



**CITY OF LODI
COUNCIL COMMUNICATION**
TM

AGENDA TITLE: Conduct Public Hearing to Consider the Appeal of California Citizens for the Equal Application of the Law Regarding the Planning Commission's Decision to Approve a Use Permit to Operate a Fitness Facility at 1320 West Lockeford Street (APN 035-340-09; Use Permit No. 12-U-19)

MEETING DATE: March 6, 2013

PREPARED BY: Community Development Director

RECOMMENDED ACTION: That the City Council deny the appeal and uphold the Planning Commission's decision to grant a Use Permit for In-Shape Health Clubs Inc. to establish and operate a fitness facility in an existing building located at 1320 West Lockeford Street.

BACKGROUND INFORMATION: At their meeting of January 9, 2012, the Lodi Planning Commission held a Public Hearing to consider the request of Sandra Homan, on behalf of In-Shape Health Clubs, Inc., to establish and operate a fitness facility in an existing building located at 1320 West Lockeford Street. Following extensive public testimony and discussion, written and oral testimony received at the Public Hearing, the Planning Commission voted to approve the Use Permit request.

The Planning Commission took testimony from the property owner, project applicants and George Petrulakis, an attorney representing a group called Citizens for the Equal Application of the Law. The main issues raised by the Mr. Petrulakis are twofold: First, he contends the project warrants an initial study and use of CEQA exemption subverts the purpose of CEQA. Second, the required findings for a Use Permit under the City's Ordinances cannot be made in this case and not supported by evidence. He filed an appeal with the City Clerk's office to have the City Council overturn the actions of the Planning Commission and to deny the Use Permit. The appeal was filed on timely manner.

PROJECT DESCRIPTION:

The In-Shape Fitness Facility is proposed to be open seven days a week with operating hours likely falling between 4 a.m. to 11 p.m., Monday through Friday, and 6:30 a.m. to 8:30 p.m. on Saturday and Sunday; however, the applicant would like to have approval to operate 24 hours per day, depending on market demand. The facility is expected to employ approximately 10 full time and 25 part-time people and will generally have anywhere from four to 14 employees on site at any given time.

The proposal includes a variety of amenities for members including a kids club (child care), juice bar/lounge area, indoor lap and family pool, group cycling and exercise classes, personal fitness training, cardio and weight machines, free weights, swimming lessons, steam room, sauna,

APPROVED: _____

Konradt Bartlam, City Manager

racquetball, a separate women's fitness area, stretching area and tanning. To accommodate all of these amenities, the applicant proposes addition of a 3,934 sq. ft. mezzanine within the building.

Analysis:

The project site is located at 1320 West Lockeford Street in the Lakewood Mall shopping center at the southwest corner of Lockeford and Ham Lane. The tenant space is currently occupied by Apple Market. The project site consists of approximately 3.5 acres and involves an existing 30,333 sq. ft. building with an adjoining parking lot that currently meets minimum landscaping requirements and accommodates 362 parking spaces. On the west side of the building (the back side), there is an existing loading dock with roll-up doors and some additional mature landscaping. Surrounding the site is an existing parking lot (to serve the project site), residential properties to the west, and commercial properties to the north and east.

All improvements associated with the project would occur entirely within the building footprints and would not involve expansion of the building. The proposed project and subsequent improvements will be subject to numerous provisions of the Lodi Municipal Code (i.e., the Fire Code, Zoning Code, Health and Safety Code) and the International Building Code. Other health and safety related requirements as mandated by law would apply where applicable to ensure the public health and welfare (i.e., seismic safety). In addition, the project would not be placed over a hazardous materials site, flood hazard area, or be located on unsuitable soil conditions. The project would not place any users of the facility near a hazardous materials site or involve the use or transport of hazardous materials or substances.

In November 15, 2012, the City received an application for a recreational fitness facility and required materials. Upon review of the applications and the materials submitted in support of the applications, staff prepared an Initial Study to determine the appropriate CEQA analysis for this project. Because the project is an in-fill project involving no physical expansion of the building, is consistent with the General Plan and Zoning Ordinance, and because no variance from regulations are required to accommodate the project, staff determined the project was categorically exempt from further CEQA analysis. A number of exemptions apply to the project, but staff chose to list Article 19 §15321, (Class 21) (a) (2), which applies to projects that are classified as an "Enforcement action by regulatory agencies" because it is the "adoption of an administrative decision or order enforcing or revoking the lease, permit, license, certificate, or entitlement for use or enforcing the general rule, standard, or objective." A Use Permit application is an entitlement process and its approval is enforcement action. However, because an appeal has been filed on the basis of CEQA exemption, staff has listed all applicable CEQA exemption for the project below.

Environmental Assessments

The California Environmental Quality Act (CEQA) defines an action that has the potential to result in a direct or indirect physical change in the environment as a project. Such projects require environmental review unless specifically exempted by certain statutory or categorical exemptions. Staff performed a preliminary environmental assessment of the proposed In-Shape Fitness Facility project and found that the following categorical exemptions apply to the project: 14 CCR §15301(a) (Class 1), 14 CCR §15332 (Class 32), 14 CCR §15061(b)(3), and 14 CCR §15183.

The project is categorically exempt from CEQA review under 14 CCR §15301(a). Class 1 consists of the operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing public or private structures, facilities or mechanical equipment, involving negligible or no expansion of use beyond that existing at the time of the lead agency's determination. The project meets this exemption because the proposed use does not expand the physical use of the existing structure. Further, proposed alterations are to be made primarily to the interior of the existing building without increasing the square footage of the structure or changing its zoning designation.

The project is found to be categorically exempt from CEQA review under 14 CCR §15332. Class 32 consists of projects characterized as in-fill development meeting the following conditions: (a) the

project is consistent with the applicable general plan designation and all applicable general plan policies as well as with the applicable zoning designation and regulations, (b) the proposed development occurs within city limits on a project site of no more than five (5) acres substantially surrounded by urban uses, (c) the project site has no value as habitat for endangered, rare or threatened species, (d) approval of the proposed project would not result in any significant effects relating to traffic, noise, air quality, or water quality, and (e) the site of the proposed project can be adequately served by all required utilities and public services.

The proposed project site is located within the city limits and is less than five (5) acres; it consists of an existing 30,333 sq. ft. building (currently occupied by a single tenant grocery store) with an adjoining parking lot that accommodates 362 parking spaces. The proposed project can be adequately served by existing utilities and public services. The project site is within the C-S Zone, which allows for health club facilities and studios with the approval of a Use Permit, and is consistent with the city's General Plan. Surrounding the proposed project site is an existing parking lot (which will serve the proposed project), commercial properties to the north, south, and east and residential properties, buffered by a cinderblock wall, to the west. Because the site is surrounded by urban uses it has no value as habitat for endangered, rare or threatened species. The proposed project would not result in any significant effects relating to traffic, noise, air quality, or water quality. The proposed project meets the intent of infill development under CEQA.

The proposed project is also exempt from CEQA under 14 CCR §15183 (projects consistent with a community plan, general plan or zoning). CEQA mandates that projects which are consistent with the development density established by existing zoning, community plan, or general plan policies for which an Environmental Impact Report (EIR) was certified shall not require additional environmental review. The project is consistent with the current zoning and the City's General Plan.

In addition, the proposed project is exempt from CEQA review under 14 CCR §15061(b)(3). A project is exempt from CEQA if it does not have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in questions may have a significant effect on the environment, the activity is not subject to CEQA. For the reasons discussed above, no significant environmental effects would occur as the result of the proposed project.

None of the exceptions to categorical exemptions as set forth in the CEQA Guidelines (14 CCR §15300.2) apply to the proposed project.

Although staff found the proposed project to be categorically exempt under CEQA (as discussed in detail above) an initial study (see Attachment 4), was also conducted and found that the project would not have a significant effect on the environment and as a consequence no mitigating measures are required. This finding was based, in part, on the fact that no significant adverse effect to water or air quality and no significant adverse impact to flora or fauna, traffic, land use, public structure, or infrastructure were identified. However, because the project is found to be categorically exempt under CEQA, there is no requirement for the preparation and posting of the Negative Declaration.

Required Findings for a Use Permit

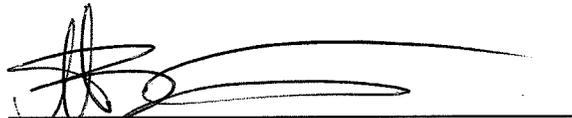
The City of Lodi Planning and Zoning Commission has the authority to grant approval for Variances, termed 'adjustments', and Use Permits under the procedure set forth in Lodi Municipal Code §17.72. In granting a Use Permit pursuant to Lodi Municipal Code § 17.72.080, the Planning Commission is required to make the following findings:

- The establishment, maintenance or conducting of the use will not, under the circumstances of the particular case, be detrimental to the health, morals, comfort or welfare of persons residing or working in the neighborhood of the proposed use, or to property or improvements in the neighborhood, or will not be contrary to the general public welfare.

The required findings can be made to approve the project as proposed. The proposed health/fitness club complies with all requirements as set forth for the issuance of this Use Permit, in that the site is adequate in size, shape and topography for the proposed use, consisting of an existing building. Second, the site has sufficient access to streets, is adequate in width and pavement type to carry the quantity and quality of traffic generated by the proposed use. Third, the proposed use is deemed to be consistent to the General Plan and the Zoning Ordinance. Fourth, the proposed use, as conditioned in Planning Commission Resolution No. 13-02, will not have an adverse effect upon the use, enjoyment or valuation of property in the neighborhood. Fifth, the proposed use will not have an adverse effect on the public health, safety, and general welfare because the proposed health/fitness club is a membership and health based organization, it is less likely than a retail facility (which is the current of the site and is a use that would be open to the general public), to cause any nuisance or enforcement problems within the neighborhood. Finally, the use of a health/fitness club is appropriate for the proposed location in that it would occupy an existing large scale retail building within an existing commercial center. A health/fitness club is a use that generally promotes and encourages healthy living within the community.

FISCAL IMPACT: None

FUNDING AVAILABLE: None



Konradt Bartlam
Community Development Director

KB/IB

Attachments:

1. Citizens for Equal Application of the Law Appeal dated January 23, 2013
2. Planning Commission Staff Report
3. Planning Commission Resolution No. 13-02
4. Initial Study/Categorical Exemption
5. Planning Commission minutes of January 9, 2013
6. Draft Resolution



APPEAL FORM

To: Rad Bartlam, City Manager
(Appropriate Department Head)

From: Randi Johl, City Clerk

Date: January 23, 2013

This is to notify you that our office has received the attached letter of appeal from the following:

Name: George A. Petrulakis
(Citizens for the Equal Application of the Law)

Address: c/o Janice Keating
Post Office Box 92
Modesto, California 95353

Phone Number: (209) 522-0500

Subject: Planning Commission Decision of 1/9/13
1320 West Lockeford Street (APN: 035-340-09)
Use Permit No. 12-U-19

Check list:

City Clerk's Office

Inform appellant he will be contacted by appropriate Department Head to set dates.

Department Head

City Council meeting date for setting Public Hearing 2/20/13.
(City Clerk to prepare Council Communication) (Date)

City Council meeting date for Public Hearing 3/6/13.
(Department Head to prepare Council Communication) (Date)

Department Head notify appellant by phone of meeting dates.

Return Completed Appeal Form to the City Clerk's Office.

PETRULAKIS LAW & ADVOCACY, APC
ATTORNEYS AND COUNSELORS AT LAW
1130 12TH STREET, SUITE B
MODESTO, CALIFORNIA 95354
TELEPHONE 209 522-0500
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GEORGE A. PETRULAKIS
BARBARA J. SAVERY, OF COUNSEL

PLANNING & POLICY
ANALYSTS
GILBERT D. BOSTWICK
CHRIS A. ESTHER

RECEIVED
JAN 23 2013
CITY CLERK

MAILING ADDRESS
POST OFFICE BOX 92
MODESTO, CA 95353-0092

January 23, 2013

Lodi City Council
c/o Ms. Randi Johl
City Clerk
City of Lodi
Lodi, CA 95241-1910

Via Fax & Hand Delivery

RE: Appeal of Planning Commission Decision to City Council

Dear Ms. Johl:

This letter is an appeal to the City Council of the Use Permit Number 12-U-19 and utilization of the Class 21 exemption under the California Environmental Quality Act for this use permit that were approved by the Planning Commission on January 9, 2013.

The material facts of the appeal and the reasons why the Planning Commission decision regarding this matter should be set aside are as follows:

The City processed the above referenced use permit utilizing a Class 21 CEQA exemption. Other more specific exemptions that would be more appropriate to an in-fill project were not used because the required conditions for these exemptions are not present. Consequently, the City used the Class 21 exemptions as a sort of "catch-all" exemption. This is an improper use of the Class 21 exemption as this exemption is intended for enforcement or revocation actions of regulatory agencies or law enforcement activities. It is not intended for the issuance of use permits for new land uses.

In a review of previous City uses of this exemption, it appears that the City utilizes this exemption in a pattern and practice of avoiding compliance with CEQA when other exemptions do not apply. In this manner, the City often employs this Class 21

Ms. Randi Johl
City Clerk
January 23, 2013
Page 2

exemption when the more ordinary initial study process is warranted. This subverts the important purpose of CEQA in ensuring that proper information regarding potential significant environmental effects is available to decision makers and the public.

In addition, the required findings for a use permit under the City's ordinances cannot be made in this case and are not supported by evidence.

According to your fee schedule (copy attached), the fee for an appeal is \$300. Enclosed with the hand-delivered version of this letter is check number no. 1332 in the amount of \$300 for this appeal. If this amount is incorrect, please contact me immediately.

Also enclosed is the form entitled "Application for Appeal" that was provided to Gilbert D. Bostwick of my office in response to his request for the "department hand out for appeal applications" cited in your Municipal Ordinance Section 17.88.060.A.3.b.

Thank you for your consideration of this appeal.

Very truly yours,

PETRULAKIS LAW & ADVOCACY, APC



George A. Petrulakis

cc: California Citizens for the Equal Application of the Law
Janice E. Keating

**CITY OF LODI
PLANNING COMMISSION
Staff Report**

MEETING DATE: January 9, 2012

APPLICATION NO: Use Permit: 12-U-19

REQUEST: Request for Planning Commission approval of a Use Permit to operate a fitness facility in an existing building located at 1320 West Lockeford Street. (Applicants: Sandra Homan, on behalf of In-Shape Health Clubs, Inc.; File Number: 12-U-19)

LOCATION: 1320 West Lockeford Street
(APN: 035-340-09)
Lodi, CA 95240

APPLICANT: Sandra Homan, on behalf of In-Shape Health Clubs, Inc
6 South El Dorado Street, 7th Floor
Stockton, CA 95202

PROPERTY OWNER: Stone Brothers and Associates
5757 Pacific Avenue, Suite 220
Stockton, CA 95207-5159

RECOMMENDATION

Staff recommends that the Planning Commission approve the requested Use Permit to operate a fitness facility at 1320 North Ham Lane, subject to the conditions outlined in the draft resolution.

PROJECT/AREA DESCRIPTION

General Plan Designation: Commercial

Zoning Designation: C-S, Commercial Shopping

Property Size: 7.55 acre (total tenant space=32,094 sq ft)

The adjacent zoning and land use are as follows:

	General Plan	Zone	Land Use
North	Commercial	C-1, Commercial-Light Industrial	Strip mall
South	Commercial	C-1, Commercial-Light Industrial	Walgreen's
East	Commercial Low Density Res.	C-1, Commercial-Light Industrial R-LD, Residential Low Density	Commercial uses and single family residences
West	R-1: Single Family Res.	C-S, Commercial-Shopping	Mixed use shopping center

SUMMARY

The applicant, on behalf of In-Shape Health Clubs, Inc., has requested approval of a conditional use permit to allow a fitness facility in an existing, approximately 30,333 sq. ft. building. The project is proposed to be located within an existing single tenant building that is currently occupied Apple Market. The In-Shape Fitness Facility is proposed to be open seven days a week with operating hours likely falling between 4:00 a.m. to 11:00 p.m., Monday through Friday, and 6:30 a.m. to 8:30 p.m. on Saturday and Sunday; however, the applicant would like to have approval to operate 24 hours per day, depending on market demand. The project site is within the C-S Zone, which allows for health club facilities and studios with the approval of a Use permit.

PROJECT DESCRIPTION:

Existing Conditions: The project site is located at 1320 West Lockeford Street in the Lakewood Mall shopping center at the southwest corner of Lockeford and Ham Lane. The tenant space is currently

occupied by Apple Market. The project site currently consists of an existing 30,333 sq. ft. building with an adjoining parking lot that currently meets minimum landscaping requirements and accommodates 362 parking spaces. On the west side of the building (the back side), there is an existing loading dock with roll-up doors and some additional mature landscaping. Surrounding the site is an existing on parking lot (to serve the project site), residential properties to the west, and commercial properties to the north and east.

The In-Shape Fitness Facility is proposed to be open seven days a week with operating hours likely falling between 4:00 a.m. to 11:00 p.m., Monday through Friday, and 6:30 a.m. to 8:30 p.m. on Saturday and Sunday; however, the applicant would like to have approval to operate 24 hours per day, depending on market demand. The facility is expected employ approximately 10 full time and 25 part time people and will generally have anywhere from four to 14 employees on site at any given time.

The proposal includes a variety of amenities for members including a kids club (child care), juice bar/lounge area, indoor lap and family pool, group cycling and exercise classes, personal fitness training, cardio and weight machines, free weights, swimming lessons, steam room, sauna, racquetball, a separate women's fitness area, stretching area and tanning. To accommodate all of these amenities, the applicant proposes addition of a 3,934 sq. ft. mezzanine within the building.

BACKGROUND

Available City records indicate the project site was used by a grocery store called Sell-Rite since mid 1950s. The building was demolished and rebuilt in 1998 and was occupied by another grocery outfit called Landucci's Marketplace. Apple Marketplace in late 1999 and continues to operate the grocery. There are no outstanding code violations.

ANALYSIS

Conditionally permitted uses are those uses which, by their nature, require special consideration so that they may be located properly with respect to the objectives of the Municipal Code and with respect to their effects on surrounding uses and properties. In order to achieve these purposes, the Planning Commission is empowered to approve, conditionally approve, or deny applications for use permits.

Land Use Compatibility: One of the primary concerns in reviewing a conditional use permit application is the effect of the proposed use on surrounding properties. The location of the proposed fitness center is in a mixed use area consisting of neighborhood-serving shopping centers with retail stores, restaurants and personal service uses. The property has a land use designation of Commercial in the General Plan. This designation is intended to provide sites for large scale retailers and major retail centers. Since the proposed project would include a fitness facility occupying space within an existing relatively large scale retail building, the proposed project would be consistent with the goals and objectives of the General Plan. Further, the project site is zoned Commercial-Shopping (C-S) District. The proposed use of a health/fitness club and gym falls under the use classification of Commercial Recreation and Entertainment as defined by Lodi Municipal Code. Commercial recreation uses within a building and within the C-S District would be permitted subject to the approval of a use permit.

Parking: The parking for building was constructed per Lodi Municipal Code §17.60.100, at a ratio of 1 space per 250 square feet for general commercial-type uses. The shopping center encompasses 72,651 sq. ft. of tenant spaces, including the subject tenant space. Calculated at a ratio of four per thousand square feet $[(72,351/1000) \times 4]$, a total of 290 parking stalls would be required to serve the entire shopping center. The shopping center provides a total of 361 parking stalls. However, certain uses generate higher parking demand. A gym is such a use and, therefore, it's parking demand is calculated differently.

A gym/health club is required to have at least one parking space per each 250 sq. ft. of floor area, one space for each 150 sq. ft. of gross swimming pool surface area, and two spaces for each racquetball court. In Shape proposes two racquetball courts (1,600 sq. ft.), 1,575 sq. ft. of swimming pool surface area, and a general space of 28,918 sq. ft. With the addition of the new 3,934 sq. ft.

mezzanine area, the new total square footage of the proposed gym would be 32,093 sq. ft., which would yield a parking requirement for 131 spaces. In addition, 115 parking stalls would be required to meet the demands of the various tenants. In order to accommodate the gym as proposed, a total of 246 stalls would be needed. Since Lakewood Mall provides a total of 361 parking stalls, which are non-exclusive and reciprocal, there is sufficient onsite parking available for accommodate the proposed use.

Hours of operation: The In-Shape Fitness Facility is proposed to be open seven days a week with operating hours likely falling between 4:00 a.m. to 11:00 p.m., Monday through Friday, and 6:30 a.m. to 8:30 p.m. on Saturday and Sunday; however, the applicant would like to have approval to operate 24 hours per day, depending on market demand. Based on a research project conducted by Institute of Transportation Engineers, health club parking demand varies by hour of day, day of week and month of year:

- January is commonly the busiest month;
- Mondays are usually the busiest day of the week;
- For suburban health clubs, typically 5:00 a.m. to 7:00 a.m. and 6:00 p.m. to 7:00 p.m. is the peak hour; and
- Health clubs located in an urban, mixed-use environment commonly experience a peak hour during the lunch hour, from 12:00 p.m. to 1:00 p.m.

Peak hours for the proposed gym would fall between 5:00 a.m. to 7:00 a.m. and 6:00 p.m. to 7:00 p.m. As such, it is highly unlikely the proposed use will conflict with the other tenants in the shopping center.

Noise: All fitness activities would occur within the building envelop; therefore, staff does not anticipate any adverse noise impacts upon the surrounding area. If the gym becomes a concern regarding noise, a condition has been added to allow for review of the permit by the Community Development Department or, if needed, return to the Planning Commission for additional conditions or even revocation of the permit.

Signage: No signage is proposed as part of this application; however, any signage would be required to conform to sign standards established by the Lodi Municipal Code Section 17.63, and would require plan submittal for review and approval by Community Development Department prior to installation.

Staff believes the Commission can make the required findings to approve the Use Permit as proposed. The use of a health/fitness club is appropriate for the proposed location in that it would occupy an existing vacant large scale retail building within an existing commercial center. A health/fitness club is a use that generally promotes and encourages healthy living within the community. In addition, because the health/fitness club is a membership and health based organization, it would be less likely than a retail facility (which was the previous use of the site and is a use that would be open to the general public), to cause any nuisance or enforcement problems within the neighborhood. If, in the future, concerns arise, and the Director/Police Department determines it necessary, the Use Permit can be subject to review by the Planning Commission to consider the business's operation for compliance with the conditions of the Use Permit. The City further reserves the right to periodically review the area for potential problems. If the operator is unable to abide by the conditions of approval, or prevent objectionable conditions from occurring, the Police Department or the Planning Commission will have the authority to modify, suspend, or revoke this Use Permit approval. Therefore, staff believes the proposed fitness center use would be beneficial to the other businesses as well as the proximate neighborhoods.

ENVIRONMENTAL ASSESSMENTS

The project was found to be Categorically Exempt according to the California Environmental Quality Act, Article 19 §15321, Class 21 (a) (2). The project is classified as an "Enforcement action by regulatory agencies" because it is the "adoption of an administrative decision or order enforcing or revoking the lease, permit, license, certificate, or entitlement for use or enforcing the general rule,

standard, or objective.” No significant environmental impacts are anticipated and no mitigation measures have been required.

PUBLIC HEARING NOTICE:

Legal Notice for the Use Permit was published on Saturday, December 29, 2012. Eight-two (82) public hearing notices were sent to all property owners of record within a 300-foot radius of the project site as required by California State Law §65091 (a) 3. Public notice also was mailed to interested parties who had expressed their interest of the project.

ALTERNATIVE PLANNING COMMISSION ACTIONS:

- Approve with additional/different conditions
- Deny the request
- Continue the request

Respectfully Submitted,

Concur,

Immanuel Bereket
Associate Planner

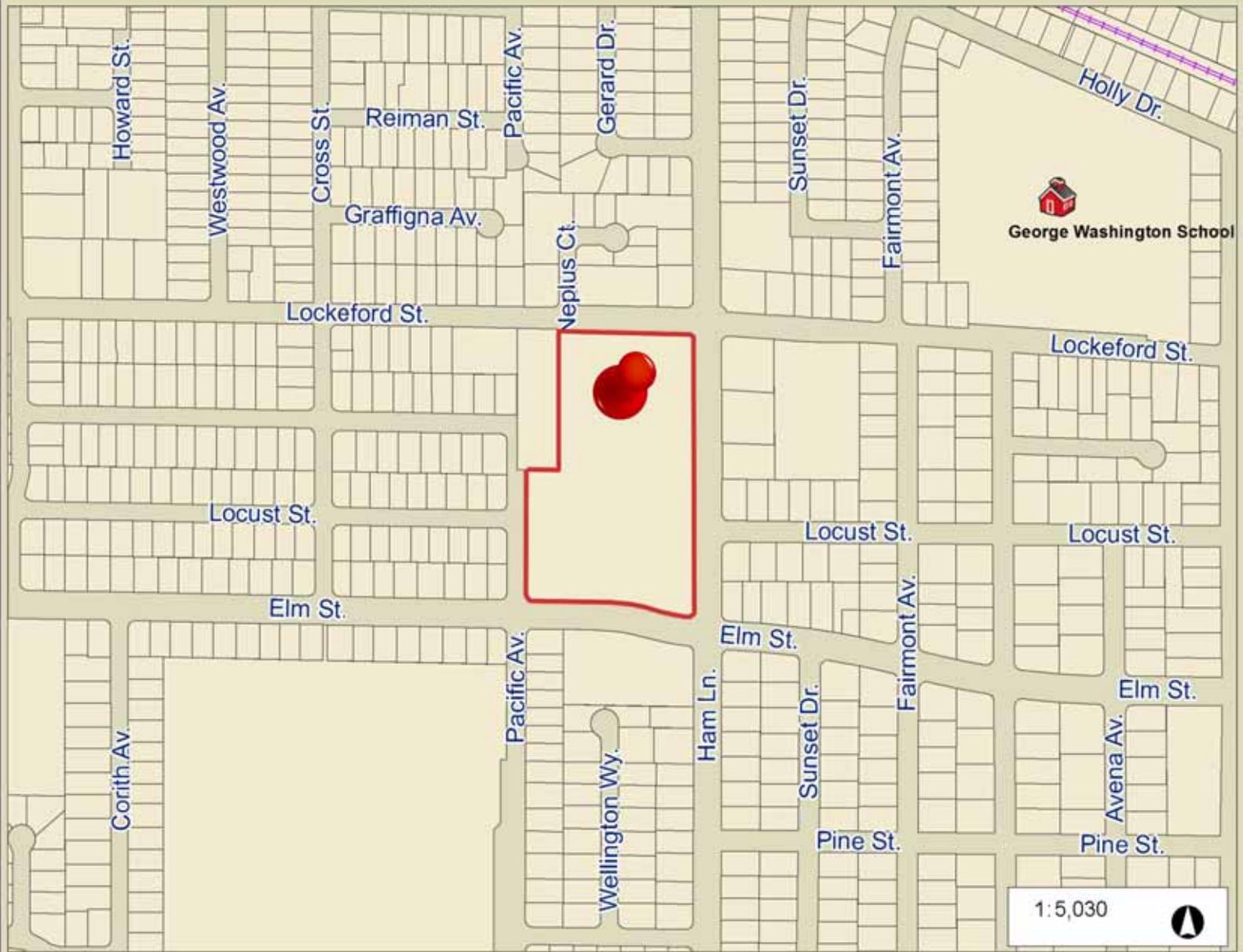
Konradt Bartlam
Community Development Director

ATTACHMENTS:

- A. Vicinity Map
- B. Aerial Map
- C. In-Shape Project Statement
- D. Existing and Proposed Floor Plan
- E. Color Rendering
- F. Draft Resolution



VICINITY MAP



Legend

 Project Site

1:5,030 



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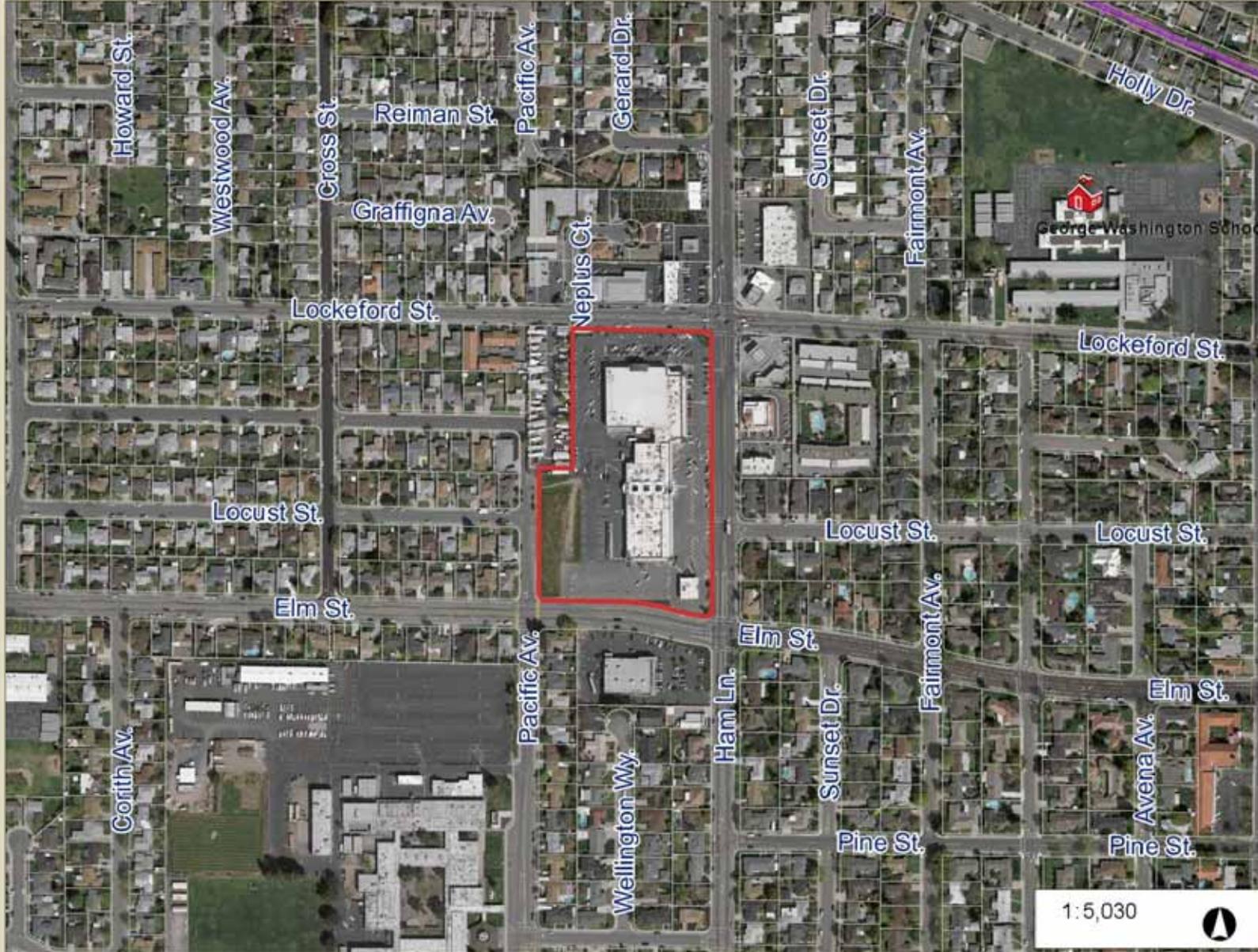
THIS MAP IS NOT TO BE USED FOR NAVIGATION

Notes

For Reference Only.



Aerial Map



Legend

Landmarks

- ARCH
- CITYBUILDINGS
- CITYHALL
- COURT
- DOG PARK
- FIRE STATIONS
- HIGH SCHOOLS
- HOSPITALS
- LIBRARY
- LND-MRKS
- PARKS
- POLICE
- POST OFFICE
- SCHOOLS
- SKATEPARK
- SOFTBALL
- STADIUM
- THEATRE
- TRAIN

Railroads

Street Names

- Parcels (Outline)
- City Limits

2008 Apr 6 inch

- Red: Band_1
- Green: Band_2
- Blue: Band_3

838 0 419 838Feet

NAD_1983_StatePlane_California_III_FIPS_0403_Feet
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Notes

For Reference Only.



PROJECT STATEMENT:
1320 WEST LOCKEFORD STREET – LODI, CALIFORNIA

INTRODUCTION

In-Shape Health Clubs, Inc., a Stockton, California-based company with more than 60 locations in California (“In-Shape”), is proposing a fitness facility for 1320 West Lockeford Street in the Lakewood Mall shopping center at the southwest corner of Lockeford and Ham Lane. The site is currently occupied by Apple Market. In-Shape is very excited about the possibility of bringing one of its signature clubs to Lodi.

PROCEDURAL BASIS

The zoning classification for the property is Commercial Shopping District (CS). The proposed fitness use is permitted under a Conditional Use Permit as governed by Chapter 17.72, Adjustments and Use Permits. The General Plan Designation for the site is Commercial. The proposed use is consistent with the intent of the General Plan. This application and request is submitted in accordance with Chapter 17.72 and all other applicable sections. Applicant believes this request is appropriate to be reviewed as a Conditional Use Permit for this zone. The findings required under Chapter 17.72.080 can be made, in that the establishment, maintenance and/or the conduct of the use will not, under the circumstances of this particular case, be detrimental to the health, morals, comfort or welfare of persons residing or working in the neighborhood of the proposed use, or to property or improvements in the neighborhood, or will not be contrary to the general public welfare. The project is believed to be exempt from CEQA under California Administrative Code Title 14 Section 15061 (b)(3).

COMPANY BACKGROUND

In-Shape Health Clubs, Inc. was founded in 1981 in Stockton, California, with the goal of creating a family fitness atmosphere and helping to improve quality of life and lifestyle for its members. Now with over 60 clubs throughout central California, including existing Vallejo clubs at 765 Sereno Boulevard and 125 Lincoln Road East, In-Shape remains committed to its founding message. In-Shape is a leader in the fitness industry with a proven track record of successful, well-received and impressively appointed facilities, strong membership retention and a variety of programs to encourage and support physical fitness, good health and balanced wellness. In-Shape facilities range from 6,000 to over 60,000 square feet and include, where applicable, group programs, children’s areas, well-appointed locker rooms, free exercise space, individual fitness training, family facilities and state of the art fitness equipment and the latest in exercise physiology and technology. The company promotes corporate memberships and wellness programs with an emphasis on healthy lifestyles for adults and children alike. In-Shape programming supports a wide variety of interests among members of all ages and strives to offer the broadest

selection and highest quality of services and facilities for the most affordable rates possible. More information can be found at inshapeclubs.com.

PROJECT OVERVIEW

In-Shape's plan is to bring a state of the art, family oriented fitness destination to Lodi at 1320 West Lockeford. The facility will offer a wide variety of amenities and fitness selections and will maintain the neighborhood feel and accessibility that has been a cornerstone of Lakewood Mall's success since its inception. No changes are planned for the exterior of the building or the shopping center.

The first floor is comprised of 27,637 square feet and a mezzanine will add 3,934 square feet for a total including accessory and circulation areas of 31,571 square feet. The interior of the space will welcome members and guests to a spectrum of amenities including group exercise and cycling, multiple exercise areas, cardio theatre, indoor pool, racquetball, mens' and womens' locker rooms and kids' club (see Appendix 1 for complete table).

OPERATIONAL HIGHLIGHTS

Relevant aspects of operations for the proposed use are outlined below.

1. The club will employ 8 full time and 14 part time individuals and will provide opportunities for approximately four independent contractors.
2. Bicycle parking will be provided, and alternative transportation will be encouraged.
3. A new trash enclosure will be constructed per City standards.
4. Applicant requests approval to operate up to 24 hours per day depending on member preference. No decision has yet been made as to operating hours. It is the corporate policy of In-Shape to operate 24 hours per day as member needs dictate. The percentage of residents who are subject to rotating occupational shifts or other non-traditional work hours, such as military, law enforcement and health care, has been found in nearby In-Shape facilities to be high enough to warrant 24-hour operation.
5. Expected membership level is confidential, however, peak usage hours are 5:00 a.m. to 7:30 a.m. and 5:30 p.m. to 7:30 p.m. As such the proposed use will complement existing uses in the center that have peak hours that are more typical of commercial and retail uses.
6. Noise levels for this use are likely to be less than those generated by the previous use. The proposed project will comply with any applicable noise ordinances.
7. The proposed project will not emit any noxious odors, vibrations or other air quality concerns.

SITE CONSIDERATIONS

Parking. Parking requirements for the proposed use are subject to Chapter 17.60.100 D 11, 12 and Chapter 17.60.120 of the Zoning Ordinance. One parking space for every 150 square feet of pool surface area and two spaces for each court are required. Beyond that, parking is to be determined by the Planning Commission for any uses not otherwise identified. Applying a standard typical for Applicant's existing facilities of comparable size, a 1:250 ratio for non-designated use areas is reasonable. This brings the total parking requirement for the proposed use to 115 (see Appendix 1 for complete table).

The premises is located within the Lakewood Mall, a shopping center containing multiple uses all served by reciprocal and non-exclusive parking (Protective Covenants, Conditions and Restrictions Affecting the Real Property Known As Lakewood Shopping Center recorded November 29, 1963, volume 2759 of Official Records, page 189). Total parking on the shopping center parcel is stated by the shopping center owner to be 362 which includes 15 accessible stalls. Under Chapter 17.60.080, whenever a single lot contains several different activities, the overall requirement for off-street parking and loading shall be the sum of the requirements for each such activity calculated separately. Based on the current tenant mix, a total of 230 parking spaces should be provided, including parking for the proposed use (see Appendix 2 for complete table).

Based on this, parking in the center is adequate to serve the anticipated membership and usage of the proposed use along with all existing tenants.

Signage. Signage will be submitted under separate application. Applicant will comply with the Sign Criteria for Lakewood Mall and the Sign Ordinance.

Site Lighting. No changes are planned or necessary for existing site lighting. Lighting as currently in place is believed to be in compliance with all applicable state and local ordinances and requirements.

Landscaping. The site is completely landscaped and no changes are planned.

Compatibility with Surrounding Uses. The proposed site, a fully developed commercial property, is bordered on the north and east by existing commercial uses, to the west by residential and the south by residential. The tenant space is sufficiently distant from residential areas such that no impact is expected.

COMPLIANCE WITH SITE DEVELOPMENT STANDARDS

The proposed project is appropriate for the tenant space and will

- make a positive contribution to existing development in the area;
- be harmonious and compatible with the design of surrounding existing uses;
- respect views, privacy and access to light and safety of neighboring properties; and
- not adversely affect neighboring properties.

USE PERMIT FINDINGS

Findings required to be made under Chapter 17.72.080 state that, to approve the use permit, the proposed use, and its

establishment, maintenance and/or the conduct of the use will not, under the circumstances of this particular case, be detrimental to the health, morals, comfort or welfare of persons residing or working in the neighborhood of the proposed use, or to property or improvements in the neighborhood, or will not be contrary to the general public welfare.

In response, the following conclusions are appropriate:

1. The project as proposed is well-suited for this existing building. The use is compatible with and highly desirable as a complement to existing surrounding uses.
2. The use encourages and promotes healthy, balanced lifestyles and is positive influence for people of all ages and walks of life.
3. Utilities and infrastructure existing and ready to serve the site are adequate for this proposed use and require no intensification.
4. The project will have no harmful effects on any desirable neighborhood characteristics and in fact will enhance the neighborhood.
5. The project will be served adequately by existing streets and transportation systems and will not require any change to such systems.
6. No impact of or detriment from the project, if any, results in any condition that is contrary to the intent of the General Plan.

CONCLUSION

Fitness facilities promote public health and general welfare and have been a valued and welcome participant in communities, neighborhoods and commercial shopping districts for many years. In-Shape facilities in particular are well-received, and contribute positively to community well-being. In-Shape is committed to maintaining this contribution long into the future and is very pleased to expand its involvement in the Lodi community.

SUBMITTAL ELEMENTS

Application and Environmental Assessment form
Project Statement
Exhibit A – Existing Site Plan
Exhibit B – Existing Floor Plan
Exhibit C – Proposed First Floor Plan
Exhibit D - Proposed Mezzanine Plan
Exhibit H Existing Elevations

APPENDIX 1

Proposed Use Area	Sq. Ft.
Free weights	2,560
Cardio, 1st floor	2,971
Group exercise	2,174
Kids club	1,765
Reception/lounge	1,231
Sales	72
Sales Manager	97
Abs/Stretch	753
Selectorized	1,018
Functional	773
Racquetball	1,600
Mens lockers	1,888
Womens lockers	1,900
Pool	5,261
Laundry/storage	318
Sauna	62
Steam	75
Aqua storage	43
General Manager	113
Staff	74
Family Changing Room	77
Group Cycle	740
Sales	462
Cardio, mezzanine	547
CBP Training	105
Shapes	1,521
<i>Total Use Area SF</i>	28,200
Total accessory and circulation area	3,371
Total overall square footage	31,571
Total Use area of racquetball and pool service area (1,575sf) (excluded for parking count purposes)	3,175

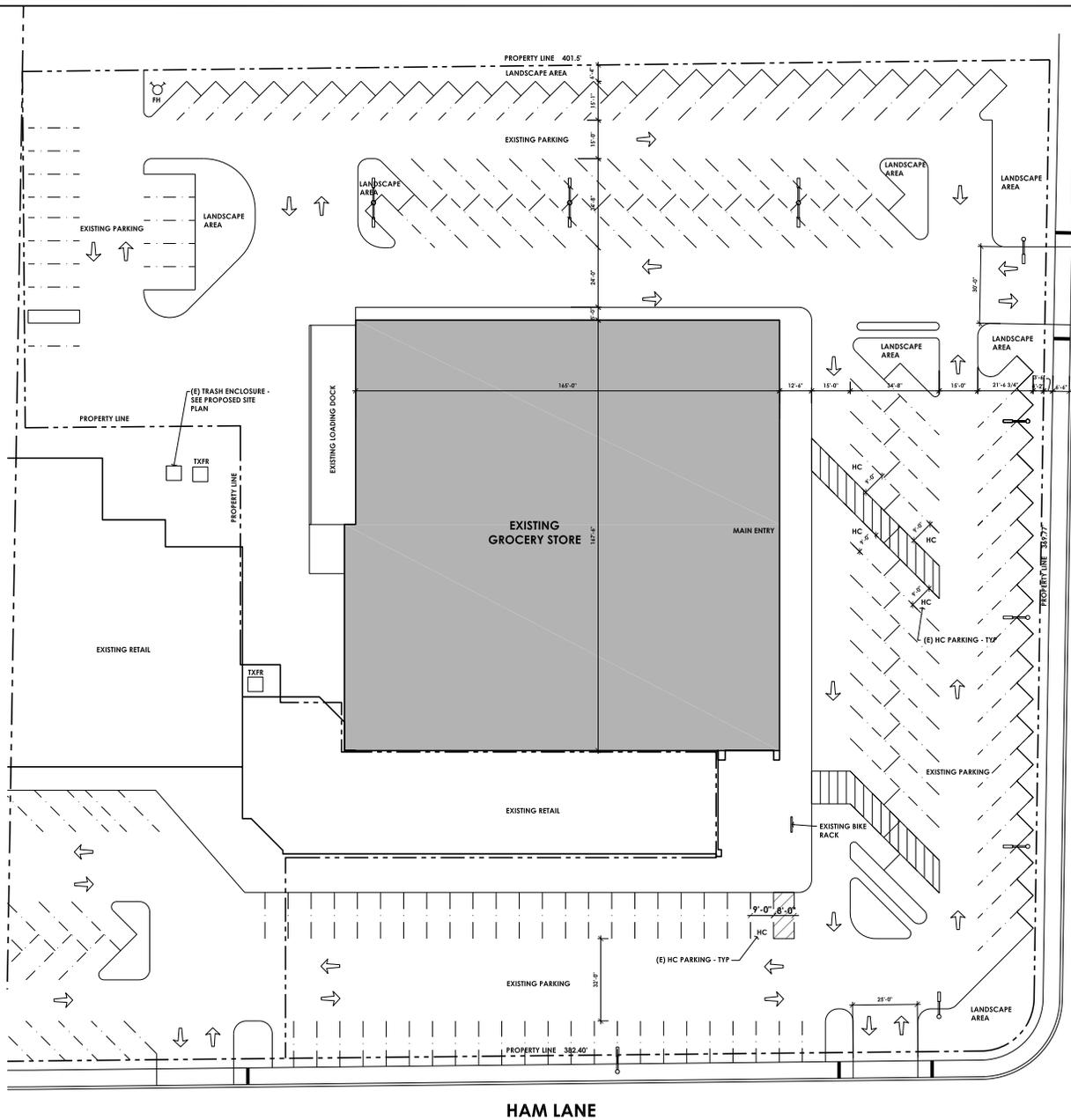
APPENDIX 1

APPENDIX 2

Suite No.	Use/Business (Seating is estimated)	Sq. Ft.	Parking Ratio	Parking Required
1365	Vacant (most likely future use: retail)	2090	500	4
209	Vacant (most likely future use: retail)	1781	500	4
10	Skyline Barbershop	300	200	2
990	Rick's Pizza (Seating: 40)	2364	1:4 seats	10
105	Advance America	1095	250	4
1306	Perfect Pear	525	500	1
1308	Sheri's Hair Shop	820	200	4
1313	J'aime Nail	765	200	4
1321	Dragon Lite Deli (Seating: 16)	1624	1:4 seats	4
135	Baskin Robbins (Seating: 10)	1080	1:4 seats	3
1355	State Farm	1257	250	5
1373	Lodi Community Arts Center	1870	500	4
145	Gourmet Bread Bowl (Seating: 20)	1320	1:4 seats	5
211	Randall's	2200	500	4
215	Lakewood Liquors	2324	500	5
223	Precision 6 Hairstyling	960	200	5
225	Max Muscle	810	500	2
227	Style of India Eyebrow	600	200	3
231	Wrappin' Up	1015	500	2
235	Matsuyama Restaurant (Seating: 35)	1200	1:4 seats	9
239	House of Coffee (Seating: 8)	900	1:4 seats	2
89	Umpqua Bank	2000	300	7
D11	Dollar Tree	12180	500	24
<i>Total Parking, Existing Uses</i>				115
		41080		
Total Parking for Proposed Use				
	Racquetball courts at 2 per court		2 per ct	4
	Pool surface area	1575	150	11
	Remainder SF (discretionary) ¹	25025	250	100
	Subtotal, proposed use			115
TOTAL PARKING OVERALL				230

¹ The Parking Ordinance provides parking requirements for court uses and pools. Under Chapter 17.60.120, "parking requirements for land uses not specified...shall be determined by the planning commission. Such determination shall be based on the most comprable use specified in these standards. Applicant has applied a ratio of 1:250sf for any use areas not otherwise specified in this Chapter.

APPENDIX 2



1 EXISTING SITE PLAN
SCALE: 1" = 20'-0"



LOCKEFORD STREET

EXISTING PROJECT DATA

PROJECT DESCRIPTION: CONVERT A FULLY DEVELOPED COMMERCIAL BUILDING, CURRENTLY A GROCERY STORE, INTO A FULLY EQUIPPED FITNESS FACILITY WITH AN INDOOR POOL.		BUILDING DATA MAIN FLOOR: 28,159 S.F. (ACTUAL AREA) (PER AS-BUILT PLANS) MEZZANINE: 2,174 S.F. TOTAL BUILDING AREA: 30,333 S.F.	
OWNER: STONE BROTHERS AND ASSOCIATES 5757 PACIFIC AVENUE SUITE 220 STOCKTON, CA 95207		CONSTRUCTION TYPE: V-8 FIRE SPRINKLERS: YES NUMBER OF STORIES: 1 BUILDING HEIGHT: 23'-0" (TOP OF PARAPET)	
TENANT / APPLICANT: IN-SHAPE HEALTH CLUBS, INC. 65 SOUTH EL DORADO STREET, SUITE 700 STOCKTON, CA 95202 TEL: 209-472-0233 FAX: 209-473-6401 CONTACT: SANDRA HOMAN			
LOCATION: 1320 WEST LOCKEFORD STREET LODI, CALIFORNIA 95242 APH: 035-340-09			
SITE DATA: JURISDICTION: CITY OF LODI ZONE: COMMERCIAL SHOPPING DISTRICT (CS) FLOOD PLANE: XS			
ENTIRE PARCEL: 7.72 AC (336,283.2 S.F.) FLOOR AREA RATIO: 30.333 / 336,283.2 = .09 LOT COVERAGE: 28,159 / 336,283.2 = .08			
EXISTING PARKING CALCULATION:			
EXISTING RETAIL: (SEE APPENDIX 2)	115 STALLS		
TOTAL CENTER PARKING REQUIRED	230 STALLS		
TOTAL CENTER PARKING PROVIDED	362 STALLS		
ACCESSIBLE STALLS REQUIRED	8 STALLS		
ACCESSIBLE STALLS PROVIDED	15 STALLS		

VICINITY MAP



**EXHIBIT A:
EXISTING
SITE PLAN**
USE PERMIT:
**CLUB #66
IN SHAPE HEALTH
CLUBS, INC**

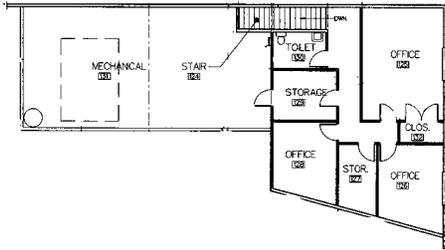
**1320 WEST LOCKEFORD STREET
LODI, CA. 95242**



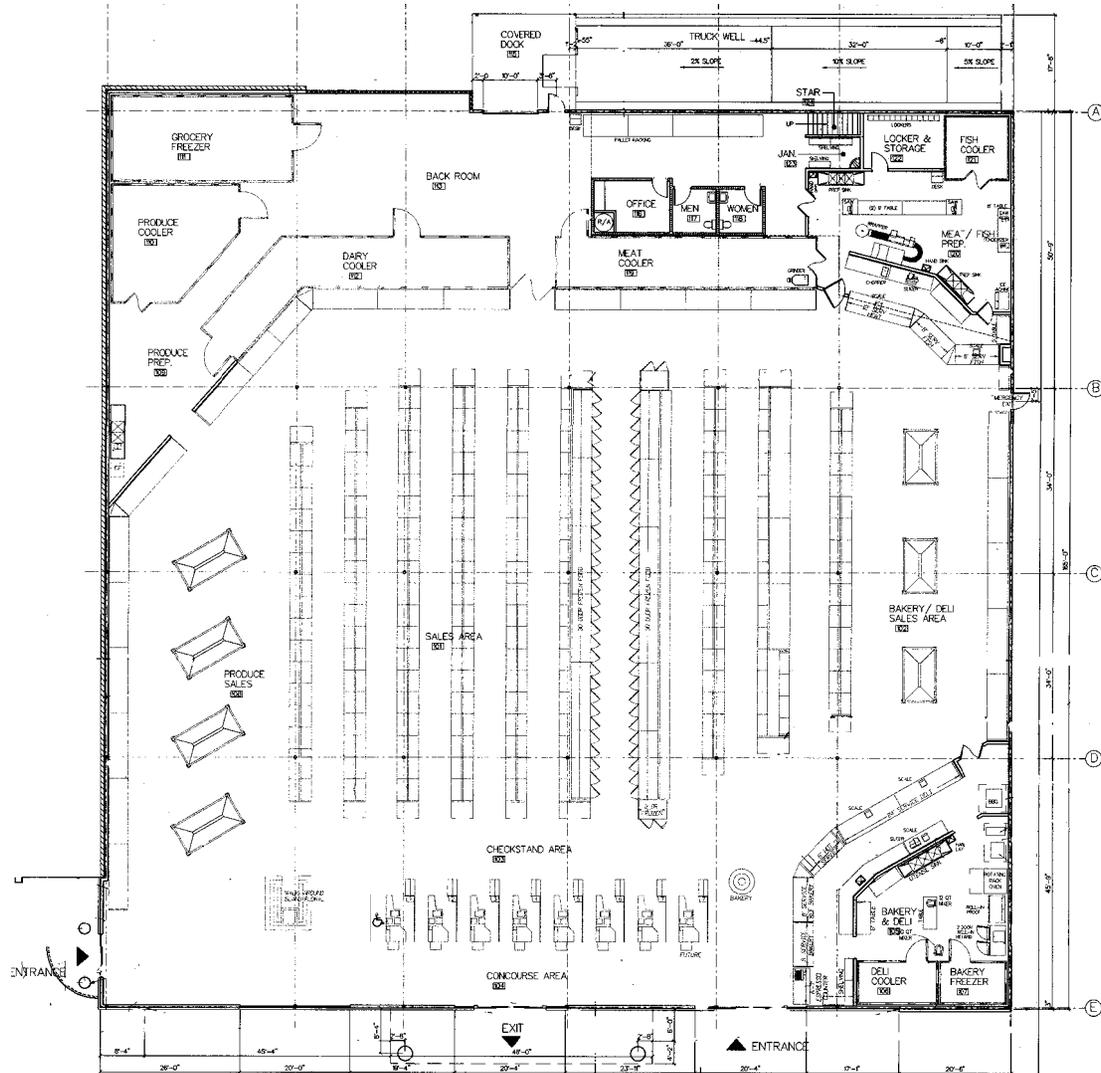
ARCHITECTURE PLUS INC.
4335-B NORTH STAR WAY
MODESTO, CA 95356

ph. 209.577.4661
fx. 209.577.0213

www.apicarc.com



1 EXISTING MEZZANINE PLAN
SCALE: 3/32" = 1'-0"



1 EXISTING MAIN FLOOR PLAN
SCALE: 3/32" = 1'-0"



EXHIBIT C: EXISTING FLOOR PLANS

USE PERMIT:

CLUB #66
IN SHAPE HEALTH CLUBS, INC

1320 WEST LOCKEFORD STREET
LODI, CA. 95242

PLANNING
ARCHITECTURE



ARCHITECTURE PLUS INC.
4335-B NORTH STAR WAY
MODESTO, CA 95356

ph. 209.577.4661
fx 209.577.0213

www.aplarc.com

IN-SHAPE CLUB 66-LODI

EXISTING PARAPET CAP TO REMAIN

EXISTING EXTERIOR CEMENT PLASTER FINISH

EXISTING MASONRY WAINSCOT

EXISTING STOREFRONT SYSTEM TO REMAIN

EXISTING COLUMNS-TYPICAL



IN-SHAPE CLUB 66-LODI

EXISTING PARAPET CAP TO REMAIN

EXISTING EXTERIOR CEMENT PLASTER FINISH

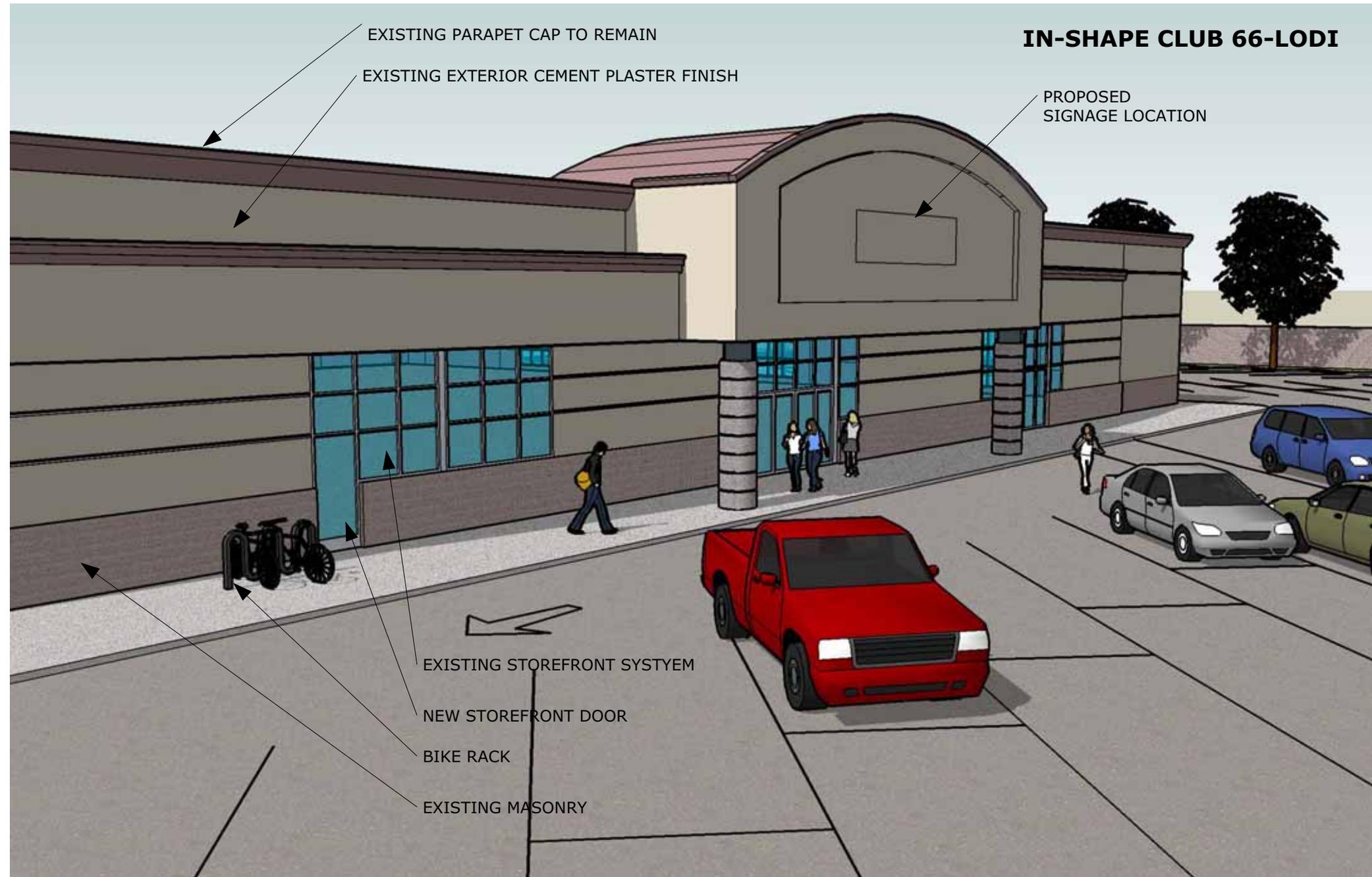
PROPOSED SIGNAGE LOCATION

EXISTING STOREFRONT SYSTEM

NEW STOREFRONT DOOR

BIKE RACK

EXISTING MASONRY



IN-SHAPE CLUB 66-LODI

PROPOSED
SIGNAGE LOCATION

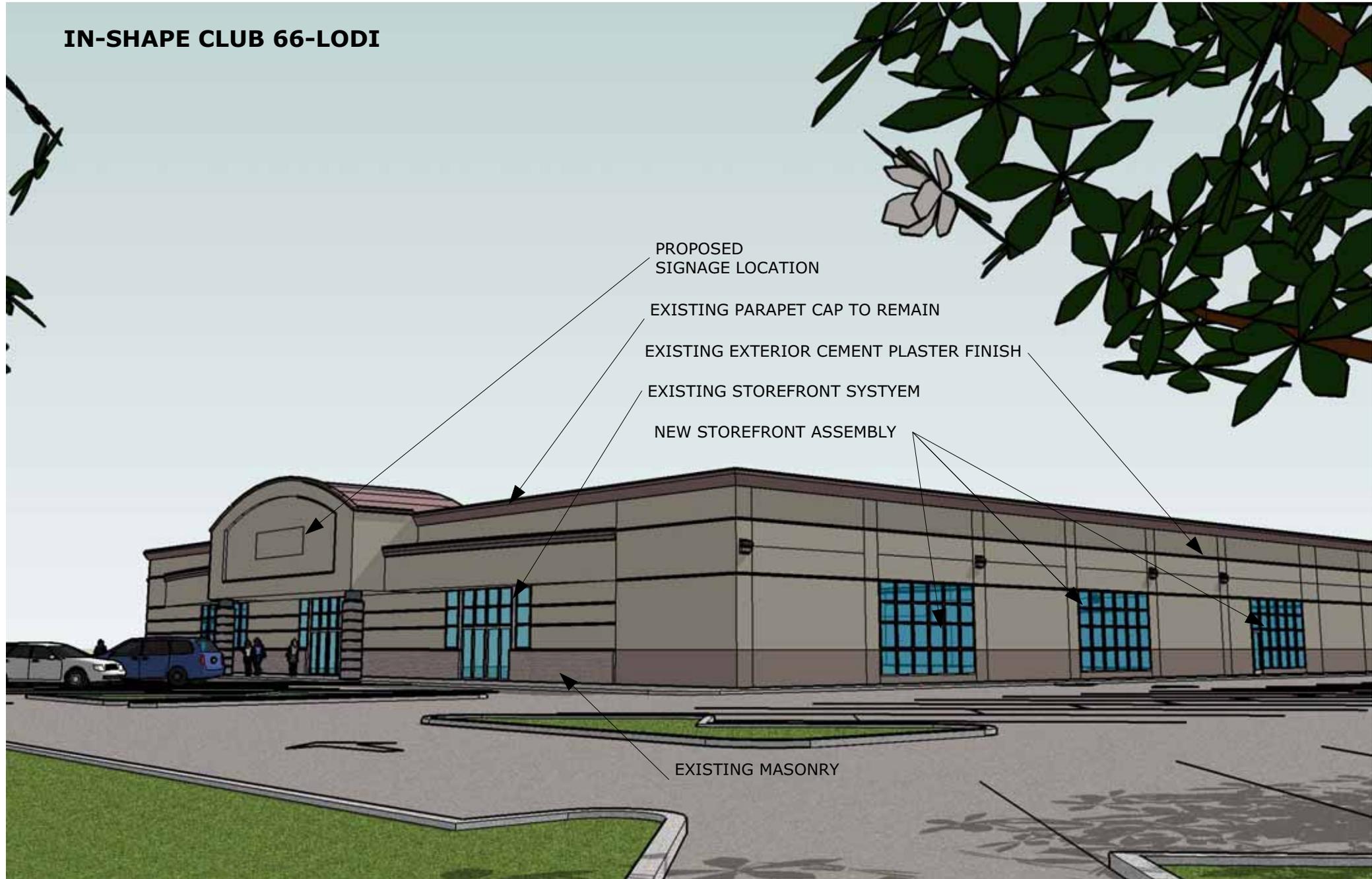
EXISTING PARAPET CAP TO REMAIN

EXISTING EXTERIOR CEMENT PLASTER FINISH

EXISTING STOREFRONT SYSTEM

NEW STOREFRONT ASSEMBLY

EXISTING MASONRY



Item 3c

Kari Chadwick

Subject: FW: Apple Market Survey

Kari/Rad

I received the attached from Joyce Harmon re the loss of Apple Market. Will you please see that the Planning Commission receives a copy of this email. I will try to find out what else she sent and where it went.

Thanks

Bob

----- Forwarded message -----

From: Bob Johnson <value@softcom.net>

Date: Wed, Jan 9, 2013 at 8:17 AM

Subject: Re: Apple Market Survey

To: Joyce Harmon <joyharmon@att.net>

Joyce

The planning commission is hearing this matter this evening. I will make sure they get this information

Bob

Sent from my iPhone

On Jan 8, 2013, at 10:21 PM, Joyce Harmon <joyharmon@att.net> wrote:

> Bob: Re the pending loss of Apple Market. So far I have collected 30
> Survey signatures in my neighborhood.

>
> RESULTS: 29 in favor of a grocery store, 1 in favor of a fitness
> center. No doubt about how the neighborhood feels.

>
> I understand that In-Shape Fitness Center has rented space in the
> Blockbuster Video building across the street, possibly for taking
> membership applications. Is this a bit premature?

>
> I think my survey was worth doing. The results are just what I
> thought they would be, but probably won't help us much when the
> final decision is made.

>
> It is all MONEY, which I also understand, and APPLE won't be the
> only grocery store we will lose for the same reason when Walmart
> opens.

>
> Not much point in my collecting more signatures. The percentages
> would be the same. "Nothing ventured, nothing gained...."

>
> You will find my Survey results at your City Hall address.

>
> Thanks for 'listening',

>
> Joyce Harmon

01/09/2013

Apple Market Survey

January 8, 2013

Bob:

Re the pending loss of the Apple Market. So far I have collected 30 Survey signatures in my neighborhood.

Results: 29 in favor of a grocery store, 1 in favor of a fitness center. No doubt about how the neighborhood feels.

I understand that In-shape Fitness Center has rented space in the Blockbuster Video building across the street, possibly for taking membership applications. Is this a bit premature?

I think the Survey was worth doing. The results are just what I thought they would be, but probably won't help us much when the final decision is made.

It is all MONEY, which I also understand, and Apple is not the only grocery store we will lose when Walmart opens.

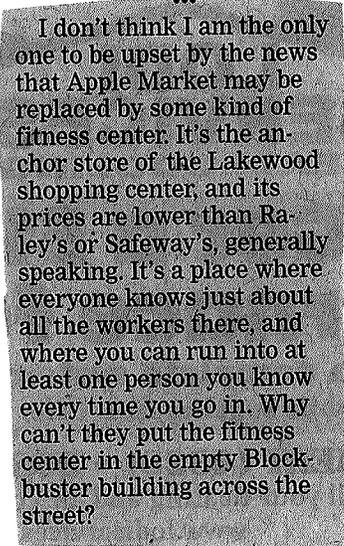
Not much point in my collecting more signatures. The percentages would be the same. "Nothing ventured, nothing gained'....but you never know.

Thanks for 'listening',



Joyce Harmon

FROM GWIN
PADEN'S COLUMN
IN THE SENTINEL



I don't think I am the only one to be upset by the news that Apple Market may be replaced by some kind of fitness center. It's the anchor store of the Lakewood shopping center, and its prices are lower than Raley's or Safeway's, generally speaking. It's a place where everyone knows just about all the workers there, and where you can run into at least one person you know every time you go in. Why can't they put the fitness center in the empty Blockbuster building across the street?

	A	B	C	D
1	Which would you prefer,			
2	a grocery store or a fitness center			
3	in the Apple Marketplace location?			
4				
5				
6	Grocery Store	Fitness Center	Your Name	Your Address
7	✓		JAYDE HARMON	19 N. PINWOOD CT. Lodi
8	✓		ART MCKEOWN	33 N PINWOOD CT.
9	✓		Ms. Pat Spivey	38 Pinewood Ct.
10	✓		J Ann Davis	38 Pinewood Ct.
11	✓		Cathy Rivers	38 Pinewood Ct.
12		✓	Jim Mize	26 Pinewood CT
13	✓	368-0317	Lucille Foley	20 Pinewood Ct.
14	✓		Lois Besmond	8 Pinewood Ct.
15	✓	(2)	J&C STARK	1818 W. Pine St
16	✓		Brent H	310 Pinewood Ct.
17	✓		Katie Cranes	15 Pinewood Ct
18	✓		Andy Palmer	14 Pinewood Ct
19	✓		Judith Walstead	27 Pinewood Ct., Lodi, Ca. 95242
20	✓		TED LACY	10 N LOMA DR
21	✓		Daniel Perrin	112 W Pine

	A	B	C	D
1	Which would you prefer,			
2	a grocery store or a fitness center			
3	in the Apple Marketplace location?			
4				
5				
6	Grocery Store	Fitness Center	Your Name	Your Address
7	X		TOM TANABE	1701 W. Pine St.
8	X		JANIS TANABE	" " "
9	X		DUANE MILLER	1711 W. PINE ST
10	X		Jillian Lewis	1730 W Pine St.
11	X		MELISSA WARDEN	1800 W. PINE STREET
12	X		John S. Miller	1806 W. Pine St.
13	X		Vern F. Weigum	401 N. Ham Ln
14	X		Debra Skyles	112 Otta Dr
15	X		Nancy Mehlhoff	1906 Colette St.
16	X		Ron Wilson	1919 Colotte St.
17	X		ARIAN MEHLHOFF	1931 CEDAR RIDGE DR #77
18	X		Sam	936 LAKE HOME DR
19	X		Chad Pittingale	936 Lake Home Pl
20	X		Eve Hafsinger	531 Charleston way Lot 1
21	X		Amelia E. Ernst	1720 Normandy Ch., Lodi

RESOLUTION NO. P.C. 13-02

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF LODI APPROVING A USE PERMIT (12-U-19) TO ALLOW THE OPERATION OF A HEALTH CLUB CENTER KNOWN AS IN-SHAPE CLUB AT 1320 WEST LOCKEFORD STREET

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

WHEREAS, the project site is located at 1320 West Lockeford Street, Lodi, CA 95240 (APN: 035-340-09); and

WHEREAS, project proponent is Sandra Homan, on behalf of In-Shape Health Clubs, Inc., 6 South El Dorado Street, 7th Floor Stockton, CA 95202; and

WHEREAS, the project property owner is Stone Brothers and Associates, 5757 Pacific Avenue, Suite 220, Stockton, CA 95207-5159; and

WHEREAS, the property has a General Plan designation of Commercial and is zoned C-S, Commercial Shopping; and

WHEREAS, the requested Use Permit to allow operation a fitness center known as In-Shape Health Clubs, in an building located at 1320 West Lockeford Street, Lodi, CA 95240; and

WHEREAS, pursuant to City of Lodi Zoning Ordinance § 17.72.110, this resolution becomes effective ten (10) business days from its adoption in the absence of the filing of an appeal; and

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

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

1. The project was found to be Categorical Exempt according to the California Environmental Quality Act, Article 19 §15321, Class 21 (a) (2). The project is classified as an "Enforcement action by regulatory agencies" because it is the "adoption of an administrative decision or order enforcing or revoking the lease, permit, license, certificate, or entitlement for use or enforcing the general rule, standard, or objective." No significant environmental impacts are anticipated and no mitigation measures have been required.
2. The proposed use complies with all requirements as set forth for the issuance of this Use Permit, in that the site is adequate in size, shape and topography for the proposed use, consisting of an existing building. Second, the site has sufficient access to streets, adequate in width and pavement type to carry the quantity and quality of traffic generated by the proposed use, which is not expected to significantly increase due to the project. Third, the proposed use is deemed to be consistent to the General Plan and the Zoning Ordinance. Fourth, the proposed use, as conditioned, will not have an adverse effect upon the use, enjoyment or valuation of property in the neighborhood. Lastly, the proposed use will not have an adverse effect on the public health, safety, and general welfare in that security measures and the limited size of the use will limit any potential adverse effects to neighboring properties.
3. The harmony in scale, bulk, coverage and density of the proposed project is consistent with and compatible to the existing and proposed land uses around the subject site, in that the proposed health club facility will be located within an existing building, with no additions or expansions to the approved exterior thereby maintaining the approved scale, bulk, coverage and density of the building with no impacts upon the surrounding neighborhood.
4. The availability of public facilities and utilities is adequate to serve the proposed use, in that the proposed health club facility will be located within an existing building where public facilities and services are provided, including sewer, water, electricity, phone, etc.

5. There would be no harmful effect upon the desirable neighborhood character with approval of this permit due to the building location within an established commercial neighborhood with no exterior additions proposed and an 8' high masonry wall separating the site from residential properties to the east.
6. The subject site will have adequate pedestrian and vehicular circulation and parking available, in that there is an adequate vehicle access point. Pedestrian movements are facilitated by paved and continuous path of travel that connects to the public sidewalk and the sidewalk accesses adjacent properties.
7. The generation of traffic would be minimal due to the fact that the project site is designed for vehicle use and the capacity of the surrounding streets is adequate to handle the proposed increase in use, due to Ham Lane being a major north-south thoroughfare and able to handle expanding traffic needs.
8. The location, design, landscaping and screening, and overall site planning of the proposed fitness center will provide an attractive, useful and convenient working and community-service area, in that the project has been landscaped with the original approval of the center and is located close to public transportation, arterial streets and residential neighborhoods.

NOW, THEREFORE, BE IT DETERMINED AND RESOLVED by the Planning Commission of the City of Lodi that Use Permit Application No. 12-U-19 is hereby approved, subject to the following conditions:

1. The applicant/Operator and/or successors in interest and management shall defend, indemnify, and hold the City of Lodi, its agents, officers, and employees harmless of any claim, action, or proceeding (including legal costs and attorney's fees) to attack, set aside, void, or annul this Use Permit, so long as the City promptly notifies the applicant of any claim, action, or proceedings, and the City cooperates fully in defense of the action or proceedings. The City may elect, in its sole discretion, to participate in the defense of said claim, action, or proceeding.
2. The City of Lodi, the Planning Commission and Lodi Police Department may, at any time, request that the Planning Commission conduct a hearing on this Use Permit for the purpose of amending or adding new conditions to the Use Permit or to consider revocation of the Use Permit if the Use Permit becomes a serious policing problem.
3. The Applicant/Operator and/or successors in interest and management shall insure that the operation of the proposed facility does not cause any condition that will cause or result in repeated activities that are harmful to the health, peace or safety of persons residing or working in the surrounding area. This includes, but is not limited to: disturbances of the peace, illegal drug activity, public intoxication, drinking in public, harassment of people passing by, assaults, batteries, acts of vandalism, loitering, excessive littering, illegal parking, excessive loud noises, traffic violations or traffic safety based upon last drink statistics, curfew violations, lewd conduct, or police detention and arrests.
4. The Use Permit shall be vested within six (6) months from the effective date of approval. A building permit for the tenant improvements allowed under this Use Permit shall have been obtained within six (6) months from the effective date of the Use Permit or the Use Permit shall expire; provided however that the Use Permit may be extended pursuant to the Lodi Municipal Code.
5. The proposed project shall be established and continuously operated in substantial conformance with the floor plan, written narrative, and other project submittals dated "Received, November 15, 2012" unless otherwise amended by the conditions of approval contained herein. Minor changes to the plans and operation may be allowed subject to the approval of the Community Development Director if found to be in substantial conformance with the approved exhibits.

6. On-site signage shall be allowed in accordance with the standards of the Lodi Municipal Code, and shall be submitted to the Community Development Department prior to installation for review and permitting.
7. In the event that the applicant proposes to modify any aspect of the business or modify the exterior of the building or site, the modification shall be subject to the review of the Community Development Director. The Community Development Director may approve the modification or refer the matter back to the Planning Commission if judged to be substantial.
8. If operation of this use results in conflicts pertaining to parking, noise, traffic, or other impacts, at the discretion of the Community Development Director, this conditional use permit may be referred to the Planning Commission for subsequent review at a public hearing. If necessary, the Commission may modify or add conditions of approval to mitigate such impacts, or may revoke said conditional use permit bound upon applicable findings.
9. The exterior of all the premises shall be maintained in a neat and clean manner, and maintained free of graffiti at all times. Graffiti shall be removed within twenty-four hours after issuance of a notice of order.
10. Approval of this Use Permit shall be subject to revocation procedures contained in Section 17.72 of the Lodi Municipal Code in the event any of the terms of this approval are violated or if the operation of the business is conducted or carried out in a manner so as to adversely affect the health, welfare or safety of persons residing or working in the neighborhood.
11. Due to the change of use and occupancy of the building, Tenant Improvement plans shall be submitted to the Building Department. All plan submittals shall be based on the City of Lodi Building Regulations and currently adopted 2010 California Building code. Please review our policy handouts for specific submittal procedures.
12. The applicant/project proponent and/or developer and/or successors in interest and management shall obtain an annual Operational Permit issued by the Lodi Fire Department, and meet all the conditions outlined in therein. The Fire Department may be contact at the Lodi Fire Department, 25 East Pine Street, Lodi, CA 95240-2127. Phone Number (209) 333-6739.
13. Any fees due the City of Lodi for processing this Project shall be paid to the City within thirty (30) calendar days of final action by the approval authority. Failure to pay such outstanding fees within the time specified shall invalidate any approval or conditional approval granted. No permits, site work, or other actions authorized by this action shall be processed by the City, nor permitted, authorized or commenced until all outstanding fees are paid to the City.
14. No variance from any City of Lodi adopted code, policy or specification is granted or implied by this approval.

Dated: January 9, 2013

I certify that Resolution No. 13-02 was passed and adopted by the Planning Commission of the City of Lodi at a regular meeting held on January 9, 2013 by the following vote:

AYES: Commissioners: Jones, Kiser, Olson, and Chair Kirsten

NOES: Commissioners: None

ABSENT: Commissioners: Cummins, Heinitz, and Hennecke

ATTEST _____

Secretary, Planning Commission

IN-SHAPE USE PERMIT APPLICATION NO. 12-U-19

Initial Study Checklist				
Environmental Issues Area Examined	Potentially Significant Impact	Potentially Significant Unless Mitigated	Less Than Significant Impact	No Impact
AGRICULTURE RESOURCES <i>Would the project:</i>				
a) Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program in the California Resources Agency, to non-agricultural use?				X
b) Conflict with existing zoning for agricultural use, or a Williamson Act contract?				X
c) Conflict with existing zoning for, or cause rezoning of forest land (as defined in PRC Sec. 4526), or timberland zoned Timberland Production (as defined in PRC Sec. 51104 (g))?				X
d) Result in loss of forest land or conversion of forest land to non-forest use?				X
e) Involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland, to non-agricultural use?				X
GREENHOUSE GAS EMISSIONS: <i>Would the project:</i>				
a) Generate greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment?			X	
b) Conflict with an applicable plan, policy or regulations adopted for the purpose of reducing the emissions of greenhouse gases?			X	
LAND USE AND DEVELOPMENT IMPACTS. <i>Would the project:</i>				
a) Physically divide an established community, or otherwise result in an incompatible land use?				X
b) Conflict with an applicable land use plan, policy, or regulation of an agency with jurisdiction over the project (including, but not limited to, a general plan, specific plan, local coastal program, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect?				X
c) Conflict with any applicable habitat conservation plan or natural community conservation plan?				X
d) Convert Prime Farmland, Unique Farmland or Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use?				X
e) Conflict with existing zoning for agricultural use, or a Williamson Act contract?				X
f) Involve other changes in the existing environment that, due to their location or nature, may result in conversion of farmland to non-agricultural use?				X

IN-SHAPE USE PERMIT APPLICATION NO. 12-U-19

POPULATION AND HOUSING IMPACTS. <i>Would the project:</i>				
a) Induce substantial growth in an area either directly or indirectly (e.g., through projects in an undeveloped area or extension of major infrastructure)?				X
b) Displace substantial numbers of existing housing, necessitating the construction of replacement housing elsewhere?				X
c) Displace substantial numbers of people, necessitating the construction of replacement housing elsewhere?				X
TRANSPORTATION AND CIRCULATION IMPACTS. <i>Would the project:</i>				
a) Cause an increase in traffic that is substantial in relation to the existing traffic load and capacity of the street system (i.e., result in a substantial increase in either the number of vehicle trips, the volume to capacity ratio on roads, or congestion at intersections)?				X
b) Exceed, either individually or cumulatively, a level of service standard established by the County congestion management agency for designated roads or highways?				X
c) Substantially increase hazards due to the design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)?				X
d) Result in inadequate emergency access?				X
e) Result in inadequate parking capacity?				X
f) Conflict with adopted policies, plans, or programs supporting alternative transportation (e.g., bus turnouts, bicycle racks)?				X
g) Result in waterborne or air traffic impacts?				X
h) Result in hazards or barriers for pedestrians or bicyclists?				X
EARTH RESOURCES AND GEOLOGY IMPACTS. <i>Would the project result in or expose people to potential impacts involving:</i>				
a) The risk of loss or death involving rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area, or based on other substantial evidence of a known fault rupture?				X
b) Substantial adverse effects, including the risk of loss, injury, or death involving strong seismic ground shaking or seismic-related ground failure, including liquefaction?				X
c) Substantial soil erosion or the loss of topsoil?				X
d) Location on a geologic unit or a soil that is unstable, or that would become unstable as a result of the project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction or collapse?				X
e) Location on expansive soil, as defined in Table 18-1-B of the Uniform Building Code (1994), creating substantial risks to life or property?				X
f) Soils incapable of adequately supporting the use of septic tanks or alternative wastewater disposal systems where sewers are not available for the disposal of wastewater?				X
g) Unique geologic or physical features?				X

IN-SHAPE USE PERMIT APPLICATION NO. 12-U-19

WATER AND HYDROLOGY IMPACTS. <i>Would the project:</i>				
a) Violate any water quality standards or waste discharge requirements?				X
b) Substantially deplete groundwater supplies or interfere substantially with groundwater recharge in such a way that would cause a net deficit in aquifer volume or a lowering of the local groundwater table level (e.g., the production rate of pre-existing nearby wells would drop to a level which would not support existing land uses or planned uses for which permits have been granted)?				X
c) Substantially alter the existing drainage pattern of the site or area, including the alteration of the course of a stream or river, in a manner which would result in substantial erosion or siltation on-or off-site?				X
d) Substantially alter the existing drainage pattern of the site or area, including the alteration of the course of a stream or river, in a manner which would result in flooding on-or off-site?				X
e) Create or contribute runoff water which would exceed the capacity of existing or planned storm water drainage systems or provide substantial additional sources of polluted runoff?				X
f) Substantially degrade water quality?				X
g) Place housing within a 100-year flood hazard area as mapped on a Federal Flood Hazard Boundary or Flood Insurance Rate Map or other flood hazard delineation map?				X
h) Place within a 100-year flood hazard area, structures which would impede or redirect flood flows?				X
i) Expose people or structures to a significant risk of flooding as a result of dam or levee failure?				X
j) Result in inundation by seiche, tsunami, or mudflow?				X
AIR QUALITY IMPACTS. <i>Would the project:</i>				
a) Conflict with or obstruct implementation of the applicable air quality plan?				X
b) Violate any air quality standard or contribute substantially to an existing or projected air quality violation?				X
c) Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is in non-attainment under an applicable federal or state ambient air quality standard (including releasing emissions which exceed quantitative thresholds for ozone precursors)?				X
d) Expose sensitive receptors to substantial pollutant concentrations?				X
e) Create objectionable odors affecting a substantial number of people?				X
f) Alter air movement, moisture, or temperature, or cause any change in climate?				X

IN-SHAPE USE PERMIT APPLICATION NO. 12-U-19

BIOLOGICAL RESOURCES IMPACTS. <i>Would the project have a substantial adverse effect:</i>				
a) Either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Game or U. S. Fish and Wildlife Service?				X
b) On any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service?				X
c) On federally protected wetlands as defined by Section 404 of the Clean Water Act (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means?				X
d) In interfering substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory life corridors, or impede the use of native wildlife nursery sites?				X
e) In conflicting with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?				X
f) By conflicting with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan?				X
ENERGY AND MINERAL RESOURCES IMPACTS. <i>Would the project:</i>				
a) Result in the loss of availability of a known mineral resource that would be of value to the region and the residents of the state?				X
b) Result in the loss of availability of a locally important mineral resource recovery site delineated on a local general plan, specific plan, or other land use plan?				X
c) Conflict with adopted energy conservation plans?				X
d) Use non-renewable resources in a wasteful and inefficient manner?				X
RISK OF UPSET AND HUMAN HEALTH IMPACTS. <i>Would the project:</i>				
a) Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials?				X
b) Create a significant hazard to the public or the environment or result in reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment?				X
c) Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?				X
d) Be located on a site which is included on a list of hazardous material sites compiled pursuant to Government Code Section 65962.5 and, as a result, would it create a significant hazard to the public or the environment?				X
e) Be located within an airport land use plan, or where such a plan has not been adopted, within two miles of a public airport or a public use airport, would the project result in a safety hazard for people residing or working in the project area?				X
f) Within the vicinity of a private airstrip, result in a safety hazard for people residing or working in the project area?				X
g) Impair implementation of, or physically interfere with, an adopted emergency response plan or emergency response plan or emergency evacuation plan?				X
h) Expose people or structures to a significant risk of loss, injury, or death involving wild land fire, including where wild lands are adjacent to urbanized areas or where residences are intermixed with wild lands?				X

IN-SHAPE USE PERMIT APPLICATION NO. 12-U-19

NOISE IMPACTS. Would the project result in:				
a) Exposure of persons to or generation of noise levels in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies?				X
b) Exposure of people to or generation of excessive ground-borne noise levels?				X
c) Substantial permanent increase in ambient noise levels in the project vicinity above noise levels existing without the project?				X
d) Substantial temporary or periodic increases in ambient noise levels in the project vicinity above levels existing without the project?				X
e) For a project located with an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project expose people residing or working in the project area to excessive noise levels?				:
f) For a project within the vicinity of a private airstrip, would the project expose people residing or working in the project area to excessive noise levels?				:
PUBLIC SERVICES IMPACTS. Would the project result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, the construction of which would cause significant environmental impacts in order to maintain acceptable service ratios, response times or other performance objectives in any of the following areas:				
a) Fire protection services?				X
b) Police protection services?				X
c) School services?				X
d) Library facilities?				X
e) Other governmental services?				X
UTILITIES IMPACTS. Would the project:				
a) Exceed wastewater treatment requirements of the applicable Regional Water Quality Control Board?				X
b) Require or result in the construction of new water or wastewater treatment facilities or expansion of existing facilities, the construction of which could cause significant environmental impacts?				X
c) Require or result in the construction of new storm water drainage facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?				X
d) Have sufficient water supplies available to serve the project from existing entitlements and resources, or are new or expanded entitlements needed?				X
e) Result in a determination by the wastewater treatment provider which serves or may serve the project, that it has inadequate capacity to serve the project's projected demand in addition to the provider's existing commitments?				X
f) Be served by a landfill with insufficient permitted capacity to accommodate the project's solid waste disposal needs?				X
g) Comply with federal, state, and local statutes and regulations related to solid waste?				X
h) Result in a need for new systems, or substantial alterations in power or natural gas facilities?				X
i) Result in a need for new systems, or substantial alterations in communication systems?				X

IN-SHAPE USE PERMIT APPLICATION NO. 12-U-19

AESTHETIC IMPACTS. <i>Would the project:</i>				
a) Affect a scenic vista or view corridor?				X
b) Substantially damage scenic resources, including but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway?				X
c) Create a new source of substantial light or glare that would adversely affect day or nighttime views in the area?				X
CULTURAL RESOURCES IMPACTS. <i>Would the project:</i>				
a) Cause a substantial adverse change in the significance of a historical resource as defined in §15064.5 of the CEQA Guidelines?				X
b) Cause a substantial adverse change in the significance of an archaeological resource pursuant to §15064.5 of the CEQA Guidelines?				X
c) Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature?				X
d) Disturb any human remains, including those interred outside of formal cemeteries?				X
e) Have the potential to cause a physical change that would affect unique ethnic cultural values?				X
f) Impact an existing religious or sacred uses within the potential impact area?				X
RECREATION IMPACTS. <i>Would the project:</i>				
a) Increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated?				X
b) Affect existing recreational facilities or require the construction or expansion of recreational facilities which might have an adverse physical effect on the environment?				X
ENVIRONMENTAL ASSESSMENTS				
<p>Based on the Initial Study assessment, this project is exempt from environmental review under State CEQA Guidelines Section 15332 In-Fill Development Projects, Class 32, which applies to projects that are (a) consistent with the applicable general plan designation and all applicable general plan policies as well as with applicable zoning designation and regulations; (b) projects that occur within city limits on a project site of no more than five acres substantially surrounded by urban uses; (c) project site that have no value as habitat for endangered, rare or threatened species; (d) approval of the projects would not result in any significant effects relating to traffic, noise, air quality, or water quality; and (e) site can be adequately served by all required utilities and public services. The proposed project meets all these criteria. In addition, this project is exempt from environmental review under State CEQA Guidelines Section 15061(b)(3), the general rule that CEQA does not apply to projects where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment. Further, The project was found to be Categorically Exempt according to the California Environmental Quality Act, Article 19 §15321, Class 21 (a) (2). The project is classified as an "Enforcement action by regulatory agencies" because it is the "adoption of an administrative decision or order enforcing or revoking the lease, permit, license, certificate, or entitlement for use or enforcing the general rule, standard, or objective." No significant environmental impacts are anticipated and no mitigation measures have been required.</p>				

IN-SHAPE USE PERMIT APPLICATION NO. 12-U-19

SITE DATA	
Number of parcels	3
Total Size	7.72 acres
PROJECT PARCEL SIZE	3.019
Zoning Designation	CS
General Plan Designation	Commercial
PARKING	
Apple Market	115
Total Mall Parking	230
Total Parking provided	362
PROJECT DESCRIPTION	See attachment



Live the life you want... Get In-Shape!

PROJECT STATEMENT:
1320 WEST LOCKEFORD STREET – LODI, CALIFORNIA

INTRODUCTION

In-Shape Health Clubs, Inc., a Stockton, California-based company with more than 60 locations in California (“In-Shape”), is proposing a fitness facility for 1320 West Lockeford Street in the Lakewood Mall shopping center at the southwest corner of Lockeford and Ham Lane. The site is currently occupied by Apple Market. In-Shape is very excited about the possibility of bringing one of its signature clubs to Lodi.

PROCEDURAL BASIS

The zoning classification for the property is Commercial Shopping District (CS). The proposed fitness use is permitted under a Conditional Use Permit as governed by Chapter 17.72, Adjustments and Use Permits. The General Plan Designation for the site is Commercial. The proposed use is consistent with the intent of the General Plan. This application and request is submitted in accordance with Chapter 17.72 and all other applicable sections. Applicant believes this request is appropriate to be reviewed as a Conditional Use Permit for this zone. The findings required under Chapter 17.72.080 can be made, in that the establishment, maintenance and/or the conduct of the use will not, under the circumstances of this particular case, be detrimental to the health, morals, comfort or welfare of persons residing or working in the neighborhood of the proposed use, or to property or improvements in the neighborhood, or will not be contrary to the general public welfare. The project is believed to be exempt from CEQA under California Administrative Code Title 14 Section 15061 (b)(3).

COMPANY BACKGROUND

In-Shape Health Clubs, Inc. was founded in 1981 in Stockton, California, with the goal of creating a family fitness atmosphere and helping to improve quality of life and lifestyle for its members. Now with over 60 clubs throughout central California, including existing Vallejo clubs at 765 Sereno Boulevard and 125 Lincoln Road East, In-Shape remains committed to its founding message. In-Shape is a leader in the fitness industry with a proven track record of successful, well-received and impressively appointed facilities, strong membership retention and a variety of programs to encourage and support physical fitness, good health and balanced wellness. In-Shape facilities range from 6,000 to over 60,000 square feet and include, where applicable, group programs, children’s areas, well-appointed locker rooms, free exercise space, individual fitness training, family facilities and state of the art fitness equipment and the latest in exercise physiology and technology. The company promotes corporate memberships and wellness programs with an emphasis on healthy lifestyles for adults and children alike. In-Shape programming supports a wide variety of interests among members of all ages and strives to offer the broadest

selection and highest quality of services and facilities for the most affordable rates possible. More information can be found at inshapeclubs.com.

PROJECT OVERVIEW

In-Shape's plan is to bring a state of the art, family oriented fitness destination to Lodi at 1320 West Lockeford. The facility will offer a wide variety of amenities and fitness selections and will maintain the neighborhood feel and accessibility that has been a cornerstone of Lakewood Mall's success since its inception. No changes are planned for the exterior of the building or the shopping center.

The first floor is comprised of 27,637 square feet and a mezzanine will add 3,934 square feet for a total including accessory and circulation areas of 31,571 square feet. The interior of the space will welcome members and guests to a spectrum of amenities including group exercise and cycling, multiple exercise areas, cardio theatre, indoor pool, racquetball, mens' and womens' locker rooms and kids' club (see Appendix 1 for complete table).

OPERATIONAL HIGHLIGHTS

Relevant aspects of operations for the proposed use are outlined below.

1. The club will employ 8 full time and 14 part time individuals and will provide opportunities for approximately four independent contractors.
2. Bicycle parking will be provided, and alternative transportation will be encouraged.
3. A new trash enclosure will be constructed per City standards.
4. Applicant requests approval to operate up to 24 hours per day depending on member preference. No decision has yet been made as to operating hours. It is the corporate policy of In-Shape to operate 24 hours per day as member needs dictate. The percentage of residents who are subject to rotating occupational shifts or other non-traditional work hours, such as military, law enforcement and health care, has been found in nearby In-Shape facilities to be high enough to warrant 24-hour operation.
5. Expected membership level is confidential, however, peak usage hours are 5:00 a.m. to 7:30 a.m. and 5:30 p.m. to 7:30 p.m. As such the proposed use will complement existing uses in the center that have peak hours that are more typical of commercial and retail uses.
6. Noise levels for this use are likely to be less than those generated by the previous use. The proposed project will comply with any applicable noise ordinances.
7. The proposed project will not emit any noxious odors, vibrations or other air quality concerns.

SITE CONSIDERATIONS

Parking. Parking requirements for the proposed use are subject to Chapter 17.60.100 D 11, 12 and Chapter 17.60.120 of the Zoning Ordinance. One parking space for every 150 square feet of pool surface area and two spaces for each court are required. Beyond that, parking is to be determined by the Planning Commission for any uses not otherwise identified. Applying a standard typical for Applicant's existing facilities of comparable size, a 1:250 ratio for non-designated use areas is reasonable. This brings the total parking requirement for the proposed use to 115 (see Appendix 1 for complete table).

The premises is located within the Lakewood Mall, a shopping center containing multiple uses all served by reciprocal and non-exclusive parking (Protective Covenants, Conditions and Restrictions Affecting the Real Property Known As Lakewood Shopping Center recorded November 29, 1963, volume 2759 of Official Records, page 189). Total parking on the shopping center parcel is stated by the shopping center owner to be 362 which includes 15 accessible stalls. Under Chapter 17.60.080, whenever a single lot contains several different activities, the overall requirement for off-street parking and loading shall be the sum of the requirements for each such activity calculated separately. Based on the current tenant mix, a total of 230 parking spaces should be provided, including parking for the proposed use (see Appendix 2 for complete table).

Based on this, parking in the center is adequate to serve the anticipated membership and usage of the proposed use along with all existing tenants.

Signage. Signage will be submitted under separate application. Applicant will comply with the Sign Criteria for Lakewood Mall and the Sign Ordinance.

Site Lighting. No changes are planned or necessary for existing site lighting. Lighting as currently in place is believed to be in compliance with all applicable state and local ordinances and requirements.

Landscaping. The site is completely landscaped and no changes are planned.

Compatibility with Surrounding Uses. The proposed site, a fully developed commercial property, is bordered on the north and east by existing commercial uses, to the west by residential and the south by residential. The tenant space is sufficiently distant from residential areas such that no impact is expected.

COMPLIANCE WITH SITE DEVELOPMENT STANDARDS

The proposed project is appropriate for the tenant space and will

- make a positive contribution to existing development in the area;
- be harmonious and compatible with the design of surrounding existing uses;
- respect views, privacy and access to light and safety of neighboring properties; and
- not adversely affect neighboring properties.

USE PERMIT FINDINGS

Findings required to be made under Chapter 17.72.080 state that, to approve the use permit, the proposed use, and its

establishment, maintenance and/or the conduct of the use will not, under the circumstances of this particular case, be detrimental to the health, morals, comfort or welfare of persons residing or working in the neighborhood of the proposed use, or to property or improvements in the neighborhood, or will not be contrary to the general public welfare.

In response, the following conclusions are appropriate:

1. The project as proposed is well-suited for this existing building. The use is compatible with and highly desirable as a complement to existing surrounding uses.
2. The use encourages and promotes healthy, balanced lifestyles and is positive influence for people of all ages and walks of life.
3. Utilities and infrastructure existing and ready to serve the site are adequate for this proposed use and require no intensification.
4. The project will have no harmful effects on any desirable neighborhood characteristics and in fact will enhance the neighborhood.
5. The project will be served adequately by existing streets and transportation systems and will not require any change to such systems.
6. No impact of or detriment from the project, if any, results in any condition that is contrary to the intent of the General Plan.

CONCLUSION

Fitness facilities promote public health and general welfare and have been a valued and welcome participant in communities, neighborhoods and commercial shopping districts for many years. In-Shape facilities in particular are well-received, and contribute positively to community well-being. In-Shape is committed to maintaining this contribution long into the future and is very pleased to expand its involvement in the Lodi community.

SUBMITTAL ELEMENTS

Application and Environmental Assessment form
Project Statement
Exhibit A – Existing Site Plan
Exhibit B – Existing Floor Plan
Exhibit C – Proposed First Floor Plan
Exhibit D - Proposed Mezzanine Plan
Exhibit H Existing Elevations

APPENDIX 1

Proposed Use Area	Sq. Ft.
Free weights	2,560
Cardio, 1st floor	2,971
Group exercise	2,174
Kids club	1,765
Reception/lounge	1,231
Sales	72
Sales Manager	97
Abs/Stretch	753
Selectorized	1,018
Functional	773
Racquetball	1,600
Mens lockers	1,888
Womens lockers	1,900
Pool	5,261
Laundry/storage	318
Sauna	62
Steam	75
Aqua storage	43
General Manager	113
Staff	74
Family Changing Room	77
Group Cycle	740
Sales	462
Cardio, mezzanine	547
CBP Training	105
Shapes	1,521
<i>Total Use Area SF</i>	28,200
Total accessory and circulation area	3,371
Total overall square footage	<u>31,571</u>
Total Use area of racquetball and pool service area (1,575sf) (excluded for parking count purposes)	3,175

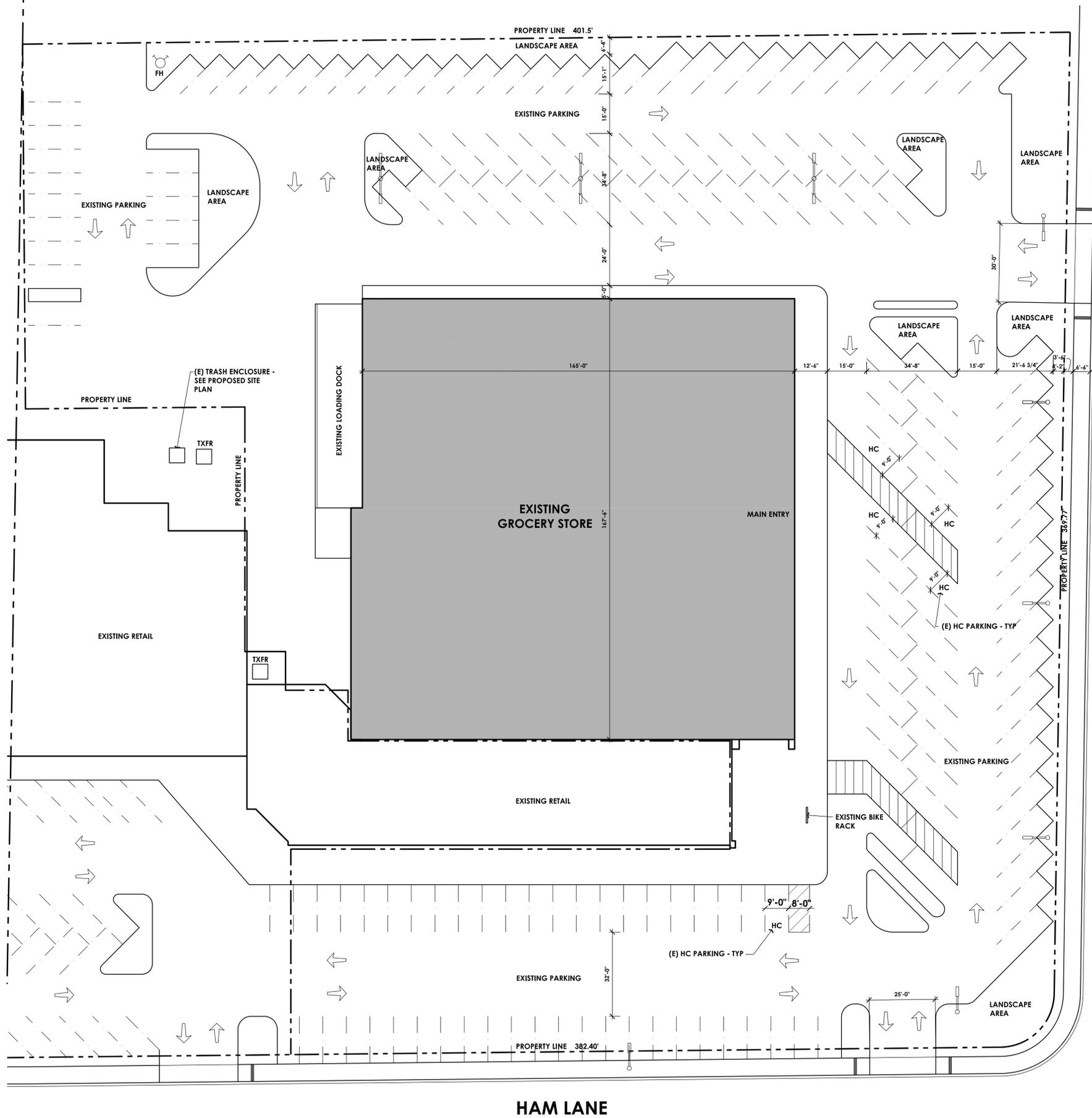
APPENDIX 1

APPENDIX 2

Suite No.	Use/Business (Seating is estimated)	Sq. Ft.	Parking Ratio	Parking Required
1365	Vacant (most likely future use: retail)	2090	500	4
209	Vacant (most likely future use: retail)	1781	500	4
10	Skyline Barbershop	300	200	2
990	Rick's Pizza (Seating: 40)	2364	1:4 seats	10
105	Advance America	1095	250	4
1306	Perfect Pear	525	500	1
1308	Sheri's Hair Shop	820	200	4
1313	J'aime Nail	765	200	4
1321	Dragon Lite Deli (Seating: 16)	1624	1:4 seats	4
135	Baskin Robbins (Seating: 10)	1080	1:4 seats	3
1355	State Farm	1257	250	5
1373	Lodi Community Arts Center	1870	500	4
145	Gourmet Bread Bowl (Seating: 20)	1320	1:4 seats	5
211	Randall's	2200	500	4
215	Lakewood Liquors	2324	500	5
223	Precision 6 Hairstyling	960	200	5
225	Max Muscle	810	500	2
227	Style of India Eyebrow	600	200	3
231	Wrappin' Up	1015	500	2
235	Matsuyama Restaurant (Seating: 35)	1200	1:4 seats	9
239	House of Coffee (Seating: 8)	900	1:4 seats	2
89	Umpqua Bank	2000	300	7
D11	Dollar Tree	12180	500	24
<i>Total Parking, Existing Uses</i>				115
		41080		
Total Parking for Proposed Use				
	Racquetball courts at 2 per court		2 per ct	4
	Pool surface area	1575	150	11
	Remainder SF (discretionary) ¹	25025	250	100
	Subtotal, proposed use			115
TOTAL PARKING OVERALL				230

¹ The Parking Ordinance provides parking requirements for court uses and pools. Under Chapter 17.60.120, "parking requirements for land uses not specified...shall be determined by the planning commission. Such determination shall be based on the most comprable use specified in these standards. Applicant has applied a ratio of 1:250sf for any use areas not otherwise specified in this Chapter.

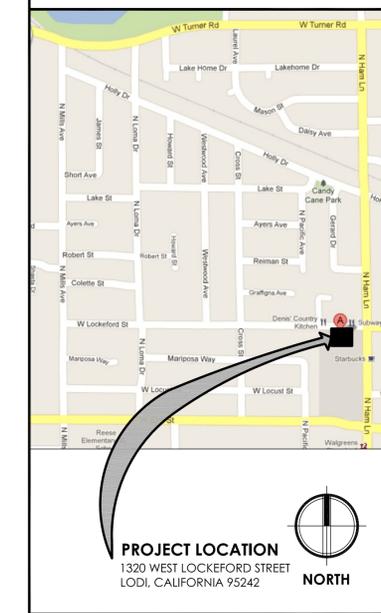
APPENDIX 2



EXISTING PROJECT DATA

PROJECT DESCRIPTION:		BUILDING DATA	
CONVERT A FULLY DEVELOPED COMMERCIAL BUILDING, CURRENTLY A GROCERY STORE, INTO A FULLY EQUIPPED FITNESS FACILITY WITH AN INDOOR POOL.		MAIN FLOOR: 28,159 S.F. (ACTUAL AREA) (PER AS-BUILT PLANS) MEZZANINE: 2,174 S.F. TOTAL BUILDING AREA: 30,333 S.F.	CONSTRUCTION TYPE: V-B FIRE SPRINKLERS: YES NUMBER OF STORIES: 1 BUILDING HEIGHT: 23'-0" (TOP OF PARAPET)
OWNER:			
STONE BROTHERS AND ASSOCIATES 5757 PACIFIC AVENUE SUITE 220 STOCKTON, CA 95207			
TENANT / APPLICANT:			
IN-SHAPE HEALTH CLUBS, INC. 6 SOUTH EL DORADO STREET, SUITE 700 STOCKTON, CA 95202 TEL: 209-472-2231 FAX: 209-473-6401 CONTACT: SANDRA HOMAN			
LOCATION:			
1320 WEST LOCKEFORD STREET LODI, CALIFORNIA 95242 APN: 035-340-09			
SITE DATA:			
JURISDICTION:	CITY OF LODI		
ZONE:	COMMERCIAL SHOPPING DISTRICT (CS)		
FLOOD PLAIN:	X5		
ENTIRE PARCEL:	7.72 AC (336,283.2 S.F.)		
FLOOR AREA RATIO:	30,333 / 336,283.2 = .09		
LOT COVERAGE:	28,159 / 336,283.2 = .08		
EXISTING PARKING CALCULATION:			
EXISTING RETAIL:	(SEE APPENDIX 2)	115 STALLS	
TOTAL CENTER PARKING REQUIRED		230 STALLS	
TOTAL CENTER PARKING PROVIDED		362 STALLS	
ACCESSIBLE STALLS REQUIRED		8 STALLS	
ACCESSIBLE STALLS PROVIDED		15 STALLS	

VICINITY MAP



**EXHIBIT A:
EXISTING
SITE PLAN**

USE PERMIT:
**CLUB #66
IN SHAPE HEALTH
CLUBS, INC**

**1320 WEST LOCKEFORD STREET
LODI, CA. 95242**



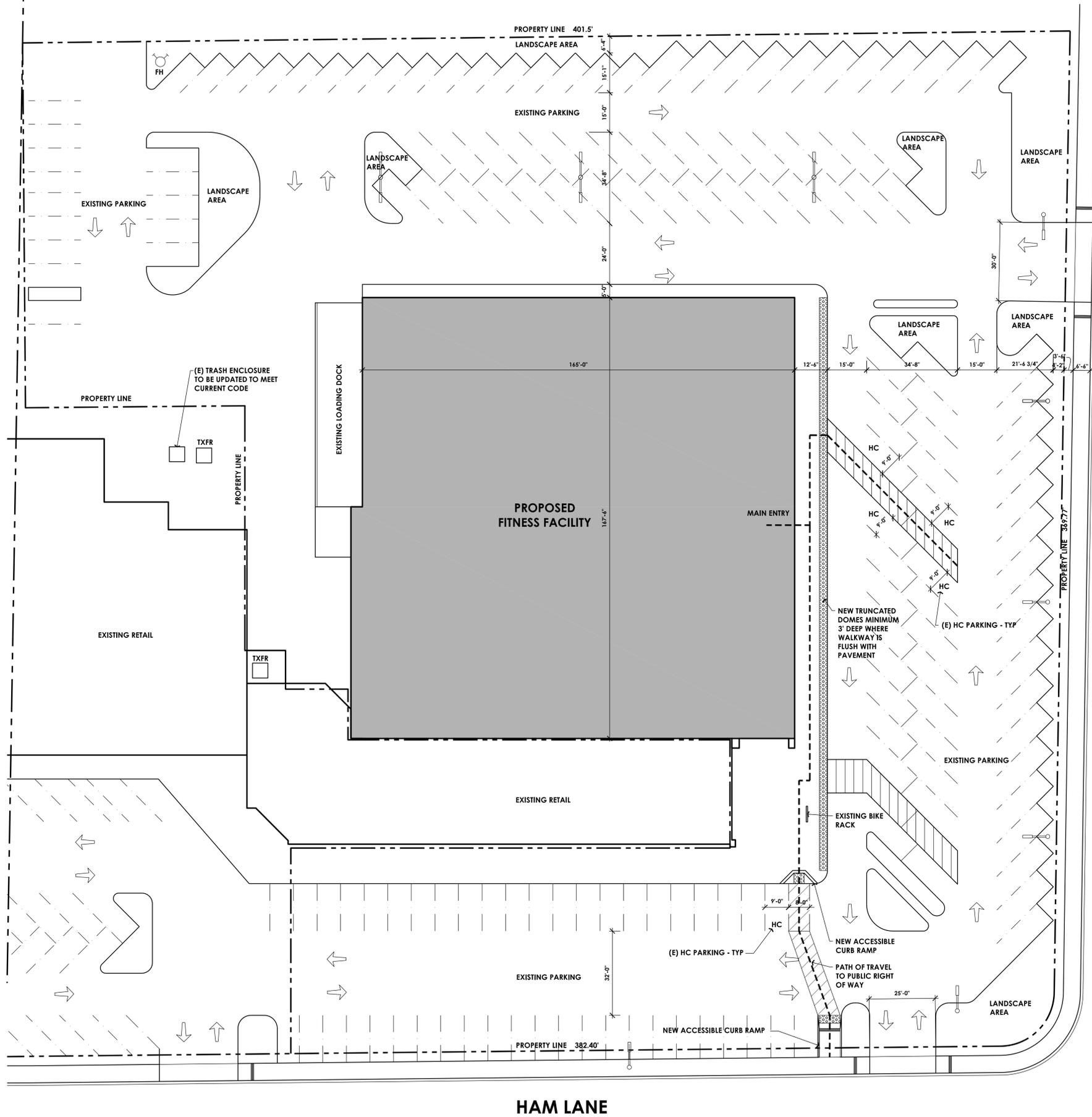
ARCHITECTURE PLUS INC.
4335-B NORTH STAR WAY
MODESTO, CA 95356

ph. 209.577.4661
fx 209.577.0213

www.apiarc.com

1 EXISTING SITE PLAN
SCALE: 1" = 20'-0"



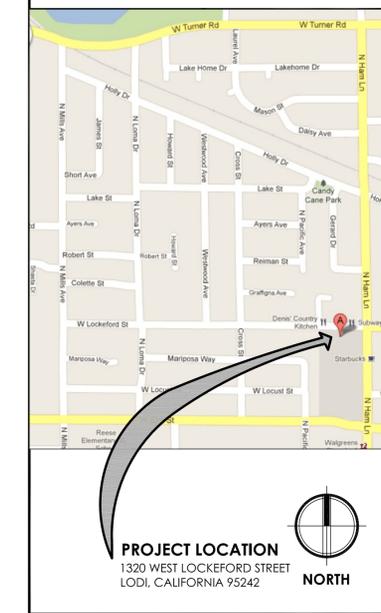


1 EXISTING SITE PLAN
SCALE: 1" = 20'-0"

PROPOSED PROJECT DATA

PROJECT DESCRIPTION: CONVERT A FULLY DEVELOPED COMMERCIAL BUILDING, CURRENTLY A GROCERY STORE, INTO A FULLY EQUIPPED FITNESS FACILITY WITH AN INDOOR POOL.		BUILDING DATA	
OWNER: STONE BROTHERS AND ASSOCIATES 5757 PACIFIC AVENUE SUITE 220 STOCKTON, CA 95207		MAIN FLOOR:	28,159 S.F. (ACTUAL AREA)
TENANT / APPLICANT: IN-SHAPE HEALTH CLUBS, INC. 6 SOUTH EL DORADO STREET, SUITE 700 STOCKTON, CA 95202 TEL: 209-472-2231 FAX: 209-473-6401 CONTACT: SANDRA HOMAN		MEZZANINE:	3,934 S.F.
LOCATION: 1320 WEST LOCKEFORD STREET LODI, CALIFORNIA 95242 APN: 035-340-09		TOTAL BUILDING AREA:	32,093 S.F.
SITE DATA: JURISDICTION: CITY OF LODI ZONE: COMMERCIAL SHOPPING DISTRICT (CS) FLOOD PLAIN: X5		CONSTRUCTION TYPE:	V-B
ENTIRE PARCEL: 7.72 AC (336,283.2 S.F.)		FIRE SPRINKLERS:	YES
FLOOR AREA RATIO: 32,093 / 336,283.2 = .09		NUMBER OF STORIES:	1
LOT COVERAGE: 28,159 / 336,283.2 = .08		BUILDING HEIGHT:	23'-0" (TOP OF PARAPET)
PARKING CALCULATION:		ALLOWABLE AREA CALCULATIONS	
EXISTING RETAIL: (SEE APPENDIX 2)	115 STALLS	ALLOWABLE AREA FOR A3 OCCUPANCY = 6,000 S.F.	
FITNESS FACILITY: RACQUETBALL (2 PER COURT)	4 STALLS	AG = (6000 + (6000 x .70) + (6000 x .3)) = 28,200 S.F.	
POOL SURFACE AREA 1575 S.F. / 150	11 STALLS	28,159 < 28,200 THEREFORE, OK (MEZZANINE AREA IS NOT INCLUDED IN ACTUAL AREA)	
REMAINING FACILITY 28,918 S.F. / 250	116 STALLS		
SUB-TOTAL FITNESS PARKING REQUIRED	131 STALLS		
TOTAL CENTER PARKING REQUIRED	246 STALLS		
TOTAL CENTER PARKING PROVIDED	361 STALLS		
ACCESSIBLE STALLS REQUIRED	8 STALLS		
ACCESSIBLE STALLS PROVIDED	15 STALLS		

VICINITY MAP



**EXHIBIT B:
PROPOSED
SITE PLAN**

USE PERMIT:
**CLUB #66
IN SHAPE HEALTH
CLUBS, INC**

**1320 WEST LOCKEFORD STREET
LODI, CA. 95242**

PLANNING
ARCHITECTURE



ARCHITECTURE PLUS INC.
4335-B NORTH STAR WAY
MODESTO, CA 95356

ph. 209.577.4661
fx 209.577.0213

www.apiarc.com

IN-SHAPE CLUB 66-LODI

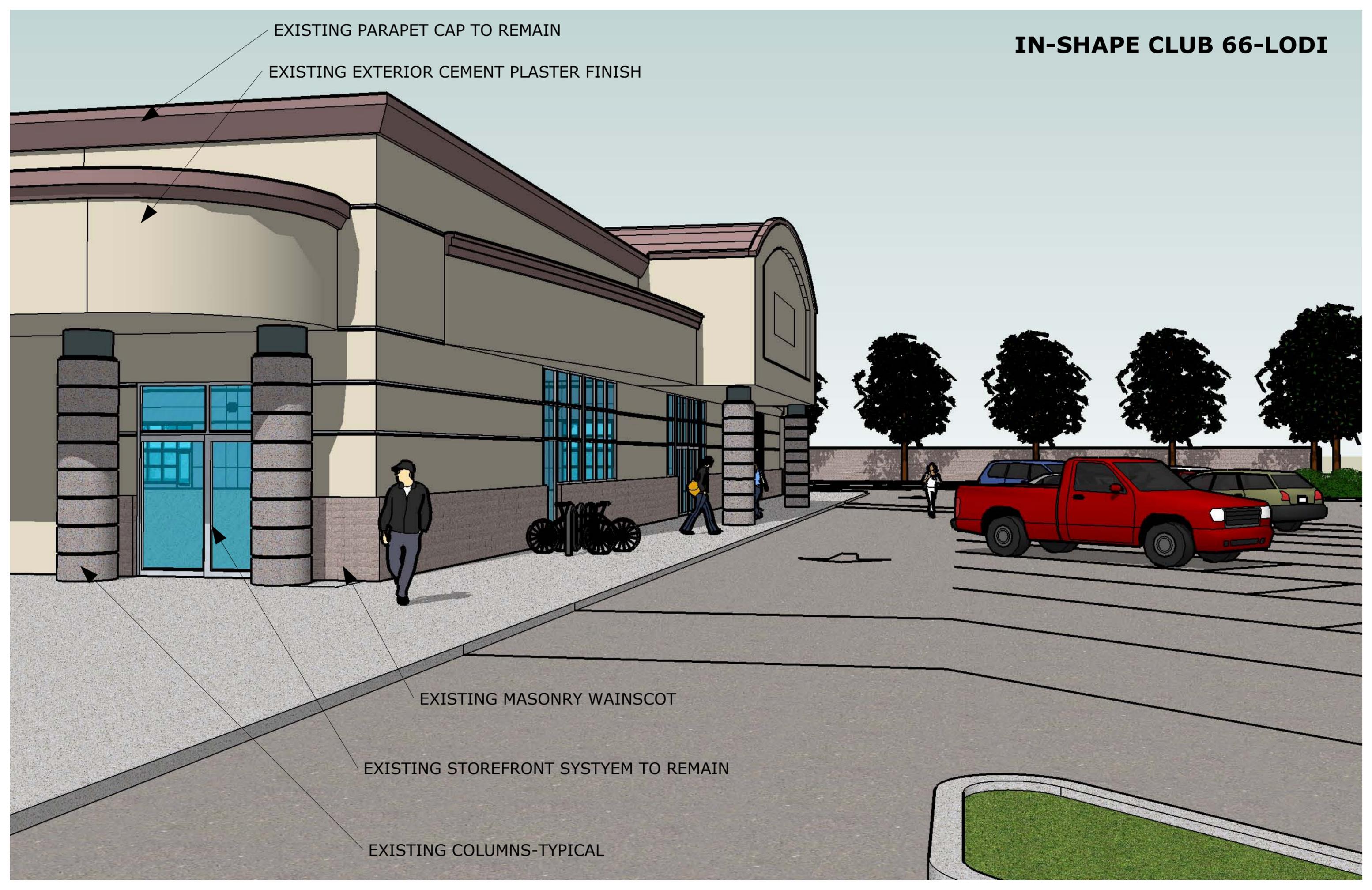
EXISTING PARAPET CAP TO REMAIN

EXISTING EXTERIOR CEMENT PLASTER FINISH

EXISTING MASONRY WAINSCOT

EXISTING STOREFRONT SYSTEM TO REMAIN

EXISTING COLUMNS-TYPICAL

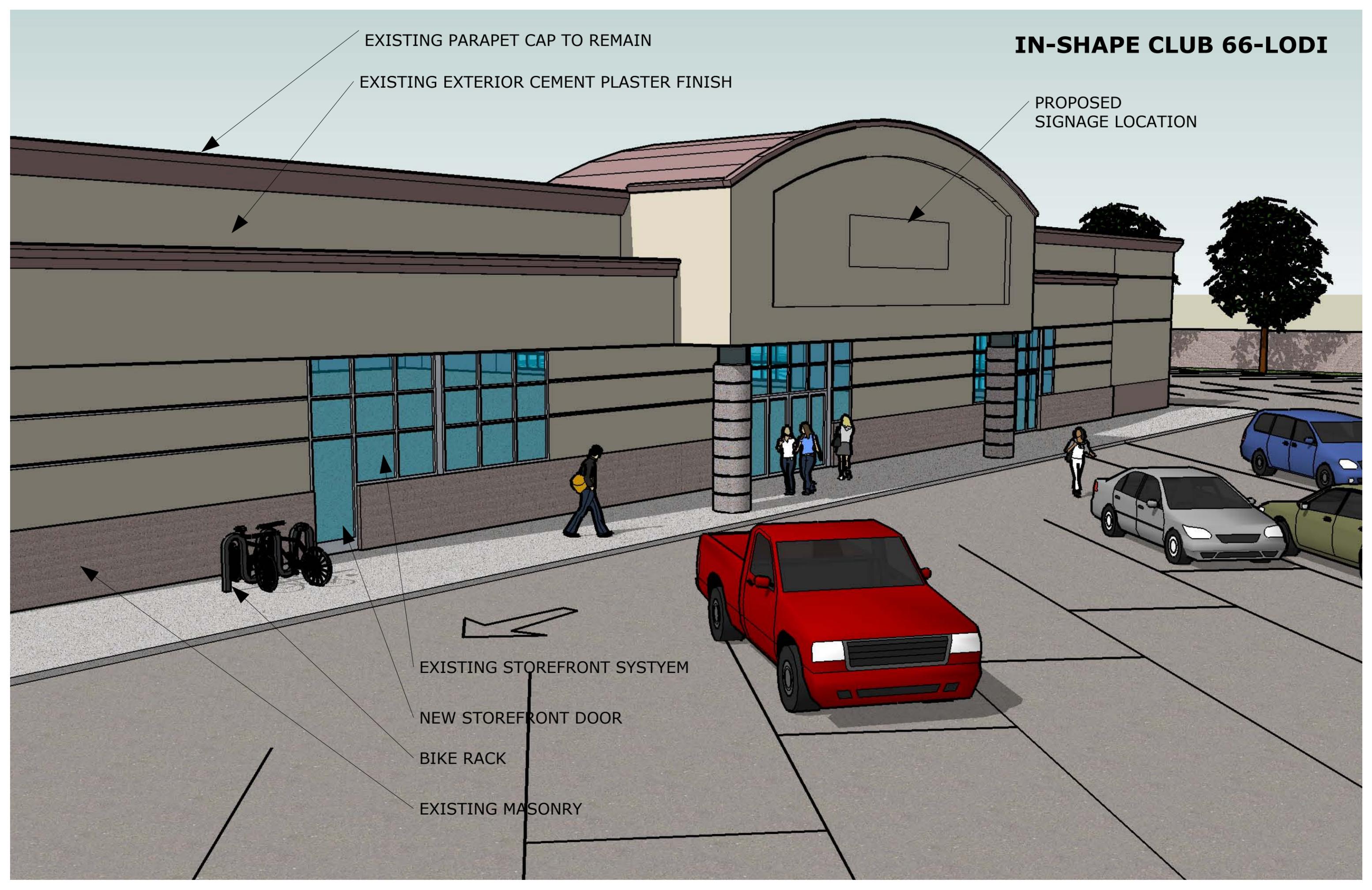


IN-SHAPE CLUB 66-LODI

EXISTING PARAPET CAP TO REMAIN
EXISTING EXTERIOR CEMENT PLASTER FINISH

PROPOSED SIGNAGE LOCATION

EXISTING STOREFRONT SYSTEM
NEW STOREFRONT DOOR
BIKE RACK
EXISTING MASONRY



IN-SHAPE CLUB 66-LODI

PROPOSED
SIGNAGE LOCATION

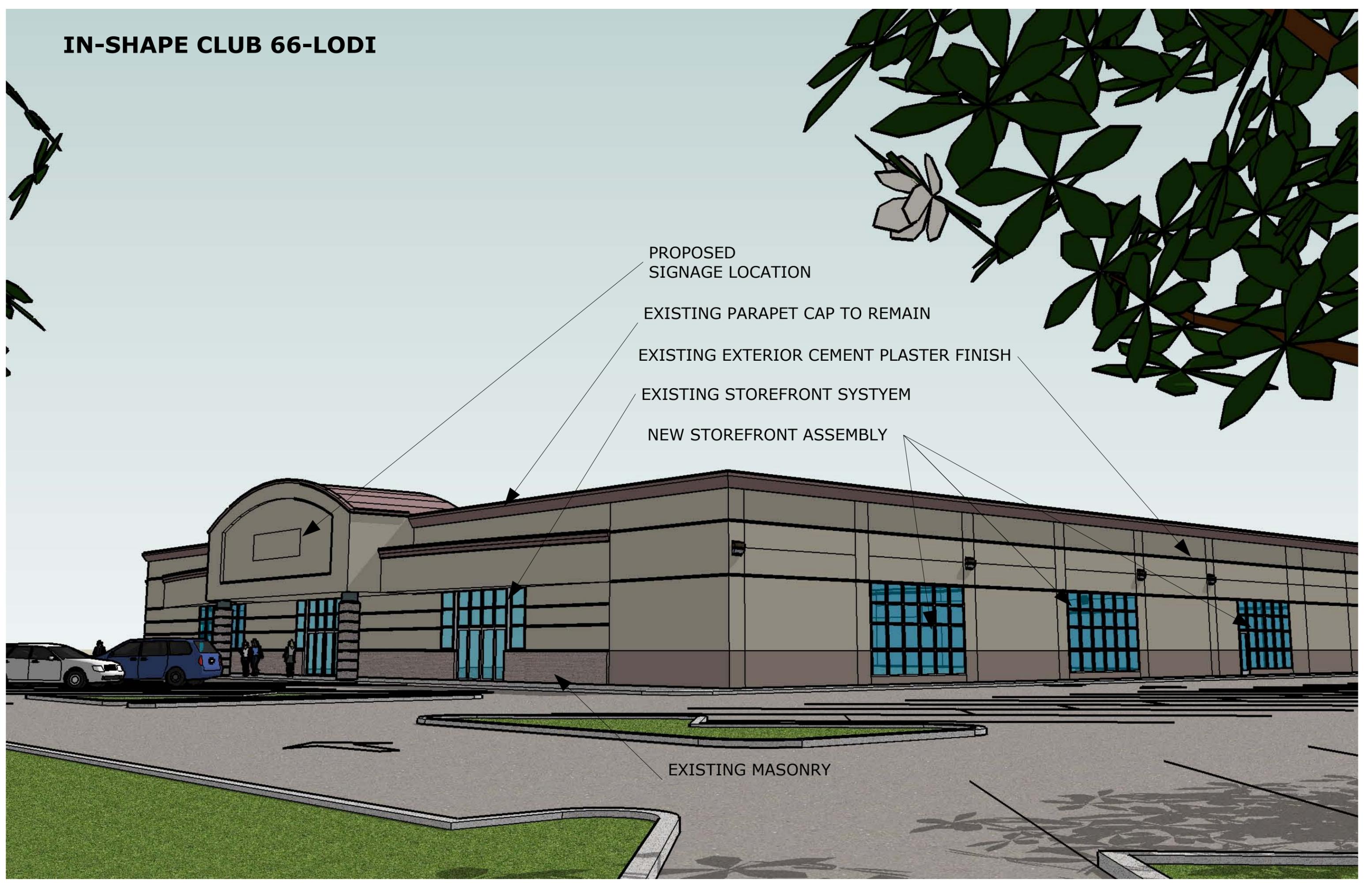
EXISTING PARAPET CAP TO REMAIN

EXISTING EXTERIOR CEMENT PLASTER FINISH

EXISTING STOREFRONT SYSTEM

NEW STOREFRONT ASSEMBLY

EXISTING MASONRY



**LODI PLANNING COMMISSION
REGULAR COMMISSION MEETING
CARNEGIE FORUM, 305 WEST PINE STREET
WEDNESDAY, JANUARY 9, 2013**

1. CALL TO ORDER / ROLL CALL

The Regular Planning Commission meeting of January 9, 2013 was called to order by Chair Kirsten at 7:00 p.m.

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

Absent: Planning Commissioners – Cummins and Hennecke

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

2. MINUTES

“September 12, 2012”

MOTION / VOTE:

No Motion made because there was not a quorum of Commissioners in attendance to make the motion. Item continued to the next meeting.

“December 12, 2012”

MOTION / VOTE:

The Planning Commission, on motion of Commissioner Kiser, Jones second, approved the Minutes of December 12, 2012 as written.

3. PUBLIC HEARINGS

- a) Notice thereof having been published according to law, an affidavit of which publication is on file in the Community Development Department, Chair Kirsten called for the public hearing to consider the request for Planning Commission approval of a Use Permit to allow a Type 2 (Winery) Alcoholic Beverage Control license at 1370 East Turner Road. (Applicants: Michael McCay, on behalf of McCay Cellars; File Number: 12-U-20)

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

Vice Chair Jones disclosed that he spoke with the applicant regarding the project.

Hearing Opened to the Public

- Michael McCay, applicant, came forward to answer questions.
- Frank Alegre, Lodi resident and local business owner, came forward to remind everyone that the area has a lot of dust due to the types of businesses that surround this project. He would like to put it on the record that the applicant has been warned. Chair Kirsten asked staff how Mr. Alegre gets his concerned on the record. Director Bartlam stated that he just did.
- Mike Hass, tenant in the same space, came forward to express his concerns that the grape husks from the previous winery, Vino Con Brio, plugged the sewer line. Chair Kirsten stated that this application does not include production, so that should not be a problem

with this project and will have to come back before the Planning Commission if the applicant wishes to change it.

- Commissioner Kiser asked if there was a standard condition for wineries regarding hauling away the debris. Director Bartlam stated that is the case, but because Vino Con Brio is long out of business the City can not go back to them. The property owner should be notified, so that he can take care of the issue.

Public Portion of Hearing Closed

MOTION / VOTE:

The Planning Commission, on motion of Commissioner Kiser, Jones second, approved the request for a Use Permit to allow a Type 2 (Winery) Alcoholic Beverage Control license at 1370 East Turner Road subject to the conditions in the resolution. The motion carried by the following vote:

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

- b) Notice thereof having been published according to law, an affidavit of which publication is on file in the Community Development Department, Chair Kirsten called for the public hearing to consider the request of the Planning Commission for approval of a Tentative Parcel Map to divide one parcel in to two lots at 903 West Turner Road. (Applicant: Foster Advantage, Inc. File No. 12-P-02)

Chair Kirsten stated that Item 3b has been postponed to a future Planning Commission date.

- c) Notice thereof having been published according to law, an affidavit of which publication is on file in the Community Development Department, Chair Kirsten called for the public hearing to consider the request of the Planning Commission for approval of a Use Permit to operate a fitness facility in an existing building located at 1320 West Lockeford Street. (Applicants: Sandra Homan, on behalf of In-Shape Health Clubs, Inc.; File Number: 12-U-19)

Commissioner Heinitz recused himself because he is a tenant in the same shopping center.

Chair Kirsten disclosed that he had a phone conversation with Wade Cellars with Stone Brothers, and Mel Young with Apple Market Central Mart, regarding the project.

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

Hearing Opened to the Public

- Jay Allen, representative for Stone Brothers property owner, came forward to answer questions. Mr. Allen stated that his father-in-law, Max Stone, along with a partner, Yamada Family, built the original shopping center. The Yamada Family owned and operated of the Sell Rite Store and when the second generation didn't want to step up and take over the business the store shut down. Another grocery store, Landucci's Market, went into the space and that store went out of business. After that store Apple Market went into the space and now they are struggling to stay open and have decided to close. There have been many efforts made to get another grocery store back into the space. The first time In-Shape Fitness organization approached the owner they told them that they were not interested in putting a fitness center into the space. After a second look at the options the space being filled with a fitness center looked better than an empty commercial space.

- Commissioner Olson asked what happens when a space like this remains vacant. Mr. Allen stated that there will be a down grade in use if the space stays vacant for a long period of time. Placing In-shape in this space is not a down grade in use, but rather a change in use. Olson asked if this use is compatible to the other uses in the shopping center. Allen stated that there shouldn't be any detriment to the other tenants. There have not been any negative comments from the other tenants to this point.
- George Petrulakis, Attorney for the folks that are concerned with the project, came forward to object to the project. Mr. Petrulakis has concerns with the findings that there will not be an impact to the surrounding area. The California Environmental Quality Act (CEQA) Article 19, 15321, that is being used for this application doesn't necessary apply. Staff seems to use this Article as a catch-all for all types of applications. There is a change of use, grocery store to 24 hour fitness center, for the space and an Initial Study and a Negative Declaration should have been done to ensure compatibility with the local environment which is primarily residential. There are a lot of concerns that could have been addressed within an Initial Study. Chair Kirsten asked staff to expand on the exemption that was used. Director Bartlam stated that staff is very satisfied with the exemption used. CEQA allows for a litany of categorical exemptions for these types of items. Staff used the exemptions outlined in Class 21, which should give you some sense of how many there are. These are used when the items that are brought before you are much to do about nothing. The infill categorical exemption could have been used as well; staff chose not to use it. This property is less than five acres and fits in the infill category.
- Randal Heinitz, tenant in the center, came forward to support the project. The uses in the surrounding area are primarily Commercial Uses, not residential. Mr. Heinitz would rather see a Fitness Center in the space then to see it sit empty. All of the tenants that have spoken to him about the change have all expressed positive comments and are excited about the new tenant.
- Paul Rothbard, CEO of In-Shape Health Clubs, came forward to answer questions. Members and non-members have been asking In-Shape to open a center in Lodi for many years. He is extremely confident that this will bring a positive customer flow to the entire center. Commissioner Kiser asked how many employees will be employed. Mr. Rothbard stated that the facility should employ up to 50 employees. 10 to 15 full time and the rest part time. Commissioner Olson asked how many memberships are estimated for this facility. Mr. Rothbard stated that there are 3000 memberships estimated. Chair Kirsten asked during peak hours how many members will be using the facility. Mr. Rothbard stated about 100 to 125 during peak hours of 5 pm to 7 pm on a Monday, Tuesday, and Wednesday Night. Kirsten asked if the parking will be sufficient. Mr. Rothbard stated that the company has more to loose by underestimating available parking, so parking has been taken into consideration and deemed sufficient.

Public Portion of Hearing Closed

MOTION / VOTE:

The Planning Commission, on motion of Commissioner Kiser, Jones second, approved the request for a Use Permit to operate a fitness facility in an existing building located at 1320 West Lockeford Street subject to the conditions in the resolution. The motion carried by the following vote:

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

Commissioner Heinitz rejoined the Commission.

4. PLANNING MATTERS/FOLLOW-UP ITEMS

None

5. ANNOUNCEMENTS AND CORRESPONDENCE

None

6. ACTIONS OF THE CITY COUNCIL

None

7. ACTIONS OF THE SITE PLAN AND ARCHITECTURAL REVIEW COMMITTEE

None

8. ART IN PUBLIC PLACES

None

9. COMMENTS BY THE PUBLIC (NON-AGENDA ITEMS)

None

10. COMMENTS BY STAFF AND COMMISSIONERS (NON-AGENDA ITEMS)

Director Bartlam wished the Commissioners a Happy New Year on behalf of Staff.

11. ADJOURNMENT

There being no further business to come before the Planning Commission, the meeting was adjourned at 7:53 p.m.

ATTEST:

Konradt Bartlam
Planning Commission Secretary



IN-SHAPE

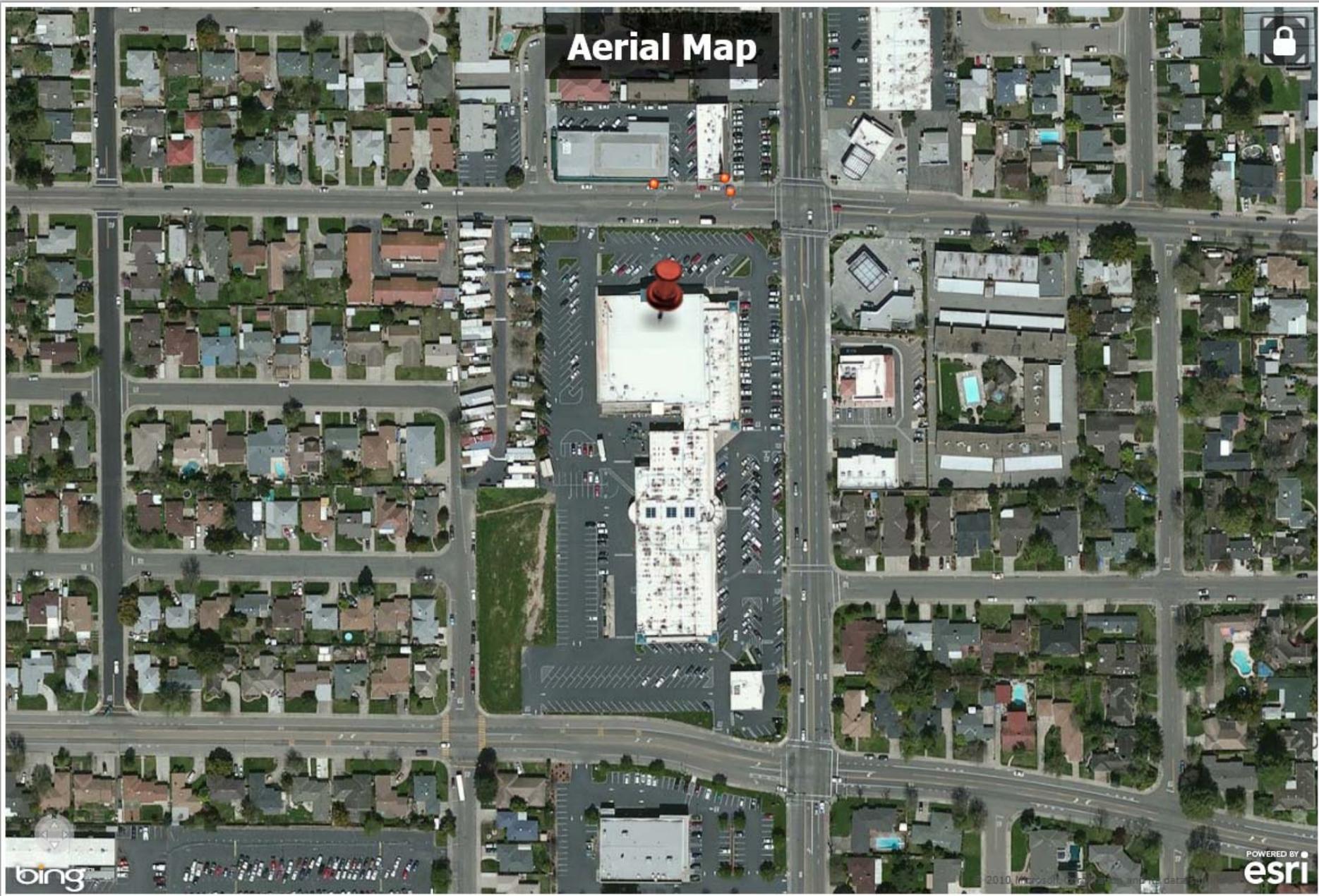


**City of Lodi
City Council
March 6, 2013**

Background Information

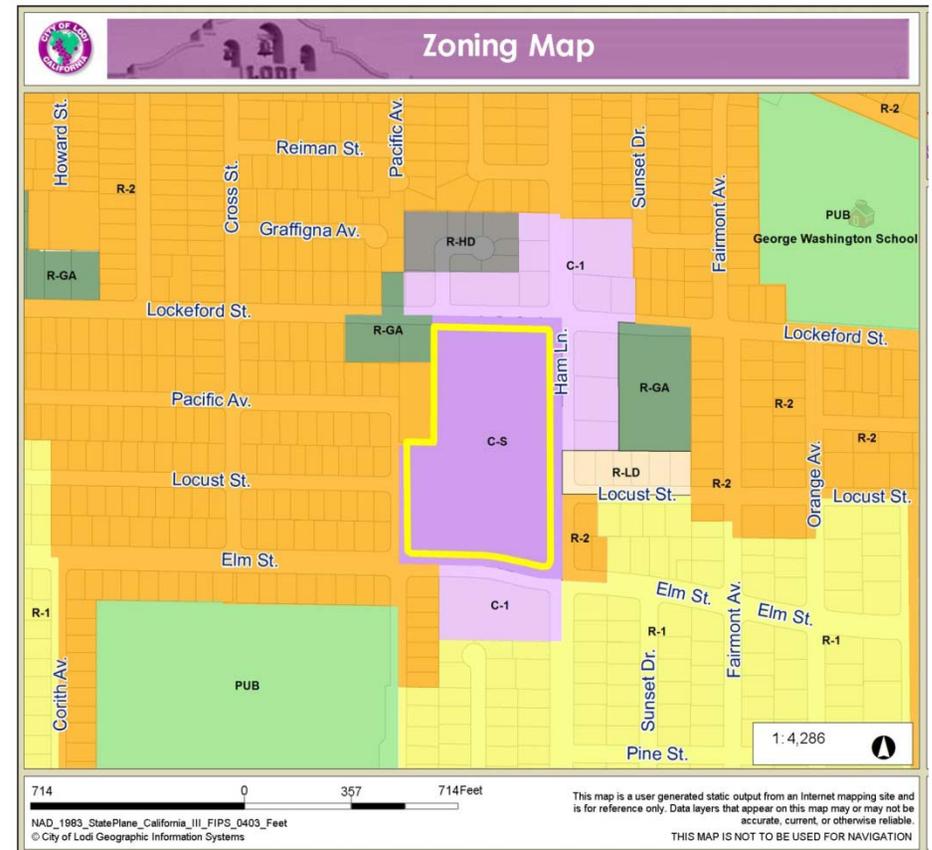
- Application Received:
 - November 15, 2012
 - Membership only health/fitness center
- Planning Commission Public Hearing
 - January 9, 2013
 - Approved
 - Health clubs allowed
- Appeal Filed
 - January 23, 2013
 - George Petrulakis, on behalf of Citizens for the Equal Application of the Law:
 - CEQA Status
 - Findings

Aerial Map



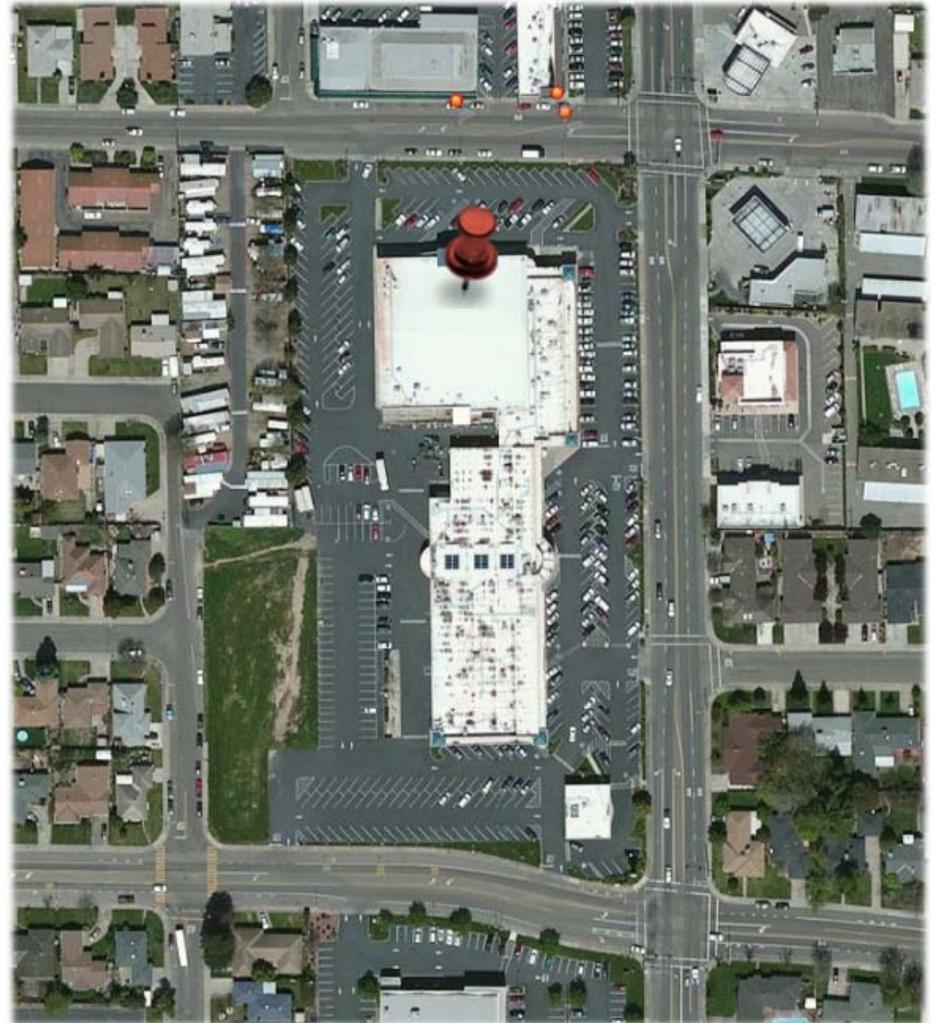
Land Use Policy

- General Plan
 - Commercial
 - Large retail or space users
- Zoning Designation
 - C-S, Shopping Commercial
 - Health clubs allowed



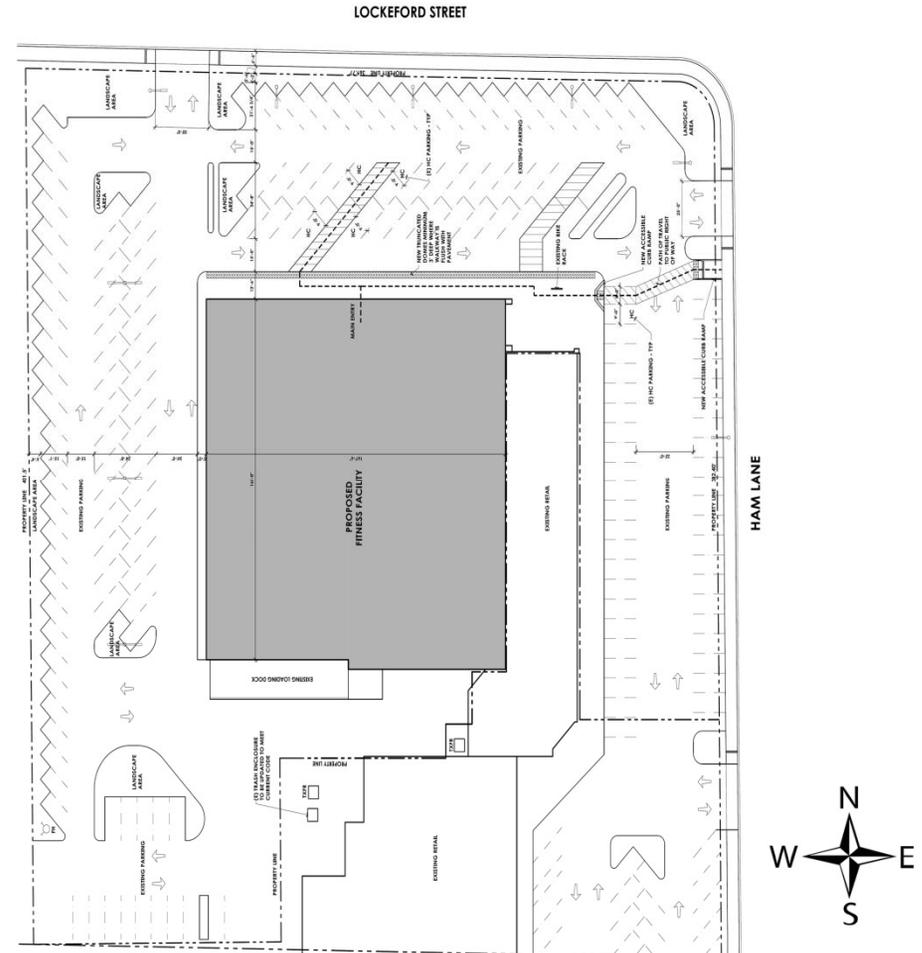
Site Information

- Required Parking
 - 4 spaces /1,000 sq. ft.
 - $[(72,351/1000) \times 4]= 290$
 - Total of 290 required
- Parking Provided
 - Total Provided = 361



Parking requirements for Health Club

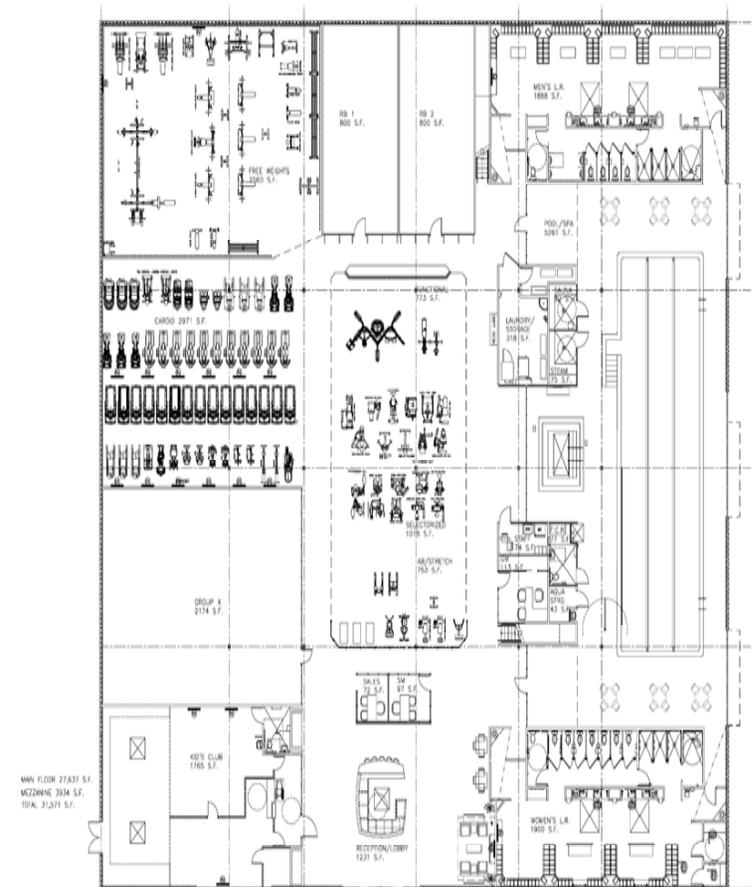
- 1/150 sq ft. of gross pool
- 2/court
- 4/1,000 sq. ft of floor area
 - (This ratio applies to General Commercial)



In Shape Floor Plan

- Total In-Shape SQ. FT. = 32,093
- Racquetball courts (1,600 sq. ft.)
 - (4 parking spaces required)
- 1,575 sq. ft. of pool surface area
 - (11 parking spaces required)
- General space of 28,918 sq. ft.
 - (116 parking spaces required)

- Total Parking = 131 parking sp.
- Rest of center = 159 parking sp.
- Total parking required = **290**
- Lakewood Mall provides **361**



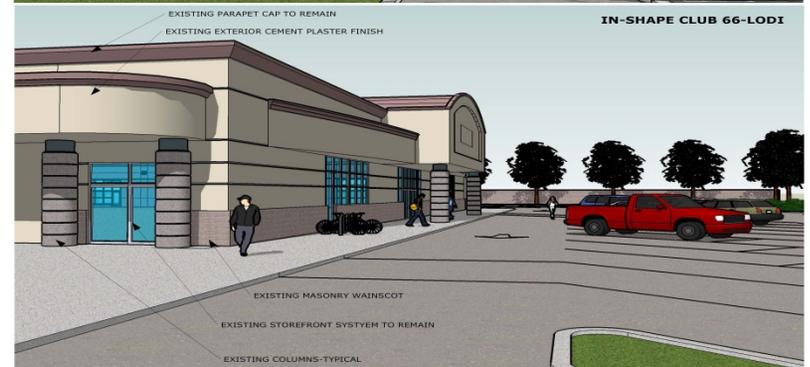
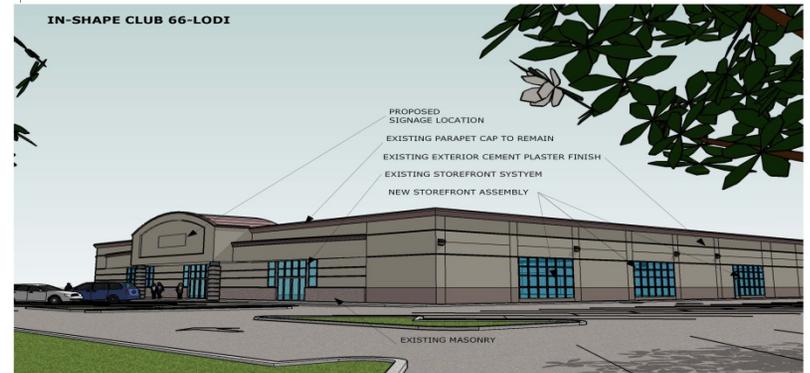
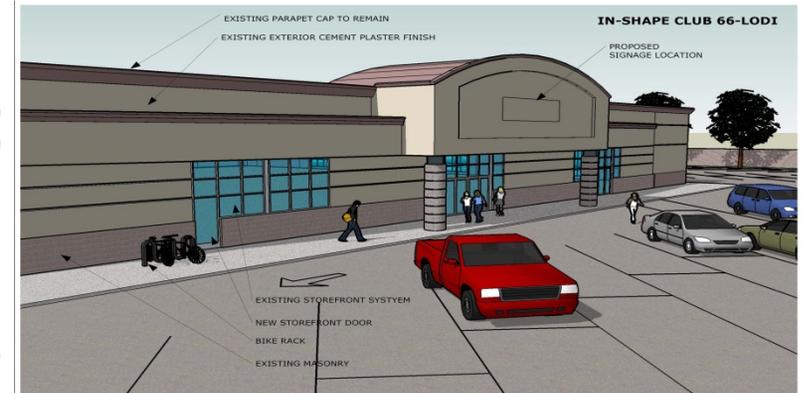
Hours of Operation

- Proposed Hours of Operation:

- 4 a.m. to 11 p.m., Monday - Friday
- 6 a.m. to 8 p.m. on Saturday - Sunday
- If there is demand, they'd like to operate 24 hours per day

- Noise:

- All activities within the building
- Membership required
- Adjacent to C-1 commercial district



CEQA Status

- CEQA Requires:
 - Projects require environmental review unless specifically exempted by certain statutory or categorical exemptions.
- Prepared an Initial Study
 - Found the Project Exempt
 - 14 CCR §15301(a) (Class 1),
 - 14 CCR §15332 (Class 32),
 - 14 CCR §15061(b)(3), and
 - 14 CCR §15183.

CEQA Status

- 14 CCR §15301(a) (Class 1) applies to:
 - The operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing public or private structures, facilities or mechanical equipment, involving negligible or no expansion of use beyond that existing at the time of the lead agency's determination
- Project
 - No physical expansion of the building proposed;
 - Most alterations involve interior of the building;
 - No change to zoning designation

CEQA Status

- 14 CCR §15332 (Class 32), applies to:
 - Infill Projects:
 - Consistent with the applicable General Plan and Zoning
 - Occurs within City limits
 - Five (5) acres or less, substantially surrounded by urban uses
 - The project site has no habitat value
 - Would not result in any significant effects relating to traffic, noise, air quality, or water quality, and
 - Served by all required utilities and public services.
- Project
 - Consistent with General Plan Policy and within the C-S Zone District;
 - Located within the city limits and less than five (5) acres;
 - Fully developed urban land with no habitat value;
 - In-fill project with no physical expansion of the building affecting traffic, noise
 - Served by existing utilities and public services.

CEQA Status

- 14 CCR §15183 applies to:
 - Projects consistent with the development density established by existing zoning, community plan, or general plan policies for which an Environmental Impact Report (EIR) was certified shall not require additional environmental review. The project is consistent with the current zoning and the City's General Plan.
- Project
 - The project The project is consistent with the current zoning and the City's General Plan.

CEQA Status

- 14 CCR §15061(b)(3), applies to:
 - A project if it does not have the potential for causing a significant effect on the environment.
 - Where it can be seen with certainty that there is no possibility that the activity in questions may have a significant effect on the environment, the activity is not subject to CEQA.
- Project
 - In-Fill project, no significant environmental effects would occur as the result of the proposed project.

Findings

- Lodi Municipal Code § 17.72.080 Requires:
 - The establishment, maintenance or conducting of the use will not, under the circumstances of the particular case, be detrimental to the health, morals, comfort or welfare of persons residing or working in the neighborhood of the proposed use, or to property or improvements in the neighborhood, or will not be contrary to the general public welfare.
- Findings
 - Project will not be detrimental to the health, morals, comfort or welfare of nearby residents
 - Membership only facility (not open to the public)
 - Less vehicular and foot traffic vs. general grocery store

Conclusion

- Consistent with General Plan Policy and Zoning
- Other health clubs in shopping centers
 - No parking issues
 - No noise issues
- Recommended Action:
 - Deny Appeal and Uphold the Commission's decision.

G-1

Randi Johl

From: Gil Bostwick [GBostwick@petrulakis.com]
Sent: Wednesday, March 06, 2013 03:11 PM
To: Randi Johl
Cc: jekeating@earthlink.net; George Petrulakis
Subject: Withdrawal of Appeal by CA Citizens for Equal Application of the Law
Attachments: Appeal Withdrawal Letter 3-6-13.pdf

Ms. Johl:

Please find attached a letter regarding the withdrawal of the appeal by California Citizens for the Equal Application of the Law for Use Permit File Number 12-U-19.

Please do not hesitate to contact me if you have any questions.

Regards,

Gilbert D. Bostwick Jr.
Land Use Planning and Government Relations Manager
Office Administrator
Petrulakis Law & Advocacy, APC
1130 12th Street, Suite B
Modesto, CA 95354
(209) 522-0500, extension #3

The information contained in this message is subject to attorney-client privilege or is otherwise privileged and confidential information intended for the use of the recipient named above. The reading, dissemination, or copying of this communication by anyone other than the recipient is strictly prohibited. If you have received this communication in error, please immediately destroy/delete the message and notify Petrulakis Law & Advocacy of the transmission error at (209) 522-0500 or gbostwick@petrulakis.com

03/06/2013

PETRULAKIS LAW & ADVOCACY, APC

ATTORNEYS AND COUNSELORS AT LAW

1130 12TH STREET, SUITE B

MODESTO, CALIFORNIA 95354

TELEPHONE 209 522-0500

FACSIMILE 209 522-0700

GEORGE A. PETRULAKIS
BARBARA J. SAVERY, OF COUNSEL

PLANNING & POLICY
ANALYSTS
GILBERT D. BOSTWICK
CHRIS A. ESTHER

MAILING ADDRESS
POST OFFICE BOX 92
MODESTO, CA 95353-0092

March 6, 2013

Ms. Randi Johl
City Clerk
City of Lodi
Lodi, CA 95241-1910

Via Facsimile & Email Communication

RE: Withdrawal of Appeal by California Citizens for the Equal Application of the
Law

Dear Ms. Johl:

This letter is to inform you that California Citizens for the Equal Application of the Law has decided to withdraw its appeal of Use Permit File Number 12-U-19 approved by the Planning Commission on January 9, 2013.

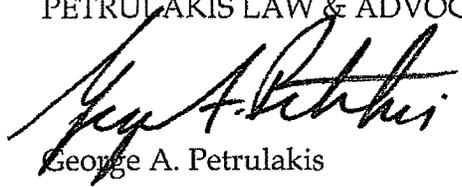
While we are withdrawing this particular appeal, we have reviewed the use of CEQA exemptions by the City Planning Department dating back to January 2009, and believe a pattern of misuse of the Class 21 exemption in the non-alcohol license situations is evident. We therefore encourage the City to review its use of the Class 21 CEQA exemption and conform it to law.

Ms. Randi Johl
City Clerk
January 23, 2013
Page 2

Thank you for your attention in this matter. Please feel free to contact me if you have any questions.

Very truly yours,

PETRULAKIS LAW & ADVOCACY, APC

A handwritten signature in cursive script, appearing to read "George A. Petoulakis".

George A. Petoulakis

cc: California Citizens for Equal Application of the Law

G-1

RECEIVED
MAR - 4 2013
CITY CLERK

Feb 27, 2013

To Whom it May Concern,

I am writing to express our concerns about the In Shape Gym planned for the current Apple Market site. My husband and I live on Pacific Avenue, across from Lodi High, behind Walgreen's and very close to Elm Street. Our main concern is the noise factor. We have lived here for 20 years and in the past few years the noise from all the boom boxes coming and going to Lodi High in the morning and afternoon hours, plus all the functions held at the high school at night, the maintenance going on after midnight at Walgreen's on some nights has become all but unbearable at times.

We have complained to the police, to the high school etc., and nothing has been done about it in spite of there being a noise ordinance in Lodi. Why isn't the boom box issue being addressed? The boom boxes are so loud that they actually shake our windows. We know that young people are big users of gyms and younger people are the people with the boom boxes going at all hours of the day and night. We already put up with a lot in this neighborhood and aren't willing to put up with much more.

Our second concern is the traffic. We have a lot of traffic issues on Elm St. already due to Erma B. Reese, Lodi High, Lakewood Mall, and Walgreens. Are people going to be parking up and down the streets? Pacific Avenue has no parking areas in force during certain hours for most of the day, and yet it is rarely enforced. I live on this street but if I want to park on it, I have to buy a permit every year while cars park in the no parking zones every day, sometimes blocking my driveway. Is this going to be an attractive nuisance that will attract more of this? There are many questions that need to be answered.

Lastly, we are really weary of less than wonderful things being located in certain areas of Lodi while other areas are exempt. Roget Park is a perfect example. No playground for kids, tennis courts, family activities BBQ's etc., keep it a nature area because it backs up to SunWest? No Wal-Mart in a perfect location because of complaints from a few that it affects them, but a huge gym on Lockeford Street, when there is already a gym at 429 Lockeford Street, as well as many other gyms all over town, is OK? Is the new building going to be remodeled so that it's higher than it is now and sticks out like a sore thumb? What if it doesn't fly and goes out of business, how easy will it be to gain new tenants with a swimming pool built in? We are against it at this time for the reasons stated and wish to be on record as saying so.

Thank You

Phil and Cheri Gaudet

Phil A. Gaudet
Cheri Gaudet



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

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

ADVERTISING INSTRUCTIONS

SUBJECT: PUBLIC HEARING TO CONSIDER APPEAL OF CALIFORNIA CITIZENS FOR THE EQUAL APPLICATION OF THE LAW REGARDING THE PLANNING COMMISSION'S DECISION TO APPROVE A USE PERMIT TO OPERATE A FITNESS FACILITY AT 1320 WEST LOCKEFORD STREET (APN 035-340-09 – USE PERMIT NO. 12-U-19)

PUBLISH DATE: SATURDAY, FEBRUARY 23, 2013

LEGAL AD

TEAR SHEETS WANTED: One (1) please

SEND AFFIDAVIT AND BILL TO: RANDI JOHL, CITY CLERK
LNS ACCT. #0510052 City of Lodi
P.O. Box 3006
Lodi, CA 95241-1910

DATED: THURSDAY, FEBRUARY 21, 2013

ORDERED BY: RANDI JOHL
CITY CLERK

Jennifer M. Robison
JENNIFER M. ROBISON, CMC
ASSISTANT CITY CLERK

MARIA BECERRA
ADMINISTRATIVE CLERK

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

LNS Faxed to the Sentinel at 369-1084 at _____ (time) on _____ (date) _____ (pages)
Phoned to confirm receipt of all pages at _____ (time) _____ JMR _____ MB (initials)



DECLARATION OF POSTING

PUBLIC HEARING TO CONSIDER APPEAL OF CALIFORNIA CITIZENS FOR THE EQUAL APPLICATION OF THE LAW REGARDING THE PLANNING COMMISSION'S DECISION TO APPROVE A USE PERMIT TO OPERATE A FITNESS FACILITY AT 1320 WEST LOCKEFORD STREET (APN 035-340-09 – USE PERMIT NO. 12-U-19)

On Thursday, February 21, 2013, in the City of Lodi, San Joaquin County, California, a Notice of Public Hearing to consider appeal of California Citizens for the Equal Application of the Law regarding the Planning Commission's decision to approve a Use Permit to operate a fitness facility at 1320 West Lockeford Street (APN 035-340-09 – Use Permit No. 12-U-19) (attached and marked as Exhibit A) was posted at the following locations:

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

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

Executed on February 21, 2013, at Lodi, California.

ORDERED BY:

**RANDI JOHL
CITY CLERK**


JENNIFER M. ROBISON, CMC
ASSISTANT CITY CLERK

MARIA BECERRA
ADMINISTRATIVE CLERK



DECLARATION OF MAILING

PUBLIC HEARING TO CONSIDER APPEAL OF CALIFORNIA CITIZENS FOR THE EQUAL APPLICATION OF THE LAW REGARDING THE PLANNING COMMISSION'S DECISION TO APPROVE A USE PERMIT TO OPERATE A FITNESS FACILITY AT 1320 WEST LOCKEFORD STREET (APN 035-340-09 – USE PERMIT NO. 12-U-19)

On Thursday, February 21, 2013, in the City of Lodi, San Joaquin County, California, I deposited in the United States mail, envelopes with first-class postage prepaid thereon, containing a Notice of Public Hearing to consider appeal of California Citizens for the Equal Application of the Law regarding the Planning Commission's decision to approve a Use Permit to operate a fitness facility at 1320 West Lockeford Street (APN 035-340-09 – Use Permit No. 12-U-19), attached hereto Marked Exhibit A. The mailing list for said matter is attached hereto, marked Exhibit B.

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

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

Executed on February 21, 2013, at Lodi, California.

ORDERED BY:

RANDI JOHL
CITY CLERK, CITY OF LODI


JENNIFER M. ROBISON, CMC
ASSISTANT CITY CLERK

MARIA BECERRA
ADMINISTRATIVE CLERK



CITY OF LODI
Carnegie Forum
 305 West Pine Street, Lodi

NOTICE OF PUBLIC HEARING

Date: March 6, 2013

Time: 7:00 p.m.

For information regarding this notice please contact:

Randi Johl

City Clerk

Telephone: (209) 333-6702

EXHIBIT A

NOTICE OF PUBLIC HEARING

NOTICE IS HEREBY GIVEN that on **Wednesday, March 6, 2013**, at the hour of 7:00 p.m., or as soon thereafter as the matter may be heard, the City Council will conduct a public hearing at the Carnegie Forum, 305 West Pine Street, Lodi, to consider the following item:

- a) **Appeal of California Citizens for the Equal Application of the Law regarding the Planning Commission's decision to approve a Use Permit to operate a fitness facility at 1320 West Lockeford Street (APN 035-340-09 – Use Permit No. 12-U-19).**

Information regarding this item may be obtained in the Community Development Department, 221 West Pine Street, Lodi, (209) 333-6711. All interested persons are invited to present their views and comments on this matter. Written statements may be filed with the City Clerk, City Hall, 221 West Pine Street, 2nd Floor, Lodi, 95240, at any time prior to the hearing scheduled herein, and oral statements may be made at said hearing.

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

By Order of the Lodi City Council:

Randi Johl
 City Clerk

Dated: February 20, 2013

Approved as to form:

D. Stephen Schwabauer
 City Attorney

EXHIBIT B

**Public Hearing to Consider Appeal of California Citizens for the Equal
Application of the Law Regarding the Planning Commission's Decision to
Approve a Use Permit to Operate a Fitness Facility at 1320 West Lockeford
Street (APN 035-340-09; Use Permit No. 12-U-19)**

Mailing List

Citizens for the Equal Application of the Law
Attention: Janice Keating
P.O. Box 92
Modesto, CA 95353

Appeal of Planning Commission Decision for file 12-U-19 for In-Shape Health Club located at 1320 W. Lockerford

St.

PARCEL	OWNER	CARE OF	ADDRESS	CITY	STATE	ZIP
3511005	SAKAUYE, SHIZU TR	WALGREEN CO REAL ESTATE TAX DE	PO BOX 1159	DEERFIE LD	IL	60015
3511006	STOOPS, RYAN & LISA		39 N HAM LN	LODI	CA	95242
3511008	DOW, RAQUEL L TR ETAL	CARTER B DON	PO BOX 805	PEPECKE O	HI	96783
3511009	NGUYEN, OANH KIM		53 N WELLINGTON WAY	LODI	CA	95242
3511012	LODI UNIFIED, SCHOOL DIST		3 S PACIFIC AVE	LODI	CA	95242
3517512	HOWEN, ROBERT G & JAMIE K TR		1008 VIENNA DR	LODI	CA	95242
3517513	SEIBEL, BRANDON K & PATRICIA L		1406 W GRAFFIGNA AVE	LODI	CA	95242
3517514	HOWEN, ROBERT G & JAMIE K TR		1008 VIENNA DR	LODI	CA	95242
3517515	OBYRNE, MICHAEL		1408 GRAFFIGNA AVE	LODI	CA	95242
3525205	GRITTS, KATHY A		1425 W LOCUST ST	LODI	CA	95242
3525206	CHRISTOPHERSON, COREY D & LAUR		1419 W LOCUST ST	LODI	CA	95242
3525207	VALLERO, THEODORE J		1413 W LOCUST ST	LODI	CA	95242
3525208	HERENDEEN, GARY K & TAMI		1407 W LOCUST ST	LODI	CA	95242
3525209	LOPEZ, LUIS G		1401 W LOCUST ST	LODI	CA	95242
3525305	FIORI, JOSEPH & BARBARA TR		531 S MILLS AVE	LODI	CA	95242
3525306	WYATT, ALICE TR		1418 W LOCUST ST	LODI	CA	95242
3525307	MANGRICH, MICHAEL D & S L		PO BOX 393	WOODBR IDGE	CA	95258
3525308	NOBRIGA, JOHN & KARRIE		15402 N RAY RD	LODI	CA	95242
3525309	LUTZ, ADELINE ETAL		1400 W LOCUST ST	LODI	CA	95242
3525310	FIELDS, FRANKLIN P & MARY JANE	LINDA J FIELDS	PO BOX 1776	LODI	CA	95241
3525311	MCMASTER, GLENN W & L TRS		1407 W ELM ST	LODI	CA	95240
3525312	MOECKLY, JEFFERY A		1413 W ELM ST	LODI	CA	95242
3525313	THURMAN, DELBERT G & ROSE TR		PO BOX 2267	LODI	CA	95241
3525414	MELISH, MARTIN A		1418 W ELM ST	LODI	CA	95242
3525415	MAYO, JOANN E		2316 W VINE ST	LODI	CA	95242
3525416	ADAME, JOHN & HILDA		1406 W ELM ST	LODI	CA	95242
3525417	SPANO, JOSEPH S & ISABELLE A L		1124 LINCOLN AVE	BURLING AME	CA	94010
3526004	GERLACK, JOHN D & B TRS		2449 VINTAGE OAKS CT	LODI	CA	95242
3526005	MOSER, LESLIE TR		1401 MARIPOSA WAY	LODI	CA	95242
3526006	SEIBEL, GERALD D & BONNIE J TR		1410 MARIPOSA WAY	LODI	CA	95242
3526007	MAYER, DEBBIE L		1413 MARIPOSA WAY	LODI	CA	95242

Appeal of Planning Commission Decision for file 12-U-19 for In-Shape Health Club located at 1320 W. Lockeford

		St.				
3526008	LAMAS, RAFAELA M		1419 MARIPOSA WAY	LODI	CA	95242
3526018	COOPER, DANA C & DAISY M TR		1422 MARIPOSA WAY	LODI	CA	95242
3526019	LUIZ, CASEY F		1416 MARIPOSA WAY	LODI	CA	95242
3526020	SEIBEL, GERALD D & BONNIE J TR		1410 MARIPOSA WAY	LODI	CA	95242
3526021	BAMESBERGER, ANETTE TR	BAMESBERGER MARITAL EXEMPT TRU	1240 LAKEWOOD DR	LODI	CA	95240
3527008	SIMPSON, STEPHEN M & MARNE L T		705 W OAK ST	LODI	CA	95240
3533001	SALVESTRIN, DINO & TECIA TR		25 CHARDONNAY LN	NOVATO	CA	94947
3533004	GALLO, RAUL		335 NEPLUS CT	LODI	CA	95242
3533005	WEIGUM, VERNON F TR		513 GERARD DR	LODI	CA	95242
3533006	WONG, JEANIE ETAL		19 ARARAT CT	SACRAM ENTO	CA	95831
3533007	INEZS PARTNERS LP		1313 W LOCKEFORD ST	LODI	CA	95240
3533008	INEZS PARTNERS LP		1313 W LOCKEFORD ST	LODI	CA	95240
3533010	SINGH, ALAN A		330 NEPLUS CT	LODI	CA	95242
3533012	BAUMBACH, DALE R & PEGGY E TR		2886 STONEY CREEK CIR	ACAMPO	CA	95220
3533013	INEZS PARTNERS LP		1313 W LOCKEFORD ST	LODI	CA	95240
3533014	BRINLEE, ALTON & DIONE TR		1412 BORDEAU DR	LODI	CA	95242
3533015	PHO, ANA		4817 RUNWAY DR	FAIR OAKS	CA	95628
3534008	TAUNTON, IONE V TR		1313 W LOCKEFORD ST	LODI	CA	95242
3534009	STONE BROTHERS & ASSOC		5757 PACIFIC AVE STE 220	STOCKT ON	CA	95207
3535001	HEBERLE, SARA TR		132 S SUNSET DR	LODI	CA	95240
3535002	GAUDET, PHILIP F & CHERI I		72 N PACIFIC AVE	LODI	CA	95242
3535003	ROJAS, RAFAEL VALDIVIA		66 N PACIFIC AVE	LODI	CA	95242
3535004	GIORDANO, CHARLES M & DEBRA E	RICHARD & DEBORAH SWEAT	150 EVERGREEN DR	LODI	CA	95242
3535005	ISORDIA, ALFONSO & SYLVIA		54 N PACIFIC AVE	LODI	CA	95242
3704210	XENOS, THOMAS D TR		1200 W LOCUST ST	LODI	CA	95240
3704211	SANCHEZ, ROSE M		1201 W ELM ST	LODI	CA	95240
3704212	TUCKER, NORA E TR		1220 W LOCUST ST	LODI	CA	95240
3704213	RIGAS, HOLLY M TR		1211 W ELM ST	LODI	CA	95240
3704214	HOAG, BEVERLY J TR		1503 LAKESHORE	LODI	CA	95242
3704215	MEYERS, NICHOLAS J & PENNY TR		97 S KELLY ST	LODI	CA	95240
3704216	KRAFT, BEVERLY ANN TR		816 WESTWIND DR	LODI	CA	95242
3704223	NUSS, CORY W		1123 W LOCUST ST	LODI	CA	95240

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		St.				
3704224	KATTAN, VICTOR & IRMA TR		5511 WILLOW TREE CT	KISSIMMEE	FL	34758
3704225	KATTAN, VICTOR & IRMA TR		5511 WILLOW TREE CT	KISSIMMEE	FL	34758
3704226	EBERT, ALMEDA DAYMOND TR		2535 CROWN PL	LODI	CA	95242
3704412	MCCAFFREY, ROBERT LOUIS JR TR		1126 HEIDELBERG WAY	LODI	CA	95242
3704413	BROCKNEY, ESTHER L TR		31 N SUNSET DR	LODI	CA	95240
3704421	VON BERG, STEVEN & CAROL		18836 N DAVIS RD	LODI	CA	95242
3704422	VON BERG, STEVEN TIM TR ETAL		15260 N LOCUST TREE RD	LODI	CA	95240
3704423	JEFFREY, PAUL H & S L		1220 W ELM ST	LODI	CA	95240
3710002	SINGH, AMRIK & AMRITPAL KAUR T		1225 W LOCKEFORD ST	LODI	CA	95240
3710003	COMBS, MURIEL E ETAL	R K MORGAN	1203 W LOCKEFORD ST	LODI	CA	95240
3710024	STONES OF SURRY PTP		5757 PACIFIC AVE STE 220	STOCKTON	CA	95207
3710025	STONES OF SURRY		5250 CLAREMONT AVE	STOCKTON	CA	95207
3710028	BR PETRO INC		236 N HAM LN	LODI	CA	95242
3710029	WILLIAMS, DAVID A & KATHLEEN R		3932 LAKE VISTA	DEXTER	MI	48130
3710030	STONE BROS & ASSOC		5757 PACIFIC AVE STE 220	STOCKTON	CA	95207
3710036	FARACE, JOSEPH &		3514 WHITECLIFF	NAPA	CA	94558