

<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, SEPTEMBER 8, 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 – “August 11, 2010”
3. PUBLIC HEARINGS
  - a. Request for Planning Commission approval of a variance to reduce the rear yard setback from 10 feet to 4 feet and increase lot coverage from 45 percent to 46 percent at 506 Gerard Drive. (Applicant: Michael Doderio; File #: 10-A-02)
  - b. Request for Planning Commission approval of a variance to reduce the required five feet side yard setback to less than one foot at 544 East Oak Street. (Applicants: Dave Lewis; File No. 10-A-06)
  - c. Request for Planning Commissioner approval of a Use Permit to allow wholesale distribution of alcoholic beverages at 960 South Guild Avenue. (Applicant: Javier Toscano; File Number: 10-U-12)

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

4. PLANNING MATTERS/FOLLOW-UP ITEMS
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, AUGUST 11, 2010**

1. CALL TO ORDER / ROLL CALL

The Regular Planning Commission meeting of August 11, 2010, was called to order by Chair Hennecke at 7:00 p.m.

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

Absent: Planning Commissioners – Olson

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

2. MINUTES

“June 23, 2010”

MOTION / VOTE:

The Planning Commission, on motion of Commissioner Kirsten, Cummins second, approved the Minutes of June 23, 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 Hennecke called for the public hearing to consider the request of a variance to reduce the required three feet side yard setback to one foot at 1555 Vista Drive.

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

Hearing Opened to the Public

- Stacie Gaska, applicant, came forward to answer questions.
- Commissioner Kirsten asked if the covering was permanently attached to the ground. Ms. Gaska stated that it is not.

Public Portion of Hearing Closed

- Commissioner Kiser asked if there are any fire issues with this structure being so close to the residence. Director Bartlam stated that it is a completely open structure made of noncombustible materials, so there are no issues with fire.
- Commissioner Heinitz asked for clarification that the reason for this application and the other variance on the agenda is because of a disgruntled citizen turning in a bunch of possible violations of this type. Director Bartlam stated that that is correct.

MOTION / VOTE:

The Planning Commission, on motion of Commissioner Heinitz, Cummins second, approved the request of the Planning Commission for a variance to reduce the required three feet side yard setback to one foot at 1555 Vista Drive subject to the conditions in the attached resolution. The motion carried by the following vote:

*Continued*

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

- b) Notice thereof having been published according to law, an affidavit of which publication is on file in the Community Development Department, Chair Hennecke called for the public hearing to consider the request of a variance to reduce the required three feet side yard setback to six inches at 1815 Royal Crest Drive.

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

Hearing Opened to the Public

- Gerald Grauman, applicant, came forward to answer questions.

Public Portion of Hearing Closed

MOTION / VOTE:

The Planning Commission, on motion of Commissioner Kiser, Cummins second, approved the request of the Planning Commission for a variance to reduce the required three feet side yard setback to six inches at 1815 Royal Crest Drive subject to the condition in the attached resolution. The motion carried by the following vote:

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

- c) Notice thereof having been published according to law, an affidavit of which publication is on file in the Community Development Department, Chair Hennecke called for the public hearing to consider the request for a Use Permit to allow a Type 48 On-Sale General Alcoholic Beverage Control license at 100 North Cherokee Lane, Suite 5

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

Commissioner Heinitz pointed out the numbering error in the resolution.

Commissioner Heinitz asked for the word professional to be added to condition number 14 in reference to the security staff.

Commissioner Kiser asked if there is adequate parking. Mr. Bartlam stated that the parking is a part of a shared parking lot and will have adequate parking. Kiser stated his agreement with Commissioner Heinitz regarding the security staff.

Hearing Opened to the Public

- Noe Juaz Luna, applicant, came forward to answer questions. He stated that he is planning on having plenty of professional security on staff.

Public Portion of Hearing Closed

- Commissioner Kirsten disclosed that he spoke with the applicant and visited the site. He stated that the surrounding tenants had some concerns, but nothing too major. He is in favor of the project.
- Commissioner Mattheis stated his support for the project and added that if there happens to be any issues the resolution is written in a way that the Commission will have grounds to revoke the permit.

MOTION / VOTE:

The Planning Commission, on motion of Commissioner Kirsten, Mattheis second, approved the request of the Planning Commission for a Use Permit to allow a Type 48 On-Sale General Alcoholic Beverage Control license at 100 North Cherokee Lane, Suite 5 subject to the conditions in the attached resolution. The motion carried by the following vote:

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

- d) Notice thereof having been published according to law, an affidavit of which publication is on file in the Community Development Department, Chair Hennecke called for the public hearing to consider the request for a Use Permit to allow operation of a Charter School at 1530 West Kettleman Lane, Suite A.

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

Hearing Opened to the Public

- Paul Keefer, Representative for Rio Valley Charter School, came forward to answer questions.
- Commissioner Mattheis asked how many cars will be there when all thirty students are required on site. Mr. Keefer stated that it is hard to say.
- Commissioner Kirsten asked if the school will be occupying the entire space. Mr. Keefer stated that he would prefer Mr. Bennett to answer.
- Dennis Bennett, applicant and owner of the property, came forward to answer questions. Mr. Bennett stated that there will be more than enough parking. This is not a traditional school, so will not have the traditional noises and traffic that a typical public school has. He stated that the other tenants in the complex have not expressed any objections or concerns for this project. The driving for the most part should be done by parents.
- Commissioner Heinitz asked if, when the buildings were built, the project met the required parking. Mr. Bennett stated that it did.
- Commissioner Kirsten asked if the entire building will be utilized by the school. Mr. Bennett stated that it will not. The building is currently broken up into two units. The entire building is approximately 8800 square feet (sf) and the project space is for 4500 sf. There is currently a business occupying the space on a temporary basis.

Commissioner Mattheis recused himself because he just realized that his firm has been contacted by Mr. Bennett's staff regarding this project for evaluation.

- Carol Padden, resident adjacent to project site, came forward to state that she had concerns with the project when they received the initial notice in the mail. A gentleman from Mr. Bennett's office came around the neighborhood with more information which alleviated her concerns. Then she read the article in the Lodi News Sentinel that stated

*Continued*

something different than what she was told, but now that she has attended the meeting she is convinced that this will be a positive use of the property.

- Taj Khan, property owner on Lakeshore, came forward to support the project, but is concerned about the possible 200 students. Mr. Keefer stated that this is an independent study style school. There will be students from all over the area attending the school, but not all of the students will be on site at one time. Mr. Khan asked if 200 students are being permitted. Mr. Bartlam stated that the school has several sites and will only be allowed 30 students at any given time at this location.
- Commissioner Kiser asked how many teachers and staff will be on site at any given time. Joy Groen, administrator for Rio Valley Charter School, stated that there are eight teachers on staff plus herself. There will also be Lodi Unified staff as well as a counselor that will come in once or twice a week.

Public Portion of Hearing Closed

- Commissioner Heinitz stated that he is in the parking lot on a regular basis and has never seen the parking lot at full capacity.
- Commissioner Cummins agreed.

MOTION / VOTE:

The Planning Commission, on motion of Commissioner Cummins, Kiser second, approved the request of the Planning Commission for a Use Permit to allow operation of a Charter School at 1530 West Kettleman Lane, Suite A subject to the conditions in the attached resolution. The motion carried by the following vote:

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

- e) Notice thereof having been published according to law, an affidavit of which publication is on file in the Community Development Department, Chair Hennecke called for the public hearing to consider the request to certify the proposed Negative Declaration 10-ND-01 as adequate environmental documentation for Pixley Park development plans.

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

Hearing Opened to the Public

Public Portion of Hearing Closed

MOTION / VOTE:

The Planning Commission, on motion of Commissioner Heinitz, Kiser second, approved the request of the Planning Commission to certify the proposed Negative Declaration 10-ND-01 as adequate environmental documentation for Pixley Park development plans subject to the conditions in the attached resolution. The motion carried by the following vote:

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

*Continued*

Absent: Commissioners – Olson

- f) Notice thereof having been published according to law, an affidavit of which publication is on file in the Community Development Department, Chair Hennecke called for the public hearing to consider the request to certify the proposed Negative Declaration 10-MND-02 as adequate environmental documentation for the proposed Westside Substation located at 2800 West Kettleman Lane.

Director Bartlam gave a brief PowerPoint presentation based on the staff report. Staff recommends approval of the project. Mr. Bartlam introduced the new Electric Utility Director Liz Kirkley and Assistant Director Demy Bucaneg who were sitting in the audience.

Commissioner Mattheis asked about the aesthetics. Director Bartlam stated that it isn't feasible to put the power lines underground. He explained that there are a couple of items being required so that the project is less obtrusive; 50-foot set back from Kettleman Lane which gives staff the ability to have a dense landscape, the power lines will be enter the facility from the east along Westgate Drive and not on Kettleman, the site is going to be sunk about two feet, giving the ten-foot wall even more ability to screen the facility.

Hearing Opened to the Public

Public Portion of Hearing Closed

MOTION / VOTE:

The Planning Commission, on motion of Commissioner Mattheis, Cummins second, approved the request of the Planning Commission to certify the proposed Negative Declaration 10-MND-02 as adequate environmental documentation for the proposed Westside Substation located at 2800 West Kettleman Lane subject to the conditions in the attached resolution. The motion carried by the following vote:

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

4. PLANNING MATTERS/FOLLOW-UP ITEMS

- a. Finding of General Plan Consistency for the Capital Improvement Program

Director Bartlam stated that this is an item that doesn't come before the Commission on a regular basis, but is necessary. The requirement is that the Planning Commission make a finding that the projects on the attached list are consistent with the General Plan. Staff recommends that the finding be made that they are consistent with the General Plan.

MOTION / VOTE:

The Planning Commission, on motion of Commissioner Heinitz, Kirsten second, approved the request of the Planning Commission to make the finding that the Capital Improvement Program is consistent with the General Plan. The motion carried by the following vote:

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

5. ANNOUNCEMENTS AND CORRESPONDENCE

None

*Continued*

6. ACTIONS OF THE CITY COUNCIL

Director Bartlam stated that there is a memo in the packet and staff is available to answer any questions.

7. GENERAL PLAN UPDATE/DEVELOPMENT CODE UPDATE

None

8. ACTIONS OF THE SITE PLAN AND ARCHITECTURAL REVIEW COMMITTEE

Commissioner Kiser gave a brief presentation on the Surface Water Treatment Facility going in on the west side of Lodi Lake.

9. ART IN PUBLIC PLACES

Commissioner Kirsten gave a brief report on the variety of items that the Committee has been reviewing. There is an upcoming Wine, Dine, Design event coming up on October 23<sup>rd</sup> at Hutchins Street Square.

10. COMMENTS BY THE PUBLIC

None

11. COMMENTS BY STAFF AND COMMISSIONERS

Director Bartlam, on behalf of staff, thanked Commissioner Mattheis for his service on the Commission over the many years.

12. REORGANIZATION – COMMISSION REPRESENTATIVE TO VARIOUS COMMITTEES

a. Site Plan and Architectural Review Committee

Chair Hennecke asked for nominations. There being none, Commissioner Kiser stated that he would serve another term if no other Commissioner wished to do so.

VOTE:

The Planning Commission appointed Commissioner Kiser as the 2010/11 Planning Commission SPARC representative. There being no nominations, the motion carried by the following vote:

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

b. Art In Public Places

Chair Hennecke asked for nominations. There being none, Commissioner Kirsten stated that he would serve another term if no other Commissioner wished to do so.

VOTE:

The Planning Commission appointed Commissioner Kirsten as the 2010/11 Planning Commission Art In Public Places representative. There being no nominations, the motion carried by the following vote:

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

Absent: Commissioners – Olson

c. Greenbelt Task Force

Chair Hennecke asked for nominations. There being none, Chair Hennecke stated that he would serve the term if no other Commissioners wished to do so.

VOTE:

The Planning Commission appointed Chair Hennecke as the 2010/11 Planning Commission Greenbelt Task Force representative. There being no nominations, the motion carried by the following vote:

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

13. ADJOURNMENT

There being no further business to come before the Planning Commission, the meeting was adjourned at 8:10 p.m.

ATTEST:

Konradt Bartlam  
Planning Commission Secretary

# Item 3a

**CITY OF LODI  
 PLANNING COMMISSION  
 Staff Report**

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**MEETING DATE:** September 8, 2010

**APPLICATION NO:** 10-A-02

**REQUEST:** Request for Planning Commission approval of a variance to reduce the rear yard setback from 10 feet to 4 feet and increase lot coverage from 45 percent to 46 percent at 506 Gerard Drive. (Applicant: Michael Dodero; File #: 10-A-02).

**LOCATION:** 506 Gerard Drive  
 (APN: 035-320-13)  
 Lodi, CA 95242

**APPLICANT:** Michael Dodero  
 506 Gerard Drive  
 Lodi, CA 95242

**PROPERTY OWNER:** The same as above.

**RECOMMENDATION**  
 Staff recommends that the Planning Commission approve the request of Mr. Michael Dodero for a variance to allow reduced rear yard setback and increase lot coverage at 506 Gerard Drive, subject to the condition outlined in the attached resolution.

**PROJECT/AREA DESCRIPTION**

**General Plan Designation:** Low Density Residential.  
**Zoning Designation:** R-2, Residential Single-Family.  
**Property Size:** 6,600 square feet.

The adjacent zoning and land use are as follows:

	<b>General Plan</b>	<b>Zone</b>	<b>Existing Conditions/Uses</b>
North	Low Density Residential	R-2, Residential Single-Family.	Detached single family residences
South	Low Density Residential	R-2, Residential Single-Family.	Mostly detached single family residences, with few multi-family complexes scattered further down south.
East	Low Density Residential	R-2, Residential Single-Family.	Detached single family residences
West	Low Density Residential	R-2, Residential Single-Family.	Detached single family residences

**SUMMARY**

The property owner and applicant, Mr. Michael Dodero, is requesting approval of a variance to reduce the rear yard setback from 10 feet to 4 feet. This applicant requests a rear yard Setback Variance for an existing unpermitted 233 square foot a two-story accessory structure within four (Code: 10 feet) of the rear property line and a Variance to increase lot coverage up to 46 percent (Code: Maximum 45 percent lot coverage). The two two-story detached structure has a basement and the second floor is used as guestroom. The construction of the structure occurred without a City

review or approval. The subject structure was built without a permit by a previous owner. If approved, the applicant would be allowed to retain the detached structure subject to building permit requirements. If variance request is denied, the applicant would be required to remove the structure.

## **BACKGROUND**

The subject site is a 6,603-square-foot parcel, with moderately sloping topography within the R-2 Zoning District. This subject property is an interior lot and is surrounded by other single family residences and is located at 506 Gerard Drive. According to City records, the existing house with an attached garage was constructed in 1957. In 1972, a building permit was issued for a bedroom addition. In 1995, a new owner, Mr. Neil Anderson, applied for a building permit to convert the attached garage into utility room, convert one of the bedrooms into an office, and construct a two-car carport. The property changed ownership in 2005 and Mr. Angel Evanger purchased the property. The property was foreclosed in Spring of 2009 and the current owner, Mr. Michael Dodero, purchased the property from a financial institution.

Earlier this year, as a result of complaints received by the Police Department, it was found that a detached structure existed too close to the side property line. Code Enforcement personnel issued a notice of violation. According to the former owner, Mr. Neil Anderson, the detached structure was constructed circa 2003 without a permit. As illustrated on Attachment 3, the accessory structure is two stories tall and has a basement. Staff has compiled a chronology of building and planning records for this property (See Attachment 4: Building and Planning History).

## **REGULATORY SETTINGS**

Detached buildings over 121 sq. ft. are treated as any principal structure and are required to maintain a 5-foot side yard, 20-foot front yard, and 10-foot rear yard setbacks. Accessory structures equal to or less than 120 sq. ft. do not require building permits, but are still required to maintain the setback requirements set forth hereinabove.

## **ANALYSIS**

The property owner and applicant, Mr. Michael Dodero, is requesting a Variance approval to reduce rear yard setback from 10 feet to 4 feet and increase lot coverage from 45 percent to 46 percent at 506 Gerard Drive. The property is zoned R-2, Single Family Residence, which allows construction of accessory and detached structures subject to applicable City Standards and California Building Code. The project is generally in conformance with development standards in the City's zoning code. However, the R-2 zoning district requires a 10-foot rear yard setback for principal buildings and accessory detached structures 120 sq. ft. R-2 zoning district further requires that in no case the maximum coverage of the main building and its accessory buildings exceed forty-five percent of the area of the building site. Since existing detached structure on the property violates setback standards specified in the R-2 zoning district, the project requires approval of a variance.

Chapter 17.72.030(A) of the City's Zoning Code establishes that Variances can only be granted by the Planning Commission based on specific findings. The first finding includes a demonstration that special circumstances affect the ability to develop the property. These physical constraints include the size, shape, topography, location or surrounding. The Commission must find that the site constraints deprive the property of privileges enjoyed by other property owners in the vicinity. Secondly, the Commission must find that the approval of a variance will not grant a special privilege inconsistent with the limitations on other properties in the vicinity. Finally, variances cannot authorize a use or activity not otherwise authorized by the applicable zoning district. Based on the following discussion, staff believes the Commission can approve the variance.

There are no special circumstances in terms of the size, shape, or topography for this particular lot. The lot is approximately 60 feet in width and 110 feet in depth and is rectangular in shape. Many of the surrounding lots have similar dimensions. The topography of the lot is relatively flat; however, this is

typical for lots in the area. Detached accessory buildings are permitted in the area and may occupy not more than thirty percent of the area of a required rear yard, and cannot not exceed twelve feet in height, except that a maximum height of twenty-five feet is permitted for the second story for a guesthouse/guestroom. The applicant's hardship, as evidenced, is that the existing situation was not created by any act of the current owner and removal or reduction of the structure would represent undue financial hardship. In order to maintain the structure with reduced rear setback and two stories in height, the applicant would be required to reduce the footprint of the structure to a maximum size of one hindered twenty (120) square feet. The applicant asserts this represents a financial hardship.

To address the finding for not granting a special privilege, staff conducted a site visit of other properties in the area. Staff notes there are many properties in this area that have structures within the rear yard setback. Specifically, there are at least four properties within the same zoning district and either adjacent to, or within two lots of, this property which encroach into the setback areas. Three properties to the east have structures within three (3) feet of the rear property line. In staff's opinion, there is limited impact to neighboring properties as a result of the reduced rear yard setback. Visually, the proposed rear yard reduction does not stand out because of the change occurs in the rear yard setback and it is not readily visible from the street.

A consideration when reviewing a variance application is whether there are alternatives that would avoid the need for the variance. The only viable alternative in this case is to remove the subject detached two-story plus basement structure. However, this alternative represents unreasonable interpretation and application of the requirements. Strict application would impose unnecessary financial hardship. The structure has existed for seven (7) years without a single complaint from the neighbors. Considering the accessory structure has been in existence for seven years without any complaints from the neighbors, it would have no impact to the neighboring properties. The applicant did not hold title to the property at the time the subject detached structure was constructed, but became responsible for compliance with the applicable City standards and requirements when they purchased from a bank in a foreclosure proceeding. The Planning Commission has approved several similar variances to accommodate existing conditions created by previous owners and where these properties are sold without full disclosures by financial institutions.

It is unlikely that the approval of Variance would produce any view or privacy impacts on the surrounding properties, as the detached accessory structure would simply continue as it currently exists. Although staff generally discourages Variance requests to increase building size or other major changes the City's standards, staff recommends that the Planning Commission approve the applicant's request due to the financial hardship it would impose to relocate or remove a two-story structure with a basement. There are no changes or additions proposed for the subject detached building. The structure has been in existence since 2003 without any complaints from the neighboring property owners and residences. The granting of the requested Variance would not substantially alter the character of the neighborhood and is consistent with the General Plan land use description, goals, policies and overall direction. Given the surrounding land uses where detached accessory structures are common features, staff believes approval of a Variance would be consistent with the neighboring properties. The granting of the variance will not be materially detrimental to the public welfare or injurious to the adjacent properties, property owners and residences. The property meets all the City code requirements and with the exception of the required variance items. This project will not conflict with adjacent residential uses or adversely affect them as demonstrated by its existence for the last seven (7) years. For reasons discussed above, positive findings can be made in support of the variance. Staff recommends approval of the use variance application subject to the conditions outlined in 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 Variance was published on August 26, 2010. 57 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. At the time of the printing of this report, staff has received no communication from neighbors regarding the proposed variance request.

**ALTERNATIVE PLANNING COMMISSION ACTIONS:**

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

Respectfully Submitted,

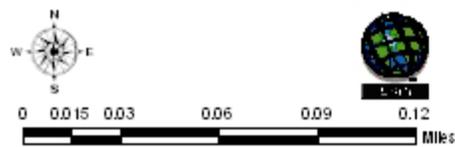
Concur,

Immanuel Bereket  
Associate Planner

Konradt Bartlam  
Community Development Director

**ATTACHMENTS:**

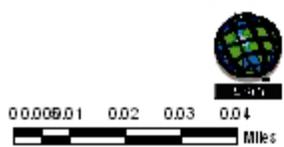
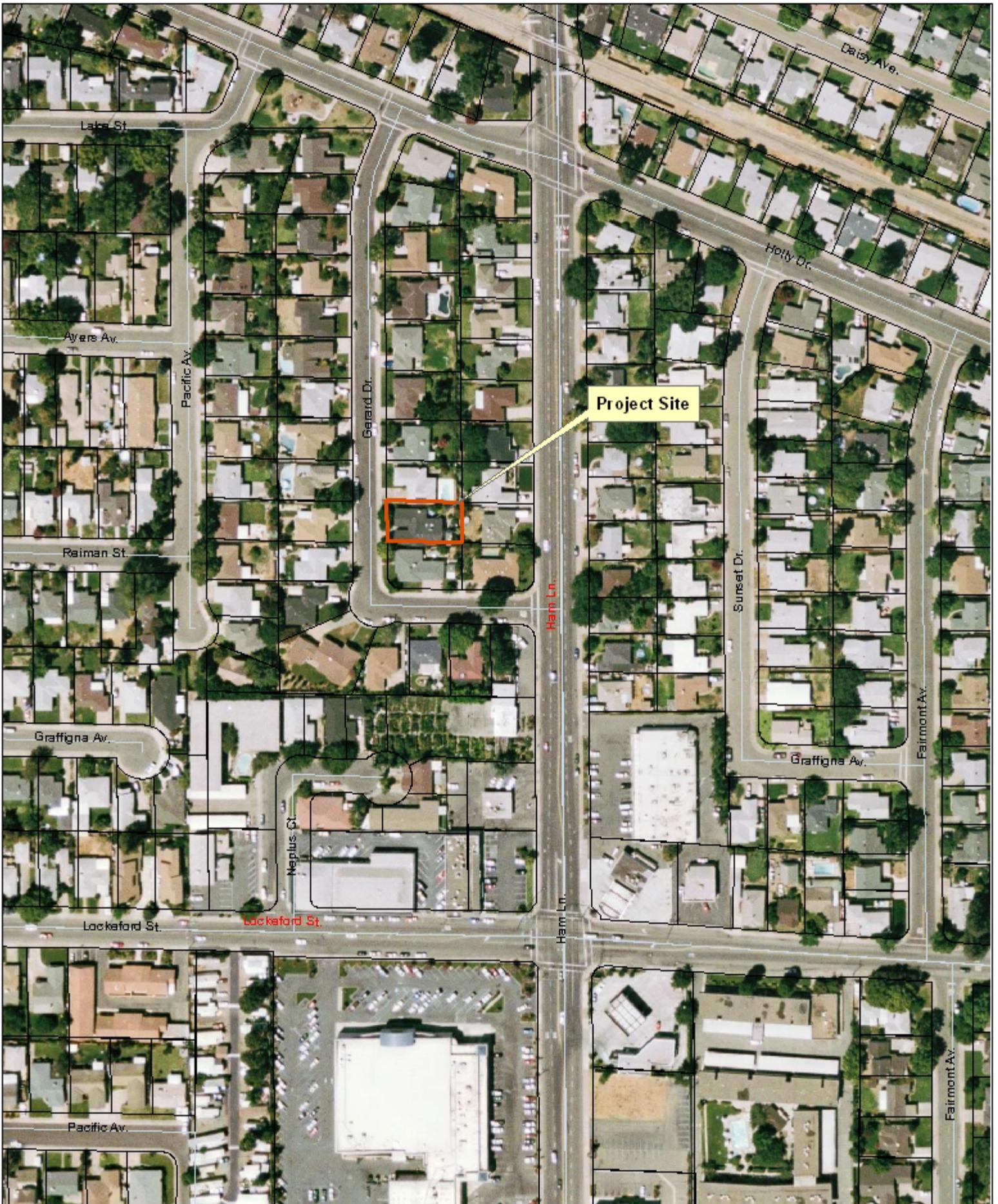
1. Vicinity Map
2. Site Picture
3. Plot Plan/Floor Plan
4. Draft Resolution



**Vicinity Map**  
 506 Gerard Drive  
 (APN: 035-320-13)  
 Lodi, CA 95242

**Legend**

 Project Site

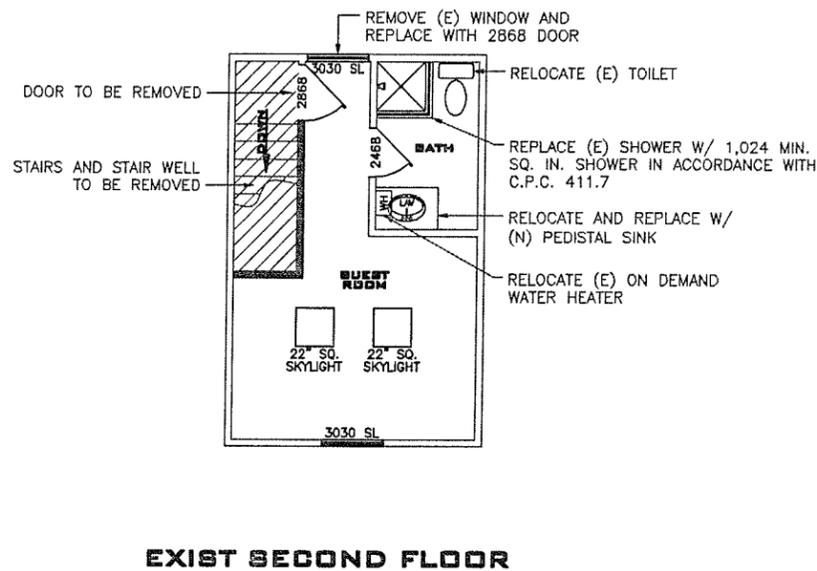
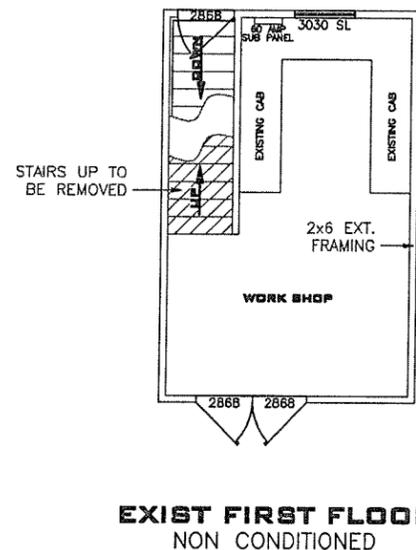
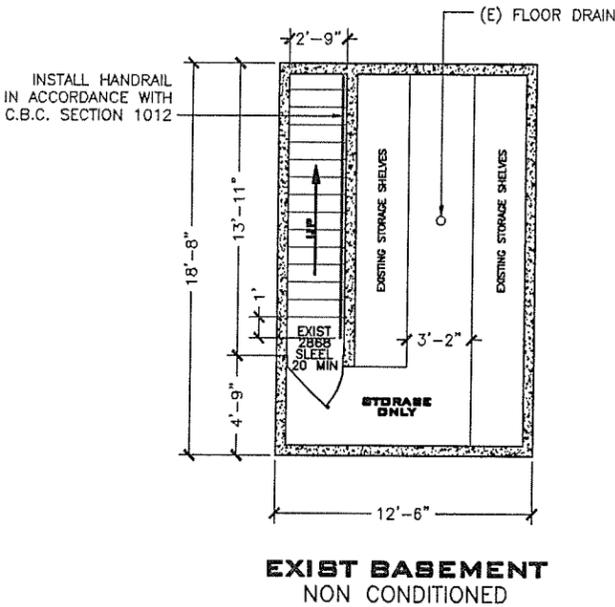


**Aerial Photo**  
506 Gerard Drive  
(APN: 035-320-13)  
Lodi, CA 95242

**Legend**

 Project Site



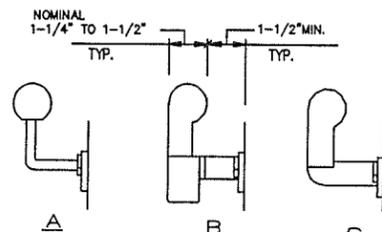


**EXISTING FLOOR PLANS**

SCALE: 1/4" = 1'



**HANDRAILS**



**PLUMBING NOTES:**

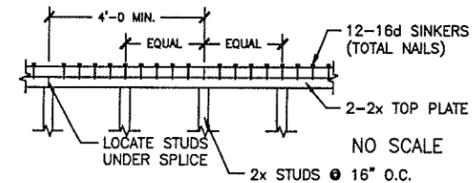
- ANCHOR OR STRAP WATER HEATER TO RESIST EARTHQUAKE MOTION PER 2007 C.M.C.
- WATER OUTLETS WITH HOSE ATTACHMENTS AND HOSE BIBBS MUST HAVE APPROVED NONREMOVABLE TYPE BACK FLOW PREVENTION DEVICES INSTALLED. C.P.C. SECTION 603.4.7
- PROVIDE MINIMUM OF 1/4" PER FT. SLOPE FOR HORIZONTAL DRAINAGE PIPE PER 2007 C.B.C.
- ALL CONNECTED SEWER VENTS SHALL EXTEND SEPARATELY TO OUTSIDE AIR IN ACCORDANCE WITH CHAPTER 9 OF THE 2007 C.P.C.
- CLOTHES WASHER STANDPIPE RECEPTOR SHALL EXTEND BETWEEN 18 AND 30 INCHES ABOVE ITS TRAP. THE TRAP SHALL BE BETWEEN 6 AND 10 INCHES ABOVE THE FLOOR PER C.P.C. 604.1
- PRESSURE TEMPERATURE RELIEF VALVES SHALL BE INSTALLED IN ACCORDANCE WITH THE TERMS OF THEIR LISTING AND THE MANUFACTURERS INSTRUCTIONS. C.P.C. 505.5, 505.6
- CLEAN OUTS SHALL BE PLACED INSIDE THE BUILDING NEAR THE CONNECTION BETWEEN THE BUILDING DRAIN AND THE BUILDING SEWER OR INSTALLED OUTSIDE THE BUILDING AT THE LOWER END OF THE BUILDING DRAIN AND EXTENDED TO GRADE. C.P.C. SECTION 707 & 717
- UNDERGROUND GAS PIPING SHALL BE INSTALLED PER C.P.C. SECTION 1211
- PROVIDE BONDING FROM COLD TO HOT WATER PIPING TO COMPLY WITH THE C.E.C.
- NO DOMESTIC DISHWASHER SHALL BE CONNECTED TO A DRAINAGE SYSTEM OR FOOD WASTE DISPOSER WITHOUT THE USE OF AN APPROVED DISHWASHER AIR GAP FITTING. C.P.C. SECTION 607.4
- SHOWER VALVES SHALL BE AN INDIVIDUAL CONTROL VALVE OF THE PRESSURE BALANCE OR THERMOSTATIC MIXING VALVE TYPE. HANDLE POSITION STOPS SHALL BE PROVIDED ON SUCH VALVES TO LIMIT THE MIXED WATER TO A MAXIMUM TEMPERATURE OF 120 DEGREES FAHRENHEIT.

**NOTES:**

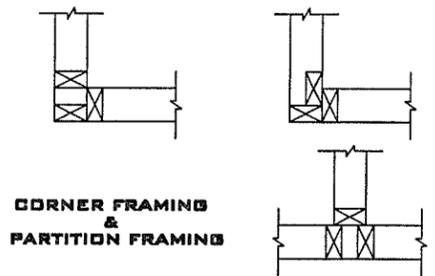
- PROVIDE BOLLARD PROTECTION FOR WATER HEATER PER UPC SECTION 1310(C) AND MECHANICAL EQUIPMENT PER C.M.C.
- SMOKE DETECTORS SHALL BE INTERCONNECTED TO SOUND AN ALARM IN ALL SLEEPING AREAS OF THE DWELLING; BE INSTALLED IN EACH SLEEPING ROOM AND IN THE CORRIDOR OR AREA GIVING ACCESS TO EACH SEPARATE SLEEPING AREA AND BE EQUIP WITH A BATTERY BACKUP AND EMT A SIGNAL WHEN THE BATTERIES ARE LOW AS PER. C.B.C. SECTION 907.2.10.1
- PROVIDE ATTIC ACCESS OPENING (20" x 30" MIN.) READILY ACCESSIBLE WITH A 30" MIN. CLEAR HEAD ROOM ABOVE ACCESS ON ALL ATTIC SPACES WITH A MINIMUM VERTICAL HEIGHT OF 30" C.B.C. SECTION 1209.2
- ALL ESCAPE OR RESCUE WINDOWS SHALL HAVE A MINIMUM NET CLEAR OPENABLE AREA OF 5 SQ. FT. @ GRADE-LEVEL OPENINGS & 5.7 S.F. @ OTHER LOCATIONS. THE MINIMUM NET CLEAR OPENABLE HEIGHT DIMENSION SHALL BE 24 INCHES. THE MINIMUM NET CLEAR OPENABLE WIDTH DIMENSION SHALL BE 20 INCHES WHEN WINDOWS ARE PROVIDED AS A MEANS OF ESCAPE OR RESCUE THEY SHALL HAVE A FINISHED SILL HEIGHT NOT MORE THAN 44 INCHES ABOVE THE FLOOR. C.B.C. SECTION 1028.2
- GLAZING IN DOORS AND WINDOWS SHALL BE PROVIDED WITH TEMPERED GLASS AS REQUIRED IN C.B.C. SECTION 2406 INCLUDING: GLAZING IN BATHUBS AND SHOWER ENCLOSURES AND GLAZING IN ANY PORTION OF A BUILDING WALL ENCLOSING THESE COMPARTMENTS WHERE THE BOTTOM EXPOSED EDGE OF THE GLAZING IS LESS THAN 60 INCHES ABOVE A STANDING SURFACE AND DRAIN INLET; GLAZING IN FIXED OR OPERABLE PANELS ADJACENT TO A DOOR WHERE THE NEAREST EXPOSED EDGE OF THE GLAZING IS WITHIN A 24-INCH ARC OF EITHER VERTICAL EDGE OF THE DOOR IN A CLOSED POSITION AND WHERE THE BOTTOM EXPOSED EDGE OF THE GLAZING IS LESS THAN 60 INCHES ABOVE THE WALKING SURFACE.
- HEARTH EXTENSIONS OF AN APPROVED FACTORY-BUILT FIRE PLACE SHALL CONFORM TO THE CONDITION OF LISTING AND THE MANUFACTURER'S INSTALLATION INSTRUCTIONS.
- HEATING AND COOLING EQUIPMENT (INCLUDING WATER HEATERS) LOCATED IN A GARAGE SHALL BE INSTALLED SO THAT THE PILOTS OR BURNERS ARE AT LEAST 18 INCHES ABOVE THE FLOOR LEVEL.
- PROVIDE COMBUSTION AIR FOR FORCED AIR UNITS AND TO WATER HEATER PER C.P.C. SECTION 507
- DOMESTIC DRYER MOISTURE EXHAUST DUCTS SHALL BE INSTALLED ACCORDING TO THE CMIC SECTION 504.3 AND SHALL NOT EXCEED A TOTAL COMBINED HORIZONTAL AND VERTICAL LENGTH OF 14 FEET, INCLUDING TWO 90° ELBOWS. TWO FEET SHALL BE DEDUCTED FOR EACH 90° ELBOW IN ACCESS OF TWO PER C.M.C. SECTION 504.3.2.2
- EXHAUST FANS REQUIRED IN BATH AND/OR LAUNDRY ROOMS MUST CONNECT DIRECTLY TO THE OUTSIDE WITH A BACKDRAFT DAMPER AND SHALL VENT A MIN. OF 3' FROM ANY OPENING INTO THE BUILDING AND MUST PROVIDE 6 AIR CHANGES PER HOUR.

**GENERAL NOTES:**

- WINDOW AND DOOR SIZES SHOWN ARE FOR DESIGN PURPOSES ONLY. ACTUAL WINDOW AND DOOR SIZES SHALL BE FRAMED AND SET PER MFG. SPECIFICATIONS. MAKE AND MODEL NUMBERS SHALL BE CALLED OUT PER SUPPLIER'S AND/OR OWNER'S SPECIFICATIONS. WINDOWS TO BE DUAL-PANED (U.N.O.)
- ALL GLASS DOORS, GLASS WITHIN 24" OF DOORS AND WITHIN 18" OF FLOORS, GLASS SUBJECT TO HUMAN IMPACT, ETC. SHALL BE SAFETY/TEMPERED PER C.B.C.
- BEDROOM WINDOWS SHALL HAVE MAX. 44" HIGH FLOOR SILLS & MIN. NET CLEAR OPENINGS OF 20" IN. WIDTH & 24" IN. HEIGHT W/ MIN. CLEAR OPENABLE AREA OF 5.7SF PER C.B.C.-1028
- SHOWERS TO BE FINISHED WITH A HARD, NON-ABSORBANT SURFACE TO MIN. HEIGHT OF 70" ABOVE DRAIN PER CBC 1210.3 AND CPC 411.7 W/ TEMPERED GLASS ENCLOSURES. THE BASE FOR WALL TILE IN TUB AND SHOWER AREAS AND WALL AND CEILING PANELS IN SHOWER AREAS SHALL BE CEADIT, FIBER CEMENT, OR GLASS MAT GYPSUM BACKERS IN COMPLIANCE WITH ASTM C 1178, C 1288, OR C 1325, INSTALL PER MANUFACTURERS RECOMMENDATIONS, PER CBC 2509.2
- PROVIDE COMBUSTION AIR FOR FUEL BURNING APPLIANCES PER C.M.C. 701 & C.P.C. 507.
- WATER HEATERS AND FURNACES TO BE C.E.C. CERTIFIED. WATER HEATERS TO HAVE PRESSURE & TEMPERATURE RELIEF DEVICES & DISCHARGE TO OUTSIDE 6" ABOVE GRADE.
- PROVIDE SEISMIC STRAP 22 GAUGE AT WATER HEATER PER C.M.C. & C.B.C. AND RAISE ON PLATFORM 18" ABOVE FLOOR.
- INSTALL PRE-FAB M.T.L. FIREPLACES PER MFG'S SPECS & PROVIDE I.C.B.O. APPROVED NUMBERS TO BUILDING DEPT. PRIOR TO INSTALLATION.
- PROVIDE FIRE STOPS IN OPENINGS, FLOORS, & CEILINGS OF ALL FIREPLACES PER C.B.C. 717, 2111.12, 2113.20, & 1406.2.4
- WATER CLOSETS (TOILETS) SHALL USE NO MORE THAN 1.6 GALLONS/FLUSH PER HEALTH & SAFETY CODE SECTION 17921.3 (b)
- PROVIDE AC/DC SMOKE SMOKE DETECTORS WITHIN EACH SLEEPING ROOM & CENTRALLY LOCATED IN CORRIDORS OR AREAS GIVING ACCESS TO EACH SLEEPING AREA. ALL DETECTORS TO BE INTERCONNECTED TYPICAL.



**TYPICAL SPLICE AT TOP PLATE**



**FRAMING LEGEND**

- = NEW 4x4 POST     = NEW 6x6 POST
- = EXISTING 2x STUDS @ 16" O.C.
- = EXISTING 6" CONC. WALL
- = WALLS TO BE REMOVED

CONTRACTOR SHALL CHECK & VERIFY ALL DIMENSIONS, PLANS AND SPECIFICATIONS PRIOR TO COMMENCING CONSTRUCTION. IF ANY DISCREPANCIES ARISE, THE CONTRACTOR SHALL CONTACT THE ENGINEER PRIOR TO COMMENCEMENT OF CONSTRUCTION FOR CORRECTIONS OR CHANGES.

NOTE: ALL EXTERIOR WOOD SHALL BE PRESSURE TREATED LUMBER UNLESS NOTED OTHERWISE

NOTE: FASTENERS IN TREATED WOOD FOUNDATION SILL PLATES, TREATED WOOD EXTERIOR DECK FRAMING MEMBERS, AND ALL OTHER PRESERVATIVE-TREATED AND FIRE-RETARDANT TREATED WOOD SHALL BE OF HOT DIPPED ZINC-COATED GALVANIZED STEEL MEETING ASTM A-153 CLASS D, OR TYPE 304 STAINLESS STEEL (2007CBC 2304.9.5)

**STREAMLINE  
DIGITAL DESIGN**



PHONE / FAX (209) 961-4837  
E-Mail: lee@dstreamlinedesign.com  
Or visit us at:  
www.dstreamlinedesign.com

EXISTING FLOOR PLANS

SCALE: 1/4" = 1'  
APN # 035-320-13

PLAN DESIGNER: LEE PURDUE

**CITY OF LODI**  
(209) 333-6711

**MICHAEL & ASHLEY  
DODERO**

506 BERARD DR.  
LODI, CA 95242  
(209) 625-8035

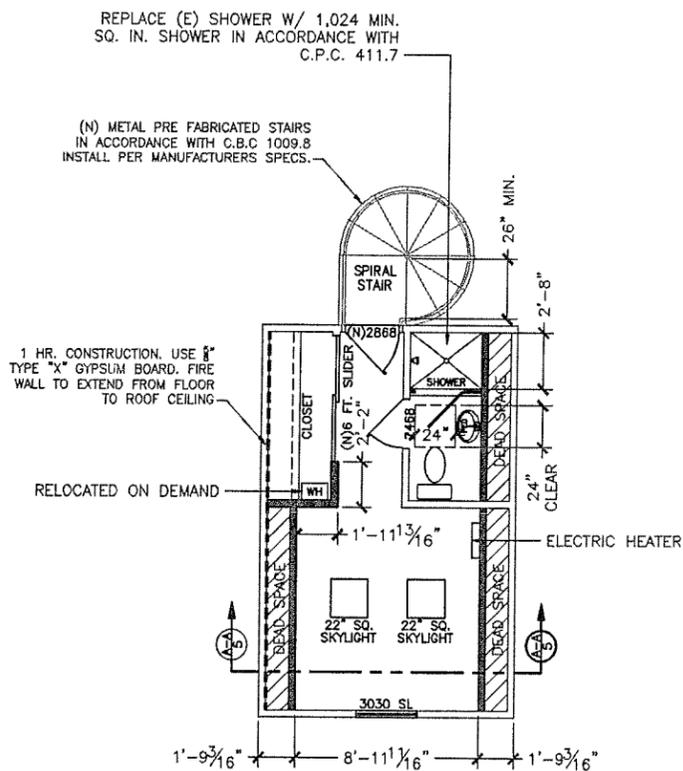
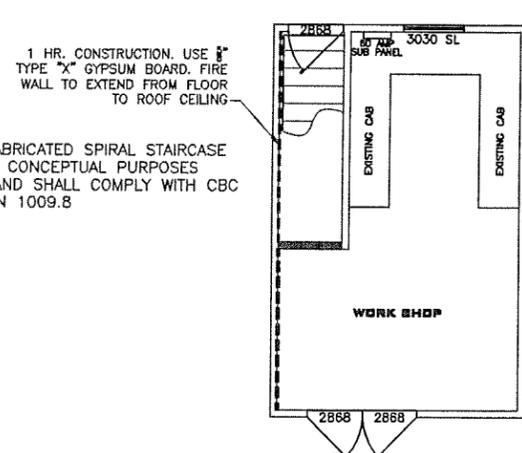
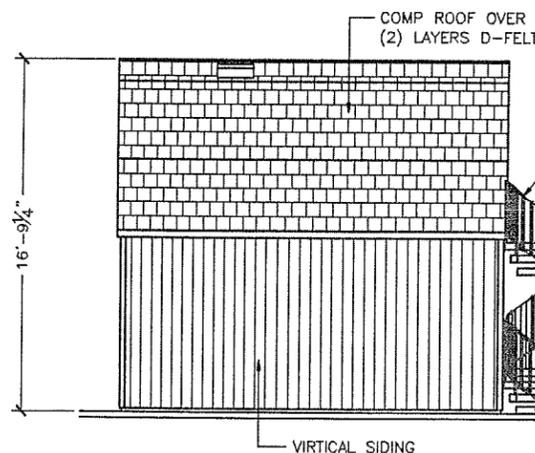
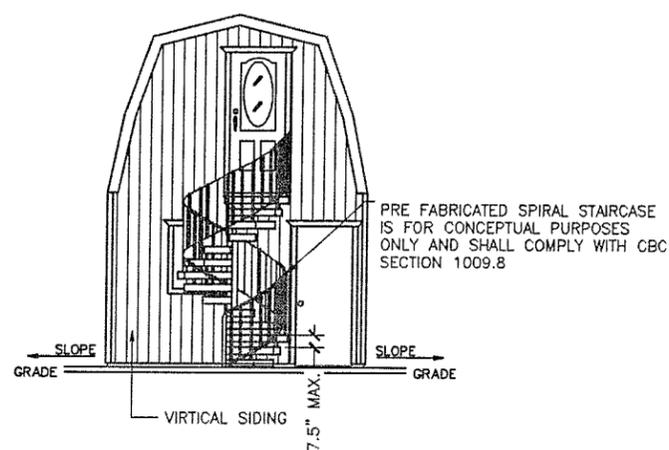
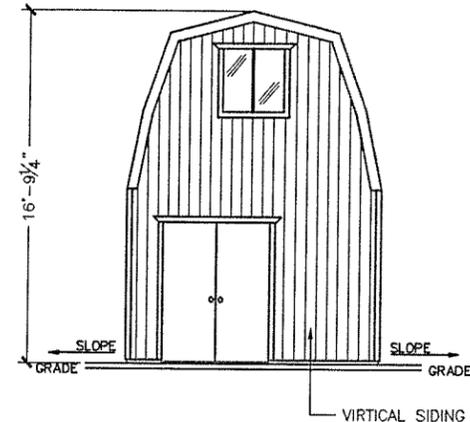
MARCH 2010

REVISION:  
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DRAFTED BY:  
LDP

FILE NAME:  
10-0314-DODERO

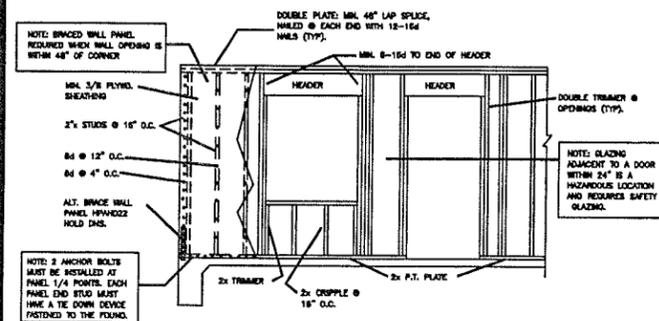
2 OF 6



**PROPOSED FLOOR PLAN**

SCALE: 1/4" = 1'

**WALL FRAMING DETAIL**



NO SCALE

**PLUMBING NOTES:**

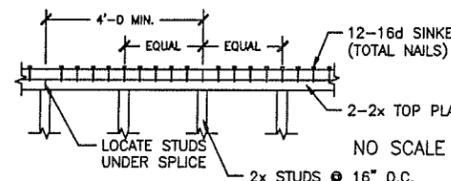
1. ANCHOR OR STRAP WATER HEATER TO RESIST EARTHQUAKE MOTION PER 2007 C.M.C.
2. WATER OUTLETS WITH HOSE ATTACHMENTS AND HOSE BIBBS MUST HAVE APPROVED NONREMOVABLE TYPE BACK FLOW PREVENTION DEVICES INSTALLED. C.P.C. SECTION 603.4.7
3. PROVIDE MINIMUM OF 1/4" PER FT. SLOPE FOR HORIZONTAL DRAINAGE PIPE PER 2007 C.B.C.
4. WITH ANY SEWER CONNECTED VENT, BUT SHALL EXTEND SEPARATELY TO OUTSIDE AIR IN ACCORDANCE WITH CHAPTER 9 OF THE 2007 C.P.C.
5. CLOTHES WASHER STANDPIPE RECEPTOR SHALL EXTEND BETWEEN 18 AND 30 INCHES ABOVE ITS TRAP. THE TRAP SHALL BE BETWEEN 6 AND 10 INCHES ABOVE THE FLOOR PER C.P.C. 504.1
6. PRESSURE TEMPERATURE RELIEF VALVES SHALL BE INSTALLED IN ACCORDANCE WITH THE TERMS OF THEIR LISTING AND THE MANUFACTURERS INSTRUCTIONS. C.P.C. 505.3, 505.6
7. CLEAN OUTS SHALL BE PLACED INSIDE THE BUILDING NEAR THE CONNECTION BETWEEN THE BUILDING DRAIN AND THE BUILDING SEWER OR INSTALLED OUTSIDE THE BUILDING AT THE LOWER END OF THE BUILDING DRAIN AND EXTENDED TO GRADE. C.P.C. SECTION 707 & 717
8. UNDERGROUND GAS PIPING SHALL BE INSTALLED PER C.P.C. SECTION 1211
9. PROVIDE BONDING FROM COLD TO HOT WATER PIPING TO COMPLY WITH THE C.E.C.
10. NO DOMESTIC DISHWASHER SHALL BE CONNECTED TO A DRAINAGE SYSTEM OR FOOD WASTE DISPOSER WITHOUT THE USE OF AN APPROVED DISHWASHER AIR GAP FITTING. C.P.C. SECTION 807.4
11. HOWER VALVES SHALL BE AN INDIVIDUAL CONTROL VALVE OF THE PRESSURE BALANCE OR THERMOSTATIC MIXING VALVE TYPE. HANDLE POSITION STOPS SHALL BE PROVIDED ON SUCH VALVES TO LIMIT THE MIXED WATER TO A MAXIMUM TEMPERATURE OF 120 DEGREES FAHRENHEIT.

**NOTES:**

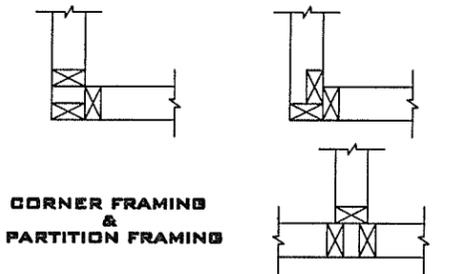
1. PROVIDE BOLLARD PROTECTION FOR WATER HEATER PER UPC SECTION 1310(C) AND MECHANICAL EQUIPMENT PER C.M.C.
2. SMOKE DETECTORS SHALL BE INTERCONNECTED TO SOUND AN ALARM IN ALL SLEEPING AREAS OF THE DWELLING; BE INSTALLED IN EACH SLEEPING ROOM AND IN THE CORRIDOR OR AREA GIVING ACCESS TO EACH SEPARATE SLEEPING AREA AND BE EQUIP WITH A BATTERY BACKUP AND EMIT A SIGNAL WHEN THE BATTERIES ARE LOW AS PER. C.B.C. SECTION 907.2.10.1
3. PROVIDE ATTIC ACCESS OPENING ( 20" x 30" MIN. ) READILY ACCESSIBLE WITH A 30" MIN. CLEAR HEAD ROOM ABOVE ACCESS ON ALL ATTIC SPACES WITH A MINIMUM VERTICAL HEIGHT OF 30" C.B.C. SECTION 1209.2
4. ALL ESCAPE OR RESCUE WINDOWS SHALL HAVE A MINIMUM NET CLEAR OPENABLE AREA OF 5 SQ. FT. @ GRADE-FLOOR OPENINGS & 5.7 S.F. @ OTHER LOCATIONS. THE MINIMUM NET CLEAR OPENABLE HEIGHT DIMENSION SHALL BE 24 INCHES. THE MINIMUM NET CLEAR OPENABLE WIDTH DIMENSION SHALL BE 20 INCHES WHEN WINDOWS ARE PROVIDED AS A MEANS OF ESCAPE OR RESCUE THEY SHALL HAVE A FINISHED SILL HEIGHT NOT MORE THAN 4 INCHES ABOVE THE FLOOR. C.B.C. SECTION 1028.2
5. GLAZING IN DOORS AND WINDOWS SHALL BE PROVIDED WITH TEMPERED GLASS AS REQUIRED IN C.B.C. SECTION 2406 INCLUDING: GLAZING IN BATHUB AND SHOWER ENCLOSURES AND GLAZING IN ANY PORTION OF A BUILDING WALL ENCLOSING THESE COMPARTMENTS WHERE THE BOTTOM EXPOSED EDGE OF THE GLAZING IS LESS THAN 60 INCHES ABOVE A STANDING SURFACE AND DRAIN INLET; GLAZING IN FIXED OR OPERABLE PANELS ADJACENT TO A DOOR WHERE THE NEAREST EXPOSED EDGE OF THE GLAZING IS WITHIN A 24-INCH ARC OF EITHER VERTICAL EDGE OF THE DOOR IN A CLOSED POSITION AND WHERE THE BOTTOM EXPOSED EDGE OF THE GLAZING IS LESS THAN 60 INCHES ABOVE THE WALKING SURFACE.
6. HEARTH EXTENSIONS OF AN APPROVED FACTORY-BUILT FIRE PLACE SHALL CONFORM TO THE CONDITION OF LISTING AND THE MANUFACTURER'S INSTALLATION INSTRUCTIONS.
7. HEATING AND COOLING EQUIPMENT (INCLUDING WATER HEATERS) LOCATED IN A GARAGE SHALL BE INSTALLED SO THAT THE PILOTS OR BURNERS ARE AT LEAST 18 INCHES ABOVE THE FLOOR LEVEL.
8. PROVIDE COMBUSTION AIR FOR FORCED AIR UNITS AND TO WATER HEATER PER C.P.C. SECTION 507
9. DOMESTIC DRYER MOISTURE EXHAUST DUCTS SHALL BE INSTALLED ACCORDING TO THE CMC SECTION 504.3 AND SHALL NOT EXCEED A TOTAL COMBINED HORIZONTAL AND VERTICAL LENGTH OF 14 FEET, INCLUDING TWO 90° ELBOWS. TWO FEET SHALL BE DEDUCTED FOR EACH 90° ELBOW IN ACCESS OF TWO PER C.M.C. SECTION 504.3.2.2
10. EXHAUST FANS REQUIRED IN BATH AND/OR LAUNDRY ROOMS MUST CONNECT DIRECTLY TO THE OUTSIDE WITH A BACKDRAFT DAMPER AND SHALL VENT A MIN. OF 3" FROM ANY OPENING INTO THE BUILDING AND MUST PROVIDE 5 AIR CHANGES PER HOUR.

**GENERAL NOTES:**

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2. ALL GLASS DOORS, GLASS WITHIN 24" OF DOORS AND WITHIN 18" OF FLOORS, GLASS SUBJECT TO HUMAN IMPACT, ETC. SHALL BE SAFETY/TEMPERED PER C.B.C.
3. BEDROOM WINDOWS SHALL HAVE MAX. 44" HIGH FLOOR SILLS & MIN. NET CLEAR OPENINGS OF 20" IN. WIDTH & 24" IN. HEIGHT W/ MIN. CLEAR OPENABLE AREA OF 5.7SF PER C.B.C.-1028
4. SHOWERS TO BE FINISHED WITH A HARD, NON-ABSORBANT SURFACE TO MIN. HEIGHT OF 70" ABOVE DRAIN PER CBC 1210.3 AND CPC 411.7 W/ TEMPERED GLASS ENCLOSURES. THE BASE FOR WALL TILE IN TUB AND SHOWER AREAS AND WALL AND CEILING PANELS IN SHOWER AREAS SHALL BE CEMENT, FIBER CEMENT, OR GLASS MAT GYPSUM BACKERS IN COMPLIANCE WITH ASTM C 1178, C 1288, OR C 1325, INSTALL PER MANUFACTURERS RECOMMENDATIONS. PER CBC 2509.2
5. PROVIDE COMBUSTION AIR FOR FUEL BURNING APPLIANCES PER C.M.C. 701 & C.P.C. 507.
6. WATER HEATERS AND FURNACES TO BE C.E.C. CERTIFIED. WATER HEATERS TO HAVE PRESSURE & TEMPERATURE RELIEF DEVICES & DISCHARGE TO OUTSIDE 6" ABOVE GRADE.
7. PROVIDE SEISMIC STRAP 22 GAUGE AT WATER HEATER PER C.M.C. & C.B.C. AND RAISE ON PLATFORM 18" ABOVE FLOOR.
8. INSTALL PRE-FAB M.T.L. FIREPLACES PER MFG'S SPECS & PROVIDE I.C.B.O. APPROVED NUMBERS TO BUILDING DEPT. PRIOR TO INSTALLATION.
9. PROVIDE FIRE STOPS IN OPENINGS, FLOORS, & CEILINGS OF ALL FIREPLACES PER C.B.C. 717, 2111.12, 2113.20, & 1406.2.4
10. WATER CLOSETS (TOILETS) SHALL USE NO MORE THAN 1.6 GALLONS/FLUSH PER HEALTH & SAFETY CODE SECTION 17921.3 (b)
11. PROVIDE AC/DC SMOKE SMOKE DETECTORS WITHIN EACH SLEEPING ROOM & CENTRALLY LOCATED IN CORRIDORS OR AREAS GIVING ACCESS TO EACH SLEEPING AREA. ALL DETECTORS TO BE INTERCONNECTED TYPICAL.



**TYPICAL SPLICE AT TOP PLATE**



**FRAMING LEDGEND**

- ☒ = NEW 4x4 POST ☒ = NEW 6x6 POST
- = EXISTING 2x4 STUDS @ 16" O.C.
- ▨ = NEW 2x4 STUDS @ 16" O.C.

CONTRACTOR SHALL CHECK & VERIFY ALL DIMENSIONS, PLANS AND SPECIFICATIONS PRIOR TO COMMENCING CONSTRUCTION. IF ANY DISCREPANCIES ARISE, THE CONTRACTOR SHALL CONTACT THE ENGINEER PRIOR TO COMMENCEMENT OF CONSTRUCTION FOR CORRECTIONS OR CHANGES.

NOTE: ALL EXTERIOR WOOD SHALL BE PRESSURE TREATED LUMBER UNLESS NOTED OTHERWISE

NOTE: FASTENERS IN TREATED WOOD FOUNDATION SILL PLATES, TREATED WOOD EXTERIOR DECK FRAMING MEMBERS, AND ALL OTHER PRESERVATIVE-TREATED AND FIRE-RETARDANT TREATED WOOD SHALL BE OF HOT DIPPED ZINC-COATED GALVANIZED STEEL MEETING ASTM A-153 CLASS D, OR TYPE 304 STAINLESS STEEL (2007CBC 2304.9.5)

**STREAMLINE DIGITAL DESIGN**

PHONE / FAX: (209) 951-4837  
 E-Mail: lee@streamlinedesign.com  
 Or visit us at: www.streamlinedesign.com

FLOOR PLAN ALTERATIONS / ELEVATIONS

SCALE: 1/4" = 1'

APN # 035-320-13

PLAN DESIGNER: LEE PURDUE

**CITY OF LODI**  
(209) 333-6711

**MICHAEL & ASHLEY DODERO**

506 BERARD DR.  
 LODI, CA 95242  
 (209) 629-8035

MARCH 2010

REVISION: 0

DRAFTED BY: LDP

FILE NAME: 10-0314-DODERO

3 OF 6

CITY OF LODI

506 Gerard Dr.  
BUILDING ADDRESS

Campbell, Earl  
OWNER

Permit No 8923

Building Permit - - \$ 24.00  
Elect. - - \$ 4.50  
Plumb. - - \$ 3.00  
Gas - - - \$ 5.50  
Water & Sewer - - \$ 45.00  
TOTAL - - - \$ 82.00

Building Value \$ 16,000  
Type of Construction V

Date 12-17-57  
Occupancy Group I-5  
Fire Zone 3 Bldg. Zone R-2

Type of Work Comm. dwell - 3 bldm - att gar.  
Contractors: Bldg. owner Plumb. ? Elect. full ?

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

Owner's Signature Earl Campbell By.....  
Owner's Address ..... Owner's Phone .....

Permission is hereby granted to do the above described work at the following location:  
Lot 18 Block..... Subdivision Fugazi Manor Issued by Pat Walsh

506 Gerard Dr.

BUILDING ADDRESS

CITY OF LODI

Hoff, Nideon  
OWNER

Building Permit - - \$ 30.00  
Plan Check Fee - - \$  
Elect. - - \$ 7.75  
Plumb. - - \$ 14.00  
Mechanical \$ 7.50  
#1152 - - \$ .59  
TOTAL - - \$ 59.84

Permit No 5863 A  
Building Value \$ 8,400.00  
Type of Construction V  
Type of Work Addition  
No. Bedrooms

Date May 11, 1972  
Occupancy Group I  
Fire Zone 3 Bldg. Zone R-2

Contractors: Bldg. Owner Plumb. Owner Elect.

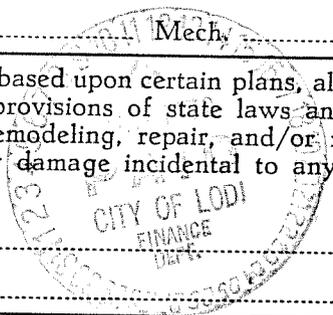
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Owner's Signature Nideon F. Hoff By

Owner's Address Owner's Phone

Permission is hereby granted to do the above described work at the following location:

Property Description Lot 18, Fugazzi Manor Issued by RR



PERMIT

CITY OF LODI - COMMUNITY DEVELOPMENT DEPARTMENT, BUILDING INSPECTION DIVISION, 221 W PINE STREET, PO BOX 3006, LODI, CA 95241-1910

Application No.: 9573 Application Date: 10/03/95 Permit Date: 11/08/95 Permit No.: 28341
Job Address: 00506 N GERARD DR Assessor Parcel No.: 35-320-0013 Subdivision: Lot No.:
Property Owner: ANDERSON, NEIL O & RUTH F 2. Phone No.:
Mailing Address: 506 GERARD DR City/State: LODI CA Zip Code: 95242-0000

Permit Class: ADD/ALTER/REMODEL Permit Types: BLDG MECH ELEC PLMB UBC Group: R-3 UBC Type: V-N

Project Description: GARAGE ADDITION/MOVE BATHROOM/LAUNDRY ROOM/ADD BEDROOM/DOCUMENT CONVERSION OF BEDROOM TO OFFICE.

Project Manager: BRIAN JUDD Subs (Y/N): Phone No.: 209-727-3933
Contractor: INTERIOR SPECIALTY License No.: 600784 Phone No.: 209-727-3933
Address: 14855 E PARKDALE DR City/St: LOCKFORD CA Zip: 95232-0000
Lender Name: Address:

Table with columns: Census No., Subcode, Description, A/D/Y, Qty/Value, BVD, #Units, #Bldg, Value, Sewer. Rows include Garage Expansion and Residential Interior Remodel.

Summary table with columns: Total Qty/Value, 685, Total Value, 20,374, Zoning, FEE, DATE. Lists various permit fees and their dates.

WORKERS COMPENSATION

CERTIFICATE OF EXEMPTION FROM WORKERS COMPENSATION INSURANCE

I hereby affirm that I have a certificate of consent to self-insure, or a certificate of Workers Compensation Insurance, or a certified copy thereof (Sec 3800, Labor Code)

I certify that in the performance of the work for which this permit is issued, I shall not employ any person in any manner so as to become subject to the Workers Compensation Laws of California.

Policy No.
Company EXEMPT

Date NOV 8 1995 Applicant Brian Judd

Certified copy is hereby furnished
Certified copy filed with Building Inspection Division

NOTICE TO PERMITEE: If, after making this Certificate of Exemption, you should become subject to the Workers Compensation Provisions of the Labor Code, you must forthwith comply with such provisions or this permit shall be deemed revoked.

I certify that I have read this Permit and state that the above information is correct. I agree to comply with all City Ordinances and State Laws relating to Building Construction, and hereby authorize representatives of the City of Lodi to enter upon the above-mentioned property for inspection purposes.

Contractor Signature of Contractor, Owner or Agent
Owner
Agent for Contractor Owner

Date NOV 8 1995
Issued by: CB

ADDRESS OF AGENT CITY STATE ZIP TELEPHONE

NOTICE

THIS PERMIT WILL EXPIRE BY LIMITATION IF WORK IS NOT STARTED IN 180 DAYS OR IF WORK IS ABANDONED FOR MORE THAN 180 DAYS DO NOT CONCEAL OR COVER ANY CONSTRUCTION UNTIL THE WORK IS INSPECTED AND IS RECORDED ON THE INSPECTION RECORD CARD

506 Gerard

28341

22'6"

Existing House

Furniture Closet

Bedroom Addition

5'6"

5' →

CITY OF LODI  
 COMMUNITY DEVELOPMENT  
 PLANNING

APPROVED  
 CONDITIONALLY APPROVED

DATE 10-9-95 BY KAM

Proposed Addition "Garage"

Drive Way

22'

506 N. Gerard Drive

#  
28341



**PERMIT**

CITY OF LODI - COMMUNITY DEVELOPMENT DEPARTMENT - Building Inspection Division - (209) 333-6714

Permit No.: **B9607**  
Job Address: **506 GERARD DR**  
APN: 035-320-13 Subdivision: Lot No:

Date Applied: July 24, 2003  
Date Issued: July 24, 2003

Owner: **ANDERSON, NEIL O & RUTH F**  
Owner's Address: **506 GERARD DR**

City, State Zip: **LODI CA 95242**

Contractor: **OWNER OF RECORD**  
State Lic. No. **12345** Type:

Phone:

Contractor Address:  
Applicant: **OWNER OF RECORD**

City, State Zip:

Work Description:	Tearoff 1 layer wood shingles/spaced sheathed/7/16 osb solid sheathing/comp		
Total Sq. Ft.:	Sq.Ft.	Valuation:	\$ 6,600
No. Stories:	0	No. of Bdrm.:	0
Zoning:	08	Type Project:	RESIDENTIAL
		Construction. Type:	Type V Nonrated
		Occupancy:	R-3
		Plan No.:	

**Licensed Contractor Declaration:** I hereby affirm under penalty of perjury that I am licensed under provisions of Chapter 9 (Commencing with Sec. 7000) of Division 3 of the Business and Professions Code, and my license is in full force and effect. Date: \_\_\_\_\_  
Contractor: \_\_\_\_\_

**Owner-Builder Declaration:** I hereby affirm under penalty of perjury that I am exempt from the Contractors License Law for the following reason (Sec. 7031.6 of the Business and Professions Code states Any city or county which requires a permit to construct, alter, improve, demolish, or repair any structure prior to its issuance, also requires the applicant for such permit to file a signed statement that he or she is licensed pursuant to the provisions of the Contractors License Law (Chapter 9 commencing with Sec. 7000 of Division 3 of the Business and Professions Code) or that he or she is exempt therefrom and the basis for the alleged exemption. Any violation of Sec. 7031.6 by any applicant for a permit subjects the applicant to a civil penalty of not more than five hundred dollars (\$500).

**Workers Compensation Declaration:** I hereby affirm under penalty of perjury one of the following declarations:

\_\_\_\_\_ I have and will maintain a certificate of consent to self-insure for workers' compensation, as provided for by Sec. 3700 of the Labor Code, for the performance of the work for which this permit is issued.

\_\_\_\_\_ I have and will maintain workers' compensation insurance, as required by Sec. 3700 of the Labor Code, for the performance of the work for which this permit is issued. My workers' compensation carrier and policy number are:

Carrier:  
Policy No.:

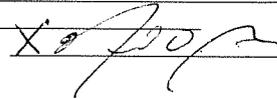
\_\_\_\_\_ I certify that in the performance of the work for which this permit is issued, I shall not employ any person in any manner so as to become subject to the workers' compensation provisions of Sec. 3700 of the Labor Code, and I shall forthwith comply with these provisions.

Date: \_\_\_\_\_  
Applicant: \_\_\_\_\_

I, as owner of the property, or my employees with wages as their sole compensation, will do the work, and the structure is not intended for sale. (Sec. 7044 Business and Professions Code, the Contractors License Law does not apply to the owner of a property who builds or improves thereon, and who does such work himself or herself or through his or her own employees, provided that such improvements are not intended or offered for sale. If however, the building or improvement is sold within one year of completion, the owner-builder will have the burden of proving that he or she did not build or improve for the purpose of sale.)

\_\_\_\_\_ I, as owner of the property, am exclusively contracting with licensed contractors to construct the project (Sec. 7044, Business and Professions Code, states that the Contractors License Law does not apply to an owner of property who builds or improves thereon, and who contracts for such projects with a contractor(s) licensed pursuant to the Contractors License Law).

\_\_\_\_\_ I am exempt under Sec. \_\_\_\_\_ B. & P. C. for this reason: \_\_\_\_\_

Date: \_\_\_\_\_  
Owner: 

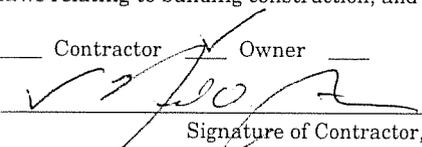
**WARNING: Failure to secure workers' compensation coverage is unlawful, and shall subject an employer to criminal penalties and civil fines of up to one hundred thousand dollars (\$100,000), in addition to the cost of compensation, damages as provided for in Section 3706 of the Labor Code, interest, and attorney's fees.**

**Construction Lending Agency:** I hereby affirm under penalty of perjury that there is a construction lending agency for the performance of the work for which this permit is issued:

I certify that I have read this application and state that the above information is correct. I agree to comply with all city and county ordinances and state laws relating to building construction, and hereby authorize representatives of this city to enter upon the above mentioned property for inspection purposes.

\_\_\_\_ Contractor  Owner \_\_\_\_\_ Agent for: \_\_\_\_\_ Contractor \_\_\_\_\_ Owner \_\_\_\_\_

Issued by: JHS

  
Signature of Contractor, Owner or Agent

\_\_\_\_\_ Date

**NOTICE**

THIS PERMIT WILL EXPIRE BY LIMITATION IF WORK IS NOT STARTED WITHIN 180 DAYS OF ISSUANCE, OR IF WORK IS ABANDONED FOR MORE THAN 180 DAYS. DO NOT CONCEAL OR COVER ANY CONSTRUCTION UNTIL THE WORK IS INSPECTED AND IS RECORDED ON THE INSPECTION RECORD FORM.

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

**A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF LODI APPROVING THE REQUEST OF MICHAEL DODERO FOR APPROVAL OF A VARIANCE TO REDUCE THE REAR YARD SETBACK FROM 10 FEET TO 4 FEET AND INCREASE LOT COVERAGE FROM 45 PERCENT TO 46 PERCENT AT 506 GERARD DRIVE**

**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. Michael Dodero, 506 Gerard Drive, Lodi, CA; and

**WHEREAS**, the project site is located at 506 Gerard Drive, Lodi, CA 95242 (APN: 035-320-13); and

**WHEREAS**, the project site is zoned R-2, Residential Single-Family; and

**WHEREAS**, the project site has a General Plan designation of Low Density Residential; 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 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. A variance may be 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 structure has been on the property for many years and is similar to many accessory structures located in the neighborhood. The applicant would like to keep the accessory structure as it stands. Granting the variance will not increase the size of the structure.
3. 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.
4. Approval of the requested variance will not affect the existing land use pattern in the neighborhood where there are many residences with similar type of accessory structures.
5. 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-02 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: September 8, 2010

I hereby certify that Planning Commission Resolution Number 10-18 was approved and adopted by the Planning Commission of the City of Lodi at a regular meeting held on September 8, 2010 by the following vote:

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

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

# Item 3b.

**CITY OF LODI  
PLANNING COMMISSION  
Staff Report**

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**MEETING DATE:** September 8, 2010

**APPLICATION NO:** 10-A-06

**REQUEST:** Request for Planning Commission approval of a variance to reduce the required five feet side yard setback to less than one foot at 544 East Oak Street. (Applicants: Dave Lewis; File No. 10-A-06).

**LOCATION:** 544 East Oak Street  
(APN: 043-150-07)  
Lodi, CA 952420

**APPLICANT:** Dave A. Lewis  
544 East Oak Street  
Lodi, CA 95240

**PROPERTY OWNER:** The same as above.

**RECOMMENDATION**

Staff recommends that the Planning Commission approve the request of Mr. Lewis for a variance to allow reduced side yard setback, subject to the condition outlined in the attached resolution.

**PROJECT/AREA DESCRIPTION**

**General Plan Designation:** Medium Density Residential.

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

**Property Size:** 7,180 sq. ft.

The adjacent zoning and land use are as follows:

	<b>General Plan</b>	<b>Zone</b>	<b>Existing Conditions/Uses</b>
North	PUB, LUSD	PUB, Public	LUSD, School District property
South	Medium Density Residence	RE-1, Residential Single-Family, Eastside.	Single Family residences
East	Medium Density Residence	RE-1, Residential Single-Family, Eastside.	Single Family residences
West	Medium Density Residence	RE-1, Residential Single-Family, Eastside.	Single Family residences

**SUMMARY**

The applicant, Mr. Lewis, is requesting approval of a variance to allow a detached structure to encroach into the required 5-foot side yard setback. The City of Lodi Municipal Code requires a minimum of 5-ft setback from side property lines for structures of 120 sq. ft floor area or more. The applicant built the structure in question in 2002 with less than 2-ft side yard setback. The applicant requests a Variance approval to encroach into the required side yard setback.

**BACKGROUND**

The parcel is located at 544 East Oak Street. As a result of complaints received by the Police Department, it was found that an accessory structure existed too close to the side property line. Code Enforcement personnel issued a notice of violation. In his application for a Variance, the applicant indicates he was unaware of the City's requirements as he replaced a similar structure on the same location. The structure has been in place since its construction in 2002 without any complaints from the neighbors until recently. The project parcel contains a legally permitted second dwelling unit. The main house is accessed from Oak Street while the second dwelling unit is accessible from the ally.

## **REGULATORY SETTINGS**

The applicable setback standards governing buildings and accessory structures are set forth in the Lodi Municipal Code § 17.57.160. The City originally adopted Ordinance No. 629 in December 3, 1958 to govern acquisition of future right-of-ways. In addition, Ordinance No. 629 established definitions of buildings and structures, set forth procedure for the establishment of setback lines in the future and decided setback lines for buildings and accessory structures would be established at a later date (Attachment 2).

In August 1990, the City adopted Ordinance 1494 (Attachment 3), which amended Ordinance No. 629 and provided clear definition of setbacks for accessory structures. The setback requirements were set forth as:

“ Detached accessory buildings shall have a maximum size of one hundred twenty square feet. The overall height of the building shall not exceed eight (8) feet and the eave height shall not exceed seven (7) feet. No accessory building shall be closer than six (6) feet to any main building or closer than three (3) feet to any side or rear property line. (Ord. 1494 § 1, 1990; prior code § 27-13(g).”

Detached buildings over 120 sq. ft. are treated as any principal structure and are required to maintain a 5-foot side yard, 20-foot front yard, and 10-foot rear yard setbacks. The setback requirements specified in the ordinance were consistent with the Building Code in effect at that time. Accessory structures equal to or less than 120 sq. ft. do not require building permits, but are still required to maintain the setback requirements set forth hereinabove.

## **ANALYSIS**

The applicant, Mr. Lewis, is requesting a Variance to allow reduced side yard setback for an accessory structure constructed in 2002. The structure in question is attached to the detached garage. The existing detached garage maintains a side yard setback of fifteen inches (15”). The structure in question maintains the same setback as the garage. Available City records indicate the primary residence and detached garage were constructed in the 1940s. The property is zoned RE-1, Residential Single-Family Eastside, which lists accessory structures (tool sheds) as permitted structures subject to the municipal code and the building code in effect at the time. The subject single family residence is generally in conformance with development standards and the accessory structure has been in existence without any complaints from the neighbors. However, the RE-1 zoning district requires a 5-foot side yard setback for structures 120 sq ft or more. In this case, as shown on the plot plan (Attachment 3), the subject structure encroaches into the required setback.

Chapter 17.72.030(A) of the City's Zoning Code establishes that Variances can only be granted by the Planning Commission based on specific findings. The first finding includes a demonstration that special circumstances affect the ability to develop the property. These physical constraints include the size, shape, topography, location or surrounding. The Commission must find that the site constraints deprive the property of privileges enjoyed by other property owners in the vicinity. Secondly, the Commission must find that the approval of a variance will not grant a special privilege inconsistent with the limitations on other properties in the vicinity. Finally, variances cannot authorize a use or activity not otherwise authorized by the applicable zoning district. Based on the following discussion, staff believes the Commission can approve the variance.

To address the finding for not granting a special privilege, staff conducted a site visit of other properties in the area. The surrounding uses consist of a diverse mix of land uses either adjacent to or within sight of the property. This is old part of town where many structures have legally non-conforming status regarding setbacks. The existing garage is a legally non-conforming structure. The structure in question is attached to back of the existing garage and maintains the same setback as the garage. The structure is not visible from the public street and is architecturally consistent with existing conditions.

In staff's opinion, there will be a limited impact, visual or otherwise, to neighboring properties as a result of the reduced setbacks. The difference will be almost imperceptible. It is unlikely that the approval of

Variance would produce any view or privacy impacts on the surrounding properties, as the structure in question would simply continue as it currently constitutes. The structure has been in existence without a complaint from its neighbors since its construction in 2002. There are no changes or additions being requested with this Variance. Staff is of the opinion granting of the requested variance would not substantially alter the character of the neighborhood and is consistent with existing conditions in diverse neighborhood. Furthermore, staff feels approval of a Variance will not be materially detrimental to the public welfare or injurious to the adjacent properties, property owners and residences. The property meets all the City code requirements and with the exception of the requested variance item. There are no outstanding code violations related to the property. Staff believes approval of a Variance would not conflict with adjacent residential uses or adversely affect them as demonstrated by its existence for the last eight (8) years. For reasons discussed above, positive findings can be made in support of the use variance. Staff recommends approval of the use variance application subject to the conditions outlined in 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 Variance was published on August 26, 2010. 34 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. The City has received thirteen (13) letters in support of the variance request.

**ALTERNATIVE PLANNING COMMISSION ACTIONS:**

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

Respectfully Submitted,

Concur,

Immanuel Bereket  
Associate Planner

Konradt Bartlam  
Community Development Director

**ATTACHMENTS:**

1. Vicinity Map
2. Aerial Photo
3. Plot Plan
4. Draft Resolution

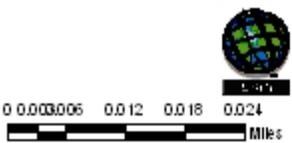


0 0.015 0.03 0.06 0.09 0.12 Miles

**Vicinity Map**  
544 East Oak Street  
(APN: 043-150-07)  
Lodi, CA 952420

## Legend

 Project Site



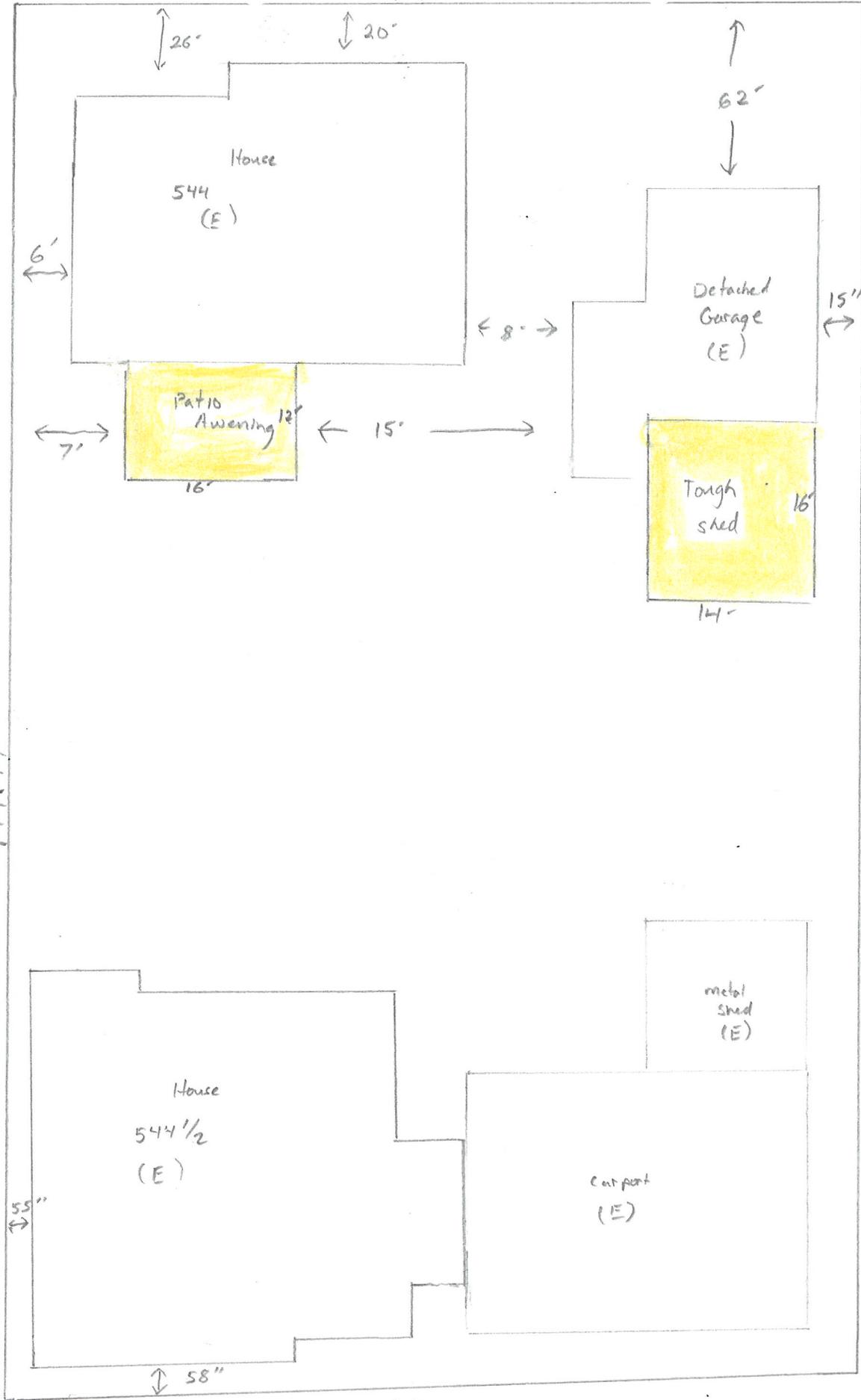
**Aerial Photo**  
544 East Oak Street  
(APN: 043-150-07)  
Lodi, CA 952420

### Legend

 Project Site

544 E. Oak St.

50



144.44

142.76



50

Alley

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

**A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF LODI APPROVING THE REQUEST OF DAVE LEWIS FOR APPROVAL OF A VARIANCE TO REDUCE THE REQUIRED FIVE FEET SIDE YARD SETBACK TO LESS THAN ONE FOOT AT 544 EAST OAK 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. Dave Lewis, 544 East Oak Street, Lodi, CA; and

**WHEREAS**, the project site is located at 544 East Oak Street, Lodi, CA 95240 (APN: 043-150-07); and

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

**WHEREAS**, the project site has a General Plan designation of Medium Density Residential; 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 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. A variance may be 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 structure has been on the property for many years and is similar to many accessory structures located in the neighborhood. The applicant would like to keep the accessory structure as it stands. Granting the variance will not increase the size of the structure.
3. 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.
4. Approval of the requested variance will not affect the existing land use pattern in the neighborhood where there are many residences with similar type of accessory structures.
5. 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-06 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 within ninety (90) days from the effective date of this Variance approval.
3. The applicant shall comply with all requirements of Public Works Department, Fire Department and all applicable utility agencies.

**Dated: September 8, 2010**

I hereby certify that Planning Commission Resolution Number 10-18 was approved and adopted by the Planning Commission of the City of Lodi at a regular meeting held on September 8, 2010 by the following vote:

AYES: Commissioners:

NOES: Commissioners:

ABSENT: Commissioners:

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

# Item 3c.

**CITY OF LODI  
PLANNING COMMISSION  
Staff Report**

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**MEETING DATE:** September 8, 2010

**APPLICATION NO:** Use Permit: 10-U-12

**REQUEST:** Request for Planning Commission approval of a Use Permit to allow wholesale distribution of alcoholic beverages at 960 South Guild Avenue. (Applicant: Javier Toscano; File Number: 10-U-12)

**LOCATION:** 960 South Guild Avenue  
APN: 049-310-41  
Lodi, CA 95240

**APPLICANT:** Javier Toscano  
923 Copper Ct  
Stockton, CA 95210

**PROPERTY OWNER:** Carl Panattoni ETAL  
8401 Jackson Rd  
Sacramento, CA 95826

**RECOMMENDATION**

Staff recommends that the Planning Commission approve the request of Javier Toscano for a Use Permit to allow a Type-12 and Type 18 Alcoholic Beverage Control (ABC) licenses at 960 South Guild Street, subject to the conditions in the attached resolution.

**PROJECT AREA DESCRIPTION**

**General Plan Designation:** Industrial

**Zoning Designation:** M-1, Light Industrial

**Property Size:** 17.81 acres. (The tenant space measures approximately 8,000 sq. ft.)

The adjacent zoning and land use characteristics:

	<b>General Plan</b>	<b>Zone</b>	<b>Land Use</b>
<b>North</b>	Industrial	M-2, Heavy Industrial	Warehouse/industrial use
<b>South</b>	Industrial	M-1, Light Industrial	Warehouse/industrial use
<b>East</b>	A/G, San Joaquin County	Ag-40, Agriculture	Agricultural use
<b>West</b>	Industrial	M-1, Light Industrial	Warehouse/industrial use

**SUMMARY**

The applicant, Mr. Javier Toscano, is requesting approval of a Use Permit to allow a Type-12 and a Type-18 Alcoholic Beverage Control (ABC) licenses at an existing warehouse located at the 960 South Guild Street, within Light Industrial (M-1) zoning district. The applicants imports and exports distilled spirits (tequila). The City requires a Use Permit for the sale of alcoholic beverages. The census tract in which this business is located is over-concentrated and, therefore, the Commission needs to make a finding of public necessity and/or need to

approve additional ABC license. To date, staff has not received any letters in opposition to the request.

## **BACKGROUND**

The applicant intends to occupy a portion of the existing warehouse to distribute distilled spirits. The warehouse is occupied by several businesses ranging from winery storage to office supply storage businesses. The warehouse building has three suites. The applicant would approximately 8,000 sq. ft of the warehouse. Because of the alcohol content and State Department of Alcoholic Beverage Control requirements, the applicant would be required to clearly separate his business from the rest of the warehouse. To accomplish this, the applicants would be required to apply for a tenant improvement permit.

## **ANALYSIS**

The applicant is requesting approval of a Use Permit to allow Type-12 and a Type-18 Alcoholic Beverage Control (ABC) licenses 960 South Guild Street. The project site is zoned Light Industrial (M-1). In the M-1 zoning district, warehouse and distribution of alcoholic beverages is permitted for on and off-site consumption with the granting of a Use Permit by the Planning Commission, pursuant to §17.72.040 of the Lodi Municipal Code, which requires a Use Permit for new Off-Sale and On-Sale alcohol licenses as well as changes in license type. Type-12 ABC license issued to a licensee who has another type of non-retail distilled spirits license. This license has no sale privileges. It only permits the holder to import and export alcoholic beverages. Type-18 ABC license permits the wholesale distribution distilled distribution retailers such as qualified liquor stores, grocery stores, restaurants etc.

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 project belongs to Census Tract 44.01. Census Tract 42.01 covers the area south of Lodi Avenue, west of Central California Traction Company (C.C.T) Line, north of Kettleman Lane, and east of Union Pacific Rail Road Company (U.P.R.R). According to ABC, Census Tract 44.01 contains sixteen (16) existing off-sale licenses with seven (7) off-sale licenses allowed based on the ABC criteria. 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 off-sale license. In the past, the Planning Commission and the Planning staff have generally supported wholesale distributors who wish to acquire an ABC off-sale license, because typically, no retail sales or on-site consumption occurs.

Staff sent copies of the application to various City departments for comments and review. Their comments and requirements have been incorporated into the attached resolution. Staff has contacted the Lodi Police Department for their requirement for approval of the proposed off-sale beer and wine application and they do not anticipate alcohol related problems. The Lodi Police Department recommends approval subject to the conditions outlined in the attached resolution.

If approved, the project will be precluded from having external advertising of alcohol (e.g. window and wall displays) by Condition #3. Conditions #4 and #5 will assist in addressing issues commonly associated with alcohol sales, such as sales to transients, loitering, open containers, etc. Further, these conditions will assist in maintaining the appearance of the establishment as a general store rather than a liquor store. Moreover, the proposed use will not result in an "undue concentration" of establishments dispensing alcoholic beverages as defined by Section 23958 and 23958.4 of the California Business and Professional Code and

giving consideration to the California Department of Alcoholic Beverage Control's guidelines related to number and proximity of such establishments within a 1,000-foot radius of the site.

In staff's opinion, the proposed sale of alcohol for off-site consumption will not result in any adverse conditions and that the intent of the proposed use is wholesale distribution of distilled spirits and sale of single-serving containers is permitted. Warehouse and wholesale of alcoholic beverages is permitted by-right in the M-1 zoning district. Staff recommends conditions of approval that will allow the City to reconsider the Use Permit if there is a significant increase in police or other public services provided to the site following the effective date of this Use Permit. The proposed project is consistent with the use on the site and compatible with the General Plan and Zoning Ordinance land uses. Staff believes that the required findings necessary for the approval of a Use Permit have been made in the attached resolution. Therefore, recommends approval the Use Permit subject to the conditions outlined in 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 August 26, 2010. Nine (9) public hearing notices were sent to all property owners of record within a 300-foot radius of the subject property as required by California State Law §65091 (a) 3. No protest letter has been received.

**ALTERNATIVE PLANNING COMMISSION ACTIONS:**

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

Respectfully Submitted,

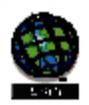
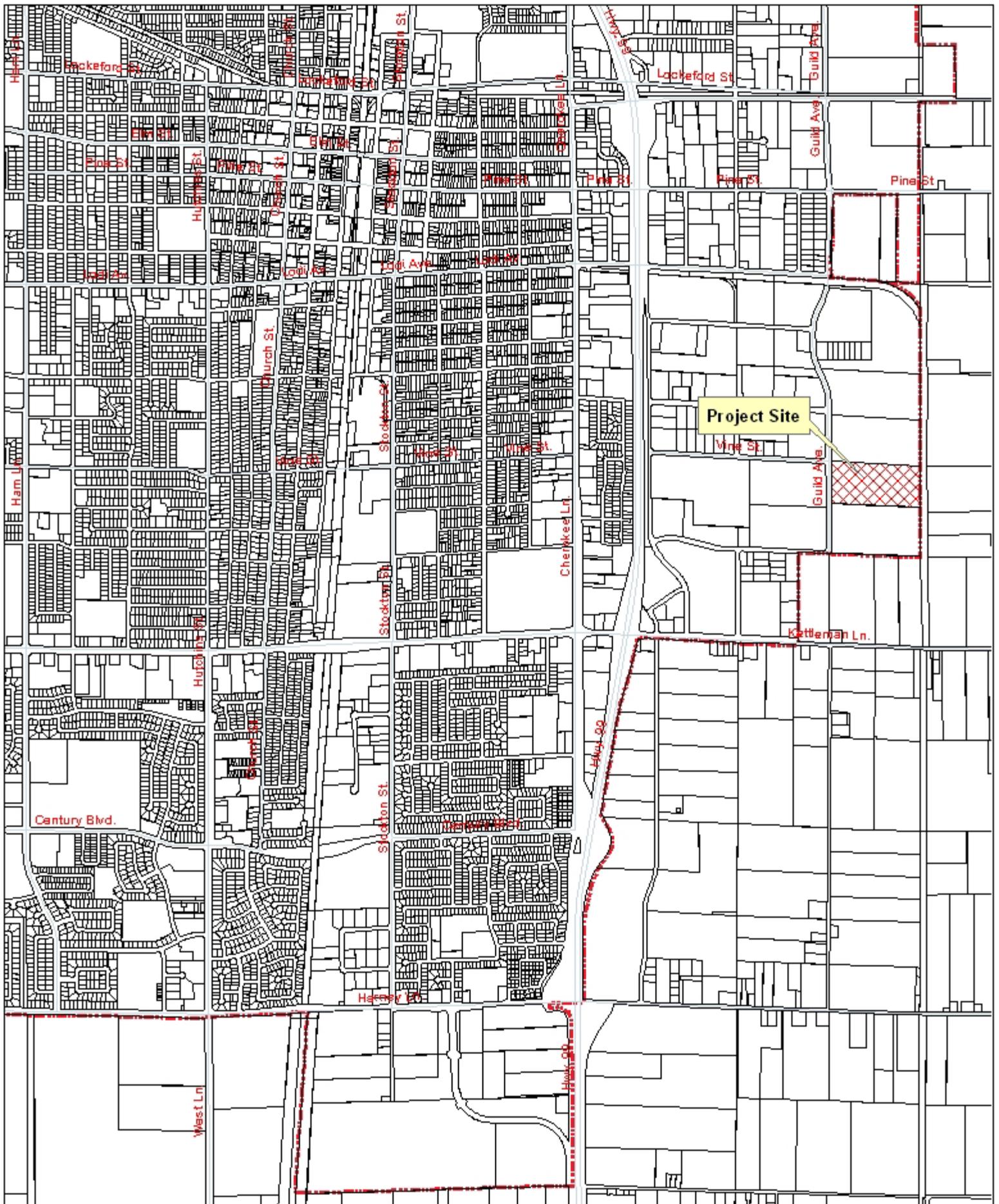
Concur,

Immanuel Bereket  
Associate Planner

Konradt Bartlam  
Community Development Director

**ATTACHMENTS:**

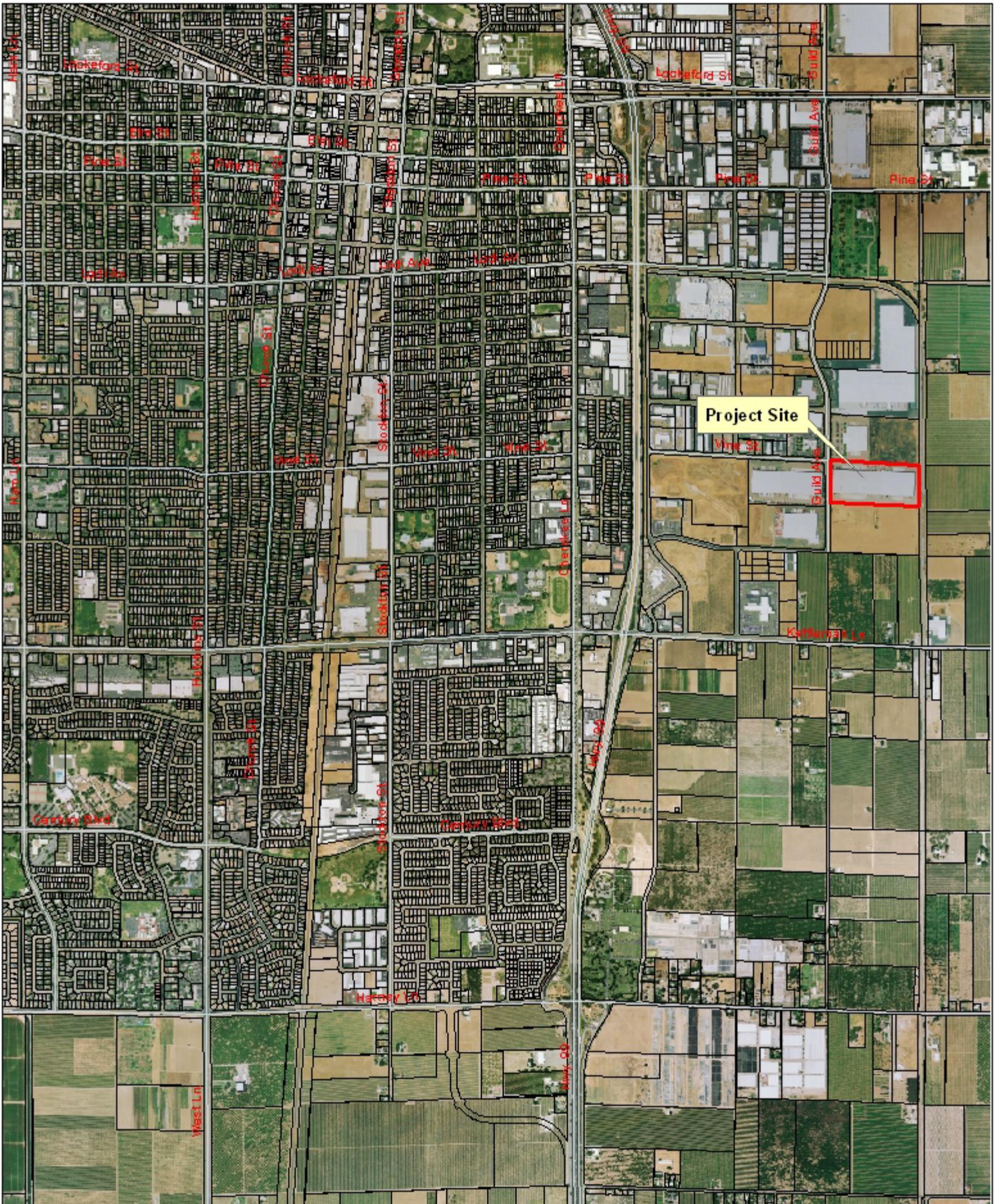
1. Vicinity Map
2. Aerial Photo
3. Site Plan and Floor Plan
4. Draft Resolution



**Vicinity Map**  
 960 South Guild Street  
 APN: 049-310-41  
 Lodi, CA 95240

**Legend**

 Project Site



Project Site



0 0.05 0.1 0.2 0.3 0.4  
miles

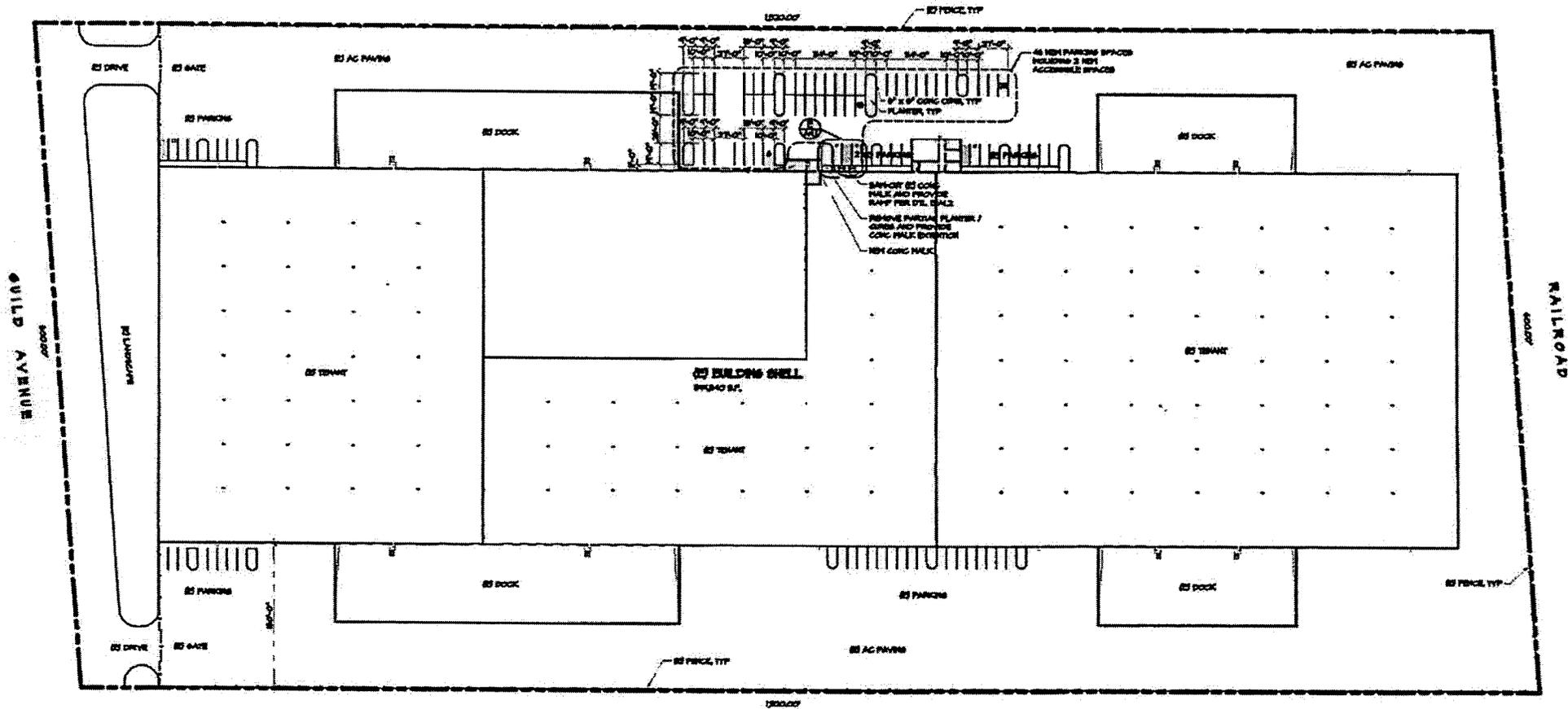


**Aerial Photo**  
960 South Guild Street  
APN: 049-310-41  
Lodi, CA 95240

## Legend

 Project Site





**A SITE PLAN**  
 ALL PLAN SCALE: 1" = 50'-0"

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

**A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF LODI FOR THE APPROVAL OF THE REQUEST OF JAVIER TOSCANO FOR A USE PERMIT TO ALLOW FOR AN OFF-SALE DISTILLED SPIRITS ALCOHOLIC BEVERAGE CONTROL LICENSE AT 960 SOUTH GUILD AVENUE**

**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 site is located at 960 South Guild Avenue, Lodi, CA 95240 (APN: 049-310-41); and

**WHEREAS**, the project proponent is Javier Toscano, 923 Copper Ct, Stockton, CA 95210; and

**WHEREAS**, the project property owner is Carl Panattoni ETAL, 8401 Jackson Rd, CA, 95210; and

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

**WHEREAS**, the requested Use Permit to allow the storage and wholesale distribution of distilled spirits for off-site consumption is an enforcement action in accordance with the City of Lodi Zoning Ordinance; and

**WHEREAS**, because Census Tract 44.01 has an over concentration of off-sale general 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 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 off-premise consumption as part of a general store is a permitted use in the Light Industrial (M-1) zoning District. The site is suitable and adequate for the proposed.
3. The distribution of distilled spirits for off-sale consumption, in accordance with a Type 12 and Type 18 Alcoholic Beverage Control licenses and with the conditions attached herein, would be consistent and in harmony with the Industrial use General Plan Land Use Designation and M-1 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 wholesale distribution center 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 and consumption of alcohol can sometimes result in customer behavior problems that can require police intervention.
7. 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.
8. 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.
9. 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-12 is hereby approved, subject to the following conditions:

1. The applicant/Operator and/or successors in interest and management shall 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 and/or successors in interest and management shall insure that the sale of alcohol does not cause any condition that will cause or result in repeated activities that are harmful to the health, peace or safety of persons residing or working in the surrounding area. This includes, but is not limited to: disturbances of the peace, illegal drug activity, public intoxication, drinking in public, harassment of people passing by, assaults, batteries, acts of vandalism, loitering, excessive littering, illegal parking, excessive loud noises, traffic violations or traffic safety based upon last drink statistics, curfew violations, lewd conduct, or police detention and arrests.
3. The applicant/Operator and/or successors in interest and management shall be prohibited from externally advertising or promoting beer & wine and/or distilled spirits, including but not limited to, window and wall signage.
4. The Applicant/Operator and/or successors in interest and management shall operate the project in strict compliance with the approvals granted herein, City standards, laws, and ordinances, and in compliance with all State and Federal laws, regulations, and standards. In the event of a conflict between City laws and standards and a State or Federal law, regulation, or standard, the stricter or higher standard shall control.
5. The 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 and/or successors in interest and management to secure Type 12 and Type 18 Alcoholic Beverage Control licenses.

7. Prior to the issuance of a Type 12 and Type 18 ABC licenses, the Applicant/Operator and/or successors in interest and management shall complete Licensee Education on Alcohol and Drugs as provided by the State Department of Alcoholic Beverage Control.
8. Any changes to the interior layout of the business operation shall be subject to review and approval by the Community Development Department and shall require appropriate City permits.
9. The operator/applicant and/or successors in interest and management shall comply with all the Municipal Codes relating to loitering, open container laws and other nuisance-related issues.
10. The operator/applicant and/or successors in interest and management shall ensure noise emanating from the property shall be within the limitations prescribed by the City's Noise Ordinance and shall not create a nuisance to surrounding residential neighborhoods, and/or commercial establishments.
11. The exterior of all the premises shall be maintained in a neat and clean manner, and maintained free of graffiti at all times.
12. 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.
13. No variance from any City of Lodi adopted code, policy or specification is granted or implied by this approval.

**Dated: September 8, 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 September 8, 2010 by the following vote:

**AYES:** Commissioners:

**NOES:** Commissioners:

**ABSTAIN:** Commissioners:

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

# Item 6a.



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

**To:** City of Lodi Planning Commissioners  
**From:** Rad Bartlam, Community Development Director  
**Date:** Planning Commission Meeting of 9/08/2010  
**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
August 18, 2010	Regular	Approve Plans and Specifications and Authorize Advertisement for Bids for State Route 99/Harney Lane Interim Improvement Project (PW)
		Adopt Resolution Authorizing the City Manager to Submit a Joint Application with Eden Housing, Inc. to the State of California Department of Housing and Community Development for HOME Investment Partnerships Program Funding; and if Selected, the Execution of a Standard Agreement, any Amendments Thereto, and any Related Documents Necessary to Participate in the HOME Investment Partnerships Program (CD)
		Adopt Resolution Acknowledging Lodi Nut Company's Permitted Industrial Use at 1206, 1218, and 1230 South Fairmont Avenue (CM)
		Public Hearing to Consider the Certification of the Final Mitigated Negative Declaration for the Harney Lane Interim Improvements Project (CD)
		Appointment to the Lodi Planning Commission (CLK)
		Consider Request for Fee Payment Agreement for 1222 Pixley Parkway (G & B Development, LLC) (PW)
September 1, 2010	Regular	Adopt Resolution Approving Impact Mitigation Fee Program Annual Report for Fiscal Year 2009/10 (PW)
		Adopt Resolution Accepting a Proposal from the Art Advisory Board for a Seward Johnson Sculpture Exhibit in Downtown Lodi for Display from April 2011 through Mid-July 2011 and Appropriating Funds (\$30,000) (COM)