CITY OF LODI

COUNCIL COMMUNICATION

AGENDA TITLE: Conduct Public Hearing to consider the appeal of Ann Cerney regarding the decision of the Planning Commission to approve a 33-unit low density residential Development Plan and recommend that Council: 1) certify Negative Declaration ND-02-05 as adequate environmental documentation for the project on 5.68 acres located at the southwest corner of the intersection of Lower Sacramento Road and Taylor Road, and 2) adopt the 2002 Growth Management Allocations.

MEETING DATE: November 6, 2002

PREPARED BY: J.D. Hightower, City Planner

RECOMMENDED ACTION: Staff recommends that the City Council take three (3) actions on this matter: 1) Deny the appeal of Ann Cerney regarding the appropriate level of environmental analysis for a 33-lot subdivision; 2) Affirm the Planning Commission's recommendation to approve a 33-unit low density Development Plan proposed by G-REM on 5.68 acres at the southwest corner of Lower Sacramento Road and Taylor Road; and 3) adopt the 2002 Growth Management Allocations.

BACKGROUND INFORMATION: On September 12, 2002, the Planning Commission, after a public hearing, decided to forward a recommendation to approve a Negative Declaration and Development Plan that would allocate 33 low density dwelling units pursuant to the City's Growth Management Ordinance. The main issue of the appeal is the appropriateness of environmental review under the California Environmental Quality Act. The Planning Commission found that the Development Plan complies with all applicable provisions of the Growth Management Ordinance. Additionally, this Development Plan was the only development plan received by the City, thus the recommendation to approve both the Development Plan and the building permit allocation plan.

DISCUSSION: The Development Plan calls for the allocation of 33 low density residential permits for this subdivision. The appellant, Ms. Cerney, is of the opinion that an Environmental Impact Report is necessary for the project and that a Negative Declaration for the project is inadequate. It is staff's opinion that the Planning Commission had, in accordance with State law, had no choice but to approve the Negative Declaration for the project. The California Environmental Quality Act, Section 15070 states, "That an agency shall prepare or have prepared a proposed negative declaration or mitigated negative declaration for a project when: (a) The initial study shows that there is not substantial evidence, in light of the whole record before the agency, that the project may have a significant effect on the environment."

There is no substantial evidence that this project, a 33-lot subdivision, will have a significant effect on the environment. Due to the small scale of the project, the typical impacts associated with residential

APPROVED: _____
H. Dixon Flynn -- City Manager

subdivisions, i.e., traffic, water, loss of agricultural land, and public services are not expected to be significantly impacted by this project. These issues are discussed in the initial study for the project (attached). Staff concluded, in the initial study that the project could not have a significant effect on the environment.

In making this conclusion, the staff evaluated, among other items, the following factors:

- According to International Traffic Engineer (ITE) calculations, the project is expected to generate 330 trips per day. The intersection of Taylor Road and Lower Sacramento Road is capable of operating at an acceptable Level of Service with the addition of these trips.
- Traffic impacts will be further reduced by the dedication and construction of Road "A" that the project will complete.
- The project is expected to have a total water demand of 4,000 gallons per day and that adequate supply is available for this project.
- According to the Land Evaluation and Site Assessment model developed and adopted by the State Department of Conservation, the loss of 5.68 acres is considered less than significant.
- The project is within a three-minute response time from Fire Stations 3 and 4 and that future needs created by the project would be satisfied by the payment of development impact fees.

After evaluating these factors along with other additional factors discussed in the initial study, it is staff's opinion that the City is compelled to certify a Negative Declaration for the project. Thus, staff recommends that the City Council affirm the Planning Commission's decision that a Negative Declaration is the appropriate level of review.

Besides meeting legal requirements, the subdivision is capable of standing on its own merit and was recommended for approval because it follows good planning principals. The project will serve as a transition between the commercially designated area immediately to the south of the project and the rural residential uses on the north side of Taylor Road.

In addition to making good planning sense, the Development Plan is consistent with all applicable provisions of the General Plan as well as the Westside Facilities Plan. The project is consistent with the General Plan designation of the site as Low Density Residential. This General Plan designation allows an average density of 7 dwelling units per acre while the project proposes a density of 6.3 dwelling units per acre. The Development Plan calls for a specific alignment and construction of Road "A" as specified in the Westside Facilities Plan. Thus the development provides for the orderly development of Lodi.

The approval of the Development Plan is independent of the adjacent Lowes/Winco project. The act of surveying and mapping the property for a subdivision sets the boundary of that development. The proposed Development Plan in no way implies the approval of the General Plan Amendment proposed by the Lowes/Winco project. If the Lowes/Winco General Plan Amendment is not approved, the remainder portion of the residentially designated land can be accessed via the cul-de-sacs proposed by this subdivision.

In fact State law anticipates these sorts of circumstances. The Subdivision Map Act, Section 66424 specifically states that "local agencies shall not, by ordinance or policy, prohibit consecutive subdivision of the same parcel or any portion thereof either by the same subdivider or a subsequent purchaser because the parcel was previously subdivided." Thus, if the Lowes/Winco General Plan Amendment is not approved, then by right, the applicant could apply for additional development entitlements.

Because the project complies with all applicable provisions of the General Plan, Westside Facilities Plan, and will not have a significant impact on the environment, staff recommends that the Council deny the appeal of the project and affirm the Planning Commission recommendation to approve the Development Plan.

Staff is also recommending that the City Council approve the building permit allocation plan for 2002. For 2002, the Vineyard Square Subdivision is the only requested allocation. The project is within Priority Area 2. This classification is the predominate priority area currently being developed as Priority Area 1 is, for the most part, already developed. The allocation plan would allocate 33 low density building permits which is well below the 433 low density residential allocations available for 2002. Thus, the allocation of 33 permits to the Vineyard Square Subdivision represents the orderly and managed growth of Lodi.

Konradt Bartlam
Community Development Director

Prepared by: J.D. Hightower, City Planner

JDH/lw

Attachments

MEMORANDUM, City of Lodi, Community Development Department

To: Planning Commission

From: J.D. Hightower, City Planner

Date: August 28, 2002

Subject: The request of G-REM, seeking approval of a Growth Management Review and Development Plan pursuant to the City of Lodi Growth Management Ordinance, Section 15.34.070 that would allocate a total of 33 low density residential dwelling units (on 5.68 acres located at the southwest corner of Taylor Road and Lower Sacramento Road

SUMMARY: The applicant, G-REM, is seeking approval of a development plan to gain allocation of approval of 33 low density dwelling units on 5.68 acres within the City of Lodi. The City of Lodi under the growth management plan has an adequate number of allocations for completion of this project making the project consistent with the Growth Management Element of the General Plan.

The project site is located at the southwest corner of Taylor Road and Lower Sacramento Road within the City of Lodi's incorporated limits. The site is zoned R-2 and has a general plan designation of low density residential, up to 7 dwelling units per acre. The project proposes development at 6.1 dwelling units per acre. No major impacts to the policies of the General Plan are expected if the project is approved.

The design of the subdivision comprises three cul-de-sacs off of Taylor Road. The cul-de-sacs would terminate with landscaping at the northern boundary of the Vintners Square Shopping Center. Duplex units will be built on corner lots within the subdivision. In all regards, the plan is consistent with all applicable city ordinances and policies.

BACKGROUND

The project site is vacant and is located in a boundary area between rural and urban land uses. The east side of Lower Sacramento Road is developed with commercial and low density residential land uses. The west side of Lower Sacramento Road is predominately rural, although there are unincorporated low density residential land uses taking place across Taylor Road, north of the proposed development plan. To the west of the site are active agricultural operations. Immediately south of the site is a commercially designated site that is incorporated into Lodi. This is the area referred to as the Vintner Square Shopping Center and features a Lowes and Winco as anchor tenants.

This project will change the appearance of Taylor Road and hence may have a slight impact on the existing county residents living north of the site. However, these residential units have a county general plan designation of Agriculture-Urban Reserve (AU) Zone. This designation is "intended to retain in agriculture those areas planned for future urban development in order to facilitate compact, orderly urban development and to assure the proper timing and economical provision of services and utilities. This zone also is intended to implement the Agriculture-Urban Reserve land use category of the

General Plan". Further the existing homes on Taylor Road are zoned as Low Density Residential (R-L). This zone "is intended to provide for neighborhoods consisting of detached, single-family residences, located within or immediately adjacent to population centers which are served by a public water supply, sanitary sewer system, and similar facilities and services. This zone is intended to implement the Low Density Residential land-use category of the General Plan." Because residential development would be permitted under county jurisdiction, without the benefit of public potable water and sanitary sewer, the project is not expected to create any land use conflicts in the area.

In anticipation of development taking place in the area, the City of Lodi adopted a Westside Facilities Plan. This plan calls out specific facilities needed to develop the area in an orderly fashion consistent with the General Plan.

Most recently, the site was proposed for an apartment complex that was ultimately denied by the City Council. Although, theoretically a good site for apartments, providing a land use transition from commercial to the south to single family to the north, the project was denied by the outcry from the nearby residents. Thus the impetus for this development plan. By providing a predominately large lot single family subdivision, the project is consistent with the previous Council action on the property. It is staff's opinion that the subdivision will be compatible with community expectations for the area.

KEY POLICY QUESTIONS

There are two main policy questions concerning this request:

1. Is the project consistent with the General Plan and Westside Facilities Plan?
2. Does the project comply applicable City of Lodi ordinances?

POLICY ANALYSIS

Is the project consistent with the General Plan and Westside Facilities Plan?

The General Plan Land Use designation for the site is Low Density Residential that allows for an overall density of 7 dwelling units per acre. The project proposes development at 6.1 dwelling units per acre. The Westside Facilities Plan likewise designates the area as Low Density Residential. Therefore, the project is consistent with the Land Use Element of the General Plan. The loss of agricultural land is of concern, however, using the Land Evaluation and Site Assessment model developed by the State Department of Conservation, this loss of agricultural land is less than significant.

The Noise Element of the General Plan states that the noise level on Lower Sacramento Road is expected to be 65 to 70 dB 100 feet from the centerline of Lower Sacramento Road. After dedicated improvements, the centerline of Lower Sacramento Road will be 85 feet from the nearest property. After taking into account the required 10 foot setback from property line in the R-2 zoning district, the nearest structure will be approximately 95 feet from the centerline of Lower Sacramento Road. This makes the proposed

residential land use normally unacceptable pursuant to the Noise Element of the General Plan. However, there will be a solid masonry wall constructed along the project's frontage along Lower Sacramento Road. This wall with the setback distance is expected to mitigate noise to an acceptable level.

The site is immediately north of the proposed Vintner's Square Shopping Center (Lowes) and as such there could be additional noise conflicts between the two projects. However, there will be an eight foot high masonry wall separating the two projects. On the subdivision side the wall be partially screened with landscaping, with a small landscape area, sidewalk and mow-strip adding relief from the street view. The commercial center will have a ten foot drainage swale separating the loading docks from the wall. With the drainage swale and the required sideyard setback for a single family home means that there will be a 15 foot separation between the service driveway and the homes. The service driveway varies in width from 40 to 60 feet meaning that there will be separation of 55 to 75 foot separation between the commercial and residential structures. This distance plus the eight foot high wall is expected to mitigate noise conflicts between residential and commercial land uses.

The Circulation Element of the General Plan and Westside Facilities Plan call for major circulation improvements to the area. Traffic impacts are expected to be less than significant. The project is expected to generate approximately 330 average daily trips. The project will complete half street improvements to Taylor Road and construct Road "A" to the subdivision boundary. Lower Sacramento Road will be widened along the project's frontage to match the improvements proposed by the commercial project. The project will dedicate an additional 22.5 feet along Lower Sacramento Road which will allow for an additional travel lane, curb, gutter, mow strip, sidewalk, landscape area and wall. These roadway improvements are expected to handle the traffic generated by the project.

The level of service provided by the intersections in the vicinity of the project currently and will continue operate at an acceptable level of service. Major intersections along Kettleman Lane with its intersections at Lower Sacramento Road and Road "A" will be signalized. The turning movements at Taylor Road and Lower Sacramento Road will be restricted to preclude left turns from Taylor Road. The median island will be extended to preclude this turning movement at this intersection. The intersection at Road "A" would be controlled via a two-way stop sign. These intersection improvements will insure that the intersections operate above the Circulation Element mandate of Level of Service "D" or better.

The loss of agricultural land typically has a negative impact upon the policies of the Conservation Element, however, this project is not expected to negatively impact this element of the General Plan. Utilizing the Land Evaluation and Site Assessment model developed by the State Department of Conservation, the project will have a less than significant impact upon agricultural resources. Similarly, the project is not expected to result in the wasteful consumption of a non-renewable resource – Prime Farmland.

By increasing the supply of homesites City, the project will have a beneficial impact upon the policies of the Housing Element. Additionally, the project proposes six (6) duplex units that provides the opportunity for a more affordable housing mix within Lodi.

Does the project comply with applicable City of Lodi ordinances?

The project needs to meet the criteria of two major ordinances – 1) Growth Management; and 2) Zoning. The project complies with all applicable provisions of both ordinances.

Pursuant to the Growth Management Ordinance, the application was received in a timely manner and contains the necessary information to allocate the requested 33 low density dwelling units. This is the only growth management allocation requested for the year, well under the cap established by the growth management ordinance. Because it is the only application received and is under the allowable limit of allocations, the project is not subject to the scoring criteria specified in the ordinance.

The property is zoned as R-2 and has a General Plan Land Use Diagram designation of Low Density Residential (up to 7.0 dwelling units per acre). The R-2 zoning classification allows for duplex dwelling units on corner lots that have at least 6,000 square feet and 60 feet in width. The project proposes duplex units on the cul-de-sacs corners that have a lot size of 8,000 square feet and have a width of 62 feet. The other provisions of this section such as required yards, building height and lot coverage will be insured during the building permit plan check process. The lots are not of unusual size or shape and should be able to easily meet these requirements. Thus the project complies with the R-2 zoning requirements.

RECOMMENDATION

Staff recommends approving the request of G-REM, is seeking approval of a development plan to gain allocation of approval of 33 low density dwelling units on 5.68 acres within the City of Lodi.

Respectfully Submitted,

J.D. Hightower
City Planner

Reviewed & Concur,

Konradt Bartlam
Community Development Director

KB/MM/lw

CITY OF LODI
PLANNING COMMISSION
Staff Report

MEETING DATE:	September 12, 2002
APPLICATION NO:	Vintner's Square Subdivision – Growth Management Allocation GM-02-001
REQUEST:	The applicant, G-REM, seeking approval of a Growth Management Review and Development Plan pursuant to the City of Lodi Growth Management Ordinance, Section 15.34.070. This action would recommend to the City Council the allocation of a total of 33 low density dwelling units on 5.68 acres. The map would create twenty-seven (27) lots, six (6) of which would be developed with duplex units. The duplex units would be located on the corners of the interior cul-de-sacs as permitted by the R-2 zoning classification.
LOCATION:	Southwest corner of the intersection of Lower Sacramento Road and Taylor Road.
APPLICANT:	G-REM,
PROPERTY OWNER:	Geweke Family Partnership, P.O. Box 1210, Lodi, CA 95241

Site Characteristics:

The site is predominately a vacant, flat, undeveloped field. Numerous soil piles, a stockpile and a road-like gravel patch are located neat the eastern edge of the site. A vegetated area is located along the northern edge of the site. Located within the vegetated area are an agricultural well, well pump, concrete distribution box and a partially fallen shed. The site in the past was agriculturally productive, having been improved with vineyards and orchards. The site is at the edge of urban and rural development with urban development taking place east of the site and rural agricultural production taking place west of the site.

General Plan Designation:	Low Density Residential
Zoning Designation:	R-2 Residence District One-Family.
Property Size:	5.68 acres

Adjacent Zoning and Land Use:

North: San Joaquin County General Plan Agriculture-Urban Reserve (AU) and Zoned Low Density Residential (R-L).

South: Proposed Vintners Square, Commercial Shopping (C-S) District

East: Sunwest Marketplace Shopping Center (C-S)

West: Improved vineyards and other agricultural crops/uses (County AU-20)

Neighborhood Characteristics:

The neighborhood of the project is at the existing rural/urban edge. To the west is agricultural production with much of the area improved with vineyards. To the north is an existing county ranchette subdivision. To the east, across Lower Sacramento Road, is urban land use developed with commercial and residential land uses. To the south is a vacant field proposed with a shopping center. Thus the neighborhood is in a transition from rural to urban land uses. This transition is governed by the Westside Facilities Plan. This plan is a comprehensive plan to further refine the intended vision for the area and is consistent with the current General Plan

ENVIRONMENTAL ASSESSMENTS: Staff's conclusion of the initial environmental study of the project is that there will not be a significant effect upon the environment. Therefore, a Negative Declaration, pursuant to the California Environmental Quality Act, has been drafted for the project and is recommended for approval.

PUBLIC HEARING NOTICE:
Legal Notice for the Growth Management and Development Plan was published on August 31, 2002. A total of 42 notices were sent to all property owners of record within a 300-foot radius of the subject property.

RECOMMENDATION:

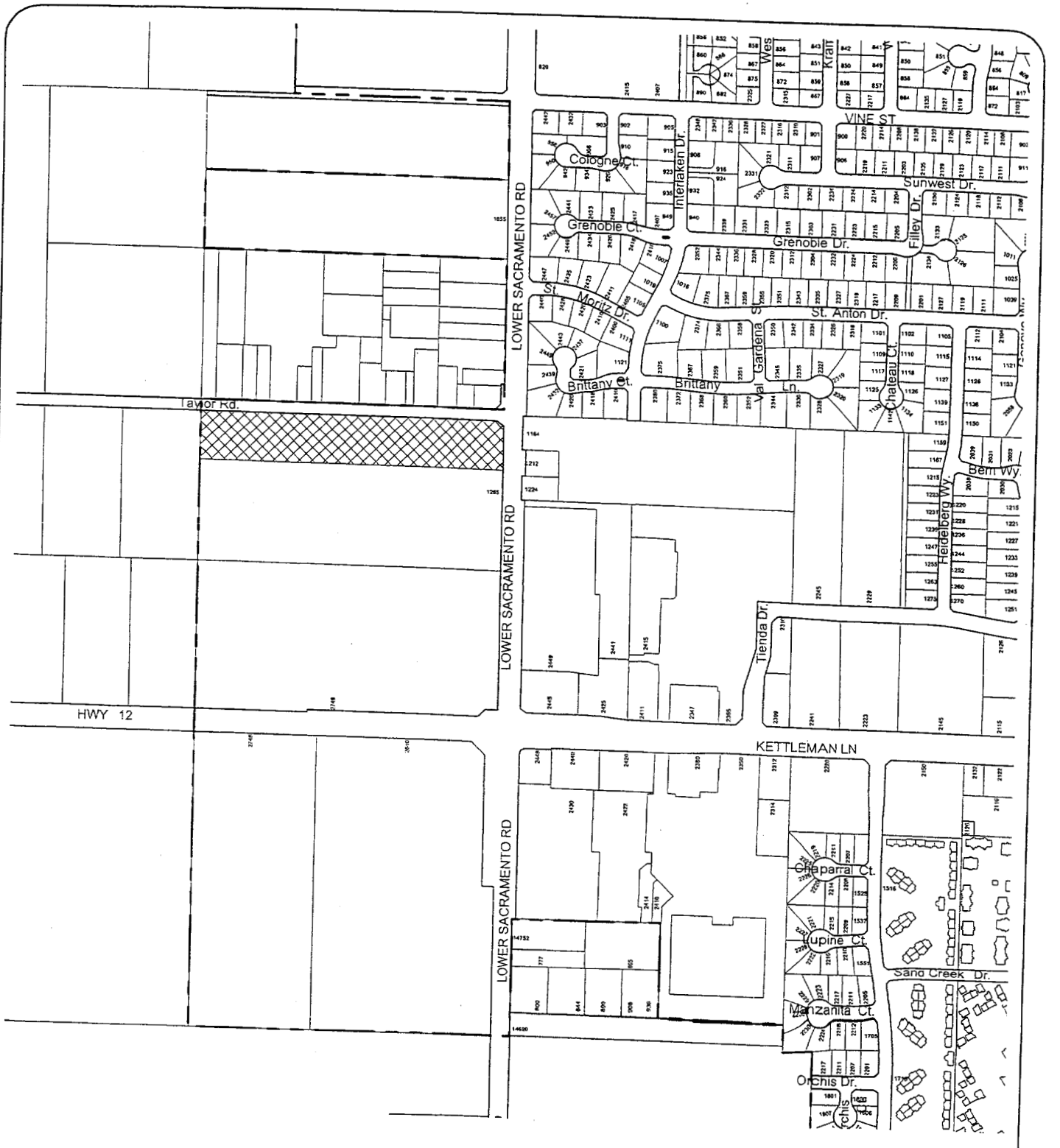
Approve the Negative Declaration for the project and conditionally approve the requested Growth Management Allocation subject to the conditions in the attached resolution.

ALTERNATIVE PLANNING COMMISSION ACTIONS:

- Deny the request
- Conditionally approve the project with alternate conditions
- Approve the application as submitted

ATTACHMENTS:

1. Vicinity Map
2. Submitted Site Plan
3. Negative Declaration



VICINITY MAP

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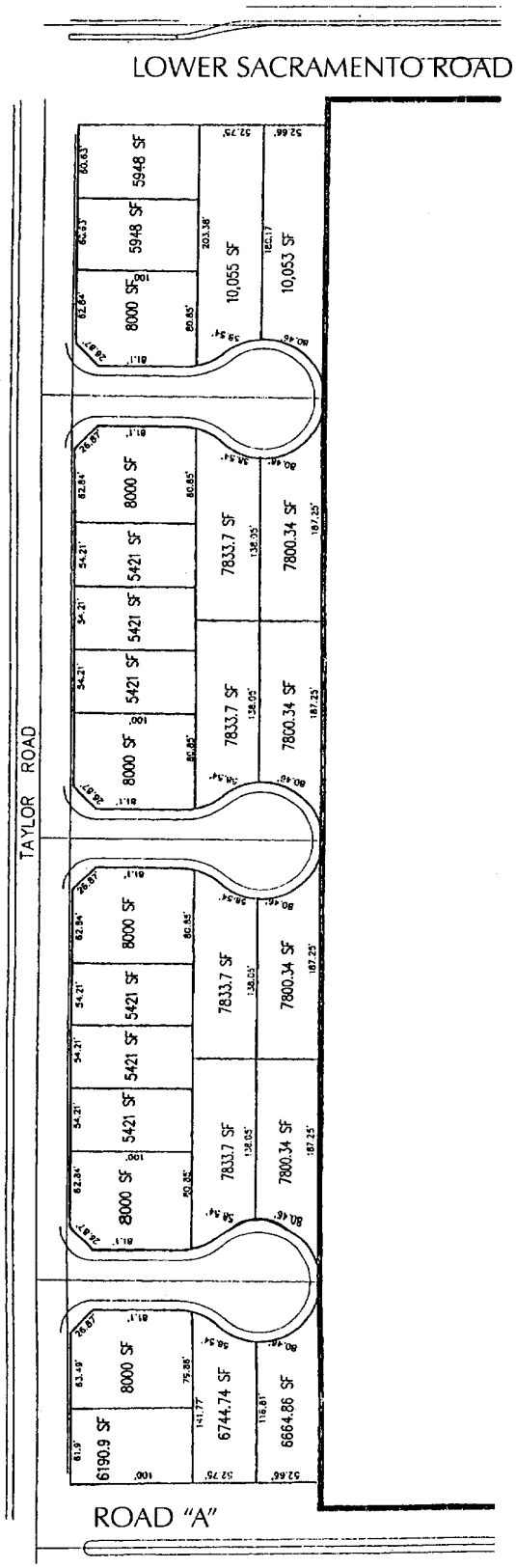

CITY OF LODI
CALIFORNIA
PLANNING

Vintner's Square

33 Unit Development Plan
1265 S. Lower Sacramento Road

GM-02-001 11/06/02

NEGATIVE DECLARATION NO. 02-05

FOR

Vintner's Square
1265 S. Lower Sacramento Road

APPLICANT: G-REM, Inc.

PREPARED BY:

CITY OF LODI
Community Development Department
P.O. BOX 3006
LODI, CA 95241

June 2002

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Project Description: The applicant, G-REM, is seeking approval of a development plan pursuant to the City of Lodi Growth Management Ordinance, Section 15.34.070. Specifically, the applicant is seeking approval of 33 low-density units on 5.42 acres within the City of Lodi. The City of Lodi under the growth management plan has an adequate number of allocations for completion of this project.

In anticipation of development taking place in the area, the City of Lodi adopted a Westside Facilities Plan. This plan calls out specific facilities needed to develop the area in an orderly fashion consistent with the General Plan.

The project site is located at the southwest corner of Taylor Road and Lower Sacramento Road within the City of Lodi's incorporated limits. The site is zoned R-2 and has a general plan designation of low density residential, up to 7 dwelling units per acre. The project proposes development at 6.1 dwelling units per acre. No major impacts to the policies of the General Plan are expected if the project is approved.

The project site is vacant and is located in a boundary area between rural and urban land uses. The east side of Lower Sacramento Road is developed with commercial and lwo density residential land uses. The east side of Lower Sacramento Road is predominately rural, although there are unincorporated low density residential land uses taking place across Taylor Road, north of the proposed development plan. To the west of the site are active agricultural operations. Immediately south of the site is a commercially designated site that is incorporated into Lodi. Plans are being designed for the development of this commercial area, however, the City of Lodi has not received an official submittal.

The site is generally flat and has been disturbed by previous grading. The site is within the no pay zone of the San Joaquin County Multiple Species Habitat Conservation Plan. No cultural resources have been discovered in the adjacent properties and are not expected to be present at this site.

ENVIRONMENTAL CHECKLIST FORM

1. Project title:
   Vintner Square Subdivision
2. Lead agency name and address:
   City of Lodi-Community Development Department
   Box 3006, Lodi, CA 95241
3. Contact person and phone number:
   J.D. Hightower
   (209) 333-6711
4. Project location:
   San Joaquin County, CA.;
   Southwest corner of Lower Sacramento Road and Taylor Road
5. Project sponsor's name and address:

   G-REM,920 Cherokee Lane, Lodi, CA 95240

   6. General Plan designation: Low Density Residential
7. Zoning: R-2
8. Description of project: See attached "Project Description"
9. Surrounding land uses and setting: North – Residential
   South – Planned Commercial
   East – Residential (R-1)
   West – Agricultural, improved vineyards

Surrounding land uses are separated by Lower Sacramento Road with a mix of urban land uses (Commercial and Residential) taking place on the eastside of Lower Sacramento Road. The general area on the east side of Lower Sacramento Road is predominately rural land uses with some scattered low density residential dwelling units, approximately 12, on the north side of Taylor Road.

10. Other public agencies whose approval is required: None

ENVIRONMENTAL FACTORS POTENTIALLY AFFECTED:

The environmental factors checked below would be potentially affected by this project, involving at least one impact that is a (Potentially Significant Impact") by the checklist on the following pages.

☐ Land Use and Planning	☐ Transportation/Circulation	☐ Public Services
☐ Population and Housing	☐ Biological Resources	☐ Utilities and Service Systems
☐ Geological Problems	☐ Energy and Mineral Resources	☐ Aesthetics
☐ Water	☐ Hazards	☐ Cultural Resources
☐ Air Quality	☐ Noise	☐ Recreation
	☐ Mandatory Findings of Significance	

ENVIRONMENTAL IMPACTS:

I. LAND USE AND PLANNING. *Would the proposed:*	Potentially Significant Impact	Potentially Significant Unless Mitigation Incorporated	Less than Significant Impact	No Impact
a) Conflict with general plan designation or zoning?	☐	☐	☐	☑
b) Conflict with applicable environmental plans or policies adopted by agencies with jurisdiction over the project?	☐	☐	☐	☑
c) Be incompatible with existing land use in the vicinity?	☐	☐	☐	☑
d) Affect agricultural resources or operations (e.g., impacts to soils or farmlands, or impacts from incompatible land uses)?	☐	☐	☑	☐
e) Disrupt or divide the physical arrangement of an established community (including a low-income or minority community)?	☐	☐	☐	☑
II POPULATION AND HOUSING. *Would the proposal:*				
a) Cumulatively exceed official regional or local population projections?	☐	☐	☐	☑
b) Induce substantial growth in an area either directly or indirectly (e.g., through projects in an undeveloped area or extension of major infrastructure)?	☐	☐	☐	☑
c) Displace existing housing, especially affordable housing?	☐	☐	☐	☑
III. GEOLOGIC PROBLEMS. *Would the proposal result in or expose people to potential impacts involving:*				
a) Fault rupture?	☐	☐	☐	☑
b) Seismic ground shaking?	☐	☐	☐	☑
c) Seismic ground failure, including liquefaction?	☐	☐	☐	☑
d) Seiche, tsunami, or volcanic hazard?	☐	☐	☐	☑
f) Erosion, changes in topography or unstable soil conditions from excavation, grading or fill?	☐	☐	☐	☑
g) Subsidence of land?	☐	☐	☐	☑
h) Expansive soils?	☐	☐	☐	☑
i) Unique geologic or physical features?	☐	☐	☐	☑

IV. WATER. *Would the proposal result in:* *All "No" - Reference Source: See Project Description*	Potentially Significant Impact	Potentially Significant Unless Mitigation Incorporated	Less than Significant Impact	No Impact
a) Changes in absorption rates, drainage patterns, or the rate and amount of surface runoff?	☐	☐	☑	☐
b) Exposure of people or property to water related hazards such as flooding?	☐	☐	☐	☑
c) Discharge into surface waters or other alteration of surface water quality (e.g., temperature, dissolved oxygen or turbidity?	☐	☐	☐	☑
d) Changes in the amount of surface water in any water body?	☐	☐	☐	☑
e) Changes in currents, or the course or direction of water movements?	☐	☐	☐	☑
f) Change in the quantity of ground water, either through direct additions or withdrawals, or through interception of an aquifer by cuts or excavation or through substantial loss of ground water recharge capability?	☐	☐	☐	☑
g) Altered direction or rate of flow of groundwater?	☐	☐	☐	☑
h) Impacts to groundwater quality?	☐	☐	☐	☑
I) Substantial reduction in the amount of groundwater otherwise available for public water supplies?	☐	☐	☐	☑

V. AIR QUALITY. *Would the proposal:* *All "No" Reference Source: Appendix H, #25 & Environmental Setting, Sec. 3.3:*				
a) Violate any air quality standard or contribute to an existing or projected air quality violation?	☐	☐	☐	☑
b) Expose sensitive receptors to pollutants?	☐	☐	☐	☑
c) Alter air movement, moisture, or temperature, or cause any change in climate?	☐	☐	☐	☑
d) Create objectionable odors?	☐	☐	☐	☑

VI. TRANSPORTATION/CIRCULATION. *Would the proposal result in:* *All "No" Reference Source: See Project Description*				
a) Increased vehicle trips or traffic congestion?	☐	☐	☑	☐
b) Hazards to safety from design feature, (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)?	☐	☐	☑	☐
c) Inadequate emergency access or access to nearby uses?	☐	☐	☐	☑
d) Insufficient parking capacity onsite or offsite?	☐	☐	☐	☑
e) Hazards or barriers for pedestrians or bicyclists?	☐	☐	☑	☐
f) Conflicts with adopted policies supporting alternative transportation (e.g., bus turnouts, bicycle racks)?	☐	☐	☐	☑
g) Rail, waterborne or air traffic impacts?	☐	☐	☐	☑

VII. BIOLOGICAL RESOURCES. Would the proposal result in impacts to:	Potentially Significant Impact	Potentially Significant Unless Mitigation Incorporated	Less than Significant Impact	No Impact
a) Endangered, threatened or rare species or their habitats (including but not limited to plants, fish, insects, animals, and birds?	☐	☐	☐	☑
b) Locally designated species (e.g., heritage trees)?	☐	☐	☐	☑
c) Locally designated natural communities (e.g., oak forest, coastal habitat, etc.)?	☐	☐	☐	☑
d) Wetland habitat (e.g., marsh, riparian, and vernal pool)?	☐	☐	☐	☑
e) Wildlife dispersal migration corridors?	☐	☐	☐	☑
VIII. ENERGY AND MINERAL RESOURCES. *Would the proposal:*				
a) Conflict with adopted energy conservation plan?	☐	☐	☐	☑
b) Use nonrenewable resources in a wasteful and inefficient manner?	☐	☐	☐	☑
c) Result in the loss of availability of a known mineral resource that would be of future value to the region and the residents of the State?	☐	☐	☐	☑
IX. HAZARDS. *Would the proposal involve:*				
a) A risk of accidental explosion or release of hazardous substances (including, but not limited to, oil, pesticides, chemicals, or radiation)?	☐	☐	☐	☑
b) Possible interference with an emergency response plan or emergency evacuation plan?	☐	☐	☐	☑
c) The creation of any health hazard or potential health hazard?	☐	☐	☐	☑
d) Exposure of people to existing sources of potential health hazards?	☐	☐	☐	☑
e) Increased fire hazard in areas with flammable brush, grass, or trees?	☐	☐	☐	☑
X. NOISE. *Would the proposal result in:*				
a) Increase in existing noise levels?	☐	☐	☑	☐
b) Exposure of people to severe noise levels?	☐	☐	☐	☑
XI. PUBLIC SERVICES. *Would the proposed have an effect upon, or result in a need for new or altered government services in any of the following areas:*				
a) Fire protection?	☐	☐	☐	☑
b) Police protection?	☐	☐	☐	☑
c) Schools?	☐	☐	☐	☑
d) Maintenance of public facilities, including roads?	☐	☐	☐	☑
e) Other government services?	☐	☐	☐	☑

XII. UTILITIES AND SERVICE SYSTEMS. *Would the proposal result in a need for new systems or supplies, or substantial alterations to the following utilities:*	Potentially Significant Impact	Potentially Significant Unless Mitigation Incorporated	Less than Significant Impact	No Impact
a) Power or natural gas?	☐	☐	☐	☑
b) Communications systems?	☐	☐	☐	☑
c) Local or regional water treatment or distribution facilities?	☐	☐	☐	☑
d) Sewer or septic tanks?	☐	☐	☐	☑
e) Storm water drainage?	☐	☐	☐	☑
f) Solid waste disposal?	☐	☐	☐	☑
g) Local or regional water supplies?	☐	☐	☐	☑
XIII. AESTHETICS. *Would the proposal:*				
a) Affect a scenic vista or scenic highway?	☐	☐	☐	☑
b) Have a demonstrable negative aesthetic effect?	☐	☐	☐	☑
c) Create light or glare?	☐	☐	☐	☑
XIV. CULTURAL RESOURCES. *Would the proposal:*				
a) Disturb paleontological resources?	☐	☐	☐	☑
b) Disturb archaeological resources?	☐	☐	☐	☑
c) Have the potential to cause a physical change which would affect unique ethnic cultural values?	☐	☐	☐	☑
d) Restrict existing religious or sacred uses within the potential impact area?	☐	☐	☐	☑
XV. RECREATION. *Would the proposal:*				
a) Increase the demand for neighborhood or regional parks or other recreational facilities?	☐	☐	☐	☑
b) Affect recreation opportunities?	☐	☐	☐	☑

XVI. MANDATORY FINDINGS OF SIGNIFICANCE	Potentially Significant Impact	Potentially Significant Unless Mitigation Incorporated	Less than Significant Impact	No Impact
a) Does the project have the potential to degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, reduce the number of restrict the range of a rare or endangered plant or animal or eliminate important examples of the major periods of California history or pre-history?	☐	☐	☐	☑
b) Does the project have the potential to achieve short-term, to the disadvantage of long-term, environmental goals?	☐	☐	☐	☑
c) Does the project have impacts that are individually limited, but cumulatively considerable? ("Cumulatively considerable" means that the incremental effects of a project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects)	☐	☐	☐	☑
d) Does the project have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly.	☐	☐	☐	☑

XVII. EARLIER ANALYSES.

Earlier analyses may be used where, pursuant to the tiering, program EIR, or other CEQA process, one or more effects have been adequately analyzed in an earlier EIR or negative declaration. Section 15063(c)(3)(D). In case a discussion should identify the following or attached sheets.

a) Earlier analyses used.

1. June 1991. City of Lodi General Plan EIR
2. January 1993. Helmle Addition, Negative Declaration, File No., ND-93-01
3. February 1997. Sunwest XIV, Unit No. 1, Negative Declaration, File No., ND-97-01

b) Mitigation measures. See attached Summary for discussion.

Discussion of Land Use and Planning Finding

No Impact (a, b, c, e)

The Project is consistent with the General Plan Designation of Low Density Residential, 7 dwelling units per acre, in that the project proposes residential land uses developed at 6.1 dwelling units to the acre. The proposed lot sizes comply with the Zoning Designation of R-2 in that lots range in size from 5,421 to 10,053 while the R-2 Zoning designation mandates a minimum lot size of 5,000 square feet. All proposed lots comply with the R-2 minimum lot width of 50 feet in that the lots range in width from 54 feet to 81 feet. The proposed development plan is consistent with the Westside Facilities Plan, a master plan for the area in that the plan calls for development at 7 dwelling units to the acre. It is important to note that the Westside Facilities Plan sets environmental goals for the area, thus the project is consistent with adopted environmental goals of Lodi. The proposed development plan would be compatible with adjacent land uses in that to the properties to the north are existing single family dwelling units and to the property to the south is designated for a planned commercial area. There are structures on the site, therefore, the project is not expected to disrupt or divide the physical arrangement of an established community.

Less than Significant (d)

Some conflicts could arise from urban and agricultural operations, however, in this case this conflict will be less than significant. Minimizing this impact is the City of Lodi's Right to Farm Ordinance which requires full disclosure of agricultural operations to perspective homeowners. Further minimizing this impact is the planned Road "A", 74 foot right-of-way, which will be built to the west of the development plan area (see attached). This roadway act as a temporary buffer area between agricultural operations and proposed residential land uses until further development of the Westside Facilities Plan area facilitates the agricultural buffer envisioned by the plan. Thus the impact upon agricultural operations resulting from the project is expected to be less than significant. .

The soil type within the project area is classified as Tokay fine sandy loam, hardpan substratum. This is classified as Prime Farmland soil. Although this loss of a non-renewable resource is notable, the loss of this soil type is less than significance in this particular case. One factor reducing this impact is the scale of the project. At 5.42 acres, the project site is not capable of sustainable agricultural production. This non-sustainability is due to the already present development pressure on the site and urban/rural land use conflicts that will make agricultural production infeasible in the future. The economic yield on a small acre farm, tends to make capital investment necessary for continued agricultural operations infeasible. Further protecting agricultural resources in the area is Lodi's historic efficient use of land that minimizes loss of farmland. According to the 2000 Census, Lodi has 1,747 dwelling units per square mile and 4,657.9 people per square mile, well above the county-wide averages of 1,163 and 3,430.2 respectively. This relatively intensive growth pattern has and will continue to

protect agricultural resources in the general area. To insure sustainable agricultural interests in the area, the City of Lodi is in the process of studying the formation of a community separator program with San Joaquin County. It is anticipated that this effort will provide the necessary framework for long-term agricultural production in the Lodi area. Thus, in this particular case, the loss of 5.42 acres of Prime Farmland soil is expected to be less than significant.

Discussion of Population and Housing Finding

No Impact (a, b, c)

The project with a proposed density of 6.1 units to the acre is consistent with the General Plan designation, 7 dwelling units per acre, for the site. Therefore, the project will not exceed regional or local population projections. Due relatively small scale of the development plan, 33 units and the existing development in the area, no new major infrastructure extension is needed to service the site. Therefore, the project will not induce substantial growth in the area either directly or indirectly. There are no dwelling units on site, therefore the project will not displace existing housing. There may a slight beneficial impact to affordable housing resulting from the project in that the project proposes 5 duplex units for a total of 10 dwelling units that may be considered affordable to moderate income families.

Discussion of Geologic Problems Finding

No Impact: a, b, c, d, e, f, g, h, i

In general Lodi is considered to be an area of relatively low seismicity in a state characterized by moderate-to-high seismic activity. There are several fault zones within San Joaquin County and neighboring counties that could affect proposed project. These include the concealed Tracy-Stockton Fault approximately 12 miles to the southwest and the concealed Midland Fault zone, approximately 20 miles to the west. The Melones Fault is 36 miles to the east, and the Green Valley-Concord and Hayward faults are 46 and 52 miles, respectively to the west. Therefore, no impacts created by fault rapture are expected as a result of the project. The project area is located in Seismic Area 3 pursuant to the Uniform Building Code. Pursuant to the routine implementation of City of Lodi policy, all proposed structures shall be built in accordance with the Uniform Building Code for this seismic area. Therefore no impacts resulting from ground shaking is expected as a result of this project. The soil type within the project area is classified as Tokay fine sandy loam, hardpan substratum. This soil classification has a fair strength value according to the AASHO standard. Therefore, no seismic ground failure is expected as a result of this project. The nearest waterbody to the project site is the Mokelumne River, approximately 2 miles north of the site. Therefore, no impacts associated with the risk of upset created by seiche, tsunami or volcanic hazards are expected as a result of this project. In addition to a fair AASHO strength standard, the Tokay fine sandy loam in the area has a low shrink-swell potential, making the soil suitable for cutting or filling. Given the close proximity of the Mokelumne River, no impacts created by the subsidence of land are expected with this project. The Tokay fine sandy loam is

not an expansive soil type nor are there any unique geologic or physical features present on the project site.

Discussion of Water Finding

No Impact: b, c, d, e, f, g, h, I

The site is within Zone X of the Federal Emergency Management Agency Flood Map, Community Panel Number 060300 0001 E prepared on May 7, 2002. Zone X reflects areas within the 500 year flood; areas of 100 year flood with average depths of less than 1 foot. This reflects the distance from the Mokelumne River which is approximately 2 miles north of the project site. Thus the project is not expected to expose people or property to water related hazards such as flooding. The project site will drain into the "G" Basin for storm water management. This basin allows for storm water collection and then pumps the storm water through a meter into Woodbridge Irrigation District canals which in turn transports the water to the San Joaquin Delta. This process aerates the water and removes turbidity without an increase in the temperature of the water. Therefore, the project is not expected to alter the surface water quality of the Delta. Because stormwater is metered into Woodbridge Irrigation District pipelines, the project is not expected to change the amount of surface water in any water body. There is no water body present on site, therefore, the project will not result in the change of currents or the course or direction of water movement. Because of the relatively small size of the project (33 units) the project will have an imperceptible change of the quantity of groundwater available in the area. The project is expected to require approximately 4,000 gallons of water per day (120 gallons per dwelling unit per day X 33 dwelling units). The City of Lodi' water system currently has capacity to service this subdivision. Therefore, no impact to the quantity of ground water is expected as a result of this project. Although cumulatively this impact may be significant, the water supply available to the City of Lodi has matched the historic growth rate of 1% over the past twenty years. The groundwater basin in the area generally flows towards the south because of the over-drafting of water in the Stockton area. This project will not alter this general movement of groundwater. Due to the residential character of the project, hazardous waste and quality impacts associated with storm water runoff are expected to be mitigated though the scrubbing process associated with the city's storm water collection system. Therefore, no impacts to groundwater quality are expected as a result of this project. Because of the project's consistency with the general plan, the project is not expected to result in a substantial reduction in the amount of groundwater otherwise available for public use.

Less than significant: a

The project will result in the change absorption rates, drainage patterns, or the rate and amount of surface runoff in the area. With the development of vacant land, the absorption rates will decrease while runoff increases. The routine implementation of the City of Lodi Standard Plans and Specifications will

insure that adequate facilities are constructed to mitigate any potential impacts to a level of less than significant.

Discussion of Air Quality Finding

Less than Significant: a, b, c, d

The proposed project at 33 dwelling units and 330 projected Average Daily Trips falls under the threshold of the Small Project Analysis Level set by the San Joaquin Valley Unified Air Pollution Control District. In the Guide for Assessing and Mitigating Air Quality Impacts, Table 5-2, the District sets a standard of 1,453 Average Daily Trips; and Table 5-3 sets a standard of 152 units as the threshold for projects that require further investigation and evaluation. Therefore, the proposed project is expected to have a less than significant impact to the existing air quality violation that the District currently experiences with Ozone and PM_{10} standards. The proposed project is further from any of the listed uses on Table 4-2 of the Guidelines, therefore, the project is not expected to expose people to pollutants or odors. The Zoning Ordinance sets a height limitation in the R-2 zoning district of 35 feet, therefore, the project is not expected to significantly alter air movement patterns. Ambient temperature levels could raise due to the paving of streets in the area, however, the City of Lodi street standards specify street trees as part of the routine construction of new streets. The shading created by the street trees is expected to reduce the temperature change to a level of less than significant. Being a residential development plan, the proposed project is not expected to create any objectionable odors.

Discussion of Traffic/Circulation Finding

No Impact: c, d, f, g

The project is approximately two miles from Fire Station #3 and 1.3 miles from Fire Station #4. The Fire Department has a response time goal of three minutes and this site is within a three minute response time from either of these two stations. The Lodi Police Department provides beat service to the area and has a service goal of 3 to 40 minutes. The routine implementation of the City of Lodi Police and Fire fee ordinances will mitigate any impact to these emergency response providers. Therefore the project will not result in inadequate emergency access or prevent emergency access to other nearby uses. The Zoning Ordinance requires two off-street parking spaces for each dwelling unit, these spaces plus the driveway provide each lot with four off-street parking spaces. In addition on-street parking can be provided given the lot widths in excess of fifty feet. Therefore, the project will not result in insufficient parking capacity either onsite or offsite. The project area is directly serviced by Grapeline Route #1 and is within a quarter mile of Grapeline Routes #2 and #4 as well as SMART Route #20. Thus the area is well serviced by existing transit service and complies with City of Lodi alternative transportation policies. There are no rail or waterborne transportation facilities in the area, thus no conflicts are expected with these forms of transportation. The site is not located within a noise contour or regular flight path of an airport, therefore, no impacts to air traffic is expected as a result of this project.

Less than Significant Impact: a, b, e

The proposed development plan calls for a circulation system that calls for the widening of Lower Sacramento Road and construction of Road "A" as identified in the adopted Westside Facilities Plan. The widening of Lower Sacramento Road will be consistent with the improvement plans approved in 2000. Road "A" is a two lane roadway with a median, two bicycle lanes, curb, gutter, mow strip and sidewalk taking place within a 74 foot right-of-way. Plans for Taylor Road include a two travel lanes, curb, gutter, mow strip and sidewalk taking place within a 50 foot right-of-way. Taylor Road would act as a east/west connector between Lower Sacramento Road and Road "A". The development plan proposes to utilize three cul-de-sacs off of Taylor Road to access 12 lots, the rest would have direct access off of Taylor Road.

At build-out the project is expected to generate approximately 330 Average Daily Trips (33 dwelling units at 10 Average Daily Trips). The circulation plan illustrated on the development plan is expected to provide an acceptable Level of Service within the subdivision. The additional trips generated by the subdivision are not expected to adversely impact the intersection of Taylor Road and Lower Sacramento Road. This intersection currently operates an acceptable Level of Service and the intersection has adequate capacity to operate without a drop in the level of service provided with the proposed project. Therefore, impacts associated with the additional 330 Average Daily Trips will be less than significant.

The development plan shows an intersection of a proposed Road "A" and Kettleman Lane (State Highway 4). This intersection has the potential to increase hazards along this roadway. However, the routine implementation of City and CALTRANS design standards will mitigate risks associated with this intersection to a level less than significant. The area is located at the boundary of urban and rural land uses and there is a chance of mixing agricultural farm equipment with vehicular traffic.

However, the routine implementation of the City of Lodi Standard Plans and Specifications is expected to mitigate the hazards of mixing urban and rural traffic to a less than significant level.

Although typically this type of project could have an impact to pedestrian and bike traffic, impacts created are expected to be less than significant in this case. The existing traffic signal at the Sunwest Shopping Center and Lower Sacramento Road will allow a controlled crossing point for bicyclists and pedestrians travelling in an east/west direction. This intersection is approximately 630 feet south of Taylor Road. To the north the crossing at Lower Sacramento is at the intersection of Vine Street. This control crossing is approximately 1,300 feet north of the project site. North south crossings are facilitated by traffic signals at the intersection of Lower Sacramento Road and Kettleman Lane. Further mitigating impacts to bicycle and pedestrian traffic is the proximity of existing transit service. Currently Grapeline Routes 1 provides direct service to the site and Grapeline Routes 2 and 4 as well as SMART Route 20 provide service at the intersection of Lower Sacramento Road and Kettleman Lane (State Highway 4). Because of the existing crossing signals and transit services available in the general proximity of the site, impacts to bicycle and pedestrian traffic is expected to less than significant.

Discussion of Biological Resources Finding

Less than Significant Impact: a, b, c, d, e

The proposed project is consistent with the San Joaquin County Multi-Species Habitat Conservation and Open Space Plan (SJMSCP), as amended, as reflected in the conditions of project approval for this proposal. Pursuant to the Final EIR/EIS for the San Joaquin county Multi-Species Habitat Conservation and Open Space Plan (SJMSCP), dated November 15, 2000, and certified by the San Joaquin Council of Governments on December 7, 2000, implementation of the SJMSCP is expected to reduce impacts to biological resources resulting from the proposed project to a level of less-than–significant. That document is hereby incorporated by reference and is available for review during regular business hours at the San Joaquin Council of Governments (6 S. El Dorado St., Suite 400/Stockton, CA 95202) or online at: www.sjcog.org.

Discussion of Energy and Mineral Resources Finding

No Impact a, b, c

The routine implementation of Title 24 of the California Administrative Code insure that the proposed dwelling units are consistent with energy conservation standards of the City of Lodi. The conversion of agricultural land represents a loss of a non-renewable resource, however, this loss was anticipated within the General Plan of the City and the project proposes a density of 6.1 dwelling units per acre. Therefore, the loss of a non-renewable resource is not in a wasteful or inefficient manner. There are no known mineral deposits on site, therefore, the project will not result in a loss of availability of any known mineral resource.

Discussion of Hazards Finding

No Impacts: a, b, c, d, e

The proposed development plan calling for a total of 33 dwelling units will not result in an increase of risk associated with an explosion or release of hazardous substances. The routine implementation of the Police and Fire impact fee will insure that the project will not interfere with emergency response plans in the area. Upset conditions may arise from periodic flood conditions resulting from the Mokelumne River, however this river is approximately three miles north of the site and the project is not expected to impact an identified evacuation route. Although nitrate levels and petroleum by-products are expected to increase in storm water run-off from the site, the routine implementation of the City of Lodi's Plans and Specifications for drainage facilities will reduce the potential to create a health hazard to a less than significant level. The proposed project would eliminate a current vacant lot that has a tendency to sustain the growth of weeds and other growth, therefore, the project will actually decrease fire hazards in the area.

Discussion of Noise Finding

No Impact: b

The Noise Element of the General Plan states that the noise level on Lower Sacramento Road is expected to be 65 to 70 dB 100 feet from the centerline of Lower Sacramento Road. After dedicated improvements, the centerline of Lower Sacramento Road will be 85 feet from the nearest property. After taking into account the required 10 foot setback from property line in the R-2 zoning district, the nearest structure will be approximately 95 feet from the centerline of Lower Sacramento Road. This makes the proposed residential land use normally unacceptable pursuant to the Noise Element of the General Plan. This element requires that the City find that the proposed residential land use "will not create or significantly contribute to noise problems on other properties." In this case, there are existing residential land uses on the other side of Taylor Road, therefore, the project will not significantly contribute to noise problems in the area and will not expose people to severe noise levels.

Less than Significant Impact: a

The addition of 33 dwelling units to the area will incrementally increase the ambient noise level in the general area. However, given the existing residential units north of the site on Taylor Road, this impact will be less than significant. Short term noise impacts associated with the construction phase of the project are expected to be mitigated through the routine implementation of the City of Lodi Noise Ordinance.

Discussion of Public Services Finding

No Impact a, b, c, d, e

The routine implementation of City of Lodi ordinances regarding the construction and/or payment of appropriate facilities and impact fees will insure that adequate public services are available at the time of occupancy of the first permit.

Discussion of Utilities and Service Systems Finding

No Impact: a, b, c, d, e, f, g

All utilities are present in Lower Sacramento Road with existing urban land uses taking place immediately to the east of the proposed site. Pacific Gas and Electric provides gas in the area; Pacific Bell supplies communications; AT&T provides cable television while the City of Lodi provides all other utility services either directly or through contractual services. Therefore, no substantial alterations to utility systems will be required as a result of this project.

Discussion of Aesthetics Finding

No Impact: a, b

The proposed development plan is located approximately 1,040 feet north of the intersection of State Highway 4 and Lower Sacramento Road. Neither of these roadways are classified as scenic highways. The general view towards the west is agricultural with Mount Diablo in the background; existing urban land uses to the east and north, and urban/agricultural towards the south. Thus, no impacts to scenic vistas are expected as a result of the project. The routine implementation of the Uniform Building Code and adopted City of Lodi policies will insure that the project will not have a demonstrable negative aesthetic effect on the area.

Less than Significant Impact: c

The project will create new light as related to street lights and household night lighting. Generally neither street lights or household lights spill onto adjacent properties but they will incrementally degrade night sky conditions. .However, this impact is expected to be less than significant in that street lights will in accordance with City of Lodi standards. Further lessening the lighting impact is the context in which the new light will be introduced. The expected household lights will not be unlike light already produced by the existing households on the north side of Taylor Road and on the other side of Lower Sacramento Road. Therefore impacts created by new lighting will be less than significant.

Discussion of Cultural Resources Finding

No Impact: a, b, c, d

Based on available information, it has been determined that no known paleontological or archaeological resources exist on site. There are no unique geologic conditions on site that would suggest an impact to cultural values or religious or sacred uses that may have occurred on the site. If buried resources, such as chipped or ground stone, historic debris, building foundations, or human bone, are inadvertently discovered during ground disturbing activities, the routine implementation of City of Lodi standard policy will mitigate impacts to cultural resources to a level less than significant. This standard policy requires that work stop in the immediate area and within 100 feet of the find until a qualified archaeologist can assess the significance of the find. If necessary, the archaeologist will develop appropriate treatment measures in consultation with the City of Lodi Public Works Department, State Office of Historic Preservation, and other appropriate agencies. If human remains of Native American origin are discovered during project construction, it will be necessary to comply with state laws relating to the disposition of Native American burials, which fall within the jurisdiction of the Native American Heritage Commission (NAHC) (Public Resources Code, Section 5097). If any human remains are discovered or recognized in any location other than a dedicated cemetery, there will be no further excavation or disturbance of the site or any nearby area reasonably suspected to overlie adjacent human remains until:

1. The San Joaquin County Coroner has been informed and has determined that no investigation of the cause of death is required; and
2. If the remains are of Native American origin:

a. The descendents of the deceased Native Americans have made a recommendation to the landowner or the person responsible for the excavation work, for means of treating or disposing of, with appropriate dignity, the human remains and any associated grave goods as provided in Public Resources Code, Section 5097.98; or
b. NAHC was unable to identify a descendant or the descendant failed to make a recommendation within 24 hours of being notified by the NAHC.

According to California Health and Safety Code, six or more human burials at one location constitute a cemetery (Section 8100), and disturbance of Native American cemeteries is a felony (Section 7052). Section 7050.5 requires that construction or excavation be stopped in the vicinity of discovered human remains until the coroner van determine whether the remains are those of a Native American. If the remains are determined to be Native American, the coroner must contact NAHC. No human remains are known to be located within the project site.

Discussion of Recreation Finding

No Impact: a, b

The routine implementation of the City of Lodi impact fee program will insure that the increased demand for recreational facilities are met. The project area is within the Westside Facilities Plan Area that determined park resources needed to serve the development of the plan area. Recreational resources identified in the area include an aquatics center, park and trail buffer area. The proposed development is consistent with this plan and development of the site is part of the financing mechanism for constructing the needed facilities in the area. Therefore, no impacts to recreational opportunities are expected as a result of this project.

DETERMINATION:

On the basis of this initial evaluation:

☑ I find that the proposed project COULD NOT have a significant effect on the environment, and a NEGATIVE declaration will be prepared.

☐ I find that although the proposed project could have a significant effect on the environment, there will not be a significant effect in this case because the mitigation measures described on an attached sheet have been added to the project. A NEGATIVE DECLARATION will be prepared.

☐ I find that the proposed project MAY have a significant effect on the environment, and an ENVIRONMENTAL IMPACT REPORT is required.

☐ I find that the proposed project MAY have a significant effect(s) on the environment, but at least one effect 1) has been adequately analyzed in an earlier document pursuant to applicable legal standards, and 2) has been addressed by mitigation measures based on the earlier analysis as described on attached sheets' if the effect is a "potentially significant impact" or "potentially significant unless mitigated."

☐ I find that although the proposed project could have a significant effect on the environment, there WILL NOT be a significant effect in this case because all potentially significant effects (a) have been analyzed adequately in an earlier EIR pursuant to applicable standards, and (b) have been avoided or mitigated pursuant to that earlier EIR, including revisions or mitigation measures that are imposed upon the proposed project

Signature: J.D. Hightower Date: 6/25/02

Printed Name: J.D. Hightower For: City of Lodi

RESOLUTION NO. P.C. 02-33

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF LODI RECOMMENDING APPROVAL TO THE CITY COUNCIL A DEVELOPMENT PLAN FOR 33 LOW DENSITY GROWTH MANAGEMENT ALLOCATIONS PURSUANT TO CHAPTER 15.34 OF THE CITY OF LODI MUNICIPAL CODE

WHEREAS, on May 31, 2002, G-REM, filed an application for a Growth Management Review Application with the City of Lodi, for 33 low density residential growth allocations at the southwest corner of the intersection of Lower Sacramento Road and Taylor Road within an area more particularly described as:

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

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

WHEREAS, the Planning Commission did consider a Negative Declaration pursuant to CEQA; and

WHEREAS, a copy of the Negative Declaration 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 September 12, 2002 was duly advertised and held in a manner prescribed by law; and

WHEREAS, after due consideration of the project, the Planning Commission did recommend approval of the project to the City Council; and

WHEREAS, the Planning Commission's recommendation is based upon the following findings and determinations:

1. The standard proposed design and improvement of the site is consistent with all applicable standards adopted by the City in that 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.

2. The standard size, shape and topography of the site is physically suitable for residential development proposed in that the site is generally flat and is not within an identified natural hazard area.

3. The site is suitable for the proposed density proposed by the project in that the site can be served by all public utilities and creates design solutions for storm water, traffic and air quality issues.

4. The standard design of the proposed project and the proposed improvements are not likely to cause substantial environmental damage or injure fish or wildlife or their habitat in that the site has been previously disturbed by agricultural activities and no significant environmental issues or concerns were identified through the environmental Initial Study prepared for this development.

5. 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.

6. 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 subdivision in that dedication of adequate right-of-way for Taylor Road, Road "A" and Lower Sacramento Road improvements have been provided in the project design.

7. The project is conditioned to construct improvements to Taylor Road, Lower Sacramento Road and Road "A" thereby insuring that an adequate Level of Service is maintained on the roadways within the area.

8. The loss of soil classified as Prime Farmland is not considered significant under the California Department of Conservation Land Evaluation and Site Assessment model

9. The project allows for the orderly development of Lodi in that the Land Use and Growth Management Element calls for the development of the site at a maximum density of 7.0 dwelling units per acre and the development proposes a density of 6.3 dwelling units per acre.

10. The project complies with Chapter 15.34 of the City of Lodi Municipal Code in that the proposed development plan is within Priority Area 2 and is scored at 170 points.

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

1. The foregoing recitals are true and correct.

2. Said Development Plan complies with the requirements of the R-2 Residence District-One-Family Zoning District.

3. A Negative Declaration for this project is hereby recommended for certification by the City Council pursuant to the California Environmental Quality Act and all mitigation measures for the project identified in the initial study and accompanying studies are hereby incorporated into this recommendation of approval.

4. Said project is hereby recommended for approval 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.

5. 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 the conditions of the Planning Commission approving GM 02-001." 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.

6. Prior to the filing of a tentative subdivision map for this project, the applicant shall comply with the following conditions:
   a) All existing and proposed property lines shall be illustrated on the Tentative Map.
   b) The existing right-of-way on both sides of Taylor Road and Lower Sacramento Road shall be illustrated on the Tentative Map.
   c) All street right-of-way dedications shall be illustrated on the Tentative Map, including but not limited to the following:
      i) Corner cutoffs in conformance with City standards are required at all street intersections, including Road "A" and Lower Sacramento Road.

      ii) Street right-of-way dedication on Road "A" shall be in conformance with the Westside Facilities Master Plan dated January 26, 2001, and be sufficient to provide 20 feet between the face of curb and right-of-way line for the installation of a meandering sidewalk, landscape and irrigation improvements and a reverse frontage wall.

      iii) The existing Taylor Road right-of-way is 50 feet. The required street right-of-way is 55 feet. Street right-of-way dedication of 5 feet is required on the south side of Taylor Road.

      iv) Street right-of-way dedication on Lower Sacramento Road shall be in conformance with recommendations of the street geometric study currently being performed by Mark Thomas & Company for

the commercial shopping center site immediately adjacent to the south boundary of the development. The dedication shall be sufficient to provide 20 feet between the face of curb and right-of-way line for the installation of a meandering sidewalk, landscape and irrigation improvements and a reverse frontage sound wall.

v) Minor amendment to the development plan may be approved by the City Engineer and City Planner, provided that the plan is still in substantial conformance with this original approval.

vi) 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.

B. Note that All street improvements shall be to the approval of the Public Works Director. The tentative map shall reflect street dedication based on following design criteria:

i) Road "A". Street improvement design on Road "A" shall be in conformance with the Westside Facilities Master Plan.

ii) Lower Sacramento Road. Street improvement design on Lower Sacramento Road shall be in conformance with the San Joaquin County Special Purpose Plan for Lower Sacramento Road and the recommendations of the above referenced street geometric study by Mark Thomas & Company.

iii) Taylor Road. Provide design for full width street improvements on Taylor Road. Developer or developer's engineer shall core existing pavement to determine suitability of existing structural section. Street improvements to be constructed shall be to the approval of the Public Works Director and may require removal and reconstruction of existing street pavement improvements to the centerline of the street.

C. Note that the alternative street design with parkway (Standard Plan 101) shall be used on Taylor Road and interior streets in this development. Driveways in the cul-de-sacs shall be in conformance with City of Lodi Design Standards and shall be located adjacent to common property lines to maximize the continuity of the landscaped parkway.

D. Note that reverse frontage walls, landscaping and irrigation improvements are required on Road "A" and Lower Sacramento Road and shall be constructed by the developer at the developer's expense to the approval of the Public Works Director and Community Development Director. The

wall shall have a minimum height of 8 feet measured from the top of curb and 7 feet measured from the highest adjacent pad grade.

E. Note that design and installation of public improvements shall be in accordance with City master plans. Water, wastewater and storm drainage master plans and design calculations for the entire development shall be required with the first phase of development. Note that the map shall reflect dedication based on the following utility requirements:

i) Water. Looping of water main through the adjacent shopping center site to the south will be required to provide service for this project.

ii) Storm Drainage. The storm drainage master plan shall include Road "A" and properties north of Taylor Road. There are no master plan storm drain facilities west of Lower Sacramento Road. The developer and developer's engineer shall devise a plan, to the satisfaction of the City Engineer, that would allow the elimination (or reduction in size) of the on-site detention basin required for this project. Developer and developer's engineer shall be responsible to develop alternatives for temporary storm drain improvements and construction of permanent storm drainage facilities to the satisfaction of the City Engineer. Developer to provide and be responsible for the cost of all engineering studies to determine feasibility of alternatives.

F. Note that all utilities shall be placed underground. The subdivider shall make necessary arrangements with each of the serving utilities, including cable television, for the placement of all utilities fronting, abutting or within the property. This includes the existing overhead utilities on Lower Sacramento Road. The design of underground facilities on Taylor Road (electric, telephone, cable TV) shall include provisions for future underground utilities north of Taylor Road. Although the properties north of Taylor Road are currently served by P.G. & E., upon annexation, the properties will be served by City of Lodi Electric Utility. Street crossings for future facilities shall be constructed with this project.

7. The Planning Commission hereby conditionally recommends certification of the Negative Declaration and approval of the requested 33 low density Residential Growth Allocations the City Council subject to all the above-mentioned conditions.

Dated: September 12, 2002

I hereby certify that Resolution No. 02-32 was passed and adopted by the Planning Commission of the City of Lodi at a special meeting held on September 12, 2002, by the following vote:

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

ATTEST: _____
Secretary, Planning Commission

DRAFT

Minutes from September 12, 2002 meeting

The request of G-REM, seeking approval of a Growth Management Review and Development Plan pursuant to the City of Lodi Growth Management Ordinance, Section 15.34.070 that would allocate a total of 33 residential dwelling units on 5.68 acres located at the southwest corner of Taylor Road and Lower Sacramento Road. The request also includes a recommendation that the City Council certify Negative Declaration ND-02-05 as adequate environmental documentation for the project. This item was presented to the Commission by City Planner Hightower. The applicant was seeking 33 low-density residential units. The linear subdivision will take access off Taylor Road and has been mapped as 27 lots with duplexes on the corner lots of each cul-de-sac. The request was the only growth management application received for the year. The application complied with the Growth Control Management Ordinance and was consistent with existing Zoning and General Plan designations for the site. Staff was recommending approval of the plan.

Commissioner Mattheis asked if construction of the 33 residential units was premature, just in case the property to the south did not develop as planned. City Planner Hightower replied that the project was submitted under a separate application and had its own Negative Declaration. Community Development Director Bartlam felt the project could stand on its own without any subsequent action to the property to the south.

Commissioner Haugan asked when the homes are built and sold, what would happen if the residents had a problem with the development to the south? Mr. Bartlam felt the applicant should reply to the question.

Hearing Opened to the Public

Dale Gillespie, 1054 E. Woodbridge Road, Woodbridge. Mr. Gillespie represented the applicant G-REM. He was interested in pursing the project as proposed. If the project to the south were not to develop, four additional lots could be added. Regarding Commissioner Haugan's concern, a deed restriction would be recorded to run with the property and disclose the strong potential of commercial development south of the project. He was asking for approval of the development plan.

Archer Krugman, 900 Kramer Drive, Lodi. Mr. Krugman asked the lot sizes for the lots located in the cul-de-sacs. He also wanted to know if the duplexes would be owner-occupied or rentals. City Planner Hightower responded the lots would range from 8,000 to 10,000 square feet and he did not know at this point whether the duplexes would be rentals or not.

Ann Cerney, 900 W. Vine Street, Lodi. Ms. Cerney believed the environmental documentation process had been somewhat skewed by the other item (Lowe's). She did not realize that there was a separate negative declaration for the project. She felt a full environmental documentation with an EIR was important.

Hearing Closed to the Public

Commissioner Beckman found the discussion of water and loss of agricultural land disturbing and he suggested changing the project from low-density to medium-density in order to reduce the amount of urban sprawl.

Commissioner Heinitz felt the project was tied to the southern portion of land and should be put on hold until the EIR is completed for the southern portion.

Commissioner Haugan noted that Lodi is in a deficient for affordable housing and he was willing to take the risk of approving the request.

The Planning Commission on motion of Commissioner Haugan, Mattheis second, approved the request of G-REM, seeking approval of a Growth Management Review and Development Plan pursuant to the City of Lodi Growth Management Ordinance, Section 15.34.070 that would allocate a total of 33 residential dwelling units on 5.68 acres located at the southwest corner of Taylor Road and Lower Sacramento Road. The request also includes a recommendation that the City Council certify Negative Declaration ND-02-05 as adequate environmental documentation for the project by the following vote:

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

This motion failed (3 to 2)

Mr. Gillespie stated his project complied one hundred percent (100%) with zoning and land use. Several years ago, he proposed a medium-density project for the same property and it was denied by the City Council. He asked the Commission to continue the matter rather than deny the project.

Commissioner Heinitz asked Mr. Gillespie to put the project on hold until the EIR is completed for the property to the south.

Commissioner Beckman stated he was saddened by the previous decision of the City Council to deny a medium-density project for the property.

The Planning Commission on motion of Commissioner Beckman, Mattheis second, voted to **reconsider** the Commission's previous vote denying the request of G-REM, seeking approval of a Growth Management Review and Development Plan pursuant to the City of Lodi Growth Management Ordinance, Section 15.34.070 that would allocate a total of 33 residential dwelling units on 5.68 acres located at the southwest corner of Taylor Road and Lower Sacramento Road by the following vote:

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

The Planning Commission on motion of Commissioner Beckman, Haugan second, voted to approve and recommend to the City Council a Growth Management and Development Plan pursuant to the City of Lodi Growth Management Ordinance, Section 15.34.070 that would allocate a total of 33 residential dwelling units on 5.68 acres located at the southwest corner of Taylor Road and Lower Sacramento Road by the following vote:

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

RESOLUTION NO. 2002-215

A RESOLUTION OF THE LODI CITY COUNCIL SUSTAINING THE PLANNING COMMISSION DECISION AND CERTIFYING THE NEGATIVE DECLARATION AS ADEQUATE ENVIRONMENTAL DOCUMENTATION FOR THE 27-LOT SUBDIVISION PROJECT LOCATED ON 5.68 ACRES AT THE SOUTHWEST CORNER OF THE INTERSECTION OF LOWER SACRAMENTO ROAD AND TAYLOR ROAD

==========

WHEREAS, the 27-lot subdivision project is located on 5.68 acres at the southwest corner of the intersection of Lower Sacramento Road and Taylor Road; and

WHEREAS, on September 12, 2002, the Lodi Planning Commission, after holding a public hearing, made the determination to forward to the City Council its recommendation to approve a Negative Declaration and Development Plan that would allocate 33 low-density dwelling units pursuant to the City's Growth Management Ordinance; and

WHEREAS, an appeal of the Planning Commission decision was filed with the City Clerk's office on September 17, 2002 by Ann Cerney, stating that the development required an Environmental Impact Report. Further stating that a Negative Declaration was insufficient under CEQA; and

WHEREAS, it is the recommendation of the Community Development Director that the City Council certify the filing of a Negative Declaration as adequate environmental documentation for the 27-lot subdivision project.

NOW, THEREFORE, BE IT RESOLVED, that the City Council has reviewed all documentation and hereby sustains the Planning Commission decision and certifies the Negative Declaration No. ND-02-05 as adequate environmental documentation for the 27-lot subdivision project located on 5.68 acres at the southwest corner of the intersection of Lower Sacramento Road and Taylor Road.

Dated: November 6, 2002

==========

I hereby certify that Resolution No. 2002-215 was passed and adopted by the City Council of the City of Lodi in a regular meeting held November 6, 2002 by the following vote:

AYES: COUNCIL MEMBERS – Hitchcock, Howard, Land, Nakanishi, and Mayor Pennino

NOES: COUNCIL MEMBERS – None

ABSENT: COUNCIL MEMBERS – None

ABSTAIN: COUNCIL MEMBERS – None

SUSAN J. BLACKSTON
City Clerk

RESOLUTION NO. 2002-216

A RESOLUTION OF THE LODI CITY COUNCIL
APPROVING THE 2002 GROWTH MANAGEMENT
ALLOCATIONS

==========

NOW, THEREFORE, BE IT RESOLVED, that the Lodi City Council does hereby approve the 2002 Growth Management Allocations as recommended by the Lodi Planning Commission, as shown as follows:

	Requested 2002 Allocations	Recommended 2002 Allocations
Low Density Dwelling Units located at Lower Sacramento Road and Taylor Road	33	33
TOTAL	**33**	**33**

Dated: November 6, 2002

==========

I hereby certify that Resolution No. 2002-216 was passed and adopted by the City Council of the City of Lodi in a regular meeting held November 6, 2002, by the following vote:

AYES: COUNCIL MEMBERS – Hitchcock, Howard, Land, Nakanishi, and Mayor Pennino

NOES: COUNCIL MEMBERS – None

ABSENT: COUNCIL MEMBERS – None

ABSTAIN: COUNCIL MEMBERS – None

SUSAN J. BLACKSTON
City Clerk

PROOF OF PUBLICATION

(2015.5 C.C.P.)

STATE OF CALIFORNIA

County of San Joaquin

I am a citizen of the United States and a resident of the County aforesaid; I am over the age of eighteen years and not a party to or interested in the above entitled matter. I am the principal clerk of the printer of the Lodi News-Sentinel, a newspaper of general circulation, printed and published daily, except Sundays and holidays, in the City of Lodi, California, County of San Joaquin and which newspaper has been adjudged a newspaper of general circulation by the Superior Court, Department 3, of the County of San Joaquin, State of California, under the date of May 26th, 1953. Case Number 65990; that the notice of which the annexed is a printed copy (set in type not smaller than nonpareil), has been published in each regular and entire issue of said newspaper and not in any supplement thereof on the following dates to-wit::

October 19

all in the year 2002

I certify (or declare) under penalty of perjury that the foregoing is true and correct.

Dated at Lodi, California, this 19 day of

October 2002

Kelsey Davis

Signature

This space is for the County Clerk's Filing Stamp

RECEIVED
2002 OCT 22 PM 3:22
CITY CLERK
CITY OF LODI

Proof of Publication of

Public Hearing - Consider the Appeal of Ann Cerney

NOTICE OF PUBLIC HEARING

NOTICE IS HEREBY GIVEN that on Wednesday, November 6, 2002 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 from Ann Cerney regarding the decision of the Planning Commission to approve a 33-unit low density residential Development Plan and recommend that Council: 1) certify Negative Declaration ND-02-05 as adequate environmental documentation for the project on 5.68 acres located at the southwest corner of the intersection of Lower Sacramento Road and Taylor Road, and 2) adopt the 2002 Growth Management Allocations.

Information regarding this item may be obtained in the office of the Community Development Department Director, 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
City Clerk

Dated: October 16, 2002
Approved as to form:
Randall A. Hays
City Attorney
Oct. 19, 2002 — 4839

4839

PROOF OF PUBLICATION

CITY OF LODI

Carnegie Forum
305 West Pine Street, Lodi

NOTICE OF PUBLIC HEARING
Date: November 6, 2002
Time: 7:00 p.m.

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

NOTICE OF PUBLIC HEARING

NOTICE IS HEREBY GIVEN that on **Wednesday, November 6, 2002** 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 from Ann Cerney regarding the decision of the Planning Commission to approve a 33-unit low density residential Development Plan and recommend that Council: 1) certify Negative Declaration ND-02-05 as adequate environmental documentation for the project on 5.68 acres located at the southwest corner of the intersection of Lower Sacramento Road and Taylor Road, and 2) adopt the 2002 Growth Management Allocations.

Information regarding this item may be obtained in the office of the Community Development Department Director, 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
City Clerk

Dated: October 16, 2002

Approved as to form:

Randall A. Hays
City Attorney

DECLARATION OF POSTING

SET PUBLIC HEARING FOR NOVEMBER 6, 2002 TO CONSIDER THE APPEAL OF ANN CERNEY REGARDING THE DECISION OF THE PLANNING COMMISSION TO APPROVE A 33-UNIT LOW DENSITY RESIDENTIAL DEVELOPMENT PLAN ON 5.68 ACRES LOCATED AT THE SOUTHWEST CORNER OF THE INTERSECTION OF LOWER SACRAMENTO ROAD AND TAYLOR ROAD

On Thursday, October 17, 2002 in the City of Lodi, San Joaquin County, California, a copy of the Public Hearing Notice referenced above (and 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 October 17, 2002 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

SET PUBLIC HEARING FOR NOVEMBER 6, 2002 TO CONSIDER THE APPEAL OF ANN CERNEY REGARDING THE DECISION OF THE PLANNING COMMISSION TO APPROVE A 33-UNIT LOW DENSITY RESIDENTIAL DEVELOPMENT PLAN ON 5.68 ACRES LOCATED AT THE SOUTHWEST CORNER OF THE INTERSECTION OF LOWER SACRAMENTO ROAD AND TAYLOR ROAD

On October 17, 2002 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 notice of public hearing as referenced above, 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 October 17, 2002, 2002, 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
ADMINISTRATIVE CLERK

Forms/decmail.doc

Vintner's Square – Appeal, Development Plan, Allocations

1) 02704011;VLAVIANOS, PHYLLIS J EST ;1224 S LOWER SAC RD ;LODI ;CA;95242

2) 02704010;KIRIU, TOM & TERRY TRS ;1212 S LOWER SAC RD ;LODI ;CA;95242

3) 02704012;VALENTINE, ANTONIO & MENARDA T;22 POWERS AVE ;SAN FRANCISCO ;CA;94110

4) 02704088;SUNWEST MARKETPLACE LODI LLC ;1801 OAKLAND BLVD #210 ;WALNUT CREEK ;CA;94596

5) 02705014;GEWEKE FAMILY PTP ;PO BOX 1210 ;LODI ;CA;95241

6) 02733003;TRACY, JEFFREY L & TAMRA ;2426 BRITTANY CT ;LODI ;CA;95242

7) 02733004;MATHEWS, RICHARD E & DORENE ;2432 BRITTANY CT ;LODI ;CA;95242

8) 02733005;SCHMIERER, MICHAEL H ;2438 BRITTANY CT ;LODI ;CA;95242

9) 02733006;MARSH, MICHAEL B & SARAH W ;1201 OXFORD WAY ;STOCKTON ;CA;95204

10) 02733016;SUNWEST HOMEOWNERS ASSN ;317 W LODI AVE ;LODI ;CA;95240

11) 02704087;BROOKHURST SHOPPING CENTER LLC;1371 OAKLAND BLVD SUITE 200 ;WALNUT CREEK ;CA;94596

12) 02705003;MEIER, EMMA ;345 E TAYLOR RD ;LODI ;CA;95242

13) 02705010;PARISIS, ANGELOS S ;9949 FERNWOOD AVE ;STOCKTON ;CA;95212

14) 02705020;HEDRICK, LAMAR A & JOANN A TR ;209 E HWY 12 ;LODI ;CA;95242

15) 02705021;MEXICAN AMER CATHOLIC FED ;PO BOX 553 ;LODI ;CA;95241

16) 02706001;GUTIERREZ, MERCED P & F P ;383 E TAYLOR RD ;LODI ;CA;95240

17) 02706002;CULBERTSON, JAMES F & P TRS ;641 N PACIFIC AVE ;LODI ;CA;95242

18) 02706003;CULBERTSON, STEVEN S & T E ETA;3008 ROSEWOOD DR ;LODI ;CA;95242

19) 02706005;MCNEIL, DANIEL R & S M ;441 TAYLOR RD ;LODI ;CA;95240

20) 02706009;SANCHEZ, DOMINGO ;517 TAYLOR RD ;LODI ;CA;95240

21) 02706011;FREY, LELAND & MILLIE ;485 E TAYLOR RD ;LODI ;CA;95242

22) 02706012;REISWIG, KENNETH C ETAL ;246 NORTH LOMA ;LODI ;CA;95240

23) 02706013;ROBERSON, KENNETH A & RITA G ;619 TAYLOR RD ;LODI ;CA;95242

24) 02706014;FINKELSTEIN, JAY & DONNA ;360 RANELAGH RD ;HILLSBOROUGH ;CA;94010

25) 02706027;VANDER HEIDEN, BEN & RENEE D ;681 TAYLOR RD ;LODI ;CA;95242

26) 02706028;SMITH, DANA C & DEANNA L ;211 S AVENA AVE ;LODI ;CA;95242

27) 02706029;ZAPARA, RANDY K & M A ;695 E TAYLOR RD ;LODI ;CA;95240

28) 02706035;WILLIAMS, DAVE A & KATHLEEN R ;1100 INTERLAKEN DR ;LODI ;CA;95242

29) 02706036;WAGNER, LESTER & M ;15472 HILDE LANE ;LODI ;CA;95240

30) Grem, Inc., 920 S. Cherokee Lane Suite A, Lodi, CA 95240

31) Ann Cerney, 900 W. Vine Street, Lodi, CA 95240

DECLARATION OF MAILING
LETTER TO APPELLANT

SET PUBLIC HEARING FOR NOVEMBER 6, 2002 TO CONSIDER THE APPEAL OF ANN CERNEY REGARDING THE DECISION OF THE PLANNING COMMISSION TO APPROVE A 33-UNIT LOW DENSITY RESIDENTIAL DEVELOPMENT PLAN ON 5.68 ACRES LOCATED AT THE SOUTHWEST CORNER OF THE INTERSECTION OF LOWER SACRAMENTO ROAD AND TAYLOR ROAD

On October 17, 2002, in the City of Lodi, San Joaquin County, California, I deposited in the United States mail, envelopes with first-class postage prepaid thereon, and additionally, United States certified mail envelopes with first-class postage prepaid thereon and indication of return receipt requested, containing a letter of notification, a copy of which is attached hereto, 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 October 17, 2002, 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
ADMINISTRATIVE CLERK

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CITY COUNCIL

PHILLIP A. PENNINO, Mayor
SUSAN HITCHCOCK,
Mayor Pro Tempore
EMILY HOWARD
KEITH LAND
ALAN S. NAKANISHI

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

October 17, 2002

MAILED CERTIFIED MAIL #7000 1670 0008 4483 1333
AND REGULAR U.S. POSTAL DELIVERY

Ann M. Cerney
900 West Vine Street
Lodi, CA 95240

RE: PUBLIC HEARING FOR NOVEMBER 6, 2002 TO CONSIDER APPEAL REGARDING 33-UNIT LOW DENSITY RESIDENTIAL DEVELOPMENT AT SOUTHWEST CORNER OF THE INTERSECTION OF LOWER SACRAMENTO ROAD AND TAYLOR ROAD

This letter is to notify you that a Public Hearing will be held by the City Council on **Wednesday, November 6, 2002**, at 7:00 p.m., or as soon thereafter as the matter can be heard, at the Carnegie Forum, 305 W. Pine Street, Lodi.

This hearing is being held to consider your appeal of the Planning Commission's decision on September 12, 2002 to approve a 33-unit low density residential Development Plan and recommend that Council: 1) certify Negative Declaration ND-02-05 as adequate environmental documentation for the project on 5.68 acres located at the southwest corner of the intersection of Lower Sacramento Road and Taylor Road, and 2) adopt the 2002 Growth Management Allocations.

If you challenge the proposed action 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 Council at, or prior to, the public hearing. *Note: Written correspondence for the City Council may be mailed in c/o the City Clerk's Office, P.O. Box 3006, Lodi, CA 95241-1910, or delivered to the City Clerk at 221 West Pine Street, Lodi, California.*

Should you have any questions, please contact my office or Community Development Director Konradt Bartlam at (209) 333-6823.

Sincerely,

Susan J. Blackston
City Clerk

SJB/JLT

cc: Community Development Director

pubhear/notices/LappealLtr.doc

G-2 filed 11-6-02

TO: The Lodi City Council

RE: PUBLIC HEARING FOR NOVEMBER 6, 2002 TO CONSIDER APPEAL REGARDING 33-UNIT LOW DENSITY RESIDENTIAL DEVELOPMENT AT SOUTHWEST CORNER OF THE INTERSECTION OF LOWER SACRAMENTO ROAD AND TAYLOR ROAD

FROM: APPELLANT, ANN M. CERNEY, STATEMENT OF SIGNIFICANT LAW AND FACTS

1) Were the Council to approve the proposed project without requiring the full CEQA documentation (EIR), it would be error to rely on staff's opinion that under state law the Planning Commission "had no choice but to approve the Negative Declaration for the project."

This wording suggests that the Planning Commission had no duty to use either discretion or judgment in making recommendations as to weight of evidence or other findings under CEQA where an initial study had been made which recommended a Negative Declaration. By parity of reasoning assumedly the Council itself would have no such duty of discretion of judgment were the staff opinion correct.

Staff's opinion on the point does not indicate there is a statutory or categorical exemption at play that would relieve the City from obligations under CEQA as to the proposed project. Neither does staff opinion invoke the "common sense" exemption which would call for a determination with <u>certainty</u> that no possibility exists that this project <u>may</u> produce significant environmental effects. The "common sense" exemption requires the lead agency to make a finding that the "absolute and precise language" of CEQA Guidelines §15061 Subdivision (b)(3) "clearly applies." If such were the case staff would not be recommending that Council proceed with a Negative Declaration but would advise proceeding <u>without</u> further reference to CEQA requirements, per the exemption.

In fact an EIR is required whenever substantial evidence in the record supports a "<u>fair argument</u>" that significant impacts <u>may</u> occur. Even if other substantial evidence supports the opposite conclusion, the agency nevertheless must prepare an EIR.

No Oil, Inc., vs city of Los Angeles (1974) 13 Cal 3d 68,75 (118 Cal Rptr 34) ("No Oil")

Friends of "B" Street City of Hayward (1st Dist 1980) 106 Cal App 3d 988, 1000-1003 (165 Cal Rptr 514)

Stanislaus Audubon Society, Inc. vs County of Stanislaus (5th Dist 1995) 33 Cal App 4th , 144 150-151 (39 Cal Rptr 2d 54)

The "fair argument" standard creates a "low threshold" for requiring preparation of an EIR.

Citizens Action to Serve All Students vs Thornley
(1st Dist 1990) 222 Cal App 3d 748, 745
(272 Cal Rptr 85)

Sundstrom vs County of Mendocino (1st Dist 1988)
202 Cal App 3d 296, 304-310 (248 Cal Rptr 352)
quoting No Oil Inc., supra at p.75.

The standard is based upon the principal that, because adopting a Negative Declaration has a "terminal effect on the environmental review process", an EIR is necessary to resolve "uncertainty created by conflicting assertions." and to "substitute some degree of factual certainty for tentative opinion and speculation" (No Oil, Inc., supra at p. 85)

2) Were the City to rely on the underlying record of the resulting recommendation which emanated from the Planning Commission meeting of September 12, 2002, to certify the Negative Declaration ND-02-05, such reliance would be erroneous as well.

The decision making process was flawed as can be seen from the failure of the first motion to approve the project. Commissioner Beckman voted against approval on the basis that approval of low density residential development inevitably "eats up" the prime agricultural soil (which makes up the landbase of Lodi and its environs.) at a more rapid rate than does medium density residential development. He also referred to fact that water conservation and urban sprawl issues were not addressed to his satisfaction in the proposal.

After failure of the motion, Mr. Gillespie (proponent of project) came forward and asked for the Commission to continue the matter rather than deny. As Commissioners began to discuss the request, Mr. Gillespie again came forward and informed the Commission that he would rather appeal the matter to the City Council instead and therefore did not want the matter continued.

At that point, the Commission began to discuss how they could procedurally "turn the vote around". After receiving instructions in Rules of Order, a reconsideration was voted favorably (motion made by Commissioner Beckman, Mattheis, seconding) whereupon a second vote was taken on the motion which was approved. At no time did the discussion provide evidence that addressed the earlier expressed concern that the project depleted the "soil bank" too rapidly and that the project fails to address issues of conservation and sprawl.

Such an evidentiary record lacks the required substantial

evidence needed to support a decision to certify a Negative Declaration. The deliberations themselves in fact create inconsistency that makes for a "fair argument" that significant impacts are foreseen. It is significant that a single Commissioner (Heinetz) consistently voted against both motions for the proposal and against the motion for reconsideration. On the basis that the project was tied to the adjoining southern portion of land and should be put on hold until the EIR was completed for the southern portion.

Under CEQA the question of whether an agency's administrative record contains substantial evidence supporting the agency's decision is one of law

> Western States Petroleum Association vs Superior Court (1995) 9 Cal 4th 599, 570-574 (38 Cal Rptr 2d, 39) ("WSPA")

This principal as applied to evidence re the need for environmental documentation is reflected in an entire line of cases including

> Sierra Club vs County of Sonoma (1st Dist 1992) 6 Cal App 4th 1307, 1317-1318

The Legislature apparently accepted the view that judicial review in this context involves "questions of law" when it amended CEQA the year after the Sierra Club decision. The law change provides that Negative Declarations be prepared only when "there is no substantial evidence in the light of the whole record before the lead agency that the project may have a significant effect on the environment."

> Pub Resources Code §21080, Subd (c)(1); See also CEQA Guidelines §15064 subd (c)

This formulation implies that a reviewing court should not defer to an agency's assessment of whether a fair argument exists that a project may have a significant effect on the environment.

3) Growth inducing impact. This project proposes to convert a large quadrant of land to urban construction. For 3 reasons the conversion at this time directly and indirectly fosters premature growth:

> A. Since this quadrant is bounded by Taylor road to the north Lower Sacramento Road on the east, Highway 12 on the south and open land on the west, the go ahead to build only the housing element irrevocably commits this entire quadrant to urban use.

On September 12, 2002, when this project was presented there

was a separate agenda item proposed for commercial development of an adjacent portion of land in the same quadrant. This particular portion now before the Council had been addressed jointly with that adjacent land for purposes of CEQA documentation prior to that time. On September 12, the commercial project adjacent portion of land was proffered as an agenda item immediately proceeding this one. The other project was initially proposed with a Negative Declaration, but after the public hearing portion the recommendation to adopt Negative Declaration was withdrawn and staff recommended that the matter be referred back to staff for preparation of a full EIR on that project. The Planning Commission voted unanimously for that to be done. For purposes of proper consideration under CEQA, this project before the Council should be considered in like manner as the adjoining parcel, which has now been determined to need the full environmental documentation accorded by preparation of an EIR. To approve this now without full inquiry as to environmental impact equates with a rapid expansion forward to actual construction on this entire quadrant. Given the fact that this quadrant of land was not part of the City at the time the 1990 general plan was completed and, in fact was only annexed to the City by general plan amended in approximately 1996, it would seem to be the better part of discretion for the City to slow this down, to subject any initial construction to the full environmental process. To do otherwise is to encourage urban construction at too rapid a rate.

B. Even if one accepts the staff's assessment that when viewed by itself, this project seems limited in its environmental impact, it nevertheless functions as a catalyst for foreseeable future development. As such, the impact is significant and the project requires preparation of an EIR. In City of Antioch vs City Council (1st Dist 1986) 187 Cal App 3d 1325 (232 Cal Rptr 507) the court of appeal ordered the City to prepare an EIR prior to approving a site development permit for pre-development construction on undeveloped property. The court emphasized the need for an agency to "consider the cumulative environmental effects of its action before a project gains irreversible momentum." The court further stated that construction of any infrastructure on bare land potentially would have the "cumulative impact of opening the way for future development." id @ pp 1333-1334.

C. Moving forward now with approval of this proposed urban construction without full environmental documentation and without full invitation of citizen participation, thereby "opening up" this quadrant of land will give a signal that development of the southwest corner of the intersection of Highway 12 and Lower Sacramento road will receive little or no environmental scrutiny. Both this quadrant of land, as well as

land on the southwest corner have been annexed to the City without full CEQA review. To allow a first approval of construction project on any large segment without full CEQA review as to the meaning of that first construction vis a vis the later development of large stretches of contiguous land is certainly a violation of the spirit of CEQA. Arguably, neither is the letter of this state policy driven protective legislation well served in such a case.

My reference to the reported proposed project on the southwest corner of Highway 12 and Lower Sacramento Road intersection raises the subject of indirect impacts. In deciding whether to adopt a Negative Declaration or prepare a full EIR, the agency must consider "direct physical changes in the environment which may be caused by the project, and reasonably foreseeable indirect physical changes in the environment which may be caused by the project" CEQA Guidelines §15064 subd (d).

All development moving south in Lodi, at least indirectly has implications in re retention of open space between Stockton and our City limits. The stated policy of the City over the past 37 years of my witness and presumably prior thereto, has been that such a corridor of "green" is the City's goal. Over those years and into the present, the City leaders have held meetings and made pronouncements but there does not seem to be a correlation between words and land use decisions. Requiring EIRs early and often and having those documents address this specific issue would send a signal to Lodi's citizens as well as to land developers that the small bit of open space remaining between Lodi and Stockton henceforth will be treated as sacrosanct.

4) Specific Errors in Negative Declaration. Pursuant to the foregoing analysis, the following are such errors: On page 4 under Environmental Factors Potentially Affected, the following items should be checked: Land Use and Planning; Population and Housing; Water; Air Quality; Transportation/circulation; Public Services, Utilities and Service Systems and Recreation. On page 9 Mandatory Findings of Significance, item c) "Does the project have impacts that are individually limited, but cumulatively considerable? ("Cumulatively considerable" means that the incremental effects of a project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects). These are all potentially affected in possibly significant ways when this project is viewed as the first construction on a large segment of bare land. This especially applies in the light of CEQA's requirement that cumulative effects be considered.

It would be in error to rely on the earlier analysis as there is only one EIR purported to relate to environmental issues pertaining to the land. Because the Lodi General Plan EIR was done

more than 5 years before the land was proposed for City annexation.

The map at the time of the General Plan and Environmental Documentation showed the entire quadrant of land including the portion to the west and the south all with a designation of NCC (Neighborhood Community Commercial) giving the impression that the entire parcel of land would continue to be considered in its entirety, if and when the land would be evaluated for development under CEQA. Such a piecemeal approach does not make for the orderly long-term decision making that required under not only CEQA, but also California Planning Laws in place long before CEQA.

Respectfully Submitted,

ANN M. CERNEY

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November 7, 2002

Ann M. Cerney
900 West Vine Street
Lodi, CA 95240

RE: APPEAL REGARDING 33-UNIT LOW DENSITY RESIDENTIAL DEVELOPMENT AT SOUTHWEST CORNER OF THE INTERSECTION OF LOWER SACRAMENTO ROAD AND TAYLOR ROAD

The Lodi City Council, at its meeting of November 6, 2002, adopted the following resolutions (certified copies of which are enclosed), thereby denying your above appeal:

- Resolution sustaining the Planning Commission decision and certifying the Negative Declaration as adequate environmental documentation for the 27-lot subdivision project located on 5.68 acres at the southwest corner of the intersection of Lower Sacramento Road and Taylor Road; and
- Resolution of the Lodi City Council approving the 2002 Growth Management Allocations.

Should you have any questions, please feel free to contact my office or Community Development Director Rad Bartlam at 333-6711.

Sincerely,

Susan J. Blackston
City Clerk

JMP

Enclosure

cc: Community Development Director

followup/lCerney.doc