

<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 12, 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 – “April 14, 2010”
3. PUBLIC HEARINGS
  - a. Request for Planning Commission approval of a Use Permit to allow a Type 2 (Winery) Alcoholic Beverage Control License at 6 West Pine Street. (Applicant: Calwd Inc. dba Jeremy Wine Company; File Number: 10-U-02)
  - b. Request for Planning Commission approval of a Use Permit to allow a Type-41 On-Sale beer and wine (Eating Place) Alcoholic Beverage Control license at 1110 West Kettleman Lane, Suite 19. (Applicant: Janis Bielski; File Number: 10-U-03)
  - c. Request for Planning Commission approval of a Use Permit to allow a Type-41 On-Sale beer and wine (Eating Place) Alcoholic Beverage Control License at 220 South Church Street., Suite 3. (Applicant: Leslie Phillips; File Number: 10-U-04)

**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 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, APRIL 14, 2010**

1. CALL TO ORDER / ROLL CALL

The Regular Planning Commission meeting of April 14, 2010, was called to order by Chair Cummins at 7:00 p.m.

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

Absent: Planning Commissioners – Heinitz and Olson

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

2. MINUTES

“March 24, 2010”

MOTION / VOTE:

The Planning Commission, on motion of Commissioner Kirsten, Kiser second, approved the Minutes of March 24, 2010 as written. (Commissioner Mattheis abstained due to his absence from the subject 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 Cummins called for the public hearing to consider the request for a variance to increase the size of a second dwelling unit from 400 square feet to 672 square feet at 1320 South Washington Street.

Assistant Planner Bereket gave a brief PowerPoint presentation based on the staff report. Mr. Bereket pointed out the email received by Mr. and Mrs. Daniels expressing their concerns. Staff is recommending approval of this application

Commissioner Kirsten asked if the applicant did the work. Mr. Bereket stated that he did not.

Hearing Opened to the Public

- Hazoor Shah, applicant, came forward to answer questions.
- Commissioner Kirsten asked if the unpermitted work was disclosed at the time of the purchase. Mr. Shah stated that he was told that the work may have been done without permits.

Public Portion of Hearing Closed

MOTION / VOTE:

The Planning Commission, on motion of Commissioner Kirsten, Kiser second, approved the request of the Planning Commission for a variance to increase the size of a second

dwelling unit from 400 square feet to 672 square feet located at 1321 South Washington Street subject to the conditions in the attached resolution. The motion carried by the following vote:

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

- b) 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 a Use Permit to allow a Type 48 On-Sale General ABC license at 651 North Cherokee Lane, Suite E.

Assistant Planner Bereket gave a brief PowerPoint presentation based on the staff report. Mr. Bereket stated that the findings should be taken from the resolution on the Blue Sheet. Staff is recommending denial of this application.

Vice Chair Hennecke asked if the applicant is asking for a 300 foot waiver. Mr. Bereket stated that the applicant is asking for the Planning Commission to ignore that condition.

Hearing Opened to the Public

- Noe Juarez Luna, applicant, came forward to ask for a chance to prove that he can operate this business at this location without disturbing the residential neighbors.
- Chair Cummins asked how far away the current location is from this location. Mr. Luna stated that it is next door to this project. Mr. Bereket pointed out the location on the map.
- Commissioner Kirsten stated that he can appreciate Mr. Luna's situation and the desire he has to stay in business, but if the Planning Commission approves a project like this it could set a precedence that may end up reflecting badly on them. The Commission has to consider the surrounding residences and the opinion of staff. The 300 foot buffer is there for a reason. Mr. Luna stated that he is not going to use the back parking lot for customer parking. This should help avoid noise being next to the residences. Mr. Bartlam stated that one of the concerns staff had was that back parking lot and the fact that it can not be seen easily by police patrol. Kirsten asked if Mr. Luna talked with the Police Department before applying. Mr. Luna stated that he did and the officer he spoke to stated that the Police Department does not reject projects they only make recommendations.
- Commissioner Kiser stated that he understands what Mr. Luna is going through, but he still has to consider the surrounding area. He would like to see the project in a different location. Mr. Luna stated that he has spoken with the residents that border the project site and they do not have a problem with the project. The problem with the El Rancho is that the space is too small and people filter outside and leave the doors open.
- Hennecke asked staff to update the Commission on what type of license the El Rancho has. Mr. Bartlam stated that the El Rancho has the same type of license that Mr. Luna is asking for. Hennecke asked how far the residential area is from the El Rancho. Mr. Bartlam stated that the building is 200 to 250 feet from the residential zone. The 300 foot mark was established because of past experiences and staff is confident that it is a fair distance.
- Chair Cummins asked if Mr. Luna currently holds a beer and wine license with the restaurant. Mr. Luna stated that he does hold a beer and wine license, but the

restaurant didn't do well. Commissioner Kiser stated that the license was good at a different location. Mr. Bartlam stated that the difference between the two locations is the current location is a restaurant and the proposed is not. There will be a completely different atmosphere from an establishment that serves food with alcohol and what is essentially going to be a nightclub/bar.

- Gloria Juarez, Sonora Avenue resident which is directly behind the project location, came forward to object to the project. She stated that she did not speak with Mr. Luna. This project is too close to her home.

Public Portion of Hearing Closed

- Commissioner Kirsten stated that he would like to see Mr. Luna try opening this business in another location.

MOTION / VOTE:

The Planning Commission, on motion of Commissioner Kirsten, Kiser second, denied the request of the Planning Commission for a Use Permit to allow a Type 48 On-Sale General ABC license at 651 North Cherokee Lane, Suite E subject to the conditions in the attached resolution. The motion carried by the following vote:

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

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. He also stated that the City Council adopted the General Plan last week unanimously. The Housing Element should be made available to the Commission in the near future. Mr. Bartlam also announced that he has taken on the Interim City Manager's position, but will continue his duties with the Community Development Department.

7. GENERAL PLAN UPDATE/DEVELOPMENT CODE UPDATE

Director Bartlam stated that staff has provided a letter that was received recently from the Farm Bureau. It is the only correspondence received since the Planning Commission's recommendation. Staff is working on the new zoning map and the new zoning code will be brought to the Commission for final say.

8. ACTIONS OF THE SITE PLAN AND ARCHITECTURAL REVIEW COMMITTEE

None

9. ART IN PUBLIC PLACES

Commissioner Kirsten updated the Commission on the Crane Sculpture situation.

10. COMMENTS BY THE PUBLIC

None

11. COMMENTS BY STAFF AND COMMISSIONERS

Director Bartlam asked if the Commission would please close the meeting in memory of Commissioner Olson's Mother who passed away this week.

12. ADJOURNMENT

There being no further business to come before the Planning Commission, the meeting was adjourned at 7:45 p.m.

ATTEST:

Konrad Bartlam  
Planning Commission Secretary

**Use Permit to allow a Type 2 (Winery) ABC License  
for Jeremy Wine Co. @ 6 W. Pine St.**

# Item 3a

**CITY OF LODI  
PLANNING COMMISSION  
Staff Report**

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**MEETING DATE:** May 12, 2010

**APPLICATION NO:** Use Permit: 10-U-02

**REQUEST:** Request for Planning Commission approval of a Use Permit to allow a Type 2 (Winery) Alcoholic Beverage Control License at 6 West Pine Street. (Applicant: Calwd Inc. dba Jeremy Wine Company; File Number: 10-U-02).

**LOCATION:** 6 West Pine Street  
(APN: 043-036-05)  
Lodi, CA 95240

**APPLICANT:** Calwd Inc. dba Jeremy Wine Company.  
1220 East Victor Road  
Lodi, CA 95240

**PROPERTY OWNER:** John Graffigna Family LP  
5221 East Acampo Road  
Acampo, CA 95220

**RECOMMENDATION**

Staff recommends that the Planning Commission approve the Use Permit request to allow a Type 2 (Winery) Alcoholic Beverage Control License at 6 West Pine Street, subject to the conditions outlined in the attached resolution.

**PROJECT/AREA DESCRIPTION**

**General Plan Designation:** DMU, Downtown Mixed Use

**Zoning Designation:** C-M, Commercial-Light Industrial.

**Property Size:** 9,000 sq. ft. The project site is within a multi-story building. The tenant space itself measures approximately 1,500 sq. ft. in area. The site is fully developed, but tenant improvements will be required to accommodate the proposed use.

The adjacent zoning and land use are as follows:

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

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

**East:** C-M, commercial-light industrial. Across Sacramento Street is the City's multi-modal station and train depot and behind that is the main UP railroad line. Northeast of the multi-modal station is the City's parking structure and southeast of the station is a tire/auto repair shop. Across the tracks to the east is a fruit packing shed and Main Street, an older mixed use commercial area.

**West:** C-2, general commercial. The area to the west is the main downtown area along School Street and Church Street. Both streets are lined with a variety of commercial businesses, including retail, service and office uses. There is also a significant number of eating and drinking establishments concentrated in the downtown area.

## **SUMMARY**

The applicant is requesting approval of a Use Permit to open a small wine tasting room in an existing building located at 6 West Pine Street. The applicant intends to use this location to promote the sale of his own wines by the bottle or case through wine tasting and display. The applicant also intends to sell wine related gift items such as decanters, stemware, cork screws and the like. Wearable logo items will also be made available for purchase. The project area is in the downtown commercial center district, which features mixed use commercial and retail businesses. The proposed use is consistent with the City's vision of making Lodi a wine tasting tourist destination. Staff has notified all property owners within 300 feet of the site for this public hearing and has not received any opposition.

## **BACKGROUND**

The proposed wine tasting room, if approved, would occupy a portion (1,500 sq. ft.) of the 9,000 sq. ft. building located at 6 West Pine Street, Lodi. Available City records indicate that the building has been used for various uses since its construction. Currently, there are no outstanding City or Building Code violations. The project site is bordered by a variety of businesses on all sides. The project site is within the Downtown Parking District and, therefore, no onsite parking is required. The applicant applied for building permit to allow Tenant Improvement and his application is pending.

## **ANALYSIS**

The applicant requests approval of a Use Permit to allow the sale of bottles and cases of wine, and a wine tasting operation, use of the wine tasting space for various events such as wine dinners catered by outside vendors, private mixers, wine tasting and parties for organizations and businesses who want to rent space, and to host feature wine tasting events that may include educational components. A Type 2 license is required by the State Department of Alcohol Beverage Control (ABC) for the operation of a winery and wine tasting. No food would be prepared at the project site. The proposed hours of operations are Monday-Wednesday by appointment, Thursday noon-6:00 p.m., Friday-Saturday 11:00 a.m.-7:00 p.m., and Sunday noon-5:00 p.m. The proposed hours of operation are similar to other wine tasting rooms in Lodi.

The project is located in a C-M zoning district and the building offers space for the type of business the applicants propose. The winery will be located within the City's downtown and will support and compliment other downtown businesses. The C-M zoning district is designated for a variety of general commercial uses, including wineries. The proposed winery is consistent with the types of uses one would expect to find in a Commercial Light Industrial zoning district. In the future, the applicant would like to serve wine on the sidewalk, similar to the Cellar Door and Benson Ferry Wine Tasting rooms. The applicant intends to use this location to promote the sale of his products he currently produces in the county. There will be no wine crushing of wine at this location.

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 42.04 covers the area south of Holly Drive, west of Sacramento Street, north of Lodi Avenue, and east of Ham Lane. Because this area is within the downtown area, there is an existing over concentration of ABC licenses (28 on-sale and 4 off-sale) within this Census Tract. Because this census tract is over concentrated, the City must make a finding of public need or convenience in order to approve an additional on-sale beer and wine license. Since Census Tract 42.04 is an area that currently exceeds the concentration of ABC license, approval of this Use Permit would require a determination that public convenience or necessity would be served by the issuance of this permit.

The Community Development Department is of the opinion that the proposed project is consistent with the surrounding land uses and zoning; and with the City's policy to encourage the wine production and wine tasting industry. The intended nature of this operation does not promote excessive onsite consumption of alcohol and, therefore, staff does not expect any problems with this type of establishment. Since there no crushing is being proposed as part of this Use Permit, there will be

wine waste to be concerned about. The proposed use is consistent with the City's vision of making Lodi a wine tasting tourist destination. The wine tasting rooms are a large part of this vision for they not only compliment other downtown businesses such as restaurants and boutiques, but add to the character of the City by promoting local wineries and viticulture. Staff has contacted various City departments for review and approval. We, therefore, are recommending that the Use Permit be approved, subject to the attached resolution.

**ENVIRONMENTAL ASSESSMENTS**

The project was found to be Categorically Exempt according to the California Environmental Quality Act, Article 19 §15321, Class 21 (a) (2). The project is classified as an "Enforcement action by regulatory agencies" because it is the "adoption of an administrative decision or order enforcing 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 April 30, 2010. 39 public hearing notices were sent to all property owners of record within a 300-foot radius of the project site as required by California State Law §65091 (a) 3. Public notice also was mailed to interested parties who had expressed their interest of the project. No protest letter has been received.

**ALTERNATIVE PLANNING COMMISSION ACTIONS:**

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

Respectfully Submitted,

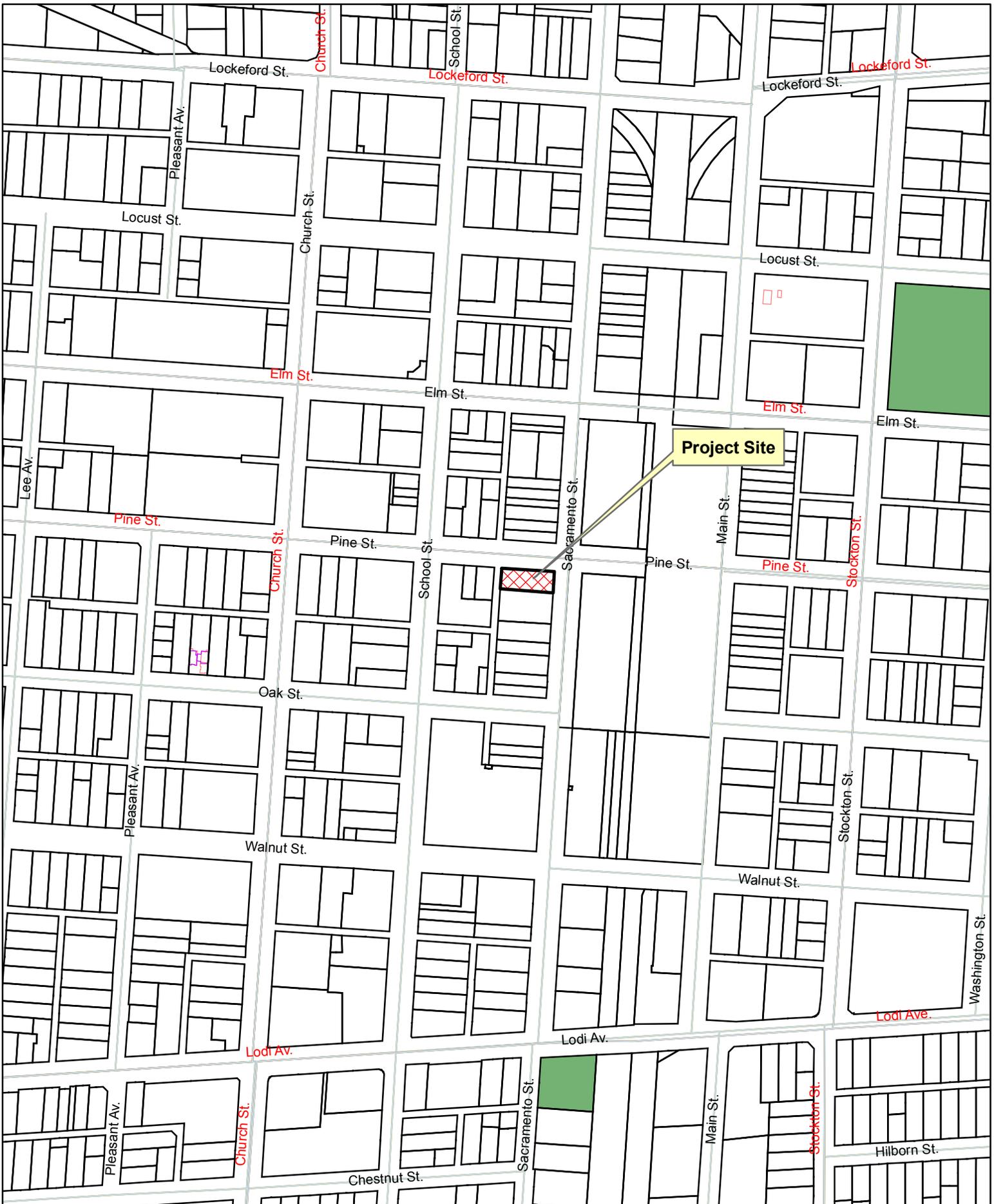
Concur,

Immanuel Bereket  
Assistant Planner

Konradt Bartlam  
Community Development Director

**ATTACHMENTS**

- A. Vicinity Map
- B. Floor Plan
- C. Police Department Comment
- D. Resolution



0 0.015 0.03 0.06 0.09 0.12 Miles

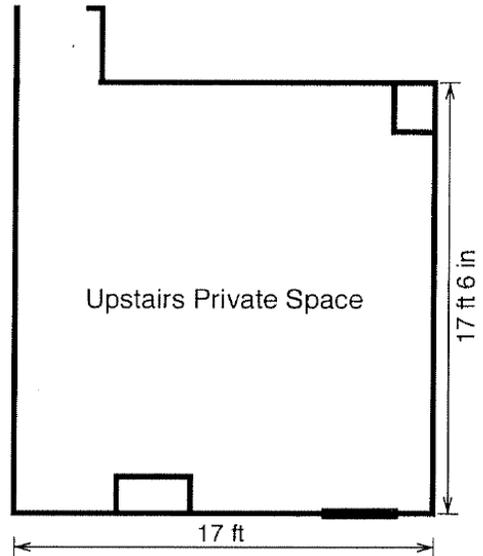
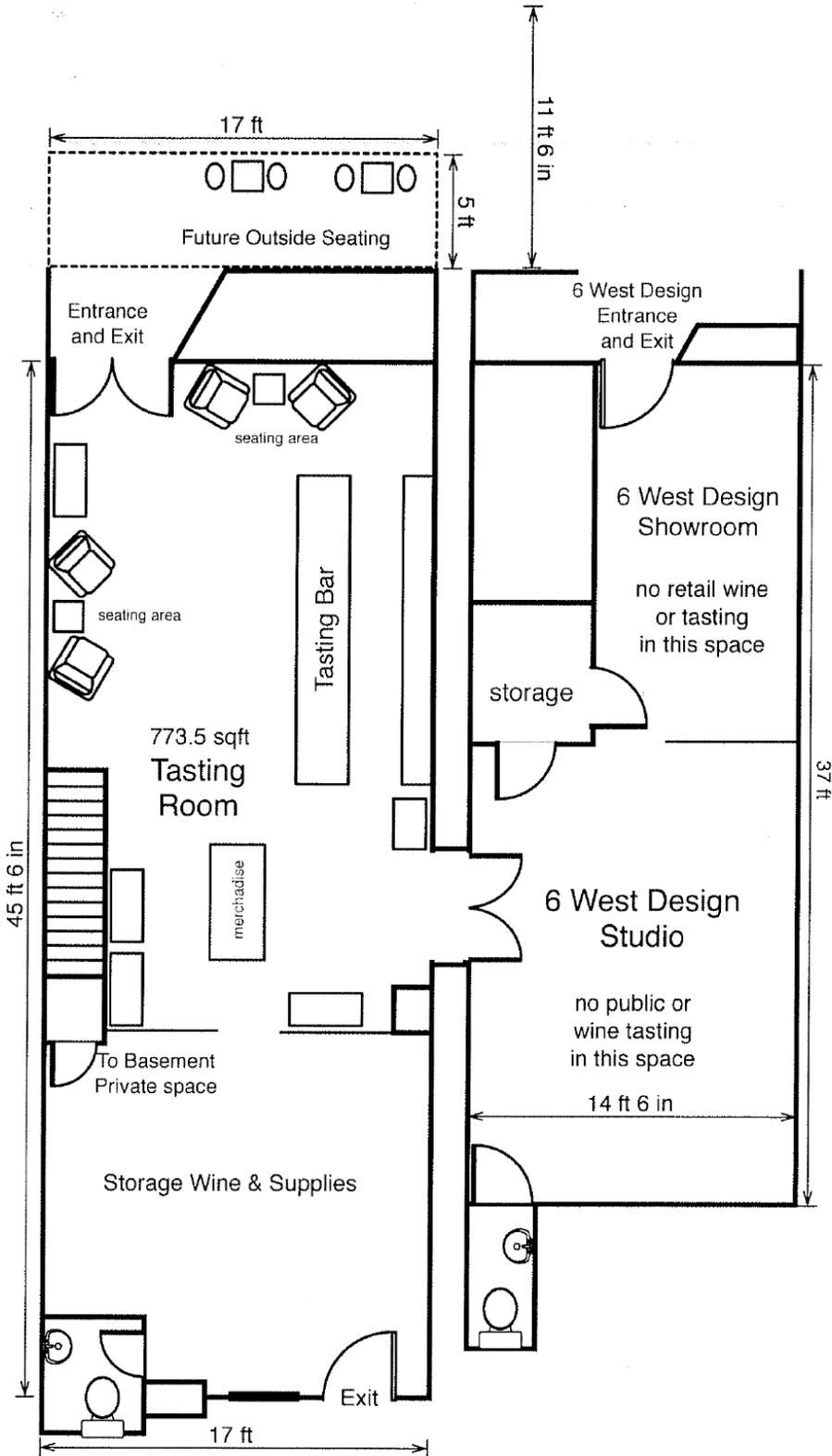
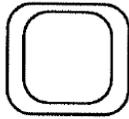
**Vicinity Map**  
 6 West Pine Street  
 (APN: 043-036-05)  
 Lodi, CA 95240

**Legend**

 6 West Pine Street

WEST PINE STREET

JEREMY WINE COMPANY  
6 WEST PINE ST, LODI CA



## Immanuel Bereket

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**From:** Gary Benincasa  
**Sent:** Friday, April 09, 2010 11:27 AM  
**To:** Immanuel Bereket  
**Cc:** Fernando Martinez  
**Subject:** Jeremy Wine Company 6 W. Pine St.

Manny,

We have reviewed the application and we do not have any concerns or recommendations relative to the issuance of a use permit. I think it will be a good addition to our downtown.

Gary

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

**RESOLUTION NO. P.C. 10-**

**A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF LODI FOR THE APPROVAL OF THE REQUEST OF CALWD INC. DBA JEREMY WINE COMPANY FOR A USE PERMIT TO ALLOW A TYPE-2 (WINERY) ALCOHOLIC BEVERAGE CONTROL LICENSE AT 6 WEST PINE STREET**

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

**WHEREAS**, the project proponent is Calwd Inc. dba Jeremy Wine Company., 6 West Pine Street, Lodi CA; and

**WHEREAS**, the project site is at 6 West Pine Street, Lodi, CA (APN 043-036-05) and

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

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

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

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

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

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

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

1. The project 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. No new impacts were identified in the public testimony that were not addressed as normal conditions of project approval.
3. The sale of alcoholic beverages for on-premise and off-site consumption as part of a wine tasting room operation is a permitted use in the C-M zoning district. The site is suitable and adequate for the proposed use because establishment of a restaurant on this site would not create negative impacts on businesses in the vicinity.
4. The proposed use is consistent with the General Plan because commercial uses such as the one proposed are permitted in accordance with Land Use Policy subject to a discretionary review.
5. The proposed use would not have a substantial adverse economic effect on nearby uses because operation of a wine tasting room in accordance with applicable laws and under the conditions of this Use Permit is anticipated to be an economic benefit to the community.

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

**NOW, THEREFORE, BE IT DETERMINED AND RESOLVED** by the Planning Commission of the City of Lodi that Use Permit Application No. 10-U-02 is hereby approved, subject to the following conditions:

1. The developer will defend, indemnify, and hold the City, its agents, officers, and employees harmless of any claim, action, or proceeding to attack, set aside, void, or annul this Use Permit, so long as the City promptly notifies the developer of any claim, action, or proceedings, and the City cooperates fully in defense of the action or proceedings.
2. The Applicant/Operator shall insure that the serving of alcohol does not cause any condition that will cause or result in repeated activities that are harmful to the health, peace or safety of persons residing or working in the surrounding area. This includes, but is not limited to: disturbances of the peace, illegal drug activity, public intoxication, drinking in public, harassment of people passing by, assaults, batteries, acts of vandalism, loitering, excessive littering, illegal parking, excessive loud noises, traffic violations or traffic safety based upon last drink statistics, curfew violations, lewd conduct, or police detention and arrests.
3. The Applicant/Operator shall operate and abide by the requirements and conditions of the State of California Department of Alcoholic Beverage Control License Type 2. The Type 2 License shall be limited to on-site and off-site sale and consumption of wine during the hours that the wine tasting room is open for business or as otherwise modified by the Community Development Director.
4. The Lodi Police Department may, at any time, request that the Planning Commission conduct a hearing on the Use Permit for the purpose of amending or adding new conditions to the Use Permit or to consider revocation of the Use Permit if the Use Permit becomes a serious policing problem.
5. Prior to the issuance of a Type 2 ABC license, the Applicant/Operator shall complete Licensee Education on Alcohol and Drugs as provided by the State Department of Alcoholic Beverage Control.
6. Any changes to the interior layout of the business operation shall be subject to review and approval by the Planning Department and shall be subject to City review and approval.

7. No person who is in a state of intoxication shall be permitted within the wine tasting room nor shall an intoxicated patron already in the bar be served additional alcoholic beverages. It is the responsibility of the business owner/operator to ensure no patron in state of intoxication is allowed into the building.
8. The operator of the wine tasting room shall police the area surrounding the business to prevent patrons from congregating/loitering outside the premises and to prevent excessive noise or other objectionable behavior. Noise levels shall be monitored to insure that noise shall not violate the City's Noise Ordinance Section 9.24.020 and Section 9.24.030.
9. All wine crushing, wine making or similar activities where wine tasting operation occurs shall be strictly prohibited.
10. The wine tasting operation shall be conducted in a manner that will not adversely impact neighboring properties or businesses.
11. Noise emanating from the property shall be within the limitations prescribed by the City's Noise Ordinance and shall not create a nuisance to surrounding residential neighborhoods, and/or commercial establishments.
12. The exterior of all the premises shall be maintained in a neat and clean manner, and maintained free of graffiti at all times.
13. The operation of the business shall comply with all applicable requirements of the Municipal Code.
14. The applicant shall submit complete and adequate Tenant Improvement plans to the Building Division for review and approval. The said plans shall be based on the City of Lodi Building Regulations and currently adopted 2007 California Building Code.
15. Any fees due the City of Lodi for processing this project shall be paid to the City within thirty (30) calendar days of final action by the approval authority. Failure to pay such outstanding fees within the time specified shall invalidate any approval or conditional approval granted. No permits, site work, or other actions authorized by this action shall be processed by the City, nor permitted, authorized or commenced until all outstanding fees are paid to the City.
16. No variance from any City of Lodi adopted code, policy or specification is granted or implied by this approval.

**Dated: May 12, 2010**

I certify that Resolution No. 10- was passed and adopted by the Planning Commission of the City of Lodi at a regular meeting held on May 12, 2010 by the following vote:

**AYES:** Commissioners:

**NOES:** Commissioners:

**ABSENT:** Commissioners:

ATTEST: \_\_\_\_\_  
Secretary, Planning Commission

**Use Permit to allow a Type 41 On-Sale Beer & Wine ABC License  
for Janis Bielski (Artist Cafe) @ 1110 W. Kettleman Ln. Suite 19**

**Item 3b.**

**CITY OF LODI  
PLANNING COMMISSION  
Staff Report**

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**MEETING DATE:** May 12, 2010

**APPLICATION NO:** Use Permit: 10-U-03

**REQUEST:** Request for Planning Commission approval of a Use Permit to allow a Type-41 On-Sale beer and wine (Eating Place) Alcoholic Beverage Control license at 1110 West Kettleman Lane, Suite 19. (Applicant: Janis Bielski; File Number: 10-U-03)

**LOCATION:** 1110 West Kettleman Lane, Ste 19  
APN: 060-380-16  
Lodi, CA 95240

**APPLICANT:** Janis Bielski  
5041 Blue Spruce Ct  
Stockton, CA 95207

**PROPERTY OWNER:** Lodi Ranch Center LLC  
201 Wilshire Blvd SUITE A28  
Santa Monica, CA 90401

**RECOMMENDATION**

Staff recommends that the Planning Commission approve the request of Janis Bielski for a Use Permit to allow a Type-41 on-sale beer and wine license at 1110 West Kettleman Lane STE 19, subject to the conditions in the attached resolution.

**PROJECT/AREA DESCRIPTION**

**General Plan Designation:** MUC, Mixed Use Corridor.  
**Zoning Designation:** PD -15, Planned Development 15.  
**Property Size:** 3.54 acres. (Cafe is approximately 3,400 square feet.).

The adjacent zoning and land use are as follows:

**North:** R-C-P, Residential, Commercial and Professional. The area to the north constitutes mostly offices and professional uses.

**South:** PD -15. Planned Development 15. The area to the south constitutes exclusively single family/low density residences

**East:** PD -15. Planned Development 15. The uses to the east are mostly commercial uses ranging from restaurants to banks to professional offices.

**West:** PD -15. Planned Development 15. The uses to the west comprise of low density residences and commercial uses along Kettleman Lane. The area as developed as part of the PD-15, which covers the area south of Kettleman Lane, north of Century Boulevard, east of the Woodbridge Irrigation District canal and west of Hutchins Street.

**SUMMARY**

The applicant, Ms. Janis Bielski, is requesting approval a Use Permit to allow a Type-41 On-sale beer and wine license at Artist Café to be located at 1110 West Kettleman Lane, Suite 19. The project area contains a variety of commercial businesses such as offices, a gym, restaurants and various retail stores. The census tract for the project area is currently over-concentrated with alcoholic beverage licenses. In order to approve additional license, a finding of public necessity

and/or convenience is required. Since the proposed Artist Café is a full service restaurant, staff does not anticipate any problems with issuing an additional alcoholic beverage license.

## **BACKGROUND**

The applicant wishes to open eating establishment called Artist Café. The applicant has applied for a Tenant Improvement permit to allow the proposed business. The building permit has been issued and tenant improvement construction has commenced and is near completion. The tenant space was previously used as an office. In accordance with the requirements of the Department of Alcoholic Beverage Control, the applicant has applied for ABC license with Department of Alcoholic Beverage Control and must obtain a Use Permit from the City to serve alcohol. In order to increase sales and attract customers, the applicant requests approval from the City to serve beer and wine at the restaurant. The surrounding land uses consist primarily of residential and professional uses to the north, commercial and professional uses to the east, residential uses to the south, and commercial and residential uses to the west.

## **ANALYSIS**

According to the applicant's project description, Artist Café will offer sandwiches, soups, salads, desserts, beverages and other food items designed to appeal to the artsy clientele. The cafe will allow local artists to display, present and market their art works at this location. According to the applicant, both individual and group displays would be permitted on monthly rotating basis. Artist Café will open from the hours of 9:00 a.m. to 7:00 p.m. Monday through Thursday, from 9:00 a.m. to 9:00 p.m. Friday to Saturday, and 9:00 a.m. to 2:00 p.m. on Sunday. No live entertainment, as defined by the Lodi Municipal Code, is proposed as part of this Use Permit request.

Artist Café's tenant space measures approximately 3,400 square feet in size and provides seating for approximately 25-30 guests. On site parking is provided in the plaza which satisfies the parking requirement. In accordance with the State Department of Alcoholic Beverage Control (ABC) requirements, receipts from alcohol sale shall not be in excess of food sales receipts. ABC requires that restaurants with alcohol license must operate and maintain the premise as a bona fide eating establishment. Staff has contacted the Lodi Police Department for comment on the proposed on-sale beer and wine application and they do not anticipate alcohol related problems with the restaurant.

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. ABC primarily controls issuance based on concentration of licenses within a particular Census Tract. Census Tract 43.06 covers the area south of Kettleman Lane, west of Sacramento Street, north of Harney Lane, and east of Ham Lane. According to ABC, Census Tract 43.06 contains 9 existing on-sale licenses with 8 On-sale licenses allowed based on the ABC criteria. Because the area is over concentration, the Planning Commission must make a finding of public necessity or convenience in order to approve the on-sale general license upgrade. In the past, the Planning Commission and the Planning staff have generally supported restaurants that wish to acquire an ABC on-sale license, because typically, restaurants that serve alcohol in conjunction with food sales do not create alcohol related problems.

When the Planned Block Development was originally adopted, it was intended to provide retail shops, restaurants, and service that met the commercial needs of the community. Currently, the shopping center contains two other restaurants with alcohol license (Yen Ching and Casa Mexicana restaurants). In staff's opinion, the addition of beer and wine service at the proposed Artist Café will not be detrimental to the rest of the shopping center and will be compatible with the

surrounding neighborhoods. The conditions placed on the Use Permit will further ensure the protection of general public health and well-being.

Furthermore, Since Artist Café is a café/restaurant that would like to sell beer and wine with food, staff does not anticipate the alcohol sales portion of the business to create any problems. The proposed Artist Café would be similar to other restaurants with similar alcohol licenses the Planning Commission has approved in the past. Because restaurants that serve beer and wine in conjunction with food sales do not typically create alcohol related problems, staff recommends the Planning Commission approve the Use Permit as conditioned in the attached resolution. If problems or concerns related to the sale of alcoholic beverages occur in the future, the Police Dept, staff and/or the Planning Commission may initiate a public hearing where the Commission would have the ability to amend conditions and/or revoke the Use Permit.

**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 April 30, 2010. 77 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,

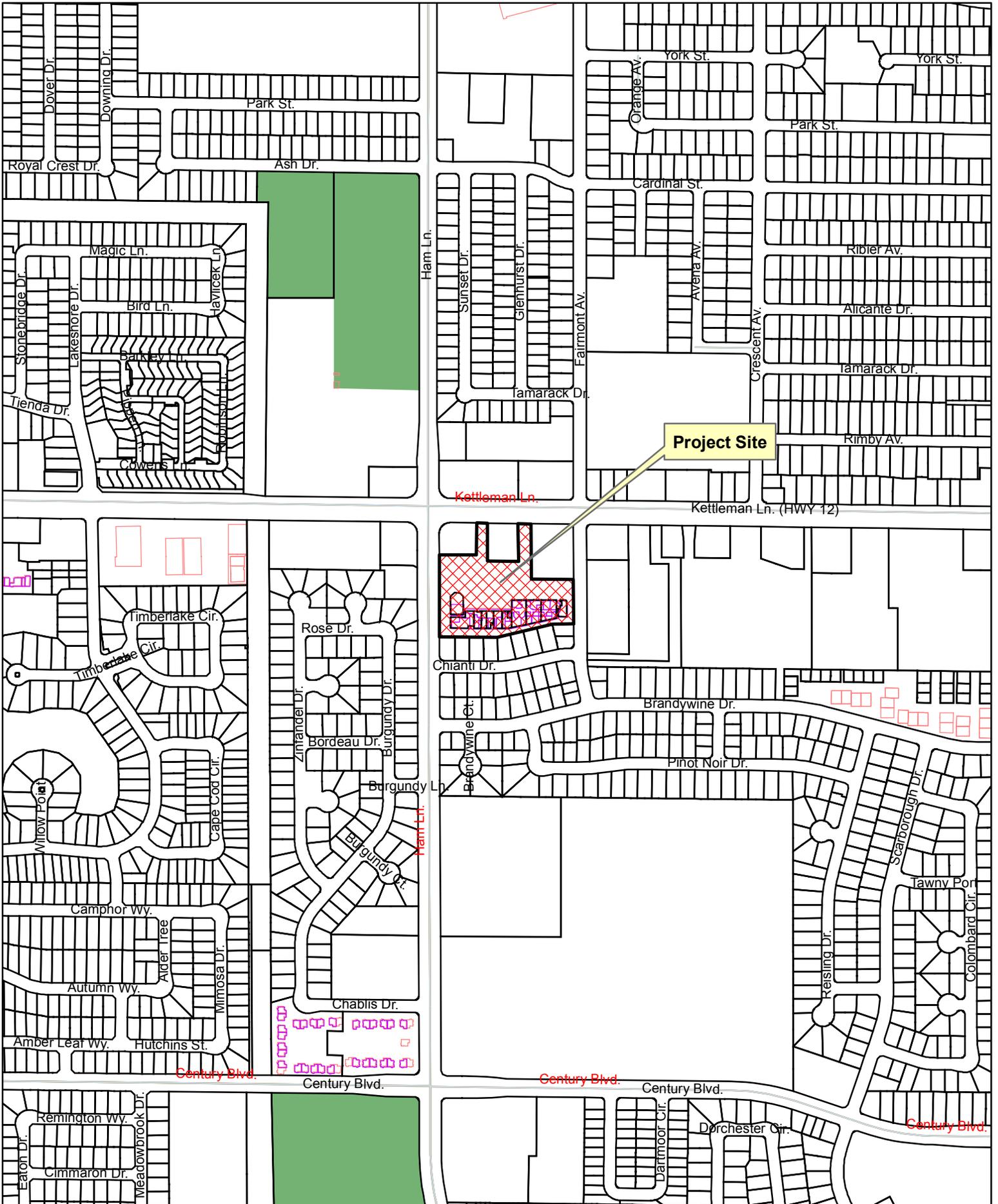
Concur,

Immanuel Bereket  
Assistant Planner

Konradt Bartlam  
Community Development Director

**ATTACHMENTS**

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



**Project Site**

Kettleman Ln.

Kettleman Ln. (HWY 12)

Chianti Dr.

Brandywine Dr.

Pinot Noir Dr.

Rose Dr.

Burgundy Ln.

Chablis Dr.

Century Blvd.

Century Blvd.

Century Blvd.

Century Blvd.

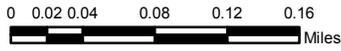
### Vicinity Map

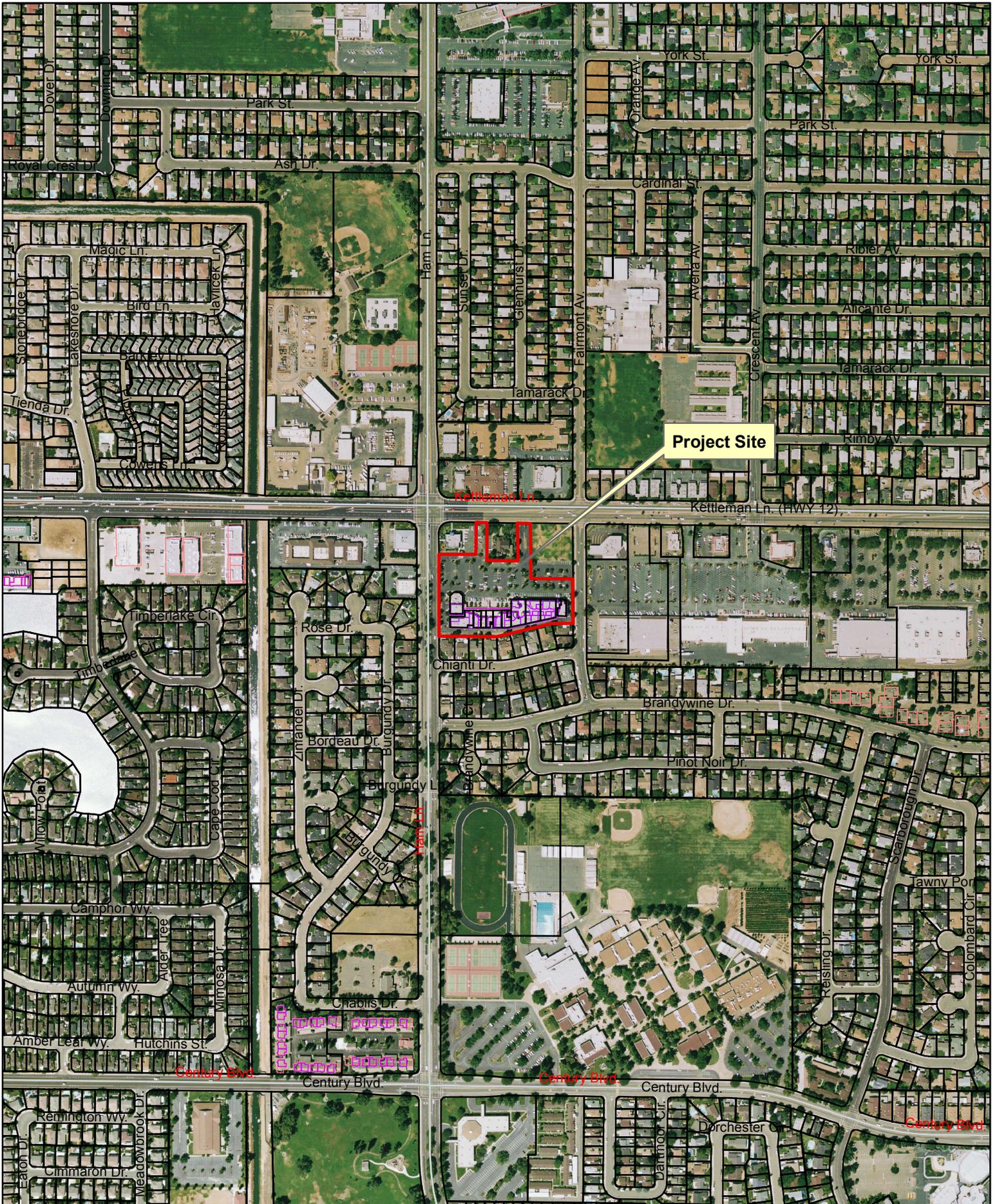
1110 West Kettleman Lane  
Lodi, CA 95240

### Legend

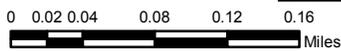


1110 West Kettleman Lane





**Project Site**



### Vicinity Map

1110 West Kettleman Lane  
Lodi, CA 95240

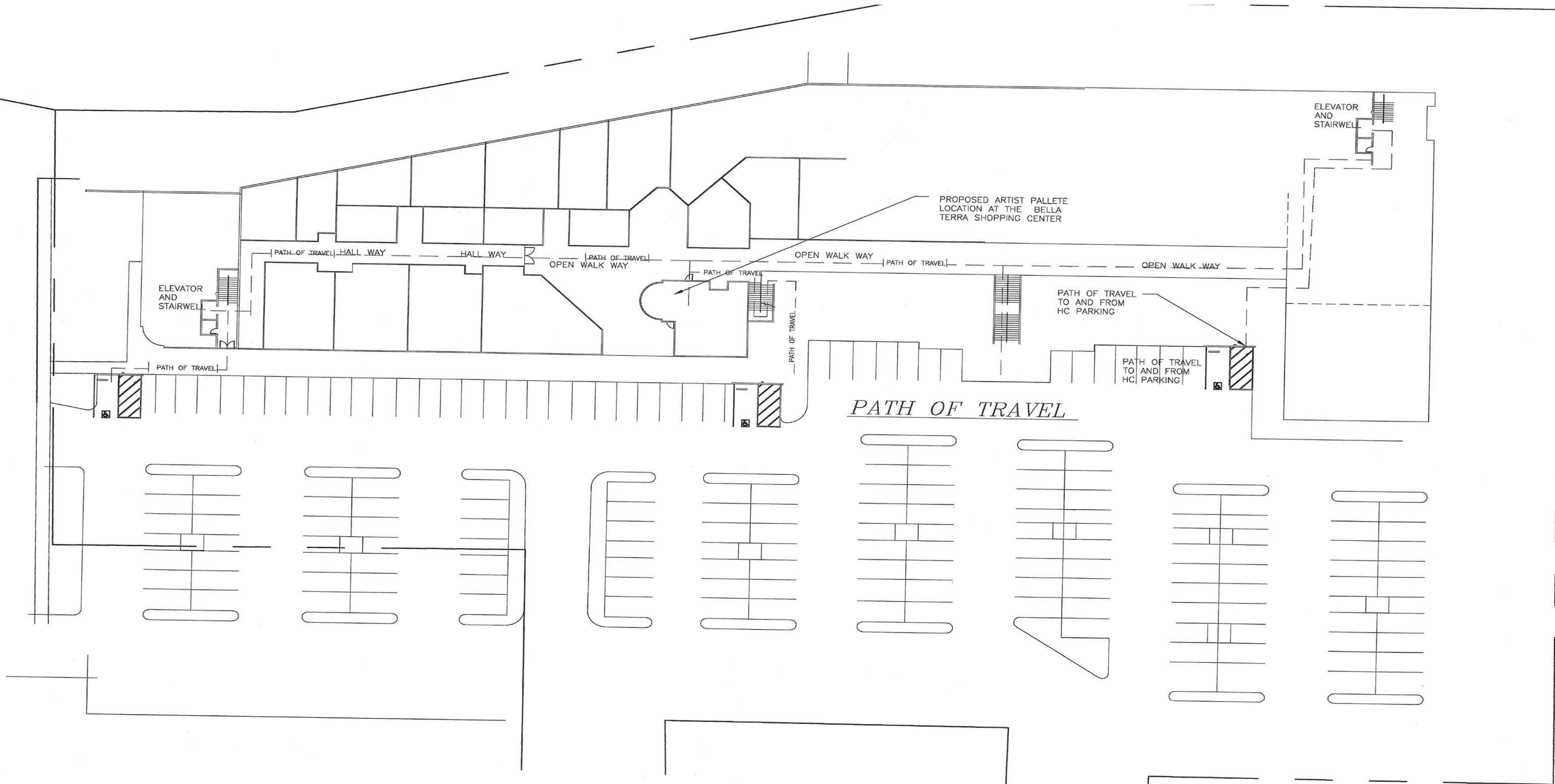
### Legend



1110 West Kettleman Lane

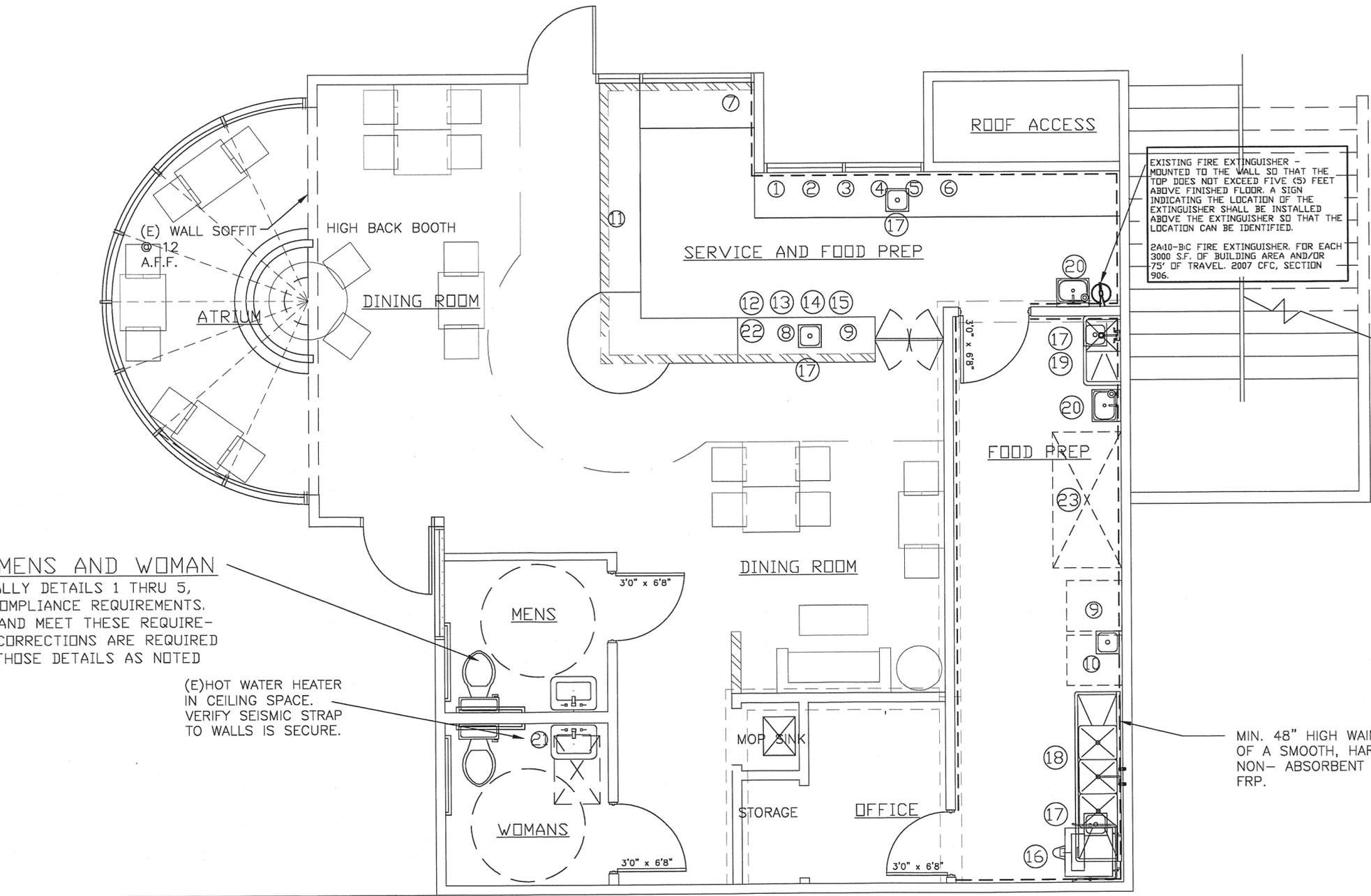


SOUTH FAIRMANT AVE.



HAM LANE

KETTLEMAN LANE



EQUIPMENT LEGEND:

- ① COOKIE OVEN- OTIS SPUNKMEYER-96200 120 VOLT
- ② CONVECTION OVEN- CADCO- OV013 120 VOLTS, 1450 WATTS
- ③ VITA MIX BLENDER, 120 VOLT, 15 AMP
- ④ MICRO WAVE- AMANNA RCS10MPA, 120 VOLT,15 AMP, 1000 WATTS
- ⑤ PANINI GRILL- WARING WPG 300, 240 VOLT,13A , NEMA 6-20P
- ⑥ ICE CUBE MAKER - MANITOWAC Q130, 120 VOLT
- ⑦ GLASS DOOR FLORAL CASE TRUE GDM-12FC
- ⑧ UNDER COUNTER REFRIG. TRUE TUC-27, 115 VOLT, 3.9 AMPS
- ⑨ FREEZER TRUE T-23F, 115 VOLT, 10.4 AMPS
- ⑩ REFRIGERATOR TRUE T-23, 115 VOLT, 7.6 AMPS
- ⑪ COUNTER TOP REFRIG. BAKE MAX. 110 VOLT, 4.6 AMPS
- ⑫ ESPRESSO MACHINE 220V, 20 AMPS
- ⑬ COFFEE GRINDER MINI ESPRESSO, 110 VOLT
- ⑭ COFFEE GRINDER BUNN 100 VOLT
- ⑮ COFFEE MAKER BUNN- 110 VOLT
- ⑯ DISHWASHER
- ⑰ FLOOR SINKS
- ⑱ 3 COMPARTMENT SINK
- ⑲ VEGETABLE SINK
- ⑳ HAND SINK
- ㉑ HOT WATER HEATER
- ㉒ CASH REGISTER
- ㉓ PREP TABLE

ADA BATHROOMS MENS AND WOMAN

SEE SHEET A-3, SPECIFICALLY DETAILS 1 THRU 5, AND 7 THRU 10 FOR ADA COMPLIANCE REQUIREMENTS. THE ROOMS ARE EXISTING AND MEET THESE REQUIREMENTS. HOWEVER, IF ANY CORRECTIONS ARE REQUIRED THEY MUST COMPLY WITH THOSE DETAILS AS NOTED ABOVE.

(E)HOT WATER HEATER IN CEILING SPACE. VERIFY SEISMIC STRAP TO WALLS IS SECURE.

FLOOR AND EQUIPMENT PLAN



# ARTIST PALATE CAFE

1110 W KETTLEMAN LN #19 LODI, CA

## SANDWICHES

HAM	\$6.49
TURKEY	\$6.49
ROAST BEEF	\$6.49
PATRAMI	\$6.49
TUNA SALAD	\$5.89

**ALL SANDWICHES INCLUDE CHIPS OR SIGNATURE COLESLAW**

***PROUD TO BE SERVING  
BOARHEAD DELI MEATS***

## ESPRESSO DRINKS

MOCHA
LATTE
WHITE MOCHA
SHOT IN THE DARK
AMERICANO
CAPPUCCINO

## NON COFFEE SELECTIONS

TEA
STEAMERS (steamed milk and flavor)
HOT CHOCOLATE
MEXICAN HOT CHOCOLATE
GOOD OLD
BOTTLED SODA

## SODA'S

## SPECIALTY SANDWICHES

<b>PETER MAX</b>	\$6.75
Oven roasted turkey, avacado, bacon lettuce, tomato, mayo and provolone cheese on a milk roll.	
<b>VAN GOGH</b>	\$6.75
Turkey, roasted red peppers, peto mayo, red onion, lettuce, on a sourdough roll.	
<b>PICCASSO</b>	\$6.75
Turkey, fresh cucumbers, mayo, mustard, lettuce tomato, provolone cheese on a milk roll.	
<b>REMBRANDT</b>	\$7.25
Roast beef, garlic coleslaw, tomato, swiss cheese, on a sour dough roll.	
<b>POLLOCK</b>	\$6.75
Pastrami, red onion, tomato, dill pickle, swiss cheese ,mayo, spicey brown mustard on a brown roll.	
<b>PANINI'S</b>	\$6.75
Grilled with a choice of Turkey, Ham , swiss/cheddar cheese, and come with garlic spread, mustard, kalamata olives, pepper mix, sun dried tomatoes,	

WINE  
BOTTLED BEER  
ROOT BEER FLOAT

**SPECIALTY DRINKS**

MILKY WAY AND SNICKERS  
MEXICAN MOCHA  
GREEN TEA  
CHAI TEA

chips or garlic coleslaw.

**SOUPS**

Soups are all natural and have no preservatives.  
Selections change daily

**SIGNATURE SPECIALTIES**

chicken hand pie \$4.50/ quiche  
\$4.00

**SMOOTHIES/BLENDED DRINKS**

We offer a variety of fruit smoothies and blended  
coffee drinks, both come topped with fresh  
whipped cream.

**DESSERTS/PASTIES**

Chocolate/banana cream pie  
Cookies, individual  
cakes,  
muffins, scones  
Afagottso sundae  
cookie sundae

**SALADS**

Mixed green  
salad  
coleslaw  
bean salad

**RESOLUTION NO. P.C. 10-**

**A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF LODI FOR THE APPROVAL OF THE REQUEST OF JANIS BIELSKI FOR A USE PERMIT TO ALLOW FOR AN ON-SALE BEER AND WINE ALCOHOLIC BEVERAGE CONTROL LICENSE AT 1110 WEST KETTLEMAN LANE, SUITE 19**

- 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 Janis Bielski, 5041 Blue Spruce Ct., Stockton, CA 95207; and
- WHEREAS,** the property has a General Plan designation of NCC, Neighborhood Commercial Center and is zoned PD-15, Planned Development 15; and
- WHEREAS,** the project area is located at 1110 West Kettleman Lane Suite 19, Lodi, CA 95240 (APN 060-370-01); and
- WHEREAS,** the requested Use Permit to allow the selling of beer and wine for on-site consumption within a restaurant is an enforcement action in accordance with the City of Lodi Zoning Ordinance; and
- WHEREAS,** Census Tract 43.06 in which the restaurant is located currently has an over concentration of licenses allowing on premise consumption of alcoholic beverages; and
- WHEREAS,** because Census Tract 43.06 has an over concentration of On-sale beer and wine alcohol licenses, the planning Commission must make a finding of necessity and/or public convenience in order to permit the issuance of an additional Alcohol Beverage Control license in this tract; and
- WHEREAS,** the State Department of Alcoholic Beverage Control has training available that clearly communicates State law concerning the sale of alcoholic beverages.
- WHEREAS,** all legal prerequisites to the adoption of this Resolution have occurred; and

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

1. The project was found to be 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.
2. The sale of alcoholic beverages for on-premise consumption as part of a restaurant is a permitted use in the Planned Development 15 (PD -15) zoning District. The site is suitable and adequate for the proposed use because establishment of a restaurant on this site would not create negative impacts on businesses in the vicinity, and the applicant proposes to perform a tenant improvement in order to meet building code requirements.
3. The proposed use is consistent with the General Plan because commercial uses such as the one proposed are permitted in accordance with Land Use Policy subject to a discretionary review.
4. The proposed use would not have a substantial adverse economic effect on nearby uses because operation of a restaurant in accordance with applicable laws and under the conditions of this Use Permit is anticipated to be an economic benefit to the community.
5. The sale of alcohol shall occur only at tables when served with meals. A separate bar and/or counter for the consumption of alcohol shall be prohibited.

6. The sale of alcoholic beverages for on-premise consumption is a normal part of business operations and provides a convenience for customers of the business.
7. The sale and consumption of alcohol can sometimes result in customer behavior problems that can require police intervention.
8. Steps can be taken by the Applicant/Operator to reduce the number of incidents resulting from the over-consumption of alcohol including the proper training and monitoring of employees serving alcohol; the careful screening of IDs of customers to avoid sales to under-aged individuals; limiting the number of drinks sold to individual customers to avoid over-consumption; providing properly trained on-site security to monitor customer behavior both in and outside of the establishment; and working with the Lodi Police Dept. to resolve any problems that may arise.
9. The proposed use can be compatible with the surrounding use and neighborhood if the business is conducted properly and if the Applicant/Operator works with neighboring businesses and residents to resolve any problems that may occur.
10. The proposed use would not be detrimental to the general welfare of persons residing and working in the immediate vicinity, the neighborhood or the community at large because the sale of alcohol with a restaurant operation is not associated with detrimental impacts to the community.
11. Approval of this Use Permit shall be subject to revocation procedures contained in Section 17.72 LMC in the event any of the terms of this approval are violated or if the sale of beer and wine is conducted or carried out in a manner so as to adversely affect the health, welfare or safety of persons residing or working in the neighborhood.
12. The sale of alcoholic beverages at this location can meet the intent of the General Commercial zoning district and can provide a public convenience or necessity for customers of the business.

**NOW, THEREFORE, BE IT DETERMINED AND RESOLVED** by the Planning Commission of the City of Lodi that Use Permit Application No. 10-U-03 is hereby approved, subject to the following conditions:

1. The developer will defend, indemnify, and hold the City, its agents, officers, and employees harmless of any claim, action, or proceeding to attack, set aside, void, or annul this Use Permit, so long as the City promptly notifies the developer of any claim, action, or proceedings, and the City cooperates fully in defense of the action or proceedings.
2. The Applicant/Operator shall insure that the serving of alcohol does not cause any condition that will cause or result in repeated activities that are harmful to the health, peace or safety of persons residing or working in the surrounding area. This includes, but is not limited to: disturbances of the peace, illegal drug activity, public intoxication, drinking in public, harassment of people passing by, assaults, batteries, acts of vandalism, loitering, excessive littering, illegal parking, excessive loud noises, traffic violations or traffic safety based upon last drink statistics, curfew violations, lewd conduct, or police detention and arrests.
3. The Applicant/Operator shall operate and abide by the requirements and conditions of the State of California Department of Alcoholic Beverage Control License Type 41. The Type 41 License shall be limited to on-site sale and consumption of beer and wine during the hours that the restaurant is open for business or as otherwise modified by the Community Development Director.
4. Starting from the date the restaurant begins the sale of beer and wine, this Use Permit shall be subject to a one year, and two year review by Community Development Director. If the Director determines it necessary, the Director shall forward the review to the Planning Commission to review the restaurant's operation for compliance with the conditions of the Use Permit, and in response to any complaints thereafter. Additional reviews may be prescribed by the Community Development Director, the Police Department and/or Planning Commission as needed during and after the first two years of operation.
5. The Lodi Police Department may, at any time, request that the Planning Commission conduct a hearing on the Use Permit for the purpose of amending or adding new conditions to the Use

Permit or to consider revocation of the Use Permit if the Use Permit becomes a serious policing problem.

6. The Use Permit shall require the Applicant/Operator to secure an ABC Type 41 license, On Sale Beer and Wine – Eating Place.
7. Prior to the issuance of a Type 41 ABC license, the Applicant/Operator shall complete Licensee Education on Alcohol and Drugs as provided by the State Department of Alcoholic Beverage Control.
8. The sale of alcohol shall occur only at tables when served with meals. A separate bar and/or counter for the consumption of alcohol shall be prohibited.
9. Any changes to the interior layout of the business operation shall be subject to review and approval by the Planning Department and will require appropriate City permits.
10. No person who is in a state of intoxication shall be permitted within the restaurant nor shall an intoxicated patron already in the bar be served additional alcoholic beverages. It is the responsibility of the business owner/operator to ensure no patron in state of intoxication is allowed into the building.
11. The operator of the restaurant shall police the area surrounding the business to prevent patrons from congregating/loitering outside the premises and to prevent excessive noise or other objectionable behavior. Noise levels shall be monitored to insure that noise shall not violate the City's Noise Ordinance Section 9.24.020 and Section 9.24.030.
12. Noise emanating from the property shall be within the limitations prescribed by the City's Noise Ordinance and shall not create a nuisance to surrounding residential neighborhoods, and/or commercial establishments.
13. The exterior of all the premises shall be maintained in a neat and clean manner, and maintained free of graffiti at all times.
14. The operation of the business shall comply with all applicable requirements of the Municipal Code.
15. Any fees due the City of Lodi for processing this Project shall be paid to the City within thirty (30) calendar days of final action by the approval authority. Failure to pay such outstanding fees within the time specified shall invalidate any approval or conditional approval granted. No permits, site work, or other actions authorized by this action shall be processed by the City, nor permitted, authorized or commenced until all outstanding fees are paid to the City.
16. No variance from any City of Lodi adopted code, policy or specification is granted or implied by this approval.

**Dated: May 12, 2010**

I certify that Resolution No. 10- was passed and adopted by the Planning Commission of the City of Lodi at a regular meeting held on May 12, 2010 by the following vote:

**AYES:** Commissioners:

**NOES:** Commissioners:

**ABSENT: Commissioners:**

ATTEST: \_\_\_\_\_  
Secretary, Planning Commission

**Use Permit to allow a Type 41 On-Sale Beer & Wine ABC License  
for Leslie Phillips (De Vinci's) @ 220 S. Church St. Suite 3**

**Item 3c.**

**CITY OF LODI  
PLANNING COMMISSION  
Staff Report**

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**MEETING DATE:** May 12, 2010

**APPLICATION NO:** Use Permit: 10-U-04

**REQUEST:** Request for Planning Commission approval of a Use Permit to allow a Type-41 On-Sale beer and wine (Eating Place) Alcoholic Beverage Control License at 220 South Church Street., Suite 3. (Applicant: Leslie Phillips; File Number: 10-U-04)

**LOCATION:** 220 South Church Street Ste 3  
APN: 043-044-10  
Lodi, CA 95240

**APPLICANT:** Leslie Phillips  
286 River Meadows Drive  
Woodbridge, CA 95258

**PROPERTY OWNER:** Richard and Sharon Marini  
840 Tilden Drive  
Lodi, CA 95242-3716

**RECOMMENDATION**

Staff recommends that the Planning Commission approve the request of Leslie Phillips for a Use Permit to allow a Type-41 On-Sale beer and wine license at 220 South Church Street Suite 3, subject to the conditions in the attached resolution.

**PROJECT/AREA DESCRIPTION**

**General Plan Designation:** DMU, Downtown Mixed Use  
**Zoning Designation:** C-2, General Commercial.  
**Property Size:** .6 acres/26,136 sq. ft. Restaurant is approximately 2,400 sq. ft.

The adjacent zoning and land use are as follows:

	General Plan	Zone	Land Use
North	DMU, Downtown Mixed Use	C-2, General Commercial	Mixed commercial uses
South	MUC, Mixed Used Corridor	C-1, Neighborhood Commercial	Mixed commercial uses
East	DMU, Downtown Mixed Use	C-2, General Commercial	Mixed commercial uses
West	LDR, Low Density Residence	RE-1, Eastside Residence	Mixed commercial uses

**SUMMARY**

The applicant, Leslie Phillips, is requesting approval of a Use Permit to allow on-sale of beer and wine at an existing restaurant. A Use Permit approval is required to sell beer and wine in conjunction with a restaurant operation. The project site is within an existing commercial center. Commercial uses are located north, south, east, and west of the subject site. According to the submitted information provided by the applicant, the restaurant measures approximately 2,400 sq. ft and approximately 2,000 square feet of the restaurant is used for dining purposes. The remaining area includes the kitchen, restrooms, storage, service areas, and the entry/waiting area. The consumption of alcoholic beverages will be conducted in the restaurant as a

complement to meals. No separate bar area is indicated on the floor plan of the restaurant, nor is any entertainment proposed for the business.

## **BACKGROUND**

De Vinci's Delicatessen & Catering is currently serving the City of Lodi with Italian cuisines and favorites. The applicant, Leslie Phillips, has owned and operated the restaurant since September 2006. The project site is located near the corner of Church Street and Lodi Avenue. This location is considered part of the downtown businesses center. The restaurant has no pending violations and has operated without any problems or concerns.

## **ANALYSIS**

The applicant requests approval of a Use Permit to allow a Type 41 on-sale license for the serving of beer and wine in conjunction with a bona-fide restaurant. The applicant would like to serve beer and variety of local wineries. According to the applicant, De Vinci's Delicatessen & Catering offers lunch and dinner menu. The restaurant is open from the hours of 11:30 a.m. to 7:00 p.m. Mondays – Saturdays and from 11:00 a.m. to 7:00 p.m. on Sundays. The restaurant is approximately 2,400 square feet in size and provides seating for approximately 35-40 guests. Parking is provided on site, which satisfies the parking requirement for eating establishment of this size. In accordance with the State Department of Alcoholic Beverage Control (ABC) requirements, restaurants with alcohol license must operate and maintain the premise as a bona fide eating establishment.

Alcoholic Beverage Control license Type 41 On-Sale (Eating Place) authorizes the sale of beer and wine for consumption on or off the premise where sold. The Lodi Municipal Code, §17.72.040, 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 Department of Alcoholic Beverage Control primarily controls issuance based on concentration of licenses within a particular Census Tract. The subject restaurant belongs to Census Tract 42.04. Census Tract 42.04 covers the area south of Holly Drive, west of the North Sacramento Street, north of West Lodi Avenue, and east of South Ham Lane. Based on a (residential) population of in the census tract, the Dept, of Alcoholic Beverage Control allows 4 On-sale licenses in the tract and currently the tract contains 28 On-sale and 4 Off-sale licenses. Because this census tract includes most of the downtown area where there are many restaurants and bars, there is an existing over-concentration of ABC licenses. Because this census tract is over-concentrated, the Planning Commission must make a finding of public necessity and/or convenience in order to approve an additional ABC license. In the past, the Planning Commission and the Planning staff have generally supported restaurants that wish to acquire an ABC on-sale license, because typically, restaurants that serve alcohol in conjunction with food sales do not create alcohol related problems. Further, the Dept. of Alcoholic Beverage Control requires that alcohol sales must only occur during the hours the restaurant is open for normal meal hours and the receipts from the sale of alcohol must exceed 50% of the gross receipts from the restaurant business.

Staff has contacted the Lodi Police Department for comment on the proposed on-sale beer and wine application and they do not anticipate alcohol related problems with the restaurant. Staff sent copies of the application to various City departments for comments and review. The Fire, Building, Public Works, Electric Utility Departments had no comments and had no objections to the request for an alcohol license. Because the applicant's request is for a Use Permit to allow sale of alcohol in conjunction with a full service restaurant, staff does not anticipate the alcohol sales portion of the business to create any problems. This operation would be similar to other restaurants within Lodi. The Planning Commission and the Planning staff have generally supported restaurants that wish to acquire an ABC on-sale beer and wine license because restaurants that serve beer and wine in conjunction with food sales have not created alcohol related problems. If problems or

concerns related to the sale of alcoholic beverages occur in the future, staff and/or the Planning Commission may initiate a public hearing where the Commission would have the ability to amend conditions or revoke the Use Permit.

### **ENVIRONMENTAL 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 April 30, 2010. 39 public hearing notices were sent to all property owners of record within a 300-foot radius of the project site as required by California State Law §65091 (a) 3. Public notice also was mailed to interested parties who had expressed their interest of the project. No protest letter has been received.

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

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

Respectfully Submitted,

Concur,

Immanuel Bereket  
Assistant Planner

Konradt Bartlam  
Community Development Director

### **ATTACHMENTS:**

1. Vicinity Map
2. Aerial Map
3. Site Plan
4. Floor Plan
5. Menu
6. Police Department Comment
7. Draft Resolution



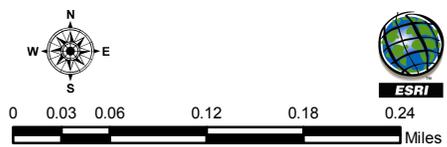
**Project Site**

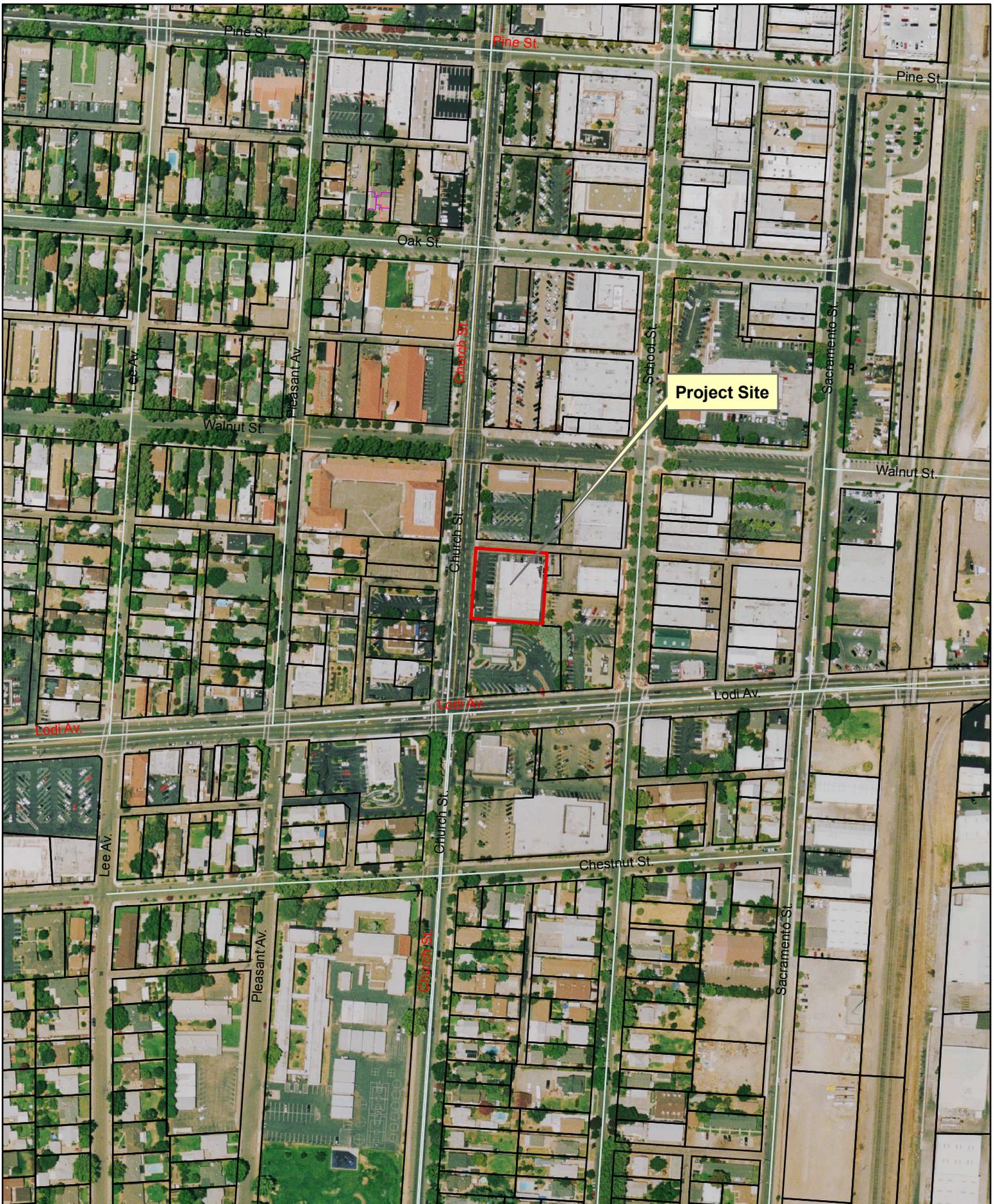
### Vicinity Map

220 South Church Street STE 3  
 APN: 043-044-10  
 Lodi, CA 95240

### Legend

 220 South Church Street STE 3





**Project Site**

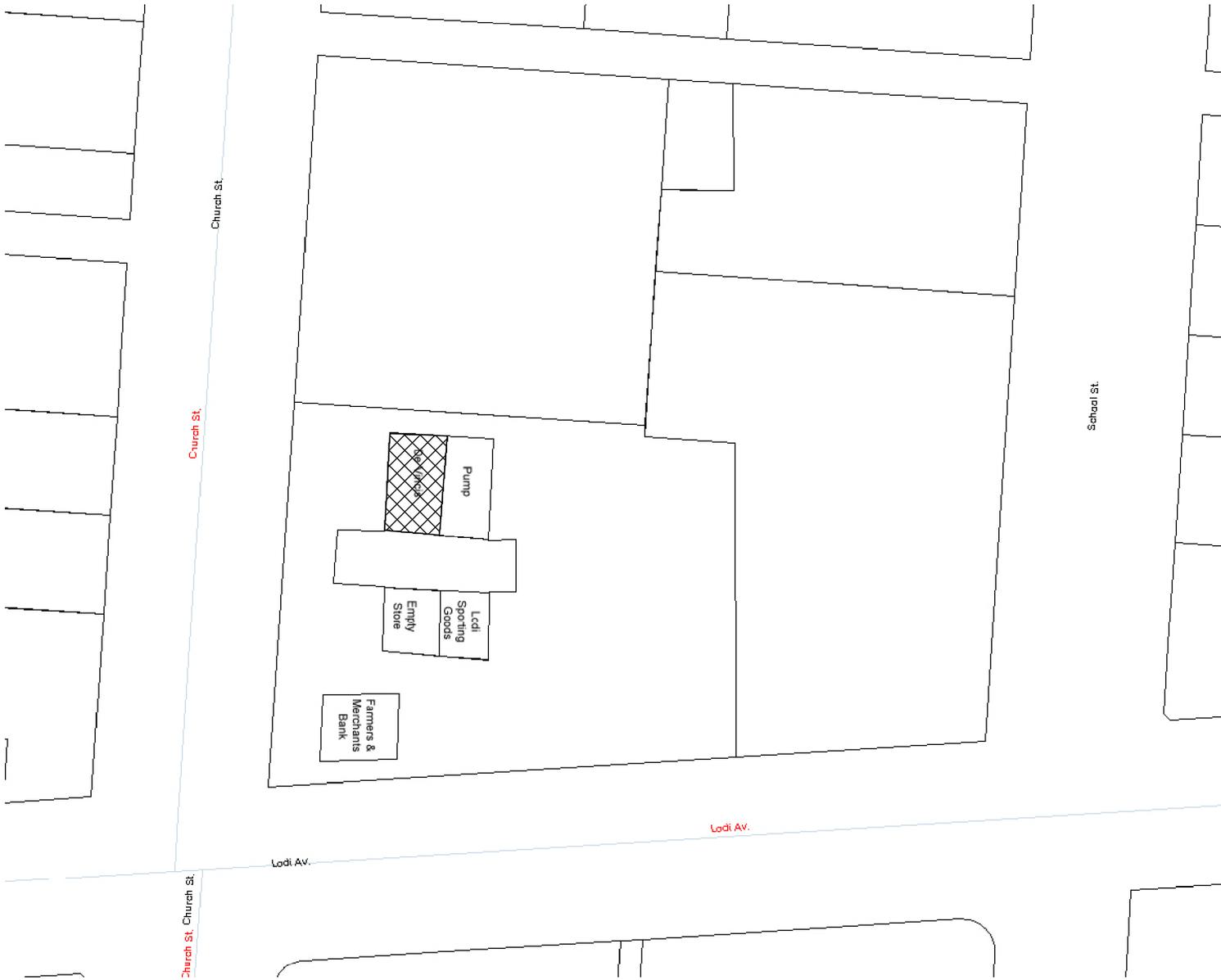


0 0.0125 0.025 0.05 0.075 0.1 Miles

**Vicinity Map**  
 220 South Church Street STE 3  
 APN: 043-044-10  
 Lodi, CA 95240

**Legend**

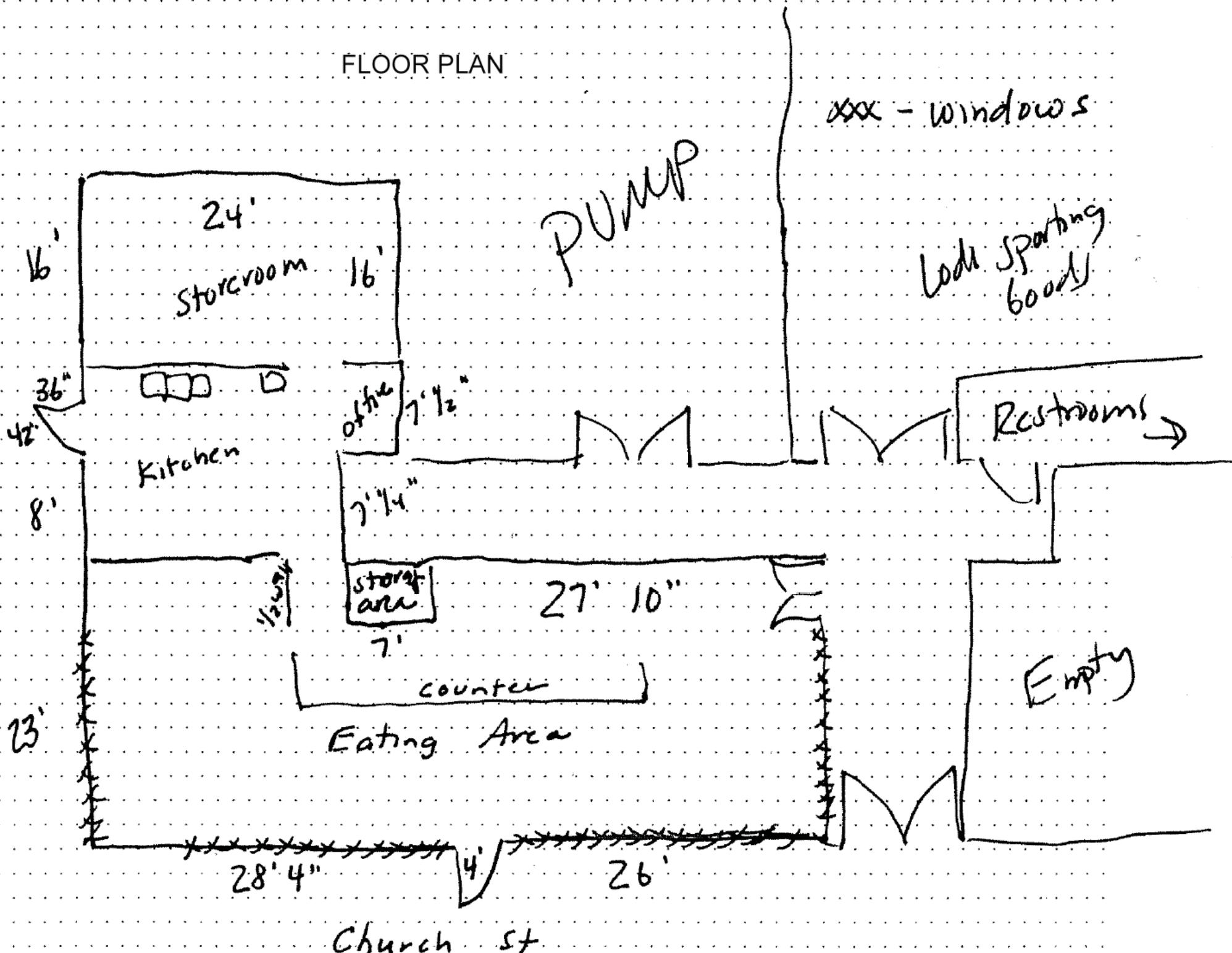
 220 South Church Street STE 3



De Vinci's  
220 South Church Street  
Lodi, CA 95240



FLOOR PLAN



**Combo # 1**  
Ravioli, Pesto, Chicken  
Stroganoff or Daily  
Special, Salad, Foccacia  
& Reg Drink  
**7.39**

**Combo # 2**  
Spaghetti,  
Salad, Foccacia  
& Reg Drink  
**6.89**

**Combo # 3**  
Sandwich  
Chips  
& Reg Drink  
**7.59**

**Combo # 4**  
2 Pieces of Chicken,  
Salad, Foccacia & Reg  
Drink  
**6.99**

**Combo # 5**  
Small Green Salad,  
Foccacia & Reg Drink  
**6.19**  
(Chef Salad 8.89)

**Combo # 6**  
Lasagna, Salad,  
Foccacia  
& Reg Drink  
**7.99**

**Combo # 7**  
Any Pasta, 1 Piece of  
Chicken, Salad,  
Foccacia  
& Reg Drink  
**9.89**

**Child Combo # 8**  
Choice of Pasta,  
Salad, Foccacia  
& Reg Drink  
(Child size servings)  
**4.99**

**Combo # 9**  
½ Sandwich,  
Salad or Chips  
& Reg Drink  
**5.99**

**Combo # 10**  
Quart of any Pasta,  
Small Green Salad,  
½ Loaf of Foccacia  
**14.59 (Feeds 2-3)**

**Combo # 11**  
2 Quarts of any Pasta  
Large Green Salad,  
Loaf of Foccacia  
**26.99(Feeds 4-5)**

**Combo # 12**  
2 Quarts of any Pasta,  
6 pcs. mixed Chicken,  
Large Green Salad,  
Loaf of Foccacia  
**34.89 (Feeds 5-6)**

**Hot Entrees**  
Ravioli, Pesto, Chicken  
Stroganoff, Fettuccini Alfredo,  
Tortellini or Green Beans

	<u>Side</u>	<u>Small</u>	<u>Large</u>
	2.99	4.29	5.39

Spaghetti, Ham and Potato  
Casserole or  
Macaroni & Cheese

	<u>Side</u>	<u>Small</u>	<u>Large</u>
	2.49	3.59	4.59

**Cold Salads**  
Potato, Macaroni, Pasta

	<u>½Pint</u>	<u>Pint</u>	<u>Quart</u>	<u>1Gal</u>	<u>1.5G</u>	<u>2Gal</u>	<u>2.5G</u>
	2.09	3.79	6.19	23.59	34.99	46.99	56.99

**Green Salad**  
Homemade dressing with  
Garbanzo and Kidney beans

	<u>Side</u>	<u>Small</u>	<u>Large</u>
	2.19	3.99	5.79

**DeVinci's Chef Salad**  
Lettuce, Garbanzo and Kidney  
Beans, Ham, Turkey, Swiss and  
American Cheeses

	<u>Side</u>	<u>Small</u>	<u>Large</u>
	3.79	6.89	9.59

**Salad Add on Items**  
Marinated Mushrooms,  
Artichoke Hearts, Olives or  
extra Dressing

	<u>Each</u>	<u>All 3</u>
	.69	1.69

**Lasagna Serving**  
About 4" Square

	<u>Single</u>	<u>½Pan</u>	<u>Pan</u>
	3.99	29.99	59.99

**Chicken per Pound**  
Mixed 5.49  
All White 6.99

**Breads and Specialties**

	<u>Single</u>	<u>Half</u>	<u>Whole</u>
Foccacia	0.99	2.39	4.69
French Rolls	0.99	1.99	3.99
Toasted Garlic Bread	1.29	2.59	5.19
Garlic Cheese Bread	1.89	3.79	7.59
Frittatas	2.49	4.99	9.99
Rice Torta	1.59	14.39	28.69
Foccacia Cheese Pizza	2.49	6.49	12.99

**DeVinci's Homemade**  
Ravioli by the Box 6.99

	<u>Famous Meat Sauce</u>		
	<u>½Pint</u>	<u>Pint</u>	<u>Quart</u>
	2.29	4.19	6.99

	<u>½Pint</u>	<u>Pint</u>	<u>Quart</u>	<u>1Gal</u>	<u>1.5G</u>	<u>2Gal</u>	<u>2.5G</u>
	2.99	5.39	8.99	34.19	50.79	66.89	79.99

	<u>Side</u>	<u>Small</u>	<u>Large</u>
	2.49	4.59	7.59

	<u>½Pint</u>	<u>Pint</u>	<u>Quart</u>	<u>1Gal</u>	<u>1.5G</u>	<u>2Gal</u>	<u>2.5G</u>
	2.09	3.79	6.19	23.59	34.99	46.99	56.99

	<u>Green Salad</u>	<u>1Gal</u>	<u>1.5G</u>	<u>2Gal</u>	<u>2.5G</u>
		13.69	20.29	26.79	33.09

	<u>Chef Salad</u>	<u>1Gal</u>	<u>1.5G</u>	<u>2Gal</u>	<u>2.5G</u>
		22.39	33.19	43.79	54.09

**Sandwiches 5.49**  
Breads: Foccacia, Wheat or French Roll  
Meats: Turkey, Roast Beef, Ham, Salami or Pastrami  
Cheeses: Cheddar, Monterey Jack, American,  
Swiss, Pepper Jack or Provolone  
Condiments: Mayo, Must, Lettuce, Tomato, Onion

**Super Sub 6.99**  
Choice of 3 Meats, 2 Cheeses and Condiments

**Drinks**  
Regular Fountain 20 oz. or Bottled Water 1.49  
Large Fountain 32 oz. or Bottled Juice 1.89  
Milk or Coffee 1.19  
2 Liter Sodas 3.49

**Daily Specials**  
Mon: Cheese Tortellini and Green Beans  
Tue: Fettuccini Alfredo  
Wed: Macaroni & Cheese and Green Beans  
Thu: Ham and Potato Casserole  
Fri: Macaroni & Cheese and Green Beans  
Sat: (Seasonal) Winter Stew

## Immanuel Bereket

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**From:** Gary Benincasa  
**Sent:** Monday, April 26, 2010 1:15 PM  
**To:** Immanuel Bereket  
**Subject:** Use Permit - Leslie Phillips/De Vinci's

Manny,

We have reviewed the use permit and have no objections or recommendations relative to their request for a beer and wine license. Please contact me if you have any questions.

Gary

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

**RESOLUTION NO. P.C. 10-**

**A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF LODI FOR THE APPROVAL OF THE REQUEST OF LESLIE PHILLIPS FOR A USE PERMIT TO ALLOW FOR AN ON-SALE BEER AND WINE ALCOHOLIC BEVERAGE CONTROL LICENSE IN CONJUNCTION WITH A RESTAURANT OPERATION AT 220 SOUTH CHURCH STREET, SUITE 3**

**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 Leslie Phillips, 286 River Meadows Drive, Woodbridge, CA 95258; and

**WHEREAS**, the project site is located 220 South Church Street STE 3, Lodi, CA (APN 043-044-10); and

**WHEREAS**, the project site has a General Plan designation of DMU, Downtown Mixed Use and is zoned C-2, General Commercial; and

**WHEREAS**, the requested use permit to allow the selling of beer and wine for on-site consumption within the restaurant is an enforcement action in accordance with the City of Lodi Zoning Ordinance; and

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

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

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

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

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

1. The project 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. The sale of alcoholic beverages for on-premise consumption as part of a restaurant is a permitted use in the Downtown commercial center. The site is suitable and adequate for the proposed use because establishment of a restaurant on this site would not create negative impacts on businesses in the vicinity, and the applicant proposes to perform a tenant improvement in order to meet building code requirements.
3. The on-sale of beer and wine, in accordance with a Type 41 Alcoholic Beverage Control License and with the conditions attached herein, the restaurant would be consistent and in harmony with the Downtown Mixed Use General Plan Land Use Designation and Commercial Downtown Zoning District.
4. The proposed use is consistent with the General Plan because commercial uses such as the one proposed are permitted in accordance with Land Use Policy subject to a discretionary review.
5. The proposed use would not have a substantial adverse economic effect on nearby uses because operation of a restaurant in accordance with applicable laws and under the conditions of this Use Permit is anticipated to be an economic benefit to the community.

6. The sale of alcoholic beverages for on-premise consumption as part of a restaurant is a normal part of business operations and provides a convenience for customers of the business.
7. The sale and consumption of alcohol can sometimes result in behavior problems that can lead to law enforcement issues that require police intervention.
8. Steps can be taken by the applicant to reduce the number of incidents resulting from the over-consumption of alcohol including the proper training and monitoring of employees serving alcohol; the careful screening of IDs of customers to avoid sales to under-aged individuals; limiting the number of drinks sold to individual customers to avoid over-consumption; providing properly trained on-site security to monitor customer behavior both in and outside of the establishment; and working with the Lodi Police Dept. to resolve any problems that may arise.
9. The proposed use can be compatible with the surrounding use and neighborhood if the business is conducted properly and if the applicant works with neighboring businesses and residents to resolve any problems that may occur.
10. The on-sale of beer and wine, the location, size, design, and operating characteristics of the existing restaurant cafe will be compatible with the existing and future land uses within the Downtown Commercial Zoning District in which the proposed use is located; will not create a bar or tavern use; and will not create significant noise, traffic, or other conditions or situations that may be objectionable or detrimental to other permitted uses in the vicinity or adverse to the public interest, health, safety, convenience, or welfare of the City.
11. The sale of alcoholic beverages at this location in conjunction with a restaurant can meet the intent of the Downtown Guidelines and can provide a public convenience or necessity for customers of the business.

**NOW, THEREFORE, BE IT DETERMINED AND RESOLVED** by the Planning Commission of the City of Lodi that Use Permit Application No. 10-U-04- is hereby approved, subject to the following conditions:

1. The developer will defend, indemnify, and hold the City, its agents, officers, and employees harmless of any claim, action, or proceeding to attack, set aside, void, or annul this Use Permit, so long as the City promptly notifies the developer of any claim, action, or proceedings, and the City cooperates fully in defense of the action or proceedings.
2. The applicant shall insure that the serving of alcohol does not cause any condition that will cause or result in repeated activities that are harmful to the health, peace or safety of persons residing or working in the surrounding area. This includes, but is not limited to: disturbances of the peace, illegal drug activity, public intoxication, drinking in public, harassment of passer -biers, assaults, batteries, acts of vandalism, loitering, excessive littering, illegal parking, excessive loud noises, traffic violations or traffic safety based upon last drink statistics, curfew violations, lewd conduct, or police detention and arrests.
3. The Applicant/Operator shall operate and abide by the requirements and conditions of the State of California Department of Alcoholic Beverage Control License Type 41. The Type 41 License shall be limited to on-site sale and consumption of beer and wine during the hours that the restaurant is open for dining or as otherwise modified by the Community Development Director.
4. Starting from the date the restaurant begins the sale of beer and wine, this Use Permit shall be subject to a one year, and two year review by Community Development Director. If the Director determines it necessary, the Director shall forward the review to the Planning Commission to review the restaurant's operation for compliance with the conditions of the Use Permit, and in response to any complaints thereafter. Additional reviews may be prescribed by the Community Development Director, the Police Department and/or Planning Commission as needed during and after the first two years of operation.
5. The Lodi Police Department may, at any time, request that the Planning Commission conduct a hearing on the Use Permit for the purpose of amending or adding new conditions to the Use Permit or to consider revocation of the Use Permit if the Use Permit becomes a serious policing problem.

6. The Use Permit shall require the Applicant/Operator to secure an ABC Type 41 license, On Sale Beer and Wine – Eating Place.
7. Prior to the issuance of a Type 41 ABC license, the Applicant/Operator shall complete Licensee Education on Alcohol and Drugs as provided by the State Department of Alcoholic Beverage Control.
8. The sale of alcohol shall occur only at tables when served with meals. A separate bar and/or counter for the consumption of alcohol shall be prohibited.
9. Any changes to the interior layout of the business operation shall be subject to review and approval by the Planning Department and will require appropriate City permits.
10. No person who is in a state of intoxication shall be permitted within the restaurant nor shall an intoxicated patron already in the bar be served additional alcoholic beverages. It is the responsibility of the business owner/operator to ensure no patron in state of intoxication is allowed into the building.
11. The operator of the restaurant shall police the area surrounding the business to prevent patrons from congregating/loitering outside the premises and to prevent excessive noise or other objectionable behavior. Noise levels shall be monitored to insure that noise shall not violate the City's Noise Ordinance Section 9.24.020 and Section 9.24.030.
12. Noise emanating from the property shall be within the limitations prescribed by the City's Noise Ordinance and shall not create a nuisance to surrounding residential neighborhoods, and/or commercial establishments.
13. The exterior of all the premises shall be maintained in a neat and clean manner, and maintained free of graffiti at all times.
13. The operation of the business shall comply with all applicable requirements of the Municipal Code.
14. Approval of this Use Permit shall be subject to revocation procedures contained in Section 17.72 LMC in the event any of the terms of this approval are violated or if the sale of beer and wine is conducted or carried out in a manner so as to adversely affect the health, welfare or safety of persons residing or working in the neighborhood.
15. Any fees due the City of Lodi for processing this Project shall be paid to the City within thirty (30) calendar days of final action by the approval authority. Failure to pay such outstanding fees within the time specified shall invalidate any approval or conditional approval granted. No permits, site work, or other actions authorized by this action shall be processed by the City, nor permitted, authorized or commenced until all outstanding fees are paid to the City.
16. No variance from any City of Lodi adopted code, policy or specification is granted or implied by this approval.

**Dated: May 12, 2010**

I certify that Resolution No. 10- was passed and adopted by the Planning Commission of the City of Lodi at a regular meeting held on May 12, 2010 by the following vote:

**AYES:** Commissioners:

**NOES:** Commissioners:

**ABSENT:** Commissioners:

**ATTES** \_\_\_\_\_  
**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 5/12/2010  
**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
April 21, 2010	Regular	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
		Reject Proposal from Harvey Gorrell for the Sculpture, "Crane Dance" (Formerly "Rite of Spring"), from Artist Scott Wampler
May 5, 2010	Regular	Authorize the Mayor, on Behalf of the City Council, to Send a Letter in Support of AB 1594 Regarding Prohibiting Construction of the Peripheral Canal (CM)
		Public Hearing to Consider the Appeals of Brandt-Hawley Law Group on Behalf of Charles and Melissa Katzakian Regarding the Decision of the Planning Commission to Approve: (CD) a) SPARC Review and Use Permit for Costco Wholesale Development; and b) SPARC Review for Reynolds Ranch Shopping Center and Home Depot <b>Withdrawn – 4/27/10</b>
		Adopt Resolution Certifying Concurrence with California Energy Commission Environmental Findings and Approving Agreements with the Northern California Power Agency for Power Sales, Project Management and Operation, Ground Lease, and Recycled Water Supply (EUD)