CITY OF LODI

COUNCIL COMMUNICATION

AGENDA 'TITLE: Public Hearing to consider the appeal of G-REM regarding the Planning Commission's denial of the request to amend Resolution 03-12 adding a condition of approval to the Vintner's Square Shopping Center. located at the northwest corner of Lower Sacramento Road and Kettleman Lane

MEETING DATE: July 2,2003

PREPARED BY: Community Development Director

RECOMMENDED ACTION: Reverse the Planning Commission action and approve the added condition of approval to Resolution 03-12 for property located at the northwest comer of Kettleman Lane and Lower Sacramento Road.

BACKGROUND INFORMATION: The Planning Commission met on June 11, 2003 to consider the request of G-REM to add a condition to the Resolution approving the Vintner's Square Shopping Center and Final Environmental Impact Report. The condition would read as follows:

The project applicant shall cause a perpetual agricultural conservation easement to he imposed over not less than 22.39 acres of contiguous active agricultural acreage elsewhere within the Lodi AVA of San Joaquin County. These soils shall be permanently protected from ,futuredevelopment via enforceable deed restrictions. Acreage between Lodi and Stockton shall he targeted. Soils andfunning conditions shall he equivalent or superior to the project area. Protected acreage shall he set-aside within one (1) year of the commencement of any construction activity within the development.

'The applicant proposed this condition as a means to assuage concerns raised by the opposition group to the commercial project. The hope was to have the Planning Commission enact the condition on their previously approved resolution prior to the City Council consideration of the appeal filed by the same opposition group.

The Planning Commission denied the applicant's request. In short, I believe the Commission felt uncomfortable with what they thought was a policy question better left with the City Council. Staff advised the Planning Commission that their action would be neither precedent nor poky setting. Nonetheless, they chose to not add the condition.

Unfortunately, the opposition group, led by Ann Cerney, submitted a letter to the Planning Commission during the public hearing requesting several amendments to the condition language. This opposition to the condition that the group originally wanted further complicated the issue. That letter is included on your attachments. In response to the letter's three points, staff would offer the following thoughts:

1.) It is premature to specify an endowment, as a land trust, or other qualified holder of the easement, has not been designated. The applicant may find a benefactor that does not require any further funding. The condition, as proposed, very clearly state.; the easement shall be in perpetuity and permanently protect that acreage from future development.

APPROVED: _____
H. Dixon Flynn -- City Manager

2.) It is also premature to identify the land trust by July 11, 2003 as the land identification may have some impact to this condition. The time frame for implementing the proposed condition is clear, Further, this point assumes the project is going forward by July 11, 2003, perhaps prior to any permit issuance.
3.) The proposed condition was based on language submitted by Ms. Cemey to the Planning Commission. Thai language was obviously acceptable *on* May 14th but is today inadequate, Specific to this point, the project site *is* not near the southern border of Lodi. In fact. it is nearly one mile from Harney Lane., the City's current southern border. The opponent has previously argued for the condition on the basis of the loss of Prime Farmland. It appears that the real motive is to create a separation between the cities of Lodi and Stockton. Finally, I would note that the proposed condition does suggest that land between Lodi and Stockton he targeted.

The condition *is* not meant to create a separator, but rather to offset the development of Prime Farmland. This must he thought of as two different, but related issues. As I mentioned in the staff report to the Planning Commission, the applicant has shown a good faith effort to resolve the conflict with Ms. Cemey and her group

FUNDING: None required

Konradt Bartlam
Community Development Director

Attachments:
Letter of Appeal
Planning Commission Staff Report, Resolution and Draft Minutes from June 11, 2003
Letter *to* Planning Commission from Remy, Thomas, Moose and Manley, LLC dated June 11, 2003

G•REM, INC.
DEVELOPMENT, CONSTRUCTION, MANAGEMENT

June 12, 2003

HAND DELIVERED

Ms. Susan Blackston
City Clerk
City of Lodi
221 W. Pine Street
Lodi, CA 95240

RE: Appeal of Planning Commision Decision-Vintner's Square Shopping Center

Dear Ms. Blackston:

This letter, with the $250. fee attached, shall serve notice of our appeal of the Planning Commission's decision to deny our request for an amended condition of approval during last night's, (June 11, 2003), Planning Commission meeting. To prevent further delays in the development of the Vintner's Square project, I request that this item be placed on the earliest possible City Council agenda.

I further request, assuming our appeal cannot be heard as soon as the next Council meeting of June 18th, that the appeal from Ann M. Cerney and Citizens for Open Government, set for hearing by the Council on June 18th, be continued so as to be heard and decided during the same meeting as our appeal.

Please call me should you require any additional information.

Sincerely,

Dale N. Gillespie

cc: Rad Bartlam, Community Development Director
Jim Manion, Lowe's

PO Box 1210, 95241 • 2475 MAGGIO CIRCLE • LODI, CA 95240

MEMORANDUM, City of Lodi, Community Development Department

To: Planning Commission

From: Community Development Director

Date: June 11, 2003

Subject: The request of G-REM and Jim Manion, on behalf of Lowe's, to add a condition of approval to Planning Commission Resolution No. 03-12 for property located at the northwest corner of Lower Sacramento Road and Kettleman Lane (Vintner's Square Shopping Center).

Summary:

The Planning Commission certified the Final Environmental Impact Report for the Vintner's Square Shopping Center on May 14, 2003. At that meeting, the only opposition came from Ms. Ann Cerney and her attorney representing "Citizens for Open Government". At the meeting, Ms. Meserve, representing Ms. Cerney, submitted the attached letter requesting that the City include a mitigation measure that would require the applicant to reduce the significant effect of the loss of prime farmland. The opponents have submitted an appeal of the Planning Commission action for City Council consideration.

Discussion:

The applicant, G-REM, has been working with "Citizens for Open Government" to try to settle their issues. Although, to our knowledge, the parties have not reached an agreement, the applicant is nonetheless now requesting that the City add a condition of approval to the project resolution that will call for the conservation of prime farmland. G-REM believes that this condition will satisfy Ms. Cerney's stated desire for the conservation of prime farmland on a 1:1 ratio.

Based on the applicant's desire to add the condition, staff does not have any problem with the request. In fact, Mr. Gillespie is suggesting language that would be similar to that submitted by Ms. Cerney's counsel in her May 14th letter. Therefore, staff would recommend the following condition be added to Resolution 03-12, as follows:

> The project applicant shall cause a perpetual agricultural conservation easement to be imposed over not less than 22.39 acres of contiguous active agricultural acreage elsewhere within the Lodi AVA of San Joaquin County. These soils shall be permanently protected from future development via enforceable deed restrictions. Acreage between Lodi and Stockton shall be targeted. Soils and farming conditions shall be equivalent or superior to the project area. Protected acreage shall be set-aside within one (1) year of the commencement of any construction activity within the development.

Staff believes that the applicant has shown a good faith effort to not only resolve their opposition's issue, but also should be congratulated for stepping forward and initiating the condition with the Planning Commission.

Respectfully Submitted:

Konradt Bartlam
Community Development Department

Attachments:
- Letter from G-REM dated, May 29, 2003
- Letter to the Planning Commission from Remy, Thomas, Moose & Manley, LLP, dated May 14, 2003
- Amended Resolution No. 03-12

G•REM, INC.
DEVELOPMENT, CONSTRUCTION, MANAGEMENT

RECEIVED

MAY 29 2003

COMMUNITY DEVELOPMENT DEPT
CITY OF LODI

May 29, 2003

Mr. Rad Bartlam
Community Development Director
City of Lodi
P.O. Box 3006
Lodi, CA 95241-1910

RE: Vintner's Square Shopping Center-EIR Comments by Ann Cerney et al

Dear Rad,

This letter concerns the letter received by the Planning Commission during their May 14, 2003 meeting, at which the EIR for the Vintner's Square shopping center was certified and the Use Permit application approved.

The letter, presented by an attorney representing Ann Cerney and a group called 'Citizens for Open Government', raised concerns primarily regarding the loss of prime farmland impacts. The letter goes on to suggest that mitigation of these impacts is feasible, referring to the cities of Woodland and Davis and their respective ordinances that require mitigation of prime farmland. We have been in contact with Ms. Cerney's legal counsel in an effort to satisfy her concerns, and it is apparent that this proposed mitigation is one of their primary goals. It is unfortunate that we were not made aware of this goal in sufficient advance of the May 14th Planning Commission meeting, as we would have supported such a condition. To this end, I would like to request that the Planning Commission consider, at the earliest possible date, and amendment to the conditions of approval, incorporating 1:1 mitigation of the Vintner's Square project's 22.39 acres, in the form of either fee title or conservation easements/restrictions consisting of active farmland. I would like an opportunity to review the proposed condition language so I can review it with our legal counsel in advance of the meeting. The language contained in the Woodland ordinance supplied by Ms. Cerney's counsel is generally agreeable to us.

Please contact me at your earliest convenience to discuss this request. I am hopeful that this amendment can be heard at the June 11th Planning Commission meeting.

Sincerely,

Dale N. Gillespie

P.O. Box 1210, 95241 • 2475 MAGGIO CIRCLE • LODI, CA 95240
(209) 333-4565 • FAX (209) 334-1829 • WWW.G-REM.COM

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ASHLE T. CROCKER
MARY E. HANDEL
SABRINA V. TELLER
DIANA L. RACHAL

May 14, 2003

City of Lodi
Planning Commission
221 West Pine St.
Lodi, CA 95240

Re: Final Environmental Impact Report for Vintner's Square Shopping Center

Dear Commissioners:

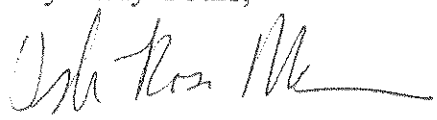
This firm represents Ann M. Cerney and Citizens for Open Government and provided comments on the Draft EIR for the Vintner's Square Shopping Center on April 17, 2003. Despite the changes made to the Final EIR and the decision of the City to recommend approval of Alternative 2, the environmental review for the project does not comply with the California Environmental Quality Act (Pub. Resources Code, §21000 et seq. ("CEQA")). The project description, significant impact analysis, growth inducing impact discussion, cumulative impact analysis, mitigation measures, and responses to comments, among other sections of the EIR, are inadequate.

The City's conclusion that there is no mitigation to reduce the Loss of Prime Farmland Impact to less than significant is especially suspect. The lead agency cannot avoid the duty to devise appropriate mitigation for an impact simply by concluding that the impact is significant and unavoidable. (*Berkeley Keep Jets Over the Bay Committee v. Board of Port Commissioners* (2001) 91 Cal.App.4th 1344, 1354-1355.) Even if the impacts cannot be reduced to a level of insignificance, where potentially significant impacts are identified, all feasible mitigation measures must be adopted, such as offsite preservation of agricultural lands. (See CEQA Guidelines, § 15126.4.) I have attached copies of the City of Davis Ordinance requiring 2:1 mitigation for agricultural land conversion and an example mitigation measure from another commercial project in Woodland requiring 1:1 mitigation for farmland loss. These examples show that such mitigation is feasible. The City's response to the suggested mitigation (located in comment 4-14 of the FEIR) is therefore inadequate as it does not explain why the mitigation suggested is not feasible. (See *Los Angeles Unified School District v. City of Los Angeles* (1997) 58 Cal.App.4th 1019, 1029 ("an adequate EIR must respond to specific suggestions for mitigating a significant environmental impact unless the

suggested mitigation is facially infeasible").) Moreover, the fact that the General Plan contemplated development of the project area does not excuse the City from considering feasible mitigation to reduce *this project's* significant effects. (See *Communities for a Better Environment v. California Resources Agency* (2002) 103 Cal.App.4th 98, 123 (overturning CEQA Guidelines, §15152, subd. (f)(3)(C).)

We therefore request that the Planning Commission not certify the EIR and not grant the project approvals requested by the project applicant until an adequate EIR is prepared.

Very Truly Yours,



Osha Rose Meserve

30513101.001

Davis Municipal Code

Chapter 40A RIGHT TO FARM AND FARMLAND PRESERVATION

40A.03.030 Agricultural land mitigation requirements.

(a) Beginning on November 1, 1995, the city shall require agricultural mitigation by applicants for zoning changes or any other discretionary entitlement which will change the use of agricultural land to any nonagricultural zone or use.

(b) Agricultural mitigation shall be satisfied by:

(1) Granting a farmland conservation easement, a farmland deed restriction or other farmland conservation mechanism to or for the benefit of the city and/or a qualifying entity approved by the city. Mitigation shall only be required for that portion of the land which no longer will be designated agricultural land, including any portion of the land used for park and recreation purposes. One time as many acres of agricultural land shall be protected as was changed to a nonagricultural use in order to mitigate the loss of agricultural land; or

(2) In lieu of conserving land as provided above, agricultural mitigation may be satisfied by the payment of a fee based upon a one to one replacement for a farmland conservation easement or farmland deed restriction established by the city council by resolution or through an enforceable agreement with the developer. The in lieu fee option must be approved by the city council. The fee shall be equal to or greater than the value of a previous farmland conservation transaction in the planning area plus the estimated cost of legal, appraisal and other costs, including staff time, to acquire property for agricultural mitigation. The in lieu fee, paid to the city, shall be used for farmland mitigation purposes, with priority given to lands with prime agricultural soils and habitat value.

(c) The land included within the one hundred foot agricultural buffer required by section 40A.01.050(c) shall not be included in the calculation for the purposes of determining the amount of land that is required for mitigation.

(d) It is the intent of this program to work in a coordinated fashion with the habitat conservation objectives of the Yolo County habitat management program, and, therefore, farmland conservation easement areas may overlap partially or completely with habitat easement areas approved by the State Department of Fish and Game and/or the Yolo County habitat management program. Up to twenty percent of the farmland conservation easement area may be enhanced for wildlife habitat purposes as per the requirements of the State Department of Fish and Game and/or Yolo County habitat management program; appropriate maintenance, processing or other fees may be required by the habitat program in addition to the requirements set forth herein. (Ord. No. 1823, § 1 (part).)

RESPONSE TO COMMENTS
on the
Draft Environmental Impact Report
for the
Turn of the Century Specific Plan

(SCH# 99022069)

Prepared for the

City of Woodland

Community Development Department

Prepared by

EIP ASSOCIATES

October 1999

10149

TABLE 3-1
SUMMARY OF IMPACTS AND MITIGATION MEASURES

Impact	Level of Significance Prior to Mitigation		Mitigation Measure(s)	Level of Significance After Mitigation	
	Plan A	Plan B		Plan A	Plan B
4.1-10 **The proposed project may be inconsistent with LAFCO Agricultural Conservation policies.**	STS	STS	4.1-10 (A/B) (a) The annexation of the Specific Plan shall be staged to match the proposed phasing of the Specific Plan. OR (b) The annexation of the Specific Plan shall be staged to include all of the project site, except the ~~±160 acres~~ acreage that ~~will be~~ remains under Williamson Act contract ~~until 2003~~. OR (c) LAFCO shall determine that the applicable facts and circumstances support a finding of substantial conformity with LAFCO Policy IV.D, which would allow for annexation of the entire site.	LS	LS
4.2 Agricultural Resources					
4.2-1 **Development of the proposed project would result in the loss of 940 acres of Important Farmland.**	S	S	4.2-1 (A/B) The project applicant shall set aside in perpetuity an equal amount (940 acres of the Plan Area plus Important Farmland converted for offsite infrastructure) of contiguous, active agricultural acreage elsewhere in Yolo County through the purchase of development rights and execution of an irreversible conservation or agricultural easement. These soils shall be permanently protected from future development via enforceable deed restrictions. Acreage between Woodland and Davis, already experiencing, or likely to experience, growth pressures shall be targeted. Soils and farming conditions shall be equivalent or superior to the project area. Protected acreage equal to the total acreage of any particular development shall be, set aside prior to commencement of any development activity within that development.	SU	SU

10192

TABLE 3-1
SUMMARY OF IMPACTS AND MITIGATION MEASURES

Impact	Level of Significance Prior to Mitigation		Mitigation Measure(s)	Level of Significance After Mitigation	
	Plan A	Plan B		Plan A	Plan B
			Acreage set aside required by Mitigation Measure 4.5-4 for loss of Swainson's hawk foraging habitat (see Section 4.5, Biological Resources) may be used jointly to satisfy all or a portion of this mitigation requirement, so long as it meets the habitat needs of the species and is retained in active agricultural uses. The land shall be managed via an agreement satisfactory to the City and Department of Fish and Game, governing operations such that it remains agriculturally productive and also provides hawk habitat. Land that does not meet the intent of both measures can not be used as joint mitigation, in which case more acreage would be needed in order to satisfy both mitigations.		
4.2-2 **Development of the proposed project would conflict with or result in the cancellation of Williamson Act contracts.**	S	S	4.2-2 (A/B) A Williamson Act contract and conservation easement shall be established on 162 acres of land outside of the project site, or greater if land is removed from Williamson Act contract for the required detention/retention basin, to the satisfaction of the City.	SU	SU
4.2-3 **Development of the proposed project could result in incompatibilities between active agricultural uses and future residential uses.**	STS	STS	4.2-3 (A/B) (a) Implement Mitigation Measure 4.1-1. (b) The City of Woodland shall consider adopting a Right to Farm Ordinance to address interim land use conflicts that could occur between new development and planned growth areas that may remain in agricultural uses until future conversion.	LS	LS
4.2-4 **Development of the proposed project could adversely affect agricultural viability.**	S	S	4.2-4 (A/B) The Specific Plan shall be revised to require a 500-foot buffer within the project site adjacent to active agricultural uses to the south of Road 25A.	LS	LS
4.2-5 **The proposed project may be inconsistent with General Plan policies.**	S	S	4.2-5 (A/B) (a) Implement Mitigation Measures 4.2-1, 4.2-2, and 4.2-4. AND (b) For General Plan Policies 1.1.4 and 1.1.6, the City shall implement one of the following measures:	LS	LS

10193

TABLE 3-1
SUMMARY OF IMPACTS AND MITIGATION MEASURES

Impact		Level of Significance Prior to Mitigation		Mitigation Measure(s)		Level of Significance After Mitigation	
		Plan A	Plan B			Plan A	Plan B
					(i) Find that the proposed project is essentially consistent with the direction of the General Plan Policies. OR (ii) Amend the General Plan Policies to conform with the inconsistencies identified.		
4.2-6	Development of the proposed project, in combination with other cumulative development, would contribute to the loss of Important Farmland.	S	S	4.2-6 (A/B)	Implement Mitigation Measure 4.2-1 and/or 4.2-2.	SU	SU
4.2-7	Development of the proposed project, in combination with other cumulative development, could adversely affect agricultural viability.	S	S	4.2-7 (A/B)	Implement Mitigation Measure 4.2-4.	LS	LS
4.3 Geology, Soils and Seismicity							
4.3-1	People and property could be subject to seismic hazards such as groundshaking, lurch cracking, liquefaction, or settlement.	LS	LS	4.3-1	No mitigation measures would be required to reduce or avoid significant environmental effects.	NA	NA
4.3-2	Structures would be situated in locations underlain by expansive soils.	LS	LS	4.3-2	No mitigation measures would be required to reduce or avoid significant environmental effects.	NA	NA
4.3-3	The proposed project would alter site topography, which could affect the rate or extent of erosion.	LS	LS	4.3-3	No mitigation measures would be required to reduce or avoid significant environmental effects.	NA	NA
4.3-4	Underground pipeline installation could result in unstable soils or pipes could be exposed to excessively wet soil conditions, which could affect pipeline integrity.	LS	LS	4.3-4	No mitigation measures would be required to reduce or avoid significant environmental effects.	NA	NA
4.3-5	Groundwater withdrawal due to operation of project water supply wells could incrementally contribute to localized land subsidence, which could affect structures on the project site.	LS	LS	4.3-5	No mitigation measures would be required to reduce or avoid significant environmental effects.	NA	NA
4.3-6	The proposed project would have no impact on mineral resources.	NI	NI	4.3-6	No mitigation measures would be required to reduce or avoid significant environmental effects.	NA	NA
4.3-7	The proposed project may be inconsistent with the City of Woodland General Plan policies regarding geotechnical issues.	LS	LS	4.3-7	No mitigation measures would be required to reduce or avoid significant environmental effects.	NA	NA

10194

AMENDED
RESOLUTION NO. P.C. 03-12

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF LODI CERTIFYING A FINAL ENVIRONMENTAL IMPACT REPORT PURSUANT TO THE CALIFORNIA ENVIRONMENTAL QUALITY ACT AND APPROVING A USE PERMIT TO CONSTRUCT COMMERCIAL STRUCTURES IN THE COMMERCIAL SHOPPING DISTRICT, A USE PERMIT TO ALLOW PARKING FOR COMMERCIAL ESTABLISHMENTS IN THE LOW DENSITY (R-2) ZONING DISTRICT AND APPROVING AN 8 LOT TENTATIVE PARCEL MAP.

Case Number: 02-P-008, and U-02-01.

WHEREAS, on December 19, 2001, Jim Manion representing Lowes, filed an application for a General Plan Amendment, Rezone, Tentative Parcel Map, and Use Permit with the City of Lodi, to construct 297,015 square feet of commercial retail space on 28.91 acres at the northwest corner of the intersection of Lower Sacramento Road and Kettleman Lane within an area more particularly described as:

A portion of Lots 7, 8, 9, and 10 of the Taylor Tract, Assessor Parcel Numbers 027-050-14, 23.

WHEREAS, the Community Development Department did study and recommend approval of said request; and

WHEREAS, on September 12, 2002, the Planning Commission did consider a Mitigated Negative Declaration pursuant to CEQA; and

WHEREAS, after due consideration the Planning Commission did direct staff to prepare an Environmental Impact Report for the project; and

WHEREAS, pursuant to the California Environmental Quality Act a Notice of Preparation for an Environmental Impact Report was prepared and posted on December 18, 2002; and

WHEREAS, pursuant to the California Environmental Quality Act a Notice of Completion for a Draft Environmental as prepared and posted on March 3, 2003; and

WHEREAS, the Notice of Availability for the Draft Environmental Impact Report was posted with the County Recorder on March 3, 2003 and there was a public review period from March 3, 2003 to April 18, 2003; and

WHEREAS, on April 9, 2003, the Planning Commission gave the public an opportunity to make verbal comments regarding the Draft Environmental Impact Report; and

WHEREAS, there was public comment, both written and verbal that was generated by the Draft Environmental Impact Report; and

WHEREAS, the City of Lodi Planning Division staff did respond to each comment received concerning the Draft Environmental Impact Report; and

WHEREAS, the Final Environmental Impact Report has been completed in compliance with the California Environmental Quality Act; and

WHEREAS, the Final Environmental Impact Report was presented to the City of Lodi Planning Commission on May 14, 2002; and

WHEREAS, the City of Lodi Planning Commission reviewed and considered the information contained and referenced in the Final Environmental Impact Report for the Vintner's Square Shopping Center prior to approving the project; and

WHEREAS, the Final Environmental Impact Report reflects the City of Lodi's independent judgement and analysis regarding the Vintner's Square Shopping Center; and

WHEREAS, a copy of the Final Environmental Impact Report for the Vintner's Square Shopping Center is kept on file for public review within the Community Development Department by the City Planner at 221 West Pine Street, Lodi, CA; and

WHEREAS, the required public hearing on May 14, 2003, was duly advertised and held in the manner prescribed by law; and

WHEREAS, the project applicant has requested an additional condition be added to the original Resolution 03-12 and is incorporated herein as #23; and

WHEREAS, the project identified in the Final Environmental Impact Report, including the Use Permit and Tentative Parcel Map, is consistent with all elements of the General Plan. Specifically, that the project is consistent with the following General Plan Goals and Policies:

A. Land Use and Growth Management Element, Goal E, "To provide adequate land and support for the development of commercial uses providing goods and services to Lodi residents and Lodi's market share" in that the project will result in an establishment that will meet a consumer demand that is not currently being met locally.

B. Land Use and Growth Management Element, Goal E, Policy 7, "In approving new commercial projects, the City shall seek to ensure that such projects reflect the City's concern for achieving and maintaining high quality" in that the center go under design review by the Site Plan and Architectural Review Committee.

C. Housing Element, Goal C, "To ensure the provision of adequate services to support existing and future residential development" in that by providing commercial shopping opportunities, the project will help ensure

that adequate services a available to support existing and future residential development.

D. Circulation Element, Goal G, "To encourage a reduction in regional vehicle miles traveled" in that by providing an unmet consumer demand within the community, the construction of a shopping center with a major home improvement center will ensure a reduction in regional vehicle miles traveled.

E. Circulation Element, Goal A, Policy 1, "The City shall strive to maintain Level of Service C on local streets and at intersections. The acceptable level of service goal will be consistent with the financial resources available and the limits of technical feasibility" in that the project will make improvements to the intersection of Lower Sacramento Road and Kettleman Lane/Highway 12 and will provide a signal at the planned Road "A" and Kettleman Lane/Highway 12. While the resulting improvements will reduce the level of service provided to LOS "D", obtaining a LOS "C" is not within the financial resources available and is contrary to providing an inviting and comfortable pedestrian environment.

F. Noise Element, Goal A, "To ensure that City residents are protected from excessive noise" in that the commercial shopping center will act as a buffer between future residential development to the north from the noise generated at the intersection of Lower Sacramento Road and Kettleman Lane. Additionally, the amendment to the General Plan removing residentially designated land from the future Road "A" and it's expected noise contour is consistent with this goal.

G. Conservation Element, Goal F, "To promote and, insofar as possible, improve air quality in Lodi and the region" in that the project is expected to result in a reduction of regional vehicle miles traveled and there will be regularly schedule transit service to and from the center from both SMART and the Lodi Grapevine.

H. Parks, Recreation and Open Space Element, Policy A.8, "The City shall consider the need for an interconnected system of pedestrian and bicycle paths linking the City parks and opens space areas with other uses" in that the project will construct sidewalks and bicycle lanes on Lower Sacramento Road, Kettleman Lane and the future Road "A" frontages in accordance with the Bicycle Transportation Master Plan as well as link the internal uses within the center with the overall pedestrian and bicycle circulation system; and

I. Health and Safety Element, Policy C.7, "The goal for travel time by the fire department in responding to an emergency shall be 3 minutes" in that the project site is within a 3 minute response time from the fire stations #3 and #4; and

J. Urban Design and Cultural Resources, Goal C, "To maintain and enhance the aesthetic quality of major streets and public/civic areas" in that by undergoing the Site Plan and Architectural Review Committee approval process, the project is expected to enhance the aesthetic quality of both Lower Sacramento Road and Kettleman Lane.

K. The submitted use permit complies with the General Plan Land Use Diagram and Standards in that the Neighborhood/Community Commercial

designation states a maximum Floor Area Ratio of 0.40 while Alternative 2 has a Floor Area Ratio of 0.22.

L. The project at this location is consistent with General Plan Land Use and Growth Management Element Goal E, Policy 3, "The City shall encourage new large-scale commercial centers to be located along major arterials and at the intersections of major arterials and freeways" in that the Figure 2-1 of the Land Use/Circulation Diagrams and Standards classifies Lower Sacramento Road as a 4 lane undivided arterial and Kettleman Lane/State Highway 12 as a 6 lane divided arterial.

WHEREAS, the City of Lodi has a demonstrated commitment towards implementing General Plan programs such as on-going transit operations utilizing compressed natural gas buses, purchasing alternative fuel vehicles, pursuing agricultural preservation and enhancement activities and improving the downtown and Cherokee Lane areas of the City.

WHEREAS, the proposed design and improvement of the site is consistent with all applicable standards adopted by the City. Specifically, the project, as conditioned, conforms to the standards and improvements mandated by the adopted Westside Facilities Plan, City of Lodi Public Works Department Standards and Specifications, Zoning Ordinance as well as all other applicable standards.

WHEREAS, the design of the proposed project and type of improvements are not likely to cause serious public health problems in that all public improvements will be built per City standards and all improvements will be built per the Uniform Building Code.

WHEREAS, the design of the proposed project and the type of improvements will not conflict with easements acquired by the public at large for access through or use of property within the proposed project. Specifically, dedication of adequate right-of-way for State Highway 12 and Lower Sacramento Road improvements have been provided in the project design.

WHEREAS, as identified in the Final Environmental Impact Report, the project will not lead to a general condition of blight within Lodi, furthermore, the project is expected to help finance programs that will lead to home rehabilitation, façade improvements and other projects to insure the livability of Lodi.

WHEREAS, the alternative identified in the Final Environmental Impact Report as "Alternative 2" would achieve the project objectives and would reduce or avoid potentially significant impacts of the proposed project.

WHEREAS, these findings and all findings incorporated herein by reference are supported by substantial evidence in the record of this proceeding and before this body.

NOW, THEREFORE, BE IT RESOLVED, DETERMINED, AND ORDERED, as follows:

1. The foregoing recitals are true and correct.

2. Said Tentative Parcel Map complies with the requirements of the City Subdivision Ordinance, and the Subdivision Map Act.

3. Said Site Plan complies with the requirements of the Commercial Shopping (C-S) Zoning District.

4. The Final Environmental Impact Report for the Vintner's Square Shopping Center is hereby certified pursuant to the California Environmental Quality Act. All feasible mitigation measures for the project identified in the Environmental Impact Report and accompanying studies are hereby incorporated into this approval where such measures are applicable to the approved environmentally superior alternative (Alternative 2).

5. Alternative 2 as identified and evaluated within the Draft Environmental Impact Report is selected for approval because it meets project objectives while reducing or avoiding potentially significant environmental impacts.

6. Although Alternative 2 substantially lessens some significant environmental effects of the project, feasible mitigation measures that will further reduce or avoid some potentially significant environmental impacts of Alternative 2 are hereby incorporated and made conditions of approval. Said mitigation measures are within the jurisdiction of the City of Lodi to implement or require. However, it is reasonably foreseeable that unavoidable significant environmental impacts will result with Alternative 2.

7. Specific economic, legal, social, technological and other considerations make the approval of Alternative 2 acceptable due to the following overriding considerations:
   a. The project will implement vital municipal infrastructure improvements.
   b. The project implements adopted City plans.
   c. The project captures sales leakage and increases the quality of life of local residents.
   d. The project will generate City sales taxes.
   e. The project creates part-time construction and permanent employment for local residents.
   f. The project creates a desirable gateway design into the City.

8. The separate document entitled "Findings for the Vintner Square Shopping Center Project" are hereby incorporated into this resolution.

9. Said project identified as Alternative 2 within the Final Environmental Impact Report, including accompanying Use Permit and Tentative Parcel Map, are hereby approved pursuant to the City Ordinances and no waiver of any

requirement of said Ordinances are intended or implied except as specifically set forth in this Resolution.

10. The submitted plans, including site plot plan, landscape, and architectural elevations for the major anchor building, for the project are approved subject to the following conditions.

11 The approval of the use permit expires within 24 months from the date of this Resolution. The Final Parcel Map conforming to this conditionally approved Tentative Parcel Map shall be filed with the City Council in time so that the Council may approve said map before its expiration, unless prior to that date, the Planning Commission or City Council subsequently grants a time extension for the filing of the final map, as provided for in the City's Subdivision Ordinance and the Subdivision Map Act. It is the developer's responsibility to track the expiration date. Failure to request an extension will result in a refilling of the Tentative Parcel Map and new review processing of the map.

12. Prior to submittal of any further plan check or within 90 days of the approval of this project, whichever occurs first, the applicant shall sign a notarized affidavit stating that "I(we), ____, the owner(s) or the owner's representative have read, understand, and agree to implement all mitigation measures identified in the Final Environmental Impact Report for the Vintner Square Shopping Center and the conditions of the Planning Commission approving 02-P-008, and U-02-01." Immediately following this statement will appear a signature block for the owner or the owner's representative which shall be signed. Signature blocks for the City Planner and City Engineer shall also appear on this page. The affidavit shall be approved by the City prior to any improvement plan or final map submittal.

13. Prior to issuance of any building permit on the site, each building shall be reviewed by the Site Plan and Architectural Review Committee for consistency with this resolution as well as all applicable policies of the City.

14. All applications for Site Plan and Architectural Review Committee consideration shall comply with the following conditions:
    A. All buildings shall meet the required setbacks for the C-S zoning district.
    B. All buildings shall implement building elements and materials illustrated on the submitted elevation or otherwise consistent with the architectural theme presented on the submitted elevation of the major tenant building, dated May 5, 2003. SPARC shall find that there is sufficient articulation of primary façade elevations.
    C. The southernmost driveway on Lower Sacramento Road shall be limited to a right-in/right-out turning movement and be designed to the satisfaction of the City Engineer that the driveway will not interfere with driver expectations for the intersection of Lower Sacramento Road and Kettleman Lane.
    D. Development on Parcel 4 shall include pedestrian features within the area of the southeast corner of the parcel.
    E. Submit a construction landscape plan consistent with the submitted conceptual landscape plan. The applicant shall also insure that the overall

ratio of trees, including perimeter landscaping is equal to one tree for every four parking spaces.

F. The applicant shall select and note on all plans a common tree specie for the parking lot and perimeter areas from the list of large trees as identified in the Local Government Commission's "Tree Guidelines for the San Joaquin Valley".

G. All drive-through facilities shall have a "double service window" configuration and pull-out lane to minimize auto emissions.

H. Cart corrals shall to be provided in the parking lot adjacent to Lowes and distributed evenly throughout the lots rather than concentrated along the main drive aisle. In addition, a cart corral shall be provided as close as possible to the bus stop/shelter on Lower Sacramento Road.

I. Trash enclosures shall be designed to accommodate separate facilities for trash and recyclable materials. Trash enclosures having connections to the wastewater system shall install a sand/grease trap conforming to Standard Plan 205 and shall be covered.

J. A bus stop shall be provided on Lower Sacramento Road. A bus turnout as shown on the plot plan is not approved. The bus stop shall be located north of the signalized driveway and shall include a concrete bus pad and a bus shelter to the approval of the Public Works Department and Community Development Department. An at grade pedestrian walkway shall be provided from the bus stop to the east side of the proposed Lowe's store to accommodate transit passengers.

15. Prior to approval of the final parcel map for the project, the applicant shall comply with the following conditions:

A. Dedication of street right-of-way as shown on the tentative map with the following changes/additions:

i. Street right-of-way dedication of 5 feet and corner cutoffs is required on the south side of Taylor Road. The existing right-of-way on Taylor Road is 50 feet. The required street right-of-way is 55 feet.

ii. Right-of-way dedications on Lower Sacramento Road and Kettleman Lane shall be in conformance with the recommendations of the street geometric study currently being performed by Mark Thomas & Company for this project and to the satisfaction of the City Engineer and Caltrans. Right-of-way dedications on Kettleman Lane shall be made to Caltrans in conformance with all applicable requirements.

B. Note on map that all parcels enjoy reciprocal parking and access to and from each other.

C. Dedication of public utility easements as required by the various utility providers and the City of Lodi.

D. Submit final map per City requirements including a preliminary title report and the standard note regarding requirements to be met at subsequent date.

E. Payment of the filing and processing fees and charges for services performed by City forces per the Public Works Fee and Service Charge Schedule. This fee is subject to periodic adjustment as provided by the implementing ordinance/resolution. The fee charged will be that in effect at the time of collection indicated above.

F. Note that parcels 1 through 7 are zoned C-S to allow development of a commercial shopping center and that the conditions of this resolution are applicable to these parcels.

G. Note that Parcel 8 is zoned R-2 for single-family residential development and that the development of Parcel 8 shall be in conformance any future conditions of approval for a Growth Management Development Plan and tentative map required for the development of a residential subdivision.

H. Payment of the Filing and processing fees and charges for services performed by City forces per the Public Works Fee and Service Charge Schedule.

I. Payment of Development Impact Mitigation Fees. A Fee Payment Agreement covering Development Impact Mitigation Fees for the proposed parcels was recorded in the Official Records of San Joaquin County on February 22, 2002, as Instrument No. 2002-024181. This fee is subject to periodic adjustment as provided by the implementing ordinance/resolution. The fee charged will be that in effect at the time of collection indicated above.

J. The endorsements on the final map shall idemnify and hold harmless all officials and employees of the City of Lodi.

K. A detailed construction landscape improvement and irrigation plan for the center shall be designed to the satisfaction of the City Engineer and City Planner.

L. Minor amendment to the Tentative Parcel Map may be approved by the City Engineer and City Planner, provided that the Map is still in substantial conformance with this original approval.

M. The developer shall coordinate with the Fire Department on all hydrant locations.

N. All easements, right-of-way and other public land as shown on the Tentative Map shall be dedicated to City of Lodi policy. All property or property interest shall be granted to the City free and clear of all liens and encumbrances and without cost to the City of Lodi and free and clear of environmental hazards, hazardous materials or hazardous waste.

16. Prior to the issuance of a building permit, the applicant shall comply with the following conditions:

A. Submit engineering calculations and preparation of improvement plans and estimate per City Public Improvement Design Standards for all public improvements for all parcels at the time of development of the first parcel. Said plans shall include:

i. Detailed utility master plans and design calculations for all phases of the development. Master plans shall include off-site areas as appropriate. Developer's engineer shall establish reasonable master plan area boundaries to the satisfaction of the City Engineer.

ii. A current soils report. If the soils report was not issued within the past three (3) years, provide an updated soils report from a licensed geotechnical engineer.

iii. Grading, drainage and erosion control plan.

iv. Copy of Notice of Intent for NPDES permit, including storm water pollution prevention plan (SWPPP).

v. All utilities, including street lights and electrical, gas, telephone and cable television facilities.

vi. Undergrounding of existing overhead utilities, excluding transmission lines.

vii. Installation of a traffic signal at the Kettleman Lane/Road "A" intersection.

viii. Traffic striping for Lower Sacramento Road, Road "A" and Kettleman Lane.

ix. A complete plan check submittal package including all the items listed above plus engineering plan check fees is required to initiate the Public Works Department plan review process for the engineered improvement plans.

B. Abandon and/or remove all wells, septic systems and underground tanks in conformance with applicable City and County requirements and codes prior to approval of public improvement plans.

C. Install all public utilities and street improvements in conformance with City of Lodi master plans and design standards and specifications, including, but not limited to, the following:

i. Curb, gutter, sidewalk, traffic signal, street lights, medians and landscaping and irrigation systems. All improvements on Kettleman Lane require Caltrans approval. Additional right-of-way acquisition outside the limits of the map may be required and shall be the responsibility of the developer.

ii. The extension/installation of all public utilities, including the extension of master plan water and wastewater mains to the south side of Kettleman Lane.

iii. Note that trench cuts on Lower Sacramento Road will not be allowed to provide new utility connections.

iv. Note that it is the applicants responsibility to meet all public utility design issues and requirements to the satisfaction of the Director of Public Work.

v. Relocate existing utilities, as necessary, and place all existing overhead lines underground, excluding electric (64 kv) transmission lines.

v. The public storm drain system improvements shall be in compliance with applicable terms and conditions of the City's Phase II NPDES storm water permit, as approved and amended.

D. The right-of-way and lane configuration for Road "A" shall be consistent with the West Side Facility Master Plan. The street improvements will include a landscaped median and parkways. Improvements to the west side of Road "A" shall extend to and include the installation of curb and gutter. Acquisition of street and public utility easements from the adjoining properties may be necessary to allow this construction and shall be the responsibility of the developer. Street improvements for Road "A" shall be constructed from the signalized intersection on Kettleman Lane to the north side of Taylor Road.

E. All public improvements to be installed under the terms of an improvement agreement to be approved by the City Council prior to development of the first parcel.

F. Design and installation of public improvements to be in accordance with City master plans and the detailed utility master plans.

G. Note that the developer may be eligible for reimbursement from others for the cost of certain improvements. It is the developer's responsibility to request reimbursement and submit the appropriate information per the Lodi Municipal Code (LMC) §16.40.

H. Acquire street right-of-way, public utility easements and/or construction easements outside the limits of the map to allow the installation of required improvements on Kettleman Lane and Road "A".

I. Payment of the Wastewater capacity fee necessary for each building permit. This fee is subject to periodic adjustment as provided by the implementing ordinance/resolution. The fee charged will be that in effect at the time of collection indicated above.

J. Obtain a San Joaquin County well/septic abandonment permit and abandon the existing well on parcel 8 and any septic tanks or other underground tanks that may be encountered to the satisfaction of San Joaquin County.

K. Obtain a Caltrans Encroachment Permit for work within Kettleman Lane/Highway 12 right-of-way.

L. Drainage easements shall be granted between private property owners concurrently with the transfer of title where lots drain onto adjacent or abutting lots.

M. Install fire hydrants at locations approved by the Fire Marshall.

N. The Engineer of record shall certify that all grading and construction of grading related improvements (erosion control, storm drains, ect.,) have bee in substantial conformance with the approved plans, reports, and standards.

O. This development is subject to the approval of the Lodi Unified School District and the payment of school fees prior to the issuance of building permits in accordance with Government Code Section 53080.

P. All building roofs shall be finished with a reflective roofing system that will minimize the ambient heat radiated from the building.

Q. If construction of the on-site improvements is to be phased, a phased development plan shall be submitted showing the phased construction of water, wastewater, storm drainage and traffic circulation improvements. The phasing plan may be subject to further conditions. Should the developer decide to develop phases out of numerical sequence with the approved phasing as shown on the plan, all conditions required of the preceding phases shall be completed unless otherwise approved by the City Engineer and City Planner. Other conditions may be imposed by the City Engineer and City Planner.

R. The mechanical plans shall show the use of HVAC equipment meeting the specifications of the acoustical analysis performed for buildings as approved by the Site Plan Architectural Review Committee.

S. Incorporate an Art in Public Places project in partnership with the Arts in Public Places Advisory Board and make application for such partnership prior to approval of the building permit.

17. Prior to an encroachment permit for work within the Kettleman Lane/ State Highway 12 right-of-way, the applicant shall comply with the following conditions:

A. A traffic impact study will need to be completed in accordance with Caltrans Traffic Impact Study (TIS) guidelines.

B. All left turn pockets (at Road "A" and Lower Sacramento Road intersections) on SR 12 will need to have 36m bay tapers, appropriate deceleration lengths based on posted speed limit and storage based on a completed and approved traffic study.

C. The lane drop on westbound SR 12 west of road "A" will need to be designed in accordance with the Traffic Manual's figure 6-15 (Typical lane reduction transition). The placement of the W75 (Lane ends merge left) sign will have to be on westbound SR 12 west of the intersection with road "A".

D. The U-turn striping on westbound SR 12 at road "A" shall not be allowed. The proposed left turn pocket shall be striped as a painted island from the end of the raised median to the intersection. The left turn pocket shall be allowed and designed once the development on the southwest corner takes place.

E. Submit the traffic study to the Traffic Operations Division in order for a determination as to the need for a right in/right out at the driveway east of road "A".

F. The project shall be consistent with the alignment and striping changes being made by the Kettleman Lane Gap Closure project, EA 10-OG570K.

G. Highway drainage shall be captured in a system along the highway and taken to the drainage system at the SR 12/ Lower Sacramento road intersection. Any drainage inlets placed within the state right of way shall be type G-3 or GO and have a 600-12X grate. The applicant shall submit all drainage calculations to Caltrans, District 10.

H. Onsite drainage shall either be retained onsite or taken to the city system. The applicant shall submit to Caltrans a letter of approval from the city regarding the drainage system. The letter should include approval of the onsite drainage calculations, and address issues such as attenuation of flows, onsite detention, oil/water separator, and available capacity of main trunk line.

I. Submit to Caltrans, District 10, documentation that cultural (archaeological), biological, and hazardous waste surveys have been conducted within Caltrans right of way.

J. Submit to Caltrans, District 10, cultural surveys that include a recent record search from the information center and an Archaeological Survey Report (ASR).

K. Submit to Caltrans, District 10, a Natural Environment Study report that documents the results of biological surveys and the record search from the California Department of Fish and Game Natural Diversity Database. A qualified biologist shall conduct surveys at the appropriate time of year to determine if listed plant or animal species or wetlands occur in the area. Surveys should meet the protocol standards of the U.S. Fish and Wildlife Service and the California Department of Fish and Game.

L. Submit a copy of Attachment A, confirming that the land to be dedicated to Caltrans is free of hazardous waste.

M. Contact the Native American Heritage Commission (NAHC) concerning the project. The results of the information from NAHC should be used to consult with Native American Tribes and groups regarding concerns within the project area.

18. During construction, the developer shall comply with the following conditions:

A. The developer shall submit a traffic control plan for all phases of construction for approval by the City Engineer. Said plan shall include all traffic control devices.

B. Paving of roads and parking lots shall be completed as early as possible to mitigate short term dust problems associated with construction.

C. Grading, excavation or other related earth moving operations, including warm-up and maintenance activities, shall be limited to the hours of 7:00 a.m. to 6:00 p.m., Monday through Friday and from 9:00 a.m. to 5:00 p.m. on Saturdays, Sundays or holidays. Applicant shall contact the Building Official and the San Joaquin Valley Unified Air Pollution Control District to insure compliance with Mitigation Measures 3.3-A.1 and 3.3-A.2.

D. The developer shall construct erosion control devices of a type and size at locations approved by the City Engineer. Devices shall be installed and maintained in working condition during the rainy season (October 1 through May 1).

E. Impacts created by dust shall be mitigated by the application of water on all non-vegetated and unpaved areas of the project site and implementation of all applicable provisions of the fugitive dust rule as adopted the San Joaquin Valley Unified Air Pollution Control District.

F. All public streets leading from the site shall be cleaned daily to the satisfaction of the City of Lodi Building Official and Director of Public Works.

19. Prior to the issuance of the first certificate of occupancy for this project, the applicant shall comply with the following conditions:

A. Install street improvements on Lower Sacramento Road, Kettleman Lane and Road "A". Street improvements for Lower Sacramento Road and Road "A" shall be constructed from the signalized intersections on Kettleman Lane to the north side of Taylor Road. Street improvements along the frontages of Parcel 8 shall extend to and include the installation of curb and gutter.

B. Installation of public improvements on Lower Sacramento Road, Kettleman Lane and "Road A" shall be required with the first phase of the shopping center development. The improvements shall be installed in conformance with City of Lodi master plans and design standards and specifications and shall include, but are not limited to, the following:

i. The extension/installation of all public utilities. Water, wastewater and storm drainage master plans and design calculations for the entire development will be required with the first phase of

development. The utility layout submitted with the site plan requires revision and should not be deemed approved as part of this submittal. The developer's engineer, Phillippi Engineering shall work with Public Works Department staff to resolve public utility design issues.

ii. Relocation of existing utilities, as necessary, and undergrounding of existing overhead lines, excluding transmission lines.

iii. The NPDES Phase II storm water permit regulations require that the City develop a storm water management plan and obtain an NPDES permit for the public storm drain system by March 2003. The studies necessary to complete the NPDES Phase II permit application are currently underway. The public storm drain system improvements to be constructed with this development shall be in compliance with applicable terms and conditions of the City's NPDES permit. The developer's engineer shall work with Public Works Department staff to incorporate best management practices (BMPs) into the storm drainage design for the site, including pretreatment of runoff prior to discharge to the public storm drain system.

iv. Installation of curb, gutter, sidewalk, traffic signals, street lights, medians and landscaping and irrigation systems. All improvements on Kettleman Lane require Caltrans approval. Right-of-way dedications on Lower Sacramento Road and Kettleman Lane shall be in conformance with the recommendations of the street geometric study currently being performed by Mark Thomas & Company for this project and to the approval of the Public Works Department and Caltrans. Additional right-of-way acquisition outside the limits of the project may be required and shall be the responsibility of the developer.

C. The extension/installation of all public utilities, including utilities in Taylor Road, if necessary, to serve the commercial development.

D. Payment of applicable reimbursement fees. A request for reimbursement has been submitted to the City by the developer of the Sunwest Marketplace shopping center in conformance with LMC 16.40 Reimbursements for Construction covering public improvements in Lower Sacramento Road and Kettleman Lane constructed with that development which benefit the subject project. The reimbursement agreement is being prepared by City staff and requires City Council approval. At the City Council meeting on September 4, 2002, staff will request that Council set a public hearing for October 2, 2002, to consider the reimbursement agreement. Any reimbursement fees approved by the City Council will have to be paid in conjunction with the development of the first parcel subject to the fees. This fee is subject to periodic adjustment as provided by the implementing ordinance/resolution. The fee charged will be that in effect at the time of collection indicated above.

E. Parcels 1 through 7 shall enter into a master agreement relating to parking area and landscape maintenance. All parking areas shall be kept in good repair with clearly marked parking spaces in accordance to adopted standards. All landscape areas shall be kept in a healthy, thriving condition, free of weeds, trash and debris.

F. "As-Built" reproducible improvement plans shall be submitted and approved by the City Engineer. "As-Built" plans shall reflect minor field changes and approved construction changes in accordance with City policy. This plan set shall also include the as-built lay-out for all utilities (gas, telephone, electric, television, and street lighting) as depicted on the individual utilities plan sheets.

G. All utilities fronting, abutting or within the project shall be placed underground with the exception of sixty (60) KVA or greater power lines. The placement of utilities underground shall take place prior to the surfacing of streets.

H. Noise measurements from the property line showing compliance with the applicable provisions of the City of Lodi Noise Element and Noise Ordinance shall be submitted to the Building Official.

20. The City will participate in the cost of the following improvements in conformance with LMC §16.40 Reimbursements for Construction:
    A. Master plan sanitary sewer lines.
    B. Master plan storm drain lines.
    C. Master plan water mains.
    D. Master plan water main crossing of Kettleman Lane.
    E. Master plan wastewater main crossing of Kettleman Lane.

21. The project shall incorporate all mitigation measures as specified in the adopted Final Environmental Impact Report for the project.

22. The submitted Use Permit, Parcel Map and associated plot plan are hereby approved subject to the conditions set forth in this resolution.

23. The project applicant shall cause a perpetual agricultural conservation easement to be imposed over not less than 22.39 acres of contiguous active agricultural acreage elsewhere within the Lodi AVA of San Joaquin County. These soils shall be permanently protected from future development via enforceable deed restrictions. Acreage between Lodi and Stockton shall be targeted. Soils and farming conditions shall be equivalent or superior to the project area. Protected acreage shall be set-aside within one (1) year of the commencement of any construction activity within the development.

24. The Planning Commission hereby certifies that a copy of this resolution and Final Environmental Impact Report are kept on file with the City of Lodi Community Development Department, 221 West Pine Street, Lodi, CA 95240.

Dated: June 11, 2003

I hereby certify that Amended Resolution No. 03-12 was **denied** by the Planning Commission of the City of Lodi at a meeting held on June 11, 2003, by the following vote:

AYES:	Commissioners:	Aguirre, Haugan, White, and Heinitz
NOES:	Commissioners:	
ABSENT:	Commissioners:	Crabtree, Mattheis, and Phillips
ABSTAIN:	Commissioners:	

ATTEST: _____
Secretary, Planning Commission

MINUTES

LODI CITY PLANNING COMMISSION

CARNEGIE FORUM
305 WEST PINE STREET
LODI, CALIFORNIA

DRAFT

WEDNESDAY **June 11, 2003** **7:00 P.M.**

The Planning Commission met and was called to order by Chairman Heinitz.

ROLL CALL

Commissioners Present: Eddie Aguirre, Steven Crabtree, Dennis Haugan, David Phillips, Dennis White, and Chairman Heinitz.

Commissioners Absent: Tim Mattheis

Others Present: Konradt Bartlam, Community Development Director, Randy Hays, City Attorney, J.D. Hightower, City Planner, Eric Veerkamp, Associate Planner, and Lisa Wagner, Secretary.

The minutes of March 26, 2003 were approved. The minutes of April 9, 2003 were not approved due to lack of a quorum.

PUBLIC HEARINGS

The request of Duane Heinz for a Variance(s) to permit a substandard (one-car) garage as well as reduced front, side, and rear yard setbacks to allow construction of a 1,127 square-foot single family home, located at 325 East Lodi Avenue. Associate Planner Veerkamp presented the matter to the Commission. The subject property was a smaller lot less than 1000 square feet in size. The new home would be 1,127 square feet with a loft on the property. Being that the lot was so small, the applicant was asking for the allowance of a one-car garage, a reduced front yard setback from 20 feet to 10 feet, a rear yard and side yard zero lot line arrangement. The north and east side of the home would be built right on the alley. The hardship demonstrated for the Variance request was the extremely small size of the lot. Staff was recommending approval of the request.

Commissiner Crabtree was concerned about the home being built so close to an alley on a busy street. Mr. Veerkamp replied that he had checked with the Public Works Department and they did not express any concerns.

Commissioner White inquired about off street parking in the area. Mr. Veerkamp replied the area residents' park their cars on Lodi Avenue and were not to park in the alley, although he had observed cars parked in the alley previously.

Hearing Opened to the Public

Duane Heinz, Applicant. Mr. Heiniz bought the property for personal reasons. His son will be occupying the home for now and it will be sold at a later date. The lot originally was`5-feet wider; but that 5-feet was dedicated to the City for expansion of the alley. He noted that many surrounding homes didn't even have a garage so most of

the neighborhood parks on their property or the street.

Hearing Closed to the Public

The Planning Commission on motion of Commissioner Phillips, Aguirre second, approved the request of Duane Heinz for a Variance(s) to permit a substandard (one-car) garage as well as reduced front, side, and rear yard setbacks to allow construction of a 1,127 square-foot single family home, located at 325 East Lodi Avenue by the following vote:

AYES:	Commissioners:	Aguirre, Crabtree, Haugan, Phillips, White, and Chairman Heiniz
NOES:	Commissioners:	
ABSENT:	Commissioners:	Mattheis
ABSTAIN:	Commissioners	

The request of J. Jeffrey Kirst for a Tentative Parcel Map creating two new parcels from one parcel, located at 1443 East Harney Lane. Commissioner White left the chamber due to a Conflict of Interest. City Planner Hightower presented the item to the Commission. The request was a simple lot split. The parcel was 1.23 acres with an existing home. The lot split will be from 1 lot to 2 lots with a northern parcel that will be a flag lot. After the split, the lots would meet the requirements of the R-2 Zoning District. Staff was recommending approval of the project.

Commissioner Crabtree asked if the widening of Harney Lane would affect the lot? City Planner replied that it would develop with the subdivision immediately west of the site. It was anticipated than when the frontage improvements to Harney Lane go in west of the subject property, those improvements will continue to the new parcel that fronts Harney Lane.

Mr. Hightower noted that any improvements to the back parcel would trigger frontage improvements to the front parcel. He also noted a revision to condition d.1.f on the resolution which read "instead of under grounding existing overhead utilities, the applicant shall relocate the utility to the satisfaction of the City Engineer."

Hearing Opened to the Public

Jeffrey Kirst, 222 W. Lockeford Street. Mr. Kirst was the applicant. He urged he Commission to approve his project. He explained the situation regarding the under grounding of existing overhead utilities. There was an existing PG&E power pole in front of the lot that fronts Harney Lane and once the City installs a planned high-voltage transmission line, those existing power lines will be transferred to the new City of Lodi joint pole. He was concerned about items 3 (b) and 6 (a) which concerned the transitions and acquiring easements from adjacent property owners who might be willing to do so. According to the Subdivision Map Act, the City would have to come in and condemn those easements if he was not able to complete the transition. He would be coming back to subdivide the northern parcel with the adjacent Lucky

Property.

Hearing Closed to the Public

The Planning Commission on motion of Commissioner Crabtree, Haugan second, approved the request of J. Jeffrey Kirst for a Tentative Parcel Map creating two new parcels from one parcel, located at 1443 East Harney Lane with a change to D)1f on the resolution to read in accordance to memorandum presented by Planning staff by the following vote:

AYES:	Commissioners:	Agurrie, Crabtree, Haugan, Philips, and Chairman Heinitz
NOES:	Commissioners:	
ABSENT:	Commissioners:	Mattheis and White
ABSTAIN:	Commissioners	

The request of G-REM and Jim Manion, on behalf of Lowe's, to add a condition of approval to Planning Commission Resolution No. 03-12 for property located at the northwest corner of Lower Sacramento Road and Kettleman Lane (Vintner's Square Shopping Center). Commissioners Crabtree and Phillips left the chamber due to Conflicts of Interest. Community Development Director Bartlam presented the matter to the Commission. The item was being revisited with an added condition to the Resolution that was approved on May 14, 2003, which was the meeting where final certification of the FEIR, and approval of two Use Permits, and a parcel map for the Vintner's Square Shopping Center. At that meeting a letter was delivered to the Commissioners that requested, among other things, a mitigation measure be added to the EIR concerning prime farmland. City staff took opposition to that mitigation measure and it was not added in the final action of the Commission. Since then, the applicant has been in discussion with Ms. Cerney's Counsel, a condition of that nature and has come to the conclusion that they would not have a problem with a condition being added to the approval. The added condition would read "**The project applicant shall cause a perpetual agricultural conservation easement to be imposed over not less than 22.39 acres of contiguous active agricultural acreage elsewhere within the Lodi AVA San Joaquin County. These soils shall be permanently protected from future development via enforceable deed restrictions. Acreage between Lodi and Stockton shall b e targeted. Soils and farming conditions shall be equivalent or superior to the project area. Protected acreage shall be set aside within one (1) year of the commencement of any construction activity within the development.**"

Commissioner Aguirre asked if this requirement would preclude another developer from coming in without this mitigation. Mr. Bartlam replied the condition would only be in effect on this property. Is there was a subsequent development, that would be a whole other issue.

Commissioner Haugan had several concerns. The project would be good for the City; however; if the condition is added to the project, would it set a precedence for future projects? Mr. Bartlam replied there was a difference, since the applicant was

projects? Mr. Bartlam replied there was a difference, since the applicant was requesting that the condition be added to resolution. His perspective was still the same in terms that the EIR still stood as certified by the Commission and the added condition did not change the certification. He noted that no City policy was being enacted.

Commissioner Haugan asked if the Planning Commission even needed to handle this issue. He questioned why the applicant and Citizens for Open Government could not handle this between themselves? Mr. Bartlam replied that they could not come to terms with one another. The Planning Commission did not have to be involved, but the applicant was requesting the condition be added since an independent agreement was not moving forward. The applicant was hoping the added condition would satisfy the opposition's concern for some preservation of farmland elsewhere. The City doesn't have any enforcement capability if there was to be an independent agreement.

Chairman Heintz asked if adding the condition would really please Citizens for Open Government? He pointed out a letter received from Citizens for Open Government just minutes prior to the meeting that listed additional modified language they wished to include on the project. Mr. Bartlam replied that he also just received the letter and it appeared that the farmland condition did not satisfy Ms. Cerney's concern.

Commissioner White asked Mr. Bartlam to explain what a perpetual agricultural conservation easement was. Mr. Bartlam explained that it is an easement that is recorded an easement in perpetuity that would run with the property and the owner would never have the ability to remove it.

Hearing Opened to the Public

David Levy, Attorney for G-REM. Mr. Levy emphasized the applicant requested the additional condition on their own and not as a mitigation measure. He thanked staff for their time.

Commissioner Haugan commended G-REM in their generosity for adding the condition, but still felt strongly about setting precedence for future projects.

Ann Cerney, 900 W. Vine Street, Ms. Cerney represented herself and as the Spokeswoman for Citizens for Open Government. She appreciated the willingness of the City and developer to address the issue of retaining prime agricultural land. She went over additional points made in the letter delivered to the Commission that night. First, to make sure there is an endowment for transition costs, management, and monitoring to be paid by applicant. Second, that the applicant identifies the qualified land trust easement to the City by July 11, 2003. She has never opposed the project, it has been about reaching some sort of accommodation on the issue of retention of agricultural land to tie it in with the greenbelt separator between Stockton and Lodi.

Commissioner Aguirre asked if there were any other properties that COG would be interested in? Ms. Cerney replied that they, her group of citizens, were concerned about all properties that would be developed. She wanted all development going forward in the community to also purchase land to replace what was taken for development. The City Council had even expressed their desire to retain prime

farmland.

Commissioner Aguiree asked if COG had any property in mind that would be available between Lodi and Stockton? Ms. Cerney did not have any specific properties in mind. COG members will help with finding land to be purchased for farming easement rights. The land would already be planted and the farmer could only farm it forever. The farmland cannot be used for anything else but farmland.

Chairman Heinitz asked Ms. Cerney if she was trying to set precedence for future projects as well as a solution to the greenbelt between Lodi and Stockton. Ms. Cerney replied that she never used the word precedence, she said she was hoping it would become a concept that would be popular and used. She felt that the citizens of Lodi would look at the condition tonight and think it was a good idea.

Commission Haugan pointed out that the Westside Master Plan has 391 acres contained within it. Would she be back requesting the same thing as what they were requesting tonight? He questioned the motives of her organization. He wanted to know where was everyone when the General Plan was approved in 1991? Ms. Cerney was only present to speak about the project being considered tonight, not other projects. She stated it's not over until the final action is taken by the entity that has the charge under the CEQA.

Stan Ellsworth, 307 Rutledge Drive, Lodi. Mr. Ellsworth noted the project would add needed tax dollars to City and create urban sprawl. He felt that since the applicant added the condition of purchasing prime farmland—what was the problem? He did not want to see Lodi and Stockton to become a massive urban sprawl. Setting aside a parcel of land to prevent this from happening is the right thing to do.

Randy Snider, 2328 Brittany Lane, Lodi. Mr. Snider is a partner in the property located at the southwest corner property on Lower Sacramento and Kettleman Lane. He appreciated and understood what the applicant was offering, and what Ms. Cerney was trying to do. He stood before both Stockton City Council and the Stockton Planning Commission begging them to come to the table to discuss the greenbelt. He felt that setting a policy like the one tonight needed to go through the proper channels. Property owners do not like to be told what they can and cannot do with their property. This would not be a simple task and it would set precedence.

Jeffrey Kirst, 222 W. Lockeford Street, Lodi. Mr. Kirst agreed with Mr. Snider. He felt it was policy and precedent setting and not good government. He has attended many meetings regarding the greenbelt and never saw a COG member there. The farmers were totally opposed to the idea.

Jean May, 524 Connie Street, Lodi. Ms. May has lived in Lodi since 1948. She was concerned about a greenbelt between Stockton and Lodi for a long time. Stockton was not interested at in creating a greenbelt at this time.

Hearing Closed to the Public

Chairman Heinitz appreciated how generous G-REM had been throughout the project. He felt it was precedent setting and asked if this was going to happen every time a project developed. He was absolutely against this condition and the City Council should make the final decision.

The Planning Commission on motion of Commissioner Haugan, White second, voted to **deny** the amended condition from G-REM by the following vote:

AYES: Commissioners: Aguirre, Haugan, White, and Heintz

NOES: Commissioners:

ABSENT: Commissioners: Crabtree, Mattheis, and Phillips

ABSTAIN: Commissioners

ADJOURNMENT

As there was no further business to be brought before the Planning Commission, Chairman Heinitz adjourned the session at 8:25 p.m.

Respectfully submitted,

Lisa Wagner
Secretary

REMY, THOMAS, MOOSE and MANLEY, LLP

ATTORNEYS AT LAW

MICHAEL H. REMY
1944 - 2003

TINA A. THOMAS
JAMES G. MOOSE
WHITMAN F. MANLEY
ANDREA A. MATARAZZO

BRIAN J. PLANT
OF COUNSEL

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WILLIAM C. BURKE
CHRISTOPHER H. CALFEE
ASHLE T. CROCKER
MARY E. HANDEL
SABRINA V. TELLER
DIANA L. RACHAL

June 11, 2003

VIA HAND DELIVERY

City of Lodi
Planning Commission
221 West Pine St.
Lodi, CA 95240

Re: New Condition of Approval for Vintner's Square Shopping Center

Dear Commissioners:

This firm represents Ann M. Cerney and Citizens for Open Government ("COG"). The condition now proposed by applicant to provide a conservation easement over replacement farmland is similar to what Cerney and COG requested in their comments on the draft EIR on April 17, 2003. The City was placed on notice of the need for this feasible mitigation measure well before the Planning Commission considered approval of the project on May 14, 2003. Moreover, providing such mitigation is a minimal effort and is legally required.

Cerney and COG generally support the concept of the condition proposed, but request that it be modified as follows:

1. The condition should specify that an endowment for transition costs, perpetual management and monitoring must be provided by the applicant. Also, the easement should be transferred to a qualified land trust. Otherwise, there is no assurance that the mitigation land will continue to serve the conservation purposes for which it was obtained.

2. The applicant shall identify the qualified land trust which will hold the conservation easement to the City by July 11, 2003.

3. Since the proposed project is near the southern border of Lodi and development pressure between Stockton and Lodi is growing, the mitigation land must be located in the area between the two cities. The current language in the condition does not require this. The language should require the following:

The replacement land must be located within the area bounded by Interstate 5 and Highway 99 on the west and east, respectively, and Armstrong Road and Eight Mile Road on the north and south, respectively. To the extent that Armstrong Road does not complete this boundary, the boundary shall be completed by an imaginary straight line extension of Armstrong Road to the point that imaginary line intersects Interstate 5.

Cerney and COG continue to believe that the EIR prepared for the project is deficient under CEQA and maintain their pending appeal of the Planning Commission's certification of the EIR and approval of the project. It is unfortunate that the City did not take Cerney and COG's comments seriously until after it approved the project based on a seriously flawed EIR. By delaying full consideration of this issue, the City has precluded public review of the mitigation measures now proposed for the project. In the future, we hope that the City will take impacts on agriculture seriously and identify required mitigation in the Draft EIR, as required by CEQA. (See CEQA Guidelines, §§ 15120, subd. (c), 15126.4, subd. (a).)

Very truly yours,

Osha R. Meserve

30613101.001

RESOLUTION NO. 2003-115

A RESOLUTION OF THE LODI CITY COUNCIL
OVERRIDING THE PLANNING COMMISSION'S
DENIAL OF THE REQUEST TO AMEND
RESOLUTION 03-12 RELATING TO THE
VINTNER'S SQUARE SHOPPING CENTER

WHEREAS, notice thereof having been published according to law, an affidavit of which is on file in the office of the City Clerk, a public hearing was held July 2, 2003, by the Lodi City Council to consider the appeal of G-REM regarding the Planning Commission's denial of the request to amend Resolution 03-12 adding a condition of approval to the Vintner's Square Shopping Center, located at the northwest corner of Lower Sacramento Road and Kettleman Lane.

NOW, THEREFORE, BE IT RESOLVED that the Lodi City Council does hereby override the Planning Commission's decision, thereby approving the amendment to the Planning Commission Resolution No. 03-12, adding the following condition to the approval of the Vintner's Square Shopping Center:

> "The project applicant shall cause a perpetual agricultural conservation easement to be imposed over not less than 22.39 acres of contiguous active agricultural acreage elsewhere within the Lodi AVA of San Joaquin County. These soils shall be permanently protected from future development via enforceable deed restrictions. Acreage between Lodi and Stockton shall be targeted. Soils and farming conditions shall be equivalent or superior to the project area. Protected acreage shall be set aside within one year of the commencement of any construction activity within the development."

Dated: July 2, 2003

I hereby certify that Resolution No. 2003-115 was passed and adopted by the City Council of the City of Lodi in a regular meeting held July 2, 2003, by the following vote:

AYES: COUNCIL MEMBERS – Beckman, Hansen, Howard, Land and Mayor Hitchcock

NOES: COUNCIL MEMBERS – None

ABSENT: COUNCIL MEMBERS – None

ABSTAIN: COUNCIL MEMBERS – None

Susan J. Blackston

SUSAN J. BLACKSTON
City Clerk

"To preserve our local identity and heritage, we need to make an attitude change. We must think of *development* as crops, vegetables, fruits and nuts, seeds, livestock and poultry. Our farmland and natural habitats are highly developed areas we must protect in order to survive."

John Eilers

President
Land Utilization Trust

Board of Directors

John Eilers, President
Rancher/Environmentalist

Dan Cort, Vice President
Inner-City Developer

Judy Root, Secretary-Treasurer
Stockton Merchant

Catherine Webster
Educator/Rancher

Waldo Holt
Environmentalist

Steve Stocking
Educator/Environmentalist

Contact:
John Eilers, President

(209) 887-2552

Land Utilization Trust
21355 Walnut Drive
Linden, CA 95236

Land Utilization Trust

... mobilizing to preserve what we have: San Joaquin County's agricultural, wildlife and inner-city resources.

Our Program:

- To expand public awareness of the value of healthy and diverse land use.
- To preserve resources through the acquisition or acceptance of legal interests in land.
- To encourage public policies aimed at preserving land resources at risk.

What Is a Conservation Easement?

A conservation easement is a restriction landowners voluntarily place on their property to protect natural resources such as topsoil, water quality, wildlife habitat or scenery, or to protect the land for a certain type of use, such as farming.

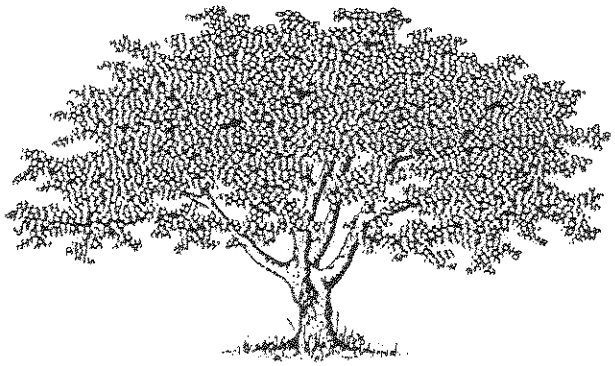
A conservation easement is created by the transfer of a Deed of Conservation Easement to the Land Utilization Trust, or to another qualified land trust or government agency willing to accept the easement and enforce its restrictions.

Conservation Can Be a Valuable Part of an Estate Plan.

Many landowners want to secure a future for their land as well as for their families. Estate planning can use conservation strategies to ensure the long-term protection of your land and reduce taxes. If you want to pursue these options, consult Land Utilization Trust for assistance.

Our Mission:

The preservation of land for scientific, historical, educational, ecological, recreational, agricultural, scenic or open space opportunities affecting San Joaquin County.



Yes, I want to help.

- ❑ Please contact me regarding a conservation easement on my land.
- ❑ I want to become an associate member of Land Utilization Trust. Enclosed is $_____

Name_____
Address_____
City_____
State_____Zip_____
Phone_____

Land Utilization Trust, Incorporated, is a 501(c)(3) nonprofit, tax-exempt corporation. Contributions are tax-deductible to the extent allowed by law.

CITY OF LODI

Carnegie Forum
305 West Pine Street, Lodi

NOTICE OF PUBLIC HEARING
Date: July 2, 2003
Time: 7:00 p.m.

For information regarding this notice please contact:
Susan J. Blackston
City Clerk
Telephone: (209) 333-6702

EXHIBIT A

NOTICE OF PUBLIC HEARING

NOTICE IS HEREBY GIVEN that on **Wednesday, July 2, 2003,** at the hour of 7:00 p.m., or as soon thereafter as the matter may be heard, the City Council will conduct a Public Hearing at the Carnegie Forum, 305 West Pine Street, Lodi, to consider the following matter:

a) the appeal of G-REM regarding the Planning Commission's denial of the request to amend Resolution 03-12 adding a condition of approval to the Vintner's Square Shopping Center located at the northwest corner of Lower Sacramento Road and Kettleman Lane

Information regarding this item may be obtained in the office of the Community Development Department, 221 West Pine Street, Lodi, California. All interested persons are invited to present their views and comments on this matter. Written statements may be filed with the City Clerk at any time prior to the hearing scheduled herein, and oral statements may be made at said hearing.

If you challenge the subject matter in court, you may be limited to raising only those issues you or someone else raised at the Public Hearing described in this notice or in written correspondence delivered to the City Clerk, 221 West Pine Street, at or prior to the Public Hearing.

By Order of the Lodi City Council:

Susan J. Blackston

Susan J. Blackston
City Clerk

Dated: **June 18, 2003**

Approved as to form:

Randall A. Hays

Randall A. Hays
City Attorney

EXHIBIT B

Amendment to Lowe's Resolution

1. 02704010;KIRIU, TOM & TERRY TRS ;1212 S LOWER SAC RD ;LODI ;CA;95242

2. 02704011;VLAVIANOS, ROBERT ;1224 S LOWER SAC RD ;LODI ;CA;95242

3. 02704012;VALENTINE, MENARDA TR ;22 POWERS AVE ;SAN FRANCISCO ;CA;94110

4. 02704087;BROOKHURST SHOPPING CENTER LLC;1371 OAKLAND BLVD SUITE 200 ;WALNUT CREEK ;CA;94596

5. 02704088;SUNWEST MARKETPLACE LODI LLC ;1801 OAKLAND BLVD #210 ;WALNUT CREEK ;CA;94596

6. 02704090;GILL LODI LLC ;GLENFIELD, LEICESTER LE35NG ;UNITED KINGDOM ; ;00000

7. 02705014;GEWEKE FAMILY PTP ;PO BOX 1210 ;LODI ;CA;95241

8. 02704089;OREGON FOOD STORES INC ;1801 OAKLAND BLVD SUITE 210 ;WALNUT CREEK ;CA;94596

9. 02733002;RIOS, JOSE J & MARIA G ;PO BOX 722 ;ACAMPO ;CA;95220

10. 02733003;TRACY, JEFFREY L & TAMRA ;2426 BRITTANY CT ;LODI ;CA;95242

11. 02733004;MATHEWS, RICHARD E & DORENE ;2432 BRITTANY CT ;LODI ;CA;95242

12. 02733005;SCHMIERER, MICHAEL H ;2438 BRITTANY CT ;LODI ;CA;95242

13. 02733006;SHAH, STEPHANIE ;1273 VIENNA DR ;LODI ;CA;95242

14. 02733009;RISHWAIN, MARK B & MICHELLE L ;2421 BRITTANY CT ;LODI ;CA;95242

15. 02733016;SUNWEST HOMEOWNERS ASSN ;317 W LODI AVE ;LODI ;CA;95240

16. 05803002;LODI SOUTHWEST ASSOCIATES LP ;301 S HAM LN SUITE A ;LODI ;CA;95242

17. 05814042;CHRISTIAN J KNOX & ASSOC INC ;633 E VICTOR RD SUITE E ;LODI ;CA;95240

18. 05814044;FIRST LODI PLAZA ASSOCIATES ;100 SWAN WAY SUITE 206 ;OAKLAND ;CA;94621

19. 05814001;TESORO REFINING & MARKETING CO;PO BOX 16290 ;HOUSTON ;TX;77222

20. 02705003;MEIER, EMMA ;345 E TAYLOR RD ;LODI ;CA;95242

21. 02705010;PARISIS, ANGELOS S ;9949 FERNWOOD AVE ;STOCKTON ;CA;95212

22. 02705011;KABA, MIYOKO ;2332 ROCKINGHAM CIR ;LODI ;CA;95242

23. 02705020;HEDRICK, LAMAR A & JOANN A TR ;209 E HWY 12 ;LODI ;CA;95242

24. 02705021;MEXICAN AMER CATHOLIC FED ;PO BOX 553 ;LODI ;CA;95241

25. 02706001;GUTIERREZ, MERCED P & F P ;383 E TAYLOR RD ;LODI ;CA;95240

26. 02706002;CULBERTSON, JAMES F & P TRS ;641 N PACIFIC AVE ;LODI ;CA;95242

27. 02706003;CULBERTSON, STEVEN S & T E ETA;3008 ROSEWOOD DR ;LODI ;CA;95242

28. 02706005;MCNEIL, DANIEL R & S M ;441 TAYLOR RD ;LODI ;CA;95240

29. 02706009;SANCHEZ, DOMINGO ;517 TAYLOR RD ;LODI ;CA;95240

30. 02706010;FREY, LELAND G TR ETAL ;485 TAYLOR RD ;LODI ;CA;95242

31. 02706012;REISWIG, KENNETH C ETAL ;246 NORTH LOMA ;LODI ;CA;95240

32. 02706013;ROBERSON, KENNETH A & RITA G ;619 TAYLOR RD ;LODI ;CA;95242

33. 02706014;FINKELSTEIN, JAY & DONNA ;360 RANELAGH RD ;HILLSBOROUGH ;CA;94010

34. 02706019;WAGNER, LESTER V & M W ;15472 N HILDE LANE ;LODI ;CA;95240

35. 02706024;MASON, EVERED J & BERNADINE K ;28499 N NICHOLS RD ;GALT ;CA;95632

36. 02706025;WILBURN, LOREN ;15475 N LOWER SAC ;LODI ;CA;95242

37. 02706027;VANDER HEIDEN, BEN & RENEE D ;681 TAYLOR RD ;LODI ;CA;95242

38. 02706028;SMITH, DANA C & DEANNA L ;211 S AVENA AVE ;LODI ;CA;95242

39. 02706029;ZAPARA, RANDY K & M A ;695 E TAYLOR RD ;LODI ;CA;95240

40. 02706035;WILLIAMS, DAVE A & KATHLEEN R ;1100 INTERLAKEN DR ;LODI ;CA;95242

41. 02706039;FREY, LELAND G & DEBRA M TR ;485 TAYLOR RD ;LODI ;CA;95242

42. 05803001;REICHMUTH, CAROLYN HINES ;1358 MIDVALE RD ;LODI ;CA;95240

DECLARATION OF POSTING

PUBLIC HEARING TO CONSIDER THE APPEAL OF G-REM REGARDING THE PLANNING COMMISSION'S DENIAL OF THE REQUEST TO AMEND RESOLUTION 03-12 ADDING A CONDITION OF APPROVAL TO THE VINTNER'S SQUARE SHOPPING CENTER LOCATED AT THE NORTHWEST CORNER OF LOWER SACRAMENTO ROAD AND KETTLEMAN LANE

On Thursday, June 19, 2003, in the City of Lodi, San Joaquin County, California, a copy of the notice to a set Public Hearing for July 2, 2003 to consider the appeal of G-REM regarding the Planning Commission's denial of the request to amend Resolution 03-12 adding a condition of approval to the Vintner's Square Shopping Center located at the northwest corner of Lower Sacramento Road and Kettleman Lane (attached hereto, marked Exhibit "A") was posted at the following four locations:

Lodi Public Library
Lodi City Clerk's Office
Lodi City Hall Lobby
Lodi Carnegie Forum

I declare under penalty of perjury that the foregoing is true and correct.

Executed on June 19, 2003, at Lodi, California.

ORDERED BY:

SUSAN J. BLACKSTON
CITY CLERK

Jacqueline L. Taylor
Deputy City Clerk

Patricia Ochoa
Administrative Clerk

Jennifer M. Perrin
Deputy City Clerk

forms\decpost.doc

DECLARATION OF MAILING

PUBLIC HEARING TO CONSIDER THE APPEAL OF G-REM REGARDING THE PLANNING COMMISSION'S DENIAL OF THE REQUEST TO AMEND RESOLUTION 03-12 ADDING A CONDITION OF APPROVAL TO THE VINTNER'S SQUARE SHOPPING CENTER LOCATED AT THE NORTHWEST CORNER OF LOWER SACRAMENTO ROAD AND KETTLEMAN LANE

On June 19, 2003, in the City of Lodi, San Joaquin County, California, I deposited in the United States mail, envelopes with first-class postage prepaid thereon, containing a Public Hearing notice to consider the appeal of G-REM regarding the Planning Commission's denial of the request to amend resolution 03-12 adding a condition of approval to the Vintner's Square Shopping Center located at the northwest corner of Lower Sacramento Road and Kettleman Lane, marked Exhibit "A"; said envelopes were addressed as is more particularly shown on Exhibit "B" attached hereto.

There is a regular daily communication by mail between the City of Lodi, California, and the places to which said envelopes were addressed.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on June 19, 2003, at Lodi, California.

ORDERED BY:

SUSAN BLACKSTON
CITY CLERK, CITY OF LODI

ORDERED BY:

JACQUELINE L. TAYLOR
DEPUTY CITY CLERK

JENNIFER M. PERRIN
DEPUTY CITY CLERK

Patricia Ochoa

PATRICIA OCHOA
ADMINISTRATIVE CLERK

Forms/decmail.doc

Please immediately confirm receipt of this fax by calling 333-6702

CITY OF LODI
P. O. BOX 3006
LODI, CALIFORNIA 95241-1910

ADVERTISING INSTRUCTIONS

SUBJECT: **PUBLIC HEARING TO CONSIDER THE APPEAL OF G-REM REGARDING THE PLANNING COMMISSION'S DENIAL OF THE REQUEST TO AMEND RESOLUTION 03-12 ADDING A CONDITION OF APPROVAL TO THE VINTNER'S SQUARE SHOPPING CENTER LOCATED AT THE NORTHWEST CORNER OF LOWER SACRAMENTO ROAD AND KETTLEMAN LANE**

LEGAL AD

PUBLISH DATE: **SATURDAY, JUNE 21, 2003**

TEAR SHEETS WANTED: **Three (3) please**

SEND AFFIDAVIT AND BILL TO:

SUSAN BLACKSTON, CITY CLERK
City of Lodi
P.O. Box 3006
Lodi, CA 95241-1910

DATED: THURSDAY, JUNE 19, 2003

ORDERED BY:

Patricia Ochoa
PATRICIA OCHOA
ADMINISTRATIVE CLERK

JACQUELINE L. TAYLOR
DEPUTY CITY CLERK

JENNIFER M. PERRIN
DEPUTY CITY CLERK

Verify Appearance of this Legal in the Newspaper – Copy to File

LNS Faxed to the Sentinel at 369-1084 at 3:24 (time) on 6/19/03 (date) 2 (pages)
Phoned to confirm receipt of all pages at 3:15 (time) / ___Jac PO Tricia ___Jen (initials)

forms\advins.doc

CITY COUNCIL

SUSAN HITCHCOCK, Mayor
EMILY HOWARD
Mayor Pro Tempore
JOHN BECKMAN
LARRY D. HANSEN
KEITH LAND

CITY OF LODI

CITY HALL, 221 WEST PINE STREET
P.O. BOX 3006
LODI, CALIFORNIA 95241-1910
(209) 333-6702
FAX (209) 333-6807
cityclrk@lodi.gov

H. DIXON FLYNN
City Manager

SUSAN J. BLACKSTON
City Clerk

RANDALL A. HAYS
City Attorney

July 3, 2003

G-REM, Inc.
Dale N. Gillespie
P.O. Box 1210
2475 Maggio Circle
Lodi, CA 95240

CITY COUNCIL PUBLIC HEARING

This is to notify you that at the City Council meeting of July 2, 2003, the Council voted to reverse the Planning Commission action on June 11, 2003 and approve the added condition of approval to Planning Commission resolution 03-12 for property located at the northwest corner of Kettleman Lane and Lower Sacramento Road. A copy of the City Council resolution pertaining to this matter is attached for your records.

Should you have any questions regarding this, please contact the City Clerk's Office at (209) 333-6702.

Sincerely,

Susan J. Blackston
City Clerk

cc: Community Development Department