

<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, OCTOBER 27, 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” & “September 8, 2010”
3. PUBLIC HEARINGS
  - a. Request for Planning Commission approval of a variance to reduce the required twenty feet front yard setback to ten feet and reduce the required five feet side yard setbacks to approximately 2 feet and half at 535 Harold Street. (Applicants: Gerardo and Maria Martinez; File No. 10-A-07)
  - b. Request for Planning Commission approval of a variance to eliminate the required ten feet rear yard and five feet side yard setbacks at 1556 Iris Drive. (Applicants: Bill Hrovat; File No. 10-A-08)

**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:

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

**LODI PLANNING COMMISSION  
REGULAR COMMISSION MEETING  
CARNEGIE FORUM, 305 WEST PINE STREET  
WEDNESDAY, SEPTEMBER 8, 2010**

1. CALL TO ORDER / ROLL CALL

The Regular Planning Commission meeting of September 8, 2010, was called to order by Chair Hennecke at 7:00 p.m.

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

Absent: Planning Commissioners – Heinitz and Kiser

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

Director Bartlam took a moment to welcome the new Planning Commissioner, Nick Jones.

2. MINUTES

“August 11, 2010”

The August 11, 2010 minutes will be brought back to the next meeting because a quorum of Commissioners are not available to vote at this time.

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 rear yard setback from 10 feet to 4 feet and increase lot coverage from 45 percent to 46 percent at 506 Gerard 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

- Micheal Doderio, applicant, came forward to answer questions.
- Sherry Pastor, neighbor, came forward to state that she did not have any issues with the structure so long as it did not effect her property. Director Bartlam stated that nothing will change with the size of the property. The application is only making the existing structure as it sits on the property legal.

Public Portion of Hearing Closed

MOTION / VOTE:

The Planning Commission, on motion of Commissioner Kirsten, Olson second, approved the request of the Planning Commission for a 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 subject to the conditions in the attached resolution. The motion carried by the following vote:

Ayes: Commissioners – Cummins, Jones, Kirsten, Olson, and Chair Hennecke

Noes: Commissioners – None

Absent: Commissioners – Heinitz and Kiser

- 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 five feet side yard setback to less than one foot at 544 East Oak Street.

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

Hearing Opened to the Public

- Dave Lewis, applicant, came forward to answer questions. Mr. Lewis added that the shed is the only place for him to store his belongings since the back house does not have a garage.

Public Portion of Hearing Closed

- Vice Chair Olson asked if the back house has the same problem with setbacks. Director Bartlam stated that the back house was constructed before the zoning code established setbacks, so there are not any issues with that structure.

MOTION / VOTE:

The Planning Commission, on motion of Commissioner Kirsten, Cummins second, approved the request of the Planning Commission for a variance to reduce the required five feet side yard setback to less than one foot at 544 East Oak Street subject to the condition in the attached resolution. The motion carried by the following vote:

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

- 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 wholesale distribution of alcoholic beverages at 960 South Guild Avenue.

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

Hearing Opened to the Public

- Javier Toscano, applicant, came forward to answer questions.

Public Portion of Hearing Closed

MOTION / VOTE:

The Planning Commission, on motion of Commissioner Kirsten, Jones second, approved the request of the Planning Commission for a Use Permit to allow wholesale distribution of alcoholic beverages at 960 South Guild Avenue subject to the conditions in the attached resolution. The motion carried by the following vote:

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

4. PLANNING MATTERS/FOLLOW-UP ITEMS

None

5. ANNOUNCEMENTS AND CORRESPONDENCE

None

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

Director Bartlam stated that staff has received the comments back from the State on the Housing Element and is confident that the state will sign off the finished product.

8. ACTIONS OF THE SITE PLAN AND ARCHITECTURAL REVIEW COMMITTEE

None

9. ART IN PUBLIC PLACES

Commissioner Kirsten gave a brief report regarding the activities of the Committee.

10. COMMENTS BY THE PUBLIC

None

11. COMMENTS BY STAFF AND COMMISSIONERS

Vice Chair Olson welcomed Commissioner Jones.

12. ADJOURNMENT

There being no further business to come before the Planning Commission, the meeting was adjourned at 7:22 p.m.

ATTEST:

Konradt Bartlam  
Planning Commission Secretary

Variance to reduce front and side yard setbacks  
@ 535 Harold Street - Gerardo & Maria Martinez

# Item 3a

**CITY OF LODI  
PLANNING COMMISSION  
Staff Report**

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**MEETING DATE:** October 27, 2010

**APPLICATION NO:** 10-A-07

**REQUEST:** Request for Planning Commission approval of a variance to reduce the required 20-ft front yard setback to ten feet and reduce the required 5-ft side yard setbacks to approximately 2 feet and half at 535 Harold Street. (Applicants: Gerardo and Maria Martinez; File No. 10-A-07).

**LOCATION:** 535 Harold Street  
(APN: 047-370-14)  
Lodi, CA 952420

**APPLICANT:** Gerardo and Maria Martinez  
2658 Orchard Drive  
Lodi, CA 95242

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

**RECOMMENDATION**

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

**PROJECT/AREA DESCRIPTION**

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

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

**Property Size:** 3,500 sq. ft.

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.	RE-1, Single Family Residence, Eastside.	Single Family residences
South	Low Density Residential.	RE-1, Single Family Residence, Eastside.	Single Family residences
East	Mixed Used Corridor	C-2, General Commercial	Single Family residences
West	Low Density Residential.	RE-1, Single Family Residence, Eastside.	Single Family residences

**SUMMARY**

The property owners and applicants, Mr. and Mrs. Martinez, are requesting that the Planning Commission grant a variance to allow reduced front and side yard setbacks to accommodate construction of a two-car carport in the RE-1 (single family residential) zoning district. The requested front yard setback is 10 feet (Code: 20 feet) and side yard setback is approximately 2 ½ feet (Code: 5 feet). The applicants converted an existing detached garage into a second dwelling unit without City permits. Approval of a variance would allow the applicants (a) to keep the unpermitted second dwelling unit, (b) to construct a two-car carport to replace the existing garage that has been illegally converted into a second dwelling unit and (C) waive a onsite parking space required for a second dwelling unit. If the variance request is denied, the applicants would be required to restore the garage for garage-use purposes. Staff recommends the Planning Commission deny the applicants' request and that the garage be restored for garage use.

## **BACKGROUND**

The parcel is located at 535 Harold Street. Available City records indicate original building permits were issued in 1938 for construction of a principal building and a detached garage. Over the years, the property has been owned by several individuals and the structures have remained the same (no additions occurred). As a result of complaints received by the Police Department regarding building alteration occurring without City issued building permit, it was learned that the detached garage had been illegally converted into a second dwelling unit and that it was occupied. Code Enforcement personnel issued a notice of violation.

## **ANALYSIS**

The subject property is located at 535 Harold Street and measures approximately 3,500 sq. ft in area. The property carries a Low Density Residence General Plan Land Use designation and is within the RE-1 zoning district, which requires a minimum of 4,000 sq. ft. lot area. It is developed with single family home and a detached one-car garage. The primary residence contains a two bedroom house with kitchen, bathrooms and living room. The detached garage now has a living room, kitchen, a bathroom and bedroom – all of which were installed without City approval. The footprint of the existing home is 768 sq. ft and the detached garage is 336 sq. ft. Under Section 17.09.080 of the LMC, the permitted allowable footprint is 1,575 sq. ft. (45% lot coverage). The owners, who do not reside at the property, would like to legalize the second dwelling unit they installed without City review and approvals. Rather than vacate the second dwelling unit/ residence, the applicants have petitioned the City to approve construction of a two-car carport to replace the garage in order to satisfy City of Lodi Municipal Code § 17.60.100 (A), which requires residences in the RE-1 zoning district to provide two-car covered parking spaces.

Based on the plans submitted to the City (Attachment 3), the proposed carport would encroach into the required side and front yard setbacks. The requested front yard setback is 10 feet (Code: 20 feet) and side yard setback is approximately 2 ½ feet (Code: 5 feet). Further, a second dwelling unit is required to provide onsite parking space for single car to serve the second dwelling unit. The parking space must be in addition to the parking required for the main residence, meet all setbacks and cannot be a portion of the driveway. In this case, the applicants request a waiver to this requirement as well. Moreover, the RE-1 zoning district requires a lot proposed for a second unit must be a minimum of 6,000 sq. ft in area. In this case, the subject property measures 3,500 sq. ft in area. Because of these deficiencies, staff feels the applicants' request for a variance fails to meet minimum threshold required for approval of a variance.

The Planning Commission may authorize a variance from standards stipulated in the Lodi Municipal Code Chapter 17.72.030 based on specific findings. No variance shall be granted unless the Planning Commission finds that all of the following criteria are met:

- 1. That there are special circumstances or conditions affecting the land involved such that the strict application of the provisions of this ordinance would deprive the applicants of the reasonable use of their property:**

The project is located in a Low Density residential district. Low Density Residential land serves to provide housing and living units for a variety of people with a range of incomes and needs. It predominantly consists of detached single family dwellings but may consist of other housing types as long as densities remain low; up to 8 dwelling units per acre. Many other properties in the neighborhood district are similar in size and contain single family residences with detached garage. The intent of the Low Density zoning district is to encourage low density residential developments that meet the minimum development standards. The intent of the minimum lot size requirement for a second dwelling unit in the RE-1 zoning district is intended to help ensure that all lots created for development are of sufficient size and shape to facilitate single family development. In this case, the applicants' request not only significantly increases density but would also facilitate development unsuited and inappropriate for the character of the neighborhood. A reasonable use of the property is a single family residence. Addition of a second dwelling unit on a parcel of this size would increase density beyond the limitations of the General Plan. In staff's opinion, the applicants' requests constitute major variations from development

standards to be of significant consequence to scale, size and character of RE-1 zoning district and this particular neighborhood. There are no known special circumstances related to the topography, shape or location of the parcel to justify approval of multiple variance requests.

**2. That the variance is necessary for the preservation and enjoyment of substantial property rights of the applicants:**

The conversion occurred without a permit and consultation with the City. Had this occurred, staff would have informed the applicants that no conversion was permitted on the site unless approved by a variance and that staff wouldn't support variance due to substantial adverse affect on the General Plan and public interest. Therefore, any hardship resulting from the requested variance is self-imposed. Further, staff has met with the applicants on several occasions to explain the site limitations that make it impossible to approve multiple variances on this property. These limitations relate to the size of the parcel, the type of variances requested, and density issues. The applicants have chosen to pursue a variance on basis of self-imposed hardship.

**3. That the granting of the variance will not be detrimental to the public health, safety or welfare or injurious to other property or public facilities in the area:**

The Zoning Ordinance regulates the location and size of new construction to ensure compatibility with surrounding properties in the same zoning district and to ensure that the proposed size or location will not adversely affect the character of the area or public health, safety or general welfare of its citizens. Yard area setbacks, building setbacks and lot area coverage requirements of the Zoning Ordinance are established to ensure the provision of adequate light and air for development within the City. As noted above, the variance would, in effect, approve a second dwelling unit on a lot that is already below the required minimum lot size. The location and size of the proposed two-car carport will adversely affect the character of the area and the general public policy. Although the proposed carport may not interfere with adequate light and air for any neighboring properties, it poses hazards relates to fire. Staff finds that there is no hardship associated with the topography of the parcel which makes it impossible to meet all required yard areas by the Zoning Ordinance; therefore, the spirit and intent of the Zoning Ordinance would not be observed if the variance were granted.

**4. That the granting of the variance will not have the effect of preventing the orderly development of the applicants' land and/or land in the vicinity in accordance with the provisions of this ordinance:**

Staff feels the proposed two-car carport would be incompatible with the community character and would set a precedent in development patterns due to the location of the garage with respect to the property lines. Further, staff believes granting a variance would adversely effect development of this and other properties in the area in that it would lead to overcrowd the neighborhood beyond the density stipulated in the General Plan development standards for Low Density Residences. In addition, granting of the variance will be contrary to the objective of the Ordinance, which is designed to allow reasonable development of a site. As illustrated in the site plan, the variance could create a severely reduced front yard setback and lead to inadequate parking conditions. Approval the requested variance, in effect, would permit a non-compatible structure in the context of the surrounding neighborhood where setbacks vary from 15-ft or more. Staff is concerned that if the Commission decides to approve the variance, this could set a precedent for future applications for second dwelling additions on small lots and with inadequate parking situations.

Although the existing house was built in 1938, predating the city's current zoning setback standards, it meets the current zoning setback standards. The City acknowledges that the parcel is below the minimum required lot size. However, it is not the location of the house on the site or its size that prompts the current variance request, but it is the applicant's desire to add a second dwelling unit on the site that brings about this variance request. Staff feels approval of the requested variance exacerbates the existing non-conformity with regards to the lot size and density of the area. The proposed two-car carport further creates substandard conditions and would create inconsistent setbacks. The intent of the ordinance is to provide

property owners with reasonable use of their property. The applicants have an existing, detached one-car garage. Staff believes that the applicants currently have reasonable use of their property. For the reasons stated above, staff cannot establish a hardship in connection to the project. Any hardship resulting the need to request a variance is self-imposed. Therefore, staff recommends the Planning Commission deny the requested variance.

**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 October 15, 2010. 51 public hearing notices were sent to all property owners of record within a 300-foot radius of the subject property as required by Government Code §65091 (a) 3.

**ALTERNATIVE PLANNING COMMISSION ACTIONS:**

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

Respectfully Submitted,

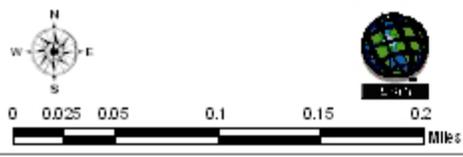
Concur,

Immanuel Bereket  
Associate Planner

Konradt Bartlam  
Community Development Director

**ATTACHMENTS:**

1. Vicinity Map
2. Aerial Photo
3. Plot Plan
4. Applicants' Statement
5. Draft Resolution



**Vicinity Map**  
 535 Harold Street  
 (APN: 047-370-14)  
 Lodi, CA 952420

**Legend**

 535 Harold Street



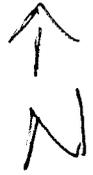
0 0.00350.007 0.014 0.021 0.028 Miles

**Aerial Map**  
535 Harold Street  
(APN: 047-370-14)  
Lodi, CA 952420

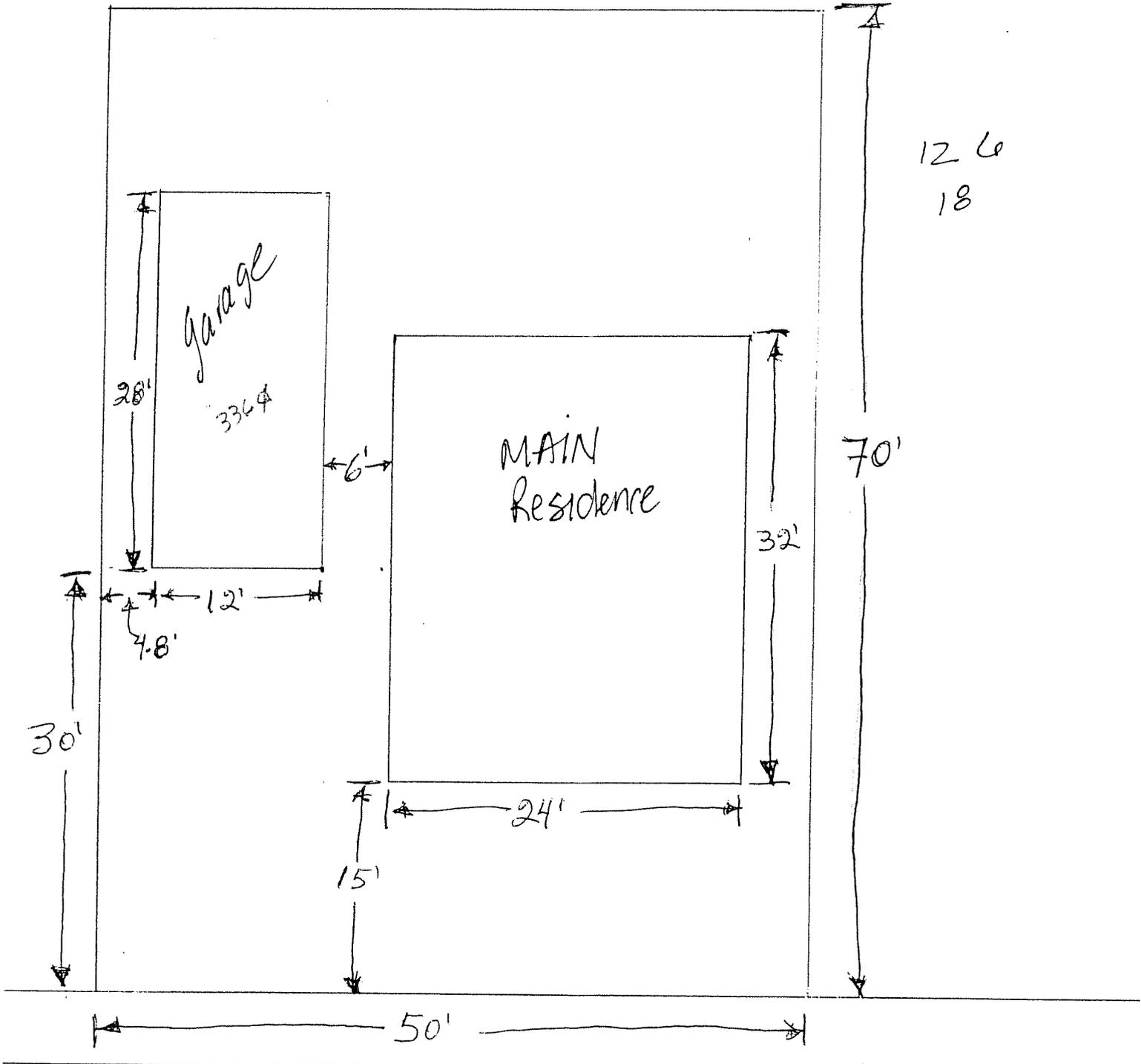
### Legend

 535 Harold Street

555 HAROLD ST  
047 370 14  
(209) 369-5089 / cell 7124789  
MAIN HOME  
E  
Garage



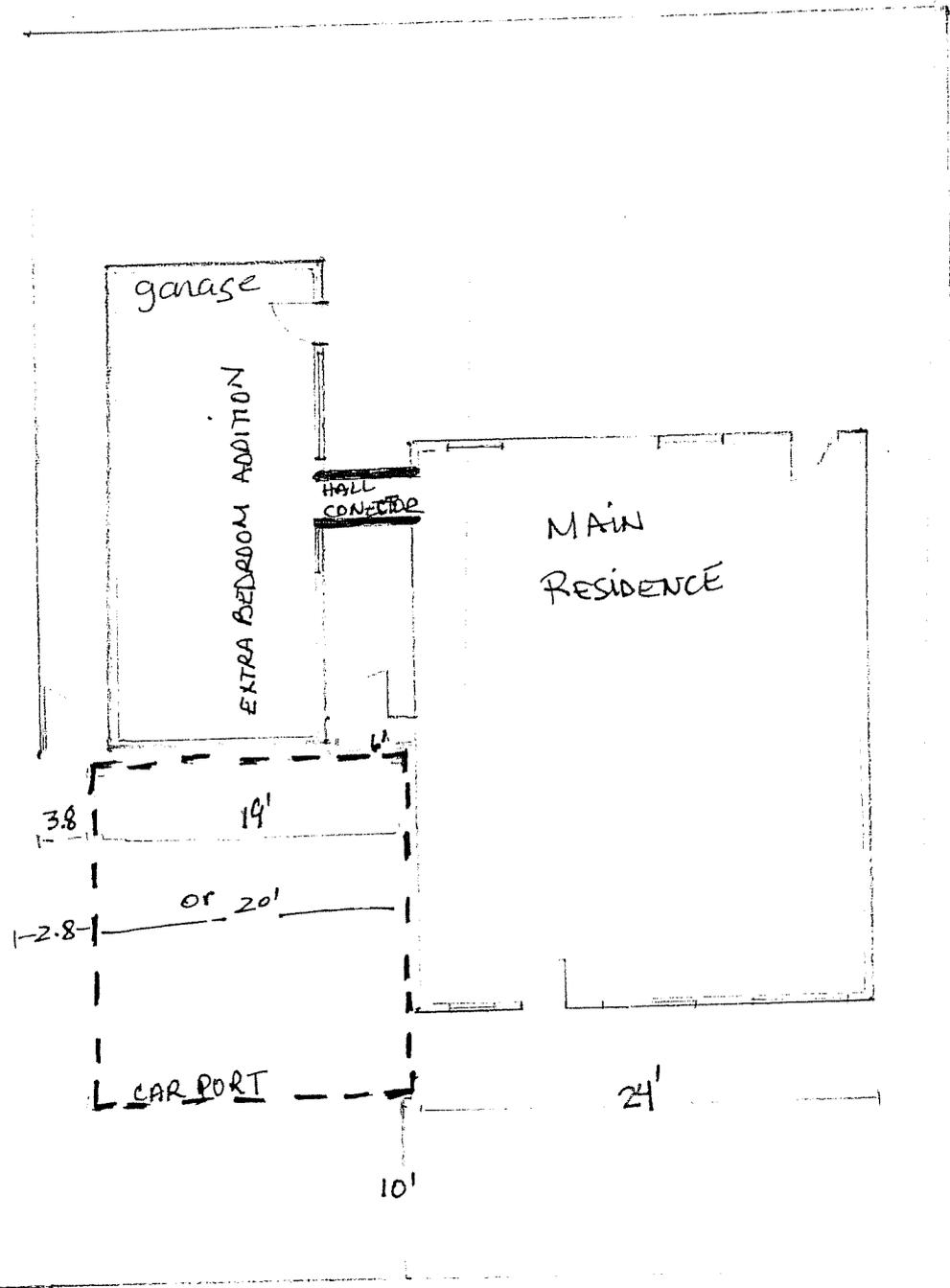
### EXISTING PLOT PLAN



535 HAROLD ST  
047 370 14  
(209) 369-5089 209 7124789

**PROPOSED PLOT PLAN:**

ASK FOR 2  
VARIANCE FOR THE  
CARPORT OR GARAGE



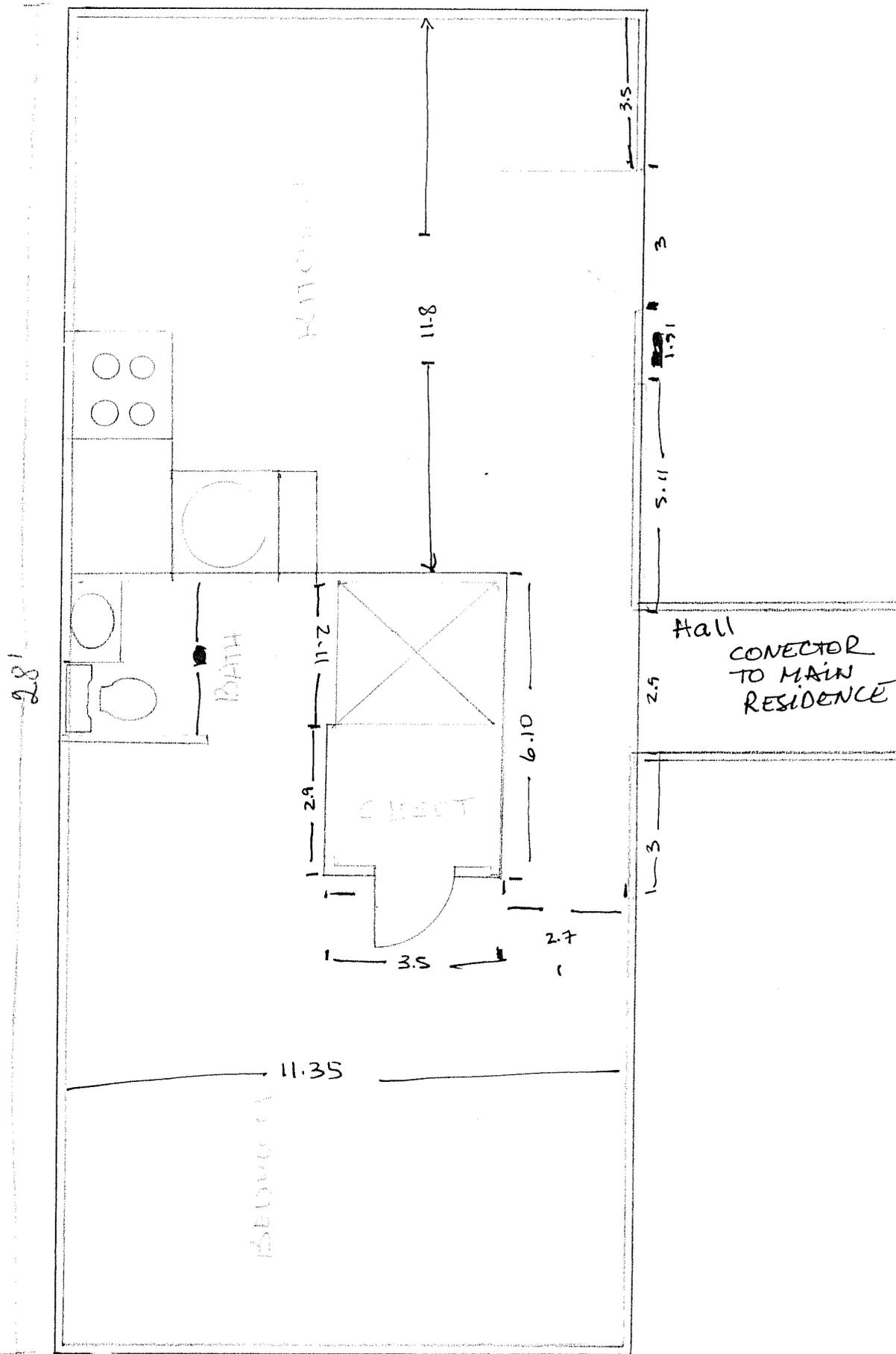
RECEIVED  
AUG 30 2010  
COMMUNITY DEVELOPMENT DEPT  
CITY OF LOS ANGELES

Sidewalk

# FLOOR PLAN

Garage 535 Harold St  
047-370 14

Gerardo Martinez  
(209) 368-2045  
369-5089



RECEIVED

AUG 3 3 2010

COMMUNITY DEVELOPMENT  
CITY OF LODI

Variance Justification

In answering the questions below, please be as specific as possible. Your answers will help the Board of Adjustments and Appeals and City staff to properly evaluate your variance request.

I need this variance to make another room addition to main Redo house

1. Why are you unable to comply with the requirements? What hardship or injustice are you claiming?

1st my cars will be parked on the spot we are asking permits for, even if permit not granted. allow us to pay permit fees the city will benefit.

2nd a lot of homes built recently<sup>2001</sup> do not have the code requirement of 20' by 20'. In this neighborhood a lot of homes do not have garages.

2. What is special about your property that would justify treating it differently than most other properties? (Examples of important special conditions include: narrow or odd shaped lot; excessive slope of land; soil or drainage limitations; unusual location of existing buildings on the lot; etc.) If the special conditions involve an existing building or structure, when was it built and are you the original owner?

Why destroy? city should charge its fees + penalty fees us  
If permit granted, This property will be in the 20% to 40% of homes that have my requesting measurements, which have not created accidents or harm to anybody. This includes newer homes my<sup>2001 Year</sup> 2658 orchard has a clearance of 15" after the sidewalk. Next door<sup>OF 535 Harold</sup> is less than 10" after this sidewalk.

3. Is your variance request the **minimum** change from the requirements that you need to overcome your hardship? Explain your answer. (For example, suppose you are requesting a 5 foot variance to the side yard setback requirement in order to build a single car garage 15 feet wide. Your request would **not** be the minimum since a single car garage 11 feet wide would be adequate and would only require a 1 foot variance.)

It is the minimum according to what is requested by the city. and available land. the street is not excessively trafficked by cars or pedestrian

It would retain its integrity but a little bigger and covered. If permit is granted. more beautiful, more fees for the city, more revenue.

4. Explain why approval of your variance request would not likely result in harm to your neighbor's properties or to the general public.

This home was built in the 1900's hundreds, people have been going in and out in a parking spot of 16' by 15' and this spot two cars can be parked have been and will be parked and no accidents, no neighbor or general public have been harm. my project will help beautify the east side that's so much in need.

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

**A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF LODI DENYING THE REQUEST OF GERARDO AND MARIA MARTINEZ FOR VARIANCE TO REDUCE THE REQUIRED TWENTY FEET FRONT YARD SETBACK TO TEN FEET AND REDUCE THE REQUIRED FIVE FEET SIDE YARD SETBACKS TO APPROXIMATELY 2 FEET AND HALF AT 535 HAROLD 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**, an application was filed by Gerardo and Maria Martinez, 2658 Orchard Drive, Lodi, CA 95242; and

**WHEREAS**, the project site is located at 535 Harold Street, Lodi CA 95242; and

**WHEREAS**, the project site is owned by Gerardo and Maria Martinez, 2658 Orchard Drive, Lodi, CA 95242; and

**WHEREAS**, the property has a General Plan designation of Low Density Residence and is zoned RE-1, Single Family Residence, Eastside; and

**WHEREAS**, the Zoning Ordinance for RE-1 zoning district requires, amongst other items, the following germane standards:

(A) A minimum of 4,000 sq. ft lot size

(B) Setbacks:

1. Front yard: Not less than twenty feet to the front line of the main building. See Chapter 17.57 for cases where at least forty percent of a block is developed with buildings.
2. Side yard: A minimum of five feet, except that for corner lots the side yard on the street side shall be increased to a minimum of ten feet, unless Section 17.57.100 applies; and provided further, that any carport or garage must be set back not less than twenty feet from the street property line.
3. Rear yard: The depth of the rear yard shall be not less than ten feet, except that for corner or reversed corner lots, the rear yard may be reduced to seven and one-half feet, or to a minimum of five feet when the lot rears upon an alley.

(C) A lot proposed for a second dwelling unit must be a minimum of 6,000 square feet in size.

**WHEREAS**, the requested Variance is to reduce the required twenty (20) feet front yard setback to ten feet and reduce the required five feet side yard setbacks to approximately 2 feet and half at 535 Harold Street; and

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

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

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

2. The requested Variance is not consistent with the objectives of the Zoning Ordinance and the purposes of the district in which the use is located.
3. The subject property, which contains single family residence and detached garage, is a lot of record with no special circumstance in regards to size, shape, topography, location or surroundings that restrict its use or development as single family residence. The size is rectangular-shaped, fairly flat, and 3,500 sq. ft. in size and is legally non-conforming.
4. The conversion of the garage into a second dwelling unit is violation of City of Lodi Zoning Ordinance because lots proposed for a second dwelling unit in the RE-1 Zoning District must measure minimum of 6,000 sq. ft in area.
5. The addition of a second dwelling units would significantly increase the land use density for the project parcel beyond those stipulated in the General Plan and would cause significant adverse impacts on water supply, fire protection, waterwaste disposal, schools, traffic and circulation, and other services.
6. The project would adversely impact the surrounding built environment relative to off-site views from adjacent properties, and privacy for the subject and surrounding properties.
7. The design, location, size, and operating characteristics of the proposed detached two-car carport are incompatible with the existing and future land uses in the vicinity. The location of the carport would encroach into the required 20-ft front yard setback whereby cars parked on the driveway could impede pedestrian path of travel. The orientation of the carport would not provide sufficient area for ingress and egress.
8. The proposed two-car carport would impair the architectural integrity and character of the neighborhood in which it is to be located. The detached two-car carport structure would be made of metal and would be visually in compatible with surrounding parcels because it would utilize building forms, materials and colors that are inconsistent with other buildings and materials in the neighborhood
9. The proposed two-car carport would be incompatible with the community character and would set a precedent in development patterns due to the location of the garage with respect to the property lines.
10. The proposed side yard setback reduction to less than 2 ½ feet would overwhelm existing or future development on adjacent property, and would significantly impose upon and adversely impact the light, air, and visual restriction, because the proposed two-car carport structure would be constructed adjacent to the neighbor's driveway.
11. No special physical characteristics exist on the subject property such that the strict application of the Zoning Ordinance deprives the property of privileges enjoyed by other properties in the vicinity because the subject property does not have any special physical characteristic related to size, shape and topography compared to the surrounding lots that are similar to the subject property.
12. Approval of the requested variance would constitute a grant of special privileges inconsistent with the limitations on other properties in the vicinity and zoning district in which the property is located because other properties in the vicinity are of a similar size, shape and topography and are required to maintain 20-ft front yard and 5-ft side yard setbacks. Further, the RE-1 zoning district requires minimum lot area of 6,000 sq. ft for a lot proposed for a second unit whereas the subject parcel measures only 3,500 sq. ft.
13. The intent of this variance request does not substantially meet the intent and purpose of the zoning district in which the property is located because a second dwelling unit must provide onsite parking in addition to the required two-car parking per single family residence. There are no special circumstances on this property related to size, shape and topography to justify waiving the parking lot requirement.

**NOW, THEREFORE, BE IT DETERMINED, AND RESOLVED**, that the Lodi Planning Commission hereby denies Variance Application No. 10-A-07:

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 unpermitted second dwelling unit shall be removed in accordance with the City of Lodi, Community Development Department, Building Division, rules and regulations.
3. The applicant shall submit appropriate plans to the Community Development Department for plan check and building permit within one hundred-twenty (120) days from the effective date of this Variance approval.
4. The applicant shall comply with all requirements of Public Works Department, Fire Department and all applicable utility agencies

Dated: October 27, 2010

I hereby certify that Resolution No. 10- was passed and adopted by the Planning Commission of the City of Lodi at a regular meeting held on October 27, 2010, by the following vote:

AYES: Commissioners:

NOES: Commissioners:

ABSENT: Commissioners:

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

Variance to eliminate rear and side yard setbacks  
@ 1556 Iris Drive - Bill Hrovat

# Item 3b.

**CITY OF LODI  
PLANNING COMMISSION  
Staff Report**

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**MEETING DATE:** October 27, 2010  
**APPLICATION NO:** 10-A-08  
**REQUEST:** Request for Planning Commission approval of a variance to eliminate the required ten feet rear yard and five feet side yard setbacks at 1556 Iris Drive. (Applicants: William Hrovat; File No. 10-A-08).  
**LOCATION:** 1556 Iris Drive  
(APN: 033-250-17)  
Lodi, CA 95240  
**APPLICANT:** William Hrovat  
1556 Iris Drive  
Lodi, CA 95240  
**PROPERTY OWNER:** The same as above.

**RECOMMENDATION**

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

**PROJECT/AREA DESCRIPTION**

**General Plan Designation:** Low Density Residential.  
**Zoning Designation:** R-1, Single Family Residence.  
**Property Size:** 12,246 sq. ft.

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-1, Single Family Residence.	Single Family residences
South	Low Density Residential.	R-1, Single Family Residence.	Single Family residences
East	Low Density Residential.	R-1, Single Family Residence.	Single Family residences
West	Low Density Residential.	R-1, Single Family Residence.	Single Family residences

**SUMMARY**

This report concerns a proposed rear and side yard setback variance in order to construct an accessory structure on a residential property currently developed with a single family residence. The project is located in the R-1 (Low Density) zoning district. The City’s Municipal Code requires a minimum of 5-ft side and 10-ft rear yard setbacks for accessory structures of 121 sq. ft. or more. The applicant requests a variance to eliminate the required setbacks in order to construct an accessory structure with photovoltaic roof. Although the City encourages and enforces rebate incentives for photovoltaic structures, staff recommends denial of the applicant’s request on basis that a special privilege would be granted to the property owner by approving the requested setback reductions.

**BACKGROUND**

The subject property is situated on the southwest corner of Atherton Drive and Iris Drive. It is part of Hutchins Estate Annexation approved in October of 1965. The parcel map for the project site was originally approved in 1980. According to available City records, building permit for the principal house with an attached garage was issued in 1983. Homes surrounding the project site vary slightly in character and style and are a mix of one and two stories in height.

## ANALYSIS

The applicant, Mr. William Hrovat, is requesting a Variance to eliminate the required 10-ft rear and 5-ft side yard setbacks. The site is currently developed with an existing single-family dwelling constructed in 1983 and an attached garage. The project is located within the R-1 (Low Density) zoning district and is surrounded by other single-family residences. The project site conforms to all setback and height requirements of the R-1 zoning district. The project site is an angled corner lot. It faces Iris Drive and it contains an unusual property configuration. Whereas most lots in Lodi are rectangular and feature four property lines, the project site features 5 property lines. However, the site configuration is not unique from other properties in the immediate neighborhood. The project site measures approximately 12,246 sq. ft. in area. Most of the neighboring properties measure 8,000 sq. ft. in area and higher. As mentioned above, the applicant proposes to construct an accessory structure with varying height from 18-ft to 13-ft and would measure 1,140 square feet in area. The accessory structure would have photovoltaic roof and would be used as a shade structure to park recreational vehicle. As illustrated on the plans submitted, it would be built on rear and side property lines, thereby eliminating all required setbacks. The proposed reductions of setbacks necessitate a variance approval.

Each zoning district within the City of Lodi has specific regulations governing development including height limitations, setbacks, and maximum lot coverage. In order to deviate from these specific regulations, a Variance must be granted by resolution of the Planning Commission or by City Council on appeal. Pursuant to the provisions of LMC Chapter 17.72.030(A) a variance from the regulations of the Zoning Ordinance may be granted only when, because of the 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 owners in the vicinity and under identical zoning classification. Each variance request is evaluated on its own merit against findings to ensure a special privilege is not granted, that the proposal is consistent with the surrounding area, and that the project will not adversely impact the adjacent properties. No variance shall be granted unless the Planning Commission finds that all of the following criteria are met:

**1. That there are special circumstances or conditions affecting the land involved such that the strict application of the provisions of this ordinance would deprive the applicants of the reasonable use of their property:**

The site is currently developed with an existing single-family dwelling constructed in 1983 with attached garage and detached accessory structure. It is located within R-1 (Low Density) zoning district. A reasonable use of the property is a single family residence as currently developed and is used. The applicant's request constitutes major variations from development standards to be of significant adverse consequence to the character the neighborhood. All other properties in this neighborhood are required to maintain the standard setbacks and no variances have been granted to drastically eliminate side and rear yard setbacks for a project that stands to benefit from the City's renewable energy rebate program. There are no known special circumstances or conditions related to size, topography, or location affecting the project site/property. The project site is relatively flat and is larger than most parcels in the R-1 zoning district in the City of Lodi.

Staff is of the opinion there is no special circumstances related to the project site. The proposed accessory structure with a photovoltaic roof could be reduced in size so as to conform to setback regulations or, alternately, the solar panels could be placed on the roof of the existing single family residence. Therefore, staff believes a special privilege would be granted to the property if the proposed variance is approved. In staff's opinion, the proposed structure, although well intended, would create an undesirable precedent if the proposed variance request is granted. In essence, approval of a variance would reward the applicant with the City's rebate program for violating the Zoning Ordinance.

**2. That the variance is necessary for the preservation and enjoyment of substantial property rights of the applicants:**

The project site is not unique from other properties in the neighborhood since the lots have the same area and dimensions. A special privilege would be granted to the property if the required building

setback were not to be maintained. All other properties in this neighborhood are required to adhere to standard setbacks and no variances have been granted to drastically eliminate side and rear yard setbacks. Any hardship that applicant asserts related to his parcel is self-imposed. There are several viable alternatives the project should pursue, namely reduce project size, install solar panels on the roof of the existing dwelling unit, unit and placing the proposed structure on the southwest corner of the parcel where there is enough space to construct the proposed accessory structure as proposed.

**3. That the granting of the variance will not be detrimental to the public health, safety or welfare or injurious to other property or public facilities in the area:**

The Zoning Ordinance regulates the location and size of new constructions to ensure compatibility with surrounding properties in the same zoning district and to ensure that the proposed size or location will not adversely affect the character of the area or public health, safety or general welfare of its citizens. Yard area setbacks, building setbacks and lot area coverage requirements of the Zoning Ordinance are established to ensure the provision of adequate light, air and safety for development within the City. As noted above, the variance would, in effect, approve a structure that could be rewarded via electricity rebate program for violating the Zoning Ordinance. Further, the location and size of the proposed accessory structure will adversely affect the character of the area and violate the general public policy. Allowing an accessory structure that measures 1,140 sq. ft. in close proximity to the neighboring property would create an undesirable precedent if the proposed variance request is granted. Approval of the requested variance would not advance public safety, nor serve public health. Approval would blatantly violate public policy.

**4. That the granting of the variance will not have the effect of preventing the orderly development of the applicants' land and/or land in the vicinity in accordance with the provisions of this ordinance:**

Neighboring properties have developed (both habitable and accessory buildings) within their respective setbacks. The project site is not unique from other properties in the neighborhood since the lots have the same area and dimensions. Approval of the variance would grant a special privilege inconsistent with limitations imposed on other similar properties in the areas. Further, although the proposed project will allow for the continuance of development that conforms to the General Plan's planned location, type, and intensity of development, it will not remain consistent with the Zoning Regulations' purpose since all findings required for obtaining a Variance cannot be made in this case. Approval, in effect, facilitates disorderly development in the context of the neighboring area where adjacent properties are developed within their respective setbacks. Moreover, the variance would be detrimental to and adversely impact adjacent properties because reducing the rear and side yard setback for an accessory structure with a photovoltaic roof would potentially affect the privacy of the adjacent property as well as add additional building mass into a yard area.

The proposed project would not be consistent with the scale and character of existing development in the vicinity of the site because by decreasing the rear and side yard setback the mass and scale of the project would infringe upon the neighboring properties. All neighboring properties have developed (both habitable and accessory buildings) within their respective setbacks. No properties within close proximity to the project site have requested or been granted variances to completely eliminate side and rear yard setbacks. In the past, City staff and the Planning Commission have granted minor variances for small accessory structures (tool sheds) that did not completely eliminate setbacks, excessively exceed the 120 sq. ft. size threshold or stood to financially gain through the City's rebate program as this project does. In staff's opinion, approval of the Variance would grant a special privilege inconsistent with the limitations imposed on other properties in the same vicinity or zone. The project site is not unique from other properties in the neighborhood since the lots have the same area and dimensions. Staff feels the necessary findings required to approve a variance approval cannot be met. Any hardship resulting the need to request a variance is self-imposed. Therefore, staff recommends the Planning Commission deny the requested variance.

**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 October 15, 2010. 48 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,

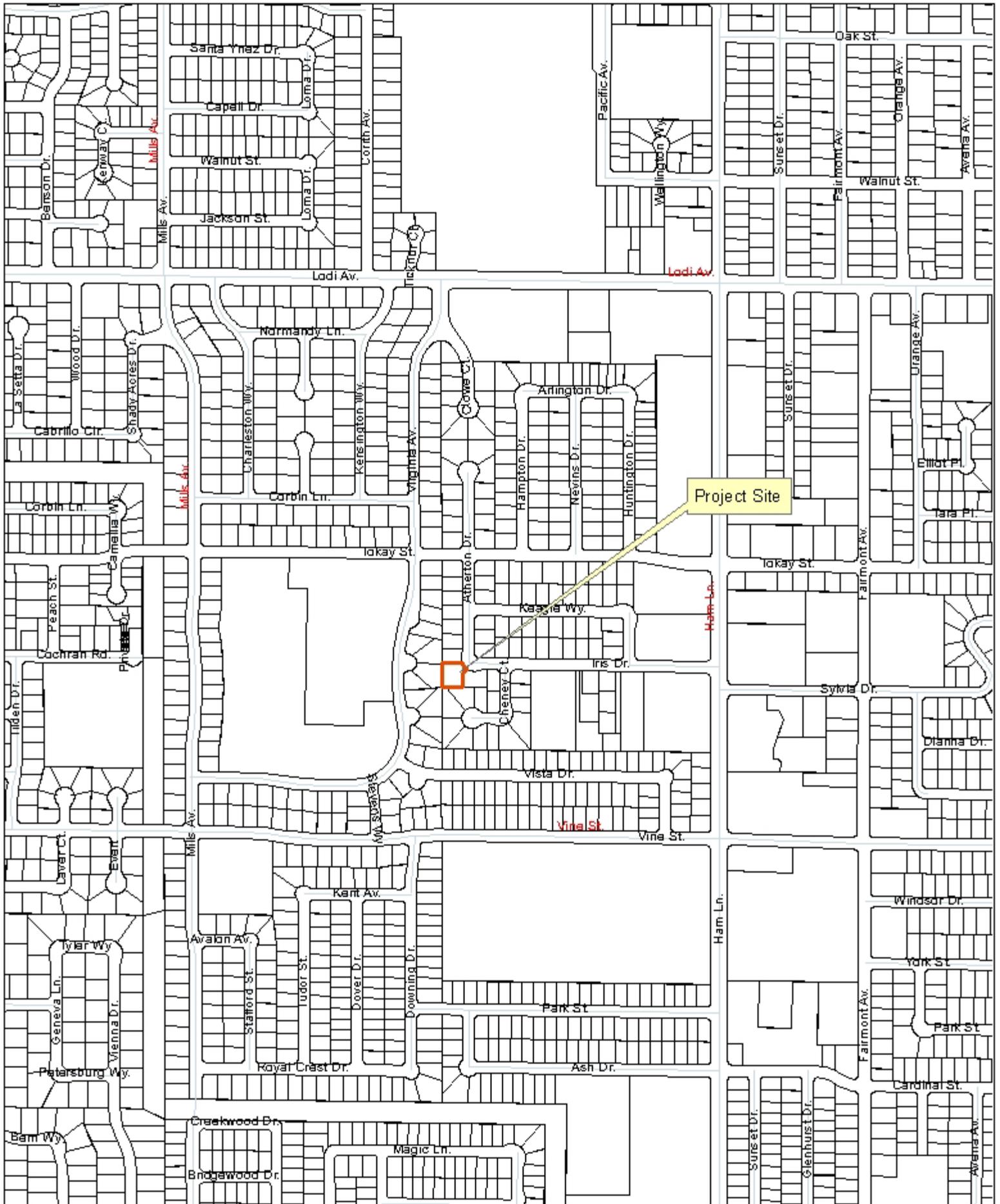
Concur,

Immanuel Bereket  
Associate Planner

Konradt Bartlam  
Community Development Director

**ATTACHMENTS:**

1. Vicinity Map
2. Aerial Photo
3. Plot Plan
4. Applicant’s Statement
5. Draft Resolution



Project Site



0 0.025 0.05 0.1 0.15 0.2 Miles

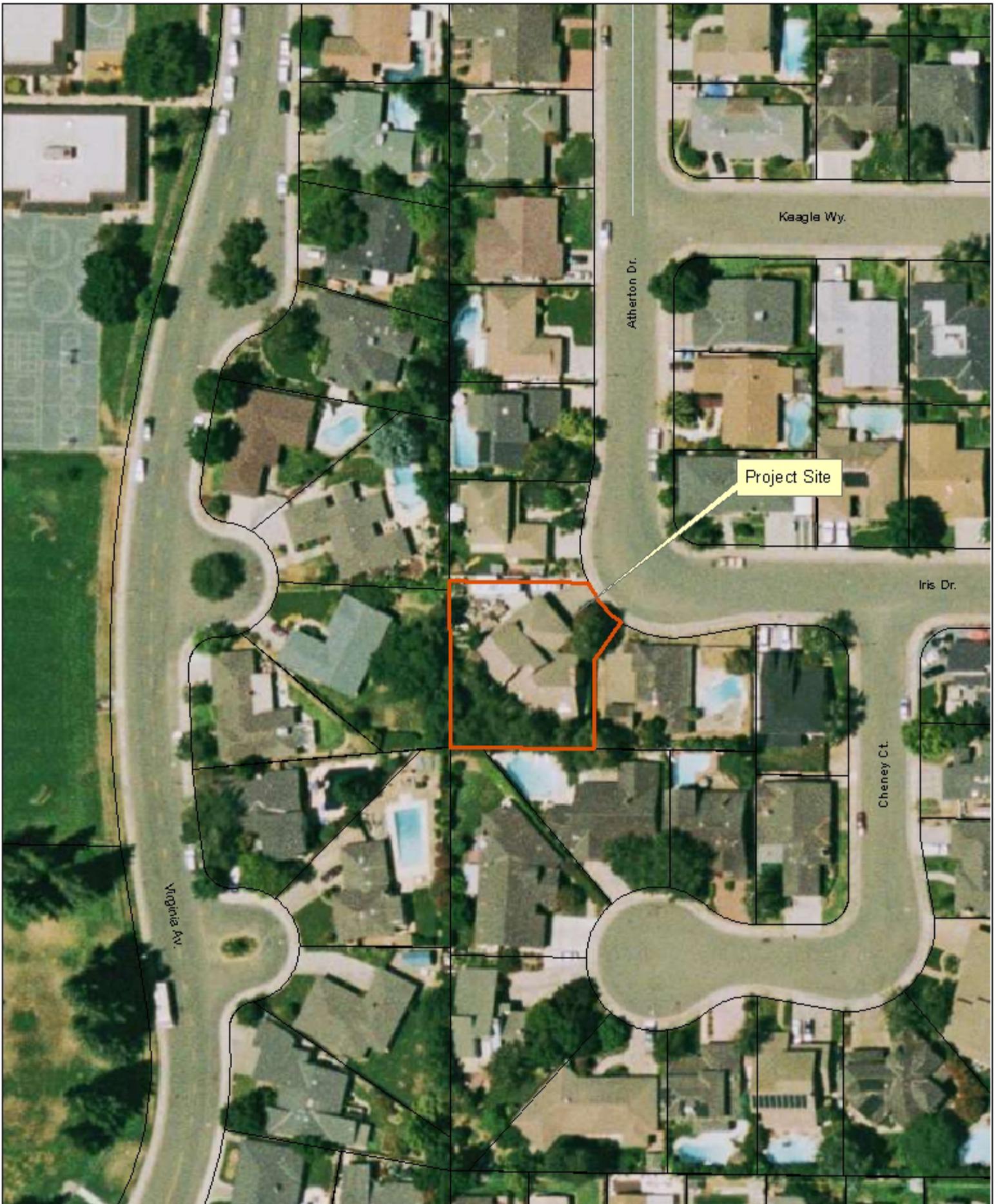
### Vicinity Map

1556 Iris Drive  
 (APN: 033-250-17)  
 | LODI, CA 95242

### Legend



1556 Iris Drive



Project Site



0 0.004 0.008 0.016 0.024 0.032 Miles



### Aerial Map

1556 Iris Drive  
(APN: 033-250-17)  
Lodi, CA 95242

### Legend

 1556 Iris Drive

## Variance Justification

In answering the questions below, please be as specific as possible. Your answers will help the Board of Adjustments and Appeals and City staff to properly evaluate your variance request.

1. Why are you unable to comply with the requirements? What hardship or injustice are you claiming?

A shed roof structure that would face south starting at the north property line would give the ideal sun exposure for solar electric generation without destroying multiple trees, trees that are so important to the air that we breathe.

2. What is special about your property that would justify treating it differently than most other properties? (Examples of important special conditions include: narrow or odd shaped lot; excessive slope of land; soil or drainage limitations; unusual location of existing buildings on the lot; etc.) If the special conditions involve an existing building or structure, when was it built and are you the original owner?

Without this variance my large gated side yard becomes useless for any vehicle access due to posts being in the middle of the driveway. This structure will be an engineered structure, all metal structure.

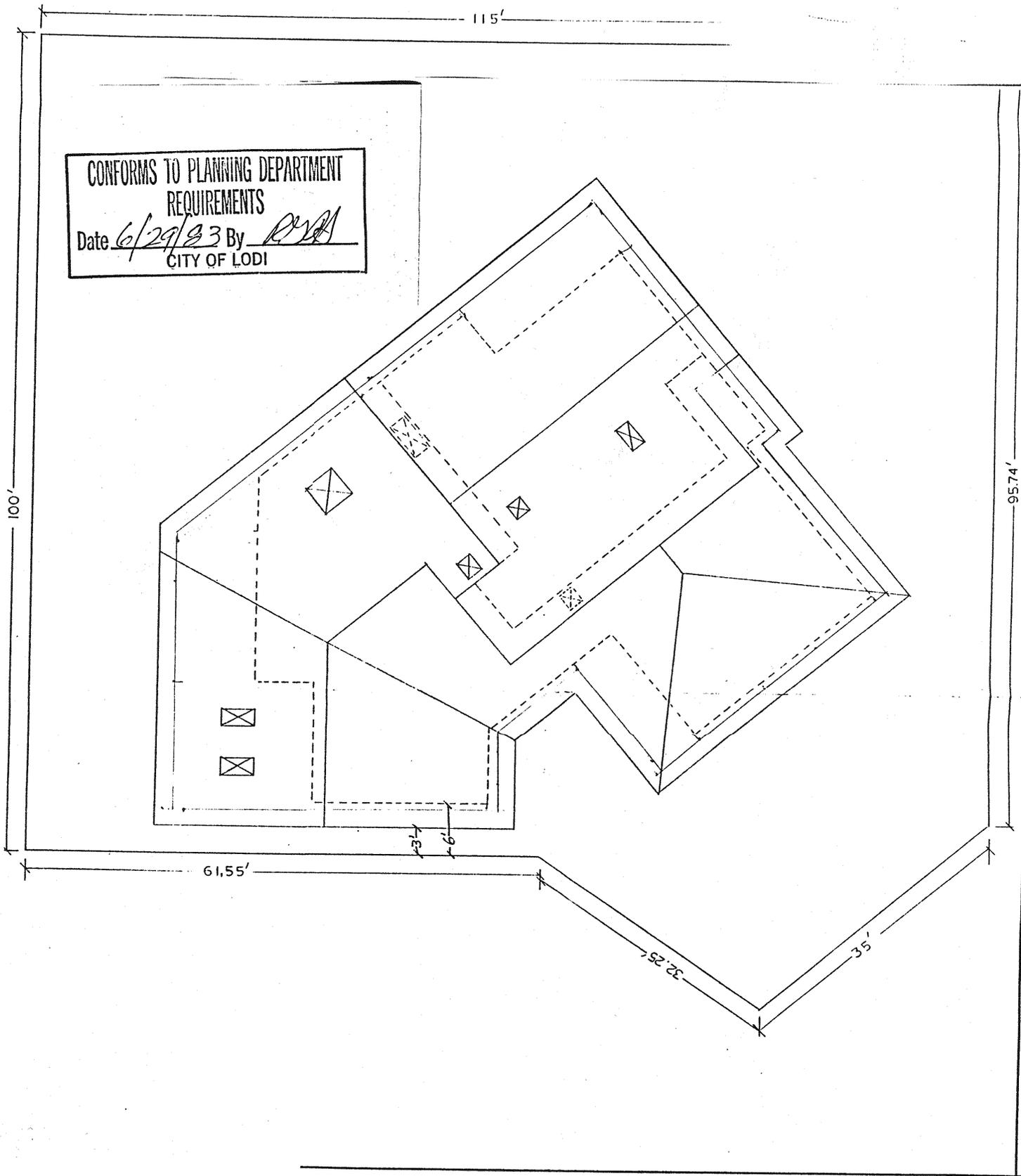
3. Is your variance request the minimum change from the requirements that you need to overcome your hardship? Explain your answer. (For example, suppose you are requesting a 5 foot variance to the side yard setback requirement in order to build a single car garage 15 feet wide. Your request would not be the minimum since a single car garage 11 feet wide would be adequate and would only require a 1 foot variance.)

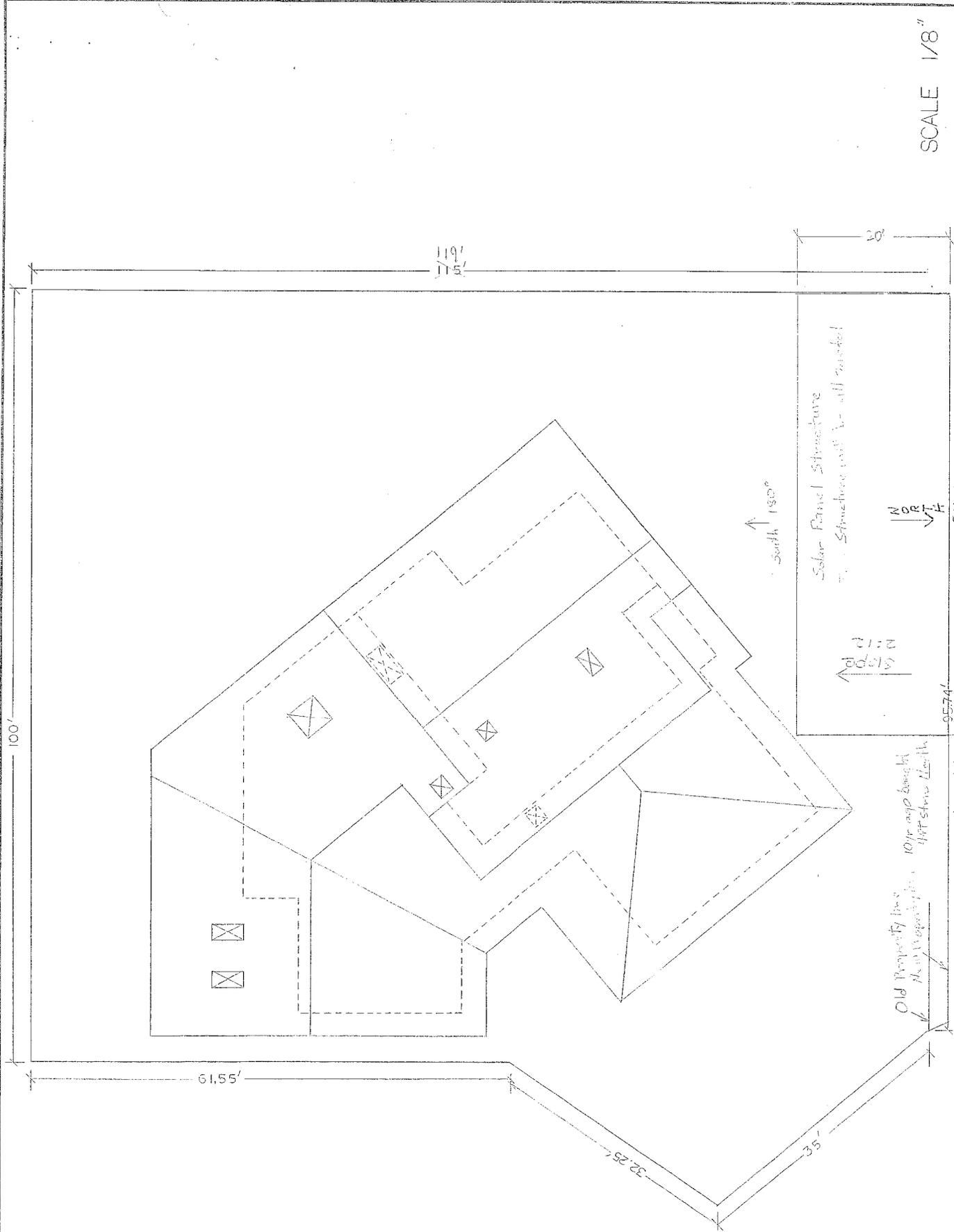
ten years ago I bought 4ft of property from a previous owner so I could have proper access to this side yard. I have approached the present owner to buy some more property but they do not want to sell. The house next door is 749 Atherton Dr. Their side yard is 14ft wide.

4. Explain why approval of your variance request would not likely result in harm to your neighbor's properties or to the general public.

The owner of the property next door at 749 Atherton Dr. owned by Eblon & Terry Mast communicated to me that they are very much in favor of solar energy, Eblon said if needed he would write a letter of acceptance for this proposed structure at zero lot line.

CONFORMS TO PLANNING DEPARTMENT  
REQUIREMENTS  
Date 6/29/83 By RVA  
CITY OF LODI





Date: 1-31-82  
Sheet: 1  
Ref. No.

**HENDERSON BROS. CO., INC.**  
Business Contractor's License No. 7838  
2180 Sacramento St. Lodi, Cal. 95240  
Phone 209-368-8871

**BETTY & BILL HROVAT**  
1540 W. IRIS Lodi CALIF. 368-9372

PLOT PLAN

Aug 18 10 09:13a TED & ESTHER SNIDER

AUG-3-2010 03:08 PM FROM: ACS LLC

209-931-4533

209-367-3806

TO: 3673806

P.2

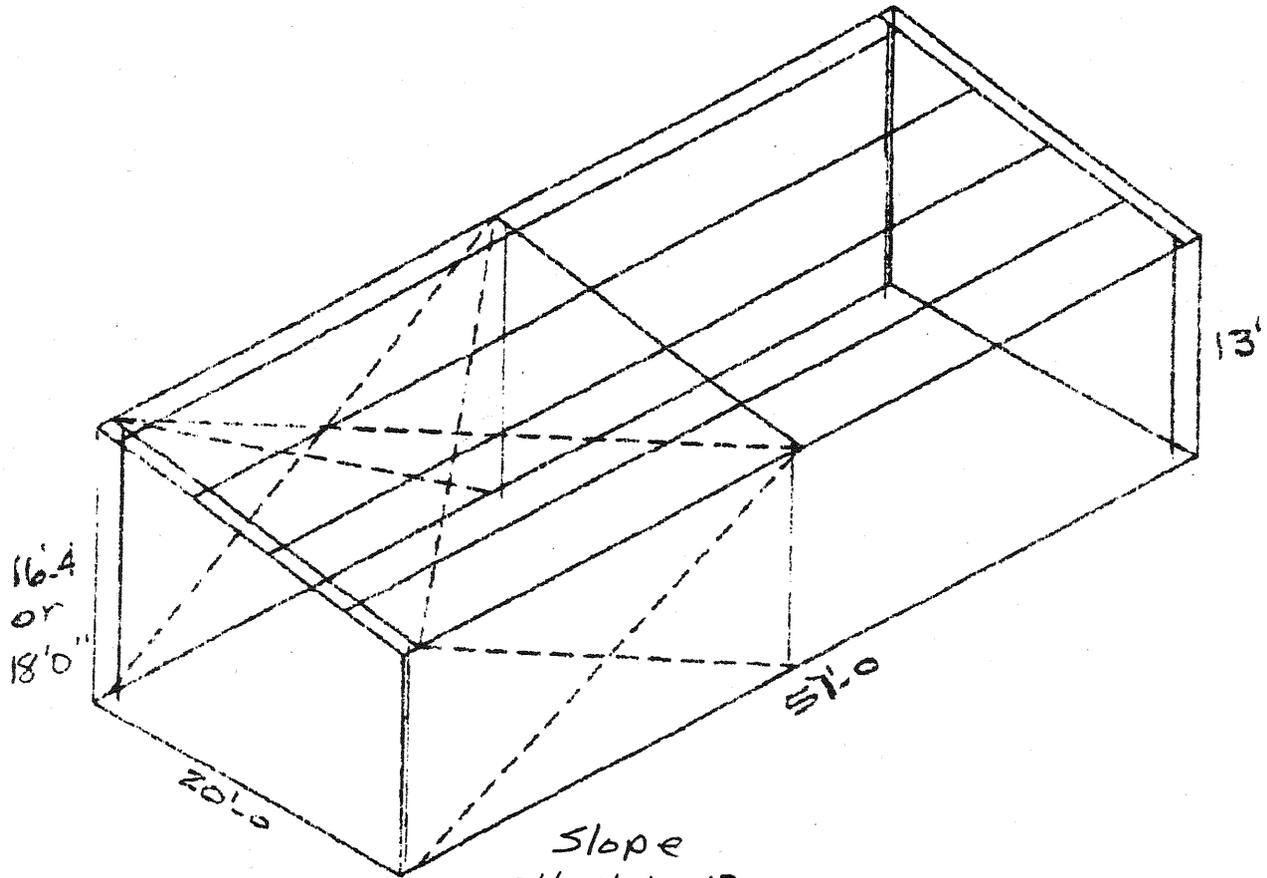
P.2

209 4817153

### Snider Construction

General Contractor

Office: 209-367-0260, Fax: 209-367-3806



Slope

16.4 to 13

→ 2:12 Option

OR

→ 3:12 Option heights would be

→ 18' To 13'

10-25-10

To City of Lodi Planning Department:

In reference to a variance of a zero  
lot line solar structure between 1556

Iris Drive and 749 Atherton Drive

Lodi, California, Eldon Mast and Terry

Mast owners of 749 Atherton Drive

are in favor of Betty and William Hrovat

building a solar structure at the north

property line of 1556 Iris Drive as per

plans submitted to The City of Lodi

Planning Department.

Eldon S. Mast 

Terry S. Mast

Terry Mast

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

**A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF LODI DENYING THE REQUEST OF MR. WILLIAM HROVAT FOR VARIANCE TO ELIMINATE THE REQUIRED TEN FEET REAR YARD AND FIVE FEET SIDE YARD SETBACKS AT 1556 IRIS 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**, an application was filed by Mr. William Hrovat, 1556 Iris Drive, Lodi, CA 95240; and

**WHEREAS**, the project site is located at 1556 Iris Drive, Lodi CA 95240 (APN: 033-250-17); and

**WHEREAS**, the project site is owned by Mr. William Hrovat, 1556 Iris Drive, Lodi, CA 95240; and

**WHEREAS**, the property has a General Plan designation of Low Density Residence and is zoned R-1, Single Family Residence; and

**WHEREAS**, the Zoning Ordinance for R-1 zoning district requires, among other items, the following standards:

(A) A minimum of 6,500 sq. ft lot size

(B) Setbacks:

1. Front yard: Not less than twenty feet to the front line of the main building. See Chapter 17.57 for cases where at least forty percent of a block is developed with buildings.
2. Side yard: A minimum of five feet, except that for corner lots the side yard on the street side shall be increased to a minimum of ten feet, unless Section 17.57.100 applies; and provided further, that any carport or garage must be set back not less than twenty feet from the street property line.
3. Rear yard: The depth of the rear yard shall be not less than ten feet, except that for corner or reversed corner lots, the rear yard may be reduced to seven and one-half feet, or to a minimum of five feet when the lot rears upon an alley.

**WHEREAS**, the requested Variance is to reduce the required ten (10) feet rear yard setback to zero (0) foot and the required five (5) feet side yard setback to zero (0) foot at 1556 Iris Drive, Lodi, CA 95240; and

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

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

1. The project was found to be Categorically Exempt according to the California Environmental Quality Act, Article 19 §15321, Class 21 (a) (2). The project is classified as an “Enforcement action by regulatory agencies” because it is the “adoption of an administrative decision or order enforcing or revoking the lease, permit, license, certificate, or entitlement for use or enforcing the general rule, standard, or objective.” No significant environmental impacts are anticipated and no mitigation measures have been required.
2. The requested Variance is not consistent with the objectives of the Zoning Ordinance and the purposes of the district in which the use is located. The proposed project will not remain consistent with the Zoning Regulations' purpose because all findings required for obtaining a Variance cannot be made.
3. The subject property, which contains single family residence and an attached garage, is a lot of record with no special circumstance in regards to size, shape, topography, location or surroundings

that restrict its use or development as single family residence. A reasonable use of the property is single family residence, as currently constituted.

4. The project would not be consistent with the scale and character of existing development in the vicinity of the project because by decreasing the rear and side yard setbacks the mass and scale of the project would infringe upon the neighboring properties. No properties within close proximity to the subject site have requested or been granted variances to completely eliminate required rear or side yard setbacks.
5. The variance would be detrimental to and adversely impact adjacent properties because reducing the rear and side yard setbacks for the proposed accessory structure would potentially affect the property enjoyment of the adjacent properties by impeding light and imposing undesirable visual effects by adding projections which would adversely impact the light, air, privacy and open areas of existing development, because the proposed accessory structure would be constructed on the property lines.
6. Approval of the Variance would grant a special privilege inconsistent with the limitations on other properties in the same vicinity or zone because the reduction in the rear and side yard setbacks is would infringe on neighbors privacy and encroach upon the distances required between properties. Additionally, in most cases approved variances have been for minor deviations from the development standards and requirements.
7. The design, location, size, and characteristics of the proposed accessory structure are incompatible with the existing and future land uses in the vicinity. Neighboring properties have developed (both habitable and accessory buildings) within their respective setbacks.
8. No special physical characteristics exist on the subject property such that the strict application of the Zoning Ordinance deprives the property of privileges enjoyed by other properties in the vicinity because the subject property does not have any special physical characteristic related to size, shape and topography compared to the surrounding lots that are similar to the subject property.
9. The intent of this variance request does not substantially meet the intent and purpose of the zoning district in which the property is located because it would be inconsistent with the zoning regulations in which it is located. In addition, in the absence of no special circumstances on this property related to size, shape and topography, the necessary findings cannot be made to justify approving a variance to completely eliminate the required side and rear yard setbacks.

**NOW, THEREFORE, BE IT DETERMINED, AND RESOLVED**, that the Lodi Planning Commission hereby denies Variance Application No. 10-A-08:

**Dated:** October 27, 2010

I hereby certify that Resolution No. 10- was passed and adopted by the Planning Commission of the City of Lodi at a regular meeting held on October 27, 2010, by the following vote:

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

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

# Item 6a.



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

**To:** City of Lodi Planning Commissioners  
**From:** Rad Bartlam, Community Development Director  
**Date:** Planning Commission Meeting of 10/27/2010  
**Subject:** Past meetings of the City Council and other meetings pertinent to the Planning Commission

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

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

Date	Meeting	Title
September 21, 2010	Special	Adopt Resolution Authorizing the Application for Grant Funds for the Sustainable Communities Planning Grant and Incentives Program to Develop a Climate Action Plan for Lodi (CD)
October 6, 2010	Regular	Adopt Resolution Accepting a Proposal from Project Lodi Art and the Art Advisory Board for Phase II, Mosaic Retaining/ Seating Wall at Van Buskirk Park and Appropriating Funds (\$4,678) (PR)
		Adopt Resolutions of the City Council and the Lodi Public Financing Authority Approving the Res. Issuance of Water Revenue Bonds and Related Documents in an Amount Not to Exceed \$45 Million in Order to Construct the Surface Water Treatment Facility (CM) <b>NOTE: Joint action of the Lodi City Council and Lodi Public Financing Authority</b>
October 20, 2010	Regular	Adopt Resolution Authorizing the City Manager to Execute Agreements with the Following Entities for the State Route 99/Harney Lane Interim Improvement Project and Appropriating Funds in the Amount of \$1,500,000 for the Total Project (PW) a) Knife River Construction, of Stockton, for Construction (\$944,450) b) Mark Thomas & Company, of Sacramento, for Construction Administration (\$175,400) c) Fehr & Peers Transportation Consultants, of Roseville, for Traffic Signal Coordination (\$13,990) d) San Joaquin Council of Governments for Incidental Take Minimization Measures Agreement (\$26,452.68)
		Public Hearing to Consider Substitution of Listed Subcontractors and Bid Protest; Adopt Resolution Authorizing the City Manager to Execute Agreements with the Following Entities for the Surface Water Treatment Facility Project; and Appropriating Funds in the Amount of

<p>October 20, 2010 - continued</p>	<p>Regular</p>	<p>\$36,500,000 for the Total Project:</p> <p>A. C. Overaa &amp; Company, of Richmond, for Construction (\$22,837,000)</p> <p>B. Pall Corporation, of Port Washington, New York, for Membrane Filtration System (\$3,926,081)</p> <p>C. Krazan &amp; Associates, of Modesto, for Testing and Inspection Services (\$488,000)</p> <p>D. Durst Contract Interiors, of Stockton, for Furniture (\$52,025.98)</p> <p>E. HDR Engineering, of Folsom, for Construction Administration Services for Surface Water Treatment Facility Project (\$890,000)</p> <p>F. San Joaquin Council of Governments (SJCOG) for Incidental Take Minimization Measures Agreement (\$90,606.80)</p>
		<p>Approve Water Meter Cost, Extended Payment, and Payment Deferral Plan (PW)</p>
		<p>Review of Timing for Payment of Development Impact Mitigation Fees (CM)</p>