

<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, NOVEMBER 10, 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 – “October 27, 2010”
3. PUBLIC HEARINGS
  - a. Request for Planning Commission approval of a Use Permit to allow a Type-47 On-Sale General Alcoholic Beverage Control License at 2310 Tienda Drive. (Applicant: Chipotle Mexican Grill, Inc. File Number: 10-U-13)
  - b. Request for Planning Commission approval of a Use Permit to allow a Type-47 On-Sale General Alcoholic Beverage Control License at 400 East Kettleman Lane. (Applicant: Petra Flores Pena. File Number: 10-U-14)

**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, OCTOBER 27, 2010**

1. CALL TO ORDER / ROLL CALL

The Regular Planning Commission meeting of October 27, 2010, was called to order by Chair Hennecke at 7:00 p.m.

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

Absent: Planning Commissioners – Heinitz and Olson

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

2. MINUTES

“August 11, 2010”

MOTION / VOTE:

The Planning Commission, on motion of Commissioner Kirsten, Kiser second, approved the minutes of August 11, 2010 as written. (Commissioner Jones abstained because he was not in attendance of the subject meeting)

“September 8, 2010”

MOTION / VOTE:

The Planning Commission, on motion of Commissioner Kirsten, Cummins second, approved the minutes of September 8, 2010 as written. (Commissioner Kiser abstain because he was not in attendance of the subject meeting)

3. PUBLIC HEARINGS

- a) Notice thereof having been published according to law, an affidavit of which publication is on file in the Community Development Department, Chair Hennecke called for the public hearing to consider the request for 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.

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

Commissioner Kirsten asked if the address 535 ½ was a part of this parcel. Mr. Bereket stated that it is a separate parcel.

Hearing Opened to the Public

- Maria Martinez, applicant, came forward to answer questions. Mrs. Martinez stated her apologies for building the structure without permits. She would like to be able to work with staff to find a way to make this work.
- Chair Hennecke asked when the garage was converted and how long the Martinez’s have owned the property. Mrs. Martinez stated that the structure was converted in 2009 and that she and her husband have owned the property for three years.

*Continued*

- Commissioner Kirsten asked how this project is different from the property just to the east. Director Bartlam stated that the property to the east faces east, which makes the garage and driveway subject to the side yard set backs not front yard.
- Commissioner Kiser asked what the options were for the Martinez's. Director Bartlam stated that the trouble will begin with the 45 percent lot coverage, which leaves approximately 450 square feet of buildable area.
- Commissioner Cummins asked if staff is only recommending denial because there hasn't been a hardship proven. Director Bartlam stated that that is correct. Staff fully supports second dwelling units where the parking can be provided within the zoning requirements.
- William Chang, representing his father who owns property across the alley from the subject property on Tokay Street, came forward to ask if staff believes there would be a traffic issue with the added dwelling. Director Bartlam stated that the conversion has been done for some time so if there was going to be any effects from additional traffic it would have already been felt.
- Maria Martinez stated that traffic uses her driveway to make u-turns because of the lack of space in the street.
- Commissioner Jones asked Mrs. Martinez to clarify whether the structure is a carport or garage. Mrs. Martinez stated that it is a carport, but is willing to work with staff to make it work.

Public Portion of Hearing Closed

- Commissioner Kirsten stated that after his site visit it became very clear that the lot is really tight and can not support the project as presented.
- Chair Hennecke stated his agreement.
- Commissioner Kiser stated his agreement.

MOTION / VOTE:

The Planning Commission, on motion of Commissioner Kiser, Jones second, denied the request of the Planning Commission for 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 subject to the conditions in the attached resolution. The motion carried by the following vote:

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

- b) Notice thereof having been published according to law, an affidavit of which publication is on file in the Community Development Department, Chair Hennecke called for the public hearing to consider the request for a variance to eliminate the required ten feet rear yard and five feet side yard setbacks at 1556 Iris Drive.

This Item was withdrawn by the applicant.

4. PLANNING MATTERS/FOLLOW-UP ITEMS

None

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 report regarding the meeting that occurred earlier today. Both items have been continued.

9. ART IN PUBLIC PLACES

Commissioner Kirsten gave a brief report regarding the meeting that occurred earlier today.

10. COMMENTS BY THE PUBLIC

None

11. COMMENTS BY STAFF AND COMMISSIONERS

None

12. ADJOURNMENT

There being no further business to come before the Planning Commission, the meeting was adjourned at 7:23 p.m.

ATTEST:

Konradt Bartlam  
Planning Commission Secretary

# Item 3a

**CITY OF LODI  
PLANNING COMMISSION  
Staff Report**

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**MEETING DATE:** November 10, 2010

**APPLICATION NO:** Use Permit: 10-U-13

**REQUEST:** Request for Planning Commission approval of a Use Permit to allow a Type-47 On-Sale General Alcoholic Beverage Control License at 2310 Tienda Drive. (Applicant: Chipotle Mexican Grill, Inc. File Number: 10-U-13)

**LOCATION:** 2310 Tienda Drive  
APN: 027-410-13  
Lodi, CA 95242

**APPLICANT:** Chipotle Mexican Grill, Inc.  
1401 Winkoop Street, #500  
Denver, CO 80202

**PROPERTY OWNER:** BDC Lodi Plaza LP ETAL  
1556 Parkside Drive  
Walnut Creek, CA 94596-3556

**RECOMMENDATION**

Staff recommends that the Planning Commission approve the requested Use Permit to allow a Type-41 On-Sale General alcohol beverage license at the proposed Chipotle Mexican Grill restaurant to be located at 2310 Tienda Drive, subject to the conditions outlined in the attached resolution.

**PROJECT/AREA DESCRIPTION**

**General Plan Designation:** MUC, Mixed Use Corridor  
**Zoning Designation:** C-S, Shopping Commercial.  
**Property Size:** .49 acres. (Restaurant is approximately 2,500 sq. ft.)

The adjacent zoning and land use characteristics:

	<b>General Plan</b>	<b>Zone</b>	<b>Land Use</b>
<b>North</b>	Commercial and Mixed Use Corridor	C-S, Shopping Commercial.	Retail use (Target Store)
<b>South</b>	Commercial and Mixed Use Corridor	C-S, Shopping Commercial.	Retail and commercial uses
<b>East</b>	Mixed Use Corridor	R-C-P, Residential, Commercial and Professional	Institutional Use
<b>West</b>	Commercial	C-S, Shopping Commercial.	Retail and commercial uses

**SUMMARY**

The applicants, Chipotle Mexican Grill, Inc, are requesting approval of a Use Permit to allow on-site sale of beer, wine and distilled spirits in conjunction with operation of a restaurant. Chipotle Mexican Grill, Inc is proposing to open a sit-in restaurant at a currently vacant site located at 2310 Tienda Drive. Chipotle Mexican Grill, Inc. is a nation wide Mexican restaurant chain, with approximately 400 outlets in about 20 states, mainly in the West and Midwest. They are proposing to open a location in Lodi at Southwest Plaza Shopping Center, which contains the Target Store. They'd like to serve alcohol and have submitted an application for a license through the California Department of Alcoholic Beverage Control (ABC) to allow beer, wine and

distilled spirits to be served for on-site consumption. The Southwest Plaza Shopping Center is within the C-S zoning district. Restaurant use is a permitted use in the C-S (Shopping-Commercial) zoning district. The proposed sale of alcohol is an ancillary use to the primary restaurant business. Approval of this Use Permit does not entitle the restaurant live entertainment or bar, but only allows beer, wine and distilled spirits to be served in addition to the sale of food.

## **BACKGROUND**

Chipotle Mexican Grill, Inc. known for its fresh, gourmet, Chipotle offers a fairly simple menu of burritos, fajitas, and tacos featuring pork, shredded beef, chicken, steak, and vegetarian fillings. Chipotle is owned by McDonald's Corporation. The vast majority of Chipotle restaurants are company-owned.

The project site was previously occupied by Arthur's Party World. Arthur's Party World sold and rented items for parties, weddings, banquets, etc. They vacated the premise late last year and the project site has been vacant since. As far as City records show, there are no pending Building and Zoning Code violations associated with the project site.

## **ANALYSIS**

According to the applicant, Chipotle Mexican Grill offers lunch and dinner menu. The restaurant proposes to operate from the hours of 10:00 a.m. to 11:00 p.m. daily. The gross floor area of the proposed restaurant is 1,909 square feet, the interior net public area will be 977 square feet, and the outdoor patio will be 644 square feet in area. Alcohol will only be served inside the establishment and will not be served on the outdoor patio. The outdoor patio will be separated from the public sidewalk by a 3-foot tall powder coated steel railing. There is no direct access from the interior of the establishment to the outdoor patio area. Patrons must exit the establishment and enter the outdoor dining area from the adjacent sidewalk. The outdoor dining area has been configured to provide adequate site distance and accommodate pedestrian and bicycle visibility due to its proximity to parking spaces immediately north of the project site. The hours of operation for the outdoor dining area will be the same as the interior of the establishment (10:00 a.m. to 11:00 p.m., daily). The establishment will provide 42 interior seats and 30 seats on the patio.

The applicants request a Use Permit approval to allow a Type 47 On-Sale General (Eating Place) ABC license, which authorizes the sale of beer, wine and distilled spirits for consumption on or off the premise where sold. In accordance with the State Department of Alcoholic Beverage Control (ABC) requirements, receipts from alcohol sale shall not be in excess of food sales receipts. ABC requires that restaurants with alcohol license must operate and maintain the premise as a bona fide eating establishment. The Municipal Code of the City of Lodi requires the approval of a Use Permit by the Planning Commission for retail businesses and restaurants which sell alcoholic beverages (LMC § 17.72.040). 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 site belongs to Census Tract 43.03, which covers the area south of Lodi Avenue, west of Lower Sacramento Road, north of Kettleman Lane, and east of Ham Lane. According to ABC, Census Tract 43.03 contains two (2) existing on-sale licenses with five (5) on-sale licenses allowed based on the ABC criteria. The Planning Commission does not need to make a finding of public necessity and/or convenience in order to approve an additional on-sale license. However, the Commission should review application to ensure that sale of alcohol will not adversely affect surrounding residents, businesses, and institutions and to ensure that any such use operates in a manner compatible with existing and future adjacent uses. In the past, the

Planning Commission and the Planning staff have generally supported restaurants that wish to acquire an ABC on-sale license, because typically, restaurants that serve alcohol in conjunction with food sales do not create alcohol related problems.

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

#### **ENVIRONMENTAL ASSESSMENTS**

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

#### **PUBLIC HEARING NOTICE:**

Legal Notice for the Use Permit was published on October 28, 2010. Seven (7) 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,

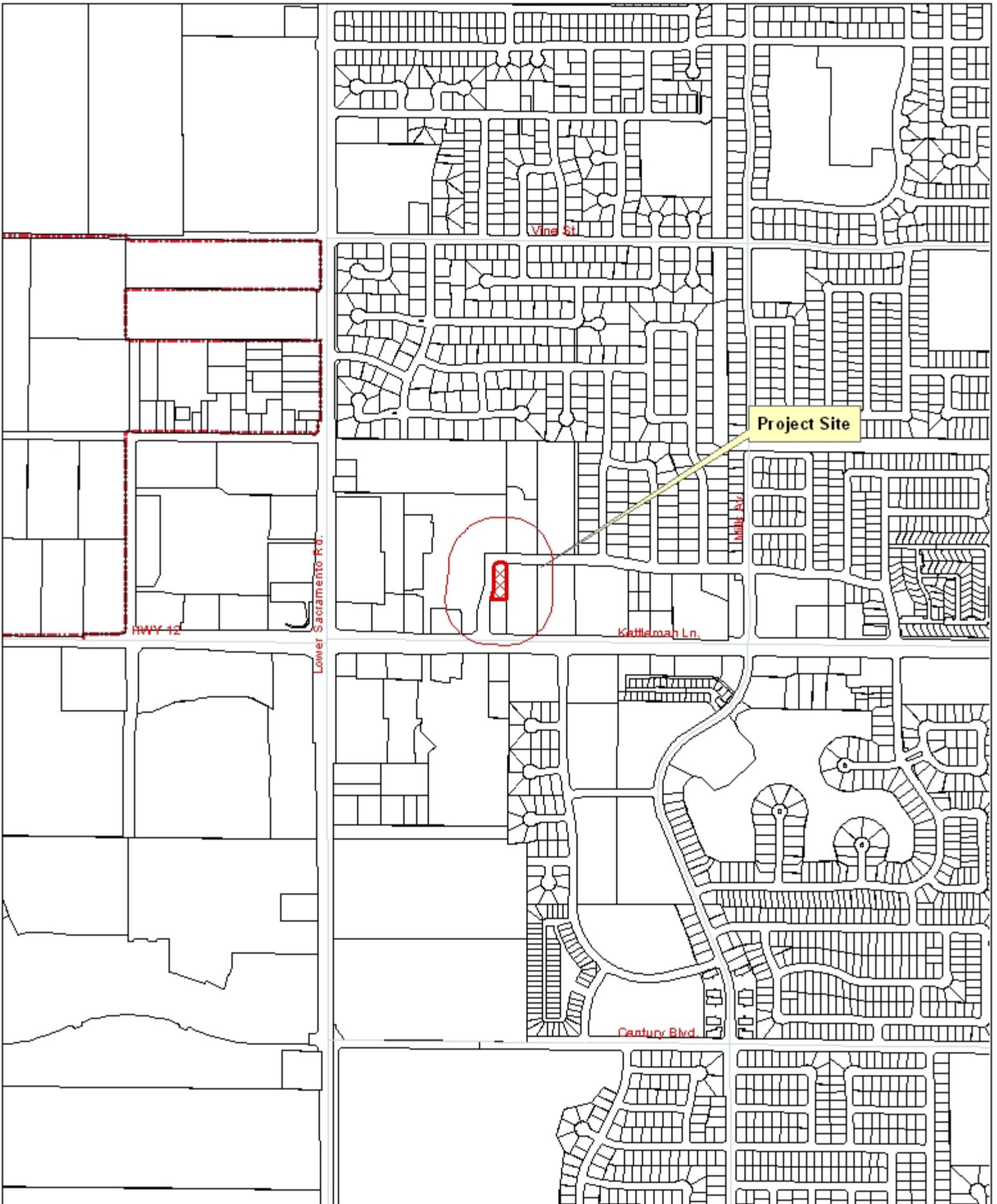
Concur,

Immanuel Bereket  
Associate Planner

Konradt Bartlam  
Community Development Director

#### **ATTACHMENTS:**

1. Vicinity Map
2. Aerial Photo
3. Site Plan and Floor Plan
4. Menu
5. Police Department Approval
6. Draft Resolution



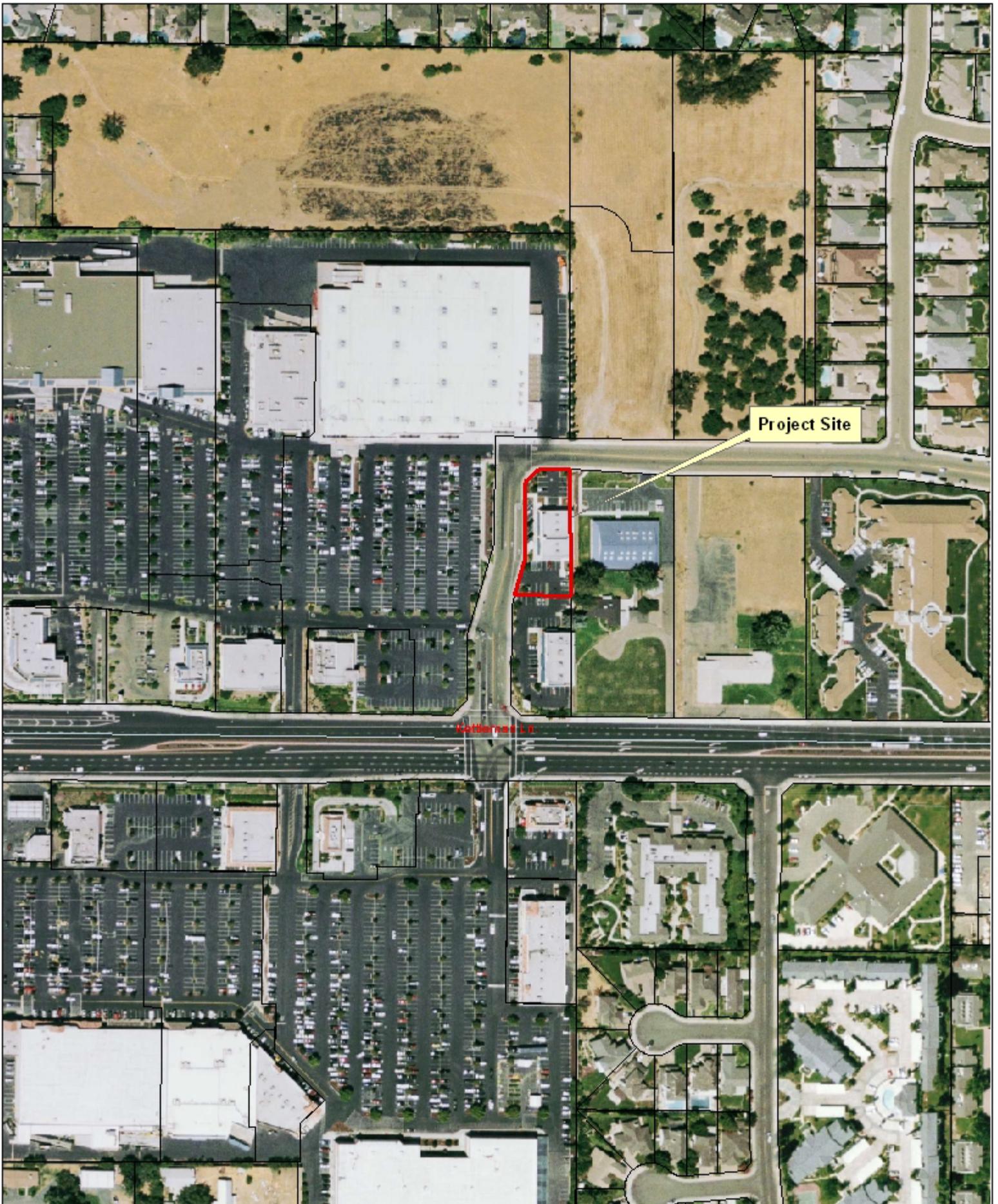
0 0.035 0.07 0.14 0.21 0.28 Miles

### Vicinity Map

2310 Tienda Drive  
 APN: 027-410-13  
 Lodi, CA 95242

### Legend

-  300-foot Radius
-  Project Site



Project Site

Waltham Ln



0 0.01 0.02 0.04 0.06 0.08 Miles

**Aerial Map**  
2310 Tienda Drive  
APN: 027-410-13  
Lodi, CA 95242

**Legend**

 Project Site

# TIENDA DRIVE

CHIPOTLE  
2,000 SF

CREDIT UNION

TENANT

EXISTING WATER METER LOCATION

657 SF PATIO (500 SF +/- NEW CONC. SLAB FOR SEATING & BIKE RACK BY LANDLORD PER WORK LETTER)

NEW LANDSCAPE BUFFER, NOTE 2

EXISTING ELECTRICAL SERVICE ENTRANCE

NEW CURB (BY LANDLORD PER WORK LETTER)

NEW RAMP BY LANDLORD

RELOCATE BIKE RACK (BY LANDLORD)

EXISTING EXTERIOR FIRE RISER

GREASE INTERCEPTOR BY CHIPOTLE

EXISTING ELEC. TRANSFORMER

EXISTING ROOF ACCESS LADDER

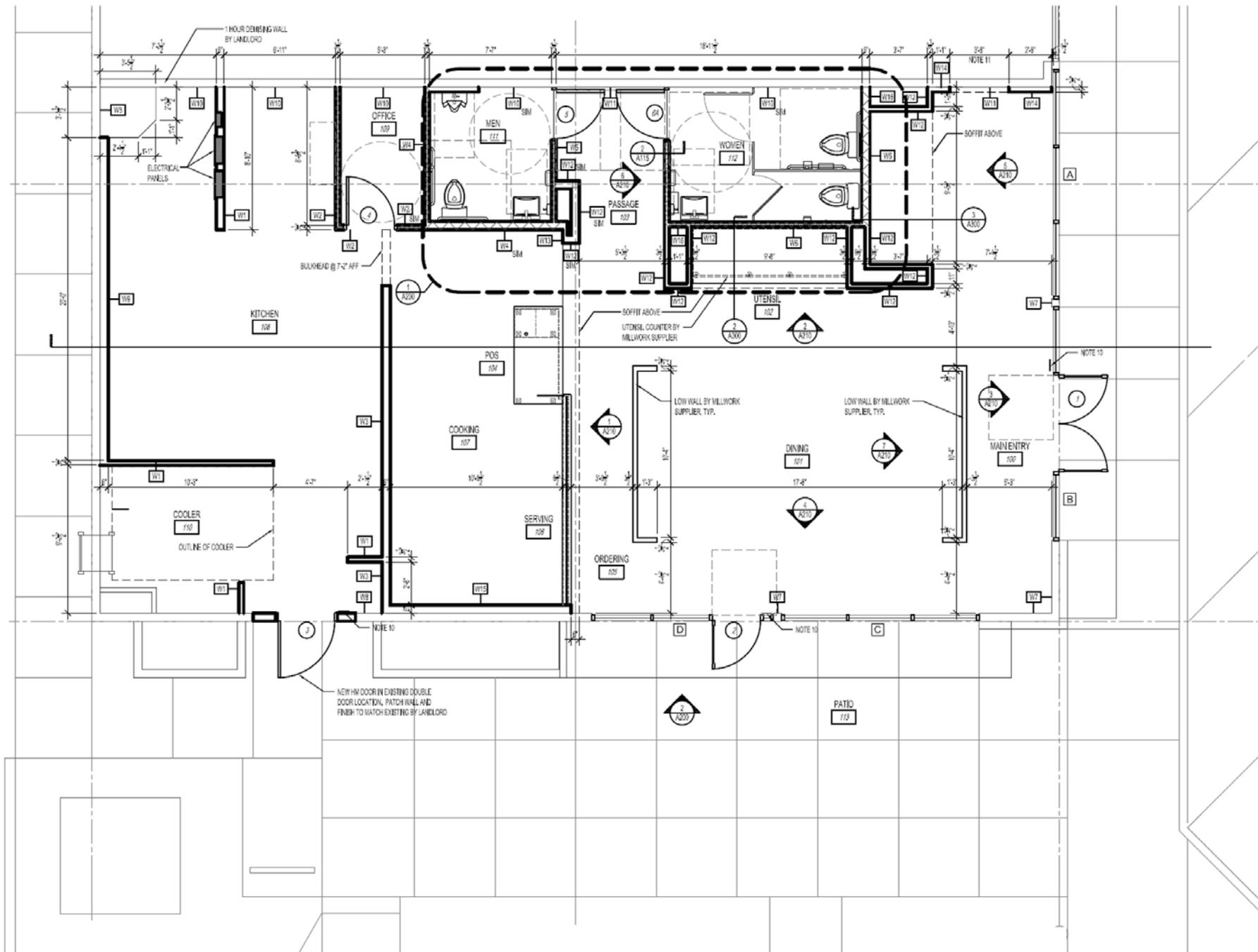
EXISTING ACCESSIBLE PARKING

EXISTING GAS METERS

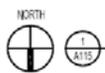
EXIST. TRASH ENCLOSURE

## Site Plan





NEW HW DOOR IN EXISTING DOUBLE DOOR LOCATION, PATCH WALL AND FINISH TO MATCH EXISTING BY LANDLORD



ARCHITECTURAL FLOOR PLAN



## —BURRITOS, TACOS & SALADS—



### BURRITO

Tortilla, choice of rice, beans, meat, salsa and cheese or sour cream. Add peppers and onions instead of beans for a fajita burrito.



### BURRITO BOWL

Just like a burrito, but served in a bowl with no tortilla.



### TACOS

Your choice of three crispy corn or soft flour tortillas with meat, salsa, cheese or sour cream and romaine lettuce.



### SALAD

Chopped romaine lettuce with choice of beans, meat, salsa and cheese, with chipotle-honey vinaigrette.

### CHICKEN

Naturally raised, marinated in our chipotle adobo, then grilled.

### STEAK

Marinated in our chipotle adobo, then grilled.

### BARBACOA

Naturally raised beef. Braised for hours, then shredded.

### CARNITAS

Naturally raised pork. Braised for hours, then shredded.

### VEGETARIAN

Includes our freshly made guacamole and vegetarian black beans.

## —SALSAS—



**Fresh Tomato**  
(Mild)



**Roasted Chili-Corn**  
(Medium)



**Tomatillo-Green Chili**  
(Medium Hot)



**Tomatillo-Red Chili**  
(Hot)

## —EXTRAS & DRINKS—

**Chips & Guacamole**

**Margarita**

**Chips & Salsa**

**Beer**

**Guacamole**

**Bottled Drinks**

**Chips**

**Soda**

You can also order online at [www.chipotle.com](http://www.chipotle.com), with our iPhone App, or by fax.

## Immanuel Bereket

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**From:** Gary Benincasa  
**Sent:** Tuesday, October 19, 2010 10:15 AM  
**To:** Immanuel Bereket  
**Cc:** LpdSupervisors  
**Subject:** FW: Chipotle - Use permit 10-U-13

10-U-13 – Chipotle Mexican Grill  
2310 Tienda Drive  
Use Permit for ABC Type 47 On-Sale General.

Manny,

We have no recommendations or concerns relative to the issuance of this permit.

Gary

Captain Gary Benincasa  
Interim Chief of Police  
215 W. Elm St.  
Lodi, CA 95240  
(209) 333-6726 Office  
(209) 333-6875 Fax

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**From:** Tod Patterson  
**Sent:** Tuesday, October 19, 2010 9:08 AM  
**To:** Gary Benincasa  
**Subject:** Chipotle

Gary, I have no issues with the Chipotle application.

Tod

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

**A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF LODI FOR THE APPROVAL OF THE REQUEST OF CHIPOTLE MEXICAN GRILL, INC FOR A USE PERMIT TO ALLOW FOR AN ON-SALE BEER, WINE AND DISTILLED SPIRITS ALCOHOLIC BEVERAGE CONTROL LICENSE AT 2310 TIENDA 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 Lodi Municipal Code, Section 17.72.070; and
- WHEREAS,** the project proponent is Chipotle Mexican Grill, Inc., 1401 Winkoop Street, #500., Denver, CA 80202; and
- WHEREAS,** the project is located at 2310 Tienda Drive, Lodi, CA 95242 (APN: 027-410-13); and
- WHEREAS,** the property has a General Plan designation of MUC, Mixed Use Corridor and is zoned C-S, Commercial Shopping; and
- WHEREAS,** the requested Use Permit to allow the selling of beer, wine distilled spirits for on-site consumption within a restaurant is an enforcement action in accordance with the City of Lodi Zoning Ordinance; and
- WHEREAS,** Census Tract 43.03 in which the proposed restaurant is to be located is not over concentrated of licenses allowing on premise consumption of alcoholic beverages; and
- WHEREAS,** because Census Tract 43.03 has no over concentration of On-sale beer, wine and distilled spirits alcohol licenses, the Planning Commission does not need to make a finding of necessity and/or public convenience in order to permit the issuance of an additional Alcohol Beverage Control license in this tract; and
- WHEREAS,** the State Department of Alcoholic Beverage Control has training available that clearly communicates State law concerning the sale of alcoholic beverages.
- WHEREAS,** all legal prerequisites to the adoption of this Resolution have occurred; and

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

1. The project was found to be Categorical Exempt according to the California Environmental Quality Act, Article 19 §15321, Class 21 (a) (2). The project is classified as an “Enforcement action by regulatory agencies” because it is the “adoption of an administrative decision or order enforcing or revoking the lease, permit, license, certificate, or entitlement for use or enforcing the general rule, standard, or objective.” No significant environmental impacts are anticipated and no mitigation measures have been required.
2. The sale of alcoholic beverages for on-premise consumption as part of a restaurant is a permitted use in the C-S zoning District. The site is suitable and adequate for the proposed use because establishment of a restaurant on this site would not create negative impacts on businesses, residents and instructional uses in the vicinity, and the applicant proposes to perform a tenant improvement in order to meet building code requirements.
3. The on-sale of beer, wine and distilled spirits, in accordance with a Type 47 Alcoholic Beverage Control License and with the conditions attached herein, would be consistent and in harmony with the Mixed Use Corridor General Plan Land Use Designation and C-S zoning District.
4. The proposed use is consistent with the General Plan because commercial uses such as the one proposed are permitted in accordance with Land Use Policy subject to a discretionary review.
5. The proposed use would not have a substantial adverse economic effect on nearby uses because operation of a restaurant in accordance with applicable laws and under the conditions of this Use Permit is anticipated to be an economic benefit to the community.

6. The sale of alcoholic beverages for on-premise consumption is a normal part of business operations and provides a convenience for customers of the business.
7. The sale and consumption of alcohol can sometimes result in customer behavior problems that can require police intervention.
8. Steps can be taken by the Applicant/Operator to reduce the number of incidents resulting from the over-consumption of alcohol including the proper training and monitoring of employees serving alcohol; the careful screening of IDs of customers to avoid sales to under-aged individuals; limiting the number of drinks sold to individual customers to avoid over-consumption; providing properly trained on-site security to monitor customer behavior both in and outside of the establishment; and working with the Lodi Police Dept. to resolve any problems that may arise.
9. The proposed use can be compatible with the surrounding use and neighborhood if the business is conducted properly and if the Applicant/Operator works with neighboring businesses and residents to resolve any problems that may occur.
10. The proposed use would not be detrimental to the general welfare of persons residing and working in the immediate vicinity, the neighborhood or the community at large because the sale of alcohol with a restaurant operation is not associated with detrimental impacts to the community.
11. The sale of alcoholic beverages at this location can meet the intent of the C-S 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-13 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 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.
4. The Applicant/Operator and/or successors in interest and management shall not serve alcohol in the proposed patio area and anywhere outside of the proposed building envelop.
5. The Applicant/Operator shall operate and abide by the requirements and conditions of the State of California Department of Alcoholic Beverage Control License Type 47. The Type 47 License shall be limited to on-site sale and consumption of beer, wine and distilled spirits during the hours that the restaurant is open for business or as otherwise modified by the Community Development Director.
6. The City reserves the right to periodically review the area for potential problems. If problems (on-site or within the immediate area) including, but not limited to, public drunkenness, the illegal sale or use of narcotics, drugs or alcohol, disturbing the peace and disorderly conduct result from the proposed land use, the Use Permit may be subject to

review and revocation by the City of Lodi after a public hearing and following the procedures outlined in the City of Lodi Municipal Code. Additional reviews may be prescribed by the Community Development Director, the Police Department and/or Planning Commission as needed during and after the first two years of probationary period. Further, starting from the effective date the business commences the sale of beer, wine and distilled spirits, this Use Permit shall be subject to a one year, and two year review by Community Development Director. If the Director determines it necessary, the Director shall forward the review to the Planning Commission to review the business's operation for compliance with the conditions of the Use Permit, and in response to any complaints thereafter.

7. 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.
8. The Use Permit shall require the Applicant/Operator and/or successors in interest and management to secure an ABC Type 47 license, On Sale Beer, Wine and Distilled Spirits – Eating Place.
9. Prior to the issuance of a Type 47 ABC license, 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.
10. The sale of alcohol shall occur only at tables when served with meals. A separate bar and/or counter for the consumption of alcohol shall be prohibited.
11. Any changes to the interior layout of the business operation shall be subject to review and approval by the Planning Department and shall require appropriate City permits.
12. No person who is in a state of intoxication shall be permitted within the restaurant nor shall an intoxicated patron already in the bar be served additional alcoholic beverages. It is the responsibility of the business owner/operator to ensure no patron in state of intoxication is allowed into the building.
13. The Applicant/Operator and/or successors in interest and management of the restaurant shall police the area surrounding the business to prevent patrons from congregating/loitering outside the premises and to prevent excessive noise or other objectionable behavior. Noise levels shall be monitored to insure that noise shall not violate the City's Noise Ordinance Section 9.24.020 and Section 9.24.030.
14. 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.
15. 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.
16. The exterior of all the premises shall be maintained in a neat and clean manner, and maintained free of graffiti at all times.
17. Approval of this Use Permit shall be subject to revocation procedures contained in Section 17.72 LMC in the event any of the terms of this approval are violated or if the sale of beer and wine is conducted or carried out in a manner so as to adversely affect the health, welfare or safety of persons residing or working in the neighborhood.
18. 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.

19. No variance from any City of Lodi adopted code, policy or specification is granted or implied by this approval.

**Dated: November 10, 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 November 10, 2010 by the following vote:

**AYES:** Commissioners:

**NOES:** Commissioners:

**ABSENT:** Commissioners:

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

**Item 3b.**

**CITY OF LODI  
PLANNING COMMISSION  
Staff Report**

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**MEETING DATE:** November 10, 2010

**APPLICATION NO:** Use Permit: 10-U-14

**REQUEST:** Request for Planning Commission approval of a Use Permit to allow a Type-47 On-Sale General Alcoholic Beverage Control License at 400 East Kettleman Lane. (Applicant: Petra Flores Pena. File Number: 10-U-14)

**LOCATION:** 400 East Kettleman Lane  
APN: 062-060-10  
Lodi, CA 95240

**APPLICANT:** Petra Flores Pena  
On behalf of Casa Flores Mexican Restaurant  
400 East Kettleman Lane  
Lodi, CA 95240

**PROPERTY OWNER:** John and Varene Teresi Family LP  
P. O. Box 819  
Lodi, CA 95241

**RECOMMENDATION**

Staff recommends that the Planning Commission approve the request of Petra Flores Pena for a Use Permit to allow a Type-47 On-Sale General Alcoholic Beverage License at 400 East Kettleman Lane, subject to the conditions in the attached resolution.

**PROJECT/AREA DESCRIPTION**

**General Plan Designation:** Commercial  
**Zoning Designation:** C-2, General Commercial.  
**Property Size:** 4.38 acres. (Restaurant is approximately 3,200 sq. ft.)

The adjacent zoning and land use characteristics:

	<b>General Plan</b>	<b>Zone</b>	<b>Land Use</b>
<b>North</b>	Commercial	C-2, General Commercial RE-1, Single Family Residence	commercial and institutional uses
<b>South</b>	Low Density Residence	R-2, Single Family Residence	Retail and commercial uses
<b>East</b>	Commercial	C-2, General Commercial	Retail and commercial uses
<b>West</b>	Commercial	C-2, General Commercial	Retail and commercial uses

**SUMMARY**

The applicant, Petra Flores Pena, on behalf of Casa Flores Mexican Restaurant, is requesting approval of a Use Permit to allow a Type-47 Alcoholic Beverage Control (ABC) License. The owner currently operates the restaurant and serves beer and wine for on-site consumption. The owner is applying for a license through the California Department of Alcoholic Beverage Control (ABC) to upgrade their beer and wine license to serve distilled spirits in conjunction with the restaurant operation. Casa Flores Mexican Restaurant is within a C-2 zoning district, which permits the sale of alcohol. Approval of this Use Permit does not entitle the restaurant live entertainment or bar, but only allows beer and wine to be served in addition to the food.

## **BACKGROUND**

Casa Flores Mexican Restaurant is currently serving the City of Lodi. Casa Flores Mexican Restaurant has been in business since 1996 and has operated without any problems. The project site is located East Kettleman Lane near various businesses. Since its inception, the restaurant has had beer and wine license without any problems or concerns. In accordance with the requirements of the Department of Alcoholic Beverage Control, the applicant has applied to upgrade their license with Department of Alcoholic Beverage Control and must obtain a Use Permit from the City to serve alcohol. In order to increase sales and attract customers, the applicant requests approval from the City to serve beer and wine at the restaurant.

## **ANALYSIS**

According to the applicant, Casa Flores Mexican Restaurant offers lunch and dinner menu. The restaurant is open from the hours of 10:00 a.m. to 10:00 p.m. daily. The restaurant is approximately 3,200 square feet in size and provides seating for approximately 80 guests. Parking is provided on site, which satisfies the parking requirement for eating establishment of this size. In accordance with the State Department of Alcoholic Beverage Control (ABC) requirements, receipts from alcohol sale shall not be in excess of food sales receipts. ABC requires that restaurants with alcohol license must operate and maintain the premise as a bona fide eating establishment.

The applicant currently holds a Type 41 ABC license, which authorizes the sale of beer and wine for consumption on or off the premise where sold. Type 41 prohibits the sale of distilled spirits. The applicants would like to upgrade their ABC License to Type 47, which authorizes the sale of beer, wine, and distilled spirits for consumption on the license premises. The Lodi Municipal Code, §17.72.040, requires a Use Permit for new Off-Sale and On-Sale alcohol licenses as well as changes in license type. The City established the Use Permit requirement to gain local control over whether or not a license is appropriate for a particular location. The Department of Alcoholic Beverage Control primarily controls issuance based on concentration of licenses within a particular Census Tract.

The project site belongs to Census Tract 44.02. Census Tract 44.02 covers the area south of Kettleman Lane, west of Central California Traction Company (C.C.T) Line, north of Harney Lane, and east of Union Pacific Rail Road Company (U.P.R.R). According to ABC, Census Tract 44.02 contains two (2) existing on-sale licenses with four (4) on-sale licenses allowed based on the ABC criteria. One of the existing two (2) licenses belongs to applicant. The applicants will be required to cancel their current Type 41 License in order to upgrade to Type 41 License. The net result will be the same. However, the Commission should review application to ensure that sale of alcohol will not adversely affect surrounding residents, businesses, and institutions and to ensure that any such use operates in a manner compatible with existing and future adjacent uses. In the past, the Planning Commission and the Planning staff have generally supported restaurants that wish to acquire an ABC on-sale license, because typically, restaurants that serve alcohol in conjunction with food sales do not create alcohol related problems.

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

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

**ENVIRONMENTAL ASSESSMENTS**

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

**PUBLIC HEARING NOTICE:**

Legal Notice for the Use Permit was published on October 28, 2010. Seventy-three (73) 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.

**ALTERNATIVE PLANNING COMMISSION ACTIONS:**

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

Respectfully Submitted,

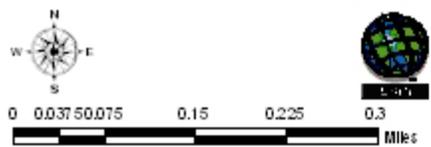
Concur,

Immanuel Bereket  
Assistant Planner

Konrad Bartlam  
Community Development Director

**ATTACHMENTS:**

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



**Vicinity Map**  
 400 East Kettleman Lane  
 APN: 062-060-10  
 Lodi, CA 95240

**Legend**

 Project Site



Kettleman Lane



0 0.0050.01 0.02 0.03 0.04 Miles

### Aerial Map

400 East Kettleman Lane  
APN: 062-060-10  
Lodi, CA 95240

### Legend

 Project Site

**SUPPLEMENTAL DIAGRAM**

**Instructions to Applicant:**

Draw a sketch of the area on which the licensed premises is or will be located. Show adjacent structures and nearest cross streets. *If this is an event for a daily license, catering authorization or miscellaneous use, show the area where sales and consumption of alcoholic beverages will occur. Post a copy of this diagram with Daily License, Catering Authorization or Event Authorization where the event is held. Sales and consumption of alcoholic beverages must be confined to the area designated in the diagram and supervised to prevent violations of the Alcoholic Beverage Control Act.*

1. APPLICANT NAME (Last, first, middle) Flores, Petra	2. LICENSE TYPE 47
3. PREMISES ADDRESS (Street number and name, city, zip code) 400 E. Kettleman Ln Suites 5,6 & 7 Lodi, CA 95240	4. NEAREST CROSS STREET Central

**DIAGRAM**



I have read the above instructions and I declare under penalty of perjury that the above diagram is true and correct.

APPLICANT SIGNATURE	DATE SIGNED
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**FOR ABC USE ONLY**

CERTIFIED CORRECT (Signature)	PRINTED NAME	INSPECTION DATE
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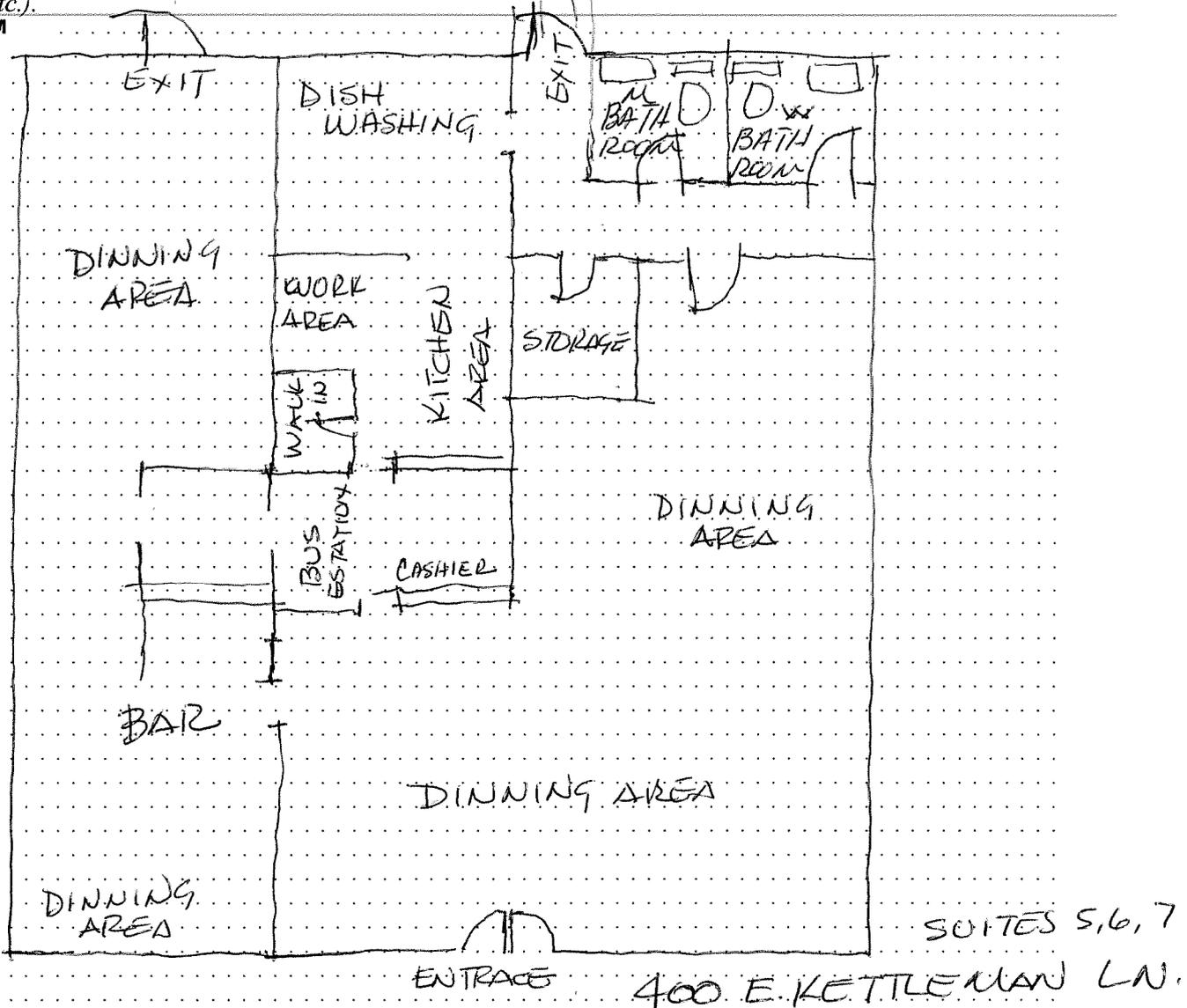
Department of Alcoholic Beverage Control  
**LICENSED PREMISES DIAGRAM (RETAIL)**

State of California

1. APPLICANT NAME (Last, first, middle) Flores, Petra	2. LICENSE TYPE 47
3. PREMISES ADDRESS (Street number and name, city, zip code) 400 E. Kettleman Ln Suites 5,6 & 7 Lodi, CA 95240	4. NEAREST CROSS STREET Central

The diagram below is a true and correct description of the entrances, exits, interior walls and exterior boundaries of the premises to be licensed, including dimensions and identification of each room (i.e., "storeroom", "office", etc.).

**DIAGRAM**



It is hereby declared that the above-described boundaries, entrances and planned operation as indicated on the reverse side, will not be changed without first notifying and securing prior written approval of the Department of Alcoholic Beverage Control. I declare under penalty of perjury that the foregoing is true and correct.

APPLICANT SIGNATURE (Only one signature required)	DATE SIGNED
---	-------------

**FOR ABC USE ONLY**

CERTIFIED CORRECT (Signature)	PRINTED NAME	INSPECTION DATE
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## SEAFOOD

Served with Rice, Beans, Guacamole,  
And Sour Cream

<b>CAMARONES A LA DIABLA</b> Shrimp served with chopped onions, tomatoes, and our special spicy sauce	\$12.00
<b>CAMARONES AL MOJO DE AJO</b> Shrimp served with chopped onions, tomatoes, garlic, our special sauce	\$12.00
<b>CAMARONES RANCHEROS</b> Shrimp served with onions, tomatoes, and bell peppers in our special tomatoes sauce	\$12.00
<b>SHRIMP COCKTAIL</b> Our shrimp cocktail includes chopped onions, tomatoes, fresh cilantro, sliced avocados, fresh lemon, and our special cocktail sauce. Served with salted crackers	\$10.50

<b>SHRIMP TOSTADA</b>	
Lunch	\$5.75
Dinner	\$8.50
A la carte	\$3.95

Listed in other parts of the menu:

**FISH TACOS • SHRIMP GREEN ENCHILADA  
• SHRIMP FAJITAS • FISH FAJITAS**

## SIDE ORDERS

GUACAMOLE	\$1.25
CHIPS & SALSA TO GO	\$4.00
SIDE SALAD	\$2.50
SOUR CREAM	\$1.00
BEANS • RICE	
Per scoop	\$1.50

## KID'S MENU

For our guest 11 years and under.  
Served with a small kid's drink of your choice.

<b>CK O'S &amp; FRIES</b>	\$4.95
<b>HAMBURGER &amp; FRIES</b>	\$4.95
<b>CHEESEBURGER &amp; FRIES</b>	\$4.95
<b>CORNDOG BITES &amp; FRIES</b>	\$4.95
<b>No. 80</b> Shredded chicken with gravy served with rice, beans, and lettuce	\$4.95
<b>No. 50</b> Rice & beans garnished with lettuce	\$3.50

## DESSERTS

HOMEMADE FLAN • CHEESECAKE \$3.50

## DRINKS

No refills to go

### SOFT DRINKS

Coke • Diet Coke • Sprite • Root Beer • Mr. Pibb • Lemonade •  
Fanta Orange • Iced Tea • Raspberry Iced Tea \$1.95

Coffee • Hot Tea \$1.95

Horchata • Hot Chocolate  
1 refill only \$2.25

Pepsi • Diet Pepsi 24 oz Bottle \$2.25

Milk • Orange Juice • Apple Juice  
(14 oz) No Refills \$2.25

## BEER

### MEXICAN BEER

Corona • Bohemia • Dos Equis XX Amber & Lager •  
Negra Modelo • Modelo Especial • Pacifico • Tecate \$3.25

### AMERICAN BEER

Budweiser • Bud Light • Coors Light  
Coors • MGD • Miller Lite • O'Doul's \$2.95

## WINES

### GALLO TWIN VALLEY WINES

White Zinfandel  
Chardonnay  
Merlot

Glass \$3.00 • Bottle \$10.00

### ADVENTUROUS WINES

*Bottle only*

Kendall-Jackson Chardonnay • Jessie's Gove Winery Earth Zin & Fire  
\$25.00

### WINE MARGARITAS

Lime • Glass \$3.50

## DRAFT BEER

### BUD LIGHT

16 oz glass \$3.00 • 32 oz pitcher \$5.50  
64 oz pitcher \$10.00

### XX • BLUE MOON

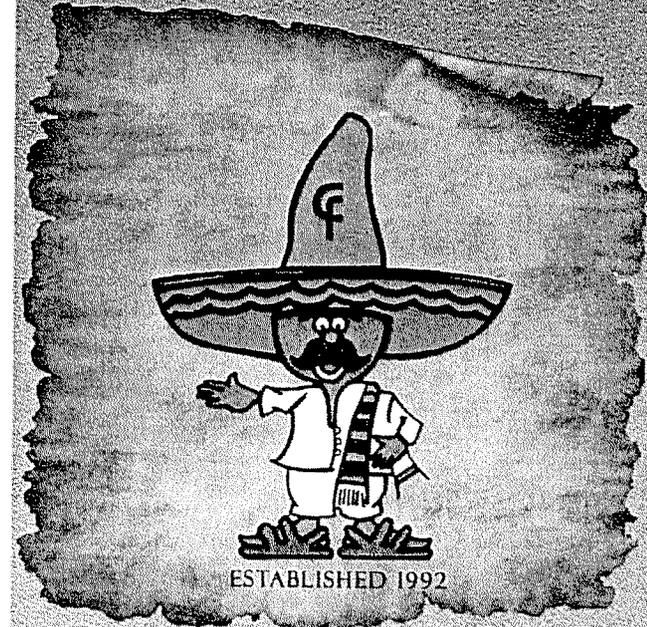
16 oz glass \$3.50 • 32 oz pitcher \$6.75  
64 oz pitcher \$13.00



*Bienvenidos a*

# CASA FLORES

## MEXICAN RESTAURANT



400 E. Kettleman Ln.  
Lodi, CA 95240  
(209) 365-0559

**100 % Cholesterol Free Chips**  
 "We cook with Corn Oil for all our deep frying"

## APPETIZERS

### NACHOS

Corn chips with melted Monterey jack cheese on top, jalapeños, guacamole, sour cream, beans, tomatoes, and your choice of:  
 Chicken or Beef \$7.75  
 Carne Asada \$8.25

### SPECIALTY DIPS

Guacamole Dip \$4.99  
 Gravy & Cheese \$1.25  
 Beans w/gravy & cheese \$2.25

### ADELAS

Two flour tortillas with melted cheese and tomatoes. Served with sour cream and guacamole. \$5.25

## BREAKFAST

### MACHACA & EGGS

Three scrambled eggs, sautéed onions, tomatoes, bell peppers, yellow chiles, rice, beans, and your choice of chicken or shredded beef \$7.75

### CHORIZO, EGGS & POTATOES

Served with rice, beans, sour cream, and flour or corn tortillas. \$7.75

### HUEVOS RANCHEROS

Two over easy eggs served on top of a corn tortilla with steak ranchero, rice, and beans. \$7.75

## SOUPS & SALADS

### MENUDO

Served on Saturdays and Sundays \$7.75

### TACO SALAD

Served in a flour tortilla shell with refried beans on the bottom. Tossed lettuce, tomatoes, carrots, cucumbers, and cheese on top. Served with sour cream, guacamole, and rice on the side.

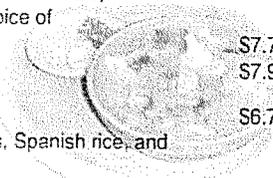
Chicken \$7.75  
 Shrimp \$7.95

### CHICKEN OR SHRIMP SALAD

Served with lettuce, tomatoes, carrots, cucumbers, lemon, and slices of avocado. Your choice of Dressing \$7.75  
 Shrimp \$7.95

### CHICKEN SOUP

Served with steamed mixed vegetables, Spanish rice, and shredded chicken \$6.75



## LUNCH SPECIALS • DINNER PLATES

Served with rice, beans, garnished with lettuce and tomatoes.

Combine ANY two items for Dinner Plates

### TACO • ENCHILADA • TOSTADA • QUESADILLA • BURRITO • TAMALES • ASADA TACO

Lunch (One Item) \$4.95 • Dinner (Two Items) \$7.75  
 • A la carte Item \$3.00

### FLAUTAS • CHIMICHANGA • FISH TACO • SOPE • SHRIMP GREEN ENCHILADA

Lunch (One Item) \$5.75 • Dinner (Two Items) \$8.50  
 • A la carte Item \$3.95

### CHILE RELLENO • GREEN ENCHILADA

Lunch (One Item) \$5.50 • Dinner (Two Items) \$8.25  
 • A la carte Item \$3.25

Add \$0.50 to lunch specials after 3:30 pm

### NO. 1 MOSTLY BEEF

1 Beef Taco, 1 Beef Enchilada, 1 Chile Relleno, Chile Colorado, Chile Verde \$10.95

### NO. 2

1 Taco, 1 Enchilada. Your choice of chicken, beef, or pork \$7.75

### NO. 3 MOSTLY CHICKEN

1 Chicken Taco, 1 Chicken Enchilada, 1 Chile Relleno, Chile Colorado, Chile Verde \$10.95

### NO. 4

1 Beef Quesadilla, 1 Chile Relleno, 1 Beef Taco, Chile Verde \$10.95

### NO. 5

1 Beef Taco, 1 Cheese Enchilada, Steak Ranchero \$9.25

### NO. 6

1 Beef Enchilada, 1 Beef Quesadilla, Steak Ranchero \$9.25

NO. 7 Beef Taco, Cheese Enchilada \$7.75

NO. 8 Chicken Taco, Beef Enchilada \$7.75

NO. 9 Beef Tostada, Beef Enchilada \$7.75

NO. 10 Chile Relleno, Tamale \$8.25

NO. 11 Chicken Enchilada, Beef Taco \$7.75

NO. 12 Beef Enchilada, Beef Quesadilla \$7.75

NO. 13 Guacamole Tostada, Tamale \$7.75

NO. 14 Cheese Enchilada, Pork Burrito \$7.75

NO. 15 Beef Enchilada, Chile Relleno \$8.25

NO. 16 Beef Taco, Tamale \$7.75

NO. 17 Beef Enchilada, Pork Burrito \$7.75

NO. 18 Chile Relleno, Beef Tostada \$8.25

NO. 19 Beef Enchilada, Tamale \$7.75

NO. 20 Beef Taco, Chile Relleno \$8.25

NO. 21 Beef Enchilada, Beef Burrito \$7.75

NO. 22 Beef Quesadilla, Chile Relleno \$8.25

NO. 23 Cheese Enchilada, Chile Relleno \$8.25

NO. 24 Beef Burrito, Beef Taco \$7.75

NO. 25 Guacamole Tostada, Beef Quesadilla \$7.75

Tortillas available upon request.

## SIZZLIN' FAJITAS

Served on a sizzlin' hot plate with sautéed bell peppers, onions, tomatoes, and yellow chiles. Served with rice, refried beans, sour cream, and guacamole.

### CHICKEN OR STEAK FAJITAS

Marinated meat with our house salsa and sautéed Vegetables \$12.00  
 Add shrimp \$2.50

### SHRIMP OR FISH FAJITAS

Marinated shrimp with our house salsa and sautéed vegetables \$13.50



## CASA FLORES SPECIALTIES

Served with rice and beans.

Tortillas available upon request.

### CHILE VERDE

Chunks of tender pork sautéed in our famous tomatillo green salsa \$9.50

### CHILE COLORADO

Chunks of tender beef topped with our delicious red sauce \$9.50

### STEAK RANCHERO

Beef slices cooked with bell peppers, onions, yellow chiles, and our own special sauce \$9.50

### BREADED CHICKEN OR BEEF

Served with fries, sour cream, and guacamole \$13.00

### ESPECIALES

Diced steak mixed with bell peppers, onions, yellow chiles, tomatoes, bacon, and cheese \$9.50

### CARNE ASADA

Grilled steak topped with sautéed onions, tomatoes, bell peppers, and yellow chiles. Served with sour cream and guacamole \$12.00  
 Add shrimp \$2.00

## SUPER BURRITOS

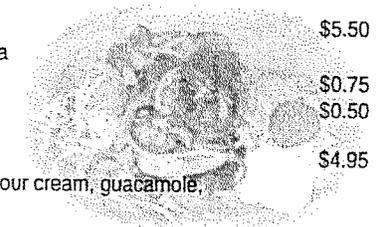
Served with rice, beans, and cheese inside with your choice of meat:  
 Beef (Chile Colorado) • Pork (Chile Verde) • Chicken \$4.95

### CARNE ASADA

with onions, cilantro, and salsa \$5.50  
 Add guacamole \$0.75  
 Add sour cream \$0.50

### VEGETARIAN BURRITO

Refried beans, rice, cheese, sour cream, guacamole, lettuce, and tomatoes \$4.95



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

**A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF LODI FOR THE APPROVAL OF THE REQUEST OF PETRA FLORES, ON BEHALF OF CASA FLORES MEXICAN RESTAURANT, FOR A USE PERMIT TO ALLOW FOR AN ON-SALE BEER, WINE AND DISTILLED SPIRITS ALCOHOLIC BEVERAGE CONTROL LICENSE AT 400 EAST KETTLEMAN LANE**

- WHEREAS,** the Planning Commission of the City of Lodi has heretofore held a duly noticed public hearing, as required by law, on the requested Use Permit, in accordance with the Lodi Municipal Code, Section 17.72.070; and
- WHEREAS,** the project proponent is Petra Flores Pena, On behalf of Casa Flores Mexican Restaurant, 400 East Kettleman Lane, Lodi, CA 95240; and
- WHEREAS,** the project is located at 400 E. Kettleman Ln, Lodi, CA 95241 (APN: 062-060-10); and
- WHEREAS,** the property has a General Plan designation of Commercial and is zoned C-2, General Commercial; and
- WHEREAS,** the requested Use Permit to allow the selling of beer, wine distilled spirits for on-site consumption within a restaurant is an enforcement action in accordance with the City of Lodi Zoning Ordinance; and
- WHEREAS,** Census Tract 44.02 in which the proposed restaurant is to be located is not over concentrated of licenses allowing on premise consumption of alcoholic beverages; and
- WHEREAS,** because Census Tract 44.02 has no over concentration of On-sale beer, wine and distilled spirits alcohol licenses, the Planning Commission does not need to make a finding of necessity and/or public convenience in order to permit the issuance of an additional Alcohol Beverage Control license in this tract; and
- WHEREAS,** the State Department of Alcoholic Beverage Control has training available that clearly communicates State law concerning the sale of alcoholic beverages.
- WHEREAS,** all legal prerequisites to the adoption of this Resolution have occurred; and

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

1. The project was found to be Categorical Exempt according to the California Environmental Quality Act, Article 19 §15321, Class 21 (a) (2). The project is classified as an “Enforcement action by regulatory agencies” because it is the “adoption of an administrative decision or order enforcing or revoking the lease, permit, license, certificate, or entitlement for use or enforcing the general rule, standard, or objective.” No significant environmental impacts are anticipated and no mitigation measures have been required.
2. The sale of alcoholic beverages for on-premise consumption as part of a restaurant is a permitted use in the C-S zoning District. The site is suitable and adequate for the proposed use because establishment of a restaurant on this site would not create negative impacts on businesses, residents and instructional uses in the vicinity, and the applicant proposes to perform a tenant improvement in order to meet building code requirements.
3. The on-sale of beer, wine and distilled spirits, in accordance with a Type 47 Alcoholic Beverage Control License and with the conditions attached herein, would be consistent and in harmony with the Commercial General Plan Land Use Designation and C-2 Zoning District.
4. The proposed use is consistent with the General Plan because commercial uses such as the one proposed are permitted in accordance with Land Use Policy subject to a discretionary review.
5. The proposed use would not have a substantial adverse economic effect on nearby uses because operation of a restaurant in accordance with applicable laws and under the conditions of this Use Permit is anticipated to be an economic benefit to the community.

6. The sale of alcoholic beverages for on-premise consumption is a normal part of business operations and provides a convenience for customers of the business.
7. The sale and consumption of alcohol can sometimes result in customer behavior problems that can require police intervention.
8. Steps can be taken by the Applicant/Operator to reduce the number of incidents resulting from the over-consumption of alcohol including the proper training and monitoring of employees serving alcohol; the careful screening of IDs of customers to avoid sales to under-aged individuals; limiting the number of drinks sold to individual customers to avoid over-consumption; providing properly trained on-site security to monitor customer behavior both in and outside of the establishment; and working with the Lodi Police Dept. to resolve any problems that may arise.
9. The proposed use can be compatible with the surrounding use and neighborhood if the business is conducted properly and if the Applicant/Operator works with neighboring businesses and residents to resolve any problems that may occur.
10. The proposed use would not be detrimental to the general welfare of persons residing and working in the immediate vicinity, the neighborhood or the community at large because the sale of alcohol with a restaurant operation is not associated with detrimental impacts to the community.
11. The sale of alcoholic beverages at this location can meet the intent of the C-2 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-14 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 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.
4. The Applicant/Operator and/or successors in interest and management shall not serve alcohol in the proposed patio area and anywhere outside of the proposed building envelop.
5. The Applicant/Operator shall operate and abide by the requirements and conditions of the State of California Department of Alcoholic Beverage Control License Type 47. The Type 47 License shall be limited to on-site sale and consumption of beer, wine and distilled spirits during the hours that the restaurant is open for business or as otherwise modified by the Community Development Director.
6. The City reserves the right to periodically review the area for potential problems. If problems (on-site or within the immediate area) including, but not limited to, public drunkenness, the illegal sale or use of narcotics, drugs or alcohol, disturbing the peace and disorderly conduct result from the proposed land use, the Use Permit may be subject to

review and revocation by the City of Lodi after a public hearing and following the procedures outlined in the City of Lodi Municipal Code. Additional reviews may be prescribed by the Community Development Director, the Police Department and/or Planning Commission as needed during and after the first two years of probationary period. Further, starting from the effective date the business commences the sale of beer, wine and distilled spirits, this Use Permit shall be subject to a one year, and two year review by Community Development Director. If the Director determines it necessary, the Director shall forward the review to the Planning Commission to review the business's operation for compliance with the conditions of the Use Permit, and in response to any complaints thereafter.

7. 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.
8. The Use Permit shall require the Applicant/Operator and/or successors in interest and management to secure an ABC Type 47 license, On Sale Beer, Wine and Distilled Spirits – Eating Place.
9. Prior to the issuance of a Type 47 ABC license, 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.
10. The sale of alcohol shall occur only at tables when served with meals. A separate bar and/or counter for the consumption of alcohol shall be prohibited.
11. Any changes to the interior layout of the business operation shall be subject to review and approval by the Planning Department and shall require appropriate City permits.
12. No person who is in a state of intoxication shall be permitted within the restaurant nor shall an intoxicated patron already in the bar be served additional alcoholic beverages. It is the responsibility of the business owner/operator to ensure no patron in state of intoxication is allowed into the building.
13. The Applicant/Operator and/or successors in interest and management of the restaurant shall police the area surrounding the business to prevent patrons from congregating/loitering outside the premises and to prevent excessive noise or other objectionable behavior. Noise levels shall be monitored to insure that noise shall not violate the City's Noise Ordinance Section 9.24.020 and Section 9.24.030.
14. 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.
15. 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.
16. The exterior of all the premises shall be maintained in a neat and clean manner, and maintained free of graffiti at all times.
17. Approval of this Use Permit shall be subject to revocation procedures contained in Section 17.72 LMC in the event any of the terms of this approval are violated or if the sale of beer and wine is conducted or carried out in a manner so as to adversely affect the health, welfare or safety of persons residing or working in the neighborhood.
18. 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.

19. No variance from any City of Lodi adopted code, policy or specification is granted or implied by this approval.

**Dated: November 10, 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 November 10, 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 11/10/2010  
**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
November 3, 2010	Regular	Conduct Public Hearing to Consider Adoption of the 2010 California Building Code, Mechanical Code, Electrical Code, Plumbing Code, Residential Code, Green Building Standard Code, Fire Code with Local Amendments Including a Fee Schedule for Operational Permits and ATC 20 Placards