

Wednesday, October 12, 2022, 7:00 P.M.

Tracy City Hall, 333 Civic Center Plaza, Tracy

Web Site: www.cityoftracy.org

THIS MEETING WILL BE OPEN TO THE PUBLIC FOR IN-PERSON AND REMOTE PARTICIPATION PURSUANT TO GOVERNMENT CODE SECTION 54953(e).

IN ACCORDANCE WITH THE CALIFORNIA DEPARTMENT OF PUBLIC HEALTH GUIDELINES, UNIVERSAL MASKING INDOORS IS RECOMMENDED FOR ALL PERSONS REGARDLESS OF VACCINATION STATUS.

MEMBERS OF THE PUBLIC MAY PARTICIPATE REMOTELY IN THE MEETING VIA THE FOLLOWING METHOD:

As always, the public may view the Planning Commission meetings live on the City of Tracy's website at CityofTracy.org or on Comcast Channel 26/AT&T U-verse Channel 99. To view from the City's website, open the "Government" menu at the top of the City's homepage and select "Planning Commission", then select "[Planning Commission Meeting Videos](#)" under the "Boards and Commissions" section.

If you only wish to watch the meeting and do not wish to address the Council, the City requests that you stream the meeting through the City's website or watch on Channel 26.

Remote Public Comment:

During the upcoming Planning Commission meeting public comment will be accepted via the options listed below. If you would like to comment remotely, please follow the protocols below:

- *Comments via:*
 - **Online by visiting** <https://cityoftracyevents.webex.com> and using the following
 - **Event Number:** 2557 874 3257 and **Event Password:** Planning
 - **If you would like to participate in the public comment anonymously**, you may submit your comment in WebEx by typing "Anonymous" when prompted to provide a First and Last Name and inserting Anonymous@example.com when prompted to provide an email address.
 - Join by phone by dialing +1-408-418-9388,,25578743257#75266464# Press *3 to raise the hand icon to speak on an item.

- *Protocols for commenting via WebEx:*
 - *If you wish to comment on the "New Business" or "Items from the Audience" portions of the agenda:*
 - *Listen for the Chair to open that portion of the agenda for discussion, then raise your hand to speak by clicking on the Hand icon on the Participants panel to the right of your screen.*
 - *If you no longer wish to comment, you may lower your hand by clicking on the Hand icon again.*
 - *Comments for the "New Business" or "Items from the Audience" portions of the agenda will be accepted until the public comment for that item is closed.*

Comments received on Webex outside of the comment periods outlined above will not be included in the record.

Americans With Disabilities Act – The City of Tracy complies with the Americans with Disabilities Act and makes all reasonable accommodations for the disabled to participate in Council meetings. Persons requiring assistance or auxiliary aids should call City Hall (209/831-6105) 24 hours prior to the meeting.

Addressing the Council on Items on the Agenda – The Brown Act provides that every regular Council meeting shall provide an opportunity for the public to address the Council on any item within its jurisdiction before or during the Council's consideration of the item, provided no action shall be taken on any item not on the agenda. To facilitate the orderly process of public comment and to assist the Council to conduct its business as efficiently as possible, members of the public wishing to address the Council are requested to, but not required to, hand a speaker card, which includes the speaker's name or other identifying designation and address to the City Clerk prior to the agenda item being called. Generally, once the City Council begins its consideration of an item, no more speaker cards will be accepted. An individual's failure to present a speaker card or state their name shall not preclude the individual from addressing the Council. Each citizen will be allowed a maximum of five minutes for input or testimony. In the event there are 15 or more individuals wishing to speak regarding any agenda item including the "Items from the Audience/Public Comment" portion of the agenda and regular items, the maximum amount of time allowed per speaker will be three minutes. When speaking under a specific agenda item, each speaker should avoid repetition of the remarks of the prior speakers. To promote time efficiency and an orderly meeting, the Presiding Officer may request that a spokesperson be designated to represent similar views. A designated spokesperson shall have 10 minutes to speak. At the Presiding Officer's discretion, additional time may be granted. The City Clerk shall be the timekeeper.

Addressing the Council on Items not on the Agenda – The Brown Act prohibits discussion or action on items not on the posted agenda. The City Council's Meeting Protocols and Rules of Procedure provide that in the interest of allowing Council to have adequate time to address the agenda items of business, "Items from the Audience/Public Comment" following the Consent Calendar will be limited to 15-minute maximum period. "Items from the Audience/Public Comment" listed near the end of the agenda will not have a maximum time limit. A five-minute maximum time limit per speaker will apply to all individuals speaking during "Items from the Audience/Public Comment". For non-agenda items, Council Members may briefly respond to statements made or questions posed by individuals during public comment; ask questions for clarification; direct the individual to the appropriate staff member; or request that the matter be placed on a future agenda or that staff provide additional information to Council. When members of the public address the Council, they should be as specific as possible about their concerns. If several members of the public comment on the same issue an effort should be made to avoid repetition of views already expressed.

Notice – A 90-day limit is set by law for filing challenges in the Superior Court to certain City administrative decisions and orders when those decisions or orders require: (1) a hearing by law, (2) the receipt of evidence, and (3) the exercise of discretion. The 90-day limit begins on the date the decision is final (Code of Civil Procedure Section 1094.6). Further, if you challenge a City Council action in court, you may be limited, by California law, including but not limited to Government Code Section 65009, to raising only those issues you or someone else raised during the public hearing, or raised in written correspondence delivered to the City Council prior to or at the public hearing.

Full copies of the agenda are available on the City's website: www.cityoftracy.org.

MEETING AGENDA

CALL TO ORDER

PLEDGE OF ALLEGIANCE

ROLL CALL

MINUTES

DIRECTOR'S REPORT REGARDING THIS AGENDA

ITEMS FROM THE AUDIENCE - *In accordance with Council Meeting Protocols and Rules of Procedure, adopted by Resolution No. 2019-240, a five-minute maximum time limit per speaker will apply to all individuals speaking during "Items from the Audience/Public Comment". For non-agendized items, Planning Commissioners may briefly respond to statements made or questions posed by individuals during public comment; ask questions for clarification; direct the individual to the appropriate staff member; or request that the matter be placed on a future agenda or that staff provide additional information to the Planning Commission.*

1. NEW BUSINESS

- A. STAFF RECOMMENDS THAT THE PLANNING COMMISSION ADOPT A RESOLUTION 1) APPROVING A DEVELOPMENT REVIEW PERMIT (D21-0034) FOR A 3,400 SF BUILDING AND ASSOCIATED SITE IMPROVEMENTS AT 316 & 320 W. ELEVENTH STREET, APNS 235-040-05 & 06 AND 2) GRANTING A CONDITIONAL USE PERMIT (CUP21-0009) TO OPERATE A CANNABIS STOREFRONT RETAILER (DISPENSARY) AT THIS SITE; 3) EXTENDING THE TIME PERIOD TO ESTABLISH THE DISPENSARY SITE UNDER THE CONDITIONAL USE PERMIT FROM SIX MONTHS TO TWELVE MONTHS; AND 4) DETERMINING THAT THIS PROJECT IS CATEGORICALLY EXEMPT FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT. THE APPLICANT IS COMMUNITY VETERANS OF TRACY, LLC AND THE PROPERTY OWNERS ARE SAAD PATTAH AND REO CAPITAL INVESTMENTS & ASSET MANAGEMENT.

- B. STAFF RECOMMENDS THAT THE PLANNING COMMISSION ADOPT A RESOLUTION 1) GRANTING A CONDITIONAL USE PERMIT (CUP22-0004) FOR A CANNABIS STOREFRONT RETAILER (DISPENSARY) AT 2420 W. GRANT LINE ROAD, APNS 238-600-37 & 238-190-22 AND 2) APPROVING A DEVELOPMENT REVIEW PERMIT (D22-0009) FOR EXTERIOR MODIFICATIONS TO THE BUILDING; 3) EXTENDING THE TIME PERIOD TO ESTABLISH THE DISPENSARY SITE UNDER THE CONDITIONAL USE PERMIT FROM SIX MONTHS TO TWELVE MONTHS; AND 4) DETERMINING THAT THIS PROJECT IS CATEGORICALLY EXEMPT FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT. THE APPLICANT IS MIKE SOUZA AND THE PROPERTY OWNERS ARE RT & JT, LLC AND J T STORAGE, LP.

 - C. PUBLIC HEARING TO SOLICIT COMMENTS ON THE DRAFT ENVIRONMENTAL IMPACT REPORT FOR THE TRACY COSTCO DEPOT ANNEX PROJECT LOCATED AT 16000 WEST SCHULTE ROAD IN UNINCORPORATED SAN JOAQUIN COUNTY
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- 2. ITEMS FROM THE AUDIENCE
 - 3. DIRECTOR'S REPORT
 - 4. ITEMS FROM THE COMMISSION
 - 5. ADJOURNMENT

Posted: October 6, 2022

Any materials distributed to the majority of the Planning Commission regarding any item on this agenda will be made available for public inspection via the City of Tracy website at www.cityoftracy.org.

**MINUTES
TRACY CITY PLANNING COMMISSION
REGULAR MEETING
AUGUST 24, 2022, 7:00 P.M.
CITY OF TRACY COUNCIL CHAMBERS
333 CIVIC CENTER PLAZA**

Due to the COVID-19 emergency, the regular meeting was conducted pursuant to the provisions of the Governor's Executive Order N-29-20, which suspends certain requirements of the Ralph M. Brown Act. Residents participated remotely via email, and WebEx during the meeting.

CALL TO ORDER

Chair Hudson called the meeting to order at 7:00 p.m.

PLEDGE OF ALLEGIANCE

Chair Hudson led the pledge of allegiance.

ROLL CALL

Roll Call found Commissioner Augustus, Commissioner Boakye-Boateng, Vice Chair Orcutt and Chair Hudson present. Commissioner Atwal was not present at the time of roll call. Also present were: Bill Dean, Assistant Director of Development Services; Scott Claar, Senior Planner; Victoria Lombardo, Senior Planner; Kimberly Matlock, Associate Planner; Nancy Ashjian, Assistant City Attorney; and Gina Peace, Executive Assistant.

MINUTES

Chair Hudson introduced the Regular Meeting Minutes from the August 10, 2022, meeting.

ACTION: It was moved by Commissioner Augustus and seconded by Commissioner Boakye-Boateng to approve the August 10, 2022 Planning Commission Regular meeting minutes. A voice vote found Commissioner Augustus, Commissioner Boakye-Boateng, Vice Chair Orcutt and Chair Hudson in favor. Commissioner Atwal was not present at the time of the vote. Passed and so ordered; 4-0-1-0.

Commissioner Atwal entered dais at 7:04 p.m.

DIRECTOR'S REPORT REGARDING THIS AGENDA

None.

ITEMS FROM THE AUDIENCE

None.

1. NEW BUSINESS

- A. STAFF RECOMMENDS THAT THE PLANNING COMMISSION 1) APPROVE A ONE-YEAR EXTENSION OF THE THIRTEEN-LOT (13) LARKSPUR ESTATES UNIT 4 VESTING TENTATIVE SUBDIVISION MAP IN CONJUNCTION WITH THE**

DEVELOPMENT REVIEW PERMIT (TSM19-0003 AND D20-0005), LOCATED ON THE SOUTH SIDE OF DEBORD DRIVE AND CAIRO COURT AND ON BENTLEY LANE, (ASSESSOR'S PARCEL NUMBERS 246-330-50 AND 246-310-08) TO SEPTEMBER 1, 2023, AND, 2) DETERMINING THAT THE PROJECT IS EXEMPT FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) PURSUANT TO CEQA GUIDELINES SECTION 15332. APPLICANT IS BRIGHT DEVELOPMENT, APPLICATION NUMBER EXT22-0003.

Victoria Lombardo, Senior Planner, presented the staff report and addressed questions from the Commission.

Chair Hudson opened the Public Hearing at 7:10 p.m.

Randy Sasser addressed the Commission regarding interim storm drainage ponds and encouraged the Commission to do everything possible to eliminate these ponds, and advised they are a public nuisance, and liability. Mr. Sasser inquired about one of his ponds that he believes should be returned to him, and not utilized as a backup pond in the upcoming Master Plan update. Mr. Sasser requested that the Commission delegate a commissioner or a committee to investigate this issue.

Chair Hudson closed the Public Hearing at 7:18 p.m.

ACTION: It was moved by Commissioner Boakye-Boateng and seconded by Commissioner Augustus the Planning Commission adopt a resolution 1) approving a one-year time extension for the Larkspur Estates Unit 4 Vesting Tentative Subdivision Map (TSM19-0003) in conjunction with the Development Review Permit (D20-0005) to subdivide one lot into 13 and construct 14 single-family homes located on the south side of Cairo Court and De Bord Drive, and Bentley Lane, and 2) determining that the project is exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15332, Application Number EXT22-0003, as stated in the Planning Commission Resolution dated August 24, 2022 (Attachment C – Planning Commission Resolution).

A roll call vote found Commissioner Atwal, Commissioner Augustus, Commissioner Boakye-Boateng, and Chair Hudson in favor. Vice Chair Orcutt abstained. Passed and so ordered; 4-0-0-1.

B. STAFF RECOMMENDS THAT THE PLANNING COMMISSION RECOMMEND THAT THE CITY COUNCIL ADOPT A RESOLUTION 1) APPROVING A THREE-YEAR TIME EXTENSION FOR THE DEVELOPMENT REVIEW PERMIT (D16-0036) TO CONSTRUCT A FIVE-UNIT RESIDENTIAL PROJECT LOCATED AT 21, 25, AND 29 E. EIGHTH STREET, AND 2) DETERMINING THAT THE PROJECT IS EXEMPT FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) PURSUANT TO CEQA GUIDELINES SECTION 15332. THE APPLICANT IS MARK WATROUS-HEYLIGER. APPLICATION NUMBER EXT22-0001.

Scott Claar, Senior Planner, presented the staff report and addressed questions from the Commission.

Chair Hudson opened the Public Hearing at 7:27 p.m.

Don Cose addressed the Commission in favor of the project.

Chair Hudson closed the Public Hearing at 7:30 p.m.

ACTION: It was moved by Commissioner Augustus and seconded by Commissioner Atwal the Planning Commission recommend that the City Council adopt a resolution 1) approving a three-year time extension for the Development Review Permit (D16-0036) to construct a five-unit residential project located at 21, 25, and 29 E. Eighth Street, and 2) determining that the project is exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15332, Application Number EXT22-0001, as stated in the Planning Commission Resolution dated August 24, 2022 (Attachment C – Planning Commission Resolution).

A roll call vote found all in favor. Passed and so ordered; 5-0-0-0.

C. STAFF RECOMMENDS THAT THE PLANNING COMMISSION 1) ADOPT A RESOLUTION APPROVING A CONDITIONAL USE PERMIT (CUP22-0009) AND A DEVELOPMENT REVIEW PERMIT (D22-0031) FOR A CANNABIS STOREFRONT RETAILER (DISPENSARY) AT 239 W. ELEVENTH STREET, APN 233-113-03, 2) ALLOW THE CONDITIONAL USE PERMIT TO BE VALID FOR ONE YEAR, AS DESCRIBED IN THE CONDITIONS OF APPROVAL, AND 3) DETERMINE THAT THIS PROJECT IS CATEGORICALLY EXEMPT FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT PURSUANT GUIDELINES SECTION 15301. THE APPLICANT IS JOSEPH DEVLIN AND THE PROPERTY OWNER IS RT FINANCIAL, INC.

Kimberly Matlock, Associate Planner, presented the staff report and addressed questions from the Commission.

John Palmer, and Joe Delvin, Applicant, addressed the Commission, and answered various questions from the Commission.

Miguel Contreras responded to Vice Chair Orcutt's inquiry regarding crime statistics.

Chair Hudson opened the Public Hearing at 8:13 p.m.

Megan Roe read a letter to the Commission from Deborah Skinner, the Academy of Performing Arts dance academy owner (APA), 124 West 10th Street, in opposition to the Project.

Commissioner Atwal left the dais at 8:42 p.m.

Jason Fell, 38-year resident; Elizabeth Villareal, a mother of an APA dance student; Bob Tanner; Nav Chima; Dino Margaros, Tracy City Center Association (TCCA); Byron Alvarez, 421 W. Eleventh Street; Bernell Sholl; Mike Warda, attorney, Turlock, Ca; Ken Cefalo, 251 Forrest Hills, owner Main Street Music, 45 W. 10th Street; Alice English; Rachel Knight Scott, a mother of APA students; Ben Casey; Dan Evans; and Cecelie Hymes; all addressed the Commission in opposition to the Project.

Karen Moore addressed the Commission in favor of the Project.

Commissioner Atwal re-joined the meeting virtually.

Chair Hudson closed the Public Hearing at 9:08 p.m.

ACTION: It was moved by Chair Hudson and seconded by Commissioner Augustus the Planning Commission 1) Adopt a resolution approving a Conditional Use Permit (CUP22-0009) and a development review permit (D22-0031) for a cannabis storefront retailer (dispensary) at 239 W. Eleventh Street, APN 233-113-03, 2) allow the Conditional Use Permit to be valid for one (1) year, as described in the Conditions of Approval, and 3) determine that this project is categorically exempt from the California Environmental Quality Act pursuant Guidelines Section 15301.

A roll call vote found all in favor. Passed and so ordered; 5-0-0-0.

D. STAFF RECOMMENDS THAT THE PLANNING COMMISSION 1) ADOPT A RESOLUTION APPROVING A CONDITIONAL USE PERMIT (CUP22-0001) FOR A CANNABIS STOREFRONT RETAILER (DISPENSARY) AT 104 W. TENTH STREET, APN 235-054-06, 2) ALLOW THE CONDITIONAL USE PERMIT TO BE VALID FOR ONE YEAR, AS DESCRIBED IN THE CONDITIONS OF APPROVAL, AND 3) DETERMINE THAT THIS PROJECT IS CATEGORICALLY EXEMPT FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT PURSUANT GUIDELINES SECTION 15301. THE APPLICANT IS MOM TR, INC. AND THE PROPERTY OWNER IS PETER MAGLARAS.

Kimberly Matlock, Associate Planner, presented the staff report and addressed questions from the Commission.

Megan Souza, Founder & CEO, Megan's Organic Market, Nick Andre, Megan's Organic Market, and Dotty Nygard, Applicants, addressed the Commission, and presented a PowerPoint presentation.

Chair Hudson opened the Public Hearing at 9:46 p.m.

Conrad Levoit; Ken Cefalo, 251 Forrest Hills, owner Main Street Music, 45 W. 10th Street; Lindsay Roe, 57-year resident and APA customer; Harold K. Reich, Reich's Pharmacy; Frances Swenson; Bob Tanner; Elizabeth Villareal, 25-year resident, a mother of an APA dance student for 10 years; Joan Fell, 510 Racquet Drive, 42-year resident; Megan Roe, 20-year APA member; Jason Fell; Alice English; Byron Alvarez, 421 W. Eleventh Street; Dan Evans, 26-year resident; and Dino Margaros,

Tracy City Center Association (TCCA); all addressed the Commission in opposition to the Project.

Cheryl Hayes, Mitch Harnett, and Nicholas Langarica each addressed the Commission in favor of the Project.

Byron Alvarez, Vivian Johnson, and one anonymous commenter, sent in letters to the city, in opposition to the Project. Letters were not read out loud but will be included as part of the record.

Chair Hudson closed the Public Hearing at 10:30 p.m.

ACTION: It was moved by Commissioner Atwal and seconded by Commissioner Augustus that the Planning Commission continue this item [(1) Adopt a resolution approving Conditional Use Permit CUP22-0001 for a cannabis storefront retailer (dispensary) at 104 W. Tenth Street, APN 235-054-06, 2) allow the Conditional Use Permit to be valid for one (1) year, as described in the Conditions of Approval, and 3) determine that this project is categorically exempt from the California Environmental Quality Act pursuant Guidelines Section 15301] to the next regularly scheduled Planning Commission meeting, to give citizens the opportunity to speak at the next City Council meeting.

A roll call vote found Commissioner Atwal, Commissioner Augustus, Commissioner Boakye-Boateng, Chair Hudson in favor of continue this item; Vice Chair Orcutt absent. Passed and so ordered; 4-0-1-0.

E. STAFF RECEIVE AN INFORMATIONAL REPORT REGARDING CITY REGULATIONS OF TRUCK STOPS AND TRUCK USES AROUND INDUSTRIAL AREAS ACROSS THE CITY.

Kimberly Matlock, Associate Planner, presented the staff report and addressed questions from the Commission.

Chair Hudson opened the Public Hearing at 11:03 p.m.

Jim Rubnitz, 17610 Blanchard Drive, Monte Sereno, Ca, addressed the Commission.

Karen Moore addressed the Commission and suggested the map be updated.

Dotty Nygard suggested staff look at this item from a regional standpoint.

Chair Hudson closed the Public Hearing at 11:10 p.m.

Planning Commission received the informational report regarding the City's regulations of truck stops and truck uses around industrial areas across the City.

No action was taken.

2. ITEMS FROM THE AUDIENCE

None.

3. DIRECTOR'S REPORT

Bill Dean, Assistant Director of Development Services, advised Commissioners to contact Kellie Jones regarding APA Conference details.

Mr. Dean also announced that for the next Planning Commission meeting, staff will introduce new templates for staff reports and resolutions.

4. ITEMS FROM THE COMMISSION

Chair Hudson requested a message be sent to Council to address the density issue downtown for Cannabis dispensaries.

Commissioner Atwal questioned the basis on which Planning Commission can deny a CUP. Commissioner Atwal also requested that staff broach City Council with the density and distance buffer issue and bring it in front of the Planning Commission.

Nancy Ashjian, Assistant City Attorney, and Bill Dean, Assistant Director of Development Services, answered questions from the Commission.

5. ADJOURNMENT

ACTION: It was moved by Commissioner Augustus and seconded by Commissioner Atwal to adjourn.

Commissioner Atwal, Commissioner Augustus, Commissioner Boakye-Boateng, and Chair Hudson in favor; Vice Chair Orcutt absent. Passed and so ordered; 4-0-1-0.

Time: 11:31 p.m.

CHAIR

STAFF LIAISON

From: longtimeresident
Sent: Wednesday, August 24, 2022 4:25 PM
To: Andrew Malik
Cc: Public Comment; Tracy City Council;
Subject: PLEASE DELAY CUP 22001 – MOMS TR Inc. Up for Approval at Tonight's Planning Commission Meeting

RE CUP 22001 – MOMS TR Inc. Up for Approval at Tonight's Planning Commission Meeting

Do not approve this CUP tonight. If you do, you will be approving an enterprise involved in a massive, and still unfolding political corruption scandal in San Luis Obispo regarding Megan's Organic Market that was facilitated by Nick Andre. Andre, who is listed on the current application and documents as a partial owner of the enterprise in Tracy, and also partially owned the operation in San Luis Obispo. Andre's then associate, cannabis Kingpin Helios Dayspring, is expected to testify tomorrow in Federal Court about the corruption – and name names. All I ask is that you wait until the next Planning Commission meeting when there will be additional clarity.

Nick Andre was part of SLO operation with Helios Dayspring. He was named on documents as COO. He cannot say he was not involved with an organization that had its license revoked – he was. He then left and became owner of licenses with Megan's Organic Markets (MOMS). MOMS was also sued by SLO County for illegal cultivation.

For additional detail:

<https://www.newtimesslo.com/sanluisobispo/overwhelmed/Content?oid=11480057>

<https://calcoastnews.com/2022/08/slo-county-upstarts-grab-a-slice-of-cannabis-kingpins-empire/>

<https://www.newtimesslo.com/sanluisobispo/dayspring-claims-he-bankrolled-other-slo-cannabis-dispensaries-companies-and-city-push-back/Content?oid=12792214>

<https://www.pacbiztimes.com/2021/07/29/cannabis-grower-pleads-guilty-to-bribing-slo-county-supervisor/>

<https://www.newtimesslo.com/sanluisobispo/undue-influence-slo-county-grapples-with-the-fallout-from-the-helios-dayspring-adam-hill-bribery-scandal/Content?oid=11429960>

<https://calcoasttimes.com/2021/08/01/the-dirty-underbelly-of-slo-countys-marijuana-industry/>

<https://www.newtimesslo.com/sanluisobispo/county-sues-megans-organic-market-to-shut-down-cannabis-grow/Content?oid=3181840#:~:text=County%20sues%20Megan's%20Organic%20Market%20to%20shut%20down%20cannabis%20grow,-By%20Peter%20Johnson&text=The%20remote%20California%20Valley%20isn,with%20a%20recent%20county%20policy.>

**MINUTES
TRACY CITY PLANNING COMMISSION
REGULAR MEETING
SEPTEMBER 28, 2022, 7:00 P.M.
CITY OF TRACY COUNCIL CHAMBERS
333 CIVIC CENTER PLAZA**

Due to the COVID-19 emergency, the regular meeting was conducted pursuant to the provisions of the Governor's Executive Order N-29-20, which suspends certain requirements of the Ralph M. Brown Act. Residents participated remotely via email, and WebEx during the meeting.

CALL TO ORDER

Chair Hudson called the meeting to order at 7:00 p.m.

PLEDGE OF ALLEGIANCE

Chair Hudson led the pledge of allegiance.

ROLL CALL

Roll Call found Commissioner Atwal, Commissioner Augustus, Commissioner Boakye-Boateng, and Chair Hudson present. Vice Chair Orcutt was not present at time of roll call. Also present were: Bill Dean, Assistant Director of Development Services; Alan Bell, Senior Planner; Kimberly Matlock, Associate Planner; Al Gali, Associate Engineer; Bijal Patel, City Attorney; Miguel Contreras, Police Lieutenant; and Gina Peace, Executive Assistant.

MINUTES

Chair Hudson introduced the Regular Meeting Minutes from the September 14, 2022 meeting.

ACTION: It was moved by Commissioner Augustus and seconded by Commissioner Atwal to approve the September 14, 2022 Planning Commission Regular meeting minutes. A voice vote found all in favor; Vice Chair Orcutt absent. Passed and so ordered; 4-0-1-0.

DIRECTOR'S REPORT REGARDING THIS AGENDA

Bill Dean, Assistant Director of the Development Services Department, announced that the Recording Secretary has Speaker Cards available for anyone who wishes to speak on any items this evening. Speaker Cards are not required to speak, but highly encouraged. Those who complete Speaker Cards will be invited to speak first.

Chair Hudson requested to take a moment of silence for the people in Florida, and all those in the path of Hurricane Ian.

A moment of silence was observed.

ITEMS FROM THE AUDIENCE

None.

1. NEW BUSINESS

A. STAFF RECOMMENDS THAT THE PLANNING COMMISSION ADOPT A RESOLUTION 1) GRANTING A CONDITIONAL USE PERMIT (CUP22-0012) FOR A CANNABIS STOREFRONT RETAILER (DISPENSARY) AT 2706 PAVILION PARKWAY SUITE 110, APN 212-290-47, 2) EXTENDING THE TIME PERIOD TO ESTABLISH THE DISPENSARY SITE UNDER THE CONDITIONAL USE PERMIT FROM SIX MONTHS TO TWELVE MONTHS AND 3) DETERMINING THAT THIS PROJECT IS CATEGORICALLY EXEMPT FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT THE APPLICANT IS RESPONSIBLE AND COMPLIANT RETAIL TRACY, LLC AND THE PROPERTY OWNER IS HTT INVESTMENT, LLC

Kimberly Matlock, Associate Planner, presented the staff report and addressed questions from the Commission.

Vice Chair Orcutt joined the meeting via WebEx.

Eric Lightman, General Compliance, and John Ngu, with embark Tracy (Applicant), addressed the Commission and presented a PowerPoint presentation.

Chair Hudson opened the Public Hearing at 7:24 p.m., seeing as no one came forward, the public hearing was closed.

ACTION: It was moved by Vice Chair Orcutt and seconded by Commissioner Boakye-Boateng that the Planning Commission adopt a resolution:

- 1) Granting a Conditional Use Permit (CUP22-0012) for a cannabis storefront retailer (dispensary) at 2706 Pavilion Parkway, Suite 110, APN 212-290-47; and
- 2) Extending the time period to establish the dispensary site under the conditional use permit from six months to twelve months; and
- 3) Determining that this project is categorically exempt from the California Environmental Quality Act.

A roll call vote found all in favor. Passed and so ordered; 5-0-0-0.

B. STAFF RECOMMENDS THAT THE PLANNING COMMISSION ADOPT A RESOLUTION 1) APPROVING A CONDITIONAL USE PERMIT (CUP22-0011) FOR A MEAT PROCESSING FACILITY INCLUDING WHOLESALE AND LIMITED RETAIL SALES OF PACKAGED MEATS AT 4220 COMMERCIAL DRIVE, SUITE 16 (APN 212-210-05) AND 2) DETERMINING THAT THIS PROJECT IS CATEGORICALLY EXEMPT FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT. THE APPLICANT IS HANFORD QUALITY MEATS, LLC AND THE PROPERTY OWNER IS KT INVESTMENTS, LLC.

Kimberly Matlock, Associate Planner, presented the staff report and addressed questions from the Commission.

Chair Hudson opened the Public Hearing at 7:35 p.m., seeing as no one came forward, the public hearing was closed.

ACTION: It was moved by Commissioner Atwal and seconded by Commissioner Augustus that the Planning Commission adopt a resolution 1) approving Conditional Use Permit CUP22-0011 for a meat processing facility including wholesale and limited retail sales of packaged meats at 4220 Commercial Drive, Suite 16, APN 212-210-05, and 2) determining that this project is categorically exempt from the California Environmental Quality Act.

A roll call vote found all in favor. Passed and so ordered; 5-0-0-0.

C. STAFF RECOMMENDS THAT THE PLANNING COMMISSION ADOPT A RESOLUTION RECOMMENDING THAT THE CITY COUNCIL ADOPT:

(1) A RESOLUTION (A) APPROVING A CEQA NEGATIVE DECLARATION FOR THE EXPANSION OF THE VALPICO GLENBRIAR APARTMENT PARKING LOT A TO INCLUDE A PORTION OF THE REAR YARD AT 2625 S. MACARTHUR DRIVE (PARKING SITE) AND (B) DETERMINE THE ADDITION OF A PERIMETER FENCE/GATE TO THE VALPICO GLENBRIAR APARTMENTS PROJECT LOCATED AT 351 E. VALPICO ROAD (APARTMENTS SITE) IS EXEMPT FROM CEQA PURSUANT TO CEQA GUIDELINES SECTION 15303(E);

(2) AN ORDINANCE APPROVING A GENERAL PLAN AMENDMENT REDESIGNATING THE PARKING SITE FROM COMMERCIAL TO RESIDENTIAL HIGH (GPA22-0003);

(3) AN ORDINANCE AMENDING THE ZONE DISTRICT OF THE PARKING SITE FROM COMMUNITY SHOPPING CENTER TO HIGH DENSITY RESIDENTIAL (R22-0002);

(4) A RESOLUTION APPROVING A DEVELOPMENT REVIEW PERMIT FOR THE ADDITION OF A PERIMETER FENCE AND GATES TO THE APARTMENTS SITE (D22-0005); AND

(5) A RESOLUTION APPROVING A DEVELOPMENT REVIEW PERMIT EXPANDING THE VALPICO GLENBRIAR APARTMENT PARKING LOT TO INCLUDE A PORTION OF THE REAR YARD AT 2625 S. MACARTHUR DRIVE (D22-0013).

Alan Bell, Senior Planner, presented the staff report and addressed questions from the Commission.

Al Gali, Associate Engineer, answered questions from the Commission.

Chair Hudson opened the Public Hearing at 8:18 p.m., seeing as no one came forward, the public hearing was closed.

ACTION: It was moved by Vice Chair Orcutt and seconded by Commissioner Atwal that the Planning Commission adopt a resolution recommending that the City Council adopt:

(1) A resolution (A) approving a CEQA Negative Declaration for the expansion of the Valpico Glenbriar apartment parking lot to include a portion of the rear yard at 2625 S. MacArthur Drive (Parking Site); and

(2) An ordinance approving a General Plan Amendment redesignating the parking site from commercial to residential high (GPA22-0003); and

(3) An ordinance amending the zone district of the parking site from Community Shopping Center to High Density Residential (R22-0002); and

(4) A resolution approving a Development Review Permit expanding the Valpico Glenbriar apartment parking lot to include a portion of the rear yard at 2625 S. MacArthur Drive (D22-0013).

Alex Glick, Development Manager with Guardian Capital, Applicant, answered questions from the Commission.

A roll call vote found Commissioner Atwal, Commissioner Augustus, and Vice Chair Orcutt in favor; Commissioner Boakye-Boateng, and Chair Hudson, opposed. Passed and so ordered; 3-2-0-0.

ACTION: It was moved by Vice Chair Orcutt and seconded by Commissioner Atwal the Planning Commission adopt a resolution recommending that the City Council adopt a resolution:

(1) determining the addition of a perimeter fence/gate to the Valpico Glenbriar apartments project located at 351 E. Valpico Road (Apartment Site) is exempt from CEQA pursuant to CEQA guidelines section 15303(E); and

(2) approving a Development Review Permit for the addition of a perimeter fence and gates to the apartments site (D22-0005).

A roll call vote found Commissioner Boakye-Boateng, and Chair Hudson in favor; Commissioner Atwal, Commissioner Augustus, and Vice Chair Orcutt opposed. Motion failed; 2-3-0-0.

2. ITEMS FROM THE AUDIENCE

None.

3. DIRECTOR'S REPORT

Bill Dean, Assistant Director of Development Services encouraged those commissioners that are attending the APA Conference to take advantage of the sessions presented, as it is a great learning opportunity. Several city staff members will be in attendance, but Mr. Dean announced he will be attending virtually, but looks forward to hearing about it when the commissioners return.

4. ITEMS FROM THE COMMISSION

Commissioner Atwal questioned about the Planning Commission inquiry at the last Planning Commission meeting that an amendment to the cannabis ordinance be brought before the Planning Commission. Commissioner Atwal asked if this is still under consideration. Bill Dean, Assistant Director of Development Services, confirmed that city staff will be working on bringing the amendment before the Planning Commission, tentatively scheduled for the end of October 2022.

Vice Chair Orcutt thanked staff for the opportunity to learn more by attending the APA Conference, but unfortunately, he will not be able to attend. Vice Chair Orcutt announced his military duty in Hawai'i has been extended 45 more days, but he will continue to participate virtually in Planning Commission meetings.

Chair Hudson also thanked staff for the opportunity to attend APA Conference and encouraged other Commissioners to take every opportunity to absorb all of the information at the Conference. Chair Hudson is regretful he cannot attend this year.

5. ADJOURNMENT

ACTION: It was moved by Commissioner Augustus and seconded by Commissioner Boakye-Boateng to adjourn.

A voice vote found all in favor. Passed and so ordered; 5-0-0-0.

Time: 8:36 p.m.

CHAIR

STAFF LIAISON

Re: **Item 1.A** -- CONDITIONAL USE PERMIT
(CUP22-0012) FOR A CANNABIS STOREFRONT
RETAILER (DISPENSARY) AT 2706 PAVILION PKWY.

Tracy Planning Commission Members and Chair,

As a local neighboring business owner, I appreciate the opportunity to share my support for Embarc Tracy and their location at 2706 Pavilion Pkwy, Suite #110, Tracy, CA 95304. As a new business, Good Vibes Studio, we are pleased to see our goals of ensuring a safe, clean and welcoming environment are aligned. In getting to know the Embarc team, I believe they have developed a plan that will ensure the arrival of legal cannabis in my direct business community will be a net positive for the Tracy Pavilion and the many neighboring businesses that reside within it.

I hope our Planning Commissioners will support Embarc Tracy and their efforts to bring access to safe, legal and responsible adult use cannabis to the residents of Tracy.

Thank you.

Sincerely,
Tajinder Minhas & Charnpreet Nijjer

Owners
Good Vibes Studios
2706 Pavilion Pkwy, Suite #109, Tracy, CA 95304.

September 21st, 2022

Tracy Planning Commissioners,

Thank you for this opportunity to express our input to support Embarc Tracy and their location at 2706 Pavillion Pkwy. I have been a small business owner in the Tracy Pavillion for years and I welcome Embarc as a neighbor and local business leader to the Tracy community.

As a Business owner and resident, I believe access to legal, safe and compliant cannabis is important and in getting to know the Embarc team, I am confident that they are the right team with the right location to deliver community-centric cannabis to the Tracy community. As adjacent business owners, we support Embarc Tracy to be our neighbor. Embarc has chosen an appropriate location that will complement the surrounding businesses, bringing more customers and visibility for neighboring businesses.

I look forward to being a neighbor to Embarc Tracy and seeing the external benefits that responsible cannabis can provide to customers, residents and the businesses within the Tracy Pavillion.

I respectfully urge Commissioners to support Embarc Tracy and approve their Conditional Use Permit.

Sincerely,

Hasina Safdari
Managing Partner
Goniture
2706 Pavilion Pkwy
Tracy, CA 95304

Re: **Item 1.A** -- CONDITIONAL USE PERMIT
(CUP22-0012) FOR A CANNABIS STOREFRONT
RETAILER (DISPENSARY) AT 2706 PAVILION PKWY.

Tracy Planning Commission,

As a longtime resident of Tracy, I am excited to support Benny Sanchez and the Embarc Tracy team in their proposed cannabis dispensary at 2706 Pavilion Pkwy, Suite #110, Tracy, CA 95304.

I have worked, lived and raised my family in this community and believe access to safe, responsible cannabis is an important step for our community and that Embarc Tracy is the right team to do it.

As our City leaders bring retail cannabis and the operators that support it to Tracy, I believe it is critical that we have operators that share our values and will create tangible benefits for the community they serve. I am confident that with Benny Sanchez and Embarc Tracy, our city leaders have found that partner that will not only be accessible, engaged and responsive, but will work with the community to set the standard of what true community benefits can do for our community.

I hope you will take my comments into consideration and support Embarc Tracy.

Thank you for your time and efforts on this important topic.

Sincerely,

Pete Krunich

A handwritten signature in black ink, appearing to read "Pete Krunich", written over a light yellow rectangular background.

Re: **Item 1.A** -- CONDITIONAL USE PERMIT
(CUP22-0012) FOR A CANNABIS STOREFRONT
RETAILER (DISPENSARY) AT 2706 PAVILION PKWY.

Dear Tracy Planning Commission,

I am writing to express my full support for Benny Sanchez' Embarc Tracy and their proposed cannabis retail storefront at 2706 Pavilion Pkwy, Suite #110, Tracy, CA 95304. As a longtime resident and local artist, I believe in the importance of shopping local and am confident that Embarc Tracy will serve as trusted community leaders in Tracy's emerging cannabis industry, setting the bar for engaged locally owned cannabis operations.

As our City integrates retail cannabis, it is important to have operators that understand our community and share our vision for a local cannabis industry. With Embarc Tracy, our City has found the right partner to ensure retail cannabis in our community delivers positive benefits to the community they seek to serve. Benny's commitment to this community combined with Embarc's stellar track record of operating compliant, community-centric cannabis operations, ensures that Embarc Tracy will be a true partner to our City and residents alike.

I look forward to shopping with Embarc Tracy and supporting my local cannabis industry. I hope this Commission will consider my feedback and support Benny Sanchez and Embarc Tracy's efforts to open a cannabis retail storefront in the Tracy Pavillion.

Thank you for your time and efforts.

Sincerely,

Jake Parsons

A handwritten signature in black ink, appearing to read 'Jake Parsons', with a stylized flourish extending to the right.

Re: **Item 1.A** -- CONDITIONAL USE PERMIT
(CUP22-0012) FOR A CANNABIS STOREFRONT
RETAILER (DISPENSARY) AT 2706 PAVILION PKWY.

Chair and Esteemed Commissioners,

Thank you for this opportunity to express my support for Benny Sanchez and Embarc Tracy's retail cannabis storefront at 2706 Pavilion Pkwy, Suite #110, Tracy, CA 95304. I have watched our City leaders debate legal cannabis for years and am excited to see the fruits of their efforts in the selection of Benny Sanchez and Embarc Tracy.

As a longtime Tracy resident, I know our community is ready for and deserves access to responsible, safe, legal cannabis. As many of our neighboring cities have already adopted legal retail cannabis, Tracy residents have been travelling out our community to purchase their legal cannabis.

Embarc's proposed location at the Tracy Pavilion, is perfect site for retail cannabis as it will compliment existing uses in the Pavilion while bringing new customers and additional revenue to the Pavillion and the businesses within it. Embarc's location will ensure Tracy residents have convenient access to legal cannabis while not oversaturating one specific area of our community.

I look forward to the opportunity to shop locally for cannabis and support Benny Sanchez and the Embarc Tracy team.

Thank you and I respectfully urge this Commission to support Embarc Tracy.

Sincerely,

A handwritten signature in black ink that reads "Rich Beloza". The signature is written in a cursive, flowing style.

Rich Beloza

Re: **Item 1.A** -- CONDITIONAL USE PERMIT
(CUP22-0012) FOR A CANNABIS STOREFRONT
RETAILER (DISPENSARY) AT 2706 PAVILION PKWY.

Chair and Commissioners,

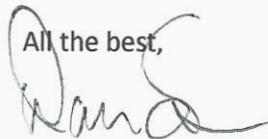
I am writing in support of Benny Sanchez and Embarc Tracy's effort to bring retail cannabis to the Tracy community at 2706 Pavilion Pkwy, Suite #110, Tracy, CA 95304. With Benny Sanchez at the helm, Embarc Tracy will serve as one of our communities' foundational leaders in our emerging cannabis industry and will set the standard for successful and meaningful community benefits in the retail cannabis industry of Tracy can do for our community.

As a longtime Tracy resident, I have known Benny for many years and can attest to his true commitment to this community and to the residents within it. Benny has spent his lifetime building his career and raising his family in Tracy. He understands this community and has an invested interest in the long-term success of our community. Benny is known as a trusted and engaged community member and I have all the confidence that as a leader of Embarc Tracy, he will ensure that the benefits of legal cannabis are invested in the needs of our community.

As our City leaders work to bring access to legal cannabis to Tracy residents, I cannot think of a better team to do so then Benny Sanchez and the Embarc team.

Thank you and I hope you will take my comments into consideration and support Embarc Tracy and their retail cannabis storefront at 2706 Pavilion Pkwy, Suite #110, Tracy, CA 95304.

All the best,

A handwritten signature in black ink, appearing to read "Darren Scott", written in a cursive style.

Darren Scott

Re: **Item 1.A** -- CONDITIONAL USE PERMIT
(CUP22-0012) FOR A CANNABIS STOREFRONT
RETAILER (DISPENSARY) AT 2706 PAVILION PKWY.

Chair and Planning Commissioners,

Thank you for the opportunity to express my full support for Embarc Tracy and their cannabis retail storefront at 2706 Pavilion Pkwy, Suite #110, Tracy, CA 95304.

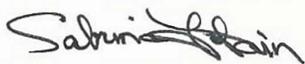
As a longtime member of this community, I have a vested interest in ensuring that retail cannabis in my community is done right. Tracy is my home. It is where I work and have raised my family. It is important to me that the operators that are selected to serve our community do so with integrity and with a commitment to ensuring their operations create positive benefits for the community as a whole. In learning about Embarc's operations and how they work with communities across Northern California, I believe their track record speaks for itself. The work they have done to support youth drug prevention and education is the type of leadership our community needs and deserves.

With Embarc Tracy's stellar track record combined with Benny Sanchez' deep local roots, I am confident that Embarc will deliver on their commitments and be an engaged and responsive leader in Tracy's nascent cannabis industry.

Thank you for your diligence in bringing retail cannabis to Tracy and I hope you will support Embarc Tracy and support their efforts to bring responsible retail cannabis to Tracy.

Best,

Sabrina Fountain



Agenda Item 1.A

RECOMMENDATION

STAFF RECOMMENDS THAT THE PLANNING COMMISSION ADOPT A RESOLUTION 1) GRANTING A CONDITIONAL USE PERMIT (CUP22-0004) FOR A CANNABIS STOREFRONT RETAILER (DISPENSARY) AT 2420 W. GRANT LINE ROAD, APNS 238-600-37 & 238-190-22 AND 2) APPROVING A DEVELOPMENT REVIEW PERMIT (D22-0009) FOR EXTERIOR MODIFICATIONS TO THE BUILDING; 3) EXTENDING THE TIME PERIOD TO ESTABLISH THE DISPENSARY SITE UNDER THE CONDITIONAL USE PERMIT FROM SIX MONTHS TO TWELVE MONTHS; AND 4) DETERMINING THAT THIS PROJECT IS CATEGORICALLY EXEMPT FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT. THE APPLICANT IS MIKE SOUZA AND THE PROPERTY OWNERS ARE RT & JT, LLC AND J T STORAGE, LP.

EXECUTIVE SUMMARY

Through this item, staff recommends that the Planning Commission grant a cannabis conditional use permit to Mike Souza on behalf of GOE Tracy, LLC (dba Garden of Eden) to operate a cannabis dispensary in the existing building at 2420 W. Grant Line Road and to approve a Development Review Permit for exterior modifications to the building.

BACKGROUND AND LEGISLATIVE HISTORY

California state law allows local governments to regulate commercial cannabis activities in their respective jurisdictions. On December 3, 2019, the City Council adopted Ordinance 1277 (codified as Tracy Municipal Code (TMC) Chapter 6.36) establishing permitting regulations for commercial cannabis activity in the City of Tracy (City), which regulations require applicants to obtain a Cannabis Business Permit. In addition, the City Council adopted Ordinance 1278 (codified as TMC Section 10.08.3196) establishing zoning and locational requirements for commercial cannabis activity in Tracy and requiring applicants to obtain a Cannabis Conditional Use Permit (CUP).

Applicants must obtain both a Cannabis Business Permit under Chapter 6.36 and a Cannabis CUP under Chapter 10.08.3196, in order to establish a retail site (dispensary) in the City. The consideration and approval of Cannabis Business Permits are outside of the purview of the Planning Commission, while Cannabis CUPs can solely be granted by the Planning Commission. Planning Commission decisions on Cannabis CUPs are appealable to the City Council.

On September 30, 2020, GOE Tracy, LLC submitted an application for a Cannabis Business Permit, pursuant to Chapter 6.36 of the TMC. The application was comprehensively reviewed by an internal Cannabis Business Permit Review Committee comprised of the Finance Department, Development Services Department, and the South San Joaquin County Fire Authority. Following review and determination that the application was eligible, the Committee forwarded this application to the Police Department for final review and determination. On March 3, 2022, the Tracy Police Chief awarded a provisional Cannabis Business Permit (CBPA20-0034) to GOE Tracy, LLC. The Cannabis Business Permit approves the permittee's business operations and odor control plan, community relations plan, safety and security plan, social equity plan, and community benefits proposal. As noted above, in addition to procuring a Cannabis Business Permit, the

proposed use must also meet the zoning requirements applicable to cannabis dispensaries, including obtaining a Cannabis CUP to operate their business at a specific location.

On March 10, 2022, Mike Souza submitted a conditional use permit application to establish the Garden of Eden cannabis dispensary in a building at 2420 W. Grant Line Road (Attachment A), which is comprised of two lots (APNs 238-600-37 and 238-190-22) and a Development Review Permit for façade modifications to the building. The subject property is designated Commercial in the Tracy General Plan and zoned General Highway Commercial, in which cannabis dispensaries are conditionally permitted. Development review is regulated by TMC Title 10 Article 30, adopted by Ordinance 1236 on July 18, 2017. Because the Development Review Permit is paired with a conditional use permit subject to the Planning Commission, the Development Review Permit is a Tier 2 application subject to Planning Commission review in accordance with TMC Section 10.08.3950.

ANALYSIS

Project Proposal

The applicant proposes to operate a cannabis dispensary consisting of storefront retail and delivery of packaged cannabis products in accordance with local and State cannabis law. Local regulations include locational requirements, site requirements, and operating hours to be established by the conditional use permit. The proposed dispensary is an approximately 2,189 sf tenant space within an existing 4,867 sf building. There is an existing property line that crosses through the building which the property owners intend to remove via a lot line adjustment. Existing uses at this site include a fueling station with convenience store that occupies the remainder of the subject building on APN 238-600-37 and a fast-food restaurant with drive-thru on APN 238-190-22. The dispensary proposes to occupy the southern half of the building while the convenience store would occupy the northern half.

The TMC allows dispensaries to locate in all commercial and industrial zones of the City, subject to the additional condition that such uses are “located at least 600 feet from any parcel containing any of the following sensitive uses as of the date the conditional use permit is issued: school, day care center, or youth center.” Section 10.08.3196(b) of the TMC provides specific definitions of schools, day care centers and youth centers. According to City records, as of the date of publication of this staff report, the subject building is over 600 feet away from a school, day care center, or youth center, as required by TMC Section 10.08.3196.

The cannabis dispensary will operate in a similar manner as a retail store, which is complementary of the commercial area encompassing project vicinity. The applicant proposes to operate daily from 6:00 am to 10:00 pm, as permitted by State law. The storefront retail use will be wholly indoors, and no portion of the retail use, aside from deliveries, will take place outdoors. The proposed dispensary will have a separate and secure lobby wherein age verification will be conducted prior to permitting the customer into the retail area and a vault where cannabis products are stored, as required by TMC Chapter 6.36. Cannabis products will be packaged and loaded into delivery vehicles through the rear of the building in an enclosed area with proposed fencing inaccessible to the public and with direct access to and from Toste Road (Attachment A). The applicant will have two delivery vehicles, which will be in use during normal operating hours and be parked in the loading area behind the building when not in use. There is enough parking on site for the existing uses and proposed dispensary, as 50 spaces are required for the

existing uses and proposed dispensary and delivery vehicles and there is enough room to provide 50 spaces onsite. As part of the project, the applicant will be restriping the existing parking area to meet City standards and reconfiguring the landscape planters to better serve the parking area and provide access to the building entries.

According to the applicant, because all cannabis products are entirely packaged, no noticeable odors or smells are expected to emanate from the dispensary; regardless, the applicant will be installing a carbon filtration on the exhaust end of the ventilation system and negatively pressurize the dispensary in relation to the exterior ambient condition such that odors generated inside the dispensary are not detectable outside. According to the applicant, staff will also be trained to recognize and rectify any odors that do escape outside. The use will implement the safety and security plan approved as a part of Garden of Eden's cannabis business permit, and project Conditions of Approval (Attachment C) D.1 through D.4 recommended by the Police Department identify additional means to ensure the business will operate safely and securely.

The existing building was constructed prior to the site's annexation into the City and has undergone minor façade updates over the years, resulting in a building comprised of stucco and three different types of stone in earth tone colors and an orange awning. The applicant proposes to update the entire façade to conform to City standards for high quality architecture. The improvements include painting the stucco with silver and gray paints and black accents, replacing the dated and unmatching stone with a black wainscot, removing the orange awning, and add two tower features at both building entrances in white metal paneling. Some windows that do not work with the proposed floor plan will be removed and replaced by metal landscape trellises. A red awning and light fixtures over the convenience store entrance will complement the red striping recently installed on the adjacent fueling canopy. As indicated above, onsite landscaping will be restored to complement the new façade.

Findings

Importantly, Cannabis CUPs must meet the requirements set forth in TMC Section 10.08.4250, which requirements apply to conditional uses in all zoning districts in the City. Under these requirements, the Planning Commission can grant a CUP on the basis of the application and evidence submitted, subject to making all of the following findings:

- (a) That there are circumstances or conditions applicable to the land, structure, or use which make the granting of a use permit necessary for the preservation and enjoyment of substantial property right;
- (b) That the proposed location of the conditional use is in accordance with the objectives of this [Chapter 10.08 – Zoning Regulations] and the purposes of the zone in which the site is located;
- (c) That the proposed location of the use and the conditions under which it would be operated or maintained will not be detrimental to the public health, safety, or welfare or materially injurious to, or inharmonious with, properties or improvements in the vicinity; and
- (d) That the proposed use will comply with each of the applicable provisions of this [Chapter 10.08 – Zoning Regulations].

Development Review Permits must meet the requirements set forth in TMC Section 10.08.3920. Before approving a Development Review Permit, the Planning Commission must make the following findings:

- (a) That the proposal increases the quality of the project site, and enhances the property in a manner that therefore improves the property in relation to the surrounding area and the citizens of Tracy; and
- (b) That the proposal conforms to this chapter, the general plan, any applicable specific plan, the Design Goals and Standards, any applicable Infrastructure Master Plans, and other City regulations.

Staff recommends that the Planning Commission make the requisite findings for this project based on the evidence in the record, including, without limitation, the following:

- (a) There are circumstances applicable to the use which make the granting of a use permit necessary for the preservation and enjoyment of substantial property right, because a conditional use permit is necessary for the operation of a cannabis dispensary in the General Highway Commercial zone under the Tracy Municipal Code. The proposed project meets the intent of the General Highway Commercial zone and otherwise complies with development regulations of the zone.
- (b) The proposed location of the use and the conditions under which it would be operated or maintained is in accordance with the objectives of Tracy Municipal Code Chapters 6.36 and 10.08. Additionally, the project site is located at least 600 feet away from a parcel containing a school, day care center, or youth center as defined in Chapter 10.08, and the use will be operated wholly indoors. The use is a retail store, which is complementary to the surrounding commercial area.
- (c) The project will not, under the circumstances of the particular case or as conditioned, be injurious or detrimental to the health, safety, or general welfare of persons or property in the vicinity of the proposed use, or to the general welfare of the City. The proposed use of a cannabis dispensary will function in a complementary manner to the surrounding retail uses in the vicinity and will comply with City standards. The dispensary will implement all safety and security conditions of approval prepared by the Tracy Police Department.
- (d) The project is consistent with the zoning, commercial cannabis activity regulations, and other elements of the Tracy Municipal Code the City of Tracy General Plan, the Design Goals and Standards, City Standards, California Building Codes, California Fire Codes, and California cannabis regulations. There will be no odors or similar objectionable impacts to other businesses in the vicinity as all cannabis products will be entirely packaged and stored in accordance with the requirements of Chapter 6.36. The dispensary will implement odor control to prevent odors from emanating outside the dispensary as outlined in the business's odor control plan.

DR Permit Findings

- (e) The proposal increases the quality of the project site and enhances the

property in a manner that therefore improves the property in relation to the surrounding area and the citizens of Tracy, because the façade modification will update the building with decorative entry towers, new paint colors and metal accents, and remove dated and unmatching stone and an orange awning from the building. A red awning and light fixtures over the convenience store entrance will complement the red striping recently installed on the adjacent fueling canopy, and onsite landscaping will be restored and parking spaces restriped to meet City standards.

- (f) The proposal, as conditioned, conforms to the Tracy Municipal Code, the City of Tracy General Plan, the City Design Goals and Standards, applicable City Standards, California Building Codes, and California Fire Codes.

CUP Expiration

Per TMC Section 10.08.4350, CUP approvals are valid for six months following fifteen days from the date of approval, unless a building permit, if required, is issued and construction is commenced, or the use is established. The TMC also permits the Planning Commission to grant a greater time limit to establish a use pursuant to their conditional use permit (TMC Section 10.08.4360). Aside from the conditional use permit, the applicant must also obtain a state license for the operation of the cannabis business and comply with the conditions of their provisional Cannabis Business Permit, as well as obtain building permits for the proposed construction, collectively which may take longer than six months to complete. Therefore, staff recommends that the Planning Commission grant the Cannabis CUP one year to establish as described in project condition of approval A.9.

PUBLIC OUTREACH/ INTEREST

This item was duly noticed in the local newspaper and public hearing notices were mailed to all property owners of property within 300 feet of the subject site.

COORDINATION

This development application was reviewed by multiple City Departments and the South San Joaquin County Fire Authority as part of the City's normal application review process. This staff report was prepared by the Development Services Planning Division.

CEQA DETERMINATION

The proposed project is categorically exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15301, which pertains to minor alterations and additions to existing facilities in an area where all public services and facilities are available and which is not environmentally sensitive. In accordance with CEQA Guidelines, no further environmental assessment is required.

ACTION REQUESTED OF THE PLANNING COMMISSION

STAFF RECOMMENDS THAT THE PLANNING COMMISSION ADOPT A RESOLUTION:

- 1. DETERMINING THAT THIS PROJECT IS CATEGORICALLY EXEMPT FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT**

2. GRANTING A CONDITIONAL USE PERMIT (CUP22-0004) FOR A CANNABIS STOREFRONT RETAILER (DISPENSARY) AT 2420 W. GRANT LINE ROAD, APNS 238-600-37 & 238-190-22;

3. APPROVING A DEVELOPMENT REVIEW PERMIT (D22-0009) FOR EXTERIOR MODIFICATIONS TO THE BUILDING;

4. EXTENDING THE TIME PERIOD TO ESTABLISH THE DISPENSARY SITE UNDER THE CONDITIONAL USE PERMIT FROM SIX MONTHS TO TWELVE MONTHS; AND

Prepared by: Kimberly Matlock, Associate Planner

Approved by: Bill Dean, Assistant Development Services Director

Attachments:

Attachment A – Vicinity Map, Site and Floor Plans received on August 9, 2022

Attachment B – Planning Commission Resolution

Attachment C – Conditions of Approval



GOE TRACY

CONDITIONAL USE PERMIT APPLICATION

DEVELOPMENT REVIEW PERMIT

2420 WEST GRANT LINE ROAD
TRACY, CALIFORNIA
95377

DEVELOPMENT DATA

ASSESSOR'S PARCEL NUMBER: 238-600-360 / 238-190-220
PROJECT ADDRESS: 2420 WEST GRANT LINE ROAD
 TRACY, CALIFORNIA
 GHC / GENERAL HIGHWAY COMMERCIAL
ZONING: CITY OF TRACY
PROJECT AREA: 2,486 SF AREA 1 - CONVENIENCE STORE (M OCCUPANCY)
 2,040 SF AREA 2 - DISPENSARY (M OCCUPANCY)
 4,526 SF TOTAL
 2,000 SF EXISTING FUEL CANOPY TO REMAIN - NO WORK
OCCUPANCY: M - MERCANTILE
 CBC SECTION 304
STORIES: 1
ALLOWABLE BUILDING AREA: 9,000 SF W/O AREA INCREASES
 CBC SECTION 503
TYPE OF CONSTRUCTION: VB
 CBC SECTION 602.1
FIRE SPRINKLERS: NO, NONE EXISTING
OCCUPANT LOAD: AREA 1 38 OCCUPANTS
 AREA 2 28 OCCUPANTS
 SEE AREA CALCULATION BELOW
 CBC SECTION 1004
RESTROOMS: SEE SANITARY FACILITY CALCULATION ON A-2.0
 CPC SECTION 422
PARKING: SEE CALCULATION ON DRAWING A-1.0

DRAWING INDEX

- GENERAL
- G-1.0 COVER SHEET
- DEMOLITION
- D-1.0 DEMOLITION SITE PLAN
- ARCHITECTURAL
- A-1.0 SITE PLAN
- A-2.0 FLOOR PLAN
- A-5.0 EXTERIOR ELEVATIONS
- A-5.1 EXTERIOR ELEVATIONS
- CIVIL
- T1.1 TOPOGRAPHIC SURVEY

SCOPE OF WORK

CONDITIONAL USE PERMIT APPLICATION & DEVELOPMENT REVIEW PERMIT FOR INTERIOR AND EXTERIOR IMPROVEMENTS TO AN EXISTING BUILDING

WORK SHALL INCLUDE:

DEMOLITION
 EXISTING INTERIOR WALLS AND FIXTURES TO CONVERT BUILDING TO TWO (2) SEPARATE TENANTS

NEW CONSTRUCTION
 INTERIOR WALLS, FINISHES, TRANSACTION COUNTERS FOR DISPENSARY AND CONVENIENCE STORE
 PARKING RE-STRIPE/RE-FRESH TO BRING TO CITY AND ADA COMPLIANCE
 RE-PAINT EXISTING BUILDING
 CONSTRUCTION OF NEW ENTRY TOWERS
 INSTALLATION OF NEW SECURITY FENCING AT DISPENSARY DELIVERY DOOR (WEST SIDE)

PROJECT TEAM

APPLICANT
 SOUZA REALTY & DEVELOPMENT
 MICHAEL SOUZA
 672 W. 11TH STREET, SUITE 110
 TRACY, CA 95376
 PH. (209) 835-8330
 EMAIL MIKE@SOUZARD.COM

ARCHITECT
 COMMERCIALARCH
 STACEY WELLNITZ
 616 14TH STREET
 MODESTO, CA 95354
 PH. (209) 571-8158
 EMAIL SWELLNITZ@COMMERCIALARCH.COM

ARCHITECTURAL SYMBOL LEGEND

NORTH ARROW NORTH DIRECTION ARROW		ROOM IDENTIFICATION ROOM DESIGNATION ROOM IDENTIFICATION NUMBER	
INTERIOR ELEVATION INTERIOR ELEVATION NUMBER		DOOR IDENTIFICATION DOOR IDENTIFICATION NUMBER	
SECTION SECTION NUMBER		WINDOW IDENTIFICATION WINDOW IDENTIFICATION NUMBER	
DETAIL DETAIL NUMBER CUT DIRECTION DRAWING NUMBER LOCATION		FIXTURE IDENTIFICATION FIXTURE IDENTIFICATION NUMBER	
ELEVATION HEIGHT 0' 0" FLOOR FINISH		EQUIPMENT IDENTIFICATION EQUIPMENT IDENTIFICATION NUMBER	
		FINISH DESIGNATION FINISH IDENTIFICATION NUMBER	
		REVISIONS ADDENDUM NUMBER REVISION AREA CLOUD	

BUILDING AREA & OCCUPANT LOAD

ROOM #	ROOM NAME	AREA	2019 CALIFORNIA BUILDING CODE - CHAPTER 10, SECTION 1004			2019 CALIFORNIA PLUMBING CODE - CHAPTER 4, SECTION 422			
			ROOM FUNCTION	BUILDING OCCUPANT LOAD FACTOR	NUMBER OF OCCUPANTS	OCCUPANCY	PLUMBING OCCUPANT LOAD FACTOR	NUMBER OF OCCUPANTS	MEN / WOMEN
AREA 1 - CONVENIENCE STORE									
1-100	SALES FLOOR	2102 SF	MERCANTILE	60 SF	36	MERCANTILE	200 SF	11	5.5
1-101	BACK OF HOUSE	284 SF	BUSINESS	150 SF	2	MERCANTILE	200 SF	2	1
1-102	RR	50 SF	ANCILLARY - RESTROOM	0 SF		MERCANTILE	200 SF	1	0.5
1-103	RR	49 SF	ANCILLARY - RESTROOM	0 SF		MERCANTILE	200 SF	1	0.5
		2486 SF			38			15	7.5
AREA 2 - DISPENSARY									
2-100	SALES FLOOR	890 SF	MERCANTILE	60 SF	15	MERCANTILE	200 SF	5	2.5
2-101	HALL	156 SF	ANCILLARY - CIRCULATION	0 SF		MERCANTILE	200 SF	1	0.5
2-102	JANITOR	52 SF	BUSINESS	150 SF	1	MERCANTILE	200 SF	1	0.5
2-103	RR	50 SF	ANCILLARY - RESTROOM	0 SF		MERCANTILE	200 SF	1	0.5
2-104	OFFICE	48 SF	BUSINESS	150 SF	1	MERCANTILE	200 SF	1	0.5
2-105	BREAK ROOM	60 SF	BUSINESS	150 SF	1	MERCANTILE	200 SF	1	0.5
2-106	CANNABIS PRODUCT STORAGE	202 SF	BUSINESS	150 SF	2	MERCANTILE	200 SF	2	1
2-107	PRE-ORDER PROCESSING	196 SF	BUSINESS	150 SF	2	MERCANTILE	200 SF	1	0.5
2-108	CANNABIS PRODUCT RECEIVING	123 SF	BUSINESS	150 SF	1	MERCANTILE	200 SF	1	0.5
2-109	SALES COUNTER	264 SF	BUSINESS	150 SF		MERCANTILE	200 SF	1	0.5
		2040 SF			23			14	7
		4526 SF			61			29	14.5

VICINITY MAP

PROJECT LOCATION
 2420 WEST GRANT LINE ROAD
 TRACY, CALIFORNIA

#	REVISION	BY



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GARDEN OF EDEN
 DISPENSARY

CONDITIONAL USE PERMIT

LOCATION
 2420 WEST GRANT LINE ROAD
 TRACY, CALIFORNIA
 95377

PARCEL
 238-600-360 / 238-190-220

OWNER
 GOE TRACY

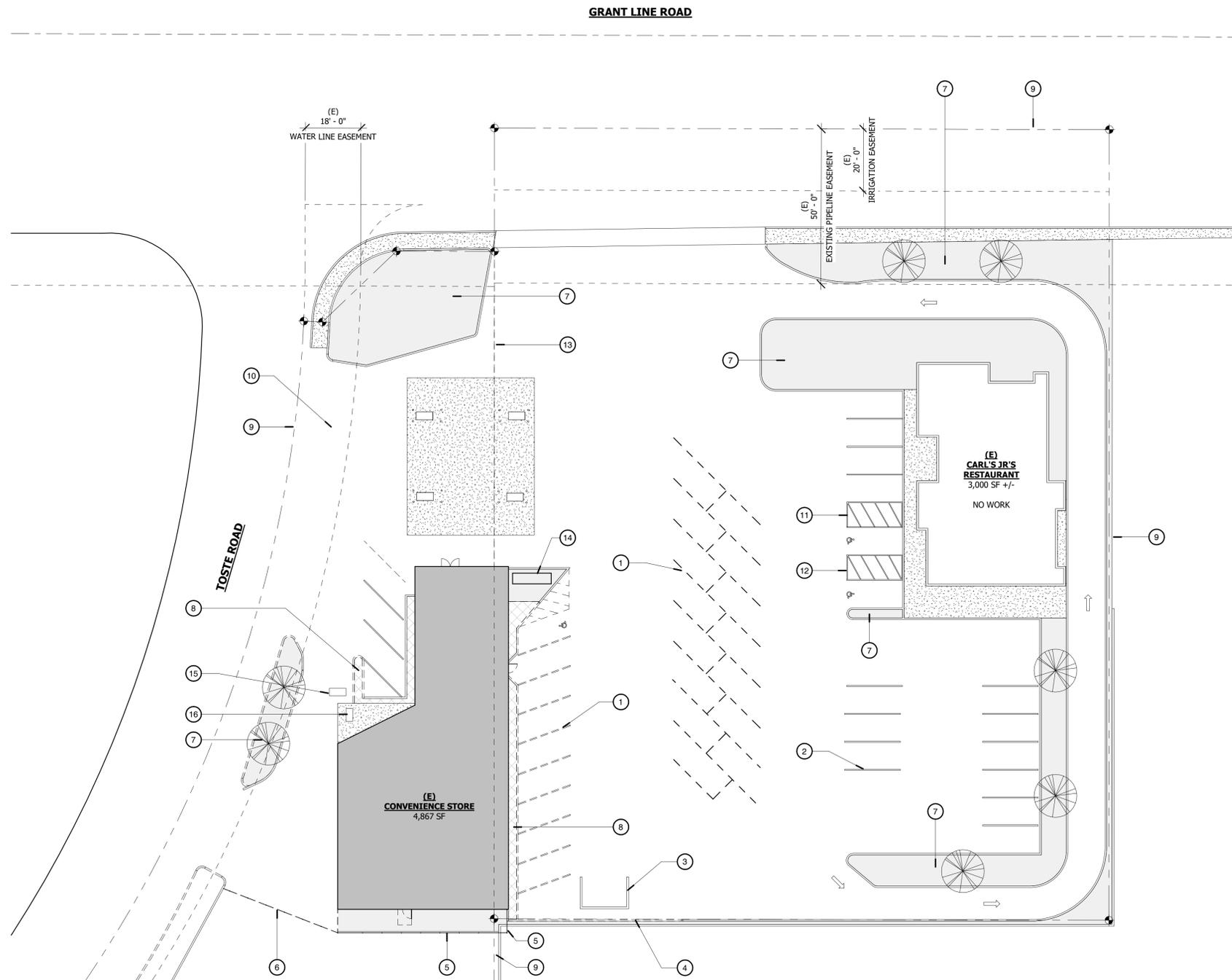
PLANNING PERMIT NUMBER
 CUP22-0004 & 022-0009

DATE
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 21-164

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COVER SHEET

KEYNOTES	
NO.	NOTE
1	EXISTING PARKING STRIPING TO BE REMOVED, TYPICAL
2	EXISTING PARKING STRIPING TO REMAIN - NO WORK
3	EXISTING TRASH ENCLOSURE TO REMAIN - NO WORK
4	EXISTING +4'-0" CMU RETAINING WALL TO REMAIN - NO WORK
5	EXISTING CHAIN LINK FENCE TO REMAIN - NO WORK
6	EXISTING CHAIN LINK FENCE TO BE DEMOLISHED, TYPICAL
7	EXISTING LANDSCAPE PLANTER TO REMAIN - NO WORK
8	EXISTING LANDSCAPE PLANTER TO BE REMOVED AND REPLACED - SEE SITE PLAN
9	PROPERTY LINE, TYPICAL
10	EXISTING CONCRETE CURB CUT AND DRIVEWAY TO REMAIN - NO WORK
11	EXISTING VAN ACCESSIBLE PARKING STALL AND STRIPING TO REMAIN - NO WORK
12	EXISTING STANDARD ACCESSIBLE PARKING STALL AND STRIPING TO REMAIN - NO WORK
13	DASHED LINE INDICATES EXISTING PROPERTY LINE TO BE REMOVED
14	EXISTING FUEL VENTING SYSTEM TO REMAIN
15	EXISTING AIR/WATER DISPENSER TO REMAIN - NO WORK
16	EXISTING PUBLIC TELEPHONE TO BE REMOVED



1 DEMOLITION SITE PLAN

SCALE:
1" = 20'-0"

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GARDEN OF EDEN DISPENSARY

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LOCATION
2420 WEST GRANT LINE ROAD
TRACY, CALIFORNIA
95377

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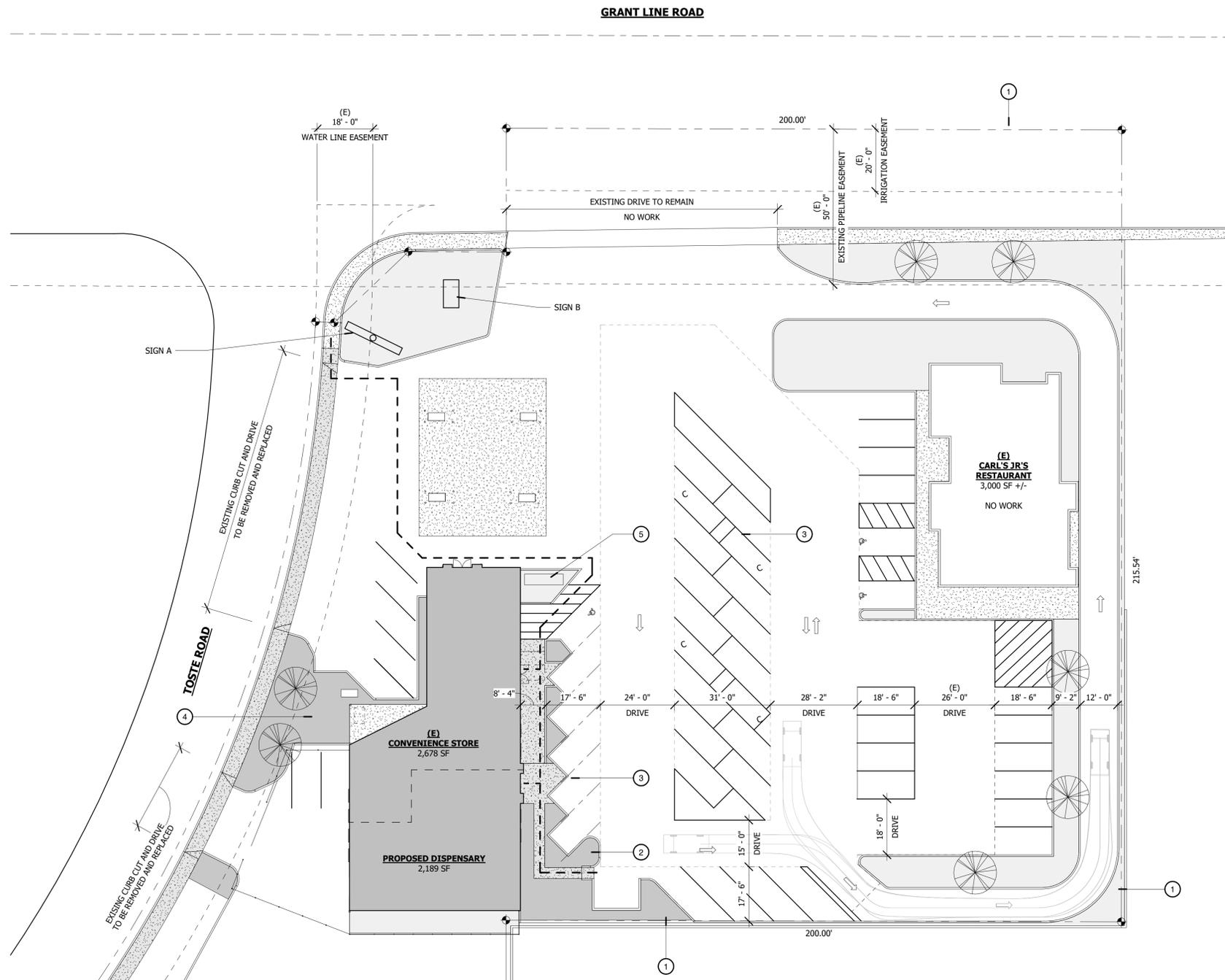
OWNER
GOE TRACY

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CUP22-0004 & DD2-0009

DATE
8/9/2022 7:55:53 AM
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DEMOLITION SITE PLAN



1 SITE PLAN

SCALE:
1" = 20'-0"

KEYNOTES	
NO.	NOTE
1	PROPERTY LINE, TYPICAL
2	LANDSCAPE PLANTER, TYPICAL - SEE SITE DEVELOPMENT PERMIT DRAWINGS FOR ASSOCIATED WORK
3	PARKING STRIPING, TYPICAL
4	EXISTING AIR/WATER DISPENSER TO REMAIN - NO WORK
5	EXISTING FUEL VENTING SYSTEM TO REMAIN

PARKING REQUIRED				
NUMBER	NAME	AREA	PARKING RATIO	PARKING REQUIRED
BUILDING A				
SUITE A	CONVENIENCE STORE	2678 SF	250 SF	10.710102
SUITE B	DISPENSARY	2189 SF	250 SF	8.757844
BUILDING B				
KITCHEN	EMPLOYEE AREA	2069 SF	250 SF	8.276387
DINING	CUSTOMER AREA	908 SF	45 SF	20.188776
TOTAL:				47.933109

PARKING PROVIDED	
DESCRIPTION	COUNT
COMPACT STALL - 45 DEGREE	4
STANDARD STALL - 45 DEGREE	26
STANDARD STALL - 90 DEGREE	15
VAN ACCESSIBLE	3
TOTAL:	TOTAL STALLS PROVIDED 48

SIGNAGE TABULATION						
	SIGNAGE WIDTH	SIGNAGE HEIGHT	SIGNAGE DEPTH	SIGNAGE AREA	ILLUMINATED	SIGNAGE DETAIL
*SIGN A POLE SIGN	2 @ 25'-0"	2 @ 8'-0"	6"	2 @ 200 SF	YES	SEE ATTACHED SIGN PROGRAM
*NOT COUNTED TOWARDS TOTAL SIGN AREA						
SIGN B MONUMENT PRICE SIGN	2 @ 5'-0"	2 @ 8'-0"	12"	2 @ 40 SF	YES	SEE ATTACHED SIGN PROGRAM
SIGN C BUILDING SIGN	6'-0"	2'-6"	3"	15 SF	YES	2/A-9.1
SIGN D BUILDING SIGN	6'-0"	2'-6"	3"	15 SF	YES	2/A-9.1
CANOPY SIGN	2 @ 8'-0"	2 @ 2'-6"	3"	2 @ 20 SF	YES	SEE ATTACHED SIGN PROGRAM

TOTAL SIGN AREA ALLOWED (BUILDING DIMENSION x 0.50 SF) (55'-4" + 110'-7") X 0.50 SF -- (E) BUILDING (42'-0" + 52'-0" + 42'-0") X 0.50 SF -- (E) CANOPY	150.9 SF	--
TOTAL SIGN AREA PROPOSED	150 SF	--

LANDSCAPE AREA CALCULATION	
DESCRIPTION	AREA
CONCRETE WALK	
EXISTING CONCRETE WALK TO REMAIN	1173 SF
PROPOSED CONCRETE WALK	1730 SF
	2903 SF
LANDSCAPE PLANTER	
EXISTING LANDSCAPE PLANTER TO REMAIN	7941 SF
PROPOSED LANDSCAPE PLANTER	2109 SF
	10050 SF
LANDSCAPE PLANTER TO BE DEMOLISHED	
EXISTING LANDSCAPE PLANTER TO BE DEMOLISHED	432 SF
	432 SF

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GARDEN OF EDEN DISPENSARY

CONDITIONAL USE PERMIT

LOCATION
2420 WEST GRANT LINE ROAD
TRACY, CALIFORNIA
95377

PARCEL
238-600-360 / 238-190-220

OWNER
GOE TRACY

PLANNING PERMIT NUMBER
CUP22-0004 & DD2-0009

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SITE PLAN

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**GARDEN OF EDEN
DISPENSARY**

CONDITIONAL USE PERMIT

LOCATION
2420 WEST GRANT LINE ROAD
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PARCEL
238-600-360 / 238-190-220

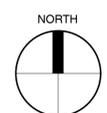
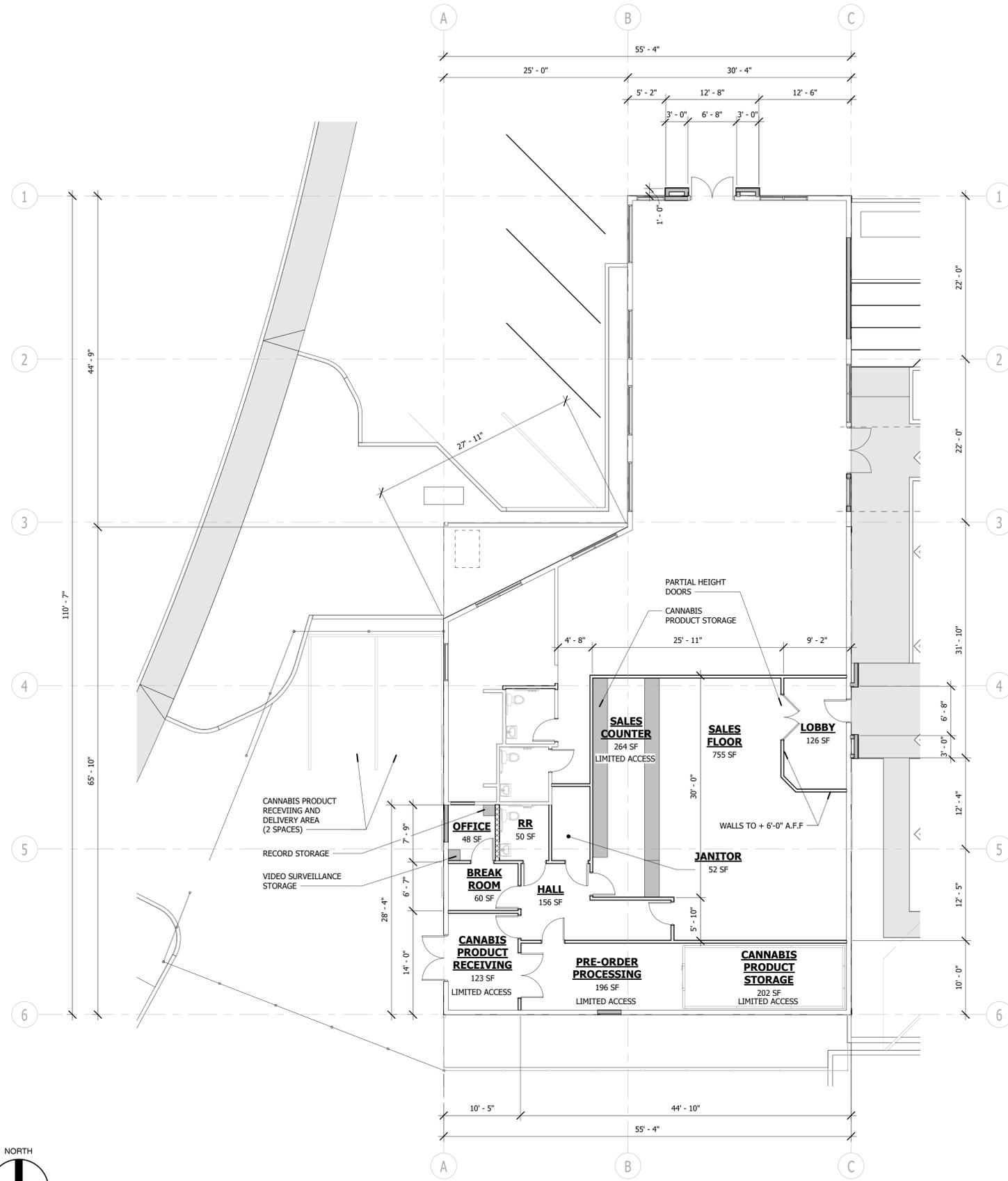
OWNER
GOE TRACY

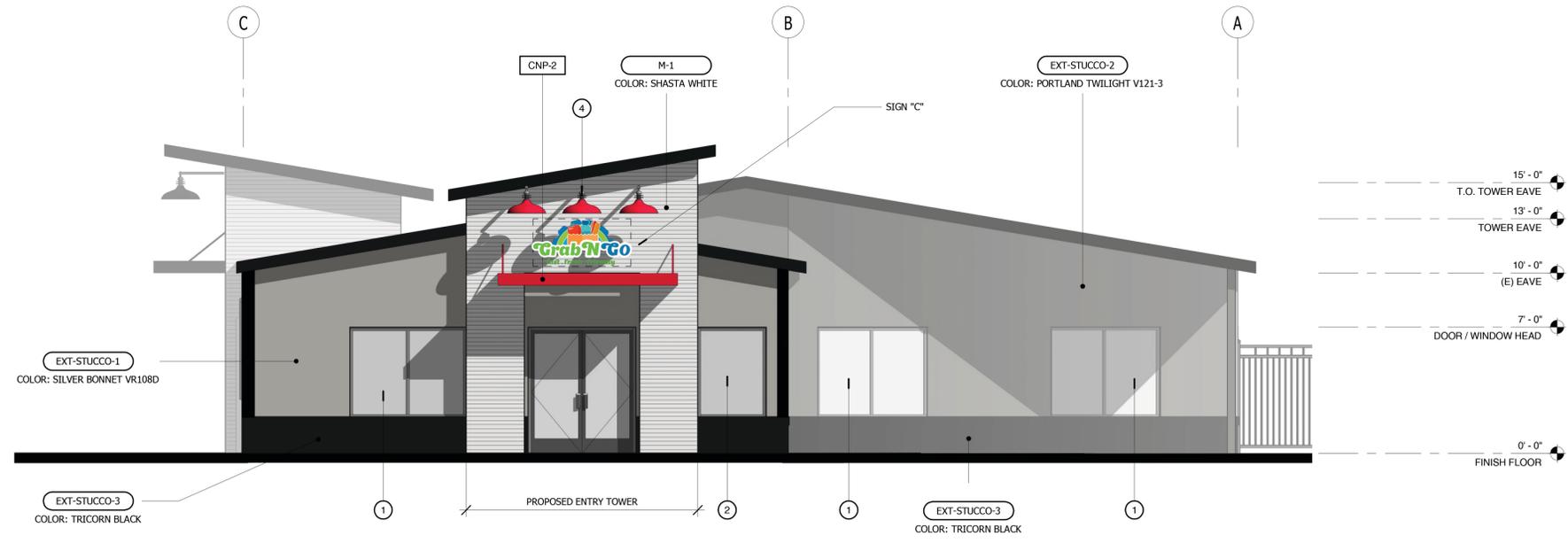
PLANNING PERMIT NUMBER
CLP22-0004 & DD2-0009

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8/9/2022 8:00:54 AM
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FLOOR PLAN



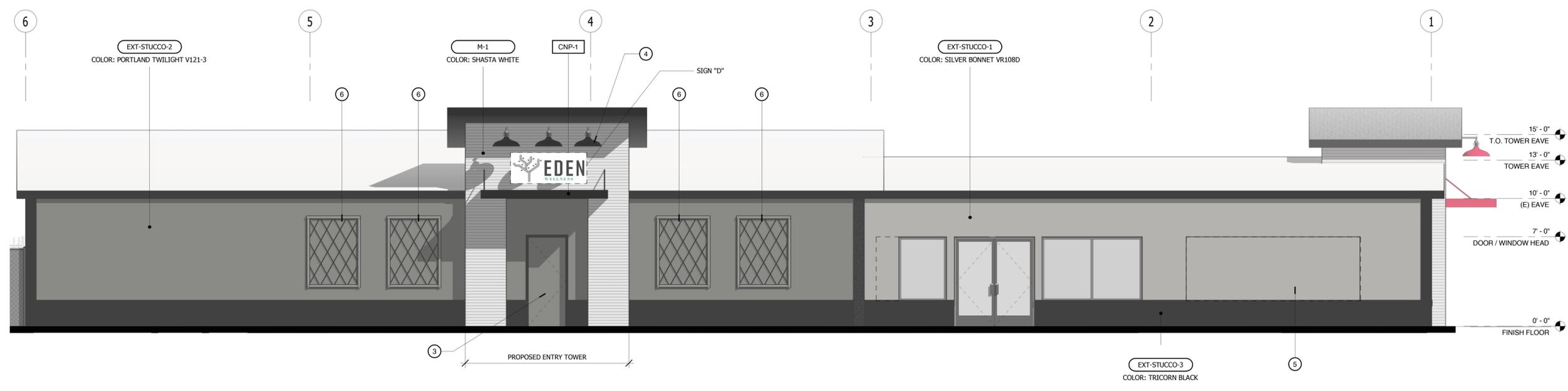


1 NORTH ELEVATION - FRONT VIEW SCALE: 1/4" = 1'-0"

KEYNOTES	
NO.	NOTE
1	EXISTING ALUMINUM STOREFRONT WINDOW TO REMAIN - NO WORK
2	EXISTING ALUMINUM STOREFRONT WINDOW TO BE REMOVED AND REPLACED
3	STEEL DOOR AND FRAME - PAINT TO MATCH EXISTING WALL COLOR, TYPICAL
4	LIGHT FIXTURE, TYPICAL - SEE ELECTRICAL DRAWINGS FOR ASSOCIATED WORK
5	EXISTING ALUMINUM STOREFRONT WINDOW TO BE DEMOLISHED, TYPICAL
6	WALL MOUNTED, STEEL LANDSCAPE TRELIS, TYPICAL

EXTERIOR FINISH SCHEDULE			
MARK	DESCRIPTION	COLOR	MODEL
EXT-STUCCO-1	7/8" - 3-COAT SYSTEM	VALSPAR - SILVER BONNET VR108D	LIGHT-SAND FINISH
EXT-STUCCO-2	7/8" - 3-COAT SYSTEM	VALSPAR - PORTLAND TWILIGHT V121-3	LIGHT-SAND FINISH
EXT-STUCCO-3	7/8" - 3-COAT SYSTEM	DUNN EDWARDS - TRICORN BLACK	LIGHT-SAND FINISH
M-1	16" CORRUGATED METAL PANEL, HORIZONTAL	NATURAL WHITE	HC-16 PANEL, HORIZONTAL
T-1	CEMENT-BOARD WALL TRIM	SHERWIN WILLIAMS - TRICORN BLACK SW6258	--

CANOPY SCHEDULE						
MARK	MFR	MODEL	FINISH	WIDTH	PROJ	DETAIL
CNP-1	MAPES ARCHITECTURAL CANOPIES	SUPERSHADE	BLACK ENAMEL	10' - 0"	4' - 0"	
CNP-2	MAPES ARCHITECTURAL CANOPIES	SUPERSHADE	RED ENAMEL	10' - 0"	4' - 0"	



2 EAST ELEVATION - SIDE VIEW SCALE: 1/4" = 1'-0"

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GARDEN OF EDEN DISPENSARY

CONDITIONAL USE PERMIT

LOCATION
2420 WEST GRANT LINE ROAD
TRACY, CALIFORNIA
95377

PARCEL
238-600-360 / 238-190-220

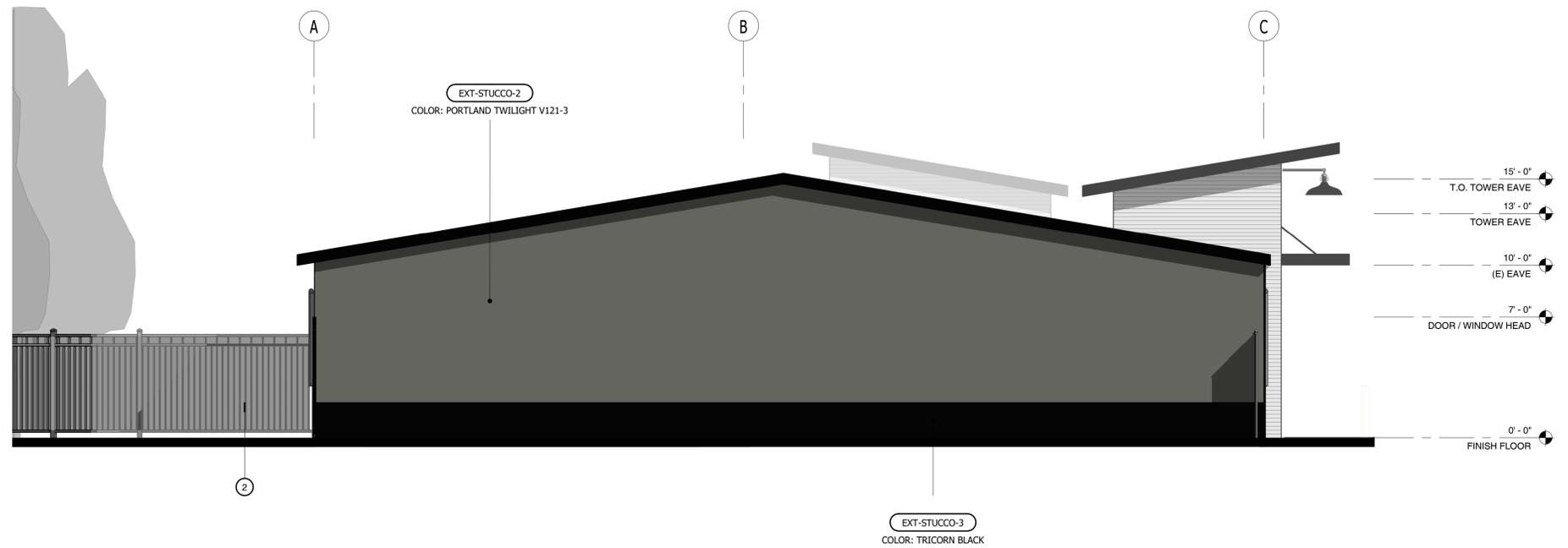
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EXTERIOR ELEVATIONS

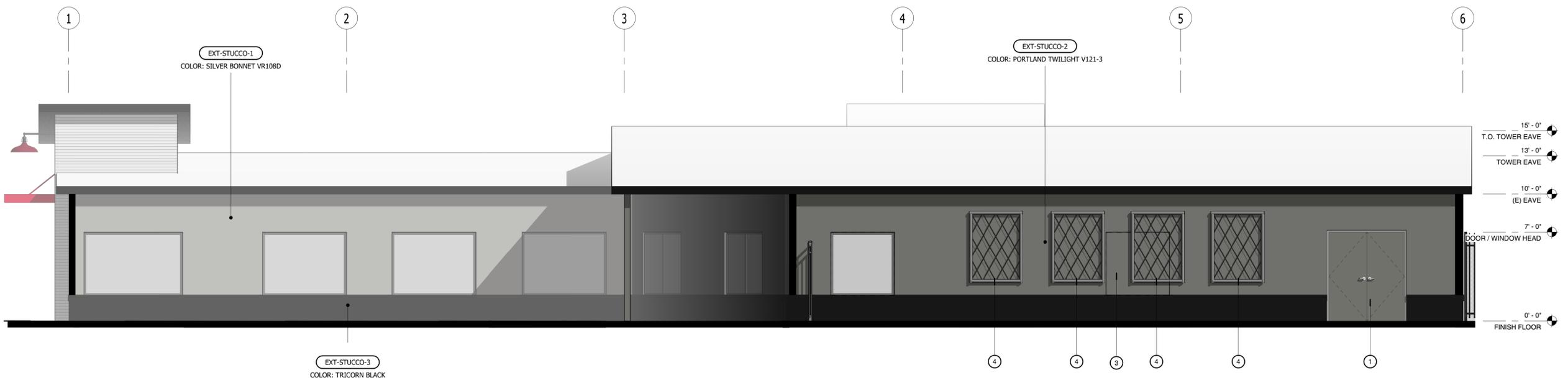


KEYNOTES	
NO.	NOTE
1	STEEL DOOR AND FRAME - PAINT TO MATCH EXISTING WALL COLOR, TYPICAL
2	TUBULAR STEEL FENCE, TYPICAL
3	EXISTING ALUMINUM STOREFRONT WINDOW TO BE DEMOLISHED, TYPICAL
4	WALL MOUNTED, STEEL LANDSCAPE TRELIS, TYPICAL

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3 SOUTH ELEVATION - REAR VIEW SCALE: 1/4" = 1'-0"



4 WEST ELEVATION - SIDE VIEW SCALE: 1/4" = 1'-0"

GARDEN OF EDEN DISPENSARY

CONDITIONAL USE PERMIT

LOCATION
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95377

PARCEL
238-600-360 / 238-190-220

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EXTERIOR ELEVATIONS

APPROVED AS TO FORM AND LEGALITY

CITY ATTORNEY'S OFFICE

TRACY PLANNING COMMISSION

RESOLUTION NO. _____

- 1. DETERMINING THAT THIS PROJECT IS CATEGORICALLY EXEMPT FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT**
- 2. GRANTING A CONDITIONAL USE PERMIT (CUP22-0004) FOR A CANNABIS STOREFRONT RETAILER (DISPENSARY) AT 2420 W. GRANT LINE ROAD, APNS 238-600-37 & 238-190-22;**
- 3. APPROVING A DEVELOPMENT REVIEW PERMIT (D22-0009) FOR EXTERIOR MODIFICATIONS TO THE BUILDING;**
- 4. EXTENDING THE TIME PERIOD TO ESTABLISH THE DISPENSARY SITE UNDER THE CONDITIONAL USE PERMIT FROM SIX MONTHS TO TWELVE MONTHS; AND**

WHEREAS, California state law allows local governments to regulate commercial cannabis activities in their respective jurisdictions; and

WHEREAS, Both a Cannabis Business Permit under Chapter 6.36 of the Tracy Municipal Code (TMC) and a Cannabis Conditional Use Permit (CUP) under Chapter 10.08.3196 under the TMC, in order to establish a retail site (dispensary) in the City; and

WHEREAS, GOE Tracy, LLC doing business as Garden of Eden (Garden of Eden) was awarded a Cannabis Business Permit (application number CBPA20-0034) by the Tracy Police Chief on March 3, 2022, pursuant to the requirements set forth in Chapter 6.36; and

WHEREAS, The applicant submitted a Cannabis Conditional Use Permit application to operate as a cannabis storefront retailer (dispensary) in an existing building at 2420 W. Grant Line Road and a Development Review Permit for exterior modifications to the building on March 10, 2022; and

WHEREAS, The subject site is designated Commercial in the Tracy General Plan and zoned General Highway Commercial, wherein cannabis dispensaries are a conditionally permitted use; and

WHEREAS, Cannabis Conditional Use Permits must meet the requirements set forth in TMC Section 10.08.4250, which requirements apply to conditional uses in all zoning districts in the City; and

WHEREAS, The Planning Commission can grant a Conditional Use Permit, on the basis of the application and evidence submitted, subject to making all of the requisite findings set forth in TMC Section 10.08.4250; and

WHEREAS, The Planning Commission can approve a Development Review Permit on the basis of the application and evidence submitted, subject to making all of the requisite findings set forth in TMC Section 10.08.3920; and

WHEREAS, Conditional Use Permits allow applicants a period of six (6) months to establish the use pursuant TMC Section 10.08.4350; and

WHEREAS, Under TMC 10.08.4360, the Planning Commission may grant extend the period of time for applicants to establish their conditionally permitted uses; and

WHEREAS, Cannabis applicants must also obtain a State license for the operation of a cannabis business and comply with the conditions of their approved Cannabis Business Permit, which may take longer than the six (6) months granted under conditional use permits; and

WHEREAS, The proposed project is categorically exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15301, which pertains to minor alterations and additions to existing facilities in an area where all public services and facilities are available and which is not environmentally sensitive; and

WHEREAS, The Planning Commission conducted a public hearing to review and consider the applications on October 10, 2022; now, therefore, be it

RESOLVED: That the Planning Commission of the City of Tracy hereby determines, based on the evidence in the record and its own independent judgment, that the proposed project is categorically exempt from the California Environmental Quality Act pursuant to Guidelines Section 15332 (Infill Development); and be it

FURTHER RESOLVED: That the Planning Commission hereby adopts the findings set forth in Exhibit 1, supporting the approval of a development review permit for exterior modifications to the building at 2420 W. Grant Line Road, APNs 238-600-37 & 238-190-22; and be it

FURTHER RESOLVED: That the Planning Commission, based on the CEQA determination of exemption and the adoption of requisite findings, hereby approves Development Review Permit (D22-0009) for exterior modifications to the building at 2420 W. Grant Line Road, APNs 238-600-37 & 238-190-22, subject to the Conditions of Approval contained in Attachment D to the staff report and based on the findings in Exhibit 1; and be it

FURTHER RESOLVED: That the Planning Commission hereby adopts the findings set forth in Exhibit 1, supporting the grant of a conditional use permit (CUP22-0004) for a cannabis storefront retailer (dispensary) at 2420 W. Grant Line Road, APNs 238-600-37 & 238-190-22; and be it .

FURTHER RESOLVED: That the Planning Commission, based upon the CEQA determination of exemption and the adoption of requisite findings, hereby grants a conditional use permit (CUP22-0004) for a cannabis storefront retailer (dispensary) at 2420 W. Grant Line Road, APNs 238-600-37 & 238-190-22, subject to the Conditions of Approval contained in Attachment D to the staff report; and be it

FURTHER RESOLVED: That the Planning Commission hereby extends the time period to establish the use under CUP22-0004 from six months to twelve months pursuant to TMC 10.08.4360 and as further described in the Conditions of Approval.

The foregoing Resolution 2022-_____ was adopted by the Planning Commission on October 12, 2022, by the following vote:

AYES:	COMMISSION MEMBERS:
NOES:	COMMISSION MEMBERS:
ABSENT:	COMMISSION MEMBERS:
ABSTENTION:	COMMISSION MEMBERS:

CHAIR

ATTEST:

STAFF LIAISON

City of Tracy
Development Review Permit Findings
Application Number D22-0009

1. The proposal increases the quality of the project site and enhances the property in a manner that therefore improves the property in relation to the surrounding area and the citizens of Tracy, because the façade modification will update the building with decorative entry towers, new paint colors and metal accents, and remove dated and unmatching stone and an orange awning from the building. A red awning and light fixtures over the convenience store entrance will complement the red striping recently installed on the adjacent fueling canopy, and onsite landscaping will be restored and parking spaces restriped to meet City standards.
2. The proposal, as conditioned, conforms to the Tracy Municipal Code, the City of Tracy General Plan, the City Design Goals and Standards, applicable City Standards, California Building Codes, and California Fire Codes.

City of Tracy
Conditional Use Permit Findings
Application Number CUP22-0004

1. There are circumstances applicable to the use which make the granting of a use permit necessary for the preservation and enjoyment of substantial property right, because a conditional use permit is necessary for the operation of a cannabis dispensary in the General Highway Commercial zone as required by the Tracy Municipal Code. The proposed project meets the intent of the General Highway Commercial zone and otherwise complies with development regulations of the zone.
2. The proposed location of the use and the conditions under which it would be operated or maintained is in accordance with the objectives of the Tracy Municipal Code Chapter 6.36 and Chapter 10.08. Additionally, the project site is located at least 600 feet away from a parcel containing a school, day care center, or youth center as defined in Chapter 10.08, and the use will be operated wholly indoors. The use is a retail store, which is complementary to the surrounding commercial area.
3. The project will not, under the circumstances of the particular case or as conditioned, be injurious or detrimental to the health, safety, or general welfare of persons or property in the vicinity of the proposed use, or to the general welfare of the City. The proposed use of a cannabis dispensary will function in a complementary manner to the surrounding retail uses in the vicinity and will comply with City standards. The dispensary will implement all safety and security conditions of approval prepared by the Tracy Police Department.
4. The project is consistent with the zoning, commercial cannabis activity regulations, and other elements of the Tracy Municipal Code the City of Tracy General Plan, the Design Goals and Standards, City Standards, California Building Codes, California Fire Codes, and California cannabis regulations. There will be no odors or similar objectionable impacts to other businesses in the vicinity as all cannabis products will be entirely

packaged and stored in accordance with the requirements of Chapter 6.36. The dispensary will implement odor control to prevent odors from emanating outside the dispensary as outlined in the business's odor control plan.

City of Tracy
Conditions of Approval
Garden of Eden Cannabis Dispensary
Application Numbers CUP22-0004 & D22-0009

A. General Provisions and Definitions.

A.1. General. These Conditions of Approval apply to:

The Project: Garden of Eden Cannabis Dispensary, Conditional Use Permit and
Development Review Permit Application Nos. CUP22-0004 & D22-0009

The Property: 2420 W. Grant Line Road, APNs 238-600-37 & 238-190-22

A.2. Definitions.

- a. "Applicant" means any person, or other legal entity, applying for a conditional use permit.
- b. "City Engineer" means the City Engineer of the City of Tracy, or any other duly licensed Engineer designated by the City Manager, or the Development Services Director, or the City Engineer to perform the duties set forth herein.
- c. "City Regulations" means all written laws, rules, and policies established by the City, including those set forth in the City of Tracy General Plan, the Tracy Municipal Code, ordinances, resolutions, policies, procedures, and the City's Design Documents (including the Standard Plans, Standard Specifications, Design Standards, and relevant Public Facility Master Plans).
- d. "Development Services Director" means the Development Services Director of the City of Tracy, or any other person designated by the City Manager or the Development Services Director to perform the duties set forth herein.
- e. "Conditions of Approval" shall mean the conditions of approval applicable to the Project located at the Property. The Conditions of Approval shall specifically include all conditions set forth herein.
- f. "Developer" means any person, or other legal entity, who applies to the City to divide or cause to be divided real property within the Project boundaries, or who applies to the City to develop or improve any portion of the real property within the Project boundaries. The term "Developer" shall include all successors in interest.
- g. "Police Chief" means the Chief of Police of the City of Tracy, or any other person designated by the City Manager or the Police Chief to perform duties set forth herein.

A.3. Compliance with submitted plans. Prior to the establishment of the use, the project shall be established in substantial compliance with the plans received by the Development Services Department on August 9, 2022 to the satisfaction of the Development Services Director.

- A.4. Payment of applicable fees. The applicant shall pay all applicable fees for the project, including, but not limited to, development impact fees, building permit fees, plan check fees, grading permit fees, encroachment permit fees, inspection fees, school fees, or any other City or other agency fees or deposits that may be applicable to the project.
- A.5. Compliance with laws. The Developer shall comply with all federal, state and local laws, as amended from time to time, related to the development of real property within the Project, including, but not limited to:
- the Planning and Zoning Law (Government Code sections 65000, et seq.)
 - the California Environmental Quality Act (Public Resources Code sections 21000, et seq., "CEQA"), and
 - the Guidelines for California Environmental Quality Act (California Administrative Code, title 14, sections 1500, et seq., "CEQA Guidelines").
 - The Medicinal and Adult-Use Cannabis Regulation and Safety Act;
 - Regulations of the Bureau of Cannabis Control;
 - Tracy Municipal Code (TMC) Chapter 6.36 (Commercial Cannabis Activity); and
 - City of Tracy Procedures and Guidelines for a Cannabis Business Permit adopted by City Council Resolution 2020-137
- A.6. Compliance with applicable regulations. Unless specifically modified by these Conditions of Approval, the use shall comply with all City and State Regulations and the approved Cannabis Business Permit No. CBPA20-0034, which includes business operations requirements, the safety and security plan, and the odor control plan.
- A.7. Prior to construction, the applicant shall submit construction documents which meet the requirements of the California Building and Fire Codes and the Tracy Municipal Code to the City of Tracy and the South San Joaquin County Fire Authority for review, approval and inspections.
- A.8. At all times, applicant (or its successor) shall maintain all necessary permits to operate a cannabis business pursuant to Municipal Code Chapter 6.36. Neither the applicant, nor any other entity, shall have an entitlement or other property right to operate a cannabis business at the property without holding such a cannabis business permit, which may be approved, denied, renewed, or revoked in accordance with the requirements of Chapter 6.36.
- A.9. This conditional use permit shall expire one year following the date on which the use permit became effective unless, prior to the expiration of one year, the use is established in accordance with this use permit, or a building permit is issued by the Building Official and construction is commenced and diligently pursued toward completion on the site which was the subject of the use permit application.

B. Development Services Department, Planning Division Conditions

Contact: Kimberly Matlock (209) 831-6430 kimberly.matlock@cityoftracy.org

- B.1. Prior to approval of a building permit, the applicant shall provide detailed plans that demonstrate the following:
 - B.1.1. Compliance with TMC Section 6.36.380(k).
 - B.1.2. A parking area of at least 50 parking spaces designed in accordance with TMC Title 10 Article 26 and Standard Plan 141.
 - B.1.3. A landscape plan that shows a combination of trees (24" box min.), shrubs (5 gal min.), and groundcover (1 gal min.) planted in each planter area, with one canopy tree and one accent tree will be planted in every other planter east of the building in a generally alternating pattern that will result in at least four canopy trees and three accent trees, to the satisfaction of the Development Services Director.
 - B.1.4. Existing landscaping around the enhanced vapor recovery equipment shall be protected and any landscape lost shall be replenished to match the site to the satisfaction of the Development Services Director.
 - B.1.5. Enhanced vapor recovery enclosure, piping, and bollards colored to match the adjacent building wall two-tone color to the satisfaction of the Development Services Director. Reflective tape may be applied to the satisfaction of the Fire Marshal.
 - B.1.6. Other bollards colored to match the nearest adjacent structure, such as canopy columns. Reflective tape may be applied to the satisfaction of the Fire Marshal.
- B.2. Prior to issuance of a building permit, the applicant shall provide the following:
 - B.2.1 An application for lot line adjustment or lot merger to eliminate the property line currently crossing through the building and fueling canopy.
 - B.2.2 The applicant shall execute an Agreement for Maintenance of Landscape and Irrigation Improvements and submit financial security to the Development Services Department. The Agreement shall ensure maintenance of the on-site landscape and irrigation improvements for a period of two years. Said security shall be equal to the actual material and labor costs for installation of the on-site landscape and irrigation improvements or \$2.50 per square foot of on-site landscape area.
- B.3. Prior to final inspection, the applicant shall demonstrate the following:
 - B.3.1 Compliance with TMC Section 6.36.380(l).
 - B.3.2 All landscaping and irrigation shown in the approved building permit construction plans installed to the satisfaction of the Development Services Director.
 - B.3.3 A copy of the recorded document that eliminates the property line currently crossing through the building and fueling canopy.
- B.4. Prior to commencing any cannabis operation, the applicant shall execute a Community Benefit Agreement with the City in accordance with the requirements of their Cannabis Business Permit.
- B.5. Aside from deliveries, the use shall be conducted wholly indoors. The use may not be conducted outside the building, including in the parking lot.

- B.6. The hours of operation shall be limited to 6:00 am to 10:00 pm in accordance with State law. Should the hours of operation established in the State law become more restrictive, the use shall comply with the more restrictive regulations.

C. Development Services Department, Engineering Conditions of Approval

Contact: Al Gali (209) 831-6436 al.gali@cityoftracy.org

C.1. General Conditions

Developer shall comply with the applicable sections of approved documents and/or recommendations of the technical analyses/reports prepared for the Project listed as follows:

- 1) Not Applicable.

- C.2. RESERVED
C.3. RESERVED
C.4. RESERVED

C.5. Improvement Agreement(s)

All construction activity involving public improvements will require a fully executed improvement agreement (Off-site, Subdivision, and/or Inspection). Any construction activity involving public improvements without a fully executed improvement agreement is prohibited. All public improvements shall be performed and completed in accordance with the recommendation(s) of the Project's Registered Civil Engineer. Prior to the consideration of City Council's approval of said improvement agreement, the Developer shall provide all documents related to said improvements required by the applicable City Regulations and these Conditions of Approval, to the satisfaction of the City Engineer, including, but not limited to, the following:

- C.5.1. Off-site and/or Public Infrastructure Improvement Plans prepared on a twenty-four (24) inch x thirty-six (36) inch size four (4) millimeter thick mylar that incorporate all requirements described in the documents described in these Conditions of Approval, the City's Design Documents as defined in Title 12 of the Tracy Municipal Code. Developer shall use the latest title block and, if necessary, contain a signature block for the Fire Marshal. Improvement Plans shall be prepared under the supervision of, and stamped and signed by a Registered Civil, Traffic, Electrical, Mechanical Engineer, and Registered Landscape Architect for the relevant work. Developer shall obtain all applicable signatures by City departments and outside agencies (where applicable) on the mylars including signatures by Fire Marshal to submitting the mylars to Engineering Division for City Engineer's signature. The improvement plans shall be prepared to specifically include, but not be limited to, the following items:

- C.5.1.a. All existing and proposed utilities such as domestic water line, irrigation service, fire service line, storm drain, and sanitary sewer, including the size and location of the pipes.
- C.5.1.b. All supporting engineering calculations, materials information or technical specifications, cost estimate, and technical reports. All improvement plans shall contain a note stating that the Developer (or Contractor) will be responsible to preserve and protect all existing survey monuments and other survey markers such as benchmarks.
- C.5.1.c. A PDF copy of the Project's approved Geotechnical/Soils Report that was prepared for the grading permit submittal.
- C.5.1.d. RESERVED
- C.5.1.e. RESERVED
- C.5.1.f. RESERVED
- C.5.1.g. Streets – The Developer shall have frontage improvements. All streets and utilities improvements within City right-of-way shall be designed and constructed in accordance with City Regulations, and City's Design Standards including the City's Facilities Master Plan for storm drainage, roadways, wastewater, and water as adopted, amended, and updated by the City, or as otherwise specifically approved by the City. The Developer shall construct frontage improvements as described below.

Grant Line Road

Prior to the release of the Building Permit, Developer shall submit to the City ready for immediate recordation, an offer of dedication of public right-of-way in fee simple interest to the City of Tracy. The width of the public right-of-way dedication shall ensure the sidewalk and any public landscaping is within the public right-of-way.

Prior to the release of the Building Permit, Developer shall submit to the City ready for immediate recordation, a grant deed to dedicate a ten (10) foot wide Public Utility Easement (P.U.E.) immediately behind the property line.

Toste Road

Prior to the release of the Building Permit, Developer shall submit to the City ready for immediate recordation, an offer of dedication of public right-of-way in fee simple interest to the City of Tracy. The width of the public right-of-way dedication shall ensure the sidewalk and any public landscaping is within the public right-of-way.

Prior to the release of the Building Permit, Developer shall submit to the City ready for immediate recordation, a grant deed to dedicate a ten (10) foot wide Public Utility Easement (P.U.E.) immediately behind the property line.

Developer shall remove and replace each existing driveway for each parcel with a driveway in conformance with a commercial driveway.

Developer shall construct portland cement concrete curb, gutter, and sidewalk along the Project's frontage. The gutter flowline shall align with the current low point of the existing road.

Along the Project frontage, if applicable, Developer shall landscape and irrigate the existing parkways per current adopted City landscape standards. Landscape and irrigation plans shall be prepared on a 24-inch x 36-inch size 4-millimeter thick mylar that incorporate all requirements described in the documents described in these Conditions of Approval, the City's Design Documents as defined in Title 12 of the Tracy Municipal Code. Developer shall use the latest title block. Said landscape and irrigation plan shall be prepared by a California licensed landscape architect. Developer can either protect-in-place the existing sidewalk and repair any cracked, settled, and/or damaged sidewalk or remove and replace the sidewalk so long as the replacement sidewalk is similar to the current sidewalk, i.e. similar width, meanders, etc.

C.5.2. RESERVED

C.5.3. Signed and stamped Engineer's Estimate that summarizes the cost of constructing all the public improvements shown on the Improvement Plans. The cost estimate shall show the cost of designing the public improvements.

Payment of applicable fees required by these Conditions of Approval and City Regulations, including but not limited to, plan checking, grading and encroachment permits and agreement processing, construction inspection, and testing fees. The engineering review fees will be calculated based on the fee rate adopted by the City Council on September 2, 2014, per Resolution 2014-141 and on May 16, 2017, per Resolution 2017-098. Developer shall submit payment in the form of a check for the aforementioned fees.

C.5.4. Traffic Control Plan - Prior to starting the work for any work within City's right-of-way, the Developer shall submit a Traffic Control Plan (TCP). TCP can be split among the different construction phases. TCP will show the method and type of construction signs to be used for regulating traffic at the work areas within these streets. TCP shall conform to the Manual on Uniform Traffic Control Devices as amended by the State of California, latest edition (MUTCD-CA). TCP shall be prepared under the supervision of, signed and stamped by a Registered Civil Engineer or Registered Traffic Engineer.

Access and Traffic Circulation to Existing Businesses/Residents - Developer shall take all steps necessary to plan and construct site improvements such that construction operations do not impact safety and access (including emergency vehicles) to the existing businesses and residents throughout the duration of construction. Developer shall coordinate with the owners and cooperate to minimize impacts on existing businesses. All costs of measures needed to provide safe and functional access shall be borne by the Developer.

C.5.5. No street trench shall be left open, uncovered, and/or unprotected during night hours and when the Developer's contractor is not performing construction activities. Appropriate signs and barricades shall be installed on the street and on all trenches during such times. If the Developer or its contractor elects to use steel plates to cover street trenches, said steel plates will be skid-resistance, and shall be ramped on all sides. Ramps will be a minimum two-foot wide and will run the entire length of each side.

C.5.6 If at any point during utility installation or construction in general that the Developer, its contractor, its engineers, and their respective officials, employees, subcontractor, and/or subconsultant exposes/encounters/uncovers any archeological, historical, or other paleontological findings, the Developer shall address the findings as required per the General Plan Cultural Resource Policy and General Plan EIR; and subsequent Cultural Resource Policy or mitigation in any applicable environmental document.

C.5.7 Improvement Security - Developer shall provide improvement security for all public facilities, as required by the Improvement Agreement. The form of the improvement security may be a bond, or other form in accordance with the Government Code, and the TMC. The amount of the improvement security shall be in accordance with Title 12 of the TMC.

Insurance – Developer shall provide written evidence of insurance coverage that meets the terms of the Improvement Agreement.

C.6. Building Permit

Prior to the release of a building permit within Project boundaries, the Developer shall demonstrate, to the satisfaction of the City Engineer, compliance with all required Conditions of Approval, including, but not limited to, the following:

C.6.1 Developer shall submit a separate building permit for the demolition of any existing structures.

C.7 Acceptance of Public Improvements

Prior to the consideration of City Council's acceptance of public improvements, the Developer shall demonstrate to the reasonable satisfaction of the City Engineer, completion of the following:

- C.7.1 Developer has satisfied all the requirements set forth in these Conditions of Approval.
- C.7.2 Developer submitted the Storm water Treatment Facilities Maintenance Agreement (STFMA) to the Utilities Department.
- C.7.3 Developer has satisfactory completed construction of all required/conditioned improvements. Unless specifically provided in these Conditions of Approval, or some other applicable City Regulations, the Developer shall use diligent and good faith efforts in taking all actions necessary to construct all public facilities required to serve the Project, and the Developer shall bear all costs related to construction of the public facilities (including all costs of design, construction, construction management, plan check, inspection, land acquisition, program implementation, and contingency).
- C.7.4 Certified "As-Built" Improvement Plans (or Record Drawings). Upon completion of the construction by the Developer, the City, at its sole discretion, temporarily release the original mylars of the Improvement Plans to the Developer so that the Developer will be able to document revisions to show the "As-Built" configuration of all improvements.
- C.7.5 Developer shall be responsible for any repairs or reconstruction of street pavement, curb, gutter and sidewalk and other public improvements along the frontage of the Project, if determined by the City Engineer to be in poor condition or damaged by construction activities related to the Project.
- C.7.6 Developer has completed the ninety (90) day public landscaping maintenance period.
- C.7.7 Per Section 21107.5 of the California Vehicle Code, Developer shall install signs at all entrance(s) of the Project stating that the streets are privately owned and maintained and are not subject to the public traffic regulations or control. Said signs must be conspicuously placed, plainly visible, and legible during daylight hours from a distance of one hundred (100) feet, if applicable.
- C.7.8 Survey Monuments – Any altered, damaged, or destroyed survey monuments and/or benchmarks shall be re-established. Developer shall submit centerline tie sheets or a record of survey for the following: new public streets; re-established survey monuments, and/or benchmarks. If the Developer destroyed, altered, and/or reconstructed any existing curb returns, Developer shall also submit corner records. Any survey document will be submitted the City and to the San Joaquin County Surveyor to comply with California Business and Professions Code Section 8771(c). Said work shall be executed by a California licensed Land Surveyor at the Developer's sole expense.

C.8 Special Conditions

- C.8.1 When street cuts are made for the installation of utilities, the Developer shall conform to Section 3.14 of the 2020 Design Standards and is required install

a two (2) inch thick asphalt concrete (AC) overlay with reinforcing fabric at least twenty-five (25) feet from all sides of each utility trench. A two (2) inch deep grind on the existing AC pavement will be required where the AC overlay will be applied and shall be uniform thickness in order to maintain current pavement grades, cross and longitudinal slopes. This pavement repair requirement is when cuts/trenches are perpendicular and parallel to the street's direction.

C.8.2 Nothing contained herein shall be construed to permit any violation of relevant ordinances and regulations of the City of Tracy, or other public agency having jurisdiction. This Condition of Approval does not preclude the City from requiring pertinent revisions and additional requirements to the improvement plans, prior to the City Engineer's signature on the improvement plans, and prior to issuance of Grading Permit, Encroachment Permit, Building Permit, if the City Engineer finds it necessary due to public health and safety reasons, and it is in the best interest of the City. The Developer shall bear all the cost for the inclusion, design, and implementations of such additions and requirements, without reimbursement or any payment from the City.

C.8.3 Prior to the release of the Building Permit, if water is required for the Project, the Developer shall obtain an account for the water service and register the water meter with the Finance Department. Developer shall pay all fees associated with obtaining the account number for the water service.

C.8.4 Prior to the release of the Certificate of Occupancy, Developer shall record with San Joaquin County Recorder a document to adjust the two parcels.

D. Tracy Police Department Conditions

Contact: Lieutenant Miguel Contreras (209) 831-6618 miguel.contreras@tracypd.com

D.1. A minimum of 2 on-site security guards shall be maintained on site during business hours and 1 on-site security guard during closed hours. The name of the company shall be provided to the Police Department at the time of Building Permit application submittal. The establishment shall remain closed for business if the minimum of 2 certified security guards are not present during business hours on any given day. Once the minimum-security staffing is met, the establishment may re-open for business.

D.1.1. Overnight (nonbusiness hours) security shall be a minimum of 1 certified guard solely responsible for the security of this establishment and not multiple locations.

D.1.2. All contracted or employed guards shall be certified and have sole responsibilities as a security guard focused on safety and security. The security guards will be readily identifiable.

D.2. Applicant shall cooperate with all legal requests from Tracy PD and any crimes shall be reported without delay.

- D.3. Prior to approval of a building permit, the applicant shall submit plans that demonstrate the lobby area will have a secured commercial grade, non-residential door which is lockable separating the lobby floor (check-in area) from the sales area as required in section 6.36.380 Cannabis Storefront (Dispensary) Retailer Permit Requirements to the satisfaction of the Police Chief or his designee.
- D.4. Prior to establishment of the use, the applicant shall submit to the Police Department a copy of the actual detailed security plan, including the full names and current contact information for onsite security, to the satisfaction of the Police Chief or his designee. The security and emergency response plan will include the actual security measures and procedures.

Installing security surveillance cameras of sufficient resolution to allow the identification of persons and objects to monitor all entrances and exits to and from the premises, all interior spaces within the commercial cannabis business which are open and accessible to the public, all interior spaces where cannabis, cash or currency, is being stored for any period of time on a regular basis and all interior spaces where diversion of cannabis could reasonably occur. The commercial cannabis business shall be responsible for ensuring that the security surveillance camera's footage is remotely accessible by the Police Chief or designee(s), and that it is compatible with the City's software and hardware. In addition, remote access to the video footage from the cameras shall be provided to the Police Chief or designee(s). Video recordings shall be maintained for a minimum of ninety (90) days, or as required under state law, and shall be made available to the Police Chief or designee(s) upon request without unreasonable delay. Video shall be of sufficient quality for effective prosecution of any crime found to have occurred on the site of the commercial cannabis business.

The security video surveillance shall provide 360-degree coverage of the business and parking lot areas.

- D.5. Prior to establishment of the use, the applicant shall establish and maintain an updated on-call list of responders with their alarm service provider and current alarm permit with the City of Tracy, to include the on-site security manager. This shall be provided prior to the establishment of the use.
- D.6. Trash containers and enclosures shall be locked and not accessible by the public at all times.

E. South San Joaquin County Fire Authority Conditions

Contact: Tim Spears, Fire Marshal (209) 831-6707 tim.spears@sicfire.org

- E.1. Prior to construction, applicant shall submit construction documents to the South San Joaquin County Fire Authority for review and approval.
- E.1.1. Construction documents shall be designed to the current edition of the California Code of Regulations, Title 24, as amended by the City of Tracy Municipal Code.
- E.1.2. Deferred submittals shall be listed on the coversheet of each page. Each deferred submittal shall be submitted, reviewed and approved by SSJCFA prior

to installation.

- E.2. Engineering and building permit applications received by our offices are subject to the current fee schedule for South San Joaquin County Fire Authority. Contact our offices for additional information.
 - E.2.1. Application processing fees and minimum plan review fees are due at time of submittal of construction documents.
 - E.2.2. Additional plan review fees, minimum inspection fees and administrative fees are calculated on approval of project and shall be paid prior to issuance of permit.
 - E.2.3. Permit holder is responsible for any additional inspection fees incurred, and shall be paid prior to final inspection.
- E.3. Prior to occupancy of each new business, the tenant shall contact South San Joaquin County Fire Authority for a new business inspection. Additional fees may be required for New Business, Annual and Operational Fire Permits. All fees shall be paid prior to approval of inspections.
- E.4. Prior to construction, all-weather fire apparatus access roads shall be installed and maintained at all times. Fire apparatus access roads during construction shall have a minimum 20' unobstructed width in accordance with CFC §503.
- E.5. All hydrants shall be installed, inspected, tested, and access maintained at all times prior to bringing combustible materials onsite, including storage.
- E.6. Knox box 3200 series shall be required for project. Each tenant shall have keys placed in the key box. The operator of the building shall immediately notify the Fire Authority and provide the new key where a lock is changed or rekeyed. The key to such shall be secured in the key box.
- E.7. Building and each tenant space shall be provided with approved address identification in accordance with CFC §505 and the Tracy Municipal Code.

F. Development Services Department, Building Division Conditions

Contact: Danis Isho

(209) 831-6484

danis.isho@cityoftracy.org

- F.1. Prior to the construction of any structures, applicant shall submit construction plans and details that demonstrate conformance with parking spaces and accessible routes requirements per California Building Code 11B.
- F.2. Prior to the construction of any structures, applicant shall submit construction documents and associated details that demonstrate compliance with path of travel requirements in alterations, additions and structural repairs per California Building Code 11B-202.4.
- F.3. Prior to the construction of any structures, applicant shall submit construction documents, engineering analysis and calculation, specifications etc. that conform with the current Title 24 California Code of Regulations at time of application.

- F.4. Prior to the construction of any structures, applicant shall submit construction documents that demonstrate compliance with egress door hardware and operation conforming to California Building Code section 1010.1.
- F.5. Prior to the construction of any structures, applicant shall submit construction documents that demonstrate compliance with CBC Table 1006.2.1 for egress from the cannabis storage area in conjunction with the limitations for egress to intervening spaces per CBC 1016.2.

G. The following conditions provide the applicant with options for funding required Citywide services.

Contact: Karin Schnaider (209) 831-6841 karin.schnaider@cityoftracy.org

G.1. Streets and Streetlights

Before issuance of any building permit for the Property, Developer shall provide for perpetual funding of the on-going costs of the operation and maintenance of the streets (from curb-to-curb, excluding gutters) to a Pavement Management System standard of PCI 70 (seventy), which could include street reconstruction, as reasonably determined by the City, the electric utility costs of operating the streetlights and signals that will serve the Project (collectively, the "Infrastructure"), by doing one of the following, subject to the approval of the City's Finance Director:

- a. Community Facilities District (CFD). Developer shall enter into an agreement with the City, to be signed by the Finance Director, which shall be recorded against the Property, which requires that prior to the final inspection, Developer shall complete the annexation of the Property to City of Tracy Community Facilities District in compliance with the requirements of the Mello – Roos Community Facilities Act of 1982 (Gov. Code § 53311 et seq.) including, without limitation, affirmative votes, and the recordation of a Notice of Special Tax Lien. Developer shall be responsible for all costs associated with the CFD proceedings.

Or

- b. POA and dormant CFD. If the POA is the chosen funding mechanism, Developer must do the following:
 - 1) Form a Property Owner's Association (POA) or other maintenance association, with CC&Rs reasonably acceptable to the City, to assume the obligation for the on-going costs of the operation and maintenance of the streets (from curb-to-curb, excluding gutters) to a Pavement Management System standard of PCI 70 (seventy), which could include street reconstruction, as reasonably determined by the City, the electric utility costs of operating the streetlights and signals that will serve the Project (collectively, the "Infrastructure");
 - 2) Cause the POA to enter into an agreement with the City, in a form to be approved by the City and to be recorded against the Property prior to the

final inspection, setting forth, among other things, the required maintenance obligations, the standards of maintenance, and all other associated obligation(s) of the POA to ensure the on-going costs of the operation and maintenance of the streets (from curb-to-curb, excluding gutters) to a Pavement Management System standard of PCI 70 (seventy), which could include street reconstruction, as reasonably determined by the City, the electric utility costs of operating the streetlights and signals that will serve the Project (collectively, the "Infrastructure");

- 3) Before final inspection, annex into a CFD in a "dormant" capacity, to be triggered if the POA fails (as determined by the City in its sole and exclusive discretion) to perform the required level of operation, maintenance and replacement for the on-going costs of the operation and maintenance of the streets (from curb-to-curb, excluding gutters) to a Pavement Management System standard of PCI 70 (seventy), which could include street reconstruction, as reasonably determined by the City, the electric utility costs of operating the streetlights and signals that will serve the Project (collectively, the "Infrastructure"). The dormant tax or assessment shall be disclosed to all property owners, even during the dormant period.

Or

- c. Direct funding. Developer shall enter into an agreement with the City, which shall be recorded against the Property, which requires that prior to approval of final inspection, Developer shall deposit with the City an amount necessary, as reasonably determined by the City, to fund in perpetuity the on-going costs of the operation and maintenance of the streets (from curb-to-curb, excluding gutters) to a Pavement Management System standard of PCI 70 (seventy), which could include street reconstruction, as reasonably determined by the City, the electric utility costs of operating the streetlights and signals that will serve the Project (collectively, the "Infrastructure").

If the provisions for adequate funding of the on-going costs of the operation and maintenance of the streets (from curb-to-curb, excluding gutters) to a Pavement Management System standard of PCI 70 (seventy), which could include street reconstruction, as reasonably determined by the City, the electric utility costs of operating the streetlights and signals that will serve the Project (collectively, the "Infrastructure") are met prior to issuance of the building permit for the Property, subject to the Finance Director's review and approval, the terms of this condition shall be considered to have been met and this condition shall become null and void.

G.2. Landscaping Maintenance

Prior to issuance of any building permit for the Property, Developer shall provide for perpetual funding of the on-going costs of operation, maintenance and replacement for public landscaping for the Property at a high-quality service level as determined by the Parks Director by doing one of the following, subject to the approval of the City's Finance Director:

- a. CFD or other funding mechanism. The Developer shall enter into an agreement with the City, which shall be recorded against the Property, which stipulates the following: (1) prior to issuance of a building permit, the Developer shall form or annex into a Community Facilities District (CFD) for funding the on-going costs related to maintenance, operation, repair and replacement of public landscaping, public walls and any public amenities included in the Project, and ongoing public landscaping maintenance costs associated with major program roadways identified in the Citywide Roadway and Transportation Master Plan; (2) the items to be maintained include but are not limited to the following: ground cover, turf, shrubs, trees, irrigation systems, drainage and electrical systems; masonry walls or other fencing, entryway monuments or other ornamental structures, furniture, recreation equipment, hardscape and any associated appurtenances within medians, parkways, dedicated easements, channel-ways, public parks, and public open space areas and trails; (3) formation of the CFD shall include, but not be limited to, affirmative votes and the recordation of a Notice of Special Tax Lien; (4) upon successful formation, the parcels will be subject to the maximum special tax rates as outlined in the Rate and Method of Apportionment; (5) prior to issuance of a building permit, the Developer shall deposit an amount equal to the first year's taxes; and (6) the Developer shall be responsible for all costs associated with formation or annexation of the CFD.

Or

- b. POA and dormant CFD. If the POA is the chosen funding mechanism, the Developer must do the following:
1. Form a Property Owner's Association (POA) or other maintenance association, with CC&Rs reasonably acceptable to the City, to assume the obligation for the on-going maintenance of all public landscaping areas that will serve the Property;
 2. Cause the POA to enter into an agreement with the City, in a form to be approved by the City and to be recorded against the Property prior to the final inspection, setting forth, among other things, the required maintenance obligations, the standards of maintenance, and all other associated obligation(s) to ensure the long-term maintenance by the POA of all public landscape areas that will serve the Property;
 3. Make and submit to the City, in a form reasonably acceptable to the City, an irrevocable offer of dedication of all public landscape areas that will serve the Property;
 4. Before final inspection, annex into a CFD in a "dormant" capacity, to be triggered if the POA fails (as determined by the City in its sole and exclusive discretion) to perform the required level of public landscape maintenance. The dormant tax or assessment shall be disclosed to all property owners, even during the dormant period.

Or

- c. Direct funding. The Developer shall enter into an agreement with the City, which shall be recorded against the Property, which stipulates that prior to issuance of a building permit, the Developer shall deposit with the City an amount necessary, as reasonably determined by the City, to fund in perpetuity the full on-going maintenance costs related to maintenance, operation, repair and replacement of public landscaping, public walls and any public amenities included in the Project, and ongoing public landscaping maintenance costs associated with major program roadways identified in the Citywide Roadway and Transportation Master Plan. The items to be maintained include but are not limited to the following: ground cover, turf, shrubs, trees, irrigation systems, drainage and electrical systems, masonry walls or other fencing, entryway monuments or other ornamental structures, furniture, recreation equipment, hardscape and any associated appurtenances within medians, parkways, dedicated easements, channel-ways, public parks, and public open space areas and trails.

Agenda Item 1.B

RECOMMENDATION

STAFF RECOMMENDS THAT THE PLANNING COMMISSION ADOPT A RESOLUTION 1) APPROVING A DEVELOPMENT REVIEW PERMIT (D21-0034) FOR A 3,400 SF BUILDING AND ASSOCIATED SITE IMPROVEMENTS AT 316 & 320 W. ELEVENTH STREET, APNS 235-040-05 & 06 AND 2) GRANTING A CONDITIONAL USE PERMIT (CUP21-0009) TO OPERATE A CANNABIS STOREFRONT RETAILER (DISPENSARY) AT THIS SITE; 3) EXTENDING THE TIME PERIOD TO ESTABLISH THE DISPENSARY SITE UNDER THE CONDITIONAL USE PERMIT FROM SIX MONTHS TO TWELVE MONTHS; AND 4) DETERMINING THAT THIS PROJECT IS CATEGORICALLY EXEMPT FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT. THE APPLICANT IS COMMUNITY VETERANS OF TRACY, LLC AND THE PROPERTY OWNERS ARE SAAD PATTAH AND REO CAPITAL INVESTMENTS & ASSET MANAGEMENT.

EXECUTIVE SUMMARY

Through this item, staff recommends that the Planning Commission approve a development review permit for the development of a new building, parking, and landscaping improvements and grant a cannabis conditional use permit to Community Veterans of Tracy, LLC to operate a cannabis dispensary at 316 & 320 W. Eleventh Street, APNs 235-040-05 & 06.

BACKGROUND AND LEGISLATIVE HISTORY

California state law allows local governments to regulate commercial cannabis activities in their respective jurisdictions. On December 3, 2019, the City Council adopted Ordinance 1277 (codified as Tracy Municipal Code (TMC) Chapter 6.36) establishing permitting regulations for commercial cannabis activity in the City of Tracy (City), which regulations require applicants to obtain a Cannabis Business Permit. In addition, the City Council adopted Ordinance 1278 (codified as TMC Section 10.08.3196) establishing zoning and locational requirements for commercial cannabis activity in Tracy and requiring applicants to obtain a Cannabis Conditional Use Permit (CUP).

Applicants must obtain both a Cannabis Business Permit under Chapter 6.36 and a Cannabis CUP under Chapter 10.08.3196, in order to establish a retail site (dispensary) in the City. The consideration and approval of Cannabis Business Permits are outside of the purview of the Planning Commission, while Cannabis CUPs can solely be granted by the Planning Commission. Planning Commission decisions on Cannabis CUPs are appealable to the City Council.

On September 30, 2020, Community Veterans of Tracy, LLC (dba CURRNT Cannabis) submitted an application for a Cannabis Business Permit, pursuant to Chapter 6.36 of the TMC. The application was comprehensively reviewed by an internal Cannabis Business Permit Review Committee comprised of the Finance Department, Development Services Department, and the South San Joaquin County Fire Authority. Following review and determination that the application was eligible, the Committee forwarded this application to the Police Department for final review and determination. On June 21, 2021, the Tracy Police Chief awarded a provisional Cannabis Business Permit (CBPA20-0013) to

Community Veterans of Tracy, LLC. The Cannabis Business Permit approves the permittee's business operations and odor control plan, community relations plan, safety and security plan, social equity plan, and community benefits proposal. As noted above, in addition to procuring a Cannabis Business Permit, the proposed use must also meet the zoning requirements applicable to cannabis dispensaries, including obtaining a Cannabis CUP to operate their business at a specific location.

On November 8, 2021, Community Veterans of Tracy, LLC submitted a Development Review Permit application for the development of a new 3,400 sf building with associated site improvements on a site totaling 14,000 sf located at 316 & 320 W. Eleventh Street and a Conditional Use Permit application to establish The Cake House cannabis dispensary at the site. The subject properties are designated Commercial in the Tracy General Plan and zoned General Highway Commercial, in which cannabis dispensaries are conditionally permitted. Development review is regulated by TMC Title 10 Article 30, adopted by Ordinance 1236 on July 18, 2017. Because the Development Review Permit is paired with a conditional use permit subject to the Planning Commission, the Development Review Permit is a Tier 2 application subject to Planning Commission review in accordance with TMC Section 10.08.3950.

ANALYSIS

Project Proposal

The project site is located in a General Highway Commercial-zoned area on Eleventh Street that currently contains a mixture of commercial development and nonconforming residential uses that were built prior to the City's commercial zoning designation taking place. The project site is bordered to the north by Eleventh Street, a commercial site (barber shop) to the west, and nonconforming residential to the east and south.

The project site is currently comprised of two 7,000 sf lots each containing a nonconforming single-family home. The applicant proposes to demolish the residential structures and construct a new 3,400 sf single-story retail building with associated parking and landscaping (Attachment A) and to remove the internal property line via a lot line adjustment to be submitted under a separate application. The building is proposed to be built by the street with a parking area comprised of permeable pavers in the rear and landscaping throughout the site. The site will be served by a western ingress driveway and an eastern egress driveway on Eleventh Street. A total of fourteen parking spaces are proposed to be constructed, and a six-foot masonry wall will border the parking area along the south and east property lines to provide separation and a buffer from the neighboring nonconforming residential properties. The building proposes modern architecture comprised of angled rooflines with deep overhangs, a recessed entry, and geometric windows. The façade will be comprised of sand-colored brick and stucco - colors and materials which are complementary of developments in the vicinity. Utility equipment typically found on the roof are discreetly concealed within an interior equipment well that is designed to look like a second story from the exterior. These design components of the proposed development meet the City's objectives for high-quality commercial development.

The applicant proposes to operate a cannabis dispensary consisting of storefront retail and delivery of packaged cannabis products in accordance with local and State cannabis law at the site. Local regulations include locational requirements, site requirements, and operating hours to be established by the conditional use permit. The TMC allows dispensaries to locate in all commercial and industrial zones of the City, subject to the additional condition that such uses are "located at least 600 feet from any parcel

containing any of the following sensitive uses as of the date the conditional use permit is issued: school, day care center, or youth center.” Section 10.08.3196(b) of the TMC provides specific definitions of schools, day care centers and youth centers. According to City records, as of the date of publication of this staff report, the subject building is over 600 feet away from a school, day care center, or youth center, as required by TMC Section 10.08.3196.

The cannabis dispensary will operate in a similar manner as a retail store, which is complementary of the commercial area on Eleventh Street. The applicant proposes to operate retail services daily from 9:00 am to 10:00 pm and deliveries daily from 9:00 am to 9:00 pm, as permitted by State law. The storefront retail use will be wholly indoors, and no portion of the retail use, aside from deliveries, will take place outdoors. The proposed dispensary will have a separate and secure lobby wherein age verification will be conducted prior to permitting the customer into the retail area and a vault where cannabis products are stored, as required by TMC Chapter 6.36. Cannabis products will be packaged and loaded into delivery vehicles through a designated delivery/storage room at the rear of the building. The applicant intends to start with one delivery vehicle and may add a second as the business grows in the future. The fourteen parking spaces proposed with this development exceeds the amount of parking required for the dispensary, which is twelve spaces for the retail store and one space for the delivery vehicle. Should the use add a second delivery vehicle in the future, there is one remaining space onsite that can accommodate parking of the delivery vehicle.

According to the applicant, because all cannabis products are entirely packaged, no noticeable odors or smells are expected to emanate from the dispensary; regardless, the applicant will be installing odor-removing filters in the HVAC systems to ensure air quality and odors are not detectable outside of the facility. The use will implement the safety and security plan approved as a part of The Cake House’s cannabis business permit, and project Conditions of Approval (Attachment D) D.1 through D.4 recommended by the Police Department identify additional means to ensure the business will operate safely and securely.

Findings

Importantly, Cannabis CUPs must meet the requirements set forth in TMC Section 10.08.4250, which requirements apply to conditional uses in all zoning districts in the City. Under these requirements, the Planning Commission can grant a CUP on the basis of the application and evidence submitted, subject to making all of the following findings:

- (a) That there are circumstances or conditions applicable to the land, structure, or use which make the granting of a use permit necessary for the preservation and enjoyment of substantial property right;
- (b) That the proposed location of the conditional use is in accordance with the objectives of this [Chapter 10.08 – Zoning Regulations] and the purposes of the zone in which the site is located;
- (c) That the proposed location of the use and the conditions under which it would be operated or maintained will not be detrimental to the public health, safety, or welfare or materially injurious to, or inharmonious with, properties or improvements in the vicinity; and
- (d) That the proposed use will comply with each of the applicable provisions

of this [Chapter 10.08 – Zoning Regulations].

Development Review Permits must meet the requirements set forth in TMC Section 10.08.3920. Before approving a Development Review Permit, the Planning Commission must make the following findings:

- (a) That the proposal increases the quality of the project site, and enhances the property in a manner that therefore improves the property in relation to the surrounding area and the citizens of Tracy; and
- (b) That the proposal conforms to this chapter, the general plan, any applicable specific plan, the Design Goals and Standards, any applicable Infrastructure Master Plans, and other City regulations.

Staff recommends that the Planning Commission make the requisite findings for this project based on the evidence in the record, including, without limitation, the following:

CUP Findings

- (a) There are circumstances applicable to the use which make the granting of a use permit necessary for the preservation and enjoyment of substantial property right, because a conditional use permit is necessary for the operation of a cannabis dispensary in the General Highway Commercial zone under the Tracy Municipal Code. The proposed project meets the intent of the General Highway Commercial zone and otherwise complies with development regulations of the zone.
- (b) The proposed location of the use and the conditions under which it would be operated or maintained is in accordance with the objectives of Tracy Municipal Code Chapters 6.36 and 10.08. Additionally, the project site is located at least 600 feet away from a parcel containing a school, day care center, or youth center as defined in Chapter 10.08, and the use will be operated wholly indoors. The use is a retail store, which is complementary to the surrounding commercial area.
- (c) The project will not, under the circumstances of the particular case or as conditioned, be injurious or detrimental to the health, safety, or general welfare of persons or property in the vicinity of the proposed use, or to the general welfare of the City. The proposed use of a cannabis dispensary will function in a complementary manner to the surrounding retail uses in the vicinity, will comply with City standards, and will operate no earlier than 9:00 am and no later than 10:00 pm, with deliveries concluding by 9:00 pm, in consideration of neighboring residences. The dispensary will implement all safety and security conditions of approval prepared by the Tracy Police Department.
- (d) The project is consistent with the zoning, commercial cannabis activity regulations, and other elements of the Tracy Municipal Code the City of Tracy General Plan, the Design Goals and Standards, City Standards, California Building Codes, California Fire Codes, and California cannabis regulations. There will be no odors or similar objectionable impacts to other businesses in the vicinity as all cannabis products will be entirely packaged and stored in accordance with the requirements of Chapter 6.36. The dispensary will

implement odor control to prevent odors from emanating outside the dispensary as outlined in the business's odor control plan.

DR Permit Findings

- (e) The proposal increases the quality of the project site and enhances the property in a manner that therefore improves the property in relation to the surrounding area and the citizens of Tracy, because the proposed development meets the City's objectives for high quality design. The building fronts the site and screens the parking area from public view. The building's angled rooflines with deep overhangs, recessed entry, and use of brick veneer and geometric windows are used in a manner that de-emphasizes the building's rectangular shape and aesthetically complements other developments in the project vicinity. Furthermore, utility equipment typically found on the rooftop are concealed within an interior equipment well that is designed to look like the building's second story from the exterior.
- (f) The proposal, as conditioned, conforms to the Tracy Municipal Code, the City of Tracy General Plan, the City Design Goals and Standards, applicable City Standards, California Building Codes, and California Fire Codes, because the proposed commercial development eliminates the nonconforming uses and brings the site into conformity with the zoning that will comply with all applicable City and state regulations for construction.

CUP Expiration

Per TMC Section 10.08.4350, CUP approvals are valid for six months following fifteen days from the date of approval, unless a building permit, if required, is issued and construction is commenced, or the use is established. The TMC also permits the Planning Commission to grant a greater time limit to establish a use pursuant to their conditional use permit (TMC Section 10.08.4360). Aside from the conditional use permit, the applicant must also obtain a state license for the operation of the cannabis business and comply with the conditions of their provisional Cannabis Business Permit, as well as obtain building permits for the proposed construction, collectively which may take longer than six months to complete. Therefore, staff recommends that the Planning Commission grant the Cannabis CUP one year to establish as described in project condition of approval A.9.

PUBLIC OUTREACH/ INTEREST

This item was duly noticed in the local newspaper and public hearing notices were mailed to all property owners of property within 300 feet of the subject site.

COORDINATION

This development application was reviewed by multiple City Departments, the South San Joaquin County Fire Authority, Tracy Delta Disposal, San Joaquin Council of Governments, and the Air Pollution Control District as part of the City's normal application review process. This staff report was prepared by the Development Services Planning Division.

CEQA DETERMINATION

The proposed project is categorically exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15332, which pertains to certain infill development projects. Because the project is consistent with the General Plan and Zoning, occurs within city limits on a project site of no more than five acres substantially surrounded by urban uses, has no value as habitat for endangered, rare or threatened species, would not result in any significant effects relating to traffic, noise, air quality, or water quality, and can be adequately served by all required utilities and public services, no further environmental assessment is necessary.

ACTION REQUESTED OF THE PLANNING COMMISSION

STAFF RECOMMENDS THAT THE PLANNING COMMISSION ADOPT A RESOLUTION:

- 1. DETERMINING THAT THIS PROJECT IS CATEGORICALLY EXEMPT FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT**
- 2. APPROVING A DEVELOPMENT REVIEW PERMIT (D21-0034) FOR AN APPROXIMATELY 3,400 SF BUILDING AND ASSOCIATED SITE IMPROVEMENTS AT 316 & 320 W. ELEVENTH STREET, APNS 235-040-05 & 06;**
- 3. GRANTING A CONDITIONAL USE PERMIT (CUP21-0009) FOR A CANNABIS STOREFRONT RETAILER (DISPENSARY) AT THIS SITE;**
- 4. EXTENDING THE TIME PERIOD TO ESTABLISH THE DISPENSARY SITE UNDER THE CONDITIONAL USE PERMIT FROM SIX MONTHS TO TWELVE MONTHS; AND**

Prepared by: Kimberly Matlock, Associate Planner

Approved by: Bill Dean, Assistant Development Services Director

Attachments:

Attachment A – Vicinity Map Site and Floor Plans received on August 18, 2022

Attachment B – Planning Commission Resolution

Attachment C – Conditions of Approval



PROJECT DESCRIPTION:

SEEKING A CONDITIONAL USE PERMIT FOR A RETAIL DISPENSARY AT 320 & 316 W. 11TH ST, TRACY, CALIFORNIA 95376. THE PROPOSAL INCLUDES THE DEMOLITION OF AN EXISTING RESIDENTIAL BUILDING TO CREATE SPACE FOR THE CONSTRUCTION OF A BRAND NEW CANNABIS RETAIL FACILITY. THE ATTACHED CUP EXHIBITS DEMONSTRATE THE PROPOSED SITE COMPLIES WITH ALL SENSITIVE USE SETBACKS AND ZONING REQUIREMENTS.

PROJECT TEAM:

OWNER (320 W 11TH): REO CAPITAL NVESTMENTS AND ASSET MANAGEMENT
 OWNER (316 W 11TH): SAAD PATTAH
 APPLICANT: COMMUNITY VETERANS OF TRACY, LLC
 350 W Ninth ave. unit 106B
 Escondido, Ca 92025



CAKE ENTERPRISES, INC
 350 W NINTH AVE.
 UNIT 106B
 ESCONDIDO, CA 92025

LAND USE REQUIREMENTS:

PROJECT ADDRESS:
 316 & 320 WEST 11TH ST. TRACY, CA 95376
 APN: 235-040-05, 235-040-06
 ZONING: GHC
 EXISTING USE: (R)SINGLE FAMILY
 PROPOSED BUILDING AREA 3,180 SF
 PROPOSED USE:
 RETAIL / DISPENSARY
 TOTAL LOT SIZE: 7,000 + 7000 SF (14,000 SF)
 FAR: NOT APPLICABLE
 HEIGHT LIMIT: NOT APPLICABLE
 EASEMENT: NOT APPLICABLE

DESIGNER: CAKE ENTERPRISES, INC
 350 w Ninth Ave. unit 106B
 Escondido, ca 92025
 CONTACT: HUSSEIN MUNAIM
 (619) 788-3224

BUILDING INFORMATION:

PROPOSED OCCUPANCY: (M) MERCANTILE, (B) BUSINESS	SPRINKLERS SYSTEM NO
CONSTRUCTION TYPE VB	STORIES 1
PROPOSED BUILDING AREAS: SPACE USE	SF
01- LOBBY	174
02- RECEPTION	82
03- SECURITY RM	50
04- OFFICE	99
05- CIRCULATION	270
06- MEETING RM	122
07- DISPENSARY	1,355
08- CUSTOMERS RESROOM	49
09- EMPLOYEE RESTROOM	49
10- DISPOSAL RM	57
11- JANITOR RM	24
12- BREAK AREA	142
13- OFFICE	187
14- VAULT	237
15- DELIVERY / STORAGE RM	134
16- MECHANICAL RM	75
TOTAL NET SF	2,800

SHEET INDEX

CUP 01.T- 01	TITLE SHEET
CUP 02.A - 01	ARCHITECTURAL SITE PLAN
CUP 03.A - 01.1	UTILITY SITE PLAN
CUP 04.A - 01.2	SITE CONTEXT
CUP 05.A - 02	AS BUILT SITE / DEMO PLAN
CUP 06.S - 02	SURVEY
CUP 07.G - 06	GRADING
CUP 08. L -1	LANDSCAPE
CUP 09.A - 07	SECURITY FLOOR PLAN
CUP 10.A - 08	ELEVATIONS
CUP 11.A - 09	PERSPECTIVE ELEVATIONS
CUP 12.A - 10	PRESPECTIVES
CUP 13.A - 11	SECTIONS

PARKING CALCULATIONS:

PER 10.08.3480 PARKING.

ONE SPACE PER / 250 SF OF GROSS FLOOR AREA.
 REQ. RETAIL USE= 3400, 1 PER 250 SF = 13.60 = 14 space
 COMPACT= 20% = 2.8 = 3 space
 ADA PARKING = 1
 CHARGING STATION = 1
TOTAL PARKING PROVIDED
 ADA VAN SPACES = 1
 ELECTRICAL CHARGING STATION = 1
 COMPACT= 3
 REGULAR = 9,
TOTAL PARKING SPACES = 14
 LANDSCAPING REQUIRED 10%
 14 SPACE= 2270 SF x 10%= 227 SF
 LANDSCAPE PROVIDED= 2,775 SF>227 SF,
 LANDSCAPE REQ. MET.



LOCATION MAP



Location Aerial Map

- 10.08.3520 - Parking area design policies.
 The following design policies shall apply in all circumstances.
 (a)The design of parking shall conform with the City Standards for parking spaces;
 (b)Tandem parking shall not be utilized in meeting the minimum parking requirements;
 (c)The following minimum access driveway widths shall apply:
 (1)Access drives serving not more than two dwelling units shall have a clear minimum width of ten (10') feet,
 (2)All other access drives shall have a clear minimum width of twelve (12') feet for one way traffic and a minimum width of eighteen (18') feet for two-way traffic. (Prior code § 10-2.2609)
 10.08.3530 - Required improvements and maintenance of parking areas.
 (a) It shall be unlawful to park on any unpaved surface. Every parking area used or intended to be used as a public or private parking area shall be paved with a surfacing material in compliance with City of Tracy Standards.
 (b) Every lot shall be graded and drained so as to dispose of all surface water created by such parking area. A grading permit is required before such work commences.
 (c) Any parking area required to provide five (5) or more parking spaces shall be appropriately marked indicating the parking spaces. Striping of parking spaces, aisles, or driveways, and the placement of directional signs shall be provided according to the City of Tracy Standards.
 (d) Each space within parking areas on sites with more than four (4) dwelling units, and only those parking spaces adjacent to pedestrian walkways and landscape areas on commercial and industrial sites, shall be designed to include a raised concrete wheel stop constructed and installed to the satisfaction of the Director of Public Works.
 (e) Within parking areas on commercial and industrial sites, in place of the wheel stops required in subsection (d) above, landscape areas and pedestrian walkways may be extended not more than two (2') feet into required parking spaces, to include a six (6') inch concrete curb. In such cases, no credit toward parking lot landscape requirements shall be given for the resulting additional landscaping.
 (f) A parking facility with five (5) or more spaces serving commercial or industrial uses shall provide security lighting as approved by the Community Development Director and/or design review board, in accordance with City Standards.
 (g) A parking area serving multiple-family residential units shall be illuminated during hours of darkness in accordance with City Standards.
 (h) Parking area lighting shall be directed down onto the parking surface and away from adjacent property and structures.
 (Prior code § 10-2.2610; Ord. No. 1238, § 2, 8-15-2017)



600 F. VICINITY MAP W/ LAND USE

Map Preparer:
 SUSAN W. CASE, INC.
 4000 BARRANCA PKWY #250
 IRVINE CA 92604
 949 494 6105
 susan@susancaseinc.com

FILE # 218747
 316 AND 320 W 11TH ST
 TRACY CA
 800' RADIUS MAP
 OCTOBER 9 2021
 0235 040 04 AND 05

PROJECT NO: Project No.
 MODEL FILE:
 TRACY 3rd CUP FINAL correction 07_20_2022.pln
 DESIGN & DRAWING BY:
 HUSSEIN MUNAIM
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SHEET TITLE
TITLE SHEET

CUP 01.T- 01

SHEET 1 OF20



CAKE ENTERPRISES, INC
350 W NINTH AVE.
UNIT 106B
ESCONDIDO, CA 92025

COMMUNITY
VETERANS
OF TRACY,
LLC

THE CAKE HOUSE

PROJECT NO: Project No.
MODEL FILE:
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SHEET TITLE
ARCHITECTURAL SITE
PLAN

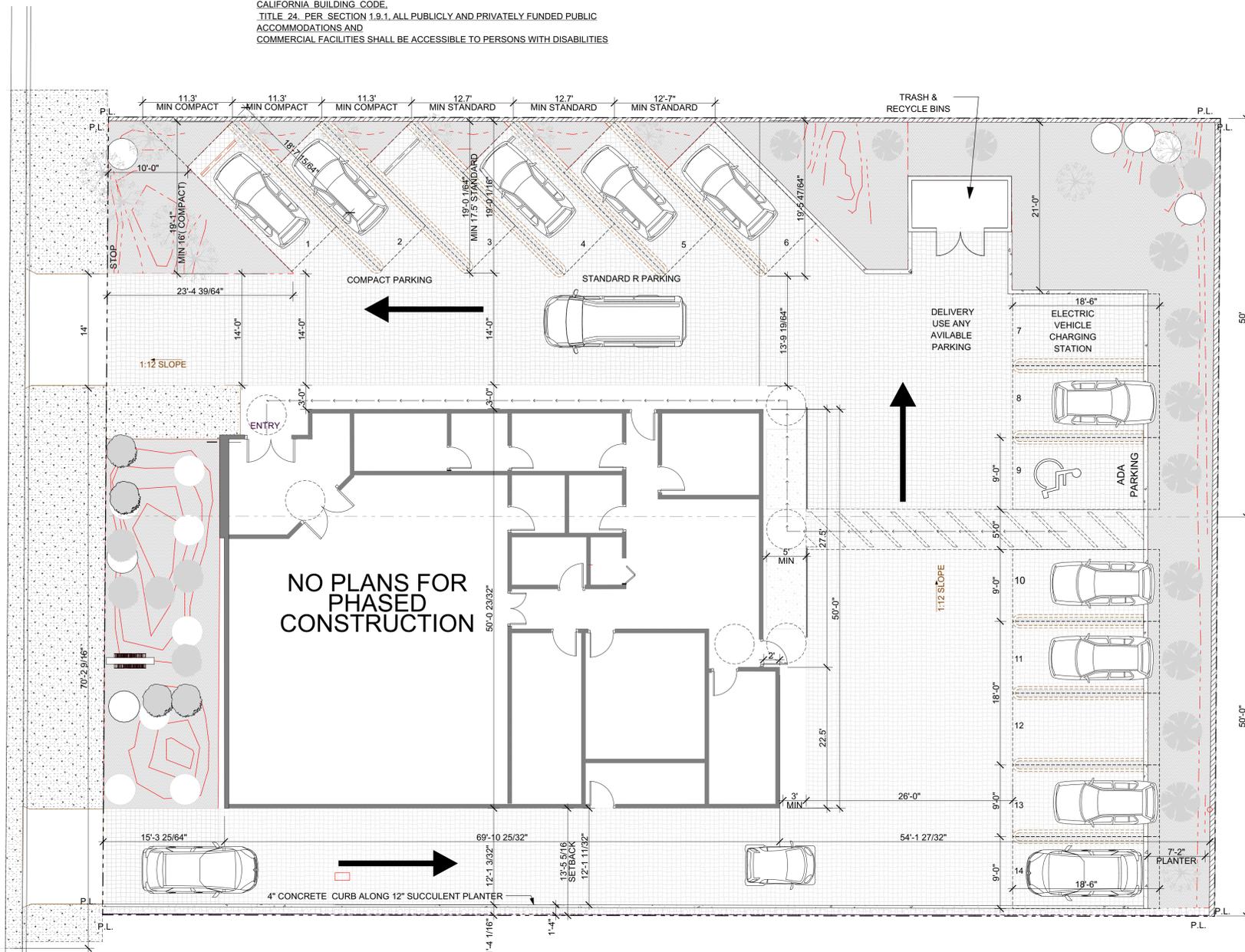
CUP 02.A - 01

SHEET 2 OF20

THE FOLLOWING DISABLED ACCESS ITEMS ARE TAKEN FROM THE 2019 EDITION OF CALIFORNIA BUILDING CODE, TITLE 24, PER SECTION 1.9.1. ALL PUBLICLY AND PRIVATELY FUNDED PUBLIC ACCOMMODATIONS AND COMMERCIAL FACILITIES SHALL BE ACCESSIBLE TO PERSONS WITH DISABILITIES

- 1 STOP (R1-1) SIGN, LIMIT LINE AND "STOP" PER DETAIL/ T1.2
- 2 EXIST WATER VAULT FOR NEW CONNECT
- 3 NEW DRIVE PER ENGINEERING
- 4 NEW POWER CONNECTIONS
- 5 TRASH RECYCLE BINS ENCLOSURE
- 6 THE ENTIRE PARKING SURFACE IS COVER WITH 100% PERVIOUS PAVEMENT NO WATER ACCUMULATION ON THE SURFACE < 1% SHOULD BE ACCEPTABLE, PAYER SPECIFICATION PER CIVIL PLAN
- 7 CONCRETE ADA RAMP 7% SLOPE, 36" MINIMUM CLEAR WIDTH
- 8 EXISTING SIDEWALK TO REMAIN
- 9 DO NOT ENTER SIGN
- 10 ENTER SIGN PER DETAIL 3/ T-1.1
- 11 LANDSCAPE
REQUIRED LANDSCAPE PER 10.08.3560
- 12 CONCRETE CUR
- 13 5' ADA CIRCUL
- 14 6" BRICK WALL
- 15 CONCRETE SIDEWALK MINIMUM 36" WIDE, WITH MAXIMUM 1% CROSS SLOP
- 16 REQUIRED SET BACK ON ALL SIDE. PROPOSED SET BACK FRONT 15'-0" BACK 45'-9" SIDE WEST 33'-6" SIDE EAST 16'-6" MAXIMUM REQUIRED BUILDING HEIGHT NO LIMIT MAXIMUM PROPOSED HEIGHT =18'-6"
- 17 MAXIMUM FAR NO LIMIT PROPOSED BUILDING AREA = 3400 SF LOT AREA= 14000 SF FAR=3400/14000=24 OK
- 19 PARKING ANALYSIS PROPOSED BUILDING AREA= 3400 SF PARKING REQUIREMENT 250SF PER 10.08.3480 - MINIMUM NUMBER OF PARKING SPACE= 3400/250= 13.60 PARKING SPACE, REQUIRED MINIMUM 14 PARKING SPACE. PER SECTION 10.08.3500, MAXIMUM COMPACT 20%, 13.6X.2=2.72 MAXIMUM COMPACT 3 PARKING SPACE.
- 20 10.08.3570 - LOADING SPACE (1) AN OCCUPANCY OF 5,000 OR LESS SQUARE FEET OF GROSS FLOOR AREA SHALL HAVE A LOADING SPACE WITH MINIMUM DIMENSIONS OF TEN (10) FEET WIDTH, TWENTY (20) FEET LENGTH, AND A VERTICAL CLEARANCE OF FOURTEEN (14) FEET..
- 21 FIRE TRUCK DEAD END REQUIRED. DISTANCE FROM THE STREET TO THE BACK OF THE BUILDING IS 83.5 FEET < 150' PER SECTION 503.2.5 NO FIRE TRUCK TURN IS REQUIRED 503.2.5 DEAD ENDS. DEAD-END FIRE APPARATUS ACCESS ROADS IN EXCESS OF 150 FEET (45,720 MM) IN LENGTH SHALL BE PROVIDED WITH AN APPROVED TURNAROUND IN ACCORDANCE WITH APPENDIX D AS AMENDED...

W. 11TH STREET
CENTER LINE





CAKE ENTERPRISES, INC
350 W NINTH AVE.
UNIT 106B
ESCONDIDO, CA 92025

COMMUNITY VETERANS OF TRACY, LLC

THE CAKE HOUSE

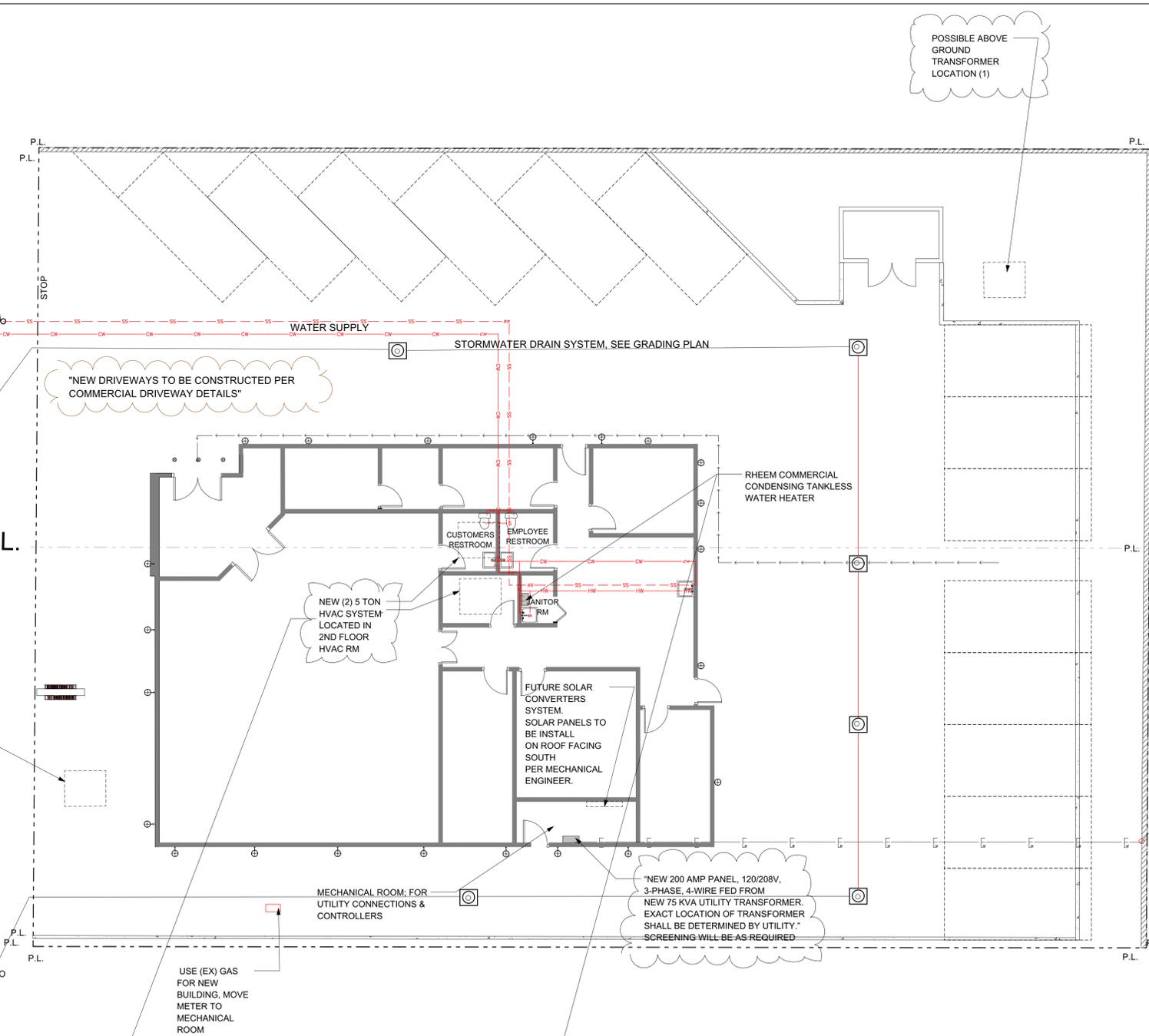
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SHEET TITLE

CUP 03.A - 01.1

SHEET 3 OF20

W. 11TH STREET CENTER LINE



EX. SSC (SANITARY SEWER CLEANOUT) TO BE USED FOR THE NEW PROJECT CONNECTIONS "UP-SIZE EXISTING SEWER LATERAL TO 6-INCHES."

WATER VAULT- TO BE USED FOR NEW PROJECT CONNECTION. VERIFY WATER LATERAL MIGHT NEED TO BE UP-SIZED."

DURING THE CONSTRUCTION, REMOVE UNUSED UTILITY LATERAL

CONC. CURB & GUTTER SEE GRADING PLAN FOR STORMWATER DRAIN

POSSIBLE ABOVE GROUND TRANSFORMER LOCATION (2)

EX. STREET LIGHT VAULT

NEW CURB CUT

P.L.

P.L.

POSSIBLE ABOVE GROUND TRANSFORMER LOCATION (1)

EX. ELECTRICAL JOINT POLE

"NEW DRIVEWAYS TO BE CONSTRUCTED PER COMMERCIAL DRIVEWAY DETAILS"

NEW (2) 5 TON HVAC SYSTEM LOCATED IN 2ND FLOOR HVAC RM

FUTURE SOLAR CONVERTERS SYSTEM. SOLAR PANELS TO BE INSTALL ON ROOF FACING SOUTH PER MECHANICAL ENGINEER.

"NEW 200 AMP PANEL, 120/208V, 3-PHASE, 4-WIRE FED FROM NEW 75 KVA UTILITY TRANSFORMER. EXACT LOCATION OF TRANSFORMER SHALL BE DETERMINED BY UTILITY. SCREENING WILL BE AS REQUIRED"

USE (EX) GAS FOR NEW BUILDING. MOVE METER TO MECHANICAL ROOM

MECHANICAL ROOM: FOR UTILITY CONNECTIONS & CONTROLLERS

RHEEM COMMERCIAL CONDENSING TANKLESS WATER HEATER

STORMWATER DRAIN SYSTEM, SEE GRADING PLAN

WATER SUPPLY

LEGEND



Comfort Air, Inc.
MECHANICAL CONTRACTORS

January 27, 2022
Asst: Hussein Munaim
Budget Letter Q-041/2022

Project: The Cake House
Scope: Provide and install HVAC for a new building located in Tracy, CA.

Inclusions:

- Provide engineer designed drawings.
- Furnish and provide (2) 5-ton roof top Package Units and 14" roof curbs.
- Furnish and provide (3) ceiling exhaust fans for rest rooms and janitors room.
- Furnish and provide duct work.
- Furnish and provide (2) 7-day programmable thermostats.

Total HVAC price: \$ 70,500.00

Clarification: Total HVAC price does not include roofing or electrical.

Exclusions:

- Permitting or sealing.
- Permit fees.
- Roofing and Architectural Flashings.
- Ceiling patching and taping.
- Site utility setting, service.
- Cost of utility connection.
- Building management consents for HVAC.

Terms: This Quote is only good for 15 days. Work will be done during normal business hours except as noted.

Sincerely,
Hussein Munaim
Assistant Director / HVAC Estimator
209.468.4601 ext. 7131
hmunaim@comfortair.com

1607 TURNPIKE ROAD - P.O. BOX 1969 - STOCKTON, CALIFORNIA 95201-1969
PHONE: (209) 466-0901 FAX: (209) 466-2639 LICENSE # 89896324

YORK LX Series
PQ4 - 14 BEER Single Pkg. GC R-410A, AC
Unit Model #: PQ4BEER102224
Quantity: 1, Type: AC12

UNIT DIMENSIONS

Model	A	Dimensions (in.)	B	Dimensions (in.)	C	Dimensions (in.)
PQ4-14	21 1/4	20 1/2	24 1/2	24 1/2	24 1/2	24 1/2
PQ4-14	21 1/4	20 1/2	24 1/2	24 1/2	24 1/2	24 1/2
PQ4-14	21 1/4	20 1/2	24 1/2	24 1/2	24 1/2	24 1/2

UNIT CLEARANCES*

Clearance	Minimum (in.)	Maximum (in.)
Front	18	24
Top	18	24
Right	18	24
Left	18	24

Rheem Commercial Condensing Tankless Water Heaters

Commercial Tankless Models

Commercial Tankless Models with Manifold Control

Model	Input (GPM)	Output (GPM)	Flow Rate (GPM)
RTGH-C8SDVLN (P)	8	8	8
RTGH-C8SDVLN (P)	8	8	8
RTGH-C8SDVLN (P)	8	8	8
RTGH-C8SDVLN (P)	8	8	8

Feature Model Number	RTGH-C8SDVLN (P)	RTGH-C8SDVLN (P)	RTGH-C8SDVLN (P)	RTGH-C8SDVLN (P)
Flow Rate (GPM)	8	8	8	8
Flow Rate (GPM)	8	8	8	8
Flow Rate (GPM)	8	8	8	8
Flow Rate (GPM)	8	8	8	8



CAKE ENTERPRISES, INC
350 W NINTH AVE.
UNIT 106B
ESCONDIDO, CA 92025

COMMUNITY
VETERANS
OF TRACY,
LLC

THE CAKE HOUSE

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DESIGN & DRAWING BY:
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SHEET TITLE
SITE CONTEXT

CUP 04.A - 01.2



LOOKING NORTH



SITE CONTEXT LOOKING EAST



SITE PLAN CONTEXT



CONTEXT LOOKING WEST



CAKE ENTERPRISES, INC
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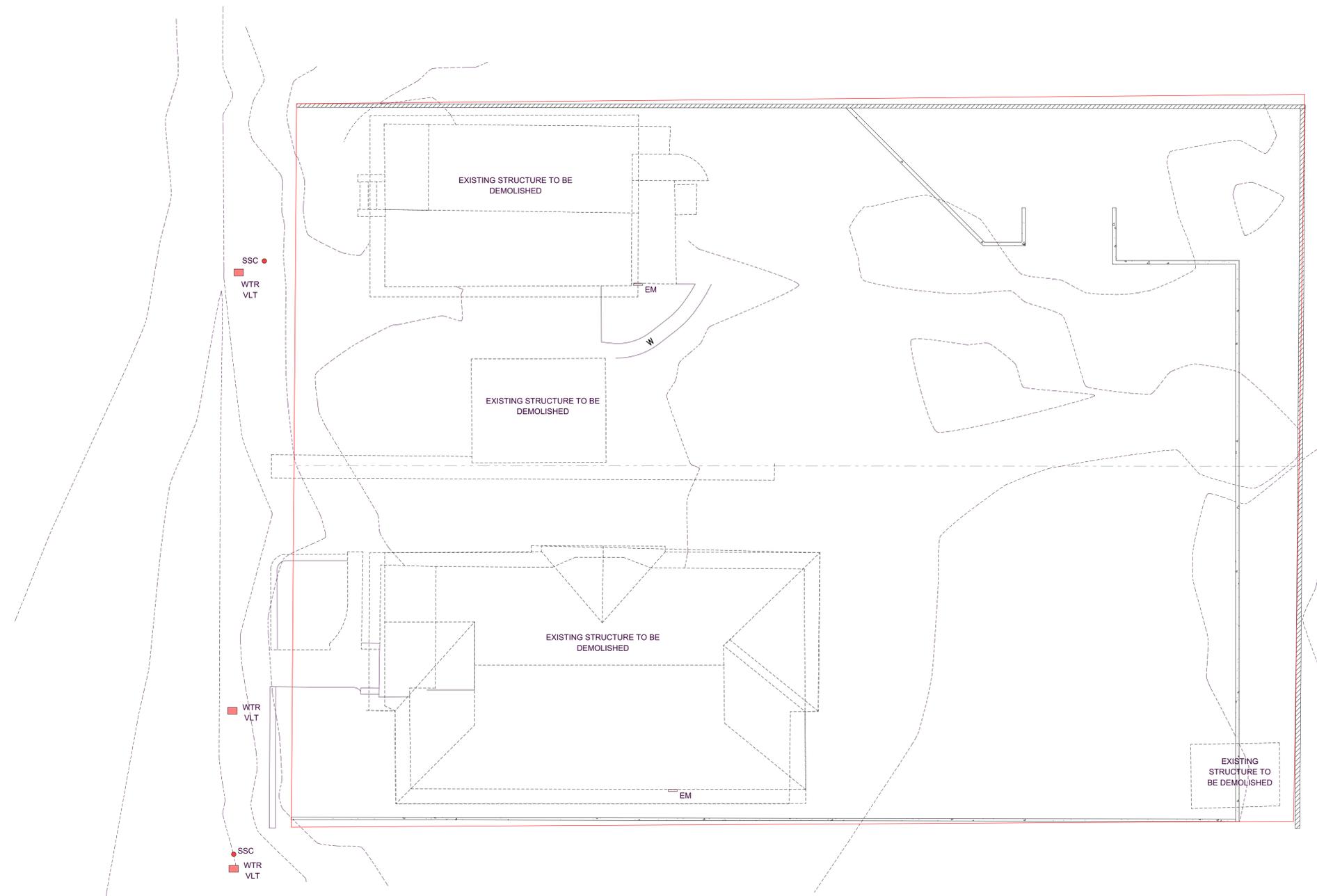
SHEET TITLE
AS BUILT SITE / DEMO
PLAN

CUP 05.A - 02

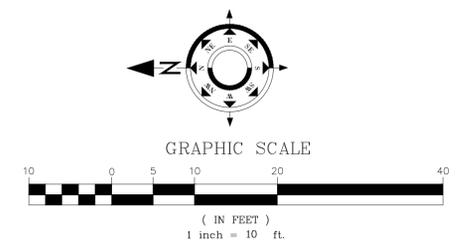
SHEET 5 OF20

DEMOLITION NOTES:

- 1- OWNER/CONTRACTOR SHALL BE RESPONSIBLE FOR ALL DEMOLISHING.
- 2- CONTRACTOR OR SUB CONTRACTORE TO VERIFY ALL WORK WITH OWNER PRIOR TO DOING THE ACTUAL WORK.
- 3- PROTECT IN PLACE ALL PORTIONS OF EXISTING CONSTRUCTION NOT BEING REMOVED FROM ANY DAMAGE PER OWNER.
- 4- CONTRACTOR TO IDENTIFY AND RELOCATE ALL MECHANICAL, PLUMBING, AND ELECTRICAL.
- 5- ALL MATERIALS OR ANY OTHER ITEMS REMOVED IN DEMOLITION ARE TO BE DISPOSED PER OWNER.
- 6- CONTRACTOR SHALL REVIEW AND COORDINATE DEMOLITION WORK IN ORDER TO FULLY FACILITATE THE COMPLETION OF ALL PURPOSED IMPROVEMENTS INCLUDED IN THESE CONSTRUCTION DOCUMENTS.
- 7- DISCONNECT ALL UTILITIES FROM ALL STRUCTURES. BE SURE ALL UTILITIES ARE SAFELY DISCONNECTED AND PROPERLY PROTECTED.
- 8- ALL STRUCTURES MUST BE REMOVED OR DEMOLISHED WITH THEIR FOOTINGS.
- 9- REMOVE ALL CONCRETE WALK WAYES AND PADS COMPLETELY.
- 10- ALL EXISTING TREES MUST BE REMOVED OR RELOCATED PER NEW LANDSCAPE PLANS.
- 11- CLEAN UP SITE PROPERLY FOR GRADING PER NEW PLAN.



AS BUILT SITE / DEMO PLAN
SCALE: 1/8" = 1'-0"



LEGEND:

- CONC CONCRETE
- EM ELECTRIC METER
- FF FINISHED FLOOR
- FL FLOWLINE
- GM GAS METER
- SSCP SANITARY SEWER CLEANOUT
- TC TOP OF CURB
- THRESH THRESHOLD
- VLT VAULT
- WTR WATER
- X55.4 INDICATES GROUNDSHOT
- 12TREE INDICATES TREE SIZE
- INDICATES BOUNDARY LINE
- INDICATES LOT LINE
- INDICATES CENTERLINE
- INDICATES MAJOR CONTOUR LINE
- INDICATES MINOR CONTOUR LINE
- INDICATES BUILDING OVERHANG
- X X X INDICATES CHAIN LINK FENCE
- INDICATES WOOD FENCE
- INDICATES WROUGHT IRON FENCE
- — — INDICATES OVERHEAD UTILITY LINE

NOTES:

1. ALL DISTANCES ARE IN FEET AND DECIMALS THEREOF.
2. THE DATE OF THE FIELD SURVEY WAS AUGUST 30, & SEPTEMBER 17, 2021.
3. ONLY A SIGNATURE IN BLUE INK INDICATES A TRUE AND ORIGINAL COPY.
4. CONTOURS SET AT 0.5 FOOT INTERVALS.

BENCHMARK:

● ELEVATIONS WERE DERIVED FROM GPS OBSERVATIONS AND ARE BASED ON NAVD88.

BASIS OF BEARINGS:

THE BEARING, NORTH 89°34'34" WEST, BETWEEN TWO FOUND BRASS DISCS IN MONUMENT WELLS ALONG THE CENTERLINE OF WEST ELEVENTH STREET AS SHOWN ON THAT CERTAIN RECORD OF SURVEY FILED FOR RECORD ON DECEMBER 12, 1989 IN BOOK 30 OF SURVEYS AT PAGE 198 IN THE OFFICE OF THE RECORDER OF SAN JOAQUIN COUNTY, WAS TAKEN AS THE BASIS OF ALL BEARINGS SHOWN ON THIS SURVEY.

UTILITY NOTE:

UTILITIES SHOWN ON THIS SURVEY ARE BASED ON SURFACE OBSERVATIONS. NO WARRANTIES ARE EXPRESSED OR IMPLIED CONCERNING THE EXISTENCE, SIZE, DEPTH, CONDITION, CAPACITY, OR LOCATION OR ANY UTILITY EXISTING ON THE SITE, WHETHER PRIVATE, MUNICIPAL, OR PUBLIC OWNED. CONTRACTOR SHALL VERIFY ALL UTILITIES PRIOR TO CONSTRUCTION.

UAV NOTE:

THE AERIAL ORTHOPHOTO WAS ACQUIRED BY AN UNMANNED AERIAL VEHICLE. PHOTODIAGRAMMETRIC SOFTWARE WAS USED TO RECTIFY THE IMAGES AND REMOVE ANY DISTORTION. HOWEVER, NOT ALL DISTORTION CAN BE REMOVED AND THERE MAY BE DISTORTION DUE TO PARALLAX ERROR. DATE OF THE AERIAL IMAGERY: AUGUST 30, 2021

TREE NOTE:

TREE TYPES, DRIP LINES, AND SIZE ARE FOR INFORMATIONAL PURPOSES ONLY. ACTUAL TYPE OF TREE, TREE SHAPE, AND GROVE CONFIGURATION MAY VARY FROM ACTUAL FIELD CONDITIONS. NO WARRANTIES ARE IMPLIED IN REGARD TO TREE INFORMATION.

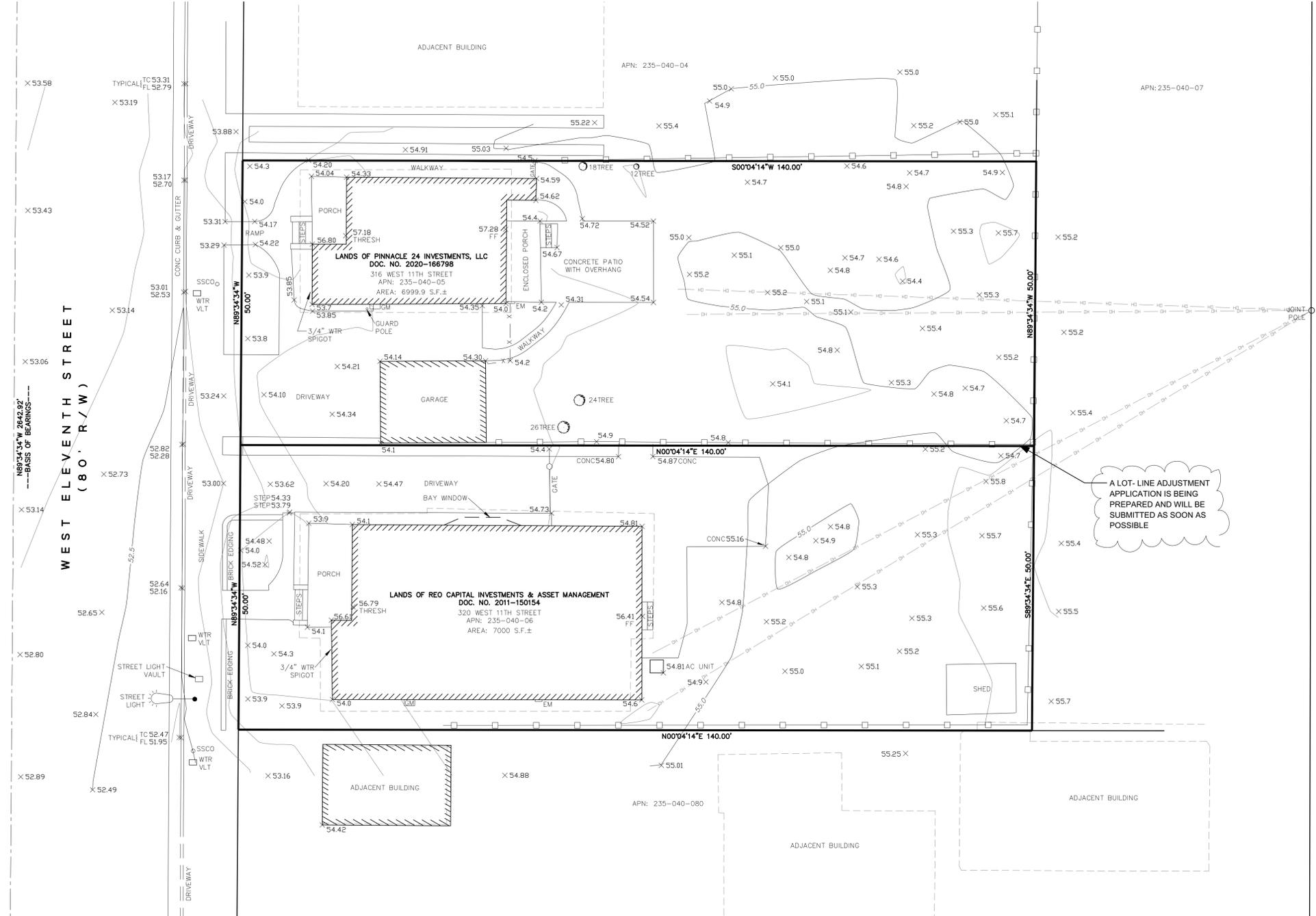
SURVEYOR'S STATEMENT

THIS SURVEY WAS PREPARED BY ME OR UNDER MY DIRECT SUPERVISION.

J. Smith
 JAMES M. SMITH, S. #7539
 LICENSE EXPIRES: 2-31-2021



DATE _____

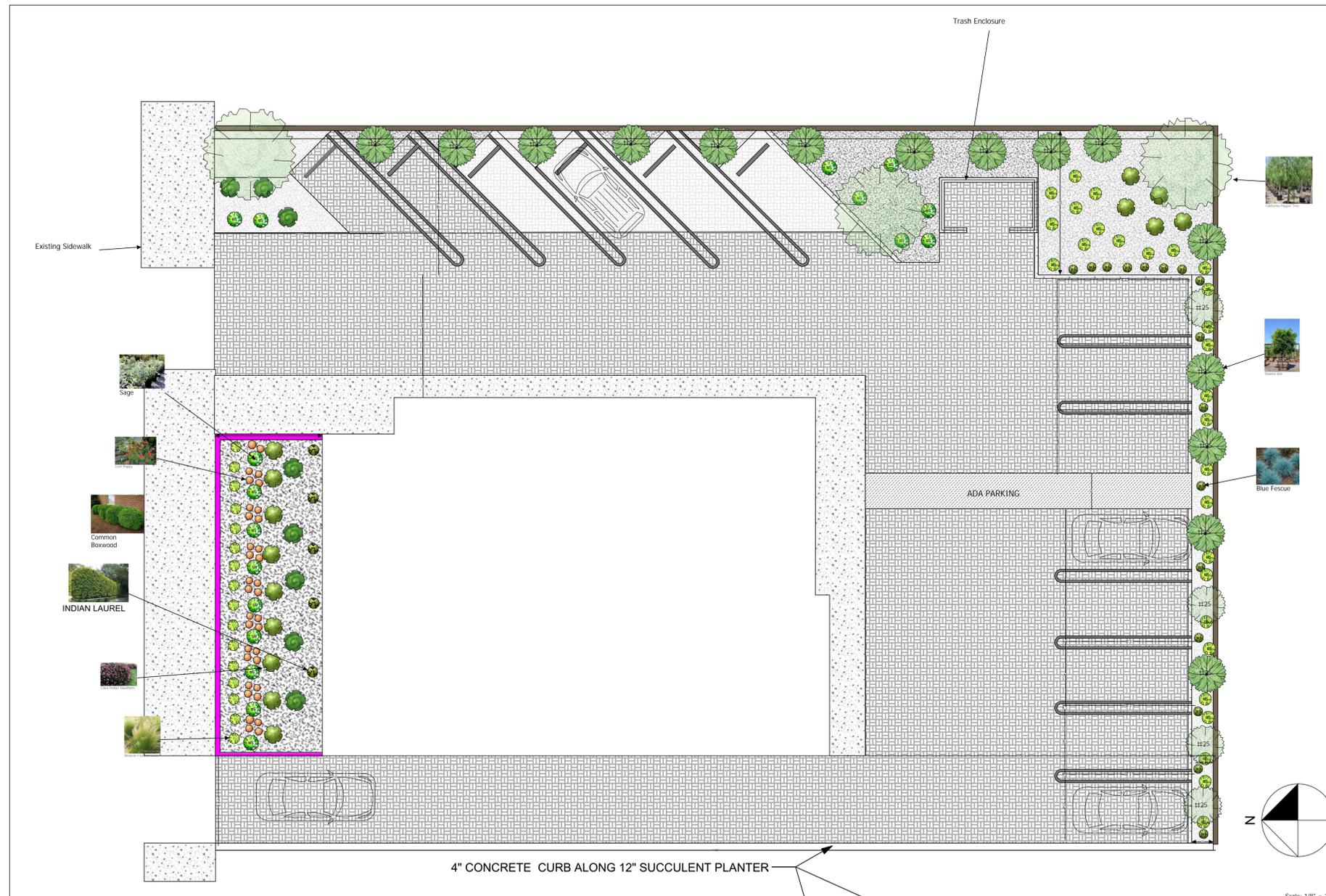


MUIR CONSULTING, INC.
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 OAKDALE, CA 95361
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 www.muirconsulting.com



BOUNDARY & TOPOGRAPHIC SURVEY
 OF
316 & 320 WEST ELEVENTH STREET
 SAN JOAQUIN COUNTY CALIFORNIA

JOB NUMBER	6602-01
DRAWN BY	JMS,WCC
CHECKED BY	JMS, TJE
DATE	09/21/2021
SHEET NO.	1 OF 1
TRACY	



GENERAL NOTES:
 Note: Contractor shall verify location of all utilities prior to construction and shall be held liable for all damages incurred.

PAVERS - CLASS 2 ROAD BASE COMPACTED PAVERS SHALL HAVE A SLOPE OF 1% - 2%. 1/4" MASONRY SAND BASE WILL BE THE SUB-BASE FOR THE FINAL GRADING OF ALL PAVERS. PAVER'S TO BE 60 MIL THICKNESS. ALL PAVER SAND INSIDE GAPS TO BE #20-30 TO LOCK IN PAVER AREAS. COMMERCIAL GRADE WEED-BLOCK TO BE APPLIED PRIOR TO PAVERS BEING LAID TO PREVENT WEED GROWTH. PATTERN IS RANDOM UNLESS OTHERWISE SPECIFIED HERE-WITHIN THESE PLANS

CONCRETE - ALL CONCRETE TO BE APPLIED AT MINIMUM 3.5" DEPTH USING 2500 P.S.I 3/8" ROCK. COLOR TO BE GREY. ALL CONCRETE TO BE REINFORCED WITH 3/8" REBAR @ MIN 36" O.C. (CONCRETE DISCLAIMER) - CONCRETE NATURALLY CRACKS, DISCOLORS, & HAS UNEVEN LOW POINTS THAT CAN COLLECT SMALL AMOUNTS OF WATER. THERE IS NO GUARANTEE ON THESE NATURALLY OCCURRING SITUATIONS..

PLANTER MULCH - PLANTER MULCH SHALL CONSIST OF 3" MINUS ORGANIC COMPOSTED HUMMUS AND WOOD. TVI 400

PLANT INSTALLATION - CONTRACTOR TO REMOVE ALL PLANT CONTAINERS AND EXTRA DIRT FROM HOLES DUG FOR PLANTING INCLUDED IN PLANT INSTALLATION PRICE. ROOT BARRIERS ARE INCLUDED ON ALL 24" TREES AND LARGER IF CONTRACTOR INSTALLS PLANTS.

Plant Legend

Symbol	Qty	Common Name	Botanical Name	Container
	16	Blue Fescue	Festuca glauca 'Elijah Blue'	1 Gal
	3	California Pepper Tree	Shinus Molle	24" Box
	14	Clara Indian Hawthorn	Rhaphiolepis Indica 'Clara'	5 Gal.
	8	Common Boxwood, Mature	Buxus sempervirens	5 Gal
	19	Evergreen Ash	Fraxinus uhdei	24" Box
	5	INDIAN LAUREL	FICUS MICROCARPA	15 Gal
	28	Mexican Feather Grass	Nassella tenuissima	5 Gal
	16	Mexican Feather Grass	Nassella tenuissima	Full Size
	34	Poppy	Papaver rhoeas	5 Gal
	17	Sage	Salvia Apiana	5 Gal

Fill Legend

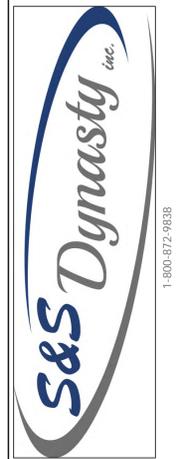
Fill Style	Category
	Permeable Pavers
	ADA Walkway
	Planters
	Reg Grey Concrete, Broom Finish
	Planter Wall

Hardscapes



WEST SIDE PLANTER 1

WEST SIDE PLANTER 2



Drawn By: Stephanie Acosta

ssdynastyinc@yahoo.com
 40502 Wgasa Place
 Temecula, CA 92591

License# 987517

SHEET



CAKE ENTERPRISES, INC
350 W NINTH AVE.
UNIT 106B
ESCONDIDO, CA 92025

COMMUNITY
VETERANS
OF TRACY,
LLC

THE CAKE HOUSE



LEGEND

- | | | | | | |
|----------------------|--|-----------------|------------------------|---------------------------------|-----------------------|
| FIXED DOME HD CAMERA | ACCESS CONTROLLER | BACK UP BATTERY | SECURE FOB ENTRY | PUBLIC ACCESS | EMERGENCY EGRESS PATH |
| 360 CAMERA | MOTION DETECTOR (CELLING AND WALL MOUNTED) | GLASS BREAK | REMOTE LOCK | LIMITED GRANTED PUBLIC ACCESS | EXIT SIGN |
| SOUNDER | KEY PAD | NVR | KEY ACCESS | AUTHORIZED EMPLOYEE ACCESS ONLY | FIRE EXTINGUISHER |
| ACCESS POWER | CONTACT | PANIC | REQUEST TO EXIT BUTTON | EMPLOYEE ACCESS ONLY | SMOKE DETECTOR |
- NOTE: TOTAL CAMERAS= 52

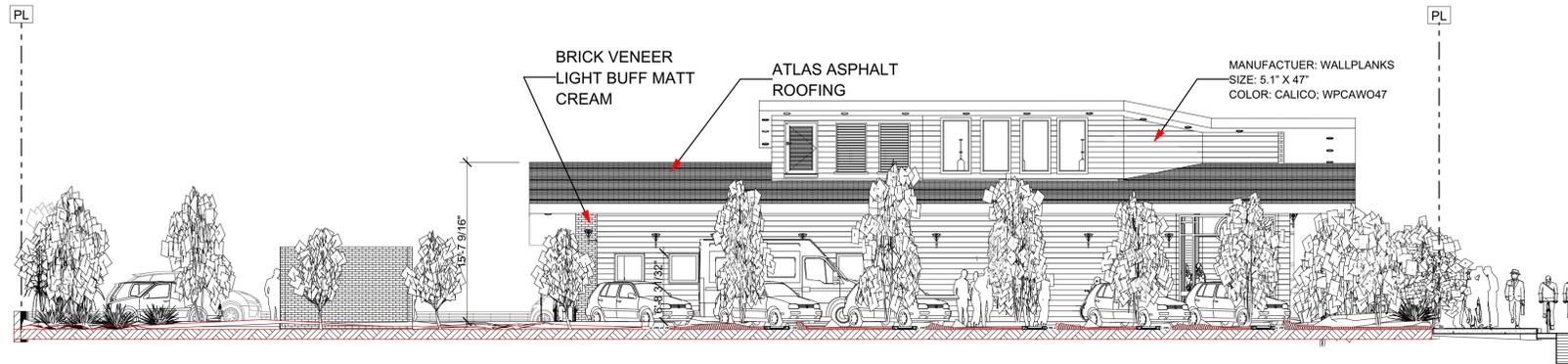
SECURITY FLOOR PLAN

SCALE: 1/4" = 1'-0"

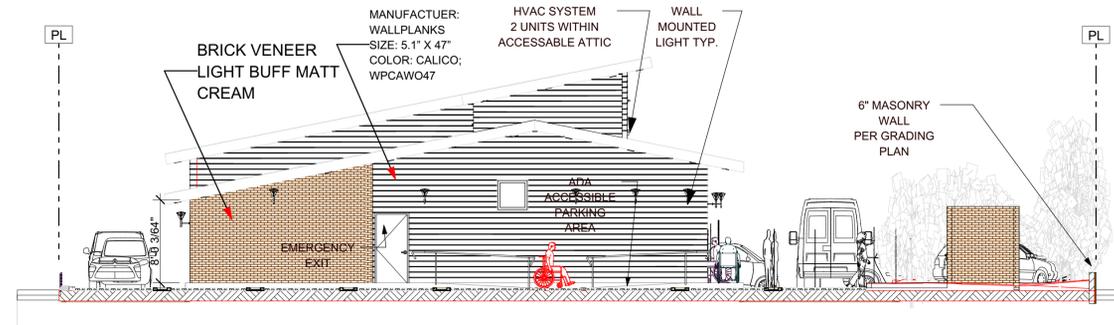
PROJECT NO: Project No.
MODEL FILE:
TRACY 3rd CUP FINAL correction 07_20_2022.pln
DESIGN & DRAWING BY:
HUSSEIN MUNAIM
COPYRIGHT: CAKE ENTERPRISES, INC

SHEET TITLE
SECURITY FLOOR
PLAN

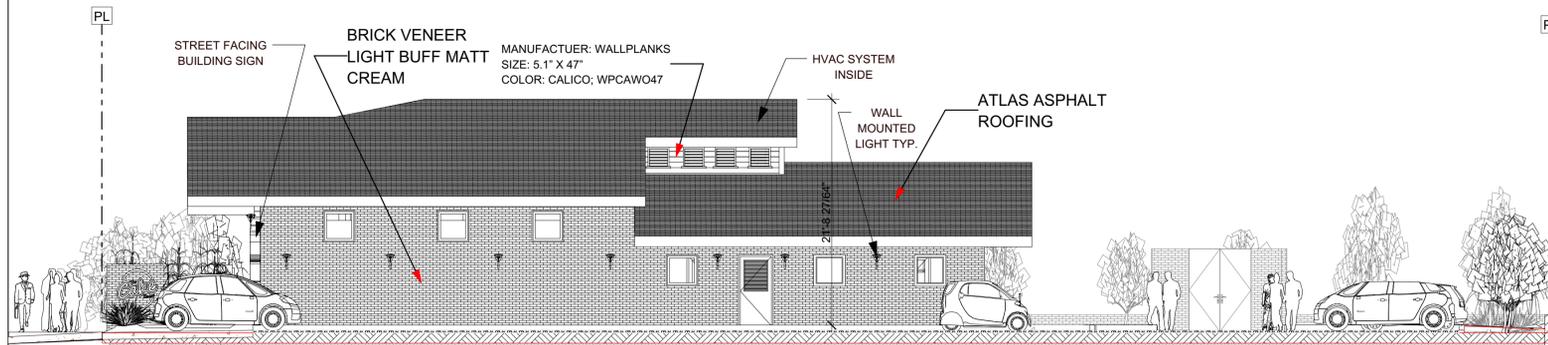
CUP 09.A - 07



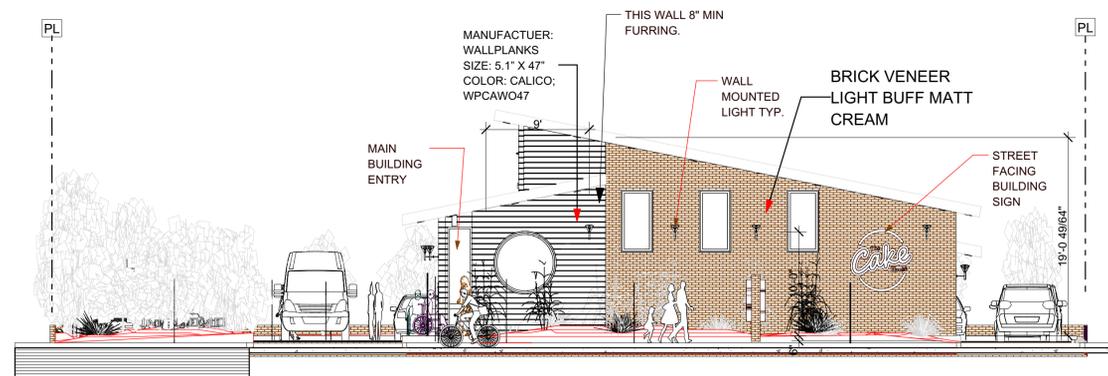
EAST ELEVATION
SCALE: 1/8" = 1'-0"



SOUTH ELEVATION
SCALE: 1/8" = 1'-0"



WEST ELEVATION
SCALE: 1/8" = 1'-0"



NORTH ELEVATION
SCALE: 1/8" = 1'-0"

ASSENTIAL MATERIALS



MANUFACTURER: WALLPLANKS
SIZE: 5.1" X 47"
COLOR: CALICO; WPCA047



THE COLOR APPEARS IN THE LOGO & EXTERIOR DOORS. SEE WEST, SOUTH & NORTH ELEVATIONS.
MANUFACTURER: SHERWIN WILLIAMS
COLOR: COLOR MATCHED TO BRANDING COLOR (C:62 M:0 Y:22 K:0)



BRICK VENEER
LIGHT BUFF MATT CREAM



ATLAS ASPHALT
ROOFING



CAKE ENTERPRISES, INC
350 W NINTH AVE.
UNIT 106B
ESCONDIDO, CA 92025

COMMUNITY
VETERANS
OF TRACY,
LLC

**THE
CAKE
HOUSE**

PROJECT NO: Project No.
MODEL FILE:
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DESIGN & DRAWING BY:
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SHEET TITLE

ELEVATIONS

CUP 10.A - 08

SHEET 10

OF20



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UNIT 106B
ESCONDIDO, CA 92025

COMMUNITY
VETERANS
OF TRACY,
LLC

THE CAKE HOUSE

PROJECT NO: Project No.
MODEL FILE:
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SHEET TITLE
PERSPECTIVE
ELEVATIONS

CUP 11.A - 09

SHEET 11 OF20



EAST ELEVATION



SOUTH ELEVATION



WEST ELEVATION



NORTH ELEVATION



CAKE ENTERPRISES, INC
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UNIT 106B
ESCONDIDO, CA 92025

COMMUNITY
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OF TRACY,
LLC



INTERIOR 1



INTERIOR 2



INTERIOR 2



ENTRY CLOSE UP



NORTH WEST CORNER



SOUTH WEST CORNER



NORTH EAST CORNER



BIRD EYE VIEW

THE CAKE HOUSE

PROJECT NO: Project No.
MODEL FILE:
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SHEET TITLE
PRESPECTIVES

CUP 12.A - 10



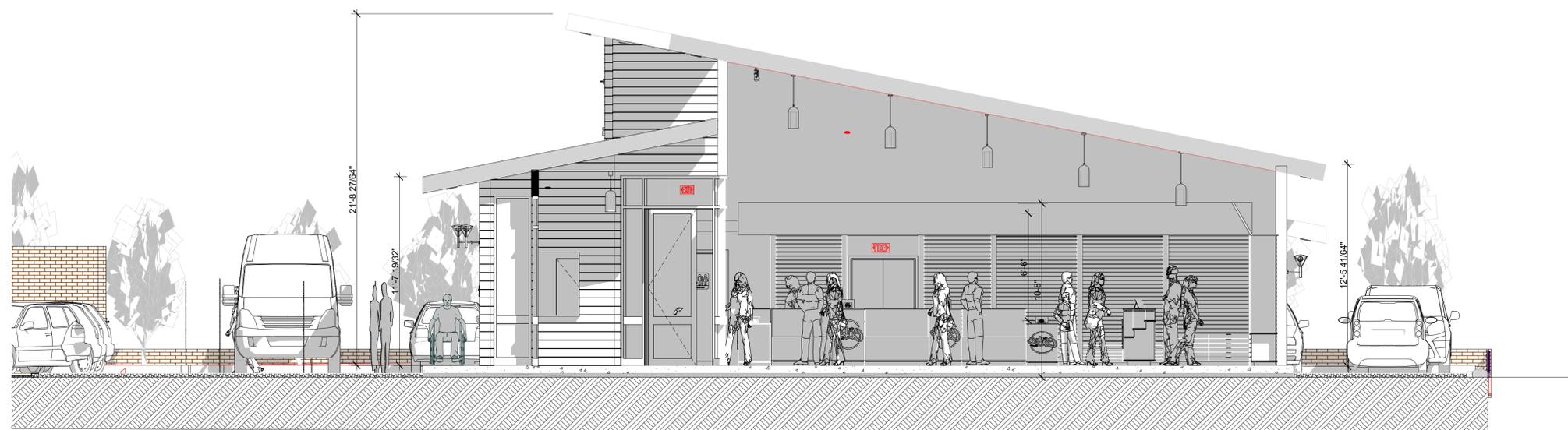
CAKE ENTERPRISES, INC
350 W NINTH AVE.
UNIT 106B
ESCONDIDO, CA 92025

COMMUNITY
VETERANS
OF TRACY,
LLC



Building Section A

SCALE: 1/4" = 1'-0"



BUILDING SECTION B

SCALE: 1/4" = 1'-0"

THE CAKE HOUSE

PROJECT NO: Project No.
MODEL FILE:
TRACY 3rd CUP FINAL correction 07_20_2022.pln
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SHEET TITLE

SECTIONS

CUP 13.A - 11

SHEET 13

OF20

CITY ATTORNEY'S OFFICE

TRACY PLANNING COMMISSION

RESOLUTION NO. _____

1. DETERMINING THAT THIS PROJECT IS CATEGORICALLY EXEMPT FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT

2. APPROVING A DEVELOPMENT REVIEW PERMIT (D21-0034) FOR AN APPROXIMATELY 3,400 SF BUILDING AND ASSOCIATED SITE IMPROVEMENTS AT 316 & 320 W. ELEVENTH STREET, APNS 235-040-05 & 06;

3. GRANTING A CONDITIONAL USE PERMIT (CUP21-0009) FOR A CANNABIS STOREFRONT RETAILER (DISPENSARY) AT THIS SITE;

4. EXTENDING THE TIME PERIOD TO ESTABLISH THE DISPENSARY SITE UNDER THE CONDITIONAL USE PERMIT FROM SIX MONTHS TO TWELVE MONTHS; AND

WHEREAS, California state law allows local governments to regulate commercial cannabis activities in their respective jurisdictions; and

WHEREAS, Both a Cannabis Business Permit under Chapter 6.36 of the Tracy Municipal Code (TMC) and a Cannabis Conditional Use Permit (CUP) under Chapter 10.08.3196 under the TMC, in order to establish a retail site (dispensary) in the City; and

WHEREAS, Community Veterans of Tracy, LLC (dba CURRNT Cannabis) was awarded a Cannabis Business Permit (application number CBPA20-0013) by the Tracy Police Chief on June 21, 2021, pursuant to the requirements set forth in Chapter 6.36; and

WHEREAS, The applicant submitted a development review permit application for the development of a new building, parking, and landscaping improvements and a conditional use permit application to operate a cannabis dispensary (The Cake House) at 316 & 320 W. Eleventh Street, APNs 235-040-05 & 06 on November 8, 2021; and

WHEREAS, The subject site is designated Commercial in the Tracy General Plan and zoned General Highway Commercial, wherein cannabis dispensaries are a conditionally permitted use; and

WHEREAS, Cannabis Conditional Use Permits must meet the requirements set forth in TMC Section 10.08.4250, which requirements apply to conditional uses in all zoning districts in the City; and

WHEREAS, The Planning Commission can grant a Conditional Use Permit, on the basis of the application and evidence submitted, subject to making all of the requisite findings set forth in TMC Section 10.08.4250; and

WHEREAS, The Planning Commission can approve a Development Review Permit on the basis of the application and evidence submitted, subject to making all of the requisite findings set forth in TMC Section 10.08.3920; and

WHEREAS, Conditional Use Permits allow applicants a period of six (6) months to establish the use pursuant TMC Section 10.08.4350; and

WHEREAS, Under TMC 10.08.4360, the Planning Commission may grant extend the period of time for applicants to establish their conditionally permitted uses; and

WHEREAS, Cannabis applicants must also obtain a State license for the operation of a cannabis business and comply with the conditions of their approved Cannabis Business Permit, which may take longer than the six (6) months granted under conditional use permits; and

WHEREAS, The proposed project is categorically exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15332, which pertains to certain in-fill development projects consistent with the General Plan and Zoning, occurs within city limits on a project site of no more than five acres substantially surrounded by urban uses, has no value as habitat for endangered, rare or threatened species, would not result in any significant effects relating to traffic, noise, air quality, or water quality, and can be adequately served by all required utilities and public services; and

WHEREAS, The Planning Commission conducted a public hearing to review and consider the applications on October 10, 2022; now, therefore, be it

RESOLVED: That the Planning Commission of the City of Tracy hereby determines, based on the evidence in the record and its own independent judgment, that the proposed project is categorically exempt from the California Environmental Quality Act pursuant to Guidelines Section 15332 (Infill Development); and be it

FURTHER RESOLVED: That the Planning Commission hereby adopts the findings set forth in Exhibit 1, supporting the approval of a development review permit for exterior modifications to the building at 16 & 320 W. Eleventh Street, APNs 235-040-05 & 06; and be it

FURTHER RESOLVED: That the Planning Commission, based on the CEQA determination of exemption and the adoption of requisite findings, hereby approves Development Review Permit D21-0034 for exterior modifications to the building at 16 & 320 W. Eleventh Street, APNs 235-040-05 & 06, subject to the Conditions of Approval contained in Attachment C to the staff report; and be it

FURTHER RESOLVED: That the Planning Commission hereby adopts the findings set forth in Exhibit 1, supporting the grant of a conditional use permit (CUP21-0009) for a cannabis storefront retailer (dispensary) at 316 & 320 W. Eleventh Street, APNs 235-040-05 & 06; and be it

FURTHER RESOLVED: That the Planning Commission, based upon the CEQA determination of exemption and the adoption of requisite findings, hereby grants a conditional use permit (CUP21-0009) for a cannabis storefront retailer (dispensary) at 316 & 320 W. Eleventh Street, APNs 235-040-05 & 06, subject to the Conditions of Approval contained in Attachment C to the staff report and the findings attached in Exhibit 1; and be it

FURTHER RESOLVED: That the Planning Commission hereby extends the time period to establish the use under CUP21-0009 from six months to twelve months pursuant to TMC 10.08.4360 and as further described in the Conditions of Approval,

The foregoing Resolution 2022-_____ was adopted by the Planning Commission on October 12, 2022, by the following vote:

AYES:	COMMISSION MEMBERS:
NOES:	COMMISSION MEMBERS:
ABSENT:	COMMISSION MEMBERS:
ABSTENTION:	COMMISSION MEMBERS:

CHAIR

ATTEST:

STAFF LIAISON

**City of Tracy
Development Review Permit Findings
Application Number D21-0034**

1. The proposal increases the quality of the project site and enhances the property in a manner that therefore improves the property in relation to the surrounding area and the citizens of Tracy, because the proposed development meets the City's objectives for high quality design. The building fronts the site and screens the parking area from public view. The building's angled rooflines with deep overhangs, recessed entry, and use of brick veneer and geometric windows are used in a manner that de-emphasizes the building's rectangular shape and aesthetically complements other developments in the project vicinity. Furthermore, utility equipment typically found on the rooftop are concealed within an interior equipment well that is designed to look like the building's second story from the exterior.
2. The proposal, as conditioned, conforms to the Tracy Municipal Code, the City of Tracy General Plan, the City Design Goals and Standards, applicable City Standards, California Building Codes, and California Fire Codes, because the proposed commercial development eliminates the nonconforming uses and brings the site into conformity with the zoning that will comply with all applicable City and state regulations for construction.

**City of Tracy
Conditional Use Permit Findings
Application Number CUP21-0009**

1. There are circumstances applicable to the use which make the granting of a use permit necessary for the preservation and enjoyment of substantial property right, because a conditional use permit is necessary for the operation of a cannabis dispensary in the General Highway Commercial zone as required by the Tracy Municipal Code. The proposed project meets the intent of the General Highway Commercial zone and otherwise complies with development regulations of the zone.
2. The proposed location of the use and the conditions under which it would be operated or maintained is in accordance with the objectives of the Tracy Municipal Code Chapter 6.36 and Chapter 10.08. Additionally, the project site is located at least 600 feet away from a parcel containing a school, day care center, or youth center as defined in Chapter 10.08, and the use will be operated wholly indoors. The use is a retail store, which is complementary to the surrounding commercial area.
3. The project will not, under the circumstances of the particular case or as conditioned, be injurious or detrimental to the health, safety, or general welfare of persons or property in the vicinity of the proposed use, or to the general welfare of the City. The proposed use of a cannabis dispensary will function in a complementary manner to the surrounding retail uses in the vicinity, will comply with City standards, and will operate no earlier than 9:00 am and no later than 10:00 pm, with deliveries concluding by 9:00 pm, in consideration of neighboring residences. The dispensary will implement all safety and security conditions of approval prepared by the Tracy Police Department.
4. The project is consistent with the zoning, commercial cannabis activity regulations, and other elements of the Tracy Municipal Code the City of Tracy General Plan, the Design Goals and Standards, City Standards, California Building Codes, California Fire Codes, and California

cannabis regulations. There will be no odors or similar objectionable impacts to other businesses in the vicinity as all cannabis products will be entirely packaged and stored in accordance with the requirements of Chapter 6.36. The dispensary will implement odor control to prevent odors from emanating outside the dispensary as outlined in the business's odor control plan.

City of Tracy
Conditions of Approval
The Cake House Cannabis Dispensary
Application Numbers D21-0034 & CUP21-0009

A. General Provisions and Definitions.

A.1. General. These Conditions of Approval apply to:

The Project: An approximately 3,400 sf building with associated site development for The Cake House cannabis dispensary, Development Review Permit and Conditional Use Permit Application Nos. D21-0034 & CUP21-0009

The Property: A 14,000 sf site at 316 & 320 W. Eleventh Street, APNs 235-040-05 & 06

A.2. Definitions.

- a. "Applicant" means any person, or other legal entity, applying for a conditional use permit.
- b. "City Engineer" means the City Engineer of the City of Tracy, or any other duly licensed Engineer designated by the City Manager, or the Development Services Director, or the City Engineer to perform the duties set forth herein.
- c. "City Regulations" means all written laws, rules, and policies established by the City, including those set forth in the City of Tracy General Plan, the Tracy Municipal Code, ordinances, resolutions, policies, procedures, and the City's Design Documents (including the Standard Plans, Standard Specifications, Design Standards, and relevant Public Facility Master Plans).
- d. "Development Services Director" means the Development Services Director of the City of Tracy, or any other person designated by the City Manager or the Development Services Director to perform the duties set forth herein.
- e. "Conditions of Approval" shall mean the conditions of approval applicable to the Project located at the Property. The Conditions of Approval shall specifically include all conditions set forth herein.
- f. "Developer" means any person, or other legal entity, who applies to the City to divide or cause to be divided real property within the Project boundaries, or who applies to the City to develop or improve any portion of the real property within the Project boundaries. The term "Developer" shall include all successors in interest.
- g. "Police Chief" means the Chief of Police of the City of Tracy, or any other person designated by the City Manager or the Police Chief to perform duties set forth herein.

A.3. Compliance with submitted plans. Prior to the establishment of the use, the project shall be established in substantial compliance with the plans received by the

Development Services Department on August 18, 2022, with the exception of a planter wall in front of the building, to the satisfaction of the Development Services Director.

- A.4. Payment of applicable fees. The applicant shall pay all applicable fees for the project, including, but not limited to, development impact fees, building permit fees, plan check fees, grading permit fees, encroachment permit fees, inspection fees, school fees, or any other City or other agency fees or deposits that may be applicable to the project.
- A.5. Compliance with laws. The Developer shall comply with all federal, state and local laws, as amended from time to time, related to the development of real property within the Project, including, but not limited to:
- the Planning and Zoning Law (Government Code sections 65000, et seq.)
 - the California Environmental Quality Act (Public Resources Code sections 21000, et seq., "CEQA"), and
 - the Guidelines for California Environmental Quality Act (California Administrative Code, title 14, sections 1500, et seq., "CEQA Guidelines").
 - The Medicinal and Adult-Use Cannabis Regulation and Safety Act;
 - Regulations of the Bureau of Cannabis Control;
 - Tracy Municipal Code (TMC) Chapter 6.36 (Commercial Cannabis Activity); and
 - City of Tracy Procedures and Guidelines for a Cannabis Business Permit adopted by City Council Resolution 2020-137
- A.6. Compliance with applicable regulations. Unless specifically modified by these Conditions of Approval, the use shall comply with all City and State Regulations and the approved Cannabis Business Permit No. CBPA20-0013, which includes business operations requirements, the safety and security plan, and the odor control plan.
- A.7. Prior to construction, the applicant shall submit construction documents which meet the requirements of the California Building and Fire Codes and the Tracy Municipal Code to the City of Tracy and the South San Joaquin County Fire Authority for review, approval and inspections.
- A.8. At all times, applicant (or its successor) shall maintain all necessary permits to operate a cannabis business pursuant to Municipal Code Chapter 6.36. Neither the applicant, nor any other entity, shall have an entitlement or other property right to operate a cannabis business at the property without holding such a cannabis business permit, which may be approved, denied, renewed, or revoked in accordance with the requirements of Chapter 6.36.
- A.9. This conditional use permit shall expire one year following the date on which the use permit became effective unless, prior to the expiration of one year, the use is established in accordance with this use permit, or a building permit is issued by the Building Official and construction is commenced and diligently pursued toward completion on the site which was the subject of the use permit application.

B. Development Services Department, Planning Division Conditions

Contact: Kimberly Matlock (209) 831-6430 kimberly.matlock@cityoftracy.org

- B.1. Prior to approval of a building permit, the applicant shall provide detailed plans that demonstrate the following:
- B.1.1. Compliance with TMC Section 6.36.380(k).
 - B.1.2. A parking area designed in accordance with TMC Title 10 Article 26 (off-street parking and landscaping design) and Standard Plan 141 (parking stall striping). Said plans shall include a planting legend indicating, at minimum, the quantity, planting size, and height and width at maturity and calculations for landscape and canopy tree shading areas.
 - i. Details that demonstrate 12-inch wide concrete curbs along the perimeter of landscape planters where such planters are parallel and adjacent to vehicular parking spaces to provide access to vehicles without stepping into the landscape planters.
 - ii. Details that demonstrate sidewalk, landscape planters, and bio-retention areas perpendicular to parking stalls overhang up to 24 inches into the parking stall in place of wheel stops where feasible. Any landscape planter overhang may not be double-counted toward the required amount of parking area landscaping.
 - iii. All planters be comprised of trees, shrubs, and groundcover. Trees shall be a minimum of 24" box size, shrubs shall be a minimum size of 5 gallon, and groundcover shall be a minimum size of 1 gallon.
 - iv. Where trees are planted ten feet or less from a sidewalk or curb, root barriers dimensioned 8 feet long by 24 inches deep shall be provided adjacent to such sidewalk and curb, centered on the tree.
 - v. A photometric plan showing a minimum of one foot candle per Standard Plan 141 throughout the parking area as defined in TMC Section 10.08.3450.
 - B.1.3. All roof mounted equipment, including, but not limited to, HVAC units, vents, fans, antennas, sky lights and dishes, whether proposed as part of this application, potential future equipment, or any portion thereof, are not visible from any public right-of-way to the satisfaction of the Development Services Director.
 - B.1.4. All vents, gutters, downspouts, flashing, and electrical conduits are internal to the structures and other wall-mounted or building-attached utilities shall be painted to match the color of the adjacent surfaces or otherwise designed in harmony with the building exterior to the satisfaction of the Development Services Director.
 - B.1.5. All PG&E transformers, phone company boxes, Fire Department connections, backflow preventers, irrigation controllers, and other on-site utilities, shall be vaulted or screened from view from any public right-of-way, behind structures, walls, or landscaping, to the satisfaction of the Development Services Director.
 - B.1.6. The trash and recycling enclosure which architecturally matches the main building to the satisfaction of the Development Services Director. The enclosures shall be large enough to accommodate the enclosed equipment and trash and recycling bins. The trash and recycling enclosure walls shall be tall enough to fully screen the height of the bins, and the door shall be constructed of a solid metal door attached to posts which are attached to the walls.

- B.2. Prior to approval of a building permit, the applicant shall submit an application for a lot line adjustment or lot merger to eliminate the internal property line.
- B.3. Prior to issuance of a building permit, the applicant shall do the following:
 - B.3.1. Provide a copy of the recorded document that eliminates the internal property line to the Development Services Department.
 - B.3.2. Execute an Agreement for Maintenance of Landscape and Irrigation Improvements and submit financial security to the Development Services Department. The Agreement shall ensure maintenance of the on-site landscape and irrigation improvements for a period of two years. Said security shall be equal to the actual material and labor costs for installation of the on-site landscape and irrigation improvements or \$2.50 per square foot of on-site landscape area.
- B.4. Prior to final inspection, the applicant shall demonstrate the following:
 - B.4.1. Compliance with TMC Section 6.36.380(l).
 - B.4.2. All landscaping and irrigation shown in the approved building permit construction plans installed to the satisfaction of the Development Services Director.
 - B.4.3. All exterior and parking area lighting shall be directed downward or shielded, to prevent glare or spray of light into the public rights-of-way and onto any adjacent private property to the satisfaction of the Development Services Director.
- B.5. Prior to commencing any cannabis operation, the applicant shall execute a Community Benefit Agreement with the City in accordance with the requirements of their Cannabis Business Permit.
- B.6. Aside from deliveries, the use shall be conducted wholly indoors. The use may not be conducted outside the building, including in the parking lot.
- B.7. The hours of operation shall be limited to 8:00 am to 10:00 pm in accordance with State law. Should the hours of operation established in the State law become more restrictive, the use shall comply with the more restrictive regulations.
- B.8. Before installation of exterior business identification signs, the applicant shall secure sign and building permits for such signs. All signs, including temporary signage, shall be on private property and shall not encroach into the public right-of-way.
- B.9. No bollards, chain link, or similar improvements that are industrial in nature shall be readily visible to the public.

C. Development Services Department, Engineering Conditions of Approval

Contact: Al Gali (209) 831-6436 al.gali@cityoftracy.org

C.1. General Conditions

RESERVED

C.2. RESERVED

C.3. RESERVED

C.4. Grading Permit

All grading work (on-site and off-site) shall require a Grading Plan. All grading work shall be performed and completed in accordance with the recommendation(s) of the Project's Registered Geotechnical Engineer. Prior to release of a Grading Permit, Developer shall provide all documents related to said Grading Permit required by the applicable City Regulations and these Conditions of Approval, to the satisfaction of the City Engineer, including, but not limited to, the following:

- C.4.1 Developer has completed all requirements set forth in this section.
- C.4.2 Developer has obtained the approval (i.e. recorded easements for slopes, drainage, utilities, access, parking, etc.) of all other public agencies and/or private entities with jurisdiction over the required public and/or private facilities and/or property. Written permission from affected owner(s) will be required to be submitted to the City prior to the issuance of the Grading Permit.
- C.4.3 Developer has obtained a demolition permit to remove any existing structure located within the Project's limits.
- C.4.4 All existing on-site water well(s), septic system(s), and leech field(s), if any, shall be abandoned or removed in accordance with the City and San Joaquin County requirements. Developer shall be responsible for all costs associated with the abandonment or removal of the existing well(s), septic system(s), and leech field(s) including the cost of permit(s) and inspection. Developer shall submit a copy of written approval(s) or permit(s) obtained from San Joaquin County regarding the removal and abandonment of any existing well(s), prior to the issuance of the Grading Permit.
- C.4.5 The Improvement Plans for all improvements to serve the Project (on-site and off-site) including the Grading and Drainage Plans shall be prepared in accordance with the City's Subdivision Ordinance (Tracy Municipal Code (TMC) Chapter 12.36), City Design Documents as defined in Title 12 of the TMC, and these Conditions of Approval.
- C.4.6 On-site Grading/Drainage Plans and Improvement Plans shall be prepared on a twenty-four (24) inch x thirty-six (36) inch size four (4) millimeter thick polyester film (mylar). These plans shall use the City's Title Block. Improvement Plans shall be prepared under the supervision of, stamped and signed by a Registered Civil Engineer and Registered Geotechnical Engineer. Developer shall obtain all applicable signatures by City departments and outside agencies (where applicable) on the mylars including signatures by the Fire Marshal prior to submitting the mylars to Engineering Division for City Engineer's signature. Erosion control measures shall be implemented in accordance with the Improvement Plans approved by the City Engineer for all grading work. All grading work not completed before October 15 may be subject to additional requirements as applicable. Improvement Plans shall specify all proposed

erosion control methods and construction details to be employed and specify materials to be used during and after the construction.

- C.4.7 Payment of the applicable Grading Permit fees which include grading plan checking and inspection fees, and other applicable fees as required by these Conditions of Approval.
- C.4.8 For Projects on property larger than one (1) acre: Prior to the issuance of the Grading Permit, Developer shall submit to the Utilities Department (stephanie.hiestand@cityoftracy.org) one (1) electronic copy and one (1) hard copy of the Storm Water Pollution Prevention Plan (SWPPP) as submitted in Stormwater Multiple Applications and Reporting Tracker System (SMARTS) along with either a copy of the Notice of Intent (NOI) with the state-issued Wastewater Discharge Identification number (WDID) or a copy of the receipt for the NOI. After the completion of the Project, the Developer is responsible for filing the Notice of Termination (NOT) required by SWQCB, and shall provide the City, a copy of the completed Notice of Termination. Cost of preparing the SWPPP, NOI and NOT including the annual storm drainage fees and the filing fees of the NOI and NOT shall be paid by the Developer. Developer shall comply with all the requirements of the SWPPP, applicable Best Management Practices (BMPs) and the Stormwater Post-Construction Standards adopted by the City in 2015 and any subsequent amendment(s).

For Projects on property smaller than one (1) acre: Prior to the issuance of the Grading Permit, the Developer shall submit to the Utilities Department (stephanie.hiestand@cityoftracy.org) one (1) electronic copy and 1 hard copy of the City of Tracy Erosion and Sediment Control Plan (ESCP) for approval. Cost of preparing the ESCP including any annual storm drainage fees shall be paid by the Developer. Developer shall comply with all the requirements of the ESCP, applicable BMPs and the Post-Construction Stormwater Standards adopted by the City in 2015 and any subsequent amendment(s).

- C.4.9 Developer shall provide a PDF copy of the Project's Geotechnical Report signed and stamped by a Registered Geotechnical Engineer. The technical report must include relevant information related to soil types and characteristics, soil bearing capacity, compaction recommendations, retaining wall recommendations, if necessary, paving recommendations, paving calculations such as gravel factors, gravel equivalence, etc., slope recommendations, and elevation of the highest observed groundwater level.
- C.4.10 Minor Retaining – Developer shall use reinforced or engineered masonry blocks for retaining soil at property lines when the grade differential among the in-tract lots exceeds twelve (12) inches. Developer will include construction details of these minor retaining walls with the on-site Grading and Drainage Plan. Developer may use slopes among the lots to address the grade differential but said slope shall not exceed a slope gradient of 3 (horizontal) to 1 (vertical) unless a California licensed geotechnical engineer signs and stamps a geotechnical report letter that supports a steeper slope gradient. Slope easements may be required and will be subject to approval by the City Engineer.

Minor Retaining along Project Perimeter – Developer shall use reinforced or engineered masonry blocks for retaining soil along the Project boundary and adjacent property(s) when the grade differential exceeds 12-inches. Developer will include construction details for these minor retaining walls with the on-site Grading and Drainage Plan. Developer may use slopes to address the grade differential but said slope shall not exceed a slope gradient of 3 (horizontal) to 1 (vertical). Slope easements may be subject to approval by the City Engineer and if adjacent and affected property(s) owner(s) grants said easements.

Slopes are an acceptable option as a substitute to engineered retaining walls, where cuts or fills do not match existing ground or final grade with the adjacent property or public right of way, up to a maximum grade differential of two (2) feet, subject to approval by the City Engineer.

Slope easements will be recorded, prior to the issuance of the Grading Permit. The Developer shall be responsible to obtain and record slope easement(s) on private properties, where it is needed to protect private improvements constructed within and outside the Project, and a copy of the recorded easement document must be provided to the City, prior to the issuance of the Grading Permit.

Walls - Developer shall show proposed retaining walls and masonry walls on the on-site Grading and Drainage Plan. The Developer is required to submit improvement plans, construction details, and structural calculations for retaining walls and masonry walls to Building and Safety. Retaining wall and masonry wall design parameters will be included in the geotechnical report.

- C.4.11 Developer shall provide a copy of the approved Incidental Take Minimization Measures (ITMM) habitat survey [San Joaquin County Multi-Species Habitat Conservation & Open Space Plan (SJMSCP)] from San Joaquin Council of Governments (SJCOG).
- C.4.12 Developer shall provide a copy of the approved Air Impact Assessment (AIA) with an Indirect Source Review (ISR) from San Joaquin Valley Air Pollution Control District (SJVAPCD).
- C.4.13 Developer shall abandon or remove all existing irrigation structures, channels and pipes, if any, as directed by the City after coordination with the irrigation district, if the facilities are no longer required for irrigation purposes. If irrigation facilities including tile drains, if any, are required to remain to serve existing adjacent agricultural uses, the Developer will design, coordinate and construct required modifications to the facilities to the satisfaction of the affected agency and the City. Written permission from irrigation district or affected owner(s) will be required to be submitted to the City prior to the issuance of the Grading Permit. The cost of relocating and/or removing irrigation facilities and/or tile drains is the sole responsibility of the Developer.
- C.4.14 If the Project contains overhead utilities, the Developer shall underground existing overhead utilities such as electric, TV cable, telephone, and others.

Each dry utility shall be installed at the location approved by the respective owner(s) of dry utility and the Developer shall coordinate such activities with each utility owner. All costs associated with the undergrounding shall be the sole responsibility of the Developer and no reimbursement will be due from the City. Developer shall submit undergrounding plans.

- C.4.15 If at any point during grading that the Developer, its contractor, its engineers, and their respective officials, employees, subcontractor, and/or subconsultant exposes/encounters/uncovers any archeological, historical, or other paleontological findings, the Developer shall address the findings as required per the General Plan Cultural Resource Policy and General Plan EIR; and subsequent Cultural Resource Policy or mitigation in any applicable environmental document.

C.5. Improvement Agreement(s)

All construction activity involving public improvements will require a fully executed improvement agreement (Off-site, Subdivision, and/or Inspection). Any construction activity involving public improvements without a fully executed improvement agreement is prohibited. All public improvements shall be performed and completed in accordance with the recommendation(s) of the Project's Registered Civil Engineer. Prior to the consideration of City Council's approval of said improvement agreement, the Developer shall provide all documents related to said improvements required by the applicable City Regulations and these Conditions of Approval, to the satisfaction of the City Engineer, including, but not limited to, the following:

- C.5.1. Off-site and/or Public Infrastructure Improvement Plans prepared on a twenty-four (24) inch x thirty-six (36) inch size four (4) millimeter thick mylar that incorporate all requirements described in the documents described in these Conditions of Approval, the City's Design Documents as defined in Title 12 of the Tracy Municipal Code. Developer shall use the latest title block and, if necessary, contain a signature block for the Fire Marshal. Improvement Plans shall be prepared under the supervision of, and stamped and signed by a Registered Civil, Traffic, Electrical, Mechanical Engineer, and Registered Landscape Architect for the relevant work. Developer shall obtain all applicable signatures by City departments and outside agencies (where applicable) on the mylars including signatures by Fire Marshal to submitting the mylars to Engineering Division for City Engineer's signature. The improvement plans shall be prepared to specifically include, but not be limited to, the following items:
- C.5.1.a. All existing and proposed utilities such as domestic water line, irrigation service, fire service line, storm drain, and sanitary sewer, including the size and location of the pipes.
 - C.5.1.b. All supporting engineering calculations, materials information or technical specifications, cost estimate, and technical reports. All improvement plans shall contain a note stating that the Developer (or Contractor) will be responsible to preserve and protect all

existing survey monuments and other survey markers such as benchmarks.

C.5.1.c. A PDF copy of the Project's approved Geotechnical/Soils Report that was prepared for the grading permit submittal.

C.5.1.d. Storm Water - The Project's on-site storm water drainage connection to the City's storm water system shall be approved by the City Engineer. Drainage calculations for the sizing of the on-site storm drainage system. Improvement Plans to be submitted with the hydrology and storm water.

Storm drainage release point is a location at the boundary of the Project adjacent public right-of-way where storm water leaves the Property, in a storm event and that the Property's on-site storm drainage system fails to function or it is clogged. Site grading shall be designed such that the Project's storm drainage overland release point will be directly to an adjacent public street with a functional storm drainage system and the existing storm drainage line has adequate capacity to drain storm water from the Property. The storm drainage release point is recommended to be at least 0.70-feet lower than the building finish floor elevation and shall be designed and improved to the satisfaction of the City Engineer.

The Project's permanent storm drainage connection(s) shall be designed and constructed in accordance with City Regulations. The design of the permanent storm drainage connection shall be shown on the Grading and Drainage Plans with calculations for the sizing of the storm drain pipe(s), and shall comply with the applicable requirements of the City's storm water regulations adopted by the City Council in 2012 and any subsequent amendments.

The storm water treatment system shall be located on private property and shall be at least off-set from the right-of-way by one (1) foot.

C.5.1.e. Sanitary Sewer - It is the Developer's responsibility to design and construct the Project's permanent on-site sanitary sewer (sewer) improvements including the Project's sewer connection in accordance with the City's Design Standards, City Regulations and Standard Specifications. Sewer improvements shall include but not limited to, replacing asphalt concrete pavement, reconstructing curb, gutter and sidewalk, restoring pavement marking and striping, and other improvements that are disturbed as a result of installing the Project's permanent sewer connection. Developer shall submit improvement plans that include the design of the sewer line from the Property to the point of connection.

Developer is hereby notified that the City will not provide maintenance of the sewer lateral within the public right-of-way

unless the sewer cleanout is located and constructed in conformance with Standard Plans. The City's responsibility to maintain on the sewer lateral is from the wye/onsite sewer manhole at the right-of-way line/property line/wye fitting to the point of connection with the sewer main.

Developer shall abandon the existing sewer lateral to each existing structure and replace it with a 6-inch diameter sewer lateral.

- C.5.1.f. Water Distribution - Developer shall design and construct domestic and irrigation water service that comply with the City Regulations. Water line sizing, layout and looping requirements for this Project shall comply with City Regulations. During the construction of the Project, the Developer is responsible for providing water infrastructure (temporary or permanent) capable of delivering adequate fire flows and pressure appropriate to the various stages of construction and as approved by the Fire Marshal.

Interruption to the water supply to the existing businesses and other users will not be allowed to facilitate construction of improvements related to the Project. Developer shall be responsible for notifying business owner(s) and users, regarding construction work. The written notice, as approved by the City Engineer, shall be delivered to the affected residents or business owner(s) at least seventy-two (72) hours before start of work. Prior to starting the work described in this section, the Developer shall submit a Work Plan acceptable to the City that demonstrates no interruptions to the water supply, and Traffic Control Plan to be used during the installation of the off-site water mains and connections.

The Project's water service connections shall use a remote-read (radio-read) master water meter (the water meter to be located within City's right-of-way) and a Reduced Pressure Type back-flow protection device in accordance with City Regulations. The domestic and irrigation water service connection(s) must be completed before the inspection of the building. The location of the meters shall be approved by the City Engineer.

After final inspection of the improvements constructed via an encroachment permit, repair and maintenance of the water service from the water meter to the point of connection with the water distribution main in the street shall be the responsibility of the City. Water service repairs after the water meter is the responsibility of the Developer or individual lot owner(s).

Prior to improvement acceptance, repair and maintenance of all on-site water lines, laterals, sub-water meters, valves, fittings, fire hydrant and appurtenances shall be the responsibility of the Developer or the individual lot owner(s).

All costs associated with the installation of the Project's water connection(s) including the cost of removing and replacing asphalt concrete pavement, pavement marking and striping such as crosswalk lines and lane line markings on existing street or parking area(s) that may be disturbed with the installation of the permanent water connection(s), or domestic water service, and other improvements shall be paid by the Developer.

- C.5.1.g. Streets – The Developer shall construct frontage improvements. Frontage improvements include but are not limited to the following: curb, gutter, sidewalk, street widening, landscaping, street lighting, undergrounding of overhead utilities and other improvements. All streets and utilities improvements within City right-of-way shall be designed and constructed in accordance with City Regulations, and City's Design Standards including the City's Facilities Master Plan for storm drainage, roadways, wastewater, and water as adopted, amended, and updated by the City, or as otherwise specifically approved by the City.

Eleventh Street Road

Prior to release of the Building Permit, Developer shall submit to the City ready for immediate recordation, a grant deed to dedicate a ten (10) foot wide Public Utility Easement (P.U.E.) immediately behind the property line.

Developer shall remove and replace each existing driveway for each parcel with a driveway in conformance with a commercial driveway.

Along the Project frontage, if applicable, Developer shall landscape and irrigate the existing parkways per current adopted City landscape standards. Landscape and irrigation plans shall be prepared on a 24-inch x 36-inch size 4-millimeter thick mylar that incorporate all requirements described in the documents described in these Conditions of Approval, the City's Design Documents as defined in Title 12 of the Tracy Municipal Code. Developer shall use the latest title block. Said landscape and irrigation plan shall be prepared by a California licensed landscape architect. Developer can either protect-in-place the existing sidewalk and repair any cracked, settled, and/or damaged sidewalk or remove and replace the sidewalk so long as the replacement sidewalk is similar to the current sidewalk, i.e. similar width, meanders, etc.

Street cuts and trenching related to utility installation on Eleventh Street shall be subject to Condition C.8.1

- C.5.2. Joint Trench Plans and Composite Utility Plans, prepared on a twenty-four (24) inch x thirty-six (36) inch size four (4) millimeter thick mylar for the installation of dry utilities such as electric, gas, TV cable, telephone, and

others that will be located within the twenty-four (24) feet wide to forty-six (46) feet wide [the width varies) PUE to be installed to serve the Project. All private utility services to serve Project must be installed underground or relocated to be underground, and to be installed at the location approved by the respective owner(s) of the utilities from the street or an existing or proposed utility easement to the building(s). If necessary, the Developer shall dedicate ten (10) feet wide PUE for access to these new utilities for re-installation, replacement, repair, and maintenance work to be performed by the respective utility owner(s) in the future.

- C.5.3. Signed and stamped Engineer's Estimate that summarizes the cost of constructing all the public improvements shown on the Improvement Plans. The cost estimate shall show the cost of designing the public improvements.

Payment of applicable fees required by these Conditions of Approval and City Regulations, including but not limited to, plan checking, grading and encroachment permits and agreement processing, construction inspection, and testing fees. The engineering review fees will be calculated based on the fee rate adopted by the City Council on September 2, 2014, per Resolution 2014-141 and on May 16, 2017, per Resolution 2017-098. Developer shall submit payment in the form of a check for the aforementioned fees.

- C.5.4. Traffic Control Plan - Prior to starting the work for any work within City's right-of-way, the Developer shall submit a Traffic Control Plan (TCP). TCP can be split among the different construction phases. TCP will show the method and type of construction signs to be used for regulating traffic at the work areas within these streets. TCP shall conform to the Manual on Uniform Traffic Control Devices as amended by the State of California, latest edition (MUTCD-CA). TCP shall be prepared under the supervision of, signed and stamped by a Registered Civil Engineer or Registered Traffic Engineer.

Access and Traffic Circulation to Existing Businesses/Residents - Developer shall take all steps necessary to plan and construct site improvements such that construction operations do not impact safety and access (including emergency vehicles) to the existing businesses and residents throughout the duration of construction. Developer shall coordinate with the owners and cooperate to minimize impacts on existing businesses. All costs of measures needed to provide safe and functional access shall be borne by the Developer.

- C.5.5. No street trench shall be left open, uncovered, and/or unprotected during night hours and when the Developer's contractor is not performing construction activities. Appropriate signs and barricades shall be installed on the street and on all trenches during such times. If the Developer or its contractor elects to use steel plates to cover street trenches, said steel plates will be skid-resistance, and shall be ramped on all sides. Ramps will be a minimum two-foot wide and will run the entire length of each side.
- C.5.6 If at any point during utility installation or construction in general that the Developer, its contractor, its engineers, and their respective officials,

employees, subcontractor, and/or subconsultant exposes/encounters/uncovers any archeological, historical, or other paleontological findings, the Developer shall address the findings as required per the General Plan Cultural Resource Policy and General Plan EIR; and subsequent Cultural Resource Policy or mitigation in any applicable environmental document.

- C.5.7 Improvement Security - Developer shall provide improvement security for all public facilities, as required by the Improvement Agreement. The form of the improvement security may be a bond, or other form in accordance with the Government Code, and the TMC. The amount of the improvement security shall be in accordance with Title 12 of the TMC.

Insurance – Developer shall provide written evidence of insurance coverage that meets the terms of the Improvement Agreement.

C.6. Building Permit

Prior to the release of a building permit within Project boundaries, the Developer shall demonstrate, to the satisfaction of the City Engineer, compliance with all required Conditions of Approval, including, but not limited to, the following:

- C.6.1 Developer has completed all requirements set forth in Condition C.1, through C.5, above.

- C.6.2 Developer pays the applicable development impact fees as required in the TMC, these Conditions of Approval, and City Regulations.

C.6.2.a. Water. The Developer shall pay the water impact fees prior to pulling the first building permit for the Project.

C.6.2.b. Wastewater. The Developer shall pay the wastewater treatment capacity development Impact fees prior to pulling the first building permit for the Project.

- C.6.3 Developer shall submit a separate building permit for the demolition of any existing structures.

- C.6.4 Developer has completed all requirements set forth in Condition C.8

C.7 Acceptance of Public Improvements

Prior to the consideration of City Council's acceptance of public improvements, the Developer shall demonstrate to the reasonable satisfaction of the City Engineer, completion of the following:

- C.7.1 Developer has satisfied all the requirements set forth in these Conditions of Approval.

- C.7.2 Developer submitted the Storm water Treatment Facilities Maintenance Agreement (STFMA) to the Utilities Department.
- C.7.3 Developer has satisfactory completed construction of all required/conditioned improvements. Unless specifically provided in these Conditions of Approval, or some other applicable City Regulations, the Developer shall use diligent and good faith efforts in taking all actions necessary to construct all public facilities required to serve the Project, and the Developer shall bear all costs related to construction of the public facilities (including all costs of design, construction, construction management, plan check, inspection, land acquisition, program implementation, and contingency).
- C.7.4 Certified "As-Built" Improvement Plans (or Record Drawings). Upon completion of the construction by the Developer, the City, at its sole discretion, temporarily release the original mylars of the Improvement Plans to the Developer so that the Developer will be able to document revisions to show the "As-Built" configuration of all improvements.
- C.7.5 Developer shall be responsible for any repairs or reconstruction of street pavement, curb, gutter and sidewalk and other public improvements along the frontage of the Project, if determined by the City Engineer to be in poor condition or damaged by construction activities related to the Project.
- C.7.6 Developer has completed the ninety (90) day public landscaping maintenance period.
- C.7.7 Per Section 21107.5 of the California Vehicle Code, Developer shall install signs at all entrance(s) of the Project stating that the streets are privately owned and maintained and are not subject to the public traffic regulations or control. Said signs must be conspicuously placed, plainly visible, and legible during daylight hours from a distance of one hundred (100) feet.
- C.7.8 Survey Monuments – Any altered, damaged, or destroyed survey monuments and/or benchmarks shall be re-established. Developer shall submit centerline tie sheets or a record of survey for the following: new public streets; re-established survey monuments, and/or benchmarks. If the Developer destroyed, altered, and/or reconstructed any existing curb returns, Developer shall also submit corner records. Any survey document will be submitted the City and to the San Joaquin County Surveyor to comply with California Business and Professions Code Section 8771(c). Said work shall be executed by a California licensed Land Surveyor at the Developer's sole expense.

C.8 Special Conditions

- C.8.1 When street cuts are made for the installation of utilities, the Developer shall conform to Section 3.14 of the 2020 Design Standards and is required install a two (2) inch thick asphalt concrete (AC) overlay with reinforcing fabric at least twenty-five (25) feet from all sides of each utility trench. A two (2) inch deep grind on the existing AC pavement will be required where the AC

overlay will be applied and shall be uniform thickness in order to maintain current pavement grades, cross and longitudinal slopes. This pavement repair requirement is when cuts/trenches are perpendicular and parallel to the street's direction.

- C.8.2 Nothing contained herein shall be construed to permit any violation of relevant ordinances and regulations of the City of Tracy, or other public agency having jurisdiction. This Condition of Approval does not preclude the City from requiring pertinent revisions and additional requirements to the improvement plans, prior to the City Engineer's signature on the improvement plans, and prior to issuance of Grading Permit, Encroachment Permit, Building Permit, if the City Engineer finds it necessary due to public health and safety reasons, and it is in the best interest of the City. The Developer shall bear all the cost for the inclusion, design, and implementations of such additions and requirements, without reimbursement or any payment from the City.
- C.8.3 Prior to the release of the Building Permit, if water is required for the Project, the Developer shall obtain an account for the water service and register the water meter with the Finance Department. Developer shall pay all fees associated with obtaining the account number for the water service.
- C.8.4 Prior to the release of the Building Permit, Developer shall record with San Joaquin County Recorder a document to merge the two parcels.

D. Tracy Police Department Conditions

Contact: Lieutenant Miguel Contreras (209) 831-6618 miguel.contreras@tracypd.com

- D.1. A minimum of 2 on-site security guards shall be maintained on site during business hours and 1 on-site security guard during closed hours. The name of the company shall be provided to the Police Department at the time of Building Permit application submittal. The establishment shall remain closed for business if the minimum of 2 certified security guards are not present during business hours on any given day. Once the minimum-security staffing is met, the establishment may re-open for business.
 - D.1.1. Overnight (nonbusiness hours) security shall be a minimum of 1 certified guard solely responsible for the security of this establishment and not multiple locations.
 - D.1.2. All contracted or employed guards shall be certified and have sole responsibilities as a security guard focused on safety and security. The security guards will be readily identifiable.
 - D.1.3. Prior to issuance of a building permit, the applicant shall submit an updated security plan to the Tracy Police Department that reflects the conditions of approval above to the satisfaction of the Police Chief.
- D.2. Applicant shall cooperate with all legal requests from Tracy PD and any crimes shall be reported without delay.

D.3. Prior to establishment of the use, the applicant shall establish and maintain an updated on-call list of responders with their alarm service provider and current alarm permit with the City of Tracy, to include the on-site security manager. This shall be provided prior to the establishment of the use.

D.4. Trash containers and enclosures shall be locked and not accessible by the public at all times.

E. South San Joaquin County Fire Authority Conditions

Contact: Daniel Stowe

(209) 831-6707

daniel.stowe@sjcfire.org

E.1. Prior to construction, applicant shall submit construction documents to the South San Joaquin County Fire Authority for review and approval.

E.1.1. Construction documents shall be designed to the current edition of the California Code of Regulations, Title 24, as amended by the City of Tracy Municipal Code.

E.2. Engineering and building permit applications received by our offices are subject to the current fee schedule for South San Joaquin County Fire Authority. Contact our offices for additional information.

E.2.1. Application processing fees and minimum plan review fees are due at time of submittal of construction documents.

E.2.2. Additional plan review fees, minimum inspection fees and administrative fees are calculated on approval of project and shall be paid prior to issuance of permit.

E.2.3. Permit holder is responsible for any additional inspection fees incurred, which shall be paid prior to final inspection.

E.3. Prior to occupancy of the new business, the tenant shall contact South San Joaquin County Fire Authority for a new business inspection. Additional fees may be required for New Business, Annual and Operational Fire Permits. All fees shall be paid prior to approval of inspections.

E.4. Knox box 3200 series shall be required for project. Each tenant shall have keys placed in the key box. The operator of the building shall immediately notify the Fire Authority and provide the new key where a lock is changed or rekeyed. The key to such shall be secured in the key box.

E.5. Building shall be provided with approved address identification internally or externally illuminated in accordance with 2019 CFC Section 505.1 as amended by the Tracy Municipal Code.

E.6. Prior to final inspection, emergency radio responder coverage shall be tested to confirm coverage areas. It is beneficial for the applicant to conduct testing at foundation as retrofitting for the conduit is costly. If coverage is inadequate, a separate permit for emergency radio responder coverage shall be submitted to SSJCFA for review and approval prior to installation.

E.6.1. Additional improvements may warrant additional testing to be performed.
Testing shall be the determination of the fire code official.

F. Development Services Department, Building Division Conditions

Contact: Phillip Rainone (209) 831-6413 Phillip.Rainone@cityoftracy.org

- F.1. The means of egress shall provide an unobstructed path that leads any person (including those with impairments) to the public way. The accessible parking stall is not meant to serve as a location for people to use when an emergency occurs. Therefore, at time of building permit application submittal, the applicant shall provide an egress plan that complies with CBC Chapter 10.
- F.2. At time of building permit submittal, applicant to demonstrate compliance with CBC 11B-202.4 and 206 for path of travel requirements to new areas of alteration/addition, to right of way, between buildings, and to facilities on site, including the accessible trash enclosure. Currently, an accessible router is not shown to the trash enclosure.
- F.3. Per CBC Chapter 2, the definition of "means of egress" is, - "A continuous and unobstructed path of vertical and horizontal egress travel from any occupied portion of a building or structure to a public way." Currently, this plan does not meet the intent of the definition, nor does it comply with CBC Chapter 10. Therefore, at time of building permit submittal, applicant shall provide an emergency egress plan that complies with CBC Chapter 10, as applicable to the project.
- F.4. Prior to building permit issuance, applicant must submit separate demolition permit applications for all structures being removed due to the construction of this project per CBC 105, as it is not exempt from permits.
- F.5. At time of building permit application submittal, applicant shall submit plans that are prepared by a registered design professional per CBC 107.1.
- F.6. At time of building permit submittal, applicant to demonstrate compliance with CBC 11B-202.4 and 206 for path of travel requirements to new areas of alteration/addition, to right of way, between buildings, and to facilities on site, including the accessible trash enclosure.
- F.7. At time of building permit submittal, applicant shall provide an emergency egress plan from the new building to the public right-of-way that complies with CBC Chapter 10, as applicable to the project.
- F.8. At the time of building permit application submittal, the applicant shall show compliance with CBC 1010, as applicable for the types of doors and door-locking mechanisms that will be used for this project.
- F.9. At time of building permit application, the applicant shall provide details of accessible parking stall and their access aisles per CBC 11B-502, as applicable.

- F.10. At time of building permit application submittal, applicant shall provide accessible stall to be on the shortest accessible route from parking to an entrance complying CBC 11B-206.4.
- F.11. At the time of building permit application submittal, the applicant shall provide a calculation for the minimum required number of toilet facilities per CPC Chapter 4.
- F.12. Prior to construction of any structures, applicant shall submit a building permit application along with all pertinent construction documents such as plans, specifications, and/or calculations to the Building Safety Division prior to the construction of the canopy. Construction documents shall conform to the Title 24 California Code of Regulations edition effective on the date of application for a building permit.

G. The following conditions provide the applicant with options for funding required Citywide services.

Contact: Karin Schnaider (209) 831-6841 karin.schnaider@cityoftracy.org

G.1. Streets and Streetlights

Before issuance of any building permit for the Property, Developer shall provide for perpetual funding of the on-going costs of the operation and maintenance of the streets (from curb-to-curb, excluding gutters) to a Pavement Management System standard of PCI 70 (seventy), which could include street reconstruction, as reasonably determined by the City, the electric utility costs of operating the streetlights and signals that will serve the Project (collectively, the "Infrastructure"), by doing one of the following, subject to the approval of the City's Finance Director:

- a. Community Facilities District (CFD). Developer shall enter into an agreement with the City, to be signed by the Finance Director, which shall be recorded against the Property, which requires that prior to the final inspection, Developer shall complete the annexation of the Property to City of Tracy Community Facilities District in compliance with the requirements of the Mello – Roos Community Facilities Act of 1982 (Gov. Code § 53311 et seq.) including, without limitation, affirmative votes, and the recordation of a Notice of Special Tax Lien. Developer shall be responsible for all costs associated with the CFD proceedings.

Or

- b. POA and dormant CFD. If the POA is the chosen funding mechanism, Developer must do the following:
 - 1) Form a Property Owner's Association (POA) or other maintenance association, with CC&Rs reasonably acceptable to the City, to assume the obligation for the on-going costs of the operation and maintenance of the streets (from curb-to-curb, excluding gutters) to a Pavement Management System standard of PCI 70 (seventy), which could include street reconstruction, as reasonably determined by the City, the electric

utility costs of operating the streetlights and signals that will serve the Project (collectively, the "Infrastructure");

- 2) Cause the POA to enter into an agreement with the City, in a form to be approved by the City and to be recorded against the Property prior to the final inspection, setting forth, among other things, the required maintenance obligations, the standards of maintenance, and all other associated obligation(s) of the POA to ensure the on-going costs of the operation and maintenance of the streets (from curb-to-curb, excluding gutters) to a Pavement Management System standard of PCI 70 (seventy), which could include street reconstruction, as reasonably determined by the City, the electric utility costs of operating the streetlights and signals that will serve the Project (collectively, the "Infrastructure");
- 3) Before final inspection, annex into a CFD in a "dormant" capacity, to be triggered if the POA fails (as determined by the City in its sole and exclusive discretion) to perform the required level of operation, maintenance and replacement for the on-going costs of the operation and maintenance of the streets (from curb-to-curb, excluding gutters) to a Pavement Management System standard of PCI 70 (seventy), which could include street reconstruction, as reasonably determined by the City, the electric utility costs of operating the streetlights and signals that will serve the Project (collectively, the "Infrastructure"). The dormant tax or assessment shall be disclosed to all property owners, even during the dormant period.

Or

- c. Direct funding. Developer shall enter into an agreement with the City, which shall be recorded against the Property, which requires that prior to approval of final inspection, Developer shall deposit with the City an amount necessary, as reasonably determined by the City, to fund in perpetuity the on-going costs of the operation and maintenance of the streets (from curb-to-curb, excluding gutters) to a Pavement Management System standard of PCI 70 (seventy), which could include street reconstruction, as reasonably determined by the City, the electric utility costs of operating the streetlights and signals that will serve the Project (collectively, the "Infrastructure").

If the provisions for adequate funding of the on-going costs of the operation and maintenance of the streets (from curb-to-curb, excluding gutters) to a Pavement Management System standard of PCI 70 (seventy), which could include street reconstruction, as reasonably determined by the City, the electric utility costs of operating the streetlights and signals that will serve the Project (collectively, the "Infrastructure") are met prior to issuance of the building permit for the Property, subject to the Finance Director's review and approval, the terms of this condition shall be considered to have been met and this condition shall become null and void.

G.2. Landscaping Maintenance

Prior to issuance of any building permit for the Property, Developer shall provide for perpetual funding of the on-going costs of operation, maintenance and replacement for public landscaping for the Property at a high-quality service level as determined by the Parks Director by doing one of the following, subject to the approval of the City's Finance Director:

- a. CFD or other funding mechanism. The Developer shall enter into an agreement with the City, which shall be recorded against the Property, which stipulates the following: (1) prior to issuance of a building permit, the Developer shall form or annex into a Community Facilities District (CFD) for funding the on-going costs related to maintenance, operation, repair and replacement of public landscaping, public walls and any public amenities included in the Project, and ongoing public landscaping maintenance costs associated with major program roadways identified in the Citywide Roadway and Transportation Master Plan; (2) the items to be maintained include but are not limited to the following: ground cover, turf, shrubs, trees, irrigation systems, drainage and electrical systems; masonry walls or other fencing, entryway monuments or other ornamental structures, furniture, recreation equipment, hardscape and any associated appurtenances within medians, parkways, dedicated easements, channel-ways, public parks, and public open space areas and trails; (3) formation of the CFD shall include, but not be limited to, affirmative votes and the recordation of a Notice of Special Tax Lien; (4) upon successful formation, the parcels will be subject to the maximum special tax rates as outlined in the Rate and Method of Apportionment; (5) prior to issuance of a building permit, the Developer shall deposit an amount equal to the first year's taxes; and (6) the Developer shall be responsible for all costs associated with formation or annexation of the CFD.

Or

- b. POA and dormant CFD. If the POA is the chosen funding mechanism, the Developer must do the following:
 1. Form a Property Owner's Association (POA) or other maintenance association, with CC&Rs reasonably acceptable to the City, to assume the obligation for the on-going maintenance of all public landscaping areas that will serve the Property;
 2. Cause the POA to enter into an agreement with the City, in a form to be approved by the City and to be recorded against the Property prior to the final inspection, setting forth, among other things, the required maintenance obligations, the standards of maintenance, and all other associated obligation(s) to ensure the long-term maintenance by the POA of all public landscape areas that will serve the Property;
 3. Make and submit to the City, in a form reasonably acceptable to the City, an irrevocable offer of dedication of all public landscape areas that will serve the Property;

4. Before final inspection, annex into a CFD in a "dormant" capacity, to be triggered if the POA fails (as determined by the City in its sole and exclusive discretion) to perform the required level of public landscape maintenance. The dormant tax or assessment shall be disclosed to all property owners, even during the dormant period.

Or

- c. Direct funding. The Developer shall enter into an agreement with the City, which shall be recorded against the Property, which stipulates that prior to issuance of a building permit, the Developer shall deposit with the City an amount necessary, as reasonably determined by the City, to fund in perpetuity the full on-going maintenance costs related to maintenance, operation, repair and replacement of public landscaping, public walls and any public amenities included in the Project, and ongoing public landscaping maintenance costs associated with major program roadways identified in the Citywide Roadway and Transportation Master Plan. The items to be maintained include but are not limited to the following: ground cover, turf, shrubs, trees, irrigation systems, drainage and electrical systems, masonry walls or other fencing, entryway monuments or other ornamental structures, furniture, recreation equipment, hardscape and any associated appurtenances within medians, parkways, dedicated easements, channel-ways, public parks, and public open space areas and trails.

AGENDA ITEM 1.C

REQUEST

PUBLIC HEARING TO SOLICIT COMMENTS ON THE DRAFT ENVIRONMENTAL IMPACT REPORT FOR THE TRACY COSTCO DEPOT ANNEX PROJECT LOCATED AT 16000 WEST SCHULTE ROAD IN UNINCORPORATED SAN JOAQUIN COUNTY

DISCUSSION

Background

The City of Tracy, as the Lead Agency, has prepared a Draft Environmental Impact Report (DEIR) to evaluate potential environmental impacts related to the proposed Tracy Costco Depot Annex project. The project applicant, Costco, proposes to annex approximately 104 acres of land to the City of Tracy and develop the property with up to 1,745,052 square feet of industrial uses, as described in detail in the DEIR. The project site is located at the 16000 West Schulte Road, and is located within the City's Sphere of Influence, as shown in Attachment A, location map. The DEIR is intended to evaluate the potential environmental impacts from the City's approval and Costco's construction and operation of the project. As described in greater detail in the DEIR, the DEIR would be used to support the following possible actions and approvals by the City:

- Pre-zoning of the property by the City to the City's M-1 zoning district;
- Submittal of a petition to the San Joaquin County Local Agency Formation Commission (LAFCO) to annex the Project site into the City of Tracy;
- Approval by the City of a Development Review Permit for building design, landscaping, and other site features;
- Approval by the City of a Conditional Use Permit to allow for food processing and canning in the M-1 Zoning District;
- Issuance by the City of building permits, grading permits, and other necessary permits for construction and operation of the Project; and
- Adoption by the City of a Mitigation Monitoring and Reporting Program (MMRP).

The project may also require, and the DEIR would be used to support, the following possible actions by other agencies:

- Approval by LAFCO of the petition to annex the project site;
- Approval of a National Pollution Discharge Elimination System (NPDES) permit and a Storm Water Pollution Prevention Plan (SWPPP) by the state's Regional Water Quality Control Board (RWQCB) pursuant to the Clean Water Act; and
- Compliance with San Joaquin Valley Air Pollution Control District (SJVAPCD) codes and requirements.

The City is soliciting comments from public agencies, organizations, and members of the public regarding the findings of the DEIR and the environmental issues and project alternatives described in the DEIR. Pursuant to the California Environmental Quality Act Section 15105, the required 45-day public review and comment period has begun and concludes on November 1, 2022. Notification of that review and comment period was provided on the City's website, published in the Tracy Press, and via mailer to neighboring property owners, trustee and responsible agencies, and to the City's CEQA interested parties list. The EIR itself, along with the technical appendices, has been posted on the City's website, and hard copies have been available at the Tracy Branch Library and City Hall since September 16, 2022.

As part of the DEIR review process staff is bringing this matter before the Planning Commission at the October 12, 2022 meeting to collect comments on the DEIR. While not required, it is the City's practice to provide this additional method for interested parties and the public to provide comments on the DEIR.

Project DEIR

The DEIR for the project analyzes the following topical areas, as prescribed by CEQA, Appendix G:

- Aesthetics and Visual Resources
- Agriculture Resources
- Air Quality
- Biological Resources
- Cultural and Tribal Resources
- Geology and Soils
- Greenhouse Gas Emissions, Climate Change and Energy
- Hazards/Hazardous Materials
- Hydrology and Water Quality
- Land Use
- Noise
- Public Services
- Transportation and Circulation
- Utilities

Several potential environmental impacts have been identified in the DEIR which, unless mitigated, could result in significant impacts. In some cases, mitigation measures described in the DEIR are expected to mitigate the impacts to less than significant levels, including in the areas of biological resources, cultural and tribal resources, geology and soils, hazards and hazardous materials, and hydrology and water quality. However, in some cases the potential impacts are expected to remain significant and unavoidable, even with application of the described mitigation measures; these impacts are in the topical areas of aesthetics and visual resources, agricultural resources, air quality, noise, and transportation and circulation.

Next Steps

Following the DEIR comment period, the City's environmental consultant for the project, De Novo Planning Group, will address all comments received during the comment period in a Final EIR document. The project applications and the EIR will then be brought before the Planning Commission at a public hearing, where the Commission will be asked to make a recommendation to the City Council on EIR certification and the project development applications, including annexation/prezoning and a Development Review Permit.

RECOMMENDATION

No action is necessary at this time. Staff recommends that the Planning Commission open the public hearing and receive comments from the public on the DEIR for the Tracy Costco Depot Annex project.

Prepared by: Genevieve Federighi, Associate Planner
Approved by: Bill Dean, Assistant Development Services Director

ATTACHMENTS

Attachment A – Location Map
Attachment B – Tracy Costco Depot Annex project Draft EIR located here:
<https://www.cityoftracy.org/our-city/departments/planning/specific-plans-environmental-impact-reports-and-initial-studies/-folder-77>

