

<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, DECEMBER 8, 2010 @ 7:00 PM</p>
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For information regarding this agenda please contact:

**Kari Chadwick @ (209) 333-6711**  
**Community Development Secretary**

***NOTE:** All staff reports or other written documentation relating to each item of business referred to on the agenda are on file in the Office of the Community Development Department, located at 221 W. Pine Street, Lodi, and are available for public inspection. If requested, the agenda shall be made available in appropriate alternative formats to persons with a disability, as required by Section 202 of the Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12132), and the federal rules and regulations adopted in implementation thereof. To make a request for disability-related modification or accommodation contact the Community Development Department as soon as possible and at least 24 hours prior to the meeting date.*

1. ROLL CALL
2. MINUTES – “October 27, 2010” & “November 10, 2010”
3. PUBLIC HEARINGS
  - a. Request for Planning Commission approval of a Use Permit to allow a Type-20 Off-Sale beer and wine Alcoholic Beverage Control License at 11 North School Street (Applicant: Cindy Della Monica. File Number: 10-U-15)

**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

**LODI PLANNING COMMISSION  
REGULAR COMMISSION MEETING  
CARNEGIE FORUM, 305 WEST PINE STREET  
WEDNESDAY, NOVEMBER 10, 2010**

1. CALL TO ORDER / ROLL CALL

The Regular Planning Commission meeting of November 10, 2010, was called to order by Chair Hennecke at 7:00 p.m.

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

Absent: Planning Commissioners – Cummins and Jones

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

2. MINUTES

“October 27, 2010”

The October 27, 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 for 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)

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

Commissioner Heinitz asked why the restaurant isn't going to serve alcohol outside. Director Bartlam recommended that the question be directed toward the applicant. Heinitz asked if there is an extra charge for outside service. Bartlam stated that there is not nor is it prohibited.

Hearing Opened to the Public

- Tina Phanthaamat, representative of Chipotle, came forward to answer questions.
- Commissioner Heinitz asked if Ms. Phanthaamat was the owner or going to be the manager of this location. Ms. Phanthaamat stated that the manager has not been determined. Heinitz asked if the owners were present. Ms. Phanthaamat stated no. Heinitz asked why more individuals were not present. Ms. Phanthaamat stated that she didn't know why more representatives weren't present tonight. The application was submitted by Adriana out of the Omaha office and she sent out an email asking the area representative to attend, but he is in a meeting in San Francisco, so they asked her to come. She is familiar with the area since she was the manager of the Stockton location prior to going to Modesto. Heinitz asked if the owner of the franchise is local. Ms. Phanthaamat stated that Chipotle is corporately owned not a franchise and opening in Lodi is highly anticipated. Heinitz expressed his disappointment in the company for not being able to find someone other than just a manager from Modesto to represent them.

- Commissioner Kirsten asked what the anticipated opening date is. Ms. Phanthaamat stated that the anticipated date is in April 2011.
- Chair Hennecke asked if alcohol is served in the outside area in Modesto. Ms. Phanthaamat stated that it is not.
- Commissioner Kiser asked who the owners are. Ms. Phanthaamat stated that the CEO is Steve Else and he is out of Denver Colorado. The regional office is in Natomas California. Kiser asked if the owners didn't think it was important enough to be able to make it to the meeting tonight. Ms. Phanthaamat stated that that is not the case. She added that when the request to attend went out the area manager, Scott Tenner, was already scheduled to attend a meeting in San Francisco, so they asked her to attend.
- Commissioner Heinitz stated his displeasure over the fact that someone in authority could not make it to the meeting. Ms. Phanthaamat stated she spoke with Adriana and her boss to prepare for the meeting tonight and they felt she was empowered enough to answer any questions the Commission might have.

Public Portion of Hearing Closed

- Commissioner Kirsten stated that he understands some of the points that his fellow Commissioners have made, but feels that the Commission can get beyond those issues. Chipotle is a well known entity and he does not believe that there will be any issues with the management that is chosen.
- Commissioner Heinitz stated that he can not support the project without someone of authority here to answer questions. This is not a given. He would like to see the item tabled until someone else can be present.
- Vice Chair Olson stated that she can appreciate the fact that Commissioner Heinitz may have questions that he would like to have answered, but she hasn't heard a question that Ms. Phanthaamat can't answer. Based on the information provided she doesn't feel that not having someone here from corporate should be a deal breaker. Olson is comfortable with the representative that has been sent here tonight and if there is a question that should be asked that Commissioners don't feel that she can answer she would like to hear it. She does not think that the item should be on hold because someone from Denver isn't present. Commissioner Heinitz stated that he doesn't expect someone from Denver, but the district manager is in Sacramento. Olson would like to know what question Ms. Phanthaamat can not answer. Heinitz stated that she is not the manager of this store. Olson stated that she stated that they don't know the management of this store yet.
- Commissioner Kiser stated that he has the same concerns as Commissioner Heinitz and would like to see the manager or someone of ownership here to answer questions. Any time an item like this has come before the Commission a manager or owner has come and represented the project. It is matter of respect. If Ms. Phanthaamat was going to be the manager of this location he would not have a problem with the representation. He supports the project.
- Chair Hennecke stated that having Ms. Phanthaamat here to represent the company was a business decision made by Chipotle.
- Commissioner Heinitz stated that he is not voting for or against the project, he would like to see it tabled. There have been past examples of why we should not vote on this item tonight.
- Commissioner Kirsten stated that with a company like Chipotle the management could change hands a number of times, so having the current management here tonight isn't a point to get stuck on. He has a high level of confidence that whomever they choose to manage the local location will be spot on.
- Vice Chair Olson restated her support for the project.

- Commissioner Heinitz stated that he doesn't want to vote no, but would like to see the item tabled until someone from corporate can attend the meeting. He believes it is a slap in the face.

MOTION / VOTE:

The Planning Commission, on motion of Commissioner Kirsten, Olson second, approved the request of the Planning Commission for a Use Permit to allow a Type-47 On-Sale General Alcoholic Beverage Control License at 2310 Tienda Drive subject to the conditions in the attached resolution. The motion carried by the following vote:

Ayes: Commissioners – Kirsten, Olson, and Chair Hennecke  
 Noes: Commissioners – Heinitz and Kiser  
 Absent: Commissioners – Cummins and Jones

- 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 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)

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

Commissioner Kiser asked if there was an over abundance of licenses in the area. Mr. Bereket stated there isn't.

Hearing Opened to the Public

- The applicant, Petra Flores Pena and her son Marco Chavez, came forward to answer questions.
- Doug Brown, Principal at Lodi Academy, came forward to state his concerns over the safety of his students. He, other staff members, and students frequent the restaurant for lunch and after school hours. Staff members live on site and their children play in the yards.
- Chair Hennecke asked for clarification if the concern is that the students will be less safe with hard alcohol being served. Mr. Brown stated that that is correct.
- Commissioner Kirsten asked staff if there are any studies that show that a jump in the type of license causes more accidents. Director Bartlam stated that not when it is associated with a restaurant. Commissioner Kirsten asked Mr. Brown if he has any statistic associated with this type of jump in licenses. Mr. Brown stated that he has not done any research on the subject, but his concern is for the safety of the students crossing Kettleman Lane. Kirsten asked for clarification on the location of the school. Mr. Brown stated that the school is on the northeast corner of Kettleman and Central. Staff highlighted the area on the overhead map. The students frequent the area during lunch and after school. Kirsten asked if there have been any specific incidents' that can be traced back to the restaurants current beer and wine license. Mr. Brown stated that there are none.
- Commissioner Heinitz asked for staff to point out where Pietro's is located in relation to the school. Staff did so. He asked Mr. Brown if his students frequented Pietro's for lunch. Mr. Brown stated that he was not sure, but there isn't a major intersection that the students must cross to get to that location. Heinitz pointed out that they have to cross Central Avenue. Mr. Brown stated that when exiting Pietro's patron must turn right which is away from the school.

- Vice Chair Olson asked Mr. Brown what time the school lunch and release hours are. Mr. Brown stated that lunch is between 12 and 1pm. The release time is 2:30pm unless the student is in after school programs. Olson stated that she doesn't feel that the timing is conducive for alcohol consumption. The fact that Mr. Brown has come forward to express his concerns she feels that the applicants will continue to be good neighbors and keep an eye on the safety of the students and other patrons.
- Carl Rosich, Board Chairman at Lodi Academy, came forward to state his opposition to this application. Alcohol is a controlled substance and he would be opposed to the idea even if this was not a religious school. He asked for clarification on whether or not there is an ordinance limiting the service of hard alcohol within so-many feet of a school. Director Bartlam stated that is an ABC restriction and as Mr. Brown stated it does not pertain to a restaurant.

Public Portion of Hearing Closed

MOTION / VOTE:

The Planning Commission, on motion of Commissioner Heinitz, Kiser, second, approved the request of the Planning Commission for a Use Permit to allow a Type-47 On-Sale General Alcoholic Beverage Control License at 400 East Kettleman Lane subject to the conditions in the attached resolution. The motion carried by the following vote:

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

4. PLANNING MATTERS/FOLLOW-UP ITEMS

None

5. ANNOUNCEMENTS AND CORRESPONDENCE

Director Bartlam reminded the Commission that with the upcoming Holidays the Commission will not be meeting on the second scheduled meeting date in November or December and should know by the end of next week if there will be a meeting on the first scheduled meeting date in December.

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

Staff has been working on the Housing Element. The State Housing and Community Development Department had a couple of comments and staff is working to answer them. The City has received part of the multi-city application for Sustainable Cities Grant funds that will be used on a couple of projects one of which is going to be the Development Code and the other is the Climate Action Plan.

8. ACTIONS OF THE SITE PLAN AND ARCHITECTURAL REVIEW COMMITTEE

None

9. ART IN PUBLIC PLACES

None

*Continued*

10. COMMENTS BY THE PUBLIC

None

11. COMMENTS BY STAFF AND COMMISSIONERS

Vice Chair Olson asked about AB 1234 ethics training. Deputy City Attorney Magdich stated that the training is currently schedule for December 13, 2010 at 6:00pm here in Carnegie Forum.

12. ADJOURNMENT

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

ATTEST:

Konradt Bartlam  
Planning Commission Secretary

# Item 3a

**CITY OF LODI  
PLANNING COMMISSION  
Staff Report**

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**MEETING DATE:** December 8, 2010

**APPLICATION NO:** Use Permit: 10-U-15

**REQUEST:** Request for Planning Commission approval of a Use Permit to allow a Type-20 Off-Sale beer and wine Alcoholic Beverage Control License at 11 North School Street (Applicant: Cindy Della Monica. File Number: 10-U-15)

**LOCATION:** 11 North School Street  
APN: 043-033-06  
Lodi, CA 95240

**APPLICANT:** Cindy Della Monica  
416 West Locust Street  
Lodi, CA 95240

**PROPERTY OWNER:** James M and Rose Nakamura  
4106 Yatch Harbor Drive  
Stockton, CA 95204

**RECOMMENDATION**

Staff recommends that the Planning Commission approve the request of Cindy Della Monica for a Use Permit to allow a Type-20 Off-Sale beer and wine Alcoholic Beverage Control (ABC) license at 11 North School Street, subject to the conditions outlined in the attached resolution.

**PROJECT AREA DESCRIPTION**

**General Plan Designation:** Downtown Mixed Use  
**Zoning Designation:** C-2, General Commercial  
**Property Size:** 2,800 square feet.

The adjacent zoning and land use characteristics:

	<b>General Plan</b>	<b>Zone</b>	<b>Land Use</b>
<b>North</b>	Downtown Mixed Use	C-2, General Commercial	Commercial Use
<b>South</b>	Downtown Mixed Use	C-2, General Commercial	Commercial Use
<b>East</b>	Downtown Mixed Use	C-2, General Commercial	Commercial Use
<b>West</b>	Downtown Mixed Use	C-2, General Commercial	Commercial Use

**SUMMARY**

The applicant, Cindy Della Monica, is requesting approval of a Use Permit to allow a Type-20 Alcoholic Beverage Control (ABC) License in conjunction with a proposed retail cheese and wine store operation at 11 North School Street. The proposed business would specialize in the sale of gourmet cheese, wine, wine products and packaged food. The property is located within the Downtown Business District, which permits the sale of alcohol for onsite or off site consumption with approval of a Use Permit. Type 20 ABC license allows the sale of beer and wine for off-site consumption. The census tract in which this store is located is over-concentrated and, therefore, the Commission must make a finding of public necessity or need to approve additional ABC license.

## **BACKGROUND**

Based on available City records, various types of businesses ranging from a book store to a beauty salon under different ownerships and names have operated at this location since its construction. The most recent use was a beauty salon. The tenant space has been vacant for approximately a year. There are no outstanding Building or City Code violations related to the project site.

## **ANALYSIS**

The applicant requests approval of a Use Permit allow sale of beer and wine at 11 North School Street. The applicant proposes to open a retail store to sell such products as wine, cheese, package food and other items. The business would be open everyday from 10:00 am to 6:00 pm. The applicant would like to obtain a Type 20 Off-Sale ABC license, which authorizes the sale of beer and wine for consumption off the premises where sold. Type 20 prohibits the sale of distilled sprits. Minors are allowed on the premises. The project site is zoned General Commercial (C-2) and is within the Downtown Business District. In the C-2 zoning district, mini-markets, grocery stores, pharmacies and conveniences store and are permitted uses. Under the C-2 zoning district, the applicant may sell alcohol for on and off-site consumption with the granting of a Use Permit by the Planning Commission.

The Lodi Municipal Code requires approval of a Use Permit by the Planning Commission for retail businesses and restaurants which sell alcoholic beverages (LMC §17.72.040). The purpose of this requirement is to establish a formal review of such proposals, which involves conducting a public hearing and giving written notice to property owners within a 300-foot radius of the site through the Use Permit process. The Planning Commission has the opportunity to establish conditions of approval for the business operations to ensure that it will not be a detriment to the community. The State Department of Alcoholic Beverage Control (ABC) is charged with regulating businesses which involve the sale of alcoholic beverages. The Department of Alcoholic Beverage Control primarily controls issuance based on concentration of licenses within a particular Census Tract. Where there is an over-concentration of ABC licenses, the City must first make a finding of public convenience and/or necessity to approve additional ABC license.

The project area is located on Census Tract 42.04, which covers the area south of Lockeford Street, north of Lodi Avenue, east of Ham Lane and west of Union Pacific Rail Road Company (UPRR) rail-line. According to ABC, Census Tract 42.04 contains four (4) existing ABC off-sale licenses with only three (3) off-sale licenses allowed based on the ABC criteria. Because the project area is within the downtown district, there is an existing over concentration of ABC licenses (28 on-sale and 4 off-sale). In order to authorize more than three (3) off-sale ABC licenses in this census tract, the Planning Commission must make a finding of public convenience and/or necessity.

While this is the highest concentration in Lodi, it would not be unexpected in a downtown location. Generally downtowns have a high concentration of eating and drinking establishments. Many of the licenses are in conjunction with eating establishments. The City's Downtown Guidelines specifically call out drinking and eating establishments as the type of businesses that are encouraged in the Downtown area. The proposed use (wine store) is consistent with the City's vision of making Lodi a wine tasting tourist destination point. The applicant intends to offer sale of various types of locally produced wines. Wine industry is a large part of this vision for they not only compliment other downtown businesses such as restaurants and boutiques but add to the character of the City by promoting local wineries and viticulture. The Community Development Department has determined that the applicant's request for a Use Permit can meet the criteria for the finding of public convenience.

Staff sent copies of the application to various City departments for comments and review. Their comments and requirements have been incorporated into the attached resolution. Staff has contacted the Lodi Police Department for their requirement for approval of the proposed off-sale beer and wine application and they do not anticipate alcohol related problems. The Lodi Police Department recommends approval subject to the conditions outlined in the attached resolution (Attachment 4).

Conditions have been added to address issues commonly associated with alcohol sales, such as sales to transients, loitering, open containers, etc. Further, these conditions will assist in maintaining the appearance of the establishment as a mini-mart store rather than a liquor store. In staff's opinion, the proposed sale of alcohol for off-site consumption will not result in adverse conditions. Staff recommends conditions of approval that will allow the City to reconsider the Use Permit if there is a significant increase in police or other public services provided to the site following the effective date of this Use Permit. The proposed project is consistent with the use on the site and compatible with the General Plan and Zoning Ordinance land uses. Staff believes that the required findings necessary for the approval of a Use Permit have been made in the attached resolution. Therefore, recommends approval the Use Permit subject to the conditions outlined in the attached resolution.

### **ENVIRONMENTAL ASSESSMENTS**

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

### **PUBLIC HEARING NOTICE:**

Legal Notice for the Use Permit was published on November 11, 2010. Thirty-eight (38) 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,

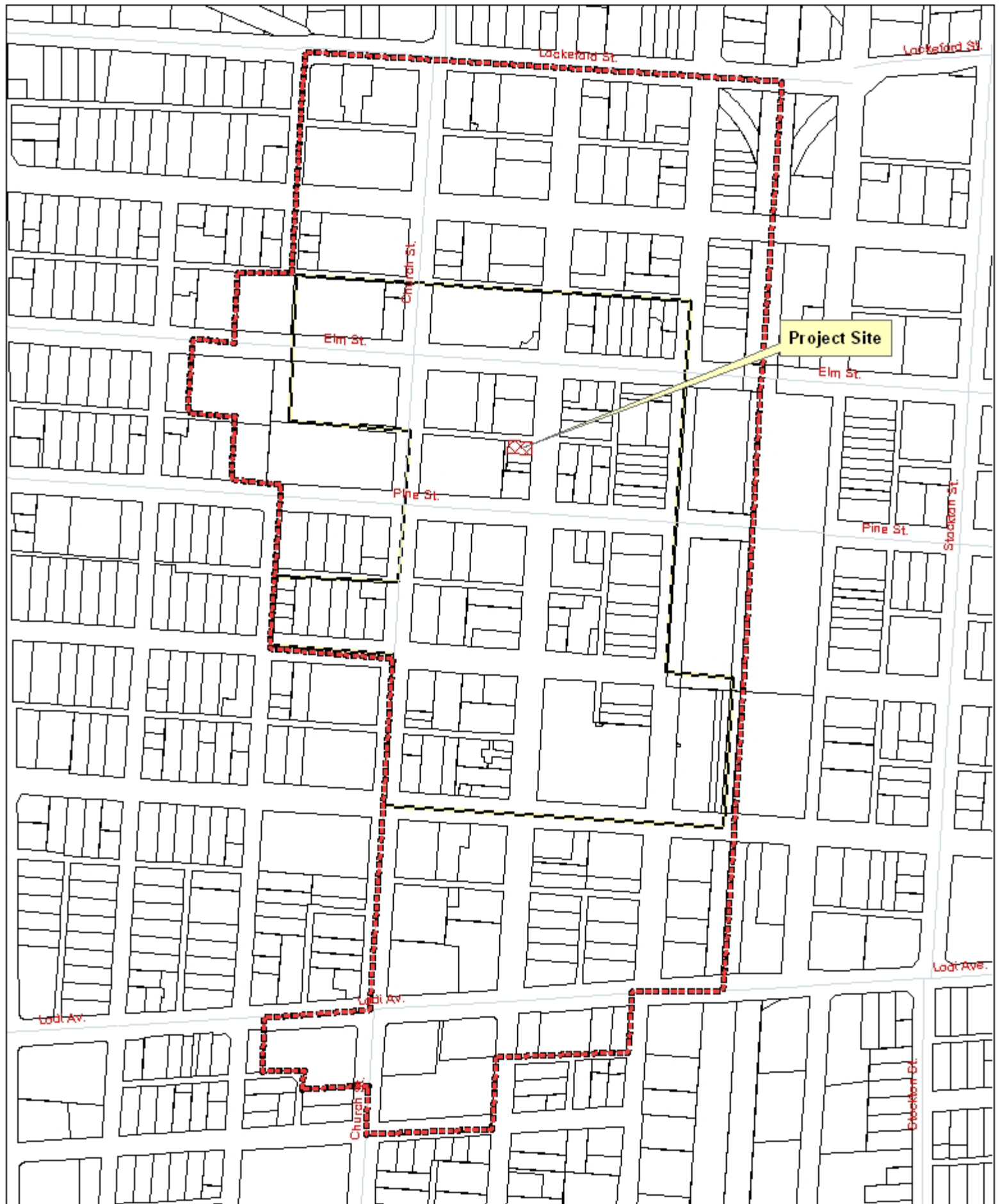
Concur,

Immanuel Bereket  
Associate Planner

Konradt Bartlam  
Community Development Director

### **ATTACHMENTS:**


1. Vicinity Map
2. Site Photos
3. Site and Floor Plans
4. Police Department Approval
5. Draft Resolution

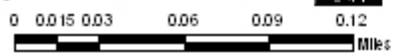


Project Site

### Cheese Central LLC

11 North School Street  
 APN: 043-033-06  
 Lodi, CA 95240

-  Project Site
-  Downtown Business District
-  Downtown Parking District



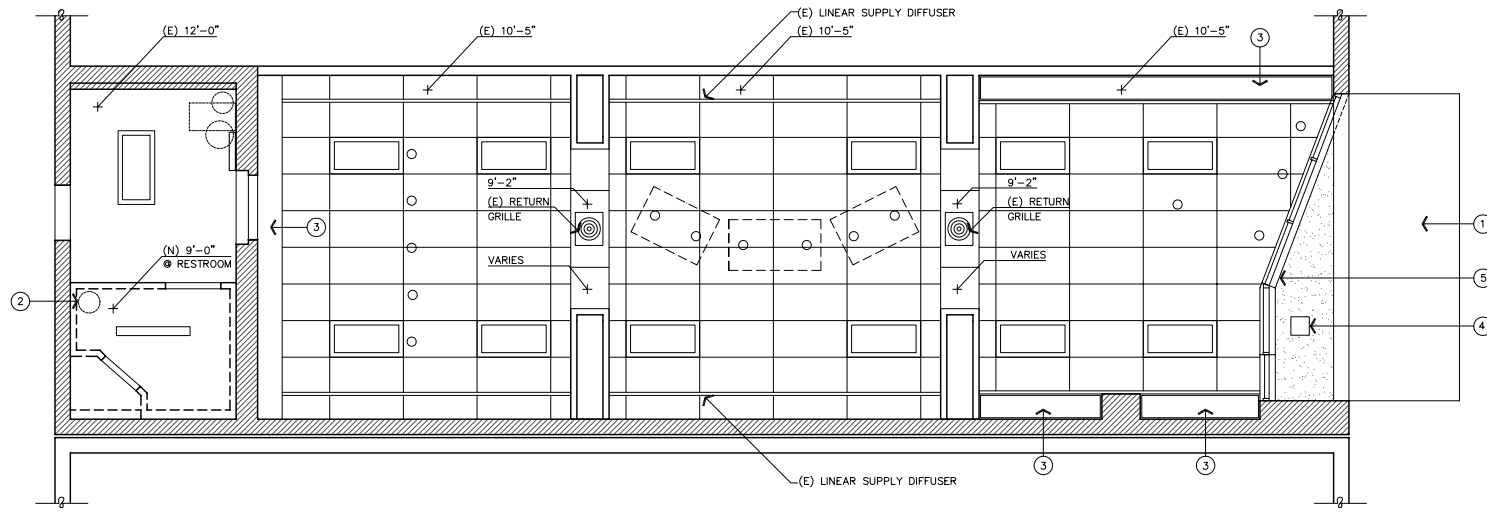


St. Simons  
Island



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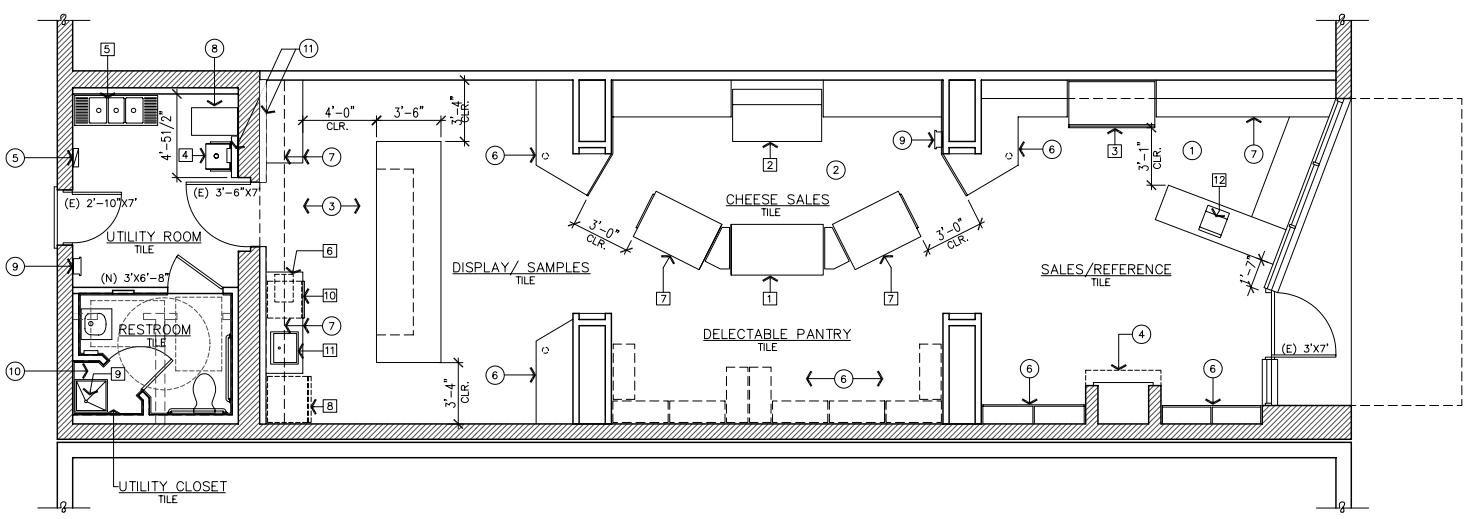




REFLECTED CEILING PLAN

SCALE 1/4"=1'-0"

ITEM #	QUANTITY	EQUIPMENT	SUPPLIER	MODEL #	REMARKS
1	1	REFRIGERATOR SELF SERVE	FEDERAL INDUSTRIES	SQ-300SS	
2	1	REFRIGERATOR MERCHANDISER	FEDERAL INDUSTRIES	RSSD-678SC	
3	1	REFRIGERATOR MERCHANDISER	TRUE	GDM-49	
4	1	HANDWASH SINK	BLUE AIR	BSH-14	
5	1	3-COMPARTMENT SINK	CUSTOM	SE1513D	FAUCET SET/DRAIN COVERS
6	1	CONVECTION OVEN	CADCO	XAF-113	COUNTER TOP MODEL
7	2	REFRIGERATOR SELF-SERVE	ARNEY	(E) UNITS	
8	1	REFRIGERATOR	GE	GBSC0HCXWW	HINGED-LEFT SIDE
9	1	MOP SINK	ZURN-LIGHT COMMERCIAL	Z1996-24	
10	1	DISHWASHER	GE	GSD2300RWW	
11	1	SERVICE SINK			
12	1	CASH REGISTER			



REMODELED FLOOR PLAN

SCALE 1/4"=1'-0"

REFLECTED CEILING PLAN NOTES:

- (E) FINING TO REMAIN
- WATER HEATER ABOVE RESTROOM RELOCATE (E) AFTER RESTROOM RECONSTRUCTION
- CABINET/SHELVING AT (E) CEILING HEIGHT
- (E) EXT. PLASTER SOFFIT W/ LIGHT TO REMAIN
- STOREFRONT TO REMAIN

REFLECTED CEILING PLAN LEGEND:

(UNLESS OTHERWISE NOTED)

- (E) EXTERIOR STUCCO SOFFIT TO REMAIN
- (E) GYP. BD. CEILING TO REMAIN
- (E) SUSPENDED CEILING SYSTEM TO REMAIN
- (E) 4X2 RECESSED LIGHT FIXTURE
- (E) 4X1 SURFACE MOUNTED LIGHT FIXTURE
- (N) SURFACE MOUNTED LIGHT FIXTURE
- PENDANT FLUORESCENT

PLAN NOTES:

- POINT OF PURCHASE STATION W/REGISTER, ORDER DESK
- CHEESE STATION W/REFRIGERATOR AND CUTTING WORKSPACE
- SAMPLES /TASTING STATION W/
- (E) NON-FUNCTIONING FIRE PLACE
- (N) 200 AMPS ELECTRICAL SERVICE PANEL
- (N) SALES COUNTERS/SHELVINGS
- (N) BASE CABINETS W/ UPPERS
- (E) FURNACE TO REMAIN
- (N) SURFACE MOUNTED FIRE EXTINGUISHER
- SEE SHEET A7.1 DETAIL 3 FOR BALANCE OF INFORMATION
- 214 FRAMED FLURRED OUT WALL FOR PLUMBING CHASE (PROVIDE 1" CLEARANCE FROM THE FURNACE IN UTILITY ROOM)

LEGEND:

(UNLESS OTHERWISE NOTED)

- EQUIPMENT SCHEDULE
- NOTE
- (E) PARTITION TO REMAIN
- (N) PARTITION
- (E) PARTITION TO BE REMOVED

222 West Lockeford Street  
Suite 10, Lodi CA 95240  
tel 209.367.0296 fax 209.367.0288

DATE:	10-1-10
DRAWN:	A.K.B
CHECKED:	J.D.M
REVISIONS:	

FLOOR, REFLECTED CEILING PLAN AND EQUIP. SCHEDULE  
 TENANT IMPROVEMENT FOR  
**CHEESE CENTRAL LLC**  
 11 NORTH SCHOOL STREET  
 LODI CALIFORNIA



SHEET NO.

A2.1

JOB NO.:

## Immanuel Bereket

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**From:** Gary Benincasa  
**Sent:** Friday, November 19, 2010 1:59 PM  
**To:** Immanuel Bereket  
**Cc:** Fernando Martinez; Steve Price; Tod Patterson  
**Subject:** Project: 10-U-15 Cindy Della Monica 11 N. School St. Off Sale Beer and Wine

Manny,

We have reviewed this application and have no concerns or recommendations relative to the use permit.

Gary

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

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

**A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF LODI FOR THE APPROVAL OF THE REQUEST OF CINDY DELLA MONICA FOR A USE PERMIT TO ALLOW FOR AN OFF-SALE BEER AND WINE ALCOHOLIC BEVERAGE CONTROL LICENSE AT 11 NORTH SCHOOL STREET**

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

**WHEREAS**, the project site is located at 11 North School Street, Lodi, CA 95240 (APN: 043-033-06); and

**WHEREAS**, the project proponent is Cindy Della Monica, 416 West Locust Street, Lodi, CA 95240; and

**WHEREAS**, the project property owner are James and Rose Nakamura, 4106 Yatch Harbor Drive, Stockton, CA 95204; and

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

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

**WHEREAS**, Census Tract 42.04 in which the business is located currently is over-concentrated with ABC licenses allowing the sale of beer and wine for consumption off the license premises where sold; and

**WHEREAS**, the Planning Commission makes a finding of public convenience and need for the request of Mrs. Cindy Della Monica for a Use Permit to allow issuance of an additional Alcohol Beverage Control license in this tract; and

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

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

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

1. The project was found to be Categorically Exempt according to the California Environmental Quality Act, Article 19 §15321, Class 21 (a) (2). The project is classified as an "Enforcement action by regulatory agencies" because it is the "adoption of an administrative decision or order enforcing or revoking the lease, permit, license, certificate, or entitlement for use or enforcing the general rule, standard, or objective." No significant environmental impacts are anticipated and no mitigation measures have been required.
2. The proposed use complies with all requirements as set forth for the issuance of this Use Permit, in that the site is adequate in size, shape and topography for the proposed use, consisting of an existing building. Second, the site has sufficient access to streets, adequate in width and pavement type to carry the quantity and quality of traffic generated by the proposed use, which is not expected to significant increase due to the project. Third, the proposed use is deemed to be part of the General Plan and the Zoning Ordinance, as off-sales alcoholic beverage sales are permitted in the C-2 (General Commercial) Zone with Use Permit approval. Fourth, the proposed use, as conditioned, will not have an adverse effect upon the use, enjoyment or valuation of property in the neighborhood in that a similar off-sales use had previously compatibly existed nearby. Lastly, the proposed use will not

have an adverse effect on the public health, safety, and general welfare in that security measures and the limited size of the use will limit any potential adverse effects to neighboring properties.

3. The off-sale of beer and wine, in accordance with a Type 20 Alcoholic Beverage Control License and with the conditions attached herein, would be consistent and in harmony with the Downtown Mixed Use 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 retail store 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 off-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 sale of alcoholic beverages at this location can meet the intent of the General Commercial zoning district and can provide a public convenience or necessity for customers of the business.

**NOW, THEREFORE, BE IT DETERMINED AND RESOLVED** by the Planning Commission of the City of Lodi that Use Permit Application No. 10-U-15 is hereby approved, subject to the following conditions:

1. The applicant/Operator and/or successors in interest and management shall defend, indemnify, and hold the City, its agents, officers, and employees harmless of any claim, action, or proceeding to attack, set aside, void, or annul this Use Permit, so long as the City promptly notifies the developer of any claim, action, or proceedings, and the City cooperates fully in defense of the action or proceedings.
2. The Applicant/Operator and/or successors in interest and management shall insure that the sale of alcohol does not cause any condition that will cause or result in repeated activities that are harmful to the health, peace or safety of persons residing or working in the surrounding area. This includes, but is not limited to: disturbances of the peace, illegal drug activity, public intoxication, drinking in public, harassment of people passing by, assaults, batteries, acts of vandalism, loitering, excessive littering, illegal parking, excessive loud noises, traffic violations or traffic safety based upon last drink statistics, curfew violations, lewd conduct, or police detention and arrests.

3. The applicant/Operator and/or successors in interest and management shall be prohibited from externally advertising or promoting beer & wine and/or distilled spirits, including but not limited to, window and wall signage.
4. The Applicant/Operator and/or successors in interest and management shall operate the project in strict compliance with the approvals granted herein, City standards, laws, and ordinances, and in compliance with all State and Federal laws, regulations, and standards. In the event of a conflict between City laws and standards and a State or Federal law, regulation, or standard, the stricter or higher standard shall control.
5. The 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.
6. 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.
7. The Use Permit shall require the Applicant/Operator and/or successors in interest and management to secure an Alcoholic Beverage Control License Type 20 Off-Sale Beer and Wine (Package Store).
8. Prior to the issuance of a Type 20 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.
9. No single-serving containers shall be sold separately. All single-serving beer shall be sold as part of a pack or carton.
10. Paper or plastic cups shall not be sold in quantities less than their usual customary packaging.
11. Any changes to the interior layout of the business operation shall be subject to review and approval by the Community Development Department and shall require appropriate City permits. A separate bar and/or counter for the consumption of alcohol shall be prohibited.
12. No person who is in a state of intoxication shall be permitted within the business nor shall an intoxicated patron be sold 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 operator/applicant and/or successors in interest and management of the business 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.
13. The exterior of the premise shall be maintained in a neat and clean manner, and maintained free of graffiti at all times.
14. Approval of this Use Permit shall be subject to revocation procedures contained in Section 17.72 LMC in the event any of the terms of this approval are violated or if the sale of beer and wine is conducted or carried out in a manner so as to adversely affect the health, welfare or safety of persons residing or working in the neighborhood.
15. Any fees due the City of Lodi for processing this Project shall be paid to the City within thirty (30) calendar days of final action by the approval authority. Failure to pay such outstanding fees within the time specified shall invalidate any approval or conditional approval granted. No permits, site work, or other actions authorized by this action shall be processed by the City, nor permitted, authorized or commenced until all outstanding fees are paid to the City.
16. No variance from any City of Lodi adopted code, policy or specification is granted or implied by this approval.

**Dated: December 8, 2010**

I certify that Resolution No. 10- was passed and adopted by the Planning Commission of the City of Lodi at a regular meeting held on December 8, 2010 by the following vote:

**AYES:** Commissioners:

**NOES:** Commissioners:

**Absent:** Commissioners:

**Abstain:** Commissioners:

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

# Item 6a.



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

**To:** City of Lodi Planning Commissioners  
**From:** Rad Bartlam, Community Development Director  
**Date:** Planning Commission Meeting of 12/08/2010  
**Subject:** Past meetings of the City Council and other meetings pertinent to the Planning Commission

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

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

Date	Meeting	Title
November 16, 2010	Shirtsleeve	Site Visit and Discussion Regarding the Phased Removal and Replacement of 39 Raywood Ash Trees on Lower Sacramento Road Between Elm Street and Tejon Street (PW)
November 17, 2010	Regular	Public Hearing to Consider Adoption of Resolution Amending the San Joaquin County Multi-Species Habitat Conservation and Open Space Plan Development Fees for 2011 (CD)
		Adopt Resolution Appointing Konradt Bartlam as City Manager and Approving the Related Employment Agreement (CC)