CITY OF LODI

COUNCIL COMMUNICATION

AGENDA TITLE: Public Hearing to consider the appeal of Ann M. Cerney and Citizens for Open Government regarding the Planning Commission's approval of the request of Jim Manion, on behalf of Lowe's, to certify a Final Environmental Impact Report for the Vintner's Square Shopping Center pursuant to the California Environmental Quality Act.

MEETING DATE: July 2, 2003

PREPARED BY: J.D. Hightower, City Planner

RECOMMENDED ACTION: Affirm the Planning Commission's certification of the Final Environmental impact Report for the Vintner's Square Shopping Center pursuant to the California Environmental Quality Act.

BACKGROUND INFORMATION: On September 12, 2002, the Planning Commission directed staff to prepare an Environmental impact Report (E.I.R.) for the Vintner's Square Shopping Center. The Final E.J.R. was prepared in the manner prescribed by the California Environmental Quality Act. Insuring this was the professional services agreement that the City entered into with RBF Consulting who, acting as an extension of staff prepared the E.I.R. RBF was selected for their outstanding reputation and their professional experience in preparing numerous other E.I.R.'s for other similar projects.

Upon completion and circulation of both a Draft E.I.R. and Final E.I.R., the Planning Commission certified the E.I.R. at its May 14, 2003 meeting. On May 19, Ann Cerney and the Citizens for Open Government filed an appeal of the Planning Commission's decision with the City Clerk,

In the appeal letter from Osha Meserve of Remy, Thomas, Moose and Manly, LLP, it staies that reasons for the appeal are contained in two exhibits. 'The first exhibit is a letter commenting on the Draft Environmental Impact Report dated April 17. 2003. This first letter makes overly broad statements about the project with minimal impact specific statements. Nevertheless, these comments are addressed in the City's response to comments. The second letter, dated May 14, 2003, was a letter given to the Planning Commission during their meeting of that date. This letter specifically points to the appellant's opinion that the loss of Prime Farmland, a non-renewable resource, needs to be mitigated by the project.

At the May 14, 2003 Planning Cornmission hearing, Ann Cerney focussed her testimony towards the Loss of Prime Farmland. At that time the developer was not sure that this was the main point of her contention. In response to the testimony and letter delivered at the Planning Commission hearing, the appiicant on May 29, 2003, requested that the Planning Commission amend their resolution to add a condition that would require an off-set of the loss of Prime Farmland. The developer of the project, G-REM, should be commended for listening to the public input at the meeting and responding in a positive manner.

In certifying the Final Environmental Impact Report, the Planning Commission selected project alternative #2. This project alternative directed that the project *site* be built in accordance within the parameters of ihe General

APPROVED: _____
H. Dixon Flynn -- City Manager

Plan and current zoning of the site. By staying the course *set* forth in the General Plan, the Planning Commission's action to certify the Final Environmental Impact Report and the conditions of approvai insures the continued efficient use of land. In fact, the resolution passed by the Planning Commission found that the project is consistent with every General Plan Element.

All other comments received regarding the Draft Environmental Impact Report were responded to in the manner prescribed by law. In fact, the appellant stated at the May 14, 2003 Planning Commission hearing her gratitude *that* the Final Environmental Impact Report reflected some of her concerns regarding air quality. This reflects both the applicant's and the Commission's responsiveness towards meaningful comments on this project. Thus staff recommends that the City Council affirm the Planning Commission's decision to certify the Final Environmental Impact Report.

FUNDING: None required

Konradt Bartlam
Community Development Director

Prepared *by:* J.D. Hightower, City Planner

Attachments:
Letter of Appeal
Planning Commission Report, Memo and Resolution from 5/14/03 Public Hearing
Draft Planning Commission Minutes from 5/14/03 Public Hearing
Final EIR (under separate cover)

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May 15, 2003

Susan J. Blackston
City Clerk
City of Lodi
221 West Pine St.
Lodi, CA 95240

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CITY OF LODI

Re: Notice of Appeal – Vintner's Square Shopping Center

Dear Ms. Blackston:

This firm represents Ann M. Cerney and Citizens for Open Government. On May 14, 2003, the Planning Commission certified the Environmental Impact Report ("EIR") for the Vintner's Square Shopping Center, approved two use permits, and approved a Tentative Parcel Map. Pursuant to Lodi Municipal Code section 17.72.110, Ann M. Cerney and Citizens for Open Government hereby appeal the Commission's decision. This appeal is filed on the basis that the EIR prepared for the Vintner's Square Shopping Center is inadequate under the California Environmental Quality Act ("CEQA") (Pub. Resources Code, § 21000 et seq.). The City's CEQA compliance is inadequate for the reasons stated in prior letters submitted by this office, attached hereto as exhibits A and B. We reserve the right to present supplemental information supporting this appeal to the City Council.

Very truly yours,

Osha R. Meserve

Enclosures

30513101.002

MEMORANDUM, City of Lodi, Community Development Department

To: Planning Commission

From J.D. Hightower, City Planner

Date: May 14, 2003

Subject: The request of Jim Manion, Lowes, to certify a Final Environmental Impact Report pursuant to the California Environmental Quality Act and approve a use permit to construct commercial structures in the Commercial Shopping (C-S) zoning district. a use permit to allow parking for commercial establishments in the Low Density (R-2) zoning district and approving an 8 lor Tentative Parcel Map

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RECOMMENDATION:

Staff recommends that the Planning Commission take five (5) actions in sequential order:

1) Certify the Final Environmental Impact Report for the Vintner's Square Shopping Center; and
2) Select Alternative 2. as identified in the Final Environmental Impact Report as the preferred alternative; and
3) Approve a Use Permit to construct structures in the Commercial Shopping (C-S) zoning district; and
4j Approve a Use Permit *to* allow parking for commercial establishments in the Low Density (K-2) zoning district; and
5) Approve an eight (8) lot Tentative Parcel Map.

SUMMARY

The plethora of requests by the applicant are the necessary steps to allow the construction of a commercial center that will he anchored by a Lowes home improvement store. Also currently envisioned for the center is an In -n- Out Burger, and such uses as a home décor shop, a bank, as well as other food uses. This center represents the third corner of commercial development envisioned by the General Plan. The mix of uses within a center at this location will give Lodi residents a wide array of goods and services that will be available in town and provide for the orderly development of Lodi.

The Planning Commission originally reviewed development at this site on September 12. 2002. At that hearing there was a considerable amount of discussion primarily revolviiig around the introduction of another grocery store, Winco, at this proposed center. Associated with the original project was a general plan amendment and rezoning from low density residential to neighborhood/community commercial. After consideration of the testimony, the Planning Commission directed staff to prepare an Environmental Impact Report for the project. During the preparation of the EIR, alternatives *to* the project were evaluated. One of *the* alternatives evaluated was a build in accordance with existing general plan and zoning designations.

During the preparation of the EIR, Winco's agreement with the property owner expired. The build in accordance with the existing land use designation alternative was furthered evaluated In the Draft Environmental Impact Report. The same type of impacts remain with Alternative 2 as with the original project, just to a lesser degree. Therefore, the impacts analyzed in the Draft Environmental Impact Report represent a worst case scenario. The mitigation measures and reporting responsibilities will remain the same for Alternative 2 as for the original larger project because they are essentially similar yet smaller scale impacts.

The project outlined in the Draft Environmental Impact Report was kept in case the applicant had the opportunity to secure an agreement with another similar store in size and use. The applicant has not secured another user, therefore, the City has selected and the applicant agrees that Alternative 2 is the preferred alternative. A more thorough discussion of the environmental impacts and selection of Alternative 2 is found in the attached "Findings for the Vintner's Square Shopping Center Project". Because of the findings in this report as well as the sound planning practices enumerated in the attached resolution, staff strongly recommends that the Planning Commission select Alternative 2 a the preferred alternative.

A fiscal analysis on the impact of the center on the downtown area was performed in accordance with City policy. The fiscal analysis showed a Iarge unmet consumer demand that the addition of the Lowes to the community will meet. Further the analysis projects a 0.9% decrease in downtown business activity resulting from the development of the proposed center. This decrease is not considered significant.

ibis center will be anchored by a large home improvement retailer, Lowes, that is consistent with the scale of development present on the other two corners of Lower Sacramento Road and Kettleman Lane. Major circulation improvements, in the form of a new street. additional travel lanes, transit service stop, sidewalks and intersection improvements will be constructed as part of the project. The dedications and improvements to both Lower Sacramento Road and Kettleman Lane have remained the same lor both ihe original project and Alternative 2.

Given California's budget woes, a supplemental traffic study has been performed to *see* what. the impact of the center would he on local circulation if the Kettleman Lane Gap Closure project was delayed beyond occupancy of the center as envisioned in Alternative 2. The report stated that "without the Kettleman Lane Gap Closure Project overall intersection LOS would continue to operate at acceptable levels."(Page 2, response to comment 3-5). Thus, Alternative 2 is not only lessens the traffic impacts otherwise associated with the project but it is also reflects the fiscal reality facing transportation improvements.

The loss of Prime Farmland, a non-renewable resource, air qnality, and stationary noise impacts are unavoidable impacts created by both the original project and Alternative 2. These impacts are discussed in the Final Environmental Impact Report for the Vintner's

Square Shopping Center as well as the "Findings for the Vintner's Square Shopping center Project".

BACKGROUND

The property was originally annexed into Lodi on April 25, 1996 as part of the Crossroads Annexation. 'This included the subject property as well as the southwest corner of Lower Sacramento Road and Kettleman Lane. in addition to annexation, the City designated the area as Commercial Shopping and R-2 in its present configuration. This configuration was done prior to the precise alignment of Road "A" within the Westside Facilities Plan. This road is anticipated as a collector roadway within the plan area that will serve commercial and residential land uses from Kettleman Lane to Lodi Avenue/Sargent Road. The project is responsible for the construction of Road "A" within the project boundary.

Oringinally, the requested General Plan Amendment and Rezone request was the result of the precise alignment adopted within the Westside Facilities Plan. The original amendment was requested in part as a result of the desire not to compromise the operation of the street nor subject future homeowners to backing motions onto a street that will one day carry similar traffic as Ham Lane.

Residential development potential will remain to the west of the commercial center as identified in Alternative 2 aiid as mandated by the General Plan. However, staff is convinced that there are housing development types that are viable and will not significantly comprise the operation of Road "A" nor subject residents to backing onto a busy street.. For this reason staff believes that Alternative 2 and the requested Tentative parcel Map will result in good urban form.

The property has sat vacant within the City since its annexation and has had a previous project proposed on the site. The property owner, G-REM, originally filed an application for a Home Depot and two other major tenants on December 1, 2000. This plan was subsequently pulled. On Septernher 12, 2002 the Planning Commission directed staff to prepare an Environmental Impact Report for the Vintner's Square Shopping Center proposed for this important site.

As with any commercial development -- location, location, location -- is the most important aspect of the project. The location of the project is within an area that is generally recognized as an area of intensive commercial activity. With such nationally recognized tenants as Target, Walmart, J.C. Penny's, Staples and Marshalls the area is a destination shopping area for residents of not only Lodi but also for other communities. ihe addition of a major home improvement store. Lowes, will complement these other existing stores and help reinforce the regional shopping character of this area. Thus, with proper design and infrastructure, the center will provide for the orderly development of Lodi. Thus staff recommends approval of the Use Permit that will insure that the site is developed to meet community expectations.

KEY POLICY QUESTIONS

There were several issues that emerged during analysis. These issues can be broken down to four main questions:

A. Is there a balance between the economic, legal, social technological or other benefits of the proposed project against its unavoidable environmental risks'?

B. Is the proposed project consistent with the General Plan?

C Does the project comply with the Zoning Ordinance'?

Staff has evaluated these questions and recommends that the Planning Commission make a recommendation of approval to the City Council based on the evaluation of these key policy questions.

A. Is there a balance between the economic, legal, social technological or other benefits of the proposed project against its unavoidable environmental risks?

Alternative 2. as identified in the Final Environmental Impact Report, by lessening the environmental impacts from the originally proposed project while meeting project objectives. does seek a balance between competing factors. As stated in the "Findings for the Vintner's Square Shopping Center Project" there are seven over-riding factors that "warrant approval of the project despite each and every unavoidable impact described in the Final EIR. Specifically these factors with overriding considerations are:

I. Project Will Implement Vital Municipal Infrastructure Improvements

Through the development of the project, a number of public infrastructure projects will be constructed on the project site and in the project vicinity. As described in DEIR pgs. 3.2-14 through 3.2-17, the project will construct planned roadway improvements at Lower Sacramento Road. near Highway 12. and along that portion of Highway 12 that fronts the project site. This is an economic benefit of the project in that these improvements would otherwise not be made without approval and implementation of the project.

The project will also be conditioned to pay impact fees *to* the City in accordance with Lodi's adopted Development Impact Mitigation Fee program, which *is* authorized by City of Lodi Municipal Code Chapter 15.64 as established by Resolution No. 2001-242. Development Impact Mitigation Fees can be applied towards municipal improvements such as water, sewer, storm drainage, and streets and police, fire, parks and recreation, and general City government. These are vital municipal improvements necessary to the function of the City and the quality of life for Lodi residents providing another economic benefit as well as social benefit of the project.

The infrastructure improvements that will be constructed with the project or made through payment of Development Impact Mitigation fees are overriding economic and social benefits of the project that outweigh the significant effects on the environment.

2 Project Implements Adopted City Plans

The project site is situated within the Lodi City limits. The site has been planned for commercial development in the City of Lodi General Plan, the Westside Facilities Plan and the Lodi Zoning Ordinance. DEIR pgs. 3.1-2 through 3.1-15. Therefore, the project implements adopted City plans and policies by accomplishing the City of Lodi long-term development plans for commercial use at the project site. These plans could not otherwise be implemented by the City. Implementation of the City's adopted land use plans and ordinances are benefits of the project that outweigh the significant effects on the environment that would result with the project.

3. Project Captures Sales Leakage and Increase the Quality of Life of Local Residents

There are a number of stores located in the City of Lodi that offer select home improvement goods such as paints, electrical appliances, household and floor coverings. DEIR pgs. 3.5-1 through 3.5-5 and Appendix A. However, a home improvement warehouse store, such as being offered with the project, is not located in the City of Lodi. The nearest existing Lowe's Home Improvement Center, for example, is located in North Stockton, some 8 miles to the southeast. DEIR p. 3.5-2. The project will capture sales that are currently leaking into other market areas that offer home improvements at a warehouse-style retail warehouse. DEIR pgs. 3.5-1 through 3.5-5 and Appendix A.

By capturing sales leakages, the project will have a beneficial effect on the quality of life for Lodi residents. Currently, most retail shoppers travel in single-occupancy vehicles into outlying regions for home improvement goods. The number of these single-occupancy trips would be reduced because home improvement goods will now be offered in the new home improvement store in the City of Lodi – thereby avoiding the need to travel to outlying areas for such goods. The availability of local home improvement retail is a social benefit of the project in that Lodi shoppers will not be required to travel into outlying areas to obtain goods that would be offered with the project. Furthermore, the Vintner's Square shopping center is located along existing bus routes that operate in the City. The City owns 20 busses that run on compressed natural gas (CNG). These busses carry, on average, 520,000 passengers and travel approximately 520,500 miles annually. Some of these busses would serve the proposed project site. Therefore, the project will allow for the option of shoppers to use buses, rather than rely exclusively on single-occupancy vehicles, to shop for home improvement goods. Overall, the anticipated improvement in air quality would be an improvement in the quality of life for local Lodi residents. Consequently, the project provides social and environmental benefits that outweigh the environmental consequences of the project.

4. Project Will Generate City Sales Taxes

The sales generated at the Vintner's Square Shopping Center will generate additional sales taxes for the City, which would otherwise not be generated by the undeveloped site. The West Kettleman Lane area has been one of the strongest sales tax revenue generating areas in the City over the past decade and has the

continued potential to generate sales taxes. Appendix A pgs. 3 and 4., and pgs. 9-11. The Lowe's store of the Vintner's Square Shopping Center is estimated to generate approximately $30 million in sales alone and would capture approximately $16.6 million is sales currently leaking to the Home Depot store in Stockton and other regional competitors. Appendix A, p. 9 and 12, respectively.

Sales taxes go into the City of Lodi General Fund. The General Fund is updated every other year and is based, in part, on an estimate of all anticipated revenues, including sales taxes that will be generated in the City of Lodi. General Fund monies are the heart of municipal funds that are essential for the construction, operation and maintenance of a number of vital City services, programs and facilities. General Fund monies are used for, as an example, water and sewer services and improvements, library services, City salaries, recreation programs, fire and police services, transit operations, planting/replacement and maintenance of street trees.

The project's contribution of substantial sales taxes to the City of Lodi and the need for these taxes to help support vital City services, programs and facilities through the General Fund are economic and social benefits of the project that override the significant environmental effects on the environment.

5. Creates Part-time Construction and Permanent Employment for Local Residents

The Vintner's Square Shopping Center will generate both short-term construction jobs, as well as long-term part-time and full-time jobs. As described on DEIR p. 7-1, the project would generate an estimated 550 permanent employees and 150 construction workers (approximately 150 permanent jobs would have been contributed by WinCo Foods, thereby somewhat reducing this number). These jobs do not require "special skills" (e.g., high-tech jobs) and therefore could be filled by local residents. No importation of specially-skilled workers would be required to fill these jobs. Consequently, it is anticipated that City of Lodi residents would benefit by the added employment opportunities offered by the Vintner's Square Shopping Center project resulting in additional economic and social benefits of the project that outweigh the significant effects on the environment.

6. Creates Desirable Gateway Design into the City

Goal B of the City of Lodi Urban Design and Cultural Resources Element (DEIR p. 3.7-2) and related Policy 1 states:

- Goal B: To establish identifiable, visually appealing, and memorable entrances to the City

Policy 1: The City shall upgrade the principal roads entering the City at strategic entry points through landscaping, signage, light standards, and other physical elements that identify and enhance them as gateways to the community. Entry points should be identified and designated on SR 99; SR12; Kettleman Lane; Lodi Avenue; Lower Sacramento Road; Pine Street; Turner Road, and Hutchins Street, and screening of visually unattractive commercial and industrial uses.

The project would create a desirable design for this gateway entrance to the City of Lodi by creating an urban use that is similar in character to other commercial development that exists along Kettleman Road in this portion of the City. The City of Lodi has also been working with the Vintner's Square Shopping Center applicant to create a public art piece at the southwest corner of the project as part of an "Art-in–Public Places" contribution. The Lodi Arts Commission has $80,000 available to provide 50:50 matching costs to developers that implement art in select/desired locations in the City. Implementation of some art at this location would be a benefit to all who travel along Highway 12 along the project frontage. The creation of a well-designed project and opportunity for the addition of public art at this City gateway are social benefits that outweigh the significant environmental effects of the project.

B. Is the proposed project consistent with the General Plan and Westside Specific Plan created by the Project?

Alternative 2 is consistent with all elements of the General Plan. It is important to note that all elements of a general plan have equal weight and must be consistent with one another. Specifically, the project is consistent with the following General Plan goals and polices of the various elements of our General Plan:

Land Use and Growth Management Element

Goal E: To provide adequate land and support for the development of commercial uses providing goods and services to Lodi residents and Lodi's market share.

7. *In approving new commercial projects, the City shall seek to ensure that such projects reflect the City's concern for achieving and maintaining high quality.*

Policy Analysis: The center specifically includes establishments that will provide goods and services to Lodi residents that are not being met locally. This is stated in the fiscal impact analysis of the project. By meeting this consumer demand locally, the project will insure that Lodi's market share is enhanced. The project directly implements this goal and policy by developing a shopping center that will go under design review by the Site Plan and Architectural Review Committee. The proposed elevations for the major tenants are consistent with one another and include eaves, columns and varying roof elevations. These elements will be consistently applied to the other pads within the center. The SPARC review will insure that the project reflects Lodi's value for high quality urban development. Staff has conditioned the project to insure that the Site Plan and Architectural Review Committee will review each building permit application in accordance with adopted standards.

Housing Element

Goal C: To ensure the provision of adequate services to support existing and future residential development.

Policy Analysis: By providing commercial shopping opportunities, the project will help ensure that adequate services are available to support existing and future residential

development. Specifically, the Westside Facilities Plan calls for the development of approximately 1,331 dwelling units with a population of 3,484. The provision of daily commercial activities without the need to cross either Kettleman Lane or Lower Sacramento Road is a key towards the livability of this neighborhood.

Circulation Element

Goal A: To provide for a circulation system that accommodates existing and proposed land uses and provides for the efficient movement of people, goods and services within and through Lodi.

1. *The City shall strive to maintain Level of Service C on local streets and at intersections. The acceptable level of service goal will be consistent with the financial resources available and the limits of technical feasibility.*

Policy Analysis: The proposed center will make needed improvements at the intersection of Lower Sacramento Road and Kettleman Lane as well as the intersection of the planned Road "A" and Kettleman Lane. The level of service provided at the intersections will be at LOS "A" or LOS "B" for much of the day. However, during peak hours the intersection is projected to operate at a LOS "D". The level of service at peak hours needs to be balanced with financial capability and Lodi's desire to create an inviting pedestrian environment. Additionally, the Caltrans *Guide for the Preparation of Traffic Impact Studies,* specifically states that, "Caltrans endeavors to maintain a target LOS at the transition between LOS 'C' and LOS 'D' on state highways." Thus, the project improvements will not only be consistent with the City's General Plan but also with the adopted Caltrans standards.

Goal G: To encourage a reduction in regional vehicle miles traveled.

Policy Analysis: By providing an unmet consumer demand within the community, the construction of a shopping center with a major home improvement center will ensure a reduction in regional vehicle miles traveled. Currently, there is a market share loss within Lodi which means that Lodi residents are spending more time on the road to meet their needs. By featuring a regional home improvement store within the center, the project is expected to reduce the travel distance and time that Lodi residents currently spend to meet their needs.

Noise Element

Goal A: To ensure that City residents are protected from excessive noise.

Policy Analysis: Alternative 2 will act as a buffer from the intersections of Kettleman Lane from its intersection with both Lower Sacramento Road and Road "A". The operation of these intersections could potentially exceed the ambient noise levels associated residential areas. Furthermore, stationary noise sources could adversely impact future residential areas created by the Vintner's Square Shopping Center. Although identified as a significant unavoidable impact, this impact will be partially mitigated by the construction of an eight foot masonry wall with landscape areas where the center is adjacent to future residential development.

Conservation Element

Goal F: To promote and, insofar as possible, improve air quality in Lodi and the region.

Policy Analysis: Air quality impacts created by the project are an unavoidable impact, one of which is the creation of oxides. With the application of heat, these oxides react with oxygen to create ozone, a reactive gas that severely hampers breathing. Although the emissions are unavoidable, there are ways to help minimize heat build-up in the center, thereby helping to slow the reaction that causes ozone. One of the most important feature in reducing heat is the provision of large shade trees within the parking lot area. Within the overall center there will be at least 639 15 gallon trees. In the parking lot, there will be 104 large tree species planted within the interior of the parking area alone. In addition to helping reduce heat, these trees will also help reduce the overall carbon monoxide emission created by the center. Another heat cutting measure conditioned in the project is that all buildings within the center utilize reflective roofing material. This will not only help reduce the heat build-up by buildings but also increase energy efficiency in the center.

In addition to reducing heat, there are other ways to help reduce auto emissions created by drive-through facilities. . The key is to prevent the needless idling of automobiles. The project is conditioned such that all drive-through facilities will utilize the double window concept, one where the transaction takes place, the other where food is delivered. Another key element is to design pull-out space, where special orders can pull through to wait without impeding other cars in the line. Staff developed these conditions in conjunction with the Air Pollution Control District.

In addition, the project will help reduce regional vehicle miles traveled within the air district. There is an unmet market demand for a large home improvement center within the Lodi market, forcing local residents to travel outside the local market. Given the nature of purchases for home improvements, a vast majority of these trips are made by automobiles. Thus the provision of a home improvement center in the Lodi market should result in an incremental decrease in the local vehicle miles traveled by local residents. In addition there will be regularly scheduled transit service to and from the center from both SMART and the Lodi Grapeline. Transit service is expected to provide trips to the smaller pads and establishments within the center. Further showing the City of Lodi's commitment to air quality, is that the all transit service provided to the center will be made by CNG buses.

Further showing Lodi's long standing commitment to reducing vehicle miles traveled in the City, it the compact development pattern that has made Lodi the most land use efficient city in the Central Valley. The 2000 census revealed that Lodi houses more people per square mile, 4657.9, is far more efficient than the overall Central Valley city average of 3,274. Thus Lodi has a proven record of providing the transit service necessary and the land use that supports reduction of vehicle miles traveled.

When taken the above facts and project conditions combined with the fact that 48% of the City of Lodi's electrical demand is met through renewable energy sources, it is clear that Lodi has and will continue its commitment to clean air. The unavoidable impacts of the project to this General Plan policy are balanced against this commitment.

Parks, Recreation and Open Space Element

Policy A.8: The City shall consider the need for an interconnected system of pedestrian and bicycle paths linking the City parks and opens space areas with other uses.

Policy Analysis: The project will construct sidewalks and bicycle lanes on Lower Sacramento Road and Kettleman Lane frontages in accordance with the Bicycle Transportation Master Plan. Additionally, the traffic report for the project makes specific recommendations in regard to pedestrian circulation which are incorporated into mitigation measures for the project. Staff has conditioned the project to construct pedestrian features that walkways within the center will seamlessly link with the public improvements. The combination of public and private pedestrian improvements will link the center with other community amenities, including parks.

Health and Safety Element

Policy C.7: The goal for travel time by the fire department in responding to an emergency shall be 3 minutes.

Policy Analysis: The project site is within a 3 minute response time from fire stations #3 and #4. Additionally the project will be constructed pursuant to the Uniform Building Code and is conditioned to install fire hydrants to the satisfaction of the Fire Marshall. These conditions will insure that the chances of upset conditions will be minimized and if they do occur minimum damage will result.

Urban Design and Cultural Resources

Goal C: To maintain and enhance the aesthetic quality of major streets and public/civic areas.

Policy Analysis: By undergoing the Site Plan and Architectural Review Committee approval process, the project is expected to enhance the aesthetic quality of both Lower Sacramento Road and Kettleman Lane. In addition to this goal, the Site Plan and Architectural Review Committee will also insure that the project complies with the intent of Goal "D" of this element. This goal lists several specific design criteria that must be met by projects and will further insure that the aesthetic quality of the area is maintained and enhanced. The submitted conceptual elevations can be consistent with the quality of the neighboring shopping centers upon SPARC review.

Thus the uses envisioned by the project are consistent with Lodi's vision for the area as encapsulated by the General Plan and the Westside Facilities Plan.

2. Does the project comply with the Zoning Ordinance?

Pursuant to Section 17.30.020, the project is consistent with the purpose of the zoning district in that as conditioned the project will:

- Protect nearby residential area to the north of the site from disturbances and adverse influences; and
- Minimize the effect of the center on the safety and capacity of Lower Sacramento Road and Kettleman Lane; and
- Provides for the grouping of facilities; and
- Will be developed under a master plan; and

- Require coordination with other projects to insure prompt and orderly development of the area.

Building uses, building height and lot coverage comply with the provisions of Sections 17.30.030 through 17.30.060.

The site exceeds the minimum site area threshold of two acres as mandated by Section 17.30.070. Staff has conditioned the project to insure that the design standards specified by Section 17.30.080 are met. This section mandates:

- That the center be designed and used as a unit. To meet this requirement staff has conditioned the project such that similar architectural materials are used throughout the center.
- All streets bordering the site be fully dedicated and improved by the developer. This requirement is met through the submitted site plan and implemented through numerous conditions in the resolution of approval
- Requires landscaping, screening, trash enclosures and lighting that will be analyzed by the Site Plan and Architectural Review Committee. This is met through the routine implementation of site plan review proceedures.
- Driveways, parking areas and loading areas shall be located so as to minimize traffic interference. To comply with this section, staff is recommending that the southernmost driveway be eliminated on Lower Sacramento Road, unless the applicant can submit proof to the City Engineer demonstrating that this driveway will not interfere with the intersection of Lower Sacramento Road and Kettleman Lane.

The project will comply with Section 17.30.090 dealing with residential screening by providing an eight foot (8') solid masonry wall between the center and the planned residential area to the north and west of the center. The project has submitted a master plot plan in accordance with Section 17.30.100. The anticipated first phase of development will be the Lowes store and parking lot along with the In and Out burger site. This allows the project to comply with the mandate that a development schedule that shows the first stage of construction that includes a reasonable portion of the entire site as specified by Section 17.30.110. The processes specified by Sections 17.30.120 through 17.30.140 will be followed. These include approval by the City Council, the requirement for a Use Permit and a review of progress after one year.

The submitted plan complies with Chapter 17.60, Off-Street Parking. This ordinance sets a minimum standard of one space per 500 square feet for general commercial and retail sales. The proposed site plan shows an overall ratio of one space every 204 square feet. Therefore, the center meets the minimum parking requirement for parking.

In addition to setting minimum parking requirements for uses, the Off-Street Parking Ordinance allows residential property to be used for parking for commercial uses. Section 17.60.070 states that:

> *The planning commission may grant, with a use permit, the use of any lot in any residential district, where such lot is adjacent to a commercial or industrial district, but to a maximum of one hundred feet therefrom, for off-street parking.*

The parking must be an accessory use to a permitted business or use and must be for the sole use of customers' or employees' automobiles during normal business hours. No commercial use shall be conducted on the lot. All accessory parking lots shall be fully improved, screened and landscaped as prescribed by the planning commission. In the case of failure to improve or maintain such improvements, permission to use such lots for off-site parking may be revoked by the planning commission and building occupancy withheld until alternate parking facilities are provided.

This is the reason for the request of a second Use Permit. Parcel 1, on the southwest corner of the site illustrates parking within property zoned as R-2. There are a total of 37 spaces within this area. Pad 1 is currently envisioned for a sit down restaurant use, therefore, the parking area will be used for employee and customer parking. The total amount of area of the Parcel 1 within the R-2 zone is 1.19 acres, of that .55 acres is used as a parking area. The remainder of that portion is used for landscaping. This landscape area is 45 feet wide along Kettleman Lane and 40 feet wide along Road "A". This landscape area will be fully landscaped with trees, shrubs and groundcover. Currently there is also a three foot mound at the northeast corner of Road "A" and Kettleman Lane. This corner area may be an area that the City and applicant may choose to place public art. Therefore, the condition that the area be screened will be met. Further, this small area is separated from the balance of the planned residential area and will be at a signalized intersection making the area unattractive for residential development. Therefore, staff recommends approval of the use permit to allow parking for commercial use within residentially zoned areas of this project.

The requested parcel map seeks to create 8 lots from an existing two lots that comprise the area bounded by future Road "A", Kettleman Lane, Lower Sacramento Road and Taylor Road. In all the two existing parcels have a total area of 37.48 acres. Lots 1 through 7 comprise the Vintner's Square Shopping Center site and comprise 22.41 acres of the 37.48 acres. These lots range in size from 1.33 acres to 11.72 acres in size. There is no individual minimum lot size in the Commercial Shopping zone, therefore, all lots comply with the size requirement of the zoning ordinance. Section 17.30.080 of the Commercial Shopping District mandates that "the site shall be designed and used as a unit, regardless of ownership of the land." Therefore, a condition on the parcel map is that Parcels 1 through 7 enjoy reciprocal parking and access to one another. Parcel 8, represents the remaining residentially zoned portion, minus the parking area, of the two existing parcels. Parcel 8 is 11.31 acres in size and is of adequate shape and size to support the future residential use of this property.

RECOMMENDATION

Staff recommends approving the request of Jim Manion, representing Lowes. This request includes: 1) Certification the Final Environmental Impact Report for the Vintner's Square Shopping Center; and 2) Select Alternative 2, as identified in the Final Environmental Impact Report as the preferred alternative; and 3) Approve a Use Permit to construct structures in the Commercial Shopping (C-S) zoning district; and 4) Approve a Use Permit to allow parking for commercial establishments in the Low Density (R-2) zoning district; and 5) Approve an eight (8) lot Tentative Parcel Map.

Respectfully Submitted,

J.D. Hightower
City Planner

Reviewed & Concur,

Konradt Bartlam
Community Development Director

KB/JDH/lw

CITY OF LODI
PLANNING COMMISSION
Staff Report

MEETING DATE: May 14, 2003

APPLICATION NO: Final Environmental Impact Report for the Vintner's Square Shopping Center; Parcel Map 02-P-0008; and Use Permit 02-01.

REQUEST: The project is the development of a community shopping center located on the northwest corner of Lower Sacramento Road and Kettleman Lane (State Highway 12). The center, as identified in Alternative 2 within the Final EIR, is anchored by a Lowes home improvement store as well as other subsidiary pads, including an In-N-Out Burger drive through facility. In total Alternative 2 will ultimately include 216,959 square feet of community commercial activities on approximately 22.41 acres.

To accomplish this project two Use Permits and Parcel Map are also being requested. The first Use Permit is the required use permit called prior to construction of any building within the Commercial Shopping zone classification. The second Use Permit is required to allow parking for commercial establishment on land zoned for residential use. The Parcel Map seeks to subdivide the center into eight (8) lots, seven (7) lots corresponding to the individual pads in the center and one lot corresponding to the area that is designated for future residential development and zoned as Low Density Residential (R-2)..

LOCATION: Northwest corner of the intersection of Lower Sacramento Road and Kettleman Lane (State Highway 12).

APPLICANT: Lowes, Jim Manion, 1530 Faraday Avenue, Suite 125, Carlsbad, CA 92008

PROPERTY OWNER: Gwecke 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. 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:	The Alternative 2 site is designated as Neighborhood/Community Commercial.
Zoning Designation:	The building area identified in Alternative 2 site is zoned as Commercial Shopping (C-S) with some parking taking place on the 1.13 acres on the southwest corner of Road "A" and Kettleman Lane.
Property Size:	22.41 acres

Adjacent Zoning and Land Use:

North:	Low Density Residential (R-2) currently vacant.
South:	Planned Commercial across Kettleman Lane (State Highway 12)
East:	Sunwest Martketplace Shopping Center (C-S)
West:	Low Density Residential (R-2) and future Road "A" both currently vacant

Neighborhood Characteristics:

The neighborhood of the project is mixed with nearby residential, commercial and agricultural uses taking place adjacent to the site. Immediately north of the site, is a planned residential subdivision. Further north, across Taylor Road, are county developed residential units on varying lot sizes. To the south, across Kettleman Lane/State Highway 12, there is a vacant field that is planned for future commercial development. To the east is a developed commercial center, the Sunwest Marketplace. To the west are active vineyards and orchards. 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: A Final Environmental Impact Report for the project has been prepared. There will be avoidable environmental impacts created by the project. However, specific economic, legal, social, technological and other considerations make the approval of Alternative 2 acceptable due to the following overriding considerations:

a. The project will implement vital municipal infrastructure improvements.
b. The project implements adopted City plans.
c. The project captures sales leakage and increases the quality of life of local residents.
d. The project will generate City sales taxes.
e. The project creates part-time construction and permanent employment for local residents.
f. The project creates a desirable gateway design into the City

PUBLIC HEARING NOTICE:

The Final Environmental Impact Report certification was advertised on May 3, 2003 and a total of 32 mailers giving notification of the Use Permits and Tentative Parcel Map were sent to property owners owning property within 300 feet of the project.

RECOMMENDATION:

Certify the Final Environment Impact Report and approve two Use Permits – one to allow construction of structures within the Commercial Shopping (C-S) zone and the second to allow parking for commercial use within the Low Density Residential (R-2) zone; and approve a Tentative Parcel Map creating 8 lots within the proposed center 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. Memorandum
2. Resolution
3. Vicinity Map
4. Final Environmental Impact Report
5. Submitted Site Plan

RESOLUTION NO. P.C. 03-12

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

D. Circulation Element, Goal G, "To encourage a reduction in regional vehicle miles traveled" in that by providing an unmet consumer demand

within the community, the construction of a shopping center with a major home improvement center will ensure a reduction in regional vehicle miles traveled.

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

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

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

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

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

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

K. The submitted use permit complies with the General Plan Land Use Diagram and Standards in that the Neighborhood/Community Commercial designation states a maximum Floor Area Ratio of 0.40 while Alternative 2 has a Floor Area Ratio of 0.22.

L. The project at this location is consistent with General Plan Land Use and Growth Management Element Goal E, Policy 3, "The City shall encourage new large-scale commercial centers to be located along major arterials and

at the intersections of major arterials and freeways" in that the Figure 2-1 of the Land Use/Circulation Diagrams and Standards classifies Lower Sacramento Road as a 4 lane undivided arterial and Kettleman Lane/State Highway 12 as a 6 lane divided arterial.

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

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

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

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

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

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

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

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

1. The foregoing recitals are true and correct.

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

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

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

5. Alternative2 as identified and evaluated within the Draft Environmental Impact Report is selected for approval because it meets project objectives while reducing or avoiding potentially significant environmental impacts.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

iii. Grading, drainage and erosion control plan.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Dated: May 14, 2003

I hereby certify that Resolution No. 03-12 was passed and adopted by the Planning Commission of the City of Lodi at a meeting held on May 14, 2003, by the following vote:

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

ATTEST: _____
Secretary, Planning Commission

FINDINGS TO APPROVE

THE

VINTNER'S SQUARE SHOPPING CENTER PROJECT

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FINDINGS FOR THE VINTNER'S SQUARE SHOPPING CENTER PROJECT

1. INTRODUCTION

An environmental impact report (EIR) was prepared for the Vintner's Square Shopping Center project in accordance with Public Resources Code §§ 21000 - 21178 (CEQA) and California Code of Regulations, Title 14, Chapter 3, §§ 15000 – 15387 (State CEQA Guidelines). Pursuant to State CEQA Guidelines § 15091, when a lead agency has required the preparation of an environmental impact report (EIR) for the environmental review of a proposed project and for which one or more significant environmental impacts were identified must prepare one or more "findings" for each of the identified significant impacts. The findings must be accompanied by a brief explanation of the rationale for each finding. One of more of the following findings must be made for each significant effect identified in the EIR:

> (1) Changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effect as identified in the final EIR.
>
> (2) Such changes or alterations are within the responsibility and jurisdiction of another public agency and not the agency making the finding. Such changes have been adopted by such other agency or can and should be adopted by such other agency.
>
> (3) Specific economic, legal, social, technological, or other considerations, including provision of employment opportunities for highly trained workers, make infeasible the mitigation measures or project alternatives identified in the final EIR.
>
> State CEQA Guidelines § 15091.

This document includes discussion of the proposed Vintner's Square Shopping Center project, the environmental review process conducted by the City of Lodi, and changes to the proposed project that occurred through the environmental review process. Furthermore, this document includes the findings required by CEQA and the State CEQA Guidelines. A Statement of Overriding Considerations is included at the conclusion of this document to describe the benefits of the project that outweigh unavoidable adverse environmental effects of the project.

2. PROJECT EVALUATED IN THE EIR

The proposed Vintner's Square Shopping Center project includes the development of approximately 297,403 square feet (s.f.) of retail commercial on a site of approximately 28.27 acres in the City of Lodi. The proposed site plan included for a Lowe's retail store and garden center, a grocery store, and eight individual building pads, which were proposed to front on Highway 12 and Lower Sacramento Road. The project would require the City of Lodi to approve a General Plan Amendment (GPA-02-01), Rezoning (Z-02-01), Tentative Parcel Map (02-P-008), and a Use Permit (U-02-01) for the following purposes:

- General Plan Amendment: ***From*** Neighborhood Commercial (NCC) and Planned Residential (PR) ***To*** all NCC (land uses described in Section 3.4, Land Use and Agriculture);
- Rezoning: ***From*** Commercial Shopping (C-S) and Single Family Residential (R-2) ***To*** all C-S (zoning districts described in Section 3.4, Land Use and Agriculture);
- Tentative Parcel Map: To create nine individual parcels; and
- Use Permit: To Require Site Plan and Architectural Review Committee review of the project and to ensure compliance with all applicable design provisions of the C-S zoning district and Planning Commission Conditions of Approval.

3. HISTORY OF PROJECT AND ENVIRONMENTAL REVIEW

Original Project Proposal, Initial Study and Mitigated Negative Declaration No. 02-08

Lowe's (applicant) filed an application with the City of Lodi on December 19th, 2001 for approval of a proposed "The Lowe's Center" project located at the northwest corner of North Lower Sacramento Road and Kettleman Lane (Highway 12) in the City of Lodi. The application was originally submitted for a 146,729 square foot (s.f.) single-story retail store and a 34,674 s.f. single-story retail garden center on a 13.3-acre site. These square footages and site acreages only included the Lowe's store and related parking. The project was later corrected to include a total site acreage of approximately 28.27 acres, with potential development of approximately 297,403 s.f. of retail commercial. The proposed site plan included for a Lowe's retail store and garden center, grocery store, and eight individual building pads, which were proposed to front on Highway 12 and Lower Sacramento Road.

The City of Lodi prepared an Initial Study for the proposed project to determine if the project would result in significant environmental impacts. Based on that Initial Study, the City determined that the environmental review could be completed with the preparation of a Negative Declaration prepared pursuant to California Environmental Quality Act (CEQA) § 15070 *et seq.* On August 2, 2002, the City of Lodi made Negative Declaration 02-08[1] available to the public for a 30-day review. On September 12th, 2002, the City of Lodi Planning Commission read and considered the request and Mitigated Negative Declaration. Substantial public comment was received and due to the controversy surrounding the project, the City determined that an Environmental Impact Report (EIR) should be prepared.

Environmental Impact Report (SCH # 2002082099)

Upon reconsideration of the public comments and controversy on Negative Declaration No. 02-08, the City prepared an EIR pursuant to State CEQA Guidelines § 15080 *et seq.* on the Vintner's Square project. A Notice of Preparation (NOP) of an EIR was prepared and sent to the State Clearinghouse on December 20, 2002 to commence a 30-day public review. The City then prepared the EIR for which a Notice of Completion (NOC) was completed and filed with the State Clearinghouse on March 3, 2003. The EIR was then made available to responsible agencies, trustee agencies, other government

[1] Negative Declaration 02-08; City file No. U-02-01; GPA-LU-02-01; 02-p-0008; SP 02-01; Z-02-01.

agencies, and interested members of the public for a 45-day review that extended from March 3, 2003 and end on April 17, 2003.

Just prior to the release of the Draft EIR (DEIR), one of the anchor stores, Winco Foods, decided to withdraw from the Vintner's Square Shopping Center project. The withdrawal was based in part as a response to planning and environmental concerns that were raised during the lengthy public process. The Winco Foods departure reduced the proposed retail development by approximately 80,00 s.f., or 25%. This reduction was based in part on public controversy raised during the environmental review (i.e., through Negative Declaration 02-08, through City issues, and during public review of the NOP for the EIR.) The "reduced project" was otherwise similar in nature to the project under evaluation in the DEIR. The DEIR analysis now effectively evaluated the project as a "worst-case" scenario. However, to ensure that an environmental review was also conducted and made available to the public for the "reduced project", the City of Lodi opted to include Alternative 2 to the DEIR that excluded Winco Foods. This Alternative is evaluated along with other alternatives in Section 6.0 of the DEIR.

4. FINDINGS FOR SIGNIFICANT IMPACTS OF THE PROJECT

Pursuant to State CEQA Guidelines § 15091, the City of Lodi makes the following findings to approve the Vintner's Square Shopping Center project despite the fact that the proposed project will result in significant impacts. The impacts and mitigation measures identified below are replicated from the DEIR Sections S.0 (Executive Summary) and 3.0 (Environmental Impact Analysis), as amended by Responses to Comments.

Project Impact Identified in DEIR

> Impact 3.2-C. Project Access and Circulation: Three project access drives are proposed with the project. Two of the access drives would provide sufficient storage for vehicles. For the main access driveway's eastbound (outbound) approach, projected queue lengths for the AM and PM peak hours are 3.6 and 8 vehicles, respectively, or approximately 90 feet and 200 feet of storage length. During the PM peak hour, a vehicle queue of 200 feet would extend back to the north-south drive aisle (between the Lowe's building and shops adjacent to Lower Sacramento Road) and result in an adverse impact. (Significant Impact Without Mitigation).

Finding

Changes or alterations have been required in, or incorporated into, the project, which avoid or substantially lessen the significant environmental effect as identified in the final EIR.

Discussion

Mitigation Measure 3.2-C would be required for the Project. Mitigation Measure 3.2-C, replicated below, has been included in the EIR and is required for the project. A Mitigation Monitoring and Reporting Program has been adopted by the City of Lodi to ensure this measure is implemented.

> Mitigation 3.2-C. Prior to occupancy of either of the main anchor stores, the applicant shall stripe a "Keep Clear" legend at main access driveway's eastbound (outbound) approach to ensure adequate internal intersection movement.

Effects of Mitigation Measure(s) and Resulting Level of Significance

This mitigation measure will ensure that during the PM peak hour adequate room will be maintained at the north-south drive aisle to provide for internal intersection movement. The DEIR traffic analysis determined that during the PM peak hour a vehicle queue of 200 feet would potentially extend back to the north-south drive aisle (DEIR p.3.2-26). Requiring a striped "Keep Clear" legend at the main access driveway's eastbound approach will alert drivers not to stop, park or otherwise obstruct in the main access driveway area and will reduce the potential for the hampering of internal circulation. Through application of this mitigation measure impacts associates with project access and circulation would be reduced to a less than significant level.

Project Impact Identified in DEIR

> Impact 3.2-D. Internal Vehicular Circulation: Based upon review of the site plan and number of anticipated vehicles during peak shopping periods, some internal circulation would be congested at internal parking drive aisles that intersect with major access driveways to and from Lower Sacramento Road, Kettleman Lane and Road A. Other internal circulation would be adequate. (Significant Impact Without Mitigation).

Finding

Changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effect as identified in the final EIR.

Discussion

Alternative 2 was found to reduce significant impacts regarding internal vehicle circulation. However, Mitigation Measure 3.2-C would still be required for this alternative. Mitigation Measure 3.2-D, replicated below, has been included in the EIR and will be applied to the Project. A Mitigation Monitoring and Reporting Program has been adopted by the City of Lodi to ensure this measure is implemented.

> Mitigation 3.2-D. Prior to occupancy of the first major anchor, stop-sign controls shall be installed on internal parking drive aisles where they intersect with major access driveways to/from Lower Sacramento Road, Kettleman Lane, and Road "A".

Effects of Mitigation Measure(s) and Resulting Level of Significance

The effect of this mitigation is that it would reduce vehicle conflicts arising during circulation in the parking lot. Multiple driveways would serve the proposed project, and the potential for vehicle conflict exists in the absence of vehicle controls such as stop signs. Installation of stop-signs before the first store opens would control traffic flow before traffic is passing through parking areas.

Project Impact Identified in DEIR

> Impact 3.2-E. Pedestrian Circulation and Access. Most pedestrian access and circulation is proposed to provided through the installation of pedestrian sidewalks and internal pedestrian links. However, a pedestrian link is not planned at the northwest corner of the Lower Sacramento Road/Kettleman Lane intersection for on- and off-site access. A bus stop is

planned along the west side of Lower Sacramento Road north of the main shopping center access driveway (opposite the Sunwest Marketplace), no assurance has been proposed to comply with the American with Disabilities Act (ADA). Both of these conditions, unmitigated, would result in a significant impact. (Significant Impact Without Mitigation).

Finding

Changes or alterations have been required in, or incorporated into, the project, which avoid or substantially lessen the significant environmental effect as identified in the final EIR.

Discussion

Mitigation Measure 3.2-E, replicated below, has been included in the EIR and will be applied to the Project. A Mitigation Monitoring and Reporting Program has been adopted by the City of Lodi to ensure this measure is implemented.

> Mitigation 3.2-E. Prior to occupancy of the first main anchor store, a clear pedestrian link shall be provided at the northwest corner of the intersection of Lower Sacramento Road and Kettleman Land to accommodate on- and off-site uses. Moreover, the applicant shall ensure that the bus turnout to be provided along the project's main access driveway (opposite the Sunwest Marketplace) is constructed in accordance with the ADA standards.

Effects of Mitigation Measure(s) and Resulting Level of Significance

The DEIR identified that the Lower Sacramento Road/Kettleman Lane intersection would likely be a major pedestrian crossing area between on- and off-site uses (DEIR p. 3.2-29). The effect of this mitigation measure is to provide a clear pedestrian link in this crossing area to decrease the potential for pedestrian/vehicle conflicts. Pedestrians would have defined access to and from the retail areas of the shopping center without having to navigate the parking field. Moreover, pedestrian sidewalks would be provided from the planned bus-stop and Lower Sacramento Road/Kettleman Lane intersection to the various retail areas on the project site. The mitigation will also ensure that the bus station incorporates ADA design standards to allow convenient use by disabled persons. Implementation of this mitigation would reduce the potential for pedestrian and vehicle conflicts to the maximum extent feasible and ensure that bus stations are convenient for use by all persons. This measure would reduce significant impacts to a less than significant level.

Project Impact Identified in DEIR

> Impact 3.2-F. Consistency with City of Lodi Master Circulation Plans: The project would generate sufficient traffic volumes and is planned to be constructed during the time that the City is planning to make improvements along Kettleman Lane (gap closure project) and Lower Sacramento Road. The project will also generate sufficient traffic to trigger the installation of Road A, consistent with the Westside Facilities Master Plan design. If the project design and construction timing is not adequately coordinated with the implementation of the Kettleman Lane Gap closure project, requirements of the Westside Facilities Master Plan and City desired improvements along Lower Sacramento road, significant impacts would result. (Significant Impacts Without Mitigation)

Finding

Changes or alterations have been required in, or incorporated into, the project that avoid or substantially lessen the significant environmental effect as identified in the final EIR.

Discussion

Mitigation Measures 3.2-F.1, -F.2 and -.F3, replicated below, has been included in the EIR and will be applied to the Project. A Mitigation Monitoring and Reporting Program has been adopted by the City of Lodi to ensure this measure is implemented.

> Mitigation 3.2-F.1. Prior to occupancy of any retail use at the shopping center, the applicant shall construct Road A, in accordance with the Westside Facilities Master Plan, from Kettleman Lane to Taylor Road. Moreover, the applicant shall install a signalized intersection at Road A and Kettleman Lane. The design and installation of these improvements shall be conducted to the satisfaction and subject to the approval of the City of Lodi Public Works Director.
>
> Mitigation 3.2-F.2. Prior to occupancy of any retail use, the applicant shall submit to, and obtain approval from, the Director of Public Works and California Department of Transportation (CalTrans), to widen and make improvements to the intersection of Kettleman Lane and Lower Sacramento Road.
>
> Mitigation 3.2-F.3. The project applicant shall dedicate right of way along the southern project boundary and westerly adjoining property sufficient to make Kettleman Road widening improvements consistent with the Kettleman Lane Gap closure project. The Director of Public Works and CalTrans design requirements shall approve the area to be dedicated to Caltrans for use in making Gap closure improvements.

Effects of Mitigation Measure(s) and Resulting Level of Significance

These mitigation measures would ensure the proposed project's consistency with Lodi master circulation plans. The Westside Facilities Master Plan plans for the development of "Road A" to extend from Kettleman Lane north to Taylor Road. The planned "Road A" would serve the proposed project site, residences along Taylor Road, as well as the planned land uses identified in the Westside Facilities Master Plan. The installation of a signalized intersection at "Road A" and Kettleman Lane will reduce project contributions to vehicle queuing at the Kettleman Lane/Lower Sacramento Road intersection. Mitigation measure 3.2-F.1 requires Road A to be constructed, in accordance with City standards, prior to any shops opening at the Vintner's Square Shopping Center to ensure the roadway is accessible and operational at the time the shopping center opens.

The City has been actively pursuing the widening and improvement of Lower Sacramento Road, which would require dedication of land from the project site. Widening of Lower Sacramento Road was also identified as being crucial towards the feasibility of the proposed project (DEIR p.3.2-30). Mitigation 3.2-F.2 would accomplish this, thus meeting the City's desire of having land dedicated for the widening of Lower Sacramento Road as well as accommodating traffic generated by the proposed project. This measure also required coordination between the project applicant, the City of Lodi Public Works department, and CalTrans to ensure roadway improvements are properly designed.

The City has also been working with CalTrans on the CalTrans design of the Kettleman Lane Gap Closure project. The Gap Closure project would also require dedication of land from the project site. Mitigation 3.2-F.3 would require dedication of land from the project site that is needed in order to accomplish the gap closure project and ensure project consistency with City master circulation plans.

Application of Mitigation Measure 3.2-F.1, 3.2-F.2, and 3.2-F.3 will ensure project consistency with the City's master circulation plans and reduce impacts to a less than significant level.

Project Impact Identified in DEIR

> Impact 3.3-A.1. Short-Term Air Quality Impacts: Grading, excavation, trenching, filling and other construction activities result in increased dust emissions which would be a temporary, significant impact on regional emissions of PM_{10}. Construction would also result in exhaust emissions of CO, ROG, NO_X, SO_X, and PM_{10}.from the operation of diesel-powered heavy equipment during grading and construction and for the import of soil. These emissions would also be generated through the emissions of vehicles used by construction workers. (Less Than Significant With Mitigation).

Finding

Changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effect as identified in the final EIR.

Discussion

Mitigation Measure 3.3-A.1, replicated below, has been included in the EIR and will be applied to the project. A Mitigation Monitoring and Reporting Program has been adopted by the City of Lodi to ensure this measure is implemented.

> Mitigation 3.3-A.1: To reduce short-term impacts to a less than significant level, the City of Lodi shall require the construction manager to implement all of the following measures throughout grading and construction

- All disturbed areas, including storage piles, which are not being actively utilized for construction purposes, shall be effectively stabilized of dust emissions using water, chemical stabilizer/suppressant, covered with a tarp or other suitable cover or vegetative ground cover.

- All on-site unpaved roads and off-site unpaved access roads shall be effectively stabilized of dust emissions using water or chemical stabilizer/suppressant.

- All land clearing, grubbing, scraping, excavation, land leveling, grading, cut & fill, and demolition activities shall be effectively controlled of fugitive dust emissions utilizing application of water or by presoaking.

- With the demolition of buildings up to six stories in height, all exterior surfaces of the building shall be wetted during demolition.

- When materials are transported off-site, all material shall be covered, or effectively wetted to limit visible dust emissions, and at least six inches of freeboard space from the top of the container shall be maintained.

- All operations shall limit or expeditiously remove the accumulation of mud or dirt from adjacent public streets at the end of each workday. *(The use of dry rotary brushes is expressly prohibited except where preceded or accompanied by sufficient wetting to limit the visible dust emissions.) (Use of blower devices is expressly forbidden.)*

- Following the addition of materials to, or the removal of materials from, the surface of outdoor storage piles, said piles shall be effectively stabilized of fugitive dust emissions utilizing sufficient water or chemical stabilizer/suppressant.

- Within urban areas, trackout shall be immediately removed when it extends 50 or more feet from the site and at the end of each workday.

- Any site with 150 or more vehicle trips per day shall prevent carryout and trackout.

- Limit traffic speeds on unpaved roads to 15 mph.

- Install sandbags or other erosion control measures to prevent silt runoff to public roadways from sites with a slope greater than one percent. Install wheel washers for all exiting trucks, or wash off all trucks and equipment leaving the site within an onsite, contained washdown area

- Install wind breaks at windward side(s) of construction areas;

- Suspend excavation and grading activity when winds exceed 20 mph; and;

- Limit area subject to excavation, grading, and other construction activity at any onetime.

- Regardless of windspeed, an owner/operator must comply with Regulation VIII's 20 percent opacity limitation.

- No discharge to the public storm drain system shall be permitted.

Mitigation 3.3-A.2: Prior to the issuance of grading permit for each new building, the City of Lodi shall consult with the San Joaquin Air Pollution Control District and the applicant to identify what new technology, with regard to heavy-duty equipment, may be available for use. The City shall require the applicant to incorporate new technology(ies) for the operation of heavy-duty equipment into the contracts with its construction contractors.

Effects of Mitigation Measure(s) and Resulting Level of Significance

Mitigation Measures 3.3-A.1 and -A.2 are applied to reduce short-term air quality impacts. Short-term air quality impacts are typically those that are generated during the construction and development phase of the proposed project and typically arise through the use of construction equipment, ground disturbance, and transport of dirt. Mitigation 3.3-A is designed to reduce dust emissions that may be generated during grading and construction of the proposed project through suppression techniques and management practices such as wetting dust loads, covering stockpiles and materials being transported, limiting traffic speeds, and suspending grading activity during periods of heavy winds.

Measure 3.3-A.2 was added at the request of the San Joaquin Air Pollution Control District (SJAPCD) to reduce short-term air quality emissions – such as diesel fuels – that would be generated by the use of "heavy-duty equipment" (e.g., tractors). This measure will ensure that the City and the SJAPCD

explore what new technologies may be available to reduce emissions from heavy-duty equipment and that these technologies are discussed with the applicant and incorporated into the construction contracts for implementation.

Measures 3.3-A.1 and –A.2 will reduce short-term air quality effects to a less than significant level.

Project Impact Identified in DEIR

> Impact 3.4-A Short Term Construction Noise Impacts: Grading and construction within the project area would result in temporary noise impacts to nearby noise sensitive receptors. Construction noise impacts would be temporary, and would be required to comply with City of Lodi Municipal Code requirements. With compliance to the City Code and recommended mitigation measures, impacts are concluded to be less than significant. (Less Than Significant With Mitigation)

Finding

Changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effect as identified in the final EIR.

Discussion

Mitigation Measure 3.4-A.1 and A.2, replicated below, has been included in the EIR and will be applied to the project. A Mitigation Monitoring and Reporting Program has been adopted by the City of Lodi to ensure this measure is implemented.

> Mitigation 3.4-A.1: Prior to Grading Permit issuance, the Grading Plan shall be reviewed and approved by the Community Development Department to ensure compliance with the following:
>
> - All construction equipment, fixed or mobile, shall be equipped with properly operating and maintained mufflers, to the satisfaction of the Building Official.
> - During construction, stationary construction equipment shall be placed such that emitted noise is directed away from sensitive noise receivers, to the satisfaction of the Building Official.
> - During construction and to the satisfaction of the Building Official, stockpiling and vehicle staging areas shall be located as far as practical from noise sensitive receptors during construction activities.
>
> Mitigation 3.4-A.2: Construction work will be limited to the hours of 7:00 a.m. to 7:00 p.m. on weekdays, between 9:00 a.m. and 6:00 p.m. on Saturdays or when the City Building Inspector approves special provisions for construction activities.

Effects of Mitigation Measure(s) and Resulting Level of Significance

Mitigation 3.4-A.1 and A.2 address the short-term noise generation of the proposed project. Short-term noise sources are primarily those associated with project construction. The measures applied to the proposed project require that measures be taken to reduce the project impacts on

sensitive receptors. This includes limiting work to "typical working hours", utilizing mufflers on construction equipment, and locating work areas away from sensitive receptors where possible.

Upon application of Mitigation Measures 3.4-A.1 and A.2, the short-term noise impacts of the proposed project would be reduced to a less than significant level.

Project Impact Identified in DEIR

> Impact 3.6-D Undiscovered Previously Unknown Resources: While evidence indicates a lack of known prehistoric resources and burial sites, there is the potential for the discovery of such resources during grading or construction of the proposed project. (Potentially Significant Impact).

Finding

Changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effect as identified in the final EIR.

Discussion

Mitigation Measure 3.3-A.1, replicated below, has been included in the EIR and will be applied to the Project. A Mitigation Monitoring and Reporting Program has been adopted by the City of Lodi to ensure this measure is implemented.

> Mitigation 3.6-D: If any prehistoric or historic artifacts, or other indications of cultural resources are found once project construction is underway, all work must stop within 20 meters (66 feet) of the find. A qualified archaeologist shall be consulted for an immediate evaluation of the find before resuming groundbreaking construction activities within 20 meters of the find.
>
> If the find is determined to be an important archaeological resource, the resource shall be either avoided, if feasible, or recovered consistent with the requirements of Appendix K of the State CEQA Guidelines.
>
> In the event of discovery or recognition of human remains in any location other than a dedicated cemetery, no further excavation or disturbance of a project site or any nearby area reasonably suspected to overlie adjacent human remains can occur until the County Coroner has been informed and determines that no investigation of the cause of death is required.
>
> If the remains are of Native American origin, the lead agency must solicit the Native American Heritage Commission to see whether that agency can identify descendents of the deceased Native American(s). If, within 24 hours of being notified by the Commission, such descendents offer the lead agency recommendations for treating or disposing of the remains and any associated grave goods, such recommendations should be followed, unless the landowner disagrees with the recommendation, in which case the Native American Heritage Commission shall mediate the dispute. If the Native American Commission could not mediate a dispute between the descendents and the landowner to the latter's satisfaction, further work on the project may proceed, but the landowner must rebury the remains and any grave goods "with appropriate dignity on the property in a location not subject to subsurface disturbance."

Effects of Mitigation Measure(s) and Resulting Level of Significance

Mitigation 3.6-D would ensure that, in the event prehistoric resources are encountered that were previously undiscovered, no undue damage would come to them and the appropriate entities would be notified. Although the cultural resources evaluation in the DEIR indicates that prehistoric resources are not known to exist, there is the potential that during grading or other construction activity, prehistoric resources (e.g., bones, artifacts) could be unearthed. This measure would require that all grading, construction or other activity within a 20-meter radius of a previously-unknown "find" would be required to stop to prevent any further disturbance. Depending on the nature of the find, the coroner, the Native American Heritage Commission may need to be contacted.

Mitigation measure 3.6-D will ensure that significant impacts to previously undiscovered resources are avoided and a less than significant impact would result.

Project Impact Identified in DEIR

> IMPACT 3.7-D. Light and Glare: The proposed project site is located adjacent to existing urban and commercial land uses that generate light (generally during the nighttime) and glare (generally during the daytime hours). The proposed project would contribute incrementally to the amount of light and glare produced in the general area due to: vehicle headlights on adjacent roadways and in parking areas, interior and exterior building lights, and incremental degradation of nighttime atmospheric conditions. Of these project effects, the incremental degradation of nighttime atmospheric conditions would be less than significant, because the proposed project would not result in a perceptible change beyond existing conditions. However, project effects regarding vehicle headlights and interior and exterior building lights would be significant and, therefore would require mitigation. (Potentially Significant Impact)

Finding

Changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effect as identified in the final EIR.

Discussion

Mitigation Measures 3.7-D.1 and 3.7-D.2, replicated below, have been included in the EIR and will be applied to the project. A Mitigation Monitoring and Reporting Program has been adopted by the City of Lodi to ensure these measures are implemented.

> Mitigation 3.7-D.1: To reduce light and glare effects from automobiles passing through and parking in parking areas, the project proponent shall install, and maintain throughout the life of the project, landscaping along the eastern and southern project boundaries of sufficient height to block light generated by vehicles utilizing the parking lot and drive-thru facilities prior to occupancy of any of the buildings.
>
> Mitigation 3.7-D.2: The project proponent shall prepare a detailed lighting plan specifying location and intensities of all proposed light sources. The plan shall include measures, including but not limited to downcast lighting and shielding, to reduce the spillover of light onto adjacent properties to the maximum extent feasible. The plan shall be reviewed and approved by the City Planner, or his/her designee, prior to the issuance of building permits.

Effects of Mitigation Measure(s) and Resulting Level of Significance

Mitigation Measures 3.7-D.1 and 3.7-D.2 would serve to reduce the light and glare impacts of the project. Mitigation 3.7-D.1 provides landscaping along the project boundaries that face Lower Sacramento Road and Kettleman Lane. The landscaping would be required to be of a height sufficient to shield the exposure of vehicle headlights in the Vintner's Square Shopping Center parking areas from "spilling" into adjacent land use areas and into the windows of vehicles traveling along Lower Sacramento Road and Kettleman Lane. The lighting plan required in Mitigation 3.7-D.2 will include specific measures that can be incorporated into the shopping center project to reduce spillover of light onto adjacent properties. The lighting plan will be designed to limit project lighting to what is necessary to serve the project and to focus it an a manner that reduces spillover of light onto adjacent properties. Application of these mitigation measures will reduce the potential for light and glare impacts generated by the project to a less than significant level.

Project Impact Identified in DEIR

> IMPACT 3.8-B Special Status Species: Implementation of the project would remove the agricultural and agricultural perimeter biotic habitats on the site, which could contain potential foraging areas for Swainson's hawk, nesting raptors, and burrowing owls. The loss of foraging areas for these species would result in a potentially significant impact. (Potentially Significant Impact).

Finding

Changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effect as identified in the final EIR.

Discussion

Mitigation Measures 3.8-B.1 and 3.8-B.2, replicated below, have been included in the EIR and will be applied to the project. A Mitigation Monitoring and Reporting Program has been adopted by the City of Lodi to ensure these measures are implemented.

> Mitigation 3.8 B.1: – Nesting Raptors: Prior to any grading on the site, the project applicant shall conduct pre-construction surveys for nesting raptors that include the project site as well as the area within 250 feet of all project site boundaries. If nesting raptors are found, the project sponsor shall consult with CDFG on appropriate steps to avoid impacts and shall be required to implement CDFG measures.
>
> Mitigation 3.8 B.2: – Burrowing Owls: Prior to any grading on the site, the project sponsor shall conduct pre-construction surveys for burrowing owls in accordance with the Survey and Protocol and Mitigation Guidelines prepared by the Burrowing Owl Consortium[2], and shall consult with the CDFG for appropriate additional mitigation in the event that owls are present on the site. The project applicant shall be required to implement CDFG mitigation measures.

[22] The Burrowing Owl Consortium is a research/conservation organization based at UC Santa Cruz that prepared the Burrowing Owl Survey Protocol and Mitigation Guidelines that was adopted by the California Department of Fish & Game.

Effects of Mitigation Measure(s) and Resulting Level of Significance

Mitigation Measures 3.8-B.1 and 3.8-B.2 require the project applicant to complete "pre-construction" surveys to determine the presence or absence of any nesting raptors or burrowing owls on the project site and within 250 feet of the project site. Consultation with the California Department of Fish and Game (CDFG) is required if nesting raptors or burrowing owls are found during the pre-construction surveys. Mitigation measures, such are avoiding nesting raptors at certain distances during nesting season, are available and have been routinely applied applicants at the direction of CDFG where nesting raptors are found. Similarly, burrowing owls can be avoided, deterred from re-entering burrows, or relocated as exampled of mitigation required by the CDFG. If the CDFG requires mitigation for the protection of nesting raptors or burrowing owls, the applicant will implement those measures. This will ensure that if any nesting raptors or burrowing owls are located on the project site, or within 250-feet of the site, that they are protected in accordance with CDFG protocol. Implementation of these measures will reduce potentially significant impacts to nesting raptors and burrowing owls to a less than significant level.

Project Impact Identified in DEIR

> IMPACT 3.9-B Storm Water Quality Impacts: The proposed retail center would generate polluted runoff from impervious surfaces and landscaped areas on the site. However, the project includes the construction of an on-site detention pond which is designed to reduce the amount of pollutants in storm water that is discharged to the City's storm drain system, and will include the use of would include the installation of a bioswale along the eastern boundary and other storm water BMPs that will further reduce pollutant levels.

Finding

Changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effect as identified in the final EIR.

Discussion

Mitigation Measures 3.9-B, replicated below, has been included in the EIR and will be applied to the project. A Mitigation Monitoring and Reporting Program has been adopted by the City of Lodi to ensure this measure is implemented.

> Mitigation 3.9-B: The project sponsor shall implement the following non-structural BMPs, from the California Storm Water Best Management Practice Handbook, to the maximum extent feasible:
>
> - *Public Education/Participation*-Disseminate informational materials for employees of the site and possibly post signs informing guests of the natural resources downstream and the possibility of negative impact associated with the use of the land.
>
> - *Housekeeping Practices* - Clean up spills, practice proper disposal of certain substances and wise application of chemicals.
>
> - *Material Storage Control* - Minimize the storage of hazardous material on-site, store materials in designated areas, install secondary containment, conduct regular inspections, and

train employees and subcontractors.

- *Vehicle Leak and Spill Control* - Maintain equipment and security vehicles.

- *Street Cleaning* – Regular cleaning of paved areas, streets, and access roads.

- *Contaminated or Erodible Surface Areas* - Prevent and reduce pollutants from contaminated or erodible surface areas by leaving as much vegetation on site as possible, minimizing soil exposure time, stabilizing exposed soils, and prevent storm water runoff and run-on.

Effects of Mitigation Measure(s) and Resulting Level of Significance

Mitigation 3.9-B requires the use of non-structural Best Management Practices (BMPs) in the project design and operation. The BMPs were developed by the State Water Resources Control Board prevent pollution and protect water quality. The BMPs are available and relatively inexpensive techniques to reduce sources of urban pollutants that may enter the storm drainage system. The BMPs are effective in stabilizing erosion on soils surfaces that could enter surface stormwater. Application of this measure, in tandem with Mitigation 3.9-C, would reduce the potential for storm water quality impacts to a less than significant level.

Project Impact Identified in DEIR

Impact 3.9-C Construction Impacts Implementation of the project could result in storm water pollution from construction activities conducted on the site. However, conformance with NPDES Permit regulations requiring construction storm water quality controls and Best Managemnt Practices will reduce potential impacts to less than significant levels.

Finding

Changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effect as identified in the final EIR.

Discussion

Mitigation Measures 3.9-C, replicated below, has been included in the EIR and will be applied to the Project. A Mitigation Monitoring and Reporting Program has been adopted by the City of Lodi to ensure this measure is implemented.

Mitigation 3.9-C: Prior to approval of a grading plan, construction BMPs shall be outlined in a Storm Water Pollution Prevention Plan (SWPPP), and shall include elements regarding construction site planning, housekeeping practices and material storage, vehicle and equipment fueling and maintenance, erosion and sedimentation controls, slope stabilization, dust control, road and construction entrance stabilization, storm drain inlet protection, and temporary drainage systems. Long-term post-construction operation and maintenance of both structural and non-structural BMPs shall be the responsibility of the project sponsor.

Effects of Mitigation Measure(s) and Resulting Level of Significance

Mitigation Measures 3.9-C requires that the project applicant prepare a Storm Water Pollution Prevention Plan (SWPPP), which includes elements to reduce storm water pollution in the short-term as well as long-term operation of the project. The mitigation measure requires the project sponsor's SWPPP to include the techniques that will be applied for the control of pollutants that may be released into surface waters from vehicle and equipment fueling and maintenance, erosion and sedimentation controls, slope stabilization, dust control, road and construction entrance stabilization, storm drain inlet protection, and temporary drainage systems. The SWPPP must also address housekeeping practices and material storage to prevent materials such as household cleaners, paints, fertilizers, etc. from entering storm waters. Application of this mitigation measure, in tandem with Mitigation 3.9-B, will reduce storm water quality impacts to a less than significant level.

Project Impact Identified in DEIR

> IMPACT 3.13-B. Underground Hazardous Materials: The proposed site has the potential for hazardous materials located underground. Potential hazardous materials included pesticides in the soil, oil within the soil, and asbestos lined pipes within areas of the site.

Finding

Changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effect as identified in the final EIR.

Discussion

Mitigation Measures 3.13-B.1, 3.13-B.2, 3.13-B.3, replicated below, has been included in the EIR and will be applied to the Project. A Mitigation Monitoring and Reporting Program has been adopted by the City of Lodi to ensure this measure is implemented.

> Mitigation 3.13-B.1: Soil samples shall be taken within the project site (including various areas of the site, the soil piles, and the below surface pit) to determine the presence or absence of banned pesticides. If soil sampling indicates the presence of any contaminant in hazardous quantities, the RWQCB and the Department of Toxic Substances Control (DTSC) will be contacted to determine the level of any remediation efforts, and the soils shall be remediated in compliance with applicable laws.
>
> Mitigation 3.13-B.2: Shallow soil sampling shall be conducted in this area to determine the presence or absence of hydrocarbon contamination. If soil sampling indicates the presence of any contaminant in hazardous quantities, the RWQCB and DTSC will be contacted to determine the level of any remediation efforts, and these soils shall be remediated in compliance with applicable laws.
>
> Mitigation 3.13-B.3: In the event that subsurface pipes are discovered during site development, grading, or excavation of the site, it should be determined if these pipes contain asbestos. If it is found that these pipes contain asbestos, these pipes should be removed, handled, transported, and disposed of in accordance with applicable local, county and state regulations.

Effects of Mitigation Measure(s) and Resulting Level of Significance

Mitigation Measures 3.13-B.1 and 3.13-B.2 require soil sampling to be done on the project site and in various specified areas to determine whether or not there is contamination by any banned pesticides or hydrocarbons and includes measures to be taken should presence of these materials be discovered. The applicant would be required to contact the Regional Water Quality Control Board and the California Environmental Protection Agency, Department of Toxic Substances Control (DTSC) to design a remediation plan if contaminated soils are found on the project site. DTSC will require implementation of the remediation plan and will sign off when the remediation is completed. This clearance would be required before the project could be fully implemented.

Mitigation 3.13-B.3 requires the identification of any subsurface pipes that are uncovered during grading and construction and includes measures for the handling of such previously undiscovered subsurface pipes. The pollutant at issue in this mitigation measure is asbestos which is considered a hazardous material. Asbestos removal must be conducted by experts trained in the removal of this friable material. Once removed, asbestos must be properly transported and disposed of in a landfill certified to dispose of this material. Implementation of mitigation measures 3.13-B.1, 3.13-B.2 will reduce significant impacts to a less than significant level..

5. FINDINGS FOR SIGNIFICANT AND UNAVOIDABLE IMPACTS OF THE PROJECT

Pursuant to State CEQA Guidelines § 15091, the City of Lodi makes the following findings to approve the Vintner's Square Shopping Center project despite the fact that the proposed project will result in significant and unavoidable impacts. The impacts and mitigation measures identified below are replicated from the DEIR Sections S.0 (Executive Summary), 3.0 (Environmental Impact Analysis), and 5.0, as amended by Responses to Comments.

The proposed project was found to result in four significant and unavoidable impacts. Mitigation measures were applied to these impacts to reduce the severity of the impacts or to avoid them altogether. Although mitigation measures do reduce the severity of impacts, the measures were found to be insufficient to reduce or avoid these impacts to a less than significant level. The City of Lodi also developed a number of alternatives to the proposed project to evaluate their effectiveness in reducing or avoiding significant impacts.

Project Impact Identified in DEIR

> Impact 3.3-B. Long-Term Operational Impacts: Based on traffic operations after project implementation, a CO Hot Spot analysis is not triggered. Local carbon monoxide emissions would be less than significant with implementation of the project. The project would result in an overall increase in the local and regional pollutant load due to direct impacts from vehicle emissions and indirect impacts from increased use of electricity and natural gas consumption. Total project operational emissions (area and mobile source) would result in significant impacts for ROG and NOX . (Significant Impact).

Finding

Changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effect as identified in the final EIR.

Mitigation Measure 3.3-B, replicated below, has been included in the EIR and will be applied to the Project. A Mitigation Monitoring and Reporting Program has been adopted by the City of Lodi to ensure this measure is implemented.

> Mitigation 3.3-B: Customers of the Vintner's Square Shopping Center will mostly rely on the use of vehicles to get to and from the center. The shopping center is dependent on the use of power for its operation. The City of Lodi shall require the application of the following measures to reduce air quality emissions. However, these mitigation measures would be unable to reduce this impact to a less than significant level. (Significant and Unavoidable Impact).

- Prior to issuance of a Certificate of Occupancy for the each business, the applicant shall incorporate shaded landscaping into parking areas to reduce the need for air conditioning in the building.
- Prior to issuance of the first Certificate of Occupancy in the Vintner's Square Shopping Center, the City shall require:
  - bus service to be expanded to serve the development;
  - the inclusion of transit shelter, benches, or turnouts into the project;
  - the inclusion of bicycle-enhancing infrastructure – such as bikepaths, bike parking and employee lockers into the project; and
  - the inclusion of pedestrian-enhancing infrastructure, such as lighted sidewalks, into the project design.

Effects of Mitigation Measure(s) and Resulting Level of Significance

Mitigation 3.3-B would reduce the projects energy demands by encouraging non-vehicular transportation to and from the site and by incorporating landscaping designed to provide heat relief in the buildings and in parking lot areas. By encouraging non-vehicular transportation to and from the site, through expanded bus service, bike facilities, and pedestrian infrastructure, the project would generate fewer vehicle miles traveled (VMTs). By reducing the projects VMTs there is a corresponding reduction in the projects contribution to regional air quality impacts. Providing landscaping designed to reduce the buildings air conditioning demands also decreases the energy demands of the proposed project, therefore decreasing the projects contributions to regional air quality impacts.

Moreover, the City of Lodi Electric Utility District (District) will provide power to the Vintner's Square project. Over 48% of District's power generation is from renewable resources (e.g., hydroelectricity). The project will not result in the need for new electric facilities at the power source.

The project's contribution to regional air quality conditions would be reduced. However, as the San Joaquin Valley Air Basin is currently a non-attainment area for Federal and State air quality standards for O_3 and PM_{10}, there are no feasible mitigation measures that can be applied to reduce this impact to

a less than significant level. Therefore, while this impact is reduced through the implementation of Mitigation 3.3-B, it remains significant and unavoidable.

Project Impact Identified in DEIR

> Impact 3.3-D. Cumulative Impacts: Impacts to regional air quality resulting from development of cumulative projects would significantly impact existing air quality levels. Impacts for ROG, NOX would be considered significant. (Significant Impact).

Finding

Changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effect as identified in the final EIR.

Mitigation Measure 3.3-D.1, replicated below, has been included in the EIR and will be applied to the Project. A Mitigation Monitoring and Reporting Program has been adopted by the City of Lodi to ensure this measure is implemented.

> Mitigation 3.3-D.1: SJVAPCD Standards and City Municipal Code requirements would be implemented on a project-by-project basis. The City shall also require application of Mitigation Measure 3.3-B to reduce project contributions to cumulative air quality impacts. However, these requirements would be insufficient to reduce cumulative ROG and NOx emissions to a less than significant level.

Effects of Mitigation Measure(s) and Resulting Level of Significance

These mitigation measures serve to reduce the cumulative air quality impacts of the proposed project. Mitigation 3.3-D.1 requires adherence to existing standards and regulations of the City's Municipal Code, NESHAPS, and San Joaquin Valley Air Pollution Control District (SJVAPCD). The SJVAPCD is the agency responsible for the issuance of permits for stationary source emitters, and establishes the maximum thresholds for the total air emissions – including from operational sources – that a project may emit and stay within the SJVAPCD threshold limits.

Among its duties, the SJVAPCD works closely with cities and counties and with regional transportation planning agencies to develop new programs for the reduction of air emissions. The SJVAPCD has entered into a memorandum of understanding (MOU) with the transportation planning agencies to ensure a coordinated approach in the development and implementation of transportation plans throughout the San Joaquin Valley which helps the Regional Transportation Planning Agencies to comply with pertinent provisions of the federal and state Clean Air Acts, as well as related transportation legislation (such as the Transportation Equity Act for the 21st Century, Congestion Management Act, Transportation Improvement Plans, etc.).

In addition, whereas the Air Resources Board (ARB) produces a major part of the State Implementation Plan (SIP), it is the responsibility of the local air districts to provide additional strategies for sources under their jurisdiction for inclusion in the state's SIP.

The SJVAPCD has adopted several attainment plans to comply with federal and state Clean Air Act (FCAAA and CCAA, respectively) requirements. The SJVAPCD's *Air Attainment Plan* was adopted

in 1991 and most recently updated in 2001. The SJVAPCD must continuously monitor its progress in implementing attainment plans and must periodically report to the ARB and the EPA. It must also periodically revise its attainment plans to reflect new conditions and requirements in accordance with schedules mandated by the CCAA and FCCAAA. The CCAA requires districts to adopt air quality attainment plans and to review and revise their plans to address deficiencies in interim measures of progress once every three years.

To meet FCAAA and CCAA requirements, the SJVAPCD has submitted numerous plans for attaining ozone, PM_{10} and carbon monoxide standards. The ozone plan projected attainment of the federal ozone standard by 1999, but did not achieve its goal. The EPA has officially redesignated the SJVAB to severe non-attainment for ozone effective December 10, 2001 with a May 31, 2002 deadline for plan submittal. The carbon monoxide plan demonstrates that CO attainment has already been reached. The PM_{10} attainment plan sets forth the approach the SJVAPCD will use to attain the NAAQS for PM_{10}. The 1997 PM_{10} Attainment Demonstration Plan has not been approved by EPA to date and the SJVAPCD expects that EPA will disapprove the plan in the next few months, triggering the need for a new plan submittal. Since the FCAAA PM_{10} attainment deadline for areas classified as serious (December 31, 2001) has passed, the SJVAPCD will be required to submit a new plan by December 31, 2002.
Other new rules have been adopted by the SJVAPCD which apply to sources never before regulated in the Valley such as Rule 4901 – Residential Wood Burning Fireplaces and Wood Heaters and Rule 4902 Residential Water Heaters, adopted June 17, 1993.

SJVAPCD also identified three strategies for reducing emissions generated by indirect sources in the 1991 *Air Quality Attainment Plan*. These strategies include enhanced SJVAPCD California Environmental Quality Act (CEQA) participation, encouragement of all cities and counties in the SVJ to adopt an air quality element or air quality policies as part of their General Plan, and implementation of a new and modified indirect source review (ISR) program. The SJVAPCD now actively reviews and comments on CEQA documents prepared by lead agencies and suggests mitigation measures to reduce air quality impacts (see, for example, Response to Comment 2-1 through 2-3, included in the Responses to Comments document). The *Air Quality Guidelines for General Plans*, adopted by the SJVAPCD in 1994, is the primary means for implementing the second strategy. The SJVAPCD has not implemented an ISR program but is promoting voluntary strategies to reduce indirect source emissions.

Mitigation measure 3.3-D.1 also requires application of Mitigation Measure 3.3-B to reduce the projects contribution to air quality emissions. Mitigation 3.3-B would reduce the projects energy demands by encouraging non-vehicular transportation to and from the site and by incorporating landscaping designed to provide heat relief in the buildings and in parking lot areas. By encouraging non-vehicular transportation to and from the site, through expanded bus service, bike facilities, and pedestrian infrastructure, the project would generate fewer vehicle miles traveled (VMTs). By reducing the projects VMTs there is a corresponding reduction in the projects contribution to regional air quality impacts. Providing landscaping designed to reduce the buildings air conditioning demands also decreases the energy demands of the proposed project, therefore decreasing the projects contributions to regional air quality impacts.

These measures will serve to reduce the project's contribution to cumulative air quality impacts. However, as the San Joaquin Valley Air Basin is currently a non-attainment area for O_3 and PM_{10}, any project that would have an individually significant air quality impact would also be considered to have a cumulatively considerable air quality impact. There are no feasible mitigation measures that can be applied to reduce this a less than significant level.

Mitigation Measures 3.3-D.1 will reduce the projects contribution to cumulative air quality conditions, however, the impact remains significant and unavoidable.

Project Impact Identified in DEIR

> Impact 3.4-C Stationary Noise Impacts: Implementation of the proposed project would result in the generation of on-site noise associated with retail commercial activities that include loading/unloading activities, operation of mechanical equipment (e.g. air conditioning units) and activities occurring in parking lots. Stationary source impacts would result in a significant impact. (Significant Impact)

Finding

Changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effect as identified in the final EIR.

Mitigation Measure 3.4-C, replicated below, has been included in the EIR and will be applied to the Project. A Mitigation Monitoring and Reporting Program has been adopted by the City of Lodi to ensure this measure is implemented.

> Mitigation 3.4-C.1: Loading dock facilities, rooftop equipment, trash compactors and other stationary noise sources shall be adequately shielded and/or located at an adequate distance from residential areas to the satisfaction of the Community Development Director.
>
> Mitigation 3.4-C.2: Directional speakers shall be shielded and/or oriented away from off-site residences to the satisfaction of the Community Development Director.

Effects of Mitigation Measures and Resulting Level of Significance

Mitigation 3.4-C.1 and 3.4-C.2 would apply to the proposed project and would reduce stationary noise impacts.

The DEIR identified stationary noise impacts associated with the loading docks located to the rear of WinCo Foods as being significant and unavoidable. These impacts would result from the combination of the proximity of loading docks at the rear of the WinCo Foods store to the then-approved 33 unit GREM residential project. Mitigation Measure 3.4-C.1 requires that loading dock areas and other stationary equipment be shielded. This is relatively easy to do with "fixed" equipment (e.g., by installing walls or other shields around stationary equipment) but is more difficult around loading docks where trucks are moving about to deliver goods to stores. Consequently, mitigation measure 3.4-C.1 would reduce to a less than significant level stationary noise impacts from rooftop equipment, trash compactors directional speakers, and other stationary noise sources but would not sufficiently reduce noise effects from loading docks at the rear of WinCo foods to a less than significant level. No

other feasible mitigation is available to reduce the stationary noise impacts associated with the loading docks located to the rear of WinCo Foods.

Mitigation measure 3.4-C.2 would require that directional speakers be situated in a direction that does not face residential uses, or to be shielded to obstruct noise in the direction of residential uses. This measure would reduce significant impacts of directional speakers to a less than significant level.

Project Impact Identified in DEIR

> IMPACT 3.12-G. Loss of Prime Farmland: The proposed project would result in the direct conversion of approximately 29 acres of Prime Farmland. As stated in the City's General Plan, no mitigation is available that would reduce this type of impact to a less than significant impact other than outright prohibiting development on prime agricultural lands. The loss of 29 acres of Prime Farmland would be considered a significant and unavoidable impact. (Significant and Unavoidable Impact).

Finding

Changes or alterations have been required in, or incorporated into, the project substantially lessen the significant environmental effect as identified in the final EIR.

No mitigation is available that would reduce this impact to a less than significant level.

Resulting Level of Significance

The proposed project result in a significant and unavoidable impact with regards to the loss of prime farmland. The loss of 29 acres of prime farmland is considered a significant and unavoidable impact and was identified as such in the City's General Plan EIR.

Despite this significant and unavoidable impact, it should be noted that the City of Lodi is very progressive in the protection of prime farmlands. In response to a San Joaquin County comment on a development project in the City[3] (Lackyard letter), the City of Lodi indicated that it is a participant in the preservation of agricultural lands within San Joaquin County and is a participant with the County in establishing a greenbelt area between Stockton and Lodi. The Lodi City Council authorized up to $25,000 for further study of this greenbelt area pursuant to a City Council action taken on April 17, 2002. The $25,000 excludes the numerous Staff hours spent in analyzing this important issue. Moreover, the City has adopted policies for the development of buffer areas between agricultural lands and urban land uses as articulated and adopted in the Westside Facilities Master Plan.

Furthermore, the Lackyard letter indicates that City is by far the most efficient City in the County with regard to housing people in a given land area. The City's attention to "compact urban development" is indicative of the City's attention to minimizing the loss of prime farmland while accommodating required housing and other long-term development needs. "

[3] City of Lodi. Letter to Jim Van Buren, Senior Planner at San Joaquin County Community Development Department dated May 2, 2002,from J.D. Hightower, City Planner in the City of Lodi regarding the Lackyard Annexation project (AX-02-01, GPA – LU-03-03, Z-02-03).

Given the aforementioned, the City makes an extensive effort to avoid the loss of prime farmland through its careful planning of urban areas. Nonetheless, the City recognizes that there is no feasible mitigation is available to reduce this impact on the project site to a less than significant level and, therefore, it remains significant and unavoidable.

6. ALTERNATIVES EVALUATED IN THE EIR

Pursuant to § 15126.6 (a) of the State CEQA Guidelines, the Vintner's Square Shopping Center EIR evaluated a reasonable range of alternatives to the proposed project.

> "(a) Alternatives to the Proposed Project. An EIR shall describe a range of reasonable alternatives to the project, or to the location of the project, which would feasibly attain most of the basic objectives of the project but would avoid or substantially lessen any of the significant effects of the project, and evaluate the comparative merits of the alternatives. An EIR need not consider every conceivable alternative to a project. Rather it must consider a reasonable range of potentially feasible alternatives that will foster informed decisionmaking and public participation. An EIR is not required to consider alternatives which are infeasible."

Following is a description of the alternatives considered, as discussed in Section 6.0 of the EIR, and the conclusions regarding their ability to reduce or avoid significant impacts of the proposed project.

Alternative 1 -No Project, No Development Alternative

Under the No Project Alternative, No Development Alternative, no development would occur on the Vintner's Square Shopping Center site. The nearly 30-acre site would remain vacant, as is the existing condition of the property. Roadway improvements to Highway 12 and Lower Sacramento Road and intersection improvements at Road A and Kettleman Lane/State Highway 12 would also not be made.

Conclusions

Because no development would occur on the proposed project site with the No Project/No Development alternative, significant physical impacts related to the proposed development on the project site would not occur with this alternative. Significant, potentially significant, and significant and unavoidable impacts associated with the proposed project would not occur.

The advantage of the No Project/ No Development Alternative is that it would avoid the significant, potentially significant, and significant and unavoidable impacts associated with related to land use, air quality, noise, transportation/circulation, cultural resources, aesthetics, loss of prime farmland, biologic resources, drainage and water quality, and hazardous materials.

The disadvantage of this alternative is that it would not meet any of the project objectives, as presented in Section 2.4 of the DEIR.

Alternative 2 -- Development Under Existing General Plan

Under Alternative 2, the proposed project site would be reduced and a smaller retail shopping center limited to the area designated as Neighborhood Community Commercial (NCC) in the General Plan (refer to Exhibit 3.1-1 which indicates current General Plan land use designations). WinCo foods would not be proposed and only Lowe's would remain as the anchor tenant. A total of 216,959 square

feet of retail shopping center would be proposed, including the retail anchor pad (refer to Exhibit 6-1). The project site would be limited to 22.39 acres and would be divided into seven parcels. A lot line adjustment would be completed to realign parcel boundaries in the southwest corner to allow development of additional parking for the shopping center. The applicant also owns the parcels to the west and to the north of the Project site. These parcels would largely be left in an undeveloped state with no change to their zoning or General Plan designations. However, since the applicant also owns parcels to the north and west, a driveway and a truck turnaround would be permitted to be located on these properties and a temporary detention basin would be installed on the parcel to the north.

Conclusions

Alternative 2 would result in a development of decreased floor area and acreage than that of the proposed project. All impacts would be slightly reduced due to the decreased scope of the project and the amount of development and ground disturbance required for project implementation. Similar, but slightly reduced impacts, would occur with relation to hazardous materials, geology, public utilities, drainage and water quality, secondary socioeconomic effects, biological resources, cultural resources, and air quality. Substantially reduced impacts would occur with relation to loss of prime farmland, noise, traffic, light and glare, and public services. Impacts related to Land Use and Planning would be reduced from less than significant levels to no impact.

The advantage of the Development Under the Existing General Plan Alternative is that it would avoid the need for a General Plan amendment and rezoning and would be consistent with planned land uses while meeting the projects objectives. The project would also result in a decreased FAR, and decreased extent of grading. In addition, the elimination of a 24-hour operation at the center will avoid many impacts that can arise from such an operation such as late-night impacts on public services and utilities. Eliminating the 24-hour operation and eliminating the need for vehicles to access the site during late-night hours would substantially decrease the generation of light during those hours. The stationary noise impacts associated with WinCo Foods loading docks would also be eliminated.

Due to the reduction in vehicle trips associated with Alternative 2, it would also reduce air quality impacts associated with the proposed project. Since the need for loading docks would be reduced with this alternative, stationary source noise impacts would similarly be reduced from project levels. Secondary socioeconomic effects would be slightly reduced with this alternative, although all secondary socioeconomic effects were found to be less than significant with the proposed project.

The disadvantage of Alternative 2 is that, while it would meet all of the project objectives, it may not do so with the same benefits as that of the proposed project. One of the identified objectives is to result in a net fiscal benefit to the City. While the project will still fiscally benefit the City, it may not do so at the same level as the proposed project due to the decreased scale and elimination of WinCo Foods.

Alternative 3 – Locally-Serving Commercial Retail Center, and Residential Component

For Alternative 3, the project site would be developed into a neighborhood, locally-serving retail center including along the Highway 12 frontage. These uses would include, for example, beauty salon, coffee house, pizza parlor, mail center, record store, and similar neighborhood shopping center stores. A general plan amendment and associated rezoning would be required for the southwest

portion of the site to place retail uses on property currently designated for Planned Residential (PR) uses. Given the types of uses, this Alternative would only be assumed to support a development of approximately 14 acres (609,840 site s.f. @ 0.24 FAR = 146,362 s.f.), or half of the acreage of the proposed project. The remaining portion of the site would be developed into residential uses, consistent with those allowed north of the proposed project under the Low Density Residential (LDR) residential designation for the remaining 14.87 acres (98 units @ 7.0 du/ac).

Conclusions

Similar ground disturbance would occur with the 'Locally-Serving Commercial Retail Center, and Residential Component' Alternative that would result in impacts similar to those of the proposed project with relation to hazards/hazardous materials, drainage/water quality, traffic and biological resources and prime farmland. This alternative would increase demand on public utilities and services. Ground disturbance would occur over a smaller area that would have slightly smaller impacts related to air quality.

The disadvantage of this alternative is that it would not meet all the objectives of the project as described in Section 2.4 of the DEIR. The project would not meet the needs of the current residents of the City of Lodi. Other neighborhoods have developments with similar businesses as those proposed in this alternative, so there would be increased competition to existing businesses in the other shopping areas in Lodi. In addition, since this project would not serve a need of local Lodi consumers that is not already available in other areas of the city, consumers would need to travel outside of the area to purchase the types of goods proposed to be sold at the proposed center. Having to travel outside of the city would increase the amount of vehicle miles traveled, which would result in increased vehicle emissions. With the proposed project, consumers would be able to purchase project-related (e.g. home improvement) goods in Lodi and, thereby, avoid the need to travel outside of the City and, therefore, decrease the amount of vehicle miles traveled. Also, this alternative would not Lodi's local market area that extends west to Rio Vista, east to Jackson, north to Galt, and south to North Stockton, as well as the communities of Thornton, Lockeford, Clements, Woodbridge, and Victor as identified as a project objective.

Alternative 4 – Alternative Highway 12 Site

Alternative 4 examines the environmental effects of developing the proposed project uses on another site further west of the project site, along Highway 12. Because this alternative site would be outside the City of Lodi sphere of influence boundaries, it would be reviewed under San Joaquin County guidelines. The Alternative 4 project site is zoned Agriculture, 40-acre parcel minimum (AG-40) under the San Joaquin Zoning Ordinance. The site would, as with the proposed project, be bordered along the south by Highway 12 and would develop with (±) 297,015 s.f. of retail commercial land uses.

Conclusions

Similar ground disturbance would occur with the 'Alternative Highway 12 Site' Alternative that would result in impacts similar to those of the proposed project with relation to soils and geology, hazards/hazardous materials, drainage/water quality, traffic and biological resources. This alternative would increase demand on public utilities and services. This alternative would also result in increased

aesthetic and noise impacts, and would have the potential to lead to greater impacts associated with the loss of prime farmland.

The advantage of the Alternative Highway 12 Site Alternative is that it would avoid potential conflicts between residential and commercial land uses, and relocate the proposed projects noise and air quality impacts to an area with a lower concentration of sensitive receptors.

The disadvantage of this alternative is that could lead incrementally to greater loss of agricultural land, and would directly conflict with the agricultural character of the rural lands of San Joaquin County. The projects aesthetic impacts would be magnified by its isolation from similar urban land uses found within the City of Lodi. The alternative would conflict with the City of Lodi General Plan goals encouraging concentration of urban uses, clearly defined urban boundaries, and protection of agricultural lands. In addition, the municipality with jurisdiction over an alternative location would be San Joaquin County, requiring the applicant to start the process over again with a new jurisdiction increasing development costs and time, as well as potentially conflicting with County policies.

Environmentally Superior Alternative

Of all of the alternatives, the No Project, No Development Alternative (Alternative 1) would be the preferred alternative. Alternative 1 would avoid all significant impacts of the project and all significant and unavoidable impacts of the project. This alternative would not, however, meet any of the Project Objectives as outlined in Section 2.0 herein. For example, the Project Objectives are to provide for local and extending local shopping in close proximity to a major roadway. It is an objective to create a fiscal benefit to the City through retail shopping uses.

When the Environmentally Superior Alternative is the No Project alternative, CEQA requires that a selection be made among the remaining other alternatives to the proposed project.

Among the other alternatives, Alternative 2 would be preferred. This alternative meets all of the project objectives, while reducing or avoiding significant environmental impacts of the proposed project. For example, this alternative eliminates the need to amend the General Plan to designate NCC uses on the western portion of the project site to accommodate shopping center uses. It reduces on-site transportation and circulation impacts related to the proposed project because it would reduce the retail square footage resulting in a decrease in the number of on-site vehicles. Therefore, this alternative would reduce project-related impacts in the areas of: access and circulation due to the potential for queuing at the main access driveway during the PM peak hour, and internal vehicular circulation due to aisle congestion at a few intersections with major entry roadways (Lower Sacramento Road and Kettleman Lane). Significant pedestrian circulation and access impacts at the northwest corner of Lower Sacramento Road/Kettleman Lane intersection for on- and off-site access would be reduced because the retail shopping square footages would be reduced. Road A would still be developed with this alternative.

Due to the reduction in vehicle trips associated with Alternative 2, it would also reduce air quality impacts associated with the proposed project. Since the need for loading docks would be reduced with this alternative, stationary source noise impacts would similarly be reduced from project levels. The loading docks necessary for WinCo foods would be eliminated, resulting in a substantial reduction in stationary noise impacts. Secondary socioeconomic effects would be slightly reduced with this

alternative, although all secondary socioeconomic effects were found to be less than significant with the proposed project.

Impacts associated with cultural resources would be the reduced due to the decreased extent of grading. Biological resource impacts would likewise be reduced to the decreased amount of grading required. Impacts associated with aesthetics/visual resources would also be substantially reduced due to the decreased scope of the project and the elimination of the 24-hour operation, WinCo Foods, included in the proposed project. This would result in a substantial decrease in the amount of light generated during late night hours. The volume of stormwater would be reduced with this alternative through the decreased project size and amount of impervious materials. The demand for public services and utilities would be reduced with this alternative. The reduction in public services and utility demands would come from the decreased project scope and the elimination of the 24-hour operation at the site. By removing the 24-hour operation, demand for services and utilities during late-night hours would be substantially reduced. However, the proposed project would have resulted in less than significant impacts for public services and utilities. Project impacts on geology and hazards and hazardous materials would be similar to those of the proposed project. Loss of prime farmland impacts would be proportionately reduced with this alternative due to the decreased site acreage and extent of grading.

Alternative 2, through the decreased scope of the project and through the elimination of WinCo Foods as a tenant would be the preferred alternative in that it meets all of the project objectives, reduces or eliminates many of the impacts identified with the proposed project, and would not result in any new or previously unidentified impacts.

7. CITY OF LODI SELECTS ALTERNATIVE 2 AS THE VINTNER'S SQUARE SHOPPING CENTER PROJECT

The City of Lodi has considered the environmental consequences of the proposed project. It has also considered all of the required mitigation measures applied to the project and the effectiveness of these measures in reducing or avoiding significant environmental impacts. The City has also considered the ability of alternatives to reduce or avoid significant impacts and has determined that Alternative 2, as presented in the DEIR, will achieve most of the project objectives while reducing the number and/or magnitude of significant environmental impacts. The DEIR evaluated the environmental consequences of Alternative 2 as compared to the proposed project. Upon consideration of all alternatives, Alternative 2 was found to be the environmentally superior alternative – after the No Project, No Development Alternative. Therefore, the **City of Lodi selects Alternative 2 as the Vintner's Square Shopping Center**, instead of the "proposed project" described in the EIR.

8. STATEMENT OF OVERRIDING CONSIDERATIONS

The approval of Vintner's Square Shopping Center Project will result in significant and unavoidable impacts with regard as described throughout DEIR Chapters 3, 5, and 6 of the EIR, and in the Executive Summary. The significant and unavoidable impacts of the project are listed below:

> Impact 3.3-B. Long-Term Operational Impacts: Based on traffic operations after project implementation, a CO Hot Spot analysis is not triggered. Local carbon monoxide emissions would be less than significant with implementation of the

project. The project would result in an overall increase in the local and regional pollutant load due to direct impacts from vehicle emissions and indirect impacts from increased use of electricity and natural gas consumption. Total project operational emissions (area and mobile source) would result in significant impacts for ROG and NOX. (Significant Impact).

Impact 3.3-D. Cumulative Impacts: Impacts to regional air quality resulting from development of cumulative projects would significantly impact existing air quality levels. Impacts for ROG, NOX would be considered significant. (Significant Impact).

Impact 3.4-C Stationary Noise Impacts: Implementation of the proposed project would result in the generation of on-site noise associated with retail commercial activities that include loading/unloading activities, operation of mechanical equipment (e.g. air conditioning units) and activities occurring in parking lots. Stationary source impacts would result in a significant impact. (Significant Impact).

(It should be noted that stationary noise impacts associated with the WinCo Foods loading docks would also be eliminated with the City's selection of Alternative 2.)

Impact 3.12-G. Loss of Prime Farmland: The proposed project would result in the direct conversion of approximately 29 acres of Prime Farmland. As stated in the City's General Plan, no mitigation is available that would reduce this type of impact to a less than significant impact other than outright prohibiting development on prime agricultural lands. The loss of 29 acres of Prime Farmland would be considered a significant and unavoidable impact. (Significant and Unavoidable Impact).

The City of Lodi has required mitigation measures that will reduce these impacts, but even with implementation of those measures, these certain impacts will remain significant. The City of Lodi nonetheless finds that economic and social considerations justify the approval of the project generally described as Alternative 2, which itself substantially reduces potentially significant impacts of the proposed project. The City hereby finds that the unavoidable impacts of the project are acceptable when balanced against the benefits of the project, even after giving greater weight to its duty to avoid environmental impacts and to protect the environment to the maximum extent feasible. This determination is made based upon the factors and public benefits, which are identified in the Final EIR and record of proceedings, and set forth below.

Each benefit of the Project set forth below is an overriding consideration warranting approval of the Project despite each and every unavoidable impact described in the Final EIR. In addition, each benefit set forth below, independently and in itself, constitutes a sufficient overriding consideration for all such unavoidable impacts.

1. Project Will Implement Vital Municipal Infrastructure Improvements

Through the development of the project, a number of public infrastructure projects will be constructed on the project site and in the project vicinity. As described in DEIR pgs. 3.2-14 through 3.2-17, the project will construct planned roadway improvements at Lower Sacramento Road, near Highway 12,

and along that portion of Highway 12 that fronts the project site. This is an economic benefit of the project in that these improvements would otherwise not be made without approval and implementation of the project.

The project will also be conditioned to pay impact fees to the City in accordance with Lodi's adopted Development Impact Mitigation Fee program, which is authorized by City of Lodi Municipal Code Chapter 15.64 as established by Resolution No. 2001-242. Development Impact Mitigation Fees can be applied towards municipal improvements such as water, sewer, storm drainage, and streets and police, fire, parks and recreation, and general City government. These are vital municipal improvements necessary to the function of the City and the quality of life for Lodi residents providing another economic benefit as well as social benefit of the project.

The infrastructure improvements that will be constructed with the project or made through payment of Development Impact Mitigation fees are overriding economic and social benefits of the project that outweigh the significant effects on the environment.

2. Project Implements Adopted City Plans

The project site is situated within the Lodi City limits. The site has been planned for commercial development in the City of Lodi General Plan, the Westside Facilities Plan and the Lodi Zoning Ordinance. DEIR pgs. 3.1-2 through 3.1-15. Therefore, the project implements adopted City plans and policies by accomplishing the City of Lodi long-term development plans for commercial use at the project site. These plans could not otherwise be implemented by the City. Implementation of the City's adopted land use plans and ordinances are benefits of the project that outweigh the significant effects on the environment that would result with the project.

3. Project Captures Sales Leakage and Increase the Quality of Life of Local Residents

There are a number of stores located in the City of Lodi that offer select home improvement goods such as paints, electrical appliances, household and floor coverings. DEIR pgs. 3.5-1 through 3.5-5 and Appendix A. However, a home improvement warehouse store, such as being offered with the project, is not located in the City of Lodi. The nearest existing Lowe's Home Improvement Center, for example, is located in North Stockton, some 8 miles to the southeast. DEIR p. 3.5-2. The project will capture sales that are currently leaking into other market areas that offer home improvements at a warehouse-style retail warehouse. DEIR pgs. 3.5-1 through 3.5-5 and Appendix A.

By capturing sales leakages, the project will have a beneficial effect on the quality of life for Lodi residents. Currently, most retail shoppers travel in single-occupancy vehicles into outlying regions for home improvement goods. The number of these single-occupancy trips would be reduced because home improvement goods will now be offered in the new home improvement store in the City of Lodi – thereby avoiding the need to travel to outlying areas for such goods. The availability of local home improvement retail is a social benefit of the project in that Lodi shoppers will not be required to travel into outlying areas to obtain goods that would be offered with the project. Furthermore, the Vintner's Square shopping center is located along existing bus routes that operate in the City. The City owns 20 busses that run on compressed natural gas (CNG). These busses carry, on average, 520,000 passengers and travel approximately 520,500 miles annually. Some of these busses would serve the proposed project site. Therefore, the project will allow for the option of shoppers to use buses, rather

than rely exclusively on single-occupancy vehicles, to shop for home improvement goods. Overall, the anticipated improvement in air quality would be an improvement in the quality of life for local Lodi residents. Consequently, the project provides social and environmental benefits that outweigh the environmental consequences of the project.

4. Project Will Generate City Sales Taxes

The sales generated at the Vintner's Square Shopping Center will generate additional sales taxes for the City, which would otherwise not be generated by the undeveloped site. The West Kettleman Lane area has been one of the strongest sales tax revenue generating areas in the City over the past decade and has the continued potential to generate sales taxes. Appendix A pgs. 3 and 4., and pgs. 9-11. The Lowe's store of the Vintner's Square Shopping Center is estimated to generate approximately $30 million in sales alone and would capture approximately $16.6 million is sales currently leaking to the Home Depot store in Stockton and other regional competitors. Appendix A, p. 9 and 12, respectively.

Sales taxes go into the City of Lodi General Fund. The General Fund is updated every other year and is based, in part, on an estimate of all anticipated revenues, including sales taxes that will be generated in the City of Lodi. General Fund monies are the heart of municipal funds that are essential for the construction, operation and maintenance of a number of vital City services, programs and facilities. General Fund monies are used for, as an example, water and sewer services and improvements, library services, City salaries, recreation programs, fire and police services, transit operations, planting/replacement and maintenance of street trees.

The project's contribution of substantial sales taxes to the City of Lodi and the need for these taxes to help support vital City services, programs and facilities through the General Fund are economic and social benefits of the project that override the significant environmental effects on the environment.

5. Creates Part-time Construction and Permanent Employment for Local Residents

The Vintner's Square Shopping Center will generate both short-term construction jobs, as well as long-term part-time and full-time jobs. As described on DEIR p. 7-1, the project would generate an estimated 550 permanent employees and 150 construction workers (approximately 150 permanent jobs would have been contributed by WinCo Foods, thereby somewhat reducing this number). These jobs do not require "special skills" (e.g., high-tech jobs) and therefore could be filled by local residents. No importation of specially-skilled workers would be required to fill these jobs. Consequently, it is anticipated that City of Lodi residents would benefit by the added employment opportunities offered by the Vintner's Square Shopping Center project resulting in additional economic and social benefits of the project that outweigh the significant effects on the environment.

7. Creates Desirable Gateway Design into the City

Goal B of the City of Lodi Urban Design and Cultural Resources Element (DEIR p. 3.7-2) and related Policy 1 states:

- Goal B: To establish identifiable, visually appealing, and memorable entrances to the City

Policy 1: The City shall upgrade the principal roads entering the City at strategic entry points through landscaping, signage, light standards, and other physical elements that identify and

MINUTES

DRAFT

LODI CITY PLANNING COMMISSION

CARNEGIE FORUM
305 WEST PINE STREET
LODI, CALIFORNIA

WEDNESDAY **May 14, 2003** **7:00 P.M.**

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

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

Commissioners Absent: None

Others Present: Konradt Bartlam, Community Development Director, J.D. Hightower, City Planner, Mark Meissner, Associate Planner, and Lisa Wagner, Secretary.

PUBLIC HEARINGS

The continued request of Kenneth Phillips for a Variance to encroach within the front and rear yard setbacks, and allow an increased lot coverage for a new home at 18 South Pleasant Avenue. Chairman Heinitz left the chambers due to a Conflict of Interest. Mark Meissner presented the matter to the Commission. The applicant wanted to replace the existing one-story home with a two-story home. The new home will have 5 foot side yard setbacks all the way around the perimeter with 65% lot coverage. When the new home is built, the property will be more in compliance with the Zoning Code. Staff was recommending approval of the request.

Hearing Opened to the Public

Cheryl Phillips, Owner of property and applicant. Ms. Phillips stated that she was trying to make the new home aesthetically pleasing, which will be an immense improvement to the property. She was agreeable to the conditions set forth in the Resolution.

Hearing Closed to the Public

The Planning Commission on motion of Commissioner Aguirre, Haugan second, approved the request of Kenneth Phillips for a Variance to encroach within the front and rear yard setbacks, and allow an increased lot coverage for a new home at 18 South Pleasant Avenue by the following vote:

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

The request of Jim Manion, Lowes, to certify a Final Environmental Impact Report pursuant to the California Environmental Quality Act and approve a Use Permit to construct commercial structures in the Commercial Shopping (C-S) zoning district, a Use Permit to allow parking for commercial establishments in the Low Density (R-2) zoning district and approving an 8-lot Tentative Parcel Map. Commissioner Phillips and Commissioner Crabtree left the chambers due to Conflicts of Interests. Community

Development Director Bartlam explained that the request entailed two use permits and one parcel map in addition to the EIR. One of the Use Permits would give approval to construct structures in the Commercial Shopping (C-S) zoning district and the other would allow parking for commercial establishments in the Low Density (R-2) zoning district. The Parcel Map was being requested for future ownership purposes. The proposed Lowe's would be 166,000 square feet in size and located within the center along with other "pad" buildings. The total site encompasses just over 22 acres. The plan for the center was a downsized version from what had been previously reviewed. The new plan showed an upgraded version of the proposed Lowe's. The Site Plan and Architectural Committee will have the final say on the design of Lowe's.

City Planner Hightower outlined the Final Environmental Impact Report (FEIR) for the project.. A number of alternatives were evaluated and Alternative 2 was the preferred alternative for the project. There were a number of objectives associated with the project, mainly to bring a home improvement center to Lodi to meet current market demands for those types of services. Alternative 2 was a reduced version of the original project. There were a number of impacts; however, there were significant and unavoidable impacts to air quality, loss of farmland and stationary noise impacts. There needs to be a balance for those impacts and CEQA provides a variety of findings based on those impacts. He asked the commission to consider 7 over-riding findings to certify the FEIR. Those findings were: 1) Project will implement vital municipal infrastructure and improvements in that the project will construct public facilities as envisioned by the Westside Facilities Master Plan along with all other City Master Plans. 2) Project implements adopted City Plans in that that plan is consistent with the General Plan. 3) Project will capture sales leakage and increase the quality of life of local residents. 4) Project will generate City sales tax. 5) Project will create employment opportunities for local residents. 6) Project will create a desirable gateway to the City. The project is consistent with all elements of the General Plan. Although the draft EIR was prepared for the original project, the impacts created by the original project as with Alternative 2 were very similar. Alternative 2 provides somewhat reduced impacts as compared to the impacts that were evaluated within the draft EIR.

Chairman Heinitz liked the new plan. The new plan showed Lowe's located on the west side of the property rather than the north side. He was glad to see that the loading docks would not be parallel to any residential properties. He had a concern about the visual impact the store would have since it was the gateway into Lodi. Mr. Bartlam replied there would still be a new signalized intersection, a new street running to the north and the south, 50 feet of landscaped area to run along the new street and Kettleman Lane. He felt these items would soften the visual impact of the shopping center.

Commissioner Mattheis asked is Road "A" would be improved up to Taylor Road. Mr. Bartlam replies "yes". Commissioner Mattheis asked the City Planner which mitigations were being enacted above and beyond the prior project as a result of the EIR. City Planner Hightower replied that there were several mitigation measures listed within the EIR with the most significant impacts being traffic and air quality generated by the project. The impacts that the project creates and the mitigation measures were numerous. These impacts can be adequately handled. The most important part of the mitigation measures is a Mitigation-monitoring Plan as part of the FEIR.

Mr. Bartlam noted that there were 26 mitigation measures this time around. Nothing was really different from the original plan just the level of detail was stepped up. The foremost benefit was the element of public review. Once the DEIR was closed for Public comment, four letters were received addressing their concerns and responses to the final EIR. The responses had been addressed in the FEIR.

Chairman Heinitz asked what changes had been made to the elevations for Lowe's. Mr. Bartlam replied they were able to extract more architectural detail. The materials used will be richer than what was usually used for Lowe's Stores. Cornice treatments will complete the top of the buildings. Benches and trellises will also be installed and will accommodate a bus stop.

Chairman Heinitz asked what roadway improvements would be made with the project. Mr. Bartlam explained that there would be improvements to the frontage on Lower Sacramento Road, which will be the main entrance from the east into the center. A secondary drive to the north and a secondary drive to the south, so those who want to enter the site from the north could make a right turn in to the center. The main entry on Lower Sacrament Road will have a sidewalk from the street to Lowe's with landscaping on both sides. There will be one driveway on Kettleman Lane with a right turn in and exit with a landscaped median on Kettleman Lane. There will be a new signalized light for Road "A" that will ultimately be the collector street running north and south off of Kettleman Lane. Circulation on site will occur in a loop fashion.

Hearing Opened to Public

Eileen St. Ives, 310 S. Orange Ave, Lodi. Ms. Ives was looking forward to the Lowe's store opening. It will put people back to work and put money back into the community.

Osha Meserve , 455 Capitol Mall, Suite 210, Attorney with Remy Thomas Moose. Ms. Merserve was present to represent Ann Cerney and Citizens for Open Government. She pointed out that the EIR process had identified significant impacts that weren't identified in the Negative Declaration prepared for the project. She felt the FEIR was still not adequate for the project. The project being adopted at the meeting was not put forward as the proposed project and was misleading to public. The mitigation that was suggested by her clients was incorporated as far as air quality impacts; however, she felt more could be done. She felt that any new residential development to the north of the project should have been analyzed as to how it would affect traffic in that particular area. What her clients were most concerned about was the lack of mitigation for agricultural impacts of the project. She suggested in her comment letter that replacement farmland be purchased by the project proponent as mitigation for the significant impact that was identified in the EIR. This could be done through an out right purchase or conservation easement. The FEIR did not explain why the purchase of agricultural land was unfeasible for the City to require this of the project applicant. Instead, the response focussed on the fact that the General Plan foresaw development in the area and that there would be a significant impact on agriculture. She felt the EIR was still inadequate and should not be certified by the Commission.

Shawn Mazzanti, 229 S. Church Street, Lodi. Ms. Mazzani is the Vice President for the Bank of the West. She has worked with the Geweke family on many projects that they

have brought to the Community. She felt it was a great project and wished for it to move forward.

Dale Gillespie, 1054 E. Woodbridge Road , Woodbridge. Mr. Gillespie was present to represent G-REM (project developer). He asked for approval of the project. Since the Commission meeting of September 2002, there had been significant changes to the plan. The community seemed to want a smaller project so that is what they have delivered. The new reconfigured project will not require a General Plan Amendment or Rezone. They will be building entirely on land that is zoned appropriately for a shopping center as specified in the General Plan.

Commissioner Aguirre asked about the -R-2 zoning that would be located behind the Lowe's Store. Mr. Gillespie replied that it would be similar to the loading docks behind the Target and Safeway stores; which incorporate a decorative masonry wall with significant landscaping in front of them. They will do their best to screen the rear of the store from future residential properties.

Commissioner Mattheis asked if the Art in Public Places program was a condition for the project. Mr. Bartlam replied it was not a condition for the project because it is not a requirement and he was unsure whether the program had the funds yet to accompany the project. The developer has had discussions with the Art's Coordinator specifically about doing something at the Kettleman Lane and Lower Sacramento Road intersection.

Peter Westbrook, President of Downtown Business Partnership, 1731 W. Tokay Street, Lodi. Mr. Westbrook felt the project would not hurt the downtown area. There already was a positive existence of the big box stores and downtown. He wanted to keep sales tax revenues in Lodi. He spends a lot of money in Stockton at home improvement stores and he would rather spend his money in Lodi.

Phil Pennino, 1502 Keagle Drive, Lodi. Mr. Pennino was in support or the project. He felt the plan was well thought out and the development of the property had been planned for years. The Kettleman Lane and Lower Sacramento Road intersection had been planned for commercial development in the area. He has been a long time supporter of open space, unfortunately there is no political will to do the open space between Lodi and Stockton. The developer has met their obligations by having an EIR prepared, holding public meetings, and having newspaper articles in the local paper. The one question that people always ask him is "When is Lowe's coming to town?" The citizens want the store and he encouraged the Commission to approve the project as well as the EIR.

Tim Howard, 237 Tienda Drive, Lodi. Mr. Howard felt good thought had gone into the project. He asked the Commission to approve the document. He would like to see police patrols during the holidays and that the center become more pedestrian friendly. It will be a nice asset to the community.

Ann Cerney, 900 W. Vine Street, Lodi. Ms. Cerney represented herself as well as being a member of Citizens for Open Government. She thanked city staff for having the EIR prepared. The first time she came and spoke about the project she indicated that she did not speak against the project, she spoke for an open process, for which she thanked staff. She appreciated that some of their suggestions were address in the FEIR, and felt it made

the project better; however, she had further issues. Her main concern was the loss of agricultural land and would like to see a process in place that would preserve farmland forever. She was hopeful the project would bring some measure of resolution to the loss of agricultural land.

Commissioner Aguirre concurred with Ms. Cerney's desire to preserve farmland.. Ms. Cerney asked him to consider the suggestion they had made for the mitigation of loss farmland. The City should extract every possible kind of deterrent for the "gobbling up" of precious farmland.

Art Raab, 1800 Walnut Street, Lodi. Mr. Raab did not oppose the Lowe's project; however, he was disappointed with the FEIR and its failure to address the demise of agricultural land. Citizens failed to push harder for some land to be set aside when properties were developed many years ago.

Commissioner Haugan echoed the concern to preserve farmland. He stated the time to address this piece of land should have been brought up when the Westside Master Facilities Plan was approved, not now. The fight should not start with this particular project or the project across the street. He did not recall ever seeing a crop grown on the subject site. If you used the property as farmland, there would be many complaints such as dust from the tractor. He asked where 30 acres of agricultural land was for sale? He welcomed any one from the crowd to join him on a Committee to help preserve the greenbelt around Lodi.

Del Smith, 1102 Waterford Way, Lodi. Mr. Smith felt the group opposing the project had been extremely disingenuous about doing something good for the Community. The project is about the quality of life for Lodi. Every good community needs economic drivers to pay for things that give us the quality of life we enjoy. The project would generate approximately one million dollars per year to the City. The City could have paid for many projects with the money. No one likes a big box, but they can be improved to be beautiful stores. The urgency for the project was last year. Tax dollars will be sucked out of the community and the quality of life in Lodi will suffer if the project does not move forward.

Dave Williams, 1213 W. Lockeford Street. Mr. Williams liked the idea of more jobs in Lodi and less driving to Stockton. There will be less traffic on the roadways and less fuel consumed. The idea of the EIR being inadequate and being redone only delays the project. It does no one good to delay the project any longer. The benefits of the project far outweigh the burdens to the community.

Pam Clark, 4995 E. Harney Lane, Lodi. Ms. Clark has lived in Lodi all her life. The project will bring jobs to Lodi, but they don't pay well. She liked the idea of the developer having to purchase additional farmland to replace what they were taking. The store will be a great convince.

Barbara Williams, 1818 Amber Leaf Way, Lodi. Ms. Willams was the Conservation Chair for the Sierra Club. In the beginning she opposed the project because the Negative Declaration was not enough and she felt it deserved an EIR. She appreciated that the process went forward. It's never too late for concerned citizens to speak out.

Janet Pruss, 2421 Diablo Drive, Lodi. Ms. Pruss appreciated how active the community had been with the project. She asked the community to look farther ahead than now to preserve what farmland was left.

Leon Zimmerman, Bank of Lodi, 701 S. Ham Lane. Mr. Zimmerman was in favor of the project. The project fits with the General Plan, makes sense and wll provide jobs for the young as well as the old.

Hearing Closed to Public.

Commissioner Aguirre stated that when the town grows, it's progress. As it grows, people will have to learn how to develop it responsibly.

Commissioner Mattheis liked the downscaled project and felt it had a good mix for the corner. He suggested an additional sentence to condition (14b) "That there be sufficient articulation of the primary façade elevations." Add a (16 s) to read "Prior to a building permit that they incorporate an APP project in partnership with the Art in Public Places Board and make an application prior to approval of the building permit."

The Planning Commission on motion of Commissioner Mattheis, Aguirre second, approved the requests with the addition of a sentence to (14b) that read "That there be sufficient articulation of the primary façade elevations." Add a (16 s) to read "Prior to a building permit that they incorporate an APP project in partnership with the Art in Public Places Board and make an application prior to approval of the building permit by the following vote:

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

ADJOURNMENT

As there was no further business to be brought before the Planning Commission, Chairman Heinitz adjourned the session at 9:30 p.m.

Respectfully submitted,

Lisa Wagner
Secretary

RESOLUTION NO. 2003-116

A RESOLUTION OF THE LODI CITY COUNCIL AFFIRMING THE PLANNING COMMISSION'S CERTIFICATION OF THE FINAL ENVIRONMENTAL IMPACT REPORT FOR THE VINTNER'S SQUARE SHOPPING CENTER

WHEREAS, notice thereof having been published according to law, an affidavit of which is on file in the office of the City Clerk, a public hearing was held July 2, 2003, by the Lodi City Council to consider the appeal of Ann M. Cerney and Citizens for Open Government regarding the Planning Commission's approval of the request of Jim Manion, on behalf of Lowe's, to certify the Final Environmental Impact Report for the Vintner's Square Shopping Center pursuant to the California Environmental Quality Act.

NOW, THEREFORE, BE IT RESOLVED that the Lodi City Council does affirm the Planning Commission's certification of the Final Environmental Impact Report for the Vintner's Square Shopping Center pursuant to the California Environmental Quality Act.

Dated: July 2, 2003

I hereby certify that Resolution No. 2003-116 was passed and adopted by the City Council of the City of Lodi in a regular meeting held July 2, 2003, by the following vote:

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

NOES: COUNCIL MEMBERS – Mayor Hitchcock

ABSENT: COUNCIL MEMBERS – None

ABSTAIN: COUNCIL MEMBERS – None

Susan J. Blackston

SUSAN J. BLACKSTON
City Clerk

CERTIFICATE OF POSTING NOTICE OF CONTINUED PUBLIC HEARING OF THE CITY COUNCIL OF THE CITY OF LODI

I, SUSAN J. BLACKSTON, certify that on June 19, 2003 I posted "NOTICE OF CONTINUED PUBLIC HEARING OF THE CITY COUNCIL OF THE CITY OF LODI" to consider the appeal of Ann M. Cerney and Citizens for Open Government regarding the Planning Commission's approval of the request of Jim Manion, on behalf of Lowe's, to certify a Final Environmental Impact Report for the Vintner's Square Shopping Center pursuant to the California Environmental Quality Act near the Council Chamber door; that said Notice remained posted until after the hour set for said hearing, as shown on said Notice.

A copy of said "NOTICE OF CONTINUED PUBLIC HEARING" as posted near the Council Chamber door, is shown on the attached and is made a part of this Certificate of Posting.

Dated: June 19, 2003

SUSAN J. BLACKSTON, CITY CLERK
OF THE CITY OF LODI

NOTICE OF CONTINUED PUBLIC HEARING

CITY COUNCIL

CITY OF LODI

NOTICE IS HEREBY GIVEN that the public hearing of the City Council of the City of Lodi to consider public comments/testimony regarding the appeal of Ann M. Cerney and Citizens for Open Government regarding the Planning Commission's approval of the request of Jim Manion, on behalf of Lowe's, to certify a Final Environmental Impact Report for the Vintner's Square Shopping Center pursuant to the California Environmental Quality Act, has been continued to Wednesday, July 2, 2003, at the hour of 7:00 p.m. in the Council Chamber, Carnegie Forum, 305 W. Pine Street, Lodi, California.

Posted June 19, 2003

SUSAN J. BLACKSTON
CITY CLERK
Of the City of Lodi

CITY COUNCIL

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

CITY OF LODI

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H. DIXON FLYNN
City Manager

SUSAN J. BLACKSTON
City Clerk

RANDALL A. HAYS
City Attorney

July 3, 2003

Remy, Thomas, Moose and Manley, LLP
Attn: Osha R. Meserve
455 Capitol Mall, Suite 210
Sacramento, California 95814

CITY COUNCIL PUBLIC HEARING

RE: APPEAL BY ANN M. CERNEY AND CITIZENS FOR OPEN GOVERNMENT OF PLANNING COMMISSION DECISION (05/14/03)

This is to notify you that at the City Council meeting of July 2, 2003, the Council voted to affirm the Planning Commission's certification of the Final Environmental Impact Report for the Vintner's Square Shopping Center pursuant to the California Environmental Quality Act. A copy of the City Council resolution pertaining to this matter is attached for your records.

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

Sincerely,

Susan J. Blackston
City Clerk

cc: Ann Cerney
Community Development Department