- was passed and adopted by the Planning Commission of the City of Lodi at a regular meeting held on April 14, 2010, by the following vote:

AYES: Commissioners:

NOES: Commissioners:

ABSENT: Commissioners:

ATTEST: _____
Secretary, Planning Commission

Item 6a.



MEMORANDUM, City of Lodi, Community Development Department

To: City of Lodi Planning Commissioners
From: Rad Bartlam, Community Development Director
Date: Planning Commission Meeting of 4/14/2010
Subject: Past meetings of the City Council and other meetings pertinent to the Planning Commission

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

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

Date	Meeting	Title
April 7, 2010	Regular	Proclaim April "Keep Lodi Beautiful Month"
		Conduct a Public Hearing to Consider the Certification of Final Environmental Impact Report and Adoption of the General Plan
		Receive a Report on the Response to Comments on the Draft Environmental Impact Report/Environmental Assessment for I-5 Widening from Stockton to Southerly Limits of the White Slough Water Pollution Control Facility
		Adopt Resolution Authorizing the City Manager to Execute a Purchase and Development Agreement with Eden Housing, Inc. Regarding Senior Housing Project at 2245 Tienda Drive